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Vol. 47 No. 103
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federal register

Thursday
May 27, 1982

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Anchorage Grounds
Coast Guard

Authority Delegations (Government Agencies)
Agriculture Department

Aviation Safety
Federal Aviation Administration

Coal Mining
Surface Mining Reclamation and Enforcement Office

Customs Duties and Inspection
Customs Service

Flood Insurance
Federal Emergency Management Agency

Freedom of Information
Federal Energy Regulatory Commission

Hazardous Materials
Environmental Protection Agency

Historic Preservation
National Park Service

Marine Safety
Coast Guard

Marketing Agreements
Agricultural Marketing Service

Medicaid
Health Care Financing Administration

CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Selected Subjects

Medicare
Health Care Financing Administration

Natural Gas
Federal Energy Regulatory Commission

Nuclear Materials
Nuclear Regulatory Commission

Organization and Functions (Government Agencies)
General Services Administration

Radio Broadcasting
Federal Communications Commission

Savings and Loan Associations
Federal Home Loan Bank Board

Water Pollution Control
Environmental Protection Agency

Editor's Note:

The list of subjects on the cover is designed to assist those users who review the **Federal Register** for broad subject areas. The list is compiled from subject terms supplied by agencies for certain of their rule and proposed rule documents as required by 1 CFR 18.20. Subject terms in the list may refer to more than one document. To locate the documents in the **Federal Register** covered by the subject terms in the list, users should consult the Table of Contents under the appropriate agency. We remind users that the list is a selective supplement to the Table of Contents and should not be construed as comprehensive.

This list is an experiment. We hope it will prove useful to those users inconvenienced by the discontinuation of the "Highlights" in February because of reduced personnel resources at the Office of the Federal Register. For this new list our editors simply select subject terms from those appearing in the edition's rule and proposed rule documents rather than perform the detailed analytical work which was needed to produce the "Highlights".

Comments on this list may be sent to Martha Girard, Director, Executive Agencies Division (NFE), Office of the Federal Register, NARS/GSA, Washington, D.C. 20408. Phone (202) 523-5240 (not a toll free number).

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Presidential Documents

Title 3—

The President

Executive Order 12366 of May 25, 1982

Presidential Commission on Broadcasting to Cuba

By the authority vested in me as President of the United States of America, and in accordance with the Federal Advisory Committee Act, as amended (5 U.S.C. App. 1), in order to permit an increase in the membership of the Presidential Commission on Broadcasting to Cuba by one member, Section 1(b) of Executive Order No. 12323 of September 22, 1981, is hereby amended to read as follows:

"(b) The Commission shall be composed of twelve members appointed by the President from among citizens of the United States."

Ronald Reagan

THE WHITE HOUSE,
May 25, 1982.

[FR Doc. 82-14684
Filed 5-26-82; 9:03 am]
Billing code 3195-01-M

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Rules and Regulations

Federal Register
Vol. 47, No. 103
Thursday, May 27, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

GENERAL ACCOUNTING OFFICE

4 CFR Part 403

[Interpretation No. 1]

Allocation of Home Office Expenses to Segments

Editorial Note: Pursuant to a request from the General Accounting Office, the Office of the Federal Register will insert Interpretation No. 1 to Cost Accounting Standard 403 in the next edition of Title 4, Code of Federal Regulations presently scheduled for revision as of January 1, 1983. The text of Interpretation No. 1 published on March 3, 1980 (45 FR 13721) will be added as an appendix to Part 403 of Title 4, CFR.

BILLING CODE 1610-01-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document delegates to the Executive Assistant to the Secretary the authority to carry out the responsibilities of the Department under the Paperwork Reduction Act of 1980. It also designates the Executive Assistant to the Secretary as a general officer of the Department.

EFFECTIVE DATE: May 27, 1982.

FOR FURTHER INFORMATION CONTACT: Robert L. Siegler, Deputy Assistant General Counsel, Office of the General Counsel, Department of Agriculture, Washington, D.C., (202) 447-6035.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1980 requires each agency head to designate a senior official to carry out the responsibilities of the agency under the Act. The Secretary has designated the Executive Assistant to the Secretary as that official.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Lastly, this action is not a rule as defined by Pub. L. 96-354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

1. The authority citation for Part 2 reads as follows:

Authority delegations (Government agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, unless otherwise noted.

2. Section 2.4 is revised to read as follows:

§ 2.4 General officers.

The work of the Department is under the supervision and control of the Secretary who is assisted by the following general officers: the Deputy Secretary; the Under Secretary for International Affairs and Commodity Programs; the Under Secretary for Small Community and Rural Development; the Assistant Secretary for Natural Resources and Environment; the Assistant Secretary for Food and Consumer Services; the Assistant Secretary for Marketing and Inspection Services; the Assistant Secretary for Governmental and Public Affairs; the Assistant Secretary for Economics; the General Counsel; the Assistant Secretary for Administration; the Inspector General; the Judicial Officer; the Director of Science and Education; the Director, Office of Budget and Program Analysis; and the Executive Assistant to the Secretary.

3. A new section 2.43 is added to read as follows:

§ 2.43 Executive Assistant to the Secretary.

The following delegations of authority are made by the Secretary of Agriculture to the Executive Assistant to the Secretary:

(a) Designated as the senior official to carry out the responsibilities of the Department under the Paperwork Reduction Act of 1980. This designation includes the following responsibilities:

(1) Ensuring that the information policies, principles, standards, guidelines, rules and regulations prescribed by the Office of Management and Budget are appropriately implemented within the Department.

(2) Developing Department information policies and procedures and overseeing, auditing and otherwise periodically reviewing the Department's information resources management activities.

(3) Reviewing proposed Department reporting and recordkeeping requirements including those contained in rules and regulations, to ensure that they impose the minimum burden upon the public and have practical utility for the Department.

(4) Developing and implementing procedures for assessing the burden to the public and costs to the Department of information requirements contained in proposed legislation affecting Department programs.

(5) Conducting and being accountable for acquisitions made by the Department pursuant to authority delegated under section 111 of the Federal Property and Administrative Services Act of 1949, as amended.

(6) Assisting the Office of Management and Budget in the performance of its functions assigned under the Paperwork Reduction Act of 1980, including the review of Department information activities.

(b) In carrying out the responsibilities assigned in paragraph (a) of this section, the senior official is authorized to call upon any agency of the Department for assistance.

For Subparts A and D.

Dated: May 21, 1982.

John R. Block,

Secretary of Agriculture.

[FR Doc. 82-14302 Filed 5-26-82; 8:45 am]

BILLING CODE 3410-01-M

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 692; Valencia Orange Reg. 691, Amdt. 1]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period May 28–June 3, 1982, and increases the quantity of such oranges that may be so shipped during the period May 21–27, 1982. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATE: This regulation becomes effective May 28, 1982, and the amendment is effective for the period May 21–27, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under Secretary's Memorandum 1512–1, and Executive Order 12291 and has been designated a "non-major" rule. This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on February 5, 1982. The committee met again publicly on May 25, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for Valencia oranges is easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of Valencia oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 908

Marketing agreements and orders, California, Arizona, Oranges (Valencia).

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

1. Section 908.992 is added as follows:

§ 908.992 Valencia Orange Regulation 692.

The quantities of Valencia oranges grown in Arizona and California which may be handled during the period May 28, 1982, through June 3, 1982, are established as follows:

(a) District 1: 364,000 cartons;

(b) District 2: 336,000 cartons;

(c) District 3: Unlimited cartons;

2. Section 908.991 Valencia Orange Regulation 691 (47 FR 21756), is hereby amended by revising paragraphs (a), (b) and (c) to read:

§ 908.991 Valencia Orange Regulation 691.

* * * * *

(a) District 1: 508,000 cartons;

(b) District 2: 392,000 cartons;

(c) District 3: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 26, 1982.

D. S. Kuryloski,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc 82-14725 Filed 5-26-82; 11:39 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1421

CCC Grain Price Support Regulations Governing the Loan and Purchase Program for 1982 and Subsequent Crops Barley

Correction

In FR Doc. 82–13114 appearing on page 20744 in the issue of Friday, May 14, 1982; on page 20745, first column, in the heading for § 1421.52, "and" should read "of".

BILLING CODE 1505-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 40, and 70

Regional Licensing Program

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The NRC is amending its regulations concerning the domestic licensing of source, byproduct, and special nuclear material to provide information concerning the further implementation of NRC's regional licensing program. The amendment specifies the categories of licensing actions for which full responsibility has been delegated to Regional Administrators. The amendment is necessary to inform current or prospective licensees of current NRC practice and organization.

EFFECTIVE DATE: May 27, 1982.

FOR FURTHER INFORMATION CONTACT: Vandy L. Miller, Office of Nuclear Material Safety and Safeguards, Telephone (301) 427–4002.

SUPPLEMENTARY INFORMATION: On September 7, 1981, the NRC amended its rules on licensing of certain nuclear materials so that licensees would communicate directly with Regions I and III (46 FR 44418). The Nuclear Regulatory Commission is again amending its regulation concerning the domestic licensing of source, byproduct and special nuclear material to reflect current NRC practices and assigned responsibilities under its regional licensing program. The revised provisions (§§ 30.6, 40.5, and 70.5) specify that inquiries concerning NRC regulations in 10 CFR Parts 30, 33, 35, 40 and 70 and applications for certain types of licenses or license renewals or revisions in Regions I and III be sent to the regional office. This requirement

would not apply to Agreement States, Federal facilities or agencies of the District of Columbia.

The revised provisions do not change the requirements for direct communication between licensees and Regions I and III. With respect to the specific licensing actions delegated to the Regional Administrators, the revisions are intended to state more clearly exactly what licensing functions are now assigned to the Regional Administrators as their total responsibility under the Commission's regionalization program.

The basic delegation of authority for the Regional Administrators is contained in NRC Manual Chapter 0128. The general delegation requires supplementation, however, as specific functions are transferred to the Regional Offices. On May 13, 1982, the Executive Director for Operations and the Director of the Office of Nuclear Materials Safety and Safeguards executed a special delegation of authority to the Regional Administrators for Regions I and III. The functions fully and formally assigned to the regions are essentially those previously administered in the Regional offices under the regionalization pilot programs. The revised regulations reflect the pertinent provisions of the delegation of authority.

The changes to §§ 30.6, 40.5, and 70.5 are nonsubstantive amendments. The amendments are intended to inform current and prospective licensees of current NRC pratices and organization. The revised §§ 30.6, 40.5, and 70.5 indicate the type of licenses now fully delegated to Regional Administrators in Regions I and III and covered under the regional licensing program and the proper addresses in Regions I and III for submitting covered licensing actions.

Since this is a minor procedural amendment the notice and comment procedures of the Administrative Procedure Act (5 U.S.C. 553) do not apply and good cause exists for making the amendment effective May 27, 1982.

List of Subjects in 10 CFR Parts 30, 40, 70

Nuclear power plants, Nuclear materials.

Under the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended and U.S.C. 552 and 553, the following amendments to 10 CFR Parts 30, 40, and 70 are published as a document subject to codification.

The authority citation for this document is:

Authority: Sec. 161, Pub. L. 83–703, 68 Stat. 948, as amended 42 U.S.C. 2201.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING PROCEEDINGS

1. Section 30.6 is revised to read as follows:

§ 30.6 Communications.

(a) Unless otherwise specified or covered under the regional licensing program as provided in paragraph (b) of this section, any communication or report concerning the regulations in Parts 30–35 of this chapter, and any application filed under these regulations may be submitted to the Commission as follows:

(1) By mail addressed to—Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(2) By delivery in person to the Commission offices at—

(i) 1717 H Street, N.W., Washington, D.C.; or

(ii) 7915 Eastern Avenue, Willste Building, Silver Spring, Maryland.

(b) The Commission has delegated the Regional Administrators for Regions I and III all authority and responsibility for selected parts of its material licensing program as described below. Any communication, report, or application covered under the Commission's regional licensing program for Regions I and III must submitted as specified in paragraph (b)(2) of this section.

(1) The delegated licensing program includes full authority to issue, renew, amend, cancel, modify, suspend and revoke licenses for source, byproduct, and special nuclear material issued pursuant to 10 CFR Parts 30, 33, 35, 40, and 70 to all persons (except Federal agencies and agencies of the District of Columbia) for academic, medical, and industrial uses, with the following exceptions:

(i) Irradiators.

(ii) Cardiac Pacemakers.

(iii) Medical Teletherapy Units.

(iv) Well logging.

(v) Manufacturing or distribution of nuclear materials or products containing nuclear materials.

(vi) Disposals of nuclear material pursuant to 10 CFR 20.302.

(vii) Activities in the fuel cycle.

(viii) Special nuclear material in quantities sufficient to constitute a critical mass in any room or area.

(ix) Health and safety design review of sealed sources and devices and approval, for licensing purposes, of such sources and devices.

(x) Industrial radiography.

(2) The following regions are participating in the regional licensing program.

(i) Region I. With the exception of Federal facilities and the agencies of the District of Columbia, the regional licensing program involves the following Region I Non-Agreement States: Connecticut, Delaware, Maine, Massachusetts, New Jersey, Pennsylvania, and Vermont. All inquiries, communications and each application for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section shall be sent to—U.S. Nuclear Regulatory Commission, Region I, Material Program Section No. 2, 631 Park Avenue, King of Prussia, Pennsylvania 19406.

(ii) Region III. With the exception of Federal facilities, the regional licensing program involves the following states: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin. All inquiries, communications and each application for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section shall be sent to U.S. Nuclear Regulatory Commission, Region III, Material Licensing Section, 799 Roosevelt Road, Glen Ellyn, Illinois 60137.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

2. Section 40.5 is revised to read as follows:

§ 40.5 Communications.

(a) Unless otherwise specified or covered under the regional licensing program as provided in paragraph (b) of this section, any communication or report concerning the regulations in Parts 30–35 of this chapter, and any application filed under these regulations may be submitted to the Commission as follows:

(1) By mail addressed to—Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(2) By delivery in person to the Commission offices at—

(i) 1717 H Street, N.W., Washington, D.C.; or

(ii) 7915 Eastern Avenue, Willste Building, Silver Spring, Maryland.

(b) The Commission has delegated the Regional Administrators for Regions I and III all authority and responsibility for selected parts of its material licensing program as described below. Any communication, report, or application covered under the Commission's regional licensing

program for Regions I and III must be submitted as specified in paragraph (b)(2) of this section.

(1) The delegated licensing program includes full authority to issue, renew, amend, cancel, modify suspend and revoke licenses for source, byproduct, and special nuclear material issued pursuant to 10 CFR Parts 30, 33, 35, 40, and 70 to all persons (except Federal agencies and agencies of the District of Columbia) for academic, medical, and industrial uses, with the following exceptions:

(i) Irradiators.

(ii) Cardiac Pacemakers.

(iii) Medical Teletherapy Units.

(iv) Well logging.

(v) Manufacturing or distribution of nuclear materials or products containing nuclear materials.

(vi) Disposals of nuclear material pursuant to 10 CFR 20.302.

(vii) Activities in the fuel cycle.

(viii) Special nuclear material in quantities sufficient to constitute a critical mass in any room or area.

(ix) Health and Safety design review of sealed sources and devices and approval, for licensing purposes, of such sources and devices.

(x) Industrial radiography.

(2) The following regions are participating in the regional licensing program.

(i) Region I. With the exception of Federal facilities and the agencies of the District of Columbia, the regional licensing program involves the following Region I Non-Agreement States: Connecticut, Delaware, Maine, Massachusetts, New Jersey, Pennsylvania, and Vermont. All inquiries, communications and each application for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section shall be sent to—U.S. Nuclear Regulatory Commission, Region I, Material Program Section No. 2, 631 Park Avenue, King of Prussia, Pennsylvania 19406.

(ii) Region III. With the exception of Federal facilities, the regional licensing program involves the following states: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin. All inquiries, communications and each application for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section shall be sent to U.S. Nuclear Regulatory Commission, Region III, Material Licensing Section 799 Roosevelt Road, Glen Ellyn, Illinois 60137.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

3. Section 70.5 is revised to read as follows:

§ 70.5 Communications.

(a).Unless otherwise specified or covered under the regional licensing program as provided in paragraph (b) of this section, any communication or report concerning the regulations in Parts 30–35 of this chapter, and any application filed under these regulations may be submitted to the Commission as follows:

(1) By mail addressed to—Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(2) By delivery in person to the Commission offices at—

(i) 1717 H Street, NW., Washington, D.C.; or

(ii) 7915 Eastern Avenue, Willste Building, Silver Spring, Maryland.

(b) The Commission has delegated the Regional Administrators for Regions I and III all authority and responsibility for selected parts of its material licensing program as described below. Any communication, report, or application covered under the Commission's regional licensing program for Regions I and II must be submitted as specified in paragraph (b)(2) of this section.

(1) The delegated licensing program includes full authority to issue, renew, amend, cancel, modify, suspend and revoke licenses for source, byproduct, and special nuclear material issued pursuant to 10 CFR Parts 30, 33, 35, 40, and 70 to all persons (except Federal agencies and agencies of the District of Columbia) for academic, medical, and industrial uses, with the following exceptions:

(i) Irradiators.

(ii) Cardiac Pacemakers.

(iii) Medical Teletherapy Units.

(iv) Well logging.

(v) Manufacturing or distribution of nuclear materials or products containing nuclear materials.

(vi) Disposals of nuclear material pursuant to 10 CFR 20.302.

(vii) Activities in the fuel cycle.

(viii) Special nuclear material in quantities sufficient to constitute a critical mass in any room or area.

(ix) Health and safety design review of sealed sources and devices and approval, for licensing purposes, of such sources and devices.

(x) Industrial radiography.

(2) The following regions are participating in the regional licensing program.

(i) Region I. With the exception of Federal facilities and the agencies of the District of Columbia, the regional licensing program involves the following Region I Non-Agreement States: Connecticut, Delaware. Maine, Massachusetts, New Jersey, Pennsylvania, and Vermont. All inquiries, communications and each application for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section shall be sent to—U.S. Nuclear Regulatory Commission, Region I, Material Program Section No. 2, 631 Park Avenue, King of Prussia, Pennsylvania 19406.

(ii) Region III. With the exception of Federal facilities, the regional licensing program involves the following states: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin. All inquiries, communications and each application for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section shall be sent to U.S. Nuclear Regulatory Commission, Region III, Material Licensing Section, 799 Roosevelt Road, Glen Ellyn, Illinois 60137.

Dated at Bethesda, Maryland this 13th day of May 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 82-14501 Filed 5-26-82; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 531 and 563

[No. 82-367]

Transfer and Repurchase of Government Securities

Dated: May 20, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") is adopting certain amendments to its regulations concerning retail repurchase agreements to confirm and expand significant consumer protections. (1) including the requirements that retail repurchase agreement purchasers be given a perfected security interest in the security or securities underlying retail repurchase agreements, (2) that the securities underlying retail repurchase agreements be market-to-market, and (3) that prospective retail repurchase

agreement purchasers be provided with offering documents which contain full and accurate disclosure of all material information regarding the retail repurchase agreement and the issuing institution. Institutions that do not meet certain net-worth guidelines would be required to provide additional safeguards and financial disclosure to consumers. Also, the Board is deleting for qualified issuers the current regulatory prohibition against the automatic renewal of retail repurchase agreements.

EFFECTIVE DATE: May 27, 1982.

FOR FURTHER INFORMATION CONTACT: Donna K. Ralston (202–377–6427), Attorney, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION:

Background

On February 18, 1982, by Resolution No. 82–105 (47 FR 8204, February 25, 1982), the Board proposed for public comment extensive revisions to its regulations concerning the issuance of retail repurchase agreements by institutions ("insured institutions") the accounts of which are insured by the Federal Savings and Loan Insurance Corporation ("FSLIC"). The Board received 131 comment letters concerning the proposed amendments from insured institutions, law firms, and trade organizations. Except in regard to the proposed eligibility requirement that issuing institutions meet the Board's three-percent net-worth requirement, most of the comments were favorable. Therefore, with certain modifications, the Board has determined to adopt the amended regulations substantially as proposed. The comments and the Board's final regulations are discussed below.

Automatic Renewal, Disclosure, and Eligibility

Retail repurchase agreements are securities under the Securities Act of 1933 ("1933 Act") and the Securities Exchange Act of 1934 ("1934 Act"). Although retail repurchase agreements are exempt from registration under section 3(a)(5) of the 1933 Act, 15 U.S.C. 77c(a)(5), the offer and sale of retail repurchase agreements are subject to the anti-fraud provisions of the 1933 Act and the 1934 Act. *See*, Securities and Exchange Commission Release No. 33–6351 (September 25, 1981). The anti-fraud provisions of the federal securities laws provide for civil injunctive relief, civil damage liability, and criminal liability. *See*, Sections 12(2), 17(a), 20 and 24 of the 1933 Act, 15 U.S.C. 77*l*(2), 77q(a), 77t, and 77x, and Sections 10(b), 21, and 32 of the 1934 Act, 15 U.S.C. 78j(b), 78u, and 78ff. The anti-fraud provisions of the federal securities laws generally require that there be disclosed to potential investors all facts that would be material to the decision to invest in a particular security. For instance, Rule 10b–5 of the Securities and Exchange Commission, 17 CFR 240.10b–5, adopted under section 10(b) of the 1934 Act, provides that:

> It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange,
>
> (a) To employ any device, scheme, or artifice to defraud,
>
> (b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or
>
> (c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person in connection with the purchase of any security.

Because of the prohibition against automatic renewal, retail repurchase agreements have a relatively short-term maturity structure. Since information material to a long-term investment may not be material in the context of a particular transaction to a short-term investment, the disclosure mandated by the federal securities laws generally is less burdensome in connection with the offer and sale of retail repurchase agreements than in connection with the offer and sale of long-term debt securities. In addition to reducing in most cases the disclosure burden on issuing institutions, the 89-day limitation on the term of retail repurchase agreements also establishes an ascertainable point at which an investor would be entitled to receive disclosure of the occurrence of an event circumstance, or change of circumstance material to the new and independent investment decision of renewal.

The Board is sensitive to the requirement that insured institutions observe the federal securities laws in connection with the offer and sale of retail repurchase agreements. When it determined to propose to delete the prohibition against the automatic renewal of retail repurchase agreements, it was concerned that there would result an impairment of the benefits of the short-term nature of retail repurchase agreements, *i.e.*, relatively minimal intial disclosure, which significantly reduces expenses and administrative burdens, and a continuous disclosure system. This problem was addressed by the Board in its proposed regulations concerning automatic renewal and disclosure. In its § 563.8–4(b)(7) automatic renewal proposal, the Board retained the current 89-day maturity structure for retail repurchase agreements by providing that automatic renewals may be effective for any term or terms not exceeding 89 days. The purpose of this provision was to focus the concept of automatic renewal on the expiration of an 89-day period rather than on renewals that may occur automatically within an 89-day period. There would be permitted, for instance, variable rate, daily, renewable, retail repurchase agreements with a maximum term of 89 days. At the end of the 89-day term, the agreement may be automatically renewed for a subsequent 89-day period. The final provision, which has been redesignated as § 563.8–4(b)(6), has been revised to make these automatic renewal rules clearer. Under § 563.8–4(b)(5), the issuing institution is required to provide purchasers with a revised offering document prior to renewal or automatic renewal if there has been any material change in any of the representations set forth in an offering document previously provided to the purchasers. Since under revised § 563.8–4(b)(6) the concept of automatic renewal is tied to an 89-day period, the final regulations retain a continuous disclosure system.

Requiring issuing institutions to satisfy their disclosure responsibilities does not ensure that those responsibilities will be met. The Board is concerned with compliance not only because of its supervisory responsibilities, but also because of the risk that non-compliance may result in the filing and prosection of claims against an issuing institution that could directly or indirectly affect public confidence in the issuing institution. The disclosure issue is difficult to resolve since the Board is unable to establish specific disclosure criteria. The information that would be material to a particular retail repurchase agreement investor is wholly dependent upon the structure of the retail repurchase ageement program and the financial resources of the issuing institution. The Board believes, however, that there are alternative means to resolve its compliance questions, the most extreme of which is a prohibition against the issuance of retail repurchase agreements by institutions that do not meet certain financial benchmarks. That alternative was proposed by the Board.

Many commenters objected to the proposed net-worth eligibility test, and the Board has concluded that it may be too inflexible a standard to apply at this

time. There is no capitalization requirement for entities that issue equity or debt securities, and absent circumstances not present here, the Board does not believe that it should impose upon insured institutions excessive requirements that are not statutorily mandated and do not serve a legitimate regulatory or statutory purpose. Therefore, the Board is deleting the proposed net-worth eligibility requirement from the final regulations.

The Board does wish to ensure that issuing institutions which are in an impaired financial condition are aware of the greater disclosure burdens imposed upon them by the federal securities laws, and to ensure that those institutions comply with those disclosure requirements and the Board's consumer safeguard provisions. Therefore, the Board is establishing in § 563.8–4(b)(7) certain filing requirements for issuing institutions that do not have a net worth equal to one percent of all liabilities (*i.e.*, total assets minus net worth) plus an amount equal to 20 percent of scheduled items. Within 45 days after the determination by an issuing institution that it has a § 563.8–4(b)(7) net-worth deficiency, it is required to file with the Principal Supervisory Agent and the Division of Securities and Corporate Analysis of the Office of General Counsel (1) the opinion of independent counsel that the interest of retail repurchase agreement purchasers in the security or securities underlying the retail repurchase agreements is a perfected security interest under applicable state law, and (2) the offering document required under § 563.8–4(b)(5).

In addition to the filing requirements, the Board provides in § 563.8–4(b)(5) that issuing institutions that have a net-worth deficiency under § 563.8–4(b)(7) shall include certain financial statements in their retail repurchase agreement offering documents,[1] and provides in § 563.8–4(b)(7) that those institutions shall collateralize their retail repurchase agreements with qualified securities having a market value at least equal to 105 percent of the principal amount of the issuing institution's retail repurchase obligation, plus accrued interest, as of a date certain in each succeeding week of the term of the retail repurchase agreement. Also, in § 563.8–4(b)(6), the Board provides that retail repurchase agreements may not be automatically renewed by issuing institutions that have a § 563.8–4(b)(7) net-worth deficiency.

[1] The Board does not intend to imply by this requirement that the financial condition of an issuing institution would not be material to a prospective retail repurchase agreement investor if the issuing institution did not have a net-worth deficiency under § 563.8–4(b)(7). That issue must be resolved by the issuing institution and its legal counsel.

Notice of Renewal

In its proposed regulations the Board solicited comments concerning what notice, if any, should be given to retail repurchase agreement purchasers concerning the automatic renewal of a retail repurchase agreement. Most commenters expressed the view that no notice should be required. Other commenters suggested that the Board adopt the established notice procedure for the renewal of six-month certificate accounts.

The Board's concern regarding the necessity of a notice of renewal was the possibility that a retail repurchase agreement could be automatically renewed for an 89-day period at a rate of interest significantly different from the rate of interest paid during the original term of the retail repurchase agreement. After further consideration, however, the Board does not believe that that is a serious concern.

For competitive reasons, many retail repurchase agreement programs are structured with short maturities (*i.e.*, less than 30 days) to take advantage of fluctuating market rates. Also for competitive reasons, many issuing institutions permit retail repurchase agreement purchasers the opportunity to withdraw their investments on a periodic basis or on demand. Typically, for instance, in variable rate, daily, renewable, retail repurchase agreement programs, particularly those involving a "sweep" into the repurchase program of excess funds in an insured account, purchasers are given the right to withdraw their funds at any time. The proliferation of short-maturity retail repurchase agreement programs is a strong indicator of the increased sophistication among retail repurchase agreement investors, who balance an investment's rate of return against its relative liquidity. In such a highly competitive climate, there is no need to impose requirements designed to protect investors from their own lack of diligence.

Therefore, in § 563.8–4(b)(6) the Board provides that institutions which provide for the automatic renewal of retail repurchase agreements shall provide and notify each retail repurchase agreement purchaser of a means to determine the current rates of interest.

Legend

The Board received several adverse comments to its proposed revision of the legend required to be displayed on retail repurchase agreement documents. The Board agrees that the addition of language to the effect that retail repurchase agreements are not guaranteed by the United States government is not required in view of § 563.8–4(b)(3), which prohibits issuing institutions from using the term "guaranteed" in retail repurchase agreement advertisements or offering documents. Therefore, the Board has determined in § 563.8–4(b)(1) to revert to the legend formerly required under § 531.12 of the Federal Home Loan Bank System Regulations.

Regulatory Flexibility Analysis

Pursuant to Section 3 of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164 (September 13, 1980), the Board is providing the following regulatory flexibility analysis.

1. *Reasons, objective and legal basis underlying the proposed rule.* These elements have been incorporated elsewhere in the supplementary information regarding the proposal.

2. *Small entities to which the proposed rule will apply.* The proposed rule will apply only to institutions the accounts of which are insured by the FSLIC.

3. *Impact of the proposed rules on small institutions.* The proposal would confirm and expand certain consumer protections. In addition, the proposal would remove the prohibition against automatic renewal. There would be no additional regulatory impact on small institutions.

4. *Overlapping or conflicting Federal rules.* There are no known Federal rules that may duplicate, overlap or conflict with the proposal.

5. *Alternatives to the proposed rule.* Most alternatives to the proposal would lessen flexibility afforded institutions. Moreover, because retail repurchase agreements are not accounts insured by the Federal Savings and Loan Insurance Corporation, alternatives to the proposal which would decrease regulatory requirements would reduce consumer protections.

Regulatory Analysis

The elements of regulatory analysis for major proposed regulations required by Board Resolution No. 80–584 (September 11, 1980) have been incorporated into the supplementary information regarding the regulations.

The Board has determined that the 30-day delay of effective date imposed by 5 U.S.C. 552(d) and 12 CFR 508.14 is unnecessary and not in the public interest. The final regulations adopted by the Board significantly ease current

restrictions and provide increased flexibility to issuing insured institutions. Because of these factors, the Board finds that it is in the public interest for insured institutions that intend to issue retail repurchase agreements to be permitted to take immediate advantage of the final regulations.

List of Subjects in 12 CFR Parts 531 and 563

Federal home loan banks, Savings and loan associations.

Accordingly, the Federal Home Loan Bank Board hereby amends Parts 531 and 563 of Subchapters B and D, respectively, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

PART 531—STATEMENTS OF POLICY

1. Transfer § 531.12 of Subchapter B to Subchapter D and redesignate it as § 563.8–4.

§ 531.12 Transfer and repurchase of government securities.

(Redesignated effective May 27, 1982.)

PART 563—OPERATIONS

2. Amend § 563.8(f)(2)(i)(*c*) to read as follows:

§ 563.8 Borrowing limitations.

* * * * *

(f) *Minimum denominations of securities evidencing outside borrowings.*

* * * * *

(2) *Exceptions.* (i) There is no minimum denomination for securities:

* * * * *

(*c*) Complying with § 563.8–4 of this Part.

* * * * *

3. Revise the newly redesignated § 563.8–4 to read as follows:

§ 563.8–4 Transfer and repurchase of government securities.

(a) An insured institution shall not issue repurchase agreement obligations in denominations under $100,000 with a maturity of 90 days or more evidencing an indebtedness arising from a transfer of direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or any agency thereof that the institution is obligated to repurchase, unless such obligations are issued to financial institutions the accounts of which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation or to a broker or dealer registered with the Securities and Exchange Commission.

(b) Any repurchase agreement obligation under $100,000 with a maturity of less than 90 days shall meet the following requirements.

(1) *Legend.* Each repurchase agreement and all advertisements and offering documents relating to repurchase agreements shall state, on their face, in plainly legible form, the following legend: "This obligation is not a savings account or a deposit and is not insured by the Federal Savings and Loan Insurance Corporation."

(2) *Prohibited representations.* An institution issuing repurchase agreements shall not use in its agreements, advertisements, or offering documents the terms "guaranteed," "no risk," "account," "deposit," "withdraw" or other terms which imply that the repurchase agreement is insured or guaranteed by the United States government, an agency of the United States government, or any third party; or the term "fund" or other terms which imply that the repurchase agreement is an interest in an investment company.

(3) *Security interest.* The interest of a repurchase agreement purchaser in the security or securities underlying the repurchase agreement shall constitute a perfected security interest under applicable state law.

(4) *Value of collateral.* The market value of the security or securities underlying a repurchase agreement shall be at least equal to the principal amount of the issuing institution's repurchase agreement obligation as of a date certain in each succeeding month of the original or renewed term of the repurchase agreement.

(5) *Disclosure.* An institution issuing repurchase agreements shall provide each prospective repurchase agreement purchaser with an offering document which shall contain full and accurate disclosure of all material information regarding the repurchase agreement and the issuing institution. Any material change in any of the material representations set forth in the offering document shall be reflected in a revised offering document that shall be provided to purchasers before any renewal or automatic renewal of a repurchase agreement may be effected. An institution that has a net-worth deficiency under paragraph (b)(7) of this section shall include in its offering document the following financial statements:

(i) The institution's audited statements of condition and operations for its last fiscal year prepared in accordance with the requirements of § 563c.1 of this Subchapter;

(ii) On a comparative basis, the institution's latest unaudited statement of condition for the quarter ending within 135 days of any sale, renewal, or automatic renewal of a repurchase agreement, and an unaudited statement of operations for the period then ended, prepared in accordance with the requirements of § 563c.1; and

(iii) The institution's latest monthly financial report filed with the Corporation.

(6) *Renewal; notice of applicable interest rates.* The maximum term of a repurchase agreement shall be 89 days. Unless otherwise provided for by the terms of a repurchase agreement, automatic renewals effected within an 89-day period from the date of execution, renewal, or automatic renewal of a repurchase agreement shall not be deemed to constitute renewals or automatic renewals under paragraph (b) of this section. Repurchase agreements may be automatically renewed for any period not exceeding 89 days for each automatic renewal pursuant only to the written agreement between the purchaser and the issuing institution that the repurchase agreement may be automatically renewed at the option of the issuing institution in the absence of the oral or written instruction of the purchaser that the repurchase agreement shall not be renewed. Institutions which provide for the automatic renewal of repurchase agreements shall provide and notify each retail repurchase agreement purchaser of a means to determine the current rates of interest. Repurchase agreements may not be automatically renewed by an institution which has a net-worth deficiency under paragraph (b)(7) of this section.

(7) *Eligibility requirements.* An institution which issues or has outstanding repurchase agreements issued under paragraph (b) of this section shall calculate its net worth on a monthly basis in accordance with § 563.13(b) of this Part. An institution which does not have net worth equal to the sum of one percent of all liabilities (*i.e.*, total assets minus net worth) of the institution, plus an amount equal to 20 percent of the institution's scheduled items, shall not issue or renew repurchase agreements under paragraph (b) of this section unless it meets the following additional requirements.

(i) Within 45 days after the determination of a net-worth deficiency under paragraph (b)(7) of this section, the institution shall file with the Principal Supervisory Agent and the Division of Securities and Corporate Analysis of the Office of General

Counsel, and shall continue to file thereafter on a current basis for as long as the net-worth deficiency shall exist, the following:

(*a*) Three copies of an opinion of independent legal counsel that the interest of repurchase agreement purchasers in the security or securities underlying the repurchase agreements constitutes a perfected security interest under applicable state law; and

(*b*) The offering document required under paragraph (b)(5) of this section.

(ii) Within 45 days after the determination of a net-worth deficiency under paragraph (b)(7) of this section, and thereafter on a date certain in each succeeding week of the original or renewed term of the repurchase agreement for as long as the net-worth deficiency shall exist, the market value of the institution's security or securities underlying a repurchase agreement shall be at least equal to 105 percent of the principal amount of the issuing institution's repurchase agreement obligation, plus accrued interest.

(iii) An institution which has a net-worth deficiency under paragraph (b)(7) of this section shall not renew an outstanding repurchase agreement unless it provides the purchaser with the disclosure document required under paragraph (b)(5) of this section and the purchaser thereafter affirmatively elects to renew the repurchase agreement.

(Sec. 5, 48 Stat. 134, as amended; 12 U.S.C. 1464, secs. 402, 403, 406, 48n Stat. 1256, 1257, 1259, as amended; 12 U.S.C. 1725, 1726, 1729. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943—48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

Gregory B. Smith,

Acting Secretary.

[FR Doc. 82-14418 Filed 5-26-82; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-CE-19-AD; Amdt. 39-4396]

Airworthiness Directives; Piper Models PA-31T, PA-31T1 and PA-31T2 Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) modifying the emergency exit window installation on certain Piper Models PA-31T, PA-31T1 and PA-31T2 airplanes. This action is necessary to correct an excess sealant condition of the window discovered during an inspection at one of the airplane manufacturer's factories. Improper functioning or sticking of the emergency exit window would delay or could make it impossible for the occupants to exit the airplane in an emergency situation.

EFFECTIVE DATE: June 3, 1982.

COMPLIANCE: Within 50 hours time-in-service after the effective date of this AD.

ADDRESSES: Piper Service Bulletin No. 733, dated January 25, 1982, applicable to this AD, may be obtained from Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, Pennsylvania 17745 or examined at the FAA, New York Aircraft Certification Office, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. A copy of the Service Bulletin is also contained in the Rules Docket, Office of the Regional Counsel, FAA, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. V. Pulera, Project Engineer, Systems and Equipment Section, New York Aircraft Certification Office, FAA, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Telephone (212) 995-3372.

SUPPLEMENTARY INFORMATION: During inspection of the affected model airplanes at the Piper Aircraft Corporation's Lock Haven plant, it was found impossible to remove the emergency exit window in the normal manner. Subsequent investigation involving additional aircraft disclosed that excess fuselage sealant in the emergency exit window frame area was preventing release of the seal from the window frame.

To ensure that this condition does not occur and that the emergency exit window functions properly, the airplane manufacturer modified the emergency exit window installation by installing Teflon tape on the frame in the area of the exit window seal on production PA-31T, PA-31T1 and PA-31T2 airplanes. In addition, the manufacturer issued Piper Aircraft Corporation Service Bulletin No. 733 dated January 25, 1982, which provides instructions for incorporating this modification on in-service aircraft. Since the condition described herein is likely to exist or develop in other airplanes of the same type design, an AD is being issued, applicable to certain Piper Models PA-31T, PA-31T1 and PA-31T2 airplanes, making compliance with the modifications described by aforementioned Service Bulletin mandatory.

Because a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Piper: Applies to PA-31T Cheyenne/ Cheyenne II (S/Ns 31T-8120036 through 31T-8120042, 31T-8120044 through 31T-8120050, 31T-8120055 and 31T-8120057), PA-31T1 Cheyenne I (S/Ns 31T-8104040 and 31T-8104041, 31T-8104043 through 31T-8104046, 31T-8104048, 31T-8104051, 31T-8104054, 31T-8104055, 31T-8104057 and 31T-8104058) and PA-31T2, Cheyenne II XL (S/Ns 31T-8166001, 31T-8166005 through 31T-8166017, 31T-8166019 through 31T-8166021, 31T-8166030 and 31T-8166031) airplanes certificated in any category.

Compliance: Required within the next 50 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent possible sticking of the emergency exit window, accomplish the following:

(a) Modify the emergency exit window by installing Teflon tape on the emergency exit window frame in the seal area in accordance with Piper Aircraft Corporation Service Bulletin No. 733 dated January 25, 1982.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(c) An equivalent method of compliance may be used when approved by the Chief, New York Aircraft Certification Office, FAA, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

This amendment becomes effective on June 3, 1982.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89))

Note.—The FAA has determined that this regulation involves an emergency regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and certifies that the rule will not have a significant economic impact on a substantial number of small intities under the criteria of the Regulatory Flexibility Act since it involves modification of only a few aircraft owned by small entities. If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or

analysis, as appropriate, will be prepared and placed in the regulatory docket; otherwise an evaluation is not required. A copy of it, when filed, may be obtained by contacting the Rules Docket at the location identified under the caption "ADDRESSES."

Issued in Kansas City, Missouri, on May 13, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-14231 Filed 5-26-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 21512; Amendment 39-4388]

Airworthiness Directives; Government Aircraft Factories (GAF) Nomad Models N22B and N24A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule, Revision of existing Airworthiness Directive (AD).

SUMMARY: This amendment revises paragraph (a) of Airworthiness Directive (AD) 81-07-01, applicable to Government Aircraft Factories (GAF), Nomad Models N22B and N24A airplanes. This revision is necessary to (1) correct the modification instructions for the horizontal stabilizer by specifying use of MS20470AD rivets in place of the presently required MS20426AD rivets which are unsuitable for the .016 inch upper skin panel and (2) allow continued use of AGS 2048-420-BS ⅛ inch pop rivets installed on each access panel door.

DATES: Effective date: June 10, 1982. Compliance: As prescribed in the body of the AD.

FOR FURTHER INFORMATION CONTACT:

Gary K. Nakagawa, Chief, Aircraft Certification Field Office, ANM-170H, Federal Aviation Administration, P.O. Box 50244, Honolulu, Hawaii 96850; Telephone (808) 546-8650.

SUPPLEMENTARY INFORMATION:

Amendment 39-4068 (46 FR 17539, 17540), AD 81-07-01, applicable to GAF Nomad Models N22B and N24A airplanes, requires modifications to all movable horizontal stabilizer and geared trailing edge trim tabs. Subsequently, it has been found that the horizontal stabilizer instructions in paragraph (a) incorrectly specified use of MS20426AD rivets for all removed AGS pop rivets. MS20470AD rivets should be used in attachment of the .016 inch upper skin panel and AGS 2048-420-BS ⅛ inch pop rivets are suitable for each access panel door installation. Accordingly, paragraph (a) of AD 81-07-01 is being revised to incorporate these changes. In making this revision, the FAA has determined that no affected airplanes were modified with MS20426AD rivets.

Since this amendment is clarifying in nature and imposes no additional burden on any person, notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, paragraph (a) of AD 81-07-01, Amendment 39-4068 (46 FR 17539, 17540) § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended to read as follows:

"(a) Modify the horizontal stabilizer to incorporate mass balance weights, improved riveting, addition of access panels, and structural reinforcements to the horizontal stabilizer in accordance with Part 2, "ACCOMPLISHMENT INSTRUCTIONS", of Government Aircraft Factories Nomad Service Bulletin NMD-55-10, Revision 1, dated May 2, 1980, or an FAA-approved equivalent. All AGS pop rivets removed as a result of this modification must be replaced with MS20470AD rivets.

Note.—AGS 2048-420-BS⅛ inch pop rivets are acceptable in the access panel door as specified in Service Bulletin NMD-55-10, Rev. 1."

This amendment becomes effective on June 10, 1982.

Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89).

Note.—The FAA has determined that this document involves revision of a regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and procedures (44 FR 11034; February 26, 1979), and certifies that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since it involves modification of only a few aircraft owned by small entities.

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the Courts of Appeals of the United States or the United States Court of Appeals for the District of Columbia.

Issued in Kansas City, Missouri, on May 18, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-14232 Filed 5-26-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-ANE-10; Amdt. 39-4382]

Airworthiness Directives; Garrett Turbine Engine Company Engine Models TSE331-3 and TPE331-1, -2, -3, -5, and -6 Series Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: In Docket No. 82-ANE-10; Amdt. No. 39-4382, appearing on Page 20562, Vol. 47, No. 93, in the Federal Register of May 13, 1982, a list of 201 Garrett Turbine Engine Company third stage turbine wheels was listed by serial number in an Airworthiness Directive (AD). The serial number for one of these turbine wheels was erroneously stated as 19329. The correct serial number is 18329.

FOR FURTHER INFORMATION CONTACT:

Bill Moring, Aerospace Engineer, Western Aircraft Certification Field Office, Northwest Mountain Region, Los Angeles, California (213) 536-6381.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, Amdt. 39-4382 published in the Federal Register on Page 20562, Vol. 47, No. 93, May 13, 1982, is hereby amended by correcting the serial number of Garrett Turbine Engine Corporation third stage turbine wheel from number 19329 to number 18329.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1345(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Issued in Burlington, Massachusetts, on May 20, 1982.

John B. Roach,

Acting Director, New England Region.

[FR Doc. 82-14531 Filed 5-26-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AWP-6]

Alteration of Control Zone

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of the Douglas, Arizona, Control Zone serving Bisbee-Douglas International Airport so as to reflect the part-time use status of the control zone to coincide with staffing of the Douglas,

Arizona, Flight Service Station and weather reporting.

EFFECTIVE DATE: May 27, 1982.

FOR FURTHER INFORMATION CONTACT: Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; Telephone (213) 536-6182.

SUPPLEMENTARY INFORMATION:

History

The purpose of this amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to designate part-time use of the Douglas, Arizona, Control Zone. The rule change is minor in nature and does not impose any additional burden on any person. In view of the foregoing, notice and public procedure are unnecessary and the rule may be made effective in less than 30 days.

The Rule

This amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) amends the description of the Douglas, Arizona, Control Zone by reducing the hours of the control zone. Part 71 of the Federal Aviation Regulations (14 CFR Part 71) was republished in the Federal Register on January 2, 1981 (46 FR 455).

List of Subjects in 14 CFR Part 71

Control zones, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 455) is amended, effective 0901 GMT, May 27, 1982, as follows:

§ 71.171 Douglas, Arizona.

Following * * * "northwest of the VORTAC." Add: "This control zone is effective from 0600 to 2100 hours, local time, daily or during specific dates and times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510, Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Los Angeles, California, on May 14, 1982.

R. L. Devereaux,

Acting Director, Western-Pacific Region.

[FR Doc. 82-14349 Filed 5-26-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASO-16]

Alteration of Transition Area, Atlanta, Georgia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the description of the Atlanta, Georgia, Transition area by deleting reference to a navigational aid which no longer exists and redesignating that airspace which was previously predicated on the navigational aid. This rule also corrects the names of two airports which are contained in the description.

DATES: Effective date: 0901 G.m.t., July 8, 1982. Comments must be received on or before June 20, 1982.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, Attn: Chief, Airspace and Procedures Branch, ASO-530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Request for comments on the rule

Although this action is in the form of a final rule, which involves altering the description of the Atlanta, Georgia, Transition Area by redesignating existing airspace and correcting the names of two airports, and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the description of the Atlanta, Georgia, Transition Area by redesignating an extension which was predicated on the Bruce RBN which has been decommissioned. The airspace which was predicated on the Bruce RBN is required for Instrument Flight Rules (IFR) operations and this rule will redesignate the airspace by reference to the Atlanta ILS Runway 26 localizer course and outer marker. This rule will also correct the name of Charlie Brown County Airport to Fulton County Airport-Brown Field and correct the name of Dobbins AFB/NAS Atlanta to Dobbins AFB. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982. Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to redesignate airspace based on existing air navigational facilities and correct the names of two airports presently contained in the description. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is contrary to the public interest and that good cause exists for making this amendment effective in less than 45 days after its publication in the Federal Register.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 G.m.t., July 8, 1982, as follows:

Atlanta, Georgia—Revised

By deleting the words " * * * within 4.5 miles north and 9.5 miles south of the 091° bearing from Bruce RBM, extending from the 15-mile radius area to 18.5 miles east of the RBN; within 9.5 miles south and 4.5 miles north * * *" and substituting for them the words " * * * within 5 miles north and 11 miles south of Atlanta ILS Runway 26 localizer east course, extending from the 15-mile radius area to 18.5 miles east of the LOM; within 9.5 miles south and 6 miles north * * *" and by deleting the words " * * * Charlie Brown County Airport * * *" and " * * * Dobbins AFB/NAS Atlanta * * *" and substituting for them the words " * * * Fulton County Airport-Brown Field * * *" and " * * * Dobbins AFB * * *"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on May 10, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82-14330 Filed 5-26-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 73

[Airspace Docket No. 82-AEA-6]

Alteration of Patuxent River, MD, Restricted Area R-4007B

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: These amendments extend the expiration date of Restricted Area R-4007B, Patuxent River, MD, to January 1, 1983. These actions are necessary because of the U.S. Navy's continued requirement to flight test the F-18 aircraft beyond the current July 1, 1982, expiration date. The restricted area extension is required to provide for the safe and efficient use of the navigable airspace by prohibiting unauthorized flight operations of nonparticipating aircraft within the restricted area during the designated period.

EFFECTIVE DATE: July 1, 1982. Comments must be received on or before June 28, 1982.

ADDRESS: Send comments on the rule in triplicate to: Director, FAA Eastern Region, Attention: Chief, Air Traffic Division, Docket No. 82-AEA-6, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, NY 11430.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW, Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Robert Maxey, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although these actions are in the form of a final rule, which involves a necessary extension of the expiration date for R-4007B to January 1, 1983, to allow the U.S. Navy to complete flight testing for the F-18 aircraft and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aero-nautical, economic and energy aspects of the rule that might suggest the need to modify the rule. Send comments on environmental and land use aspects to: Commanding Officer, Naval Air Station, Patuxent River, MD 20670.

The Rule

The purpose of these amendments to §§ 71.151 and 73.40 of Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) is to extend the expiration date of R-4007B, Patuxent River, MD, to January 1, 1983. Airspace Docket No. 78-EA-5, effective September 7, 1978, modified R-4007, in part, by designating R-4007B to overlie R-4007A with designated altitudes from 5,000 feet to 17,000 feet MSL. An expiration date of January 1, 1982, for R-4007B was established with provision for an extension on the basis of future review and necessity. In January 1982, the expiration date was extended until July 1, 1982. A further review has been conducted, and it has been determined that an extension of the expiration date of R-4007B to January 1, 1983, is required by the U.S. Navy to complete additional flight testing of the F-18 aircraft. Sections 71.151 and 73.40 of Parts 71 and 73 of the Federal Aviation Regulations were republished in Advisory Circular AC 70-3 dated January 29, 1982.

Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to extend the expiration date of Restricted Area R-4007B. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is contrary to the public interest.

List of Subjects in 14 CFR Parts 71 and 73

Aviation safety, Control areas, Restricted areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, §§ 71.151 and 73.40 of Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (46 FR 54827), are amended, effective 0901 GMT, July 1, 1982, as follows:

Section 71.151 [Amended]

R-4007B Patuxent River, MD. By deleting the words "July 1, 1982." and substituting for them the words "January 1, 1983."

Section 73.40 [Amended]

R-4007B Patuxent River, MD. By deleting the words "July 1, 1982." and substituting for them the words "January 1, 1983."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is

a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, DC, on May 20, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-14396 Filed 5-26-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 1, 3 and 375

[Docket No. RM81-40-000; Order No. 233]

Fees Relating to Freedom of Information Act Requests

Issued May 19, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: This final rule amends the Commission's regulations by establishing fees for search and duplication services pursuant to Freedom of Information Act requests and delegates to the Director of the Division of Public Information the authority to grant or deny requests for waiver or reduction of fees.

DATE: Effective June 28, 1982.

FOR FURTHER INFORMATION CONTACT:

Maureen F. Thompson, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8033;

Ray A. Huber, Division of Public Information, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8380;

Final Rule

In the matter of fees relating to Freedom of Information Act requests; Docket No. RM81-40-000, Order No. 233. Issued May 19, 1982.

The Federal Energy Regulatory Commission (Commission) is amending its regulations that describe the procedures by which the public may request information and copies of public documents pursuant to the Freedom of Information Act (FOIA) (5 U.S.C. 552). A new paragraph (k) is added to § 3.8 to establish fees to be charged for search and duplication of all documents requested pursuant to the FOIA. In addition, Part 375 is amended to delegate to the Director of the Commission's Division of Public Information the authority to grant or deny requests for waiver, or reduction of fees. The purpose of the rule is to permit the Commission to recover the mounting costs of search and duplication services performed by Commission staff in response to FOIA requests.

I. Background

Section 552(a)(4) of the FOIA permits the Commission to promulgate regulations, after notice and comment, specifying a uniform fee schedule for search and duplication services performed by the Commission in response to requests from members of the public under the FOIA. Under the statute, fees must be limited to reasonable standard charges and may provide recovery only of costs directly incurred by the Commission. Fees are to be waived or reduced if the Commission determines that such waiver or reduction is in the public interest because the general public will primarily benefit from furnishing the information to the requester.

Currently, Commission regulations establish fees for only part of the search and duplication services which may be involved in responding to requests under sections 552 (a)(1), (a)(2), and (a)(3) of the FOIA. The regulations provide for fees for duplication services performed by an independent contractor, but do not establish fees for search and duplication services performed by Commission staff. Whether the duplication is done by contractor or staff depends on whether the documents sought by the requester are public documents. If public, the documents are located in the Division of Public Information or in the Commission's central files. Under these circumstances, search by staff is minimal and duplication can be performed by the contractor. However, if the documents are not considered public records and are not stored in the public files, a significant amount of staff time may be spent on search and duplication services to respond to the information request. The Commission estimates that, in practice, staff services are a significant part of the processing of FOIA requests. Approximately 80 percent of the FOIA requests in the first quarter of 1981 required search and duplication services by staff.

The Commission issued a notice of proposed rulemaking on July 31, 1981 (46 FR 39846, August 5, 1981). The Commission received no comments on the proposal. Therefore, this rule is adopted largely as proposed. It provides that the fees imposed for services performed by staff will depend upon the amount of time spent searching for the document and the number of duplications required. In other words, the methodology adopted bills the requester for the direct costs incurred by the Commission in processing a particular FOIA request.

The Commission is in the process of proposing to collect fees for other services it provides in the course of the administration of its other statutory responsibilities. In the context of these other fees, however, the Commission is proposing to employ a different methodology which reflects the average costs incurred in providing a category of service or benefit. The reason for utilizing different methodologies is that the applicable statutory standards are different. The FOIA requires a uniform fee schedule which recovers only the direct costs incurred by the Commission. However, the Independent Offices Appropriations Act (IOAA) (31 U.S.C. 483a), the statutory authority pursuant to which fees may be charged for other services or benefits, allows for the recovery of the indirect as well as the direct costs incurred by the Commission in providing a service. In addition, the Commission is able to calculate the costs incurred in processing each individual FOIA request. The services for which fees will be assessed under the IOAA, however, are more numerous and complex, and, for practical reasons, do not permit the billing for the costs incurred on an individual basis.

Summary of the Rule

Section 3.8, entitled "Public information and submittals", is amended by adding a new paragraph (k) which establishes the fees and procedures for payment of the fees.

Paragraph (k)(1) contains definitions applicable to paragraph (k) regarding Freedom of Information Act requests and professional and clerical employees.

Paragraph (k)(2) establishes the rates which will be charged for staff search time. The fees depend upon the level of staff engaged in the search and the amount of time spent. A fee of $10.00 per hour is established for a search conducted by clerical staff. Ten dollars an hour represents, approximately, the average hourly salary (including the cost of fringe benefits) or clerical staff (GS-9 and below) for fiscal year 1982. A fee of $23.00 per hour is established for a search conducted by professional or managerial staff. This figure represents, approximately, the average hourly salary (including the cost of fringe benefits) of professional and managerial staff (GS-10 and above) for fiscal year

1982. The Commission proposed fees of $8.00 and $16.00 respectively in the Notice of Proposed Rulemaking. Those figures reflected fiscal year 1981 salaries only. In the final rule, they have been modified to reflect fiscal year 1982 salaries and to account for the cost of fringe benefits within the salary computation. Search time is charged on the basis of quarter hour increments.

Paragraph (k)(3) provides that the fee to be charged for duplication services is 10 cents per page. Duplication costs were determined by estimating the cost to the Commission of using leased photocopy machines.

Paragraph (k)(4) provides that no fee will be charged for staff search or duplication services in response to one or a series of related FOIA requests, if the assessed fees for those services totals $5.00 or less. Five dollars represents the estimated cost to the Commission of billing the fees. The purpose of this provision is to relieve the Commission of the billing cost, if that cost is equal to or greater than the assessed fees.

Paragraph (k)(5) provides that requesters may petition the Commission for a waiver or reduction in fees. Section 375.312 delegates to the Director of the Division of Public Information the authority to grant or deny these waivers or to reduce fees. In accordance with paragraph (k)(5), the Director's determination will depend upon whether the general public will primarily benefit if the Commission furnishes the information to the requester without charge or at a reduced rate. Paragraph (k)(5) and § 1.36 provide that an appeal from a denial of these petitions to waive or reduce fees is determined by the Chairman.

Paragraph (k)(5) also provides that the waiver or reduction of fees must be requested at the time the FOIA request is filed with the Commission. The purpose of this requirement is to provide the Director of Public Information with sufficient time to evaluate a waiver or reduction petition, in view of the limited time permitted for response to an FOIA request. The FOIA (5 U.S.C. 552(a)(6)) and § 1.36 of the Commission's regulations require the Commission to determine, within ten working days, whether to comply with an FOIA request.[1] In addition, paragraph (k)(5) provides that each waiver or reduction petition will automatically stay the initiation of the 10-day limitation established by 5 U.S.C. 552(a)(6)(A) until such time as the Commission has agreed to waive the fee or the requester has agreed to pay the fee that will be assessed. The purpose of this provision is to protect the requester from incurring an obligation to pay before the Commission has ruled on the request for waiver or reduction. If the petition for waiver or reduction specifies that the requester is not waiving the initiation of the 10-day limitation, the Commission will process the petition concurrently with the FOIA request, and bill the requester as it determines appropriate.

Paragraph (k)(5) provides further that the Commission will provide the requester with the requested information only upon payment of the fee due for processing the FOIA request.

Additionally, § 1.36, relating to public information and requests, is amended to cross reference § 3.8(k).

[1] In unusual circumstances, an extension of time for 10 working days may be granted. 5 U.S.C. 552(a)(6)(B), 16 CFR 1.36(f)(3).

III. Effective Date

This rule is effective June 25, 1982.

(Department of Energy Organizational Act, 42 U.S.C. 7101–7352; E.O. 12009, 3 CFR 142 (1978); Freedom of Information Act, 5 U.S.C. 552.)

List of Subjects in 16 CFR Part 1

General definitions, Rules of construction

16 CFR Part 3 Administrative practice and procedure, Freedom of information, Organizations and functions (Government agencies)

16 CFR Part 375 Authority delegations (Government agencies), Seals and insignia, Sunshine Act

In consideration of the foregoing, the Commission amends §§ 1.36 and 3.8 and Part 375 of Title 16, Chapter I of the *Code of Federal Regulations*, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 1—RULES OF PRACTICE AND PROCEDURES

1. Secton 1.36 is amended by inserting between the heading and the text, the following parenthetical:

§ 1.36 Public information and requests.

(See also § 3.8(k) of this Chapter regarding Freedom of Information Act request fees.)

* * * * *

2. Section 1.36 is amended in paragraph (f)(2)(i) by inserting in the first sentence between the words "appeal" and "within" the phrase "of the denial of a Freedom of Information Act request, or a request for waiver or reduction of the fees prescribed in § 3.8 of this Subchapter,".

PART 3—ORGANIZATION; OPERATION; INFORMATION AND REQUESTS

3. Section 3.8 is amended by inserting between the heading and the text, the following parenthetical:

§ 3.8 Public information and submittals.

(See also § 1.36 of this Chapter regarding public information and Freedom of Information Act requests.)

* * * * * *

4. Section 3.8 is amended in paragraph (b) in the eighth sentence by replacing the word "Secretary" with the word "Commission".

5. Section 3.8 is further amended by adding a new paragraph (k) at the end thereof to read as follows:

* * * * *

(k) *Fees for Freedom of Information Act requests.*

(1) *Definitions.* For purposes of this paragraph the following definitions apply.

(i) "Freedom of Information Act request" means a written request for public records in the possession of the Commission, which request is filed pursuant to section 552(a)(3) of the Freedom of Information Act (5 U.S.C. 552) and in accordance with § 1.36 of this chapter.

(ii) "Professional employee" means an employee of the Commission whose official grade level is GS–10 or above.

(iii) "Clerical employee" means an employee of the Commission whose official grade level is GS–9 or below.

(2) *Search fees.* If the Commission response to a Freedom of Information Act request requires search of Commission records, the requester will be charged for the search at the following rates:

(i) $5.75 per quarter hour for search services performed by a professional employee; and

(ii) $2.50 per quarter hour for search services performed by a clerical employee.

(3) *Duplication fees.* If Commission response to a Freedom of Information Act request requires the duplication of documents, and

(i) If the duplication is done by Commission staff, the requester will be charged 10 cents per photocopy, plus postage; or

(ii) If the duplication is done by an independent contractor, the requester will be charged in accordance with a uniform fee schedule for photocopies, microfiche, and microfilm duplication, plus postage. The uniform fee schedule is set by contract with the independent contractor and may be obtained in

person, by telephone, or by mail from the Division of Public Information.

(4) *No fees charged below minimum.* If the total fees assessed for search and duplication services performed by Commission staff in response to a Freedom of Information Act request, or to a series of related requests, total $5.00 or less, the Commission will not charge the requester for those services.

(5) *Waiver or reduction of fees.* (i) At the time a Freedom of Information Act request is filed with the Commission, the requester may petition the Commission for waiver, or reduction, of the fees described in this paragraph. The requester should show that waiver or reduction of the fees is in the public interest because furnishing the information will primarily benefit the general public. If the Director of the Division of Public Information determines that the waiver, or reduction, of fees is in the public interest, the requested information will be furnished without charge or at a reduced rate.

(ii)(A) Except as provided in paragraph (k)(5)(ii)(B) of this section, submission of a petition for a waiver or reduction stays initiation of the 10-day limitation established by 5 U.S.C. 552(a)(6)(A) until the Director of the Division of Public Information agrees to waive or reduce the fee as requested, or, if the request is denied in whole or in part, until the requester agrees to pay the fee that will be assessed by the Commission.

(B) The petition for waiver or reduction may include a statement that the initiation of the 10-day limitation established by 5 U.S.C. 552(a)(6)(A) is not waived, in which case the Commission will process the petition for waiver and reduction concurrently with processing the Freedom of Information Act request, and bill the requester as it determines appropriate.

(iii) The requester may appeal any denial of a request for waiver or reduction to the Chairman pursuant to § 1.30.

(6) *Method of payment.* Upon notice from the Commission of the fee due for processing a Freedom of Information Act request, the requester shall make payment by certified check or money order payable to the United States Treasury. The Commission shall, upon receipt of payment, provide the requester with the requested information and materials.

PART 375—THE COMMISSION

8. Part 375 is amended in the table of contents by adding, in the appropriate numerical order, a new section number and heading as follows:

* * * * *

375.312 Delegations to the Director of the Division of Public Information.

7. Part 375 is amended in Subpart C by adding a new § 375.312 to read as follows:

§ 375.312. Delegations to the Director of the Division of Public Information.

The Commission authorizes the Director of the Division of Public Information to waive or reduce fees in accordance with § 3.8 of this chapter.

[FR Doc. 82-14377 Filed 5-26-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 931

Permanent State Regulatory Program of New Mexico

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is modifying the deadlines for New Mexico to meet some of the conditions of approval of the State permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act) as OSM has determined that the State's satisfaction of these conditions is likely to be affected by changes to the Federal permanent program rules at 30 CFR Chapter VII which are currently being considered by OSM. In addition the Secretary is removing two of the conditions of approval of the State's program, as OSM has determined the conditions are moot as a result of the revised Federal standard for State program approval which allows States to adopt alternatives to the Federal regulations at 30 CFR Chapter VII provided they are no less effective than the Federal rules in meeting the purposes of the Act.

EFFECTIVE DATE: May 27, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone: (202) 343-5351.

SUPPLEMENTARY INFORMATION: Under 30 CFR 732.13(i), the Secretary may conditionally approve a State permanent regulatory program which contains minor deficiencies where the deficiencies are of such a size and nature as to render no part of the program incomplete, the State is actively proceeding with steps to correct the deficiencies, and the State agrees to correct the deficiencies according to a schedule set in the notice of conditional approval. The correction of each deficiency is a condition of the approval. The conditional approval terminates if the conditions are not met according to the schedule. The dates are established in consultation with the State based on the time required for changes to be adopted under State procedures or legislative schedules.

The New Mexico program was conditionally approved on December 31, 1980 (45 FR 86459–86490). In that document the Secretary published a schedule for the State to meet each of the 12 conditions of approval of the State program. The schedule called for New Mexico to submit provisions to satisfy conditions "a"–"d" and "f"–"l" by July 1, 1981, and a provision to meet condition "e" by February 28, 1982.

Information pertinent to the general background revisions, modifications, and amendments to the proposed program submission, as well as the Secretary's findings, the disposition of comments and explanation of conditions of approval of the New Mexico program can be found in the December 31, 1980 **Federal Register** (45 FR 86459).

Since the Secretary's conditional approval of the New Mexico program OSM has proposed several revisions to the Federal permanent program rules which served as the standard for approval of New Mexico's program. Because OSM was concerned that States with conditionally approved programs would be expending valuable time pursuing program amendments to meet Federal requirements that would be changed, OSM asked each State to identify those conditions for which it would like an extension of the deadline for meeting them. New Mexico requested that the deadline for the State to meet conditions "a"–"d" and "f"–"l" be extended until February 28, 1982. On October 30, 1981 (46 FR 54070), OSM announced its decision to grant New Mexico's request. Subsequently, the State asked for a second extension that would establish a new deadline for the State to meet conditions "a"–"d" and "e"–"l". The State offered as its reason for requesting a further extension the fact that OSM has not yet finalized amendments to the permanent program rules. The State asserted that some of these amendments might directly affect new Mexico's satisfaction of the

conditions. In accordance with the State's request, OSM issued a notice in the **Federal Register** proposing that the deadline for the State to meet those eleven conditions be extended until March 15, 1983, (47 FR 7855, February 23, 1982).

In that notice OSM indicated that it would consider alternatives to a March 15, 1983, deadline for the State to meet all eleven conditions. OSM stated that it would consider other options based on its reexamination of the conditions in light of the following factors. First, OSM stipulated that it would take into consideration the promulgation of revisions of the Federal regulations at 30 CFR Parts 730–732 which govern the standards for approval of State programs. The revised standards which were published October 28, 1981 (46 FR 53376–53384), allow States to adopt alternatives to the Federal regulations, provided they are "no less effective than" the Federal rules in meeting the purposes of the Act.

In a letter to OSM dated December 23, 1981, Mr. Ed Kelly, Chief, New Mexico Bureau of Surface Mining, requested that, in particular, OSM reevaluate conditions "a" and "l" in light of the revised standard for State program approval. In his letter, Mr. Kelly provided information to demonstrate that the provisions which are the subject of conditions "a" and "l" are no less effective than the Federal rules in meeting the purposes of the Act. In the February 23, 1981, notice of proposed rulemaking OSM stated that when reevaluating the conditions in light of the revised standard, OSM would take into consideration the information submitted by Mr. Kelly. OSM also indicated that it would review not only conditions "a" and "l" as requested by the State but all of the conditions of approval on New Mexico's program in order to determine whether any of the existing State provisions which are the subject of conditions could be approved under the revised standard. OSM indicated that it would remove any conditions judged to be moot in light of the revised standard of State program approval.

OSM also specified that it would consider the revisions to the Federal permanent program regulations that have been or will be proposed, but have not yet been finalized. OSM stated that it would reexamine all the conditions of approval of New Mexico's program to determine whether revisions to the Federal rules were likely to have a bearing on changes the State is required to make to satisfy conditions.

In addition OSM specified that it would consider the possibility of establishing two dates by which the State would be required to submit provisions—one date for New Mexico to submit provisions to meet conditions that would not be affected by OSM rule changes and a second date by which the State would submit provisions to satisfy conditions that might be affected by OSM rule changes.

The February 23, 1981, notice requested comments not only on the proposed March 15, 1983, deadline but on all the options discussed including the proposal to remove conditions deemed unnecessary as a result of the modified standard for State program approval.

Secretary's Findings

The Secretary has completed his reexamination of the conditions and of the public comments received in response to the notice of proposed rulemaking and has made the following determinations:

Conditions b, c, f, g and i

Concerning conditions "b","c", "f", "g" and "i" the Secretary has determined that neither the rule changes OSM is contemplating nor the revised standard for State program approval has a significant bearing on the State's satisfaction of these conditions and, therefore, he is requiring the State to submit amendments to satisfy these conditions by July 31, 1982. As noted above, in the notice of proposed rulemaking OSM indicated that it was considering the option of establishing one deadline for the State to meet conditions that would not be affected by OSM rule changes and a second date for changes that would be affected by those changes. OSM specified that the date likely to be considered for conditions not affected by changes to the Federal rules was June 1, 1982. The Secretary is establishing a deadline of July 31, 1982 instead of June 1, 1982, because New Mexico has advised OSM that the State will require the time between issuance of this notice and July 31 to carry out the rulemaking procedures necessary to satisfy the conditions.

Condition a

The Secretary finds he can remove condition "a" which calls for New Mexico to adopt regulations which include requirements for keyway cuts and rock toe buttresses in accordance with 30 CFR 816.71(i). OSM's regulation requires that keyway cuts be constructed where the slope in the disposal area exceeds 1v:2.8h (36%) or such lesser slope as may be designated by the regulatory authority. The Federal regulation also requires that where the toe of the spoil rests on a downslope, stability analyses shall be performed to determine the size of rock toe buttresses and keyway cuts. The State's regulation at 20–71(i) is similar to the Federal rule with the exception that it does not specify that keyway cuts shall be constructed where the slope in the disposal area exceeds 36%. However, New Mexico's regulation does specify that in all instances in which the slope in the disposal area exceeds 36% the fill shall be designed and constructed using the services of a professional engineer who shall ensure stability of the fill and the foundation. Also, New Mexico requires that where the toe of the spoil rests on a downslope, stability analyses shall be performed in accordance with Section 9–35(c) to determine the size of rock toe buttresses and keyway cuts. The Secretary has determined that although the State's provision is not identical to the Federal rule, it is no less effective in assuring that the fill will be designed and constructed to assure stability in accordance with Section 515(b)(22) of the Act. Therefore, the Secretary is removing condition "a".

Condition k

The Secretary finds he can remove condition "k" which requires New Mexico to submit regulations concerning tree stocking rates consistent with 30 CFR 816.117. New Mexico regulation 20–117 does not contain specific stocking rates for trees and shrubs as in 30 CFR 816.117. New Mexico regulation 20–117(b)(1) places the determination of minimum stocking rates under the authority of the State forester. In a letter dated September 19, 1980, to Ed Kelly, Chief, Bureau of Surface Mining, the State forester explained the bases for his determinations of minimum stocking rates. In his conditional approval of the New Mexico program on December 31, 1980 (finding 4(c)(x), 45 FR 86166), the Secretary found the letter from the State forester to Mr. Kelly to be an insufficient basis on which to find that the State forester would assure stocking at rates which equal the federal standards. OSM has reexamined condition "k" in light of the revised standard for State program approval. Upon a more careful scrutiny of the State forester's letter together with the State's regulations at 8–19, 20–116 and 20–117, the Secretary has determined that the State's provisions are no less effective than the Federal rules in meeting the requirements of Sections 515(b)(19) and 516(b)(6) of the Act. On permit areas 40 acres or less in size OSM's regulations require a minimum of 400 woody plants per acre. On steep slopes the minimum number of

woody plants shall be 600 per acre. Commercial forest lands are required to have 450 trees or shrubs per acre. The State's regulation provides for the State forester's establishment of a minimum acceptable level of tree and shrub stocking on a site-by-site basis using techniques recognized locally as acceptable reforestation practices. In accordance with New Mexico regulation 8–10, the permit applicant will be required to submit information that will enable the State forester to adequately predict the potential for reestablishing vegetation on the permit area prior to the regulatory authority's approving the permit. Furthermore, success of revegetation can be determined through the use of reference areas data or through the development of an historic record of premining conditions as the basis for comparison to the postmining revegetation.

To satisfy the requirements for bond release the permittee must demonstrate that the stocking of trees and shrubs on the revegetated area is equal to 90% of the stocking of the reference area or at least 90% of the stocking number developed on the basis of the historic record or at least 90% of the stocking rate established by the State forester, whichever is applicable. The Secretary has determined that New Mexico's procedures will ensure that the cover of trees and shrubs will be sufficient for adequate use of the growing space after surface coal mining operations. Because the Secretary has determined that the State's regulations are no less effective than OSM's rules in meeting the purposes of the Act, he is removing condition "k".

Condition l

With regard to condition "l" concerning the protection of endangered species the Secretary considered the information which Mr. Kelly provided in his letter of December 23, 1981. In that letter, Mr. Kelly asserts that the protection of endangered species is guaranteed under New Mexico's cooperative agreement with the Department of the Interior for conducting a program pursuant to Section 6(c) of the Endangered Species Act. The Secretary finds, however, that the cooperative agreement to which Mr. Kelly referred authorizes New Mexico to conduct investigations to determine the status and requirements for survival of resident species of fish and wildlife, and does not fulfill the State's obligation to provide protection for all species including migratory species or species which may pass through periodically, but do not establish permanent resident status.

Consequently, the Secretary has determined that in order to insure the protection intended by Congress, New Mexico should modify its program as specified in condition "e" and amend its program to provide protection for all species listed by the Secretary pursuant to the Endangered Species Act of 1973 as amended. The Secretary is allowing the State until July 31, 1982, to make the necessary correction.

Conditions e, h and j

Changes to the Federal rules which OSM is considering will have a bearing on the State's satisfaction of condition "j", concerning the State's bonding regulations; condition "e", relating to the award of attorneys' fees against the State; and condition "h", concerning regulations governing the Small Operators Assistance Program. As OSM does not expect to finalize changes to the Federal regulations governing the Small Operators Assistance Program or the regulations relating to the award of attorneys' fees until the latter part of 1982, and as OSM's timetable for issuing final changes to the Federal bonding rules has been set back, the Secretary is establishing a deadline of March 15, 1983, for the State to meet conditions "e", "h" and "j".

Public Comment

In response to the February 23, 1982, Federal Register notice proposing an extension of the deadlines for New Mexico to meet eleven of the conditions of approval, OSM received three written comments.

Mr. Paul E. Frye, Attorney-at-Law for the DNA-People's Legal Service, Inc., commented in reference to the Secretary's approval on October 30, 1981, of an extension of the deadline for New Mexico to meet eleven of the conditions of approval from July 1, 1981, until February 28, 1982. Mr. Frye asserted that because the State did not meet the conditions by July 1, 1981, and because no extension past July 1 had been granted by July 1, the State's program submission is a nullity.

Although the commenter's point is not directly related to this rulemaking, his comment is being addressed nonetheless. It should be noted that New Mexico requested an extension of the July 1, 1981, deadline in response to an inquiry from OSM. As mentioned above, because OSM was concerned that States with conditionally approved programs would be expending valuable time pursuing program amendments to meet Federal requirements that would be changed, OSM asked each State to identify those conditions for which it would like an extension. Although the Secretary did not announce his approval of an extension for New Mexico in the Federal Register until October, 1981, the State made its request prior to that date. OSM believes that termination of the State's program because of administrative delays in announcing the Secretary's decision to grant the extension would not be justified and would not be in the best interests of either citizens, OSM or the State.

The Kaiser Steel Corporation commented that it supported the proposal to extend the deadline for New Mexico to meet conditions of approval of the State regulatory program. The commenter urged that OSM extend the deadline until March 15, 1983, for all conditions, and not make a distinction, for the purposes of the deadline, between conditions that would not be affected by OSM rule changes and conditions that might be affected by OSM rule changes. The commenter maintained that pending evaluation of all of the OSM proposed changes, it would be fairly difficult to determine what New Mexico rules would not be affected by changes to the Federal rules.

OSM believes there must be adequate justification to extend the deadline for the State to meet conditions. In reexamining the conditions of approval of New Mexico's program, OSM determined that certain of the conditions would clearly not be affected by rule changes which OSM is contemplating or has proposed. As discussed in the findings, the Secretary is requiring the State to correct such conditions by July 1, 1982, rather than March 15, 1983, to avoid delay in New Mexico's satisfaction of the conditions while allowing the State sufficient time for the administrative and regulatory procedures necessary to satisfy the conditions.

A third comment was received on the proposed extension from the Environmental Policy Institute, the New Mexico Citizens for Clean Air and Water and the Sierra Club. The commenters objected to the Secretary's granting any extensions. They asserted that changes to the New Mexico program will always be required to reflect changes in OSM's rules and that States should not be allowed to delay making required changes on the expectation that certain particular changes are going to occur. OSM believes that when the Agency clearly anticipates making changes to the Federal rules in the not too distant future, it is not in the best interest of either OSM, the State or citizens to require the State to expend valuable

time and resources to meet the existing Federal requirements.

The commenters also objected to OSM's reexamination of all the conditions of approval of the State program to determine if any are moot as a result of OSM's revised standard for State program approval. They stated that review of conditions "a" and "l" was proper because the State submitted new material to justify the current State standard, but asserted that review of all the other conditions violated the requirement of the Federal rules that the State demonstrate in its submission that the "no less effective than" standard has been met.

In reviewing each of the conditions of approval of New Mexico's program, OSM examined the material already submitted by the State and, in the case of conditions "a" and "l" the new material submitted. OSM made its determination of whether removal of a condition was justified under the revised Federal standard based on the material which was available to the Agency. This documentation was also available to the public for review during the comment period. If the material available to OSM did not provide adequate justification for removal of a condition, OSM did not develop the necessary rationale for the State. Instead, if OSM believed that a condition might be removed if additional clarification or justification were provided, then a statement to that effect was included in the finding (for example, see finding 2). Hence, OSM believes that the burden of showing that the existing State regulation is adequate under the revised standard for approval has been on the State and not on OSM and the public.

With regard to condition "a" the commenters also stated that New Mexico has failed to show that its standards for fills are no less effective than the Federal standards in meeting the purposes of the Act. Based on the available material, OSM believes that the State's regulation is adequate under the revised Federal standard for the reasons provided in finding 1.

Concerning condition "l" the commenters indicated that New Mexico limits protection of endangered species to those "indigenous" to the State and, therefore, the State's existing provision is not as effective as the Federal rule. OSM agrees with the commenters' point as noted in finding 3.

Additional Determinations

1. *Compliance with the National Environmental Policy Act.* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Compliance with the Regulatory Flexibility Act.* The Secretary hereby determines that this proposed rule will not have a significant economic impact on small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

3. *Compliance with Executive Order No. 12291.* On August 28, 1981, the Office of Management and Budget (OMB) granted the Office of Surface Mining exemption from Sections 3, 4, 6 and 8 of Executive Order 12291 for all actions taken to approve or conditionally approve State regulatory programs, actions or amendments. Therefore, a Regulatory Impact Analysis and regulatory review by OMB are not needed for this program amendment.

List of Subjects in 30 CFR Part 931

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, Part 931 of Title 30 is amended as set forth below.

Dated: May 19, 1982.

William P. Pendley,

Acting Assistant Secretary for Energy and Minerals.

PART 931—NEW MEXICO

§ 931.11 [Amended]

1. 30 CFR 931.11 (a) and (k) are removed and reserved.

2. 30 CFR 931.11 (b), (c), (f), (g), (i) and (l) are amended by substituting "July 31, 1982", for "February 28, 1982", each time it appears.

3. 30 CFR 931.11 (e), (h) and (j) are amended by substituting "March 15, 1983" for "February 28, 1982", each time it appears.

(Sec. 503, Pub. L. 95–87, 91 Stat. 470 (30 U.S.C. 1253))

[FR Doc. 82-14605 Filed 5-26-82; 8:45 am]

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30 CFR Part 931

Removal of One Condition of Approval of the New Mexico Permanent Program Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: New Mexico has satisfied one of the conditions of approval of the New Mexico program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) by submitting a program amendment. New Mexico received conditional approval of its permanent program effective Dec. 31, 1980, subject to the correction of twelve minor deficiencies. New Mexico submitted to the Department of the Interior a provision satisfying one of the deficiencies on February 28, 1982. Hence, the Secretary is removing one of the twelve conditions of approval of New Mexico's program.

EFFECTIVE DATE: The removal of the condition is effective on or before May 27, 1982.

FOR FURTHER INFORMATION CONTACT: Robert Hagen, State Office Director, Office of Surface Mining, 219 Central, NW., Albuquerque, New Mexico 87102. Telephone: (505) 766–1486.

SUPPLEMENTARY INFORMATION: On February 29, 1980, OSM received a proposed regulatory program from the State of New Mexico. On December 31, 1980, following a review of the proposed program as outlined in 30 CFR 732, the Secretary approved the proposed program conditioned on the correction of 12 minor deficiencies (45 FR 86459–86490).

In accepting the Secretary's conditional approval, New Mexico agreed to submit provisions to satisfy conditions "a"–"d" and "f"–"l" by July 1, 1981, and a provision to meet condition "e" by February 28, 1982. Subsequently, New Mexico requested that the deadline for the State to meet conditions "a"–"d" and "f"–"l" be extended until February 28, 1982. On October 30, 1981 (46 FR 54070), OSM announced its decision to grant New Mexico's request. The State recently asked for a second extension that would establish a new deadline for the State to meet conditions "a"–"c" and "e"–"l". On February 23, 1982, OSM issued a notice inviting comment on the proposal to extend the deadline for the State to meet those 11 conditions until March 15, 1983. OSM is currently giving consideration to the State's request for a second extension and will announce its final decision under separate rulemaking.

On February 28, 1982, New Mexico submitted to OSM a policy statement to satisfy condition "d". That condition specifies that the approval found in § 931.10 will terminate on February 28, 1982, unless New Mexico submits to the Secretary by that date copies of fully implemented regulations which include the requirements for posting and publishing notices of show cause orders that may be issued in accordance with 30 CFR 842.13(c)(1)–(3) and (d), or

otherwise amends its program to accomplish the same result.

To satisfy this condition, the State submitted a statement of its procedures for posting and publishing notices of show cause orders. The statement is signed by Mr. Emery C. Arnold, director of the New Mexico Mining and Minerals Department, and dated February 19, 1982. Public comment was invited on the material submitted by the State for 30 days ending April 22, 1982 (47 FR 12361, March 23, 1982). OSM received four comments on the State's provision. A public hearing that was scheduled to be held on April 16, 1982, was cancelled because no one expressed an interest in presenting testimony at the hearing.

After reviewing the policy statement submitted by the State and the public comment received on the State's provision, the Secretary has determined that the amendment submitted by the State corrects the program deficiency identified in condition "d". Accordingly, the condition as specified in 30 CFR 931.11(d) is hereby being removed.

Public comment: In response to the March 23, 1982, notice inviting comment on the amendment submitted by New Mexico, OSM received four written comments.

The Department of Agriculture commented that New Mexico's proposed amendment satisfies the deficiency identified in condition "d". As noted above, the Secretary agrees that the State has met the condition.

The Southwest Research and Information Center noted that New Mexico's procedures for publishing show cause orders require the publication of the order only in the county in which the surface mining and reclamation operations are conducted. OSM's regulations require that the notice be published "in a newspaper of general circulation in the area of the surface coal mining and reclamation operations" (30 CFR 843.13(c)(2)).

The commenters asserted that the State's provision does not satisfy the Federal intent that all affected parties receive notice, because the State's procedures limit the "area" to the county.

OSM belives that the State's provision will provide for adequate notice to affected parties because the circulation of newspapers is not restricted by county lines but generally extends to all interested persons within a general area. OSM feels confident that New Mexico will publish notice of show cause orders in the newspaper most likely to be read by affected persons.

The Southwest Research and Information Center also commented that New Mexico's procedures exclude the requirement that notice of any hearing to be held as a result of issuance of a show cause order be issued immediately. Although the State's procedures do not state explicitly that a notice of a hearing be published immediately, OSM interprets the State's procedures to mean that notices will be published promptly.

OSM also received a comment from Mr. Paul E. Frye, attorney-at-law for the DNA-People's Legal Services, Inc. Mr. Frye commented on the Secretary's approval on October 30, 1981, of an extension of the deadline for New Mexico to satisfy condition "d" from July 1, 1981, until February 28, 1982. Although the commenter's point is not directly related to this rulemaking, his comment is being addressed nonetheless. It should be noted that New Mexico requested an extension of the July 1, 1981, deadline in response to an inquiry from OSM. As mentioned above, because OSM was concerned that States with conditionally approved programs would be expending valuable time pursuing program amendments to meet Federal requirements that would be changed, OSM asked each State to identify those conditions for which it would like an extension. Although the Secretary did not announce his approval of an extension for New Mexico in the **Federal Register** until October, 1981, the State made its request prior to that date. OSM believes that termination of the State's program because of administrative delays in announcing the Secretary's decision to grant the extension would not be justified and would not be in the best interests of either citizens, OSM or the State.

Mr. Frye also commented that New Mexico's procedures for posting and publishing show cause orders are not binding and, therefore, cannot be said to constitute a fully implemented regulation or an effective amendment to the New Mexico program. The condition of approval, as established by the Secretary, requires the State to correct its program by regulatory amendment or any other means which "accomplishes the same result". OSM belives that New Mexico's procedures for posting and publishing notices adequately addresses the condition of approval. OSM assumes the State will implement the procedures as written and insure that proper notice of show cause orders is provided to all affected parties. If at any time OSM has reason to believe the State is not effectively implementing these procedures, then, at that time, the Agency will take appropriate steps to insure that the State implements the provisions of its program as approved.

The Environmental Protection Agency commented that as the modification does not concern air or water quality standards promulgated under the Clean Water Act or the Clean Air Act, the Agency has no objection to OSM's approving the modification.

Additional Determinations

1. *Compliance with the National Environmental Policy Act.* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Compliance with the Regulatory Flexibility Act.* The Secretary hereby determines that this proposed rule will not have a significant economic impact on small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

3. *Compliance with Executive Order No. 12291.* With respect to regulations concerning satisfaction of conditions of approval of State regulatory programs under SMCRA, OSM has been granted a categorical exemption from the requirement to prepare a Regulatory Impact Analysis pursuant to Executive Order No. 12291, by a letter from the Office of Management and Budget dated August 28, 1981.

4. The Environmental Protection Agency transmitted its written concurrence on the amendatory provision addressed in this notice.

List of Subjects in 30 CFR Part 931

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, Part 931 of Title 30 is amended as set forth herein.

Dated: May 21, 1982.

William P. Pendsley,

Acting Assistant Secretary, for Energy and Minerals.

PART 931—NEW MEXICO

1. 30 CFR 931.10 is revised to read as follows:

§ 931.10 State Regulatory program approval.

The New Mexico State Program as submitted on February 28, 1980, and amended and clarified on June 11, 1980, August 7, 1980 and September 10, 1980 is conditionally approved, effective December 31, 1980. The amendment to New Mexico's program submitted February 28, 1982, is approved effective upon publication. Copies of the approved program together with copies of the letter of the New Mexico Energy

and Minerals Department Division of Mining and Minerals agreeing to the conditions in 30 CFR 931.11, are available at:

(a) Energy and Minerals Dept., Mining and Minerals Division, 525 Camino De Los Marquez, Santa Fe, NM 87501

(b) Office of Surface Mining, Reclamation and Enforcement, 219 Central N.W., Albuquerque, N.M. 87102

(c) Office of Surface Mining, Reclamation and Enforcement, Administrative Record Room, 1100 L St., N.W., Washington, D.C.

2. 30 CFR 931.11 is amended by removing and reserving paragraph (d).

§ 931.11 Conditions of State Program Approval.

* * * * *

(d) [Reserved]

* * * * *

(Sec. 503, Pub. L. 95-87, 91 Stat. 470 (30 U.S.C. 1253))

[FR Doc. 82-14600 Filed 5-26-82; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 944

Permanent State Regulatory Program of Utah

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is modifying the deadline for Utah to meet conditions "f" and "h" of approval of the State permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). As the effective deadline for the State to satisfy the condition passed during the time the Secretary was considering the State's request for an extension, the Secretary is establishing a new deadline of September 1, 1982, for the State to meet condition "f". As OSM does not expect to finalize changes to the Federal rules affecting the State's compliance with condition "h" until the latter part of 1982, the Secretary is extending the deadline for the State to meet that condition until January 1, 1983.

EFFECTIVE DATE: May 27, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone (202) 343-5351.

SUPPLEMENTARY INFORMATION: On March 13, 1979 (44 FR 15311-15463), the Secretary promulgated final rules for the permanent regulatory program under the Act.

Certain provisions of the rules (Parts 730-732) establish the procedures for the submission, review, and decision on State permanent regulatory programs whereby the State assumes primary jurisdiction to regulate surface coal mining under the Act. Under § 732.13(i), the Secretary may conditionally approve a State program which contains minor deficiencies if the State agrees to correct the deficiencies according to a schedule set in the notice of conditional approval. The schedule is established in consultation with the State, based on the regulatory and administrative needs of the State and the time required for changes or legislative procedures.

The Utah program was conditionally approved on January 21, 1981 (46 FR 5899-5915). In that document the Secretary published a schedule for the State to meet each of 12 conditions on the State program. That schedule called for Utah to submit provisions to satisfy conditions "a"-"e" by December 1, 1981, and provisions to meet conditions "f"-"l" by July 1, 1981.

Since the Secretary's conditional approval of the Utah program, OSM has proposed several revisions to the Federal permanent program rules which served as the standard for approval of Utah's program. Because OSM was concerned that States with conditionally approved programs would be expending valuable time pursuing program amendments to meet Federal requirements that would be changed, OSM asked each State to identify those conditions for which it would like an extension of time to meet.

Utah requested that the deadline for the State to meet conditions "f", "g" and "h" be extended until January 1, 1982. On October 30, 1981 (46 FR 54070), OSM announced its decision to grant Utah's request.

In December 1982, Utah requested a second extension that would establish a new deadline for the State to meet conditions "f" and "h." The State offered as its reason for requesting a further extension the fact that OSM has not yet finalized amendments to the permanent program rules. The State asserted that some of these amendments might directly affect Utah's satisfaction of the two conditions. In accordance with the State's request, OSM issued a notice in the **Federal Register** proposing that the deadline for the State to meet those two conditions be extended until January 1, 1983 (46 FR 7266-7267, February 23, 1982). Public comments were invited for 30 days ending March 22, 1982. No comments were received.

In that notice OSM indicated that it would be considering alternatives to a January 1, 1983, deadline for the State to meet the two conditions. OSM stated that it would consider other options based on its reexamination of the two conditions in light of the following factors:

1. The first was promulgation of revisions of the Federal regulations at 30 CFR 730-732 which govern the standards for approval of State programs. The revised standards which were published October 28, 1981 (46 FR 53370-53384), allow States to adopt alternatives to the Federal regulations, provided they are "no less effective than" the Federal rules in meeting the purposes of the Act. OSM invited comment on the Agency's proposal to remove one or both of the conditions if judged to be moot in light of the revised standard for State program approval.

2. Other factors considered were the revisions to the Federal permanent program regulations that have been or will be proposed, but have not yet been finalized. OSM stated that it would reexamine both of the conditions to determine whether revisions to the Federal rules were likely to have a bearing on changes the State is required to make to satisfy conditions.

OSM has given consideration to the State's request for an extension and reviewed each of the conditions in light of the above factors. OSM has determined that neither the rule changes OSM is contemplating nor the revised standard for State program approval has a significant bearing on the State's satisfaction of condition "f," which requires Utah to adopt standards for a reduced highwall. Therefore, the Secretary does not believe an extension until January 1, 1983, for Utah to meet that condition is warranted. As the effective deadline for the State to satisfy the condition passed during the time the Secretary was considering the State's request for an extension, the Secretary is establishing a new deadline of September 1, 1982, for the State to meet condition "f." This should allow the State sufficient time for administrative or rulemaking procedures required to comply with the condition.

OSM has determined that changes to the Federal rules which the Agency is contemplating will almost certainly have a bearing on the State's satisfaction of condition "h". That condition calls for Utah to adopt a regulation which prohibits lifts for valley fills greater than four feet and a program provision to require Federal approval for the waiver of the underdrain requirements for valley fills. As OSM does not expect to finalize changes to the Federal rules affecting the State's compliance with condition "h" until the latter part of

1982, the Secretary is extending the deadline for the State to meet that condition until January 1, 1983.

Other Information: On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections, 3, 4, 7 and 8 of Executive Order 12291 for all actions to approve or conditionally approve State regulatory programs, actions or amendements. Therefore, a Regulatory Impact Analysis and regulatory review by OMB is not needed for this extension.

This rule is deemed not to be a major Federal action within the meaning of section 102(2)(c) of NEPA under sections 501(a) or 702(d) of SMCRA. It is hereby designated as a categorical exclusion from the NEPA process. Therefore, this rule is exempt from the requirements of an Environmental Assessment, EIS or FONSI.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96-354, I have certified that this rule will not have a significant economic effect on a substantial number of small entities as the rule is essentially a timing change with no direct or indirect impact on small entities.

The primary author of this rule is Mary Tisdale, State Program Specialist, Division of State Program Assistance, Program Operations and Inspection, Office of Surface Mining. Telephone (202) 343-5361.

List of Subjects in 30 CFR Part 944

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, Part 944 of Title 30 is amended as set forth herein.

Dated: May 19, 1982.

William P. Pendley,

Acting Assistant Secretary for Energy and Minerals.

PART 944—UTAH

1. 30 CFR 944.11 is amended by revising paragraphs (f) and (h) as follows:

§ 944.11 Conditions of State Regulatory Approval.

* * * * *

(f) The approval in § 944.11 will terminate on September 1, 1982, unless Utah submits to the Secretary by that date copies of fully enacted regulations adopting standards for the reduction of highwalls in UMC 817.101(b)(1) to be consistent with 30 CFR 817.101 and section 510 of SMCRA, or otherwise amends its program to accomplish the same result.

* * * * *

(h) The approval in § 944.11 will terminate on January 1, 1983, unless Utah submits to the Secretary by that date, copies of fully enacted regulations specifying that underdrains are required in all valley fills unless a waiver is granted in connection with an experimental practice approved by OSM, in UMC 817.72(b)/SMC 816.72(c) and specifying lifts for valley fills will not be greater than four feet, or less, if required by the regulatory authority, in UMC 817.72(c)/SMC 816.72(c) consistent with 30 CFR 817.72(c), or otherwise amends its program to accomplish the same result.

* * * * *

(Sec. 503, Pub. L. 95-87, 91 Stat. 407 (30 U.S.C. 1253))

[FR Doc. 82-14451 Filed 5-26-82; 8:45 am]
BILLING CODE 4310-05-M

30 CFR Part 948

Permanent State Regulatory Program of West Virginia

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: The Secretary of the Interior is modifying the deadline for West Virginia to meet certain conditions of approval of the State permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977. Inasmuch as the next regular session of the West Virginia Legislature does not begin until January, 1983, the Secretary is allowing the State until May 1, 1983, to meet all the conditions of the program approval which require legislative action. In addition the dates for meeting the provisions of Conditions 18 and 25 are being extended until November 1, 1982, to coincide with the date of the remaining conditions.

EFFECTIVE DATE: May 27, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Division of State Program Assistance, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone: (202) 343-5351.

SUPPLEMENTARY INFORMATION: On March 13, 1979, the Secretary promulgated final rules for the permanent regulatory program under the Act (44 FR 15311-15463). Certain provisions of the rules (Parts 730-732) established the procedures for the submission, review and decision on State permanent regulatory programs whereby a State assumes primary jurisdiction to regulate surface coal mining under the Act. Under § 732.13(i), the Secretary may conditionally approve a State program which contains minor deficiencies if the State agrees to correct the deficiencies according to a schedule set forth in the notice of conditional approval. The schedule is established in consultation with the State, based on the regulatory and administrative needs of the State's permanent program and the Act, and the time required for changes to be adopted under State rulemaking or legislative procedures.

The West Virginia program was conditionally approved on January 21, 1981 (46 FR 5915-5956). In the notice of approval, the Secretary published the schedule for West Virginia to resolve each of the 35 conditions on the approval of the State's regulatory program. On October 30, 1981, a notice was published in the **Federal Register** modifying the deadlines for seven States, including West Virginia, to meet conditions of their approved State programs (46 FR 54070-54071). In that notice, the Secretary modified the original deadline for 32 of the conditions in the Secretary's approval of the West Virginia program.

In a letter to the Director of OSM, dated February 23, 1982, the West Virginia Department of Natural Resources indicated that it would like an extension for meeting the conditions of approval as listed in the Secretary's January 21, 1981, decision (See Administrative Record No. WV 423). The State indicated in its letter that it needed sufficient time for the West Virginia Legislature to act during the next regular session, thus a six month extension of the November 1, 1982, deadlines was requested for all conditions requiring legislative action. Also, the State indicated that in the interest of consistency and stability, an extension of the remaining conditions should be granted to coincide with the requested six month extension of the November 1, 1982, deadlines. On March 19, 1982, the Director of OSM published a proposed rule to extend the schedule for West Virginia to meet the conditions of approval of its approved permanent regulatory program under the Act (47 FR 11885-11886). Public comments were invited until April 5, 1982.

In a telephone conversation of April 13, 1982, (Administrative Record No. WV 429) Director Callaghan of the West Virginia Department of Natural Resources was requested to indicate which of the 35 conditions would require legislative action. He stated that Mr. Dennis Abrams of the State Attorney General's office would provide this information. On May 4, 1982, Mr.

Abrams was contacted (Administrative Record No. WV 431) and agreed that Conditions 1, 3, 4, 5, 19, 24, 26–29 and 31–34 would require legislative action. He was informed that OSM would recommend that these conditions be extended to May 1, 1983, and that Conditions 18 and 25 be extended to November 1, 1982. All other conditions would remain unchanged since they did not require any legislative action.

Inasmuch as the next regular session of the West Virginia Legislature does not begin until January, 1983, the Secretary is accepting the OSM recommendation and allowing the State until May 1, 1983, to meet all the conditions of the program approval which require legislative action. In addition the dates for meeting the provisions of Conditions 18 and 25 are being extended until November 1, 1982, to coincide with the date of the remaining conditions.

Public Comments: Although public comments were requested, none were received.

Other Information: The Office of Management and Budget (OMB) has granted OSM an exemption for sections 3, 4, 7, an 8 of Executive Order 12291 for all actions to approve or conditionally approve state regulatory programs or amendments. Therefore, a Regulatory Impact Analysis and regulatory review by OMB are not needed for this extension.

This rule is deemed not to be a major Federal action within the meaning of section 102(2)(c) of NEPA. It is hereby designated as a categorical exclusion from the NEPA process. Therefore, this rule is exempt from the requirements of an Environmental Assessment or Environmental Impact Statement.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, I have certified that this rule will not have a significant economic effect on a substantial number of small entities as the rule is essentially a timing change with no direct or indirect impact on small entities.

The primary author of this rule is Thomas Morgan, Regulatory Program Specialist, West Virginia State Office, Office of Surface Mining, Charleston, West Virginia 25301. Telephone (304) 347–7158.

List of Subjects in 30 CFR Part 948

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Therefore, for the reasons set out in the preamble 30 CFR Part 948 is amended as set forth herein.

Dated: May 20, 1982.

William P. Pendley,

Acting Assistant Secretary, Energy and Minerals.

PART 948—WEST VIRGINIA

* * * * *

§ 948.11 [Amended]

1. 30 CFR 948.11(a) (1), (3), (4), (5), (19), (24), (26)–(29) and (31)–(34) are amended by substituting "May 1, 1983," for each date contained therein.

2. 30 CFR 948.11(a) (18) and (25) are amended by substituting "November 1, 1982," for the dates contained therein.

* * * * *

(Sec. 503, Pub. L. 95–87, 91 Stat. 407 (30 U.S.C. 1253))

[FR Doc. 82-14450 Filed 5-26-82; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 09–82–08]

B & T Icebreaker Regatta, Special Local Regulation

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard will establish a regulated area in the Niagara River, on June 5 and 6, 1982. This action is required to permit the conducting of an approved marine event. It is intended to restrict vessel navigation in the Niagara River area for the safety of the spectators and participants in the event.

EFFECTIVE DATE: This amendment becomes effective on June 5, 1982.

FOR FURTHER INFORMATION CONTACT: MSTC Bruce Graham, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522–4420.

SUPPLEMENTARY INFORMATION: This rule is effective in less than 30 days after publishing. On 29 April, 1982, the Coast Guard published a notice of proposed rulemaking in the **Federal Register** for these regulations (47 FR 18371). Interested persons were requested to submit comments and no comments were received.

Drafting Information: The principal persons involved in drafting this rule are MSTC Bruce Graham, Project Officer, Office of Search and Rescue, and LCDR Michael Gentile, Project Attorney, Legal Office, Ninth Coast Guard District.

Discussion of Comments: None was received and no significant differences exist between the proposed and final rule.

Summary of Final Evaluation: The B & T Icebreaker Regatta will be conducted on the Niagara River, Tonawanda Channel, on June 5 and 6, 1982. This event will have an estimated 50 hydroplanes which could pose hazards to navigation in the area. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (U.S. Coast Guard Group Buffalo, NY).

These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the regulated area in the Tonawanda Channel of the Niagara River can be opened periodically to allow for the passage of commercial vessels. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities. This rule is necessary to insure the protection of life and property in the area during the event.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Final Regulations: In consideration of the foregoing, Part 100 of Title 33 Code of Federal Regulations, is amended by adding the following section:

§ 100.35–0906 Niagara River, New York/ Tonawanda Channel.

(a) The following area will be restricted to vessel navigation or anchorage from 1200 (local time) until 1900 on June 5 and 6, 1982.

(1) That portion of the east branch of the Niagara River, Tonawanda Channel, from the overhead cable, 1300 yards northeast of the South Grand Island Bridge, to an east-west line through Tonawanda channel Buoy 35 (LLP 29).

(b) The patrol of a portion of Niagara River will be under the direction of a designated Coast Guard Patrol Commander who is empowered to forbid and control movement of vessels in the area before, during, and after the

events for such time as he finds it necessary for the safe and orderly conduct of the events.

(c) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signaled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in explusion from the area, citation for failure to comply, or both.

(d) This section 100.35–0908 will become effective at 1200 (local time) on June 5, 1982 and will no longer be effective after 1900 on June 6, 1982.

(Sec. 1, 35 Stat. 69 as amended, Sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 454; 49 U.S.C. 1655(b)(1); 33 CFR 100.35; 49 CFR 1.46(b))

Dated: May 11, 1982.

Henry H. Ball,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 82-14685 Filed 5-26-82; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 110

[CGD05-81-16R]

Northwest Harbor, Baltimore, Md.; Anchorage Regulations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard was petitioned by Andrews, Miller and Associates, Inc., on behalf of Gaylord Brooks Investment Company, to amend the anchorage regulations for the small boat anchorage ground located generally east of Fells Point and the Northwest Harbor Turning Basin. The basis for the petition was to allow for construction of a 225-slip marina at Fells Point. Three of the proposed piers at this marina would have bordered on the present anchorage ground boundary. Vessels desiring to use these piers would have had to maneuver through the anchorage ground, thereby interfering with its intended purpose to separate anchored and navigating vessels in order to enhance the safety of both classes. This amendment moves the northwest boundary of the small boat anchorage approximately 50 yards to the southeast. This amendment will enhance navigation safety by separating navigating vessels from those at anchor within the anchorage ground.

EFFECTIVE DATE: This amendment is effective on June 28, 1982.

FOR FURTHER INFORMATION CONTACT: Captain E. E. MORAN, Chief, Port Safety Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia (23705), (804) 398–6389.

SUPPLEMENTARY INFORMATION: On August 25, 1981, the U.S. Army Corps of Engineers, Baltimore District issued a public notice (NABOP–FW81–0222–2) concerning an application by Gaylord Brooks Investment Company for a permit to construct a 225-slip marina east of Fells Point in the Northwest Harbor, Baltimore, Maryland. On September 16, 1981 the Coast Guard objected to this proposed construction. The basis for this objection was that vessels desiring to use the three easternmost piers would, by necessity, be required to maneuver through the anchorage ground to reach these piers. Pursuant to the Coast Guard's request, the U.S. Army Corps of Engineers has acted to place the permit application in an inactive status until the Coast Guard's objection is resolved. Adoption of this final rule resolves the Coast Guard's objection to this proposed construction. On November 11, 1981, Andrews, Miller, and Associates, Inc., on behalf of Gaylord Brooks Investment Company, submitted a petition to the Coast Guard to amend the northwest boundary of the small craft anchorage to accommodate the proposed construction. The Coast Guard acted upon this petition and published a notice of proposed rulemaking in the Federal Register on February 16, 1982 (47 FR 6660). This notice proposed the amendments adopted by this final rule. Interested persons were invited to participate in this rulemaking by submitting written views, arguments, or data.

Discussion of Comments: One comment was received supporting the increased navigation safety that would result from the adoption of this rule. While the opportunity for a public hearing was announced, none was held because of the lack of public interest.

Discussion of the Rule: This amendment adjusts the northwesternmost boundary of the small craft anchorage to accommodate the construction of the proposed marina. The northwesternmost boundary has been realigned so as to be located approximately 50 yards southeast of the marina piers when they are constructed. An environmental assessment completed on this rulemaking resulted in a finding of no significant impact.

Drafting Information: The principal persons involved in drafting this notice are Lieutenant Junior Grade M. S. KUSHLA, Project Manager, Port Safety Branch, Fifth Coast Guard District, and Lieutenant D. M. WRYE of the office of the District Legal Officer, Fifth Coast Guard District.

Regulatory Evaluation: This regulation has been reviewed under the provisions of Executive Order 12291 and has been determined not to be a major rule. In addition, this regulation is considered to be non-significant in accordance with guidelines set out in the Policies and Procedures for Simplification Analysis and Review of Regulations (DOT Order 2100.5 of May 22, 1980). The economic impact of this rule on small business, non-profit organizations, and government entities is considered to be minimal because the rule results in only a small boundary revision to the small craft anchorage ground that will eliminate user conflicts within its boundaries. The change to this anchorage ground is not a matter on which there has been substantial public interest or controversy, nor does it involve impacts on competitive business, state or local government, or the regulations of other programs or agencies. In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that this rule will not have a significant economic impact upon a substantial number of small entities.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

PART 110—ANCHORAGE REGULATIONS

Final regulations: In consideration of the foregoing, Part 110 of Title 33, Code of Federal Regulations, is amended by revising § 110.158(a)(9) to read as follows:

§ 110.158 Baltimore Harbor, MD.

* * * * *

(a) The anchorage grounds * * *

* * * * *

(9) Small vessel anchorage—In the Northwest Harbor, north of the Turning Basin, beginning at latitude 39°16'49.5" N., longitude 76°35'06" W.; thence southeast to latitude 39°16'43" N., longitude 76°34'53.5" W.; thence southwest to latitude 39°16'36.5" N., longitude 76°34'59" W.; thence northwest to latitude 39°16'43" N., longitude 76°35'11" W.; thence northeast to the point of beginning. This anchorage shall be only by vessels 100 feet in length or less.

* * * * *

(Sec. 7, 38 Stat. 1053, (33 U.S.C. 471); Sec. 6(g)(1), 80 Stat. 940; (49 U.S.C. 1655(g)(1), 49 CFR 1.46(c) and 1.45(b)), 33 CFR 1.05–1(g))

Dated: May 6, 1982.

T. J. Wojnar,

Captain U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.

[FR Doc. 82-14484 Filed 5-26-82; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL-2114-6]

California State Implementation Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: Revisions to rules of the Butte County, El Dorado County, Imperial County, Monterey Bay Unified, Shasta County, and Tuolumne County Air Pollution Control Districts (APCDs) were forwarded to EPA by the State of California. These revisions generally are administrative and retain equivalent emission control requirements. EPA reviewed these rules with respect to the Clean Air Act and determined that they should be approved.

EFFECTIVE DATE: July 26, 1982.

ADDRESSES: Copies of the revisions are available for public inspection during normal business hours at the following locations:

Public Information Reference Unit, Environmental Protection Agency, Library, 401 "M" Street, SW., Room 2404, Washington, D.C. 20460

Office of the Federal Register, 1100 "L" Street, NW., Room 8401, Washington, D.C. 20408

California Air Resources Board, 1102 "Q" Street, Sacramento, CA 95812

Butte County Air Pollution Control District, 316 Nelson Avenue, Oroville, CA 95965

El Dorado County Air Pollution Control District, 330 Fair Lane, Placerville, CA 95667

Imperial County Air Pollution Control District, 940 West Main Street, El Centro, CA 92243

Monterey Bay Unified Air Pollution Control District, 1270 Natividad Road, Salinas, CA 93906

Shasta County Air Pollution Control District, 1855 Placer Street, Redding, CA 96001

Tuolumne County Air Pollution Control District, 9 North Washington Street, Sonora, CA 95370

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, State Implementation Plan Section, Air Management Division, Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105, (415) 974-8058.

SUPPLEMENTARY INFORMATION: The State of California submitted the following rules and regulations on the indicated dates:

Butte County

February 25, 1980

Rule 4.5A Standards for Granting Applications
4.5B Conditional Approval

July 10, 1980

Rule 4.9 Action on Applications

El Dorado County

May 23, 1979

Rule 306 Exceptions to Rule 305 (Lake Tahoe Air Basin)

April 17, 1980

Regulation V Permit to Operate Regulations (Mountain Counties Air Basin)
Rule 502 Exemptions to Rule 501
503 Applications
504 Action on Applications
505 Conditional Approval
506 Denial of Application
507 Responsibility
508 Posting of Permit to Operate
509 Authority to Inspect
510 Separation of Emissions
511 Combination of Emissions
512 Circumvention
513 Source Recordkeeping
514 Public Records and Trade Secrets
515 Provision of Sampling and Testing Facilities
516 Upset and Breakdown Conditions
517 Transfer
518 Revocation of a Permit to Operate
519 Appeals
520 Reinstatement

August 15, 1980

Regulation VI Fees (Mountain Counties and Lake Tahoe Air Basins)
Rule 601 Filing Fees
602 Analysis Fees
603 Permit Fee Penalty
604 Permit Granted by Hearing Board
605 Cancellation or Denial
606 Alteration of Equipment
607 Revising Permit Conditions
608 Annual Renewal Fee
609 Any Article, Machine, Equipment or Other Contrivance
610 Multiple Location
611 Duplicate Permit
612 Technical Reports
613 Hearing Board Fees

October 23, 1981

Regulation III Open Burning (Mountain Counties Air Basin)
Rule 301 Prohibition from Burning
302 Exceptions to Rule 301
303 Agricultural Burning
304 Range Improvement Burning
305 Forest Management Burning
306 Land Development Clearing
307 Ditch and Road Maintenance
308 Hazard Reduction
309 Fire Suppression and Training
310 Residential Maintenance
311 Recreational Activity
312 Required Permit
313 No Burn Day
314 Burning Permits
315 Minimum Drying Times
316 Burning Management
317 Mechanized Burners
318 Enforcement Responsibilities
319 Penalty
501 Permit Required
703 Contents of Petitions
710 Notice of Public Hearing

Imperial County

October 23, 1981

Rule 101 Definitions
301 Permit Fees
302 Fee Schedules
305 Hearing Board Fees
306 Agricultural Burning Permit Fees
307 Livestock Feed Yard Fees

Monterey Bay Unified

February 25, 1980

Rule 416 Organic Solvents

October 23, 1981

Rule 301 Permit Fee Schedules
601 Filing Petitions
602 Contents of Petitions

Shasta County

October 15, 1979

Rule 2:5 Exemptions

September 5, 1980

Rule 2:6 Open Burning: General Provisions

October 23, 1981

Rule 2:11 Fees (amendments)

Tuolumne County

October 23, 1981

Regulation II Prohibitions
Rule 203 Exceptions
Regulation III Open Burning
Rule 301 Prohibition from Burning
302 Exceptions to Rule 301
303 Agricultural Burning
304 Range Improvement Burning
305 Forest Management Burning

306 Land Development Clearing
307 Ditch and Road Maintenance
308 Hazard Reduction
309 Fire Suppression and Training
310 Residential Maintenance
311 Recreational Activity
312 Required Permit
313 No Burn Day
314 Burning Permits
315 Minimum Drying Times
316 Burning Management
317 Mechanized Burners
318 Enforcement Responsibilities
319 Penalty
Regulation V Permit to Operate Regulations
Rule 501 Permit Required
502 Exemptions to Rule 501
503 Applications
504 Action on Applications
505 Conditional Approval
506 Denial of Application
507 Responsibility
508 Posting of Permit to Operate
509 Authority to Inspect
510 Separation of Emissions
511 Combination of Emissions
512 Circumvention
513 Source Recordkeeping
514 Public Records and Trade Secrets
515 Provision of Sampling and Testing Facilities
516 Upset and Breakdown Conditions
517 Transfer
518 Revocation of a Permit to Operate
519 Appeals
520 Reinstatement
521 Annual Renewal
Regulation VII Procedure Before the Hearing Board
Rule 703 Contents of Petitions
710 Notice of Public Hearing

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove these regulations as State Implementation Plan (SIP) revisions. All the rules listed above have been evaluated and found in accordance with EPA policy and 40 CFR Part 51. Detailed evaluation reports are available for public inspection at the EPA Library in Washington, D.C. and the EPA Region 9 Office.

This notice approves all the rule revisions listed above and incorporates them into the California SIP. EPA's approval of the above revisions to the California SIP is being done without prior proposal because the revisions are not controversial. The public is advised that this approval action will be effective July 26, 1982. However, if notice is received by EPA within 30 days that someone wishes to submit adverse or critical comments, the approval action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will indefinitely postpone the effective date, modify the final action to a proposed action, and establish a comment period.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements.

Note.—Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1981.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601(a))

Dated: May 19, 1982.

Anne M. Gorsuch,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLAN

Subpart F of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraphs (c)(51)(xiv)(B), (52)(xviii)(B), (54)(ii)(B) and (viii)(B), (70)(iv), (86)(ii), (87)(viii), (103)(xiii)–(xvii), and (119) to read as follows:

§ 52.220 Identification of plan.

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(c) * * *
(51) * * *
(xiv) * * *
(B) Amended Rule 306.

* * * * *

(52) * * *
(xviii) * * *
(B) Amended Rule 2:5.

* * * * *

(54) * * *
(ii) * * *
(B) Amended Rule 416.

* * * * *

(viii) * * *
(B) Amended Rules 4.5A and 4.5B.

* * * * *

(70) * * *
(iv) El Dorado County APCD (Mountain Counties and Lake Tahoe Air Basin).
(A) New or amended Rules 601–613.

* * * * *

(86) * * *
(ii) Butte County APCD.
(A) Amended Rule 4.9.

* * * * *

(87) * * *
(viii) Shasta County APCD.
(A) New Rule 2:6.

* * * * *

(103) * * *
(xiii) El Dorado County APCD (Mountain Counties Air Basin).
(A) New or amended Rules 301–319, 501, 703, and 710.
(xiv) Imperial County APCD.
(A) New or amended Rules 101, 301, 302, 305–307.
(xv) Shasta County APCD.
(A) Amended Rule 2:11.
(xvi) Monterey Bay Unified APCD.
(A) Amended Rules 301, 601, and 602.
(xvii) Tuolumne County APCD.
(A) New or amended Rules 203, 301–319, 501–521, 703, and 710.

* * * * *

(119) Revised regulations for the following APCDs submitted on April 17, 1980, by the Governor's designee.
(i) El Dorado County APCD (Mountain Counties Air Basin).
(A) New or amended Rules 502–520.

* * * * *

[FR Doc. 82-14456 Filed 5-26-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 52

[A-4-FRL-2111-8]

Approval and Promulgation of Implementation Plans

Tennessee; Approval of 1979 Plan Revisions

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is today announcing approval of State Implementation Plan (SIP) revisions submitted by the Tennessee Department of Public Health, pursuant to the requirements of Part D of Title I of the Clean Air Act (CAA) of 1977, for the Kingsport secondary particulate nonattainment area and the Copperhill secondary sulfur dioxide (SO_2) nonattainment area. EPA is also announcing the removal of the conditions on the approval given earlier to the Part D plans for the Kingsport and

Nashville primary particulate nonattainment areas.

DATE: These actions will be effective June 28, 1982.

ADDRESSES: Copies of the materials submitted by Tennessee may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460;
Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30365;
Division of Air Pollution Control, Tennessee Department of Public Health, 150 9th Avenue North, Nashville, Tennessee 37203;
Air Pollution Section, Metropolitan Health Department 1600 Hayes Street, Nashville, Tennessee 37203.

FOR FURTHER INFORMATION CONTACT: Raymond S. Gregory of EPA Region IV's Air Programs Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30365, telephone 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: In the March 3, 1978, **Federal Register** (43 FR 8962 at 9035), the September 11, 1978 **Federal Register** (43 FR 40412 at 40432), and the August 27, 1979 **Federal Register** (44 FR 50088), a number of areas within the State of Tennessee were designated as not attaining certain National Ambient Air Quality Standards (NAAQS).

Portions of Nashville and Kingsport were designated as nonattainment for the primary and secondary NAAQS for particulate matter. Implementation plan revisions for attainment of the primary particulate matter NAAQS were conditionally approved for Nashville on August 13, 1980 (45 FR 53809 at 53818), and for Kingsport on November 17, 1980 (45 FR 75660 at 75661).

Nashville Particulate

The conditional approval for the Nashville plan required the submittal by October 1, 1980, of a detailed listing of measures to be investigated concerning nontraditional source control. The required listing was submitted on September 30, 1980, and it meets the requirement of the conditional approval.

Kingsport Primary Particulate

The conditional approval for Kingsport required two actions, the first of which was the submittal of plans for the control of nontraditional sources and the showing that resultant controls would be sufficient to meet the requirement of Reasonable Further Progress (RFP). The State submittal of December 17, 1980, satisfies the requirement for the control of nontraditional sources. The reductions in particulate emissions from these control measures for fugitive dust were quantified in the control strategy demonstration. The plan for attainment of the secondary NAAQS submitted by the State on May 8, 1980, provided a showing of RFP sufficient to fulfill the requirement of this part of the conditional approval.

The second requirement was that permits be submitted without expiration dates for sources, or certification by the State that the same permits will be renewed and resubmitted to EPA before expiration with conditions at least as stringent. The December 17, 1980, submittal contained a number of the required permits without expiration dates and a resolution adopted by the Air Pollution Control Board of the State of Tennessee on December 11, 1980, stating that "The Tennessee Air Pollution Control Board hereby agrees that prior to expiration of the previously issued permits for particulate emission sources in the Kingsport nonattainment area implementation plan, the Board shall issue permits without expiration dates with conditions at least as stringent as those on the permits now in effect." In keeping with this resolution, on August 27, 1981, additional permits without expiration dates were submitted. The submittals described above meet the requirements of the conditional approval given to the Part D revisions for the Kingsport primary particulate nonattainment area.

Kingsport Secondary particulate

The secondary plan for Kingsport consists of operating permits containing permit conditions representing emission levels that are achieved by reasonably available control technology (RACT) and RACT measures to control fugitive dust emissions. The permit conditions involve particulate matter and visible emission standards, and reasonable limitations on operating hours and capacities. Plans submitted by individual sources were tailored to provide the necessary control of fugitive dust at those sources.

A public hearing concerning the secondary plan was held on April 16, 1980, with adoption of the plan by the Tennessee Air Pollution Control Board on May 1, 1980.

Copperhill Secondary Sulfur Dioxide

After public hearing on July 16, 1980, and adoption by the Tennessee Air Pollution Control Board on August 5, 1980, Tennessee on August 15, 1980, submitted a plan for attainment of the secondary SO_2 NAAQS in Copperhill.

This plan contained emission limits which are more restrictive than the original RACT limits set in the primary plan. The secondary plan with these revised RACT limits demonstrates attainment of the secondary SO_2 NAAQS.

In addition, limits on sulfur content were specified for non-process fuel burning equipment. For #1 or #2 fuel oil the sulfur weight content is not to exceed 0.50 percent. For #4, #5, or #6 fuel oil the sulfur weight content is not to exceed 1.25 percent.

Action. Based on the foregoing, EPA hereby removes the conditions on the approvals given to both the Nashville and Kingsport Part D plans for particulate nonattainment areas. The required submittals have been received and are considered sufficient to meet the requirements specified in the notices of conditional approval. EPA also approves the plans for attainment of the secondary NAAQS for particulates in Kingsport and SO_2 in Copperhill. The secondary plans have been reviewed and meet the requirements for the plans to be submitted under Part D of Title I of the CAA. This action is effective June 28, 1982.

The announcement of proposed approval for these revisions was published on January 5, 1982 (47 FR 191). In that notice of proposed rule making, a 30-day public comment was announced. No public comments were received in response to that announcement.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [60 days from today]. This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2).)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Incorporation by reference of the State Implementation Plan for the State of Tennessee was approved by the Director of the Federal Register on July 1, 1981.

(Secs. 110, 172, Clean Air Act, as amended, (42 U.S.C. 7410 and 7502))

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: May 20, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart RR—Tennessee

1. In § 52.2220, paragraph (c) is amended by adding subparagraph (45) as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(45) (i) Materials developed to meet conditions on the approval of the 1979 revisions for the Nashville and Kingsport primary TSP nonattainment areas, submitted on September 30, 1980, and December 17, 1980, respectively, by the Tennessee Department of Public Health. Additional materials for Kingsport were submitted on August 27, 1981.

(ii) 1979 revisions for the Copperhill secondary SO_2 nonattainment area, submitted on August 15, 1980, by the Tennessee Department of Public Health.

(iii) 1979 revisions for the Kingsport secondary TSP nonattainment area, submitted on May 8, 1980, by the Tennessee Department of Public Health.

§ 52.2231 [Amended]

2. In § 52.2231, paragraphs (a) and (b), concerning conditional approval of the 1979 revisions for the Nashville and Kingsport primary TSP nonattainment areas, are removed.

[FR Doc. 82-14434 Filed 5-25-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 62

[A-4-FRL-2115-1]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Georgia: Plan for Control of Sulfuric Acid Mist Negative Declaration for Phosphate Fluorides

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Pursuant to section 111(d) of the Clean Air Act and EPA's implementing guidelines, the Georgia Environmental Protection Division (GEPD) has adopted and submitted a plan for the control of sulfuric acid mist. EPA today approves this plan, as well as the State's certification that there are no phosphate fertilizer plants in Georgia subject to section 111(d).

EFFECTIVE DATE: This action will be effective on July 26, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the materials submitted by Georgia may be examined during normal business hours at the following locations:

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30365

Georgia Department of Natural Resources, Environmental Protection Division, 270 Washington Street, S.W., Atlanta, Georgia 30334

FOR FURTHER INFORMATION CONTACT: Mr. Barry Gilbert, EPA Region IV, Air Programs Branch, at the above listed address and phone 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: In accordance with section 111 of the Clean Air Act (amended August 1977, Pub. L. 95-95), "Standards of Performance for New Stationary Sources," EPA has promulgated standards of performance for criteria pollutants (those for which National Ambient Air Quality Standards have been published) and non-criteria pollutants. These standards apply to "new" sources (i.e., new, modified, or reconstructed sources) which commenced construction after the date on which EPA proposed standards for that particular source category.

Paragraph (d) of section 111 requires States to develop plans for the control of emissions of the same non-criteria, or designated, pollutants from existing sources, which are regulated from the new source category. "Existing" sources were defined as those which are present prior to the date on which EPA proposed new source performance standards for that particular source category. The requirements for such plans are set forth in Subpart B of 40 CFR Part 60 (November 17, 1975; 40 FR 53346).

On January 31, 1978, Georgia submitted to EPA a plan for controlling sulfuric acid mist from existing sulfuric acid producers pursuant to Section 111(d) of the Clean Air Act. Sulfuric acid mist limitations were adopted by the board of Natural Resources in 1972 as part of the original State Implementation Plan approved by EPA on May 31, 1972. The established acid mist emission limitation (391-3-1-02(2) (J.) Sulfuric Acid Plants) for sulfuric acid producers (0.15 pounds per ton) is consistent with and more stringent than the recommended emission limitation in EPA's final guideline document (0.5 pounds per ton). The two sulfuric acid producers in the State of Georgia are reported to be in compliance with the applicable emission standards. EPA has evaluated the Georgia plan by comparing it with the requirements for the State plans for designated facilities, as set forth in Subpart B of 40 CFR Part 60, "Adoption and Submittal of State Plans for Designated Facilities," and with the EPA guideline document, *Control of Sulfuric Acid Mist Emissions from Existing Production Units* (EPA-450/2-77-019). The Georgia plan controls acid mist emissions from sulfuric acid producers that were in operation or were under construction before January 1, 1972. EPA approves the Georgia plan since it completely satisfies EPA requirements.

Action: EPA is today approving the Georgia plan for the control of sulfuric acid mist from existing sulfuric acid plants, and the State's certification, submitted on July 14, 1977, that there are no phosphate fertilizer plants in Georgia subject to Section 111(d) requirements. This is being done without prior proposal because the changes are noncontroversial and have limited impact and no comments are anticipated as all affected sources are reported to be in compliance with the applicable state regulation.

The public should be advised that this action will be effective July 26, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under section 307 (b)(1) of the Clean Air Act, Judicial review of EPA's approval of this revision is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before July 26, 1982. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. This action applies to only two

sources that are reported in compliance with the plan's emission limit.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Sections 111 and 301(a) of the Clean Air Act, as amended, (42 USC 7411 and 7601(a)))

List of Subjects in 40 CFR Part 62

Air pollution control, Fluoride, Sulfur, Administrative practice and procedure, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: May 20, 1982.

Anne M. Gorsuch,

Administrator.

Part 62 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart L, consisting of §§ 62.2600 and 62.2610, is added as follows:

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

* * * * *

Subpart L—Georgia

Fluoride Emissions from Phosphate Fertilizer Plants

Sec.

62.2600 Identification of plan—Negative declaration.

Sulfric Acid Mist from Existing Sulfuric Acid Plants

62.2610 Identification of plan.

Subpart L—Georgia

Fluoride Emissions from Phosphate Fertilizer Plants

§ 62.2600 Identification of plan—Negative declaration.

The Georgia Environmental protection Division submitted on July 14, 1977, a letter certifying that there are no existing phosphate fertilizer plants in the State subject to Part 60, Subpart B, of this Chapter.

Sulfuric Acid Mist from Existing Sulfuric Acid Plants

§ 62.2610 Identification of plan.

(a) Title of plan: Untitled.

(b) The plan was officially submitted on January 31, 1978.

(c) The plan applies to the following types of sulfuric acid plant:

(1) Sulfur-burning plants of American Cyanamid Company in Savannah and Cities Service Company in Augusta.

(2) Oleum plant of Cities Service Company in Augusta.

(3) There are no bound sulfur feedstock plants.

Authority: Section 111 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411 and 7601(a)).

[FR Doc. 82-14423 Filed 5-26-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 81

[A-4-FRL-2121-5]

Designation of Areas for Air Quality Planning Purposes; Alabama and Kentucky; Redesignation of Ozone Areas

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On November 20, 1981 (46 FR 57046), EPA announced that it was granting requests made by Alabama and Kentucky for the redesignation of certain counties from unclassifiable to attainment for ozone. These actions were taken on the basis of measured air quality data, and without prior proposal. EPA subsequently received a request for an opportunity to submit adverse comments on the actions. Accordingly, the Agency withdrew the final action and reproposed it on February 16, 1982 (47 FR 6628 and 6661). One comment was received in response. EPA today redesignates the areas as proposed.

DATE: This action is effective on June 28, 1982.

ADDRESSES: Copies of the materials submitted by Alabama and Kentucky may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460

Air Programs Branch, Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365

FOR FURTHER INFORMATION CONTACT: Archie Lee of the Region IV Air Programs Branch at 404/881-3043 (FTS 257-3043).

SUPPLEMENTARY INFORMATION: On July 30, 1981, the Alabama Air Pollution Control Commission submitted one full season of ozone monitoring data collected at Murphy Hill, Alabama, and requested that it be used to redesignate Jackson and DeKalb Counties attainment for this pollutant. On April 28, 1981, the Kentucky Department for Natural Resources and Environmental Protection made a similar submittal and request with respect to eight counties in that State (Allen, Butler, Edmonson, Grayson, Hart, Logan, Simpson, and Warren). On November 20, 1981 (46 FR 57046), EPA changed the attainment status designation of these ten counties from unclassifiable to attainment without prior proposal of the action. For an explanation of this procedure, the reader may see 46 FR 44477, September 4, 1981.

A more detailed description of the States' submittals and EPA's findings can be found in the November 20, 1981, notice finalizing the redesignations. EPA withdrew that action on February 16, 1981 (46 FR 6628), due to the receipt on December 17, 1981, of a letter from Mr. Leonard Bruckman, State of Connecticut Department of Environmental Protection, objecting to the redesignations. His objection and subsequent comments of January 19, and March 18, 1982, are based primarily on the premise that the Clean Air Act requires redesignations to be based upon at least two years of data. This is incorrect. The Clean Air Act does not specifically deal with the amount of monitoring data needed for redesignations. On December 7, 1979, an Agency policy memorandum on the requirements for ozone redesignations was issued under the signature of Richard Rhoads. The memorandum states that one oxidant season of ambient data may be used to assess attainment if that is the only data available. EPA feels that the data submitted is statistically sufficient to assess attainment.

Mr. Bruckman also questioned EPA's approval of the Kentucky and Alabama air quality surveillance plans, asking why monitors were not required in the counties subject to today's action. EPA's response is that these counties are rural and have no identified major sources. To require monitoring there would have caused an inappropriate use of resources. Accordingly, the areas are redesignated attainment for ozone as requested by the States.

It should be noted that these redesignations do not alter the ozone attainment status tables of 40 CFR Part 81. This is because section 107 of the Clean Air Act does not provide for EPA to make a formal distinction in the Code of Federal Regulations between areas which are attainment for ozone and those which cannot be classified.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [60 days from today]. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107 of the Clean Air Act (42 U.S.C. 7407))

Dated: May 19, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-14422 Filed 5-26-82; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 105-53

Statement of Organization and Functions

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation reflects the current GSA organization and functions and is published in accordance with the Freedom of Information Act.

EFFECTIVE DATE: May 27, 1982.

FOR FURTHER INFORMATION CONTACT: Sylvester H. Kish, Director, Organization Division, (202-566-1778).

SUPPLEMENTARY INFORMATION:

List of Subjects in 41 CFR Part 105-53

Organization and functions (Government agencies).

Therefore, Part 105-53 is revised to read as follows:

PART 105-53—STATEMENT OF ORGANIZATION AND FUNCTIONS

Sec.

105-53.100 Purpose.

Subpart A—General

105-53.110 Creation and authority.
105-53.112 General statement of functions.
105-53.114 General statement of organization.
105-53.116 General regulations.
105-53.118 Locations of material available for public inspection.
105-53.120 Addresses and telephone numbers.

Subpart B—Central Offices

105-53.130 Office of the Administrator.
105-53.130-1 Office of Congressional Affairs.
105-53.130-2 Office of Ethics.
105-53.130-3 Office of the Executive Secretariat.
105-53.130-4 Office of Small and Disadvantaged Business Utilization.
105-53.131 Office of Inspector General.
105-53.132 GSA Board of Contract Appeals.
105-53.133 Information Security Oversight Office.
105-53.134 Associate Administrator for Administration.
105-53.135 Office of Operations.
105-53.136 Office of Policy and Management Systems.
105-53.137 Office of Acquisition Policy.
105-53.138 Office of General Counsel.
105-53.139 Office of Plans, Programs, and Financial Management.
105-53.140 Office of Organization and Personnel.
105-53.141 Office of Oversight.
105-53.142 Office of Public Affairs.
105-53.143 Automated Data and Telecommunications Service.
105-53.144 Federal Property Resources Service.
105-53.145 Federal Supply Service.
105-53.146 National Archives and Records Service.
105-53.147 Public Buildings Service.
105-53.148 Transportation and Public Utilities Service.

Subpart C—Regional Offices

105-53.150 Organization and functions.
105-53.151 Geographic composition; addresses and telephone numbers.

Authority: 5 U.S.C. 552(a)(1), Pub. L. 90-23, 81 Stat. 54 sec. (a)(1); 40 U.S.C. 486(c), Pub. L. 81-152, 63 Stat. 390, sec. 205(c).

§ 105-53.100 Purpose.

This part is published in accordance with 5 U.S.C 552 and is a general description of the General Services Administration.

Subpart A—General

§ 105-53.110 Creation and authority.

The General Services Administration was established by section 101 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), effective July 1, 1949. The act consolidated and transferred to the agency a variety of real and personal property and related functions formerly assigned to various agencies. Subsequent laws and Executive orders assigned other related functions and programs.

§ 105-53.112 General statement of functions.

The General Services Administration, as a major policy maker, provides guidance and direction to Federal agencies in a number of management fields. GSA formulates and prescribes a variety of Government-wide policies relating to procurement and contracting; real and personal property management; transportation, public utilities, and telecommunications management; automated data processing management; records management; the Nation's emergency defense supplies; the use and disposal of surplus property and equipment; the information security program; and the creation, preservation, and disposal of records.

§ 105-53.114 General statement of organization.

The General Services Administration is an independent agency in the executive branch of the Government. The work of the agency as a whole is directed by the Administrator of General Services, who is assisted by the Deputy Administrator. A summary description of each of GSA's major functions and organizational components is presented in Subparts B and C.

§ 105-53.116 General regulations.

Regulations of the General Services Administration and its components are codified in the Code of Federal Regulations in Title 1, Chapters I and II; Title 32, Chapter XX; and Title 41, Chapters 1, 5, 5A, 5B, 101, and 105. Titles 1, 32, and 41 of the Code of Federal Regulations are available for review at most legal and depository libraries and at the General Services Administration Central Office and regional offices. Copies may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

§ 105-53.118 Locations of material available for public inspection.

GSA maintains reading rooms containing material available for public inspection and copying at the following locations:

(a) General Services Administration, 18th & F Streets, NW., Library (Room 1033), Washington, DC, 20405. Telephone: 202-566-1240.

(b) Business Service Center, General Services Administration, John W. McCormack Building, Post Office & Courthouse, Boston, MA 02109. Telephone: 617-223-2868.

(c) Business Service Center, General Services Administration, 26 Federal Plaza, NY, NY 10007. Telephone: 212-264-1234.

(d) Business Service Center, General Services Administration, Seventh & D Streets, SW., Rm. 1050, Washington, DC 20407. Telephone: 202-472-1804.

(e) Business Service Center, General Services Administration, Ninth & Market Streets., Rm. 5142, Philadelphia, PA 19107. Telephone: 215-597-9613.

(f) Business Service Center, General Services Administration, Richard B. Russell Federal Building, U.S. Courthouse, 75 Spring Street SW., Atlanta, GA 30303. Telephone: 404-221-5100.

(g) Business Service Center, General Services Administration, 230 South

Dearborn Street, Chicago, IL 60604. Telephone: 312–353–5383.

(h) Business Service Center, General Services Administration, 1500 East Bannister Road, Kansas City, MO 64131. Telephone: 816–926–7203.

(i) Business Service Center, General Services Administration, 819 Taylor Street, Fort Worth, TX 76102. Telephone: 817–334–3284.

(j) Business Service Center, General Services Administration, Building 41, Denver Federal Center, Denver, CO 80225. Telephone: 303–324–2216.

(k) Business Service Center, General Services Administration, 525 Market Street, San Francisco, CA 94105. Telephone: 415–556–0877.

(l) Business Service Center, General Services Administration, 440 Federal Building, 915 Second Avenue, Seattle, WA 98174. Telephone: 206–442–5556.

§ 105–53.120 Addresses and telephone numbers.

The Office of the Administrator; Office of Inspector General; GSA Board of Contract Appeals; Information Security Oversight Office; Associate Administrator for Administration; Office of Operations; Office of Policy and Management Systems; Office of Congressional Affairs; Office of Ethics; Office of the Executive Secretariat; Office of Small and Disadvantaged Business Utilization; Office of Acquisition Policy; Office of Organization and Personnel; Office of Plans, Programs, and Financial Management; Office of Oversight; Office of Public Affairs; Automated Data and Telecommunications Service; Federal Property Resources Service; and Public Buildings Service are located 18th and F Streets, NW., Washington, DC 20405. The Federal Supply Service is located in Crystal Mall Building 4, 1941 Jefferson Davis Highway, Washington, DC 20406. The National Archives and Records Service is located in the Archives Building, Seventh and Pennsylvania Avenue, NW., Washington, DC 20408. The Transportation and Public Utilities Service is located in the Chester Arthur Building, 425 I Street, NW., Washington, DC 20408. The telephone number for the above addresses is 202–655–4000. The addresses of the eleven regional offices are provided in § 105–53.151.

Subpart B—Central Office

§ 105–53.130 Office of the Administrator.

The Administrator of General Services, appointed by the President with the advice and consent of the Senate, directs the execution of all programs assigned to the General Services Administration. The Deputy Administrator, who is appointed by the Administrator, assists in directing agency programs and coordinating activities related to the functions of the General Services Administration.

§ 105–53.130–1 Office of Congressional Affairs.

The Office of Congressional Affairs, headed by the Director of Congressional Affairs, is responsible for directing and coordinating the legislative and congressional activities of GSA.

§ 105–53.130–2 Office of Ethics.

The Office of Ethics, headed by the Director of Ethics, is responsible for developing, directing, and monitoring the agency's program governing employee standards of ethical conduct. It is the focal point for the agency's implementation of the Ethics in Government Act of 1978.

§ 105–53.130–3 Office of the Executive Secretariat.

The Office of the Executive Secretariat, headed by the Director of the Executive Secretariat, is responsible for policy coordination, correspondence control, and various administrative tasks in support of the Administrator and Deputy Administrator.

§ 105–53.130–4 Office of Small and Disadvantaged Business Utilization.

(a) *Creation and authority.* Public Law 95–507, known as the Small and Disadvantaged Business Utilization Act of 1978, established in each Federal agency having procurement authority the Office of Small and Disadvantaged Business Utilization. Each office is headed by a Director of Small and Disadvantaged Business Utilization. The Director is appointed by the head of the agency or department.

(b) *Functions.* The Office of Small and Disadvantaged Business Utilization is responsible for issuance of policy direction and guidance relating to Sections 8 and 15 of the Small Business Act. The office provides information, assistance, and counseling to business concerns, including small businesses, small and economically disadvantaged persons, women-owned businesses, labor surplus area concerns, and workshops operated by the blind and other severely handicapped persons. The office also conducts outreach, liaison, source listings, and seminars for small and disadvantaged businesses and coordinates and promotes procurement programs and policies.

§ 105–53.131 Office of Inspector General.

(a) *Creation and authority.* Pub. L. 95–452, known as the Inspector General Act of 1978, consolidated existing audit and investigation functions and established an Office of Inspector General in 11 major domestic departments and agencies, including GSA. Each office is headed by a presidentially appointed Inspector General.

(b) *Functions.* The Office of Inspector General is responsible for policy direction and conduct of audit, inspection, and investigation activities relating to programs and operations of GSA; and maintaining liaison with other law enforcement agencies, the Department of Justice, and United States Attorneys on all matters relating to the detection and prevention of fraud and abuse. The Inspector General reports semi-annually to the Congress through the administrator concerning fraud, abuses, other serious problems and deficiencies of agency programs and operations; recommends corrective action; and reports on progress made in implementing these actions.

§ 105–53.132 GSA Board of Contract Appeals.

(a) *Creation and authority.* The GSA Board of Contract Appeals (GSBCA), headed by the Chairman, GSA Board of Contract Appeals, was established on February 28, 1979, by the Administrator of General Services as an independent administrative/judicial tribunal under the provisions of the Contract Disputes Act of 1978 (Pub. L. 95–563).

(b) *Functions.* The GSBCA has the responsibility of hearing and deciding disputes on Government contracts awarded by GSA and other governmental agencies and commissions. The Board, acting upon delegated authority from the Administrator and not in its capacity as a board of contract appeals, also handles suspension and debarment actions, appeals stemming from charges of violations of the Ethics in Government Act, and any other disputes not inconsistent with the Boards functions when it sits as a contract appeals board.

(c) *Regulations.* Regulations pertaining to GSBCA programs are published in 41 CFR Part 5A–60. Information on availability of the regulations is provided in § 105–53.116.

§ 105–53.133 Information Security Oversight Office.

(a) *Creation and authority.* The Information Security Oversight Office (ISOO) was established by the Administrator on November 20, 1978, under the provisions of Executive Order 12065. Effective August 1, 1982, this authority will be based upon Executive

Order 12356, which supersedes E.O. 12065.

(b) *Functions.* ISOO oversees and ensures, under the general policy direction of the National Security Council, Government-wide implementation of the information security program established by Executive Order.

(c) *Regulations.* Regulations pertaining to ISOO programs are published in 32 CFR Chapter XX, Part 2000 et seq.

§ 105–53.134 Associate Administrator for Administration.

The Associate Administrator for Administration participates in the executive leadership of the agency, provides advice on major policies and procedures to the Administrator and Deputy Administrator, and oversees organizational effectiveness within the agency.

§ 105–53.135 Office of Operations.

The Office of Operations, headed by the Associate Administrator for Operations, participates in the executive leadership of the agency; in the formulation of GSA-wide policy; has primary responsibility for GSA's field operations; supervises GSA's Regional Administrators; and ensures that regional programs are executed in the most cost-effective and efficient manner.

§ 105–53.136 Office of Policy and Management Systems.

The Office of Policy and Management Systems, headed by the Associate Administrator for Policy and Management Systems, participates in the executive leadership of the agency; in the formulation of GSA-wide policy; and serves as the focal point for policy regarding agency management matters, and exercises control of agencywide management systems with oversight responsibility of general operating systems.

§ 105–53.137 Office of Acquisition Policy.

(a) *Functions.* The Office of Acquisition Policy (OAP), headed by the Assistant Administrator for Acquisition Policy, serves as the single focal point for GSA acquisition and contracting matters and is responsible for ensuring that the GSA procurement process is executed in compliance with all appropriate public laws and regulations and based on sound business judgment.

(b) *Regulations.* Regulations pertaining to OAP programs are published in 41 CFR Chapters 5, 5A, and 5B, General Services Administration Procurement Regulations (GSPR), and 41 CFR Chapter 1, Federal Procurement Regulations (FPR). Information on availability of the regulations is provided in § 105–53.116.

§ 105–53.138 Office of General Counsel.

Functions. The Office of General Counsel (OGC), headed by the General Counsel, provides all legal counsel within GSA with the exception of certain legal activities of the Office of Inspector General and legal activities of the Board of Contract Appeals; drafts legislation proposed by GSA; furnishes legal advice required in connection with reports on legislation proposed by other agencies; provides liaison on legal matters with other Federal agencies; coordinates with the Department of Justice in litigation matters; and reviews contract actions.

§ 105–53.139 Office of Plans, Programs, and Financial Management.

(a) *Functions.* The Office of Plans, Programs, and Financial Management (PPFM), headed by the Assistant Administrator for Plans, Programs, and Financial Management, is responsible for centralized agencywide budget and accounting functions; internal allocation and administrative control of resources; and overall agency programs for financial management and internal automatic data processing.

(b) *Regulations.* Regulations pertaining to PPFM programs are published in 41 CFR Chapter 101, Subchapter A. Information on availability of the regulations is provided in § 105–53.116.

§ 105–53.140 Office of Organization and Personnel.

The Office of Organization and Personnel, headed by the Director of Organization and Personnel, plans for and administers GSA-wide programs for staffing, position classification and pay administration, employee relations, training, career development, equal employment opportunity, organization, and staff utilization.

§ 105–53.141 Office of Oversight.

The Office of Oversight, headed by the Director of Oversight, is responsible for conducting independent reviews of agencywide programs within priorities set by the Administrator to determine the effectiveness, efficiency, and economy of GSA activities; oversees agencywide implementation of OMB Circular A–123; serves as the central point of control for audit and inspection reports from the Inspector General and the Comptroller General of the United States; administers GSA's security programs; and directs an agencywide program of administrative services.

§ 105–53.142 Office of Public Affairs.

The Office of Public Affairs, headed by the Director of Public Affairs, is responsible for the planning, implementation, and coordination of all GSA public information and public affairs activities.

§ 105–53.143 Automated Data and Telecommunications Service.

(a) *Creation and authority.* The Automated Data and Telecommunications Service (ADTS), headed by the Commissioner, Automated Data and Telecommunications Service, was established on July 15, 1972, by the Administrator of General Services. The Service was assigned responsibility for administering the Government-wide Automatic Data Processing (ADP) resources management program and the Government-wide telecommunications management program.

(b) *Functions.* ADTS is responsible for directing and managing Government-wide programs for the procurement and use of automatic data processing, office information systems, and telecommunications equipment and services; developing and coordinating Government-wide plans, policies, procedures, regulations, and publications pertaining to ADP and telecommunications activities; managing and operating the Automatic Data Processing (ADP) Fund and the Federal Telecommunications (FT) Fund; managing and operating the Federal Telecommunications System (FTS); planning and directing programs for improving Federal records and information management practices Government-wide; and managing and operating the Federal Information Centers.

(c) *Regulations.* Regulations pertaining to ADTS programs are published in 41 CFR Chapter 1 and 41 CFR Chapter 101, Subchapters B and F. Information on availability of the regulations is provided in §105–53.116.

§ 105–53.144 Federal Property Resources Service.

(a) *Creation and authority.* The Federal Property Resources Service (FPRS), headed by the Commissioner, Federal Property Resources Service, was established on July 18, 1978, by the Administrator of General Services to carry out the utilization and disposal functions for real and personal property and the management of the Strategic and Critical Materials Stockpile.

(b) *Functions.* FPRS is responsible for the reuse of excess real and personal property (except ADP) holdings of the

United States Government; maintenance, repair, and rehabilitation of in-use personal property; the donation or sale of surplus real and personal property; and acquiring, maintaining quality, storing, and disposing of the nation's inventory of strategic and critical materials essential to the military and industrial requirements of the United States in times of emergency.

(c) *Regulations.* Regulations pertaining to FPRS programs are published in 41 CFR Chapters 1 and 5A, and 41 CFR Chapter 101, Subchapters C and H. Information on availability of the regulations is provided in § 105–53.116.

§ 105–53.145 Federal Supply Service.

(a) *Creation and authority.* The Federal Supply Service (FSS), headed by the Commissioner, Federal Supply Service, was established on December 11, 1949, by the Administrator of General Services to supersede the Bureau of Federal Supply of the Department of the Treasury, which was abolished by the Federal Property and Administrative Services Act of 1949.

(b) *Functions.* FSS is responsible for determining supply requirements; procuring personal property and nonpersonal services; developing Federal standard purchase specifications and commercial item descriptions; standardizing commodities purchased by the Federal Government; cataloging items of supply procured by civil agencies; managing GSA's Business Service Center Program; and ensuring continuity of supply operations during defense emergency conditions.

(c) *Regulations.* Regulations pertaining to FSS programs are published in 41 CFR Chapters 1, 5, and 5A, and 41 CFR Chapter 101, Subchapters A and E. Information on availability of the regulations is provided in § 105–53.116.

§ 105–53.146 National Archives and Records Service.

(a) *Creation and authority.* The National Archives and Records Service (NARS), under the direction of the Archivist of the United States, was established on December 11, 1949, by the Federal Property and Administrative Services Act of 1949 to succeed the National Archives Establishment originally established by the Act of June 19, 1934 (48 Stat. 1122).

(b) *Functions.* NARS is responsible for providing economical storage in Federal records centers for semiactive and noncurrent Federal records; appraising and scheduling records for appropriate disposition; selecting, preserving, and servicing the permanently valuable noncurrent records of the Federal Government; publishing the laws, constitutional amendments, Presidential documents, and administrative regulations having general applicability and legal effect; and providing for the preservation, publication, and administration of the historical materials in Presidential libraries operated by GSA.

(c) *Regulations.* Regulations pertaining to NARS programs are published in 1 CFR Chapters I and II; 41 CFR Chapter 101, Subchapter B; and 41 CFR Parts 105–61 and 105–63. Information on availability of the regulations is provided in § 105–53.116.

§ 105–53.147 Public Buildings Service.

(a) *Creation and authority.* The Public Buildings Service (PBS), headed by the Commissioner, Public Buildings Service, was established on December 11, 1949, by the Administrator of General Services to supersede the Public Buildings Administration, which was abolished by the Federal Property and Administrative Services Act of 1949.

(b) *Functions.* PBS is responsible for the design, construction, managment, maintenance, operation, alteration, extension, remodeling, preservation, repair, improvement, protection, and control of buildings, both federally owned and leased, in which are provided housing accommodations for Gorvernment activities; the acquisition, utilization, custody, and accountability for GSA real property and related personal property, and for the Government-wide safety program as it relates to GSA public buildings, and the GSA employee safety and health program; the implementation of Executive Order 11593; and coordinating GSA's activities towards improving the environment as required by the National Environmental Policy Act of 1969.

(c) *Regulations.* Regulations pertaining to PBS programs are published in 41 CFR Chapters 1 and 5B, and 41 CFR Chapter 101, Subchapters D and H. Information on availability of the regulations is provided in § 105–53.116.

§ 105–53.148 Transportation and Public Utilities Service.

(a) *Creation and authority.* The Transportation and Public Utilities Service (TPUS), headed by the Commissioner, Transportation and Public Utilities Service, was established February 1, 1979, by the Administrator of General Services to be responsible for the transportation and public utilities functions formerly assigned to the Federal Supply Service.

(b) *Functions.* TPUS is responsible for developing and implementing Government-wide policies and regulations governing the acquisition and use of transportation and public utilities in the executive agencies; managing the operation of interagency motor pools and motor transport systems; providing procurement support to all civilian and military agencies for nontactical motor vehicles and related equipment; assisting in the improvement of transportation and traffic practices of executive agencies; representing the consumer interest of Federal agencies before public utility regulatory bodies and providing procurement support for public utilities (except telecommunications); auditing transportation bills paid by the U.S. Government; and developing and issuing Government-wide regulations governing transportation, travel, and relocation allowances for civilian employees of Federal agencies.

(c) *Regulations.* Regulations pertaining to TPUS programs are published in 41 CFR Chapter 101, Parts 101–7, 101–38, 101–39, 101–40, and 101–41. Information on availability of the regulations is provided in § 105–53.116.

Subpart C—Regional Offices

§ 105–53.150 Organization and functions.

Regional offices have been established in 11 cities throughout the United States. Each regional office is headed by a Regional Administrator, who is responsible to the Associate Administrator for Operations for the overall direction and administration of the regional office and for the total performance of GSA programs and activities within the region. The overall organizational structure for each region is identical and consists of the following: Regional Administrator, Executive Assistant, Office of Regional Counsel, Office of Project Control and Oversight, Office of Controller, Office of Public Buildings and Real Property, Office of Personal Property, and Office of Information Resources Management. In certain instances, regional offices are assigned national or interregional jurisdiction for a specific program. The geographic composition of each region is shown in § 105–53.151.

§ 105–53.151 Geographic composition; addresses and telephone numbers.

Regional Offices—General Services Administration

Region and Address

No. 1. (Comprising the States of

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont); John W. McCormack Building, Post Office and Courthouse, Boston, MA. 02109. Telephone: 617–232–2100.

No. 2. (Comprising the States of New Jersey and New York, the Commonwealth of Puerto Rico and the Virgin Islands. Exception: FPRS Real and Personal Property functions for the Commonwealth of Puerto Rico and the Virgin Islands are administered by Region 4); 26 Federal Plaza, New York, NY 10007. Telephone: 212–264–3311.

No. 3. (Comprising the States of Maryland, Virginia (except those counties within National Capital Region boundaries), West Virginia, Pennsylvania, and Delaware); Ninth and Market Streets, Philadelphia, PA 19107. Telephone: 215–597–3311.

No. 4. (Comprising the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee; and the FPRS Real and Personal Property functions for the Commonwealth of Puerto Rico and the Virgin Islands); 75 Spring Street SW., Atlanta, GA 30303. Telephone: 404–221–3300.

No. 5. (Comprising the States of Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin); 230 South Dearborn Street, Chicago, IL 60604. Telephone: 312–353–4401.

No. 6. (Comprising the States of Iowa, Kansas, Missouri, and Nebraska); 1500 East Bannister Road, Kansas City, MO 64131. Telephone: 816–926–7201.

No. 7. (Compromising the States of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas); 819 Taylor Street, Fort Worth, TX 76102. Telephone: 817–334–2321.

No. 8. (Comprising the States of Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming); Building 41, Denver Federal Center, Denver, CO 80225. Telephone: 303–234–2131.

No. 9. (Comprising Guam and the States of Arizona, California, Hawaii, and Nevada); 525 Market Street, San Francisco, CA 94105. Telephone: 415–556–9000.

No. 10. (Comprising the States of Alaska, Idaho, Oregon, and Washington); GSA Center, Auburn, WA 98002. Telephone: 206–596–5000.

National Capital Region (RW). (Comprising the District of Columbia, the Counties of Montgomery and Prince Georges in Maryland; and the City of Alexandria and the Counties of Arlington, Fairfax, Loudoun, and Prince William in Virginia); Seventh and D Streets, SW, Washington, DC 20407. Telephone: 202–655–4000.

Dated: May 18, 1982.

Bond R. Faulwell,

Director of Organization and Personnel.

[FR Doc. 82-14807 Filed 5-26-82; 8:45 am]

BILLING CODE 6325-34-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6325]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended effective the dates listed within this rule because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building—Room 505, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date flood insurance is no longer available in the community.

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or aquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since identification of the community as having flood prone areas, as shown on the Federal Emergency Management Agency's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director of State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in non-compliance of the Federal standards required for community participation.

In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

PART 64—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Section 64.6 is amended by adding in alphabetical sequence new entries to the table

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date[1]
Arizona: Navajo	Unincorporated areas	040038B	Jan. 28, 1975, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Aug. 23, 1974 and Jan. 30, 1976.	June 1, 1982.
Alaska:					
Wrangell-Petersburg division	Petersburg, city of	020074B	July 25, 1975, emergency; June 1, 1982, regular; June 1, 1982, suspended.	June 14, 1974 and Feb. 4, 1977.	Do.
Sitka division	Sitka, city and borough of	020006B	Nov. 6, 1974, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Une 28, 1974, and Sept. 12, 1975.	Do.
California:					
Humboldt	Eureka, city of	060062B	June 9, 1975, emergency; June 1, 1982, regular; June 1, 1982, suspended.	May 24, 1974 and Nov. 14, 1975.	Do.
Solano	Suisun City, city of	060372B	May 23, 1975, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Mar. 22, 1974 and June 11, 1976.	Do.
Tehama	Unincorporated areas	065064B	Apr. 23, 1971, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Mar. 7, 1978	Do.
Florida: Hernando	Brooksville, city of	120333B	Oct. 30, 1974, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Feb. 21, 1975 and Nov. 21, 1975.	Do.
Illinois:					
Rock Island	Carbon Cliff, village of	170524B	May 23, 1975, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Apr. 12, 1974 and Apr. 16, 1976.	Do.
Kendall and LaSalle	Millington, village of	170346B	May 28, 1975, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Dec. 28, 1973 and Mar. 5, 1976.	Do.
Kendall	Newark, village of	170344B	Apr. 28, 1975, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Nov. 23, 1973 and Mar. 26, 1976.	Do.
Do	Yorkville, city of	170347B	Apr. 3, 1975, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Mar. 29, 1974 and Apr. 9, 1976.	Do.
Indiana:					
DuBois	Jasper, city of	180055B	June 24, 1971, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Oct. 26, 1973 and June 11, 1976.	Do.
Porter	Portage, city of	180232B	Aug. 8, 1975, emergency; June 1, 1982, regular; June 1, 1982, suspended.	July 26, 1974 and Oct. 31, 1975.	Do.
Iowa:					
Pottawattamie	Crescent, city of	190725A	Feb. 1, 1977, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Sept. 26, 1975	Do.
Do	Underwood, city of	190494A	Oct. 28, 1977, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Mar. 26, 1976	Do.
Kansas:					
Shawnee	Unincorporated areas	200331C	June 23, 1978, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Feb. 21, 1978 and Dec. 18, 1978.	Do.
Massachusetts:					
Berkshire	Hancock, town of	250025B	Sept. 25, 1975, emergency; June 1, 1982, regular; June 1, 1982, suspended.	June 28, 1974 and July 9, 1976.	Do.
Berkshire	Lee, town of	250026B	Oct. 3, 1974, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Mar. 22, 1974 and July 2, 1976.	Do.
Norfolk	Stoughton, town of	250253B	Mar. 4, 1975, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Aug. 2, 1974 and June 21, 1977.	Do.
Middlesex	Sudbury, town of	250217B	Aug. 1, 1975, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Aug. 23, 1974 and Dec. 10, 1976.	Do.
Do	Wayland, town of	250224B	Mar. 21, 1975, emergency; June 1, 1982, regular; June 1, 1982, suspended.	July 26, 1974 and Dec. 24, 1976.	Do.
Worcester	West Brookfield, town of	250346B	June 25, 1974, emergency; June 1, 1982, regular; June 1, 1982, suspended.	July 26, 1974 and Oct. 1, 1976.	Do.
Berkshire	West Stockbridge, town of	250045B	July 23, 1975, emergency; June 1, 1982, regular; June 1, 1982, suspended.	July 26, 1974 and Aug. 22, 1975.	Do.
Plymouth	Mattapoisett, town of	255214A	June 18, 1971, emergency; Mar. 16, 1973, regular; June 1, 1982, suspended.	Jan. 9, 1976	Do.
Michigan:					
Monroe	Luna Pier, city of	260150B	Jan. 28, 1973, emergency; June 1, 1982, regular; June 1, 1982, suspended.	June 28, 1974 and Apr. 2, 1976.	Do.
Lenawee	Tecumseh, city of	260117B	Dec. 17, 1974, emergency; June 1, 1982, regular; June 1, 1982, suspended.	May 24, 1974 and June 11, 1976.	Do.
Kent	Walker, city of	260110B	Apr. 6, 1973, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Oct. 12, 1973 and June 18, 1976.	Do.
Minnesota: Nobles	Adrian, city of	270316B	May 2, 1974, emergency; June 1, 1982, regular; June 1, 1982, suspended.	May 3, 1974 and May 21, 1976.	Do.
Missouri:					
Jasper	Carl Junction, city of	290179B	Oct. 28, 1975, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Feb. 6, 1974 and Aug. 6, 1976.	Do.
Stoddard	Dexter, city of	290424B	Aug. 13, 1971, emergency; June 1, 1982, regular; June 1, 1982, suspended.	May 10, 1974 and Apr. 25, 1975.	Do.
Laclede	Lebanon, city of	290197B	Aug. 30, 1974, emergency; June 1, 1982, regular; June 1, 1982, suspended.	May 17, 1974 and Jan. 2, 1976.	Do.
Nebraska: Otoe	Talmage, village of	310187B	Dec. 23, 1974, emergency; June 1, 1982, regular; June 1, 1982, suspended.		Do.
Nevada: Lincoln	Caliente, city of	320018B	Aug. 22, 1975, emergency; June 1, 1982, regular; June 1, 1982 suspended.	Mar. 29, 1974 and May 2, 1975.	Do.
New Jersey:					
Salem	Carney's Point, township of	340434B	Mar. 3, 1975, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Nov. 8, 1978	Do.
Bergen	Palisades Park, borough of	340061B	May 22, 1975, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Dec. 28, 1973 and June 18, 1976.	Do.
Gloucester	West Deptford, township of	340214B	Dec. 22, 1972, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Mar. 8, 1974 and July 15, 1977.	Do.
New York:					
Oswego	Cleveland, village of	360699B	Jan. 13, 1976, emergency; June 1, 1982, regular; June 1, 1982, suspended.	May 31, 1974 and June 4, 1976.	Do.
Onondaga	Marcellus, village of	360569B	July 25, 1974, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Apr. 12, 1974	Do.
Cayuga	Port Byron, village of	360121C	Aug. 4, 1975, emergency; June 1, 1982, regular; June 1, 1982, suspended.	May 9, 1974, June 11, 1976 and July 29, 1977.	Do.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date[1]
Onondaga	Skaneateles, town of	360566A	Sept. 19, 1974, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Nov. 8, 1974 and Oct. 31, 1975.	Do.
North Carolina: Wayne	Goldsboro, city of	370255B	May 29, 1975, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Dec. 24, 1976	Do.
Ohio: Hamilton	Unincorporated areas	390204B	July 2, 1973, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Apr. 14, 1978	Do.
Oregon:					
Josephine	Cave Junction, city of	410107B	May 13, 1975, emergency; June 10, 1982, regular; June 1, 1982, suspended.	NSFHA	Do.
Yamhill	Dayton, city of	4102520	June 4, 1975, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Jan. 23, 1974 and Jan. 2, 1976.	Do.
Josephine	Unincorporated areas	4155908	Dec. 31, 1970, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Aug. 16, 1977	Do.
Pennsylvania:					
Beaver	Daugherty, township of	422313A	Feb. 4, 1976, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Dec. 27, 1974	Do.
Beaver and Lawrence	Ellwood City, borough of	420567B	Oct. 3, 1974, emergency; June 1, 1982, regular; June 1, 1982, suspended.	May 31, 1974 and May 7, 1976.	Do.
Blair	Hollidaysburg, borough of	4201628	Mar. 30, 1973, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Oct. 12, 1973 and May 21, 1976.	Do.
Beaver	North Sewickley, township of	421161B	Apr. 24, 1974, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Oct. 18, 1974 and May 7, 1976.	Do.
Do	Pulaski, township of	422326A	Dec. 31, 1975,	Dec. 20, 1974	Do.
Juniata	Susquehanna, township of	421745A	June 27, 1975, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Jan. 24, 1975	Do.
Texas:					
Angelina	Lufkin, city of	4800098	June 20, 1973, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Feb. 22, 1974 and July 9, 1976.	Do.
Tarrant	Watauga, city of	480613B	May 13, 1975, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Mar. 8, 1974 and June 4, 1976.	Do.
Washington: King	Bothell, city of	530075B	June 20, 1975, emergency; June 1, 1982, regular; June 1, 1982, suspended.	May 24, 1974 and June 20, 1975.	Do.
West Virginia:					
Kanawha	Cedar Grove, town of	540072B	June 26, 1975, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Mar. 8, 1974 and June 4, 1976.	Do.
Do	Chesapeake, town of	540074C	May 22, 1975, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Mar. 15, 1974, June 11, 1976 and Mar. 25, 1977.	Do.
Do	East Bank, town of	540077B	May 29, 1975, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Mar. 22, 1974 and Sept. 26, 1975.	Do.
Wisconsin:					
Kenosha	Twin Lakes, village of	550211B	June 24, 1975, emergency; June 1, 1982, regular; June 1, 1982, suspended.	June 7, 1974 and July 16, 1976.	Do.
Walworth	Whitewater, city of	550200B	Mar. 27, 1975, emergency; June 1, 1982, regular; June 1, 1982, suspended.	Jan. 9, 1974 and June 4, 1976.	Do.

[1]Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: May 18, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14402 Filed 5-26-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 64

[Docket No. FEMA 6324]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATE: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A-95.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

PART 64—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Georgia: Brooks	Unincorporated areas	130261B	May 3, 1982, emergency; May 3, 1982, regular.	Feb. 3, 1978, and Mar. 15, 1982.
New Jersey: Bergen	Saddle Brook, township of	340074B	June 10, 1974, emergency; Apr. 15, 1982, regular; Apr. 15, 1982, suspended; May 3, 1982, reinstated.	Mar. 8, 1974, and July 30, 1976.
North Carolina: Greene	Snow Hill, town of	3701108	Dec. 24, 1974, emergency; Jan. 20, 1982, regular; Jan. 20, 1982, suspended; May 6, 1982, reinstated.	Dec. 28, 1973, and Oct. 10, 1975.
California:				
Humboldt	Fortuna, city of	060053B	May 3, 1982; suspension withdrawn	July 19, 1977.
Do	Rio Dell, city of	060064B	do	May 24, 1974, and Jan. 2, 1976.
Illinois:				
Sangamon	Pawnee, village of	170802C	do	May 17, 1974, June 4, 1976, and Jan. 20, 1978.
Sangamon	Thayer, village of	170804C	do	Mar. 22 1974, June 4, 1976, and July 18, 1979.
Indiana: Boone	Lebanon, city of	180013B	do	May 3, 1974, and Jan. 16, 1976.
Iowa: Polk	Johnston, city of	190745C	do	Apr. 1, 1977, and Jan. 16, 1979.
Louisiana:				
St. Martin Parish	Henderson, Town of	220186B	do	June 7, 1974, and Aug. 22, 1975.
St. Landry Parish	Unincorporated areas	220165B	do	Dec. 6, 1977.
St. Martin Parish	do	220178B	do	Dec. 27, 1974, and Oct. 25, 1977.
Maine: Cumberland	Bridgton, town of	230041B	do	Jan. 22, 1974, and Sept. 24, 1976.
Minnesota:				
Faribault	Blue Earth, city of	270116B	do	Jan. 8, 1974, and June 4, 1976.
Freeborn	Emmons, city of	270857A	do	Dec. 27, 1974.
Freeborn	Unincorporated areas	270134A	do	Mar. 24, 1976.
Do	Glenville, city of	270137B	do	Mar. 8, 1974, and Apr. 16, 1976.
Watonwan	St. James, city of	270618A	do	July 30, 1976.
Freeborn	Twin Lakes, city of	270139B	do	Aug. 2, 1974, and June 4, 1976.
New Hampshire: Grafton	Plymouth, town of	330072B	do	May 3, 1974, and Apr. 9, 1976.
New York:				
Onondaga	Syracuse, city of	360895D	do	Apr. 12, 1974, Dec. 26, 1975, May 14, 1976, and July 15, 1977.
Broome	Windsor, town of	360059B	do	June 28, 1974, and Aug. 27, 1976.
Oregon: Jackson	Phoenix, city of	410097B	do	June 21, 1974, and Jan. 16, 1976.
Pennsylvania:				
Erie	LeBoeuf, township of	422415A	do	Jan. 10, 1975.
Northampton	Northampton, borough of	420729B	do	Apr. 5, 1974, and June 4, 1976.
Delaware	Norwood, borough of	420425A	do	July 30, 1976
Chester	South Coatesville, borough of	420268B	do	May 31, 1974, and June 11, 1976.
Lawrence	Wayne, township of	422469B	do	Jan. 17, 1975, and Apr. 18, 1980.
Virginia: Arlington	Unincorporated areas	515520B	do	Oct. 1, 1968, and Dec. 31, 1976.
Washington: Yakima	Selah, city of	530226B	do	Jan. 16, 1974, and Jan. 23, 1976.
Wisconsin:				
Washington	Germantown, village of	550472B	do	June 26, 1974, and June 24, 1977.
Monroe	Unincorporated areas	550571B	do	July 7, 1978.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: May 18, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14469 Filed 5-26-82; 8:45 am]

BILLING CODE 6718-03-M

Proposed Rules

Federal Register
Vol. 47, No. 103
Thursday, May 27, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 81-019]

Importation of Cattle from the Republic of Ireland

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document would amend the import requirements for cattle from the Republic of Ireland to require additional herd history, animal isolation and tests for brucellosis, a contagious, infectious, and communicable disease of cattle. This action is necessary to prevent the introduction and dissemination of brucellosis in the United States through cattle imported from the Republic of Ireland. The intended effect of this proposal is to decrease the probability of the introduction of brucellosis through imported cattle.

DATE: Comments on or before July 26, 1982.

ADDRESS: Written comments should be submitted to the Deputy Administrator, Veterinary Services, APHIS, USDA, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. D. E. Herrick, USDA, APHIS, VS, Import-Export Staff, Room 815, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed in conformance with Executive Order 12291 and has been classified not a "major rule." The proposed rule, if adopted, would not have a significant effect on the economy and would not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises, in domestic or export markets.

Additionally, Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action would require that an importer of cattle from the Republic of Ireland comply with additional procedures to insure the brucellosis free status of the cattle before exportation from the Republic of Ireland. Department records for the last three years show there were only two shipments of cattle from Ireland totaling 146 head of cattle imported by two persons. Additionally, it is not anticipated that the number of shipments of cattle from Ireland to the United States will increase in the future.

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that, pursuant to section 2 of the Act of February 2, 1903, as amended, and sections 4 and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 134c and 134f), the Animal and Plant Health Inspection Service is considering amending Part 92, Title 9, Code of Federal Regulations.

Section 92.6(a) (9 CFR Part 92.6(a)) presently requires that, except as provided in §§ 92.20 and 92.35 (b) and (c), all cattle offered for importation from any part of the world, except for immediate slaughter, shall be accompanied by a satisfactory certificate of a salaried veterinary officer of the national government of the country of origin showing that the animals have been tested for tuberculosis and brucellosis with negative results within 30 days of the date of their exportation.

Cattle imported from the Republic of Ireland under § 92.6(a) have been associated with the introduction of brucellosis into the United States. Therefore, to protect the livestock of the United States, the importation requirements relating to brucellosis testing of cattle from the Republic of Ireland presently in effect would be amended. The effect of this action would be to increase the number of brucellosis tests and increase the length of time it would take to certify cattle as eligible for importation from the Republic of Ireland.

Under this proposal, cattle originating in the Republic of Ireland would no longer qualify for importation under the provisions of § 92.6(a) which allows the importation of cattle on the basis of only one negative brucellosis test within 30 days of the date of entry. A new section, § 92.43, containing the brucellosis testing requirements for cattle imported from the Republic of Ireland would be added by this amendment. The effect of this action would be to require cattle imported from the Republic of Ireland to be accompanied by an Irish certificate showing that all the cattle are from a herd which has special, i.e., brucellosis qualified for export, herd status. The cattle would be required to be maintained as a herd for a minimum of 2 years prior to importation and the herd would not be permitted to contain cattle born to or nursed by brucellosis reactors or animals raised in a brucella affected herd because of persistant infection characterized by long incubation periods in approximately 5 percent of such animals. To maintain a brucellosis qualified for export herd status in the Republic of Ireland, a herd of cattle would be required to be tested for brucellosis annually, with negative results. In addition, all cattle entering such herd would be required to originate from herds which are also brucellosis qualified for export herds or the herd and the added cattle would be required to meet certain brucellosis test requirements. These test requirements would provide that all test eligible cattle in the herd, that is cattle over 6 months of age except steers and spayed heifers, were negative to the brucellosis agglutination test not less than 90 days after the last herd addition and the individual cattle moved to the new herd would be required to be negative to the brucellosis test within 30 days before movement to the herd or all test eligible cattle in the herd would be required to be negative for brucellosis no less than 180 days nor more than 12 months after the last herd addition.

In addition to originating from a qualified for export herd, the cattle to be

exported would be required to be tested twice and found negative for brucellosis by the plate or tube agglutination test, Brucellosis card test (Rose Bengal test) and the Complement Fixation (CF) test procedures conducted not less than 60 days nor more than 120 days from the date of export. Three types of tests are required in order to improve the detection of the disease in its early stages. These tests react to different immuno-protein fractions that develop during the course of a brucella infection. Multiple dilutions are used in the plate or tube agglutination test and the CF test procedures to overcome problems associated with excess serum antibody concentrations (prozone) which, when present, produce unreliable test results. The 60- to 120-day interval between tests is proposed to increase the probability of detecting those animals affected with brucellosis but having a long incubation period. The standard procedures and interpretations for the tests as performed at the Republic of Ireland's brucellosis diagnostic laboratory would be required. Animals from the herd of origin and all other cattle having the opportunity for contact with an animal that would be interpreted to be an infected animal (reactor) under the Republic of Ireland's program would not be eligible for export to the United States in order to prevent the spread of disease.

In addition, it is proposed that the cattle to be exported be placed in isolation on separate premises a minimum of 500 yards from the other livestock not destined for export to the United States and such isolation would be maintained for at least 60 days prior to export. The isolation premises separation distance of 500 yards and the maintenance of the animals in isolation for 60 days is felt necessary to prevent possible exposure to disease from other animals. Isolation facilities would be approved by a full-time, salaried, Government of the Republic of Ireland veterinary official. To further protect such cattle from possible exposure to brucellosis, all cattle to be imported from the Republic of Ireland would be required to be conveyed from the isolation facilities directly to the port of export without contact with other cattle not eligible for export to the United States.

List of Subjects in 9 CFR Part 92

Animal diseases, Imports, Livestock and livestock products, Quarantine, Transportation.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, Part 92, Title 9, Code of Federal Regulations, would be amended in the following respects:

1. The first sentence in § 92.6(a) would be amended to read as follows:

§ 92.6 Diagnostic tests.

(a) *Tuberculosis and brucellosis tests of cattle.* Except as provided in §§ 92.20, 92.35 (b) and (c), and 92.43, all cattle offered for importation from any part of the world, except for immediate slaughter, shall be accompanied by a satisfactory certificate of a salaried veterinary officer of the national government of the country of origin showing that the animals have been tested for tuberculosis and brucellosis with negative results within 30 days of the date of their exportation: *Provided,* That the brucellosis test will not be required for steers, spayed heifers, or any cattle less than 6 months old.

* * * * *

2. Part 92 would be amended by adding a new § 92.43 to read as follows:

§ 92.43 Cattle from the Republic of Ireland.

(a) All Cattle to be imported from the Republic of Ireland shall be accompanied by a certificate issued or endorsed by a salaried veterinarian of the Republic of Ireland showing that the cattle originated from a herd which is officially certified by the Republic of Ireland as a brucellosis qualified for export for export herd and that the cattle meet the requirements in § 92.43(c).

(b) A brucellosis qualified for export herd is a herd in which all of the cattle have been maintained as a herd unit for at least two years prior to importation and all of the test eligible cattle in the herd (i.e., cattle over 6 months of age, except steers and spayed heifers) have been tested annually for brucellosis and found negative in accordance with Republic of Ireland requirements for at least two years prior to importation. The most recent negative herd test must have been conducted within 12 months of the date of importation. In addition:

(1) Such herd unit may include cattle which were born and raised within such herd unit during the two year period, or cattle which were moved directly to the herd from another herd unit of like status; or

(2) Such head unit many include other cattle (except brucellosis reactors, suspects and animals listed in § 92.43(c)(1)) if:

(i) Such other cattle have been tested for brucellosis and found negative within 30 days prior to entry into the herd unit and all eligible cattle in the herd unit have been tested for brucellosis and found negative not less than 90 days following the date when the last of the other cattle had been added to the herd unit; or

(ii) All eligible cattle in the herd unit have been tested negative for brucellosis no less than 180 days nor more than 12 months (365 days) following the date when the last of the other cattle had been added to the herd unit.

(c) The certificate accompanying cattle offered for importation from the Republic of Ireland shall show that the cattle are from a brucellosis qualified for export herd and that they meet the following requirements:

(1) The cattle to be exported were not born to or nursed by brucellosis reactors and they were not born in a herd at the time the herd was under quarantine due to brucella infection.

(2) The cattle were placed in an isolation facility approved by a full-time, salaried, Government of Ireland veterinary official, on separate premises a minimum of 500 yards from other livestock not destined for export to the United States for at least 60 days prior to export.

(3) The cattle were negative to the following tests conducted not less than 60 nor more than 120 days from the date of export and a second set of tests conducted within 30 days of the date of export:

(i) Plate or Tube agglutination test conducted in dilutions to detect reactions at 30, 60, 120, and 240 International Units per milliliter (IU/ml);

(ii) Brucellosis card test (Rose Bengal test); and

(iii) Complement Fixation (CF) test conducted in dilutions to detect prozone reactions, when present.

(4) Cattle are eligible for entry only if classified as negative at 30 IU to the Plate or Tube agglutination test, negative to the brucellosis card test and negative to the Complement Fixation test as performed and interpreted by standard methods at the Republic of Ireland Brucellosis Diagnostic Laboratory. Any animal exhibiting a prozone serological reaction is ineligible for export to the United States.

(5) Cattle showing a serological titer more than 60 IU to the Plate or Tube agglutination test, or a reaction to the

Brucellosis card test (Rose Bengal) or CF test that would be interpreted to be an infected animal (reactor) under the Republic of Ireland brucellosis control program, animals from that herd of origin and all other cattle having the opportunity for contact with the reactor animal shall not be eligible for export to the United States. Brucellosis bacteriologically positive animals, if known, regardless of serologic reactions, are not eligible for importation nor are any animals in contact with such animals.

(6) The cattle were moved directly to the port of export from the isolation facility without contact with any other cattle which are not qualified for export to the United States.

(d) The certificate accompanying the cattle offered for importation must also show the dates and places of testing, names of the consignor and consignee, and descriptions of the cattle, including breed, ages, markings, and tattoo and eartag numbers.

All written submissions made pursuant to this proposed rule will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 815, Hyattsville, Maryland, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register.**

Done at Washington, D.C., this 21st day of May 1982.

Norvan L. Moyer,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82-14393 Filed 5-26-82; 8:45 a.m.]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-82-6]

Petitions for Rulemaking; Summary of Petitions Received and Dispositions of Petitions Denied or Withdrawn

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking and of dispositions of petitions denied or withdrawn.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and be received on or before July 26, 1982.

ADDRESS: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ——, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on May 18, 1982.

John H. Cassady,

Deputy Assistant Chief Counsel, Regulations and Enforcement Division.

Docket No.	Petitioner	Description of the rule requested
		Petitions for Rulemaking
22773	T. W. Smith Engine Co.	*Description of Petition:* To delete § 91.175 which allows aircraft engine manufacturers to designate their overhauled engines as being "zero time engines." *Regulations Affected:* 14 CFR Part 91. *Petitioner's Reasons for Rule:* Petitioner contends: 1. Rule is not true. Engines are not zero time. 2. Flying public is being misled. 3. No history of operating time is being kept. 4. Discriminatory towards other engine overhaulers and at variance with Federal Fair Trade legislation.
22774	Karen M. Woodside	*Description of Petition:* To amend § 137.39 to require (1) written approval by an official or a governing body of a political subdivision when operations dispensing economic poisons are planned; (2) that the public be informed of such operations via some effective means (i.e., newspapers, television, etc.); (3) that a plan for each complete operation be approved by the FAA district office having jurisdiction; and (4) that the operations plan specify what registered economic poison is to be used and the time of the intended operation (including rain dates). *Regulations Affected:* 14 CFR Part 137. *Petitioner's Reason for Rule:* The Petitioner contends: * * * "The proposed regulations would act to update the existing regulations. It would be in the public interest so that in the spring and summer of the year people would not be taken by surprise and thus not have to run for cover everytime they heard the sound of an airplane engine. This regulation would also put a responsibility on the locality for approval, making the residents aware of the spraying operation. Areas wanting to be sprayed could have no problem in being sprayed. Persons having serious health problems could be attending the decision making meetings and present their concerns. This way they could be communicating with their fellow residents (many of whom are totally unaware of the existing health problems). As it stands now people can hire a pilot and even though the next door property is being sprayed, the neighboring resident would not know about it until the plane came over." * * *
22781	Accelerated Ground Training, Inc.	*Description of Petition:* To amend § 63.39(a) to allow the Flight engineer practical test to be conducted in an approved flight simulator in addition to conducting it, in flight, in an airplane. *Regulations Affected:* 14 CFR § 63.39(a). *Petitioner's Reason for Rule:* At the present time the practical test for a Flight Engineer Certificate may only be conducted in an airplane. Certain exemptions have been granted to conduct practical tests in simulators if the applicant Flight Engineer obtains 12 hours of flight time under the supervision of a qualified Flight Engineer. The proposed amendment would obviate the need for such exemptions.

Docket No.	Petitioner	Description of the rule requested
		Petitions for Rulemaking—Continued
22819	Air Transport Association	*Description of Petition:* To amend Part 121 Appendix H for incremental implementation and approval of advanced simulators from Phase I through Phase III. There are substantial costs involved in obtaining approval through Phase III. An operator is required to transit from Phase I to Phase II and III at required times or else lose the authority granted in Phase I. The proposed amendment would continue any authority in the appropriate phases without regard to time constraints, would provide for additional authorities in the various phases, and eliminate some of the equipment capability requirements in the various phases. *Regulations Affected:* 14 CFR Part 121 Appendix H.
		Petitions for Rulemaking: Withdrawn or Denied
19952	Velcro USA, Inc	*Description of Petition:* To amend 14 CFR §§ 31.23 & 31.25(b) to issue an airworthiness directive grounding all hot air balloons using Velcro closures to secure deflation panels; undertake testing, analysis, and other efforts to quantify stresses at work on hot air balloon envelopes and deflation panel closures; review type certifications of hot air balloons and compliance with regulations; and revise hot air balloon regulations to bring them into conformity with comparable regulations for other types of aircraft. *Denied 2/26/82.*
19344	Aviation Training Enterprises, Inc	*Description of Petitioner:* To amend 14 CFR Part 141 Appendix D paragraph (c)(2) to require two solo cross-country flights with landings at three points, each of which is more than 100 nautical miles from the other points. The petitioner's proposal would allow only the home base airport to be common to both flights. *Denied 2/11/82.*
21123	Orestes J. Diogiardi	*Description of Petitioner:* To amend 14 CFR § 61.58(b)(1) to allow a certificated flight instructor who has past experience in a particular type of aircraft to conduct pilot-in-command (PIC) proficiency checks in aircraft requiring more than one required pilot crewmember. *Denied 5/25/82.*
19877	Peter W. Fairchild	*Description of Petitioner:* To amend 14 CFR § 61.57(a) to permit a certificated pilot who has not had a flight review within the preceding 24 months to operate an aircraft in solo flight as directed by a certificated flight instructor or other designated person. *Denied 2/22/82.*
21298	Town-Village Aircraft Safety and Noise Abatement Committee.	*Description of Petitioner:* To amend 14 CFR §§ 45.25(a) and 45.29 to require fixed-wing turbojet aircraft weighing over 12,500 pounds to display nationality and registration marks at least 24 inches high and 12 inches wide on the undersides of each wing and in a sharply contrasting color so as to be easily readable by a person with 20/20 vision on the ground. *Denied 4/2/82.*
21595	Irwin Diamond	Amend 14 CFR § 121.538(a) to delete the following language: "remove all X-ray and scientific film from their carry-on baggage and items before inspection. If the X-ray system exposes any carry-on baggage or item to more than one milliroentgen during the inspection, the certificate holder shall post a sign which advises passengers to remove film of all kinds from their carry-on baggage and items before inspection" and insert in lieu thereof the following: "remove all film from their carry-on baggage and items before inspection. The certificate holder shall post a sign which advises passengers that 'this X-ray machine is not film safe' or in the alternative that 'X-ray inspection may affect ordinary undeveloped film.'" The petitioners state that the signs are inaccurate, untruthful, misleading, and contrary to scientific fact and personal experience of travelers in that the X-ray machine even if they expose ordinary undeveloped film to one-half of one milliroentgen of radiation can damage the film either through one dose of radiation or the cumulative effect of several inspections. *Denied 4/27/82.*

[FR Doc. 82-14852 Filed 5-26-82; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 29

[Docket No. 82-NM-33-AD]

Airworthiness Directives: Aerospatiale (SUD) Caravelle SE-210 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This Notice proposes a new Airworthiness Directive (AD) which would require inspection of certain structural components on Aerospatiale (SUD) Caravelle SE-210 airplanes to detect cracks and corrosion in the wings and faulty components in the landing gear and replacement or modification of these components as necessary. This action is prompted by notification by the cognizant civil air authority that certain unsafe conditions may exist or may develop which, if uncorrected, could compromise the structural integrity of the wing and landing gear.

DATES: Comments must be received no later than August 25, 1982. Compliance schedule as prescribed in the body of the AD.

ADDRESS: The applicable service bulletins may be obtained from: Societe Nationale Industrielle Aerospatiale, 316 Route de Bayonne, 31060 Toulouse Cedex 03, France, Attention: M. Roger Adam. These documents may also be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, Foreign Certification Branch, ANM-150S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2530. Mailing address: FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments recieved. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Docket No. 82-NM-33-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The Director Generale de L'Aviation Civile (DGAC) has classified certain Aerospatiale (SUD) service bullentin mandatory. These bulletins require inspections, replacements, and/or modifications to correct unsafe conditions that exist or may develop in Caravelle airplanes operating under French registry.

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States,

the proposed AD would require inspections, replacements, and modifications as necessary on certain Aerospatiale (SUD) Caravelle airplanes that are operated under U.S. registry. Each numbered paragraph of this proposed AD identifies the specific unsafe condition to which it is directed and the related corrective action that would be required for resolution of the unsafe condition.

1. Possible fatigue damage to the main landing gear support system which could result in the collapse of the landing gear. (Reference SUD Service Bulletin 32–86, Revision 7, dated January 22, 1979, and/or SUD Service Bulletin 32–106, Revision 4, dated January 17, 1980.)

2. Possible fatigue or corrosion damage to lower wing center function fittings which could lead to wing structural failure. (Reference SUD Service Bulletin 57–40, Revision 10, dated April 25, 1978.)

3. Possible fatigue damage to wing rib 44 upper cap fittings which could lead to wing structural failure. (Reference SUD Service Bulletin 57–47, Revision 6, dated May 17, 1978.)

There are nine Carvelle airplanes currently on the U.S. Register, of which only eight or fewer are currently active. It is estimated that it will take approximately 300 man-hours per airplane to accomplish the required actions and that the average labor cost will be $35 per man-hour. Repair parts are estimated at $15,000 per airplane. Based on these figures, the cost impact per airplane of this AD is estimated to be $25,500. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation Safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Aerospatiale (formerly SUD): Applies to all Caravelle SE–210 Models III and VIR airplanes, certificated in all categories.

A. Unless already accomplished, accomplish the following within the time in service or number of flights specified in each paragraph below, after the effective date of this AD.

1. Compliance required in accordance with SUD Service Bulletin 32–86, Revision 7, dated January 22, 1979, or subsequent Director Generale de L'Aviation Civile (DGAC) approved revision thereto, and/or in accordance with SUD Service Bulletin 32–106, Revision 4, dated January 17, 1980, or subsequent DGAC approved revision thereto, as noted, to preclude failure of the main landing gear support system.

a. Replace P/N 210.41.10.011–01 main landing gear hinge shaft aft end screws with P/N 210.41.10.100–01 screws (Service Bulletin 32–86) or with P/N 210.41.10.652–01 screws and 210.41.10.648–01 plugs (Service Bulletin 32–106) within the next 500 landings.

b. Inspect P/N 210.41.10.100–01 screws in accordance with Service Bulletin 32–86 within the next 500 lands or within 8,000 total landings, whichever occurs later, and thereafter at intervals not to exceed 5000 landings.

c. Inspect P/N 210.41.10.652–01 screws in accordance with Service Bulletin 32–106 within the next 500 landings or within 10,000 total landings, whichever occurs later, and thereafter at intervals not to exceed 5000 landings.

2. Compliance required in accordance with SUD Service Bulletin No. 57–40, Revision 10, dated April 25, 1978, or subsequent DGAC approved revision thereto, to preclude wing structural failure.

a. Inspect the lower wing center junction fitting I_1 and I_4 bores for corrosion, ovalization, or cracks within the next 200 hours time in service or within 15,000 hours total time in service, whichever occurs later, and thereafter at intervals not to exceed 4000 hours time in service.

b. Inspect the lower wing center junction fitting I_1, I_4, and I_4 bores for corrosion, ovalization, or cracks within the next 200 hours time in service or within 18,000 hours total time in service, whichever occurs later, and thereafter at intervals not to exceed 8000 hours time in service.

c. Repair or replace fittings per the service bulletin instructions.

3. Compliance required in accordance with SUD Service Bulletin 57–47, Revision 6, dated May 17, 1978, or subsequent DGAC approved revision thereto to preclude wing structural failure. Inspect wing rib 44 upper cap fittings within the next 200 landings. If no cracks are found, reinspect at intervals not to exceed 2,000 landings thereafter. If cracks are found, repair as necessary and reinspect at intervals not to exceed 1,000 landings thereafter.

B. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to Societe Nationale Industrielle Aerospatiale, 37 Boulevard de Montmorency, Paris (16c), France. These documents also may be examined at the FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—The FAA has determined that this document involves a proposed regulation that is not major under the provisions of Executive Order 12291, because of its minimal economic impact, as summarized earlier in this document. It has been further determined that this proposed regulation is not significant under DOT Regulatory Policies and Procedures.(44 FR 11034; February 26, 1979). A copy of the draft regulatory evaluation for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption **"FOR FURTHER INFORMATION CONTACT."** In addition, I certify that under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities, since it involves few, if any, small entities.

Issued in Seattle, Washington, on May 19, 1982.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-14583 Filed 5-27-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-ANE-02]

Airworthiness Directives; Rolls-Royce, Ltd., RB211-22B and -524 Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of Notice of Proposed Airworthiness Directive.

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) requiring fan retention modification on all Rolls-Royce, Ltd., RB211-22B series turbofan engines was published in the Federal Register, Vol. 47, No. 85, Page 19913, dated May 3, 1982.

This Notice duplicates a prior Notice of Proposed Rulemaking issued on February 16, 1982, published in the Federal Register Vol. 47, No. 50, on March 15, 1982, and was issued and published inadvertently. Therefore, it is being withdrawn. The original Notice of Proposed Rulemaking issued on February 16, 1982, shall remain the effective Notice for this project:

John E. Tigue, Engine and Propeller Standards Staff, Aircraft Certification Division, New England Region, (617) 273-7330.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, the proposed AD published in the **Federal Register** on May 3, 1982, Vol. 47, No. 85, Page 18913, is hereby withdrawn.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1345(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85)

Issued in Burlington, Massachusetts, on May 20, 1982.

John B. Roach,

Acting Director, New England Region.

[FR Doc. 82-14482 Filed 5-26-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-ANE-16]

Airworthiness Directives; Rolls-Royce, Ltd., RB211-22B and -524 Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an Airworthiness Directive (AD) that would require removal from service of certain high pressure compressor rotor stage 1 and 2 disk assemblies on Rolls-Royce, Ltd., RB211-22B and -524 turbofan engines. The proposed AD is needed to prevent continued operation of disk assemblies suspected of containing material defects which could result in possible engine failure.

DATES: Comments must be received on or before June 30, 1982.

Proposed effective date August 30, 1982.

ADDRESSES: Send comments on the proposed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, Attn: Rules Docket No. 82-ANE-16, 12 New England Executive Park, Burlington, MA 01803.

The applicable Alert Service Bulletin may be obtained from Technical Publications Department, Rolls-Royce, Ltd., Derby, England DR2 8BJ.

A copy of the Alert Service Bulletin is contained in the Rules Docket at the above FAA address.

FOR FURTHER INFORMATION CONTACT: John E. Tigue, Engine Standards Section, ANE-110, Engine and Propeller Standards Staff, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7330.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Information on the economic, environmental, and energy impact that might result because of adoption of the proposed rule is requested. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

The FAA has determined that certain high pressure compressor stage 1 and 2 disk assemblies manufactured since 1974, and installed in RB211-22B and -524 engines, are suspected of containing a localized deficiency in the material alloying elements which could result in possible engine failure. Since this condition is likely to exist or develop on other engines of the same type design, the proposed AD would require removal from service of certain high pressure compressor rotor stage 1 and 2 disk assemblies installed in Rolls-Royce RB211-22B and -524 model turbofan engines.

List of subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new AD:

Rolls-Royce, Ltd.—Applies to Rolls-Royce, Ltd., RB211-22B and -524 turbofan model engines.

Compliance required as indicated unless already accomplished.

To preclude possible high pressure compressor rotor stage 1 and 2 disk assembly failure, the disk assemblies listed by part number and serial number in the Appendix of Rolls-Royce Alert Service Bulletin No. RB211-72-A5805, Revision 2, dated October 30, 1981, must be withdrawn from service according to the following schedule:

After the effective date of this AD, none of the referenced disk assemblies may exceed 7,000 flight cycles in service.

After December 31, 1982, none of the referenced disk assemblies may exceed 3,500 flight cycles in service.

Replace with an FAA-approved, serviceable high pressure compressor rotor stage 1 and 2 disk assembly.

Note.—For the purpose of this AD, a flight cycle is considered to be an engine operating sequence from takeoff to landing.

All persons affected by this directive who have not already received the referenced service bulletin from the manufacturer may obtain copies upon request to Technical Publications Department, Rolls-Royce, Ltd., P.O. Box 31, Derby, England DE2 8BJ. This document may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803. A historical file on this Ad which includes the incorporated material in full is maintained by the FAA and at the New England Region Office.

Upon request of the operator, an FAA Maintenance Inspector, subject to prior approval of the Chief, Aircraft Certification Division, FAA, New England Region, may adjust the compliance date(s) specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is certified that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities because the rule will affect only domestic air carriers of B-747 and L-1011 aircraft in which the RB211 engines are installed none of which are believed to be small entities. A draft regulatory evaluation prepared for this document is contained in the public docket, and a copy may be obtained by writing to Federal Aviation Administration, Office of the Regional Counsel, Attn: Rules Docket No. 82-ANE-16, 12 New England Executive Park, Burlington, Massachusetts 01803.

Issued in Burlington, Massachusetts, on May 20, 1982.

John B. Roach,

Acting Director, New England Region.

[FR Doc. 82-14504 Filed 5-26-82; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 39

[Airworthiness Docket No. 82-ASW-18]

Societe Nationale Industrielle Aerospatiale Model SA315B, SE3160, SA365B, SA316C, SA3180, SA318B, SA319C, and SA319B Alouette Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend an existing Airworthiness Directive (AD) 73-13-02, applicable to Societe Nationale Industrielle Aerospatiale (S.N.I.A.S.) Alouette Helicopter Models SA315B, SE3160, SA316B, SA316C, SA3180, SA318B, SA318C, and SA319B. The amendment will recognize certain modifications incorporated by S.N.I.A.S. in production to correct a problem of oil loss. This aendment is necessary because these modifications conflict with current requirements of the AD.

DATES: Comments must be received on or before June 28, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Southwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 82-ASW-18, P.O. Box 1689, Fort Worth, Texas 76101.

The applicable service bulletins may be obtained from: Aerospatiale Helicopter Corporation, Technical Library, 2701 Forum Drive, Grand Prairie, Texas 75051, telephone (214) 641-0000, telex number 730 489.

A copy of each of the service bulletins is contained in the Rules Docket, Office of the Regional Counsel, P.O. Box 1689, Fort Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT: Chris Christie, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium, or Sam Brodie, Helicopter Policy and Procedures Staff, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 624-4911, extension 502.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, including economic impact data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments and information submitted will be available, both before and after the closing date for comments, in the Office the Regional Counsel, 4400 Blue Mound Road, Fort Worth, Texas, for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Propsed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Southwest Region, Office of Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 82-ASW-18, P.O. Box 1689, Fort Worth, Texas 76101.

Discussion of Proposed Amendment

The purpose of Airworthiness Directive, AD 73-13-02, Amendment 39-1666 (38 FR 15501) as amended by Amendment 39-2527 (41 FR 8337) is to prevent failure of the main drive shaft and freewheel assembly, P/N 3160S.60.00.000 or 3160S.60.10.000 as a consequence of inadequate lubrication on Aerospatiale Helicopter Model Nos. SA315B, SA3160, SA316B, SA316C, SA3180, SA318B, SA318C, and SA319B. The AD required inspection of the oil level in the freewheel assembly at successive intervals of 25 hours' time in service. If the oil level is found below limits, the freewheel assembly must be removed, inspected for damage, and modified. Conditional modifications consist of installation of a plug, P/N 340A.32.0114.20, in the oil passage between the main gearbox and freewheel assembly. This allows lubrication of the freewheel independent of the main gearbox, and installation of a new design torque shaft P/N 3160S.60.10.001. The modified freewheel assembly is to be identified as P/N 3160S.60.10.000. Installation of the plug, P/N 340A.32.0114.20, is to be accomplished in accordance with provisions of Aerospatiale Service Bulletin No. 65.65 dated November 10, 1971. Continued periodic inspection of the freewheel oil level at each successive 25 hours' time in service is required after modification.

The inspection and modification requirements of AD-73-13-02, Amendment 39-1666 as amended by Amendment 39-2527, are based on Aerospatiale (S.N.I.A.S.) Service Bulletin Nos. 65-65 and 05.42, dated November 10, 1971, for all affected helicopter models except SA315B. Requirements for the oil plug installation on SA315B models are based on Aerospatiale Service Bulletin No. 65.07, also dated November 10, 1971.

Aerospatiale (S.N.I.A.S.) Mandatory Service Bulletin Nos. 65.81 and 05.65 were issued on February 14, 1979, superseding Service Bulletin Nos. 65.65 and 05.42 respectively. Effectivity of Service Bulletin Nos. 65.81 is stated as all Alouette Helicopters fitted with freewheel P/N 3160S.60.10.000, main gearbox P/N 3160S.62.00.000 or 319A.62.00.000, and clutch unit P/N 3160S.63.10.000, 3160S.63.20.000, or 319A.63.00.000. Effectivity of Service Bulletin No. 05.65 is given as all Alouette Helicopters having the freewheel, main gearbox and clutch unit modified per Service Bulletin No. 65.81, dated February 14, 1979.

Service Bulletin No. 65.81 is a combination of six production modifications to improve sealing of main gearbox to freewheel to clutch coupling. The service bulletin specifies removal of the plug, P/N 340A.32.0114.20, installed in accordance with Service Bulletin No. 65.65 (or AD 73-13-02), accompanied by installation of an improved sealing system. Service Bulletin No. 65.81 also indicates that the provisions have been incorporated on some helicopters during production. It also indicates that all newly produced spares incorporate the provisions of the service bulletin.

If the improved sealing of Service Bulletin No. 65.81 has been accomplished, it is unnecessary to accomplish Service Bulletin No. 65.65 as currently required by AD 73-13-02 when the freewheel oil level is found below limits. Therefore, it is proposed to amend paragraph (e)(4) of AD 73-13-02, Amendment 39-2527, to reflect accomplishment of Service Bulletin No. 65.81 as an equivalent means of compliance.

Service Bulletin No. 05.65 specifies inspection of freewheel oil level after ground operation or flight with a new or overhauled main gearbox which incorporates the provisions of Service Bulletin No. 65.81, and thereafter at intervals not exceeding 100 hours' time

in service. The inspection specified by Service Bulletin No. 05.65 is to be accomplished within 10 minutes after rotor stopping in a manner identical to paragraph (c)(1) and (c)(2) and AD 73–13–02. When the oil level is found below limits, the removal and inspection procedures specified by the service bulletin corresponds with paragraphs (e)(1), (e)(2), (e)(3), and (e)(5), of AD 73–13–02. Service Bulletin No. 05.65 also specified replacement of the freewheel if the hub blend radius is found to be 1.6 mm instead of 5.0 mm. This hub is on the freewheel housing, which is not considered by AD–73–13–02. Therefore, it is proposed to amend paragraphs (e)(2) of AD 73–13–02, Amedment 39–1666 as amended by Amendment 39–2527, to require inspection of the flange blend radius on the freewheel housing in agreement with Service Bulletin No. 05.65. It is also proposed to amend paragraph (f) of the AD and add two new paragraphs (f)(1) and (f)(2) to implement periodic inspection intervals appropriate to the type of rework performed.

List of subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) by revising paragraphs (e)(2), (e)(4), and (f) and by adding new paragraphs (f)(1) and (f)(2) for AD 73–13–02, Amendment 39–1666 (38 FR 15501) as amended by Amendment 39–2527 (41 FR 8337) as follows:

Change subparagraphs (e)(2) and (e)(4) to read as follows:

(e)(2) For assemblies, P/N 3160S.00.00.000, other than those referred to in subparagraph (e)(1), remove the assembly and inspect the fillet between the torque shaft and the hub and the freewheel housing and hub for cracks using dye penetrant and a glass of at least 10-power magnification, or an FAA approved equivalent process. Also, inspect the flange fillets for proper radius of 5.0 mm. If cracks are found, before further flight, replace the affected part with a serviceable part of the same or an approved subsequent part number. Replace any torque shaft or freewheel having a hub fillet radius less than 5.0 mm with one having 5.0 mm radius.

(e)(4) Unless already accomplished, install provisions for lubrication of the freewheel shaft assembly independently of the main gearbox oil system (plug P/N 340A.32.0114.20) by incorporating Aerospatiale Modification AM 1077 in accordance with S.N.I.A.S. Alouette Service Bulletin No. 05.07, dated November 10, 1971, for Model SA315B, and No. 05.65, dated November 10, 1971, for other models, or an FAA approved equivalent; or for models other than SA315B, install the Aerospatiale improved sealing system modifications for the main gearbox to freewheel and freewheel to clutch couplings in accordance with Issue 2 of S.N.I.A.S. Alouette Service Bulletin No. 05.81, dated February 14, 1979, or an FAA approved equivalent.

Change paragraph (f) and add subparagraphs (f)(1) and (f)(2) as follows:

(f) For main drive shaft and freewheel assemblies reworked in accordance with paragraph (e):

(1) If the provisions of Service Bulletin Nos. 05.07 or 05.65 are accomplished, comply with paragraph (a) and apply the limits of paragraph (b) within the next 5 hours' time in service, following the rework, and thereafter at intervals not to exceed 100 hours' time in service from the last inspection: (2) If the provisions of Service Bulletin No. 05.81 are accomplished, comply with paragraph (a) and apply the limits of paragraph (c) within 10 minutes after ground or flight operation sufficient to obtain normal main gearbox operating temperature with the reworked freewheel and torque shaft assembly, and thereafter at intervals not to exceed 100 hours' time in service from the last inspection.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85)

Note.—The FAA has determined that this proposed regulation involves a regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is certified that it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since this revision extends the inspection interval for an estimated cost reduction of $1,000 per aircraft. A draft evaluation has been prepared for this proposed regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Fort Worth, Texas, on April 30, 1982.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 82-14387 Filed 5-26-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82–ASW–28]

Proposed Designation of Transition Area: Monahans, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to designate a transition area at Monahans, TX. The intended effect of the proposed action is to provide controlled airspace for aircraft executing a new instrument approach procedure to the Hurd Memorial Airport. This action is necessary to designate controlled airspace for the protection of aircraft executing a new standard instrument approach procedure (SIAP) using the Wink VORTAC. Coincident with this action, the airport is changed from visual flight rules (VFR) to instrument flight rules (IFR).

DATE: Comments must be received on or before June 25, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW–535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 624–4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G §71.181 as republished in Advisory Circular AC 70–3 dated January 29, 1982, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Designation of the transition area at Monahans, TX, will necessitate an amendment to this subpart. This amendment will be required at Monahans, TX, since there is a proposed change in IFR procedures to the Hurd Memorial Airport.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory

decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-ASW-28." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend §71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Monahans, TX New

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Hurd Memorial Airport (latitude 31°34'54" N, longitude 102°54'25" W).

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on May 18, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-14233 Filed 5-25-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASO-21]

Proposed Alteration of Transition Area, Elizabethtown, Kentucky

AGENCY: Federal Aviation Administation (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Elizabethtown, Kentucky, Transition Area, by deleting reference to the existing Elizabethtown-Hardin County Airport (Ben Floyd Field) which is to be closed, and redesignating the Transition Area based on the new Elizabethtown-Hardin County Airport which recently opened.

DATE: Comments must be received on or before: August 10, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Chief, Airspace and Procedures Branch, ASO-530, P.O. Box 20636, Atlanta, Georgia 30320

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTRACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-SO-21." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Chief, Airspace and Procedures Branch (ASO-530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that will redesignate the Elizabethtown, Kentucky, Transition Area to provide controlled airspace for instrument flight operations in the vicinity of the new Elizabethtown-Hardin County Airport. The present airspace designation is predicated upon an airport that is to be closed. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Elizabethtown, Kentucky, Revised

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Elizabethtown-Hardin County Airport (Lat. 37°41'14"N., Long. 85°55'25"W.); excluding the portion within Louisville, Kentucky, Transition Area.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air Traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on May 19, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82-14457 Filed 5-26-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-116 (New Mexico-15)]

High-Cost Gas Produced From Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DoE.

ACTION: Notice of proposed rulemaking

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of New Mexico that the Atoka-Morrow Formation be designated as a tight formation under § 271.703(d).

DATES: Comments on the proposed rule are due on June 21, 1982. No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on June 7, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Victor Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION: In the matter of high-cost gas produced from tight formations; Docket No. RM79-76-116 (New Mexico-15).

Issued: May 21, 1982.

I. Background

On April 9, 1982, the State of New Mexico Energy and Minerals Department (New Mexico) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Atoka-Morrow Formation located in Chaves County, New Mexico, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether New Mexico's recommendation that the Atoka-Morrow Formation be designated a tight formation should be adopted. The United States Department of the Interior, Minerals Management Service (formerly the U.S. Geological Survey) concurs with New Mexico's recommendation. New Mexico's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The Atoka-Morrow Formation is located in Chaves County, New Mexico in Townships 7, 8, and 9 South, Ranges 28, 29, 30, and 31 East, NMPM. The average depth to the top of the Atoka-Morrow Formation is 8,100 feet. The gross thickness varies from 91 to 895 feet.

III. Discussion of Recommendation

New Mexico claims in its submission that evidence gathered through information and testimony presented at a public hearing in Case 7492 convened by New Mexico on this matter demonstrates that:

(1) The average *in situ* permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

New Mexico further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by New Mexico that the Atoka-Morrow Formation, as described and delineated in New Mexico's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before June 21, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket NO. RM79-76-116 (New Mexico-15), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE.,

Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should noify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than June 7, 1982.

List of Subjects in 18 CFR Part 271:

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event New Mexico's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703(d) is revised by adding new subparagraph (118) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(86) through (117) [RESERVED]

(118) *Atoka-Morrow Formation in New Mexico.* RM79–76–116 (New Mexico-15).

(i) *Delineation of formation.* The Atoka-Morrow Formation is located in Chaves County, New Mexico, approximately 23 miles northeast of Roswell, New Mexico. The Atoka-Morrow Formation is located in Township 7 South, Range 28 East, Sections 22 through 27, and 34 through 36; Township 7 South, Range 29 East, Sections 19 through 36; Township 7 South, Range 31 East, Sections 19 through 21, and 28 through 33; Township 8 South, Range 28 East, Sections 1 throgh 3, 10 through 15, 22 through 27, and 34 through 36; Township 8 South, Range 29 East, Sections 1 through 36; Township 8 South, Range 30 East, Sections 1 through 36; Township 8 South, Range 31 East, Sections 4 through 9, 16 through 21, and 28 through 33; Township 9 South, Range 28 East, Sections 1 through 3, and 10 through 15; Township 9 South, Range 29 East, Sections 1 through 18; Township 9 South Range 30 East, Sections 1 through 18; Township 9 South, Range 31 East, Sections 4 through 9, and 16 through 18.

(ii) *Depth.* The Atoka-Morrow Formation varies in thickness from 91 to 895 feet. The average depth to the top of the Atoka-Morrow Formation is 8,100 feet.

[FR Doc. 82-14404 Filed 5-26-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 6

Proposed Customs Regulations Amendment Concerning Fees for Commercial Aircraft

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: Customs proposes to establish by regulation a new schedule of fees to be charged and collected for specific services provided by Customs officers to commercial aircraft to return to the Government the approximate costs of providing the services. This document invites comments on a proposal (1) to amend the Customs Regulations to authorize the Customs Service to establish a schedule for commercial aircraft fees. It also provides that a General Notice will be published in the Federal Register and Customs Bulletin periodically to revise these fees to reflect increased costs, and (2) to establish a new fee schedule to be used for the remainder of 1982.

DATE: Comments must be received on or before July 26, 1982.

ADDRESS: Written comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Legal aspects—Paul Hegland, Carriers, Drawback and Bonds Division (202–566–5706);

Operational aspects—Alice M. Rigdon, Office of Inspection (202–566–8151); U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229

SUPPLEMENTARY INFORMATION:

Background

Public Law 95–410, the "Customs Procedural Reform and Simplification Act of 1978," approved October 3, 1978 (the "Act"), repealed sections 2654, 4381, 4382, and 4383 of the Revised Statutes of the United States (19 U.S.C. 58; 46 U.S.C. 329, 330, and 333), the statutory authority under which Customs had been charging and collecting fees for specific services provided to vessels by Customs officers.

Because these fees did not cover the costs of providing the services, section 214 of the Act (19 U.S.C. 58a) authorized the Secretary of the Treasury to establish a new schedule of fees to be charged and collected for furnishing these services. These fees are to be consistent with section 501 of the Independent Offices Appropriation Act, 1952 (31 U.S.C. 483a), the so-called "User Charges Statute," which provides that the costs of specific services for private interests shall be reimbursed to the Government. The vessel services are found in § 4.98(a), Customs Regulations (19 CFR 4.98(a)).

Section 1509(c) of Title 49, United States Code (49 U.S.C. 1509(c)), provides that the Secretary of the Treasury is authorized by regulation to provide for the application to civil aircraft of the laws and regulations relating to the entry and clearance of vessels to such extent and upon such condtions as he deems necessary.

Accordingly, the Secretary has determined to establish by regulation a schedule of fees to be charged and collected for specific services provided by Customs officers to commercial aircraft to return to the Government the approximate costs of providing the services. The services performed by Customs officers applicable to commercial aircraft are similar to the services performed by Customs officers applicable to vessels and found in § 4.98(a), Customs Regulations. The schedule of commercial aircraft services follows:

1. Entry of aircraft, including American, from foreign port;
2. Clearance of aircraft, including American, to foreign port;
3. Issuing permit to foreign aircraft to proceed from district to district, and receiving manifest;
4. Receiving manifest of foreign aircraft on arrival from another district;
5. Receiving post entry; and
6. Furnishing copy of official document, including certified outward foreign manifest and others not elsewhere enumerated.

The fees for these services would be based upon the direct costs of the Customs officers to perform the services. Section 1741(e), Title 49, United States Code (49 U.S.C. 1741(e)), provides that administrative overhead costs associated with any inspection or guarantee service required to be

performed by the United States Government, or any agency, thereof, at airports of entry as a result of the operation of aircraft, shall not be assessed against the owners or operators thereof.

Private aircraft are not covered under this proposed rule because of the prohibitions of 49 U.S.C. 1741(a) and (b), which set forth limitations on specified charges. Section 1741(a) sets a maximum charge of $25.00 for certain overtime services applicable to the private aircraft. Section 1741(b) provides that there shall be no payment for these private aircraft services if such services are performed on a week day and an officer on his regular tour of duty is available to perform such services. A "private aircraft" means any civilian aircraft not being used to transport persons or property for compensation or hire. Only commercial aircraft are covered by this proposal. A "commercial aircraft" is any civilian aircraft being used in the transportation of persons or property for compensation or hire.

Proposals Relating to Commercial Aircraft

1. This document proposes to amend Part 6, Customs Regulations (19 CFR Part 6), by adding a new § 6.26 to authorize the Customs Service to establish a schedule for commercial aircraft fees. It also provides that a General Notice will be published in the **Federal Register** and Customs Bulletin periodically to revise the fees to reflect changes in the rate of compensation paid to the Customs officers performing the service.

Customs has determined that each service is generally provided by the following Customs officers: 1. Inspector in the fifth step of a GS–9; 2. Inspector supervisor in the fifth step of a GS–12; 3. Clerk in the fifth step of a GS–5; 4. Clerical supervisor in the fifth step of a GS–6. Therefore, the fee charged for each service would (1) be based upon the amount of time the service requires of each of the 4 Customs officers and (2) equal the sum of the individual charges. Customs considers the clerk's fee to be part of processing the service itself and not a separate administrative overhead charge. The clerk compiles records of transactions and provides a monthly summary of the fees by carrier and by carrier billing account for monthly billing.

2. This document also proposes to establish a new fee schedule which would become effective upon publication in the **Federal Register** as a Treasury Decision and remain in effect for the remainder of calendar year 1982.

Pertinent Data

The (1) estimated length of time reflected in the proposed new fee schedule required by each of the above Customs officers to perform his or her respective service, (2) the proposed charge for each respective service based on the hourly rate of pay of each Customs officer performing his or her respective service, and (3) the proposed total fee for the service rendered rounded off to the nearest tenth of a dollar follow:

Fee	Inspector time/ fee	Inspector supervisor time/ fee	Clerical time/fee	Clerical supervisor time/fee	Fee total
1. Entry of aircraft, including American, from foreign port	20 mins., $4.83	2 mins., $0.70	6 mins., $0.96	0.6 mins., $0.11	$6.60
2. Clearance of aircraft, including American, to foreign port	20 mins., $4.83	2 mins., $0.70	6 mins., $0.96	0.6 mins., $0.11	6.60
3. Issuing permit to foreign aircraft to proceed from district to district, & receiving manifest	15 mins., $3.63	1.5 mins., $0.53	6 mins., $0.96	0.6 mins., $0.11	5.20
4. Receiving manifest of foreign aircraft on arrival from another district	15 mins., $3.63	1.5 mins., $0.53	6 mins., $0.96	0.6 mins., $0.11	5.20
5. Receiving post entry	15 mins., $3.63	1.5 mins., $0.53	6 mins., $0.96	0.6 mins., $0.11	5.20
6. Furnishing copy of official document, including certified outward foreign manifest, and others not elsewhere enumerated	30 mins., $7.26	3 mins., $1.05	6 mins., $0.96	0.6 mins., $0.11	9.40

Explanation

Section 24.17(d), Customs Regulations (19 CFR 24.17(d)), provides that the reimbursable charge for regular compensation shall be computed in accordance with § 19.5(b), Customs Regulations (19 CFR 19.5(b)), which contains the computation of the rate per hour for regular pay. The charge shall be computed at a rate per hour equal to 137 percent of the hourly rate of regular pay of the particular employee. The ratio of the annual number of working hours charged to Customs appropriation to the net number of annual working days is 137 percent.

The hourly rate utilized for the inspector is $14.53, which is 137 percent of the hourly rate of pay of a Customs officer in the fifth step of a GS–9.

The hourly rate utilized for the inspector supervisor is $21.08, which is 137 percent of the hourly rate of pay of a Customs officer in the fifth step of a GS–12.

The hourly rate utilized for the clerk is $9.59, which is 137 percent of the hourly rate of pay of a Customs officer in the fifth step of a GS–5.

The hourly rate utilized for the clerical supervisor is $10.70, which is 137 percent of the hourly rate of pay of a Customs officer in the fifth step of a GS–6.

Revenue

There were approximately 368,000 commercial aircraft arrivals in Fiscal Year 1981. It is estimated that $6 million will be raised annually as a result of charging these fees.

Authority

This amendment is proposed under the authority of R.S. 251, as amended (19 U.S.C. 66), section 214(b), 92 Stat. 904 (19 U.S.C. 58a), section 624, 46 Stat. 759 (19 U.S.C. 1624), section 501, 65 Stat. 290 (31 U.S.C. 483a), section 1109, 72 Stat. 799, as amended (49 U.S.C. 1509(c)), section 53, 84 Stat. 236, as amended (49 U.S.C. 1741(e)).

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with section 103.11(b), Customs Regulations (19 CFR 103.11(b)), during regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, U.S. Customs Service Headquarters, 1301 Constitution Avenue NW., Washington, D.C. 20229.

Executive Order 12291

The proposed amendments do not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared for this regulatory project.

Regulatory Flexibility Act

It has been determined that this proposed rule, if promulgated, will have or is likely to have a significant economic impact on a substantial number of small entities. Therefore, the provisions of the Regulatory Flexibility Act relating to preparing an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are applicable. An initial regulatory flexibility analysis, prepared

by the Customs Office of Economic Analysis, is attached to this document. Comments on the analysis are solicited and may accompany comments submitted on the proposal.

Drafting Information

The principal author of this document was Charles D. Ressin, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 6

Customs duties and inspection, Imports, Air carriers, Aircraft.

Proposed Amendments

It is proposed to amend Part 6, Customs Regulations (19 CFR Part 6), by adding a new § 6.26 to read as follows:

PART 6—AIR COMMERCE REGULATIONS

§ 6.26 Commercial aircraft fees.

(a) The Customs Service shall publish a General Notice in the **Federal Register** and Customs Bulletin setting forth a schedule for commercial aircraft fees, to be revised periodically to reflect increased costs, for the following services: Fee No. and description of services—

(1) Entry of aircraft, including American from foreign port.

(2) Clearance of aircraft, including American, to foreign port.

(3) Issuing permit to foreign aircraft to proceed from district to district, and receiving manifest.

(4) Receiving manifest of foreign aircraft on arrival from another district.

(5) Receiving post entry.

(6) Furnishing copy of official document, including certified outward foreign manifest, and others not elsewhere enumerated.

The published revised fee schedule shall remain in effect until changed.

(b) The fees shall be calculated in accordance with §§ 19.5(b) and 24.17(d), Customs Regulations (19 CFR 19.5(b), 24.17(d)). The fees shall be based upon the amount of time the average service requires of the following Customs officers:

(1) Inspector in the fifth step of a GS–9;

(2) Inspector supervisor in the fifth step of a GS–12;

(3) Clerk in the fifth step of a GS–5; and

(4) Clerical supervisor in the fifth step of a GS–6.

(c) The party requesting an aircraft service described in paragraph (a) of this section for which reimbursable overtime compensation is payable under 19 U.S.C. 267 or 19 U.S.C. 1451 and § 24.16 of this chapter, shall pay only the overtime charge and not both the overtime charge and the individual charge specified in the fee schedule for the particular Customs officer.

(d) The revised fee schedule shall be made available to the public in Customs offices.

(e) The respective fees shall be designated in correspondence and reports by the applicable fee number.

(f) The fees may be collected by Customs on a monthly billing basis or other method acceptable to Customs.

William von Raab,

Commissioner of Customs.

Approved: April 19, 1982.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

Regulatory Analysis on Proposed Amendments to the Customs Regulations to Levy Fees on Commercial Aircraft

Introduction

The U.S. Customs Service is proposing to amend the Customs Regulations in order to levy fees on commercial aircraft entering and departing the United States. The purpose of the fees would be to reimburse Customs for the inspectional services associated with the entry and clearance of commercial aircraft.

The Regulatory Flexibility Act requires that agencies publishing general notices of proposed rulemaking shall prepare and make available for public comment "initial regulatory flexibility analyses" unless the proposed rules will not have a "significant economic impact on a substantial number of small entities." Likewise, Executive Order 12291 of February 17, 1981 requires that regulatory impact analyses be prepared on all proposed rules deemed to be "major" rules (e.g., likely to result in an annual effect on the economy of $100 million or more). Although the proposed rules on commercial aircraft fees are *not* considered to be major rules under E.O. 12291, they *are* subject to the Regulatory Flexibility Act since they will have, or are likely to have, a "significant economic impact on a substantial number of small entities." Accordingly, this initial regulatory impact analysis has been prepared, as required by the Regulatory Flexibility Act.

The data and conclusions of this analysis are subject to modification pending the receipt of public comments and additional data during the comment period specified in the notice of proposed rulemaking.

Statement of the Problem and Proposed Solution

The Customs Service does not (except for overtime services) currently charge commercial air carriers for the inspectional and related services associated with the entry and clearance of such carriers. However, Customs *does* currently charge such fees to vessels arriving and departing the United States. In order to apply the same types of fees to commercial air carriers as are currently applied to vessels, and especially in order to help raise revenue as part of an overall effort to obtain "user" fees for Customs' services, the Customs Service is proposing to collect the various fees specified in the notice of proposed rulemaking above. Collection of such fees would raise approximately $6.0 million of revenues annually for Customs.

These amendments are proposed under the authority of R.S. 251, as amended (19 U.S.C. 66), section 624, 46 Stat. 759 (19 U.S.C. 1624), sec. 501, 65 Stat. 290 (31 U.S.C. 483a), sec. 1109, 72 Stat. 798, as amended (19 U.S.C. 1509(c)), section 53, 94 Stat. 236, amended (49 U.S.C. 1741(e)).

Data and Analysis

Analysis of the economic impact of the proposed fees is somewhat hampered by sketchy and incomplete data on relevant arrivals and departures of commerical aircraft especially when dealing with "small" carriers. More complete data specific to small carriers are expected to be provided in response to the notice of proposed rulemaking. For the purposes of this analysis, "small" carriers are considered to be those commercial air carriers whose major revenues accrue from aircraft with a capacity of under 60 passengers (for passenger aircraft) or under 25,000 pounds of cargo (for cargo aircraft). A "commercial air carrier" encompasses "any civilian aircraft being used in the transportation of persons or property for compensation or hire."

Number of arrivals/departures, by large and small carriers, foreign and domestic.— Since the proposed fees differentiate between domestic and foreign carriers, it was necessary to obtain arrival/departure data for each of these two groups. In addition, it was necessary to obtain such data for "large" and "small" carriers, in order to best measure the economic impact on small entries. Unfortunately, such data are not available in a complete, consolidated fashion on flights crossing the U.S. border. Data were obtained from a number of sources, including the Customs Service, various sources in the transportation consulting field, and selected small air carriers.

Customs' data indicate that 368,166 commercial aircraft subject to Customs services arrived in the United States in fiscal year 1981.[1] It is believed that a large portion of these arrivals consisted of large aircraft belonging to the major domestic and international carriers; the actual number of small aircraft arriving is unknown. Based on data collected by the Customs Service, it was determined that the percentages of international commercial aircraft arrivals and departures in fiscal year 1981 *excluding all-cargo flights, all flights to and from Canada, and flights to and from selected U.S. territories* were as follows:

[1] Approximately 43 percent of these arrivals were in the Miami Customs Region. Slightly over 50 percent of the Miami Customs Region arrivals occurred in Puerto Rico and the Virgin Islands.

	Percent
Domestic carriers:	
Large	28.4
Small	13.9
Total domestic	83.3
Foreign carriers:	
Large	15.5
Small	1.2
Total foreign	16.7
Total U.S.-international flights	100.0

The percentages listed above cannot be applied to the total figure of 368,166 arrivals (and assumed 368,166 departures) because, as noted, the percentage data exclude all cargo flights, all flights to and from Canada, and flights to and from selected U.S. territories. Nevertheless, the percentages indicate that in terms of numbers of overall flights, large carriers are likely to pay a rather significant portion of the proposed fees.

Expected Revenue from the Proposed Fees.—The Customs Service estimates that collection of the proposed fees will raise $6.0 million per year in revenues (based on fiscal year 1981 data). Of the $6.0 million figure, approximately $4.9 million would be a result of the $5.60 fees on aircraft entry and aircraft clearances. It is also estimated that of the $6.0 million in fees to be collected, domestic carriers will account for $3.4 million (or an average of $8.00 per domestic carrier flight) and foreign carriers will account for $2.6 million (or an average of $6.75 per foreign carrier flight).

The revenue estimates made above exclude any distorting effects which the proposed fees may have on the number of flights. However, it is believed that the proposed fees will have only a relatively small effect on the number of commercial carrier flights to/from the United States, and that aggregate revenue collections from the fees will consequently not be significantly affected.

Economic Impact of the Proposed Fees on the General Economy.—Even if the proposed fees were fully passed on to consumers of airline travel, the effect on the general economy would be negligible. The $6.0 million in proposed fees represents a miniscule proportion of the amounts spent on tickets and cargo fees in the U.S. international air carrier industry. The overall economic effect on the general economy would be negligible.

Economic Impact of the Proposed Fees on Small Entities.—There are undoubtedly a "substantial number" of small carriers which will be subject to the proposed fees. In fiscal year 1981, 122 of the 162 domestic commercial air carriers listed as arriving or departing the U.S. (excluding flights to and from Canada and selected U.S. territories as well as all-cargo flights) were small carriers. Of the 126 foreign air carriers listed (excluding Canada, U.S. territories, and all-cargo), 24 were small carriers. Accordingly, a total of at least 156 small carriers would be subject to the proposed fees; to this number must be added the believed substantial number of small carriers providing U.S.-Canada service. Indeed, there are reported to be well over 1,000 domestic air taxi services with certification to fly to Canada; even if the actual number of these services actually operating to Canada is well below 1,000, it is evident that a substantial number of small carriers will be subject to the proposed fees.

Of the at least small domestic carriers subject to the proposed fees, 19 are scheduled carriers; the remaining 114 are charter and air taxi services. Of the 19 scheduled domestic carriers, twelve have over one flight per day (seven of these have over 1,000 scheduled flights per year). Among the known small *foreign* carriers, only seven are scheduled carriers, and only two have over one flight per day. These data would indicate that even though a substantial number of known small air carriers will be *subject* to the proposed fees, it is likely that many of these carriers tend to be small charter of air taxi services with relatively few international flights.

It is possible that there will be a significant economic impact on at least the 12 known scheduled small air carriers having over one flight per day (excluding Canada, selected U.S. territory flights, and all-cargo). Preliminary calculations indicate that the costs for these carriers will range from a few thousand dollars for two or three carriers to as much as $700,000 for at least one known carrier. Whether such costs are truly "significant" relative to various individual carrier operations will be better understood after the receipt of public comments from affected carriers; it is currently believed that the cost may indeed be significant. In addition, the proposed fee costs may have a significant economic impact on many small charter/air taxi services which fly abroad only sporadically; the limited seating capacity in many small aircraft would mean that the proposed fees would account for a disproportionate percentage of operating expenses, compared to expenses of larger carriers.

Small commercial air carriers are already subject to a number of fees which affect their costs and profits, including Customs overtime fees, the Federal Air Transportation Tax, and certain bonding fees; the imposition of the proposed *additional* new fees may be deemed to result in a significantly adverse economic impact. Since it is known that a Customs overtime fee of as little as $20 is significant enough to presently cause certain small carriers to attempt to arrive during regular-duty hours if possible (to avoid the overtime fee), it may be that the proposed fees are also significant enough to affect certain small carrier operations.

Alternatives to the Proposed Amendments

Section 603 of the Regulatory Flexibility Act requires that initial regulatory flexibility analyses contain descriptions of significant alternatives to the proposed rule which "minimize any significant economic impact of the proposed rule on small entities." One alternative mentioned by the Act is "an exemption from coverage of the rule, or any part thereof, for such small entities." Accordingly, possible alternatives to this particular proposed rule would be to exclude all small carriers (i.e. aircraft of a capacity of 60 passengers or less or 25,000 pounds of cargo or less) from the proposed fees, or perhaps have a two-tier fee system as is currently charged on vessels.

Conclusion and Request for Comments

Evidence gathered in the course of this analysis indicates that there may indeed be a "significant economic impact on a substantial number of small entitites" as a result of the imposition of the proposed fees. However, complete cost data specific to small carriers are not currently available. Accordingly, small carriers and carrier associations are especially encouraged to comment on the notice of proposed rulemaking, indicating in specific terms the effect of the proposed fees on their costs, profitability, competitiveness number of flights, employment, and overall operations, and listing or commenting on any of the stated or other alternatives. As encouraged by section 609 of the Regulatory Flexibility Act, the Customs service will attempt to pursue the direct notification of selected small carriers and carrier associations that may have an interest in this proposed rule.

[FR Doc. 82-14564 Filed 5-26-82; 8:45 am]
BILLING CODE 4820-02-M

DEPARTMENT OF THE INTERIOR

Geological Survey

30 CFR Parts 211, 221, 231, 250, and 270

Procedures for Mineral Royalty Reporting of and Paying on Leases on Federal Lands, Outer Continental Shelf (OCS) Lands and Indian Lands

AGENCY: Minerals Management Service, Interior.

ACTION: Extension of comment period on proposed procedure.

SUMMARY: In response to requests for an extension of time to comment on the proposed voluntary royalty payment method for minerals leases as published in the Federal Register of April 28, 1982 (47 FR 18132), a 15-day extension is hereby granted. This extension will give the public more time to study and comment on the proposed procedure.

DATE: Comments on this proposed procedure must be received by June 14, 1982.

ADDRESS: Written comments may be mailed or delivered to Mr. Raymond A. Hicks, Chief, Branch of Rules and Procedures for Royalty Management, Minerals Management Service, Mail Stop 660, 12203 Sunrise Valley Drive, Reston, Virginia 22091, (703) 860-7311.

FOR FURTHER INFORMATION CONTACT: Mr. Rayomnd A. Hicks, (703 860-7311 or (FTS) 928-7311.

Dated: May 18, 1982.
Daniel N. Miller, Jr.,
Assistant Secretary of the Interior.
[FR Doc. 82-14443 Filed 5-26-82; 8:45 am]
BILLING CODE 4310-MR-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-3-FRC 2063-6]

Proposed Revision of the Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Commonwealth of Pennsylvania has submitted proposed revisions to its State Implementation Plan (SIP). The revisions include Continuous Emission Monitoring regulations and procedures, Alternative Opacity Limit regulations, emission standards for Volatile Organic Compounds (VOC) based on EPA Group II Control Technique Guidelines (Group II VOC Regulations) and a generic VOC bubble regulation. The revisions Change 25 PA. Code Chapters 121, 123, 127, 129 and 139. EPA is proposing approval of all these revisions, except the dry cleaning regulation. EPA is not taking action on the dry cleaning regulation at this time. EPA is also noting minor variations to EPA's recommended controls in the refinery fugitive emissions and the pneumatic rubber tire regulations. EPA considers these variations to be insignificant and is proposing to approve both regulations. EPA has initially determined that the proposed revisions will not cause or contribute to a violation of any of the National Ambient Air Quality Standards (NAAQS) and that they meet all applicable EPA regulations and policies.

DATE: Comments must be submitted on or before June 28, 1982.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support are available for inspection during normal business hours at the following locations:

Environmental Protection Agency, Air Media and Energy Branch, Curtis Building, 6th and Walnut Streets, Philadelphia, PA. 19106. ATTN: Ed Shoener (3AW11);
Pennsylvania Department of Environment Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA 17120;
Public Information Reference Unit, Room 2922, EPA Library, Environmental Protection Agency, 401 M Street SW (Waterside Mall), Washington, D.C. 20460.

All comments on the proposed revision submitted on or before June 28, 1982 will be considered and should be directed to: Mr. Glenn Hanson, Chief, Pennsylvania Section (3AW11), Air and Waste Management Division, Environmental Protection Agency, Region III, Curtis Building, 10th Floor, 6th & Walnut Streets, Philadelphia, PA. 19106. ATTN: (AH300cPA).

FOR FURTHER INFORMATION CONTACT: Mr. Ed. Shoener, Environmental Protection Agency, Region III, Air Media and Energy Branch, Curtis Building, 10th Floor, 6th and Walnut Streets, Philadelphia, PA. 19106; (215) 579-6179.

SUPPLEMENTARY INFORMATION: On July 13, 1981, August 17, 1981, August 26, 1981 and September 4, 1981, the Pennsylvania Department of Environmental Resources submitted revisions to the Pennsylvania SIP. The revisions include Continuous Emission Monitoring (CEM) regulations and procedures, Alternative Opacity Limit (AOL) regulations, emission standards for Volatile Organic Compounds (VOC) based on EPA's Group II Control Technique Guidelines (Group II CTG's), and a request for approval of a generic VOC bubble regulation. The changes will modify 25 PA. Code Chapters 121, 123, 127, 129 and 139. Each of these revisions will be discussed separately below.

Continuous Emission Monitoring

On July 13, 1981 and August 17, 1981, DER submitted regulations, procedures and supporting documentation on Continuous Emission Monitoring (CEM) regulations. The CEM regulations, contained in Chapters 123, 127, 129 and 139 require the installation of CEM equipment on fossil fuel-fired steam generators, fluid bed catalytic cracking catalyst regenerators and sulfuric acid plants as specified by EPA in 40 CFR Part 51, Appendix P. Nitric acid plants are not required to install CEM equipment because there are no nitrogen dioxide nonattainment areas in Pennsylvania. EPA has also reviewed DER's *Continuous Source Monitoring Manual* and finds that the procedures and specifications in the manual satisfy EPA requirements as specified in 40 CFR Part 51, Appendix P and 40 CFR Part 60, Appendix B. Based on its review to date, EPA is proposing to approve DER's CEM regulations and procedures.

Alternative Opacity Limits

On August 17, 1981, DER submitted regulations, contained in Chapter 123, to allow the establishment of Alternative Opacity Limits (AOL) for sources which comply with all of DER's mass emission standards. Those sources which do not comply with DER's mass emission standards cannot obtain an AOL. In order to qualify for an AOL the DER must also find that the source has, within the bounds of good engineering and economic practice, not discontinued measures to minimize opacity and that the source and associated air pollution control equipment are operated and maintained in a manner to minimize opacity. An AOL will not be established if it would create or contribute to a public nuisance or cause any other type of air pollution.

In order to establish an AOL the source shall be tested under conditions specified by DER. The source shall be tested for compliance with the applicable mass emission standards and existing opacity standards. Only if the source meets the mass emission standards, but fails the opacity test, may an AOL be established. Once an AOL is established the source must operate CEM equipment to monitor compliance or, if CEM equipment will not give representative opacity readings, DER may require a source to:

(a) Use trained and qualified observers to measure the opacity;

(b) Monitor and report operating parameters of the process and of air pollution control equipment; and

(c) Perform such activities on a specified schedule maintaining relevant records for inspection by the Department.

EPA is proposing to approve the AOL regulations because they will not cause or contribute to any violations of the National Ambient Air Quality Standards (NAAQS). In addition, the requirements that the AOL must be established during testing for compliance with the mass emission limitations and that CEM must be used to verify compliance with the AOL, will assure effective enforcement of the mass emission regulations and the AOL.

This proposed approval is not intended to allow DER to establish an AOL for sources subject to opacity limits specified by EPA in any New Source Performance Standard or any EPA issued Prevention of Significant Deterioration (PSD) Permit or any other opacity limit established by EPA for any particular source or categories of sources. If an AOL is desired for any such source, the DER must submit a SIP revision or the source must obtain a modification to its PSD permit, whichever is appropriate.

Group II VOC Regulations

Provisions of the Clean Air Act enacted in 1977 require States to revise their SIP's for areas that have not attained the NAAQS. For States with ozone nonattainment areas, EPA has stated that the minimum acceptable level of ozone control includes Reasonably Available Control Technology (RACT) requirements for sources of VOC emissions for which EPA has published a CTG by January 1978 and additional RACT requirements on an annual basis for VOC sources covered by CTGs published by January of the preceding year. (See 44 FR 20372 (April 4, 1979) as supplemented at 44 FR 38583 (July 2, 1979); 44 FR 50371 (August 28, 1979; 44 FR 53761 (September 17, 1979); 44 FR 67182 (November 23, 1970); and 44 FR 50371 (August 28, 1979)).

EPA published the CTGs in order to assist the States in determinign RACT. The CTGs provide information on available air pollution control techniques to provide recommendations on what EPA calls the "presumptive norm" for RACT. Group II CTGs cover the following source categories: (1) Factory Surface Coating of Flatwood Paneling; (2) Petroleum Refinery Fugitive Emissions (Leaks); (3) Synthesized Pharmaceutical Manufacturing; (4) Pneumatic Rubber Tire Manufacturing; (5) Surface Coating of Miscellaneous Metal Parts and Products; (6) Graphic Arts (Printing); (7) Dry Cleaning Perchloroethylene; (8) Gasoline Tank Trucks (Leak Prevention); (9) Petroleum Liquid Storage in External Floating Roof Tanks.

On July 13, 1981, DER submitted to EPA revisions to its SIP which consist of regulations for all of the above categories (incorporated into Chapters 121, 129 and 139) except Factory Surface Coating of Flatwood Paneling. DER certified that there are no Flatwood Paneling Sources in Pennsylvania. On August 17, 1981 and August 26, 1981, DER submitted additional information and documentation concerning these regulations.

EPA has reviewed these regulations and, except for the dry cleaning regulations, finds them approvable. Where variations from EPA's recommended RACT do occur, documentation showing insignificant impact has been submitted by DER.

However, DER's RACT regulation for Perchloroethylene Dry Cleaning is significantly different than that adopted by most other States in that no emission limit is specified. By not specifying an emission limit, add-on control equipment is not required. EPA is proposing to take no action on this regulation at this time but, will review the effects of this regulation on the emission reductions required in Pennsylvania's 1982 ozone SIP submittal.

Also, while EPA is proposing to approve the petroleum refinery fugitive emissions and the pneumatic rubber tire regulations we are noting minor variations to EPA's recommended RACT for these categories. Specifically, DER's refinery fugitive emissions regulation exempts valves on lines which are one inch or smaller from the requirement to be sealed with a second closure. These exempted valves, however, must still be inspected on a quarterly basis for gas service lines and yearly for liquid service lines.

DER's pneumatic rubber tire regulation allows a source to reduce VOC emissions to 72.9 grams per tire in lieu of complying with the four individual process regulations recommended by EPA. This regulation is, in effect, a bubble regulation and is based on EPA model plant emissions, instead of actual source emissions from the one company in Pennsylvania subject to this regulation. Based on the EPA model plant emissions, DER documented the emissions equivalence of this bubble regulation to the EPA recommended regulations for the four separate processes.

Generic VOC Bubble Regulation

On September 4, 1981, DER requested EPA to approve Chapter 129.53, Alternative Standards Allowing Internal Offsets for Surface Coating and Graphic Arts Facilities, as a generic bubble regulation. If this regulation is approved, individual bubbles adopted under this regulation will not have to be submitted as a SIP revision for EPA approval. Any bubbles adopted under this regulation are subject to the requirement contained in chapter 128 of DER's, which states that all bubbles must satisfy EPA's bubble policy (44 FR 71779) December 11, 1979.

EPA's criteria for reviewing requests for approval of generic bubble regulations can be found in EPA's Emissions Trading Policy Statement (47 Fed. Reg. 15076 (April 7, 1982)). This policy statement constitutes interim criteria for evaluating state emissions trading rules.

The bubble regulation provides that an eligible source may be bound by an alternative set of emission limitations for the emission points at the source, provided that the alternative set of limitations does not result in an increase in total emissions. That is, the sum of the alternative limitations must equal the sum of the limitations for those points previously imposed by DER's RACT regulations for the surface coating and graphic arts processes. The requirement that the sum of the old RACT limitations equal the sum of the new ones is essentially a straight forward formula which takes the form:

$$E = A_1 \times B_1 + A_2 \times B_2 + \ldots A_n \times B_n + C_1 + C_2 \ldots C_n$$

Where E = the allowable emissions from the surface coating and/or graphic arts facility in pounds per hour (kilograms per hour);

$A_{1,2,\ldots n}$ = the allowable emission rate for each surface coating process under the RACT regulations;

$B_{1,2,\ldots n}$ = the amount of coating material in gallons per hour (liters per hour), excluding water;

$C_{1,2,\ldots n}$ = the allowable emission rate for each graphic arts process under the RACT regulations.

During EPA's initial review of this formula, EPA asked DER to clarify the use of the "B" term. Initially it was not clear to EPA if this item pertained to the amount of the original coating or the complying coating. DER stated, in its submission of September 4, 1981, that the term "B" represents the amount of coating which is used when the coating is in compliance with RACT regulations for each category. DER enclosed a copy of its guidance document entitled "Reporting Requirements for Surface Coating Operations" dated August 17, 1979, which clarified this point. In the September 4, 1981 submission DER also committed to explicitly clarify this point of ambiguity in the regulation within the next six months.

DER enclosed a copy of its policy requiring public notice to be given in local newspapers to advertise the opportunity for a public hearing on any permit given under this bubble regulation. The DER must specify each alternative limit being proposed as well as the emission limits previously applicable. DER will furnish EPA with a copy of all such public notices. DER must also notify the public and EPA when it grants final approval to alternative limits.

Based on EPA's review to date, EPA is proposing to approve this regulation as a generic bubble. The regulation meets all the criteria specified in the documents listed earlier. If after reviewing any public comments, EPA gives final approval to this generic bubble regulation, EPA will, in effect, be approving in advance any set of

emission limits which satisfies the formula. As a result, when a source's applicable emission limitations are changed by use of a bubble under the Chapter 129.53, EPA, by approving Chapter 129.53, has in effect already approved the alternative emission limitations. Therefore, although EPA, pursuant to the Clean Air Act, Sections 110(a)(2), 110(a)(3), and 110(i) ordinarily reviews individual changes in the applicable requirements of a SIP, in this case it will not be necessary to submit the individual bubbles to EPA as SIP revisions for approval. Any permit issued under Chapter 129.53 will automatically become part of Pennsylvania SIP and, as such, will automatically be federally enforceable.

The public is invited to submit, to the address stated above, comments on whether the proposed changes to the regulations should be approved as a revision of the Pennsylvania State Implementation Plan.

The Administrator's final decision to approve or disapprove the proposed revision will be based on the comments received and on a final determination of whether the amendments meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because this action, if promulgated, only approves State actions and imposes no new requirements.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator has certified that SIP revisions, under Section 110 of the Clean Air Act, will not have a significant economic impact on a substantial number of small entities (46 FR 8709). This proposed rule constitutes a SIP revision within the terms of the certification.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(42 U.S.C. 7401–642)

Dated: February 8, 1982

Peter N. Bibko,

Regional Administrator.

[FR Doc. 82-14446 Filed 5-26-82; 8:45 am]

BILLING CODE 6560-38-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 150

[CGD 79-95]

Shipment of Bulk Liquid Hazardous Waste Cargoes by Water

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of Proposed Rule.

SUMMARY: The Coast Guard is withdrawing its proposal for rules governing vessel operators who transport bulk hazardous waste. Under these rules, operators of vessels transporting cargoes of liquid hazardous wastes (vessel transporters) would have been required to have ID numbers, to carry documentation (hazardous waste manifests) for the hazardous waste cargoes, to report cargo spills, and to keep copies of the hazardous waste manifests for three years after the initial date of shipment. The requirements already existed in regulations promulgated by the Environmental Protection Agency (EPA). This proposal was intended to offer more convenience for vessel operators by grouping the requirements for hazardous waste transportation with the other transportation requirements in Title 46. The Coast Guard does not believe whatever benefits operators would get from this rearrangement outweigh the disadvantages of duplicative regulations having potential conflicts with the primary EPA program and the costs of publishing and maintaining the regulations.

FOR FURTHER INFORMATION CONTACT: Robert M. Query, Office of Merchant Marine Safety (G-MTH/14), U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593. (202 426–1217).

SUPPLEMENTARY INFORMATION: In the October 14, 1980 issue of the **Federal Register** (45 FR 67708), the Coast Guard Proposed to add requirements for shippers of hazardous wastes in bulk by water. The proposal drew five comments. The comments dealt with crew training, the manner in which the hazardous wastes would be described on the manifests, the definition of "vessel transporter," the definition of "Person in Charge," and whether the requirements would apply to ocean incineration vessels.

After considering the proposal, the Coast Guard has decided to withdraw it. The decision to withdraw the proposal is not an evaluation of the worth of the requirements but of the worth of repeating them in Title 46 for the convenience of the vessel operator. The decision is based on the following considerations:

(1) The content of the proposal is already required by EPA in 40 CFR Part 263. Coast Guard regulations would be at best duplications and could lead to conflicts. The statute places the primary responsibility for implementing, administering, and enforcing the program on the EPA. In its early developmental stages, this program is bound to undergo numerous, continuous changes keeping up with the changes will be difficult. Unavoidable delays in processing and publishing the concomitant Coast Guard amendments will create conflicts. Moreover, there is always the possibility of inadvertent conflicts in highly complex rules. The negative experience of other agencies in similar situations, sometimes resulting in opposite and totally irreconcilable requirements, makes it preferable to leave the rulemaking process, at least for the time being, to the lead agency. However, should the Coast Guard detect any violations of EPA regulations, it will promptly report them to EPA. Vessel operators handling hazardous waste cargoes should continue to refer to Title 40 for EPA requirements applying to such shipments.

(2) Water shipments of bulk hazardous wastes fall under the existing Coast Guard rules for shipping bulk hazardous materials, so that Title 46 already contains minimum standards for vessel design and cargo handling procedures.

(3) In addition the rule would have added to the recordkeeping and reporting burdens placed on the public and consumed Coast Guard resources in maintaining the rule current, enforcing the requirements, and processing violations.

For these reasons the Coast Guard does not consider the benefits to the ship or barge operator, from having hazardous waste shipping requirements placed with the other shipping requirements in Title 46, to outweigh the disadvantages.

(46 U.S.C. 391a; 49 U.S.C. 1803; 49 CFR 1.46(n)(4) and (t))

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

May 17, 1982.

[FR Doc. 82-14486 Filed 5-26-82; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATION COMMISSION

47 CFR Part 73

[BC Docket No. 82-74; RM-4008]

FM Broadcast Station Fort Smith, Arkansas, and Poteau, Oklahoma; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Dismissal of proposed rule.

SUMMARY: This action dismisses a proposal to reassign FM Channel 250 from Poteau, Oklahoma, to Ft. Smith, Arkansas, and to reassign Channel 265A from Ft. Smith to Poteau, and to modify the respective licenses to specify the new channel. The Ft. Smith petition requested dismissal in order to avoid competing with another party interested in the new Ft. Smith channel.

DATES:

ADDRESS: Federal Communication Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark Lipp, Broadcast Bureau (202) 632-7732.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Fort Smith, Arkansas, and Poteau, Oklahoma); BC Docket No. 82-74 RM-4008; report and order (Proceeding Terminated).

Adopted: May 12, 1982.

Released: May 20, 1982.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration the Notice of Proposed Rule Making, 47 FR 7463, published February 19, 1982, proposing to reassign Channel 250 fom Poteau, Oklahoma, to Fort Smith, Arkansas, and to reassign Channel 265A from Ft. Smith to Poteau. It was also proposed to modify the existing licenses for the respective channel to specify the new assignments. Timely comments were received from the joint petitioners—Collins Broadcasting Corp. ("Collins"), licensee of Station KLUP(FM), Poteau, and Hernreich Community Broadcasting, Inc. ("Henreich"), licensee of Station KXXI(FM), Fort Smith; from WAKP Associates [1] and from Richard C. Enderwood. Late filed comments were submitted by Miles C. Zimmerman; and by Jere Dean Fisher. Petitioners have filed a motion to strike the comments of Zimmerman, Fisher and Enderwood. In addition, Hernreich has submitted a "Petition for Investigation Re Strike Pleading and Abuse of Process" regarding the Enderwood comments. Hernreich has attached to that petition Affidavits of Robert Hernreich, of William McFetridge, and of Nancy M. Hernreich. Enderwood has filed comments in response to this petition and Hernreich has filed a reply.[2]

2. Ft. Smith (1980 population 71,384),[3] seat of Sebastian County (1980 population 94,930), is located on the Arkansas-Oklahoma border approximately 200 kilometers (125 miles) west of Little Rock, Arkansas. It is served by four AM Stations (KFPW, KFSA, KWHN, and KTCS) and four FM stations (KISR (Channel 229); KMAG (Channel 256); KTCS-FM (Channel 260) and KXXI (Channel 265A)).

3. Poteau (1970 population 5,500), the seat of LeFlore County (1970 population 32,137), is located approximately 284 kilometers (165 miles) east of Oklahoma City, Oklahoma. It is served by AM Station KLCO and by two FM stations (KINB (Channel 297) and KLUP (Channel 250)).

4. The Notice proposed to exchange channels between Ft. Smith and Poteau for the benefit of both communities.[4] Under this plan, Station KLUP would convert from Channel 250 to Channel 265A and Station KXXI would switch from Channel 265A to Channel 250. Under the Cheyenne [5] policy, the modifications could only take place if no other interest were expressed in applying for Channel 250 at Ft. Smith or for Channel 265A at Poteau.

5. In response to the Notice, interests in the proposed Ft. Smith Class C channel were expressed by Enderwood and by Zimmerman. Also, an interest in the proposed Class A Poteau assignment was announced by Fisher.[6] The thrust of Hernreich's reply comments is that each of these interests are invalid and should be stricken from the record. In addition, Hernreich requests that the participation of Enderwood in this proceeding should be investigated by the Commission as an abuse of the Commission's processes.

6. First, we will deal with the comments of Zimmerman and Fisher. In both cases the filings were received late and do not include a certificate of service. The failure to serve the letters on the petitioner constitutes an *ex parte* presentation. Section 1.1201(f) and (g) of the Commission's Rules. Such presentations are prohibited and improper for Commission consideration. Section 1.1229 and paragraph 12 of the *Notice* and paragraph 4 of the Appendix in this proceeding. *See, Ex Parte Communications During Informal Rule Making Proceedings*, 78 F.C.C. 2d 1384, 1396-1397 (1980). See, also, *Smith's Grove, Kentucky, et. al.*, 47 FR 10601, published March 11, 1982. As for the untimeliness of the comments of Zimmerman and Fisher, we view that deficiency as equally serious. We have set deadlines or "cut off" dates for the filing of conflicting proposals. Section 1.420(d) and paragraph 4 of the Appendix to the Notice. While the expressions of interest in the proposed new channel assignments are not strictly counterproposals in the usual sense, we view the interest as in conflict with the proposed modification of licenses. We have said in this regard that "the orderly conduct of the Commission's business requires that at

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[1] WAKP Associates expressed an interest in a new channel assignment to Tahlequah, Oklahoma, should the exchange of channels under consideration here take place. In view of the disposition of this proceeding, that proposal has not been accepted for consideration.

[2] In an even later reply pleading, Hernreich suggests that the Commission should conditionally grant the modification of license pending the outcome of the investigation it has requested citing § 73.3592(a)(1) of the Commission's Rules. However, as explained in paragraph 10, we have denied the request for an investigation on the legitimacy of Enderwood's interest. Thus, a conditional grant would not be appropriate. Hernreich also requests as an alternative that we reassign only Channel 265A from Ft. Smith to Poteau and designate for hearing only Hernreich and Enderwood on Channel 250 at Ft. Smith. Hernreich cites no authority for this extraordinary request. We do not believe that we could, consistent with Ashbacker, assign a new channel and limit the acceptance of applications only to the parties that expressed an interest in the rule making. We have found no precedent for such action. All new assignments have been available for any interested and qualified applicant regardless of its participation in the rule making. See, *Zenith Radio v. F.C.C.*, 211 F. 2d 629 (D.C. Cir. 1954).

[3] Population data are taken from the 1970 and 1980 U.S. Censuses.

[4] Collins recites that it has encountered serious financial problems in operating a Class C station in Poteau and desires to revert to a Class A operation. Under the proposal, the existing Class C signal of its station (KLUP) would be replaced by Station KXXI, licensed to Ft. Smith. This replacement would take place by Hernreich's use of the current transmitter of Station KLUP which now provides city grade service over Ft. Smith and fully encompasses the present Class A signal of Station KXXI in and around Ft. Smith. Thus, no listeners of Station KXXI would lose that station's signal by virture of the switch. In addition, all listeners of Station KLUP will receive a replacement signal. Finally, the residents of Poteau would continue to receive two local FM stations from Collins' use of Channel 265A for its station. An additional benefit to Ft. Smith was said to be the elimination of intermixture of channels there.

[5] *Cheyenne, Wyoming*, 62, F.C.C. 2d 63 (1976).

[6] In a later letter, Fisher also expressed a desire to operate on Channel 250, apparently in Poteau. Hernreich filed a reply to this letter. We have not given consideration to either pleading due to the lateness and to its lack of relevance to the disposition of this proceeding.

some point in the consideration of a group of proposals, requests which conflict with them must be barred from consideration until decision upon the earlier proposals is reached." See, *Greenville, Kentucky et. al.* (Notice of Proposed Rule Making), 35 FR 16983, 16985 (1970). The purpose of setting these deadlines are the same as for an application for a construction permit. As in the processing of applications there is a need for certainty and a point at which the number of interests entitled to consideration must be set. The date we have determined for this purpose is the comment deadline. Here there has been no explanation offered for the late filings nor do we have an indication as to the failure to serve. Thus we find the comments of Zimmerman and Fisher unacceptable.

7. The comments of Enderwood present a different problem. These comments were filed in a timely fashion and contain a certificate of service. Hernreich raises no such procedural grounds for striking the pleading. Rather, petitioner has questioned Enderwood's motives in opposing the the subject request. Enderwood has opposed the transfer of Channel 250 to Ft. Smith because he believes that Station KLUP presently provides programming particularly suited to the rural nature of the area. On the other hand, Enderwood asserts that the programming of Station KXXI would be geared to Ft. Smith's needs and deprive the Oklahoma listeners of their present service. Notwithstanding this opposition to an additional Class C assignment at Ft. Smith, Enderwood states that he wishes to apply for the channel, if assigned.

8. In its motion to strike, Hernreich alleges that the comments of Enderwood were submitted as a "strike" pleading, motivated by vengenance and intended to perpetuate a fraud. Accordingly, Hernreich urges the Commission to conduct an investigation into the circumstances surrounding the submission of Enderwood's pleading. Briefly, the recitation of events includes the former employment relationship between Hernreich and Enderwood which terminated on less than amicable terms and the subsequent employment relationship of Enderwood with a competitor in the Ft. Smith market which could benefit from the dismissal of this proposal.

9. The main issue in this case is whether, in view of the filing by Enderwood of an expression of interest in the proposed Ft. Smith Class C assignment, the modification of the license for Station KXXI can take place. We must hold that in cannot. Hernreich has gone to great length (including three affidavits) in trying to demonstrate that Enderwood's filing has no other purpose than to impede, obstruct or delay this proceeding. It requests the commencement of an investigation citing authority in § 1.1 of the Commission's Rules. Due to the limitations inherent in a rule making proceeding, the legitimacy of Enderwood's interest cannot be adequately resolved without a full evidentiary hearing as Hernreich seems to recognize. Such a hearing could take place by our assigning the Class C channel to Ft. Smith and accepting applications therefor. Hernreich could then raise allegations concerning the *bona fides* of Enderwood as an applicant. Yet Hernreich does not wish to have us proceed in that fashion. Instead, it desires a modification of its license to the new channel without the risk of a comparative hearing. We cannot comply with that request under existing law. See, *Ashbacker Radio Corp. v. F.C.C.*, 326 U.S. 327 (1945). In the alternative, Hernreich has asked that rather than permit the filing of applications on Channel 250, we dismiss the proceeding without action. Since we would not reassign Channel 250 from Poteau to Ft. Smith where, in doing so, a licensee stands to lose its station, we will permit Hernreich and Collins to withdraw from this proceeding without any action on their request. See, *Bonita Springs, Florida, (First Report and Order)* 45 R.R. 2d 1585 (1979), and *Statesboro, Georgia*, 40 R.R. 2d 1021 (1977).

10. As for undertaking an investigation prior to resolving the rule making under the authority of § 1.1 of the Commission's Rules, such action is discretionary. Our view is that the allocation of the Commission's limited resources in this venture would not be of sufficient benefit. The good faith intentions of a prospective applicant are generally assumed in a rule making proceeding. The *Cheyenne* procedure utlized here is designed to shortcut the *Ashbacker* requirement of allowing an opportunity to file an application for each new assignment. The Cheyenne case held that the opportunity for other expressions of interest can be given through the comment period in a rule making proceeding. Otherwise, in every such case the new assignment would have to be opened up for the filing of applications. Since most station owners would not risk losing their license in order to improve their facility, the alternative of withdrawing their proposal is given, if another interest is expressed. The general absence of this tactic in cases decided since the *Cheyenne* decision in 1976 demonstrates the effectiveness of this procedure so far. Were a petitioner permitted to raise a question regarding the legitimacy of another interest each time, the *Cheyenne* procedure could not be maintained. That is why the alternative of pursuing such matters at the application stage is offered. Thus we expect that when a station wishes to utilize the *Cheyenne* procedure in an attempt to minimize its risk, it will do so with knowledge that application matters, *i.e.*, an applicant's qualifications, may not be resolved in the rule making proceeding.

11. Furthermore, even if an investigation were to take place under Section 403 of the Commision's rules, Enderwood's qualifications as an applicant for Channel 250 at Ft. Smith could not be resolved. Only a hearing could accomplish Hernreich's objectives. However, a hearing could not be limited to Hernreich and Enderwood since under the *Ashbacker* decision, the channel would be open to competitive applications. Hernreich does not wish to take this risk as has been discussed previously. Accordingly, the commencement of an investigation, in and of itself, could not resolve Hernreich's request for modification either on a conditional (under § 75.3592) or unconditional basis.

12. In view of the above, it is ordered that the petition of Hernreich Community Broadcasting, Inc. and Collins Broadcasting Corporation is dismissed.

13. It is further ordered that this proceeding is terminated.

14. For further information concerning the above, contact Mark N. Lipp, Broadcast Bureau, 632-7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-14836 Filed 5-26-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Subtitle A

[Notice No. 82-5]

Review of Rules Implementing Title VI of the Civil Rights Act of 1964

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of regulatory review and request of comments.

SUMMARY: As part of the Department of Transportation's continuing program of reviewing existing regulations, the Department is examining its rules that implement Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color and national origin in programs receiving financial assistance. The purpose of this review is to recommend ways of carrying out statutory responsibilities as efficiently and effectively as possible, with minimum burdens on recipients and the public. This notice sets forth some of the alternatives the Department is considering, asks questions on matters about which the Department seeks information, and requests comments from the public.

COMMENT CLOSING DATE: In order to receive full consideration, comments should be received by June 28, 1982.

ADDRESS: Comments should be sent to Docket Clerk, Room 10421, Department of Transportation, 400 7th St., SW., Washington, D.C. 20590. Comments will be available for public inspection between 9:00 a.m. and 5:00 p.m., Monday through Friday, at the above address.

FOR FURTHER INFORMATION CONTACT: Shirley Lloyd, Office of Civil Rights, Department of Transportation, Room 9201, 400 7th St. SW., Washington, D.C. 20590, Telephone 202-426-4754.

SUPPLEMENTARY INFORMATION:

Title VI

Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, *et seq.*) provides that no person shall, on the ground of race, color, or national origin, be excluded from participation in, denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. This statute is supplemented in major Department of Transportation (DOT) financial assistance programs by program-specific statutes which repeat this prohibition and extend coverage to discrimination on the basis of sex, and other bases. These statutes include 23 U.S.C. 324 (highway and traffic safety programs), 49 U.S.C. 1730 (airport aid program), 49 U.S.C. 1615 (urban mass transit program), and section 905 of the Railroad Revitalization and Regulatory Reform Act of 1976 (rail programs).

The principal DOT Title VI regulation is 49 CFR Part 21, which has not been revised since 1970. In addition, various DOT operating administrations (e.g., Federal Highway Administration, Federal Aviation Administration) have separate regulations implementing the DOT regulation or the individual program statutes.

The Regulatory Review Process

When a regulatory program has existed for some period of time, administrative practices, substantive requirements, and paperwork burdens become solidly established as parts of an agency's methods for carrying out a statute or policy. The purpose of a regulatory review is to ask what is required in today's circumstances to achieve the statutory or policy objective. The agency must consider alternatives for carrying out its statutory responsibilities and decide among the alternatives on the basis of effectiveness, administrative efficiency, costs and burdens imposed on parties outside the government, and the maximization of net benefits to society.

The Department is committed to ensuring that there not be discrimination on any of the forbidden grounds in its financial assistance programs. This review does not in any way diminish the strength of this commitment, but rather, is intended to determine the best means for carrying it out.

One important part of the regulatory review process is this request for public participation. It is important to know what the public thinks about the alternatives under consideration. Framing alternatives need not be constrained by existing practices, regulations, or requirements. Even if an agency outside DOT would also have to make changes (e.g., if the Department of Justice would have to change its Title VI guidelines in order to permit DOT to change some provision of its regulation), it is worthwhile to make the suggestion.

Following its consideration of alternatives in light of the comments, the Department will adopt recommendations for its Title VI regulatory program. These recommendations will form the basis of a notice of proposed rulemaking that will be made available for public comment at a later date. Other important DOT Civil Rights rules are also undergoing review or revision at this time, such as the Department's rule to implement section 504 of the Rehabilitation Act of 1973 (nondiscrimination on the ground of handicap) and the Department's minority business enterprise rule. These reviews are separate from this review of Title VI, and we are not seeking comments about them in this notice.

Some Questions

We request your views on any or all of the following questions. In commenting on these questions, please include examples from your own experience, where possible.

1. Have existing requirements (and if so, which ones?) effectively prevented or corrected discriminatory practices? In particular, have review and reporting requirements and practices been successful in identifying discriminatory practices?

2. Are there areas in DOT-assisted programs in which discrimination is more prevalent today than in others? Are there particular programs or projects in which Title VI problems and complaints are likely or unlikely to arise? Are there types of noncompliance which the present rules do not control successfully which the Department could address through regulatory changes?

3. Administratively, is it easier for recipients to respond to broad, general requirements or to more specific requirements? Which approach is more effective in achieving the objectives of the statute? Why?

4. What are the quantifiable and non-quantifiable benefits of the existing scheme?

5. What resources in terms of time, money, and personnel are needed to comply with existing federal non-discrimination requirements in assisted programs? Are there particular parts of the existing requirements that could be changed to save substantial portions of these resources?

6. Are there problems concerning the relationship of primary recipients (e.g., states) and subrecipients (e.g., counties to which states pass through DOT funds) that the Department could ease through regulatory change?

7. Is there overlap or duplication among various DOT efforts to enforce nondiscrimination requirements (e.g., between the basic DOT Title VI program and operating administration enforcement of program-specific civil rights statutes)? Is there overlap or duplication among DOT efforts to enforce nondiscrimination requirements and those of other Federal, state or local agencies? If so, how can DOT or other agencies mitigate the problems?

8. Are there discriminatory practices which current efforts cannot identify? If so, how can DOT remedy this deficiency?

9. Is there a need for DOT to expand technical assistance and/or training provided to recipients? Is there a need for such assistance at all?

Alternatives Under Preliminary Consideration

The Department is considering a series of alternatives or suggestions in various areas of Title VI regulation and practice. We invite your comments on them. Many of these alternatives are not mutually exclusive, and might be used in combination with one another. If you think of some alternatives that haven't occurred to us, please tell us about them. The following alternatives are being considered:

A. *General Program Considerations.* Presently, the Department of Justice (DOJ) issues a Title VI regulation which is applicable to all Federal departments and agencies. This regulation is then implemented by DOT. Finally, each operating administration implements the Departmental regulation.

Alternatives

1. Publish one regulation applicable to all operating administrations within DOT.

2. Eliminate the DOT regulation and authorize each operating element to issue its own regulations.

3. Maintain the current system.

B. *Program Specific Statutes.* In addition to the Title VI general prohibition against discrimination on the basis of race, color and national origin, several DOT administrations are covered by program-specific statutes that relate only to that administration. All of these specific statutes cover sex discrimination; however, they vary in their coverage of MBE, employment, and age discrimination.

Alternatives

1. Treat each program-specific statute separately.

2. Apply Title VI procedures to all program-specific statutes.

3. Apply Title VI procedures to all program-specific statutes with similar coverage and treat individual differences separately.

C. *Pre-Award Compliance Reviews.* Typically, DOT requires a finding of compliance with Title VI and similar statutes before DOT funds may be committed to a program or project. The mechanisms vary among different DOT financial assistance programs, but often involve detailed review by a DOT operating administration of a recipient's activities and plans.

Alternatives

1. Eliminate all pre-award reviews. DOT could either assume compliance in the absence of complaints or information to the contrary, or could require an assurance or certification of compliance by the recipient.

2. Establish a system of thresholds for pre-award review focusing on the size and resources of recipients. That is, retain pre-award reviews for larger recipients but eliminate them for smaller recipients. If we adopted such a system, what should the criteria be for inclusion in the "larger recipient" or "smaller recipient" category? (There might be more than two categories.)

3. Have pre-award reviews for all recipients, but establish a variation of the threshold system for the content of the reviews. That is, reviews for smaller recipients would be less intensive, time-consuming, burdensome, etc. than for larger recipients. If the Department established such a system, what should the substantive differences be between the requirements for larger and smaller recipients?

4. Allow recipients to submit reviews/reports done under state requirements after DOT determination that those requirements are sufficient to meet DOT needs.

5. Retain pre-award reviews for major projects, projects with potentially high Title VI impacts, or projects operated by "problem" recipients (i.e., recipients who have had numerous Title VI compliance problems), and eliminate pre-award reviews for other recipients. If the Department adopted this approach, how should the Department decide whether a project is a "major" or "high-impact" project or whether a recipient is a "problem" recipient?

6. Conversely, eliminate pre-award reviews only for those recipients with particularly good records and for minor projects or projects with negligible Title VI impact, while retaining reviews elsewhere. Again, how should the Department decide what projects or recipients to put in those categories?

7. Require pre-award reviews for all project and grant approvals.

8. Regardless of the approach chosen, apply the same pre-award review process in all elements of DOT.

9. Regardless of the approach chosen, apply different pre-award review processes depending on the operating administration providing the financial assistance.

D. *Post-Award Compliance Reviews.* Often, DOT operating administrations review the Title VI compliance status of recipients after a grant or project has been approved, either through a review of available paperwork or an on-site investigation. The subject of a post-award review is often broader than that of a pre-award review. The latter usually focuses on a specific project; the former often looks at an agency's administration of an entire program, though it can look at a particular project as well.

Alternatives

1. Eliminate all post-award reviews. If DOT took this approach, it could rely on pre-award reviews or simply on complaints as a means of determining noncompliance.

2. Have post-award reviews only for problem recipients, major projects, or high-impact projects; alternatively, excuse from post-award reviews recipients with good records, minor projects, or projects with negligible Title VI impacts. The same questions raised in items (5) and (6) of C above pertain.

3. Concentrate post-award reviews in areas where frequent complaints arise or where large sums of DOT financial assistance are involved. This alternative could easily fit into a threshold approach for deciding when and on whom to perform compliance reviews.

4. Permit recipients to establish their own internal processes for ensuring Title VI compliance. If DOT looks at a recipient's process and approves it, then DOT would not have to perform post-award compliance reviews concerning the recipient. This alternative might also be made to apply to pre-award reviews.

5. Retain post-award or general compliance reviews for all recipients, and establish a schedule to ensure that all would be reviewed periodically. The schedule could call for more frequent reviews for larger recipients or problem recipients.

6. Regardless of the approach chosen, apply the same post-award review process for all operating administrations of DOT.

E. *Complaint Processing.* Anyone may file a complaint with DOT alleging that a recipient is failing to comply with Title VI. An important question DOT must answer is how to best process these complaints fairly, expeditiously, and effectively.

Alternatives

1. Send all complaints to central DOT Office of Civil Rights (in the Office of the Secretary). The Office of Civil Rights would keep major complaints and return the rest to the operating administrations for resolution. If the Department adopts this approach, what guidelines should the Department use to decide what complaints fall into each category?

2. Decentralize complaints, by leaving processing to operating administrations (and, in particular, to their field offices). The operating administrations would send major complaints to the central DOT Office of Civil Rights. Again, what criteria should be used to determine if a

complaint is important enough to be sent to the Office of Civil Rights for resolution?

3. Handle all complaints in the central Office of Civil Rights, regardless of size and importance.

4. Handle all complaints in the operating administrations and their field offices, regardless of size and importance.

5. Have operating administrations and their field offices make factual investigations and recommendations for disposition, which are transmitted to central Office of Civil Rights for decision.

In responding to these suggestions and questions, please comment about the likely costs and benefits of various courses of action as well as about the general effectiveness of the alternatives.

The Department will take all comments carefully into account during this review and respond to major issues in the preamble of any notice of proposed rulemaking that results from this review.

Issued in Washington, D.C. on May 19, 1982.

Wesley A. Plummer,

Director, Office of Civil Rights.

[FR Doc 82-14212 Filed 5-26-82; 8:45 am]

BILLING CODE 4910-62-M

Notices

Federal Register
Vol. 47, No. 103
Thursday, May 27, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Level for Certain Wool Apparel Products From Colombia

May 24, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing by the application of swing and carryover the level of restraint for women's, girls', and infants' wool suits in Category 444, produced or manufactured in Colombia and exported during the twelve-month period which began on July 1, 1981, from 4,345 dozen to 5,040 dozen.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), May 5, 1981 (46 FR 25121), and May 13, 1982 (47 FR 20654)).

SUMMARY: The Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of August 3, 1978, as amended, between the Governments of the United States and Colombia, provides for the carryover of the shortfalls in certain categories from the previous agreement year (carryover) and for percentage increases in certain specific category ceilings during an agreement year (swing).

EFFECTIVE DATE: May 24, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Boyd, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On July 1, 1981, there was published in the Federal Register (46 FR 34361) a letter dated June 29, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established import restraint levels for certain specified categories of cotton, wool, and man-made fiber textile products, including Category 444, produced or manufactured in Colombia and exported to the United States during the twelve-month period which began on July 1, 1981. In accordance with the terms of the bilateral agreement, as amended, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, in the letter published below, to increase the previously established level of restraint for Category 444 to, 5,040 dozen.

Paul T. O'Day

Chairman, Committee for the Implementation of Textile Agreements.

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

May 24, 1982.

Dear Mr. Commissioner: On June 29, 1981, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption or withdrawal from warehouse for consumption, during the twelve-month period beginning on July 1, 1981 and extending through June 30, 1982 of cotton, wool, and man-made fiber textile products in certain specified categories, produced or manufactured in Columbia, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Effective on May 24, 1982, paragraph 1 of the directive of June 29, 1981 is amended to increase the twelve-month level of restraint established for wool textile products in Category 444 to 5,040 dozen.[2]

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of August 3, 1978, as amended, between the Governments of the United States and Columbia, which provide in part, that: (1) within the applicable group limits of the agreement, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may also be increased for carryover up to 11 percent of the applicable category limit in the final agreement year; (3) certain consultation levels may be increased within the applicable group limits upon agreement between the two governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] The level of restraint has not been adjusted to reflect any imports after June 30, 1981.

The action taken with respect to the Government of Columbia and with respect to imports of wool textile products from Columbia have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 14479 Filed 5-26-82; 8:45 am]
BILLING CODE 3510-25-M

CONSUMER PRODUCT SAFETY COMMISSION

Ford Manufacturing Co., Inc.

[CPSC Docket No. 82-2]

Publication of Complaint

AGENCY: Consumer Product Safety Commission.

ACTION: Publication of a complaint under the Consumer Product Safety Act.

SUMMARY: Under Provisions of its Rules of Practice for adjudicative Proceedings (16 CFR 1025, 45 FR 29206), the Consumer Product Safety Commission must publish in the Federal Register Compalints which it issues under the Consumer Product Safety Act. Printed below is a Complaint in the matter of Ford Manufacturing Company Incorporated.

Dated: May 24, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

SUPPLEMENTARY INFORMATION:

In the Matter of Ford Manufacturing Company, Incorporated, a corporation.

Complaint

Nature of the Proceeding

1. This is an adjudicative proceeding under the Rule of Practice for Adjudicative proceedings before the Consumer Product Safety Commission (hereinafter, the "Commission"), 16 CFR Part 1025, for the assessment of civil penalties pursuant to section 20 of the Consumer Product Safety Act

(hereinafter, "CPSA") for failure to comply with the CB Base Station Antennas, T.V. Antennas, and Supporting Structures Rule (hereinafter, the "CB Antenna Rule"), 16 CFR Part 1402, in violation of section 19(a)(9) of the CPSA, 15 U.S.C. 2068(a)(9) for failure to provide information required by the CPSA and the CB Antenna Rule, in violation of section 19(a)(3) of the CPSA, 15 U.S.C. 2068(a)(3), and for failure to comply with the reporting requirements of section 15(b) of the CPSA, 15 U.S.C. 2064(b) and the rules thereunder, 16 CFR Part 1115, in violation of section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4).

Jurisdiction

2. The Commission has jurisdiction over the subject matter of this adjudicative proceeding pursuant to sections 15(b), 19(a)(3), 19(a)(4), 19(a)(9), 20 and 27(a) of the CPSA, 15 U.S.C. 2064(b), 2068(a)(3), 2068(a)(4), 2068(a)(9), 2069 and 2076(a).

Respondent

3. Respondent, Ford Manufacturing Company, Incorporated (hereinafter, "Ford") is a corporation organized and existing under the laws of the State of Texas with its principal office located at 624 Texas Central Parkway, Waco, Texas 76701. Ford is a manufacturer within the meaning of section 3(a)(4) of the CPSA, 15 U.S.C. 2052(a)(4).

The Consumer Product

4. CB Antennas manufactured or distributed for sale or sold to consumers are consumer products within the meaning of section 3(a)(1) of the CPSA, 15 U.S.C. 2052(a)(1).

5. CB Antennas manufactured or distributed for sale or sold after September 26, 1978, are subject to the requirements of the CB Antenna rule, 16 CFR Part 1402, issued by the Commission under section 27(e) of the CPSA, 15 U.S.C. 2076(e).

The Rule

6. The CB Antenna Rule requires manufacturers of CB antennas to attach to the antenna a designated label in specified colors, 16 CFR 1402.4(a)(1)(i) (A), (B), (C), (D) and (E) (1) and (2), to warn of the damage of electrocution.

7. The CB Antenna Rule requires manufacturers of CB antennas to include with each antenna a specific warning on the first page at the beginning of the body of the instructions: WARNING: INSTALLATION OF THIS PRODUCT NEAR POWERLINES IS DANGEROUS. FOR YOUR SAFETY, FOLLOW THE INSTALLATION DIRECTIONS. 16 CFR 1402.4(a)(1)(ii)(A).

8. The CB Antenna Rule requires that specific information be included as part of the instructions. This information must be conspicuously identified as containing information concerning contact with powerlines. 16 CFR 1402.4(a)(1)(ii)(B)(1), (2), and (3)(i), (ii), (iii).

9. The CB Antenna Rule required manufacturers of CB antennas to submit to the Commission samples of all labels, warning statements, or instructions, or if a new product is introduced, to submit such labels, warning statements, and instructions within 30 days after the change or introduction. 16 CFR 1402.4(b)(1).

Violations

10. On or about June 12, 1980, two boys died when an unlabeled CB Antenna which had been manufactured and sold by Ford after September 26, 1978, and which lacked the required warning statements and installation instructions, came in contact with powerlines.

11. On or about July 23, 1980, the Atlanta Regional Office (hereinafter, "Atlanta") obtained from the D.A. Cooper Furniture Store an unlabeled CB Antenna manufactured and sold by Ford after September 26, 1978, which lacked the required warning statements and installation instructions.

12. On or about July 23, 1980, the Dallas Regional Office (hereinafter, "Dallas") obtained from Ford two unlabeled CB Antennas, which had been manufactured and sold by Ford after September 26, 1978, which lacked the required warning statements and installation instructions.

13. On or about July 23, 1980, Dallas obtained from Ford two unlabeled CB Antennas from a total of six code-dated unlabeled units, which had been manufactured and sold by Ford after September 26, 1978, and which lacked the required warning statements and installation instructions.

14. On or about July 30, 1980, Dallas sampled two unlabeled CB Antennas from a total of six code-dated unlabeled units, which had been manufactured and sold by Ford after September 25, 1978, and which lacked the required warning statements and installation instructions.

15. To date, Ford has not submitted samples of all labels, warning statements, and instructions for its CB Antenna.

16. Ford did not report under section 15(b) of the CPSA, 15 U.S.C. 2065(b) until on or about August 5, 1980.

17. The manufacture or distribution of CB Antennas by Ford after September 26, 1978, as alleged in paragraphs 11 through 14 which fail to comply with the CB Antenna Rule is a prohibited act within the meaning of section 19(a)(9) of the CPSA, 15 U.S.C. 2068(a)(9), with respect to each antenna involved.

18. The failure to submit samples of all labels, warning statements, and instructions as alleged in paragraph 15, is a failure beginning on October 28, 1978 to comply with the CB Antenna Rule and is a prohibited act within the meaning of sections 19(a)(3) and (9) of the CPSA, 15 U.S.C. 2068(a)(3) and (9).

19. Ford's failure to inform the Commission that noncomplying CB Antennas which could create a substantial product hazard, had been manufactured and distributed after September 26, 1978, as required by section 15(b) of the CPSA, 15 U.S.C. 2064(b), and as that section is interpreted in 16 CFR Part 1115, is a separate violation and offense under section 19(a)(4) of the CPSA. 15 U.S.C. 2068(a)(4), with respect to each antenna involved.

20. Ford's knowing violations of the requirements of the CPSA as alleged in paragraphs 17, 18 and 19, are subject to civil penalties under section 20 of the CPSA, 15 U.S.C. 2069.

Relief Sought

Wherefore, after reviewing the facts in this matter in light of the statutory criteria specified in section 20(b) of the CPSA, 15 U.S.C. 2069(b), the staff of the Consumer Product Safety Commission believes that the following relief is in the public interest and requests that the Commission:

1. Determine that a civil penalty should be assessed against the Ford Manufacturing Company, Incorporated;

2. Assess a civil penalty of $50,000, although a higher amount is authorized by statute; and

3. Impose a civil penalty pursuant to section 20 of the CPSA, 15 U.S.C. 2069.

Dated: May 14, 1982.

David Schmeltzer,

Associate Executive Director, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, D.C. 20207, Telephone (301) 492-6521.

In the Matter of Ford Manufacturing Company, Incorporated, a corporation.

List and Summary of Documentary Evidence

1. In depth investigation report of June 12, 1980, into the deaths of two teenagers, includes follow-up inspections and sample E 810-9825 (model S 184).

2. Inspection report of July 14, 1980, of a distributor of Ford Manufacturing

Company's (Ford) citizen band base station antenna (CB antenna).

3. Inspection report of July 22–23, 1980, of Ford includes sample E–855–0650 (one model F–184 and one model S–184 from a lot of six models code–dated after September 26, 1979).

4. Letter from Ford dated August 5, 1980, to the Commission's Dallas Office reporting the possible sale of non-complying CB antenna.

5. Inspection report of July 30, 1980, includes sample E 855–0635 (2 units of the F–184 antenna from a lot of six units shipped by Ford on February 21, 1980).

6. Sample Collection report dated August 12, 1981, containing documentation for sample E 810–9625 and sample E 810–0703, includes affidavits from consumer, retailer, and distributor.

[FR Doc. 82-14480 Filed 5-26-82; 8:45 am]

BILLING CODE 6355-01-M

[CPSC Docket No. 82–1]

Roper Corporation, a Corporation, and Sears Roebuck and Company, a Corporation; Preliminary Conference; Prehearing Conference

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of prehearing conference.

DATE: This notice announces a prehearing conference in the matter of Roper Corporation, a corporation, and Sears, Roebuck and Company, a corporation, on June 7, 1982 at 10:00 a.m.

ADDRESS: The prehearing conference will be held in the Parklawn Building, Room 4A–35, 5600 Fishers Lane, Rockville, MD 20857. For additional information contact: Sheldon D. Butts, Deputy Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301) 492–6800.

Notice of Prehearing Conference

Please take notice that a prehearing conference in this proceeding will be held on June 7, 1982 at 10:00 a.m. in the Parklawn Building, Room 4A–35, 5600 Fishers Lane, Rockville, MD 20857 before Administrative Law Judge Daniel J. Davidson and that the conference will consider the scheduling of a hearing on the remedies necessary to protect the public (said hearing will consider, *inter alia*, the issue of whether the Commission under section 20(c) of the Act is authorized to assess a civil penalty).

Dated: May 24, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 82-14481 Filed 5-26-82; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Acceptance of Application on Behalf of Army Transport Command Civilian Personnel During World War II

Under the provisions of Section 401 of Pub. L. 95–202 and DODD 1000.20, the DOD Civilian/Military Service Review Board has accepted an application on behalf of Army Transport Command Civilian Personnel During World War II. Persons with information or documentation pertinent to the determination of whether the service of this group was equivalent to active military service are encouraged to submit such information or documentation within 60 days to the DOD Civilian/Military Service Review Board, Secretary of the Air Force (SAF/MIPC), Washington, D.C. 20330. For further information contact Technical Sergeant Stephen J. Koegle, USAF, Telephone No. 694–5380.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-14484 Filed 5-26-82; 8:45 am]

BILLING CODE 3901-01-M

USAF Scientific Advisory Board; Meeting

May 20, 1982.

The USAF Scientific Advisory Board Ad Hoc Committee on Modeling Techniques to Predict the Impact of Chemical Warfare (CW) Agents will meet at Wright-Patterson Air Force Base, Ohio on June 29 and 30 9:00 a.m. to 5:00 p.m. and on July 1, 1982 from 9:00 a.m. to 12:00 p.m.

The Committee will receive classified informational briefings to define the inputs needed for predictive modeling of CW scenarios at different levels of conflict; identify any new modeling technologies, and outline the R&D needed (if any). The meeting will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–4811.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-14487 Filed 5-26-82; 8:45 am]

BILLING CODE 3901-01-M

USAF Scientific Advisory Board; Meeting

May 20, 1982.

The USAF Scientific Advisory Board Ad Hoc Committee on Advanced Electronics will meet at the Naval Postgraduate School, MMonterey, California from August 9–20, 1982. The purpose of the meeting will be to review and make recommendations on the alternatives for application of advancing electronics technology in aircraft avionics and systems. The meetings will convene at 8:00 a.m. each day and adjourn at approximately 4:30 p.m. each day. The briefings will be classified and closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–4811.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-14488 Filed 5-26-82; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Board of Visitors, United States Military Academy; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following meeting.

Name of Committee: Board of Visitors, United States Military Academy
Dates of Meeting: July 28–30, 1982.
Place of Meeting: West Point, New York
Time: At West Point:

1300–1700, July 28, Optional orientation for new Board members (West Point)
0830–1145, July 29, Observe Cadet Basic Training (West Point)
1145–1645, July 29, Observe Cadet Field Training (Camp Buckner)
0830–1245, July 30, Board Discussions (Lee Hall)
1400–1600, July 30, Tour of USMA Facilities (USMA and Ladycliff College)

Proposed Agenda: Inquire about cadet training to include Cadet Basic Training and Cadet Field Training, preparation of graduates to meet initial leadership challenges, Impact Aid, USMA facilities including Ladycliff College, and other matters relating to the Military Academy that the Board decides to consider.

All proceedings are open. For further information, contact COL D. P. Tillar, Jr., United States Military Academy, West Point, New York, telephone (914) 938–4723/2785.

For the Board of Visitors.

D. P. Tillar, Jr.,

Col., GS, Executive Secretary USMA Board of Visitors.

[FR Doc. 82-14472 Filed 5-26-82; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Community Education Advisory Council; Meeting

AGENCY: Community Education Advisory Council, Ed.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda for the forthcoming meeting of the Community Education Advisory Council. It also describes the functions of the Council. Notice of these meetings is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: Meeting: June 14 and 15, 1982.

ADDRESS: Portland Hilton, 921 S.W. 6th Avenue, Portland, Oregon 97204.

FOR FURTHER INFORMATION CONTACT: Ron Castaldi, Department of Education, Community Education Program, 7th and D Streets, S.W., Regional Office Building No. 3, Room 5622, Washington, D.C. 20202, Telephone: (202) 245–0691.

SUPPLEMENTARY INFORMATION: The Community Education Advisory Council is authorized under Public Law 95–561. The Council is established to advise on policy matters relating to the interest of community schools.

All sessions of this meeting are open to the public. The meeting will begin at 9:00 a.m. on Monday, June 14 and end at 4:30 p.m. On Tuesday, June 15, the meeting will begin at 9:00 a.m. and end at 3:00 p.m.

At the last meeting held in Washington, D.C. on February 26 and 27, 1982 the Council discussed the National evaluation process; examined future roles, functions, and projects of the Council, considered the Federal role in Community Education; and reviewed the Council's annual report.

Proposed agenda items for this meeting include:

(1) The future role of the Council

(2) The Federal role in education

(3) Groups that can assist in service delivery to communities

(4) Consideration of other administrative matters

Records shall be kept of all Council proceedings and shall be available for public inspection in Regional Office Building No. 3, Room 5622, 7th and D Streets, S.W., Washington, D.C. 20202.

Signed at Washington, D.C. on May 21, 1982.

John K. Wu,

Deputy Assistant Secretary.

[FR Doc. 82-14438 Filed 5-26-82; 8:45 am]

BILLING CODE 4000-01-M

Office of the Secretary

Legislative, Rules and Regulations Committee; Meeting

AGENCY: National Advisory Council on Indian Education; Education.

ACTION: Notice of meeting.

SUMMARY This meeting sets forth the scheduled and proposed agenda of a forthcoming meeting of the legislative, Rules and Regulations Committee and Executive Committee of the National Advisory Council on Indian Education concerning the Reauthorization of the Indian Education Act, Pub. L. 92–318, which expires September 30, 1984. The Committees will be reviewing the Indian Education Act Rules and Regulations, legislative analysis of Public Law 92–318, the Indian Education Act of 1972, with regard to proposed legislative changes in the Act at the time of Reauthorization and discuss strategies for introduction of a bill to reauthorize Pub. L. 92–318. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: June 16, 1982, 9:00 a.m. to 5:00 p.m., June 17, 1982, 9:00 a.m. to 5:00 p.m.; and, June 18 1982, 9:00 a.m. to 5:00 p.m.

ADDRESS: Center for Indian Education, 302 Farmer Building, Arizona State University, Tempe, Arizona 85281 (602) 965–8292.

FOR FURTHER INFORMATION CONTACT: Dr. Michael P. Doss, Executive Director, National Advisory Council on Indian Education, 425 13th Street, N.W., Suite 326, Washington, D.C. 20004 (202) 376–8882.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is established under Section 442 of the Indian Education Act, Title IV of Pub. L. 92–318, (20 U.S.C. 1221g). The Council is established to submit to the Secretary of Education a list of nominees for the position of Director of Indian Education Programs, advise the Secretary of Education with respect to the administration of any program in which Indian children or adults participate from which they can benefit, review applications for assistance under Title III of the Act of September 30, 1950, and make recommendations to the Secretary with respect to their approval, evaluate programs and projects carried out under any program of the Department of Education in which Indian children or adults can participate or from which they can benefit and disseminate the results of such evaluations, provide technical assistance to local educational agencies and to Indian educational agencies, institutions and organizations, assist the Secretary of Education in developing criteria and regulations for the administration and evaluation of grants made under section 303(b) of the Act of September 30, 1950, submit to Congress not later than June 30 of each year a report of its activities; and, be consulted by the Secretary of Education regarding the definition of the term Indian.

The meeting will be open to the public. The proposed agenda includes: Reviewing the Indian Education Act Rules and Regulations, a legislative analysis of Public Law 92–318, the Indian Education Act of 1972, with regard to proposed legislative changes in the Act at the time of Reauthorization and to discuss strategies for introduction of a bill to reauthorize P.L. 92–318.

Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the National Advisory Council on Indian Education located at 425 13th Street, N.W., Suite 326, Washington, D.C. 20004.

DATE: May 24, 1982. Signed at Washington, D.C.

Dr. Michael P. Doss,

Executive Director, National Advisory Council on Indian Education.

[FR Doc. 82-14411 Filed 5-26-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Energy Research

Magnetic Fusion Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given to the following meeting:

Name: Magnetic Fusion Advisory Committee
Date and time: Tuesday, June 1, 1982—9:00 a.m. to 5:00 p.m.; Wednesday, June 2, 1982—9:00 a.m. to 5:00 p.m.

Place: U.S. Department of Energy, Room 7E-069, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585

Contact: Gloria Decker, Information Management Systems Branch, U.S. Department of Energy, Forrestal Building, Room 4D-024, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: 202-252-8990

Purpose of the committee: To provide advice to the Secretary of Energy on the Department's Magnetic Fusion Energy Program, including periodic reviews of elements of the program and recommendations of changes based on scientific and technological advances or other factors; advice on long-range plans, priorities and strategies to demonstrate the scientific and engineering feasibility of fusion; advice on recommended appropriate levels of funding to develop those strategies and to help maintain appropriate balance between competing elements of the program.

Less than 15-days notice is being given for the meeting due to the urgent need for immediate advice and recommendations for consideration in connection with DOE's FY 84 budget submission by June 14, 1982.

Tentative Agenda

- Introduction and welcome
- Presentation of draft of new fusion program strategy
- Discussion of strategy
- Discussion of appropriate levels of funding for FY 84
- Discussion of issues
- Presentation of program plan for confinement systems
- Establishment of timetable and subcommittees for MFAC advice and recommendations
- Public comment (10 minute rule)

Public Participation

The meeting is open the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items shuld contact Gloria Decker at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes

Available approximately 30 days following the meeting.

Issued at Washington, DC, on May 25, 1982.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 82-14709 Filed 5-26-82; 10:40 am]

BILLING CODE 6450-01-M

Determination To Establish Magnetic Fusion Advisory Committee

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), I hereby certify that the establishment of the Magnetic Fusion Advisory Committee (MFAC) is in the public interest in connection with the performance of duties imposed on the Department of Energy by law. This determination follows consultation with the Committee Management Secretariat of the General Services Administration, pursuant to Section 6(a) of OMB Circular A-63 (Revised).

The purpose of the Committee is to provide advice and guidance on a continuing basis to the Secretary of Energy, through the Director of Energy Research, on the National Magnetic Fusion Energy Program, in the following ways:

a. Conducts periodic reviews of elements of the program and recommends any changes considered desirable on the basis of scientific and technological advances or other factors;

b. Advises on long-range plans, priorities, and strategies to demonstrate the scientific and engineering feasibility of fusion;

c. Advises on recommended appropriate levels of funding to develop those strategies and to help maintain appropriate balance between competing elements of the program;

d. Provides advice and guidance on any issues relating to the program, as requested by the Secretary or the Director of Energy Research.

Further information concerning this Committee can be obtained from Gloria Decker (202-252-8990).

Dated: May 25, 1982.

James B. Edwards,

Secretary of Energy.

[FR Doc. 82-14672 Filed 5-26-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 6124-000]

American Enertech; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

May 20, 1982.

Take notice that on March 17, 1982, American Enertech (Applicant) filed an application under section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 6124) would be located on East Bank of Sacramento River, Sutter County, California. Correspondence with the Applicant should be directed to: Mr. Lew Florence, President of Enertech Enterprises, Inc., 2160 Royale Road, Suite #20, Sacramento, California 95815.

Project Description—The proposed project would consist of: (1) a 14-foot wide, 52-foot long twin hull flotation unit permanently moored on the east bank of the Sacramento River; (2) a 22-foot diameter vertically mounted turbine-generating unit with a rated capacity of 100 kW that utilizes a paddle wheel drive, and (3) appurtenant facilities. Applicant estimates a 500,000 kWh average annual energy production.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project. Project energy would be sold to Pacific Gas and Electric Company.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State of California Department of Fish and Game are requested, for the purposes set forth in section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before July 14, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested

person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 14, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14378 Filed 5-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-55-000]

Detroit Edison Co.; Application

May 20, 1982.

Take notice that on May 13, 1982, the Detroit Edison Company, filed an Application pursuant to section 204 of the Federal Power Act, seeking authorization to issue short-term debt in the amount of $220 million and to assume obligation of up to $230 million short-term debt to be issued pursuant to a loan agreement and a nuclear fuel heat purchase contract.

Any person desiring to be heard or to make any protest with reference to said Application should, on or before June 10, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The Application is on file and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14379 Filed 5-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC82-36-000]

Inland Gas Company, Inc.; Tariff Filing

May 20, 1982.

Take notice that on May 14, 1982, The Inland Gas Company, Inc. (Inland), 340 17th Street, Ashland, Kentucky 41101, tendered for filing in Docket No. TC82-36 revised sheets as part of its FERC Gas Tariff, First Revised Volume No. 1, to constitute a permanent curtailment plan, all as more fully set forth in the revised sheets tendered for filing with the Commission and open to public inspection.

Inland has tendered the following sheets for filing:

Second Revised Sheet No. 4.
Second Revised Sheet No. 5.
Third Revised Sheet No. 6.
Third Revised Sheet No. 7.
Third Revised Sheet No. 8.

This filing is said to be made in compliance with the order of the Commission issued January 25, 1982, in Docket No. RP76-3, 18 FERC ¶61,053. Inland proposes to make the sheets effective January 1, 1983.

Inland states that the revised sheets are intended to continue in effect on a permanent basis the curtailment procedures encompassed in its currently effective interim curtailment plan with one substantive change, which is to provide Inland and its curtailable customers with the ability to adjust their daily contract quantities as may be required to reflect current market conditions. The proposed tariff change is said to provide that no upward adjustment of any customer's daily contract quantity will be made during a period when Inland either is implementing curtailment or reasonably anticipates that curtailment will be necessary at any time during the succeeding 24 months.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before June 7, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14382 Filed 5-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-56-000]

Iowa Public Service Co.; Application

May 20, 1982.

Take notice that on May 13, 1982, the Iowa Public Service Company (Applicant), filed an Application seeking an order pursuant to section 204 of the Federal Power Act authorizing the issuance of (a) up to 850,000 shares of Common Stock (par value $5 per share) in connection with the Company's Dividend Reinvestment and Stock Purchase Plan, as amended, and (b) up to 300,000 shares of Common Stock (par value $5 per share) in connection with the operation of the Employee's Stock Ownership Plan of Iowa Public Service Company and Participating Subsidiaries, as amended, and the related Employees' Stock Ownership Trust of Iowa Public Service Company and Participating Subsidiaries, as amended.

Any person desiring to be heard or to make any protest with reference to said Application should, on or before June 10, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The Application is on file and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14383 Filed 5-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6276-000]

MacGregor Downs, Inc.; Application for Preliminary Permit

May 20, 1982.

Take notice that MacGregor Downs, Inc. (Applicant) filed on April 30, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 6276 to be known as the Lockville Dam Hydroelectric Project located on the Deep River near the town of Moncure in Chatham and Lee Counties, North Carolina. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Peter Reynolds, MacGregor Downs, Inc., P.O. Box 790, Cary, North Carolina 27511.

Project Description—The proposed project would consist of: (1) An existing dam, including embankments, canal and gate structures, with a height of 15 feet and length of 600 feet; (2) an existing powerhouse with a proposed installed capacity 1840 kW; (3) an existing 30-acre reservoir with a gross storage capacity estimated at 300 acre-feet; and appurtenant facilities. The average annual energy generation is estimated to be 8,400 MWh. Power would be sold to Carolina Power and Light Company.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined, along with the consultation with Federal, State, and local agencies for information, comments and recommendations relevant to the project. The Applicant estimates that the cost of the studies would be $50,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 30, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before July 1, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protest, or petitions to intervene must be received on or before July 1, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," OR "PETITION TO INTERVENE," as applicable, and the Project Nunber of This Notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14380 Filed 5-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3722-000]

Bruce J. Massey; Approval By Operation of Law

May 20, 1982.

Take notice that the Director, Office of Electric Power Regulation, the Commission's delegate on this matter pursuant to § 375.308 of the Commission's regulations, will take no action on the application for an exemption from licensing of a small hydroelectric project of 5 Megawatts or less for the North State Dam, Project No. 3722, filed on April 21, 1982, by Bruce J. Massey.

The proposed hydroelectric project would have an installed capacitry 200 kW and would be located on Lower Little River, in Alexander County, North Carolina.

Accordingly, the exemption is deemed granted by opration of law on July 12, 1982, § 4.109(c) of the Commission's regulations (18 CFR 4.109(c)), subject to the standard terms and conditions set forth in § 4.111(a) of the Commission's regulations (18 CFR 4.111(a)).

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14386 Filed 5-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6232-000]

Steve Miller; Application for Preliminary Permit

May 20, 1982.

Take notice that Steve Miller (Applicant) filed on April 19, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 6232 to be known as the Gregg Creek Project located on Gregg Creek in Humboldt County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Steve Miller, P.O. Box 452, Arcata, California 95521.

Project Description—The proposed project would consist of: (1) An intake structure within the southern bank of Gregg Creek; (2) a 2,750-foot long, 12-inch diameter diversion conduit; (3) a 750-foot long, 12-inch diameter penstock; (4) a powerhouse containing a single generating unit with a rated capacity of 150 kW; and (5) appurtenant facilities.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month permit to prepare a project report including preliminary designs, results of environmental and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Federal, State, and local agencies, preparing a license application, conducting final field

surveys, and preparing designs is estimated by the Applicant to be $4,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 5, 1982, the competing application itself, or a notice of intent to file such an application (see 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46: FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 5, 1982, and should specify the type of application forthcoming. Army application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than October 4, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 5, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14304 Filed 5-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6195-000]

North Carolina Electric Membership Corp.; Application for Preliminary Permit

May 20, 1982.

Take notice that North Carolina Electric Membership Corporation (NCEMC) (Applicant) filed on April 8, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 6195 to be known as the Cape Fear River Lock and Dam No. 1 Water Power Project located on the Cape Fear River near Kelly and Elizabethtown in Bladen County, North Carolina. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Brian M. Flattery, Director, Construction and Alternative Project, North Carolina Electric Membership Corporation, 3333 North Boulevard, P.O. Box 27306, Raleigh, North Carolina.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' Cape Fear River Lock and Dam No. 1. The project would consist of: (1) A proposed powerhouse with dual generating units having an estimated total installed capacity of 3,000 kW and producing an average annual energy output of 22 GWh; (2) a proposed ¼-mile, 24.9 kV primary transmission line to connect to an existing Four-County Electric Membership line; and, (3) appurtenant facilities. The proposed market for the power is Four-County Electric Membership Corporation with excess power distributed to other NCEMC member corporations.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined, along with consultation with Federal, state, and local agencies for information, comments and recommendations relevant to the project. The Applicant estimates that the cost of the studies would be $49,870.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 30, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application is response to this notice. A notice of intent to file and application for license or exemption must be submitted to the Commission on or before August 2, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 2, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATIONS," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of

the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14566 Filed 5-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6197-000]

North Carolina Electric Membership Corp.; Application for Preliminary Permit

May 20, 1982.

Take notice that North Carolina Electric Membership Corporation (NCEMC) (Applicant) filed on April 8, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. § 791(a)–825(r)] for Project No. 6197 to be known as the W. Kerr Scott Dam Water Power Project located on the Yadkin River near North Wilkesboro, in Wilkes County, North Carolina. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Brian M. Flattery, Director, Construction and Alternative Project, North Carolina Electric Membership Corporation, 3333 North Boulevard, P.O. Box 27306, Raleigh, North Carolina.

Project Description.—The proposed project would utilize the existing U.S. Army Corps of Engineers' W. Kerr Scott Dam. The project would consist of: (1) a proposed powerhouse with a single generating unit having an estimated total installed capacity of 2,000 kW and producing an average annual energy output of 10.5 GWh; (2) a proposed 1-mile, 115 kV primary transmission line to connect to an existing Blue Ridge Electric Membership line; and, (3) appurtenant facilities. The proposed market for the power is Blue Ridge Electric Membership Corporation with excess power distributed to other NCEMC member corporations.

Proposed Scope of Studies Under Permit.—A preliminary permit, if issued, does not authorize construction. The applicant seeks issuance of a preliminary permit for a period of 36 months, during which time studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined, along with consultation with Federal, state, and local agencies for information, comments and recommendations relevant to the project. The Applicant estimates that the cost of the studies would be $49,676.

Competing Applications.—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 30, 1982, the competing application itself [see 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 2, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments.—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene.—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 2, 1982.

Filing and Service of Responsive Documents.—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," OR "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14567 Filed 5-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA82-19-000]

Phillips & Spradley; Application for Staff Adjustment

May 20, 1982.

On April 29, 1982, Phillips & Spradley (Applicant), 900 American Bank Tower, Austin, Texas 78701 filed an application for a staff adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301–3432 (Supp. IV 1980), and § 1.41 of the Federal Energy Regulatory Commission (Commission) Rules of Practice and Procedure. Specifically, Applicant seeks an adjustment from § 273.202 of the Commission's Regulations.

Applicant states it would suffer inequity, special hardship and unfair distribution of burdens if unable to collect the section 102 price in place of the section 109 price for natural gas sales from the Kirk Gas Unit No. A–3 well (A–3 Well) for the period between April 20, 1981 and May 5, 1981. The difference in price is $95,164.35. Applicant states that it failed to file timely its section 102 application with the jurisdictional agency prior to beginning its sale of gas from the A–3 well due to the blow out of the adjacet A–1 well. Further, Applicant states that it was necessary to immediately attach the A–3 well to the pipeline in order to relieve bottom hole pressure in the A–1 Well, and bring it under control. As further reason for its inability to file timely, Applicant states that the application included the jurisdictional agency rquirement of a completion report which could not be filed until the A–3 well was completed and tested.

The procedures applicable to the conduct of this adjustment proceeding

are found in § 1.41 of the Commission's Rules of Practice and Procedure. Order No. 24, issued March 22, 1979 (44 FR 18961, March 30, 1979).

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before June 11, 1982.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-14388 Filed 5-26-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 3444-001]

Rocky Gorge Corp., Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

May 20, 1982.

Take notice that on April 23, 1982, the Rocky Gorge Corporation (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 3444) would be located on the Great Works River in the town of South Berwick, York County, Maine. Correspondence with the Applicant should be directed to: John Truebe, Lakeside Engineering, Mirror Lake, New Hampshire 03853.

Project Description—The proposed project would consist of: (1) An existing 10-foot high, 140-foot long concrete gravity, spillway dam; (2) an existing 43-acre reservoir with a usable storage capacity of 48 acre-feet at 77.7 feet M.S.L. with 14-inch high flashboards at the dam; (3) a new 40-foot long, 6-foot square concrete penstock; (4) a new 40-foot long, 42-inch diameter metal penstock; (5) a new 160-foot long, 54-inch diameter metal penstock; (6) a new upper powerhouse containing a single 140-kW turbine-generator for environmental flows; (7) a new lower powerhouse containing a single 360-kW turbine-generator; (8) a new 50-foot long 12-kV transmission line from each powerhouse; and (9) appurtenant facilities. The project would generate up to 2,000,000 kWh annually. Energy would be sold to Central Maine Power Company.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Maine Department of Marine Resources are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before July 9, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 9, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-14391 Filed 5-26-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6258-000]

White Chuck Water Co.; Application for Preliminary Permit

May 20, 1982.

Take notice that White Chuck Water Company (Applicant) filed on April 26, 1982 an application or preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6258 to be known as the Boulder River Hydroelectric Project located on Boulder River within Mt. Baker National Forest in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Keith B. Romnholm, Project Manager, The White Chuck Water Company, 6233 39th Ave. NE., Seattle, Washington 98115 and Mr. Leo S. Fisher, 1200 New Hampshire Ave., NW., Suite 423, Washington, D.C. 20036.

Project Description—The proposed project would consist of: (1) A 10-foot high, 70-foot long diversion structure; (2) a 6-foot diameter, 4,000-foot long tunnel; (3) a 5.5-foot diameter, 7,900-foot long pipe; (4) a 4.5-foot diameter, 1,500-foot long penstock; (5) a powerhouse to contain a single generating unit with a rated capacity of 5,600 kW; (6) a tailrace; (7) switchyard and

transformers adjacent to powerhouse, and (8) a 1.5 mile long, 57 kV transmission line. The estimated average annual energy generation is 24,000,000 kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The applicant seeks a preliminary permit for a period of 24 months during which it would conduct engineering, environmental and economic feasibility studies as well as prepare a FERC license application. The estimated cost of conducting these studies and preparing a FERC license application is $100,000. No new roads will be required.

Competing Applications—This application was filed as a competing application to City of Darrington, Washington's application for Project No. 5916 filed on January 22, 1982. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice.

Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the Application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before June 29, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 206 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14288 Filed 5-26-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[AEN-FRL-2102-6]

California State Motor Vehicle Pollution Control Standards; Amendments Within the Scope of Previous Waivers of Federal Preemption; Summary of Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of scope of waiver of Federal preemption.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it has adopted optional 1983 and subsequent model year oxides of nitrogen (NOx) standards (and accompanying recall provisions), a 1982 model year small volume motorcycle manufacturer allowance for hydrocarbons (HC) and optional 1983 and subsequent model year motorcycle evaporative emission test procedures. All of these amendments were adopted as cost-saving measures and were found by California to have no significant adverse impact on air quality. I find these amendments to be included within the scope of previously granted waivers of Federal preemption. Since these procedures are included within the scope of these waivers, a public hearing to consider them is not necessary. The public has already had an opportunity to comment in advance of this determination and offered no comments on these amendments.[1] Therefore, my determination on these amendments is final.

ADDRESSES: Copies of the California amendments at issue in this notice, a decision document containing an explanation of my determination, and documents used in arriving at this determination, are available for public inspection during normal working hours (8:00 a.m. to 4:00 p.m.) at the Environmental Protection Agency, Central Docket Section, Gallery I, 401 M Street, S.W., Washington, D.C. 20460 (Docket EN-81-18). Copies of the decision document can be obtained from EPA's Manufacturers Operations Division by contacting Ms. Smith, as noted below.

FOR FURTHER INFORMATION CONTACT: Mary T. Smith, Attorney/Advisor, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, Washington, D.C. 20460, (202) 382-2514.

SUPPLEMENTARY INFORMATION: I have determined that CARB's optional 1983 NOx standards and motorcycle amendments are within the scope of waivers of Federal preemption previously granted pursuant to section 209(b) of the Clean Air Act, as amended, (Act).[2] Specifically, the changes include an optional 75,000 miles NOx standard with a new accompanying recall provision for 1983 and subsequent model year passenger cars and light-duty truck and medium-duty vehicles under 4,000 pounds equivalent inertia weights; a provision that relaxes the HC standard for model year 1982 only for motorcycle manufacturers which sell less than 3,000 units in California per year; and a provision to allow, in certain circumstances, the use of bench test data to determined evaporative emissions durability for 1983 and subsequent model year motorcycles. The changes have no significant adverse environmental impact.

A full explanation of my determination is contained in a decision document, which may be obtained from EPA as noted above.

Since these amendments are included within the scope of previously granted waivers of Federal preemption, a public hearing to consider them is not necessary. The public has already had an opportunity to comment in advance

[1] Comments were also solicited on an application by CARB dated September 17, 1981, for a determination that its optional 1984 and subsequent model year heavy-duty engine exhaust emission standards and test procedures are within the scope of previous waivers. By letter of April 9, 1982, CARB requested that a decision on its application be delayed until EPA reviews its own standards and test procedures for these vehicles. (*See* EPA's Notice of Proposed Rulemaking, 47 FR 1042 (January 15, 1982).]

[2] 43 FR 25729 (June 14, 1978); 47 FR 1015 (January 8, 1982); 43 FR 998 (January 5, 1978).

of this determination (47 FR 849 (Jan. 7, 1982)) and offered no comments on these amendments. Therefore, my determination on these amendments is final.

Note.—My decision will affect not only persons in California but also the manufacturers located outside the State who must comply with California's standards in order to produce motor vehicles for sale in California. For this reason I hereby determine and find that this decision is of nationwide scope and effect.

Section 3(b) of Executive Order 12291, 46 FR 13193 (February 19, 1981) requires EPA to determine initially whether a rule that it intends to propose or issue is a major rule and to prepare Regulatory Impact Analyses for all major rules. Section 1(b) of the Order defines "major rule" as any regulation that is likely to result in:

(a) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State or local Government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

EPA has determined that this action does not constitute a major rule. The action confirms California's authority to enforce regulations which will reduce regulatory requirements on manufacturers, as compared to regulations applicable to the previous model year. If anything, the action will likely result in cost savings to consumers, Government agencies and industries affected because of the reduced requirements, and will likely have a beneficial effect on competition (both foreign and domestic), employment, investment, productivity, and innovation.

Accordingly, a Regulatory Impact Analysis is not being prepared for this waiver determination.

This action is not a "rule" as defined in 5 U.S.C. 601(2) because EPA is not required to undergo "notice and comment" under section 553(b) of the Administrative Procedure Act, or any other law. Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on small business entities.

This action was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Dated: May 19, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-14309 Filed 5-26-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS 81007; TSH-FRL-2123-3]

TSCA Chemical Substances Inventory; Intent To Remove Certain Incorrectly Reported Substances

Note.—This document, as originally published at 47 FR 20663, May 13, 1982, was incomplete. For this reason, the document is republished in full text below. The Environmental Protection Agency has formally requested that the original comment date of 60 days after publication be recomputed. Accordingly, a new comment date is incorporated in this reprint.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA, in reviewing the chemcial substances included on the Toxic Substances Control Act Chemical Substances Inventory, has concluded that certain chemical substances were incorrectly reported and listed. The Agency intends to remove twenty-seven incorrectly listed substances from the Inventory, and solicits public comments on the appropriateness of that removal.

DATE: Comments must be received by EPA on or before July 26, 1982.

ADDRESSES: Three copies of the written comments should be addressed to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. 401, 401 M St., SW., Washington, D.C., 20460. Comments should bear the identifying notation OPTS 81007. The administrative record supporting this action is available for public inspection in the OPTS Reading Room, E–107, at the above address, from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–511, 401 M St., SW., Washington, D.C. 20460, Toll free: (800–424–9065), in Washington, D.C.: (554–1404), Outside the U.S.A. (Operator–202–554–1404).

SUPPLEMENTARY INFORMATION: Section 8(b) of the Toxic Substances Control Act (TSCA), Pub. L. 94–469, requires the Administrator of the EPA to identify, compile and keep current a list of chemical substances which are manufactured, imported, or processed for commercial purposes in the United States. To meet this requirement, EPA promulgated the Inventory Reporting Regulations (40 CFR Part 710) which appeared in the **Federal Register** of December 23, 1977 (42 FR 64572). These Regulations provided the basis for the initial compilation of the TSCA Chemical Substances Inventory which identifies the chemical substances in U.S. commerce.

The Inventory informs the public which chemical substances are being manufactured, imported, or processed in the United States for commercial purposes. The Inventory also has a regulatory purpose. It defines what is a "new" chemical substance for purposes of section 5(a)(1)(A) of TSCA. If a chemical substance is not included on the Inventory, it is considered a "new" substance and a premanufacture notification (PMN) is required at least 90 days before the manufacture or import of such a substance can begin.

For the Inventory to perform its functions, it must be continuously and accurately updated as new information becomes available. Updated information includes identities of new chemical substances which are being introduced into U.S. commerce and corrections for previously reported information. Recognizing industry's need for making corrections to incorrectly submitted Inventory reports, EPA announced, in the **Federal Register** of July 29, 1980 (45 FR 50544), that it would continue to accept certain types of corrections related to substances previously reported for the Inventory. The types of corrections specified in the July 29 **Federal Register** notice relate primarily to chemical identity.

Since the publication of the Initial Inventory in June 1979 and the Revised Inventory in July 1980, the Agency has received numerous requests from companies to correct certain previously submitted Inventory reports. In reviewing these correction requests and the corresponding reports originally submitted for the Inventory, EPA has concluded that a number of the chemical substances currently listed on the Inventory were erroneously reported. Furthermore, in reviewing the total body of Inventory submissions, it was discovered that most of the incorrectly listed substances were reported by only one submitter, i.e., the person who subsequently requested that EPA correct the chemical identity.

There are obviously different reasons why a chemical substance was incorrectly reported for the Inventory. First, the mistake could have been typographical or transcriptional and was not known to the submitter at the time

when the original report was submitted. Secondly, improved analytical equipment and methods may allow for a more accurate description of a previously reported substance. Thirdly, EPA may identify reporting errors and request corrections. Regardless of the source of error, the end result is the same: A chemical substance not eligible for inclusion on the Inventory was reported and included on the Inventory. If these mistakes are not corrected, the integrity of the Inventory will suffer and its reliability as an accurate compilation of commercial substances for TSCA purposes will diminish.

The Inventory Reporting Regulations specify that any substance reported for the Inventory must have been manufactured, imported, or processed for commercial purposes in the United States since January 1, 1975. A chemical substance incorrectly reported for the Inventory might not have satisfied this requirement.

To date, EPA has officially removed from the TSCA Inventory only the chemical substance known as 2-naphthalenamine, Chemical Abstracts Service Registry Number 91–59–8. (46 FR 11356 and 46 FR 30563). In this notice, the Agency proposes to remove twenty-seven additional chemical substances and the body of Inventory. Based on EPA's review of these substances and the body of Inventory submissions, these substances and the body of Inventory submissions, these substances were found to be incorrectly reported and listed. The substances proposed for removal from the TSCA Inventory are listed below in ascending Chemical Abstracts Service (CAS) Registry Number sequence. Each of the twenty-seven substances is further identified by its corresponding CA Index Name.

Each of the twenty-seven substances proposed for removal was reported for the Inventory. Subsequently, the person who reported the substance informed EPA that the chemical identity originally reported to EPA and included on the Inventory was incorrect. The corrected identity for each of the twenty-seven substances has been added to the Agency's Master Inventory File. EPA checked each of the twenty-seven substances in question, as originally reported, to determine whether any other person had also reported the same substance for the Inventory. If someone else had correctly reported the substance, it would have been retained for the Inventory. As to the twenty-seven substances, however, no other person had reported them. Accordingly, they do not appear to be eligible for continued inclusion on the Inventory.

Publication of this notice does not mean that EPA will actually and automatically delete from the TSCA Inventory any of the twenty-seven chemical substances listed below. Rather, the Agency solicits public comments on its intent to remove from the TSCA Inventory the listed chemical substances. EPA is specifically interested in knowing whether any of the chemical substances listed below have been manufactured, imported or processed for commercial purposes by anyone during the period January 1, 1975 through the publication date of this notice. The Agency is also interested to know whether any person can show that any of the chemical substances listed below could have been properly reported for either the Initial or the Revised Inventory. EPA also solicits comments from anyone who believes that any of the chemical substances listed below should not be removed from the TSCA Inventory for any reason. All such comments must be submitted to EPA within the 60-day comment period.

EPA will review all comments received and will make a determination regarding the eventual status of each of the chemical substances listed below. The Agency will announce its decision in a final notice of disposition in the **Federal Register**. If the Agency determines that any of the chemical substances listed should not be removed from the Inventory, an eligible manufacturer, importer, or processor of that substance would then be invited to submit an Inventory report to EPA to replace the one that was incorrectly submitted. The substance could then remain on the Inventory. On the other hand, if the Agency concludes that a substance is not eligible for inclusion on the Inventory, effective with the publication of the final notice of disposition, the substance will be considered removed from the Inventory—the presence of its name in any previously published version of the Inventory notwithstanding. In that event, the premanufacture notification requirements of section 5(a) of TSCA would apply to any manufacture or importation of the substance from the date of removal on.

With the publication of this notice, any on-going manufacture, importation, or processing of any of the twenty-seven chemical substances listed below begun prior to the publication date of this notice may continue until publication of the final notice of disposition. EPA will not, however, consider any request to retain any of the listed substances on the Inventory based solely on manufacture, importation or processing of that substance which begins after the first publication date of this notice.

Chemical Substances Proposed For Removal From The TSCA Inventory

76–06–4 2-Propanol, 1,1,1-tribromo-2-methyl

145–73–3 7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid

372–44–1 Phenol, compd. with trifluoroborane(1:1)

622–04–8 2-Propanol, 1,3-diphenoxy

4677–09–2 1*H*-Indole, 2-3-dihydro-1,3,3-trimethyl-2-[(phenylazo)methylene]

4769–73–7 2-Propanol, 1-chloro-3-phenoxy

25416–81–3 Copper, [dihydrogen disulfamoylphthalocyaninedisulfonato-(2-
)]

60130–75–8 1,2-Benzenedicarboxylic acid, polymer with 1,4-benzenedicarboxylic acid, 1,4-butanediol and α-hydro-ω-hydroxypoly(oxy-1,4-butanediyl)

63494–59–7 Ethanesulfonamide, 2-[ethyl(3-methyl-4-nitrosophenyl)amino]-N-methyl

65036–54–6 Benzenediazonium, 4-(6-methyl-7-sulfo-2-benzothiazolyl)-, chloride

65060–25–5 Nonanoic acid, 2,2-dimethyl-, oxiranylmethyl ester, polymer with butyl 2-propenoate, ethenylbenzene and 2-propenoic acid

65072–13–1 Nonanoic acid, 2,2-dimethyl-, oxiranylmethyl ester, polymer with ethenylbenzene and 2-propenoic acid

65086–37–5 Nonanoic acid, 2,2-dimethyl-, oxiranylmethyl ester, polymer with ethenylbenzene, 2-hydroxyethyl 2-propenoate, 1,3-isobenzofurandione and methyl 2-methyl-2-propenoate

65121–76–8 Phenol, 2-methyl-4,6-dinitro-, lead (2+) salt

65122–05–6 Diazene, [(1,3-dihydro-1,1,3-trimethyl-2H-inden-2-ylidene)methyl](2-methoxyphenyl)

65151–55–5 Docosanoic acid, 1,3,5-triazine-2,4,6-triyltris[(methoxymethyl)imino]-methylene ester

65530–81–6 Poly(difluoromethylene), α-[2,2-dichloro-1,1,2-trifluoroethyl]-ω-hydro-

65717–13–7 4-Pyrimidinecarboxylic acid, 1,2,3,6-tetrahydro-5-nitro-2,6-dioxo-, monopotassium salt

667892–76–1 Nonanoic acid, 2,2-dimethyl-, oxiranylemthyl ester, polymer with butyl 2-propenoate, methyl 2-methyl-2-propenoate and 2-propenoic acid

67892–78–8 Nonanoic acid 2,2-dimethyl-, oxiranylmethyl ester, polymer with butyl 2-propenoate, ethenylbenzene, 2-hydroxyethyl 2-propenoate and 2-propenoic acid
68110–21–4 Zincate(1-), trichloro-, hydrogen, compd. with N,N-diethyl-4-[(1-methyl-1H-1,2,4-triazol-5-yl)azo] benzenamine (1:1)
68213–43–4 Fatty acids, tall-oil, polymers with disphenol A, bisphenol A digbycidyl ether, Bu acrylate, 2-(dimethylamino)ethyl methacrylate, 2-[(1,1-dimethylethyl)amino]ethyl methacrylate, glycidyl 2,2-dimethylnonanoate, hydroxyethyl methacrylate and Me methacrylate
71002–23–8 1,1'-bis(3,4-dimethoxyphenyl)Bi-1*H*-imidazole, 2,2',5,5'-tetrakis(2-chlorophenyl)-
71735–70–1 *β*-Alanine, N-[3-(nonyloxy)propyl]-
71799–76–3 9,11-Ocadecadienoic acid, (*Z,Z*)-, polymer with 2-hydroxyethyl 2-methyl-2-propenoate, methyl 2-methyl-2-propenoate, (*Z,Z*)-9,12-octadecadienoic acid and oxiranylmethyl 2,2-dimethylnonanoate
74396–77–9 Benzenediazonium, 2-methoxy-5-methyl-4-[(3-sulfophenyl)azo]-, chloride
74642–96–1 Cuprate(2-), [bis[aminosulfonyl]-29H,31H-phthalocyaninedisulfonato(4-)-N^{29}, N^{30} N^{31}, N^{32}]-, lithium sodium

Dated: April 27, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82-13608 Filed 5-13-82; 8:45 am]

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

[General Doc. No. 80-396]

Preparations for the 1983 Region 2 Administrative Radio Conference; Extension of Comments Period

AGENCY: Federal Communications Commision.

ACTION: Order extending time for filing comments and reply comments in general Docket No. 80-396.

SUMMARY: This Order provides a three week extension for filing comments and reply comments in the *Third Notice of Inquiry* relating to Preparations for the 1983 Region 2 Administrative Radio Conference of the International Telecommunication Union for the Planning of the Broadcasting Satellite Service in the 12 GHz band and the Associated Uplinks. This action is taken by the Commission, on its own motion, to afford the public ample opportunity to review and provide comments on the final written Report of the Commission's BSS Advisory Committee which is to be placed in the Docket file. The issues in this Report are inextricably linked with those in the *Third Notice of Inquiry*. Due to various reasons, final consideration and approval of the Advisory Committee report was not completed until May 10, 1982.

DATE: Comments must be submitted on or before June 11, 1982. Reply comments are due on or before July 2, 1982.

ADDRESS: Comments may be mailed to: The Secretary, Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554

or delivery to Room 22 between 8:00 A.M. and 5:30 P.M. Comments received may be inspected in Room 222 between 8:00 A.M. and 5:30 P.M.

FOR FURTHER INFORMATION CONTACT: Edward R. Jacobs, Acting Chief, International Staff, Room 7002, 2025 M Street NW., Washington, D.C. (202) 653-8102.

In the matter of an inquiry relating to preparations for the 1983 Region 2 Administrative Radio Conference of the International Telecommunication Union for the Planning of the Broadcasting-Satellite Service in the 12 GHz Band and the associated Uplinks Gen. Docket No. 80-396, 47 FR 18046, April 27, 1982.

Order

Adopted: May 11, 1982.

Released: May 14, 1982.

By the Chief Scientist:

On April 20, 1982, the Commission released its *Third Notice of Inquiry* (FCC 82-139) in the above-captioned proceeding. That *Notice* specified May 21, 1982 and June 11, 1982 as the due dates for the filing of comments, and reply comments, respectively. Additionally, the *Notice* also stated that the formal reports of the Commission's BSS Federal Advisory Committee would be placed in the Docket file of this proceeding and thereby be available for public inspection and scrutiny. The charter of the Advisory Committee called for the submission of final written reports by April, 1982. Due to various reasons, final consideration and approval of the Advisory Committee report could not be completed before May 10, 1982.

Since the report of the advisory Committee will play a significant role in influencing decisions concerning U.S. proposals to the 1983 Region 2 BSS Conference, and since the issues to be treated in the report are inextraicably related the isues discussed in the *Third Notice of Inquiry*, The commission desires that the public be afforded an opportunity to comment in this proceeding after ample opportunity to review both documents. Therefore, the Commission, on its own motion, is extending the dates for filing comments and reply comments to the *Third NOtice of Inquiry* in this proceeding to June 11, 1982 and July 2, 1982, respectively.

S. J. Lukasik,

Chief Scientist.

[FR Doc. 82-14484 Filed 5-26-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-171]

Fortune Federal Savings & Loan Association, Clearwater, Fla.; Final Action approval of Conversion Applications

Dated: May 24, 1982.

Notice is hereby given that on May 12, 1982, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 82-336 approved the application of Fortune Federal Savings and Loan Association, Clearwater, Florida ("Association"), for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, 260 Peachtree Street, N.W., Peachtree Center Station, P.O. Box 56527, Atlanta, Georgia, 30303.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-14489 Filed 5-26-82; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-170]

Louisiana Savings Association, Lake Charles, La.; Final Action Approval of Conversion Applications

Dated: May 24, 1982.

Notice is hereby given that on May 12, 1982, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 82-335 approved the application of Louisiana Savings

Association, Lake Charles, Louisiana ("Association"), for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas 72201.

By the Federal Home Loan Bank Board.

J. J. Finn,
Secretary.

[FR Doc. 82-14480 Filed 5-26-82; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-172]

Phoenix Federal Savings & Loan Association, Muskogee, Okla.; Final Action Approval of Conversion Applications

Dated: May 24, 1982.

Notice is hereby given that on May 14, 1982, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 82-354 approved the application of Phoenix Federal Savings & Loan Association, Muskogee, Oklahoma ("Association"), for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, No. 3 Townsite Plaza, 120 6th St., P.O. Box 176, Topeka Kansas, 66603.

By the Federal Home Loan Bank Board.

J. J. Finn,
Secretary.

[FR Doc. 82-14487 Filed 5-26-82; 8:45 am]
BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

[Agreements Nos. 10450, 10451 and T-4041]

Availability of Finding of No Significant Impact

Upon completion of environmental assessments, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Agreements Nos. 10450, 10451 and T-4041 will not constitute major Federal actions significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et. seq.*, and that preparation of environmental impact statements is not required. Agreements Nos. 10450 and 10451 are between Shipping Corporation of India, Ltd., and Scindia Steam Navigation Co., Ltd. Agreement No. 10450 affects cargo movements from Calcutta to U.S. Great Lakes Ports whereas Agreement 10451 affects cargo movements from U.S. Great Lakes Ports to India. Under these agreements the parties, among other things, may agree among themselves on various rates, charges, classifications, practices and related tariff matters to be charged in these trades. Agreement T-4041 is between Puerto Rico Ports Authority and Rice Growers Association of California. The agreement involves construction of specialized facilities for loading and unloading rice and improvements to related berthing facilities at Guaynabo-Catano Waterfront Industrial Area in the Pueblo Viejo of San Juan Harbor.

These Findings of No Significant Impact (FONSI) will become final within 20 days unless petitions for review are filed pursuant to 46 CFR 547.6(b).

The FONSI's and related environmental assessments are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

Francis C. Hurney,
Secretary.

[FR Doc. 82-14410 Filed 5-26-82; 8:45 am]
BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

Transportation and Public Utilities Service

[E-82-16]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the North Carolina Utilities Commission involving electric rates, Docket No. E-2 (Sub 444).

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in the Administrator of General Services by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the North Carolina Utilities Commission involving the application of the Carolina Power and Light Company for an increase in its electric rates, Docket No. E-2 (Sub 444).

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration (GSA), and shall be exercised in cooperation with the responsible officer, officials, and employees thereof.

d. The Department of Defense shall add GSA to its service list in this case so that GSA will receive copies of testimony, briefs, and other Department of Defense filings.

Dated: May 18, 1982.

Allan W. Beres,
Commissioner, Transportation and Public Utilities Service.

[FR Doc. 82-14484 Filed 5-26-82; 8:45 am]
BILLING CODE 6820-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Seminar on Implementing the 1990 Prevention Objectives; Open Meeting

On June 17-18, 1982, the Centers for Disease Control (CDC) will convene a seminar to review the 1990 objectives for the Nation and identify innovative ways CDC can enhance its contribution to the accomplishment of the objectives for both urban and rural areas. The meeting is open to the public, limited only by space available.

The meeting is scheduled to convene at 8:30 a.m. (registration at 8:00 a.m.) in Auditorium B, Centers for Disease Control, 1600 Clifton Road, N.E., Atlanta, Georgia 30333.

For further information, please contact: Ms. Martha F. Katz, Planning Officer, Office of Program Planning and Evaluation (1-2050), Centers for Disease Control, 1600 Clifton Road, N.E., Atlanta, Georgia 30333, TELEPHONES: FTS: 236-3243, Commercial: 404/329-3243.

Dated: May 20, 1982.

William C. Watson, Jr.,

Acting Director, Centers for Disease Control.

[FR Doc. 82-14485 Filed 5-26-82; 8:45 am]

BILLING CODE 4160-18-M

National Institutes of Health

Allergy and Clinical Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Allergy and Clinical Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee, National Institute of Allergy and Infectious Diseases, on June 29, 1982, at the Holiday Inn, Chevy Chase, Maryland. The meeting will be open to the public from 2:00 p.m. to adjournment for approval of the minutes of the previous meeting, selection of future meeting dates and comments from the Director, and Deputy Director, NIAID, the Director of the Immunology, Allergy, and Immunologic Diseases Program and the Acting Director, Extramural Activities Program with regard to (among other items) budget, and review policies and procedures. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Public Law 92-463, the meeting of the AITRC Allergy and Clinical Immunology Subcommittee will be closed to the public for review, evaluation, and discussion of individual grant applications from 8:30 a.m. until 2:00 p.m. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A-32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496-5717, will provide summaries of the meetings and rosters of the Committee members as requested.

Dr. Nirmal K. Das, Executive Secretary, Allergy, Immunology and Transplantation Research Committee, NIAID, NIH, Westwood Building, Room 706, Bethesda, Maryland 20205, telephone (301) 496-7966, will provide substantive program information.

(Catalog of Federal Domestic Assistance Programs Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in Sections 8(b)(4) and (5) of that Circular.

Dated: May 18, 1982.

Betty J. Beveridge,

National Institutes of Health Committee Management Officer.

[FR Doc. 82-14427 Filed 5-26-82; 8:45 am]

BILLING CODE 4160-01-M

Biomedical Library Review Committee and the Subcommittee for the Review of Medical Library Resource Improvement Grant Applications; Meetings

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Biomedical Library Review Committee on June 29-30, 1982, convening each day at 8:30 a.m. in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland, to adjournment on June 30, and the meeting of the Subcommittee for the Review of Medical Library Resource Improvement Grant Applications on June 28 from 3:00 p.m. to 5 p.m. in the 5th Floor Conference Room of the Lister Hill Center Building.

The meeting on June 29 will be open to the public from 8:30 to 11:00 a.m. for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Section 522b(c)(4) and 552b(c)(6), Title, 5, U.S. Code, and Section 10(d) of Pub. L. 92-463, the regular meeting and the subcommittee meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications, as follows: June 29 from 11:00 a.m. to 5:00 p.m., June 30 from 8:30 a.m. to adjournment; and June 28 for the subcommittee meeting form 3:00 to 5:00 p.m. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Roger W. Dahlen, Executive Secretary of the Committee, and Chief, Biomedical Information Support Branch, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20209, telephone number: 301-496-4191, will provide summaries of the meeting, rosters of the committee members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—Medical Library Assistance, National Institues of Health.)

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: May 18, 1982.

Betty J. Beveridge,

National Institutes of Health Committee Management Officer.

[FR Doc. 82-14429 Filed 5-26-82; 8:45 am]

BILLING CODE 4160-01-M

Cancer Clinical Investigation Review Committee; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Cancer Clinical Investigation Review Committee, National Cancer Institute, June 28-29, 1982, Building 31C, Conference Room 10, National Institutions of Health, Bethesda, Maryland 20205. This meeting will be open to the public on June 28, from 8:30 a.m. to 9:00 a.m., to review administration details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92-463, the meeting will be closed to the public on June 28, from approximately 9:00 a.m. to adjournment, and on June 29, from 8:30 a.m. to adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Dorothy K. Macfarlane, Executive Secretary, Cancer Clinical Investigation

Review Committee, National Cancer Institute, Westwood Building, Room 819, National Institutes of Health, Bethesda, Maryland 20205 (301/496–7481) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Number 13.395, Project grants in cancer treatment research, National Institutes of Health

Note.—NIH Programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: May 18, 1982.

Betty J. Beveridge

Committee Management Officer, National Institutes of Health.

[FR Doc. 82-14430 Filed 5-26-82; 8:45 am]

BILLING CODE 4140-01-M

Cancer Special Program Advisory Committee; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Cancer Special Program Advisory Committee, National Cancer Institute, July 15–16, 1982, Building 31C, Conference Room 10, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205. This meeting will be open to the public on July 15 from 9:00 a.m. to 10:00 a.m. to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92–463, the meeting will be closed to the public on July 15, from 10:00 a.m. to adjournment, and on July 16, from 8:30 a.m. to adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patenable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. William R. Sanslone, Executive Secretary, Cancer Special Program Advisory Committee, National Cancer Institute, Westwood Building, Room 805, National Institutes of Health, Bethesda, Maryland 20205 (301/496–7565) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Number 13.392, project grants in cancer construction. National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of the Circular.

Dated: May 18, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82-14431 Filed 5-26-82; 8:45 am]

BILLING CODE 4140-01-M

General Clinical Research Centers Committee; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the General Clinical Research Centers Committee, Division of Research Resources, June 29–30, 1982, Conference Room 7, Building 31, 9000 Rockville Pike, Bethesda, MD.

The meeting will be open to the public on June 29, 1982, from 9:00 a.m. to approximately 12:00 noon, to discuss administrative matters and program plans. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 29, 1982, from approximately 1:00 p.m. to recess, and on June 30, from 8:30 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Bldg. 31, Rm. 5B–10, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5545, will provide summaries of the meeting, and rosters of the Committee members. Dr. Ephraim Y. Levin, Executive Secretary of the General Clinical Research Centers Review Committee, Bldg. 31, Room 5B51, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–6595, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.333, Clinical Research, National Institutes of Health)

Note.—NIH programs are not covered by OMP Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of the Circular.

Dated: May 18, 1982.

Betty J. Beveridge,

National Institutes of Health, Committee Management Officer.

[FR Doc. 82-14436 Filed 5-26-82; 8:45 am]

BILLING CODE 4140-01-M

Mental Retardation Research Committee; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Mental Retardation Research Committee, National Institute of Child Health and Human Development, on June 22–23, 1982, in Conference Room A, Landow Building, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on June 22 from 9:00 a.m. to 11:00 a.m. to discuss items relative to the Committee's activities including announcements by the Acting Director, National Institute of Child Health and Human Development, and the Executive Secretary, Mental Retardation Research Committee.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92–463, the meeting will be closed to the public on June 22, from 11:00 a.m. to adjournment on June 23 for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Mrs. Majorie Neff, Committee Management Officer, NICHD, Landow Building, 6C–06, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1485, will provide a summary of the meeting and roster of committee members. Dr. Stanley L. Slater, Executive Secretary, Mental Retardation Research Committee, NICHD, Landow Building, Room 6C–04, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1696, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.865, Research for Mothers and Children, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: May 18, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82-14482 Filed 5-26-82; 8:45 am]

BILLING CODE 4140-01-M

Microbiology and Infectious Diseases Advisory Committee; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Microbiology and Infectious Diseases Advisory Committee, National Institute of Allergy and Infectious Diseases, on June 28–29, 1982, at the Holiday Inn, Chevy Chase, Maryland. The meeting will be open to the public on June 29 from 2:00 p.m. to approximately 5:00 p.m. for approval of the minutes of the previous meeting, selection of future meeting dates and comments from the Director, and Deputy Director, NIAID, the Director of the Microbiology and Infectious Diseases Program, and the Acting Director, Extramural Activities Program with regard to budget as well as other operational matters and for review of policies and procedures. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Public Law 92–463, the meeting of the Committee will be closed to the public for the review, evaluation, and discussion of individual grant applications and contract proposals. It is anticipated that this will occur from 8:30 a.m. until approximately 6:00 p.m. on June 28, 1982, and from 8:30 a.m. until approximately 2:00 p.m. on June 29, 1982.

These applications, proposals, and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A–32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496–5717, will provide summaries of the meetings and rosters of the Committee members as required.

Dr. Susan B. Spring, Executive Secretary, Microbiology and Infectious Diseases Advisory Committee, NIAID, NIH, Westwood Building, Room 706, telephone (301) 496–7465, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Sections 8(b)(4) and (5) of that Circular.

Dated: May 18, 1982.

Betty J. Beveridge,

National Institutes of Health Committee Management Officer.

[FR Doc. 82-14483 Filed 5-26-82; 8:45 am]

BILLING CODE 4140-01-M

National Arthritis Advisory Board; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the national Arthritis Advisory Board on June 22, 1982, 9:00 a.m. to 5:00 p.m., in the Sea Pines Room, Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland 20814. The meeting, which will be open to the public, is being held to discuss the Board's activities and to continue the evaluation of the implementation of the long-range plant to combat arthritis. Attendance by the public will be limited to space available.

Certain Subcommittees of the Board will meet the day before, June 21. Further information, times and meeting locations of the Subcommittees may be obtained by contacting Mr. William Plunkett, Executive Director, National Arthritis Advisory Board, P.O. Box 30286, Bethesda, Maryland 20205, (301) 496–1991. The agenda and rosters of the members can also be otained from his office. Summaries of the meeting may be obtained by contacting Carole A. Peters, Committee Management Office, NIADDK, National Institutes of Health, Room 9A46, Building 31, Bethesda, Maryland 20205, (301) 496–5765.

Dated: May 18, 1982.

Betty J. Beveridge,

National Institutes of Health, Committee Management Officer.

[FR Doc. 82-14488 Filed 5-26-82; 8:45 am]

BILLING CODE 4140-01-M

Population Research Committee; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Population Research Committee, National Institute of Child Health and Human Development, on June 24–25, 1982 in the Landow Building, Conference Room "A," 7910 Woodmont Avenue, Bethesda, Maryland.

This meeting will be open to the public on June 24 from 9:00 a.m. to 10:30 a.m. to discuss the program status, new developments and projections for population research centers, program projects and institutional fellowships. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Title 5, U.S. Code 552b(c)(4) and 552b(c)(6) and Section 10(d) of Public Law 92–463, the meeting will be closed to the public on June 24 from 10:30 a.m. to adjournment on June 25 for the review, discussion and evaluation of individual grant applications.

The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Landow Building, Room 6C–06, National Insitutes of Health, Bethesda, Maryland, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of committee members. Dr. Dinesh C. Sharma, Executive Secretary of the Population Research Committee, NICHD, Landow Building, Room 6C–03, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1696, will furnish other information.

(Catalog of Federal Domestic Assistance Program No. 13.864, Population Research, National Insitutes of Health).

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: May 18, 1982.

Betty J. Beveridge,

Committee Management Officer, National Insitutes of Health.

[FR Doc. 82-14484 Filed 5-26-82; 8:45 am]

BILLING CODE 4140-01-M

Research Manpower Review Committee; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Research Manpower Review Committee, National Heart, Lung, and Blood Institute, National Institutes of Health on July 19–20, 1982, at the Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland, 20014.

This meeting will be open to the public on July 19, 1982, from 8:00 p.m. to approximately 10:00 p.m., to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung and Blood Institute.

In accordance with the provisions set forth in Section 552b(C)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on July 20, 1982, from 8:00 a.m. until adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda Maryland 20205, phone (301) 496–4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Carol H. Letendre, Executive Secretary, NHLBI, Westwood Building, Room 548, Bethesda, Maryland 20205, phone (301) 496–7363, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.836, Lung Diseases Research; and 13,839, Blood Diseases and Resources Research, National Institutes of Health.)

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8(b)(4) and (5) of that Circular.

Dated: May 18, 1982.

Betty J. Beveridge,

National Institutes of Health Committee Management Officer.

[FR Doc. 82-14466 Filed 5-26-82; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service National Toxicology Program; Availability of Second Annual Report on Carcinogens

The HHS' National Toxicology Program (NTP) today announces the availability of the *Second Annual Report on Carcinogens.* For each of the 86 substances included, the report provides available information on their description and use, levels and kinds of human exposures produced, evidence of carcinogenicity obtained from epidemiology or from animal experiments, and the status of their regulation under current applicable Federal statutes.

Publication of an annual report on carcinogens is required by a 1978 Amendment to the Public Health Service Act (Section 262, Pub. L. 95–622) which requires HHS to publish annually "a list of all substances * * * which are either known to be carcinogens or which may reasonably be anticipated to be carcinogens and * * * to which a significant number of persons residing in the United States are exposed.

For the purposes of this report, "known" carcinogens are defined as substances which are associated with human cancer. Substances which are "reasonably anticipated to be carcinogens" are those for which there is sufficient evidence of carcinogenicity in experimental animals.

Copies of the Second Annual Report on Carcinogens are available from: NTP Public Information Office, MD B2–04, P.O. Box 12233, Research Triangle Park, NC 27709. Please include a pre-addressed mailing label.

Comments on the Second Annual Report on Carcinogens are welcome. Any new data, corrections, or suggestions should be sent to: Dr. David P. Rall, Director, National Toxicology Program, P.O. Box 12233, Research Triangle Park, NC 27709.

Dated: May 12, 1982.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 82-14437 Filed 5-26-82; 8:45 am]

BILLING CODE 4140-01-M

Privacy Act of 1974; New System of Records

AGENCY: Public Health Service, HHS.

ACTION: Notification of a new system of records: 09–30–0045, "Respondents in a Validity/Reliability Study of Self-Reported Drinking," HHS/ADAMHA/NIAAA.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing a notice of a new system of records entitled, "Respondents in a Validity/Reliability Study of Self-Reported Drinking," HHS/ADAMHA/NIAAA, in the Alcohol, Drug Abuse, and Mental health Administration (ADAMHA). The system notice establishes two routine uses. PHS invites interested persons to submit comments on the proposed routine uses on or before June 28, 1982.

DATES: PHS has sent a Report of a New System to the Congress and to the Office of Management and Budget (OMB) on May 18, 1982. PHS has requested that OMB grant a waiver of the usual requirement that a system of records not be put into effect until 60 days after the report is sent to OMB and the Congress. If this waiver is granted, PHS will publish a notice to that effect in the Federal Register.

ADDRESS: Address comments to: Project Officer, Validity/Reliability Study of Self-Reported Drinking, National Institute on Alcohol Abuse and Alcoholism, 5600 Fishers Lane, Room 16C–16, Rockville, Maryland 20857.

The public may inspect the comments we receive, at the above address, from 8:30 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Henry Malin, National Institute on Alcohol Abuse and Alcoholism, 5600 Fishers Lane, Room 16C–16, Rockville, Maryland 20857. Telephone: (301) 443–2958.

SUPPLEMENTARY INFORMATION: The purpose of the proposed system of records is to pretest and evaluate questions designed to obtain valid, reliable data on alcohol consumption among the general population as well as among a Hispanic subset. This system of records will contain individuals' responses to variations in two types of data collection instruments. The responses will be used in a study conducted by a contractor for the National Institute for Alcohol Abuse and Alcoholism (NIAAA). The purpose of the data collection instruments which will constitute this system of records will be to obtain alcohol consumption data (1) reported by the volunteers using a self-administered questionnaire, and (2) recalled consumption data obtained by direct, in-person interview.

NIAAA will later evaluate the questions for use in a supplement to the 1983 National Health Interview Survey (NHIS) and the Hispanic Health and Nutrition Examination Survey (HHANES). These surveys are conducted by the National Center for Health Statistics (NCHS) pursuant to 42 U.S.C. 242k. The purpose of the system will *not* be to develop a body of data on alcohol consumption; rather NIAAA will analyze the response data to determine the quality of the questions themselves. Within the Department of Health and

Human Services (DHHS) nonidentifiable data will be given to NCHS because that agency is responsible for NHIS and HHANES. NIAAA is coordinating all stages of this study, and will make eventual recommendations to NCHS.

NIAAA has provided for thorough protection of the records. We will require the contractor to set up physical safeguards, as described in the system notice, to protect the security, confidentiality, and integrity of the records. For example, only authorized contractor staff will have access to personally-identified information. The contractor staff will code and transfer the data without personal identifiers, to computer tapes as soon as they have accomplished all followup and validation activities specified by the study design. The contractor will provide to NIAAA only computer tapes of the individual records that have been stripped of personal identifiers, and aggregated statistical summaries, tables, and analyses. The contractor will destroy the original forms, coding sheets, and cross-reference list. We believe that these safeguards will be sufficient to protect the record contents from inadvertent disclosures.

We propose routine uses that are compatible with the purpose of the system. One routine use would permit disclosure to a congressional office upon a record subject's written request for such disclosure to the congressional office, which is in compliance with the Privacy Act. The second routine use would permit disclosure to a contractor performing functions necessary to accomplish the purpose of the system.

Dated: May 19, 1982.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations and Director, Office of Management.

09-30-0045

SYSTEM NAME:

Respondents in a Validity/Reliability Study of Self-Reported Drinking, HHS/ADAMHA/NIAAA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

CSR, Incorporated, 806 15th Street NW., Suite 500, Washington, DC 20005.

Parklawn Computer Center, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Adult volunteers selected in Baltimore, Maryland; Chicago, Illinois; and Greensboro, North Carolina.

CATEGORIES OF RECORDS IN THE SYSTEM:

Forms collected during the period from approximately May 1 to June 30, 1982, containing: (1) Personal history, such as age, date of birth, education, race, national origin, sex, marital status; and (2) information on drinking experience, such as type and amount of alcoholic beverage(s) consumed, reasons for not drinking, frequency of consumption, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 4501, section 501 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970.

PURPOSE(S):

The system will contain individuals' responses to questions on alcohol consumption. The National Institute on Alcohol Abuse and Alcoholism (NIAAA) will evaluate the questions for use in a supplement to the 1983 National Health Interview Survey (NHIS) and the Hispanic Health and Nutrition Examination Survey (HHANES). The purpose of the system will *not* be to develop a body of data on alcohol consumption; rather, NIAAA will analyze the response data to determine the quality of the questions. Within the Department of Health and Human Services (DHHS), nonidentifiable information will be transmitted to the National Center for Health Statistics (NCHS) because that agency is responsible for NHIS and for HHANES.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from a congressional office made at the written request of that individual.

2. The contractor may make disclosures either to other ADAMHA contractors or to any of its subcontractors in the conduct of the study and in the preparation of scientific reports in order to accomplish the research purpose for which the records are collected. Such recipients will be required under contract provision to maintain Privacy Act safeguards.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records will be on paper as data collection forms, computer coding sheets, and a cross-reference list, and will be maintained in file folders. Records will also be on computer tapes, *temporarily* identified by number only. (See section 4 below for retention and disposal procedures).

RETRIEVABILITY:

The contractor will index and retrieve records by name of respondent. The contractor will assign a unique identification number to each individual's record to track it through coding, keypunching, and processing; and will maintain a separate name/number cross-reference list until contractor staff has completed computer processing.

SAFEGUARDS:

The safeguards listed below are consistent with the guidelines in the DHHS General Administration Manual, Chapters 45-13 and PHS.hf:45-13; and with the DHHS ADP Systems Manual, Part 6, "ADP Systems Security."

Physical Security:

The contractor will store paper records in metal cabinets with cipher locks in offices that will be locked when unattended. Federal Government employees will maintain *unidentified* data on computer tapes in accordance with the established security measures of the Parklawn Building. (The computerized records will be identified temporarily by number, but the contractor will retain the name/number cross-reference list.)

Technical Security:

Computerized records are password protected. When the record identification numbers are no longer needed, a computer edit routine to delete the numbers will be used so that records will no longer be traceable to specific individuals.

Administrative Security:

The contractor will specifically train staff interviewers to maintain the confidentiality of the nature of the data they will be collecting. Subjects' participation in the study will be voluntary. Subjects will read and sign informed consent forms which cite the Privacy Act and describe the subsequent routine use(s) which may be made of the data before contractor staff collects any information. The contractor will provide to NIAAA individual records in computer tapes, stripped of personal identifiers. Only authorized contractor staff will have access to personally identified data, including the name/number cross-reference list. Contractor staff will destroy paper records so that remaining computerized

records will not be personally identifiable. In addition, personally identifiable data disclosed to other ADAMHA contractors or to any of its subcontractors in the development of scientific reports in conjunction with the intent of the research study will be required under contract provision to be protected by the safeguard procedures noted above.

RETENTION AND DISPOSAL:

Contractor staff will destroy original forms, computer coding sheets, and the cross-reference list by shredding; and will use a computed edit routine to eliminate the unique identification numbers on the computerized records as soon as they have completed the transfer of data to computer tapes. We expect this to occur not later than 60 days after completion of the data collection phase of the study. Remaining records will not be personally identifiable.

SYSTEM MANAGER(S) AND ADDRESS:

Project Officer, Validity/Reliability Study of Self-Reported Drinking, National Institute on Alcohol Abuse and Alcoholism, 5600 Fishers Lane, Room 16C–16, Rockville, Maryland 20857.

NOTIFICATION PROCEDURE:

To determine if a record exists, contact the contractor: Project Manager, Validity/Reliability Study of Self-Reported Drinking, CSR, Incorporated, 805 15th Street NW., Suite 500, Washington, DC 20005.

Requesters should provide verifiable proof of identity—such as notarized original signature—for mail requests, inquiries, and responses; or driver's license with picture for in-person inquiries and requests.

RECORD ACCESS PROCEDURE:

Same as notification procedure. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the System Manager at the address above and reasonably identify the record, specify the information being contested, and state the corrective action being sought.

RECORD SOURCE CATEGORIES:

The subject individuals are the sole source of the information in the records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 82-14340 Filed 5-26-82; 8:45 am]
BILLING CODE 4160-20-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A 71 WR]

Arizona; Proposed Continuation of Withdrawal and Opportunity for Public Hearing

May 20, 1982.

In accordance with the provisions of section 204 of the Federal Land Policy and Management Act, the Bureau of Land Management, Department of the Interior, is reviewing possible continuation of an existing mineral withdrawal made by Public Land Order No. 4469 of June 27, 1968. The following land is included in the proposed continuation:

Gila and Salt River Meridian, Arizona

T. 6 N., R. 1 E.,
- Sec. 4, lots 1 to 4, incl. SE¼NW¼, S½NE¼, S½;
- Sec. 5, lots 1, 3, and 4, S½NW¼, SW¼SW¼;
- Sec. 6, lots 1 and 2, SE¼NE¼;
- Sec. 7, E½SE¼, SE¼NE¼;
- Sec. 8, W½NW¼, S½SW¼;
- Sec. 9, N½, SE¼, N½SW¼;
- Sec. 15, SW¼;
- Sec. 17, W½, S½SE¼, SW¼NE¼;
- Sec. 20, N½;
- Sec. 21.

T. 7 N., R. 1 E.,
- Sec. 22, S½;
- Sec. 23, SW¼;
- Sec. 27,
- Sec. 31, lots 1 to 4, incl., E½W½, E½;
- Sec. 33.

T. 4 N., R. 6 E.,
- Sec. 30, E½, E½W½;
- Sec. 31, lots 1 to 4, incl., E½W½, E½.

The areas described aggregate 6,859.02 acres in Maricopa County.

The Bureau proposes continuation of the withdrawal in its entirety for a period of 20 years. The purpose of the withdrawal is to protect valuable public park and recreation values within the Lake Pleasant Regional Park and the McDowell Mountain Park. The surface of the land is in State and County ownership; the mineral estate is in U.S. ownership and is segregated from appropriation under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

On or before August 1982, all persons who wish to submit comments, suggestions or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for public hearing is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposed continuation must submit a written request for a hearing to the undersigned officer. If the State Director, in his discretion, determines that a public hearing is justified, a notice will be published in the **Federal Register** giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual 2351.16B.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the land and its resources. He will review the withdrawal rejustification to insure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent utilization of the land is provided for, and an agreement is reached on the concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

All communications in connection with the withdrawal continuation should be addressed to the undersigned, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Dated: May 18, 1982.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-14461 Filed 5-26-82; 8:45 am]
BILLING CODE 4310-84-M

[C–16210, C–18254]

Colorado; Cancellation of Forest Service Withdrawal Applications and Opening of Lands

May 18, 1982.

The U.S. Department of Agriculture filed withdrawal applications as listed below:

1. Application C–16210 filed April 27, 1972, was published in the **Federal Register** on June 21, 1972, as FR Doc. 72–9347 and on January 5, 1978, as FR Doc.

78–115. Several sites in this application were cancelled and opened previously.

New Mexico Principal Meridian Rio Grande National Forest

Agua Ramon Electronic Site

T. 40 N., R. 3 E.,
Sec. 12: SW¼SE¼NE¼.

Greyback Mountain Electronic Site

T. 37 N., R. 4 E.,
Sec. 9: SW¼SE¼
Sec. 16: N½NW¼NE¼, NW¼NE¼NE¼.

Ivy Creek Campground

T. 40 N., R. 1 W.,
Sec. 32: N½NE¼.

Ute Creek Trailhead

T. 40 N., R. 4 W.,
Sec. 5: Lot 4
Sec. 6: Lot 1.
T. 41 N., R. 4 W.,
Sec. 31: Lot 15
Sec. 32: SW¼SW¼SW¼.

The areas described aggregate approximately 290 acres.

2. Applicant C–18254 filed January 13, 1975, was published in the Federal Register on June 3, 1975, as FR Doc. 75–14477 and on July 15, 1975, as FR Doc. 75–18291.

Sixth Principal Meridian Arapaho National Forest

Upper Snake River Watershed

T. 6 S., R. 76 W.,
Sec. 1: Lots 5, 6, 7, 10, 11, 12, E½SW¼, SE¼
Sec. 11: Lot 16
Sec. 12: NE¼, E½NW¼, SE¼, N½SE¼, SW¼SW¼
Sec. 13: Lot 2
Sec. 14: Lot 1.

The areas described aggregate approximately 1,100.41 acres.

By letters of May 4, 1982, the applicant agency has cancelled these applications in their entirety.

Therefore, in accordance with the regulations contained in 43 CFR 2310.2–1(c) at 10:00 a.m. on June 28, 1982, the lands described above shall be relieved of the segregative effect of the applications and open to such forms of appropriation as may by law be made of National Forest land, subject to any valid existing rights.

Any questions concerning these lands should be addressed to the undersigned at the Bureau of Land Management, Colorado State Office, 1037–20th Street, Denver, Colorado 80202.

Robert D. Dinsmore,

Chief, Branch of Adjudication.

[FR Doc. 82-14480 Filed 5-26-82; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. I-7317]

Idaho; Partial Termination of Proposed Withdrawal and Reservation of Lands

May 20, 1982.

Notice of an application, serial No. I–7317, for withdrawal and reservation of lands was posted in the Land Office records September 27, 1973. A notice was not published in the Federal Register. The applicant agency has cancelled its application insofar as it involved the lands described below. Therefore, pursuant to the regulations contained in 43 CFR, Subpart 2091, such lands will be, at 7:45 a.m. on July 1, 1982, relieved of the segregative effect of the above-mentioned application.

The lands involved in this notice of termination are:

St. Joe River—St. Joe National Forest, Boise Meridian

T. 45 N., R. 1 E.,
Sec. 1.
T. 46 N., R. 1 E.,
Sec. 21;
Sec. 23;
Sec. 24;
Sec. 25;
Sec. 26;
Sec. 27.
T. 45 N., R. 2 E.,
Sec. 4;
Sec. 5.
T. 46 N., R. 2 E.,
Sec. 30.
T. 45 N., R. 3 E.,
Sec. 7;
Sec. 8;
Sec. 9;
Sec. 10;
Sec. 12;
Sec. 15.
T. 45 N., R. 4 E.,
Sec. 8;
Sec. 10;
Sec. 12;
Sec. 14;
Sec. 19.
T. 45 N., R. 5 E.,
Sec. 7;
Sec. 8;
Sec. 9;
Sec. 10;
Sec. 11;
Sec. 12;
Sec. 13;
Sec. 14;
Sec. 16;
Sec. 18.
T. 45 N., R. 6 E.,
Sec. 13;
Sec. 14;
Sec. 15;
Sec. 18;
Sec. 19;
Sec. 20;
Sec. 21;
Sec. 22;
Sec. 23;
Sec. 24;
Sec. 28.
T. 45 N., R. 7 E.,
Sec. 19;
Sec. 20;
Sec. 21;
Sec. 22;
Sec. 27;
Sec. 28;
Sec. 29;
Sec. 30;
Sec. 34;
Sec. 35;
Sec. 36.
T. 43 N., R. 8 E.,
Sec. 1.
T. 44 N., R. 8 E.,
Sec. 4;
Sec. 5;
Sec. 6;
Sec. 8;
Sec. 9;
Sec. 10;
Sec. 11;
Sec. 13;
Sec. 14;
Sec. 15;
Sec. 23;
Sec. 24;
Sec. 25;
Sec. 26;
Sec. 36.
T. 45 N., R. 8 E.,
Sec. 31.
T. 42 N., R. 9 E.,
Sec. 1;
Sec. 2;
Sec. 5;
Sec. 6;
Sec. 7;
Sec. 8;
Sec. 9;
Sec. 10;
Sec. 11;
Sec. 12;
Sec. 15;
Sec. 16;
Sec. 17;
Sec. 18.
T. 43 N., R. 9 E.,
Sec. 5;
Sec. 6;
Sec. 7;
Sec. 8;
Sec. 17;
Sec. 20;
Sec. 21;
Sec. 28;
Sec. 29;
Sec. 30;
Sec. 31;
Sec. 32;
Sec. 36.
T. 44 N., R. 9 E.,
Sec. 31.
T. 42 N., R. 10 E.,
Sec. 1;
Sec. 6;
Sec. 12.
T. 43 N., R. 10 E.,
Sec. 17;
Sec. 19;
Sec. 20;
Sec. 21;
Sec. 22;
Sec. 26;
Sec. 27;

Sec. 28;
Sec. 29;
Sec. 30;
Sec. 31;
Sec. 35;
Sec. 36.
T. 42 N., R. 11 E.,
Sec. 4;
Sec. 5;
Sec. 6;
Sec. 7.
T. 43 N., R. 11 E.,
Sec. 32;
Sec. 33.

The area described aggregates 32,900 acres in Benewah and Shoshone Counties.

Thomas M. Woodward,

Acting Chief, Branch of L&M Operations.

[FR Doc. 82-14482 Filed 5-26-82; 8:45 am]

BILLING CODE 4310-84-M

Utah; Environmental Impact Statement

AGENCY: Bureau of Land Management, Moab District, Utah.

ACTION: Grand Resource Area, Utah; Resource Management Plan/ Environmental Impact Statement.

SUMMARY: Notice is hereby given that, pursuant to section 202(f) of the Federal Land Policy and Management Act of 1976 and section 102(c) of the National Environmental Policy Act of 1969, a Resource Management Plan/ Environmental Impact Statement (RMP/ EIS) is being prepared for the Grand Resource Area.

The Grand Resource Area contains about 1.5 million acres of public land located in southeastern Utah, including all of Grand County and the northern third of San Juan County.

The planning issues to be addressed in the Grand Resource Area RMP/EIS are: critical watersheds, livestock requirements, wildlife habitat requirements, off-road vehicle use and management, lands disposal, utility corridors, minerals, recreation, fire management, and wilderness. The planning issues and their associated planning criteria have undergone extensive revision since the start of the planning action, which was announced in the **Federal Register** on February 4, 1980.

The RMP/EIS will be prepared by an interdisciplinary team which consists of the following: a planning coordinator, a soil conservationist, a wildlife management biologist, an outdoor recreation planner, a lands specialist, a geologist, two range conservationists, a hydrologist, and an economist.

PUBLIC PARTICIPATION: Public participation is being sought as a part of the scoping process. Public workshops will be held on June 30, 1982 at 1 p.m. and 7 p.m. in the Moab District Office, 125 West 200 South, Moab, Utah.

Copies of the revised planning issues and criteria may be requested from the Grand Resource Area Manager at the address given below. The Grand Resource Area Management Situation Analysis, which is relevant to the planning effort, may be examined Monday through Friday between the hours of 7:45 a.m. and 4:30 p.m. at the Grand Resource Area Office, located on Sand Flats Road in Moab. Persons who have suggestions or comments on the formulation of management alternatives or other aspects of the RMP/EIS process should submit them to the Area Manager by June 30, 1982.

FOR FURTHER INFORMATION CONTACT: Colin P. Christensen, Area Manager, Grand Resource Area, P.O. Box M, Moab, Utah 84532, or call (801) 259-6111.

Gene Nodine,

District Manager.

[FR Doc. 82-14480 Filed 5-26-82; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Modification of Coal Land Use Planning Decisions in the Big Sandy and Salt Wells Management Framework Plans

AGENCY: Bureau of Land Management (BLM), Interior, Rock Springs, Wyoming District Office, Big Sandy and Salt Wells Resource Areas.

ACTION: Notice.

SUMMARY: The following planning decision modifications are the result of BLM's consideration of protests, submitted under the provisions of 43 CFR 1601.6-1(c), to planning decisions by the Rock Springs District Manager, that about 280 acres were unsuitable for surface mining under coal unsuitability criterion #2 (Big Sandy Area) and about 3,500 acres were unsuitable for surface mining under criterion #15 (Salt Wells Area). These modifications do not result in expanding the scope of any resource use or the scope of considerations covered by the management framework plans (MFP's). Therefore, this action is determined to be refinement of the MFP decisions (43 CFR 1601.6-3(a)) and not subject to the requirements for plan amendments (43 CFR 1601.6-3(b)).

Decision number 1, part a, on page 5 of the public brochure, *Coal-Wyoming Land Use Decisions, Big Sandy Area, Rock Springs District*, published on November 13, 1981, is modified as follows:

a. About 32,134 (vice 31,854) acres containing approximately 159 (vice 157.6) million tons of coal are acceptable for coal development by surface mining methods.

Decision number 1 on page 5 of the public brochure, *Coal-Wyoming Land Use Decisions, Salt Wells Area, Rock Springs District*, published on November 13, 1981, is modified to add part d as follows:

d. About 3,500 acres and approximately 16 million tons of coal in the area known as Cooper Ridge have been determined to be acceptable for further consideration for coal development by surface mining methods, *pending* studies to determine the extent and importance of potential critical deer winter range in the area and the extent and significance of coal mining impacts on the area. The Federal coal areas involved will be carried forward into the current coal activity planning process and considered under the following conditions:

(1) The decision as to the unsuitability or acceptability for coal development will be deferred until the deer studies are completed.

(2) If a potential coal lease tract(s) can be delineated to include *only* the coal areas under study, the areas will be considered through the remainder of the coal activity planning process. *Should* the final decision be that the areas are partially or wholly acceptable for coal development by surface mining methods and, if a viable lease tract(s) remains intact, the acceptable areas will be considered for leasing as soon as possible thereafter. If a viable lease tract does not exist when the final planning decision is made, the acceptable areas will be handled as stated in paragraph (3) below.

(3) If a potential coal lease tract(s) cannot be delineated to include *only* the coal areas under study, the areas will be given no further consideration, as lease tracts, in the current coal activity planning process. *Should* the final planning decision be that the areas are partially or wholly acceptable for coal development by surface mining methods, the acceptable areas will be (a) considered for leasing under the provisions for emergency leases or lease modifications; or (b) lacking any interest in emergency or modification leasing, they will be deferred for consideration in the next coal planning and leasing cycle.

DATE: The subject planning decision modifications are effective May 27, 1982.

ADDRESSES: Inquiries on this notice should be placed with: Donald Sweep, District Manager, BLM, Rock Springs District, P.O. Box 1869, Rock Springs, Wyoming 82901, (307) 382-5350.

FOR FURTHER INFORMATION CONTACT:
Clinton Hanson, Big Sandy Area Manager, or
Robert Bierer, Salt Wells Area Manager, at
BLM, Rock Springs District, P.O. Box 1869, Rock Springs, Wyoming 82901, (307) 382–5350, or
Joseph Patti, Jr., Bureau of Land Management (930), P.O. Box 1828, Cheyenne, Wyoming 82001, (307) 772–2090

SUPPLEMENTARY INFORMATION: The protest concerning application of coal unsuitability criterion #2 in the Big Sandy Area involves a concentration of transmission line rights-of-way. In reviewing the original unsuitable determination, BLM concluded that it was inconsistent with relocation provisions for the same rights-of-way on adjacent private lands and would be impracticable should relocation occur on the private lands. Accordingly, the 280 acres (described below) will fall under the general provisions for criterion #2, as stated on page 13 of the Big Sandy final coal management planning decisions brochure, to wit:

The 280 acre in question is acceptable for coal development subject to valid existing rights and negotiations for relocating (the righs-of-way), if necessary, appropriate stipulations, and consistency with current planning and management decisions. Any unforeseen conflicts in the area should be identified and resolved during the coal activity planning process or in mining and reclamation plan development.

Legal Description

T. 20 N., R. 101 W.
Section 28: NE¼, N½NW¼, SW¼NW¼.

The protest concerning application of coal unsuitability criterion #15 in the Salt Wells Area involves Federal lands in the area known as Cooper Ridge, which were originally determined to be unsuitable for surface coal mining due to critical deer winter range. This determination was substantially based upon the interest of the State of Wyoming in protecting high value wildlife species habitat and wildlife resource data provided by the State. In considering the protest, BLM reentered consultation with the Wyoming Game & Fish Department and the Office of the Governor of Wyoming to review the technical adquacy of all data and to assure that all regulatory and procedural requirements were followed in arriving at the original determination. It was concluded, with the opinion of the Governor's Office, that there is apparently insufficient information concerning the critical deer winter range and that the unsuitable determination on about 3,500 acres (described below) should be changed to acceptable pending study.

Legal Description

T. 17 N., R. 101 W.
Section 4: E½, NE¼SW¼, S½SW¼
Section 18: SW¼, E½
T. 18 N., R. 101 W.
Section 34: N½, SW¼, W½SE¼
T. 15 N., R. 102 W.
Section 8: E½NW¼, SW¼NW¼, NE¼SW¼
Section 20: W½NE¼, E½NW¼
T. 16 N., R. 102 W.
Section 10: NW¼, W½SW¼, NE¼SW¼
Section 20: E½
Section 28: NE¼NW¼, W½W½
Section 32: W½NE¼, NW¼SE¼, E½E½
T. 17 N., R. 102 W.
Section 24: E½NE¼, SW¼NE¼, SE¼NW¼, S½
Section 26: SE¼

F. William Eikenberry,
Associate State Director.

[FR Doc. 82-14483 Filed 5-26-82; 8:45 am]
BILLING CODE 4310-84-M

[CA–10284]

Conveyance of Public Land; San Bernardino County, Calif.

May 20, 1982.

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2743; 43 U.S.C. 1713), Frank L. Hammond and Ora P. Hammond, Post Office Box 152, Sun City, California 92381, have purchased by noncompetitive sale public land in San Bernardino County, California, described as:

San Bernardino Meridian, California

T. 5 N., R. 7 W.
Sec. 34, W½NE¼NE¼SW¼;
Containing 5 acres.

The purpose of this notice is to inform the public and interested state and local governmental officials of the issuance of the conveyance document to Mr. and Mrs. Hammond.

Harold R. Dietz,
Acting Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc. 82-14482 Filed 5-26-82; 8:45 am]
BILLING CODE 4310-84-M

[CA 10483]

Conveyance of Public Land; Tuolumne County, Calif.

May 20, 1982.

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2743; 43 U.S.C. 1713), Frank A. Logoluso and Betty Logoluso, 7567 Road 28, Madera, California 93637, have purchased by competitive sale public land in Tuolumne County, California, described as:

Mount Diablo Meridian, California

T. 2 N., R. 14 E.,
Sec. 2 NW¼SW¼NW¼;
Containing 10 acres.

The purpose of this notice is to inform the public and interested state and local governmental officials of the issuance of the conveyance document to Mr. and Mrs. Logoluso.

Harold R. Dietz,
Acting Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc. 82-14487 Filed 5-26-82; 8:45 am]
BILLING CODE 4310-84-M

Minerals Management Service

National Outer Continental Shelf Advisory Board, Pacific Regional Technical Working Group Committee; Meeting

AGENCY: Minerals Management Service, Pacific OCS Office, Interior.

ACTION: National Outer Continental Shelf Advisory Board, Pacific Regional Technical Working Group Committee; Notice and Agenda for Meeting.

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92–463.

The Pacific Regional Technical Working Group Committee of the National OCS Advisory Board is scheduled to meet from 9 a.m., to 4:00 p.m., June 22, 1982, at the Federal Building, 300 North Los Angeles St., Room 8544, Los Angeles, California.

The Agenda for the meeting covers the following topics: (a) Identification and clarification of issues and alternatives for the proposed OCS Lease Sale No. 73 EIS; (b) FY 1984 Regional Environmental Studies Plan; and (c) Achievements of Fisheries Concerns Subcommittee. A detailed agenda will be available June 14, 1982.

The meeting is open to the public. Interested persons may make oral or written presentations to the committee. Such requests should be made no later than June 9, 1982, to: Ellen Aronson, Pacific OCS Office, 1340 West Sixth Street, Room 200, Los Angeles, California 90017 (213/688–6758). Requests to make oral statements should be accompanied by a summary of the statement to be made.

Minutes of the meeting will be available for public inspection and copying at the following locations:

Pacific OCS Office, 1340 West Sixth St., Room 200, Los Angeles, CA 90017
and
Division of Offshore Resources (BLM 620), Department of the Interior, 18th

and C Sts, NW, Room 2505, Washington, D.C. 20240

Dated: May 19, 1982.

William E. Grant,

Manager, Pacific OCS Office.

[FR Doc. 82-14466 Filed 5-26-82; 8:45 am]

BILLING CODE 4310-84-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Exxon Co., U.S.A.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Exxon Company, U.S.A. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3065, Block A–90, Mustang Island Area, offshore Texas.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service 3301 North Causeway Blvd., room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 18, 1982.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-14469 Filed 5-26-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Union Oil Co. of California

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production Plan.

SUMMARY: Notice announces that Union Oil Company of California, Unit Operator of the Vermilion Block 14 Federal Unit Agreement No. 14–08–0001–12339, submitted on May 14, 1982, a proposed supplemental plan of development/production describing the activities it proposes to conduct on the Vermilion Block 14 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the offices of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 20, 1982.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-14467 Filed 5-26-82; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

Georgia O'Keeffe National Historic Site Rio Arriba County, N. Mex.; Draft Proposal/Environmental Assessment for the General Management Plan/ Development Concept Plan

Pursuant to the National Environmental Policy Act of 1969, Title 40 of the Code of Federal Regulations, and Part 516 of the Departmental Manual, the National Park Service has prepared a Draft Proposal/ Environmental Assessment for the General Management Plan/ Development Concept Plan for Georgia O'Keeffe National Historic Site, Rio Arriba County, New Mexico.

The Draft Proposal/Environmental Assessment for the General Management Plan/Development Concept Plan contains a proposal for the future management of the Georgia O'Keefe National Historic Site and an alternative to that proposal to preserve for the benefit and enjoyment of future generations significant properties associated with the life and cultural achievements of Georgia O'Keeffe.

The Draft Proposal/Environmental Assessment for the General Management Plan/Development Concept Plan are available for review in the Office of the Superintendent, Bandelier National Monument, Los Alamos, New Mexico 87544; and the Southwest Regional Office, National Park Service, 1100 Old Santa Fe Trail, Santa Fe, New Mexico. Copies of the document may be obtained, upon request, from Bandelier National Monument, at the address provided above.

Anyone wishing to provide comments on the Draft Proposal/Environmental Assessment for the General Management Plan/Development Concept Plan should provide them to the Superintendent, Bandelier National Monument, Los Alamos, New Mexico 87544, on or before June 28, 1982.

Dated: May 12, 1982.

Donald A. Dayton,

Regional Director, Southwest Region.

[FR Doc. 82-14474 Filed 5-26-82; 8:45 am]

BILLING CODE 4310-70-M

Ice Age National Scenic Trail Advisory Council; Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act. 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Ice Age National Scenic Trail Advisory Council will be held June 29, 1982, beginning at 9:00 a.m. in the Ice Age Nature Center at the northern unit of Kettle Moraine State Forest located on State Highway 67 south of Dundee, Wisconsin.

The council was established on January 9, 1981, pursuant to provisions of the National Trails System Act, 82 Stat. 919, 16 U.S.C. 1244, to meet and consult with the Secretary of the Interior on matters relating to the administration

and development of the Ice Age National Scenic Trail.

The members of the council are as follows:

Mr. Bill W. Dean (Chairperson)
Mr. David Weizenicker
Mr. John C. Wolter
Mrs. Grace Schmidley
Mr. John Zillmer
Mr. Robert W. Cromer
Honorable Warren P. Knowles

Matters to be discussed at the meeting will include review of a draft Comprehensive Plan for Management and Use of the Ice Age National Scenic Trail, verification of the trail route, administration of the trail, and marking the trail with an official National Trails System marker.

The meeting will be open to the public. Interested persons may submit written statements to the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from Robert P. Martin, Chief, Division of Rivers and Trials, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102, telephone (402) 221-3371 (FTS 864-3371). Minutes of the meeting will be available for public inspection at the Midwest Regional Office 4 weeks after the meeting.

Dated: May 18, 1982.

J. L. Dunning,

Regional Director Midwest Region.

[FR Doc. 82-14475 Filed 5-26-82; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 14, 1982. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by June 11, 1982.

Carol D. Shull,

Acting Keeper of the National Register.

ARKANSAS

Columbia County

Magnolia, *Longino, Dr. H. A. House,* 317 W. Main St.

Washington County

Fayetteville, *Jackson House,* 1500 Mission Hwy. (AR 45)

CALIFORNIA

Alameda County

Berkeley, *Garfield Intermediate School,* 1414 Walnut St.

COLORADO

Larimer County

Loveland, *Colorado and Southern Railway Depot,* 405 Railroad Ave.

CONNECTICUT

Fairfield County

Bridgeport, *Seaside Institute,* 200 Lafayette Ave.
Fairfield, *Birdcraft Sanctuary,* 314 Unquowa Rd.

Hartford County

Hartford, *Hartford Seminary Foundation,* 55 Elizabeth St. and 72-120 Sherman St.

New Haven County

Waterbury, *Abbott, George S., Building (Wheeler and Wilson Building),* 235-247 N. Main St.
Waterbury, *Webster School,* Easton Ave. at Aetna St.
Waterbury, *Wilby High School,* 280 Grove St.

Windham County

Willimantic, *Willimantic Freight House and Office,* Bridge St.

KANSAS

Douglas County

Lawrence, *Taylor, Lucy Hobbs, Building,* 809 Vermont.

Franklin County

Ottawa, *Tauy Jones Hall,* Ottawa University Campus 10th and Cedar Sts.

Montgomery County

Coffeyville, *Terminal Building,* 717 Walnut

Sedgwick County

Wichita, *Clapp, L. W. House,* 1847 Wellington Pl.
Wichita, *Munger, Darius Sales, House,* Sim Park
Wichita, *Occidential Hotel,* 300 N. Main St.

LOUISIANA

Orleans Parish

New Orleans, *Pessou House,* 6018 Benjamin St.

MISSISSIPPI

Marion County

Columbia, *Keys Hill Historic District,* Broad St.

Oktibbeha County

Starville, *Greensboro Street Historic District,* Greensboro St.

NEBRASKA

Lancaster County

Lincoln, *Royer-Williams House,* 407 N. 20th St.

NEW YORK

Oneida County

Clinton, *Clinton Village Historic District,* North, South, East, West Park Rows, Marvin, Williams, Chestnut, Foundation, College and Utica Sts.

Westchester County

Tarrytown, *Patriots' Park,* US 9

NORTH CAROLINA

Buncombe County

Black Mountain vicinity, *Black Mountain College Historic District,* SR 2466

Cabarrus County

Mount Pleasant, *Lentz Hotel,* College St.

Guilford County

Hillsdale, *Hillsdale Brick Store,* NC 150 and SR 2147

Halifax County

Enfield vicinity, *Branch, Samual Warren, House,* NC 481

Jackson County

Cashiers vicinity, *Fairfield Inn,* U.S. 64

Johnston County

Selma, *Nowell-Mayerburg-Oliver House (Selma, North Carolina MRA)* 312 W. Anderson St.
Selma, *Selma Graded School (Selma, North Carolina MRA)* W. Richardson St.
Selma, *Selma Historic District (Selma, North Carolina MRA)* 301
Selma, *Smith, William E., House Selma, North Carolina MRA)* 309 W. Railroad St.
Selma, *Stevens, Everitt P., House (Selma, North Carolina MRA)* SR 1003
Selma, *Union Station (Selma, North Carolina MRA)* E. Railroad St.

Pender County

Hampstead vicinity, *Belvidere Plantation House,* Off SR 1565

Rutherford County

Forest City, vicinity, *Ledbetter, Dexter James, House,* Off US 74

Wilson County

Saratoga vicinity, *Scarborough, Maj. James, House,* NC 22
Wilson, *Davis-Whitehead-Harriss House,* 600 W. Nash St.

OREGON

Benton County

Corvallis, *Pi Beta Phi Sorority House,* 3002 NW Harrison Blvd.

Clackamas County

Canby, *Macksburg Lutheran Church,* 10210 S. Macksburg Rd.

Klamath County

Klamath Falls, *Winthrow-Melhase Block,* 4th and Main Sts.

Multnomah County

Portland, *Ayer-Shea House,* 1809 NW Johnson St.

SOUTH DAKOTA

Yankton County

Yankton, *Yankton Historic Commercial District*, Roughly bounded by 2nd, 4th, Pine and Broadway Sts.

VIRGINIA

Roanoke (ind. city)

First National Bank, 101 S. Jefferson St.

WISCONSIN

Marathon County

Wausau, *Miller, Henry, House*, 1314 Grand Ave.

[FR Doc. 82-14489 Filed 5-26-82; 8:45 am]
BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326

Volume No. OP1-66

Decided: May 18, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 2900 (Sub-455), filed May 10, 1982. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408, Jacksonville, FL 32203. Representative: S.E. Somers, Jr. (same address as applicant), (904) 353-3111. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with the Ford Motor Company, of Dearborn, MI.

MC 30521 (Sub-3), filed May 10, 1982. Applicant: H & L BLOOM, INC., 427 Cohannet St., Taunton, MA 02780. Representative: Arthur M. White, 281 Pleasant St., P.O. Box 2547, Framingham, MA 01701, (617) 879-5000. Over regular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, between Springfield and Buzzards Bay, MA, from Springfield over Interstate Hwy 291 to junction Interstate Hwy 90, then over Interstate Hwy 90 to junction U.S. Hwy 20, then over U.S. Hwy 20 to junction MA Hwy 146, then over MA Hwy 146 to junction MA Hwy 122A, then over MA Hwy 122A to junction MA Hwy 122, then over Ma Hwy 122 to Woonsocket, RI, then over RI Hwy 122 to junction Interstate Hwy 295, then over Interstate Hwy 295 to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction MA Hwy 152, then over MA Hwy 152 to Attleboro, MA, then over MA Hwy 123 to junction MA Hwy 140, then over MA Hwy 140 to Taunton, MA, then over U.S. Hwy 44 to junction MA Hwy 28, then over MA Hwy 28 to junction U.S. Hwy 6, then over U.S. Hwy 6 to Buzzards Bay, MA, and return over the same route, serving all intermediate points and serving Middleboro and Wareham, MA, as off-route points.

MC 33970 (Sub-29), filed May 13, 1982. Applicant: GEORGE HILDEBRANDT, INC., R.D. #4, Hudson, NY 12534. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, (201)-836-1144. Transporting *general commodities* (except classes A and B explosives, household goods commodities in bulk), between points in CT, DE, MA, MD, ME, NH, NJ, NY, OH, PA, RI, VA, VT, WV, and DC.

MC 35831 (Sub-32), filed May 12, 1982. Applicant: E. A. HOLDER, INC., P.O. Box 69, Kennedale, TX 76060. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103 (817) 332-4718. Transporting *building materials*, between points in AR, LA, NM, OK and TX.

MC 55790 (Sub-3), filed May 10, 1982. Applicant: MILLER TRUCK LINE, INC., P.O. Box 1100, Winnemucca, NV 89445. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701, (702) 882-5649. Transporting *construction materials and supplies*, between points in NV, CA, OR, WA, ID, CO, UT, AZ, and NM.

MC 64501 (Sub-9), filed April 27, 1982. Applicant: UNITED TRANSPORTATION COMPANY OF RHODE ISLAND, Mohawk Drive (P.O. Box 787), Leominster, MA 01453. Representative: Mary E. Kelley, 22 Sterns Ave., Medford, MA 02155, (617)-396-4090. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in MA, NH, RI, ME, VT, CT, NY, NJ, and PA.

MC 87231 (Sub-30), filed April 20, 1982, and previously noticed in **Federal Register** issue of May 7, 1982. Applicant: BAY & BAY TRANSFER CO., INC., 7200 West 128th St., Savage, MN 55378. Representative: Pamela N. Merkle, 300 Roanoke Bldg., Minneapolis, MN 55402, (612) 343-2976. Transporting *silica sand*, between points in MN and WI, on the

one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—This republication shows MN in lieu of MI as an origin or destination point.

MC 95350 (Sub-9), filed May 7, 1982. Applicant: R. W. JONES TRUCKING COMPANY, P.O. Drawer T, Vernal, UT 84078. Representative: Thomas M. Zarr, 455 South Third East, Salt Lake City, UT 84111. Transporting (1) *Mercer commodities*, (2) *machinery, materials, equipment, and supplies* used in, or in connection with the discovery, development, production, extraction, and preservation of oil shale and the construction, dismantling, operating, processing, repressuring, and blending of oil shale, natural gas, gasoline, and petroleum, and (3) *commodities* used in, or in connection with the discovery, development, and production of geothermal and nuclear power, between points in UT, on the one hand, and, on the other, points in OR and WA.

Note.—Applicant intends to tack this authority with its existing authority.

MC 99950 (Sub-5), filed May 7, 1982. Applicant: S. S. BERTZ & SONS, INC., 226 West Lemon Street, Lancaster, PA 17603. Representative: Edward N. Button, 635 Oak Hill Avenue, Hagerstown, MD 21740, (301) 739-4800. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Baltimore, and points in Washington County, MD, PA, and DC, on the one hand, and, on the other, points in PA.

MC 102181 (Sub-14), filed May 10, 1982. Applicant: O.H. & F., INC., P.O. Box 129, Grayville, IL 62844. Representative: Richard Elliott (same address as applicant) (618) 375-2911. Transporting *Mercer commodities*, between points in IL, IN, KY, MI, MS, MO, NE, NY, OH, PA, TN, and WV, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, MD, NJ, NC, RI, SC, and VA.

MC 113751 (Sub-56), filed May 7, 1982. Applicant: HAROLD F. DUSHEK, INC., 10th & Columbia Street, Waupaca, WI 54981. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719, (608) 273-1003. Transporting *pulp, paper and related products*, between those points in the U.S. in and east of ND, SD, NE, CO, OK, and TX.

MC 125751 (Sub-12), filed May 13, 1982. Applicant: H & W CARRIERS, INC., P.O. Box 130, Camargo, IL 61919. Representative: Harold D. Smith (same address as applicant), (217)-832-2111. Transporting *general commodities*, (except classes A and B explosives and household goods), between points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, MA, NE, NJ, NY, NM, NC, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, WY and NH.

MC 129410 (Sub-31), filed May 6, 1982. Applicant: BONCOSKY TRANSPORTATION, INC., 1301 Industrial Drive, Algonquin, IL 60102. Representative: Carl L. Steiner, 29 South LaSalle Street, Chicago, IL 60603, (312) 236-0375. Transporting *food and related products*, between points in the U.S. (except AK and HI).

MC 130390 (Sub-1), filed May 5, 1982. Applicant: PEOPLES TRAVEL AGENCY, INC., 302 North Kansas, Liberal, KS 67901. Representative: Doris Engel, (same address as applicant), (316)-624-7261. As a *broker*, at Liberal, KS, in arranging for the transportation of *passengers and their baggage*, in the same vehicle with passengers, between points in Seward, Haskell, Wallace, Stanton, Cimarron, Wichita, Stevens, Ford, Pawnee, Kearney, Finney, Comanche, Kiowa, Meade, Grant, Clark, Scott and Pratt Counties, KS; Texas, Dewey, Beaver, Major, Ellis and Garfield Counties, OK; Otero, Pueblo and Baca Counties, CO and Ochiltree County, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 140411 (Sub-3), filed May 7, 1982. Applicant: D. & W. FORWARDERS, INC., 61 Oreada Rd., Brampton, Ontario, Canada, L6W 1V7. Representative: Martin J. Leavitt, 22375 Haggerty Rd., P.O. Box 400, Northville, MI, (313) 349-3960. Transporting *building materials*, between points in WI, IL, MI, IN, OH, WV, NY, PA, MD, DE, NJ, VT, NH, CT, RI, MA, and ME, on the one hand, and, on the other, the ports of entry on the international boundary line between the United States and Canada in MI, NY, VT, NH, and ME.

MC 141961 (Sub-7), filed May 6, 1982. Applicant: CARMAN CARRIER, INC., P.O. Box 2130, Clarksville, IN 47130. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846-6655. Transporting *glass products*, between points in the U.S. (except AK and HI), under continuing contract(s) with TPC, Inc., of Louisville, KY.

MC 141961 (Sub-9), filed May 13, 1982. Applicant: CARMAN CARRIER, INC., P.O. Box 2130, Clarksville, IN 47130. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317)-846-6655. Transporting *such commodities as are dealt in by manufacturers of soap, cleaning products and toilet articles*, between points in the U.S., under continuing contract(s) with Colgate Palmolive Company, of Jeffersonville, IN.

MC 142120 (Sub-6), filed May 13, 1982. Applicant: LENZNER COACH LINES, INC, d.b.a. NORTH BOROUGHS CAB, Mt. Nebo Rd., R.D. #2 Sewickley, PA 15143. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219, (412)-471-1800. Transporting *passengers and their baggage*, in the same vehicle with passengers, between points in the U.S., under continuing contract(s) with C & J Travel & Leasing, Inc., of Sewickley, PA.

MC 143500 (Sub-20), filed May 12, 1982. Applicant: R.B. CARRIERS, INC., 305 S. Missouri Ave., P.O. Box 942, Jeffersonville, IN 47130. Representative: Dean N. Wolfe, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301)-840-8565. Transporting *such commodities as are dealt in or used by manufacturers of rubber, plastic, and chemical products*, between points in the U.S. (except AK and HI), under continuing contract(s) with BF Goodrich Company, of Akron, OH.

MC 143730 (Sub-10), filed May 10, 1982. Applicant: PENINSULA TRUCKING CO., INC., 705 Morehouse Drive, New Castle, DE 19370. Representative: Richard M. Ochroch, 318 South 16th St., Philadelphia, PA 19102, (215)-735-2707. Transporting *such merchandise as is dealt in by wholesale, retail, and chain drug and pharmaceutical business houses*, between points in the U.S. (except AK and HI), under continuing contract(s) with Hillcrest Sales, of Clinton, MD.

MC 144930 (Sub-65), filed April 8, 1982. Applicant: STOOPS EXPRESS, INC., P.O. Box 287, Anderson, IN 46015. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846-6655. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Eli Lilly and Company, of Indianapolis, IN, IVAC Corporation, of San Diego, CA, Elizabeth Arden, Inc., of New York, NY, Cardiac Pacemakers, Inc., of St. Paul, MN, and Physio-Control Corporation, of Redmond, WA.

MC 146251 (Sub-2), filed May 6, 1982. Applicant: CLAXTON TRANSPORT, INC., Route 3, Box 135, Wrightsville, GA 31096. Representative: Ronald K. Kolins, Suite 3100, One IBM Plaza, Chicago, IL 60611, (312) 467-6900. Transporting *wire, and tire beads*, between points in Telfair County, GA, on the one hand, and, on the other, points in AL, AR, IA, IL, KY, MS, NY, NC, OH, OK, SC, TN, TX, VA, and WI.

MC 146251 (Sub-2), filed May 13, 1982. Applicant: RIGHT-O-WAY, INC., 57 St. Charles St., Newark, NJ 07105. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239–4610. Transporting *general commodities* except classes A and B explosives, household goods and commodities in bulk), between points in CA,, CT, GA, NJ, NY, IL, SC and TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146890 (Sub-45), filed May 11, 1982. Applicant: C & E TRANSPORT, INC. d.b.a. C. E. ZUMSTEIN CO., P.O. Box 27, Lewisburg, OH 45338. Representative: E. Stephen Heisley, 1919 Pennsylvania Avenue NW., Suite 500, Washington, DC 20006, (202) 828–5015. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Foremost-McKesson, Inc., of San Francisco, CA.

MC 147400 (Sub-10), filed May 6, 1982. Applicant: RAEMARC, INC., 1903 Chicory Road, Racine, WI 53405. Representative: William D. Brejcha, 180 N. Michigan Avenue, Suite 1700, Chicago, IL 60601, (312) 263–1600. Transporting *food and related products, and restaurant supplies*, between points in the U.S. (except AK and HI), under continuing contract(s) with Distron Division of the Burger King Corporation, of Miami, FL.

MC 148791 (Sub-22), filed May 6, 1982. Applicant: TRANSPORT-WEST, INC., 2125 N. Redwood Rd., Salt Lake City, UT 84116. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110. Transporting *salt and salt products, and building materials*, between points in the U.S., under continuing contract(s) with Domtar Industries, Inc., Sifto Salt Division, of Schiller Park, IL.

MC 148791 (Sub-24), filed May 6, 1982. Applicant: TRANSPORT-WEST, INC., 2125 N. Redwood Rd., Salt Lake City, UT 84116. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110, (801) 521–1777. Transporting *plastic pellets, plastic powder, and chemicals*, between points in the U.S., under continuing contract (s) with Dow Chemical Corporation U.S.A., Louisiana Division, of Plaquemine, LA.

MC 150451 (Sub-4), filed May 7, 1982. Applicant: G & L TRANSPORT, Route 9, Troy, ME 04987. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike Vienna, VA 22180, (703) 442–8330. Transporting (1) *such commodities as are dealt in or used by manufacturers of reinforced gum tape*, between points in the U.S. (except AK and HI), under continuing contract(s) with Keena Corporation, of Brunswick, ME: and (2) *such commodities as are dealt in or used by tanneries*, between points in the U.S (except AK and HI), under continuing contract(s) with Tannin Corporation, of Peabody, MA.

MC 150461, filed May 6, 1982. Applicant: DONALD WILSON, d.b.a. WILSONS HOT SHOT SERVICE, 1015 So. Willow, Casper, WY 82604. Representative: Donald Wilson (same address as applicant), (307) 237–5574. Transporting *machinery, materials, equipment and supplies* used in, or replacing, servicing and reparing machinery and equipment used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by products, between points in WY, on the one hand, and, on the other, points in OK, CO, ND, SD, MT, UT, NE, ID, KS, TX, and NM.

MC 152620 (Sub-9), filed March 12, 1982, previously published in the **Federal Register** on April 8, 1982. Applicant: CUSTOMIZED TRANSPORTATION, INC. P. O. Box 40083, Jacksonville, FL 32203. Representative: John W. Carter (same address as applicant), (904) 733–6011. Tranporting *general commodities* except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with General Foods Corportion, of White Plains, NY, and its subsidiaries, General Foods Manufacturing Corporation and Birds Eye, Inc., each of White Plains, NY and Oscar Mayer and Co., Inc., of Madison, WI.

Note.—This republication indicates the correct contracting shippers.

MC 152730 (Sub-18), filed May 3, 1982. Applicant: DEPENDABLE TRANSIT, INC., P.O. Box 349, County Road 300 South, Hartford City, IN 47348–0349. Representative: Larry Garrett, (same address as applicant), (317) 348–0051. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 152921 (Sub-1), filed May 7, 1982. Applicant: HOU-TEX TRANSPORTATION, INC., P.O. Box 38591, Houston, TX 77088. Representative: Clayte Binion, 623 South Henderson, 2nd Floor, Fort Worth, TX 76104, (817) 332–4415. Transporting *Mercer commodities*, between points in AL, AZ, AR, CA, CO, FL, GA, KS, LA, MS, MO, MT, NE, NV, NM, ND, OK, SD, TX, UT, and WY.

MC 152950 (Sub-4), filed May 11, 1982. Applicant: CENTURY TRANSPORTATION CORPORATION, P.O. Box 207, Columbus, MS 39701. Representative: Lloyd R. Pate, (same address as applicant), (601) 329–2121. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Pepsi Cola Bottling Company, of Tupelo, MS, Artex International, Inc., of Highland, IL, Knouse Foods, Inc., of Peach Glen, PA, Dutch Oil Company, of Columbus, MS, Greater Toronto Food Broker, LTD., of Mississauga, Ontario, Canada, Beneke Corporation, of Columbus, MS, and Kerr Glass Manufacturing Corporation, of Sand Springs, OK.

MC 154121 (Sub-19), filed May 3, 1982. Applicant: TRAILINER CORP., 2169 E. Blaine, Springfield, MO 65803. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 435–7140. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 156550 (Sub-1), filed May 13, 1982. Applicant: JERRY NICHOLAS d.b.a. QUICK TRANSFER COMPANY, 8415 East Gilbert, Wichita, KS 67207. Representative: William B. Barker, P.O. Box 1979, Topeka, KS 66601, (913) 234–0585. transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in KS and OK.

MC 157750 (Sub-1), filed May 3, 1982. Applicant: TENNESSEE OHIO EXPRESS, INC., P.O. BOX 171066, Nashville, TN 37217. Representative: Roland M. Lowell, 5th Floor, 501 Union St., Nashville, TN 37219, (615) 255–0540. Over regular routes, transporting *general commodities* (except classes A and B explosives), between Cincinnati, OH and Atlanta, GA (A) over Interstate Hwy 75, serving all intermediate points, and (B) from Cincinnati over Interstate Hwy 75 to junction Interstate Hwy 71, then over Interstate Hwy 71 to junction Interstate Hwy 65, then over Interstate Hwy 65 to junction Interstate Hwy 24, then over Interstate Hwy 24 to junction Interstate Hwy 75, then over Interstate Hwy 75 to Altanta and return over the same route, as an alternate route for operating convenience only.

Note.—Applicant intends to tack this authority with its existing regular route authority.

MC 158181 (Sub-1), filed May 10, 1982. Applicant: ALUMINUM EXPRESS, INC., 339 Rocky Fork Dr., N.E., Newark, OH 43055. Representative: Andrew Jay Burkholder, 275 E. State St., Columbus, OH 43215, (614) 228–6575. Transporting *rubber and plastic products, machinery, and metal products*, between points in Richland County, OH, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 159421, filed May 7, 1982. Applicant: BROADWAY TRANSPORT, INC., 3310 Quebec Street, Dallas, TX 75247. Representative: Richard J. Bara, 1155 Sherman Street, Suite 315, Denver, CO 80203, (303) 831–7272. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AR, CO, KS, LA, MO, MS, NM, OK, and TX.

MC 161721, filed May 13, 1982. Applicant: JOHN S. POCOCK AND RALPH R. POCOCK, d.b.a. POCOCK FARMS, Rt. 1, Sugar City, ID 83448. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343–3071. Transporting (1) *chemicals;* (2) *coal;* and (3) *minerals*, between points in ID, MT, NV, OR, UT, WA and WY, on the one hand, and, on the other, points in ID, UT and WY.

MC 161791, filed May 3, 1982. Applicant: H. W. ASHLINE & SONS, INC., Weston St., Randolph, VT 05060. Representative: Albert J. Cirone, Jr., 23 Bank St., Lebanon, NH 03766, (603) 448–1330. Transporting *such commodities as are dealt in by manufacturers and distributors of stoves, home furnishings and wood products*, (1) between points in the U.S. (except AK and HI), under continuing contract(s) with Vermont Castings, Inc. and Branchwood, Inc., each of Randolph, VT; and (2) between points in Bethel and Randolph, VT, on the one hand, and, on the other, ports of entry on the International Boundary line between the U.S. and Canada, under a continuing contract(s) with Vermont Castings, Inc. and Branchwood, Inc., each of Randolph, VT.

MC 161840, filed May 4, 1982. Applicant: RANSOM REFRIGERATED FREIGHTWAYS, INC., 40 Johnson Avenue, Cranford, NJ 07016. Representative: E. Stephen Heisley, 1919 Pennsylvania Avenue, NW, Suite 500, Washington, DC 20006, (202) 828–5015. Transporting (1) *building materials*, between points in Union County, NJ, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, KY, TN, GA, and FL; and (2) *food and related products*, between points in ME, NH, VT, MA, CT, RI, NY, NJ, PA, DE, MD, VA, WV, NC, and SC, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 161841, filed May 4, 1982. Applicant: PRMMI TRUCKING, INC., 30 Maritime and Faragate Sts., Jacksonville, FL 32208. Representative: Morris R. Garfinkle, 1054 Thirty-first St., N.W., Washington, DC 20007, (202)–342–5200. Transporting *general commodities* (except classes A and B explosives), between (1) Elizabeth, NJ; (2) Baltimore, MD; (3) Charleston, SC; (4) Jacksonville, FL; (5) Miami, FL; (6) New Orleans, LA; and (7) Houston, TX, restricted to traffic having a prior or subsequent movement by water in (1) through (7) above.

MC 161871, filed May 7, 1982. Applicant: EAGLE CHARTERS, 499 East Proctor St., Wilmington, CA 90744. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (415) 986–8998. Transporting *passengers and their baggage*, in the same vehicle with passengers, in charter operations, beginning and ending at points in Los Angeles County, CA, and extending to points in the U.S. (including AK but excluding HI).

MC 161920, filed May 10, 1982. Applicant: SIX STATES ASSN., 1611 West County Rd. B, P.O. Box 43557, St. Paul, MN 55164. Representative: Val M. Higgins, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, (612)–333–1341. Transporting *construction materials* (except commodities in bulk), between points in the U.S., under continuing contract(s) with Great Plains Supply Co., a Division of Farmers Union Grain Terminal Association, of St. Paul, MN.

MC 161940, filed May 11, 1982. Applicant: CARL'S TOUR & TRAVEL, INC., PO Box 427, Decorah, IA 52101. Representative: Stanley C. Olsen, Jr., 5200 Willson Road, Suite 307, Edina, MN 55424, (612) 927–8855. As a *broker*, at Decorah, IA, in arranging for the transportation of *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in MN and IA and extending to points in the U.S. (including AK and HI).

MC 161950, filed May 10, 1982. Applicant: SDS TRANSPORT CO., INC., 381 Quincy Ave., Quincy, MA 02169. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, (617)–742–3530. Transporting *food and related products*, between points in CA, CO, FL, GA, IL, MA, MI, MN, MO, NJ, NY, NC, OH, OR, PA, TN, TX, and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161960, filed May 14, 1982. Applicant: KPC TRANSPORATION, INC., P.O. Box 1154, Elkhart, IN 46515. Representative: Paul D. Borghesani, 700 Communicana Bldg., 421 So. Second St., Elkhart, IN 46516, (219) 293–3587. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Riblet Products Corporation, and its subsidiaries and divisions, of Elkhart, IN.

Volume No. OP 2–166

Decided: May 13, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 58902 (Sub-23), filed April 27, 1982. Applicant: MANLEY TRUCK LINE, INC., P.O. Box 1575 SSS, Springfield, MO 65806. Representative: A. J. Whisler, (same address as applicant), 417–865–2800. Over *regular routes*, transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) (1), between Little Rock and Searcy, AR, over U.S. Hwy 67, serving all intermediate points and off-route points in Lonoke and White Counties, AR, (2) between Little Rock and Pine Bluff, AR, over U.S. Hwy. 65, serving all intermediate points and off-route points in Jefferson and Grant Counties, AR, and (3) serving points in Nowata, Osage, Pawnee, and Hughes Counties, OK, as off-route points in connection with applicant's otherwise authorized regular route authority.

Note.—This authority may be tacked with existing authority.

MC 105902 (Sub-32), filed May 5, 1982. Applicant: PENN YAN EXPRESS, INC., 100 West Lake Road, Penn Yan, NY 14527. Representative: Russell R. Sage, P.O. Box 11278, Alexandria, VA 22312, (703) 750–1112. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in OH.

MC 135243 (Sub-7), filed April 30, 1982. Applicant: WISPAK TRANSPORT, INC., 4700 North 132nd St., P.O. Box 304, Butler, WI 53007. Representative: Richard A. Westley, 4506 Regent St. Suite 100, P.O. Box 5066, Madison, WI 53705–0066, 608–238–3119. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with (a) Wisconsin Packing Co., of Butler, WI, (b) New Glarus Foods, Inc., of New Glarus, WI, and (c) Justro Feed Corp.,

Milwaukee Tallow Co., Inc., and Carrie Shortening Corp., all of Milwaukee, WI.

MC 139852 (Sub-6), filed May 3, 1982. Applicant: E. C. BLACK, d.b.a. BLACK TRUCKING COMPANY, Route 1, York, SC 29745. Representative: Joseph M. Epting, 1338 Main St., Suite 900, P.O. Box 11414, Columbia, SC 29211, (803) 799–9427. Transporting *metal products*, between points in Iredell County, NC, on the one hand, and, on the other, points in GA, SC, NC and TN.

MC 141982 (Sub-4), filed April 13, 1982. Applicant: NORTHEAST REFRIGERATED DISTRIBUTING CO., INC. 1650 Shawsheen St., Tewksbury, MA 01876. Representative: Joseph M. Klements, 89 State Street, Boston, MA 02109, (617) 523–0800. Transporting *food and related products*, between points in MA, CT, VT, and ME.

Note.—Applicant intends to tack this authority with its existing authority in MC–141982 Sub-No. 3, between MA, RI, and NH.

MC 143720 (Sub-20), filed April 15, 1982. Applicant: ALL FREIGHT SYSTEMS, INC., 1026 South 10th Street, Kansas City, KS 66105. Representative: Donald J. Quinn, Commerce Bank Bldg., 9901 State Line-Suite 232, Kansas City, MO 64114, (816) 444–7474. Transporting *foodstuffs*, between points in the U.S., under a continuing contract(s) with Banquet Foods Corporation, of Ballwin, MO.

MC 144603 (Sub-18), filed April 12, 1982. Applicant: F.M.S. TRANSPORTATION, INC., 2564 Harley Drive, Maryland Heights, MO 63043. Representative: Laura C. Berry, (same address as applicant), (314) 291–3030. Transporting *textile mill products*, between points in Guadalupe County, TX, and Spalding County, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152523 (Sub-3), filed April 9, 1982. Applicant: ARLO G. LOTT, TRUCKING, P.O. Box 174, Arco, ID 83213. Representative: Arlo G. Lott, (same address as above) (208) 527–3429. Transporting *lumber and wood products*, between points in the U.S., (except AK and HI), under continuing contract (s) with Capital Lumber Company, of Phoenix, AZ.

MC 153553 (Sub-3), filed April 20, 1982. Applicant: ROCKINGHAM CARRIAGE SERVICE, INC., Rte. #1 Bypass, P.O. Box 1349, Portsmouth, NH 03801. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181 617–235–5571 Transporting *motor vehicles*, between points in the U.S. (except AK and HI), under continuing contract(s) with Federal Express Corporation, of Memphis, TN.

MC 153683, filed May 3, 1982. Applicant: BPD LEASE, INC., P.O. Box 303, Sheridan, MI 48884. Representative: Joseph A. Farhat, III, 417 Seymour Ave., Lansing, MI 48933. Transporting (1) *building materials and supplies*, (2) *such commodities* as are dealt in by distributors of hardware, roofing, siding, and insulation and (3) *lumber and wood products*, between points in the U.S., under continuing contract(s) with Big L Corporation, of Sheridan, MI.

MC 153773, filed April 13, 1982. Applicant: NDC TRUCKING COMPANY, P.O. Box 7364, Longview, TX 75061. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, (214) 255–6279. Transporting *petroleum and coal tar products* (except in bulk), between Los Angeles, CA, and points in Boone County, AR, Warren County, MS, Oklahoma County, OK, and TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159142 (Sub-1), filed April 12, 1982. Applicant: C AND C TRANSPORTATION, 6275 E. 39th Ave., Denver, CO 80207. Representative: John J. Pearson, (same address as applicant), (303) 320–5511. Transporting (1) *malt beverages and related advertising materials* (2) *empty used beverage containers and such commodities as are dealt in or used by breweries*, between points in Jefferson County, CO, and points in AZ, CA, IA, ID, MT, and WA.

MC 161432, filed April 9, 1982. Applicant: CAROLINA TOURS, Route 3, Box 121, Lexington, SC 29072. Representative: Ingrid C. Long, (same address as applicants), (803) 359–6842. To operate as a *broker*, at Lexington, SC, to arrange for the transportation, by motor vehicle, of *passengers and their baggage*, between points in SC, on the one hand, and, on the other, points in the U.S.

MC 161462, filed April 13, 1982. Applicant: F & J GRAIN & COAL, R.R. #2, Box 143, Washington, IN 47501. Representative: Walter F. Jones, Jr., 1111 E. 54th St., Indianapolis, IN 46220, (317) 257–4066. Transporting *lime and dry fertilizer*, between Chicago and Danville, IL, Delphi, Indianapolis, Burns Harbor, and Mount Vernon, IN, Hannibal, MO and Louisville, KY and points in Tippecanoe and Cass Counties, IN, on the one hand, and, on the other, points in IN, IL, KY and OH.

MC 161782, filed April 30, 1982. Applicant: JOHN B. VERBLE, d.b.a., TRI-CITY COACH TOURS, P.O. Box 2191, Johnson City, TN 37601. Representative: John B. Verble, (address same as applicant), (615) 929–1010. To operate, as a *broker*, at Johnson City, TN, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, beginning and ending at points in Carter, Green, Sullivan, Unicoi, and Washington Counties, TN, and extending to points in the U.S.

MC 161792, filed April 30, 1982. Applicant: JOHN R. AND JEANETTE P. NOBLITT, d.b.a., EXPRESS MOBILE HOME TRANSPORT, 4075 Boulder Hwy., Las Vegas, NV 89121. Representative: Drake De Lanoy, 302 East Carson Ave., Suite 1000, Las Vegas, NV 89101, (702) 385–3373. Transporting *mobile homes*, between points in NV, CA, UT and AZ.

MC 161802, filed May 3, 1982. Applicant: TEXAS GULFWESTERN TRUCK LINE, INC., P.O. Box 923, Friendswood, TX 77546. Representative: Paul D. Angenend, P.O. Box 2207, 1806 Rio Grande, Austin, TX 78768, (512) 476–6391. Transporting *Mercer commodities*, between points in AR, CO, LA, MS, MT, ND, NM, OK, SD, TX, and WY.

MC 161803, filed May 3, 1982. Applicant: ADM TOURS, INC., 4007 West Points Loma Blvd., San Diego, CA 92110. Representative: Roger Curtis McKee, 5030 Camino de la Siesta, Suite 305, San Diego, CA 92108, (714) 296–5051. To operate as a *broker*, at San Diego, CA, in arranging for transportation, by motor vehicle, of *passengers and their baggage*, beginning and ending in San Deigo, Orange, Imperial, San Bernardino and Los Angeles Counties, CA, and Maricopa and Yuma Counties, AZ, and extending to points in the U.S.

MC 161832, filed May 4, 1982. Applicant: FUN TOURS, INC., 1805 Norview Avenue Norfolk, VA 23518. Representative: Paul A. Elmore, 5249 Cape Henry Avenue, Norfolk, VA 23513, (804) 853–8202. Transporting *passengers and their baggage*, in special and charter operations, beginning and ending at points in VA, and extending to points in the U.S. (including AK, but excluding HI).

Volume No. OP3–060

Decided: May 21, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 52574 (Sub-67), filed May 13, 1982. Applicant: ELIZABETH FREIGHT FORWARDING CORP., 120 South 20th St., Irvington, NJ 07111. Representative: Edward F. Bowes, Seven Becker Farm Rd., P.O. Box Y, Roseland, NJ 07068, (201) 992–2200. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with A. Lechter

Co., of Union, NJ, I. Lehrhoff & Co., of Newark, NJ, I. P. Container Corp., of Paterson, NJ, Jersey Tab Card, of Union, NJ, Dean Floor Covering Co., of Wharton, NJ, and Mary Proctor Tables Corp., of Baltimore, MD.

MC 109515 (Sub-19), filed May 10, 1982. Applicant: OZELLA HARRINGTON, P.O. Box 604, Benson, AZ 85602. Representative: Lex J. Smith, 363 N. First Ave., Phoenix, AZ 85003, (602) 262–8811. Transporting *liquid and dry fertilizers*, between points in Imperial County, GA, Graham, Cochise, Pinal, Pima and Maricopa Counties, AZ, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Arizona Agrochemical Company, of Phoenix, AZ.

MC 114604 (Sub-130), filed May 13, 1982. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, State Farmers Market #33, Forest Park, GA 30050. Representative: Paula S. Davis, (same address as applicant), (404) 361–9170. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 116045 (Sub-55), filed May 14, 1982. Applicant: NEUMAN TRANSIT CO., INC., P.O. Box 38, Rawlins, WY 82301. Representative: Leslie R. Kehl, 1660 Lincoln St., Suite 1600, Denver, CO 80265, (303) 861–4028. Transporting *commodities in bulk*, between points in AZ, CO, ID, MT, NE, NV, NM, SD, UT, and WY.

MC 127535 (Sub-6), filed May 14, 1982. Applicant: TROY NEWS COMPANY, INC., 274 Second St., P.O. Box 388, Troy, NY 12181. Representative: Herbert M. Canter, 305 Montgomery St., Syracuse, NY 13202, (315) 472–8845. Transporting (1) *printed matter*, between points in NY, on the one hand, and, on the other, points in CT, MA, NH, PA, RI, and VT; and (2) *agricultural implements*, between points in Rensselaer and Saratoga Counties, NY, on the one hand, and, on the other, points in CT, MA, NH, PA, RI, and VI.

MC 133154 (Sub-15), filed May 10, 1982. Applicant: BELL TRANSPORT COMPANY, 14000 E. 183rd St., La Palma, CA 90623. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210, (503) 226–3755. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Superior Transportation Systems, Inc., of Wilsonville, OR.

MC 140104 (Sub-12), filed May 6, 1982. Applicant: TOLEDO FRIGID LINES, INC., 4060 Fitch Rd., Toledo, OH 43613. Representative: Jerry B. Sellman, 50 W. Broad St., Columbus, OH 43215, (614) 464–4103. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of food and related products, between points in the U.S. (except AK and HI).

MC 140484 (Sub-109), filed May 13, 1982. Applicant LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day (same address as applicant), (813) 334–4517. Transporting *such commodities* as are dealt in or used by wholesale, retail, and chain grocery and food business houses, between points in MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 143374 (Sub-4), filed May 11, 1982. Applicant: DURBIN TRANSPORT, INC., 17683 Oakmont Avenue, Gaithersburg, MD 20877. Representative: H. Neil Garson, 3251 Old Lee Highway, #400, Fairfax, VA 22030, (703) 840–8487. Transporting *food and related products*, between Atlanta, GA, Chicago, IL, Dallas, TX, Denver, CO, Kansas City, KS, Los Angeles, CA, Portland, OR, Syracuse, NY, points in MD, MI, and AL, on the one hand, and, on the other, points in AL, DE, FL, GA, IL, IN, KY, MI, MS, NJ, NC, NY, OH, PA, SC, TN, VA, WV and DC.

MC 148665 (Sub-6), filed May 14, 1982. Applicant: CFS CONTINENTAL TRANSPORTATION COMPANY, 2550 North Clybourn Ave., Chicago, IL 60614. Representative: Leonard R. Kofkin, 140 South Dearborn St., Suite 1515, Chicago, IL 60603, (312) 580–2210. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with ITOFCA, Inc., of Downers Grove, IL.

MC 157705 (Sub-1), filed May 14, 1982. Applicant: ELDEN RUETER TRUCKING, INC., Rte. #3, Box 254, Centralia, IL 62801. Representative: Edward D. McNamara, Jr., 907 South Fourth St., Springfield, IL 62703, (217) 528–8476. Transporting *general commodities* (except household goods and classes A and B explosives), between points in MO, IA, WI and IN, on the one hand, and, on the other, points in Clinton, Marion, and Washington Counties, IL.

MC 161285, filed May 17, 1982. Applicant: H. B. G. TRUCKING CO., 24105 Pierce, Southfield, MI 48075. Representative: Henry B. Gavins (same address as applicant), (313) 559–7459. Transporting *couplings and oil well parts*, between Detroit, MI and points in OH, IN, IL, KY, TN, MS, LA, AR and TX, under continuing contract(s) with Clipper International Corp., of Detroit, MI.

MC 161525, filed May 14, 1982. Applicant: SUPALLA TRUCKING CO., Route 2, Box 194, New Richland, MN 56072. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424, (612) 927–8855. Transporting *such commodities* as are used in the production of agricultural commodities, between points in the U.S. (except HI), under continuing contract(s) with Huntting Elevator Co., of Austin, MN.

MC 161644, filed May 13, 1982. Applicant: HOUSTON MARINE SERVICES, INC., 505 Atrium One, 11611 I–10 East, Houston, TX 77029. Representative: Stephanie N. Josephson, 1616 Coastal Tower, Nine Greenway Plaza, Houston, TX 77046, (713) 961–9045. Transporting *petroleum products*, between points in TX and LA, under continuing contract(s) with Shell Oil Company, and BP North America Trading, Inc., both a Delaware Corporation, of Houston, TX.

MC 161714, filed April 20, 1982. Applicant: TYGARD EQUIPMENT COMPANY, INC., 101 E. Carson St., Pittsburgh, PA 15219. Representative: John A. Vuono, 2310 Grant Bldg., Pittsburgh, PA 15219–2838, (412) 471–1800. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with 84 Lumber Company, of Eighty-Four, PA.

Volume No. OP4–186

Decided: May 19, 1982.

By the Commission, Review Board No. 2. Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 1017 (Sub-3), filed May 14, 1982. Applicant: SWAN TRUCKING CORP., 3433 Holyoke Rd., Philadelphia, PA 19114. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966, (215) 357–7220. Transporting (1) *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Thos. D. Richardson Co., division of Beatrice Foods, of Philadelphia, PA, and (2) *such commodities* as are dealt in or used by automotive retail stores, between points in the U.S. (except AK and HI), under continuing conract(s) with Pep Boys, of Philadelphia, PA.

MC 89697 (Sub-37), filed May 14, 1982. Applicant: KRAJACK TANK LINES, INC., 480 E. Westfield Ave., Roselle Park, NJ 07204. Representative: Morton

E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048–0640, (212) 466–0220. Transporting *such commodities* as are dealt in or used by refiners and manufacturers of petroleum products and chemicals, between points in the U.S., under continuing contract(s) with Shell Oil Co., of Houston, TX.

MC 111617 (Sub-11), filed May 14, 1982. Applicant: O'NEILL TRANSFER COMPANY, INC., 2215 NW. 22d Place, Portland, OR 97210. Representative: David C. White, 2400 SW. Fourth Ave., Portland, OR 97201, (503) 226–6491. Transporting *furniture, fixtures and related products,* between points in CA, OR and WA, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NM, OR, UT, and WA.

MC 126477 (Sub-12), filed April 1, 1982, previously noticed in the **Federal Register** issue of April 20, 1982, and republished this issue. Applicant: JET AIR FREIGHT & PARCEL DELIVERY, INC. P.O. Box 9313, Baer Field, Fort Wayne, IN 46899. Representative: James P. Kirkhope, P.O. Box 15296, Fort Wayne, IN 46885, (219) 422–8884.Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with American Shippers, Inc., of Fort Wayne, IN. Condition: A grant of authority is condition upon the receipt from applicant of an explanation why the proposed operations are not prescribed by 49 U.S.C. § 11323, which limits the ownership and control of other carriers by freight forwarders. A similar condition has been applied to MC 143229 Sub-6 and MC 147262, which carriers share this relationship with applicant.

MC 129537 (Sub-68), filed May 3, 1982. Applicant: REEVES TRANSPORTATION CO., Rt. 5, Dew's Pond Rd., Calhoun, GA 30710. Representative: John C. Vogt, Jr., 406 N. Morgan St., Tampa, FL 33602, (813) 229–6165. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 160217, filed May 14, 1982. Applicant: DASH MESSENGER SERVICE, INC., 541 W. Roosevelt Rd., Chicago, IL 60607. Representative: Willian H. Taylor, (same address as applicant), (312) 243–0987. Transporting *printing ink and printed matter,* between points in IL, on the one hand, and, on the other, points in IN, IA, MO, OH, and WI.

MC 161997, filed May 14, 1982. Applicant: PACIFIC INDEPENDENT MOTOR EXPRESS, INC., 17114 Shadow Ct., Milwaukee, OR 97222. Representative: Lawrence V. Smart, Jr., 419 N.W. 23d Ave., Portland, OR 97210, (503) 226–3755. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in OR, WA, NV, and CA.

MC 152097 (Sub–1), filed May 14, 1982. Applicant: UNITED CONTRACT CARRIER, INC., P.O. Box 355, Rocky Hill, CT 06067. Representative: Gerald A. Joseloff, 410 Asylum St., Hartford, CT 06103, (203) 728–0700. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Caldor, Inc., of Norwalk, CT, Frem Corporation, of Worcester, MA, and Benjamin Finkelstein, Inc., of Webster, MA.

Volume No. OP5–114

Decided: May 19, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 41098 (Sub-79), filed May 12, 1982. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, D.C. 20006, (202) 833–8884. Transporting *household goods* between points in the U.S., under continuing contract(s) with Ex-Cell-O Corporation, of Troy, MI.

MC 118159 (Sub-382), filed May 19, 1982. Applicant: DISTRIBUTION SERVICE SYSTEMS, INC., 2961 Interstate St., Unit 2, Charlotte, NC 28208. Representative: Charles W. Singer, P.O. Box 2298, Green Bay, WI 54306, (414) 4907–2201. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with The Mead Corporation of Dayton, OH.

MC 123978 (Sub-5), filed May 10, 1982. Applicant: RICHEY & STEWART, INC., P.O. Box 235, Scottsburg, IN 47170. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, 317–846–6655. Transporting (1) *pulp, paper and related products,* and (2) *printed matter,* between points in the U.S., (except AK and HI), under continuing contract(s) with Bowater Computer Forms, Inc. of Plano, Tx.

MC 133589 (Sub-5), filed May 11, 1982. Applicant: BCT, INC., P.O. Box 7219, Boise, ID 83707. Representative: James R. Daly (same address as applicant), 208–384–7230. Transporting *paint, liquid cement, and adhesives,* between points in the U.S. (except AK and HI), under continuing contract(s) with Speciality Chemicals Company, Inc. and Speciality Coatings Company both of Elk Grove Village, IL.

MC 138308 (Sub-149), filed May 12, 1982. Applicant: KLM, INC., P.O. Box 6098, Jackson, MS 39208. Representative: Donald B. Morrison, P.O. Box 22828, Jackson, MS 39205, (601) 948–8820. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 146438 (Sub-16), filed May 10, 1982. Applicant: ETV, INC., P.O. Box 391, Comstock Park, MI 49321. Representative: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, MI 48226, (313) 962–6492. Transporting *frozen food* between Montgomery, AL, and points in Berrien County, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146729 (Sub-16), filed May 10, 1982. Applicant: JAMES S. HELWIG & ALLEN L. GRIMLAND, d.b.a. H & G LEASING, 4525 Irving Blvd., Dallas, TX 75247. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245, 214–358–3341. Transporting *chemicals and related products,* between points in TX, on the one hand, and, on the other, points in NY, NJ, DE, OH, PA, MO, CA, KS, VA, IL, and AL.

MC 147318 (Sub-12), filed May 10, 1982. Applicant: DEEP SOUTH TRUCKING, INC., P.O. Box 304, Purvis, MS 39475. Representative: Donald B. Morrison, P.O. Box 22828, Jackson, MS 39205, 601–948–8820. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. under continuing contract(s) with Kuhlman Electric Company of Crystal Springs, MS.

MC 151039 (Sub-2), filed May 10, 1982. Applicant: CABARRUS CONSOLIDATING AND MANAGEMENT COMPANY, P.O. Box 1212, Concord, NC 28025. Representative: John N. Fountain, P.O. Box 2246, Raleigh, NC 27602, (919) 828–0731. Transporting *foods and related products* between points in FL, LA, NY, and TX, on the one hand, and, on the other, Birmingham, AL, and points in Cabarrus County, NC.

MC 152688 (Sub-1), filed May 6, 1982. Applicant: CHEMICAL DISPOSAL, INC., P.O. Box 397, Rillito, AZ 85246. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014, (602) 264–4891. Transporting *hazardous wastes* between points in AZ on the one

hand, and, on the other, points in AZ, CA, OR, WA, ID, UT, CO, NM, TX, and NV. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority, please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 5, Room 6370.

MC 154009 (Sub-1), filed May 2, 1982. Applicant: EAST COAST CONSOLIDATORS, P.O. Box 188, (Mt. Royal Plaza), Paulsboro, NJ 08066. Representative: Thomas F. X. Foley, P.O. Box F, Colts Neck, NJ 0722, (201) 946–2020. Transporting *general commodities* (except commodities in bulk, classes A and B explosives, and household goods as defined by the Commission), between points in the U.S. (except AK and HI).

MC 158129 (Sub-5), filed May 10, 1982. Applicant: REGAL TRANSPORTATION, INC., P.O. Box 310, Niles, OH 44446. Representative: A. Charles Tell, 100 E. Broad St., Suite 1800, Columbus, OH 43215, 614–228–1541. Transporting *metal products*, between points in MA, OH, and PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161479 (Sub-1), filed May 11, 1982. Applicant: B & P TRANSPORTATION CO., INC., 4086 Viscount, Memphis, TN 38118. Representative: Tommie J. Perkins, Sr. (same address as applicant), 901–362–2868. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, AR, LA, MS, and TN, under continuing contract(s) with Southern Warehouses, Inc. of Memphis, TN.

MC 161569 (Sub-1), filed May 11, 1982. Applicant: TRANSPORT CONTRACTORS, INC., 2206 Frankfort Ave., Louisville, KY 40206. Representative: Taylor O. Cowan III, 6408 Clinton Hwy., Knoxville, TN 37912, 615–938–5001. Transporting *plastic and plastic products*, between points in Posey County, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with General Electric Corporation of Mt. Vernon, IN.

MC 161939, filed May 11, 1982. Applicant: C.A.C. TRANSPORT, INC., 14023 West Hardy, Houston, TX 77060. Representative: C. W. Ferebee, 3910 FM 1960 W., Suite 106, Houston, TX 77068, 713–537–8156. Transporting (1) *Mercer commodities*, and (2) *earth drilling equipment*, between points in AL, AR, AZ, CA, CO, FL, LA, MS, MT, NM, ND, OK, TX, UT, and WY.

MC 161948, filed May 10, 1982. Applicant: CLUSIAU'S RANGE DRIVE-UR-SELF SERVICE, INC., East Hwy 37, P.O. Box 688, Hibbing, MN 55746. Representative: David C. Lingren, 124 Ave. C, Cloquet, MN 55720, 218–879–3331. Transporting *passengers and their baggage in the same vehicle with passengers*, in special and charter operations, between points in St. Louis, Itasca, and Koochiching Counties, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161968, filed May 12, 1982. Applicant: RAY HALEY TRUCKING, 7301 Bridge Lane, Redding, CA 96001. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055–3273, 206–235–1111. Transporting (1) *lumber and wood products*, and (2) *chemicals and related products*, between points in CA, NV, OR, and WA.

Volume No. OP5–116

Decided: May 19, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

FF–599, filed May 13, 1982. Applicant: OHIO FREIGHT FORWARDERS, INC., 8841 Timberlink Rd., N.W., Canal Fulton, OH 44614. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St., N.W., Washington, DC 20005, 202–783–3525. As a freight forwarder of *general commodities* (except used household goods, unaccompanied baggage, used automobiles, and classes A and B explosives), between points in Ashland, Ashtabula, Belmont, Carroll, Columbiana, Coshocton, Crawford, Cuyohoga, Delaware, Erie, Fairfield, Franklin, Geauga, Guernsey, Harrison, Holmes, Huron, Jefferson, Knox, Lake, Licking, Lorain, Mahoning, Marion, Medina, Morrow, Muskingum, Portage, Richland, Stark, Summit, Trumbull, Tuscarawas, and Wayne Counties, OH, on the one hand, and, on the other, Philadelphia, PA, Baltimore, MD, and points in Bronx, Kings, New York, Queens, Richmond, Westchester, Nassau and Suffolk counties, NY; Bergen, Hudson, Passaic, Essex, Union, Morris, Middlesex, Monmouth, and Sommerset Counties, NJ.

MC 65019 (Sub-11), filed May 14, 1982. Applicant: BEATRICE MOTOR EXPRESS, INC., 123 Court Street, Beatrice, NE 68310. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *general commodities* (except household goods, classes A and B explosives, and commodities in bulk), between points in Gage County, NE, on the one hand, and, on the other, points in AR, MI, MS, NE, and PA.

MC 133189 (Sub-44), filed December 14, 1981, previously published republication, in **Federal Register** on January 11, 1982. Applicant: VANT TRANSFER, INC., 1257 Osborne Road, Minneapolis, MN 55432. Representative: John B. Van de North, Jr., 2200 First National Bank Bldg., St. Paul, MN 55101, (612) 291–1215. Transporting *general commodities* (except household goods and commodities in bulk) between Duluth, MN, on the one hand, and, on the other, points in AR, CO, IA, IL, IN, KY, MI, MO, NE, ND, NM, OH, SD, TX, WI, and WY.

Note.—Purpose of republication is to show Arkansas in place of Alaska.

MC 134689 (Sub-8), filed May 13, 1982. Applicant: LA ROSA DEL MONTE EXPRESS, INC., 1133–1135 Tiffany St., Bronx, NY 10459. Representative: Larsh B. Mewhinney, 555 Madison Ave., New York, NY 10022, 212–838–0800. Transporting (1) *household goods*, and (2) *furniture and fixtures*, between points in CT, MA, NH, NJ, NY, PA, and RI.

MC 136818 (Sub-142), filed May 13, 1982. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 5601 W. Mohave, Phoenix, AZ 85031. Representative: Donald E. Fernaays, 4040 E. McDowell Rd., Suite 320, Phoenix, AZ 85008, 602–275–3124. Transporting (1) *building materials*, and (2) *lumber and wood products*, between points in the U.S. (except AK and HI).

MC 140619 (Sub-5), filed May 13, 1982. Applicant: AMAC TRUCKING, INC., 5950 Sixth Ave., South, Seattle, WA 98108. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, (216) 566–5639. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Terminal Freight Cooperative Association of Downers Grove, IL.

MC 146729 (Sub-17), filed May 14, 1982. Applicant: JAMES S. HELWIG & ALLEN L. GRIMLAND, d.b.a. H & G LEASING, 4525 Irving Blvd., Dallas, TX 75247. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245, 214–358–3341. Transporting *machinery*, between points in TX, on the one hand, and, on the other, points in CA, GA, IN, IL, NJ, FL, MN, WI, and TN.

MC 149308 (Sub-24), filed May 14, 1982. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., P.O. Box P, Sellersburg, IN 47170. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655.

Transporting (1) *clay, concrete, glass or stone products,* and (2) *chemicals and related products* (a) between Chicago, IL and St. Louis, MO, (b) between points in Santa Barbara County, CA, on the one hand, and, on the other, St. Louis and Kansas City, MO, and Denver, CO, and (c) between points in Davidson County, TN, on the one hand, and, on the other, St. Louis and Kansas City, MO.

MC 152008 (Sub-2), filed May 13, 1982. Applicant: CASE ENTERPRISES, INC., 322 Cedar Springs Rd., Athens, TN 37303. Representative: M. C. Ellis, c/o Chattanooga Freight Bureau, Inc., 1001 Market St., Chattanooga, TN 37402, (615) 756–3620. Transporting (1) *chemicals and related products* under continuing contract(s) with Dycho Chemical Co., Inc., of Niota, TN, (2) *plastic products* under continuing contract(s) with Southern Petrochemical Co., of Roswell, GA, (3) *paper and related products* under continuing contract(s) with Bowater Southern Paper Company, a division of Bowater North America Corporation, of Calhoun, TN, and (4) *textile mill products* under continuing contract(s) with Crescent Hosiery Mills of Niota, TN, between points in the U.S.

MC 152509 (Sub-23), filed May 14, 1982. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., 1370 Ontario St., Cleveland, OH 44101. Representative: J. L. Nedrich (same address as applicant), (216) 566–2677. Transporting *boxes* between points in the U.S. (except AK and HI), under continuing contract(s) with Corr Pak, Inc., of New Brunswick, NJ.

MC 153679 (Sub-6), filed May 14, 1982. Applicant: CUMBERLAND FREIGHT LINES, INC., 13th St., Smyrna, TN 37167. Representative: J. Greg Hardeman, 618 United American Bank Bldg., Nashville, TN 37219, 615–244–6100. Transporting *such commodities* as are dealt in or used by retail or wholesale groceries or grocery distribution warehouses, between points in Davidson County, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with C.B. Ragland Company of Nashville, TN.

MC 154569 (Sub-4), filed May 13, 1982. Applicant: LEYDIG TRUCKING, INC., P.O. Box 217, Corriganville, MD 21524. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, 301–797–6060. Transporting *coal,* between points in VA, on the one hand, and, on the other, points in PA, MD, and WV.

MC 154629 (Sub-2), filed May 12, 1982. Applicant: GLOBAL DISTRIBUTORS, INC., P.O. Box 335—Riverside Drive, Fultonville, NY 12072. Representative: Vincent Gramuglia (same address as applicant), (518) 853-3476. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with General Electric Company, Capacitor Products Dept., of Hudson Falls, NY, and Valcour Imprinted Papers, Inc., of Glen Falls, NY.

MC 157208 (Sub-1), filed May 11, 1982. Applicant: HACKENBERG TRUCKING COMPANY, Route 3—Long Lake, Three Rivers, MI 49093. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459–6121. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in MI, IL, and IN, under continuing contract(s) with Dick Anthony Enterprises of Three Rivers, MI.

MC 160179, filed May 14, 1982. Applicant: BELL WAREHOUSE, INC., 1200 Greenwood Ave., Maywood, IL 60153. Representative: Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60603, (312) 782–8880. Transporting (1) *printed matter,* and (2) *pulp, paper and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Industrial Mill, Inc., and L. L. Hanson Company, Inc., both of Chicago, IL.

MC 161959, filed May 14, 1982. Applicant: FRED MILLER, 9236 Sandler Rd., Jacksonville, FL 32244. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202, (904) 632–2300. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Duval County, FL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162008, filed May 14, 1982. Applicant: GREAT SOUTHWEST EXPRESS CO., INC., 1023 Rockcut Rd., Forest Park, GA 30050. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237, (404) 477–1525. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, FL, GA, NC, SC, TN, and VA, under continuing contract(s) with Chi-Can Freight Forwarding, Ltd., and B. C. Forwarding Company, Ltd., both of Chicago, IL.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-14386 Filed 5-26-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 259]

Permanent Authority Decisions Restriction Removals Decision-Notice

Decided: May 20, 1982.

The following restrictions removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

CANADIAN CARRIER APPLICANTS: In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC–157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Ewing, and Williams.

Agatha L. Mergenovich

Secretary.

MC 21643 (Sub-1)X, filed 5–13–82. Applicant: PAUL W. TAYLOR CO., INC., 62 Foundry St., Wakefield, MA 01880. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Lead certificate: broaden (1) from household goods to "household goods and furniture and fixtures" and (2) to country-wide authority: Somerville and

points within 25 miles thereof to "Middlesex, Essex, Suffolk, Norfolk, Plymouth, and Worcester Counties, MA".

MC 107010 (Sub-No. 70)X, filed, October 27, 1981 and previously noticed in **Federal Register** November 17, 1981, republished as corrected in this issue. Applicant: BULK CARRIERS, INC., P.O. Box 423, Auburn, NE 68305. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. The Commission, Appellate Division 2, by decision of May 3, 1982, ordered republication of this application to the extent that the previous publication omitted applicant's proposal to broaden its lead and Sub-No. 33 certificates. Notice is hereby given that applicant proposes to (1) in the lead, broaden to county-wide authority, (Enid) Garfield County, OK; (Hastings, Alliance, Spalding, Superior, Nebraska City, Kearney, Juniata, and Harvard) Adams, Box Butte, Greeley, Nuckolls, Otoe, Buffalo, and Clay Counties, NE; (Bellville) Republic County, KS; (Holstein, Hastings, Falls City, and Swanton) Adams, Richardson, and Saline Counties, NE; (Beatrice, Blue Springs, Clatonia, Cook, Fairbury, Hallam, Liberty, Lincoln, Odell, Wakefield, Wayne, Wymore, Pender, Rosalie, Thurston, Emerson, Oakland, Lyons, Pilger, Wisner, Norfolk, Hartington, Beemer, Carroll, Emmet, Coleridge, and West Point) Gage, Johnson, Jefferson, Lancaster, Dixon, Wayne, Thurston, Burt, Stanton, Cuming, Madison, Cedar, Holt, and Dakota Counties, NE; (Altona, Bancroft, Beemer, Belden, Carroll, Concord, Elkhorn, Emerson, Hartington, Hommer, Hubbard, Lyons, Newcastle, Norfolk, Omaha, Pender, Pilger, Randolph, Scribner, Stanton, Valley, Wakefield, Wayne, West Point, Winside, Wisner, and Yutan) Cuming, Cedar, Wayne, Dixon, Douglas, Dakota, Burt, Madison, Thurston, Dodge, Stanton, and Saunders Counties, NE; (Greenwood) Lancaster County, NE; (2) in Sub 33, broaden a less-than-countywide territory now described by highway boundaries, to Adams and Clay Counties, NE; (3) in Sub 33, delete a facilities restriction.

MC 134220 (Sub-No. 1)X, filed 5–17–82. Applicant: TED'S OF FAYVILLE, INC., P.O. Box 297, 5 Park Street, Southboro, MA 01772. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49684. Lead certificate: (1) broaden commodity description from wrecked, disabled, replacement, and repossessed motor vehicles to "transportation equipment"; and (2) remove the wrecker equipment only restriction.

MC 142639 (Sub-No. 1)X, filed 5–17–82. Applicant: KELLY McKNIGHT d.b.a. KELLY McKNIGHT WRECKER SERVICE, P.O. Box 1052, Arlington, TX 76010. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49684. Lead certificate (1) broaden to "transportation equipment" from wrecked, disabled, repossessed, and replacement vehicles and trailers (except mobile homes); and (2) remove wrecker equipment only restriction.

MC 142935 (Sub-No. 29)X, filed 5–17–82. Applicant: PLASTIC EXPRESS, 2301 E. Francis Street, Ontario, CA 91761. Representative: Richard C. Celio, 2300 Camino Del Sol, Fullerton, CA 92633. Sub 13F: remove the except commodities in bulk restriction from "such commodities as are dealt in or used by manufacturers of petroleum products."

MC 149204 (Sub-No. 3)X, filed 5–17–82. Applicant: JASPER LATNEY ROGERS, SR., d.b.a. J. L. ROGERS TRUCKING, Route 4, Box 61, Wake Forest, NC 27587. Representative: Archie W. Andrews, P.O. Box 1166, Eden, NC 27288. Sub 2 permit, broaden to "between points in the United States (except AK and HI)", under continuing contract(s) with named shipper.

[FR Doc. 82-14394 Filed 5-26-82; 8:45 am]
BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development Advisory Committee on Voluntary Foreign Aid; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a)(2), Public Law 92–463, Federal Advisory Committee Act, notice is hereby given of the meeting of the steering committee to discuss formation of the PVO/Corporate Relations Subcommittee of the Advisory Committee on Voluntary Foreign Aid which will be held on June 11, 1982, immediately following the adjournment of the full Advisory Committee meeting, at The Mayflower, 1127 Connecticut Avenue, N.W., Washington, D.C. 20036.

The meeting will be open to the public. Any interested person may attend, request to appear before, or file statements with the Committee in accordance with procedures established by the Committee. Written statements should be filed prior to the meeting and should be available in twenty copies.

Dr. Toye Brown Byrd will be the AID representative at the meeting. It is suggested that those desiring further information contact Dr. Byrd at 703/235–2708, or by mail c/o the Advisory Committee on Voluntary Foreign Aid, Agency for International Development, Washington, D.C. 20523.

Dated: May 18, 1982.

Julia Chang Bloch,

Assistant Administrator, Bureau for Food for Peace and Voluntary Assistance.

[FR Doc. 82-14400 Filed 5-26-82; 8:45 am]
BILLING CODE 6116-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506:

1. Date: June 21–22, 1982
Time: 9:00 a.m. to 5:30 p.m.
Room: 1023
Program: This meeting will review applications submitted for the Youth Projects Program, Division of Special Programs, for projects beginning after October 1, 1982.
2. Date: June 22, 1982
Time: 9:00 a.m. to 5:30 p.m.
Room: 314
Program: This meeting will review applications in the Center for Advanced Study programs, submitted to the Division of Fellowships and Seminars, for projects beginning after June 1, 1983.
3. Date: June 24–25, 1982
Time: 9:00 a.m. to 5:30 p.m.
Room: 1023
Program: This meeting will review applications submitted for the Youth Projects Program, Division of Special Programs, for projects beginning after October 1, 1982.
4. Date: June 28–29, 1982
Time: 8:30 a.m. to 5:30 p.m.
Room: 1023
Program: This meeting will review applications submitted by state humanities committees for the Competitive Awards for Excellence, Division of State Programs, submitted for projects beginning after October 1, 1982

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or

financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 82–14483 Filed 5–26–82; 8:45 am]

BILLING CODE 7536–01–M

National Council on the Arts; Expansion Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel to the National Council on the Arts will be held on June 14, 1982, from 10:00 a.m.–12:30 p.m. in the Blackstone Hotel, Michigan and Balboa, Chicago, IL; on June 14, form 1:45 p.m.–5:00 p.m. at the Chicago Public Library Cultural Center, 78 East Washington Street, Chicago, Il; June 15, from 10:00 a.m.–12:30 p.m. at the Blackstone Hotel, Michigan and Balboa, Chicago, IL; on June 15, from 12:30 p.m.–5:30 p.m. the panel will be on site visits; on June 16, from 10:00 a.m.–5:00 p.m. at the Blackstone Hotel, Michigan and Balboa, Chicago IL.

A portion of this meeting will be open to the public on June 14, from 10:00 a.m.–12:30 p.m., June 14, from 1:45 p.m.–5:00 p.m. (Public Forum), and on June 16th from 1:30 p.m.–5:00 p.m. to discuss policy, public forum, fiscal year 1984, guideline review, and on site visits.

The remaining sessions of this meeting on June 15th from 10:00 a.m.–12:30 p.m. and on June 16th from 10:00 a.m.—12:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistnce under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United State Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

May 21, 1982.

John H. Clark,

Director, Office of Council and Panel Operations, The National Endowment for the Arts.

[FR Doc. 82–14479 Filed 5–26–82; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Forms Submitted to OMB for Review

In accordance with the Paperwork Reduction Act and OMB guidelines, NSF is posting this notice of recordkeeping requirements that will affect the public.

Agency Clearance Officer: Herman G. Fleming, (202) 357–7580.

Title: Establishing Priorities for Flood Hazard Mitigation.

OMB Officer: Anita Ducca, (202) 395–7340.

Affected Public: Federal, State, and Local Officials/staffs; educators, engineers, scientists, all having a professional interest in flooding.

Number of responses: 1000; *Total number of hours:* 375 hours.

In September 1980, the National Science Foundation distributed a report, *Flood Hazard Mitigation,* to 1000 persons with interest in flooding. The NSF wishes to solicit the recipient's viewpoints anonymously to establish weighted priorities for the recommendations contained in the report. The priorities will guide future program planning and resource allocation.

Herman G. Fleming,

Clearance Officer.

[FR Doc. 82–14471 Filed 5–26–82; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–10]

Commonwealth Edison Co., (Dresden Station Unit 1); Exemption

I

The Commonwealth Edison Company (the licensee) is the holder of Facility Operating License No. DPR–2 which authorizes operation of Dresden Station Unit No. 1. This license provides, among other things, that they are subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

The facility comprises a boiling water reactor at the licensee's site located in Grundy County, Illinois.

II

On November 19, 1980, the Commission published a revised Section 10 CFR 50.48 and a new Appendix R to 10 CFR 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised Section 50.48 and Appendix R became effective on February 17, 1981. Section 50.48(c) established the schedules for satisfying the provisions of Appendix R. Section III of Appendix R contains fifteen subsections, lettered A through O, which specify requirements for fire protection features at nuclear power plants.

By letter dated March 6, 1981, the Commission granted Commonwealth Edison an extension of the completion date require in 10 CFR 50.48(d) to the dates required by 10 CFR 50.48(c).

By letter dated March 17, 1981 Commonwealth Edison requested, pursuant to 10 CFR 50.12, an exemption from the schedular requirements of 10 CFR 50.48(c) and 10 CFR 50.48(d) for Dresden Station Unit 1. The requested exemption would permit Commonwealth Edison to defer completion of the fire protection features required by 10 CFR 50.48 and Appendix R to 10 CFR 50 until prior to start up from the current refueling modification and chemical cleaning outage.

Commonwealth Edison provided the following information in support of the requested exemption:

1. Dresden Unit 1 is currently shutdown for an extended refueling, modification, and chemical cleaning outage. Unit 1 is scheduled to remain shutdown until June 1986.

2. There is not fuel in the reactor vessel or the primary containment sphere.

3. All irradiated fuel is stored in the below-grade spent fuel storage pool in the fuel handling building.

4. The stored fuel has not been irradiated in the reactor for at least 28 months.

5. Fire protection features in the fuel handling building which were identified in the NRC Staff's Fire Protection Safety Evaluation Report will be installed and operational by May 1, 1981. The required implementation date for this equipment is November 17, 1981.

Mr. Thomas Rausche of Commonwealth Edison informed the staff that the fire protection features committed to in CECO's March 17, 1981 letter were installed and operational on May 1, 1981.

Based upon the above considerations, we find that the reactor is defueled and the spent fuel stored in the fuel storage building is protected by an acceptable fire protection system as described in the Staff's August 9, 1979 Fire Protection Safety Evaluation Report. Because of the above we find that there is no undue risk to the health and safety of the public involved with continued operation in the manner described. Therefore an exemption should be granted delaying the implementation of the fire protection modifications required by 10 CFR 50.48 and Appendix R to 10 CFR 50 until prior to start up from the current extended outage.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12; an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest and hereby grants the following exemption with respect to the requirements of 10 CFR 50.48:

1. Commonwealth Edison Company is exempt from the schedular requirements of 10 CFR 50.48 (c)(1), (c)(2), (c)(3) and (c)(4) except for the fire protection provisions which apply to the fuel handling building at Dresden Unit 1;

2. The date for submittals required in 10 CFR 50.48(c)(5) is extended until 18 months prior to the scheduled return to service for Dresden Unit 1;

3. The date for completion of the fire protection features required by 10 CFR 50.48(c) and 10 CFR 50.48(d) is extended until prior to startup from the current outage.

The NRC staff has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland, this 18th day of May, 1982.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-14480 Filed 5-26-82; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-269, 50-270 and 50-287]

Duke Power Co.; Granting Relief From ASME Code Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components," to Duke Power Company, which revised the inservice inspection program for the Oconee Nuclear Station, Units Nos. 1, 2 and 3, located in Oconee County, South Carolina. The ASME Code requirements are incorporated by reference into the Commission's Rules and Regulations in 10 CFR Part 50. The relief is effective as of the date of issuance.

This action provides relief from performing visual inspections on the outside surface of the core flood nozzle welds, provided ultrasonic and visual inspections are performed from the inside surface.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the related Evaluation.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details, with respect to this action, see (1) the request for relief dated June 1, 1981, (2) the letter to Duke Power Company dated May 17, 1982, and (3) the Commission's related Evaluation of Relief Request. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 17th day of May 1982.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82-14481 Filed 5-26-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-309]

Maine Yankee Atomic Power Co., (Maine Yankee Atomic Power Plant; Exemption

I

The Maine Yankee Atomic Power Company (the licensee) is the holder of Facility Operating License No. DPR-36 which authorizes operation of the Maine Yankee Atomic Power Plant. This license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

The facility comprises one pressurized water reactor at the licensee's site located in Lincoln County, Maine.

II

On November 19, 1980, the Commission published a revised Section 10 CFR 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised Section 50.48 and Appendix R became effective on February 17, 1981. Section 50.48(c) established the schedules for satisfying the provisions of Appendix R. Section III of Appendix R contains fifteen subsection, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these fifteen subsections, III.G., is the subject of this exemption request. III.G. specifies detailed requirements for fire protection of the equipment used for safe shutdown by means of separation and barriers (III.G.2). If the requirements for separation and barriers could not be met in an area, alternative safe shutdown capability, independent of that area and equipment in that area, was required (III.G.3.).

Section 50.48(c) required completion of all modifications to meet the provisions for Appendix R within a specified time from the effective date of this fire protection rule, February 17, 1981, except for modifications to provide alternative safe shutdown capability. These latter modifications (III.G.3.) require NRC review and approval. Hence, § 50.48(c) requires their completion within a certain time after NRC approval. The date for submittal of

design descriptions of any modifications to provide alternative safe shutdown capability was specified as march 19, 1981.

By letter dated September 20, 1979, the licensee submitted a description of Maine Yankee's safe shutdown capability. Based on conversation with the NRC staff the licensee understood that its September 20, 1979 description was not entirely acceptable to the staff. Therefore, by letter dated February 9, 1981, the licensee requested an exemption from 10 CFR 50.48(c) with respect to the requirements of Section III.G of Appendix R as follows:

(1) Extend from March 19, 1981 to a date six months after receipt of NRC staff comments on the licensee's September 20, 1979 submittal, the submittal schedule for Maine Yankee's alternate shutdown capability design description.

By letter dated March 6, 1981 the licensee supplemented its February 9, 1981 request to include an exemption from certain requirements of Section III.L of Appendix R to the extent that section requires the alternate shutdown capability to accommodate post fire conditions where offsite power is not available. Furthermore, the licensee's letter of March 12, 1981 states that the development of Section III.G information must be delayed until the licensee receives a response to both exemption requests.

Since Section III.L provides the criteria for Alternative Safe Shutdown capability, the resolution of the March 6, 1981 exemption request would affect the final reassessment and redesign, if necessary, performed for Section III.G. Therefore, when we provided, by letter dated April 24, 1981, our comments on the licensee's September 20, 1979 submittal, we stated that the schedule requirements for the submittal of Section III.G information would be specified in conjunction with our response to the March 6, 1981 exemption request.

When this Fire Protection Rule was approved by the Commission, it was understood that the time required for each licensee to re-examine those previously-approved configurations at its plant to determine whether they meet the requirements of Section III.G of Appendix R to 10 CFR 50 was not well known and would vary depending upon the degree of conformance. For each item of nonconformance that was found, a fire hazards analysis had to be performed to determine whether the existing configuration provided sufficient fire protection. If it did, a basis had to be formulated for any exemption request. If it did not, modifications to either meet the requirements of Appendix R or to provide some other acceptable configuration, that could be justified for an exemption, had to be designed. Where fire protection features alone could not ensure protection of safe shutdown capability, alternative safe shutdown capability had to be designed as required by Section III.G.3. of Appendix R. Depending upon the extensiveness and number of the areas involved, the time required for this re-examination, reanalysis and redesign could vary from a few months to a year or more. The Commission decided, however, to require one, short-term date for all licensees in the interest of ensuring a best-effort, expedited completion of compliance with the Fire Protection Rule, recognizing that there would be a number of licensees who could not meet these time restraints but who could then request appropriate relief through the exemption process. Licensees for 44 of the 72 plants to which Appendix R applies (plants with an operating license issued prior to January 1, 1979) have requested such schedular relief.

The licensees for the remaining 28 plants made submittals to meet the schedular requirements of § 50.48(c). All of these submittals, however, were deficient in some respects. In general, much of the information requested in a generic letter (81–12) dated February 20, 1981, to the licensees of all 72 plants, was not provided. Therefore, additional time is being used to complete those submittals also.

III

Prior to the issuance of Appendix R, the Maine Yankee plant had been reviewed against the criteria of Appendix A to the Branch Technical Position 9.5–1 BTP 9.5–1. The BTP 9.5–1 was developed to resolve the lessons learned from the fire at Browns Ferry Nuclear Plant. It is broader in scope than Appendix R, formed the nucleus of the criteria developed further in Appendix R and in its present, revised from constitutes the section of the Standard Review Plan used for the review of applications for construction permits and operating licenses of new plants. The review was completed by the NRC staff and its fire protection consultants and a Fire Protection Safety Evaluation (FPSER) was issued. Some items remained unresolved. Further discourses between the licensee and the NRC staff resulted in resolution of many of these items as documented in a supplement to the FPSER issued January 21, 1981. In addition by letter dated March 12, 1981 the licensee resolved the remaining items, other than those items subject to the requirements of Section III.G, by stating its intent to comply with the requirements of specified sections of Appendix R. As a result of the fire protection reviews completed thus far, numerous modifications have been made to plant physical features, systems, and administrative controls to meet the criteria of Appendix A to BTP 9.5–1. The Maine Yankee plant has been upgraded to a high degree of fire protection already and the extensive reassessment involved in this request for additional time is to quantify, in detail, the differences between what was recently approved and the specific requirements of Section III.G of Appendix R to 10 CFR Part 50.

As noted earlier the licensee has, by letter dated March 6, 1981, requested an exemption from Section III.L of Appendix R. Since staff denial of the licensee's March 6, 1981 exemption request will be issued coincident with issuance of this exemption, the licensee's requested schedule delay corresponds to a date six months from receipt of this exemption. The Commission has previously decided that delays in the submittal of Section III.G information up to July 1, 1982 are acceptable based on the responses of a majority of licensees. In Maine Yankee's case the requested exemption from Section III.L, regarding the availability of offsite power, has a significant impact regarding the modifications necessary to meet Section III.G. Setting a response date of July 1, 1982, based on other licensee's responses, is not valid. Based on the above, we have determined that the completion of the reassessment required for Section III.G within six months of receipt of this exemption is acceptable.

Based on the above considerations, we find that the licensee has completed a substantial part of the fire protection features at the Maine Yankee plant in conformance with the requirements of the Fire Protection Rule. We find that because of the already-completed upgrading of these facilities, there is no undue risk to the health and safety of the public involved with continued operation until the completion of this reassessment required by Section III.G of Appendix R within six months of receipt of this exemption. We have determined that any additional delay would not be consistent with the licensee applying its best effort at resolving and completing this issue. Therefore an exemption should be granted to allow such time for completion. However, because we have found that most submittals of this reanalysis to date from other licensees

have not been complete; that is, not all of the information requested by Generic Letter 81-12 dated February 20, 1981, was provided, we are adding a condition to this Exemption that requires all such information be submitted by the date granted.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest and thereby grants the following exemption with respect to the requirements of Section III.G. of Appendix R to 10 CFR Part 50:

(1) The date, March 19, 1981, for submittal of design descriptions of alternative or dedicated shutdown systems to comply with Section III.G.3, as required by § 50.48(c)(5) is extended to six months from the licensee's receipt of this exemption.

Provided the following condition is met:

The design descriptions of alternative or dedicated shutdown systems to comply with Section III.G.3., as required by § 50.48(c)(5) shall include a point-by-point response to each item in Section 8 of Enclosure 1 to generic letter 81-12 dated February 20, 1981, and to each item in Enclosure 2 to Generic Letter 81-12, dated February 20, 1981.

If the licensee does not meet the above condition, the licensee will be found in violation of 10 CFR 50.48(c) even though the submittal may be made within the time limit granted by the exemption. If such a violation occurs, imposition of a civil penalty will be considered under Section 234 of Atomic Energy Act, as amended. Such a violation will be a continuing one beginning with the date set in the exemption for submittal and terminating when all inadequacies are corrected.

A delay in the determination of inadequacy by the staff, caused by the workload associated with reviewing all of the submittals falling due near the same time, will not relieve the licensee of the responsibility for completeness of the submittal, nor will such delay cause any penalty that may be imposed to be mitigated.

The NRC staff has determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland this 19th day of May, 1982.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-14402 Filed 5-26-82; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 22507; 70-5943]

American Electric Power Company, Inc.; Proposed Issuance and Sale of Common Stock Pursuant to Dividend Reinvestment and Stock Purchase Plan

May 20, 1982.

American Electric Power Company, Inc. ("AEP") 180 East Broad Street, Columbus, Ohio 43215, a registered holding company, has filed with this Commission a post-effective amendment to its declaration in this proceeding pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) promulgated thereunder.

By orders dated February 8, 1977, April 19, 1978, March 29, 1979, August 8, 1979, May 1, 1980, and June 30, 1981 (HCAR Nos. 19879, 20508, 20979, 21180, 21544, and 22113), AEP was authorized to issue and sell, from time to time through June 30, 1982, up to 19,000,000 shares of its authorized but unissued common stock, $6.50 par value, pursuant to its Dividend Reinvestment and Stock Purchase Plan ("Plan"). Through April 10, 1982, a total of 14,842,978 shares had been issued and sold, leaving a balance of 4,157,022 shares available for issuance and sale.

APE now proposes to issue and sell, from time to time through June 30, 1983, up to an additional 6,000,000 shares of its authorized unissued common stock, plus the unsold balance of the shares of common stock heretofore authorized by the Commission for issuance, pursuant to the Plan. The price of shares purchased with reinvested cash dividends is 95 percent of the average of the daily high and low sales prices of AEP's common stock on the New York Stock Exchange for the five trading days ending on the day of purchase.

The amended declaration and any further amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 14, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as now amended or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-14412 Filed 5-26-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12442; 812-5167]

Hutton Government Fund, Inc.; Filing of Application for an Order of the Commission

Notice is hereby given that Hutton Government Fund, Inc. ("Applicant"), One Battery Park Plaza, New York, New York 10004, registered under the Investment Company Act of 1940 ("Act") as an openend, diversified, management investment company, filed an application on April 15, 1982, requesting an order of the Commission pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Appplicant to value its assets pursuant to the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a corporation organized under the laws of the State of Maryland, and that its investment objective is to seek the maximum level of current income consistent with the maintenance of liquidity. Applicant further states that it will seek to achieve its investment objective by investing in a portfolio of short-term money market instruments having a weighted average maturity of not more than 120 days. Specifically, Applicant states that it will invest in short-term (i.e., having a remaining maturity of one year of less) securities issued or guaranteed by the United States Government or its agencies or instrumentalities; certificates of deposit

of domestic banks or thrift institutions (Applicant states that it may acquire entire packages of such obligations provided the obligation of any single bank or thrift institution in such package does not exceed the insurance coverage provided by either the federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation for such instrument); repurchase and reverse repurchase agreements having a term of not more than one year relating to securities, the maturities of which may be in excess of one year.

Applicant further represents that its shares will be offered exclusively in connection with the Hutton Asset Management Account program. It is also stated that E. F. Hutton & Company, Inc., a registered investment adviser and broker-dealer, through its Hutton Asset Management Division, serves as Applicant's investment adviser, administrator and distributor. As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefore issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value and other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the investment company. Prior to the filing of the application, the Commission expressed its view that, among other things, (1) Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant requests an order of the Commission, pursuant to Section 6(c) of the Act to permit Applicant's assets to be valued according to the amortized cost method of valuation. In support of the relief requested, Applicant states that it believes its shareholders would be unfairly treated if Applicant were forced to value its portfolio instruments in a manner which would produce artificial price and yield volatility for instruments which Applicant expects to hold until maturity. It is asserted also that prospective investors in Applicant's shares are not concerned with the theoretical differences which might occur between the yield achieved through market valuation and the yield computed on the basis of amortized cost. On the other hand, Applicant states that it believes that such potential investors are vitally concerned that (1) the net asset value of their shares remain stable; and (2) the daily net income declared on their investment be steady and not exhibit the volatility which can occur when changes in market prices cause changes in yield on a daily or weekly basis.

Applicant asserts that by maintaining a portfolio comprised principally of high quality short-term securities issued or guaranteed by the United States Government or its instrumentalities, it will be possible to provide the desired stability to its investors. It is represented that with the advice of the investment adviser based upon the adviser's experience, Applicant has determined that by maintaining an average portfolio maturity of 120 days or less, it will meet the objectives of Applicant's investors by reducing the risk of significant volatility in the value of portfolio instruments while also producing a yield commensurate with those available in the short-term money market.

Applicant represents that, prior to instituting the amortized cost method of valuation, Applicant's board of directors will determine in good faith that the amortized cost method of valuing portfolio securities will, absent unusual or extraordinary circumstances, reflect the fair value of its assets.

Applicant agrees, in addition, that the following conditions may be imposed in any order granting the exemptions requested:

1. In supervising Applicant's operations and delegating special responsibilities involving management of Applicant's portfolio to Applicant's investment adviser, Applicant's board of directors undertakes—as a particular responsibility within its overall duty of care owed to Applicant's shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of Applicant's net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and maintenance of records of such review.[1]

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated.

(c) If the board of directors believes that the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include:

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of directors in the exercise of its discretion to be appropriate indicators of value, which may include among others, (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes of money market instruments published by reputable sources.

redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity ; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which the board of directors determines present minimal credit risks, and which are of high quality as determined by any major rating service, or, in the case of any instrument that is not rated, of comparable quality as determined by Applicant's board of directors.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter, and, if any action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than June 14, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who requests a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc 82-14413 Filed 5-26-82; 8:45 am]

BILLING CODE 8010-01-M

[2]In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

[Release No. 22502; 70-6728]

Monongahela Power Co., Potomac Edison Co., West Penn Power Co.; Proposed Sale of Short-Term Notes to Banks and to a Dealer in Commercial Paper; Request for Exception From Competitive Bidding

In the Matter of Monongahela Power Company, Fairmont, West Virginia, The Potomac Edison Company, Hagerstown, Maryland, West Penn Power Company, Greensburg, Pennsylvania.

Monongahela Power Company ("Monongahela"), The Potomac Edison Company ("Potomac"), and West Penn Power Company ("West Penn") (referred to collectively as "applicants"), wholly-owned electric utility subsidiaries of Allegheny Power System, Inc., a registered holding company, have filed an application with this Commission pursuant to Section 6(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5).

Monongahela, Potomac and West Penn propose to issue short-term notes from time to time to banks and to a dealer in commercial paper, during the period July 1, 1982 through December 31, 1983, provided no such notes will mature later than June 30, 1984. Applicants request an exemption from the provisions of Section 6(a) of the Act as provided by the first sentence of Section 6(b) thereof. The Commission has been requested to authorize the issuance of notes in aggregate amounts not to exceed $60,000,000, $57,000,000, and $64,000,000 for Monongahela, Potomac and West Penn, respectively. These amounts include any notes which the applicants were authorized to issue under the Commission's order dated December 30, 1980 (HCAR No. 21885).

Each bank note will be dated as of the date of that borrowing, will mature not more than two hundred-seventy (270) days after the date of issuance or renewal thereof, and will bear interest at the prime or equivalent interest rate of the bank at which the borrowing is made, in effect at the time of issuance, or in effect from time to time. The applicants have established lines of credit with various banks which require compensating cash balances of 5% on all or a portion of each line of credit and, in some cases, an annual fee of ½%. Where balances are maintained solely to fulfill compensating balance requirements, the effective interest cost of issuing notes would be no more than 17.3684% on the basis of a prime rate of 16.5%.

The commercial paper notes will be in denominations between $50,000 and $5,000,000, will be of varying maturities up to 270 days after the date of issue, and will not be prepayable prior to maturity. The notes will be sold directly to A. G. Becker & Co. at a discount not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and maturity. The dealer may reoffer the commercial paper at a discount rate of ¼ of 1% per annum less than the discount rate offered applicants. Commercial paper notes may be issued if (1) the interest cost thereof is equal to or less than the effective interest cost at which such company could borrow the same amount from banks or (2) such company cannot at that time borrow the same amount for the same period of time from the banks. The dealer will reoffer the commercial paper notes to not more than 200 of its commercial and industrial customers.

Exception from the competitive bidding requirements of Rule 50, pursuant to paragraph (a)(5) thereof, is requested for the proposed issuance and sale of commercial paper since it is not practicable to invite competitive bids for

commercial paper and current rates for commercial paper for prime borrowers such as applicants are published daily in financial publications.

The proceeds from the issuance of the proposed short-term borrowings will be used by each applicant (1) to operate its business as an electric public utility, including the financing of its construction program and acquisition of property, (2) to make advances to Allegheny Generating Company and (3) to purchase common stock in its electric utility subsidiaries and in Allegheny Generating Company. Unless otherwise authorized by this Commission, any short-term debt outstanding hereunder after December 31, 1983 will be retired not later than June 30, 1984.

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 18, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at lw, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date the application may be granted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-14414 Filed 5-26-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22505; 70-6589]

National Fuel Gas Co., Seneca Resources Corp.; Proposed Issuance and Sale of Short-Term, Secured Note to Bank by Subsidiary and Guaranty by Holding Company

In the Matter of National Fuel Gas Company, 30 Rockefeller Plaza, New York, New York 10112; Seneca Resources Corporation, 10 Lafayette Square, Buffalo, New York 14203. National Fuel Gas Company ("National"), a registered holding company and Seneca Resources Corporation ("Seneca"), a wholly-owned subsidiary, have filed with this Commission a post-effective amendment to its application-declaration previously filed and amended pursuant to Sections 6(a), 7 and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45 and 50(a)(2) thereunder.

By Commission order dated June 10, 1981 (HCAR No. 22084) Seneca was authorized to enter into a loan agreement pursuant to which Seneca has the right to borrow up to $25,000,000 at any one time outstanding through June 14, 1982. The note is secured by a portion of Seneca's hardwood timber acreage in Pennsylvania and certain of its oil and gas properties. Payment of principal and interest is unconditionally guaranteed by National.

By post-effective amendment, it is proposed that Seneca borrow a principal amount of up to $25,000,000 under a new secured short-term note ("Note") to be issued to Citibank and payable on or before March 1, 1983. The Note will be dated as of the date of issue and will be prepayable at any time, in whole or in part, without penalty or premium. Because the amount of unsecured debt that National and its subsidiaries may have outstanding at any one time is limited to 20% of National's consolidated capitalization, any borrowings by Seneca under the Citibank credit facility will be secured so that the borrowing capacity of National and its subsidiaries will not be impaired. The Note will be secured by first mortgages in favor of Citibank and RepublicBank, a prior lender, covering a portion of Seneca's hardwood timber acreage in Pennsylvania and certain of Seneca's oil and gas properties.

The New Note will bear interest at the base rate of interest at Citibank (16.50 at April 27, 1982) as it fluctuates from time to time, or, at Seneca's option, at such rates below Citibank's base rate for fixed periods ranging from two weeks up to ninety (90) days ("Alternate Rate"). Recently this Alternate Rate has ranged from 15.15% to 15.75% for fixed periods of two weeks while the base rate remained at 16.50%. Seneca has taken advantage of the Alternate Rate option to reduce its cost of borrowing.

When borrowings are made at the base rate, there are no other commitment fees, commissions, or compensating balances that are required under the credit facility. With respect to the Alternate Rate option, Citibank will calculate its Alternate Rate on the basis of current money market rates. Citibank will charge a management fee equal to one half of one percent (50 basis points) during all periods when borrowings are outstanding at the Alternate Rate. The management fee will raise the effective cost of borrowing to 50 basis points above the quoted Alternate Rate. If the Alternate Rate (adjusted for the management fee) is determined to be greater than Citibank's base rate at the time Seneca must borrow, Seneca will borrow at the base rate.

Interest on the New Note will be payable as follows: (1) for borrowing at the base rate, interest is payable upon the earlier of: (a) the end of each calendar quarter; (b) prepayment, or (c) selection of the Alternate Rate Option; (2) for borrowings at the Alternate Rate, interest is payable at the end of each option period chosen; and (3) any management fee accrued is payable at the end of each calendar quarter.

The application-declaration as amended by the post-effective amendment and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 11, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date the application-declaration, as amended by the post-effective amendment or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Bollis,

Assistant Secretary.

[FR Doc. 82-14415 Filed 5-26-82; 8:45 am]

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[Release No. 22504 70-6734]

West Texas Utilities Co.; Proposed Increase in Authorized Unsecured Debt; Order Authorizing Solicitation of Proxies

In the matter of West Texas Utilities Company, P.O. Box 841, Abilene, Texas 79604, West Texas Utilities Company ("WTU"), a public utility subsidiary of Central and South West Corporation, a registered holding company, has filed a declaration with the Commission, pursuant to Sections 6(a), 7 and 12(e) of the Public Utility Holding Company Act

of 1935 ("Act") and Rules 62 and 65 promulgated thereunder.

WTU proposes to solicit the proxies of preferred shareholders to permit an increase in its authorized unsecured debt. WTU's Restated Articles of Incorporation, as amended (the "Articles"), prohibit the issuance or assumption (except for certain limited purposes), without the affirmative vote of the holders of a majority of the preferred stock, of any unsecured debt obligations if, immediately after such issuance or assumption, the principal amount of unsecured debt obligations of WTU would exceed 20% of the sum of the company's secured debt, capital stock and surplus ("total capitalization"), or if the principal amount of all unsecured debt obligations maturing in less than ten years ("short-term debt") would exceed 10% of the company's total capitalization; provided that the 10% limit on short-term debt may be exceeded, but only if all the company's short-term debt has payment or maturity dates on or before November 1, 1982. An unsecured debt obligation which has a maturity of more than ten years at the date of issuance is not considered short-term debt until the principal is due within three years.

The company proposes to call a special meeting of its shareholders (both Preferred and Common) to be held on or about June 30, 1982 to consider and vote upon the adoption of the proposed amendment. The company proposes to mail the Notice and Proxy Statement, together with Proxy, on or about May 17, 1982, to all shareholders of record on the books of the company at the close of business on May 14, 1982.

Under Texas law and the terms of the Articles, the proposed amendment requires the affirmative vote of the holders of at least two-thirds of the outstanding shares of Preferred Stock (voting as a class) entitled to vote at the meeting. Central and South West Corporation is the holder of all 2,588,000 outstanding shares of the WTU's Common Stock. WTU has outstanding 60,000 shares of Preferred Stock entitled to vote as a class on the proposed amendment.

WTU proposes that, upon preferred shareholder consent, the Articles be amended, to allow WTU to issue or assume unsecured debt obligations without further vote of the preferred stockholders so long as after such issuance or assumption, the principal amount of all unsecured debt obligations would not exceed 25% of the company's total capitalization and the principal amount of short-term debt would not exceed 20% of the company's total capitalization. In addition, the amendment would provide that the company could not issue or assume unsecured debt obligations, if after giving effect to the issuance or assumption of unsecured debt obligations then to be issued, the principal amount of unsecured debt obligations would exceed 20% of WTU's total capitalization, and either (i) the total capitalization of the company would exceed $750,000,000 or (ii) the sum of WTU's capital stock and surplus accounts would be less than 40% of the sum of the company's total capitalization and short-term debt. Finally, the amendment would provide that after the earlier of (a) the date one year after the first day of commercial operation of the company's Oklaunion generating station or (b) December 31, 1988 (the earlier of such dates being hereinafter referred to as the "Termination Date"), the company could not, except for certain limited purposes, (i) issue or assume unsecured debt obligations in an amount which would cause the company's total unsecured debt to exceed 20% of the company's total capitalization or (ii) issue or assume short-term debt in an amount which would cause the company's total short-term debt to exceed 10% of the company's total capitalization. Thus, the proposed amendment would increase through the Termination Date the amount (expressed as a percentage of total capitalization) of unsecured debt and short-term debt which could be issued or assumed by the company. After the Termination Date, WTU would again be prohibited from issuing or assuming unsecured debt if, after such issuance or assumption, the total unsecured debt of the company would exceed 20% of total capitalization or the total short-term debt of the company would exceed 10% of total capitalization. As discussed below, the purpose of the proposed amendment is to increase the alternatives available to WTU to meet its financing needs over the next several years.

WTU's estimated captial expenditures, including allowance for funds used during construction ("AFUDC"), for the years 1982–1984 are as follows:

[In thousands of dollars]

	1982	1983	1984	Total
Generation	$6,248	$29,449	$116,375	$150,072
Transmission	26,018	24,496	15,948	66,462
Distribution	17,183	18,545	19,259	55,987
General	7,522	5,036	4,891	17,451
Total	56,971	76,526	156,473	289,972

The estimated capital expenditures program for the years 1982–1984 reflects a substantial increase over the $90,893,000 of capital expenditures for the years 1979–1981. The major component of the construction program over the next several years is a 640 megawatt coal-fired electric generating unit (the "Oklaunion unit") at the company's planned Oklaunion generating station. The unit is expected to be placed in service in 1987. It is anticipated that the company will own approximately 55% (350 megawatts) of the unit and that the balance will be owned by other electric operating companies of the Central and South West System. WTU's share of the cost of construction of the unit, including AFUDC, is estimated at $345,000,000.

In order to provide funds to finance the significantly higher construction program through the completion of the Oklaunion unit, the company will be required to issue substantial amounts of securities during the 1982–1984 period. The company anticipates that approximately 40% (including AFUDC) and 38% (excluding AFUDC) of the funds required for its 1982–1984 construction program will be provided from internal sources. The balance of the funds required for the period will have to come from external sources. In light of the restriction on the issuance of first mortgage bonds by WTU, as described in a Commission notice dated May 7, 1982 of a WTU debenture issuance (HCAR No. 22490), the company believes that the proposed amendment will provide it with the flexibility to obtain a portion of the external funds necessary to finance the construction program through the issuance of unsecured debt.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 14, 1982 to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of serivce (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

It appearing to the Commission that the declaration, insofar as it proposes the solicitation of proxies of WTU's

stockholders should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered that the declaration insofar as it relates to the proposed solicitation of proxies of WTU's stockholders be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 promulgated under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Bollis,

Assistant Secretary.

[FR Doc. 82-14618 Filed 5-26-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22510; 70-6738]

Consolidated Natural Gas Co. et al.; Proposed Issuance and Sale of Notes to Banks and Commercial Paper to Dealer by Holding Company; Intrasystem Financing; Issuance and Sale of Subsidiary Common Stock to Holding Company; Exception From Competitive Bidding

May 21, 1982.

In the Matter of Consolidated Natural Gas Company, 100 Broadway, New York, New York 10000; CNG Coal Company, CNG, Producing Company, CNG Research Company, Consolidated Gas Supply Corporation, Consolidated Natural Gas Service Company, Inc., Consolidated System LNG Company, The East Ohio Gas Company, The Peoples Natural Gas Company, The River Gas Company, West Ohio Gas Company.

Consolidated Natural Gas Company ("Consolidated"), a registered holding company, and certain of its subsidiaries, CNG Coal Company ("Coal Company"), CNG Producing Company ("Producing Company"), CNG Research Company ("Research Company"), Consolidated Gas Supply Corporation ("Gas Supply"), Consolidated Natural Gas Service Company, Inc. ("Service"), Consolidated System LNG Company ("LNG Company"), The East Ohio Gas Company ("East Ohio"), The Peoples Natural Gas Company ("Peoples"), The River Gas Company ("River") and West Ohio Gas Company ("West Ohio") have filed an application-declaration with this Commission pursuant to Sections 6(a), 6(b), 7, 9(a), 10, 12(b) and 12(f) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 43, 45, 50(a)(2), 50(a)(5) and 70 hereunder.

Consolidated proposes to obtain funds for financing the seasonal increase in gas storage inventories of subsidiary companies by issuing up to $150,000,000 of notes to banks from time to time through March 31, 1983. Such notes would mature within 12 months from the date of the first borrowing. There would be no commitment fees, required compensating balances, or closing or related charges. Such notes would bear variable interest at either the prime rate in effect from time to time at the Chase Manhattan Bank, N.A. ("Chase Manhattan") and/or at Consolidated's option, at an increment of three-eighths of one percent (.375%) over the London Interbank Offered Rate ("LIBOR"), as quoted by the London office of Chase Manhattan and as adjusted for Federal Reserve requirements. Borrowing at prime may be prepaid, in whole or in part, without penalty or premium, upon five days written notice. Borrowings at LIBOR may only be repaid at the end of the LIBOR period. The average of deposits regularly maintained in participating banks by Consolidated and its subsidiaries for normal operating purposes during 1980 amounted to approximately $25,600,000. Assuming compensating balance requirements of 10% of the lines and 10% of average borrowings, the average compensating balances would have amounted to approximately $27,100,000 for 1980. The borrowings are made from time to time as required to finance the subsidiaries' gas storage inventories and will be repaid as gas is withdrawn from storage and sold during the 1982–1983 heating season.

Consolidated, in order to meet working capital requirements proposes to issue and sell commercial paper, in the form of short-term bearer notes, to A. G. Becker Incorporated ("Becker"), a dealer in commercial paper, from time to time through May 31, 1983. The aggregate principal amount of such notes, together with the bank notes as described below, would not exceed $125,000,000 outstanding at any one time. Such commercial paper will have varying maturities of not more than 270 days after date of issue and will be issued and sold in varying denominations of not less than $50,000 and not more than $5,000,000 directly to Becker, at a discount which will not be in excess of the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and like maturity. The commercial paper will not be payable prior to maturity. Consolidated proposes to sell commercial paper only so long as the discount rate or the effective interest cost on the date of sale does not exceed the equivalent cost of borrowings from a commercial bank. No commission or fee will be payable in connection with the issue and sale of such commercial paper notes. Becker, as principal, will reoffer such notes at a discount not to exceed one-tenth of one percent per annum less than the prevailing discount rate to Consolidated. Such notes will be reoffered to not more than 200 identified and designated customers in a nonpublic list prepared in advance by Becker and furnished to the Commission. It is anticipated that the commercial paper will be held by customers to maturity; however, if any commercial paper is repurchased by Becker pursuant to a verbal repurchase agreement, such paper will be reoffered only to others in the group of 200 customers.

If the issuance of commercial paper becomes impractical because of market conditions or other factors, Consolidated proposes to issue short-term notes to Chase Manhattan and Citibank, N.A. Consolidated would borrow up to an aggregate principal amount of up to $50,000,000 outstanding at any one time from Chase Manhattan from time to time through May 31, 1983. Such borrowings would be at the bank's prime interest rate on the borrowing date. Consolidated would also borrow an aggregate principal amount of up to $50,000,000 outstanding at any one time from Citibank, N.A., from time to time through May 31, 1983. Such unsecured borrowings from Citibank would be charged a commitment fee of one-eighth of one percent (0.125%) on the principal amount at Citibank's base rate of interest, the prime rate, on each borrowing date. Borrowings from both banks would be evidenced by notes of Consolidated maturing within 90 days of each borrowing date. The notes may be prepaid, in whole or in part, at any time without prior notice or premium. There will be no closing or related charges with respect to such bank loans. Assuming a 16½% prime rate and assurming that the full line is borrowed, the effective interest cost of borrowings from Chase Manhattan would be 16½% and the effective interest cost of borrowings from Citibank with a commitment fee of .125% on the principal would be 16.625%. The additional bank line of up to $25,000,000 required to support the issuance of $125,000,000 of commercial paper notes will be supported by existing bank lines. Should these lines be used and commercial paper outstanding exceeds $100,000,000 an additional line of credit would be obtained and an amendment would be filed to this application-declaration.

Consolidated seeks to have the 5% limitation in condition (3) of the first

sentence of the Section 6(b) exemption from the provisions of Section 6(a) of the Act raised to 15% from the order date in this matter through May 31, 1983. Such an increase would permit Consolidated to have outstanding at any one time up to $120,000,000 aggregate principal amount short-term, unsecured bank notes and commercial paper.

Consolidated proposes to make, from time to time up to May 31, 1983, open account advances aggregating up to $343,000,000 to its subsidiary companies for inventory gas financing and working capital. Such advances would be made as requested by each subsidiary and will be repaid within a year of the first advance to such subsidary company. Interest would be at substantially the same effective rate of interest as the related gas storage bank loan, sale of commercial paper, and/or bank borrowing by Consolidated. If there is no outstanding short-term debt, the interest rate would be at the prime commercial rate of interest in effect from time to time at Chase Manhattan. Such advances will be made up to the following principal amounts:

Company	Amount
CNG Producing Co	$50,000,000
Consolidated Gas Supply Corp	125,000,000
Consolidated Natural Gas Service Co	1,500,000
The East Ohio Gas Co	100,000,000
The Peoples Natural Gas Co	80,000,000
The River Gas Co	1,500,000
West Ohio Gas Co	5,000,000
Total	343,000,000

Consolidated proposes to make long-term non-negotiable loans, aggregating $123,700,000 to the subsidiary companies set forth below. Prior to the completion of Consolidated's long-term financing, such loans would be in the form of interim construction advances, payable on or before May 31, 1983, with interest at the prime commercial rate of interest in effect from time to time at Chase Manhattan. Following the sale of debentures by Consolidated, which are the subject of a pending application with this Commission (File No. 70–6594), the interim construction advances to subsidiary companies to the extent made by that time, will be converted into long-term notes maturing in the years coinciding with scheduled retirements of the new debentures or over a period of time to be determined by the officers of Consolidated, with interest predicated on and substantially equal to the effective cost of money to Consolidated through such sale. Loans thereafter, for this purpose, will be in the form of long-term notes. In total, the subsidiary companies propose to issue to Consolidated and Consolidated proposes to acquire $123,700,000 principal amount of long-term notes. Such loans would partially finance the subsidiaries' 1981 capital expenditures and would be made up to the following principal amounts:

Company	Amount
CNG Producing Co	$38,000,000
Consolidated Gas Supply Corp	20,000,000
Consolidated Natural Gas Service Company, Inc	2,700,000
East Ohio Gas Co	45,000,000
The Peoples Natural Gas Co	15,000,000
The River Gas Co	1,000,000
West Ohio Gas Co	2,000,000
Total	123,700,000

Consolidated proposes to make revolving credit advances, aggregating $100,000,000 to subsidiary companies set forth below for the purpose of partially financing their capital expenditures. Such advances may be made, repaid and remade through May 31, 1983 as requested by the Treasurer of each subsidiary company, upon letter agreement by each subsidiary company in accordance with Consolidated's Credit Agreement, with interest at substantially the same effective rate of interest as paid by Consolidated under the Credit Agreement. Should Consolidated have no outstanding amount under its Credit agreement, the interest rate would be the prime commercial rate of interest in effect from time to time at Chase Manhattan. When Consolidated borrows under its Credit Agreement, the effective interest rate obtained by Consolidated under its Credit Agreement would be applied to such advances outstanding. Such advances will be made up to the following principal amounts.

Company	Amount
CNG Producing Co	$40,000,000
Consolidated Gas Supply Corp	30,000,000
The East Ohio Gas Co	25,000,000
The Peoples Natural Gas Co	5,000,000
Total	100,000,000

Consolidated proposes to purchase from the four subsidiaries listed below, and such subsidiaries propose to issue and sell to Consolidated, an aggregate of $73,500,000 of capital stock at par value. The sales would be made as needed by the subsidiaries from time to time through May 31, 1983. Consolidated would make such purchases primarily from internal funds. The amounts and number of shares per subsidiary would be as follows:

Subsidiary	Number of shares ($100 par)	Aggregate par value
CNG Coal Co	25,000	$2,500,000
CNG Producing Co	450,000	45,000,000
CNG Research Co	10,000	1,000,000
Consolidated Gas Supply Corp	250,000	25,000,000
		73,500,000

The authorized capital stock of CNG Producing Company and CNG Research Company is not sufficient to cover the additional shares they propose to issue. In order to accommodate the proposed Transactions and to provide for future issues, Producing Company and Research Company propose to amend their certificates of incorporation to increase their authorized shares from 2,000,000 to 3,000,000 and from 140,000 to 150,000 respectively.

At the time of this filing Consolidated System LNG Company has no financing requirements. In the event that financing does become necessary, an amendment will be filed to this application-declaration.

Consolidated requests an exception from the competitive bidding requirements of Rule 50(b) pursuant to Paragraph (a)(5) with respect to the sale of commercial paper because such commercial paper will have maturities of nine months or less, current rates for commercial paper for prime borrowers, such as Consolidated, are published daily in financial publications and it is not practical to invite competitive bids for commercial paper. Consolidated also proposes that the Rule 24 certificates of notification regarding the proposed transactions be filed on a quarterly basis.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 14, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the address specified above. Proof of service (by affidavit, or in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc 82-14439 Filed 5-26-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12443; 812-5184

Denver Partners I Limited Partnership et al.; Filing of Application

May 21, 1982.

In the Matter of Denver Partners I Limited Partnership, Denver Partners II Limited Partnership, Denver Partners III Limited Partnership, and Winthrop Financial Co., Inc., 225 Franklin Street, Boston, Massachusetts 02110.

Notice is hereby given that Denver Partners I Limited Partnership ("Partnership I"), Denver Partners II Limited Partnership ("Partnership II"), and Denver Partners III Limited Partnership ("Partnership III") (collectively, the "Partnerships"), Maryland limited partnerships, and their general partner, Winthrop Financial Co., Inc. ("Winthrop Financial" or the "Managing General Partner" and, together with the Partnerships, the "Applicants"), filed an application on May 3, 1982, and an amendment thereto on May 17, 1982, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), for an order exempting the Partnerships from all provisions of the Act and the rules and regulations thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that Partnership I was formed under the Maryland Uniform Limited Partnership Act on March 2, 1982, to invest in Boulevard Plaza Associates I Limited Partnership ("Operating Partnership I") and that it will offer 125 units of limited partnership interests in Partnership I (the "Units) at a price of $155,500 per Unit to investors meeting certain suitability standards described below, pursuant to Section 4(2) of the Securities Act of 1933, as amended (the "Securities Act"), and Regulation D promulgated thereunder. Applicants state further that Partnership I will operate as a "two-tier" partnership, that is, Partnership I, as limited partner, will hold, as its sole investment, an 80.99% interest in Operating Partnership I, which in turn will be engaged in the acquisition, development, construction, ownership and operation of housing for low and moderate income persons, all purportedly in accordance with the purposes and criteria set forth in Investment Company Act Release No. 8456 (August 9, 1974) ("Release No. 8456").

Applicants maintain that Partnership I's objectives are to (a) invest in Operating Partnership I, (b) provide tax benefits on a current basis, (c) obtain reasonable protection for the investment in Operating Partnership I, (d) provide potential for appreciation and (e) provide potential for future cash distributions from operations (on a limited basis), refinancing or sale of the multi-use project described below. The objectives of Partnership II and III are to (a) invest in Operating Partnerships II and III (described below), respectively, which, in turn will invest in Operating Partnership I, (b) provide tax benefits on a current basis, (c) obtain reasonable protection for the investment in Operating Partnerships II and III, (d) provide potential for appreciation and (e) provide potential for future cash distributions for operations (on a limited basis), refinancing or sale of the multi-use project described below.

Applicants represent that Partnership I will raise $19,437,500 from the proceeds of the offering if all the Units are sold and that, of this amount, Partnership I will contribute $14,265,800 to Operating Partnership I as its capital contribution, and will use the remainder to pay (1) certain syndication expenses and fees to the Managing General Partner and its affiliates, the general partner of Operating Partnership I and MGIC Indemnity Corporation for its agreement to insure the second and third installments of the capital contributions of the limited partners and (2) to pay interest on a loan to be obtained from a commercial bank. Applicants further represent that, as described above, Partnership I will own an 80.99% interest as a limited partner in Operating Partnership I. Applicants assert that Operating Partnership I will, in turn, acquire, develop, construct, own and operate a multi-use project, including 844 units of rental housing for low and moderate income persons ("Project I"), part of the Boulevard Plaza Project. The Boulevard Plaza Project also includes an office tower which will be constructed by Boulevard Plaza Associates II Limited Partnership ("Operating Partnership II"), a Colorado limited partnership and Boulevard Plaza Associates III Limited Partnership ("Operating Partnership III"), also a Colorado limited partnership. Operating Partnership II will develop and operate the first four floors of the office tower ("Project II"), and Operating Partnership III will develop and operate the top five floors of the office tower ("Project III"). Projects II and III are sometimes hereinafter referred to as the "Office Tower"; Projects I, II and III are referred to collectively as the "Project"; and Operating Partnerships I, II and III and referred to collectively as the "Operating Partnerships." In addition to developing and operating the Office Tower, upon completion of the construction of the entire boulevard Plaza Project, Operating Partnerships II and III will become limited partners of Operating Partnership I. The equity for Operating Partnerships II and III will be provided through capital contributions from Partnership II and Partnership III, respectively. Partnerships II and III will be offering limited partnerships interests in order to raise equity for investment in Projects II and III through Operating Partnerships II and III.

Applicants state that because the Project is in an urban renewal area, the Operating Partnerships have received assistance in the acquisition of land from the Denver Urban Renewal Authority, will receive construction financing from the proceeds from the sale of tax-exempt revenue bonds by the City and County of Denver, and has qualified for mortgage insurance from the Federal Housing Administration and rental subsidies from the Department of Housing and Urban Development. Applicants maintain that the Partnerships and Operating Partnerships will not acquire interests in any other entities or property except for certain limited short-term interim investments by the Partnerships.

The application states that although as a limited partner of the Operating Partnerships the Partnerships will have no control over the management of the Project, the ownership by the Partnerships of an interest in the Operating Partnerships will be the economic equivalent of direct ownership of the Project itself and that the interests in the Operating Partnerships will have no value independent of the value of the Project. Applicants assert that the Operating Partnerships will not generate substantial income or expense other than as directly related to the acquisition, development, construction, ownership and operation of the Project. Applicants further assert that the Partnerships are organized as limited partnerships because a limited partnership is the only form of organization which provides investors with both (1) the ability to claim on their individual income tax returns a share of the tax benefits as if they were direct owners of the Office Tower and Project

I, and (2) liability limited to their capital investment.

Applicants represent that the Partnerships will be controlled by Winthrop Financial as the Managing General Partner pursuant to partnership agreements and that Winthrop Financial, a Massachusetts corporation, is a wholly-owned subsidiary of First Winthrop Corporation, a Delaware corporation. Applicants further represent that Linnaeus Hawthorne Associates, an affiliate of Winthrop Financial, is currently a limited partner of the Partnerships and will convert its interest to that of a general partner upon admission of the investor limited partners. Applicants maintain that the limited partners, consistent with their limited liability status, will not be entitled to participate in the control of the Partnerships' businesses but that a majority in interest of the limited partners will have the right to amend the partnership agreements, dissolve the Partnerships and remove the general partners and elect a replacement therefor, provided that such rights will not adversely affect the tax or limited liability status of the limited partners. Applicants assert that under the partnership agreements, each limited partner is entitled to review all books and records of the respective partnerships at any and all reasonable times and that copies of the list of the names and addresses of the limited partners, including the number of units owned by each of them, will be available to the limited partners.

Applicants assert that the general partner of the Operating Partnerships is Brady Enterprises, a Colorado general partnership consisting of S. Bud Brady and Robert J. Joyce as general partners. Brady Enterprises and Brady Corporation, a corporation of which S. Bud Brady is president and which will serve as construction coordinator for the Project and builder of a portion of the Project, are alleged to have substantial experience in the construction and development of real estate projects, including several government-assisted projects for the elderly and handicapped. Applicants further assert that Brady Enterprises will guarantee completion of the Project, will cover certain operating deficits of the Operating Partnerships through the period in which the limited partners are making their capital contributions (the "Operating Guarantee Period") and, prior to the expiration of the Operating Guarantee Period, will repurchase the interests of the limited partners subject to certain conditions. Applicants state that in consideration of the foregoing, Brady Enterprises will receive substantial compensation and Brady Enterprises, S. Bud Brady and Robert J. Joyce will receive interests in the Operating Partnerships disproportionate to their capital contributions.

Without conceding that the Partnerships or any one of them is an investment company as defined in the Act, Applicants request that the Partnerships be exempted from the provisions of the Act pursuant to Section 6(c). Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction from any provision of the Act and rule thereunder if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants contend that the exemption of the Partnerships from all provisions of the Act is both necessary and appropriate in the public interest. Applicants express the view that the final paragraph of Release No. 8456 contemplates that the exemptive power of the Commission under Section 6(c) may be applied to two-tier partnerships such as the Partnerships, which are "two-tier partnerships that invest in limited partnerships engaged in the development and building of housing for low and moderate income persons . . ." Applicants state that Release No. 8456 lists two conditions, designed for the protection of investors, which must be satisfied in order to qualify for such an exemption: (1) "interests in the issuer should be sold only to persons for whom investments in limited profit, essentially taxshelter, investments would not be unsuitable. . . "; and (2) "requirements for fair dealing by the General Partners of the issuer with the Limited Partners of the issuer should be included in the basic organizational documents of the company." Applicants represent that the Partnerships will comply with these conditions.

Insofar as investor suitability is concerned, Applicants state that any subscriptions for Units in Partnership I must be approved by the Managing General Partner, which approval shall be conditioned upon representations as to suitability of the investment for each subscriber. The application indicates that the Units are being offered only to "Accredited Investors" as prescribed by Regulation D and to not more than 20 other "qualified investors" who meet certain suitability requirements. Applicants assert that an Accredited Investor under Regulation D is an investor who (a) has a net worth (i.e., total assets in excess of total liabilities) of at least $770,500 per Unit, or in the event the prospective investor desires to purchase one half of a Unit, $1,000,000 or (b) has an annual income in excess of $200,000 in each of the last two years and reasonably expects an income in excess of $200,000 in the current year. Applicants represent that for the purpose of this offering a qualified investor is an investor who has a net worth (exclusive of homes, home furnishings and automobiles) of at least three times the amount of the purchase price of the Units purchased. Partnership II will offer 20 units of limited partnership interests at a price of $155,500 per unit to investors meeting the same suitability standards, and Partnership III will offer 25 units of limited partnership interests at a price of $155,500 a unit to investors meeting these same suitability standards. Offerings of units in both the Partnerships II and III will be made pursuant to Section 4(2) of the Securities Act and Regulation D promulgated thereunder.

Insofar as fair dealing by the general partner of the issuer with the limited partners of the issuer is concerned, as reflected by the basic organizational documents of the company, Applicants contend that the partnership agreements and the Confidential Memorandum relating to the offering of the units (the "Memorandum") contain numerous provisions designed to insure fair dealing by the general partner with the limited partners. Applicants represent that all compensation to be paid to the general partner and its affiliates is fair and on terms no less favorable to the Partnerships than would be the case if such arrangements had been made with independent third parties. Applicants represent that the Partnerships believe that such compensation meets all applicable guidelines necessary to permit the units to be offered and sold in the various states which prescribe such guidelines, including the statement of policy adopted by the North American Securities Administrators Association, Inc. in respect of real estate programs.

Applicants further contend that the Partnerships' exemption from the provisions, rules and regulations promulgated pursuant to the Act is both necessary and appropriate in the public interest. Applicants maintain that, by investing in the Operating Partnerships, the Partnerships are implementing the national policy enunciated by Congress in Section 901 of Title IX of the Housing and Urban Development Act of 1968: "to encourage the widest possible participation by private enterprise in the

provision of housing for low or moderate income families. . . ."

Notice is further given that any interested person may, no later than June 14, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-14440 Filed 5-26-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 22509; 70-6733]

Georgia Power Co; Proposed Sale of Transmission Lines

May 21, 1982.

Georgia Power Company ("Georgia"), 333 Piedmont Ave., N.E.,Atlanta, Ga., an electric utility subsidiaray of the Southern Compnay, a registered holding company, has filed a declaration pursuant to Section 12(d) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 44 promulgated thereunder.

Georgia proposes, pursuant to a proposed Sale Agreement ("Sale Agreement") with Oglethorpe Power Corporation, an Electric Membership Generation & Transmission Corporation ("Oglethorpe"), to sell to Oglethorpe approximatley 85.5 miles of 500 kv transmission line, approximately 62.8 miles of 230 kv transmission lines and appromixately 91.66 miles of 46 kv transmission lines, for an aggregate sales price of approximately $19,378,000. Such sales price represents Georgia's original (underpreciated) cost of such transmission lines (including land costs) plus an additional negotiated amount. Georgia will obtain from its First Mortgage Bond Trustee a release of such transmission lines from the lien of Georgia's First Mortgage Indenture. Georgia expects to apply the proceeds of the sale of the transmission lines toward the cost of its construction program.

The transmission lines to be sold will remain a part of the intergrated transmission system operated by Georgia and Oglethorpe, and thus will remain available for the use of Georgia without charge in accordance with provisions of the Integrated Transmission System Agreement, dated as of January 6, 1975 (the "System Agreement"), between Georgia and Oglethorpe. The sale will increase Oglethorpe's investment in the integrated transmission system and will enable Oglethorpe to maintain its requisite investment in transmission facilities pursuant to the System Agreement.

The transmission lines to be sold will be operated and maintained by Georgia in accordance with the provisions of the Integrated Transmission System Operation and Maintenance Agreement, dated as of July 1, 1975 (the "Operation and Maintenance Agreement"), between Georgia and Oglethorpe. Oglethorpe will make payments to Georgia for such operation and maintenance in accordance with the provisions of the Operation and Maintenance Agreement.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 14, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-14441 Filed 5-26-82; 8:45 am]
BILLING CODE 8010-01-M

[File No. 22-11636]

Hughes Tool Co., Application and Opportunity for Hearing

May 21, 1982.

Notice is hereby given that Hughes Tool Company ("Applicant") has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939, as amended ("1939 Act") for a finding by the Securities and Exchange Commission ("Commission") that the trusteeship of Texas Commerce Bank National Association, a national banking association ("Texas Commerce"), under two indentures qualified under the 1939 Act and under one indenture not required to be so qualified are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Texas Commerce from acting as trustee under any of the subject Indenture.

Section 310(b) of the 1939 Act provides in part that if a trustee under an indenture qualified under the 1939 Act has or shall acquire any conflicting interest (as defined in such Section), it shall within ninety days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, *inter alia*, that with certain exceptions a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Applicant alleges that:

1. Texas Commerce, as trustee, entered into an indenture dated July 15, 1975 ("1975 Indenture") pursuant to

which Applicant issued $40,000,000.00 aggregate principal amount of its 9% Sinking Fund Debentures, due July 15, 2000, and which was heretofore qualified under the 1939 Act. These indentures were registered under the Securities Act of 1933 on Form S–1 (File No. 2–54050).

2. Texas Commerce, as trustee, entered into an indenture dated November 1, 1978 ("1978 Indenture") pursuant to which Applicant issued $60,000,000.00 aggregate principal amount of its 9% Sinking Fund Debentures, due November 1, 2008, and which was heretofore qualified under the 1939 Act. These debentures were registered under the Securities Act of 1933 on Form S–7 (File No. 2–62851).

3. The 1975 Indenture and the 1978 Indenture each provides in part as follows:

Section 7.08. *Conflicting Interest of Trustee.*

(a) If the Trustee has or shall acquire any conflicting interest, as defined in this Section 7.08, it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign in the manner and with the effect specified in Section 7.10 * * *.

* * * * *

(c) For the pruposes of this Section 7.08, the Trustee shall be deemed to have a conflicting interest if

(1) The Trustee is trustee under another indenture under which any other securities, or certificates of interest of participation in any other securities, of the Company, are outstanding, unless such other indenture is a collateral trust indenture under which the only collateral consists of Debentures issued under this indenture, provided that there shall be excluded from the operation of this paragraph (in the 1978 indenture, the 1975 Indenture is here identified as a specific exception) * * * any other indentures under which other securities, or certificates of interest or participation in other securities, of the Company are outstanding if * * * (ii) the Company shall have sustained the burden of proving, on application to the Securities and Exchange Commission and after opportunity for hearing thereon, that the trusteeship under this indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under one of such indentures * * *.

4. The Applicant entered into A Guaranty Agreement with the Texas Commerce as trustee ("Trustee") under an indenture ("Walker County Indenture") entered into between the Walker County Industrial Development Corporation ("Issuer") and the Trustee under which the Applicant unconditionally guaranteed payment of principal, interest and premium, if any, on the approximately $1,000,000.00 principal amount of the industrial development bonds ("Walker County Bonds") issued under the Walker County Indenture. The proceeds of the Walker County Bonds were to be loaned by the Issuer to Brown Oil Tools, Inc. ("Brown Oil"), a subsidiary of Applicant, which also unconditionally guaranteed payment of principal, interest and premium, if any, on the principal amount of the Walker County Bonds. The Walker County Bonds were not registered under the Securities Act of 1933, pursuant to an exemption contained in Section 3(a)(2) thereof. Similarly, the Walker County Indenture is not qualified under the 1939 Act pursuant to the exemption contained in Section 304(a)(4) thereof.

5. By a Ratification and Assumption Agreement and Consent, executed by Issuer, Brown Oil, the Applicant and the Trustee, dated December 8, 1981, the Applicant assumed all obligations of Brown Oil under the Walker County Indenture, and Brown Oil and Applicant agreed to a merger to be consummated on or before December 31, 1981, Applicant being the sole surviving corporation. Because of the assumption by Applicant of all obligations of Brown Oil and because Applicant is the guarantor of payment of the proceeds of the Walker County Bonds, the Walker County Indenture could be "another indenture under which any other securities of an obligor under the indenture securities are outstanding" under Section 310(b) of the 1939 Act.

6. Texas Commerce, as trustee, entered into an indenture dated December 15, 1981 ("1981 Indenture No. 1") pursuant to which Applicant issued $100,000,000.00 aggregate principal amount of its 9–12% Convertible Subordinated Debentures, due December 15, 2006, and which was heretofore qualified under the 1939 Act.

These debentures were registered under the Securities Act of 1933 on Form S–16 (File No. 2–75256).

The 1981 Indenture No. 1 provides in part as follows:

Section 9.08. *Conflicting Interest of Trustee.*

(a) If the Trustee has or shall acquire any conflicting interest, as defined in this Section 9.08, it shall, within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign in the manner and with the effect specified in Section 9.10. . . .

* * * * *

(c) For the purposes of this Section 9.08 the Trustee shall be deemed to have a conflicting interest if

(1) the Trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the Company, are outstanding, unless such other indenture is a collateral trust indenture under which the only collateral consists of Debentures issued under this indenture, provided that there shall be excluded from the operation of this paragraph the three separate Indentures, dated as of July 15, 1975, as of November 1, 1978 and as of December 15, 1981 . . . and any other indenture or indentures under which other securities, or certificates of interest or participation in other securities, of the Company are outstanding if . . . (ii) the Company shall have sustained the burden of proving, on application to the Securities and Exchange Commission and after opportunity for hearing thereon, that the trusteeship under this indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under one of such indentures * * *.

7. Texas Commerce, as trustee, entered into an indenture dated December 15, 1981 ("1981 Indenture No. 2") pursuant to which Applicant issued $100,000,000.00 aggregate principal amount of its 14½% Notes, due December 15, 1988, and which was heretofore qualified under the 1933 Act. These debentures were registered under the Securities Act of 1933 on Form S–16 (File No. 2–75254).

8. The 1981 Indenture No. 2 provides in part as follows:

Section 7.08. *Conflicting Interest of Trustee.*

(a) If the Trustee has or shall acquire any conflicting interest, as defined in this Section 7.08, it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign in the manner and with the effect specified in Section 7.10 . . . .

* * * * *

(c) For the purposes of this Section 7.08 the Trustee shall be deemed to have a conflicting interest if

(1) the Trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the Company, are outstanding, unless such other indenture is a collateral trust indenture under which the only collateral consists of Notes issued under this indenture, provided that there shall be excluded from the operation of this paragraph the three separate Indentures, dated as of July 15, 1975, November 1, 1978 and as of December 15, 1981 . . . and any other indenture or indentures under which other securities, or certificates of interest or participation in other securities, the Company are outstanding if * * *

(ii) the Company shall have sustained the burden or proving, on application to the Securities and Exchange Commission and after opportunity for hearing thereon, that the trusteeship under this indenture and such other indenture is not so likely to involve a

material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the trustee from acting as such under one of such indentures * * *

9. On October 10, 1980, the Commission issued an Order granting application pursuant to Section 310(b)(1)(ii) of the 1939 Act. Such Order was granted in response to an Application and a Notice of Application and Opportunity for Hearing, such Notice being filed by Applicant on September 15, 1980 and published on September 18, 1980 at 45 Fed. Reg. 62,240 (1980). In such order, the Commission made a finding that the trusteeships of the Bank under the 1975 Indenture, the 1978 Indenture and the Walker County Indenture were not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as trustee under any of the indentures named therein.

Since the Commission found by its Order dated October 10, 1980 that there was no material conflict of interest as to the 1975 Indenture, the 1978 Indenture and the Walker County Indenture and since the 1981 Indenture No. 1 and 1981 Indenture No. 2 made reference (as permitted by the proviso to Section 310(b)(1) of the 1939 Act) to the 1975 Indenture, the 1978 Indenture, the 1981 Indenture No. 2, the only possible conflict of interest to be examined by the Commission is found in the provisions of the 1981 Indenture No. 1, the 1981 Indenture No. 2 and the Walker County Indenture.

10. Applicant's obligations under the 1981 Indenture No. 1, the 1981 Indenture No. 2 and the Walker County Indenture are not secured by assets of Applicant and are of equal rank as to one another and without priority of preference of any over the others. In the opinion of Applicant, the provisions of 1981 Indenture No. 1, the 1981 Indenture No. 2 and the Walker County Indenture are not likely to involve a material conflict of interest so as to make it necessary in the public interest or for the protection of any holder of any debenture issued pursuant to any indenture referred to in this Paragraph 10 to disqualify the Bank from acting as trustee under the 1981 Indenture No. 1, the 1981 Indenture No. 2 or the Walker County Indenture.

11. Applicant is not in default with respect to the 1981 Indenture No. 1, the 1981 Indenture No. 2 or the Walker County Indenture.

12. Applicant waives notice of hearing, any right to a hearing on the issues raised by the Applicant and all rights to specify procedures under the Commission's rules of practice.

For a more detailed statement of the matters of fact and law asserted here, all persons are referred to said application, which is a public document on file in the Office of the Commission, at 1100 L Street, N.W., Washington, D.C. 20005.

Notice is further given that any interested person no later than June 11, 1982, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communications or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-14442 Filed 5-26-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22508, 70-6743]

Northeast Utilities et al.; Proposed Issuance and Sale of Short-Term Notes to Banks and Commercial Paper, Capital Contributions and Open Account Advances by Holding Company to Subsidiaries, and Exemption From Competitive Bidding as to Commercial Paper

May 21, 1982.

In the matter of Northeast Utilities, Western Massachusetts Electric Company, The Quinnehtuk Company, 174 Brush Hill Avenue, West Springfield, Massachusetts 01089; The Connecticut Light and Power Company, The Hartford Electric Light Company, Northeast Nuclear Energy Company, Rocky River Realty Company, Selden Street, Berlin, Connecticut 06037; Holyoke Water Power Company, One Canal Street, Holyoke, Massachusetts 01040.

Northeast Utilities ("NU"), a registered holding company, and its subsidiary companies, The Connecticut Light and Power Company ("CL&P"), The Hartford Electric Light Company ("HELCO"), Western Massachusetts Electric Company ("WMECO"), Holyoke Water Power Company ("HWP"), Northeast Nuclear Energy Company ("NNECO"), Rock River Realty Company ("Rocky River"), and The Quinnehtuk Company ("Quinnehtuk"), have filed a declaration with this Commission pursuant to Sections 6(a), 7, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45 and 50(a)(5) thereunder.

The declaration relates to (1) proposed short-term borrowings by certain of the declarants from time to time before June 30, 1983, through (a) in the case of NU, CL&P, HELCO, WMECO, and NNECO, the issuance of notes to banks and (b) in the case of NU, CL&P, HELCO, and WMECO, the issuance of commercial paper to a dealer in commercial paper and (2) proposed capital contributions and open account advances by NU to its subsidiary companies. The aggregate amount of all such notes at any time outstanding, whether issued to banks or to a dealer in commercial paper, will not exceed $100,000,000 in the case of NU, $270,000,000 in the case of CL&P, $140,000,000 in the case of HELCO, $85,000,000 in the case of WMECO, and $80,000,000 in the case of NNECO. If the proposed merger of HELCO into CL&P (File No. 70-6669) becomes effective during the period, the amount of all such notes of CL&P, as the surviving company, which would be outstanding would not exceed $410,000,000.

The bank notes will each be dated the date of issue, will have maximum maturity dates of nine months with right to renewal, will bear interest at the prime rate or at the prime rate plus a fraction thereof, or will bear interest at rates determined with reference to other financial indices, will be issued no later than June 30, 1983, and will be subject to prepayment at any time at the declarants' option with or without premium. The declarants have credit lines with a number of banks, subject in some cases to commitment fees and/or compensating balance requirements. The effective interest rates (based on a prime rate of 16½% and assuming full usage) range from 16.50% to 20.54%.

The commercial paper will be issued in the form of short-term promissory notes in denominations of not less than $50,000 and no more than $1,000,000, of varying maturities, with no maturity more than 270 days after the date of issue, and will not be prepayable prior to maturity. The commercial paper will be sold directly to a dealer in commercial paper at the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and of the particular maturity. No commission or fee will be payable in connection with the issuance

and sale of commercial paper. The purchasing dealer, as principal, will reoffer the commercial paper to not more than 200 institutional investors at a discount of not more than ⅛ of 1% per annum less than the prevailing discount rate.

NU expects to apply the new funds derived from the issuance and sale of the bank notes and the commercial paper during the period from July 1, 1982 to June 30, 1983, (1) to make proposed capital contributions of up to $60,000,000 to CL&P, up to $40,000,000 to HELCO, up to $20,000,000 to WMECO, and up to $3,000,000 to HWP; (2) to make proposed open account advances to Rocky River and to Quinnehtuk, both wholly-owned real estate subsidiaries of NU, in amounts not to exceed in the aggregate $2,500,000 and $500,000, respectively; and (3) to supply funds as needed to other subsidiary companies as heretofore or hereafter authorized by the Commission. All capital contributions to subsidiaries will be credited to their capital surplus accounts. The amounts of capital contributions stated above are in addition to capital contributions described in File Nos. 70-6588 and 70-6718.

The funds to be derived by CL&P, HELCO, and WMECO from the issuance and sale of the bank notes and commercial paper, and from the receipt of capital contributions and/or open account advances from NU, will be applied, together with other funds available to these companies, to provide working capital and to finance their respective construction expenditures (including Allowance of Funds Used During Construction but excluding nuclear fuel) in 1982 and 1983, which are estimated to be $462,939,000, $221,534,000, and $134,742,000, respectively. NNECO will apply funds derived from the sale of bank notes and other funds available to it for operating and maintenance expenses for the Millstone plants and for nuclear fuel until December 1, 1982. After December 1, 1982, NNECO will apply funds to operating and maintenance expenses only. Rocky River and Quinnehtuk will use the funds from the open account advances, together with any other funds available to them, for routine real estate acquisitions and for improvements to existing facilities.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 16, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-14443 Filed 5-26-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18751; SR-PSE-82-5]

Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

May 21, 1982.

The Pacific Stock Exchange, Inc., 618 South Spring St., Los Angeles, Calif.; submitted on April 5, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to increase its listing fees for the listing of additional shares or warrants. Under the proposed amendment, the PSE would charge a fee of ½ cent per share subject to a $500 minimum fee per listing, and a $5000 maximum fee per listing. Prior to the proposed increase, the PSE has charged a fee of ½ cent per share, subject to a minimum fee of $500 for listing 100,000 shares or less, and a maximum fee of $2500 for listing 500,000 shares or more, with a minimum fee of $500 per application, and a maximum fee of $2500 per application.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 18658, April 15, 1982) and by publication in the **Federal Register** (47 FR 17152, April 21, 1982). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-14444 Filed 5-26-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2040]

Florida; Declaration of Disaster Loan Area

Marion County in the State of Florida constitutes a disaster area as a result of damage caused by flooding which occurred on April 8-10, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 14, 1982, and for economic injury until the close of business on February 17, 1983, at the address below: Small Business Administration, 400 West Bay Street, Box 35067, Jacksonville, Florida 32202, or other locally announced locations.

	Percent
Homeowners with credit available elsewhere	15%
Homeowners without credit available elsewhere	7%
Businesses with credit available elsewhere	10%
Businesses without credit available elsewhere	8
Businesses (EIDL) without credit available elsewhere	8
Other (non-profit organizations including charitable and religious organizations)	11%

It should be noted that assistance for agriculture enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96-302.

Information on recent statutory changes (Pub. L. 97-35, approved August 13, 1981) is available at the above-mentioned office.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: May 17, 1982.

James C. Sanders,

Administrator.

[FR Doc. 82-14499 Filed 5-26-82; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2036; Amdt. No. 1]

Missouri, Declaration of Disaster Loan Area

The above number Declaration (see 47 FR 21672) is amended by expanding the incidence period to include those high winds and tornadoes which occurred on April 2, 1982 and April 16, 1982. The time for filing application is extended to July 8, 1982, for physical damage and February 7, 1983 for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 5, 1982.

James C. Sanders,

Administrator.

[FR Doc. 82-14469 Filed 5-26-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0288]

New West Partners; Issuance of License To Operate as a Small Business Investment Company

On April 17, 1982, a notice was published in the Federal Register (46 FR 22525) stating that an application had been filed by New West Partners located at 180 Newport Center Drive, Suite 200, Newport Beach, California 92660 has filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1981), for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended.

The period of comment expired on May 4, 1981, and no significant comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 09/09-0288 to New West Partners.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 20, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-14470 Filed 5-26-82; 8:45 am]

BILLING CODE 8025-01-M

Presidential Advisory Committee on Small and Minority Business Ownership; Public Meeting

The Presidential Advisory Committee on Small and Minority Business Ownership, located in Washington, D.C., will hold a public meeting at 9:00 a.m. until 5:00 p.m., Monday, June 14, 1982, at the Federal Building, 450 Golden Gate Avenue, Room 2007, San Francisco, California 94102, to discuss such business as may be presented by the Committee members. The meeting will be open to the interested public, however, space is limited.

Persons wishing to present written statements should notify Mrs. Bettye Bolden, Office of the Associate Administrator for Minority Small Business and Capital Ownership Development, Small Business Administration, Room 317, 1441 L Street, NW., Washington, D.C. 20416, (202) 653-6851, in writing or by telephone no later than June 8, 1982.

Dated: May 21, 1982.

Edna E. Powers,

Director, Office of Advisory Councils.

[FR Doc. 82-14471 Filed 5-26-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 82-060]

Proposed Bridge Across the Danvers River Between Salem and Beverly, Massachusetts

AGENCY: Coast Guard, DOT.

ACTION: Notice of public hearing.

SUMMARY: Notice is hereby given that the Commandant has authorized a public hearing to be held by the Commander, First Coast Guard District, at Beverly, Massachusetts. The purpose of the hearing is to consider the application from the Commonwealth of Massachusetts to construct a fixed highway bridge across the Danvers River between Salem and Beverly, Massachusetts. All interested persons may present data, views, and comments orally or in writing at the public hearing concerning the impact of the proposed bridge on the environment and its effect on navigation. A final environmental impact statement was approved by the Federal Highway Administration on June 8, 1981.

DATE: July 8, 1982, from 1:00 p.m. to 4:30 p.m. and from 7:30 p.m. to 10:00 p.m.

ADDRESS: The Public Hearing will be held at the following location: Beverly High School, Sohier Road, Beverly, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Commander (obr), First Coast Guard District, 150 Causeway Street, Boston, Massachusetts 02114 (617) 223-0645, Attention: Mr. W. Naulty.

SUPPLEMENTARY INFORMATION: The bridge as proposed provides a vertical clearance of 48.7 feet above mean high water and a horizontal clearance of 100 feet. All comments to be presented at the scheduled hearing will be made a part of the record and will be given full consideration in the permitting process. Of particular importance at this time are effects of the proposed bridge clearances on navigation. Presentations should include factual data to support comments presented.

The hearing will be informal. A Coast Guard representative will preside at the hearing, make a brief opening statement describing the proposed bridge, and announce the procedures to be followed at the hearing. Each person who wishes to make an oral statement should notify the Commander (obr), First Coast Guard District at the above address by July 1, 1982. Such notification should include the approximate time required to make the presentation. A transcript will be made of the hearing and may be purchased by the public. Interested persons who are unable to attend this hearing may also participate in the consideration of this bridge permit application by submitting their comments, in writing, on or before July 19, 1982 to the Commander (obr), First Coast Guard District. Each comment should state the reasons for any objections, comments or proposed changes to the plans and the name and address of the person or organization submitting the comment.

Copies of all written communications will be available for examination by interested persons at the Office of the Commander (obr), First Coast Guard District. All comments received will be considered before final action is taken on the proposed bridge permit application. After the time set for the submission of comments, the Commander, First Coast Guard District, will forward the record, including all written comments, and his recommendations to the Commandant, U.S. Coast Guard, Washington, DC 20593. The Commandant will make the final determination of the bridge permit.

Sec. 502, Act of August 2, 1946, as amended; 33 U.S.C. 525, 49 U.S.C. 1655(g)(6)(C); 49 CFR 1.46(c)(10))

Dated: May 24, 1982.

J. C. Uithol,

Captain, U.S. Coast Guard, Acting Chief, Office of Navigation.

[FR Doc. 82-14483 Filed 5-26-82; 8:45 am]

BILLING CODE 4910-14-M

[CGD 82-059]

Rules of the Road Advisory Council: Establishment

AGENCY: Coast Guard DOT.

ACTION: Notice of establishment.

SUMMARY: The Secretary of Transportation has approved the establishment of the Rules of the Road Advisory Council in accordance with section 5 of Pub. L. 96–591, the Inland Navigation Rules Act of 1980. The Secretary has also approved the charter for this Council. The purpose of this Council is to advise the Secretary of Transportation on matters relating to any major proposals for changes to the Inland Rules.

SUPPLEMENTARY INFORMATION: The appointed members of this Council are: Gordon W. Paulson, Haight, Gardner, Poor & Havens Law Firm; Lester C. Bedient, Crowley Maritime Corporation; Wayne Williams, Institute for Survival Technology at NOVA University; Robert Williams, North Carolina Seafood and Industrial Park; Eugene Dinnocenti, Twin County Construction Company; Lester Dutcher, SUNY Maritime College; Ed Jacobson, Ogle Bay Norton Company; Howard Krasnoff, Bluewater Yacht Builders, Ltd.; Paul M. Hammer, American Institute of Merchant Shipping; William R. Herder, Port of Newport; Warren A. Hines, Trial Attorney; Louis Kapelski, Delaware River Ferry Company; Charles F. Lehman, American Commercial Barge Line Company; G. James Lippmann, American Boat & Yacht Council; Harvey E. MacDermid, Lake Pilots Association, Inc.; Matthew B. McGowan, Santa Fe-Pomeroy, Inc.; Frank Fitzpatrick, Franklin Mint Corporation; Robert M. Lumpp, Great River Packet Company; Pat J. Neely, Jr., American Pilots Association; William L. Rich, Jr., International Organization of Masters, Mates, and Pilots, AFL–CIO; Arthur J. Thomas, San Francisco Bar Pilots Association.

FOR FURTHER INFORMATION CONTACT: Captain J. T. Montonye, Executive Director Rules of the Road Advisory Council, Room 1418, U.S. Coast Guard Headquarters (G–NSR), 2100 2nd Street, S. W., Washington, D.C. 20593, Phone (202) 426–0980.

This notice is issued under authority of the Federal Advisory Committee Act, Pub. L. 92–463, 5 U.S.C. App. 1.

Dated: May 18, 1982.

H. W. Parker,

Chief, Office of Boating, Public and Consumer Affairs.

[FR Doc. 82-14421 Filed 5-26-82; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Air Traffic Control Tower; Commissioning

Notice is hereby given that on June 16, 1982, though September 7, 1982, the Airport Traffic Control Tower at the Martha's Vineyard Airport, Martha's Vineyard, Massachusetts, will be commissioned as a part-time Federal Aviation Administration (FAA) facility. Tower hours of operation will be established in advance by a Notice to Airmen, and thereafter be published in the Airman's Information Manual. The designated facility identification for the FAA airport control tower will be: VINEYARD TOWER.

This information will be reflected in the FAA organization statement.

Communications to the tower should be directed to: Federal Aviation Administration, Airport Traffic Control Tower, P.O. Box 71, Vineyard Haven, Massachusetts 02568.

(Section 313(a), 72 Stat. 752; 49 U.S.C. 1354(a) and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

Issued in Burlington, Massachusetts, on May 17, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82-14427 Filed 5-26-82; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Delaware County, Pa.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed fringe parking lot in Delaware County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: John R. Krause, Division Enviromental Engineer, Federal Highway Administration, 228 Walnut Street, P.O. Box 1086, Harrisburg, Pennsylvania 17108–1086, Telephone: (717) 782–2270, or Robert L. Rowland, P.E., District Engineer, Pennsylvania Department of Transportation, 200 Radnor-Chester Road, St. Davids, Pennsylvania 19103.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Pennsylvania Department of Transportation, will prepare an Environmental Impact Statement (EIS) on a proposal to construct the Wallingford Fringe Parking Lot in Delaware County, Pennsylvania. The proposal would involve the construction of a parking area and commuter rail station adjacent and with access to proposed Interstate 476, L.R. 1010. The site for the proposed parking area is a triangular piece of land of approximately six acres, bounded by the proposed I–476 right-of-way to the east, the Penn-Central Railroad to the south and Rogers Lane to the north. Four Build Alternatives and the No-Build Alternatives will be studied. Alternative 1 would provide for full access to and from northbound and southbound I–476. Alternative 2 would provide for access to and from northbound I–476 only. Alternatives 3 and 4 are identical to Alternatives 1 and 2 with the exception that each would also provide access to the parking area from the local street system.

No previous studies have been performed at this location. This EIS is being initiated as a result of a joint Federal, State and local Government Task Force established in 1980, to address certain specific issues raised during the review of the FEIS/4(f) document for I–476. The Task Force recommended the feasibility of constructing a fringe parking lot at Wallingford be studied and progressed separately from the redesign of I–476. The EIS will include detailed studies of Air Quality, Noise, Socio-Economic and Land Use, Ecology, Water Quality, Cultural Resources, Energy, Traffic and Transportation and Construction impacts.

The scoping process will be initiated with a letter sent to appropriate Federal, State and local agencies, transmitting for comment the proposed EIS Plan of Study. A Scoping Meeting will be held after receipt and review of initial comments.

A Wallingford Technical Advisory Committee (TAC) will be formed comprised of Federal, State and local agencies and community representatives to provide early and continuing input of agency policies, requirements and recommendations, and public input.

Three TAC meetings are planned at milestones in the study and will function to facilitate consultation and coordination with agencies and the public and will be in effect an extension of the formal scoping process. The initial TAC meeting is anticipated to be held in August 1982, after the formal scoping meeting with subsequent meetings in April and August of 1983.

Three public informational meetings are planned to be held in Delaware County at project milestones with the first scheduled in June 1982, following the formal scoping meeting and the remaining two meetings to follow the

first and second TAC meetings by approximately one month. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The purpose of the public informational meetings is to provide specific data relative to the study alternatives and receive comments from the community, at key points in the study following the formal scoping meeting. The Draft EIS will be available for public and agency review and comment by approximately June 1983.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action and the EIS should be directed to the FHWA or Pennsylvania Department of Transportation at the address provided above.

Louis M. Papet,

Division Administrator, Harrisburg, Pennsylvania.

[FR Doc. 82-14500 Filed 5-26-82; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

Rulemaking, Research and Enforcement Programs Public Meetings

The National Highway Traffic Safety Administration (NHTSA) will hold a meeting on June 30, 1982, to answer questions from the public and industry regarding the Agency's rulemaking, research and enforcement programs. The meeting will begin at 10:30 a.m., run until 1:00 p.m., and reconvene at 2:00 p.m. if necessary. It will be held in the Conference Room of the Environmental Protection Agency's Laboratory Facility, 2565 Plymouth Road, Ann Arbor, Michigan.

At the June meeting, representatives of DOT will answer questions received from the industry and the public relating to NHTSA's rulemaking, research and enforcement programs (including defects). The purpose of this is to focus on those phases of these NHTSA activities which are technical, interpretative or procedural in nature. (Questions regarding the Agency's fuel economy program will continue to be addressed at the EPA's meetings on vehicle emissions).

Questions for the June 30 meeting should be submitted in writing by June 11 to Courtney M. Price, Associate Administrator for Rulemaking, Room 5401, 400 Seventh Street, SW., Washington, D.C. 20590. If sufficient time is available, questions received after the June 11 date may be answered at the meeting. The individual, group, or company submitting a question does not have to be present for the question to be answered. A consolidated list of the questions submitted by June 11 and the issues to be discussed will be mailed to interested persons on or before June 25, 1982, and will be available at the meeting. This list will serve as the agenda.

A transcript of the meeting will be available for public inspection in the NHTSA Technical Reference Section in Washington, D.C., within four weeks after the meeting. Copies of the transcript will then be available at twenty-five cents for the first page and five cents for each additional page (length has varied from 100 to 150 pages) upon receipt to NHTSA, Technical Reference Section, Room 5108, 400 7th Street, S.W., Washington, D.C. 20590

Issued in Washington, D.C. on May 20, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82-14213 Filed 5-26-82; 8:45 am]

BILLING CODE 4910-59-M

Federal Aviation Administration

Random Drawing to Determine Priority of Air Carrier Sequence for Additional System Capacity

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public drawing.

PURPOSE OF MEETING: The Federal Aviation Administration invites all interested persons to observe the random selection of air carriers to determine the priority of sequence in which air carriers' requests for new or additional slots will be considered in accordance with Special Federal Aviation Regulation 44-3 for allocation of any additional slots at the 22 capacity limited airports and within each air traffic control center. The priority sequence will apply to the schedule period August 1, 1982 through October 30, 1982.

DATE: June 3, 1982, 10:00 a.m.

PLACE: FAA Auditorium, 800 Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Harvey B. Safeer, Director, Office of Aviation Policy and Plans, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, (202) 426-3331.

Drawing Procedures

Interested parties are invited to observe the drawing. The sequence of the drawing will be in the order listed in SFAR 44-3, i.e., Atlanta first, Boston second, etc. Once the 22 airports are finished, one draw will be conducted to determine priority listing of air carriers for all additional center capacity. The result of the drawing will be priority lists of air carriers for the allocation of any additional arrival slots at each airport. The actual allocation of the arrival slots will be made by the FAA Slot Allocation Committee during the week of June 14, 1982.

(Secs. 307, 313(a), and 601, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

Issued in Washington, DC, on May 20, 1982.

Donald R. Segner,

Associate Administrator for Policy and International Aviation.

[FR Doc. 82-14710 Filed 5-26-82; 10:58 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Office of Secretary

Public Information Collection Requirements Submitted to OMB for Review

During the period May 14 through May 20, 1982, the Department of Treasury submitted the following public information collection requirements to OMB, for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collections should be addressed to the Treasury Reports Management Officer, Information Resources Management Division, Room 309, 1625 I St. N.W., Washington, D.C. 20220; *and* to the OMB reviewer listed at the end of each entry.Q02

Date Submitted: May 17, 1982

Submitting Bureau: Internal Revenue Service

OMB Number: N/A (New submission)

Form Number: DIR-DET 4-292

Type of Submission: New

Title: Tax Shelter Questionnaire—Master Recording

Purpose: The questionnaire has been devised to properly develop each tax shelter case. Without this questionnaire, IRS may overlook pertinent areas of examination and

will be unable to determine the taxpayer's intent for investing.
OMB Reviewer: Karen P. Sagett, (202) 395–6880, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503
Date Submitted: May 17, 1982
Submitting Bureau: Alcohol, Tobacco & Firearms
OMB Number: 1512–0207
Form Number: ATF F 5110.43
Type of Submission: Extension (no change)
Title: Monthly Report of Processing (Denaturing) Operations
Purpose: Necessary audit tool used in performance of revenue collection and protection mission; used to monitor industry operations and compliance; provides raw data for compilation of denatured alcohol statistics.
OMB Reviewer: Suzann Evinger, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503
Date Submitted: May 18, 1982
Submitting Bureau: Comptroller of the Currency
OMB Number: 1557–0061
Form Number: FFIEC 101, 012 and 014
Type of Submission: Revision
Title: Reports of Condition and Income (Call Reports)
Purpose: This is the interagency or uniform call report collected by each of the three federal bank supervisory agencies. Data are used for supervisory and statistical purposes.
OMB Reviewer: Richard Sheppard, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503
Date Submitted: May 19, 1982
Submitting Bureau: Internal Revenue Service
OMB Number: 1545–0256
Form Number: 941C and 941C PR
Type of Submission: Revision
Title: Statement to Correct Information Previously Reported Under the Federal Insurance Contributions Act
Purpose: Used by employers to correct previously reported tax data on employees.
OMB Reviewer: Karen P. Sagett, (202) 395–6880, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503
Date Submitted: May 20, 1982
Submitting Bureau: Alcohol, Tobacco & Firearms
OMB Number: 1512–0040
Form Number: ATF 5630.2 and 5630.3
Type of Submission: Extension (no change)
Title: Taxpayer Delinquency Program Form Letter Statement of Liability Form Letter
Purpose: Used to determine whether an individual has become liable for special occupational taxes involving alcoholic beverages.
OMB Reviewer: Suzann Evinger, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503
Date Submitted: May 20, 1982
Submitting Bureau: Internal Revenue Service
OMB Number: 1545–0576
Form Number: 500–5–435
Type of Submission: Extension (no change)
Title: Southeast Region Exit Questionnaire
Purpose: Used to identify unfavorable practices and/or trends that cause competent employees to leave the IRS, and to identify necessity for corrective action.
OMB Reviewer: Karen P. Sagett, (202) 395–6880, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503
Date Submitted: May 20, 1982
Submitting Bureau: Internal Revenue Service
OMB Number: 1545–0573
Form Number: 506–6–8
Type of Submission: Extension (no change)
Title: Reservation for IRS VITA Training
Purpose: Used to determine size of training classes needed for volunteers, depth of training, and location for classes.
OMB Reviewer: Karen P. Sagett, (202) 395–6880, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503

Joy Tucker,
Departmental Reports Management Officer.

[FR Doc. 82-14417 Filed 5-26-82; 8:45 am]
BILLING CODE 4810-25-M

Customs Service

American Manufacturer's Petition Concerning Classification of Prefinished Hardboard Siding; Extension of Time for Public Comment

AGENCY: Customs Service, Treasury.
ACTION: Notice of extension of time for comment.

SUMMARY: This notice extends the period of time within which interested members of the public may submit written comments with respect to a notice of receipt of an American manufacturer's petition relating to the classification of prefinished hardboard siding. A document inviting the public to comment on the notice was published in the Federal Register on March 22, 1982 (47 FR 12258). Comments were to have been received on or before May 21, 1982. A request has been received to extend the period for the submission of comments claiming that additional time is needed to prepare an adequate response. Customs believes that the request is warranted. Accordingly, the period of time for the submission of written comments is extended to June 21, 1982.

DATES: Comments must be received on or before June 21, 1982.

ADDRESS: Written comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C., 20229.

FOR FURTHER INFORMATION CONTACT: Jenny Johnson, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–8181).

Dated: May 24, 1982.

John P. Simpson,
Director, Office of Regulations and Rulings.

[FR Doc. 82-14462 Filed 5-26-82; 8:45 am]
BILLING CODE 4820-02-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 103
Thursday, May 27, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

Notice of Cancellation of Presentation

TIME AND DATE: 10 a.m., May 25, 1982.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: Presentation to the Board regarding Aeroamerica's activities.

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, *the Secretary (202) 673–5068.*

[S–795–82 Filed 5–25–82; 3:00 pm]

BILLING CODE 6320–01–M

2

CIVIL AERONAUTICS BOARD

Notice of Deletion From the May 20, 1982 Board Meeting

TIME AND DATE: 10 a.m., May 20, 1982.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428

SUBJECT: 8. Docket 40176, Airport "slot" exchange agreement filed by the Air Transport Association of America. (BDA)

STATUS: OPEN.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

[S–796–82 Filed 5–25–82; 3:00 pm]

BILLING CODE 6320–01–M

3

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., June 3, 1982.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Agreement No. 7593–7: Modification of the Hoegh Lines Joint Service to add two parties.
2. Agreement No. T–4004: Terminal service agreement between the Port of Portland, Oregon and the Japanese Six Lines.
3. Docket No. 81–50: Per-Container Rates—Tariff Filing Requirements Applicable to Carriers and Conferences in the Foreign Commerce of the United States—Consideration of comments and proposed final rule.
4. Docket No. 80–13: Licensing of Independent Ocean Freight Forwarders—Further Notice of Proposed Rulemaking—Consideration of comments, request for oral argument and propsoed final rule.

Portion closed to the public:

1. Docket No. 72–35: Pacific Westbound Conference—Investigation of Rates, Rules and Practices Pertaining to the Movement of Wastepaper and Woodpulp from United States West Coast Ports to Ports in Japan—Consideration of responses to Notice regarding further proceedings.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523–5725.

[S–794–82 Filed 5–25–82; 2:33 pm]

BILLING CODE 6730–01–M

4

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Wednesday, June 2, 1982.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board: (202) 452–3204.

Dated: May 25, 1982.

James McAfee,

Associate Secretary of the Board.

[S–800–82 Filed 5–25–82; 4:12 pm]

BILLING CODE 6210–01–M

5

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of May 17 and 24, 1982 (changes).

PLACE: Commissioner's Conference Room 1717 H Street, NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Thursday, May 20* (Additional item):

3:15 p.m.:
Discussion of Enforcement Action (Closed—Exemption 5, 10)

Tuesday, May 25:

10:00 a.m.:
Briefing on Human Factors Society Report (Public Meeting) (As scheduled)

Wednesday, May 26:

10:00 a.m.:
Briefing on Investigatory Matters (Closed—Exemption 5) (Time Changed)

1:30 p.m.:
Briefing by DOR on TMI–2 Cleanup (Public Meeting) (Time Changed)

Thursday, May 27:

10:00 a.m.:
Discussion of Management-Organization and Internal Personnel Matters (Closed—Exemption 2 and 6)

1:30 p.m.:
Analysis of Licensing Board Decision for San Onofre Units 2 and 3 (Seismic) (Closed—Exemption 10)

3:00 p.m.:
Affirmation/Discussion Session (Public Meeting)
Affirmation and/or Discussion and Vote:
a. Final Amendment to 10 CFR Part 50 and to Appendix E: Modification to Emergency Preparedness Regulations Relating to Low Power Operation

Friday, May 28:

10:00 a.m.:
Discussion of Enforcement Action (Closed—Exemption 5)(Postponed from May 21)

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Walter Magee,

Office of the Secretary.

[S–799–82 Filed 5–26–82; 3:24 pm]

BILLING CODE 7590–01–M

6

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the

Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the Week of May 31, 1982, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Wednesday, June 2, 1982, at 10:00 a.m. An open meeting will be held on Thursday, June 3, 1982, at 10:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Shad and Commissioners Loomis and Thomas voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Wednesday, June 2, 1982, at 10:00 a.m., will be:

Litigation matter.
Access to investigative files by Federal, State, or Self-Regulatory authorities.
Formal orders of investigation.
Settlement of administrative proceedings of an enforcement nature.
Institution of administrative proceedings of an enforcement nature.
Institution of injunctive action.

The subject matter of the open meeting scheduled for Thursday, June 3, 1982, at 10:00 a.m., will be:

1. Consideration of whether to adopt Rule 10b–18 under the Securities Exchange Act of 1934 and to withdraw proposed Rule 13e–2 under that act. If adopted, Rule 10b–18 would create a "safe harbor" from liability under certain anti-manipulative provisions of the federal securities laws in connection with purchases by an issuer of its common stock. For further information, please contact, Mary Chamberlin at (202) 272–2880.

2. Consideration of whether to authorize publication of a release announcing: (1) revision of Guide 5 (formerly designated Guide 60) for "Preparation of Registration Statements Relating to Interests in Real Estate Limited Partnerships," of the Division of Corporation Finance's Industry Guides, concerning track record disclosure of sponsors of real estate limited partnerships; (2) amendment of the financial statement requirements of Rule 3–14 of Regulation S–X concerning "Special Instructions for Real Estate Operations to be Acquired;" and (3) conforming changes to Guide 5 and to Form 8–K for current reports under the Securities Exchange Act of 1934. For further information, please contact William L. Larsen at (202) 272–2804.

3. Consideration of whether to issue a release adopting revisions to Form S–18, a simplified registration form under the Securities Act of 1933, expanding its availability to non-corporate registrants and registrants engaged in oil and gas related operations, and amending several items. For further information, please contact Suzanne Brannan at (202) 272–2644.

4. Consideration of whether to publish for comment amendments to 17 CFR 201.22(e), 230.403(a), 240.12(b)–12(a) and (b), 250.22(d), 260.7a–17, 260.7a–18(a), 270.0–2(b), 270.8(b)–12(a) and (b), and 275.0–4(b), to require the use of 8½ x 11 inch paper for all statements, applications, reports, documents and amendments thereto filed with the Commission. For further information, please contact Douglas J. Scheidt at (202) 272–2454.

5. Consideration of whether to authorize the General Counsel to send a letter to the Subcommittee on Criminal Justice of the House Committe on the Judiciary, expressing the Commission's concerns about a provision of H.R. 5703 that would bar federal prosecutions in many cases after a person had been prosecuted by a state or local government for the same conduct that would be the basis for the federal prosecution. For further information, please contact Alex White at (202) 272–2444.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Siegelbaum at (202) 272–2668.

May 24, 1982.

[S-798-82 Filed 5-25-82; 10:32 am]
BILLING CODE 8010-01-M

7

TENNESSEE VALLEY AUTHORITY

TIME AND DATE: 6:30 p.m. (CDT), Tuesday, May 25, 1982.

PLACE: Austin Peay State University, University Center Ballroom, College Street, Clarksville, Tennessee.

STATUS: Open.

A—Project Authorizations
1. Project Authorization No. 3606—Installation of automated testing system in the central computer center's network control center located in Chattanooga, Tennessee.
2. Project Authorization No. 3609—Installation of additional chemical treatment ponds at Paradise and Shawnee steam plants.

B—Purchase Awards
1. Invitation C3–200911—Indefinite quantity term contract with Memphis Light, Gas and Water Division, Memphis, Tennessee, to provide natural gas for Allen Fossil Plant.

C—Power Items
1. Renewal power contract with Warren Rural Electric Cooperative Corporation.
2. Bill of sale and quitclaim deed conveying to Water Valley, Mississippi, a section of TVA's Oxford-Water Valley 46–kV line located in Yalobusha County, Mississippi.
3. Agreement with Electric Power Research Institute covering arrangements for demonstration of the 300–MVA superconducting generator to be installed at TVA's Gallatin Steam Plant.

F—Unclassified
1. Termination of the A. W. Overdeer right of way lease covering property located at TVA's Fabius, Alabama, coal project.
2. Revised TVA code relating to transfer, sale and lease of personal property (Code IV Disposal).
3. Appointment of Richard M. Gutekunst as an additional assistant secretary of TVA.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

Dated: May 25, 1982.

[S-797-82 Filed 5-25-82; 3:06 pm]
BILLING CODE 8120-01-M

8

TENNESSEE VALLEY AUTHORITY

TIME AND DATE: 2 p.m. (e.d.t.), Tuesday, June 1, 1982.

PLACE: Conference Room B–32, West Tower, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

Old Business Item
1. Grant of permanent industrial easement to Inland Ports, Inc., and abandonment of certain flowage easement rights affecting Watts Bar Reservoir lands near Harriman Industrial Park in Harriman, Tennessee—Tract Nos. XWBR–695IE, XWBR–683IE, and WBR–L259F.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

Dated: May 25, 1982.

[S-799-82 Filed 5-25-82; 3:06 pm]
BILLING CODE 8120-01-M

V 4 7 / 1 0 3 M Y 2 7 2

federal register

Thursday
May 27, 1982

Part II

Environmental Protection Agency

Iron and Steel Manufacturing Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 420

[WH-FRL 2033-5]

Iron and Steel Manufacturing Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is today issuing a final regulation to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works from facilities engaged in manufacturing steel. The Clean Water Act and a consent decree require EPA to issue this regulation.

The purpose of this regulation is to specify effluent limitations for "best practicable technology," "best available technology," "best conventional technology," and "new source performance standards" for direct dischargers and to establish pretreatment standards for indirect dischargers.

DATE: This regulation shall become effective May 27, 1982.

ADDRESSES: Technical information and copies of technical document may be obtained from Mr. Ernst P. Hall, at: Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. The economic analysis may be obtained from Mr. Robert Greene, Office of Policy Analysis (PM 220), at the same address.

FOR FURTHER INFORMATION CONTACT: Ernst P. Hall, (202) 426-2586.

SUPPLEMENTARY INFORMATION:

Organization of this Notice

I. Legal Authority
II. Background
  A. The Clean Water Act
  B. Prior EPA Regulations
  C. Overview of the Industry
III. Scope of this Rulemaking and Summary of Methodology
IV. Data Gathering Efforts
V. Additional Data Gathering
VI. Sampling and Analytical Program
VII. Industry Subcategorization
VIII. Available Wastewater Control and Treatment Technology
  A. Status of In-Place Technology
  B. Control Technologies Considered
IX. Best Practicable Technology (BPT) Effluent Limitations
X. Best Available Technology (BAT) Effluent Limitations
XI. New Source Performance Standards (NSPS)
XII. Pretreatment Standards for Existing Sources (PSES)
XIII. Pretreatment Standards for New Sources (PSNS)
XIV. Best Conventional Technology (BCT) Effluent Limitations
XV. Summary of Public Participation
XVI. Response to Public Comments
XVII. Summary of Changes from Proposed Regulations
XVIII. Regulated Pollutants
XIX. Pollutants and Subcategories Not Regulated
XX. Monitoring Recommendations
XXI. Cost and Economic Impacts
XXII. Non-Water Quality Aspects of Pollution Control
XXIII. Best Management Practices (BMPs)
XXIV. Upset and Bypass Provisions
XXV. Variances and Modifications
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XXVII. Executive Order 12291—Regulatory Impact Analysis
XXVIII. Regulatory Flexibility Analysis
XXIX. List of Subjects in 40 CFR Part 420
XXX. Appendices:
  A. Abbreviations, Acronyms, and Terms Used in This Notice
  B. Development of Regulated Pollutant List
  C. Pollutants Considered for Specific Limitation by Subcategory
  D. Control and Treatment Technologies

I. Legal Authority

The regulation described in this notice is promulgated under authority of sections 301, 304, 306, 307, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 USC §§ 1251 *et seq.*, as amended by the Clean Water Act of 1977, P.L. 92-517) (the "Act"). This regulation is also promulgated in compliance with the Settlement Agreement in *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), modified, 12 ERC 1833 (D.D.C. 1979).

II. Background

The Clean Water Act

The Federal Water Pollution Control Act Amendments of 1972 established a comprehensive program to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters," section 101(a). By July 1, 1977, existing industrial dischargers were required to achieve "effluent limitations requiring the application of the best practicable control technology currently available" ("BPT"), section 301(b)(1)(A); and by July 1, 1983, these dischargers were required to achieve "effluent limitations requiring the application of the best available technology economically achievable * * * which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants" ("BAT"), section 301(b)(2)(A). New industrial direct dischargers were required to comply with section 306 new source performance standards ("NSPS"), based upon best available demonstrated technology; and new and existing dischargers to publicly owned treatment works ("POTWs") were subject to pretreatment standards under sections 307 (b) and (c) of the Act. While the requirements for direct dischargers were to be incorporated into National Pollutant Discharge Elimination System (NPDES) permits issued under section 402 of the Act, pretreatment standards were made enforceable directly against dischargers to POTWs (indirect dischargers).

Although section 402(a)(1) of the 1972 Act authorized the setting of requirements for direct dischargers on a case-by-case basis, Congress intended that, for the most part, control requirements would be based upon regulations promulgated by the Administrator of EPA. Section 304(b) of the Act required the Administrator to promulgate regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of BPT and BAT. Moreover, sections 304(c) and 306 of the Act required promulgation of regulations for NSPS, and sections 304(f), 307(b), and 307(c) required promulgation of regulations for pretreatment standards. In addition to these regulations for designated industry categories, section 307(a) of the Act required the Administrator to promulgate effluent standards applicable to all dischargers of toxic pollutants. Finally, section 501(a) of the Act authorized the Administrator to prescribe any additional regulations "necessary to carry out his functions" under the Act.

The EPA was unable to promulgate many of these regulations by the dates specified in the Act. In 1976, EPA was sued by several environmental groups, and in settlement of this lawsuit, EPA and the plaintiffs executed a "Settlement Agreement," which was approved by the Court. This Agreement required EPA to develop a program and adhere to a schedule to promulgate, for 21 major industries, BAT effluent limitations guidelines, pretreatment standards, and new source performance standards for 65 "priority" pollutants and classes of pollutants. *See Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), modified, 12 ERC 1833 (D.D.C. 1979).

On December 27, 1977, the President signed into law the Clean Water Act of 1977. Although this law makes several important changes in the Federal water pollution control program, its most

significant feature is the incorporation into the Act of several basic elements of the Settlement Agreement program for toxic pollution control. Sections 301(b)(2)(A) and 301(b)(2)(C) of the Act now require the achievement by July 1, 1984 of effluent limitations requiring application of BAT for "toxic" pollutants, including the 65 "priority" pollutants and classes of pollutants which Congress declared "toxic" under section 301(b) of the Act. Likewise, the EPA programs for new source performance standards and pretreatment standards are now aimed principally at toxic pollutant controls. Moreover, to strengthen the toxics control program, Congress added section 304(e) to the Act, authorizing the Administrator to prescribe "best management practices" ("BMPs") to prevent the release of toxic and hazardous pollutants from plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage associated with, or ancillary to, the manufacturing or treatment process.

In keeping with its emphasis on toxic pollutants, the Clean Water Act of 1977 also revises the control program for nontoxic pollutants. Instead of BAT for "conventional" pollutants identified under section 304(a)(4) (including total suspended solids, biological oxygen demand, oil and grease and, fecal coliform, and pH), the new section 301(b)(2)(E) requires achievement by July 1, 1984, of "effluent limitations requiring the application of the best conventional pollutant control technology" ("BCT"). The factors considered in assessing BCT for an industry include the costs of attaining a reduction in effluents and the effluent reduction benefits derived compared to the costs and effluent reduction benefits from the discharge of publicly owned treatment works (section 304(b)(4)(B)). For nontoxic, nonconventional pollutants, sections 301(b)(2)(A) and (b)(2)(F) require achievement of BAT effluent limitations within three years after their establishment or July 1, 1984, whichever is later, but not later than July 1, 1987.

The purpose of this regulation is to provide effluent limitations for BPT, BAT and BCT, and to establish NSPS, pretreatment standards for existing sources (PSES), and pretreatment standards for new sources (PSNS), under sections 301, 304, 306, 307, and 501 of the Clean Water Act. Based upon recent court rulings which remanded the BCT methodology to the Agency for further consideration, BCT limitations for those subcategories of the steel industry where BAT limitations more stringent than the respective BPT limitations are promulgated are reserved at this time and not included in this regulation. When a revised BCT methodology is adopted, the Agency will consider whether BCT limitations more stringent than the respective BPT limitations are appropriate for the reserved subcategories.

Prior EPA Regulations

On June 28, 1974, EPA promulgated effluent limitations guidelines for BPT and BAT, NSPS, and PSNS for the basic steelmaking operations (Phase I) within the integrated steel industry. 39 FR 24114–24133, 40 CFR Part 420, Subparts A–L. That regulation covered 12 subcategories of the industry: By-Product Cokemaking, Beehive Cokemaking, Sintering, Blast Furnace (Iron), Blast Furnace (Ferromanganese), Basic Oxygen Furnace (Semi-Wet Air Pollution Control Methods), Basic Oxygen Furnace (Wet Air Pollution Control Methods), Open Hearth Furnace, Electric Arc Furnace (Semi-Wet Air Pollution Control Methods), Vacuum Degassing, and Continuous Casting.

In response to several petitions for review, the United States Court of Appeals for the Third Circuit remanded that regulation to the Agency on November 7, 1975. *American Iron and Steel Institute, et al.* v. *EPA*, 526 F.2d 1027 (3rd Cir. 1975) ("AISI I"). While the Court rejected all technical challenges to the BPT limitations, it held that the BAT effluent limitations and NSPS for certain subcategories were "not demonstrated." In addition, the court questioned all of the regulation on the grounds that EPA had failed to consider adequately the impact of plant age on the cost or feasibility of retrofitting pollution control equipment, to assess the impact of the regulations on water scarcity in arid and semi-arid regions of the country, and to make adequate "net/gross" provisions for pollutants found in intake water supplies.[1]

On March 29, 1976, EPA promulgated BPT effluent limitations guidelines and proposed BAT limitations, NSPS and PSNS for steel forming and finishing operations (Phase II) within the iron and steel industry. 39 FR 12990–13030, 40 CFR Part 420, Subparts M–Z. That regulation covered 14 subcategories of the industry: Hot Forming—Primary; Hot Forming—Section; Hot Forming—Flat; Hot Forming—Pipe & Tube; Pickling—Sulfuric Acid—Batch and Continuous; Pickling—Hydrochloric Acid—Batch and Continuous; Cold Rolling; Hot Coatings—Galvanizing; Hot Coatings—Terne; Miscellaneous Runoffs—Storage Piles, Casting, and Slagging; Combination Acid Pickling—Batch and Continuous; Scale Removal—Kolene and Hydride; Wire Pickling and Coating; and Continuous Alkaline Cleaning.

In response to several petitions for review, the U.S. Court of Appeals for the Third Circuit remanded the regulation to the Agency on September 14, 1977, *American Iron and Steel Institute, et al.*, v. *EPA*, 568 F.2d 284 (3rd Cir. 1977). While the court again rejected all technical challenges to the BPT limitations, it again questioned the regulation in regard to the age/retrofit and water scarcity issues. In addition, the court invalidated the regulation as applied to the specialty steel industry for lack of proper notice. Finally, the Court directed EPA to reevaluate its estimates of the cost of compliance with the regulation in light of certain "site-specific" factors and to reexamine its economic impact analysis.[2]

On June 28, 1978 the Agency promulgated General Pretreatment Regulations applicable to existing and new indirect dischargers within the steel industry and other major industries, 43 FR 27936–2773 (40 CFR Part 403). For the most part, those regulations are currently in effect.

On January 7, 1981 the Agency proposed BPT, BAT, and BCT limitations and NSPS, PSES, and PSNS for the steel industry, 46 F.R. 1858. This final regulation follows that proposal.

Overview of the Industry

The steel industry is included within the United States Department of Commerce, Bureau of the Census Standard Industrial Classification (SIC) Major Group 33—Primary Metal Industries. Those parts of the industry covered by this regulation are the subgroup SIC Nos. 3312, (except coil coatings) 3315, 3316, and 3317. These include all processes, subprocesses, and alternate processes involved in the manufacture of intermediate or finished products in the above categories.

The manufacture of steel involves many processes which require large quantities of raw materials and other resources. Steel facilities range from comparatively small plants engaging in one or more production processes to

[1] The court also held that the "form" of the regulations was improper, because they did not provide "ranges" of limitations to be selected by permit issuers. This holding, however, was recalled in *American Iron and Steel Institute, et al.* v. *EPA*, 560 F.2d 589 (3rd Cir. 1977).

[2] The court also held that EPA had no statutory authority to exempt plants in the Mahoning Valley region of Eastern Ohio from compliance with the BPT regulations.

extremely large integrated complexes engaging in several or all production processes. Even the smallest steel facility, however, represents a fairly large industrial complex. Because of the wide variety of products and processes in this industry, operations vary from plant to plant.

The 1980 revenues of the United States steel industry were about 54 billion dollars. The industry ranks behind the automotive and petroleum industries in the values of its total shipments; and, with about 570,000 employees, is second only to the automotive industry in the number of employees.

Fifteen steel corporations provided approximately 87% of the total annual U.S. steel ingot production. U.S. steel production represents about 15% of world production.

The steel industry can be segregated into two major components: basic steelmaking; and forming and finishing operations. The Agency estimates that there are about 680 plant locations containing over two thousand individual steelmaking and forming and finishing operations. A listing of these plants is contained in the Appendix B to Volume I of the technical Development Document.

In the first major process, coal is converted to coke which is then combined with iron ore and limestone in a blast furnace to produce iron. The iron is then purified into steel in either open hearth, basic oxygen or electric arc furnaces. Finally, the steel can be further refined by vacuum degassing.

Following the steelmaking processes are the hot forming (including continuous casting) and cold finishing operations. Hot forming primary mills reduce steel ingots to slabs or blooms and secondary hot forming mills reduce slabs or blooms to billets, plates, shapes, strip, and various other products. Steel finishing operations involve a number of other processes that do little to alter the dimensions of the hot rolled product, but which impart desirable surface or mechanical properties.

Water is essential to the industry and is used in appreciable quantities in virtually all process operations. An average of 40,000 gallons of water is used in the production of every ton of finished steel, making the industry one of the highest water users of any manufacturing industry.

The following wastewater pollutants have historically been regulated in the steel industry: Suspended solids, oil and grease, ammonia-N, cyanide, phenols, fluoride, iron, total and hexavalent chromium, tin, lead, and zinc. The discharge of these pollutants is limited by this regulation. Other pollutants, such as chloride, are found in the industry's wastewaters. However, the Agency is not limiting those pollutants in this regulation because the technology for their removal is presently considered to be beyond the scope of best practicable or best available technology for this industry.

In addition to the pollutants known to be present in steel industry wastewaters, many other pollutants became subject to consideration as a result of the NRDC/EPA Settlement Agreement noted earlier. The original list of 65 pollutant classes was defined more specifically by selecting definite compounds within each class to facilitate analytical qualification and quantification and to serve as indicators for other members of the classes. The list of 129 specific toxic pollutants was therefore developed.

III. Scope of This Rulemaking and Summary of Methodology

This regulation expands the water pollution control requirements for the steel industry. In EPA's prior regulations, emphasis was placed on the achievement of best practicable technology (BPT) by July 1, 1977. In general, this technology level represented the average of the best existing performances of well-known technologies for control of familiar (i.e., "classical") pollutants.

In contrast, EPA's efforts are now directed toward insuring the achievement by July 1, 1984, of the best available technology economically achievable, which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants. At a minimum, this technology level represents the best economically achievable performance in any industrial category or subcategory. Moreover, as a result of the Clean Water Act of 1977, the emphasis of EPA's program has shifted from "classical" pollutants to the control of toxic substances.

EPA's implementation of the Act required a complex investigation, described in this section and succeeding sections of this notice. EPA and its laboratories and consultants had to develop analytical methods for toxic pollutant detection and measurement, which are discussed under Sampling and Analytical Program. EPA then gathered technical and financial data about the industry, which are summarized under Data Gathering Efforts.

EPA studied the steel industry to determine whether differences in raw materials, final products, manufacturing processes, equipment, age and size of plants, water usage, wastewater constitutents, or other factors required the development of separate effluent limitations and standards for different segments of the industry. This study included the identification of raw waste and treated effluent characteristics including: (1) The sources and volume of water used, the processes employed, and the sources of pollutants and wastewaters in the plant, and (2) the constituents of wastewaters, including toxic pollutants (see Industry Subcategorization for further discussion). EPA identified the pollutants which were considered for effluent limitations and standards of performance, and statistically analyzed raw waste constituents, as discussed in detail in each subcategory report of the Development Document.

EPA identified several distinct control and treatment technologies, including both in-plant and end-of-process technologies, which are in use or are capable of being used in the steel industry. The Agency compiled and analyzed historical data and newly generated effluent quality data resulting from the application of these technologies. The long-term performance, operational limitations, and reliability of each of the treatment and control technologies were also indentified. In addition, EPA considered the nonwater quality environmental impacts of these technologies, including impacts on air quality, solid waste generation, water scarcity, and energy requirements.

The Agency estimated the cost of each control and treatment technology by using standard engineering analysis as applied to the applicable wastewater characteristics. EPA derived unit process costs from model plant characteristics (production and flow) applied to each treatment process (i.e., primary coagulation-sedimentation, activated sludge, multi-media filtration). These unit process costs were added to yield the total costs for each treatment level. After confirming the reasonableness of this methodology by comparing EPA cost estimates to actual treatment system costs reported by the industry, the Agency evaluated the economic impacts of these costs. (Costs are reviewed in each subcategory report of the Development Document. Economic impacts are reviewed in the section of this notice entitled Costs, Effluent Reduction Benefits, and Economic Impacts).

Upon consideration of these factors, as more fully described below, EPA identified various control and treatment technologies including the BPT, BAT, BCT, PSES, PSNS, and NSPS model treatment systems. This regulation, however, does not require the installation of any particular technology. Rather, it requires the achievement of effluent limitations representative of the proper operation of these technologies or equivalent technologies.

The effluent limitations and standards for BPT, BAT, BCT, PSES, PSNS, and NSPS are expressed as mass limitations (lbs/1000 lbs) of product and were calculated by multiplying four figures: (1) Effluent concentrations determined from analysis of control technology performance data, (2) wastewater discharge flow for each subcategory, (3) any relevant process or treatment variability factor (e.g., maximum month vs. maximum day), and (4) the appropriate conversion factor. This basic calculation was performed for each regulated pollutant in each subcategory of the industry. In those few cases where the Agency could not relate wastewater flow to production (e.g., fume scrubbers in acid pickling and hot coating operations), specific daily mass limitations are provided.

In evaluating the previously promulgated BPT limitations in light of the Third Circuit's decisions, EPA found that in most instances those limitations are well demonstrated and, in some instances, are less stringent than can be currently justified.

IV. Data Gathering Efforts

Before initiating this study, EPA reviewed the original Development Documents and appendices.[3] The Agency concluded that additional data were required to respond to the Third Circuit's rulings in *AISI I* and *AISI II* and to develop regulations in accordance with both the Clean Water Act and the *NDRC* v. *Train* Settlement Agreement.

The Agency sent Data Collection Portfolios (DCPs) to *all* basic steelmaking operations and to at least 85% of the steel forming and finishing operations in the United States. The DCPs requested information concerning production processes, production capacity and rates, process water usage, wastewater generation rates, wastewater treatment and disposal methods, treatment costs, location, age of production and treatment facilities, as well as general analytical information. The Agency received responses for 391 steelmaking operations and for 1632 forming and finishing operations.

The Agency also sent Detailed Data Collection Portfolios (D–DCPs), under the authority of Section 308 of the Act, to 50 steelmaking facilities and 128 forming and finishing facilities. The D–DCPs requested detailed information concerning the cost of installing pollution control equipment including capital, annual and retrofit costs. The D–DCPs also requested long-term analytical data and data regarding specific production operations.

The Agency determined the presence and magnitude of the 129 specific toxic pollutants in steel industry wastewaters in a two-part sampling and analysis program involving 31 steelmaking facilities and 83 forming and finishing facilities.

The Agency obtained data not only from previous studies, questionnaire responses, and sampling visits, but also from NPDES permit files, contacts with pollutant control equipment suppliers, treatability studies, and literature searches. The data gathering program solicited all known sources of data. All available information was used in developing the proposed regulation.

V. Additional Data Gathering

After the issuance of the proposed regulation, the Agency engaged in a number of additional data gathering activities. These activities included: (1) The collection of a substantial amount of toxic metals data from fifteen plants in the hot forming subcategory; (2) a screening of over twenty cold rolling operations for toxic organic pollutants, and a detailed survey at one cold rolling operation; and, (3) requests for more detailed information to certain commenters. These requests sought information regarding (a) cost, flow, and effluent quality data to permit the Agency to fully evaluate comments received on the proposed regulation, and (b) the financial condition of merchant coke and pig iron producers. These data were placed in the public docket for this rulemaking. In general, the additional data gathered are corroborative of the data the Agency originally had.

A full discussion of the results of these additional data gathering efforts and their relevance to the final rulemaking can be found below in this preamble and in the respective subcategory reports of the Development Document.

VI. Sampling and Analytical Program

The sampling and analysis program for this rulemaking concentrated on the toxic pollutants designated in the Clean Water Act, as well as on the conventional and nonconventional pollutants found in steel industry wastewaters. Although it was expected that, except for cokemaking wastewaters, toxic pollutants in the steel industry wastewaters would be inorganic rather than organic, the wastewaters from each subcategory were sampled and analyzed for the presence of toxic organic pollutants. The Agency has not promulgated analytical methods for many of the organic toxic pollutants under Section 304(h) of the Act, although a number of these methods have been proposed (44 FR 69464, December 3, 1979; 44 FR 75028, December 18, 1979). Additional information on the development of sampling and analytical methods for toxic organic pollutants is contained in the preamble to the proposed regulation for the Leather Tanning Point Source Category, 40 CFR Part 425, 44 FR 38749, dated
July 2, 1979.

Before analyzing steel industry wastewaters, EPA concluded that it had to designate specific toxic pollutants for analysis. The list of 65 pollutants and classes of pollutants potentially includes thousands of specific pollutants; analyses for all of them would overwhelm private and government laboratory resources. In order to make the task more manageable, EPA selected pollutants for study in this and other industry rulemakings. The criteria for choosing these pollutants included the frequency of their occurrence in water, their chemical stability and structure, the amount of the chemical produced, and the availability of chemical standards for measurement.

EPA checked for the presence and magnitude of the 129 pollutants in steel industry wastewaters in a two-phase sampling and analysis program. The Agency selected plants for sampling which it believed were representative of the manufacturing processes, the prevalent mix of production among plants, and the current treatment technology in the industry. During the first phase of the program, EPA sampled ten steelmaking facilities and eleven forming and finishing facilities. During the second phase of the program, EPA sampled 22 steelmaking facilities and 118 forming and finishing facilities.

The primary objective of the field sampling program was to obtain composite samples of wastewater from

[3] See *EPA* 440/1–74–024a; Development Document for Effluent Limitation Guidelines and New Source Performance Standards for the Steelmaking Segment of the Iron and Steel Manufacturing Point Source Category, June, 1974; and EPA 440/1–76/048–d; Development Document for Interim Final Effluent Limitations Guidelines and Proposed New Source Performance Standards for the Forming, Finishing, and Specialty Steel Segments of the Iron and Steel Manufacturing Point Source Category, March, 1970.

which to determine the concentrations of toxic pollutants. Sampling visits were made during two to three consecutive days of plant operation, with raw wastewater samples taken either before treatment or after minimal preliminary treatment. Treated effluent samples were taken following application of in-place treatment technologies. EPA also sampled intake water to determine the presence of toxic pollutants prior to contamination by steelmaking processes.

During the first phase of the sampling program the Agency detected and quantified wastewater constituents included on the list of 129 toxic pollutants. Wherever possible, each sample of an individual raw waste stream, a combined waste stream, or a treated effluent was collected by an automatic, time series sample compositor over 2 to 3 consecutive 24 hour sampling periods. Where automatic compositing was not possible, grab samples were taken and composited manually. The purpose of the second phase of the sampling program was to confirm the presence and further quantify the concentrations and waste loadings of the toxic pollutants found during the first phase of the program.

EPA used the analytical techniques described in *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants*, revised April, 1977. Very similar methods are found among those proposed on December 3, 1979. EPA did not find significant quantities of toxic organic pollutants in most steelmaking wastewaters. The exceptions are cokemaking and cold rolling wastewaters.

Metals analyses for the basic steelmaking oprations were by inductively coupled plasma optical emission spectrometry except that the standard flameless atomic absorption method was used for mercury analyses. Metals analyses for the forming and finishing operations were by a combination of flame and flameless atomic absorption methods.

Analyses for cyanide and cyanide amendable to chlorination were also performed using 304(h) methods.

Analysis for asbestos fibers included transmission electron microscopy with selected area difraction; results were reported as chrysotile fiber count.

Analyses for conventional pollutants (BOD5, TSS, pH, and oil and grease) and nonconventional pollutants (total residual chlorine, iron, ammonia, fluoride, and COD) were performed using 304(h) methods.

VII. Industry Subcategorization

In developing this regulation, the Agency determined that different effluent limitations and standards are appropriate for distinct segments or subcategories of the steel industry. The Agency's consideration of industry subcategorization included an examination of the same factors and rationale described in its previous studies and the issues raised by the court in *AISI I* and *AISI II*. These factors are:

1. Manufacturing processes and equipment
2. Raw materials
3. Final products
4. Wastewater characteristics
5. Wastewater treatability
6. Size and age of facilities
7. Geographic location
8. Process water usage and discharge rates
9. Costs and economic impacts
10. Non-water quality environmental impacts

Based upon these factors, the Agency decided to retain the same approach to subcategorization as outlined in previous regulations which follows the various manufacturing processes in the steel industry. The Agency found that manufacturing process is the most significant factor and divided the industry into 12 main process subcategories for this regulation. Section IV of Volume I of the Development Document contains a detailed discussion of the factors considered and the rationale for selecting the subcategories. The Agency determined that process based subcategorization is warranted in many cases because the wastewaters of the various processes contain different pollutants, requiring treatment by different control systems (e.g., phenol by biological systems in cokemaking and metals by precipitation in steelmaking). However, in some cases, the wastewaters of different processes were found to contain similar characteristics. In those instances, the Agency determined that subcategorization was appropriate because the variations in process water usage and discharge flow rates. A more detailed discussion of this issue is presented in Volume I of the Development Document.

The subcategories of the steel industry are as follows:

(1) Subpart A—Cokemaking Subcategory

Cokemaking operations involve the production of coke in by-product or beehive ovens. The production of metallurgical coke is essential to steelmaking since coke is one of the basic raw materials necessary for the operation of ironmaking blast furnaces.

(2) Subpart B—Sintering Subcategory

Sintering operations involve the production of an agglomerate which is then used as a raw material in iron and steelmaking processes. This agglomerate (or "sinter") is made up of large quantities of waste particulate matter (fines, mill scale, and flue dust) which have been generated by blast furnaces, open hearth furnaces, basic oxygen furnaces, and recovered from hot forming operations.

(3) Subpart C—Ironmaking Subcategory

Ironmaking operations involve the conversion of iron bearing materials, limestone, and coke into molten iron in a reducing atmosphere in tall cylindrical (blast) furnaces.

(4) Subpart D—Steelmaking Subcategory

Steelmaking operations involve the production of steel in basic oxygen, open hearth, and electric arc furnaces from molten iron and steel scrap materials.

(5) Subpart E—Vacuum Degassing Subcategory

This operation involves the removal of gaseous material (deoxidation) from molten steel by applying a vacuum to the molten steel.

(6) Subpart F— Continuous Casting Subcategory

This operation involves the continuous formation of a primary steel shape (i.e., slab, billet, or bloom) from molten steel by casting the molten steel through a water-cooled mold.

(7) Subart G—Hot Forming Subcategory

Hot forming is the steel forming process in which hot steel, in solid ingot form, is reduced in size during a series of forming steps into finished and semi-finished steel products.

(8) Subpart H—Salt Bath Descaling Subcategory

Scale removal from specialty steels is accomplished by immersing the steel in molten salt baths of oxidizing or reducing compounds.

(9) Subpart I—Acid Pickling Subcategory

Acid pickling is the process of chemically removing oxides and scale from the surface of steel using dilute inorganic acids.

(10) Subpart J—Cold Forming Subcategory

In cold forming operations, steel products are formed or reduced in thickness or size, or acted upon to produce a smooth surface or to control the mechanical properties of the metal. Rolling solutions are used in cold

forming to cool and lubricate the product during the reduction operation.

(11) Subpart K—Alkaline Cleaning Subcategory

This operation involves the removal of rolling oil or other materials from the surface of steel products prior to further processing. The removal can be enhanced by the electrolysis of the steel in an alkaline solution.

(12) Subpart L—Hot Coating Subcategory

In the hot coating process, clean steel products are immersed in baths of various molten metals to deposit a thin layer of the metal on the product surface.

VIII. Available Wastewater Control and Treatment Technology

A. Status of In-Place Technology

Many different wastewater treatment technologies are currently employed in the steel industry. Generally, primary wastewater treatment systems encompass physical/chemical methods of treatment, including neutralization, sedimentation, flocculation and filtration. Treatment for toxic pollutants require advanced technologies such as biological treatment, carbon adsorption, ion exchange, reverse osmosis, and more sophisticated chemical techniques.

Within the cokemaking subcategory, organic pollutant removal is accomplished by biological treatment in bio-oxidation lagoons and activated sludge plants; and, physical/chemical treatment in ammonia stills, dephenolizers and activated carbon systems. Sedimentation and filtration are also used in this subcategory.

Treatment facilities at plants in the sintering, ironmaking and steelmaking subcategories rely heavily upon flocculation, sedimentation and recycle of treated wastewaters. Clarifiers and thickeners are principally used in connection with polymers and coagulants such as lime, alum, and ferric sulfate.

Wastewaters from nearly all hot forming operations are treated in scale pits followed by lagoons, clarifiers, filters, or combinations thereof. Polymers and coagulants such as lime, alum, and ferric sulfate are normally used in conjunction with clarifiers. Filters are usually either gravity or pressure type with sand or other media.

Cold finishing treatment techniques include equalization prior to further treatment; neutralization with lime, caustic or acid; flocculation with polymer; and, sedimentation. Central or combined treatment systems are common for these operations.

An important treatment method commonly practiced in the steel industry is recycle of treated wastewaters. Recycle can be effectively used to significantly reduce wastewater flows and the amount of pollutants discharged to receiving streams. Systems employing high rates of recycle are demonstrated in several subcategories of the steel industry.

B. Advanced Technologies Considered

The Agency considered advanced treatment systems to control the level of toxic and non-conventional pollutants at the BAT, NSPS, PSES, and PSNS levels of treatment. Some of these include in-plant control, however, most include the installation of additional end-of-pipe treatment components and all are demonstrated in the industry.

Add-on technology to BPT was considered for the BAT, BCT, NSPS, PSES, and PSNS levels of treatment for all of the subcategories. Some of these control measures for the toxic pollutants include two-stage (i.e. extended) biological treatment (cokemaking); granular activated carbon; powdered carbon addition; pressure filtration; pressure filtration accompanied with sulfide addition; and, multi-stage evaporation/condensation systems. Details on these advanced systems are presented in Section VI of Volume I of the Development Document.

IX. Best Practicable Technology (BPT) Effluent Limitations

The factors considered in defining best practicable control technology currently available (BPT) include the total cost of application of technology in relation to the effluent reduction benefits from such application, the age of equipment and facilities involved, the process employed, non-water quality environmental impacts (including energy requirements) and other factors the Administrator considers appropriate. In general, the BPT technology level represents the average of the best existing performances of plants of various ages, sizes, processes or other common characteristics. Where existing performance is uniformly inadequate, BPT may be transferred from a different subcategory or industry. Limitations based upon transfer technology must be supported by a conclusion that the technology is, indeed, transferable and a reasonable prediction that it will be capable of achieving the prescribed effluent limits. See *Tanners' Council of America* v. *Train*, 540 F.2d 1188 (4th Cir. 1976). BPT focuses on end-of-pipe treatment rather than process changes or internal controls, except where the process changes are common industry practice.

The cost-benefit inquiry for BPT is a limited balancing, committed to EPA's discretion, which does not require the Agency to quantify benefits in monetary terms. See, e.g., *AISI I, supra*. In balancing costs in relation to effluent reduction benefits, EPA considers the volume and nature of existing discharges, the volume and nature of discharges expected after application of BPT, the general environmental effects of the pollutants, and the cost and economic impact of the required pollution control level. The Act does not require or permit consideration of water quality problems attributable to particular point sources or industries, or water quality improvements in particular water bodies. Therefore, EPA has not considered these factors. See *Weyerhaeuser Company* v. *Costle*, 590 F.2d 1011 (D.C. Cir. 1978).

A detailed discussion of the bases for selecting the BPT effluent limitations is set forth in Section IX of each subcategory report of the Development Document. The components of the BPT model treatment systems are presented in Appendix D.

X. Best Available Technology (BAT) Effluent Limitations

The factors considered in assessing best available technology economically achievable (BAT) include the age of equipment and facilities involved, the process employed, process changes, non-water quality environmental impacts (including energy requirements) and the costs of application of such technology (section 304(b)(2)(B)). In general, the BAT technology level represents, at a minimum, the best economically achievable performance of plants of various ages, sizes, processes or other shared characteristics. As with BPT, where existing performance is uniformly inadequate, BAT may be transferred from a different industry or subcategory. BAT may include process changes or internal controls, even when not common industry practice.

The statutory assessment of BAT "considers" costs, but does not require a balancing of costs against effluent reduction benefits (see *Weyerhaeuser* v. *Costle, supra*). In developing the BAT limitations, however, EPA has given substantial weight to the reasonableness of costs. The Agency has considered the volume and nature of discharges, the volume and nature of discharges expected after application of BAT, the general environmental effects of the pollutants, and the costs and economic

impact of the required pollution control levels.

Despite this expanded consideration of costs, the primary determinant of BAT is effluent reduction capability. As a result of the Clean Water Act of 1977, the achievement of BAT has become the principal national means of controlling toxic water pollution. The steel industry discharges over forty different toxic pollutants. EPA considered two to six alternative BAT treatment systems for each subcategory. A detailed discussion of the bases for selecting the BAT effluent limitations is set forth in Section X of each subcategory report of the Development Document. The components of the BAT model treatment systems are presented in Appendix D.

XI. New Source Performance Standards (NSPS)

The basis for new source performance standards (NSPS) under section 306 of the Act is the best available demonstrated technology. Industry has the opportunity to design the best and most efficient steelmaking processes and wastewater treatment technologies for new plants. Congress therefore directed EPA to consider the best demonstrated process changes, in-plant controls, and end-of-pipe treatment technologies which reduce pollution to the maximum extent feasible. EPA considered two to four alternative treatment systems for each subcategory in selecting NSPS.

A detailed discussion of the bases for selecting the new source performance standards is set forth in Section XII of each subcategory report of the Development Document. The components of the NSPS model treatment systems are presented in Appendix D.

XII. Pretreatment Standards for Existing Sources (PSES)

Section 307(b) of the Act requires EPA to promulgate pretreatment standards for existing sources (PSES), which must be achieved within three years of promulgation. PSES are designed to prevent the discharge of pollutants which pass through, interfere with, or are otherwise incompatible with the operation of Publicly Owned Treatment Works (POTWs). The Clean Water Act of 1977 adds a new dimension by requiring pretreatment for pollutants, such as toxic metals, that pass through POTWs in amounts that would exceed direct discharge effluent limitations or limit POTW sludge management alternatives, including the beneficial use of sludges on agricultural lands. The legislative history of the 1977 Act indicates that pretreatment standards are to be technology-based and analogous to the best available technology for removal of toxic pollutants. The general pretreatment regulations (40 CFR Part 403), which served as the framework for the pretreatment standards for the steel industry, can be found at 43 FR 27736 (June 26, 1978).

EPA has determined that many of the metals present in the steel industry's raw wastewaters pass through POTWs, may limit POTW sludge disposal alternatives and can interfere with biological treatment in POTWs. These metals include: antimony, arsenic, cadmium, chromium, copper, lead, mercury, nickel, selenium, silver, and zinc.

Accordingly, EPA is promulgating pretreatment standards for metals and other toxic and non-conventional pollutants in this regulation. In addition to the factors discussed above, EPA considered the following factors in developing the pretreatment standards:

1. The manufacturing processes employed by the industry;
2. The age and size of the equipment and facilities involved;
3. The location of manufacturing facilities;
4. Process changes;
5. The engineering aspects of the application of pretreatment technology and its relationship to the POTW;
6. The cost of application of technology in relation to the effluent reduction and other benefits achieved from such application; and,
7. Non-water quality environmental impacts (including energy requirements).

The methodology used to develop the pretreatment standards is the same as that used to develop the direct discharger effluent limitations. A detailed discussion of the bases for selecting the pretreatment standards for existing sources is set forth in Section XIII of each subcategory report of the Development Document. The components of the PSES model treatment systems are presented in Appendix D.

XIII. Pretreatment Standards for New Sources (PSNS)

Section 307(c) of the Act requires EPA to promulgate pretreatment standards for new sources (PSNS) at the same time that it promulgates NSPS. New indirect dischargers, like new direct dischargers, have the opportunity to incorporate the best available demonstrated technologies including process changes, in-plant controls, and end-of-pipe treatment technologies, and to use plant site selection to ensure adequate treatment system installation. The Agency is promulgating PSNS based on the same considerations discussed in Section XI relating to PSES.

A detailed discussion of the bases for selecting the pretreatment standards for new sources is set forth in Section XIII of each subcategory report of the Development Document. The components of the PSNS model treatment systems are presented in Appendix D.

XIV. Best Conventional Technology (BCT) Effluent Limitations

The 1977 Amendments added Section 301(b)(4)(E) to the Act, establishing "best conventional pollutant control technology" (BCT) for discharges of conventional pollutants from existing industrial point sources. Conventional pollutants are those defined in section 304(b)(4)—BOD, TSS, fecal coliform, and pH—and any additional pollutants defined by the Administrator as "conventional." On July 30, 1979, the Agency added oil and grease as a conventional pollutant (44 FR 44501).

BCT is not an additional limitation, but replaces BAT for the control of conventional pollutants. BCT requires that limitations for conventional pollutants be assessed in light of a new "cost-reasonableness" test, which involves a comparison of the cost and level of reduction of conventional pollutants from the discharge of publicly owned treatment works to the cost and level of reduction of such pollutants from a class or category of industrial sources. In its review of BAT for "secondary" industries, the Agency established BCT levels based upon a methodology described at 44 FR 50732 (Aug. 29, 1979). This methodology compared removal costs (dollars per pound of pollutant, measuring from BPT to BCT) with costs for an average POTW. The removal costs of an average POTW was established by EPA as $1.34 per pound in July, 1978 dollars. However, the Fourth Circuit has remanded the regulation to the Agency for reconsideration with instructions that EPA revise its cost-effectiveness test. (*American Paper Institute, et al.* v. *Costle*, No. 79–1551). The Agency is presently considering those revisions.

XV. Summary of Public Participation

Between November 1979 and April 1980, EPA circulated nine individual volumes, which together comprise the EPA contractor's draft technical report on its steel industry study, including available treatment alternatives and costs. The draft technical report was distributed to a number of interested parties, including the American Iron and

Steel Institute and several member firms, the Natural Resources Defense Council (NRDC), and affected state and municipal authorities. This document did not include recommendations for proposed effluent limitations and standards, but rather presented the EPA Contractor's draft technical report on treatment alternatives available, costs, and other information relating to this regulation. A meeting was held in Washington, D.C. on May 19, 1980 for public discussion of comments on this document.

The Agency published the proposed regulation on January 7, 1981. Based upon several requests from the industry to extend the comment period, the Agency set May 8, 1981 as the close of the comment period on the proposed regulation. EPA representatives continued to meet with representatives of the steel industry and other members of the public after May 8, 1981 to discuss certain issues relating to the Agency's preparation of the Regulatory Impact Analysis concerning this regulation. The Regulatory Impact Analysis is being prepared pursuant to Executive Order 12291. In addition, Agency representatives met with officials of steel companies which owned plants for which the Agency was considering establishing alternative BAT effluent limitations for their central treatment facilities (see discussion Section XIII of the preamble). The Agency informed the public of its intent to hold these meetings by publishing a notice in the **Federal Register** in 1981 (46 FR 32274) and summarized the data and comments presented at the meetings in memoranda which were promptly placed in the public docket for this regulation.

XVI. Response to Public Comments

The following general issues raised by the industry and the public are addressed below. Because of the Agency received a large number of comments on the proposed regulation, it has not addressed each of those comments in this preamble. Instead, the major comments and the Agency responses are set out in the preamble. Responses to other comments are contained in a separate document available from Mr. Ernst P. Hall, Effluent Guidelines Division at the address noted at the beginning of this preamble.

1. *Regulation of the Steel Industry Beyond the Current Level of Discharge.* The AISI and some of its member companies have commented that the Agency should not establish effluent limitations and standards for the steel industry which would require more stringent control than existing treatment. To support its position, the industry cites the significant removal of toxic and conventional pollutants from raw waste loadings to the current level of discharge. NRDC and others, however, commented that the proposed BAT limitations are appropriate and, in some cases, more stringent limitations should be established.

(a) *BPT Limitations.* The BPT limitations in this regulation are based upon traditional, well established water pollution control technologies. The final BPT limitations are based upon the average of the best existing performances of steel industry water pollution control facilities, and, in some cases are less stringent than might otherwise have been justified. Indeed, on balance, about eighty percent of the industry is presently in compliance with these limitations.

(b) *BAT Limitations.* Those BAT limitations in this regulation which are more stringent than BPT are based upon traditional water pollution control technologies which are generally demonstrated on a full scale basis in the steel industry. Based on the statute, the Agency does not have discretion to set any less stringent requirements.

2. *Regulation of the Hot Forming Subcategory at the BAT Level.* Industry representatives commented that the Agency should not promulgate BAT limitations for hot forming operations because toxic metals are not contributed by hot forming processes to hot forming wastewaters. Industry representatives also commented that BAT limitations for suspended solids and oil and grease should be established at a level no more stringent than BPT. Environmental groups commented that the BAT limitation for hot forming operations should be zero discharge.

In response to these comments, the Agency reviewed its existing data for the hot forming subcategory and conducted additional extensive sampling programs at fifteen hot forming operations in cooperation with the industry. These data clearly demonstrate that significant quantities of toxic metals are generated by hot forming operations, are present in hot forming raw wastewaters, and are also present in the wastewaters discharged and from the primary scale pits used to recover mill scale. These data also demonstrate that toxic metals are removed to very low levels at plants with the model BPT treatment system installed (i.e., primary scale pit, partial recycle, secondary settling, and filtration). The average gross effluent concentration of all toxic metals in the wastewaters of these plants after treatment is about 0.07 mg/1. The Agency believes that at these levels, the toxic pollutants have been effectively controlled and that the substantial cost (more than $300 million on an industry-wide basis) of full scale (98%) recycle of these wastewaters to further reduce the discharge of toxic metals is not justified.

While zero discharge is reported to be achieved at some hot forming operations, the Agency found that many of these systems do, in fact, have small, and often intermittent, discharges. The Agency does not believe that zero discharge can be achieved at all hot forming operations without the use of costly evaporative technologies. The data for several hot forming operations demonstrate that wastewater recycle rates of 95 to 98% are achievable on a long term basis.

Based upon these factors, the Agency has not promulgated BAT limitations for the hot forming subcategory. As explained in greater detail in the development document, the final BPT limitations were revised from those proposed to take into account actual performance of the BPT technology with respect to suspended solids, oil and grease, and flow. The Agency has maintained high rate recycle (98%) as the basis for NSPS as this technology is well demonstrated throughout the industry and will substantially reduce the total loadings of pollutants discharged by the process.

3. *Central Treatment.* The Agency has received numerous comments from AISI and its members suggesting that it create a subcategory within the regulation which allows for central or combined treatment of wastewaters from various subcategories.

The Agency has not included a central treatment subcategory in this regulation. There are numerous combinations of central wastewater treatment systems that can and are being employed, ranging from individual recycle systems followed by central treatment of blowdowns and once-through flows, to total plant-wide recycle systems with treatment of the blowdown. Often these combinations include the mixing of wastewaters which are not compatible for effective co-treatment. These combinations are so numerous, that it is not possible to define a central treatment subcategory which would effectively regulate the discharge of toxic pollutants. The reduction in discharge flow and treatment of more concentrated wastewaters provides the toxic pollutant loading removal to be achieved by industry's compliance with this regulation. When incompatible wastewaters are mixed, the toxic pollutants are diluted and thus are not

significantly removed or reduced. Consequently, the discharge of large quantities of toxic pollutants would occur as a result of the indiscriminate mixing of incompatible wastewaters.

Based upon the above considerations, the Agency believes that the development of a central treatment subcategory which provides for effective regulation of toxic pollutants is neither possible nor appropriate. However, the Agency has made co-treatment of compatible wastewaters possible with this regulation by carefully selecting the toxic pollutants to be limited for each subcategory. Where the Agency determined that co-treatment is appropriate, the Agency has, as discussed in greater detail below, established the effluent limitations so as to permit co-treatment. The limitations applicable to a central treatment facility in which compatible pollutants are co-treated are the sum of the applicable effluent limitations for the individual subcategory processes tributary to the central treatment facility.

By establishing limitations which permit co-treatment in appropriate cases, the Agency believes it has satisfactorily resolved this issue. The Agency has concluded that wastewaters from the following groups of subcategories can be treated together to achieve the final limitations and standards:

Group and Subcategory

1. Cokemaking
2. Sintering, ironmaking
3. Steelmaking, vacuum degassing, continuous casting, acid pickling (H_2SO_4, HCl), cold rolling, alkaline cleaning, hot coating
3. Specialty steel operations, salt bath descaling, acid pickling (combination), cold rolling

In developing the regulation so as to permit co-treatment of wastewaters for the subcategory groups, the Agency decided not to allow extensive co-treatment of cokemaking wastewaters with other process wastewaters. The Agency considered the nature of cokemaking wastewaters and the biological treatment currently used to treat those wastewaters in developing the BAT limitations, and believes that cokemaking wastewaters should be treated separately to insure the effective removal of toxic and non-conventional pollutants. However, in some limited cases, combined treatment of cokemaking and ironmaking wastewaters may be appropriate and can be used to achieve the combined limitations for those operations.

The Agency also believes that unrestricted co-treatment of wastewaters from hot forming operations with wastewaters from other subcategories is not appropriate because of the dilution of toxic pollutants by the high volume hot forming wastewaters and potential analytical detection problems. However, central treatment of hot forming wastewaters with wastewaters from other subcategories may be appropriate provided that the metal bearing wastewaters are adequately pretreated prior to mixing with hot forming wastewaters, or, provided that hot forming wastewaters are recycled to a high degree (i.e. greater than 95%). It is not possible for the Agency to establish all of the conditions which define precisely when co-treatment of hot forming wastewaters with wastewaters from other subcategories would be appropriate. These determinations will have to be made on a case-by-case basis. Where hot forming wastewaters are not recycled it may be appropriate to limit toxic pollutants prior to the mixing of wastewaters from other subcategories with hot forming wastewaters.

In developing this central treatment policy, the Agency took into account that at many older steel plants cooling water, surface runoff and roof runoff are drained into existing central treatment systems. As discussed in greater detail below, the Agency believes that dischargers can take the steps necessary to divert these non-process wastewaters from their co-treatment facilities at a reasonable cost so as to achieve the limitations established by this regulation. However, the Agency recognizes that while separation of these non-process waters has been accomplished at many steel plants (including many older steel plants), it may be inordinately expensive to do so at a small number of plants.

The Agency believes its model treatment system cost estimates, which are based upon more costly separate treatment systems for each operation, are sufficiently generous to cover site-specific and retrofit costs associated with upgrading most existing central treatment systems to the point where the BPT and BAT limitations can be achieved (including segregation of non-process wastewaters). However, the Agency recognizes that there may be instances at certain plants where, because of unique site-specific factors, the BPT and BAT limitations or PSES may not be achievable without the expenditure of amounts disproportionately higher than those estimated by the Agency. In such instances, the Agency believes that the dischargers should receive alternative BPT and BAT limitations and PSES.

Prior to issuing the proposed regulation, the Agency met with representatives of AISI and its member companies regarding those plants which they believed were entitled to alternative effluent limitations or inclusion in a central treatment subcategory. At those meetings, the Agency explained that the consideration of whether a plant should be subject to alternative effluent limitations could occur either in the context of this regulation or during the permit issuance process. The industry representatives presented data for 35 plants and requested that the Agency evaluate whether those plants should receive alternative limitations and to do so in the context of the effluent limitations guidelines. Based upon those data, and its independent evaluation of the problem, the Agency identified seven plants in the preamble to the proposed regulation which it believed might be entitled to relief from the generally applicable limitations proposed on January 7, 1981. These plants were listed in the preamble to the proposed regulation and are again listed below:

Plant and location	Central treatment facility
1. Armco Steel, Ashland, KY	Total plant.
2. Bethlehem Steel, Sparrows Point, MD	Humphrey's Creek.
3. Bethlehem Steel, Burns Harbor, IN	Total plant.
4. National Steel, Granite City, IL	Total plant.
5. Republic Steel, Gadsden, AL	Total plant.
6. U.S. Steel, Lorain, OH	Pipe mill lagoon.
7. U.S. Steel, Provo, UT	Total plant.

The Agency requested comment on whether these seven plants should be subject to alternative effluent limitations. In addition, the Agency requested comment on whether any *other* plants should be subject to alternative effluent limitations. In response, the Agency received comments that fourteen additional plants should be considered for alternative effluent limitations (some of which were included in the original list of thirty-five plants presented by AISI). These plants are as follows:

Plant and location	Central treatment facility
1. Ford Motor Co., Dearborn, MI.	Schaefer Road treatment plant.
2. Interlake, Inc, Riverdale, IL.	Discharge to POTW.
3. J & L Steel, Aliquippa, PA	Chemical rinse treatment plant—outfall 018.
4. J & L Steel, Cleveland, OH.	Hot forming and finishing treatment plant.
5. J & L Steel, Hennepin, IL	Total plant.
6. J & L Steel, Louisville, OH	Total plant.

Plant and location	Central treatment facility
7. J & L Steel, East Chicago, IN.	Terminal treatment plant.
8. Laclede Steel, Alton, IL	Total plant.
9. National Steel, Portage, IN	Total plant.
10. National Steel, Weirton, WV.	Outfall 8.
11. Republic Steel, Chicago, IL [1]	Discharge to POTW.
12. U.S. Steel, Fairless Hills, PA.	Terminal treatment plant.
13. U.S. Steel, Gary, IN	Terminal lagoons.
14. U.S. Steel, Chicago, IL [1]	Discharge to POTW.

[1] The request for alternative effluent limitations for these plants are for the indirect discharges to POTWs.

The Agency believes that these 21 central treatment facilities comprise all, or nearly all, of those facilities which might qualify for alternative effluent limitations. However, these comments were based upon the expected cost of bringing the plants into compliance with the *proposed* regulation. Because the Agency is promulgating a regulation which, in some instances, if significantly less expensive to comply with, the Agency is uncertain whether the commenters believe that their plants would still qualify for alternative effluent limitations under the previously described standard (cost of compliance significantly higher than that estimated by the Agency). This is especially so in light of the elimination of BAT limitations for hot forming operations. Compliance with those limitations was expected to be quite costly and in many cases was included as a basis for a commenter's request for alternative effluent limitations. The Agency was not in a position to resolve this issue before the promulgation of this regulation. As discussed previously, the Agency is under a court-ordered deadline to promulgate this regulation and does not believe that it would be appropriate to delay its promulgation until this issue was resolved for the 21 central treatment facilities.

Consequently, the Agency decided to promulgate the regulation but to temporarily exclude the 21 central treatment facilities from its requirements until the Agency resolves the issue. The exclusion will serve to provide an opportunity for operators of the 21 central treatment facilities which asserted that they are entitled to alternative effluent limitations based upon the *proposed* regulation to present their views on whether any of the twenty-one plants or central treatment facilities are entitled to alternative effluent limitations based upon the final regulation. These applications must be submitted within sixty day after publication of this regulation. Any of the twenty-one plants or central treatment facilities which do not reapply for consideration during this sixty-day period will have waived their applications for alternative effluent limits.

The applications must include the following information:

(1) A schematic diagram of the existing wastewater treatment facility showing each source of wastewater, cooling waters, and other waters entering the treatment facility; discharge and recycle flow rates for each source, and each major treatment component;

(2) Existing monitoring data relating to discharges to and from the central treatment facility including pollutant concentrations, wastewater flows and mass loadings. As a minimum, monitoring data should be provided for a six month period of normal operation of the production and treatment facilities. The complete data as well as a data summary including the maximum, minimum, and mean gross discharge loadings and the standard deviation of the discharge loadings for each monitored pollutant should be provided. Any supplemental monitoring data for toxic pollutants should also be provided.

(3) A scale map of the area of the plant served by the wastewater treatment facility, including the treatment facility and water supply and discharge points.

(4) An estimate of the least costly investment required to meet the generally applicable limitations or standards for the facility and a description of the treatment system including schematic diagrams showing the major treatment system components and flow rates through the system. At a minimum, the cost estimates should consist of a single page summary for each water pollution control system showing estimated installed direct cost totals for mechanical equipment; piping and instrumentation; foundations and structural components; and electrical components. Indirect costs for contingencies, overhead and profit, engineering fees, and any other indirect costs must be itemized separately. The sum of the direct and indirect costs, which represents the owner's or operator's total estimate, must be shown.

(5) The effluent limitations or standards which could be achieved if the discharger were to spend an amount equal to the Agency's model treatment system cost estimate for the facility and the treatment facilities which would be used to meet those limitations or standards; schematic diagrams and cost estimates as outlined in paragraph (5) above should be provided for each treatment system.

(6) Production rates in tons per day for each process contributing wastewater to the central treatment facility consistent with those reported by the owner or operator in the NPDES permit application for the central treatment facility.

If the Agency determines that the expected cost of compliance with the generally applicable limitations for any of the central treatment facilities is so high in comparison to the Agency's model treatment system cost estimate for that facility that the applicable limitations or standards would not represent BPT, BAT, BCT, or PSES, as the case may be, for the facility, it plans to propose alternative limitations or standards based upon the level of treatment which can be achieved at that facility through the installation of treatment equipment which costs in the range of the Agency's model treatment system cost for that facility.

The Agency intends that the temporary exclusions for these 21 central treatment facilities apply for only the minimum period necessary for it to review the comments, propose alternative limitations or standards where appropriate and take final regulatory action with respect to those facilities. This is not to exceed one year from the date this regulation is published.

Owners and operators of these 21 facilities which still believe that they are entitled to alternative effluent limitations or standards based upon the high cost of complying with the generally applicable limitations under these regulations must raise that issue within 60 days of publication of this regulation. They will not be entitled to request similar relief during the permitting process through the "fundamentally different factor" variance process at the permitting stage. However, they may request relief through the variance provision based on any other permissible basis.

The Agency noted in the preamble to the proposed regulation that the issue of wholly disproportionate costs could be properly handled either in the context of this regulation or, alternatively, at the permit writing stage, under the "fundamentally different factor" variance provisions (40 CFR 125.31(b)(3)). The Agency also stated that, where feasible it would like to resolve this issue in the context of this regulation. The Agency has concluded that it is feasible to resolve this issue in the context of this regulation for the 21 central treatment facilities which requested consideration during the comment period. Because the Agency

can resolve this issue efficiently in the context of this regulation for the 21 central treatment facilities and provide for consistency in both deciding whether to establish alternative effluent limitations and what the limitations should be, it has decided to resolve this issue solely in the context of this regulation for those facilities.

While the Agency believes that the 21 central treatment facilities comprise all, or nearly all, of the facilities which might qualify for alternative effluent limitations, it is not restricting the right of the owner or operator of any other facility to request relief from the generally applicable limitations during the permitting process through the "fundamentally different factors" variance process.

4. *Costs of the Regulation.* The Agency received several comments from the industry regarding the Agency's cost estimates of the model treatment systems used as the basis for the proposed limitations, and on the cost estimates for those model treatment systems presented in the contractor's draft technical report (October 1979) distributed for comment by the Agency. The industry commented that the Agency's cost estimates are substantially lower than industry cost estimates for the same treatment systems, and that the lower cost estimates would cause the Agency to underestimate the economic impact of the regulation on the industry.

In response to these comments and court remand issues on prior regulations dealing with costs, the Agency carefully analyzed and refined its costing methodology and cost estimates for steel industry water pollution control systems. Based upon this analysis, the Agency has reached the following conclusions:

1. The Agency's costing methodology is appropriate for developing industry-wide cost estimates for water pollution control systems that may be installed to comply with this regulation.

2. Agency cost estimates compare favorably with actual costs incurred by the industry for the installation of model water pollution control systems, including retrofit and other site-specific costs.

3. The costs actually incurred by the industry would have to be significantly greater than those estimated by the Agency to produce any significant short or long term adverse economic impacts. For example, even if the actual cost of compliance were one hundred percent greater than EPA's estimates, there would not be any significant economic impacts which would change the Agency's conclusion regarding the economic achievability of this regulation.

The Agency's industry-wide cost estimates for compliance with the proposed regulation are based upon model wastewater treatment systems developed for each level of treatment (BPT, BAT, BCT, PSES, NSPS, and PSNS) for each subcategory. The size of the model treatment system is defined by the average sized production operation and the design or model treatment system flow rate. The model treatment systems are composed of standard process and wastewater treatment components (i.e., pumps, clarifiers, thickeners, vacuum filters, chemical reaction tanks, pressure filters, piping, concrete foundations, buildings). Numerous cost estimates for each of these components were developed through the use of standard engineering cost estimating references including quotes from vendors of pollution control equipment. Costs for each component of the model treatment systems were aggregated with standard estimates for site specific costs (see Development Document) to arrive at the total investment costs for each model treatment system. These model treatment system costs were scaled by production (0.6 factor) for each production facility to develop the total industry-wide investment to comply with the proposed BPT limitations. The industry-wide cost to comply with the proposed BAT limitations was determined by multiplying the model treatment system cost by the number of plants in each subcategory.

The BPT investment cost required for treatment facilities not in-place as of Janaury 1, 1978 was determined by subtracting costs for in-place treatment facilities reported by the industry on a plant by plant basis. Rough estimates were made of the treatment facilities installed between January 1, 1978 and June 30, 1980 by subcategory to develop required BPT costs for the economic impact analysis. Similar estimates were made for the BAT costs.

In determining industry-wide costs, the Agency costed separate wastewater treatment facilities for each process operations without taking into account extensive co-treatment of compatible wastewaters practiced at many plants. Thus, for many steel plants, several treatment facilities were costed where only one central treatment plant exists. This tends to overstate industry-wide costs.

For the final regulation, the above methodology was refined. First, additional cost data for several wastewater treatment components reported by the industry were included in the data base. Second, the large number of individual treatment component cost estimates originally developed were reviewed and adjusted to better reflect changes in flow. The model treatment systems were recosted with computer assisted determinations of component cost by model flow rate. Third, the aggregate costs for BAT and PSES, as well as costs for BPT, were determined by scaling the model treatment system costs by production for each facility. Finally, a detailed plant-by-plant update was completed for treatment facilities installed from January 1, 1978 to July 1, 1981. This update was completed from NPDES compliance records, contact with industry representatives, and personal knowledge of selected plants by EPA staff.

The draft Development Document presents comparisons on a subcategory basis of treatment system costs reported by the industry, and the Agency's estimated costs for the same treatment facilities. The actual costs reported by the industry include site-specific and retrofit costs, where available. These comparisons demonstrate the Agency's costing methodology is appropriate for developing industry-wide cost estimates. In its comments on the costs of the proposed regulation, the industry did not provide any comments on these comparisons, but rather presented its *estimates* of costs for selected treatment facilities and used these estimates to develop industry-wide cost estimates which are significantly higher than those developed by the Agency. These estimates are also significantly higher than those reported by AISI in its 1981 report "Environmental Policy for the 1980's: Impact on the American Steel Industry." The latter estimates for required water pollution control costs for the period 1981–1984 are within 10% of those developed by the Agency for the proposed regulation.

Since the Agency's cost estimates are well within the range of actual industry costs for installed treatment facilities, the Agency believes its cost estimates for required water pollution control facilities will also be within the range of actual industry costs.

Reference is made to Volume I of the Development Document for the subcategory cost comparisons and additional information regarding the Agency's costing methodology. Reference is also made to the subcategory reports of the Development Document for subcategory-specific cost changes which were made in response to industry comments. These include increased energy usage for the

cokemaking subcategory and increased chemical usage and costs for the cokemaking, ironmaking, and acid pickling subcategories. Changes in model treatment system investment costs were made in several subcategories because of changes in wastewater treatment technology (i.e., deletion of filters in cokemaking and steelmaking, deletion of cascade rinse systems for acid pickling and hot coatings).

The economic impact analysis of the costs of this regulation demonstrates that there are only minimal short term and virtually no long term adverse economic impacts associated with this regulation. Within a fairly broad range of higher water pollution control costs, the economic impacts of the regulation are expected to increase proportionally to cost. Thus, an increase in water pollution control costs by a factor of two or three would still produce relatively small adverse economic impacts. (Section XXI of this preamble).

5. *Economic Impact Analysis.* The Agency received several comments on its economic analysis of the proposed regulation and, based upon these comments, the economic analysis of the final regulation was modified. The economic analysis of the proposed regulation projected the economic impacts of the regulation under three scenarios which reflected different economic conditions. The Agency developed these scenarios for the analysis because, at that time, it was uncertain which economic conditions would be prevailing at the time of promulgation of the final regulation. For the final regulation, the Agency analyzed two scenarios. Both scenarios are based upon the existing economic climate including the projected effects of present tax, trade, and pricing policies. The only difference between the two scenarios is their assumptions regarding projected steel shipments. As noted in Section XXI, the Agency has concluded that the economic impact of the final regulation is not significant under either scenario and that the limitations and standards are economically achievable.

Several steel industry commenters argued that the economic impacts of the proposed regulation—a 5 percent reduction in the industry's workforce, a 4.9 percent reduction in its domestic market share along with associated balance of trade effects—should not be considered economically achievable. Several environmental groups believed that a 0.5 to 0.8 percent increase in the price of steel resulting from the regulation was not too much for consumes to pay. The Agency expects the economic impacts of the final regulation to be shorter in duration and of much less magnitude than those predicted for the proposed regulation: 0.6 percent or less of the industry's workforce and domestic market share, and a 0.6 percent price increase. The only impact which is expected to last after the early 1990s is the projected price increase. This change in the projected economic impact resulted from a reduction in expected cost of compliance with the regulation, a more recent forecast of the industry's future shipment levels and an update in the economic impact methodology.

The commenters noted that the magnitude of the economic impact of the water pollution control regulation depends significantly upon the future level of steel shipments. An environmental group suggested that the alternative scenario—which projected the highest level of shipments and the smallest impact—was the most reasonable. That commenter quoted financial market sources to support this view. Several industry commenters suggested that the intermediate scenario economic analysis should be based upon a 1.5 percent annual growth rate rather than upon a 2 percent growth rate. Industry commenters also suggested that the Agency should not base the economic analysis (and therefore projected steel shipments) upon expected changes in government tax, trade and price control policies.

As explained earlier, the economic analysis of the final regulation is based upon the existing economic condition of the steel industry including the projected effects of present trade, tax and pricing policies. Under the scenario which projects the more prolonged economic impact, the annual growth of steel production during 1985–1990 is projected to be about 1% or less. This annual growth rate is representative of the overall growth rate projected under that scenario as it measures annual growth rate in steel production from one peak of an economic cycle to the next peak. Hence, the Agency believes that it has adequately considered the range of expected steel industry shipments in its economic analysis.

The Agency's analysis concludes that steel companies will meet the capital requirements of this regulation by cutting back investment in its existing plant and equipment. A commenter suggested that the steel industry has access to additional funds for pollution control that would not require reducing investment in its existing capital stock (i.e., from industrial revenue bonds, common stock issues and reduced dividend payments). The Agency disagrees with this comment. While industrial revenue bonds are issued by government agencies, they are the legal obligations of private firms and are considered as such by credit analysts. Thus, industrial revenue bonds cannot be used to increase the funds available to a capital-constrained industrial firm which must maintain the quality of its credit. Moreover, the Agency does not believe that steel companies will undertake the issuance of new common stock, or the financially similar action of reducing dividend payments, until they can demonstrate a higher future profitability. Consequently, the Agency believes that its conclusion regarding capital financing requirements reflects the financial situation facing the steel industry and is valid.

The Agency's economic analysis is based, in part, upon the assumption that the added costs of water pollution control will be passed-through to the consumers of steel products. One commenter suggested that these added costs would be only partially passed-through. In the last ten years, the steel industry's operating costs (whether or not related to water pollution control) have increased nearly 150 percent, and, all but a few percent of these costs have been passed-through to consumers in the form of price increases. The Agency believes that the additional 0.6 percent increase in cost which is expected to result from compliance with this regulation will also be fully passed-through to consumers.

Several commenters suggested the Agency should evaluate the economic impact of alternative wastewater treatment systems not selected by the Agency. Moreover, the commenters suggested that the Agency's economic analysis should account for potential cost savings to the industry resulting from the water bubble and co-treatment policies. The Agency does not agree. In selecting the model treatment systems, the Agency considered the costs of the various alternative treatment systems and their respective effectiveness in reducing pollutant discharges. After selecting the model treatment systems, the Agency performed its economic analysis to determine expected economic impacts and whether the limitations and standards are economically achievable. The analysis is based upon the conservative assumption that steel plant wastewaters from each operation would be treated separately and not include an allowance for possible savings associated with the co-treatment and water bubble policies.

The potential cost savings associated with those policies cannot be estimated with a reasonable degree of accuracy because they are highly variable and site-specific in nature. The Agency believes that these conservative assumptions are appropriate and that the economic analysis demonstrates that the limitations and standards are economically achievable even without an allowance for those potential savings. The Agency does not believe it is necessary to assess the economic impact of each alternative treatment system considered by the Agency.

One commenter suggested that the Agency separately evaluate the economic impact of the regulation for each subcategory. The Agency disagrees with this comment and believes that it is neither required to do so nor would such an analysis be feasible. All subcategory operations in the steel industry are typically located within large, integrated plants. A steel company's decisions regarding production from, and investment in, these subcategory operations are highly interrelated. As a result, the economic impact of pollution controls for a given subcategory cannot be meaningfully determined.

Several industry commenters suggested that the loss of salaried jobs in the steel industry should be included in the economic analysis. The Agency agrees with this comment and has included the loss of salaried jobs in its evaluation of the final regulation.

One commenter argued that 10 million tons of capacity expansion projected in the intermediate scenario for the 1988–1990 time period is not possible. The Agency disagrees. EPA believes that the industry has demonstrated the capability of expanding capacity at a rate assumed under the economic analysis and that economic conditions will permit that expansion. For example the industry expanded raw steel capacity by at least 17 million tons during the period 1963–65.

6. *Merchant Coke and Pig Iron.* The Agency received several comments from merchant coke and pig iron producers regarding the appropriateness of including merchant coke producers in the steel industry regulation; the potential economic impact of the proposed regulation on these industries; the Agency's lack of separate consideration of the economic impact of the proposed regulation on the merchant coke industry; and, the cost of operation of the model treatment technologies.

In response to these comments, the Agency reviewed merchant coke operations and found them to be essentially the same as steel industry cokemaking operations with respect to raw materials, production processes and by-product recovery, final products, wastewater characteristics, wastewater treatability, age of facilities, geographic location, process water usage, and non-water quality environmental impacts. While the merchant coke industry has different markets for its products, this fact is not relevant to any of the above factors or to whether merchant coke operations should be subject to this regulation. For these reasons, the Agency concluded that merchant cokemaking operations should be subject to the effluent guidelines regulation for the steel industry, rather than the effluent guidelines limitations for other industries, (i.e. the Organic Chemicals Category or the Secondary Metals Industry as suggested by one commenter). The Agency did find, however, that merchant coke plants tend to be smaller than steel industry coke plants and that merchant plants have slightly higher wastewater discharge rates.

Because of the smaller size of these facilities, the Agency has developed separate cost models for direct and indirect merchant coke dischargers. With respect to the commenter that suggested that the Agency should employ a separate economic impact analysis for merchant coke producers, the Agency agrees. Upon reevaluation, the Agency has concluded that its policy testing model (PTM Steel) used in the economic impact analysis is not appropriate for analyzing the economic impact of this regulation upon merchant coke producers. Hence, the Agency conducted a separate economic impact analysis of merchant coke and pig iron producers.

EPA sent questionnaires soliciting specific financial data to the two known pig iron producers and to eleven merchant coke producers covering all but one merchant coke operation. This operation is in compliance with the BAT limitations and had previously incurred the associated investment costs. The Agency estimates the following costs of compliance with this regulation for merchant coke producers:

[Millions of 1980 Dollars]

	Investment costs—facilities required	Annual costs—incremental
BPT	3.0	0.8
BAT	5.5	1.6
PSES	10.3	2.6
Total	18.8	5.0

The Agency analyzed the economic impacts of compliance with this regulation for the merchant coke industry by examining its effects upon two key parameters: (a) Annual costs as a percentage of total cash flow, and (b) debt-to-capitalization ratio. As shown above, the incremental annual cost for all levels of treatment is about $5.0 million (including refunding of debt), which is about 20 percent of the estimated cash flow for 1980. The Agency estimates that this added annual cost will cause prices to increase by 0.4 percent. Based upon the assumption that the $18.8 million capital investment which is required to comply with the regulation is funded entirely by debt, the merchant coke industry debt-to-capitalization ratio is projected to move from 39.1 percent to about 39.6 percent.

Based on a current annual capacity of 9.5 million tons per year, the replacement value of the merchant coke industry at $220 per ton would be $2.1 billion. Total capital costs for compliance are projected to be $18.8 million, or less than one percent of the replacement value. If the pollution control expenditures are diverted from capital expenditures which would otherwise be made to maintain production equipment, the Agency projects a loss of productive capability of about 0.9 percent. As a result, in future periods of capacity constraints, about 0.9 percent of production (or about 85,500 tons) would be lost to foreign producers. The Agency projects only minor economic impacts for merchant coke producers and found that the costs of the regulation are unlikely to force closure of any plant.

Based upon the above considerations, and taking into account the slightly higher water use rates exhibited by merchant coke plants, the Agency is promulgating separate effluent limitations and standards for the merchant coke producers which are slightly less stringent than those for cokemaking operations associated with steel production. For those few merchant coke producers with ancillary tar processing operations, appropriate allowances to the mass-based effluent limitations provided by this regulation should be made at the time of permit writing to take into account the process wastewaters from tar processing.

The Agency also conducted a similar review of the two known pig iron operations and concluded that they should be subject to the effluent guidelines regulation for the steel industry. The Agency estimates that these merchant pig iron producers will have to spend $1.91 million to comply

with the BPT requirements and an additional $0.73 million to comply with BAT. The associated annual cost is $0.5 million. This annual cost is expected to increase prices by about 0.2 percent.

Based on an industry capacity of 1.2 million tons per year and a replacement cost of $92 per ton, the total capital expenditure required to comply with the regulation represent 2.4 percent of the industry's replacement value. In periods of future capacity constraints, which at present appear unlikely, reductions in production of as much as 2.4 percent could be attributed to added water pollution controls. During such periods, employment would be impacted by a similar percentage. The Agency concluded that any future retirement of pig iron furnaces would most likely result from declining industry profitability and market share rather than from the costs of added water pollution controls.

7. *Consumptive Use of Water.* a. One commenter suggested that EPA had failed to adequately consider the impact of the proposed limitations on water consumption. The commenter contends that EPA has failed to accurately estimate the water consumption associated with industry's compliance with the regulation; failed to consider the adverse impact which this water consumption would have on users of water downstream from the commenter; and, failed to account generally for the water scarcity problems of the arid and semi-arid western states.

In response to the court's remand on this issue, EPA undertook an extensive analysis of the water consumption impact of both the proposed regulation and this final regulation. The manner in which the Agency examined this issue, and the bases for its conclusions, are presented in detail in Section III of Volume 1 of the Development Document. The Agency estimated the water that will be consumed by the various water pollution control systems available for use in the steel industry. Based on the assumption that the industry will use evaporative cooling devices, the Agency estimates the water loss to be only 0.35 percent of the daily flow of steel industry process waters at the BPT level and less than 0.01 percent of daily flow at the BAT level. The water consumption associated with this regulation is insignificant on a nationwide basis.

Moreover, the Agency surveyed the following four steel plants which it considers to be the only major plants located in arid or semi-arid regions of the country.

0196A CF&I Steel Corporation, Pueblo, Colorado

0448A Kaiser Steel Corporation, Fontana, California

0492A Lone Star Steel Company, Lone Star, Texas

0864A United States Steel Corporation, Provo, Utah

Based upon information provided by these companies, the Agency found that at those plants, virtually all of the recycle and evaporative cooling systems included in the model treatment systems used to develop the limitations and standards contained in this regulation have been installed or are under construction, or alternate methods of achieving the limitations are being practiced. Consequently, compliance with the regulation will not result in any substantial incremental water consumption at the major plants located in arid or semi-arid regions.

Although the commenter noted above suggested the Agency failed to account for water consumption associated with "drift" (as opposed to evaporation) from wet cooling towers, that loss of water was accounted for in the Agency's estimate of water consumption (0.1% of circulating water flow).

The commenter also suggested that the increased water consumption which will result from compliance with this regulation will adversely affect downstream users of water including agricultural and industrial users. Beyond the Agency's determination that the adverse impacts associated with the estimated increase in water consumption is justified by the benefit of reducing the pollutant load discharged to achieve the limitations, EPA is not able to properly consider the site specific factors cited by the commenter in this rulemaking. Such site specific non-water quality environmental factors may be considered in a request for a variance by an NPDES permit applicant (See 40 CFR 125, Subpart D). The Agency notes that the commenter is located in a state which has been delegated the authority to administer the NPDES program. The permitting authority which will issue the permit and consider any requests for a variance is uniquely suited to account for the regional and state concerns cited by the commenter.

b. The commenter also suggests that the Agency is ignoring section 101(g) of the CWA by proposing limitations which will result in increased water consumption. The commenter suggests that section 101(g) recognizes the primacy of state water laws and allocation systems over the CWA.

EPA does not agree with the commenter's conclusion regarding the primacy of state water laws over the CWA. The court, in *AISI II*, noted the primacy of the CWA over state water laws is based upon the Supremacy Clause of the U.S. Constitution. That conclusion is equally applicable now and the existence of state water laws does not prohibit EPA from establishing limitations which incidentally involve the consumptive use of water. The Agency understands, however, that Congress intended that EPA not unnecessarily interfere with those rights. It is noteworthy that EPA is preparing a report to Congress under section 102(d) of the CWA regarding measures to coordinate water quality and water quantity issues and policies. This report demonstrates the Agency's continued sensitivity to this issue and its efforts to accommodate both goals.

8. *Alternate Effluent Limitations—Water Bubble.* In the preamble of the proposed regulation, the Agency announced it was considering whether to adopt an alternate effluent limitations policy ("water bubble"). The Agency solicited comments on whether it should adopt such a policy and, if so, what conditions on the policy might be imposed.

Under the water bubble policy, dischargers with multiple outfalls may discharge greater amounts of pollutants from outfalls where treatment costs are high in exchange for an equivalent decrease in pollutants discharged from outfalls at the same plant where abatement is less expensive. Thus, the same reduction in pollutant loadings can be obtained at less cost.

In this regulation, the Agency has adopted a water bubble policy for the steel industry. The policy is reviewed in detail in Section XXVI of this preamble. Following are the Agency's responses to the most significant comments received concerning the proposed policy outlined in the preamble to the proposed regulation.

Several commenters stated that the bubble concept would be inconsistent and incompatible with the use of indicator pollutants. Specifically, commenters raised concern that under the bubble policy, dischargers would be allowed to discharge an increased amount of those pollutants for which specific limitations have not been established. The Agency shared this concern and examined the issue carefully in developing its final policy. The final policy contains conditions on the use of the water bubble. The Agency found that unless conditions were imposed upon the use of the policy

involving cokemaking, hot forming, and cold rolling operations, there was a probability that there would be a net increase in toxic pollutant discharges under the policy. The conditions established by the Agency are designed to ensure there will not be a net increase in the discharge of toxic pollutants.

Some commenters stated that most of the restrictions set out in the preamble to the proposed regulation were unnecessary and burdensome. With respect to EPA's proposed restriction against trading one pollutant for another, one commenter suggested that EPA develop a method to determine the water quality impact of different combinations of pollutants and allow cross-pollutant trades under the water bubble policy when the water quality impact of the discharges under the bubble policy would be the same as without its use. The Agency has decided not to adopt that approach for the following reasons. The administrative burden associated with implementing such a policy would be unreasonably high. EPA's water bubble policy for the steel industry is an alternative method of achieving a reduction of pollutants discharged that is, at a minimum, *equivalent* to the level of discharge achieved by traditional effluent limitations. The bubble policy proposed by these commenters would involve a water pollution control strategy altogether different from the strategy called for by the Clean Water Act. This strategy would replace the technology based strategy with an alternative, water quality based strategy. The Agency's intent in developing a water bubble policy is to allow dischargers to save money in meeting the technology based limitations imposed by the Clean Water Act; not to provide an alternative regulatory program.

Some commenters opposed the condition which requires that each outfall have a specific discharge limit because they believed that it would preclude opportunities to implement efficient control strategies. They suggested that the Agency adopt a bubble policy which allows effluent limitations to be established on a plantwide basis; the so-called, "floating bubble". Under the suggested "floating bubble", dischargers would be allowed to vary the mix of controls at the various outfalls within a plant on a daily, weekly, or monthly basis, as long as the plantwide limitation is not exceeded. The Agency has carefully evaluated the advantages and disadvantages of the "floating bubble" and has concluded that fixed limits on each outfall are necessary to ensure optimum operation of treatment facilities; enforcement of permit limitations; and, to minimize the administrative burden of the water bubble. The floating bubble would make it difficult for permit authorities to determine compliance using normal sampling techniques. To confirm compliance with a floating bubble permit, the control authority would need simultaneous samples from each outfall for which limitations are established under the policy. Reporting requirements and inspection procedures would have to be significantly modified and would require significant additional resources.

EPA recognizes that in theory, the flexibility to vary the mix of treatment within a plant at different times could reduce the cost of compliance with this regulation. However, despite requests to do so, industry representatives have not provided any data in support of their contention that the floating bubble would allow steel industry dischargers to use control strategies that are not feasible under a policy requiring fixed limits on each outfall. EPA believes the major savings associated with the bubble policy will result from changes in fixed control costs. Dischargers can take advantage of these savings under the policy adopted by the Agency.

The Agency solicited comments on the resource and administrative burden that the bubble policy might place on permit authorities. Several commenters expressed concern that the policy would present an additional burden that permit authorities would be unable to bear. The Agency has tried to design the bubble policy to minimize its administrative burden. First, the Agency has specified that dischargers must initiate bubble proposals at their own expense. In addition, as discussed above, EPA has sought to minimize the resource burden by requiring that bubble permits have fixed enforceable limits on each outfall. Once these limitations are determined, the cost of reviewing inspection and self-monitoring reports will be comparable to the administrative costs associated with traditional permit practices.

Some commenters were opposed to the condition in the Agency's proposed policy which required all wastestreams to meet applicable BPT requirements because it would restrict the utility and cost saving potential of the bubble. EPA reconsidered this condition and has concluded that the requirement would significantly limit opportunities available to dischargers to implement efficient control strategies, particularly in the hot forming subcategory. The Agency originally considered including this requirement to provide an additional measure of water quality protection. The Agency believes that the conditions imposed upon the adopted policy along with the requirements that permits issued under the policy achieve the same pollutant removal as traditional permits and that dischargers meet water quality standards, are adequate to protect water quality. Thus, EPA has decided to not include a condition that all outfalls at plants employing the policy comply with applicable BPT limitations.

In the preamble to the proposed regulation, EPA announced that it was considering restricting its consideration of applications for use of the policy during the normal permit issuance and reissuance process. The Agency still believes this approach is appropriate. In order to keep the administrative burden associated with this policy to a minimum, the Agency believes that application for use of the policy should be raised and considered during normal permit reissuance. Several commenters suggested that dischargers be allowed to submit proposals to modify existing permits to include a water bubble. The Agency has considered that suggestion and has decided to accept bubble applications at any time during the period of currently effective permits where a bubble was not specifically considered during permit issuance. This will permit those dischargers which did not have the opportunity to seek a permit based upon the bubble policy to do so as soon as possible without waiting for reissuance. However, it avoids the long term administrative burdens associated with allowing dischargers to apply for permits based on the bubble policy when they had an adequate opportunity when the permit was last reissued.

One commenter interpreted the proposed bubble policy as excluding new source permittees from eligibility and suggested that such a limitation was inappropriate. This interpretation is correct as the Agency does not believe that it would be appropriate to permit a new source to install less stringent treatment than is required by NSPS because of the bubble policy. Under the Clean Water Act new sources are to achieve the "Best Demonstrated Technology" and therefore, the bubble policy should not be used to permit the discharger to install less stringent treatment.

One commenter stated that it would be inappropriate to address the bubble in the effluent limitation guidelines and suggested instead that all issues relating to a water bubble policy be resolved during the permit issuance process. EPA

believes that this regulation is an appropriate vehicle for implementing the water bubble policy. The Agency recognizes that circumstances affecting the use of the bubble will vary from plant to plant. However, the Agency believes that the bubble policy contained in this regulation allows adequate flexibility to address such circumstances.

The final water bubble policy as it pertains to the steel industry is outlined below and presented in the regulation (§ 420.03).

Under the water bubble policy, a discharger could discharge no more total pounds of pollutants than it could without the bubble. However, with the policy, the discharger would have the flexibility to allocate the discharge among its outfalls in the least costly manner. Properly applied, this policy should promote greater economic efficiency and increased innovation by providing plant managers with an economic incentive to develop new control strategies.

EPA recommends that permitting authorities (1) inform sources that the bubble approach is available, (2) explain the advantages and conditions of the use of the bubble, and (3) be receptive to proposals from sources that want to use a more cost-effective mix of controls.

To ensure that permits using the water bubble policy are equivalent to traditional permits in enforceability and environmental impact, EPA has imposed the following conditions on the use of the policy:

1. *Under the alternate limitations, no more pounds of pollutants can be discharged from a single plant than would be discharged under the traditional process specific limitations.* To satisfy this general condition, permits issued for facilities under the bubble policy must meet the following specific conditions:

a. Trades must not result in an increase in the discharge of pollutants over that allowed by the generally applicable limitations.

b. Trades must involve the same pollutant. EPA will allow dischargers to trade a pollutant in one wastewater only against the same pollutant in another wastewater. For example, zinc can be traded for zinc but not for chromium or lead.

c. Trades involving certain subcategory waste streams will be limited.

EPA has identified certain process subcategories with wastewaters that are significantly different than those from other steel industry subcategories. Unrestricted trades with these subcategories could result in a net increase in toxic pollutants discharged. To ensure that permits issued under the bubble policy do not result in an increase in pollutants discharged, the Agency has imposed the following subcategory limitations:

(i) *Cokemaking.* Permits issued under the bubble policy which involve trades with cokemaking wastewaters will not be allowed. The Agency believes that the number and amounts of toxic organic pollutants found in cokemaking wastewaters cannot be effectively controlled under the bubble policy.

(ii) *Cold Forming.* Permits issued under the bubble policy which involve trades with cold forming wastewaters will not be allowed. The Agency believes that the variability and amounts of toxic organic pollutants associated with cold forming wastewaters are such that it is not possible to ensure effective control of toxic organic pollutants under the water bubble policy.

2. *Dischargers must meet water quality standards.* A change in the distribution of pollutant loadings may adversely affect water quality even if total loadings discharged do not increase. Permit authorities may not approve a bubble application if it would result in a violation of water quality standards.

3. *Each outfall must have a specific discharge limit.* Water bubble permits may not allow limitations to be set on a plant-wide "floating" basis. For the reasons discussed in Section XVI of this preamble, the Agency has decided not to allow the policy to be applied on a "floating" basis.

In the preamble to the proposed regulation, the Agency announced that it was considering imposing a condition on the policy which would require all wastewaters to meet applicable BPT limitations. EPA has decided not to include this requirement in the bubble policy for the steel industry. Such a requirement could significantly restrict the savings associated with the water bubble and is not necessary to achieve levels of removal equivalent to traditional permits, protect water quality, or ensure enforceability. Permits issued under this policy may allow certain wastewaters to exceed applicable BPT limitations if sufficient reductions can be achieved at other outfalls and the other conditions for bubble permits set out in this regulation are met.

Implementing the Water Bubble

It is the permittee's responsibility to initiate proposals for implementing the water bubble policy for its facilities. Permitting authorities will continue to develop effluent limitations using the traditional approach of setting technology and water quality based limits on each discharge pipe. During the permit issuance process, the discharger may propose a different set of effluent limitations for its outfalls using the bubble concept. The permittee must demonstrate, to the satisfaction of the permit issuing authority, that its proposal results in a total discharge equivalent to the level required by the technology and water quality based limitations. When the discharger makes such a demonstration to the satisfaction of the permit issuing authority, its NPDES permit may be based upon the alternative discharge limitations.

EPA will accept proposals to modify existing NPDES permits based upon this policy at any time during the life of a permit for which a bubble proposal was not considered at the time of permit issuance. In no case however, may a water bubble proposal delay compliance with pollution control requirements. When a discharger presents a bubble proposal which appears to be capable of achieving the same total removal as required by the existing permit limitation and attaining the goals of the current compliance schedule, the permit authority will review the proposal to verify the equivalency of the alternative limitations. Dischargers will be required to meet their existing schedules until the permit authority approves the bubble permit.

Eligibility

In the preamble to the proposed regulation, the Agency announced that it was considering restricting non-complying dischargers from using the bubble policy. The Agency has decided to allow non-complying dischargers to propose the use of the bubble policy at its facilities with conditions under which they could come into compliance. The Agency believes that the flexibility to develop compliance strategies that use the bubble concept will result in faster compliance with effluent limitations and achieve the same total overall treatment of effluent.

9. *Limitations for Toxic Metals.* Some commenters suggested that the limitations for toxic metals should be established for dissolved or soluble metals rather than for total metals and that published hydroxide solubility data for each metal should be used as the basis for the limitations.

The Agency considered establishing limitations for toxic metals on the basis of dissolved or soluble metals in lieu of *total* toxic metals. However, the Agency has decided not to do so. The limitation

of total metals will control dissolved and soluble metals as well as all metal compounds. In addition, the Settlement Agreement and the Clean Water Act direct the Agency to establish limitations for specific toxic metals and all associated metal compounds. Limitations of total metals is consistent with the Settlement Agreement and the Clean Water Act. Moreover, because the toxic metals limited in this regulation serve as indicators for other toxic metal pollutants not specifically limited, the limitation of a metal as "total metal" serves better as an indicator than would a limitation of "dissolved" metals.

The total toxic metals limitations in this regulation are based upon actual performance of the model treatment technologies on steel industry wastewaters rather than on published hydroxide solubility data. The hydroxide solubility data are usually based upon single compound systems and do not take into account co-precipitation effects of excess iron found in many steel industry wastewaters. The Agency believes actual performance data are preferable to theoretical values for establishing effluent limitations.

10. *Monitoring Recommendations.* Several commenters stated that NPDES monitoring requirements are best determined by permit issuers and that the regulation should not contain any monitoring requirements.

The proposed regulation and this regulation do not contain any monitoring requirements. However, the preamble to the proposed regulation contained a recommended monitoring program which was used to estimate industry wide monitoring costs. As noted in the preamble to the proposed regulation, permit writers are not bound by the recommended program and may require more or less frequent monitoring as they consider appropriate.

11. *Analytical Precision and Accuracy.* All of the comments on analytical precision and accuracy pertain to analyses of toxic organic pollutants. The industry commented that the Agency's analytical methods used in the initial industry screening sampling surveys and in some follow-up surveys could lead to "false positive" identification of toxic organic pollutants and that the precision and accuracy of these analyses are poor. The industry also commented that the follow-up analyses for cokemaking and cold rolling wastewaters using the verification analysis protocols could still produce "false positive" identifications and that it is difficult to resolve by packed-column gas chromatography certain isometric polynuclear aromatic hydrocarbons which can co-elute.

The initial industry screening survey data for toxic organic pollutants obtained by the Agency were not used as the basis for any effluent limitations and standards. This regulation contains limitations for four toxic organic pollutants (cokemaking-benzene, benzo-a-pyrene, naphthalene; cold rolling—naphthalene, tetrachlororethylene). In the cokemaking subcategory, these pollutants are used as indicators of other toxic organic pollutants. In both of these subcategories, extensive additional sampling and analysis was performed. All of the supplemental data used to develop limitations for the toxic organic pollutants listed above were obtained with GC/MS "verification" analyses which are completed with strict adherence to detailed quality control procedures including, for example, analyses of spiked samples, and duplicate samples. These procedures are designed to ensure that "false positive" identifications do not occur. Of the pollutants limited in this regulation, there is no co-elution problem for benzene and tetrachloroethylene. For benzo-a-pyrene and naphthalene, there may be co-elution with very similar compounds but not with other designated toxic organic pollutants. These other compounds that may co-elute with benzo-a-pyrene and naphthalene will consistently co-elute with the same gas chromatography columns. Since the Agency recommends a particular column in its analytical protocols and its contractors adhered to the protocols, any co-eluters with benzo-a-pyrene and naphthalene were taken into account in the analyses used as the basis for the limitations. Thus, if industry laboratories follow the Agency's protocol, the results obtained for determining compliance with the regulation should be consistent with the Agency's results. Furthermore, the analytical methodology indicates that other gas chromatography columns which can differentiate between co-eluters may also be used. Thus, the Agency does not consider co-elution of these compounds to be a problem with respect to monitoring for compliance with the regulation.

For those toxic organic pollutants limited in this regulation, the Agency has determined that the data underlying the limitations are sound.

XVII. Summary of Changes From Proposed Regulation

Following is a summary of changes that the Agency made to the proposed regulation in developing the final regulation. Because of the significant number of changes, the supporting rationale and documentation for every change is not presented here. The Agency has prepared a separate document presenting its detailed response to all significant technical comments on the proposed regulation. (See Section XVI).

1. *Industry Subcategorization.* The Agency has not changed the major subcategorization of the industry outlined above for this final rule. However, it changed certain subdivisions within the following subcategories to provide for more representative model treatment system flow rates and, thus, more appropriate effluent limitations and standards:

Cokemaking.
Steelmaking.
Salt Bath Descaling.
Acid Pickling.
Cold Rolling.
Alkaline Cleaning.

Full discussions of these changes and the impacts on the final limitations and standards are presented in Section XVI and in the respective subcategory reports of the Development Document.

2. *General.* a. *BCT.* Because of the remand of the Agency's BCT methodology by the Fourth Circuit, the Agency has reserved its decision on the limitations for each steel industry subcategory where BAT limitations more stringent than the respective BPT limitations are promulgated. For the remaining subcategories, the applicable BCT limitations for conventional pollutants are identical to the subcategory-specific BPT limitations included in this regulation.

b. *BAT.* Upon review of additional data submitted during the comment period and, as noted earlier, acquired through sampling conducted since proposal of this regulation, the Agency has promulgated BAT limitations no more stringent than BPT limitations for the following subcategories:

Steelmaking (semi-wet).
Hot Forming.
Salt Bath Descaling.
Acid Pickling.
Cold Rolling.
Alkaline Cleaning.
Hot Coating (without fume scrubbers).

The underlying BPT model treatment technologies are essentially the same for this regulation as in prior regulations. Because the BAT model treatment technologies are the same as the BPT technologies for the Salt Bath Descaling, Acid Pickling, Cold Rolling, and Hot Coating subcategories, the same toxic pollutant limitations are included at both BPT and BAT.

As discussed in greater detail in the Development Document, the Agency is not promulgating BAT limitations more

stringent than BPT at this time for those subcategories for the following reasons. The Agency found that toxic metal pollutants present in wastewaters from Hot Forming and Salt Bath Descaling operations are adequately controlled at the BPT levels. For Acid Pickling and Hot Coating operations, the Agency concluded that cascade rinsing cannot be readily retrofitted at all facilities because of space limitations which would require major reconstruction at some lines; and, because of the high industry-wide costs to retrofit cascade rinse systems on all existing sources.

For Cold Rolling operations, the Agency found that the BPT model treatment technology effectively controls certain toxic organic pollutants. However, due to the diversity of toxic organic pollutants found in these wastewaters, the Agency could not establish nationwide limitations for each pollutant. Limitations for these pollutants must be established on a case-by-case basis.

With respect to the Steelmaking (semi-wet) and Alkaline Cleaning subcategories, the Agency had not previously proposed BAT limitations. In promulgating BAT limitations no more stringent than BPT limitations for these subcategories, the Agency believes that toxic pollutants which are present in wastewaters for these subcategories are directly limited, controlled through the use of indicator pollutants, or the toxic pollutants are generally not present in BPT effluents.

c. *Limitations for Toxic Metals.* To promote central treatment of compatible wastewaters, the Agency proposed BAT limitations for chromium, lead, and zinc for most subcategories and copper and nickel for certain specialty steel subcategories. The final regulation has been revised to make central treatment more feasible at both the BPT and BAT levels of treatment. Lead and zinc are limited at the BPT or BAT level in most subcategories and chromium and nickel for specialty steel operations.

3. *Subcategory Specific Changes.* a. *Cokemaking.* (1) *Merchant Coke Plants.* Separate BPT, BAT, PSES, NSPS, and PSNS limitations and standards are included for merchant coke producers. These limitations and standards are based upon the same model treatment technology for coke plants which are captive to iron and steel production, but with slightly higher flow rates found to be typical of merchant coke plants.

(2) *Limitations and Standards.* The final BPT limitations for ammonia-N, total cyanide, and phenols (4AAP) are the same as those set out in the proposed regulation. The BPT limitations for suspended solids have been relaxed. Limitations for total cyanide and phenols (4AAP) were relaxed slightly at the BAT, NSPS, and PSNS levels based upon additional data submitted during the comment period. The BAT phenols (4AAP) limitation for physical-chemical coke plants was also relaxed slightly based upon additional data submitted during the comment period. The Agency significantly relaxed PSES based upon the removal of pollutants in coke plant wastewaters demonstrated in some POTWs. However, NPDES and local authorities should also insure that coke plant pollutants discharged at the PSES level of treatment do not interfere with their individual POTW operations or pass through POTWs.

b. *Sintering.* The model treatment system flow was increased to a demonstrated level of 120 gallons/ton for all levels of treatment. Upon reexamination, the Agency believes that the industry-supplied data originally used by the Agency to develop the lower model BPT and BAT flow rates is not reliable. The BAT limitations for toxic metals are based upon filtration of the BPT recycle system blowdown. BAT limitations, NSPS, PSES, and PSNS for ammonia-N, total cyanide, and phenols (4AAP) are provided for those dischargers which co-treat sintering and ironmaking wastewaters. These limitations and standards are based upon the demonstrated performance on a full scale basis of the selected technology for ironmaking wastewaters.

c. *Ironmaking.* The final BPT limitations are the same as the proposed BPT limitations. The Agency relaxed the ammonia-N limitations for BAT, PSES, NSPS, and PSNS to levels demonstrated at a full scale treatment system. The Agency relied upon data from a pilot scale treatment system in developing the proposed BAT limitations. In addition the 30 day average ammonia-N limitations and standards are based upon a concentration of 10.0 mg/l as compared with a concentration of 1.0 mg/l which was used to develop the proposed limitations and standards.

d. *Steelmaking.* The Agency used a model flow of 110 gallons/ton for the Basic Oxygen Furnace—Open Combustion and Electric Furnace—Wet subdivisions for all treatment levels. The model flow rates used to develop the proposed limitations were 65 gallons/ton and 50 gallons/ton, respectively. The Agency has eliminated the Open Hearth Furnace—Semi-wet subdivision because there are no Open Hearth Furnaces with semi-wet air pollution controls.

e., f. *Vacuum Degassing, Continuous Casting.* Limitations and standards for chromium have been deleted to facilitate co-treatment. The limitations and standards for lead and zinc have been relaxed to reflect the Agency's selection of lime precipitation and sedimentation as the model BAT, NSPS, PSES, and PSNS treatment technology. Filtration was the model treatment technology used to develop the proposed limitations and standards. The limitations and standards for vacuum degassing and continuous casting operations are now consistent with those for wet steelmaking operations, thus, making co-treatment of these wastewaters feasible.

g. *Hot Forming.* The Agency is promulgating only BPT, BCT, and NSPS for the Hot Forming subcategory. The BPT and BCT limitations are based upon the same model treatment systems used for the proposed BPT limitations and actual performance data for those systems. NSPS for total suspended solids and oil and grease are the same as those proposed.

h. *Salt Bath Descaling.* The terms "kolene" and "hydride" have been replaced with the terms "salt bath descaling-oxidizing", and "salt bath descaling-reducing", respectively. The Agency reevaluated the appropriateness of the subdivisions of each steel finishing subcategory and the proposed limitations and standards and has made changes in the final regulation. For salt bath descaling-oxidizing, EPA found that separate limitations and standards are appropriate for the following operations to allow for variations in rinse flow requirements: batch sheet and plate, batch rod and wire; batch pipe and tube; and, all continuous operations. Separate limitations are also provided for batch and continuous salt bath descaling-reducing operations. In both cases, revised BPT limitations and BAT limitations no more stringent than the BPT limitations have been promulgated based upon data supplied during the comment period. Limitations for chromium and nickel are now consistent with those for combination acid pickling to facilitate central treatment.

i. *Acid Pickling.* The Agency has made several changes in the limitations and standards for the acid pickling subcategory. EPA revised the subdivisions within each of the acid pickling operations (sulfuric, hydrochloric, and combination) and established separate limitations and standards by product type (i.e., rod, wire, coil; bar, billet, bloom; pipe, tube, other; and strip, sheet, plate). These revisions better reflect process rinsewater requirements for each group of products. A separate daily mass limitation based upon recycle of fume

scrubber water is provided for those acid pickling operations with fume scrubbers. Revised BPT limitations and BAT limitations no more stringent than the BPT limitations, including limits for toxic metals, have been promulgated. The model treatment system for the BPT limitations is the same as that used to develop the proposed limitations and standards. Cascade rinsing or other rinsewater flow reduction systems are included only in the NSPS and PSNS model treatment systems. Limitations for chromium and nickel for combination acid pickling operations are consistent with those for Salt Bath Descaling operations to facilitate central treatment. Sulfuric acid recovery systems are no longer part of the model treatment system, and thus, zero discharge is not required for any sulfuric acid pickling operations.

j. *Cold Forming.* For cold rolling operations, the Agency has promulgated revised BPT limitations and BAT limitations which are no more stringent than the BPT limitations, including limitations for toxic pollutants. The model treatment system is the same as the proposed BPT model treatment system. The Agency promulgated separate NSPS and PSNS for recirculation, combination, and direct application mills, as opposed to the generally applicable proposed NSPS and PSNS which were based only on recirculation mills. This could have restricted all new source cold rolling mills to recirculating systems on all rolling stands. There are no changes in the limitations and standards for cold worked pipe and tube operations.

k. *Alkaline Cleaning.* The promulgated BPT limitations for alkaline cleaning are based upon higher model treatment system flow rates for both batch and continuous operations. NSPS are based upon a model treatment system including filtration of a lower volume of process wastewater than included in the BPT model treatment system.

l. *Hot Coating.* The final limitations and standards now include a daily mass limitations allowance for fume scrubbers at BPT. There is a reduced allowance at BAT, PSES, NSPS, and PSNS based upon the recycle incorporated in those model treatment systems. Cascade rinsing or other rinsewater flow restrictions are included only in the NSPS and PSNS model treatment systems (see above comments on Acid Pickling). Limitations for toxic metals at all levels of treatment are designed to facilitate central treatment of steel finishing wastewaters.

XVIII. Regulated Pollutants

The basis for selecting the regulated pollutants, as well as the general nature and environmental effects of these pollutants, is discussed in detail in Section V of Volume I of the Development Document. Some of these pollutants are designated as toxic under Section 307(a) of the Act.

A. *BPT.* The pollutants controlled by this regulation include, for the most part, the same pollutants controlled by the prior BPT limitations. Some pollutants were deleted for various subcategories because studies undertaken subsequent to the promulgation of the previous regulations demonstrate that these pollutants are not found in significant quantities in wastewaters from those operations. In certain steel finishing subcategories where identical BPT and BAT limitations are promulgated, the Agency selected the pollutants for which limitations are promulgated to facilitate central or combined treatment of compatible wastewaters.

With few exceptions, the BPT effluent limitations are expressed in terms of maximum 30-day average and maximum daily mass effluent limitations in kilograms of pollutant per 1000 kilograms (lbs/1000 lbs) of product.

The limitations are calculated by multiplying the demonstrated pollutant concentrations, the BPT model discharge flow for each subcategory, and an appropriate conversion factor. For maximum daily limitations, the long term average concentration is multiplied by an appropriate variability factor, the BPT model discharge flow, and the conversion factor noted above. Because the Agency could not relate production data directly to water flow rates for fume scrubbers associated with acid pickling and hot coating operations, daily mass effluent limitations are expressed in kilograms per day for each fume scrubbing system.

B. *BCT.* The conventional pollutants total suspended solids and oil and grease as well as pH are limited under BCT, where BCT limitations are promulgated.

C. *BAT and NSPS.* 1. *Non-toxic, Non-conventional Pollutants.* The non-toxic, non-conventional pollutants for which BAT limitations and NSPS are promulgated are ammonia-N and phenols (4AAP). These pollutants are subject to numerical limitations expressed in kilograms per 1000 kilograms (lbs/1000 lbs) of product. The Agency also promulgated limitations for total residual chlorine for two categories where chlorine may be used in the treatment process.

2. *Toxic Pollutants.* Forty-nine toxic pollutants were found at concentrations above treatability levels in steel industry wastewaters (see Appendix B). Thirty toxic pollutants were found in cokemaking wastewaters. The Agency is promulgating effluent limitations in one or more subcategories for the following toxic pollutants: cyanide, benzene, naphthalene, benzo(a)pyrene, tetrachloroethylene, chromium, lead, nickel, and zinc. These pollutants are subject to numerical limitations expressed in kilograms per 1000 kilograms (lbs/1000 lbs) of product. The remaining toxic pollutants found in steel industry wastewaters, which are not specifically limited in this regulation, will be controlled by limitations for "indicator" pollutants as discussed below. As noted above, for acid pickling and hot coating operations with fume scrubbers, mass limitations are expressed in kilograms per day for each scrubbing system.

3. *Indicator Pollutants.* The difficulty and cost of analyses for the many toxic pollutants found in steel industry wastewaters has prompted EPA to develop an alternative method of regulating certain toxic pollutants. Instead of promulgating specific effluent limitations for each of the forty-nine toxic pollutants found in the industry's wastewaters above treatability levels, the Agency is promulgating effluent limitations for certain "indicator" pollutants. These include chromium, lead, nickel, zinc, phenols (4AAP) and four toxic organic pollutants. The data available to EPA generally show that control of the selected "indicator" pollutants will result in comparable control of other toxic pollutants found in the wastewaters but not specifically limited. By establishing specific limitations and standards for only the "indicator" pollutants, the Agency will reduce the difficulty, high cost, and delays of pollutant monitoring and analyses that would result if pollutant limitations were established for each toxic pollutant. EPA estimates that industry will save about $5 million annually in monitoring and analysis costs with this approach as opposed to monitoring for all pollutants. Section V of Volume I of the Development Document discusses in detail the pollutants found in steel industry wastewaters and those for which the Agency is promulgating limitations and standards at the BAT and NSPS levels of treatment. Section X of each subcategory report discusses the bases for the selection of "indicator" pollutants.

D. *PSES and PSNS.* Except for PSES for cokemaking operations, the Agency is promulgating PSES and PSNS for the same toxic pollutants which are limited at BAT and NSPS. The Agency is promulgating those standards to insure against POTW upsets, to prevent contamination of POTW sludges and to guard against pass-through of toxic pollutants. The PSES and PSNS are expressed as maximum 30-day average and maximum daily mass limitations in kilograms per 1000 kilograms (lbs/1000 lbs) of product, except for acid pickling and hot coating operations with fume scrubbers where mass limitations are expressed in kilograms per day for each fume scrubber. As a general rule, the Agency establishes pretreatment standards on the basis of concentration. However, for the steel industry, the Agency believes the standards should be based upon mass limitations (kg/kkg) to insure that effective toxic pollutant control is provided and to minimize the hydraulic impact of large volume steel industry discharges on POTWs.

XIX. Pollutants and Subcategories not Regulated

The Settlement Agreement contained provisions authorizing the exclusion from regulation, in certain instances, of toxic pollutants and industry subcategories. These provisions have been rewritten in a Revised Settlement Agreement which was approved by the District Court for the District of Columbia on March 9, 1979.

Paragraph 8(a)(iii) of the Revised Settlement Agreement allows the Administrator to exclude from regulation toxic pollutants not detectable by Section 304(h) analytical methods or other state-of-the-art methods. The toxic pollutants not detected and therefore, excluded from regulation are listed in Appendix B to this regulation.

Paragraph 8(a)(iii) of the Revised Settlement Agreement allows the Administrator to exclude from regulation toxic pollutants detected in the effluent in only trace quantities and not likely to cause toxic effects. Appendix B lists the toxic pollutants which were detected in the effluent in trace amounts (at or below the nominal limit of analytical quantification), which are not likely to cause toxic effects and which are excluded from this regulation.

Paragraph 8(a)(iii) of the Revised Settlement Agreement allows the Administrator to exclude from regulation toxic pollutants detected in the effluent from a small number of sources and uniquely related to those sources. Appendix B contains a column labeled "Unique Occurrence" which lists those pollutants detected in the effluents of only one plant and uniquely related to that plant, which have been excluded from the proposed regulation. Appendix C contains the list of pollutants, by subcategory, for which limitations are promulgated.

XX. Monitoring Recommendations

When required to carry out the objectives of the Act, EPA is authorized by Section 308 to require the owner or operator of a pollutant discharge source to establish and maintain records; make reports; install and use monitoring equipment or methods; sample effluents; and, provide such other information as the Administrator may reasonably require. The authority under section 308 has been frequently used by permit issuers to set monitoring requirements to "determine whether any person is in violation" of the requirements of a permit or other requirement of the Act (section 308(a)(2)). Additionally, EPA has frequently sought information under section 308 to aid in developing regulations for many industries.

In this and other regulations involving toxic pollutants, EPA has developed typical monitoring programs for direct and indirect dischargers for the purpose of estimating monitoring costs as part of the economic impact analysis of the regulation. These monitoring programs are not intended to supercede or duplicate existing compliance monitoring requirements set by NPDES permit authorities, but may be used as a guide in establishing minimum NPDES monitoring requirements. A minimum monitoring and analysis program is feasible at this time because only a small number of toxic pollutants are limited, the cost of toxic pollutant analyses has decreased, and laboratory availability and efficiency have dramatically increased since the initiation of this study.

The monitoring and analysis program considered by the Agency includes continuous flow monitoring, grab sampling for pH (3 grabs per day, once a week), and oil and grease (3 grabs/day, once a week), and the collection of 24-hour composite samples once per week for all limited pollutants except as noted below. More intensive monitoring is suggested for the period of time necessary to determine compliance with the final limitations and to acquire sufficient data to determine a correlation between the indicator pollutants and other toxic pollutants present in the wastewater. Accordingly, as of July 1, 1984, (the required compliance date for BAT), or as of the date of attainment of operational level of treatment facilities if such facilities are completed prior to July 1, 1984, monitoring and analysis of the limited pollutants should be carried out on a schedule of five daily composite samples per week (once per week for GC/MS pollutants). Complete analyses should also be concurrently performed for all toxic metal and toxic organic pollutants present in wastewaters where toxic metals and organic compounds are specifically limited. When the appropriate regulatory authority determines that compliance has been demonstrated and sufficient data has been acquired to determine a correlation between the indicator and other toxic pollutants, monitoring can then be undertaken in accordance with the long term schedule discussed above. It should be noted that EPA may, on a case-by-case basis request collection of additional samples of raw wastewater or wastewater at points of intermediate treatment to determine treatment efficiencies.

XXI. Costs and Economic Impacts

The Agency estimated the costs and economic impacts of this regulation using two scenarios for the future demand for domestically produced steel products. In the first scenario, which is based on rapid growth in shipments reaching 116 million tons by 1990, the Agency estimates that this regulation will require the industry to invest about $310 million (in constant 1980 dollars) by 1984 for existing sources and about $420 by 1990 for new sources. This represents about a 12 percent increase in the industry's current investment in water pollution control facilities for existing sources. The new investment is also less than 2 percent of the capital expenditures projected for the industry in the 1980–1990 period. In the second scenario, which is based upon less expansionary demand for steel products, the Agency estimates that this regulation will require the industry to invest the same $310 million by 1984, and about $270 million by 1990 for new sources. These capital requirements and the annual costs of water pollution control equipment required by the regulation are summarized in Tables 1 and 2. The associated annualized incremental costs for the regulation (including interest, depreciation, operating, and maintenance) in Scenario 1 will be about $72.6 million in 1984, increasing to $127.1 million in 1990. The incremental effect of these costs on steel prices is estimated to be an increase of about 0.6 percent in the baseline price of a ton of steel. In Scenario 2, the annualized incremental costs for the regulation will be about $76.5 million in

1984, and increase to $99.0 million in 1990. By the early 1990's, the price per ton of steel will increase incrementally by about 0.6 percent under this scenario.

BPT. EPA estimates that the steel industry must invest an additional $213.2 million (in constant 1980 dollars) by 1984 to comply with the final BPT limitations. In Scenario 1, those guidelines will require incremental annualized costs (including interest, depreciation, operating and maintenance) of $27.0 million in 1984, increasing to $29.4 million in 1990. By 1990, total BPT investments of $1,984.8 million will result in total annual costs of $313.2 million. Total annualized costs under the second scenario will be $298.1 million in 1990.

BAT. EPA estimates that the steel industry must invest an additional $70.1 million by 1984 to comply with the final BAT limitations. In Scenario 1, the incremental annual costs necessary to achieve the BAT limitations are about $15.8 million in 1984 and $16.3 million in 1990. Total annual costs will be $21.9 million in 1990. In Scenario 2, incremental annual costs are about $15.5 million in 1984, and $15.9 million in 1990. Total annual costs under this scenario will be $21.2 million.

PSES. Compliance with the final PSES is projected to require the industry to invest an additional $26.3 million by 1984. In Scenario 1, the incremental annual costs necessary to achieve these standards are about $4.9 million in 1984 and $5.2 million in 1990. By 1990 total PSES investments of $143.1 million will result in total annual costs of $23.8 million. In Scenario 2, total annual costs will be slightly lower than in the first scenario and will equal $22.9 million in 1990.

NSPS. To meet the final NSPS in the first scenario, the industry must invest an estimated $420.5 million by 1990. The annual costs necessary to achieve these standards are about $24.9 million in 1984 and $76.2 million by 1990. In the second scenario, capital expenditures will amount to $273.2 million by 1990 and annual costs will be $27.4 million in 1984 and $51.0 million in 1990.

TABLE 1.—STEEL INDUSTRY EFFLUENT REGULATION COSTS SCENARIO 1

[Million of 1980 dollars]

	Capital Costs[1]		
	Facilities in-place[2]	Facilities required	Total
BPT	$1,771.8	$213.2	$1,984.8
BAT	26.4	70.1	96.5
PSES	116.8	26.3	143.1
Total	1,914.8	309.6	2,224.4
NSPS	0	420.5	420.5
PSNS	NA	NA	NA

NA=Not applicable. All new sources are assumed to be direct dischargers.
[1] Does not include the costs of water pollution controls installed by the industry but not required by the final regulations.
[2] Facilities in-place as of June 30, 1981.

	Annual Costs			
	Incremental		Total	
	1984	1990	1984	1990
BPT	$27.0	$29.4	$297.3	$313.2
BAT	15.8	16.3	21.2	21.9
PSES	4.9	5.2	22.4	23.8
Total	47.7	50.9	340.9	358.9
NSPS	24.9	76.2	24.9	76.2
PSNS	NA	NA	NA	NA

NA=Not applicable. All new sources are assumed to be direct dischargers.

TABLE 2.—STEEL INDUSTRY EFFLUENT REGULATION COSTS SCENARIO 2

[Million of 1980 dollars]

	Capital Costs[1]		
	Facilities in-place[2]	Facilities required	Total
BPT	$1,771.8	$213.2	$1,984.8
BAT	26.5	70.1	96.4
PSES	116.8	26.3	143.1
Total	1,914.8	309.8	2,224.4
NSPS	0	273.2	273.2
PSNS	NA	NA	NA

NA=Not applicable. All new sources are assumed to be direct dischargers.
[1] Does not include the costs of water pollution controls installed by the industry but not required by the final regulations.
[2] Facilities in-place as of June 30, 1981.

	Annual Costs			
	Incremental		Total	
	1984	1990	1984	1990
BPT	$38.7	$27.2	$305.4	$298.1
BAT	15.8	15.9	20.7	21.2
PSES	4.9	4.9	22.7	22.9
Total	49.1	48.0	348.8	342.2
NSPS	27.4	51.0	27.4	51.0
PSNS	NA	NA	NA	NA

NA=Not applicable. All new sources are assumed to be direct dischargers.

The above capital costs for "facilities required" are different than those presented in the Development Document. The cost differences are largely due to differences in modeling of the industry and the fact that Development Document costs are in 1978 nominal dollars and the above costs are in 1980 real dollars. These differences are fully explained in the economic impact report described below. The aggregate differences in these costs are not significant in terms of the results of the economic impact analysis and were, in fact, accounted for in a sensitivity analysis.

To account for the uncertainties facing the steel industry over the next decade, the Agency evaluated the economic impact of this regulation using the two scenarios described previously regarding the future demand for domestically produced steel products. Both scenarios are based upon the assumption that current government policies toward the industry will continue throughout the 1980s. The policies include: The Economic Recovery Tax Act of 1981 concerning corporate income tax rates, depreciation schedules, and investment tax credits; the relaxation of formal and informal steel price controls; and, effective enforcement of steel trade law including the trigger price mechanism.

As summarized in Table 3–5, the economic impact of this regulation is relatively small under either scenario. The incremental costs associated with the regulation result in incremental short-run changes in price, market share, employment and production of about 0.6 percent or less from their respective baseline levels, and about 0.6 percent for production. Except for a small price increase of about 0.6 percent in the early 1990's there are virtually no long run impacts on production, market share, or employment under either scenario.

The reduced economic impact associated with the recommended regulation compared to that of the proposed regulation is a result of the following: (1) Lower cost of this regulation; (2) a more favorable projected economic climate for the industry; and (3) a decrease in the Agency's estimate of the impact on capacity due to foregone industry modernization and reworks associated with water pollution control costs.

The economic impact analysis contains sensitivity analyses which account for effects of higher inflation rates and higher water pollution control costs than those contained in both scenarios; the stretchout of air pollution control costs; and whether profits will be increased or the price of the product will be reduced due to certain cost savings. These results are also summarized in Table 6. The projected economic impacts of the regulation do not differ significantly under the sensitivity analyses from the results described above except where the

estimates of water pollution control costs were doubled. In this case, the 1985 impacts increased from about 0.6 percent or less to about 1.2 percent or less. These impacts are also projected to disappear by 1990, except for a price increase of 0.9 percent. Thus the impact of the regulation remained minor even with doubling of water pollution control costs.

In addition to the industry-wide economic impact analysis, the Agency analyzed the impact of increased costs associated with this regulation upon potential plant closures. The Agency analyzed models of the twelve steel plants which were expected to be most seriously affected by additional water pollution control costs. For each model plant analyzed, the incremental increases in total production costs associated with compliance with the BPT and BAT limitations are less than one percent. On that basis, the Agency concluded that increases in operating costs associated with this regulation are unlikely to result in the closure of any of the model plants or processes within those plants.

In summary, the Agency concludes that the economic impacts of the additional water pollution control costs likely to be incurred as a result of this regulation are not significant.

TABLE 3.—SHORT-RUN ECONOMIC IMPACT OF FINAL WATER POLLUTION CONTROL REGULATIONS, 1984

	Price (1980 dollars per ton)	Domestic shipments (millions of tons)	Market share (percent)	Employment (thousands of employees)
Industry Status in 1980 [2]	[1]496.84	83.90	83.70	399.00
Scenario 1:				
Baseline	519.33	100.71	80.28	441.66
Added Water Costs	520.11	100.10	79.80	439.48
Scenario 2:				
Baseline	518.45	102.71	83.53	462.54
Added Water Costs	520.18	102.06	83.01	460.15

[1] Price as of December 30, 1980.
[2] Source: AISI Statistical Report 1980.

TABLE 4.—SHORT-RUN ECONOMIC IMPACT OF FINAL WATER POLLUTION CONTROL REGULATIONS, 1985

	Price (1980 dollars per ton)	Domestic shipments (millions of tons)	Market share (percent)	Employment (thousands of employees)
Industry Status in 1980 [2]	[1]496.84	83.90	83.70	399.00
Scenario 1:				
Baseline	533.84	99.77	77.28	425.78
Added Water Costs	535.19	99.15	76.80	423.60

TABLE 4.—SHORT-RUN ECONOMIC IMPACT OF FINAL WATER POLLUTION CONTROL REGULATIONS, 1985—Continued

	Price (1980 dollars per ton)	Domestic shipments (millions of tons)	Market share (percent)	Employment (thousands of employees)
Scenario 2:				
Baseline	533.21	101.21	82.87	448.67
Added Water Costs	534.52	100.54	82.32	446.20

[1] Price of December 30, 1980.
[2] Source: AISI Statistical Report 1980

TABLE 5.—LONG-RUN ECONOMIC IMPACT OF FINAL WATER POLLUTION CONTROL REGULATIONS, 1990

	Price (1980 dollars per ton)	Domestic shipments (millions of tons)	Market share (percent)	Employment (thousands of employees)
Industry Status in 1980 [2]	[1]496.84	83.90	83.70	399.00
Scenario 1:				
Baseline	566.80	116.00	84.50	488.11
Added Water Costs	562.06	116.00	84.50	458.96
Scenario 2:				
Baseline	555.29	103.30	80.67	421.86
Added Water Costs	556.72	102.95	80.33	400.78

[1] Prices as of December 30, 1980.
[2] Source: AISI Statistical Report 1980.

XXII. Non-Water Quality Aspects of Pollution Control

The elimination or reduction of one form of pollution may aggravate other environmental problems. Sections 304(b) and 306 of the Act require EPA to consider the non-water quality environmental impacts (including energy requirements) of certain regulations. In compliance with these provisions, EPA considered the effect of this regulation on air pollution, solid waste generation, water consumption, and energy consumption. This regulation was circulated to and reviewed by EPA personnel responsible for non-water quality programs. While it is difficult to balance pollution problems against each other and against energy use, EPA is promulgating a regulation which it believes best serves often competing national goals.

A detailed discussion of these impacts is contained in Section VIII of each subcategory report of the Development Document. Following is a summary of the non-water quality environmental impacts associated with this regulation:

A. *Air Pollution.* Industry compliance with the proposed BPT, BAT, NSPS, PSES, and PSNS limitations and standards will not create any substantial air pollution problems. However, in several subcategories, slight air impacts can be expected. For example, minimal amounts of volatile organic compounds may be released to the atmosphere by aeration of cokemaking wastewaters in biological treatment; small emissions of air pollution may result if ironmaking wastewaters are used to quench the hot slag generated in the process; and, water vapor containing some particulate matter will be released from the cooling tower systems used in several of the subcategories. The Agency does not consider any of these impacts to be significant.

B. *Solid Waste.* The Agency has determined that about 20 million tons per year of solid waste (at 30% solids) have been and will be generated by the steel industry in complying with this regulation. Of this amount, almost all is currently generated by the steel industry in complying with current NPDES permit conditions. This solid waste is comprised almost entirely of treatment plant sludges. EPA recognizes that significant quantities of other solid wastes, such as steelmaking slag and blast furnace slag, are generated by the steel industry. However, those solid wastes are generated by the manufacturing processes and are not associated with this water pollution control regulation. For this reason, process solid wastes are not included in this impact analysis. The cost of disposing of these solid wastes were included as baseline costs in the economic impact analysis.

The data gathered for this study demonstrate that the industry collects and disposes of most sludges currently generated in existing treatment systems. Hence, the industry is presently incurring sludge disposal costs and finding the necessary disposal sites. The Agency believes that the industry will continue to be able to do so. (EPA is unable to accurately estimate the number of disposal sites that are secure, well maintained operations). The average sludge disposal cost used in this analysis is $5.00 per ton for sludges not classified as hazardous under RCRA and $18.00 per ton for hazardous wastes. These costs were included in the economic impact analysis. The Agency has determined that the solid waste impacts associated with this regulation are small.

C. *Consumptive Water Loss.* Water loss is a remand issue of the 1974 and 1976 regulations. As discussed in detail in Section III of Volume I of the Development Document, the Agency

concludes that the benefits derived from compliance with the limitations justify the negative impacts associated with the consumption of water. The Agency has reached this conclusion after considering this issue on both an industry-wide basis and on a water-scarce regional basis.

D. *Energy Requirements.* EPA estimates that compliance with this regulation will result in a net increase of electrical energy consumption at the BPT and BAT levels of treatment as shown below:

Treatment level	Net energy consumption (kw-hr) (billion)
BPT	1.24
BAT	0.08
PSES	0.09
Total	1.41

The electric power requirements associated with the limitations and standards for existing sources amount to 2.7 percent of the 52.3 billion kw-hrs of electrical energy consumed by the steel industry in 1980. This amounts to only 0.2 percent of the total energy (electrical and non-electric) consumed by the industry. The Agency concludes that the impacts of energy consumed from compliance with this regulation are justified by the benefits derived from compliance with the limitations and standards.

XXIII. Best Management Practices (BMPs)

Section 304(e) of the Clean Water Act authorizes the Administrator to prescribe "best management practices" ("BMPs"). EPA intends to develop BMPs which are: (1) Applicable to all industrial sites; (2) applicable to a designated industrial category; and (3) provide guidance to permit authorities in establishing BMPs required by unique circumstances at a given plant.

EPA is not promulgating BMPs specific to the steel industry in this regulation.

XXIV. Upset and Bypass Provisions

An issue of recurrent concern has been whether industry guidelines should include provisions authorizing noncompliance with effluent limitations during periods of "upset" or "bypass." An upset, sometimes called an "excursion," is unintentional noncompliance occurring for reasons beyond the reasonable control of the permittee. It has been argued that an upset provision in EPA's effluent guidelines is necessary because such upsets will inevitably occur in even properly operated control equipment. Because technology-based limitations are based upon what technology can achieve, it is claimed that liability for such situations is improper. When confronted with this issue, courts have been divided on the question of whether an explicit upset or excursion incidents may be handled through EPA's exercise of enforcement discretion. Compare *Marathon Oil Co.* v. *EPA*, 564 F.2d 1253 (9th Cir. 1977) with *Weyerhaeuser* v. *Costle, supra* and *Corn Refiners Association, et al.* v. *Costle*, 594 F.2d 1223 (8th Cir. 1979). See also *American Petroleum Institute* v. *EPA*, 540 F.2d 1023 (10th Cir. 1976); *CPC International, Inc.* v. *Train*, 540 F.2d 1320 (8th Cir. 1976); *FMC Corp.* v. *Train*, 539 F.2d 973 (4th Cir. 1976).

While an upset is an unintentional episode during which effluent limits are exceeded, a bypass is an act of intentional noncompliance during which waste treatment facilities are circumvented. Bypass provisions covering emergency situations have, in the past, been included in NPDES permits.

EPA has determined that both upset and bypass provisions should be included in NPDES permits and they are included in the NPDES regulations, 40 CFR § 122.60, 45 FR 33298; May 19, 1980. The upset provisions establishes an upset as an affirmative defense to prosecution for violation of technology-based effluent limitations. The bypass provision authorizes bypassing to prevent loss of life, personal injury, or severe property damage. Because this issue is resolved in the NPDES permit regulations, this regulation does not address these issues.

XXV. Variances and Modifications

Upon the promulgation of this regulation, the numerical effluent limitations for the appropriate subcategory must be included in all federal and state NPDES permits thereafter issued to steel industry direct dischargers. In addition, the pretreatment standards are directly applicable to indirect dischargers upon promulgation.

For the BPT limitations, the only exception to the binding limitations is EPA's "fundamentally different factors" variance. See *E. I. duPont de Nemours and Co.* v. *Train*, 430 U.S. 112 (1977); *Weyerhaeuser Co.* v. *Costle, supra.* This variance recognizes factors concerning a particular discharger which are fundamentally different from the factors considered in this rulemaking. Although this variance clause was set forth in EPA's 1974–1976 steel industry regulations, it is now included in the NPDES regulations and is not included in the steel or other industry regulations. See the final NPDES regulations, Act 45 FR 33290 (May 19, 1980), for the text and explanation of the "fundamentally different factors" variance.

The BAT limitations in this regulation also are subject to EPA's "fundamentally different factors" variance. In addition, BAT limitations for non-toxic and non-conventional pollutants are subject to modifications under sections 301(c) and 301(g) of the Act. According to section 301(j)(1)(B), applications for these modifications must be filed within 270 days after promulgation of final effluent limitations guidelines. See 40 CFR Part 125 Part D. Under section 301(1) of the Act, these statutory modifications are not applicable to "toxic" pollutants. Likewise, limitations on nonconventional pollutants used as "indicators" for toxic pollutants are not subject to section 301(c) or section 301(g) modifications, unless the discharger demonstrates that a waste stream does not contain any of the toxic pollutants for which the "indicator" was designed to demonstrate removal.

Pretreatment standards for existing sources are subject to the "fundamentally different factors" variance and credits for pollutants removed by POTWs. See 40 CFR 403.7, 403.13; 43 FR 27736 (June 26, 1978). Pretreatment standards for new sources are subject only to the credits provision in 40 CFR 403.7. New source performance standards are not subject to EPA's "fundamentally different factors" variance or any statutory or regulatory modifications. See *duPont* v. *Train, supra.*

XXVI. Relationship to NPDES Permits

1. *Administrative Issues.* The BPT, BAT, and NSPS limitations and standards in this regulation will be applied to individual steel plants through NPDES permits issued by EPA or approved state agencies under section 402 of the Act. The preceding section of this preamble discussed the binding effect of this regulation of NPDES permits, except to the extent that variances and modifications are expressly authorized. This section describes several other aspects of the interaction of this regulation and NPDES permits.

One matter which has been subject to different judicial views is the scope of NPDES permit proceedings in the absence of effluent limitations, guidelines and standards. Under

currently applicable EPA regulations, states and EPA Regions issuing NPDES permits prior to promulgation of this regulation and before June 30, 1981 must include a "reopener clause," providing for permits to be modified to incorporate "toxics" regulations when they are promulgated. Permits issued after June 30, 1981 must meet the requirements of sections 301(b)(2) of the Clean Water Act whether or not applicable effluent limitation guidelines have been promulgated. See 40 CFR 122.62(c), 44 FR 33290, 33339 (May 19, 1980).

The promulgation of this regulation does not restrict the power of any permit-issuing authority to act in any manner not inconsistent with law or these or any other EPA regulations, guidelines or policy. For example, the fact that this regulation does not control a particular pollutant does not preclude the permit issuer from limiting such pollutant on a case-by-case basis when necessary to carry out the purposes of the Act. In addition, to the extent that state water quality standards or other provisions of state or Federal law require limitation of pollutants not covered by this regulation (or require more stringent limitations on covered pollutants), such limitations must be applied by the permit-issuing authority.

2. *Enforcement.* An additional topic that warrants discussion is the operation of EPA's NPDES enforcement program, many aspects of which have been considered in developing this regulation. The Agency wishes to emphasize that, although the Clean Water Act is a strict liability statute, the initiation of enforcement proceedings by EPA is discretionary. EPA has exercised and intends to exercise that discretion in a manner which recognizes and promotes good faith compliance efforts and conserves enforcement resources so as to maximize their availability for actions against those who fail to make good faith efforts to comply with the Act.

3. *Application of Effluent Limitations.* As noted in each subcategory report of the Development Document, all of the limitations and standards contained in this regulation were developed on a gross basis; that is, the performance of the model treatment systems was determined without subtracting contributions of regulated pollutants in intake waters. The Agency determined that in no case it investigated did regulated pollutant levels found in the intake waters have an impact on the effluent quality from the model treatment systems. All of the limitations and standards contained in this regulation should be applied on a gross basis with no allowance for pollutants in the intake waters, except in those instances where allowances may be granted in accordance with the net/gross provisions of the consolidated NPDES permit regulations.

4. *Alternate Effluent Limitations—Water Bubble.* The Agency's responses to comments received on the proposed water bubble policy are presented in Section XVI. The final water bubble policy as it pertains to the steel industry is outlined in Section XVI and presented in the regulation, (Section 420.03).

XXVII. Executive Order 12991

Under Executive Order 12291, The Agency must determine whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is Major and requires a Regulatory Impact Analysis because the annual effect on the economy is more than $100 million. The Regulatory Impact Analysis for this regulation can be obtained from Alec McBride, Monitoring and Data Support Division, WH-553, US EPA, 401 M Street, S.W., Washington, D.C. 20460.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C.

XXVIII. Regulatory Flexibility Analysis

Pub. L. 96-354 requires EPA to prepare an Initial regulatory Flexibility Analysis for all regulations that may have a significant impact on a substantial number of small entities. This analysis may be done in conjuction with or as a part of any other analysis conducted by the Agency. The economic impact analysis described above indicates that there will not be a significant impact on any segment of the regulated population, large or small. Therefore, the Agency determined that a formal regulatory flexibility analysis is not required for this regulation.

XXIX. List of Subjects in 40 CFR Part 420

Iron, Steel, Water pollution control, Wastewater treatment and disposal.

Dated: May 18, 1982.

Ann M. Gorsuch,
Administrator.

Appendix A.—Abbreviations, Acronyms and Other Terms Used in This Notice

Act—The Clean Water Act
Agency—The U.S. Environmental Protection Agency
BAT—The best available technology economically achievable under Section 304(b)(2)(B) of the Act
BCT—The best conventional pollutant control technology, under Section 304(b)(4) of the Act.
BMP—Best management practices under Section 304(e) of the Act.
BPT—The best practicable control technology currently available under Section 304(b)(1) of the Act.
Clean Water Act—The Federal water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*) as amended by the Clean Water Act of 1977 (Pub. L. 95-217)
Direct Discharger—A facility which discharges or may discharge pollutants directly into waters of the United States
Indirect Discharger—A facility which introduces or may introduce pollutants into a publicly owned treatment works
NPDES Permit—A National Pollutant Discharge Elimination system permit issued under section 402 of the Act
NSPS—New source performance standards under Section 306 of the Act
POTW—Publicly owned treatment works
PSES—Pretreatment standards for existing sources of indirect discharges under Section 307(b) of the Act
PSNS—Pretreatment standards for new sources of direct discharges under Section 307(b) and (c) of the Act
RCRA—Resource Conservation and Recovery Act (Pub. L. 94-580) of 1976, Amendments to Solid Waste Disposal Act

Appendix B—Development of Regulated Pollutant List Iron & Steel Industry

No	Pollutant	Not detected	Unique occurrence	Not treatable	Regulation Considered
001	Acenaphthene	-	-	-	X
002	Acrolein	X	-	-	-

Appendix B—Development of Regulated Pollutant List Iron & Steel Industry—Continued

No	Pollutant	Not detected	Unique occurrence	Not treatable	Regulation Considered
003	Acrylonitrile	-	-	-	X
004	Benzene	-	-	-	X
005	Benzidine	X	-	-	-
006	Carbon Tetrachloride	-	-	-	X
007	Chlorobenzene	X	-	-	-
008	1,2,4-Trichlorobenzene	X	-	-	-
009	Hexachlorobenzene	-	-	-	X
010	1,2-Dichloroethane	-	-	X	-
011	1,1,1-Trichloroethane	-	-	-	X
012	Hexachloroethane	X	-	-	-
013	1,1-Dichloroethane	-	-	-	X
014	1,1,2-Trichloroethane	-	X	-	-
015	1,1,2,2-Tetrachloroethane	-	-	X	-
016	Chloroethane	X	-	-	-
017	Bis(chloromethyl)ether	X	-	-	-
018	Bis(2-chloroethyl)ether	X	-	-	-
019	2-Chloroethyl vinyl ether	X	-	-	-
020	2-Chloronaphthalene	-	-	-	-
021	2,4,6-Trichlorophenol	-	-	X	-
022	Parachlorometacresol	-	-	-	X
023	Chloroform	-	-	-	X
024	2-Chlorophenol	-	-	X	-
025	1,2-Dichlorobenzene	-	-	X	-
026	1,3-Dichlorobenzene	X	-	-	-
027	1,4-Dichlorobenzene	-	-	X	-
028	3,3'-Dichlorobenzidine	X	-	-	-
029	1,1-Dichloroethylene	-	X	-	-
030	1,2-Transdichloroethylene	-	-	X	-
031	2,4-Dichlorophenol	-	-	X	-
032	1,2-Dichloropropane	X	-	-	-
033	1,2-Dichloropropylene	X	-	-	-
034	2,4-Dimethylphenol	-	-	-	X
035	2,4-Dinitrotoluene	-	-	-	X
036	2,6-Dinitrotoluene	-	-	-	X
037	1,2-Diphenylhydrazine	-	-	X	-
038	Ethylbenzene	-	-	-	X
039	Fluoranthene	-	-	-	X
040	4-Chlorophenyl phenyl ether	X	-	-	-
041	4-Bromophenyl phenyl ether	X	-	-	-
042	Bis (2-chloroisopropyl)ether	X	-	-	-
043	Bis (2-chloroethoxy)methane	X	-	-	-
044	Methylene chloride	-	-	X	-
045	Methyl chloride	X	-	-	-
046	Methyl bromide	X	-	-	-
047	Bromoform	X	-	-	-
048	Dichlorobromomethane	-	-	X	-
049	Trichlorofluoromethane	X	-	-	-
050	Dichlorodifluoromethane	X	-	-	-
051	Chlorodibromomethane	X	-	-	-
052	Hexachlorobutadiene	X	-	-	-
053	Hexachlorocyclopentadiene	X	-	-	-
054	Isophorone	-	-	X	-
055	Naphthalene	-	-	X	-
056	nitrobenzene	-	-	X	-
057	2-Nitrophenol	-	-	X	-
058	4-Nitrophenol	-	-	X	-
059	2,4-Dinitrophenol	-	-	-	X
060	4,6-Dinitro-o-cresol	-	-	X	-
061	N-Nitrosodimethylamine	-	-	-	X
062	N-Nitrosodiphenylamine	X	-	-	-
063	N-Nitrosod-n-propylamine	X	-	-	-
064	Pentachlorophenol	X	-	-	-
065	Phenol	-	-	-	X
066	Bis(2-ethylhexyl)phthalate	-	-	-	X
067	Butyl benzyl phthalate	-	-	-	X
068	Di-n-butyl phthalate	-	-	-	X
069	Di-n-octyl phthalate	-	-	-	X
070	Diethyl phthalate	-	-	-	X
071	Dimethyl phthalate	-	-	-	X
072	Benzo(a)anthracene	-	-	-	X
073	Benzo(a)pyrene	-	-	-	X
074	3,4-Benzofluoranthene	-	X	-	-
075	Benzo(k)fluoranthene	-	X	-	-
076	Chrysene	-	-	-	X
077	Acenaphthylene	-	-	-	X
078	Anthracene	-	-	-	X
079	Benzo(ghi)perylene	-	-	-	X
080	Fluorene	-	-	X	-
081	Phenanthrene	-	-	-	X
082	Dibenzo(a,h)-anthracene	-	-	-	X
083	Indeno(1,2,3,cd)pyrene	-	X	-	-
084	Pyrene	-	X	-	-
085	Tetrachloroethylene	-	-	-	X
086	Toluene	-	-	-	X
087	Trichloroethylene	-	-	-	X
088	Vinyl Chloride	-	-	-	X
089	Aldrin	-	X	-	-
090	Dieldrin	-	X	-	-
091	Chlordane	-	X	-	-
092	4,4'-DDT	-	X	-	-
093	4,4'-DDE	-	X	-	-

Appendix B—Development of Regulated Pollutant List Iron & Steel Industry—Continued

No	Pollutant	Not deleted	Unique occurrence	Not treatable	Regulation Considered
094	4,4'-DDD		X	-	-
095	a-endosulfan-Alpha		X	-	-
096	b-endosulfan-Beta		X	-	-
097	Endosulfan sulfate		X	-	-
098	Endrin		X	-	-
099	Endrin aldehyde		X	-	-
100	Heptachlor		X	-	-
101	Heptachlorepoxide		X	-	-
102	a-BHC-Alpha		X	-	-
103	b-BHC-Beta		X	-	-
104	r-BHC-Gamma		X	-	-
105	g-BHC-Delta		X	-	-
106	PCB-1242		X	-	-
107	PCB-1254		X	-	-
108	PCB-1221		X	-	-
109	PCB-1232		X	-	-
110	PCB-1248		X	-	-
111	PCB-1260		X	-	-
112	PCB-1016		X	-	-
113	Toxaphene		X	-	-
114	Antimony		X	-	-
115	Arsenic		-	-	X
116	Asbestos		-	-	X
117	Beryllium	X	-	-	-
118	Cadmium	-	-	X	-
119	Chromium	-	-	-	X
120	Copper	-	-	-	X
121	Cyanide	-	-	-	X
122	Lead	-	-	-	X
123	Mercury	-	-	-	X
124	Nickel	-	-	X	-
125	Selenium	-	-	-	X
126	Silver	-	-	-	X
127	Thallium	-	-	-	X
128	Zinc	-	-	-	X
129	2,3,7,8-Tetrachlorodibenzo-p-dioxin	-	-	-	X
130	Xylene	X	-	-	-
	Aluminum	-	-	-	X
	Ammonia-n	-	-	-	X
	Dissolved Iron	-	-	-	X
	Fluoride	-	-	-	X
	Hexavalent Chromium	-	-	-	X
	Manganese	-	-	-	X
	Oil and Grease	-	X	-	-
	pH	-	-	-	X
	Phenols(4AAP)	-	-	-	X
	Chlorine Residual	-	-	-	X
	Total Suspended Solids	-	-	-	X

Key:
X: Indicates heading which applies to pollutant.
-: Indicates heading which does not apply to pollutant.
Not Detected: Not detected in any raw waste samples analyzed.
Unique Occurrence: Found at one or two plants at low levels.
Not Treatable: Detected at levels below practical treatability levels.
Reg. Considered: Found in average concentrations of greater than 10 ppb in at least one iron and steel subcategory.

Appendix C—Regulated Pollutants Iron & Steel Industry

A. Cokemaking
- Total Suspended Solids
- Oil & Grease
- Ammonia
- Cyanide
- Phenols (4AAP)
- Benzene
- Naphthalene
- Benzo (a)pyrene
- pH

B. Sintering
- Total Suspended Solids
- Oil & Grease
- Ammonia
- Cyanide
- Phenols (4AAP)
- Total Residual Chlorine
- Lead
- Zinc
- pH

C. Ironmaking
- Total Suspended Solids
- Oil & Grease
- Ammonia
- Cyanide
- Phenols (4AAP)
- Benzene
- Total Residual Chlorine
- Lead
- Zinc
- pH

D. Steelmaking

1. Basic Oxygen Furnace
   - Total Suspended Solids
   - Lead
   - Zinc
   - pH
2. Open Hearth Furnace
   - Total Suspended Solids
   - Lead
   - Zinc
   - pH
3. Electric Arc Furnace
   - Total Suspended Solids
   - Lead
   - Zinc
   - pH

E. Vacuum Degassing
- Total Suspended Solids
- Lead
- Zinc
- pH

F. Continuous Casting
- Total Suspended Solids
- Oil & Grease
- Lead
- Zinc
- pH

G. Hot Forming
- Total Suspended Solids
- Oil & Grease
- pH

H. Scale Removal

1. Oxidizing
   - Total Suspended Solids
   - Chromium
   - Nickel
   - pH
2. Reducing
   - Total Suspended Solids
   - Cyanide

Chromium
Nickel
pH
I. Acid Pickling
1. Sulfuric Acid Pickling
Total Suspended Solids
Lead
Zinc
pH
2. Hydrochloric Acid Pickling
Total Suspended Solids
Lead
Zinc
pH
3. Combination Acid Pickling
Total Suspended Solids
Chromium
Nickel
pH
J. Cold Forming
Total Suspended Solids
Oil & Grease
Chromium
Lead
Nickel
Zinc
Naphthalene
Tetrachloroethylene
pH
K. Alkaline Cleaning
Total Suspended Solids
Oil and Grease
pH
L. Hot Coating
Total Suspended Solids
Oil & Grease
Chromium (Hexavalent)
Lead
Zinc
pH

Title 40 of the Code of Federal Regulations is amended by revising Part 420 to read as follows:

PART 420—IRON AND STEEL MANUFACTURING POINT SOURCE CATEGORY

General Provisions

Sec.
420.01 Applicability.
420.02 General definitions.
420.03 Alternate effluent limitations

Subpart A—Cokemaking Subcategory

420.10 Applicability; description of the cokemaking subcategory.
420.11 Specialized definitions.
420.12 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.13 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.14 New source performance standards (NSPS).
420.15 Pretreatment standards for existing sources (PSES).
420.16 Pretreatment standards for new sources (PSNS).
420.17 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart B—Sintering Subcategory

420.20 Applicability; description of the sintering subcategory.
420.21 Specialized definitions.
420.22 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.23 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.24 New source performance standards (NSPS).
420.25 Pretreatment standards for existing sources (PSES).
420.26 Pretreatment standards for new sources (PSNS).
420.27 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

Subpart C—Ironmaking Subcategory

420.30 Applicability; description of the ironmaking subcategory.
420.31 Specialized definitions.
420.32 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.33 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.34 New source performance standards (NSPS).
420.35 Pretreatment standards for existing sources (PSES).
420.36 Pretreatment standards for new sources (PSNS).
420.37 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

Subpart D—Steelmaking Subcategory

420.40 Applicability; description of the steelmaking subcategory.
420.41 Specialized definitions.
420.42 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.43 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.44 New source performance standards (NSPS).
420.45 Pretreatment standards for existing sources (PSES).
420.46 Pretreatment standards for new sources (PSNS).
420.47 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

Subpart E—Vacuum Degassing Subcategory

420.50 Applicability; description of the vacuum degassing subcategory.
420.51 Specialized definitions.
420.52 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.53 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.54 New source performance standards (NSPS).
420.55 Pretreatment standards for existing sources (PSES).
420.56 Pretreatment standards for new sources (PSNS).
420.57 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

Subpart F—Continuous Casting Subcategory.

420.60 Applicability; description of the continuous casting subcategory.
420.61 Special definitions.
420.62 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.63 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.64 New source performance standards (NSPS).
420.65 Pretreatment standards for existing sources (PSES).
420.66 Pretreatment standards for new sources (PSNS).
420.67 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart G—Hot Forming Subcategory

420.70 Applicability; description of the hot forming subcategory.
420.71 Specialized definitions.
420.72 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.73 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Sec.
420.74 New source performance standards (NSPS).
420.75 Pretreatment standards for existing sources (PSES).
420.76 Pretreatment standards for new sources (PSNS).
420.77 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart H—Scale Removal Subcategory

420.80 Applicability; description of the scale removal subcategory.
420.81 Specialized definitions.
420.82 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.83 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.84 New source performance standards (NSPS).
420.85 Pretreatment standards for existing sources (PSES).
420.86 Pretreatment standards for new sources (PSNS).
420.87 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart I—Acid Pickling Subcategory

420.90 Applicability; description of the acid pickling subcategory.
420.91 Specialized definitions.
420.92 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.93 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.94 New source performance standards (NSPS).
420.96 Pretreatment standards for existing sources (PSES).
420.96 Pretreatment standards for new sources (PSNS).
420.97 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart J—Cold Forming Subcategory

420.100 Applicability; description of the cold forming subcategory.
420.101 Specialized definitions.
420.102 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.103 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.104 New source performance standards (NSPS).

Sec.
420.105 Pretreatment standards for existing sources (PSES).
420.106 Pretreatment standards for new sources (PSNS).
420.107 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart K—Alkaline Cleaning Subcategory

420.110 Applicability; description of the alkaline cleaning subcategory.
420.111 Specialized definitions.
420.112 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.113 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.114 New source performance standards (NSPS).
420.115 Pretreatment standards for existing sources (PSES).
420.116 Pretreatment standards for new sources (PSNS).
420.117 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart L—Hot Coating Subcategory

420.120 Applicability; description of the hot coating-galvanizing subcategory.
420.121 Specialized definitions.
420.122 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
420.123 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
420.124 New source performance standards (NSPS).
420.125 Pretreatment standards for existing sources (PSES).
420.126 Pretreatment standards for new sources (PSNS).
420.127 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Authority: Sections 301; 304 (b), (c), (e), and (g); 306 (b) and (c); 307; 308 and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (the "Act"); 33 U.S.C. 1311; 1314 (b), (c), (e), and (g); 1316 (b) and (c); 1317; 1318; and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567; Pub. L. 95–217.

General Provisions

§ 420.01 Applicability.

(a) The provisions of this part apply to discharges and to the introduction of pollutants into a publicly owned treatment works resulting from production operations in the Iron and Steel Point Source Category.

(b) **Control Treatment Facilities:** The following central treatment facilities presently discharging through the specified outfall are temporarily excluded from the provisions of this part, *provided,* the owner or operator of the facility requests the Agency to consider establishing alternative effluent limitations and provides the Agency with the information set out in section (b)(2), on or before July 26, 1982.

Plant	NPDES permit No.	Central treatment facility
1. Armco Steel, Ashland, KY.	KY 0000485	Total Plant.
2. Bethlehem Steel, Sparrows Point, MD.	MD 0001201	Humphrey's Creek Outfall 014.
3. Bethlehem Steel, Burns Harbor, IN.	IN 0000175	Total Plant.
4. Ford Motor Co., Dearborn, MI.	MI 0003361	Schaefer Road Treatment Plant.
5. Interlake, Inc.,[1] Riverdale, IL.	IL 0002119	Discharge to POTW.
6. J&L Steel, Aliquippa, PA.	PA 0006131	Chemical Rinse Treatment Plant Outfall 018.
7. J&L Steel, Cleveland, OH.	OH 0000850	Hot Forming and Finishing Treatment Plant.
8. J&L Steel, Hennepin, IL.	IL 0002631	Total Plant.
9. J&L Steel, Louisville, OH.	OH 0007188	Total Plant.
10. J&L Steel, East Chicago, IN.	IN 0000205	Terminal Treatment Plant.
11. Laclede Steel, Alton, IL.	IL 0000612	Total Plant.
12. National Steel, Granite City, IL.	IL 0000825	Total Plant.
13. National Steel, Portage, IN.	IN 0002445	Total Plant.
14. National Steel, Weirton, WV.	WV 0000086	Outfall 8.
15. Republic Steel, Gadsden, AL.	AL 0000522	Total Plant.
16. Republic Steel,[1] Chicago, IL. 0002583.	IL 0002593	Discharge to POTW.
17. U.S. Steel, Lorain, OH.	OH 0001562	Pipe Mill Lagoon.
18. U.S. Steel, Provo, UT.	UT 0000361	Total Plant.
19. U.S. Steel, Fairless Hills, PA.	PA 0013463	Terminal Treatment Plant.
20. U.S. Steel, Gary, IN.	IN 0000281	Terminal Lagoons.
21. U.S. Steel,[1] Chicago, IL.	IL 0002591	Discharge to POTW.

[1] The request for alternative effluent limitations for these plants are for indirect discharges to POTWs

(2) The information to be submitted with the request for consideration of alternative effluent limitations is to include:

(i) A schematic diagram of the existing wastewater treatment facility showing each source of wastewater, cooling water, and other waters entering the treatment facility; discharge and recycle flow rates for each water source and each major treatment component;

(ii) Existing monitoring data relating to discharges to and from the central treatment facility including pollutant concentrations, flows and mass loadings; As a minimum, monitoring data should be provided for a six month period of normal operation of the

production and treatment facilities. The complete data as well as a data summary including the maximum, minimum, and mean gross discharge loadings and the standard deviation of the discharge loadings for each monitored pollutant should be provided. Any supplemental monitoring data for toxic pollutants should also be provided.

(iii) A scale map of the area of the plant served by the wastewater treatment facility, including the treatment facility and water supply and discharge points;

(iv) An estimate of the least costly investment required to meet the generally applicable limitations or standards for the facility and a description of such treatment system including schematic diagrams showing the major treatment system components and flow rates through the system. As a minimum, the cost estimates should be comprised of a single page summary for each water pollution control system showing estimated installed direct cost totals for mechanical equipment; piping and instrumentation; foundations and structural components; and, electrical components. Indirect costs for contingencies, overhead and profit, engineering fees, and any other indirect costs must be itemized separately. The sum of the direct and indirect costs which represents the owner's or operator's total estimate, must be shown.

(v) The effluent limitations or standards which could be achieved if the discharger were to spend an amount equal to the Agency's model treatment system cost estimate for the facility and the treatment facilities which would be used to meet those limitations or standards. Schematic diagrams and cost estimates as outlined in paragraph (b)(2)(iv) above should be provided for each treatment system; and,

(vi) Production rates in tons per day for each process contributing wastewater to the central treatment facility consistent with those reported by the owner or operator in the NPDES permit application for the central treatment facility.

(3) The request described in subsection (b)(1) above must be based upon the owner's or operator's belief that the cost of bringing the specified central treatment facilities into compliance with the provisions of this part would require expenditures so high compared to the Agency's model treatment system cost estimate applicable to that facility that the applicable limitations or standards would not represent BPT, BAT, BCT, or PSES, as the case may be, for the facility.

§ 420.02 General definitions.

In addition to the definitions set forth in 40 CFR Part 401, the following definitions apply to this part:

(a) The term "TSS" (or total suspended solids, or total suspended residue) means the value obtained by the method specified in 40 CFR 136.3.

(b) The term "oil and grease" (or O&G) means the value obtained by the method specified in 40 CFR 136.3.

(c) The term "ammonia-N" (or ammonia-nitrogen) means the value obtained by manual distillation (at pH 9.5) followed by the Nesslerization method specified in 40 CFR 136.3.

(d) The term "cyanide" means total cyanide and is determined by the method specified in 40 CFR 136.3.

(e) The term "phenols 4AAP" (or phenolic compounds) means the value obtained by the method specified in 40 CFR 136.3.

(f) The term "TRC" (or total residual chlorine) means the value obtained by the iodometric titration with an amperometric endpoint method specified in 40 CFR 136.3.

(g) The term "chromium" means total chromium and is determined by the method specified in 40 CFR 136.3.

(h) The term "hexavalent chromium" (or chromium VI) means the value obtained by the method specified in 40 CFR 136.3.

(i) The term "copper" means total copper and is determined by the method specified in 40 CFR 136.3.

(j) The term "lead" means total lead and is determined by the method specified in 40 CFR 136.3.

(k) The term "nickel" means total nickel and is determined by the method specified in 40 CFR 136.3.

(l) The term "zinc" means total zinc and is determined by the method specified in 40 CFR 136.3.

(m) The term "benzene" (or priority pollutant No. 4) means the value obtained by the standard method Number 602 specified in 44 FR 69464, 69570 (December 3, 1979).

(n) The term "benzo(a)pyrene" (or priority pollutant No. 73) means the value obtained by the standard method Number 610 specified in 44 FR 69464, 69570 (December 3, 1979).

(o) The term "naphthalene" (or priority pollutant No. 55) means the value obtained by the standard method Number 610 specified in 44 FR 69464, 69571 (December 3, 1979).

(p) The term "tetrachloroethylene" (or priority pollutant No. 85) means the value obtained by the standard method Number 610 specified in 44 FR 69464, 69571 (December 3, 1979).

(q) The term "pH" means the value obtained by the standard method specified in 40 CFR 136.3.

§ 420.03 Alternative effluent limitations representing the degree of effluent reduction attainable by the application of best practicable control technology currently available, best available technology, and best conventional technology.

Except as provided in paragraphs (a) through (c) below, any existing point source subject to this part may qualify for alternative effluent limitations to those specified in Part 420, Subparts A through L for a number of its processes representing the degree of effluent reduction attainable by the application of best practicable control technology currently available, best available technology economically achievable, and best conventional technology. The alternative effluent limitations are determined for a combination of processes by totaling the mass limitations of each pollutant allowed under the applicable Subparts A though L. The point source must achieve the total mass limitation for each pollutant for the combination of processes.

(a) A discharger cannot qualify for alternative effluent limitations if the application of such alternative effluent limitations would result in an increase in the amount of pollutants discharged from a combination of processes over that allowed under the limitations established by applicable Subparts A through L.

(b) A discharger cannot qualify for alternative effluent limitations if the application of such alternative effluent limitations would result in violation of any applicable state water quality standards.

(c) Each outfall from which process wastewaters are discharged must have specific, fixed effluent limitations for each pollutant limited by the applicable Subparts A through L.

(d) Subcategory—Specific Restrictions

(1) There shall be no alternate effluent limitations for cokemaking process wastewaters.

(2) There shall be no alternate effluent limitations for cold forming process wastewaters.

Subpart A—Cokemaking Subcategory

§ 420.10 Applicability; description of the cokemaking subcategory.

The provisions of this subpart are

applicable to discharges and introduction of pollutants into publicly owned treatment works resulting from by-product and beehive cokemaking operations.

§ 420.11 Specialized definitions.

(a) The term "beehive cokemaking" means those operations in which coal is heated with the admission of air in controlled amounts for the purpose of producing coke. There are no by-product recovery operations associated with beehive cokemaking operations.

(b) The term "by-product cokemaking" means those cokemaking operations in which coal is heated in the absence of air to produce coke. In this process, by-products may be recovered from the gases and liquids driven from the coal during cokemaking.

(c) The term "merchant" means those by-product cokemaking operations which provide more than fifty percent of the coke produced to operations, industries, or processes other than iron making blast furnaces associated with steel production.

(d) The term "iron and steel" means those by-product cokemaking operations other than merchant cokemaking operations.

(e) The term "wet desulfurization system" means those systems which remove sulfur compounds from coke oven gases and produce a contaminated process wastewater.

(f) The term "indirect ammonia recovery system" means those systems which recover ammonium hydroxide as a by-product from coke oven gases and waste ammonia liquors.

(g) The term "physical chemical treatment system" means those full scale coke plant wastewater treatment systems incorporating full scale granular activated carbon adsorption units which were in operation prior to January 7, 1981, the date of proposal of this regulation.

§ 420.12 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) By-product cokemaking—iron and steel.

SUBPART A

Pollutant or pollutant property	BPT effluent limitations: Maximum for any 1 day	BPT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.253	0.131
O&G	0.0327	0.0109
Ammonia-N	0.274	0.0912
Cyanide	0.0657	0.0219
Phenols (4AAP)	0.00451	0.00150
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(1) Increased loadings, not to exceed 11 percent of the above limitations, are allowed for by-product coke plants which have wet desulfurization systems but only to the extent such systems generate an increased effluent volume.

(2) Increased loadings, not to exceed 27 percent of the above limitations, are allowed for by-product coke plants which include indirect ammonia recovery systems but only to the extent that such systems generate an increased effluent volume.

(b) *By-product cokemaking—merchant.*

SUBPART A

Pollutant or pollutant property	BPT effluent limitations: Maximum for any 1 day	BPT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.270	0.140
O&G	0.0349	0.0116
Ammonia-N	0.292	0.0973
Cyanide	0.0701	0.0234
Phenols (4AAP)	0.00481	0.00160
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(1) Increased loadings, not to exceed 10 percent of the above limitations, are allowed for by-product coke plants which have wet desulfurization systems but only to the extent such systems generate an increased effluent volume.

(2) Increased loadings, not to exceed 25 percent of the above limitations, are allowed for by-product coke plants which include indirect ammonia recovery systems but only to the extent that such systems generate an increased effluent volume.

(C) *Beehive cokemaking.* No discharge of process wastewater pollutants to navigable waters.

§ 420.13 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) *By-product cokemaking—iron and steel.*

SUBPART A

Pollutant or pollutant property	BAT effluent limitations: Maximum for any 1 day	BAT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Ammonia-N	0.0543	0.0180
Cyanide	0.00638	0.00351
Phenols (4AAP)	0.0000638	0.0000219
Benzene	0.0000318	
Naphthalene	0.0000219	
Benzo(a)pyrene	0.0000219	

(1) Increased loadings, not to exceed 16 percent of the above limitations, are allowed for by-product coke plants which have wet desulfurization systems but only to the extent such systems generate an increased effluent volume.

(2) Increased loadings, not to exceed 39 percent of the above limitations, are allowed for by-product coke plants which include indirect ammonia recovery systems but only to the extent such systems generate an increased effluent volume.

(3) The following BAT effluent limitations shall be applicable to by-product coke plants with physical chemical treatment systems:

SUBPART A

Pollutant or pollutant property	BAT effluent limitations: Maximum for any 1 day	BAT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Ammonia-N	0.0845	0.0282
Phenols (4AAP)	0.0000650	0.0000438
Benzene	0.0000215	
Naphthalene	0.0000215	
Benzo(a)pyrene	0.0000215	

Increased loadings, not to exceed 24 percent of the above limitations, are allowed for by-product coke plants with physical chemical treatment systems which have wet desulfurization systems

but only to the extent such systems generate an increased effluent volume.

(b) *By-product cokemaking—merchant.*

SUBPART A

Pollutant or pollutant property	BAT effluent limitations: Maximum for any 1 day	BAT effluent limitations: Average of daily values for 30 consecutive days
	Kg/1dkg (pounds per 1,000 lb) of product	
Ammonia-N	0.0663	0.0177
Cyanide	0.00709	0.00390
Phenols (4AAP)	0.0000709	0.0000355
Benzene	0.0000355	
Naphthalene	0.0000355	
Benzo(a)pyrene	0.0000355	

(1) Increased loadings, not to exceed 15 percent of the above limitations, are allowed for by-product coke plants which have wet desulfurization systems but only to the extent such systems generate an increased effluent volume.

(2) Increased loadings, not to exceed 35 percent of the above limitations, are allowed for by-product coke plants which include indirect ammonia recovery systems but only to the extent such systems generate an increased effluent volume.

(3) The following BAT effluent limitations shall be applicable to by-product coke plants with physical chemical treatment systems:

SUBPART A

Pollutant or pollutant property	BAT effluent limitations: Maximum for any 1 day	BAT effluent limitations: Average of daily values for 30 consecutive days
	Kg/1dkg (pounds per 1,000 lb) of product	
Ammonia-N	0.0751	0.0375
Phenols(4AAP)	0.000100	0.0000501
Benzene	0.0000250	
Naphthalene	0.0000250	
Benzo(a)pyrene	0.0000250	

Increased loadings, not to exceed 21 percent of the above limitations, are allowed for by-product coke plants with physical chemical treatment systems which have wet desulfurization systems but only to the extent such systems generate an increased effluent volume.

(c) *Beehive cokemaking.* No discharge of process wastewater pollutants to navigable waters.

§ 420.14 New source performance standards.

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

(a) *By-product cokemaking—iron and steel.*

SUBPART A

Pollutant or pollutant property	New source performance standards: Maximum for any 1 day	New source performance standards: Average of daily values for 30 consecutive days
	Kg/1dkg (pounds per 1,000 lb) of product	
TSS	0.172	0.0694
O&G	0.00638	
Ammonia-N	0.0543	0.0160
Cyanide	0.00638	0.00351
Phenols (4AAP)	0.0000638	0.0000319
Benzene	0.0000319	
Naphthalene	0.0000319	
Benzo(a)pyrene	0.0000319	
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(1) Increased loadings, not to exceed 16 percent of the above standards, are allowed for by-product coke plants which have wet desulfurization systems but only to the extent such systems generate an increased effluent volume.

(2) Increased loadings, not to exceed 39 percent of the above standards, are allowed for by-product coke plants which include indirect ammonia recovery systems but only to the extent such systems generate an increased effluent volume.

(b) *By-product cokemaking—merchant.*

SUBPART A

Pollutant or pollutant property	New source performance standards: Maximum for any 1 day	New source performance standards: Average of daily values for 30 consecutive days
	Kg/1dkg (pounds per 1,000 lb) of product	
TSS	0.102	0.0993
O&G	0.00709	
Ammonia-N	0.0603	0.0177
Cyanide	0.00709	0.00390
Phenols (4AAP)	0.0000709	0.0000355
Benzene	0.0000355	
Naphthalene	0.0000355	
Benzo(a)pyrene	0.0000355	
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(1) Increased loadings, not to exceed 15 percent of the above standards, are allowed for by-product coke plants which have wet desulfurization systems but only to the extent such systems generate an increased effluent volume.

(2) Increased loadings, not to exceed 35 percent of the above standards, are allowed for by-product coke plants which include indirect ammonia recovery systems but only to the extent such systems generate an increased effluent volume.

(c) *Beehive cokemaking.*

No discharge of process wastewater pollutants to navigable waters.

§ 420.15 Pretreatment standards for existing sources.

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

(a) *By-product cokemaking—iron and steel.*

SUBPART A

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/1dkg (pounds per 1,000 lb) of product	
Ammonia-N	0.0645	0.0322
Cyanide	0.0172	0.00859
Phenols (4AAP)	0.0430	0.0215

(1) Increased loadings, not to exceed 24 percent of the above standards, are allowed for by-product coke plants which have wet desulfurization systems but only to the extent such systems generate an increased effluent volume.

(2) Increased loadings, not to exceed 58 percent of the above standards, are allowed for by-product coke plants which include indirect ammonia recovery systems but only to the extent such systems generate an increased effluent volume.

(b) *By-product cokemaking—merchant.*

SUBPART A

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/1dkg (pounds per 1,000 lb) of product	
Ammonia-N	0.0751	0.0375
Cyanide	0.0200	0.0100
Phenols (4AAP)	0.0501	0.0250

(1) Increased loadings, not to exceed 21 percent of the above standards, are allowed for by-product coke plants which have wet desulfurization systems but only to the extent such systems generate an increased effluent volume.

(2) Increased loadings, not to exceed 50 percent of the above standards, are

allowed for by-product coke plants which include indirect ammonia recovery systems but only to the extent such systems generate an increased effluent volume.

(c) *Beehive cokemaking* [Reserved].

§ 420.16 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

(a) *By-product cokemaking—iron and steel.*

SUBPART A

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Ammonia-N	0.0645	0.0322
Cyanide	0.0172	0.00859
Phenols (4AAP)	0.0430	0.0215

(1) Increased loadings, not to exceed 24 percent of the above standards, are allowed for by-product coke plants which have wet desulfurization systems but only to the extent such systems generate an increased effluent volume.

(2) Increased loadings, not to exceed 58 percent of the above standards, are allowed for by-product coke plants which include indirect ammonia recovery systems but only to the extent such systems generate an increased effluent volume.

(b) *By-product cokemaking—merchant.*

SUBPART A

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Ammonia-N	0.0751	0.0375
Cyanide	0.0200	0.0100
Phenols (4AAP)	0.0501	0.0250

(1) Increased loadings, not to exceed 21 percent of the above standards, are allowed for by-product coke plants which have wet desulfurization systems but only to the extent such systems generate an increased effluent volume.

(2) Increased loadings, not to exceed 50 percent of the above standards, are allowed for by-product coke plants which include indirect ammonia recovery systems but only to the extent such systems generate an increased effluent volume.

(c) *Beehive cokemaking* [Reserved].

§ 420.17 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional technology.

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional technology.

(a) *By-product cokemaking—iron and steel.*

SUBPART A

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.253	0.131
O&G	0.0527	0.0109
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(1) Increased loadings, not to exceed 11 percent of the above limitations, are allowed for by-product coke plants which have wet desulfurization systems but only to the extent such systems generate an increased effluent volume.

(2) Increased loadings, not to exceed 27 percent of the above limitations, are allowed for by-product coke plants which include indirect ammonia recovery systems but only to the extent that such systems generate an increased effluent volume.

(b) *By-product cokemaking—merchant.*

SUBPART A

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.270	0.140
O&G	0.0348	0.0116

SUBPART A—Continued

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(1) Increased loadings, not to exceed 10 percent of the above limitations, are allowed for by-product coke plants which have wet desulfurization systems but only to the extent such systems generate an increased effluent volume.

(2) Increased loadings, not to exceed 25 percent of the above limitations, are allowed for by-product coke plants which include indirect ammonia recovery systems but only to the extent that such systems generate an increased effluent volume.

(c) *Beehive cokemaking.* No discharge of process wastewater pollutants to navigable waters.

Subpart B—Sintering Subcategory

§ 420.20 Applicability; description of the sintering subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from sintering operations conducted by the heating of iron bearing wastes (mill scale and dust from blast furnaces and steelmaking furnaces) together with fine iron ore, limestone, and coke fines in an ignition furnace to produce an agglomerate for charging to the blast furnace.

§ 420.21 Specialized definitions [Reserved].

§ 420.22 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

SUBPART B

Pollutant or pollutant property	BPT effluent limitations: Maximum for any 1 day	BPT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0751	0.0250
O&G	0.0150	0.00501
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

§ 420.23 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

SUBPART B

Pollutant or pollutant property	BAT effluent limitations: Maximum for any 1 day	BAT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Ammonia-N [1]	0.0150	0.00501
Cyanide [1]	0.00100	0.000501
Phenols (4AAP) [1]	0.000100	0.0000501
TRC [1]	0.000250	
Lead	0.000375	0.000125
Zinc	0.000450	0.000150

[1] The limitations for ammonia-N, cyanide, phenols (4AAP), and TRC shall be applicable only when sintering wastewaters are treated with ironmaking wastewaters.

§ 402.24 New source performance standards.

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

SUBPART B

Pollutant of pollutant property	New source performance standards: Maximum for any 1 day	New source performance standards: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0200	0.00751
O&G	0.00501	
Ammonia-N [1]	0.0150	0.00501
Cyanide [1]	0.00100	0.000501
Phenols(4AAP) [1]	0.000100	0.0000501
TRC [1]	0.000250	
Lead	0.000375	0.000125
Zinc	0.000450	0.000150

SUBPART B—Continued

Pollutant of pollutant property	New source performance standards: Maximum for any 1 day	New source performance standards: Average of daily values for 30 consecutive days
pH	(1)	(1)

[1] The standards for ammonia-N, cyanide, phenols (4AAP), and TRC shall be applicable only when sintering wastewaters are treated with ironmaking wastewaters.
[2] Within the range of 6.0 to 9.0.

§ 420.25 Pretreatment standards for existing sources.

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

SUBPART B

Pollutant of pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Ammonia-N [1]	0.0150	0.00501
Cyanide [1]	0.00100	0.000501
Phenols(4AAP) [1]	0.000100	0.0000501
Lead	0.000375	0.000125
Zinc	0.000450	0.000150

[1] The standards for ammonia-N, cyanide, and phenols (4AAP), shall be applicable only when sintering wastewaters are treated with ironmaking wastewaters.

§ 420.26 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

SUBPART B

Pollutant or pollutant property	Pretreatment standards for new sources: Maximum for any 1 day	Pretreatment standards for new sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Ammonia-N [1]	0.0150	0.00501
Cyanide [1]	0.00100	0.000501
Phenols (4AAP) [1]	0.000100	0.0000501
Lead	0.000375	0.000125
Zinc	0.000450	0.000150

[1] The standards for ammonia-N, cyanide, and phenols (4AAP) shall be applicable only when sintering wastewaters are treated with ironmaking wastewaters.

§ 420.27 [Reserved]

Subpart C—Ironmaking Subcategory

§ 420.30 Applicability; description of the ironmaking subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from ironmaking operations in which iron ore is reduced to molten iron in a blast furnace.

§ 420.31 Specialized definitions.

(a) The term "ferromanganese blast furnace" means those blast furnaces which produce molten iron containing more than fifty percent manganese.

(b) The term "iron blast furnace" means all blast furnaces except ferromanganese blast furnaces.

§ 420.32 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR §§ 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) *Iron blast furnace.*

SUBPART C

Pollutant or pollutant property	BPT effluent limitations: Maximum for any 1 day	BPT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0752	0.0260
Ammonia-N	0.151	0.0537
Cyanide	0.0234	0.00782
Phenols (4AAP)	0.00625	0.00210
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(b) *Ferromanganese blast furnace.*

SUBPART C

Pollutant or pollutant property	BPT effluent limitations: Maximum for 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.313	0.104
Ammonia-N	1.29	0.429
Cyanide	0.469	0.156
Phenols (4AAP)	0.0624	0.0208
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

§ 420.33 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) *Iron blast furnace.*

SUBPART C

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1kg (pounds per 1,000 lb) of product	
Ammonia-N	0.00876	0.00292
Cyanide	0.000584	0.000292
Phenols (4AAP)	0.0000584	0.0000292
TRC [1]	0.000146	
Lead	0.000219	0.0000730
Zinc	0.000263	0.0000876

[1] The limitation for TRC shall be applicable only when chlorination of ironmaking wastewaters is practiced.

(b) *Ferromanganese blast furnace* [Reserved].

§ 420.34 New source performance standards.

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

(a) *Iron blast furnace.*

SUBPART C

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1kg (pounds per 1,000 lb) of products	
TSS	0.0117	0.00426
O&G	0.00292	
Ammonia-N	0.00876	0.00292
Cyanide	0.000584	0.000292
Phenols (4AAP)	0.0000584	0.0000292
TRC [1]	0.000146	
Lead	0.000219	0.0000730
Zinc	0.000263	0.0000876
pH	[1]	[1]

[1] The standards for TRC shall be applicable only when chlorination of ironmaking wastewaters is practiced.
[2] Within the range of 6.0 to 9.0.

(b) *Ferromanganese blast furnace.* [Reserved]

§ 420.35 Pretreatment standards for existing sources.

Except as provided in 40 CFR 408.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

(a) *Iron blast furnace.*

SUBPART C

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1kg (pounds per 1,000 lb) of products	
Ammonia-N	0.00876	0.00292
Cyanide	0.000584	0.000292
Phenols (4AAP)	0.0000584	0.0000292
Lead	0.000219	0.0000730
Zinc	0.000263	0.0000876

(b) *Ferromanganese blast furnace.* [Reserved]

§ 420.36 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

(a) *Iron blast furnace.*

SUBPART C

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1kg (pounds per 1,000 lb) of product	
Ammonia-N	0.00876	0.00292
Cyanide	0.000584	0.000292
Phenols (4AAP)	0.0000584	0.0000292
Lead	0.000219	0.0000730
Zinc	0.000263	0.0000876

(b) *Ferromanganese blast furnace.* [Reserved]

§ 420.37 [Reserved]

Subpart D—Steelmaking Subcategory

§ 420.40 Applicability; description of the steelmaking subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from steelmaking operations conducted in basic oxygen, open hearth, and electric arc furnaces.

§ 420.41 Specialized definitions.

(a) The term "basic oxygen furnace steelmaking" means the production of steel from molten iron, steel scrap, fluxes, and various combinations thereof, in refractory lined furnaces by adding oxygen.

(b) The term "open hearth furnace steelmaking" means the production of steel from molten iron, steel scrap, fluxes, and various combinations thereof, in refractory lined fuel-fired furnaces equipped with regenerative chambers to recover heat from the flue and combustion gases.

(c) The term "electric arc furnace steelmaking" means the production of steel principally from steel scrap and fluxes in refractory lined furnaces by passing an electric current through the scrap or steel bath.

(d) The term "wet" means those steelmaking air cleaning systems that primarily use water for furnace gas cleaning.

(e) The term "semi-wet" means those steelmaking air cleaning systems that use water for the sole purpose of conditioning the temperature and humidity of furnace gases such that the gases may be cleaned in dry air pollution control systems.

(f) The term "open combustion" means those basic oxygen furnace steelmaking wet air cleaning systems which are designed to allow excess air to enter the air pollution control system for the purpose of combusting the carbon monoxide in furnace gases.

(g) The term "suppressed combustion" means those basic oxygen furnace steelmaking wet air cleaning systems which are designed to limit or suppress the combustion of carbon monoxide in furnace gases by restricting the amount of excess air entering the air pollution control system.

§ 420.42 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) *Basic oxygen furnace steelmaking—semi-wet; and electric arc furnace steelmaking—semi-wet.* No discharge of process wastewater pollutants to navigable waters.

(b) *Basic oxygen furnace steelmaking—wet-suppressed combustion.*

SUBPART D

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of Product	
TSS	0.0312	0.0104
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0

(c) *Basic oxygen furnace steelmaking—wet open combustion; open hearth furnace steelmaking—wet; and electric arc furnace steelmaking—wet.*

SUBPART D

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0687	0.0229
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

§ 420.43 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) *Basic oxygen furnace steelmaking—semi-wet; and electric arc furnace steelmaking—semi-wet.* No discharge of process wastewater pollutants to navigable waters.

(b) *Basic oxygen furnace steelmaking—wet-suppressed combustion.*

SUBPART D

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Lead	0.000186	0.0000626
Zinc	0.000282	0.0000939

(c) *Basic oxygen furnace steelmaking—wet open combustion; open hearth furnace steelmaking—wet; and electric arc furnace steelmaking—wet;*

SUBPART D

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Lead	0.000413	0.000136
Zinc	0.000620	0.000207

§ 420.44 New source performance standards.

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

(a) *Basic oxygen furnace steelmaking—semi-wet; and electric arc furnace steelmaking—semi-wet.* [Reserved]

(b) *Basic oxygen furnace steelmaking—wet-suppressed combustion.*

SUBPART D

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0145	0.00522
Lead	0.000186	0.0000626
Zinc	0.000282	0.0000939
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(c) *Basic oxygen furnace steelmaking—wet open combustion; and electric arc furnace steelmaking—wet.*

SUBPART D

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0621	0.0115
Lead	0.000413	0.000136
Zinc	0.000620	0.000207
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(d) *Open hearth furnace steelmaking—wet.* [Reserved]

§ 420.45 Pretreatment standards for existing sources.

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

(a) *Basic oxygen furnace steelmaking—semi-wet; and electric arc furnace steelmaking—semi-wet.* [Reserved]

(b) *Basic oxygen furnace steelmaking—wet-suppressed combustion.*

SUBPART D

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Lead	0.000186	0.0000626
Zinc	0.000282	0.0000939

(c) *Basic oxygen furnace steelmaking—wet open combustion; open hearth furnace steelmaking—wet; and electric arc furnace steelmaking—wet.*

SUBPART D

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Lead	0.000413	0.000136
Zinc	0.000620	0.000207

§ 420.46 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

(a) *Basic oxygen furnace steelingmaking—semi-wet; and electric arc furnace steelmaking—semi-wet.* [Reserved]

(b) *Basic oxygen furnace steelmaking—wet-suppressed combustion.*

SUBPART D

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
Lead	0.000166	0.000626
Zinc	0.000282	0.000939

(c) *Basic oxygen furnace steelmaking—wet—open combustion; electric arc furnace steelmaking—wet.*

SUBPART D

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
Lead	0.000413	0.001136
Zinc	0.000620	0.000207

(d) *Open hearth furnace steelmaking—wet.* [Reserved]

§ 420.47 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional control technology.

(a) *Basic oxygen furnace steelmaking—semi-wet; and electric arc furnace steelmaking—semi-wet.* No discharge of process wastewater pollutants to navigable waters.

(b) *Basic oxygen furnace steelmaking—wet-suppressed combustion.* [Reserved]

(c) *Basic oxygen furnace steelmaking—wet—open combustion; electric arc furnace steelmaking—wet.* [Reserved]

(d) *Open hearth furnace steelmaking—wet.* [Reserved]

Subpart E—Vacuum Degassing Subcategory

§ 420.50 Applicability; description of the vacuum degassing subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from vacuum degassing operations conducted by applying a vacuum to molten steel.

§ 420.51 Specialized definitions. [Reserved]

§ 420.52 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

SUBPART E

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
TSS	0.0156	0.00521
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

§ 420.53 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

SUBPART E

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
Lead	0.0000826	0.0000313
Zinc	0.000141	0.0000469

§ 420.54 New source performance standards.

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the values set forth below.

SUBPART E

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
TSS	0.00795	0.00261
Lead	0.0000826	0.0000313
Zinc	0.000141	0.0000469
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

§ 420.55 Pretreatment standards for existing sources.

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

SUBPART E

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
Lead	0.0000826	0.0000313
Zinc	0.000141	0.0000469

§ 420.56 Pretreatment standards for new sources.

Any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

SUBPART E

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
Lead	0.0000826	0.0000313
Zinc	0.000141	0.0000469

§ 420.57 [Reserved]

Subpart F—Continuous Casting Subcategory

§ 420.60 Applicability; description of the continuous casting subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from the continous casting of molten steel into intermediate or semi-finished steel products through water cooled molds.

§ 420.61 Specialized definitions. [Reserved]

§ 420.62 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

SUBPART F

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0780	0.0260
Oil & Grease	0.0234	0.0078
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

§ 420.63 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

SUBPART F

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Lead	0.0000939	0.0000313
Zinc	0.000141	0.0000469

§ 420.64 New source performance standards.

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

SUBPART F

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.00730	0.00261
O&G	0.00313	0.00104
Lead	0.0000939	0.0000313
Zinc	0.000141	0.0000469
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

§ 420.65 Pretreatment standards for existing sources.

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

SUBPART F

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Lead	0.0000939	0.0000313
Zinc	0.000141	0.0000469

§ 420.66 Pretreatment standards for new sources.

Any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

SUBPART F

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Lead	0.0000939	0.0000313
Zinc	0.000141	0.0000469

§ 420.67 [Reserved]

Subpart G—Hot Forming Subcategory

§ 420.70 Applicability; description of the hot forming subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from hot forming operations conducted in primary, section, flat, and pipe and tube mills.

§ 420.71 Specialized definitions.

(a) The term "hot forming" means those steel operations in which solidified, heated steel is shaped by rolls.

(b) The term "primary mill" means those steel hot forming operations that reduce ingots to blooms or slabs by passing the ingots between rotating steel rolls. The first hot forming operation performed on solidified steel after it is removed from the ingot molds is carried out on a "primary mill".

(c) The term "section mill" means those steel hot forming operations that produce a variety of finished and semi-finished steel products other than the products of those mills specified below in subsections (d), (e), (g), and (h).

(d) The term "flat mill" means those steel hot forming operations that reduce heated slabs to plates, strip and sheet, or skelp.

(e) The term "pipe and tube mill" means those steel hot forming operations that produce butt welded or seamless tubular steel products.

(f) The term "scarfing" means those steel surface conditioning operations in which flames generated by the combustion of oxygen and fuel are used to remove surface metal imperfections from slabs, billets, or blooms.

(g) The term "plate mill" means those steel hot forming operations that produce flat hot-rolled products which are (1) between 8 and 48 inches wide and over 0.23 inches thick; or (2) greater than 48 inches wide and over 0.18 inches thick.

(h) The term "hot strip and sheet mill" means those steel hot forming

operations that produce flat hot-rolled products other than plates.

(i) The term "specialty steel" means those steel products containing alloying elements which are added to enhance the properties of the steel product when individual alloying elements (e.g., aluminum, chromium, cobalt, columbium, molybdenum, nickel, titanium, tungsten, vanadium, zirconium) exceed 3% or the total of all alloying elements exceed 5%.

(j) The term "carbon steel" means those steel products other than specialty steel products.

(k) The term "carbon hot forming operation" (or "carbon") means those hot forming operations which produce a majority, on a tonnage basis, of carbon steel products..

(l) The term "specialty hot forming operation" (or "specialty") applies to all hot forming operations other than "carbon hot forming operations."

§ 420.72 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) Primary mills, carbon and specialty.

(1) Without scarfing.

SUBPART G

Pollutant or pollutant property	BPT effluent limitations: Maximum for any 1 day	BPT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.150	0.0561
O&G	0.0374	
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(2) With scarfing.

SUBPART G

Pollutant or pollutant property	BPT effluent limitations: Maximum for any 1 day	BPT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.221	0.0830
O&G	0.0553	

SUBPART G—Continued

Pollutant or pollutant property	BPT effluent limitations: Maximum for any 1 day	BPT effluent limitations: Average of daily values for 30 consecutive days
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(b) Section mills.

(1) Carbon.

SUBPART G

Pollutant or pollutant property	BPT effluent limitations: Maximum for any 1 day	BPT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.357	0.134
O&G	0.0894	
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(2) Specialty.

SUBPART G

Pollutant or pollutant property	BPT effluent limitations: Maximum for any 1 day	BPT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.224	0.0841
O&G	0.0561	
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(c) Flat mills.

(1) Hot strip and sheet mills, carbon and specialty.

SUBPART G

Pollutant or pollutant property	BPT effluent limitations: Maximum for any 1 day	BPT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.427	0.160
O&G	0.107	
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(2) Carbon plate mills.

SUBPART G

Pollutant or pollutant property	BPT effluent limitations: Maximum for any 1 day	BPT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.227	0.0851
O&G	0.0568	
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0

(3) Specialty plate mills.

SUBPART G

Pollutant or pollutant property	BPT effluent limitations: Maximum for any 1 day	BPT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.100	0.0378
O&G	0.0250	(1)
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0

(d) Pipe and tube mills, carbon and specialty.

SUBPART G

Pollutant or pollutant property	BPT effluent limitations: Maximum for any 1 day	BPT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.212	0.0795
O&G	0.0530	
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0

§ 420.73 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The Agency has determined that there are not significant quantities of toxic pollutants in hot forming wastewaters after compliance with applicable BPT limitations. Accordingly, since the BPT level of treatment provides adequate control, the Agency is not promulgating more stringent BAT limitations.

§ 420.74 New source performance standards.

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

(a) Primary mills, carbon and specialty.

(1) Without scarfing.

SUBPART G

Pollutant or pollutant property	New source performance standards: Maximum for any 1 day	New source performance standards: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0150	0.00563
O&G	0.00373	
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(2) With scarfing.

SUBPART G

Pollutant or pollutant property	New source performance standards: Maximum for any 1 day	New source performance standards: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0234	0.00875
O&G	0.00584	
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(b) Section mills.
(1) Carbon.

SUBPART G

Pollutant or pollutant property	New source performance standards: Maximum for any 1 day	New source performance standards: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0334	0.0125
O&G	0.00834	
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(2) Specialty.

SUBPART G

Pollutant or pollutant property	New source performance standards: Maximum for any 1 day	New source performance standards: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0217	0.00813
O&G	0.00542	
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(c) Flat mills.

(1) Hot strip and sheet mills, carbon and specialty.

SUBPART G

Pollutant or pollutant property	New source performance standards: Maximum for any 1 day	New source performance standards: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of products	
TSS	0.0435	0.0163
O&G	0.0109	
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0

(2) Carbon plate mills.

SUBPART G

Pollutant or pollutant property	New source performance standards: Maximum for any 1 day	New source performance standards: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of products	
TSS	0.0234	0.00876
O&G	0.00584	
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0

(3) Specialty plate mills.

SUBPART G

Pollutant or pollutant property	New source performance standards: Maximum for any 1 day	New source performance standards: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of products	
TSS	0.0100	0.00375
O&G	0.00250	
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0

(d) Pipe and tube mills, carbon and specialty.

SUBPART G

Pollutant or pollutant property	New source performance standards: Maximum for any 1 day	New source performance standards: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of products	
TSS	0.0369	0.0138
O&G	0.00917	
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0

§ 420.75 Pretreatment standards for existing sources.

Any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 420.76 Pretreatment standards for new sources.

Any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 420.77 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional technology.

Except as provided in 40 CFR 125.30–32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional technology.

(a) Primary mills, carbon and specialty.

(1) Without scarfing.

SUBPART G

Pollutant or pollutant property	BCT effluent limitations: Maximum for any 1 day	BCT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.150	0.0561
O&G	0.0374	
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(2) With scarfing.

SUBPART G

Pollutant or pollutant property	BCT effluent limitations: Maximum for any 1 day	BCT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.221	0.0830
O&G	0.0553	
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(b) Section mills.
(1) Carbon.

SUBPART G

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
TSS	0.357	0.134
O&G	0.0654	
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(2) Specialty.

SUBPART G

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
TSS	0.224	0.0841
O&G	0.0661	
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(c) Flat mills.

(1) Hot strip and sheet mills, carbon and specialty.

SUBPART G

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
TSS	0.427	0.160
O&G	0.107	
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(2) Carbon plate mills.

SUBPART G

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
TSS	0.227	0.0851
O&G	0.0568	
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(3) Speciality plate mills.

SUBPART G

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
TSS	0.100	0.0376
O&G	0.0250	
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(d) Pipe and tube mills, carbon and speciality.

SUBPART G

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
TSS	0.212	0.0795
O&G	0.0530	
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

Subpart H—Salt Bath Descaling Subcategory

§ 420.80 Applicability; description of the salt bath descaling subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from oxidizing and reducing salt bath descaling operations.

§ 420.81 Specialized definitions.

(a) The term "salt bath descaling, oxidizing" means the removal of scale from semi-finished steel products by the action of molten salt baths other than those containing sodium hydride.

(b) The term "salt bath descaling, reducing" means the removal of scale from semi-finished steel products by the action of molten salt baths containing sodium hydride.

(c) The term "batch, sheet and plate" means those descaling operations that remove surface scale from sheet and plate products in batch processes.

(d) The term "batch, rod and wire" means those descaling operations that remove surface scale from rod and wire products in batch processes.

(e) The term "batch, pipe and tube" means those descaling operations that remove surface scale from pipe and tube products in batch processes.

(f) The term "continuous" means those descaling operations that remove surface scale from the sheet or wire products in continuous processes.

(g) The term "batch" means those descaling operations in which the products are processed in discrete batches.

§ 420.82 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) Salt bath descaling, oxidizing.

(1) Batch, sheet and plate.

SUBPART H

Pollutant or pollutant property	BPT effluent limitations	
	Maximum of any 1 day	Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
TSS	0.204	0.0878
Chromium	0.00292	0.00117
Nickel	0.00263	0.000878
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(2) Batch, rod and wire.

SUBPART H

Pollutant or pollutant property	BPT effluent limitations	
	Maximum of any 1 day	Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
TSS	0.0183	0.0526
Chromium	0.00175	0.000701
Nickel	0.00158	0.000526
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(3) Batch, pipe and tube.

SUBPART H

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
TSS	0.496	0.213
Chromium	0.00709	0.00284
Nickel	0.00639	0.00213
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(4) Continuous.

SUBPART H

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0954	0.0413
Chromium	0.00136	0.000551
Nickel	0.00134	0.000413
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(b) Salt bath descaling, reducing.

(1) Batch.

SUBPART H

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0949	0.0407
Cyanide	0.00102	0.000339
Chromium	0.00136	0.000542
Nickel	0.00122	0.000407
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(2) Continuous.

SUBPART H

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0532	0.228
Cyanide	0.00569	0.00190
Chromium	0.00759	0.00304
Nickel	0.00683	0.00228
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

§ 420.83 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) Salt bath descaling, oxidizing.

(1) Batch, sheet and plate.

SUBPART H

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium	0.00292	0.00117
Nickel	0.00261	0.000876

(2) Batch, rod and wire.

SUBPART H

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium	0.00175	0.000701
Nickel	0.00156	0.000526

(3) Batch, pipe and tube.

SUBPART H

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium	0.00709	0.00284
Nickel	0.00633	0.00213

(4) Continuous.

SUBPART H

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium	0.00128	0.000551
Nickel	0.00124	0.000413

(b) Salt bath descaling, reducing.

(1) Batch.

SUBPART H

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Cyanide	0.00102	0.000339
Chromium	0.00136	0.000542
Nickel	0.00122	0.000407

(2) Continuous.

SUBPART H

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Cyanide	0.00569	0.00190
Chromium	0.00759	0.00304
Nickel	0.00683	0.00228

§ 420.84 New source performance standards.

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

(a) Salt bath descaling, oxidizing.

(1) Batch, sheet and plate.

SUBPART H

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.354	0.0870
Chromium	0.00292	0.00117
Nickel	0.00263	0.000876
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(2) Batch, rod and wire.

SUBPART H

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.129	0.0526
Chromium	0.00175	0.000701
Nickel	0.00156	0.000526

SUBPART H—Continued

Pollutant or pollutant property	New source performance standards: Maximum for any 1 day	New source performance standards: Average of daily values for 30 consecutive days
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(3) Batch, pipe and tube.

SUBPART H

Pollutant or pollutant property	New source performance standards: Maximum for any 1 day	New source performance standards: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.486	0.213
Chromium	0.00708	0.00264
Nickel	0.00636	0.00213
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(4) Continuous.

SUBPART H

Pollutant or pollutant property	New source performance standards: Maximum for any 1 day	New source performance standards: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0964	0.0413
Chromium	0.00139	0.000561
Nickel	0.00124	0.000413
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(b) Salt bath descaling, reducing.
(1) Batch.

SUBPART H

Pollutant or pollutant property	New source performance standards: Maximum for any 1 day	New source performance standards: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0949	0.0417
Cyanide	0.00102	0.000339
Chromium	0.00136	0.000542
Nickel	0.00122	0.000407
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(2) Continuous.

SUBPART H

Pollutant or pollutant property	New source performance standards: Maximum for any 1 day	New source performance standards: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.532	0.225
Cyanide	0.00569	0.00190
Chromium	0.00759	0.00304
Nickel	0.00683	0.00228
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

§ 420.85 Pretreatment standards for existing sources.

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

(a) Salt bath descaling, oxidizing.
(1) Batch, sheet and plate.

SUBPART H

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium	0.00292	0.00117
Nickel	0.00263	0.000676

(2) Batch, rod and wire.

SUBPART H

Pollutant or pollutant property	Pretreatment standards for existing source: Maximum for any 1 day	Pretreatment standards for existing source: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium	0.00175	0.000701
Nickel	0.00158	0.000526

(3) Batch, pipe and tube.

SUBPART H

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium	0.00709	0.00264
Nickel	0.00636	0.00213

(4) Continuous.

SUBPART H

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium	0.00195	0.000551
Nickel	0.00124	0.00415

(b) Salt bath descaling, reducing.
(1) Batch.

SUBPART H

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Cyanide	0.00102	0.000339
Chromium	0.00136	0.000542
Nickel	0.00122	0.000407

(2) Continuous.

SUBPART H

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Cyanide	0.00569	0.00190
Chromium	0.00759	0.00304
Nickel	0.00683	0.00228

§ 420.86 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must

comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

(a) Salt bath descaling, oxidizing.

(1) Batch, sheet and plate.

SUBPART H

Pollutant or pollutant property	Pretreatmegt standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium	0.00292	0.00117
Nickel	0.00263	0.000976

(2) Batch, rod and wire.

SUBPART H

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium	0.00175	0.000701
Nickel	0.00158	0.000526

(3) Batch, pipe and tube.

SUBPART H

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium	0.00709	0.00284
Nickel	0.00636	0.00213

(4) Continuous.

SUBPART H

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium	0.00136	0.000551
Nickel	0.00124	0.000413

(b) Salt bath descaling, reducing.

(1) Batch.

SUBPART H

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Cyanide	0.00102	0.000339
Chromium	0.00136	0.000542
Nickel	0.00122	0.000407

(2) Continuous.

SUBPART H

Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Cyanide	0.00569	0.000190
Chromium	0.00759	0.000304
Nickel	0.00683	0.000226

§ 420.87 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional technology.

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional technology.

(a) Salt bath descaling, oxidizing.

(1) Batch, sheet and plate.

SUBPART H

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.123	0.0526
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(3) Batch, pipe and tube.

SUBPART H

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.496	0.213
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(4) Continuous.

SUBPART H

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0964	0.0413
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(b) Salt bath descaling, reducing.

(1) Batch.

SUBPART H

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.204	0.0876
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(2) Batch, rod and wire.

SUBPART H

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0949	0.0407
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(2) Continuous.

SUBPART H

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1kg (pounds per 1,000 lb) of product	
TSS	0.0532	0.228
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

Subpart I—Acid Pickling Subcategory

§ 420.90 Applicability; description of the acid pickling subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from sulfuric acid, hydrochloric acid, or combination acid pickling operations.

§ 420.91 Specialized definitions.

(a) The term "sulfuric acid pickling" means those operations in which steel products are immersed in sulfuric acid solutions to chemically remove oxides and scale, and those rinsing operations associated with such immersions.

(b) The term "hydrochloric acid pickling" means those operations in which steel products are immersed in hydrochloric acid solutions to chemically remove oxides and scale, and those rinsing operations associated with such immersions.

(c) The term "combination acid pickling" means those operations in which steel products are immersed in solutions of more than one acid to chemically remove scale and oxides, and those rinsing steps associated with such immersions.

(d) The term "fume scrubber" means those pollution control devices used to remove and clean fumes originating in pickling operations.

(e) The term "batch" means those pickling operations which process steel products such as coiled wire, rods, and tubes in discrete batches or bundles.

(f) The term "continuous" means those pickling operations which process steel products other than in discrete batches or bundles.

(g) The term "acid recovery" means those sulfuric acid pickling operations that include processes for recovering the unreacted acid from spent pickling acid solutions.

(h) The term "acid regeneration" means those hydrochloric acid pickling operations that include processes for regenerating acid from spent pickling acid solutions.

(i) The term "neutralization" means those acid pickling operations that do not include acid recovery or acid regeneration processes.

(j) The term "spent acid solution" (or spent pickle liquor) means those solutions of steel pickling acids which have been used in the pickling process and are discharged or removed therefrom.

(k) The term "rod, wire and coil" means those acid pickling operations that pickle rod, wire or coiled rod and wire products.

(l) The term "bar, billet and bloom" means those acid pickling operations that pickle bar, billet or bloom products.

(m) The term "strip, sheet and plate" means those acid pickling operations that pickle strip, sheet or plate products.

(n) The term "pipe, tube and other" means those acid pickling operations that pickle pipes, tubes or any steel product other than those included in paragraphs (k), (l) and (m) herein.

§ 420.92 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) Sulfuric acid pickling (spent acid solutions and rinse waters).

(1) Rod, wire and coil.

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1kg (pounds per 1,000 lb) of product	
TSS	0.0818	0.0350
O&G [1]	0.0350	0.0117
Lead	0.000526	0.000175
Zinc	0.000350	0.000117
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

(2) Bar, billet and bloom.

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1kg (pounds per 1,000 lb) of product	
TSS	0.0263	0.0113
O&G [1]	0.0113	0.00375
Lead	0.000168	0.0000563
Zinc	0.000113	0.0000375
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

(3) Strip, sheet and plate.

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1kg (pounds per 1,000 lb) of product	
TSS	0.0526	0.0225
O&G [1]	0.0225	0.00751
Lead	0.000338	0.000113
Zinc	0.000226	0.0000751
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

(4) Pipe, tube and other products.

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1kg (pounds per 1,000 lb) of product	
TSS	0.146	0.0626
O&G [1]	0.0626	0.0209
Lead	0.000939	0.000313
Zinc	0.000626	0.000209
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

(5) Fume scrubbers.

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kilograms per day	
TSS	5.72	2.45
O&G [1]	2.45	0.819
Lead	0.0366	0.0123
Zinc	0.0245	0.00819
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 8.0 to 9.0.

The above limitations shall be applicable to each fume scrubber associated with a sulfuric acid pickling operation.

(b) Hydrochloric acid pickling (spent acid solutions and rinse waters).

(1) Rod, wire and coil.

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.143	0.0613
O&G [1]	0.0613	0.0204
Lead	0.000920	0.000307
Zinc	0.000613	0.000204
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 8.0 to 9.0.

(2) Strip, sheet and plate.

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0818	0.0350
O&G [1]	0.0350	0.0117
Lead	0.000526	0.000175
Zinc	0.000350	0.000117
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 8.0 to 9.0.

(3) Pipe, tube and other products.

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.286	0.128
O&G [1]	0.128	0.0426
Lead	0.00192	0.000638
Zinc	0.00126	0.000426
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 8.0 to 9.0.

(4) Fume scrubbers.

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kilograms per day	
TSS	5.72	2.45
O&G [1]	2.45	0.819
Lead	0.0366	0.0123
Zinc	0.0245	0.00819
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 8.0 to 9.0.

The above limitations shall be applicable to each fume scrubber associated with a hydrochloric acid pickling operation.

(5) Acid regeneration.

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kilograms per day	
TSS	36.2	16.3
O&G [1]	16.3	5.45
Lead	0.245	0.0819
Zinc	0.163	0.0545
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 8.0 to 9.0.

The above limitations shall be applicable to the absorber vent scrubber wastewater associated with hydrochloric acid regeneration plants.

(c) Combination acid pickling (spent acid solution and rinse waters).

(1) Rod, Wire, and Coil.

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.149	0.0638
O&G [1]	0.0638	0.0213
Chromium	0.00213	0.000852
Nickel	0.00192	0.000638
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 8.0 to 9.0.

(2) Bar, billet, and bloom.

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0672	0.0256
O&G [1]	0.0256	0.00960
Chromium	0.000959	0.000384
Nickel	0.000864	0.000256
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 8.0 to 9.0.

(3) Strip, sheet, and plate—continuous.

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.438	0.188
O&G [1]	0.188	0.0626
Chromium	0.00626	0.00250
Nickel	0.00563	0.00188
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 8.0 to 9.0.

(4) Strip, sheet and plate—batch.

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.154	0.0576
O&G [1]	0.0576	0.0192
Chromium	0.00192	0.000768
Nickel	0.00173	0.000576
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

(5) Pipe, tube, and other products.

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.225	0.0964
O&G [1]	0.0964	0.0322
Chromium	0.00322	0.00129
Nickel	0.00289	0.000964
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

(6) Fume scrubbers.

SUBPART I

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kilograms per day	
TSS	5.72	2.45
O&G [1]	2.45	0.819
Chromium	0.0818	0.0327
Nickel	0.0736	0.0245
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

The above limitations shall be applicable to each fume scrubber associated with a combination acid pickling operation.

§ 420.93 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) Sulfuric acid pickling (spent acid solutions and rinse waters).

(1) Rod, wire and coil.

SUBPART I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Lead	0.000526	0.000175
Zinc	0.000351	0.000117

(2) Bar, billet and bloom.

SUBPART I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Lead	0.000169	0.0000563
Zinc	0.000113	0.0000375

(3) Strip, sheet and plate.

SUBPART I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Lead	0.000338	0.000113
Zinc	0.000225	0.0000751

(4) Pipe, tube and other products.

SUBPART I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Lead	0.000329	0.000110
Zinc	0.000220	0.000073

(5) Fume scrubbers.

SUBPART I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kilograms per day	
Lead	0.0368	0.0123
Zinc	0.0245	0.00818

The above limitations shall be applicable to each fume scrubber associated with a sulfuric acid pickling operation.

(b) Hydrochloric acid pickling (spent acid solutions and rinse waters).

(1) Rod, wire and coil.

SUBPART I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Lead	0.000526	0.000175
Zinc	0.000351	0.000117

(2) Strip, sheet and plate.

SUBPART I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Lead	0.000338	0.000113
Zinc	0.000225	0.0000751

(3) Pipe, tube and other products.

SUBPART I

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Lead	0.000329	0.000110
Zinc	0.000220	0.000073

(4) Fume scrubbers.

SUBPART I

Pollutant or pollutant property	BAT effluent limitations: Maximum for any 1 day	BAT effluent limitations: Average of daily values for 30 consecutive days
	Kilograms per day	
Lead	0.0366	0.0123
Zinc	0.0245	0.00819

The above limitations shall be applicable to each fume scrubber associated with a hydrochloric acid pickling operation.

(5) Acid regeneration.

SUBPART I

Pollutant or pollutant property	BAT effluent limitations: Maximum for any 1 day	BAT effluent limitations: Average of daily values for 30 consecutive days
	Kilograms per day	
Lead	0.245	0.0819
Zinc	0.163	0.0545

The above limitations shall be applicable to the absorber vent scrubber wastewater associated with hydrochloric acid regeneration plants.

(c) Combination acid pickling (spent acid solution and rinse waters).

Rod, wire, and coil.

SUBPART I

Pollutant or pollutant property	BAT effluent limitations: Maximum for any 1 day	BAT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium	0.00213	0.000852
Nickel	0.00192	0.000636

(2) Bar, billet, and bloom.

SUBPART I

Pollutant or pollutant property	BAT effluent limitations: Maximum for any 1 day	BAT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium	0.000960	0.000384
Nickel	0.000864	0.000288

(3) Strip, sheet, and plate—continuous.

SUBPART I

Pollutant or pollutant property	BAT effluent limitations: Maximum for any 1 day	BAT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium	0.00626	0.00250
Nickel	0.00563	0.00188

(4) Strip, sheet, and plate—batch.

SUBPART I

Pollutant or pollutant property	BAT effluent limitations: Maximum for any 1 day	BAT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium	0.00192	0.000768
Nickel	0.00173	0.000576

(5) Pipe, tube, and other products.

SUBPART I

Pollutant or pollutant property	BAT effluent limitations: Maximum for any 1 day	BAT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium	0.00322	0.00129
Nickel	0.00289	0.000964

(6) Fume scrubbers.

SUBPART I

Pollutant or pollutant property	BAT effluent limitations: Maximum for any 1 day	BAT effluent limitations: Average of daily values for 30 consecutive days
	Kilograms per day	
Chromium	0.0819	0.0327
Nickel	0.0735	0.0245

The above limitations shall be applicable to each fume scrubber associated with a combination acid pickling operation.

§ 420.94 New source performance standards.

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

(a) Sulfuric acid pickling (spent acid solutions and rinse waters).

(1) Rod, wire, and coil.

SUBPART I

Pollutant or pollutant property	New source performance standards: Maximum for any 1 day	New source performance standards: Average of daily values for 30 consecutive days
	kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0146	0.00626
O&G*	0.00626	0.00206
Lead	0.0000939	0.0000313
Zinc	0.0000626	0.0000209
pH	(1)	(1)

*The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.

[1] Within the range of 6.0 to 9.0.

(2) Bar, billet, and bloom.

SUBPART I

Pollutant or pollutant property	New source performance standards: Maximum for any 1 day	New source performance standards: Average of daily values for 30 consecutive days
	kg/kkg (pounds per 1,000 lb) of product	
TSS	0.00878	0.00376
O&G*	0.00376	0.00125
Lead	0.0000563	0.0000188
Zinc	0.0000376	0.0000125
pH	(1)	(1)

*The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.

[1] Within the range of 6.0 to 9.0.

(3) Strip, sheet, and plate.

SUBPART I

Pollutant or pollutant property	New source performance standards: Maximum for any 1 day	New source performance standards: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0117	0.00501
O&G [1]	0.00501	0.00167
Lead	0.0000751	0.0000250
Zinc	0.0000501	0.0000167
pH	(1)	(1)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.

[2] Within the range of 6.0 to 9.0.

(4) Pipe, tube and other products.

SUBPART I

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1kg (pounds per 1,000 lb) of product	
TSS	0.0204	0.00876
O&G [1]	0.00876	0.00292
Lead	0.000131	0.0000438
Zinc	0.0000876	0.0000292
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

(5) Fume scrubbers.

SUBPART I

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kilograms per day	
TSS	5.72	2.45
O&G [1]	2.45	0.819
Lead	0.0368	0.0123
Zinc	0.0245	0.00819
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

The above limitations shall be applicable to each fume scrubber associated with a sulfuric acid pickling operation.

(b) Hydrochloric acid pickling (spent acid solutions and rinse waters).

(1) Rod, wire, and coil.

SUBPART I

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1kg (pounds per 1,000 lb) of product	
TSS	0.0175	0.00751
O&G [1]	0.00751	0.00250
Lead	0.000113	0.0000376
Zinc	0.0000751	0.0000250
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

(2) Strip, sheet, and plate.

SUBPART I

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1kg (pounds per 1,000 lb) of product	
TSS	0.0117	0.00501
O&G [1]	0.00501	0.00167
Lead	0.0000751	0.0000250
Zinc	0.0000501	0.0000167
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

(3) Pipe, tube, and other products.

SUBPART I

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1kg (pounds per 1,000 lb) of product	
TSS	0.0321	0.0136
O&G [1]	0.0136	0.00459
Lead	0.000206	0.0000686
Zinc	0.000138	0.0000459
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

(4) Fume scrubbers.

SUBPART I

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kilograms per day	
TSS	5.72	2.45
O&G [1]	2.45	0.819
Lead	0.0368	0.0123
Zinc	0.0245	0.00819
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

The above limitations shall be applicable to each fume scrubber associated with a hydrochloric acid pickling operation.

(c) Combination acid pickling (spent acid solutions and rinse waters).

(1) Rod, wire, and coil.

SUBPART I

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1kg (pounds per 1,000 lb) of product	
TSS	0.0204	0.00876
O&G [1]	0.00876	0.00292
Chromium	0.000292	0.000117
Nickel	0.000292	0.000876
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

(2) Bar, billet, and bloom.

SUBPART I

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1kg (pounds per 1,000 lb) of product	
TSS	0.0117	0.00501
O&G [1]	0.00501	0.00167
Chromium	0.000167	0.0000667
Nickel	0.000150	0.0000501
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

(3) Strip, sheet and plate—continuous.

SUBPART I

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1kg (pounds per 1,000 lb) of product	
TSS	0.0496	0.0213
O&G [1]	0.0213	0.00710
Chromium	0.000710	0.000284
Nickel	0.000568	0.000213
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

(4) Strip, sheet, and plate—batch.

SUBPART I

Pollutant or pollutant property	New source performance standards: Maximum for any 1 day	New source performance standards: Average of daily values for 30 consecutive days
	Kg/1kg (pounds per 1,000 lb) of product	
TSS	0.0175	0.00751
O&G [1]	0.00751	0.00250
Chromium	0.000250	0.000100
Nickel	0.000225	0.0000751
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

(5) Pipe, tube, and other products.

SUBPART I

Pollutant or pollutant property	New source performance standards: Maximum for any 1 day	New source performance standards: Average of daily values for 30 consecutive days
	Kg/1kg (pounds per 1,000 lb) of product	
TSS	0.0292	0.0125
O&G [1]	0.0125	0.00418
Chromium	0.000418	0.000167
Nickel	0.000376	0.000125
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

(6) Fume scrubbers.

SUBPART I

Pollutant or pollutant property	New source performance standards: Maximum for any 1 day	New source performance standards: Average of daily values for 30 consecutive days
	Kilograms per day	
TSS	5.72	2.46
O&G [1]	2.45	0.819
Chromium	0.0819	0.0327
Nickel	0.0736	0.0245
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

The above limitations shall be applicable to each fume scrubber associated with a combination acid pickling operation.

§ 420.95 Pretreatment standards for existing sources.

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

(a) Sulfuric acid (spent acid solutions and rinse waters).

(1) Rod, wire, and coil.

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/1kg (pounds per 1,000 lb) of product	
Lead	0.000526	0.000175
Zinc	0.000350	0.000117

(2) Bar, billett, and bloom.

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/1kg (pounds per 1,000 lb) of product	
Lead	0.000169	0.0000563
Zinc	0.000113	0.0000376

(3) Strip, sheet, and plate.

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/1kg (pounds per 1,000 lb) of product	
Lead	0.000338	0.0000113
Zinc	0.000225	0.0000751

(4) Pipe, tube, and other products.

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/1kg (pounds per 1,000 lb) of product	
Lead	0.000939	0.000313
Zinc	0.000626	0.000209

(5) Fume scrubber.

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kilograms per day	
Lead	0.0368	0.0123
Zinc	0.0245	0.00818

NOTE.—The above limitations are applicable to each fume scrubber associated with sulfuric acid pickling operations.

(b) Hydrochloric acid pickling (spent acid solutions and rinse waters).

(1) Rod, wire, and coil.

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/1kg (pounds per 1,000 lb) of product	
Lead	0.000920	0.000307
Zinc	0.000613	0.000204

(2) Strip, sheet, and plate.

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/1kg (pounds per 1,000 lb) of product	
Lead	0.000526	0.000175
Zinc	0.000350	0.000117

(3) Pipe, tube, and other products.

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/1kg (pounds per 1,000 lb) of product	
Lead	0.00192	0.000639
Zinc	0.00128	0.000426

(4) Fume scrubber.

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kilograms per day	
Lead	0.0368	0.0123
Zinc	0.0245	0.00819

NOTE.—The above limitations shall be applicable for each fume scrubber associated with hydrochloric acid pickling operations.

(5) Acid regeneration.

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kilograms per day	
Lead	0.246	0.0819
Zinc	0.163	0.0544

NOTE.—The above limitations shall be applicable to the absorber vent scrubber wastewater associated with hydrochloric acid regeneration plants.

(c) Combination acid pickling (spent acid solutions and rinse waters).

(1) Rod, wire, and coil.

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
Chromium	0.00213	0.000852
Nickel	0.00192	0.000639

(2) Bar, billet, and bloom.

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
Chromium	0.000980	0.000364
Nickel	0.000864	0.000288

(3) Strip, sheet, and plate—continuous.

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
Chromium	0.00626	0.00250
Nickel	0.00563	0.00188

(4) Strip, sheet, and plate—batch.

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
Chromium	0.00182	0.000769
Nickel	0.00173	0.000576

(5) Pipe, tube, and other products.

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
Chromium	0.00322	0.00129
Nickel	0.00288	0.000964

(6) Fume scrubber.

SUBPART I

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kilograms per day	
Chromium	0.0819	0.0327
Nickel	0.0735	0.0245

NOTE.—The above limitations shall be applicable to each fume scrubber associated with a combination acid pickling operation.

§ 420.96 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

(a) Sulfuric acid pickling (spent acid solutions and rinse waters).

(1) Rod, wire, coil.

SUBPART I

Pollutant or pollutant property	Pretreatment standards for new sources: Maximum for any 1 day	Pretreatment standards for new sources: Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
Lead	0.0000939	0.0000313
Zinc	0.0000626	0.0000209

(2) Bar, billet, and bloom.

SUBPART I

Pollutant or pollutant property	Pretreatment standards for new sources: Maximum for any 1 day	Pretreatment standards for new sources: Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
Lead	0.0000563	0.0000188
Zinc	0.0000376	0.0000125

(3) Strip, sheet, and plate.

SUBPART I

Pollutant or pollutant property	Pretreatment standards for new sources: Maximum for any 1 day	Pretreatment standards for new sources: Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
Lead	0.0000751	0.0000250
Zinc	0.0000501	0.0000167

(4) Pipe, tube, other products.

SUBPART I

Pollutant or pollutant property	Pretreatment standards for new sources: Maximum for any 1 day	Pretreatment standards for new sources: Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
Lead	0.0001131	0.0000438
Zinc	0.0000876	0.0000292

(5) Fume scrubber.

SUBPART I		
Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kilograms per day	
Lead	0.0368	0.0123
Zinc	0.0245	0.00819

(b) Hydrochloric acid pickling (spent acid solutions and rinse waters).

(1) Rod, wire, coil.

SUBPART I		
Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Lead	0.000113	0.0000376
Zinc	0.0000751	0.0000250

(2) Strip, sheet, and plate.

SUBPART I		
Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Lead	0.0000751	0.0000250
Zinc	0.0000501	0.0000167

(3) Pipe, tube, and other products.

SUBPART I		
Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Lead	0.000226	0.0000686
Zinc	0.000138	0.0000459

(4) Fume scrubber.

SUBPART I		
Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kilograms per day	
Lead	0.0368	0.0123
Zinc	0.0245	0.00819

NOTE.—The above limitations shall be applicable for each fume scrubber associated with hydrochloric acid pickling operations.

(c) Combination acid pickling (spent acid solutions and rinse waters).

(1) Rod, wire, and coil.

SUBPART I		
Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (pounds per 1,000 lb) of product	
Chromium	0.000292	0.000117
Nickel	0.000263	0.0000876

(2) Bar, billet, and bloom.

SUBPART I		
Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (pounds per 1,000 lb) of product	
Chromium	0.000167	0.0000667
Nickel	0.000150	0.0000501

(3) Strip, sheet, and plate—continuous.

SUBPART I		
Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (pounds per 1,000 lb) of product	
Chromium	0.000719	0.000284
Nickel	0.000636	0.000213

(4) Strip, sheet, and plate—batch.

SUBPART I		
Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (pounds per 1,000 lb) of product	
Chromium	0.000850	0.000100
Nickel	0.000225	0.0000751

(5) Pipe, tube, and other products.

SUBPART I		
Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium	0.000418	0.000167
Nickel	0.000379	0.000125

(6) Fume scrubber.

SUBPART I		
Pollutant or pollutant property	Pretreatment standards for new sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kilograms per day	
Chromium	0.0519	0.0327
Nickel	0.0735	0.0245

§ 420.97 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional technology.

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional technology.

(a) Sulfuric acid pickling (spent acid solutions and rinse waters)

(1) Rod, wire and coil.

SUBPART I

Pollutant or pollutant property	BCT effluent limitations: Maximum for any 1 day	BCT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0619	0.0250
O&G [1]	0.0353	0.0117
pH	[2]	[2]

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

(2) Bar, billet and bloom.

SUBPART I

Pollutant or pollutant property	BCT effluent limitations: Maximum for any 1 day	BCT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0263	0.0113
O&G [1]	0.0113	0.00376
pH	[2]	[2]

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

(3) Strip, sheet and plate.

SUBPART I

Pollutant or pollutant property	BCT effluent limitations: Maximum for any 1 day	BCT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0526	0.0225
O&G [1]	0.0225	0.00751
pH	[2]	[2]

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

(4) Pipe, tube and other products.

SUBPART I

Pollutant or pollutant property	BCT effluent limitations: Maximum for any 1 day	BCT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.146	0.0626
O&G [1]	0.0626	0.0209
pH	[2]	[2]

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

(5) Fume scrubbers.

SUBPART I

Pollutant or pollutant property	BCT effluent limitations: Maximum for any 1 day	BCT effluent limitations: Average of daily values for 30 consecutive days
	Kilograms per day	
TSS	5.72	2.45
O&G [1]	2.45	0.819
pH	[2]	[2]

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

The above limitations shall be applicable to each fume scrubber associated with a sulfuric acid pickling operation.

(b) Hydrochloric acid pickling (spent acid solutions and rinse waters).

(1) Rod, wire and coil.

SUBPART I

Pollutant or pollutant property	BCT effluent limitations: Maximum for any 1 day	BCT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.143	0.0613
O&G [1]	0.0613	0.0204
pH	[2]	[2]

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

(2) Strip, sheet and plate.

SUBPART I

Pollutant or pollutant property	BCT effluent limitations: Maximum for any 1 day	BCT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0819	0.0350
O&G [1]	0.0350	0.0117
pH	[2]	[2]

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

(3) Pipe, tube and other products.

SUBPART I

Pollutant or pollutant property	BCT effluent limitations: Maximum for any 1 day	BCT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.208	0.138
O&G [1]	0.128	0.0426
pH	[2]	[2]

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

(4) Fume scrubbers.

SUBPART I

Pollutant or pollutant property	BCT effluent limitations: Maximum for any 1 day	BCT effluent limitations: Average of daily values for 30 consecutive days
	Kilograms per day	
TSS	5.72	2.45
O&G [1]	2.45	0.819
pH	[2]	[2]

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

The above limitations shall be applicable to each fume scrubber associated with a hydrochloric acid pickling operation.

(5) Acid regeneration.

SUBPART I

Pollutant or pollutant property	BCT effluent limitations: Maximum for any 1 day	BCT effluent limitations: Average of daily values for 30 consecutive days
	Kilograms per day	
TSS	36.2	16.3
O&G [1]	16.3	5.45
pH	[2]	[2]

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

The above limitations shall be applicable to the absorber vent scrubber wastewater associated with hydrochloric acid regeneration plants.

(c) Combination acid pickling (spent acid solution and rinse waters).

(1) Rod, wire, and coil.

SUBPART I

Pollutant or pollutant property	BCT effluent limitations: Maximum for any 1 day	BCT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.149	0.0638
O&G [1]	0.0638	0.0213
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

(2) Bar, billet, and bloom.

SUBPART I

Pollutant or pollutant property	BCT effluent limitations: Maximum for any 1 day	BCT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0672	0.0288
O&G [1]	0.0288	0.00960
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

(3) Strip, sheet, and plate—continuous.

SUBPART I

Pollutant or pollutant property	BCT effluent limitations: Maximum for any 1 day	BCT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.438	0.188
O&G [1]	0.188	0.0626
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

(4) Strip, sheet and plate—batch.

SUBPART I

Pollutant or pollutant property	BCT effluent limitations: Maximum for any 1 day	BCT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.134	0.0576
O&G [1]	0.0576	0.0192
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

(5) Pipe, tube, and other products.

SUBPART I

Pollutant or pollutant property	BCT effluent limitations: Maximum for any 1 day	BCT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.225	0.0964
O&G [1]	0.0964	0.0321
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

(6) Fume scrubbers.

SUBPART I

Pollutant or pollutant property	BCT effluent limitations: Maximum for any 1 day	BCT effluent limitations: Average of daily values for 30 consecutive days
	Kilograms per day	
TSS	5.72	2.45
O&G [1]	2.45	0.819
pH	(2)	(2)

[1] The limitations for oil and grease shall be applicable when acid pickling wastewaters are treated with cold rolling wastewaters.
[2] Within the range of 6.0 to 9.0.

The above limitations shall be applicable to each fume scrubber associated with a combination acid pickling operation.

Subpart J—Cold Forming Subcategory

§ 420.100 Applicability; description of the cold forming subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works from cold rolling and cold working pipe and tube operations in which unheated steel is passed through rolls or otherwise processed to reduce its thickness, to produce a smooth surface, or to develop controlled mechanical properties in the steel.

§ 420.101 Specialized definitions.

(a) The term "recirculation" means those cold rolling operations which include recirculation of rolling solutions at all mill stands.

(b) The term "combination" means those cold rolling operations which include recirculation of rolling solutions at one or more mill stands, and once-through use of rolling solutions at the remaining stand or stands.

(c) The term "direct application" means those cold rolling operations which include once-through use of rolling solutions at all mill stands.

(d) The term "single stand" means those recirculation or direct application cold rolling mills which include only one stand of work rolls.

(e) The term "multiple stands" means those recirculation or direct application cold rolling mills which include more than one stand of work rolls.

(f) The term "cold worked pipe and tube" means those cold forming operations that process unheated pipe and tube products using either water or oil solutions for cooling and lubrication.

§ 420.102 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) Cold rolling mills.

(1) Recirculation—single stand.

SUBPART J

Pollutant or pollutant property	BPT effluent limitations: Maximum for any 1 day	BPT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.00125	0.000626
O&G	0.000522	0.000209
Chromium [1]	0.0000209	0.0000084
Lead	0.0000094	0.0000031
Nickel [1]	0.0000188	0.0000063
Zinc	0.0000063	0.0000021
Naphthalene	0.0000021	[2]
Tetrachloroethylene	0.0000031	[2]
pH	(3)	(3)

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold rolling wastewaters are treated with descaling or combination acid pickling wastewaters.
[2] Within the range of 6.0 to 9.0.

(2) Recirculation—multiple stands.

SUBPART J

Pollutant or pollutant property	BPT effluent limitations: Maximum for any 1 day	BPT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.00626	0.00313
O&G	0.00261	0.00104
Chromium [1]	0.000104	0.0000418
Lead	0.0000469	0.0000156
Nickel [1]	0.0000939	0.0000313

SUBPART J—Continued

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Zinc	0.0000313	0.0000104
Naphthalene	0.0000104	
Tetrachloroethylene	0.0000156	
pH	(2)	(2)

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold rolling wastewaters are treated with descaling or combination acid pickling wastewaters.
[2] Within the range of 6.0 to 9.0.

(3) Combination.

SUBPART J

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
TSS	0.0754	0.0376
O&G	0.0313	0.0125
Chromium [1]	0.00125	0.000501
Lead	0.000563	0.000188
Nickel [1]	0.00113	0.000376
Zinc	0.000376	0.000125
Naphthalene	0.000125	
Tetrachloroethylene	0.000188	
pH	(2)	(2)

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold rolling wastewaters are cotreated with descaling or combination acid pickling wastewaters.
[2] Within the range of 6.0 to 9.0.

(4) Direct application—single stand.

SUBPART J

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
TSS	0.0225	0.0113
O&G	0.00939	0.00376
Chromium [1]	0.000376	0.000150
Lead	0.000169	0.0000563
Nickel [1]	0.000338	0.000113
Zinc	0.000113	0.0000375
Naphthalene	0.0000376	
Tetrachloroethylene	0.0000563	
pH	(2)	(2)

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold rolling wastewaters are treated with descaling or combination acid pickling wastewaters.
[2] Within the range of 6.0 to 9.0.

(5) Direct application—multiple stands.

SUBPART J

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
TSS	0.100	0.0501
O&G	0.0417	0.0167
Chromium [1]	0.00167	0.000668
Lead	0.000751	0.000250
Nickel [1]	0.00150	0.000501
Zinc	0.000501	0.000167
Naphthalene	0.000167	
Tetrachloroethylene	0.000250	
pH	(2)	(2)

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold rolling wastewaters are treated with descaling or combination acid pickling wastewaters.
[2] Within the range of 6.0 to 9.0.

(b) Cold worked pipe and tube.

(1) *Using water.* No discharge of process wastewater pollutants to navigable waters.

(2) *Using oil solutions.* No discharge of process wastewater pollutants to navigable waters.

§ 420.103 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) Cold rolling mills.

(1) Recirculation—single stand.

SUBPART J

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
Chromium [1]	0.0000209	0.0000084
Lead	0.0000084	0.0000031
Nickel [1]	0.0000188	0.0000063
Zinc	0.0000063	0.0000021
Naphthalene	0.0000021	
Tetrachloroethylene	0.0000031	

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold rolling wastewaters are treated with descaling or combination acid pickling wastewaters.

(2) Recirculation—multiple stands.

SUBPART J

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
Chromium [1]	0.000104	0.0000416
Lead	0.0000469	0.0000156
Nickel [1]	0.0000938	0.0000313
Zinc	0.0000313	0.0000104
Naphthalene	0.0000104	
Tetrachloroethylene	0.0000156	

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold rolling wastewaters are treated with descaling or combination acid pickling wastewaters.

(3) Combination.

SUBPART J

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
Chromium [1]	0.00125	0.000501
Lead	0.000563	0.000188
Nickel [1]	0.00113	0.000376
Zinc	0.000376	0.000125
Naphthalene	0.000125	
Tetrachloroethylene	0.000188	

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold rolling wastewaters are cotreated with descaling or combination acid pickling wastewaters.

(4) Direct application—single stand.

Subpart J

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
Chromium [1]	0.000376	0.000150
Lead	0.000169	0.0000563
Nickel [1]	0.000338	0.000113
Zinc	0.000113	0.0000375
Naphthalene	0.0000376	
Tetrachloroethylene	0.0000563	

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold rolling wastewaters are treated with descaling or combination acid pickling wastewaters.

(5) Direct application—multiple stands.

SUBPART J

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium [1]	0.00167	0.000668
Lead	0.000751	0.000250
Nickel [1]	0.00150	0.000501
Zinc	0.000501	0.000167
Naphthalene	0.000167	
Tetrachloroethylene	0.000250	

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold rolling wastewaters are treated with descaling or combination acid pickling wastewaters.

(b) Cold worked pipe and tube.

(1) *Using water.* No discharge of process wastewater pollutants to navigable waters.

(2) *Using oil solutions.* No discharge of process wastewater pollutants to navigable waters.

§ 420.104 New source perfrmance standards.

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

(a) Cold rolling mills.

(1) Recirculation—single stand.

SUBPART J

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.00126	0.000626
O&G	0.000522	0.000209
Chromium [1]	0.0000209	0.0000084
Lead	0.0000094	0.0000031
Nickel [1]	0.0000188	0.0000063
Zinc	0.0000063	0.0000021
Naphthalene	0.0000021	
Tetrachloroethylene	0.0000031	
pH	(2)	(2)

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold rolling wastewaters are cotreated with descaling or combination acid pickling wastewaters.
[2] Within the range of 6.0 to 9.0.

(2) Recirculation—multiple stands.

SUBPART J

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.00250	0.00125
O&G	0.00104	0.000417
Chromium [1]	0.0000418	0.0000167
Lead	0.0000188	0.0000063
Nickel [1]	0.0000376	0.0000125
Zinc	0.0000125	0.0000042
Naphthalene	0.0000042	
Tetrachloroethylene	0.0000063	
pH	(2)	(2)

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold rolling wastewaters are treated with descaling or combination acid pickling wastewaters.
[2] Within the range of 6.0 to 9.0.

(3) Combination.

SUBPART J

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0328	0.0163
O&G	0.0136	0.00543
Chromium [1]	0.000543	0.000217
Lead	0.000244	0.0000814
Nickel [1]	0.000488	0.000163
Zinc	0.000163	0.0000542
Naphthalene	0.0000542	
Tetrachloroethylene	0.0000813	
pH	(2)	(2)

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold rolling wastewaters are treated with descaling or combination acid pickling wastewaters.
[2] Within the range of 6.0 to 9.0.

(4) Direct application—single stand.

SUBPART J

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.00626	0.00313
O&G	0.00261	0.00104
Chromium [1]	0.000104	0.0000418
Lead	0.0000469	0.0000156
Nickel [1]	0.0000939	0.0000313
Zinc	0.0000313	0.0000104
Naphthalene	0.0000104	
Tetrachloro-ethylene	0.0000156	
pH	(2)	(2)

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold rolling wastewaters are treated with descaling or combination acid pickling wastewaters.
[2] Within the range of 6.0 to 9.0.

(5) Direct application—multiple stands.

SUBPART J

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0726	0.0363
O&G	0.0302	0.0121
Chromium [1]	0.00121	0.000484
Lead	0.000545	0.000182
Nickel [1]	0.00109	0.000363
Zinc	0.000363	0.000121
Naphthalene	0.000121	
Tetrachloro-ethylene	0.000182	
pH	(2)	(2)

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold rolling wastewaters are treated with descaling or combination acid pickling wastewaters.
[2] Within the range of 6.0 to 9.0.

(b) Cold worked pipe and tube mills.

(1) *Using water.* No discharge of process wastewater pollutants to navigable waters.

(2) *Using oil solutions.* No discharge of process wastewater pollutants to navigable waters.

§ 420.105 Pretreatment standards for existing sources.

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

(a) Cold rolling.

(1) Recirculation—single stand.

SUBPART J

Pollutant or pollutant property	Pretreatment standards for existing sources	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium [1]	0.0000626	0.0000084
Lead	0.0000094	0.0000031
Nickel [1]	0.0000188	0.0000063
Zinc	0.0000063	0.0000021
Naphthalene	0.0000021	
Tetrachloroethylene	0.0000031	

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold rolling wastewaters are treated with descaling or combination acid pickling wastewaters.

(2) Recirculation—multiple stands.

SUBPART J

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium [1]	0.000104	0.0000416
Lead	0.0000469	0.0000156
Nickel [1]	0.0000939	0.0000313
Zinc	0.0000313	0.0000104
Naphthalene	0.0000104	
Tetrachloroethylene	0.0000156	

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold rolling wastewaters are treated with descaling or combination acid pickling wastewaters.

(3) Combination.

SUBPART J

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium [1]	0.00125	0.000501
Lead	0.000563	0.000188
Nickel [1]	0.00113	0.000376
Zinc	0.000376	0.000125
Naphthalene	0.000125	
Tetrachloroethylene	0.000188	

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold rolling wastewaters are treated with descaling or combination acid pickling wastewaters.

(4) Direct application—single stand.

SUBPART J

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium [1]	0.000376	0.000150
Lead	0.000169	0.0000563
Nickel [1]	0.000338	0.000113
Zinc	0.000113	0.0000376
Naphthalene	0.0000376	
Tetrachloroethylene	0.0000563	

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold rolling wastewaters are treated with descaling or combination acid pickling wastewaters.

(5) Direct application—multiple stands.

SUBPART J

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium [1]	0.00167	0.000668
Lead	0.000751	0.000250
Nickel [1]	0.00150	0.000501
Zinc	0.000501	0.000167
Naphthalene	0.000167	
Tetrachloroethylene	0.000250	

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold rolling wastewaters are treated with descaling or combination acid pickling wastewaters.

(b) Cold worked pipe and tube mills.

(1) *Using water.* No discharge of process wastewater pollutants to publicly owned treatment works.

(2) *Using oil solutions.* No discharge of process wastewater pollutants to publicly owned treatment works.

§ 420.106 Pretreatment standards for new sources.

Except as provided in 40 CFR § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

(a) Cold rolling.

(1) Recirculation—single stand.

SUBPART J

Pollutant or pollutant property	Pretreatment standards for new sources: Maximum for any 1 day	Pretreatment standards for new sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium [1]	0.0000209	0.0000084
Lead	0.0000094	0.0000031
Nickel [1]	0.0000188	0.0000063
Zinc	0.0000063	0.0000021
Naphthalene	0.0000021	
Tetrachloroethylene	0.0000031	

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold rolling wastewaters are treated with descaling or combination acid pickling wastewaters.

(2) Recirculation—multiple stands.

SUBPART J

Pollutant or pollutant property	Pretreatment standards for new sources: Maximum for any 1 day	Pretreatment standards for new sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium [1]	0.0000418	0.0000167
Lead	0.0000188	0.0000063
Nickel [1]	0.0000376	0.0000125
Zinc	0.0000125	0.0000042
Naphthalene	0.0000042	
Tetrachloroethylene	0.0000063	

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold rolling wastewaters are treated with descaling or combination acid pickling wastewaters.

(3) Combination.

SUBPART J

Pollutant or pollutant property	Pretreatment standards for new sources: Maximum for any 1 day	Pretreatment standards for new sources: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Chromium [1]	0.000543	0.000217
Lead	0.000244	0.0000814
Nickel [1]	0.000489	0.000163
Zinc	0.000163	0.0000542
Naphthalene	0.0000542	
Tetrachloroethylene	0.0000813	

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold rolling wastewaters are treated with descaling or combination acid pickling wastewaters.

(4) Direct application—single stand.

SUBPART J

Pollutant or pollutant property	Pretreatment standards for new sources: Maximum for any 1 day	Pretreatment standards for new sources: Average of daily values for 30 consecutive days
	Kg/kkg pounds per 1,000 lb of product	
Chromium [1]	0.000104	0.0000416
Lead	0.0000469	0.0000156
Nickel [1]	0.0000939	0.0000313
Zinc	0.0000313	0.0000104
Naphthalene	0.0000104	
Tetrachloroethylene	0.0000156	

[1] The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold rolling wastewaters are treated with descaling or combination acid pickling wastewaters.

(5) Direct application—multiple stands.

SUBPART J

Pollutant or pollutant property	Pretreatment standards for new sources: Maximum for any 1 day	Pretreatment standards for new sources: Average of daily values for 30 consecutive days
	Kg/kkg pounds per 1,000 lb) of product	
Chromium[1]	0.00121	0.000484
Lead	0.000545	0.000182
Nickel[1]	0.00108	0.000369
Zinc	0.000303	0.000121
Naphthalene	0.000121	
Tetrachloroethylene	0.000182	

[1]The limitations for chromium and nickel shall be applicable in lieu of those for lead and zinc when cold rolling wastewaters are treated with descaling or combination acid pickling wastewaters.

(b) Cold worked pipe and tube mills.

(1) *Using water.* No discharge of process wastewater pollutants to publicly owned treatment works.

(2) *Using oil solutions.* No discharge of process wastewater pollutants to publicly owned treatment works.

§ 420.107 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional technology.

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional technology.

(a) Cold rolling mills.

(1) Recirculation—single stand.

SUBPART J

Pollutant or pollutant property	BCT effluent limitations: Maximum for any 1 day	BCT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.00125	0.000626
O&G	0.000522	0.000209
pH	(1)	(1)

[1]Within the range of 6.0 to 9.0.

(2) Recirculation—multiple stands.

SUBPART J

Pollutant or pollutant property	BCT effluent limitations: Maximum for any 1 day	BCT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.00626	0.00313
O&G	0.00261	0.00104

SUBPART J—Continued

Pollutant or pollutant property	BCT effluent limitations: Maximum for any 1 day	BCT effluent limitations: Average of daily values for 30 consecutive days
pH	(1)	(1)

[1]Within the range of 6.0 to 9.0.

(3) Combination.

SUBPART J

Pollutant or pollutant property	BCT effluent limitations: Maximum for any 1 day	BCT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0781	0.0076
O&G	0.0313	0.0125
pH	(1)	(1)

[1]Within the range of 6.0 to 9.0.

(4) Direct application—single stand.

SUBPART J

Pollutant or pollutant property	BCT effluent limitations: Maximum for any 1 day	BCT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0225	0.0113
O&G	0.00939	0.00376
pH	(1)	(1)

[1]Within the range of 6.0 to 9.0.

(5) Direct application—multiple stands.

SUBPART J

Pollutant or pollutant property	BCT effluent limitations: Maximum for any 1 day	BCT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.120	0.0501
O&G	0.0417	0.0167
pH	(1)	(1)

[1]Within the range of 6.0 to 9.0.

(b) Cold worked pipe and tube.

(1) *Using water.* No discharge of process wastewater pollutants to navigable waters.

(2) *Using oil solutions.* No discharge of process wastewater pollutants to navigable waters.

Subpart K—Alkaline Cleaning Subcategory

§ 420.110 Applicability; description of the alkaline cleaning subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from operations in which steel and steel products are immersed in alkaline cleaning baths to remove mineral and animal fats or oils from the steel, and those rinsing operations which follow such immersion.

§ 420.111 Specialized definitions.

(a) The term "batch" means those alkaline cleaning operations which process steel products such as coiled wire, rods, and tubes in discrete batches or bundles.

(b) The term "continuous" means those alkaline cleaning operations which process steel products other than in discrete batches or bundles.

§ 420.112 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) Batch.

SUBPART K

Pollutant or pollutant property	BPT effluent limitations: Maximum for any 1 day	BPT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.0730	0.0313
O&G	0.0313	0.0104
pH	(1)	(1)

[1]Within the range of 6.0 to 9.0.

(b) Continuous.

SUBPART K

Pollutant or pollutant property	BPT effluent limitations: Maximum for any 1 day	BPT effluent limitations: Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of products	
TSS	0.102	0.0438
O&G	0.0438	0.0146

SUBPART K—Continued

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

§ 420.113 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The Agency has determined that there are not significant quantities of toxic pollutants in alkaline cleaning wastewaters after compliance with applicable BPT limitations. Accordingly, since the BPT level of treatment provides adequate control, the Agency is not promulgating more stringent BAT limitations.

§ 420.114 New source performance standards.

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

(a) Batch and continuous.

SUBPART K

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/1dg (pounds per 1,000 lb) of product	
TSS	0.0148	0.00626
O&G	0.00626	0.00209
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

§ 420.115 Pretreatment standards for existing sources.

Any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 420.116 Pretreatment standards for new sources.

Any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 420.117 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional technology.

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional technology.

(a) Batch.

SUBPART K

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
TSS	0.0730	0.0313
O&G	0.0313	0.0104
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(b) Continuous.

SUBPART K

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
TSS	0.102	0.0438
O&G	0.0438	0.0146
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

Subpart L—Hot Coating Subcategory

§ 420.120 Applicability; description of the hot coating subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from the operations in which steel is coated with zinc, terne metal, or other metals by the hot dip process, and those rinsing operations associated with that process.

§ 420.121 Specialized definitions.

(a) The term "galvanizing" means coating steel products with zinc by the hot dip process including the immersion of the steel product in a molten bath of zinc metal, and the related operations preceding and subsequent to the immersion phase.

(b) The term "terne coating" means coating steel products with terne metal by the hot dip process including the immersion of the steel product in a molten bath of lead and tin metals, and the related operations preceding and subsequent to the immersion phase.

(c) The term "other coatings" means coating steel products with metals other than zinc or terne metal by the hot dip process including the immersion of the steel product in a molten bath of metal, and the related operations preceding the subsequent to the immersion phase.

(d) The term "fume scrubber" means wet air pollution control devices used to remove and clean fumes originating from hot coating operations.

(e) The term "strip, sheet, and miscellaneous products" means steel products other than wire products and fasteners.

(f) The term "wire products and fasteners" means steel wire, products manufactured from steel wire, and steel fasteners manufactured from steel wire or other steel shapes.

§ 420.122 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) Galvanizing, terne coating, and other coatings.

(1) Strip, sheet, and miscellaneous products.

SUBPART L

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
TSS	0.175	0.0751
O&G	0.0751	0.0250
Lead	0.00113	0.000376
Zinc	0.000751	0.000250
Chromium (hexavalent) [1]	0.000150	0.0000501
pH	(2)	(2)

[1] The limitations for hexavalent chromium shall apply only to galvanizing operations which discharge wastewaters from the chromate rinse step.
[2] Within the range of 6.0 to 9.0.

(b) Galvanizing and other coatings.

(1) Wire products and fasteners.

SUBPART L

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1dg (pounds per 1,000 lb) of product	
TSS	0.701	0.300
O&G	0.300	0.100
Lead	0.00451	0.00150
Zinc	0.00300	0.00100
Chromium (hexavalent) [1]	0.000600	0.000200
pH	(2)	(2)

[1]The limitations for hexavalent chromium shall be applicable only to galvanizing operations which discharge wastewaters from the chromate rinse step.
[2]Within the range of 6.0 to 9.0.

(c) Fume scrubbers.

SUBPART L

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg per day	
TSS	38.1	16.3
O&G	16.3	8.46
Lead	0.245	0.0819
Zinc	0.163	0.0545
Chromium (hexavalent) [1]	0.0327	0.0109
pH	[2]	[2]

[1]The limitations for hexavalent chromium shall be applicable only to galvanizing operations which discharge wastewaters from the chromate rinse step.
[2]Within the range of 6.0 to 9.0.

The above limitations shall be applicable to each fume scrubber associated with any or the coating operations specified above.

§ 420.123 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) Galvanizing, terne coating and other coatings.

(1) Strip, sheet, and miscellaneous products scrubbers.

SUBPART L

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Lead	0.00451	0.00150
Zinc	0.00300	0.00100
Chromium (hexavalent) [1]	0.000601	0.000200

[1]The limitations for hexavalent chromium shall be applicable only to galvanizing operations which discharge wastewaters from the chromate rinse step.

(c) Fume scrubbers.

SUBPART L

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg per day	
Lead	0.0368	0.0123
Zinc	0.0245	0.00819
Chromium (hexavalent) [1]	0.00490	0.00163

[1]The limitations for hexavalent chromium shall be applicable only to galvanizing operations which discharge wastewaters from the chromate rinse step.

The above limitations shall be applicable to each fume scrubber associated with any of the coating operations specified above.

§ 420.124 New source performance standards.

The discharge of wastewater pollutants from any new source subject to this subpart shall not exceed the standards set forth below.

(a) Galvanizing, terne coating and other coatings.

(1) Strip, sheet, and miscellaneous products.

SUBPART L

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Lead	0.000112	0.000376
Zinc	0.000751	0.000250
Chromium (hexavalent) [1]	0.000150	0.0000501

[1]The limitations for hexavalent chromium shall be applicable only to galvanizing operations which discharge wastewaters from the chromate rinse step.

(b) Galvanizing and other coatings.

(1) Wire products and fasteners.

SUBPART L

Pollutant or pollutant property	New source performance standards	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
TSS	0.175	0.0751
O&G	0.0751	0.0250
Lead	0.000113	0.000376
Zinc	0.000751	0.000250
Chromium (hexavalent) [1]	0.000150	0.0000501
pH	[2]	[2]

[1]The limitations for hexavalent chromium shall be applicable only to galvanizing operations which discharge wastewaters from the chromate rinse step.
[2]Within the range of 6.0 to 9.0.

(c) Fume scrubbers.

SUBPART L

New source performance standards	Pollutant or pollutant property	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/per day	
TSS	5.72	2.45
O&G	2.45	0.819
Lead	0.0368	0.0123
Zinc	0.0245	0.00819
Chromium (hexavalent) [1]	0.00490	0.00163
pH	[2]	[2]

[1]The limitations for hexavalent chromium shall be applicable only to galvanizing operations which discharge wastewaters from the chromate rinse step.
[2]Within the range of 6.0 to 9.0.

The above limitations shall be applicable to each fume scrubber associated with any of the coating operations specified above.

§ 420.125 Pretreatment standards for existing sources.

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

(a) Galvanizing, terne coating and other coatings.

(1) Strip, sheet, and miscellaneous products.

SUBPART L

Pretreatment standards for existing sources	Pollutant or pollutant property: Maximum for any 1 day	Pollutant or pollutant property: Average of daily values for 30 consecutive days
	Kg/1kg (pounds per 1,000 lb) of product	
Lead	0.00113	0.000376
Zinc	0.000751	0.000250
Chromium (hexavalent)[1]	0.000150	0.0000501

[1]The limitations for hexavalent chromium shall be applicable only to galvanizing operations which discharge wastewaters from the chromate rinse step.

(b) Galvanizing and other coatings.
(1) Wire products and fasteners.

SUBPART L

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg/1kg (pounds per 1,000 lb) of product	
Lead	0.00451	0.00150
Zinc	0.00300	0.00100
Chromium (hexavalent)[1]	0.000601	0.000200

[1]The limitations for hexavalent chromium shall be applicable only to galvanizing operations which discharge wastewaters from the chromate rinse step.

(c) Fume scrubbers.

SUBPART L

Pollutant or pollutant property	Pretreatment standards for existing sources: Maximum for any 1 day	Pretreatment standards for existing sources: Average of daily values for 30 consecutive days
	Kg per day	
Lead	0.0068	0.0123
Zinc	0.0245	0.00819
Chromium (hexavalent)[1]	0.00490	0.00163

[1]The limitations for hexavalent chromium shall be applicable only to galvanizing operations which discharge wastewaters from the chromate rinse step.

The above limitations shall be applicable to each fume scrubber associated with any of the coating operations specified above.

§ 420.126 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources:

(a) Galvanizing, terne coatings and other coatings.

(1) Strip, sheet, and miscellaneous products.

SUBPART L

Pollutant or pollutant property	Pretreatment standards for new sources: Maximum for any 1 day	Pretreatment standards for new sources: Average of daily values for 30 consecutive days
	Kg/1kg (pounds per 1,000 lb) of product	
Lead	0.000282	0.0000939
Zinc	0.000188	0.0000626
Chromium (hexavalent)[1]	0.0000376	0.0000125

[1]The limitations for hexavalent chromium shall be applicable only to galvanizing operations which discharge wastewaters from the chromate rinse step.

(b) Galvanizing and other coatings.
(1) Wire products and fasteners.

SUBPART L

Pollutant or pollutant property	Pretreatment standards for new sources: Maximum for any 1 day	Pretreatment standards for new sources: Average of daily values for 30 consecutive days
	Kg/1kg (pounds per 1,000 lb) of product	
Lead	0.00113	0.000376
Zinc	0.000751	0.000250
Chromium (hexavalent)[1]	0.000150	0.0000501

[1]The limitations for hexavalent chromium shall be applicable only to galvanizing operations which discharge wastewaters from the chromate rinse step.

(c) Fume scrubbers.

SUBPART L

Pollutant or pollutant property	Pretreatment standards for new sources: Maximum for any 1 day	Pretreatment standards for new sources: Average of daily values for 30 consecutive days
	Kilograms per day	
Lead	0.0068	0.0123
Zinc	0.0245	0.00819
Chromium (Hexavalent)[1]	0.00490	0.00163

[1]The limitations for hexavalent chromium shall be applicable only to galvanizing operations which discharge wastewaters from the chromate rinse step.

The above limitations shall be applicable to each fume scrubber associated with any of the coating operations specified above.

§ 420.127 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional technology.

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional technology.

(a) Galvanizing, terne coating, and other coatings.

(1) Strip, sheet, and miscellaneous products.

SUBPART L

Pollutant or pollutant property	BCT effluent limitations: Maximum for any 1 day	BCT effluent limitations: Average of daily values for 30 consecutive days
	Kg/1kg (pounds per 1,000 lb) of product	
TSS	0.175	0.0751
O&G	0.0751	0.0250
pH	(1)	(1)

[1]Within the range of 6.0 to 9.0.

(b) Galvanizing and other coatings.
(1) Wire products and fasteners.

SUBPART L

Pollutant or pollutant property	BCT effluent limitations: Maximum for any 1 day	BCT effluent limitations: Average of daily values for 30 consecutive days
	Kg/1kg (pounds per 1,000 lb) of product	
TSS	0.701	0.300
O&G	0.300	0.100
pH	(1)	(1)

[1]Within the range of 6.0 to 9.0.

(c) Fume scrubbers.

SUBPART L

Pollutant or pollutant property	BCT effluent limitations: Maximum for any 1 day	BCT effluent limitations: Average of daily values for 30 consecutive days
	Kilograms per day	
TSS	36.1	15.3
O&G	15.3	5.45
pH	(1)	(1)

[1]Within the range of 6.0 to 9.0.

The above limitations shall be applicable to each fume scrubber associated with any of the coating operations specified above.

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May 27, 1982

Part III

Department of Justice

Antitrust Division

United States of America v. Western Electric Company, Inc., et al., Civil Action No. 82-0192 (D.D.C.) and United States of America v. American Telephone & Telegraph Company, et al., Civil Action No. 74-1698 (D.D.C.); Response to Public Comments on Proposed Modification of Final Judgment

DEPARTMENT OF JUSTICE

Antitrust Division

United States of America v. Western Electric Company, Inc., et al., Civil Action No. 82-0192 (D.D.C.) and United States of America v. American Telephone & Telegraph Company, et al., Civil Action No. 74-1698 (D.D.C.); Response to Public Comments on Proposed Modification of Final Judgment

Notice is hereby given that, pursuant to an order of the United States District Court for the District of Columbia dated January 21, 1982, in Civil Actions No. 74-1698 and 82-0192, as modified by orders of the same Court dated February 5 and May 5, 1982, the Response of the United States to comments received from the public in connection with the proposed Modification of Final Judgment in *United States* v. *Western Electric Company, Inc.* was filed with the Court on May 20, 1982.

The proposed Modification of Final Judgment was filed with the Court on January 8, 1982, and was published in the **Federal Register** on January 28, 1982 (Vol. 47, No. 19, Pp. 4166-4170). Pursuant to the Court's order of January 21, 1982, a Competitive Impact Statement was filed by the United States on February 10, 1982, and published in the **Federal Register** on February 17, 1982 (Vol. 47, No. 32, Pp. 7170-7184). During the sixty-day period established by the Court for the submission by the public of comments concerning the proposed modification, the United States received a substantial number of such comments. On May 17, 1982, the United States published in the **Federal Register** an announcement concerning procedures to be followed in making available to the public the comments received, together with a list of the names and addresses of the persons who submitted comments (Vol. 47, No. 95, Pp. 21214-21224). The Response of the United States to those comments is set forth in full below.

Persons desiring copies of the Response should direct their requests to: Mr. Eric Donovan, Antitrust Division, Room 1028 SAFE, U.S. Department of Justice, Washington, D.C. 20530, (202) 724-5790.

Joseph H. Widmar,
Director of Operations, Antitrust Division.

United States District Court for the District of Columbia

United States of America, Plaintiff, v. *American Telephone & Telegraph Company; Western Electric Company, Inc. and Bell Telephone Laboratories, Inc.*, Defendants; Civil Action No. 74-1698.

United States of America, Plaintiff, v. *Western Electric Company, Inc., and American Telephone & Telegraph Company*, Defendants; Civil Action No. 82-0192.

Response of the United States to Public Comments on Proposed Modification of Final Judgment

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United States District Court for the District of Columbia

United States of America, Plaintiff, v. *American Telephone & Telegraph Company; Western Electric Company, Inc.; and Bell Telephone Laboratories, Inc.*, Defendants; Civil Action No. 74–1698.

United States of America, Plaintiff, v. *Western Electric Company, Inc., and American Telephone & Telegraph Company*, Defendants; Civil Action No. 82–0192.

RESPONSE OF THE UNITED STATES TO PUBLIC COMMENTS ON PROPOSED MODIFICATION OF FINAL JUDGMENT

Pursuant to this Court's order of January 21, 1982, plaintiff, the United States of America, hereby files its response to comments received from the public on the proposed Modification of Final Judgment in this civil antitrust action.

Introduction

On January 8, 1982, the United States and the American Telephone and Telegraph Company ("AT&T") filed in the United States District Court for the District of New Jersey an agreed-upon modification of the Final Judgment entered in *United States* v. *Western Electric Company, Inc., et al.*, Civil Action No. 17–49 ("the *Western Electric* case").[1] The proposed modification would vacate the 1956 Judgment in its entirety and substitute various structural and injunctive provisions. Simultaneously, the parties filed in the District Court for the District of Columbia a Stipulation for Voluntary Dismissal of *United States* v. *American Telephone and Telegraph Company, et al.*, Civil Action No. 74–1698 ("the *AT&T* case").

By order of January 21, 1982, this Court, at the suggestion of the parties, directed that procedures identical to those called for by the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b) *et. seq.* ("the Tunney Act"), be followed in connection with the modification. To date, the parties have complied with the procedures of the Tunney Act as set forth in the Order of January 21, 1982,[2] as follows:

[1] On January 14, 1982, the New Jersey District Court transfered *United States* v. *Western Electric*, docketed there under C.A. No. 17–49, to the United States District Court for the District of Columbia, where it was docketed under C.A. No. 82–0192.

[2] As modified by orders of this Court of February 8, 1982, and May 5, 1982.

1. The proposed Modification of Final Judgment and the Stipulation for Voluntary Dismissal were published by the United States in the Federal Register on January 28, 1982 (Vol. 47, No. 19, pp. 4166–4170).

2. On February 5, 1982, AT&T filed with this Court a description of any and all written or oral communications by or on its behalf with any officer or employee of the United States concerning or relevant to the proposal, and certified it as a complete and true description of such communications known to AT&T or which it should reasonably have known.

3. A Competitive Impact Statement was filed by the United States on February 10, 1982, and published in the Federal Register on February 17, 1982 (Vol. 47, No. 32, pp. 7170–7184).

4. Beginning February 19, 1982, the United States made available at the twenty-six district courts specified in the Order of January 21, 1982, copies of the proposed Modification of Final Judgment. There were no other materials and documents which the United States considered determinative in formulating the proposal.

5. A summary of the terms of the proposed Modification of Final Judgment and Competitive Impact Statement, and directions for the submission to the United States of written comments relating to the proposal, were published in newspapers of general circulation in the twenty-six districts specified in this Court's January 21 Order for seven days over a period of two weeks in February, 1982.

6. The sixty-day period for submission of written comments relating to the proposal commenced on February 19, 1982 and terminated on April 20, 1982.[*]

7. The written comments submitted were filed with this Court by the United States on April 21, April 23, April 27, and May 4, 1982.

8. A press release was issued by the United States on May 10, 1982, and published in the Federal Register on May 17, 1982 (Vol. 47, No. 95, pp. 21214–21224), describing the procedures to be used in lieu of Federal Register publication of all written comments, as set forth in this Court's order of May 5, 1982.

9. The name and address of each person filing a written comment, with a statement of the number of pages in the comment, was published by the United States in the Federal Register on May 17, 1982 (Vol. 47, No. 95, pp. 21214–21224).

[*]The United States has treated as timely filed all comments received between February 11 and April 29, 1982.

10. On May 20, 1982, the United States made available for inspection by the public at each of the twenty-six district courts listed in the Court's January 21 order a copy of each comment received.

Legal Standards Governing the Court's Public Interest Determination

Because these proceedings are being conducted under procedures identical to those specified in the Tunney Act, the Department sets out, in the following discussion, what it believes are the legal standards that govern public interest determinations under that Act. Because this proceeding concerns the substitution of a new consent judgment for an existing consent judgment, the Department believes that the standards generally governing consent judgments apply in this case.

The courts have clearly established that the Department of Justice has broad discretion in controlling government antitrust litigation, including negotiating and agreeing to consent decrees and determining whether such settlements are in the public interest. See *Sam Fox Publishing* v. *United States*, 366 U.S. 683, 689 (1961); *Swift & Co.* v. *United States*, 276 U.S. 311, 331–32 (1928). The Tunney Act reaffirms the long-standing equitable rule that the Court is to provide an independent "check upon the government's good faith and expertise" by conducting procedures to help it determine whether the negotiated decree is in the public interest. *United States* v. *Morgan Drive Away, Inc.*, 1976–1 Trade Cases ¶50, 949 at 60, 161 (D.D.C. 1976).[1] The Tunney Act suggests a number of factors that a court may consider in making its determination. 15 U.S.C. § 16(e) (1) and (2). In general, the Court should test the proposed decree by determining "Whether the relief provided * * * is adequate to remedy the allegations of antitrust violaton as set out in the complaint". *United States* v. *Bechtel*, 1979–1 Trade Cases ¶62,430 (N.D. Cal. 1979), *aff'd*, 648 F.2d 660 (9th Cir. 1981), *cert. denied*, 102 S.Ct. 638 (1982). Thus, one highly significant factor is the degree to which the proposed decree advances and is consistent with the government's prayer for relief. *United States* v. *National Broadcasting Co.*, 449 F. Supp. 1127, 1144 (C.D. Cal. 1978); *United States* v. *Carrol Dev. Corp.* 454 F. Supp. 1215, 1222 (N.D.N.Y. 1978).

At the same time, the Court must recognize that the consent decree process normally entails compromise, and that the parties each give up something which they might otherwise have won. *United States* v. *Mid-America Dairymen, Inc.*, 1977–1 Trade Cases, ¶61,508 at 71,980 (W.D. Mo. 1977); *United States* v. *Armour & Co.*, 402 U.S. 673, 681 (1971). As explained in *United States* v. *Gillette*, 406 F. Supp. 713, 716 (D. Mass. 1975).

> It is not the court's duty to determine whether this is the best possible settlement that could have been obtained if, say, the government had bargained a little harder. The Court is not settling the case. It is determining whether the settlement achieved is within the reaches of the public interest.

As the *Gillette* court observed, while the reviewing court should not act *pro forma*, "too much tillage can destroy the garden" by decreasing the utility of consent decrees as a means for resolving antitrust cases. 406 F. Supp. at 715. Thus, while a court should consider the degree to which a proposed consent decree comports with the relief sought by the government in making the public interest determination, its role is considerably more limited than the role of a court in formulating relief following trial.

A number of commenting parties seemed to assume, and others suggested, that the Court may make changes to the proposed modification without the consent of the parties. The Department strongly disagrees with these suggestions. The proposed modification is an agreed compromise between the parties. As the court in *United States* v. *AMPI*, 394 F. Supp. 29, 42 (W.D. Mo. 1975), stated in construing the recently-enacted Tunney Act:

> If the Congress wants the judicial branch to have more power than that implicit in the threat of total rejection of a proposed decree, such power must be authorized by legislation which is considerably broader in scope than that vested by the newly enacted Antitrust Procedures and Penalties Act or by existing law.

The responsibility of the Court, therefore, is not to determine whether the modification might be improved, as suggested in some comments, but rather whether, as submitted to the Court for

[1]Prior to the passage of the Tunney Act in 1974, it was already clear that entry of a "consent decree is a judicial act * * * and, therefore involves a determination by the chancellor that it is equitable and in the public interest." United States v. Radio Corp. of American, 46 F. Supp. 854, 855 (D. Del. 1942), *appeal dismissed*, 313 U.S. 798 (1943); United States v. Carter Products, Inc., 211 F. Supp. 144, 147–48 (S.D.N.Y. 1962). The Tunney Act formalized this process but did not change the pre-existing standards for determining whether entry of an antitrust decree is in the public interest. United States v. Mid-America Dairymen, Inc., 1977–1 Trade Cases ¶61,508 at 71979 (W.D. Mo. 1977). As the House Report states, the Tunney Act is "unambiguous" is adopting prior law as to the standards for judicial review of a consent decrees. H.R. Rep. No. 1463, 93rd Cong., 2d Sess. 11–12 (1974) (U.S. Code Cong. and Admin. News 1974, 93rd Cong., 2d Sess., p. 6542.)

its consideration, it is "within the reaches of the public interest."

The Proposed Modification of Final Judgment

The proposed modification before the Court disposes of controversies between the United States and AT&T beginning with the *Western Electric* case filed in 1949 and continuing with the filing of the *AT&T* case in 1974. As set out in the Department's Competitive Impact Statement, the basic theory of both cases was that, as a rate base/rate of return regulated monopolist, AT&T has had both the incentive and ability, through cross-subsidization and discriminatory practices, to leverage the power it enjoys in its regulated monopoly markets to foreclose and impede the development of competition in related, potentially competitive markets.

The proposed modification, through the central mechanism of divestiture of AT&T's regulated local franchise monopolies, eliminates the anticompetitive incentives and abilities which were the focus of both the *Western Electric* and *AT&T* cases. It does so by separating the provision of competitive or potentially competitive products and services from those services which, under current technological and regulatory conditions, exhibit monopoly bottleneck characteristics. As a necessary complement to this separation, the modification prohibits the reintegration of regulated monopoly services into competitive or potentially competitive markets and, therefore, prevents the reemergence of the very conditions that gave rise to the *Western Electric* and *AT&T* cases.

The modification is not intended to nor can it, deal with every conceivable anticompetitive problem that might arise in the telecommunications industry. Rather, it focuses on and deals effectively with those anticompetitive means and incentives out of which the *Western Electric* and *AT&T* cases arose. Indeed, the modification, in its essentials, would provide precisely the relief sought by the United States in the 1974 *AT&T* case. It thus establishes an industry structure that will eradicate the potential for anticompetitive behavior made possible by the integration of regulated monopoly and competitive products and services.

The Department of Justice received over 600 comments on the proposed modification, totalling over 8,500 pages. The comments raised a variety of issues relating to such matters as the role of the states and other interested parties in the procedures leading to implementation of the plan of reorganization, the effects of the modification's restrictions on BOC viability and local rates, the adequacy of the modification's provisions in dealing with various competitive, employee and investor interests, and the interests of private plaintiffs. The Department also received a submission from the Department of Defense setting out that agency's concerns that the modification's provisions be implemented in a manner that will maximize the responsiveness of the industry to national security and emergency preparedness interests. Because the Department of Defense is a part of the plaintiff, the Department will not address the issues raised in its comments in this Response. The Department of Justice will however, work closely with the Department of Defense to ensure that its concerns are fully taken into account in the implementation of the modification's various provisions.[5]

I. Role of Interested Parties in the Implementation of the Proposed Modification

The Department received a very large number of comments which expressed concern regarding the procedures to be used in implementing the divestiture required by the proposed modification and the role of interested parties in the implementation process. In the following discussion, the Department addresses these concerns.

A. Implementation of Divestiture

The proposed modification sets out a sequence of events that will result in full divestiture. These events break down into two phases: those concerned with the entry of the proposed modification mandating divestiture, and those concerned with the implementation of the divesture.

Over eighty comments addressed the procedures to be followed in both assessing and implementing the proposed modification. Many of the comments were concerned with the roles to be played by the Court and the parties. These comments generally suggested that the Court should assert close and continuing supervision over the parties during the evolution and execution of the plan of implementation. They also asserted that the parties' plans and actions for reorganization should be subject to Court approval after public comment. Other comments addressed the role in the reorganization process of federal and state regulators, ranging from suggestions that there be some mechanism for ascertaining the views of the regulators, or that the regulators be given a formalized role in the proceedings, to assertions that functions apportioned by the modification to the parties or the Court should be performed solely by regulators.

Finally, a number of the comments were concerned that the public be informed of developments at each stage of the proceedings and have an opportunity to comment. Recommendations ranged from the suggestion that there be some opportunity for public comment at critical stages to the assertion that full Tunney Act procedures should apply at each point.

A majority of the comments raising procedural objections to the proposed modification were based on the view that no distinction can or should be made between the entry of the proposed modification mandating divestiture and its implementation accomplishing that objective. Some comments argued generally that whether the public interest will be served by the proposed divestiture simply cannot be assessed until the divestiture plan, in all of its details, is known. Other comments pointed more specifically to possibilities that particular aspects of the plan—for example, the allocation of debt between AT&T and the local exchange companies—could have adverse consequences to particular concerns. They expressed fears that, once the Court has approved the modification, there would be no opportunity either to voice their concerns, or to seek appropriate relief if their concerns went unheard. The comments suggested a variety of means to overcome these perceived difficulties. Some proposed that the Court withhold approval pending completion of the plan of implementation; others suggested that the Court grant only "conditional" or "interim" approval now, and final approval after the detailed plan is reviewed. Still others proposed that the Court reject the modification now with leave to refile after the details are known, or that court approval be withheld and the detailed plan inserted into the modification itself.

The Department believes that the fears on which these suggestions are based, both as generally expressed and as to points of specific concern, are unfounded. The proposed modification now before the Court is not merely an

[5] The Department also received a submission from the Small Business Administration, also an Executive Branch agency and also a part of the plaintiff. The Department will also consult with that agency regarding concerns expressed in the submission.

"agreement to agree" or an empty ceremonial proclamation. Rather, it both mandates a fundamental divestiture within the Bell System, and sets forth the principles that are to govern the separation of facilities and functions among the divested parts of the enterprise. The divestiture will separate local exchange functions, which, in today's technology, by and large have monopoly characteristics and are to be provided by the local operating companies, from those that technology has opened to competition, which will be provided by AT&T. This separation will remove the incentives and abilities that have existed within the Bell System to subsidize competitive activities with supracompetitive earnings from monopoly activities.

The Court is being asked now to find that the divestiture proposed and described in the modification is in the public interest, and enter the modification as its order. Contrary to the suggestion of some comments, the modification plainly sets forth the principles that are to govern the separation of ownership and complementary injunctive provisions. Indeed, the modification itself provides substantial detail as to the line of separation and the intended operation of the various injunctive provisions; further detail has been provided in the Competitive Impact Statement and in the sections of this Response that follow. Accordingly, the Department believes it is not only possible, but altogether appropriate for the Court to determine now whether the contemplated divestiture is or is not "in the public interest," the standard that governs any consent decree proceeding. Of course, following entry of the modification, the Court will have complete jurisdiction to ensure that it is implemented in a manner consistent with its provisions and objectives.

It is possible that the implementation plan will raise concerns that, although incidental to the basic divestiture proposal, may have significant consequences to various interests. Particular concern has been raised, for example, about the allocation of debt and about contracts for jointly used facilities, because of the potentially adverse impact of these arrangements on the financial soundness of the local operating companies and the possible consequences for ratepayers. To a substantial extent, the specific content of such concerns has been anticipated in the various comments. The Department addresses these concerns in succeeding sections of this Response. As those sections explain, the Department believes that some of the anticipated problems, particularly with respect to valuation of assets for debt allocation and, in some comments' contention, for reimbursement of ratepayers, derive from fundamental misconceptions about the nature of the proposed divestiture and its effects on on-going regulatory responsibilities. But in many other respects, the Department recognizes that the implementation plan will involve matters of ligitimate concern. The succeeding sections explain in detail the standards by which the Department proposes to ensure that such legitimate concerns are addressed. On all of these matters of substantive concern, the Department believes that the Court can and will take the Department's approach, detailed here, fully into account in judging whether the modification will serve the public interest.

Some of the comments, however, express doubt, not as to whether the standards the Department proposes to apply are sound, but as to whether it will have the information necessary to apply them, *i.e.*, to ascertain precisely what the problems are, to assess their severity, and to develop appropriate solutions. The Department believes that the procedures it proposes to employ in assessing the implementation plan are fully adequate to the task. For a period of sixty days after the final implementation plan is submitted, the Department will remain open to formal or informal comments from anyone who wishes to address any of the details set forth in the plan. The Department welcomes all input, recognizing that the broader the spectrum of opinion it receives, the better equipped it will be to discharge its obligations in the implemention of the divestiture. The Department has previously stated in the Competitive Impact Statement, and now reaffirms, its intention to work closely with knowledgeable and interested parties (including state and federal regulators) during the period before the last of the details are available. Indeed, the Department is already exploring with the FCC a regular working relationship, and would welcome suggestions from the state authorities as to a means of regularizing a similar consultative relationship. In deciding whether to approve or disapprove the plan, the Department will take into account the comments it has received, as well as the results of its own investigations. The Department thus will not be reviewing a secret plan in a vacuum, but rather will be reviewing a public plan with the benefits of input from all interested persons.[6]

The National Association of Regulatory Utility Commissioners (NARUC), and some state regulators individually, were concerned that the procedures set forth in the proposed modification do not adequately protect the interests of the local operating companies and their ratepayers in the valuation and division of assets. The point is made that, however well intended the Department may be, as a practical matter it might be forced to rely primarily on technical information supplied by AT&T itself, without access to information from sources that have the interests of the local exchange companies, their ratepayers and, indeed, their regulators, predominantly or exclusively in mind. While several different suggestions were made to remedy these perceived problems, common to them all is the felt need for direct representation of BOC interests. One suggestion was that the Court appoint guardians *ad litem* to represent the BOCs. Another was that the local companies be divested intact as the first step, and then negotiate asset valuation and transfer with AT&T. Other comments advocated a transfer of assets and valuation by the state regulators prior to the actual divestiture.

These suggestions pose, in the Department's view, enormous practical and procedural problems. Under the terms of the modification, AT&T's divestitute plan will be completed and made public six months after entry of the Court's order. After a sixty-day public comment period, the Department will be able to pass on the plan well within the time necessary for the divestitiure to occur, as scheduled, eighteen months after the modification is entered as a Court order. The procedures thus assure that the modification's competitive objectives will be achieved as soon as possible, with minumum disruption of the firms' continuing operations. The suggested alternatives, in contrast, would inevitably delay the process. Indeed, one of the proposed alternatives—that the BOCs be divested intact, with subsequent buy-back of assets by

[6] It is important to note that while the Department and, ultimately, the Court have authority as to the implementation plan, the FCC has on-going jurisdiction over the regulated activities of AT&T and the BOCs. Where elements of the plan entail exercise of that jurisdiction, FCC proceedings offer a further opportunity for public participation concerning regulated activities related to plan implementation.

AT&T—would be likely to delay achievement of divestiture indefinitely.[7]

To the extent that these proposals are directed to assuring full consideration of BOC interests,[8] they are, in the Department's view, as unnecessary as they are unwise. Steps have been taken to ensure that, in assessing the reorganization plan, the Department will have full access to information from sources both knowledgeable in the affairs of the BOCs and loyal to their interests and the interests of the ratepayers they serve. On May 19, AT&T announced the appointment of the chief executive officers of the 7 regional companies that will own the 22 divested BOCs. These executives will direct and coordinate planning which must be accomplished prior to implementation of the modification. These executives, and the staffs they develop, will represent their local companies in dealing with the Department. As the comments in this area all agree, such officers will be in the best position to assess the effects the reorganization will have on their companies.[9]

The recently-appointed officers will have complete independence of AT&T in formulating and representing their views to the Department, and will have every incentive to represent the interests of the local companies. Because they will be responsible for the viability of the local companies after divestiture, it will be in their interest to ensure that the detailed plan maximizes that viability. Moreover, after divestiture, the details of asset valuation and assignment will be reviewed by state regulators, either directly or in the course of rate hearings for the post-divestiture operating companies. Assets which were incorrectly assigned or valued could be disallowed from the operating companies' rate bases. Because the regional officers will have to live with the consequences of the asset valuation and assignment, they will also have to be sure it is done correctly.

The Department accordingly believes that the substantive standards by which it will judge the reorganization plan, and the procedures by which it will apply them, assure that the objectives of the modification will be achieved, and allow the Court to determine now that the modification is in the public interest. Some comments argued, however, that, even though the standards and procedures for implementation may seem clear and appropriate, the Department would have, in effect, unfettered discretion to ignore them once the modification is adopted; that concerns, although voiced, would go unheard, and those who had voiced them would be left without remedy. These fears have resulted in numerous suggestions that boil down to two central themes. One is that the Court should not enter the proposed modification until the finalized details of the plan have been made public, with appropriate opportunity for comment. The other is that the Court, not the Department, should have the right to review and approve the details of the divestiture and its implementation.

The Department believes that these fears and the suggestions that flow from them misapprehend both the intention of the parties and the authority of the Court—authority that the parties could not have affected even had they tried. While the proposed modification is now only an agreement between the parties, once entered it becomes an order of the Court. The Court will then have the authority to ensure that any actions taken are consistent with the order, and the attendant powers to hold hearings, appoint experts and seek assistance by appropriate means from interested parties. The Department is confident that many of the fears now voiced regarding the implementation plan will prove groundless if the procedures and the standards it proposes to apply are allowed to work. If issues remain, the parties fully expect that the Court will exercise, as appropriate, the authority it undoubtedly has to interpret and enforce the modification, and to assure that the Department adheres to the principles and procedures undertaken to govern its implementation.

B. The Role of the FCC and the State Regulatory Agencies

The *amicus* submission of the FCC and the comments of numerous state agencies, officials and private parties observe that the implementation of the modification necessarily concerns those charged with regulation of telecommunications. They urge that the federal and state regulatory authorities be allowed to participate actively in the Department's consideration of the implementation plan. As pointed out above, the Department intends to afford all interested parties the fullest possible notice of the details of the implementation plan as soon as they become available. The Department expects and welcomes elucidation of affected interests from all sources, most particularly from the FCC and state regulators. The Department believes that this process of full notice and consultation will reduce and possibly remove the potential that aspects of the plan will adversely affect the achievement of legitimate regulatory objectives. Indeed, although some states have suggested that they have and will exercise a power to countermand the obligations imposed by the modification—a notion addressed at length in the following section—the consultation process will, we believe, reduce and perhaps eliminate the likelihood that state regulatory agencies will find it appropriate to attempt to do so.

1. The FCC Proceedings: The FCC has stated that the core of the proposed modification, including divestiture of AT&T's local exchange operations, is reasonable and will produce significant competitive benefits. The Commission foresees that it will assess the "collateral effects" of the plan of reorganization in a unified proceeding (the "214 proceeding"). That proceeding would consolidate consideration of all applications by AT&T under the Communications Act for approval of asset transfers and other activities that normally require FCC approval.[10] In making the regulatory determinations that may be occasioned by implementation, the FCC stated that it

[7] The proposal presumably does not envision negotiations of the normal sort, in which both the buyer and seller can, if they believe the terms unacceptable, refuse the bargain, and resort to alternatives. Instead, apparently what is contemplated is that the BOCs would be forced to sell, and AT&T would be forced to buy; they would merely haggle over the terms. But neither, in that situation, would have any incentive to recede from the position most favorable to it. Thus the process presumably would result in alternative sets of terms, and some decision-maker would have to decide which set of terms, if either, more nearly serves the interests at stake. The process proposed thus would not advance the goal of divestiture at all. Yet, in the interim, of course, the ongoing operations of the firms—most particularly the Long Lines network—would be disrupted, and the financial standing of the firms, hence their ability to attract capital, would be most uncertain.

[8] The divestiture/buy-back proposal appears to derive primarily from the view that ratepayers' interests can be protected only if AT&T is compelled to "purchase" the assets it will retain at fair market value, a value presumed to be above the regulated value on which debt is to be allocated among AT&T and the local exchange companies. As explained below, the Department believes that these premises of the proposal are fundamentally incorrect.

[9] In addition, as also indicated in the Competitive Impact Statement, if necessary the Department will utilize the visitorial powers of Section VI of the proposed modification to learn the views of appropriate employees, including present or future BOC executives, as to the adequacy of the proposed reorganization plan.

[10] The FCC anticipates that implementation of the reorganization plan will occasion applications by AT&T or the BOCs under Sections 214(a) (discontinuance of service; acquisition of facilities), 221(a) (acquisition of another carrier's property), and 310(d) (transfer of radio license or stock of radio licensee) of the Communications Act of 1934.

will weigh the plan's competitive benefits.

The FCC's consideration of the collateral effects of the details of the divestiture required by the modification seems an appropriate exercise of its jurisdiction in this area. The Department and the FCC have consulted on the coordination of the 214 proceedings with the Department's own consideration of the plan. In all events, the Department will give great weight to the FCC's views, whether developed in the course of the 214 proceedings or otherwise, in carrying out its responsibilities under the modification.

Apart from this consultation with the Department, the FCC proposed that it be authorized to institute proceedings for construction or revision of the modification provisions, so that it can independently seek early determinations by the Court of the meaning of modification provisions that might have a collateral effect on action the Commission is contemplating. The Department believes that such a provision should not be added to the proposed modification.

The absence of an explicitly stated right to seek construction or revision of the modification need not prevent the FCC from seeking resolution of questions concerning the relation between its actions and the modification's provisions under appropriate circumstances. Consultation with the Department will provide one means of assessing the effect of the modification. If an actual conflict between the modification and a Commission action nonetheless arises, it is likely that, if the FCC's interests were significantly affected by the conflict, it would be permitted to intervene for the purpose of resolving that conflict.

The FCC's proposal is thus unnecessary. Moreover, if it were adopted, it would be used to institute proceedings in the absence of a justifiable controversy. The express purpose of the Commission's proposal is to enable it to request that the Court predetermine the bearing of the modification's requirements on possible Commission rules or orders. At the time of such a request, the Commission would not have settled on the terms of a final rule or order, nor even have committed itself to a particular policy or the broad outlines of its contemplated action. Thus, what the Commission would be seeking would be a purely advisory construction of the modification or a revision that might well prove unnecessary or inapposite to the FCC's final order. Even if the general thrust of the FCC's contemplated action were known, the Court would not have available a Commission record of the sort that would undoubtedly underlie any final rule or order, nor would the Court have the benefit of an opinion or other record of Commission deliberations to amplify the Commission's intent. Without such information, the task of determining the proper accommodation between the obligations of the modification and the Commission's action would have to be conducted in the abstract. In circumstances such as these the courts have consistently refused to render opinions in the absence of an actual controversy concerning the application of a final agency action. *E.g., Toilet Goods Ass'n* v. *Gardner,* 387 U.S. 158 (1967). Indeed, the Supreme Court has found that "to review regulations not yet promulgated, the final form of which has only been hinted at, would be wholly novel." *EPA* v. *Brown,* 431 U.S. 99, 104 (1977). Accordingly, even if the FCC were given express authority to seek construction or revision, such a provision would not override established doctrines of ripeness, and is unnecessary in light of the opportunities otherwise available for resolving actual controversies concerning FCC actions.

The FCC also urged that the Court add to the proposed modificaion a clause stating that: "Nothing in this decree shall be construed to affect any power conferred by law upon the Federal Communications Commission." A number of private parties made similar proposals. While, as these parties, noted, a similar clause was included in the decree in *United States* v. *St. Louis Terminal Railroad Ass'n,* 224 U.S. 383 (1912), the Department believes that such an addition to the proposed modification is neither necessary nor advisable. The FCC itself acknowledged that its proposed provision "would not expand the court's power or contract the Commission's powers." FCC Comments at 28. If this is the case, it would not only be unnecessary but also a source of possible misinterpretation to add such a provision to the agreement negotiated by the parties.

2. Consultation with State Regulators: Comments of state officials and agencies also recognize that divestiture may be a reasonable means of promoting competition in telecommunications. The primary concern expressed in these comments was that consequences to state regulatory schemes should be taken into account in implementing the proposed modification. Accordingly, the commenting states were virtually uniform in requesting, with varying degrees of specificity, that they be given a role in reviewing (and, some states urged, approving or disapproving) the details of the plan of reorganization required by the proposed modification. To this end, many states informally renewed the request for intervention that a few states presented to the Court earlier in this proceeding.

The Department recognizes that the plan of reorganization affects aspects of intrastate communications, for which state authorities will have ongoing regulatory responsibility. Thus we agree with the states' view that they must have a full opportunity to express their concerns about the implementation plan consistent with the need to implement the decree expeditiously, and that the department should take their concerns and suggested alternatives into account in deciding whether the implementation plan meets the modification's obligations and objectives. The states' regulatory interests and the proposed modification's antitrust enforcement objectives can be accommodated most effectively if the concerns of the states are identified and made specific as soon as possible. With the time approaching when the details of AT&T's plan of reorganization must be analyzed, the Department agrees that a well defined procedure for receiving the views of state regulatory officials should be created.

Joint comments filed by nine state regulatory agencies contained a specific proposal that could provide the basis for developing such a procedure. Joint Comments of South Dakota *et al.* These states recommended that they be given access to proposals for the plan of reorganization; that they present their views in comments and working sessions with the parties; that they be given data necessary to evaluate the plan; and that their views be meaningfully considered in evaluating the plan. In the view of the Department, if these recommendations were combined with procedures to ensure that the states' views were presented in an orderly, manageable and reasonably expeditious fashion, the states' interests in this matter could be fully protected, and the Department could secure the benefits of the states' experience in regulating the BOCs. The Department will begin discussions with those regulators to fashion such a mechanism, and will inform the Court when a plan for state participation has been reduced to specifics.[11]

[11] As noted above, this opportunity for state participation will be complemented by the states' right to participate in the 214 proceeding to be conducted by the FCC. In that forum the states may explore many of the "collateral effects" upon which the FCC will be focusing.

Another avenue of state participation was suggested in several of the comments, which proposed that the states be given the right to petition the Court for construction or modification of the decree after it is entered. This proposal should be rejected for all the reasons given above in connection with the FCC's similar proposal. In addition, the Department would regard as unwieldy and potentially disruptive any provision that accorded an automatic right to seek decree interpretations to numerous parties having separate and possibly divergent interests.

3. *Proposals for Resolution of Jurisdictional Issues:* A few comments noted that some activities affected by the decree are arguably subject to the jurisdiction of either the FCC or the state regulatory agencies, but not both, and asked that the Court resolve potential jurisdictional disputes between the FCC and state agencies. In the view of the Department, the Court should not attempt to do so. Since the proposed modification has not been entered as a decree of the Court, none of the predicted jurisdictional disputes has ripened sufficiently to be amenable to adjudication by any court. More important, the questions of the respective jurisdiction of the FCC and state regulators about which some commentors have speculated have no direct connection to the issues in this proceeding, and no attempt should be made to adjudicate them here.

C. The Possibility of Conflicting State Regulatory Action

The process of consultation described above and the consequent development and approval of an implementation plan that adhreres to the modification's principles will, in the Department's view, substantially remove the concerns that many state comments have expressed about the effects of the modification on their continuing exercise of regulatory responsibility. Many of the possibilities of conflict that some states seemed to perceive are, at present, only hypothetical; some, indeed, are based on a misunderstanding of what the modification is intended to do. All such possibilities should be addressed only if and when they arise.

Some possibilities, however, must be addressed now. The comments of certain states contended that, because they currently regulate the intrastate aspects of BOC operations, the divestiture provisions of the proposed modification and the restrictions on post-divestiture BOC operations are subject to state review and that state regulators have the power, as a matter of state law, to approve or disapprove actions taken in compliance with the modification's requirements. These comments further contended that states could refuse to authorize the intracorporate transactions involved in the divestiture itself and thus, if they see fit, frustrate achievement of the modification's basic objectives. *E.g.*, Comments of Alabama *et al.*, at 12. The idea apparently is that, even though this Court would have found the decree in the public interest as a means of enforcing federal law, the states, by disallowing actions the decree requires, or by authorizing or compelling actions it forbids, could excuse the BOCs from any obligation to comply with the decree's mandates.

Of course, it is possible that no state would find it appropriate to take such actions. Even so, however, these sorts of contentions call into question the federal judicial power that the proposed modification necessarily invokes, and the Court therefore should now consider their validity. If, in effect, the modification did no more than present to the state regulators a possible remedy, which they, in turn, were free either to accept or to reject, the modification could not be deemed adequate to the antitrust task and hence in the public interest. This, however, is not the case. The Court unquestionably has the power to enter the modification and to enforce compliance with its basic features. The principles governing the resolution of actual conflicts between state law or regulatory action and the obligations imposed on private parties by courts order enforcing federal law refute the states' contention that, under the "state action" doctrine of the *Parker* v. *Brown* line of cases,[12] states could block implementation of the decree by issuing regulatory orders inconsistent with its provisions. It is established law that a "state law prohibition against compliance with the (federal district court's) decree cannot survive the command of the Supremacy Clause of the United States Constitution."[13] In short, otherwise valid state regulation cannot be applied to frustrate the objectives of federal law.[14]

The principles underlying the limited "state action" exemption from the federal antitrust laws do not confer the preemptive power the states seem to claim. The issue in state action cases usually is whether the state's involvement in allegedly anticompetitive conduct renders that conduct exempt from the antitrust laws. In this proceeding for review of the proposed decree modification, however, the question is not whether state regulation has immunized AT&T's activities from the antitrust laws. Indeed, the private anticompetitive actions at which the proposed modification is directed repeatedly and consistently have been held not exempt from the antitrust laws.[15] Rather, the issue raised by the states' assertion is whether a state can validly exercise its regulatory powers to block compliance with a decree designed to prevent conduct unquestionably within the purview of a federal statute.

Of course it is true that neither federal antitrust law nor the proposed modification deprives the states of their power to regulate intrastate telecommunications services. We emphasize what was said in the Competitive Impact Statement (47 FR 7180 (1982)):

> (The proposed modification) would in no way limit or expand the respective scope of present federal and state regulatory jurisdictions. The states would continue to regulate the provisions of both intrastate toll service and local exchange service. The FCC would continue to regulate the provision of interstate service.

Accordingly, in considering whether the proposed modification provides an appropriate remedy for non-exempt conduct, the Court properly should take into account the modification's impact on the states' ability to achieve legitimate state regulatory objectives—whether the modification's terms necessarily conflict with the regulatory policy of a state, or whether the policy can be vindicated consistently with the modification's requirements.

The Department believes, however, that state regulatory powers cannot operate to bar implementation of the

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[12] Parker v. Brown, 317 U.S. 341 (1943); Goldfarb v. Virginia State Bar, 421 U.S. 773 (1975); Cantor v. Detroit Edison Co., 428 U.S. 579 (1976); Bates v. State Bar of Arizona, 433 U.S. 350 (1977); City of Lafayette v. Louisiana Power & Light Co., 435 U.S. 389 (1978); California Retail Liquor Dealers Ass'n v. Medical Aluminum, Inc., 445 U.S. 97 (1980); Community Communications Co. v. City of Boulder, 102 S.Ct. 835 (1982).

[13] Washington v. Fishing Vessel Ass'n, 443 U.S. 658, 695 (1979). *See also*, e.g., Cooper v. Aaron, 358 U.S. 1 (1958).

[14] *E.g.*, Nash v. Florida Industrial Comm'n, 389 U.S. 235 (1967); Sperry v. Florida, 373 U.S. 379 (1963).

[15] United States v. American Tel. & Tel. Co., 461 F. Supp. 1314, 1320–21 (D.D.C. 1978). *Accord*, United States v. American Tel. & Tel. Co., 427 F. Supp. 57 (D.D.C. 1976, Judge Waddy), cert. denied, 436 U.S. 906 (1977); Phonetele v. American Tel. & Tel. Co., Nos. 77–3677, 77–3930 (9th Cir. 1982); Sound, Inc. v. American Tel. & Tel. Co., 631 F.2d 1329 (8th Cir. 1980); Essential Communications Systems, Inc. v. American Tel. & Tel. Co., 610 F.2d 1116 (3d Cir. 1979); Northeastern Tel. Co. v. American Tel. & Tel. Co., 477 F. Supp. 231 (D. Conn. 1978), *rev'd on other grounds*, 651 F.2d 76 (2d Cir. 1981), cert. denied, 102 S. Ct. 1436 (1982).

modification. This is particularly clear with respect to the modification's basic divestiture requirement, a requirement that the Department has long viewed as fundamental to the achievement of the objectives of the federal antitrust laws in the telecommunications industry. Structural separation of the Bell System's potentially competitive enterprises from its monopoly holdings was the principal relief sought in both the *Western Electric* and *AT&T* cases. Well before the commencement of trial in the *AT&T* case, the Government indicated clearly that federal antitrust policy required the separation of the Bell System's local and interexchange facilities. Plaintiff's First Statement of Contentions and Proof at 527. Consequently, when the states warn (as some have) that they may issue orders blocking BOC asset transfers required to comply with the divestiture requirements of the decree, the states threaten to undermine the most basic mechanism for achieving the antitrust enforcement objectives of the decree.[16]

The state interests identified in the comments as likely grounds for forbidding asset transfers, however, could be effectuated in other ways, and do not, in any event, outweigh the strong federal interest that divestiture would serve. Many states noted that they have jurisdiction over, and thus an interest in, the provision of intrastate toll service, and asserted that this would justify their refusal to permit BOCs to transfer intrastate toll facilities to AT&T.[17] But an asserted state interest in identifying the particular firm that is to own intrastate toll facilities thus regulated cannot override the substantial federal interest in creating a competitive structure by separating the ownership of interexchange and exchange facilities. The states overlooked the significant federal interest in those same facilities, which are in many instances used to provide both interstate and intrastate toll service. In addition, as discussed elsewhere in this Response, after entry of the proposed modification and implementation of the plan of reorganization, the states will continue to be able to exercise regulatory power to achieve the regulatory objectives that could validly underlie their asserted interest in controlling the ownership of these facilities.

Moreover, to the extent that the states concerns with the transfer of intrastate toll facilities reflect their opinions concerning the proper configuration of exchange areas under the proposed modification, these concerns will be addressed early in the process of reviewing the plan of reorganization. As discussed in Section III, *infra*, the Department intends to consult closely with the states in reviewing the configuration of exchange areas, and that configuration will control the identification of assets that the BOCs will transfer to AT&T.

The Department accordingly believes that the process of consultation with the states will be a vehicle for the elimination of potential conflicts concerning the transfer of assets from the BOCs to AT&T. If conflicts nonetheless persist and result in state orders forbidding divestiture required by the decree, the state orders would, under applicable law, be preempted.

The states also contended that they could preempt the modification's prohibition of BOC entry into various competitive markets. In assessing this claim, it must be remembered that even if the *Parker v. Brown* doctrine applied with full force to actions required by the decree, that regulatory doctrine would protect only state action that evinced a legislative intent to displace competition. Simply granting a regulated firm permission to engage in a particular activity without displacing competition does not constitute state action under the *Parker line of cases and cannot prevail over efforts to enforce the antitrust laws. California Retail Liquor Dealers Ass'n v. Midcal Aluminum, Inc., supra; Cantor v. Detroit Edison Co., supra.* Accordingly, if a state, without displacing the competitive regime, purports to permit (or indeed, require) the BOC it regulates to participate in competitive markets solely in an effort to increase competition or to widen the BOC's business opportunities, as many states have indicated they may, its action would be preempted by the modification's prohibition on BOC entry. Moreover, as discussed elsewhere in this Response, the states may protect their interests in this area without issuing orders conflicting with the decree.

In sum, once the Court has determined that the modification is in the public interest—that it serves the purposes of the federal antitrust policy without obstructing legitimate state regulatory objectives—its judgment is not subject to negation by the states. The Supremacy Clause and the normal rules of preemption require that the decree prevail.

This is enough, we believe, to dispose of the general contention that the states are empowered to authorize, compel or excuse actions that violate the modification's terms. It is essential to emphasize, however, that questions of preemption come into play at all only when there is an actual conflict between enforcement of the antitrust laws and the mandates of state regulation. *See, e.g., Cantor* v. *Detroit Edison Co.*, 428 U.S. 595, 598 (1976). The requisite conflict would exist only if an order of a state regulatory scheme and the provisions of the decree imposed conflicting obligations on AT&T or a BOC. As observed above, the department is confident that, in the course of implementation and enforcement of the decree, many of the fears of possible conflict now voiced will prove to have been unfounded. Indeed, it must be assumed that state regulators themselves will take the operation and purposes of the decree into account in assessing the appropriate application of state law.[18]

In any event, there is no need to attempt to anticipate all possible situations in which a state might conclude that it must impose obligations arguably, or even clearly, inconsistent with the decree's terms. The proposed modification will provide the states ample opportunity to resolve questions concerning its application after it is entered as the decree of the Court. As indicated in the Competitive Impact Statement, if a state regulator's order conflicts with the decree, AT&T, the affected BOC, or the Department may invoke the judicial process to resolve the matter. In such a proceeding, with the force and possibly the validity of its order at issue, a state regulatory agency would normally have a sufficiently strong interest in the resolution of the controversy that it would be permitted to intervene.

In any such proceeding, the first question would be whether, in fact, the state obligation interferes with the provisions and objectives of the modification, as properly construed. Only then would it be necessary to

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[16] The joint comments of 23 states, 6 utility consumer advocates and 4 public utility commissions assert that: The power possessed by State public utility commissions pursuant to the state action doctrine could, if exercised by some and not by others, result in a balkanized scheme of the telecommunications service and effectively frustrate the procompetitive intent of the proposed settlement. Alabama *et al.* at 12.

[17] It should be noted that pending legislative proposals would give the FCC, rather than the states' jurisdiction over intrastate interexchange communications. If such legislation is enacted, it will preempt state regulation and remove this area of potential conflict.

[18] For example, the "first in the field" policy identified by Illinois (at 8–11) as a potential source of conflict appears designed to protect continuity of service and the utility's investment. There would be no need to apply this policy to prohibit replacement of BOC interexchange service where the BOC has consented and service would not be disrupted.

determine, under Supremacy Clause standards, that the federal antitrust interest served by the particular provision of the decree involved must be deemed superior. The Department expects that the cases of genuine conflict, thus determined, will be rare. In many circumstances, accommodation of the federal and state interests will be possible, and certainly such accommodation is to be preferred. In all events, the procedures and standards involved in making such judgments plainly demonstrate the wisdom and, indeed, the necessity of waiting until conflicts arise before attempting to resolve them.

II. Issues Relating to the Viability and Performance of the BOCs

In this section of the Response, the Department will address a number of concerns raised in the comments regarding the consequences of certain requirements of the proposed modification on the continuing viability of the BOCs. We first address issues raised regarding the BOCs' continuing financial viability, including the relationship between asset valuation and divestiture, and the consequences for BOC viability of divestiture, and the consequences for BOC viability of divestiture and termination of the license contracts under which the BOCs paid for certain Bell System research and development. The Department will then address the effects on local rates of the modification's requirement that the division of revenues process be replaced by a system of access charges. Following this discussion, the Department will address concerns expressed in the comments regarding the rationale for, and likely effects of, the modification's restrictions on the lines of business in which the BOCs may engage. Finally, the Department will discuss issues raised by the comments concerning the absence of restrictions in the modification on AT&T's ability to construct and operate alternative local distribution facilities in competition with the BOCs.

A. Financial Viability and Valuation of Transferred Assets

Many comment expressed concern that the modification fails explicitly to discribe the means by which the Department intends to assure that the divestiture does not adversely affect the financial integrity and soundness of the local exchange companies. The ongoing financial soundness of the companies turns on their ability, under sound regulatory principles, to earn sufficient revenues to recover their costs of providing service, including a sufficient rate of return to attract new capital. The proposed modification thus will affect the financial viability of the local companies adversely only if it somehow forces them to incur costs that the regulators believe it appropriate to disallow in order to avoid increases in local rates.[19]

As set forth in the Competitive Impact Statement, the Department's review of the plan of reorganization will pay particularly close attention to the BOCs' technical and financial integrity. Section I of the proposed modification requires that the BOCs have the facilities, personnel and resources (including working capital) needed to carry out effectively the business of exchange telecommunications and exchange access. Accordingly, the modification will not occasion any need to incur capital costs for the provision of local service. In addition, the Department will review carefully the proposed financial structures of the BOCs to ensure that they reflect a sound mix of debt and equity and a cost of embedded debt, in terms of rates and maturities, comparable to the present average cost of debt to the Bell System as a whole.

A number of commenting parties, state governments and regulatory commissions in particular, expressed various concerns regarding proper values to be assigned to the assets which must be transferred between AT&T and the BOCs pursuant to the divestiture required by Section I of the modification. These comments argued that improper asset valuations could unfairly burden BOC ratepayers or afford AT&T unfair competitive advantages. Some of these parties argued that, to minimize any potential adverse impact of improper asset valuations, such valuations should take place before divestiture of the BOCs, or, in the alternative, that the BOCs should be divested intact with a subsequent transfer of assets.

The comments that addressed valuation raised a variety of analytically distinct concerns; the appropriateness of the procedures advanced to deal with them depends, in part, on whether the concerns expressed are actually raised by the kind or divestiture the modification contemplates. The Department believes that, in fact, the contemplated divestiture requires no independent effort to assign values to assets.

In the course of the divestiture it will be necessary to allocate the existing debt of the Bell System between AT&T and the BOCs. Many comments rightly pointed out that, were the BOCs to assume debt in addition to that now attributed to the services they will provide, regulators would be forced either to increase local rates to cover the increased cost of debt or to disallow the costs, thus potentially impairing the financial health of the firms. In considering allocation of debt, however, the Department intends that the allocation follow the asset values generally employed in the existing regulatory processes. Since the allocation will depend on existing regulatory treatment of asset values, it should not disturb present relative rate levels.

The Department therefore sees no need for the suggested alternative approaches, approaches which could have significant adverse consequences not only to AT&T, but to the BOCs themselves.[20] The suggested alternative procedures appear to stem, not so much from debt allocation questions, but from the view that the divestiture itself will result in some potential gain in value to AT&T in which the BOCs and their ratepayers, as distinct from AT&T's ratepayers, rightly should share. The model that the commentators invoke, either explicity or implicity, is that of withdrawal of regulated assets from service, and sale to an unaffiliated and unregulated enterprise. Even in its most basic terms, the model is inapplicable to the divestiture the modification proposes: the divestiture is not a sale to an unaffiliated enterprise, but a division of assets that AT&T and its shareholders already own.

To understand why the divestiture does not require valuation in any sense beyond that involved in appropriate division of the existing embedded debt, it may be useful to set out a brief explanation of asset valuation and its significance to traditional cost of service regulation. In unregulated markets, the value of any asset is determined by market processes. Investors value assets according to the discounted value of the net income stream (revenue less

[19] The concern that the modification's line-of-business restrictions will affect the local companies' long-term financial health and their ability to provide service at affordable rates is dealt with below.

[20] The divestiture/buy-back suggestion, in particular, could have serious adverse consequences. Were AT&T forced to "purchase" assets from the BOCs, it presumably would have to incur substantial new debt at rates substantially above the average rates of embedded debt. These increased debt costs, which could be enormous, would be borne by the ratepayers whom AT&T would continue to serve. Moreover, to the extent that the purchase price exceeds the adjusted tax basis of the assets, the BOCs would incur a potentially very large tax obligation.

variable costs) associated with the production of that output, plus the expected salvage value of the asset on retirement. Thus, in unregulated markets, the value of an asset is the result of market-determined prices. In a regulated environment, the process is just the reverse. Regulators establish the "value" of the regulated firm's capital assets—the rate base on which a rate of return is allowed. This process determines the price of the firm's output. Most regulatory agencies determine the value of the firm's capital stock according to the acquisition cost of assets. Subsequent value is determined by the acquisition cost adjusted for the subsequent recovery of capital from ratepayers through depreciation and return on capital.

Under traditional regulatory practice, if an asset is removed from public service, the economic value at the time of its removal is estimated, and an appropriate adjustment made to the rate base of the regulated firm. If regulated firms were allowed to remove property from regulated service, sell the property for an amount greater than its depreciated value in regulated service, and keep the proceeds, perverse incentives could develop. Such incentives could undermine the integrity of the regulatory scheme, unless such transactions were otherwise accounted for in establishing the firm's revenue requirements. The cost of service collected from ratepayers includes an allowance for the decline in the value of the asset. If an asset is sold for more than its regulatory value, then, unless potential appreciation had been reflected in the allowed rate of return, stockholders will in effect be able to earn an amount greater than what regulators had determined to be reasonable.

The argument has been made that ratepayers contribute to the capital recovery of regulated assets. Therefore, the argument has also been made, although of doubtful general validity, that if an assets is sold and the amount realized is greater than the value at which the asset is carried on the books, ratepayers have been deprived of their share of the appreciation in value, unless the rate base of the regulated firm is reduced to account for the difference between book value and market value.

In the view of the Department, the divestiture required by the proposed modification does not give rise to these concerns. In the first place, the modification will not result in the removal of assets from regulated service. The customer premises equipment assets as well as the facilities used to provide intrastate interexchange service, which must be transferred to AT&T, will continue to be subject to regulation. Under the FCC's *Second Computer Inquiry* decision, 77 F.C.C. 2d 384 (1980), embedded customer premise equipment will not be immediately deregulated on January 1, 1983, when separation of new CPE from regulated services is required. In Docket No. 81-893, the FCC has solicited comments on procedures that might be used to datariff such equipment.[31]

Accordingly rates charged for the provision of services transferred to AT&T will continue to be based upon the cost of the assets devoted to regulated service. There will be no realized gain to any regulated firm as a result of divestiture. To the extent that embedded CPE is deregulated, the FCC has indicated in Docket No. 81-893 that it will prescribe appropriate means of valuation and of protecting ratepayer interests.

Some comments nevertheless argued that local service ratepayers should be compensated for any excess of the market value of transferred assets over book value. Even assuming that the divestiture were an appropriate occasion for recognition of gain (and, presumably, loss [32]) and for participation in gain (or loss) by the ratepayers, the argument could be sound only if neither CPE customers nor intrastate interexchange customers as a distinct class paid for the excess capital recovery responsible for the excess of market values over book values. Put another way, the argument would be correct only if local ratepayers as a class, but not interexchange or CPE customers, paid the excess depreciation responsible for the differences between market and book value.

With respect to transferred interexchange facilities, assuming that the market value of such facilities exceeds book value,[33] there is no indication that local ratepayers as a distinct class have "paid for" any excess capital recovery which accounts for the difference. In order for this to have occurred, revenue from the provision of local exchange service would have to have exceeded the costs of providing such service. In other words, for local ratepayers to have "paid for" the excess capital recovery resulting in an excess of market over book value, local rates would have to have subsidized intrastate interexchange services.[34] Yet this is directly contrary to the arguments of many of the comments, which assert that the flow of revenues is in the opposite direction, *i.e.*, from interexchange to local. In any event, it is highly unlikely that it would be possible to identify such particular classes of customers with any precision.

Similarly, with respect to customer premises equipment, it is difficult to understand how local ratepayers as a class would be disadvantaged by the transfer of customer premises equipment to AT&T even if the market value of such equipment exceeds its book value.[35] Under the FCC's *Second Computer Inquiry* decision, embedded customer premises equipment may remain regulated for some period. States, therefore, would continue to have jurisdiction to determine the prices AT&T may charge for such equipment.[36] Thus, even if local ratepayers can be said to have "paid for" the excess capital recovery, they may retain after divestitures, if they wish, the very same regulated customer premise equipment. The only difference, from the customer's point of view, will be that maintenance of such equipment will be the responsibility of AT&T rather than the BOCs. If the book value is lower than

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[31] Procedures for Implementing the Detariffing of Customer Premises Equipment and Enhanced Services (Second Computer Inquiry), CC Docket No. 81-893, Notice of Inquiry [Released April 13, 1982]. The Commission's *Second Computer Inquiry* decision is currently on appeal before the U.S. Court of Appeals for the District of Columbia, Computer & Communication Industry Ass'n v. FCC, D.C. Cir. Nos. 80-1471 *et al.* If the Commission's decision is reversed on jurisdictional grounds, of course, the states would retain their existing jurisdiction over customer premises equipment.

[32] If book value were above market value for assets transferred to AT&T, and local ratepayers were responsible for the underdepreciation of such assets, the argument that divestiture provides an occasion for recognition of gain or loss would dictate that the BOCs should compensate AT&T for the difference.

[33] With the rapid technological change that have occurred in interexchange technology, it is likely that such assets have been underdepreciated, rather than overdepreciated, in relation to their economic value—that is, the book value of such assets is likely to be *higher* than their economic value.

[34] If this is indeed the case, it would benefit local ratepayers to have the divestiture occur as soon as possible.

[35] Some comments asserted that the BOCs should be permitted to retain such equipment because it has generated revenues in excess of costs which have been used to hold down the rates charged for other services. These comments, therefore, implicitly argued that the market value of such equipment is likely to be higher than book value. On the other hand, a number of comments, including those of United Telecommunications and nine Western state utility commissions, argued that customer premises equipment has been greatly underdepreciated and that, therefore, the book value of such equipment exceeds market value. There is, therefore, substantial disagreement on this issue.

[36] As discussed in Section *N*, while some state statutes may not clearly grant state commissions jurisdiction over CPE provided by AT&T, there is no apparent reason why such jurisdiction could not be enacted if the state legislatures deem it appropriate.

market value for such equipment, local ratepayers will continue to benefit by a regulated price that is lower than the price that the market value of such equipment would otherwise indicate. Even if such equipment is deregulated, as discussed above, the FCC has indicated that it will prescribe proper methods of valuation and means of protecting ratepayer interests.

The Department believes, therefore, that many of the concerns articulated in the comments on this issue have no basis in economic reality. Even in the event that such concerns do materialize, however, regulatory agencies will retain complete authority to make such adjustments as may be appropriate to the rate bases of the BOCs and AT&T. All these considerations demonstrate that any legitimate regulatory concerns in this area are a product of regulatory action and susceptible to regulatory solution. Accordingly, none of these concerns constitutes a basis for suggesting that the modification is not in the public interest.

Additional concern was expressed that if assets were transferred to AT&T at a value below market value, AT&T would gain an unfair competitive advantage. While, as discussed above, the Department believes that this possibility is unlikely to occur, even if it did, it would not confer a competitive advantage on AT&T. The embedded CPE assets which will be transferred to AT&T, for example, will continue to be regulated for some period of time. The states, therefore, will retain jurisdiction over the prices at which such equipment will be offered. If, in fact, the market value of such equipment is higher than the transfer value, AT&T's prices for such equipment would be constrained *by regulation* at a level below what the market value would dictate. In these circumstances, regulation, not AT&T, would determine the price of CPE.

Even in the event that embedded CPE is deregulated, the consequence would be that AT&T would be permitted to sell such CPE for a price higher than the regulatorily-determined price. But that price would be the same, *i.e.*, the maximum price sustainable in the competitive context, regardless of any payment to the BOCs: The sunk cost of CPE is irrelevant to its pricing by an unregulated enterprise.[37] Accounting profitability, but neither prices nor market share, would be affected. Similarly, the transfer of interexchange assets to AT&T at a value below market value would similarly convey no unfair competitive advantage to AT&T in the event of deregulation. It would not lower the incremental cost to AT&T of providing interexchange service, or provide any continuing advantage to AT&T relative to its interexchange competitors.

Some comments, from state commissions in paticular, argued that the modification should contain some mechanism for compensating the BOCs for the research and development funded by the BOCs under the license contracts. These comments argue that BOC ratepayers have in effect paid, through license contract fees, for Bell Labs research which has not yet been embodied in products and services used by the BOCs. Therefore, according to these comments, the BOCs are entitled to some compensation for these payments with the termination of the license contracts.[38]

Under the modification, the BOCs will have substantial rights to make use of the fruits of research and development performed by Bell Labs. Under Section I of the modification, AT&T must transfer to the ABOCs the rights to sufficient technical information to permit the BOCs, independently of AT&T, to perform "exchange telecommunication and exchange access functions, including the procurement for and engineering, marketing and management of those functions." In addition, AT&T has made a commitment to the Department that it will continue to license to the BOCs, on a royalty-free basis, all existing patents and patents issued within five years of the date of entry of the modification. Such licenses will be for the life of the patent and will include the right to grant sublicenses to others to provide the BOCs with goods and services for the BOCs' own use.

With respect to technical information other than patents, AT&T has also made a commitment that it will furnish to the BOCs additional Bell System technical information, of the type required to be furnished on divestiture, that is created within one year of that date. The BOCs will have the royalty-free right to make such use of that information as is necessary to enable them to perform their functions, including the right to license the use of such information to others for purposes of obtaining additional sources of supply for products and services now obtained from AT&T and its affiliates. These rights, the Department believes, will substantially benefit the BOCs in ensuring their ability to operate in a sound technical and financial manner.

B. Effects of Access Charge Provisions

Section II and Appendix B of the modification require the BOCs to provide exchange access to intercity carriers and information service providers that is equal in type, quality and price to that provided to AT&T. Such access arrangements must be offered by the BOCs under tariff on an unbundled basis with separate, cost-justified charges for each element of access. A number of comments expressed concern that the access charges, which will substitute for the division of revenue process, will result in a substantial increase in local telephone rates because such charges will eliminate contributions flowing to local exchange rates from interexchange services under current division of revenues procedures.

The proposed modification does not, nor is it intended to, affect the jurisdictional separation rules under which the FCC and the states allocate the costs of providing service between federal and state jurisdictions, or the state commissions' power to allocate costs between local exchange and intrastate interexchange services they regulate. The cost-based pricing required by the modification governs only the BOCs' own efforts in formulating rates in order to assure that those efforts do not discriminate among interexchange carriers. The level of access charges, and their contribution to the costs of local telephone service, therefore, will continue to be a product of state and federal regulatory policy.

A number of comments from independent telephone companies and state commissions also raise issues regarding the effects on independent telephone companies of replacing the division of revenues process with access charges. Some of the comments submitted in this area appear to assume that the modification requires the replacement of the current settlements process between AT&T and

[37] Some comments seem to assume that any realized difference there may be between book value and unregulated market value would be used by AT&T to subsidize the provision of interexchange services or CPE to disadvantage competitors in those markets. Foregoing current porfit to subsidize anticompetitive pricing strategies, however, only makes sense if those profits can be recouped later after competitors have been driven from the market. Since the divestiture required by the modification would remove entry barriers to interexchange services and CPE, AT&T would not be able to recoup such foregone profits by raising prices later, because to do so would only invite further entry.

[38] In addition, in its comments, the Ohio Public Counsel stated that when AT&T acquired its interest in Cincinnati Bell, the sole consideration given for such interest was an agreement to provide services to Cincinnati Bell under the license contract. The Department has been advised by AT&T that it is negotiating arrangements with both Cincinnati Bell and SNETCO to take into account the termination of the license contracts.

independent telephone companies with access charge tariffs. Other comments expressed concern that the filing of access charge tariffs will have the effect of raising rates to customers of independent telephone companies.

The modification by its terms applies only to AT&T and its affiliates. The access charge requirement imposed by the modification, therefore, only applies to the BOCs and not to independent telephone companies. It is possible, however, that regulatory authorities may decide to substitute an access charge arrangement for the current settlements process between AT&T and independent telephone companies.[29]

As to concern that the access charge mechanism will cause increases in rates for subscribers of independent telephone companies, as discussed above, the modification leaves unaffected the jurisdiction of regulatory bodies to allocate costs within and among their jurisdictions. Thus, the joint federal-state boards established by the FCC pursuant to Section 410(c) of the Communications Act, 47 U.S.C. 410(c), may, consistent with the modification, continue to allocate the costs of providing service between federal and state jurisdictions in the same manner as they have in the past. Similarly, the states may continue to allocate the costs of providing services within their jurisdiction in the same manner as they have in the past. Any contribution to the costs of the local exchange service provided by independent telephone companies deemed appropriate by regulatory bodies can be recovered, just as it is now, through contractual settlements arrangements, through a system of access charges prescribed by regulatory authorities, or a combination of both.

A number of comments expressed concern regarding the proposed modification's effect on service to independent exchange carriers, many of which serve sparsely populated, rural areas of the country. One such concern, expressed in joint filings made by Wyoming Telephone Company, Inc., *et al.*, and by Haviland Telephone Company, Inc., *et al.*, is that after divestiture of the BOCs, independents may have difficulty in obtaining adequate connecting interexchange services from AT&T in rural areas where the costs of operation are high. More specifically, it has been suggested that an interexchange carrier such as AT&T will not have an incentive to serve high cost rural areas if its costs exceed its revenues for that service.

At the outset, it should be noted that the exchange areas for which the BOCs will have exchange access responsibilities encompass rural areas associated with an SMSA. Thus, to the extent that an independent rural carrier obtains connecting facilities (Class 5 to Class 4 trunks) from a BOC, it may continue to do so in the future. Thus, interexchange carriers, including AT&T, need only construct transmission facilities to a single point of interconnection in an exchange area to serve all points in the exchange area, including territory served by an independent telephone company.

Even with respect to AT&T, it should be emphasized that the modification will have no effect on its incentives to serve particular areas of the country. Whether or not the BOCs were divested from AT&T, a carrier would have little incentive to provide service unless it is permitted to recover the costs of doing so.

In addition, assuming that there are significantly higher costs in the provision of service to rural areas,[30] the costs of providing such service can be recovered either through a de-averaged rate structure, or by setting rates in a way that averages costs over high cost and low cost areas. In either case, jurisdiction over AT&T's interstate rates will continue to reside in the FCC, while the states will continue to exercise jurisdiction over intrastate rates. Moreover, as set forth in the Competitive Impact Statement, the states and the FCC will continue to exercise jurisdiction with respect to the level of access charges for the provision of intrastate and interstate interexchange service. Thus, as a matter of regulatory policy, a state may decide to pool the costs of providing intrastate access within a state and thus require the filing of access charges that reflect the average cost of providing intrastate access. The FCC may similarly decide, consistently with the modification, to require averaging of interstate access charges. The modification thus leaves unaffected the jurisdiction of federal and state agencies to prescribe rate structures.

Furthermore, after divestiture, the FCC and state regulatory bodies will have the same powers as previously to ensure that interexchange carriers provide adequate service to all areas of the country. Typically, regulatory bodies are empowered to order connections between carriers, to grant operating authority on the condition that a carrier provide service to rural areas, and to prevent the abandonment or discontinuance of service by a carrier.[31]

In its comments the State of Illinois indicated that the Illinois Commerce Commission has this authority over intrastate telephone carriers in Illinois. It expressed concern, however, regarding the Commission's ability to enforce existing contracts for connecting service between Illinois Bell Telephone Company and independent carriers because, after the proposed divestiture, Illinois Bell would be precluded from providing interexchange service. While clearly an order directing a BOC such as Illinois Bell to maintain its contracts with independents for the provision of interexchange service would be inconsistent with the proposed modification, such an order directed to AT&T would not be. Since, after the divestiture, AT&T will own and operate the interexchange facilities previously used by the BOCs in providing intrastate interexchange service, it seems clear that the state commissions will have jurisdiction over AT&T for its intrastate operations and may enforce state laws requiring AT&T to interconnect with independents and to provide intrastate interexchange service.

Consequently, regulatory bodies' jurisdiction to ensure the adequate provision of interexchange service to rural areas will be unimpaired by the proposed modification.

C. Line of Business Restrictions

A great deal of the concern regarding BOC viability expressed in the comments relates to the line of business restrictions placed on the BOCs by Section II(D) of the proposed modification. In addition, the comments showed a significant degree of uncertainty regarding the reach and application of the line of business restrictions. In this section of the Response, the Department will attempt to clarify those aspects of the line of business restrictions regarding which the comments have expressed some confusion. The Department will also

[29] There were conflicting views in the comments as to whether independent telephone companies should be required to file access charge tariffs. A number of comments also expressed conflicting views as to whether access charges should be structured in a way that averages the costs over high and low cost exchange areas. The FCC is currently examining these issues in Docket No. 78-72.

[30] While it has been argued that the cost of providing interexchange service to rural areas exceeds the cost of providing service to more densely populated areas, that showing has not been convincingly made. In the trial of United States v. AT&T, for example, evidence was introduced which tended to show that the cost of construction in more densely populated areas outweighed whatever cost penalties might be associated with providing interexchange service to less populated areas.

[31] See, e.g., 47 U.S.C. 201 and 214.

address here issues raised by the comments concerning the need for, and effects of, the restrictions.

1. *Clarification of Restrictions:* A number of comments addressed the scope of the restrictions contained in the proposed modification on the businesses in which the divested BOCs may engage.

Paragraph II(D) of the modification places three limitations on the divested BOCs.[32] First, the BOCs are prohibited from providing interexchange telecommunications and information services as these terms are defined in Section IV. Second, a BOC may not manufacture or provide telecommunications products or customer premises equipment, including equipment presently under tariff, except for the provision of customer premises equipment for emergency services. Finally, except for exchange telecommunications and exchange access services, the divested BOCs may not provide any products or services apart from natural monopoly services actually regulated by tariff.

a. *Routing Among Interexchange Carriers.* A number of comments raised questions regarding the scope of these restrictions. Western Union, for example, questioned whether the BOCs would be permitted to route calls to implement arrangements between interexchange carriers for handling traffic overflows. As the Department understands the question, the BOCs would be permitted to perform such functions. The routing of calls among interexchange carriers in overflow conditions is a network management function which, under the proposed modification, would be an exchange service. Section II(D)'s prohibition on the offering of interexchange telecommunications is intended to preclude the BOCs from performing the *interexchange* switching or routing functions integral to the operations of an interexchange carrier. The network management function, as described, which merely sorts calls *among carriers*, would not fall within this category.[33]

b. *Pole Attachments and Conduit Space.* Some comments, principally those of cable television operators, expressed concern that the proposed modification be fully consistent with the Federal Pole attachment act of 1978, 47 U.S.C. 224. That Act gives the Federal Communications Commission authority to "regulate the rates, terms, and conditions for pole attachments to provide that such rates, terms, and conditions, are just and reasonable." 47 U.S.C. 224(4)(b)(1). The FCC is empowered to regulate rates, terms and conditions for pole attachments only where those matters are not regulated by a state. 47 U.S.C. 224(4)(c)(1). A state that regulates these matters must certify to the FCC that it does so and that its regulation satisfies the requirements of the Act.

In the Department's Competitive Impact Statement, pole attachments were cited as an example of a natural monopoly service actually regulated by tariff. The Federal Pole Attachment Act of 1978, however, does not require that pole attachments be regulated by tariff. The National Cable Television Association pointed out that, if the modification is read to require that pole attachments actually be regulated by tariff, a conflict may arise between the 1978 Act and the modification.

It is not the intent of the modification to change the regulatory scheme governing pole attachments or to impose obligations inconsistent with existing law. The reference to pole attachment as a natural monopoly service actually regulated by tariff was based upon a misunderstanding of the current regulatory scheme. Even though not actually regulated by tariff, however, conduit space and pole attachments would remain within the ambit of BOC operations. Poles and conduit space are clearly facilities essential for the provision of exchange telecommunications. Leasing of capacity in conduit space and pole attachments would similarly be permitted under the modification, since the BOCs have traditionally shared such space and attachments with other utilities as a natural adjunct of their exchange operations.

c. *Inside Wiring.* A number of commenting parties raised issues regarding the status of inside wiring under the modification. Xerox, for example, questioned whether inside wiring, which, under the modification, falls within the category of exchange telecommunications, includes all customer premise wiring between the BOC's outside plant and the customer's terminal equipment. The intent of the modification is to include within exchange telecommunications at least the wiring which connects the BOC's protection block with one or more pieces of customer premises equipment, e.g., a PBX. It is not clear at this time, however, whether such wiring connecting two pieces of customer premises equipment, e.g., a PBX and an individual telephone, is more appropriately classified as an aspect of the provision of customer premises equipment. The Department intends to give this issue further consideration and will provide clarification at the earliest possible date.

Some comments expressed concern that leaving inside wiring with the BOCs might be read to imply that such wiring is a natural monopoly. As noted above, however, the BOCs may provide inside wiring, not because it is a natural monopoly service actually regulated by tariff, but rather because it constitutes an aspect of exchange telecommunications.

Other comments suggested that the BOCs should be required to give customers the option of purchasing inside wiring at a regulatorily-determined price. The Department recognizes that New York and other states permit customer ownership of inside wiring and that more states are considering that option. The modification would neither require nor prohibit such regulatory action. Indeed, the modification is not intended to imply that inside wiring should not be offered on a competitive basis.[34]

d. *Telephone Answering Services Equipment.* Comments from providers of telephone answering services raised questions regarding the ability of the BOCs to offer particular types of equipment necessary to the provision of telephone answering services. The major types of equipment used to provide this service are switchboards

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[32] Some comments, particularly from independent telephone companies, expressed concern that the restrictions on BOC lines of business might be interpreted to restrict the businesses of independent telephone companies. The proposed modification would settle a controversy between the United States and AT&T, and applies by its terms only to AT&T and its affiliates. The obligations and restrictions contained in the proposed modification, therefore, do not apply to independent telephone companies.

[33] In addition, the modification excludes from the definition of prohibited information services those services when used for the management, control, or operation of a telecommunications system, or for the management of a telecommunications service. The modification thus contemplates that the BOCs may perform a variety of network management functions for the benefit of interexchange carriers. Such functions would include, in addition to functions such as those discussed above, reassignment of traffic for back up and restoration purposes pursuant to agreements among carriers and in response to requests from agencies with responsibility for national security and emergency preparedness.

[34] While, under the modification, the BOCs would be permitted to offer inside wiring as a part of exchange telecommunications, even if deregulated regulatory agencies may decide as a matter of policy that the BOCs should be foreclosed from its provision. This result would not conflict with the modification, which only permits the BOCs to provide such wiring. Indeed, the fact that the modification would permit the BOCs to provide inside wiring should not be taken as an indication of the Department's views with respect to the appropriate role of BOCs, as regulated monopolists, in the provision of competitive services which fall within the ambit of exchange telecommunications.

and a system called a concentrator-identifier.

The confusion appears to stem from the fact that the concentrator-identifier consists of two piece of equipment. The concentrator is located in the central office. As its name suggests, it concentrates up to 100 customer access lines into six lines which run from the central office to the telephone answering service. The indentifier, which is located on the telephone answering service's premises, identifies which customer has an incoming call to be answered.

Where the BOCs offer the concentrator-identifier as a single service, the modification would permit the BOCs to continue to offer both the concentrator and identifier, even though the identifier is located on the customer's premises. As pointed out in the comments, even though separately located, the concentrator-identifier is a single system and performs an integrated function, similar to the multiplexing and demultiplexing equipment excluded from the definition of customer premises equipment under Paragraph IV (E) of the modification. As such, the identifier does not fall within the category of prohibited customer premises equipment merely because it is located on a customer's premises. The switchboard, on the other hand, like other kinds of customer switching equipment, could not be provided by the BOCs.[35]

e. *Information Services.* Other comments raised issues regarding the distinction between permitted exchange telecommunications and prohibited information services. As explained in the Department's Competitive Impact Statement, the BOCs may offer exchange telecommunications services, which are defined derivatively to mean the offering for hire, within an exchange, of telecommunications facilities, or of telecommunications by means of such facilities via electronic means, without regard to the type of transmission facilities used. Such services may not, however, involve a change in the form of content of the message as sent or received. Nor may the BOCs provide a service which includes voice or data storage as a feature of such service offering. The fact, however, that a particular technology inherently involves the storage of information would not, by itself, be sufficient to classify a particular offering as a prohibited information service. The modification thus draws a distinction between those functions which are inherent in the provision of telecommunications services within an exchange and those intervening changes in the form or content of a message which may be performed on a competitive basis. The modificaiton does not, nor is it intended to, limit the ability of the BOCs to take advantage of new technologies in the provision of exchange telecommunications.

Among others, the California Public Utilities Commission questioned whether, under the proposed modification, the BOCs would be permitted to offer Centrex, Custom Calling I and Custom Calling II services. Centrex service is simply the remote switching of calls at a customer location by a central office switching machine. As such, it is inherently simply an exchange switching function and an integral aspect of exchange telecommunications which the BOCs may provide. Similarly, Custom Calling I, which includes call waiting, call forwarding and speed dialing, is an application of basic switching capabilities inherent in electronic central office switching machines and thus may also be provided by the BOCs.

Custom Calling II, on the other hand, goes beyond the mere switching and transmission of calls basic to the provision of exchange telecommunications services. Custom Calling II includes, for example, call answering and advance calling. The former provides the ability to record and store incoming messages for later retrieval by customers. Advance calling permits a customer to pre-record a message to be transmitted to a predesignated number within a 24 hour period. These applications are functionally separate and distinct from basic switching and transmission of telecommunications within an exchange and can be provided on a competitive basis.[36] The proposed modification would, therefore, prohibit the offering of Custom Calling II services by the BOCs.

A number of comments questioned whether the BOCs would be permitted to offer time and weather announcements, mass calling services, and enhanced 911 service under the proposed modification.

Time and weather announcements are normally provided by the BOCs to the public without separate charge. These services involve making information available to customers by electronic means and thus would constitute prohibited information services under the proposed modification. At the present time, however, in light of the pricing of these services, it is unclear whether the provision of these services by firms other than the BOCs is feasible. Such services could be offered by an independent information services vendor in areas that have measured rate local calling. The local BOC and the vendor would have every incentive to agree to share the message unit revenue from calls to time and weather. It is not the intention of the Department to preclude the provision of services by the BOCs that may not be provided on a competitive basis. As the date of divestiture approaches, if it is not clear that such services may be provided on a competitive basis, the Department will join with the BOCs in seeking a waiver from the Court to permit the offering by the BOCs of such services until such time as it becomes clear that they can be provided feasibly by firms other than the BOCs.

Mass calling or announcement services, such as "dial-it," involve the provision to customers of a capability to acquire certain types of information. Like time and weather, such services are also information services under the proposed modification. These services, however, are today only offered in areas with measured local calling, or which otherwise permit a per-call charge for the service. Again, the BOCs have every incentive to establish payment arrangements to permit economical provision of such services. The comments of Productions-by-Phone, Inc. made specific reference to mass calling equipment already installed by New York Telephone. New York Telephone could continue to provide the specialized local trunking for such services (the "976" exchange) as part of its information access responsibilities under the proposed modification. Such information access could include nondiscriminatory announcements to New York Telephone customers of the recordings provided by the various programmers making use of the 976 service. Any information access must be arranged so that multiple vendors could be provided nondiscriminatory access to the local networking portion of the 976 offering.

Enhanced 911 service involves the provision to public safety agencies of certain information to assist them in responding to emergencies such as residential or business fires. Under this

[35] Some comments suggested that equipment such as the switchboard used by telephone answering services could be offered by the BOCs under the modification's emergency services exception, because such equipment may be used in emergency situations. The intent of the emergency services exception however, is not to permit the BOCs to provide equipment that may be used in emergencies, but to permit the provision of equipment by the BOCs in emergency situations when it may be impracticable to obtain equipment from other vendors.

[36] Indeed, these services are already available in CPE from non-Bell sources.

service a telephone subscriber would dial 911. The central office would identify the calling number and supply this information to a computer which would then match the calling number with other data in the computer's memory and display that data to the customer, for example, a municipal fire department. This service would clearly constitute an information service since it involves generating and making available information to customers.

The Department is not sufficiently knowledgeable regarding the marketing of this service, however, to know whether it could be offered to public safety agencies under the same terms and conditions by competitive firms. If, as the date of divestiture approaches, it is clear that enhanced 911 service could not be offered by firms other than the BOCs under the same terms and conditions, the Department will join with the BOCs in petitioning the Court for an exception which would permit them to offer such services.

f. Cellular Radio, Land Mobile Radio and Cable Television. Questions were also raised regarding the ability of the BOCs to provide cellular radio, land mobile radio, and cable television services.

As set out in the Department's Competitive Impact Statement, the proposed modification would not prohibit the BOCs from offering either cellular radio or land mobile radio.[35] These types of services fall within the definition of exchange telecommunications.[36] The provision of cable television service, on the other hand, clearly involves the generation, transformation and conveyance of information and is thus an information service. As noted above, the modification does not limit the technologies a BOC may employ to provide exchange telecommunications. Thus, while a BOC may not provide cable television service, it may provide the broadband transmission medium necessary for such services to cable television operators.

g. Customer Premises Equipment. The Independent Data Communication Manufacturers Association (IDCMA) expressed concern that the proposed modification might be interpreted to sanction the BOCs as sole suppliers of equipment located on customers premises used to multiplex, maintain, or terminate access lines. IDCMA's concern arises out of the definition of customer premises equipment, which the BOCs are precluded from providing, and the limitations on BOC activities to exchange telecommunications and exchange access, except natural monopoly services actually regulated by tariff. IDCMA is concerned that these provisions, taken together, might be read to imply that equipment located on customer premises used to multiplex, maintain, or terminate access lines constitute natural monopoly services.

That result is neither intended by the modification nor required by a construction of its terms. The ability of the BOCs to provide such equipment, even though located on customer premises, stems not from any natural monopoly characteristic inherent in its provision, but rather because of its relationship to the provision of exchange telecommunications. As noted above with respect to cellular radio and land mobile radio, the classification of a particular offering as exchange telecommunications is not intended to imply that such offering should be offered on a non-competitive basis.

2. *Rational for Restrictions and Effects on BOC Viability:* Many comments, including those of a large number of state governments, state public utility commissions and the Federal Communications Commission, raised issues regarding the need for, and likely effects of, the restrictions placed on the businesses in which the BOCs may engage. The following discussion will first address general arguments and concerns raised in the comments regarding the BOC line of business restrictions. The Department will then address several specific issues raised by the comments relating to restrictions on particular lines of business.

As set forth in the Department's Competitive Impact Statement, the purpose of the restrictions is to prevent the reemergence of the incentives and ability to engage in anticompetitive behavior that existed prior to divestiture. This purpose is wholly consistent with the duty of a trial court, after having found a violation of Section 2 of the Sherman Act, 15 U.S.C. 2, to ensure "that there remain no practices likely to result in monopolization in the future." *United States* v. *United Shoe Machinery Corp.*, 391 U.S. 244, 250 (1968).

The theory of both the *Western Electric* and *AT&T* cases was that, as a rate base/rate of return regulated monopolist, AT&T has had both the inventive and the ability, through cross-subsidization and discriminatory actions, to leverage the power it enjoys in its regulated monopoly markets to foreclose or impede competition in related, potentially competitive markets. The linchpin of AT&T's monopoly power, the United States alleged, was its ownership and control, through the BOCs, of regulated local exchange monopolies. It was through leveraging of these local franchise monopolies in the markets for intercity services, customer premises equipment and telecommunications equipment. Absent the modification's restrictions on BOC lines of business, the BOCs would have the very same incentives and ability to foreclose or impede competition in related markets. Thus, given the BOCs continuing status as regulated monopolies, the modification's line of business restrictions are intended to ensure, consistent with the obligations of this Court, "that there remain no practices likely to result in monopolization in the future."

As some of the comments pointed out, the proposed modification goes beyond restricting BOC entry into related or dependent markets, placing a blanket prohibition on the offering of non-exchange access or non-exchange telecommunications products or services that are not natural monopoly services actually regulated by tariff. The Department recognizes that the anticompetitive dangers inherent in the joint provision of regulated monopoly services and unregulated competitive products or services attenuate as the characteristics of the regulated and unregulated markets become increasingly distinct. In the case of the BOCs, businesses that present little opportunity for cross-subsidization from monopoly exchange revenues, because of the absence of common costs and little opportunity for discrimination, would also present little anticompetitive potential. Thus, there would be little danger in permitting the BOCs to engage in businesses wholly distinct from and unrelated to the provision of exchange telecommunications and exchange access. It would be very difficult, however, to draw a workable distinction between those businesses which do not present unacceptable dangers to

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[35] As the Department also noted, the ability of the BOCs to offer such competitive exchange telecommunications services under the proposed modification should not be taken as an indication of the Department's position with respect to the appropriate role of the BOCs, as regulated monopoly carriers, in the provision of competitive telecommunications services within an exchange area.

[36] The BOCs would not, however, be permitted to offer customer equipment associated with the provision of mobile radio since such equipment is a form of customer premises equipment. Some comments questioned the status of Advanced Mobile Phone Service Inc., a separate affiliate which is being formed by AT&T to provide cellular radio services. The Department has been advised by AT&T that, since the BOCs are permitted under the modification to offer cellular radio service, seven separate subsidiaries will be formed, to be owned by the BOCs, to provide such services.

competition and those which do. Moreover, there was no suggestion in the comments that the BOCs would have any interest in entering such unrelated competitive businesses or that there would be any significant public benefit from such entry. Rather, the comments urged that the BOCs be permitted to enter businesses in related markets. Yet, as discussed below, it is in these markets that the anticompetitive dangers of BOC participation are greatest.

A number of commenting parties, including the Federal Communications Commission, several states and state public utilities commissions, argued that the restrictions on the BOCs are actually anticompetitive, since the BOCs are among the most likely entrants into markets where AT&T has, or is likely to gain, a dominant position. These comments argued that the BOCs would be a procompetitive force in these markets because they are in the best position to present a serious competitive threat to AT&T. Entry by the BOCs into these markets, it was argued, would most quickly bring about competitive market structures. It was also argued that permitting the BOCs to compete against AT&T would more quickly sever any remaining ties of loyalty between AT&T and the BOCs and reduce the potential for anticompetitive cooperation among them.

The Department agrees with a basic premise of these comments—that restrictions on entry are generally anticompetitive and deserve the most careful scrutiny. Absent control by the BOCs of regulated bottleneck monopolies, the Department would also agree that any limitation on the businesses in which the BOCs may engage would be unnecessary and unwise. However, as commenters such as the North American Telephone Association, the Associated Telephone Answering Exchanges, the American Newspaper Publishers Association, and the National Cable Television Association pointed out, even after divestiture from AT&T, the BOCs' control over essential local exchange facilities will give them both the power and incentive to disadvantage competitors in related markets through cross-subsidization and discriminatory actions.

Moreover, the competitive value of the BOCs as potential competitors is likely to be slight. As the number of actual competitors increases, the competitive value of additional firms entering the market is reduced. The divestiture required by the modification, together with its equal exchange and information access provisions, will substantially lower entry barriers and thus encourage entry by other firms into these markets. There are already hundreds of firms which provide customer premises equipment. The BOCs would, of course, have an advantage over other potential competitors by virtue of their control of local exchange facilities. The anticompetitive dangers inherent in such control, however, are precisely those dangers the modification is designed to avoid. In these circumstances, whatever competitive benefits might be gained from the presence of additional firms in these related markets are clearly outweighed by the likelihood of the reemergence of the anticompetitive market structure the modification is designed to end.

Among others, the FCC argued that, even if competitive dangers exist in permitting BOC participation in related markets, they can be adequately protected against by regulatory intervention. More specifically, it has been argued that accounting or quasi-structural regulatory remedies, such as a separate subsidiary requirement for the provision of competitive products and services, would adequately safeguard competition.

While, as discussed below, the Department believes that regulatory mechanisms may have some limited utility in alleviating any transitional potential for anticompetitive conduct on the part of the remaining AT&T, they are not sufficient to control the long term incentives and abilities the BOCs would have to disadvantage competitors in related markets. At the heart of the government's case in *United States* v. *AT&T* was the failure of regulation to safeguard competition in the face of the powerful incentives and abilities of a firm engaged in the provision of both regulated monopoly and competitive services. If the BOCs, as rate base/rate of return regulated monopolists, were permitted to enter related competitive markets, they would have the means and incentive to disadvantage their competitors by cross-subsidization and discrimination in the terms and conditions of access to the local exchange. Neither of these problems has thus far proven amenable to successful regulatory solution. Indeed, the very basis for divestiture is that the anticompetitive problems inherent in the joint provision of regulated monopoly and competitive services are otherwise insoluble. Thus, permitting BOC entry into competitive markets would undermine the rationale for the divestiture that is the central remedial mechanism of the modification.

With respect to cross-subsidization, as Leghorn Telepublishing Company, among others, pointed out, the FCC struggled for more than 20 years unsuccessfully to solve the problem of allocating common costs between competitive and non-competitive services. This very same problem would confront regulators if the BOC's were permitted to engage in competitive lines of business. There is simply no single correct formula for the allocation of such common costs among services. Moreover, even if such a formula existed, the possession by the BOCs of relevant cost information, the extent of common costs, and the high degree of discretion in the treatment of such costs enjoyed by the BOCs, would very likely frustrate meaningful regulatory oversight, especially in light of strong incentives on the part of the BOCs to do so.

Nor is it likely that regulation could effectively ensure non-discriminatory access to essential local exchange facilities. Again, as a number of commenters pointed out, this is a subject that has preoccupied regulation for more than a decade with little success. Particularly in a technologically dynamic industry such as telecommunications, there is little possibility that regulation is capable of detecting or preventing the very subtle forms of discrimination that would be available to the BOCs. Thus, even were it possible to prescribe in detail the appropriate technical parameters of interconnection under current technological conditions, regulators would have to have sufficient foresight to determine in advance the discriminatory potential inherent in tomorrow's technology, effectively to ensure fair competition. Even if it were possible, moreover, effectively to monitor the technical aspects of interconnection in an evolving technological environment, there would remain still more subtle means of discrimination in operational activities, such as the timely provision, maintenance, testing, and restoration of facilities. In short, the BOCs, if permitted to engage in competitive activities, would have substantial ability to frustrate regulatory attempts to prevent discriminatory conduct.

A regulatory requirement that competitive products or services be provided through a separate subsidiary, like regulatory proscriptions against anticompetitive pricing and discrimination, would not affect the incentives to engage in anticompetitive

conduct. The FCC recognized this fact in its *Second Computer Inquiry* decision:[39]

> A separate subsidiary requirement, from a purely structural perspective, does not guarantee a competitive market-place because it does not significantly change the incentives of a firm upon which it is imposed. The requirement does not impart an incentive to operate the subsidiary in a manner that would detract from the overall profitability of the parent corporation. Thus, in general, if the parent has an incentive to exercise its market power to the disadvantage of consumers and competitors in the absence of a separate subsidiary, it has the same incentive to do so after one is required.

The purpose of such a requirement, therefore, would be to circumscribe the ability of firms to act in accordance with their incentives. While the Department believes that a separate subsidiary requirement may eliminate some of the potential avenues for anticompetitive abuse, it cannot effectively foreclose all of the ways in which the BOCs could discriminate in favor of a separate affiliate providing competitive products and services.

In addition to the danger of cross-subsidization which would arise from any permitted joint use of assets, facilities, or personnel between the BOCs and any separate affiliates, all of the potential for discriminatory treatment discussed above would also exist. Thus, even assuming sufficient cost separation between a BOC and its separate affiliate to prevent cross-subsidization, the BOC would still have available numerous opportunities for discrimination in the terms and conditions of access to facilities which are essential for the provision of competitive services.

Several comments, particularly those submitted by state regulators, expressed concern that restricting the BOCs to the provision of exchange telecommunications and exchange access will threaten their viability or cause increases in local rates.

As set forth in the Competitive Impact Statement, a principal focus of the Department's review of the plan of reorganization will be the financial and technical integrity of the divested BOCs, unless the BOCs. The Department believes, however, that the inability of the BOCs to engage in certain competitive activities will not adversely affect either the ability of the BOCs to operate in a sound financial manner or the level of local rates.

As to financial and technical viability, as discussed above, in its review of the plan of reorganization the Department will ensure, consistently with Section I of the proposed modification, that the BOCs are transferred sufficient assets, facilities, personnel and other resources to permit them efficiently to engage in the provision of exchange telecommunications and exchange access. The Department will also examine the proposed financial structures of the BOCs to ensure that they reflect a prudent mix of debt and equity and an embedded cost of debt comparable to the embedded cost of debt to the Bell System as a whole.

Under established regulatory principles,[40] regulated firms are entitled to earn a return on assets dedicated to the provision of regulated services sufficient to recover the costs of both debt and equity to the regulated enterprise. Sound application of these principles by regulatory agencies to the BOCs will ensure both the ability to recover all of the costs of providing exchange telecommunications and exchange access and the continued ability to attract capital. The inability to offer other products and services which also must recover their costs and continue to attract capital bear no relation to the viability of the basic business of providing exchange telecommunication and exchange access.[41]

The argument was also made in the comments that, while it is in the province of state regulators to assure the financial viability of the BOCs are permitted to engage in competitive enterprises, local rates will have to rise to permit the BOCs to recover their costs and continue to attract capital. While it is not clear in every case, the premise of this argument appears to be that the provision of competitive products and services will return to the BOCs revenues in excess of costs, including the cost of capital, and thus provide a subsidy to local rates. The argument thus appears to assume that the BOCs will be able to earn above competitive profits in the provision of competitive products and services.[42] If this were to occur, it would indicate that the BOCs were in fact abusing the monopoly power inherent in control of the local exchange bottleneck to disadvantage their rivals in other markets. This is precisely the outcome the modification is designed to avoid.

A number of comments also expressed concern regarding the absence of any time limit on the BOC line of business restrictions. Some have suggested that in the absence of limitations on the duration of the restrictions, as technology changes, the modification will have unintended anticompetitive consequences by needlessly restricting entry.

The Department believes that these concerns are valid. As discussed above, the basic premise underlying the restrictions is that exchange telecommunications is a bottleneck monopoly to which non-discriminatory access is necessary to ensure competitive conditions in related markets. It is quite possible that, as technology evolves, the rationale for the restrictions will erode as the BOCs lose the ability to disadvantage competitors in these markets. As set out in its Competitive Impact Statement, the Department intends to review carefully the continuing need for the restrictions. In order to ensure that the Court is fully apprised of developments in this area, the Department will undertake to make a formal report to the Court on the continuing need for the restrictions on the third anniversary of the date of divestiture, and every third year thereafter so long as the restrictions remain in force. In the event that the Department concludes in its report that the state of competition and technology is such that any or all of the restrictions should be lifted, it will move the Court for a modification of the Judgment to permit such activity by the BOCs. The Department believes that this procedure will assure both continuing scrutiny of the factors underlying the restrictions and, as well, limit the duration of the restrictions to the minimum period required by the state of technology and competition.

Several comments raised arguments with respect to particular restrictions on the BOCs. The following discussion addresses the limitations on the BOCs ability to participate in the markets for

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[39] In the Matter of Amendment of Section 64.702 of the Commission Rules and Regulations (Second Computer Inquiry), Docket No. 20828, 77 F.C.C. 2d 384, 482 (1980).

[40] See, e.g., FPC v. Hope Natural Gas Co., 320 U.S. 591 (1944).

[41] As a theoretical matter, in the event that demand for exchange telecommunications and exchange access disappeared, regulators would be unable to ensure BOC viability. Of course, long before this possibility could occur, the BOCs would have lost their status as monopoly bottlenecks and the Department would have moved for a modification of the judgment to remove restrictions on BOC activities. As discussed below, the Department intends to pay careful attention to changing technological and competitive conditions to ensure that the restrictions do not outlive their utility.

[42] With respect to customer premises equipment, for example, a number of comments asserted that revenues from the provision of CPE exceeded relevant costs. On the other hand, comments received from a number of other parties, including comments submitted by nine Western state public utilities commissions, argued that CPE has historically been under-depreciated, or sold below cost, and thus, that transfer of such equipment to AT&T would enhance the viability of the BOCs.

interexchange services, information services, customer premises equipment, and directory advertising.

a. *Intrastate Interexchange Services.* Some comments, particularly those submitted by state governments and state regulatory agencies, argued that the BOCs should be permitted to offer intrastate interexchange services. In addition to arguments already discussed, it was argued that since intrastate toll is by and large not now competitive, there is no rationale for not permitting the BOCs to provide it. Some comments also argued that permitting the BOCs to offer interexchange services would provide a built-in phase-out period for their involvement in that market because intrastate toll rates are priced above cost. According to these comments, the pricing of intrastate toll would invite entry which would eventually drive the BOCs from the market. One implicit premise of this argument is that state regulators would not permit the BOCs to charge cost-based rates.

The Department recognizes that in many states interexchange services are not currently provided on a competitive basis. The purpose of the proposed modification, however, is not merely to preserve and enhance competitive prospects where some competition already exists, but to create a market structure conducive to competitive entry and fair competition wherever technologically and economically feasible. As discussed above, the rationale for restricting BOC entry is to prevent the reemergence of incentives and abilities to frustrate competition in actually or potentially competitive markets. If the BOCs were permitted to enter potentially, but not actually, competitive markets they would be vested with the incentive and opportunity to ensure that such markets never become competitive.

The same rationale applies to the argument regarding the phase-out of BOC competitive operations. If, as assumed, intrastate toll rates are priced above costs, the incentive of the BOCs to blockade entry by discriminatory actions is increased, since even less efficient firms would be able to undercut BOC rates and capture market share.[45]

[45] A number of comments argued that whatever anticompetitive dangers are inherent in BOC participation in interexchange service, they may be overcome by effective regulatory oversight. While these arguments have been addressed above, it may be useful to point out that the provision by the BOCs of interexchange services would present the danger of both cross-subsidization and discriminatory treatment. Neither of these competition problems has proven amenable to effective regulatory monitoring.

A number of comments suggested that, irrespective of the competitive rationale for restricting entry, the BOCs should be permitted to offer interexchange services in order to maintain the contribution that intrastate toll service makes to local telephone rates. Implicit in this argument is an assumption that competition in intrastate interexchange services will drive prices down and reduce or eliminate any contribution that intrastate toll service makes to the costs of providing local exchange service. As discussed above, however, the modification does not disturb the authority and discretion of the states to allocate costs among the services provided within their jurisdictions. Thus, any contribution the states deem appropriate to help defray the common costs of providing exchange and interexchange services may be recovered by the BOC's through intrastate access charge tariffs that differ from the access tariffs for interstate services.

b. *Information Services.* Many of the comments that discussed the prohibition against the BOC's offering of information services expressed the concern that demand for new and innovative services and technologies would not be met without BOC participation. The United States Independent Telephone Association (USITA), for example, questioned whether the restriction would result in a situation in which "enhanced services may be enjoyed by the Independents' customers but not those served by the BOC."[46] USITA and others also expressed concern that, by limiting the activities in which the BOCs may participate, their incentive to introduce new, less costly technologies into the local exchange would be impaired. The California Public Utilities Commission suggested that the restriction on the offering of information services by the BOCs would be inefficient to the extent that such services may be provided using facilities in common with those used to provide exchange telecommunications.

As discussed earlier, it is not the intention of the Department to foreclose the offering of services that can only be economically provided by the BOCs. The Department does not believe, however, that the ban on BOC provision of information services will lead to such a result.

USITA's concern that customers of BOCs would be deprived of services enjoyed by customers of independent telephone companies would only be realized if the cost characteristics of providing such services were such that they could only be economically provided in conjunction with the provision of local exchange service. There are currently, however, a number of companies that provide a variety of information services that are viable apart from the provision of exchange telecommunications. The firms that provide information services must, however, rely on access to local exchange facilities under the ownership and control of the BOCs. As commenters such as the American Newspaper Publishers Association and the Association of Telephone Answering Exchanges point out, if the BOCs were permitted to offer information services they would have the power and the incentive to deter the development of competitive markets for these services. The Department, therefore, continues to believe that the BOCs must be precluded from engaging in such activities to ensure the development of competitive markets for information services.

With respect to the incentives of the BOCs to introduce new technologies into the local exchange, the Department believes that the modification will not have the effect of dampening incentives for technological innovation, but rather will enhance such incentives. In combination, the divestiture required by the modification and its information access provisions will enhance competition in the markets for information services. As such competition evolves, new demands will arise for new and innovative methods of local distribution. The modification does not place any limitations on the BOCs' ability to respond to such demands. Indeed, it should be expected that the BOCs will respond energetically to such demands as a means of generating revenue. In addition, because the modification does not place any restrictions on the ability of information services providers to construct their own distribution facilities, the BOCs will have an additional incentive to introduce new technologies in the local exchange simply to retain business.

The California Public Utilities Commission argued that the modification might, under some circumstances, prohibit the BOCs from making the maximum efficient use of facilities used to provide local exchange services. It is possible to conceive, for example, of using a portion of the capacity of electronic switches to perform functions integral to the provision of information services. It is

[46] Comments of the United States Independent Telephone Association at 12.

this very possibility, however, which presents the greatest anticompetitive potential, since the BOCs would have tremendous discretion in the allocation of the common costs of switching capacity between the provision of competitive information services and regulated exchange telecommunications.

Moreover, permitting the BOCs to offer information services that make use of equipment that is used in common with the provision of regulated exchange telecommunications would simply create an incentive for the BOCs artificially to design information services to make use of such capacity, whether or not such common use would be dictated by the economic characteristics of the service. Because of the complex technical and cost characteristics of these kinds of decisions, the discretion of the BOCs in this regard would be effectively unreviewable by regulatory agencies. The modification would not prohibit the BOCs, however, from leasing any excess capacity in their switches to information services providers, so long as such arrangements do not result in an economic integration with those providers or have the effect of violating the modification's non-discrimination requirements. Because of the anticompetitive potential inherent in such arrangements, the Department will subject any such activity to the closest scrutiny. The Department believes, therefore, that the modification's restriction on the provision of information services will not adversely affect the efficient utilization of BOC facilities.

c. *Customer Premises Equipment.* A large number of comments, particularly those of state governments and state public utility commissions, raised issues regarding the advisability of restricting the provision of customer premises equipment by the BOCs. A number of comments suggested that there is no competitive rationale for restricting the BOCs from either the manufacture or sale of customer premises equipment. Most of those commenting on this issue argued that the BOCs should at least be permitted to market customer premises equipment, because the FCC's registration program largely eliminates any possibility of discriminatory treatment in the interconnection of CPE.[46] Others argued that the FCC's *Second Computer Inquiry* decision, which requires the new CPE be marketed through a separate subsidiary, would be sufficient to guard against the danger of cross-subsidization of CPE with local exchange revenues.

The Department recognizes that FCC actions regarding the interconnection of CPE to the network over the past decade have reduced or eliminated a number of significant competitive problems in this area. For example, the FCC registration program would forbid the BOCs from denying interconnection to equipment that meets specified technical requirements.

Deregulation of CPE and a requirement, such as the FCC's, that AT&T provide CPE through a separate subsidiary, would also reduce the potential for cross-subsidization.

In spite of these actions, however, the Department continues to believe that the anticompetitive potential inherent in the provision of CPE by the BOCs outweighs any benefits that might be gained from such provision. Despite an inability to ban interconnection of CPE to their lines, the BOCs, if permitted to engage in its provision, nontheless would retain significant opportunities to disadvantage interconnection of CPE by their competitors. While this potential is probably limited with respect to the most simple interconnection of equipment such as customer handsets, it is significantly greater with respect to the connection of more sophisticated equipment, such as customer premises switching equipment, which requires more detailed planning and ongoing provider involvement.

With respect to interconnection of such sophisticated equipment, the BOCs would have substantial opportunities to discriminate between their own offerings and those of their competitors as to such matters as the type and quality of interconnection facilities, timing of cutovers, and testing and maintenance. Neither a separate subsidiary requirement nor the FCC's registration program would be sufficient protection against the potential for such discrimination. Moreover, because of the highly complex nature of such interconnection, regulatory monitoring of BOC discretion in this area would likely be ineffective.

While, as discussed above, the same degree of anticompetitive potential may not exist with respect to less sophisticated types of interconnection, it would be difficult to draw a viable distinction between those types of CPE that pose an unacceptable degree of competitive danger from those that do not. Even if such a distinction could be drawn, moreover, it is not apparent that either the BOCs or their customers would benefit significantly from the ability to provide a limited class of such equipment.

Some of the comments argued that the BOCs should be permitted to offer CPE in rural areas, on the ground that other vendors may not have the incentive to provide CPE in such areas. Customer premises equipment, however, is already provided by hundreds of companies. Basic telephone handsets are marketed through thousands of retail outlets, including general purpose outlets that provide other small home appliances. Indeed, such equipment may be ordred through mail order catalogues. It thus does not appear to be a realistic possibility that foreclosure of the BOCs from this market will deprive rural customers of access to basic customer premises equipment.

Other comments argued that the BOCs should be permitted to market specialized equipment, such as CPE for deaf or otherwise handicapped persons. Again, the premise of the argument appears to be that there would be an insufficient market after divestiture to interest other vendors in the provision of such equipment. The Department is not sufficiently familiar with the market for such equipment to know whether it would likely be provided under the same terms and conditions in the absence of BOC supply. It may be, for example, that such products are currently provided by the BOCs below cost and financed out of revenues derived from the provision of other products and services. The Department will undertake to investigate this issue. If it is the case that below-cost offerings of such equipment are financed with general ratepayer revenues, and if no other reasonable alternatives are available, the Department will move the Court for an exception to the modification's restriction on the offering of such specialized customer premise equipment.

A number of comments, particularly by state commissioners and some CPE manufacturers, urged that the BOCs be permitted to retain embedded customer premises equipment until fully depreciated to minimize customer disruption.[46] It was also argued that requiring transfer of embedded CPE to AT&T would conflict with the FCC's *Second Computer Inquiry* decision under which embedded CPE would remain regulated by tariff.

It should be emphasized that the modification cannot (as some comments

[46] Some made the suggestion that BOCs be permitted to market customer premises equipment, but that manufacture of such equipment be prohibited for some period of time.

[46] Some comments argued that the BOCs should retain embedded CPE to prevent AT&T from continuing its migration strategy. This issue is addressed in Section V (E).

appear to assume) cause the deregulation of CPE.[47] Thus, after divestiture, while embedded CPE will be the responsibility of AT&T rather than of the BOCs, it will continue to be subject to the respective jurisdictions of the states and the FCC. Moreover, the Department does not believe that transfer of embedded CPE to AT&T will cause significant customer inconvenience. Responsibility for maintenance of existing CPE will merely be transferred from the BOCs to AT&T. Indeed, AT&T will have every incentive to ensure a smooth transition to avoid losing customers.

Under the FCC's *Second Computer Inquiry* decision, the BOCs would have the ability to continue to furnish refurbished CPE and lease CPE out of inventory. Thus, if the BOCs were permitted to retain embedded CPE, they would have an incentive to discriminate against the CPE offerings of their competitors. The Department believes that, balancing these considerations, customers will be better served by transfer of all CPE assets from the BOCs to AT&T.

Some comments argued that AT&T (or the BOCs if permitted to retain embedded CPE) should be required to offer customers the opportunity to purchase embedded CPE at book value, or at a regulatorily determined price. The Department understands that some state commissions, including California, are considering giving customers the option of purchasing embedded CPE as a means of deregulation. The Department believes this is a matter of regulatory prerogative. The modification would neither prohibit nor require such action.

d. *Yellow Pages.* A large number of comments addressed the satus of directory advertising—"Yellow Pages." Almost without exception, these comments objected to the modification's restriction on the ability of the BOCs to engage in the provision of directory advertising. Many comments argued that the restriction would deprive the BOCs of revenue currently used to help defray the costs of providing other services. Others argued that all aspects of Yellow Pages directory advertising are integral to BOC operations and should be considered a part of exchange telecommunications.

In its Competitive Impact Statement, the Department stated that the BOCs would retain the rights inherent in their files of telephone subscribers, including machine-readable listings and copyright interests in printed alphabetical directories. The BOCs, therefore, would have the right effectively to auction off the Yellow Pages "franchise" to the highest bidder. As a consequence, the Department stated, the BOCs would have the ability to retain all of the above-competitive profits that are presently derived from provision of the Yellow Pages. Many of the comments questioned whether this was so, expressing doubt, inparticular, that the machine readable listings could account for all of the above-competitive profits currently associated with Yellow Pages.[48]

The Department's subsequent analysis of the issue suggests that there may indeed be reason to doubt whether franchising could recover all present above-competitive Yellow Pages revenues. It continues to appear, however, that the BOCs would be able to extract, by means of franchising, a significant fraction of their present Yellow Pages net revenues, although it is not possible to know just how high the fraction might be, or, indeed, to determine just what the net revenues now are. Moreover, it continues to appear that the provision of directory advertising is, or can be, competitive. The provision of such services by the BOCs, however, will give them the incentive to disadvantage others in the provision of directory advertising, both in its current printed format, and, more importantly, in electronic form. Accordingly, despite the indeterminate revenue effects, the Department continues to believe that the rationale for excluding the BOCs from the provision of Yellow Pages is, inprinciple, correct.

D. By-pass of BOC Facilities by AT&T

A number of commenting parties noted that the modification does not place any restrictions on AT&T's ability to construct its own local distribution facilities. Among those commenting on this issue were several state commissions, NARUC, and a number of carriers which compete with AT&T in the provision of intercity services. These comments generally expressed concern that by-pass of local exchange facilities by AT&T would siphon off BOC revenues and necessarily result in increases in either local exchange rates, charges for exchange access, or both. Several of those commenting urged that AT&T be prohibited from constructing such facilities indefinitely, or at least for a period of time sufficient for the BOCs to establish their financial viability.

The Deaprtment recognizes that a necessary effect of such by-pass by AT&T, as well as others, would be to divert demand for local distribution from the BOCs to other firms, with consequent pressure on BOC revenues. The likelihood of such by-pass, as recognized by some commenters, is directly related to the level of charges for access to the BOC's local distribution facilities. As discussed above, the level of such charges is a matter within the purview of state and federal regulatory bodies. The extent to which such by-pass becomes economically attractive to AT&T and others, therefore, will largely be determined by regulatory policy regarding the appropriate level of access charges.

As some commenting parties noted, a number of firms, including intercity competitors of AT&T, have applied for authority to construct alternate local distribution systems, such as digital termination service. Precluding AT&T, therefore, from constructing its own facilities would place a burden on AT&T not shared by its competitors.

The Department believes that a ban on the provision by AT&T of local distribution facilities would needlessly restrict entry into the market for lcal distribution services and unncessarily prolong the status of the BOCs as monopoly bottlenecks and, therefore, also the need for restrictions on the businesses in which the BOCs may engage.[49]

III. Issues Relating to the Definition of Exchange Areas and Effects on Independent Telephone Companies

A. The Meaning of "Exchange Area"

A number of comments raised issues which indicate some confusion regarding the meaning of the terms "exchange" and "exchange area" as used in the proposed modification. Some of these comments appeared incorrectly to equate the term "exchange" as used in the modification with the same term's traditional usage by the FCC, state commissions and telephone companies, with resulting confusion as to the modification's intended consequences. The Rural Telephone Coalition suggested, in order to eliminate any misunderstanding, that the modification

[47] See discussion in Section V (E), with respect to possible need to modify regulatory statutes in certain states.

[48] The Department notes in this connection that AT&T has publicly stated its intention to guarantee the BOCs' revenues from the provison of directory advertising for four years.

[49] In addition, it should be noted that the modification does not affect the jurisdiction of the state or of the FCC to regulate the construction of local distribution facilities. Thus, whether or not AT&T will actually be permitted to construct such facilities is a matter committed to regulatory authority.

be amended to use a different term to express the exchange area concept, such as the acronym "LATA" (Local Access and Transport Area) developed by AT&T.

The Department of Justice does not believe that it is necessary to amend the modification for a proper understanding of the exchange area concept. The definition of exchange area is unambiguously stated, and, in addition, is an integral component of other concepts in the modification, such as "interexchange telecommunications" and "exchange access."

The concept of an exchange area in the modification serves two purposes. First, it designates a geographic area that defines the limits of the serving responsibilities of the BOCs and represents the corresponding dividing line for the division of assets between AT&T and the BOCs. Second, it defines the boundaries of the exchange access obligations placed on the BOCs. The exchange area concept does not, nor is it intended to, diminish a state's regulatory authority to establish rate structures such as those which currently define local calling areas or extended area service plans. For example, even if an exchange area boundary divided a local calling area or extended area service plan region, a state commission could require that access charge tariffs for affected traffic be structured in a manner to maintain the existing rates for such traffic.

B. Criteria for Determining Exchange Areas

The Ad Hoc Telecommunications Users Committee asserted that the proposed modifications should contain precise standards for creating exchange areas, standards which would directly relate the establishment of exchange boundaries to competitive conditions. According to the Ad Hoc Committee, the modification is based upon the premise that interexchange service is potentially competitive. The committee, therefore, argued that the Department should be guided by the likelihood of competitive entry in establishing exchange boundaries. The Ad Hoc Committee suggested that standard metropolitan statistical areas (SMSAs) and state boundaries represent political divisions that often bear no relationships to the resources used to provide telecommunications services. It argued, in addition, that Class 4 switching offices do not represent an appropriate delineation of exchange boundaries because Class 4 and 5 offices frequently share the same switching machine, and in many high traffic metropolitan areas interexchange toll service may be furnished on direct routes between Class 5 offices. The Committee, therefore, recommended that economically integrated metropolitan areas be treated as single exchange areas without regard to state boundaries, Class 4 offices, or SMSAs.

Other issues relating to the SMSA criterion were raised by commenting parties such as the California Public Utilities Commission which suggested that the limitation on exchange areas to one SMSA should be waived for adjacent, relatively low population SMSAs and that the BOCs should be permitted to provide service in areas consistent with current local calling areas even if such areas cross state boundaries or SMSAs. The Haviland Telephone Company in joint comments with six other independent telephone companies in Kansas, urged that the exchange area definition be modified to remove the limitation of one SMSA per exchange area, to preclude AT&T from taking the profitable intrastate interexchange routes from the BOCs and to preserve the economic viability of the BOCs.

The Department of Justice continues to believe that the criteria specified in the modification for the establishment of exchange areas constitute a workable, comprehensive framework for defining exchange areas consistent with the modification's goals. The primary objective of the exchange area concept is to separate competitive, or potentially competitive intercity services, from the bottleneck local distribution function. In defining an appropriate dividing line between these functions, the modification takes a somewhat broader view of the local distribution function than currently established local calling areas for flat rate or message unit telephone service. As a result of the significant economies available in the concentration of traffic before it enters the toll network, the modification treats the local distribution function as continuing to the first point (or points) of concentration of such traffic. For purposes of the division of assets between AT&T and the BOCs, this first point of concentration is regarded generally as the AT&T Class 4 office.

The modification's definition of exchange area also takes the existence of contiguous areas of common social and economic interest into consideration. Thus in its review of the plan of reorganization, the Department will seek to ensure that to the maximum extent possible, such areas are included within a single exchange area. In reviewing the plan's formulation of exchange areas, the Department will also take into consideration the current configuration of facilities. Thus, for example, traffic arrangements which involve direct trunking between Class 5 end offices may suggest that these end offices should be within a single exchange areas. On the other hand, there may be direct trunking arrangements between Class 5 end offices involving two major metropolitan areas between which intercity competition exists or is highly likely. In these circumstances, exchange areas should be arranged so that the metropolitan areas are located in separate exchange areas. Finally, the modification intends, to the maximum extent possible, to leave intact local calling areas and other regulatory boundaries.

In separating intercity services from the local distribution function, in most cases the appropriate geographic delineation is the standard metropolitan statistical area (or consolidated statistical area for densely populated states). Other considerations, however may dictate exceptions to the general rule. Thus, for example, social or economic considerations in a particular situation might indicate that an exchange area should include two or more SMSAs or cross a state boundary. In such circumstances, the Department intends to apply to the Court for exceptions to the modifications to the modification's general standards. In addition, the Department would recommend to the Court that exceptions be permitted in cases involving two adjacent, relatively small population SMSAs, and in cases where local calling areas presently cross state lines or where common facilities presently serve parts of different states. In cases where two SMSAs are combined into a single exchange area, however, the Department of Justice may condition its recommendation to the Court on an agreement by the BOCs that equal access will be provided to other carriers for service between the two SMSAs (*i.e.*, as if the two SMSAs were in separate exchange areas). As discussed above, even where exchange area boundaries may be drawn in a manner inconsistent with current local calling areas, the modification leaves undisturbed the jurisdiction of the states to prescribe rate structures that preserve existing pricing patterns. Moreover, where local calling areas cross an appropriately drawn exchange area boundary, the Department would not necessarily object to calls within that local calling area being treated as if they were intraexchange traffic; *i.e.*, exchange area

boundaries may overlap slightly in appropriate circumstances.

C. Implications of Size of Exchange Areas

Some of the comments raised issues concerning the relationship between the size of the exchange areas established under the modification and the resulting effect on existing or potential competition. Comments submitted by Southern Pacific Communications Company ("SPCC"), for example, state that the possibility for the creation of large exchange areas creates ambiguities as to the anticipated role of interexchange carriers in providing service between points within the same exchange area, since the BOCs would not be required to provide access to other carriers for intraexchange service. SPCC asserted that this represents a reassignment of responsibility for providing what is today interexchange service, and that carriers like SPCC might be excluded from a portion of the current interexchange market. SPCC further requested that the modification be amended by requiring the BOCs to provide access to other carriers for both intraexchange and interexchange services. Similar concerns were expressed in the comments filed by MCI.

The Washington County Coalition for Better Phone Service also expressed concern that exchange areas might cover too large a territory. The Coalition stated that New England Telephone has indicated its intention to establish only one exchange area in Rhode Island, to cover the entire state. It was argued that this will eliminate the prospect for intercity competition within Rhode Island, and thus deprive Rhode Island of the lower rates and high quality service resulting from competition.

On the other hand, some comments expressed concern that exchange areas might be too small. The New Jersey Board of Public Utilities urged that exchange areas be drawn in a manner consistent with common economic, social and political interests, and that they be large enough to retain a significant portion of existing intrastate toll and message unit revenues, to alleviate upward pressure on basic monthly service rates.[50] The Western Union Telegraph Company was concerned that AT&T might use its remaining period of control over the BOCs to reduce the size of exhange areas, increase their number, and thus increase the burden on other carriers attempting to establish nationwide systems to compete with AT&T.

The Department of justice believes that the modification as currently written takes into account the various concerns raised in the comments regarding the size of exchange areas. With respect to the concerns that exchange areas may be drawn too large, the modification's basic limitation that an exchange area not contain more than one SMSA generally assures that interexchange carriers will have access to the entire intercity services market and, contrary to SPCC's assertions, will not be prevented from serving any part of what is today considered interexchange service. Nevertheless, in any particular case where a single exchange area includes two metropolitan areas between which the appropriate regulatory commission permits competition, the regulatory commission is free to make the modification's equal access provisions applicable to intraexchange service, or even to prevent the BOCs from serving certain routes. Similarly, in cases where two SMSAs are included within a single exchange area, as noted earlier, the Department may condition its recommendation that the Court approve an exception on an agreement by the BOCs to provide intraexchange access to traffic between the two SMSAs. The Department believes that these criteria will assure the development of markets and, in addition, assure that competitive interexchange competitive interexchange service will be available even to sparsely populated areas, since these areas will be within the exchange access obligations of the BOCs.

With regard to the concerns that exchange areas may be drawn too small, the Department of Justice believes that the modification largely eliminates this possibility. As discussed in the Competitive Impact Statement, as a general proposition an exchange area should not be smaller than the geographic region currently served by an existing AT&T Class 4 office. This permits the local distribution function to continue to the first point of concentration of interexchange traffic, and at least encompasses the area served by an existing local exchange area.

D. Subzones and Access Charges

The Southern Pacific Communications Company expressed some confusion regarding the term "subzone" in the modification. SPCC argued that interexchange carriers with a terminal in an exchange area should be permitted to serve any and all subzones within that exchange area. SPCC further argued that access charges should be related to subzones and that if a carrier locates a terminal within a subzone to serve only that subzone, access charges should reflect only the cost of that specific access.

The use of the term "subzone" in the modification relates solely to the cost of transporting traffic from all the end offices in an exchange area to the particular point or points designated by the interexchange carrier for connection of its facilities with those of the BOC, and does not apply to other services provided as part of exchange access. Subzones therefore relate only to a portion of the exchange access charges. As described in the Competitive Impact Statement, the purpose of the subzone concept is to ensure that until September 1, 1991, charges for transporting the traffic from end offices are equal for all interexchange carriers whose facilities are located within the same subzone, per unit of traffic delivered or received.

The subzone concept does not operate at all to limit the portions of an exchange area that an interexchange carrier is permitted to serve. Under the modification, the BOCs are required to provide exchange access which permits an interexchange carrier to serve every end office throughout the exchange area, from a single point (or a number of points) designated by the interexchange carrier. Beyond this requirement, however, nothing in the modification prevents a BOC from, in addition, offering exchange access to a limited group of end offices within an exchange area if an interexchange carrier only requests service to and from such limited group of end offices.

E. Effects of Exchange Areas on Independent Telephone Companies

A number of comments sought clarification of the effect of the exchange area concept on the independent telephone companies, including the intended role and degree of participation of the independents in the determination and operation of exchange areas. Some independent telephone companies stated that they have been asked by AT&T and the BOCs to decide whether or not they wish to be included in a particular exchange area established under the modification which surrounds, or may be drawn to encompass, their serving territory. The independents view this as an important decision which could have a significant impact on their financial viability and the economic well-being of their customers. They stated that they have been unable to reach an informed

[50] The New Jersey Board agreed, however, with the criteria relating to SMSAs and consolidated statistical areas.

decision, however, because they have not been given sufficient information by AT&T and the BOCs concerning the effects of alternative decisions.

A number of the independent telephone companies submitting comments raised specific issues regarding the effects of the exchange area concept on current arrangements, services and facilities such as: existing independent-BOC traffic agreements; exchange service revenues and expenses; message toll telephone service substitutes (*e.g.*, extended area service and optional toll calling plans); continuation of join and through rates and services; division of revenues for joint and through services (both interexchange and intraexchange); and joint tariffs, including the consequences to an independent within an exchange area of not agreeing to a joint tariff with the BOC. The Rural Telephone Coalition also sought clarification of whether higher cost independent service areas within an exchange area will be assigned separate access charges as a part of a subzone.

The modification neither intends nor requires that existing functional and operational relationships between the BOCs and the independents be disturbed. The need for AT&T and the BOCs to divide the ownership of various assets between them does not require an immediate decision by independents whether to be included in an exchange area established under the modification. With respect to those independents for whom toll access is provided through an existing AT&T Class 4 office, the Bell System assets will be divided as if the independent's Class 5 offices were BOC Class 5 offices. A decision by an independent telephone company not to be included within an exchange area will not by itself require treating the local exchange traffic between an independent and an adjacent BOC as interexchange traffic. Nor would such a decision affect the ownership of any independent telephone company facilities. This approach is consistent with the views of the Rural Telephone Coalition.

If an independent telephone company chooses to join in the access charge tariffs filed by the BOC, such tariffs would cover the costs associated with providing access to all of the independent company's serving territory. The modification would not disturb the ability of the BOC and independent telephone company to work out appropriate financial arrangements, subject to appropriate regulatory oversight. In the event that an independent telephone company decides not to join in an access charge tariff with the BOC, separate arrangements will have to be worked out between that company and interexchange carriers for the delivery of interexchange traffic. Such a decision need not affect the character of the traffic between an independent and an adjacent BOC.

While the division of assets between AT&T and the BOCs does not depend on an independent telephone company's decision to be included within an exchange area, many independents will have to reach a decision on this matter for purposes of making financial arrangements with AT&T and the BOCs. The modification does not affect the ability of independent telephone companies to make these decisions based upon an assessment of their own operations and needs.

F. Ability of Independent Telephone Companies to Engage in Joint Activities with BOCs

A number of comments raised questions regarding the effects of the modification on the ability of independent telephone companies to engage in certain activities with the BOCs. Central Telephone & Utilities Corporation, for example, urged that independent telephone companies be permitted to acquire BOC assets or territories. Similarly, USITA suggested that minor transfer of BOC territory or facilities to independent telephone companies should be permitted.

The modification, under Section III, is binding upon the "BOCs, their affiliates, successors and assigns." As a result, any company, including an independent telephone company, purchasing a BOC or its franchised territory or facilities, would be bound by the restrictions of the modification and thus would not be permitted to engage in activities that the BOC could not perform. This restriction is necessary in order to prevent circumvention of the modification by a mere transfer of ownership. Of course, if a minor transfer of territory or facilities is involved and there is good cause for relieving the purchaser of the modification's restrictions and obligations, the purchaser may apply to the Court for appropriate relief.

Other comments questioned whether the modification would forbid joint ownership of facilities by BOC's and independents as well as with AT&T. The Virginia State Corporation Commission, for example, urged that BOCs should not be restricted from entering into joint ownership or sharing arrangements with independent telephone companies or with interexchange carriers.

Paragraph II(A)(2) of the proposed modification precludes the joint ownership of facilities by the BOCs and AT&T. However, neither that paragraph nor any other specifically addresses whether joint ownership by BOCs and independent companies is permitted. The answer to the question is therefore dependent upon whether such joint ownership would result in an arrangement causing the BOC to violate other requirements of the modification.

Under paragraph II(C)(1) of the proposed modification, a BOC is precluded from providing interexchange telecommunications or information services either directly or through an affiliated enterprise. Consequently, the joint ownership by a BOC and an independent carrier of facilities used in whole or in part to provide interexchange services would be prohibited under the modification. In contrast, the modification would not preclude joint ownership with an independent telephone company of purely exchange facilities.

The lease or other sharing of facilities by a BOC and an independent is also not specifically addressed in the proposed modification. Again, whether or not such sharing would be permitted depends upon whether it would result in a conflict with any of the modification's restrictions on BOC activities. If the shared facilities are to be used in whole or in part for exchange or exchange access functions, and if the participation of the BOC in sharing the facilities is limited to exchange and exchange access operations, the sharing would not violate the modification.[81] The modification would not permit, however, a sharing of facilities that results in an economic integration of the BOCs and providers of interexchange or information services or which would result in a violation of the modification's non-discrimination provisions.[82]

G. Participation in the Process of Setting Exchange Boundaries

Some comments addressed the question of appropriate representation in the process of setting exchange boundaries, and what form participation

[81] Some comments expressed concern that independent telephone companies might be precluded, under the modification, from participating in joint ownership of toll switches which result from consolidation of independent toll switches. There is nothing in the modification which would prohibit the independent telephone companies from jointly owning switches with AT&T, which will very likely own the toll offices resulting from consolidation of independent toll switches.

[82] As set out in Section IV, the potential for such violations in BOC sharing of facilities with an interexchange carrier or information service provider requires close scrutiny of such arrangements.

by interested parties should take. The Mid-Continent Telephone Corporation, for example, stated that the exchange area concept appears to be a workable method for assuring quality service to customers, provided that the independent telephone companies are permitted to participate in the establishment of exchange boundaries. Similarly, the Rural Telephone Coalition suggested that independent telephone companies be permitted to submit further comments when the reorganization plan is made public. Other comments urged that procedures be established for the participation of state and federal regulatory agencies in the process.

The Department of Justice believes that the FCC, state regulatory commissions and the independent telephone companies should have the ability to present their views concerning the exchange areas to be established under the modification. The Department fully expects that in establishing exchange areas under the modification, the BOCs and AT&T will work with the independent telephone companies and the regulatory commissions to the maximum feasible extent. As discussed earlier, the Department itself intends to solicit the views of the FCC and state regulatory commissions on these matters, and to give great weight to these views. In addition, the Department intends to solicit and accord similar weight to the views of the independent telephone companies. As set out in Section I, the Department will provide a period of sixty days following the submission of the reorganization plan for additional comments. Exchange area boundaries would, of course, be an important aspect of the plan. Moreover, the Department expects that exchange area boundaries will be available prior to the submission of the plan. if this is the case, the Department will solicit views of interested parties on these boundaries separately.

IV. Issues Relating to the Provision of Equal Exchange Access

A. The Division of Facilities Between AT&T and the BOCs

Many comments, submitted principally by intercity competitors of AT&T and state regulatory commissions, raised issues regarding the criteria to be used in allocating facilities between AT&T and the BOCs. Several were concerned that the BOCs would not receive the facilities necessary for them to provide exchange services and equal exchange access.

The types of facilities addressed by these comments fall into three categories: toll centers performing the Class 4 function; facilities used for providing digital and other advanced services; and transmission facilities used in providing exhange services and exchange access for interexchange private line services.

As discussed below in more detail, the modification specifically requires that the BOCs own facilities or control functions needed to provide exchange telecommunications service and equal exchange access to all interexchange carriers. It also recognizes and takes account of sharing and co-location of AT&T and BOC facilities permitted by the modification by requiring that the BOCs file exchange access tariffs that provide for delivery of the interexchange traffic of all carriers (including AT&T) from end offices to the einterexchange carriers' points of interconnection at equal charges per unit of traffic. This "uniform delivered price" provision must remain part of the BOCs' exchange access tariffs at least until September 1, 1991, five years after they are required to provide equal access to all interexchange carriers.

Class 4 Toll Centers: Several comments, particularly those of state regulators and interexchange carriers, criticized the modification for not requiring that all Class 4 switches be owned by the BOCs. These comments argued that, without ownership of Class 4 switches, it would be impossible for the BOCs to provide either exchange telecommunications or equal exchange access.

The concerns regarding the BOCs' ability to provide exchange service centered on the role of the Class 4 offices in providing tendem switching of calls originating and terminating within an exchange area, in providing operator services for BOC customers, and in recording information necessary for the BOCs to prepare bills for their services.

Several comments stated that the only appropriate way for the BOCs to provide equal exchange access was to route all carriers' interexchange calls through Class 4 switches that are connected to each of the end offices by toll quality connecting trunks. According to these comments, if the BOCs were precluded from providing exchange access through Class 4 switches they would be required to construct expensive, duplicative trunk groups from each competing carrier's terminal to each of the Class 5 offices in the exchange area. To the extent that such trunk groups were smaller than those serving AT&T, they would be less efficient and more costly for the BOCs to provide. The comments argued such arrangments would be burdensome for the BOCs, and, after 1991, when the equal charges for delivered traffic requirement expires, competing interexchange carriers would be exposed to higher access charges than AT&T.[53]

Some comments argued that, in addition to potential cost penalties, it would be physically impossible for the BOCs to provide equal quality exchange access to carriers competing with AT&T without the ability to route the competitors' traffic through the Class 4 switch. Satellite Business Systems ("SBS"), for example, stated that the Class 4 office is the only gateway through which interexchange carriers could gain access to the modern digital trunks in the local network and that the only alternative facilities available to provide exchange access for competing carriers would be two-wire analog facilities.

The SBS and Sourthern Pacific Communications Company ("SPCC") comments emphasized that a large proportion of AT&T's Class 4 switching capacity is, or soon will be, provided by the digital Number 4 ESS switches that will offer high quality switching of traffic from digital carrier systems without the need for analog to digital conversion, thereby making possible end to end digital services. According to these comments, if the BOCs are not able to route competing carriers' traffic through these switches, it will be impossible to provide exchange access that would permit competitors to offer services equal to AT&T's intercity digital services.

The Department believes that these various criticisms in large part are based upon a misperception of the basic premise of the modification's equal access requirement as it relates to the delivery of traffic between an end office and the facilities of an interexchange carrier. Simply put, the fundamental judgment that underlies the modification is that the BOCs, once separate from AT&T, will be in a better position than the Department or a court to establish the most efficient configuration of switching and transmission facilities in a given exchange area to provide exchange access equal in type and quality to that provided AT&T. Depending on the nature of the local

[53] Comments submitted by several of AT&T's interexchange competitors described the current ENFIA interconnection arrangments offered to competing carriers by the BOCs, arrangements that do not include routing through the Class 4 toll center. These comments explained the deficiences in those arrangements, citing testimony given in *United States* v. *AT&T*.

network, there may be several ways of configuring connecting arrangements to provide all carriers equal access. For example, the relative efficiency of direct trunking from end offices to an interexchange carrier and trucking through an intermediate tandem switch may vary from situation to situation. If the modification required a particular routing system in all circumstances it migth impose inefficiencies on the BOCs. Thus, the modification's only requirement is that acutual equality between competing carriers be achieved.

The modification recognizes that, because the local distribution networks were not designed for a multiple supplier environment, the use of existing facilities to achieve equal access in the delivery of traffic to and from end offices may encounter problems of technical and economic feasibility. Thus, additional or newly-configured facilities necessarily may be required to fulfill the BOCs' equal access responsibilities. The modification takes acccount of these factors by requiring that, at least until September 1, 1991, the charges for receipt and delivery of traffic to and from end offices be uniform per unit of traffic carried for all carriers. Therefore, even if different transmission and switching facilities are used in serving other carriers than are employed in serving AT&T, there will be no cost disadvantage to such carriers. This uniform delivered pricing requirement is discussed in more detail below.

Before setting out the principles that will guide the Department's review of the ownership and sharing of switching systems under the reorganization plan, it may be useful to describe briefly the functions currently performed by telephone switching systems and how such functions will change after the reorganization.

Presently, the switching functions in the network include the end office or Class 5 function, the local tandem function, the toll connecting Class 4 function, and the higher level interexchange switching functions (Class 1, 2, or 3 functions) that connect intertoll trunks to intertoll trunks. In fact, all but one of the switching systems in service performing the Class 1, 2 or 3 functions also perform the Class 4 function. The Class 5, or end office, connects the network with subscriber equipment such as a telephone or PBX. The local tandem switching function connects a number of end office switches and is used to complete calls within the local calling area without the need to construct separate trunks between all of the end offices. The Class 4 switching function has two primary purposes: To perform routing of originating and terminating toll traffic, and to provide a point at which AT&T's long distance calls to and from end offices in the area may be concentrated.

In order to understand how the modification resolves the Class 4 ownership issue, it is important to recognize that, following the reorganization, the present classification scheme will not accurately describe the functions performed by the various switching systems. This results from two factors. The first is that, since the modification's exchange areas will be larger than current exchange areas, a portion of intrastate toll service will be provided by the BOCs. The second factor is that the BOCs' responsibility is to provide *equal* exchange access to all interexchange carriers.

The Department expects that switching systems providing only end office or local tandem functions will be owned by the BOCs. Switching systems that provide both AT&T interexchange and BOC exchange and exchange access functions will generally be owned by the party with predominant use.[54] The other party will obtain access to the fuctions or capacity it requires under leasing arrangements to be described in the reorganization plan. Since the great majority of switches providing Class 4 functions also provide local tandem or end office functions, the BOCs will own many of these switches under the predominant use test. Indeed, it is likely that the BOCs will own all, or nearly all, switching systems currently providing both the Class 4 and Class 5 functions.

It is also probable that the BOCs will retain control over a significant proportion of the capacity of Class 4 switches used predominantly for interexchange purposes and to be owned by AT&T. In particular, most Number 4 ESS electronic toll switches now perform three distinct functions that will be part of the BOCs' responsibilities: they perform local tandem switching; they perform toll switching for what will be intraexchange toll traffic; and they perform the exchange acces function of switching incoming toll calls to the appropriate end offices. Since Section 1(A)(2) of the proposed modification requires that each BOC retain control over the exchange telecommunications and exchange access functions of shared switches, the BOCs will have the right to use their leased portion of such switches for exchange access purposes, should such additional use be the most appropriate means of providing equal exchange access.[55]

At the present time, it is not clear that use of a switching system performing a Class 4 function and predominately used to route AT&T's interexchange traffice would be the only or best way to provide equal exchange access. For example, it may be that use of a separate toll-quality BOC tandem switch for the provision of exchange access could benefit competition by permitting the BOCs to move their switching of intraexchange traffic out of the AT&T-owned Class 4 switches and inot such facilities.

The Department will require that the reorganization plan identify the resources that will be available to the BOCs after divestiture for providing equal exchange access, the current plans for implementing equal exchange access, and other options that would be available to the BOCs after divestiture for achieving that goal. The views of the newly-appointed senior executives of the regional companies, as well as comments from other interested persons, will assist in assuring the BOCs' ability to fullfil the modification's equal access requirements.[56]

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[54] This was the approach for determining ownership of multifunction facilities that the Department recommended a trial in *United States* v. *AT&T* and which AT&T has agreed to use.

[55] In this regard, it should be noted that the modification prohibits AT&T from interfering with the BOCs' implementation of equal exchange access. Thus, while AT&T is not required to maintain a BOC presence in all existing multi-function facilities that might be used to perform exchange access functions, it must transfer sufficient facilities and make available sufficient resources to permit the BOCs to meet their exchange access obligations. The Department will examine the lease agreements for BOC use of AT&T switches to ensure that the BOCs are not unduly restricted in their ability to obtain additional switching capacity should they need increased capacity to meet their responsibilities. In addition, the exchange access tariffs filed by the BOCs to be effective on the date of divestiture will be examined by the Department to assure that they do not impair the ability of the BOCs to concentrate traffic through a tandem switch if that is necessary to provide equal exchange access service efficiently to all interexchange carriers.

[56] Some of the comments expressed concern that use of the phrase "through the end offices" in the modification was intended to mean that equal access would only be provided to interexchange carriers connecting directly to the Class 5 offices with dedicated trunk groups. These comments misunderstand the meaning of the modification which requires that equal exchange access be provided to all interexchange carriers at those carriers' locations, not at any particular switching point in a BOC's network. The use of the phrase "through the end offices" was only intended to estblish a reference point, the end office, by which compliance with the modification's timing requirements for phased in access could be measured.

Some comments expressed concern that under the modification the BOCs would not retain the operator, testing, and billing facilities necessary to provide exchange and exchange access service. These concerns were largely based on the assumption that such facilities were associated with the Class 4 switching office and that AT&T would own such offices. In fact, such facilities in many cases are not necessarily associated with the Class 4 office. To the extent that the facilities used to provide operator and testing services are multifunction facilities, suitable allocation of such facilities between AT&T and the BOCs can be accomplished within the framework of the modification.

2. *Switching Equipment and Other Facilities Used to Provide Digital and Advanced Services:* American Satellite, SBS, and SPCC commented that the BOCs should own the digital distribution facilities necessary for economical access by interexchange carriers. The digital facilities which appear to be of most concern to competing carriers are those used to provide AT&T's private line Digital Data Service ("DDS"), the proposed Circuit Switched Digital Capability ("CSDC") and Local Area Data Transport ("LADT").

DDS facilities will be divided between AT&T and the BOCs using the same principles which apply to the voice network. Transmission and multiplexing equipment necessary for the BOCs to provide intraexchange service and exchange access will be owned or controlled by the BOCs. Multifunction facilities will be owned by the party having predominant use which will lease the other party capacity in such facilities necessary to provide its services.

As described by AT&T, CSDC will be a step toward an Integrated Digital Service Network. Integrated Digital Services refers to the fact that voice, data, video, and facsimile signals will be transmitted and switched over the same digital facilities on an end to end basis without any intermediate analog to digital conversions. CSDC is a switched high speed service over which a customer may transmit either voice or data. This service will be offered to customers directly from ESS Number 1A switches that switch digital signals without converting them to analog form. At the ESS Number 1A switches, the digital circuits will be multiplexed onto appropriate digital carrier systems. Higher level switching will be performed by Number 4 ESS switching systems. Since the 1A switches will be interfacing directly with the customer (serving an end office function), and since access through this switch is the only means through which interexchange carriers may be provided switched access to the increasing amount of digital transmission facilities in subscriber line plant, competing carriers must be able to access such switching systems. Since these switching systems will generally be assigned to the BOCs in the reorganization plan on the basis of predominant use for intraexchange services, interexchange carriers will have access to such switches. If there is a case where such a switch is currently serving predominantly as an interexchange switch, an alternative means of providing economical access to the local digital network will have to be specified in the reorganization plan.

The proposed LADT discussed by the comments is a low speed data service that will provide packet switched access from homes and businesses to information vendors, alarm services, and other interactive data applications. It will be provided by either dial-up access over a customer's regular access line, or "piggy backed" onto the regular voice channel of a telephone line. Since this service appears to be derived from exchange service, the facilities associated with LADT would be owned by the BOCs.

3. *Transmission Facilities Used to Provide Exchange Service and Exchange Access for Interexchange Carriers' Private Line Services:* The transmission systems currently used to provide telephone company message services will be divided between AT&T and the BOCs under the reorganization plan in accordance with the same principles used for switching systems. Transmission systems which carry message traffic that is predominantly intraexchange will be owned by the BOCs, as will all the transmission systems between switching systems providing the Class 4 and Class 5 functions. Transmission systems that predominantly carry intraexchange traffic will be owned by AT&T. It is probable that application of the predominant use test will assign ownership of most short haul systems to the BOCs and most long haul systems to AT&T. Where necessary, the reorganization plan will provide for leases between AT&T and the BOCs for transmission capacity needed to provide their respective services.

Many comments focused on the need for the BOCs to retain ownership of the distribution facilities used for private line services. Some concern was expressed that AT&T might own the local as well as intraexchange portion of private line circuits, thus allowing it to bypass completely the BOC facilities in connecting its customers to the AT&T network. AT&T ownership of such facilities, it was argued, would deny necessary access to intercity competitors.

Under the modification, the term "exchange access" is not limited to switched services such as MTS/WATS, but includes all distribution facilities used for providing interexchange telecommunications service. Following the reorganization, AT&T will obtain such distribution facilities for private line services pursuant to the BOCs' exchange access tariffs instead of the current division of revenue contracts. The BOCs will retain ownership of transmission facilities that will enable them to continue the facilities offerings now made to competing interexchange carriers provided that both ends of each end link facility provided are within the same exchange area. The BOCs will also retain the transmission facilities used to provide intraexchange private line services.

4. *Co-location and Future Sharing of Facilities:* Many comments stated that, if AT&T were allowed to co-locate and share facilities with the BOCs, competitors of AT&T should be offered the same opportunity. Specific concerns were raised concerning the absence of any requirement that the BOCs allow joint ownership or use of switches or co-location of the equipment of other carriers.

As a matter of practical necessity, the reorganization plan will have to provide for a substantial amount of sharing of transmission, switching and other facilities between AT&T and the BOCs through the use of leasing arrangements. There is simply no alternative, given the extent to which multifunction facilities have been utilized by the Bell System. To prohibit such shared use of existing multifunction facilities would result in the construction of unneeded, duplicative facilities. For example, there are many situations where AT&T and a BOC will both own facilities which are located in the same building, conduit, transmission tower, or right of way. If not permitted to co-locate, the BOCs or AT&T would be required to construct duplicative facilities, increasing costs to ratepayers as a whole. There may also be cases where planned facilities will have to be completed on a co-located basis under the reorganization plan in order to avoid increased costs or disruptions in service.

Any agreements between AT&T and the BOCs for sharing or co-location entered into after January 8, 1982,

however, will receive close scrutiny during the Department's review of the reorganization plan. Additionally, the Department may require that AT&T-owned switches to be installed after the date of divestiture, but presently scheduled to perform BOC related functions, be configured to provide all exchange access functions, requested by a BOC to be provided in that switching systems as a condition precedent to continuation of the project on a shared-used basis.

After divestiture, the modification, by its terms, would not prohibit the BOCs from sharing excess capacity in their facilities with interexchange carriers or information service providers, as long as such capacity is made available on a nondiscriminatory basis. Nevertheless, such sharing arrangements create a significant potential for violation of particular provisions of the modification. First, to the extent that, as a practical matter, such agreements amount to a joint venture with the sharing enterprise, or otherwise give the BOC a stake in its financial success, *e.g.*, payments on a per-unit-of-traffic basis (exclusive of tariffed access charges), the modification's prohibition against the BOCs' reintegration into interexchange or information services markets would be violated. Second, an arrangement which interferes with the ability or incentive of a BOC to provide equal exchange acess or information access would violate the modification's nondiscrimination provisions. Finally, if a BOC were to construct additional or "excess" facilities for the purpose of leasing them to third parties, the BOCs might be engaging in an independent business of leasing facilities apart from providing exchange telecommunications. Consequently, such sharing of BOC-owned facilities requires careful review. Agreements by a BOC to share facilities owned by others might also pose potential problems under the modification. Again, such agreements must not be formulated or operate in a manner that interferes with the ability of the BOC to provide equal access, or tends to create a partnership relationship between a BOC and the other carriers.

B. Issues Relating to the Equal Access Injunctions

A large number of comments raised specific questions regarding the reach and scope of the BOCs' obligation to provide equal exchange access under Section II and Appendix B of the proposed modification. The following discussion addresses these issues.

1. *Applicability of Equal Access Provisions:* Several comments criticized the modification for not specifically requiring the BOCs to provide equal exchange access for users other than interexchange carriers. Most of these comments addressed the interests of private communications systems and competing intraexchange carriers.

a. *Private Systems.* Comments by owners and representatives of private communications systems argued that evidence presented in *United States* v. *AT&T* showed that the BOCs have in the past discriminated against private communications systems and that such conduct should be enjoined.

SBS emphasized that private communications systems should be assured equal access to local distribution facilities so that customers of competing interexchange carriers will be able to obtain access to facilities connecting their own systems with the networks of the interexchange carriers and not have to rely on the interexchange carriers to provide such facilities. The comments addressing this issue in general did not discuss specific access problems. Indeed, comments submitted by the Association of American Railroads stated that "in general, telephone company interconnection relationships with railroad systems has been satisfactory over the years."

The Department does not believe it necessary or appropriate for the modification to address the interconnection of the BOCs with private systems. First, the needs of private customers and common carriers are likely to be different. To that extent, inclusion of provisions relating to private systems would add complexity to the modification and its administration. Second, the FCC is expected to conclude shortly a three-year inquiry into AT&T's private line rate structure in Docket 79–246. Whether distinctions should be make between offerings to private customers and common carriers is an issue in Docket 79–246, and there is no reason to believe that a more appropriate solution could be formulated in the modification than will be reached by the Commission. Finally, the establishment of unbundled exchange access tariffs pursuant to the modification should facilitate the ability of private systems to obtain access to such BOC facilities and services and as the regulatory authorities deem appropriate.

b. *Intraexchange Carriers.* Representatives of the radio common carriers (RCCs) argued that, as competitors of the BOCs, they would be subject to discrimination against them by the BOCs, and thus the modification should provide for equal access for such carriers. These comments noted that the complaint in *United States* v. *AT&T* contained allegations that AT&T has impeded the access of RCCs to telephone company facilities. The RCCs did not raise any specific problems that they were now experiencing in obtaining interconnections with BOC facilities.

As the RCCs correctly noted, the United States did not make any contentions at trial regarding the access of RCCs to BOC facilities. As discussed above, the focus of the government's case was the anticompetitive consequences of the vertical integration of franchised local exchange monopolies with potentially competitive intercity services. The relief requested by the United States was designed to deal with this anticompetitive potential. The interconnection of RCCs as exchange carriers is simply not related to the anticompetitive vertical integration which was at the heart of the government's case and which the modification was designed to end. As discussed above, the modification's silence regarding the role of the BOC's are regulated monopolists engaged in the provision of competitive activities within an exchange is not indicative of the Department's view of such activities. Regulators, of course, may take action with regard to competitive problems arising in this area.

2. *BOC Facilities and Services Covered by the Equal Access Injunctions:* Many comments proposed that the equal access injunctions contained in Appendix B should specify particular elements of exchange access that would be made available by the BOCs. For example, it was suggested that the modification should specifically provide for equal access to private line facilities including: digital and broadband carrier systems; facilities used for the automated ordering, installation, testing and repair of circuits; engineering services; and, conduits and rights of way.

The modification requires the BOCs to file tariffs, to be effective on the date of the reorganization, for the provision of exchange access with unbundled schedules of charges which shall not discriminate against any carrier. Since AT&T must obtain its exchange access under these tariffs, as opposed to the existing division of revenue arrangements, there will be every incentive for the BOCs to file tariffs that will offer a very broad array of facilities and services. The only BOC facilities which AT&T will not have to obtain through the exchange access tariffs will be the multifunction facilities which

AT&T will share with the BOCs pursuant to the leasing arrangements specified in the reorganization plan.

3. *Provision Regarding Equal Charges Per Unit of Traffic Delivered:* Several comments requested that the meaning of Paragraph (B)(3) of Appendix B be clarified. This provision requires that, from the date of divestiture until September 1, 1991, the transmission of interexchange traffic between end offices and the facilities of interexchange carriers within and exchange area or reasonable subzone be at charges that are equal for all interexchange carriers, per unit of traffic delivered or received. This requirement is limited to charges for the transmission of calls above end offices, and does not apply to other services provided as part of exchange access.

Questions were raised concerning the relationship between the cost-based standard for access charges and the "uniform delivered pricing" requirement; how the requirement for uniform transmission charges would apply to private line services; and the basis for requiring such averaging only until September 1, 1991.

Several comments argued that the modification was inconsistent to require that the exchange access tariffs be cost-based and also to require that transmission charges be the same for all customers receiving service. In fact, charging uniform prices to all customers of a service is a very common practice in utility rate design and is accepted by both the FCC and state regulatory agencies. The purpose of this practice is to prevent certain customers from being substantially disadvantaged as a result of their geographic location.

In the case of the BOCs' exchange access tariffs, the purpose of uniform pricing is to compensate for the possibility that traffic to some carriers may be carried over smaller and thus less efficient trunk groups and to limit the advantage that AT&T will have as a result of the co-location of its facilities with those of the BOCs.

The SBS comments expressed concern that equal charges per unit of traffic would not be an appropriate way to equalize exchange access costs for private line services. This section of the modification was only intended to apply, however, to switched services. Nevertheless, when the BOCs' exchange access tariffs for private lines services are submitted, the Department will examine any provisions which appear to advantage AT&T competitively by reason of the co-location of its facilities with those of the BOCs.

Several comments questioned the expiration of the equal charges per unit of traffic requirement in 1991. They proposed instead that the requirement should remain in effect until a determination is made that interexchange carriers are receiving equal exchange access or that the market for interexchange services has become competitive.

The Department believes that a period of 5 years following the time at which the modification's equal access provisions become fully effective is a reasonable period during which the BOCs can make necessary adjustments to their facilities. However, once the BOCs file the equal access tariffs required by the modification and they become effective, any changes in such tariffs will be subject to approval by the FCC for interstate services and the state commissions for intrastate services. If the BOCs should decide, after September 1, 1991, that is would be in their interest to change from a uniform minutes of use basis, they would be free under the modification to file such tariffs for regulatory approval. Conversely, regulators could require continuation of uniform pricing.

4. *BOC Charges for Unequal Exchange Access:* Some comments criticized Paragraph (3) of Appendix B which permits, but does not require, the BOCs to charge lower rates to carriers receiving unequal access during the phase-in period specified in Section A of Appendix B. For example MCI argued that the BOCs should be prohibited from charging rates for exchange access which exceed the charges made for comparable services to AT&T business customers. These carrier fear that AT&T will use the interim period until divestiture is completed to weaken its competitors by filing exchange access rate increases which could make their services noncompetitive. They argued that, since the government's evidence in *United States* v. *AT&T* charged that such conduct by AT&T was anticompetitive, the modification should preclude AT&T from initiating such rate increases.

These comments correctly state that the modification does not purport to deal with AT&T's charges for exchange access during the period before the reorganization. The issues involved in the charges for connections with interexchange carriers are, however, currently before the FCC and involve the interpretation of a contract between AT&T and several of the interexchange carriers (n the ENFIA Agreement). Under these circumstances, it is quite possible that any provision in the modification which enjoined any increase in ENFIA charges could be inconsistent with the FCC's decision in this matter.

Therefore, although the Department would be concerned if rates for exchange access prior to implementation of the modification's equal access provisions did not reflect the reduced value of unequal access, it would not be appropriate to supplant the FCC in resolving these issues.

5. *Phase-in Period For Equal Access:* Some comments, including those of SBS, stated that the modification should require AT&T to begin providing equal access immediately, as opposed to "no later than September 1, 1984." It was suggested that such equal access could be provided much earlier than specified in the modification if AT&T routed traffic designated for competitors through Class 4 switches. Other comments criticized the modification for not setting a specific date by which exchange subscribers would have the ability to dial the same number of digits to access competing interexchange carriers as to place a call with AT&T.

The issues presented by these comments are, first, whether it is practical for the modification to regulate the interconnection practices of the BOCs prior to the divestiture; second, whether the phase in periods under which the divested BOCs will be required to provide equal access are reasonable; and, third, whether the modification should force a revision in the national numbering plan earlier than it may occur under present regulatory authority.

As to the first issue, the Department has concluded that attempting to inject itself and the Court into questions of how AT&T should provide interconnections to interexchange carriers prior to divestiture would not substantially enhance the prospects for improved interconnections, and could delay the schedule for the BOCs' divestiture. Indeed, the very basis for divestiture is that such questions cannot be completely resolved until separation of the BOCs and AT&T. The FCC has been attempting to formulate a regulatory solution to the equal access problem for several years without success.

The second issue is whether the phase-in period for provision of equal access is reasonable in view of the need to make changes in the network to offer such services. The provision of access required by the modification requires the reprogramming of existing stored program controlled switches to offer the enhanced interconnection arrangements, and the replacement of existing electromechanical switches with electronic equipment capable of providing equal access features. The

Department believes that the time period permitted will provide proper incentives for the BOCs to produce equal access expeditiously, but will not result in the wasteful expenditure of resources that might be required to accomplish the task in a much shorter period of time. If the FCC determines that equal exchange access should be provided more quickly, there is nothing in the modification which would preclude it from ordering that this be done.

The Department believes that the question of when the national numbering plan should be changed to permit access code equality is a matter which is more appropriately resolved by regulatory authorities than by the modification.

6. *BOC Routing of Customers' Traffic to Predesignated Interexchange Carriers*: Several comments criticized the provision in the modification requiring the BOCs to tariff a service offering that would route all of an exchange customer's intercity calls to a predesignated intercity carrier. Some stated that this provision would have the effect of continuing AT&T's monopoly position, since customers would not want to have all their calls routed to a competing carrier that might not be able to complete calls to every part of the country.

Since all intercity calls are now automatically routed to AT&T, this service would not apply to AT&T. Rather, the purpose of this provision is to allow exchange customers the right to substitute another interexchange carrier for AT&T as the carrier to be used if no other designation is made by dialing an access code. A variation of this service, which would allow customers to select from more than one predesignated interexchange carrier by dialing one or two digits, is possible, although such a service is not required by the modification. Regulatory authorities have the jurisdiction to determine what, if any, charges should be imposed for these services.

7. *BOC Billing Services:* Numerous comments criticized the modification for not prohibiting the BOCs from discriminating among interexchange carriers in the provision of billing services. The modification prohibits the BOCs from terminating local exchange service to customers who fail to pay bills for interexchange service unless billing service is made available to all interexchange carriers, but otherwise permits the BOCs to decide to what interexchange carriers, if any, they will provide billing and collection services.

While it is true that joint billing may reduce costs for both the customer and the interexchange carrier, as pointed out in the SBS comments, there are alternatives available to such carriers in addition to billing by the BOCs. MCI, for example, has an agreement with American Express which bills its card members for their use of MCI's intercity services.

A requirement in the modification that the BOCs provide actual billing to all interexchange carriers on an equal basis could impose a substantial administrative burden on the BOCs including the need to maintain computerized schedules of all the varieties of charges and billing categories an interexchange carrier may have. If a need to regulate the provision of billing services by the BOCs emerges in the future, the appropriate regulatory agencies may do so.

8. *The Cost Methodology to be Used in the BOCs' Exchange Access Tariffs:* Several comments suggested that the modification should specify the cost methodology to be used in the exchange access tariffs, or, at least, that AT&T should be required to specify the methodology that it intends to use so that problems can be resolved prior to the reorganization. May comments made particular recommendations as to how the tariffs should treat particular costs.

Because access charge tariffs must be in effect at the time of divestiture, the Department expects the BOCs to complete the appropriate tariff filings, including the required cost justification, with the FCC and the various state regulatory agencies by early 1983. This should allow ample opportunity for the agencies and the public to make determinations as to cost methodology and to prescribe any changes that may be necessary to bring the tariffs into compliance with regulatory requirements. Since the FCC plans to issue its regulations on access charges before the end of this year, the BOCs should be able to incorporate these regulations into their filings.

Several comments stated that the modification should determine how subscriber plant or non-traffic sensitive costs should be allocated to exchange access services. MCI stated that the current Ozark formula is anticompetitive and that the modification should prohibit its use as a basis for determining exchange access charges.

Although the formula used for the allocation of non-traffic sensitive costs may in fact have competitive significance, the modification is not the appropriate vehicle for determing such allocations. The FCC has created a federal-state joint board under Section 410 of the Communications Act to modify the current Separations Manual in light of the developing competition in telecommunications markets. *Amendment of Part 67*, 78 F.C.C. 2d 837 (1980). The FCC has already implemented certain interim changes in the manual recommended by the joint board, and a new manual is scheduled to be recommended to the Commission during the first quarter of 1983. Thus, the exchange access tariffs should reflect the new manual.

9. *The Effect of the Exchange Access Injunctions on the BOCs' Other Obligations to Interexchage Carriers:* Several comments expressed concern that the failure of the modification specifically to require a particular kind of access service might be interpreted to imply an antitrust immunity for failure to provide such a service, or that it could be interpreted as a finding by the Court or the Department that such a service should not be required by an appropriate regulatory agency.

There is no basis for such concerns. The modification cannot, and is not intended to, resolve all the issues facing the telecommunications industry, nor does it assume that the regulatory agencies responsible for overseeing the activities of AT&T and the BOCs will now abandon that task. The purpose of the modification is to bring about an industry structure that will end the incentive and ability of the BOCs to monopolize potentially competitive markets, and to provide a framework for the transition to full equality of treatment by the BOCs between AT&T and its competitors after divestiture. It does not establish the rights or liabilities of any person under the antitrust laws or regulatory statutes.

V. Issues Raised Regarding Potential Anticompetitive Conduct by AT&T Resulting From AT&T's Position in Intercity Services and Equipment Markets Following Divestiture

A number of commenting parties, principally competitors of AT&T, as well as some state commissions, asserted that, following the reorganization and divestiture required by the proposed modification, AT&T will continue to be the dominant firm in the intercity services market with an overall market share in excess of 95 percent. These parties argued that such a dominant position in the intercity services market will give AT&T the power to engage in various anticompetitive activities both in the intercity services market itself as well as in adjacent markets such as the telecommunications equipment market, the unregulated information services market, and the market for customer premises equipment. For example, it

was suggested that AT&T would be able to cross-subsidize some of its intercity service offerings, its unregulated information services, and its telecommunications equipment with monopoly profits from non-competitive intercity service offerings; that AT&T could restrict competition in the intercity services market and the information services market by denying competitors reasonable access to its intercity network; that the continued integration of AT&T's intercity service business with its equipment manufacturing business may give Western Electric preferential access to technical information about the AT&T network; that AT&T will be free to re-integrate into the local exchange market by acquiring non-BOC exchange carriers; and that AT&T's dominance in the market for customer premises equipment will permit it to engage in anticompetitive pricing strategies.

The Department does not believe that AT&T's possession of such a large market share at the time of divestiture means that AT&T possesses the monopoly power necessary to engage in anticompetitive activities such as those described.[87] In the *AT&T* case, while recognizing that its enormous market share was indicative of AT&T's market power, the Department contended that the true source of AT&T's monopoly power was its integrated structure in which AT&T controlled both the local service monopolies and the dominant carrier in the intercity services market. This integrated structure gave AT&T the ability to deny its intercity competitors the access they needed to the local network and permitted AT&T to cross-subsidize competitive services with revenues from regulated monopoly services.

The proposed modification establishes an industry structure in which AT&T will be deprived of the source of this monopoly power by divestiture of its ownership of the regulated local companies. AT&T will thereafter not be able to deny competitors access to essential bottleneck facilities and it will not be able to cross-subsidize competitive service offerings with its revenues from regulated natural monopoly services. Further, the separation of AT&T's natural monopoly service from the rest of the business means that following divestiture AT&T will operate exclusively in competitive markets. While the degree of competition currently existing in each segment of the business varies, the Department believes that competition will flourish in all segments of the business in the long-term once the source of AT&T's monopoly power has been removed.

A. Intercity Services Market

A number of commenting parties asserted that, until such time as a fully competitive market develops, AT&T will still be able to monopolize the intercity services market by cross-subsidizing competitive intercity services with revenues from non-competitive intercity services or by imposing limitations on the ability of competitors to gain access to AT&T's intercity network.

1. *Cross-Subsidies:* The Department does not believe that there is a significant danger of cross-subsidization occurring within the intercity services market during the transition to a fully competitive market. In order to implement such a scheme of cross-subsidy, there would have to be substantial segments of the intercity services market that AT&T could protect from competitive entry. Otherwise, any effort to secure supracompetitive profits in one segment of the market in order to cross-subsidize other segments of the market will merely invite entry in the high-priced segments of the market, which will have the effect of driving prices back to the level of costs in both segments of the market.

Thus, an attempt by AT&T to engage in interservice cross-subsidy (for example, subsidizing private line services with revenues from MTS services) is not likely to succeed. Because of the high level of demand substitutability among various intercity services, a truly significant distortion of AT&T's rates will drive much of the demand from the newly high-priced segment of the market to the newly low-priced segment. Further, and more importantly, the extremely high level of supply substitutability in the intercity services market means that competitors can quite easily shift transmission capacity from one service to another in response to significant shifts in AT&T's rates. There is already substantial competitive transmission capacity in place on routes between most major population centers, and that capacity is expanding rapidly. Under these circumstances, the Department believes that even though the intercity market will still be quite concentrated after implementation of the divestiture plan, there will be sufficient competitive pressure to guard against significant interservice cross-subsidization over the transitional period.

Similarly, the Department does not believe there is a significant danger that AT&T might attempt to extract supracompetitive profits from low density or short distance routes on which it does not presently face competition, to subsidize low prices for the same services on routes which are subject to competition. An effort to secure monopoly profits on any particular route or class of routes will attract additional carriers to serve those routes, again driving prices to a competitive level. While the competitive response to a geographic cross-subsidy scheme may not come as swiftly as the response to an interservice cross-subsidy, it is entirely feasible through construction of terrestrial microwave systems, in which significant economies of scale can be obtained at fairly low levels of traffic, as well as through the relatively inexpensive addition of earth stations to an existing satellite network.[88] In addition, since competitive alternatives already exist over most dense routes, a scheme of geographic cross-subsidization would require that a fairly small segment of the intercity services market bear the burden of cross-subsidizing the bulk of the market. In such a scheme, the rate levels on the low density routes would have to be so high as to make such a scheme impractical, or, at least, quite apparent to regulators and to the Department.

Finally, even if there is a danger that some degree of cross-subsidization could occur over the short run, there are no additional tools available that could be incorporated into the proposed modification to guard against it effectively. As the Department

[87] AT&T's substantial market share reflects the fact that, as a result of regulatory policy that did not permit competitive entry, AT&T has served the intercity market for much of the twentieth century on a monopoly basis. The market has only recently been open to meaningful competitive entry. Indeed, entry into the market for switched services, which accounts for most of the market by far, has occurred only in the past few years following the Court of Appeals' decisions in the *Execunet* litigation in 1977 and 1978. MCI Telecommunications Corp. v. FCC, 561 F.2d 365 (D.C. Cir. 1977), *cert. denied*, 434 U.S. 1040 (1978); MCI Telecommunications Corp. v. FCC, 580 F.2d 590 (D.C. Cir.), *cert. denied*, 439 U.S. 980 (1978). Prior to the *Execunet* litigation, entry had occurred only for private line service, which constitutes only a small portion of the overall intercity services market. Most importantly, AT&T's current market share does not reflect the substantial lowering of entry barriers that will be achieved by divestiture of the BOCs and the modification's equal access provisions. Thus, while a substantial market share is often indicative of a firm's ability effectively to exercise monopoly power, it does not necessarily reflect the continued existence of monopoly power in an industry in which the transition from a monopoly to a competitive market structure has only recently been initiated.

[88] It is also likely that many of what are now low density or short-haul toll routes will be included within the exchange areas to be served by the BOCs. These revenues will therefore go to the BOCs, not to AT&T.

demonstrated at trial, regulatory programs designed to police the reasonableness of AT&T's rates on a cost basis have proven to be ineffective, even when administered by a regulatory body with the staff, expertise and mandate to implement such programs. The Department does not believe the public interest would be served by engaging either the Court or the Department in such a regulatory program. Instead, the Department believes that the public interest is best served by implementing the restructuring of the company as quickly as possible in order to facilitate the rapid development of a fully competitive market.

2. *Access to AT&T's Intercity Network:* A number of parties commented that as long as AT&T held the dominant position in the intercity services market, other common carriers and operators of private telecommunications systems would still need to be able to interconnect their networks with AT&T's network and to resell AT&T intercity services as a part of their own service offerings. These parties expressed concern that since the proposed modification does not contain injuctive provisions requiring AT&T to provide non-discriminatory access to its intercity facilities and services after the divestiture, AT&T may be able to restrict competition in the intercity services market by imposing interconnection restrictions or prohibitions on resale.

As a number of these parties themselves acknowledge, existing regulatory requirements already obligate AT&T to provide non-discriminatory interconnection and to permit resale of its services. The failure of the decree to impose a similar requirement in no way disturbs those existing interconnection obligations or displace the authority of appropriate regulatory commissions to impose such obligations or to enforce them as they deem appropriate.

In addition, while such interconnection restrictions and prohibitions on resale were potent anticompetitive devices employed by AT&T during the incipiency of competition in the intercity market,[39] the Department believes that, even if regulatory authorities permitted re-imposition of these restrictions, they would no longer have a significant effect on the market due to the increasing availability of alternative intercity transmission capacity from non-AT&T sources. Therefore, the Department does not believe that the modification, which is intended to establish the long-term industry structure, should include such injunctive provisions on AT&T.

B. Unregulated Information Services Market

The elimination of the restrictions in the 1956 consent decree will free AT&T to compete directly in the information services market on an unregulated basis. A number of commenting parties expressed concern that, because of its dominance in the intercity services market, AT&T would be able to engage in anticompetitive conduct in the information services market, such as cross-subsidizing its information services with revenues from its intercity telecommunications services or discriminating against other firms in that market that need to secure transmission capacity from AT&T. It was suggested either that AT&T be prohibited from entering the information services market, that it be permitted to enter the information services market only on a separate subsidiary basis, or that other forms of injunctive restraints be imposed.

The Department does not believe that the public interest would be served in the long run if AT&T is prohibited from entering the information services market, provided that it no longer also provides regulated natural monopoly services. In fact, the Department believes that entry by AT&T in these fields will be procompetitive, bringing to the market additional resources, technology and potential for innovation that are likely to accelerate and expand the growth and development of these new services. In the long-term, the Department believes that a competitive intercity telecommunications market structure will more than adequately protect against the dangers of anticompetitive conduct by AT&T in the information services market. Therefore, in light of the restructuring required by the proposed modification, the Department believes that the restrictions in the existing decree that have prevented AT&T participation in the information services market should now be removed.[40] To the extent that opportunities for anticompetitive conduct may exist during the transition from the existing market structure to a more fully competitive market structure, the Department does not believe that dangers of AT&T engaging in such conduct are so substantial as to warrant finding the proposed modification not in the public interest or to require incorporating further behavioral restrictions on AT&T in the proposed modification.

1. *Cross-Subsidies:* The number of parties expressed concern that AT&T would be able to cross-subsidize its new information services with monopoly profits from its intercity services business. The Department does not believe that there is a significant danger of such conduct occurring. As discussed above, it is unlikely that AT&T would be able to pursue a scheme of cross-subsidization. In order to accomplish such a scheme, there must be a set of services which AT&T is able to protect from competition and from which it is therefore able to derive monopoly profits. The divestiture of the local operating companies together with elimination of regulatory barriers to entry for all intercity services deprives AT&T of the power to protect any of its services from competition. The existence or threat of competition in all of its services will substantially constrain AT&T's ability to secure supracompetitive profits from any of its intercity services in order to cross-subsidize other lines of business, such as information services.

Some parties have suggested that the danger of cross-subsidization could be reduced if AT&T were required to provide unregulated information services only through a separate subsidiary such as that currently pending before both the FCC and Congress. Depending on the manner in which the separate subsidiary concept were implemented, it is possible that the existence of such an arrangement would provide some added measure of control over AT&T's ability to cross-subsidize. However, given that such cross-subsidization is unlikely to occur and would be a transitional phenomenon in any event, the Department does not believe a potentially complex regulatory device such as a separate subsidiary

[39] Thus, AT&T's interconnection restrictions designed to prevent "piece-out" of its intercity network formed an important part of the government's liability case because they demonstrated not only AT&T's anticompetitive conduct and intent but also its market power resulting from entry barriers that exist in the industry. These tariff restrictions, however, have subsequently been declared unlawful by the FCC and are no longer included in AT&T's tariffs.

[40] The question of whether the decree should be construed to permit AT&T's entry into the information services market under the separate subsidiary mechanism established by the FCC's *Computer II* decision was the issue litigated before the court in New Jersey. Notwithstanding the Department's opposition, the court entered the construction sought by AT&T, and the Department's appeal of that decision was pending before the Third Circuit at the time the parties entered into the agreement now pending before this Court.

requirement should be incorporated in the proposed modification.

2. *Access to AT&T's Network:* A number of parties also expressed concern that AT&T, which will continue to provide intercity transmission services to other firms competing in the information services market, would have the ability and incentive to discriminate against those firms with respect to the quality of transmission services provided and the dissemination of technical information about the AT&T network. The Department believes that in the long run, the growth of competition in the intercity market will also constrain AT&T's ability to discriminate against information services competitors who must lease transmission services, because those competitors will have an increasing supply of competitive alternatives available.

In any event, however, the Department believes that the types of anticompetitive conduct that could occur—*e.g.*, provision of inferior quality circuits, delays in providing circuits, faulty repair of circuits and improper pricing of circuits—are best controlled, to the extent they can be controlled at all, through regulatory devices that are not particularly well-suited for use by either the Court or the Department. Given the transitional nature of the potential opportunity to engage in such conduct and the impracticality of relying on the enforcement mechanisms of a decree to guard against such conduct, the Department has elected not to embark on such a course as a part of the modification. It should be noted, however, that the regulatory authorities are presently considering, and would have the jurisdiction to implement, regulatory schemes directed at these potential problems.

3. *CATV:* Under the terms of the proposed modification, CATV service would be treated as an information service. As a result, the BOCs would be prohibited from providing CATV service, but AT&T would be free to enter that market if it chooses to do so. Various CATV interests have commented that they not only agree that the BOCs should be excluded from the market but believes that AT&T should be excluded as well. The Department does not agree with this position. In the past, the justification for prohibiting AT&T entry into the CATV business was the competitive advantage it enjoyed as a result of its control over the local franchises. The proposed modification eliminates AT&T's control over the local franchises and puts AT&T in the same position as any other potential entrant in the CATV business—it must secure local franchise rights and construct local transmission networks. The fact that AT&T is a large company or that it possesses substantial technological expertise in the telecommunications field does not distinguish it from any of a number of potential entrants in this market.

C. Acquisition of Non-BOC Exchange Carriers

The proposed decree prohibits reacquisition of the divested BOCs by AT&T, but imposes no prohibition on the acquisition of non-BOC exchange carriers. The Rural Telephone Coalition and the Attorney General of Virginia expressed concern that AT&T may attempt to acquire such non-BOC exchange carriers. Such an acquisition would be subject to scrutiny by the FCC under Section 221 of the Communications Act, 47 U.S.C. 221, or by the Department of Justice under Section 7 of the Clayton Act, 15 U.S.C. 18. The Department, of course, would look with disfavor on any arrangement that would threaten to re-create an anticompetitive market structure. Any competitive concerns regarding such activity are, therefore, adequately protected under existing law.

D. Telecommunications Equipment Market

A number of commenting parties expressed the view that AT&T's dominant position in the intercity services market, coupled with its continued integration with Western Electric, would enable AT&T to engage in anticompetitive conduct in the telecommunications equipment market.

1. *Bias In Long Lines Procurement:* A substantial number of parties, particularly equipment vendors, asserted that because of the continued integration of Western Electric and Long Lines, Long Lines' procurement will continue to be biased in favor of Western Electric products following the entry of the proposed modifications. These comments argued that by selling its products to Long Lines at prices above competitive levels, Western Electric will be able to earn excess profits that can be applied to cross-subsidize anticompetitive conduct in other markets. These parties argued that to prevent potential cross-subsidies, Western Electric and Long Lines should be either subject to a separate subsidiary requirement, separately owned, or that Long Lines' procurement practices should be subject to regulatory devices such as the procurement injunctions imposed on the BOCs or a quota system.

It should first be emphasized that the Department's case in *United States* v. *AT&T* focused on procurement by the BOCs. The modification effectively resolves those problems. Even in the absence of remedies addressing Long Lines, however, there is little danger of cross-subsidies flowing from Long Lines to Western Electric. Even in the short run, AT&T will have strong incentives to procure equipment as efficiently as possible. Procuring equipment from Western Electric at supracompetitive prices would simply impose economic penalties on Long Lines not shared by actual and potential competitors. None of the comments appear to dispute this basic premise. Instead, the comments disagree with the view that interexchange competition will increase significantly in coming years.[61] The critical point, however, is not the rapidity with which new competition actually emerges, but the fact that any attempt to engage in cross-subsidization by AT&T would merely increase the pace of new entry.

The Department, therefore, believes that there is clearly no need for further divestiture to deal with what many of the comments concede is at worst a transitional problem. In addition in light of the consequences to AT&T's competitive position in intercity markets of cross-subsidization between Long Lines and Western Electric, there would be no useful purpose served by imposing injunctions on Long Lines that would merely reinforce its own procurement incentives. As to the imposition of quotas, such purchaser requirements do not prodduce efficient procurement decisions. Indeed, a quota would amount to instructing Long Lines to procure equipment from vendors without regard to quality or price. Such an outcome would benefit neither ratepayers nor competition.

2. *Access to Network Standards and Technical Information:* A number of parties, particularly competitors of Western Electric asserted that Western Electric will continue to enjoy an anticompetitive advantage due to its unique access to the Bell Telephone Laboratories and the Long Lines. Department. These comments noted the absence in the proposed modification of any requirement that AT&T provide network standards and technical information to competitors. Those commenting fear that AT&T will provide

[61] The comments of Long Lines' intercity competitors, such as MCI and Southern Pacific, endorse the government's belief that effective interexchange competition will develop as a result of the proposed modification's functional divestiture.

Western Electric with preferential access to key interexchange network standards and technical information (while withholding this information from others), thereby establishing *de facto* network standards which, when combined with Long Lines' market power, will preserve AT&T's ability to impede competition in both the telecommunications equipment and CPE markets.

The Department believes, however, that the structure of the industry after the functional divestiture will encourage an increase in the flow of technical information to competitive manufacturers from both the divested BOCs and the Long Lines Department. The divested BOCs will control information concerning the provision of local exchange and exchange access service, and will necessarily have access to information concerning the provision of interexchange service necessary to interconnect with the facilities of Long Lines and other interexchange carriers. Section II(B)(2) of the proposed modification requires the BOCs to establish and disseminate technical information, interconnection standards and procurement standards. Accordingly, the Department expects that the divested BOCs will seek out competitive manufacturers and freely share technical information and standards once the BOCs' corporate and financial ties to Western Electric and Bell Laboratories have been severed by the entry of the modified judgment.

Long Lines will also have new incentives to disseminate technical information and standards widely. As discussed above, as non-discriminatory interconnection of other common carriers by the BOCs fosters competition in the market for interexchange services, Long Lines will experience an increasing need to procure facilities on the basis of quality and price, without regard to corporate affiliation, since any supracompetitive transfer prices for such equipment would only disadvantage AT&T in the market for interexchange services.

Therefore, as interexchange competition develops, Long Lines will lose its incentive to procure equipment from Western Electric solely because of its affiliation and, correspondingly, Long Line will have increasing incentives to share network information more freely with non-affiliated manufacturers. In addition, as other long distance carriers become fully competitive with Long Lines, they will dilute Long Lines' power in the market for purchases of telecommunications equipment. Thus any advantage Western might enjoy initially will become less important over time.[46]

With respect to customer premises equipment, AT&T's superior access to network information will be greatly diminished, since the divested BOCs, the owners of the facilities to which CPE will be connected, will be the principal repositories of relevant network information. For the first time, the divested BOCs will have no incentive to deny such information to non-Western Electric manufacturers.

E. Issues Relating to AT&T's Market Power in the Provision of Customer Premises Equipment (CPE)

Comments filed by General Dynamics Communications Company ("GDCC") and others expressed concern that by virtue of AT&T's obtaining embedded customer premises equipment (CPE) as well as providing new CPE, AT&T will be able to maintain its dominance in the CPE market by implementing a "migration pricing" strategy. As described by GDCC, migration pricing is a strategy under which AT&T substantially increases the rates charged for currently installed and in use CPE (which would all be included in the category of embedded CPE). With the objective of shifting customers to newer generation AT&T CPE and locking these customers into long term leases for the new equipment.

The migration pricing issue was raised in the specific context of the telephone answering service (TAS) industry in the comments of Associated Telephone Answering Exchanges, Inc.("ATAE"). According to ATAE, the TAS industry is almost exclusively dependent on the electromechanical 557B switchboards and associated concentrator-indentifier equipment currently provided by the BOCs. ATAE asserted that due to reasons of business size and technology, many telephone answering services require this equipment, and that viable competitive alternatives do not exist for all telephone answering services. ATAE also stated that the BOCs have proposed larage rate increases for this equipment, and many BOCs have proposed to obsolete or grandfather this equipment and replace it with a new equipment system called AUTOTAS. ATAE asserted that this represents an effort to migrate the TAS industry from the older vintage equipment to the new AUTOTAS. in order to deal with these concerns, ATAE requested that the proposed modification leave open the issue of the role of state regulation of embedded CPE, and/or that a forum be available during a reasonable transition period to resolve these concerns. A similar solution was requested in the comments of Answering Service, Inc. which stated that there should be continued regulation of AT&T's embedded CPE.

Over the long run, the Department of Justice does not believe that "migration pricing" could be a competitive problem. With respect to the majority of CPE, while raising rates for embedded equipment may induce customers to switch to new equipment, the customer will have a variety of competitive new generation equipment to choose from. AT&T thus could not be assured of retaining customers by such a strateg.

Furthermore, even in the case of a type of CPE for which no competitive alternatives are currently available (as claimed by ATAE for the equipment used by the TAS industry), by raising the rates for embedded CPE, AT&T over the long run will encourage entry into those areas where there are presently no competitive alternatives.

In the short run, the modification will have no effect on the regulation of embedded CPE, despite the fact that AT&T will own this equipment. The regulatory commissions remain free to adopt whatever approach to the regulation of embedded CPE provided by carriers as they deem appropriate.[46]

The comments submitted by GDCC raised the issue that as a result of AT&T providing new CPE, Western Electric will be able to cross-subsidize CPE from its telecommunications equipment (*i.e.*, transmission and central office equipment) by attributing a disproportionate share of its costs to telecommunications equipment. The Department of Justice does not believe that this problem will occur. In order for such cross-subsidy to be effective, Western Electric would need monopoly power in the market for telecommunications equipment. However, the evidence presented in *United States* v. *AT&T* demonstrated the availablity of competitive alternatives

[46] In the event that problems regarding access to network information persist, the modification does not disturb the authority of the FCC to require dissemination of such information.

[46] It may be that in some state, separation of ownership of the local franchise monopoly from ownership of CPE will raise a question whether the regulatory jurisdiction over CPE continues to apply. If and when such questions arise, however, they can be resolved completely by appropriate states legislation. If the state legislature believes that continued regulatory jurisdiction over embedded CPE is appropriate and destrable, the modification does not prevent legislation to that end. Of course, a state legislature also might decide that continued regulation is not desirable, but that possibility certainly does not suggest that the decree is inappropriate simply because it provides an occasion for state legislatures to make that choice.

for a wide range of Western Electric's transmission and switching equipment. These competitors were foreclosed, the government alleged, as a result of monopoly power resulting from the vertical integration of Western Electric and the BOCs. After this vertical integration is ended by the divestiture called for in the proposed modification, if the Western Electric attempted to cross-subsidize its CPE from its transmission and switching equipment, the correspondingly higher prices which would result for Western Electric's transmission and switching equipment would result in competitice losses for Western Electric in that market.

In addition, as set our above, because supracompetitive transfer prices between AT&T impose economic penalties on AT&T not shared by its competitors, the prospect of a Long Lines—Western Electric cross-subsidy seems equally remote. The Department, therefore, does not believe that any amendment to the modification in this regard is necessary.

VI. Telecommunications Equipment Issues

The Department received comments from a number of parties, principally telecommunications equipment vendors, which raised a number of issues relating to the impact of the modification on BOC procurement practices. Other commenting parties raised specific concerns regarding the modification's effects on AT&T trademarks and patents. These issues are addressed in the following discussion.

A. BOC Procurement

A number of comments, particularly those submitted by Western Electric's competitors, suggested that after divestiture Western Electric will continue to enjoy an unwarranted advantage in selling telecommunications equipment to the BOCs. Some of these comments questioned whether the injunctive provisions of the proposed modification will put an end to past BOC discrimination against Western's competitors, while others expressed concern that other provisions will encourage a continued BOC preference for Western Electric's products. Several other commenting parties predict that permitting the BOCs to centralize certain functions relating to procurement will discourage the growth of competition in the procurement of telecommunications equipment.

The Department believes that the divestiture called for by the proposed modification will, over time, eliminate any anticompetitive BOC bias in favor of Western Electric, and that the injunctive provisions now included in the proposed modification are the most effective alternative for controlling any potential for BOC bias until the effects of divestiture are fully realized.

1. Adequacy of Anti-discrimination and Compliance Provisions: The key injunctive provisions of the modification intended to prevent BOC discrimination in favor of Western Electric are Section II(B)(1), which generally forbids such discrimination, and Section II(C), which requires that each divested BOC submit to the Department procedures for ensuring compliance with each of the antidiscrimination provisions of the proposed modification. Several comments expressed the fear that the objectives of these provisions may not be realized adequately due to the persistence after divestiture of certain conditions which are a consequence of AT&T's present vertical integration, and which might tend to confer unwarranted competitive advantages on Western Electric. For example, Western Union cited the advantage Western Electric might gain in the future because it is so frequently designated as the equipment supplier in the BOCs' current long range plans for expanding their facilities. Comments anticipating continuing discrimination in BOC procurement proposed a variety of provisions in the modification to supplement or replace the antidiscrimination and compliance provisions cited above. These comments generally suggested expanding the language of these provisions to impose more specific injunctive requirements on the BOCs. A number of other commenting parties proposed quasi-regulatory provisions such as the imposition of purchase quotas on the BOCs, requirements for detailed reporting of BOC purchases, or regulation of Western Electric's prices.

The reorganization required by the proposed modification, by separating the BOCs' regulated monopoly functions from equipment manufacturing, will create the most hospitable climate possible for competition in the sale of telecommunications equipment. This competitive structure will be reinforced by the antidiscrimination and compliance provisions of Paragraph II(B) and II(C) of the proposed modification. In light of the transitional nature of the incentives they are designed to counteract, the imposition of a general prohibition on discrimination, together with the BOCs' submission after divestiture of procedures to insure compliance, will enable the Department to verify that the BOCs are conducting their equipment procurement in a non-discriminatory manner. If the compliance procedures submitted by any BOC do not appear likely to accomplish the objectives of the modification, the Department will file an enforcement action to compel appropriate modifications in the procedures.

In the Department's view, these flexible procedures are adequate to deal with the transitional problems identified in the comments until the procompetitive incentives created by divesting the BOCs have had their full effect. Indeed, the antidiscrimination and compliance provisions in the proposed modification are preferable to any of the alternatives suggested in the comments, many of which would impose on the Bell operating companies a detailed scheme of regulation, difficult at best to enforce judicially, which might well carry its own anticompetitive effects. For example, the imposition of quotas would necessarily entail detailed reporting requirements and product classification schemes, imposing substantial administrative burdens on the Court, the Department and the BOCs. A quota system, moreover, might in some cases deprive the BOCs of the choice to purchase the best and least expensive equipment or create a sheltered market for suppliers with competitively deficient products. Either result would be wholly at odds with the objectives of the antitrust laws, and of the modification. Other proposals, which would involve detailed reporting or price regulation schemes, are similarly flawed.

Other comments raised the possibility that a continuing pro-Western bias would be fostered by the requirement of Paragraph I(C) of the proposed modification that AT&T, Western Electric and Bell Laboratories provide the BOCs research, development, manufacturing and other support services on a priority basis until September 1, 1987, to enable the BOCs to fulfill the requirements of the proposed modification. This requirement does not modify in any way the applicability or force of the proposed modification's ban on discrimination in BOC procurement, and creates no priority for Western Electric or Bell Laboratories. Rather, it was included in the modification as a specific application of Paragraph I(C)'s requirement that "AT&T and its affiliates . . . take no action that interferes with the BOCs' requirements of nondiscrimination * * *." It was intended to ensure that the BOCs would have full access to the equipment and equipment-related services necessary to provide equal exchange access, and was included in recognition that the BOCs'

current facilities consist predominantly of Western Electric equipment, so that modifications or additions to provide equal access would often have to be provided by Western or Bell Labs.

The Illinois Commerce Commission suggested that the BOCs be permitted to purchase equipment on a sole-source basis, if that were most efficient. Nothing in the proposed modification would explicity prohibit such a practice by a particular BOC, although the Department would scrutinize carefully any sole-source arrangement with Western Electric to assure compliance with the anti-discrimination provisions of the modification. Other sole-source purchasing arrangements would of course remain subject to the antitrust laws.

Finally, one commenting party, fearing AT&T efforts to disrupt general trade sales efforts prior to divestiture of the BOCs, urged that AT&T be forbidden to take actions to impair its existing procedures for procurement of general trade equipment. The Department has no reason to believe that AT&T will dismantle its existing procurement procedures in the period before divestiture. In any event, any action by AT&T to obstruct fully competitive procurement by the BOCs would violate Paragraph I(C) of the proposed modification, and the Department will monitor AT&T's activities to insure that such conduct does not occur.

2. *Centralization of BOC Procurement Functions:* Paragraph I(B) of the proposed modification permits the divested BOCs to support and share the costs of a centralized organization providing engineering, administrative and other services. A number of comments expressed concern over the effects if the BOCs conducted centralized purchasing under this provision. In particular, some comments asserted that a centralized purchasing agency would constitute a monopsony and thus violate the Sherman Act, and questioned the need for any such arrangement on efficiency grounds.

The purpose of a centralized staff is to end the BOCs' dependence on AT&T, Western Electric and Bell Laboratories for services that can most efficiently be provided on a centralized basis. The Department intends to review proposals for a centralized entity carefully to insure that its proposed functions are consistent with this goal.

Although several comments questioned whether centralization can ever be efficient, at least one independent telephone company, United Telecommunications, appears to recognize that such efficiences are possible, recommending the inclusion of independent telephone companies in the work of a central staff. Nothing in the proposed modification would prevent such a joint effort, provided it did not operate in such a way as to involve participation by the BOCs in activities prohibited by the proposed modification.

The Department will scrutinize with particular care proposals for joint purchasing activity, to assure that this activity violates neither the proposed modification's non-discrimination requirements nor limitations on joint activity imposed by the antitrust laws. A number of the comments seem to base their concern about a joint purchasing entity on the assumption that a single entity would be given exclusive discretion to make purchasing decisions on behalf of the BOCs. In discussions with the Department, AT&T, has given firm assurances that under the plan of reorganization purchasing will be undertaken at the regional or BOC level, not by a centralized entity. This commitment assures that there will be diverse decision-makers for the purchase of goods and services by the divested BOCs.

Finally, the Independent Telecommunications Suppliers Council urged that the proposed modification require the transfer to the BOCs of warehousing, distribution and product evaluation functions now centralized in Western Electric. According to the proposed modification, AT&T is required to transfer to the BOCs "sufficient facilities, personnel, systems and rights to technical information" to enable the BOCs to perform their permitted functions independently of AT&T. If, as the Department expects, the divested BOCs will require the ability to perform independently some product support functions now performed by Western Electric, it will be AT&T's obligation to transfer to the BOCs the capability to perform those functions.

B. Trademarks

Tandy Corporation filed comments in which it proposed adding to the modification a specific requirement "that neither AT&T nor a separate subsidiary of AT&T sell, offer for sale or advertise any terminal equipment using names, trademarks, service marks, symbols, or other methods of promotion or identification which are the same as or similar to, the names, trademarks, service marks or other methods of promotion or identification employed by BOC." The comments stated that such a provision was needed to prevent "non-monetary cross-subsidization". It was argued that by concurrent use of the same mark, AT&T could implicitly suggest to consumers a link between Western Electric's CPE and the BOC's local service, or between Long Lines' intercity service and the BOCs' local service. Similarly, the argument continued, the BOCs could implicitly suggest that they endorsed use of AT&T's CPE or long distance service.

The proposed modification together with federal trademark law will prevent concurrent use of trademarks and trade names [64] by AT&T and the BOCs after divestiture. The existence of a licensing arrangement which would be the basis for such concurrent use would constitute economic and operational integration of a sort prohibited by the proposed modification. In any event, AT&T could not enter into a valid trademark or trade name licensing arrangement with the BOCs, because the modification does not permit AT&T to control the quality of services provided by the BOCs, and such quality control is required to maintain a valid trademark license.

Sections 5 and 45 of the Lanham Act, 15 U.S.C. 1055 and 1127, which regulate licensing of federally registered marks, permit such licensing only if the licensor imposes adequate quality controls on the licensee's products or services with which the mark is used. *E.g., Dawn Donut Co. Inc.* v. *Hart's Foods Stores,* 267 F. 2d 358, 366–67 (2d Cir. 1959). Common law trademark principles impose similar requirements for trade-names and other unregisterable marks. If a licensor fails to exert the necessary control, the trademark is considered abandoned, and enters the public domain.

The central feature of the proposed modification is the severance of existing economic and operational relations between AT&T and the BOCs, except insofar as certain explicitly identified transactions are permitted after divestiture. Concurrent use of the Bell System trademarks after divestiture would continue a relation in which, as Tandy Corporation suggests, AT&T and the BOCs would be unacceptably intertwined. Accordingly, the Department will not approve the plan of reorganization which contemplates the concurrent use of the Bell trademarks by AT&T and the BOCs.

C. Patent Licensing Issues

The Department received approximately 40 comments, mainly from competitors of AT&T, that criticize

[64] The phrase "trademarks and trade names" as used here includes trademarks, service marks, trade names and all other similar types of intellectual property, whether or not registerable under provision of the Lanham Trademark Act, that have been used to identify the Bell System or portions of its business in the past.

the proposed modification because it does not retain in some form the provisions of the 1956 decree which required AT&T to license its United States patents to all applicants on a non-discriminatory, reasonable royalty basis. Some commenting parties would be satisfied with a phasing-out of the compulsory licensing requirement over some finite period of time; for example, all patents issued during a fixed period after the divestiture of the BOCs would be subject to compulsory licensing by AT&T but patents obtained beyond that time would not. Other comments proposed that the perpetual licensing requirements of the 1956 decree be retained. The Department does not believe that the inclusion of any form of compulsory patent licensing in the proposed modification is either necessary or appropriate.

At the outset, it should be recognized that, notwithstanding the elimination of the compulsory patent licensing provision, AT&T will continue to engage in extensive patent licensing. First, all or almost all of AT&T's existing U.S. patents have been licensed to a variety of firms for many uses. With very few exceptions, these licenses will run for the life of the patents involved and cannot be terminated unilaterally by AT&T. Second, AT&T's patent licenses typically include a provision for the licensing of new patents within the scope of the license issued within five years of the execution of the agreement. AT&T also had entered into more formal patent cross-licensing agreements which also typically run for a period of five years.

Finally, the reorganization plan will require AT&T to grant royalty-free licenses to the BOCs for all of its existing patents, and for all patents issued for a period of five years following entry of the proposed modification. In turn, the BOCs will have the right to sublicense these patents for their own use, including the manufacture of equipment for the BOCs' purchase. Thus, as a practical matter, many AT&T patents issued within the next several years must also be licensed to AT&T's competitors notwithstanding entry of the proposed modification.

In this environment of widespread licensing, including licensing by BOCs, there would appear little profit to AT&T in refusing to license a new entrant. Rather, AT&T would have every incentive to continue to issue licenses in view of the potential that licensees will find new uses for existing technology from which AT&T could gain royalty revenue, including royalties arising from a new entrants' sales of products. Moreover, the communications industry has been characterized by extensive patent cross-licensing arrangements in the past. Given the dispersion of technology in the electronics, telecommunications and computer industries, it is likely that AT&T will find it in its interest to continue to license its patents in order to gain access to the patents of others.

Some comments argued that because AT&T research had been funded in part from monopoly exchange revenues, AT&T should be required to continue compulsory licensing for some period of time. The 1956 Judgment was, in part, based on the concept that research funded from revenues generated by AT&T's regulated telecommunications monopoly should be made available to AT&T's competitors in other markets. Consequently, the logic of the 1956 Judgment suggests that patents substantially derived from pre-divestiture research be licensed regardless of when the patent is issued. Because of the delay inherent in the patent application process, however, any cutoff date for the licensing of such patents is necessarily arbitrary. The date chosen by the proposed modification is the date of its entry. Because of the existence of requirements that AT&T license patents heretofore issued or issued during the next five years, and in view of the BOCs' sublicensing rights, it is apparent that a significant portion, if not all, of such "work in progress" patents will be licensed. Once such patents are licensed, as discussed, it will be in AT&T's interest to license them to others. Consequently, regardless of the date specified in the proposed modification for the vacation of the 1956 decree's licensing provisions, there is no reason to believe that entry of the proposed modification will result in the removal of "work in progress" patents from the pool of AT&T patents generally available to industry. Hence, in practice, the proposed modification fully protects the public's interest in the licensing of such patents.

Finally, suggestions that AT&T should be required to license its future patents based on post-divestiture research because of its dominant position in the intercity telecommunications service market are without merit. These comments assert that there is danger that AT&T will cross-subsidize research and development efforts in competitive fields with revenues obtained from its intercity services. for the reasons discussed above in Section V, the Department believes that there will be sufficient competitive pressure on all of AT&T's intercity services that there is little danger of significant cross-subsidies flowing from the intercity services market, even in the short run. In the short run, of course, new AT&T patents will continue to be licensed under existing licensing agreements. AT&T will also have continuing incentives to license its patents in order to get the benefits of the inventions of others.

Most important, the proposed modification would terminate the license contracts under which research is funded in part by monopoly revenues. AT&T, like other firms, will thus be forced to fund its research and development from the sale of products and services in competitive markets. AT&T will, therefore, have no inherent advantage over other firms in funding such research and development.

VII. Effects of the Modification on Interests of Third Parties

The Department received a large number of comments, mainly from competitors of AT&T, which raised issues regarding the effects of the modification on the interests of private parties. Two principal concerns expressed in the comments relate to possible *prima facie* effect which may be given to the modification and the rights of private parties to seek enforcement of the modification. The Department also received a number of comments from AT&T investors and employees regarding the modification's effects on their interests. The following discussion addresses these issues.

A. Prima Facie Effects of the Proposed Modification

The concerns expressed on the comments on this issue stem principally from Section III of the proposed modification, which states, in pertinent part:

> Neither this Modification of Final Judgment nor any of its terms or provisions shall constitute any evidence against, an admission by, or an estoppel against any party or BOC.

Section IV of the Department's Competitive Impact Statement, in discussing this provision, stated:

> The proposed modification, if entered, would in no way affect the rights of any present (or potential) private plaintiff who has or might have been damaged by the alleged violations to sue for monetary damages and any other legal or equitable relief to which they might otherwise be entitled. Because, however, Section 5(a) of the Clayton Act, as amended, 15 U.S.C. 16(a), allows a judgment to be invoked as *prima facie* evidence in private litigation only

where the judgment operates as an estoppel between the parties, the proposed modification would not have such *prima facie* effect.

Some of the comments argued that the Court should treat the proposed modification of final judgment as a settlement of *U.S.* v. *AT&T*, on the ground that to do otherwise would permit the parties to circumvent he Congressional intent underlying Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), which deals with the *prima facie* effects of final judgments. Other comments argued that the Court should not enter the modification without first making specific findings of fact that could be used by private parties in subsequent litigation. Finally, it was argued that there is no need for this Court to decide the scope or effect of the modification on other litigation since that responsibility is committed to trial courts in subsequent litigation.

The proposed modification contains a stipulation between the United States and AT&T that it shall not constitute any evidence against, an admission by, or an estoppel against any party or BOC. This provision, by its terms, is therefore binding between the parties in any subsequent litigation.

Under relevant case law and Section 5(a) of the Clayton Act, the *prima facie* effect of a judgment is determined by reference to the general law of estoppel. Broadly stated, the estoppel effect or prior judgments is limited to matters actually adjudicated.[66] Thus, because there has been no final adjudication, without regard to any agreement between the parties, and regardless of whether the modification is treated as a settlement of *United States* v. *AT&T*, the Department believes that the modification would not be given *prima facie* effect in subsequent litigation. The Department agrees, however, with the point made in some of the comments that the ultimate responsibility for determining the *prima facie* effect of the modification rests with the trial court in any subsequent litigation.

B. Private Enforcement of the Modification

A number of comments argued that private parties should, under certain circumstances, be given the right to seek enforcement of the modification on the ground that the limited resources of the Department may result in ineffective enforcement. Some comments suggested that since private parties are intended beneficiaries of the modification, they have a legitimate interest in independent enforcement. It was argued that permitting private enforcement would assist the Justice Department in its enforcement efforts.

The Department of Justice, while aware of the extensive non-party interest in the Modification of Final Judgment, is persuaded that no such procedure need be created at this time. First, the Court specifically retains jurisdiction over this judgment and its enforcement (Section VII of the modification), making it unnecessary, in the absence of any showing that the Department of Justice is unwilling or unable to enforce the judgment itself, to create further enforcement provisions on behalf of non-parties. Second, given the widespread non-party interest in the judgment, as demonstrated by the numerous comments, it is likely that such interest will also extend to enforcement. It can be expected that non-parties will communicate any alleged violations of the judgment to the Court, the Department, or both. Prior to any showing that the Department of Justice is unable or unwilling to investigate and, if warranted, to prosecute such allegations, no formal procedure for non-party enforcement is necessary. Should such a showing be made, the Court, pursuant to its retention of jurisdiction, may at that time order such procedures as it deems necessary.

The Department is aware of only one instance in which specific provision was made for private parties to petition the court for enforcement. In *United States* v. *AMPI*, 394 F. Supp. 29, 56 (W.D. Mo. 1975), the court established a detailed procedure for enforcement of its judgment. Under the court's supplemental order, private parties were required first to petition the Department to institute an enforcement action. Within 20 days, the Department was required to respond to the complaining party in writing setting out its intended course of action and the reasons therefor. In the event the Department failed to take action deemed appropriate by the complaining party, the complainant could then suggest to the court that it exercise its independent power and jurisdiction to direct enforcement proceedings on its own motion.

Thus, even in the *AMPI* case, private parties were not given a right of private enforcement. Rather, the court simply set out procedures for informing it of circumstances that might lead it to establish enforcement proceedings on its own motion. The Department does not believe that such detailed procedures are likely to promote effective enforcement of the modification. Rather, such procedures are more likely to lead to repeated complaints to the Department and the Court, each time triggering mandatory deadlines and filings which would interfere with, rather than advance, the Department's enforcement efforts. In addition, such procedures may have unintended consequences. For example, the requirement imposed in *AMPI* that the Department respond in writing within 20 days of receiving a written complaint has already obstructed enforcement by providing a defendant in that case with an estoppel argument that it would not otherwise have had.

Even in the absence of such procedures, the modification would not impair the ability of private parties to bring to the attention of the Court information which might lead it to direct enforcement proceedings on its own motion. The Department, therefore, believes that the establishment of special procedures for private enforcement is both unnecessary and likely to be counterproductive.

C. Investor Interests

A number of AT&T stockholders have expressed concern that divestiture of the BOC's will adversely affect the value of their investment and jeopardize future dividends. AT&T currently contemplates that the 22 BOC's will be divested into seven regional holding companies holding roughly two thirds of current Bell System assets; AT&T will control the remaining one third of the assets. Stockholders' interests will be divided between stock in AT&T and proportional values in the newly separate holding companies. Thereafter, shareholders can decide whether to retain all or part of their investment.

The Department believes that shareholder interests will not be adversely affected by the modification. AT&T stock currently in the hands of investors represents an investment in the total Bell System—AT&T and each of its units, including the 22 companies to be divested. Upon divestiture, shareholders will continue to hold ownership in the *same assets* currently represented by their investment, which they may retain or dispose of as they wish. The divestiture required by the modification, therefore, will not change ownership interests currently represented by an investment in AT&T stock.

While it is not possible to predict with absolute confidence the future earnings

[66] *See e.g.*, Hanover Shoe, Inc. v. United Shoe Machinery Corp., 392 U.S. 481 (1968); Emich v. General Motors Corp. 340 U.S. 558 (1951); Orbo Theater Corp. v. Loew's Inc., 136 F. Supp. 770 (D.D.C. 1957), *aff'd*, 281 F. 2d 380 (D.C. Cir. 1958), *cert. denied*, 369 U.S. 843 (1959).

potential of an investment in AT&T or in the BOCs, it is unlikely that the modification will adversely affect the value of the portfolio of AT&T and BOC stocks investors will hold following divestiture. Indeed, by removing restrictions on the business in which AT&T may engage, it is likely that the modification will have the effect of increasing the value of that investment. Of course, as in the past, the earning potential of such stock, particularly that of the BOCs, will be determined in large measure by the actions of regulatory authorities.

The Department received some comments from BOC bondholders which expressed concern regarding the continuing quality of their investments. As discussed above, the Department will review the reorganization plan carefully to insure that the BOCs begin operations on a sound financial basis. This would include an ability on the part of the BOCs to meet their debt obligations. As companies providing franchised monopoly services, there is no reason, with the application of established regulatory principles, that the BOCs will not continue to operate on a secure financial basis.

D. Employee Rights

The Department received a small number of comments, from labor organizations, the California Department of Consumer Affairs, the Kentucky Public Service Commission, and others, which raised questions regarding the effect of the modification on employee rights. The Communication Workers of America ("CWA") and the Federation of Telephone Workers of Pennsylvania ("FTWP") expressed concern that the modification not impair rights under existing agreements or otherwise reduce the protection afforded employee and their collective bargaining representatives under applicable laws. CWA was also concerned that the modification not bar national or regional bargaining. The Kentucky Public Service Commission argued that the BOCs should be divested immediately and should not be required to assume certain exisiting labor contract obligations protecting job, pay, and seniority benefits. Both CWA and FTWP urged that the modification include explicit provisions protecting the right of employees affected by the reorganization comparable to those contained in pending legislation designed to deal with the creation of separate subsidiaries.

The modification will not have any effect on the rights of current employees under current collective bargaining agreements. Assuming that the divestiture of the BOCs takes place before the expiration of current contracts, they will remain in full force. Should the divestiture occur after the expiration of these contracts, there is nothing in the modification that would interfere with the rights of employees and the BOCs to enter into new agreements to be binding following divestiture. The modification simply leaves unaffected the rights of employees under current arrangements. Nor does the modification reduce or otherwise impair any employee protections guaranteed under applicable laws.

As to the ability of the BOCs to bargain on a national or regional level, the modification does not change existing law with respect to such bargaining. Nor does the modification itself preclude the BOCs from engaging in such collective bargaining.

The Department does not believe that it is either necessary or appropriate to include in the modification explicit provisions regarding employee rights. As discussed above, the ability of employees to negotiate satisfactory arrangements with the BOCs and AT&T will remain unaffected by the modification. As CWA noted, it and AT&T negotiated in August 1980 a Memorandum of Agreement protecting the rights of transferrd employees. There is no reason apparent from the comments why collective bargaining will not prove to be a satisfactory mechanism for achieving whatever arrangements are appropriate for the protection of employee interests affected by the reorganization.

VIII. Conclusion

The Department has carefully considered the comments submitted. The proposed modification is fully consistent with the relief sought by the Government. It will result in a reorganization of the Bell System that will remove structural impediments to competition in the telecommunications industry, and allow efficient and rapid development of competitive telecommunications markets. Under the applicable legal standards, the proposed modification is in the public interest. Accordingly, the Department respectfully requests the Court to enter the proposed modification as its Final Judgment.

Respectfully submitted,

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Gerald A. Connel, James P. Denvir, Jeffrey Blumenfeld, Peter B. Kenney, Jr., Michael D. McNeely, Alan L. Silverstein, Michael F. Altschul, Gary M. Cohen, Luin P. Fitch, David C. Jordan, James H. Phillips, Andrew L. Pringle, Douglas Ross, J. Philip Sauntry, Jr., Thomas A. Schulz, Theodore C. Whitehouse, *Attorneys, Antitrust Division, United States Department of Justice, Washington, D.C. 20530.*

May 20, 1982.

Certificate of Service

I, James P. Denvir, one of the attorneys for the United States, hereby certify that I have on this day served the *Response of the United States to Public Comments on Proposed Modification of Final Judgment* on defendants by delivering a copy thereof to: George L. Saunders, Jr., Esq., Sidley & Austin, c/o AT&T, 499 South Capitol Street, 8th Floor, Washington, D.C. 20003.

James P. Denvir.

May 20, 1982.

[FR Doc. 82-14229 Filed 5-26-82; 8:45 am]
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Thursday
May 27, 1982

Part IV

Environmental Protection Agency

Friable Asbestos-Containing Materials in Schools; Identification and Notification

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 763

[OPTS 61004B; TSH-FRL 2064-3]

Asbestos; Friable Asbestos-Containing Materials in Schools; Identification and Notification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA issues this rule to reduce risks to human health from exposure to asbestos-containing materials in school buildings. The rule requires public and private elementary and secondary schools in the United States to identify friable asbestos-containing building materials, maintain records and notify employees of the location of the friable materials which contain asbestos, provide the employees with instructions on reducing exposures to asbestos, and notify the School's parent-teacher association of the inspection results. School districts are encouraged to consult with EPA Regional Asbestos Coordinators when complying with the rule and, where asbestos-containing materials are found, to consult with EPA regarding corrective actions. A school that has already inspected, sampled, and analyzed the friable asbestos-containing material according to the procedures in this regulation need only comply with the recordkeeping and notification provisions of the rule. Schools that determined that they contain no friable asbestos-containing materials prior to the effective date of this rule, need only certify these results and retain the certification statement in their files. Schools need not repeat sampling and analysis under any circumstances.

DATES: This rule becomes effective June 28, 1982. Local education agencies must comply with all portions of this rule by May 27, 1983.

ADDRESS: The public record for this rulemaking is located at Rm. E-107, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460, and is open to the public from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St. SW., Washington, D.C. 20460, Toll free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator—202-554-1404).

EPA has prepared several major support documents for this rule. These documents have been added to the rulemaking record. Copies may be obtained by calling EPA at the telephone numbers given above.

SUPPLEMENTARY INFORMATION: OMB Control Number: (2000-0463).

I. Introduction

The purpose of this rule is to protect users of school buildings from unwitting exposure to concentrations of airborne asbestos which occurs when friable asbestos-containing materials are damaged or disturbed. Compliance with this rule will both ensure that these materials are identified and that school users are notified of their presence so that they can prevent or reduce release of asbestos. This rule is needed because many school districts have not responded adequately to EPA's effort under the Technical Assistance Program (TAP) to encourage schools to identify these materials and notify employees of their presence.

Each local education agency is required to: (1) Inspect all areas of each school building within the agency for friable materials applied to structural surfaces in the building; (2) Take at least three samples of each distinct type of friable material found; and (3) Have those samples analyzed for their asbestos content using polarized light microscopy augmented by x-ray diffraction if necessary. Each local education agency shall also keep a record of the findings of all inspections, sampling, and analyses conducted in accordance with this rule.

After inspection, sampling and analysis have been completed, if a school does not have friable asbestos-containing material, no further action is required. However, in a school with friable asbestos-containing materials, the local education agency is required to inform all employees of the location of these materials and to provide each custodial or maintenance employee with a copy of "A Guide For Reducing Asbestos Exposure". See § 763.111 (b) and (c) of the rule (proposed § 763.6(b)). The parent-teacher groups of schools found to contain friable asbestos-containing materials shall be notified of the presence of friable asbestos. The purpose of notification is to inform people where there is a potential problem from the release of friable asbestos fiber in schools. In order to reduce the costs associated with notification, the Agency has decided not to require notification where there are no friable asbestos materials.

Compliance with these requirements will ensure that potentially hazardous materials are identified and that school users are notified of their presence so that they can reduce or prevent the release of asbestos from them. This should eliminate much unnecessary exposure due to lack of knowledge of the presence of asbestos.

Many of the friable asbestos-containing materials in schools do not require abatement or removal. A reasonable effort by school officials to manage the materials can prevent damage to or deterioration of them and the consequent release of asbestos and exposure of school users. This is particularly the case where access to the materials is limited (e.g., material in a boiler room or behind a false ceiling) and the persons using the area can be instructed to avoid contacting or disturbing the material and to take necessary precautions when their jobs require that they work with the material. EPA strongly recommends that, where a local education agency determines that a management program for friable asbestos-containing material is the most appropriate response, the local education agency should institute a program to advise and educate its employees of the need for caution and proper procedures. Such a management program should also include a provision for periodic reevaluation of the material to determine whether the management program has prevented further damage or deterioration.

Some asbestos-containing materials identified when complying with this rule may be determined to require corrective action such as removal, encapsulation with a sealant which improves the cohesive strength of the material, or enclosure behind a barrier to prevent access. EPA has issued guidance both for identifying materials which should be controlled because of greater exposure potential and for procedures to be used when engaging in corrective activities (see "Asbestos-Containing Materials In School Buildings: A Guidance Document," which can be obtained by calling the toll-free number. Supervisors of public school districts and private schools will be automatically sent the Guidance Document and need not call). Chapter 7 of the Guidance Document lists the factors which should be considered when determining whether to take corrective action.

Abatement is often needed whenever the friable asbestos-containing material is visibly damaged and easily accessible or has inherently poor cohesive strength. Material which is separating from the surface to which it is applied, is separating into layers, or is otherwise

heavily damaged should be considered for removal. If damage is due to water, the cause of the damage (e.g., a roof leak) should also be corrected. Again, the amount of asbestos-containing material requiring abatement compared to the total amount of material in school buildings is small.

Local education agencies which desire assistance in determining an appropriate course of action for particular materials should contact the Asbestos Coordinator at the USEPA Regional Office in their area. The addresses and phone numbers of the Asbestos Coordinators are:

EPA Region I

Asbestos Coordinator
Air and Hazardous Materials Division
JFK Federal Bldg.
Boston, MA 02203
(617) 223-0585

EPA Region II

Asbestos Coordinator
Room 1013
Woodbridge Avenue
Edison, NJ 08837
(201) 321-6668

EPA Region III

Asbestos Coordinator
Curtis Building
Sixth and Walnut Streets
Philadelphia, PA 19106
(215) 597-9859, 597-9883

EPA Region IV

Asbestos Coordinator
345 Courtland Street
Atlanta, GA 30365
(404) 881-3864

EPA Region V

Asbestos Coordinator
230 S. Dearborn St.
Chicago, IL 60604
(312) 886-6003

EPA Region VI

Asbestos Coordinator
First Internat'l Bldg.
1201 Elm Street
Dallas, TX 75270
(214) 767-2734

EPA Region VII

Asbestos Coordinator
324 East 11 Street
Room 1500
Kansas City, MO 64106
(816) 374-6536

EPA Region VIII

Asbestos Coordinator
1860 Lincoln Street
Denver, CO 80295
(303) 837-3926

EPA Region IX

Asbestos Coordinator
215 Fremont Street
San Francisco, CA 94105
(415) 974-8123

EPA Region X

Asbestos Coordinator
1200 Sixth Avenue
Seattle, WA 98101 (206) 442-2888.

Although this rule does not require reporting of information to EPA, school districts are encouraged to contact EPA for assistance. EPA has worked closely with many States in providing training and technical assistance to school districts. The Regional Asbestos Coordinator will provide technical recommendations, provide additional State or local asbestos experts for assistance, or, in some cases, be able to provide training to the local education agency on the factors affecting abatement decisions. EPA is extending the compliance period for this rule by six months to ensure that school districts have sufficient time to consult with the Agency, if desired, after finding asbestos in their schools.

A. Background

"Asbestos" refers to a group of hydrated mineral silicates which readily separate into fibers. Asbestos-containing materials have been used widely for fireproofing, thermal and acoustical insulation, and decoration in building construction and renovation. These materials usually were applied by spraying, but also have been trowelled onto overhead surfaces, steel beams, ceilings, walls, furnaces, and pipes.

Asbestos is a known human carcinogen. Extensive epidemiologic evidence demonstrates that inhalation of asbestos can lead to pleural and peritoneal mesothelioma, lung cancer, asbestosis, and other diseases which are serious, irreversible, and often fatal. Asbestos has been responsible for the premature deaths of many persons who worked with the types of insulating materials now found in some schools.

The potential for release of asbestos fibers from asbestos-containing materials depends in part upon the characteristics of the material which contains the asbestos fibers. Soft, crumbly materials tend to release fibers more easily than do hard, cementitious materials. This regulation addresses friable materials, which are defined as all materials that when dry may be crumbled, pulverized, or reduced to powder by hand pressure.

Asbestos fibers are extremely durable, and their size and shape permit them to remain airborne for long periods of time. Fibers become suspended in the air by disturbance of the friable asbestos-containing materials or deterioration causing the material to release fibers, and by resuspension of previously released fibers that have settled onto floors and other surfaces. Resuspension of asbestos fibers that have settled may result from many different activities, including dusting, sweeping, vacuuming, and even ordinary movement in the vicinity of the settled fibers. This process of release and resuspension of asbestos fibers results in continued dispersal of asbestos fibers throughout the building.

B. EPA's Program

EPA issued a Notice of Proposed Rulemaking in the Federal Register of September 17, 1980 (45 FR 61966) regarding the identification of friable asbestos-containing material in schools. EPA held a public hearing on this proposal on November 17, 1980, and has received comments from 63 parties on the proposal. EPA has analyzed and responded to these comments in "Analysis of Comments on the Proposed Rule for Identification and Notification of Friable Asbestos-Containing Materials in Schools" (hereinafter "Analysis of Comments").

EPA's Science Advisory Board (SAB) reviewed the "Support Document—Asbestos-Containing Materials in Schools—Health Effects and Magnitude of Exposure" (hereinafter "the Technical Support Document") which was published with the proposal and which presents EPA's findings on the risk of exposure to asbestos in schools. The SAB met on December 2–3, 1980, to discuss the document with EPA personnel. The SAB found the risk assessment scientifically credible and made several recommendations for improving the document. EPA has considered these recommendations when preparing the final Technical Support Document published with this rule. The transcript of the meeting and a report of the SAB's recommendations with respect to the document have been added to the rulemaking record.

This final rule implements that proposal, which was made after the Agency had operated a Technical Assistance Program (TAP) for 18 months to help school districts identify and correct potential hazards due to asbestos in schools. The TAP continues to provide assistance to schools. In each EPA Regional office, there is a person to respond to inquiries and help school officials locate necessary services. In addition, each EPA region has a technical advisor, hired and trained

under a grant to the National Retired Teachers Association/American Association of Retired Persons, to assist schools.

A number of comments on the proposal urged EPA not to impose regulations in this area, some arguing that the TAP is sufficient. EPA finds, however, that it is necessary to promulgate this rule because many schools have not been inspected adequately. For example, EPA estimates that 30 percent of the schools in the 11 States in EPA Regions V and VI had not been inspected as of August, 1981. If this proportion applies to the nation as a whole, 33,000 public and private schools remain uninspected. Further, a number of States either have not surveyed their schools at all or have not surveyed their schools adequately, such as the case in one State where analysis of samples looked only for chrysotile asbestos (see Analysis of Comments, pp. 2–3).

In May of 1979, EPA distributed "Asbestos-Containing Materials in School Buildings: A Guidance Document" (hereinafter "the Guidance Document") to school districts across the country. EPA also has prepared "Asbestos-Containing Materials in Schools: Guidance for Asbestos Analytical Programs," which provides additional guidance on taking samples of friable materials and on selecting laboratories to analyze these samples.

General information on EPA's TAP, copies of the Guidance Document, and a list of laboratories may be obtained by telephoning the numbers given above. Finally, EPA operates a toll-free, technical assistance number (800–334–8571, extension 6741) especially for school districts and laboratories which need up-to-date information on analysis, including results of subsequent rounds of the quality assurance program.

Comments on the rule stated that EPA should do more to ensure proper analysis of samples of friable material, perhaps including certification of laboratories or analysis by EPA laboratories. EPA finds that, with the guidance and assistance EPA provides, school districts can obtain satisfactory analysis of their samples when acting in accordance with the requirements of this rule (see Analysis of Comments, pp. 35–38).

C. Education Department Assistance

On May 16, 1980, the U.S. Congress passed the Asbestos School Hazard Detection and Control Act of 1980. In the **Federal Register** of January 16, 1981 (46 FR 4536), the Education Department (ED) issued rules to implement a Federal grant and loan program under the Act to assist local education agencies in detecting and controlling asbestos hazards. Funds have not been appropriated by Congress for this program.

Comments on EPA's rulemaking suggested that the ED program makes rules under the Toxic Substances Control Act (TSCA) unnecessary. EPA finds, however, that the availability of grants, if funding occurs, to cover one-half the cost of detection programs is not in itself sufficient incentive to ensure that schools will be inspected and school employees notified. Since ED does not have authority to require these actions, EPA is requiring them under TSCA (see Analysis of Comments, p. 2 and p. 7).

II. Legal Authority

TSCA section 6 requires the Administrator to regulate the use of a chemical substance or mixture that the Administrator finds presents an unreasonable risk of injury to human health or the environment. The finding of unreasonable risk involves a balancing of the risk, including the severity and probability of injury, with the adverse effects of possible regulatory action.

If the Administrator finds that a substance presents an unreasonable risk, TSCA section 6(a)(3) authorizes the Administrator to promulgate:

> A requirement that such substance or mixture be marked with or accompanied by clear and adequate warnings and instructions with respect to its use, distribution in commerce, or disposal or with respect to any combination of such activities. The form and content of such warnings and instructions shall be prescribed by the Administrator.

Thus section 6(a)(3) authorizes EPA to require school officials to provide warnings to school employees of the location of asbestos and instructions on how to reduce exposures. In order to determine whether a school is subject to the warning and instruction requirements, school officials will have to inspect for and identify friable asbestos-containing materials; therefore, such inspection and identification are required under this same provision of section 6 by this rule.

III. Findings

This unit summarizes the findings required by TSCA for the Administrator to regulate friable asbestos-containing materials under section 6(a) of TSCA.

A. Findings Required By Section 6(c) of TSCA

This part presents the statement required by section 6(c) of TSCA.

1. *Health effects of and magnitude of exposure to asbestos—*

a. *Health effects.* A detailed discussion of the health effects findings appears in Chapter 3 of the Technical Support Document. Although several comments strongly criticized several aspects of the Agency's proposed findings on the health effects of asbestos (see Analysis of Comments, pp. 9–10), no one contested the finding that exposure to asbestos increases risks of developing asbestosis, pleural and peritoneal mesothelioma, and cancers of the lung, larynx, oral cavity, esophagus, stomach, colon and kidney. Nor did anyone dispute the finding that the effects of exposure to asbestos are serious, irreversible, and often fatal.

EPA emphasizes the strength of the epidemiologic evidence that exposure to asbestos is a cause of cancer. In a major study of over 12,000 asbestos insulation workers, cancers induced by asbestos were responsible for elevating the overall mortality rate by approximately 50 percent. Seventeen percent of all deaths in this group were due to asbestosis, pleural mesothelioma, or peritoneal mesothelioma. These causes of deaths are virtually unheard of in the general population. The International Agency for Research on Cancer has listed asbestos among only 18 chemicals, groups of chemicals, and industrial processes for which the evidence of human carcinogenicity is conclusive.

In addition, EPA finds that adverse health effects of non-occupational exposure to asbestos have been amply demonstrated. Some persons whose only known exposure to asbestos has been from living in the same households as asbestos workers or in the neighborhoods of asbestos mines, mills, and processing facilities have developed mesothelioma and signs of asbestosis (see Technical Support Document, pp. 30–34 and 44–48).

b. *Magnitude of exposure in schools.* EPA finds that the prevailing airborne concentrations of asbestos (concentrations of asbestos present most of the time in occupied areas) in school buildings which have friable asbestos-containing materials are frequently higher than asbestos concentrations in the ambient air. The specific airborne concentration in a given building at a given time depends, however, on such factors as the condition and accessibility of the friable material, the amount of activity, and cleaning methods used in the building.

EPA estimates that the prevailing exposure to asbestos in schools with friable asbestos-containing materials ranges from 57 to 270 nanograms per cubic meter (ng/m^3). Prevalent levels

could become as high as 500 ng/m³ as friable asbestos-containing material further deteriorates or is damaged (see Technical Support Document, pp. 68–74). Several comments questioned EPA's method of estimating prevailing concentrations, noting that the data used came from buildings in Paris and that not all of the available data points were used. EPA has carefully reconsidered these estimates and finds that they are reasonable representations of exposure to asbestos in U.S. schools. Measurements of airborne asbestos in U.S. schools are not significantly different from the Paris data (see Analysis of Comments, pp. 23–25). EPA notes that measurements from Paris were selected from buildings in which friable asbestos-containing materials were exposed and in which there was normal activity, e.g. the simple comings and goings of people, at the time of measurement. These data most closely fit the situation in schools when students are present. Moreover, prevalent concentrations in schools with intact friable materials are not the main concern of this rule.

This rule is addressed to the control of "peak" exposures. Peak exposures can be much in excess of the prevailing concentration of asbestos in buildings and occur during damage, repair, renovation, or cleaning, when the friable asbestos-containing material is contacted, or settled asbestos fibers are resuspended.

Peaks up to 500,000 ng/m³ may be common due to simple maintenance or cleaning chores or to vandalism and other damage (see Technical Support Document, pp. 80–84). This is at least 1000 times higher than the prevalent levels discussed above. Although EPA has documented these high exposure levels and considers them significant, EPA has not been able to quantitatively estimate the contribution which peaks make to cumulative exposure among school children and teachers because of the extreme variability in the occurrence of such peaks.

However, EPA emphasizes that peaks contribute significantly to exposure, even if they occur intermittently and for short periods. As an illustration, a person exposed to a peak of 500,000 ng/m³ for one hour inhales as much asbestos as one exposed to 250 ng/m³ over a full work year. Given that these peak exposures are likely to be repetitive (unless proper precautions are taken), this mode of exposure may predominate.

Currently, an estimated 2,900,000 students and 280,000 teachers and staff, including 17,200 janitors and maintenance personnel, regularly use the 8,600 public schools estimated to have friable asbestos-containing materials in the United States (accurate estimates for non-public schools cannot be made at this time). Many of these persons, especially maintenance personnel, can be exposed regulary to peaks during routine repairs, cleaning, or renovation.

c. *Risks due to exposure in schools.* EPA finds it highly likely that exposure to asbestos in schools may increase the risk of developing numerous types of cancer, most notably pleural and peritoneal mesothelioma and lung cancer. This finding is based on:

(1) Incontrovertible epidemiologic evidence that occupational exposure to asbestos markedly increases the risk of developing several types of cancer and asbestosis.

(2) Evidence that both less intense and briefer exposures to asbestos, as may occur in the neighborhoods of asbestos processors or in the homes of asbestos workers, can produce mesothelioma and signs of asbestosis in some individuals.

(3) Demonstrated airborne concentrations of asbestos in buildings with friable asbestos-containing material which can be above urban ambient levels, especially peaks which can exceed occupational standards.

The conclusion that a risk due to exposure in schools can exist is supported by studies that demonstrate a relationship between exposure to asbestos and the risk of cancer resulting from workplace concentrations of airborne fibers.

A key to EPA's assessment of the risk from asbestos exposure in schools is an epidemiologic study which covered more than 12,000 asbestos insulation workers who were exposed to asbestos for at least 10 years and who had survived at least 20 years after first exposure before their mortality experience was observed. The estimate of attributable cancer risk from this study is 7 deaths per 1000 workers per year of observation (7 deaths per 1000 person-years). The attributable risk is the difference between observed and expected death rates for asbestos-induced diseases in an exposed group. This difference represents the number of deaths resulting annually from asbestos exposure in a population of a given size. The 95 percent confidence interval for this estimate (a way of reflecting the role of chance variation) is a range of 6 to 8 deaths per 1000 person-years. The average exposure incurred by these workers is estimated to have been between 100,000 ng/m³ and 500,000 ng/m³ for 20 years.

The cumulative exposure of the insulation workers greatly exceeds exposures expected to occur in schools, especially that of students. EPA has considered plausible models for assessing risk at low levels, including the possibility that a threshold at or above the exposure levels in schools exists and that exposure below this threshold would not increase risk. Based on these considerations, EPA has determined that there is a non-zero risk of cancer due to exposure to asbestos in schools.

Especially important to EPA's assessment of risk are the peak exposures incurred by persons who, perhaps unknowingly, work on friable asbestos-containing material. It would not be unusual for a custodian to receive 10 times the cumulative exposure EPA has estimated for prevailing levels by sustaining peak exposures during normal custodial activities.

Comments on the proposed rule questioned both the estimate of exposure among the insulation workers (3,000,000 to 15,000,000 fibers per cubic meter (f/m³)) and EPA's factor for converting fibers to nanograms (30 fibers equal 1 nanogram). The comments stated that exposure among the workers may have been higher than estimated by EPA, so that the risk attributed to the lower exposure in schools would be lower than predicted by EPA. EPA finds that its estimated exposure levels are reasonable (see Analysis of Comments, pp. 14–18).

2. *Environmental effects.* Section 6(c) requires the Administrator to state the relevant factors and key considerations which form the basis for regulatory action under section 6(a). This regulation addresses risks to human health. EPA finds that the environmental effects of asbestos exposure are not relevant to this rulemaking, a finding not contested by public comment.

3. *Benefits of asbestos in schools and availability of substitutes.* EPA finds that it is not necessary for this rulemaking to publish a detailed review of the benefits of asbestos use in schools or the availability of substitutes. As noted in the proposal (45 FR 61971), this rule does not require schools to forego the benefits of asbestos, a point upon which there was no public comment.

4. *Economic effects.* This unit presents EPA's determinations of the economic consequences of the regulation as required by section 6(c)(1)(D) of TSCA.

Using data obtained from a variety of sources, EPA computed the unit costs of the major individual actions required by the rule (inspection, sampling and analysis of materials, recordkeeping,

and notification of employees), and estimated the rule's impact on individual schools.

EPA estimates that the overwhelming majority of schools will each spend less than $55 on compliance with the regulation, and that the total cost for all schools will be approximately $4.7 million. Table I presents the average school costs for the required actions. Details on these computations are in the preamble to the Proposed Rule (45 FR 61971) and in Chapters II and III of the "Economic Impact Analysis of the Final Identification and Notification Rule on Friable Asbestos-Containing Materials in Schools," a separate document EPA has entered into the rulemaking record.

TABLE I.—AVERAGE UNIT COSTS

Action	Unit Cost
Familiarization with rule	$10.00
Inspection	21.00
Sampling	25.00
Analysis	150.00
Recordkeeping:	
For schools with friable material	25.00
For schools without friable material	10.00
Certification statement for schools which determine no friable asbestos material prior to rule	5.00
Notification:	
For schools with asbestos	42.50
Recordkeeping (Unit cost for a school district)	20.00

There are approximately 91,000 public and 19,000 private elementary and secondary schools in the country. The 91,000 public schools are organized into about 16,000 school districts. Many schools have already been inspected and, where necessary, have sampled and analyzed friable materials, in response to State programs or to EPA's TAP. These schools will not have to repeat inspections, sampling, and analyses in order to comply with this rule. The number of public and private schools which remain to be inspected is approximately 44,000. EPA estimates that the total number of public and private schools with friable materials may be as high as 14,000.

Table II presents the total estimated cost of compliance.

Several comments on the proposal questioned the cost estimates, stating that the unit costs were either too high or too low, or that the impact analysis should also include the cost of corrective actions, e.g. removal of asbestos, which schools may be forced to take. One comment contested the estimated number of schools with friable asbestos-containing material.

TABLE II.—COMPLIANCE COSTS

Action	Unit cost	Schools affected	Total cost (in thousands)
Familiarization	$10.00	44,000	$440
Inspection	21.00	44,000	924
Sampling	25.00	5,600	140
Analysis	150.00	5,600	840
Recordkeeping:			
For schools with friable material	25.00	14,000	350
For schools without friable material	10.00	38,400	384
Certification statement for schools which determine no friable asbestos material prior to rule	5.00	57,600	288
Notification:			
For schools with asbestos	42.50	10,300	438
Recordkeeping (for school districts and private organizations)	20.00	19,000	380
Total cost			4,184

EPA finds no basis to conclude that the estimates should be changed (see Analysis of Comments, pp. 27–28).

5. *Other EPA statutes.* Section 6(c) of TSCA also requires that if the Administrator determines that a risk of injury to health or the environment could be eliminated or reduced to a sufficient extent by actions taken under another Federal law administered by EPA, the Agency may not promulgate a rule under section 6(a) of TSCA to protect against the risk unless the Administrator finds it is in the public interest to use TSCA. EPA finds no other law administered by the Agency that will enable it to eliminate or reduce the risks against which this rule protects. This proposed finding was not commented on by the public.

B. Findings Required by Section 6(a): Unreasonable Risk

On the basis of the foregoing factual information and on the information in the rulemaking record weighed against the minimal costs imposed by this rule, EPA finds that the presence of unidentified friable asbestos-containing materials in schools and the absence of notice of their presence and of instructions on proper handling and maintenance procedures to reduce exposure constitute an unreasonable risk of injury to school employees. These unreasonable risks can occur when school employees unknowingly disturb friable asbestos materials or such materials are allowed to deteriorate. When activities by school employees disturb or promote deterioration of friable asbestos materials, risk to users of school buildings may be elevated. Therefore, the Agency finds that this rule is needed to prevent such activities as lead to unreasonable risk.

The scientific evidence compiled by EPA demonstrates that asbestos is a human carcinogen. EPA places great weight on an epidemiologic study of a large cohort of asbestos insulation workers who were exposed to the same type of asbestos as that present in schools. The Agency finds it highly significant that, out of a group of over 12,000 persons, approximately one-half of those who died during the time the data were compiled died prematurely as compared to a non-exposed control population.

The study of asbestos insulation workers is especially valid for assessing risks. It covered a relatively large number of persons exposed to materials similar to those in schools. In addition, the study investigated all the known hazards of exposure to asbestos, verified cause of death for most of the cohort, included smoking history data, and compared the mortality rate of the cohort to that of a group selected to avoid confounding factors.

EPA also has substantial evidence of mesothelioma and asbestosis among persons exposed to asbestos because they lived in the same home as an asbestos worker or in the neighborhood of an asbestos plant. EPA has determined that this evidence, especially in light of the large number of persons exposed in schools, justifies imposing the very low cost requirements contained in this rule.

The presence of unidentified friable asbestos-containing materials in school buildings increases significantly the likelihood that peak exposures to asbestos will occur. Peaks will occur during disturbances of the friable material, either accidentally or during repair or renovation operations, and during resuspension of previously released fibers by cleaning and maintenance operations, such as sweeping, dusting, vacuuming, etc., or by general activities in the vicinity of fibers that have settled on floors and other surfaces.

Since peak exposures to asbestos in schools entail risks of serious injuries which may be reduced at extremely low costs, EPA finds that these exposures present an unreasonable risk and should be reduced accordingly.

The 8,600 public schools which EPA estimates contain friable asbestos-containing material employ over 17,000 custodians and other maintenance personnel. These custodians sweep in areas containing friable asbestos. They clean and dust in these areas; they change lights in ceilings covered with friable asbestos-containing materials; they undertake minor repairs and renovations. Without knowing that these areas contain asbestos, these custodians

will continue to undertake normal maintenance activities with no protection against unnecessary exposures, and may consequently risk serious injuries as a result.

Moreover, all of these activities which cause peak exposures further contaminate the building and increase the prevailing concentrations. Sweeping, dusting, and cleaning suspend previously released fibers and disperse them throughout the building. Minor repairs and disturbances to the friable asbestos-containing materials release additional fibers. Both types of activities will increase prevalent concentrations which, in turn, will increase the risk to the larger population of children, teachers, and school administrators who occupy the buildings.

EPA finds that the requirements of this regulation will reduce these risks. School officials and maintenance personnel, once informed of the risks of asbestos and of interim measures to avoid the risks, will act in their own best interests and the interests of school children to reduce the peak exposures as much as possible. If friable asbestos-containing materials in schools are identified, custodians will be able to avoid them during renovation projects and minimize disruptions of them during routine maintenance. If the custodians are provided with information on the use of wetting agents and on proper work practices when conducting necessary repairs and renovations, they will be able to reduce fiber release during such operations and reduce risks to themselves and to others. Instructions on proper cleaning activities in contaminated areas, including wet mopping and wet dusting, will reduce risks caused by unnecessary resuspension of asbestos fibers that would otherwise occur.

Finally, once local school officials know of the presence of friable asbestos-containing materials in buildings, they can take steps to ensure that occupants of the building avoid areas which contain the materials or avoid activities which unnecessarily disturb the materials.

Thus, by identifying friable asbestos-containing materials in school buildings and by implementing specific interim control procedures for reducing exposures, local school officials will reduce the risks of injury resulting from such exposures to school children, custodians, and other building occupants.

In addition to reducing peak exposures, the requirements of the regulation will reduce the prevalent level of fiber concentrations in schools by reducing the frequency of disturbances of the material and resuspension of released fibers. This present inspection regulation will enable school officials to complete the initial steps in a program which may lead to a determination at the local level that removal or abatement is needed and will, in the interim, reduce risks that would otherwise occur.

As reviewed above, the economic impacts of the rule are small. This regulation imposes costs upon all schools, but to varying degrees, as explained in the "Economic Effects" section above. In some instances, e.g. where there are friable materials which must be sampled because they are likely to contain asbestos, costs to individual schools may reach several hundred dollars. These costs are not unreasonable in view of the reduction in exposure to asbestos that will result from this rule. Furthermore, the identification of asbestos in schools, is a prerequisite to making the ultimate abatement determinations at the local level and will, therefore, contribute to the reduction in risk that will result from abatement.

C. Analysis Under Section 9 of TSCA

Section 9(a) of TSCA requires EPA to review other Federal authorities not administered by EPA to determine whether action under those authorities may prevent or sufficiently reduce unreasonable risks. EPA has reviewed other Federal authorities and finds that action under those authorities will not sufficiently reduce the risks addressed by this rule. Specifically, EPA has considered the regulatory authority of the Consumer Product Safety Commission (CPSC), the Occupational Safety and Health Administration (OSHA), and the Education Department (ED).

One comment stated the Agency had not adequately considered the authority of CPSC and ED (see Analysis of Comments, p. 5), a view with which the Agency disagrees. ED is not authorized to require detection of asbestos (the School Asbestos Hazard Detection and Control Act establishes a program to assist school districts financially). Further, as stated in the preamble to the proposal (45 FR 61973), EPA finds that it would be prohibitively difficult to identify companies which could be required to provide notice to schools under the authority of the Consumer Product Safety Act, sections 12 and 15. It is therefore necessary to regulate under TSCA (45 FR 61974).

IV. Discussion of the Rule

This section discusses modifications and clarifications of the rule as a result of public comment on and further analysis of the provisions of the proposed rule. The Agency's detailed analysis of major comments and the response to each are presented in the support document titled "Analysis of Comments," published with this rule and also added to the rulemaking record.

A. Definitions

Section 763.103 of the proposal (now § 763.103) defined various terms used in the regulation (45 FR 61986). The Agency finds that the definitions in the proposed rule are clear and adequate. They appear in § 763.103 of this final rule.

The Agency has received several comments on the definition of "friable material" (see Analysis of Comments, pp. 28–29). After reviewing the comments, EPA has decided to leave that definition unchanged. The operative language of the definition of a friable material is that it "may be crumbled, pulverized, or reduced to powder by hand pressure" (45 FR 61974). EPA stresses that materials rendered nonfriable, as by some methods of encapsulation, are not included under this definition.

B. Inspecting Schools

Regarding § 763.3 of the proposed rule (now § 763.105), "Inspection for friable materials," one comment pointed out that not all schools own the structure they use and may not be able, practically or legally, to take the steps required by the rule. EPA is clarifying the identification requirements in this final rule (§ 763.105) to indicate that local education agencies which lease or use a structure for school purposes must take steps to ensure that the required procedures are carried out, regardless of ownership (see Analysis of Comments, p. 29).

EPA has also changed the description of the inspection process to make it clear that an inspector must touch suspect material to determine whether it is friable.

C. Sampling Friable Materials

Section 763.4 of the proposed rule (now § 763.107) laid out the Agency's sampling requirements (45 FR 61987). The proposed rule stated that three samples must be taken from each area of friable asbestos-containing material (45 FR 61975). Section 763.107 of the rule adopts that requirement. EPA has published "Asbestos-Containing Materials in School Buildings—Guidance for Asbestos Analytical Programs" to provide guidance on a

method for randomly selecting these samples.

Several comments questioned the ability of only three samples to yield reliable results, citing instances where the analytical results from three or more analyses differed greatly. EPA recognizes that there may be instances in which the analysis of three samples of friable materials might produce inconclusive results. As stated in the preamble to the proposal, the requirements for three samples is based on the Agency's finding that most materials can be characterized by three samples and that requiring additional samples for all materials would be an unnecessary expense. Less than three samples, however, cannot accurately characterize the material, and in cases where only one sample was taken, additional samples will be required (see H. Exemptions below). The Agency does not intend to publish any additional rules at this time to address potential problems with sampling but recommends that local officials consult with their Regional Enforcement Office as to the Advisability of taking additional samples in specific instances (see Analysis of Comments, Definitions).

Comments on the proposal questioned whether inspectors could distinguish "sampling areas" from which to take the samples. EPA emphasizes that the definition is meant to provide guidance to inspectors who may find two or more distinct friable materials in a school. If two areas differ in appearance, the rule requires that three samples be taken from each. In this way, inspectors may be able to determine, for example, that one area contains asbestos and that another does not. If all the friable material in a building is homogeneous in appearance, then it should be treated as one sampling area.

EPA is also noting in the rule that the use of respirators is highly recommended when inspecting behind a false ceiling and when taking large numbers of samples of friable materials. One comment suggested respirators be required. EPA finds that sampling may lead to exposures up to 0.1 fibers per cubic centimeter (f/cc) and that the use of respirators during sampling may prevent such exposures. While it is always advisable to avoid unnecessary exposure to asbestos, EPA does not find the evidence sufficient to require the use of respirators (see Analysis of Comments, p. 34).

D. Analyzing Friable Materials

Section 763.5 of the proposal (now 763.109), "Analyzing friable materials," (45 FR 61987) required the use of specific analytical techniques for bulk materials. EPA described the analytical protocol to be followed as "Polarized Light Microscopy (PLM), supplemented where necessary by X-ray Diffraction * * *" This requirement (§ 763.109 of the rule) has not changed. In the preamble to the proposal, the word "supplemented" was accidentally omitted from the discussion of the analytical method (45 FR 61976). The Agency re-emphasizes that PLM is the preferred method, and that X-ray Diffraction is not in itself adequate to identify asbestos.

E. Warnings and Notifications

Section 763.6 of the proposal (now § 763.111), "Warnings and notifications," (45 FR 61987) presented proposals to require posting of a notice of inspection, provision of certain information on asbestos to employees, and direct notification of inspection results to parent-teacher associations. The Agency received comments concerning the duration of the posted warnings for school employees. EPA is dropping the requirement for the posting of notices in schools where there is no friable asbestos-containing material. Because some schools may not have parent-teacher associations, as pointed out by comments, the Agency is adding direct notification of parents as an alternative to notifying such associations (see Analysis of Comments, pp. 38–39).

Several comments said that the notice to parents would incite over-reaction, perhaps forcing the removal of materials in good condition. EPA recommends that the notification to parents, in addition to stating the results of inspections, include the statement: "It is important to note that not all friable asbestos-containing material need be removed from schools. Once such material has been identified, a program can be implemented to ensure that the material is maintained in good condition and that appropriate precautions are followed when the material is disturbed for any reason."

Finally, the content of the "Guide for Reducing Asbestos Exposure" has been changed slightly. Now included are recommendations that water to which a wetting agent has been added be used when asbestos-containing material is to be worked on and that debris from such work be disposed of in plastic bags (see Analysis of Comments, pp. 40–41).

F. Recordkeeping

Sections 763.7 and 763.8 of the proposal dealt with records to be kept by local education agencies (45 FR 61992). EPA is promulgating § 763.114, *Recordkeeping* (proposed § 763.7), without changes. However, the Agency has determined that the proposed § 763.8 *Optional Form*, should be eliminated from the regulation. Despite one comment to the effect that the Optional Form should be mandatory, the Agency finds that the material in the form is unnecessary for this rule.

EPA recommends that local education agencies institute a management system based on these records. The management system should be used to control access to friable asbestos-containing materials, such as when repair work is to be done. Local education agencies can then ensure, before maintenance or renovation is done, that workers are properly protected and that any debris from the work is cleaned up. Local education agencies should also periodically inspect friable asbestos-containing material to determine whether, due to deterioration or damage, the material requires corrective action.

G. Compliance

In § 763.9 of the proposal (now § 763.115), EPA stated the compliance date for the rule and proposed possible penalties for violations (45 FR 61997). Comments on the compliance section of the proposal indicated that some persons were not aware of exemptions to the rule. To clarify the compliance provision under § 763.115, EPA is reminding local education agencies that they may be eligible for exemptions if they have conducted certain detection activities. Local education agencies are advised to refer to the exemption section.

H. Exemptions

Section 763.10 of the proposal (now § 763.117) provided exemptions to local education agencies which had undertaken certain activities (45 FR 61997). EPA has changed the exemptions section. The proposal exempted from §§ 763.3, 763.4, and 763.5 (now §§ 763.105, 763.107, and 763.109) schools in which past activities in compliance with the inspection, sampling and analysis provisions of the rule had been conducted (45 FR 61977). This exemption is adopted in § 763.117. EPA is now also exempting schools built after December 31, 1978 from all provisions of the rule because the application of friable asbestos-containing material was banned by EPA by that date. Little purpose would be served by inspecting these schools and keeping records of (presumably) negative findings.

However, EPA has decided that the exemption of past actions in compliance with the recommendations for inspections and sampling under the TAP is too broad in one respect: where a

finding of "no asbestos" is based on analysis of less than three samples of the friable material, EPA will require that the material be resampled in accordance with the rule. Less than three samples may have been analyzed in some schools because there were less than 15,000 square feet of friable materials which, according to TAP guidance to take one sample per 5,000 square feet, would have required only one or two samples.

This revision is made because, when the true asbestos content of a material is low, the analysis of only one or two samples may not detect asbestos. Some low content materials may have been incorrectly classified as nonasbestos merely because the one or two samples analyzed were taken from spots in which poor mixing of the original material resulted in very little asbestos being present. EPA finds that a total of three samples are necessary to provide a high degree of certainty that any asbestos present throughout the sampling area is detected. This revision should not affect the majority of schools which have already taken samples because many have more than 15,000 square feet of materials (and therefore took at least three samples) and many others have taken more samples than recommended under the TAP.

In addition, EPA has decided to specifically exempt from the inspection, sampling, analysis, notification and recordkeeping requirements schools which can meet one of two criteria. These criteria are: (1) Schools which, prior to the effective date of the rule, have inspected, sampled and analyzed according to the procedures in this rule, and found no friable asbestos-containing materials. The school record must contain a copy of all laboratory reports, and all correspondence with laboratories, (letters discussing analyses, results, etc); (2) Schools that can document that, at the time of construction, modification, or renovation, no friable asbestos-containing building materials were used. To qualify for these exemptions, a school must keep the supporting records and a certification statement signed by the person responsible for compliance. The certification, found in § 763.117 of this rule, must state that, to the best of the official's knowledge, the school does not contain friable asbestos-containing materials.

The Agency is concerned that education agencies fully understand the exemption for schools which can document that no friable asbestos-containing building materials were used at the time of construction, modification, or renovation. The utility of building records often is extremely limited because the records are incomplete, if available at all. Records may indicate that a fireproofing spray was used without indicating its content, or they may incorrectly state that a material has asbestos when some other fiber was substituted during application. The records used as documentation for this exemption must clearly indicate that no friable asbestos-containing materials were used. For example, EPA's experience from the Technical Assistance Program was that architectural plans are insufficient documentation in themselves if they only state that asbestos-containing materials should not be used. Therefore, unless the records clearly show that the friable materials themselves used during construction, modification, or renovation did not include asbestos, a school should not consider the records sufficient justification to qualify for the exemption.

Schools in which school officials decided to treat friable materials as though they contain asbestos are also exempt from the inspection sampling and analysis requirements of this rule. EPA requires that, where a positive finding of asbestos is based either on records or on only one or two samples, local education agencies should take up to three samples. This will provide greater certainty and perhaps eliminate unnecessary treatment of nonasbestos materials.

One comment on the proposed rule pointed out wide variation in analytical results from three laboratories analyzing split samples of several friable materials. Analyses were apparently done prior to EPA's preparation of an interim analytical protocol for PLM (in mid-1980), and there is some question about the ability of the three laboratories to properly detect asbestos. EPA will not require that all analyses done before the protocol was prepared be repeated. However, EPA strongly recommends that school districts review their information on all earlier analyses' results to determine whether proper techniques were used.

The Agency has also determined that, in a school where previously discovered friable asbestos-containing material has been removed or satisfactorily encapsulated so that it is no longer friable, the provisions of this rule should not apply. By undertaking these corrective actions, school officials not only will have substantially complied with the identification requirements, they will also have removed the types of materials which are the focus of the recordkeeping and notification parts of this rule.

V. Export Reporting

Section 12(b)(2) of TSCA requires any person who exports or intends to export a chemical substance for which a rule exists under TSCA section 6 to notify the Administrator of such export or intent to export. This requirement applies to export of bulk asbestos and asbestos in mixtures which must be processed or fabricated before further distribution in commerce.

Regulations regarding this requirement were published in the Federal Register of December 16, 1980 (45 FR 82844). EPA issued a clarification on these requirements in the Federal Register of July 21, 1981 (46 FR 37609).

Notices shall be sent to: Document Control Officer, TS-793, Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

VI. Rulemaking Record

EPA has established a Public Record for this rulemaking (docket number OPTS 61004) which along with a complete index is available for inspection in the OPTS reading room from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays, at 401 M Street SW., Washington, D.C. The record was listed in the preamble to the proposed rule (45 FR 61980), and is hereby incorporated. Documents and letters have been added to appropriate sections of the record as listed below under each section's title:

E. Comments on the Proposal

The Agency received 45 main comments and 11 reply comments on the proposed rule.

G. Support Documents

1. USEPA, OPTS, OTS. Support Document for Final Rule on Friable Asbestos-Containing Materials in School Buildings—Health Effects and Magnitude of Exposure. Draft. August 3, 1981.

2. USEPA, OPTS, OTS. Support Document—Asbestos-Containing Materials in Schools—Health Effects and Magnitude of Exposure. Final Rule. January, 1982.

3. USEPA, OPTS, OTS. Support Document—Economic Impact Analysis of the Final Identification and Notification Rule on Asbestos-Containing Materials in Schools. January, 1982.

4. USEPA, OPTS, OTS. Analysis of Comments on Proposed Rule for Identification and Notification of

Asbestos-Containing Materials in Schools. January, 1982.

J. Other Federal Register Notices

1. 45 FR 61950. Department of Education. Asbestos Detection and Control: Local Educational Agencies; Asbestos Detection and State Plan: State Educational Agencies (September 17, 1980).

2. 46 FR 4536. Department of Education. Asbestos Detection and Control: Local Educational Agencies; Asbestos Detection and State Plan: State Educational Agencies; Final Regulations. (January 16, 1981).

K. USEPA News Releases

1. USEPA. "EPA Adopts Interim Cancer Assessment Procedures." (May 19, 1976).

L. Reports

1. Albert RE, Train RE, Anderson E. "Rationale Developed by the Environmental Protection Agency for the Assessment of Carcinogenic Risks." *JNCI.* 58 (1977): 1537–1541.

2. Atkins Research and Development. *Asbestos: Review Of Uses, Health Effects, Measurement and Control.* Epsom Surrey, England. (January 1977.)

3. Auerbach O, Conston A, Garfinkel L, Parks V, Kaslow HD, Hammond EC. "Presence of Asbestos Bodies in Organs Other Than the Lung." *Chest.* 77 (1980): 133–137.

4. Baris YI, Artvinli M, Sahin AA. "Environmental Mesothelioma in Turkey." *Ann NY Acad Sci.* 330 (1979): 423–432.

5. Churg A, Warnock ML. "Asbestos Fibers in the General Population." *Am Rev Respir Dis.* 122 (1980): 669–678.

6. Commission of European Communities. *Public Health Risks of Exposure to Asbestos: Report of a Working Group of Experts Prepared for the CEC, Directorate-General for Social Affairs, Safety and Health Directorate.* (1977): Elmsford, NY: Pergamon Press.

7. Corn M. "Sampling Strategy, Air Sampling Methods Analysis, and Airborne Concentrations of Fibrous Glass in Selected Manufacturing Plants." Paper presented at the Symposium on Occupational Exposure to Fibrous Glass held on 26–27 June 1974. Sponsored by the National Institute for Occupational Safety and Health, College Park, Maryland (1976): 91–96.

8. Davis JMG. "The Use of Animal Inhalation Experiments in the Study of Asbestos Bioeffects." *Staub-Reinhalt. Luft.* 40 (1980): 453–455.

9. Elmes PC, Simpson MJC. "Insulation Workers in Belfast, Mortality 1940–66." *Brit J Ind Med.* 28 (1971): 226–236.

10. Gehring PJ, Watanabe PG, Blau GE. "Risk Assessment of Environmental Carcinogens Utilizing Pharmacokinetic Parameters." *Ann NY Acad Sci.* 329 (1979): 137–152.

11. Harries, PG. "A Comparison of Mass and Fibre Concentrations of Asbestos Dust in Shipyard Insulation Processes." *Am. Occup. Hyg.* 14 (1971): 235–40.

12. Hinds MW. "Mesothelioma in the United States: Incidence in the 1970's." *J Occup Med.* 20 (1978): 469–471.

13. Hinds MW, Thomas DB, O'Reilly HP. "Asbestos, Dental X-Rays, Tobacco, and Alcohol in the Epidemiology of Laryngeal Cancer." *Cancer.* 44 (1979): 1114–1120.

14. Hirsch A, Bignon J, Sebastien P, Gaudichet A. "Asbestos Fibers in Laryngeal Tissues: Findings in Two Patients with Asbestosis Associated with Laryngeal Tumors." *Chest.* 76 (1979): 697–699.

15. Hurst GA, Spivey CG, Matlage WT, Miller JM, Faulk G, Hieger LR, McLarty JW, Greenberg SD. "The Tyler Asbestos Workers Program. I. A Medical Surveillance Model and Method." *Arch Environ Health.* 34 (1979): 432–439.

16. Knelson JH. "Problem of Estimating Respiratory Lead Dose in Children." *Environ Health Perspect.* 7 (1974): 53–57.

17. Knox JF, Holmes S, Doll R, Hill ID. "Mortality from Lung Cancer and Other Causes Among Workers in an Asbestos Textile Factory." *Brit J Ind Med.* 25 (1968): 293–303.

18. Lakowicz JR, Bevan DR, Riemer SC. "Transport of a Carcinogen, Benzo[a]Pyrene, from Particulates to Lipid Bilayers: A Model for the Fate of Particle-Absorbed Polynuclear Aromatic Hydrocarbons Which Are Retained in the Lungs." *Biochemica et Biophysica Acta* 629 (1980): 243–258.

19. McDonald JC. "Asbestos and Lung Cancer: Has the Case Been Proven?" *Chest.* 78:2 (1980): 374–376. (Supplement).

20. McDonald JC, Liddell FDK, Gibbs GW, Eyssèn GE, McDonald AD. "Dust Exposure and Mortality in Chrysotile Mining, 1910–75." *Br J Ind Med.* 37 (1980): 11–24.

21. McMillan GHG, Pethybridge RJ, Sheers G. "Effect of Smoking on Attack Rates of Pulmonary and Pleural Lesions Related to Exposure to Asbestos Dust." *Brit J Ind Med.* 37 (1980): 268–272.

22. NAS, Committee on BEAP. *Asbestos: the Need for and Feasibility of Air Pollution Controls.* (1971): Washington, D.C. ISBN 0-309-01927-3.

23. Newhouse ML, Berry G. "Asbestos and Laryngeal Carcinoma" (letter). *Lancet.* (1973): 615.

24. Peto J. "Dose-Response Relationships for Asbestos-Related Disease: Implications for Hygiene Standards. Part II. Mortality." *Ann NY Acad Sci.* 330 (1979): 195–203.

25. Pooley FD. "Methods for Assessing Asbestos Fibers and Asbestos Bodies in Tissue by Electron Microscopy." In: Bogovski P, Gilson JC, Timbrell V, Wagner JC, eds. *Biological Effects of Asbestos.* (1973): WHO, IARC. Lyon, France.

26. Roggli VL, Greenberg SD, McLarty JL, Hurst GA, Spivey CG, Hieger LR. "Asbestos Body Content of the Larynx in Asbestos Workers: A Study of Five Cases." *Arch Otolaryngol.* 106 (1980): 533–535.

27. Rohl AN, Langer AM, Wolff MS, Weisman I. "Asbestos Exposure During Brake Lining Maintenance and Repair." *Environ Res.* 12: (1976) 110–128.

28. Rubino GF, Newhouse, M, Murray R, Scansetti G, Piolatto G, Aresini G. "Radiologic Changes after Cessation of Exposure Among Chrysotile Asbestos Miners in Italy." *Ann NY Acad Sci.* 330 (1979): 157–161.

29. Selikoff IJ, Hammond EC, Seidman H. "Latency of Asbestos Disease among Insulation Workers in the United States and Canada." *Cancer* 46 (1980): 2736–2740.

30. Selikoff IJ, Seidman H, Hammond EC. "Mortality Effects of Cigarette Smoking Among Amosite Asbestos Factory Workers." *JNCI* 65 (1980): 507–513.

31. Stopford W, Bundy SD, Goldwater LJ, Bittikofer JA. 1978. "Microenvironmental exposure to mercury vapor." *Am Ind Hyg Assoc J.* (1978) 39: 378–384.

32. USDHEW, PHS, CDC. "Survey of Teenage Smokers—United States, 1979." In: *Morbidity and Mortality Weekly Reports.* 28: 18 (1979): 206.

33. USDHEW, PHS, NCHS. *Vital Statistics of the United States, 1976.* Volume II—Mortality, Part A, Section 5, Table 5–3. (1980): Hyattsville, MD.

34. USDHEW, PHS, NIH. *Epidemiologic Analysis With A Programmable Calculator.* NIH Pub. #79–1649. (June 1979): Washington, D.C.

35. USDHEW, PHS, OHRST, NCHS. *Use Habits Among Adults of Cigarettes, Coffee, Aspirin, and Sleeping Pills: United States, 1976.* DHEW Pub. # (PHS) 80–1559. (October 1979): Hyattsville, MD.

36. USEPA, OTS, OTE. *Risk Assessment of Asbestos in Schools.* May 21, 1980. Life Systems, Inc.

37. USEPA, OPTS, OTS, EED. *Asbestos-Containing Materials in School Buildings: Bulk Sample Analysis*

Quality Assurance Program. Round Two. EPA 560/5–81–001. (March 1981.)

38. USEPA, OPTS, OTS, EED. *Characteristics of the Asbestos Exposure Assessment Algorithm.* Draft as prepared by RTI [November 1980].

39. USEPA, SAB. *Review of "Technical Support Document for Regulatory Action Against Friable Asbestos-Containing Materials in School Buildings" (Draft dated September 1980).* A report of the Toxic Substance Subcommittee EPA/SAB/81/001. (February, 1981) Washington, D.C.

40. Weill H, Hughes J, Waggenspack C. "Influence of Dose and Fiber Type on Respiratory Malignancy Risk in Asbestos Cement Manufacturing." *Am Rev Respir Dis.* 120 (1979): 345–354.

41. WHO, IARC. "An Evaluation of Chemicals and Industrial Processes Associated with Cancer in Humans Based on Human and Animal Data: IARC Monographs 1 to 20." *Cancer Research.* 40 (1980): 1–12.

N. Written Communications

1. State of Hawaii, Department of Health. Letter from MK Kolzum, D.D. for Env. Health, to John Ritch, Jr. Director, IAO, OTS USEPA. Subject: Response to J. Ritch's notice of May 15, 1981 re: Conference on Encapsulation of Asbestos-Containing Material. (05/22/81). With Enclosure—State of Hawaii, DOH, et al., *Report on House Resolution #358. Requesting a Report on the Status of Efforts to Remedy the Problem of Asbestos-Containing Materials in the Public Schools and Related Health Risks.* 10th Legislature, State of Hawaii. 1980.

2. Letter from T.S. Hardy, Kirkland and Ellis, Counsel for AIA. To E.A. Klein, Esq. Subject: Friable Asbestos-Containing Materials in Schools; Proposed ID, (specifically Quantitative Risk Assessment). (06–18–81).

Any person wishing to notify EPA of any errors or omissions in the rulemaking record must do so before the effective date of this rule.

VII. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because: the overall economic impact of the rule is under $6 million; it imposes only a small increase in costs on the schools affected by the rule; and it has no adverse impact on competition, employment, investment, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

VIII. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3510 *et seq* (the "Act"), authorized the Director of the OMB to review certain information collection requests by Federal agencies. EPA has determined that the recordkeeping and reporting requirements of this rule constitute a "collection of information" as defined in 44 U.S.C. 3502(4). In accordance with the Act, the recordkeeping and reporting of this rule has been reviewed by OMB and the Federal Education Data Acquisition Council. The OMB control number is (2000–0463).

List of Subjects in 40 CFR Part 763

Environmental protection, Hazardous materials, Recordkeeping and reporting requirements, Asbestos.

Dated: May 21, 1982.

Anne M. Gorsuch,

Administrator.

Therefore, Chapter I of Title 40 of the Code of Federal Regulations is amended by adding a new Part 763 consisting at this time of Subpart F to read as follows:

PART 763—ASBESTOS

Subparts—A—E [Reserved]

Subpart F—Friable Asbestos-Containing Materials in Schools

Sec.

763.100 Scope and purpose.
763.103 Definitions.
763.105 Inspection for friable material.
763.107 Sampling friable material.
763.109 Analyzing friable material.
763.111 Warnings and notifications.
763.114 Recordkeeping.
763.115 Compliance.
763.117 Exemptions.
763.119 References.
Appendix A—Interim Methods for the Determination of Asbestos In Bulk Insulation Samples.

Authority: Sec. 6 of the Toxic Substances Control Act, Pub. L. 94–469, 90 Stat. 2020 (15 U.S.C. 2605).

Subparts—A–E [Reserved]

Subpart F—Friable Asbestos-Containing Materials in Schools

§ 763.100 Scope and purpose.

(a) This rule requires local education agencies to identify friable asbestos-containing material in public and private schools by visually inspecting school buildings for friable materials, sampling such materials, and having samples analyzed by appropriate techniques referred to in the rule. In addition, the rule requires local education agencies to post a notice of the results of inspections and analyses. The rule requires local education agencies to provide warnings on the health effects of asbestos and instructions on methods to avoid or reduce exposure to school employees of any school with friable asbestos-containing material and to notify parent-teachers associations of the results of inspections. The rule also includes recordkeeping requirements. Local education agencies may contractually delegate their duties under this rule, but they remain responsible for the proper performance of those duties. Local education agencies are encouraged to consult with EPA Regional Asbestos Coordinators for assistance in complying with this rule.

(b) The addresses and telephone numbers of the EPA Regional Asbestos Coordinators are:

(1) EPA Region I

Asbestos Coordinator
Air and Hazardous Materials Division
JFK Federal Bldg.
Boston, MA 02203
(617) 223–0585

(2) EPA Region II

Asbestos Coordinator
Room 1013, Woodbridge Avenue
Edison, NJ 08837
(201) 321–6668

(3) EPA Region III

Asbestos Coordinator
Curtis Building
Sixth and Walnut Streets
Philadelphia, PA 19106
(215) 597–9859, 597–9863

(4) EPA Region IV

Asbestos Coordinator
345 Courtland Street
Atlanta, GA 30365
(404) 881–3964

(5) EPA Region V

Asbestos Coordinator
230 S. Dearborn St.
Chicago, IL 60604
(312) 886–6003

(6) EPA Region VI

Asbestos Coordinator
First Internat'l Bldg.
1201 Elm Street
Dallas, TX 75270
(214) 767–2734

(7) EPA Region VII

Asbestos Coordinator
324 East 11 Street
Room 1500

Kansas City, MO 64106
(816) 374–6538

(8) EPA Region VIII

Asbestos Coordinator
1860 Lincoln Street
Denver, CO 80295
(303) 837–3928

(9) EPA Region IX

Asbestos Coordinator
215 Fremont Street
San Francisco, CA 94105
(415) 974–8123

(10) EPA Region X

Asbestos Coordinator
1200 Sixth Avenue
Seattle, WA 98101
(206) 442–2868

§ 763.103 Definitions.

For the purposes of this part:

(a) "Act" means the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601, et seq.

(b) "Asbestos" means the asbestiform varieties of: chrysotile (serpentine); crocidolite (riebeckite); amosite (cummingtonite-grunerite); anthophyllite; tremolite; and actinolite.

(c) "Asbestos-containing material" means any material which contains more than 1 percent asbestos by weight.

(d) "Friable material" means any material applied onto ceilings, walls, structural members, piping, ductwork, or any other part of the building structure which, when dry, may be crumbled, pulverized, or reduced to powder by hand pressure.

(e) "Local education agency" means:

(1) Any local education agency as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854).

(2) The governing authority of any nonprofit elementary or secondary school, where the term "nonprofit" means owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(f) "Sampling area" means any area, whether contiguous or not, within a school building which contains friable material that is homogeneous in texture and appearance.

(g) "School" means any public or private day or residential school that provides elementary or secondary education for grade 12 or under as determined under State law, or any school of any Agency of the United States.

(h) "School buildings" means:

(1) Structures used for the instruction of school children, including classrooms, laboratories, libraries, research facilities and administrative facilities.

(2) School eating facilities, and school kitchens.

(3) Gymnasiums or other facilities used for athletic or recreational activities, or for courses in physical education.

(4) Dormitories or other living areas of residential schools.

(5) Maintenance, storage, or utility facilities essential to the operation of the facilities described in subparagraphs 1 through 4 of this paragraph.

(i) "Use of asbestos" means the presence of asbestos-containing material in school buildings.

§ 763.105 Inspection for friable material.

(a) Local education agencies shall inspect each school building which they lease, own, or otherwise use as a school building, to locate all friable material.

(b) This inspection shall consist of looking for and touching all suspect materials, including surfaces behind suspended ceilings or other non-permanent structures which may be entered during normal building maintenance or repairs. For further information on inspection procedures, officials should consult Chapter 4 of "Asbestos-Containing Materials in School Buildings: A Guidance Document," Part 1 (EPA no. C00090). Particular attention should be paid to the recommendation regarding respirators. Copies of the document can be obtained by calling 800–424–9065 (in Washington, D.C. call 554–1404).

§ 763.107 Sampling friable material.

(a) If friable materials are found in a school building, local education agencies shall identify each distinct sampling area of friable materials within the school building, take at least three samples from locations distributed throughout the sampling area, and label each sample container with a sample identification number unique to the sampling location and building.

(b) Officials should consult "Asbestos-Containing Materials in School Buildings: A Guidance Document," Part 1, Chapter 5, for further information on sampling procedures. The requirement that three samples be taken in each sampling area supersedes the recommendation made in the Guidance Document to take one sample per 5000 square feet of friable material.

(c) Sampling locations should be randomly distributed within the sampling; the locations should not be selected simply for convenience or ease of reaching the sample, or because the sampler judges the location to be representative. Samples shall be taken using small sealable containers; samples shall penetrate the depth of the friable material to the substrate.

§ 763.109 Analyzing friable material.

Local education agencies shall have all samples of friable material analyzed for asbestos using Polarized Light Microscopy (PLM), supplemented where necessary by X-ray Diffraction, in accordance with "Interim Method for the Determination of Asbestiform Minerals in Bulk Insulation Samples," which is found under appendix A of this Subpart. Persons interested in analyzing bulk samples for asbestos can obtain copies of the document by calling 800–424–9065 (in Washington, D.C., call 554–1404). A list of laboratories capable of conducting analyses of friable materials can be obtained by calling 800–334–8571, extension 6741. Officials should consult "Asbestos-Containing Materials in School Buildings: A Guidance Document," Part 1, Chapter 6, for further information on analysis of friable materials.

§ 763.111 Warnings and notifications.

(a) Local education agencies shall post in the primary administrative and custodial offices and in the faculty common rooms of each school under their authority a completed copy of the following Notice to School Employees unless no friable asbestos-containing material is present in the school. The notice shall remain posted indefinitely in any school which has friable asbestos-containing material.

BILLING CODE 6560-50-M

NOTICE TO SCHOOL EMPLOYEES

In accordance with EPA regulations, this school has been inspected for friable (easily crumbled) materials which contain asbestos. Friable asbestos-containing material may cause health problems.

Friable asbestos-containing material is present in

_____

(Name of School)

A record of the inspection, a diagram of the location(s) of friable asbestos-containing materials, and a copy of relevant EPA regulations are available in

Building	Room

For further information, interested persons should call 800-424-9065 (554-1404 in the Washington, DC area).

Signed:

_____

(Name)

_____

(Title)

_____

Date

EPA Form 7720-3 (6-82)

BILLING CODE 6560-50-C

(b) Local education agencies shall provide to all persons employed in school buildings under their authority which contain friable asbestos-containing materials a written notice of the location, by room or building area, of all friable asbestos-containing materials in the school.

(c) The following information on interim procedures to reduce exposures, "A Guide for Reducing Asbestos Exposure," shall be provided to all custodial or maintenance employees:

BILLING CODE 6560-50-M

A GUIDE FOR REDUCING ASBESTOS EXPOSURE

PURPOSE

Your school building contains materials which contain asbestos and may release fibers into the air. Breathing asbestos fibers is dangerous. This fact sheet tells how to reduce exposure to asbestos fibers. Please read it carefully.

PROTECTING YOURSELF FROM ASBESTOS

Some of the friable building materials in your school contain asbestos. Friable asbestos-containing materials crumble easily and release fibers into the air. Breathing these fibers may cause cancer and other diseases. The more asbestos you breathe, the greater your chances are of getting disease. You can take precautions that will reduce or eliminate the risk of being exposed to asbestos.

Find out from your supervisor where these friable asbestos-containing materials are in your building. Do not touch or disturb them unless you have to. If you must handle an asbestos-containing material, first lightly spray it with water. (EPA recommends using water which contains wetting agents, if they are available.) Wet asbestos-containing materials will not release as many fibers.

Even if friable asbestos-containing materials are not disturbed, they may release asbestos fibers, which will fall slowly to the floor. If you are cleaning in areas which contain these materials, do not use a broom: it will stir the fibers into the air. Do not use a vacuum cleaner unless it is equipped with a High Efficiency Particulate Absolute filter. The fibers are so small they can pass through an ordinary vacuum cleaner and out into the room.

When cleaning in areas which contain friable asbestos-containing materials, use dampened mops and dustcloths. Dampened mops and dustcloths will hold the fibers much better than dry mops and dustcloths, and will reduce the number of fibers put back into the air. It is best to use mops with disposable heads and to throw away the mop head after use. Otherwise fibers will be released as the mop dries. Use either lightly dampened mops or cloths or a vacuum with a High Efficiency Particulate Absolute filter to clean areas where wet mopping cannot be used (such as carpeting or hardwood floors).

Clean tables and chairs in the area with damp cloths. Do not dust them with brushes or with dry cloths, and do not vacuum them.

After you use the mop heads and cloths, put them in a plastic bag while they are still wet. Dislodged materials should also be placed in plastic bags for disposal.

A LIST OF IMPORTANT POINTS TO REMEMBER

1. Do not handle or disturb friable asbestos containing materials unless necessary.
2. If you must handle asbestos-containing materials, wet them first.
3. If you must disturb asbestos (for example, to repair a light), see your supervisor before starting work. Then;
   a. Place a plastic dropcloth below the work area.
   b. Spray asbestos-containing material with water before you disturb it.
   c. Make sure that only those persons who are necessary for the job are in the area.
   d. Put all the asbestos you remove into a heavy plastic bag. Seal the bag and discard it.
   e. After the job, clean all the ladders and tools you used with a wet cloth.
   f. Roll up the dropcloth carefully and put it in a plastic bag. Discard the bag.
   g. Clean the floor below the work area with a wet mop.
   h. Put the mop head and the cloth used to clean the ladders in a plastic bag while they are still wet, seal the bag, and discard it.
4. If you must disturb or remove large sections of asbestos-containing material, see your supervisor before you begin. The National Institute for Occupational Safety and Health recommends that a respirator approved for toxic dusts be worn during such work.

You should make arrangements to turn off the school's ventilation system if you are disturbing or removing large sections of asbestos-containing material. The ventilation system should remain off until the work is completed and the area has been cleaned.

EPA Form 7730-2 (8-82)

BILLING CODE 6560-50-C

(d) Local education agencies shall provide notice of the results of inspections and analyses in each school in which friable asbestos materials are found to the appropriate parent-teacher association of that school. If there is no parent-teacher association for the school, the local education agency shall notify directly the parents of its pupils.

§ 763.114 Recordkeeping.

(a) Local education agencies shall compile and maintain in the administrative office of each school under their authority a record which shall include:

(1) The name and address of the school.

(2) A list of all school buildings associated with the school, indicating whether each building has been inspected for friable materials in compliance with § 763.105, and which buildings contain friable materials.

(3) Copies of the Notice to School Employees, found in § 763.111(a).

(4) For each school building which contains friable materials:

(i) A blueprint, diagram, or written description of the building which identifies clearly the location(s) and approximate area(s) in square feet of each sampling area of such material(s), the locations at which samples were taken, and the identification number of each sample, and which shows or describes clearly whether each sampling area of friable material contains asbestos, including an estimate of its percent asbestos content as determined by calculating the average of the percent asbestos contents of all samples taken in that area.

(ii) A copy of all laboratory reports and all correspondence with laboratories concerning the analysis of samples taken in accordance with § 763.107.

(5) If the school contains friable asbestos-containing materials, copies of the "Guide for Reducing Asbestos Exposure" contained in § 763.111(b), and one copy of "Asbestos-Containing Materials in School Buildings: A Guidance Document," Parts 1 and 2 (EPA No. C00090), which can be obtained by calling 800–424–9065.

(6) A statement that the requirements of the rule have been satisfied signed by the person responsible for compliance with the rule and including the date and the person's name and title.

(b) Each local education agency shall retain in the administrative office of the agency:

(1) A list of all schools under its authority, indicating whether schools were inspected in accordance with § 763.105, and which schools contain friable materials.

(2) A record of the friable materials in schools which were sampled and analyzed in accordance with §§ 763.107 and 763.109, indicating which materials contain asbestos.

(3) For each school which contains friable asbestos-containing materials, the total area of such materials in square feet, and the total number of school employees who regularly work in the school.

(c) *Form.* Each local education agency shall complete and retain in the administrative office of the local education agency the following form "Inspections for Friable Asbestos-Containing Materials."

BILLING CODE 6560-50-M

INSPECTIONS FOR FRIABLE ASBESTOS-CONTAINING MATERIALS

1. Please provide the following information about the local education agency:

NAME OF AGENCY	
CITY	COUNTY
STATE	ZIP CODE

Please fill in the following information about the schools under the authority of this local education agency:

2. The number of schools which have been inspected for friable materials in accordance with § 763.105 of Title 40 of the Code of Federal Regulations.	
3. The number of schools where friable materials are present.	

If the answer to question 3 is none, disregard questions 4 – 7 and go on to the certification. Otherwise, fill in the following information about the schools enumerated in question 3:

4. The number of schools in which all friable materials have been sampled and analyzed in accordance with § § 763.107 and 763.109 of Title 40 of the Code of Federal Regulations.	
5. The number of schools with friable material(s) that contain(s) asbestos.	

If the answer to question 5 is none, disregard questions 6 – 7 and go on to the certification. Otherwise, fill in the following information about the schools enumerated in question 5.

6. The total area in square feet of all friable asbestos-containing materials found in these schools.	
7. The total number of school employees who regularly work in schools where friable asbestos-containing materials are present.	

CERTIFICATION: Please read and sign below the following statement:

I hereby certify that this local education agency has complied with the EPA regulation 40 CFR 763.100 through 763.117, "Asbestos-Containing Materials in Schools Identification and Notification," and that the information on this form is, to the best of my knowledge, true and complete.

SIGNATURE	TYPED OR PRINTED NAME
TYPED OR PRINTED TITLE	DATE

Additional forms can be obtained by calling 800-424-9065 (554-1404 in the Washington, DC area).

EPA Form 7730-1 (5-82)

BILLING CODE 6560-35-C

§ 763.115 Compliance.

(a) Local education agencies shall comply with all parts of this regulation by May 27, 1983. Local education agencies that have already conducted detection activities should consult § 763.117 *Exemptions.*

(b) Actions undertaken by municipal or State officials on behalf of local education agencies as a part of a municipal or State school asbestos program shall constitute compliance with this regulation to the extent that such actions conform to the requirements of this regulation.

(c) Section 15(1) of TSCA (15 U.S.C. 2614) makes it unlawful for any person to fail or refuse to comply with any rule promulgated or order issued under section 6 of TSCA (15 U.S:C. 2605). Thus, failure to comply with any aspect of this rule constitutes a violation as defined by section 15(1) of TSCA.

(d) Section 16(a) of TSCA (15 U.S.C. 2615) provides that any person who violates any provision of section 15 shall be liable to the United States for civil penalties. If a violation is knowing or willful, criminal penalties may also be assessed. Under section 17 of TSCA (15 U.S.C. 2616), the Agency may take injunctive action to restrain persons from violating a rule promulgated under section 6 of TSCA.

§ 763.117 Exemptions.

(a) *Schools that were inspected, sampled, and analyzed prior to this rule.* (1) Schools are exempt from §§ 763.105, 763.107, and 763.109, if, prior to the effective date of this rule, local education agencies, or municipal or State agencies, acting on their behalf, have:

(i) Visually inspected all areas of the school for friable materials.

(ii) Sampled each type of friable material found in the school, as distinguished by different appearance or texture.

(iii) Had the sample(s) analyzed using Polarized Light Microscopy supplemented by X-ray Diffraction where necessary, or by Electron Microscopy.

This exemption for previous sampling activity does not apply to school buildings where it was determined that a friable material does not contain asbestos based on fewer than three samples of the material.

(2) If a school was found to contain friable asbestos-containing materials, then §§ 763.111, 763.114 and 763.115, the recordkeeping and notification requirements, shall apply to the local education agencies.

(3) If a school was found to contain *no* friable asbestos-containing materials, the school also is exempt from §§ 763.111, 763.114, and 763.115, the recordkeeping and notification requirements, provided the school retains a copy of all laboratory reports and all correspondence with laboratories concerning the analyses of samples taken and maintains in the school record the following certifying statement, signed and dated by the person responsible for compliance with the rule: "I hereby certify that this school, to the best of my knowledge, does not contain friable asbestos-containing materials."

(b) *Schools which can document that no friable asbestos-containing building materials were used in construction, modification, or renovation.* A school is exempt from §§ 763.105, 763.107, and 763.109, the inspection, sampling, and analysis requirements, and §§ 763.111, 763.114, and 763.115, the recordkeeping and notification requirements, if:

(1) the school record contains documentation showing that, at the time of construction, modification, or renovation, no friable asbestos/containing building materials were used. To qualify for this exemption, documentation must clearly show that the friable materials used did not contain asbestos.

(2) the school record contains the following certifying statement, signed and dated by the person responsible for compliance with the rule: "I hereby certify that this school, to the best of my knowledge, does not contain friable asbestos-containing materials."

(c) *Other exemptions.* (1) Sections 763.105, 763.107, and 763.109 shall not apply to a school in which the record contains a signed statement certifying that any friable materials in the school shall be treated for purposes of this rule as asbestos-containing. In this case, the record shall also include information on the location of these materials.

(2) No provision of this subpart applies to any school if:

(i) The local education agency has conducted abatement programs that result in the elimination of all friable asbestos materials from the school either by removal or encapsulation of the materials.

(ii) No part of the school building was built before January 1979.

§ 763.119 References.

(a) *General.* The following reference contains detailed information on sampling and analysis of friable materials and provides a background on which this part is based. Copies may be obtained from the Document Control Officer, Management Support Division (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room E–106, 401 M Street SW, Washington, D.C. 20460.

(1) USEPA. 1979. "Asbestos-Containing Materials in School Buildings: A Guidance Document" Part 1. (EPA no. C00090).

(2) [Reserved]

(b) [Reserved]

Appendix A—Interim Method of the Determination of Asbestos in Bulk Insulation Samples

Section 1, Polarized Light Microscopy

1.1 Principle and Applicability

Bulk samples of building materials taken for asbestos identification are first examined for homogeneity and preliminary fiber identification at low magnification. Positive identification of suspect fibers is made by analysis of subsamples with the polarized light microscope.

The principles of optical mineralogy are well established.[1,2] A light microscope equipped with two polarizing filters is used to observe specific optical characteristics of a sample. The use of plane polarized light allows the determination of refractive indices along specific crystallographic axes. Morphology and color are also observed. A retardation plate is placed in the polarized light path for determination of the sign of elongation using orthoscopic illumination. Orientation of the two filters such that their vibration planes are perpendicular (crossed polars) allows observation of the birefringence and extinction characteristics of anisotropic particles.

Quantitative analysis involves the use of point counting. Point counting is a standard technique in petrography for determining the relative areas occupied by separate minerals in thin sections of rock. Background information on the use of point counting [2] and the interpretation of point count data [3] is available.

This method is applicable to all bulk samples of friable insulation materials submitted for identification and quantitation of asbestos components.

1.2 Range

The point counting method may be used for analysis of samples containing from 0 to 100 percent asbestos. The upper detection limit is 100 percent. The lower detection limit is less than 1 percent.

1.3 Interferences

Fibrous organic and inorganic constituents of bulk samples may interfere with the identification and quantitation of the asbestos mineral content. Spray-on binder materials may coat fibers and affect color or obscure optical characteristics to the extent of masking fiber identity. Fine particles of other materials may also adhere to fibers to an extent sufficient to cause confusion in identification. Procedures that may be used for the removal of interferences are presented in Section 1.7.2.2.

1.4 Precision and Accuracy

Adequate data for measuring the accuracy and precision of the method for samples with various matrices are not currently available. Data obtained for samples containing a single asbestos type in a simple matrix are available in the EPA report *Bulk Sample Analysis for Asbestos Content: Evaluation of the Tentative Method.*[4]

1.5 Apparatus

1.5.1 *Sample Analysis*

A low-power binocular microscope, preferably stereoscopic, is used to examine the bulk insulation sample as received.

- *Microscope:* binocular, 10–45X (approximate).
- *Light Source:* incandescent or fluorescent.
- *Forceps, Dissecting Needles, and Probes*
- *Glassine Paper or Clean Glass Plate*

Compound microscope requirements: A polarized light microscope complete with polarizer, analyzer, port for wave retardation plate, 360° graduated rotating stage, substage condenser, lamp, and lamp iris.

- *Polarized Light Microscope:* described above.
- *Objective Lenses:* 10X, 20X, and 40X or near equivalent.
- *Dispersion Staining Objective Lens* (optional)
- *Ocular Lens:* 10X minimum.
- *Eyepiece Reticle:* cross hair or 25 point Chalkley Point Array.
- *Compensator Plate:* 550 millimicron retardation.

1.5.2 *Sample Preparation*

Sample preparation apparatus requirements will depend upon the type of insulation sample under consideration. Various physical and/or chemical means may be employed for an adequate sample assessment.

- *Ventilated Hood* or negative pressure glove box.
- *Microscope Slides*
- *Coverslips*
- *Mortar and Pestle:* agate or porcelain. (optional)
- *Wylie Mill* (optional)
- *Beakers and Assorted Glassware* (optional)
- *Centrifuge* (optional)
- *Filtration apparatus* (optional)
- *Low temperature asher* (optional)

1.6 Reagents

1.6.1 *Sample Preparation*

- *Distilled Water (optional)*
- *Dilute CH_3COOH:* ACS reagent grade (optional)
- *Dilute HCl:* ACS reagent grade (optional)
- *Sodium metaphosphate* $(NaPO_3)_6$ (optional)

1.6.2 *Analytical Reagents*

Refractive Index Liquids: 1.490–1.570, 1.590–1.720 in increments of 0.002 or 0.004.

- *Refractive Index Liquids for Dispersion Staining:* high-dispersion series, 1.550, 1.605, 1.630 (optional).
- *UICC Asbestos Reference Sample Set:* Available from: UICC MRC Pneumoconiosis Unit, Llandough Hospital, Penarth, Glamorgan CF6 1XW, UK, and commercial distributors.
- *Tremolite-asbestos* (source to be determined)
- *Actinolite-asbestos* (source to be determined)

1.7 Procedures

Note.—Exposure to airborne asbestos fibers is a health hazard. Bulk samples submitted for analysis are usually friable and may release fibers during handling or matrix reduction steps. All sample and slide preparations should be carried out in a ventilated hood or glove box with continuous airflow (negative pressure). Handling of samples without these precautions may result in exposure of the analyst and contamination of samples by airborne fibers.

1.7.1 *Sampling*

Samples for analysis of asbestos content shall be taken in the manner prescribed in Reference 5 and information on design of sampling and analysis programs may be found in Reference 6. If there are any questions about the representative nature of the sample, another sample should be requested before proceeding with the analysis.

1.7.2 *Analysis*

1.7.2.1 *Gross Examination*

Bulk samples of building materials taken for the identification and quantitation of asbestos are first examined for homogeneity at low magnification with the aid of a stereomicroscope. The core sample may be examined in its container or carefully removed from the container onto a glassine transfer paper or clean glass plate. If possible, note is made of the top and bottom orientation. When discrete strata are identified, each is treated as a separate material so that fibers are first identified and quantified in that layer only, and then the results for each layer are combined to yield an estimate of asbestos content for the whole sample.

1.7.2.2 Sample Preparation

Bulk materials submitted for asbestos analysis involve a wide variety of matrix materials. Representative subsamples may not be readily obtainable by simple means in heterogeneous materials, and various steps may be required to alleviate the difficulties encountered. In most cases, however, the best preparation is made by using forceps to sample at several places from the bulk material. Forcep samples are immersed in a refractive index liquid on a microscope slide, teased apart, covered with a cover glass, and observed with the polarized light microscope.

Alternatively, attempts may be made to homogenize the sample or eliminate interferences before further characterization. The selection of appropriate procedures is dependent upon the samples encountered and personal preference. The following are presented as possible sample preparation steps.

A mortar and pestle can sometimes be used in the size reduction of soft or loosely bound materials though this may cause matting of some samples. Such samples may be reduced in a Wylie mill. Apparatus should be clean and extreme care exercised to avoid cross-contamination of samples. Periodic checks of the particle sizes should be made during the grinding operation so as to preserve any fiber bundles present in an identifiable form. These procedures are not recommended for samples that contain amphibole minerals or vermiculite. Grinding of amphiboles may result in the separation of fiber bundles or the production of cleavage fragments with aspect ratios greater than 3:1.

Grinding of vermiculite may also produce fragments with aspect ratios greater than 3:1.

Acid treatment may occasionally be required to eliminate interferences. Calcium carbonate, gypsum, and bassanite (plaster) are frequently present in sprayed or trowelled insulations. These materials may be removed by treatment with warm dilute acetic acid. Warm dilute hydrochloric acid may also be used to remove the above materials. If acid treatment is required, wash the sample at least twice with distilled water, being careful not to lose the particulates during decanting steps. Centrifugation or filtration of the suspension will prevent significant fiber loss. The pore size of the filter should be 0.45 micron or less. Caution: prolonged acid contact with the sample may alter the optical characteristics of chrysotile fibers and should be avoided.

Coatings and binding materials adhering to fiber surfaces may also be removed by treatment with sodium metaphosphate.[7] Add 10 mL of 10g/L sodium metaphosphate solution to a small (0.1 to 0.5 mL) sample of bulk material in a 15-mL glass centrifuge tube. For approximately 15 seconds each, stir the mixture on a vortex mixer, place in an ultrasonic bath and then shake by hand. Repeat the series. Collect the dispersed solids by centrifugation at 1000 rpm for 5 minutes. Wash the sample three times by suspending in 10 mL distilled water and recentrifuging. After washing, resuspend the pellet in 5 mL distilled water, place a drop of the suspension on a microscope slide, and dry the slide at 110° C.

In samples with a large portion of cellulosic or other organic fibers, it may be useful to ash part of the sample and view the residue. Ashing should be performed in a low temperature asher. Ashing may also be performed in a muffle furnace at temperatures of 500° C or lower. Temperatures of 550° C or higher will cause dehydroxylation of the asbestos minerals, resulting in changes of the refractive index and other key parameters. If a muffle furnace is to be used, the furnace thermostat should be checked and calibrated to ensure that samples will not be heated at temperatures greater than 550° C.

Ashing and acid treatment of samples should not be used as standard procedures. In order to monitor possible changes in fiber characteristics, the material should be viewed microscopically before and after any sample preparation procedure. Use of these procedures on samples to be used for quantitation requires a correction for percent weight loss.

1.7.2.3 Fiber Identification

Positive identification of asbestos requires the determination of the following optical properties.

- Morphology
- Color and pleochroism
- Refractive indices
- Birefringence
- Extinction characteristics
- Sign of elongation

Table 1–1 lists the above properties for commercial asbestos fibers. Figure 1–1 presents a flow diagram of the examination procedure. Natural variations in the conditions under which deposits of asbestiform minerals are formed will occasionally produce exceptions to the published values and differences from the UICC standards. The sign of elongation is determined by use of the compensator plate and crossed polars. Refractive indices may be determined by the Becke line test. Alternatively, dispersion staining may be used. Inexperienced operators may find that the dispersion staining technique is more easily learned, and should consult Reference 9 for guidance. Central stop dispersion staining colors are presented in Table 1–2. Available high-dispersion (HD) liquids should be used.

BILLING CODE 6560-50-M

TABLE 1-1. OPTICAL PROPERTIES OF ASBESTOS FIBERS

TABLE 1-1. OPTICAL PROPERTIES OF ASBESTOS FIBERS

Mineral	Morphology, color[a]	Refractive indices[b] α	Refractive indices[b] γ	Birefringence	Extinction	Sign of elongation
Chrysotile (asbestiform serpentine)	Wavy fibers. Fiber bundles have splayed ends and "kinks". Aspect ratio typically >10:1. Colorless[c], nonpleochroic.	1.493-1.560	1.517-1.562[f] (normally 1.556)	.008	⊥to fiber length	+ (length slow)
Amosite (asbestiform grunerite)	Straight, rigid fibers. Aspect ratio typically >10:1. Colorless to brown, nonpleochroic or weakly so. Opaque inclusions may be present.	1.635-1.696	1.655-1.729[f] (normally 1.696-1.710)	.020-.033	⊥to fiber length	+ (length slow)
Crocidolite (asbestiform riebeckite)	Straight, rigid fibers. Thick fibers and bundles common, blue to purple-blue in color. Pleochroic. Birefringence is generally masked by blue color.	1.654-1.701	1.668-1.717[e] (normally close to 1.700)	.014-.016	⊥to fiber length	- (length fast)
Anthophyllite-asbestos	Straight fibers and acicular[d] cleavage fragments. Some composite fibers. Aspect ratio <10:1. Colorless to light brown.	1.596-1.652	1.615-1.676[f]	.019-.024	⊥to fiber length	+ (length slow)
Tremolite-actinolite-asbestos	Normally present as acicular or prismatic cleavage fragments[d]. Single crystals predominate, aspect ratio <10:1. Colorless to pale green.	1.599-1.668	1.622-1.688[f]	.023-.020	Oblique extinction, 10-20° for fragments. Composite fibers show ∥ extinction.	+ (length slow)

[a] From reference 5; colors cited are seen by observation with plane polarized light.

[b] From references 5 and 8.

[c] Fibers subjected to heating may be brownish.

[d] Fibers defined as having aspect ratio >3:1.

[e] ⊥ to fiber length.

[f] ∥ to fiber length.

Polarized light microscopy analysis: For each type of material identified by examination of sample at low magnification. Mount spacially dispersed sample in 1.550 RI liquid. (If using dispersion staining, mount in 1.550 HD.) View at 100X with both plane polarized light and crossed polars. More than one fiber type may be present.

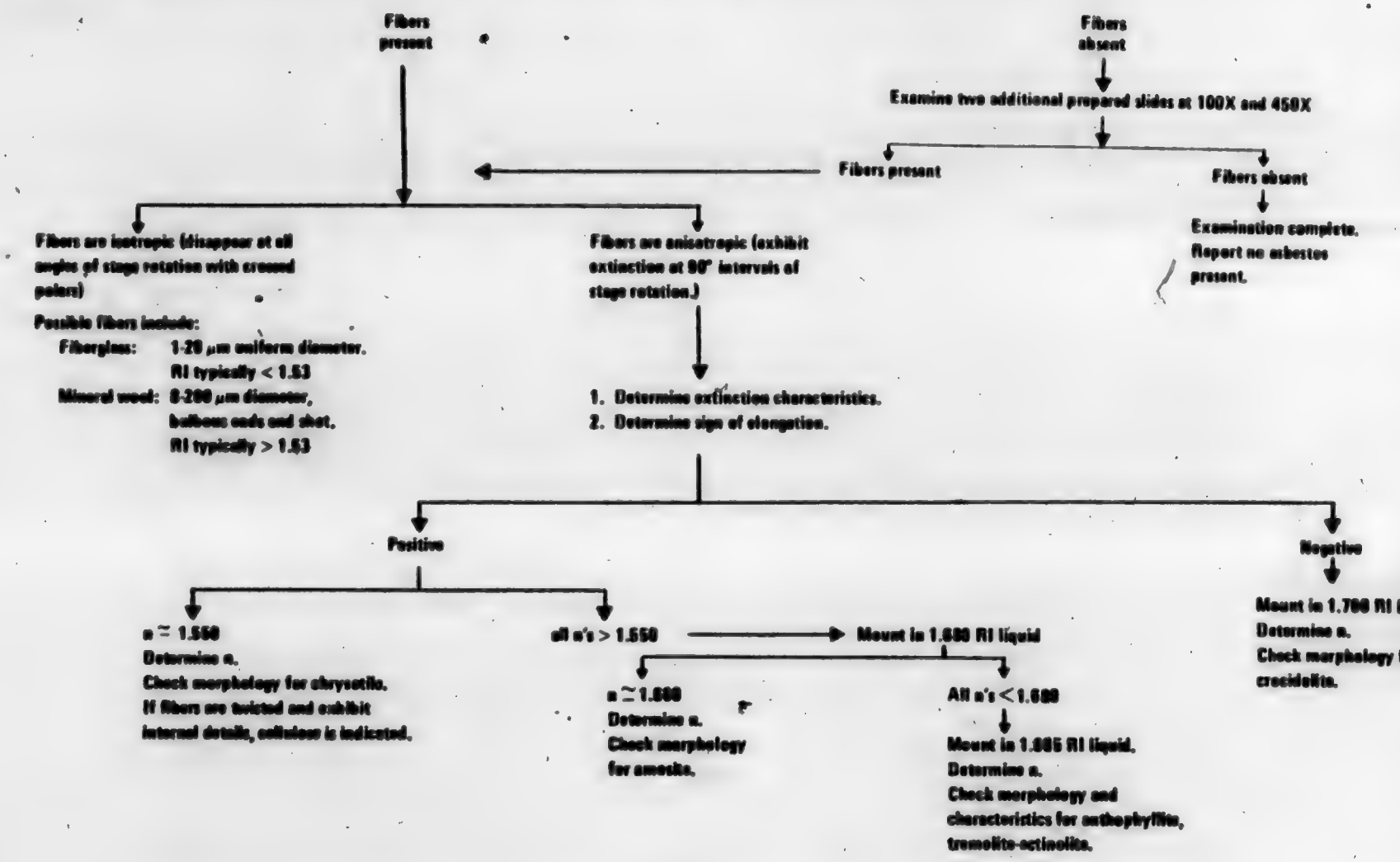

Figure 1-1. Flow chart for analysis of bulk samples by polarized light microscopy.

Mineral	Chrysotile	Amosite	Crocidolite	Anthophyllite asbestos	Tremolite asbestos	Actinolite asbestos
[a]Fragments	[b]Bundles of fibrils	[c]Fibers	[c]Fibers	[c]Fibers	[c]Fibers	[c]Fibers
[b]Bundles of fibrils	[c]Fibers	[c]Fibers	[c]Fibers	[c]Fibers	[c]Fibers	[c]Fibers
[c]Fibers	[c]Fibers	[c]Fibers	[c]Fibers	[c]Fibers	[c]Fibers	[c]Fibers

[a]Fragments are particles with a length to width ratio of less than 3:1.
[b]Bundles of fibrils are particles with a length to width ratio greater than 3:1 and with a splayed appearance.
[c]Fibers are particles with a length to width ratio greater than 3:1 and with parallel sides.

TABLE 1-2. CENTRAL STOP DISPERSION STAINING COLORS[a]

Mineral	RI Liquid	η ⊥	η ∥
Chrysotile	1.550^{HD}	Blue	Blue-magenta
Amosite	1.680	Blue-magenta to pale blue	Golden-yellow
	1.550^{HD}	Yellow to white	Yellow to white
Crocidolite[b]	1.700	Red magenta	Blue-magenta
	1.550^{HD}	Yellow to white	Yellow to white
Anthophyllite	1.605^{HD}	Blue	Gold to gold-magenta
Tremolite	1.605^{HD}[c]	Pale blue	Yellow
Actinolite	1.605^{HD}	Gold-magenta to blue	Gold
	1.630^{HD}[c]	Magenta	Golden-yellow

[a]From reference 9.

[b]Blue absorption color.

[c]Oblique extinction view.

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1.7.2.4 Quantitation of Asbestos Content

Asbestos quantitation is performed by a point-counting procedure. An ocular reticle (cross-hair or point array) is used to visually superimpose a point or points on the microscope field of view. Record the number of points positioned directly above each kind of particle or fiber of interest. Score only points directly over asbestos fibers or nonasbestos matrix material. Do not score empty points for the closest particle. If an asbestos fiber and a matrix particle overlap so that a point is superimposed on their visual intersection, a point is scored for both categories. Point counting provides a determination of the area percent asbestos. Reliable conversion of area percent to percent of dry weight is not currently feasible unless the specific gravities and relative volumes of the materials are known.

For the purpose of this method, "asbestos fibers" are defined as having an aspect ratio greater than 3:1 and being positively identified as one of the minerals in Table 1–1.

A total of 400 points superimposed on either asbestos fibers or nonasbestos matrix material must be counted over at least eight different preparations of representative subsamples. Take eight forcep samples and mount each separately with the appropriate refractive index liquid. The preparation should not be heavily loaded. The sample should be uniformly dispersed to avoid overlapping particles and allow 25–50 percent empty area within the fields of view. Count 50 nonempty points on each preparation, using either

- A cross-hair reticle and mechanical stage; or
- A reticle with 25 points (Chalkley Point Array) and counting at least 2 randomly selected fields.

For samples with mixtures of isotropic and anisotropic materials present, viewing the sample with slightly uncrossed polars or the addition of the compensator plate to the polarized light path will allow simultaneous discrimination of both particle types. Quantitation should be performed at 100X or at the lowest magnification of the polarized light microscope that can effectively distinguish the sample components. Confirmation of the quantitation result by a second analyst on some percentage of analyzed samples should be used as standard quality control procedure.

The percent asbestos is calculated as follows:

% asbestos = (a/n) 100%

where

a = number of asbestos counts,

n = number of nonempty points counted (400).

If a = 0, report "No asbestos detected." If 0 < a < 3, report "< 1% asbestos".

The value reported should be rounded to the nearest percent.

1.8 References

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5. U.S. Environmental Protection Agency, *Asbestos-Containing Materials in School Buildings: A Guidance Document*, Parts 1 and 2, EPA/OTS No. C00090, March 1979.

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9. Walter C. McCrone, *Asbestos Particle Atlas*, Ann Arbor: Ann Arbor Science Publishers, June 1980.

Section 2, X-Ray Powder Diffraction

2.1 Principle and Applicability

The principle of X-ray powder diffraction (XRD) analysis is well established.[1,2] Any solid, crystalline material will diffract an impingent beam of parallel, monochromatic X-rays whenever Bragg's Law,

$$\lambda = 2d \sin \theta,$$

is satisfied for a particular set of planes in the crystal lattice, where

λ = the X-ray wavelength, Å;

d = the interplanar spacing of the set of reflecting lattice planes, Å; and

θ = the angle of incidence between the X-ray beam and the reflecting lattice planes.

By appropriate orientation of a sample relative to the incident X-ray beam, a diffraction pattern can be generated that, in most cases, will be uniquely characteristic of both the chemical composition and structure of the crystalline phases present.

Unlike optical methods of analysis, however, XRD cannot determine crystal morphology. Therefore, in asbestos analysis, XRD does not distinguish between fibrous and nonfibrous forms of the serpentine and amphibole minerals (Table 2–1). However, when used in conjunction with optical methods such as polarized light microscopy (PLM), XRD techniques can provide a reliable analytical method for the identification and characterization of asbestiform minerals in bulk materials.

For *qualitative analysis* by XRD methods, samples are initially scanned over limited diagnostic peak regions for the serpentine (~7.4 Å) and amphibole (8.2–8.5 Å) minerals (Table 2–2). Standard slow-scanning methods for bulk sample analysis may be used for materials shown by PLM to contain significant amounts of asbestos (>5–10 percent). Detection of minor or trace amounts of asbestos may require special sample preparation and step-scanning analysis. All samples that exhibit diffraction peaks in the diagnostic regions for asbestiform minerals are submitted to a full (5°–60° 2θ; 1° 2θ/min) qualitative XRD scan, and their diffraction patterns are compared with standard reference powder diffraction patterns[3] to verify initial peak assignments and to identify possible matrix interferences when subsequent quantitative analysis will be performed.

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TABLE 2-1. THE ASBESTOS MINERALS AND THEIR NONASBESTIFORM ANALOGS

Asbestiform	Nonasbestiform
SERPENTINE	
Chrysotile	Antigorite, lizardite
AMPHIBOLE	
Anthophyllite asbestos	Anthophyllite
Cummingtonite-grunerite asbestos ("Amosite")	Cummingtonite-grunerite
Crocidolite	Riebeckite
Tremolite asbestos	Tremolite
Actinolite asbestos	Actinolite

TABLE 2-2. PRINCIPAL LATTICE SPACINGS OF ASBESTIFORM MINERALS[a]

Minerals	Principal d-spacings (Å) and relative intensities			JCPDS Powder diffraction file[3] number
Chrysotile	7.37_{100}	3.65_{70}	4.57_{50}	21-543[b]
	7.36_{100}	3.66_{80}	2.45_{65}	25-645
	7.10_{100}	2.33_{80}	3.55_{70}	22-1162 (theoretical)
"Amosite"	8.33_{100}	3.06_{70}	2.756_{70}	17-745 (nonfibrous)
	8.22_{100}	3.060_{85}	3.25_{70}	27-1170 (UICC)
Anthophyllite	3.05_{100}	3.24_{60}	8.26_{55}	9-455
	3.06_{100}	8.33_{70}	3.23_{50}	16-401 (synthetic)
Actinolite	2.72_{100}	2.54_{100}	3.40_{80}	25-157
Crocidolite	8.35_{100}	3.10_{55}	2.720_{35}	27-1415 (UICC)
Tremolite	8.38_{100}	3.12_{100}	2.705_{90}	13-437[b]
	2.706_{100}	3.14_{95}	8.43_{40}	20-1310[b] (synthetic)
	3.13_{100}	2.706_{60}	8.44_{40}	23-666 (synthetic mixture with richterite)

[a] This information is intended as a guide, only. Complete powder diffraction data, including mineral type and source, should be referred to, to ensure comparability of sample and reference materials where possible. Additional precision XRD data on amosite, crocidolite, tremolite, and chrysotile are available from the U.S. Bureau of Mines.[4]

[b] Fibrosity questionable.

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Accurate *quantitative analysis* of asbestos in bulk samples by XRD is critically dependent on particle size distribution, crystallite size, preferred orientation and matrix absorption effects, and comparability of standard reference and sample materials. The most intense diffraction peak that has been shown to be free from interference by prior qualitative XRD analysis is selected for quantitation of each asbestiform mineral. A "thin-layer" method of analysis [5,6] is recommended in which, subsequent to comminution of the bulk material to ~10 μm by suitable cryogenic milling techniques, an accurately known amount of the sample is deposited on a silver membrane filter. The mass of asbestiform material is determined by measuring the integrated area of the selected diffraction peak using a step-scanning mode, correcting for matrix absorption effects, and comparing with suitable calibration standards. Alternative "thick-layer" or bulk methods,[7,8] may be used for *semiquantitative analysis*.

This XRD method is applicable as a confirmatory method for identification and quantitation of asbestos in bulk material samples that have undergone prior analysis by PLM or other optical methods.

2.2 Range and Sensitivity

The range of the method has not been determined.

The sensitivity of the method has not been determined. It will be variable and dependent upon many factors, including matrix effects (absoprtion and interferences), diagnostic reflections selected, and their relative intensities.

2.3 Limitations

2.3.1 *Interferences*

Since the fibrous and nonfibrous forms of the serpentine and amphibole minerals (Table 2–1) are indistinguishable by XRD techniques unless special sample preparation techniques and instrumentation are used,[9] the presence of nonasbestiform serpentines and amphiboles in a sample will pose severe interference problems in the identification and quantitative analysis of their asbestiform analogs.

The use of XRD for identification and quantitation of asbestiform minerals in bulk samples may also be limited by the presence of other interfering materials in the sample. For naturally occurring materials the commonly associated asbestos-related mineral interferences can usually be anticipated. However, for fabricated materials the nature of the interferences may vary greatly (Table 2–3) and present more serious problems in identification and quantitation.[10] Potential interferences are summarized in Table 2–4 and include the following:

- *Chlorite* has major peaks at 7.19 Å and 3.58 Å That interfere with both the primary (7.36 Å) and secondary (3.66 Å) peaks for chrysotile. Resolution of the primary peak to give good quantitative results may be possible when a step-scanning mode of operation is employed.
- *Halloysite* has a peak at 3.63 Å that interferes with the secondary (3.66 Å) peak for chrysotile.
- *Kaolinite* has a major peak at 7.15 Å that may interfere with the primary peak of chrysotile at 7.36 Å when present at concentrations of >10 percent. However, the secondary chrysotile peak at 3.66 Å may be used for quantitation.
- *Gypsum* has a major peak at 7.5 Å that overlaps the 7.36 Å peak of chrysotile when present as a major sample constituent. This may be removed by careful washing with distilled water, or be heating to 300° C to convert gypsum to plaster of paris.
- *Cellulose* has a broad peak that partially overlaps the secondary (3.66 Å) chrysotile peak.[9]
- Overlap of major diagnostic peaks of the amphibole asbestos minerals, amosite, anthophyllite, crocidolite, and tremolite, at approximately 8.3 Å and 3.1 Å causes mutual interference when these minerals occur in the presence of one another. In some instances, adquate resolution may be attained by using step-scanning methods and/or by decreasing the collimator slit width at the X-ray port.

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TABLE 2-4. INTERFERENCES IN XRD ANALYSIS OF ASBESTIFORM MINERALS

TABLE 2-3. COMMON CONSTITUENTS IN INSULATION AND WALL MATERIALS[10]

TABLE 2-3. COMMON CONSTITUENTS IN INSULATION AND WALL MATERIALS[10]

A. Insulation materials

Chrysotile
"Amosite"
Crocidolite
*Rock wool
*Slag wool
*Fiber glass
Gypsum ($CaSO_4 \cdot 2H_2O$)
Vermiculite (micas)
*Perlite
Clays (kaolin)
*Wood pulp
*Paper fibers (talc, clay, carbonate fillers)
Calcium silicates (synthetic)
Opaques (chromite, magnetite inclusions in serpentine)
Hematite (inclusions in "amosite")
Magnesite
*Diatomaceous earth

B. Spray finishes or paints

Bassanite
Carbonate minerals (calcite, dolomite, vaterite)
Talc
Tremolite
Anthophyllite
Serpentine (including chrysotile)
Amosite
Crocidolite
*Mineral wool
*Rock wool
*Slag wool
*Fiber glass
Clays (kaolin)
Micas
Chlorite
Gypsum ($CaSO_4 \cdot 2H_2O$)
Quartz
*Organic binders and thickeners
Hydromagnesite
Wollastonite
Opaques (chromite, magnetite inclusions in serpentine)
Hematite (inclusions in "amosite")

*Amorphous materials--contribute only to overall scattered radiation and increased background radiation.

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TABLE 2-4. INTERFERENCES IN XRD ANALYSIS OF ASBESTIFORM MINERALS

Asbestiform mineral	Primary diagnostic peaks (approximate d-spacings, in Å)	Interference
Serpentine		
Chrysotile	7.4	Nonasbestiform serpentines (antigorite, lizardite)
		Chlorite
		Kaolinite
		Gypsum
	3.7	Chlorite
		Halloysite
		Cellulose
Amphibole		
"Amosite" / Anthophyllite / Crocidolite / Tremolite	3.1	Nonasbestiform amphiboles (cummingtonite-grunerite, anthophyllite, riebeckite, tremolite)
		Mutual interferences
		Carbonates
		Talc
	8.3	Mutual interferences

- *Carbonates* may also interfere with quantitative analysis of the amphibole asbestos minerals, amosite, anthophyllite, crocidolite, and tremolite. Calcium carbonate ($CaCO_3$) has a peak at 3.035 Å that overlaps major amphibole peaks at approximately 3.1 Å when present in concentrations of >5 percent. Removal of carbonates with a dilute acid wash is possible; however, if present, chrysotile may be partially dissolved by this treatment.[11]
- A major *talc* peak at 3.12 Å interferes with the primary tremolite peak at this same position and with secondary peaks of crocidolite (3.10 Å), amosite (3.06 Å), and anthophyllite (3.05 Å). In the presence of talc, the major diagnostic peak at approximately 8.3 Å should be used for quantitation of these asbestiform minerals.

The problem of intraspecies and matrix interferences is further aggravated by the variability of the silicate mineral powder diffraction patterns themselves, which often makes definitive identification of the asbestos minerals by comparison with standard reference diffraction patterns difficult. This variability results from alterations in the crystal lattice associated with differences in isomorphous substitution and degree of crystallinity. This is especially true for the amphiboles. These minerals exhibit a wide variety of very similar chemical compositions, with the result being that their diffraction patterns are chracterized by having major (110) reflections of the monoclinic amphiboles and (210) reflections of the orthorhombic anthophyllite separated by less than 0.2 Å.[12]

2.3.2 *Matrix Effects*

If a copper X-ray source is used, the presence of iron at high concentrations in a sample will result in significant X-ray fluorescence, leading to loss of peak intensity along with increased background intensity and an overall decrease in sensitivity. This situation may be corrected by choosing an X-ray source other than copper; however, this is often accompanied both by loss of intensity and by decreased resolution of closely spaced reflections. Alternatively, use of a diffracted beam monochromator will reduce background fluorescent raditation, enabling weaker diffraction peaks to be detected.

X-ray absorption by the sample matrix will result in overall attenuation of the diffracted beam and may seriously interfere with quantitative analysis. Absorption effects may be minimized by using sufficiently "thin" samples for analysis.[6 13 14] However, unless absorption effects are known to be the same for both samples and standards, appropriate corrections should be made by referencing diagnostic peak areas to an internal standard [7 8] or filter substrate (Ag) peak.[8 9]

2.3.3 *Particle Size Dependence*

Because the intensity of diffracted X-radiation is particle-size dependent, it is essential for accurate quantitative analysis that both sample and standard reference materials have similar particle size distributions. The optimum particle size range for quantitative analysis of asbestos by XRD has been reported to be 1 to 10 μm.[15] Comparability of sample and standard reference material particle size distributions should be verified by optical microscopy (or another suitable method) prior to analysis.

2.3.4 *Preferred Orientation Effects*

Preferred orientation of asbestiform minerals during sample preparation often poses a serious problem in quantitative analysis by XRD. A number of techniques have been developed for reducing preferred orientation effects in "thick layer" samples.[7 8 15] However, for "thin" samples on membrane filters, the preferred orientation effects seem to be both reproducible and favorable to enhancement of the principal diagnostic reflections of asbestos minerals, actually increasing the overall sensitivity of the method.[13 14] (Further investigation into preferred orientation effects in both thin layer and bulk samples is required.)

2.3.5 *Lack of Suitably Characterized Standard Materials*

The problem of obtaining and characterizing suitable reference materials for asbestos analysis is clearly recognized. NIOSH has recently directed a major research effort toward the preparation and characterization of analytical reference materials, including asbestos standards;[16 17] however, these are not available in large quantities for routine analysis.

In addition, the problem of ensuring the comparability of standard reference and sample materials, particularly regarding crystallite size, particle size distribution, and degree of crystallinity, has yet to be adequately addressed. For example, Langer et al.[15] have observed that in insulating matrices, chrysotile tends to break open into bundles more frequently than amphiboles. This results in a line-broadening effect with a resultant decrease in sensitivity. Unless this effect is the same for both standard and sample materials, the amount of chrysotile in the sample will be underestimated by XRD analysis. To minimize this problem, it is recommended that standardized matrix reduction procedures be used for both sample and standard materials.

2.4 Precision and Accuracy

Precision of the method has not been determined.

Accuracy of the method has not been determined.

2.5 Apparatus

2.5.1 *Sample Preparation*

Sample preparation apparatus requirements will depend upon the sample type under consideration and the kind of XRD analysis to be performed.

- *Mortar and Pestle:* Agate or porcelain.
- *Razor Blades*
- *Sample Mill:* SPEX, Inc., freezer mill or equivalent.
- *Bulk Sample Holders*
- *Silver Membrane Filters:* 25-mm diameter, 0.45-μm pore size. Selas Corp. of America, Flotronics Div., 1957 Pioneer Road, Huntington Valley, PA 19006.
- *Microscope Slides*
- *Vacuum Filtration Apparatus:* Gelman No. 1107 or equivalent, and side-arm vacuum flask.
- *Microbalance*
- *Ultrasonic Bath or Probe:* Model W140, Ultrasonics, Inc., operated at a power density of approximately 0.1 W/mL, or equivalent.
- *Volumetric Flasks:* 1-L volume.
- *Assorted Pipettes*
- *Pipette Bulb*
- *Nonserrated Forceps*
- *Polyethylene Wash Bottle*
- *Pyrex Beakers:* 50-mL volume.
- *Desiccator*
- *Filter Storage Cassettes*
- *Magnetic Stirring Plate and Bars*
- *Porcelain Crucibles*
- *Muffle Furnace or Low Temperature Asher*

2.5.2 *Sample Analysis*

Sample analysis requirements include an X-ray diffraction unit, equipped with:

- *Constant Potential Generator; Voltage and mA Stabilizers*
- *Automated Diffractometer with Step-Scanning Mode*
- *Copper Target X-Ray Tube:* High intensity, fine focus, preferably.
- *X-Ray Pulse Height Selector*
- *X-Ray Detector* (with high voltage power supply): Scintillation or proportional counter.
- *Focusing Graphite Crystal Monochromator;* or *Nickel Filter* (if copper source is used, and iron fluorescence is not a serious problem).
- *Data Output Accessories:*
  - *Strip Chart Recorder*
  - *Decade Scaler/Timer*
  - *Digital Printer*
- *Sample Spinner* (optional).
- *Instrument Calibration Reference Specimen:* α-quartz reference crystal [Arkansas quartz standard, #180-147-00, Philips Electronics Instruments, Inc., 85 McKee Drive, Mahwah, NJ 07430) or equivalent.

2.6 Reagents

2.6.1 *Standard Reference Materials*

The reference materials listed below are intended to serve as a guide. Every attempt should be made to acquire pure reference materials that are comparable to sample materials being analyzed.

- *Chrysotile:* UICC Canadian, or NIEHS Plastibest. (UICC reference materials available from: UICC, MRC Pneumoconiosis Unit, Llandough Hospital, Penarth, Glamorgan, CF61XW, UK).
- *Crocidolite:* UICC
- *Amosite:* UICC
- *Anthophyllite:* UICC
- *Tremolite Asbestos:* Wards Natural Science Establishment, Rochester, N.Y.; Cyprus Research Standard, Cyprus Research, 2435 Military Ave., Los Angeles, CA 90064 (washed with dilute HCl to remove small amount of calcite impurity); India tremolite, Rajasthan State, India.
- *Actinolite Asbestos*

2.6.2 *Adhesive*

Tape, petroleum jelly, etc. (for attaching silver membrane filters to sample holders).

2.6.3 *Surfactant*

1 percent aerosol OT aqueous solution or equivalent.

2.6.4 *Isopropanol*

ACS Reagent Grade.

2.7 Procedure

2.7.1 *Sampling*

Samples for analysis of asbestos content shall be collected as specified in EPA Guidance Document #C0090, *Asbestos-Containing Materials in School Buildings.*[10]

2.7.2 *Analysis*

All samples must be analyzed initially for asbestos content by PLM. XRD should be used as an auxiliary method when a second, independent analysis is requested.

Note.—Asbestos is a toxic substance. All handling of dry materials should be performed in an operating fume hood.

2.7.2.1 Sample Preparation

The method of sample preparation required for XRD analysis will depend on: (1) the condition of the sample received (sample size, homogeneity, particle size distribution, and overall composition as determined by PLM); and (2) the type of XRD analysis to be performed (qualitative, quantitative, thin layer or bulk).

Bulk materials are usually received as inhomogeneous mixtures of complex composition with very wide particle size distributions. Preparation of a homogeneous, representative sample from asbestos-containing materials is particularly difficult because the fibrous nature of the asbestos minerals inhibits mechanical mixing and stirring, and because milling procedures may cause adverse lattice alterations.

A discussion of specific matrix reduction procedures is given below. Complete methods of sample preparation are detailed in Sections 2.7.2.2 and 2.7.2.3.

Note.—*All samples should be examined microscopically before and after each matrix reduction step* to monitor changes in sample particle size, composition, and crystallinity, and to ensure sample representativeness and homogeneity for analysis.

2.7.2.1.1 *Milling*—Mechanical milling of asbestos materials has been shown to decrease fiber crystallinity, with a resultant decrease in diffraction intensity of the specimen; the degree of lattice alteration is related to the duration and type of milling process.[12–21] Therefore, all milling times should be kept to a minimum.

For *qualitative analysis*, particle size is not usually of critical importance and initial characterization of the material with a minimum of matrix reduction is often desirable to document the composition of the sample as received. Bulk samples of very large particle size (>2–3 mm) should be comminuted to ~100 μm. A mortar and pestle can sometimes be used in size reduction of soft or loosely bound materials though this may cause matting of some samples. Such samples may be reduced by cutting with a razor blade in a mortar, or by grinding in a suitable mill (e.g., a microhammer mill or equivalent). When using a mortar for grinding or cutting, the sample should be moistened with ethanol, or some other suitable wetting agent, to minimize exposures.

For accurate, reproducible *quantitative analysis*, the particle size of both sample and standard materials should be reduced to ~10 μm (see Section 2.3.3). Dry ball milling at liquid nitrogen temperatures (e.g., Spex Freezer Mill, or equivalent) for a maximum time of 10 min. is recommended to obtain satisfactory particle size distributions while protecting the integrity of the crystal lattice.[5] Bulk samples of very large particle size may require grinding in two stages for full matrix reduction to <10 μm.[5 16]

Final particle size distributions should always be verified by optical microscopy or another suitable method.

2.7.2.1.2 *Low temperature ashing*—For materials shown by PLM to contain large amounts of gypsum, cellulosic, or other organic materials, it may be desirable to ash the samples prior to analysis to reduce background radiation or matrix interference. Since chrysotile undergoes dehydroxylation at temperatures between 550° C and and 650° C, with subsequent transformation to forsterite,[22 24] ashing temperatures should be kept below 500° C. Use of a low temperature asher is recommended. In all cases, calibration of the oven is essential to ensure that a maximum ashing temperature of 500° C is not exceeded.

2.7.2.1.3 *Acid leaching*—Because of the interference caused by gypsum and some carbonates in the detection of asbestiform minerals by XRD (see Section 2.3.1), it may be necessary to remove these interferents by a simple acid leaching procedure prior to analysis (see Section 1.7.2.2).

2.7.2.2 Qualitative Analysis

2.7.2.2.1 *Initial screening of bulk material*—Qualitative analysis should be performed on a representative, homogeneous portion of the sample with a minimum of sample treatment.

1. Grind and mix the sample with a mortar and pestle (or equivalent method, see Section 2.7.2.1.1.) to a final particle size sufficiently small (~100 μm) to allow adequate packing into the sample holder.

2. Pack the sample into a standard bulk sample holder. Care should be taken to ensure that a representative portion of the milled sample is selected for analysis. Paticular care should be taken to avoid possible size segregation of the sample. (Note: Use of a back-packing method [25] of bulk sample preparation may reduce preferred orientation effects.)

3. Mount the sample on the diffractometer and scan over the diagnostic peak regions for the serpentine (~67.4 Å) and amphibole (8.2–8.5 Å) minerals (see Table 2–2). The X-ray diffraction equipment should be optimized for intensity. A slow scanning speed of 1° 2θ/min is recommended for adequate resolution. Use of a sample spinner is recommended.

4. Submit all samples that exhibit diffraction peaks in the diagnostic regions for asbestiform minerals to a full qualitative XRD scan (5°–60° 2θ; 1°2θ/min) to verify initial peak assignments and to identify potential matrix interferences when subsequent quantitative analysis is to be perform.

5. Compare the sample XRD pattern with standard reference powder diffraction patterns (i.e., JCPDS powder diffraction data [3] or those of other well-characterized reference materials). Principal lattice spacings of asbestiform minerals are given in Table 2–2; common constituents of bulk insulation and wall materials are listed in Table 2–3.

2.7.2.2.2 *Detection of minor or trace constituents*—Routine screening of bulk materials by XRD may fail to detect small concentrations (<5 percent) of asbestos. The limits of detection will, in general, be improved if matrix absorption effects are minimized, and if the sample particle size is reduced to the optimal 1 to 10 μm range, provided that the crystal lattice is not degraded in the milling process. Therefore, in those instances where confirmation of the presence of an asbestiform mineral at very low levels is required, or where a negative result from initial screening of the bulk material by XRD (see Section 2.7.2.2.1) is in conflict with previous PLM results, it may be desirable to prepare the sample as described for quantitative analysis (see Section 2.7.2.3) and step-scan over appropriate 2θ ranges of selected diagnostic peaks (Table 2–2). Accurate transfer of the sample to the silver membrane filter is not necessary unless subsequent quantitative analysis is to be performed.

2.7.2.3 Quantitative Analysis

The proposed method for quantitation of asbestos in bulk samples is a modification of the NIOSH-recommended thin-layer method for chrysotile in air.[5] A thick-layer or bulk method involving pelletizing the sample may be used for semiquantitative analysis; [7 8] however, this method requires the addition of an internal standard, use of a specially fabricated sample press, and relatively large amounts of standard reference materials. Additional research is required to evaluate the comparability of thin- and thick-layer methods for quantitative asbestos analysis.

For quantitative analysis by thin-layer methods, the following procedure is recommended:

1. Mill and size all or a substantial representative portion of the sample as outlined in Section 2.7.2.1.1.

2. Dry at 100° C for 2 hr; cool in a desiccator.

3. Weigh accurately to the nearest 0.01 mg.

4. Samples shown by PLM to contain large amounts of cellulosic or other organic materials, gypsum, or carbonates, should be submitted to appropriate matrix reduction procedures described in Sections 2.7.2.1.2 and 2.7.2.1.3. After ashing and/or acid treatment, repeat the drying and weighing procedures described above, and determine the percent weight loss; L.

5. Quantitatively transfer an accurately weighed amount (50–100 mg) of the sample to a 1–L volumetric flask with approximately 200 mL isopropanol to which 3 to 4 drops of surfactant have been added.

6. Ultrasonicate for 10 min at a power density of approximately 0.1 W/mL, to disperse the sample material.

7. Dilute to volume with isopropanol.

8. Place flask on a magnetic stirring plate. Stir.

9. Place a silver membrane filter on the filtration apparatus, apply a vacuum, and attach the reservoir. Release the vacuum and

add several milliliters of isopropanol to the reservoir. Vigorously hand shake the asbestos suspension and immediately withdraw an aliquot from the center of the suspension so that total sample weight, W_T, on the filter will be approximately 1 mg. Do not adjust the volume in the pipet by expelling part of the suspension; if more than the desired aliquot is withdrawn, discard the aliquot and resume the procedure with a clean pipet. Transfer the aliquot to the reservoir. Filter rapidly under vacuum. Do not wash the reservoir walls. Leave the filter apparatus under vacuum until dry. Remove the reservoir, release the vacuum, and remove the filter with forceps. (Note: Water-soluble matrix interferences such as gypsum may be removed at this time by careful washing of the filtrate with distilled water. Extreme care should be taken not to disturb the sample.)

10. Attach the filter to a flat holder with a suitable adhesive and place on the diffractometer. Use of a sample spinner is recommended.

11. For each asbestos mineral to be quantitated select a reflection (or reflections) that has been shown to be free from interferences by prior PLM or qualitative XRD analysis and that can be used unambiguously as an index of the amount of material present in the sample (see Table 2–2).

12. Analyze the selected diagnostic reflection(s) by step scanning in increments of 0.02° 2θ for an appropriate fixed time and integrating the counts. (A fixed count scan may be used alternatively; however, the method chosen should be used consistently for all samples and standards.) An appropriate scanning interval should be selected for each peak, and background corrections made. For a fixed time scan, measure the background on each side of the peak for one-half the peak-scanning time. The net intensity, I_a, is the difference between the peak integrated count and the total background count.

13. Determine the net count, I_{Ag}, of the filter 2.36 Å silver peak following the procedure in step 12. Remove the filter from the holder, reverse it, and reattach it to the holder. Determine the net count for the unattenuated silver peak, I°_{Ag}. Scan times may be *less* for measurement of silver peaks than for sample peaks; however, they should be *constant* throughout the analysis.

14. Normalize all raw, net intensities (to correct for instrument instabilities) by referencing them to an external standard (e.g. the 3.34 Å peak of an α-quartz reference crystal). After each unknown is scanned, determine the net count, I°_r, of the reference specimen following the procedure in step 12. Determine the normalized intensities by dividing the peak intensities by I°_r:

$$\hat{I}_a = \frac{I_a}{I^\circ_r}, \quad \hat{I}_{Ag} = \frac{I_{Ag}}{I^\circ_r}, \text{ and } \hat{I}^\circ_{Ag} = \frac{I^\circ_{Ag}}{I^\circ_r}$$

2.8 Calibration

2.8.1 *Preparation of Calibration Standards*

1. Mill and size standard asbestos materials according to the procedure outlined in Section 2.7.2.1.1. *Equivalent, standardized matrix reduction and sizing techniques should be used for both standard and sample materials.*

2. Dry at 100° C for 2 hr; cool in a desiccator.

3. Prepare two suspensions of each standard in isopropanol by weighing approximately 10 and 50 mg of the dry material to the nearest 0.01 mg. Quantitatively transfer each to a 1-L volumetric flask with approximately 200 mL isopropanol to which a few drops of surfactant have been added.

4. Ultrasonicate for 10 min at a power density of approximately 0.1 W/mL, to disperse the asbestos material.

5. Dilute to volume with isopropanol.

6. Place the flask on a magnetic stirring plate. Stir.

7. Prepare, in triplicate, a series of at least five standard filters to cover the desired analytical range, using appropriate aliquots of the 10 and 50 mg/L suspensions and the following procedure.

Mount a silver membrane filter on the filtration apparatus. Place a few milliliters of isopropanol in the reservoir. Vigorously hand shake the asbestos suspension and immediately withdraw an aliquot from the center of the suspension. Do not adjust the volume in the pipet by expelling part of the suspension; if more than the desired aliquot is withdrawn, discard the aliquot and resume the procedure with a clean pipet. Transfer the aliquot to the reservoir. Keep the tip of the pipet near the surface of the isopropanol. Filter rapidly under vacuum. Do not wash the sides of the reservoir. Leave the vacuum on for a time sufficient to dry the filter. Release the vacuum and remove the filter with forceps.

2.8.2 *Analysis of Calibration Standards*

1. Mount each filter on a flat holder. Perform step scans on selected diagnostic reflections of the standards and reference specimen using the procedure outlined in Section 2.7.2.3, step 12, and the same conditions as those used for the samples.

2. Determine the normalized intensity for each peak measured, $\hat{I}_{as}$, as outlined in Section 2.7.2.3, step 14.

2.9 Calculations

For each asbestos reference material, calculate the exact weight deposited on each standard filter from the concentrations of the standard suspensions and aliquot volumes. Record the weight, w, of each standard. Prepare a calibration curve by regressing $\hat{I}^2_{as}$ on w. Poor reproducibility (±15 percent RSD) at any given level indicates problems in the sample preparation technique, and a need for new standards. The data should fit a straight line equation.

Determine the slope, m, of the calibration curve in counts/microgram. The intercept, b, of the line with the $\hat{I}^2_{as}$ axis should be approximately zero. A large negative intercept indicates an error in determining the background. This may arise from incorrectly measuring the baseline or from interference by another phase at the angle of background measurement. A large positive intercept indicates an error in determining the baseline or that an impurity is included in the measured peak.

Using the normalized intensity, $\hat{I}_{as}$, for the attenuated silver peak of a sample, and the corresponding normalized intensity from the unattenuated silver peak, $\hat{I}^\circ_{As}$, of the sample filter, calculate the transmittance, T, for each sample as follows:[26 27]

$$T = \frac{\hat{I}_{Ag}}{\hat{I}^\circ_{Ag}}$$

Determine the correction factor, f(T), for each sample according to the formula:

$$f(T) = \frac{-R\ (\ln T)}{1-T^R}$$

where

$$R = \frac{\sin \theta_{Ag}}{\sin \theta_a},$$

θ_{As} = angular position of the measured silver peak (from Bragg's Law), and
θ_a = angular position of the diagnostic asbestos peak.

Calculate the weight, W_a, in micrograms, of the asbestos material analyzed for in each sample, using the appropriate calibration data and absorption corrections:

$$W_a = \frac{\hat{I}_a f(t) - b}{m}$$

Calculate the percent composition, P_a, of each asbestos mineral analyzed for in the parent material, from the total sample weight, W_T, on the filter:

$$P_a = \frac{W_a\ (1-.01L)}{W_T} \times 100$$

where

P_a = percent asbestos mineral in parent material;
W_a = mass of asbestos mineral on filter, in μg;
W_T = total sample weight on filter, in μg;
L = percent weight loss of parent material on ashing and/or acid treatment (see Section 2.7.2.3).

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Part V

Department of the Interior

National Park Service

World Heritage Convention

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR 73

World Heritage Convention

AGENCY: National Park Service, Interior.

ACTION: Final rules.

SUMMARY: These rules set forth the policies and procedures that the Department of the Interior, through the National Park Service, uses to direct and coordinate United States participation in the Convention Concerning the Protection of the World Cultural and Natural Heritage, including the identification and preparation of U.S. nominations to the World Heritage List, and other activities under the Convention. The rules draw on the Department's experience with implementing the Convention following its ratification by the United States Senate on October 26, 1973, and incorporate the requirements contained in the National Historic Preservation Act Amendments of 1980. The rules formalize the Department's World Heritage procedures, and make available to other Federal agencies, State and local governments, private organizations, and individuals information on the Convention and means through which they may participate.

EFFECTIVE DATE: June 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Ritsch, Associate Director, Recreation Resources, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240 (202–343–4462).

SUPPLEMENTARY INFORMATION:

Program Information

The Convention Concerning the Protection of the World Cultural and Natural Heritage, ratified by the United States and 62 other Nations as of this date, has established a means through which natural and cultural properties of outstanding universal value to mankind may be recognized and protected. The Convention seeks to put into place an orderly approach for coordinated and consistent heritage resource protection and enhancement throughout the world.

The Convention complements each participating nation's heritage conservation programs and provides for:

a. The establishment of an elected 21-member nation World Heritage Committee assisted by UNESCO to further the goals of the Convention and to approve properties for inclusion on the World Heritage List;

b. The development and maintenance of a World Heritage List to be comprised of natural and cultural properties of outstanding universal value;

c. The preparation of a List of World Heritage in Danger;

d. The establishment of a World Heritage Fund to assist participating countries in identifying, preserving, and protecting World Heritage properties;

e. The provision of technical assistance to participating countries, upon request; and

f. The promotion and enhancement of public knowledge and understanding of the vital importance of heritage conservation at the international level.

Each participating nation may identify and nominate its own sites for inclusion on the World Heritage List, which currently is comprised of 112 cultural and natural properties. The World Heritage Committee judges all nominations against established criteria. Under the Convention, each participating nation assumes responsibility for taking appropriate legal, scientific, technical, administrative, and financial measures necessary for the identification, protection, conservation, presentation, and rehabilitation of World Heritage properties situated within its borders.

The Federal Interagency Panel for World Heritage makes recommendations to the Department of the Interior on proposed U.S. nominations and related matters. The Panel currently includes representatives from the Office of the Assistant Secretary for Fish and Wildlife and Parks, the National Park Service and the U.S. Fish and Wildlife Service within the Department of the Interior; the President's Council on Environmental Quality; the Smithsonian Institution; the Advisory Council on Historic Preservation; the Department of Commerce; and the Department of State.

The Department of the Interior implements its responsibility under the World Heritage Convention in accordance with the statutory mandate of Title IV of the National Historic Preservation Act Amendments of 1980 (Pub. L. 96–515), which reads as follows:

Title IV—International Activities and World Heritage Convention

Section 401

a. The Secretary of the Interior shall direct and coordinate United States participation in the Convention Concerning the Protection of the World Cultural and Natural Heritage, approved by the Senate on October 26, 1973, in cooperation with the Secretary of State, the Smithsonian Institution, and the Advisory Council on Historic Preservation. Whenever possible, expenditures incurred in carrying out activities in cooperation with other nations and international organizations shall be paid for in such excess currency of the country or area where the expense is incurred as may be available to the United States.

b. The Secretary of the Interior shall periodically nominate properties he determines are of international significance to the World Heritage Committee on behalf of the United States. No property may be so nominated unless it has previously been determined to be of national significance. Each such nomination shall include evidence of such legal protections as may be necessary to ensure preservation of the property and its environment (including restrictive covenants, easements, or other forms of protection). Before making any such nomination, the Secretary shall notify the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

c. No non-Federal property may be nominated by the Secretary of the Interior to the World Heritage Committee for inclusion on the World Heritage List unless the owner of the property concurs in writing to such nomination.

Section 402

Prior to the approval of any Federal undertaking outside the United States which may directly and adversely affect a property which is on the World Heritage List or on the applicable country's equivalent of the National Register, the head of a Federal agency having direct or indirect jurisdiction over such undertaking shall take into account the effect of the undertaking on such property for purposes of avoiding or mitigating any adverse effects."

World Heritage Rulemaking

On January 13, 1981, the Department of the Interior published interpretive guidelines for implementing the World Heritage Convention (46 FR 3073). The guidelines set forth the interpretation that the Department used to carry out provisions of Title IV of the National Historic Preservation Act Amendments of 1980 on an interim basis pending publication of formal rules.

The final World Heritage rules are based on provisions of the January 13, 1981, interpretative guidelines (46 FR 3073) and the October 20, 1981, proposed rules (46 FR 51557), and the public

comments that have been received on both of these documents. A summary and discussion of public comments received on the proposed World Heritage rules follows. The two comments received on the interpretive guidelines dealt with the past restriction of U.S. nominations to only Federal properties, and were discussed in the proposed rules (46 FR 51559).

Summary of Public Comments

A total of 23 comments were received on the proposed World Heritage rules. Responses were received from agencies represented on the Federal Interagency Panel for World Heritage, other Federal agencies, national conservation and preservation organizations, and individuals. All comments have been studied carefully and considered in the preparation of the final rules. The following discussion of public comments is divided into two broad categories, the first dealing with general comments and the second containing a section-by-section analysis.

a. *General Comments.* Of the 23 written responses, 13 respondents expressed support for the proposed rules as published, complimenting them as, among other things, "clearly written," "thorough," "very comprehensive," "clear and logical," "soundly conceived," and "useful" in guiding U.S. participation in the World Heritage Convention. Nine respondents indicated that they had no substantive comments or recommendations to offer on the proposed rules. One respondent focused on the importance of the detailed procedures for screening potential U.S. nominations and complimented the composition of the Federal Interagency Panel for World Heritage. This respondent also expressed the belief that the U.S. should limit its nominations to three or four a year at most, and that any U.S. nominations should be clearly worthy of the high honor associated with World Heritage status.

Four respondents commented in general terms on the provision which now affords the opportunity for nomination of non-Federal (e.g., State, local, private) properties for World Heritage status, with three expressing strong support, e.g., "* * * particularly pleased that provision has been made for the inclusion of privately owned historic properties, with appropriate legal protective convenants," and "* * * delighted that they include provisions for the nomination of non-Federal properties. This is a major step forward, not only practically, but also symbolically." One respondent expressed reservation with respect to the nomination of non-Federal properties, however, noting "isn't it likely that only those landmarks protected by the Federal Government have sufficient legal protection to insufe preservation?" Nomination of non-Federal properties is provided for by Title IV of the 1980 National Historic Preservation Act Amendments (16 U.S.C. 470 a–1), provided that the owner concurs in such nomination and adequate protection measures are taken. The protection provisions contained in § 73.13 of these rules are the products of an evolutionary process which has seen the scope of U.S. nominations expanded from only federally owned or controlled properties, to all types of public properties in 1980, and finally to public and private properties. Sufficient protection measures must be demonstrated, e.g., management plans, convenants, easements, etc., to ensure that U.S. properties, prior to their nomination, will be effectively maintained and protected.

One respondent encouraged the involvement of non-governmental organizations in the workings of the elected, 21-member-nation World Heritage Committee. While delegates on the Committee must be official representatives of their countries, non-governmental organizations participate in World Heritage activities at national and international levels, most notably the International Union for the Conservation of Nature and Natural Resources (IUCN) and the International Council on Monuments and Sites (ICOMOS) which serve as technical advisers to the World Heritage Committee. In the U.S., extensive opportunities for public involvement in World Heritage activities are afforded throughout the nomination process (Sec. 73.7).

b. Section-by-Section Analysis.

§ 73.1—Purpose.

No comments were received on this section.

§ 73.7—Definitions.

No comments were received on this section. A part of the definition for "World Heritage Committee" is changed to correctly read, "* * * countries represented on the Committee are elected by participating nations and serve for three *sessions of the UNESCO General Conference (six years).*"

§ 73.5—Authority.

No comments were received on this section.

§ 73.7—U.S. World Heritage Nomination Process.

The majority of comments received on the proposed rules dealt with one or more aspects of the U.S. World Heritage nomination process which, in effect, constitutes the focal point for this country's implementation of the Convention. One respondent made the general observation that the nomination process should place great emphasis on comparative evaluation of similar types of properties to identify only those few superlative areas that should be ultimately nominated for World Heritage status. Reference to comparative evaluation has been reinforced in the evaluation process to highlight the importance of this aspect of the nomination process.

Several comments were received on the requirements that U.S. Properties must satisfy to be considered for nomination (§ 73.7(b)(2)). Two respondents commented on the requirement that U.S. properties must have been determined to be of "national significance" prior to their nomination to the World Heritage List (16 U.S.C. 470a–1). One respondent observed that the proposed rules "establish even further limitations than those contained in the World Heritage Convention and its enabling legislation" because they "restrict such consideration to properties already designated as National Historic Landmarks or National Natural Landmarks." This respondent concludes by asking, "could the matter of 'national significance' be tested by other documentation and resolved at the Interagency Panel level." Landmark designation is not necessarily a prerequisite for nomination of a U.S. site for World Heritage status. The proposed rules provide other means for determining national significance, such as areas of national significance established by the Congress or the President, e.g., national parks, monuments, or wildlife refuges.

However, it is clear from the legislative history of the 1980 Amendments that the Congress intended the landmarks programs to play a central role in the determination of national significance for potential U.S. World Heritage nominations and in the subsequent evaluation of nominations: "it is expected that determination of national significance will primarily be made through the existing National Historic Landmarks and National Natural Landmarks programs." (U.S. House of Representatives Report 96–1457, October 10, 1980, p. 44.) Thus, with this clear indication of Congressional intent and their usefulness in providing professional guidance, the landmarks programs are retained in the final rules as important tools for determining national significance. A second

respondent suggested that the rules "allow for unusual areas of world potential concern that still may not be of U.S. national significance," referring to the possibility of nominating properties in territories not under some form of U.S. jurisdiction. As each country is responsible for setting its own policies and requirements for implementing the Convention, the national significance requirement, as elaborated in the rules, applies only to the U.S. This country can only unilaterally nominate *U.S.* properties for World Heritage status, as the World Heritage Convention states very clearly at several points that participating nations are responsible for identifying and nominating properties situated in their territory. Thus, it would be inappropriate and, in fact, in violation of the Convention to unilaterally nominate properties which are situated in other nations.

One respondent urged that the section dealings with the requirement for owner concurrence ((b)(2)(ii)) be clarified to better describe the types of owners or interests whose concurrence must be obtained, i.e., to more fully define "owner concurrence." This respondent cited examples of less-than-fee ownership, such as mineral rights and utility rights-of-way, and inholdings and concessions in national parks, thus raising the question whether their concurrence would be needed before their property could be nominated for World Heritage status. The requirement to obtain owner consent for private property is contained in Title IV of Pub. L. 96–515 (16 U.S.C. 470a–1), and has been applied in the rules to all owners, public and private. To more fully define owner concurrence, this section of the rules has been rewritten to specify that, in the case of multiple ownership, only those properties and/or interests in property whose owners consent to nomination are included within the World Heritage nomination. Concurrence of owners with property interest in the site, such as rights-of-way or mineral rights, will be sought if such interests are determined to be integral to the property's outstanding universal value. If consent is not granted, by law that portion of land or interest could not be a part of the nomination. A nomination would be forwarded only if it is determined that the property's outstanding universal values are well represented and protected.

One respondent raised an important question involving the requirement ((b)(2)(iii)) that the nomination document for a property include evidence of such legal protections as may be necessary to ensure the preservation of the property and its environment (16 U.S.C. 470a–1), asking, "must the area show proof of being protected before it can be a member area of the World Heritage Convention which has a stated goal of preserving [such areas]? There seem to be areas which could be of universal importance which lack the necessary evidence of protection." This observation raises the philosophical question of whether the Convention is concerned with only outstanding properties that are adequately protected, or whether the full range of outstanding properties potentially eligible for World Heritage status should be considered. Despite this inherent contradiction, however, the U.S. has international and domestic mandates to ensure that its World Heritage properties are adequately protected. Article 5 of the Convention requires each participating nation to take appropriate legal, scientific, technical, administrative and financial measures necessary for the protection, conservation, and rehabilitation of World Heritage properties situated within its borders. As discussed above, Title IV of Pub. L. 96–515 requires that evidence of protection be incorporated into nomination documents. While the protection requirement may exclude certain properties, it effectively fulfills the treaty commitment of the U.S. under the Convention and the Congressional mandate of Pub. L. 96–515. It should be noted that the World Heritage Convention deals with superlative cultural and natural properties; in the U.S., such areas are generally under some form of protective management.

Two respondents commented on the inventory of potential future U.S. World Heritage nominations and its role in the overall nomination process. One noted that the inventory could serve as a highly visible public listing that would encourage preservation of sites appearing on it, even if they were not ultimately nominated. This respondent also suggested that properties could be included on the inventory even if they did not satisfy all the requirements for nomination, e.g., owner concurrence, national significance, protection. These are the requirements that U.S. properties must satisfy to be nominated to the List, but are not absolutely required for inclusion on the inventory. During its development, the inventory has been widely distributed to agencies, organizations, and individuals in an effort to ensure that listed areas appear to merit World Heritage status, and to increase public awareness and appreciation of World Heritage. A second respondent raised a larger, more fundamental question regarding the relationship of the inventory to the annual nomination process: "Specifically, how does the indicative inventory relate to the list of sites suggested each year in response to the January Federal Register solicitation? Is the Assistant Secretary's selection of potential nominations based only on suggestions on sites received that year through the January Federal Register notice or are potential nominations also to be selected from the indicative inventory?" As 1982 is the first year that a formal U.S. World Heritage inventory has been in existence, the inventory represents a recent refinement in the annual evaluation process that ultimately produces U.S. nominations by first identifying potential and then proposed nominations for a given year. Since the inventory is the compilation of *potential* future nominations and is based on extensive public and professional study and comment, the nomination process has been restructured in the final rules to bring the inventory squarely into the annual process from the outset. Accordingly, in an effort to focus attention on the inventory early in the process, to streamline the nomination process itself, and to provide much needed additional time for actually preparing nomination documents, the potential nomination phase in the proposed rules (formerly Sec. 73.7(b)(4)) has been replaced by the inventory, which is the listing of *potential* future nominations. The inventory itself is not static, and will be revised as circumstances warrant. The nomination process remains on a calendar year basis, initiated through the January notice which will now focus on the inventory. A mechanism has been built into the final rules through which properties suggested for nomination but which have not yet been included on the inventory may be added to the inventory if qualified, and thus considered for nomination in future years. Thus, the annual nomination process, as defined in the final rules, flows from the inventory (potential nominations) to proposed nominations to approved nominations, provided that the requirements of each of these stages is met.

With the exception of this change, the nomination process set forth in the final rules remains much as it was in the proposed rules. One respondent emphasized that "public participation and comment are a highly desirable part of the review process," and recommended that the 30-day comment period in § 73.7(b)(4) be expanded to 45 or 60 days. To ensure that interested

parties have sufficient opportunity to make recommendations on potential nominations early in the process, a comment period of not less than 60 days is provided in § 73.7(b)(3) of the final rules.

Three respondents commented on the factors used in the selection of potential U.S. World Heritage nominations (§ 73.7(b)(4) (i)–(vi)). One observed that the rules should discuss the relative importance of each of the factors in identifying U.S. nominations, noting "it is unclear what weight is placed on the various 'other' factors in the nomination process, which are in addition to the formal 'criteria'" that have been adopted by the World Heritage Committee. The fundamental consideration in identifying U.S. nominations is how well the property satisfies one or more of the criteria used by the World Heritage Committee in evaluating nominations (§ 73.9), i.e., whether the site appears to be of outstanding universal value to mankind. Once this test appears to be met, the legislative requirements discussed earlier, i.e., national significance, protection, concurrence, are considered. Finally, a number of other considerations enter into the decision, such as how well the particular type of resource is already represented on the World Heritage List. It is neither possible nor desirable to attach exact weights to each factor in the qualitative World Heritage evaluation process that relies on professional, scholarly judgment and expertise.

One respondent noted that consideration (iv), "the balance between cultural and natural properties already included on the List and those currently under consideration," "was irrelevant" and that "each property should be considered on its own merits. If it qualifies, it should be nominated regardless of whether it is a cultural or natural resource." This consideration, and the others listed in (§ 73.7(b)(4)), are used as general factors in the evaluation process and not as absolute requirements. A third respondent stated that, "potential threats and state of preservation factors are of such great importance that they (should) be listed separately." To address all of these comments, this section of the final rules has been written to more clearly emphasize the hierachy of factors considered in the selection of U.S. nominations, with potential threats and state of preservation appearing as a separate factor.

Three respondents offered comments on some aspect of the notification process (§ 73.7 (c) and (g)), with one urging that the rules include provisions for the preparation and distribution of press releases to supplement the **Federal Register** notices. Press releases are currently an integral part of the process, and reference to their use is now included in the final rules. A second respondent asked, "should there be any provision for notifying the party or parties who originally suggested the site, if these are different from the property owner(s)?" As a part of the nomination process, interested parties who are known to the Department are notified of the nomination through **Federal Register** notices and press releases. A third respondent emphasized the importance of close cooperation with appropriate land managers in the preparation of World Heritage nominations.

This goal is accomplished through extensive opportunities for public and professional involvement throughout the nomination process, through preparation of nomination documents by the appropriate management official, and through the provision for owner concurrence prior to nomination.

One respondent noted that the rules do not include procedures that could be used specifically for bilateral nominations with neighboring countries, e.g., Rio Grande Valley, Glacier/Banff National Parks. Any bilateral nomination is subject not only to the same process and requirements as a property which is nominated by this country alone, but also to the relevant requirements of the neighboring country. The requirements which other countries may impose on their World Heritage nominations are not subject to U.S. rulemaking. Accordingly, specific reference to bilateral nominations is not included in the final rules; existing procedures would be employed in the event of a bilateral nomination.

One final comment on the nomination process dealt with the actual preparation of nominations (§ 73.7(d)), noting that "it is probably unreasonable to assume that private (or for that matter, public) owners have either the wherewithal or technical capacity to prepare nominations. We suggest a 'critical or unusual' circumstances clause which would provide for preparation of nominations by the NPS." The proposed rules stated that NPS would cooperate with non-NPS owners or managers in nomination preparation, but noted that responsibility for actual preparation of the nomination document drafting lies with the property's owner(s). Several benefits, e.g., firsthand knowledge of the site and its environment, commitment to site protection, and incorporation of World Heritage into management and interpretive plans, are associated with having nominations prepared at the field level. NPS provides technical assistance in the preparation process, e.g., providing examples of previous nominations, criteria, guidelines for preparing nominations, and is available to assist as staff and budget permit. However, the degree of NPS involvement in nomination preparation is an administrative decision not appropriate for incorporation into formal rules.

§ 73.9—World Heritage Criteria.

Four respondents commented on the criteria which have been adopted by the 21-member nation World Heritage Committee for evaluating sites which have been nominated for World Heritage status. All four discussed some aspect of the criteria used for evaluating natural properties (§ 73.9 (b)), with one labeling the criteria as "very weak," stating "much more thought needs to be given to providing good criteria, not examples, for natural sites of universal value to mankind." The World Heritage Committee made some refinements in the cultural and natural criteria in 1980, and as time passes and greater experience is gained in administering the Convention, further changes are likely to be made. The U.S., through the Department of the Interior and the Federal Interagency Panel for World Heritage, is an active participant in developing policies and procedures for carrying out the mandates of the Convention. However, while this country may suggest proposals for changes in criteria, only the 21-nation World Heritage Committee can adopt changes to the criteria.

A second respondent observed that, "it is necessary to be very precise in establishing criteria governing the kinds of ecological resources which are suitable for nomination as World Heritage sites, so as to distinguish these sites from other designations" (such as Man and the Biosphere's (MAB) Biosphere Reserve designation). The distinction between sites inscribed on the World Heritage List and other international programs is found in the basic purpose and philosophy of the different programs. The World Heritage Convention, an international treaty ratified by over 60 countries, recognizes natural and cultural properties of outstanding universal value to mankind, while other programs have differing goals, such as MAB's Biosphere Reserve effort to designate natural areas that best represent the different biogeographic realms of the earth, and

to encourage scientific research on environmental problems of international significance. The difference between programs is further manifest in different policies, procedures, and criteria. World Heritage status is reserved for only those properties of demonstrated superlative international importance. This respondent also raised another point related to the criteria, this one pertaining to the boundaries of World Heritage nominations; "the boundaries may not necessarily coincide with the boundaries of other legally protected areas, such as natural landmarks and biosphere reserves * * * it is necessary to ensure that the value of the World Heritage Site is optimized by designating only the areas which specifically qualify and by encouraging the long-term protection and effective management of the areas in a manner befitting their importance to mankind." As earlier discussed, a property nominated for World Heritage status must be adequately protected; thus, the extent of protective ownership must be considered in delineating boundaries. However, the fundamental test is whether the nominated property included within the boundaries meets one or more of the criteria for outstanding universal value. To more fully address the concerns raised in this comment, a reference to boundary identification is included in the final rules in § 73.7(d).

A third respondent raised a question over the role of the World Heritage Convention in protecting threatened and endangered species. One of the World Heritage criteria (§ 73.9(b)(1)(iv)) pertains specifically to threatened species. If a property contains "the most important and significant natural habitats where threatened species of animals or plants of outstanding universal value from the point of view of science or conservation still survive," it may be inscribed on the World Heritage List. However, the Convention is not intended to duplicate other international and domestic efforts specifically directed towards preserving endangered species.

The fourth respondent questioned, "whether the proposed regulations are intended to modify the criteria for determining National Natural Landmarks by adding threatened species habitat as a specific consideration," reasoning that "because nomination to the World Heritage List is contingent upon recognition as a National Natural Landmark, and because threatened species habitat is not a criterion for designation as a National Natural Landmark, these regulations appear to be changing the National Natural Landmark designation" process. The World Heritage criteria as presented in the proposed rules are distinct from those employed in the National Natural Landmarks Program (36 CFR 62). Nomination of a U.S. site for World Heritage status is not always contingent on prior recognition as a natural landmark, as areas of national significance established by the Congress (such as national parks or national wildlife refuges) or the President (such as national monuments) are also considered for possible nomination. The threatened species criterion (§ 73.9(b)(1)(iv)) is one factor used by the World Heritage Committee in its evaluation of World Heritage potential. The World Heritage rules do not alter the procedures or criteria for designating national natural landmarks.

§ 73.11—Federal Interagency Panel for World Heritage.

In all, three respondents commented on the composition of the Federal Interagency Panel for World Heritage, which has been formed to assist the Department of the Interior in carrying out its World Heritage responsibilities. Two respondents discussed the possible role of the National Park System Advisory Board in the Interagency Panel, specifically with respect to the nomination process. One respondent noted that while the Advisory Board has a valuable role to play in identifying specific properties as U.S. nominations, a provision for Advisory Board participation does not need to be included in the program rules: "because the rules are written for the conduct of the program by the Assistant Secretary, the manner in which the National Park Service provides staff and services to the Assistant Secretary's interagency panel is best left to the discretion of the Panel and the participatory agencies." NPS, which serves on the Panel, may involve the National Park System Advisory Board in the nomination process without having such reference in the rules, just as other NPS administrative units, e.g., International Affairs, Natural Landmarks, Historic Landmarks, etc., are involved. A second respondent queried whether it would be "in order for the Chairman of the National Park Advisory Board to be a member of the Panel." As discussed, participation by the Board in World Heritage activities can be accomplished through informal means not subject to rulemaking.

A third respondent noted that "in view of the potential importance of the estuarine sanctuary and marine sanctuary programs * * * and the desirability of considering estuarine and marine areas as World Heritage Sites, it would seem appropriate to add the Department of Commerce (National Oceanic and Atmospheric Administration—NOAA) to the list of agencies represented on the Panel." To further the goal of broad, professional representation on the Interagency Panel, a request was made to NOAA's Administrator inviting that agency's participation on the Panel and, based on a favorable response, a representative from the NOAA Sanctuary Programs office will participate in Panel activities.

§ 73.13—Protection of U.S. World Heritage Sites

As discussed in the overview of general comments (Part A above), non-Federal properties are now eligible for consideration for U.S. nomination to the World Heritage List, provided they meet the criteria (§ 73.9) and the requirements set forth in § 73.7(b). In particular, their nomination document must include evidence of such legal protections as may be necessary to ensure preservation of the property and its environment. Many aspects of the protection requirements were discussed earlier under § 73.7, specifically the treaty and legislative protection requirements, and the need for owner concurrence. In addition to that discussion, two respondents raised additional points regarding protection of World Heritage Sites. One respondent noted that viable management plans are an important tool which should be in place for World Heritage nominations. While not specifically mentioned in the proposed rules, reference to management plans is made through the phrase, "existing and proposed administrative measures that would ensure continued satisfactory maintenance of the property." Explicit reference to management plans has been included in the final rules.

Another respondent suggested that, in the case of *both* private and non-Federal public properties, "could nomination be accompanied by a right of first refusal for Federal Government acquisition of listed properties in the event of any sale, succession, transfer, or disposal that would lead to an inability to appropriately maintain or preserve the listed property?" In the proposed rules, the right of first refusal was applied only to private properties and did not necessarily contemplate Federal acquisition. The right of first refusal resulting in governmental acquisition is one means of protection that could be utilized to help preserve a World

Heritage property. Unless specifically authorized, however, regulations for program implementation cannot commit the Federal Government to acquire lands at a future date. Pub. L. 96–515 does not authorize acquisition or right of first refusal for World Heritage Sites. If the owner of a property offers a right, and if there is an authorized acceptance of such a right and a binding legal commitment to act upon it, such a right could be accepted as part of the protection measures required by 16 U.S.C. 470a–1. Adequate protection through a right of first refusal is secured *only* if there is *both* a right to acquire *and* adequate authority and funds to accomplish the acquisition when the opportunity may arise. For example, a right of first refusal running to the Department of the Interior would be effective only if authority exists to acquire the property in question, and authorized and appropriated funding is available. Effective protection measures not subject to future contigencies must be in place prior to nomination. Thus, the qualifying term, "If the owner(s) is willing", has been added to the provision indicating that the owner of the property may offer the right, but is not required to. Where such a right is used to help fulfill the protection requirement, a binding commitment and assurance of funds would have to accompany owner willingness.

§ 73.15—International World Heritage Activities.

One respondent commented on the provisions of this section, asking whether it would be "possible to reference any responsibilities of the Secretary (of the Interior) with regard to providing training and information to other nations concerning preservation of natural properties, even though such responsibilities are not specifically mandated by the 1980 National Historic Preservation Act Amendments?" As noted, the Secretary is authorized to develop and make available to other nations and international organizations training in an information concerning professional methods and techniques for the preservation of historic properties (16 U.S.C. 470d). Although there is no specific legislative mandate for natural conservation training and information in the 1980 Amendments, provisions in other statutes, such as Section 8 of the Endangered Species Act of 1973 (Pub. L. 93–205; 16 U.S.C. 1537) and Section 102 of the National Environmental Policy Act of 1969 (Pub. L. 91–190; 16 U.S.C. 4321 et seq.), authorize such international cooperation activities in the field of natural area conservation. Accordingly, reference to both historic and natural international cooperation activities is now included in the final rules in order to fully implement this country's treaty commitment under the World Heritage Convention.

§ 73.17—Public Information and Education Activities.

No comments were received on this section.

All comments received on the proposed World Heritage rules are on file with the International Affairs Branch, National Park Service, U.S. Department of the Interior, 1100 L Street, N.W., Room 3121, Washington, D.C. 20240, and are available for public inspection by appointment during normal business hours (7:45 a.m.–4:15 p.m., Monday–Friday).

Delegation of Secretarial Authority

The Secretary of the Interior has delegated to the Assistant Secretary for Fish and Wildlife and Parks his authority to direct and coordinate U.S. participation in the World Heritage Convention, including setting U.S. World Heritage policy and procedures, approving and transmitting U.S. nominations to the World Heritage List, and preparing formal rules to implement the Convention.

Compliance with Other Laws

Pursuant to Executive Order 12291, the Department of the Interior has determined that this document is not a major rule, nor does it have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (Pub. L. 96–354; 5 U.S.C. 601 et seq.). Under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), it has been determined that the information collected pursuant to §§ 73.7 and 73.13 of the rule does not require OMB clearance since such information, in the form of a protective covenant, would not be collected from more than ten persons in any given year. An environmental assessment of the proposed rules has been prepared in accordance with the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. 4321 et seq.). Based on this assessment, it has been determined that this rulemaking is not a major Federal action significantly affecting the quality of the human environment, and that an environmental impact statement is not required. The assessment is on file in the International Affairs Branch, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240.

Authorship Statement

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List of Subjects in 36 CFR Part 73

World Heritage Convention, Treaties, Environmental protection, Historic preservation, Natural resources.

Title 36 of the Code of Federal Regulations is amended by adding a new Part 73, reading as follows:

PART 73—WORLD HERITAGE CONVENTION

Sec.

73.1 Purpose.
73.3 Definitions.
73.5 Authority.
73.7 World Heritage Nomination Process.
73.9 World Heritage Criteria.
73.11 Federal Interagency Panel for World Heritage.
73.13 Protection of U.S. World Heritage Properties.
73.15 International World Heritage Activities.
73.17 Public Information and Education Activities.

Authority: 94 Stat. 3000; 16 U.S.C. 470 a–1, a–2, d.

Note.—Under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), it has been determined that the information collected pursuant to §§ 73.7 and 73.13 of the rule does not require OMB clearance since such information would not be collected from more than ten persons in any given year.

§ 73.1 Purpose.

The purpose of these rules is to set forth the policies and procedures that the Department of the Interior, through the National Park Service (NPS), uses to direct and coordinate U.S. participation in the Convention Concerning the Protection of the World Cultural and Natural Heritage, which was ratified by the Senate on October 26, 1973. The rules describe the procedures used to implement the Convention under the National Historic Preservation Act Amendments of 1980. The purpose of the World Heritage Convention is to enhance worldwide understanding and appreciation of heritage conservation, and to recognize and preserve natural and cultural properties throughout the world that have outstanding universal value to mankind.

§ 73.3 Definitions.

"Cultural Heritage"

Article 1 of the Convention defines "Cultural Heritage" as:

Monuments: architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings, and combinations of features, which are of outstanding universal value from the point of view of history, art, or science;

Groups of buildings: groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of outstanding universal value from the point of view of history, art, or science; and

Sites: works of man or the combined works of nature and of man, and areas including archaeological sites which are of outstanding universal value from the historical, aesthetic, ethnological, or anthropological points of view.

"Natural Heritage"

Article 2 of the Convention defines "Natural Heritage" as:

Natural features, consisting of physical and biological formations or groups of such formations, which are of outstanding universal value from the aesthetic or scientific point of view;

Geological and physiographical formations and precisely delineated areas which constitute the habitat of threatened species of animals and plants of outstanding universal value from the point of view of science or conservation; and

Natural sites or precisely delineated natural areas of outstanding universal value from the point of view of science, conservation, or natural beauty.

"Intergovernmental Committee for the Protection of the World Cultural and Natural Heritage," or *"World Heritage Committee"*, means the Committee established by Article 8 of the Convention and assisted by the United Nations Educational, Scientific and Cultural Organization (UNESCO). It is composed of 21 nations participating in the Convention, and is responsible for implementing the Convention at the international level. Countries represented on the Committee are elected by participating nations and serve for three sessions of the UNESCO General Conference (six years). The Committee establishes criteria which properties must satisfy for inclusion on the World Heritage List, sets policy and procedures, and approves properties for inclusion on the World Heritage List.

"World Heritage Convention," or *"Convention,"* means the Convention Concerning the Protection of the World Cultural and Natural Heritage, ratified by the U.S. Senate on October 26, 1973.

"World Heritage List," means the List established by Article 11 of the Convention which includes those cultural and natural properties judged to possess outstanding universal value for mankind.

"UNESCO," means the United Nations Educational, Scientific and Cultural Organization, which provides staff support for the Convention and its implementation.

"Secretary," means the Secretary of the Interior, or the designee authorized to carry out the Secretary's responsibilities.

"Assistant Secretary," means the Assistant Secretary for Fish and Wildlife and Parks, U.S. Department of the Interior, or the designee authorized to carry out the Assistant Secretary's responsibilities.

"Director," means the Director of the National Park Service, U.S. Department of the Interior, or the designee authorized to carry out the Director's responsibilities.

"Department," means the U.S. Department of the Interior.

"Federal Interagency Panel for World Heritage," or *"Panel,"* means the Panel consisting of representatives from the Office of the Assistant Secretary, the National Park Service, and the U.S. Fish and Wildlife Service within the Department of the Interior; the President's Council on Environmental Quality; the Smithsonian Institution; the Advisory Council on Historic Preservation; the Department of Commerce; and the Department of State.

"Owner," means the individual(s) or organization(s) of record that own private land that is being nominated for World Heritage status, or the head of the public agency, or subordinate to whom such authority has been delegated, responsible for administering public land that is being nominated for World Heritage status.

"Owner concurrence," means the concurrence of all owners of any property interest that is part of the World Heritage nomination.

§ 73.5 Authority.

The policies and procedures contained herein are based on the authority of the Secretary of the Interior under Title IV of the National Historic Preservation Act Amendments of 1980 (Pub. L. 96-515; 94 Stat. 3000; 16 U.S.C. 470a-1, a-2) which directs the Secretary to ensure and direct U.S. participation in the Convention Concerning the Protection of the World Cultural and Natural Heritage, approved by the U.S. Senate on October 26, 1973, in cooperation with the Secretary of State, the Smithsonian Institution, and the Advisory Council on Historic Preservation.

§ 73.7 World Heritage Nomination Process.

(a) *Overview.* The Assistant Secretary periodically nominates properties which appear to be of outstanding universal value to the World Heritage Committee on behalf of the U.S. The initial identification of properties for nomination, and subsequent preparation, evaluation, and approval of U.S. nominations for properties so identified is an annual process (January–December) which is initiated through a **Federal Register** notice that includes the indicative inventory of potential future U.S. World Heritage nominations and requests recommendations from interested public and private sources. The Assistant Secretary, working in cooperation with the Federal Interagency Panel for World Heritage, may select a limited number of proposed nominations from the properties on the indicative inventory. A detailed nomination document is prepared for each property identified as a proposed nomination. The Panel reviews the accuracy and completeness of the draft nominations, and makes recommendations to the Assistant Secretary. If approved, the Assistant Secretary transmits the U.S. nominations, through the Department of State, to UNESCO for review and approval by the World Heritage Committee during the following year.

(b) *Identification*—(1) *Requirements.* In order for a U.S. property to be considered for possible nomination to the World Heritage List, it must satisfy the following legislative requirements in addition to satisfying one or more of the World Heritage criteria (§ 73.9):

(i) The property must have previously been determined to be of national significance (16 U.S.C. 470a-1). For the purposes of these rules, "national significance," refers to properties designated as National Historic Landmarks (36 CFR Part 65) or National Natural Landmarks (36 CFR Part 62) by the Secretary of the Interior under provisions of the 1935 Historic Sites Act (Pub. L. 74-292; 49 Stat. 666; 16 U.S.C. 461 et seq.), or areas of national significance established by the Congress of the U.S. or by Presidential proclamation under the Antiquities Act of 1906 (16 U.S.C. 433);

(ii) The property's owner(s) must concur in writing to the nomination (16 U.S.C. 470a-1). In the case of properties owned or controlled by Federal, State, and/or local governments, a letter from the owner(s) would demonstrate concurrence. In the case of properties owned or controlled by private parties, the protection agreement outlined in § 73.13(c) would demonstrate concurrence. Any owner must concur before his/her property may be included within the World Heritage nomination. For example, concurrence from the

responsible management official for Federal property indicates concurrence for the management unit, but does not indicate concurrence of any non-Federal property interest located within its boundaries. Concurrence of any non-Federal property interest will be sought if that property interest is determined to be integral to the entire property's outstanding universal values. To be included within the World Heritage nomination, the owner of the non-Federal property interest would indicate concurrence by fulfilling the protection requirement outlined in § 73.13(c); and

(iii) The nomination document must include evidence of such legal protections as may be necessary to ensure the preservation of the property and its environment (16 U.S.C. 470a–1). The protection requirements for public and private properties are identified in § 73.13.

(2) *Process Initiation.* The Assistant Secretary, through the National Park Service (NPS), publishes a notice in the Federal Register in January of each year initiating the annual U.S. World Heritage nomination process. Among other things, this notice:

(i) Sets forth the annual schedule and procedures for identifying proposed U.S. nominations to the World Heritage List, including specific deadlines for receipt of suggestions and comments, and for preparing and approving nomination documents for properties so identified;

(ii) Includes the indicative inventory of potential future U.S. nominations to the World Heritage List, and solicits recommendations on properties on the inventory which should be nominated that year, or suggestions of additional properties that should be considered for inclusion on the inventory.

(iii) Identifies any special requirements that properties must satisfy to be considered for possible nomination.

(3) *Inventory.* The National Park Service compiles and maintains an indicative inventory of cultural and natural properties located within the U.S. that, based on preliminary examination, appear to qualify for World Heritage status and that may be considered for nomination to the World Heritage List. The inventory is a tentative list of properties that the U.S. may nominate at some point in the future. Inclusion of a property on the inventory does not confer World Heritage status on it, but merely indicates that a property may be further examined for possible nomination. Properties included on this inventory are drawn from suggestions received from any interested party and from the Department's own sources. The inventory is used as the basis for selecting future U.S. nominations, and provides a comparative framework within which the outstanding universal value of a property may be judged. Proposed nominations are selected from among the potential future nominations included on the inventory. Any agency, organization, or individual may recommend additional properties, with accompanying documentation, that should be considered for inclusion on the inventory. Except in exceptional circumstances, a property must be listed on the indicative inventory before it can be considered for nomination. The Assistant Secretary, in cooperation with the Panel and other sources as appropriate, determines whether the recommended property should be included on the inventory. If approved for inclusion on the inventory, the property will be listed when the inventory is next published in the Federal Register. The Assistant Secretary transmits a copy of the inventory of potential future U.S. World Heritage nominations, including documentation on each property's location and significance, to the World Heritage Committee for use in its evaluation of nominations, as requested by Article 11(1) of the Convention.

(4) *Selection of Proposed Nominations.* After the January notice's comment period has expired, the National Park Service compiles all suggestions and comments received. Using the recommendations received and working in cooperation with the Federal Interagency Panel for World Heritage, the Assistant Secretary may identify properties as proposed U.S. nominations for a given year. In addition to how well the property satisfies the World Heritage criteria (§ 73.9) and the legislative requirements outlined in § 73(b)(i), considerations in the selection of proposed nominations may include:

(i) How well the particular type of property (i.e., theme or region) is already represented on the World Heritage List;

(ii) The balance between cultural and natural properties already included on the List and those currently under consideration;

(iii) The opportunities afforded by the property for public visitation, interpretation, and education;

(iv) Potential threats to the property's integrity or its current state of preservation; and

(v) Other relevant factors, including public interest and awareness of the property.

Selection of a property as a proposed nomination indicates that it appears to qualify for World Heritage status and that a detailed nomination document will be prepared for the property. This document serves as the basis for making the decision to nominate the property to the World Heritage Committee (§ 73.7(e)).

(c) *Notification.* Following decisions on the proposed U.S. nominations, the Assistant Secretary publishes the results in the Federal Register. If properties are identified as proposed nominations, the Assistant Secretary notifies the following parties in writing:

(1) The owner(s) of lands or interests of land that are to be included in the nomination; and

(2) The Committee on Interior and Insular Affairs of the U.S. House of Representatives and the Committee on Energy and Natural Resources of the U.S. Senate.

The notice advises the recipients of the proposed action, references these rules, and sets forth the process that will be followed in preparing the nominations. The NPS prepares and issues a press release on the proposed nominations.

(d) *Nomination Preparation.* Following selection of proposed nomination(s), the NPS coordinates arrangements for the preparation of a detailed nomination document for each property. The owner(s) of the proposed property, in cooperation with NPS, is responsible for preparing draft nomination documents and for gathering necessary documentation in support of the nomination. The NPS oversees the nomination preparation process, and ensures that the procedural guidelines set forth by the World Heritage Committee and contained in these rules are satisfied. Each nomination is prepared according to the format and requirements established by the World Heritage Committee, and according to the schedule set forth in the annual January Federal Register notice (§ 73.7(b)(2)). In preparing nominations, consideration is given to including within their boundaries only those areas that appear to be of outstanding universal value to mankind.

(e) *Nomination Evaluation.* Following completion of the draft nomination document(s), the NPS coordinates their review and evaluation. The NPS distributes copies to all representatives on the Panel, with a request for comments regarding the adequacy of the nomination document and the significance of the property being nominated. The NPS compiles the recommendations and comments received from representatives on the Panel.

(f) *Nomination.* The Assistant Secretary, based on his/her evaluation and the recommendations of the Panel,

nominates properties which appear to possess outstanding universal value to the World Heritage Committee on behalf of the U.S. The Assistant Secretary transmits the nomination(s), through the Department of State, to UNESCO. The nomination(s) should be transmitted so that they are received by UNESCO prior to the January 1 deadline for any given year.

(g) *Notification.* When the nomination has been approved, as in paragraph (f) of this section, the Assistant Secretary publishes notice of this action in the **Federal Register.** In addition, the Assistant Secretary notifies the following parties, in writing, of the nomination(s):

(i) The owner(s) of land or interests in land that are included in the nomination; and

(ii) The Committee on Interior and Insular Affairs of the U.S. House of Representatives and the Committee on Energy and Natural Resources of the U.S. Senate.

The NPS prepares and issues a press release on the U.S. World Heritage nomination(s).

§ 73.9 World Heritage Criteria.

The World Heritage Committee uses the following criteria to evaluate the World Heritage potential of cultural and natural properties nominated to it:

(a) *Criteria for the Inclusion of Cultural Properties on the World Heritage List.* (1) A monument, group of buildings or site—as defined in Article I of the Convention—which is nominated for inclusion in the World Heritage List will be considered to be of outstanding universal value for the purposes of the Convention when the Committee finds that it meets one or more of the following criteria *and* the test of authenticity. Each property nominated should therefore:

(i) Represent a unique artistic achievement, a masterpiece of the creative genius; or

(ii) Have exerted great influence, over a span of time or within a cultural area of the world, on developments in architecture, monumental arts or townplanning and landscaping; or

(iii) Bear a unique or at least exceptional testimony to a civilization which has disappeared; or

(iv) Be an outstanding example of a type of structure which illustrates a significant stage in history; or

(v) Be an outstanding example of a traditional human settlement which is representative of a culture and which has become vulnerable under the impact of irreversible change; or

(vi) Be directly or tangibly associated with events or with ideas or beliefs of outstanding universal significance. (The Committee considered that this criterion should justify inclusion in the List only in exceptional circumstances or in conjunction with other criteria); and In addition, the property must meet the test of authenticity in design, materials, workmanship, or setting.

(2) The following additional factors will be kept in mind by the Committee in deciding on the eligibility of a cultural property for inclusion on the List:

(i) The state of preservation of the property should be evaluated relatively, that is, it should be compared with that of other property of the same type dating from the same period, both inside and outside the country's borders; and

(ii) Nominations of immovable property which is likely to become movable will not be considered.

(b) *Criteria for the Inclusion of Natural Properties on the World Heritage List.* (1) A natural heritage property—as defined in Article 2 of the Convention—which is submitted for inclusion in the World Heritage List will be considered to be of outstanding universal value for the purposes of the Convention when the Committee finds that it meets one or more of the following criteria and fulfills the conditions of integrity set out below. Properties nominated should therefore:

(i) Be outstanding examples representing *the major stages of the earth's evolutionary history.* This category would include sites which represent the major "eras" of geological history such as "the age of reptiles" where the development of the planet's natural diversity can well be demonstrated and such as the "ice age" where early man and his environment underwent major changes; or

(ii) Be outstanding examples representing *significant ongoing geological processes, biological evolution, and man's interaction with his natural environment;* as distinct from the periods of the earth's development, this focuses upon ongoing processes in the development of communities, of plants and animals, landforms, and marine and fresh water bodies; or

(iii) *Contain superlative natural phenomena, formations or features or areas of exceptional natural beauty,* such as superlative examples of the most important ecosystems, natural features, spectacles presented by great concentrations of animals, sweeping vistas covered by natural vegetation and exceptional combinations of natural and cultural elements; or

(iv) *Contain the foremost natural habitats where threatened species of animals or plants of outstanding universal value* from the point of view of science or conservation still survive.

(2) In addition to the above criteria, the sites should also fulfill the conditions of integrity:

(i) The areas described in (b)(1)(i) of this section should contain all or most of the key interrelated and interdependent elements in their natural relationships; for example, an "ice age" area would be expected to include the snow field, the glacier itself, and samples of cutting patterns, deposition, and colonization (striations, moraines, pioneer stages of plant succession, etc.).

(ii) The areas described in (b)(1)(ii) of this section should have sufficient size and contain the necessary elements to demonstrate the key aspects of the process and to be self-perpetuating. For example, an area of "tropical rain forest" may be expected to include some variation in elevation above sea level, changes in topography and soil types, river banks or oxbow lakes, to demonstrate the diversity and complexity of the system.

(iii) The areas described in (b)(1)(iii) of this section should contain those ecosystem components required for the continuity of the species or of the objects to be conserved. This will vary according to individual cases; for example, the protected area of a waterfall would include all, or as much as possible, of the supporting upstream watershed; or a coral reef area would be provided with control over siltation or pollution through the stream flow or ocean currents which provide its nutrients.

(iv) The area containing threatened species as described in (b)(1)(iv) of this section should be of sufficient size and contain necessary habitat requirements for the survival of the species.

(v) In the case of migratory species, seasonal sites necessary for their survival, wherever they are located, should be adequately protected. If such sites are located in other countries, the Committee must receive assurances that the necessary measures be taken to ensure that the species are adequately protected throughout their full life cycle. Agreements made in this connection, either through adherence to international conventions or in the form of other multilateral or bilateral arrangements, would provide this assurance.

(3) The property should be evaluated relatively, that is, it should be compared with other properties of the same type, both inside and outside the country's borders, within a biogeographic province, or migratory pattern.

§ 73.11 Federal Interagency Panel for World Heritage.

(a) *Responsibilities.* The Federal Interagency Panel for World Heritage is established to advise the Department of the Interior on implementation of the World Heritage Convention. Among other things, the panel assists in the following activities:

(1) The development of policy and procedures for effectively implementing the Convention in the U.S.;

(2) The evaluation of draft U.S. nomination documents;

(3) The making of recommendations for approval of U.S. nominations;

(4) The dissemination of information on the Convention within other Federal agencies; and

(5) The promotion of increased awareness and understanding of the importance of heritage conservation.

(b) *Composition.* (1) The Federal Interagency Panel for World Heritage is composed of representatives, named by their respective agencies, from the following agencies and offices:

(i) The Office of the Assistant Secretary for Fish and Wildlife and Parks, U.S. Department of the Interior;

(ii) The National Park Service, U.S. Department of the Interior;

(iii) The U.S. Fish and Wildlife Service, U.S. Department of the Interior;

(iv) The President's Council on Environmental Quality;

(v) The Smithsonian Institution;

(vi) The Advisory Council on Historic Preservation;

(vii) The National Oceanic and Atmospheric Administration, Department of Commerce; and

(viii) The Department of State.

(2) Additional representatives from other Federal agencies with mandates and expertise in heritage conservation may be requested to participate in the Panel from time to time.

(3) The Assistant Secretary, or his/her designee, chairs the Panel, and sets its agenda and schedule. The NPS provides staff support to the Panel.

§ 73.13 Protection of U.S. World Heritage Properties.

(a) *Requirements.* (1) Article 5 of the Convention mandates that each participating nation shall take, insofar as possible, the appropriate legal, scientific, technical, administrative, and financial measures necessary for the identification, protection, conservation, preservation, and rehabilitation of properties of outstanding universal value; and

(2) Title IV of Pub. L. 96–515 requires that no non-Federal property may be nominated to the World Heritage List unless its owner concurs in writing to such nomination. The nomination document for each property must include evidence of such legal protections as may be necessary to ensure preservation of the property and its environment, including, for example, restrictive covenants, easements, and other forms of protection (16 U.S.C. 470a–1).

(b) *Protection Measures for Public Properties.* For properties owned or controlled by Federal, State, and/or local governments, the following items satisfy the protection requirements outlined in (a) above:

(1) Written concurrence by the owner prior to nomination;

(2) The nomination document must include reference to:

(i) All legislation establishing or preserving the area; and

(ii) All existing and proposed administrative measures, including management plans, that would ensure continued satisfactory maintenance of the property and its environment; and

(3) A written statement by the owner(s) that such protection measures satisfy the requirements outlined in (a) above.

(c) *Protection Measures for Private Properties.* For properties owned or controlled by private organizations or individuals, the following items satisfy the protection requirements outlined in (a) of this section.

(1) A written covenant executed by the owner(s) prohibiting, in perpetuity, any use that is not consistent with, or which threatens or damages the property's universally significant values, or other trust or legal arrangement that has that effect; and

(2) The opinion of counsel on the legal status and enforcement of such a prohibition, including, but not limited to, enforceability by the Federal government or by interested third parties.

In addition, if the owner(s) is willing, a right of first refusal may be given for acquisition of the property, along with a guaranteed source of funding and appropriate management framework, in the event of any proposed sale, succession, voluntary or involuntary transfer, or in the unlikely event that the requirements outlined above prove to be inadequate to ensure the preservation of the property's outstanding universal value.

The protection measures for each private property being considered for possible nomination to the World Heritage List will be reviewed on a case-by-case basis to ensure that the requirements set forth above fulfill the mandate of Pub. L. 96–515.

§73.15 International World Heritage Activities.

(a) The Assistant Secretary, and other officials as appropriate, may represent the U.S. at meetings of the World Heritage Committee, the Bureau of the World Heritage Committee, or other international organizations or agencies which have activities that relate to World Heritage.

(b) In furtherance of Article 6 of the Convention and to the extent that resources permit, the Department will encourage and provide international assistance to other nations in activities relating to the identification, protection, conservation, and preservation of cultural and natural properties. The Secretary, or his designee, may develop and make available to other nations and international organizations training in, and information concerning, professional methods and techniques for the preservation of historic and natural properties (16 U.S.C. 470d; 16 U.S.C. 1537).

(c) NPS staff, in conjunction with the Federal Interagency Panel for World Heritage, provide support for the Assistant Secretary's international activities, including the preparation of documentation, briefing papers, and position statements.

(d) The Assistant Secretary responds, on behalf of the U.S., to requests from the World Heritage Committee, international heritage conservation organizations, or other nations regarding U.S. participation in the World Heritage Convention.

§ 73.17 Public Information and Education Activities.

(a) To the extent that time and resources permit, owners of U.S. properties approved for inclusion on the World Heritage List are encouraged to publicize the status of the property,

through appropriate signs, plaques, brochures, public dedication ceremonies, and interpretive displays or programs.

(b) The Department, throught the NPS, may provide guidance to owners of U.S. World Heritage properties in developing publicity, educational, and/or interpretive programs.

(c) The NPS is responsible for developing and distributing general information materials on the World Heritage Convention, including brochures, slideshows, lectures, or other presentations in order to strengthen appreciation and understanding of the importance of World Heritage as set forth in Article 27 of the Convention.

Dated: April 15, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

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Thursday
May 27, 1982

Part VI

Department of Health and Human Services

Health Care Financing Administration

Survey and Certification of Health Care Facilities

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405, 431, 442, 489, and 490

Medicare and Medicaid; Survey and Certification of Health Care Facilities

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rules.

SUMMARY: These regulations would simplify and streamline the procedures by which a health care facility is approved for participation in Medicare and Medicaid. The changes are necessary because many of the current procedures have proved cumbersome and expensive for the Federal and State agencies to administer, and, in many aspects, either unnecessary or ineffective in ensuring the quality of health care services. The elimination or modification of those requirements that have been identified as unnecessary or ineffective would also eliminate any unnecessary burdens on providers. The procedures that have proved effective in the past in protecting the health and safety of patients would be retained. This would permit available resources to be targeted on facilities with compliance problems.

These regulations also would implement a recent statutory amendment that removes the 12-month limit on provider agreement with skilled nursing facilities.

DATE: In order to ensure consideration, comments should be mailed by July 26, 1982.

ADDRESSES: Address comments to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17073, Baltimore, Maryland 21235.

If you prefer, you may deliver your comments to:

Health Care Financing Administration, Room 309–G, Hubert Humphrey Bldg., 200 Independence Ave., S.W., Washington, D.C.

or

Health Care Financing Administration, Room 789, East High Rise Bldg., 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to HSQ–502–P. Institutions and organizations are requested to send comments in duplicate. Comments will be available for public inspection beginning approximately two weeks from today, in room 309–G of our offices at 200 Independence Ave., SW., Washington, D.C. on Monday through Friday from 8:30 a.m. to 5 p.m. ((202) 245–7890).

FOR FURTHER INFORMATION CONTACT: Mark Bernsohn, (301) 594–7940.

SUPPLEMENTARY INFORMATION:

Background

The regulations that establish procedures for the survey and certification of health care facilities have been in effect since 1970 and have remained substantively unchanged since 1973. For Medicare, they apply to providers (hospitals, skilled nursing facilities (SNFs), and home health agencies (HHAs)) and suppliers (such as laboratories and portable x-ray suppliers). For Medicaid, they apply to the same types of providers and to intermediate care facilities (ICFs).

For Medicare, State survey agencies make recommendations to HCFA but HCFA makes the determination as to whether a provider or supplier qualifies for participation in the program. For providers and suppliers that participate or seek to participate in Medicaid, the State survey agency makes the determination. However, under section 1910 of the Social Security Act, and the Department's regulations (see, for example 42 CFR 440.70(d) for home health agencies), most providers and suppliers that are qualified for participation in the Medicare program automatically meet Federal eligibility requirements for the Medicaid program as well. (The State Medicaid agency is not obligated to enter into provider agreements with every facility or supplier that is Federally qualified.)

We have examined the requirements for the survey and certification process with a view to making it more flexible and easier to administer, while retaining the enforcement capabilities necessary to ensure the health and safety of Medicare and Medicaid beneficiaries.

In 1980, HCFA conducted public hearings in each of our regional offices and in Washington, D.C. on six of the proposals presented here (items 2 through 7). Based upon comments received during these hearings, and our own further analysis, we have identified some provisions that are duplicative and confusing, and others that are unduly burdensome for providers, difficult to enforce, and relatively ineffective in ensuring quality services. We propose to substantially modify these requirements, which deal with aspects such as staffing reports, 90-day follow-up visits, time-limited agreements, and automatic cancellation clauses. This will also allow the flexibility needed to administer the program effectively.

There is no change in the current provisions that prohibit issuance of a provider agreement to a facility that has life-threatening deficiencies or that is otherwise not in compliance with a condition of participation. If life-threatening conditions or conditions that jeopardize patient health and safety are discovered in a survey, participation will be terminated.

We have also determined that certain provisions applicable to hospitals could be very effective if extended to other facilities. For example, the law and regulations already provide for acceptance of accreditation by the Joint Commission on Accreditation of Hospitals (JCAH) as a basis for deeming that a hospital meets the conditions of participation in Medicare and Medicaid. We believe that JCAH accreditation of SNFs, ICFs, and hospital-based HHAs could be also accepted if a State determines that to do so would be appropriate.

Finally, in accordance with section 2153 of Pub. L. 97–35 (the Omnibus Budget Reconciliation Act of 1981), we would remove the time limitation on agreement with SNFs. We would also extend that change to agreements with ICFs.

Specific Proposals

1. *Consolidation of Medicare and Medicaid Survey and Certification Provisions.*

We propose to consolidate Medicare and Medicaid survey and certification process requirements into a single part of 42 CFR Chapter IV. The current requirements for survey and certification of providers for participation in Medicare are found in 42 CFR Part 405, Subpart S. The requirements applicable under Medicaid are found in 42 CFR Part 442, Subpart C. This has caused continuing problems both for State survey agencies and for health care facilities. Requirements that are almost identical, but phrased differently, often give rise to problems of interpretation. We believe that a single set of procedural requirements will eliminate these problems.

2. *Quarterly Staffing Reports.*

The regulations at 42 CFR 405.1904(a) currently require all facilities to submit staffing reports routinely. We propose to modify the current policy and require those reports only when the State survey agency requests them because the facility has a history of staffing deficiencies, or was found not to meet all staffing requirements during its most recent certification survey. However, all facilities would now be required to have information about their staffing available when they are surveyed.

Currently all facilities are required to submit reports that set forth the average number and types of personnel on each tour of duty during at least one week of each quarter. The week is selected by the survey agency and differs from quarter to quarter. The survey agency is required to evaluate the reports and to take appropriate action when the reports indicate inadequate staffing. We believe this requirement is burdensome and not necessary with respect to facilities that generally maintain normal staffing levels, and that applying it to individual facilities on the basis of objective criteria, as stated above, will provide adequate safeguards. Having staffing information available at the time of the survey will permit routine monitoring of compliance with staffing requirements.

3. *Mandatory 90-Day Resurveys.*

We propose to eliminate the requirement that a facility approved for participation on the basis of a plan for correction of all deficiencies found at the time of survey be subject to a mandatory resurvey after 90 days. The regulations would be amended to require (a) followup at a time when correction or progress in correction can be assessed most realistically, and (b) an onsite visit only if there is no other way to verify correction of the deficiencies.

Currently, whenever a provider or supplier is certified on the basis of an acceptable plan of correction, the survey agency must conduct another onsite survey within 90 days to verify the corrective action is completed or progressing at a reasonable rate (42 CFR 405.1903). The purpose of this requirement was to ensure the correction of cited deficiencies.

Experience indicates that the 90-day resurvey seldom accomplishes its intended purpose of ensuring the correction of cited deficiencies. The 90-day period is arbitrary and does not take into consideration the individual nature of deficiencies or the specific plan of correction.

If the planned time for correction exceeds 90 days, an additional visit may be necessary at the time specified for correction. Thus, the requirement to resurvey in 90 days and again on the planned date of correction is mechanistic, unnecessary, and costly to both the facility and the State agency. It also precludes verification of correction by telephone or mail contact, even if appropriate.

Although we propose to eliminate the mandatory 90-day onsite resurvey, we would not eliminate the requirement for follow-up by the survey agency. The change would allow the agency to resurvey when it can most effectively evaluate a facility's progress in effecting correction, and to use the verification method most appropriate and cost effective for the particular situation.

Of course, this procedure does not apply at all to life threatening deficiencies. When a provider is found to have life-threatening deficiencies, or to otherwise be out of compliance with the conditions of participation (as distinguished from individual correctable components of a condition of participation), procedures are initiated immediately to terminate the facility's participation.

4. *Time-Limited Agreements.*

We propose to eliminate the requirement that agreements with SNFs and ICFs be limited to a period not to exceed 12 months.

The 1972 amendments to the Social Security Act (Pub. L. 92–603) established the requirement that a Medicare provider agreement with a SNF could not exceed 12 months. The agreement could be extended for 2 additional months if doing so did not jeopardize the health and safety of patients. In order to have uniform procedures for both programs, the requirement for time-limited agreements was extended by regulation to SNFs and ICFs under Medicaid.

In 1981, Congress enacted section 2153 of Pub. L. 97–35 amending section 1866(a)(1) of the act to remove the 12-month limit on agreements with skilled nursing facilities. The law was changed because program experience since the inception of time-limited agreements has indicated that they are not necessary to ensure compliance with the conditions of participation. Moreover, the elimination of time-limited agreements represents a substantial reduction of paperwork and recordkeeping burdens since there will be no expiration dates to track and adjust for any extension granted.

Many facilities have established a record of consistent compliance with all conditions and do not need the frequent survey and oversight associated with a 12-month agreement. Other facilities, however, have established a record of marginal compliance and may need to be monitored more frequently. We believed that elimination of the uniform time restriction will allow the flexibility needed to manage the survey and certification process more effectively, to better ensure compliance, and to relieve states of a substantial paper-work burden.

5. *Cancellation Clause Provisions.*

We propose to eliminate the requirement that a SNF or ICF provider agreement, accepted on the basis of a plan for correction of deficiencies, be automatically cancelled unless the deficiencies have been corrected by the predetermined date.

Both the existing regulations and those now being proposed provide that a facility that does not have life-threatening deficiencies and is in compliance with the relevant conditions of participation (although it has deficiencies in specific requirements within those conditions) may be approved for participation in Medicare or Medicaid if the facility establishes an acceptable plan to correct the deficiencies by a specified date. Current regulations also require that the provider agreement with a SNF or ICF that is participating with deficiencies be cancelled automatically no later than 60 days after the last day specified in the plan for correcting the deficiencies, unless the facility has corrected or made substantial progress toward correcting the deficiencies.

These cancellation provisions were established to ensure timely correction of all deficiencies. However, they have often proved ineffective, as well as costly and burdensome to administer. Because the automatic cancellation clause is applicable even when the deficiencies are minor, a substantial percentage of nursing homes is subject to automatic cancellation at any given time. Most facilities can show progress toward correcting the deficiencies within the required time frames. This means that the survey agency has to rescind the cancellation clause in over 90 percent of all cases; rescission usually requires an onsite visit, documentation, and preparation of new certification forms to continue participation. This represents a sizeable burden of questionable value. By eliminating the requirement for automatic cancellation, the proposal would permit survey agencies to tailor monitoring in accordance with the nature of the deficiencies to be corrected. For the small number of facilities that do not make adequate progress, other sanctions, such as termination, are available. Under the proposal, life-threatening deficiencies continue to be subject to immediate termination procedures.

6. *Flexible Survey Cycle.*

We propose to eliminate the requirement that all facilities be subject to annual surveys with the exception of ICFs for the mentally retarded (ICF/MR). Current regulations require the State agency to survey all providers and suppliers at least annually to ensure continued compliance with program requirements.

The impact of the survey requirement on quality of care has become questionable. Generally, we believe that annual surveys are a needless burden on the "good" facilities (those with excellent compliance records) as well as an inefficient use of human and fiscal resources to perform the survey. States that have many participants, a shortage of qualified personnel, or both, are finding it increasingly difficult to meet the requirement for annual vistits to all facilities.

Our intent in eliminating mandatory annual surveys is to establish a more reasonable survey cycle of facilities based upon the facility's compliance history. Surveys would be required as often as necessary to ensure compliance. Facilities with a history of poor compliance would be surveyed more often than the existing regulations require. For facilities with a history of compliance without problems, the frequency may range up to three years for hospitals and up to two years for all other facilities, except ICFs/MR which must be surveyed at least annually. We believe the difference between hospitals and other facilities is justified by our experience which shows that hospitals generally have fewer deficiencies than other types of facilities and need less frequent monitoring. We propose to require at least annual surveys of ICFs/MR because we realize that most of the patients in these facilities (many of whom are children) lack the necessary experience or capability to bring quality of care problems to the attention of outside authorities. For this reason, we believe that annual surveys are necessary to ensure that monitoring officials detect any serious problems promptly.

7. Deemed Status for SNFs, ICFs (excluding ICFs for the Mentally Retarded), and HHAs Accredited by the Joint Commission on Accreditation of Hospitals (JCAH).

Under current regulations, hospitals accredited by the JCAH may be deemed to meet the conditions of participation in Medicare and Medicaid. We propose to extend this provision so that survey agencies may accept JCAH accreditation of SNFs, ICFs, and hospital-based HHAs as sufficient evidence that the facilities meet Federal health and safety requirements, and may participate in Medicare or Medicaid without an additional State agency survey. (Of course, ICFs do not participate in Medicare.) As a condition for "deemed status," the facility would be required to post its current JCAH report of the survey findings in a prominent place so that the public can examine it. We would also provide that HCFA may revoke deemed status of JCAH-accredited facilities if it determines that accreditation no longer provides reasonable assurance that the facilities meet Federal requirements. HCFA would restore its acceptance of JCAH accreditation if the JCAH demonstrated that the problems leading to revocation had been corrected and were not likely to recur.

Under section 1865(a) of the Social Security Act, the Secretary may find that accreditation by a national accrediting organization provides reasonable assurance that the conditions of participation for SNFs and HHAs are met. Upon such a finding, the Secretary may, "to the extent he deems it appropriate," treat a provider as meeting the conditions of participation. Under section 1905(c) the Secretary is authorized to prescribe for ICFs "such standards * * * as he finds appropriate." As discussed below, we are familiar with the accrediting standards and procedures of the JCAH for SNFs, ICFs (except ICFs for the mentally retarded, which JCAH does not accredit), and hospital-based HHAs, and we believe that JCAH accreditation provides reasonable assurance that the applicable conditions have been met. Accordingly, we propose to accept JCAH accreditation in lieu of a State survey for SNFs and hospital-based HHAs that participate only in the Medicare program.

Although we considered this same approach for facilities participating in both Medicare and Medicaid, we have proposed that JCAH accreditation in lieu of a State survey be accepted only with State concurrence. Similarly, we would not compel States to use JCAH accreditation for ICFs and other facilities that participate in Medicaid but not in Medicare. States may believe that their own survey provides them with greater assurance that the conditions are met, or that other factors warrant the use of surveys by State agencies, rather than use of JCAH accreditation.

Accordingly, the proposed regulations would provide, with respect to facilities that participate in both programs or in Medicaid but not Medicare, that JCAH accreditation would be used only for those facilities, or types of facilities, for which State has accepted use of JCAH accreditation. For example, a State could accept JCAH accreditation for SNFs but continue to certify all ICFs through its own surveys. Or, a State could accept JCAH accreditation for particular SNFs (e.g. those with good compliance records), while continuing to survey other facilities of the same type.

In view of this State option, the policies discussed below (on availability of JCAH survey information, validation surveys, and Federal requirements that are higher than JCAH accreditation standards), would apply to Medicaid only in those States that elect to make use of "deemed status" for particular facilities or types of facilities. Since we do not have a clear indication of the degree to which States will opt for JCAH accreditation, we are particularly interested in State, provider, and consumer reactions to this proposal as well as any cost benefit analysis of the proposal and its alternatives.

Availability of Survey Information

Section 1865(a)(2) of the Social Security Act mandates that JCAH release survey information on accredited hospitals to the Secretary (or the survey agency) upon request, on a confidential basis. The law does not protect the confidentiality of survey information on SNFs and HHAs. Since JCAH considers that its relationship with any surveyed facility requires that it keep survey reports confidential, the facility itself must make the decision to release that information. That is why we propose to make display of the survey report a condition for deemed status. We recognized that this is a sensitive area and particularly request comments from the public.

Results of Validation Surveys

We are proposing validation surveys for SNF, ICFs, and hospital-based HHAs approved on the basis of JCAH accreditation. This provision is currently applicable to hospitals. Validation of long-term care facilities and HHAs would be made on a selective-sample basis or in response to a substantial allegation of significant deficiencies.

If the validation survey found an accredited facility to be out of compliance with one or more of the conditions of participation for SNFs and HHAs or the standards for ICFs, HCFA or the State survey agency would promptly review the facility's status with the JCAH. If the JCAH agreed to accept the survey team's findings, to monitor the corrections against a specific timetable, and to provide periodic status reports, the JCAH would perform these duties unless the survey agency demonstrated to HCFA the need for its continued review. If JCAH did not accept the survey findings or agree to monitor and submit periodic status reports, (or the survey agency demonstrates the need for this) the

facility would be placed under full review of the State survey agency, to be surveyed in the same way as a facility not accredited by JCAH. The facility would have to submit to the survey agency a plan of correction that included an acceptable time frame for correcting the cited deficiency or deficiencies. In order to continue to participate in Medicare or Medicaid, the facility would have to demonstrate compliance with the respective conditions of participation or standards.

In summary, an accredited entity would be subject to full survey agency review only if it (1) refused to allow a validation survey; (2) was determined to have a "significant deficiency" after a validation survey; or (3) failed to authorize the release of periodic status reports regarding correction of deficiencies.

When HCFA, on the basis of survey agency recommendations, or the State survey agency in the case of ICFs, determined that the entity again met all the conditions of participation or standards, the entity would once again be deemed to meet the Federal requirements by virtue of its JCAH accreditation.

Higher Standards

A SNF, ICF, or HHA accredited by the JCAH would also have to meet any health and safety standard that we publish, if that standard was higher than the JCAH accreditation standards. If the Federal standards were subsequently revised so that they were higher than those prescribed by the JCAH or the JCAH changed any of its accreditation standards so that they were no longer equivalent to the corresponding conditions of participation or standards, HCFA will determine that that category of accredited facility would no longer be deemed to meet the higher Federal conditions or standards. In that case, those accredited entities would be surveyed to determine actual compliance with the higher conditions or standards. HCFA would consult with the JCAH before publishing higher health and safety standards and afford the JCAH the opportunity to adopt equivalent or higher standards as part of its own accreditation process.

Our decision to make the specific proposals outlined above was based on several factors.

- In 1980–81 HCFA conducted an analysis and determined that the JCAH standards for SNFs, ICFs, and hospital-based HHAs are equivalent to the requirements set forth in 42 CFR Parts 405, 442, and 481 for participation in Medicare and Medicaid. HCFA also analyzed the JCAH decision-making process and determined that it is adequate. Consequently, we are convinced that JCAH's accreditation is adequate to protect the health and safety of program beneficiaries.

We are committed to reducing burdens and unnecessary program expenditures while maintaining quality of care and safe conditions in health care facilities.

- The number of SNFs, ICFs, and hospital-based HHAs accredited by the JCAH has increased steadily in the past 10 years. They now constitute about 10 percent of the SNFs and ICFs currently certified for Medicare and Medcaid and 13 percent of the HHAs certified for Medicare. Certification of these entities on the basis of JCAH accreditation would result in substantial staff savings. If all States were to accept JCAH accreditation, and the same number of entities continued to be accredited by JCAH, we estimate annual Federal savings would be in excess of $1.9 million. A decrease in mandatory State agency survey activity would also permit more effective and efficient use of available resources, by allowing staff to concentrate on problem facilities and on conditions that adversely affect patient health and safety.

Impact Analysis

Executive Order 12291

Executive Order 12291 requires us to prepare a regulatory analysis for any rule that is likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; or significant adverse effects on business or employment.

We have determined that these regulations will not have an impact of $100 million or more or otherwise meet the tests of the Executive Order.

Regulatory Flexibility Act of 1980 (Pub. L. 96–354)

This Act requires us to prepare and publish a regulatory flexibility analysis (RFA) for any regulations that will have a significant adverse impact on a substantial number of small entities. For the reasons discussed below, we find that an RFA is not required for these regulations.

- The savings to be achieved under a potentially longer survey cycle for facilities with a history of compliance without problems would benefit all providers.
- Easing of the reporting burdens will be particularly welcome to small entities.

Response to Comments on Proposed Rules

Because we receive large numbers of comments, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments on this notice of proposed rulemaking and will respond to them in the preamble to the final regulations.

List of Subjects in 42 CFR Parts 405, 431, 442, 488, 490

Medicare, Medicaid, Health care facilities, Survey and certification.

REDESIGNATION TABLE FOR 42 CFR PART 405, SUBPART S

Subpart S, section—	Part 490, section—
405.1901(a)	490.2.
405.1901(b)	490.4(a).
405.1901(c)	490.4(b).
405.1901(d)	490.4(c).
405.1901(e)(1)	490.10(a).
405.1901(e)(2)	490.10(b).
405.1901(e)(3)	490.10(c).
405.1901(e)(4)	490.10(d).
405.1901(e)(5)	490.10(e).
405.1901(e)(6)	490.10(f).
405.1901(g) [1]	490.5.
405.1902(a)	490.1(a).
405.1902(b)	490.1(b)(a).
405.1902(c)	490.10.
405.1903(a), first sentence	490.15(a).
405.1903(a), remaining content	490.15(b).
405.1903(b)	490.15(c).
405.1903(c)	490.15(d).
405.1904(a) Deleted as inconsistent with changed policy.	
405.1904(b)(1)	490.10.
405.1904(b)(2)	490.20(a)(1).
405.1904(b)(3)	490.20(a)(2).
405.1904(b)(4)	490.20(a)(3).
405.1904(c)	490.10(a).
405.1905(a)	490.12(c)(2).
405.1905(b)	490.30(c).
405.1905	490.12(c)(3).
405.1907(a)	490.34(a).
405.1907(b)	490.34(b).
405.1908 Deleted as incompatible with current statute.	
405.1909(a) Deleted as unrelated to the content of Part 490.	
405.1909(b) Deleted as outdated (the section was published in 1979).	
405.1909(c)	490.50(a).
405.1909(d)	490.50(b).
405.1910	To be redesignated later.
405.1911(a)	490.56(a).
405.1911(b)	490.56(b).
405.1912(a)	490.58(a).
405.1912(b)	490.58(b).
405.1912(c)	490.58(a)(3).
405.1912 (d) and (e)	490.58(c).
405.1912(f) Deleted as outdated.	
405.1913	490.68.

[1] There is no paragraph (f) in the regulations published Nov. 12, 1980.

42. CFR Chapter IV is amended as set forth below:

A. The table of contents for Chapter IV is amended to add a new Part 490 to read as follows:

Part

* * * * *

490 Medicare/medicaid survey and certification procedures.

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

B. In Part 405, Subpart S is removed and the table of contents is amended to reflect that change:

§§ 405.1901 through 405.1913 (Subpart S) [Removed]

PART 431—STATE ORGANIZATION AND GENERAL ADMINISTRATION

The authority citation for Part 431 reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

C. In Part 431, § 431.610 is amended by revising paragraph (g)(1) to reads as follows:

431.610 Relations with standard-setting and survey agencies.

* * * * *

(g) *Responsibilities of survey agency.* The plan must provide that, in certifying skilled nursing and intermediate care facilities, the survey agency designated under paragraph (e) of this section will—

(1) Review and evaluate medical and independent professional review team reports obtained under Part 456 of this chapter as they relate to health and safety requirements:

* * * * *

PART 441—SERVICES: REQUIREMENTS AND LIMITS APPLICABLE TO SPECIFIC SERVICES

The authority statement for Part 441 reads as follows:

Authority: Sec. 1102 of the Social Security Act, 49 Stat. 647 (42 U.S.C. 1302), unless otherwise noted.

D. In Supart A of Part 441, § 441.15 is revised to read as follows:

§ 441.15 Home health services.

(a) A State plan must provide that—

(1) Home health services include, as a minimum—

(i) Nursing services;

(ii) Home health aide services; and

(iii) Medical supplies, equipment, and appliances;

(2) The agency provides home health services to—

(i) Categorically needy recipients age 21 or over;

(ii) Categorically needy recipients under age 21, if the plan provides skilled nursing facility services for them; and

(iii) Medically needy recipients to whom skilled nursing facility services are provided under the plan; and

(3) The eligibility of a recipient to receive home health services does not depend on his need for or discharge from institutional care.

(b) A State plan may provide for acceptance of accreditation by the Joint Commission on Accreditation of Hospitals (JCAH) as indication that a hospital-based HHA meets the conditions of participation in accordance with the same procedures as those set forth in § 442.102 of this chapter for SNFs and ICFs.

PART 442—STANDARDS FOR PAYMENT FOR SKILLED NURSING AND INTERMEDIATE CARE FACILITY SERVICES

E. Part 442 is amended as set forth below:

1. The table of contents is revised to show the removal of §§ 442.15 and 442.16, the addition of a new § 442.102 and the removal of §§ 442.105, 442.110 and 442.111, and the correction of the titles of §§ 442.20, 442.112, and 442.113 and Subpart C.

Subpart A—General Provisions

Sec.
442.1 Basis and purpose.
442.1 Terms.

Subpart B—Provider Agreements

442.10 State plan requirement.
442.12 Provider agreement: General requirements.
442.18 Effective date of agreement.
442.14 Effect of change of ownership.
442.20 Additional requirements for agreements with SNFs participating in Medicare.
442.30 Agreement as evidence of certification.

Subpart C—Certification of SNFs and ICFs

442.100 State plan requirements.
442.101 Obtaining certification.
442.102 Accreditation of SNFs and ICFs by the Joint Commission on Accreditation of Hospitals.
442.112 Extended period for correcting deficiencies: ICFs other than ICFs/MR; environment, sanitation and Life Safety Code deficiencies.
442.113 Extended period for correcting deficiencies; ICFs/MR; Life Safety Code and living/dining/therapy area deficiencies.
442.115 Correction plans.

* * * * *

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

§§ 442.15 and 442.16 [Removed]

2. Sections 442.15 and 442.16 are removed.

3. Section 442.20 is amended by revising the section title and paragraph (a) to read as follows:

§ 442.20 Additional requirements for agreements with SNFs participating in Medicare.

(a) The Medicaid agency's agreement with a SNF participating in Medicare must provide for meeting the terms and conditions that are imposed for that SNF's participation in Medicare.

4. A new § 442.102 is added, to read as follows:

§ 442.102 Accreditation of SNFs and ICFs by the Joint Commission on Accreditation of Hospitals.

(a) A State plan may provide for acceptance of JCAH accreditation of SNFs or ICFs (excluding ICFs for the mentally retarded) as indication that those facilities meet the conditions of participation, in accordance with § 490.6 of this chapter.

(b) If the State plan provides for acceptance of JCAH accreditation in accordance with paragraph (a) of this section—

(1) The State survey agency may certify an accredited facility as being in compliance, without conducting a certification survey; and

(2) Accredited facilities are subject to the validation requirements set forth in § 490.18 of this chapter.

§§ 442.105, 442.110 and 442.111 [Removed]

5. Sections 442.105, 442.110, and 442.111 are removed.

6. Section 442.112 is amended by revising paragraph (b) to read as follows:

§ 442.112 Extended period for correcting deficiencies: ICFs other than ICFs/MR; environment, sanitation, and Life Safety Code deficiencies.

* * * * *

(b) *Certification period.* The survey agency may certify an ICF even though the facility has deficiencies that may take up to 2 years after the first certification of the facility to correct, if the conditions in this section are met.

* * * * *

7. Section 442.113 is amended by revising paragraph (b) to read as follows:

§ 442.113 Extended period for correcting deficiencies: ICFs/MR; Life Safety Code and living/dining/therapy area deficiencies.

* * * * *

(b) *Certification period.* The survey agency may certify an ICF/MR even though the deficiencies listed in paragraph (a) of this section may take more than 12 months to correct, if the conditions in this section and § 442.115 are met.

* * * * *

PART 489—PROVIDER AGREEMENTS UNDER MEDICARE

The authority citation for Part 489 reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

§§ 489.15 and 489.16 [Removed]

F. Part 489 is amended by removing §§ 489.15 and 489.16 and amending the table of contents to reflect these changes.

G. The content removed from Subpart S of Part 405 is revised and redesignated at a new Part 490, to read as follows:

PART 490—MEDICARE/MEDICAID SURVEY AND CERTIFICATION PROCEDURES

Subpart A—General Provisions

Sec.
490.1 Basis and scope
490.2 Definitions.
490.4 Eligibility requirements.
490.5 Effect of JCAH or AoA accreditation.
490.6 Effect of JCAH accreditation of SNFs, ICFs and Hospital-based HHAs.

Subpart B—Role and Responsibilities of the State Survey Agency

490.10 State agency surveys: Basic rules.
490.12 State agency surveys: Documentation of findings.
490.16 State survey agency certification.
490.18 Validation surveys of accredited facilities.
490.20 Other survey agency responsibilities.

Subpart C—Determinations Regarding Participation in Medicare

490.30 Basic rules.
490.34 Providers and suppliers with deficiencies.

Subpart D—Determinations Regarding Participation in Medicaid

490.40 Basic rule.
490.42 SNFs or ICFs with deficiencies.

Subpart E—Miscellaneous

490.50 Special requirements applicable to independent laboratories.
490.56 Temporary waivers for SNFs.
490.58 Special procedures for approving ESRD facilities and the expansion of services in approved facilities.
490.60 Remote facility variances for utilization review requirements.

Authority: Sec. 1102, 1814, 1861, 1865, 1866, 1871, 1902(a)(33)(B) and 1910(a) of the Social Security Act (42 U.S.C. 1302, 1395 et seq.)

Subpart A—General Provisions

§ 490.1 Basis and scope.

(a) *Statutory basis.* (1) Section 1864(a) of the Act requires the Secretary to enter into an agreement with any State that is able and willing to do so, under which appropriate State or local survey agencies will ascertain whether: (i) Providers or prospective providers meet the Medicare conditions of participate;

(ii) Suppliers meet the conditions for coverage; and

(iii) Rural health clinics meet the conditions of certification.

(2) Section 1865(a) of the Act provides that: (i) An institution accredited as a hospital by the Joint Commission on Accreditation of Hospitals (JCAH) will be deemed to meet the conditions of participation, except those specified in § 490.4(c); and

(ii) If a hospital certified on the basis of JCAH accreditation is included in a validation survey, it must, in order to retain its deemed status, authorize the JCAH to release to the Secretary, upon request and on a confidential basis, a copy of the current JCAH accreditation survey.

(3) Section 1864(c) of the Act authorizes the Secretary to enter into agreements with State survey agencies to conduct validation surveys in hospitals accredited by the JCAH. Section 1865(b) provides that an accredited hospital which is found after a validation survey to have significant deficiencies related to the health and safety of patients will no longer be deemed to meet the conditions of participation.

(4) Section 1865(a) of the Act also provides that if the Secretary finds that accreditation of an institution or agency by the American Osteopathic Association (AOA) or any other national accreditation body provides reasonable assurance that any or all of the conditions of participation are met, the Secretary may treat the accredited institution as meeting the conditions of participation. The Secretary has found that the accreditation of hospitals by the AOA provides that reasonable assurance, and has extended the same procedures applicable to JCAH accredited hospitals to AOA accredited hospitals.

(5) Secton 1902(a)(33)(B) of the Act specifies the agency that must perform survey agency functions for the Medicaid agency and section 1910(a) provides that a skilled nursing facility certified for participation in Medicare shall be deemed to meet the requirements for participation in Medicaid.

(b) *Scope.* This part sets forth the requirements and procedures for surveying providers and suppliers (as defined in § 490.2) that participate in Medicare or Medicaid, or both and for certifying whether those entites meet the conditions of participation.

§ 490.2 Definitions.

As used in this part, unless the context indicates otherwise—

"Accredited facility" means a hospital accredited by the Joint Commission on the Accreditation of Hospitals (JCAH) or the American Osteopathic Association (AOA), or a SNF, ICF, or HHA accredited by the JCAH.

"Accredited HHA" means a hospital-based home health agency accredited by the JCAH.

"Accredited hospital" means a hospital accredited by the JCAH or the AOA.

"Accredited ICF" means an ICF accredited by the JCAH as a long-term care facility.

"Accredited SNF" means a SNF accredited by the JCAH as a long-term care facility.

"Certification for Medicare" means a recommendation made by the State survey agency on the compliance of providers and suppliers with the conditions of participation and conditions of coverage.

"Certification for Medicaid" means the survey agency's determination regarding a Medicaid provider's compliance with health and safety requirements.

"Conditions of participation coverage" means broad clusters of requirements that define minimum health and safety standards that providers and suppliers must meet.

"Full review" means a survey of a hospital, HHA, SNF or ICF to determine compliance with the applicable conditions of participation for hospitals, SNFs, and HHAs or the standards for ICFs.

"Hospital-based HHA" means an HHA that is accredited by the JCAH as part of a hospital.

Provider means a hospital, skilled nursing facility, home health agency, provider of outpatient physical therapy or speech pathology services a comprehensive outpatient rehabilitation facility, or, for Medicaid, an ICF.

"State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Pacific Trust Territories.

"State survey agency" means the State health agency or other appropriate State or local agency used to perform survey and review functions for Medicare and Medicaid.

"Substantial allegation" means a complaint that pertains to the health and safety of patients and raises doubts as to whether a facility is in compliance with the conditions of participation for a

hospital, SNF, or HHA, or the standards for ICF participation.

"Supplier" means any of the following: independent laboratory; portable X-ray services; ESRD ambulatory surgical center; or rural health clinics.

§ 490.4 Eligibility requirements.

(a) *Conditions of Participation:* Conditions for coverage. In order to be approved for participation in or coverage under the Medicare or Medicaid program, a prospective provider or supplier must: (1) Meet the applicable statutory definition in section 1861 or section 1861 of the Act;

(2) Be in compliance with the applicable conditions of participation or coverage set forth elsewhere in this chapter; and

(3) Be in compliance with the applicable standards for ICFs set forth in Subparts D, E, F, and G of Part 442 of this chapter.

(b) *Special conditions.* (1) HCFA may, after consultation with the JCAH or AOA, issue SNFs, or HHAs, or standards for ICFS that are conditions of participation for hospitals higher or more precise than those of either accrediting body.

(2) HCFA may, at a State's request, approve health and safety requirements for providers and suppliers in that State, which are higher than those otherwise applied in the Medicare program.

(3) If a State or political subdivision imposes higher requirements on institutions as a condition for the purchase of health services under a State Medicaid plan approved under Title XIX of the Act. HCFA is required to impose similar requirements as a condition for payment under Medicare in that State or political subdivision.

(c) *Civil rights requirements.* Providers must meet the requirements of: (1) Title VI of the Civil Rights Act of 1964, as implemented by 45 CFR Part 80, which provides that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of or be subject to discrimination under, any program or activity receiving Federal financial assistance (Section 601);

(2) Section 504 of the Rehabilitation Act of 1973, as implemented by 45 CFR Part 84, which provides that no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity receiving Federal financial assistance; and

(3) Other pertinent requirements made by the Office of Civil Rights of the Department of Health and Human Services.

(4) Section 405.1902 is revised to read as follows:

§ 490.5 Effect of JCAH or AOA accreditation of hospitals.

Hospitals accredited as hospitals by the JCAH or AOA are deemed to meet all of the Medicare conditions of participation for hospitals except the following requirements that are set forth elsewhere in this chapter: (a) The requirement for utilization review.

(b) The additional special staffing and medical records requirements for the provision of active treatment in psychiatric and tuberculosis hospitals; and

(c) Any requirement that HCFA, after consulting with JCAH or AOA, identifies as being higher or more precise than the requirements for accreditation.

§ 490.6 Effect of JCAH accreditation of DNFs, ICFs and hospital-based HHAs.

(a) *Scope.* (1) This section sets forth the requirements for acceptance of JCAH accreditation as evidence that a SNF, ICF (except and ICF for the mentally retarded), or hospital-based HHA meets the conditions of participation.

(2) The provisions of paragraphs (c) through (e) of this section do not apply to facilities that participate in both Medicaid and Medicare, or in Medicaid only, unless the State has agreed to accept JCAH accreditation in accordance with paragraph (b) of this section.

(3) For purposes of this section, "conditions of participation" includes standards of participation for ICFs.

(b) *State option.* (1) For facilities that participate in both Medicare and Medicaid, or in Medicaid only, the State has the option of accepting JCAH accreditation of any or all of the three types of facilities identified in paragraph (a)(1) of this section, or of accepting JCAH accreditation with respect to particular facilities that meet criteria established by the State.

(2) The extent to which the State will accept JCAH accreditation must be set forth in the State Medicaid plan in accordance with § 441.15(b) or § 442.102 of this chapter.

(c) *Granting of deemed status.* A SNF, ICF, or hospital-based HHA that is accredited by the JCAH, and prominently displays the report of the current JCAH survey findings, will be deemed to meet all conditions of participation except those that HCFA, after consultation with JCAH, identifies as being higher or more precise than the requirements for accreditation.

(d) *Revocation of deemed status.* If HCFA determines that JCAH accreditation no longer ensures that accredited SNFs, ICFs, or hospital-based HHAs meet all conditions or participation—

(1) It will revoke deemed status for all facilities of that type; and

(2) Give the JCAH an opportunity to show that the problems that led to revocation of deemed status have been corrected.

(e) *Reinstatement of deemed status.* If the JCAH shows, to HCFA's satisfaction, that the problems have been corrected and are not likely to recur, HCFA will restore deemed status for the particular type of facility.

Subpart B—Role and Responsibilities of the State Survey Agency

§ 490.10 State agency surveys: Basic rules.

(a) *Primary responsibility.* (1) The primary responsibility of State survey agencies is to ascertain whether providers and suppliers meet, or continue to meet, program requirements.

(2) The survey agency is relieved of responsibility for utilization review in facilities that are under review by a Professional Standards Review Organization (PSRO) in accordance with section 1155(a) of the Act and Part 463 of this chapter.

(b) *Frequency of survey.* State survey agencies will survey providers and suppliers as often as necessary to ensure compliance. They will survey ICFs for the mentally retarded at least every year, hospitals at least every three years, and all other providers and suppliers at least every two years. If a facility has a poor compliance history, they will, as necessary to ensure compliance, survey more often than annually.

(c) *Determining compliance.* (1) The decision as to whether there is compliance with a particular condition of participation or conditions for coverage will depend upon the manner and degree to which the provider or supplier satisfies the various standards within each condition. Evaluation of a provider's performance against these standards will enable the State survey agency to document the nature and extent of deficiencies, if any, with respect to a particular function, and to assess the need for improvement in relation to the prescribed conditions.

(2) The State survey agency will certify that a provider or supplier is not or is no longer in compliance with the

conditions of participation or conditions for coverage if the deficiencies are of such character as to substantially limit the provider's or supplier's capacity to furnish adequate care or which adversely affect the health and safety of patients.

§ 490.12 State agency surveys: Documentation of findings.

(a) *Basic rule.* The findings of the State survey agency with respect to each of the conditions of participation or conditions for coverage or standards must be adequately documented.

(b) *Documentation of a finding of noncompliance.* If the State survey agency certifies that a provider or supplier is not in compliance with the conditions or standards, and therefore not eligible to participate in the program, the documentation must include, in addition to the description of the specific deficiencies that resulted in the agency's recommendation—

(1) A report of all consultation undertaken in an effort to assist the provider or supplier to comply with the conditions or standards;

(2) A report of the provider's or supplier's responses with respect to the consultation; and

(3) The agency's assessment of the prospects for improvements that would enable the provider or supplier to achieve compliance with the conditions or standards within a reasonable period of time as specified in § 490.34(b).

(c) *Documentation of certification with deficiencies.* If the survey agency certifies compliance for a provider or supplier with deficiencies, the following information must be incorporated into the findings:

(1) A statement of the deficiencies that were found;

(2) A description of further action required to remove the deficiencies; and

(3) A time-phased plan of correction developed by the provider and supplier and concurred with by the survey agency.

The requirements of this paragraph (c) also apply when a SNF that has a waiver under § 490.56 has deficiencies with respect to a requirement that is not waived, or an ESRD facility that is approved as complying with minimal utilization rates (under § 490.58) has deficiencies in other requirements for coverage of its services.

(d) *Notice of eligibility to participate with deficiencies or under waiver.* (1) If the survey agency certifies compliance on the basis of an acceptable plan for correction of deficiencies, the notice will include the information specified in paragraph (c) of this section.

(2) If HCFA has granted a waiver under § 490.56, the notice will include the information required as a basis for granting the waiver.

(3) If HCFA has approved an ESRD facility under § 490.58 as complying with the minimal utilization rates, the notice will include the information on which approval was based.

(e) *Use of onsite follow-up survey.* The State survey agency will make an onsite follow-up survey when—

(1) HCFA or the survey agency finds it necessary to reexamine a facility's eligibility for waiver or for approval as meeting the ESRD utilization rates.

(2) HCFA or the survey agency finds it necessary to verify onsite the correction of deficiencies.

§ 490.16 State survey agency certification.

(a) *Effect of survey agency certification.* (1) For Medicare, certifications by the State survey agency constitute recommendations to HCFA.

(2) For Medicaid, survey agency certifications constitute determinations of compliance or noncompliance with health and safety requirements. (The decision on participation in the program is made by the Medicaid agency.)

(b) *Action by HCFA or State survey agency.* On the basis of survey agency certifications, HCFA (for Medicare) or the State survey agency (for Medicaid) determines—

(1) Whether the provider or supplier is eligible to participate in Medicare or Medicaid; and

(2) Whether an accredited hospital, SNF, ICF, or HHA is deemed to meet the conditions of or standards for participation or is subject to full review by the State survey agency.

(c) *Notice to provider or supplier.* HCFA or the Medicaid agency will notify the provider or supplier of its determination under paragraph (b) of this section.

(d) A State survey agency certification that a provider or supplier is no longer in compliance with the conditions of participation or conditions for coverage will supersede the State survey agency's previous certification.

§ 490.18 Validation surveys of accredited facilities.

(a) *Basis for survey.* HCFA may require a survey of an accredited facility to validate the JCAH or AOA accreditation process. These surveys will be conducted on a selective-sample basis, or in response to substantial allegations of significant deficiencies.

(b) *Effect of selection for survey: Hospitals.* A hospital selected for a validations survey must: (1) Authorize its accrediting body to release to HCFA or the state survey agency (on a confidential basis for JCAH hospitals), a copy of the hospital's current accreditation survey.

(2) Authorize carrying out the validation survey; and

(3) Authorize its accrediting body to release periodic status reports to HCFA or the State survey agency on correction of deficiencies when HCFA and the accrediting body agree that the latter will monitor the correction of deficiencies.

(c) *Effect of selection for survey: SNFs, ICFs, and HHAs.* A SNF, ICF, or HHA selected for a validation survey must comply with the requirements of paragraphs (b)(2) and (b)(3) of this section.

(d) *Refusal to cooperate with survey.* If a facility selected for a validations survey fails to comply with the requirements specified in paragraphs (b) and (c) of this section, it will no longer be deemed to meet the conditions of participation but will be subject to full review by the State survey agency in accordance with paragraph (e) of this section and may be subject to termination of its provider agreement. (For purposes of this section, "conditions of participation" includes standards of participation for ICFs.)

(e) *Consequences of finding of noncompliance.* (1) If a validation survey results in a finding that the facility is out of compliance with one or more conditions of participation and a significant deficiency is determined to exist, the facility will no longer be deemed to meet the conditions of participations. (2) Specifically, the facility will be subject to the conditions that apply to unaccredited facilities that are found out of compliance following a State agency survey, as set forth in §490.34, and to full review by the State survey agency.

(3) A significant deficiency will be determined not to exist if:

(i) The accrediting body accepts the State survey agency finding of deficiencies and agrees to monitor the correction of the deficiencies in accordance with specified time frames;

(ii) The State survey agency is unable to justify to HCFA the need for continued full review by the State survey agency to assure correction of deficiencies; and

(iii) The accrediting body provides HCFA or the State survey agency with periodic reports of progress in correcting deficiencies.

(f) *Reinstatement of deemed status: Hospitals.* An accredited hospital will be once again deemed to meet the Medicare conditions of participation in

accordance with § 490.4 if—(1) It withdraws any prior refusal to authorize its accrediting body to release a copy of the hospital's current accreditation survey;

(2) It withdraws any prior refusal to allow a validation survey;

(3) It withdraws any prior refusal to authorize its accrediting body to release periodic status reports on correction progress; and

(4) HCFA finds that the hospital meets all the Medicare conditions of participation.

(g) *Reinstatement of deemed status: SNFs, ICFs, and HHAs.* An accredited SNF, ICF, or HHA will once again be deemed to meet the conditions of participation if—

(1) The facility complies with the requirements of paragraphs (f)(2) and (f)(3) of this section; and

(2) HCFA or the survey agency finds that the facility meets the condition of participation.

(h) *Informal administrative review.* (1) An accredited facility participating in the Medicare program that is dissatisfied with a finding that it is not in compliance with a condition of participation, or a finding that it is no longer deemed to meet the conditions of participation, is entitled to an informal administrative review under Part 405, Subpart Q, of this chapter.

(2) The facility must request informal review in writing within 15 days of the date it received HCFA's notice of the finding.

(3) The request must state why the finding is considered incorrect and should be accompanied by any suppoting evidence and arguments.

§ 490.20 Other survey agency responsibilities.

(a) *Specify activities.* State survey agencies must (1) Review reports prepared by a Professional Standards Review Organization (authorized under Part B Title XI of the Act) or a State inspection of care team (authorized under Title XIX of the Act) regarding the quality of a facility's care;

(2) Evaluate reports that may pertain to the health and safety of patients; and

(3) Take appropriate actions that may be necessary to achieve compliance or certify noncompliance to HCFA.

(b) *Requirements for staffing information.* (1) The survey agency must require all facilities to have staffing information available at the time of survey.

(2) If a facility has a history of staffing deficiencies or achieved only marginal compliance with staffing requirements during the last on-site survey—

(i) The survey agency must require the facility to submit statements showing, on the basis of payment records, the numbers and types of personnal (in full-time equivalents) on each tour of duty; and

(ii) The statements must be submitted as often as necessary to ensure compliance and must be for periods selected by the survey agency.

Subpart C—Determinations Regarding Participation in Medicare

§ 490.30 Basic rules.

(a) HCFA will use survey agency certifications in determining whether an institution or agency is qualified to participate in Medicare.

(b) If HCFA determines that an institution or agency meets the conditions of participation, that institution or agency may file a provider agreement which, if accepted by HCFA, makes the entity eligible for Medicare reimbursement. (For suppliers, HCFA's notice that the entity is approved to participate in Medicare is all that is necessary to qualify for reimbursement.)

(c) If HCFA determines that an institution or agency does not qualify for participation or coverage because it is not in compliance with the conditions of participation or condition for coverage, or if a provider's agreement is terminated for that reason, the institution or agency has the right to request that the determination be reviewed in accordance with Part 405, Subpart Q, of this chapter.

§ 490.34 Providers and suppliers with deficiencies.

(a) *Conditions for participation.* A provider or supplier that is found to be deficient with respect to one or more of the standards within their respective conditions of participation or conditions for coverage may participate in Medicare only if—

(1) It has submitted a plan of correction, acceptable to HCFA, for achieving compliance within a reasonable period of time; and

(2) The existing deficiencies, either individually or in combination, neither jeopardize the health and safety of patients nor are of such character as to seriously limit the entity's capacity to furnish adequate care.

(b) *Time allowed for correction of deficiencies.* (1) If a state survey agency determines, during a survey, that a provider or supplier is not in compliance with one or more of the standards, it will grant a reasonable time for the provider or supplier to achieve compliance.

(2) The amount of time will depend upon the nature of the deficiency and the survey agency's judgment as to the capabilities of the facility to provide adequate and safe care. The amount of time allowed is subject to approval by HCFA.

(3) Ordinarily a provider or supplier will be expected to achieve compliance within 60 days of being notified of the deficiencies. However, the survey agency may recommend that additional time be granted by HCFA in individual situations, if in its judgment it is not reasonable to expect compliance within 60 days, for example, because a facility must obtain the approval of its governing body, or engage in competitive bidding.

(c) *Termination.* If the existing deficiencies, either individually or in combination, jeopardize the health and safety of patients or are of such character as to limit seriously the entity's capacity to furnish adequate care, the facility is not eligible to submit a plan of correction or to continue to participate in Medicare. HCFA will terminate its provider agreements in accordance with § 489.53 of this chapter.

Subpart D—Determinations Regarding Participation in Medicaid

§ 490.40 Basic rule.

A Medicaid agency must obtain notice of certification of a SNF or ICF as provided in § 442.101 of this chapter before executing a provider agreement.

§ 490.42 SNFs or ICFs with deficiencies.

(a) *Requirements for certification.* A survey agency may certify for Medicaid participation a SNF or ICF that is found deficient in meeting the standards of Part 442, Subparts D, E, F, or G only if—

(1) The facility has submitted a plan of correction, acceptable to the survey agency, for achieving compliance within a reasonable period of time; and

(2) The existing deficiencies, either individually or in combination, neither jeopardize the health and safety of patients nor are of such character as to seriously limit the entity's capacity to furnish adequate care.

(b) *Normal time allowed for correction of deficiencies.* (1) A survey agency will grant a reasonable time for a facility to achieve compliance.

(2) The amount of time will depend on the nature of the deficiency and the survey agency's judgment as to the capabilities of the facility to provide adequate and safe care.

(3) Ordinarily a facility will be expected to achieve compliance within 60 days of being notified of the deficiences. However, the agency may grant additional time in individual

situations, if in its judgment it is not reasonable to expect compliance within 60 days, for example, because a facility must obtain the approval of its governing body, or engage in competitive bidding. (Special provisions for correction of deficiencies in ICFs and ICFs/MR are set forth in §§ 442.112, 442.113, 442.115 of this chapter.)

(c) *Termination.* If the existing deficiencies, either individually or in combination, jeopardize the health and safety of patients or are of such character as to limit seriously the entity's capacity to furnish adequate care, the facility is not eligible to continue to participate in Medicaid. The Medicaid agency must terminate the provider's participation.

Subpart E—Miscellaneous Provisions

§ 490.50 Special requirements applicable to independent laboratories.

(a) An independent laboratory that has had its previous approval revoked, totally or for a specialty or subspeciality, because of unsatisfactory performance in proficiency testing, may subsequently be certified by the state survey agency and determined by HCFA to be in compliance with the conditions for coverage if—

(1) After a 6-month period, an appraisal of the laboratory's performance in a proficiency testing program, as defined in § 405.1311(c) reflects satisfactory test results on at least two sets of specimens, or

(2) After a 3-month period, the State agency's assessment of the laboratory's performance in examining proficiency test samples, analyzed during at least two State agency onsite visits, establishes the laboratory's competency.

(b) A laboratory that meets the requirements of § 490.34 or paragraph (a) of this section may continue to be certified by the State agency and determined by HCFA to be in compliance with these conditions if it—(1) Promptly reports any change in ownership, location, directors, or supervisors; and (2) permits a State survey agency to conduct an onsite visit or survey at any time during the laboratory's regular hours of operations.

§ 490.56 Temporary waivers for SNFs.

(a) *Waiver of 7-day registered nurse requirement.* A temporary waiver of the requirement that a SNF have a registered nurse on duty at least during the day tour 7 days a week may be granted if the documented findings of the State survey agency show that the facility—

(1) Is located in a rural area where the supply of skilled nursing facility services is not sufficient to meet the needs of the area's residents;

(2) Has at least one fulltime registered nurse who is regularly on duty at the facility 40 hours a week;

(3) Either (i) Has only patients whose attending physicians have indicated (through physicians' orders or admission notes) that each such patient does not require the services of a registered nurse for a 48-hour period, or (ii) Has made arrangements for a registered nurse or a physician to spend such time at the facility as is determined necessary by the patient's attending physician to provide necessary services on days when the regular full-time registered nurse is not on duty; and

(4) Has made and continues to make a good faith effort to comply with the more than 40-hour registered nurse requirement, but is unable to meet the requirement because of the unavailability of registered nurses in the area.

(b) *Waiver of medical director requirement.* A temporary waiver of the requirement that a SNF have a full-time or part-time medical director may be granted if the documented findings of the survey agency show that the facility—

(1) Is located in an area where the supply of physicians is not sufficient to permit compliance with this requirement without seriously reducing the availability of physician services within the area, and

(2) Has made and continues to make a good faith effort to comply with the requirement but is unable to do so because of the unavailability of physicians in the area.

§ 490.58 Special procedures for approving end-stage renal disease facilities and the expansion of services in approved facilities.

(a) Factors that will be considered. (1) The condition for coverage of ESRD services are set forth in Part 405, Subpart U of this chapter. A major criterion is the utilization rate.

(2) If an ESRD facility requests approval for coverage of its services or for expansion of renal dialysis services, the following will be considered:

(i) The State survey agency's certification.

(ii) Information and recommendations from ESRD network organizations and the Public Health Service concerning the facility's contribution of the furnishing of ESRD services.

(iii) Services in its network area.

(3) Information submitted by the facility concerning its qualifications for approval.

A facility that has not previously participated in the ESRD program must submit a plan detailing how it expects to meet the conditional minimal utilization rate status by the conclusion of 1 calendar year of its operation under the program and meet the unconditional minimal utilization rate status during the third calendar year of its operation under the program.

(b) *Determining compliance with minimal utilization rates: Time limitations*—(1) *Unconditional status.* A facility that meets minimal utilization requirements will be assigned this status as long as it continues to meet these requirements.

(2) *Conditional status.* A conditional status may be granted to a facility for not more than 2 consecutive calendar years and will not be renewable. Its status may be examined each calendar year to ascertain its compliance with this requirement.

(3) *Exception status.* Under unusual circumstances as specified in §405.2122(c) of this chapter, HCFA may grant a time-limited exception to a facility that is not in compliance with the minimal utilization rate for either unconditional status or conditional status. This exception status may be granted, and may be renewed on an annual basis, if rigid application of minimal utilization rate requirements would adversely affect the achievement of ESRD program objectives.

(c) *Notification.* HCFA will notify each facility and its network coordinating council of its initial and its subsequent minimal utilization rate classification and of any failure to meet standards for unconditional status or conditional status, or if applicable, for exception status.

§490.60 Remote facility variances for Medicare utilization review requirements.

(a) *Applicability.* This section applies to facilities participating in the Medicare program. Comparable requirements for Medicaid facilities are set forth in Part 456, Subpart H, of this chapter.

(b) As used in this section:

(1) An "available" individual is one who:

(i) Possesses the necessary professional qualifications;

(ii) Is not precluded from participating by reason of financial interest in any such facility or direct responsibility for the care of the patients being reviewed or, in the case of a skilled nursing facility, employment by the facility; and

(iii) Is not precluded from effective participation by the distance between the facility and his residence, office, or other place of work. An individual

whose residence, office, or other place of work is more than approximately one hour's travel time from the facility shall be considered precluded from effective participation.

(2) "Adjacent facility" means a health care facility means a health car facility located within a 50-mile radius of the facility which requests a variance.

(c) HCFA may grant a variance from the applicable time frames within which utilization reviews of all cases must be begun and completed, as set forth in the conditions of participation for hospitals and for SNFs, if the facility shows, to HCFA's satisfaction, that it was unable to comply with one or more of the requirements because sufficient medical and other professional personnel were not available to conduct the utilization reviews.

(d) The request for variance must—(1) Document the requesting facility's inability to meet the requirements for which a variance is requested and the facility's good faith efforts to comply with the applicable requirements; (2) Include an asurance by the requesting facility that it will continue its good faith efforts to meet the applicable requirements; and (3) Be accompanied by a revised utilization review plan that specifies the methods and procedures which the requesting facility will use, if a variance is granted, to ensure:

(i) That effective and timely control will be maintained over the utilization of services; and

(ii) That reviews will be conducted so as to improve the quality of care provided to patients.

(e) The request for a variance must include:

(1) The name, location, and type (e.g., hospital, skilled nursing facility) of the facility for which variance is requested;

(2) The total number of patient admissions and average daily patient census at the facility within the previous six months;

(3) The total number of title XVIII and title XIX patient admissions and the average daily patient census of title XVIII and title XIX patients in the facility within the previous six months;

(4) As relevant to the request, the names of all physicians on the active staff of the facility and the names of all other professional personnel on the staff of the facility, or both;

(5) The name, location, and type of each adjacent facility (e.g., hospital, skilled nursing facility);

(6) The distance and average travel time between the facility and each adjacent facility;

(7) As relevant to the request, the location of practice of available physicians and the estimated number of other available professional personnel, or both;

(8) Documentation by the facility of its attempt to obtain the services of available physicians or other professional personnel, or both; and

(9) A statement of whether a planning or conditional Professional Standards Review Organization (PSRO) exists in the area where the facility is located.

(f) HCFA will promptly notify the facility of the action taken on the request. While a variance is in effect, the validation of utilization review will be made with reference to the revised utilization review plan submitted with the request for variance.

(g) HCFA will specify the period for which it grants a variance; that period will not exceed one year. A request for a renewal must be submitted not later than 30 days before expiration of the variance and must contain all information required by paragraphs (c) and (e) of this section. Renewal of the variance will be contingent upon the facility's continuing to meet the provisions of this section.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Programs; No. 13.773 Medicare—Hospital Insurance Program; and No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: April 6, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: April 9, 1982.

Richard S. Schweiker,

Secretary.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Last Listing May 25, 1982

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.R. 2863 / Pub. L. 97–179 To authorize the Secretary of Agriculture to sell the portion of the Tahoe National Forest known as Blyth Arena. (May 24, 1982; 96 Stat. 90) Price: $1.75.

S. 691 / Pub. L. 97–180 Piracy and Counterfeiting Amendments Act of 1982 (May 24, 1982; 96 Stat. 91) Price: $1.75.

H.J. Res. 361 / Pub. L. 97–181 To grant official recognition to the international ballet competition. (May 24, 1982; 96 Stat. 94) Price: $1.75.

S.J. Res. 170 / Pub. L. 97–182 To designate the week of November 7, 1982, through November 14, 1982, as "National Hospice Week". (May 24, 1982; 96 Stat. 95) Price: $1.75.

S.J. Res. 145 / Pub. L. 97–183 Authorizing and requesting the President to proclaim "National Orchestra Week". (May 24, 1982; 96 Stat. 97) Price: $1.75.

S. 146 / Pub. L. 97–184 To authorize the Secretary of the Interior to assist in the preservation of historic Camden in the State of South Carolina, and for other purposes. (May 24, 1982; 96 Stat. 99) Price: $1.75.

H.R. 6038 / Pub. L. 97–185 To amend section 235 of the National Housing Act. (May 24, 1982; 96 Stat. 100) Price: $1.75.

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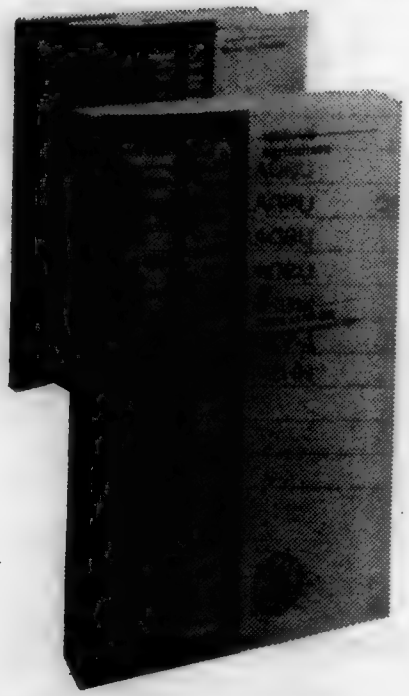

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Agricultural Marketing Service

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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National Banks
Comptroller of Currency

Natural Gas
Economic Regulatory Administration

Occupational Safety and Health
Occupational Safety and Health Administration

Poultry and Poultry Products
Food Safety and Inspection Service

Radio
Federal Communications Commission

Radio Broadcasting
Federal Communications Commission

Wages
Labor Department

Editor's Note:

The list of subjects on the cover is designed to assist those users who review the **Federal Register** for broad subject areas. The list is compiled from subject terms supplied by agencies for certain of their rule and proposed rule documents as required by 1 CFR 18.20. Subject terms in the list may refer to more than one document. To locate the documents in the **Federal Register** covered by the subject terms in the list, users should consult the Table of Contents under the appropriate agency. We remind users that the list is a selective supplement to the Table of Contents and should not be construed as comprehensive.

This list is an experiment. We hope it will prove useful to those users inconvenienced by the discontinuation of the "Highlights" in February because of reduced personnel resources at the Office of the Federal Register. For this new list our editors simply select subject terms from those appearing in the edition's rule and proposed rule documents rather than perform the detailed analytical work which was needed to produce the "Highlights".

Comments on this list may be sent to Martha Girard, Director, Executive Agencies Division (NFE), Office of the Federal Register, NARS/GSA, Washington, D.C. 20408. Phone (202) 523-5240 (not a toll free number).

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Rules and Regulations

Federal Register
Vol. 47, No. 104
Friday, May 28, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Assistant Secretary for Natural Resources and Environment and Chief of the Forest Service; Delegation of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document delegates and codifies the authority from the Secretary of Agriculture to the Assistant Secretary for Natural Resources and Environment, and from the Assistant Secretary to the Chief of the Forest Service to act for the Department in all matters related to the Federal Water Power Act of June 10, 1920, as amended (16 U.S.C. 791–823). This action will enable the Department to better carry out its responsibilities and serve the public.

EFFECTIVE DATE: May 28, 1982.

ADDRESS: R. Max Peterson, Chief (5400), USDA, Forest Service; P.O. Box 2417, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Robert B. Miller, USDA, Forest Service, Lands Staff, P.O. Box 2417, Washington, DC 20013, (202) 235–8107.

SUPPLEMENTARY INFORMATION: The delegation of authority to the Chief of the Forest Service to represent the Department in all matters relating to the Federal Water Power Act has not been published in the Federal Register. The Chief has exercised this authority since it was delegated by letter in 1970. By this amendment, the delegation is included in the specific delegations through the Assistant Secretary for Natural Resources and Environment to the Chief.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public participation procedures with respect to the rule are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the Federal Register. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. This action is not a rule as defined by Pub. L. 96–354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

For the reasons set out in the preamble, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as set forth below:

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

1. The authority citation for Part 2 reads as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries

2. Section 2.19 is amended by adding paragraph (d)(21) as follows:

§ 2.19 Delegations of authority to the Assistant Secretary for Natural Resources and Environment.

* * * * *

(d) * * *

(21) Represent the Department in all matters relating to responsibilities and authorities under the Federal Water Power Act, approved June 10, 1920, as amended (16 U.S.C. 791–823).

* * * * *

Subpart G—Delegations of Authority by the Assistant Secretary for Natural Resources and Environment

3. Section 2.60 is amended by adding a new paragraph (a)(22) to read as follows:

§ 2.60 Chief, Forest Service.

(a) * * *

(22) Represent the Department in all matters relating to responsibilities and authorities under the Federal Water Power Act, approved, June 10, 1920, as amended (16 U.S.C 791–823).

* * * * *

For Subpart C:
Dated: May 25, 1982.

John R. Block,
Secretary of Agriculture.

For Subpart G:
Dated: March 4, 1982.

John B. Crowell,
Assistant Secretary for Natural Resources and Environment.

[FR Doc. 82-14878 Filed 5-27-82; 8:45 am]
BILLING CODE 3410-11-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 361]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period May 30–June 5, 1982. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: May 30, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby

found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 7, 1981. The committee met again publicly on May 25, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is active.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

Section 910.661 is added as follows:

§ 910.661 Lemon Regulation 361.

The quantity of lemons grown in California and Arizona which may be handled during the period May 30, 1982, through June 5, 1982, is established at 275,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 26, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc 82–14836 Filed 5–27–82; 12:20 pm]

BILLING CODE 3410-02-M

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7 CFR Part 987

Domestic Dates Produced or Packed in Riverside County, California; Amendment of Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule adds provisions to the current date administrative committee (DAC) container requirements established under the California date marketing order to permit the California Date Administrative Committee to designate additional types and sizes of containers for testing in connection with market research projects. This authority would allow the Committee to conduct market research projects on new container types and sizes and to evaluate the market effects of these containers in more timely fashion than can be done now. This action is based upon a unanimous recommendation of the Committee. The Committee works with USDA in administering the date marketing order program.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA guidelines implementing Executive Order No. 12291 and Secretary's Memorandum 1512–1 and has been classified a "non-major" rule under criteria contained therein.

William T. Manley, Acting Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the 17 regulated handlers.

It is found that it is impracticable and contrary to the public interest to give preliminary notice and engage in public rulemaking and that good cause exists for not postponing the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because: (1) The industry wants to test market 7-ounce plastic containers to determine consumer acceptance this crop year, which ends September 30, 1982; (2) the initiation of this market research project should begin as soon as possible so packers can begin packing and making sales of the 7-ounce containers; (3) no useful purpose would be served by delaying the effective date of this action, and valuable time would be lost; (4) this action relieves restrictions on handlers and must be effective promptly to achieve its purpose; and (5) handlers have been aware of this action and have had ample time to prepare for operation thereunder.

This action would amend § 987.112a of Subpart—Administrative Rules (7 CFR 987.101–987.172; 47 FR 4489) by adding a new subparagraph (4) to paragraph (b) to facilitate container size and type market testing. This action is issued under § 987.33 of the marketing agreement and Order No. 987 (7 CFR Part 987), both as amended, regulating the handling of domestic dates produced or packed in Riverside County, California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The purpose of this action is to allow the Committee to implement market research projects on new container types and sizes when it believes they have potential for improving and promoting date sales in the United States in more timely fashion than can be done now. Currently, the USDA has to initiate informal rulemaking procedures each time the Committee wants to test new container types and sizes. These procedures are quite time consuming. Under this action, USDA approval of such projects would be required. However, the approval could be accomplished by a letter to the Committee. This would give the Committee increased flexibility and facilitate container size and type testing.

In making recommendations for this type of market research, the Committee would designate specific container types and sizes for testing, the time period for testing, and the quantity that could be test marketed during this period. The Committee would evaluate the results and make appropriate recommendations for changes in container requirements to the USDA.

After consideration of all relevant matter presented, the information and recommendation submitted by the Committee, and other available information, it is further found that the amendment of § 987.112a of Subpart—Administrative Rules (7 CFR 987.101–987.172; 47 FR 4489) will tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 987

Marketing agreements and orders, Dates, California.

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

Therefore, § 987.112a is amended by adding new subparagraph (4) to paragraph (b) to read as follows:

Subpart—Administrative Rules

Identification and Outlet Specifications

§ 987.112a Grade, size, and container requirements for each outlet category.

* * * * *

(b) * * *

(4) The California Date Administrative Committee may designate with the approval of the Secretary such other types and sizes of containers for testing in connection with a research project conducted by or in cooperation with the Committee. The time period and the quantity of dates which may be marketed by handlers during that period shall be designated by the Committee for each market research project. The handling of each lot of dates in such test containers shall be subject to the prior approval, and under the supervision, of the Committee.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 25, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 82-14878 Filed 5-27-82; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Parts 1007, 1011, 1030, 1032, 1046, 1049, 1050, 1062, 1064, 1065, 1068, 1071, 1073, 1076, 1079, 1094, 1096, 1097, 1098, 1099, 1102, 1106, 1108, 1120, 1126, 1131, 1132, and 1138

Milk in the St. Louis-Ozarks Marketing Area, et al.; Determination of a Change in the Data Used for computing the Basic Class II Formula Prices

7 CFR Part and Marketing Area

1062 St. Louis-Ozarks
1007 Georgia
1011 Tennessee Valley
1030 Chicago Regional
1032 Southern Illinois
1046 Louisville-Lexington-Evansville
1049 Indiana
1050 Central Illinois
1064 Greater Kansas city
1065 Nebraska-Western Iowa
1068 Upper Midwest
1071 Neosho Valley
1073 Wichita, Kansas
1076 Eastern South Dakota
1079 Iowa
1094 New Orleans-Mississippi
1096 Greater Louisiana
1097 Memphis, Tennessee
1098 Nashville, Tennessee
1099 Paducah, Kentucky
1102 Forth Smith, Arkansas
1106 Oklahoma Metropolitan
1108 Central Arkansas
1120 Lubbock-Plainview, Texas
1126 Texas
1131 Central Arizona
1132 Texas Panhandle
1138 Rio Grande Valley

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action substitutes selected quarterly data for certain monthly data now used in computing the basic Class II formula prices of the milk orders listed above. The change is necessary because the USDA Statistical Reporting Service has altered selected portions of its crop and livestock estimating programs, which will make certain monthly data on dairy products unavailable.

DATE: The change set forth herein become effective May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–7311.

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable provisions of the respective orders, as amended, regulating the handling of milk in the aforesaid marketing areas, it is hereby found and determined with respect to these orders that:

(1) On March 10, 1982, the USDA Statistical Reporting Service (SRS) announced to the public that it was cutting back or otherwise altering selected portions of its crop and livestock estimating programs. One of the reports affected is the *Dairy Products* report which has been issued monthly and which in the future will be issued quarterly.

(2) The above-listed orders provide that the total American cheese production and nonfat dry milk production for the States of Minnesota and Wisconsin for the third preceding month, as reported by SRS in the *Dairy Products* report, shall be used in computing the basic Class II formula price for a particular month. For example, the basic Class II formula price for June would utilize the reported production data for March.

(3) Under the altered publication schedule for the SRS *Dairy Products* report, the first quarterly report of cheese and nonfat dry milk production will be published in the *Dairy Products* report on or about August 2, 1982. The reported data will reflect the total quantity of American cheese production and nonfat dry milk production in Minnesota and Wisconsin during the months of April, May and June 1982 combined. The production data will be available for the mid-August announcement of the basic Class II formula price for September 1982. The last production data to be reported on a monthly basis will be the data for March 1982. Such data will be available for computing the June 1982 basic Class II formula price. Similar monthly data will not be available for computing such price for July and August 1982.

(4) Under the above circumstances, it is appropriate that the basic Class II formula prices for July and August 1982 under the above-listed orders be based on the production data for March 1982.

(5) It is also appropriate that upon the issuance of the *Dairy Products* report on a quarterly basis the monthly basic Class II formula prices under the above-listed orders be based on the American cheese and nonfat dry milk production data from the last quarterly report available for this purpose. For example, the same production data for April, May and June 1982 combined would be used in computing the basic Class II formula prices for September, October and November 1982. Similarly, the same production data for July, August and September 1982 combined would be used in computing the basic Class II formula prices for December 1982 and January and February 1983.

(6) The use of quarterly production data rather than monthly data should have a minimal impact on the basic Class II formula prices computed each month under the above-listed orders. Shown below are the results of computing the monthly basic Class II formula prices for the 28 months of January 1980 through April 1982 using weighting factors based on monthly production data as compared to using quarterly production data:

22 months—Both methods resulted in the same price.
4 months—Quarterly data resulted in a 1-cent higher price.
1 month—Quarterly data resulted in a 1-cent lower price.
1 month—Quarterly data resulted in a 2-cent lower price.

(7) Notice of proposed rulemaking and public procedure thereon are impracticable, unnecessary, and contrary to the public interest in that:

(a) The forthcoming unavailability of American cheese and nonfat dry milk production data on a monthly basis for use in computing the basic Class II formula prices under the above-listed orders necessitates the prompt establishment of an alternative means of computing such prices;

(b) The substitution of quarterly production data for monthly data is an appropriate and practicable method of

utilizing such data in computing the basic class II formula prices; and

(c) This action does not require substantial or extensive preparation by any person.

Effective date: The procedure set forth herein becomes effective May 28, 1982.

List of Subjects

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on May 24, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection.

Add the following note to each of the paragraphs listed below:

Note.—The computation of the basic class II formula price is affected by a determination document published on May 28, 1982 at 47 FR.

7 CFR Section and Marketing Area

1062.51a(c) (1) and (2)—St. Louis-Ozarks
1007.51a(c) (1) and (2)—Georgia
1011.51a(c) (1) and (2)—Tennessee Valley
1030.51a(c) (1) and (2)—Chicago Regional
1032.51a(c) (1) and (2)—Southern Illinois
1046.51a(c) (1) and (2)—Louisville-Lexington-Evansville
1049.51a(c) (1) and (2)—Indiana
1050.51a(c) (1) and (2)—Central Illinois
1064.51a(c) (1) and (2)—Greater Kansas City
1065.51a(c) (1) and (2)—Nebraska-Western Iowa
1068.51a(c) (1) and (2)—Upper Midwest
1071.51a(c) (1) and (2)—Neosho Valley
1073.51a(c) (1) and (2)—Wichita, Kansas
1076.51a(c) (1) and (2)—Eastern South Dakota
1079.51a(c) (1) and (2)—Iowa
1094.51a(c) (1) and (2)—New Orleans-Mississippi
1096.51a(c) (1) and (2)—Greater Louisiana
1097.51a(c) (1) and (2)—Memphis, Tennessee
1098.51a(c) (1) and (2)—Nashville, Tennessee
1099.51a(c) (1) and (2)—Paducah, Kentucky
1102.51a(c) (1) and (2)—Fort Smith, Arkansas
1106.51a(c) (1) and (2)—Oklahoma Metropolitan
1108.51a(c) (1) and (2)—Central Arkansas
1120.51a(c) (1) and (2)—Lubbock-Plainview, Texas
1126.51a(c) (1) and (2)—Texas
1131.51a(c) (1) and (2)—Central Arizona
1132.51a(c) (1) and (2)—Texas Panhandle
1138.51a(c) (1) and (2)—Rio Grande Valley

[FR Doc 82-14591 Filed 5-27-82; 8:45 am]
BILLING CODE 3410-01-M

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7 CFR Part 1033

[Milk Order No. 33]

Milk in the Ohio Valley Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends certain order provisions affecting the regulatory status of milk plants under the Ohio Valley Federal milk order. The suspension makes inoperative for the months of May through August 1982 the requirement that a distributing plant dispose of not less than 45 percent of its receipts as route disposition in order to be a pool plant. The action was requested by a proprietary handler operating five distributing plants pooled under the order to assure the efficient disposition of milk not needed for fluid use and still maintain pool status for its distributing plants and producer status for dairy farmers who regularly have supplied the fluid milk needs of the market. No comments were received in opposition to a notice of proposed suspension.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-6273.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued May 5, 1982; published May 11, 1982 (47 FR 20146).

This action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified "not significant" and, therefore, not a major action.

It also has been determined that the need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the completion of the suspension in time to include May 1982 in the suspension period. The initial request for the action was received April 30, 1982. A notice of proposed suspension was issued on May 5, 1982, inviting interested parties to comment on the proposed action by May 18, 1982.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action would not have a significant economic impact on a substantial number of small entities. Such action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers regularly supplying a portion of the market's fluid needs will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Ohio Valley marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on May 11, 1982 (47 FR 20146), concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon.

After considering all relevant material, including the proposal in the notice, the comments received from the proponent, and other available information, it is hereby found and determined that for the months of May through August 1982 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1033.12, paragraph (a)(2).

Statement of Consideration

This action makes inoperative for May 1982 through August 1982 the provision requiring a distributing plant to dispose of not less than 45 percent of its receipts as route disposition during the months of March through August in order to remain pooled. The suspension was requested by Beatrice Foods Co., a proprietary handler which operates five pool distributing plants under the order.

The suspension is necessary because of producer milk deliveries in the Ohio Valley market which are increasing both seasonally and over the levels of previous years. At the same time milk production is at its seasonal peak, Beatrice anticipates a decline in Class I disposition from its plants due to summer closure of schools and the resulting loss of fluid milk sales to schools.

For the first three months of 1982, producer milk pooled on the Ohio Valley order increased nearly 1 percent over

production during the same period in 1981 while producer milk allocated to Class I for the same period declined 1.4 percent from the level of the previous year. With these trends of increasing production and declining Class I use, Beatrice expects that less than 45 percent of the milk regularly associated with its distributing plants will be needed to meet its route disposition requirements in the months of May through August this year.

In the absence of suspension action, Beatrice indicated that it would be necessary to make costly and inefficient movements of milk solely for the purpose of pooling its distributing plants and the milk of dairy farmers who regularly have supplied the fluid milk needs of the market.

Interested parties were given the opportunity to submit written data, views or arguments concerning the suspension. No comments other than those of the proponent of the proposed suspension were received.

In view of the circumstances, the aforesaid provisions should be suspended to ensure the orderly marketing of milk supplies that are in excess of fluid milk requirements. This action will eliminate the possibility that Beatrice Foods Co., would find it necessary to make uneconomic movements of milk in order to assure the producer status of dairy farmers who are regular suppliers of milk for the fluid market.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that substantial quantities of milk of producers who regularly supply the market otherwise could be excluded from the marketwide pool, thereby causing a disruption in the orderly marketing of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register**.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the months of May through August 1982.

Effective date: May 28, 1982.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

List of Subjects in 7 CFR Part 1033

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on May 24, 1982.

C. W. McMillan,

Assistant Secretary Marketing and Inspection.

[FR Doc 82–14592 Filed 5–27–82; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 1040

Milk in the Southern Michigan Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This action suspends for the month of May 1982 the requirement in the Southern Michigan milk order that a cooperative association deliver to pool distributing plants at least 50 percent of its member producer milk in order to qualify its supply plants as pool plants under the order. The suspension was requested by a cooperative association that represents producers supplying milk to the fluid market. The action is needed to ensure that dairy farmers who have been historically associated with the Southern Michigan market will continue to share in the market's Class I milk sales.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202–447–7311).

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified "not significant" and, therefore, not a major action.

It also has been determined that the need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the issuance of the suspension on the timely basis that is necessary to make the suspension effective for the month of May 1982. The initial request for the action was received on May 17, 1982.

It has been determined that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Southern Michigan marketing area.

After consideration of all relevant information it is hereby found and determined that for the month of May 1982 the following provisions of the order do not tend to effectuate the declared policy of the Act.

1. In § 1040.7(b)(2) the words "if transfers from such supply plant to plants described in paragraph (b)(5) of this section and by direct delivery from the farm to plants qualified under paragraph (a) of this section are:"

2. In § 1040.7(b)(2), subdivisions (i) and (ii).

Statement of Consideration

This action makes inoperative for May 1982 the provisions requiring a cooperative association to deliver at least 50 percent of its member producer milk to pool distributing plants, either through its supply plants or directly from farms, in order to qualify the supply plants as pool plants. The suspension was requested by Michigan Milk Producers Association and was expressly supported by two other cooperative associations and by a proprietary handler. In total, the suspension was supported by a substantial proportion of the producers who supply milk to the market.

This action is needed because of increased deliveries of producer milk in the Southern Michigan market at a time when Class I use is declining. April 1982 was the 36th consecutive month of increased milk production in the market, and it also was the 18th consecutive month of declining Class I sales.

For the first four months of 1982, producer receipts for the market increased 2.3 percent from a year ago, while Class I sales decreased 5.2 percent and Class II sales decreased 2.1 percent. The increase in milk production has resulted from increased cow numbers and greater production per cow, and the declining sales are attributable to the depressed economy in Michigan.

The suspension is needed also to accommodate petitioner's recent loss of milk sales to a major distributor in the market.

If the provisions cited are not suspended for the month of May 1982, Michigan Milk Producers Association expects to encounter considerable difficulty in pooling certain supply plants and the milk producers who have had a long history of association with the Southern Michigan fluid market. This could be expected to disrupt the orderly marketing of milk in the Southern Michigan marketing area.

In view of the circumstances, the aforesaid provisions should be suspended to ensure the orderly marketing of milk supplies. This action will eliminate the possibility that producers who are regular suppliers of milk for the fluid market would lose their producer status because of the present pooling provisions and thus not have their milk priced under the order.

It is hereby found and determined that notice of proposed rulemaking, public procedure thereon, and thirty days' notice of the effective date hereof are impractical, unnecessary, and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions in the marketing area in that substantial quantities of milk of producers who regularly supply the market otherwise could be excluded from the marketwide pool, thereby causing a disruption in the orderly marketing of milk; and

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date.

Therefore good cause exists for making this order effective upon publication in the Federal Register.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the month of May 1982.

(Secs. 1–20, 48 Stat. 31 as amended; (7 U.S.C. 601–674))

List of Subjects in 7 CFR Part 1040

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on: May 24, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-14580 Filed 5-27-82; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1435

Price Support Purchase Program for 1982-Crop Sugar Beets and Sugarcane

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations which govern the Price Support Purchase Program for 1982-Crop Sugar Beets and Sugarcane. This program is mandated by the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981. On February 24, 1982, an interim rule was published in the Federal Register at 47 FR 8000, which implemented the sugar purchase program. The public was afforded an opportunity to comment on the interim rule until March 25, 1982. Processors that have filed purchase agreements prior to the publication of this final rule will be given an opportunity to withdraw or amend their purchase agreements. The rule implements only a purchase program. Provisions for a price support loan program, to be effective October 1, 1982, will be announced later.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Steve Gill, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. Phone (202) 382-9808.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under USDA procedures established in accordance with provisions of Secretary's Memorandum 1512–1 and Executive Order 12291 and has been classified as a "major rule."

The title and number of the Federal Assistance Program to which this interim rule applies are: Commodity Loans and Purchases, Number 10.051, as filed in the Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety.

Statutory Requirements

Section 201 of the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981 (hereinafter referred to as the "Act") requires that 1982-crop sugar processed from domestically grown sugar beets and sugarcane between December 22, 1981, and March 31, 1982, be eligible for purchase under a price support purchase program. The purpose of the program is to provide price support to producers of sugarcane and sugar beets.

Any 1982 crop sugar which is processed after March 31, 1982, as well as 1983 through 1985 crop sugar will be eligible for price support through a loan program that will be available beginning October 1, 1982. Regulations governing the loan program will be issued separately.

Interim Rule

An interim rule implementing the Price Support Purchase Program for 1982-Crop Sugar Beets and Sugarcane was published in the Federal Register on February 24, 1982, at 47 FR 8000. The rule required processors to file purchase agreements with CCC by April 30, 1982. The rule was later amended to give processors an opportunity to file purchase agreements until May 31, 1982. (April 30, 1982, at 47 FR 18573). The comment period was limited to 30 days because processors need to know the details of the sugar purchase program as soon as possible.

General Summary Of Comments

The public was afforded until March 25, 1982, to comment on the interm rule. However, the Department continued to accept comments after March 25, 1982. The Department considered and summarized all comments received.

The Department received a total of 21 comments with respect to the interim rule. A total of 5 comments were received from sugar beet processors, 4 from sugar beet growers, 4 from sugarcane processors, 1 from a sugarcane grower association, 1 from a sugarcane refiner association, 2 from sugarcane refiners, 1 from a corn sweetener company, 1 from an association of industrial users of sugar, 1 from an individual, and 1 from a State Agricultural Stabilization and Conservation (ASC) Committee. The majority of the comments related to the method used in establishing the refined beet sugar purchase rate. A significant number of comments related to the

conditions of eligibility for program participation.

All comments received are on file and available for public inspection in Room 3627, South Building, 14th and Independence Avenue, SW., Washington, D.C. 20013.

The following is a summary of comments received and actions taken:

Comments on Major Program Provisions

I. Refined Beet Sugar Purchase Rate

A. *Provisions of the Interim Rule:* The Act requires the Secretary to support the price of sugarcane at a level approximating a raw sugar price of 16.75 cents per pound, and to support the price of sugar beets at a level which is fair and reasonable in relation to the support level for sugarcane.

The rule proposed to purchase refined beet sugar at a rate of 19.16 cents per pound. This figure was calculated by multiplying the 16.75 cent raw cane sugar purchase rate by a factor of 1.10 and then adding 0.74 cent for fixed marketing costs (which are incurred whether the beet sugar is sold on the market or to CCC). The 1.10 factor was derived by comparing the net beet sugar milling price (after all marketing costs are paid) to the weighted average New York spot price (#12 contract) for raw cane sugar for the years 1965 through 1979. This methodology was used used for previous sugar price support programs.

B. *Comments:* A total of 15 comments were received with respect to the method of calculating the refined beet sugar purchase rate. One respondent, a cane refiner association, supported the method specified in the interim rule. The remaining respondents stated that the refined beet purchase rate was too low in relation to the raw cane sugar purchase rate. The recommendations of these respondents for the refined beet sugar purchase price ranged from 19.49 cents per pound to 24.86 cents per pound.

C. *Discussion of Comments:* Those respondents arguing for a higher refined beet purchase price made three basic arguments in favor of their recommendations. Two of these arguments related to the methodology which was used in the interim rule to determine a refined beet purchase rate. The third argument accepted the methodology used in the interim rule, but suggested that the base period over which the percentage relationship was calculated was incorrect.

First, some respondents stated that it was not appropriate to establish a refined beet purchase price on the basis of historical relationships between raw sugar prices and refined sugar prices. They suggest that a "cost-up" approach is correct, i.e., the refined beet purchase price should equal 16.75 (the purchase price for raw sugar) plus the costs of converting raw sugar into refined sugar. This would produce a purchase price for refined beet sugar in the range of 22.5 to 23.5 cents per pound, depending upon the calculation of refining costs. It is argued that this methodology would provide a greater price umbrella for refined cane sugar as opposed to refined beet sugar, thus allowing cane refiners: (1) To purchase raw sugar in the market at 16.75 cents per pound; (2) to refine that raw sugar and to sell the refined sugar at prices which are competitive with refined beet sugar prices; and (3) to recover substantially all their costs.

Second, some respondents argue that the methodology employed in the interim rule to determine a refined beet purchase rate is incorrect because it derives a percentage relationship based upon a delivered price (the New York spot price) and applies that relationship to an f.o.b. mill price (16.75 cents purchase price for raw sugar delivered at the processing facility). These respondents argue that the percentage relationship should be applied to the New York spot price which the Government is attempting to achieve in the domestic commercial market through the imposition of restrictions on imported sugar. Using the historical relationship of 1.10, this methodology would produce a refined beet purchase price of approximately 21.87 cents per pound.

Finally, a number of respondents suggested that the time period (1965–1979) over which the percentage relationship was derived is no longer appropriate. These respondents contend that market conditions have changed substantially during the past few years, and that a more recent time period would more accurately reflect present market relationships. Among the factors cited by these respondents are the expiration of the Sugar Act of 1948 in 1974, the decline in per capita consumption of sugar, and the influx of high fructose corn sweeteners into the sweetener market.

D. *Conclusion:* After careful consideration of the comments received, it has been determined that the methodology utilized in developing the interim rule should be retained, but that the base period for calculation of the percentage relationship should be changed to 1975–1980 in order to reflect more recent market relationships. This results in a percentage relationship of 1.13. After adjusting fixed marketing costs from 0.74 to 0.77 cent to reflect recently available 1980 data, the refined beet purchase price is calculated to be 19.70 cents per pound.

The suggestion that a "cost-up" methodology should be utilized was rejected because this approach would simply create a large price umbrella for refined cane sugar, rather than reflecting true market relationships. The Department's cost estimates for sugar production show that refined beet sugar costs only slightly more to produce than it costs to produce raw cane sugar. Therefore, it costs substantially less to produce a pound of refined beet sugar than a pound of refined cane sugar. It is not appropriate to distort the purchase price for refined beet sugar to compensate for this factor, since this would probably lead to disproportionate deliverties of refined beet sugar to the Commodity Credit Corporation. Past experience with the chosen methodology, though limited, would indicate that that methodology does reflect appropriate market relationships.

The suggestion that the percentage relationship should be applied to the New York spot price which the Government is attempting to achieve through the imposition of import restrictions was also rejected. First, this approach, like the "cost-up" approach, would appear to create a refined beet purchase rate which is too high in relation to the purchase rate for raw cane sugar. Second, the purpose of the program is to support prices paid to growers of sugar beets and sugarcane. Therefore, the relevant relationship is the relationship between the prices upon which processors use to settle with their growers. For beet growers, the price is the net selling price (regardless of whether the sugar is sold to the CCC or in the market). For cane growers, the settlement price would approximate the New York spot price if sold in the market, or the purchase program price if sold to the CCC. Therefore, in calculating refined beet purchase prices, it is appropriate to apply the percentage relationship to the purchase price for raw cane sugar (16.75 cents), rather than the New York spot price.

II. Processor Eligibility Requirements

A. *Provisions of the Interim Rule:* The interim rule required that processors, as a condition for obtaining a CCC purchase agreement, agree to pay to all eligible producers who have delivered or will deliver to them for processing sugar beets and sugarcane of average quality the minimum price support level applicable for their region.

B. *Comments:* A total of 7 comments were received with regard to the

processor eligibility requirement. All respondents opposed this aspect of the interim rule. Respondents interpreted the rule to require processors to pay the minimum support price to all eligible producers regardless of when the sugar beets and sugarcane were harvested and delivered to the processor. The respondents pointed out that since only a portion of the crop was eligible for the purchase program, it would be impossible for processors to pay the minimum support level to all growers for all sugar beets and sugarcane delivered to the processor.

C. *Discussion of Comments:* After careful analysis of these comments, it has been concluded that the basic point raised by the comments is valid. It would be unrealistic and unfair to require processors to pay the minimum support level for all sugar beets and sugarcane delivered to them, when: (1) Only a portion of their production is eligible for the purchase program; and (2) market prices during the first four months of 1982 have not been sufficient to provide adequate returns to processors to enable them to pay the support level.

The problem at hand, i.e., how to establish minimum support levels, appears to be inherent in the statute mandating a purchase program for sugar processed between December 22, 1981 and March 31, 1982. This period of time does not encompass traditional processing periods for any segment of the domestic sugar industry. Louisiana, Florida, Texas, and all the sugar beet areas begin processing well before the end of December. For Hawaii and Puerto Rico, the eligibility period straddles two different crop years. Finally the delivery date for the sugar, November 1, 1982, may fall into a different marketing year for accounting purposes for most of the sugar beet industry.

D. *Conclusion:* The unique statutory requirements for the purchase program and the diversity of the domestic sugar industry would appear to make it extremely difficult, if not impossible, to develop an allocation system whereby processors would be required to pay pro rata amounts of the minimum support levels to individual growers. Thus, it has been determined, in accordance with Section 401(e) of the Act, that it is not practicable to obtain from processors agreement to pay all their producers support prices not less than those specified by CCC.

The minimum support prices specified in the interim rule were primarily based upon the amounts which growers would receive under traditional contracts between growers and processors if processors received the prices which CCC will pay under purchase agreements. The final rule, therefore, requires processors to settle with growers in accordance with their traditional contractural arrangements (or other arrangements such as the Puerto Rican Sugar Law.) It is believed that this approach will, in effect, achieve a pro rata sharing of the benefits of the price support program among growers while minimizing the administrative burden on processors participating in the program.

III. Definition of 1982 Crop Year

A. *Provisions of the Interim Rule:* The rule defined the 1982 crop year sugar as sugar processed from domestically-produced sugar beets or sugarcane during the period from December 22, 1981, through June 30, 1983.

B. *Comments:* A total of 5 comments were received on the crop year definition. One respondent supported the definition as specified in the interim rule. The remaining respondents criticized the definition because the crop year overlapped the settlement crop year specified in the growers' contract with processors.

C. *Discussion of Comments:* Respondents commenting against the definition as set forth in the interim rule stated that such a definition encompassed contracts entered into by processors and growers covering the 1981, 1982, and, in some instances, the 1983 marketing year. These respondents pointed out that some processors settle with growers on the basis of an average net selling price achieved over a contractually designated crop year and that eligible sugar (that sugar processed between December 22, 1981, and March 31, 1982) is harvested and stored with ineligible sugar. The respondents argued it would be difficult to determine which grower supplied the eligible sugar and to assure that such grower received the minimum price support level as specified by the rule.

Because of the overlap of marketing years utilized in purchase contracts between producer and growers, it was recommended by the respondents that the traditional marketing year on which settlement is made by processors with growers be utilized for defining crop year, as was done in previous support programs.

D. *Conclusion:* The Act requires that sugar processdd between December 22, 1981, and March 31, 1982, be supported through a purchase program and that, effective October 1, 1982, domestically-grown sugarcane and sugar beets of the 1982 through 1985 crops be supported through a loan program. The Act also provides that price support loans must mature within the same fiscal year that they were disbursed. Therefore, the use of the traditional crop year definitions is not compatible with a fair and reasonable implementation of the price support program as mandated by the Act. In order to treat all producers equitably, it has been determined to provide for a definition of crop year based upon the period of time when sugar beets and sugarcane are processed into refined beet sugar and raw cane sugar. This results in the phrase "crop year" being defined as sugar processed during a period from July 1 through June 30. Use of a crop year based on processing requires a crop year in excess of 12 months for 1982 because the Act mandates both a purchase program and a loan program for 1982 crop sugar. Therefore, the 1982 crop year is applicable to sugar processed from December 22, 1981, to June 30, 1983.

As stated earlier, the minimum support requirements set forth in the interim rule have been deleted. It is believed this approach will resolve the concerns stated by the respondents with respect to the purchase program. Likewise, it is anticipated that the loan program regulations, which will be published separately, will adequately address the concerns of the respondents with respect to the loan program.

IV. Storage Payment Rate

A. *Provisions of the Interim Rule:* The interim rule required CCC to make monthly storage payments to the processor for the period of time the processor stores the sugar for CCC after delivery by the processor in accordance with the purchase agreement. The storage payment rate shall be agreed upon by CCC and the processor, but in no event shall exceed $.00063 per pound per month.

B. *Comments:* A total of 5 comments were received with respect to the storage payment rate limitation of $.00063 per pound per month. One respondent noted that the storage payment rate as set forth in the interim rule applied to both refined beet sugar storage and raw cane sugar storage. The remaining respondents commented that the limitation of $.00063 per pound per month was too low.

C. *Discussion of Comments:* Respondents argued that the storage rate of $.00063 is no higher than the maximum storage rate provided for under previous sugar programs. Respondents commented that in view of the economy's general rate of inflation, the storage payment rate should be

established at a higher rate. In addition, one respondent suggested that the purchase program differentiate between raw cane sugar storage and refined beet sugar storage because the cost to store refined sugar is substantially higher than costs associated with the storage of raw cane sugar.

D. *Conclusion:* A review of rates previously offered to CCC for the storage of sugar shows that the February 1980 storage rate averaged $.00067 per pound for bulk sugar and $.00074 per pound for bagged sugar. The current rate for storing CCC-owned nonfat dry milk is $.00078 per pound. Since milk is a much more valuable commodity and is also much more difficult to store, it appears reasonable to expect that sugar could be stored within the payment rate limitation provided.

Therefore, based on previous CCC experience in storing sugar and the rates charged to CCC for storing nonfat dry milk, it has been determined that a storage payment rate limitation of $.00093 per pound per month is appropriate.

V. Providing Storage for Sugar Delivered to CCC

A. *Provisions of the Interim Rule:* The rule required processors to store sugar delivered to CCC in eligible storage where delivered for as long as deemed necessary by CCC after delivery of the sugar to CCC.

B. *Comments:* A total of 3 comments were received with respect to storing sugar delivered to CCC. All respondents commented that they had no objection to storing sugar delivered to CCC. However, one respondent recommended the storage period not exceed one year and two respondents stated that they would provide storage until the storage was needed for a subsequent crop of sugar. All respondents requested that the storage of sugar should be treated in the same manner as the policies and practices imposed by CCC with respect to other commodities by CCC.

C. *Discussion of Comments and Conclusion:* In considering the respondent's comments, it was noted that the number of acceptable structures available for the storage of large quantities of sugar is limited. It is possible that CCC might not find acceptable storage for sugar which it purchases until some time after the sugar purchase program has been completed. Because of this problem, CCC must maintain the right to leave the sugar in the processor's storage facility until acceptable storage space is found. Therefore, it was determined that the provisions requiring a processor to store purchased sugar for as long as deemed necessary by CCC will not be changed.

It should be emphasized, however, that CCC will make every reasonable effort to move purchased sugar when requested to do so by the processor.

VI. Supporting Refined Cane Sugar at the Refined Beet Sugar Rate

A. *Provisions of the Interim Rule:* The rule did not provide for the purchase of refined cane sugar at the refined beet sugar purchase rate. In the event refined or specialty sugar made from raw cane sugar is delivered to CCC in accordance with a purchase agreement, the quantity of refined cane or specialty sugar will be converted to an equivalent quantity of raw cane sugar for purposes of settlement.

B. *Comments:* A total of 4 comments were received with respect to the issue of whether refined cane sugar should be purchased by CCC at the refined beet purchase rate. One respondent criticized the provisions of the interim rule and suggested that the Department should establish a purchase price for refined cane sugar at a level which will provide the degree of support to sugarcane producers equivalent to 16.75 cents per pound of raw sugar, f.o.b. raw mill. The remaining respondents supported the provisions of the interim rule.

C. *Discussion of Comments:* The respondent opposing the provisions of the interim rule argued that if refined cane sugar is to be purchased under the program, it should be purchased at a rate which achieves the purposes of the program. The respondent stated the provisions, as set forth in the interim rule, give no recognition to the refiner's cost of refining, nor to the value added by the refining process. The other respondents supported the provisions of the interim rule for the reasons discussed in the preamble to the interim rule, which are also set forth below.

D. *Conclusion:* After careful consideration of the comments received it has been concluded that the provisions of the interim rule should be retained. As set forth in the preamble to the interim rule, the purpose of the price support program is to provide price support to growers of sugar beets and sugarcane in their capacities as growers. However, because sugar beets and sugarcane cannot be stored, this objective can only be accomplished by entering into purchase agreements with processors. Therefore, storable commodities which are at the nearest point to harvest, i.e., raw sugar for sugarcane and refined beet sugar for sugar beets, are purchased under the price support purchase program.

Furthermore, permitting processors who are also refiners to deliver refined cane sugar under the price support program at the refined beet purchase rate might unfairly disadvantage independent refiners of raw sugar who will not be eligible to deliver refined cane sugar to CCC under the price support program. Thus, the approach adopted in this final rule would place the refining operations of processors who are also refiners in substantially the same position as independent refiners of raw sugar.

Other Modifications of Program Provisions

I. Quantity Limitation on Sugar Delivered to CCC

A. *Provisions of the Interim Rule:* The quantity of sugar which a processor may deliver to CCC, as set forth in the interim rule, may be less than, but shall not exceed, the quantity of sugar which is indicated on a purchase agreement which is approved by CCC. This quantity may not exceed the amount of sugar processed by the processor between the period December 22, 1981, and March 31, 1982.

B. *Discussion:* During consideration of the comments on the interim rule, it became apparent that the terms of the interim rule might be interpreted as permitting a processor to deliver new crop sugar (i.e., sugar beet and sugarcane harvested in the fall of 1982) on November 1, 1982, in fulfullment of the delivery requirements of the purchase agreement. This situation arises because the terms of the interim rule do not provide that sugar processed during the eligibility period of December 22, 1981, to March 31, 1982, be stored identity preserved. Also, new crop sugar is available in most producing areas of the country after October 1.

While it is not the desire of the Department to require processors to store sugar identity preserved or to maintain inventory accounting systems, nevertheless substantially the same sugar as was processed during the eligibility period must be delivered to CCC under the purchase program. In such case, the processor will have had an adequate amount of time to market such sugar commerically rather than to deliver it to CCC. It is our view that it would not be appropriate to permit processors to sell sugar processed during the eligibility period commercially, and then to permit delivery of new crop sugar under the purchase program.

To remedy this problem, the final rule provides that the quantity of sugar

eligible to be delivered to CCC may not exceed the minimum quantity of eligible sugar which the processor had in eligible storage during the period between April 1, 1982, and October 30, 1982, inclusive.

II. Amendment or Withdrawal of Purchase Agreement

A. *Provisions of the Interim Rule:* The interim rule did not provide for the withdrawal or amendment of a purchase agreement.

B. *Discussion:* This final rule includes several major program changes reflecting determinations of the Department and public comments received with respect to the interim rule. Some processors have or will have filed a purchase agreement prior to publication of this final rule. The Department believes it is important that processors have an opportunity to review this final rule prior to the final availability date and that processors filing a purchase agreement prior to the publication of this rule be given the opportunity to withdraw or amend their purchase agreement. The final rule provides that: (1) The final availability date shall be the 15th day following the date of the publication of this rule; and (2) processors may amend or withdraw any purchase agreement up until that time.

III. Information on Transportation and Handling Costs

A. *Provisions of the Interim Rule:* The interim rule as published did not require processors to furnish information to CCC on transportation and handling costs.

B. *Discussion:* The interim rule provided for differentials in purchase rates depending upon the location of the sugar. Such location differentials are common to most of the price support programs conducted by CCC. Location differentials are generally based upon transportation costs and are essential in order to prevent distortions of ordinary market relationships as the result of the price support program. Location differentials which are not calculated accurately could easily lead to the acquisition of large amounts of a commodity under a support program in isolated areas of the country, despite the fact that overall market prices would be considered adequate to induce commercial sales of the commodity rather than deliveries to CCC.

The location differentials adopted in the final rule are the same as those contained in the interim rule and are based on the best data available. However, the comments received from respondents and other information received by the Department indicate that the data base upon which these location differentials have been calculated may be inaccurate and outdated. After reviewing this matter, the Department has concluded that the proper location differentials can be developed only by using actual cost data for the shipment of sugar from the processor to the initial purchaser. This final rule requires sugar processors to provide to CCC information concerning freight and related shipping costs if a purchase agreement is entered into by the processor.

CCC will request specific information from processors which will be used to calculate location differentials for sugar price support programs. CCC does not intend to request information which will place an onerous burden on the processor. The information requested will be that information which is usually retained by the processor in the normal course of business. Information provided CCC will be considered confidential. Compliance with the request is made a condition for participation in the 1982 crop price support purchase program.

The reporting and recordkeeping requirements on this rule have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (Pub. L. 96–511) and the Federal Reports Act of 1942.

IV. Technical and Typographical Changes

Technical and typographical changes have been made throughout the final rule where appropriate.

List of Subjects in 7 CFR Part 1435

Sugar, Price support program, Loan programs.

Final Rule

Accordingly, the regulations at 7 CFR Part 1435 are amended by adopting as a final rule and revising "Subpart—Price Support Purchase Agreement Program for 1982—Crop Sugar Beets and Sugarcane" (7 CFR 1435.76–1435.86) to read as follows:

PART 1435—SUGAR

* * * * *

Subpart—Price Support Purchase Agreement Program for 1982—Crop Sugar Beets and Sugarcane

Sec.

1435.76 General statement.
1435.77 Administration.
1435.78 Definitions.
1435.79 Method of support and purchase agreement rates.
1435.80 Eligibility requirements.
1435.81 Availability, disbursement, and maturity of purchase agreements.
1435.82 Quantity of sugar covered by a purchase agreement.
1435.83 Delevery to CCC, quality and storage facility requirements, and settlement.
1435.84 Processor storage agreement.
1435.85 Miscellaneous provisions.
1435.86 Applicable forms.

Authority: Secs. 201, 401 *et seq.* of the Agricultural Act of 1949, as amended (7 U.S.C. 1447 *et seq.*, 1421 *et seq.*).

Subpart—Price Support Purchase Agreement Program for 1982-Crop Sugar Beets and Sugarcane

§ 1435.76 General statement.

This subpart sets forth the terms and conditions of the price support purchase program for the 1982 crop of sugar beets and sugarcane.

The Commodity Credit Corporation (CCC) will offer purchase agreements to processors under which processors may elect to sell sugar to CCC upon maturity of the agreements. Only eligible sugar which is in eligible storage shall be accepted for delivery.

§ 1435.77 Administration.

(a) The Cotton, Grain, and Rice Price Support Division, Agricultural Stabilization and Conservation Service (referred to as "ASCS"), will administer this subpart under the general direction and supervision of the Deputy Administrator, State and County Operations.

(b) In the field, this subpart will be administered by the Kansas City Commodity Office and the Management Field Office (referred to as "KCCO" and "MFO" respectively) and designated State and county ASC committees (referred to as "State and county committees").

§ 1435.78 Definitions.

(a) "1982 crop" means sugar processed from domestically produced sugar beets or sugarcane during the period from December 22, 1981, through June 30, 1983.

(b) "Producer" means the owner of a portion or all of the sugar beets or sugarcane, including share rent landowners, both at the time of harvest and delivery to the processor.

(c) "Sugar" means refined beet sugar, refined cane sugar, raw cane sugar, sugarcane syrup, or edible molasses which is processed by a processor from domestically-produced sugar beets or sugarcane.

(d) "Processor" means a person or legal entity that: (1) Commercially processes sugar beets into refined sugar

or sugarcane into raw sugar, cane syrup, or edible molasses; (2) is a cooperatively owned refiner of raw cane sugar which markets refined cane and raw cane sugar on behalf of its members and non-member patrons; or (3) is a processor of sugarcane into raw cane sugar who is also a refiner.

(e) "Raw value" of any quantity of sugar means its equivalent in terms of ordinary commerical raw sugar testing 96 degrees by the polariscope.

(f) "Secretary" means the Secretary of Agriculture or an official who has been designated to act on his behalf.

(g) "Eligible storage" means a storage facility meeting the requirements set forth in § 1435.83(c).

§ 1435.79 Method of support and purchase agreement rates.

(a) *Method of support.* Price support is available to domestic producers of 1982-crop sugar beets and sugarcane processed beginning December 22, 1981, through March 31, 1982, by means of purchase agreements entered into between processors and CCC.

(b) *Purchase agreement rates.* The basic (weighted average) rates at which CCC will purchase 1982-crop sugar from processors shall be 19.70 cents per pound for refined beet sugar and 16.75 cents per pound for cane sugar, raw value, including the cane sugar, raw value equivalent, contained in refined cane sugar, sugarcane syrup, and edible molasses. In the case of refined or specialty sugar made from raw cane sugar, the rate shall be the appropriate regional rate applied to the raw cane sugar equivalent of the refined or specialty sugar.

(c) *Locational differentials.* (1) The purchase agreement rate applicable to sugar shall be the rate specified in paragraphs (c) (2) and (3) of this section for the region in which such sugar was processed.

(2) The processing regions and applicable purchase agreement rates for refined beet sugar shall be as listed below:

Region number and description	Cents per pound
1—Michigan and Ohio	20.54
2—Minnesota and the Eastern half of North Dakota	19.59
3—Northeastern quarter of Colorado; Northeastern quarter of Kansas; Nebraska; and the Southeastern quarter of Wyoming	19.37
4—Southeastern quarter of Colorado; and Texas	19.64
5—Montana and the Northwestern quarter of Wyoming	19.45
6—That part of Idaho east of the Eastern boundary of Owyhee County and of such boundary extended northward; and Utah	19.09
7—That part of Idaho west of the eastern boundary of Owyhee County and of such boundary extended northward; Oregon and Washington	19.09
8—Arizona and California	20.24

(3) The processing regions and applicable purchase agreement rates for cane sugar, raw value, shall be as listed below, except that for such sugar processed in Hawaii or Puerto Rico but delivered to CCC on the mainland of the U.S., the applicable rate shall be 16.75 cents per pound:

Region	Cents per pound
Florida	16.73
Louisiana	17.16
Texas	16.86
Hawaii	16.66
Puerto Rico	14.23

§ 1435.80 Eligibility requirements.

(a) The maximum quantity of sugar which is eligible to be delivered to CCC by a processor under the 1982 Price Support Purchase Agreement Program is that quantity of domestically-produced sugar which is equivalent to the quantity of sugar processed by the processor during the period beginning December 22, 1981 through March 31, 1982 from domestically produced sugar beets and sugarcane grown by producers as defined herein. Such sugar must be processed and owned by the processor (or jointly owned by the processor and producer) offering the sugar.

(b) By entering into a purchase agreement with CCC, the processor agrees that proceeds derived from the delivery of sugar to CCC under the purchase agreement program will be accounted for and settled with producers in accordance with the traditional contractual or other arrangements between the processor and the producer for the sharing of proceeds received from the sale of sugar by the processor.

§ 1435.81 Availability, disbursement, and maturity of purchase agreements.

(a) *Obtaining Purchase Agreements.* To obtain purchase agreements on eligible sugar, a processor: (1) Must file a request for a purchase agreement with the State committee of the State where such processor is headquartered or a county committee designated by the State committee; and (2) must execute a purchase agreement as prescribed by CCC. The request for a purchase agreement must be filed no later than June 14, 1982 and must state the quantity of sugar to be covered by the purchase agreement.

(b) *Amendment or Withdrawal.* Purchase agreements entered into by a processor may be withdrawn or amended by the processor prior to the final date for filing a purchase agreement as provided in subsection 1435.81(a).

(c) *Maturity of purchase agreements.* Purchase agreements will nature on November 1, 1982.

§ 1435.82 Quantity of sugar covered by a purchase agreement.

A purchase agreement shall not be approved for more than the quantity of sugar which a processor certifies is eligible and available to be placed under a purchase agreement. The total quantity of sugar which a processor may place under a purchase agreement may not exceed the smaller of: (a) The processor's total eligible storage capacity less ineligible sugar in storage; or (b) the quantity of eligible sugar processed from December 22, 1981, through March 31, 1982.

§ 1435.83 Delivery to CCC, quality and storage facility requirements, and settlement.

(a) The quantity of sugar which is eligible to be delivered by a processor to CCC may be less than, but shall not exceed, the smaller of: (1) The quantity of sugar which is shown on a purchase agreement which is approved by CCC; or (2) the minimum quantity of eligible sugar the processor had in eligible storage during the period April 1, 1982, through October 30, 1982, inclusive.

(b) In order to be eligible to be delivered to CCC, sugar must meet the following minimum requirements:

(1) Refined beet or cane sugar must be: (i) Dry and free flowing; (ii) free of excessive sediment; and (iii) free of any objectionable color, flavor, odor, or other characteristic which would impair the merchantability of such sugar or which would impair or prevent the use of such sugar for normal commercial purposes.

(2) Raw cane sugar must be: (i) Of reasonable grain size; (ii) free from excessive color or moisture; and (iii) free from any objectionable color, flavor, odor, or other characteristic which would impair the merchantability of such sugar or which would impair or prevent the use of such sugar for normal commercial purposes.

(3) Sugarcane syrup or edible molasses must be free from any objectionable color, flavor, odor, or other characteristic which would impair the merchantability of such sugar or which would impair or prevent the use

of such sugar for normal commercial purposes.

(4) All sugar which is delivered to CCC must be free of any contamination by either natural or man-made substances, and must not contain chemicals or other substances which are poisonous or harmful to humans or animals.

(5) All sugar which is delivered to CCC must be free and clear of any liens, mortgages, or other such encumbrances.

(c) Sugar may only be delivered to CCC in eligible storage. Eligible storage is any storage facility which; (1) Is owned or controlled by the processor; (2) is suitable for the storage and loading out of the sugar being delivered to CCC by the processor; (3) meets CCC Standards for Approval of Dry and Cold Storage Warehouses for Processed Agricultural Commodities, Extracted Honey, and Bulk Oils (7 CFR Part 1423); and (4) is placed under a storage contract with CCC. If the sugar is either delivered in an ineligible storage facility or to an ineligible storage facility by the processor, the processor shall be responsible for all costs incurred in moving such sugar to an eligible storage facility.

(d) A processor who intends to sell sugar to CCC shall give a written notice of intent to sell such sugar to CCC not later than October 1, 1982. At that time, the processor shall furnish to CCC complete information as to the storage locations where the processor proposes to deliver the sugar to CCC and, for each location, the quantity of sugar which the processor proposes to deliver to CCC. CCC shall have the right to inspect such sugar and storage facilities. The processor shall also furnish to CCC, at CCC's request and at any time before or after delivery, such production and storage records as CCC considers necessary to verify compliance with the quantitative limitations set forth in §§ 1435.80(a), 1435.82, 1435.83(a). Failure of the processor to produce such records, or the failure of such records to establish the eligibility of the sugar in question, shall render such sugar ineligible for delivery to CCC under the purchase agreement program, regardless of whether such sugar was actually delivered to CCC.

(e) If a processor has given CCC a notice of intent to sell sugar, delivery of the sugar to CCC shall occur in-store in the amounts and at the storage facilities previously designated by the processor in accordance with paragraph (d) of this section. Delivery of such sugar shall occur automatically on November 1, 1982, without further notification or action by either the processor or CCC. At that time, title and all interest in the sugar shall vest in CCC. Notwithstanding the foregoing, delivery shall not occur and title shall not pass if: (1) After the date on which the notice of intent to sell is given to CCC and before November 1, 1982, the processor gives written notice to CCC that it does not intend to sell such sugar (or portion thereof) to CCC; or (2) CCC gives notice to the processor prior to November 1, 1982, that delivery of such sugar (or portion thereof) shall not be accepted by CCC due to the ineligibility of the sugar or the ineligibility of the storage facility.

(f) The processor shall be liable to CCC for any damages suffered by CCC if: (1) The processor delivers ineligible sugar to CCC; or (2) the processor delivers sugar to CCC which is in ineligible storage. The processor shall be liable for such damages regardless of whether CCC inspected the sugar and storage facility prior to delivery, and regardless of whether CCC failed to give notice to the processor of nonacceptance of delivery as provided in paragraph (e) of this section.

(g) Payment for the sugar shall be made by CCC to the processor promptly after delivery of the sugar to CCC.

§ 1435.84 Processor storage agreement.

(a) By executing a purchase agreement and delivering sugar to CCC, the processor agrees to store such sugar on behalf of CCC under the terms and conditions specified in this subpart and any storage agreement entered into between CCC and the processor. Should the terms of the storage agreement and the terms of these regulations conflict, the terms set forth in these regulations shall be applicable.

(b) The processor shall at all times be responsible for maintaining the quality and condition of the sugar in storage. The processor shall be liable to CCC for any damages suffered by CCC due to the failure of the processor to load out sugar meeting the eligibility criteria set forth in § 1435.83(b) of this subpart. Notwithstanding the foregoing, the processor shall not be liable for any damage, and CCC will bear its pro rata share of any loss in the case of sugar stored on a commingled basis, less any insurance proceeds and salvage value of the sugar to which CCC may be entitled, if the processor establishes to the satisfaction of CCC that each of the following conditions occurred: (1) The loss or damage occurred without fault or negligence on the part of the processor; (2) the loss resulted solely from an external cause (other than insect infestation, vermin, or animals) such as theft, fire, lightning, explosion, windstorm, cyclone, tornado, flood, or other act of God; (3) the processor gave the State ASC committee immediate notice of such loss or damage; and (4) the processor made no fraudulent representation in the purchase agreement or in obtaining approval of the purchase agreement.

(c) After the processor delivers sugar to CCC in eligible storage, the processor shall store such sugar in the eligible storage for such period of time as deemed necessary by CCC after delivery of the sugar to CCC. However, if a sugar beet processor requires the storage space for other sugar during the period of time when the processor is required by CCC to maintain the refined beet sugar delivered under a purchase agreement in the storage facility where delivered, CCC will accept bagged sugar from the current crop in substitution for the delivered bulk sugar if the settlement rate for the area where the bagged sugar is stored is equal to or exceeds the settlement rate for the delivered bulk sugar.

(d) The processor shall remove and physically deliver the purchased sugar in accordance with written instructions from CCC. All load out expenses shall be for the account of the processor.

(e) CCC shall make monthly storage payments to the processor for the period of time the processor stores the sugar for the account of CCC after delivery of the sugar by the processor in accordance with the purchase agreement. The storage payment rate shall be as agreed upon by CCC and the processor, but in no event shall exceed $.00083 per pound per month.

§ 1435.85 Miscellaneous provisions.

(a) *Scheme or device.* The processor shall not reduce returns to the producer through any scheme or device whatsoever.

(b) *Processor indebtedness.* The regulations issued by the Secretary governing setoffs and withholding, 7 CFR Part 13, shall be applicable to this program.

(c) *Appeals.* A producer or processor may obtain reconsideration and review of determinations made under this subpart in accordance with the regulations in 7 CFR Part 780.

(d) *Records and Information.*—(1) *Maintenance and Inspection of Records.* ASCS, the Office of the Inspector General, USDA, and the Comptroller General shall have the right to have access to the premises of the processor, in order to inspect, examine, and make copies of the books, records, accounts, and other written data as are deemed necessary by the examining agency to verify compliance with the requirements of this subpart. Such books, records,

accounts, and other written data shall be retained by the processor for not less than three years.

(2) *Information on Freight Costs and Related Shipping Expenses.* Any processor that files a purchase agreement must, upon the request of CCC, provide to CCC such information as CCC deems appropriate concerning freight and related shipping costs for the processor's most recent complete marketing year. By filing the purchase agreement, processors are deemed to have agreed to provide such information when requested by CCC. A processor is required to comply with the request for information by CCC in order to be eligible to deliver sugar to CCC under the provisions of the 1982-crop sugar purchase agreement program.

(e) *False certifications.* Any false certification, which is made for the purpose of enabling a processor to obtain a purchase agreement to which it is not entitled, will subject the person making such certification to liability under applicable Federal civil and criminal statutes.

(f) *Handling payments and collections not exceeding three dollars.* In order to avoid unreasonable administrative costs of making small payments and handling small accounts, amounts of $3 or less which are due the processor will be paid only upon the processor's request. Deficiencies of $3 or less, including interest, may be disregarded unless demand for payment is made by CCC.

(g) *Death, incompetency, or disappearance.* In case of the death, incompetency, or disappearance of any processor who is entitled to the payment of any sum in settlement of a purchase agreement, such payment shall, upon proper application to the State ASC committee, be made to the persons who would be entitled to such processor's payment under the regulations contained in 7 CFR Part 707—Payment Due Persons Who Have Died, Disappeared, or Have been Declared Incompetent.

§ 1435.86 Applicable forms.

The CCC forms for use in connection with this program will be available from the appropriate State committee or designated county committee. CCC forms have been developed for program participation by farmers and producers. When such forms are used for participation in the sugar purchase program, the term "producer" shall mean "processor."

Signed at Washington, D.C., on May 20, 1982.

Richard E. Lyng,

Acting Secretary.

[FR Doc. 82-14107 Filed 5-27-82; 8:45 am]

BILLING CODE 3410-05-M

Rural Electrification Administration

7 CFR Part 1702

Organization and Functions

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: A new Part 1702 is hereby established to describe the organization and functions of the Rural Electrification Administration (REA).

DATE: May 24, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Blaine D. Stockton, Director, Management Services Division, Rural Electrification Administration, Room 4024, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202–382–8940.

SUPPLEMENTARY INFORMATION: Inasmuch as this part deals with the Agency's organization and functions, good cause exists for finding that the notice and comment procedures of the Administrative procedure Act (5 U.S.C. 553) are unnecessary and for making the new part effective upon publication.

Accordingly, pursuant to the authority contained in 7 U.S.C. 901–950b, Part 1702, §§ 1702.1–1702.5, is added as follows:

PART 1702—ORGANIZATION AND FUNCTIONS

Sec.

1702.1 General.
1702.2 Office of the Administrator.
1702.3 Administrative and Joint Program Activities.
1702.4 Rural Electric Program Activities.
1702.5 Rural Telephone Program Activites.

Authority: 7 U.S.C. 901–950b

§ 1702.1 General.

The Rural Electrification Administration was established by Executive Order No. 7037, signed by the President on May 11, 1935. Statutory authority was provided by the Rural Electrification Act of 1936 (49 Stat. 1363; 7 U.S.C. 901). The Act established REA as a lending agency with responsibility for developing a program for rural electrification. An October 28, 1949, amendment to the Rural Electrification Act authorized REA to make loans to improve and extend telephone service in rural areas. The Rural Telephone Bank, an Agency of the United States, was established by another amendment to the Rural Electrification Act, approved May 7, 1971. The Administrator of REA serves as the Bank's chief executive with the title of Governor. On May 11, 1973, the Act was further amended to establish a revolving fund and to provide authority for REA to guarantee loans made by other lenders. The offices of the Rural Electrification Administration are located in the South Building of the United States Department of Agriculture at 14th and Independence Avenue, SW., Washington, D.C.

§ 1702.2 Office of the Administrator.

(a) *The Administrator* (who also serves as Governor of the Rural Telephone Bank) is appointed by the President, with the advice and consent of the Senate, for a term of 10 years. He functions as the chief administrative official of the Agency under the general supervision and direction of the Under Secretary for Small Community and Rural Development. The Administrator is aided directly by a Deputy Administrator, and Assistant Administrators for the Electric Program, for the Telephone Program, and for Administration. The work is carried on through the offices and divisions described in succeeding paragraphs.

(b) *Legislative Affairs Staff* counsels and advises the Administrator as to policy, program and procedural implications of Federal and State legislative and regulatory matters relating to the REA program. It maintains liaison with other Government agencies concerning such matters. The director of this office reports to the Deputy Administrator.

(c) *Office of Civil Rights Coordinator* formulates and coordinates the Agency's plans, policies, and procedures for a nationwide program of nondiscrimination on the part of the REA borrowers in carrying out borrower programs which comply with provisions of Title VI of the Civil Rights Act of 1964 and Executive Order 11246, as amended by Executive Order 11375. The director of this office reports to the Deputy Administrator.

(d) *Public Information Office* administers the information services program of the Agency to provide borrowers and the public with information concering the operations, status, progress and accomplishments of the rural electrification and rural telephone programs. It provides specialized staff assistance on information and communications techniques to the Agency and to

borrowers as requested by line officials and administers the Freedom of Information Act activities of the Agency. The director of this office reports to the Deputy Administrator.

§ 1702.3 Administrative and Joint Program Activities.

(a) *Assistant Administrator Administration*—directs and coordinates the general administrative activities of the Agency. He participates with the Administrator and Deputy Administrator, and other officials in planning and formulating the policies of the Agency.

(b) *Office of Budget* administers the administrative and loan budgets program of the Agency and participates in program planning and evaluation. Maintains liaison on budgetary matters with congressional committees, the staff of the Department of Agriculture, the Office of Management and Budget, and other Government agencies.

(c) *Personnel Management Division* administers personnel activities of the Agency including classification and wage administration, employment and placement functions, employee relations and services, and employee development and training. It maintains working relations and liaison on personnel management matters with staff and other agencies of the Department, and other Government agencies.

(d) *Management Services Division* administers Agency activities concerned with centralized statistical and data processing activities, management analysis, cost reduction and operations improvement, and the general administrative service functions of the Agency, including procurement, space, records management, mail, and communications.

(e) *Office of Program Development and Analysis* administers certain specialized staff activities applicable to both the rural electric and rural telephone programs. The services include program analysis, member and community development, labor relations, and borrowers' insurance.

(f) *Accounting and Auditing Division* administers REA activities concerned with electric and telephone borrowers' accounting systems, the auditing of borrowers' records, and with the loan and administrative accounting of the Agency.

§ 1702.4 Rural Electric Program Activities.

(a) *Assistant Administrator—Electric* directs and coordinates the rural electrification program of the Agency. He participates with the Administrator and Deputy Administrator, and other officials in planning and formulating the policies of the Agency.

(b) *Distribution Systems Division* administers rural electrification program responsibilities that relate to distribution-type borrowers nationwide, involving engineering, management, loans and operations analysis, construction, community development, rates, and effective and efficient use of electric energy. It develops and maintains a comprehensive appraisal of the current and long-term financing needs of distribution borrowers, and provides them with loan development guidance. It advises and assists borrowers on the planning, design, construction, and technical operation and maintenance of their systems, and assures their compliance with acceptable engineering practices. This division serves as the primary point of contact between REA and all distribution borrowers' officials and boards of directors, and coordinates distribution-type borrower activities with those of other Agency offices. The line activities are carried out through five area offices within the division which employ field specialists supervised from Washington who have their homes as headquarters centrally located in areas they serve. The five area offices have been assigned geographic areas as follows: Northeast Area (Maine, New Hampshire, Vermont, New York, New Jersey, Pennsylvania, Ohio, Rhode Island, Connecticut, Massachusetts, Michigan, Indiana, West Virginia, Maryland, Delaware, Virginia, and North Carolina); Southeast Area (Kentucky, Tennessee, Mississippi, Alabama, Georgia, South Carolina, Florida, Puerto Rico and the Virgin Islands); North Central Area (North Dakota, South Dakota, Minnesota, Wisconsin, Iowa, and Illinois); Southwest Area (Missouri, Arkansas, Oklahoma, Louisiana, Texas, New Mexico, and Arizona); and Western Area (Kansas, Nebraska, Colorado, Wyoming, Montana, Utah, Idaho, Oregon, Washington, Nevada, California, Hawaii and Alaska).

(c) *Power Supply Division* administers rural electrification program responsibilities that relate to power supply borrowers nationwide involving engineering, management, loans and operations analysis, construction, power supply planning and procurement, rates, and effective and efficient use of electric energy. It develops and maintains a comprehensive appraisal of the current and long-term financing needs of power supply borrowers, and conducts detailed review and analysis of borrowers' loan requests. It develops and administers engineering and construction functions related to the planning, design, construction, operation and maintenance of power supply borrowers' generation and transmission systems and serves as the primary point of contact between REA and all power supply borrowers' officials and boards of directors, and coordinates power supply borrower activities with those of other Agency offices.

(d) *Environmental and Energy Requirements Division* develops policies and procedures relating to environmental and energy requirements in connection with the Agency's loan and loan guarantee programs. The division coordinates REA activities on environmental and energy matters with the Office of the Secretary, Department of Energy, Environmental Protection Agency, Council on Environmental Quality, and other agencies. The office provides advice and assistance in the preparation and processing of environmental impact statements and gives advice and assistance to Agency offices and borrowers concerning the environmental aspects of the design, construction, and technical operation and maintenance of power plants and transmission systems. The division conducts required power supply surveys and evaluates alternative methods of supplying borrowers' forecasted power loads.

(e) *Engineering Standards Division* develops practices, standards, specifications and technical data relating to the design, construction, and technical operation and maintenance and other basic engineering factors affecting rural electric distribution and transmission systems. It conducts engineering studies of the operating performance of electric systems' materials and equipment and is responsible for review and approval, through a formal committee structure, of materials and equipment for use on distribution and transmission facilities. The division provides advice and assistance to Agency offices and, as requested, to borrowers concerning its functions.

(f) *Electric Loans and Management Division* is responsible for developing techniques and criteria for evaluating the financial and operating performance of rural electric borrowers. It develops operating practices and procedures for the administration of the rural electric program with respect to retail and wholesale rates. The division develops standards, policies and procedures in connection with loan requirements and processing, and, on referral from the Distribution Systems Division, prepares distribution systems loan applications in

final form. It disseminates information in connection with the usage of automatic data processing systems and techniques in the efficient operation of borrowers' systems.

(g) *Energy Management and Utilization Division* develops and administers REA program responsibilities relating to all aspects of the development, financing, construction and use of wind power, solar power, low head hydro, fuel cell, biomass, coal bed gasification, etc., installation; the development of engineering practices, standards, and specifications relating to the use of borrowers' communications and control systems, load management and control systems, and special metering systems; promoting and encouraging borrower development of supplemental resource plant demonstration projects; and the development and dissemination of information on supplemental energy sources and load management and special metering systems.

§ 1702.5 Rural Telephone Program Activities.

(a) *Assistant Administrator—Telephone* directs and coordinates the rural telephone program of the Agency. He participates with the Administrator, and Deputy Administrator and other officials in planning and formulating the policies of the Agency.

(b) *Telephone Area Offices* carry out the line activities of REA's telephone programs. Five area offices, with headquarters in Washington, employ and supervise field specialists who use their homes as headquarters centrally located in areas they serve. Each area office appraises applications for loans and loan guarantees in its assigned geographical area; prepares loan and loan guarantee recommendations; reviews the financial and operating performance of borrowers; analyzes engineering plans, specifications, and construction contracts; reviews and approves completed construction; authorizes advances of funds to borrowers; provides advice and assistance to borrowers concerning loans and the design, construction, management, operation, and maintenance of their telephone systems; and community development. The area office serves as the primary point of contact with the borrowers. The five area offices are assigned geographic areas as follows: Northeast Area (Maine, New Hampshire, Vermont, New York, Delaware, New Jersey, Pennsylvania, Ohio, Rhode Island, Connecticut, Massachusetts, Michigan, Indiana, West Virginia, Maryland, Virginia, and North Carolina); Southeast Area (Kentucky, Tennessee, Mississippi, Alabama, Georgia, South Carolina, Florida, Virgin Islands, and Puerto Rico); North Central Area (North Dakota, South Dakota, Minnesota, Wisconsin, Iowa, and Illinois); Southwest Area (Missouri, Arkansas, Oklahoma, Louisiana, Texas, New Mexico, and Arizona); and Western Area (Kansas, Nebraska, Colorado, Wyoming, Montana, Utah, Idaho, Washington, Oregon, Nevada, California, Alaska, Hawaii and Guam).

(c) *Telecommunications Engineering and Standards Division* develops policies, standards, specifications, and technical data relating to the design, construction, and technical operation and maintenance of rural telecommunication systems. This includes engineering studies and analyses of the operating performance of central office, outside plant, transmission, and other general telephone systems material and equipment. The division evaluates new communications network technology and is responsible for the development of criteria, standards and specifications for use in rural communications systems applications. It provides advice and assistance within its subject matter responsibility to Agency officials and to borrowers as requested.

(d) *Telecommunications Management Division* is responsible for the development of proposed management, organization and operating practices for the use of telephone borrowers. It develops techniques and criteria for evaluating the financial and operating performance of rural telephone borrowers. The division develops operating practices and procedures with respect to rates, and the evaluation of telephone systems and facilities. It also develops practices and procedures to analyze customer demand for telecommunication services and products, conducts research and develops training programs in regard to the marketing and sales of new telecommunication services by telephone borrowers. The division provides advice and assistance within its subject matter, responsibility to Agency officials and to borrowers as requested.

This notice supersedes the notice on REA Organization published in 35 FR 18211–18212.

Issued the 24th day of May 1982.

Harold V. Hunter,
Administrator.

[FR Doc. 82-14677 Filed 5-27-82; 8:45 am]
BILLING CODE 3410-15-M

Animal and Plant Health Inspection Service

9 CFR Part 97

[Docket 82-049]

Overtime Services Relating to Imports and Exports; Commuted Traveltime Allowances

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends administrative instructions prescribing commuted traveltime. This amendment establishes commuted traveltime periods as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which an employee of Veterinary Services performs overtime or holiday duty when such travel is performed solely on account of overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Inspection Service.

EFFECTIVE DATE: May 24, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. A. E. Hall, VS, APHIS, USDA, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8695.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final action has been reviewed under Executive Order 12291, and has been determined to be exempt from those requirements. Nicholes E. Bedessem, Special Assistant to the Administrator, made this determination because commuted traveltime allowances are strictly a function of where the APHIS employee lives in relation to the place overtime or holiday duty is performed. As employees are transferred or change their residence or as the place of inspection changes, the number of hours of commuted traveltime allowed may change. This amendment merely reflects such changes and serves to notify the public of the new allowed hours.

It is to the benefit of the public that these instructions be made effective at the earliest practicable date. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

List of Subjects in 9 CFR Part 97

Exports, Government Employees, Imports, Livestock and livestock

products, Poultry and poultry products, Transportation.

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service by § 97.1 of the regulations concerning overtime services relating to imports and exports (9 CFR 97.1), administrative instructions 9 CFR 97.2 (1981 ed.), prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty, are herby amended, and the format is revised to read in alphabetical order as shown below:

§ 97.2 Administrative instructions prescribing commuted traveltime.

* * * * *

COMMUTED TRAVELTIME ALLOWANCES

[In hours]

Location covered	Served from	Metropolitan Area	
		Within	Outside
Alaska:			
Anchorage		1	
Do	Palmer		3
Arizona:			
Douglas		1	
Do	Nogales		6
Naco	Douglas		7
Nogales		1	
Do	Douglas		6
Do	Tucson		3
San Luis	Yuma		2
Sasabe	Nogales		4
Do	Tucson		3
California:			
Calexico		1	
Do	Campo or Mercasita		3
Edwards Air Force Base	Lawndale		4
Los Angeles and Los Angeles International Airport:		1	
Do	San Bernardino		5
Do	Los Angeles	2	
Los Angeles Harbor, San Pedro, including Long Beach, Wilmington, and Terminal Island	Lawndale		2
March Field	do		5
Newport Beach	do		4
Ontario	do		3
Ramona	San Ysidro		2
Sacramento		1	
Do	San Francisco		5
San Diego		1	
Do	San Ysidro		2
San Francisco, including Alameda, Richmond, Pittsburg, and other ports in San Francisco and San Pablo Bay areas.		2	

COMMUTED TRAVELTIME ALLOWANCES—Continued

[In hours]

Location covered	Served from	Metropolitan Area	
		Within	Outside
San Luis Obispo	San Pedro		5
San Ysidro		1	
Stockton	San Francisco		4
Tarzana	Lawndale		3
Torrance	do		3
Vernon	do		2
Colorado:			
Stapleton International Airport, Denver	Arvada	1	
Do	Aurora		2
Connecticut:			
Bradley International Airport, Windsor Locks	Ashford		1
Do	East Providence, RI		4
Do	Hampden		2
Do	Stockbridge and East Brookfield, MA		3
Do	Hartford	2	
Do	Storrs		3
Delaware:			
Wilmington	Dover		3
Florida:			
Jacksonville		2	
Miami		2	
Port Everglades	Miami		2
St. Petersburg	Tampa		2
Do	Miami		6
Tampa		2	
Do	Miami		6
Georgia:			
Port of Brunswick	Savannah		4
Port of Savannah	do	2	
Port of St. Mary's	do		6
Hawaii:			
Kawaihae	Waimea		1
Hilo	do		3
Honolulu, including Aiea, Barber's Point Naval Air Station, Honolulu International Airport, West Loch, Middle Loch, East Loch, Pearl City and Waipahu		2	
Idaho:			
Boise	Caldwell or Middleton		2
Eastport	Bonners Ferry		2
Do	Spokane, Wash		6
Illinois:			
Chicago		3	
Indiana:			
Indianapolis		2	
Iowa:			
Ames		1	
Kentucky:			
Standiford Field	Frankfort		3
Do	Louisville	1	
Louisiana:			
Acadian Regional Airport, New Iberia	Abbeville		2

COMMUTED TRAVELTIME ALLOWANCES—Continued

[In hours]

Location covered	Served from	Metropolitan Area	
		Within	Outside
Any point below Chalmette and on the East Bank, Belle Chasse, LA, and points to and including Pilot Sulphur are the west bank	Baton Rouge		4
Any point on the Mississippi River above the St. Charles-Jefferson Parish boundary to and including Gramercy	do		2
Morgan City	do		5
New Orleans including Orleans Parish and all points on the east bank of the Mississippi River from the St. Charles-Jefferson Parish boundary to and including Chalmette, LA, and all points on the west bank from the St. Charles-Jefferson Parish boundary to but excluding Belle Chasse, LA	do		4
Undesignated Ports	do		4
Maine:			
Bangor	Augusta		3
Do	Carmel		1
Jackman	Bangor		6
Houlton		1	
Port of Portland	Augusta		3
Do	Bangor		6
Do	Concord, NH		4
Maryland:			
Baltimore		3	
Massachusetts:			
Boston		3	
Michigan:			
Detroit		3	
Port Huron		1	
Do			1
Minnesota:			
Minneapolis/St. Paul International Airport		2	
Do	Rochester		3
Do	Princeton		3
Noyes	Pembina		1
Missouri:			
Kansas City International Airport	Jefferson		6
St. Louis Airport	Bowdert		3
St. Louis Zoological Park	do		3
Montana:			
Great Falls Airport	Great Falls		1

COMMUNITED TRAVELTIME ALLOWANCES—Continued

[In hours]

Location covered	Served from	Metropolitan Area	
		Within	Outside
Port of Morgan	Wolf Point		6
Port of Raymond	do		5
Port of Sweetgrass	Great Falls		5
Sweetgrass		1	
Nebraska:			
Lincoln Airport		1	
New Mexico:			
Antelope Wells		1	
Do	Deming		5
Do	Hachita		3
Do	Las Cruces		6
Do	Roswell and Socorro		6
Columbus		1	
Do	El Paso, TX		5
Do	Hachita		3
Do	Las Cruces		4
Do	Roswell and Socorro		6
Port of Columbus	Deming		2
New York:			
Alexandria Bay		1	
Buffalo		2	
Do	Akron		2
Champlain		1	
Malone	Champlain		3
Newburgh		1	
Do	New York, NY		4
New York		3	
Niagara Falls	Akron		2
Odgensburg		1	
Port of Albany		1	
Rochester	Buffalo		4
Roosevelttown	Odgensburg		2
Rouses Point	Champlain		1
Stewart Airport, Newburgh	Albany		4
North Dakota:			
Dunseith	Minot		4
Do	Pembina		6
Pembina		1	
Do	Fargo		6
Portal		1	
Do	Dickinson		6
Do	Minot		4
Oregon:			
Portland			3
Pennsylvania:			
Harrisburg	Camp Hill	1	
Do	Morgantown		3
Do	Northumberland		2
Do	Shippensburg		3
Philadelphia		3	
Puerto Rico:			
Aguadilla	Aguadilla		2
Salinas	San Juan		4
San Juan		2	
Texas:			
Brownsville		1	
Do	Laredo or San Antonio.		6
Brownsville and Brownsville International Airport.	Harlingen and San Benito.		1
Do	McAllen or Edinburg.		3
Do	Weslaco		2
Dallas–Ft. Worth International Airport.	Ft. Worth or Dallas.		2
Del Rio		1	
Do	Eagle Pass		3
Do	Edinburg, McAllen or Mission.		6
Do	Laredo or San Antonio.		6
Eagle Pass		1	
Do	Del Rio		3
Do	Edinburgh, McAllen or Mission.		6

COMMUNITED TRAVELTIME ALLOWANCES—Continued

[In hours]

Location covered	Served from	Metropolitan Area	
		Within	Outside
Do	Laredo or San Antonio.		5
El Paso		1	
Do	Hatchita or Deming, NM.		6
Do	Las Cruces, NM		3
Harlingen	Edinburg, McAllen or Mission.		2
Do	Weslaco		1
Hidalgo	Brownsville		3
Do	Edinburg, Mission and McAllen.		1
Do	Rio Grande City		2
Houston (except Houston Intercontinental Airport).		2	
Houston Intercontinental Airport.		3	
Laredo		1	
Do	Brownsville or San Antonio.		6
Do	Eagle Pass		5
Do	McAllen, Edinburg or Mission.		6
Presidio		1	
Do	El Paso		6
Utah:			
Salt Lake City	Murray and Ogden.	2	
Vermont:			
Burlington International Airport.	Burlington	1	
Do	Highgate Springs		2
Do	Montpelier		2
Derby Line	St. Albans		4
Highgate Springs	do		1
Virginia:			
Dulles International Airport.	Hyattsville, MD	3	
Do	Richmond		5
Do	Warrenton		3
Port of Richmond		2	
Washington:			
Blaine		1	
Do	Seattle		6
Lynden	Blaine		2
Do	Seattle		6
Moses Lake	Oroville, WA		6
Do	Spokane		5
Do	Wenatchee		3
Do	Yakima		4
Oroville		1	
Sea-Tac Airport	Olympia		3
Seattle		2	
Sumas	Blaine		2
Do	Seattle		6
Tacoma		3	
Wisconsin:			
Barron	Ripon		6
Madison		1	
Monroe	Madison		3

(64 Stat. 561 (7 U.S.C. 2260))

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the Federal Register.

Done at Washington, D.C., this 24th day of May 1982.

John W. Walker,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82-14588 Filed 5-27-82; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 145

[Docket 82-021]

National Poultry Improvement Plan and Auxiliary Provisions on National Poultry Improvement Plan

Correction

In FR Doc. 82-13470 appearing at page 21990 in the issue of Thursday, May 20, 1982, on page 21993, first column, in § 145.43, paragraph (d)(2), last line, "§ 174.6(b)" should be changed to read "§ 147.6(b)".

BILLING CODE 1505-01-M

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. 81-017]

Young Chicken Slaughter Inspection Rate Maximums; Modified Traditional Poultry Inspection

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: On April 13, 1979, the Food Safety and Quality Service (subsequently reorganized and renamed the Food Safety and Inspection Service) published immediately effective emergency rules establishing maximum inspection rates for young chickens and an alternate method of post-mortem inspection of young chickens known as "modified traditional inspection." The Agency's action was prompted by an order of the United States District Court for the Eastern District of Arkansas directing the Department to establish immediately uniform inspection rate standards for young chickens and to apply and enforce the rates uniformly in all federally inspected poultry slaughtering establishments in the United States. On March 18, 1981, the U.S. Court of Appeals for the District of Columbia Circuit upheld the aforementioned rules as interim rules, but ordered the Department to institute rulemaking procedures for the promulgation of permanent rules. The Agency solicited comments on the interim rules and has considered all comments received. The Agency has

determined that the interim rules will be made permanent regulations.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. John C. Prucha, Director, Slaughter Inspection Standards and Procedures Division, Meat and Poultry Inspection Technical Services, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–3219.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This action is issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Background

On April 13, 1979, to comply with a court order, the Food Safety and Quality Service (which was subsequently reorganized and renamed the Food Safety and Inspection Service, hereinafter referred to as FSIS) published in the **Federal Register** a final rule, effective immediately, establishing national uniform maximum inspection rates for young chickens under the traditional inspection procedure (44 FR 22047–22049). At the same time, the Agency published accompanying final rules, also effective immediately, establishing an alternate method of post-mortem inspection of young chickens known as "modified traditional inspection" (44 FR 22049–22051).

Although the Federal poultry products inspection regulations were amended by the emergency final rules without waiting for public comment, comments concerning the amendments were requested at the time of their publication. The comment period closed July 12, 1979. On February 15, 1980, and April 25, 1980, the Agency published in the **Federal Register** notices responding to the comments received on the final rules (Young Chicken Slaughter Inspection Rate Maximums, 45 FR 10319–10321; Modified Traditional Poultry Inspection, 45 FR 27917–27919).

The Agency received a total of seven comments in response to the emergency final rules. Five were from industry and industry organizations commending the Department for providing an alternative method for inspecting young chickens. One comment was from a USDA employee requesting interpretation of the lighting requirements at the inspection stations. Another comment was from the American Federation of Government Employees, AFL–CIO, an employee organization representing Federal meat and poultry inspectors. The organization considered the emergency action illegal and viewed the procedural change and rate as deleterious to the health of poultry inspectors and to the health of the poultry-consuming public.

On March 18, 1981, the United States Court of Appeals for the District of Columbia Circuit ruled, in the case of *American Federation of Government Employees, AFL–CIO, et al. v. John R. Block, Secretary of Agriculture, et al.*, C.A. No. 79–1724 (D.C. Cir., March 18, 1981), that although the Department possessed good cause to publish the aforementioned regulations, justification did not exist for their promulgation as "permanent" regulations without the public procedures required under the Administrative Procedures Act. The Court further determined these final regulations were effective as interim regulations, but directed the Department to institute rulemaking proceedings forthwith to establish permanent regulations.

Comments on Interim Rule

On May 12, 1981, the Agency published a notice in the **Federal Register** soliciting comments on the interim rules (46 FR 26350–26352). The comment period closed on July 13, 1981. The Agency received 35 comments regarding these rules—4 from poultry processors, 3 from poultry industry associations, 24 from USDA meat and poultry inspectors, 3 from consumers, and 1 from a State department of agriculture.

The following is a discussion of the comments received within the comment period and the Agency's response to each issue raised.

A. Poultry Processors

Comment: Comments were favorable to modified traditional inspection (MTI) with respect to the productivity increases it permits for both the industry and the Agency. Most industry comments also urged the Agency to continue testing MTI at line speeds above 70 birds per minute and to test other new poultry inspection methods. They pointed out that the regulations should not be inflexible to the extent improved technology and procedures cannot be readily utilized.

Response: FSIS is making every effort to design additional new and improved inspection techniques consistent with the requirements of the Poultry Products Inspection Act. The Agency has tested one new procedure which will permit line speeds above 70 birds per minute, and is preparing to test another. It intends, as priorities permit, to conduct studies of MTI to determine the feasibility of revising the current 70 bird per minute maximum inspection rate.

B. Poultry Industry Trade Associations

The poultry trade associations covered several specific points for improving MTI. These are:

1. *Comment:* Discontinue use of FSIS inspectors at the outside station and permit plant employees to perform the external inspection of birds.

Response: Since a post-mortem inspection of the carcass of each bird processed in an official establishment is, by law, the responsibility of authorized Federal or State inspectors (21 U.S.C. 453(k), 455(b)), the Agency is rejecting the idea of permitting the establishment to conduct any part of the inspection process, such as the examination of the outside surfaces of the carcass. Chickens suffer from two neoplastic conditions, Marek's disease and dermal squamous cell carcinoma, in which the only readily discernible manifestations of the disease may be in the skin. In addition, there are several other disease conditions in which the appearance of the skin may be essential to a diagnosis and a determination of whether or not the carcass or its parts are fit for human food. The Agency cannot delegate to the establishment responsibility for the detection of these diseases.

The Agency does, however, recognize that the scope and intensity of its post-mortem inspections can be geared to disease conditions found in the animal population it is inspecting. If a particular disease condition can be shown to not be present in a particular flock of poultry, then it would be unnecessary for the Agency to inspect for it. In recognition of this, and cognizant of its responsibility to minimize inspections, the Agency has commissioned a study by Tuskegee Institute, Tuskegee, Alabama, to determine whether, through the study of certain indicators, it is possible to predict the presence or absence of certain diseases in a flock prior to slaughter. If it is possible, the Agency may then be able to adjust the intensity of its post-mortem inspections accordingly. This might result in a savings to both the Agency and the poultry industry.

2. *Comment:* Incorporate into the regulations the provisions of MPI Bulletin 81-6 which eliminates the requirement for continuous flow handwashing facilities at the outside inspection station.

Response: The Federal meat inspection regulations require only that on-line handwashing facilities be provided for the inspector and the inspector's helper, and that both hot and cold running water be available at each inspection station on the eviscerating line (9 CFR 381.36(c) and 381.51(f)). Continuous flow handwashing facilities are not required. However, most establishments have voluntarily installed continuous flow handwashing facilities for the inspector's use at most inspection stations because they allow inspectors to wash their hands when required without unnecessarily interrupting or delaying inspection or processing operations. Due to this common practice, FSIS issued MPI Bulletin 81-6 to alert all concerned parties that when use of the hands is not routinely required for inspection, as is the case under MTI at the outside inspection station, necessary handwashing can be accomplished without the need for continuously running water. Since the existing regulations do not require continuous flow handwashing facilities, further regulatory action is unnecessary.

3. *Comment:* Eliminate the requirement that 4 feet of horizontal space be provided for each inspector and for each helper. Exceptions have already been made because of inadequate space on the eviscerating line.

Response: FSIS concludes that this requirement should be retained for two reasons. First, the inspector's helpers work with sharp knives and scissors. If they work too closely together, and too closely to the inspector, the danger of injuries is likely to be increased. Second, the workload of inspectors' helpers varies with the amount of trimming required on carcasses. The carcasses on the line are continuously moving and when the amount of trimming increases, helpers move down the line with the carcass to complete their trimming. If the horizontal line space within which they work is restricted, they may not have sufficient time to trim away defective parts of carcasses.

4. *Comment:* Eliminate the requirement for an adjustable platform for inspectors because, in many plants, it was impossible to devise such inspection stations and exceptions were made using adjustable chairs, stools, and other types of raised platforms which have been satisfactory over the past 2 years.

Response: Adjustable platforms are required to minimize inspector's physical strain (bending or reaching) as they do their work. Excessive bending or reaching could have adverse health consequences for inspectors and also increase inspector errors due to the added fatigue. If one inspector could work at the same inspection station at all times, a fixed height platform could be provided to accommodate her or his physical stature. However, this is not possible due to normal leave and relief requirements. In addition, rotation at intervals throughout the day between inspection stations is encouraged as another means of minimizing job stress. The Agency believes that, for the stated reasons, the platforms must be adjustable.

5. *Comment:* Plants should provide common retain racks for inspection stations that are located back to back because it would be easier and more efficient.

Response: The purpose of the retain rack is to provide a respository, off the moving eviscerating line, which may be used to recover wholesome product. Birds are also retained in this rack for veterinary disposition and for other reasons, such as missing viscera. Therefore, there is often much activity involving the use of retain racks. To require only one retain rack for back-to-back inspection stations would inhibit free passage between the two inspection stations by those making disposition of retained poultry and others and would therefore interfere with proper disposition of retained birds.

6. *Comment:* Plants should have the option to install mirrors consistent with inspector's and trimmer's needs.

Response: The interim rule contains minimal requirements which the Agency's industrial engineers have determined necessary to assure effective inspection using MTI procedures. Any mirrors that exceed these requirements are, of course, acceptable.

C. *Poultry Inspectors.*

Twenty-four poultry inspectors commented in response to a questionnaire by an employees' union. A summary of their comments is as follows:

1. *Comment:* MTI constitutes a health hazard to consumers. Inspectors working under MTI have to work at such a fast rate of speed (maximum 70 birds per minute) that they are not able to adequately check for disease conditions, fecal contamination, and dressing defects. Further, MTI has not been determined to be adequate to ensure safe inspections.

Response: FSIS tested MTI against the traditional inspection procedure in 1978. The tests showed that MTI was as effective as the traditional inspection method in protecting the consumer against diseased and otherwise unwholesome birds which might adversely affect human health. Furthermore, the operations conducted under MTI have resulted in efficient and uniform inspection procedures.

2. *Comment:* The increased line speeds cause inspectors increased mental and physical fatigue.

Response: In the summer of 1978, in response to employees' union concerns that traditional poultry inspection, as well as new procedures under consideration and testing at that time, were or might cause mental and physical fatigue (stress) to poultry inspectors, the union and the Agency cooperatively worked out an agreement for a third party to conduct a major stress study of poultry inspectors at USDA expense. The third party, the National Institute of Occupational Safety and Health (NIOSH), commenced its study during the winter of 1979. A final report has not been submitted.

The Agency's original tests of MTI and reports of poultry inspector's supervisors did not indicate that MTI caused inspectors undue stress. However, undue job stress is difficult to measure, and FSIS is committed to a full examination of the question through the NIOSH study and will carefully consider their final report when issued.

3. *Comment:* Inspectors are more likely to suffer from "line hypnosis" under MTI. Inspectors alleged that a condition known as "line hypnosis" occurs with MTI and results in inspectors passing unwholesome chickens.

Response: "Line hypnosis" is a phenomenon known to occur in a production line situation and is manifested by inspectors failing to react to obvious defects. To guard against this condition, inspectors should rotate jobs and be given regular work breaks during the course of the workday. With respect to regular work breaks, poultry inspectors receive the same breaks as plant employees, plus additional breaks provided by supervisors or other inspectors. Except where union agreements prohibit it, poultry inspectors also rotate from position to position daily or even several times a day.

D. Consumers and State Department of Agriculture

Comment: Three consumers and the Illinois Department of Agriculture commented regarding the declining quality and wholesomeness of poultry in commerce. The Illinois Department of Agriculture further commented that it appears that MTI lacks the effectiveness necessary to produce a truly wholesome product.

Response: The procedures in this regulation have been tested and compared with traditional inspection procedures. The results indicate no difference in the wholesomeness or quality of poultry when either procedure is used.

Options: In reviewing the issue of young chicken slaughter rate maximums, the Agency considered the following alternatives:

1. Maintain Status Quo—Rejected because it would maintain different treatment of establishments between regions, and within areas and circuits and, of course, not comply with the order of the United States District Court for the Eastern District of Arkansas.

2. Enforce 1974 Poultry Slaughter Inspection Time Standards—The 1974 standards were prepared from earlier efforts to establish national standards. The option was rejected because implementation would required a 12 percent increase in all young chicken processing plant operating hours to maintain output at current levels.

3. Implement 1977 Draft Bulletin on Staffing Standards—This draft bulletin was an effort to utilize available time of inspectors in "off-the-line" jobs and inspectors-in-charge to increase productivity. By using floormen and inspectors-in-charge to relieve line inspectors, faster inspection rates could be established in direct relationship to the amount of time a line inspector was thereby able to rest. This option was rejected because it would require a significant increase in inspection personnel and would require a 2 percent increase in all processing plant operating hours to maintain output at current levels.

4. Establish New Standards Deduced from the 1974 Standards—This option was rejected because it would require a 1.8 percent increase in all processing plant operating hours to maintain output at current levels.

5. Establish Inspection Rates Based on Those Enforced in the Southwest Region Plus 5 Percent—This option was adopted because the inspection rates in effect in the Southwest Region properly ensured adequate inspection. These rates were increased by 5 percent to reflect the elimination of tibia palpation, which was found to be no longer necessary. This alternative has the potential for increasing young chicken processing plant efficiency by reducing total plant operating hours by nearly 2 percent to maintain the current output level.

The Agency also investigated alternate inspection methods and procedures to obtain greater inspection efficiency in terms of birds inspected per minute with no loss in product safety and wholesomeness. Using the traditional inspection procedure, the only way to obtain greater speed in production lines is to hire more inspectors. Since the Government, by law, pays for all inspection except overtime and holiday work, the traditional method becomes increasingly expensive for the taxpayer. In this regard, the Agency considered the following alternatives:

1. Traditional Inspection—This option was rejected because it is slower and more expensive to operate than the Modified Traditional Inspection (see Alternative 2).

2. Modified Traditional Inspection—This option was adopted because this method of inspection reduces the number of motions required of an inspector by dividing the inspection of each young chicken between different inspectors. The first inspects only the outside of a prepositioned carcass, with a mirror being used to see surfaces not directly visible. Plant personnel then reposition the carcass and its attached viscera for the second inspector or inspectors who examine the inside of the carcass and the viscera. This process results in considerable inspection time savings and provides for the operation of a processing line at 70 birds per minute with three inspectors.

3. Other Methods (Sequential Inspection, Cooperative and Flock Testing)—These options were rejected either because four inspectors per line would be required offering no real increase in productivity, or because the methods are in various stages of development and not available for adoption at this time.

After careful consideration of the comments received on the May 12, 1981, notice, as well as those received in response to the rules published on April 13, 1979, and other relevant information available to the Department, the Administrator has determined that the interim rules should be published as permanent regulations as set forth below.

List of Subjects in 9 CFR Part 38

Facilities, Official establishment, Post-mortem, Poultry products inspection.

Done at Washington, D.C., on: May 14, 1982.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

1. A new paragraph (c) is added to §381.36 (9 CFR 381.36) to read as follows:

§ 381.36 Facilities required.

* * * * *

(c) Facilities for modified traditional inspection. The following requirements for lines operating under the modified traditional inspection procedures are in addition to the normal requirements to obtain a grant of inspection. The requirements for modified traditional inspection in § 381.76(b) also apply.

(1) The following provisions shall apply to every inspection station:

(i) It shall consist of 4 feet of horizontal line space for each inspector and 4 feet for each inspector's helper.

(ii) The conveyor shall be level for the entire length of the inspection station.

(iii) A minimum of 150 footcandles of shadow-free lighting shall be available at the inspection surfaces of the bird to facilitate inspection, notwithstanding the requirement of § 381.52(b).

(iv) A trough complying with §381.53(g)(4) of this Part shall extend beneath the conveyor at all places where processing operations are conducted from the point where the carcass is opened to the point where the viscera have been completely removed, provided, however, that is those cases in which outside inspection is conducted before the opening cut is performed, such a trough shall also be placed at the outside carcass inspection station.

(v) On-line handwashing facilities shall be provided for the inspector and for the inspector's helper.

(vi) Hangback racks shall be provided for the inspector's helpers.

(vii) Each inspection station shall be provided with receptacles for condemned carcasses and parts. Such receptacles shall conform to the requirements of § 381.53(m).

(viii) Each inspector's station shall have a platform which covers the entire floor area of the station and is adjustable so that it can be raised to the proper inspection position.

(2) The following provisions, in addition to the requirements in

§ 381.36(c)(1) above, also apply to the outside carcass inspection station:

(i) A glass, distortion-free mirror, at least 3 feet wide and 2 feet high shall be mounted so that it can be adjusted between 5 and 15 inches behind the shackles, tilt up and down, tilt from side to side, and be raised and lowered. The mirror shall be positioned in relation to the inspection platform so that the inspector can position himself opposite it from 8 to 12 inches from the downstream edge.

(ii) To steady the birds for inspection, a horizontal shackle guide bar shall be located 7 inches above the bottom of the shackle and approximately 1 inch toward the inspector from the vertical plane of the moving line, extending the full length of the inspection station.

(iii) The bottom of the shackle shall be at least 52 inches higher than the inspector's adjustable platform in its lowest position.

(3) The following provisions, in addition to the requirements in § 381.36(c)(1) above, also apply to the inside carcass/viscera inspection station:

(i) A guide bar to steady the shackle shall be provided. It shall run the entire length of the inside carcass/viscera inspection station and shall maintain the lower edge of the shackle above the trough or water rail and approximately 8 inches from the edge.

(ii) The line shall be equipped with selection devices so that each inspector has the birds he is to inspect presented to him for inspection 12 inches apart and physically isolated from other birds.

(iii) The bottom of the shackle shall be at least 48 inches higher than the inspector's adjustable platform in its lowest position.

2. The Table of Contents is changed accordingly, and the title and text of § 381.76 is revised to read as follows:

§ 381.76 Post-mortem Inspection, when required; extent; traditional and modified traditional post-mortem inspection; rate of inspection.

(a) A post-mortem inspection shall be made on a bird-by-bird basis on all poultry eviscerated in an official establishment. No viscera or any part thereof shall be removed from any poultry processed in any official establishment, except at the time of post-mortem inspection, unless their identify with the rest of the carcass is maintained in a manner satisfactory to the inspector until such inspection is made. Each carcass to be eviscerated shall be opened so as to expose the organs and the body cavity for proper examination by the inspector and shall be prepared immediately after inspection as ready-to-cook poultry. If a carcass is frozen, it shall be thoroughly thawed before being opened for examination by the inspector. Each carcass, or all parts comprising such carcass, shall be examined by the inspector, except for parts that are not needed for inspection purposes and are not intended for human food and are condemned.

(b)(1) There are two systems of post-mortem inspection: traditional inspection and modified traditional inspection. Modified traditional inspection shall be used only for young chickens [1] and in the following circumstances:

(i) if the operator requests it and the Administrator determines that the system will result in no loss of inspection efficiency; or

(ii) if the Administrator determines that modified traditional inspection will increase inspector efficiency.

(2) The requirements of paragraph (a) of this section are applicable to both traditional and modified traditional inspection.

(3) The following requirements are also applicable to modified traditional inspection:

(i) The facility must meet the requirements for modified traditional inspection in § 381.36(c).

(ii) The inspection stations shall consist of one outside carcass inspection station, at which one inspector inspects the outside of all birds and two inside carcass/viscera inspection stations at which each of two inspectors inspects the inside and viscera of half the birds processed. The outside carcass inspector shall be presented each bird with the breast side toward the inspector. The inside carcass/viscera inspector shall be presented each bird he is to inspect with the back side toward the inspector.

(iii) The maximum inspection rate for modified traditional inspection shall be 70 birds per minute per 3 inspector team.

(Sec. 14.71 Stat. 447, as amended 21 U.S.C. 463; 42 FR 35625, 35628, 35631)

3. The Table of Contents is amended to reflect the following change, and the heading and text of a new § 381.67 are added to Subpart I to read as follows:

§ 381.67 Young chicken slaughter inspection rate maximums under traditional inspection procedure.

The maximum birds to be inspected by each inspector per minute under the traditional inspection procedure for the different young chicken slaughter line configurations are specified in the following table. These maximum rates shall not be exceeded. The inspector in charge shall be responsible for reducing production line rates where in the inspector's judgment the prescribed inspection procedure cannot be adequately performed within the time available, either because the birds are not presented by the official establishment in such a manner that the carcasses, including both internal and external surfaces and all organs, are readily accessible for inspection, or because the health conditions of a particular flock dictate a need for a more extended inspection procedure. The standards in § 381.170(a) of this Part specify which classes of birds constitute young chickens. Section 381.76(b) specifies when either the traditional inspection procedure or the modified traditional inspection procedure can or must be used.

Maximum Production Line Rates—Young Chickens—Traditional Inspection Procedures

Line configuration[1]	Number of inspection stations	Birds per inspector per minute
6-1	1	35
12-1	2	23
12-2	2	21
18-1	3	35
18-2	3	30
18-3	3	30
24-1	4	105
24-2	4	90
24-4	4	105

[1] Birds are suspended on the slaughter line at 6-inch intervals. The first number indicates the interval in inches between the birds that each inspector examines. The second number indicates how many of the birds presented, the inspector is to inspect, i.e., "1" means inspect every bird, "4" means inspect every fourth bird, etc.

(Sec. 14.71 Stat. 447, as amended, 21 U.S.C. 463; 42 FR 35625, 35628, 35631)

[FR Doc. 82-14597 Filed 5-27-82; 8:45 am]

BILLING CODE 3410-DM-M

[1] The standards in § 381.170(a) of the regulations [9 CFR 381.170(a)] specify which classes of chickens constitute young chickens.

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 504

[Docket No. ERA-R-81-14]

Powerplant and Industrial Fuel Use Act of 1978; Prohibitions by Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Extension of public comment period on interim final rule.

SUMMARY: On November 27, 1981, the Economic Regulatory Administration (ERA) of the U.S. Department of Energy (DOE) proposed to revise Parts 500, 501

and 504 of its final rules implementing the Powerplant and Industrial Fuel Use Act of 1978 ("FUA") so as to implement amendments to FUA contained in the Omnibus Budget Reconciliation Act of 1981 ("OBRA") (46 FR 58051) ("NOPR")). The proposals were adopted by ERA in final form on April 21, 1982 (47 FR 17037). On the same date, ERA amended the provisions of 10 CFR 504.6 relating to the financial feasibility and technical capability findings that it must make in order to issue a prohibition order under sections 301 and 302 of FUA. This amendment was adopted in response to public comment, but was not specifically proposed in the NOPR. Accordingly, ERA issued the amendment to 10 CFR 504.6 in interim final form, providing a 30-day period for additional public comment thereon. That period expires on May 21, 1982.

ERA has received a request to extend the foregoing public comment period until June 21, 1982. The request is based upon DOE's current proposed rulemaking relating to portions of its final rules governing existing facilities. Provision of an additional 30-day period for comment on the interim final rule, according to the requestor, would enable it to take these related proposed rules, which were recently issued, into account in preparing its comments.

ERA agrees that grant of the foregoing request for extension is in the public interest, and would not unreasonably impede finalization of the subject interim final rule. Therefore, for good cause shown, ERA hereby grants the request to extend the public comment period on the amendments to 10 CFR 504.6 for an additional 30 days, or until June 21, 1982.

DATE: Written comments must be filed with DOE on or before June 21, 1982.

ADDRESS: All written comments should be addressed to Public Hearing Management, Docket No. ERA–R–81–14, Department of Energy, Room 7148, 12th Street and Pennsylvania Avenue, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Henry K. Garson, Office of General Counsel, Department of Energy, Room 6B–178, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–2967;

Constance Buckley, Fuels Conversion Division, Fuels Programs, Economic Regulatory Administration, Department of Energy, Room GA–093, RG–62, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–1774;

Jack Vandenberg, Office of Public Information, Economic Regulatory Administration, Room 7120, 12th Street & Pennsylvania Avenue, NW., Washington, D.C. 20461; (202) 633–9451.

SUPPLEMENTARY INFORMATION: Any information considered to be confidential must be submitted in compliance with the DOE Freedom of Information regulations (10 CFR Part 1004). DOE reserves the right to determine the confidential status of the information and to treat it according to its determination.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

May 10, 1982.

[FR Doc. 82-14887 Filed 5-27-82; 8:45 am]

BILLING CODE 6450-01-M

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10 CFR Part 516

[Docket No. ERA-R-79-6-A]

Sale and Direct Industrial Use of Natural Gas for Outdoor Lighting; Amendments to Final Rule

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of the issuance of the Final Rule on the Sale and Direct Industrial Use of Natural Gas for Outdoor Lighting, reflecting the amendments proposed by ERA on November 2, 1981 (46 FR 54378) and finalized, in interim form, on February 1, 1982 (47 FR 4493). The Final Rules are being promulgated without substantial change from the Interim Final Regulations issued on February 1, 1982. The regulatory amendments are required by the amendments to section 402 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.*, (FUA or the Act), made by section 1024 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, August 13, 1981 (OBRA or the FUA amendments).

EFFECTIVE DATE: January 30, 1982.

FOR FURTHER INFORMATION CONTACT:

Robert L. Davies, Director, Fuels Conversion Division—Fuels Programs, Economic Regulatory Administration, Department of Energy, Room GA–093, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–5000;

Cliff Tomaszewski, Fuels Conversion Division—Fuels Programs, Economic Regulatory Administration, Department of Energy, Room GA–073, 1000 Independence Avenue, SW., Washington, D.C. 20585; (202) 252–1251;

Marya Rowan, Office of the General Counsel, Department of Energy, Room 6B–178, 1000 Independence Avenue, SW., Washington, D.C. 20585; (202) 252–2967.

SUPPLEMENTARY INFORMATION: OMB Control Number: 1903–0072.

I. Background

A Final Rule on the Sale and Direct Industrial Use of Natural Gas for Outdoor Lighting (10 CFR Part 516, 44 FR 27606, May 10, 1979) (Final Rule) was issued by the Economic Regulatory Administration of the Department of Energy on May 3, 1979, to implement section 402 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* The Final Rule, as then required by section 402, prohibited local natural gas distribution companies from supplying natural gas for outdoor lighting by residential, municipal, or commercial customers and prohibited direct industrial users from using natural gas for outdoor lighting. Also, as required by FUA, local distribution companies and direct industrial users were prohibited from installing new natural gas outdoor lighting fixtures after November 9, 1978 (10 CFR 516.20).

On August 13, 1981, the Omnibus Budget Reconciliation Act of 1981 was enacted. Section 1024 of that act made certain amendments to section 402 of FUA. Specifically, those amendments (1) lift the prohibition on the supplying of natural gas for use in outdoor residential lights installed prior to and in service on November 9, 1978; (2) require local distribution companies to select and develop a method to periodically inform their customers of the amount of natural gas used for outdoor lighting and the annual cost thereof; (3) require local distribution companies to report the method selected to the Secretary of Energy; and (4) require the Secretary of Energy to propose and promulgate rules relating to customer notification and reports to the Secretary of Energy. Under the prior law, residential outdoor lights could not be supplied with natural gas after January 1, 1982.

Although the FUA amendments permit those residential fixtures in service on November 9, 1978 to continue to be supplied with fuel by their local distribution companies, they require those companies to inform their customers of the annual cost of outdoor lighting "for the purpose of discouraging the use of outdoor lighting * * *."

ERA, as required by the amended section 402(f)(2) of FUA, proposed by notice of November 2, 1981 (46 FR 54378) to amend the Final Rule (Part 516) to (1) reflect the statutory rescission of the prohibition on local distribution companies supplying natural gas for residential outdoor lighting that was being supplied when FUA was first enacted; and (2) as required by the FUA amendments, implement the statutory provisions relating to customer notification of the amount and annual cost of natural gas used in outdoor lights and local distribution companies' reports on their customer notification methods. ERA finalized these proposed amendments in interim form, effective on January 30, 1982 (47 FR 4493, February 2, 1982), and also announced the extension of the public comment period to March 18, 1982. This action was found by ERA to be justified as it (1) enabled ERA to comply with section 1024 of OBRA which required that the amendments take effect not later than the ninetieth day after proposal, while affording the public an opportunity for the submission of comment that may have earlier been discouraged by the brief initial comment period made necessary by the OBRA schedule; and (2) facilitated, in a timely manner, the removal of a restriction, consistent with the Administration's policy of relieving the private sector of unnecessary regulatory burdens.

ERA is, by this notice, announcing the issuance of the final rule, implementing section 1024 of OBRA, without substantial change from the interim final regulation. The notification and reporting regulations included in the final rule are intended to provide local distribution companies and the appropriate state regulatory authorities maximum flexibility in complying with the new statutory requirements with the least possible burden.

II. Discussion of Comments and ERA Response

During the extended comment period, ERA received additional comments which underscored earlier statements of concern on the part of the liquefied petroleum gas distribution industry, filed during the initial comment period and responded to by ERA at 47 FR 4495 (February 1, 1982).

One commentor raised specific questions regarding the scope of ERA's authority to issue section 402 regulations in view of the 10 CFR Part 516 delegation of authority and, concomitantly, the scope of the States' authority under the delegation. ERA will respond to the questions as presented:

(1) *Where does ERA get the authority to promulgate these regulations after having delegated its entire authority under the Fuel Use Act to the States?*

Paragraph (f)(1) (A) and (B), added to section 402 by section 1042(b) of OBRA, (1) directs local natural gas distribution companies subject to section 402 (a) and (b) to comply with certain new requirements for periodic fuel-use and cost notification to their customers and (2) requires the affected companies to report to the Secretary of Energy concerning the notification method chosen by each company. Each action required by subparagraph (f)(1) is to be taken in accordance with rules promulgated by the Secretary. In addition, section 402(f)(2), also added to FUA by OBRA, directs the Secretary to promulgate the necessary regulations to implement section 402(f)(1) in accordance with an established schedule, and, "to the greatest extent feasible, consult with the appropriate regulatory authority of the States and the local distribution companies who will be subject to the rules" in doing so.

The discussion of the FUA amendments contained in the Conference Report on OBRA, 127 Cong. Rec. H. 5674 (daily ed. July 29, 1981), offers no comment on this language specifically, or on the changes to section 402 generally. Accordingly, ERA believes that section 402(f)(2) expresses the intent of the Congress that the regulations implementing the amendments be issued by DOE, rather than by the various State authorities, and provides the authority to do so. Pursuant to this interpretation, ERA has moved expeditiously to comply with section 402(f)(2) by issuing appropriate regulations after affording reasonable amounts of time for all interested parties, including state authorities and local distribution companies, to comment thereon. It is ERA's opinion, however, that State regulatory authorities could, under § 516.30(a) of the delegation of authority (10 CFR Part 516, Subpart C) issue regulations to implement section 1024 of OBRA, if the State-issued regulations require the affected distribution companies to fully comply with the statutory requirements. However, ERA believes, from the presence of the rulemaking schedule in section 402(b)(2), that Congress intended that the OBRA customer notification requirements be implemented within a reasonable period of time following the removal of the ban on supplying natural gas for residential light use (August 13, 1981).

In connection with these questions, ERA emphasizes that, where directed to do so by statute, it has the responsibility of issuing implementing regulations, without regard to the fact that the States may issue similar regulations under a non-mandatory delegation of authority.

(2) *If authority to promulgate regulations still resides in ERA, must the States now "accept" the additional delegation made by 10 CFR 516.30(h)?*

ERA cannot require the States to accept any authority under the Part 516 delegation. However, ERA does expect that the States which accepted the original delegation will want to accept the § 516.30(h) authority in order that they may maintain an overview of compliance with the customer notification requirements by local distribution companies within their jurisdictions.

(3) *If all authority has not been delegated to the States, what authority has been retained by ERA?*

The following authorities with respect to section 402 of FUA are retained by ERA:

(a) The authority to administer all aspects of the natural gas outdoor lighting program where the appropriate State regulatory authorities have not accepted the delegation or where the delegation has been rescinded pursuant to 10 CFR 516.32;

(b) The authority to administer any aspect of the program where the appropriate State regulatory authority operating under the delegation indicates to ERA it is unable or incapable of administering; and,

(c) Any authority affecting natural gas outdoor lighting granted by future amendments or successor statutes to FUA, in which the Secretary of Energy is directed to perform specified activities, without there also being present an indication that Congress intended the delegation of the responsibility for such activity to the States or the reasonable latitude in the wording of the statute that would permit such an interpretation.

III. Procedural Matters

A. *NEPA Compliance.* DOE has determined that this final rule does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of NEPA. Therefore, the preparation of an Environmental Impact Statement is not required.

B. *Executive Order No. 12291.* In accordance with section 3(b) of Executive Order No. 12291, DOE has determined that the final rule is a non-major rule that will not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in

costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This rule was submitted to the Office of Management and Budget (OMB) for its review pursuant to E.O. 12291.

C. *Regulatory Flexibility Act.* The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires that an agency prepare a final regulatory flexibility analysis with regard to a final rule that will have a significant economic impact on a substantial number of small entities.

DOE has considered the potential economic impact of its final rule and has concluded that compliance will be relatively insignificant for small concerns and that a regulatory flexibility analysis is not required. DOE certifies that the final rule amending Part 516 will not have a significant economic impact on a substantial number of small entities.

D. *Paperwork Reduction Act.* Information collection requirements contained in this final rule have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB control number 1903-0072.

List of Subjects in 10 CFR Part 516

Energy conservation, Natural gas, Reporting requirements.

(Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620, 92 Stat. 3289 (42 U.S.C. 8372); E.O. 12009, 42 FR 46267, September 15, 1977; Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35, August 13, 1981)

Issued in Washington, D.C. on May 20, 1982.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

PART 516—PROHIBITION ON SALE AND DIRECT INDUSTRIAL USE OF NATURAL GAS FOR OUTDOOR LIGHTING

For the reasons stated in the preamble, Chapter II, Title 10 of the Code of Federal Regulations, Part 516, is amended as follows:

1. The table of contents is amended by adding Subpart E (§§ 516.51 and 516.52) to read as follows:

* * * * *

Subpart E—Outdoor Natural Gas Lights—Customer Notification; Reporting Procedures

Sec.

516.51 Notification of amount and annual cost of natural gas used in outdoor lights.

516.52 Customer notification reports.

2. Section 516.10 is amended by revising paragraphs (a), (b), and (c) and adding paragraph (f) to read as follows:

Subpart A—General Purpose and Scope; Definitions

§ 516.10 General purpose and scope.

(a) The purpose of this rule is to implement section 402 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.*, as amended (FUA or the Act).

(b) The rule consists of five subparts. Subpart A describes the general purpose and scope of Part 516 and contains the definitions.

(c) Subpart B contains the prohibitions on the installation of natural gas outdoor lighting fixtures and the sale and direct industrial use of natural gas for outdoor lighting.

* * * * *

(f) Subpart E provides (1) for periodic notification of customers of the amount and annual cost of natural gas used in outdoor lights; and (2) for the procedures to be followed by each affected local distribution company in reporting to the appropriate state regulatory authority the method it has selected for giving such customer notice.

3. Section 516.11 is amended by adding paragraph (i) to read as follows:

§ 516.11 Definitions.

* * * * *

(i) The term "residential outdoor lighting fixture" means a natural gas outdoor lighting fixture which was installed prior to, and was in service in connection with a residence on November 9, 1978.

4. Section 516.21 is revised to read as follows:

Subpart B—Prohibitions

§ 516.21 General prohibition on sale of natural gas for use in outdoor lighting.

(a) *Prohibition.* No local distribution company shall supply natural gas for use in any outdoor lighting fixture except for residential outdoor lighting fixtures, as that term is defined in § 516.11(i).

(b) *Effective dates.* The prohibition stated in paragraph (a) of this section shall be effective on the following dates:

(1) For any industrial or commercial fixture to which natural gas was supplied for outdoor lighting use on November 9, 1978, *November 5, 1979*; and

(2) For any municipal outdoor lighting fixture to which natural gas was supplied for outdoor lighting use on November 9, 1978, *January 1, 1982*.

5. Section 516.30 is amended by revising the introductory text and adding paragraph (h) to read as follows:

Subpart C—Delegation of Authority

§ 516.30 Scope.

Pursuant to section 402(e) of the Act, ERA delegates to the appropriate state regulatory authorities, effective on the date this rule is issued as a final rule, the full responsibility and authority of the Secretary of Energy with regard to natural gas outdoor lighting. The authorities and responsibilities delegated by this rule to the appropriate state regulatory authorities, acceptance of which is at the states' discretion, are those enumerated in paragraphs (a) through (h) of this section. The appropriate state regulatory authorities should normally consult with the state Historic Preservation Officers for their respective states (as recognized by the U.S. Department of Interior, National Park Service) when fulfilling their responsibilities and authorities as set forth in this section, particularly when decisions are made or options considered relating to historic preservation.

* * * * * *

(h) *Authority to receive customer notification reports.* The authority to receive reports concerning the method selected by local distribution companies for periodic notification of their customers under § 516.52.

6. 10 CFR Part 516 is amended by adding Subpart E, §§ 516.51 and 516.52, to read as follows:

Subpart E—Outdoor Natural Gas Lights—Customer Notification; Reporting Procedures

§ 516.51 Notification of amount and annual cost of natural gas used in outdoor lights.

(a) Each local distribution company subject to the prohibitions of section 402 (a) and (b) of FUA which has natural gas outdoor lighting fixtures attached to its system shall:

(1) No later than May 31, 1982, select a method for periodically informing its customers of the amount of natural gas used by a typical natural gas outdoor lighting fixture in the company's system, as determined by the company, and the annual cost of the natural gas so used; and

(Approved by the Office of Management and Budget under OMB control number 1903–0072)

(2) Within one year from the date on which the notification method is reported to the appropriate state regulatory authorities in accordance with § 516.52, give the initial customer notification, using the method so selected. The notification shall thereafter be given annually.

(Approved by the Office of Management and Budget under OMB control number 1903–0072)

(3) Any local distribution company which experiences difficulty in selecting its customer notification method may obtain a reasonable extension of the May 31, 1982 deadline from the appropriate State regulatory authority upon the showing of good cause.

(b) The method to be used in the customer notification required by paragraph (a) of this section, shall be selected by each affected local distribution company, and shall be reasonable and simple, as viewed in the context of the company's routine operating procedures.

§ 516.52 Customer notification reports.

(a) No later than May 31, 1982, each local distribution company required to give customer notification under § 516.51(a), shall report the method selected to the state regulatory authority designated by the governor to administer the outdoor natural gas lighting program for the area in which the distributor is located, under the delegation of authority in Subpart C of this part.

(Approved by the Office of Management and Budget under OMB control number 1903–0072)

(b) No later than May 31, 1982, each local distribution company not required to give customer notification under § 516.51(a) by reason of the fact that it has no natural gas outdoor lighting fixtures attached to its system shall report this fact to the State regulatory authority designated by the governor to administer the outdoor natural gas lighting program for the area in which the distributor is located, under the delegation of authority in Subpart C of this part.

(Approved by the Office of Management and Budget under OMB control number 1903–0072)

(c) Local distributing companies given extensions in the May 31, 1982 deadline for selection of a customer notification method under § 516.51(a)(3), above, shall report the method selected to their State regulatory authority in accordance with the terms of such extension.

(Approved by the Office of Management and Budget under OMB control number 1903–0072)

[FR Doc. 82-14558 Filed 5-27-82; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 377 and 385

Changes of Address

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: This document amends the Export Administration Regulations to reflect changes in the addresses for parts and components and for the International Trade Administration Freedom of Information Records Inspection Facility.

DATE: Effective May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 (Telephone (202) 377–4811).

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Under section 13(a) of the Export Administration Act of 1979 (Pub. L. 96–72, 50 U.S.C. app. 2401 *et seq.*) ("the Act"), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act. This rule does not impose new controls on exports, and is therefore exempt from section 13(b) of the Act, which expresses the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form.

2. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

4. This rule is not a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

List of Subjects

15 CFR Part 377

Administrative practice and procedure, Export licenses, Exports, Marketing quotas, Short supply controls.

15 CFR Part 385

Communist countries, Exports.

Accordingly, Parts 377 and 385 of the *Export Administration Regulations* (15 CFR Parts 368 *et seq.*) are amended as follows:

PART 377—SHORT SUPPLY CONTROLS AND MONITORING

§ 377.8 [Amended]

1. In the last sentence of § 377.8(j) the phrase "Room 3102" is revised to read "Room 4001–B."

PART 385—SPECIAL COUNTRY POLICIES AND PROVISIONS

§ 385.1 [Amended]

2. The last sentence of § 385.1(b)(2) is revised to read as follows:

* * * * *

(b) * * *

(2) * * * "Requests for authorization to utilize U.S.-origin materials, parts, or components in products manufactured in foreign countries and destined for Cuba should be addressed in letter form to—

Office of Export Administration, Attn: Parts and Components, P.O. Box 273, Washington, D.C. 20044,

and should set forth all pertinent details of the transaction including, as a minimum, descriptions of the foreign-made product and the U.S. materials, parts or components; the appropriate ECCN for each; the respective values of each; and the identity of the end-user in Cuba, if known."

(Sec. 13 and 15, Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. app. § 2401 *et seq.*; Executive Order No. 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10–3 (45 FR 6141, January 25, 1980); International Trade Organization and Function Orders 41–1 (45

FR 11662, February 22, 1980) and 41-4 (45 FR 65003, October 1, 1980))

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82-14822 Filed 5-27-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 388

[Docket No. RM 78-22-000; Order No. 225]

Erratum Notice to Revision of Rules of Practice and Procedure To Expedite Trial-Type Hearings

May 24, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; correction.

SUMMARY: By order issued April 28, 1982 (47 FR 19014, May 3, 1982), the Commission adopted a final rule which reorganized, revised, and updated the Rules of Practice and Procedure for Commission proceedings. The correction set forth below adds § 388.109 to 18 CFR Part 388. The section heading was listed at the beginning of Part 388, but the text of the section was inadvertently omitted.

FOR FURTHER INFORMATION CONTACT: Kennth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426; (202) 357-8400.

Kennth F. Plumb,

Secretary.

PART 388—PUBLIC INFORMATION AND REQUESTS

Accordingly, the Federal Energy Regulatory Commission is correcting 18 CFR Part 388 by adding § 388.109 to read as follows:

§ 388.109 Procedures for requesting information.

Requests for information may be addressed to the Division of Public Information of the Commission, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426. Public records are available for public inspection and copying at that office, in accordance with this part. Pleadings and other filings are filed in accordance with § 385.2001 (filings). A description of the facilities available for public reference and the procedures that may be employed to obtain information, copies of public records, or to secure informal advice and assistance from or consultation with members of the staff on problems relating to the statutes and regulations administered by the Commission is contained in § 3.8 of this chapter (information and requests).

[FR Doc. 82-14569 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 444, 448, and 455

[Docket No. 79N-0341; DESI Nos. 9615, 9152, 9188, and 50168]

Oligosaccharide, Peptide, and Certain Other Antibiotic Drugs

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations by (1) increasing the minimal level of polymyxin B in various marketed ophthalmic combination products and (2) adding two new monographs, and new paragraphs to several existing monographs, to provide for the certification of products that heretofore have been released.

DATES: The amendments to §§ 444.342a, 444.342d, and 444.542a, and the amendment to § 448.313b to the extent it affects bacitracin zinc-neomycin sulfate-polymyxin B sulfate-hydrocortisone ophthalmic ointment; and new §§ 444.342j and 444.343k will become effective July 7, 1982.

The amendments to §§ 444.342b, 444.342h, 444.342i, 448.310b, and the amendment to § 448.313b to the extent it affects bacitracin zinc-neomycin sulfate-polymyxin B sulfate ophthalmic ointment, and § 455.310d will become effective February 22, 1983.

Objections and requests for hearing by June 28, 1982.

Data, information, and analyses to justify a hearing July 27, 1982.

ADDRESS: Objections and requests for hearing, supporting data and information, and other comments should be identified with the docket number appearing in the heading of this order and sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Douglas I. Ellsworth, Bureau of Drugs (HFD-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 29, 1980 (45 FR 57735), as part of an action (Docket No. 79N-0339) classifying various ophthalmic steroid/anti-infective combination drug products as effective and announcing conditions for their further marketing (see 45 FR 57776; 47 FR 21296), the Director of the Bureau of Drugs proposed to amend the antibiotic drug regulations to require a minimum of 10,000 units per milliliter or units per gram (units/mL or g) of polymyxin B in all ophthalmic combinations that contain this component.

The proposal was based upon the Bureau's conclusion that 10,000 units/mL or g, as a minimum, is required in such products to provide reliable adequate activity against gram-negative organisms, especially *Pseudomonas*. The minimum concentration of 10,000 units/mL or g was determined through an evaluation of the concentration of polymyxin B obtainable in the eye, the tendency of these concentrations to become rapidly diluted, and the concentrations required to kill *Pseudomonas*. The Bureau also proposed to amend the antibiotic regulations to provide for the certification of ophthalmic combination products that heretofore had been released pending a final determination of their effectiveness.

In response to the proposal, one comment was submitted but was later withdrawn. The comment has been filed in the docket of this proceeding.

In reviewing products certified under § 444.342d of the regulations (21 CFR 444.342d), the Bureau noted that no provisions had been made for the certification of Poly-Pred Liquifilm Sterile Ophthalmic Suspension containing neomycin sulfate, polymyxin B sulfate, and prednisolone acetate. This particular product has been released pending a final determination of its effectiveness. Since this type of ophthalmic combinaton was found effective in the August 29, 1980 notice, § 444.342d is hereby further amended to provide for its Certification. Because this additional amendment provides notice of accepted standards and permits earlier certification of a marketed product that is already in compliance with the certification standard, notice and comment procedure for the action is found to be unnecessary and not in the public interest.

Because the Bureau provided that manufacturers of ophthalmic steroid/anti-infective combination drug products

not in conformance with the proposed amendments could reformulate their products to conform to the proposal before its finalization (see 45 FR 57776), and because all manufacturers of such products have reformulated them, the amendments affecting these products will become effective July 7, 1982.

The Bureau also proposed to amend the antibiotic drug regulations to require a minimum of 10,000 units/mL or g of polymyxin B in ophthalmic combinations containing polymyxin B but not a steroid. However, the Bureau did not explicitly provide that manufacturers of such products not in conformance with the proposed amendments could reformulate their products to conform to the proposal before its finalization. Therefore, in order to allow manufacturers of such products sufficient time to reformulate, the amendments affecting them will become effective February 22, 1983.

List of Subjects

21 CFR Part 444

Antibiotics, Oligosaccharide.

21 CFR Part 448

Antibiotics, Peptide.

21 CFR Part 455

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052, May 11, 1981)) and redelegated to the Director of the Bureau of Drugs (21 CFR 5.78), Chapter I of Title 21 of the Code of Federal Regulations, Parts 444, 448, and 455 are amended as follows:

PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

1. Part 444 is amended:

a. In § 444.342a, by changing the period to a semicolon and adding the word "or" in paragraph (a)(1)(iv) and by adding new paragraph (a)(1)(v) to read as follows:

§ 444.342a Neomycin sulfate—ophthalmic suspension; neomycin sulfate—ophthalmic solution (the blanks being filled in with the established name(s) of the other active ingredient(s) present in accordance with paragraph (a)(1) of this section).

(a) * * *

(1) * * *

(v) 5 milligrams of prednisolone phosphate.

* * * * *

b. In § 444.342b, by revising the first sentence in paragraph (a)(1) to read as follows:

§ 444.342b Neomycin sulfate-polymyxin B sulfate-gramicidin ophthalmic solution.

(a) * * *

(1) * * * Neomycin sulfate-polymyxin B sulfate-gramicidin ophthalmic solution is a solution containing in each milliliter, 1.75 milligrams of neomycin, 10,000 units of polymyxin B and 0.025 milligram of gramicidin, and with one or more suitable and harmless buffers, dispersants, and preservatives in a suitable and harmless isotonic aqueous vehicle. * * *

* * * * *

c. In § 444.342d, by changing the period to a semicolon and adding the word "or" in paragraph (a)(1)(ii), and by adding new paragraph (a)(1) (iii) and (iv) to read as follows:

§ 444.342d Neomycin sulfate-polymyxin B sulfate——ophthalmic suspension (the blank being filled in with the established name(s) of the other active ingredient(s) present in accordance with paragraph (a)(1) of this section).

(a) * * *

(1) * * *

(iii) 3.5 milligrams of neomycin, 10,000 units of polymyxin B, and 10.0 milligrams of hydrocortisone; or

(iv) 3.5 milligrams of neomycin, 10,000 units of polymyxin B, and 5.0 milligrams of prednisolone acetate.

* * * * *

d. In § 444.342h, by revising the first sentence in paragraph (a)(1) to read as follows:

§ 444.342h Neomycin sulfate-polymyxin B sulfate ophthalmic ointment.

(a) * * *

(1) * * * Neomycin sulfate-polymyxin B sulfate ophthalmic ointment contains in each gram, neomycin sulfate equivalent to 3.5 milligrams of neomycin and polymyxin B sulfate equivalent to 10,000 units of polymyxin B with suitable preservatives in a suitable and harmless ointment base. * * *

* * * * *

e. In § 444.342i, by revising the second sentence in paragraph (a)(1) to read as follows:

§ 444.342i Neomycin sulfate-polymyxin B sulfate ophthalmic solution.

(a) * * *

(1) * * * Each milliliter contains: (i) Neomycin sulfate equivalent to 3.5 milligrams of neomycin and polymyxin B sulfate equivalent to 10,000 units of polymyxin B; or (ii) Neomycin sulfate equivalent to 3.5 milligrams of neomycin and polymyxin B sulfate equivalent to 16,250 units of polymyxin B. * * *

* * * * *

f. By adding new § 444.342j, to read as follows:

§ 444.342j Neomycin sulfate-polymyxin B sulfate-dexamethasone ophthalmic suspension.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Neomycin sulfate-polymyxin B sulfate-dexamethasone ophthalmic suspension is an aqueous suspension containing in each milliliter 3.5 milligrams of neomycin, 10,000 units of polymyxin B, and 1.0 milligram of dexamethasone. It may contain one or more suitable and harmless irrigants, dispersants, buffers, and preservatives. Its neomycin content is satisfactory if it is not less than 90 percent and not more than 125 percent of the number of milligrams of neomycin that it is represented to contain. Its polymyxin B content is satisfactory if it is not less than 90 percent and not more than 125 percent of the number of units of polymyxin B that it is represented to contain. It is sterile. Its pH is not less than 5.2 and not more than 5.8. The neomycin sulfate used conforms to the standards prescribed by § 444.42(a)(1). The polymyxin B sulfate used conforms to the standards prescribed by § 448.30(a)(1) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The neomycin sulfate used in making the batch for potency, safety, loss on drying, pH, and identity.

(*b*) The polymyxin B sulfate used in making the batch for potency, safety, loss on drying, pH, and identity.

(*c*) The batch for neomycin content, polymyxin B content, sterility, and pH.

(ii) Samples required:

(*a*) The neomycin sulfate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The polymyxin B sulfate used in making the batch: 10 packages each containing approximately 300 milligrams.

(*c*) The batch:

(*1*) For all tests except sterility: A minimum of 6 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Neomycin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately measured representative portion of the sample into an appropriate-sized volumetric flask with sufficient 0.1 *M* potassium phosphate buffer, pH 8.0 (solution 3), to obtain a stock solution of convenient concentration. Remove an aliquot and further dilute with solution 3 to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(ii) *Polymyxin B content.* Proceed as directed in § 436.105 of this chapter, except add to each concentration of the polymyxin B standard response line a quantity of neomycin to yield the same concentration of neomycin as that present when the sample is diluted to contain 10 units of polymyxin B per milliliter. Prepare the sample for assay as follows: Place an accurately measured representative portion of the sample into an appropriate-sized volumetric flask with sufficient 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to obtain a stock solution of convenient concentration. Remove an aliquot and further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section, except use 0.25 milliliter in lieu of 1.0 milliliter.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, using the undiluted sample.

g. By adding new § 444.342k, to read as follows:

§ 444.342k Neomycin sulfate-polymyxin B sulfate-dexamethasone ophthalmic ointment.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Neomycin sulfate-polymyxin B sulfate-dexamethasone ophthalmic ointment contains in each gram neomycin sulfate equivalent to 3.5 milligrams of neomycin, polymyxin B sulfate equivalent to 10,000 units of polymyxin B and 1.0 milligram of dexamethasone with suitable preservatives in a suitable and harmless ointment base. Its neomycin content is satisfactory if it is not less than 90 percent and not more than 125 percent of the number of milligrams of neomycin that it is represented to contain. Its polymyxin B content is satisfactory if it is not less than 90 percent and not more than 125 percent of the number of units of polymyxin B that it is represented to contain. It is sterile. Its moisture content is not more than 0.5 percent. It passes the test for metal particles. The neomycin sulfate used conforms to the standards prescribed by § 444.42(a)(1). The polymyxin B sulfate used conforms to the standards prescribed by § 448.30(a)(1) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The neomycin sulfate used in making the batch for potency, safety, loss on drying, pH, and identity.

(*b*) The polymyxin B sulfate used in making the batch for potency, safety, loss on drying, pH, and identity.

(*c*) The batch for neomycin content, polymyxin B content, moisture, and metal particles.

(ii) Samples required:

(*a*) The neomycin sulfate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The polymyxin B sulfate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*c*) The batch:

(*1*) For all tests except sterility: A minimum of 16 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Neomycin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.1 *M* potassium phosphate buffer, pH 8.0 (solution 3), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 3. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 3. Remove an aliquot and further dilute with solution 3 to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(ii) *Polymyxin B content.* Proceed as directed in § 436.105 of this chapter, except add to each concentration of the polymyxin B standard response line a quantity of neomycin to yield the same concentration of neomycin as that present when the sample is diluted to contain 10 units of polymyxin B per milliliter. Prepare the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 10 percent potassium phosphate buffer, pH 6.0 (solution 6), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 6. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 6. Remove an aliquot and further dilute with solution 6 to the reference concentration of 10 units of poylmyxin B per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(3) of that section.

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(4) *Metal particles.* Proceed as directed in § 436.206 of this chapter.

h. In § 444.542a, is revised by changing the period to a semicolon and adding the word "or" in paragraph (a)(1)(ii)(*f*), and by adding new paragraph (a)(1)(ii)(*g*) to read as follows:

§ 444.542a Nemoycin sulfate ointment; neomycin sulfate——ointment (the blank being filled in with the established name(s) of the other active ingredient(s) present in accordance with paragraph (a)(1) of this section).

(a) * * *

(1) * * *

(ii) * * *

(*g*) 15.0 milligrans of cortisone acetate.

* * * * *

PART 448—PEPTIDE ANTIBIOTIC DRUGS

2. Part 448 is amended:

a. In § 448.310b, by revising the second sentence in paragraph (a)(1) to read as follows:

§ 448.310b Bacitracin-neomycin sulfate-polymyxin B sulfate ophthalmic ointment.

(a) * * *

(1) * * * Each gram contains 500 units of bacitracin, 3.5 milligrams of neomycin, and 10,000 units of polymyxin B. * * *

* * * * *

b. In § 448.313b, by revising paragraph (a)(1)(i) to read as follows:

§ 448.313b Bacitracin zinc-neomycin sulfate-polymyxin B sulfate ophthalmic ointment; bacitracin zinc-neomycin sulfate-polymyxin B sulfate-hydrocortisone ophthalmic ointment.

(a) * * *

(1) * * *

(i) 400 units of bacitracin, 3.5 milligrams of neomycin, 10,000 units of polymyxin B with or without 10 milligrams of hydrocortisone acetate; or

* * * * * *

PART 455—CERTAIN OTHER ANTIBIOTIC DRUGS

3. Part 455 is amended in § 455.310d, by revising the first sentence of paragraph (a)(1) to read as follows:

§ 455.310d Chloramphenicol-polymyxin ointment.

(a) * * *

(1) It contains not less than 10,000 units of polymyxin B per gram. * * * * * * * * * *

Any person who will be adversely affected by this regulation may file objections to it, request a hearing, and show reasonable grounds for the hearing. Any person who decides to seek a hearing must file (1) on or before June 28, 1982, a written notice of participation and request for hearing and (2) on or before July 27, 1982, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order, except comments from an individual, must be filed in four copies. An individual submitting only comments may submit one copy. All submissions must be identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch (address given above).

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Effective Date

The amendments to §§ 444.342a, 444.342d, and 444.542a, and the amendment to § 448.313b to the extent it affects bacitracin zinc-neomycin sulfate-polymyxin B sulfate-hydrocortisone ophthalmic ointment; and new §§ 444.342j and 444.342k will become effective July 7, 1982.

The amendments to §§ 444.342b, 444.342h, 444.342i, and 448.310b, and the amendment to § 448.313b to the extent it affects bacitracin zinc-neomycin sulfate-polymyxin B sulfate ophthalmic ointment, and §455.310d will become effective February 22, 1983. If objections are filed, the effective date of this order or pertinent sections thereof may be postponed to rule on them.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357))

Dated: May 20, 1982.

Harry M. Meyer, Jr.,

Director, Bureau of Drugs and Biologics.

[FR Doc. 82-14405 Filed 5-27-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 556 and 558

Animal Drugs, Feeds, and Related Products; Chlormadinone Acetate; Revocation

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is revoking the regulations that pertain to chlormadinone acetate. The sponsors of the approved products for chlormadinone acetate have requested that their new animal drug applications (NADA's) be withdrawn.

EFFECTIVE DATE: June 7, 1982.

FOR FURTHER INFORMATION CONTACT: David N. Scarr, Bureau of Veterinary Medicine (HFV-214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3183.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the **Federal Register**, approval of Elanco Products Co.'s NADA 37-147 for Matrol Premix (chlormadinone acetate) and Syntex Agribusiness, Inc.'s, NADA 37-146 for Skedule Premix (chlormadinone acetate) are withdrawn. The firms had voluntarily requested the withdrawals. This document amends the animal drug regulations by revoking the sections that provided for the use of the drug.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(2) (proposed December 11, 1979; 44 FR 71742) that this action is of the type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects

21 CFR Part 556

Animal drugs, Foods, Residues.

21 CFR Part 558

Animal drugs, Animal feeds.

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 556.130 [Removed]

§ 558.126 [Removed]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), Part 556 is amended by removing § 556.130 *Chlormadinone acetate*, and Part 558 is amended by removing § 558.126 *Chlormadinone acetate*.

Effective date. June 7, 1982.

(Sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e)))

Dated: May 24, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-14504 Filed 5-27-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

Animal Drugs, Feeds, and Related Products, Monensin, Bacitracin Zinc, Roxarsone

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by International Minerals and Chemical Corp. for the use of three currently approved premixes for the preparation of three complete broiler feeds containing combinations of monensin, bacitracin zinc, and roxarsone at different levels.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV–149), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION: International Minerals and Chemical Corp., P.O. Box 207, Terre Haute, IN 47808, is the sponsor of NADA 123–154 providing for the use of a combination of three individually approved premixes for the preparation of three complete broiler feeds containing monensin, bacitracin zinc, and roxarsone at different levels. The approved premixes used for the preparation of the complete broiler feeds are Coban (monensin sodium), 3-Nitro-10 (roxarsone), and Baciferm (bacitracin zinc).

Elanco Products Co., sponsor for the monensin premix and Salsbury Laboratories, sponsor for the roxarsone premix have authorized FDA to refer to the safety and efficacy data supporting their applications to support approval of this combination. International Minerals and Chemical Corp., sponsor for the bacitracin zinc premix, referenced their safety and efficacy data supporting that approval. Additionally, International Minerals submitted data substantiating the efficacy of these drugs when used in combination that comply with the requirements of the Bureau of Veterinary Medicine's combination drug guidelines. International Minerals also submitted analytical noninterference data that show there is no substantial assay interference for any one of the drugs in the presence of the other at the recommended feed levels. This approval provides for the combination of approved premixes in the manufacture of complete chicken feeds. It does not change the dosage levels, target species or indications for the individual drugs. Because the residue from each component in the combination has been shown to be below its corresponding tolerance at the withdrawal time being established for the combination, this approval poses no increased risk to people exposed to residues of the drugs.

Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of this NADA has been treated as a Category II supplement which does not require reevaluation of the underlying safety and effectiveness data.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(ii) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEED

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.355 by adding new paragraphs (b)(9) and (f)(1)(xv), (xvi), and (xvii) to read as follows:

§ 558.355 Monensin.

* * * * *

(b) * * *

(9) To 012769: 45 grams per pound, as monensin sodium provided by No. 000986, paragraph (f)(1)(xv), (xvi), and (xvii) of this section.

* * * * *

(f) * * *

(1) * * *

(xv) *Amount per ton.* Monensin, 90 to 110 grams, plus bacitracin zinc, 10 grams, and roxarsone, 15 grams (0.0017 percent).

(*a*) *Indications for use.* For increase in rate of weight gain; for the prevention of coccidiosis caused by *Eimeria necatrix, E. tenella, E. acervulina, E. maxima, E. brunetti,* and *E. mivati.*

(*b*) *Limitations.* Do not feed to laying chickens; feed continuously as the sole ration; withdraw 5 days before slaughter; as sole source of organic arsenic; feed must be used within 4 weeks of manufacture; as monensin sodium; as bacitracin zinc provided by No. 012769 in § 510.600(c) of this chapter; as roxarsone provided by No. 017210 in § 510.600(c) of this chapter.

(xvi) *Amount per ton.* Monensin, 90 to 110 grams, plus bacitracin zinc, 30 to 50 grams, and roxarsone, 15 to 35 grams (0.0017 percent to .00385 percent).

(*a*) *Indications for use.* For improved feed efficiency; for improved pigmentation by enhancing carotenoid and xanthophyll utilization; for the prevention of coccidiosis caused by *Eimeria necatrix, E. tenella, E. acervulina, E. maxima, E. brunetti,* and *E. mivati.*

(*b*) *Limitations.* Do not feed to laying chickens; feed continuously as the sole ration; withdraw 5 days before slaughter; as sole source of organic arsenic; feed must be used within 4 weeks of manufacture; as monensin sodium; as bacitracin zinc provided by No. 012769 in § 510.600(c) of this chapter; as roxarsone provided by No. 017210 in § 510.600(c) of this chapter.

(xvii) *Amount per ton.* Monensin, 90 to 110 grams, plus bacitracin zinc, 30 to 50 grams, and roxarsone, 35 to 45 grams (.00385 percent to .005 percent).

(*a*) *Indications for use.* For improved feed efficiency; for the prevention of coccidiosis caused by *Eimeria necatrix, E. tenella, E. acervulina, E. maxima, E. brunetti,* and *E. mivati.*

(*b*) *Limitations* Do not feed to laying chickens; feed continuously as the sole ration; withdraw 5 days before slaughter; as sole source of organic arsenic; feed must be used within 4 weeks of manufacture; as monensin sodium; as bacitracin zinc provided by No. 012769 in § 510.600(c) of this chapter; as roxarsone provided by No. 017210 in § 510.600(c) of this chapter.

* * * * *

Effective date. May 28, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: May 24, 1982.

Gerald B. Guest

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-14697 Filed 5-27-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Feed Fortifiers, Inc., providing labeling revisions for a 10-gram-per-pound tylosin premix that expand its use to manufacture of cattle and poultry feeds in addition to manufacturing swine feeds.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: Feed Fortifiers, Inc., #1 Industrial Rd., Manson, IA 50563, is sponsor of NADA 93-518 providing for safe and effective use of a 10-gram-per-pound tylosin premix in manufacturing complete swine feeds. The feeds are used for increased rate of weight gain and improved feed efficiency. On behalf of Feed Fortifiers, Elanco Products Co. filed a supplement to the NADA that expands use of the premix to manufacture of complete cattle and poultry feeds. The cattle feeds are indicated for reduction of incidence of liver abscesses in beef cattle. The poultry feeds are indicated for increased rate of weight gain and improved feed efficiency in chickens, improved feed efficiency in laying chickens, and to aid in the control of chronic respiratory disease in broiler and replacement chickens. The supplement also provides for certain additional uses of swine feeds derived from the 10-gram-per-pound premix. The supplemental NADA, adding the additional claims and species for the 10-gram-per-pound premix, is approved and 21 CFR 558.625 is amended to reflect the approval.

Approval of this application is based on safety and effectiveness data contained in Elanco's approved NADA 12-491. Elanco has authorized use of the data in NADA 12-491 to support approval of this application. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977) this is a Category II change. The approval of this supplemental NADA does not require reevaluation of the safety and effectiveness data in NADA 12-491.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.625 by revising paragraph (b)(2) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b)* * *

(2) To 017255: 10 grams per pound; paragraph (f)(1)(i) through (vi) of this section.

* * * * *

Effective date. This amendment is effective May 28, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: May 19, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82-14698 Filed 5-27-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Custom Feed Services Corp. providing labeling revisions for a 10-gram-per-pound tylosin premix that expand its use to manufacture of cattle and poultry feeds in addition to manufacturing swine feeds.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: Custom Feed Service Corp., 2100 N. 13th St., Norfolk, NE 68701, is sponsor of NADA 121-200 providing for safe and effective use of a 10-gram-per-pound tylosin premix in manufacturing complete swine feeds. The feeds are used for increased rate of weight gain and improved feed efficiency. On behalf of Custom Feed Services, Elanco Products Co. filed a supplement to the NADA that expands use of the premix to manufacture of complete cattle and poultry feeds. The cattle feeds are indicated for reduction of incidence of liver abscesses in beef cattle. The poultry feeds are indicated for increased rate of weight gain and improved feed efficiency in chickens, improved feed efficiency in laying chickens, and to aid in the control of chronic respiratory disease in broiler and replacement chickens. The supplement also provides for certain additional uses of swine feeds derived from the 10-gram-per-pound premix.

The supplemental NADA, adding the additional claims and species for the 10-gram-per-pound premix, is approved and 21 CFR 558.625 is amended to reflect the approval.

Approval of this application is based on safety and effectiveness data contained in Elanco's approved NADA 12-491. Elanco has authorized use of the data in NADA 12-491 to support approval of this application. This

approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977) this is a Category II change. The approval of this supplemental NADA does not require reevaluation of the safety and effectiveness data in NADA 12-491.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) [21 CFR 514.11(e)(2)(ii)], a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1 see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.625 by revising paragraph (b)(68) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(68) To 017473: 10 grams per pound; paragraph (f)(1)(i) through (vi) of this section.

* * * * *

Effective date. This amendment is effective May 28, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: May 19, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82-14491 Filed 5-27-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin and Sulfamethazine

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the new animal drug regulation for tylosin and sulfamethazine to reflect approval of a supplemental new animal drug application (NADA) filed by Elanco Products Co. providing for administrative waiver of the ministerial requirements of section 512(m) of the Federal Food, Drug and Cosmetic Act (the act) with regard to the manufacture of finished swine feeds containing the drugs.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: Elanco Products Co., 740 S. Alabama St., Indianapolis, IN 46285, filed supplemental NADA 41-275 providing for waiver of the requirements of section 512(m) of the act (21 U.S.C. 360b(m)) for use of their tylosin/sulfamethazine premixes for the manufacture of complete swine feeds.

Premixes containing only tylosin and sulfamethazine meet the uniform criteria set forth in the 1971 Bureau of Veterinary Medicine memorandum for administrative waiver of the ministerial requirements of section 512(m) of the act. The pertinent provisions of the memorandum indicate that waiver is appropriate if:

1. The feeding of 1.5X to 2X level of the product in the finished feed does not have an impact on the tissue residue picture, i.e., an impact on an existing withdrawal period or tolerance.

2. The product is not a known carcinogen or is not classed with a family of known carcinogens.

3. Appropriate documentation covering animal safety is on file. This will not require additional data since this documentation is by definition a part of the NADA.

4. The margin of safety to the animal and the consumer is such that the product label does not have to contain a statement such as "Use as the sole source of * * *."

5. Data are on file to demonstrate that the product is efficacious over the approved range. This data should generally satisfy current standards for the demonstration of efficacy.

6. Except under special circumstances, the product has been used at least 3 years in the target species without significant complaints related to or associated with it. Applications of this criterion require a review of the available drug experience reports.

The 1971 memorandum explains that waiver of the ministerial requirements of section 512(m) of the act is permitted only for specific efficacy claims or at specific levels of the drugs, and that distinct products with corresponding labeling for those claims or levels should exist. This is necessary to cover those premixes that can be made into finished feeds with various concentrations of drugs.

The foregoing criteria established in the 1971 memorandum constitute an interim agency policy. In waiving the ministerial requirements of section 512(m) of the act, the agency has not waived the current good manufacturing practice regulations under Part 225 (21 CFR Part 225) for feed mills mixing such feeds.

In the Federal Register of January 9, 1981 (46 FR 2456), the agency published a proposal to revise the current procedures and requirements concerning conditions of approval for the manufacture of animal feeds containing new animal drugs. In that proposal (p. 2463), the agency served notice that it was no longer granting exemptions from the requirement of an approved medicated feed application on the basis of complying with certain uniform criteria set forth in a 1971 Bureau of Veterinary Medicine memorandum. Since publication of that proposal, however, the agency has reconsidered the effects of terminating section 512(m) waivers based on the 1971 memorandum. The agency concludes that it would be unfair to continue denying waivers to those drug sponsors whose products meet the criteria set forth in the 1971 memorandum on the basis that the program is to be restructured in the future. Accordingly, the agency is withdrawing its policy, announced in the January 9, 1981 Federal Register, terminating the granting of section 512(m) exemptions (based on the 1971 memorandum) and resumes the granting of exemptions on an interim basis.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR

25.24(b)(12) and (d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Approval of this supplement is an administrative action that did not require the generation of new effectiveness or safety data in support of the waiver. Therefore, a freedom of information summary is not required for this action.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.630 by adding new paragraph (d) to read as follows:

§ 558.630 Tylosin and sulfamethazine.

* * * * *

(d) *Special considerations.* Finished feeds conforming to the requirements of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

* * * * *

Effective date. May 28, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: May 20, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82-14696 Filed 5-27-82; 8:45 am]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-8-FRL-2111-7]

Approval and Promulgation of State Implementation Plans; Utah Nonattainment SIP

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The purpose of this notice is to approve revisions to the Utah State implementation Plan (SIP) which were submitted by the State on April 8, 1981. On January 28, 1982 (47 FR 4096), EPA proposed to approve the revisions and requested public comment. No comments were received. The revisions approved here include emission limits for Group II sources of volatile organic compounds, new limits on fugitive emissions of particulates, new or revised emission limits for several stationary sources, and a clarification to the compliance testing requirements.

DATES: This action will be effective May 28, 1982.

ADDRESSES: Copies of the revision are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295

Environmental Protection Agency, Public Information Reference Unit, Waterside Mall, 401 M Street SW., Washington, D.C. 20460

The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: David S. Kircher, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-3711.

SUPPLEMENTARY INFORMATION: On April 8, 1981, the Governor of Utah submitted to EPA a revision to the State Implementation Plan (SIP). This revision was divided into three parts for review and approval. First, emission limits in Utah Regulation 3.2.1 were revised for a number of stationary sources of particulates. The revisions for all but three of those sources were given expedited review and were approved on December 21, 1981 (46 FR 61859). Second, the revision included an amended Inspection/Maintenance work schedule for Salt Lake County. This portion was proposed for approval on May 5, 1981 (46 FR 25110).

Finally, the remainder of the SIP revision has been reviewed for consistency with Clean Air Act requirements and EPA criteria for approval of SIP Revisions. *See* 44 FR 20372 (1979), 44 FR 38583 (1979), 44 FR 53761 (1979), and 44 FR 50371 (1979). These remaining portions of the SIP Revision were proposed for approval on January 28, 1982 (47 FR 4096). No comments were received. The issues included in that revision are briefly described below:

Stationary Source Limits

Minor changes were made to the emission limitations applicable to Pacific States Cast Iron and Pipe Company, Gibbons and Reed Asphalt Plant, and Interpace Corporation. The changes are minor and will result in improvements in air quality.

Fugitive Emission Limits

Section 4.5 of the Utah Regulations was revised to control sources of fugitive dust and fugitive emissions, including mining operations, construction, roadways, and tailings. This regulation will result in reduced emissions of particulates in both attainment areas and nonattainment areas.

Volatile Organic Compounds

Section 4.9 of the regulations was amended to provide new limits on volatile organic compounds including the new Group II requirements. Specifically, the following provisions were added or revised:

Regulations	Source Category
4.9.1.c	Petroleum Liquid Storage.
4.9.2	Petroleum Liquid Transfer.
4.9.3.f	Refinery Equipment Leaks.
4.9.6	Operations for paper coating, fabric coating, metal furniture coating, large appliance surface coating, magnet wire coating, flatwood coating, miscellaneous metal parts coating, and graphic arts.
4.9.7	Synthesized pharmaceutical manufacturing.
4.9.8	Perchloroethylene dry cleaning plants.

The State notified EPA that there are no plants in Utah that manufacture pneumatic rubber tires.

While the regulations are generally acceptable, regulations 4.9.1.c, 4.9.3.f, and 4.9.6.h (graphic arts) contain minor inconsistencies with EPA's control technique documents which the State clarified during the public comment period. Details concerning these minor inconsistencies are included in EPA's evaluation report and a February 4, 1982, memorandum from the State to EPA. These minor inconsistencies do not affect approvability of the SIP revision.

Compliance Testing

Section 3.2.3 was revised to clarify the use of the method 5 sampling train (40 CFR Part 60, Appendix A). The revision states that only the front half of the train will be used for determining compliance with gravimetric emission limitations.

Final Action

EPA's review of the April 8, 1981, submittal indicates that it meets all requirements of section 110 and Part D of the Clean Air Act. Therefore, EPA proposes to approve all aspects of that submittal.

EPA finds good cause exists for making the action taken in this notice immediately effective for the following reasons:

(1) Implementation plan revisions are already in effect under state law or regulation and EPA approval poses no additional regulatory burden;

(2) EPA has a responsibility under the Act to take final action on the portion of the SIP which addresses Part D requirements by July 1, 1979, or as soon thereafter as possible.

Under section 307(b)(1) of the Clean Air Act, petitions for review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2)).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110 of the Clean Air Act (42 U.S.C. 7410))

Note. Incorporation by reference of the State Implementation Plan for the State of Utah was approved by the Director of the Federal Register on July 1, 1981.

Dated: April 30, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, Part 52 of the Code of Federal Regulations is amended as folllows:

Subpart TT—Utah

(1) In § 52.2320, paragraph (c)(12) is added as follows:

§ 52.2320 Identification of Plan.

* * * * *

(c) * * *

(12) Provisions to meet the requirements of Part D of the Clean Air Act, as amended in 1977, for particulates and volatile organic compounds, were submitted on April 8, 1981.

[FR Doc. 82-14618 Filed 5-27-82; 8:45 am]

BILLING CODE 6560-38-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405 and 440

Medicare and Medicaid Programs; Nurse-Midwife Services

Correction

In FR Doc. 82-13346 appearing at page 21046 in the issue for Monday, May 17, 1982 please make the following corrections:

(1) On page 21049, in the middle column, in § 405.2401(b)(10)(iv)(C), in the last two lines, the phrase "(the effective date of these regulations)" should have read "July 16, 1982."

(2) On page 21050, in the third column, in § 440.165(b)(4)(iii), in the last two lines, "(the effective date of these regulations)" should have read "July 16, 1982."

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6012]

Final Flood Elevation Determination; Pennsylvania

AGENCY: Federal Emergency Management Agency.

ACTION: Deletion of final rule.

SUMMARY: The Federal Emergency Management Agency has erroneously published the final flood elevation determination for the Township of LeBoeuf, Erie County, Pennsylvania. This notice will serve to delete that publication. Following an engineering analysis and review, a revised notice of proposed flood elevation determination will be issued.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Federal Emergency Management Agency, National Flood Insurance Program (202) 287-0230, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: As a result of a recent engineering analysis, the Federal Emergency Management Agency has determined that the notice of final flood elevation determination for the Township of LeBoeuf, Erie County, Pennsylvania, published at 45 FR 60585, on December 11, 1981, should be deleted. After a technical evaluation, a revised notice of proposed flood elevations will be issued, with a ninety-day period specified for comments and appeals.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: April 30, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14601 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 68

[Docket No. FEMA-68A]

Base Flood Elevation Determinations; Administrative Hearing Procedures

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) revises its procedures for holding administrative hearings for resolution of appeals of its base flood elevation determinations. The purpose of this revision is to provide a more efficient hearing process. This revision establishes a three member board which includes two members qualified in the field of technical base flood elevation determinations to replace the current requirement of a single administrative law judge or hearing officer as presiding official. The board's decision will be a recommendation to the Agency Director who will make the final base flood elevation determination. Other minor changes consistent with these revisions have been made to improve the administrative hearing procedures.

DATE: This rule is effective June 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Gregg Chappell, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287-0230.

SUPPLEMENTARY INFORMATION: Section 1363 of the National Flood Insurance Act of 1968, *as amended*, provides that a community may appeal flood elevation determination proposed by FEMA. Section 1363(e) provides in part: "The

(Director) shall resolve such appeal by consultation with officials of the local government involved, by administrative hearing, or by submission of the conflicting data to an independent scientific body or appropriate Federal agency for advice." The administrative hearing procedures for base flood elevation appeals are set forth in 44 CFR Part 68 of the National Flood Insurance Program regulations.

These procedures currently provide for an administrative law judge to preside over such hearings (§ 68.4). With the complexity of technical involvement in determining flood elevations, FEMA finds that a better way to secure informed technical review at these hearings is to have them conducted by a hearing board with members who are technically qualified to review flood elevation data. Specifically, this proposed revision (§ 68.4) establishes a three member hearing board to replace the current requirement of a single administrative law judge or hearing officer.

In addition, these procedures (specifically §§ 68.2, 68.3 and 68.4) are being revised to ensure a fair and impartial procedure and to reflect the internal reorganization of FEMA and recent delegations of authority made pursuant to the reorganization. The Associate Director for State and Local Programs and Support will have responsibility for determining whether an administrative hearing will be held. The Agency Director will appoint a hearing officer based upon a recommendation by the Office of Personnel Management. The hearing officer will chair the board. The two remaining members, who must be qualified in the technical field of flood elevation determinations, will be selected by the appointed hearing officer. The hearing officer shall consult with anyone he deems appropriate to determine the technical qualifications of individuals being considered for appointment to the board. The board members shall not be FEMA employees.

Section 68.3 is being revised to reflect clearly the statutory discretion allowed the Associate Director in determining whether to hold a hearing. The Associate Director shall hold an administrative hearing after determining that the appeal cannot be resolved by community consultation or by the advice of an independent scientific body or an appropriate Federal agency. The purpose of this section is to conserve administrative resources.

Section 68.8 has been made more specific to limit the scope of review of the administrative hearing to only that information which would be pertinent to scientific or technically correct base flood elevations for the community in question. Section 68.9 has also been made more specific and limited for the same reason by deleting § 68.9 (b) and (e).

Section 68.11 has been revised to reflect the change from an administrative law judge/hearing officer as the presiding official to the three member hearing board as provided in the new § 68.4. The board shall have 45 days after the conclusion of the hearing to render a written decision and the entire record will be sent to the Director for review and final determination.

Under the current § 68.13, any modification to the base flood elevations granted by the administrative law judge was binding on the Director. Under this rule change (§ 68.11), the hearing board's determination will be in the form of a recommendation to the Director. The Director will be the final decision-maker and shall approve or disapprove, in whole or in part, the recommendation of the board. Any appellant aggrieved by the Director's decision will have the right of appeal to the United States district court for the district within which the community is located as provided by Section 1363(f) of the National Flood Insurance Act of 1968, *as amended.*

An environmental assessment is not necessary because this rule change is procedural and has no effect on the quality of the human environment. This rule change is not a "major rule" within the context of Executive Order 12291. This rule does not have a significant economic impact on a substantial number of small entities because it calls for improving the appeals process for base flood elevation determinations.

FEMA published a proposed rule on December 22, 1981 (46 FR 61299–61301). One comment was received. Lee County, Florida, expressed concern with that aspect of the rule change which gives the Director discretion to approve or disapprove, in whole or in part, the decision of the hearing board. While we understand the County's apprehension, we believe it is misplaced. First, the procedures of the Federal Emergency Management Agency (FEMA) which bound it to a finding of a hearing officer were highly atypical. It is not common practice for Federal agencies to so bind themselves. Second, though the Director will have the discretion to review the board's decision, such decision would not be rejected without good reason. Third, if a community believes that the board's decision has been overturned without good cause, the community has recourse to the courts. FEMA believes that since it has the responsibility for establishing accurate flood elevations, it must allow itself the leeway to review the board's findings.

Only one change was made in the proposed rule. A new subsection was added to § 68.9 *Admissible Evidence* to clarify the fact that a previous determination regarding the flood elevations of another community is not binding on the board and is only admissible if relevant. Each flood insurance study applies to one community. It would be inconsistent with the statutory appeals structure to have the determination of one community's flood elevations affect the elevations in a different community. The principles of *res judicata* and collateral estoppel are not applicable to this type of situation.

Accordingly, 44 CFR Part 68 is revised to read as follows:

PART 68—ADMINISTRATIVE HEARING PROCEDURES

Sec.

68.1 Purpose of part.
68.2 Definitions.
68.3 Right to administrative hearings.
68.4 Hearing board.
68.5 Establishment of a docket.
68.6 Time and place of hearing.
68.7 Conduct of hearings.
68.8 Scope of review.
68.9 Admissible evidence.
68.10 Burden of proof.
68.11 Determination.
68.12 Relief.

Authority: Sec. 1304(a), 1363 of the National Flood Insurance Act of 1968, as amended, 82 Stat. 574 (42 U.S.C. 4011–4104); Reorganization Plan No. 3 of 1978 (43 FR 41943) and Executive Order 12127, dated March 31, 1979 (44 FR 19367) and delegation of authority to Associate Director, State and Local Programs and Support.

§ 68.1 Purpose of part.

The purpose of this part is to establish procedures for appeals of the Associate Director's base flood elevation determinations, whether proposed pursuant to section 1363(e) of the Act (42 U.S.C. 4104) or modified because of changed conditions or newly acquired scientific and technical information.

§ 68.2 Definitions.

The definitions set forth in Part 59 of this subchapter are applicable to this part. For the purposes of this part, "Director" shall mean the Director of the Federal Emergency Management Agency and "Associate Director" shall mean Associate Director for State and Local Programs and Support.

§ 68.3 Right to administrative hearings.

If a community appeals the Associate Director's flood elevation determination

established pursuant to § 67.8 of this subchapter, and the Associate Director has determined that such appeal cannot be resolved by consultation with officials of the community or by submitting the conflicting data to an independent scientific body or appropriate Federal agency for advice, the Associate Director shall hold an adminsitrative hearing to resolve the appeal.

§ 68.4 Hearing board.

(a) Each hearing shall be conducted by a three member hearing board (hereinafter "board"). The board shall consist of a hearing officer (hereinafter "Judge") appointed by the Director based upon a recommendation by the Office of Personnel Management and two members selected by the Judge who are qualified in the technical field of flood elevation determinations. The Judge shall consult with anyone he deems appropriate to determine the technical qualifications of individuals being considered for appointment to the board. The board members shall not be FEMA employees.

(b) The Judge shall be responsible for conducting the hearing, and shall make all procedural rulings during the course of the hearing. Any formal orders and the final decision on the merits of the hearing shall be made by a majority of the board. A dissenting member may submit a separate opinion for the record.

(c) A technically qualified alternate will be appointed by the Judge as a member of the board when a technically qualified appointed member becomes unavailable. The Director will appoint an alternate Judge if the appointed Judge becomes unavailable.

§ 68.5 Establishment of docket.

The General Counsel shall establish a docket for appeals referred to him/her by the Associate Director for administrative hearings. This docket shall include, for each appeal; copies of all materials contained in the flood elevation determination docket (FEDD) file on the matter, copies of all correspondence in connection with the appeal, all motions, orders, statements, and other legal documents, a transcript of the hearing, and the board's final determination.

§ 68.6 Time and place of hearing.

(a) The time and place of each hearing shall be designated by the Judge for that hearing. The Associate Director and the General Counsel shall be promptly advised of such designations.

(b) The board's notice of the time and place of hearing shall be sent by the Flood Insurance Docket Clerk by registered or certified mail, return receipt requested, to all appellants. Such notice shall include a statement indicating the nature of the proceedings and their purpose and all appellants' entitlement to counsel. Notice of the hearing shall be sent no later than 30 days before the date of hearing unless such period is waived by all appellants.

§ 68.7 Conduct of hearings.

(a) The Judge shall be responsible for the fair and expeditious conduct of proceedings.

(b) The Associate Director shall be represented by the General Counsel or his/her designee.

(c) One administrative hearing shall be held for any one community unless the Associate Director for good cause shown grants a separate hearing or hearings.

(d) The Chief Executive Officer (CEO) of the community or his/her designee shall represent all appellants from that community; *Provided,* That any appellant may petition the board to allow such appellant to make an appearance on his/her own behalf. Such a petition shall be granted only upon a showing of good cause.

(e) Hearings shall be open to the public.

(f) A verbatim transcript will be made of the hearing. An appellant may order copies of the transcribed verbatim record directly from the reporter and will be responsible for payments.

§ 68.8 Scope review.

Review at administrative hearings shall be limited to: An examination of any information presented by each appellant within the 90 day appeal period indicating that elevations proposed by the Associate Director are scientifically or technically incorrect; the FIRM; the flood insurance study; its backup data and the references used in development of the flood insurance study; and responses by FEMA to the issues raised by the appellant(s).

§ 68.9 Admissible evidence.

(a) Legal rules of evidence shall not be in effect at adminstrative hearings. However, *only* evidence relevant to issues within the scope of review under § 68.8 shall be admissible.

(b) Documentary and oral evidence shall be admissible.

(c) Admissibility of non-expert testimony shall be within the discretion of the board.

(d) All testimony shall be under oath.

(e) *Res judicata*/collateral estoppel. Where there has been a previous determination, decision or finding of fact by the Director, one of his delegees, an administrative law judge, hearing officer, or hearing board regarding the base flood elevations of any other community, such determination, decision, or finding of fact shall not be binding on the board and may only be admissible into evidence if relevant.

§ 68.10 Burden of proof.

The burden shall be on appellant(s) to prove that the flood elevation determination is not scientifically or technically correct.

§ 68.11 Determination.

The board shall render its written decision within 45 days after the conclusion of the hearing. The entire record of the hearing including the board's decision will be sent to the Director for review and approval. The Director shall make the final base flood elevation determination by accepting in whole or in part or by rejecting the board's decision.

§ 68.12 Relief.

The final determination may be appealed by the appellant(s) to the United States district court as provided in Section 1363(f) of the Act (42 U.S.C. 4104).

(Catalog of Federal Domestic Assistance Number 83.100 National Flood Insurance Program)

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14664 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-01-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for Maricopa County, Arizona, Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Maricopa County, Arizona. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Maricopa County, Arizona, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal of federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034; Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 040037 Panel 0935A, published on October 6, 1980, in 45 FR 66116, indicates that Lots 129 through 147, North Valley View, Unit Two, Phoenix, Arizona, as recorded in Book 235, Page 9, in the Office of the Recorder, Maricopa County, Arizona are located within the Special Flood Hazard Area.

Map No. H & I 040037 Panel 0935A is hereby corrected to reflect that the above mentioned lots are not within the Special Flood Hazard Area identified on July 2, 1979. These lots are in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 19, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14688 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA–5909]

Letter of Map Amendment for Santa Barbara County, California, Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Santa Barbara County, California. It has been determined by the Associated Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Santa Barbara County, California, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034; Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 060331 Panel 0765B, published on October 6, 1980, in 45 FR 66119, indicates that Lot 4, Tract 11511, Santa Barbara County, California, as recorded in Book 79, Pages 91 through 93 of Record Maps, in the Office of the Recorder, Santa Barbara County, California, is located within the Special Flood Hazard Area.

Map No. H & I 060331 Panel 0765B is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on March 15, 1979. This property is in Zone C.

Pursuant to provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 5, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14691 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-6116]

Letter of Map Amendment for the City of Santa Maria, California, Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Santa Maria, California. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for City of Santa Maria, California, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034; Telephone: (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 060936 Panel 0005B, published on July 22, 1981, in 46 FR 37653, indicates that Lots 1 through 91, Proposed Tract No. 5296, Hancock Village, being Lot 201, Tract 5226, Santa Maria, California, recorded as Instrument Number 80-15075, in the Office of the Recorder, Santa Barbara County is located within the Special Flood Hazard Area.

Map No. H & I 060936 Panel 0005B is hereby corrected to reflect that the existing structures located on the above mentioned lots are not within the Special Flood Hazard Area identified on June 1, 1981. These structures are in Zone B.

Pursuant to provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70.

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 5, 1982.

Leo M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14670 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for Brevard County, Florida, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Brevard County, Florida. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Brevard County, Florida, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP). P.O. Box 34294, Bethesda, Maryland 20034; Phone: (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 125092 B, Panel 49, published on October 6, 1980 in 45 FR 66068 indicates that Lot 22 of the Suntree Planned Unit Development, Stage Fourteen, Tract Ten, Unit One and Tract Eleven-A, also known as 611 Casa Grande Drive as recorded in Official Records Book 2330, Page 1336 in the Circuit Court Clerk's Office of Brevard County, Florida, is located within the Special Flood Hazard Area.

Map Number H and I 125092 B, Panel 49 is hereby corrected to reflect that the above-mentioned property is not within the Special Flood Hazard Area as identified on August 6, 1979. The property is located in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities.

This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 5, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14571 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Cocoa Beach, Florida, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Cocoa Beach, Florida. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Cocoa Beach, Florida, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP), P.O. Box 34294, Bethesda, Maryland 20034; Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 125097 C, Panel 03, published on October 6, 1980 in 45 FR 66058 indicates that Lot 6 in Block 7, in the City of Cocoa Beach, Florida as recorded in Plat Book 3 at Page 54 of the Public Records of Brevard County, Florida is within the Special Flood Hazard Area.

Map Number H & I 125097 C, Panel 03 is hereby corrected to reflect that the existing structure on the above-mentioned property is not within the Special Flood Hazard Area identified on May 20, 1977. The structure is in Zone C. However portions of the property would still be inundated by a flood having a one-percent chance of occurrence in any given year (base flood).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 5, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14572 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for Dade County, Florida, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Dade County, Florida. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Dade County, Florida, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction of acquisition purposes.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program

(NFIP). P.O. Box 34294, Bethesda, Maryland 20034; Phone: (800) 638-8620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H and I 125098, Panel 0275 D published on 10-6-80 in 45 FR 66058 indicates that Lot 10 of Block 3, Southland Pines, in Dade County, Florida, according to the Plat thereof as recorded in Plat Book 94 at Page 77 of the Public Records of Dade County, is located within the Special Flood Hazard Area.

Map Number H and I 125098, Panel 0275 D is hereby corrected to reflect that the existing structure on the above-mentioned property is not within the Special Flood Hazard Area identified on November 14, 1980. The structure is located in Zone B. The low would still be partially inundated by a flood having a one-percent chance of occurrence in any given year.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 5, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14573 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for Hillsborough County, Florida, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Hillsborough County, Florida. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Hillsborough County, Florida that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP), P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-8620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 120112, Panel 0205 B pubished on October 6, 1980 in 45 FR 66059 indicates that Lot 24, Block 1, Livingston II-A Subdivision, Hillsborough County, Florida, as recorded in Plat Book 50, Page 37, in the Office of the Clerk of the Circuit Court of Hillsborough County, Florida is located within the Special Flood Hazard Area.

Map Number H & I 120112, Panel 0205 B is hereby corrected to reflect the above-mentioned property is not within the Special Flood Hazard Area indentified on June 18, 1980. The property is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rules provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 5, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14574 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-6237]

Letter of Map Amendment for Pasco County, Florida, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Pasco County, Florida. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Pasco County, Florida, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP). P.O. Box 34294, Bethesda, Maryland 20034; Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 120230, Panel 0195 B, published on January 25, 1982 in 47 FR 3355 indicates that Tract 178 of Golden Acres Unit Eleven, in Pasco County, Florida, as shown on the plat recorded in Plat Book 15, Pages 84 through 87 of the Public Records of Pasco County is within the Special Flood Hazard Area.

Map Number H & I 120230, Panel 0195 B is hereby corrected to reflect that the existing structure on the above-mentioned property is not within the Special Flood Hazard Area identified on November 18, 1981. The structure is in Zone C. However, portions of the property would still be inundated by a flood having a one-percent chance of occurrence in any given year (base flood).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participation communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 5, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14573 Filed 5-27-82; 8:45 am]
BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA–5909]

Letter of Map Amendment for the City of Baltimore, Maryland, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the City of Baltimore, Maryland. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Baltimore, Maryland, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT:
Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisiton purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034; Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. H&I 240067A, Panel No. 09, published on October 6, 1980, in 45 FR 66039, indicates that Lot No. 19, Ward 28, Section 4, Block 8383–J, also known as 2553 Pickwick Road, City of Baltimore, Maryland, as recorded in Liber 3404, Pages 506 and 567, in the Office of the Clerk of the Circuit Court of the City of Baltimore, Maryland, is located within the Special Flood Hazard Area.

Map No. H&I 240067A, Panel No. 09, is hereby corrected to reflect that the above-mentioned property is not within the Special Flood Hazard Area identified on March 15, 1978. The property is in Zone C.

Pursuant to the provisions of U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazards Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued May 5, 1982.

Lee M. Thomas

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14574 Filed 5-27-82; 8:45 am]
BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the Township of Scotch Plains, New Jersey, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the Township of Scotch Plains, New Jersey. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Township of Scotch Plains, New Jersey, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0230

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP), P.O. Box 34294, Bethesda, Maryland 20034; Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 340474, Panel 0005 B published on October 6, 1980 in 45 FR 66030 indicates that structures numbered 1 through 4 and 6 through 12 of the property known as Riverside Village in the Township of Scotch Plains, New Jersey, as recorded in Book 3194, Pages 22 through 24 in the Register's Office, Union County, New Jersey, are located within the Special Flood Hazard Area.

In addition, the above-mentioned Map and Panel Number indicated that the structures numbered 1 through 5, 7 through 18, and 20 through 26 of the property known as Country Club Village in the Township of Scotch Plains, New Jersey, as recorded in Book 3191, Pages 504 through 506 in the Register's Office, Union County, New Jersey, are located within the Special Flood Hazard Area.

Map Number H & I 340474, Panel 0005 B is hereby corrected to reflect that structures numbered 1 through 4 and 6 through 12 of the Riverside Village are not within the Special Flood Hazard Area identified on July 18, 1980. These existing structures are in Zone B.

Furthermore, the above-mentioned Map and Panel Number is hereby corrected to reflect that structures numbered 1 through 5, 7 through 18, and 20 through 26 of Country Club Village are not within the Special Flood Hazard Area identified on July 18, 1980. Structures numbered 1 through 3, 5, 7 through 18, and 20 through 26 are in Zone B, structure number 4 is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support).

Issued: May 5, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14577 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the Town of Ramapo, New York, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the Town of Ramapo, New York. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Town of Ramapo, New York, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP), P.O. Box 34294, Bethesda, Maryland 20034; Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 365340 B, Panel 04 published on October 6, 1980 in 45 FR 66035 indicates that the Pacesetter Park Shopping Center in the Town of Ramapo, New York, as recorded in Liber

1055, Pages 294 through 297 in the Rockland County Clerk's Office, is located within the Special Flood Hazard Area.

Map Number H & I 365340 B, Panel 04 is hereby corrected to reflect that the structures of the above-mentioned shopping center are not within the Special Flood Hazard Area identified on May 14, 1976. The structures are in Zone C. However, portions of the property would still be inundated by a flood having a one-percent chance of occurrence in any given year (base flood).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazards areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 4, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14578 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for Durham County, North Carolina, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps indentifying Special Flood Hazard Areas have been published. This list included Durham County, North Carolina. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Durham County, North Carolina, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP). P.O. Box 34294, Bethesda, Maryland 20034; Phone: (800) 638–8620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 370085, Panel 0025 A published on October 6, 1980 in 45 FR 66067 indicates that Lot 4 of Block D in Section V "Heather Glen" Subdivision, recorded in Plat Book 91 at Page 76 in the Office of the Register of Deeds for Durham County, North Carolina is located within the Special Flood Hazard Area.

Map Number H & I 370085, Panel 0025 A is hereby corrected to reflect that the above-mentioned property is not located within the Special Flood Hazard Area identified on February 15, 1979. The property is located in Zones B and C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 5, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14579 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Oklahoma City, Oklahoma, Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Oklahoma City, Oklahoma. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Oklahoma City, Oklahoma, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to

purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034; Telephone: (800) 638–8620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 405378A Panel 64, published on October 6, 1980, in 45 FR 66095, indicates that Lots 9A through 14A, 23A, 24A, 8B through 13B, 22B, and 23B, Knight Lake II, Oklahoma City, Oklahoma, as recorded in Plat Book 47, Page 72, in the Office of the County Clerk, Oklahoma County, Oklahoma, are within the Special Flood Hazard Area.

Map No. H & I 405378A Panel 64 is hereby corrected to reflect that the above mentioned lots are not within the Special Flood Hazard Area identified on February 2, 1979. These lots are in Zone C.

Pursuant to provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 5, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14580 Filed 5-27-82; 8:45 am]
BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA–5909]

Letter of Map Amendment for the City of Tulsa, Oklahoma, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Tulsa, Oklahoma. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for The City of Tulsa, Oklahoma, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034; Telephone: (800) 638–8620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 405381D Panel 71, published on October 6, 1980, in 45 FR 66095, indicates that Lot 1, Block 2, Harvard Square, Tulsa, Oklahoma, recorded as Plat No. 1248, Record No. 732989, in the Office of the Clerk, Tulsa County, Oklahoma, is partially located within the Special Flood Hazard Area.

Map No. H & I 405381D Panel 71 is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on August 14, 1979. This property is in Zone C.

Map No. H & I 405381D Panel 62, published on October 6, 1980, in 45 FR 66095, indicates that Lots 14 and 15, Block 19, Amended Plat of Dawson, Tulsa, Oklahoma, recorded as Plat No. 516, in the Office of the Clerk, Tulsa County, Oklahoma, are located within the Special Flood Hazard Area.

Map No. H & I 405381D Panel 62 is hereby corrected to reflect that the above mentioned lots are not within the Special Flood Hazard Area identified on August 14, 1979. These lots are in Zone C.

Pursuant to provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains..

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support.

Issued: May 17, 1982

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14668 Filed 5-27-82; 8:45 am]
BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 67

[CC Docket No. 80-286; FCC 82-106]

Order Adopting Supplemental Ex Parte Procedures

AGENCY: Federal Communications Commission—Federal State Joint Board.

ACTION: Order adopting Supplemental Ex Parte Procedures.

SUMMARY: The Federal Communications Commission is publishing new procedural rules adopted by the Federal-State Joint Board. The Joint Board is adopting supplemental *ex parte* procedures to facilitate its decision making processes in light of the logistical requirements resulting from the fact that the members of the Joint Board and its staff are located in different cities throughout the country.

EFFECTIVE DATE: This Order shall be effective May 28, 1982. in the Federal Register

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: James W. McConnaughey, Policy and Program Planning Division, Common Carrier Bureau, at (202) 632-6342.

Order

Adopted: February 24, 1982.

Released: March 5, 1982.

By the Federal-State Joint Board: Commissioner Jones dissenting and issuing a statement.

In the matter of amendment of Part 67 of the Commission's rules and establishment of a joint board; CC Docket No. 80-286.

I. Background

1. This proceeding was instituted by the Commission on June 11, 1980 to reexamine the rules governing the allocation of local exchange plant and expenses between the intrastate and interstate jurisdictions in light of the new competitive environment for interstate communications services and the Commission's decision in the *Second Computer Inquiry* detariffing terminal equipment. Pursuant to Section 410(c) of the Communications Act, the Commission convened a Federal-State Joint Board composed of three Federal and four State Commissioners to develop recommended rule changes for review by the Commission. 78 FCC 2d 837 (1980). In the Notice of Proposed Rulemaking instituting this proceeding the Commission noted that certain interested persons had requested that the Commission apply its *Ex Parte* Rules to the proceedings before the Joint Board. The Commission, however, concluded that the Joint Board should be allowed to develop its own procedural ground rules, although it noted that Section 1.1207(a) of the Rules provides that rulemaking proceedings such as this involving Section 221(c) of the Communications Act are generally restricted.

2. In its First Supplemental Notice in this proceeding the Commission stated that "all parties will be protected if the Joint Board is subject to the *ex parte* rules pertaining to informal rulemaking proceedings until final written submissions or oral presentations are made to the Joint Board." CC Docket No. 80-286, 82 FCC 2d 157-158 (1980). Although informal rulemaking proceedings can be either restricted or nonrestricted depending on whether they involve "conflicting claims to a valuable privilege," this statement, read in context, indicated that this proceeding was to be treated as nonrestricted until final written or oral presentations were made to the Joint Board. Thus, Docket No. 80-286 was listed as nonrestricted under the *Ex Parte* Rules in a Public Notice issued by the Commission. Public Notice, "Classification of Notice of Proposed Rulemaking and Inquiry Proceedings For Purposes of *Ex Parte* Communications," Mimeo No. 06011, March 13, 1981.

II. Discussion

3. The Joint Board believes that the procedures governing nonrestricted informal rulemaking proceedings set out in the Commission's *Ex Parte* Rules provide important protections to the parties to this proceeding. However, the fact that the members of the Joint Board and the Joint Board Staff are located in different cities throughout the country makes it particularly difficult for the Board to consider pleadings and other proposals filed outside the established pleading cycles. In order to ensure the Joint Board and its staff a full opportunity to analyze all pleadings filed in this proceeding and allow all interested persons an opportunity to respond to such filings, we are imposing the following procedures.

4. Except for written *ex parte* presentations which are subject to somewhat different requirements discussed below, written materials which are filed outside a pleading cycle established by the Joint Board shall be accompanied by a Petition for Leave to File showing cause why the material should be considered by the Joint Board. The Joint Board will not consider any filing made outside an authorized pleading cycle and received by the Federal Communications Commission less than 15 days in advance of a Joint Board meeting at which the Joint Board is to consider the subject matter of that filing.[1] In general, written *ex parte* presentations differ from other written material filed outside an established pleading cycle by virtue of the fact that they are given directly to individual Board or staff members and not served on the other parties to the proceeding.[2] See Section 1.1201(g) of the Commission's Rules. Written *ex parte* presentations need not be accompanied by a Petition for Leave to File and may be received in the discretion of the Joint Board or staff member involved. However, no written *ex parte* presentations are to be made during the 15-day period immediately preceding a Joint Board meeting except in response to an inquiry initiated by a member of the Joint Board or its staff.

5. Oral *ex parte* presentations, except those initiated by Joint Board members or members of its staff, will also be prohibited during the final seven days preceding Joint Board meetings. Oral *ex parte* presentations are being treated differently than written *ex parte* presentations because it is unlikely that a party would attempt to present major new substantive recommendations concerning resolution of the issues in this proceeding solely through oral *ex parte* presentations. While we realize that this could happen, thereby impeding the Joint Board's ability to give full consideration to the recommendation and adversely affecting the opportunity of interested persons to respond, the probability of it does not warrant cutting off the oral input of interested parties for 15 full days before each Joint Board meeting.

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[1] In calculating this 15-day period, neither the day on which the material is filed nor the day on which the Joint Board meeting is to be held shall be counted.

[2] In this proceeding, the parties shown on the closed service list are required to serve the Federal and State members of the Joint Board, the Joint Board staff and all other parties shown on the closed service list with copies of their pleadings. Public Notice, "Service List for CC Docket No. 80-286," Mimeo No. 1061, released December 14, 1981. Thus, any substantive written material concerning this proceeding sent by a party on the closed service to a Joint Board member or a member of the staff would be *ex parte* if it was not served in conformity with this requirement. Parties not included on the closed service list are required to serve the Joint Board members and staff, but they are not required to serve the other parties to this proceeding. However, a filing by such a party outside an established pleading cycle will be treated as *ex parte* for the purposes of these supplemental procedures unless the filing is served on the parties on the closed service list as well as the Joint Board members and the staff.

This seven-day cutoff period will adequately ensure equitable treatment of all parties during the final days immediately before Joint Board meetings.

6. However, because of the importance of the issues involved, the Joint Board may, on certain occasions, wish to obtain the views on interested persons during this period. In these situations the Joint Board will provide an opportunity for public oral argument the day before the Joint Board is to meet. In addition, individual members of the Joint Board and the Joint Board Staff may initiate written or oral *ex parte* presentations during the cutoff period.[3] The Commission's *Ex Parte* Rules governing nonrestricted informal rulemaking proceedings will continue to apply to the extent that they are not inconsistent with the procedures outlined above.

III. Ordering Clause

7. Accordingly, it is ordered, That the procedures set forth above SHALL APPLY to the conduct of this proceeding before the Federal-State Joint Board. This action is taken pursuant to Sections 4 (i) and (j), 221(c) and 410(c) of the Communications Act, 47 U.S.C. 154 (i) and (j), 221(c) and 410(c) (1976). These procedures shall be effective immediately upon publication in the Federal Register. (May 28, 1982)[4]

Federal Communications Commission.[5]

William J. Tricarico,

Secretary.

Dissenting Statement of Commissioner Anne P. Jones

In re: Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, CC Docket No. 80-286

March 2, 1982.

I dissent from the Joint Board's decision to adopt these supplemental restrictions on *ex parte* communications in this proceeding primarily for the reasons I dissented from the Commission's adoption two years ago of *ex parte* restrictions for its informal rulemaking proceedings (78 FCC 2d 1384). As I pointed out then, the purpose of proceedings such as these is to establish sound public policy in the broad public interest, and in such an effort the paramount need of the decision makers is wisdom. Because *ex parte* restrictions limit access by decision makers to wisdom outside the agency (or in this case the Joint Board), I believe they should not be imposed except as required by law, and no such requirement applies here.

An additional objection to the restrictions adopted here by the Joint Board is that only a little ingenuity will be required to evade them. For example, a party wishing to impart an *ex parte* communication during the cut-off period need only drop a hint convincing enough to induce the member of the Joint Board or the Joint Board Staff with whom he wishes to communicate to initiate the otherwise prohibited presentation.

In short, these restrictions are objectionable both because their purpose is counterproductive and because they are, in any event, ill designed for that purpose.

[FR Doc. 82-14674 Filed 5-27-82; 8:45]

BILLING CODE 6712-01-M

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47 CFR Part 83

[PR Docket No. 81-657; FCC 82-203]

Stations on Land in the Maritime Services and Stations on Shipboard in the Maritime Services; Commission's Rules To Make a Certain Frequency Available Exclusively for Vessel Traffic Service (VTS) Communications in the Houston VTS Radio Protected Area

Correction

In FR Doc. 82-14341 appearing on page 22962 in the issue of Wednesday, May 26, 1982, make the following correction:

On page 22963, second column, in the amendatory language and the section heading, "81.361" should read "83.361".

BILLING CODE 1505-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271 and 278

[Amendment No. 216]

Food Stamp Program: Defining Which Financial Institutions May Redeem Food Stamps

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment permits certain insured financial institutions to redeem food stamps for authorized retailers and wholesalers. This provision is authorized by Title XIII of Pub. L. 97-98 (The Food Stamp and Commodity Distribution Amendments of 1981). This rule will permit these institutions to begin redeeming food stamps immediately. Prior to this provision only banks were permitted to redeem food stamps.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Herbert A. Scurlock, Director, Federal Operations Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302 (703) 756-3487.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291.

This rule has been reviewed under Executive Order 12291 and the Secretary's Memorandum No. 1512-1. The Department has determined that this rule does not constitute a major rule. Since this rule merely implements technical aspects of parts of Title XIII of Pub. L. 97-98 (the Food Stamp and Commodity Distribution Amendments of 1981), it will not result in (1) An annual effect on the economy of $100 million or more; (2) A major increase in costs or prices for consumers, industries, Federal, State or local governments, or geographic regions; or (3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This rule will not significantly raise the Food Stamp Program's total benefit and administrative expenses. The rule deals exclusively with the administration of the Food Stamp Program and since it merely restates the provisions of the statute it will not affect industry and trade.

Publication

Mr. Samuel J. Cornelius, Administrator of the Food and Nutrition Service, has determined, in accordance with 5 U.S.C. 553(b)(1)(B), that notice of proposed rulemaking and public comment procedures prior to the effective date of this rule are unnecessary since the rule merely restates the provisions of the statute. Public Law 97-98 permits insured savings and loan institutions to redeem food stamps in the same way as banks operated under current Food Stamp regulations. Because

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[3] This procedure is different from that set out in the Commission's *Ex Parte* Rules governing nonrestricted informal rulemaking proceedings which prohibit Commission initiated *ex parte* presentations during the cutoff period.

[4] Notice and an opportunity for comment as well as 30 days' notice prior to the effective date of these changes are not required pursuant to Section 553 of the Administrative Procedure Act, 5 U.S.C. 553 (1976), because this Order deals exclusively with procedural matters.

[5] See attached Dissenting Statement of Commissioner Anne P. Jones.

Pub. L. 97–98 is now effective it is in the public interest to grant such savings and loan institutions the opportunity extended to them by the law without delay.

Regulatory Flexibility Act

This action has also been reviewed with regard to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, September 19, 1980). The Administrator, Food and Nutrition Service, has certified that the rule does not have a significant economic impact on a substantial number of small entities because the rule reiterates the provisions of the statute and extends the right to redeem food stamps to fiscal organizations insured by FSLIC and FDIC.

This rule does not contain recordkeeping or reporting requirements under the provisions of the Paperwork Reduction Act of 1980.

Background

Currently only banks are permitted to redeem food stamps for retailers and wholesalers participating in the Food Stamp Program. However, Title XIII of Pub. L. 97–98 (the Food Stamp and Commodity Distribution Amendments of 1981) requires that the term "bank" be struck wherever it appears in the Food Stamp Act of 1977 and the term "financial institutions which are insured by the Federal Deposit Insurance Corporation (FDIC) or the Federal Savings and Loan Insurance Corporation (FSLIC)" be substituted.

The economic circumstances prevailing in the country today make it desirable for insured savings and loan institutions to accept food stamps for redemption without delay. Therefore, the Department has determined that this rule shall take effect upon publication.

List of Subjects

7 CFR Part 271

Administrative practice and procedure, Food stamps, Grant programs-social programs.

7 CFR Part 278

Administrative practice and procedure, Banks, Banking, Claims, Food stamps, Groceries-retail, Groceries, General line-wholesaler, Penalties.

Accordingly, 7 CFR Parts 271 and 278 are amended as follows:

PART 271—GENERAL INFORMATION AND DEFINITIONS

§ 271.1 [Amended]

1. In § 271.1, paragraph (b) is amended by striking out the term "banks" and inserting the term "insured financial institutions".

§ 271.2 [Amended]

2. In § 271.2, the following definition is added in alphabetical order:

* * * * *

"Insured financial institution" means a financial institution insured by the Federal Deposit Insurance Corporation (FDIC) or the Federal Savings and Loan Insurance Corporation (FSLIC).

* * * * *

PART 278—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND FINANCIAL INSTITUTIONS

3. The term "bank" or "banks" is struck wherever it appears (except where preceded by the term "Federal Reserve") and replaced by the term "insured financial institution" or "insured financial institutions".

(91 Stat. 958 (7 U.S.C. 2011–2027))

(Catalog of Federal Domestic Assistance Programs, No. 10.551, Food Stamps)

Dated: May 20, 1982.

Samuel J. Cornelius,

Administrator.

[FR Doc. 82-10073 Filed 5-27-82; 10:21 am]

BILLING CODE 3410-30-M

Proposed Rules

Federal Register
Vol. 47, No. 104
Friday, May 28, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

United States Standard for Grades of Lemon Juice

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On September 4, 1981, the Agricultural Marketing Service published in the **Federal Register** a document proposing to amend the U.S. Standards for Grades of Canned Lemon Juice by incorporating into it the current grading standards for concentrated lemon juice for manufacturing and adding new grading standards for lemon juice from concentrate. All three products are subject to the newly established Food and Drug Administration (FDA) standards of identity and fill of container for lemon juice. This proposed rule wuld make the U.S. Department of Agriculture (USDA) grading standards consistent with FDA's standards of identity and fill of container and would promote orderly and efficient marketing. A request was made by the Processors Council of the California/Arizona Citrus League for additional time to study the proposal and gather data. Since the Department is interested in receiving meaningful data, an extension of comment period is being granted.

DATE: Comments must be received by October 29, 1982.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Comments should reference the date and page number of the **Federal Register** in which the proposal was published and will be made available for public inspection in the Office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Graesanto V. Berbano, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C., 20250, (202) 447-6183.

Done at **Washington, D.C., on May 20, 1982.**

William T. Manley,

Acting Administrator.

[FR Doc. 82-14665 Filed 5-27-82; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 1040

Milk in the Southern Michigan Marketing Area; Notice of Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rules.

SUMMARY: This notice invites written comments on a proposal to suspend for the months of June through August 1982 the requirement in the Southern Michigan order that a cooperative association deliver to pool distributing plants at least 50 percent of its members' producer milk in order to qualify its supply plants as pool plants under the order. The suspension was requested by a cooperative association that represents producers supplying milk to the fluid market. The association claims that the action is needed to avoid inefficient handling of milk and to ensure that dairy farmers who have been historically associated with the Southern Michigan market will continue to share in the market's fluid milk sales.

DATE: Comments are due June 4, 1982.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C., 20250, (202) 447-7311.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified "not significant" and, therefore, not a major action.

It has also been determined that any need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the completion of the required suspension procedures in time for the suspension to be made effective for the month of June 1982 if this is found necessary. The initial request for the action was received on May 17, 1982.

Further, it has been determined that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing without the necessity of inefficient handling and tranportation of milk.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Southern Michigan marketing area is being considered for the months of June through August 1982.

1. In § 1040.7(b)(2) the words "if transfers from such supply plant to plants described in paragraph (b)(5) of this section and by direct delivery from the farm to plants qualified under paragraph (a) of this section are:"

2. In § 1040.7(b)(2), subdivisions (i) and (ii).

All persons who want to send written comments about the proposed suspension should send two copies to the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250 on or before June 4, 1982.

The period for filing comments is limited because a longer period would not provide the time needed to complete the required procedures and include

June 1982 in the suspension order.

The comments that are sent will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposal would make inoperative for the months of June through August 1982 the provisions requiring a cooperative association to deliver at least 50 percent of its members' producer milk to pool distributing plants, either through its supply plants or directly from farms, in order to qualify the supply plants as pool plants.

The suspension was requested by Michigan Milk Producers Association, and it was supported by another cooperative association and by a proprietary handler regulated by the order.

The association said that milk production is increasing while Class I sales are falling. It noted that April 1982 was the 36th consecutive month of increased milk production for the market and also the 18th consecutive month of declining Class I sales. The association said that for the first four months of 1982, producer milk receipts for the market increased 2.3 percent from a year ago. Class I sales, it said, had decreased 5.2 percent.

The association said that increased milk production has resulted from larger cow members and increased production per cow, and that lower fluid milk sales are attributable to the depressed economy in Michigan. The association anticipates that the imbalance between milk production and fluid milk sales will continue during June through August while schools are closed and there is a seasonal increase in milk production. The cooperative said that the problem of pooling supply plants under these marketing conditions has been made particularly acute with a recent loss to another cooperative of a large volume of sales to a major distributor in the market.

The association said that the suspension is needed to avoid the inefficient handling of milk merely to assure pooling for supply plants and to ensure that dairy farmers who have been historically associated with the Southern Michigan market will continue to share in the fluid milk sales of the market.

List of Subjects in 7 CFR Part 1040

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on May 25, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-14698 Filed 5-27-82; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 214 and 248

Nonimmigrant Classes; Change of Nonimmigrant Classification; Proposed Revisions in Regulations Pertaining to Nonimmigrant Students and Schools Approved for Their Attendance

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: The Immigration and Nationalization Service proposes to amend its regulations regarding nonimmigrant student visa classifications, and the schools approved for attendance by these students. The proposals would eliminate certain burdensome and time-consuming paperwork and filing requirements for both the students and the Service, while ensuring that the students and the schools they are attending are bona fide. These proposals also would implement the provisions of the Immigration and Nationality Act Amendments of 1981 which created a new M nonimmigrant visa classification for vocational nonimmigrant students.

DATE: Comments must be received on or before June 28, 1982.

ADDRESS: Please submit written comments, in duplicate, to the Commissioner of the Immigration and Naturalization Service, Room 7100, 425 I Street, NW., Washington, D.C. 20536.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: The proposed regulations regarding F-1 students and approved schools are based in part on recommendations in "The President's Management Improvement Council Report on Foreign Students in the United States", a report dated July 1981 by Dr. Bayard L. Catron, Associate Professor of Public Administration, George Washington University, Washington, D.C., and former team member of the President's Management Improvement Council.

On October 2, 1981, the Service furnished a copy of the report to the National Association for Foreign Student Affairs (NAFSA). On November 20, 1981, NAFSA advised that their response to the report was, for the most part, favorable.

Since Dr. Catron's proposals do not include any recommendations about practical training, on December 7, 1981, the Service requested the views of Peter S. Levitov, Project Director, NAFSA/AID Practical Training Feasibility Project, and Director of International Educational Services, University of Nebraska, on this issue. Mr. Levitov furnished his views on December 18, 1981. We have adopted some of Mr. Levitov's suggestions in the proposed regulations.

The student program has been deemed to serve U.S. foreign policy objectives by exposing citizens of other countries to the institutions and culture of the United States, by helping to cement alliances with other countries, and by transferring knowledge and skills to other countries, particularly those in the Third World. The student program also benefits the American economy and those academic and vocational schools which depend on foreign student enrollments as a major source of tuition revenue. This source becomes increasingly important to those institutions as the domestic student population shrinks.

While adverse public attention was focused on the foreign student program in 1979–80, when American hostages were held by "students" in Iran, and political demonstrations were conducted by a smaller number of Iranian students in this country, there is little evidence that students violate the conditions of their entry and stay to a greater extent than other nonimmigrants. Furthermore, only a small fraction of the nonimmigrants admitted to this country are students. For example, in 1978, only 2.3% of the nonimmigrants admitted were students. Therefore, in an effort to increase efficiency, we are proposing a revised foreign student program for students in colleges, universities, seminaries, conservatories, academic high schools, elementary schools, and other academic institutions, and in language training programs, which would eliminate much burdensome paper work and maintain control over the students by more effective use of

institutional sponsorship of the students by the schools. In addition, we are proposing revisions to the regulations which are intended to prevent abuses by mala fide schools and mala fide students. Recent events have revealed a number of questionable practices on the part of some approved schools.

We are also proposing procedures for the efficient administration of that portion of section 2(a) of the Immigration and Nationality Act Amendments of 1981, Pub. L. 97–116, which pertains to creation of an M nonimmigrant visa classification for students in vocational or nonacademic institutions other than in language training programs. Section 2(a) of Pub. L. 97–116 also limits the F–1 nonimmigrant visa classification to students in colleges, universities, seminaries, conservatories, academic high schools, elementary schools, or other academic institutions, or in language training programs. Although Pub. L. 97–116 was enacted on December 29, 1981, section 2(a) will not go into effect until June 1, 1982.

In House Report 97–264 of October 2, 1981, which accompanies Pub. L. 97–116, the committee makes it quite clear that the legislative intent of section 101(a)(15)(M)(i) of the Immigration and Nationality Act relating to M students was to afford maximum control over this group of students and that the regulations implementing this section of law are meant to be strict. The report refers to testimony by the Department of State before the Subcommittee on Immigration, Refugees, and International Law in the 94th Congress regarding "the high percentage of foreign students enrolled in vocational education programs in fields of little or no applicability to their own country." The Service believes that the separation of students into two classifications will permit closer scrutiny of length of stay and employment abuses by nonacademic students.

One of the main proposed revisions regarding F–1 students would provide for a return to the prior policy of admitting students for the duration of their status in the United States. Service regulations require that, upon acceptance of a nonimmigrant F–1 student for a full course of study, an approved school issue to the student a Form I–20, Certificate of Eligibility for Nonimmigrant (F–1) Student Status. Under current regulations, students are admitted for the period of time necessary to complete the course of study indicated on Form I–20. A return to duration of status for F–1 students, however, would not enable them to stay in the United States for longer periods of time than under current regulations. First of all, the vast majority of applications for extension of stay for students are approved. Secondly, under the proposed regulations, the schools would have to report to the Service when the students terminate their attendance.

Another major revision in the regulations relating to F–1 students would require them to give approved Forms I–20A to the schools from which they are transferring prior to transferring schools. The schools from which they transfer would have to advise the Service regarding the students' intent to transfer schools. Not only would this eliminate the necessity of the students' applying to the Service for permission to transfer schools, it would also alleviate the hardship now imposed on bona fide students who currently may lose time from school while waiting for permission to transfer.

A third major revision regarding F–1 students would prohibit off-campus employment for students who remain in the United States in lawful status for one year or less and would prohibit employment during the first year in United States for all students who remain in the United States for more than one year. According to State Department guidelines, a consular officer must require specific documentary evidence that an applicant for a student visa have funds at his or her disposal sufficient to provide for all his or her expenses for the first year of study in the United States. A student in the United States longer than one year would be eligible to apply to the Service for employment authorization based upon economic necessity due to unforeseen circumstances arising subsequent to entry or subsequent to change to student classification.

Dr. Catron, in his report, recommended that a student in the United States longer than one year be authorized to work without demonstrating economic necessity and without applying to the Service for permission to do so, upon execution of certain written certifications from the designated school official and from the student himself or herself. The Service has determined, however, that it would not be advisable to eliminate the requirement that the student demonstrate economic necessity or to relinquish control over employment authorization. Doing so would have an adverse effect on the employment of United States workers.

A fourth major revision regarding F–1 students would permit a designated school official to grant a student permission to engage in temporary employment for practical training when certain conditions are met. There would be no substantial change, however, in the aggregate number of months of practical training that could be authorized. In addition, a minor revision would clarify the existing procedure for reinstatement to F–1 student status.

The proposed regulations regarding students would stipulate that an M–1 student be admitted for the period of time necessary to complete his/her course of study plus thirty days within which to depart from the United States or for one year, whichever is less, and that he/she be required to apply for extensions of stay. The proposed regulations on M–1 students would not permit them to work except when employment for practical training is authorized. Applications would have to be made for practical training and school transfer. School transfer would not be permitted after the student has been in M–1 status for six months unless the student is unable to remain at the school to which he/she was initially admitted due to circumstances beyond his/her control. Furthermore, an M–1 student would not be permitted to change his/her educational objective. The proposed regulations would also provide, under certain conditions, for the reinstatement to M–1 student status.

In addition, the regulations regarding change of nonimmigrant classification would be revised to provide for change of classification to and from that of an M–1 student. The revised regulations would provide, among other things, that an applicant for a change to classification as an M–1 student must certify that he/she will be able to utilize, in his/her home country, the education or training which he/she receives in the United States and that a course of study of comparable quality and cost is unavailable to him/her in his/her home country. The revised regulations would also provide for denial of a change to classification as an M–1 student if the applicant intends to pursue the course of study solely in order to qualify for a subsequent change to classification as an alien temporary worker under section 101(a)(15)(H) of the Act and for denial of a change of classification from that of an M–1 student to that of an F–1 student.

Under the proposed regulations, M–1 students would use a Certificate of Eligibility for Nonimmigrant (M–1) Student Status, Form I–20 M–N. Form I–20 A–B, Certificate of Eligibility for Nonimmigrant (F–1) Student Status, would be used only for F–1 students.

The regulations regarding petitions for approval of schools would be revised to provide for approval of petitions for attendance of either F–1 or M–1 students or both. They would also clarify the requirements of approved schools for record keeping and making the required records available to an immigration officer upon request. These records would pertain solely to F–1 and M–1 students and would contain information necessary for determining whether they are in status as bona fide students. The proposed regulations would require that the schools report each new F–1 and M–1 student who registers. In addition, the regulations would require approved schools to submit the names, titles and sample signatures of designated school officials and statements from designated school officials that they have read the Service regulations relating to nonimmigrant students and school approvals and that they intend to comply with them.

While the above requirements concerning approved schools would result in a slight expense to the schools, they are intended to provide the safeguards necessary for effective control of foreign students. The requirement for record keeping and making the records available to Service officers upon request would assist Service officers in determining the status of F–1 and M–1 students. The requirement for reporting new students who have registered would provide information necessary for the Service to maintain its records on nonimmigrant students. The requirement for submission of the names, titles, and sample signatures of designated school officials would give the Service needed information to verify Forms I–20 and would identify those officials vested with the responsibility for their issuance. The requirement for submission of statements of designated school officials that they have read the Service regulations relating to students and school approvals would ensure that officials at approved schools are aware of Service requirements.

One of the principal proposed revisions regarding schools approved for attendance by nonimmigrant students would provide for a one-time recertification process in which all schools seeking to continue their approval to admit foreign students would reapply for approval and reaffirm their intent to comply with Service regulations. While this procedure would result in a slight expenses to schools, it would enable the Service to determine exactly how many schools are actually admitting nonimmigrant students, to update Service information on approved schools, and to ensure that all approved schools are aware of Service requirements.

The regulations would also be revised to clarify the procedures to be followed in issuing a Form I–20. This provision is necessary because of the questionable practices in the issuance of these forms which have come to light recently. The proposed regulations would list various additional grounds for withdrawal of school approval. This provision is necessary to eliminate abuses by mala fide schools. In addition, the proposed regulations would provide for automatic withdrawal of a school's approval when the school closes and automatic withdrawal of its approval when it changes ownership unless it files a new petition for school approval to enable the Service to determine whether it is still eligible for its approval.

Public comments are invited with respect to all of the proposed regulations. The Service would appreciate public comments particularly with respect to the proposed 8 CFR 214.2(m)(6) regarding the definition of "full course of study" for M–1 students.

In accordance with 5 U.S.C. 605(b), the Commissioner certifies that this rule would not have a significant economic impact on a substantial number of small entities. While portions of the rule deal with record keeping and reporting requirements, compliance with them would not result in a significant effect on the economy or operation of the affected institutions or individuals. This rule, therefore, would not be a major rule within the meaning of section 1(b) of EO 12291.

List of Subjects

8 CFR Part 214

Aliens, Employment, Schools, Students.

18 CFR Part 248

Administrative practice and procedures, Aliens.

For the reasons set out in the preamble, Chapter I of Title 8 of the Code of Federal Regulations would be amended as set forth below:

PART 214—NONIMMIGRANT CLASSES

1. Section 214.2(f) would be revised to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(f) *Students in colleges, universities, seminiaries, conservatories, academic high schools, elementary schools, other academic institutions, and in language training programs.*—(1) *Admission of student.* Except as provided in paragraph (f)(4)(ii) of this section, an alien seeking admission to the United States under section 101(a)(15)(F)(i) of the Act (as an F–1 student) and his/her accompanying F–2 spouse and/or minor children, if applicable, are not eligible for admission unless—

(i) The student presents a Certificate of Eligibility for Nonimmigrant (F–1) Student Status, Form I–20A–B, properly and completely filled out by himself/herself and by the designated official of the school to which he/she is destined; and

(ii) The student establishes that he/she is destined to and intends to attend the school specified in his/her visa.

The inspecting immigration officer shall endorse the name of the school the student is authorized to attend on the student's Arrival/Departure Record, Form I–94. An F–1 student returning to the United States from a temporary absence in accordance with paragraph (f)(4)(ii) of this section is not eligible for admission unless he/she establishes that he/she is destined to and intends to attend the school specified on his/her Form I–94 or in the statement required by paragraph (f)(6)(ii) of this section if he/she transferred schools while in the United States.

(2) *Spouse and/or minor children following to joint student.* The F–2 spouse and/or minor children following to join an F–1 student are not eligible for admission to the United States unless they present Form I–20A from the school in which the student is enrolled stating that the student is taking a full course of study or is engaged in approved practical training. The designated school official must note on Form I–20A the date the student is expected to complete his/her studies at the school or his/her approved practical training.

(3) *Duration of status.*—(i) *General.* Subject to the condition that the alien maintain his/her passport valid for a minimum period of six months at all times while in the United States unless his/her government has entered into an agreement with the United States Government under which passports from his/her country are recognized as valid for the return of the bearer to that country for a period of six months beyond the date of expiration of the passport, or unless he/she is exempt from the requirement for presentation of a passport—

(A) An alien admitted to the United States as an F–1 student is to be admitted for the duration of his/her status in the United States; and

(B) An alien granted a change of nonimmigrant classification to that of an F–1 student is considered to be in status for the duration of his/her status as a student in the United States.

As of the effective date of this regulation, an F–1 student in a college, university, seminary, conservatory, academic high school, elementary school, or other academic institution, or in a language training program who is pursuing a full course of study and is otherwise in status as a student, is automatically granted duration of status. The spouse and children of an F–1 student are also eligible for duration of status.

(ii) *Meaning of duration of status.* For purposes of this regulation, duration of status means the period during which the student is pursuing a full course of study in one or more educational programs and any period of authorized practical training, plus thirty days following completion of the full course of study or authorized practical training. An F–1 student at an academic institution is considered to be in status during the summer if he/she is eligible to, and intends to, register for the next term. A student attending a school on a quarter or trimester calendar who takes his/her vacation during only one of the quarters or trimesters instead of during the summer, however, is considered to be in status during his/her vacation provided that he/she is eligible to, and intends to, register for the next term and he/she has completed the equivalent of an academic year prior to taking his/her vacation. An F–1 student who is compelled by illness to interrupt his/her course of study may be permitted to remain in the United States in duration of status for the time necessary to complete his/her studies provided that the student establishes that he/she will pursue a full course of study upon his/her recovery.

(4) *Temporary absence.*—(i) *Presentation of Form I–20A.* Except as provided in paragraph (f)(4)(ii) of this section, an F–1 student returning to the United States from a temporary absence to attend the school which he/she was previously authorized to attend must present Form I–20A. If the student has transferred schools, the designated school official must have noted that fact on Form I–20A. The student may retain the original Form I–20A and present it when applying for reentry during one year from the date of its issuance or until the date of completion of the course of study, whichever occurs first.

(ii) *Students exempt from requirement for presentation of Form I–20A.* The inspecting immigration officer may readmit any of the following aliens and his/her accompanying spouse and minor children without presentation of Form I–20A if the student is returning to the United States as a nonimmigrant under section 101(a)(15)(F)(i) of the Act to attend the school which he/she was previously authorized to attend provided that he/she presents Form I–94 indicating that he/she had duration of status:

(A) A Canadian national.

(B) An alien landed immigrant of Canada who has a common nationality with Canadian nationals who has been temporarily absent in Canada.

(C) An alien whose visa is considered to be automatically revalidated pursuant to 22 CFR 41.125(f)(2).

(D) An alien within the purview of 22 CFR 41.125(f)(2) except that his/her nonimmigrant visa has not expired.

The student must also present the statement required by paragraph (f)(6)(ii) of this section if he/she transferred schools while in the United States.

(5) *Full course of study.* A "full course of study" as required by section 101(a)(15)(F)(i) of the Act means—

(i) Postgraduate study at a college or university, or undergraduate or postgraduate study at a conservatory or religious seminary, certified by a designated school official as a full course of study;

(ii) Undergraduate study at a college or university, certified by a designated school official to consist of at least twelve credit hours of instruction, or its equivalent, except when the student needs a lesser course load to complete the course of study during the current term;

(iii) Study in a postsecondary language program at a school which confers upon its graduate recognized associate or other degrees or has established that its credits have been and are accepted unconditionally by at least three institutions of higher learning within category (1) or (2) of § 214.3(c), and which has been certified by a designated school official to consist of at least twelve hours of instruction a week, or its equivalent;

(iv) Study in any other language training program, certified by a designated school official to consist of at least twenty clock hours of attendance a week; or

(v) Study in a primary or academic secondary curriculum certified by a designated school official to consist of class attendance for not less than the minimum number of hours a week prescribed by the school for normal progress towards graduation. Successful completion of the course of study must lead to the attainment of a specific educational, professional, or vocational objective. For purposes of this paragraph, a college or university is an institution of higher learning which awards recognized associate, bachelor's, master's, doctor's, or professional degrees. Schools which devote themselves exclusively or primarily to vocational, business, or language instruction are not included in the category of colleges or universities.

(6) *School transfer.*—(i) *Eligibility.* An F–1 student is eligible to transfer to another school if he/she—

(A) Is a bona fide nonimmigrant student;

(B) Has been pursuing a full course of study at the school he/she was last authorized to attend; and

(C) Intends to pursue a full course of study at the school to which he/she intends to transfer.

(ii) *Procedure.* An F–1 student who wants to transfer schools must obtain from the school to which he/she intends to transfer a Form I–20A. The student must give the Form I–20A to the school he/she was last authorized to attend. The designated official of the school he/she intends to attend must retain Form I–20B for use in compliance with the reporting requirements described in § 214.3(g)(2). The designated official of the school which the student was last authorized to attend must—

(A) Issue a statement on page 6 of the student's Form I–20A–B which the student must have with him/her at all times, including the name of the school the student intends to attend and the name, title, and signature of the designated school official;

(B) Endorse a Form I–20B to reflect the fact that the student has indicated his/her intent to transfer schools and to give the designated school official's recommendation concerning the proposed transfer;

(C) Submit the endorsed Form I–20B within thirty days to the office of this Service having jurisdiction over the area in which the school is located; and

(D) Submit with the endorsed Form I–20B the Form I–20A from the school to which the student intends to transfer.

(iii) *General.* An F–1 student who transfers to another school without presenting to the designated official of the school he/she was last authorized to attend a properly completed Form I–20A from the school he/she intends to attend is considered to be out of status. An F–1 student who does not enroll in the new school in the first term for which he/she is eligible after leaving the previous school is considered to be out of status.

If an F–1 student who has not been pursuing a full course of study at the school he/she was last authorized to attend desires to attend a different school, he/she must apply for reinstatement to student status in accordance with the provisions of paragraph (f)(9) of this section.

(7) *Employment.*—(i) *On-campus employment.* On-campus employment pursuant to the terms of scholarship, fellowship, or assistantship is deemed to be part of the academic program of a student otherwise taking a full course of study. An F–1 student may, therefore, engage in this kind of on-campus employment or any other on-campus employment which will not displace a United States resident. He/she may not engage in on-campus employment after completion of his/her course(s) of study.

(ii) *Off-campus employment.* Off-campus employment is prohibited for students who remain in the United States in F–1 status for one year or less. Off-campus employment is prohibited during the first year in the United States for students who remain in the United States in F–1 status for more than one year. If a student pursues more than one course of study, off-campus employment is prohibited only during the first year of study in the United States. The first year of study means the first calendar year in the United States in bona fide F–1 status. A temporary absence from the United States during the first calendar year does not disqualify an F–1 student from being eligible for employment authorization. An F–1 student in a program longer than one year must apply for employment authorization on Form I–538 accompanied by his/her Form I–94. He/she must submit the application to the Office of this Service having jurisdiction over the school the student was last authorized to attend. The designated school official must certify on Form I–538 that—

(A) The student is in good standing as a student who is carrying a full course of study as defined in paragraph (f)(5) of this section;

(B) The student has demonstrated economic necessity due to unforeseen circumstances arising subsequent to entry or subsequent to change to student classification;

(C) The student has demonstrated that acceptance of employment will not interfere with his/her carrying a full course of study; and

(D) The student has agreed that he/she will not work more than twenty hours a week when school is in session.

A student has permission to engage in employment only if and when he/she receives his/her Form I–94 endorsed to that effect. Employment authorized under this paragraph must not exceed twenty hours a week while school is in session. An F–1 student authorized to work under this paragraph, however, may work full-time when school is not in session, including during the summer if the student is eligible to, and intends to register for the next term. An F–1 student authorized to work under this paragraph who is attending a school on a quarter or trimester calendar who takes his/her vacation during only one quarter or trimester instead of during the summer may work full-time during his/her vacation provided that he/she is eligible to, and intends to, register for the next term and he/she does not work more than twenty hours a week during the summer while school is in session. An F–1 student may not engage in off-campus employment after compensation of his/her course(s) of study except as provided in paragraph (f)(8) of this section.

(iii) *Effect of strike or other labor dispute.* Authorization for all employment, whether or not part of an academic program, is automatically suspended upon certification by the Secretary of Labor or his/her designee to the Commissioner of Immigration and Naturalization or his/her designee that a strike or other labor dispute involving a work stoppage of workers is in progress in the occupation at the place of employment. As used in this paragraph, "place of employment" means wherever the employer or a joint employer does business.

(iv) *Spouse and children of F–1 student.* The F–2 spouse and children of an F–1 student may not accept employment.

(8) *Practical training.*—(i) *General.* Permission to engage in temporary employment for practical training may be authorized only—

(A) After completion of the course of study if the student intends to engage in only one course of study;

(B) After completion of at least one course of study if the student intends to engage in more than one course of study;

(C) After completion of all course requirements for the degree if the student is a graduate student in a master's or doctoral program; or

(D) During the degree program or course of study if the student is attending a college, university, seminary, or conservatory which requires practical training of all degree candidates in a specified professional field and the student is a candidate for a degree in that field.

Practical training authorized after completion of a course of study is deemed to commence on the date the student begins employment or sixty days after completion of the course of study, whichever is earlier.

(ii) *Procedure for authorizing practical training.* A designated official of the school an F–1 student is authorized to attend may grant the student permission to engage in temporary employment for practical training if—

(A) The student has been offered temporary employment for practical training; and

(B) The student presents to the designated school official a written recommendation from his/her academic adviser, major professor, or a school counselor familiar with the student's course of study. The recommendation must certify that—

(*1*) The employment is for the purpose of practical training;

(*2*) The employment is related to the student's course of study and/or intended future employment in his/her home country if the future employment will make use of his/her education in the United States; and

(*3*) Upon the academic adviser's, major professor's, or school counselor's information and belief, employment comparable to the employment offered to the student in the United States is not available to him/her in the country of his/her foreign residence.

The designated school official must issue a written certification on page 6 of the student's Form I–20A–B that the above conditions have been met for each period of practical training which he/she authorizes for an F–1 student. The certification must include the official's name, title, and signature. The student must have the certification with him/her at all times and present it to an immigration officer upon request. The designated school official must advise the Service office having jurisdiction over the school within thirty days that the above certification regarding practical training has been executed for the student. The official must indicate the duration of the practical training authorized.

(iii) *Duration of practical training.* The designated school official may grant an F–1 student not in a language training program permission to accept or continue temporary employment for practical training in increments of not more than six months for a maximum of not more than twelve months in the aggregate provided that the student's course of study is of at least twelve months' duration. When the course of study is of less than twelve months' duration, however, the designated school official may grant an F–1 student

not in a language training program permission to engage in employment for practical training for an aggregate number of months not exceeding the length of the student's course of study. The designated school official may grant an F–1 student in a language training program employment for practical training for a period or periods of time equal to one month for each four months during which the student carried a full course of study at the school he/she was authorized to attend in the United States. A designated school official may not grant a student a period of practical training which would result in the student's being authorized practical training for more than twelve months in the aggregate. Permission to accept employment for practical training may not be granted if the training applied for cannot be completed within the maximum period of time for which the student is eligible. In such a case, the student may, upon graduation, apply for a change to another nonimmigrant classification which would permit his/her accepting employment.

(iv) *Alternate work/study courses.* An F–1 student enrolled in a college, university, conservatory or seminary having alternate work/study courses as a part of the regular curriculum available within the student's program of study may participate in those courses without obtaining a change of status and without obtaining permission to accept employment. Periods of actual off-campus employment which are part of a work/study program, however, are considered to be practical training. They, therefore, must be deducted from the total practical training time for which the student is eligible.

(v) *Temporary absence of F–1 student granted practical training.* An F–1 student who has been granted permission to accept employment for practical training and who departs from the United States temporarily, may be readmitted for the remainder of the authorized period if he/she presents a properly completed Form I–20A endorsed by the designated school official to indicate the date to which the training was authorized.

(9) *Reinstatement to student status.* A district director may, in his/her discretion, reinstate to F–1 student status an alien who was admitted to the United States as, or whose status was changed to that of, an F–1 student and who has overstayed his/her authorized period of stay or who has otherwise violated the conditions of his/her status only if—

(i) The student establishes to the satisfaction of the district director that his/her violation of status resulted from circumstances beyond his/her control or that failure to receive reinstatement to lawful F–1 status would result in extreme hardship to him/her;

(ii) The student makes a written request for reinstatement accompanied by a properly completed Form I–20A–B from the school he/she is attending or intends to attend;

(iii) The student is currently pursuing, or intending to pursue, a full course of study at the school which issued the Form I–20A–B;

(iv) The student has not been employed without authorization unless he/she was engaged in on-campus employment pursuant to the terms of a scholarship, fellowship or assistantship or in other on-campus employment which did not displace a United States resident, while pursuing a full course of study at an academic institution and was employed without authorization only because he/she had overstayed his/her authorized period of stay;

(v) The student is not deportable on any ground other than sections 241(a)(2) or (9) of the Act.

If the district director reinstates the student, the district director shall endorse Form I–20B to indicate that the student has been reinstated and then mail it to the school which the student is attending or intends to attend for use in compliance with the reporting requirements described in § 214.3(g)(2). If the district director refuses to reinstate the student, the student may not appeal that decision.

* * * * * *

2. The existing § 214.2(m) would be redesignated as § 214.2(n) and the following new § 214.2(m) would be added:

* * * * * *

(m) *Students in established vocational or other recognized nonacademic institutions, other than in language training programs.*—(1) *Admission of student.* An alien seeking admission to the United States under section 101(a)(15)(M)(i) of the Act (as an M–1 student) and his/her accompanying M–2 spouse and/or minor children, if applicable, are not eligible for admission unless he/she—

(i) Presents a Certificate of Eligibility for Nonimmigrant (M–1) Student Status, Form I–20M–N, properly and completely filled out by himself/herself and by the designated official of the school to which he/she is destined; and

(ii) Establishes that he/she is destined to and intends to attend the school specified in his/her visa.

The inspecting immigration officer shall endorse the name of the school the student is authorized to attend on the student's Arrival/Departure Record, Form I–94.

(2) *Spouse and/or minor children following to join student.* The M–2 spouse and/or minor children following to join an M–1 student are not eligible for admission to the United States unless they present Form I–20M from the school in which the student is enrolled stating that the student is taking full course of study or is engaged in approved practical training. The designated school official must have noted on Form I–20M the date of expiration of the student's authorized stay in the United States as shown on the student's Form I–94.

(3) *Period of stay.* An alien admitted to the United States as an M–1 student is to be admitted for the period of time necessary to complete the course of study indicated on Form I–20M plus thirty days within which to depart from the United States or for one year, whichever is less. An alien granted a change of nonimmigrant classification to that of an M–1 student is to be given an extension of stay for the period of time necessary to complete the course of study indicated on Form I–20M plus thirty days within which to depart from the United States or for one year, whichever is less.

(4) *Conversion to M–1 status of students in established vocational or other recognized nonacademic institutions, other than in language training programs, who were previously in status as F–1 students.* As of June 1, 1982, a student in an established vocational or other recognized nonacademic institution, other than in a language training program who is in status as an F–1 student under section 101(a)(15)(F)(i) of the Act in effect prior to June 1, 1982 and his/her F–2 spouse and children, if applicable, are—

(i) Automatically converted to M–1 and M–2 status respectively; and

(ii) Limited to the authorized period of stay shown on their Forms I–94 plus thirty days within which to depart from the United States or to an authorized period of stay which expires May 31, 1983, whichever is less.

(5) *Temporary absence.* An M–1 student returning from a temporary absence to attend the school which he/she was previously authorized to attend during the period of his/her previously authorized stay must present Form I–20M. If the student has been granted permission to transfer schools, the designated school official must have noted that fact on Form I–20M. The student may retain the original Form I–20M and present it when applying for reentry during one year from the date of

its issuance or until the date of completion of the course of study, whichever occurs first.

(6) *Full course of study.* A "full course of study" as required by section 101(a)(15)(M)(i) of the Act means—

(i) Study in a vocational or other nonacademic curriculum, other than in a language training program, certified by a designated school official to consist of at least twenty clock hours of attendance a week if the dominant part of the course of study consists of classroom instruction, or at least twenty-five hours a week if the dominant part of the course of study consists of shop or laboratory work; or

(ii) Study in a vocational or other nonacademic secondary curriculum, certified by a designated school official to consist of class attendance for not less than the minimum number of hours a week prescribed by the school for normal progress towards graduation. Successful completion of the course of study must lead to the attainment of a specific educational or vocational objective.

(7) *Certification of Form I–20M.* An M–1 student must certify on Form I–20M that the education or training he/she receives in the United States can be utilized in his/her home country and that a course of study of comparable quality and cost is unavailable to him/her in his/her home country.

(8) *Extension of stay.*— (i) *Eligibility.* An M–1 student may be granted an extension of stay if the student establishes that he/she—

(A) Is a bona fide nonimmigrant currently maintaining student status; and

(B) Is able to, and in good faith intends to, continue to maintain that status for the period for which the extension is granted.

(ii) *Application.* An M–1 student must apply for an extension of stay on Form I–538. A student who desires an extension of stay for his/her M–2 spouse and children shall include them in his/her application. A student's M–2 spouse or children are not eligible for an extension of stay unless the student is granted an extension of stay. The student must submit the application to the office of this Service having jurisdiction over the school. The application must also be accompanied by the student's Form I–94 and the Forms I–94 of his/her spouse and children, if applicable.

(iii) *Period of stay.* If an application for extension of stay is granted, the student is to be given an extension of stay for the period of time necessary to complete the course of study indicated on Form I–20M plus thirty days within which to depart from the United States or for one year, whichever is less. An M–1 student who has been compelled by illness to interrupt his/her course of study may be granted an extension of stay without being required to change his/her nonimmigrant classification provided that he/she establishes that he/she will pursue a full course of study upon his/her recovery.

(9) *School transfer.*— (i) *Eligibility.* An M–1 student may not transfer to another school after six months from the date he/she is first admitted as, or changes nonimmigrant classification to that of, an M–1 student unless the student is unable to remain at the school to which he/she was initially admitted due to circumstances beyond his/her control. An M–1 student may be otherwise eligible to transfer to another school if he/she—

(A) Is a bona fide nonimmigrant student;

(B) Has been pursuing a full course of study at the school he/she was last authorized to attend;

(C) Intends to pursue a full course of study at the school to which he/she intends to transfer.

(ii) *Procedure.* An M–1 student must apply for permission to transfer schools on Form I–538 accompanied by his/her Form I–94 and the Forms I–94 of his/her spouse and children, if applicable. The Form I–538 must also be accompanied by Form I–20M–N properly and completely filled out by himself/herself and by the designated official of the school which he/she desires to attend. The student must submit his/her application for school transfer to the office of this Service having jurisdiction over the school the student was last authorized to attend. After having filed an application for school transfer, an M–1 student may effect his/her transfer. If the application is approved, the approval of the transfer will be retroactive to the date of filing the application, and the student will be granted an extension of stay for the period ot time necessary to complete the course of study indicated on Form I–20M plus thirty days within which to depart from the United States or for one year, whichever is less. The adjudicating officer must endorse the name of the school to which transfer is authorized on the student's Form I–94. The officer must also endorse Form I–20N to indicate that a school transfer has been authorized and mail it to the school to which the transfer has been authorized for use in compliance with the reporting requirements described in § 214.3(g)(2).

(iii) *General.* an M–1 Student who transfers to another school without first applying for a school transfer is considered to be out of status. If an M–1 student who has not been pursuing a full course of study at the school he/she was last authorized to attend desires to attend a different school, he/she must apply for reinstatement to student status in accordance with the provisions of paragraph (m)(14) of this section.

(10) *Change in educational objective.* An M–1 student may not change his/her educational objective.

(11) *Employment.* Except as provided in paragraph (m)(12) of this section, an M–1 student may not accept employment. The M–2 spouse and children of an M–1 student may not accept employment.

(12) *Practical training.*—(i) *Application.* An M–1 student must be offered temporary employment for practical training before he/she is eligible to apply for permission to accept it. The student must apply for permission to accept employment for practical training on Form I–538 accompanied by his/her Form I–94. He/she must submit the application to the office of this Service having jurisdiction over the school the student was last authorized to attend. The designated school official must certify on Form I–538 that—

(A) The proposed employment is recommended for the purpose of practical training;

(B) The proposed employment is related to the student's course of study and/or intended future employment in his/her home country if the future employment will make use of his/her education in the United States; and

(C) Upon the designated school official's information and belief, employment comparable to the proposed employment is not available to him/her in the country of his/her foreign residence.

An application to accept practical training must be supported by a letter from the student's prospective employer stating the proposed occupation and describing in detail the duties of the occupation. The application must be submitted prior to the expiration of the student's authorized period of stay and not more than sixty days before completion of his/her course of study or more than thirty days after completion of the course of study. The student has permission to engage in employment for practical training only if and when he/she receives his/her Form I–94 endorsed to that effect.(ii) *Duration of practical training.* An M–1 student may be granted one period of practical training for a period of time equal to one month for each four months during which he/

she pursued a full course of study, but not to exceed six months. If an application for permission for an M–1 student to engage in practical training is granted, the authorized period is deemed to commence either on the date the student begins the employment or sixty days after he/she completes his/her course of study, whichever is earlier. He/she may not, however, begin his/her practical training prior to completion of his/her course of study. Permission to accept employment may not be granted if the training applied for cannot be completed within the maximum period of time for which the applicant is eligible.

(iii) *Temporary absence of M–1 student granted practical training.* An M–1 student who has been granted permission to accept employment for practical training and who temporarily departs for the United States, may be readmitted for the remainder of the authorized period if he/she presents a properly completed Form I–20M endorsed by the designated school official to indicate the date to which the training was authorized.

(iv) *Effect of strike or other labor dispute.* Authorization for all employment for practical training is automatically suspended upon certification by the Secretary of Labor or his/her designee to the Commissioner of Immigration and Naturalization or his/her designee that a strike or other labor dispute involving a work stoppage of workers is in progress in the occupation at the place of employment. As used in this paragraph, "place of employment" means wherever the employer or joint employer does business.

(13) *Decision on application for extension, permission to transfer to another school, or permission to accept employment for practical training.* The district director shall notify the applicant of the decision and, if the application is denied, of the reason(s) for the denial. The applicant may not appeal the decision.

(14) *Reinstatement to student status.* A district director may, in his/her discretion, reinstate to M–1 student status an alien who was admitted to the United States as, or whose status was changed to that of, an M–1 student and who has overstayed his/her authorized period of stay or who has otherwise violated the conditions of his/her status only if—

(i) The student establishes to the satisfaction of the district director that his/her violation of status occurred because the school to which the student was admitted has ceased operation or the student was unable to pursue a full course of study due to illness;

(ii) The student makes a written request for reinstatement accompanied by a properly completed Form I–20 M–N from the school he/she is attending or intends to attend;

(iii) The student is currently pursuing, or intending to pursue, a full course of study at the school which issued the Form I–20M–N;

(iv) The student has not been employed without authorization;

(v) The student is not deportable on any ground other than sections 241 (a)(2) or (9) of the Act.

If the district director reinstates the student, he/she shall endorse Form I–20N to indicate that the student has been reinstated and then mail it to the school which the student is attending or intends to attend for use in compliance with the reporting requirements described in § 214.3(g)(2). If the district director refuses to reinstate the student, the student may not appeal that decision.

3. § 214.3 would be amended by removing the words "Office of Education" and "Education Directory, Higher Education" from paragraph (b) and inserting, in their place, the words "Department of Education" and "Education Directory, colleges and Universities", respectively and by removing the words "Office of Education", "Education Directory, Higher Education" and "Office" from paragraph (c) and inserting, in their place, the words "Department of Education", "Education Directory, Colleges and Universities", and "Department" respectively. Section 214.3 would be amended further by revising paragraphs (a), (e), (g), (h), (i), and (k) and by adding paragraph (l), to read as follows:

§ 214.3 Petitions for approval of schools.

(a) *Filing petitions.* A school or school system seeking approval for attendance by nonimmigrant students under section 101(a)(15)(F)(i) and/or 101(a)(15)(M)(i) of the Act shall file a petition on Form I–17 in duplicate with the district director having jurisdiction over the place in which the school or school system is located. Separate petitions are required for different schools in the same school system located within the jurisdiction of different district directors. A petition by a school system must specifically identify by name and location those schools included in the petition. the petition must also state whether the school or school system is seeking approval for attendance of nonimmigrant students under sections 101(a)(15)(F)(i) or 101(a)(15)(M)(i) of the Act, or both.

* * * * *

(e) *Approval of petition.* To be eligible for approval, the petitioner must establish that—

(1) It is a bona fide school;

(2) It is an established institution of learning or other recognized place of study;

(3) It possesses the necessary facilities, personnel, and finances to conduct instruction in recognized courses; and

(4) It is, in fact, engaged in instruction in those courses.

Upon approval of a petition, the district director shall notify the petitioner. The approval of a school for attendance by nonimmigrant students is valid only as long as the school continues to operate in the manner represented on the petition. The approval is also valid only for the type of student, i.e., F–1 or M–1 or both, specified in the petition. The approval may be subject to withdrawal in accordance with the provisions of § 214.4.

* * * * *

(g) *Record Keeping and reporting requirements.*— (1) *Record keeping requirements.* An approved school must keep records containing the following information relating to each F–1 or M–1 student to whom it has issued a Form I–20A or I20M while the student is attending the school and until the school complies with the reporting requirements of paragraph (g)(2) of this section:

(i) Address and telephone number.
(ii) Status, i.e., full-time or part-time.
(iii) Course load.
(iv) Date of commencement of studies.
(v) Degree program and field of study.
(vi) Expected date of completion.
(vii) Visa type.
(viii) Employment authorization.
(ix) Termination date and reason, if known.

The designated school official must make the information required by this paragraph available to and furnish it to an immigration officer upon request.

(2) *Reporting requirements.* Each approved school, upon receiving Service notification of arrival in the United States of a nonimmigrant F–1 or M–1 student destined to that school or Service notification of permission to attend the school shall submit within thirty days to the office of the Service having jurisdication over the area in which the school is located a report on Form I–20B or I–20N if the student fails to register personally at the school within sixty days of the time he/she was

expected to do so. Each approved school shall also make a report on Form I–20B or I–20N, either as soon as a designated school official has knowledge of the information or sixty days after the registration period, whichever occurs first, in the case of each nonimmigrant student who—

(i) Fails to carry a full course of study as defined in §§ 214.2(f)(5) or 214.2(m)(6);

(ii) Fails to attend classes to the extent normally required; and

(iii) Terminates his/her attendance at the school.

In addition, the school must report within sixty days after each registration period each new student who registers at the school. The report must be submitted to the Service office having jurisdiction over the school.

(h) *Review of school approvals.*— (1) *Regular review of school approvals.* The district director shall review from time to time the approval accorded to the schools in his/her district. The purpose of the review is to determine whether the school meets the eligibility requirements of paragraph (e) of this section and has complied with the reporting requirements of paragraph (g)(2) of this section. The district director may require each school whose approval is reviewed to furnish a currently executed Form I–17 as a petition for continuation of school approval without fee together with the supporting documents specified in paragraph (b) of this section. If, upon completion of the review, the district director finds that the approval should not be continued, he/she shall institute withdrawal proceedings in accordance with § 214.4(b).

(2) *One-time recertification process.* Beginning October 1, 1982, each district director shall notify, in writing, each approved school in his/her district that it must submit a petition for continuation of its school approval. Within sixty days of receipt of the notification, each school desiring to continue its approval must submit to the Service office having jurisdiction over it—

(i) Form I–17, in triplicate, without fee;

(ii) The names, titles, and sample signatures of its designated officials as defined in paragraph (l)(1) of this section;

(iii) A statement signed by each designated official certifying that he/she has read the Service regulations relating to nonimmigrant students, namely § 214.2(f) and/or § 214.2(m) depending on whether his/her school is approved for attendance by F–1 or M–1 students or both; the Service regulations relating to change of nonimmigrant classification for students, namely §§ 248, 248.1(d), 248.3(b), and 248.3(d); the Service regulations relating to school approval namely this section; and the Service regulations relating to withdrawal of school approval, namely § 214.4; and affirming his/her intent to comply with these regulations; and

(iv) The supporting documents specified in paragraph (b) of this section.

The purpose of the one-time recertification process is to enable this Service to update its records and review the approval of each school desiring to continue its approval to determine whether it meets the eligibility requirements of paragraph (e) of this section and has complied with the reporting requirements of paragraph (g)(2) of this section. If, upon completion of the review, the district director finds that the approval should not be continued, he/she shall institute withdrawal proceedings in accordance with § 214.4(b). If an approved school fails to submit a petition for continuation of school approval in accordance with this paragraph, its approval will be automatically withdrawn. The district director will advise the school of an automatic withdrawal of a school's approval pursuant to this paragraph. Automatic withdrawal of the school's approval, however, is without prejudice to consideration of a new petition for school approval.

(i) *Administration of student regulations by the Immigration and Naturalization Service.* District directors in the field shall be responsible for conducting periodic reviews on the campuses under the jurisdiction of their offices to determine whether students are complying with Service regulations including keeping their passports valid for a period of six months at all times when required. Service officers shall take appropriate action regarding violations of the regulations.

* * * * *

(k) *Issuance of Certificate of Eligibility.* Only a designated official of a school that has been approved for attendance by nonimmigrant students shall issue a Certficate of Eligibility, Form I–20A–B or I–20M–N, to a prospective student and only after the following conditions are met:

(1) The prospective student has made a written application to the school.

(2) The written application, the student's transcripts, proof of financial responsibility for the student, and other supporting documents have been received, reviewed, and evaluated at the school's location in the United States.

(3) The appropriate school authority has determined that the prospective student's qualifications meet all standards for admission.

(4) The official responsible for admission at the school has accepted the prospective student for enrollment in a full course of study.

A designated official must certify the Form I–20A or I–20M, only after page 1 has been completed in full. A Form I–20A–B or I–20M–N issued by an approved school system must state which school within the system the student will attend. The form must be issued in the United States.

(l) *Designated official.*—(1) *Meaning of term "designated official".* As used in §§ 214.2(f), 214.2(m), 214.4 and this section, a "designated official" or "designated school official" means a regularly employed member of the school administration whose office is located at the school and whose compensation does not come from commissions for recruitment of foreign students. An individual whose principal obligation to the school is to recruit foreign students for compensation does not qualify as a designated official. The president, owner, or head of a school or school system must designate a designated official. The designated official may not delegate his/her designation by the president, owner, or head of the school or school system to any other person.

(2) *Name, title, and sample signature.* Petitions for school approval must include the names, titles, and sample signatures of designated officials. An approved school must immediately report to the Service office having jurisdiction over its changes in designated officials and furnish the names, titles, and sample signatures of the new designated officials.

(3) *Statement of designated official.* A petition for school approval must include a statement by each designated official certifying that he/she has read the Service regulations relating to nonimmigrant students, namely § 214.2(f) and/or § 214.2(m) depending on whether his/her school is approved for attendance by F–1 or M–1 students or both; the Service regulations relating to change of nonimmigrant classification for students, namely §§ 248.1(c), 248.1(d), 248.3(b), and 248.3(d); the Service regulations relating to school approval, namely, this section; and the Service regulations relating to withdrawal of school approval, namely § 214.4; and affirming his/her intent to comply with these regulation. An

approved school must also submit to the Service office having jurisdiction over it such a statement from any new designated official.

4. Section 214.4 would be amended by removing the words "Office of Education" from paragraph (e) and inserting, in their place, the words, "Department of Education". § 214.4 would be amended further by revising paragraph (a) to read as follows:

§ 214.4 Withdrawal of school approval.

(a) *General.* The approval by the Service, pursuant to sections 101(a)(15)(F)(i) and/or 101(a)(15)(M)(i) of the Act, of a petition by a school or school system for the attendance of nonimmigrant students will be withdrawn if the school or school system is no longer entitled to the approval for any reason including, but not limited to, the following:

(1) Failure to submit reports required by § 214.3(g)(2).

(2) Failure of a designated official to notify the Service that an F–1 student has transferred to another school as required by § 214.2(f)(6)(ii).

(3) Willful issuance by a designated official, academic adviser, major professor, or school counselor of a false certification or recommendation in connection with a practical training authorization or an application for employment or practical training.

(4) Any conduct on the part of a designated school official which does not comply with the regulations.

(5) The designation as a designated official of an individual who does not meet the requirements of § 214.3(l)(1).

(6) Failure to provide the Service with the names, titles, and sample signatures of designated officials as required by § 214.3(l)(2).

(7) Failure to submit statements of designated officials as required by § 214.3(l)(3).

(8) Issuance of Forms I–20A or I–20M to students without receipt of proof of scholastic, language, or financial requirements.

(9) Issuance of Forms I–20A or I–20M to aliens who will not be enrolled in or carry a full course of study as defined in §§ 214.2(f)(5) or 214.2(m)(6).

(10) Failure to operate as a bona fide institution of learning.

(11) Failure to employ qualified professional personnel.

(12) Failure to maintain proper facilities for instruction.

(13) Failure to limit its advertising in the manner prescribed in § 214.3(j).

(14) Failure to maintain accredition or licensing necessary to qualify graduates as represented in the petition.

(15) Failure to maintain the physical plant, curriculum, and teaching staff in the manner represented in the petition for school approval.

(16) Failure to comply with the procedures for issuance of Forms I–20A or I–20M as set forth in § 214.3(k).

If an approved school terminates its operations, its approval will be automatically withdrawn. If an approved school changes ownership, its approval will be automatically withdrawn unless it files a new petition for school approval within sixty days of the change of ownership. The district director must review the petition to determine whether the school still meets the eligibility requirements of § 214.3(e). If, upon completion of the review, the district director finds that the approval should not be continued, he/she shall institute withdrawal proceedings in accordance with paragraph (b) of this section. Automatic withdrawal of a school's approval is without prejudice to consideration of a new petition of school approval. If a school's approval is withdrawn for any other reason, however, the school will not be eligible to file another petition for school approval until at least one year after the effective date of the withdrawal.

PART 248—CHANGE OF NONIMMIGRANT CLASSIFICATION

5. § 248.1 would be amended by revising paragraph (b) and by adding paragraphs (c) and (d). Paragraphs (b), (c), and (d) would read as follows:

§ 248.1 Eligibility.

* * * * *

(b) *Maintenance of status.* In determing whether an applicant has continued to maintain his/her nonimmigrant status, the district director shall consider whether the alien has remained in the United States for a longer period that that authorized by the Service. The district director shall consider any conduct by the applicant relating to the maintenance of the status from which the applicant is seeking a change. An applicant may not be considered as having maintained his/her nonimmigrant status within the meaning of this section if he/she failed to submit his/her application for change of nonimmigrant classification before his/her authorized temporary stay in the United States expired, unless the district director, in his/her discretion, is satisfied that

(1) The failure to file a timely application is excusable;

(2) The alien has not otherwise violated his/her nonimmigrant status;

(3) The alien is a bona fide nonimmigrant; and

(4) The alien is not the subject of deportation proceedings under Part 242 of this chapter.

(c) *Change of nonimmigrant classification to that of a nonimmigrant student.*

A nonimmigrant applying for a change to classification as a student under sections 101(a)(15)(F)(1) or 101(a)(15)(M)(i) of the Act is not considered ineligible for such a change solely because he/she may have started attendance at school before his/her application was submitted. A nonimmigrant applying for a change to classification as a student under section 101(a)(15)(M)(i) of the Act must certify on Form I–20M that—

(1) He/she will be able to utilize, in his/her home country, the education or training which he/she receives in the United States; and

(2) A course of study of comparable quality and cost to that for which Form I–20M was issued is unavailable to him/her in his/her home country.

The district director shall deny an application for a change to classification as a student under section 101(a)(15)(M)(i) of the Act if the applicant intends to pursue the course of study solely in order to qualify for a subsequent change of nonimmigrant classification to that of an alien temporary worker under section 101(a)(15)(H) of the Act. Furthermore, an alien may not change from classification as a student under section 101(a)(15)(M)(i) of the Act to that of a student under section 101(a)(15)(F)(i) of the Act.

(d) *Application for change of nonimmigrant classification from that of a student under section 101(a)(15)(M)(i) to that described in section 101(a)(15)(H).* A district director shall deny an application for change of nonimmigrant classification from that of an M-1 student to that of an alien temporary worker under section 101(a)(15)(H) of the Act if the education or training which the student received while an M-1 student enables him/her to meet the qualifications for temporary worker classification under section 101(a)(15)(H) of the Act.

6. Section 248.3 would be amended by revising paragraph (b), by adding new paragraphs (c) and (d), and by redesignating existing paragraphs (c) and (d) as (e) and (f), respectiely. Paragraphs (b), (c), and (d) would read as follows:

§ 248.3 Application.

* * * * *

(b) *Application and fee not required.* Neither an application nor a fee is

required for the following changes of nonimmigrant classification:

(1) A change to classification under sections 101(a)(15)(A) or 101(a)(15)(G) of the Act.

(2) A change to a classification under section 101(a)(15)(A) or (G) of the Act for an immediate family member, as defined in 22 CFR 41.1, of a principal alien whose status has been changed to such a classification.

(3) A change to the appropriate classification for the nonimmigrant spouse or child of an alien whose status has been changed to a classification under sections 101(a)(15)(E),(F),(H),(I),(J),(L), or (M) of the Act.

(4) A change of classification from that of a visitor for pleasure under section 101(a)(15)(B) of the Act to that of a visitor for business under the same section.

(5) A change of classification from that of a student under section 101(a)(15)(F)(i) of the Act to that of an accompanying spouse or minor child under section 101(a)(15)(F)(ii) of the Act or vice versa.

(6) A change from any classification within section 101(a)(15)(H) of the Act to any other classification within section 101(a)(15)(H) of the Act provided that the requisite Form I-129B visa petition has been filed and approved.

(7) A change from classification as a participant under section 101(a)(15)(J) of the Act to classification as an accompanying spouse or minor child under that section or vice versa.

(8) A change from classification as an intra-company transferee under section 101(a)(15)(L) of the Act to classification as an accompanying spouse or minor child under that section or vice versa.

(9) A change of classification from that of a student under section 101(a)(15)(M)(i) of the Act to that of an accompanying spouse or minor child under section 101(a)(15)(M)(ii) of the Act or vice versa.

(c) *Fee not required.* No fee is required for a request for change to exchange alien classification under section 101(a)(15)(J) of the Act made by an agency of the United States Government. In such a case, the agency may submit Form IAP-66, Certificate of Eligibility for Exchange-Visitor (J-1) Status, together with its request in lieu of Form I-506, Application for Change of Nonimmigrant Status.

(d) *Change of classification not required.* The following do not need to request a change of classification:

(1) An alien classified as a visitor for business under section 101(a)(15)(B) of the Act who intends to remain in the United States temporarily as a visitor for pleasure.

(2) An alien classified under sections 101(a)(15)(A) or 101(a)(15)(G) of the Act as a member of the immediate family of a principal alien classified under the same section, or an alien classified under section 101(a)(15)(E),(F),(H),(I),(J),(L), or (M) of the Act as the spouse or child who accompanied or followed to join a principal alien who is classified under the same section, to attend school in the United States, as long as the immediate family member or spouse or child continues to be qualified for and maintains the status under which he/she is classified.

(Secs. 101(a)(15)(F), 101(a)(15)(M), 214, and 248, Immigration and Nationality Act, as amended (8 U.S.C. 1101 (a)(15)(F), 1101(a)(15)(M), 1184 and 1258)).

Dated: May 7, 1982.

Alan C. Nelson,

Commissioner of Immigration and Naturalization.

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DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 9

[Docket No. 82-8]

Registration of National Bank Transfer Agents

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking; adoption of revised Form TA-1.

SUMMARY: The Comptroller of the Currency ("Comptroller") is proposing amendments to the rules regarding the registration of transfer agents for securities registered under section 12 of the Securities Exchange Act of 1934 or for certain securities exempt from registration. The Comptroller is adopting a simplified Form TA-1 for such registration, and the regulations are being changed to conform to the new form.

DATES: Comments should be received regarding the proposed rulemaking no later than July 27, 1982. The Comptroller will require registrants to use revised Form TA-1 30 days after publication in the Federal Register of this notice of adoption of the revised Form TA-1. During the 30-day period before use of the revised Form TA-1 is required, registrants may, if they so choose, use either the existing or the revised Form TA-1.

ADDRESSES: Comments should be directed to Docket No. 82-8, Communications Division, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East SW., 3rd Floor, Washington, D.C. 20219, Attention: Marie Giblin. Telephone (202) 447-1800. Comments will be available for inspection and copying.

FOR FURTHER INFORMATION CONTACT: Tyler Tullos, Trust Examinations, 490 L'Enfant Plaza East SW., Washington, D.C. 20219, (202) 447-1731; Larry Raz, Legal Advisory Services Division, (202) 447-1880.

SUPPLEMENTARY INFORMATION: The Comptroller is proposing changes to the rule regarding registration of national bank transfer agents. In addition, the Comptroller is adopting a revised registration Form TA-1.

Adoption of Revised Form TA-1

The Comptroller is adopting a revised Form TA-1 for registration of national bank transfer agents. The new form results from the combined efforts of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and the Securities and Exchange Commission. The four agencies intend to adopt a uniform format for reporting purposes. The Comptroller's form has been approved by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). (OMB 1557-0124 (expiration date 11/30/84)).

The Comptroller will require use of revised Form TA-1 for any registration, or amendment to registration, occurring more than 30 days after the date of publication of this notice in the Federal Register. During the 30 day interim period, registrants may use either the old Form TA-1, or the simplified and revised Form TA-1.

Changes to 12 CFR 9.20

The Comptroller is proposing an amendment to 12 CFR 9.20(c) to conform the rule to the adoption of revised Form TA-1.

In addition, the Comptroller proposes extending the time for filing amendments to registration from 21 days to 60 days. The proposed change should give registered transfer agents sufficient time to comply with the rule that requires the transfer agent to correct information contained in Form TA-1 that becomes inaccurate, misleading or incomplete. The Comptroller recognizes that persons whose securities are handled by the transfer agent may have reasons to discuss the extension of time to file amendments, and therefore the

Comptroller requests comments on this proposed change.

The Comptroller also proposes to remove 12 CFR 9.20(e). This subsection was enacted as a transitional rule in 1975. The Comptroller believes that this transitional subsection no longer serves a useful purpose, and should be eliminated in the interests of regulatory simplification and clarity. The Comptroller invites comments from persons, especially registrants, who believe that § 9.20(e) presently serves any useful purpose and should be retained.

Finally, the Comptroller proposes a specific addition of an authority citation to 12 CFR 9.20 to inform the public better as to the Comptroller's specific rulemaking authority for transfer agents under the Securities Exchange Act of 1934.

Regulatory Flexibility Act

A regulatory flexibility analysis was not prepared. The Secretary of Treasury has certified that the proposed amendments, if adopted, would not have a significant economic impact on a substantial number of small entities. The changes, coupled with adoption of revised Form TA–1, should reduce the present recordkeeping and reporting burdens on registered transfer agents. Regulatory burdens of gathering information, recordkeeping, and reporting should be reduced substantially. Small banks should find it easier to comply with the new Form TA–1 and 12 CFR 9.20.

Regulatory Impact

A regulatory impact analysis will not be prepared. An *a priori* review of the proposed rule did not uncover any of the three required effects upon the economy that triggers a regulatory impact analysis pursuant to Executive Order 12291. The proposal will not have an annual effect on the economy of $100 million or more, will not result in a major increase in the cost of bank operations or government supervision, and will not have adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 12 CFR Part 9

National banks, Fiduciary powers.

For the reasons set forth in the preamble, the Comptroller proposes to amend 12 CFR Part 9 as follows:

1. The authority citation for Part 9 reads as follows:

Authority: Sec. 1, 76 Stat. 668; 12 U.S.C. 92a; and R.S. 5240, as amended (12 U.S.C. 481), unless otherwise noted.

2. Section 9.20(c) is revised to read as follows:

§ 9.20 Registration of national bank transfer agents.

* * * * *

(c) Within sixty calendar days following the date on which any information reported on Form TA–1 becomes inaccurate, misleading or incomplete, the registrant shall file an amendment on Form TA–1 correcting the inaccurate, misleading or incomplete information.

3. Section 9.20(e) is removed.

4. Section 9.20 is amended by adding an authority citation at the end to read as follows:

(Secs. 3(a)(34)(B), 17, 17A, and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)(B), 78q, 78q–1, 78w))

Dated: May 7, 1982.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 82-14822 Filed 5-27-82; 8:45 am]

BILLING CODE 4810-33-M

CIVIL AERONAUTICS BOARD

14 CFR Part 399

[Policy Statements Docket: 40673; PSDR-76]

Statements of General Policy Regulatory Flexibility Act; Definition of "Small Business"

Dated: May 7, 1982.

AGENCY: Civil Aeronautics Board.

ACTION: Request for comments.

SUMMARY: The CAB requests comments on its definition of which airlines are "small businesses" for the purposes of the Regulatory Flexibility Act.

DATES: Comments by: July 27, 1982.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List: June 14, 1982.

The Docket Section prepares the Service List and spends it to each person listed on it, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 40673, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION:

The Regulatory Flexibility Act, Pub. L. 96–354, directs agencies to consider the effects of their rules on small businesses and other small entities. The general idea of the Act is that agencies should consider "tiering" and other approaches to fit regulatory requirements to the scale of the regulated entities as long as that is consistent with the underlying regulatory purpose. The main requirements of the Act include the publication of a semiannual regulatory agenda, initial and final regulatory flexibility analyses of proposed and final rules, and the periodic review of existing rules.

The Act provides at 5 U.S.C. 601(3) that, unless an agency establishes its own definition, "small business" has the same meaning as "small business concern" under section 3 of the Small Business Act (5 U.S.C. 632). The definition in that section is stated in general terms that are in turn refined in Small Business Administration (SBA) rules at 13 CFR Part 121. That part sets out a different definition for each of several SBA programs. The primary one, which is for the SBA loan program, defines an airline as small if it has not more than 1,000 employees (§ 121.3–10(f)(2)).

This definition, or any one based on employment levels, is not well suited to the Board's regulatory functions. An airline's employment level depends not only on the size and scope of its operations, but also on the extent to which it uses its own employees or contracts out for services such as maintenance, ticketing, baggage handling, or even, by wet lease (*i.e.*, with crew) from another airline flying the aircraft. If regulatory requirements were keyed to the level of employment, airlines might be induced to make otherwise uneconomic choices between hiring their own personnel and contracting out, in order to avoid them. Moreover, because employment levels have no direct relationship to the type of service that an airline provides, an employment-based standard could give some airlines an unfair competitive advantage over others operating the same type of service in the same markets. This result would be at odds with the procompetitive thrust of the Airline Deregulation Act of 1978.

The Regulatory Flexibility Act allows, and the legislative history encourages, an agency to establish one or more definitions of "small business" that are appropriate to the agency's own activities. By this notice the Board proposes to establish such a definition for airlines: an airline would be considered a small business if it provided air transportation only with small aircraft. The distinction between small and large aircraft is already set out in the Board's rules, with large aircraft defined as those designed for a maximum passenger capacity of more than 60 seats or a maximum payload capacity of more than 18,000 pounds (14 CFR 298.3(i)).

The proposed definition conforms to the Board's long-established special treatment of air taxi operators, as modified by recent extensions of that treatment to the small aircraft operations of all airlines. The Board has for many years maintained under 14 CFR Part 298 a separate classification of U.S. airlines known as air taxie operators. These are airlines that use only small aircraft and comply with registration and certain other requirements, in exchange for which they are exempted from the certificate and other major requirements of the Federal Aviation Act and many of the Board's rules. Some airlines using only small aircraft, however, have chosen to obtain certificates for independent reasons. To provide comparable treatment for these airlines, and, more generally, to equalize competitive opportunities the Board has recently taken several steps to realign its requirements on the basis of aircraft size. In the dual authority rules, it has extended the air taxi exemptions to cover the small aircraft operations of certificated airlines (ER–1251; 46 FR 51371; October 20, 1981; and ER–1278; 47 FR 604; January 6, 1982). The denied boarding compensation rules have been amended to eliminate coverage of small aircraft entirely (ER–1237, 46 FR 42442; August 21, 1981). The smoking rule now applies uniformly to U.S. airlines' aircraft with 30 or more seats, without regard to whether the airline is an air taxi operator or holds a certificate. And the Board has proposed various alternatives for domestic baggage liability rules, all of which would eliminate coverage entirely for small aircraft operations (EDR–438; 47 FR 5232; February 4, 1982; Docket 40366).

In light of these changes, the proposed standard, based on aircraft size, for identifying airlines as small businesses appears to be the most sensible one. The Board recognizes that an airline with may small aircraft may in some senses be a larger business than another airline that uses one or two large jets and no small aircraft. But these anomalies will be rare, because business size tends to correspond to aircraft size. Moreover, where they do occur they are outweighed in importance by the need to maintain comparable regulatory treatment for comparable service.

List of Subjects in 14 CFR Part 399

Air carriers, Small businesses.

PART 399—STATEMENTS OF GENERAL POLICY

Accordingly, the Civil Aeronautics Board proposes to add a new § 399.73 to 14 CFR Part 399, *Statements of General Policy,* to read:

§ 399.73 Definition of "small business" for Regulatory Flexibility Act.

For the purposes of the Board's implementation of Chapter 6 of Title 5, U.S. Code (Regulatory Flexibility Act), a direct air carrier or foreign air carrier is a "small business" if it provides air transportation only with "small aircraft" as defined in § 298.3 of this chapter (up to 60 seats/18,000 pound payload capacity).

(Secs. 101, 102, 105, 204, 401, 402, 403, 404, 405, 406, 407, 408, 409, 411, 412, 414, 416, 801, 1001, 1002, 1102, 1104, Pub. L. 85–726 as amended, 72 Stat. 737, 740, 743, 754, 757, 758, 760, 763, 766, 767, 768, 769, 770, 771, 782, 788, 797, 92 Stat. 1708; 49 U.S.C. 1301, 1302, 1305, 1324, 1371, 1372, 1373, 1374, 1375, 1376, 1377, 1378, 1379, 1381, 1382, 1384, 1386 1461, 1481, 1482, 1502, 1504, 5 U.S.C. 601)

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–14600 Filed 5–27–82; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H–103S]

Educational/Scientific Diving

Note.—This document originally appeared in the Federal Register of Wednesday, May 26, 1982. It is reprinted in this issue to meet requirements for publication on the Tuesday/Friday schedule assigned to the Department of Labor.

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Extension of the comment period; notice of informal public hearing.

SUMMARY: This notice extends the comment period for written responses to OSHA's notice of proposed rulemaking on educational/scientific diving (47 FR 13005, March 26, 1982). The written responses were to be postmarked by May 10, 1982.

In addition, OSHA is scheduling an informal public hearing concerning the notice of proposed rulemaking on educational/scientific diving.

DATES: Written comments must be received by June 18, 1982.

Notices of intention to appear at the informal public hearing, and testimony and all evidence which will be introduced into the hearing record must be received by June 18, 1982.

The hearing will begin at 9:30 a.m. and be held on the following dates: June 29–30, and July 7–9, 1982.

ADDRESSES: Written comments should be submitted, in quadruplicate, to the Docket Officer, Docket H–103S, Room S6212, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523–7894.

Notices of intention to appear, and testimony and documentary evidence which will be introduced into the hearing record must be sent to Mr. Tom Hall, U.S. Department of Labor, Occupational Safety and Health Administration, Division of Consumer Affairs, Room N3635, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

The hearings will be held at the following locations:

1. June 29–30, 1982, at the Frances Perkins Department of Labor Building, Auditorium, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

2. July 7–9, 1982, at the Quality Inn Airport, Century III—Hearing Room, 5249 W. Century Boulevard, Los Angeles, California 90045, (213) 645–2200.

FOR FURTHER INFORMATION CONTACT:

Hearing: Mr. Tom Hall, U.S. Department of Labor, Occupational Safety and Health Administration, Division of Consumer Affairs, Room N3635, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523–8024.

Proposal: Mr. Glen E. Gardner or Ms. Joanne E. Slattery, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3463, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523–7225.

SUPPLEMENTARY INFORMATION: On March 26, 1982, OSHA published in the **Federal Register** (47 FR 13005) a Notice of Proposed Rulemaking to exempt diving "performed solely for marine scientific research and development purposes by educational institutions" (educational/scientific diving) from its

standard for Commercial Diving Operations (29 CFR Part 1910, Subpart T).

OSHA recognized that some of the information and data supporting the educational/scientific exemption also pertained to the scientific diving community in general. Therefore, OSHA solicited additional information and data for determining the appropriate scope of an exemption by asking the following questions:

1. Should OSHA adopt the second exemption provided by the U.S. Coast Guard standard (§ 197.202(a)(2)) which states that the standard does not apply to any diving operation "performed solely for research and development for the advancement of diving equipment and technology?"

2. Should OSHA exempt all scientific diving? If so, how should OSHA define those activities which constitute scientific diving?

3. Should OSHA only exempt scientific diving when such diving complies with an alternative standard which provides divers a comparable level of safety and health as OSHA's Subpart T standard?

Interested persons were given until May 10, 1982, to submit written data, views, and arguments on the proposal, to file objections, and request a hearing.

OSHA received a request to extend the comment period from the American Academy of Underwater Sciences (AAUS). AAUS noted that disseminating the notice to its members and other interested persons had been more time consuming than anticipated. In order to assure that interested parties have sufficient time to compile data and prepare responses, OSHA has decided to extend the comment period to June 18, 1982.

Additionally, OSHA received a request for a hearing from the United Brotherhood of Carpenters and Joiners. The hearing request contained objections to the proposed exemption, and to the possible extension of the exemption to other segments of scientific diving.

The United Brotherhood of Carpenters and Joiners believes that an exemption is unnecessary. They state that granting any exemption would be denying protection to divers. Further they contend that "merely the demonstration of a good safety record does not negate the need for a standard to prevent future problems and act as a safeguard."

The Carpenters Union also suggests that in lieu of granting an exemption to any scientific diving activity, the employers of the scientific diving community should seek a variance from the commercial diving operations standard under section 6(d) of the Occupational Safety and Health Act. Section 6(d) states:

> Any affected employer may apply to the Secretary for a rule or order for a variance from a standard promulgated under this section. Affected employees shall be given notice of each such application and an opportunity to participate in a hearing. The Secretary shall issue such rule or order if he determines on the record, after opportunity for an inspection where appropriate and a hearing, that the proponent of the variance has demonstrated by a preponderance of the evidence that the conditions, practices, means, methods, operations, or processes used or proposed to be used by an employer will provide employment and places of employment to his employees which are as safe and healthful as those which would prevail if he complied with the standard. The rule of order so issued shall prescribe the conditions the employer must maintain, and the practices, means, methods, operations, and processes which he must adopt and utilize to the extent they differ from the standard in question. Such a rule or order may be modified or revoked upon application by an employer, employees, or by the Secretary on his own motion, in the manner prescribed for its issuance under this subsection at any time after six months from its issuance.

Accordingly, pursuant to section 6(b)(3) of the Act, OSHA has scheduled an informal public hearing to receive testimony on whether OSHA should grant an exemption from the diving standard for educational/scientific diving, the nature of any exemption and whether the scope of the exemption should be broadened to include other segments of scientific diving.

In addition to the general issue concerning an exemption as stated above, OSHA invites testimony at the informal public hearing on the appropriateness of the section 6(d) variance mechanism.

Public Participation in Hearing

Notice of Intention to Appear: Persons desiring to participate at the hearing, must file a notice of intention to appear by June 18, 1982. The notice of intention to appear must contain the following:

1. The name, address and telephone number of each person to appear;

2. The capacity in which the person will appear;

3. The city where the person intends to appear;

4. The approximate amount of time required for the presentation;

5. The specific issues that will be addressed;

6. A detailed statement of the position that will be taken with respect to each issue addressed; and

7. Whether the party intends to submit documentary evidence, and if so, a detailed summary of the evidence.

Filing of Testimony and Evidence Before the Hearing: Any party requesting more than 15 minutes for presentation at the hearing or who will submit documentary evidence, must provide in quadruplicate, the complete text of its testimony, including all documentary evidence to be presented at the hearing, to the OSHA Division of Consumer Affairs by June 18, 1982.

Each submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact.

Any party who has not substantially complied with the above requirements, may be limited to a 15 minute presentation, and may be requested to return for questioning at a later time. Any party who has not filed a notice of intention to appear may be allowed to testify, as time permits, at the discretion of the Administrative Law Judge.

Notices of intention to appear, testimony and evidence, will be available for inspection and copying at the Docket Office, Docket H-103S, U.S. Department of Labor, Occupational Safety and Health Administration, Room S6212, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202)523-7894.

The hearing will commence at 9:30 a.m. at the scheduled locations with the resolution of any procedural matters relating to the proceeding. The hearing will be presided over by an Administrative Law Judge who will have the powers necessary or appropriate to conduct a full and fair informal hearing as provided in 29 CFR Part 1911, including the powers:

1. To regulate the course of the proceedings;

2. To dispose of procedural requests, objections and comparable matters;

3. To confine the presentation to the matters pertinent to the issues raised;

4. To regulate the conduct of those present at the hearing by appropriate means;

5. In the judge's discretion, to question and permit questioning of any witness; and

6. In the judge's discretion, to keep the record open for a reasonable stated time to receive written information and additional data, views, and arguments from any person who has participated in the oral proceedings.

Following the close of the hearing, the presiding Administrative Law Judge will certify the record of the hearing to the Assistant Secretary of Labor for Occupational Safety and Health. The notice of proposed rulemaking will be reviewed in light of all testimony and written submissions received as part of the record, and the standard will be modified or a determination will be made not to modify the standard, based on the entire record of the proceeding.

Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. (Sec 6, 84 Stat. 1593 (29 U.S.C. 655); 29 CFR Part 1911, Secretary of Labor's Order No. 8–76 (41 FR 25059))

Signed at Washington, D.C., this 21st day of May 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82-14087 Filed 5-25-82; 8:45 am]

BILLING CODE 4510-26-M

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29 CFR Part 1910

[Docket No. S–600]

Proposed Revocation of Advisory and Repetitive Standards

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Proposed Revocation.

SUMMARY: The Occupational Safety and Health Administration (OSHA) proposes to revoke nearly two hundred provisions of the General Industry Safety and Health Standards (Part 1910) in which the word "should" or other advisory language is used instead of the mandatory "shall". OSHA has determined that these provisions are unenforceable and proposes that they be deleted from Part 1910. Also proposed for revocation is one advisory paragraph which was improperly adopted as a mandatory provision by OSHA. It is also proposed to delete three sections whose requirements are repeated elsewhere in Part 1910. In addition, OSHA is proposing to amend § 1910.6 to clarify that only mandatory provisions of standards incorporated by reference are adopted as OSHA standards. The removal of advisory and repetitive provisions from the standards will facilitate OSHA's enforcement responsibilities regarding these provisions and also assist employers by improving the clarity of the standards.

DATES: All comments on this notice should be received by July 27, 1982.

ADDRESS: All comments should be submitted in quadruplicate to the Docket Officer, Docket S–600, Occupational Safety and Health Administration, U.S. Department of Labor, Room S–6212, Frances Perkins Building, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone (202) 523–7894.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas H. Seymour or Mr. Wendell Glasier, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3463, Frances Perkins Building, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone (202) 523–7216.

SUPPLEMENTARY INFORMATION:

Background

Under section 6(a) of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1593, 29 U.S.C. 655) OSHA was directed to adopt existing national consensus standards and established Federal standards in order to ensure that the nation's employees be guaranteed at least a minimum level of occupational safety and health protection as soon as possible after the effective date of the Act. For the adoption of these standards, section 6(a) dispensed with procedural requirements for notice and public comment.

Following this congressional direction, OSHA published its initial package of occupational safety and health standards on May 29, 1971, as 29 CFR Part 1910 (36 FR 10466). These standards were derived largely from national consensus standards developed by the American National Standards Institute (ANSI) and the National Fire Protection Association (NFPA).

Some of the standards adopted under section 6(a) have been found to be unenforceable because their precursor ANSI Standards were intended to be advisory and not mandatory.

Most of these advisory ANSI Standards were adopted verbatim by OSHA. They generally provided that an employer "should" undertake specified safety or health obligations. For example, 29 CFR 1910.134(b)(4) provides that respirators *should* be assigned to employees for their exclusive use, where practicable.

In other instances ANSI standards contained "should" provisions which OSHA changed to "shall" when the regulations were promulgated under section 6(a). The sole remaining standard of this type is 29 CFR 1910.28(a)(3), which provides that guardrails *shall* be installed on platforms more than 10 feet in height. This regulation's ANSI precursor merely advised that guardrails *should* be provided. OSHA anticipates future rulemaking on this issue.

In still other instances, OSHA incorporated by reference certain ANSI or NFPA consensus standards which contain advisory provisions. It is clear that the problems associated with the "should" standards and other advisory provisions which are actually published verbatim in Part 1910, are also present wherever such advisory provisions are found in standards incorporated by reference.

In the past, OSHA maintained that all standards, regardless of whether the term "should" or "shall" is used, create mandatory compliance responsibilities. Employers have consistently challenged this position on the basis that section 6(a) of the Act only gave OSHA the authority to adopt ANSI standards verbatim. In ANSI standards, use of the term "should" means that the provision is only advisory. Therefore, employers maintained that ANSI "should" standards can only be advisory when adopted by OSHA under § 6(a).

Enforcement of "should" standards has been denied by the Occupational Safety and Health Review Commission and by most of the appellate courts in which contested cases have been heard. For example, in *Marshall* v. *Pittsburgh-Des Moines Steel Co.*, 584 F.2d 638, 643–44 (1978), the Third Circuit Court of Appeals determined that "should" standards were merely advisory because the consensus organizatioin had reached "substantial agreement" that these provisions be viewed only as *recommendations*, and not as mandatory standards.

The courts have also ruled that failure to adopt an ANSI standard verbatim (in this case by changing a "should" to a "shall") renders the resulting OSHA section 6(a) standard invalid and unenforceable (see *Usery* v. *Kennecott Copper Corporation*, 577 F.2d 1113, 1117 (10th Cir. 1977)).

Although the "should" standards have not been enforceable in and of themselves, OSHA has also employed the "should" provisions to demonstrate the existence of "recognized hazards" under the general duty clause (section 5(a)(1)) of the Act. However, the Review Commission recently ruled that, as long as the "should" standard remains in effect, OSHA may not issue a general duty clause citation for the hazard addressed by that "should" standard (see *A. Prokosch & Sons Sheet Metal and Mid-Hudson Automatic Sprinkler*, 1980 CCH OSHD ¶24, 840).

Types of Provisions Proposed for Revocation and Reasons for Revocation

There are three categories of provisions being proposed for revocation in this notice.

1. Provisions adopted under section 6(a), either verbatim or by incorporation by reference, which use the word "should", or are otherwise advisory in nature.

2. One provision ostensibly creating an obligation through the use of the word "shall", which was changed from "should" in the ANSI standard adopted by OSHA under section 6(a).

3. Other standards which repeat requirements contained elsewhere in Part 1910.

Some of the hazards covered by the "should" standards and other advisory provisions may be serious or potentially serious under certain conditions. The fact that OSHA cannot enforce these provisions either directly or indirectly leaves gaps in coverage, resulting in a decrease in safety and health protection for the nation's employees. Where these provisions cover hazards which may cause death or serious physical harm to employees, the revocation of such provisions will enable OSHA to issue citations for these hazards under the general duty clause.

Ultimately, OSHA intends to promulgate appropriate specific standards under section 6(b) of the Act to deal with these hazards. For example, § 1910.97, nonionizing radiation, covers a hazards which OSHA considers to be worthy of consideration for future regulatory action.

Although some of the "should" provisions deal with hazards which may under some conditions be serious, many others have little direct or immediate relationship to employee safety and health. The removal of these other advisory provisions will help to streamline and simplify the existing Part 1910 standards.

The standards contained in the third category, §§ 1910.166–168, are not "shoulds" or other advisory provisions, but are merely repetitions of requirements contained elsewhere in Part 1910. These three sections which cover compressed gas and compressed air equipment, contain requirements which are also found in § 1910.101 of Subpart H. Future rulemaking under section 6(b) to replace these standards, therefore, is not considered necessary.

At its meeting on December 18, 1981, the National Advisory Committee on Occupational Safety and Health (NACOSH) recommended that OSHA not proceed with its deletion of advisory provisions at this time. Instead, the Committee recommended that OSHA wait until the Agency can simultaneously propose mandatory rules to take the place of the advisory provisions wherever necessary, under section 6(b) of the Act. OSHA agrees with NACOSH that rulemaking action may be warranted to provide specific coverage for certain hazards which are currently addressed only by advisory provisions. However, for the reasons set forth above, the Agency has decided to proceed expeditiously with its proposed revocation. This option will strengthen OSHA's current enforcement powers, by permitting the Agency to issue general duty clause citations for serious recognized hazards which are presently covered only by advisory provisions. This will be done in accordance with the new general duty clause policy found in OSHA Instruction CPL 2.50 issued March 17, 1982. OSHA believes that continuation of its ongoing policy of revising its existing standards on a subpart-by-subpart basis will be the most effective way to update these standards while maintaining the greatest degree of protection in the interim.

Proposal Format

This notice contains a single list incorporating three categories of provisions proposed for revocation. As noted above, the first category includes the paragraphs or portions of paragraphs which contain the word "should" or other precatory language. The second category is the single improperly promulgated "shall" provision, § 1910.28(a)(3). The third category includes the three sections (§§ 1910.166–168) which repeat requirements contained elsewhere in Part 1910.

In addition, those "should" provisions which are incorporated in the OSHA general industry standards will be deleted by amendment of § 1910.6. Paragraph (a) of this section provides that "the standards * * * which are legally incorporated by reference in this part, have the same force and effect as other standards in this part." OSHA is proposing to add a sentence at the end of § 1910.6(a) to read as follows: "Only the mandatory provisions (i.e., provisions containing the word "shall" or other mandatory language) of standards incorporated by reference are adopted as standards under the Occupational Safety and Health Act." This amendment, combined with the list of provisions in Part 1910 which are proposed for deletion, will effectively eliminate "should" standards and other advisory provisions found throughout Part 1910 and in the incorporations by reference.

Regulatory Assessment

The proposed revocation of "should" and other advisory or repetitive provisions of the General Industry (Part 1910) Safety and Health Standards is not a "major" action as defined by Executive Order No. 12291 (46 FR 13193, February 19, 1981) as it will not have an annual effect on the economy of $100 million or more, cause major increases in costs or prices, or have any other significant adverse effects. Revocation of these provisions will not constitute a "major rule" primarily because few, if any, additional requirements will be imposed on industry. Revocation will relieve current regulatory burdens created by the uncertainty regarding the enforceability of these provisions.

For the same reason, it is certified that pursuant to the provisions of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601) these proposed revocations will not have a significant economic impact on a substantial number of small entities.

Public Participation

Interested persons are invited to submit written data, views and arguments on the specific provisions and issues raised in this proposed revocation. These comments must be postmarked no later than July 27, 1982, and submitted in quadruplicate to OSHA Docket Office, Docket No. S–600, Room S–6212, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, where they will be available for public inspection and copying. Written submissions must clearly identify the provisions which are addressed and the position taken with respect to each issue.

Pursuant to section 6(b)(3) of the Act interested parties may, in addition to written comments, file objections to the proposal and request an informal hearing on the objections. Objections and requests for an informal hearing, addressed as above, must be postmarked no later than July 27, 1982, and must comply with the following conditions:

1. The objection must include the name and address of the objector.

2. The objection must specify with particularity the provisions of the proposed revocation to which objection is taken, and must state the grounds for the objection.

3. Each objection must be separately stated and numbered; and

4. The objection must be accompanied by a detailed summary of the evidence to be adduced at the requested hearing.

List of Subjects in 29 CFR Part 1910

Explosives, Flammable materials, Gases, Hazardous materials, Health, Industrial trucks, Ladders and scaffolds, Machinery, Noise control, Occupational safety and health, Protective equipment, Radiation protection, Respiratory protection, Safety, Signs and symbols, Tools, Welding.

Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Accordingly, pursuant to section 6(b) and 8(g) of the Occupational Safety and Health Act of 1970 (84 Stat 1593, 1600; 29 U.S.C. 655, 657), Secretary of Labor's Order No. 8-76 (41 FR 25059) and 29 CFR Part 1911, it is proposed to amend 29 CFR Part 1910 as set forth below.

Signed at Washington, D.C. this 21st day of May 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

It is proposed to amend Part 1910 of 29 CFR as follows:

A. By revising paragraph (a) of § 1910.6 to read as follows:

§ 1910.6 Incorporation by reference. [Amended]

(a) The standards of agencies of the U.S. Government and organizations which are not agencies of the U.S. Government which are incorporated by reference in this part, have the same force and effect as other standards in this part. Only the mandatory provisions (i.e., provisions containing the work "shall" or other mandatory language) of standards incorporated by reference are adopted as standards under the Occupational Safety and Health Act.

* * * * * * *

§ 1910.24 [Amended]

B. By revising the heading of paragraph (g) of § 1910.24 to read "Stairway platforms."

C. By removing the following listed provisions:

Subpart D—Walking/Working surfaces

§ 1910.22 General requirements. [Amended]

1. Remove the phrase, "and false floors, platforms, mats, or other dry standing places should be provided where practicable", in the second sentence of paragraph (a)(2) of § 1910.22.

§ 1910.23 Guarding floor and wall openings and holes. [Amended]

2. Remove the phrase, "and should preferably be hinged or otherwise mounted so as to be conveniently replaceable," in the second sentence of paragraph (a)(3)(ii) of § 1910.23.

3. Remove the phrase, "which should be hinged in place," in the first sentence of paragraph (a)(5) of § 1910.23.

4. Remove the phrase, "that should be hinged in place," in the first sentence of paragraph (a)(8)(ii) of § 1910.23.

5. Remove the second sentence of paragraph (b)(1)(i) of § 1910.23.

6. Remove the third sentence of paragraph (e)(5)(i) of § 1910.23.

§ 1910.24 Fixed industrial stairs. [Amended]

7. Remove the first two sentences of paragraph (f) of § 1910.24.

8. Remove the first two sentences of paragraph (g) of § 1910.24.

9. Remove paragraph (j) of § 1910.24.

§ 1910.25 Portable wood ladders. [Amended]

10. Remove paragraph (c)(5) of § 1910.25.

11. Remove paragraph (d)(1)(xi) of § 1910.25.

12. Remove paragraph (d)(2)(ii) of § 1910.25.

13. Remove paragraph (d)(2)(vi) of § 1910.25.

14. Remove paragraph (d)(2)(vii) of § 1910.25.

15. Remove the second sentence of paragraph (d)(2)(xiv) of §1910.25.

16. Remove paragraph (d)(2)(xv) of §1910.25.

17. Remove paragraph (d)(2)(xvi) of § 1910.25.

18. Remove paragraph (d)(2)(xvii) of § 1910.25.

19. Remove paragraph (d)(2)(xviii) of § 1910.25.

20. Remove the first sentence of paragraph (d)(2)(xix) of § 1910.25.

§ 1910.26 Portable metal ladders. [Amended]

21. Remove the second sentence of paragraph (c)(2)(iv) of § 1910.26.

22. Remove paragraph (c)(2)(v(of § 1910.26.

23. Remove the first sentence of the introductory text of paragraph (c)(2)(vi) of § 1910.26.

24. Remove paragraph (c)(2)(vi)(*b*) of § 1910.26.

25. Remove paragraph (c)(2)(vi)(*c*) of § 1910.26.

26. Remove paragraph (c)(2)(vi)(*d*) of § 1910.26.

27. Remove the first sentence of paragraph (c)(3)(i) of §1910.26.

28. Remove the second and third sentences of paragraph (c)(3)(iii) of § 1910.26.

29. Remove the second sentence of paragraph (c)(3)(iv) of § 1910.26.

30. Remove paragraph (c)(3)(vii) of § 1910.26.

§ 1910.28 Safety requirements for scaffolding. [Amended]

31. Remove paragraph (a)(3) of § 1910.28.

32. Remove paragraph (p)(1) of § 1910.28.

33. Remove the third sentence of paragraph (u)(5) of § 1910.28.

§ 1910.30 Other working surfaces. [Amended]

34. Remove the phrase, "and should be defined by marking," in the second sentence of paragraph (b)(2) of § 1910.30.

Subpart F—Powered Platforms, Manlifts and Vehicle-Mounted Work Platforms

§1910.66 Powered platforms for exterior building maintenance. [Amended]

35. Remove the first sentence of paragraph (c)(20)(viii) of § 1910.66.

36. Remove paragraph (d)(8)(ii) of § 1910.66.

Subpart G—Occupational Health and Environmental Control

§ 1910.94 Ventilation. [Amended]

37. Remove paragraph (c)(6)(iii) (*a*) of § 1910.94.

38. Remove the phrase "periodically, thereafter, the air flow should be remeasured, and," in the fourth sentence of paragraph (d)(8)(iii) of § 1910.94.

§ 1910.95 Occupational noise exposure. [Amended]

39. Remove the entire footnote at the end of table G–16 of § 1910.95.

§ 1910.97. Nonionizing radiation. [Removed]

40. Remove § 1910.97

Subpart H—Hazardous Materials

§ 1910.107 Spray finishing using flammable and combustible materials. [Amended]

41. Remove the fourth, fifth and sixth sentences of paragraph (b)(5)(i) of § 1910.107.

42. Remove paragraph (c)(9)(ii) of § 1910.107.

43. Remove the third sentence of paragraph (e)(7) of § 1910.107.

44. Remove the second sentence of paragraph (i)(3) of § 1910.107.

§ 1910.108 Dip tanks containing flammable or combustible liquids. [Amended]

45. Remove the second sentence of paragraph (c)(1) of § 1910.108.

46. Remove the second, third and fourth sentences of paragraph (c)(2)(i) of § 1910.108.

47. Remove the second sentence of paragraph (g)(3)(ii)(a) of § 1910.108.

48. Remove the phrase, "and should be at least five feet from processing equipment" in the second sentence of paragraph (h)(3)(x) of § 1910.108.

§ 1910.109 Explosives and blasting agents. [Amended]

49. Remove the phrase, "in addition, they should be separated from each other by not less than the distances shown for 'separation of magazines,' except that the quantity of explosives contained in cap magazines shall govern in regard to the spacing of said cap magazines," in note 4 of Table H-21, § 1910.109.

§ 1910.110 Storage and handling of liquefied petroleum gases. [Amended]

50. Remove the fourth sentence of paragraph (b)(10)(xii) of § 1910.110.

51. Remove the note, "Fixed electrical equipment should preferably not be installed." in the fourth column, Table H-28 of § 1910.110.

52. Remove the third sentence (including the entire formula for determining maximum volume of LP gas) and notes at end of paragraph (b)(19)(v)(*a*) of § 1910.110.

53. Remove the second sentence of paragraph (d)(7)(vi)(*b*) of § 1910.110.

54. Remove the words, "pits and," in the heading and the first sentence of paragraph (d)(11) of § 1910.110.

55. Remove the first sentence of paragraph (e)(5)(iv)(*e*) of § 1910.110.

56. Remove the words "should preferably be stored in the open" and "they" in paragraph (f)(2)(v) of § 1910.110, with the two sentences being combined into one.

57. Remove paragraph (h)(4)(iii) (*b*) of § 1910.110.

§ 1910.111 Storage and handling of anhydrous ammonia. [Amended]

58. Remove paragraph (b)(10)(i) of § 1910.111.

59. Remove paragraph (b)(15) of § 1910.111.

Subpart I—Personal Protective Equipment

§ 1910.133 Eye and face protection. [Amended]

60. Remove paragraph (a)(2)(vii) of § 1910.133.

§ 1910.134 Respiratory protection. [Amended]

61. Remove paragraph (b)(4) of § 1910.134.

62. Remove the second sentence of paragraph (b)(5) of § 1910.134.

63. Remove paragraph (b)(10) of § 1910.134.

64. Remove the second and third sentences of paragraph (e)(1) of § 1910.134.

65. Remove the fourth, fifth, and sixth sentences of paragraph (e)(2) of § 1910.134.

66. Remove the second and third sentences of paragraph (f)(3) of § 1910.134.

67. Remove the second, third and fifth sentences of paragraph (f)(5)(i) of § 1910.134.

68. Remove paragraph (f)(5)(ii) of § 1910.134.

Subpart J—General Environmental Controls

§ 1910.144 Safety color code for marking physical hazards. [Amended]

69. Remove the second sentence of paragraph (a)(3) of § 1910.144.

§ 1910.145 Specifications for accident prevention signs and tags. [Amended]

70. Remove the first sentence of paragraph (c)(1)(i) of § 1910.145.

71. Remove paragraph (e)(2) of § 1910.145.

72. Remove the phrase, "but should be used until a positive means can be employed to eliminate the hazard," in the second sentence of paragraph (f)(1)(i) of § 1910.145.

73. Remove paragraph (f)(4)(i) of § 1910.145.

74. Remove paragraph (f)(4)(ii) of § 1910.145.

75. Remove paragraph (f)(5)(i) of § 1910.145.

76. Remove paragraph (f)(5)(ii) of § 1910.145.

77. Remove paragraph (f)(6) of § 1910.145.

Subpart M—Compressed Gas and Compressed Air Equipment

§ 1910.166 Inspection of compressed gas cylinders. [Removed]

78. Remove § 1910.166.

§ 1910.167 Safety relief devices for compressed gas cylinders. [Removed]

79. Remove § 1910.167.

§ 1910.168 Safety relief devices for cargo and portable tanks storing compressed gases. [Removed]

80. Remove § 1910.168.

§ 1910.169 Air receivers. [Amended]

81. Remove the second and fourth sentences of paragraph (b)(1) of § 1910.169.

Subpart N—Materials Handling and Storage

§ 1910.178 Powered industrial trucks. [Amended]

82. Remove paragraph (g)(3) of § 1910.178.

83. Remove the first sentence of paragraph (g)(9) of § 1910.178.

84. Remove paragraph (h)(1) of § 1910.178.

85. Remove paragraph (i)(2) of § 1910.178.

86. Remove paragraph (n)(7)(ii) of § 1910.178.

87. Remove the first sentence of paragraph (o)(4) of § 1910.178.

§ 1910.179 Overhead and gantry cranes. [Amended]

88. Remove the second sentence of paragraph (b)(2) of § 1910.179.

89. Remove paragraph (c)(1)(iii) of § 1910.179.

90. Remove the first sentence of paragraph (c)(3) of § 1910.179.

91. Remove the second sentence of paragraph (d)(1)(i) of § 1910.179.

92. Remove paragraph (d)(1)(ii) of § 1910.179.

93. Remove paragraph (d)(2)(iii) of § 1910.179.

94. Remove the first sentence of paragraph (d)(2)(iv) of § 1910.179.

95. Remove paragraph (j)(3)(ix) of § 1910.179.

96. Remove the second sentence of paragraph (j)(4)(iii) of § 1910.179.

97. Remove the first two sentences of paragraph (k)(2) of § 1910.179.

98. Remove paragraph (1)(2)(i)(*f*) of § 1910.179.

§ 1910.180 Crawler locomotive and truck cranes. [Amended]

99. Remove paragraph (h)(3)(ii)(*d*) of § 1910.180.

§ 1910.181 Derricks. [Amended]

100. Remove the second sentence of paragraph (b)(2) of § 1910.181.

101. Remove all of paragraph (d)(3)(i)(*f*) of § 1910.181 except the word "Hooks."

102. Remove the second sentence of paragraph (d)(4)(iii) of § 1910.181.

103. Remove paragraph (i)(3)(ii) of § 1910.181.

104. Remove paragraph (i)(3)(vi) of § 1910.181.

105. Remove paragraph (i)(4)(ii) of § 1910.181.

Subpart O—Machinery and Machine Guarding

§ 1910.213 Woodworking machinery requirements. [Amended]

106. Remove paragraph (b)(4) of § 1910.213.

107. Remove the fifth sentence of paragraph (c)(1) of § 1910.213.

108. Remove the phrase, "and should be placed so that there is not more than ½-inch space between the spreader and the back of the saw when the largest saw is mounted in the machine," in the fourth sentence of paragraph (c)(2) of § 1910.213.

109. Remove paragraph (d)(2) of § 1910.213.

110. Remove the fourth sentence of paragraph (h)(5) of § 1910.213.

111. Remove the phrase, "and the top member of the guard should have at least a 2-inch clearance outside the saw and be lined with smooth material, preferably metal", in the ninth sentence of paragraph (i)(1) of § 1910.213.

112. Remove the tenth sentence of paragraph (i)(1) of § 1910.213.

113. Remove paragraph (1)(2) of § 1910.213.

114. Remove paragraph (m)(2) of § 1910.213.

115. Remove the phrase, "which should be hinged to the machines so that they can be thrown back for making adjustments," of paragraph (o)(2) of § 1910.213.

116. Remove the third sentence of paragraph (p)(1) of § 1910.213.

§ 1910.215 Abrasive wheel machinery. [Amended]

117. Remove the phrase, "should not exceed 90° or one-fourth of the periphery," in the first sentence, and the phrase, "This exposure," in the second sentence of paragraph (b)(3) of § 1910.215, with the two sentences being combined into one.

118. Remove the phrase, "and should be greater where practicable," in the second sentence of paragraph (c)(8)(i) of § 1910.215.

119. Remove the phrase, "and should be greater where practicable," in the second sentence of paragraph (c)(8)(ii) of § 1910.215.

120. Remove the phrase, "and should be greater where practicable," in the second sentence of paragraph (c)(8)(iii) of § 1910.215.

121. Remove the second and third sentences of paragraph (d)(5) of § 1910.215.

122. Remove paragraph (d)(7) of § 1910.215.

§ 1910.216 Mills and calenders in the rubber and plastics industries. [Amended]

123. Remove the third sentence of paragraph (b)(1)(i) of § 1910.216.

124. Remove paragraph (b)(2) of § 1910.216.

125. Remove the second and third sentences of paragraph (c)(2) of § 1910.216.

126. Remove paragraph (g) of § 1910.216.

§ 1910.218 Forging machines. [Amended]

127. Remove the second sentence of paragraph (a)(3)(iv) of § 1910.218.

128. Remove the second, third and fourth sentences of paragraph (a)(3)(iv) of § 1910.218.

129. Remove the phrase, "and should not project more than 2 inches in front and 4 inches in back of ram or die," in paragraph (b)(1) of § 1910.218.

130. Remove the phrase, "and should be conveniently located and distinctly marked for ease of identification," in paragraph (e)(1)(ii) of § 1910.218.

131. Remove the second, third and fourth sentences of paragraph (h)(4) of § 1910.218.

132. Remove the the second and third sentences of paragraph (j)(2) of § 1910.218.

§ 1910.219 Mechanical power transmission apparatus. [Amended]

133. Remove paragraph (d)(2)(ii) of § 1910.219.

134. Remove paragraph (1)(1)(iii) of § 1910.219.

135. Remove the second sentence of paragraph (1)(3) of § 1910.219.

136. Remove paragraph (m)(1)(ii) of § 1910.219.

137. Remove the seventh sentence of paragraph (o)(5)(ii) of § 1910.219.

138. Remove the second sentence of paragraph (o)(5)(iii) of § 1910.219.

139. Remove paragraph (p)(5)(ii) of § 1910.219.

140. Remove paragraph (p)(5)(iii) of § 1910.219.

141. Remove paragraph (p)(5)(iv) of § 1910.219.

142. Remove paragraph (p)(6)(iii) of § 1910.219.

143. Remove the phrase, "and should use cans with long spouts to keep their hands out of danger," in the first sentehce of paragraph (p)(7) of § 1910.219.

Subpart P—Hand and Portable Powered Tools and Other Handheld Equipment

§ 1910.243 Guarding of portable powered tools. [Amended]

144. Remove the phrase, "and hands should be kept clear of the open barrel end," in the second sentence of paragraph (d)(4)(iii) of § 1910.243.

145. Remove the fourth sentence of paragraph (d)(4)(v) of § 1910.243.

§ 1910.244 Other portable tools and equipment. [Amended]

146. Remove the second sentence of paragraph (a)(2)(v) of § 1910.244.

Subpart Q—Welding, Cutting, and Brazing

§ 1910.252 Welding, cutting, and brazing. [Amended]

147. Remove the fourth sentence of paragraph (a)(2)(iii)(*a*) of § 1910.252.

148. Remove paragraph (a)(3)(v)(*e*) of § 1910.252.

149. Remove the second sentence of paragraph (a)(4)(iii)(*e*) of § 1910.252.

150. Remove the second sentence of paragraph (a)(6)(vii)(*f*) of § 1910.252.

151. Remove the first sentence of paragraph (b)(2)(iii) of § 1910.252.

152. Remove the second sentence of paragraph (b)(2)(iv)(*a*) of § 1910.252.

153. Remove the first and second sentence of paragraph (b)(2)(iv)(*d*) of § 1910.252.

154. Remove the phrase, "and appropriate periodic inspections should be conducted to ascertain that no condition of electrolysis or shock, or fire hazard exists by virtue of such use," in paragraph (b)(3)(ii)(*d*) of § 1910.252.

155. Remove the second sentence of paragraph (b)(4)(viii) of § 1910.252.

156. Remove the first sentence of paragraph (b)(4)(ix)(*a*) of § 1910.252.

157. Remove the first sentence of paragraph (b)(4)(ix)(*c*) of § 1910.252.

158. Remove the third and fourth sentences of paragraph (d)(2)(vii) of § 1910.252.

159. Remove the second and third sentences of paragraph (d)(2)(xv) of § 1910.252.

160. Remove the second and third sentences of paragraph (e)(2)(i)(*a*) of § 1910.252.

161. Remove paragraph (e)(2)(ii)(*f*) of § 1910.252.

162. Remove paragraph (f)(1)(ii) of § 1910.252.

163. Remove the second sentence of paragraph (f)(11)(ii) of § 1910.252.

164. Remove the second sentence of paragraph (f)(13) of § 1910.252.

Subpart R—Special Industries

§ 1910.261 Pulp, paper, and paperboard mills. [Amended]

165. Remove the phrase "those on the unloading side should be partially cut through first, and then the binder wires cut on the opposite side. Wire cutters equipped with long extension handles

shall be used." in the first and second sentences of paragraph (c)(4)(iii) of § 1910.261, with the remainder of the first sentence and the third sentence being combined into one.

166. Remove paragraph (d)(4)(i) of § 1910.261.

167. Remove the second sentence of paragraph (d)(4)(ii) of § 1910.261.

168. Remove paragraph (d)(4)(iv) of § 1910.261.

169. Remove the second sentence of paragraph (e)(17) of § 1910.261.

170. Remove the third sentence of paragraph (e)(18) of § 1910.261.

171. Remove paragraph (f)(6)(iii) of § 1910.261.

172. Remove the phrase, "and buildings should be designed with explosion relief," in paragraph (g)(1)(iii) of § 1910.261.

173. Remove the phrase, "and should be replaced when necessary," in the second sentence of paragraph (g)(12)(iii) of § 1910.261.

174. Remove paragraph (g)(14)(iv) of § 1910.261.

175. Remove paragraph (g)(19)(i) of § 1910.261.

176. Remove paragraph (g)(19)(ii) of § 1910.261.

177. Remove the second sentence of paragraph (h)(1) of § 1910.261.

178. Remove the second sentence of paragraph (h)(3)(v) of § 1910.261.

179. Remove paragraph (j)(4)(v) of § 1910.261.

180. Remove paragraph (k)(5) of § 1910.261.

181. Remove the second and third sentences of paragraph (k)(18) of § 1910.261.

182. Remove paragraph (k)(19)(i) of § 1910.261.

183. Remove paragraph (k)(19)(ii) of § 1910.261.

184. Remove the first sentence of paragraph (k)(22) of § 1910.261.

185. Remove paragraph (k)(28)(ii) of § 1910.261.

186. Remove the first and third sentences of paragraph (k)(29) of § 1910.261.

187. Remove the second sentence of paragraph (k)(30) of § 1910.261.

188. Remove the third sentence of paragraph (1)(9)(i) of § 1910.261.

§ 1910.262 Textiles. [Amended]

189. Remove the phrases, "and should not be operated at a speed greater than", and "which", in the first sentence of paragraph (y)(1)(iv) of § 1910.262, with that sentence now being divided into two sentences.

190. Remove the second sentence of paragraph (cc)(1) of § 1910.262.

§ 1910.263. Bakery equipment. [Amended]

191. Remove the second sentence of paragraph (i)(11) of § 1910.263.

192. Remove the second and third sentences of paragraph (j)(1)(vii)(*c*) of § 1910.263.

§ 1910.265 Sawmills. [Amended]

193. Remove paragraph (c)(12)(i) of § 1910.265.

194. Remove paragraph (c)(20)(i) of § 1910.265.

(Secs. 6, 8, 84 Stat. 1593, 1600 (29 U.S.C. 655, 657), Secretary of Labor's Order No. 8-76 (41 FR 25059), 29 CFR Part 1911)

[FR Doc. 82-14289 Filed 5-27-82; 8:45 am]
BILLING CODE 4510-26-M

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29 CFR Part 1910

[Docket No. H-365]

Occupational Exposure to Coal Tar Pitch Volatiles; Notice of Intention to Modify Interpretation

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Proposed rule; notice of intention to modify interpretation.

SUMMARY: OSHA intends to modify its interpretation of coal tar pitch volatiles (CTPV) found in § 1910.1002. This interpretation has been the subject of a number of requests for clarification. The requests have concerned primarily the inclusion of asphalt fumes as coal tar pitch volatiles. The new interpretation would make it clear that the CTPV standard does not cover petroleum asphalt or other substances that are not derived from coal.

DATES: Written comments must be submitted by August 26, 1982.

ADDRESS: Comments should be sent in quadruplicate to: Docket Officer, Docket H-365, Room S6212, Occupational Safety and Health Administration, U.S. Department of Labor, 3rd St. and Constitution Ave., NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: James Foster, Office of Consumer Affairs, Occupational Safety and Health Administration, Room N3718, U.S. Department of Labor, Washington, D.C. 20210, 202-523-8148.

SUPPLEMENTARY INFORMATION: In May 1971, in accordance with section 6(a) of the Occupational Safety and Health Act, OSHA published its first package of national consensus and established federal standards in 29 CFR Part 1910 (36 FR 10466). In this package were standards governing exposure to airborne contaminants (§ 1910.1000). These standards for airborne contaminants were first issued by the American Conference of Governmental Industrial Hygienists (ACGIH) in 1968. They were adopted by the Department of Labor under the Walsh-Healey Public Contracts Act, 41 U.S.C. 35 *et seq.* in 1969 (34 FR 7946) and became OSHA standards as noted in 1971.

Among these standards was a permissible exposure limit (PEL) for occupational exposure to "coal tar pitch volatiles." Section 1910.1000, Table Z-1, listed "coal tar pitch volatiles (benzene soluble fraction) anthracene, benzo(a) pyrene, phenanthrene, acridine, chrysene, and pyrene," and designated the permissible exposure limit as an eight-hour time-weighted average (TWA) not to exceed 0.2 milligram per cubic meter of air (0.2 mg/m^3). Apart from the language quoted, the meaning of the term "coal tar pitch volatiles" was not clearly defined in either the original 1968 listing or in the OSHA standard, which made OSHA enforcement of this standard difficult. Specifically, no further explanation was included as to the sources of CTPV.

In 1969, ACGIH proposed an asphalt threshold limit value (TLV) different from the TLV for CTPV; it was adopted in 1971. ACGIH proposed a TLV of 5 mg/m^3 for asphalt while its TLV for CTPV remained at 0.2 mg/m^3. The documentation accompanying the new asphalt TLV gave the pertinent scientific information and data used to determine each limit.

In November 1972, OSHA published an interpretation of the term "coal tar pitch volatiles" in 29 CFR 1910.1002 (37 FR 2474) as follows:

> As used in § 1910.1000 (Table Z-1) coal tar pitch volatiles include the fused polycyclic hydrocarbons which volatilize from the distillation residues of coal, petroleum, wood, and other organic matter.

The preamble explained the reasons for the interpretation:

> Although the term suggests that it only refers to the distillation residues of coal, it is considered to include other hydrocarbons with the same chemical composition. The term "coal tar pitch volatiles" thus denotes the complete class of fused polycyclic hydrocarbons which volatilize from the distillation residues of organic matter rather than from the distillation residues of coal alone. Since all of these volatiles have the same basic chemical composition and since all of them present the same dangers to a person's health, the standard prescribed by § 1910.93 (now redesignated as § 1910.1000), is applied to the use of all of them. (37 FR 24749, November 21, 1972).

Since asphalt is a product of the distillation of petroleum, under this interpretation of CTPV the standard

now covered asphalt fumes. Although this published interpretation did not specifically include the term "asphalt fumes," an earlier reference in OSHA Program Directive #72–21 (July 5, 1972) indicated that § 1910.1000 was intended to apply to asphalt fumes. The Agency incorporated asphalt fumes into this definition because asphalt is a complex mixture of materials, including polcyclic aromatic hydrocarbons such as anthracene, acridine, pyrene, chrysene, phenanthrene and benzo(a)pyrene, that are referenced in Table Z–1 under coal tar pitch volatiles. Many of these same polycyclic hydrocarbons may be detected in the volatile emissions from both asphalt and coal tar pitch.

In a letter dated October 15, 1973, the American Petroleum Institute (API) recommended to OSHA that the definition of coal tar pitch volatiles be amended to refer only to those distillations that are destructive, such as occur from coal or wood distillation, and not the common petroleum distillations that are nondestructive. Subsequently, on August 1, 1975, the Asphalt Institute endorsed the 1973 letter from API and recommended deletion of the standard insofar as it applied to materials not containing significant amounts of hazardous fused polycyclic hydrocarbons. It was the Asphalt Institute's view also that the inclusion of the word destructive would correct the interpretation rendered by OSHA.

In September 1977, the National Institute for Occupational Safety and Health (NIOSH) submitted a criteria document for a recommended standard for occupational exposure to asphalt fumes. That document stated that the toxic effects produced by asphalt, tars, and pitches are quantitatively and qualitatively different. Based on these findings, NIOSH recommended a ceiling concentration limit of 5 mg/m ^{3}, based on total particulates, for asphalt fumes.

On February 23, 1979, the Asphalt Institute wrote OSHA urging that asphalt fumes and CTPV be differentiated and that NIOSH's recommended standards be adopted. In a letter dated September 7, 1979, the Agency addressed the Asphalt Institute's recommendations. The Agency acknowledged that asphalt and coal tar pitch may be produced differently and have different uses and properties, but reiterated that both are complex polycyclic aromatic hydrocarbons. Further, the OSHA letter described the air sampling techniques for asphalt and CTPV and the limited circumstances under which citations for violations of 29 CFR 1910.1002 would be issued, as follows:

(1) At the time of inspection employees are found to be exposed to volatile emissions from distillation residues of coal, petroleum, wood, or other organic matter, and

(2) Samples obtained to determine employee exposure to the volatile emissions are found to contain more than 0.2 mg of benzene-soluble material per cubic meter of air, and

(3) Laboratory analysis of the benzene-soluble fraction described in (2) confirms the presence of benzo(a)pyrene and/or one or more of the five additionally named fused polycyclic hydrocarbons to which the standard refers: anthracene, acridine, pyrene, chrysene and phenanthrene.

On June 9, 1980, the Asphalt Institute submitted to OSHA a formal petition requesting that the 0.2 mg/m^3 level be declared unenforceable and inapplicable to asphalt fumes and that 29 CFR 1910.1002 be amended to exclude asphalt. The petition also requested a rulemaking to amend 29 CFR 1910.1000 to establish an occupational health standard for exposure to asphalt fumes of 5 mg/m^3 as recommended in the NIOSH criteria document and ACGIH's 1971 TLV documentation. That petition was denied on November 25, 1980, by Assistant Secretary Bingham who reiterated the rationale for the interpretation of CTPV that was given in the November 21, 1972 (37 FR 24749) preamble explanation and repeated the limited circumstances that would result in citations.

On April 24, 1981, the Asphalt Institute filed a petition for reconsideration of the Assistant Secretary's denial. It asked the Assistant Secretary to overrule and withdraw the response on the ground that the decision was contrary to law. It also asked for confirmation that 29 CFR 1910.1000 is inapplicable and unenforceable as to asphalt fumes because 29 CFR 1910.1002 was issued without notice and comment. The Asphalt Institute also requested that OSHA amend 29 CFR 1910.1002 to exclude asphalt and that rulemaking procedures be instituted to establish the 5 mg/m^3 limit for asphalt fumes.

In reviewing the appeal submitted by the Asphalt Institute, as well as evaluating the NIOSH and ACGIH data and the circumstances surrounding the original interpretation, OSHA has found that its 1972 interpretation of CTPV was not consistent with what ACGIH intended to cover as a coal tar pitch volatile when it adopted its 1968 TLV. This is supported by the adoption in 1971 of an ACGIH TLV for asphalt fumes and its accompanying documentation. ACGIH adopted this TLV based on its explanation that:

Asphalt is a native mixture of hydrocarbons which occurs as an amorphous, brownish black solid or semisolid. It results from evaporation of the lighter hydrocarbons from petroleum and partial oxidation of residue. Petroleum asphalt thus is to be differentiated from tar or pitch, which results from the destructive distillation of coal.

Thus OSHA believes that the original ACGIH 1968 standard for CTPV, which was adopted by OSHA in 1971, was not intended to cover asphalt and that OSHA's 1972 interpretation was therefore in error. In addition, OSHA has not successfully enforced this interpretation. To correct this interpretation of CTPV, OSHA intends to amend the definition of coal tar pitch volatiles by deleting the reference to "petroleum, wood, and other organic matter." As amended, the interpretation would read:

As used in § 1910.1000 (Table Z–1) coal tar pitch volatiles include the fused polycyclic hydrocarbons which volatilize from the distillation residues of coal.

While petroleum asphalt will no longer be covered by the coal tar pitch volatiles standard under this interpretation, OSHA considers asphalt fumes to present a recognized hazard to exposed employees and is studying what regulatory response is most appropriate to protect employees from this hazard. In the interim, OSHA may use Section 5(a)(1) of the Act (general duty clause) to provide protection to employees from exposure to asphalt fumes. OSHA's Instruction CPL 2.50 dated March 17, 1982, contains Agency guidelines for enforcement of Section 5(a)(1).

Summary of Regulatory Impact Assessment and Regulatory Flexibility Certification

The potential economic effects of modifying the interpretation of this regulation have been reviewed. The Secretary has determined that this proposed modification is not a "major" action as defined by Executive Order 12291, Section 1(b). The Secretary also certifies that the action will have no significant economic impact on a substantial number of small entitites as defined by the Regulatory Flexibility Act of 1980 (U.S.C. Title 6). THe foregoing determinations are based on the following analysis.

1. *Production and use.* Both coal tar pitch and asphalt are produced as by-products of major industrial processes. Coal tar pitch is a distillate of coke which is used in steel production. Asphalt is the residue of petroleum refining. Consequently, the availability of both products is tied more closely to

demand for steel and petroleum than to direct demand for asphalt or coal tar pitch. In economic terms, the products are supply inelastic.

Asphalt and coal tar pitch are directly competitive in roofing applications and, to a lesser extent, for highway patching and repair. Even in these weather-proofing applications, the two products are not perfect substitutes because coal tar pitch is more pliable and resistant to temperature changes and weather errosion than asphalt. Although coal tar pitch is 50 percent more expensive than asphalt, many builders elect to use coal tar pitch for roofing in the belief that the life cycle costs are less and that the reduced risk of building damage due to roof leaks justifies the greater initial investment.

2. *Effects on Competition.* Any change in the competitive position of the two products would result from a reappraisal of their relative safety by the products' users. If the modification of the interpretation of the CTPV regulation results in a new impression that asphalt is much safer, the result might be an increased demand for asphalt and a decreased demand for coal tar pitch. Since the supply of neither product can be expected to vary with demand, for the reasons already stated, the relative prices will vary with change in demand.

Price shifts will also be limited by the fact that neither asphalt nor coal tar pitch is predominantly used for roofing applications. Approximately 20 percent of asphalt is used for roofing while less than 10 percent of coal tar pitch is used for roofing. Thus relative prices will be governed by other markets in which the products do not compete directly.

There is no evidence that OSHA compliance costs are a significant aspect in the price of asphalt roofing, or that this action will result in decreased protection for asphalt roofers. The primary determinent of the amount of asphalt fumes is the temperature of the asphalt during its application. Since the temperature of the asphalt must also be controlled to assure proper viscosity, there is no apparent incentive to reduce costs at the expense of worker protection. The cost of applying roofs will not change as a result of this action.

3. *No Significant Impacts on Small Entities or the Economy.* Since the total 1980 sales of coal tar pitch were approximately $345.9 million, of which less than 10 percent was used in roofing, it is clear that the proposed action is not "major", as defined by Exective Order 12291. There also will be no significant impact on a substantial number of small entities because roofing contractors have the technology and equipment to apply either product with virtually no changeover costs.

Public Participation

Since this is a modification of an interpretation, notice and comment would not ordinarily be required under either the Administrative Procedure Act (APA) or section 6(b) of the Occupational Safety and Health Act. However, since this interpretation has been followed since 1972 and was published and codified in the CFR, OSHA has decided to give notice and to invite public comment on the proposed amendment. OSHA wishes to allow those who are familiar with 29 CFR 1910.1002 and have relied on OSHA's interpretation an opportunity to address the intended modification.

Interested persons are invited to submit written data, views and arguments concerning the issues raised in this notice. The comments must be received by August 26, 1982, and submitted in quadruplicate to the Docket Officer, Docket H-365, Room S-6212, Occupational Safety and Health Administration, U.S. Department of Labor, 3rd Street and Constitution Avenue, NW., Wahington, D.C. 20210.

The data, views, and arguments that are submitted will be available for public inspection and copying at the above address. All timely submissions as well as all prior petitions and requests will be reviewed and will be made part of the record of this proceeding.

List of Subjects in 29 CFR 1910

Chemicals, Coal tar, Health, Occupational safety and health.

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Accordingly, pursuant to section 8(g) of the Act, it is proposed to revise 29 CFR 1910.1002 to read as follows:

§ 1910.1002 Coal tar pitch volatiles; interpretation of term.

As used in § 1910.1000 (Table Z-1), coal tar pitch volatiles include the fused polycyclic hydrocarbons which volatilize from the distillation residues of coal.

Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, D.C. 20210.

(Sec. 8, 84 Stat. 1600, [29 U.S.C. 657]; 5 U.S.C. 553; Secretary of Labor's Order No. 8-76 [41 FR 25059])

Signed at Washington, D.C. this 21st day of May 1982.

Thorne G. Auchter,
Assistant Secretary of Labor.

[FR Doc. 82-14888 Filed 5-27-82; 8:45 am]
BILLING CODE 4510-26-M

Mine Safety and Health Administration

30 CFR Parts 55 and 57

Review of Metal and Nonmetal Standards; Extension of Comment Period

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice to extend period for public comment.

SUMMARY: The Mine Safety and Health Administration (MSHA) is extending to June 30, 1982, the period for public comment on metal and nonmetal standards which were the subject of recent public conferences.

DATE: Comments must be received on or before June 30, 1982.

ADDRESS: Office of Standards, Regulations and Variances, MSHA, Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Acting Director, Office of Standards, Regulations and Variances, MSHA, (703) 235-1910.

SUPPLEMENTARY INFORMATION. On March 9, 1982 (47 FR 10190), MSHA announced a series of informal public conferences to discuss issues relating to certain standards in 30 CFR Parts 55 and 57 as part of a comprehensive review of safety and health standards that apply to the metal and nonmetal mining and milling industry. These standards address hazards concerning: ground control (section .3); fire prevention and control (section .4); air quality (section .5); explosives (section .6); loading, hauling, dumping (section .9); electricity (section .12); use of equipment (section .14); and gassy mines (section .21). MSHA established June 4, 1982 as the date for submission of additional written comments. However, due to requests from several interested parties, MSHA has decided to extend the post-conference comment period to June 30, 1982. All members of the mining community are encouraged to submit additional comments.

During these conferences, several participants urged MSHA to prepare and circulate a pre-proposal draft rule for each of the sections selected for review. In consideration of these

requests and in accordance with the Agency's stated policy of encouraging input into the rulemaking process from all segments of the mining community, MSHA will circulate a pre-proposal draft rule for each section under review. The availability of each draft will be announced in the **Federal Register**. Interested parties will be given an opportunity to comment on each of the draft rules. These comments will be considered when the Agency publishes its proposed rules under Section 101 of the Federal Mines Safety and Health Act of 1977.

Dated: May 25, 1982.

Ford B. Ford,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 82-14817 Filed 5-27-82; 8:45 am]
BILLING CODE 4510-43-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 2123-2]

Approval of an Amendment to the Illinois State Implementation Plan for Total Suspended Particulates

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This notice proposes rulemaking and solicits public comment on an amendment to the Illinois State Implementation Plan (SIP) for Total Suspended Particulates (TSP). The amendment adds Rule 203(q)(1)(E) to Illinois Pollution Control Board (IPCB) Regulations. Rule 203(q)(1)(E) grants existing coal-fired industrial boilers equipped with flue gas desulfurization (FGD) systems a permanent particulate emission limit of 0.25 lbs/MMBTU. According to the State, this emission limit represents reasonably available control technology (RACT) for these sources.

DATE: Comments on the proposed SIP revision and on proposed EPA action are due on or before June 28, 1982.

ADDRESSES: Submit Comments to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the proposed SIP revision, EPA's evaluation and public comments received are available for inspection at the following address: U.S. Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

In addition, copies of the proposed SIP revision are available for inspection at the following address: Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Region V, USEPA. Telephone: (312) 886-6035.

SUPPLEMENTARY INFORMATION: On December 7, 1981, the Illinois Environmental Protection Agency (IEPA) submitted to EPA a proposed revision to the Illinois SIP for TSP in the form of an October 8, 1981, Final Order of the IPCB (R79-11). This order amends Rule 203(g)(1) which sets particulate emission standards and limitations for fuel combustion emission sources using solid fuel exclusively by adding the following subsection:

(E) *Existing Coal-Fired Industrial Boilers Equipped with Flue Gas Desulfurization Systems*

Notwithstanding sub-paragraphs (A)-(D) of Rule 203(q)(1), no person shall cause or allow the emission of particulate matter into the atmosphere from existing coal-fired industrial boilers equipped with flue gas desulfurization systems to exceed 0.25 pound of particulate matter per million BTU of actual heat input in any one-hour period. Nothing in this rule shall be construed to prevent compliance with applicable regulations in Part IX of this Chapter.

This subsection provides a technology based TSP emission limitation for coal burning industrial boilers with FGD systems. The IPCB has determined that a particulate matter emission limitation on industrial boilers of 0.25 lb/MMBTU is technologically feasible using either wet or dry (FGD) systems. The present emission limitation for the industrial boilers is 0.1 lb/MMBTU of actual heat input in any one hour period.

The IPCB determined that allowing the 0.25 lb/MMBTU emission limit is economically reasonable and that requiring compliance with anything other than a technology-based emission limitation for simultaneous compliance with particulate matter and sulfur dioxide limitations would be economically unreasonable.

In a June 29, 1981, notice (46 FR 33334), EPA proposed that a site specific TSP emission limitation of 0.25 lb/MMBTU constitutes RACT for 9 Caterpillar Tractor Company boilers equipped with FGD systems. The only source besides the Caterpillar facilities (East Peoria Boilers 19, 20, 21, 22; Joliet Boilers 2 and 3; Mossville Boilers 4 and 5; and Mapleton Boiler 1) affected by this rule is the Pfizer Chemical Company facility located in East St. Louis, Illinois. Based on information submitted to EPA, it is reasonable to consider this limit as RACT for these existing industrial boilers equipped with FGD systems.

Pursuant to Part D of the Clean Air Act, as amended, each state is required to revised its SIP in nonattainment areas to demonstrate attainment of the TSP National Ambient Air Quality Standards by December 31, 1982. An acceptable alternative to a rigorous attainment demonstration for a nonattainment area must include provisions for applying RACT to stationary sources and studying the nature and extent of nontraditional sources in the area. Since sources covered by this rule are located in TSP nonattainment areas, these requirements apply to this proposed SIP revision.

The State of Illinois has not submitted a rigourous attainment demonstration for this SIP revision. EPA, however, has reviewed the proposed SIP revision and finds it approvable for two reasons:

(1) The FGD systems which control particulates and sulfur dioxide satisfy and technical and economic requirements of RACT. (2) The State of Illinois has initiated an acceptable study of nontraditional sources of fugitive dust in nonattainment areas. EPA, therefore, proposes approval of this incorporation of IPCB Rule 203(g)(1)(E) into the Illinois SIP for TSP.

All interested parties are invited to comment on the proposed SIP revision and on EPA's proposed approval. Comments should be submitted to the address listed in the front of this notice. Public comments received on or before June 28, 1982 will be considered in EPA's final rulemaking action. All comments received will be available for inspection at Region V: Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified on January 27, 1981, that the attached rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This action only approves State actions. It imposes no new requirements.

This action is exempt from Office of Management and Budget Review under Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110, 172, and 301(a) of the Clean Air Act, as amended)

Dated: April 20, 1982.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 82-14019 Filed 5-27-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6327]

Proposed Base Flood Elevations and Zone Designations for the Town of Springerville, Apache County, Arizona, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the floodprone areas and the proposed base flood elevations and zone designations are available for review at the Office of the Town Manager, Springerville Town Hall, South Papago Street, Springerville, Arizona.

Send comments to: Honorable Dennis Silva, Mayor, Town of Springerville, P.O. Drawer 390, Springerville, Arizona 85938.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the Town of Springerville, Arizona in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations and zone designations, are as follows:

Source of flooding and Location	Elevation (feet) national geodetic vertical datum	Zone designation
Little Colorado River:		
At the northernmost corporate limits.	6930	A2.
Just upstream of Airport Road.	6958	A2.
At the southernmost corporate limits.	6991	A2.

Also, along the Tributary to Nutrioso Creek, the proposed special flood hazard area, identified as Zone A, is being added. In addition, all the remaining annexed areas are identified as Zone C. The proposed floodway delineation is being added along the Little Colorado River.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: May 19, 1982.

Lee M. Thomas,

Associate Director State and Local Programs and Support.

[FR Doc. 82-14002 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6328]

Proposed Base Flood Elevations and Zone Designation for San Joaquin County, California, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designation as described below.

The proposed base flood elevations and zone designation are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designation are available for review at the Planning Department, 1810 East Hazelton Avenue, Stockton, California.

Send comments to: Mr. C. E. Dixon, San Joaquin County Administrator, 222 East Weber Avenue, Room 703, Stockton, California 95202.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designation for San Joaquin County in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

These base flood elevations and zone

designation, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain manegement requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designation will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations and zone designation are as follows:

Source of flooding and location	Elevation (feet) national geodetic vertical datum	Zone designation
Dry Creek:		
At a point located approximately 6,000 feet downstream of the Southern Pacific Railroad	35	A8.
At the Southern Pacific Railroad	40	A8.
At Route 99	44	A8.
At a point located approximately 2,600 feet upstream of Route 99	47	A8.

The proposed floodway delineation is being added along the aforementioned reach of Dry Creek.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: May 19, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14600 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA 6329]

National Flood Insurance Program Proposed Base Flood Elevation and Zone Designation Determinations, for the City of Lauderhill, Broward County, Florida

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designation as described below.

The proposed base flood elevations and zone designation are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Information regarding the proposed base flood elevations is available for review at the Office of the Mayor, 5454 NW 19th Street, Lauderhill, Florida.

SEND COMMENTS TO: Honorable Eugene Cipolloni, Mayor, City of Lauderhill, 5454 N.W. 19th Street, Lauderhill, Florida 33313.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, State and Local Programs and Support, Federal Emergency Management Agency, Room 514, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations (100 year flood) for the City of Lauderhill in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4 (a)).

The base flood elevations and zone designations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed changes in base (100-year) flood elevations and zone designation on the City of Lauderhill Flood Insurance Rate Map are as follows:

Source of flooding and location	Elevation (feet) national geodetic vertical datum	Zone designation
Middle River Canal and local drainage: Area bounded on the east and west by the corporate limits and lying between a point approximately 150 feet south of the intersection of N.W. 44th Court and N.W. 76th Avenue and a point approximately 1,300 feet north of this intersection	8	A2.
Middle River Canal and local drainage Area located between a point approximately 1,300 feet north of the intersection of N.W. 44th Court and N.W. 76th Avenue and a point approximately 3,300 feet north of this intersection, bounded on the east and west by the corporate limits.	9	A2.
Middle River Canal and local: Area lying north of a point approximately 3,300 feet north of the intersection of N.W. 44th Court and N.W. 76th Avenue and bounded on the north, east, and west by the corporate limits.	10	A2.

Pursuant to the provisions of 5 U.S.C. 605 (b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4028; Executive Order 12127, 44

FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 19, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14804 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6330]

National Flood Insurance Program Proposed Zone Designation and Base Flood Elevation Determinations for the City of Rolling Meadows, Cook County, Illinois

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety-days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are availabale for review at 3600 Kirchoff Road, Rolling Meadows, Illinois.

Send comments to: James Turi, City Manager, City of Rolling Meadows, 3600 Kirchoff Road, Rolling Meadows, Illinois 60008.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support gives notice of the proposed base flood elevations and zone designations for the City of Rolling Meadows, Cook County, Illinois, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.

These zone designations and base (100-year) elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents.

The proposed zone designations and base flood elevations are as follows:

Source of flooding and location	Elevation (feet) national geodetic vertical datum	Zone designation
Salt Creek:		
Portions of the community bounded on the east by Meacham Road and on the north, west and south by the corporate limits.	718	A2, B, C.
Portions of the community bounded on the east by a line parallel to and approximately 500 feet east of Meacham Road and on the north, south and west by the corporate limits.	715	A2.
Portions of the community bounded on the south by a line parallel to and approximately 200 feet south of Emerson Avenue and on the north, east and west by the corporate limits.	727	A2, C.
Tributary C of Salt Creek:		
Immediately upstream of the confluence with Salt Creek.	727	A3.
Immediately downstream of Quentin Road.	731	A3, C.
Immediately upstream of Quentin Road.	736	A3, B, C.
Approximately 2460 feet upstream of Quentin Road.	745	A3, C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance; Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 19, 1982.

Lee M. Thomas,

Associate Director State and Local Programs and Support.

[FR Doc. 82-14805 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6331]

National Flood Insurance Program Proposed Zone Designation and Base Flood Elevation Determinations for the Town of Westfield, Hamilton County, Indiana

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety-days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at 130 Penn Street, Westfield, Indiana.

Send comments to: Mr. Joseph Edwards, President of Town Board, Town of Westfield, P.O. Box 322, Westfield, Indiana 46074.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support gives notice of the proposed base flood elevations and zone designations for the Town of Westfield, Indiana, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.

These zone designations and base (100-year) flood elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents.

The proposed zone designations and base flood elevations are as follows:

Source of flooding and location	Elevation (feet) national geodetic vertical datum	Zone designation
Finley Creek: East of Centennial Road.		A.
Jones Ditch: North of State Highway 38.		A, C.
Unnamed Tributary: Portions of the area bounded by East 206th Street, Hinkle Road, a line parallel to and approximately 1100 feet south of East 216th Street, and by a line parallel to and approximately 500 feet west of Hinkle Road.		A, C.
East Fork Sly Run: East of State Highway 38.		A, C.
Coal Creek: Approximately 350 feet downstream of East 166th Street.	#1	AE.
The north branch of Little Eagle Creek: Between West 146th Street and Eagletown Road.		A, C.
The east branch of Little Eagle Creek: Between its confluence with the north branch of Little Eagle Creek and Ditch Road.		A, C.
Bear Creek: Entire reach within community.		A, C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 F.R. 19627; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 19, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14668 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6290

Proposed Flood Elevation Determinations; Correction; Michigan

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Charter Township of Waterford, Oakland County, Michigan, previously published at 45 FR 19562 on May 6, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert C. Chappell, National Flood Insurance Program, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Charter Township of Waterford, Oakland County, Michigan previously published at 45 FR 19562 on May 6, 1982, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

Coles Bay and Canadegut Bay have been added to the BFE notice because they are labeled as separate bays on the Flood Insurance Rate Map.

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the (proposed) flood elevation determinations, if promulgated, will not have a significant economic impact of a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The listing appears correctly as follows:

State	City/town/county	Source of flooding	Location	Depth in feet above ground, *Elevation in feet (NGVD)
Michigan	(Twp.) Waterford Oakland County	Coles Bay	Shoreline	932*
		Gerundegut Bay	Shoreline	932*

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director.)

Issued: May 19, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14607 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6299]

Proposed Flood Elevation Determinations; Correction; Missouri

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of Plattsburg, Clinton County, Missouri, previously published at 45 FR 19562 on May 6, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of Plattsburg, Clinton County, Missouri previously published at 45 FR 19562 on May 6, 1982, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

The Base Flood Elevation determination for Concord Creek, located "Just upstream of Concord Drive", has been revised from 901 to 902 in order to more accurately depict the backwater effect present. This backwater effect is due to Concord Creek passing East Concord Drive through a culvert under inlet control conditions.

Pursuant to the provisions of 5 USC 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the (proposed) flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The listing appears correctly as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground, *Elevation in feet (NGVD)
Missouri	(C) Plattsburg, Clinton County	Concord Creek	Just upstream of East Concord Drive	902*

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director.)

Issued: May 19, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14608 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6262]

Proposed Flood Elevation Determinations; New York

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 47 FR 12821 on March 25, 1982. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the Town of Hunter, Greene County, New York.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Federal Emergency Management Agency, National Flood Insurance Program, (202) 287-0230, Washington, D.C. 20472

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Town of Hunter, Greene County, New York, previously published at 47 FR 12821 on March 25, 1982, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determination, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The Notice of Proposed Base Flood Elevations should be amended to read as follows:

Source of flooding and location	Elevation in feet, national Geodetic vertical datum
Schoharie Creek:	
Confluence eof Tributary to Schoharie Creek.	*1,672
Abandoned railroad abutments (upstream)	*1,712
Stony Clove Creek: Wright Road (upstream)	*1,403
Gooseberry Creek: Approximately 3,300' upstream Bloomer Road.	*1,820
Sawmill Creek: Approximately 350' downstream of upstream corporate limits.	*1,940

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1,968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: May 19, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14009 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[General Docket No. 82-243; FCC 82-201]

Specific Frequency Allocation to the Government and Non-Government for Fixed Service Usage

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to allocate specific frequency bands for fixed services to be shared on a co-equal, co-primary basis between government and non-government users. This proposal is a consequence of a need for spectrum by the National Telecommunications and Information Agency (NTIA) to accommodate increasing numbers of users of low-capacity fixed systems. The proposed allocation will provide adequate spectrum to meet this need, as well as provide new spectrum for non-government users of similar fixed systems.

DATES: Comments must be received on or before June 24, 1982. Reply comments must be received on or before July 9, 1982.

ADDRESSES: Comments may be mailed to the Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Melvin Murray, Spectrum Utilization Branch, Office of Science and Technology, Federal Communications Commission, Washington, D.C. 20554, (202) 653-8168.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 2

Frequency allocation, Radio.

In the matter of amendment, of Part 2 of the Commission's Rules to provide for an allocation of 6 MHz to the government and the non-government for fixed service usage; Gen. Docket No. 82-243.

Adopted: April 29, 1982.

Released: May 10, 1982.

1. The National Telecommunications and Information Administration (NTIA), has advised the Commission of certain Federal Government frequency spectrum requirements.[1] NTIA incicates the Government utilizes small segments between 27.54-50 MHz and the bands 162.0125-173.2, 173.4-174.0 and 406.1-420.0 MHz to meet the requirements of its land mobile and low capacity, fixed systems. Assignment of frequencies in these bands to meet new requirements has become increasingly difficult and the NTIA anticipates that spectrum will not be available in the future to meet the Government's needs for these services. Specifically, NTIA requests access to approximately 6 MHz of spectrum in two 3 MHz bands separated by 4 to 5 MHz for low capacity, (6-12 channels), fixed systems. It is expected that the systems to be supported by this spectrum would utilize 100 F9/200 F9 emission with approximately 10 watts of power to be used as feeder links into larger capacity systems. also, stand-alone, low-capacity systems of from one to four hops would utilize this spectrum. NTIA suggests these requirements might be shared with non-Government users

[1] The frequency spectrum is managed jointly by the Federal Communications Commission (FCC) and the NTIA. Whereas, the FCC manages the non-government use of the spectrum, the NTIA manages the Federal Government's use of the spectrum through authority granted to the President under section 305(a) of the Communications Act of 1934, as amended, and delegated to the Secretary of Commerce by Reorganization Plan No. 1 of 1977 and Executive Order 12046 of March 26, 1978. In matters of frequency allocation, NTIA and the Commission have a joint responsibility for meeting national requirements for use of the radio spectrum regardless of whether such requirements arise from the private or government sectors.

assuming the amount of spectrum were adjusted to satisfy a combined requirement and that suitable coordination and interference resolution procedures can be developed and with recognition that Government and non-Government operations may differ with respect to essentiality.[2]

2. To support this request, NTIA references a Report prepared by its Spectrum Planning Subcommittee (SPS), which contains results of a working group analysis that considered current and future Government requirements for low-capacity, wideband, fixed operations.[3] These results, based on a statistical analysis of channel availability, indicated that by the early 1980's in high density major metropolitan areas, such as Washington, D.C. or Los Angeles, California, spectrum would be unavailable to meet the requirements for frequency assignment of the growing low-capacity, wideband fixed services. The working group calculated that approximately 6 MHz of spectrum in two 3 MHz bands separated by 4 to 5 MHz would satisfy the combined Government requirements for a wideband fixed service. A partial listing of the Government's applications for this spectrum is as follows:

- Control, protection, management and monitoring of electric power-generating and transmission systems by the Department of Energy and the Tennessee Valley Authority.
- Vessel traffic service and interconnection of Coast Guard facilities along rivers, coastal areas and the Great Lakes for port management, law enforcement, safety, search and rescue.
- Control, management and monitoring of water transmission and storage facilities for both irrigation and potable water supplies by the Department of Interior.
- Management and control of locks on navigable rivers by the Army Corps of Engineers.
- Natural resource management and environmental protection by the Department of Interior.
- Flood warning and flood water monitoring by the Army Corps of Engineers.
- Production, management, storage control and monitoring of national petroleum and natural gas reserves by the Department of Energy.
- Non-tactical data transmission and management communications at various Army test sites, ranges and bases.
- Control, management and communications with remotely located aeronautical navigation sites by the Federal Aviation Administration.
- Interconnection for law enforcement, protective, and custodial land mobile radio systems in metropolitan and rural areas.

As indicated above, many of these applications are very similar to the operational-fixed uses that are being satisfied in the band 952–960 MHz.

3. NTIA indicates that it surveyed all Government allocated bands in which this need could reasonably be met. As an example, NITA considers the 1710–1850 MHz band, presently allocated on a co-primary basis to Government fixed and mobile services with earth station transmissions for space command, control, range and rate systems permitted on a co-equal basis in the 1761–1842 MHz portion. The NTIA concluded that the band is very congested. Moreover, NTIA stated, "the fixed service in this band is intended to satisfy medium-capacity (24–300 channel) requirements. Satisfying 6/12 channel requirements with medium-capacity systems is spectrally inefficient and in congested portions of the U.S. may not be possible. The Government's intent is to maintain the 1710–1850 MHz band for medium-capacity fixed services, as well as sharing with other allocated services.

4. Another band examined by NTIA for possibile usage is the 902–928 MHz band, presently allocated to the government for radiolocation and shared with non-government users for industrial, scientific, and medical (ISM) purposes. Under the provisions of Footnote G11 in the Table of Frequency Allocations (*see* Manual of Regulations and Procedures for Federal Radio Frequency Management) government fixed radio services are permitted on a secondary basis in the 902–928 MHz band. Consequently, any such contemplated operations would have to accept any harmful interference that may be generated within this band.

5. Some of the various kinds of equipment operating in this band include industrial heating equipment, medical diathermy equipment, consumer microwave ovens, consumer video disc equipment, and field disturbance sensors. Also Automatic Vehicle Monitoring (AVM) systems operate in segments of this band to report the location of individual vehicles within a large fleet such as police cars, taxis, ambulances, etc. to a central control point. Moreover, the Commission recently adopted higher field strength limits for equipment which operates by remote control (e.g., garage door openers) which could operate in this band.[4]

6. NTIA indiciates that although these various non government users may be compatible to government radiolocation users, they would not be compatible with the fixed service required by the government. The commission agrees that the large number of equipments now operating in the band 902–928 MHz without individual licenses under the provisions of parts 15 and 18 of the Commission's Rules makes the band unsuitable for sharing with a fixed service that requires interference protection. Accordingly, we do believe further consideration of the 902–928 MHz band for NTIA's requirements is warranted.

7. As the FCC and NTIA are disposed to assist each other when new requirements cannot be satisfied in existing exclusive bands, and analysis was made of all non-government allocations in this general region of the spectrum to determine which, if any, might permit sharing with the Federal Government. The bands considered included: 806–902 MHz; 947–952 MHz; 952–960 MHz; 2110–2130 MHz and 2160–2180 MHz; and 2130–2150 MHz and 2180–2200 MHz. In each case, certain technical and administrative difficulties were brought to light. Briefly these are described as follows:

a. The 806–902 MHz band is currently allocated to nongovernment conventional, trunked, and cellular systems in the Land Mobile radio services. Because of the on-going development of these radio systems in the urban areas, the proposed Government fixed service could not practically be permitted to operate within 100 miles of these areas. Accordingly, 364 projected Government assignments designated for these urban areas, or 22% of the total Government requirement, would have to be accommodated in other frequency

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[2] NTIA also estimated that the Government requires access to approximately 7½ MHz of spectrum in the 800–900 MHz area to meet its expanding land mobile requirements. It stated that emission and power to be utilized would be comparable with non-government land mobile currently utilizing 800–900 MHz frequencies. We are not now specifically proposing relief for this requirement; however, we feel that, if the proposed allocation herein were adopted, then eventually existing low-capacity fixed systems in the 400 MHz region could be transferred to this new spectrum thereby allowing additional land mobile requirements to be satisfied in the vacated spectrum.

[3] *Government Requirements for Fixed Wideband Frequency Spectrum*, SPS Working Group report SPS–2176/1–1.14.0, January 16, 1979.

[4] A Report and Order in Docket No. 20960 was adopted October 22, 1981 (46 FR 55520, November 10, 1981) which set an average field strength limit of 12,500 mV/m at 3m for the fundamental frequency at frequencies 470 MHz and above; for harmonics and spurious emissions the field strength limit was set at 1250 mV/m at 3m.

bands. This arrangement would not completely meet the Government's needs.

b. Under the second proposal, to share the 947–552 Mhz band, congestion exists in nearly all urban areas due to the operation of large numbers of aural broadcast studio-to-transmitter links (STL) and intercity relay stations which provide transmission of aural program material between a studio and the transmitter of a broadcasting station for simultaneous or delayed broadcast. Intercity relay stations perform the same aural transmission function between broadcasting stations. The band is divided into ten 500 kHz channels. A possible sharing scheme would be to locate the fixed channels between the existing ten channels. Using this approach, NTIA indicates that at least 7.7 MHz of contiguous spectrum is needed to satisfy their requirements. Additionally, a sequential ordering of transmit/receive frequency pairs would be necessary with a minimum frequency separation of 3.6 MHz. Thus, when using the entire 5 MHz, sharing 947–952 MHz would be 2.7 MHz less than required. Consequently this sharing proposal also would not completely meet the Government's needs.

c. The third alternative considered sharing in the 952–960 MHz band, currently allocated to non-Government operational-fixed microwave service. the Current channeling plan pairs frequencies at the high and low ends of the band with a 3.6 MHz separation between transmit and receive. Presently there are approximately 5000 licensed frequency assignments with predominate usage occurring in the East, Midwest, Texas, and California. Because of the large number of current assignments, it would be unwise to expect this band to accommodate approximately 1700 addtional Government assignments and still provide some capacity for future Government and non-Government growth. For this reason the 952–960 MHz band does not appear to be a suitable choice.

d. Both the 2110–2130 MHz and 2160–2180 MHz bands are allocated to the domestic public radio service. These bands are shared by common carriers operating in the point-to-point microwave service and those operating control and repeater stations in the domestic public land mobile radio service. Currently, there are approximately 1000 licensed assignments in each of the paired bands. These assignments are uniformly distributed primarily west of the Mississippi River without any areas of significant concentration. However, these bands are being used increasingly for control and repeater operations for land mobile base stations, whose licensees are emerging as carriers of other voice and data traffic. Because of such growth, sharing in the urban areas with an additional service now appears to be unsuitable.

e. The paired freqency bands 2130–2150 MHz and 2180–2200 MHz are allocated to the private operational-fixed microwave service. Each band currently supports approximately 1500 licensed frequency assignments. The assignments are clustered in the following regions: Middle-Atlantic states, Texas, Louisiana, Gulf of Mexico off-shore oil rigs and California. The high and low bans provide paired 24 channel groupings with 800 kHz spacing. Consideration is given on a case-by-case basis to assigning these frequency pairs to systems employing 1600 F9 emissions. Some sharing in these bands may be feasible although it appears that in many of the areas where the government requires spectrum, these bands are completely occupied. However, we do invite the public to comment whether limited sharing would be possible.

8. In summary we believe the analyses preformed to determine whether NITA's requirments could be satisfied by sharing with existing services in presently allocated Government and/or non-Government bands show the impracticality of considering these proposals further. Nevertheless, we invite public comment which address these options as well as any other alternatives that may be deserving of our consideration.

9. In view of these circumstances, NTIA reiterated its request for access to spectrum in the 900 MHz range, a portion of which is currently being held as a land mobile reserve. We note that the reserve bands in the 900 MHz range were set aside to accommodate new land mobile services or unexpected growth in existing services.[5] In as much as we would like to retain much of these bands for this express purpose, we must weigh this concern in light of our joint responsibility for meeting national spectrum requirements. With this in mind, and taking into account the aforementioned analyses of spectrum alternatives, we are persuaded that at the present time the 900 MHz range is the most suitable frequency band to propose for meeting this instant requirement.

10. In reviewing existing and future requirements for the 900 MHz band, we note that the 928–929 MHz segment was recently allocated in SS Docket 79–18 to the Fixed Service for use by operational fixed stations.[6] Frequencies in this band are paired with the band 952–953 MHz and are limited for use by multiple address remote stations. In another proceeding the 929–932 MHz segment has been proposed in General Docket No. 80–183 for allocation to the Domestic Public Land Mobile Radio Service and the Private Land Mobile Radio Services for use by one-way paging stations. With these proceedings in mind, then, we are proposing for the instant requirement an allocation of 6 MHz of spectrum in two 3 MHz bands at 932–935 MHz and 938–941 MHz to be shared on a co-equal and co-primary basis between government and non-government fixed services.

11. As was mentioned in paragraph 2 herein, NTIA indicated its requirements could be shared with non-Government users provided that suitable coordination and interference resolution procedures could be implemented. In this connection, we invite comments from the public as to what non-Government fixed services could most suitably share the proposed allocation. In particular, we have several pending petitions and rule makings[7] which request the allocation of spectrum for Aural Broadcast STL and Intercity Relay Stations. Although we have proposed an allocation of 20 MHz in the 18 GHz band[8] it would probably be several years before this band could be realistically used if the allocation is adopted as proposed.[9] Accordingly, we

[5] In Docket 18262 the FCC established 8 reserve bands totaling 45 MHz interspersed throughout the general 806–960 MHz land mobile allocation. See paragraph 19 of the Second Report and Order in Docket 18262 (FCC 74–470).

[6] 46 FR 9950 (January 30, 1981).

[7] At the current time there are three related items: (a) A Further Notice of Proposed Rule Making in Docket 19494, adopted April 19, 1972 (37 FR 8555 (April 28, 1972)) to permit aural broadcast STL and Intercity Relay stations operation in the 2110–2113 MHz band (b) a Petition for Rule Making from the National Association of Broadcasters (NAB), RM–2697, dated 1976, to allocate the 942–947 MHz band for aural broadcast STL and Intercity Relay stations and (c) another Petition for Rule Making (RM–3246) from Moseley Associates, Inc. a manufacturer of aural broadcast requirement, requesting that aural broadcast STL and Intercity Relay stations be permitted to operate in unassigned UHF–TV channels on a secondary basis.

[8] Further Notice of Proposed Rule Making in General Docket No. 79–108 adopted August 4, 1981, 46 FR 45635 (September 14, 1981).

[9] Due to the higher frequency band and corresponding lack of technical development therein, it is estimated that several years would lapse before operational equipment would be ready for this service at the 18 GHz range.

request comment on whether Aural Broadcast STL and Intercity Relay stations could compatibly share the spectrum being proposed at 900 MHz to meet the immediate need in a spectrally efficient manner. We are also receptive to other compatible requirements for access to fixed spectrum by prospective users in the civil sector.

12. In order to promulgate effective procedural and technical rules for this proposed shared fixed-service, we request the public in submitting their comments to address each of the following points:

(a) State in specific detail what interference protection should be promulgated.

(b) State in specific detail what technical standards should be promulgated. This includes:

1. Frequencies. (A listing of paired transmit and receive frequencies indicating maximum bandwidth).
2. Types of emission.
3. Emission and bandwidth limitations.
4. Power limitations.
5. Antenna limitations.
6. Type acceptance requirements.
7. Transmitter control requirements.
8. Transmitter measurements.
9. Other requirements deemed necessary.

(c) State in specific detail what procedural and operational requirements should be promulgated.

(d) State in specific detail what procedures should be promulgated for purposes of coordinating Government and non-Government applications for stations.

13. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceedings. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's Rules.

14. Pursuant to section 605 of the Regulatory Flexibility Act of 1980, Pub. L. 96-354, we find that the proposed action herein would not have, if adopted, a significant economic impact on a substantial number of small businesses. It does not propose to displace anyone assigned to any of the bands being considered in this proposal. In fact the allocation herein would only provide additional spectrum for low-capacity, fixed systems. Moreover, since the bands proposed for allocation are presently being held in reserve for land mobile, the allocation, if adopted, would not have any impact on small businesses currently using mobile radio. However, the extent of impact in the future due to increased demand for spectrum from land mobile users is unknown.

15. Authority for issuance of this Notice is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended. Pursuant to procedures set out in § 1.415 of the Rules, interested persons may file comments on or before June 24, 1982 and reply comments on or before July 9, 1982. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

16. In accordance with the provisions of § 1.419 of the Rules, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting 1 copy. All comments are given the same consideration regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference room at its headquarters, Room 239, 1919 "M" Street NW. in Washington, D.C.

17. For further information concerning this document, contact Mel Murray at (202) 653-8168.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

Part 2 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

§ 2.106 [Amended]

1. In § 2.106, the Table of Frequency Allocations is revised for the band 928-960 MHz as follows:

United States		Federal Communications Commission				
Band (MHz)	Allocation	Band (MHz)	Service	Class of station	Frequency (MHz)	Nature of services of stations
5	6	7	8	9	10	11
932-935	G, NG (US39) (US116) (US215)	932-935	Fixed	Operational fixed		
935-941	G, NG (US39) (US116) (US215)	935-941	Fixed	Operational fixed		

2. In the list of footnotes immediately following the table in § 2.106, footnote US116 is changed to read as follows:

US116—In the bands 890-902 MHz, 928-932 MHz, 935-938 MHz, and 941-947 MHz, no new assignment are to be made to Government radio stations after July 10, 1970, except, on a case-by-case basis, experimental stations and to additional stations of existing Networks in Alaska. Government assignments, existing prior to July 10, 1970, to stations in Alaska may be continued. All other existing Government assignments shall be on a secondary basis to stations in the non-Government land mobile service and shall be subject to adjustment or removal from the bands 890-902 MHz, 928-932 MHz, 935-938 MHz, and 941-947 MHz at the request of the FCC.

[FR Doc. 82-14635 Filed 5-27-82; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 2

[Gen. Docket No. 82-243]

Special Frequency Allocation to the Government and Non-Government for Fixed Service Usage; Correction

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: The Federal Communications Commission makes correction to its notice of proposed rule making in Gen. Docket No. 82-243 adopted April 29, 1982 and released May 10, 1982 and published elsewhere in this issue. The Errata corrects a typographical error in the text. Also, because of new information received when the Commission adopted the Proposed Rule, one of the frequency bands being proposed is changed.

DATES: Comments (June 24, 1982) and replies (July 9, 1982) remain unchanged.

ADDRESSES: Comments may be mailed to the Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Melvin J. Murray, Federal Communications Commission, Office of Science and Technology, Spectrum Management Division, Spectrum Utilization Branch, Washington, D.C. 20554, (202) 653-8168; Room 7312.

SUPPLEMENTARY INFORMATION: In the matter of amendment of Part 2 of the Commission's rules to provide for an allocation of 6 MHz to the government and the nongovernment for fixed service usage; Gen. Docket 82-243.

Released: May 18, 1982.

The Commission's notice of proposed rule making, FCC 82-201, released May 10, 1982 is corrected as follows:

(1) The last sentence of paragraph 6 is corrected to read as follows:

* * * * * *

Accordingly, we do not believe further consideration of the 902-928 MHz band for NTIA's requirements is warranted.

* * * * *

(2) When the notice of proposed rule making in Gen. Docket No. 82-243 was adopted, new information was presented to the Commission concerning a need to change the proposed lower band from 932-935 MHz to 890-902 MHz. Accordingly, paragraph 10 of the text is corrected to reflect this information and read as follows:

* * * * * *

10. In reviewing existing and future requirements for the 900 MHz band, we note that the 928-929 MHz segment was recently allocated in SS Docket 79-18 to the Fixed Service for use by operational fixed stations.[5] Frequencies in this band are paired with the band 952-953 MHz and are limited for use by multiple address remote stations. In another proceeding the 929-932 MHz segment has been allocated in General Docket No. 80-183 for allocation to the Domestic Public Land Mobile Radio Service and the Private Land Mobile Radio Services for use by one-way paging stations. Moreover, in recent technical coordination meetings with Canada, the Commission has learned of Canadian intentions to establish a General Radio Service in the 933-935.5 MHz band. Although we cannot predict now whether this mobile service will be implemented, we are concerned that any proposal by the Commission for a fixed service in this frequency range would be incompatible, particularly in the border areas. Accordingly, in light of this information the Commission is proposing for the instant requirement an allocation of 6 MHz of spectrum in two 3 MHz bands at 890-902 MHz and 938-941 MHz to be shared on a co-equal and co-primary basis between government and nongovernment fixed services.

(3) The appendix is corrected to read as set forth below.

Federal Communications Commission.

William J. Tricarico,

Secretary.

§ 2.106 [Amended]

Appendix

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

Part 2 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. In § 2.106, the Table of Frequency Allocations is revised for the band 899-941 MHz as follows:

United States			Federal Communications Commission			
Band (MHz)	Allocation	Band (MHz)	Service	Class of station	Frequency (MHz)	Nature of services of stations
5	6	7	8	9	10	11
•	•	•	•	•	•	•
890-902	G,NG (US36) (US116) (US215)	890-902	FIXED	Operational fixed		
•	•	•	•	•	•	•
938-941	G,NG (US36) (US116) (US215)	938-941	FIXED	Operational fixed		
•	•	•	•	•	•	•

2. In the list of footnotes immediately following the table in § 2.106, footnote US116 is changed to read as follows:

US116—In the bands 890-896 MHz, 928-938 MHz, and 941-947 MHz, no new assignments are to be made to Government radio stations after July 10, 1970, except, on a case-by-case basis, to experimental stations and to additional stations of existing Networks in Alaska. Government assignments, existing prior to July 10, 1970, to stations in Alaska may be continued. All other existing Government assignments shall be on a secondary basis to stations in the non-Government land mobile service and shall be subject to adjustments or removal from the bands 890-896 MHz, 928-938 MHz and 941-947 MHz at the request of the FCC.

• • • • • • • •

[FR Doc. 82-14636 Filed 5-27-82; 8:46 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-143; RM-4018, RM-4108, RM-4109]

FM Broadcast Station in Brunswick and Kingsland Ga.; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension for filing reply comments.

SUMMARY: Action taken herein extends the time for filing reply comments in a proceeding concerning the proposed assignment of an FM channel to Brunswick or Kingsland, Georgia. Casey Broadcasting Co., Inc. states that additional time is needed to respond to two recently filed counterproposals.

DATE: Reply comments must be filed on or before May 28, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Brunswick and Kingsland,[1] Georgia); order extending time for filing comments.

Adopted: May 13, 1982.

Released: May 17, 1982.

1. On March 5, 1982, the Commission adopted a Notice of Proposed Rule Making, 47 FR 11902, published March 19, 1982, in the above-referenced proceeding concerning RM-4018, which proposed the assignment of Channel 292 A to Brunswick, Georgia. The time for filing comments has expired and reply comments are due May 14, 1982.

2. On May 11, 1982, the Commission issued a Public Notice (Report No. 1351), announcing the filing of two counterproposals (RM-4108, RM-4109), both requesting the assignment of Channel 292A to Kingsland, Georgia. The Notice advised that those petitions would be treated in BC Docket No. 82-143 and that responsive statements thereto should be submitted by the date for filing reply comments.

3. On May 12, 1982, counsel for Casey Broadcasting Co., Inc. ("Casey"), filed a motion for extension of time for filing responsive statements and reply comments to and including May 28, 1982. Counsel states that additional time is needed to respond to the counterproposals since it was first apprised of those filings by the Commission's May 11, 1982, Public Notice.

4. Section 1.46(b) of the Commission's rules states that extension requests must be filed seven days in advance of the deadline. However, we are of the view that, under the circumstance mentioned, additional time is warranted. Therefore, we are waiving the requirements of § 1.46(b) since such extension will assure development of a sound and comprehensive record on which to base a decision in this proceeding.

5. Counsel for Casey states that counsel for the Petitioner and the two Counterproponents have been contacted and advised they will interpose no objection to this requested extension.

6. Accordingly, it is ordered, that the time for filing reply comments in BC Docket No. 82-143 (RMs-4018, 4108 and 4109) is extended to and including May 28, 1982.

7. This action is taken pursuant to authority contained in §§ 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-14584 Filed 5-27-82; 8:45 am]

BILLING CODE 6712-01-M

[1] This community has been added to the caption.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

Atlantic Surf Clam and Ocean Quahog Fisheries; Proposed Reopening of Closed Area

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of extension of comment period.

SUMMARY: NOAA extends the comment period for a proposal to reopen portions of the area off Atlantic City, New Jersey, currently closed to surf clam fishing. The proposal was originally presented for public review and comment in a notice dated May 3, 1982. A supplemental public hearing will be conducted to present additional information about the proposal and to discuss comments and alternatives.

DATES: The comment period has been extended through June 25, 1982. A supplemental public hearing will be held from 7:00 to 9:00 p.m. on June 24, 1982.

ADDRESS: Comments should be sent to Management Division, Northeast Region, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930-3097. The supplemental hearing will be held at the Holiday Inn, Route 13, Pocomoke City, Maryland.

FOR FURTHER INFORMATION CONTACT: Bruce Nicholls, Plan Coordinator, 617-281-3600.

SUPPLEMENTARY INFORMATION: Amendment 3 to the Fishery Management Plan for the Surf Clam and Ocean Quahog Fisheries was implemented by final regulations published on January 29, 1982 (47 FR 4268). One of the provisions of the amendment directs the Secretary to publish notice of any proposed action to reopen an area closed to surf clam fishing under the provisions of 50 CFR 652.23. A notice was published outlining proposals for reopening portions of an area currently closed off Atlantic City, New Jersey, on May 3, 1982 (47 FR 18939). That notice specified a hearing location in New Jersey, and a comment period ending June 11, 1982. At a meeting of the Mid-Atlantic Fishery Management Council on May 13, 1982, members of the Council requested that an additional hearing be held in the southern area of the surf clam fishery, and that the comment period be extended to accommodate that additional hearing. The Regional Director, therefore, extends the comment period and schedules an additional hearing in Pocomoke City, Maryland.

The notice published on May 3 identified an alternative sub-area for reopening as provided by the Regional Director. The published coordinates defining that subarea were not correct. The area is correctly defined and delineated by straight lines connecting the following coordinates:

39°11.60'N. latitude, 74°23.50'W. longitude.
39°21.10'N. latitude, 74°20.20'W. longitude.
39°19.90'N. latitude, 74°12.20'W. longitude.
39°17.60'N. latitude, 74°14.30'W. longitude.
39°11.60'N. latitude, 74°23.50'W. longitude.

Note that this alternate subarea is essentially a triangular shape within a portion of the original closed area. The shoreward boundary of the areas

remaining closed continues to be the limit of the territorial sea of the State of New Jersey.

Comments on this proposal are invited through June 25, 1982. The supplemental public hearing will be conducted from 7:00 to 9:00 p.m. on June 24, 1982, at the Holiday Inn on Route 13, Pocomoke City, Maryland. Charts showing alternative areas, and the latest resource survey information, will be available. The Regional Director will review the results of the hearings and any comments received during the comment period. The Secretary will then publish a final notice defining the area and any restrictions on harvest within the area.

Other Matters

This action is taken under the authority of 50 CFR 652.23 and is taken in compliance with Executive Order 12291. The action is covered by the certification for Amendment 3, under the Regulatory Flexibility Act, that the authorizing regulations do not have a significant impact on a substantial number of small entities.

List of Subjects in 50 CFR Part 652

Fish, Fisheries.

(16 U.S.C. 1801 et seq.)

Dated: May 25, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-14675 Filed 5-27-82; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 47, No. 104
Friday, May 28, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Special Supplemental Food Program for Women, Infants and Children; Income Poverty Guidelines

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: The Department announces adjusted income poverty guidelines to be used by State agencies in determining the income eligibility of persons applying to participate in the Special Supplemental Food Program for Women, Infants and Children (WIC Program). These income poverty guidelines are to be used in conjunction with the WIC Regulations, 7 CFR Part 246, as amended in the final rule published on September 25, 1981, at 46 FR 47422.

DATES: Effective Date: The income poverty guidelines contained herein shall become effective on July 1, 1982. Implementation Date: State and local agencies shall begin applying the new income eligibility standards to all new applicants, as well as to all ongoing participants at the time of each participant's next regular certification on or after July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Barbara Hallman, Branch Chief, Policy and Program Development Branch, Supplemental Food Programs Division, FNS, USDA, Park Office Center, Alexandria, Virginia, 22302, (703) 756–3730.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in Secretary's Memorandum 1512–1 to implement Executive Order 12291, and has been determined to be nonmajor. The notice will not have an annual effect on the economy of $100 million or more, will not cause a majro increase in costs or prices, and will not have a significant economic impact on competition, employment, investment, productivity, innovation or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets. The notice has been reviewed with regard to the requirements of the Regulatory Flexibility Act and will not have a significant economic impact on a substantial number of small entities.

The Child Nutrition Act of 1966, as amended by Pub. L. 95–627, requires the Secretary to establish income criteria to be used with nutritional risk criteria in determining a person's eligibility for participation in the WIC Program. The law provides that persons will be eligible for the WIC Program only if they are members of families that satisfy the income standard prescribed for reduced-price school meals under section 9 of the National School Lunch Act. Under the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, enacted August 13, 1981, the income limit for reduced-price school meals is 185 percent of Office of Management and Budget nonfarm income poverty guidelines. No standard deduction or hardship deductions are allowed when calculating a family's income using 185 percent of the income poverty guidelines. These guidelines are to be adjusted annually for changes in the Consumer Price Index effective each July 1.

The Department published a final rule on September 25, 1981, at 46 FR 47422 inplementing the provisions of Public Laws 95–627 and 97–35, which require State agencies to set an income limit on eligibility to participate in the WIC Program. The rule specifies that State agencies establish income guidelines that are not less than the guidelines established for State or local free or reduced-price health care, except that the State agency's income standard may not be greater than the income criteria established under Section 9 of the National School Lunch Act for reduced-price school meals or less than 100 percent of the income poverty guidelines for each family size.

At this time the Department is publishing the maximum and minimum income limits by household size for the period of July 1, 1982 to June 30, 1983. The first table of this notice contains the income limits by household size for the 48 States, the District of Columbia and Territories excluding Guam. Because the income poverty guidelines for Alaska, Hawaii and Guam are higher than for the 48 States, separate tables have been included for the convenience of those State agencies.

List of Subjects in 7 CFR Part 246

Food assistance programs, Food donations, Grant programs—Social programs, Indians, Infants and children, Maternal and child health, Nutrition, Nutrition education, Public assistance programs, WIC, Women.

EFFECTIVE JULY 1, 1982—JUNE 30, 1983

[48 States, District of Columbia, Territories Excluding Guam]

Family size	OMB Non farm income poverty guidelines (100%—annual	FNS income guidelines for reduced-price lunches (185%—annual)
1	4,580	8,480
2	6,220	11,510
3	7,760	14,360
4	9,300	17,210
5	10,840	20,050
6	12,380	22,900
7	13,920	25,750
8	15,460	28,600
For each additional family member add	1,540	2,850
Alaska		
1	5,670	10,500
2	7,790	14,410
3	9,710	17,965
4	11,630	21,520
5	13,550	25,075
6	15,470	28,630
7	17,390	32,170
8	19,310	35,720
For each additional family member add	1,920	3,550
Hawaii and Guam		
1	5,390	9,970
2	7,160	13,250
3	8,930	16,520
4	10,700	19,800
5	12,470	23,070
6	14,240	26,340
7	16,010	29,620
8	17,780	32,890
For each additional family member add	1,770	3,270

(Child Nutrition Amendments of 1978, Public Law 95–627, Section 3, 92 Stat. 3614, and Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, Section 803, 95 Stat. 524)

Dated: May 21, 1982.

Robert E. Leard,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 82-14482 Filed 5-27-82; 8:45 am]
BILLING CODE 3410-30-M

Rural Electrification Administration

Delta-Montrose Electric Association, Inc.; Finding of No Significant Impact

The Rural Electrification Administration (REA) has made a Finding of No Significant Impact (FONSI) in connection with the proposed financing assistance to the Delta-Montrose Electric Association, Inc., (Delta-Montrose) for 31 km (19 miles) of 115 kV transmission line and associated substation facilities. The proposed construction would be located in Delta County, Colorado.

Delta-Montrose prepared a Borrower's Environmental Report (BER) and the Bureau of Land Management (BLM) prepared an Environmental Assessment Report (EAR) for the proposed project. Based on these documents REA prepared on Environmental Assessment which concludes that approval of the project does not represent a major Federal action that will significantly affect the quality of the human environment and, in accordance with REA Bulletin 20–21:320–21, has made a FONSI.

Alternatives discussed in the BER and BLM's EAR include no action, underground construction and alternate transmission line routes.

Copies of the FONSI, REA's Environmental Assessment and other support documents may be obtained from or reviewed at the office of Mr. William E. Davis, Director, Distribution Systems Division, Room 3304, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, or at the offices of Mr. C. Ward Armstrong, Manager, Delta-Montrose, 423 Main Street, Montrose, Colorado 81401, and 121 E. 12th Street, Delta, Colorado 81416.

This Program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 21st day of May 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82–14419 Filed 5–27–82; 8:45 am]

BILLING CODE 3410–15–M

Lower Valley Power and Light, Inc.; Finding of No Significant Impact

The Rural Electrification Administration (REA) has made a Finding of No Significant Impact with respect to proposed financing assistance to Lower Valley Power and Light, Inc., (LVPL) of Afton, Wyoming, to construct 63 km (39 mi) of 161 kV transmission line from the existing Tincup Substation to the proposed Valley Substation in Caribou County, Idaho.

The line will be constructed for 161 kV operation but will be operated initially at 115 kV. REA reviewed the Borrower's Environmental Report (BER) prepared by LVPL and determined that it represents an accurate assessment of the environmental impacts of the project. Based upon the BER and information from other sources, REA has prepared an Enviornmental Assessment which concluded that the proposed project will not affect, threatened or endangered species, prime farmland, archaeological or historic sites, or floodplains. The project is anticipated to affect some wetland areas in the Diamond Creek and Lanes Creek Valleys. There is no practical alternative but to place 10–12 wood pole structures within the above wetlands and riparian areas.

Various alternatives considered include no action, upgrading the existing facilities, alternate routes, and underground construction. REA has determined that the proposed construction is an acceptable alternative.

REA's Finding of No Significant Impact, the Environmental Assessment and the LVPL's BER may be reviewed in or requested from Mr. William E. Davis, Director, Distribution Systems Division, Room 3304, South Building, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, telephone: 202–382–8848 or at the office of Lower Valley Power and Light, Inc., North of Afton, Wyoming, on Highway 89, telephone: 307–886–3175.

The program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 21st day of May, 1982.

Harold V. Hunter,

Administrator, Rural Electrification Administration.

[FR Doc 82–14420 Filed 5–27–82; 8:45 am]

BILLING CODE 3410–15–M

Statistical Reporting Service

Organization, Functions, and Availability of Information

Notice is hereby given for the guidance of the general public as to the organization, functions, and availability of information for the Statistical Reporting Service (SRS).

Part 1.—Organization and Functions

Section 1—*General.* The Statistical Reporting Service (SRS) was established on September 30, 1961, with Secretary's Memorandum No. 1000–1, June 17, 1961, "Reorganization of Department". This directive separated the functions previously performed by the Economics and Statistics Service into two new program agencies, the Statistical Reporting Service and the Economic Research Service.

The primary responsibilities of SRS are the development and dissemination of national and State agricultural statistics, statistical research, and coordination of the Department's statistical programs as authorized under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627).

Section 2—*Organization.* The headquarters organization consists of (1) the Administrator and Deputy Administrator with supporting staff; (2) four Divisions; State Statistical Division, Estimates Division, Survey Division, and Statistical Research Division; and (3) Crop Reporting Board. In the field, each of the 44 States Statistical Offices, serving the 50 States, is under a Statistican in Charge. All operating units report to the Administrator of the Service.

Section 3—*Authority to Act for the Administrator.* In the absence of the Administrator, the following officials are authorized to act in the order indicated.

Deputy Administrator
Director, State Statistical Division
Director, Estimates Division
Director, Survey Division
Director, Statistical Research Division

Section 4—*Functions.* SRS programs are conducted in the following major areas:

(a) *Crop and Livestock Estimates.* This area includes estimates of production, supply, price, and other aspects of the agricultural economy; conduct of enumerative and objective measurement surveys; preparation and issuance of the official national and State estimates and reports of the Department relating to acreages, types and production of farm crops, number of livestock on farms, livestock products, stocks of agricultural commodities, value and utilization of farm products, prices received and paid by farmers, and other subjects as required.

(b) *Statistical Research and Service.* This area includes review, clearance, coordination, and improvement of statistics in the Department, and research on and development of improved statistical techniques used in gathering and evaluating statistical data, including use of satellite data.

(c) *Work Performed for Others.* Services are performed for other Federal

and State agencies on a reimbursable or advance payment basis. These services consist primarily of conducting surveys and performing related statistical data collecting activities. They also include technical consultation and support and technical assistance programs abroad under participating agency service agreements.

Part II.—Availability of Information

Section 5—*General.* This part is issued in accordance with the regulations of the Secretary of Agriculture in part I, subpart A, of subtitle A of Title 7, CFR (7 CFR 1.1–1.16), and appendix A thereto, implementing the Freedom of Information Act (5 U.S.C. 552). The Secretary's regulations, as implemented by this part, govern the availability of records of SRS to the public.

Section 6—*Indexes.* 5 U.S.C. 552(a)(2) requires that certain materials be made available for public inspection and copying and that a current index of these materials likewise be made available. SRS does not maintain any materials within the scope of these requirements.

Section 7—*Requests for records.* Requests for records under 5 U.S.C. 552(a)(3) shall be made in accordance with 7 CFR 1.3(a) and addressed to: Chief, Records, Systems, and Analysis Branch, Administrative Services Division, Economics Management Staff, U.S. Department of Agriculture, Washington, D.C. 20250. Authority is hereby delegated to this official to make determination regarding such requests in accordance with 7 CFR 1.4(c).

Section 8—*Appeals.* Any person whose request for records is denied shall have the right to appeal that denial in accordance with 7 CFR 1.3(c) and 1.7. All appeals shall be addressed to: Administrator, Statistical Reporting Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Section 9—*Requests* for published data and related information. In Washington, D.C., information on published data and subscription rates is available from the Secretary, Crop Reporting Board, Statistical Reporting Service, U.S. Department of Agriculture, Washington, D.C. 20250 or Deputy Director, Information Division, Economics Management Staff, U.S. Department of Agriculture, Washington, D.C. 20250.

In the field, published data and subscription order forms are available from the Statistician in Charge at each State Statistical Office. Addresses for these State Statistical Offices are:

Alabama: Box 1071, Montgomery 36192
Alaska: Box 799, Palmer 99645
Arizona: 3001 Federal Bldg., Phoenix 85025
Arkansas: Box 1417, Little Rock 72203
California: Box 1258, Sacramento 95805
Colorado: Box 17066, Denver 80217
Florida: 1222 Woodward St., Orlando 32803
Georgia: Stephens Federal Bldg., Suite 320, Athens 30613
Hawaii: Box 22158, Honolulu 96822
Idaho: Box 1699, Boise 83701
Illinois: Box 429, Springfield 62705
Indiana: Purdue University, West Lafayette 47907
Iowa: 210 Walnut Street, Des Moines 50309
Kansas: 444 S.E. Quincy St., Room 290, Topeka 66683
Kentucky: Box 1120, Louisville 40201
Louisiana: Box 5524, Alexandria 71301
Maryland-Delaware: Box AG, College Park, Md. 20740
Michigan: Box 20008, Lansing 48901
Minnesota: Box 70008, St. Paul 55107
Mississippi: Box 980, Jackson 39205
Missouri: Box L, Columbia 65205
Montana: Box 4668, Helena 59604
Nebraska: Box 83609, Lincoln 68501
Nevada: Box 8888, Reno 89507
New England—Maine, New Hampshire, Vermont, Connecticut, Rhode Island, Massachusetts: Box 1444, Concord, N.H. 03301
New Jersey: CN-330, New Warren St., Trenton 08625
New Mexico: Box 1809, Las Cruces 88004
New York: State Campus, Bldg. 8, Albany 12235
North Carolina: Box 27767, Raleigh 27611
North Dakota: Box 3166, Fargo 58120
Ohio: 200 N. High St., Columbus 43215
Oklahoma: Box 1005, Oklahoma City 73101
Oregon: 1220 S.W. 3rd Ave., Portland 97204
Pennsylvania: 2301 North Cameron St., Harrisburg 17110
South Carolina: Box 1911, Columbia 29202
South Dakota: Box B, Sioux Falls 57117
Tennessee: Box 1250, Nashville 37202
Texas: Box 70, Austin 78767
Utah: Box 11486, Salt Lake City 84147
Virginia: Box 1659, Richmond 23213
Washington: 909 First Ave., Seattle 98174
West Virginia: State Dept. of Agriculture, Charleston 25305
Wisconsin: Box 9160, Madison 53715
Wyoming: Box 1148, Cheyenne 82001

Dated: May 7, 1982.

William E. Kibler,

Administrator, Statistical Reporting Service.

[FR Doc. 82-14007 Filed 5-27-82; 8:45 am]

BILLING CODE 3410-20-M

CIVIL AERONAUTICS BOARD

[Order 82-5-108; Docket 32660, Agreement C.A.B. 28665 R-1 through R-12; Agreement C.A.B. 28665]

Agreements Adopted by the Tariff Coordinating Conferences of the International Air Transport Association Relating to Composite Passenger Fare Matters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 20th day of May, 1982.

Agreements among various members of the International Air Transport Association (IATA) have been filed with us under section 412(a) of the Federal Aviation Act of 1958 and Part 261 of our Economic Regulations. Adopted at the Composite Meetings of Passenger Tariff Coordinating Conferences held in Cannes during October-November 1981, the agreements are proposed to become effective on April 1, 1982.

The agreements proposed a number of amendments to resolutions having application worldwide. Insofar as air transportation as defined by the Act is concerned, the more significant are to Resolutions 021, 021f and 021L which, as a group, govern most currency matters within IATA.[1] With regard to Resolution 021, the agreement condenses and simplifies a number of existing paragraphs to remove exceptions and to make their application clearer. This has the effect of removing a number of special restrictions applicable within TC1 (Western Hemisphere) and bringing practices in this area more into line with those in other world areas. The agreement also proposes changes to those portions of Resolutions 021f and/or 021L which govern the conversion of currencies tendered as payment for transportation originating either within or outside the country of payment. These changes require, with exceptions for soft and/or less freely convertible currencies, all conversions into the currency of payment to take place at the banker's buying rate of exchange. Other changes proposed to Resolution 021L specify the appropriate currency adjustment factors to apply to sales of round-the-world fares and to sales of

[1] Resolution 021 specifies those currencies which are acceptable for local publication and payment of international fares and/or charges. Resolution 021f establishes general procedures to use for currency conversions while Resolution 021L establishes much more specific and detailed currency conversion procedures. Many Resolution 021f provisions are redundant or overridden by those in Resolution 021L. However, some IATA members apparently want to retain Resolution 021f as a back-up measure in case the other currency provisions are nullified by government or carrier action.

fares within TC2 (Europe/Africa/Middle East) for transportation originating outside the country of sale and clarify procedures to follow when honoring MCO's (Miscellaneous Changes Order)/ PTA's (Prepaid Ticket Advice) tendered as payment for international air transportation.

Finally, other changes proposed include increasing fares between Tunisia and TC1 by $1.00 and normal and special fares between Tunisia and Guam/American Samoa by 10 and 20 U.K. pence (about 19 and 38 U.S. cents) respectively; deletion of certain obsolete and unused currency adjustment factors; clarification and simplification of procedures under Resolution 014a (fare construction rules) for checking for higher intermediate points; and extension of the period during which members may operate inaugural flights at free and reduced fares to one year after the first scheduled operation of the new service.

We will approve the bulk of the agreements subject to our usual condition that implementation of the Tunisian fare increases be tied to conformance with our Standard Foreign Fare Level criteria.[2] However, we will disapprove the changes proposed to Resolution 014a, Resolution 151a (Fares for Circle Trip) and Resolution 014d (Special TC23/TC123 Construction Rule) consistent with actions taken in Order 81-7-96, July 16, 1981, which disapproved IATA's fare construction rules contained in Resolution 014a and related resolutions. In addition, there are certain provisions in Resolution 021L, as discussed below, which continue to trouble us and require a clarification and expansion of our existing condition on currency transactions.

We view adoption of the general principle which requires conversions to be made at the banker's buying rate of exchange as a positive development. However, it appears that the application of certain existing provisions contained in paragraph (8)(a) of Resolution 021L may cause a U.S. consumer who purchases transportation in the United States for travel solely between two foreign points to pay an amount that is higher than that he would pay if purchase and conversion of prices for that transportation occurred locally. This is because paragraph (8)(a) requires members to charge the higher of two amounts: either the published local currency fare converted into dollars at the banker's buying rate of exchange, or the FCU (Fare Construction Units) amount (including any applicable currency adjustment factor on transportation from U.S. points) converted into local currency at the IATA Resolution 021b exchange rate and thence into dollars at the banker's buying rate of exchange.[3] In essence, the provision considers two different local currency prices and requires the passenger buying outside the country to pay the higher of the two. Although ultimately both prices will be converted into the currency of payment at the banker's buying rate of exchange, the passenger buying outside the country will often pay an equivalent local currency amount that is more than that paid by the passenger buying within the country. Yet the air transportation that each passenger buys is essentially the same.

To illustrate, the one-way normal economy fare (NEF) from Frankfurt to Rome is DM562 or about $237 at the February 11, 1982, rate of exchange. This is the price in local currency or its equivalent that a passenger would pay at a ticket counter in Frankfurt. However, if this transportation is purchased in the United States, paragraph (8)(a) requires the buyer to pay the equivalent of about $326, $90 or about 38 percent more than he would if he bought this transportation in Germany.[4]

Another illustration of the self-serving aspect of this system is London-Rome. Here the local selling price is U.K. £159.50 or about $294 at February 11, 1982, exchange rates for a one-way NEF. However, under Resolution 021L, for purchase of this transportation in the U.S., the buyer must pay either the local currency price which converted into dollars equals about $294 or the FCU price which when calculated in accordance with paragraph (8)(a) of this resolution equals about $286, whichever is higher. In this case, the higher amount is the local selling price converted into dollars at the market rate. In this example, the U.S. purchaser pays the same equivalent amount as the U.K. purchaser even though the FCU calculated price is about 3 percent less.

In the past, we have been concerned with a number of IATA practices which we felt treated consumers unfairly. Because of this we have conditioned the IATA mechanism to permit access to certain promotional fares (the so-called "hidden fares") outside of foreign air transportation which through means of advertising, sales and combinability restrictions were not available to U.S. passengers, and to allow the sales of multiple tickets in instances where the purchase of two or more separate tickets would undercut a specified IATA through fare.[5] We have also conditioned an earlier approval of Resolution 021L to require conversion of fares, rates and charges for sales of foreign originating transportation to the United States to take place at local market rates of exchange.[6]

As in the above instances, we feel that the present IATA procedures for conversions of prices for transportation between two foreign points purchased in the United States are just one more situation where current IATA practices result in unfair and inequitable treatment of consumers. There is simply no reason why a purchaser in the United States of transportation between two foreign points should pay more than he would if he purchased the same transportation locally. If a carrier is willing to accept an amount specified in national currency for transportation purchased locally, it should be willing to accept its equivalent value in dollars converted at market rates from a purchaser located outside the country. Accordingly we will attach to our earlier condition to Resolution 021L, noted above, additional language requiring its application to sales in the United States of fares, rates and charges between foreign points.

Acting under the Federal Aviation Act of 1958, as amended, and particularly sections 102, 204(a), 404, 412 and 414:

1. We do not find the following resolutions, which are incorporated in

[2] SFFL consists of base fare levels which are either the lowest unrestricted economy (or "unbundled") fare first filed by a direct service carrier in a given city pair market and approved for effectiveness on or after October 1, 1979, or, in city pair markets where no "unbundled" fares have been introduced, the normal economy fare of the predominant carrier in effect on October 1, 1979. These base fares are adjusted every 60 days for cost changes. Under the International Air Transportation Competition Act, a statutory no suspend zone extends from 5 percent above to 50 percent below such adjusted fare levels; we may generally not suspend a fare within this zone on grounds of unreasonableness. We are applying these criteria only to normal economy fares while permitting carriers the widest possible latitude in pricing their other fares.

[3] Resolution 021b rates generally reflect exchange values in existence prior to the February 1973 dollar devaluation. Fares generally are established by IATA in FCU's which represent pre-February 1973 dollars. After application of various currency adjustment factors to adjust FCU-specified levels to present monetary relationships, the resultant FCU amount is converted to local currencies at the Resolution 021b rates.

[4] Paragraph (8)(a) requires charging the higher of two prices: (1) local price, DM 562 at 2.3680 exchange rate for February 11, 1982=$237; or (2) FCU 224.10 FRA-ROM) × 1.06 (currency adjustment factor ex U.S.) converted into DM at Resolution 021b rate (1USD=DM 3.250)=DM 774 at February 11, 1982, exchange rate=$327.

[5] See Orders 78-7-113, July 21, 1978, and 72-10-1, October 2, 1972.

[6] See Order 78-11-79, April 14, 1978.

Agreement C.A.B. 28655 as indicated and which have direct application in foreign air transportation as defined by the Act, to be adverse to the public interest or in violation of the Act provided approval is subject, where applicable, to conditions previously imposed by us:

Agreement C.A.B. 28655	IATA No.	Title	Application
R-1	002cc	Special Amending Resolution	2; 1/2; 2/3; 1/2/3.
R-4	021	Conversion of Passenger Fares and Excess Baggage Rates (Amending).	1; 2; 3;. 1/2; 2/3; 3/1; 1/2/3.
R-5	021f	Special Conversion Rates (Amending)	1; 2; 3;. 1/2; 2/3; 3/1; 1/2/3.
R-7	023a	Rounding-Off Passenger Fares (Amending)	1; 2; 3;. 1/2; 2/3; 3/1; 1/2/3.
R-8	047b	Provisions for Inclusive Tours Initiated in the Federal Republic of Germany/Berlin (West) (Amending).	2; 1/2; 2/3; 1/2/3.
R-10	092	Student Fares	1; 2; 3; 1/2.
R-12	200h	Free and Reduced Fare Transportation for Inaugural Flights (Amending).	1; 2; 3; 1/2; 2/3; 3/1; 1/2/3.
R-13	201	Children's Fares	2/3; 3/1; 1/2/3.

2. We do not find the following resolutions, which are incorporated in Agreement C.A.B. 28655 as indicated and which have direct application in foreign air transportation as defined by the Act, to be adverse to the public interest or in violation of the Act provided approval is subject, where applicable, to conditions previously imposed by us or imposed here:

Agreement C.A.B. 28655	IATA No.	Title	Application
R-2	003g	General Increase in Fares to/from Tunisia	2; 1/2; 2/3; 1/2/3.

Provided with respect to Resolution 003g:

(a) Normal economy fares for direct service points filed by each IATA carrier in tariffs with the Board pursuant to this resolution shall not exceed the maximum levels permitted by the Standard Foreign Level (SFFL) in effect at the time of filing; and

(b) Each IATA carrier must submit, at the time of filing and for comparative purposes, its SFFL base fares, proposed normal economy fares, and the percentages by which its proposed normal economy fares exceed the SFFL base levels for each city-pair market for which it files revised normal economy fares.

Agreement C.A.B. 28655	IATA No.	Title	Application
R-6	021L	Special Rules for Fares Currency Adjustments (Amending)	1; 2; 3; 1/2; 2/3; 3/1; 1/2/3.

Provided that with respect to Resolution 021L:

When payment is offered in a currency other than that of the country where transportation originates, the published fares, rates or charges in the currency of the country of transportation origination shall be converted to the currency of payment at the banker's buying rate of exchange.

3. We do not find the following resolution, which is incorporated in Agreement C.A.B. 28655 as indicated and which has indirect application in foreign air transportation as defined by the Act, to be adverse to the public interest or in violation of the Act:

Agreement C.A.B. 28655	IATA No.	Title	Application
R-9	048d	Changes in Fares—Canada	1; 1/2; 3/1; 1/2/3.

4. We find the following resolutions, incorporated in the agreements indicated, to be adverse to the public interest and in violation of the Act:

Agreement C.A.B.	IATA No.	Title	Application
R-3	014d	Special TC23/TC123 Construction Rule (Amending)	2/3; 1/2/3.
R-11	151a	Fares for Circle Trip (Amending)	1; 2; 3; 1/2; 2/3; 3/1; 1/2/3.
	014a	Construction Rule for Passenger Fares (Amending)	2; 3; 1/2; 2/3; 3/1; 1/2/3.

5. We will grant antitrust immunity to those portions of Agreement C.A.B. 28655 set forth and conditioned in finding paragraphs one and two above and that portion of Agreement C.A.B. 28655 set forth in finding paragraph three above. These agreements are a product of the IATA conference machinery which the Board conditionally approved and immunized for a period of two years on Order 81-5-27, May 6, 1981, Docket 32851. In keeping with that order, we will continue to grant antitrust immunity to those IATA agreements found not to be adverse to the public interest or in violation of the Act.

Accordingly,

1. We approve those portions of Agreement C.A.B. 28655 set forth in finding paragraphs one, two and three above subject, where applicable, to conditions previously imposed by us or imposed there; and

2. We disapprove Agreement C.A.B. 28665 and those portions of Agreement C.A.B. 28655 set forth in finding paragraph four above.

A notice of this order will be published in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary

[FR Doc. 82-14655 Filed 5-27-82; 8:45 am]

BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations (See, 14 CFR 302.1701 et seq.); Week Ended May 21, 1982

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
May 17, 1982	40709	Trans World Airlines, Inc., 605 Third Avenue, New York, New York 10158. Application of Trans World Airlines, Inc., pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, applies for an amendment of its certificate of public convenience and necessity to add Dallas/Fort Worth, Texas as a coterminal point on its Route 147. Specifically, TWA requests that its certificate for Route 147 be revised by: Amending Segement I Paragraph A to read as follows: "I. A. Between the coterminal points Dallas-Fort Worth, Texas, Denver, Colo.; Kansas City and St. Louis, Missouri; Minneapolis-St. Paul, Minn.; Chicago, Ill.; Detroit, Mich.; Cleveland, Ohio; Pittsburgh, Pa.; Washington, D.C.-Baltimore, Md.; Philadelphia, Pa.; New York, N.Y.-Newark, N.J.; Boston, Mass.; McGuire Air Force Base, N.J.; Dover Air Force Base, Del.;" Amend the third paragraph following the list of conditions on page 4 of the certificate issued to Trans World by Order 76-10-134 to read as follows: "The remaining authority in this certificate, except with respect to Boston, MA; New York-Newark, NJ; Philadelphia, PA; Washington, DC-Baltimore, MD; Chicago, IL; Detroit, MI; Dallas-Fort Worth, TX; Los Angeles and San Francisco-Oakland-San Jose, CA; Dover Air Force Base, DE; McGuire Air Force Base, NJ (on segments I and II); the intermediate points Paris, France, and Rome, Italy (both on segment I); and the authority in the new segment awarded by Order 81-12-87 shall expire on January 28, 1983." Conforming Applications, motions to modify scope, and Answers may be filed by June 14, 1982.
May 21, 1982	40728	National Commuter Airlines, Inc., c/o Edwin O. Bailey, Kirkland & Ellis, 1776 K Street, N.W., Washington, D.C. 20006. Application of National Commuter Airlines, Inc. pursuant to Section 401(d)(1) of the Act and Subpart Q of the Board's Procedural Regulations, requests permanent authority to engage in interstate and overseas air transportation of persons, property, and mail: Between any point in any State of the United States or the District of Columbia or any territory or possession of the United States, and any other point in any State of the United States or the District of Columbia or any territory or possession of the United States. Conforming Applications, motions to modify scope, and Answers may be filed by June 18, 1982.

Date filed	Docket No.	Description
May 21, 1982	40724	National Commuter Airlines, Inc., c/o Edwin O. Bailey, Kirkland & Ellis, 1776 K Street, N.W., Washington, D.C. 20006. Application of Nnational Commuter Airlines, Inc. pursuant to Section 401(d)(3) of the Act and Subpart Q of the Board's Procedural Regulations, requests permanent authority to provide charter foreign air transportation of persons, property, and mail as follows: Between any point in any State of the United States, or the District of Columbia, or any United States Territory or possession and (a) points in Canada; (b) points in Mexico; (c) points in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands, and any other foreign place located in the Gulf of Mexico or the Caribbean Sea; (d) points in Central and South America; (e) points in Australasia, Indonesia, and Asia as far west as longitude 70° east via a transpacific routing; and (f) points in Greenland, Iceland, the Azores, Europe, Africa, and Asia as far east as (and including) India. Conforming Applications, motions to modify scope, and Answers may be filed by June 18, 1982.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-14654 Filed 5-27-82; 8:45 am]

[Order 82-5-127; Docket 40462]

Application of Harry R. Davis d.b.a. Sea Coast Airways, Inc. for a Certificate of Public Convenience and Necessity

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order instituting a fitness investigation of Sea Coast Airways, Inc., 82-5-127, Docket 40462.

SUMMARY: The Board is issuing an order instituting a fitness investigation of Sea Coast Airways, Inc.

DATES: Persons wishing to file petitions to intervene in the Sea Coast Airways Fitness Investigation shall file their petitions in Docket 40462 by June 7, 1982 and serve such filings on all persons listed below.

ADDRESSES: Petitions to intervene should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, in Docket 40462, application of Harry R. Davis d/b/a Sea Coast Airways, Inc. for (1) a determination of fitness and (2) a certificate of public convenience and necessity.

In addition, copies of such filings should be served on: Sea Coast Airways, Inc.; the Mayors of Baltimore, Maryland; Norfolk, Virginia; Philadelphia, Pennsylvania and Washington, D.C., the managers of these cities' airports; the State Department of Transportation or Aeronautics Commission of Maryland, Virginia and Pennsylvania and the Federal Aviation Administration.

Service will also be required on any other person filing petitions.

FOR FURTHER INFORMATION CONTACT: T. E. Carmody, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5121.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-5-127 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 82-5-127 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board, May 24, 1982.

Phyllis, T. Kaylor,
Secretary.

[FR Doc. 82-14652 Filed 5-27-82; 8:45 am]

BILLING CODE 6320-01-M

[Order 82-5-128; Docket 40658]

Application of the Hawaii Express, Inc. for a Certificate of Public Convenience and Necessity

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order instituting a fitness investigation of The Hawaii Express, Inc., 82-5-128, Docket 40658.

SUMMARY: The Board is issuing an order instituting a fitness investigation of The Hawaii Express, Inc.

DATES: Persons wishing to file requests for additional evidence or petitions to intervene in The Hawaii Express Fitness Investigation shall file their requests and petitions in Docket 40658 by June 7, 1982 and serve such filings on all persons listd below.

ADDRESSES: Requests for additional eividence and petitions to intervene should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, in Docket 40658.

In addition, copies of such filings should be served on: The Hawaii Express, Inc., American Airlines, Inc., Northwest Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc., World Airways, Inc., The Division of Aeronautics, California Department of Transportation, The Hawaii State Department of Transportation, The Airport Manager, Los Angeles Int'l. Airport, The Airport Manager, Honolulu International Airport and The Federal Aviation Administration.

Service will also be required on any other person filing petitions.

FOR FURTHER INFORMATION CONTACT: Ava Kleinman, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5345.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-5-128 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 82-5-128 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board, May 24, 1982.

Phyllis, T. Kaylor,
Secretary.

[FR Doc. 82-14650 Filed 5-27-82; 8:45 am]

BILLING CODE 6320-01-M

Commuter Fitness Determination

The Board is proposing to find the following carriers fit willing and able to provide commuter air carrier service under Section 419(c)(2) of the Federal Aviation Act, as amended, and the aircraft used in this service conform to applicable safety standards.

Order	Applicant	Response date
82-5-87	Service Aviation, Inc.	June 7, 1982.
82-5-112	Costal Airlines, Inc.	June 7, 1982.
82-5-117	Air Irvine, Inc.	June 8, 1982.
82-5-126	Air-Lift Associates, Inc.	June 11, 1982.
82-5-136	Aero International Airlines, Inc.	June 16, 1982.
82-5-137	Beaver Aviation Services, Inc. d/b/a BAS Airlines.	June 16, 1982.

All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed in Attachment A of the respective orders and file response or additional data with the Special Authorities Division, Room 915; 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

The complete text of the orders is available from the Distribution Section,

Room 100, 1825 Connecticut Avenue, Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request to the above address.

FOR FURTHER INFORMATION CONTACT: For Orders 82-5-112, -126, -136, and 137: Ms. Patti Szrom, (202) 673-5088, and for Orders 82-5-87 and -117: Ms. Anne Stockvis, (202) 673-5198; Bureau of Domestic Aviation, Civil Aeronautics' Board, 1825 Connecticut Avenue, Washington, D.C. 20428.

By the Civil Aeronautics Board: May 25, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-14640 Filed 5-27-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40511]

North American Airlines, Inc. Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge Ronnie A. Yoder. Future communications should be addressed to him.

Dated at Washington, D.C., May 25, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82-14651 Filed 5-27-82; 8:45 am]

BILLING CODE 6320-01-M

Order Concerning Mail Rates

Order 82-5-104, May 20, 1982, Dockets 40597 and 40598, establishes temporary intra-Alaska service mail rates for Hermens Air, Inc. and Cape Smythe Air Service, Inc. at the same level as authorized for Wien Air Alaska, Inc. by Order 80-12-152.

Copies of this order are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-14653 Filed 5-27-82; 8:45 am]

BILLING CODE 6320-01-M

[Order 82-5-124; Docket 37392]

Order Establishing Temporary Service Mail Rates

Order 82-5-124, May 24, 1982, Docket 37392 established temporary rates of compensation for the transportation of mail by aircraft by Eastern in Latin America pending establishment of final rates. The order also proposes to establish these temporary rates as final rates for Eastern.

Eastern is instituting service in certain Latin American markets as replacement for Braniff. Since Eastern will be providing the same service that Braniff formerly provided and requires a mail rate for its services, the Board concluded that the application of Braniff's rates will provide fair and reasonable compensation to Eastern.

Copies of the Board's order are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-14649 Filed 5-27-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Frozen French Fried Potatoes from Canada; Initiation of Antidumping Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of antidumping investigation.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping investigation to determine whether frozen french fried potatoes are being or are likely to be, sold in the northeastern region of the United States at less than fair value. We are notifying the United States International Trade Commission ("ITC") of this action so that it may determine whether imports of this merchandise are materially injuring, or threatening to materially injure, a United States industry in the northeastern region of the United States. If the investigation proceeds normally, the ITC will make its preliminary determination on or before June 18, 1982, and we will make ours on or before October 12, 1982.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Paul Nichols, Office of Investigation, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230 (202) 377-1768.

SUPPLEMENTARY INFORMATION:

The Petition

On May 3, 1982, we received a petition from counsel for McCain Foods, a producer of frozen french fried potatoes in the northeastern region of the United States. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Canada are being, or are likely to be sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening to materially injure, a United States industry in the northeastern United States. The allegation of sales at less than fair value is supported by comparisons of United States prices (developed from actual sales invoices and published price lists) on sales of the merchandise in the United States with Canadian home market prices (obtained from a published price list by the Canadian producer) on sales made in Canada.

Initiation of Investigation

Under section 732(c) of the Tariff Act of 1930, as amended (19 U.S.C. 1673a) ("the Act"), we must determine, within 20 days after the petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition filed by the industry, and we have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating an antidumping investigation to determine whether frozen fresh fried potatoes from Canada are being, or are likely to be, sold at less than fair value in the northeastern region of the United States. If our investigation proceeds normally, we will make our preliminary determination by October 12, 1982.

Scope of Investigation

The merchandise covered by this investigation is frozen french fried potatoes from Canada, currently classifiable under item 141.86, *Tariff Schedules of the United States* ("TSUS"). The petitioner alleges that the product is primarily sold by producers of frozen fresh fried potatoes to the food service distributor market.

Notification to ITC

Section 731(d) of the Act requires us to notify the United States International Trade Commission of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential

information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine within 45 days whether there is a reasonable indication that imports of frozen french fried potatoes from Canada are materially injuring, or are threatening to materially injure, the industry in the northeastern region of the United States. If its determination is negative, this investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 21, 1982.

[FR Doc. 82-14513 Filed 5-27-82; 8:45 am]
BILLING CODE 3510-25-M

Cadmium From Japan; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On March 11, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on cadmium from Japan. The review covered the seven known exporters of this merchandise and the period September 5, 1979 through July 31, 1981.

Interested parties were given an opportunity to submit oral or written comments on these preliminary results. The Department received comments from the petitioner. After analysis of those comments, the results remain unchanged.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-5289).

SUPPLEMENTARY INFORMATION:

Background

On August 4, 1972, a dumping finding with rspect to cadmium from Japan was published in the **Federal Register** as Treasury Decision 72-206 (37 FR 15670). On March 11, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 10613) a notice of the preliminary results of its administrative review of that finding. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of cadmium, currently classifiable under items 632.1420 and 632.1440 of the Tariff Schedules of the United States Annotated (TSUSA). The Department knows of seven exporters of Japanese cadmium to the United States. The review covers all seven for the period September 5, 1979 through July 31, 1981. There were no known shipments to the United States by these seven firms during the period of review. One small shipment that could not be associated with any particular Japanese firm was imported in late 1979 but was inadvertently liquidated by the Customs Service. There are no known unliquidated entries.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. We received comments from the petitioner noting that, although we indicated in our preliminary results that there were no known shipments (except the one inadvertently liquidated by Customs), there was two other shipments in the period. However, we had previously found that these 2 shipments were of non-Japanese origin and had noted this in the final results of our last review of this case.

Therefore, the final results of our review are the same as those presented in the preliminary results of review.

As provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties of zero shall be required on all shipments of cadmium from Japan entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of August 1983. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible in the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary Import Administration.

May 20, 1982.

[FR Doc 82-14679 Filed 5-27-82; 8:45 am]
BILLING CODE 3510-25-M

Calcium Pantothenate From Japan; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On February 19, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on calcium pantothenate from Japan. The review covered the 21 manufacturers or exporters and 10 of the 12 third-country shippers of Japanese calcium pantothenate to the United States presently covered by the finding, generally for the period January 1, 1980 through December 31, 1980.

Interested parties were given an opportunity to submit written comments or request a hearing on these preliminary results. Based on comments from one third-country shipper the Department has made adjustments which result in a new weighted-average margin for that firm. The margins in the preliminary results of review remain unchanged for the remaining firms.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Susan Crawford or Sheila E. Forbes, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-2209/5255).

SUPPLEMENTARY INFORMATION:

Background

On January 17, 1974, an antidumping finding with respect to calcium pantothenate from Japan was published in the **Federal Register** as Treasury Decision 74-34 (39 FR 2086). On February 19, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 7476-78) the preliminary results of its administrative review of the findings. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of calcium pantothenate, a

member of the B-complex vitamin family which is produced in two grades: D-Cal Pan (USP grade, which is used for human nutrition in the form of multi-vitamin tablets) and DL-Cal Pan (feed grade, which is used as a food supplement for swine and poultry). Both grades of calcium pantothenate are currently classifiable under item 437.8225 of the Tariff Schedules of the United States Annotated (TSUSA).

This review covered the 21 Japanese firms and 10 of the 12 third-country shippers engaged in the manufacture or exportation of calcium pantothenate to the United States currently covered by the finding. Two new third-country shippers, Kompanie Ultramar Sievers and Co. GmbH (W. Germany) and Peak International Products (Netherlands), were covered in a separate notice. Six additional firms, Fuji Chemical Industries Ltd., Daiichi Seiyaku Co., Ltd., Takeda Chemical Industries Ltd., Mitsubishi Corporation, Tanabe Seiyaku Co., and Chugai Boyeki, were previously excluded or exempted from the finding. The review covered the period January 1, 1980 through December 31, 1980. In addition it covered shipments in other periods by nine of the reviewed firms.

Analysis of Comments Received

Interested parties were invited to comment on the preliminary results. One third-country shipper, Karl O. Helm, commented that in one instance the Department's choice of the sale for calculating the foreign market value was incorrect. The firm demonstrated that its response contained a sale in West Germany which provided a better basis of comparison. We agreed with the firm's comment and made the appropriate adjustments. We received no other comments.

Final Results of the Review

As a result of adjustments made based on the comment received, we determine that the following weighted-average margins exist:

Manufacturer/Exporter	Time period	Margin (percent)
Agropol Limited	01/01/80–12/31/80	[1]4.27
Alps Pharmaceutical Ind. Co	01/01/80–12/31/80	0
Byron Chemical Co	01/01/80–12/31/80	[1]0.6
Eisai Co., Ltd	07/01/76–12/31/80	0
First Enterprise Inc	01/01/74–12/31/80	6.99
Helm Japan	07/01/76–12/31/80	0
Isho Inc. Corp	01/01/80–12/31/80	0.49
Iwaki & Co	01/01/80–12/31/80	[1]0
Kaneiagi Chemical Co., Ltd	01/01/80–12/31/80	0
Kamiyama Corp	01/01/80–12/31/80	[1]16.57
Kanematsu-Gosho Ltd	01/01/80–12/31/80	6.99
Maruberi Corp	01/01/80–12/31/80	[1]3.96
Maruzen Chemicals Co	01/01/80–12/31/80	[1]5.57
Mitsui & Co	01/01/80–12/31/80	[1]16.57
Nagase & Co	06/01/74–12/31/80	0
Nippon Roche, K.K	10/01/77–12/31/80	0
Sankei Pharmaceutical Co	01/01/80–12/31/80	[1]16.57
Sankyo Company	01/01/80–12/31/80	[1]3.96
Toho Bussan Co	01/01/80–12/31/80	[1]16.57
Toyo Menka Kaisha	01/01/80–12/31/80	[1]1.67
Yamanouchi Pharmaceutical Co., Ltd	01/01/77–12/31/80	0

[1]No shipments during period.

Third-country shipper (country)	Time period	Margin
Blendel Gebruder (W. Germany)	01/01/81–06/30/81	0
Chemeta BV (Netherlands)	01/01/80–12/31/80	1.4
Chemical & Feeds Ltd. (U.K.)	01/01/80–12/31/80	[1]19.87
Deutsch-Norwegische Vitamin Gesellschaft G.m.b.H. (W. Germany)	01/01/74–12/31/78	3.86
	01/01/80–12/31/80	2.42
M. Garvey & Berry Co., Inc. (Canada)	01/01/80–12/31/80	3.30
Karl O. Helm (W. Germany)	01/01/74–12/31/77	5.00
	01/01/78–12/31/80	0
Lank Chemical Corp. (Netherlands)	01/01/80–12/31/80	[1]16.57
Marsing & Co., Ltd. (Denmark)	01/01/80–12/31/80	[1]16.57
Sternglass A.G. (Switzerland)	01/01/80–12/31/80	16.87
Sternglass & Sohn (W. Germany)	01/01/80–12/31/80	16.87

[1]No shipments during period.

The Department shall determine, and the U.S. Customs Service shall assess, duties on all appropriate entries with purchase or export dates during the periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each firm directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit based on the most recent of the margins calculated above shall be required on all shipments by these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results. Because the weighted average margin for Isho Inc. Corp. is *de minimis*, the Department waives the deposit requirement for shipments by Isho. For any shipment from a new exporter not covered in this review, unrelated to any covered firm, a cash deposit shall be required at the highest rate for responding firms with shipments during the most recent period in which shipments occurred. These deposit requirements and waiver for Isho shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of January 1983. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 24, 1982

[FR Doc. 82-14681 Filed 5-27-82; 8:45 am]

BILLING CODE 3510-25-M

Melamine in Crystal Form From Japan; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On March 18, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on melamine in crystal form from Japan. The review covered the five known exporters of this merchandise to the United States and the time period February 1, 1980 through January 31, 1981. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries for the period covered by this review.

Interested parties were given an opportunity to submit oral or written comments on these preliminary results. We received no comments.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Al Jemmott or Robert Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–4794/2498).

SUPPLEMENTARY INFORMATION:

Background

On February 2, 1977, a dumping finding with respect to melamine in crystal form from Japan was published in the **Federal Register** as Treasury Decision 77–54 (42 FR 6666). On March 18, 1982, the Department of Commerce ("the Department") published in the **Federal Register** a notice of the preliminary results of the administrative review of the antidumping finding (47 FR 11741–42). The Department has now completed that administrative review.

Scope of the Review

The review covers imports of melamine in crystal form, a fine white crystalline powder used to manufacture melamine formaldehyde resins. Melamine in crystal form is currently classifiable under item 425.1020 of the Tariff Schedules of the United States Annotated (TSUSA).

The review covers the period February 1, 1980 through January 31, 1981 and the five known exporters of Japanese melamine in crystal form to the United States. The exporters are: C. Itoh & Co., Ltd., Mitsui Toatsu Chemicals, Inc., Nichimen Co., Ltd., Nissan Chemical Industries, Ltd. and Nosawa & Co., Ltd. There were no known shipments to the United States during the period and there are no known unliquidated entries for the period.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received no written comments or requests for disclosure or a hearing. Therefore, the final results are the same as the preliminary results of review, and we determine that the following weighted-average margins exist:

Firm	Time period	Margin (percent)
C. Itoh & Co., Ltd.	2/01/80–1/31/81	[1]80.03
Mitsui Toatsu Chemicals, Inc.	2/01/80–1/31/81	[1]70.22
Nichimen Co., Ltd.	2/01/80–1/31/81	[1]80.03
Nissan Chemical Industries, Ltd.	2/01/80–1/31/81	[1]80.00
Nosawa & Co., Ltd.	2/01/80–1/31/81	[1]80.00

[1] No shipments during this period.

As provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based upon the margin for each exporter shown above shall be required on all shipments of melamine in crystal form from Japan entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. For any shipment from a new exporter not covered in this administrative review, unrelated to any covered firm, a cash deposit shall be required at the highest rate for responding firms with shipments during the most recent period in which shipments occurred. These deposit requirements shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next review by the end of February 1983. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 25, 1982.

[FR Doc. 82-14680 Filed 5-27-82; 8:45 am]

BILLING CODE 3510-25-M

Certain Steel Products from Belgium, the Federal Republic of Germany, France, Italy, Luxembourg, and the Netherlands; Postponement of Antidumping Duty Preliminary Determinations

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of antidumping duty preliminary determinations.

SUMMARY: The antidumping duty preliminary determinations involving certain steel products (See Appendix A) from Belgium, the Federal Republic of German, France, Italy, Luxembourg, and the Netherlands (hereinafter, "the countries involved") are being postponed because the investigations have been determined to be extraordinarily complicated. We intend to issue the antidumping duty preliminary determinations not later than August 9, 1982.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: David L. Binder, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230, (202) 377–1273.

Postponement

On February 1, 1982, we announced the initiation of antidumping duty investigations to determine whether certain steel products from the countries involved are being, or are likely to be, sold in the United States at less than fair value. The notices of initiation of antidumping duty investigations state that if the investigations proceed normally we will issue preliminary determinations on or before June 21, 1982.

As detailed in the notices of initiation of antidumping duty investigations, the petitions allege that certain steel products from the countries involved are being, or are likely to be, sold in the United States at less than fair value. The number and complexity of the transactions to be investigated and adjustments to be considered are considerable. In addition, the petitioners' allegations raise novel issues, and in certain countries involved there are numerous firms whose activities must be investigated. We have determined that the parties concerned are cooperating, and that additional time is necessary to make the antidumping duty preliminary determinations. For these reasons we find that these cases are extraordinarily complicated in accordance with section 733(c)(1)(B) of the Tariff Act of 1930, as amended (the "Act"), and we postpone the antidumping duty preliminary determinations to not later than August 9, 1982. This notice is published pursuant to section 733(c)(2) of the Act.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 24, 1982.

Appendix A.—Certain Steel Products

Country and Products

Belgium—Carbon steel structural shapes, hot-rolled carbon steel plate, and hot-rolled carbon steel sheet and strip.

Federal Republic of Germany—Carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet and strip, and cold-rolled carbon steel sheet and strip.

France—Carbon steel structural shapes, hot-rolled carbon steel sheet and strip, and cold-rolled carbon steel sheet and strip.

Italy—Hot-rolled carbon steel sheet and strip and cold-rolled carbon steel sheet and strip.

Luxembourg—Carbon steel structural shapes.

The Netherlands—Hot-rolled carbon steel sheet and strip and cold-rolled carbon steel sheet.

[FR Doc. 82-14645 Filed 5-27-82; 8:45 am]

BILLING CODE 3510-25-M

Certain Steel Products From the United Kingdom; Postponement of Antidumping Duty Preliminary Determinations

AGENCY: International Trade Administrations, Commerce.

ACTION: Postponement of antidumping duty preliminary determinations.

SUMMARY: The antidumping duty preliminary determinations involving certain steel products (see Appendix A) from the United Kingdom are being postponed because the investigations have been determined to be extraordinarily complicated. We intend to issue the antidumping duty preliminary determinations not later than August 9, 1982.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT:

David L. Binder, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230 (202) 377–1273.

Postponement

On February 1, 1982, we announced the initiation of antidumping duty investigations to determine whether certain steel products from the United Kingdom are being, or are likely to be, sold in the United States at less than fair value. The notice of initiation of antidumping duty investigations states that if the investigations proceed normally, we will issue preliminary determinations on or before June 21, 1982.

As detailed in the notice of initiation of the antidumping duty investigations, the petitions allege that certain steel products from the United Kingdom are being, or are likely to be, sold in the United States at less then fair value. The number and complexity of the transactions and adjustments to be investigated are considerable. In addition, the petitioners' allegations raise novel issues. We have determined that the parties concerned are cooperating and that additional time is necessary to make the antidumping duty preliminary determinations. For these reasons we find that these cases are extraordinarily complicated in accordance with section 773(c)(1)(B) of the Tariff Act of 1930, as amended (the "Act"), and we postpone the antidumping duty preliminary determinations to not later than August 9, 1982.

This notice is published pursuant to section 733(c)(2) of the Act.

J. Bello,

Deputy to the Deputy Assistant Secretary for Import Administration.

May 24, 1982.

Appendix A.—Certain Steel Products

Country and Products

United Kindgom—Carbon steel structural shapes and hot-rolled carbon steel plate

[FR Doc. 82-14646 Filed 5-27-82; 8:45 am]

BILLING CODE 3510-25-M

Hot-Rolled Carbon Steel Plate From Romania; Postponement of Antidumping Duty Preliminary Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of antidumping duty preliminary determination.

SUMMARY: The antidumping duty preliminary determination involving hot-rolled carbon steel plate from Romania is being postponed because the investigation has been determined to be extraordinarily complicated. We intend to issue the antidumping duty preliminary determination not later than August 9, 1982.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT:

David L. Binder, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, (202) 377–1273.

On February 1, 1982, we announced the initiation of an antidumping duty investigation to determine whether hot-rolled carbon steel plate from Romania is being, or is likely to be, sold in the United States at less than fair value. The notice of initiation of antidumping duty investigations states that we will issue a preliminary determination on or before June 21, 1982.

As detailed in the notice of initiation of the antidumping duty investigation, the petitions allege that hot-rolled carbon steel plate from Romania is being, or is likely to be, sold in the United States at less than fair value. The petitioners' allegations raise novel issues. Moreover, there are a significant number of complex adjustments to be considered. We have determined that the parties concerned are cooperating and that additional time is necessary to make the antidumping duty preliminary determination. For these reasons we find that this case is extraordinarily complicated in accordance with section 733(c)(1)(B) of the Tariff Act of 1930, as amended (the "Act"), and we postpone the preliminary antidumping duty determination to not later than August 9, 1982.

This notice is published pursuant to section 733(c)(2) of the Act.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 24, 1982.

[FR Doc. 82-14644 Filed 5-27-82; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

National Voluntary Laboratory Accrediation Program (NVLAP); Discontinuation of the Laboratory Accrediation Program for Windows and Doors

AGENCY: National Bureau of Standards, Commerce.

ACTION: Withdrawal of request to develop a laboratory accrediation program (LAP) for windows and doors.

SUMMARY: On January 21, 1982, the Department of Commerce published a notice in the **Federal Register** (47 FR 3025–26) under provisions of 15 CFR Part 7b describing a request from the Department of Housing and Urban Development (HUD) to develop a LAP to accredit laboratories that test windows and doors. Public comment received by HUD has led it to the conclusion stated in a letter dated May 12, 1982, that the request should be withdrawn so that other interested parties could act as proponents of the proposed program. Accordingly, the National Bureau of Standards hereby announces the withdrawal of HUD's request to develop that LAP.

ADDRESS: Any interested party who feels there is a need to accredit laboratories that test windows and doors may provide information that would support a preliminary finding of need under the provisions of 15 CFR Part 7a.4. Such information, in the form of a request to develop a LAP, should be addressed to the Director, National Bureau of Standards, Washington, D.C. 20234.

FOR FURTHER INFORMATION CONTACT:

John W. Locke, Manager, Laboratory Accrediation, National Bureau of Standards, Technology Building, Room B06, Washington, D.C. 20234, (301) 921–2388.

SUPPLEMENTAL INFORMATION: The referenced Federal Register Notice of January 21 contains a request from HUD to establish a LAP for accrediting laboratories which test windows and doors (aluminum, plastic, steel and wood) in accordance with "Use of Materials Bulletins (UM's 39, 59 and Materials Release (MR) 1010." Eleven nationally recognized test methods were referenced in the request, which indicated that a LAP in this product area would eliminate the duplication of approvals by HUD Certification Program administrators, each of whom is responsible for the approval of the laboratories they use, thereby minimizing the cost to both industry and government.

The notice also invited anyone wishing to comment on this LAP to write to HUD. A total of nine comments were received. Five comments from members of the independent laboratory community objected to the LAP primarily on the basis that it was too narrow in the scope of the tests being considered and would not provide the benefits claimed. Two laboratories supported the development of the LAP. Two comments were received from a trade association representing

manufacturers of aluminum windows and doors, requesting that a number of additional standards be added to the program.

Upon review of these comments, HUD concluded that at this time there was not a consensus of public opinion supporting the continued development of this LAP, and that their request for the LAP should be withdrawn.

NVLAP is, by design, responsive to requests for development of LAPs and as such, is responsive to HUD in this matter. Thus HUD's request to withdraw its request to develop this LAP for windows and doors is granted. As this proposed LAP was offered in response to HUD's request under the optional procedures open to Federal agencies (15 CFR Part 7b) proponents of the LAP may not have chosen to indicate their interest in or support for the program. Should such proponents wish to request a LAP under the general NVLAP procedures which are open to interested parties in the private sector (15 CFR Part 7a), information in support of a preliminary finding of need would be required. Such a preliminary finding of need would then be published in the Federal Register and comments, requested to ascertain the overall support for the program.

Dated: May 25, 1982.

Ernest Ambler,

Director, National Bureau of Standards.

[FR Doc. 82-14638 Filed 5-27-82; 8:45 am]

BILLING CODE 3510-13-M

Proposed Revision to Federal Information Processing Standard 63 Operational Specifications for Rotating Mass Storage Subsystems

Under the provisions of Pub. L. 89-306 (79 Stat 1127; 40 U.S.C. 759(f)] and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce [Secretary] is authorized to establish uniform automatic data processing standards. On February 16, 1979, notice was given in the Federal Register (44 FR 10098-10101) announcing that the Secretary had approved three input/output (I/O) Federal Information Processing Standards (FIPS): (1) I/O Channel Interface, (2) Channel Level Power Control Interface, and (3) Operational Specifications for Magnetic Tape Subsystems, designated Federal Information Processing Standards Publication (FIPS PUB) 60 (which has been redesignated 60-1), FIPS PUB 61, and FIPS PUB 62, respectively. On August 27, 1979, notice was given in the Federal Register (44 FR 50079-50079) announcing that the Secretary has approved a fourth I/O channel level interface standard, Operational Specifications for Rotating Mass Storage Subsystems, designated FIPS PUB 63.

These standards were the subject of corrections and revisions announced in the Federal Register on August 27, 1979 (44 FR 50079-50080), August 31, 1979 (44 FR 51294), and December 3, 1979 (44 FR 69317).

These standards require review by NBS within three years after their effective date, taking into account technological trends and other factors, to determine whether the standards should be affirmed, revised, or withdrawn. This review process is now underway. This notice is one of a series addressing components of the standards. It is contemplated that all revisions will be issued together when this review period is completed.

FIPS 63 provides device dependent operational interface specifications for connecting rotating mass storage equipment as a part of automatic data processing (ADP) systems by means of the I/O channel interface prescribed by FIPS 60-1. The body of the FIPS 63 document specifies the repertoire and encoding conventions for command and status information applying to all subsystems employing the variable length recording format known as Count, Key, Data. The format for a third kind of information, sense information, must vary as certain characteristics of subsytems vary.

FIPS 60 also includes documents which (1) define various classes of rotating mass storage subsystems, based upon storage capacity and logical structure and (2) specify the sense information format for each class. The three classes of rotating mass storage subsystems presently specified by FIPS 63 are: Class A with 100 to 200 megabytes per logical device address; Class B with 317.5 megabytes per logical device address; Class C with 37 or 70 megabytesper logical device address.

Experience acquired since issuance of FIPS 63 indicates that while the presently appended A, B, and C device classifications have served a useful purpose, there is sufficiently rapid change in the technology to make it advisable to consider removing them from FIPS 63.

This announcement solicits comment on the following alternatives with regard to the publication and use of these and other device classifications:

(a) Should these device classifications continue to be maintained by the Institute for Computer Sciences and Technology as an integral part of FIPS 63, requiring mandatory attention by Federal agencies in the acquisition of rotating mass storage subsytems conforming to FIPS 60 or

(b) If these device classifications should not be so maintained, should they be reissued as an information service to Federal agencies by the Institute for Computer Sciences and Technology in a separate publication series which is more easily revised and updated (agencies being free to reference these classifications or any other device classifications, including those from the private sector, in specifying rotating mass storage subsystems conforming to FIPS 60)?

Interested parties may submit their written comments to: Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, Attention: Proposed FIPS 63 Revision. Comments to be considered must be received on or before August 26, 1982.

Persons desiring further information about this proposed revision to FIPS 63 may contact Mr. Steve Recicar, System Components Division, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, telephone: 301/921-3723.

Dated:
May 25, 1982.

Ernest Ambler,

Director.

[FR Doc. 82-14639 Filed 5-27-82; 8:45 am]

BILLING CODE 3510-CN-M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; Addition of a Notice for a System of Records

AGENCY: Department of the Army, DOD.

ACTION: Addition of a notice for a system of records.

SUMMARY: The Department of the Army proposes to add a system notice for a system of records to be added to its inventory of records subject to the Privacy Act of 1974. The system notice is set forth below.

DATE: Unless comments are received which result in a contrary decision, this system notice will become effective on June 28, 1982.

ADDRESS: Submit comments to Headquarters, Department of the Army, The Judge Advocate General's Office, The Pentagon, Washington, D.C. 20310.

FOR FURTHER INFORMATION CONTACT: Mrs. Dorothy Karkanen, Office of the Adjutant General, Headquarters,

Department of the Army, 2461 Eisenhower Avenue, Alexandria, VA 22331. Telephone: 703/325–6163.

SUPPLEMENTARY INFORMATION: The Department of the Army's inventory of system notices for systems of records subject to the Privacy Act of 1974, Title 5, United States Code, section 552a (Pub. L. 93–579; 44 Stat. 1896, *et seq.)* has appeared at:

FR Doc. 82–674 (47 FR 2544) January 16, 1982

FR Doc. 82–5277 (47 FR 8610) March 1, 1982

FR Doc. 82–11002 (47 FR 17324) April 22, 1982.

A notice of the proposed addition of this system notice to the Army was submitted in accordance with 5 U.S.C. 552a(o) on April 7, 1982.

May 24, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

A0404.02DAJA

SYSTEM NAME:

Courts-Martial Files

SYSTEM LOCATION:

US Army Legal Services Agency, Falls Church, VA 22041; Washington National Records Center, Suitland, MD 20409; National Personnel Records Center, St. Louis, MO 63132; and offices of Staff Judge Advocates, Judge Advocates, and Legal Counsel of subordinate commands and installations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals tried by courts-martial.

CATEGORIES OF RECORDS IN THE SYSTEM:

General and special (BCD) court-martial records of trial include a verbatim transcript of the trail and all allied papers relating to the charged offenses and legal review of the case. Special (non-BCD) and summary court-martial records of trial include a summarized transcript of the trial and all allied papers relating to the charged offenses, but ordinarily do not include all records of review pursuant to Articles 69 and/or 73, Uniform Code of Military Justice (UCMJ). (See "Retention and disposal" below.)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10 U.S.C. 801–940 (Uniform Code of Military Justice).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Courts-martial records are transcribed and used to provide an accurate account of the proceedings for legal review. As such records reflect criminal proceedings ordinarily open to the public, they are normally releasable to the public pursuant to the Freedom of Information Act. They are also used to formulate responses to inquiries from Members of Congress, the White House Staff, the individual concerned, or other agencies or individuals interested in the case.

Courts-martial records may be transferred within the Department of Defense, to the Department of Justice, the Veterans Administration, and Federal, state, and local law enforcement agencies for determination of rights and entitlements of the individuals concerned or use in the enforcement of criminal or civil law. If a conviction results, portions of the record in every case are transmitted to Army personnel authorities for use in evaluating the individual's overall performance and for inclusion in his military personnel records. A record of a conviction may be introduced at a subsequent court-martial involving the same individual, or in any other case in which it is relevant. Statistical data obtained from orders of trial are used in determining jurisdictional and Armywide trends of disciplinary infractions in the Armed Forces, and serve as a guide for officials responsible for making policy decisions regarding military justice activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Papers stored in file folders; index cards, computer diskpacks, and courts-martial coding sheets.

RETRIEVABILITY:

Records are retrieved by reference to the name and social security number of the individual and through the court-martial number assigned to the case.

SAFEGUARDS:

Those portions of the system maintained by the US Army Legal Services Agency and the National Personnel Records Center are contained in file cabinets and are safeguarded by systems of personnel screening and hand receipts. During non-duty hours, guards assure that the areas where records are located are accessible only to authorized personnel. Decentralized segments of the system are maintained in locked file cabinets and/or locked offices in buildings employing security guards and/or located on military installations with military police or contract guard patrols and protection.

RETENTION AND DISPOSAL:

With respect to each court-martial, there is an original record and between one and four copies. One copy is given to the accused and the remaining copies are used in the review of the case for legal sufficiency. The original record is disposed of as follows: All records of trial by general courts-martial and those special courts-matrial records in which a bad conduct discharge (BCD) was approved are retained in the Office of the Clerk of Court, US Army Judiciary, for 1–2 years after completion of appellate review. Thereafter, the records are fowarded to the Washington National Records Center, Suitland, MD 20409 for permanent storage. Records of trial by special courts-martial (non-BCD) and summary courts-martial are retained in the staff judge advocate office of the general courts-martial authority for one year after completion of supervisory review and thereafter for two years in the records holding area or overseas records center. Records are then sent to the National Personnel Records Center (Military Records), 9700 Page Boulevard, St. Louis, MO 63132 where they are retained for seven years. Thereafter, the records are destroyed and the remaining evidence of conviction are the special (non-BCD) and summary courts-martial promulgating orders maintained in the individual's permanent records and any review(s) of the cases conducted pursuant to Article(s) 69 and/or 73, UCMJ. The original review of special (non-BCD) and summary courts-material cases and a copy of all other reviews pursuant to Articles 69 or 73, UCMJ, are maintained for three years in the office of the Chief, Examination and New Trials, US Army Judiciary, Falls Church, VA 22041. They are retained an additional seven years at the Washington National Records Center, Suitland, MD 20409, and destroyed. Statistical data obtained from general and special (BCD) courts-martial records are maintained permanently on master index cards which serve as a means of listing records of trial sent to storage.

SYSTEM MANAGER(S) AND ADDRESS:

The Judge Advocate General, Department of the Army, The Pentagon, Washington, DC 20310.

NOTIFICATION PROCEDURES:

Requests from individuals as to whether there are any general or special (BCD) courts-martial records in the system pertaining to them should be addressed to the Clerk of Court (JALS–CC), US Army Judiciary, Nassif Building, Falls Church, VA 22041. Requests for

information as to special (non-BCD) and summary courts-martial records should be addressed to the staff judge advocate of the command where the record was reviewed or, if no longer there, to the National Personnel Records Center (Military Records), 9700 Page Boulevard, St. Louis, MO 63132. Official mailing address of subordinate commands and installations is in the DOD Directory in the appendix to the Army's inventory of system notices.

Requests for information concerning reviews pursuant to Articles 69 or 73, UCMJ, should be addressed to the Chief, Examination and New Trials, US Army Judiciary, Nassif Building, Falls Church, VA 22041. Written requests for information should include the full name of the individual, social security number (SSN), the record file number if available, and any other personal information which would assist in locating the records.

Personal visits may be made to the office of the Clerk of Court or Chief, Examination and New Trials, during normal business hours. The individual should provide identification such as a valid driver's license, or verbal information sufficient to permit locating the record.

RECORD ACCESS PROCEDURE:

Requests for access should be submitted as specified under "Notification procedure" above. Requests should be directed to the Clerk of Court (JALS–CC), US Army Judiciary, Nassif Building, Falls Church, VA 22041 if the type of courts-martial or reviewing command is unknown.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

Information from almost any source may be included in the record if it is relevant and material to courts-martial proceedings.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All portions of this system of records which fall within 5 U.S.C. 552a(j)(2) are exempt from the following provisions of 5 U.S.C. 552a: (d)(2), (d)(3), (d)(4), (e)(2), (e)(3), (e)(4)(H), and (g). The rules exempting this system are set forth in 32 CFR Part 505.

[FR Doc. 82–14621 Filed 5–27–82; 8:45 am]

BILLING CODE 3710–08–M

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

Revision

Police Record Check

Per Sections 504 and 505 of Title 10, U.S. Code, applicants for enlistment must be screened to identify any discreditable involvement with police or other legal officials. Form is sent to FBI as part of entrance national agency check. Results are used to determine general enlistment eligibility and job skill placement.

State and Local Governments (Law Enforcement Agencies); 1,503,000 responses; 50,100 hours.

Forward comments to Mr. Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, DC 20503, and Mr. John V. Wenderoth, DOD Clearance Officer, OASD(C), DIRMS, IRAD, Room 4B929, Pentagon, Washington, DC 20301, telephone (202) 697–1195.

A copy of the information collection proposal may be obtained from Mr. Robert L. Newhart, OASD, MRA&L(PI), Room 3C800, Pentagon, Washington, DC 20301, telephone (202) 695–0643.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 82–14682 Filed 5–27–82; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Malin-Warner 230-kV Transmission Line Project; Availability of Environmental Assessment and Proposed Findings of No Significant Impact; Notice of Cancellation of Intent To Prepare a Draft Environmental Impact Statement

AGENCY: Bonneville Power Administration, DOE.

ACTION: Notice of availability of environmental assessment and proposed findings of no significant impact; notice of cancellation of intent to prepare a draft environmental impact statement (EIS).

SUMMARY: Bonneville Power Administration (BPA) hereby announces the availability of an Environmental Assessment (EA) and a Proposed Finding of No Significant Impact (FONSI) on the Malin-Warner 230-kV Transmission Line Project. This project is proposed to be located in Klamath County, Oregon, and Modoc County, California. BPA published a notice of intent to prepare an EIS for this project (under the name of Surprise Valley Area Service) in the **Federal Register** on January 31, 1980. However, consultation with government agencies and local interests, as well as BPA's environmental analysis, indicated that possible environmental impact would not be of a significant or controversial nature. Therefore, BPA cancelled its plan to prepare an EIS and, instead, prepared the EA and the proposed FONSI. These have been distributed for review to governmental agencies and affected landowners. Following this review, the Department of Energy will make its final determination whether to prepare an EIS.

FOR FURTHER INFORMATION CONTACT:

For copies of the EA and proposed FONSI or for further information, contact the Environmental Manager, Bonneville Power Administration, P.O. Box 3621–SJ, Portland, Oregon 97208; telephone (503) 230–5136.

Issued in Portland, Oregon, March 30, 1982.

Marvin Klinger,

Acting Administrator.

[FR Doc. 82–14514 Filed 5–27–82; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[ERA Docket No. 82-CERT-009]

Public Service Electric & Gas Co.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

On April 22, 1982, Public Service Electric and Gas Company (Public Service), 80 Park Plaza, T5E, Newark, New Jersey 07101, filed with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 an application for certification of an eligible use of approximately three billion cubic feet of natural gas which is expected to displace the use of approximately 438,000 barrels of No. 6 fuel oil (0.3 percent sulfur) and approximately 12,000 barrels of No. 2 fuel oil (0.2 percent sulfur) or kerosene (0.1 percent sulfur) per year at eight of its electric generating stations located in New Jersey. The eight stations are: Bergen in Ridgefield; Essex in Newark; Hudson in Jersey City; Kearny in Kearny; Linden in Linden; Sewaren in Sewaren; Edison in Edison; and Mercer in Trenton. The eligible seller of the natural gas is the Alabama-Tennessee Natural Gas Company, P.O. Box 918, Florence, Alabama 35637. The gas will be transported by the Texas Eastern Transmission Corporation, P.O. Box 2521, Houston, Texas 77001; and North Alabama Gas District, 1100 Woodward Avenue, Muscle Shoals, Alabama 35660. Notice of that application was published in the **Federal Register** (47 FR 20661, May 13, 1982) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The ERA has carefully reviewed Public Service's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Public Service's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual certification is available for public inspection at the ERA, Natural Gas Branch Docket Room, Room 6144, RG-631, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461, from 8:00 a.m to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., May 24, 1982.

F. Scott Bush,

Director, Oil and Gas Imports Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-14513 Filed 5-27-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER82-155-001 and ER81-188-000]

Central Maine Power Co.; Order Accepting Compliance Filing

Issued: May 21, 1982.

On February 12, 1982, the Commission accepted for filing and suspended for one day from sixty days after filing revised rates filed by Central Maine Power Company (Central Maine) for firm power service to three wholesale customers. The Commission also summarily disposed of certain matters, including two resale restrictions which the Commission rejected as *per se* unlawful and Central Maine's treatment of its investment in and earnings from the "Yankee" nuclear generating companies.

On March 5, 1982, Central Maine, in response to the Commission's order, filed revised rates, terms, and conditions as well as supporting data. On March 29, 1982, Central Maine's three wholesale customers (Customers) filed a protest and motion seeking rejection of the compliance filing. The Customers object to the substitution for the stricken resale restrictions of a fixed capacity limitation on embedded cost power, the updating of Central Maine's capital structure and the continued inclusion in rate base of investments in associated companies other than the Yankee companies. On April 13, 1982, Central Maine filed a response contending that the compliance filing comports with the Commission's order and is not otherwise inappropriate.

As to the Customers' objection to be substitution of revised language in place of the stricken resale restrictions, we have addressed that matter in our order denying rehearing in these dockets; we have accepted the substituted language for filing subject to the outcome of the hearing to be held in this proceeding.[1]

The Customers also object to Central Maine's submittal of a revised capital structure in response to the Commission's February 12, 1982 order. We agree that the earlier order neither required nor contemplated such an adjustment to the capitalization and rates. However, it appears that the net rate effect of this adjustment is *de minimis*. Morever, we note that the Customers' original protest argued that Central Maine's failure to include its recent issue of long-term debt in the capital structure was improper. Central Maine, in response, now has simply done what the Customers originally desired. Given the minimal effect of Central Maine's revised capitalization, we are not inclined at this time to require Central Maine to incur the cost of preparing and submitting a revised compliance filing on the basis of this issue alone.

Finally, with regard to Central Maine's investment in associated companies, our order of February 12, 1982, addressed only Central Maine's treatment of the Yankee nuclear generating companies. Whether investments in other subsidiaries should be treated in a similar manner is a matter which presents questions of law and fact most appropriately resolved on the basis an of evidentiary hearing. Accordingly, we shall deny the Customers' motion to reject the compliance filing and we shall, instead, accept for filing Central Maine's compliance filing.

Commission orders:

(A) The Customers' motion to reject the compliance filing is hereby denied.

(B) The compliance filing submitted by Central Maine Power Company is hereby accepted for filing to become effective, subject to refund, on February 16, 1982.

(C) The Secretary shall promptly publish this order in the **Federal Register**.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14543 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-M

[1] *Central Maine Power Co.*, Docket Nos. ER82-155-000 and ER81-188-000, Order Denying Rehearing, 19 FERC 61,041 (April 13, 1982).

[Project No. 6127-000]

Energenics Systems, Inc., Application for Preliminary Permit

May 24, 1982.

Take notice that ENERGENICS SYSTEMS, INC. (Applicant) filed on March 25, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 6127 to be known as the Union City Dam Project located on French Creek in Erie County, Pennsylvania. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed

to: Mr. Granville J. Smith II, Energenics Systems, Inc., 1717 K Street, NW., Washington, D.C. 20006.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' Union City Dam and Reservoir and would consist of: (1) A proposed 200-foot long penstock; (2) a proposed powerhouse containing two turbine/generator units each with a rated capacity of 2,740-kW; (3) a proposed 70-foot long tailrace; (4) a proposed 1,000-foot long, 115-kV transmission line; and (5) appurtenant facilities. Applicant estimates that average annual energy output would be 21,800,000 kWh and plans to sell the power to Pennsylvania Electric Company.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $40,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 7, 1982, the competing application itself (see 18 CFR 4.30 et. seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 5, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 5, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project number of this notice. any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14529 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6117-000]

Ephraim City, Utah; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

May 24, 1982.

Take notice that on March 23, 1982, Ephraim City, Utah (Applicant) filed an application, under section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 6117) would be located on New Canyon Creek, Cottonwood Creek, Ridley Ridge Springs, Sawmill Springs, Twin Springs, Big Spring, Little Spring, Left Hand Fork Spring, Black Stump Spring, and an unnamed spring, in the vicinity of Ephraim City, Sanpete County, Utah. Correspondence with the Applicant should be directed to: Hon. Halbert K. Jensen, Mayor, City of Ephraim, 5 South Main Street, Ephraim, Utah 84627, and Mr. Jay R. Bingham, P.E., Water Power Company, P.O. Box 22208, Salt Lake City, Utah 84122.

Project Description—The project would be operated in run-of-river mode and would consist of: (1) New diversion structures on New Canyon Creek and Cottonwood Creek and new collection facilities at the various springs; (2) two separate conveyance systems consisting of channels and conduits, one transporting culinary water and the other irrigation water, leading to (3) a powerhouse containing two turbine-generator units having rated capacities of 650 kW (culinary water system) and 1,550 kW (irrigation water system) for a total rated capacity of 2,200 kW; (4) two tailraces, one leading to a covered channel and city water supply, and the other to an open channel and irrigation distribution; (5) an upgraded transmission line, 1.7 miles long, connecting to the Ephraim City power distribution system; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 10,980,000 kWh. Project energy would be utilized by Ephraim City.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Utah State Division of Wildlife Resources are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency

does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before July 12, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 12, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-14830 Filed 5-27-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6106-000]

Evergreen Metropolitan District; Application for Preliminary Permit

May 24, 1982.

Take notice that Evergreen Metropolitan District (Applicant) filed on March 19, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 6106 to be known as the Evergreen Dam Project located on Bear Creek in Jefferson County, Colorado. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Gerald C. Schulte, Manager, Evergreen Metropolitan District, P.O. Box 545, 4685 Highway 73, Evergreen, Colorado 80439.

Project Description—The proposed project would consist of: (1) An existing 380-foot long and 50-foot high concrete dam owned by the City and County of Denver and operated by the Evergreen Metropolitan District, having a crest elevation of 7071 feet M.S.L.; (2) an existing recreation and water supply reservoir impounding 540 acre-feet with a surface area of 24 acres; (3) a proposed 25-foot long, 36-inch diameter penstock; (4) a proposed 1000-square foot powerhouse containing one 250-kW turbine-generator unit; (5) a proposed 100-foot long tailrace; (6) a proposed 100-foot long 25-kV transmission line; and (7) appurtenant facilities. Applicant estimates that the average annual energy output of 1.05 million kWh would be exchanged with the Public Service Company of Colorado.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effect of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $50,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 7, 1982, the competing application itself (see: 18 CFR 4.30 et. seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemptioin must be submitted to the Commission on or before August 5, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agnecy does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protest, or petitions to intervene must be received on or before August 5, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative

of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14531 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5914-000]

Glacier Lodge; Application for Preliminary Permit

May 24, 1982.

Take notice that Glacier Lodge (Applicant) filed on January 22A, 1982 an applicataion for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a) 825 (r)) for Project No. 5914 to be known as the Big Pine Creek located on the Big Pine Creek in Inyo County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Robert Vilardi, Glacier Lodge P. O. Box 327, Big Pine, California 93513.

Project Description—The proposed project would consist of: (1) a proposed powerhouse containing a generating unit rated at 500 kW; (2) a proposed 24 inch diameter penstock approximately 6,000 feet long; (3) a proposed 12,000 volt transmission line; and (4) appurtenant facilities. The estimated average annual energy output would be 3.76 MWh. The project would occupy portions of lands owned by the U.S. Forest Service.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a prelimiary permit for a period of 36 months. During this time engineering, economic, and environmental studies would be performed to determine the feasibility of the project. In addition, Federal, State, and local agencies would be consulted to determine the environmental effects of the project. Applicant estimates the cost of the studies would be $80,000.

Competing Applications—This application was filed as a competing application to Eastern Sierra Energy Development's application for Project No. 5277 filed on August 24, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (sec: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate acation to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before June 5, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14532 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3236-001]

Gordon Falls Hydro Associates; Surrender of Preliminary Permit

May 24, 1982.

Take notice that Gordon Falls Hydro Associates, Permittee for the proposed Gordon Falls Project No. 3236, has requested that its preliminary permit be terminated. The preliminary permit was issued on December 12, 1980, and would have expired on December 1, 1983. The project would have been located on the Mattawamkeag River in Penobscot County, Maine. Permittee states that it is studying an alternative site under Project No. 5472 downstream and does not wish to pursue Project No. 3236 because of excessive land requirements.

Permittee filed its request on April 22, 1982, and the surrender of its permit for Project No. 3236 is deemed effective as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14533 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP79-88-006]

North Penn Gas Co.; Proposed Change in FERC Gas Tariff

May 24, 1982.

Take notice that on May 13, 1982, North Penn Gas Company (North Penn) tendered for filing the following revised tariff sheets with the stated effective dates:

Tariff Sheet and Effective Date

Second Rev. Sixty-First Revised Sheet No. PGA-1, November 1, 1979
Rev. Sub. Sixty-Third Revised Sheet No. PGA-1, January 21, 1980
Second Rev. Sub. Sixty-Fourth Revised Sheet No. PGA-1, March 1, 1980
Rev. Sub. Sixty-Fifth Revised Sheet No. PGA-1, September 1, 1980
Substitute Sixty-Sixth Revised sheet No. PGA-1, March 1, 1981
Substitute Sixty-Seventh Revised Sheet No. PGA-1, September 1, 1981
Substitute Sixty-Eight Revised Sheet No. PGA-1, March 1, 1982

North Penn states that this filing is made pursuant to a request from Mr. Ron Ford of the Federal Energy Regulatory Commission.

Furthermore, North Penn states that the reservations set forth in their April 28, 1982 letter submitting the revised tariff sheet pursuant to the Commission order dated March 29, 1982, in Docket No. RP79-88 apply in full force and effect to this present filing.

Copies of the revised tariff sheets have been served on all parties.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of

Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 7, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14634 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6266-000]

Quincy-Columbia Basin Irrigation District, East Columbia Basin Irrigation District, South Columbia Basin Irrigation District; Application for Preliminary Permit

May 21, 1982.

Take notice that the Columbia Basin Irrigation Districts (Applicant) filed on April 26, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 6266 to be known as the Royal Lake Hydroelectric Project located on the Crab Creek Lateral Wasteway in Adams County near the Town of Othello, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Tom Cotton, Manager, Quincy-Columbia Basin Irrigation District, P.O. Box 188, Quincy, Washington 98848.

Project Description—The proposed project would be within the Columbia National Wildlife Refuge and would consist of: (1) A diversion and intake structure on the Bureau of Reclamation's Crab Creek Lateral Wasteway at elevation 900 feet; (2) a 42-inch-diameter, 700-foot-long steel penstock; (3) a powerhouse at elevation 825 feet containing a single 320-kW generating unit; and (4) a 1.5-mile-long, 13.2-kV, wood-pole transmission line. Applicant estimates that the project would have an average annual output of 1,700 MWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. During the term of the permit Applicant would conduct studies to determine the engineering, environmental, economic, and financial feasibility of the project. Applicant estimates that its studies and preparation of an application for exemption from licensing would cost approximately $37,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 7, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 9, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 9, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14636 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6255-000]

Renewable Energy Ventures of Maryland, Application for Preliminary Permit

May 21, 1982.

Take notice that Renewable Energy Ventures of Maryland (Applicant) filed on April 26, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 6255 to be known as the Duckett Project located on the Patuxent River near the town of Laurel in Howard and Prince George's Counties, Maryland. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. James A. Federline, Renewable Energy Ventures of Maryland, 26 West Diamond Avenue, Box 6004, Gaithersburg, Maryland 20877.

Project Description—The proposed project would consist of: (1) The constructed Duckett Reservoir Dam, owned and operated by the Washington Suburban Sanitary Commission, an Ambursen dam 136 feet high and 840 feet wide; (2) a reservoir with a gross storage of 17,200 acre-feet at an elevation of 283 feet m.s.l.; (3) an existing pipeline to be used as a penstock, approximatelyy 3 feet in diameter and 1,500 feet long; (4) an existing concrete pump house, approximately 30 by 50 feet, housing one 400-kW turbine/generator unit operating under a head of 110 feet; (5) an existing short 33-kV transmission line; and (6) appurtenant facilities. The average annual generation of 2.3 million kWh would be sold to the Washington Suburban Sanitary Commission or to the Baltimore Gas and Electric Company.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months, during which it would perform surveys and geological investigations, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmental

effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be $50,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commisison, on or before September 7, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 9, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 9, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-14536 Filed 5-27-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6229-000]

Reynolds Irrigation District; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

May 24, 1982.

Take notice that on April 19, 1982, the Reynolds Irrigation District (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 6229) would be located on the Reynolds Irrigation District Main Canal near the town of Melba in Canyon and Owyhee Counties, Idaho. Correspondence with the Applicant should be directed to: Mr. Sam Pitman, Director, c/o Reynolds Irrigation District, Star Route, Melba, Idaho 83641.

Project Description—The proposed project would consist of: (1) A lined canal replacing an existing 1300-foot-long, 36-inch-diameter siphon, (2) a concrete inlet structure with 12-foot-wide 8-foot-deep steel gates; (3) a 42-inch diameter, 1,450-foot penstock; (4) a powerhouse with a total installed capacity of 350 kW; (5) a tailrace discharging into a riprapped portion of the Snake River; and (6) a 100-foot-long, 12.5-kV transmission line interconnecting with an existing Idaho Power Company transformer. The Applicant estimates that the average annual output would be 12.6 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Idaho Department of Fish and Game are requested, for the purposes set forth in section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before July 15, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 15, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all

capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to interven must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc 82-14527 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6249-000]

Seattle Oil Service, Inc.; Application for Preliminary Permit

May 21, 1982.

Take notice that Seattle Oil Service, Inc. (Applicant) filed on April 23, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a) 825(r)) for Project No. 6248 to be known as the Waste Waterway 68D, Dike No. 10 Hydroelectric Project located on Waste Waterway 68D near the the town of Othello in Adams County, Washington. The proposed project would affect the U.S. land administered by the U.S. Bureau of Reclamation. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Milton B. Rice, Seattle Oil Service, Inc., 6320 Fauntleroy Way, S.W., Seattle, Washington 98136.

Project Description—The proposed project would consist of: (1) A 5-foot-high concrete intake structure diverting water from the existing U.S. Bureau of Reclamation Waste Waterway 63D; (2) a 4-foot diameter penstock; (3) a powerhouse with a total installed capacity of 225 kW; (4) a tailrace conveying the effluent to the Waste Waterway; and (5) a 500-foot-long, 12.4-kV transmission line interconnecting with an existing 12.4-kV Washington Water Power Company transmission line. The Applicant estimates that the average annual output would be 900 MWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant is seeking issuance of a preliminary permit for a period of 18 months during which it would conduct engineering, economic, hydrological, and environmental studies and prepare an FERC license application. The cost of these studies is estimated by the Applicant to be $10,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 9, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et. seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 9, 1982, ans should specify the type oif application forthcoming. Any application for license or exemption from liecensing must be filed in accofdance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no late than October 8, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, of Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the procedding. Any comments, protests, or petitions to intervene must be received on or before August 9, 1982.

Filing, and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14528 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6263-000]

Seattle Oil Service, Inc., Application for Preliminary Permit

May 21, 1982.

Take notice that Seattle Oil Service, Inc. (Applicant) filed on April 23, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 6263 to be known as the Waste Waterway 68D, Dike No. 8 Hydroelectric Project located on Waste Waterway 68D near the town of Othello in Adams County, Washington. The proposed project would affect the U.S. land administered by the U.S. Bureau of Reclamation. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Milton B. Rice, Seattle Oil Service, Inc., 6320 Fauntleroy Way, S.W., Seattle, Washington 98136.

Project Description—The proposed project would consist of: (1) A 5-foot high concrete intake structure diverting water from the existing U.S. Bureau of Reclamation Waste Waterway 68D; (2) a 5-foot diameter penstock; (3) a powerhouse with a total installed capacity of 180 kW; (4) a tailrace conveying the effuent to the Waste Waterway; and (5) a 600-foot long, 12-kV Washington Water Power Company transmission line. The applicant estimates that the average annual output would be 830 MWh.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant is seeking issuance of a preliminary permit for a period of 18 months during which it woiuld conduct engineering, economic, hydrological, and environmental studies and prepare an FERC license application. The cost of these studies is estimated by the Applicant to be $10,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 9, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et. seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 9, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit not later than October 8, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other commens filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 9, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS" "NOTICE OR INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc 82–14530 Filed 5–27–82; 8:45 am]
BILLING CODE 6717–01–M

[Project No. 6264–000]

Seattle Oil Service, Inc.; Application for Preliminary Permit

May 21, 1982.

Take notice that Seattle Oil Service, Inc. (Applicant) filed on April 27, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 6264 to be known as the Waste Waterway 68D, Dike No. 6 Hydroelectric Project located on Waste Waterway 68D near the town of Othello in Adams County, Washington. The proposed project would affect U.S. land administered by the U.S. Bureau of Reclamation. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Milton B. Rice, Seattle Oil Service, Inc., 6320 Fauntleroy Way, SW., Seattle, Washington 98136.

Project Description—The proposed project would consist of: (1) A 5-foot high concrete intake structure diverting water from the existing U.S. Bureau of Reclamation Waste Waterway 68D; (2) a capacity of 220 kW; (4) a tailrace conveying the effuent to the Waste Waterway; and (5) a 800-foot long, 12-kV Washington Water Power Company transmission line. The applicant estimates that the average annual output would be 950 MWh.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. Applicant is seeks issuance of a preliminary permit for a period of 18 months during which it would conduct engineering, economic, hydrological, and environmenal studies and prepare an FERC license application. The cost of these studies is estimated by the Applicant to be $10,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 9, 1982, the competing application itself or a notice of intent to file such an application (see 18 CFR 4.30 et. seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 9, 1982, and should specify the type of application forthcoming. An application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than October 8, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 9, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO

INTERVENE", as applicable, and the Project number of this notice. any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc 82-14549 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 1390-001]

Southern California Edison Co.; Application for License (5 MW or Less)

May 24, 1982.

Take notice that Southern California Edison Company (Applicant) filed on December 1, 1981, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for continued operation of a water power project to be known as the Lundy Project No. 1390. The project would be located on Mill Creek, near Lee Vining, in Mono County, California. Correspondence with the Applicant should be directed to: Mr. John R. Bury, General Counsel, Southern California Edison Company, 2244 Walnut Grove Avenue, Rosemead, California 91770.

Project Description—The project would consist of: (1) The existing 33-foot-high and 690-foot-long earth and rockfill Lundy Dam, impounding a 132-acre reservoir; (2) a 270-foot-long concrete intake structure; (3) a 12,000-foot-long, 48-inch-diameter pipeline; (4) a 3,000-foot-long, varying diameter riveted steel penstock; (5) a powerhouse containing two generating units, each rated at 1,500 kW; (6) a 7.1-mile-long transmission line; and appurtenant facilities. The average annual energy generation is estimated to be 9.3 million kWh.

Purpose of Project—The energy generated by the project helps meet the demands of Applicant's customers in the southern part of the State of California.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 86–29, and other applicable statutes. Agencies are also requested to provide recomendations pursuant to Section 14 of the Federal Power Act on takeover of the project by the United States. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before August 2, 1982, either the competing application itself (See 18 CFR 4.33(a) and (d)) or a notice of intent (See 18 CFR 4.33(b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 2, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this Notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch; Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc 82-14550 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6243-000]

State of New Jersey Department of Environmental Protection; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

May 21, 1982.

Take notice that on April 22, 1982, the State of New Jersey Department of Environmental Protection (Applicant) filed an application, under section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of the proposed Columbia hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 6243) would be located on the Paulins Kill River, in Knowlton Township, Warren County, New Jersey. Correspondence with the Applicant should be directed to: Mr. Paul Arbesman, State of New Jersey, Department of Environmental Protection, P.O. Box CN-402, Trenton, New Jersey 08625.

Project Description—The proposed project would consist of: (1) An existing 20-foot high, 330-foot long concrete dam with 2-foot high flashboards; (2) an existing 43-acre reservoir with a total storage capacity of 275 acre-feet at elevation 288.3 feet M.S.L.; (3) an existing powerhouse containing two new turbine-generators with a total rated capacity of 450 kW; (4) a 25-foot long transmission line; (5) an existing tailrace channel; and (6) appurtenant facilities. The project would generate up to 2,300,000 kWh annually. The dam is owned by the State of New Jersey.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the New Jersey Department of Environmental Protection, Fish, Game and Wildlife Division are requested, for the purposes

set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none.

Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before July 16, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 16, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14642 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP81-65-000]

Trunkline LNG Co., Settlement Conference

May 21, 1982

Take notice that on May 27, 1982, at 10:00 a.m., a settlement conference of all interested parties will be convened concerning the above-captioned matter. The conference will be held at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend the informal conference, but if such persons have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention.

All parties will be expected to appear fully prepared to discuss any procedural matters and explore or make commitments with respect to any or all of the issues discussed at the conference.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14647 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-404-000]

Upper Peninsula Power Co., Order Accepting for Filing and Suspending Revised Rates, Granting Interventions, and Establishing Hearing Procedures

Issued May 21, 1982.

On March 26, 1982, Upper Peninsula Power Company (UPPCO) tendered for filing a proposed increase in its firm service rates applicable to seven wholesale customers.[1] Based on a calendar year 1980 test period, the proposed rates would increase jurisdictional revenues by approximately $198,000 (4.7%).[2] UPPCO proposes an effective date of May 30, 1982. In addition, the company requests that the Commission issue an order authorizing the use of normalization for cost of service purposes in order that it may qualify for the Accelerated Cost Recovery System (ACRS) tax depreciation deductions afforded by the Economic Recovery Tax Act of 1981 (ERTA).

Notice of UPPCO's filing was issued on April 2, 1982, with responses due on or before April 20, 1982. Timely petitions to intervene were filed by Wisconsin Electric Power Company (WEP) and jointly by the Alger Delta Cooperative Electric Association and the Ontonagon County Rural Electrification Association (Cooperatives). While WEP requests intervenor status, it neither seeks a hearing nor raises any specific issues in its pleading. The Cooperatives request that the Commission suspend UPPCO's filing for five months and initiate a hearing. In support of their requests, the Cooperatives contend that the company's proposed rate of return on equity is excessive and they oppose UPPCO's proposed customer charge asserting that it is discriminatory.[3]

In addition to the petitions to intervene, protests to UPPCO's filing were received from the Cities of Gladstone and Negaunee and the Village of L'Anse, Michigan, urging the Commission to deny the requested increase.

On May 4, 1982, UPPCO filed an answer to the Cooperatives' petition to intervene. The company disputes the allegations raised by the Cooperatives and requests that any suspension period imposed by limited to one day.

Discussion

Initially, we find that participation by each of the petitioners is in the public interest, and we shall therefore grant the petitions of WEP and the Cooperatives to intervene.

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[1] *See* Attachment A for rate schedule designations and affected customers.

[2] Because UPPCO's proposed increase is less than $22,000, it has made an abbreviated filing pursuant to § 35.13(a)(2) of the Commission's regulations.

[3] The Cooperatives also allege they have thus far been unable to undertake a detailed review of UPPCO's filing.

Our preliminary review of UPPCO's filing indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept UPPCO's rates for filing and suspend them as ordered below.

We recently addressed the Commission's suspension policy in *West Texas Utilities Company,* Docket No. ER82–23–000 (February 26, 1982). In that order, we stated that rate filings generally would be suspended for five months where preliminary review indicates that the proposed increase may be unjust and unreasonable and may generate substantially excessive revenues, as defined in *West Texas.* In the instant proceeding, our examination suggests that UPPCO's rates may yield substantially excessive revenues. Accordingly, we shall suspend those rates for five months, to become effective, subject to refund, on October 30, 1982.

Finally, we note that UPCO's cost of service reflects the company's use of the ACRS for tax depreciation under ERTA. While we can conclude that the instant filing reflects a normalization method of accounting, further information will be required in order to determine whether UPPCO has properly calculated the effects of normalization in its jurisdictional cost of service.

The Commission Orders

(A) UPPCO's proposed rates are hereby accepted for filing and suspended for five months from the proposed effective date, to become effective on October 30, 1982, subject to refund.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act [18 CFR, Chapter I], a public hearing shall be held concerning the justness and reasonableness of UPPCO's rates.

(C) The petitions to intervene filed by WEP and the Cooperatives are hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *Provided, however,* That participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order or orders entered by the Commission in this proceeding.

(D) The Commission staff shall serve top sheets in this proceeding on or before June 9, 1982.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

ATTACHMENT A—UPPER PENINSULA POWER CO., RATE SCHEDULE DESIGNATION

[Docket No. ER82–404–000]

Other party	Rate schedule No.	Supplement No.	Supersedes supplement No.
Wisconsin Electric Power Co.	2	19	16 as supplemented.
		20	17.
Do	3	20	17 as supplemented.
		21	18.
Village of Baraga	6	19	16 as supplemented.
		20	17.
Village of L'Anse	7	19	16 as supplemented.
		20	17.
City of Negaunee	11	17	14 as supplemented.
		18	15.
City of Gladstone	23	6	3 as supplemented.
		7	4.
Alger-Delta Cooperative Electric Association	14	19	16 as supplemented.
		20	17.
Ontonagon County REA	15	19	16 as supplemented.
		20	17.

[FR Doc. 82–14544 Filed 5–27–82; 8:45 am]

BILLING CODE 6717–01–M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-ABRAXAS PETROLEUM CORP				RECEIVED:	04/29/82	JA: TX			
8229625	F-04-047583	4240931492		102-4	103	ALTON MILLER #1	MILLER RANCH (FRIO 33	200.0	UNITED GAS PIPELI
-AEN ENERGY INC				RECEIVED:	04/29/82	JA: TX			
8229684	F-7B-049063	4205933178		102-4		ISENHOWER JAMES R #1	ISENHOWER SE (DUFFER)	230.0	DELHI GAS PIPELIN
-ALLEGRO INVESTMENTS INC				RECEIVED:	04/29/82	JA: TX			
8229520	F-02-035020	4217531288		102-4		KARNEI HEIRS #1	GOLIAD N (3250)	6.0	DELHI GAS PIPELIN
-ALLEN PETROLEUM INC				RECEIVED:	04/29/82	JA: TX			
8229598	F-05-045736	4228930445		102-2	107-TF	WALKER #1	BEAR GRASS (TRAVIS PE	365.0	DELHI GAS PIPELIN
-AMERICAN QUASAR PETROLEUM CO				RECEIVED:	04/29/82	JA: TX			
8229572	F-8A-042186	4244530934		102-4		BEVERS 1-U	BROWNFIELD S (STRAWN)	0.0	
-AMERIND OIL CO				RECEIVED:	04/29/82	JA: TX			
8229706	F-08-049546	4200332949		103		COWDEN "F" #2	GOLDSMITH N (SILURIAN	40.0	PIONEER CORP
8229707	F-08-049547	4200333037		103		COWDEN "F" #3	GOLDSMITH N (SILURIAN	40.0	PIONEER CORP
-AMMEX PETROLEUM INC				RECEIVED:	04/29/82	JA: TX			
8229688	F-03-048963	4205132018		102-2	103	ROBERT UNIT #1	BIG A (TAYLOR)	106.0	CLAJON GAS CO
-AMOCO PRODUCTION CO				RECEIVED:	04/29/82	JA: TX			
8229677	F-06-048841	4228330891		102-4	107-TF	AURELIA VANN GAS UNIT #1	BLOCKER/COTTON VALLEY	354.0	UNITED GAS PIPELI
8229714	F-7C-049597	4243531168		108		BERTHA T GLASSCOCK "B" #2	ALDWELL RANCH (CANYON	16.0	LONE STAR GAS CO
8229676	F-08-048838	4213533459		103		DAVID FASKEN "66" #4	FASKEN SOUTH (WOLFCAM	12.0	AMOCO PRODUCTION
8229709	F-7C-049587	4243531266		108		EDWIN S MAYER JR "D" #11	SAWYER (CANYON)	17.3	LONE STAR GAS CO
8229708	F-7C-049586	4241330284		108		EDWIN S MAYER JR "G" #11	SAWYER (CANYON)	20.7	LONE STAR GAS CO
8229711	F-7C-049594	4243530671		108		MIERS - 78 #3	SAWYER (CANYON)	5.5	LONE STAR GAS CO
8229712	F-7C-049595	4243530964		108		MRS MAY M RAY "B" #3	ALDWELL RANCH (CANYON	13.4	LONE STAR GAS CO
8229713	F-7C-049596	4243531074		108		MRS MAY M RAY "C" #2	ALDWELL RANCH (CANYON	26.2	LONE STAR GAS CO
8229715	F-7C-049598	4243530877		108		RANDEE FAWCETT TRUST #5	SAWYER (CANYON)	17.3	LONE STAR GAS CO
8229710	F-7C-049588	4243530384		108		RANDEE FAWCETT TRUST "B" #1	SAWYER (CANYON)	10.0	LONE STAR GAS CO
*8229642	F-03-048071	4203931685		103		S A PENNOCK EST #11	HASTINGS WEST	16.8	AMOCO GAS CO
-ANDERSON PETROLEUM INC				RECEIVED:	04/29/82	JA: TX			
8229594	F-7C-045540	4210533600		103	107-TF	AUSTIN C MILLSPAUGH "B" 1-17	OZONA (CANYON SAND)	50.0	ANDERSON PIPELINE
8229513	F-7C-027455	4210532329		103	107-TF	BILL CLEGG "B" 4-55	OZONA (CANYON SAND)	10.0	ANDERSON PIPELINE
8229704	F-7C-049419	4243532248		107-TF		PAULINE FRIESS "A" 1-101	SAWYER (CANYON)	55.0	SUTTON COUNTY PIP
-ARCO OIL AND GAS COMPANY				RECEIVED:	04/29/82	JA: TX			
8229801	F-08-049932	4210332801		103		EVAN B JONES "A" #2	Y SOUTH TUBB	11.7	WARREN PETROLEUM
8229800	F-7C-049929	4232931028		103		JUNE TIPPETT #4N	PEGASUS (SAN ANDRES)	2.5	EL PASO NATURAL G
-ART MACHIN & ASSOCIATES INC				RECEIVED:	04/29/82	JA: TX			
8229703	F-06-049391	4220330840		103		MANVILLE FOREST PRODUCTS CO #1	NORTH WASKOM (HILL)	180.0	MISSISSIPPI RIVER
-BAR C WELL SERVICE CO				RECEIVED:	04/29/82	JA: TX			
8229678	F-7B-048884	4208332151		102-4		WALLACE #1	PROLER (BRENEKE)	5.0	LONE STAR GAS CO
-BASIN OPERATING CO LTD				RECEIVED:	04/29/82	JA: TX			
8229514	F-06-030589	4234738438		107-TF		TOM JACK LUCAS #1	DOUGLASS (COTTON VALL	180.0	TEXAS UTILITIES F
-BEAL OPERATING				RECEIVED:	04/29/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8229569	F-78-041841	4208331961		102-4		CARL STOUP #1 (097822)	STOUP (CAMP COLORADO)	18.0	ODESSA NATURAL CO
8229568	F-78-041842	4208332159		102-4		CARL STOUP #2 (097823)	STOUP (CAMP COLORADO)	60.0	ODESSA NATURAL CO
8229667	F-78-048655	4208300000		102-4		CARL STOUP #4	STOUP (CAMP COLORADO)	12.0	ODESSA NATURAL CO
-BONRAY ENERGY CORP				RECEIVED:	04/29/82	JA: TX			
8229758	F-08-049824	4222324780		103		READ 20-1	COAHOMA N (FUSSEL)	18.0	GETTY OIL CO
-BROCK HYDROCARBONS INC				RECEIVED:	04/29/82	JA: TX			
8229545	F-10-040382	4219530759		103		RAFFERTY #1-259	HANSFORD MORROW	300.0	TRANSWESTERN PIPE
-CHEVRON U S A INC				RECEIVED:	04/29/82	JA: TX			
8229717	F-08-049606	4222732587		103		A M BELL #49	IATAN-EAST HOWARD	13.0	GETTY OIL CO
8229719	F-08-049608	4200332975		103		COLUMBUS GRAY #22-21	FUHRMAN-MASCHO	51.0	PHILLIPS PETROLEU
8229718	F-08-049607	4222732588		103		G M DODGE #62	IATAN-EAST HOWARD	5.0	GETTY OIL CO
8229720	F-08-049609	4249331300		103		W E BAIRD #13-77C	W E BAIRD	13.0	TRANSWESTERN PIPE
8229716	F-08-049605	4233532159		103		W L FOSTER #71	IATAN-EAST HOWARD	5.0	GETTY OIL CO
-CIMA EXPLORATION INC				RECEIVED:	04/29/82	JA: TX			
8229672	F-08-048787	4231732459		103		BLOCKER #1	SPRABERRY	36.0	ADOBE OIL & GAS C
-CINCO OIL & GAS INC & NRM				RECEIVED:	04/29/82	JA: TX			
8229666	F-01-048638	4217700000		102-2		FLOYD-STULTING UNIT #1	PEACH CREEK (AUSTIN C	39.0	TIPPERARY CORP
-CLAYTON W WILLIAMS JR				RECEIVED:	04/29/82	JA: TX			
8229605	F-03-046114	4205100000		102-2		ALVINE PETERS #1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
8229536	F-03-040015	4205100000		102-2		KACER-UBERNOSKY UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
8229604	F-03-046112	4205100000		102-2		MATCEK-GOLD UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
8229599	F-03-045766	4205100000		102-2		RYAN-HOVARAK UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
8229581	F-03-043138	4205100000		102-2		W M RYAN A #1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
-CNG PRODUCING COMPANY				RECEIVED:	04/29/82	JA: TX			
8229646	F-04-048203	4221531159		102-4		BOYT #1	TEXAS GARDENS N FIELD	89.0	TENNESSEE GAS TRA
-COMMAND ENERGY CORP				RECEIVED:	04/29/82	JA: TX			
8229669	F-78-048696	4213300000		102-4		PRICE #1 RRC #	SHOAF-MERGNER (MISS)	0.0	NORTHERN GAS PROD
-CONOCO INC				RECEIVED:	04/29/82	JA: TX			
8229784	F-78-049867	4226900000		108		A H ORSBORN #4 ID #02841	KATZ	1.0	CITIES SERVICE CO
8229776	F-78-049849	4226900000		108		A H ORSBORN #6 ID #02841	KATZ	0.9	CITIES SERVICE CO
8229786	F-08-049869	4238900000		108		FORD GERALDINE UNIT #162 ID #21021	GERALDINE FORD	2.5	EL PASO NATURAL G
8229787	F-08-049870	4238900000		108		FORD GERALDINE UNIT #163 ID #21021	GERALDINE FORD	0.9	EL PASO NATURAL G
8229777	F-08-049850	4238900000		108		FORD GERALDINE UNIT #175 ID #21021	GERALDINE FORD	0.9	EL PASO NATURAL G
8229774	F-08-049847	4210900000		108		FORD GERALDINE UNIT #239 ID #21021	GERALDINE FORD	0.3	EL PASO NATURAL G
8229773	F-08-049846	4238900000		108		FORD GERALDINE UNIT #329 ID #21021	GERALDINE FORD	0.7	EL PASO NATURAL G
8229779	F-08-049852	4210900000		108		FORD, GERALDINE UT #252 ID #21021	GERALDINE FORD	1.0	EL PASO NATURAL G
8229789	F-08-049872	4213500000		108		GIST UNIT #58 ID #A373	FOSTER	0.8	ODESSA NATURAL CO
8229788	F-08-049871	4200300000		108		J W BONER-B- #15 ID #01664	FUHRMAN-MASCHO	0.5	PHILLIPS PETROLEU
8229611	F-04-046683	4247933157		102-2	1074-TF	ROSA V BENAVIDES "B" #8	CAPRICE (LOBO)	700.0	E I DUPONT DE NEM
8229597	F-04-045691	4247933158		102-2	107-TF	ROSA V BENAVIDES "D" #9	CONTRARY (LOBO)	700.0	E I DUPONT DE NEM
8229755	F-04-049807	4242700000		108		T B SLICK EST C-221 #65	RINCON (FRIO B)	21.0	TENNESSEE GAS PIP
8229785	F-09-049868	4248500000		108		TJ & JL WAGGONER-ADE-#66 ID #18376	WICHITA COUNTY REGULA	0.1	EAGLE PETROLEUM C
8229778	F-08-049851	4213533644		103		TXL 44-5 #2 ID #27070	LAWSON (SAN ANDRES)	10.2	PHILLIPS PETROLEU
8229590	F-04-044821	4247933087		102-2	107-TF	VAQUILLAS RANCH "B" #13	VAQUILLAS RANCH (WILC	700.0	E I DUPONT DE NEM
8229783	F-08-049866	4200300000		108		W FUHRMAN MASCHO UT #52 ID #21220	FUHRMAN-MASCHO	0.3	PHILLIPS PETROLEU
8229775	F-08-049848	4213500000		108		WIGHT UNIT #11 ID #19654	COWDEN N	4.3	AMOCO PRODUCTION
-CORDOVA RESOURCES INC				RECEIVED:	04/29/82	JA: TX			
8229585	F-78-044499	4213300000		102-4	103	SOOTER #3	NORTH PIONEER (CADDO)	365.0	ODESSA NATURAL CO
8229665	F-78-048627	4213533039		102-4		SOOTER #4	NORTH PIONEER (CADDO)	59.3	ODESSA NATURAL CO
-CORPUS CHRISTI OIL AND GAS CO				RECEIVED:	04/29/82	JA: TX			
8229799	F-04-049922	4224731303		102-4		HOLBEIN #5-T	LOS CUATES RANCH (665	0.0	VALERO INTERSTATE
-COTTON PETROLEUM CORPORATION				RECEIVED:	04/29/82	JA: TX			
8229606	F-10-046193	4219530786		103		RENNER #1	SHAPELY SO (MORROW UP	145.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-DAMSON OIL CORPORATION				RECEIVED:	04/29/82	JA: TX			
8229577	F-03-042728	4219931503		102-4		KIRBY SANTA FE #1	LONG STATION (10170)	300.0	HOUSTON PIPELINE
-DELTA OIL & GAS CO				RECEIVED:	04/29/82	JA: TX			
8229681	F-7B-049026	4242900000		103		CALDWELL-ROGERS REC 96300	CADDO (ELLENBURGER MI	0.0	LONE STAR GAS CO
-DYCO PETROLEUM CORPORATION				RECEIVED:	04/29/82	JA: TX			
8229623	F-8A-047538	4221933270		103		BROWN #2	LEVELLAND (SAN ANDRES	6.8	CABOT PIPELINE CO
-E O ANDERSON				RECEIVED:	04/29/82	JA: TX			
8229670	F-7B-048706	4223700000		108		S W RALEY #1	GRAFORD (BEND CONGL)	0.0	LONE STAR GAS CO
-ENSERCH EXPLORATION INC				RECEIVED:	04/29/82	JA: TX			
8229573	F-06-042261	4220300000		103		J T GEORGE #3	WHELAN	401.0	TEXAS EASTERN TRA
-EXCELSIOR OIL CORP				RECEIVED:	04/29/82	JA: TX			
8229558	F-06-041424	4240100000		103		HATTIE SPELLINGS G U #1	DANVILLE, EAST	60.0	WESTERN GAS CORP
-EXXON CORPORATION				RECEIVED:	04/29/82	JA: TX			
*8229637	F-03-047930	4207131175		103		BROUSSARD-HEBERT A/C 1 #36	ANAHUAC	73.0	ARMCO STEEL CORP
8229641	F-03-048068	4237330509		103		C B GRANBURY A/C 4 #81	LIVINGSTON (WILCOX)	15.0	UNITED TEXAS TRAN
*8229696	F-08-049288	4200332879		103		FULLERTON CLEARFORK UNIT #533	FULLERTON	15.0	PHILLIPS PETROLEU
*8229652	F-08-048464	4200332889		103		FULLERTON CLEARFORK UNIT #817	FULLERTON	15.0	PHILLIPS PETROLEU
8229682	F-08-049044	4210331991		103		J B TUBB A/C 1 #176U	SAND HILLS (JUDKINS)	71.0	ODESSA NATURAL GA
8229615	F-08-047298	4210332664		103		J C TUBB A/C 1 #253L	SAND HILLS (TUBB)	10.0	EL PASO NATURAL G
8229644	F-08-048148	4210332664		103		J C TUBB A/C 1 253U	SAND HILLS	4.0	EL PASO NATURAL G
*8229753	F-04-049636	4227331209		103		K R BORREGOS 541-D (97306)	BORREGOS (ZONE N-23 A	356.0	ARMCO STEEL CORP
*8229683	F-04-049050	4227331615		102-4		K R BORREGOS 567 (06544)	BORREGOS (S-7 SW)	40.0	ARMCO STEEL CORP
8229768	F-7C-049837	4228331792		103		MCAFEE-LINTHICUM #2	MERTZON (CANYON)	1.0	
8229792	F-04-049897	4226100000		108		SARITA FLD OIL & GAS U 123-F #06987	SARITA (15-M)	2.0	NATURAL GAS PIPEL
-FISHER-WEBB INC				RECEIVED:	04/29/82	JA: TX			
8229724	F-7B-049613	4244100000		103		RODE "C" #2	LAKE ABILENE (4000')	15.0	FORT CHADBOURNE C
8229753	F-7B-049755	4244132031		103		SAWYER #1	TAYLOR COUNTY REGULAR	20.0	UNION TEXAS PETRO
-FRAC INC				RECEIVED:	04/29/82	JA: TX			
8229723	F-08-049612	4200332899		103		LIMPIA #14-1 #26901	FUHRMAN-MASCHO	6.6	PHILLIPS PETROLEU
8229722	F-08-049611	4200333021		103		LIMPIA "14" #2 #26901	FUHRMAN-MASCHO	6.6	PHILLIPS PETROLEU
8229721	F-08-049610	4200333020		103		LIMPIA "14" #3 #26901	FUHRMAN-MASCHO	7.7	PHILLIPS PETROLEU
-FRANK CASS				RECEIVED:	04/29/82	JA: TX			
8229759	F-7C-049828	4238332097		103		HOWARD 32B 1 MRC #09308	SPRABERRY (TREND AREA	0.0	EL PASO NATURAL G
-GETTY OIL COMPANY				RECEIVED:	04/29/82	JA: TX			
8229512	F-06-007314	4236500000		108-ER		AMBEN KIRBY #2 ID #32016	CARTHAGE (PALUXY)	17.7	TEXAS GAS TRANSMI
8229548	F-8A-040978	4207931401		103		XIT UNIT #179-Y	LEVELLAND-SAN ANDRES	10.8	CITIES SERVICE CO
-GILLRING OIL CO				RECEIVED:	04/29/82	JA: TX			
8229587	F-04-044624	4204700000		102-4		D J SULLIVAN IV #2	ANN MAG (FRIO-VICKSBU	182.5	TENNESSEE GAS PIP
-GLENCO OIL & GAS CO				RECEIVED:	04/29/82	JA: TX			
8229643	F-01-048097	4201331333		102-4		MCDONALD WELL #1	DULCE (ESCONDIDO)	36.5	SOUTH TEXAS INSTR
8229660	F-01-048576	4212732191		102-2		STRAIT (07332) #1	PEARSALL (AUSTIN CHAL	547.5	ESPERANZA TRANSMI
8229662	F-01-048578	4228330744		102-2		WETHERBEE "A" (07306) #1	PEARSALL (AUSTIN-CHAL	1314.0	ESPERANZA TRANSMI
8229663	F-01-048579	4228330815		102-2		WETHERBEE "A" (07306) #2	PEARSALL (AUSTIN CHAL	1314.0	ESPERANZA TRANSMI
8229661	F-01-048577	4228330722		102-2		WETHERBEE TRUSTEE (07078) #1	PEARSALL (AUSTIN CHAL	657.0	ESPERANZA TRANSMI
-GO OIL CORP				RECEIVED:	04/29/82	JA: TX			
8229698	F-7B-049162	4236731966		102-4		WELLBORN #1	PEASTER SE (MARBLE FA	0.0	NATURAL GAS PIPEL
-GOLDSTON OIL CORP				RECEIVED:	04/29/82	JA: TX			
8229791	F-03-049886	4248132181		103		LISSIE GAS UNIT #2 #1 (96710)	LISSIE SOUTH (WILCOX	547.0	TENNESSEE GAS PIP
8229790	F-03-049885	4248132178		103		LISSIE GAS UNIT #3 #1 (96713)	LISSIE SOUTH (WILCOX	730.0	TENNESSEE GAS PIP
-GRACE PETROLEUM CORPORATION				RECEIVED:	04/29/82	JA: TX			
8229624	F-06-047580	4241930345		102-4		EMMIT STOCKMAN #1	GARRISON N	0.0	UNITED GAS PIPELI
8229618	F-08-048026	4210330788		108		MCELROY #1	GIB	0.0	PHILLIPS PETROLEU
-GULF OIL CORPORATION				RECEIVED:	04/29/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROL	PURCHASER
*8229772	F-08-049841	4210332464		103		W N WADDELL TR 3 #1123	UNIVERSITY WADDELL (D	9.8	
*8229608	F-01-046386	4201331296		103		W T HURT #5	FASHING (EDWARDS LIME	0.0	NATURAL GAS P/L C
-GULF SANDS OIL CO				RECEIVED:	04/29/82	JA: TX			
8229532	F-02-039909	4202531500		102-4		ALBERT WINSAUER #1	LITTLE JOHN (2900)	82.0	GULF STATES EQUIT
8229551	F-02-041313	4202531440		103		HARTZENDORF EST #1	TYNAN W (3600)	6.0	GULF STATES EQUIT
-HARMAN OIL & REFINING CO				RECEIVED:	04/29/82	JA: TX			
8229562	F-03-041500	4220131178		102-4		E E LINDSAY #1	CYPRESS (COCKFIELD A)	450.0	TENNESSEE GAS PIP
8229561	F-03-041499	4220100000		102-4		LONGENBAUGH-SCHWARTZ #1	CYPRESS (COCKFIELD A)	450.0	TENNESSEE GAS PIP
-HARRISON INTERESTS LTD				RECEIVED:	04/29/82	JA: TX			
8229547	F-7C-040650	4210533500		103	107-TF	JOHN W HENDERSON III "F" #18	OZONA (CANYON SAND)	300.0	INTRATEX GAS CO
8229614	F-7C-046991	4210533757		103	107-TF	JOHN W HENDERSON III "K" #25	OZONA (CANYON SAND)	700.0	INTRATEX GAS CO
-HENDERSON CLAY PRODUCTS INC				RECEIVED:	04/29/82	JA: TX			
8229586	F-06-044599	4240131281		102-2	107-TF	DON LOVE #1	OAKHILL NW (COTTON VA	375.0	DELHI GAS PIPELIN
-HENRY PETROLEUM CORP				RECEIVED:	04/29/82	JA: TX			
8229557	F-02-041377	4249300000		102-2		KRUCIAK UNIT #1	PATTON (AUSTIN CHALK)	0.0	
-HNG OIL COMPANY				RECEIVED:	04/29/82	JA: TX			
8229626	F-7C-047584	4243500000		103	107-TF	ESPY "56" #5	SAWYER (CANYON)	0.0	INTRATEX GAS CO
8229798	F-02-049909	4217500000		108		ETTA TERRELL "A" #5	TERRELL POINT (3900)	47.9	TRUNKLINE GAS CO
8229748	F-02-049733	4246900000		108		R L MUSSLEMEN #1	SALEM (1500)	47.0	VALERO INTERSTATE
8229616	F-04-047361	4247900000		103	107-TF	VAQUILLAS RANCH "135" #1	CARR (LOBO)	0.0	HOUSTON PIPE LINE
-HOWELL DRILLING INC				RECEIVED:	04/29/82	JA: TX			
8229593	F-02-045395	4246900000		103		JOHN ZIMMER #13	COLETTO CREEK	0.0	HOUSTON PIPE LINE
-HUMBLE EXPLORATION CO INC				RECEIVED:	04/29/82	JA: TX			
8229534	F-03-039953	4214900000		102-2	103	LINDA ANN #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8229524	F-03-039468	4228700000		102-2	103	LORETTA GAEKE #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8229533	F-03-039952	4214900000		102-2	103	W L MORGAN #3	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-INDIAN WELLS OIL CO				RECEIVED:	04/29/82	JA: TX			
8229781	F-7C-049857	4223531722		103		PHILLIPS #4-6	IRION W (CANYON)	14.0	NORTHERN NATURAL
-J A LEONARD				RECEIVED:	04/29/82	JA: TX			
8229647	F-03-048205	4205100000		102-4		COFFIELD WINSTON "A" #3	INEZ JAMESON (NAVARRO	497.0	FERGUSON CROSSING
8229802	F-03-049939	4205100000		102-4		COFFIELD-SMITH "F" #2	INEZ JAMESON (NAVARRO	55.0	FERGUSON CROSSING
8229688	F-03-049117	4208132039		102-4		U P RODDY #2	INEZ JAMESON (NAVARRO	35.0	FERGUSON CROSSING
-J CLEO THOMPSON & JAMES CLEO THOMPS				RECEIVED:	04/29/82	JA: TX			
8229618	F-7C-046515	4210533647		102-4		UNIVERSITY 11-1	UNIVERSITY 31 (STRAWN	300.0	PHILLIPS PETROLEU
8229673	F-7C-048815	4210533719		103	107-TF	UNIVERSITY 30-22 #1	OZONA (CANYON SAND)	200.0	PHILLIPS PETROLEU
-JAMES K ANDERSON INC				RECEIVED:	04/29/82	JA: TX			
8229698	F-7B-049336	4244131999		102-4		ALEX SEARS "B" #1 RRC NO 17955	E J (EAST GRAY)	180.0	UNION TEXAS PETRO
-JOHN L COX				RECEIVED:	04/29/82	JA: TX			
8229531	F-8A-039892	4211531512		103		BROWN -SLAUGHTER #1	ACKERLEY (DEAN SAND)	10.0	
8229530	F-8A-039891	4211531498		103		SCHOOLER #3 RRC #11065	JO-MILL (SPRABERRY)	10.0	TEXACO INC
8229529	F-7C-039880	4238300000		103		SMITH #1	SPRABERRY (TREND AREA	10.0	
8229528	F-08-039879	4231700000		103		STIMSON-BURLEY "B" #1	SPRABERRY (TREND AREA	10.0	ALPINE OIL CO
8229527	F-08-039878	4231700000		103		STIMSON-BURLEY "B" #2	SPRABERRY (TREND AREA	10.0	ALPINE OIL CO
-KEAMEY EXPLORATION INC				RECEIVED:	04/29/82	JA: TX			
8229633	F-02-047747	4217500000		103		F A ARNOLD #1	GOTTSCHALT (PETTUS)	0.0	UNITED PIPELINE C
-KEITH D GRAHAM				RECEIVED:	04/29/82	JA: TX			
8229685	F-03-049089	4205131968		102-2		LYERLY "A" #1	GIDDINGS (AUSTIN CHAL	248.9	CLAJON GAS CO
-KEITH WELLS				RECEIVED:	04/29/82	JA: TX			
8229702	F-7B-049377	4205932850		103		WENDELL FOREMAN #1 16649	ELMDALE (PALO PINTO)	365.0	FORT CHADBOURNE C
-KENNETH R HAND				RECEIVED:	04/29/82	JA: TX			
8229689	F-04-049120	4242731539		103		CANALES #1 - 118411	BUENA VISTA (1700)	91.0	INTRASTATE GATHER
-KERR-MCGEE CORPORATION				RECEIVED:	04/29/82	JA: TX			
8229732	F-08-049626	4213533129		103		GIST "C" #10	FOSTER	61.0	ODESSA NATURAL CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8229731	F-08-049625	4213533515		103		GIST B-11	FOSTER	42.0	ODESSA NATURAL CO
-KILLAM & HURD LTD				RECEIVED:	04/29/82	JA: TX			
8229544	F-02-040352	4217531501		102-4		HATTENBACH #3-C	COLETOVILLE CREEK (CA	0.0	DELHI GAS PIPELIN
8229546	F-02-040419	4217531501		102-4		HATTENBACH #3-T	COLETOVILLE CREEK (VI	0.0	DELHI GAS PIPELIN
-KLM OIL & GAS INC				RECEIVED:	04/29/82	JA: TX			
8229574	F-78-042272	4204932836		102-4		FOMBY D B #19 (96782)	DALE (FRY)	220.0	ODESSA NATURAL CO
8229543	F-78-040316	4204932590		103		WELDON LEE #3	BBB & C BLK 3 (MARBLE	30.0	ODESSA NATURAL CO
-L M YOUNG				RECEIVED:	04/29/82	JA: TX			
8229645	F-78-048176	4204932822		102-4		R J GOODALL "E" #12	CHAMBERS (CONGL)	138.0	ODESSA NATURAL CO
8229697	F-78-049317	4204932823		102-4		R J GOODALL "I" #3	DALE (CADDO)	20.0	ODESSA NATURAL CO
-L TEXAS PETROLEUM INC				RECEIVED:	04/29/82	JA: TX			
8229522	F-04-037204	4224731276		102-4	103	MESTENA OIL & GAS CO #J-1	JARON (4900)	0.0	SUN GAS CO
-LADD PETROLEUM CORPORATION				RECEIVED:	04/29/82	JA: TX			
8229564	F-82-041587	4228531256		102-4		GUS TELTSCHICK #1	SPEAKS NW (WILCOX 128	287.5	UNITED TEXAS TRAN
-LAMBERT HOLLUB DRILLING CO				RECEIVED:	04/29/82	JA: TX			
8229780	F-03-049855	4205131681		103		F M POOLE #10-RRC #12416	WILLARD	0.3	
-LEONARD BRYANS				RECEIVED:	04/29/82	JA: TX			
8229516	F-7C-033010	N245130698		103		W L KELLERMEIER #2 (08593)	S S R	73.0	LONE STAR GAS CO
-LEWIS B BURLESON				RECEIVED:	04/29/82	JA: TX			
8229679	F-08-048958	4237132985		108		SIDLEY #1	FOUR C UPPER CLEARFOR	6.8	EL PASO NATURAL G
-LNG RESOURCES INC				RECEIVED:	04/29/82	JA: TX			
8229551	F-78-041319	4242932886		103		BROWN #1	STEPHENS COUNTY REGUL	18.2	WARREN PETROLEUM
8229552	F-78-041318	4242933007		103		BROWN "A" #1	STEPHENS COUNTY REGUL	0.0	WARREN PETROLEUM
-MAGNATEX CORP				RECEIVED:	04/29/82	JA: TX			
8229560	F-08-041490	4237133376		103		SULLIVAN #3	PECOS VALLEY FLOW GRA	6.6	
-MARINDA F ROBERTSON INC				RECEIVED:	04/29/82	JA: TX			
8229635	F-78-047859	4213332155		103		CLINTON WILSON #1	FOSTER (MARBLE FALLS)	15.0	SIOUX PIPELINE CO
-MARSHALL EXPLORATION INC				RECEIVED:	04/29/82	JA: TX			
8229613	F-06-046879	4236531362		102-4		UNA BAGLEY #2	BELLE BOWER (PALUXY U	356.0	TENNESSEE GAS PIP
-MCFARLANE OIL CO INC				RECEIVED:	04/29/82	JA: TX			
8229519	F-82-034752	4246900000		103		MCFARLANE FEE #1	PLACEDO	0.0	TENNECO CHEMICALS
-MCZ INC				RECEIVED:	04/29/82	JA: TX			
8229795	F-83-049902	4204100000		102-2		COCKRELL OIL UNIT I #1	BRYAN N (GEORGETOWN)	170.0	FERGUSON CROSSING
-NEWBOURNE OIL COMPANY				RECEIVED:	04/29/82	JA: TX			
8229705	F-10-049524	4229530761		102-4		SOUTH BOOKER UNIT #1 RRC ID #05002	HARMON (HARMATON)	8.0	NORTHERN NATURAL
-NGF OIL CORP				RECEIVED:	04/29/82	JA: TX			
8229675	F-03-048817	4207131242		102-4		BARROW RANCH #1-U	BARROW RANCH (NOD 1)	313.9	WINNIE PIPELINE C
8229674	F-03-048816	4207131242		102-4		BARROW RANCH 1-L	BARROW RANCH (NOD 2)	125.2	WINNIE PIPELINE C
8229592	F-01-044973	4249330740		102-2		EMMETT NOLL UNIT #1	MARCELINA CREEK (AUST	11.2	
8229566	F-7C-041828	4238300000		103		UNIVERSITY "17-C" #1	SPRAGBERRY (TREND AREA	0.0	J L DAVIS
-NINERAL DEVELOPMENT INC				RECEIVED:	04/29/82	JA: TX			
8229734	F-08-049642	4237133485		103		SCHARFF-BLACKMON "A" #4 #26915	PECOS VALLEY (HIGH GR	16.0	PERRY PIPE LINE C
-NITCHELL ENERGY CORPORATION				RECEIVED:	04/29/82	JA: TX			
8229634	F-78-047770	4236300000		108		KAYLER REESE #1 #93405	MINERAL WELLS (5 CONG	9.5	SOUTHWESTERN GAS
8229689	F-09-046442	4249700000		108		L C WOMACK #1 28855	BOONSVILLE (BEND CONG	11.8	NATURAL GAS PIPEL
8229651	F-09-048445	4249732241		103		O H MCALISTER #4	BOONSVILLE (BEND CONG	312.0	NATURAL GAS PIPEL
8229571	F-09-042028	4249732145		103		T C W B #28-C	BOONSVILLE (CADDO LIM	59.0	NATURAL GAS PIPEL
-NONSANTO COMPANY				RECEIVED:	04/29/82	JA: TX			
8229751	F-8A-049751	4207931443		103		CALVIN #39-108	LEVELLAND	5.0	CITIES SERVICE CO
8229752	F-7C-049752	4245138883		103		HARVEY WILDE "A" #2	SUSAN PEAK NORTH (CAN	153.0	ARCO OIL & GAS CO
8229750	F-08-049749	4200332933		103		UNIVERSITY 14-25 #8	SHAFTER LAKE (SAN AND	3.0	PHILLIPS PETROLEU
8229632	F-8A-047701	4250132156		103		WEAVER "A" #2	BRAHANEY	3.0	
-NR OIL CO				RECEIVED:	04/29/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8229756	F-08-049820	4247532495		103		HAWKINS #11 #26713	PAYTON	46.0	WARREN PETROLEUM
-MAPECO INC				RECEIVED:	04/29/82	JA: TX			
8229655	F-03-048536	4237330395		108		C L BRENT #1	HORTENSE (WOODBINE)	7.0	NATURAL GAS PIPEL
8229654	F-03-048535	4237330210		108		PARISH #1	HORTENSE (WOODBINE)	15.0	NATURAL GAS PIPEL
-NORMAN PAUTSKY				RECEIVED:	04/29/82	JA: TX			
8229627	F-78-047602	4208300000		108		DAVID WATSON "B" 79715	NTR (MORRIS)	14.4	EL PASO HYDROCARB
8229629	F-78-047604	4208300000		108		GREER "A" 92006	COLEMAN COUNTY REGULA	14.4	EL PASO HYDROCARB
8229628	F-78-047603	4208300000		108		JIM WATSON "A" 65151	COLEMAN COUNTY REGULA	10.8	EL PASO HYDROCARB
8229630	F-78-047605	4208300000		108		STRAWN 92769	COLEMAN COUNTY REGULA	6.1	EL PASO HYDROCARB
-MUSKET OIL CORP				RECEIVED:	04/29/82	JA: TX			
8229570	F-02-041998	4212331127		102-4		HELEN ENGLAND #2	WARMSLEY (10350)	273.0	VALERO TRANSMISSI
-OXOCO EXPLORATION CORP				RECEIVED:	04/29/82	JA: TX			
8229730	F-06-049621	4242330432		103		COBB #1 TEXAS #10348	CHAPEL HILL NE (TRAVI	10.0	EAST TEXAS GAS PR
-PANHANDLE PRODUCING COMPANY				RECEIVED:	04/29/82	JA: TX			
8229591	F-01-044973	4244100000		103		BLAND 4-A	BLAIR NORTH (ELLENBUR	82.0	LONE STAR GAS CO
-PARAMOUNT PETROLEUM CORPORATION				RECEIVED:	04/29/82	JA: TX			
8229588	F-06-044724	4220300000		108-ER		DAVID PILOT GAS UNIT	WOODLAWN FIELD	0.0	
-PCU INC OF TX				RECEIVED:	04/29/82	JA: TX			
8229582	F-03-043205	4220110100		102-4	103	BANNON UNIT #1	ROTHERWOOD (MIOCENE 1	90.0	TENNESSEE GAS PIP
-PEERLESS OIL CO INC				RECEIVED:	04/29/82	JA: TX			
8229612	F-78-046849	4236732878		102-2		PIESTER #1-A	MOBY DICK (MARBLE FAL	95.0	SOUTHWESTERN GAS
-PENNZOIL PRODUCING COMPANY				RECEIVED:	04/29/82	JA: TX			
8229618	F-04-047440	4250531400		102-4		E GUTIERREZ #A-1	ESCOBAS (10650")	913.0	
8229668	F-04-048671	4221531196		102-4		KAWAHATA UNIT #4	HIDALGO (7,960")	329.0	VAL GAS CO
-PETRO-LEWIS CORPORATION				RECEIVED:	04/29/82	JA: TX			
8229575	F-08-042424	4210332428		103		J B TUBB STATE #19L	SAND HILLS (MCKNIGHT)	50.0	EL PASO NATURAL G
-PETROLERO EXPLORATIONS INC				RECEIVED:	04/29/82	JA: TX			
*8229794	F-7C-049901	4239932229		102-4		BRAGG #1 ID-09335	OUTLAW-BRAGG (PRY)	20.2	LONE STAR GAS CO
8229793	F-7C-049988	4208131064		103		DURHAM #5 ID-07798	BLOODWORTH NE (5750 C	82.1	SUN GAS CO
8229683	F-7C-046075	4230730595		103		W D CAYLOR #1 ID 95626	WALKER-GRANT (STRAWN)	15.3	SIOUX PIPELINE CO
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	04/29/82	JA: TX			
8229687	F-08-049111	4213502435		108		ALMA #2	TXL (SILURIAN)	6.0	SHELL OIL CO
8229535	F-10-039970	4223331123		103		CHRISTIAN E #1	PANHANDLE HUTCHINSON	0.0	PANHANDLE EASTERN
8229766	F-08-049835	4237131734		108		COATES B #1	COATES (STRAWN)	1.0	
8229650	F-08-048289	4200330314		108		EMBAR B #39	GOLDSMITH NORTH (SAN	6.0	EL PASO NATURAL G
8229521	F-10-035105	4217900000		108		JOHNSON T #1	PANHANDLE GRAY	8.0	
8229767	F-08-049836	4249503458		108		MCCABE #11	EMPEROR (YATES)	6.0	NORTHERN NATURAL
8229686	F-08-049109	4208310581		108		UNIV ANDREWS #110	EMBAR (YATES)	0.0	EL PASO NATURAL G
-POLK & PATTON INC				RECEIVED:	04/29/82	JA: TX			
8229689	F-03-044738	4205131932		102-2		TAYLOR UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
-PRENIUM OIL & GAS INC				RECEIVED:	04/29/82	JA: TX			
8229558	F-7C-041127	4239900000		103		W O MIDDLETON #1	BALLINGER WEST (GARDN	8.0	LONE STAR GAS CO
-PRICE DRILLING & EXPLORATION CO				RECEIVED:	04/29/82	JA: TX			
8229535	F-04-041333	4247932597		102-4		A BENAVIDES #1-23	LAUREL N (2000)	118.0	VALERO TRANSMISSI
8229542	F-04-040274	4227931838		102-4		A BENAVIDES #1-269 (ID NO 76263)	LAUREL NO (1400 FRIO)	127.0	VALERO TRANSMISSI
8229549	F-04-041830	4247932425		102-4		A BENAVIDES #2-269	LAUREL N (1700)	109.0	VALERO TRANSMISSI
8229541	F-04-040273	4247931874		102-4		A BENAVIDES #2-270 (ID NO 74690)	LAUREL (1840)	146.0	VALERO TRANSMISSI
8229554	F-04-041327	4247932408		102-4		A BENAVIDES #2-271	LAUREL N (2700)	182.0	VALERO TRANSMISSI
8229556	F-04-041335	4227932921		102-4		A BENAVIDES #4-269	LAUREL N (1250)	91.0	VALERO TRANSMISSI
-R A W ENERGY CORP				RECEIVED:	04/29/82	JA: TX			
8229694	F-78-049195	4236700000		102-4		BOYD BOUNDS #1	CABBAGE PATCH (ATOKA)	0.0	ALEDO GAS CO LTD
8229695	F-78-049203	4236700000		102-4		CLARK #1	CABBAGE PATCH (BIG SA	0.0	ALEDO GAS CO LTD
8229691	F-78-049190	4236700000		102-4		SHARPE UNIT #1-U	CABBAGE PATCH (ATOKA)	0.0	ALEDO GAS CO LTD

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8229693	F-78-049192	4236700000		102-4		SWEARINGIN-DILL UNIT #1
8229692	F-78-049191	4236700000		102-4		WALLIS #1 RRC #79484
-REALITOS IV EXPLORATORY PROGRAM				RECEIVED:	04/29/82	JA: TX
8229578	F-02-043006	4246931748		102-4		W C BUCHHOLTZ #1
-REO INDUSTRIES INC				RECEIVED:	04/29/82	JA: TX
8229726	F-10-049617	4223300000		103		WHITTENBURG A 8-27
8229725	F-10-049616	4223300000		103		WHITTENBURG A 8-29
8229559	F-10-041473	4223300000		103		WHITTENBURG 1-7
8229729	F-10-049620	4223300000		103		WHITTENBURG 33-1
8229728	F-10-049619	4223300000		103		WHITTENBURG 33-15
8229747	F-10-049718	4223300000		103		WHITTENBURG 33-16
8229796	F-10-049904	4223300000		103		WHITTENBURG 33-19
8229727	F-10-049618	4223300000		103		WHITTENBURG 33-2
8229797	F-10-049905	4223300000		103		WHITTENBURG 33-20
-RICO OIL CO				RECEIVED:	04/29/82	JA: TX
8229754	F-09-049780	4223734087		103		SMITH-EAST #21885
-SAGE DRILLING CO INC				RECEIVED:	04/29/82	JA: TX
8229737	F-10-049656	4235731207		103		G BRILLHART #1
-SAGE ENERGY CO				RECEIVED:	04/29/82	JA: TX
8229742	F-03-049685	4205131654		102-2		BROCK #2 RRC#14969
8229741	F-03-049684	4205132088		102-2		BROCK #3 RRC#14969
8229740	F-03-049682	4205131905		102-2		LAKEVIEW UNIT #1 RRC#14967
8229739	F-03-049681	4214911614		102-2		LYONS #2 RRC #14968
-SAMEDAN OIL CORPORATION				RECEIVED:	04/29/82	JA: TX
8229596	F-03-045678	4222530377		102-4		WESTER A #1
8229576	F-03-042586	4222530342		102-4		ST REGIS PAPER CO #1-A
-SAMSON RESOURCES COMPANY				RECEIVED:	04/29/82	JA: TX
8229600	F-03-045902	4208930352		108		ROSS BENNER #5
-SANDEFER OIL & GAS INC				RECEIVED:	04/29/82	JA: TX
8229601	F-04-045970	4235531776		102-4		WILL E FRY #1
-SANTA FE-WINDSOR PRODUCING CO				RECEIVED:	04/29/82	JA: TX
8229657	F-03-048536	4228731113		103		ALFRED #1
8229656	F-03-048537	4228731036		103		COINS UNIT #1
8229658	F-03-048540	4228731124		103		LEE UNIT #1
8229649	F-03-048285	4228731074		102-2	103	MARTHA UNIT #1
8229639	F-03-047955	4228731119		103		NITSCHE #1
-SAXON OIL COMPANY				RECEIVED:	04/29/82	JA: TX
8229617	F-7C-047372	4246131834		103		BRUSENHAN #1
8229537	F-08-040127	4231732172		103		GAY WADE "A" #1
8229540	F-08-040132	4231732344		103		GAY WADE B #1
8229539	F-7C-040131	4246131758		103		HANKS "A" #1
8229538	F-7C-040130	4246131628		103		LENA LEE "A" #1
-SEAGO OIL INC				RECEIVED:	04/29/82	JA: TX
8229701	F-78-049352	4225331865		103		AL GRIFFITH #5
8229700	F-78-049351	4225300000		103		RAYMOND WILDER #1
8229699	F-78-049350	4225332000		103		RAYMOND WILDER #2
-SHELL OIL CO				RECEIVED:	04/29/82	JA: TX
8229595	F-04-045545	4221531117		103		A A MCALLEN #72
8229563	F-04-041573	4250531304		107-DP		M B ZACHRY CO #1
-SHIELD RESOURCES INC				RECEIVED:	04/29/82	JA: TX
8229583	F-03-043553	4247130231		102-4		GIBBS BROS #1
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	04/29/82	JA: TX
8229621	F-04-047492	4242731354		102-4		D LAUREL #11

FIELD NAME	PROD	PURCHASER
CABBAGE PATCH (BIG SA	0.0	ALEDO GAS CO LTD
CABBAGE PATCH (BIG SA	0.0	ALEDO GAS CO LTD
WILDCAT-PROPOSED COLO	160.0	TENNESSEE GAS PIP
PANHANDLE HUTCHINSON	270.0	TRANS-PAN PIPELIN
PANHANDLE HUTCHINSON	270.0	TRANS-PAN PIPELIN
PANHANDLE HUTCHINSON	95.0	TRANS-PAN GATHERI
PANHANDLE HUTCHINSON	720.0	TRANS-PAN PIPELIN
PANHANDLE HUTCHINSON	720.0	TRANS-PAN PIPELIN
PANHANDLE HUTCHINSON	720.0	TRANS-PAN PIPELIN
PANHANDLE HUTCHINSON	720.0	TRANS-PAN PIPELIN
PANHANDLE HUTCHINSON	720.0	TRANS-PAN PIPELIN
JACK COUNTY REGULAR	60.0	CITIES SERVICE GA
BARLOW (DES MOINES)	50.0	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	286.0	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	200.0	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	301.0	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	76.0	PHILLIPS PETROLEU
FT TRINIDAD NE (GLEN	130.0	SOUTH TEXAS GATHE
FT TRINIDAD NE (GLEN	165.0	SOUTH TEXAS GATHE
MUSTANG CREEK (2,000)	6.3	LONE STAR GAS CO
AGUA DULCE (8550')	300.0	
GIDDINGS (AUSTIN CHAL	36.5	PERRY PIPELINE CO
GIDDINGS (AUSTIN CHAL	36.5	PERRY PIPELINE CO
GIDDINGS (AUSTIN CHAL	219.0	PERRY PIPELINE CO
GIDDINGS (AUSTIN CHAL	36.5	PERRY PIPELINE CO
GIDDINGS (BUDA)	36.5	PERRY PIPELINE CO
SPRABERRY (TREND AREA	33.2	MOBIL PRODUCING T
BREEDLOVE EAST (SPRAB	22.3	PHILLIPS PETROLEU
BREEDLOVE EAST (SPRAB	28.5	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	26.3	MOBIL PRODUCING T
SPRABERRY (TREND AREA	27.7	MOBIL PRODUCING T
HUDDLESTON (STRAWN SA	160.0	PALO DURO PIPELIN
HUDDLESTON (STRAWN SA	430.0	PALO DURO PIPELIN
HUDDLESTON (STRAWN SA	32.0	PALO DURO PIPELIN
MCALLEN RANCH (VICKSB	400.0	VALERO INTERSTATE
FANDANGO (WILCOX "U")	900.0	UNITED TEXAS TRAN
HUNTSVILLE NE	500.0	
SUN NORTH	918.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8229664	F-06-048602	4236531231		103		DAHLIA O CAUDLE UNIT #2	CARTHAGE	0.7	
8229620	F-10-047487	4219500000		108		H B HART "A" #1	HANSFORD UPPER MORROW	17.0	PANHANDLE EASTERN
8229622	F-10-047523	4221100000		108		L P HUMPHREYS #1	CANADIAN SE DOUGLAS	17.0	PANHANDLE EASTERN
8229619	F-09-047484	4249700000		108		O PAYNE #1	BOONSVILLE (BEND CONG	15.0	NATURAL GAS PIPEL
-T A D ENERGY				RECEIVED:	04/29/82	JA: TX			
8229565	F-09-041838	4223733349		103		T A D ENERGY CO D W TUCKER #1	PERRIN SW (CONGL 4850	0.0	LONE STAR GAS CO
-TAYLOR OPERATING COMPANY				RECEIVED:	04/29/82	JA: TX			
8229746	F-09-049712	4223700000		103		STRATA-LEWIS #2 (21263)	JACK COUNTY REGULAR	128.8	SOUTHWESTERN GAS
-TDC ENGINEERING INC				RECEIVED:	04/29/82	JA: TX			
8229653	F-04-048492	4250500000		103		FLORES #5	NEW ZAPATA (1800')	113.0	VALERO TRANSMISSI
-TDC EXPLORATION INC				RECEIVED:	04/29/82	JA: TX			
8229659	F-03-048546	4214931283		102-2		FLOYD #1	GIDDINGS (AUSTIN CHAL	25.0	SOUTH CEN-TEX GAS
8229736	F-06-049652	4200530110		102-2		W T CARTER #1	ZAVALLA	400.0	PERRY PIPELINE CO
8229735	F-06-049650	4200530120		102-2		W T CARTER #4	ZAVALLA	400.0	PERRY PIPELINE CO
8229745	F-06-049708	4200530125		102-2		W T CARTER #6	ZAVALLA	400.0	PERRY PIPELINE CO
-TEPCO ENGINEERING INC				RECEIVED:	04/29/82	JA: TX			
8229602	F-02-046869	4223931614		102-4	103	W T WESTHOFF #1	TEXANA N (FRIO 7200)	100.0	HOUSTON PIPE LINE
-TEXACO INC				RECEIVED:	04/29/82	JA: TX			
8229636	F-10-047868	4217900000		108		G H SAUNDERS NCT-3 #108	EAST PANHANDLE	19.7	COLTEXO CORP
8229749	F-8A-049739	4221933388		103		MONTGOMERY ESTATE DAVIES NCT-2 #86	LEVELLAND	15.7	AMOCO PRODUCTION
8229738	F-08-049657	4200300000		108		STATE OF TEXAS "S" #3	BLOCK 12 YATES	7.1	PHILLIPS PETROLEU
-TEXAS GENERAL PETROLEUM CORP				RECEIVED:	04/29/82	JA: TX			
*8229515	F-03-031980	4205131936		102-2		GEORGE #1	GIDDINGS (AUSTIN CHAL	350.0	CLAYJON GAS CO
-TOM F MARSH INC				RECEIVED:	04/29/82	JA: TX			
8229525	F-10-039567	4221131293		103		BROTHERTON #1-70	BUFFALO WALLOW (GRANI	73.0	
8229526	F-10-039568	4248330752		102-4		HEFLEY #1-34	SWEET SILVER (MISSIS	0.0	
-TXO PRODUCTION CORP				RECEIVED:	04/29/82	JA: TX			
8229607	F-7C-046219	4246130158		102-4		DAMRON "A" #1	MELUNA (CONNELL SD)	11.0	
8229518	F-05-034088	4216130638		103	107-TF	JONES "EE" #1	STEWARDS MILL (COTTON	0.0	DELHI GAS PIPELIN
-UNION OIL COMPANY OF CALIF				RECEIVED:	04/29/82	JA: TX			
8229744	F-08-049695	4200332952		103		FUHRMAN-MASCHO UNIT #407 BLK 10	FUHRMAN-MASCHO	10.0	PHILLIPS PETROLEU
8229782	F-08-049859	4200332953		103		FUHRMAN-MASCHO UNIT #506 BLK 10	FUHRMAN-MASCHO	5.0	PHILLIPS PETROLEU
8229743	F-10-049694	4221100000		108		MARGARET HODGSON #1-41	FELDMAN (TONKAWA)	18.0	TRANSWESTERN PIPE
-VANDERBILT RESOURCES CORPORATION				RECEIVED:	04/29/82	JA: TX			
8229638	F-01-047938	4217700000		102-4	103	DEDERRY #1	PEACH CREEK (AUSTIN C	87.5	VALERO TRANSMISSI
-VANGUARD EXPLORATION CO INC				RECEIVED:	04/29/82	JA: TX			
8229567	F-7B-041838	4222100000		103		MASSEY #1 GAS ID # NA	GRANBURY NE (ATOKA)	25.0	EMPIRE PIPELINE C
-VERNON E FAULCONER				RECEIVED:	04/29/82	JA: TX			
8229631	F-10-047691	4223330588		108		YAKE G #1-R RRC ID #83914	PANHANDLE WEST (RED C	0.0	PANHANDLE EASTERN
-VISTA RESOURCES INC				RECEIVED:	04/29/82	JA: TX			
8229517	F-7C-033049	4210532207		107-TF		W E WEST ESTATE #1	MIDWAY LANE SE (CANYO	108.0	EL PASO NATURAL G
-WAGNER & BROWN				RECEIVED:	04/29/82	JA: TX			
*8229484	F-08-044133	4243130825		103		HILDEBRAND #38-10	CONGER (PENN)	385.0	VALERO TRANSMISSI
-WALSH AND WATTS INC				RECEIVED:	04/29/82	JA: TX			
8229765	F-10-049834	4223300003		108		STATE -B- (LEASE NO 00804) #1	PANHANDLE HUTCHINSON	0.0	PHILLIPS PETROLEU
8229764	F-10-049833	4223300002		108		STATE -B- (LEASE NO 00804) #3	PANHANDLE HUTCHINSON	0.0	PHILLIPS PETROLEU
8229763	F-10-049832	4223300000		108		STATE -B- (LEASE NO 00804) #4	PANHANDLE HUTCHINSON	0.0	PHILLIPS PETROLEU
8229762	F-10-049831	4223300000		108		STATE -B- (LEASE NO 00804) #6	PANHANDLE HUTCHINSON	0.0	PHILLIPS PETROLEU
8229761	F-10-049830	4223300000		108		STATE -B- (LEASE NO 00804) #7	PANHANDLE HUTCHINSON	0.0	PHILLIPS PETROLEU
8229760	F-10-049829	4223300000		108		STATE -B- (LEASE NO 00804) #8	PANHANDLE HUTCHINSON	0.0	PHILLIPS PETROLEU
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	04/29/82	JA: TX			
8229771	F-08-049840	4210332808		103		P J LEA #128	LEA (SAN ANDRES)	8.6	EL PASO NATURAL G
8229769	F-08-049838	4210332809		103		P J LEA #129	LEA (SAN ANDRES)	18.2	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8229770	F-80-049839	4210332804		103		P J LEA ET AL NO 127
8229671	F-80-048745	4210332725		103		P J LEA LO-115
8229648	F-80-048234	4210332613		103		W N WADDELL #1145
-WOOD ENTERPRISES INC				RECEIVED:	04/29/82	JA: TX
8229523	F-78-039269	4225331388		103		LEE SMITH #1 (16190)
-WY-VEL CORP				RECEIVED:	04/29/82	JA: TX
8229757	F-10-049821	4217930977		103		HOPKINS (05000) #1
-XB ENERGY SERVICES INC				RECEIVED:	04/29/82	JA: TX
8229580	F-81-043057	4216331961		103		ARTHUR HURT JR 4-B
8229579	F-81-043056	4216331908		103		ARTHUR HURT JR 5-B

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FIELD NAME	PROD	PURCHASER
LEA (SAN ANDRES)	26.8	EL PASO NATURAL G
LEA (SAN ANDRES)	4.7	EL PASO NATURAL G
WADDELL (DEVONIAN)	67.5	EL PASO NATURAL G
NOODLE NW (CANYON SAN	13.8	PALO DURO PIPELIN
PANHANDLE GRAY COUNTY	54.8	CABOT PIPELINE CO
PEARSALL (AUSTIN CHAL	0.0	TOP INC
PEARSALL (AUSTIN CHAL	0.0	TOP INC

OTHER PURCHASERS VOLUME NO :651

8229515	PHILLIPS PETROLEUM CO
8229584	TEXAS UTILITIES FUEL CO
8229608	LONE STAR GAS CO
8229637	E I DUPONT DE NEMOURS E CO INC
8229642	TEXAS EASTERN TRANS CORP
8229652	AMOCO PRODUCTION CO
8229683	E I DUPONT DE*NEMOURS & CO INC
8229696	AMOCO PRODUCTION CO
8229733	E I DUPONT DE*NEMOURS & CO INC
8229772	EL PASO NATURAL GAS CO
8229794	UNION TEXAS PETROLEUM CORP

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Nataural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes addtional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before June 14, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New ICS lease
102–2: New well (2.5 mile rule)
102–2: New well (1000 ft rule)
102–3:New onshore reservoir
102–5:New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–14545 Filed 5–27–82; 8:45 am]

BILLING CODE 6717–01–M

[Volume 652]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: May 21, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROC	PURCHASER
LOUISIANA OFFICE OF CONSERVATION									
-TEXAS OIL & GAS CORP				RECEIVED:	04/29/82	JA: LA			
8229881	81-1330	1706120230		102-4		GOREE C #1	SIMSBORO	131.0	DELHI GAS PIPELIN
MICHIGAN DEPARTMENT OF NATURAL RESOURCES									
-GREAT LAKES NIAGARAN				RECEIVED:	04/30/82	JA: MI			
8229984		2110100000		103		RECKOW-HOWES 1-26A	BEAR LAKE 35-A	70.0	CONSUMERS POWER C
-REEF PETROLEUM CORP				RECEIVED:	04/30/82	JA: MI			
8229983		2102500000		102-4		GUISBERT #3-27	CLARENCE *27*	36.0	BATTLE CREEK GAS
8229982		2102500000		102-4		SCHMIDT #1-35	CLARENCE *35*	36.0	BATTLE CREEK GAS
-SHELL OIL CO				RECEIVED:	04/30/82	JA: MI			
8229985		2103100000		102-4		STATE FOREST 1-14	FOREST	92.3	MICHIGAN CONSOLID
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-BOUNTY OIL & GAS INC				RECEIVED:	04/29/82	JA: NY			
8229886	1460	3101315462		107-TF		AHLSTROM ETAL #1	BUSTI	50.0	COLUMBIA GAS TRAN
8229887	1455	3101315627		107-TF		BARTON #1	BUSTI	20.0	COLUMBIA GAS TRAN
-ENVIROGAS INC				RECEIVED:	04/29/82	JA: NY			
8229818	1995	3101315890		107-TF		A NIXON #4	LAKESHORE	18.0	NATIONAL FUEL GAS
8229815	1988	3101315495		107-TF		B KIDDER #1	WILDCAT	18.0	NATIONAL FUEL GAS
8229831	1975	3101315184		107-TF		C WEATHERLOW #1	SUMMERDALE	0.0	COLUMBIA GAS TRAN
8229827	1974	3101315185		107-TF		C WEATHERLOW #2	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8229825	1971	3101315474		107-TF		C WILLIAMS #1	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8229820	1998	3101315632		107-TF		D HITTL #1-A	LAKESHORE	18.0	NATIONAL FUEL GAS
8229814	1989	3101314317		107-TF		D PIERSON #1	LAKESHORE	18.0	NATIONAL FUEL GAS
8229821	1997	3101315024		107-TF		E BERG #1	LAKESHORE	18.0	NATIONAL FUEL GAS
8229804	1986	3101315205		107-TF		E BERG #2	LAKESHORE	18.0	NATIONAL FUEL GAS
8229811	1992	3101315494		107-TF		E KIDDER #1	WILDCAT	18.0	NATIONAL FUEL GAS
8229823	2019	3101315236		107-TF		F BLACK #1	LAKESHORE	18.0	NATIONAL FUEL GAS
8229803	1987	3101315497		107-TF		F KAYSER #1	LAKESHORE	18.0	NATIONAL FUEL GAS
8229833	1977	3101315857		107-TF		F VROOMAN #1	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8229852	1984	3101314809		107-TF		G SCHULTZ #2	WILDCAT	18.0	COLUMBIA GAS TRAS
8229850	1982	3101314810		107-TF		G SCHULTZ #3	WILDCAT	18.0	COLUMBIA GAS TRAN
8229834	1979	3101314808		107-TF		G SCHULTZ#1	WILDCAT	18.0	COLUMBIA GAS TRAN
8229824	2008	3101314480		107-TF		H BEAUJEAN #1	LAKESHORE	18.0	NATIONAL FUEL GAS
8229819	1969	3101315588		107-TF		H JOHNSON #1	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8229828	1973	3101315544		107-TF		J HIGGINBOTHAM #1	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8229810	1993	3101314314		107-TF		J MOORE #1	LAKESHORE	18.0	NATIONAL FUEL GAS
8229851	1981	3101315338		107-TF		J SVENTEK #2	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8229847	1980	3101315399		107-TF		J SVENTEK #3	SUMMERDALE	18.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8229813	1990	3101315367		107-TF		L VERNON #1	LAKESHORE	18.0	NATIONAL FUEL GAS
8229812	1991	3101315368		107-TF		L VERNON #2	LAKESHORE	18.0	NATIONAL FUEL GAS
8229830	1976	3101315543		107-TF		N REED #2	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8229817	1996	3101315696		107-TF		P PERU #1	WILDCAT	18.0	NATIONAL FUEL GAS
8229822	2020	3101314318		107-TF		R STRONG #1	LAKESHORE	18.0	NATIONAL FUEL GAS
8229849	1983	3101315342		107-TF		R WILCOX #1	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8229826	1970	3101315343		107-TF		R WILCOX #2	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8229816	1994	3101315901		107-TF		V NELSON #2	WILDCAT	18.0	NATIONAL FUEL GAS
8229829	1972	3101315811		107-TF		W BAIN #1	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8229805	1985	3101315635		107-TF		W ESKELI #1	WILDCAT	18.0	NATIONAL FUEL GAS
8229832	1978	3101315371		107-TF		W TREJCHEL #1	SUMMERDALE	18.0	COLUMBIA GAS TRAN
-P & S DRILLING INC				RECEIVED:	04/29/82	JA: NY			
8229848	2005	3102915490		108		BUFFALO CREEK #1	BUFFALO CREEK	6.0	NATIONAL FUEL DIS
-TIMBERLAY PETROLEUM CO				RECEIVED:	04/29/82	JA: NY			
8229837	2549	3102916098		103		COOK #1	ALDEN-LANCASTER	36.0	TENNESSEE GAS PIP
8229835	2551	3102916099		103		DAWYDKO #1	ALDEN-LANCASTER	18.0	TENNESSEE GAS PIP
8229836	2550	3102916200		103		DAWYDKO #2	ALDEN-LANCASTER	36.0	TENNESSEE GAS PIP
8229838	2548	3102916316		103		NORMAN STOLL #1	ALDEN-LANCASTER	36.0	TENNESSEE GAS PIP
-TRAHAN PETROLEUM INC				RECEIVED:	04/29/82	JA: NY			
8229840	2099	3101315476		107-TF		DONALD WHITE #1 31-013-15476	BLOCKVILLE	36.0	NATIONAL FUEL GAS
8229808	1664	3101314302		107-TF		GAIL JOHNSON NY #60 31-013-14302	PANAMA	6.0	COLUMBIA GAS TRAN
8229841	2097	3101312543		107-TF		GREEN-WELLS-CRONER #3 31-013-12543	PANAMA	36.0	COLUMBIA GAS TRAN
8229853	1671	3101312537		107-TF		J & J HORTON NY #21 31-013-12537	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8229839	1669	3101312523		107-TF		J J MEREDITH NY #10	PANAMA	10.5	COLUMBIA GAS TRAN
8229845	1661	3101314820		107-TF		KLINE NY #71 31-013-14820	PANAMA	4.8	COLUMBIA GAS TRAN
8229842	1670	3101315519		107-TF		LEO ACKLEY #1 31-013-15519	ELLINGTON	1.4	COLUMBIA GAS TRAN
8229844	1668	3101312530		107-TF		MIKTUK NY #63 31-013-12530	PANAMA	12.0	COLUMBIA GAS TRAN
8229809	1651	3101315212		107-TF		RENDELL NY #8 31-013-15212	PANAMA	15.0	COLUMBIA GAS TRAN
8229843	1701	3101314862		107-TF		T WELCER NY #77 31-013-14862	PANAMA	36.0	COLUMBIA GAS TRAN
-TRISON PETROLEUM				RECEIVED:	04/29/82	JA: NY			
8229846	2699	3102915487		103		YATES #2	HAMBURG	12.0	NATIONAL FUEL DIS
********** OKLAHOMA CORPORATION COMMISSION **********									
-AMOCO PRODUCTION CO				RECEIVED:	04/29/82	JA: OK			
8230836	13701	3515321131		103		BELL UNIT #2			
-APACHE CORPORATION				RECEIVED:	04/28/82	JA: OK			
8229874	16855	3500920436		102-2		PUCKETT 1-16	W SHARON-MORROW	150.0	NORTHERN NATURAL
-ARCO OIL AND GAS COMPANY				RECEIVED:	04/29/82	JA: OK		329.0	EL PASO NAT GAS C
8230818	13761	3506120435		103		A M COX UNIT #3	KINTA	36.5	OKLAHOMA GAS & EL
-ASSOCIATES RESOURCE CORP				RECEIVED:	04/28/82	JA: OK			
8229867	13753	3507122004		103		TURK #2	UNNAMED	16.2	CORONADO TRANSMIS
-ASSOCIATES RESOURCE CORP				RECEIVED:	04/29/82	JA: OK			
8230842	13754	3507121923		103		VICKERY #1	UNNAMED	6.2	SWAB CORP
8230828	13752	3507122004		103		VICKERY #2	UNNAMED	7.3	SWAB CORP
-BOGERT OIL CO				RECEIVED:	04/29/82	JA: OK			
8230828	13729	3507323142		103		CHLOUBER #6-21	SOONER TREND	225.8	PHILLIPS PETROLEU
-BROCK HYDROCARBONS INC				RECEIVED:	04/29/82	JA: OK			
8230855	16746	3512928278		102-2		WATKINS #1-34	WILDCAT	0.0	
-BUNKER EXPLORATION CO				RECEIVED:	04/28/82	JA: OK			
8229868	13802	3510321318		103		PASSOW 1-4	PASSOW	912.0	AMINOIL U S A INC
8229869	13803	3510321322		103		PASSOW 1-5	PASSOW	912.0	AMINOIL U S A INC
-C & S RESOURCES INC				RECEIVED:	04/29/82	JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8230016	16475	3508321553		102-Z	103	BARNES #1 (SKINNER)
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	04/29/82	JA: OK
8230065	13831	3507300000		108		A GLAESLINE #1
8230043	13829	3509300000		108		C LEIERER #1
8230046	13826	3500300000		108		CHURCH #1
8230066	13830	3507300000		108		E G VADDER #1
8230044	13828	3505100000		108		M STILL #1
8230045	13827	3509300000		108		P J WHITENECK #1
-COLOMA PETROLEUM INC				RECEIVED:	04/29/82	JA: OK
8230041	13740	3504722562		103		LAUPPE #1
-EASON OIL COMPANY				RECEIVED:	04/28/82	JA: OK
8229861	13844	3505100000		103		C B PITCHFORD #1-33
8229866	13718	3507323182		103		EMIL BOECKMAN #2-5
-EASON OIL COMPANY				RECEIVED:	04/29/82	JA: OK
8230029	13719	3507323025		103		EMIL BOECKMAN #1-4
-ESTORIL PRODUCING CORP				RECEIVED:	04/29/82	JA: OK
8230035	13705	3512521251		103		STATE "16" FARRIS #2
-F C D OIL CORP				RECEIVED:	04/28/82	JA: OK
8229871	13808	3505320713		103		HOFFMAN 1-34
-F C D OIL CORP				RECEIVED:	04/29/82	JA: OK
8230063	13883	3510321405		103		DUROY 1-34
-GEC PRODUCTION CO				RECEIVED:	04/29/82	JA: OK
8230039	12060	3504921573		103		GUTHRIE #1
-GMC OIL AND GAS CORP				RECEIVED:	04/29/82	JA: OK
8230038	13576	3508371686		103		GLAZEBROOK
-INTER-STATES OIL & GAS INC				RECEIVED:	04/29/82	JA: OK
8230057	16744	3505320834		102-4		BENKENDORF #1A-21
8230056	16745	3505320817		102-4		HALL #1-20
-J L BUSBY ENERGY				RECEIVED:	04/28/82	JA: OK
8229872	13810	3511123090		103		SIBERTS #1
-JET OIL COMPANY				RECEIVED:	04/29/82	JA: OK
8230022	13748	3508321687		103		STROTHMN #1
8230021	13749	3508321581		103		TAYLOR "B" #1
-JOE D DAVIS				RECEIVED:	04/29/82	JA: OK
8230024	13744	3512120847		103		REED #1
-LEE R ELLER				RECEIVED:	04/29/82	JA: OK
8230032	13709	3514321523		103		BELCHER #1
8230034	13707	3514321540		103		BELCHER #2
8230031	13710	3514321560		103		BELCHER #3
8230033	13708	3514722675		103		STEPHENS #1
8230030	13711	3514722692		103		STEPHENS "A" #1
-MACKELLAR INC				RECEIVED:	04/28/82	JA: OK
8229877	13891	3510320814		103		COLE #2
8229856	13887	3510320916		103		FREESE #2B
8229857	13886	3510321194		103		HENRY #1
8229855	13888	3510320813		103		STERMER #2
8229854	13889	3510320855		103		STERMER #3
-MARLIN OIL CORPORATION				RECEIVED:	04/28/82	JA: OK
8229862	13842	3500722118		103		REIMAN #1
-MARLIN OIL CORPORATION				RECEIVED:	04/29/82	JA: OK
*8230019	13755	3500722049		103		SIZELOVE #1
-MOBIL OIL CORP				RECEIVED:	04/28/82	JA: OK
8229860	13846	3503700000		108		NORA WILLIAMS #17

FIELD NAME	PROD	PURCHASER
UNNAMED (13-16N-1E)	135.0	SUN GAS CO
S E LYONS	12.0	PHILLIPS PETROLEU
E CHANEY DELL	9.0	CHAMPLIN PETROLEU
E CHANEY DELL	6.0	CHAMPLIN PETROLEU
DOVER-HENNESSEY	12.0	MUSTANG FUEL CORP
W CHITWOOD	9.0	MOBIL OIL CORP
E CHANEY DELL	13.0	CHAMPLIN PETROLEU
SOONER TREND	200.0	GRACE PETROLEUM C
	71.1	PHILLIPS PETROLEU
	189.5	CITIES SERVICE GA
	109.5	CITIES SERVICE GA
NE TECUMSEH	36.5	TRANSOK PIPELINE
NORTH LAMONT	116.8	C R A INC
EAST BILLINGS	0.0	ARCO OIL & GAS CO
(ANTIOCH)	0.0	BUCKEYE NATURAL G
SOONER TREND	50.0	EASON OIL CO
SE SALT FORK	0.0	
SE SALT FORK	6.0	
NATURA	81.0	PHILLIPS PETROLEU
MULHALL	18.0	EASON OIL CO
MULHALL	34.0	EASON OIL CO
S PINE HOLLOW	26.0	ARKANSAS LOUISIAN
SKIATOOK (EAST BIRDCR	100.0	PHILLIPS PETROLEU
SKIATOOK (EAST BIRDCR	100.0	PHILLIPS PETROLEU
SKIATOOK (EAST BIRDCR	100.0	PHILLIPS PETROLEU
SKIATOOK (EAST BIRDCR	500.0	PHILLIPS PETROLEU
SKIATOOK (EAST BIRD C	11.0	PHILLIPS PETROLEU
EAST GREEN VALLEY	0.0	ARCO OIL & GAS CO
EAST GREEN VALLEY	0.0	ARCO OIL & GAS CO
EAST GREEN VALLEY	0.0	ARCO OIL & GAS CO
EAST GREEN VALLEY	0.0	ARCO OIL & GAS CO
EAST GREEN VALLEY	0.0	ARCO OIL & GAS CO
MOCANE-LAVERNE	72.0	EL PASO NATURAL G
MOCANE-LAVERNE	0.0	EL PASO NATURAL G
CUSHING	6.5	ARCO OIL & GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-NATIONAL COOP REFINERY ASSOC				RECEIVED:	04/29/82	JA: OK			
8230023	13746	3505921051		103		CAL-RAY #3	NORTHWEST LOVEDALE	35.0	NATURAL GAS PIPEL
-OKLAHOMA PETROLEUM MANAGEMENT CORP				RECEIVED:	04/28/82	JA: OK			
8229859	13847	3510720853		103		ROOT #1	NORTH OKEMAH	6.0	GOLDEN ARROW GAS
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	04/28/82	JA: OK			
8229865	13689	3504720958		108		WELLS "B" #1	NW HUNTER	1.5	ARKANSAS LOUISIAN
-R CLARK TAYLOR				RECEIVED:	04/28/82	JA: OK			
8229874	13835	3513920919		108		GRIBBLE #1-31	MOUSER	15.0	CITIES SERVICE GA
-RAINEY OIL CO				RECEIVED:	04/29/82	JA: OK			
8230053	13762	3503723085		103		JORDAN #1	ARNO	43.0	KERR-MCGEE CORP
-RALPH E PLOTNER OIL & GAS INVEST IN				RECEIVED:	04/28/82	JA: OK			
8229873	13811	3501721591		103		LAWSON #1-14	MUSTANG	8.0	PHILLIPS PETROLEU
-RED EAGLE OIL CO				RECEIVED:	04/29/82	JA: OK			
8230025	13743	3501121656		103		MASONHALL #1	CANTO	913.0	DELHI GAS PIPELIN
8230026	13742	3509322274		103		NILE #1	CHEYENNE VALLEY	110.0	PHILLIPS PETROLEU
-RESOURCES INVESTMENT CORPORATION				RECEIVED:	04/29/82	JA: OK			
8230037	13585	3502700000		103		NAILON #2	N W NORMAN	62.0	SUN GAS CO
-S K TUTHILL & B J BARBEE				RECEIVED:	04/28/82	JA: OK			
8229864	11625	3518320985		108		WALKER #1-7	SOUTH EAST FAIRVALLEY	76.0	PANHANDLE EASTERN
-SAKET PETROLEUM CO				RECEIVED:	04/29/82	JA: OK			
8230048	13776	3511122923		103		C V #2		0.0	PHILLIPS PETROLEU
8230047	13777	3511122842		103		CHRIS LEDBETTER #1		0.0	PHILLIPS PETROLEU
8230049	13775	3511123255		103		HICKMAN #2		0.0	PHILLIPS PETROLEU
8230050	13774	3511122839		103		PARKS #3		0.0	PHILLIPS PETROLEU
8230051	13773	3511122925		103		PARKS #4		0.0	PHILLIPS PETROLEU
8230052	13772	3511123155		103		ROBERTS #1		0.0	PHILLIPS PETROLEU
-SENECA OIL COMPANY				RECEIVED:	04/29/82	JA: OK			
8230058	16717	3532239300		102-2	103	RITTER #2-34	S E BADD	204.4	PANHANDLE EASTERN
-SHELL OIL CO				RECEIVED:	04/29/82	JA: OK			
8230062	16686	3501512120		102-4		MCCALLA RANCH #1-11	WILDCAT	697.2	
8230059	16689	3505121111		102-4		NADEN HOWARD NO 1-1	WILDCAT	1904.9	
8230061	16687	3505121189		102-4		NEWKIRK #1-13	WILDCAT	751.9	
8230060	16688	3505121219		102-4		PORTER #1-14	WILDCAT	1022.0	
-SOUTHLAND ROYALTY CO				RECEIVED:	04/28/82	JA: OK			
8229863	13836	3513921240		108		CRAIG #1-6	CAPLE	16.0	NORTHERN NATURAL
-TEXAS EAGLE OIL CO				RECEIVED:	04/29/82	JA: OK			
8230015	16528	3509120418		102-2		LACKEY #2-16	HITCHITA	100.0	
-TEXAS OIL & GAS CORP				RECEIVED:	04/28/82	JA: OK			
8229858	13873	3504300000		108		ALKIRE #1	PUTNAM	8.0	DELHI GAS PIPELIN
-THE WIL-MC OIL CORP				RECEIVED:	04/28/82	JA: OK			
8229875	16860	3513721282		102-4		PITTS #2-A (103-13)	COMANCHE	164.9	
-TRIGG DRILLING COMPANY INC				RECEIVED:	04/29/82	JA: OK			
8230017	16368	3500920414		102-2	103	RICHMOND 1-2		0.0	EL PASO NATURAL G
-UNITED OIL CORP				RECEIVED:	04/29/82	JA: OK			
8230040	13732	3507322814		103		MATTI #2	SE ALPHA	0.0	PHILLIPS PETROLEU
8230027	13731	3501721734		103		MCGINNIS #1	W EDMOND	0.0	PHILLIPS PETROLEU
-VULCAN ENERGY CORP				RECEIVED:	04/29/82	JA: OK			
8230064	13882	3503723179		103		ESPOLT #1	SOONER TREND	21.9	PHILLIPS PETROLEU
-WHEATLAND OIL CO				RECEIVED:	04/28/82	JA: OK			
8229870	13804	3507323229		103		MCMEEKAN #1	LACY	78.0	PHILLIPS PETROLEU
-WHITNAR EXPLORATION CO				RECEIVED:	04/29/82	JA: OK			
8230054	13760	3515121162		103		B I B #1-13	NORTH GREENSBURG	300.0	DELHI GAS PIPELIN

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PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES

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-BETA 79-3 T JOINT VENTURE				RECEIVED:	04/29/82	JA: PA			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8229908	8825	3706521975		108		BLOSE #1	HENDERSON	25.0	NATIONAL FUEL GAS
8229909	8826	3706522126		108		BLOSE #2	HENDERSON	25.0	NATIONAL FUEL GAS
-C & C TROYER BROTHERS				RECEIVED:	04/29/82	JA: PA			
8229973	11237	3704921451		102-2		FOREST HULINGS #1 (#44)	EDINBORO	15.0	NATIONAL FUEL GAS
8229974	11236	3704921451		107-TF		FOREST HULINGS #1 (44)	EDINBORO	15.0	NATIONAL FUEL GAS
8229972	11235	3704921458		102-2		R WALKER #1 (#45) X	EDINBORO	12.0	NATIONAL FUEL GAS
8229971	11233	3704920973		102-2		TROYER-ADAMS #1 (#21)	EDINBERG	15.0	NATIONAL FUEL GAS
-CARDINAL OIL CO				RECEIVED:	04/29/82	JA: PA			
8229910	11148	3704921547		107-TF		RONALD LARSON #1 PA PER ERI-21547	CONNEAUT	0.0	COLUMBIA GAS TRAN
-CASTLE GAS CO INC				RECEIVED:	04/29/82	JA: PA			
8229920	11293	3706325694		103		A CHUNORK #2 (C-477) IND-25694	YOUNG TOWNSHIP	70.0	INDUSTRIAL ENERGY
8229915	11286	3706326417		103		CHERRY RUN DAM #2 (C-738) IND-26417	CENTER TOWNSHIP	65.0	COLUMBIA GAS TRAN
8229914	11285	3706326418		103		CHERRY RUN DAM #3 (C-739) IND-26418	CENTER TOWNSHIP	65.0	COLUMBIA GAS TRAN
8229913	11284	3706326419		103		CHERRY RUN DAM #4 (C-740) IND-26419	CENTER TOWNSHIP	65.0	COLUMBIA GAS TRAN
8229912	11283	3706326469		103		CHERRY RUN DAM #5 (C-741) IND-26469	CENTER TOWNSHIP	55.0	COLUMBIA GAS TRAN
8229911	11282	3706326484		103		CHERRY RUN DAM #6 (C-742) IND-26484	CENTER TOWNSHIP	50.0	COLUMBIA GAS TRAN
8229921	11294	3706326517		103		CHERRY RUN DAM #7(C-743) IND-26517	CENTER TOWNSHIP	60.0	COLUMBIA GAS TRAN
8229918	11291	3706326012		103		J C STONEBRAKER #1(C-641) IND-26012	GREEN TOWNSHIP	60.0	COLUMBIA GAS TRAN
8229917	11290	3706326013		103		J C STONEBRAKER #2(C-642) IND-26013	GREEN TOWNSHIP	60.0	COLUMBIA GAS TRAN
8229919	11292	3706326145		103		J K NICELY #3 (C-712) IND-26145	YOUNG TOWNSHIP	50.0	PEOPLES NATURAL G
8229916	11287	3706326146		103		R CUNNINGHAM #3 (C-714) IND-26146	YOUNG TOWNSHIP	55.0	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	04/29/82	JA: PA			
8229922	8858	3706521528		108		CHARLES H MILLER WN-1652	PERRY TOWNSHIP	12.2	GENERAL SYSTEM PU
-DELTA 80 S T JOINT VENTURE				RECEIVED:	04/29/82	JA: PA			
8229924	8539	3706522156		108		PAUL KENNIS #1	HENDERSON	25.0	NATIONAL FUEL GAS
8229923	8538	3706522157		108		PAUL KENNIS #2	HENDERSON	25.0	NATIONAL FUEL GAS
-DONALD F WEAVER				RECEIVED:	04/29/82	JA: PA			
8229987	11013	3706500000		108		BELL RUN #1	ALLEGHENY PLATEAU	20.7	NATIONAL FUEL GAS
8229986	11012	3706500000		108		BELL RUN #2	ALLEGHENY PLATEAU	20.7	NATIONAL FUEL GAS
-EASTERN STATES EXPLORATION CO				RECEIVED:	04/29/82	JA: PA			
8229926	11249	3706522417		103		HARRY KATZEN CO #1	RATHMEL	40.0	NATIONAL FUEL GAS
8229925	11248	3706522395		103		JOHN MC CONNELL #1	WARSAW	30.0	NATIONAL FUEL GAS
-J & J ENTERPRISES INC				RECEIVED:	04/29/82	JA: PA			
8229927	11111	3703320710		103		ROBERT KESTER #6	BELL	0.0	T W PHILLIPS GAS
-KALTSAS OIL CO				RECEIVED:	04/29/82	JA: PA			
8229932	10829	37C4921405		103		EDWARD CHYLINSKI #2	NORTH EAST FIELD HORN	12.0	COLUMBIA GAS TRAN
8229933	10830	3704921405		107-TF		EDWARD CHYLINSKI #2	NORTH EAST FIELD HORN	12.0	COLUMBIA GAS TRAN
8229931	10828	3704921407		103		EDWARD CHYLINSKI #4	NORTH EAST FIELD HORN	24.0	COLUMBIA GAS TRAN
8229934	10831	3704921407		107-TF		EDWARD CHYLINSKI #4	NORTH EAST FIELD HORN	24.0	COLUMBIA GAS TRAN
8229928	10825	3704921612		103		FRANK J PATALON #3	NORTH EAST FIELD HORN	18.0	COLUMBIA GAS TRAN
8229936	10833	3704921612		107-TF		FRANK J PATALON #3	NORTH EAST FIELD HORN	18.0	COLUMBIA GAS TRAN
8229929	10826	3704921610		103		PATRICIA CHYLINSKI MCNAUGHTON #1	NORTH EAST FIELD HORN	12.0	COLUMBIA GAS TRAN
8229937	10834	3704921610		107-TF		PATRICIA CHYLINSKI MCNAUGHTON #1	NORTH EAST FIELD HORN	12.0	COLUMBIA GAS TRAN
8229930	10827	3704921627		103		WALLACE MAY #2	NORTH EAST FIELD HORN	22.0	COLUMBIA GAS TRAN
8229935	10832	3704921627		107-TF		WALLACE MAY #2	NORTH EAST FIELD HORN	22.0	COLUMBIA GAS TRAN
-KEPCO INC				RECEIVED:	04/29/82	JA: PA			
8229938	9642	3705921593		102-4		C J HARTLEY #1 (PK-6)	GARARDS FORT	14.0	NEW JERSEY NATURA
8229941	9641	3705921593		103		C J HARTLEY #1 (PK-6)	GARARDS FORT	14.0	NEW JERSEY NATURA
8229939	9644	3705921572		102-4		E V BUNNER #4 (PK-4)	GARARDS FORT	14.0	NEW JERSEY NATURA
8229942	9643	3705921572		103		E V BUNNER #4 (PK-4)	GARARDS FORT	14.0	NEW JERSEY NATURA
8229940	9640	3705921594		103		J V FILIAGGI #1 (PK-5)	GARARDS FORT	24.0	NEW JERSEY NATURA
-LAKE ERIE #1				RECEIVED:	04/29/82	JA: PA			
8229947	11144	3704921514		107-TF		G W SWIFT PA PER ERI-21514	CONNEAUT	0.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8229946	11142	3704921534		107-TF		RAYMOND SWIFT #1 PA PER ERI-21534	CONNEAUT	0.0	COLUMBIA GAS TRAN
8229944	11139	3704921516		107-TF		RUDOLPH VANCO #2 PA PER ERI-21516	CONNEAUT	0.0	COLUMBIA GAS TRAN
8229943	11138	3704921517		107-TF		RUDOLPH VANCO #3 PA PER ERI-21517	CONNEAUT	0.0	COLUMBIA GAS TRAN
8229945	11144	3704921512		107-TF		WILLIAM SMITH #1 PA PER ERI-21512	CONNEAUT	0.0	COLUMBIA GAS TRAN
-MID-PENN ENERGY CORP				RECEIVED:	04/29/82	JA: PA			
8229952	11280	3703321130		103		BURNETT HAAG #1	BIG RUN	25.0	NATIONAL FUEL GAS
8229951	11279	3706326408		103		CHRISTINA & THOMAS BOLTER #1	BRUSH VALLEY	35.0	COLUMBIA GAS TRAN
8229950	11278	3703321146		103		HUGH APPLETON #1	GRAMPIAN	25.0	CONSOLIDATED GAS
8229948	11276	3703321128		103		RUSSELL HAAG #1	BIG RUN	30.0	NATIONAL FUEL GAS
8229949	11277	3703321127		103		RUSSELL HAAG #1	BIG RUN	25.0	NATIONAL FUEL GAS
8229953	11281	3706522373		103		WILLIAM WISE #1	BIG RUN	25.0	NATIONAL FUEL GAS
-MITCHELL ENERGY CORPORATION				RECEIVED:	04/29/82	JA: PA			
8229955	11268	3703921448		103		DAVID L STUTZMAN UNIT #1	MOSIERTOWN MEDINA/WHI	27.0	COLUMBIA GAS TRAN
8229958	11269	3703921448		107-TF		DAVID L STUTZMAN UNIT #1	MOSIERTOWN MEDINA/WHI	27.0	COLUMBIA GAS TRAN
8229956	11270	3703921485		103		F NELSON UNIT #1	CONNEAUTVILLE MEDINA/	27.0	COLUMBIA GAS TRAN
8229959	11271	3703921485		107-TF		F NELSON UNIT #1	CONNEAUTVILLE MEDINA/	27.0	COLUMBIA GAS TRAN
8229954	11255	3703921344		103		R E KEENE UNIT #1	MEDINA (WHIRLPOOL SAN	0.0	COLUMBIA GAS TRAN
8229957	11254	3703921344		107-TF		R E KEENE UNIT #1	MEDINA (WHIRLPOOL SAN	0.0	COLUMBIA GAS TRAN
-MITCHELL-HEARD-BROWN				RECEIVED:	04/29/82	JA: PA			
8229960	11252	3704921314		107-TF		MITCHELL-HEARD-BROWN #1	MILL VILLAGE (BROWN F	45.0	COLUMBIA GAS TRAN
-PHILLIPS PRODUCTION CO				RECEIVED:	04/29/82	JA: PA			
8229969	10408	3706323959		108		CARL HAGGERTY #1	CENTER	14.0	WALLACE-MURRAY CO
8229968	10407	3706323907		108		DANIEL R HAUGER ET AL #1	CENTER	15.0	WALLACE-MURRAY CO
8229967	10406	3706323946		108		DANIEL R HAUGER ET AL #2	CENTER	15.0	WALLACE-MURRAY CO
8229962	9338	3703320982		108		HOMER A MOTT ET UX #1	CENTER	3.0	CONSOLIDATED GAS
8229961	9182	3706323977		108		JENNIE B ADAMS ESTATE #3	CENTER	14.0	COLUMBIA GAS TRAN
8229970	10411	3706324406		108		JOHN D BRUCE ET UX #1	CENTER	10.0	WALLACE-MURRAY CO
8229963	9339	3703320993		108		O L STYERS EX FOR O M STYERS EST #1	CENTER	6.0	CONSOLIDATED GAS
8229965	10404	3706323742		108		ROBERT E WISSINGER #2	CENTER	18.0	WALLACE-MURRARY C
8229966	10405	3706323744		108		ROBERT E WISSINGER ET UX #1	CENTER	18.0	WALLACE-MURRAY CO
8229964	10403	3706323799		108		ROBERT E WISSINGER ET UX #3	CENTER	18.0	WALLACE-MURRAY CO
-VINEYARD OIL & GAS CO				RECEIVED:	04/29/82	JA: PA			
8229975	11121	3704921509		102-2		BECK #1	EDINBORO - WASHINGTON	18.0	COLUMBIA GAS TRAN
8229978	11120	3704921509		107-TF		BECK #1	EDINBORO - WASHINGTON	18.0	COLUMBIA GAS TRAN
8229976	11214	3704921571		102-2		GRAVES #1	LEBOEUF	20.0	COLUMBIA GAS TRAN
8229979	11215	3704921571		107-TF		GRAVES #1	LEBOEUF	20.0	COLUMBIA GAS TRAN
8229977	11358	3704921523		102-2		PARKER #1	LEBOEUF	24.0	COLUMBIA GAS TRAN
8229980	11218	3704921523		107-TF		PARKER #1	LEBOEUF	24.0	COLUMBIA GAS TRAN
-WATSON & SWANSON INC				RECEIVED:	04/29/82	JA: PA			
8229981	11299	3703320990		103		J O CLARK BLK #9 WELL #4	BURNSIDE	0.0	COLUMBIA GAS TRAN
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VIRGINIA DEPARTMENT OF LABOR & INDUSTRY									
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-COLUMBIA GAS TRANSMISSION CORP				RECEIVED:	04/29/82	JA: VA			
8229878		4502719958		107-DV		NATL SHAWMUT BK OF BOSTON 80415	VIRGINIA FIELD AREA	0.0	COLUMBIA GAS TRAN
8229879		4502719979		107-DV		NATL SHAWMUT BK OF BOSTON #9 808797	VIRGINIA FIELD AREA	7.0	COLUMBIA GAS TRAN
8229880		4502719982		107-DV		NATL SHAWMUT BK OF BOSTON 808870	VIRGINIA FIELD AREA	14.0	COLUMBIA GAS TRAN
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WEST VIRGINIA DEPARTMENT OF MINES									
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-ALLEGHENY LAND & MINERAL COMPANY				RECEIVED:	04/26/82	JA: WV			
8229896		4708320441		103		A-1011	MIDDLE FORK	0.0	COLUMBIA GAS TRAN
8229889		4708300458		103		A-1019	MIDDLE FORK	0.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8229890		4708300460		103		A-1026
8229888		4708300449		103		A-1027
8229898		4708300503		103		A-1032
8229891		4709702257		103		A-1033
8229895		4704123095		103		A-1036
8229897		4708320483		103		A-958
-APPALACHIAN PETROLEUM CORP				RECEIVED:	04/30/82	JA: WV
8230087		4710500897		107-DV		ROY DOUGLAS #1
8230088		4710500898		107-DV		ROY DOUGLAS #2
-BEREA OIL AND GAS CORPORATION				RECEIVED:	04/26/82	JA: WV
*8229884		4700121201		108		H WATSON #1
-BLAUSER WELL SERVICE INC				RECEIVED:	04/30/82	JA: WV
8230093		4708524882		103		JESSIE SHEETS #1
-BRAXTON OIL AND GAS CORP				RECEIVED:	04/26/82	JA: WV
8229885		4700701516		108		NO 2 CARTER
-CABOT OIL & GAS CORP				RECEIVED:	04/30/82	JA: WV
8230099		4703903647		103		JOHN TAIT #1
8230097		4703903674		103		KIRK & MILLER #2
8230100		4703903729		103		LOUIE FOSTER #1
8230101		4703903751		103		TROWBRIDGE #2
-CARSON PETROLEUM CORP				RECEIVED:	04/30/82	JA: WV
8230102		4702103777		103		E WOOFTER #1
8230103		4701703036		103		ERWIN #1
8230096		4701703024		103		SCHULTE #5
8230104		4701702959		103		SMITH #3A
-COLUMBIA GAS TRANSMISSION CORP				RECEIVED:	04/30/82	JA: WV
8230094		4705900956		107-DV		COTIGA DEVELOPMENT 820223
8230106		4703903638		102-2		GEORGES CK LAND & MIN CO 820520
8230095		4708903631		102-2		KANAWHA HOCKING COAL & COKE 820349
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	04/26/82	JA: WV
8229886		4703302562		103		WANDA O HILL 12622
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	04/27/82	JA: WV
8229905		4708300484		102-2		MIDLAND ENTERPRISES INC WN-12692
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	04/30/82	JA: WV
8230105		4703300993		108		ESTHER R PHILLIPS WN-12222
-D & HANEY INC				RECEIVED:	04/30/82	JA: WV
8230098		4704102967		103		DONNOLLY VILLERS #4
-DEVON CORPORATION				RECEIVED:	04/26/82	JA: WV
8229892		4714501672		108		DINGESS RUM COAL CO #958
-DORAN & ASSOCIATES INC				RECEIVED:	04/26/82	JA: WV
8229903		4703322586		103		A SHINN #1 KR-22
8229902		4703322587		103		A SHINN #2 KR-23
8229900		4703322639		103		A SHINN #4 KR-25
8229901		4703322637		103		A SHINN #7 KR-27
8229899		4703322391		103		ROBERT COFFINDAFFER #2 KU-3
8229904		4703322392		103		SMITH CURRY #2 KU-4
-FOX DRILLING CO INC				RECEIVED:	04/26/82	JA: WV
8229894		4700101431		103		SUE BARTLETT SMITH #1
8229883		4700101434		103		WILLSON #1-A
-FRANCIS E CAIN				RECEIVED:	04/26/82	JA: WV
8229893		4701303158		108		GEORGIA BARNETT #1
-FRANCIS E CAIN				RECEIVED:	04/30/82	JA: WV
8230090		4701303191		103		RUSSELL RICHARDS #2

FIELD NAME	PROD	PURCHASER
ROARING CREEK	0.0	COLUMBIA GAS TRAN
ROARING CREEK	0.0	COLUMBIA GAS TRAN
MIDDLE FORK	0.0	COLUMBIA GAS TRAN
WASHINGTON	0.0	COLUMBIA GAS TRAN
COURT HOUSE	0.0	CONSOLIDATED GAS
MIDDLE FORK	0.0	COLUMBIA GAS TRAN
BURNING SPRINGS	36.0	ROARING FORK GAS
BURNING SPRINGS	36.0	ROARING FORK GAS
VALLEY	25.1	CONSOLIDATED GAS
UNION	6.3	CONSOLIDATED GAS
BURNSVILLE	20.0	CONSOLIDATED GAS
WASHINGTON	43.0	TENNESSEE GAS PIP
JEFFERSON	45.0	TENNESSEE GAS PIP
WASHINGTON	17.0	TENNESSEE GAS PIP
WASHINGTON	38.0	TENNESSEE GAS PIP
LITTLE COVE	18.0	COLUMBIA GAS TRAN
ST CLAIR	15.0	COLUMBIA GAS TRAN
S CLAIR	26.8	COLUMBIA GAS TRAN
ST CLAIR	25.0	COLUMBIA GAS TRAN
WEST VA FIELD AREA B	21.0	COLUMBIA GAS TRAN
INDIAN CREEK	168.3	COLUMBIA GAS TRAN
INDIAN CK	40.0	COLUMBIA GAS TRAN
EAGLE DISTRICT	25.4	GENERAL SYSTEM PU
MIDDLE FORK	10.5	GENERAL SYSTEM PU
SARDIS	0.2	GENERAL SYSTEM PU
FREEMANS CREEK DISTRI	0.0	CONSOLIDATED GAS
ETHEL	6.5	COLUMBIA GAS TRAN
CLAY	30.0	CONSOLIDATED GAS
CLAY	30.0	CONSOLIDATED GAS
CLAY	30.0	CONSOLIDATED GAS
CLAY	30.0	CONSOLIDATED GAS
UNION	30.0	CONSOLIDATED GAS
UNION	30.0	CONSOLIDATED GAS
BELINGTON	10.0	COLUMBIA GAS TRAN
BELINGTON	8.0	COLUMBIA GAS TRAN
SHERIDAN	0.0	CABOT CORP
SHERIDAN	0.0	CABOT CORP

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8230089		4701303274		103		RUSSELL RICHARDS #3	SHERIDAN	0.0	CABOT CORP
-HYDROCARBON ENERGIES INC				RECEIVED:	04/30/82	JA: WV			
8230076		4709702288		103		ORTH GOULD H-E #2	BUCKHANNON DISTRICT	0.0	COLUMBIA GAS TRAN
-J & J ENTERPRISES INC				RECEIVED:	04/30/82	JA: WV			
8230072		4701723022		103		J-223	TENMILE	0.0	CONSOLIDATED GAS
8230067		4701722951		103		J-294	CENTRAL	0.0	COLUMBIA GAS TRAN
8230077		4703322539		103		J-411	SARDIS	0.0	CARNEGIE NATURAL
8230074		4703322530		103		J-412	SARDIS	0.0	CARNEGIE NATURAL
8230070		4701702925		103		J-424	NEW MILTON	0.0	CONSOLIDATED GAS
8230085		4701722922		103		J-428	GRANT	0.0	COLUMBIA GAS TRAN
8230079		4701722978		103		J-454	MCELROY	0.0	CONSOLIDATED GAS
8230075		4700121527		103		J-480	BARKER	0.0	COLUMBIA GAS TRAN
8230082		4701723023		103		J-503	WEST UNION	0.0	CONSOLIDATED GAS
8230071		4701723007		103		J-509	NEW MILTON	0.0	CONSOLIDATED GAS
8230081		4701723018		103		J-513	WEST UNION	0.0	CONSOLIDATED GAS
8230083		4709520924		103		J-514	CENTERVILLE	0.0	CONSOLIDATED GAS
8230084		4709520925		103		J-515	CENTERVILLE	0.0	CONSOLIDATED GAS
8230078		4701722479		103		J-54	MCCLELLAN	0.0	CONSOLIDATED GAS
8230080		4701722936		103		J-92	WEST UNION	0.0	CONSOLIDATED GAS
-PETROLEUM RESOURCES INC				RECEIVED:	04/26/82	JA: WV			
8229887		4702103716		108		HEATH #1	BUTCHER'S FORK	25.0	CONSOLIDATED GAS
-ROSS-WHARTON GAS CO				RECEIVED:	04/30/82	JA: WV			
8230086		4704102981		103		C W MAXWELL HRS #1	JANE LEW	20.0	CONSOLIDATED GAS
-UNITED PETRO LTD				RECEIVED:	04/30/82	JA: WV			
8230091		4701308187		108		BOB HAMBURG #1-A	ORMA-MINNORA GAS	10.0	CONSOLIDATED GAS
8230092		4701303159		108		THOMAS HICKS #1	ORMA-MINNORA GAS	16.0	CONSOLIDATED GAS
-VACO OIL AND GAS CO INC				RECEIVED:	04/30/82	JA: WV			
8230069		4702103803		107-DV		BOYLES #2A	GILMER	25.0	CONSOLIDATED GAS
8230073		4702103803		103		BOYLES #2A	GILMER	25.0	CONSOLIDATED GAS
8230068		4702103767		107-DV		WHITING #13A	GILMER	9.0	CONSOLIDATED GAS
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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, ALBUQUERQUE,NM									
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-YATES PETROLEUM CORPORATION				RECEIVED:	04/29/82	JA: NM 4			
8229882	NM-0556-81	3001521795		102-4		CC TANK UNIT #1	WILDCAT	0.0	TRANSWESTERN PIPE
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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, CASPER,WY									
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-MIDLANDS GAS CORPORATION				RECEIVED:	04/30/82	JA: MT 5			
8230014	M540-1	2507121195		108		FEDERAL #1 2621	BOWDOIN	22.0	KANSAS-NEBRASKA N
8229986	M231-1	2507121712		108		FEDERAL #1 3013	BOWDOIN	11.0	KANSAS-NEBRASKA N
8229987	M238-1	2507121609		108		0851 83531	WHITEWATER	9.0	KANSAS-NEBRASKA N
-SHELL OIL CO				RECEIVED:	04/30/82	JA: MT 5			
8229991	M502-1	2502521178		103		USA 13X-18	LITTLE BEAVER	18.0	
-KOCH INDUSTRIES INC				RECEIVED:	04/30/82	JA: ND 5			
8230085	ND526-1	3300700751		102-2		FEDERAL #15-33A	TREETOP	11.0	MONTANA-DAKOTA UT
-SHELL OIL CO				RECEIVED:	04/30/82	JA: ND 5			
8229993	ND589-1	3300700664		102-2		USA 41-4	TREETOP	27.0	WESTERN GAS PROCE
-AMERICAN QUASAR PETROLEUM CO				RECEIVED:	04/30/82	JA: WY 5			
8229997	W514-1	4903520603		107-TF		RILEY RIDGE FEDERAL 10-14	SEC 10 T29N-R114W	0.0	
8229992	W508-1	4903520537	D	107-TF		RILEY RIDGE FEDERAL 8-24	SEC 8 T29N-R114W	0.0	
-BELCO PETROLEUM CORPORATION				RECEIVED:	04/30/82	JA: WY 5			
8230083	W521-1	4904521628		103		FROG CREEK FEDERAL 1-7	FROG CREEK	0.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-CHEVRON U S A INC				RECEIVED:	04/30/82	JA: WY 5			
8230012	W538-1	4904120291		107-DP		CHEVRON FEDERAL 1-6F LODGE POLE	CARTER CREEK	9.1	COLUMBIA GAS TRAN
8230013	W539-1	4904120291		107-DP		CHEVRON FEDERAL 1-6F MISSION CANYON	CARTER CREEK	9.1	COLUMBIA GAS TRAN
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	04/30/82	JA: WY 5			
8230009	W533-1	4900526100		102-2		FRAZIER FEDERAL 11-12	PORCUPINE	19.0	
8230010	W534-1	4900526149		103		MCGAHEY FEDERAL 34-31	PORCUPINE	17.0	
-EDWIN L COX				RECEIVED:	04/30/82	JA: WY 5			
8230008	W532-1	4900526049		103		LANHAM FEDERAL #1-17	SANDBAR WEST	365.0	ARCO OIL & GAS CO
-ENERGETICS INC				RECEIVED:	04/30/82	JA: WY 5			
8229990	W500-1T	4903520532		107-TF		FEDERAL 30-31	N BIRD CANYON	782.0	NORTHWEST PIPELIN
-GREAT WESTERN DRILLING COMPANY				RECEIVED:	04/30/82	JA: WY 5			
8230011	W535-1	4900921896		103		FEDERAL 1-25 W-86186	SCOTT	88.3	PHILLIPS PETROLEU
-INTEGRITY OIL & GAS COMPANY				RECEIVED:	04/30/82	JA: WY 5			
8229988	W477-1	4902521156		102-4		D S FEDERAL #1-4	COOPER RESERVOIR	182.5	KANSAS-NEBRASKA N
8229989	W478-1	4902521143		102-4		W S FEDERAL #1-33	COOPER RESERVOIR	182.5	KANSAS-NEBRASKA N
-NATURAL GAS CORPORATION OF CALIF				RECEIVED:	04/30/82	JA: WY 5			
8229996	W512-1	4902320436		102-2		FEDERAL 3-19	FONTENELLE	632.0	PACIFIC GAS TRANS
-NORTEX GAS & OIL CO				RECEIVED:	04/30/82	JA: WY 5			
8229993	W517-1	4901320991		103		FEDERAL 193 #4-18	FULLER RESERVOIR II	20.0	INTERNORTH INC
8229994	W518-1	4901321880		103		FEDERAL 193 #5-18	FULLER RESERVOIR II	25.0	INTERNORTH INC
8229995	W511-1	4901321056		103		FEDERAL 886 #6-18	FULLER RESERVOIR II	30.0	INTERNORTH INC
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	04/30/82	JA: WY 5			
8230082	W520-1	4900525988		102-2		THUNDER CREEK FED A #1	SCHOOL CREEK	17.9	PANHANDLE EASTERN
8230081	W519-1	4900525899		102-2		THUNDER CREEK FED C #1	SCHOOL CREEK	11.3	PANHANDLE EASTERN
-RESOURCES INVESTMENT CORPORATION				RECEIVED:	04/30/82	JA: WY 5			
8229998	W516-1	4900525775		103		QUILLBACK FEDERAL #2-33	PORCUPINE	219.0	MIGC INC
-SNYDER OIL CO				RECEIVED:	04/30/82	JA: WY 5			
8230006	W530-1	4900720677		107-TF		ABBY FEDERAL 1C-17-15-92	ROBBERS GULCH	140.0	NORTHWEST PIPELIN
8230008	W518-1	4900720657		107-TF		SOCO SUPRON FEDERAL 1C-4-14-92	ROBBERS GULCH	160.0	NORTHWEST PIPELIN
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	04/30/82	JA: WY 5			
8230007	W531-1	4900525635		103		UTE MUDDY SAND UNIT #1-12	UTE	10.0	MCCULLOUGH OIL CO
-TEXACO INC				RECEIVED:	04/30/82	JA: WY 5			
8230004	W522-1	4903721801		103		DELANEY RIM UNIT #7	DELANEY RIM	21.6	COLORADO INTERSTA

OTHER PURCHASERS VOLUME NO :652

8229884 BROOKLYN UNION GAS CO
8230019 MICHIGAN WISCONSIN P L CO

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-14546 Filed 5-27-82; 8:45 am]
BILLING CODE 6717-01-C

Office of Assistant Secretary for International Affairs

European Atomic Energy Community; Proposed Subsequent Arrangement; Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended, and the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval for the following retransfer: RTD/JA(EU)–22, from France to Japan, three irradiated fuel pins containing 329 grams of uranium, enriched to an average of 36.4% in U–235, and 47 grams of plutonium, for post-irradiation analysis and measurements.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than June 14, 1982.

For the Department of Energy.

Dated: May 21, 1982.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-14690 Filed 5-27-82; 8:45 am]

BILLING CODE 6450-01-M

Office of Conservation and Renewable Energy

[Case No. DW–002]

Energy Conservation Program for Consumer Products; Granting of Waiver of Dishwasher Test Procedures Upon Petition of General Electric Co.

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Decision and order.

SUMMARY: Today's Decision and Order grants General Electric Company a waiver for its model "T" Series dishwater from the existing DOE dishwasher test procedures.

EFFECTIVE DATE: May 19, 1982.

FOR FURTHER INFORMATION CONTACT:

Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE–113.1, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–9127

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–33, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–9510.

SUPPLEMENTARY INFORMATION:

Background

The Energy Conservation Program for Consumer Products was established pursuant to the Energy Policy and Conservation Act (EPCA), Pub. L. 94–163, as amended by the National Energy Conservation Policy Act (NECPA), Pub. L. 95–619, which requires the Department of Energy (DOE) to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including dishwashers. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchase decisions. These test procedures appear at 10 CFR Part 430, Subpart B. The Department of Energy, on September 26, 1980 (45 FR 6418), amended the prescribed test procedure regulations to allow the Assistant Secretary for Conservation and Renewable Energy to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which either prevent testing of the basic model according to the prescribed test procedures or the prescribed test procedures may evaluate the basic model in a manner so unrepresentative to its true energy consumption characteristics as to provide materially inaccurate comparative data.

General Electric Company (GE) filed a "Petition for Waiver" in accordance with the provisions of § 430.27 of 10 CFR, "Petition for Waiver." As required by that section, DOE published in the Federal Register the GE petition (47 FR 8813, March 2, 1982 and corrected by 47 FR 10272, March 10, 1982) and solicited comments, data and information respecting the petition. GE, by letter dated March 22, 1982, asserted that notice of petition for waiver had been sent to all known manufacturers of domestically marketed dishwashers. Comments were received from Norris Industries (Norris) and Hobart Corporation (Hobart), companies which manufacture dishwashers. All comments were sent to petitioner by DOE on March 8, 1982, and GE responded by letter to each comment. DOE consulted with the Federal Trade Commission (FTC) on April 12, 1982, concerning the petition from GE.

GE's petition contends that while its "T" Series dishwasher is a covered product under the Act, it cannot be adequately tested under the existing DOE test procedures for dishwashers (43 FR 39968, August 8, 1977). The GE design incorporates features which are not addressed in the existing dishwasher test procedures. The GE design allows the dishwasher to operate at a lower inlet water temperature than that specified in the test procedures.

In accordance with 10 CFR 1004.11, GE claimed that the design is confidential and has requested that data regarding it be deleted from the petition. DOE has evaluated this request and has determined that the design information contained in the petition is confidential in accordance with exemption 4 of 5 U.S.C. 552(b)(4).

General Electric Company requested a waiver of the test procedures for all models of its dishwashers, designed as "T" Series. As required by the rule, GE included an alternate test procedure—that for such models the provisions of sections 2.3 and 4.1 of Appendix C, 10 CFR Part 430, "Uniform Test Method for Measuring the Energy Consumption of Dishwashers" be modified as follows:

Section 2.3—Substitute "between 115°F and 125°F" for "between 135°F and 145°F."

Section 4.1—Substitute "70°F" for "90°F."

GE alleges that these modifications will provide for a true measure of energy consumption of its new model dishwashers as designed. GE would modify its user instructions to state that the product is designed to operate with inlet water as low as 120°F, and that energy consumption used to calculate the cost of operation is based upon a 120°F inlet water temperature.

The commenters raised no objection to GE's claim that its "T" Series dishwasher could not be adequately tested under the existing DOE test procedures. With regard to GE's request to substitute a 70°F nominal water heater temperature for the 90°F found in section 4.1, Norris requests that the measured inlet water temperature during testing be used to calculate the nominal water heater temperature rise. Norris contends that if the actual inlet water temperature was allowed to be anywhere between 115°F and 125°F the total energy calculated can be in error proportional to the amount the inlet water temperature varies from 120°F.

Norris provided an example which shows that the per cycle energy consumption can vary by as much as 0.12 Kwh per cycle, or 4.5 percent of the $55 estimated annual cost of operation cited in the example in GE's petition. GE responded, stating that it is appropriate to specify a tolerance for the inlet water temperature and that ±5°F has been found to be reasonable. However, GE stated that a tolerance of ±2°F as granted to Hobart for their KD–19 dishwasher was acceptable. DOE agrees that there may be a variation in the dishwasher per cycle energy consumption based upon the inlet water temperature.

Norris suggested that a test load is required to fairly and accurately measure the energy consumption of the GE design. DOE had previously considered including a provision for a test load in the dishwasher test procedure, but rejected its use stating that:

> Based on over 30 tests on six different models of dishwashers, NBS (the National Bureau of Standards) concluded that there was an insignificant variation in the energy consumed by the internal boost heater between tests conducted with a load and those conducted without a load for dishwashers when operated on the normal cycle. Since none of the models tested had boost heaters that were thermostatistically controlled for the normal cycle, the boost heater operated continuously during the wash and rinse cycles whether or not a load was present. The test results showed that the boost heater consumed nearly a constant amount of energy independent of the number of dishes being washed or the temperature of the water.
>
> In light of the NBS test results, and based on NBS recommendations, FEA has determined that the use of a standard test load for testing of any size dishwasher when operated on the normal cycle or the truncated normal cycle is unnecessarily burdensome on industry and should not be required. 44 FR 39965 (1977).

Subsequent to these tests, NBS conducted a series of energy tests on a dishwasher using thermostatically controlled heating in the normal cycle to determine the effects on energy consumption of a test load and found a difference of 1.7 percent using 140°F inlet water and 6.6 percent with 120°F water.

General Electric responded that its petition did not address the issue of a test load because DOE previously had determined that this requirement was burdensome and did not result in significant differences in energy consumption. Furthermore, GE stated that its test data shows that the difference between energy consumption with a test load and without a test load is significantly less than the difference in energy consumption found by NBS. DOE, in granting a waiver to Norris, specified the use of a test load based upon Norris' contention that there is a variation in energy consumption in its LER Series dishwasher. While GE has provided no data to DOE regarding the energy consumption of its "T" Series dishwasher, DOE believes that there will not be any significant variation in energy consumption of the "T" Series dishwasher with and without a test load.

Hobart suggested that if a waiver is granted to GE for its "T" Series dishwasher, the order should contain the same conditions appearing in the exception the Office of Hearings and Appeals granted for Hobart's KD–19 dishwasher (45 FR 31343, June 15, 1981). In response, GE recognized that in recent years there have been many efforts directed at lowering the temperature of household water heaters and that DOE has given recognition to this situation in granting a waiver to Norris for its LER dishwasher (46 FR 35719). DOE agrees that a consumer may select to operate GE's "T" Series dishwasher with inlet water at temperatures other than 120°F.

Since GE finds a tolerance of ±2°F to be acceptable (which would reduce the potential error in Norris' example to less than 2 percent), a tolerance of ±2°F is specified in the decision and order. No requirement for a test load is included as DOE believes such a requirement is unnecessarily burdensome.

After careful consideration of the comments of Norris and Hobart and the responses of GE, DOE has decided to grant a waiver from the test procedures for GE's "T" Series dishwasher. The granting of the waiver will avoid the inequity of applying a uniform testing program that would restrict GE from advertising the energy-saving potential of its model "T" Series dishwasher. A consequence of granting this waiver is that GE would be permitted to use the results of a test using 120°F inlet water in its representations without violating section 323(c)(1) of EPCA.

The Department is mindful that consumers could be confused by not knowing how to evaluate manufacturer's information when comparing various models, i.e., comparing the estimated annual operating cost of the GE model "T" Series dishwasher with that of other models.

Accordingly, DOE has chosen to impose conditions upon its grant of relief. To insure that consumers will fully benefit from the energy-saving potential of the dishwasher, DOE requires as a condition of waiver relief that GE clearly indicate in any representation it makes that the energy costs are based on the use of 120°F inlet water. DOE believes this condition is sufficient to assure that the waiver granted substantially assists consumers in making purchasing decisions.

As an additional matter, the question arises whether GE is required to place the disclosure of 120°F inlet water on the Energy guide label of its model "T" Series dishwasher. The information which the FTC requires to be placedon the label is set forth in a format designed to show annual operating costs based on uniform testing procedures. The inclusion of additional disclosures would be incompatible with the format of the label. Moreover, DOE's statutory authority does not permit it to alter the format of the lable. The format for labels is established by FTC regulation, set forth at 16 CFR Part 305 (44 FR 66466, November 19, 1979).

It is therefore ordered that:

(1) The "Petition for Waiver" filed by General Electric is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3), (4) and (5).

(2) General Electric is not required to test the "T" Series dishwasher pursuant to the test procedures specified in Appendix C of 10 CFR Part 430, Subpart B.

(3) General Electric, in making any representations respecting measures of energy consumption of its model "T" Series dishwasher:

(a) Shall use the test procedures specified in Appendix C to 10 CFR 430, Subpart B, except (1) in section 4.1, substitute "70°F" for "90°F" and (2) in section 2.3, substitute "between 118°F and 122°F" for "between 135°F and 145°F."

(b) Shall disclose in such representations that the energy consumption used to calculate the cost of operation is based upon 120°F inlet water.

(4) The waiver shall remain in effect only until the Department of Energy prescribes final test procedures appropriate to the model "T" Series dishwasher manufactured by General Electric Company and shall in any event expire May 19, 1983.

(5) This waiver is based upon the presumed validity of statements and materials submitted by the applicant and commenters. This waiver may be revoked or modified at any time upon the determination that the factual basis underlying the application is incorrect.

Issued in Washington, D.C., May 19, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 82-14670 Filed 5-27-82; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of March 22 Through March 26, 1982

During the week of March 22 through March 26, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays. They are also available in *Energy Management, Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

May 24, 1982.

Appeals

Digital Equipment Corp., 3/23/82, HFA-0041

Digital Equipment Corporation filed an Appeal from a partial denial by the Assistant Manager for Administration of the DOE Richland Operations Office of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the Assistant Manager's rationale for withholding portions of the requested documents under Exemption 4 was inadequate and that the proceeding should be remanded for a more complete determination.

Toppino Associates, 3/22/82, HFA-0033

Toppino associates filed an Appeal from a partial denial by the Assistant Manager for Administration of the DOE Albequerque Operations Office of a Request for Information that the firm submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that Toppino Assocaties had failed to raise adequate objections to the Assistant Manager's denial. However, the DOE did review the determination and concluded that it failed to adequately explain the reasons for withholding portions of the document, which was a proposal submitted by an advertising agency for the Los Alamos National Laboratory advertising contract, under Exemption 4 of the FOIA. Accordingly, the matter was remanded to the Assistant Manager for a new determination whether release of the information in the proposal would cause substantial competitive harm to the firm which submitted it.

Remedial Orders

Hughes and Hughes Oil and Gas Oasis Oil, Inc.., Office of Enforcement, 3/25/82, DRO-0243, BRD-0111

Oasis Oil, Inc. objected to a Proposed Remedial Order which the Office of Enforcement issued to Hughes and Hughes Oil and Gas on June 5, 1979. In the Proposed Remedial Order, the Office of Enforcement found that Huges had improperly terminated its supplier/purchaser relationship with Sun Petroleum Products Company (SPPC) in violation of 10 CFR § 211.63. The DOE affirmed the determination that Hughes' termination of its supplier/purchaser relationship with Sun was in violation of 10 CFR 211.63 and remanded the matter for the selection of a remedy to be imposed on Hughes. The DOE also denied the Office of Enforcement's Motion for Discovery because it concerned a remedy to which only preliminary consideration had been given.

NFC Petroleum Corporation, 3/24/82, DRO-0175

The NFC Petroleum Corporation objected to a Proposed Remedial Order which the Southwest District of the Economic Regulatory Administration (ERA) issued to the firm on January 18, 1979. In the Proposed Remedial Order, the ERA found that NFC sold specified volumes of crude oil produced from its Royce-Rigney Wade Sand Unit, located in Caddo County, Oklahoma, at prices that exceeded the applicable ceiling price levels. In considering the firm's objections, the DOE found that NFC improperly included injection wells in the well count for determining stripper well property status. In reaching that determination, the DOE reaffirmed its prior decisions which upheld the procedural and substantive validity of Ruling 1974-29. The DOE also found that the ERA properly treated the Rigney Unit as a property separate and apart from the non-unitized portions of the Rigney Lease, and correctly calculated the average daily production of the wells on the Rigney Unit for purposes of determining NFC's eligibility for the stripper well lease exemption. The DOE therefore concluded that the Proposed Remedial Order should be issued as a final Order.

Motion for Discovery

Arizona Fuels Corporation, 3/22/82, BED-0528, BEH-0528

Arizona Fuels Corporation filed Motions for Discovery and Evidentiary Hearing in connection with its Statement of Objections to a Proposed Decision and Order issued on March 10, 1981. In its Motion for Discovery, Arizona Fuels requested that the DOE provide the firm with all memoranda, workpapers and files involved in reaching the proposed determination. In considering the request, the DOE found that the Motion for Discovery was not of sufficient specificity to permit a reasoned decision concerning the materiality and relevance of the material sought. Accordingly, the discovery request was denied. The firm also requested an evidentiary hearing in order to present evidence that it was financially unable to comply with its entitlements obligations. The DOE determined that, since the DOE's finding that the firm had not made a good faith effort to satisfy its entitlements purchase obligations was central to the Proposed Decision and Order, the firm should have an opportunity to explain at an evidentiary hearing why it had not complied with the provisions of the Entitlements Program. Accordingly, the Motion for Evidentiary Hearing was granted.

Interlocutory Order

Texaco, Inc., 3/24/82, HRZ-0011, HRZ-0012

Texaco, Inc. filed a motion for reconsideration of a Decision and Order striking from the record in an enforcement proceeding certain submissions which it had made without the leave of the Office of Hearings and Appeals. The OHA determined that Texaco had shown good cause for permitting it to amend its filings through those submissions and approved the request. The OHA also permitted Texaco to file additional amendments to its pleadings in the proceeding.

Special Refund Petition

Office of Enforcement; in the Matter of OKC Corp., 3/25/82, BEF-0052

Purusant to 10 CFR Part 205, Subpart V, the Office of Enforcement, now the Office of Special Counsel, filed a Petition for the Implementation of Special Refund Proceedings for distribution of a portion of the consent order funds received from OKC Corp. In a Proposed Decision and Order, the OHA tentatively established a two stage procedure to be used in adjudicating claims to the OKC settlement fund. *See* 46 FR 63100 (1981). In the March 25, 1982 Decision and Order, the OHA set forth final procedures for applications for refund by persons claiming injury as a result of OKC's alleged regulatory violations during the consent order period. Rather than establishing mechanical standards for the allocation of funds among successful claimants, such as the *pro rata* volumetric distribution used in a number of previous refund cases, the decision discusses a number of equitable factors which will be considered in the process of allocating funds. The Decision and Order also reserves the question of the proper disposition of any remaining funds until the completion of the first stage claims procedure.

Dismissal

The following submission was dismissed without prejudice:

Name and Case No.

Tesoro Petroleum Corp., BER-0158

[FR Doc. 82-14667 Filed 5-27-82; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed; Week of April 19 through April 23, 1982

During the week of April 19 through April 23, 1982, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 on or before June 17, 1982. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

May 21, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

Dorchester Gas Corp., Sacramento, CA HRO–0045

On April 23, 1982, the State of California located in Sacramento, California filed a Notice of Objection to a Proposed Remedial Order which the DOE Dallas District Office of Enforcement issued to Dorchester Gas Corporation on March 19, 1982.

In the PRO the Dallas District found that during November 1974 to December 1979, Dorchester committed a number of violations of the DOE regulations including miscertification of crude oil and improper reporting of crude oil to the Entitlements Program.

According to the PRO the Dorchester violation resulted in $48,756,573.37 of overcharges.

Fuel Oil Supply & Terminating, Inc., Houston, TX, HRO–0044

On April 23, 1982, Fuel Oil Supply & Terminating, Inc. (FOSTI), 333 West Loop North, Suite 303, Houston, TX 77024 filed a Notice of Objection to a Proposed Remedial Order which the Houston Field Office of the Economic Regulatory Administration of the DOE issued to the firm on March 17, 1982.

In the PRO the Houston Field Office found that during the period July 1978 through September 1978, FOSTI violated applicable DOE price regulations in connection with the firm's resales of crude oil.

According to the PRO the FOSTI violation resulted in $2,414,661.28 of overcharges.

Hudson Oil Co., Washington, DC, HRO–0043

On April 19, 1982, Hudson Oil Company, Inc., P.O. Box 3100, Kansas City, Kansas 66103 filed a Notice of Objection to a Proposed Remedial Order which the DOE Kansas City District Office of Enforcement issued to the firm on March 22, 1982.

In the PRO the Kansas City District found that during the period February 1, 1977 to October 31, 1979, Hudson sold motor gasoline at prices which exceeded the DOE Mandatory Price Regulations as set forth in 10 CFR Part 212.

[FR Doc. 82–14666 Filed 5–27–82; 8:45 am]

BILLING CODE 6450–01–M

Western Area Power Administration

Fryingpan-Arkansas Project; Order Confirming and Approving an Extension of Power Rates on an Interim Basis

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of an extension of power rate on an interim basis—Fryingpan-Arkansas Project.

SUMMARY: Notice is given of Rate Order No. WAPA–11 of the Assistant Secretary for Conservation and Renewable Energy extending the rate on an interim basis for capacity without energy marketed by the Western Area Power Administration (Western) from the Fryingpan-Arkansas Project, Colorado.

ADDRESSES: For further information contact:

Mr. Peter G. Ungerman, Area Manager, Loveland-Fort Collins Area Office, Western Area Power Administration, P.O. Box 2650, Fort Collins, CO 80522, (303) 224–7201

Mr. Conrad Miller, Chief, Rates and Statistics Branch, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, (303) 231–1535

Mr. James A. Braxdale, Office of Power Marketing Coordination, CE–90, Department of Energy, Mail Code 3353, Federal Building, Washington, DC 20461, (202) 633–8338.

SUPPLEMENTARY INFORMATION: By Delegation Order No. 0204–33, effective January 1, 1979 (43 FR 60636, December 28, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve, and place in effect such rates on an interim basis, and to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation. Due to a Department of Energy organizational relignment, Delegation Order No. 0204–33 was amended, effective March 19, 1981 (46 FR 25426, May 7, 1981), to transfer the authority of the Assistant Secretary for Resource Applications to the Assistant Secretary for Conservation and Renewable Energy.

Pursuant to the delegation order, the Assistant Secretary for Conservation and Renewable Energy issued on July 10, 1981, Rate Order No. WAPA–9 (46 FR 37321, July 20, 1981), which confirmed and approved on an interim basis, Rate Schedule FA–1 for capacity without energy marketed by Western from the Fryingpan-Arkansas Project. The rate became effective July 11, 1981, and was to remain in effect for a period of 12 months unless the period was extended or until the FERC confirmed and approved it, or a substitute rate, on a final basis. The rate wa submitted to the FERC for confirmation and approval on a final basis on July 10, 1981.

The FERC has not yet acted on the rates. The purpose of Rate Order No. WAPA–11 is to extend the power rates pending the FERC confirmation and approval of them, or substitutes rates, on a final basis, or until they are superseded.

Issued in Washington, D.C., May 21, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

DEPARTMENT OF ENERGY

Assistant Secretary for Conservation and Renewable Energy

May 21, 1982.

In the Matter of: Western Area Power Administration—Fryingpan-Arkansas Project Power Rates, Rate Order No., WAPA–11; Order Confirming and Approving an Extension of a Power Rate on an Interim Basis.

Pursuant to section 302(a) of the Department of Energy Organization Act, 42 U.S.C. 7101, *et seq.*, the power marketing functions of the Secretary of the Interior under the Reclamation Act of 1902, 43 U.S.C. 372, *et seq.*, as amended and supplemented by subsequent enactments, particularly by section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. 485h(c), for the Bureau of Reclamation were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204–33, effective January 1, 1979 (43 FR 60636, December 28, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve, and place in effect such rates on an interim basis, and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation. Due to a

Department of Energy organizational realignment, Delegation Order No. 0204–33 was amended, effective March 19, 1981 (46 FR 25426, May 7, 1981), to transfer the authority of the Assistant Secretary for Resource Applications to the Assistant Secretary for Conservation and Renewable Energy. This rate order is issued pursuant to the delegation to the Assistant Secretary for Conservation and Renewable Energy.

Background

Pursuant to Delegation Order No. 0204–33, the Assistant Secretary for Conservation and Renewable Energy issued Rate Order No. WAPA–9 on July 10, 1981 (45 FR 37321, July 20, 1981), which confirmed and approved on an interim basis, Rate Schedule FA–1 for capacity without energy marketed by the Western Area Power Administration's Fryingpan-Arkansas Project. The rate became effective on July 11, 1981. The rate order stated that the rates "* * * shall remain in effect on an interim basis for a period of 12 months unless such period is extended, or until the FERC confirms and approves these or substitute rates, on a final basis, whichever occurs first." The Rate Schedule was submitted to the FERC for confirmation and approval on a final basis by the Assistant Secretary for Conservation and Renewable Energy's letter of July 10, 1981.

Discussion

Inasmuch as the FERC is not expected to complete its confirmation and approval of the Fryingpan-Arkansas Project power rate by July 11, 1982, a further extension of the interim rate is necessary.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective July 11, 1982, an extension of existing Rate Schedule FA–1. The rate shall remain in effect pending the FERC confirmation and approval of it, or a substitute rate, on a final basis, or until it is superseded.

Issued in Washington, D.C., May 21, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 82-14518 Filed 5-27-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–53037; TSH–FRL–2132–8]

Toxic Substances; Premanufacture Notices; Monthly Status Report for April 1982

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** at the beginning of each month reporting the premanufacture notices (PMNs) pending before the Agency and the PMNs for which the review period has expired since publication of the last monthly summary. This is the report for April 1982.

DATE: Written comments are due no later than 30 days before the applicable notice review period ends on the specific chemical substance. Nonconfidential portions of the PMNs may be seen in Rm. E–106 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments are to be identified with the document control number "(OPTS–53037)" and the specific PMN number should be sent to: Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M Street, SW., Washington, D.C. 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Kirk Maconaughey, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–208, 401 M Street, SW., Washington, D.C. 20460, (202–382–3746).

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during April; (b) PMNs received previously and still under review at the end of April; (c) review period has ended during April; PMNs for which the notice (d) chemical substances for which EPA has received a notice of commencement to manufacture during April; and (e) PMNs for which the reviewa period has been suspended. Therefore, the April 1982 PMN Status Report is being published.

Dated: May 20, 1982.

Woodson W. Barcaw,

Acting Director, Management Support Division.

Premanufacture Notices Monthly Status Report, April 1982

I. 79 Premanufacture Notices Received During the Month

PMN No.	Identity and generic name	FR Citation	Expiration date
82–243	Manganic acetylacetonate	47 FR 15407 (4/9/82)	June 30, 1982
82–244	Generic name: Antimony pentafluoride-substituted amine complex	47 FR 16403 (4/16/82)	Do.
82–245	Generic name: Modified polyurethane	47 FR 16403 (4/16/82)	July 1, 1982.
82–246	Generic name: Barium sulfonated red	47 FR 16403 (4/16/82)	Do.
82–247	Generic name: 2-anthracenesulfonic acid, 1-amino-4-substituted phenylamino-9,10-dihydro-9,10-dioxo-sodium salt.	47 FR 16403 (4/16/82)	Do.
82–248	Generic name: Polymer of alkanediols and a carbomonocyclic anhydride	47 FR 16403 (4/16/82)	Do.
82–249	Generic name: Modified hydroxy functional acrylic copolymer	47 FR 16404 (4/16/82)	Do.
82–250	Generic name: Mixture of Naphthalenedisulfonic acid,[azoxy bis[(substituted phenyl)azo]]bis [substituted-, and its sodium salts.	47 FR 16404 (4/16/82)	Do.
82–251	3,4'-dichlorophanol	47 FR 16404 (4/16/82)	Do.
82–252	Generic name: Isocyanate terminated polyester polyurethane prepolymer	47 FR 16404 (4/16/82)	July 4, 1982
82–253	Generic name: Urethane polyether	47 FR 16404 (4/16/82)	Do.
82–254	Generic name: Modified polymer of styrene, alkenoic acid, alkenoic esters and substituted alkenoic esters.	47 FR 16404 (4/16/82)	Do.
82–255	Void		
82–256	Generic name: Poly[(aminoalkylamino)alkylene oxide], aqueous solution	47 FR 16404 (4/16/82)	July 5, 1982.
82–257	m-chlorophenylphenylether	47 FR 16404 (4/16/82)	Do.
82–258	Generic name: Heterocyclic-methoxyphenylazo substance	47 FR 16404 (4/16/82)	Do.
82–259	Generic name: Aliphatic oligomeric carbonate diol	47 FR 16404 (4/16/82)	Do.
82–260	Generic name: Disubstituted benzene	47 FR 16404 (4/16/82)	Do.
82–261	Generic name: Substituted naphthalene	47 FR 16404 (4/16/82)	Do.
82–262	Generic name: Substituted naphthalene	47 FR 16405 (4/16/82)	Do.
82–263	Generic name: A mixture of the sodium salts, lithium salts, and mixed sodium/lithium salts of naphthalene disulfonic acid, [azoxy bis [(substituted-phenyl)azo]]bis[substituted-.	47 FR 16405 (4/16/82)	Do.

I. 79 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH—Continued

PMN No.	Identity and generic name	FR Citation	Expiration date
82-264	Generic name: The reaction products of: Mixed branched 2,5-Furandiones; Polyalkylene substituted Phenol; condensed with aldehyde and mixed amines. Coco glycerides with mixed acid and alcohol; Sulfur.	47 FR 16405 (4/16/82)	July 6, 1982.
82-265	4,4'-bis(2,5-dimethylstyryl)-diphenyl	47 FR 16405 (4/16/82)	July 7, 1982.
82-266	Generic name: Alkyl quaternary ammonium hydroxide	47 FR 16405 (4/16/82)	Do.
82-267	Generic name: Acid blocked amine	47 FR 16405 (4/16/82)	July 5, 1982.
82-268	Generic name: Acid blocked amine	47 FR 16405 (4/16/82)	Do.
82-269	Generic name: Acid blocked amine	47 FR 16405 (4/16/82)	Do.
82-270	Generic name: Acid blocked amine	47 FR 16405 (4/16/82)	Do.
82-271	Generic name: Acid blocked amine	47 FR 16405 (4/16/82)	Do.
82-272	Generic name: Heterocyclic-alkylphenyl azo substance	47 FR 16405 (4/16/82)	July 8, 1982.
82-273	*m*-chlorophenylphenylsulfide	47 FR 16405 (4/16/82)	Do.
82-274	Generic name: Triethylene glycol ether	47 FR 17666 (4/23/82)	July 11, 1982.
82-275	Generic name: Saturated linear butylene mixed acids copolyester	47 FR 17666 (4/23/82)	July 12, 1982.
82-276	Generic name: Bis(substituted-6,8,8-tri-acryloxyloxymethyl-4-oxahexyl)ethyl-methyl-disubstituted heteromonocycle.	47 FR 17666 (4/23/82)	July 11, 1982.
82-277	Generic name: Polymer of aliphatic and aromatic diacids and an aliphatoc diol	47 FR 17666 (4/23/82)	July 12, 1982.
82-278	Generic name: Di-quaternary ammonium salt with formal linkage	47 FR 17666 (4/23/82)	Do.
82-279	Generic name: Unsaturated carboxylic amide-carboxylic acid	47 FR 17667 (4/23/82)	July 13, 1982.
82-280	Generic name: Unsaturated carboxylic amide-carboxylic acid	47 FR 17667 (4/23/82)	Do.
82-281	Generic name: Polyether alkanyl esters	47 FR 17667 (4/23/82)	Do.
82-282	Generic name: Polyhalogenated aromatic poly-acrylate	47 FR 17667 (4/23/82)	June 9, 1982.
82-283	Generic name: t-butylated triphenyl phosphate residue	47 FR 17667 (4/23/82)	Do.
82-284	Generic name: Methylated triphenyl phosphate residue	47 FR 17667 (4/23/82)	Do.
82-285	Generic name: Isopropylated triphenyl phosphate residue	47 FR 17667 (4/23/82)	Do.
82-286	Generic name: Substituted aryl alkyl siloxane	47 FR 17667 (4/23/82)	July 14, 1982.
82-287	Generic name: Disubstituted benzene	47 FR 18652 (4/30/82)	July 15, 1982.
82-288	Generic name: Polymer of disubstituted acrylic acid, disubstituted benzene, and substituted acrylic acid.	47 FR 18652 (4/30/82)	Do.
82-289	Polymer of ethylene oxide; bisphenol A; epichlorohydrin; acrylonitrile; ethylene glycol; xylylenediamine; isphorondiamine.	47 FR 18652 (4/30/82)	Do.
82-290	Generic name: Disubstituted benzene	47 FR 18653 (4/30/82)	July 16, 1982.
82-291	Generic name: Sulfonated copper phthalocyanine dye	47 FR 18653 (4/30/82)	Do.
82-292	Generic name: Substituted trialkoxy silane	47 FR 18653 (4/30/82)	Do.
82-293	2,2,6-trimethyl-4H-1,3-dioxin-4-one	47 FR 18653 (4/30/82)	Do.
82-294	Generic name: Metallic beta diketonate	47 FR 18653 (4/30/82)	Do.
82-295	Cis-r-decen-1-ol	47 FR 18653 (4/30/82)	July 18, 1982.
82-296	Generic name: 9,10-anthracenedione sulfonic acid, sodium salt	47 FR 18653 (4/30/82)	Do.
82-297	Generic name: Isocyanate terminated polyether polyurethane prepolymer	47 FR 18653 (4/30/82)	Do.
82-298	Generic name: Polymer of alkyl acrylate and acrylamide	47 FR 18653 (4/30/82)	Do.
82-299	Generic name: Polymer of alkyl acrylate, vinyl heteromonocycle and acrylic acid	47 FR 18653 (4/30/82)	Do.
82-300	Generic name: Neutralized polymer of styrene, alkyl acrylates and substituted alkyl methacrylates	47 FR 18653 (4/30/82)	July 20, 1982.
82-301	Generic name: Neutralized polymer of styrene, alkyl acrylates and substituted alkyl methacrylates	47 FR 18653 (4/30/82)	Do.
82-302	Generic name: Polyellazane	47 FR 18654 (4/30/82)	Do.
82-303	Generic name: Inert fluorocarbon	47 FR 18654 (4/30/82)	Do.
82-304	Generic name: Quaternary amine functional polyether urethane modified polyglycidyl ether of Bisphenol A.	47 FR 18654 (4/30/82)	July 21, 1982
82-305	Generic name: Modified hydroxyethylcellulose	47 FR 19781 (5/7/82)	July 22, 1982.
82-306	Generic name: Disubstituted benzenamine	47 FR 19781 (5/7/82)	Do.
82-307	Generic name: Polyhaloalkoxyaryl halide	47 FR 19781 (5/7/82)	July 25, 1982.
82-308	Generic name: Substituted benzoheazole	47 FR 19782 (5/7/82)	Do.
82-309	Generic name: Cationic substituted acid amide	47 FR 19782 (5/7/82)	Do.
82-310	Generic name: Cationic substituted acid amide polymer	47 FR 19782 (5/7/82)	Do.
82-311	Generic name: Unsaturated alkyl amino alkyl dioxolene	47 FR 19782 (5/7/82)	Do.
82-312	Generic name: Dihalobethylacetals	47 FR 19782 (5/7/82)	Do.
82-313	Acetamide, 2,2-, dichloro-N-(1,3-dioxan-2-ylmethyl)-N-2-propenyl	47 FR 19782 (5/7/82)	Do.
82-314	Generic name: Copolymer of alkyl acrylates and methacrylates	47 FR 19782 (5/7/82)	July 26, 1982.
82-315	Generic name: Polyester polymer derived from a carbomonocyclic anhydride and containing a mixture of substituted alkane diols.	47 FR 19782 (5/7/82)	Do.
82-316	4-butylmorpholine	47 FR 19782 (5/7/82)	Do.
82-317	Generic name: Metal alkanoate	47 FR 19782 (5/7/82)	July 27, 1982.
82-318	Generic name: A mixture of naphthalene sulfonic acid, -(substituted amino)-hydroxy-((substituted phenyl)azo) and naphthalene sulfonic acid, -(substituted amino)-hydroxy-((substituted phenyl)azo), compounded with organic acids.	47 FR 19782 (5/7/82)	July 28, 1982.
82-319	Generic name: Alkyl oligoglycosides	47 FR 19782 (5/7/82)	Do.
82-320	Phenol, 4-nitroso-, magnesium salt, hexahydrate	47 FR 19782 (5/7/82)	Do.
82-321	Generic name: Polyester random copolymer	47 FR 19783 (5/7/82)	Do.
82-322	Generic name: Styrene acrylates copolymer	47 FR 20853 (5/14/82)	July 29, 1982.

II. 74 PREMANUFACTURE NOTICES RECEIVED PREVIOUSLY AND STILL UNDER REVIEW AT THE END OF THE MONTH

PMN No.	Identity and generic name	FR citation	Expiration date
82-167	Generic name: Disubstituted benzene	47 FR 10900 (3/12/82)	May 30, 1982.
82-168	Generic name: Urethane of substituted alkanols and a diisocyanate	47 FR 10900 (3/12/82)	May 31, 1982.
82-169	Generic name: Polymer of alkyl and polyfluoroalkyl acrylates	47 FR 10900 (3/12/82)	Do.
82-170	1,6-hexanedioic acid, polymer with 1,2-ethanediol, 1,3-benzenedicarboxylic acid, 1,4-benzenedicarboxylic acid, and 1,6-hexanediol.	47 FR 10900 (3/12/82)	Do.
82-171	Generic name: Aromatic substituted triazine diazo dye, tetrasodium salt	47 FR 10900 (3/12/82)	June 1, 1982.
82-172	Generic name: Chromophore substituted poly-(oxyalkylene)	47 FR 10900 (3/12/82)	June 2, 1982.
82-173	Generic name: Borate esters-mixture	47 FR 10901 (3/12/82)	Do.
82-174	Generic name: Substituted acrylamide polymer	47 FR 10901 (3/12/82)	June 2, 1982.
82-175	Generic name: Borate ester	47 FR 11957 (3/19/82)	June 3, 1982.
82-176	Generic name: Epoxy functional polysiloxane/silica resin	47 FR 11957 (3/19/82)	Do.
82-177	Generic name: Metal salt of sulfur analog of carboxy alkyl	47 FR 11957 (3/19/82)	June 6, 1982.
82-178	Generic name: Disubstituted butanamide	47 FR 11957 (3/19/82)	Do.
82-179	Generic name: Disubstituted thioic acid ester	47 FR 11957 (3/19/82)	Do.
82-180	Generic name: Disubstituted benzene	47 FR 11957 (3/19/82)	Do.

II. 74 PREMANUFACTURE NOTICES RECEIVED PREVIOUSLY AND STILL UNDER REVIEW AT THE END OF THE MONTH—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
82-181	Polymers of benzoic acid, dimethylethanolamine, epoxidized soybean oil, neopenyl glycol, propylene glycol, phthalic anhydride, trimellitic anhydride.	47 FR 11958 (3/19/82)	June 7, 1982.
82-182	Polymers of bisphenol, epichlorohydrin, styrene, phenol, formaldehyde	47 FR 11958 (3/19/82)	June 28, 1982.
82-183	Polymers of acrylic acid, hydroxyethyl methacrylate, methylmethacrylate, phthalicanhydride, trimellitic anhydride, neodecanoic acid, 2,3-epoxypropyl ester.	47 FR 11958 (3/19/82)	June 7, 1982.
82-184	Invalid		
82-185	Generic name: Fatty acids, esters with a polyol	47 FR 11958 (3/19/82)	Do.
82-186	Generic name: Substituted alkyl amine	47 FR 11958 (3/19/82)	Do.
82-187	Generic name: Modified polymer of alkenoic acid, alkenoic ester and substituted alkenoic esters	47 FR 11958 (3/19/82)	Do.
82-188	Generic name: Modified polymer of alkenoic acid, alkenoic ester and substituted alkenoic esters	47 FR 11958 (3/19/82)	Do.
82-189	Generic name: Benzene 2-[(hexahydro-2,4,6-trioxopyrimidyl)azo]-5-(2-benzothiazolyl) sulfonic acid	47 FR 11958 (3/19/82)	June 8, 1982.
82-190	Generic name: Metal containing 2-hydroxyl alkyl benzoate	47 FR 11958 (3/19/82)	Mar. 29, 1982.
82-191	Generic name: Metal containing 2-hydroxyl alkyl benzoate	47 FR 11958 (3/19/82)	Do.
82-192	Generic name: Metal containing 2-hydroxyl alkyl benzoate	47 FR 11958 (3/19/82)	Do.
82-193	Generic name: Reaction product of a substituted benzene formaldehyde and inorganic acid	47 FR 11958 (3/19/82)	Apr. 13, 1982.
82-194	Generic name: Reaction product of a substituted benzene formaldehyde and inorganic acid	47 FR 11958 (3/19/82)	Do.
82-195	Generic name: Reaction product of a substituted benzene formaldehyde and inorganic acid	47 FR 11958 (3/19/82)	Do.
82-196	Generic name: Polyalkylene glycol alkyl glycidyl ether	47 FR 11958 (3/19/82)	June 9, 1982.
82-197	Generic name: Polyoxyalkylene aryl alkyl phenyl ether	47 FR 11958 (3/19/82)	Do.
82-198	Generic name: Modified polyurethane of a substituted alkene diol and a diisocyanate	47 FR 11958 (3/19/82)	Do.
82-199	Generic name: Poly-imidazoline derivative	47 FR 11958 (3/19/82)	Do.
82-200	Void		
82-201	Generic name: Dodecenyl-oleyl-capryl-succinimide	47 FR 13037 (3/26/82)	June 10, 1982.
82-202	Generic name: Dimer fatty acid, propionic acid, dicarboxylic acid, ethylene diamine, diamine polymer.	47 FR 13037 (3/26/82)	June 13, 1982.
82-203	Generic name: Bisphenol A-epichlorohydrin resin—mixed acrylic polymer	47 FR 13037 (3/26/82)	Do.
82-204	Generic name: Di-abietamide	47 FR 13037 (3/26/82)	June 14, 1982.
82-205	Generic name: Polyetherpolyol reaction with toluene diisocyanate hydroxypropyl acrylate blocked	47 FR 13038 (3/26/82)	Do.
82-206	Reaction product of (9,12 octadecadienoic acid, dimer, polymer with 2,5 furandione) with tallow diamine.	47 FR 13038 (3/26/82)	June 15, 1982.
82-207	OC-hydro-w-hydroxy-poly (oxy-1, 2 ethanediyl)), polymer with 3,5-dimethyl-1H-pyrazole	47 FR 13038 (3/26/82)	Do.
82-208	OC-hydro-w-hydroxy-poly (oxy(methyl-1,2 ethanediyl)), polymer with 3,5-dimethyl-1H-pyrazole	47 FR 13038 (3/26/82)	Do.
82-209	Generic name: Polymer from disubstituted monocycle and disubstituted alkenes	47 FR 13038 (3/26/82)	Do.
82-210	Generic name: Disubstituted benzene	47 FR 13038 (3/26/82)	June 14, 1982.
82-211	Generic name: Disubstituted butanamide salt	47 FR 13038 (3/26/82)	Do.
82-212	Generic name: Disubstituted benzene	47 FR 13038 (3/26/82)	Do.
82-213	Generic name: Disubstituted benzene	47 FR 13038 (3/26/82)	Do.
82-214	Generic name: Benzoxazole carbocyamine	47 FR 13038 (3/26/82)	June 15, 1982.
82-215	Generic name: Halogenated silicon magnesium oxo-titanium silkoxides	47 FR 13038 (3/26/82)	Do.
82-216	Adduct of 1,3-bis(isocyanatomethyl)-cyclohexane with 2-ethyl-2 (hydroxymethyl)-1,3-propanediol	47 FR 13038 (3/26/82)	Do.
82-217	2-methoxy-1,4 naphthalenedione	47 FR 13038 (3/26/82)	Do.
82-218	Generic name: Di-arylamine	47 FR 14218 (4/2/82)	June 17, 1982.
82-219	Generic name: Polyetherpolyol reaction with isophorone diisocyanate—HEA blocked	47 FR 14218 (4/2/82)	Do.
82-220	Generic name: Polymer of linear glycols and aromatic dicarboxylic acids	47 FR 14218 (4/2/82)	Do.
82-221	Generic name: Disubstituted benzene	47 FR 14218 (4/2/82)	Do.
82-222	Generic name: Disubstituted benzene	47 FR 14218 (4/2/82)	Do.
82-223	Generic name: Polyester-urethane	47 FR 14218 (4/2/82)	June 20, 1982.
82-224	Generic name: Neutralized reaction products of fatty acid derivatives and a substituted alkyl ester	47 FR 14218 (4/2/82)	Do.
82-225	Generic name: Neutralized reaction products of fatty acid derivatives and a substituted alkyl ester	47 FR 14218 (4/2/82)	Do.
82-226	Generic name: Substituted phenyl, substituted naphthalenyl azo dye	47 FR 14219 (4/2/82)	June 21, 1982.
82-227	Generic name: 2-propenamide, N-[3-(dimethylamino)propyl]-polymer with diethenylbenzene and 2,2-bis[(2-propenioxy)methyl]-1-butanol.	47 FR 14219 (4/2/82)	June 23, 1982.
82-228	Generic name: 1-propenaminium, N,N,N-trimethyl-3-[(1-oxo-2-propenyl)amino]-, chloride, polymer with diethenylbenzene and 2,2-bis[(2-propenyloxy)methyl]-1-butanol.	47 FR 14219 (4/2/82)	Do.
82-229	Generic name: 1-propenaminium, N,N,N-trimethyl-3-[(1-oxo-2-propenyl)amino]-, hydroxide, polymer with diethenylbenzene and 2,2-bis[(2-propenyloxy)methyl]-1-butanol.	47 FR 14219 (4/2/82)	Do.
82-230	Generic name: 1-propenaminium, N,N,N-trimethyl-3-[(1-oxo-2-propenyl)amino]-, sulfate, polymer with diethenylbenzene and 2,2-bis[(2-propenyloxy)methyl]-1-butanol.	47 FR 14219 (4/2/82)	Do.
82-231	Generic name: Laurylsulfate salt of substituted p-diazo diphenylamine, polymer with formaldehyde	47 FR 14219 (4/2/82)	June 24, 1982.
82-232	Generic name: Thiophosphate	47 FR 15407 (4/9/82)	June 27, 1982.
82-233	Generic name: Organic salt of phosphorus	47 FR 15407 (4/9/82)	Do.
82-234	Generic name: Modified aromatic diisocyanate with aliphatic triol	47 FR 15407 (4/9/82)	Do.
82-235	Generic name: Allylglycidyl ether alcohol resin	47 FR 15407 (4/9/82)	June 28, 1982.
82-236	Generic name: Polymer of an alkoxylated alkyl heteromonocycle and polymethylenepolyphenylene isocyanate.	47 FR 15407 (4/9/82)	Do.
82-237	Generic name: Bis-substituted urea	47 FR 15407 (4/9/82)	Do.
82-238	Generic name: N-substituted phenyl-N,N'-dialkyl urea	47 FR 15407 (4/9/82)	Do.
82-239	Generic name: Substituted unsaturated alcohol	47 FR 15407 (4/9/82)	Do.
82-240	Generic name: Substituted unsaturated alcohol	47 FR 15407 (4/9/82)	Do.
82-241	Generic name: Penta(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-hydroxy-, C_{12-15} linear primary-alkyl ethers.	47 FR 15407 (4/9/82)	June 29, 1982.
82-242	Suspended		

III. 60 PREMANUFACTURE NOTICES FOR WHICH THE NOTICE REVIEW PERIOD HAS ENDED DURING THE MONTH. (EXPIRATION OF THE NOTICE REVIEW PERIOD DOES NOT SIGNIFY THAT THE CHEMICAL HAD BEEN ADDED TO THE INVENTORY)

PMN No.	Identity and generic name	FR citation	Expiration date
81-500	2-dodecyl-9-H-thioxanthen-9-one	46 FR 50147 (10/9/81)	Apr. 11, 1982.
81-643	Generic name: Cationic acrylamide copolymer	46 FR 63107 (12/30/81)	Apr. 19, 1982.
81-644	Generic name: Cationic acrylamide copolymer	46 FR 63107 (12/30/81)	Do.
82-1	Generic name: Halogenated derivative of polyethylene glycol	47 FR 1409 (1/13/82)	Apr. 4, 1982.
82-2	Generic name: Propionic acid 1-methyl-2 (amino functional) substituted	47 FR 1409 (1/13/82)	Apr. 5, 1982.
82-3	Generic name: Polydimethylsiloxane, copolymer with (substituted alkyl) trimethoxy silane	47 FR 1410 (1/13/82)	Do.
82-4	Generic name: Polydimethylsiloxane, polymer with amino substituted and methyl silesquioxanes	47 FR 1410 (1/13/82)	Do.
82-5	Generic name: Alkyl[(substituted phenly) alkylate]	47 FR 2399 (1/15/82)	Apr. 8, 1982.
82-6	Generic name: (Dialkylaminophenylazo)azo-benzene sulfonic acid	47 FR 2399 (1/15/82)	Do.

III. 60 PREMANUFACTURE NOTICES FOR WHICH THE NOTICE REVIEW PERIOD HAS ENDED DURING THE MONTH. (EXPIRATION OF THE NOTICE REVIEW PERIOD DOES NOT SIGNIFY THAT THE CHEMICAL HAD BEEN ADDED TO THE INVENTORY)—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
82-7	Generic name: Modified polymer of styrene, alkamoic acid, alkenoic ester and substituted alkenoic esters.	47 FR 2400 (1/15/82)	Do.
82-8	Generic name: Polyester from vegetable oil acids, alkane triol, carbomonocyclic anhydride and carbomonocyclic acids.	47 FR 2400 (1/15/82)	Do.
82-9	Generic name: Substituted di-alkyl di-thiophosphate	47 FR 2400 (1/15/82)	Do.
82-10	Generic name: 2-ethylmer capto-3-ethylbenzthiazole iodide	47 FR 2400 (1/15/82)	Do.
82-11	Generic name: Polymer of a dihalo alkane, an alkyl alkenoate, and a substituted alkyl alkenoate	47 FR 2401 (1/15/82)	Do.
82-12	Generic name: Substituted polyhydroxy benzene derivative	47 FR 2402 (1/15/82)	Apr. 7, 1982.
82-13	Generic name: Polyester diol	47 FR 3031 (1/21/82)	Apr. 11, 1982.
82-14	Generic name: Reaction product of a substituted benzene, formaldehyde and inorganic acid	47 FR 3593 (1/26/82)	Apr. 13, 1982.
82-15	Generic name: Polyester from an unsaturated oil, alkanetriol, carbomonocylic anhydride and carbomonocyclic acids.	47 FR 3593 (1/26/82)	Do.
82-16	Generic name: Substituted cyclic amidealdehyde condensation product	47 FR 3593 (1/26/82)	Do.
82-17	Generic name: Sulfo monoazo dye, 2,2'-iminioble ethanol salt	47 FR 3593 (1/26/82)	Do.
82-18	Generic name: Polyurethane aqueous dispersion	47 FR 3593 (1/26/82)	Do.
82-19	Generic name: Pentaerythritol isostearate esters	47 FR 3594 (1/26/82)	Do.
82-20	Generic name: Dipentaerythritol ester of isostearic acid	47 FR 3594 (1/26/82)	Do.
82-21	Generic name: Hydroxynaphthoic acid metal complex	47 FR 3594 (1/26/82)	Do.
82-22	Generic name: Acrylic copolymer	47 FR 3594 (1/26/82)	Do.
82-24	Void.		
82-25	Generic name: Substituted amine polymer	47 FR 3595 (1/26/82)	Do.
82-26	Generic name: Substituted amine	47 FR 3595 (1/26/82)	Do.
82-27	Generic name: Substituted amine	47 FR 3595 (1/26/82)	Do.
82-28	Boron trifluoride—2,4 dimethylaniline complex	47 FR 3592 (1/26/82)	Apr. 18, 1982.
82-29	Generic name: Naphthalenedisulfonic acid, monoaz acid dye, lithium salt	47 FR 3592 (1/26/82)	Do.
82-30	Generic name: Polysubstituted alkyl polamine	47 FR 3592 (1/26/82)	Do.
82-31	Generic name: Quaternary, ammonium compound	47 FR 3592 (1/26/82)	Do.
82-32	Generic name: Dichloro-triazinylamino-substituted sulfophenylazo-sulfonaphthalenyl-azo-benzene-disulfonic acid, tetra sodium salt.	47 FR 4143 (1/28/82)	Do.
82-33	Generic name: Unsaturated polyester resin	47 FR 4143 (1/28/82)	Apr. 19, 1982.
82-34	Polymer of hydroxypropyl methacrylate, methyl methacrylate, diallyl phthalate, styrene, butyl methacrylate, hydroxyethyl-acrylate, 2-ethyl hexyacrylate, acrylic acid.	47 FR 4144 (1/28/82)	Do.
82-35	Generic name: Reaction product of dehydroacid ester, polyhydric anhydride and substituted isocyanate.	47 FR 4144 (1/28/82)	Do.
82-36	Carnauba wax ethoxylated propoxylated	47 FR 4144 (1/28/82)	Do.
82-37	Generic name: Neutralized substituted alkanoic acid	47 FR 4145 (1/28/82)	Apr. 20, 1982.
82-38	Generic name: Modified alkyd polymer from fatty acid oils, glycerin, and a carbomonocyclic anhydride.	47 FR 4145 (1/28/82)	Do.
82-39	Generic name: Polymer of a diisocyanate, polyglycol and polysubstituted alkyl amine	47 FR 4146 (1/28/82)	Do.
82-40	Generic name: Modified polymer of styrene, alkyl acrylates, alkyl methacrylates and a substituted alkyl methacrylate.	47 FR 4145 (1/28/82)	Do.
82-41	Generic name: Naphthalenedisulfonic acid, disazo acid dye, lithium salt	47 FR 4735 (2/2/82)	Apr. 22, 1982.
82-42	Generic name: Alkyd polymer from fatty acids, substituted alkane triols, carbomonocyclic acids and an anhydride.	47 FR 4735 (2/2/82)	Do.
82-43	Generic name: Organic acid, lead salt	47 FR 5330 (2/4/82)	Do.
82-44	Generic name: Chloroheteropolycyclic, hydrochloride salt	47 FR 4736 (2/2/82)	Apr. 25, 1982.
82-45	Generic name: Substituted pyridinium bromide	47 FR 4736 (2/2/82)	Do.
82-46	Generic name: Polymer from 1-propanesulfonic acid, 2-methyl-2-[(1-oxo-2-propenyl)amino], formamide, N-ethenyl, 2-propenamide.	47 FR 5328 (2/4/82)	May 3, 1982.
82-47	Generic name: Alkyl, alkanol derivative of ammonia, chloride salt	47 FR 5328 (2/4/82)	Apr. 26, 1982.
82-48	Generic name: Polymer of cycloalkene	47 FR 5331 (2/4/82)	Do.
82-49	Generic name: Modified polyester polyurethane	47 FR 5328 (2/4/82)	Do.
82-50	Generic name: Polyester from an alkanedioic acid and polyetherdiols	47 FR 5328 (2/4/82)	Do.
82-51	Trimethyladipolydichloride	47 FR 5331 (2/4/82)	Apr. 27, 1982.
82-52	Generic name: Perfluoroalkane sulfonic acid, diethanolamine salt	47 FR 5331 (2/4/82)	Do.
82-53	Generic name: Ethoxylated ethanol, fatty acid ester	47 FR 5329 (2/4/82)	Do.
82-54	Generic name: Substituted amine polymer	47 FR 5329 (2/4/82)	Do.
82-55	Generic name: Organo phosphorus-containing acid	47 FR 5329 (2/4/82)	Do.
82-56	Generic name: Modified alkyd polymer	47 FR 5329 (2/4/82)	Do.
82-57	Generic name: Modified alkyd polymer	47 FR 5330 (2/4/82)	Do.
82-58	Generic name: Alkyd resin	47 FR 5330 (2/4/82)	Do.
82-61	Generic name: Polyoxypropylene ester acyl caprolactam	47 FR 5932 (2/9/82)	Apr. 29, 1982.

IV. 33 CHEMICAL SUBSTANCES FOR WHICH EPA HAS RECEIVED NOTICES OF COMMENCEMENT TO MANUFACTURE

PMN No.	Chemical identification	FR citation	Date of commencement
80-194	2,24 trimethyl-1,3-pentanediol, 1,8-hexanediol, phthalic anhydride	45 FR 58195 (9/2/80)	Apr. 5, 1982.
80-210	Generic name: Bis(1-polyamino-2-alkyl imidazolene)	45 FR 60007 (9/11/80)	Oct. 1981.
81-69	Generic name: Benzophenone tetracarboxylic dianhydride copolyimide	46 FR 19075 (3/27/81)	Nov. 17, 1981.
81-125	Generic name: Mixed salt of benzophenone tetracarboxylic dimethyl ester and diamines	46 FR 22646 (4/20/81)	Do.
81-257	Generic name: Silicone polyol	46 FR 35343 (7/8/81)	Mar. 1, 1982.
81-265	Generic name: Amino carboxylic acid structural copolymer	46 FR 36340 (7/8/81)	Mar. 29, 1982.
81-386	Generic name: Polymer of vinyl acetate and acrylate esters	46 FR 44049 (9/2/81)	Mar. 2, 1982.
81-471	Generic name: Urethane polymer	46 FR 48753 (10/2/81)	Apr. 1, 1982.
81-472	Generic name: Alicyclic alcohol	46 FR 48753 (10/2/81)	Mar. 23, 1982.
81-497	Generic name: Aliphatic ester	46 FR 49960 (10/5/81)	Do.
81-498	Bis(3,5-di-tert-butyl-4-hydroxybenzyl)malonic acid, diester with 1-acryloyl-2,2,6,6-tetramethyl-4-piperidinol.	46 FR 49946 (10/6/81)	Mar. 25, 1982.
81-499	Generic name: Pentasubstitutedbenzopyran	46 FR 50148 (10/9/81)	Mar. 15, 1982.
81-542	Generic name: Substituted propiophenone	46 FR 54403 (11/2/81)	Apr. 1, 1982.
81-586	Generic name: Sulfonylphenylalkane	46 FR 55008 (11/5/81)	Apr. 8, 1982.
81-589	Generic name: Substituted benzenesulfonic acid	46 FR 58734 (12/3/81)	Mar. 29, 1982.
81-600	Generic name: Dichroic tetra-azo ester dye	46 FR 58734 (12/3/81)	Apr. 30, 1982.
81-601	Generic name: Dichroic tetra-azo dye	46 FR 58734 (12/3/81)	Do.
81-621	Generic name: Polyester of propanediol, adipic acid, phthalic anhydride, aromatic aliphatic ester	46 FR 60982 (12/14/81)	Apr. 17, 1982.
81-626	Ethylene glycol acrylate trimellate	46 FR 61805 (12/17/81)	Apr. 1, 1982.

IV. 33 CHEMICAL SUBSTANCES FOR WHICH EPA HAS RECEIVED NOTICES OF COMMENCEMENT TO MANUFACTURE—Continued

PMN No.	Chemical identification	FR citation	Date of commencement
81-627	Polymer of ethylene glycol acrylate mellitate and bisphenol-A epichlorohydrin	46 FR 61505 (12/17/81)	Do.
81-628	Adduct of toluene diisocyanate with 2-hydroxyethyl acrylate and caprolatum	46 FR 61506 (12/17/81)	Do.
81-631	Generic name: Polymer of mixed alkyl acrylates and methacrylates	46 FR 62312 (12/23/81)	Apr. 7, 1982.
81-641	Generic name: Substituted tetradecanoic acid	46 FR 62929 (12/29/81)	Mar. 29, 1982.
81-642	Terpolymer of dimethyl diallyl ammonium chloride/acrylamide/sodium acrylate	46 FR 63107 (12/30/81)	Mar. 18, 1982.
81-672	Phenyl acetic acid hydrazide	47 FR 1412 (1/13/82)	May 10, 1982.
81-675	Generic name: Acrylic copolymer	47 FR 1413 (1/13/82)	Apr. 8, 1982.
81-676	Generic name: Acrylic copolymer	47 FR 1413 (1/13/82)	Do.
81-677	Generic name: Acrylic copolymer	47 FR 1413 (1/13/82)	Do.
81-678	Generic name: Acrylic copolymer	47 FR 1413 (1/13/82)	Do.
81-679	Generic name: Acrylic copolymer	47 FR 1413 (1/13/82)	Do.
82-5	Generic name: Alkyl[(substituted phenyl)alkylate]	47 FR 1414 (1/13/82)	Do.
82-12	Generic name: Substituted polyhydroxy benzene derivative	47 FR 2399 (1/15/82)	Do.
82-69	Generic name: Substituted benzene sulfonamide	47 FR 2402 (1/15/82)	Apr. 29, 1982.
		47 FR 6363 (2/11/82)	May 3, 1982.

V. 17 PREMANUFACTURE NOTICES FOR WHICH THE REVIEW PERIOD HAS BEEN SUSPENDED

PMN No.	Identity and generic name	FR citation	Date suspended
80-137	Benzeneamine, 4,4'-methylene bis [*N*-(1-methylbutylidene)]	45 FR 48243 (7/18/80)	Sept. 22, 1980.
80-138	Benzeneamine, 4,4'-methylene bis [*N*-(1-methylbutylidene)]	45 FR 48243 (7/18/80)	Do.
80-145	Phosphorodithioic acid *O,O'*-di(isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters, zinc salt.	45 FR 49153 (7/23/80)	Sept. 17, 1980.
80-147	Phosphorodithioic acid *O,O'*-di(isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters.	45 FR 49153 (7/23/80)	Do.
80-254	Generic name: Benzeneamine, [*N*-(1-methylhexylidene)-*N*-(1-methyl butylidene)-4,4'-methylene bis].	45 FR 73127 (11/4/80)	Dec. 24, 1980.
81-534	2,3-epoxycyclohexanone	46 FR 53522 (10/29/81)	Nov. 2, 1981.
81-558	4-hydroxy-3-(5-(2-hydroxysulfonyloxy) ethylsulfonyl)-2-methoxyphenylazo)-7-succinyl-amino-2-naphthalenesulfonic acide disodium salt.	46 FR 55146 (11/6/81)	Jan. 27, 1982.
81-559	5-Acetylamino-4-hydroxy-3-(2-hydroxyl-4-(2-hydroxy-sulfonyl) ethylsulfonly)-5-methyphenylazo)-2,7-naphthalenedisulfonic acid trisodium salt complex.	46 FR 5518 (11/6/81)	Do.
81-581	4-[4-[2-(hydroxysulfonyoxy)ethylsulfonyl]-5-methyl-2-methoxyphenylazo]-3-methyl-1-(3-sulfophenyl)-5-pyrazolone disodium salt.	46 FR 55148 (11/6/81)	Do.
81-590	Poly(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(4-nonylphenoxy)	46 FR 57127 (11/20/81)	Feb. 2 through 16, 1982.
81-643	Generic name: Cationic acrylamide copolymer	46 FR 63107 (12/30/81)	Feb. 18, 1982.
81-644	Generic name: Cationic acrylamide copolymer	46 FR 63107 (12/30/81)	Do.
81-650	4-hydroxy-3-(2-methoxy-5-methyl-4-(2-(hydroxysulfonyloxy)ethylsulfonyl)phenylazo)-1-naphthalene sulfonic acid disodium salt.	47 FR 1021 (1/8/82)	Mar. 25, 1982.
81-651	4-hydroxy-3-(2-methoxy-5-methyl-4-(2-(hydroxysulfonyloxy)ethylsulfonyl)phenylazo)-6-(3-sulfophenyl)amino-2-naphthalenesulfonic acid trisodium salt.	47 FR 1021 (1/8/82)	Do.
82-46	Polymer from 1-propanesulfonic acid, 2-methyl-2-((1-oxo-2-propenyl)amino), formamide, N-ethenyl, 2-propenamide.	47 FR 5328 (2/4/82)	Feb. 2 through 9, 1982.
82-59	Generic name: Aromatic diazo dye	47 FR 5330 (2/4/82)	Apr. 20, 1982.
82-60	Generic name: Zinc, O,O-bis alkylphosphoro dithioate	47 FR 5982 (2/9/82)	Apr. 15, 1982.

[FR Doc. 82-14439 Filed 5-27-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59065A; TSH-FRL-2126-8]

Toxic Substances; Alkylbenzenesulfonic Acid Compound With Dialkyl Fatty Amine; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM-82-13) under section 5 of the Toxic Substances Control Act (TSCA) on April 6, 1982. Notice of receipt of the application was published in the **Federal Register** of April 19, 1982 (47 FR 16410). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective on May 19, 1982.

FOR FURTHER INFORMATION CONTACT: Rose Allison, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-206, 401 M St., SW., Washington, DC 20460, (202-382-3733).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section (5b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the **Federal Register**. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On April 6, 1982, EPA received an application for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM-82-13. The manufacturer claimed his identity,

the specific chemical identity, the specific end-use and process information of the new substance as confidential business information. The generic name of the new substance is alkylbenzenesulfonic acid compound with dialkyl fatty amine. A maximum of 5,000 kilograms (kg) will be manufactured for test market purposes, during a test marketing period not to exceed 6 months. During manufacturing, a maximum of six workers may be exposed for 8 hours/day for 30 days. A notice published in the Federal Register of April 16, 1982 (47 FR 16410) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency has not received any comments concerning the application.

EPA has established that the test marketing of the substance described in TM–82–13, under the conditions set out in the application, will not present any unreasonable risk of injury to health or the environment. No significant health concerns were identified for the PMN substance. Worker exposure during manufacture, processing and use should be low. Consumer exposure of the new substance is not expected. Possible aquatic toxicity at low levels could be expected based on properties of the constituents of the test market substance. Environmental release is expected to be low at all points of release. The amount of the test market substance reaching the environment as the result of manufacture is very low and the majority is expected to be treated at a publicly-owned treatment works.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application, and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. The applicant must maintain records of the date(s) of shipment(s) to customers and the quantities shipped in each shipment, and must make these records available to EPA upon request.

3. Each bill of lading that accompanies a shipment of the substance during the test marketing period must state that the use of the substance is restricted to that described to EPA in the test marketing exemption application.

4. The production volume of the new substance may not exceed the quantity of 5,000 kg described in the test marketing exemption application.

5. The test marketing activity approved in this notice is limited to a period of 6 months commencing on the date of signature of this notice by the Administrator.

6. The number of workers exposed to the new chemical should not exceed that specified in the application, and the exposure levels and duration of exposure should not exceed those specified.

7. The amount of environmental release and disposal should not exceed that specified in the application.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusions that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: May 19, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-14423 Filed 5-27-82; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-51415; TSH-FRL 2134-3]

Toxic Substances; Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the Federal Register of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of twenty-four PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 82–357, 82–358, 82–359, 82–360, 82–361 & 82–362—August 12, 1982.
PMN 82–363, 82–364, 82–365, 82–366 & 82–367—August 15, 1982.
PMN 82–368, 82–369, 82–370, 82–371 & 82–372—August 16, 1982.
PMN 82–373 & 82–374—August 17, 1982.
PMN 82–375, 82–376, 82–377, 82–378, 82–379 & 82–380—August 18, 1982.

Written comments by:

PMN 82–357, 82–358, 82–359, 82–360, 82–361, & 82–362—July 13, 1982.
PMN 82–363, 82–364, 82–365, 82–366 & 82–367—July 16, 1982.
PMN 82–368, 82–369, 82–370, 82–371 & 82–372—July 17, 1982.
PMN 82–373 & 82–374—July 18, 1982.
PMN 82–375, 82–376, 82–377, 82–378, 82–379 & 82–380—July 19, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS–51415]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, DC 20460, (202–382–3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the public reading room E–107.

PMN 82–357

Manufacturer. Confidential.

Chemical. (G) 2,5-diisopropoxy-4-morpholino benzene diazonium aryl sulfonic acid salt.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and processing: dermal and inhalation, a total of 12 workers, up to 8 hrs/da, up to 24 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air up to 24 hrs/da, up to 240 da/yr. Disposal by landfill.

PMN 82–358

Manufacturer. Confidential.

Chemical. (G) Modified phenoxy-S resin.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: a total of 6 workers, up to 8 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. No release.

PMN 82–359

Manufacturer. Confidential.

Chemical. (G) Polyester resin.

Use/Production. (S) Captive intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Use: dermal and inhalation, up to 8 hrs/da.

Environmental Release/Disposal. Disposal by approved landfill.

PMN 82-360

Manufacturer. Confidential.

Chemical. (G) Trisubstituted benezisoxazole.

Use/Production. (G) Site-limited chemical intermediate. Prod. range: 1,000–3,000 kg/yr.

Toxicity Data. Acute oral: rats—>3,000 mg/kg, mice—1,600 mg/kg; Acute dermal: >1,000 mg/kg; Skin: Slight irritant; Acute intraperitoneal: rats—1,100 mg/kg, mice—440 mg/kg.

Exposure. Manufacture and use: minimal dermal and inhalation, a total of 10 workers, up to 1 hr/da, up to 15 da/yr.

Environmental Release/Disposal. No release. Disposal by incineration.

PMN 82-361

Manufacturer. Confidential.

Chemical. (G) Tetrasubstituted benzene.

Use/Production. (G) Site-limited chemical intermediate. Prod. range: 2,000–5,000 kg/yr.

Toxicity Data. Acute oral: rats and mice—2,300 mg/kg; Acute dermal: >1,000 mg/kg; Skin: Moderate irritant; Acute intraperitoneal: rats—300 mg/kg, mice—<100 mg/kg.

Exposure. Manufacture and use: minimal dermal and inhalation, a total of 10 workers, up to 1 hr/da, up to 15 da/yr.

Environmental Release/Disposal. No release. Disposal by incineration.

PMN 82-362

Manufacturer. Confidential.

Chemical. (G) Substituted benzamide.

Use/Production. (G) Site-limited chemcial intermediate. Prod. range: 55,000 kg/yr.

Toxicity Data. Acute oral: >3,000 mg/kg; Acute dermal: >1,000 mg/kg; Skin: Slight irritant; Eye: Slight irritant.

Exposure. Manufacture and use: minimal dermal and inhalation, a total of 80 workers, up to 1 hr/da, up to 10 da/yr.

Environmental Release/Disposal. No release. Disposal by incineration.

PMN 82-363

Manufacturer. Monsanto Company.

Chemical. (G) Polyoxypropylene ester acyl caprolactam.

Use/Production. (S) Reaction injection molding. Prod. Range: Confidential.

Toxicity Data. No data on the PMN substance submitted

Exposure. Manufacture: dermal, 6 to ~500 workers, up to 2 hrs/da, up to 200 da/yr.

Environmental Release/Disposal. Minimal release to land. Disposal by landfill.

PMN 82-364

Manufacturer. Sandoz Colors and Chemicals.

Chemical. (S) Poly(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(4-nonylphenoxy).

Use/Production. (S) Industrial emulsifier. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and use: dermal, 1 worker, 1 hr/da, 10 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and land with 10–100 kg/yr to water .25 hr/da, 10 da/yr. Disposal by publicly owned treatment works (POTW).

PMN 82-365

Manufacturer. Sandoz Colors and Chemicals.

Chemical. (S) Poly(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(4-nonylphenoxy).

Use/Production. (S) Industrial emulsifier. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and use: dermal, 1 worker, 1 hr/da, 10 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and land with 10–100 kg/yr to water .25 hr/da, 10 da/yr. Disposal by POTW.

PMN 82-366

Manufacturer. Sandoz Colors and Chemicals.

Chemical. (S) Poly(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(4-nonylphenoxy).

Use/Production. (S) Industrial emulsifier. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and use: dermal, 1 worker, 1 hr/da, 10 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and land with 10–100 kg/yr to water .25 hr/da, 10 da/yr. Disposal by POTW.

PMN 82-367

Manufacturer. Sandoz Colors and Chemicals.

Chemical. (S) Poly(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(4-nonylphenoxy).

Use/Production. (S) Industrial emulsifier. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and use: dermal, 1 worker, 1 hr/da, 10 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and land with 10–100 kg/yr to water .25 hr/da, 10 da/yr. Disposal by POTW.

PMN 82-368

Manufacturer. Confidential.

Chemical. (G) Alkenyl alkyl siloxane alkoxy terminated.

Use/Production. (S) Coating additive. Prod. range: Confidential.

Toxicity Data. Acute oral: 16 ml/kg; Acute dermal: 16 ml/kg; Eye: Not a primary irritant; Ames Test: Negative; BOD, day 5: <5; COD: 1.50.

Exposure. Manufacture, processing and use: inhalation, dermal and occular, a total of 153 wokers, up to 14 hrs/da, up to 280 da/yr.

Environmental Release/Disposal. No release. Disposal by incineration.

PMN 82-369

Manufacturer. The Goodyear Tire and Rubber Company.

Chemical. (G) Benzenedicarboxylic acid saturated mixed glycols copolyester.

Use/Production. (S) Industrial resin for powder coating. Prod. range: 45,000–445,000 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: inhalation, a total of 10 workers, up to 8 hrs/da, up to 70 da/yr.

Environmental Release/Disposal. 100–1,000 kg/yr released to land. Disposal by incineration, approved landfill and settling ponds/water treatment basin.

PMN 82-370

Manufacturer. The Goodyear Tire and Rubber Company.

Chemical. (G) Benzenedicarboxylic acid saturated mixed glycols copolyester.

Use/Production. (S) Industrial resin for powder coating. Prod. range: 100,000–800,000 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: inhalation, 10 workers, 8 hrs/da, 120 da/yr.

Environmental Release/Disposal. 100–1,000 kg/yr released to land. Disposal by incineration, approved landfill and settling ponds/water treatment basin.

PMN 82-371

Manufacturer. Confidential.

Chemical. (G) Disubstituted alkane.

Use/Production. (S) Company-limited intermediate. Prod. range: 20,000–40,000 kg/yr.

Toxicity Data. Acute oral: 900–1,100 mg/kg; Acute dermal: >5 mL/g; Skin: Severe irritant; Eye: Strong irritant; Skin

sensitization: Low; Repeated 10-day skin application: Moderate; Two-week gavage study: Weight gain and feed intake-Normal, Hematology-Normal, Clinical chemistry-Normal, Necropsy-Normal liver and kidney weights, Pathology-Minimal to minor gastritis, Target organ-Contact tissues; COD: 0.60 g/g; TOD: 0.68 g/mL; BOD_{20}: 0.035 g/mL; Secondary waste treatment compatibility study: No effects; Acute effects on five aquatic species: No effects; Plant growth effects: No effects as tested.

Exposure. Manufacture and use: minimal dermal, a total of 35 workers, up to 2 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. Minimal release to water with none to air and land. Disposal by biological treatment system.

PMN 82-372

Manufacturer. Confidential.

Chemical. (G) ((substituted phenyl)azo)-dihydro-hydroxy-alkyl-oxo-pyridinecarbonitrile.

Use/Production. (S) Colorant for textiles. Prod. range: Confidential.

Toxicity Data. Acute oral: >5.0 g/kg.

Exposure. Negligible.

Environmental Release/Disposal. Less than 10 kg/yr released to air with 10–100 kg/yr to land. Disposal by biological treatment system.

PMN 82-373

Importer. Confidential.

Chemical. (G) Poly(ester-urethane).

Use/Import. (S) Leather coating. Import range: Confidential.

Toxicity Data. Acute oral: >10 g/kg; Skin: Non-irritant; Eye: Non-irritant.

Exposure. Processing: dermal, 2 workers, 1 hr/da, 100 da/yr.

Environmental Release/Disposal. 10–100 kg/yr released 1 hr/da, 100 da/yr. Disposal by approved landfill.

PMN 82-374

Manufacturer. Confidential.

Chemical. (G) Alkyl thiadiazole.

Use/Production. (G) Contained use. Prod. range: Confidential.

Toxicity Data. Acute oral: >5 g/kg; Acute dermal: >2 g/kg; Skin: 2.5/8.0; Eye: 12.5/110 @ 24 hrs; Ames Test: Negative.

Exposure. Use: dermal, 23 da/yr.

Environmental Release/Disposal. More than 2,000 kg/yr released as solid waste.

PMN 82-375

Manufacturer. The Quaker Oats Company.

Chemical. (S) Formaldehyde polymer with 2-furanmethanol and methyloxirane capped.

Use/Production. (S) Industrial polyol for urethane chemistry. Prod. range: Confidential.

Toxicity Data. Acute oral: >5 gm/kg; Skin irritant: Slight; DOT skin corrosive: Non-corrosive.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 82-376

Manufacturer. Confidential.

Chemical. (S) Polymer of trimethylol propane, 1-6 hexanediol, neopentyl glycol, trimellitic anhydride, adipic acid, and isophthalic acid.

Use/Production. (S) Industrial baking enamel coating. Prod. range: 20,000–175,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing, use and disposal: inhalation, a total of 11 workers, up to 8 hrs/da, up to 251 da/yr.

Environmental Release/Disposal. Release to water with less than 10 kg/yr to air up to 16 hrs/da, up to 252 da/yr. Disposal by incineration.

PMN 82-377

Manufacturer. Olin Corporation.

Chemical. (G) Hybrid urethane.

Use/Production. (S) Fiber reinforced plastics. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Minimal to incidental release to land. Disposal by approved landfill.

PMN 82-378

Manufacturer. Olin Corporation.

Chemical. (G) Hybrid urethane.

Use/Production. (S) Fiber reinforced plastics. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Minimal to incidental release to land. Disposal by approved landfill.

PMN 82-379

Manufacturer. Confidential.

Chemical. (G) Tetrasubstituted benzisoxazole.

Use/Production. (G) Site-limited intermediate. Prod. range: 1,200–1,800 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: minimal dermal and inhalation, a total of 10 workers, up to 2 hrs/da, up to 5 da/yr.

Environmental Release/Disposal. No release. Disposal by incineration.

PMN 82-380

Manufacturer. Confidential.

Chemical. (G) Disubstituted benzoxazole.

Use/Production. (G) Site-limited intermediate. Prod. range: 50,000 kg/yr.

Toxicity Data. Acute oral: >3,000 mg/kg; Acute dermal. >1,000 mg/kg; Skin: Slight irritant; Eye: Slight irritant.

Exposure. Manufacture and use: minimal dermal and inhalation, a total of 50 workers, up to 2 hrs/da, up to 5day/yr.

Environmental Release/Disposal. No release. Disposal by incineration.

Dated: May 24, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-14565 Filed 5-27-82; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-59089; TSH-FRL 2134-4]

Toxic Substances; Certain Chemicals; Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the **Federal Register** of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of two applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by: June 14, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-59089]" and the specific TME number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E-401, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm.

E–216, 401 M Street, SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TMEs received by EPA. The complete non-confidential document is available in the public reading room E–107.

TME 82–19

Close of Review Period. June 28, 1982.
Manufacturer. Confidential.
Chemical. (G) Polyester resin.
Use/Production. (G) Captive intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Use: dermal and inhalation, 8 hrs/da.
Environmental Release/Disposal. Disposal will be incidental, by destruction.

TME 82–20

Close of Review Period. July 4, 1982.
Manufacturer. The Quaker Oats Company.
Chemical. (S) Formaldehyde polymer with 2-furanmethanol and 2-methyloxirane.
Use/Production. (S) Component polyol for rigid urethane foam. Prod. range: Confidential.
Toxicity Data. Acute oral: 5 g/kg; Skin: Slight; DOT skin corrosive: Non-corrosive.
Exposure. 35 people.
Environmental Release/Disposal. No data submitted.

Dated: May 24, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-14806 Filed 5-27-82; 8:45 am]
BILLING CODE 6560-50-M

[ER-FRL-2134-6]

Availability of Environmental Impact Statements Filed May 17 Through May 21, 1982 Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, Ms. Kathi Wilson (202) 245–3006.

Corps of Engineers:
EIS No. 820320, Draft, COE, ND Sheyenne River Basin Flood Damage Control and Reduction Plan, Due: July 12, 1982.
EIS No. 820325, Final, COE, WA, Weyerhaeuser Export Facility Construction at DuPont, Permit, Due: June 28, 1982.
EIS No. 820323, Report, COE, MI Report—Ontonagon Harbor Operation and Maintenance Activities, Due:
Department of Energy:
EIS No. 820316, Final DOE, PA, International Submarine Transmission Line, Lake Erie, Permit, Erie Co., Due: June 28, 1982.
Department of Interior:
EIS No. 820324, Draft, DOI, SEV, PRO, Undeveloped Coastal Barriers/Flood Insurance, Definition, Due: July 14, 1982.
EIS No. 820313, Final, BLM, AK, OCS Oil and Gas Lease Sale No. 74, Diapir Field, Due: June 28, 1982.
EIS No. 820310, Final, IBR, SEV, WA OR ID MT WY Creston Generating Station/ Transmission Facilities, Due: June 28, 1982.
Department of Transportation:
EIS No. 820315, Final, FAA VA, Dulles Airport Access Road Parallel Toll Roads, Loudoun/Fairfax Cos., Due: June 28, 1982.
EIS No. 820318, Draft, FHW, MA, US 7 Reconstruction, Lenox/Pittsfield/ Lanesborough, Berkshire County, Due: July 12, 1982.
EIS No. 820309, Final, FHW, MD, MD–410 Extension, B/W Parkway to Pennsy Drive, Prince George's County, Due: June 28, 1982.
EIS No. 820314, Final, FHW, MD, MD–115 Construction, Montgomery Village Avenue/Norbeck, Montgomery Co., Due: June 28, 1982.
EIS No. 820312, Final, FHW, TX, US 277 Gap Closure, Stamford, Jones and Haskell Counties, Due: June 28, 1982.
EIS No. 820321, Final, FHW, WV, Appalachian Corridor G Construction, Holden/Godby Heights, Logan Co., Due: June 28, 1982.
Department of Housing and Urban Development:
EIS No. 820317, Draft, HUD, WY, Broken Circle Development, Mortgage Insurance, Uinta County, Due: July 12, 1982.
EIS No. 820319, Draft, HUD, WY, Yellow Creek Ranch Development, Mortgage Insurance, Uinta County, Due: July 12, 1982.
Department of Defense, Navy:
EIS No. 820311, Final, USN, CA, San Diego Area Navy Complex Family Housing Units, San Diego County, Due: June 28, 1982.
US Postal Service:
EIS No. 820322, DSuppl, UPS, NY, Manhattan Vehicle Maintenance Facility, New York County, Due: July 12, 1982.
Amended Notices:
EIS No. 820133, Final, NPS, SD, Badlands National Park Master Plan, Pennington/ Jackson/Shannon Cos.,[1] Due: June 28, 1982.
EIS No. 820294, Draft, HUD, CA, Victoria Community Plan, Mortgage Insurance, San Bernardino County,[2] Due: July 12, 1982.
EIS No. 820302, Draft, COE, IN, Little Calumet River Multipurpose Project, Lake County,[2] Due: July 12, 1982.

Dated: May 25, 1982.

Louis J. Cordia,

Acting Director, Office of Federal Activities.

[FR Doc. 82-14808 Filed 5-27-82; 8:45 am]
BILLING CODE 6560-50-M

[1] Published FR 3-19-82—Review period reestablished due to noncompletion of distribution.
[2] Published FR 5-21-82—Review period reestablished due to noncompletion of distribution.

[WH-FRL 2134-8]

National Pollutant Discharge Elimination System (NPDES); Public Comments on Treatability Manual; Amendment

May 26, 1982.

AGENCY: Environmental Protection Agency.

ACTION: Extension of comment period.

SUMMARY: In FR Doc. 82–2347, appearing on page 4330 and again on page 4333, the date on or before which public comments must be received in order to be considered during the next revision of the Treatability Manual was "June 1, 1982." The Agency received a request on May 12, 1982, to extend the period of time available for preparing technical comments to be considered during the next revision of the Manual. In response to that request, the Agency hereby announces extension of the public comment period for the next revision of the Treatability Manual to allow consideration of all technical comments submitted on or before July 15, 1982.

FOR FURTHER INFORMATION CONTACT: Bill Chang, 426–2970.

Dated: May 26, 1982.

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water.

[FR Doc. 82-14798 Filed 5-27-82; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[BC Doc. No. 82–277, et al.; File Nos. BPH–801112AF et al.]

John C. Butler, et al.; Applications for Consolidated Hearing on Stated Issues

In re applications of John C. Butler, Paradise, California; Req: 92.7 MHz, Channel 224 3 kW (H&V), 283 feet; BC Docket No. 82–277 File No. BPH–801112AF; Alina M. Abramson, Edward E. Abramson, Morris B. Abramson and William P. Huddy, d/b/a Cheshire Broadcast Group, Paradise, California; Req: 92.7 MHz, Channel 224 2.82 kW (H&V), 320 feet; BC Docket No. 82–278 File No. BPH–810424AF; Joseph W. Schneider and Rick D. Stanton, d/b/a

The Colonial Broadcasting, Paradise, California; Req: 92.7 MHz, Channel 224 0.30 kW (H&V), 1034 feet; BC Docket No. 82–279 File No. BPH–810427AF; Joseph D. Zink, Paradise, California; Req: 92.7 MHz, Channel 224 2.2 kW (H&V), 345 feet; BC Docket No. 82–280 File No. BPH–810427AH; James T. Flood and Bonnie C. Flood, d/b/a JIBO Broadcasting, Paradise, California; Req: 92.7 MHz, Channel 224 0.995 kW (H&V), 529.59 feet; BC Docket No. 82–281 File No. BPH–810427AN; for construction permit for a new FM station.

Hearing Designation Order

Adopted: May 13, 1982.

Released: May 21, 1982.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by John C. Butler (Butler); Alina M. Abramson, Edward E. Abramson, Morris B. Abramson, and William P. Huddy, d/b/a Cheshire Broadcast Group (Cheshire); Joseph W. Schneider and Rick D. Stanton, d/b/a The Colonial Broadcasting (Colonial); Joseph D. Zink (Zink); and James T. Flood and Bonnie C. Flood, d/b/a JIBO Broadcasting (Jibo).

2. *Butler.* Butler will not be able to provide a 3.16 mV/m signal to the entire city of Paradise as required by § 73.315(a) of the Commission's Rules. Butler proposes to use an antenna-transmitter site on the Skyway west of Paradise and claims it would be difficult to erect a new tower in any location that would give 3.16 mV/m coverage to the entire town of Paradise in better fashion than the proposed site. However, other applicants have been able to locate suitable sites for providing a 3.16 mV/m signal to the entire city of Paradise. Under these circumstances, we can not find that waiver of this provision is appropriate at this stage. Thus, an issue will be specified.

3. Section 73.1125 of the Commission's Rules requires that the main studio of an FM station be located within the city of license, but that on a showing of good cause the main studio may be located outside that community. Butler proposes to locate its main studio on the Skyway, approximately three miles west of Paradise. Butler has failed to justify this location for the main studio. Accordingly, an issue will be specified.

4. *Cheshire.* Applicants for new broadcast stations are required by § 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. we have no evidence that Cheshire published the required notice. To remedy this deficiency, Cheshire must publish local notice, if it has not already done so, and so inform the presiding Administrative Law Judge.

5. As previously noted, § 73.1125 of the Commission's Rules requires that the main studio of an FM station be located within the city of license, but that on a showing of good cause the main studio may be located outside that community. Cheshire has failed to provide us with any information concerning its main studio location. Accordingly, an issue will be specified.

6. Analysis of the financial data submitted by Cheshire reveals that $77,837 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment down payment	$15,536
Equipment payments with interest	7,620
Building	4,000
Miscellaneous	30,901
Operating costs (three months)	19,780
Total	77,837

Cheshire plans to finance construction and operation with the following funds: $4,898 in existing capital and $70,000 in loans from principals. Morris Abramson has adequately demonstrated the ability to lend Cheshire $40,000. However, from the financial statement of Edward and Alina Abramson it appears that they have $13,187 in current liquid assets offset by $2,055 in current liabilities for five monthly payments on two deeds of trust, leaving a total of $11,112. Moreover, Cheshire has not adequately established the availability of the $20,000 bank loan from Crocker National Bank to meet the costs of construction and operation of the proposed FM station. Cheshire has failed to provide the terms of interest, collateral or repayment, as required by Section III, Paragraph 4(e) of FCC Form 301. Therefore, Cheshire has demonstrated only $56,010 available to meet the $77,837 required to operate and construct the proposed station, and a limited financial issue will be specified.

7. *Colonial.* Analysis of the financial data submitted by Colonial reveals that $80,265 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment	$49,200
Station construction	9,700
Operating costs (three months)	28,365
Total	80,265

Colonial plans to finance construction and operation with the following funds: $51,000 in existing capital and a $100,000 lease agreement. However, Joseph W. Schneider has not segregated long term liabilities from short term liabilities nor did he segregate cash from coins and stamps in compliance with paragraph 4(b) of Section III. He has shown $31,000 in current liquid assets offset by $90,665 in liabilities, and therefore has no net liquid assets. On the other hand, Rick Stanton has failed to provide a balance sheet, so he has shown no net liquid assets. The NorCal lease filed in the original application is undated and does not contain repayment terms as required by Section III, Paragraph 4(e) of FCC Form 301. Therefore, Colonial has filed to demonstrate sufficient funds available to meet the $80,265 required to operate and construct the proposed station, and a limited financial issue will be specified.

8. *Zink.* Analysis of the financial data submitted by Zink reveals that $68,750 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment lease payments (excluding three months operating cost)	$4,050
Miscellaneous	21,500
Operating costs (three months)	42,600
Total	68,750

Zink plans to finance construction and operation with the following funds: $3,200 in existing capital and a $65,000 bank loan (net). The bank loan letter dated April 20, 1981 from Wells Fargo Bank does not constitute a firm commitment to loan the sum in question. In addition, the loan letter fails to comply with the requirements of Section III, Paragraph 4(e) of Form 301 with respect to terms of interest, payment, collateral, or security. Therefore, Zink has demonstrated only $3,200 available to meet costs of $68,750 to operate and construct the proposed station. A limited financial issue will be specified.

9. Zink has failed to submit a narrative description of its proposed programming service to meet community needs as required by Section IV of FCC Form 301. To remedy this deficiency, Zink will be required to file an amendment containing its program narrative with the presiding Administrative Law Judge.

10. Examination of the application of Zink raises a question as to whether the proposed 3.16 mV/m contour would cover all of Paradise as required by § 73.315(a) of the rules. Moreover, the coordinates specified for the antenna-transmitter site, N. 39° 43′ 37″, W. 121° 40′ 42″ do not agree with the coordinates listed in the Commission's records for the AM tower on which Zink proposes to mount his antenna. Accordingly, an

issue with respect to these matters will be specified.

11. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

12. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

13. Accordingly, it is ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether the proposal of John C. Butler would provide coverage of the city sought to be served, as required by § 73.315(a) of the Commission's Rules and, if not, whether circumstances exist which warrant a waiver of that section.

2. To determine, pursuant to § 73.1125, whether good cause exists for John C. Butler's proposed location of its main studio outside the community of license.

3. To determine whether Cheshire Broadcast Group will locate its main studio in Paradise in compliance with § 73.1125 of the Commission's rules and, if not, whether good cause exists for locating it outside of Paradise.

4. To determine with respect to Cheshire Broadcast Group:

(a) the source and availability of additional funds over and above the $56,010 indicated; and

(b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

5. To determine with respect to Colonial Broadcasting:

(a) the source and availability of funds to meet estimated costs; and

(b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

6. To determine with respect to Joseph D. Zink:

(a) the source and availability of additional funds over and above the $3,200 indicated; and

(b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

7. To determine, with respect to the application of Joseph D. Zink,

(a) the exact location of the proposed antenna tower;

(b) whether the proposed 3.16 mV/m would cover the community of license in accordance with § 73.315(a) of the Commission's Rules and, if not, whether circumstances warrant a waiver of that section.

8. To determine which of the proposals would, on a comparative basis, best serve the public interest.

9. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

14. It is further ordered, that Joseph D. Zink shall file a program narrative statement with the presiding Administrative Law Judge showing compliance with Section IV of FCC Form 301.

15. It is further ordered, that Cheshire Broadcast Group shall inform the presiding Administrative Law Judge as to whether it has complied with the public notice requirements of § 73.3580(f) of the Commission's Rules.

16. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

17. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-14622 Filed 5-27-82; 8:45 am]
BILLING CODE 6712-01-M

Commission Closes Cincinnati, Ohio, Field Office

May 21, 1982.

The Federal Communication's Commission's Cincinnati, Ohio, field office will be closed on July 30, 1982. After that date, all public service and enforcement activities in the Cincinnati area will be handled by the Commission's Detroit District Office, located at: 1054 Old Federal Building, 231 W. LaFayette Boulevard, Detroit, Michigan 48226.

The telephone number for the Detroit office is: (313) 226-6078

All requests for forms, information and assistance should be directed to the Detroit District Office.

Radio operator examinations for all classes of amateur (except Novice) and commercial radiotelephone licenses will continue to be administered in Cincinnati by the Detroit office three times per year, in February, June and October. Applications for an appointment to have an examination administered in Cincinnati must be submitted to the Detroit office at least three (3) weeks before the scheduled examination dates.

All applicants for appointment will be notified, in writing, by Detroit as to the date, time and exact location of the examination in the Cincinnati area.

Examinations are given in Detroit as follows:

Commercial Examinations,
Radiotelephone: 1st, 2nd and 3rd Tuesday & Thursday of each month—9:00 AM to 12 Noon
Radiotelegraph: By appointment only.
Amateur Examinations: 1st, 2nd and 3rd Wednesday & Friday of each month—
Requiring Code—9:00 AM
Not Requiring Code—9:00 AM to 1:00 PM.

No prior appointment is required for testing in Detroit except as noted or for:
—Blind Applicants
—Groups of 10 or more.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-14619 Filed 5-27-82; 8:45 am]
BILLING CODE 6712-01-M

[CC Docket No. 82-163, File No. 20011-CD-P-(2)-82 and CC Docket No. 82-164, File No. 21606-CD-P-(2)-82]

Continental Telephone Co. of Illinois and American Paging, Inc.; Designating Applications for Consolidated Hearing on Stated Issue

Memorandum Opinion and Order

Adopted: May 14, 1982.

Released: May 21, 1982.

By the Common Carrier Bureau:

In the matter of Continental Telephone Company of Illinois for authority to change frequency from 43.48 MHz to 152.84 MHz for one-way Station KDS784 in the Domestic Public Land Mobile Radio Service at Rochelle, Illinois, and to construct an additional site on frequency 152.84 MHz for Station KDS784 at Dekalb, Illinois; American Paging, Inc. for authority to construct additional base station sites in the Domestic Public Land Mobile Radio Service for one-way Station WRV944 operating on frequency 152.84 MHz at Aurora and Elgin, Illinois.

1. Presently before the Chief, Common Carrier Bureau, pursuant to delegated authority, is a petition filed by American Paging, Inc. (American), for reconsideration of the decision of the Mobile Services Division to return as defective its application to add an additional base station site at Elgin, Illinois, for one-way Station WRV944. Continental Telephone Company of Illinois (Continental) filed an opposition to the petition and American replied.

2. American's application, File No. 21606-CD-P-(2)-82, proposed to add two sites, one at Elgin and another at Aurora, Illinois. On March 12, 1982, the Chief, Mobile Services returned as defective that portion of the application pertaining to the Elgin site because the application did not contain engineering information required by Item 26(a) of FCC Form 401. In a *Memorandum Opinion and Order*, Mimeo 3037, released March 30, 1982, the portion of the application proposing to add a site at Aurora was designated for a comparative hearing with an application filed by Continental. In view of our action here granting the petition for reconsideration, we will add the American prposal for the Elgin site to the consolidated hearing proceeding in CC Dockets 82-163 and 82-164.

3. In its petition, American indicates that the page containing the required engineering statement was filed with the original application but that it "slipped out or was otherwise lost." Since the application was substantially complete, and the required enginering information has been resubmited with its petition, American requests that the application for the Elgin site be accepted *nunc pro tunc* [1] and be accorded comparative consideration. Continental opposes reinstatement of American's application on two grounds: (1) that American has not shown that the required information was filed with the application; and (2) under 21.3(b) of the Commission's Rules and established Commission policy, [2] Amercan's refiled application may not be reinstated nunc pro tunc and accorded comparative consideration.

4. In reply, American indicates that although the first page of Engineering Exhibit 2A may have been left out when the application was filed with the Commission, the omission was due to clerical error which was not the fault of the applicant. American argues that the application should be reinstated *nunc pro tunc* because § 22.31(e) recognizes an exception for clerical errors and permits a mutually exclusive application to be amended without losing its right to comparative consideration. Also, American argues that *Allen C. Moore, supra*, note 2, is not controlling because, unlike the *Moore* case which dealt with inadequate information, here it could have been ascertained that there was a clerical error by reference to the other portions of the application and the numbered exhibit pages. Lastly, American argues that acceptance of its application *nunc pro tunc* will not undermine the Commission's cut-off policy or otherwise harm the public interest since neither American nor Continental can provide service until the previously mentioned comparative hearing is completed.

5. It is clear from the uncontradicted affidavits submitted by American that the page containing the engineering information was prepared prior to filing as part of the original application and was inexplicably lost. Therefore, we believe that good cause has been demonstrated why the American application should be accepted *nunc pro tunc* and designated for comparative hearing. We agree with American that the *Moore* decision concerns inadequate showings and does not apply where a page of an exhibit was timely prepared for submission but was not present when the application was reached for processing. However, the Commission will continue to adhere strictly to the *Moore* policy in cases where the applicant has failed to submit required information. [3] We will therefore grant American's petition and reinstate its application *nunc pro tunc*. In addition, we find that American is legally and technically qualified to construct the proposed facilities at Elgin and we will, therefore, incorporate this application into the pending hearing proceeding.

6. Accordingly, it is ordered, that the petition for reconsideration filed by American Paging, Inc., is granted.

7. It is further ordered, that American's application File No. 21606-CD-P-(2)-82 to construct an additional base station facility at Elgin, Illinois, to operate on frequency 152.84 MHz is accepted *nunc pro tunc*.

8. It is further ordered, that the application of American Paging, Inc., File No. 21606-CD-P-(2)-82 for the Elgin, Illinois, site is designated for hearing and consolidated into the hearing in CC Docket Nos. 82-163 and 82-164 on the same issues and with the same parties in that proceeding.

9. It is further ordered, that the applicant shall file a written notice of appearance under § 1.221 of the Commission's rules stating its intention to present evidence concerning the application for the Elgin, Illinois, site on the issues specified in CC Docket Nos. 82-163 and 82-164.

10. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 82-14520 Filed 5-27-82; 8:45 am]

BILLING CODE 6712-01-M

[1] Accepting the application *nunc pro tunc*, would result in the application being considered filed as of its original filing date, and not subject to another round of pre-grant procedures.

[2] Continental argues that in Allen C. Moore, 86 FCC 2d 762 (1981), the Commission held that a returned application may not be reinstated and accorded comparative consideration if it is amended and refiled after the 60 day cut-off period.

[3] See Order Designating Applications for Hearing, Mimeo No. 2028, released March 24, 1982, at para. 7.

[Report No. 1353]

Petitions for Reconsideration of Actions in Rule Making Proceedings

May 24, 1982.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the **Federal Register.** Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Parts 89, 91, 93 and 95 of the Commission's Rules and Regulations to Adopt New Practices and Procedures for Cooperative Use and Multiple Licensing of Stations in the Private Land Mobile Radio Services. (Docket No. 18921, RM's 1197, 1218 & 1330)

Filed by: John R. Younger, President for AGS Electronics, Inc., on 5-14-82;

Francis K. Wiesner for Commercial Communications, Inc., on 5–17–82.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82–14517 Filed 5–27–82; 8:45 am]

BILLING CODE 6712–01–M

Place for July 7, 1982 Meeting of Radio Advisory Committee Changed

The next meeting of the Advisory Committee on Radio Broadcasting will be held at 9:30 am, Wednesday, July 7, 1982 in Room 856, 1919 M Street, N.W., Washington, D.C., (*instead of* at 1229 20th Street, as previously announced in Doc. 82–13122 which was published on Friday, May 14, 1982 at 47 FR 20854).

The agenda remains unchanged.

The meetings of the Committee and its Subgroups are public, and open for participation by all interested persons.

For further information call the Committee chairman: Louis C. Stephens, FCC Headquarters, (202) 632–7792.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82–14518 Filed 5–27–82; 8:45 am]

BILLING CODE 6712–01–M

[BC Docket No. 82–227, File No. BP–780901AG]

WKKQ, Inc.; Designating Application for Hearing on Stated Issues

Memorandum Opinion and Order

Adopted: April 22, 1982.

Released: April 29, 1982.

In re application of WKKQ, Inc., WKKQ, Hibbing, Minnesota, Has: 1060 kHz, 5 kW, D, Req: 1060 kHz, 5 kW, 10 kW–LS, DA–N, U, for construction permit.

1. The Commission has before it for consideration: (i) the above-captioned application for a change in facilities for WKKQ, Hibbing, Minnesota; (ii) a petition to deny filed by Metromedia, Inc., licensee of KRLD, Dallas, Texas; (iii) a petition to deny filed by Hibbing Broadcasting Company, (HBC) licensee of WMFG–AM–FM, Hibbing, Minnesota; and (iv) related pleadings.[1] We also consider HBC's petition for reconsideration of a September 10, 1979 staff ruling concerning WKKQ's alleged violation of Section 73.1850 of our Rules.

2. *Metromedia's petition.* This petitioner contends that WKKQ's proposed nighttime antenna is unstable, and may cause objectionable interference to KRLD, a co-channel class I–B station.[2] Metromedia requests that any grant of a construction permit be subject to certain engineering conditions. WKKQ counters that because of design and environmental conditions, the array would be stable. Nevertheless, by letter of September 18, 1981 applicant agrees to accept Metromedia's proposed conditions.

3. Our aim in adopting standard radiation patterns was to provide for each directional AM operation one radiation model to be used for all allocation purposes. See *Radiation Patterns for AM Broadcast Stations*, 84 FCC 2d 796 (1980). At the heart of this simplified allocation system is the postulate that in normal operation, directional arrays will not radiate in excess of their standard patterns. When there is a likelihood that they will (*i.e.*, that they are unstable), we must carefully consider whether the array can be adjusted and maintained within the standard-pattern limits, and if so what conditions are required to assure such operation. Once a question of instability is raised, our concern is with stability *per se*, not just possible interference to a particular station. Here, then, we are concerned with more than possible interference to KRLD.

4. Our own computer studies show that the proposed nighttime array is inherently sensitive to minor changes in the operating parameters, in that variations as small as 0.5 percent current-ratio deviation and 0.5 degree phase deviation would result in radiation greater than the specified standard-radiation values. (Our benchmarks are 1%/1° for generally stable arrays and 0.1%/0.1° for highly unstable arrays; between these extremes we consider arrays on a case-by-case basis.) However, countervailing indications of stability include a relatively low RSS/RMS ratio of 1.34, a suitable ground system, regular terrain for some distance around the proposed site, and the absence of any likely sources of reradiation nearby. On balance, therefore, we believe the conditions Metromedia proposes and WKKQ accepts are sufficient to assure operation within the standard-pattern limits.

5. *HBC's non-technical arguments.* HBC alleges that (i) applicant has violated § 73.1211 of our Rules by broadcasting lottery information, (ii) applicant has violated section 317(a)(1) of the Communications Act by broadcasting commercials without identifying their sponsors, (iii) applicant has violated § 73.1850 of the Rules by refusing to allow public inspection of program logs, (iv) applicant has violated Section 312(a)(7) of the Communications Act by failing to provide a candidate for federal office with reasonable access to applicant's facilities, and (v) applicant has misrepresented to the Commission its policy on the length of commercials available for sale on WKKQ.[3]

6. First, HBC alleges that WKKQ broadcast a commercial for a local ski resort which invited listeners to purchase skiing tickets from the sponsor and thus become eligible to win a skiing trip to Jackson Hole, Wyoming, a lottery as defined by the Commission.[4] According to applicant, the sponsor furnished the copy for the 60-minute announcement, and WKKQ's copy reader failed to screen it. Also according to applicant, the prohibited material aired from January 26 to January 31, 1978, when the station's owner heard it, stopped its broadcast, called the ski resort and arranged for deletion of the consideration requirement (thus rendering the promotion not a lottery), and requested the ski resort to notify other stations that were also broadcasting the commercial.

7. As WKKQ admits, it clearly violated § 73.1211 by broadcasting information pertaining to a lottery. However, this was a short-lived, isolated occurrence, and the applicant took aggressive corrective steps once the violation was discovered. While similar violations could result in forfeiture, the facts here do not raise a substantial question of applicant's licensee qualifications.

8. Petitioner next alleges that applicant violated section 317(a)(1) of the Communications Act by broadcasting a commercial by singer Rex Allen for a local concert he was to appear at, without the required sponsorship identifiction announcement.[5] Applicant contends it

[1] The related pleadings include applicant's motions for an extension of time to respond to a Commission inquiry and for extensions of time to file oppositions to the petitions, and motions by both petitioners for extensions of time to file replies to the opposition to their petitions. Since all parties seeking extensions have shown good cause, the motions are granted and the pleadings accepted.

[2] The showing of possible interference gives Metromedia standing as a party in interest within the meaning of Section 309(*d*) of the Communications Act of 1934, as amended. *FCC* v. *National Broadcasting Co., Inc.*, 319 U.S. 239 (1943).

[3] This petitioner's stations compete with WKKQ for audience and revenue. HBC therefore has standing as a party in interest within the meaning of section 309(d) of the Communications Act of 1934, as amended. *FCC* v. *Sanders Bros. Radio Station*, 309 U.S. 470 (1940).

[4] See *Applicability of Lottery Statutes to Contests and Sales Promotions*, 58 FCC 2d 52 (1976).

[5] Petitioner's argument that announcement for a station promotion, "Bingo Blast," were commercials

did not consider the broadcast a commercial, because it was a "brief telephone comment from a country music personality," and no direct consideration for the airing was involved, since the station organized the concert. Further, applicant contends, if the spot were considered a commercial, the fact that WKKQ sponsored the concert was so well publicized that there was sufficient tie-in to WKKQ to provide proper identification. At any rate, WKKQ states that it has discontinued the practice of telephone comments of this sort.

9. The concert was a non-broadcast commercial venture of WKKQ, and the transcript reveals that Rex Allen's only "comment was to urge people to attend the concert. Thus the broadcast in question was clearly a commercial *Fuqua Communications, Inc.*, 30 FCC 2d 94 (1971); *Waterman Broadcasting Corp. of Texas*, 28 FCC 2d 348 (1971); and it should have been accompanied by a sponsor identification. However, this single incident, which has not recurred, does not raise a substantial question of applicant's qualification.

10. Next, petitioner contends that applicant violated § 73.1850 or our Rules by not allowing a member of the public, Mr. Thomas Sonaglia, to inspect WKKQ's program logs.[6] Mr. Sonaglia filed a complaint with the Broadcast Bureau's Complaints and Compliance Division, which after making inquiries, denied his request to examine the logs because he had neither fully identified himself to station personnel [7] nor stated the general purpose of the examination. HBS seeks reconsideration of that September 10, 1979 ruling, and further asks that WKKQ be compelled to furnish its logs to the Commission for inspection in connection with the charges discussed above.

11. Mr. Sonaglia's refusal to state why he wanted to review WKKQ's logs, contrary to the requirement of § 73.1850(b), was sufficient reason for the station to refuse him access to them. Further, it is clear from HBC's own pleadings that Mr. Sonaglia was acting as petitioner's agent. Applicant's surmise in this regard, borne out by petitioner's subsequent statements, provides an additional, independent warrant for WKKQ's actions. See *Cass River Broadcasting Co.*, 68 FCC 2d 937 (1978). We therefore concur with the Chief of the Complaints and Compliance Division that WKKQ did not act improperly, and thus find petitioner's arguments in its petition to deny meritless. Further, for the reasons discussed previously, we find no reason to examine WKKQ's program logs in connection with petitioner's other charges of misconduct.

12. Petitioner's final non-technical arguments are related and will be discussed together. On October 25, 1978 a representative of Senator Wendell Anderson, the Democratic Party candidate for the United States Senate from Minnesota, complained to the Commission that WKKQ had refused a series of requests to purchase five-minute segments of political advertising time, and that the licensee had quoted an "artifically high" rate for five minutes of program time. Among WKKQ's arguments in its behalf was that the station had an established practice of selling no program time longer than 60-second spot announcements. We found that WKKQ had violated section 312(a)(7) of the Communications Act and ordered the station to advise us how it intended to fulfill its "reasonable access" obligations. *Sen. Wendell Anderson*, 69 FCC 2d 831 (1978). On October 31, 1978, WKKQ sent a telegram to Senator Anderson's representative offering to sell five-minute programs to Senator Anderson, thus complying with our order. These programs were purchased and subsequently broadcast.

13. Petitioner's arguments stemming from this incident are that (i) applicant's general conduct and specific violation of the Act raise questions of its qualifications to be a licensee and (ii) applicant's representation to the Commission that WKKQ sold no programs longer than 60-second announcements was a misrepresentation and less than candid, because the station regularly broadcast the "WKKQ Fun Guide," a commercial of two to three minutes in length.

14. Both of petitioner's contentions are groundless. Absent any showing of bad faith and in light of the prompt corrective action taken, WKKQ's violation of Section 312(a)(7) in no way casts a cloud on its licensee qualifications. As to the "Fun Guide," while the commercial in its aggregate may have lasted 2 to 3 minutes, it was composed of multiple, individual 10-second commercials run serially, each advertising a current recreational event. It was not a single 3-minute commercial, and thus not a contradiction of WKKQ's representation concerning its commercial spot sales policy.

15. While this applicant did violate unrelated provisions of the Communications Act and our Rules, we find that these violations, considered separately or together, raise no substantial question of WKKQ's licensee qualifications requiring a hearing. Further, the statute of limitations has run as to any of these violations that might otherwise have been subject to a forfeiture. We shall, however, expect careful attention to these requirements in the future.

16. *HBC's technical argument.* Using conductivities shown on FCC Figure M3, WKKQ's proposed daytime 0.025 mV/m contour would overlap the 0.5 mV/m contour of co-channel station KNDK, Langdon, North Dakota, in violation of § 73.37(a) of the rules. Applicant supported its proposal in part with May 1977 field strength measurements on two WKKQ radials (284° and 295°) showing that there would be no overlap. In its petition to deny HBC submits its own April 1979 measurements, showing a higher conductivity on both radials than applicant's measurements. Petitioner concludes from its measurements on the 295° radial that there would be prohibited overlap. In its opposition applicant challenges HBC's measurements on various grounds, and submits the results of its May 1979 remeasurement of the 295° radial, showing the same conductivities as its 1977 measurements.

17. Petitioner's measurements fall far short of the requirements for field strength measurements set out in § 73.186 of our rules. There were only 17 measurement points, one 2 miles from WKKQ and the rest from 8.7 to 44.6 miles from the station; our rule calls for about double that number, with many close to the antenna. Also, satisfactory details were not provided concerning the meter used and its calibration, the engineer who made the measurements and his qualifications, a map of the measurement points, the times and methodology of the measurements, and so forth. Therefore these measurements are inadequate to establish conductivity on the disputed radial.

18. However, there are also questions of the acceptability of applicant's measurements. By letter to WKKQ the staff questioned the 1977 measurements, noting that while they had all been made by one individual, the reported intervals between some measurements appeared unrealistically short, and that two measurements at different points

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and required sponsorship identification is meritless. Such promotional announcements are not commercial. See generally *Logging of Promotional Announcements*, 59 FCC 2d 594 (1976).

[6] While § 73.1850 applied to WKKQ at the time in question, we no longer require radio stations to keep or make available program logs. See *Deregulation of Radio*, 84 FCC 2d 968 (1981).

[7] Mr. Sonaglia's comments to WKKQ employees suggested that he was ana gent for another rather than the individual citizen he professed to be. In part, § 73.1850(b) of the Rules requires one seeking access to program logs to identify the organization he or she represents, if any.

were reported as having been made at the same time. In WKKQ's response, its engineer [who had made the measurements] affirmed the reported measurement times but disputed the staff's position that the times between some measurements appeared too short:

> There is no basis for such a statement and it completely ignores the logical facts. (1) I am an experienced field engineer, have taken and submitted similar measurements to the FCC for over 25 years. (2) I have a photographic memory and do not need to keep stopping to study road maps and hence require very little time to be so wasted. (3) I was driven by Mr. Jerry Collins, the Owner of WKKQ in his Corvette sports car. I thus had no time wasted in starting or stopping vehicles. (4) Mr. Collins lives 30 miles northwest of the station and travels many of these roads to and from * * * work and thus is even more familiar with the roads and the area than would any other driver I could have wished for. (5) As to the fact that two readings * * * were shown as taken at the same time, yes I know. They were of course not physically taken at the same time, but my watch stopped about then and we relied upon Mr. Collins' watch for the balance of the readings. Since his watch showed 10:41, that was the time we recorded even though it was the same time shown for another measurement.

19. Field strength measurements are critical to many of our AM allocation decisions, and as with other applicant representations, we must be able to rely on the accuracy of the data submitted to us. See generally *Babcom, Inc.*, 31 FCC 2d 425 (1971). The most suspicious measurements reported by WKKQ are apparently a series of thirteen made on May 20, 1977 between 10:44 and 11:23 a.m. (all presumably timed using Collins' watch), as follows:

Time	Miles from WKKQ	Radial
10:44	8.7	295°
10:46	9.2	295°
10:48	11.2	295°
10:52	10.7	294°
10:54	12.0	294°
10:57	13.7	294°
11:00	16.4	294°
11:08	17.4	294°
11:10	13.5	295°
11:12	14.4	295°
11:15	16.3	295°
11:19	17.8	295°
11:23	16.7	295°

20. This tabulation indicates that in a period of 39 minutes, WKKQ's engineer traveled over 21 miles and stopped to make 13 measurements. Considering the time that should have been spent assuring proper location of measurement points and accurate measurements, and allowing for roads that do not generally provide straight-line, point-to-point travel (so the distances traveled actually exceeded the straight-line distances shown above), it seems to us improbable that accurate measurements could have been made as reported. Further, those of petitioner's measurements made at the same points as applicant's show significantly greater field strengths—an average of 188 percent greater. There is therefore a substantial and material question that either the measurements were not made with sufficient care to assure their validity, or the measurements were not made as reported. Hearing issues are thus required.

21. *Other matters.* WKKQ's local notice of its application did not describe the extensive antenna construction proposed, as required by § 73.3580(f)(6) of our Rules. Applicant must therefore republish and rebroadcast a corrected notice.

22. Except as indicated by the issues specified below, the applicant is qualified to construct and operate as proposed. However, in view of the foregoing, the Commission is unable to conclude that grant of the captioned application would serve the public interest, convenience, and necessity, and is of the opinion that the application must be designated for hearing.

23. Accordingly, it is ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the application is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the facts and circumstances surrounding the applicant's May 1977 field stength measurements.

2. To determine, in light of the evidence adduced pursuant to issue 1, whether applicant misrepresented facts or was lacking in candor with respect to its May 1977 field strength measurements.

3. To determine, in light of the evidence adduced pursuant to issue 1, whether the applicant's May 1977 field strength measurements are valid.

4. To determine whether the proposed operation would cause overlap to KNDK, Langdón, North Dakota in violation of § 73.37 of the Commission's Rules.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, whether a grant of this application would serve the public interest, convenience, and necessity.

24. It is further ordered, That in the event of a grant of this application, the construction permit shall contain the following conditions:

1. An antenna monitor of sufficient accuracy and repeatability, and having a minimum resolution of 0.1 degree phase deviation and 0.1 percent sample-current ratio deviation, shall be installed and continuously available to indicate the relative phase and magnitude of the sample current of each element in the array, to insure maintenance of the radiated fields within the authorized values of radiation.

2. A complete nondirectional proof of performance, in addition to the required proof on the directional antenna system, shall be submitted before program tests are authorized. The nondirectional and directional field strength measurements must be made under similar environmental conditions.

3. Upon receipt of operating specifications and before issuance of a license, permittee shall submit the results of observations made daily of the base currents and their ratios, relative phases, sample currents and their ratios, and sample current deviations for each element of the array, along with the final amplifier plate voltage and current, the common-point current, and field strengths of each monitoring point for both nondirectional and directional operations for a period of at least 30 days, to demonstrate that the array will be maintained within the specified tolerances.

4. The inverse distance field intensity at a distance of one kilometer from the antenna in the directions specified shall not exceed the following values:

True azimuth	Maximum field strength (mV/m)
91.5°	25.58
116.0°	23.61
157.5°	23.59
172.5°	23.59
192.0°	25.27
202.0°	23.58
212.0°	23.65
250.0°	25.01
227.0°	23.85
240.5°	23.57
266.0°	23.61
292.5°	23.58

25. It is further ordered, That the petitions to deny filed by Metromedia, Inc. and Hibbing Broadcasting Company are granted to the extent indicated above, and are denied in all other respects, and that Hibbing Broadcasting Company is made a party to the hearing.

26. It is further ordered, That Hibbing Broadcasting Company's petition for reconsideration of the September 18, 1979 staff ruling on its public-file complaint is denied.

27. It is further ordered, That WKKQ, Inc. shall republish and rebroadcast a corrected local notice of its application.

and shall file a statement of publication with the presiding Administrative Law Judge on or before July 7, 1982.

28. It is further ordered, That to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of our Rules, the parties shall, in person or by attorney, within 20 days of the mailing of this order, file with the Commission in triplicate written appearances stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

29. It is further ordered, That pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of our Rules, WKKQ, Inc. shall give notice of the hearing as prescribed in the rule, and shall advise the Commission of the publication of the notice as required by § 73.3594(g).

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-14733 Filed 5-27-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a) (3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c).)

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Harris Bankcorp, Inc.*, Chicago, Illinois; to acquire 100 percent of the voting shares or assets of Argo State Bank, Summite, Illinois. Comments on this application must be received not later than June 20, 1982.

2. *Security Financial Services, Inc.* Sheboygan, Wisconsin; to acquire 80 percent of the voting shares or assets of Manitowoc County Bank, Manitowoc, Wisconsin. Comments on this application must be received not later than June 20, 1982.

B. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First City Financial Corporation,* Hobbs, New Mexico; to acquire 100 percent of the voting shares of First City National Bank, Ruidoso, New Mexico, a *de novo* bank. Comments on this application must be received not later than June 20, 1982.

C. Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551:

1. *First City Bancorporation of Texas, Inc.,* Houston, Texas; to acquire 100 percent of the voting shares or assets of Citizens First National Bank of Tyler, Tyler, Texas. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Comments on this application must be received not later than June 20, 1982.

Board of Governors of the Federal Reserve System, May 21, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-14511 Filed 5-27-82; 8:45 am]

BILLING CODE 6210-01-M

Boulevard Bancorp, Inc.; Formation of Bank Holding Company

Boulevard Bancorp, Inc., Chicago, Illinois, has applied for the Board's approval under secton 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company, to be interposed between Miami Corporation, a registered bank holding company, and National Boulevard Bank of Chicago, Chicago, Illinois, for prior approval to acquire up to 100 percent of: First National Bank of Wilmette, Wilmette, Illinois; The Hinsdale Capital Corporation, Hinsdale, Illinois, which owns 81.9 percent of The First National Bank of Hinsdale, Hinsdale, Illinois; Firstwin Corporation, Winnetka, Illinois, which owns 83.6 percent of The First National Bank of Winnetka, Winnetka, Illinois; The Glencoe Capital Corporation, Glencoe, Illinois, which owns 89.7 percent of Glencoe National Bank, Glencoe, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 20, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 21, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-14509 Filed 5-27-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *FSB Bancorporation,* Decatur, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank of Decatur, Decatur, Alabama. Comments on this application must be received not later than June 20, 1982.

B. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Central Kentucky Bancorp, Inc.,* Elizabethtown, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of the

successor by merger to First Hardin National Bank & Trust, Elizabethtown, Kentucky. Comments on this application must be received not later than June 20, 1982.

2. *FSB, Inc.*, Covington, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank of Covington, Tennessee, Covington, Tennessee. Comments on this application must be received not later than June 20, 1982.

C. **Federal Reserve Bank of Minneapolis** (Lester G. Gable, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Financial Services of Winger, Inc.*, Winger, Minnesota; to become a bank holding company by acquiring 96.6 percent of the voting shares of Farmers State Bank of Winger, Winger, Minnesota. Comments on this application must be received not later than June 20, 1982.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Amoret Bancshares, Inc.*, Amoret, Missouri; to become a bank holding company by acquiring at least 80 percent of the voting shares of Bates County National Bank, Amoret, Missouri. Comments on this application must be received not later than June 20, 1982.

2. *University State Bancshares, Inc.*, Lawrence, Kansas; to become a bank holding company by acquiring 80 at least percent of the voting shares of The University State Bank, Lawrence, Kansas. Comments on this application must be received not later than June 20, 1982.

E. **Secretary, Board of Governors of the Federal Reserve System,** Washington, D.C. 20551:

1. *BCTC Corporation*, Moorestown, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of Burlington County Trust Company, Moorestown, New Jersey. This application may be inspected at the Federal Reserve Bank of Philadelphia. Comments on this application must be received not later than June 13, 1982.

2. *Eastern Iowa Secured Bancshares Corporation*, Bettendorf, Iowa; to become a bank holding company by acquiring 80 percent of the voting shares of Security State Trust and Savings Bank, Bettendorf, Iowa. This application may be inspected at the Federal Reserve Bank of Chicago. Comments on this application must be received not later than June 20, 1982.

Board of Governors of the Federal Reserve System, May 21, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-14510 Filed 5-27-82; 8:45 am]

BILLING CODE 6210-01-M

Miami Corp.; Acquisition of Bank

Miami Corporation, Chicago, Illinois, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Boulevard Bancorp, Inc., Chicago, Illinois and thereby indirectly acquiring: (1) 100 percent of the voting shares of The Hinsdale Capital Corporation, Chicago, Illinois which owns 81.4 percent of the voting shares of The First National Bank of Hinsdale, Hinsdale, Illinois; (2) 100 percent of the voting shares of First National Bank of Wilmette, Wilmette, Illinois; (3) 80 percent of the voting shares of National Boulevard Bank of Chicago, Chicago, Illinois; (4) 100 percent of the voting shares of The Glencoe Capital Corporation, Glencoe, Illinois, which currently owns 89.7 percent of the voting shares of Glencoe National Bank, Glencoe, Illinois; and (5) 100 percent of the voting shares of Firstwin Corporation, Chicago, Illinois which currently owns 83.6 percent of the voting shares of The First National Bank of Winnetka, Winnetka, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than June 20, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 21, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-14512 Filed 5-27-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Blood Products Advisory Committee; Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Blood Products Advisory Committee by the Secretary, Department of Health and Human Services.

DATE: Authority for this committee will expire on May 13, 1983, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated: May 20, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc 82-14407 Filed 5-27-82; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings:

Baltimore District Office, Chaired by Thomas L. Hooker, District Director.

DATE: Monday, June 7, 10 a.m. to 12 m.

ADDRESS: Roanoke County Library, Main Headquarters, Route 419, 3131 Electric Rd. SW., Roanoke, VA.

FOR FURTHER INFORMATION CONTACT: Charity E. Singletary, Consumer Affairs Officer, Food and Drug Administration, 701 W. Broad St., Rm. 309, Falls Church, VA 22046, 703-285-2578.

Buffalo District Office, Chaired by Burton L. Love, Chief Investigator, and Lois M. Meyer, Consumer Affairs Officer.

Date: Thursday, June 17, 1 p.m.
Address: Lower Level Ballroom, Hotel Syracuse, 500 S. Warren St., Syracuse, NY.
For further information contact: Lois M. Meyer, Consumer Affairs Officer, Food and Drug Administration, 599 Delaware Ave., Buffalo, NY 14202, 716-846-4483.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance understanding and exchange information between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: May 21, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-14469 Filed 5-24-82; 1:31 pm]

BILLING CODE 4160-01-M

Gastroenterology and Urology Device Section of the General Medical Devices Panel; Meeting Cancellation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing cancellation of a meeting of the Gastroenterology and Urology Device Section of the General Medical Devices Panel scheduled for June 21, 1982. The meeting was announced by notice in the Federal Register of May 14, 1982 (47 FR 20860).

FOR FURTHER INFORMATION CONTACT: Norman T. Welford, Bureau of Medical Devices (HFK-420), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7750.

Dated: May 21, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-14468 Filed 5-24-82; 1:31 pm]

BILLING CODE 4160-01-M

Small Business Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a forthcoming small business exchange meeting to be chaired by E. Pitt Smith, District Director, Buffalo District Office, Region II.

DATE: This meeting will be held from 1 p.m. to 4 p.m., Tuesday, June 22, 1982.

ADDRESS: The meeting will be held at the Federal Bldg., Rm. 1440, 111 W. Huron St., Buffalo, NY 14202.

FOR FURTHER INFORMATION CONTACT: George R. Walden, Small Business Representative, Food and Drug Administration, 20 Evergreen Place, East Orange, NJ 07018, 201-645-6466.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between small businesses and FDA officials. The meeting will provide a forum for the owners and managers of small businesses to express their concerns about FDA, encourage discussion about the effects of regulation and regulatory alternatives, convey knowledge about the agency's operations and procedures, and increase participation by small business persons in FDA's decisionmaking process.

Dated: May 20, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-14469 Filed 5-27-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82N-0153; DESI 11409 and 50230]

Bristol Laboratories, Lederle Laboratories, Pfizer Laboratories, E.R. Squibb & Sons, Inc., and the Upjohn Co.; Certain Combination Drugs Containing Antibiotics and Antifungal Agents; Notice of Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is granting a hearing on orders withdrawing provisions for certification of certain drugs, described specifically below, that contain antibiotics in combination with antifungal agents.

DATES: Notices of participation must be file with the Dockets Management Branch no later than June 28, 1982. Disclosure of data and information by FDA's Bureau of Drugs by July 27, 1982 and by other parties by August 10, 1982. Prehearing conference on September 8, 1982, at 10 a.m.

ADDRESSES: Written notices of participation and disclosures of data amd information to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. (Submissions to the Dockets Management Branch should be identified with docket number 82N-0153 and clearly labeled "Antibiotics with Antifungal Agents Hearing.") Prehearing conference in the FDA Hearing Room, Rm. 4A-35, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert J. Rice, Jr., Regulations Policy Staff (HFC-10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: In the Federal Register of November 13, 1969 (34 FR 18161), the Commissioner of Food and Drugs, announced that, as part of the Drug Efficacy Study Implementation (DESI) Program, he was revoking regulations describing the conditions for certification of oral dosage forms of certain products containing antibiotics in combination with antifungal agents. That action was taken after review of comments received on the agency's announced concurrence with the evaluation of these products by the National Academy of Sciences-National Research Council, Drug Efficacy Study Group (NAS-NRC) (33 FR 19204; December 12, 1968 (DESI 11409)). The order affected the following preparations:

A. Combination drugs containing tetracycline, tetracycline hydrochloride, or tetracycline phosphate complex with nystatin:

1. Mysteclin-V Capsules (NDA 50-206): E.R. Squibb & Sons, Inc., Georges Rd., New Brunswick, NJ 08903.

2. Tetrastatin for Oral Suspension (NDA 60-287): Pfizer Laboratories, 235 E. 42d St., New York, NY 10017.

3. Tetrastatin Capsules (NDA 60-283): Pfizer Laboratories.

4. Comycin Half-Strength Capsules (NDA 60-425): The Upjohn Co., 7171 Portage Rd., Kalamazoo, MI 49002.

5. Comycin Capsules (NDA 60-425): The Upjohn Co.

6. Achrostatin V for Oral Suspension (NDA 50-283): Lederle Laboratories, Division of American Cyanamid Co., West Middletown Rd., Pearl River, NY 10965.

7. Achrostatin V Capsules (NDA 60-433): Lederle Laboratories.

8. Tetrex-F Capsules: Bristol Laboratories, Division of Bristol-Meyers Co., Thompson Rd, Syracuse, NY 13201.

9. Tetrex-F for Oral Suspension (tetracycline-nystatin): Bristol Laboratories.

B. Combination drugs containing oxytetracycline and nystatin:

1. Terrastatin for Oral Suspension (NDA 60-596): Pfizer Laboratories.

2. Terrastatin Capsules (NDA 60-597): Pfizer Laboratories.

C. Combination drugs containing demeclocycline and nystatin:

1. Declostatin for Oral Suspension (NDA 50-258): Lederle Laboratories.

2. Declostatin Capsules (NDA 50-259): Lederle Laboratories.

3. Declostatin 300 Tablets (NDA 50-034): Lederle Laboratories.

In accordance with 21 U.S.C. 357(h) and (f), the manufacturers of each of these products submitted objections and requests for hearing concerning that

action. Accordingly, the order with respect to these drugs was stayed pending completion of the agency's review of the submitted data (see 35 FR 5811; March 30, 1970).

The sections of Title 21 of the Code of Federal Regulations affected by this order are listed below. In parentheses after each section is the designation of that same section prior to a recodification published in the Federal Register of May 30, 1974 (39 FR 18922).

446. 115c (141c.263, 146c.263)—Demeclocycline-Nystatin for Oral Suspension.

446. 116b (141c.271, 146c.271)—Demeclocycline Hydrochloride-Nystatin tablets.

446. 116d (141c.259, 146c.259)—Demeclocycline Hydrochloride-Nystatin Capsules.

446. 165c (148n.10)—Oxytetracycline-Nystatin Capsules.

446. 165e (148n.9)—Oxytetracycline-Nystatin for Oral Suspension.

446.180a (141c.229, 146c.229)—Tetracycline-Nystatin for Oral Suspension; Tetracycline Phosphate Complex-Nystatin Oral Suspension (Tetracycline Phosphate Complex-Nystatin Oral Drops).

446.180b (141c.236, 146c.236)—Tetracycline-Nystatin for Oral Suspension.

446.181a (141c.225, 146c.225)—Tetracycline Hydrochloride-Nystatin Tablets.

446.181b (141c.224, 146c.224)—Tetracycline Hydrochloride-Nystatin Capsules; Tetracycline Phosphate Complex-Nystatin Capsules.

In addition, on June 13, 1969 (34 FR 9336), the Commissioner announced that he was revoking the regulations that described the conditions for certification of oral dosage forms containing tetracycline and amphotericin B. This notice affected four products, each manufactured by E.R. Squibb & Sons, Inc.: Mysteclin "F" Capsules (NDA 50–230), Mysteclin "F" 125 Capsules (NDA 50–231), Mysteclin "F" Syrup (NDA 50–231), and Mysteclin "F" Pediatric Drops (NDA 50–231). The June 13, 1969 order was issued after the agency's review of comments received in response to FDA's announcement of its concurrence with the conclusions of NAS–NRC applicable to these products (33 FR 19204; December 24, 1968 (DESI 50230)). The filing of objections and requests for hearing by Squibb to the June 13, 1969 order effectively stayed the order with respect to the Squibb products. Thus, products containing these ingredients continued to be certified by the agency.

A final rule published in the Federal Register of October 31, 1978 (43 FR 50676), amended the antibiotic drug regulations by revoking provisions for certification of concentrated liquid dosage forms of tetracycline. Mysteclin "F" Pediatric Drops, although not specifically mentioned in the October 31, 1978 order, are subject to that order becuase it revoked provisions for certification of all concentrated liquid dosage forms that are labeled and formulated specifically for children. Therefore, release of that product has already ceased and is not the subject of this notice of hearing.

Through inadvertence, the agency did not officially announce a stay of the June 13, 1969 order and the affected regulations have thus been removed from the Code of Federal Regulations. At the time of the 1969 order, the affected regulations appeared in the Code of Federal Regulations as 21 CFR 141c.257, 141c.260, 141c.262, 146c.257, 146c.260, and 146c.262. If this order is not affirmed after the completion of the hearing announced in this notice, the regulations will, because of subsequent reorganizations of Title 21 of the Code of Federal Regulations, be assigned different section numbers. They will also be updated to conform to changes in other similar regulations. They then will be codified once again in the Code of Federal Regulations. In the interim, until the completion of the hearing, the agency will continue to release these products, despite the lack of published monographs. If the hearing concludes in a decision that the 1969 order was correct, certification and release of the drugs covered by these regulations will cease.

FDA is now announcing a hearing on the objections and requests for hearing submitted with respect to the two orders identified above. The orders will be affirmed as to a particular product (and further certification of the product denied) unless there exists, for the product, "substantial evidence" that the product has the clinical effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling (see 21 U.S.C. 357(h)). Because these products are combination drugs, such evidence exists for them only if "each component makes a contribution to the claimed effects and the dosage of each component (amount, frequency, duration) is such that the combination is safe and effective for a significant patient population requiring such concurrent therapy as defined in the labeling for the drug" (21 CFR 300.50).

The applicants have submitted several studies to show that these drugs satisfy the effectiveness criteria of the statute and the regulation. Thus, there are two questions to be addressed in this proceeding with respect to each drug product. First, whether any studies proffered by the applicants meet the criteria for adequate and well-controlled investigations set out in 21 CFR 314.111. Second, whether any studies that are found to be adequate and well-controlled investigations show that the particular drugs in issue are effective and satisfy the combination policy set out in 21 CFR 300.50. (For example, there may be a question whether a study done on one product properly applicable to a product containing a different formulation.) Thus, the hearing will address the following issues:

1. Whether there is evidence consisting of adequate and well-controlled investigations, including clinical investigations, by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved.

2. Whether on the basis of any such adequate and well-controlled investigations that exist it could fairly and responsibly be concluded by experts qualified by scientific training and experience to evaluate the effectiveness of drugs that the drug product in question satisfied the combination policy set out in 21 CFR 300.50 and will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof.

21 U.S.C. 357(f), 21 U.S.C. 355(d).

These issues must be resolved for each individual drug product. As is obvious, it is at least theoretically possible for the decision for one product covered by this notice to be different on these issues than the decision for another product that is also covered by the notice.

The parties to the hearing will be FDA's Bureau of Drugs, Bristol Laboratories, Lederle Laboratories, Pfizer Laboratories, E. R. Squibb & Sons, Inc., and the Upjohn Co. The presiding officer will be Administrative Law Judge Daniel J. Davidson.

Under § 12.85 (21 CFR 12.85), FDA's Bureau of Drugs would normally file with the Dockets Management Branch a narrative statement setting forth its position on the issues for hearing and a summary of the types of evidence to be introduced in support of its position in the hearing, together with copies of data within the Bureau's files relating to the issues raised herein, at the time when this notice issues. I am, under § 10.19 (21 CFR 10.19), modifying that requirement to the extent that the Bureau will be granted until July 27, 1982, to make those submissions. I have concluded that this modification of this regulation in the context of this proceeding does not prejudice any participant in the hearing, serves the ends of justice, is in accordance with law, and thus is authorized by § 10.19. The modification

allows FDA to advise the parties that a hearing is pending on this matter prior to the competition by the Bureau of the sometimes lengthy process of complying with the requirements of § 12.85.

Interested persons may obtain a copy of the narrative statement after it is filed from the Dockets Management Branch, at the address given above. Such persons may also examine the data on the drugs subject to this hearing notice (with the exception of any data indentified as confidential) at the Dockets Management Branch, from 9 a.m. to 4 p.m., Monday through Friday.

The prehearing conference will be held at 10 a.m. on September 8, 1982, in the FDA Hearing Room, Rm. 4A–35, 5600 Fishers Lane, Rockville, MD 20857. The hearing will be held in the FDA Hearing Room on a date to be set at the prehearing conference. Written notices of participation must be filed with the Dockets Management Branch no later than June 28, 1982.

The hearing will be open to the public. Any participant may appear in person, or by or with counsel, or with other qualified representatives, and may be heard on matters relevant to the issues under consideration. Participants other than the Bureau of Drugs shall disclose data and information and submit narrative statements pursuant to 21 CFR 12.85 on or before August 10, 1982.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 505, 507, 52 Stat. 1052 as amended, 59 Stat. 463 as amended (21 U.S.C. 355, 357)), and under authority delegated to me (21 CFR 5.10), I order that a public hearing be held on the issues set out in this notice.

Dated: May 24, 1982.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 82-14662 Filed 5-27-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 80N–0074; DESI 9149 and 11127]

Chlorpromazine Hydrochloride; Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs is granting a hearing on a proposal to withdraw approval of the new drug applications for Thorazine Tablets, Thorazine Concentrate, Thorazine Injection, Thorazine Syrup, Thorazine Spansules, and Thorazine Suppositories, all containing chlorpromazine, with respect to the following indication: for control of excessive anxiety, tension and agitation as seen in neuroses. Thorazine is effective for several other indications.

DATES: Notices of participation must be filed with the Dockets Management Branch no later than June 28, 1982. Disclosure of data and information by FDA's Bureau of Drugs by August 26, 1982 and by other parties by September 9, 1982. Prehearing conference on September 13, 1982, at 10 a.m.

ADDRESS: Written notices of participation and disclosures of data and information to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. (Submissions to the Dockets Management Branch should be identified with docket number 80N–0074 and clearly labeled "Thorazine Hearing.") Prehearing conference in the FDA Hearing Rm. 4A–35, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert J. Rice, Jr., Regulations Policy Staff (HFC–10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3480.

SUPPLEMENTARY INFORMATION: In a notice (DESI 9149) published in the Federal Register of April 3, 1971 (36 FR 6447), as amended on November 2, 1971 (36 FR 20997) and July 27, 1973 (38 FR 20114), the Food and Drug Administration (FDA) evaluated the effectiveness of the oral and parenteral forms of Thorazine, NDA 9–149 and NDA 11–120, held by Smith Kline & French Laboratories, Division of SmithKline Corp., 1500 Spring Garden St., Philadelphia, PA 19101 (SmithKline). In a notice (DESI 11127) published in the Federal Register of July 27, 1972 (37 FR 15036), FDA also evaluated the effectiveness of the rectal suppository form of Thorazine, NDA 9–149, held by SmithKline.

These announcements stated that FDA had evaluated the reports of the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, together with other evidence and concluded that the oral, parenteral, and rectal suppository forms of chlorpromazine were effective for some indications, e.g., management of manifestations of psychotic disorders, and less than effective for other indications. In response to these notices, SmithKline submitted data to show the effectiveness of Thorazine for several less than effective indications.

In a notice published in the Federal Register of June 17, 1980 (45 FR 41070), the Director of the Bureau of Drugs reclassified as effective one indication concerning disturbed children. He also found that the data submitted in support of certain other indications that had been previously classified as less than effective, did not constitute substantial evidence of effectiveness. Accordingly, he reclassified chlorpromazine as lacking substantial evidence of effectiveness for the indications (1) agitation and tension associated with mild alcoholic withdrawal in patients under close supervision; (2) agitation, anxiety, tension, confusion, and related symptoms seen in neuroses; and (3) in cancer and severe pain, to reduce apprehension and suffering and to reduce narcotic requirements. The Director proposed to withdraw approval of the new drug applications for Thorazine for the indications which had been reclassified as lacking substantial evidence of effectiveness and to offer an opportunity for a hearing with respect to these indications.

On July 17, 1980, SmithKline requested a hearing on the proposal to withdraw approval of the indication for control of excessive anxiety, tension and agitation as seen in neuroses. ("Confusion" which had been included in this indication had been deleted previously from the labeling.) SmithKline does not contest the other indications reclassified in the June 17 notice as lacking substantial evidence of effectiveness. On August 18, 1980, SmithKline requested FDA to withdraw the notice of June 17, 1980; in the event the notice was not withdrawn, the firm provided studies, information, and analysis on which it relies to justify its hearing request. On January 19, 1982, SmithKline provided a supplemental submission in support of its requests.

FDA is now granting SmithKline's request for a hearing on the proposal to withdraw approval of the new drug applications for Thorazine with respect to this indication. Approval for this indication will be withdrawn unless there exists "substantial evidence" that Thorazine has the clinical effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling (21 U.S.C. 355(d)).

SmithKline has submitted several studies to show that Thorazine satisfies the effectiveness criteria of the statute for the indication now at issue. Thus, there are two questions to be addressed in this proceeding: first, whether any studies proffered by SmithKline meet the criteria for adequate and well-controlled investigations set out in 21 CFR 3.14.111; and second, whether any studies that are found to be adequate and well-controlled investigations show that Thorazine is effective for control of excessive anxiety, tension and agitation

as seen in neuroses. Thus, the hearing will address the following issues:

1. Whether there is evidence consisting of adequate and well-controlled investigations, including clinical investigations, by experts qualified by scientific training and experience to evaluate the effectiveness of the drug, and

2. Whether on the basis of any such adequate and well-controlled investigations that exist it could fairly and responsibly be concluded by experts qualified by scientific training and experience to evaluate the effectiveness of drugs that Thorazine will have the effect it purports or is represented to have, that is, for control of excessive anxiety, tension and agitation as seen in neuroses, under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof. 21 U.S.C 355(d).

The parties to the hearing will be the Bureau of Drugs and Smith Kline & French Laboratories. The presiding officer will be Administrative Law Judge Daniel J. Davidson.

Under § 12.85 (21 CFR 12.85), FDA's Bureau of Drugs would normally file with the Dockets Management Branch a narrative statement setting forth its position on the issues for hearing and a summary of the types of evidence to be introduced in support of its position in the hearing, together with copies of data within the Bureau's files relating to the issues raised herein, at the time when this notice issues. I am, under § 10.19 (21 CFR 10.19), modifying that requirement to the extent that the Bureau will be granted until August 26, 1982 to make those submissions. I have concluded that this modification of this regulation in the context of this proceeding does not prejudice any participant in the hearing, serves the ends of justice, is in accordance with law, and thus is authorized by § 10.19. The modification allows the FDA to advise the parties that a hearing is pending on this matter prior to the completion by the Bureau of the sometimes lengthy process of complying with the requirements of § 12.85.

Interested persons may obtain a copy of the narrative statement after it is filed from the Dockets Management Branch, at the address given above. Such persons may also examine the data on the drug subject to this hearing notice (with the exception of any data identified as confidential) at the Dockets Management Branch, from 9 a.m. to 4 p.m., Monday through Friday.

The prehearing conference will be held at 10 a.m., on September 13, 1982, in the FDA Hearing Room, Rm. 4A–35, 5600 Fishers Lane, Rockville, MD 20857. The hearing will be held in the FDA Hearing Room on a date to be set at the prehearing conference. Written notices of participation must be filed with the Dockets Management Branch no later June 28, 1982.

The hearing will be open to the public. Any participant may appear in person, or by or with counsel, or with other qualified representatives, and may be heard on matters relevant to the issues under consideration. Participants other than the Bureau of Drugs shall disclose data and information and submit narrative statements pursuant to 21 CFR 12.85 on or before September 9, 1982.

Therefore, under the Federal Food, Drug, and Cosmetic Act, (sec. 505, 52 Stat. 1052 as amended (21 U.S.C. 355)), and under authority delegated to me (21 CFR 5.10), I order that a public hearing be held on the issues set out in this notice.

Dated: May 24, 1982.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 82-14061 Filed 5-26-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 80N-0204]

International Vitamin Corporation, et al.; New Drug Applications; Withdrawal of Approval

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document withdraws approval of 35 new drug applications (NDA's) and 2 abbreviated new drug applications (ANDA's) based on the written request of the applicants.

EFFECTIVE DATE: June 7, 1982.

FOR FURTHER INFORMATION CONTACT: Herbert T. Beherns, Bureau of Drugs (HFD–105), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4320.

SUPPLEMENTARY INFORMATION: The holders of the NDA's listed herein have informed the Food and Drug Administration (FDA) that these drug products are no longer marketed and have requested that FDA withdraw approval of the NDA's. The applicants have also, by their request, waived their opportunity for hearing.

NDA	Drug name	Applicant's name and address
01-093	Componol Liquid	International Vitamin Corp., 2530 Polk St., Union, NJ 07083.
01-276	Liquamin Drops	Do.
01-786	Meclizine Tablets	Pennwalt Corp., P.O. Box 1710, Rochester, NY 14603.
02-236	Negatan Solution and Suppositories.	Byk-Gulden, Inc., P.O. Box 730, Hicksville, NY 11302.
03-077	Davagol Liquid	International Vitamin Corp.
05-504	Methadrine Tablets	Burroughs Wellcome Co., 3030 Cornwallis Rd., Research Triangle Park, NC 27709.
05-769	Intraderm Tyrothricin Cream.	Carter-Wallace, Inc., Half Acre Rd., Cranbury, NJ 08512.
05-812	Aminophyllin Suppositories.	Searle Research & Development, Division of G. D. Searle & Co., P.O. Box 5110, Chicago, IL 60680.
05-851	Intraderm-Tyrothricin Cream.	Carter-Wallace, Inc.
06-042	Meprane Tablets	Reed & Carnick Pharmaceuticals, 30 Boright Ave., Kenilworth, NJ 07033.
06-096	Neprylate Vaginal Cream.	Pennwalt Corp.
06-186	Zyclophen Ointment.	Amar-Stone Laboratories, Inc., 1600 Waukegan Rd., McGaw Park, IL 60085.
07-040	Diasal Spray and Granules.	Byk-Gulden, Inc.
08-627	Digitaline Nativelle Injection.	Do.
08-274	Rauwolfia Serpentina Tablets.	KV Pharmaceutical Co., 2503 South Hanley Rd., St. Louis, MO 63144.
09-572	Reserpine Tablets	Do.
09-596	Reserpine Tablets	Lemmon Pharmacal Co., P.O. Box 30, Sellersville, PA 18960.
09-771	Reserpine Alkaloid Tablets.	Invenex Laboratories, P.O. Box 122, Grand Island, NY 14072.
09-825	Isopto Hydrocortisone Ophthalmic Suspension.	Alcon Laboratories, Inc., P.O. Box 1959, Fort Worth, TX 76101.
09-841	Isopto Cortisone Suspension.	Do.
09-937	Americaine w/ Neomycin Ointment.	Amar-Stone Laboratories, Inc.
10-170	Serfolia Tablets	Mallard Incorporated, 3021 Wabash Ave., Detroit, MI 48216.
10-376	Reserpon Tablets	The Central Pharmacal Co. 110–128 East Third St. Seymour, IN 47274.
10-400	Nilevar Tablets	Searle Research & Development.
10-676	Reserpine Tablets	Mallard, Inc.
11-019	Nilevar Injection	Searle Research & Development.
11-301	Rauwolfia Serpentina Tablets.	Do.
11-343	Transvasin Ointment.	Carter-Wallace, Inc.
11-505	Chymar Ointment	Armour Pharmaceutical Co., Box 511, Kankakee, IL 60901.
12-284	Mithown Injection	Carter-Wallace, Inc.
12-450	Tetrasulin-50 Timesule Capsules.	Amar-Stone Laboratories, Inc.
14-417	Meprobamate Tablets.	Devlin Pharmaceuticals, Inc., 700 North Sepulveda Blvd., El Segundo, CA 90245.
14-755	Solacen Capsules	Carter-Wallace, Inc.
16-464	Tanipent #4 Tablets.	Moffat Pharmaceuticals, Inc., P.O. Box 296, Englewood, OH 45322.
16-834	Cyanocobalamin C060 Capsules.	Mallinckrodt, Inc., P.O. Box 5840, St. Louis, MO 63134.
80-282	Testosterone Propionate Injection.	Invenex Laboratories.
85-679	Ammonium Chloride Injection.	Do.

Many of the prescription drug products listed above have been subject

to the effectiveness review under the Drug Efficacy Study Implementation (DESI) program. One or more of these products may be in a drug group that has not had a final effectiveness decision at the time this order is published. There is no need, however, to defer this withdrawal action and maintain and active NDA file for a product that is not marketed. In accord with previous agency policy, future DESI notices that announce effectiveness conclusions on related drug groups will include these drug products so that manufacturers of identical, similar, and related products will be informed of the final decision.

The agency has determined that, in accordance with 21 CFR 25.24(d)(2) (proposed in the **Federal Register** of December 11, 1979, 44 FR 71742), this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 76 Stat. 782 as amended (21 U.S.C. 355(e))), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82), approval of the new drug applications listed above, and supplements thereto, is hereby withdrawn.

This order will become effective on June 7, 1982.

Dated: May 5, 1982.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 82-14589 Filed 5-27-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 80N-0273]

The Vale Chemical Co., Withdrawal of Approval

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document withdraws approval of 28 new drug aplications (NDA's) based on the written request of the applicant.

EFFECTIVE DATE: June 7, 1982.

FOR FURTHER INFORMATION CONTACT: Hubert T. Behrens, Bureau of Drugs (HFD-105), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4320.

SUPPLEMENTARY INFORMATION: The holders of the NDA's listed herein have informed the Food and Drug Administration (FDA) that these drug products are no longer marketed and have requested that FDA withdraw approval of the NDA's. The applicants have also, by their request, waived their opportunity for hearing.

NDA	Drug name	Applicant's name and address
00-597	Phenobarbital and Atropine Tablets.	The Vale Chemical Co., Inc., 1201 Liberty St., Allentown, PA 18102.
01-178	Lambross Ointment	Wyeth Laboratories, Inc., P.O. Box 8299, Philadelphia, PA 19101.
01-709	Betamer with Cascara Powder.	Endo Laboratories, Inc., 1000 Stewart Ave., Garden City, NY 11530.
02-636	B-Plex Elixir	Wyeth Laboratories, Inc.
02-681	Pyridine HCl Injection.	Endo Laboratories, Inc.
03-862	Histamine Diphosphate Injection.	Do.
05-337	Bornate Lotion	Wyeth Laboratories, Inc.
07-748	PMAC Cough Syrup	ICN Pharmaceuticals, Inc., 5040 Lester Rd., Cincinnati, OH 45213.
07-827	Choiron Tablet	Travenol Laboratories, Inc., Deerfield, IL 60015.
08-550	Rubiguent Cream	Wyeth Laboratories, Inc.
08-558	Niadrin Tablets	Endo Laboratories, Inc.
09-407	Rauserpa Tablets	Tutag Pharmaceuticals, 2599 West Midway Blvd., Broomfield, CO 80020.
09-464	Tenoethyn Capsules.	Travenol Laboratories, Inc.
09-635	Rauserpine Tablets	Wyeth Laboratories, Inc.
10-843	Sul-Spansion Suspension.	Smith Kline & French Laboratories, P.O. Box 7929, Philadelphia, PA 19101.
11-136	Sul-Spantab SR Tablet.	Do.
11-196	Hencotin Tablet	ICN Pharmaceuticals, Inc.
11-219	Heparin Injection	Travenol Laboratories, Inc.
11-737	Nunzarphan Tablets	Endo Laboratories, Inc.
11-740	Trender Tablets	Whitehall Laboratories, Division of American Home Products Corp., 685 Third Ave., New York, NY 10017.
11-821	Reeden Liquid	Do.
12-060	Prinadol Injection	Smith Kline & French Laboratories.
12-713	Necesum Lotion	Summers Laboratories, Inc., P.O. Box 162, Fort Washington, PA 19034.
14-464	Meprobamate Tablets.	Towne, Paulsen & Co., Inc., 140 E. Duarte Rd., Monrovia, CA 91016.
14-644	Meprobamate Tablets.	Unimed, Inc., 35 Columbia Road, Somerville, NJ 08876.
15-023	Meprobamate Tablets.	Do.
15-202	Meprobamate Tablets.	Truett Laboratories, Box 34029, Dallas, TX 75234.
15-558	Pentaerythritol Tetranitrate Tablets.	West-ward, Inc., 495 Industrial Way West, Eatontown, NJ 07724.

Many of the prescription drug products listed above have been subject to the effectiveness review under the Drug Efficacy Study Implementation (DESI) program. One or more of these products may be in a drug group that has not had a final effectiveness decision at the time this order is published. There is no need, however, to defer this withdrawal action and maintain an active NDA file for a product that is not marketed. In accord with previous agency policy, future DESI notices that announce effectiveness conclusions on related drug groups will include these drug products so that manufacturers of identical, similar, or related products will be informed of the final decision.

The agency has determined that, in accordance with 21 CFR 25.24(d)(2) (proposed in the **Federal Register** of December 11, 1979, 44 FR 71742), this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 506(e), 76 Stat. 782 as amended (21 U.S.C. 355(e))), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82), approval of the new drug applications listed above, and supplements thereto, is hereby withdrawn.

This order will become effective on June 7, 1982.

Dated: May 6, 1982.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 82-14590 Filed 5-27-82; 8:45 am]

BILLING CODE 4160-01-M

Elanco Products Co. and Syntex Agribusiness, Inc.; Chlormadinone Acetate; Withdrawal of Approval of NADA's and the Notice of Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval for new animal drug applications (NADA's) for chlormadinone acetate, a drug administered in animal feed to beef heifers and beef cows for synchronization of estrus (heat). The agency is also withdrawing the notice of opportunity for hearing. Elanco Products Co. and Syntex Agribusiness, Inc., each the sponsor of an NADA for chlormadinone acetate, requested withdrawal of approval of their application.

EFFECTIVE DATE: June 7, 1982.

FOR FURTHER INFORMATION CONTACT: David N. Scarr, Bureau of Veterinary Medicine (HFV-214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3163.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 14, 1971 (36 FR 23733), FDA offered a notice of opportunity for hearing (NOOH) to Elanco Products Co. and Syntex Laboratories, Inc., on a proposal to

withdraw approval of their new animal drug applications (NADA's) for chlormadinone acetate, a drug administrated in feed to beef heifers and beef cows for synchronization of estrus (heat). The basis for the proposed withdrawal was that new information showed that the oral administration of chlormadinone acetate in dogs caused the development of mammary tumors. On the basis of the new information, FDA concluded that chlormadinone acetate was not shown to be safe under the conditions of use upon which the applications were approved in the absence of appropriately sensitive methods of analysis to establish the absence of the drug in food derived from treated animals.

Elanco Products Co. (Elanco), a Division of Eli Lilly & Co., 740 S. Alabama St., Indianapolis, IN 46206, the sponsor of NADA 37–147 for Matrol Premix (chlormadinone acetate), responded to the NOOH by filing a written appearance and requested a hearing. Elanco based its response on its position that there exists an appropriate sensitive method of analysis (2 parts per billion (ppb) to 5 ppb) to establish the absense of chlormadinone acetate in food derived from treated animals.

Syntex Agribusiness, Inc., formely Syntex Laboratories, Inc., (Syntex) 3401 Hillview Drive, Palo Alto, CA 94304, sponsor of NADA 37–146 for Skedule Premix (chlormadinone acetate), responded to the NOOH by filing a written appearance and requesting a hearing. Syntex based its response on its position that (1) an new highly sensitive (2 ppb to 5 ppb) method of analysis was available to establish the absence of chlormadinone acetate in food derived from treated animals; (2) the previously existing tissue assay method sensitive to 20 ppb had shown the absence of residues; and (3) the existing toxicity data showed that a method sensitive to 20 ppb was adequate to demonstrate safety.

Because Elanco and Syntex are not currently manufacturing or distributing chlormadinone acetate and apparently have never marketed the product within the U.S., FDA, by letters dated December 14, 1981, suggested to each firm that it consider voluntarily withdrawing its request for hearing and its NADA. Elanco, by letter dated January 5, 1982, and Syntex, by letter dated February 5, 1982, agreed to withdraw their requests for hearing and requested a voluntary withdrawal of their NADA's.

Section 514.115(d) (21 CFR 514.115(d)) of the animal drug regulations allows for the voluntary withdrawal of an approved NADA. But § 514.115(d) normally does not apply if the holder of the application whose withdrawal has been requested already has been afforded an opportunity for hearing on a proposal to withdraw approval of the NADA. In this case, however, Elanco's and Syntex's requests are being granted because of the extended time interval which has elasped since the notice of opportunity for hearing was published and also because the public interest will be served and the firm's interests will not be prejudiced by the withdrawals.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 20052; May 11, 1981)) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of Elanco's NADA 37–147 and Syntex's NADA 37–146 and all supplements to these applications for chlormadinone acetate are hereby withdrawn, effective June 7, 1982. Also, the notice of opportunity for hearing (36 FR 23733) is hereby withdrawn.

In a separate document published elsewhere in this issue of the **Federal Register** consistent with the action taken in this document, § 556.126 *Chlormadinone acetate* (21 CFR 558.126) and § 558.130 *Chlormadinone acetate* (21 CFR 558.130) are removed.

Dated: May 24, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-14896 Filed 5-27-82; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Medicaid Program, Hearing; Reconsideration of Effective Date of a New Jersey State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of Hearing.

SUMMARY: This notice announces an administrative hearing on June 22, 1982 in New York, New York to reconsider the effective date of New Jersey State Plan Amendment 80–2–MA.

CLOSING DATE: Request to participate in the hearing as a party must be received by June 14, 1982.

FOR FURTHER INFORMATION CONTACT: Lawrence Ageloff, Hearing Officer, Bureau of Program Policy, G–20 East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207. Telephone: (301) 594–8260.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider the effective date of a New Jersey State plan amendment.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration for States dissatisfied with a determination on a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with additional requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins, in accordance with additional requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter relates to the effective date established on a State plan amendment dealing with the rate review process for Intermediate Care Facilities for the Mentally Retarded. Regulations at 45 CFR 201.3(g) require that the effective date of such a State plan amendment may be no earlier than the first day of the calendar quarter in which an approvable plan is submitted. The New Jersey plan amendment was received on February 26, 1980 and thus, an effective date of January 1, 1980 was established. The State, however, requested an effective date of October 1, 1977. New Jersey has requested the reconsideration on the basis that the State relied on representatives of the Department to the State's detriment during the period October 1, 1977 to January 1, 1980 and based upon such reliance, withheld submission of the State plan amendment until February 26, 1980. The State contends, in this case, that the Department is barred from applying 42 CFR 201.3(g) because of the continuing knowledge and assistance provided by the Department between October 1, 1977 and January 1, 1980. The State further contends that the regulation should be waived.

The notice to New Jersey announcing an administrative hearing to reconsider the effective date of its State plan amendment reads as follows:

May 10, 1982.

Mr. Ivan J. Punchatz,
Deputy Attorney General, Department of Law and Public Safety, Division of Law, Human Services and Corrections Section, Richard J. Hughes, Justice Complex, CN 112, Trenton, N.J.

Dear Mr. Punchatz: This is in reply to your letters requesting reconsideration of the effective date of New Jersey State Plan Amendment 80-2-MA. This amendment, which pertains to the codification of the rate review process for Intermediate Care Facilities for the Mentally Retarded was approved on November 28, 1980 with an effective date of January 1, 1980.

You have requested reconsideration of the effective date based on your contention that the State relied on Region II staff in the development of the plan amendment from the period October 1, 1977 to January 1, 1980, and based on this reliance, the State withheld submission of the plan amendment until February 28, 1980.

I am scheduling a hearing on your request to be held on June 22, 1982 at 10:00 a.m. in Room 3808, 26 Federal Plaza, New York, New York. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Lawrence Ageloff as the presiding official. Please let him know if these arrangements present any problems. He can be reached on (301) 594-5260.

Sincerely yours,

Carolyne K. Davis, Ph. D.

(Sec. 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance program No. 13.714, Medical Assistance Program)

Dated: May 10, 1982.

Carolyne K. Davis,
Administrator, Health Care Financing Administration.

[FR Doc. 82-14509 Filed 5-27-82; 8:45 am]

BILLING CODE 4120-03-M

Pharmaceutical reimbursement Board; Maximum Allowable Cost (MAC) Limits and Announcement of Public Hearing

AGENCY: Health Care Financing Administration (HCFA) HHS.

ACTION: Proposed notice.

SUMMARY: The Pharmaceutical Reimbursement Board (PRB) proposes maximum allowable cost limits on the drugs specified below and announces a public hearing with regard to these proposed MAC limits.

DATES: Hearing: July 14, 1982 (10 a.m.–5 p.m.). End of comment period: June 28, 1982. End of period for submission of requests to appear at the hearing: June 28, 1982.

Interested persons and organizations are invited to submit in writing comments on the proposed MAC limits. All comments received by July 12, 1982 will be considered and will be maintained for public inspection in the Pharmaceutical and Medical Services Reimbursement Branch, Bureau of Program Policy, HCFA.

A Public hearing on the proposed MACs will be held on July 14, 1982. Persons or organizations wishing to make presentations must submit to the Board's Executive Secretary by July 12, 1982 at least 20 copies of the proposed oral presentation in its entirety together will all supporting studies and materials and the names and addresses of proposed participants. The Board will grant every request to appear if the presentation is relevant to the proposed MAC limits.

PLACE OF HEARING: Room 171, 1st Floor, Altmeyer Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

FOR FURTHER INFORMATION CONTACT: Charles Spalding, Executive Secretary, Pharmaceutical Reimbursement Board, Health Care Financing Administration, 1-D-5 East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207, (301) 594-5403.

SUPPLEMENTARY INFORMATION:

General Information

The Pharmaceutical Reimbursement Board has been established within the Health Care Financing Administration for the purpose of setting MAC limits on certain multiple source drugs for which reimbursement is provided under Medicaid, Medicare and other programs administered by the Department. In accordance with 45 CFR 19.5, the Pharmaceutical Reimbursement Board proposes the following MAC limits:

Butabarbital sodium, oral tablets, 30mg—$0.0109 per tablet
Chlorothiazide, oral tablets, 250mg—$0.0275 per tablet
Chlorothiazide, oral tablets, 500mg—$0.0475 per tablet
Lithium carbonate, oral capsules, 300mg—$0.0310 per capsule
Lithium carbonate, oral tablets, 300mg—$0.0310 per tablet
Methylphenidate HC1, oral tablets, 10mg—$0.0855 per tablet
Nystatin, vaginal tablets, 100,000 units—$0.1233 per tablet
Nystatin, oral tablets, 500,000 units—$0.0785 per tablet
Nystatin, topical cream, 100,000 units/Gm—$0.0900 per gram
Potassium gluconate, oral liquid, 20mEq/15ml—$0.0056 per milliliter
Sulfamethoxazole, oral tablets, 0.5Gm—$0.0495 per tablet
Sulfamethoxazole, oral tablets, 1Gm—$0.0950 per tablet

The Board has identified these multiple source drugs as drugs for which significant amounts of Federal funds are expended and for which there are significantly different prices. The Food and Drug Administration (FDA) has advised the Board that there is no regulatory action, either pending or under consideration, that would be a reason for delaying or withholding the establishment of MAC limits on the drugs listed above. In making the initial determination of the lowest unit price at which each of the drugs is widely and consistently available from any formulator or labeler, the Board relied on two sources: *Drug Topic Red Book* and the assurance of suppliers of these drugs. *Drug Topics Red Book* is an authoritative and recognized listing of advertised prices. HCFA receives this listing on computer tape which is delivered quarterly with monthly updates.

Specific Drugs Limits

1. *Butabarbital sodium, oral tablets, 30mg.* The Board proposes a MAC limit of $.0109 per tablet based on a selling price of $1.09 per 100 tablets package size. The *Redbook* lists Towne Paulsen as both a manufacturer and supplier of this drug product at the $.0109 price level. Towne Paulsen, which has a national distribution system, has assured the Board that any increased demand for the product can be met and that the product can be provided at the $.0109 price. While competitively priced products have been available for over 20 years, little market penetration has occurred. While the most frequently purchased size is the 100 tablet package, most suppliers do not offer this product in the 100s size since the majority of all dollar sales are in the 1000s size. However, the large number of suppliers overall is an added indication that supply of this drug product will be adequate.

2. *Chlorothiazide, oral tablets, 250mg.* The Board proposes a MAC limit of $.0275 per tablet based on a selling price of $2.75 per 100 tablet package size. There are three approved manufacturers of this product. The *Redbook* lists seven suppliers who advertise this product at or below the $.0275 price level. Included among those suppliers are Interstate, Spencer Mead and Henry Schein. Spencer Mead has assured the Board that it can supply the Medicaid market with this drug product at the MAC price, and does not foresee a problem with an increased demand. Myland Pharmaceuticals presently manufactures

significant amounts of this product and currently services 50 accounts including Interstate and Henry Schein. Ninety percent of Myland Pharmaceuticals' current sales of the 250mg dosage form are in 100 tablet package size bottles. Mylan Pharmaceuticals has assured the Board that it can adequately supply the product at the MAC price to the Medicaid market and can meet any increased demand.

3. *Chlorothiazide, oral tablets, 500mg.* The Board proposes a MAC limit of $.0475 per tablet based upon a selling price of $4.75 per 100 tablet package size. The *Redbook* lists 11 suppliers who advertise the product at or below the $.0475 price level. Among these suppliers are Spencer Mead, Henry Schein and Interstate. Spencer Mead offers nationwide distribution and has assured the Board of its ability to supply the Medicaid market with this product. Myland Pharmaceuticals currently produces significant amounts of this product and services the accounts of Henry Schein and Interstate. Mylan Pharmaceuticals has assured the Board the production can be expanded to meet any increased demand.

4. *Lithium Carbonate, oral capsules, 300mg.* The Board proposes a MAC limit of $.0310 per tablet based upon a selling price of $3.10 per 100 capsule package size. Lithium carbonate, 300 mg, is available in both capsule and tablet form. There are four approved manufacturers of the capsule form of this product. Philips Roxane, one of the approved manufacturers, also distributes this product nationally. The Board has received assurance from Philips Roxane or the company's ability to supply the Medicaid market at the MAC price.

5. *Lithium Carbonate, oral tablets, 300mg.* The Board proposes a MAC limit of $.0310 per tablet based upon a selling price of $3.10 per 100 tablet package size. Philips Roxane lists this product in the *Redbook* at $3.10 per 100 tablet package size and distributes this product nationally. As indicated above, lithium carbonate is marketed in both tablet and capsule form in a 300mg strength. While the potential savings from the establishment of a MAC limit for the tablet dosage form is minimal, the Board has determined that a MAC limit should also be set on the tablet form of the product since the tablet and capsule forms may tend to be used interchangeably.

6. *Methylphenidate, oral tablets, 10mg.* The Board proposes a MAC limit of $.0655 based upon a selling price of $6.55 per 100 tablet package size. MD Pharmaceuticals, one of the two approved manufacturers of this product, lists its product in the *Redbook* at or below the $.0655 price level. MD Pharmaceuticals assured the Board of its ability to increase production of this product to meet the Medicaid demand at the MAC price. Spencer Mead and Henry Schein also list their products in the *Redbook* at or below the proposed price.

7. *Nystatin, vaginal tablet, 100,000 units.* The Board proposes a MAC limit of $.1233 per milliliter based upon a selling price of $1.85 per 15 package size. The *Redbook* lists six suppliers who advertise this product at or below the $.1233 price level. Among the six suppliers are Interstate, Henry Schein, Bioline and Spencer Mead, each of whom supply the product nationwide.

8. *Nystatin, oral tablets, 500,000 units.* The Board proposes a MAC limit of $.0785 per tablet based upon a selling price of $7.85 per 100 package size. Squibb, Lederle and Premo are the three approved manufacturers of this product. Premo has assured the Board of its ability to increase production of this product to meet the Medicaid demand at the MAC price. The *Redbook* lists four suppliers who advertise this product at or below the $.0785 price level. These four suppliers are Spencer Mead, Bioline, Columbia and Henry Schein, each of whom supply the product nationwide.

9. *Nystatin, topical cream, 100,000 units/GM.* The Board proposes a MAC limit of $.0900 per gram based upon a selling price of $1.35 per 15Gm package size. Lederle, Squibb and Premo are the three approved manufacturers of this product. The *Redbook* lists five suppliers who advertise this product at or below the $.0900 price level. Among these suppliers are Henry Schein, Spencer Mead and Interstate, each of whom supply the product nationwide.

10. *Potassium gluconate, oral liquid, 20mEq/15ml; 4.68Gm/15ml, 480Ml.* The Board proposes a MAC limit of $.0058 per milliliter based upon a selling price of $2.76 per 480 milliliter. The *Redbook* lists ten suppliers who advertise this product at or below the $.0058 price level. Among the ten suppliers are Henry Schein, Spencer Mead and Interstate, each of whom supply the product nationwide. Spencer Mead has assured the Board that it can meet any increased demand for this product and can supply the Medicaid market at the MAC price.

Sulfamethoxazole, oral tablets, .5Gm. The Board proposes a MAC limit of $.0495 per tablet based upon a selling price of $4.95 per 100 package size. The *Redbook* lists nine suppliers who advertise this product at or below the $.0495 price level. Among these suppliers are Henry Schein, Spencer Mead, Bioline and Interstate, each of whom supply this product nationwide. Spencer Mead has assured the Board that it can meet any increased demand for the product and can supply the Medicaid market at the MAC price.

12. *Sulfamethoxazole, oral tablets, 1Gm.* The Board proposes a MAC limit of $.0950 based upon a selling price of $9.50 per 100 package size. Three suppliers advertise this product in the *Redbook* at or below the $.0950 price level. Bioline, which supplies this product nationwide, has assured the Board of the company's ability to supply the product to the Medicaid market and to meet any increased demand for the product at the MAC price.

The FDA advice and the economic data listed above are available for inspection in the Pharmaceutical and Medical Services Reimbursement Branch, Bureau of Program Policy, HCFA. A limited number of copies are available upon written request.

Regulatory Burden Analysis

We have determined that this proposed notice does not meet the criteria for a major rule as defined by section 1(b) of Executive Order 12291. That is, this proposed notice will not change expenditures by over $100 million per year; or cause a major increase in costs or prices for consumers, government agencies, industry, or a geographic region; or cause significant adverse effects on business or employment. We estimate that the net effect of this notice in reducing program expenditures would be approximately $2.9 million in fiscal year 1983. This proposed determination would set forth a specific unit price at which each of these drugs is widely and consistently available. For these reasons, we believe no Regulatory Impact Analysis is required.

In addition, this notice does not meet the criteria set forth in the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), for preparing a regulatory flexibility analysis since we do not believe that it would result in a significant economic impact on a substantial number of small pharmacies or other business entities. The MAC process is fundamentally designed to assure wide and consistent availability of the drug products subject to MAC limits. In every case, the Board has reviewed data which have enabled the Board to determine that small and medium size pharmacies are able to acquire these drug products at or below the proposed MAC limits.

(Secs. 1814(b), 1861(v)(1)(A), and 1902(a)(30) of the Social Security Act; 42 U.S.C. 1395f(b), 1395x(v)(1)(A), and 1396a(a)(30))

Dated: April 20, 1982.

Peter J. Rodler,

Chairman, Pharmaceutical Reimbursement Board.

[FR Doc. 82-14504 Filed 5-27-82; 8:45 am]

BILLING CODE 4120-03-M

Medicaid Program; Cost Sharing Demonstrations

AGENCY: Health Care Financing Administration, (HCFA), HHS.

ACTION: General notice.

SUMMARY: HCFA is soliciting applications from State Medicaid agencies for demonstration projects that will permit States to apply cost sharing to any services for Medicaid eligible individuals. Currently, States are permitted to apply nominal cost sharing to any services for the medically needy, but only to optional services for the categorically needy.

Research on cost sharing for the general population indicates it can have an effect on utilization of medical services. By allowing the States greater flexibility to apply a variety of approaches to cost sharing under Medicaid, we expect that States will conduct demonstrations to provide additional, useful information to HCFA, and through HCFA, to all the States, on the effectiveness of several methods of cost sharing. This information should enable HCFA to determine whether alternative methods of cost sharing will further the objectives of the Medicaid program by enabling States to continue to provide medical services.

This solicitation also contains information about demonstration requirements and application procedures.

CLOSING DATE AND TIME FOR APPLICATIONS: The closing date for applications under this special solicitation is July 27, 1982, 4:30 p.m. Eastern Daylight Savings Time.

ADDRESS: Standard application forms and guidance for the completion of the forms are available from: Health Care Financing Administration, Project Grants Branch, Area E-1, Gwynn Oak Building, 6325 Security Blvd., Baltimore, Md. 21207, (301) 594-3332.

FOR FURTHER INFORMATION CONTACT: David Maletz, Health Care Financing Administration, Office of Research and Demonstrations, Office of Demonstrations and Evaluations, Area 1-E-5, Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

SUPPLEMENTARY INFORMATION:

This notice is published in accordance with HCFA's **Federal Register** notice of December 1, 1981 (46 FR 58368) which stated that a special solicitation on cost sharing in the Medicaid program would be issued. This special solicitation announces a HCFA initiative to implement demonstration projects in which States may apply cost sharing to any services for Medicaid individuals. Currently, States are limited to applying cost sharing to any services for the medically needy, but only to optional services for the categorically needy (individuals who are eligible for Medicaid and who meet the financial eligibility requirements of a related cash assistance program; for example, Aid to Families with Dependent Children).

Only the single State agency which administers the Medicaid program may apply, and the applications must be made under the authority of section 1115 of the Social Security Act. Section 1115 of the Act authorizes the Secretary to waive, to the extent and for the period the Secretary finds necessary, statutory Medicaid State plan requirements and to reimburse costs not otherwise matched with Federal funds, in order to enable State agencies to carry out significant demonstration projects which, in the Secretary's judgment promote the objectives of the Medicaid statute. We believe that allowing greater cost sharing will further the objective of promoting the timely and economic delivery of appropriate, quality health care to eligible beneficiaries. Under section 1115 of the Act, the States will share in the costs of the projects on the basis of their medical assistance matching rate.

I. Background

A. *General.* Medicaid has experienced rapidly increasing costs since its inception in 1966. These increasing costs have seriously affected both Federal and State budgets which intensifies the need to review ways in which appropriate health care can be made available to eligible beneficiaries. This includes review of the factors affecting utilization of services, since inappropriate utilization obviously has adverse program consequences. Overutilization of medical services provided in more expensive settings strains a State's ability to provide appropriate medical services to all eligible recipients. In addition to the high costs, inappropriate utilization places an unnecessary strain on some parts of the health care delivery system. For example, with more appropriate utilization, nonemergency medical care now provided in emergency rooms could be provided in more appropriate settings, such as health maintenance organizations. This would result in emergency rooms being able to concentrate on providing emergency medical care.

The primary purpose of this solicitation is to allow HCFA to explore various methods of cost sharing, which can effectively encourage appropriate utilization and contain costs in the Medicaid program without adversely impacting on health status. However, the Medicaid statute currently limits cost sharing requirements to optional services for the categorically needy and to all services for the medically needy; and current Medicaid regulations impose specific limits on cost sharing (paragraph B, below). States that want to test methods of cost sharing that differ from those permitted under current rules must seek waivers under section 1115 of the Act.

Cost sharing could result in savings and more appropriate utilization of medical services by permitting States to encourage the use of efficient, cost-effective delivery systems. By requiring cost sharing for medical services provided in expensive settings, such as emergency rooms and hospital outpatient departments, the State can promote the use of lower-cost delivery systems such as health maintenance organizations.

B. *Types of Cost Sharing.* Three major types of cost sharing are used in health insurance: deductibles, coinsurance and copayments. Each has special characteristics, as discussed below:

- A deductible refers to a requirement that the patient pay a specified amount for health care services before any benefits become payable under the health insurance plan. A deductible of $50 to $150 annually is typical of most private sector insurance plans which include this requirement. Appropriate deductibles under Medicaid would be less. The deductible may apply to all the health services under the insurance plan, or only to certain types such as outpatient services; in some instances separate deductibles may apply to different types of services. One argument frequently put forth on behalf of deductibles is that they reduce the amount of insurance funds spent on persons with minor expenses and thereby target the funds on persons with substantial medical expenses. However, in some cases deductibles might discourage early diagnosis and treatment of illness leading to a possible overall increase in program costs.
- Coinsurance refers to the requirement that the patient pay a percentage of the charges for services.

Often, coinsurance requirements are used jointly with deductibles and the coinsurance begins only after the deductible has been met in full. Coinsurance rates in the private sector are typically 10 to 25 percent of the charges. Advocates of coinsurance argue that a coinsurance requirement encourages use of lower cost alternative health services since the coinsurance payment varies according to the cost of the services. On the other hand, coinsurance requirements can impose financial hardship on patients when expensive services such as complex surgery are needed. Further, determination of coinsurance amounts may be administratively difficult to calculate, and may be confusing to the beneficiary.

• A copayment refers to a requirement that the patient pay a flat amount for each unit of health service provided. For example, for a Medicaid population, a copayment requirement might be $2 per physician visit, $1 per prescription drug, $1 per hospital day, and so forth. Thus, the copayment impacts most severely on those who use a large number of services, but does not vary with the cost of a given service. Advocates of copayment emphasize that it is relatively easy for the beneficiary and provider to understand and for the insurer to administer. Opponents indicate that copayments may not encourage the use of cost efficient services to a maximum extent because the patient's obligation is fixed regardless of the cost of a service.

Annual limits on cost sharing are used by some private health insurance plans; for example, $1,000—after which no further payment is required even if additional services are used. An annual limit, if established, could be used with any of the three types of cost sharing described above and should be established at a level appropriate to the financial resources of Medicaid recipients.

Medicaid regulations at 42 CFR 447.51 through 447.58 contain the standards and conditions under which States may require cost sharing. Current limits on the magnitude of deductibles, coinsurance, and copayments are contained in § 447.54 and are as follows:

1. For noninstitutional services, any deductible may not exceed $2.00 per month per family; any coinsurance rate may not exceed 5 percent of the payment the Medicaid agency makes for the service; and any copayments the agency requires may not exceed the amounts shown in the following table:

State's payment for the services	Maximum copayment chargeable to beneficiaries
$10 or less	$0.50
$11 to $25	1.00
$26 to $50	2.00
$51 or more	3.00

2. For institutional services, the maximum deductible, coinsurance or copayment charge for each admission may not exceed 50 percent of the payment the agency makes for the first day of care in the institution.

Under the demonstration project, States may propose levels of deductibles, coinsurance, and copayments, and cost sharing on services, other than permitted under current regulations. However, a State must justify the level, and show, by projecting the financial impact, that it will not impose excessive financial hardship on the eligible population. In addition, States must assure that Medicaid beneficiaries have access to critically necessary services; for example, emergency services. Because States will have the opportunity to apply various methods of cost sharing, we expect these demonstrations to provide additional information to HCFA and the States on the relative effectiveness of several methods of cost sharing, as well as on various ways of administering cost sharing programs.

C. *Research Involving Cost Sharing*

1. *Copayments.* In 1972, the State of California initiated an 18-month copayment experiment under their Medi-Cal (Medicaid) program. Medically needy Medi-Cal recipients throughout the State were assessed copayments of $1 for each of the first two monthly doctor's visits and 50 cents for each of the first two drug prescriptions each month. The experiment showed that utilization rates were reduced up to 15 percent for some groups and that beneficiaries generally did not forego care for problems that they themselves felt were serious, or for medical conditions which were judged by a panel of physicians as significant. Utilization of preventive care was also reduced, suggesting that these services should probably be exempt from copayment. Such results support the hypothesis that even nominal copayments can be effective in directing the demand and distribution of services.

2. *Coinsurance.* The Rand Corporation has recently reported preliminary results from a carefully designed health insurance experiment. The experiment sought to test demand behavior under a number of experimental conditions and delivery systems. The results showed a distinct relationship between service utilization and size of coinsurance requirements. The Rand results indicated that total expenditures per capita (inpatient plus ambulatory, excluding dental services and outpatient mental health services) rise steadily as coinsurance falls.

In addition to the Rand results, data from earlier experiments demonstrate the effect of coinsurance on demand for health care services. In 1965 the Palo Alto Group Health Plan offered a comprehensive prepaid plan to employees of Stanford University. A year and a half later, in response to increased demand, the Plan increased its premium and instituted a coinsurance requirement of 25 percent for ambulatory services. The result was a 24 percent drop in utilization of physician services. Per capita costs decreased over 25 percent.

3. *Literature Concerning Cost Sharing Experiments.* J.P. Newhouse, senior staff economist with the Rand Corporation, prepared an extensive review of the literature concerning the effects of out-of-pocket payments on the provision of health insurance. The experiments described in paragraphs 1 and 2 above, are included in J.P. Newhouse's article "Insurance Benefits, Out-of-Pocket Payments, and the Demand for Medical Care," published in *Health and Medical Care Services Review,* volume 1, No. 4, July/August 1978, pps. 1–15.

II. Demonstration Objectives

We believe that allowing greater cost sharing will further the objective of promoting the timely and economic delivery of appropriate, quality health care to eligible beneficiaries. Specifically, HCFA seeks to gain more detailed information on the effects of cost sharing on utilization, cost and quality of health care, particularly with respect to the following areas:

A. *Effects of cost sharing requirements on patterns of service utilization under Medicaid.* The use of cost sharing can be an effective tool in promoting the use of efficient services and discouraging inefficient services. However, cost sharing requirements, if improperly designed, may lead to an increase in inpatient services at a net increase in program costs. Carefully developed plans for cost sharing should help to direct the demand for services to a mode that is consistent with the State Medicaid program's goal of cost effectiveness. The demonstration should provide information on additional ways to assure that cost sharing requirements have the intended result.

B. *Net savings resulting from a Medicaid cost sharing program.* By requiring Medicaid recipients to share costs, we expect net program costs to decrease. However, cost sharing could increase net costs to the program because—(1) demand may be shifted to more expensive services in lieu of less expensive, less intense, or preventive services; and (2) administrative costs of implementing and monitoring a cost sharing program could exceed savings realized from cost sharing and reduced utilization. We expect the additional information received from the demonstrations to be useful in assisting States to operate programs that will show decreases in net costs.

C. *Effect of cost sharing on quality of care furnished to Medicaid beneficiaries.* In evaluating the demonstrations, the States should determine any effect on access to care and appropriateness of care. As indicated above, previous demonstrations have shown that beneficiaries continued to receive appropriate services for significant conditions. We are interested in additional information on a variety of ways to assure maintenance of quality. (As explained in section III. Research and Evaluation Design, below, a State must assure HCFA that beneficiaries will not be denied access to critically necessary services.)

D. *Mechanisms for administering a Medicaid cost sharing program.* There are numerous ways to administer a cost sharing program. Administrative options include selection of magnitude and type of cost sharing, types of services and beneficiary categories subject to cost sharing, and mechanisms for collecting payments and program monitoring. Administrative costs would depend on a number of factors, including whether a State currently has a Medicaid Management Information system (a mechanized claims processing and information retrieval system), types of surveillance practices by the State Medicaid program, the mechanism for collecting cost sharing amounts, and frequency of bad debts under the program. We anticipate that the demonstrations will shed light on optimum ways to implement such programs.

III. Research and Evaluation Design

HCFA is interested in testing a variety of approaches to cost sharing and is seeking demonstrations that vary according to type of cost sharing (deductible, coinsurance, or copayment); the type of services for which cost sharing is imposed; and the amount of cost sharing.

A valid research design is important in order to secure useful, policy-relevant information. This section addresses several issues concerning research and demonstration design requirements. We expect Medicaid agencies to establish a research and demonstration design that will permit the evaluation of the impact of cost sharing on their eligible populations.

A valid research design requires the establishment of comparison groups. The most effective way to assign clients to the demonstration and comparison groups is through random assignment. Another method is to match clients from defined populations of two distinct geographic locations. These groups should be statistically comparable on all key demographic and health characteristics, such as race, age, urban-rural composition, etc. If the demonstration is implemented on a statewide basis, the research design must discuss how the impact of cost sharing can be distinguished from other concurrent cost containment programs the State is initiating.

In addition, States should consider a time series analysis whereby the demonstration objectives explained in Section II, above, would be measured before, during, and after the demonstration.

A second design issue concerns the methods of data collection. Wherever possible the existing program's record system, whether automated or manual, should be used. If the current system does not contain the needed information, the project should, in most cases, expand the system to provide this data. Reasonable attempts should be made to use the existing system for generating new data. We recognize that a State without a mechanized claims processing and information retrieval system may have difficulty generating adequate data.

A third design issue concerns sampling procedures. Whenever the number of clients, providers, etc. is sufficiently large, then sampling procedures should be considered. The size of the samples should be determined through the use of statistical formulas and should be sufficient to permit statistically valid conclusions.

The design of the demonstration project may require additional administrative tasks to implement and evaluate the demonstration. There must be a capability of gathering detailed management information in order to properly administer the project and assess its effectiveness. These tasks would include, but not be limited to, the following:

- Provide for and track the collection of cost sharing payments from Medicaid recipients.
- Provide for appropriate surveillance in order to avoid fraud and abuse, and, in States that permit providers to write off cost sharing amounts as bad debts, to minimize the number of write-offs. Widespread failure to collect cost sharing payments would dilute the effectiveness of the program (insofar as it seeks to influence utilization), even though the State Medicaid program would not be liable for the amount not collected.
- Ensure that Medicaid beneficiaries are clearly informed of their cost sharing obligations. It is important that recipients be fully informed of cost sharing plans so that they can be prepared to participate fully in the program.

The demonstration proposals should include in the project application an evaluation design that includes evaluation questions and a complete research design. Applications should indicate how each of the data requirements of the evaluation section will be met. Funds necessary to conduct an evaluation should be included in the budget. HCFA may decide to conduct an independent evaluation of all demonstrations awarded under this solicitation by requiring a uniform evaluation approach for the demonstrations.

All proposals must include a description of the precautions that will be used to assure that Medicaid beneficiaries will not be denied access to critically necessary services. For example, beneficiaries must continue to have access to emergency services.

IV. Waivers

It is possible to waive certain Federal statutes and regulations to allow cost sharing demonstrations. Projects must define the waivers which are required, discuss the impact of the waivers on program expenditures (that is, estimate service costs with and without the waivers), state the effect on Federal, state, and local laws, and discuss the impact on beneficiaries enrolled in the project.

All requirements of the Social Security Act, the Code of Federal Regulations, and other issuances that pertain to the title XIX categorical program are applicable to a project approved under section 1115 of the Act, except as specifically waived.

To conduct a cost sharing demonstration, a State Medicaid agency must seek a waiver of the cost sharing requirements that would otherwise

prohibit the methods of cost sharing a State wants to implement. Cost sharing requirements are located at section 1902(a)(14) of the Act and 42 CFR 447.51 through 447.58.

A State must also request waivers of any other requirements that would otherwise prohibit a cost sharing project. For example, a State may need to request a waiver of the statewideness requirements under section 1902(a)(1) of the Act and 42 CFR 431.50.

A State Medicaid agency should give special attention to the preparation of the budget (see HCFA–PG–11A, Instructions for Completion of Federal Assistance Application Form HCFA–PG–11).

V. Number and Duration of Demonstration Projects

A. *Number of Projects.* HCFA anticipates that between 5 and 15 demonstration projects will be implemented. We are seeking only section 1115 waiver applications. No grant funds are available for applications under this special solicitation.

B. *Duration of Projects.* Each demonstration project will be awarded for a 3-year period. Waivers will be granted for 1 year at a time, with second and third year waivers based on previous years' experience. Continuation of projects will be contingent upon applicants' ability to meet prior year objectives, and the continued relevance of the project to HCFA programs.

VI. Selection Procedures and Instructions for Applicants

A. *General Criteria.* The Director, Officer of Research and Demonstrations (ORD), determines which projects will be accepted. These decisions are based on the recommendations of technical review panels composed of advisers outside of ORD. Frequently, panels include other employees of HCFA, the Department and the States, and members of the private sector. The criteria employed in the selections include—

1. The adequacy of the demonstration design, methods, data base(s), and the experience and competence of the personnel;

2. Whether there is a realistic expectation that the demonstration objectives can be achieved within the time specified;

3. Whether the proposed project methodology is precise and consistent with what is generally agreed to be the state of the art;

4. Whether the overall budget, the personnel resources to be used, and the facilities and equipment are appropriate for the proposed project;

5. Documentation of a commitment of the parties necessary to the success of the planned project; and

6. Whether results would be of value in other State settings and are of national importance.

B. *Standard Project Requirements.* In addition to meeting the general criteria described above, the applications must also meet the specific requirements that follow:

1. The project goals and objectives must be clearly stated and should be measurable.

2. The research design, including the questions to be addressed, and the methods and the data to be used, must be explicitly described. The methodology must be well defined and scientifically valid.

3. The tasks and milestones must be clearly described and scheduled and must include a schedule of reports to be submitted to HCFA (See Section D. Reports, below).

4. Data that are collected under a HCFA demonstration project must be available to HCFA and its agents. However, the appalicant must ensure the confidentiality of any personally identifiable information collected under the auspices of any HCFA grant.

5. The application must include the qualifications and experience of the personnel and demonstrate how their qualifications make the indivisuals capable of performing the tasks in the project. The application must also specify how the personnel are to be organized in the project, to whom they report and how they will be used to accomplish specific objectives or portions of the project.

6. The application must specify the availability of adequate facilities and equipment for the project or clearly state how these are to be obtained.

7. Projects that require waivers (under section 1115 of the Act) must define the affected services, list the waivers, discuss the implications if those waivers are granted, state the effect on Federal, State, and local laws as well as the effect (beneficial or adverse) on individuals enrolled in the project.

In addition, these applications must estimate the amount of program and administrative expenditures that will occur under the waivers and compare these expenditures to those that currently occur in the programs. Particular emphasis must be given to this element.

8. Plans for utilization of the project's results must be discussed.

9. While HCFA does not require review under Office of Management and Budget Circular No. A–95, all applicants must nevertheless determine whether review by the appropriate State and areawide clearinghouse is required. This review is designed to promote coordination of Federal and Federally assisted programs and projects with each other and with State and local plans and programs.

10. Under Pub. L. 96–511, The Paperwork Reduction Act of 1980, the Department is required to submit to the Director of the Office of Management and Budget any Federally-sponsored information collection or recordkeeping requirements developed by the State agency for demonstration projects. Normally, an exemption is granted only when the information is collected from fewer than 10 members of the public. Before there are any data collections or recordkeeping imposed, either a clearance package or request for exemption must be submitted to HCFA's Office of Management and Budget.

C. *Specific Project Requirements.* The application must contain information describing the specific cost sharing model being proposed. The following issues should be addressed:

1. A description of the current Medicaid program, showing how the program would benefit through the inclusion of a cost sharing requirement.

2. A description and justification of the proposed cost requirement, including the services and eligibility categories to which it would apply. A detailed rationale should be provided indicating how the level of cost sharing was selected and why it would not result in an excessive financial hardship to beneficiaries.

3. A detailed description of how the cost sharing program would be administered, including monitoring, fraud and abuse concerns, quality control, beneficiary information, and an implementation strategy.

4. An estimate of the savings that the cost sharing program under Medicaid would generate.

5. A detailed description of the research design, including hypotheses to be tested.

6. An evaluation plan.

The narrative portion of all proposals must adhere to the following format:

1. Abstract or Executive Summary.
2. Project Description.
3. Evaluation Strategy.
4. Description of the Organization.
5. Project Personnel.
6. Workplan.

D. *Reports.* Quarterly and annual reports summarizing progress to date must be submitted to ORD and to the Project Grants Branch of HCFA's Office

of Management and Budget. The quarterly reports must contain a description of progress made in achieving the specific objectives stated in the project's work plan. When a project is completed, each applicant must submit a final report. The report must contain a project description, and must, at a minimum, include the following:

1. Identification of the project director, project number, and title of the project;
2. A complete description of initial hypotheses and objectives and the findings resulting from implementation of the project;
3. A list of the publications resulting from the project;
4. Acknowledgement of the support received from HCFA and a disclaimer to the effect that the findings do not necessarily reflect policies of HCFA; and
5. An executive summary of the report in camera-ready format.

VII. Application Procedure

A. *Submitting Applications.* When submitting the application, applicants must include a statement in the project title block that the application is in response to the special solicitation on Medicaid cost sharing. This designation must also be marked clearly on the outside of the package or envelope. Applications should be sent to the Project Grants Branch at the address shown in the Address section of this notice, above.

B. *Closing Date and Time.* Applications that are mailed must be postmarked (first class mail) by the closing date, and received by HCFA before the technical review panel concludes its review. Because of the importance of the postmark, we encourage applicants to request the post office to provide a legible postmark. If express, certified, or registered mail is used, the applicant should obtain a legible dated mailing receipt from the U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailings. Applications that are submitted by any means except first class mail through the U.S. Postal Service must be received by the closing date and time.

C. Demonstration Projects. Projects are awarded through a competitive process based on a choice of applications submitted in response to this notice. HCFA reserves the right to undertake independent evaluations of any demonstrations undertaken as a result of this solicitation.

Other policies, including responsibilities, awarding and payment procedures, special provisions and assurances, are described in the following documents that are included in the application kit:

HCFA Grants Policy Handbook, DHEW Publication No. (HCFA) 79-04001 (Rev. 6/79), and 45 CFR Part 74, Administration of Grants.

(Sec. 1115 of the Social Security Act (42 U.S.C. 1315))

(Catalog of Federal Domestic Assistance Program No. 13768, Research and Demonstration Grants)

Approved: May 4, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 82-14858 Filed 5-27-82; 8:45 am]
BILLING CODE 4120-03-M

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on May 21.

Public Health Service

Food and Drug Administration

Subject: Measuring Timeliness and Responsiveness of Letters to Consumers (OMB 0910-0128)—Extension
Respondents: Individuals or households
Subject: Food Canning Establishment Registration and Process Filing Forms (FDA 2541)—Extension
Respondents: Businesses or other institutions (except farms)
OMB Desk Officer: Fay S. Iudicello

National Institutes of Health

Subject: Survey of Practice in the Management of Febrile Seizures—New
Respondents: Physicians

Office of the Assistant Secretary for Health

Subject: Financial Status Report for Research and Training Grants SF-269—New
Respondents: Universities/hospitals/state or local governments/individuals
OMB Desk Officer: Richard Eisinger

Social Security Administration

Subject: Request for Reconsideration by an Individual Whose Rights May be Prejudiced by a Previous SSA Decision SSA-561-U2(2-82)—Revision
Respondents: Individuals or households
OMB Desk Officer: Milo Sunderhauf

Office of Human Development Services

Subject: HDS Grant Application (OMB 0980-0016)—Revision to include head start training and technical assistance grants
Respondents: Individuals/state or local governments/businesses or other institutions
OMB Desk Officer: Milo Sunderhauf

Health Care Finance Administration

Subject: Surveys for the Evaluation of the Health Maintenance Organization Capitation Demonstration (HCFA 346)—New
Respondents: Individuals or households
OMB Desk Officer: Fay S. Iudicello

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

J. J. Strnad, HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524.F, Washington, D.C. 20201
OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, Attn. (name of OMB Desk Officer)

Dated: May 20, 1982.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 82-14860 Filed 5-27-82; 8:45 am]
BILLING CODE 4150-04-M

Public Health Service

Privacy Act of 1974; Addition of a New Routine Use to Systems of Records

AGENCY: Public Health Service, HHS.

ACTION: Notification of a proposal to add a routine use to 14 systems of records which are maintained by the National Institute for Occupational Safety and Health, Centers for Disease Control:

"Diagnosis of Occupational Disease by Analysis of Body Fluids or Tissues through Biochemical or Clinical Chemical Analysis," HHS/CDC/NIOSH, 09-20-0062;

"Diagnostic Methods for Identification of Occupational Diseases through Biopsy and/or Autopsy Specimens," HHS/CDC/NIOSH, 09–20–0083;
"Medical and Test Record Results of Individuals Involved in NIOSH Laboratory Studies," HHS/CDC/NIOSH, 09–20–0117;
"Study at Work-Sites where Agents Suspected of Being Occupational Hazards Exist," HHS/CDC/NIOSH, 09–20–0118;
"Occupational Health Epidemiological Studies," HHS/CDC/NIOSH, 09–20–0147;
"Results of Occupational Hearing Studies," HHS/CDC/NIOSH, 09–20–0148;
"General Industry Morbidity Studies," HHS/CDC/NIOSH, 09–20–0149;
"Morbidity Studies in Coal Mining Activities," HHS/CDC/NIOSH, 09–20–0150;
"Mortality Studies in Coal Mining Activities," HHS/CDC/NIOSH, 09–20–0151;
"Mortality Studies in Non-Coal Mining Activities," HHS/CDC/NIOSH, 09–20–0152;
"General Industry Mortality Studies," HHS/CDC/NIOSH, 09–20–0153;
"Medical and Laboratory Studies," HHS/CDC/NIOSH, 09–20–0154;
"Morbidity Studies in Metal and Non-Metal Mining Activities," HHS/CDC/NIOSH, 09–20–0155;
"Records of Subjects in Certification, Testing and Safety Studies of Personal Protective Devices for Hazardous Work Environments," HHS/CDC/NIOSH, 09–20–0159.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing notice of a proposal to add a new routine use to 14 systems of records to permit the National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control, to provide data collected in the course of epidemiological studies to collaborating researchers. A collaborating researcher is defined as a NIOSH contractor, grantee, or other Federal or State scientist who is collaborating with NIOSH in a research project. The researcher will then use the data to conduct further epidemiological studies in support of NIOSH objectives. Collaborating researchers will receive such data only in situations specifically approved by the Director, NIOSH. The Director, NIOSH, will approve such releases of data only when it has been determined: (a) That a study is important to the NIOSH mission and could not be cost-effectively accomplished through other mechanisms; (b) an acceptable research plan is presented to and approved by NIOSH; (c) the receiving group can and would be made legally accountable to NIOSH for that group's security program; (d) adequate security procedures are presented to and approved by NIOSH; (e) the receiving group would not release the data in individually identifiable form to a third party unless release to a third party is approved by NIOSH or required by a court-order; (f) NIOSH would be permitted to review any proposed publication of research findings to assure that data is aggregated and published in a form which will not identify individuals; and (g) the receiving group would return to NIOSH or destroy all of the data that were in identifiable form at an agreed-upon date.

PHS invites interested persons to submit comments on the proposed routine use on or before June 28, 1982.

DATES: We will adopt the new routine use without further notice 30 days after the date of publication unless we receive comments which would result in a contrary determination.

ADDRESS: Comments should be addressed to: NIOSH Privacy Act Coordinator, National Institute for Occupational Safety and Health, Room 8–48, 5600 Fishers Lane, Rockville, Maryland 20857. Comments received will be available for inspection at that address from 8:00 a.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Darlene Christian, NIOSH Privacy Act Coordinator, 5600 Fishers, Lane, Room 8–48, Rockville, Maryland 20857 (301) 443–4220.

SUPPLEMENTARY INFORMATION: The purpose of this routine use is to allow NIOSH to provide data collected in the course of epidemiological studies to collaborating researchers for the purposes of their conducting further studies in support of NIOSH objectives. This release will allow NIOSH to utilize the specialized skills of other researchers on specific studies which are governed by these 14 NIOSH system notices.

This recent change in NIOSH policy has been brought about mainly by three factors: (a) A significant increase over the last ten years in the number of individuals and institutions outside of NIOSH with sophisticated skills in conducting workplace-related epidemiological studies (partly as a result of NIOSH's programs for training occupational safety and health professionals); (b) a desire on the part of the recently appointed NIOSH director to simulate the conduct of occupational safety and health research, together with the development of epidemiological skills by other institutions outside of NIOSH; (c) the results of recent court decisions and subsequent advice received from NIOSH legal counsel which indicates that, if properly supervised by NIOSH, such extramural research efforts would not jeopardize NIOSH's access to the personnel and medical records of workers in the industries under study.

NIOSH has examined alternative means of accomplishing research disclosures, which include: (a) Requiring the researcher to obtain informed consent forms from the individual subjects prior to NIOSH releasing the data to the collaborating researchers; (b) providing the data to the collaborating researchers with individual identifiers removed. NIOSH will continue to use these two alternatives for certain kinds of epidemiological studies, but for other studies, e.g., those which require medical examination or determination of the vital status of an individual, such an approach is not practical for the following reasons:

1. For a large-scale study in which the study subjects are widely-dispersed, it may be too time-consuming and costly to obtain the written consent of each individual. In some cases, it may not be possible to obtain written consent because the individual's current address is not known.

2. Obtaining written consent may in some instances bias the results of the subsequent epidemiological study.

3. Providing data with individual identifiers removed will in some instances preclude further follow-up of the individual workers (e.g., collaborating researchers would not be able to determine their vital status or conduct further medical examinations without knowing the individual's name).

Therefore, we have concluded that this approach, i.e., adding a new routine use, is the most cost-effective method if judiciously applied, and that the small potential risk to personal privacy is outweighed by the potential benefits to worker health.

The routine use is as follows:

Disclosure may be made to NIOSH collaborating researchers (NIOSH contractors, grantees, or other Federal or State scientists) in order to accomplish the research purpose for which the records are collected. The collaborating researchers must agree in writing to comply with the confidentiality provisions of the Privacy Act and NIOSH must have determined that the researchers' data security procedures will protect confidentiality.

The proposed routine use would allow the Institute to perform the research effectively, and ensure that no disclosures of individually identified information are made for purposes which are not the same or compatible with those for which the information was originally collected.

The system notices were last published in the Federal Register on October 17, 1981, pages 52851–52868, and are republished in their entirety below to incorporate the proposed new routine use.

Dated: May 20, 1982.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations and Director, Office of Management.

09-20-0082

SYSTEM NAME:

Diagnosis of Occupational Disease by Analysis of Body Fluids or Tissues through Biochemical or Clinical Chemical Anaylsis. HHS/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Biomedical and Behavioral Science (DBBS), National Institute for Occupational Safety and Health (NIOSH), Robert A. Taft Laboratories, Cincinnati, Ohio 45226.

Also, occassionally data may be located at the facilities of collaborating researchers where analyses will be performed, data collected and reports written. A list of these facilities will be available upon request to the system manager. Data may be located only at those facilities that have an adequate data security program and the collaborating researcher must return the data to NIOSH or destroy individual identifiers at the conclusion of the project.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Industrial workers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical Records, information necessary to interpret the medical records, and results of clinical laboratory tests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occupational Safety and Health Act section 20 (29 U.S.C. 669).

PURPOSE(S):

The purpose of this sytem is to maintain clinical laboratory results on individuals involved in NIOSH health hazard evaluations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Test results furnished to physician who requests analysis.

Dicslosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected. For example, records may be released to the Department of Justice in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have risen because of activities of the Public Health Service in connection with such individual.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected. The only types of litigative proceedings that NIOSH is authorized to request are (1) enforcement of subpoena issued to an employer to provide relevant information, or (2) contempt citation against an employer for failure to comply with a warrant obtained by the Institute.

Disclosure may be made to NIOSH collaborating researchers (NIOSH contractors, grantees, or other Federal or State scientists) in order to accomplish the research purpose for which the records are collected. The collaborating researchers must agree in writing to comply with the confidentiality provisions of the Privacy Act and NIOSH must have determined that the researcher's data security procedures will protect confidentiality.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

Name or code is used to retrieve records from this system.

SAFEGUARDS:

Building guards
Personnel screening

RETENTION AND DISPOSAL:

Record copy maintained from three to ten years in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study as determined by the system manager, and as provided in the signed consent form, as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Clinical and Biochemical Support Section, DBBS, NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to:

Director, DBBS, NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested.

RECORD SOURCE CATEGORIES:

Private and industrial physicians.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-20-0063

SYSTEM NAME:

Diagnostic Methods for Identification of Occupational Diseases through Biopsy and/or Autopsy Specimens. HHS/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Biomedical and Behavioral Science (DBBS) National Institute for Occupational Safety and Health (NIOSH) Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Also, occasionally data may be located at the facilities of collaborating researchers where analyses will be performed, data collected and reports written. A list of these facilities will be available upon request to the system manager. Data may be located only at those facilities that have an adequate data security program and the collaborating researcher must return the data to NIOSH or destroy individual identifiers at the conclusion of the project.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Industrial workers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical records, and information necessary to interpret the medical records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occupational Safety and Health Act Section 20 (29 U.S.C. 669).

PURPOSE(S):

The purpose of this system is to diagnose occupational diseases by tissue examination and analysis.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Test results are furnished to the physician who requests analysis.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Portions of records (name, Social Security number if known, date of birth, and last known address) may be disclosed to one or more other sources selected from those listed in Appendix I, as applicable. This may be done solely for obtaining a determination as to whether or not an individual has died. The purpose of determining death is so that NIOSH may obtain death certificates, which state the cause of death, from the appropriate Federal, state, or local agency. Cause of death will enable NIOSH to evaluate whether excess occupationally related mortality is occurring.

In the event of litigation where the defendant is (a) the Department, any component of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it seems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected. For example, records may be released to the Department of Justice in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected. The only types of litigative proceedings that NIOSH is authorized to request are (1) enforcement of a subpoena issued to an employer to provide relevant information, or (2) contempt citation against an employer for failure to comply with a warrant obtained by the Institute.

Disclosure may be made to NIOSH collaborating researchers (NIOSH contractors, grantees, or other Federal or State scientists) in order to accomplish the research purpose for which the records are collected. The collaborating researchers must agree in writing to comply with the confidentiality provisions of the Privacy Act and NIOSH must have determined that the researchers' data security procedures will protect confidentiality.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

Name or code is used to retrieve records from this system.

SAFEGUARDS:

Building guards.

Personnel screening.

Computerized records are protected by locked computer rooms, locked tape vaults, and password protection.

RETENTION AND DISPOSAL:

Record copy maintained from three to ten years in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the System Manager, and as provided in the signed consent form, as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Pathology Section, DBBS, NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

NOTIFICATION PROCEDURES:

An individual may learn if a record exists about herself/himself upon written request, with notarized signature if request is made by mail, or with suitable identification (i.e., driver's license, passport) if request is made in person. All individuals requesting records will be informed that anyone who knowingly and willfully requests access to a record pertaining to an individual under false pretenses is committing a criminal offense under the Act and subject to a maximum fine of 5,000 dollars.

To determine if a record exists, write to:

Director, DBBS, NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

An individual who requests notification of or access to medical records shall, at the time the request is made, (1) provide a written notarized request designating a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion, (2) supply

the name of the study, if known, (3) provide the approximate date and place of the study, if known, and (4) provide the approximate date and place of treatment or questionnaire administration.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested.

RECORD SOURCE CATEGORIES:

Private and industrial physicians.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I

Potential Sources for Determination of Vital Status
Military Records
Appropriate State Motor Vehicle Registration Departments
Appropriate State Drivers License Departments
Appropriate State Government Divisions of Assistance Payments (Welfare), Social Services, Medical Services
Food Stamp Program, Child Support, Board of Corrections, Aging
Indian Affairs, Workman's Compensation, Disability Insurance
Veteran's Administration Files
Appropriate employee union or association records
Appropriate company pension or employment records
Company group insurance records
Appropriate State Vital Statistics Offices
Life Insurance Companies
Railroad Retirement Board
Area Nursing Homes
Area Indian Trading Posts
Mailing List Correction Cards (U.S. Postal Service)
Letters and telephone conversations with relatives
Letters and telephone conversations with former employees of the same establishment as cohort member
Appropriate local newspaper (obituaries)

09-20-0117

SYSTEM NAME:

Medical and Test Record Results of Individuals Involved in NIOSH Laboratory Studies, HHS/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATIONS:

Division of Biomedical and Behavioral Sciences (DBBS), National Institute for Occupational Safety and Health (NIOSH), Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226

Also, occasionally data may be located at the facilities of collaborating researchers where analyses will be performed, data collected and reports written. A list of these facilities will be available upon request to the system manager. Data may be located only at those facilities that have an adequate data security progams and the collaborating researcher must return the data to NIOSH or destroy individual identifiers at the conclusion of the project.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Volunteer subjects from the general population.

CATEGORIES OF RECORDS IN THE SYSTEM:

Occupational history, medical history, results of medical tests, demographic data, results of psychological and psychometric tests, and data necessary to interpret the medical results.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

occupational Safety and Health Act section 20 (29 U.S.C. 669).

PURPOSE(S):

This system is to develop composite data summaries to support the development of criteria for occupational safety and health standards, and to provide other recommendations for improving worker safety and health.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected. For example, records may be released to the Department of Justice in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected. The only types of litigative proceedings that NIOSH is authorized to request are (1) enforcement of a subpoena issued to an employer to provide relevant information, or (2) contempt citation against an employer for failure to comply with a warrant obtained by the Institute.

Disclosure may be made to NIOSH collaborating researchers (NIOSH contractors, grantees, or other Federal or State scientists) in order to accomplish the research purpose for which the records are collected. The collaborating researchers must agree in writing to comply with the confidentiality provisions of the Privacy Act and NIOSH must have determined that the researchers' data security procedures will protect confidentiality.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files, computer cards, computer tapes, computer listings, microfilm.

RETRIEVABILITY:

Name and case number are the indexes used to retrieve records from this system.

SAFEGUARDS:

Evening guard service in building.
Locked building; locked rooms.
Personnel screening.
Locked computer room and computer tape vaults.

Locked file cabinets; password protection on computerized files.

Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records required by each individual study.

RETENTION AND DISPOSAL:

Personnel identifiers are destroyed as soon as they are no longer necessary for the protection of the individuals involved. Computer tapes are erased; paper records are shredded or burned.

SYSTEM MANAGER(S) AND ADDRESS:

Staff Assistant, DBBS NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

NOTIFICATION PROCEDURE:

An individual may learn if a record exists about herself/himself upon written request, with notarized signature if request is made by mail, or with suitable identification (i.e., driver's license, passport) if request is made in person. All individuals requesting records will be informed that anyone who knowingly and willfully requests access to a record pertaining to an individual under false pretenses is committing a criminal offense under the Act and subject to a maximum fine of 5,000 dollars.

To determine if a record exists, write to: Director, DBBS, NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

An individual who requests notification of or access to medical records shall, at the time the request is made, (1) provide a written notarized request designating a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion, (2) supply the name of the study, if known, (3) provide the approximate date and place of the study, if known, and (4) provide the approximate date and place of treatment of questionnaire administration.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested.

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-20-0118

SYSTEM NAME:

Study at Work-Sites where Agents Suspected of Being Occupational Hazards Exist. HHS/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Biomedical and Behavioral Science, (DBBS), National Institute for Occupational Safety and Health (NIOH), Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Also, occasionally data may be located at the facilities of collaborating researchers where analyses will be performed, data collected and reports written. A list of these facilities will be available upon request to the system manager. Data may be located only at those facilities that have an adequate data security program and the collaborating researcher must return the data to NIOSH or destroy individual indentifiers at the conclusion of the project.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects employed at specific sites under study.

CATEGORIES OF RECORDS IN THE SYSTEM:

Occupational history, medical history, results of medical tests, demographic data, employee records, psychological and psychometric tests, and data necessary to interpret the medical results.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occupational Safety and Health Act, section 20 (29 U.S.C. 669).

PURPOSE(S):

This system is to determine the relationship between worker exposure to hazardous agents or stressors and occupational disease. This information is used to recommend procedures to reduce the incidence of occupational disease.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected. For example, records may be released to the Department of Justice in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected. The only types of litigative proceedings that NIOSH is authorized to request are (1) enforcement of a subpoena issued to an employer to provide relevant information, or (2) contempt citation against an employer for failure to comply with a warrant obtained by the Institute.

Disclosure may be made to NIOSH collaborating researchers (NIOSH contractors, grantees, or other Federal or State scientists) in order to accomplish the research purpose for which the records are collected. The collaborating researchers must agree in writing to comply with the confidentiality provisions of the Privacy Act and NIOSH must have determined

that the researchers' data security procedures will protect confidentiality.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files, computer cards, computer tapes, computer listings, microfilm.

RETRIEVABILITY:

Name and case number are the indexes used to retrieve records from this system.

SAFEGUARDS:

Evening guard service in building, Locked building; locked rooms, Personnel screening, Locked computer room and computer tape vaults, Locked file cabinets; password protection on computer files.

Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records required by each individual study.

RETENTION AND DISPOSAL:

Personal identifiers are destroyed as soon as the system has stabilized, and statistical summaries can be run. Computer tapes are erased; paper records are shredded or burned.

SYSTEM MANAGER(S) AND ADDRESS:

Staff Assistant, DBBS, NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

NOTIFICATION PROCEDURE:

An individual may learn if a record exists about herself/himself upon written request, with notorized signature if request is made by mail, or with suitable identification (i.e., driver's license, passport) if request is made in person. All individuals requesting records will be informed that anyone who knowingly and willfully requests access to a record pertaining to an individual under false pretenses is committing a criminal offense under the Act and subject to a maximum fine of 5,000 dollars.

To determine if a record exists, write to: Director, DBBS, NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

An individual who requests notification of or access to medical records shall, at the time the request is made, (1) provide a written notorized request designating a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion, (2) supply the name of the study, if known, (3) provide the approximate date and place of the study, if known, and (4) provide the approximate date and place of treatment or questionnaire administration.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested.

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual and from employee records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-20-0147

SYSTEM NAME:

Occupational Health Epidemiological Studies. HHS/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Surveillance, Hazard Evaluation, and Field Studies (DSHEFS), National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Federal Records Center, Dayton, Ohio 45438.

Parklawn Computer Center, Production Control Section, Tape Library, Room 2-B-70, 5600 Fishers Lane, Rockville, Maryland 20857.

Also, occasionally data may be located at the facilities of collaborating researchers where analyses will be performed, data collected and reports written. A list of these facilities will be available upon request to the system manager. Data may be located only at those facilities that have an adequate data security program and the collaborating researcher must return the data to NIOSH or destroy individual identifiers at the conclusion of the project.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Industrial workers exposed to physical and/or chemical agents that may damage the human body in any way. Some examples are: (1) Organic carcinogens, (2) inorganic carcinogens, (3) muscosal or dermal irritants, (4) fibrogenic materials, (5) acute toxic agents including sensitizing agents, (6) neurotoxic agents, (7) mutogenic (male and female) and teratogenic agents, (8) bio-accumulating non-carcinogen agents, and (9) chronic vascular disease causing agents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Physical exams, sputum cytology results, questionnaires, demographic information, smoking history, occupational histories, previous and current employment records, urine test records, X-rays, medical history, pulmonary function test records, medical disability forms, blood test records, drivers license data, hearing test results, spirometry results. The specific types of records to be collected and maintained are determined by the needs of the individual study.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, section 301 [42 U.S.C. 241]; Occupational Safety and Health Act section 20 (20 U.S.C. 669); Coal Mine Health and Safety Act section 501 (30 U.S.C. 951).

Studies carried out under this system are to evaluate mortality of occupationally related diseases to determine the cause and prevention of diseases of industrial origin, and lead toward future prevention of occupationally related diseases.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Portions of records (name, Social Security number if known, date of birth, and last known address) may be disclosed to one or more other sources selected from those listed in Appendix I, as applicable. This may be done solely for obtaining a determination as to whether or not an individual has died. The purpose of determining death is so the NIOSH may obtain death certificates, which state the cause of death, from the appropriate Federal, state of local agency. Cause of death will enable NIOSH to evaluate whether excess occupationally related mortality is occurring.

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines

that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected. For example, records may be released to the Department of Justice in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

Test data which would indicate the existence of cancer may be provided to the State Cancer Register where the State has a legally constituted cancer registry program which provides for the confidentiality of information.

Certain communicable diseases may be reported to State and/or local Health Departments where the State has a legally constituted reporting program for communicable diseases and which provides for the confidentiaity of the information.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected. The only types of litigative proceedings that NIOSH is authorized to request are (1) enforcement of a subpoena issued to an employer to provide relevant information, or (2) contempt citation against an employer for failure to comply with a warrant obtained by the Institute.

Disclosure may be made to NIOSH collaborating researchers (NIOSH contractors, grantees, or other Federal or State scientists) in order to accomplish the research purpose for which the records are collected. The collaborating researchers must agree in writing to comply with the confidentiality provisions of the Privacy Act and NIOSH must have determined that the researchers' data security procedures will protect confidentiality.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files, computer files, card files, microfilm, microfiche, and other files as appropriate.

RETRIEVABILITY:

Name, assigned number, plant name, year tested are some of the indices used to retreive records from these systems. Other retrieval methods are utilized as individual research dictates.

SAFEGUARDS:

Locked buildings, locked rooms, locked file cabinets, personnel screening, locked computer room and computer tape vaults, 24-hour guard service, password protection of computerized records, limited access to only authorized personnel. Two or more of the safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by an individual study.

RETENTION AND DISPOSAL:

Records will be maintined from three to twenty years in accordance with retention schedules. Every attempt will be made to strip personal identifiers from records and destroy the records when they are no longer needed. Any paper records which are disposed of will be shredded or burned and computer tapes will be erased.

SYSTEM MANAGER(S) AND ADDRESSES:

Program Management Officer (PMO), DSHEFS, F–1, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

NOTIFICATION PROCEDURE:

An individual may learn if a record exists about herself/himself upon written request, with notarized signature if request is made by mail, or with suitable identification (i.e., driver's license, passport) if request is made in person. All individuals requesting records will be informed that anyone who knowingly and willfully requests access to a record pertaining to an individual under false pretenses is committing a criminal offense under the Act and subject to a maximum fine of 5,000 dollars.

To determine if a record exists, write to: Director, DSHEFS, F–1, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

An individual who requests notification of or access to medical records shall, at the time the request is made, (1) provide a written notarized request designating a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion, (2) supply the name of the study, if known, (3) provide the approximate date and place of the study, if known, and (4) provide the approximate date and place of treatment or questionnaire administration.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested.

RECORD SOURCE CATEGORIES:

Vital status information is obtained from Federal, state and local governments and other available sources selected from those listed in Appendix I. Information is obtained directly from the individual and employer records, whenever possible.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I—Potential Sources for Determination of Vital Status

Military Records
Appropriate State Motor Vehicle Registration Departments

APPROPRIATE STATE DRIVERS LICENSE DEPARTMENTS

Appropriate State Government Divisions of:
Assistance Payments (Welfare), Social Services, Medical Services; Food Stamp Program, Child Support, Board of Corrections, Aging; Indian Affairs, Workman's Compensation, Disability Insurance
Retail Credit Association Follow up
Veteran's Administration Files
Appropriate employee union or association records
Appropriate company pension of employment records
Company group insurance records
Appropriate State Vital Statistics Office
Life Insurance Companies
Railroad Retirement Board
Area Nursing Homes
Area Indian Trading Posts
Mailing List Correction Cards (U.S. Postal Service)
Letters and telephone conversations with relatives

Letters and telephone conversations with former employees of the same establishment as cohort member
Appropriate local newspaper (obituaries)
Social Security Administration
Internal Revenue Service

09-20-0148

SYSTEM NAME:

Results of Occupational Hearing Studies. HHS/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Biomedical and Behavioral Science (DBBS), National Institute for Occupational Safety and Health (NIOSH), Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Also, occasionally data may be located at the facilities of collaborating researchers where analyses will be performed, data collected and reports written. A list of these facilities will be available upon request to the system manager. Data may be located only at those facilities that have an adequate data security program and the collaborating researcher must return the data to NIOSH or destroy individual identifiers at the conclusion of the project.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Workers exposed to noise at a harmful or potentially hazardous level and individuals selected as control groups.

CATEGORIES OF RECORDS IN THE SYSTEM:

Physical examinations, results of laboratory tests (physiological, acceleration measures, performance tests); results of hearing tests, hearing acuity tests, occupational histories, medical history, demographic data, related medical information. The specific types of records to be collected and maintained are determined by the needs of the individual study.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occupational Safety and Health Act, section 20 (29 U.S.C. 669); Federal Coal Mine Safety and Health Act (30 U.S.C. 669 section 20).

PURPOSE(S):

This system is to assist in the develoment of standards for occupational exposure to hazards.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department of any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected. For example, records may be released to the Department of Justice in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected. The only types of litigative proceedings that NIOSH is authorized to request are (1) enforcement of a subpoena issued to an employer to provide relevant information, or (2) contempt citation against an employer for failure to comply with a warrant obtained by the Institute.

Disclosure may be made to NIOSH collaborating researchers (NIOSH contractors, grantees, or other Federal or State scientists) in order to accomplish the research purpose for which the records are collected. The collaborating researchers must agree in writing to comply with the confidentiality provisions of the Privacy Act and NIOSH must have determined that the researchers' data security procedures will protect confidentiality.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files, computer tapes, microfilm, computer cards, index audiogram files, audiogram questionnaire forms.

RETRIEVABILITY:

Name, case number and study number are the indices used to retrieve records from this system.

SAFEGUARDS:

24-hour guard service in buildings, locked buildings, personnel screening, access limited to authorized personnel. In most instances information is related to individual identifiers by case numbers. The file of individual case number relationships is available to a limited group of people. Computerized records are protected by locked computer rooms, locked computer tape vaults, and password protection.

RETENTION AND DISPOSAL:

Record copy mainained from three to ten years in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form as appropriate. Disposal methods include erasing computer tapes and burning or shredding printouts.

SYSTEM MANAGER(S) AND ADDRESS:

Industrial Hygiene Engineer, Noise Section, Physical Agents Effects Branch, DBBS, NIOSH, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

NOTIFICATION PROCEDURE:

An individual may learn if a record exists about herself/himself upon written request, with notarized signature if request is made by mail, or with suitable identification (i.e., driver's license, passport) if request is made in person. All individuals requesting records will be informed that anyone who knowingly and willfully requests access to a record pertaining to an individual under false pretenses is committing a criminal offense under the Act and subject to a maximum fine of 5,000 dollars.

To determine if a record exists, write to: Director, DBBS, NIOSH, 4676

Columbia Parkway, Robert A. Taft Laboratories, Cincinnati, Ohio 45226.

An individual who requests notification of or access to medical records shall, at the time the request is made, (1) provide a written notarized request designating a responsible representative who will be willing to review the record and inform the subject individual of its content at the representative's discretion, (2) supply the name of the study, if known, (3) provide the approximate date and place of the study, if known, and (4) provide the approximate date and place of treatment or questionnaire administration.

RECORD ACCESS PROCEDURE:

Same as notification procedures.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above.

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual, and employee records. Many of the hearing test results were obtained from Doctors Memorial Hospital Hearing and Speech Center, Atlanta, Ga.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-20-0149

SYSTEM NAME:

General Industry Morbidity Studies. HHS/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Respiratory Disease Studies (DRDS) National Institute for Occupational Safety and Health (NIOSH) Morgantown, West Virginia 26505.

Also, occasionally data may be located at the facilities of collaborating researchers where analyses will be performed, data collected and reports written. A list of these facilities will be available upon request to the system manager. Data may be located only at those facilities that have an adequate data security program and the collaborating researcher must return the data to NIOSH or destroy individual identifiers at the conclusion of the project.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons working, or having worked at workplaces not identified as surface mining or below ground mining operations and exposed or potentially exposed to substances which are known or suspected respiratory irritants or carcinogens. Also included are those individuals in the general population who have been selected as a control group.

CATEGORIES OF RECORDS IN THE SYSTEM:

Previous and current employment records, medical and occupational histories, demographic data, X-rays, smoking histories, results of medical tests such as pulmonary function data and spirometry test results, permission forms, industrial environmental data, and questionnaires. The specific types or records to be collected and maintained are determined by the research needs of the specific study.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occuptional Safety and Health Act section 20 (29 U.S.C. 669); Federal Coal Mine Health and Safety Act, section 501 (30 U.S.C. 951).

PURPOSE(S):

The purpose of the system is to investigate occupationally related diseases and to determine the cause and prevention of such diseases.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data may be sent to State Vital Statistics Divisions to obtain death certificates, and to Missing Person Location Agencies to find those individuals who cannot otherwise be located.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her offical capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected. For example, records may be released to the Department of Justice in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

Test data which would indicate the existence of cancer may be provided to the State Cancer Registry where the State has a legally constituted cancer registry program which provides for the confidentiality of information.

Certain communicable diseases may be reported to State and/or local Health Departments where the State has a legally constituted reporting program for communicable diseases and which provides for the confidentiality of the information.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected. The only types of litigative proceedings that NIOSH is authorized to request are (1) enforcement of a subpoena issued to an employer to provide relevant information, or (2) contempt citation against an employer for failure to comply with a warrant obtained by the Institute.

Disclosure may be made to NIOSH collaborating researchers (NIOSH contractors, grantees, or other Federal or State scientists) in order to accomplish the research purpose for which the records are collected. The collaborating researchers must agree in writing to comply witht the confidentiality provisions of the Privacy Act and NIOSH must have determined that the researchers' data security procedures will protect confidentiality.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer tape, cards, and printouts; microfiche; X-rays; and manual files.

RETRIEVABILITY:

Plant name, study, name, and/or assigned numerical identifiers are some of the indices used to retrieve records from this system. Social Security numbers, supplied on a voluntary basis may occasionally be used for data retrieval.

SAFEGUARDS:

24-hour guard service in buildings, locked buildings, locked rooms, personnel screening, locked computer rooms and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by each individual study.

RETENTION AND DISPOSAL:

Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate. Disposal methods include burning or shredding paper materials, and erasing computed tapes.

SYSTEM MANAGER(S) AND ADDRESS:

Program Management Officer (PMO), DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

NOTIFICATION PROCEDURE:

An individual may learn if a record exists about herself/himself upon written request, with notarized signature if request is made by mail, or with suitable identification (i.e., driver's license, passport) if request is made in person. All individuals requesting records will be informed that anyone who knowingly and willfully requests access to a record pertaining to an individual under false pretenses is committing a criminal offense under the Act and subject to a maximum fine of 5,000 dollars.

To determine if a record exists, write to: Director, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

An individual who requests notification of or access to medical records shall, at the time the request is made, (1) provide a written notarized request designating a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion, (2) supply the name of the study, if known, (3) provide the approximate date and place of the study, if known, and (4) provide the approximate date and place of treatment or questionnaire administration.

RECORD ACCESS PROCEDURES:

Same as notification procedures.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested.

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual and from employee records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-20-0150

SYSTEM NAME:

Morbidity Studies in Coal Mining Activities. HHS/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Respiratory Disease Studies (DRDS) National Institute for Occupational Safety and Health (NIOSH), 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

Also, occasionally data may be located at the facilities of collaborating researchers where analyses will be performed, data collected and reports written. A list of these facilities will be available upon request to the system manager. Data may be located only at those facilities that have an adequate data security program and the collaborating research must return the data to NIOSH or destroy individual identifiers at the conclusion of the project.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons working or having worked at coal mining operations and exposed or potentially exposed to substances which are known or suspected respiratory irritants or carcinogens. Also included are those individuals in the general population who have been selected as a control group.

CATEGORIES OF RECORDS IN THE SYSTEM:

Previous and current employment records, medical and occupational histories, demographic data, X-rays, smoking histories, results of medical tests such as pulmonary function data, spirometry test results, permission forms, industrial environmental data, and questionnaires. The specific types of records to be collected and maintained are determined by the research needs of the specific study.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Coal Mine Health and Safety Act section 501 (30 U.S.C. 9511); section 203 (30 U.S.C. 843); Occupational Safety and Health Act section 20 (29 U.S.C. 669).

PURPOSE(S):

The purpose of this system is to investigate occupationally related diseases and to determine the cause and prevention of such diseases.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected. For example, records may be released to the Department of Justice in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

Some data is sent to the Mining Enforcement and Safety Administration, Department of the Interior to report incidence of pneumoconiosis.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will

be required to maintain Privacy Act safeguards.

Test data which would indicate the existence of cancer may be provided to the State Cancer Registry where the state has a legally constituted cancer registry program which provides for the confidentiality of information.

Certain communicable diseases may be reported to state and/or local Health Departments where the state has a legally constituted reporting program for communicable diseases and which provides for the confidentiality of the information.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected. The only types of litigative proceedings that NIOSH is authorized to request are (1) enforcement of a subpoena issued to an employer to provide relevant information, or (2) contempt citation against an employer for failure to comply with a warrant obtained by the Institute.

Disclosure may be made to NIOSH collaborating researchers (NIOSH contractors, grantees, or other Federal or State scientists) in order to accomplish the research purpose for which the records are collected. The collaborating researchers must agree in writing to comply with the confidentiality provisions of the Privacy Act and NIOSH must have determined that the researchers' data security procedures will protect confidentiality.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer tape, cards, and printouts; microfiche; X-rays, and manual files.

RETRIEVABILITY:

Plant name, study, name, and/or assigned numerical identifiers are some of the indices used to retrieve records from this system. Social Security numbers, supplied on a voluntary basis, may occasionally be used for data retrieval.

SAFEGUARDS

24-hour service in buildings, locked buildings, locked rooms, personnel screening, locked computer room and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by each individual study.

RETENTION AND DISPOSAL:

Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate. Disposal methods include burning or shredding paper materials, and erasing computer tapes.

SYSTEM MANAGER(S) AND ADDRESS:

Program Management Officer (PMO), DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

NOTIFICATION PROCEDURE:

An individual may learn if a record exists about herself/himself upon written request, with notarized signature if request is made by mail, or with suitable identification (i.e., driver's license, passport) if request is made in person. All individuals requesting records will be informed that anyone who knowingly and willfully requests access to a record pertaining to an individual under false pretenses is committing a criminal offense under the Act and subject to a maximum fine of 5,000 dollars.

To determine if a record exists, write to: Director, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

An individual who requests notification of or access to medical records shall, at the time the request is made, (1) provide a written notarized request designating a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion, (2) supply the name of the study, if known, (3) provide the aproximate date and place of the study, if known, and (4) provide the approximate date and place of treatment or questionnaire administration.

RECORD ACCESS PROCEDURES:

Same as notification procedures.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested.

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual and from employee records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-20-0151

SYSTEM NAME:

Mortality Studies in Coal Mining Activities. HHS/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Respiratory Disease Studies (DRDS), National Institute for Occupational Safety and Health (NIOSH), 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

Also, occasionally data may be located at the facilities of collaborating researchers where analyses will be performed, data collected and reports written. A list of these facilities will be available upon request to the system manager. Data may be located only at those facilities that have an adequate data security program and the collaborating researcher must return the data to NIOSH or destroy individual identifiers at the conclusion of the project.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons working, or having worked at coal mining operations and exposed or potentially exposed to substances which are known or suspected respiratory irritants or carcinogens. Also included are those indivduals in the general population who have been selected as a control group.

CATEGORIES OF RECORDS IN THE SYSTEM:

Previous and current employment records, medical and occupational histories, demographic data, X-rays, smoking histories, results of medical tests such as pulmonary function data and spirometry test results, permission forms, industrial environmental data, and questionnaires. The specific types of records to be collected and maintained are determined by the research needs of the specific study.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, section 301 (42 U.S.C. 241). Coal Mine Health and Safety Act, section 501 (30 U.S.C. 951).

PURPOSE(S):

The purpose of this system is to investigate occupationally related diseases and to determine the cause and prevention of such diseases.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data may be sent to State Vital Statistics Divisions to obtain death certificates, and to Missing Person Location Agencies to find those individuals who cannot otherwise be located.

Disclosure may be made to a congessional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Portions of records (name, social security number if known, date of birth, and last known address) may be disclosed to one or more other sources selected from those listed in Appendix I, as applicable. This may be done solely for obtaining a determination as to whether or not an individual has died. The purpose of determining death is so that NIOSH may obtain death certificates, which state the cause of death, from the appropriate Federal, State, or local agency. Cause of death will enable NIOSH to evaluate whether excess occupationally-related mortality is occurring.

In the event of litigation where the defendants is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has egreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected. For example, records may be released to the Department of Justice in defending claims against the U.S., when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represents the Institute, provided such disclosure is compatible with the purpose for which the records were collected. The only types of litigative proceedings that NIOSH is authorized to request are (1) enforcement of a subpoena issued to an employer to provide relevent information, or (2) contempt citation against an employer for failure to comply with a warrant obtained by the Institute.

Disclosure may be made to NIOSH collaborating researchers (NIOSH contractors, grantees, or other Federal or State scientists) in order to accomplish the research purpose for which the records are collected. The collaborating researchers must agree in writing to comply with the confidentiality previsions of the Privacy Act and NIOSH must have determined that the researchers' data security procedures will protect confidentiality.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer tape, cards, and printouts; microfiche; X-rays; and manual files.

RETRIEVABILITY:

Plant name, study, name, and/or assigned numerical identifiers are some of the indicies used to retrieve records from this system. Social security numbers, supplied on a voluntary basis may occasionally be use for data retrieval.

SAFEGUARDS:

Locked buildings, locked rooms, 24 hour guard service, locked file cabinets, locked computer rooms and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by an individual study.

RETENTION AND DISPOSAL:

Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate. Disposal methods include burning or shredding paper materials and erasing computer tapes.

SYSTEM MANAGER(S) AND ADDRESS:

Program Management Office (PMO), DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

NOTIFICATION PROCEDURE:

An individual may learn if a record exists about herself/himself upon written request, with notarized signature if request is made by mail, or with suitable identification (i.e., driver's license, passport) if request is made in person. All individual requesting records will be informed that anyone who knowingly and willfully requests access to a record pertaining to an individual under false pretenses is committing a criminal offense under the Act and subject to a maximum fine of 5,000 dollars.

To determine if a record exists, write to: Director, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

An individual who requests notification of or access to medical records shall, at the time the request is made, (1) provide a written notarized request designating a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion, (2) supply the name of the study, if known, (3) provide the approximate date and place of the study, if known, and (4) provide the approximate date and place of treatment or questionnaire administration.

RECORD ACCESS PROCEDURES:

Same as notification procedures.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested.

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual and from death certificates.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I—Potential Sources for Determination of Vital Status

Military Records

Appropriate State Motor Vehicle Registration Departments
Appropriate State Drivers License Departments
Appropriate State Government Divisions of:
Assistance Payments (Welfare), Social Services, Medical Services;
Food Stamp Program, Child Support, Board of Corrections, Aging; Indian Affairs, Workman's Compensation, Disability Insurance
Veteran's Administration Files
Appropriate employee union or association records
Appropriate company pension or employment records
Company group insurance records
Appropriate State Vital Statistics Offices
Life Insurance Companies
Railroad Retirement Board
Area Nursing Homes
Area Indian Trading Posts
Mailing List Correction Cards (U.S. Postal Service)
Letters and telephone conversations with relatives
Letters and telephone conversations with former employees of the same establishment as cohort member
Appropriate local newspaper (obituaries)
Social Security Administration
Internal Revenue Service

09-20-0152

SYSTEM NAME:

Mortality Studies in Non-Coal Mining Activities. HHS/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Respiratory Disease Studies (DRDS), National Institute for Occupational Safety and Health (NIOSH), 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

Also, occasionally data may be located at the facilities of collaborating researchers where analyses will be performed, data collected and reports written. A list of these facilities will be available upon request to the system manager. Data may be located only at those facilities that have an adequate data security program and the collaborating researcher must return the data to NIOSH or destroy individual identifiers at the conclusion of the project.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons working, or having worked at mining operations other than coal operations and exposed or potentially exposed to substances which are known or suspected respiratory irritants or carcinogens. Also included are those individuals in the general population who have been selected as a control group.

CATEGORIES OF RECORDS IN THE SYSTEM:

Previous and current employment records, medical and occupational histories, demographic data, X-rays, smoking histories, results of medical tests such as pulmonary function data and spirometry test results, permission forms, industrial environmental data, and questionnaires. The specific types of records to be collected and maintained are determined by the research needs of the specific study.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public health Service Act section 301 (42 U.S.C. 241); Federal Metal and Nonmetallic Mine Safety Act section 4 (30 U.S.C. 723); Occupational Safety and Health Act, section 20 (29 U.S.C. 669).

PURPOSE(S):

The purpose of the system is to investigate occupationally related diseases and to determine the cause and prevention of such diseases.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data may be sent to State Vital Statistics Divisions to obtain death certificates, and to Missing Person Location Agencies to find those individuals who cannot otherwise be located.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Portions of records (name, Social Security number if known, date of birth, and last known address) may be disclosed to one or more other sources selected from those listed in Appendix I, as applicable. This may be done solely for obtaining a determination as to whether or not an individual has died. The purpose of determining death is so that NIOSH may obtain death certificates, which state the cause of death, from the appropriate Federal, State, or local agency. Cause of death will enable NIOSH to evaluate whether excess occupationally related mortality is occurring.

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected. For example, records may be released to the Department of Justice in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected. The only types of litigative proceedings that NIOSH is authorized to request are (1) enforcement of a subpoena issued to an employer to provide relevant information, or (2) contempt citation against an employer for failure to comply with a warrant obtained by the Institute.

Disclosure may be made to NIOSH collaborating researchers (NIOSH contractors, grantees, or other Federal or State scientists) in order to accomplish the research purpose for which the records are collected. The collaborating researchers must agree in writing to comply with the confidentiality provisions of the Privacy Act and NIOSH must have determined that the researchers' data security procedures will protect confidentiality.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer tape, cards and printouts; microfiche; X-rays; and manual files.

RETRIEVABILITY:

Plant name, study, name and/or assigned numerical identifiers are some of the indices used to retrieve records from this system. Social security

numbers, supplied on a voluntary basis may occasionally be used for data retrieval.

SAFEGUARDS:

24-hour guard service in buildings, locked buildings, locked rooms, personnel screening, locked computer rooms and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by each individual study.

RETENTION AND DISPOSAL:

Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form as appropriate. Disposal methods include erasing computer tapes and burning or shredding paper materials.

SYSTEM MANAGER(S) AND ADDRESS:

Program Management Officer (PMO), DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

NOTIFICATION PROCEDURE:

An individual may learn if a record exists about herself/himself upon written request, with notarized signature if request is made by mail, or with suitable identification (i.e., driver's license, passport) if request is made in person. All individuals requesting records will be informed that anyone who knowingly and willfully requests access to a record pertaining to an individual under false pretenses is committing a criminal offense under the Act and subject to a maximum fine of 5,000 dollars.

To determine if a record exists, write to: Director, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

An individual who requests notification of or access to medical records shall, at the time the request is made, (1) provide a written notarized request designating a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion, (2) supply the name of the study, if known, (3) provide the approximate date and place of the study, if known, and (4) provide the approximate date and place of treatment or questionnaire administration.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual, company personnel records, from death certificates, and from industry and union records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I—Potential Sources for Determination of Vital Status

Military Records
Appropriate State Motor Vehicle Registration Departments
Appropriate State Drivers License Departments
Appropriate State Government Division of: Assistance Payments (Welfare), Social Services, Medical Services; Food Stamp Program, Child Support, Board of Corrections, Aging; Indian Affairs, Workman's Compensation, Disability Insurance
Veteran's Administration Files
Appropriate employee union or association records
Appropriate company pension or employment records
Company group insurance records
Appropriate State Vital Statistics Offices
Life Insurance Companies
Railroad Retirement Board
Area Nursing Homes
Area Indian Trading Posts
Mailing List Correction Cards (U.S. Postal Service)
Letters and telephone conversions with relatives
Letters and telephone conversion with former employees of the same establishment as cohort member
Appropriate local newspaper (obituaries)
Social Security Administration
Internal Revenue Service

09-20-0153

SYSTEM NAME:

General Industry Mortality Studies. HHS/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Respiratory Disease Studies (DRDS) National Institute for Occupational Safety and Health (NIOSH), 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

Also, occasionally data may be located at the facilities of collaborating researchers where analyses will be performed, data collected and reports written. A list of these facilities will be available upon request to the system manager. Data may be located only at those facilities that have an adequate data security program and the collaborating researcher must return the data to NIOSH or destroy individual identifiers at the conclusion of the project.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons working or having worked at workplaces not identified as surface mining or below ground mining operations and exposed or potentially exposed to substances which are known or suspected respiratory irritants or carcinogens. Also included are those individuals in the general population who have been selected as a control group.

CATEGORIES OF RECORDS IN THE SYSTEM:

Previous and current employment records, medical and occupational histories, demographic data, X-rays, smoking histories, results of medical tests such as pulmonary function data, spirometry test results, permission forms, industrial environmental data, and questionnaires. The specific types of records to be collected and maintained are determined by the research needs of the specific study.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occupational Safety and Health Act section 20 (29 U.S.C. 669); Public Health Service Act; section 301 (42 U.S.C. 141).

PURPOSE(S):

The purpose of this system is to investigate occupationally related diseases and to determine the cause and prevention of such diseases.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data may be sent to State Vital Statistics Divisions to obtain death certificates, and to Missing Person Location Agencies to find those individuals who cannot otherwise be located.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Portions of records (name, Social Security number if known, date of birth, and last known address) may be disclosed to one or more other sources selected from those listed in Appendix I, as applicable. This may be done solely for obtaining a determination as to whether or not an individual has died. The purpose of determining death is so that NIOSH may obtain death certificates, which state the cause of death, from the appropriate Federal, State, or local agency. Cause of death will enable NIOSH to evaluate whether excess occupationally related mortality is occuring.

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected. For example, records may be released to the Department of Justice in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected. The only types of litigative proceedings that NIOSH is authorized to request are (1) enforcement of a subpoena issued to an employer to provide relevant information, or (2) contempt citation against an employer for failure to comply with a warrant obtained by the Institute.

Disclosure may be made to NIOSH collaborating researchers (NIOSH contractors, grantees, or other Federal or State scientists) in order to accomplish the research purpose for which the records are collected. The collaborating researchers must agree in writing to comply with the confidentiality provisions of the Privacy Act and NIOSH must have determined that the researchers' data security procedures will protect confidentiality.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer tape cards, and printouts; microfiche; X-rays; and manual files.

RETRIEVABILITY:

Plant name, study, name, and/or assigned numerical identifiers are some of the indices used to retrieve records for this system. Social Security numbers, supplies on a voluntary basis many occasionally be used for data retrieval.

SAFEGUARDS:

24-hour guard service in buildings, locked buildings, locked rooms, personnel screening, locked computer room and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by such individual study.

RETENTION AND DISPOSAL:

Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate. Disposal methods include burning or shredding paper materials and erasing computer tapes.

SYSTEM MANAGER(S) AND ADDRESS:

Program Management Officer (PMO), DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

NOTIFICATION PROCEDURE:

An individual may learn if a record exists about herself/himself upon written request, with notarized signature if request is made by mail, or with suitable identification (i.e., driver's license, passport) if request is made in person. All individuals requesting records will be informed that anyone who knowingly and willfully requests access to a record pertaining to an individual under false pretenses is committing a criminal offense under the Act and subject to a maximum fine of 5,000 dollars.

To determine if a record exists, write to: Director, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

An individual who requests notification of or access to medical records shall, at the time the request is made, (1) provide a written notarized request designating a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representatives's discretion, (2) supply the name of the study, if known, (3) provide the approximate date and place of the study, if known, and (4) provide the approximate date and place of treatment or questionnaire administration.

RECORD ACCESS PROCEDURES:

Same as notification procedures.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested.

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual, from employee records, from death certificates, and from industry and trade union records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I—Potential Sources for Determination of Vital Status

Military Records
Appropriate State Motor Vehicle Registration Departments
Appropriate State Drivers License Departments
Appropriate State Government Divisions of: Assistant Payment (Welfare), Social Services, Medical Services; Food Stamp Program, Child Support, Board of Corrections, Aging; Indian Affairs, Workman's Compensation, Disability Insurance
Veterans' Administration Files
Appropriate employee union or association records
Appropriate company pension or employment records
Company group insurance records
Appropriate State Vital Statistics Offices
Life Insurance Companies

Railroad Retirement Board
Area Nursing Homes
Area Indian Trading Posts
Mailing List Correction Cards (U.S. Postal Service)
Letters and telephone conversations with relatives
Letters and telephone conversations with former employees of the same establishment as cohort member
Appropriate local newspaper (obituaries)
Social Security Administration
Internal Revenue Service

09-20-0154

SYSTEM NAME:

Medical and Laboratory Studies, HHS/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Respiratory Disease Studies (DRDS), National Institute for Occupational Safety and Health (NOISH), 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

Also, occasionally data may be located at the facilties of collaborating researchers where analyses will be performed, data collected and reports written. A list of these facilities will be available upon request to the system manager. Data may be located only at those facilities that have an adequate data security program and the collaborating researcher must return the data to NIOSH or destroy individual identifiers at the conclusion of the project.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have had physical examinations at DRDS or who have had biochemical tests done on various samples submitted to DRDS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Analysis of biochemical data, occupational and medical histories, and results of medical tests. The specific types of records to be collected and maintained are determined by the needs of the individual study.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Coal Mine Health and Safety Act section 501 (30 U.S.C. 951), Occupational Safety and Health Act section 20 (29 U.S.C. 669). Occupational Safety and Health Act section 22(d) (29 U.S.C. 671(d)); Federal Coal Mine Health and Safety Act section 427(b).

PURPOSE(S):

The purpose of this system is to perform medical and epidemiological research, statistical analysis, and to identify early indicators of occupationally related diseases (biochemical indices); data is given to other NIOSH units for biochemical and epidemiological studies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data may be sent to State Vital Statistics Division to obtain death certificates, and to Missing Person Location Agencies to find those individuals who cannot otherwise be located.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected. For example, records may be released to the Department of Justice in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

Test data which would indicate the existence of cancer may be provided to the State Cancer Registry where the State has a legally constituted cancer registry program which provides for the confidentiality of information.

Certain communicable diseases may be reported to State and/or local Health Departments where the State has a legally constituted reporting program for communicable diseases and which provides for the confidentiality of the information.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected. The only types of litigative proceedings that NIOSH is authorized to request are (1) enforcement of a subpoena issued to an employer to provide relevant information, or (2) contempt citation against an employer for failure to comply with a warrant obtained by the Institute.

Disclosure may be made to NIOSH collaborating researchers (NIOSH contractors, grantees, or other Federal or State scientists) in order to accomplish the research purpose for which the records are collected. The collaborating researchers must agree in writing to comply with the confidentiality provisions of the Privacy Act and NIOSH must have determined that the researchers' data security procedures will protect confidentiality.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer tape, cards, and printouts; microfiche; X-rays; and manual files.

RETRIEVABILITY:

Name and case number are the indices used to retrieve records from this system.

SAFEGUARDS:

24-hour guard service in buildings, locked buildings, locked rooms, personnel screening, locked computer room and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by such individual study.

RETENTION AND DISPOSAL:

Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, as provided in the signed consent form as appropriate. Disposal methods include erasing computer tapes

and burning or shredding paper materials.

SYSTEM MANAGER(S) AND ADDRESS:

Project Management Officer, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

NOTIFICATION PROCEDURE:

An individual may learn if a record exists about herself/himself upon written request, with notarized signature if request is made by mail, or with suitable identification (i.e., driver's license, passport) of request is made in person. All individuals requesting records will be informed that anyone who knowingly and willfully requests access to a record pertaining to an individual under false pretenses is committing a criminal offense under the Act and subject to a maximum fine of $5,000.

To determine if a record exists, write to: Director, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

An individual who requests notification of or access to medical records shall, at the time the request is made, (1) provide a written notarized request designating a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion, (2) supply the name of the study, if known, (3) provide the approximate date and place of the study, if known, and (4) provide the approximate date and place of treatment or questionnaire administration.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record content being sought.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested.

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-20-0155

SYSTEM NAME:

Morbidity Studies in Metal and Non-Metal Mining Activities. HHS/CDC/NIOSH

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Respiratory Disease Studies (DRDS), National Institute For Occupational Safety and Health (NIOSH),

Also, occasionally data may be located at the facilities of collaborating researchers where analyses will be performed, data collected and reports written. A list of these facilities will be available upon request to the system manager. Data may be located only at those facilities that have an adequate data security program and the collaborating researcher must return the data to NIOSH or destroy individual identifiers at the conclusion of the project.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons working, or having worked at mining operations other than coal mining operations and exposed or potentially exposed to substances which are known or suspected respiratory irritants or carcinogens. Also included are those individuals in the general population who have been selected as a control group.

CATEGORIES OF RECORDS IN THE SYSTEM:

Previous and current employment records, medical and occupational histories, demographic data X-rays, smoking histories, results of medical tests such as pulmonary function data and spirometry test results, permission forms, industrial environmental data, and questionnaires. The specific types of records to be collected and maintained are determined by the research needs of the specific study.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occupational Safety and Health Act section 20 (29 U.S.C. 669); Public Health Service Act section 301 (42 U.S.C. 241).

PURPOSE(S):

The purpose of this system is to investigate occupationally related diseases and to determine the cause and prevention of such diseases.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Data may be sent to State Vital Statistics Divisions to obtain death certificates, and to Missing Person Location Agencies to find those individuals who cannot otherwise be located.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the the request of that individual.

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected. For example, records may be released to the Department of Justice in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming serivce. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

Test data which would indicate the existence of cancer may be provided to the State Cancer Registry where the state has a legally constituted cancer registry program which provides for the confidentiality of information.

Certain communicable diseases may be reported to state and/or local Health Departments where the state has a legally constituted reporting program for communicable diseases and which provides for the confidentiality of the information.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected. The only types of litigation proceedings that NIOSH is authorized to request are (1) enforcement of a subpoena issued to an employer to provide relevant information, or (2) contempt citation

against an employer for failure to comply with a warrant obtained by the Institute.

Disclosure may be made to NIOSH collaborating researchers (NIOSH contractors, grantees, or other Federal or State scientists) in order to accomplish the research purpose for which the records are collected. The collaborating researchers must agree in writing to comply with the confidentiality provisions of the Privacy Act and NIOSH must have determined that the researchers' data security procedures will protect confidentiality.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer tape, cards, and printouts; microfiche; X-rays; and manual files.

RETRIEVABILITY:

Plant name, study name, and/or assigned numerical identifiers are some of the indices used to retrieve records from this system. Social Security numbers, supplied on a voluntary basis, may occasionally be used for data retrieval.

SAFEGUARDS:

24-hour guard service in buildings, locked buildings, locked rooms, personnel screening, locked computer room and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by such individual study.

RETENTION AND DISPOSAL:

Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, and as determined by the system manager, as provided in the signed consent form as appropriate. Disposal methods include computer tapes and burning or shredding paper material.

SYSTEM MANAGER(S) AND ADDRESS:

Program Management Officer, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Viginia 26505.

NOTIFICATION PROCEDURE:

An individual may learn if a record exists about herself/himself upon written request, with notarized signature if request is made by mail, or with suitable identification (i.e., driver's license, passport) if request is made in person. All individuals requesting records will be informed that anyone who knowingly and willfully requests access to a record pertaining to an individual under false pretenses is committing a criminal offense under the Act and subject to a maximum fine of $5,000.

To determine if a record exists, write to: Director, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

An individual who requests notification of or access to medical records shall, at the time the request is made, (1) provide a written notarized request designating a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion, (2) supply the name of the study, if known, (3) provide the approximate date and place of the study, if known, and (4) provide the approximate date and place of treatment or questionnaire administration.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested.

RECORD SOURCE CATEGORIES:

Vital status information is obtained from Federal, state and local governments and other available sources. Information is obtained from the individual and from employer records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-20-0159

SYSTEM NAME:

Records of Subjects in Certification, Testing and Safety Studies of Personal Protective Devices for Hazardous Work Environments, HHS/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Safety Research (DSR), National Institute for Occupational Safety and Health (NIOSH), 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

Also, occasionally data may be located at the facilities of collaborating researchers where analyses will be performed, data collected and reports written. A list of these facilities will be available upon request to the system manager. Data may be located only at those facilities that have an adequate data security program and the collaborating researcher must return the data to NIOSH or destroy individual identifiers at the conclusion of the project.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals exposed to hazardous work environments and individuals selected as control groups will be covered by this system. Additionally, the system pertains to individuals selected to test the interaction between people, personal protection or safety equipment, users of such equipment, and a hazardous environment. Some examples include individuals selected to: perform respirator facepiece fit tests, evaluate hearing protectors, perform lifting and manual materials handling studies, perform strength test studies, and perform hand speed tests.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system will contain such records as physical examinations, questionnaires, results of laboratory tests (physiological acceleration measures, and performance tests), workplace performance records, results of hearing tests, occupational histories, medical histories, demographic data, and related medical information. The specific types of records to be collected and maintained are determined by the needs of the individual study.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Public Health Service Act, section 301 (42 U.S.C. 241); the Occupational Safety and Health Act section 20 (29 U.S.C. 669); and the Coal Mine Health and Safety Act, section 501 (30 U.S.C. 951).

PURPOSE(S):

The purpose of this system is to permit acquisition of information related to certification of personal protective equipment, hazard-measuring devices, and safety research studies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office, made at the request of that individual.

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected. For example, records may be released to the Department of Justice in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected. The only types of litigative proceedings that NIOSH is authorized to request are (1) enforcement of a subpoena issued to an employer to provide relevant information, or (2) contempt citation against an employer for failure to comply with a warrant obtained by the Institute.

Portions of records (name, Social Security number if known, date of birth, and last known address) may be disclosed to one or more sources selected from those listed in Appendix I. This may be done to determine if the individual has died so that a death certificate can be obtained. Knowing the cause of death will enable NIOSH to evaluate whether excess occupationally-related mortality is occuring.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis, and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computer. The contractors will be required to maintain Privacy Act safeguards.

Disclosure may be made to NIOSH collaborating researchers (NIOSH contractors, grantees, or other Federal or State scientists) in order to accomplish the research purpose for which the records are collecd. The collaborating researchers must agree in writing to comply with the confidentiality provisions of the Privacy Act and NIOSH must have determined that the researchers' data security procedures will protect confidentiality.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files, computer tape, microfilm, computer cards, index audiogram files, audiograms, questionnaire forms.

RETRIEVABILITY:

Name, assigned number, plant name, and year tested are some of the indices used to retrieve records from these systems. Other retrieval methods are utilized as individual research dictates.

SAFEGUARDS:

Locked buildings, locked rooms, locked file cabinets, personnel screening, locked computer room and computer tape vaults, 24-hour guard service, limited access only to authorized personnel. The particular safeguards used are selected as appropriate for the type of records covered by an individual study. For computerized records, safeguards are in accordance with Part 6, ADP Systems Security, of the HHS/ADP Systems Manual. Safeguards for non-automated records are in accordance with the NIOSH Sensitive Data Security Program Briefing Booklet.

RETENTION AND DISPOSAL:

Records will be maintained from three to twenty years in accordance with retention schedules. Personal identifiers will be stripped from records, and records will be destroyed when they are no longer needed. All paper records which are disposed of will be shredded or burned and computer tapes will be erased.

SYSTEM MANAGER(S) AND ADDRESS:

Program Management Officer (PMO), Division of Safety Research, NIOSH, 944 Chestnut Ridge Road, Morgantown, WV 26505.

NOTIFICATION PROCEDURE:

An individual may learn if a record exists about herself/himself upon written request, with notarized signature if request is made by mail, or with suitable identification (i.e., driver's license, passport) if request is made in person. All individuals requesting records will be informed that anyone who knowingly and willfully requests access to a record pertaining to an individual under false pretenses is committing a criminal offense under the Act and subject to a maximum fine of 5,000 dollars.

To determine if a record exists, write to: Director, Division of Safety Research, NIOSH, 944 Chestnut Ridge Road, Morgantown, WV 26505.

An individual who requests notification of or access to medical records shall, at the time the request is made, (1) provide a written notarized request designating a responsible representative who will be willing to review the record and inform the subject individual of its contents at the represenative's discretion, (2) supply the name of the study , if known, (3) provide the approximate date and place of the study, if known, and (4) provide the approximate date and place of treament or questionnaire administration.

RECORD ACCESS PROCEDURES:

Same as notification procedures.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above and reasonably indentify the record and specify the information to be contested.

RECORD SOURCE CATEGORIES:

Information needed is obtained either directly from the individual, or from employee records whenever possible. Other sources may include those listed in Appendix I.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I

Potential Sources for Determination of Vital Status
Military Records
Appropriate State Motor Vehicle Registration Departments
Appropriate State Drivers License Departments
Appropriate State Government Division of: Assistance Payments (Welfare), Social Service, Medical Services, Food Stamp Program, Child Support, Board of Corrections, Aging, Indian Affairs, Workmen's Compensation, Disability Insurance.
Veteran's Administration Files
Appropriate employee union or association records
Appropriate company pension or employment records
Company group insurance records
Appropriate State Vital Statistics Offices
Life Insurance Companies
Railroad Retirement Board
Area Nursing Homes

Area Indian Trading Posts
Mailing List Correction Cards (U.S. Postal Service)
Letters and telephone conversations with relatives
Letters and telephone conversations with former employees of the same establishment as cohort member
Appropriate Local Newspaper (Obituaries)
Social Security Administration
Internal Revenue Service

[FR Doc. 82-14623 Filed 5-27-82; 8:45 am]
BILLING CODE 4160-19-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-39904 and AA-39921]

Alaska Native Claims

In FR Doc. 82-12492 appearing on page 19798 in the issue of Friday, May 7, 1982, make the following correction:

On page 19798, third column, in the 19th line from the top of the page, "Sec. 3, lot 1, SE¼, NW¼" should have read "Sec. 3, lot 1, SE¼NW¼".

BILLING CODE 1505-01-M

Intent To Prepare a Planning Amendment for the Cedar Planning Unit MFP

In accordance with 43 CFR 1601.3, notice is given that the Bureau of Land Management in the State of Utah, Cedar City District, intends to amend the Cedar Management Framework Plan (MFP).

The amendment is in response to inquiries concerning disposal by public sale of 320 acres of isolated public land in T37S, R10W, Sec. 13, SLM, Utah. The existing MFP recommended this isolated tract along with others in the planning unit be retained in public ownership and blocked into manageable units by exchange. This plan was completed in 1974 and to date no exchange proposals have been consummated.

The general issues related to disposal of this tract are suitability of the area for intensive development, impacts of development on local scenery, watershed, county services, and wildlife.

The following planning criteria will be used by BLM to analyze alternatives and recommend the area as suitable or unsuitable for disposal.

Planning Criteria

1. Consistency with other plans.
2. Suitability of the tract for retention and management under Federal ownership.
3. Most beneficial use of the tract.
4. Local social and economic effects.
5. Public comment.

Disciplines to be represented on the interdisciplinary team preparing the planning amendment are: range, wildlife, recreation, watershed, land use planning and socioeconomics. Public input is invited to identify additional issues and planning criteria related to disposal of this tract. Comments will be accepted until June 30, 1982. Other public participation activities will include review of the draft planning amendment or environmental assessment and an open house to receive comments on the draft. Dates, times, and locations will be announced through local media and mailing to interested parties.

Dennis Curtis may be contacted at the address below for further information regarding this amendment. Comments on issues or criteria should be sent to: District Manager, Cedar City BLM District, P.O. Box 724, Cedar City, Utah 84720.

May 21, 1982.

Morgan S. Jensen,
District Manager.

[FR Doc. 82-14458 Filed 5-27-82; 8:45 am]
BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Application

Applicant: Duke University Primate Center, Durham, NC—PRT 2-6368.

The applicant requests an amendment to their permit to allow import of an additional six (6) sifakas (*Propithecus verreauxi*) from Madagascar. Dr. Voara Randrianasolo, Chef de Department de Sciences Naturelles du Centre National de Recherches, Madagascar, supports the Primate Center request for additional sifakas to increase the gene pool at the Center and to enhance the propagation and survival of the species.

Applicant: Steve W. Klan, Maynard, OH—PRT 2-9169.

The applicant requests a permit to purchase in interstate commerce 2 pairs of captive-bred masked bobwhite quail (*Colinus virginianus ridgwayi*) and one pair of captive-bred Attwater's greater prairie chicken (*Tympanuchus cupido attwateri*) for enhancement of propagation.

Applicant: Virgil W. Brack, Purdue University, W. Lafayette, IN—PRT 2-9170.

The applicant requests a permit to trap and tag Indiana bats (*Myotis sodalis*) and gray bats (*M. grisescens*) throughout the range of these species as part of a cooperative agreement with the Soil Conservation Service and Purdue University for scientific research.

Applicant: USFWS, Regional Director, Region 2, Albuquerque, NM—PRT 2-2588.

The applicant requests an amendment to his permit to conduct activities outlined in the Service's program advice or in approved recovery plans for scientific research or enhancement of propagation or survival with the following species: Ozark big-eared bat (*Plecotus townsendii ingens*), San Marcos salamander (*Eurycea nana*), Arizona trout (*Salmo apache*), bonytail chub (*Gila elegans*), Amistad gambusia (*gambusia amistadenis*), San Marcos gambusia (*G. georgei*), and Leon Springs pupfish (*Cyprinodon bovinus*).

Applicant: Honolulu Zoo, Honolulu, HI—PRT 2-9190.

The applicant requests a permit to import one female captive-born Asian elephant (*Elephas maximus*) from the Nehru Zoological Park, Hyderabad, India for enhancement of propagation.

Humane care and treatment during transport has been indicated by the applicants.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications on or before June 28, 1982, by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: May 25, 1982.

R. K. Robinson,
Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82-14647 Filed 5-27-82; 8:45 am]
BILLING CODE 4310-55-M

NATIVE HAWAIIANS STUDY COMMISSION

Public Meeting

Notice is hereby given that the Native Hawaiians Study Commission will hold a public meeting of the Commission at 9:00 a.m. on June 3, 1982, at the Department of Interior Building, 18th & C Sts., N.W., Washington, D.C., Room 6120. The Commission was created by Public Law 96-656. The agenda for the meeting on June 3 is as follows:

I. Convening of Meeting
A. Roll call

B. Adoption of Minutes, 9 January 1982 Meeting
II. Unfinished Business
A. Status Report: Gannett Case
B. Congressional Budget Hearings Report
III. Commission Committee Reports
A. Socioeconomic and Cultural Committee
B. Committee on Federal, State and Local Relationships
IV. Commission Discussion
A. Committee Reports
B. August Meeting Preparation
V. Adjournment

The Commission is composed of 9 members, appointed by President Reagan, as follows: Representative Kina'u Boyd Kamali'i (Chairwoman), Minority Leader, Hawaii, House of Representatives; Stephen P. Shipley (Vice Chairman), U.S. Department of Interior; Carl A. Anderson, U.S. Department of Health and Human Services; Winona K. D. Beamer, Kamehameha Schools; H. Rodger Betts, County of Maui; Carol E. Dinkins, U.S. Department of Justice; James C. Handley, U.S. Department of Agriculture; Diane K. Morales, U.S. Department of Interior; Glenn R. Schleede, New England Electric.

Further information may be obtained by calling Mary Lyon-Allen at 202–343–3107.

Mary Lyon-Allen,

Executive Director.

[FR Doc. 82-14718 Filed 5-27-82; 8:45 am]

BILLING CODE 6820-BE-M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 25, 1982. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by June 14, 1982.

Carol D. Shull,

Acting Keeper of the National Register.

NORTH CAROLINA

Johnston County

Selma, *Edgerton, Noah Edward, House (Selma, North Carolina Multiple Resource Area)* 301 W. Railroad St.

UTAH

San Juan County

Blanding vicinity, *Grand Gulch Archeological District*

[FR Doc. 82-14698 Filed 5-27-82; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to OMB for Review

May 25, 1982.

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and explanatory material may be obtained by contacting the Bureau's clearance officer, Darlene Grose at (202) 343–5447. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. William T. Adams, at 202–395–7340.

Carson W. Culp,

Acting Assistant Director Management and Budget.

- *Title:* Quantitative Program Management Information.
- *Bureau Form Number:* OSM–51C
- *Frequency:* Semi-annually and Annually
- *Description of Respondents:* State Government
- *Annual Responses:* 90
- *Annual Burden Hours:* 135
- *Title:* Report of Government Property.
- *Bureau Form Number:* OSM–60
- *Frequency:* On occasion
- *Description of Respondents:* State Governments.
- *Annual Responses:* 200
- *Annual Burden Hours:* 400
- *Title:* Financial Status Report.
- *Bureau Form Number:* SF–269
- *Frequency:* Quarterly and Semi-annually
- *Description of Respondents:* State Government
- *Annual Responses:* 580
- *Annual Burden Hours:* 4,640
- *Title:* Outlay Report and Request for Reimbursement for Construction Programs
- *Bureau Form Number:* SF–271
- *Frequency:* Quarterly & Semi-annually
- *Description of Respondents:* State Government
- *Annual Responses:* 700
- *Annual Burden Hours:* 12,880
- *Title:* Budget Information—Construction.
- *Bureau Form Number:* OSM–48
- *Frequency:* Annually
- *Description of Respondents:* State Government
- *Annual Responses:* 715
- *Annual Burden Hours:* 11,440
- *Title:* Performance Report/Program Narrative Statement.
- *Bureau Form Number:* OSM–51
- *Frequency:* Quarterly, Semi-annually and Annually
- *Description of Respondents:* State Government
- *Annual Responses:* 3,030
- *Annual Burden Hours:* 24,240
- *Title:* Quantitative Program Management Information.
- *Bureau Form Number:* OSM–51A
- *Frequency:* Semi-annually and Annually
- *Description of Respondents:* State Government
- *Annual Responses:* 90
- *Annual Burden Hours:* 135
- *Title:* Quantitative Program Management Information.
- *Bureau Form Number:* OSM–51B
- *Frequency:* Semi-annually and Annually
- *Description of Respondents:* State Government
- *Annual Responses:* 90
- *Annual Burden Hours:* 135
- *Title:* Application for Federal Assistance.
- *Bureau Form Number:* SF–424
- *Frequency:* On occasion and Annually
- *Description of Respondents:* State Governments.
- *Annual Responses:* 300
- *Annual Burden Hours:* 450

[FR Doc. 82-14697 Filed 5-27-82; 8:45 am]

BILLING CODE 4310-05-M

[Federal Lease No. M–073109]

Availability of Draft Environmental Impact Statement and Public Hearing on the Proposed Rosebud Area C Mine, Rosebud County, Montana

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of availability of Draft Environmental Impact Statement (OSM–EIS–8) and public hearing.

SUMARY: Pursuant to § 1506.6 of Title 40, Code of Federal Regulations, notice is hereby given that the Office of Surface Mining (OSM), Western Technical Service Center, has prepared a draft environmental impact statement (EIS)

on the proposed Rosebud Area C Mine. The EIS has been written to assist the Department in making a decision on Western Energy Company's application to surface mine about 24 million tons of coal over a period of 5 years. The proposed site is 5 miles west of the Town of Colstrip, and 30 miles south of Forsyth, Montana. The mine would encompass 3,104 acres of State, private and Federal lands, of which 1,877 acres would be disturbed for mining, roads, and facilities. The coal produced from Area C would be used exclusively in Coldstrip Generating Units 3 and 4, and would be transported by conveyor belt approximately 4½ miles from the mine site to the generating units.

Copies of the draft EIS may be obtained from OSM or the Montana Department of State Lands (DSL) at the locations listed under "**ADDRESSES.**" Copies are also available for public review at the locations given below. A public hearing will be held and all interested parties are invited to attend to give their comments. See "**DATES**" and "**ADDRESSES**" for time and location. Written comments should be sent to the Office of Surface Mining or the Department of State Lands. Because of differences in the Federal and State public comment periods, OSM and DSL request that comments be submitted prior to the closing of their respective comment periods, as indicated under "**DATES**" below.

DATES: A public hearing will be held on June 14, 1982, at 7:00 p.m. All written comments should be received by the Office of Surface Mining no later than July 2, 1982, and by the Montana Department of State Lands no later than July 1, 1982, at the locations listed below.

ADDRESSES: A public hearing on the draft EIS will be held at the Colstrip Community Center, Colstrip, Montana.

Copies of the draft EIS may be obtained from and comments should be addressed to: Walter Swain, Office of Surface Mining, Brooks Towers, 1020 15th Street, Denver, Colorado 80202; or Kit Walther, Department of State Lands EIS Team, Capitol Station, Helena, Montana 59620.

Copies of the draft EIS are available for public review at the following locations:

OSM Area Office, 935 Pendell Blvd., Mills, Wyoming; the Rosebud County Library Forsyth, Montana; and the Montana Department of State Lands, 1625 11th Avenue, Helena, Montana.

FOR FURTHER INFORMATION CONTACT: Walter Swain, Office of Surface Mining, Brooks Towers, 1020 15th Street, Denver, Colorado 80202 (telephone: 303/837-5656).

SUPPLEMENTARY INFORMATION: The EIS evaluates three alternative actions the Department could take on the mining and reclamation plan which has been submitted to OSM and the State of Montana. Those alternatives are approval, disapproval, and no action.

OSM has identified as the preferred alternative the approval of the mine plan when found to be in compliance with the Federal Lands Program requirements of the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

OSM and the State of Montana have analyzed the impacts of the alternatives. Public comments are sought on this analysis as presented in the EIS. All substantive comments, written or oral, will be considered in preparing the final EIS and in the final recommendation for action on the subject mining and reclamation plan. See "**DATES**" and "**ADDRESSES**" for information on the hearing and comments.

The proposed Rosebud Area C Mine has been previously discussed in two EIS's: Colstrip Project, Units 3 and 4, Rosebud County, Montana EIS (July 1979) and the Powder River Regional Coal Leasing EIS (December 1981).

Dated: May 26, 1982.

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 82-14791 Filed 5-27-82; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-101 (Sub-No. 3)]

Duluth, Missabe and Iron Range Railway Co.—Abandonment—Between Embarrass and Ely, MN; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number 3, has issued a certificate authorizing the Duluth, Missabe and Iron Range Railway Company to abandon its rail line between Embarrass and Ely, a distance of 34.91 miles in St. Louis County, MN, subject to certain conditions. Since no investigation was instituted, the requirement of § 1121.38(b) of the regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis Gitomer, Acting Deputy Director, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-14869 Filed 5-27-82; 8:45 am]

BILLING CODE 7035-01-M

Intent to Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office:

The Sherwin-Williams Company, 101 Prospect Ave., Cleveland, OH 44115.

2. Wholly-owned subsidiaries which will participate in the operations and State(s) of incorporation:

(i) Contract Transportation Systems Co., a Delaware Corporation.

(ii) Gray Drug Fair, an Ohio Corporation.

1. Parent corporation and address of principal office:

Southern Film Extruders, Inc., 2327 English Rd., High Point, NC 27261.

2. Wholly-owned subsidiary which will participate in the operations:

Interpak, Inc., d.b.a. SFE Packaging, Inc., 4010 W. Osborne Ave., Tampa, FL 33614.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-14829 Filed 5-27-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers

pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's rules of practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed by Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verfied statements within 45 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Person wishing to oppose in application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions invölving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions ser forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: May 24, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

MC–F–14852, filed April 30, 1982. FRED TAYLOR COMPANY, INC. (Fred Taylor) (2700 Palmyra Rd., P.O. Box 1156, Albany, GA 31702)—control—A&G EXPRESS, INC. (A&G) (4807 Millbrooke Rd., Albany, GA 31707). Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Fred Taylor seeks authority to acquire control of A&G through the purchase of all issued outstanding common stock. James F. Taylor, who owns all the stock of Fred Taylor, seeks to control A&G through this transaction. A&G is authorized under Permit No. MC–146891 (Sub-No. 2) to haul pulp, paper and related products and cellulose products, between points in the United States under continuing contract(s) with the Proctor & Gamble Paper Products Company of Cincinnati, OH. Permit No. MC–146891 (Sub-No. 3) authorizes (1) agricultural chemicals and (2) materials and supplies used in the manufacture and distribution of agricultural chemicals, between points in the United States under a continuing contract with Helena Chemical Company of Memphis. TN. Certificate No. MC–146891 (Sub-No. 5) authorizes general commodities, wich usual exceptions, between points in GA, on the one hand, and, on the other, points in the United States. Fred Taylor, a non-carrier, controls Container Express, Inc., a carrier authorized to conduct operations under MC–152180.

MC–F–14856, filed May 13, 1982. TRANSPORTATION, INC. (TI) (P.O. Box 362, Ottawa, KS 66067)—Lease—Grain Belt Transportation Company (Jon H. Gjovig, Secured Party) (10417 Grant Lane, Overland Park, KS 66212). Representative: Warren H. Sapp, P.O. Box 30010, Kansas City, MO 64112. TI seeks authority to lease the interstate operating rights of Grain Belt, Certificate No. MC–109692 (Sub-No. 89)X, which supersedes all previously issued authority, and which authorizes the transportation of general commodities between various points in KS and NE, including Kansas City, MO–KS and St. Joseph, MO, commercial zones, and specified commodities, such as but not limited to, food and related products, farm products, chemicals and related products, metal products, machinery, coal and coal products, building materials, petroleum, natural gas and their products, pulp, paper and related products, and Mercer commodities, throughout specified points in the U.S. TI is authorized to operate as a common carrier under MC–149088 and a contract carrier under MC–117519. *Conditions:* (1) As soon as the transfer of Grain Belt's operating rights to Gjovig Transportation Inc., is approved and authorized, applicants must seek modification of approval of this lease. (2) Final approval and authorization of this transaction will be withheld pending the receipt of an affidavit signed by Delores M. Bones and Fred Bones Trust "B" First National Bank, stating that they are the persons in control of TI and that they join in this application. (3) Approval of this lease is limited to a one-year period.

Note.—(1) TA has been filed. (2) In Docket No. MC–FC–79823, Gjovig Transportation, Inc., seeks to acquire the interstate operating rights of Grain Belt. Notice of approval of that application is being published in this same Federal Register issue.

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We Find

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and

they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–79823. By decision of May 20, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to GJOVIG TRANSPORTATION, INC., of Overland Park, KS, of Certificate No. MC–109892 (Sub-No. 89)X, which supersedes all previously issued authority, issued to GRAIN BELT TRANSPORTATION COMPANY, of Kansas City, MO, which authorizes the transportation of general commodities between various points in KS and NE, including the Kansas City, MO–KS and St. Joseph, MO, commercial zones, and specified commodities, such as but not limited to, food and related products, farm products, chemicals and related products, metal products, machinery, coal and coal products, building materials, petroleum, natural gas and their products, pulp, paper and related products, and Mercer commodities, throughout specified points in the U.S. Representative: Warren H. Sapp, P.O. Box 30010, Kansas City, MO 64112.

Note.—Transferee is not a carrier. In conjunction with this application, applicants have filed an application under 49 U.S.C. 11343, including TA lease, in which Transportation, Inc., seeks authority to lease the interstate operating rights of Grain Belt. That application has been has been docketed No. MCF–14856, and is being published in this same Federal Register issue.

Condition: Final approval of this transaction will be withheld pending receipt of the $100 filing fee.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–14630 Filed 5–27–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by special rule of the Commission's rules of practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may be been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP1–89

Decided: May 18, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 161831, filed May 4, 1982. Applicant: RICHARD S. WEBSTER, 21052 Laguna Canyon Rd., Laguna Beach, CA 92651. Representative: Richard S. Webster (same address as applicant), (714) 494–0163. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161851, filed May 6, 1982. Applicant: MENOMONIE AG TRUCKING, INC., Route 3—Box 178, Menomonie, WI 54751. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180, (703) 442–8330. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161870, filed May 7, 1982. Applicant: STEVEN TAYLOR & DEON

C. JOHNSON, d.b.a. T & J TRUCKING, 9725 S. 520 E, Sandy, UT 84070. Representative: Irene Warr, 311 S. State St., Ste. 280, Salt Lake City, UT 84111, (801) 531–1300. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161890, filed May 7, 1982. Applicant: WID WILMOT TRANSPORT, 7511 130th N.E., Kirkland, WA 98033. Representative: Orville A. Wilmot (same address as applicant), (206) 822–7987. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161891, filed May 7, 1982. Applicant: PAUL HOWARD, Box 542, 800 North Nebraska St., Salem, SD 57058. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101, (605) 335–1777. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161931, filed May 10, 1982. Applicant: CHARLES O. MORRISON, INC., P.O. Box 4617, Santa Rosa, CA 95402. Representative: Matthew F. Hunziker, 2306 Gifford Ct., Santa Rosa, CA 05401, (707) 528–4259. Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

Volume No. OP3–081

Decided: May 21, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 162004, filed May 13, 1982. Applicant: WELCH'S BUILDING SUPPLIES, 1069 5th St., Kirkland, WA 98033. Representative: George L. Welch (same address as applicant), (206) 827–1298. Transporting *food and other edible products and byproducts intended for human consumption* (Except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except HI).

MC 161995, filed May 14, 1982. Applicant: D & D TRANSPORT OF WISCONSIN, INC., R. R. 2, Mondovi, WI 54735. Representative: Stanely C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424, (612) 927–8855. Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

[FR Doc. 82-14631 Filed 5-27-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 260]

Motor Carriers; Permanent Authority Decisions; Restriction Removals Decision-Notice

Decided: May 21, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian carrier applicants: In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC–157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Ewing, and Williams.

Agatha L. Mergenovich,

Secretary.

MC 41635 (Sub-54)X, filed February 1, 1982, and previously noticed in the **Federal Register** of February 25, 1982, republished as corrected this issue. Applicant: SHALE AUTO TRANSPORT, INC., 4430 Roosevelt Hwy., College Pk, GA 30349. Representative: Paul M. Danielle, P.O. Box 872, Atlanta, GA 30301. Sub 53, broaden: from tractors, to "machinery."

MC 52464 (Sub-15)X, filed May 6, 1982. Applicant: EVANS TRUCKING CO., 8384 Market St., Youngstown, OH 44512. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Lead (1) broaden (a) iron and steel articles, machinery, electrical equipment, iron castings, and empty reels to "metal products, machinery, and electrical equipment and supplies," (b) iron and steel articles, including copper-covered iron and steel articles to "metal products," (c) empty reels used in transporting wire to "lumber and lumber products," (d) iron castings to "metal products," (e) sand in dump vehicles to "clay, concrete, glass or stone products," (f) alloys, in bulk, in dump vehicles, to "metal products," (g) scrap ferro-alloys and ferro-alloy fines, in bulk, in dump vehicles to "metal products," (h) refractories, crucibles, grinding wheels, refractory cement, alloys, and abrasive grains to "clay, concrete, glass or stone products and metal products", general commodities (with exceptions) to "general commodities (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk);" (2) to radial authority; (3) authorize service to all intermediate points; (4) broaden off-route points to counties; (a) within three miles of Latrobe, PA, to "Westmoreland County", (b) Cook, Donegal, Fairfield, Ligonier, and St. Clair Townships, Westmoreland County, PA, to "Westmoreland County"; (5) broaden cities to counties (irregular-routes): (a) Glassport, PA, to Allegheny County; (b) Greensburg, PA, to Westmoreland County (c) Phalanx, OH, to Stark County; (d) Blasdell, Hamburg, Kellogg, and Lackawanna, NY, to Erie County; (e) Niagara Falls, NY, to Niagara County, (f) Bay City, MI, to Bay County; (6) delete plantsite restrictions, (7) delete the in bulk, in dump vehicle

exceptions; and (8) remove restriction of commodities requiring special equipment.

MC 93837 (Sub-4)X, filed May 7, 1982. Applicant: INTERNATIONAL VAN LINES, INC., 95 Madison Avenue, New York, NY 10016. Representative: Morton E. Kiel, Two World Trade Center, Suite 1832, New York, NY 10048. Lead: broaden (1) business machines, uncrated, to "machinery"; household goods to "household goods and furniture and fixtures"; (2) broaden (a) points in NY, NJ, and CT within 60 miles of Columbus Circle, New York, NY, to New Haven and Fairfield Counties, CT, Nassau, Suffolk, Westchester, Putnam, Dutchess, Rockland, Orange, Sullivan, and Ulster Counties, NY, New York, NY, and points in NJ in and north of Ocean and Burlington Counties, NJ, (b) Philadelphia, PA to Philadelphia, Montgomery, Chester, Delaware, and Bucks Counties, PA, Hunterdon, Mercer, Monmouth, Burlington, Camden, Gloucester, and Salem Counties, NJ, and New Castle County, DE.

MC 112223 (Sub-136)X, filed February 10, 1982, previously noticed in the **Federal Register** of March 9, 1982, republished. Applicant: QUICKIE TRANSPORT COMPANY, 1700 N.E. New Brighton Blvd., Minneapolis, MN 55413. Representative: Val M. Higgins, 1600 TCF Tower, Minneapolis, MN 55402. Applicant seeks to remove restrictions in Subs 2, 4, 6, 8, 31, 34, 35, 36, 38, 41, 43, 45, 47, 49, 52, 54, 57, 59, 60, 63, 64, 65, 67, 71, 73, 78, 79, 81, 83, 85, 86, 87, 88, 91, 92, 93, 97, 98, 100, 103, 104, 105, 108F, 109F, 111F, 113F, 115F, 116F, 121F, 123F, 125F, 126F, 130, 131F, 132, 133F, and 134F, certificates as previously noticed, and, in addition, to remove restriction against service to Minneapolis, MN, and points in its commercial zone, from authority to serve Dakota, Scott, Hennepin, and Ramsey Counties, MN in Sub 98. The purposed of this republication is to correct the above inadvertent omission.

MC 146976 (Sub-4)X, filed May 10, 1982. Applicant: H & W TRANSFER AND CARTAGE SERVICE, INC., 611 S. Main St., Cedartown, GA 30125. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., N.E., Atlanta, GA 30326. Sub-No. 2F: Delete (1) the exceptions against commodities of unusual value and those requiring special equipment in its general commodities authority and (2) restriction to the transportation of traffic having an immediate prior or subsequent movement by rail.

[FR Doc. 82-14682 Filed 5-27-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 82-9315, published at page 14970, on Wednesday, April 7, 1982, on page 14973, in the third column, in the third paragraph "MC 151333 (sub-3)", in the eleventh line, "NM, OR," should be corrected to read "NM, NV, OR,".

BILLING CODE 1505-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Dismissals of Applications for Reconsideration of Negative Determinations Regarding Eligibility To Apply For Worker Adjustment Assistance

Pursuant to 29 CFR 90.18 applications for administrative reconsideration were filed with the Director of the Office of Trade Adjustment Assistance in the cases listed below. In each case, the review indicated that the applications contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissals of the applications were issued.

TA-W-12,647; Young Timers, Incorporated, New York, NY

TA-W-11,289; McCord Corporation, Wyandotte, MI

Dated: May 3, 1982. Robert O. Deslongchamps, Acting Deputy Administrator, Unemployment Insurance Service.

Dated: May 3, 1982. Stephen A. Wandner, Research, Legislation and Program Policies.

I hereby certify that the aforementioned determinations were issued on May 3, 1982. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW, Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: May 20, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-14684 Filed 5-27-82; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-12,301]

H. W. Carter & Sons, Lebanon, New Hampshire; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 23, 1981 in response to a petition received on February 12, 1981 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers at H. W. Carter & Sons, Lebanon, New Hampshire.

The petitioner, the Amalgamated Clothing and Textile Workers Union, does not represent the workers of the Lebanon, New Hampshire plant of H. W. Carter & Sons. Workers at the Lebanon plant are represented by the United Garment Workers of America. Since the petitioner is not a duly authorized representative of the workers, the investigation has been terminated.

Signed at Washington, D.C., this 6th day of May 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-14683 Filed 5-27-82; 8:45 am]
BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not late than June 7, 1982.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to

the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 7, 1982.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 10th day of May 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Arbaba Sportswear, Inc. (ILGWU)	New York, NY	4/26/82	4/22/82	TA-W-13,437	Dresses, skirts & pants—ladies.
Avondale Mills (company)	Union Springs, AL	3/24/82	3/19/82	TA-W-13,438	Yarn—cotton.
Century Inks Corp. (workers)	Park Ridge, IL	4/20/82	4/16/82	TA-W-13,439	Offices—administrative.
Century Inks Corp. (workers)	Beltsville, MD	4/20/82	4/16/82	TA-W-13,440	Printing, lithographic.
Century Inks Corp. (workers)	Glendale, WI	4/20/82	4/16/82	TA-W-13,441	Do.
Century Inks Corp. (workers)	Minneapolis, MN	4/20/82	4/16/82	TA-W-13,442	Do.
Century Inks Corp. (workers)	Pennsauken, NJ	4/20/82	4/16/82	TA-W-13,443	Do.
Century Inks Corp. (workers)	Fenton, MO	4/20/82	4/16/82	TA-W-13,444	Do.
City Machine Tool & Die Co., Inc	Muncie, IN	4/29/82	4/26/82	TA-W-13,445	Machines—metal, cutting, tools, fixtures & dies.
Guterl Special Steel Corp. (USWA)	Lockport, NY	4/26/82	4/23/82	TA-W-13,446	Steel—alloy, high, stainless bar.
Trace Fork Coal Co., Trace Fork Mine (UMWA)	Premier, WV	4/26/82	4/20/82	TA-W-13,447	Coal—Metallurgical.
Hadron, Inc. (workers)	Lake Orion, MI	5/7/82	4/21/82	TA-W-13,448	Machines—automation, transferline.
Hanna Furnace Corp. (workers)	Buffalo, NY	4/20/82	4/16/82	TA-W-13,449	Iron—pig, merchant.
International Shoe Co. (ACTWU)	Batesville, AK	4/26/82	4/15/82	TA-W-13,450	Shoes and boots—men's.
Michigan Screw Products (workers)	Centerline, MI	4/26/82	4/19/82	TA-W-13,451	Fasteners—automotive.
Shannon Pocahontas Mining Co., Shannon Branch Mine (UMWA).	Capels, WV	4/26/82	4/20/82	TA-W-13,452	Coal—metallurgical.
U.S. Steel Corp., Homestead Works, Blast Furnace Div., Carrier Furnace (USWA).	Rankin, PA	5/7/82	4/29/82	TA-W-13,453	Metal—hot furnace, blast.
Wickes Co., Inc., Wickes Machine Tool Group (Allied Industrial Workers).	Saginaw, MI	4/26/82	4/21/82	TA-W-13,454	Machines—cast, die lathes—engine.

[FR Doc 82-14861 Filed 5-27-82; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 7, 1982.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 7, 1982.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 17th day of May 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
American Bosch Corp. (IUE)	Springfield, MA	4/29/82	4/22/82	TA-W-13,455	Injectors—diesel & pumps.
Amperex Electronic Corp. (company)	Lincoln, RI	5/10/82	4/30/82	TA-W-13,456	Tubes—magnetron, electro optical, tube, special, semiconductor and components, ferrite.
Anaconda Minerals Co. (workers)	Tooele, Utah	5/11/82	5/3/82	TA-W-13,457	Copper ore, gold, silver.
Chrysler Corp., New Process Gear Div. (UAW)	Syracuse, NY	5/6/82	4/6/82	TA-W-13,458	Transmission, transaxles.
Fashion Hall, Inc. (ILGWU)	Brooklyn, NY	4/29/82	4/23/82	TA-W-13,459	Blouses—ladies.
Flora Fashions (ILGWU)	Stanehope, NJ	5/6/82	4/29/82	TA-W-13,460	Coats—ladies.
General Motors Assembly Div., Willow Run Plant (UAW).	Ypsilanti, MI	4/26/82	4/21/82	TA-W-13,461	Skylarks and Omega.
Mount Vernon Mills, Inc. (company)	Greenville, S.C	5/11/82	5/5/82	TA-W-13,462	Corporate offices.
Mount Vernon Mills, Inc. (company)	New York, NY	5/11/82	5/5/82	TA-W-13,463	Sales offices.
Noranda Mining, Inc. Ontario Project (wkrs)	Park City, UT	5/11/82	5/5/82	TA-W-13,464	Zinc—lead, silver, ore.
Rockwell International, Auto Supply Div., Metal Castings (USWA).	Chattanooga, TN	5/3/82	4/4/82	TA-W-13,465	Castings—iron, ductile iron.
Trio Knitting Mills, Inc. (ILGWU)	New York, New York	4/30/82	4/27/82	TA-W-13,466	Suits, skirts sets—ladies.
W.R. Grace & Co., Evans Chemetics Div. (company).	Waterloo, New York	5/11/82	5/7/82	TA-W-13,467	Acid, thioglycolic.

APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Midway Lincoln-Mercury, Inc. D.B.A. Chrysler Plymouth (company).	Franklin, Ohio	4/29/82	4/3/82	TA-W-13,468	Auto dealership.
Easy Made Manufacturing Co., Inc. (workers)	Bronx, NY	4/20/82	4/16/82	TA-W-13,469	Coats, jackets and blazers—ladies.
Perfection Heat Treating (wkrs and UAW)	Detroit, MI	5/5/82	4/29/82	TA-W-13,470	Wheel bolts, ball joint sockets, tie rods, turn signal levers, carburetors linkage and assorted levers—heat treat.

[FR Doc. 82-14662 Filed 5-27-82; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-12,517]

Marcraft Recreation Corp., Garfield, New Jersey; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 23, 1981 in response to a petition received on March 18, 1981 which was filed on behalf of workers at Marcraft Recreation Corporation, Garfield, New Jersey.

The workers produce paddles for racquetball, paddleball, platform tennis and table tennis.

The petitioning firm requested in a letter that the petition be withdrawn. On the basis of this request, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 6th day of May 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-14665 Filed 5-27-82; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-12,319]

Woman's Haberdashers, Woodside, New York; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 23, 1981 in response to a worker petition received on February 9, 1981 which was filed on behalf of workers at Woman's Haberdashers, Woodside, New York. The workers produced women's coats, suits, dresses and blouses.

The Department of Labor has been unsuccessful in locating any officials of Woman's Haberdashers. The company closed in May 1980. It has not been possible to contact any company officials or to gain access to records, ledgers or documents necessary for a determination to be made. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 6th day of May 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-14664 Filed 5-27-82; 8:45 am]
BILLING CODE 4510-30-M

Office of the Secretary

The Steering Subcommittee of the Labor Advisory Committee For Trade Negotiations And Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Services Sector Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: June 8, 1982, 9:30 a.m., N3437 A & B Frances Perkins, Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

For further information, contact: Joseph S. Papovich, Executive Secretary, Labor Advisory Committee, Phone: (202) 523-6171.

Signed at Washington, D.C. this 19th day of May 1982.

Robert W. Searby,

Deputy Under Secretary, International Affairs.

May 19, 1982.

[FR Doc. 82-14236 Filed 5-27-82 8:45 am]
BILLING CODE 4510-25-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting

May 25, 1982.

Pursuant to section 10(a)(2), of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that the Weather Services Panel of the National Advisory Committee on Oceans and Atmosphere (NACOA) will meet on Monday and Tuesday, June 7 and 8, 1982. The Panel will meet in Boulder, CO at the University Corporation for Atmospheric Research (UCAR), Fleischmann Building, 1850 Table Mesa Drive. The sessions, which will be open to the public, will convene at 8:30 a.m. and adjourn at 5:00 p.m. on Monday, June 7, and convene at 8:30 a.m. and adjourn at 2:00 p.m. on Tuesday, June 8. The panel will review the draft report on the Nation's weather services.

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairperson of the Weather Services Panel, Dr. Warren M. Washington. The Chairperson retains the prerogative to impose limits on the duration of oral statements and discussion. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the NACOA Executive Director, Mr. Steven N. Anastasion, or James A. Almazan, the Staff Member for the Weather Services Panel. The mailing address is: NACOA, 3300 Whitehaven Street, NW., (Suite 438, Page Building #1), Washington, D.C. 20235. The telephone number is: 202/653-7818.

Dated: May 25, 1982.

James A. Ahnesan,

Staff Physical Scientist.

Dated: May 25, 1982.

Stephanie Y. Hughes,

Administrative Assistant.

[FR Doc. 82-14673 Filed 5-27-82; 8:45 am]

BILLING CODE 3510-25-M

NATIONAL SCIENCE FOUNDATION

Availability of Draft Environmental Impact Statement; 10-Meter, Submillimeter and Millimeter Wave Telescope Project

In accordance with the National Environmental Policy Act of 1969 and the Council on Environmental Quality Regulations of 1978 (40 CFR Parts 1500–1508), the National Science Foundation has prepared a Draft Environmental Impact Statement (DEIS) on the proposed Mauna Kea, Hawaii, site for the California Institute of Technology 10-meter, submillimeter and millimeter wave telescope. The Foundation is hereby requesting comments on this DEIS within 45 days of this announcement.

This proposed project envisions the installation of an existing 10-meter diameter submillimeter and millimeter wave telescope in a 60-foot diameter dome to be constructed in the Mauna Kea Science Reserve on the island of Hawaii. This site was chosen for its altitude, atmospheric characteristics and geographic location that all contribute to making Mauna Kea an exceptional site for astronomical observation. The schedule for installation is dependent on available funding; however, construction and installation of the dome and telescope as proposed would begin in 1982 or early 1983, with operations beginning in 1985.

Possible alternatives to the proposed action are: no action; alternative site; or alternative site at the Mauna Kea summit.

The National Science Foundation is acting as a joint lead agency (see 40 CFR 1501.5 and 1506.2) with the State of Hawaii for the purposes of the environmental review of this project. The University of Hawaii has been designated as the responsible State agency. Copies of the DEIS are available from: University of Hawaii, Vice President for Administration, 2444 Dole Street, Honolulu, Hawaii 96822, Attention: Walter Muraoka. All comments on the DEIS should be submitted by July 15, 1982 to the above address.

For the National Science Foundation.

Francis S. Johnson,

Assistant Director for Astronomical, Atmospheric, Earth, and Ocean Sciences.

[FR Doc. 82-14625 Filed 5-27-82; 8:45 am]

BILLING CODE 7535-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Human Factors; Postponed Meeting

The ACRS Subcommittee on Human Factors scheduled for June 1, 1982 has been postponed to July 6, 1982, 8:30 a.m., Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittee will review the Nuclear Regulatory Commission's proposed FY 84–85 programs and budget and will develop specific comments on the NRC's Long-Range Research Plan as each relates to the area of Human Factors.

All other items regarding this meeting remain the same as announced in the **Federal Register** published Friday, May 14, 1982 (47 FR 20689).

Further information about topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, David Fischer (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., e.d.t.

Dated: May 24, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-14643 Filed 5-27-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-409; License No. DPR-45; EA 81-80]

Dairyland Power Cooperative LaCrosse Boiling Water Reactor; Order Imposing a Civil Monetary Penalty

I

Diaryland Power Cooperative (the "licensee") is the holder of Operating License No. DPR-45 (the "license") issued by the Nuclear Regulatory Commission (the "Commission"). The license authorizes operation of the LaCrosse Boiling Water Reactor. The facility is located at the licensee's site in Genoa, Wisconsin. The license was issued on August 28, 1973.

II

As a result of an inspection of the licensee's facility by the Nuclear Regulatory Commission Office of Inspection and Enforcement during the period May 1–31, 1981, the NRC staff determined that a pressure sensing line from the Containment Building had been modified. The installation of this modification resulted in the temporary disablement of the automatic (high containment pressure) actuation signal for three safety-related components. The NRC served the licensee a written Notice of Violation and Notice of Proposed Imposition of Civil Penalty by letter dated October 22, 1981. The Notice stated the nature of the violations, the provisions of the Nuclear Regulatory Commission regulations, and the amount of the civil penalty proposed. The licensee responded with a letter dated December 23, 1981, with enclosures, to the Notice of Violation and Notice of Proposed Imposition of Civil Penalty.

III

Upon consideration of Dairyland Power Cooperative's response (December 23, 1981) and the statements of fact, explanation, and argument in denial or mitigation contained therein as set forth in the Appendix to this Order, the Director of the Office of Inspection of Enforcement determined that a civil penalty for the violation designated in the Notice of Violation should be imposed. However, after consideration of the circumstances surrounding this event the amount of the civil penalty has been reduced.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2282, PL 96–295, and 10 CFR 2.205, it is hereby ordered that:

The licensee pay a civil penalty in the total amount of $25,000 within thirty days of the date of this Order, by check, draft, or money order payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement.

V

The licensee may within thirty days of the date of this Order request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555. A copy of the hearing request shall be sent to the Executive Legal Director, USNRC, Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of

hearing. Should the licensee fail to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceeding and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

VI

In the event the licensee requests a hearing as provided above, the issues to be considered at such a hearing shall be:

(a) Whether the licensee was in violation of the Commission's regulations as set forth in the Notice of Violation referenced in Section II above, and

(b) Whether on the basis of such violation the Order should be sustained.

Dated at Bethesda, Maryland this 18th day May 1982.

For the Nuclear Regulatory Commission.

James H. Sniezek,

Acting Director, Office of Inspection and Enforcement.

[FR Doc. 82-14640 Filed 5-27-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-263]

Northern States Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 10 to Facility Operating License No. DPR-22, issued to Northern States Power Company, which revised Technical Specifications for operation of the Monticello Nuclear Generating Plant (the facility) located in Wright County, Minnesota. The amendment is effective as of its date of issuance.

The amendment modifies the Technical Specifications on the Scram Discharge Volume to include surveillance requirements for the Scram Discharge Volume vent and drain valves, Limiting Conditions of Operation/Surveillance Requirements for the Reactor Protection System and Control Rod Block Scram Discharge Volume limit switches. Certain editorial changes are also included.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 10, 1980, (2) Amendment No. 10 to License No. DPR-22, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 10th day of May 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-14641 Filed 5-27-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-259, 50-260, and 50-296

Tennessee Valley Authority; Issuance of Amendments to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 83 to Facility Operating License No. DPR-33, Amendment No. 80 to Facility Operating License No. DPR-52, and Amendment No. 54 to Facility Operating License No. DPR-68 issued to Tennessee Valley Authority (the licensee), which revised Technical Specifications for operation of the Browns Ferry Nuclear Plant, Units 1, 2, and 3, located in Limestone County, Alabama. The amendments are effective as of the date of issuance.

These amendments change the Technical Specifications to provide additional surveillance requirements for the scram discharge volume (SDV) vent and drain valves and additional limiting conditions for operation and surveillance requirements on the SDV limit switches as requested by NRC's generic letter of July 7, 1980 to all licensees of operating boiling water reactors.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an invironmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the applicaton for amendments dated October 16, 1980, as supplemented by letter dated November 18, 1981, (2) Amendment No. 83 to License No. DPR-33, Amendment No. 80 to License No. DPR-52, and Amendment No. 54 to License No. DPR-68, and (3) the Commission's related Safety evaluation including the Franklin Research Center Report TER-C-5506-67/71/76 enclosed therewith. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Athens Public Library, South and Forrest, Athens, Alabama 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 19th day of May 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-14642 Filed 5-27-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as

required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: William Bohling, 202–632–6000.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published a notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on April 27, 1982 (47 FR 18082). Individual authorities established or revoked under Schedules A, B, or C between April 1, 1982 and April 28, 1982 appear in a listing below. Future notices will be published on the fourth Tuesday of each month. A consolidated listing of all authorities will be published as of June 30 of each year.

Schedule A

The following exceptions are established:

In the Department of the Interior, positions in the Youth Conservation Corps for which pay is fixed at the Federal minimum wage rate. Employment under this authority may not exceed 10 weeks. Effective April 15, 1982.

In the Department of Health and Human Services, Public Health Service, twelve positions of Therapeutic radiologic Technician Trainee in the Radiation Oncology Branch, National Cancer Institute. Employment under this authority shall not exceed 1 year for any individual. This authority shall be applied only to positions with compensation fixed under 5 U.S.C 5351–5356. Effective April 27, 1982.

The following exceptions are revoked:

In the Department of Defense, Office of the Secretary, five Special Advisors with responsibility for studies and recommendations in broad program area; revoked effective April 12, 1982, because the authority is no longer used.

In the Department of Defense, Office of the Secretary, positions assigned exclusively to Communications Intelligence Activities; revoked effective April 14, 1982, because the authority is no longer used.

In the Department of Defense, Office of the Secretary, positions assigned to or in support of special classified training activities; revoked effective April 14, 1982, because the authority is no longer used.

In the Department of Defense, Office of the Secretary, three Staff Assistants; revoked effective April 14, 1982, because the authority is no longer used.

In the Department of Defense, Office of the Secretary, one Director, intelligence Resources and Programs, OASD (Administration); revoked effective April 12, 1982, because the authority is no longer used.

In the Department of Defense, Interdepartmental Activities, positions in support of National Security Programs and Space Council Activities, revoked effective April 12, 1982, because the authority is no longer used.

In the Department of Labor, Office of Federal Contract Compliance, all positions at GS–15 and below involving performance of the functions of the program known as Plans for Progress; revoked effective April 19, 1982, because the authority is no longer used.

In the National Endowment for the Humanities, one Director, Office of Planning and policy Assessment; revoked effective April 19, 1982, because the authority is no longer used.

In the National Endowment for the Humanities, two positions of Special Assistants to the Deputy Chairman; revoked effective April 19, 1982, because the authority is no longer used.

In the National endowment for the Humanities, one Planning Officer, Office of Planning and policy Assessment; revoked effective April 19, 1982, because the authority is no longer used.

In the National Endowment for the Arts, one Special Constituencies Coordinator, Office of the Deputy Chairman for Policy and Planning; revoked effective April 21, 1982, because the position is no longer used.

In the National Endowment for the Arts, two Assistant Directors of Federal-State Partnerships; revoked effective April 21, 1982, because the positions are no longer used.

In the National Endowment for the Arts, one Crafts Coordinator; revoked effective April 21, 1982, because the position is no longer used.

In the National Endowment for the Arts, one Director for Partnership Programming; revoked effective April 21, 1982, because the position is no longer used.

In the Department of Commerce, Agents to take and transmit meterological observations in connection with aviation; revoked effective April 21, 1982, because the authority is no longer used.

In the Department of the Air Force, Air Force Systems Command, up to 12 positions of Engineer, GS–14–15, at the Aeronautical Systems Division; revoked effective April 26, 1982, because the authority is no longer used.

In the Department of the Air Force, Office of the Secretary, three Special Assistants in the Office of the Secretary of the Air Force; revoked effective April 26, 1982, because the authority is no longer used.

In the Department of Agriculture, any local veterinarian employed on a fee basis or a part-time basis; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of Agriculture, up to 25 professional, scientific or technical positions filled by State or univeristy employees for one year; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of Agriculture, Office of the Secretary, Special Livestock Loans Committeemen; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of Agriculture, Office of the Secretary, alternate members of the Board of Forest Appeals; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of Agriculture, Forest Service, temporary, intermittent, or seasonal positions filled by persons dependent for livelihood primarily upon employment available within the national forest; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of Agriculture, Farmers Homes Administration, State Committeemen; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of Agriculture, Agricultural Research Service, field employees on programs conducted under the terms of cooperative agreements; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of Agriculture, Foreign Agricultural Service, Agricultural Attache 1, positions at grade GS–16 and above; revoked effective April 28, 1982, because the positions are now in the Senior Executive Service.

In the Department of Agriculture, Animal and Plant Health Inspection Service, field employees under cooperative agreements; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of Agriculture, Food and Nutrition Service, temporary positions in grade GS–4 and below, at Food Commodity Distribution Centers; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of State, Office of the Secretary, Executive Officer, Executive Secretariat; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of the Navy, one Staff Assistant to the Naval Aide to the

President; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of the Navy, Naval Home, positions of orderly when filled by the appointment of beneficiaries of the Home; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of the Army, Joint Brazil–U.S. Defense Commission, one position of clerk—stenographer—translator or civilian aide requiring a knowledge of English, Portuguese, and Spanish; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of the Army, Corps of Engineers, land appraisers employed on a temporary basis for one year; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of the Army, Transportation Corps, longshoremen and stevedores employed at ports of embarkation in the United States, and all positions on vessels operated by the Transportation Corps; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of the Army, student occupational therapist positions in Army hospitals; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of the Army, positions assigned exclusively to Army Communications Intelligence Activities; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of the Army, trainee student medical technologist (intern) positions at the Rodriguez Army Hospital, Fort Brooks, Puerto Rico; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of the Army, up to 350 positions of members of treatment and counseling teams, to assist in the alcohol and drug abuse program; revoked effective April 28, 1982, because the authority is no longer needed.

Schedule B

The following exception is established:

In the Department of the Labor, positions of Chairman and Member, Wage Appeals Board. Effective April 1, 1982.

The following exceptions are revoked:

In the Department of Defense, Office of the Secretary, one Assistant for Counter-Insurgency, Office of the Assistant Secretary; revoked effective April 12, 1982, because the authority is no longer needed.

In the Executive Office of the President, Office of Management and Budget, seventy-five positions of senior staff member, GS–15, and staff member, GS–11/14, under the President's reorganization project; revoked effective April 12, 1982, because the authority has expired by its own terms.

In ACTION, Office of Domestic and Anti-Poverty Operations, up to ten positions of Regional Director, GS–15; revoked effective April 13, 1982, because the authority is no longer needed.

In the Smithsonian Institution, Office of Fellowships and Grants, positions at grades GS–4/11 filled in support of projects conducted under the Research Awards Program; revoked effective April 16, 1982, because the authority is no longer needed.

In the National Endowment for the Humanities, one Humanist Administrator, Pilot Grants, Institutional Grants, Division of Education Programs; revoked effective April 19, 1982, because the position is no longer needed.

In the National Endowment for the Humanities, one Special Projects Officer, Division of Special Programs; revoked effective April 19, 1982, because the position is no longer needed.

In the National Endowment for the Humanities, one Humanist Administrator for the Implementation Grants Program, GS–1701–12, Division of Education Programs; revoked effective April 19, 1982, because the position is no longer needed.

In the Department of the State, persons formerly employed abroad in the Foreign Service; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of the State, Director and Deputy Director, Foreign Buildings Operations; revoked effective April 28, 1982, because the authority is no longer needed.

Schedule C

The following exceptions are established:

In ACTION, one Special Assistant to the Assistant Director. Effective April 8, 1982.

In ACTION, one Special Assistant to the Director. Effective April 16, 1982.

In ACTION, one Special Assistant to the Assistant Director for Policy and Planning. Effective April 15, 1982.

In the Agency for International Development, one Special Assistant to the Assistant Administrator. Effective April 15, 1982.

In the Agency for International Development, one Special Assistant to the Director of Legislative Affairs. Effective April 5, 1982.

In the Agency for International Development, one Special Assistant to the Assistant Administrator for Program and Policy Coordination. Effective April 1, 1982.

In the Department of Agriculture, one Deputy Director, Office of Transportation. Effective April 1, 1982.

In the Arms Control and Disarmament Agency, one Special Assistant to the Assistant Director of the Strategic Programs Bureau. Effective April 6, 1982.

In the Department of the Army, one Staff Assistant to the Special Assistant to the President. Effective April 2, 1982.

In the Department of the Army, one Executive Director to the Deputy Assistant Secretary of Defense (Reserve Affairs). Effective April 12, 1982.

In the Department of the Army, one Special Assistant to the Deputy Assistant to the President. Effective April 1, 1982.

In the Department of the Commerce, one Special Assistant to the Director, Bureau of Census. Effective April 1, 1982.

In the Department of Commerce, one Confidential Assistant to the Deputy Assistant Secretary, International Trade Administration. Effective April 1, 1982.

In the Department of Commerce, one Director, Office of Public Affairs. Effective April 15, 1982.

In the Department of Commerce, Office of Productivity, Technology and Innovation, one Confidential Assistant. Effective April 16, 1982.

In the Department of Commerce, Economic Development Administration, one Special Assistant for Public Affairs. Effective April 19, 1982.

In the Department of Commerce, International Trade Administration, one Special Assistant to the Deputy Assistant Secretary for Import Administration. Effective April 1, 1982.

In the Department of Commerce, one Confidential Assistant to the Special Assistant to the Secretary. Effective April 8, 1982.

In the Department of Commerce, International Trade Administration, one Confidential Assistant to the Assistant Secretary for International Economic Policy. Effective April 28, 1982.

In the Consumer Product Safety Commission, one Secretary (Typing) to the Special Assistant to the Chairman. Effective April 1, 1982.

In the Consumer Product Safety Commission, one Supervisory Public Affairs Specialist. Effective April 26, 1982.

In the Department of Defense, one Special Assistant to the Deputy Assistant Secretary of Defense (Civilian Personnel Policy). Effective April 1, 1982.

In the Department of Defense, one Special Assistant to the Assistant

Secretary of Defense (International Security Policy). Effective April 1, 1982.

In the Department of Defense, one Special Assistant to the Assistant Secretary of Defense (Public Affairs). Effective April 19, 1982.

In the Department of Defense, one Deputy Assistant to the Secretary and Deputy Secretary of Defense. Effective April 12, 1982.

In the Department of Defense, one Special Assistant to the Deputy Assistant Secretary of Defense (Near Eastern, African, and South Asian Affairs). Effective April 15, 1982.

In the Department of Defense, one Staff Assistant to the Deputy Assistant Secretary of Defense (European and NATO Policy). Effective April 27, 1982.

In the Department of Education, one Confidential Assistant to the Director of the National Institute of Education. Effective April 1, 1982.

In the Department of Education, one Personal Assistant to the Deputy Under Secretary for Management. Effective April 1, 1982.

In the Department of Education, one Special Assistant to the Comptroller. Effective April 12, 1982.

In the Department of Education, one Confidential Assistant to the Director of Billingual Education and Minority Language Affairs. Effective April 12, 1982.

In the Environmental Protection Agency, one Special Assistant to the Regional Administrator (Philadelphia). Effective April 13, 1982.

In the Environmental Protection Ageny, one Assistant Director for State/Indian Affairs. Effective April 12, 1982.

In the Environmental Protection Ageny, one Special Assistant to the Associate Administrator, Office of Policy and Resources Management. Effective April 12, 1982.

In the Environmental Protection Agency, one Special Assistant to the Regional Administrator (Dallas). Effective April 21, 1982.

In the Department of Health and Human Resources, one Confidential Secretary to the Chief of Staff. Effective April 1, 1982.

In the Department of Health and Human Services, one Confidential Secretary to the General Counsel. Effective April 19, 1982.

In the Department of Health and Human Services, one Special Assistant to the Director, Office of Program Coordination and Review. Effective April 22, 1982.

In the Department of Housing and Urban Development, one Staff Assistant to the Assistant to the Secretary for Public Affairs. Effective April 1, 1982.

In the Department of Housing and Urban Development, one Intergovernmental Relations Officer. Effective April 26, 1982.

In the Department of Housing and Urban Development, one Staff Assistant to the Assistant Secretary for Fair Housing and Equal Opportunity. Effective April 22, 1982.

In the Department of Housing and Urban Development, one Staff Assistant to the Deputy Assistant Secretary for Multifamily Housing Programs. Effective April 6, 1982.

In the Department of the Interior, one Special Assistant to the Assistant Secretary for Indian Affairs. Effective April 9, 1982.

In the Department of the Interior, one Special Assistant to the Director, Office of Water Policy. Effective April 9, 1982.

In the Department of the Interior, one Special Assistant to the Assistant Secretary for Territorial and International Affairs. Effective April 27, 1982.

In the International Communication Agency, one Staff Assistant to the Special Assistant, Private Sector Liaison. Effective April 15, 1982.

In the International Communication Agency, one Staff Assistant to the Director. Effective April 27, 1982.

In the International Communication Agency, one Staff Assistant to the Director, Office of Public Liaison. Effective April 15, 1982.

In the Department of Justice, one Special Assistant (Security) to the Commissioner, Immigration and Naturalization Service. Effective April 9, 1982.

In the Department of Justice, one Staff Assistant to the Director, Office of Public Affairs. Effective April 27, 1982.

In the Department of Justice, one Secretary (Stenography) to the Assistant Attorney General, Office of Legislative Affairs. Effective April 2, 1982.

In the Department of Justice, one Staff Assistant to the Assistant Attorney General, Antitrust Division. Effective April 19, 1982.

In the Department of Justice, one Special Assistant to the Director, Office of Public Affairs. Effective April 28, 1982.

In the Department of Labor, one Research Assistant to the Deputy Under Secretary for Legislation and Intergovernmental Relations. Effective April 7, 1982.

In the Department of the Navy, one Staff Assistant to the Deputy Under Secretary (Financial Management). Effective April 1, 1982.

In the Small Business Administration, one Confidential Program Assistant to the Special Assistant. Effective April 21, 1982.

In the Small Business Administration, one Special Assistant to the Administrator. Effective April 22, 1982.

In the Department of State, one Special Assistant to the Assistant Secretary, Bureau of International Narcotics Matters. Effective April 12, 1982.

In the Department of State, one Secretary (Stenography) to the Chairman. Effective April 12, 1982.

In the Department of Transportation, one Staff Assistant to the Assistant Secretary for Governmental Affairs. Effective April 16, 1982.

In the Department of Transportation, one Staff Assistant to the Director, Office of Civil Rights. Effective April 12, 1982.

In the Department of Transportation, one Special Assistant to the Federal Highway Administrator. Effective April 15, 1982.

In the Department of Transportation, Urban Mass Transportation Administration, one Special Assistant to the Administrator. Effective April 8, 1982.

In the Department of Transportation, National Highway Traffic Safety Administration, one Director, Executive Staff to the President's Commission on Drunk Driving. Effective April 13, 1982.

In the Department of Transportation, Federal Railroad Administration, one Special Assistant to the Administrator. Effective April 27, 1982.

In the Department of Treasury, Customs Service, one Executive Assistant to the Special Assistant to the Commission, Legislative and Public Affairs. Effective April 28, 1982.

In the Department of Treasury, Office of the Comptroller of the Currency, one Staff Assistant to the Senior Deputy Comptroller. Effective April 8, 1982. The following exceptions are revoked:

In ACTION, Office of Policies and Plans, one Deputy Assistant Director; revoked effective April 16, 1982, because the position no longer exists.

In the Department of Agriculture, one Confidential Assistant to the Director of Economics, Policy Analysis, and Budget; revoked effective April 30, 1982, because the position no longer exists.

In the Department of Agriculture, one Confidential Assistant to the Administrator; revoked effective April 16, 1982, because the position no longer exists.

In the Department of the Army, one Staff Assistant to the Deputy Director; revoked effective April 25, 1982, because the position no longer exists.

In the Department of Commerce, one Special Assistant to the Assistant Secretary; revoked effective April 16, 1982, because the position no longer exists.

In the Department of Commerce, one Special Assistant to the Director, Bureau of Census; revoked effected April 17, 1982, because the position no longer exists.

In the Commission on Civil Rights, one Secretary (Stenography) to the Staff Director; revoked effective April 28, 1982, because the position no longer exists.

In the Department of Defense, one Special Assistant to the Assistant Secretary for Public Affairs; revoked effective April 3, 1982, because the position no longer exists.

In the Department of Education, one Special Assistant to the Assistant Secretary for Vocational and Adult Education; revoked effective April 17, 1982, because the position no longer exists.

In the Department of Education, one Executive Assistant to the Assistant Secretary for Planning and Budget; revoked effective April 17, 1982, because the position no longer exists.

In the Department of Energy, one Confidential Assistant to the Director, Congressional and Public Affairs; revoked effective April 3, 1982, because the position no longer exists.

In the Department of Energy, one Deputy Assistant Secretary, Congressional, Intergovernmental and Public Affairs; revoked effective April 3, 1982, because the position no longer exists.

In the Department of Energy, one Staff Assistant to the Special Assistant to the Secretary, Programs and Policies; revoked effective April 3, 1982, because the position no longer exists.

In the Environmental Protection Agency, three Congressional Relations Officers; revoked effective April 5, 1982, because the positions no longer exist.

In the Department of Housing and Urban Development, one Special Assistant to the Assistant Secretary of Administration; revoked effective April 15, 1982, because the position no longer exists.

In the Department of Housing and Urban Development, one Special Assistant to the Secretary; revoked effective April 10, 1982, because the position no longer exists.

In the Department of Housing and Urban Development, one Secretary (Stenography) to the Under Secretary; revoked effective April 10, 1982, because the position no longer exists.

In the Department of the Interior, one Special Assistant (Legislative Liaison) to the Assistant Secretary for Indian Affairs; revoked effective April 16, 1982, because the position no longer exists.

In the Department of the Interior, one Special Assistant to the Director, Congressional and Legislative Affairs; revoked effective April 17, 1982, because the position no longer exists.

In the Department of the Interior, one Assistant to the Executive Assistant to the Secretary; revoked effective April 17, 1982, because the position no longer exists.

In the Department of the Interior, one Confidential Assistant to the Director; revoked effective April 7, 1982, because the position no longer exists.

In the Department of the Interior, one Special Assistant to the Assistant Secretary for Territorial and International Affairs; revoked effective April 3, 1982, because the position no longer exists.

In the International Communication Agency, one Special Assistant to the Associate Director for Management; revoked effective April 16, 1982, because the position no longer exists.

In the International Communication Agency, one Counsellor for Press and Public Affairs; revoked effective April 2, 1982, because the position no longer exists.

In the International Communication Agency, one Secretary (Stenography) to the Associate Director for Educational and Cultural Affairs; revoked effective April 15, 1982, because the position no longer exists.

In the Department of Labor, one Assistant to the Deputy Under Secretary; revoked effective April 3, 1982, because the position no longer exists.

In the Department of Labor, one Special Assistant to the Assistant Secretary for Labor Management Services; revoked effective April 16, 1982, because the position no longer exists.

In the Small Business Administration, one Special Assistant to the Associate Administrator; revoked effective April 9, 1982, because the position no longer exists.

In the Department of State, one Secretary (Stenography), revoked effective April 17, 1982, because the position no longer exists.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 82-14508 Filed 5-27-82; 8:45 am]

BILLING CODE 6325-01-M

Proposed Extension of Forms Submitted to OMB for Review

AGENCY: Office of Personnel Management.

ACTION: Notice of proposed extension of forms.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980, this notice announces a proposed extension of forms which collect information from the public. Standard Form (SF) 171, Personal Qualifications Statement, SF 171–A, Continuation Sheet for Standard Form 171, SF 172, Amendment to Personal Qualifications Statement, and SF 173, Job Qualification Statement, are completed by applicants for Federal positions throughout the Government. Federal agencies use the information to determine the qualifications of applicants. For copies of this proposal, call John P. Weld, Agency Clearance Officer, on (202) 632–7720.

DATES: Comments on this proposal should be received on or before June 7, 1982.

ADDRESSES: Send or deliver comments to: John P. Weld, Agency Clearance Officer, U.S. Office of Personnel Management. 1900 E Street, NW., Room 6H28. Washington, D.C. 20415 and Mr. Robert Veeder, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Larry Lorenz, 254–3074, Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 82-14637 Filed 5-27-82; 8:45 am]

BILLING CODE 6325-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments must be received on or before June 11, 1982. If you anticipate commenting on a submission but find that time to prepare will prevent you

from submitting comments promptly, you should advise the OMB reviewer and the agency clearance officer of your intent as early as possible.

COPIES: Copies of the proposed form, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letters, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Elizabeth M. Zaic, Small Business Administration, 1441 L St., NW., Room 200, Washington, D.C. 20416, Telephone: (202) 653–8538

OMB Reviewer: J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395–7313

List of SBA Forms Submitted for Review

The following list includes all SBA submissions since publication of the last listing on January 28, 1982 at 47 FR 4186:

BILLING CODE 8025-01-M

1. Title of reporting or recordkeeping requirement	Statement of Personal History (for use by non-bank) lenders)	Pollution Control Procedure for Guarantee Application	13 CFR 112.9 and 113.5	Surety Bond Guarantee
2. Name and phone number of issuing office	Office of Lender Relations & Certification, 202-653-6991	Pollution Control Branch, 703-235-2902	Civil Rights Compliance Division, 202-653-6054	Office of Special Guarantees Surety Bond Branch, 703-235-2907
3. Applicable SBA form numbers	SBA 1081	SBA 1136, 1136A	SBA 707	SBA 912, 990, 994, 994B, 994F, 994H, 994J
4. Number of forms in request	1	2		7
5. Frequency of use	On Occasion	On Occasion	On Occasion	On Occasion
6. Type of Affected Public	Financial corporations seeking certification to make loans under SBA guaranty program	Small business manufacturing, waste disposal & resource recovery companies	SBA loan recipients	Small contractors requesting assistance
7. Are Small Businesses Affected	Yes	Yes	Yes	Yes
8. Standard Industrial Classification (SIC) Codes of respondents	611, 612, 613, 615	Multiple	Multiple	Multiple
9. Estimated Number of Responses	100	500	50,000	34,000
10. Estimated burden hours:				
Per Response	2	.5	5 min.	1
Total	200	250	4,167	34,000
11. Costs:				
To the Public	$5,600	$5,000		
To the Federal Government	$1,000			
12. Applicable Federal budget functional category	376	376	376	376
13. Nature of request	New	Extension (No Change)	New	Reinstatement
14. Rulemaking submission under Section 3504(h) of P.L. 96-511	No	No	No	No
15. Abstract	This form is used according to 13 CFR 120.4(a)(2) to collect information on principals of corporations seeking certification.	The regulations & forms provide basis for evaluating ability to meet requirements of P.L.94-305.	These regulations require loan recipients to collect and maintain data relative to civil rights compliance. Less than .5% of recipients annually are now required to submit the information on SBA 707.	This information is used to evaluate capabilities for potential success of applicants requesting assistance under Surety Bond Guarantee Program.

1. Title of reporting or recordkeeping requirement	SBDC Project Officer	13 CFR 120.5(b)(6) and	13 CFR 107.1102	Application for Membership

1. Title of reporting or recordkeeping requirement	SBDC Project Officer Checklist	13 CFR 120.5(b)(6) and (b)(7) and 120.6	13 CFR 107.1102	Application for Membership in Small Business Production or Research and Development Pool
2. Name and phone number of issuing office	Office of Management Assistance, 202-653-6084	Office of Lender Relations and Certification, 202-653-6991	Investment Division, 202-653-6782	Office of Procurement and Technology Assistance, 202-653-6485
3. Applicable SBA form numbers	SBA 59	N/A	N/A	SBA 419
4. Number of forms in request	1	N/A	N/A	1
5. Frequency of use	Quarterly	On Occasion	On Occasion	On Occasion
6. Type of Affected Public	Small Business Development Centers	Financial Corporations that lend money to small businesses with SBA loan guarantees	Small Business Investment Companies licensed by SBA	Small businesses with potential for meeting Federal contracting requirements
7. Are Small Businesses Affected	Yes	Yes	Yes	Yes
8. Standard Industrial Classification (SIC) Codes of respondents	Multiple	615	Multiple	Multiple
9. Estimated Number of Responses	80	1200	3045	50
10. Estimated burden hours:				
Per Response	1	1.2	.25	2
Total	80	1000	761	100
11. Costs:				
To the Public	$1,231			$1,000
To the Federal Government	$1,000			$250
12. Applicable Federal budget functional category	376	376	376	376
13. Nature of request	New	New	New	New (Expired more than 6 months ago)
14. Rulemaking submission under Section 3504(h) of P.L. 96-511	No	No	No	No
15. Abstract	This form is used for quarterly reporting by SBDC to SBA as required under cooperative agreement between SBDC and SBA.	This form is used to ensure that participating non-bank lenders are financially able and administratively capable of lending money to small businesses.	To administer the Small Business Act, it is essential that licensees maintain adequate financial records and that annual statements be prepared.	P.L. 85-536 & 13 CFR 125.4(d) & (e) require SBA to assist and encourage small firms to undertake joint programs for research and development and to form defense production pools.

BILLING CODE 8025-01-C

Dated: May 24, 1982.

Elizabeth M. Zaic,

Chief, Paperwork Management Branch, Small Business Administration.

[FR Doc. 82-14886 Filed 5-27-82; 8:45 am]

BILLING CODE 8025-01-M

TENNESSEE VALLEY AUTHORITY

Time-of-Day Ratemaking Standard and Assignment of Allocation of Benefits of Hydro Power in Residential Rate Design; Extension of Time for Comments

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of extension of time for written comments.

SUMMARY: Notice of opportunity for further comment on the Time-of-Day Ratemaking Standard considered under the Public Utility Regulatory Policies Act of 1978 and on the assignment of the allocation of the benefits of hydro power in residential rate design was published in the **Federal Register** April 15, 1982 (47 FR 16,241). A notice extending the time for written comments and changing the location, date, and time of the oral comment session was published in the **Federal Register** May 4, 1982 (47 FR 19,260).

The purpose of this notice is to announce a further extension of time for submitting written comments. Written comments should now be received by 5 p.m. (EDT) on June 1, 1982.

The oral comment session was conducted on May 10, 1982. Copies of two TVA staff documents containing background material and information on allocation of low-cost power benefits in rate design and on time-of-day rates were made available to the public at that meeting. Copies of all written comments received as of May 10, a transcript of the oral comment session, and copies of the two TVA documents are available for public inspection at the following locations:

Appalachian District Office, TVA, 200 Brookvale Building, Knoxville, Tennessee 37902.

Central District Office, TVA, 1719 West End Building, Nashville, Tennessee 37902.

Kentucky District Office, 111 Hammond Plaza, Hopkinsville, Kentucky 42240.

Memphis-Shelby County Public Library and Information Center, 1850 Peabody Street, Memphis, Tennessee 38104.

Southeastern District Office, 1709 S. Lee Highway, Cleveland, Tennessee 37311.

TVA Technical Library, 100 401 Building, 401 Chestnut Street, Chattanooga, Tennessee 37401.

Western District Office, TVA, First Tennessee Bank Building, North Branch, Fourth Floor, 620 Old Hickory Boulevard, Jackson, Tennessee 38301.

Mississippi District Office, TVA, 1014 North Gloster Street, Tupelo, Mississippi 38801.

Alabama District Office, TVA, 501 First Federal Building, Muscle Shoals, Alabama 35660.

ADDRESS: Comments should be sent to: Robert C. Steffy, Jr., Director, Division of Energy Conservation and Rates, Tennessee Valley Authority, 703 Power Building, Chattanooga, Tennessee 37401.

FOR FURTHER INFORMATION CONTACT: Dawn S. Ford, Tennessee Valley Authority, 400 West Summit Hill Drive, EPB6, Knoxville, Tennessee 37902, (615) 632-4402.

Ms. Ford upon written or telephone request will mail copies of the TVA staff documents (entitled "Allocation of Low-Cost Power Benefits and Assignment of Benefits in Rate Design" and "Time-of-Day Rates"). Copies of TVA's April 1, 1981 Determinations on Ratemaking Standards and the Policy Statement on Allocation of Benefits of Low-Cost Power Sources to Residential Consumers adopted on April 1, 1981 are also available upon request.

W. F. Willis,

General Manager.

[FR Doc. 82-14758 Filed 5-26-82; 2:19 pm]

BILLING CODE 8120-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 104
Friday, May 28, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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Federal Mine Safety and Health Review Commission	6
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1

COPYRIGHT ROYALTY TRIBUNAL

DATE AND TIME: 2 p.m., Tuesday, June 15, 1982.

PLACE: Postal Rate Commission, 2000 L Street, N.W., Suite 500, Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:
Commencement of the Cable Royalty Adjustment Proceeding (CRT Docket No. 81-2) hearings and the hearings will continue on such subsequent days as are necessary.

CONTACT PERSON FOR FURTHER INFORMATION:
Commissioner Frances Garcia, Chairman, Copyright Royalty Tribunal, 1111 20th Street, N.W., Washington, D.C. 20036, (202) 653-5175.

May 24, 1982.

Frances Garcia,

Chairman.

[S-807-82 Filed 5-26-82; 3:10 am]

BILLING CODE 1401-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:30 a.m., on Tuesday, June 1, 1982, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and location of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Alan J. Kaplan, Deputy Executive Secretary of the Corporation, at (202) 389-4446.

Dated: May 25, 1982.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[S-802-82 Filed 5-26-82; 11:46 am]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby give that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:00 a.m. on Tuesday, June 1, 1982, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that and item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for consent to change the general character of the bank's business from that of a mutual savings bank to that of a commercial bank pursuant to Part 333 of the Corporation's rules and regulations:

Commonwealth Savings Bank, Milwaukee, Wisconsin.

Request for modification of a condition previously imposed in granting Federal deposit insurance:

Bank of Oakland (In Organization), Oakland, California.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,226-L—The Bank of Bloomfield, Bloomfield, New Jersey
Case No. 45,229-L—State Bank of Clearing, Chicago, Illinois
Memorandum and Resolution re: East Gadsden Bank, Gadsden, Alabama

Reports of committees and officers:

Minutes of the actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.
Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board Directors.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Alan J. Kaplan, Deputy Executive Secretary of the Corporation, at (202) 389–4446.

Dated: May 25, 1982.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[S–803–82 Filed 5–26–82; 11:47 am]

BILLING CODE 6714–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, May 24, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting on less than seven days' notice to the public, of the following matters:

Memorandum re Meetings: Banking Regulatory Reform

Memorandum and Resolution re: Proposed Regulation for Insured Savings Banks on Fair Value Reporting

By the same majority vote, the Board further determined that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: May 25, 1982.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[S–804–82 Filed 5–26–82; 11:48 am]

BILLING CODE 6714–01–M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, May 24, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendation regarding the Corporation's assistance agreements with an insured bank pursuant to section 13(c) of the Federal Deposit Insurance Act.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,197—Central Savings Bank, New York, New York

Case No. 45,255—The Greenwich Savings Bank, New York, New York

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: May 25, 1982.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[S–805–82 Filed 5–26–82; 11:48 am]

BILLING CODE 6714–01–M

6

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

May 25, 1982.

TIME AND DATE: 10 a.m., Wednesday, May 26, 1982.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

CHANGES IN THE MEETING: The following should be deleted:

Oral Argument:

2. Monterey Coal Company, Docket Nos. LAKE 80–413–R and LAKE 81–59.

Meeting:

3. Monterey Coal Company, same as above.

It was determined by a unanimous vote of the Commissioners that Commission business required that the above case be deleted and that no earlier announcement of the deletion was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

[S–806–82 Filed 5–26–82; 2:13 pm]

BILLING CODE 6735–01–M

7

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

TIME AND DATE: June 3, 1982, 9 a.m., Reserves and Reliability Subcommittee.

PLACE: Council's Central Office, 700 Southwest Taylor Street, Suite 200, Portland, Oregon 97205.

MATTERS TO BE CONSIDERED: The purpose of the meeting is to review and discuss the work of ICF, one of the contractors conducting technical studies for the Council in the development of its energy plan.

CONTACT PERSON FOR MORE INFORMATION: (Ms.) Torian Donohoe (503) 222–5161.

Edward Sheets,

Executive Director.

[S–808–82 Filed 5–26–82; 3:47 pm]

BILLING CODE 000–00–M

8

PAROLE COMMISSION

[2P0401]

TIME AND DATE: 2 p.m., Thursday, June 3, 1982.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 13 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission (301) 492–5987.

[S–801–82 Filed 5–26–82; 10:59 am]

BILLING CODE 4410–01–M

federal register

Friday
May 28, 1982

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

California: CA81–5119	May 15, 1981.
District of Columbia: DC81–3040	June 5, 1981.
Maryland: DC81–3040	June 5, 1981.
Virginia: DC81–3040	June 5, 1981.
Colorado: CO82–5104	Feb. 26, 1982.
Iowa: IA81–4096	Nov. 27, 1981.
Hawaii: HI82–5105	Mar. 12, 1982.
Pennsylvania:	
PA81–3051	Sept. 4, 1981.
PA82–3007	Feb. 26, 1982.
Kansas: KS82–4013	Apr. 16, 1982.
Maryland: MD81–3074	Oct. 9, 1981.
Ohio: OH82–2035	May 7, 1982.
Texas: TX81–4054	Aug. 7, 1981.
Wyoming: WY81–6159	Oct. 30, 1981.

Supersedeas Decisions to General Wage Determination Decisions

The number of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Mississippi MS81–1195 (MS82–1030)	Mar. 20, 1981.

Please note that we are changing the format for **Federal Register** wage decisions to coinside with the provisions of All Agency Memorandum No. 132 dated January 29, 1980, which provides that the Department of Labor will discontinue identifying fringe benefits separately. Rather, they will be stated as a composite figure which is the total hourly equivalent value of fringe benefits found to be prevailing. Fringe benefits which can not be stated in monetary terms will be shown in footnotes. This procedure will be phased in gradually.

Signed at Washington, D.C., this 21st day of May 1982.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-30-M

Modification Page 1

DECISION NO. CA81-5119 - Mod. #7
(46 FR 27017 - May 15, 1981)
Alameda, Amador, Calaveras, Contra Costa, Del Norte, El Dorado, Humboldt, Marin, Mariposa, Merced, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Tuolumne, Yolo and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Change:					
CARPENTERS:					
Areas 1 and 2:					
Fringe Benefits only		1.755	1.95	1.35	.17

DECISION NO. DC81-3040 - MOD. #9
(46 FR 30290 - June 5, 1981)
District of Columbia; Maryland - Montgomery and Prince Georges; D. C. Training School; Virginia Independent City of Alexandria, Arlington and Fairfax Counties

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS	15.75	2.79
ELECTRICIANS	15.65	2.28+ 3%
MARBLE SETTERS	15.50	2.585
SHEET METAL WORKERS	15.28	3.52g
SPRINKLER FITTERS (EXCLUDING PRINCE GEORGES AND MONTGOMERY COUNTIES)	16.67	2.75

FOOTNOTE:

g. Employer contributes additional .09 outside of District of Columbia

DECISION NO. CO82-5104 - Mod. #4
(47 FR 8497 - Feb.26, 1982)
El Paso Co., Colorado

	Basic Hourly Rates	Fringe Benefits
Change:		
Asbestos Workers	$16.14	2.52

DECISION NO. IA81-4096 - MOD. #6
(46 FR 58023 - 11/27/81)
Woodbury County, Iowa

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Painters:		
Group 1	$12.88	2.20
Group 2	13.38	2.20
Sheet Metal Workers	15.15	1.99

Modification Page 2

DECISION NO. HI82-5105 - Mod. #3
(47 FR 10948 - March 12, 1982)
Statewide Hawaii

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CHANGE:					
LANDSCAPE and IRRIGATION LABORERS:					
Group 1	$8.18	1.12	.70	.65	
Group 2	7.60	1.12	.70	.65	
Group 3	5.81	1.12	.70	.65	

GROUP 1: Layout and/or installation of all valves, valve boxes, vacuum breakers, low voltage electrical lines, hydraulic or electrical controllers, drinking fountains and other potable water systems, and metallic pipe (copper, brass, galvanized, or similar), and tie-in to main lines including soldering (torch, soldering iron, etc.). Making of pressure test. Operation of hand-held gas, air, or self-powered construction tools and equipment such as Jackhammers, Busters, Mud Guns, Jumping Jacks, Post Hole Diggers, Roto-tillers, Scarifiers, Jackson and similar type Compactors, Barko and similar type tampers, Ramsets, etc. Tree climbers and chain saw tree trimmers. Shooting of grade elevations. Checking of all trees, shrubs, and other plantings for proper size, caliber, and condition. Concrete work (wet or dry), including concrete bucket tending, concrete shipping, concrete grinding and operation of concrete vibrator, concrete pump machine, concrete saw cutter (Hand held or walking type), and concrete mixer. Includes setting of rock, stone, or riprap. Choke setting, signaling, and rigging for equipment operators on job site. Operation of forklifts, flat bed trucks up to and including 2½ tons, drillers, hydro-mulching machines (sprayman and driver), trenchers (Riding type, Davis T-66 and similar) Operation of Cranes (Bantom, Grove, and similar), Hoptos, Backhoes, Light Loaders, Rollers, and Dozers (Case, John Deere, and similar), Trucks requiring Hawaii Public Utilities Commission Type 7 License, and other self-propelled, sit-down operated machines not listed in Group 2.

GROUP 2: Grubbing, excavation (Pick and Shovel), and hand rolling or tamping. Installation of heads, Risers, and PVC or other plastic pipe. Sprigging, handseeding, and planting of trees, shrubs, ground covers, and other planting (Including use of electrically-powered mud guns) and the performance of all other work relating to said planting that is not specifically listed in Group 1 above.

GROUP 3: Landscape and Irrigation Maintenance work performed during the construction phase of work (Preparation/Installation/Planting), also includes the re-planting of trees, shrubs, ground covers, and other plantings that did not "take" or which are damaged (if re-planting requires two or more persons to perform, Group 2 wages shall be paid.)

Modification Page 3

Modification Page 4

Modification Page 3

DECISION NO. PA81-2031 - MOD. NO. 4 (46 FR 44653 - September 4, 1981) Lucerne County, Pennsylvania	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters:		
Remainder of County	$13.94	1.95
Bricklayers:		
Remainder of County	14.25	2.00
Electricians:		
Remainder of County	14.84	2.13+3%
LABORERS:		
Hazleton:		
Laborers	9.39	2.25
Mason tenders including scaffold builders	9.79	2.25
Pneumatic, electric and mechanical tool operators 2" pumps - non-metallic pipelaying and making joint clay, terra cotta, ironstone vitrified concrete, handling of burning torches, asphalt or other hot materials, cement finishers & blasters' helpers, power buggies, walk along hoist	9.49	2.25
Plasterers' tenders, blasters, and wagon drill operators	9.64	2.25
Remainder of County		
Unskilled Laborers	11.87	2.25
Semi skilled laborers, pneumatic and other mechanical tool operators; 2" pump or under, handling and mixing of all material used by masons from stock pile to mason; non-metallic pipelayer & making of joints, clay, terra cotta, ironstone, vitrified concrete, handling of burning torches, asphalt or other hot material, cement finishers and blasters' helpers	12.07	2.25

	Basic Hourly Rates	Fringe Benefits
LABORERS: (CONT'D)		
Plasterers' tenders, blaster, wagon drill operators	12.19	2.25
Mason tenders and scaffold builders	12.27	2.25
Painters:		
Remainder of County		
Brush	11.85	1.80
Tapers	12.51	1.80
Hazardous	13.51	1.80
POWER EQUIPMENT OPERATORS:		
Group 1	15.14	22.6%+a
Group 2	14.85	22.6%+a
Group 3	13.97	22.6%+a
Group 4	13.20	22.6%+a
Group 5	12.72	22.6%+a
Group 6	11.80	22.6%+a
Group 7	15.39	22.6%+a
Group 7-A	15.64	22.6%+a
Group 7-B	15.89	22.6%+a
Roofers:		
Composition and kettlemen	13.30	2.10
Sheet metal workers	14.62	1.85
Soft Floor Layers	11.69	1.95
Sprinkler Fitters	16.92	2.83

DECISION NO. PA82-3007 MOD. NO. 3 (47 FR 8529 - Feb. 26, 1982) Bucks, Chester, Delaware, Montgomery & Philadelphia Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits
ADD:		
Roofers:		
Residential structure of not more than 4 stories re-roofing assistant Zone 1	$8.75	1.90

Modification Page 4

DECISION #KS82-4013-MOD. #4 (47 FR 16519-April 16, 1982) LEAVENWORTH COUNTY, KANSAS	Basic Hourly Rates	Fringe Benefits
CHANGE:		
LABORERS:		
BUILDING CONSTRUCTION		
General Laborers	$8.65	2.10
Power tool operators, compactors concrete breakers, chipping tools, concrete saws, mechanically operated georgia buggy.	8.85	2.10
Mason tenders, plaster tenders, mortar mixers for plasterers, masons and cement finishers, all stocking scaffold, clean up for masons (building & wrecking).	9.05	2.10
Sand and concrete gun nozzleman powderman.	9.15	2.10

DECISION NO. MD81-3074 - MOD. #7 (46 FR 50238 - October 9, 1981) ANNE ARUNDEL (EXCLUDING THE D.C. TRAINING SCHOOL), BALTIMORE AND BALTIMORE CITY, MARYLAND AND FOR HEAVY CONSTRUCTION PROJECT IN HARFORD AND HOWARD COUNTIES, MARYLAND	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Reading which reads MOD. #5 and appeared in the Federal Register on May 14, 1982, to read MOD. #6		

DECISION NO. OH82-2035 - MOD. #1 (47 FR 19893 - 5/7/82) Statewide, Ohio	Basic Hourly Rates	Fringe Benefits
Change:		
Truck Drivers - Zone II:		
Remainder of the State:		
Class V	$13.77	.05 &a
Class VI	13.94	.05 &a
Footnote:		
a. $65.00 per week per employee		

DECISION NO. TX81-4064 - MOD. #4 (46 FR 40487 - 8/7/81) El Paso County, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE		
Sheet Metal Workers	$12.72	1.45+ 3%

DECISION NO. WY81-5159 - MOD. #2 (46 FR 53953 - Oct. 30, 1981) Statewide Wyoming	Basic Hourly Rates	Fringe Benefits
Change:		
Line Construction:		
Change Apprenticeship Training only to read ½ of 1%		

SUPERSEDEAS DECISION

STATE: MISSISSIPPI COUNTIES: ADAMS,AMITE,FRANKLIN,JEFFERSON,LAWRENCE, LINCOLN,PIKE,WALTHALL, AND WILKINSON

DECISION NUMBER: MS82-1030 DATE: DATE OF PUBLICATION

SUPERSEDES Decision No.: MS81-1195 dated March 20, 1981 in 46 FR 17988.

DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION projects consisting of single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING MECHANICS	$9.00	
BRICKLAYERS	8.00	
CARPENTERS	7.50	
CEMENT MASONS	6.00	
DRYWALL FINISHERS	6.78	
DRYWALL HANGERS	6.15	
ELECTRICIANS	7.47	
IRONWORKERS	5.00	
LABORERS:		
Pipelayers	5.50	
Unskilled	4.31	
LATHERS	10.25	
PAINTERS	6.62	
PLASTERERS	10.00	
PLUMBERS & PIPEFITTERS	7.39	
POWER EQUIPMENT OPERATORS:		
Backhoe	$5.00	
Bulldozer	6.55	
Crawler	7.00	
Dragline	5.55	
Scraper	5.75	
Spreader	4.75	
Trenching Machine	5.92	
ROOFERS	6.20	
SHEET METAL WORKERS	5.00	
SOFT FLOOR LAYERS	6.17	
TRUCK DRIVERS	4.31	
WELDERS - Rate for Craft		

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

[FR Doc 82-14324 Filed 5-27-82; 8:45 am]

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federal register

Friday
May 28, 1982

Part III

Department of Agriculture

Food and Nutrition Service

Special Supplemental Food Program for Women, Infants, and Children; Food Delivery Systems

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 246

Special Supplemental Food Program for Women, Infants, and Children; Food Delivery Systems

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This notice issues final rules for the administration of food delivery systems and vendor monitoring in the Special Supplemental Food Program for Women, Infants, and Children (WIC), which would amend program regulations issued July 27, 1979, at 44 FR 44422. Changes made in this rule include: requiring periodic review of vendor qualifications; more detail in vendor agreements; more explicit goals of vendor training; revisions in vendor monitoring requirements; stronger rules on review of food instruments for overcharges or errors; allowance of limiting the number of participating vendors; and allowance of up to half of funds recoverd from vendor overcharges to be used for administrative purposes. These rules would give greater accountability in State agency operations of delivery of benefits to participants. They were designed to decrease vendor errors and abuse and subsequent loss of program funds. In turn, this will increase funds available for participant benefits and will improve WIC Program integrity.

DATES: Effective date: This regulation is effective May 28, 1982.

Implementation Date

The provisions of this final regulation must be implemented by May 28, 1983. This includes requirements to revise vendor agreements to the specified provisions.

FOR FURTHER INFORMATION CONTACT: Barbara Hallman, Supplemental Food Programs Division, USDA–FNS, Alexandria, Virginia 22302, (703) 756–3730. The impact analysis statement describing options considered in developing this rule and the impact of implementing each option is available from Barbara Hallman.

SUPPLEMENTARY INFORMATION: Though the rules presented herein represent final decisions, the Department will accept comments on these rules from interested parties. It is expected that the nature of these comments will be on technical problems which may require adjustment in the regulations and that commenters will base their comments on actual attempts to implement the provisions of the rule. The Department is planning to propose a revision of regulations designed to reduce administrative burdens. Minor revisions in the Food Delivery Regulations could be included in the final version of that regulation based on such comments to these regulations. To be assured of consideration, such comments should be received within the comment period of the above mentioned future proposed regulatory revision.

Classification

This action has been reviewed under Executive Order 12291 and has not been classified major because it does not meet any of the three criteria identified under the Executive Order. This action will not have an annual effect on the economy of $100 million or more nor will it have a major increase in costs or prices for consumers; individual industries; Federal, State or local government agencies; or geographic regions. This action will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

The rule has also been reviewed with regard to the requirements of Pub. L. 96–354. The Administrator of the Food and Nutrition Service has certified that this rule does not have a significant economic impact on a substantial number of small entities.

Overall Purpose of the Regulations

The Special Supplemental Food Program for Women, Infants and Children provides supplemental foods, nutrition education, and access to health services to pregnant, breastfeeding and postpartum women, infants, and children up to age 5. Eligibility must be determined by a health professional on the basis of low income and nutritional risk.

Program regulations allow State agencies to operate three types of systems for delivering prescribed supplemental foods: retail purchase, home delivery, and direct distribution. In a retail purchase system, the WIC local agency gives food instruments to participants which can be redeemed for prescribed foods. The participant redeems this food instrument (in the form of a check or voucher) at an authorized retail vendor, normally a grocery store. When the food instrument is a check, then the vendor can deposit it in his or her bank, which is reimbursed by the State agency. When the food instrument is a voucher, then the vendor must submit the voucher directly to the State agency for reimbursement. In a home delivery system, the WIC agency contracts with a vendor, often a dairy, which delivers the prescribed foods to the participants' homes. In a direct distribution system, the WIC agency itself purchases food, often on the wholesale market, and the participant can pick it up at distribution centers.

Audits and management evaluations have shown problems in the accountability of operations of food delivery systems which could result in loss in program funds. Therefore, the Department issued proposed rules in this area on January 23, 1981, at 46 FR 7878. Subsequently, 159 comment letters were received and analyzed. After due consideration of these comments and other discussions, the Department has decided to issue these final rules. The overall purpose of the regulations is to strengthen accountability in State agency administration of the food delivery systems and to prevent losses of program funds to errors and abuse.

A large number of State agencies and Regional Offices criticized the proposal as too detailed and not necessarily cost-effective. Some felt that if too much attention was given to food delivery administration, then delivery of services to participants could suffer. However, some other State agencies and Regional Offices viewed the proposal as one which would improve program integrity. Local agencies were somewhat more receptive to the proposal, although comments were mixed. Two noteworthy comments were those of the Department's Office of the Inspector General (OIG) and from the Food Marketing Institute (FMI). OIG stated that the proposal responded to many of the problem areas identified in their audits, which were largely responsible for generating these regulations. However, there were some areas, such as reconciliation, which they felt needed strengthening. FMI is a large nationwide organization of retail food stores, a majority of which participate in WIC. FMI commented that the proposal failed to address two major concerns of vendors: (a) Simple and similar procedures for dealing with WIC, and (b) use of checks as food instruments for fast payment.

In response to the comments, the Department has decided to state many of the requirements as goals to be attained, rather than procedures, and to carefully select a few cost-effective procedures to be required. In choosing to state rules in terms of outcomes, rather than procedures, the Department is recognizing that State agencies should

implement requirements which are appropriate to State needs and conditions. This preamble will provide guidance on possible methods to implement many of these requirements. FNS intends to provide assistance to States in helping them design strategies for implementation. In the past 2 years, States have made serious efforts to improve the accountability of food delivery systems, and FNS encourages them to continue their efforts in this area and fully intends to provide assistance in implementation.

Retail food stores play an important role in actual distribution of WIC supplemental foods to participants. FNS acknowledges and appreciates the cooperation of the many conscientious vendors who participate in the program and thereby help improve the nutritional status of members of their communities. The WIC Program benefits vendors not only because of direct contribution of WIC sales, but because WIC participants who go to an authorized store to obtain supplemental foods normally purchase other products at the same time. In return, vendors are expected to maintain accountable behavior in dealing with participants and the WIC Program agencies. This rule clarifies the mutual responsibilities of State agencies and vendors in program operation by such requirements as more detailed vendor agreements.

As mentioned by FMI, it would help vendors to have simple and similar procedures for dealing with WIC participants and agencies. Chain vendors have complained of differing procedures from local agency to local agency; this can result in confusion and increased errors. In designing methods to implement the regulations, State agencies are encouraged to keep these considerations in mind. Improved training may be an appropriate possibility: well-informed participants and vendors can greatly speed check-out procedures and decrease errors in filling out food instruments. The Department encourages State agencies to meet with State vendors and/or vendor associations in discussing procedures to be implemented.

Background and Discussion of Issues

The following are explanations of the rules established in this notice. Where appropriate, these explanations include: a description of comments, reasons for the rule, and guidelines for possible implementation methods. In order to facilitate understanding and readability, the regulatory language has been reorganized somewhat. This preamble discusses substantive policy changes; other requirements remain the same as current WIC Regulations of July 27, 1979.

Vendor Authorization

The Department believes that selective authorization of vendors can be a critical part of providing good services to participants, avoiding vendor abuse and maintaining a manageable number of vendors. Therefore, a number of proposals were made in this area.

It was proposed that application forms be required for all participating vendors to collect information on vendor qualifications. This concept was supported by a majority of commenters, primarily smaller State agencies and local agencies. Opponents, primarily larger State agencies, felt this would create unnecessary paperwork since this information could be collected in other ways. The Department has decided to eliminate this requirement, but notes that a State agency may create and use such an application at its discretion. An application form can be a useful, accountable document which summarizes important vendor characteristics, such as shelf prices of WIC foods, type of store, owner, etc.

It was also proposed that all new vendors have an on-site visit prior to, or at the time of, initial authorization. This was supported by a majority of commenters. The Department has decided to retain this requirement in § 246.10(e)(2). When a new vendor is first entering the WIC Program, this would provide for an opportunity for checking the facilities and providing education about the program. Vendors who have been authorized prior to the State implementation will not be affected by this rule.

The proposal specified that certain criteria be used in reviewing vendor qualifications prior to authorization. While a large majority of commenters supported this rule, this rule will be modified to clarify the responsibilities of State agencies to establish criteria used to assess vendor qualifications and to conduct a periodic review of all vendors' qualifications, at least once every 2 years.

The purpose of the review is to assure that all vendors' qualifications are periodically updated and reviewed to see if their qualifications are still meeting the program's goals. After such reviews, the State agency may decide to terminate certain vendors, add vendors, or seek other modifications. The review of vendor qualifications does not need to include on-site visits; if the State agency can obtain information about vendors by other means, such as by questionnaire, then this can be an office review. The State agency may choose to implement this rule by using 1 or 2 year vendor agreements and scheduling review prior to renewal. Or if the State uses open-ended agreements, then vendors may be terminated for administrative reasons, based on State criteria for review of qualifications (as opposed to fraud).

The State agency is required to establish criteria to be used in reviewing vendor qualifications. Possible criteria could include:

1. The vendor stocks all categories of WIC foods, except formulas.
2. The vendor supplies WIC foods for reasonable prices (e.g., comparable to other stores in the clinic service area).
3. The vendor's location is convenient for participant access.
4. The vendor has satisfactorily complied with prior WIC agreements.

If it so chooses, the State may establish a certain number of authorized vendors per clinic service area or allow one authorized vendor per predesignated number of participants, and allow vendors to compete for the authorized slots. The proposal also specified that a State agency could limit the number of vendors authorized to participate. This was strongly supported by most commenters. The Department will retain this provision in § 246.10(e)(2) with a slight modification based on comments. Current regulations require that there be at least four vendors per clinic service area, unless this was impossible. Commenters recommended deletion of this requirement. The Department has decided to utilize a goal-oriented regulation: the State agency must have an appropriate number of vendors to assure participant convenience and access and to assure that the State can manageably review authorized vendors.

The ability to select vendors which sell at relatively low prices has the potential for reducing food costs without reducing the quality of foods provided. State agencies are strongly encouraged to develop procedures to utilize vendors with lower prices in a manner which does not hinder the principles of market competition.

Under the Regulatory Flexibility Act, Pub. L. 96-354, Federal agencies must consider the impact of their regulations on small businesses. Congress acted to prevent unnecessary Federal regulation of small businesses or unfair impact on small businesses from Federal regulations. Insofar as authorization of food vendors in WIC is a State responsibility, the Department has asked in § 246.10(e)(3) that State agencies consider the impact of authorization decisions on small

businesses. Though there are situations in which a small food vendor should be removed from participation, the Department does not want vendors removed due solely to their status as a small business.

Vendor Agreements

The Department proposed that the maximum length of vendor agreements be limited to 2 years. This was supported by a slight majority of commenters, including several Indian State agencies and local agencies. Opponents included a larger number of large State agencies. Critics cited that renegotiation of agreements can be time-consuming due to delays of the clearance process. The Department has decided to delete this requirement, but encourages States to consider the advantages of time-limited agreements, which are still allowed. As previously mentioned, the substitute for this provision is the requirement of § 246.10(g) for a periodic vendor review, at least once every 2 years.

There were several other general provisions concerning vendor agreements. It was proposed that chain stores be allowed to have one agreement to cover more than one outlet with all outlets specified. Section 246.10(f) retains this, but further clarified that individual outlets can be added or deleted without affecting the remainder of the outlets. The proposal required that copies of the agreements must be kept on file at the State agency. This requirement was deleted in the final regulations in order to avoid duplicative recordkeeping. The proposal allowed two formats for agreements: A standard single document agreement or one which combined application forms with the agreement and which had a permit. The Department has deleted this requirement, but notes that either format is allowable. Finally, the proposal required standard statewide vendor agreements in order to avoid conflicting agreements in different parts of States. This requirement was revised in § 246.10(f)(1) to apply only to retail purchase systems, since home delivery agreements are usually individually negotiated. However, exceptions can be made with State approval. For example, an exception is allowable for military commissaries which may agree only to certain types of contracts.

The proposal also increased the number of provisions of the vendor agreement. The purpose of this was to seek to make the agreement an accountable document which more clearly states mutual obligations of the WIC Program and the participating vendor. Most of the provisions were supported by most commenters and are retained in § 246.20(f)(2).

The provisions that were revised in light of comments are discussed briefly; the remainder are self-explanatory.

One proposed provision required the vendor to provide only approved WIC foods to WIC participants. Based on a comment, this has been clarified in § 246.10(f)(2)(i) to limit provision to approved WIC foods as specified on the food instrument. Another proposal was that the manager of a store agree to be trained in WIC procedures at least once every 2 years. This was consistent with the proposed requirement for vendor training. Since the vendor training rule has been modified in this final regulation, the vendor agreement clause was also modified to have the manager of the store or an authorized representative, such as the head cashier, accept training in WIC procedures. The proposal required home delivery vendors to retain WIC records. This was deleted because the recordkeeping rule has been revised in § 246.10(f)(3) to allow the State or local agency to retain records for 3 years. It was also proposed that either the vendor or State could terminate the agreement for cause with at least 15 days' advance notice. Many wanted more discretion and felt that this was insufficient notice time, so § 246.10(f)(2) (xvii) allows the State agency to establish the advance notice period.

Vendor Training and Guidance

As was discussed above concerning vendor agreements, it was proposed that the manager of a store be trained in WIC procedures at least once every 2 years. This was to ensure a minimal frequency of training for all WIC vendors in order to avoid problems of errors or abuse. A majority of commenters opposed the fixed timeframes. The critics commented that vendor training should be performed as needed; some vendors needed more frequent training while others needed less. In general, the critics wanted the State agency to establish training frequency. Many commenters also mentioned that the manager is not always the appropriate trainee. Often the head cashier or a similar person actually directs check-out procedures.

In response, the Department has decided to state the rule in terms of the desired goals and to allow the State agency to establish procedures. Section 246.10(h) requires States to provide training designed to prevent program errors and abuse and to improve program service. It is important to bear in mind that the purpose of vendor training should not be remedial, but should be preventive. A State which offers training only to vendors who have already demonstrated problems is failing to attain this preventive goal. If there continues to be a high rate of vendor errors in a State, then the State is probably failing to provide adequate training and it should consider increasing the quantity and/or quality of its vendor training. Where possible, the training should also seek to improve vendor capability for program service. The Department is retaining the provision in § 246.10(h)(1) that if a State agency delegates vendor training to local agencies, then it must train local agency staff in effective vendor training methods. This will make sure that there is some consistency in the training provided to vendors across a State.

Vendor Monitoring

Audits and management evaluations have revealed a number of instances of vendor abuse which had gone undetected or uncorrected. The nature of these abuses had varied from relatively minor offenses, such as allowing orange drink instead of orange juice, to more serious, but less frequent offenses, such as providing cash for food instruments. It is clear that many state agencies need to improve vendor monitoring procedures and procedures for sanctioning abusive vendors.

The proposal allowed one of two systems: A high risk or broad range system. In the high risk system, high risk vendors were selected for on-site monitoring if they had a high level of overcharges, errors in redeemed food instruments, or participant complaints. Also, other vendors must be visited at the rate of at least 10 percent of all vendors per year. In the broad range system, at least 35 percent of all vendors were to be monitored each year. A majority of commenters were opposed to the proposals. Major criticisms were that they were inflexible and not necessarily the most efficient methods of monitoring. State agencies wished to have more discretion in developing their own systems. A few commenters supported the proposals or wanted more stringent requirements.

The Department has decided to revise the rules in response to these comments, and also to include provisions for FNS to review results of State efforts in vendor monitoring. Section 246.10(i) requires that a State agency have a system to identify high risk vendors and to ensure monitoring, further investigation, and sanctioning, as appropriate. High risk vendors should be identified on the basis of criteria such as level of overcharges, errors, or

participant complaints. In addition, the State must either (1) Have a system to conduct on-site monitoring of at least 10 percent of the authorized vendors per year, selected on a representative basis, in order to survey the types and levels of vendor abuse and errors, or (2) Submit an alternate representative vendor monitoring plan for FNS approval, based on statistical sampling methods. Finally, the State must summarize the results of the monitoring of high risk representative vendors and of the review of food instruments (see § 246.10(s)(3)) in an annual report and must provide the plans for improvement in the coming year in its State Plan (see § 246.4(a)(14)(v)).

In this rule, it is clarified that there are two required purposes for vendor monitoring: to monitor vendors who are suspected of abuses and to survey vendors in general to assess the types and levels of problems. For the high risk vendor, it is not enough that there be identification and on-site monitoring; there must be procedures for follow-up. If initial efforts reveal probable offenses, further investigation, such as compliance purchases or other strong methods of getting evidence of offenses, should be conducted. Once evidence is collected, sanctions should be levied against abusive vendors. States should seek to aggressively pursue high risk vendors. In addition to aiding program integrity, such pursuit of high risk vendors may result in better claims against vendor overcharges or errors, part of which the State may keep for administrative purposes, in accordance with § 246.12(d).

The on-site monitoring of at least 10 percent of authorized vendors per year, selected on a representative basis, enables the State agency to observe the extent of vendor abuse or errors. This provides a data base for management of potential fraud and abuse. For example, the data could help the State learn whether the criteria used to identify high risk vendors correspond to the problems seen in the field. Finally, monitoring of representative vendors provides for a routine monitoring presence which may prevent vendor abuse. It is the intent of this rule that vendors be selected to fairly represent the variety of types and locations of authorized vendors in the State.

The Department recognizes, however, that there may be circumstances in which the 10 percent minimum is not appropriate. For example, a State with thousands of vendors may be able to sample fewer than 10 percent and still obtain a valid survey. Or after a long period of documented low vendor abuse, a larger State may seek to reduce its vendor monitoring to be more cost-effective. In such cases, the State may apply to FNS for approval of an alternative representative vendor monitoring plan, based on statistical sampling methods.

Section 246.10(i) suggests possible criteria to identify high risk vendors: overcharges, errors in redeemed food instruments and participant complaints. The State agency has discretion to use these or other criteria based on available data or prior experience. A possible system would be to assemble "profiles" of the types of vendors most likely to be abusive and to compare these profiles to known characteristics of participating vendors which were ascertained during the periodic review of vendor qualifications. For example, in the Food Stamp Program, suspect vendors are often detected by the ratio of food stamp transactions to total business volume compared to other neighborhood stores. A high ratio of food stamp business may indicate illicit practices which attract more food stamp business. The Department is also sponsoring several demonstration projects to improve screening for high risk vendors which should improve this aspect of State operations through technical assistance.

Section 246.10(i)(5) requires that summaries of the results of the monitoring of high risk and representative vendors and of the review of food instruments be submitted to FNS within 4 months after the end of each fiscal year, along with plans to improve the systems. Information to be included will vary depending on State and regional needs, but should include items, such as: Number of vendors reviewed; types and levels of problems identified in monitoring visits; number of vendors sanctioned; percent of food instruments with overcharges or errors; and amounts of claims assessed and collected. This information will provide a management data base on vendor fraud and abuse which will allow the State agency to identify and document the levels of problems within its jurisdiction and the efforts it has made to monitor and reduce those problems. For example, based on the review of representative vendors State agencies may be able to better identify characteristics of high risk vendors which will enable better targeting of monitoring and investigation resources. The summaries of monitoring and review of food instruments can serve as a tool to evaluate procedures of vendor monitoring and to show areas of success or areas which need improvement.

There are three areas in which the proposed regulations concerning vendor monitoring were largely maintained. The first is that if a State agency delegates vendor monitoring to local agencies, then the State shall provide training to local agency staff on effective methods of vendor monitoring. While there is no "perfect" system for vendor monitoring, this helps assure some degree of consistency in vendor monitoring efforts. This may be important in developing systems to report results of vendor monitoring.

It has been clarified in § 246.19(c)(1)(ii) that if a State delegates monitoring to local agencies, then it shall evaluate the effectiveness of that monitoring in its management evaluations of the local agencies.

Section 246.10(i)(4) requires minimal documentation of all on-site monitoring visits: Names of both vendor and reviewer; date of review; nature of problems found or the observation that the vendor appears to be in compliance; how the vendor plans to correct deficiencies noted; and the signature of the reviewer. A requirement which was dropped was the signature of the vendor. This requirement was deleted in response to criticisms that this would impede reporting, since some vendors may be reluctant to sign a report which finds them out of compliance. This sub-paragraph also provides examples of allowable methods of on-site vendor monitoring: Compliance purchases, review of cashier check-out procedures; review of inventory records; and review of prices and availability of WIC foods. This clarifies that the purpose of on-site monitoring is very different than that of vendor training. It has been reported that many current monitoring visits are only used to train vendors or to publicize the program. Though monitoring and training may both be accomplished in the same visit, it should be certain that the functions are significantly separate.

In § 246.10(i)(5), the Department is requiring that the State agency have the capability to conduct compliance purchases or shall be able to arrange for other State or local authorities to assume the responsibility. The Department believes that compliance purchases are the strongest method of collecting evidence of vendor fraud and that every State agency should be prepared to conduct one if the situation arises. Some State agencies are already using compliance purchases effectively in collecting evidence of vendor fraud. FNS will be available to provide assistance to State agencies with training in procedures for compliance

investigations and with occasional investigatory aid in cases of special need. But the primary responsibility in this area will remain with the State agency. It has been reported that in some cases investigatory functions reside outside the State agency, and belong to the State Attorney General's office, a welfare fraud unit or to an audit unit. In these case, the State agency may transfer its responsibility to another reliable State or local authority.

Complaints

The proposed regulations specified that States establish systems for handling and documenting vendor and participant complaints. These provisions were supported by a majority of commenters and are covered in § 246.10(j). A slight modification was the addition that complaints of civil rights discrimination must be handled in accordance with § 246.22(c), which deals with discrimination complaints.

Sanctions

Section 246.10(k) seeks to improve State capability in sanctioning abusive vendors. The proposed rules extended the maximum disqualification period for vendors from 1 year to 3 years; the final rule retains this provision. The proposed rule also requires States to have policies which determine the types and levels of sanctions used for different offenses; this was retained. To clarify the types of offenses which are subject to sanctions, the offenses listed in the July 1979 regulations have been included in these final regulations.

Section 246.10(k)(1)(iii) of the final rule also specifies that the State may disqualify a WIC vendor who is disqualified from another FNS program, such as the Food Stamp or Summer Food Service Program. This was requested by a large number of commenters, including OIG. This rule will improve the association of WIC and other FNS vendor compliance and enforcement activities. In order to ensure that vendors are aware of this, it is specified that if a State chooses to use this option, then it must include a warning to this effect in the vendor agreement. As with any other disqualification, any affected vendor may request an administrative appeal. Therefore, the vendor's right to due process is not violated.

In response to comments on the proposed rule, the provisions for participant sanctions are being modified slightly. Section 246.10(k)(2) specifies that actual physical abuse, or threat of physical abuse, of vendor or clinic staff may be grounds for participant disqualification. There have been anecdotal reports of abuse of check-out clerks who refused to aid participants in an illicit transaction and abuse of clinic staff by disgruntled participants whose benefits were denied or delayed. In such cases, it is now clarified that the participant may be disqualified for such abuses. As with other disqualifications, an affected participant may request a fair hearing to appeal a disqualification notice. Further in response to comments, the clause is deleted which allows waiver of disqualification if a health professional determines that a serious health risk will result.

Reconciliation of Food Instruments

In reconciliation, redeemed food instruments are processed to: (1) Adjust accounting of obligated food funds in terms of actual expenditures and (2) Identify the disposition of redeemed food instruments as validly issued, lost, expired, etc. The Department believes that accurate, timely, one-to-one reconciliation is a necessary component of financial management in the WIC Program. The proposed rules made various modifications of rules on reconciliation; these have been slightly revised in § 246.10(n) in light of public comments.

Redeemed food instruments must be identified as: validly issued, lost or stolen, expired, duplicate, voided, or not matching issuance records. This rule clarifies the expectation for reconciliation of food instruments. The identification of status helps to find food instruments which may have been fraudulently obtained and transacted. If a food instrument is identified as duplicate or not matching issuance files, then it might have been fraudulently issued or may have been a victim of key punching or coding errors or lax maintenance of records. States should take care in checking these problems.

Section 246.10(n)(1) requires that reconciliation of a food instrument be achieved within 150 days of the first valid date of the food instrument. Reconciliation should usually be achieved faster than this to convert obligations to expenditures as quickly as possible.

The 150 day timeframe is derived from the maximum time in which a vendor must be paid: 30 valid days for the participant, plus 60 valid days for the vendor, plus 60 days for the State to reimburse the vendor.

According to § 246.10(n)(2) the State agency must be able to demonstrate its capability to reconcile a given redeemed food instrument to certification files. This does not need to be a routine or automated process. But States should be prepared to conduct reconciliation to certification if it is apparent that a redeemed food instrument was improperly issued, e.g., forged.

It was proposed that there be an optional one percent tolerance for unreconciled food instruments. This would allow FNS to waive any possible claim for unreconciled food instruments if they are less than one percent of the number of total redeemed food instruments. A majority of commenters supported this provision; the bulk of opponents sought a higher tolerance level from two to five percent. The Department is retaining the optional one percent tolerance provision. The Department recognizes that there are numerous reasons why a small number of food instruments cannot be reconciled, such a keypunch errors, data misreads, or accidental mutilation of food instruments. In such cases, it is not cost-effective to search the records to identify the disposition of food instruments. However, the Department does encourage all State agencies to take strong measures to resolve systemic problems which impair reconciliation. Therefore, in § 246.18(a), if a State agency can demonstrate that it has made all reasonable management efforts in reconciliation and that 99 percent or more of the food instruments issued are reconciled, then FNS may determine that reconciliation is satisfactorily completed.

Audits have revealed particular problems in the reconciliation of manually-issued food instruments in States which primarily use computer generated food instruments. Many problems appear to stem from slow or inaccurate entry of issuance records which delays subsequent reconciliation with the redeemed food instruments. In order to attain a high level of reconciliation, States may wish to consider developing procedures to aid timely reconciliation of manually-issued food instruments.

Control of Food Instruments

Section 246.10(l) requires that the State control and provide accountability for the receipt and issuance of supplemental foods and food instruments and make sure that there is secure transportation and storage of unissued food instruments. Therefore, State agencies must not only assure procedures for control and security of unissued food instruments at the State level, but must assure that local agencies are also providing such control and security measures. Documentation must be maintained for receipt and issuance of all food instruments. Though these procedures may require special

efforts, they are essential components of accountability.

Proxies

Section 246.10(p) establishes the formal authority to use proxies in the WIC Program. Proxies are already commonly used in WIC to provide for situations in which the participant or parent cannot personally pick up the food instruments. In deciding whether a participant can use a proxy or proxies, consideration should be given to whether there will still be adequate opportunity for nutrition education or health services.

It was proposed that the reasons for allowing proxies must be documented. This was opposed by the large majority of commenters as an unnecessary paperwork requirement. The Department agrees and has deleted this provision.

There are slight changes in the rules regarding training of participants in procedures for using food instruments in §246.10(q). First, proxies (in addition to participants) must receive instructions on the proper use of food instruments. This does not mean that proxies must receive personal training from WIC staff; written instructions or instructions by other means will suffice. The philosophy behind this change is that if proxies are allowed to use food instruments, then they should be trained in their proper use. Second, participants and proxies must be notified that they have the right to complain about improper vendor practices with regard to the WIC Program. It has been reported that participants often are aware of vendor abuses, but are hesitant to report them. This measure should promote use of participant complaints in vendor monitoring.

Conflict of Interest.

The proposal specified that conflict of interest would arise whenever a local or State agency staff person or member of his or her immediate family owned or controlled a significant portion of an authorized food vending business and therefore was prohibited. Commenters observed that the proposed rule would harm rural or isolated areas in which there is a very limited selection of stores. Indian State agencies were particularly concerned that this would prohibit tribally-owned stores from participation although the tribal store may be the only vendor on a reservation. Section 246.10(r) requires the State agency to ensure no conflict of interest between a local agency and a vendor in its jurisdiction. This regulation allows the State agency to use other methods to avoid conflict of interest without necessarily banning such stores from participation.

Design of Food Instruments

Current regulations require that a maximum price be printed on every food instrument. In § 246.10(s)(2)(v) of the final regulations, this is made a State agency option. A majority of commenters, including OIG, favored the State option to print maximum price. Those States who wish to continue printing a maximum price in order to limit their financial liability may do so. Many other States believe that the printing of the maximum price causes some participants or vendors to misinterpret its meaning and to believe that they are entitled to the maximum value. Since the maximum price is usually far in excess of the actual purchase price of supplemental foods, then food instruments may be redeemed for excessive amounts. This regulation also specifies that if a maximum price is used, then the maximum price must be clearly distinguished from the actual purchase value.

There is another modification in the requirements for food instrument design which was adopted in response to comments. Current regulations require printing three dates on each food instrument: the first valid date for the participant, the last valid date for the participant (30 days later), and the last date by which the vendor must redeem it (up to 90 days after the first date). Section 246.10(5)(2)(ii) and (iii) will allow the latter two dates to be pre-printed as being valid for 30 or 90 days after the first valid date for the participant. This would reduce printing costs of food instruments with no serious loss of information. For example, under the current rules, a food instrument could read:

DATE OF ISSUE: 8/3/81
PARTICIPANT MUST USE BY: 9/2/81
VENDOR MUST REDEEM BY: 11/1/81

Under the new rules, it is permissible for a food instrument to read:

DATE OF ISSUE: 8/3/81
THE PARTICIPANT MUST USE THIS VOUCHER WITHIN 30 DAYS OF THE ABOVE DATE. THE VENDOR MUST REDEEM THIS WITHIN 90 DAYS OF THE ABOVE DATE.

Food Instrument Information

The Department proposed that all food instruments be reviewed to detect at least three errors: purchase price missing, vendor identification missing and redeemed past valid dates. As will be discussed later, this rule has been substantially modified.

Nonetheless, the Department still believes in the critical importance of having all necessary information on the food instrument and has decided to issue rules concerning actual purchase price and vendor identification. These rules are based on the proposed review of food instrument provisions and represent modifications made in light of public comments.

Section 246.10(s)(3) requires the State to establish requirements which assure that the actual purchase price is recorded at the time of purchase. Audits and reviews have revealed two common procedural problems in writing actual purchase prices on WIC food instruments. First, some vendors leave the actual purchase price blank and the bank redeems it for maximum value. Second, the vendors do not write actual purchase prices when the purchase is made, but wait until the end of the day to do them all at once. This leads to estimating prices and overcharging. There are various ways a State agency could implement § 246.10(s)(3), such as: (1) requiring the vendor to fill in the actual purchase price prior to the participant's signature at the time of purchase, (2) Requiring the participant to fill in the price prior to signature, or (3) If cash register technology is sufficient, then a store could use cash register tapes to record the actual purchase price at the time of purchase and to write it on the proper food instrument soon after.

Section 246.10(s)(4) requires that a State implement procedures to assure that every redeemed food instrument can be identified to the vendor who redeemed it. If the vendor uses outlets, then the individual outlet must be identified. A reported barrier to reviewing food instruments has been the fact that it is sometimes impossible to learn who redeemed the food instrument. For example, redeemed food instruments may be sent in batches with only the top food instrument completed. In order to reconcile the food instruments, they are rearranged and it is no longer possible to identify the redeeming vendor. Thus, if a later review shows problems which justify claims, then it is not possible to know where to assess the claim. There are various alternative methods which a State agency may select to implement § 246.10(s)(4), such as: (1) Providing all authorized vendors with rubber stamps with the store names or identification numbers, and requiring their use on all redeemed food instruments, (2) Requiring all vendors to write their names or use their own rubber stamp on all redeemed food instruments, or (3)

Continuing to allow batching of food instruments with only the top food instrument completed, if the batches can be retained in their original grouping.

Both of these provisions have been written as goals in which State agencies can use whatever procedures are most effective for their conditions in order to assure that the actual purchase price is recorded properly and that the vendor can be identified.

Review of Food Instruments

The Department proposed that all redeemed food instruments be reviewed for overcharges and errors, including vendor identification missing, purchase price missing and redeemed past valid dates. A large majority of commenters were opposed to these provisions. Critics mentioned that reviews of all food instruments for errors could not be easily automated and would require manual review of a massive number of food instruments which would be extremely expensive and would not be cost-effective. Further, State agencies without automated systems could not easily review all food instruments for possible overcharges. Commenters further noted that it may not be cost-effective to pursue every claim no matter how small and that emphasis should be placed upon assessing claims and sanctioning high risk or high cost abuse.

Therefore, in § 246.10(s)(5) the requirements have been modified to allow State agencies to design and implement systems to detect overcharges and errors, whether by reviewing all, by sampling, or by alternate strategies. As an incentive for strong review and claims efforts, the Department will allow up to 50 percent of all recovered funds from claims against vendors for overcharges or errors to be used for administrative purposes.

Specifically, § 246.10(s)(5)(i) will require that States have systems to review for suspected overcharges and to identify vendors with high levels of overcharges. The computer systems now in use in many States can review all or most food instruments through their price edit functions. States which are not automated can utilize other effective systems of identifying suspected overcharges. It may be more difficult to identify the vendors with high levels of overcharges, but this need not be an automated function. This can be a component of the State's system to identify high risk vendors.

Review of redeemed food instruments for errors is treated similarly in § 246.10(s)(5)(ii). States are required to have systems to detect errors and to reduce the number of errors, where possible. The errors to be reviewed include, at least: vendor identification missing, purchase price missing, participant signature missing, redemption by vendor past valid date and, as appropriate, altered prices. State agencies should handle price alterations with discretion. Although price alterations may be fraudulent, there may also be legitimate price alterations due to clerical errors which were corrected. In order to help distinguish legitimate corrections from illegitimate alterations, State agencies should establish clear procedures to be followed by vendors when correcting price errors. The Department recommends that when prices on food instruments need to be corrected, they be countersigned by the participant. A countersignature shows that the participant is aware of and accepts the correction. It also leaves a relatively stronger audit trail than initials. As with overcharges, State agencies may choose to review all food instruments or to sample.

In States where local agencies are responsible for paying vendors, it is allowable to delegate review responsibilities to the local agencies.

A further provision, § 246.10(s)(5)(iv), will be added to enhance claims collection capability, based on a comment by OIG. If a claim is made against a vendor after the problem food instrument has been paid, then the State may offset future payments to the vendor for the amount of the claim. This provision will only be of use to States which are able to withhold reimbursement, as with voucher systems. Another possible use of this option is where States using a check system require certain suspected vendors (e.g., high risk vendors or vendors under investigation) to submit the food instruments directly to the State for payment rather than depositing the food instruments directly in the bank.

Section 246.10(s)(5)(iii) provides a safeguard for affected vendors. When payment for a food instrument is delayed or denied or a claim is assessed against a vendor, then the vendor will be allowed to correct or justify the overcharge or error. If the State is satisfied with the justification or correction, then the payment will be made or the claim will be cancelled.

Recovery of Vendor Claims

To provide an incentive for effective review of food instruments and claims collection, it was proposed that the State agency be able to use up to 50 percent of recovered vendor claims for administrative purposes. Since these funds originate as food funds, then this can slightly increase the administrative funds available to the State based on its claims collection performance. The primary criticism of this proposal by commenters was that all recovered funds should be available for administrative purposes. Critics cited the accounting problems of dividing funds and the likelihood that the volume of recovered funds would be very small. The Department recognizes these problems, but believes that 50 percent for administrative purposes is a fair allowance. If 100 percent of the recovered funds go to administration, then participants would not benefit from recovered funds. Therefore, the Department is retaining this provision in § 246.12(d). In order that FNS be aware of these funds, they must be reported in routine financial reporting.

It is worth noting two items. It is the intent of this rule that recovered funds be directed to the State WIC Program, not another State agency program. Also, it is not expected that this rule will have a major effect on administrative budgets. The volume of recovered funds is likely to be small and the impact on administrative budgets will not be large, though it will provide an incentive for better collections.

Home Delivery Systems

Proposals were issued to resolve accountability problems encountered in home delivery systems of WIC. In home delivery systems, supplemental foods are delivered directly to a participant's home by a vendor, such as a dairy. About 9 percent of participants nationwide are served by home delivery. Audits revealed that contracts with home delivery vendors were sometimes awarded without competitive bidding. Section 246.10(t)(2) will clarify that selection of home delivery vendors given exclusive contracts in an area must conform to Federal grant administration procedures.

A few provisions were proposed to improve accountability in this area. After analysis of comments, two have been adopted and one has been modified. Section 246.10(t)(3)(i) requires that home delivery vendors be paid only after delivery of foods to participants. Section 246.10(t)(3)(ii) requires routine procedures, at least once a month, to verify the actual delivery of supplemental foods to participants. Payment to vendors need not await this verification. Some commenters were concerned that verification meant that on-site visits must be conducted. This was not the intent. The local agency can, for example, verify delivery by

providing food instruments to the participant which must be given to the delivery person in exchange for food. If the recipient does not personally receive the food package, the delivery person can leave a slip which the recipient subsequently signs and returns to the vendor in a preaddressed mailer. The delivery company would be required to submit these acknowledgment slips to the local agency in order to receive payment.

It was also proposed that home delivery vendors must retain WIC-related records for at least 3 years. Commenters observed that the local agency often retains the records, so that it is unnecessary for the vendor to do so. Therefore, § 246.10(t)(3)(iii) requires that there must be access to records for at least 3 years. If the local agency keeps the records, then it is not necessary for the vendor to do so.

Program Costs

It was proposed that the costs of food instruments used in monitoring be an administrative cost. Commenters pointed to the difficulty of transferring costs from food costs to administrative costs. It is further possible that this would be a deterrent to conducting compliance purchases. Given the small amount of funds concerned and the difficulty of transferring funds, this provision was deleted.

Section 246.12(c)(1) is modified to make the regulations consistent with FNS procedures for authorization for purchase or automated data processing systems. It requires the State agency to notify FNS when it decides to seek computerization. This will allow time for FNS technical assistance and review of proposed systems procurements. All computers, except those used in general management and payroll, are covered under this provision.

This section also includes a reference to 7 CFR Part 3015. This is the Department of Agriculture's Uniform Federal Assistance Regulations, published November 10, 1981, at 46 FR 55636. The uniform regulations incorporate the provisions of OMB Circulars A-102, A-110, A-87, A-21, and A-122, as well as OMB Guidance on Implementation of the Federal Grant and Cooperative Agreement Act of 1977, into one convenient source document applicable to USDA-administered grants and cooperative agreements. Insofar as this incorporates the standing OMB Circulars, they do not represent substantive policy changes.

General Information

Overall, the purpose of this rulemaking is to improve accountability and reduce program costs and losses. Based on comments to the proposed regulations, the final Food Delivery System Regulations achieve a more effective balance between accountability and the exercise of State agency discretion. The Department encourages State agencies to seriously attend to reduction of program costs per participant. Many States have already changed practices with substantial benefits in relation to costs. Improved vendor monitoring, compliance and sanction procedures have not only led to disqualification of abusive vendors, but have prevented abuse from other vendors and have helped keep food package cost low. Competition among retail and home delivery vendors have had a similar effect in other State agencies. Such efforts have enabled these States to help avoid reducing participant services and benefits and to maintain the nutritional integrity of the program.

List of Subjects in 7 CFR Part 246

Food assistance programs, Food donations, Grant programs—social programs, Indians, Infants and children, Maternal and child health, Nutrition, Nutrition education, WIC, Women.

(Child Nutrition Amendments of 1978, Pub. L. 95-627, 92 Stat. 3611 (42 U.S.C. 1786))

PART 246—SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN

Therefore, Part 246 is amended as follows:

1. Section 246.4 is amended by revising paragraph (a)(14)(v) to read as follows:

§ 246.4 State agency plan of program operation and administration.

(a) * * *

(14) * * *

(v) A description of the State agency's system for monitoring food vendors and the State agency's plans for improvement in the coming year;

* * * * * *

2. Section 246.10 is revised to read as follows:

§ 246.10 Food delivery systems.

(a) *General.* This section sets forth design and operational requirements for State and local agency food delivery systems.

(1) The State agency is responsible for the fiscal management of, and accountability for, food delivery systems under its jurisdiction.

(2) The State agency shall design all food delivery systems to be used by local agencies under its jurisdiction.

(3) FNS may, for a stated cause and by written notice, require revision of a proposed or operating food delivery system and shall allow a reasonable time for the State agency to effect such a revision.

(4) All contracts entered into by the State or local agency for the management or operation of food delivery system shall be in conformance with the requirements of A-102, Attachment O.

(b) *Uniform food delivery systems.* The State agency may operate up to three types of food delivery systems: retail purchase, home delivery or direct distribution. Each system shall be uniform within the jurisdiction of the State agency. When used, food instruments shall be uniform within each type of system.

(c) *Free of charge.* Participants shall receive the program's supplemental foods free of charge.

(d) *Compatibility of food delivery system.* The State agency shall ensure that the food delivery system is compatible with delivery of health and nutrition education services to the participants.

(e) *Authorization of food vendors.* Only food vendors authorized by the State agency may redeem food instruments or otherwise provide supplemental foods to participants.

(1) There shall be a documented on-site visit prior to, or at the time of, initial authorization of a new vendor. However, vendors authorized prior to the date of State implementation need not have a documented visit.

(2) The State agency shall authorize an appropriate number and distribution of food vendors in order to assure adequate participant convenience and access and to assure that State or local officials can effectively manage review of authorized food vendors in their jurisdiction. The State agency may establish criteria to limit the number of authorized food vendors in its jurisdiction.

(3) The State agency is encouraged to consider the impact of authorization decisions on small businesses.

(f) *Food vendor agreements.* The State agency shall ensure that all participating food vendors enter into written agreements with the State or local agency. The food vendor agreement shall be signed by a representative who has legal authority to obligate the food vendor. When the food vendor is obligating more than one outlet, then all outlets shall be specified in the agreement. When more than one outlet is specified in the agreement, an individual outlet may be added or

deleted without affecting the remainder of outlets.

(1) In the retail purchase system, a standard vendor agreement shall be used statewide, though exceptions may be made with the approval of the State agency.

(2) The food vendor agreement shall contain the following specifications, although the State agency may determine the exact wording to be used:

(i) In providing supplemental foods to the participants, the food vendor shall only provide the supplemental foods, as specified on the food instrument.

(ii) The food vendor shall provide supplemental foods at the current price or at less than the current price charged to other customers.

(iii) When food instruments are used, the food vendor shall submit those food instruments for payment within the allowed time period and accept food instruments from a participant only within the allowed time period.

(iv) The State agency has the right to demand refunds for charges of more than the actual purchase price for supplemental foods.

(v) The State agency may deny payment to the food vendor for improper food instruments or may demand refunds for payments already made on improper food instruments.

(vi) The food vendor shall not seek restitution from participants for food instruments not paid by the State or local agency.

(vii) The manager of the store or an authorized representative, such as the head cashier, shall agree to accept training on WIC procedures.

(viii) The food vendor shall inform and train cashiers or other staff on program requirements.

(ix) The food vendor shall be accountable for actions of employees in the utilization of food instruments or provision of supplemental foods.

(x) The food vendor shall offer WIC participants the same courtesies as offered to other customers.

(xi) The food vendor may be monitored for compliance with WIC rules.

(xii) During a monitoring visit of a retail vendor, the food vendor shall provide access to food instruments negotiated the day of the review at the request of the reviewer.

(xiii) Retail vendors shall provide access to shelf price records, if available.

(xiv) A vendor who commits fraud or abuse of the program is liable to prosecution under applicable Federal, State or local laws. Under § 246.18 of the regulations, those who have willfully misapplied, stolen or fraudulently obtained WIC funds shall be subject to a fine of not more $10,000 or imprisonment for not more than 5 years or both, if the value of the funds is $100 or more. If the value is less than $100, then the penalties are a fine of not more than $1,000 or imprisonment for not more than 1 year or both.

(xv) The food vendor shall comply with the nondiscrimination provisions of Department regulations (7 CFR Part 15).

(xvi) Neither the State agency nor the food vendor have an obligation to renew the vendor agreement.

(xvii) Either the State agency or the vendor may terminate the agreement for cause after providing advance written notice, of a period to be specified by the State agency.

(xviii) The State agency may disqualify a food vendor for reasons of program abuse. The vendor has the right to appeal a State agency decision pertaining to denial of application to participate or to vendor disqualification.

(xix) The food vendor shall notify the State agency when the vendor ceases operations or ownership changes. The agreement is null and void if the ownership changes.

(3) Other provisions shall be added to the agreements, as decided by the State agency or as necessary, based on paragraphs (k)(1)(iii) or (s)(5)(iv) of this section.

(g) *Periodic review of food vendor qualifications.* The State agency shall conduct a periodic review of the qualifications of all authorized food vendors under its jurisdiction, at least once every 2 years. The State agency shall establish criteria used to assess the adequacy of all food vendor qualifications. Based upon the results of such reviews the State agency shall make appropriate adjustments among the participating food vendors, such as termination of agreements.

(h) *Food vendor training and guidelines.* The State agency shall ensure that training is provided by the State or local agency for participating food vendors. The training shall be designed to prevent program errors or abuse and to improve program service.

(1) When vendor training is delegated to the local agency, the State agency shall provide training to local agency staff on effective vendor training methods.

(2) Food vendors shall be provided with pertinent program information and guidance concerning the authorized supplemental foods, including a list of acceptable brand name products.

(i) *Monitoring of food vendors.* The State agency shall be responsible for the monitoring of food vendors within its jurisdiction. If the State agency chooses to delegate all or part of this responsibility to local agencies, the State agency shall provide training to local agency staff in effective methods of vendor monitoring.

(1) The Stage agency shall design and implement a system to identify high risk vendors and ensure on-site monitoring, further investigation, and sanctioning of such vendors, as appropriate. Criteria for identifying high risk vendors may include such considerations as level and/or severity of suspected overcharges in redeemed food instruments, errors in redeemed food instruments, or participant complaints.

(2) The State agency shall design and implement a system to conduct on-site monitoring visits to at least 10 percent of authorized food vendors per year, selected on a representative basis, in order to survey the types and levels of abuse and errors among participating food vendors and to take corrective action, as appropriate. The State agency may submit an alternate representative vendor monitoring plan, based on statistical sampling methods, for FNS approval.

(3) A summary of the results of the monitoring of high risk and representative food vendors and of the review of food instruments be submitted annually to FNS within 4 months after the end of each fiscal year. Plans for improvement in the coming year shall be included in the State Plan, in accordance with § 246.4.

(4) The following shall be documented for all on-site vendor monitoring visits, at a minimum: names of both vendor and reviewer; date of review; nature of problem(s) detected or the observation that the vendor appears to be in compliance with program requirements; how the vendor plans to correct deficiencies detected; and the signature of the reviewer. Methods of on-site monitoring visits may include, but are not limited to: compliance purchases, review of cashier check-out procedures, review of inventory records, and review of the availability and prices of WIC supplemental foods.

(5) The State agency shall have the capability to conduct compliance purchases to collect evidence of improper vendor practices or shall be able to arrange for this responsibility to be assumed by the proper State or local authorities.

(j) *Participant and vendor complaints.* The State agency shall have procedures which document the handling of complaints by participants and vendors. Complaints of civil rights discrimination shall be handled in accordance to § 246.22(c).

(k) *Participant and vendor sanctions.* (1) The State agency shall establish policies which determine the type and level of sanctions to be applied against food vendors, based upon the severity and nature of the program violations observed, and such other factors as the State agency determines appropriate, such as whether the violation represented repeated offenses over a period of time, whether the offenses represented vendor policy or whether they represented the actions of an individual employee who did not understand program rules, and whether prior warning and an opportunity for correction was provided to the vendor. Vendor offenses which are subject to sanctions shall include at least the following: providing cash, unauthorized foods or other items to participants in lieu of authorized supplementalal foods; charging the State or local agency for foods not received by the participant; and charging the State or local agency more for supplement foods than other customers are charged for the same food item. The State agency shall provide adequate procedures for vendors to appeal a disqualification from participation under the program as specified in § 246.24.

(i) Food vendors may be subject to sanctions in addition, or in lieu of, disqualification, such as claims for improper or overcharged food instruments and the penalties outlined in § 246.16, in case of deliberate fraud.

(ii) The period of disqualification from program participation shall be a reasonable period of time, not to exceed 3 years. The maximum period of disqualification shall be imposed only for serious or repeated program abuse.

(iii) The State agency is allowed to disqualify a food vendor from the WIC Program who is currently disqualified from another FNS Program. If a State agency chooses to use this option, then it shall include a provision to this effect in its vendor agreement, in accordance with paragraph (f) of this section.

(iv) Prior to disqualifying a food vendor, the State agency shall consider whether the disqualification would create undue hardships for participants.

(2) The State agency shall establish procedures designed to control participant abuse of the program. Participant abuse includes, but is not limited to, knowing and deliberate misrepresentation of circumstances to obtain benefits; sale of supplemental foods or food instruments to, or exchange with, other individuals or entities; receipt from food vendors of cash or credit toward purchase of unauthorized food or other items of value in lieu of authorized supplemental foods; and physical abuse, or threat of physical abuse, of clinic or vendor staff. The State agency shall establish sanctions for participant abuse. Such sanctions may at the discretion of the State agency, include disqualification from the program. Warnings may be given prior to the imposition of sanctions. Before a participant is disqualified from the program for alleged abuse, that participant shall be given full opportunity to appeal a disqualification as set forth in § 246.23. At the State agency's discretion, participants may be disqualified for a period not to exceed 3 months.

(3) The State agency shall refer food vendors and participants who abuse the program to Federal, State or local authorities for prosecution under applicable statutes, where appropriate.

(l) *Control of food instruments.* The State agency shall control and provide the accountability for the receipt and issuance of supplemental foods and food instruments. The State agency shall ensure that there is secure transportation and storage of unissued food instruments.

(m) *Payment to food vendors.* The State agency shall ensure that food vendors are promptly paid for food costs. Payments for valid food instruments shall be made within 60 days after receipt of the food instruments. Actual payment to food vendors may be made by local agencies.

(n) *Reconciliation of food instruments.* The State agency shall identify disposition of all food instruments as: validly redeemed, lost or stolen, expired, duplicate, voided, or not matching issuance records. Reconciliation of food instruments shall entail reconciliation of each food instrument issued with food instruments redeemed and adjustment of previously reported financial obligations to account for actual redemptions and other changes in the status of food instruments.

(1) Reconciliation of food instruments shall be performed within 150 days of the first valid date for participant use and shall be in accordance with the financial management requirements of § 246.11.

(2) The State agency shall be able to demonstrate to FNS its capability to reconcile a given redeemed food instrument to valid certification records.

(o) *Not for use in institutions.* The State agency shall ensure that supplemental foods are not issued for use in institutions which serve meals, such as homes for unmarried mothers.

(p) *Recipients of food instruments.* The State agency shall ensure that each participant or representative signs a receipt for supplemental foods or food instruments. This requirement shall not pertain to systems which deliver food instruments by alternate means, such as by mailing. The State agency shall establish uniform procedures which allow proxies designated by participants to act on their behalf. In determining whether an individual participant should be allowed to designate a proxy or proxies, there shall be consideration of whether there are adequate measures for the provision of nutrition education and health services to that participant.

(q) *Instructions to recipients.* The State agency shall ensure that participants and their proxies receive instructions on the proper use of food instruments, or on the procedures for receiving supplemental foods. Participants and their proxies shall also be notified that they have the right to complain about improper vendor practices with regard to program responsibilities.

(r) *Conflict of interest.* The State agency shall ensure that no conflict of interest exists between any local agency and the food vendor or vendors within the local agency's jurisdiction.

(s) *Retail purchase systems.* Retail purchase food delivery systems are systems in which participants obtain supplemental foods by submitting a food instrument to local retail outlets. All retail purchase food delivery systems shall meet the following requirements:

(1) The State agency shall use uniform food instruments within its jurisdiction. The State agency is responsible for the design and printing of the uniform food instruments, and their serialization.

(2) Each food instrument shall clearly bear on its face the following information:

(i) The first date from which the food instrument may be used by the participant to obtain supplemental foods.

(ii) The last date by which the participant may use the food instrument to obtain supplemental foods. This date shall be a minimum of 30 days from the date specified in paragraph (s)(2)(i) of this section or, for the participant's first month of issuance, it may be the end of the month or cycle for which the food instrument is valid. This date may otherwise be printed as being at least 30 days after the date in paragraph (2)(i) of this section.

(iii) An expiration date by which the food vendor is required to submit the food instrument for payment. This date shall be no more than 90 days from the date specified in paragraph (s)(2)(i) of this section. If the date is less than 90 days, then the State agency shall ensure

that the food vendor is able to submit food instruments for redemption within the required time limit without undue burden. This date may otherwise be printed as being no more than 90 days after the date in paragraph (2)(i) of this section.

(iv) A unique and sequential serial number.

(v) At the discretion of the State agency, a maximum purchase price which is higher than the price of the food for which it will be used, but low enough to be a reasonable protection against potential losses of funds. When the maximum value is shown, the space for the actual value of the supplemental foods purchased shall be clearly distinguishable. For example, the words "actual amount of sale" could be printed larger and in a different area of the food instrument than the maximum value.

(3) The State agency shall implement requirements to ensure that the actual purchase price of the supplemental foods is recorded at the time of purchase. For example, the State agency may require that the food vendor write the purchase price on the food instrument prior to the signature of the participant.

(4) The State agency shall implement procedures to ensure that every redeemed food instrument can be identified to the food vendor which redeemed the food instrument. If the vendor utilizes outlets, then all outlets participating in the Program shall be identified. For example, the State agency may require that all authorized food vendors stamp their names on all redeemed food instruments prior to submission.

(5) State agency shall establish procedures to ensure the propriety of redeemed food instruments:

(i) The State agency shall design and implement a system of review of food instruments to detect suspected overcharges and to identify food vendors with high levels of suspected overcharges.

(ii) The State agency shall design and implement a system of review of food instruments to detect errors, including, at least, purchase price missing, participant signature missing, vendor identification missing, redemption by vendor outside of the valid date and, as appropriate, altered prices. The State agency shall implement procedures to reduce the number of errors, where possible.

(iii) When payment for a food instrument is denied or delayed, or a claim for reimbursement is assessed, the affected food vendor shall have an opportunity to correct or justify the overcharge or error. For example, if the actual price is missing, the vendor may demonstrate what price should have been included. If the State agency is satisfied with the correction or justification, then it shall provide payment, or adjust the payment or claim to the vendor accordingly.

(iv) If a claim is assessed against a food vendor after the problem food instrument has been paid, then the State agency may offset future payments to the food vendor for the amount of the claim. If a State agency chooses to utilize this option, then it shall include a provision to this effect in its vendor agreement, in accordance with paragraph (f) of this section.

(6) With justification and documentation, State agencies may reimburse food vendors for food instruments submitted after the expiration date. If the total value of the food instruments submitted at one time exceeds $200.00, reimbursement may not be made without the approval of the FNS Regional Office.

(7) The State agency shall ensure that no more than a 3 month supply of food instruments is issued to any participant at one time and that nutrition education and health services are frequently made available to the participant.

(8) To ensure that nutrition education and health services are frequently available to participants, FNS recommends that, wherever feasible, participants personally obtain their food instruments from the local agency. However, the State agency shall develop guidelines for the delivery of food instruments to participants through means other than direct pick-up of food instruments, such as through the mailing of food instruments.

(i) Food instruments may be mailed or otherwise delivered to participants on a local agency-wide basis only if approved by the State agency, on the basis of hardships which may be encountered by the target population of the local agency such as seasonally inclement weather.

(ii) A local agency may mail, or otherwise deliver, food instruments to an individual on the basis of difficulties of the participant and his or her designated proxy in obtaining the food instruments, for reasons, such as illness, imminent childbirth, or difficulty of access to the local agency. If the initial hardship is resolved, then the mailing or other delivery of the food instruments shall be discontinued.

(t) *Home food delivery systems.* Home food delivery systems are systems in which food is delivered to the participant's home. Systems for home delivery of food shall provide for:

(1) Uniform food instruments, where applicable, which comply with the appropriate requirements set forth in paragraph (s) of this section;

(2) Procurement of supplemental foods in accordance with § 246.17, which may entail measures such as the purchase of food in bulk lots by the State agency and the use of discounts that are available to States. The selection of home delivery vendors that are given exclusive contracts to an area shall conform to requirements of 7 CFR Part 3015; and

(3) The accountable delivery of supplemental foods to participants. The State agency shall ensure that:

(i) Home delivery vendors are paid only after the delivery of supplemental foods to the participants.

(ii) There exists a routine procedure to verify the actual delivery of supplemental foods to participants. At a minimum, such verification must occur at least once a month.

(iii) There is retention of records of delivery of supplemental foods and bills sent or payments received for such supplemental foods for at least 3 years and access of State, local, and/or Federal authorities to such records.

(u) *Direct distribution systems.* Direct distribution food delivery systems are systems in which participants pick up food from storage facilities operated by the State or local agency. Systems for direct distribution of food shall provide for:

(1) Uniform food instruments, where applicable, which comply with the appropriate requirements set forth under paragraph (s) of this section;

(2) Adequate storage and insurance coverage that minimizes the danger of loss due to theft, infestation, fire, spoilage, or other causes;

(3) Adequate inventory control of food received, in stock, and issued;

(4) Procurement of supplemental foods in accordance with Section 246.17, which may entail measures such as purchase of food in bulk lots by the State agency and the use of discounts that are available to States;

(5) The availability of program benefits to participants and potential participants who live at great distance from storage facilities; and

(6) The accountable delivery of supplemental foods to participants.

3. Section 246.12 is amended by revising paragraphs (c)(1), and adding (d) to read as follows:

§ 246.12 Program costs.

* * * * *

(c) * * *

(1) Automated information systems which are required by a State or local agency, except for those used in general; management and payroll, including purchase of automatic data processing hardware or software whether by outright purchase, rental-purchase agreement or other method of acquisition. Approval shall be granted by FNS if the proposed system meets the requirements of this part, A–90 and 7 CFR Part 3015. When a State agency decides to seek computerization, except for use in general management or payroll, it shall inform FNS and seek approval, if required.

* * * * *

(d) *Recovery of vendor claims.* Funds collected by the recovery of claims assessed against food vendors shall be retained by the State agency. The State agency may use up to 50 percent of these funds for administrative purposes and the remainder shall be used to pay food costs. When these funds are used for administrative purposes, such expenditures shall be reported to FNS through routine reporting procedures.

4. In Section 246.18, paragraph (a) is amended by adding two new sentences at the end to read as follows:

§ 246.18 Claims and penalties.

(a) * * * FNS is authorized to establish claims against a State agency for unreconciled food instruments. When a State agency can demonstrate that all reasonable management efforts have been devoted to reconciliation and 99 percent or more of the food instruments issued have been accounted for by the reconciliation process, FNS may determine that the reconciliation process has been completed to satisfaction.

* * * * *

5. In Section 246.19 paragraph (c)(1)(ii) is revised to read as follows:

§ 246.19 Management evaluations and reviews.

* * * * *

(C) * * *

(1) * * *

(ii) In accordance with § 246.10(i), the State agency shall ensure that State or local agency personnel conduct the necessary on-site monitoring visits of high risk and representative vendors. If the State agency delegates vendor monitoring to local agencies, then it shall evaluate the effectiveness of those monitoring visits.

* * * * *

§ 246.23 [Amended]

6. Section 246.23 is amended by removing the word "suspension" and inserting, in its place, the word "disqualification" in paragraphs (a) and (c).

Signed in Washington, D.C. on May 21, 1982.

John W. Bode,

Deputy Assistant Secretary for Food and Consumer Services.

[FR Doc. 82-14627 Filed 5-27-82; 8:45 am]

BILLING CODE 3410-30-M

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federal register

Friday
May 28, 1982

Part IV

Department of Labor

Mine Safety and Health Administration

Nonsubstantive Organizational Amendments and Nomenclature Changes

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 48, 49, 57, 75 and 77

Nonsubstantive Organizational Amendments and Nomenclature Changes

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: The Secretary of Labor has reorganized certain Mine Safety and Health Administration (MSHA) field responsibilities related to education and training. This final rule amends the affected MSHA regulations to conform them to this reorganization.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Acting Director, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203; phone (703) 235–1910.

SUPPLEMENTARY INFORMATION: The Mine Safety and Health Administration has reorganized the Agency's education and training functions. The following responsibilities are affected: administration of miner training programs (30 CFR 48), administration of mine rescue team training programs (30 CFR 49), administration of mine emergency training for metal and nonmetal mines (30 CFR 57.18–28), administration of qualified and certified person programs for coal mines (30 CFR 75.153, 75.160–1, 77.103, 77.107–1), administration of supervisory first aid training programs for coal mines (30 CFR 75.1713–3 and 77.1703) and administration of training at new underground coal mines (30 CFR 75.1721). These functions have been transferred from the Office of Education and Training to the Administrator of Coal Mine Health and Safety and the Administrator of Metal and Nonmetal Health and Safety. Specifically, the functions that were previously the responsibility of the MSHA training centers will now be performed by the MSHA District Managers. Therefore, on all education and training matters, the appropriate District Manager should be contacted. The Office of Education and Training has been redesignated the Office of Education and Policy Development and will be primarily responsible for assuring a consistent overall education and training policy. MSHA believes that this reorganization will result in improved efficiency and effectiveness in the administration of MSHA's training programs. These amendments do not in any way diminish miner health and safety.

I. Rulemaking Procedure

These amendments involve nonsubstantive matters relating to agency management, organization and procedures. Therefore, these amendments are exempt from the notice and comment procedures of 5 U.S.C. 553 under 553(a)(2) and (b)(A).

II. Executive Order 12291, Regulatory Flexibility Act and Paperwork Reduction Act

These amendments relate solely to agency organization, personnel and management. Therefore, this final rule is exempt from the requirements of Executive Order 12291 under Section 1(a)(3) of the Order. These amendments are also exempt from the requirements of the Regulatory Flexibility Act. This final rule contains no paperwork requirements.

III. Drafting Information

The principal persons responsible for the drafting of this final rule are John Honecker, Office of Standards, Regulations and Variances, Mine Safety and Health Administration; and Manuel R. Lopez, Division of Mine Safety and Health, Office of the Solicitor, Department of Labor.

Dated: May 25, 1982.

Ford B. Ford,

Assistant Secretary for Mine Safety and Health.

This final rule amends Chapter I, Title 30, Code of Federal Regulations, Parts 48 and 49 of Subchapter H, Part 57 of Subchapter N, and Parts 75 and 77 of Subchapter O, as set forth below. The amendments are arranged in sequential order as they appear in CFR Title 30. For each amendment, the previous wording (which is removed) of the affected section is stated in the first column and the new wording (which is added) is stated in the second column.

Previous wording	New wording
§ 48.3(b):	
"Chief of the Training Center, MSHA,".	"District Manager".
§ 48.3(c):	
"Chief of the Training Center, MSHA,".	"District Manager".
§ 48.3(d):	
"Chief of the Training Center"	"District Manager".
"Chief of the Training Center"	"District Manager".
"Chief of the Training Center"	"District Manager".
"chief of the training center"	"District Manager".
§ 48.3(e):	
"Chief of the Training Center"	"District Manager".
"Office of Education and Training, MSHA".	"District Manager".
"Chief of the Training Center"	"District Manager".
"Office of Education and Training, MSHA".	"District Manager".
"by the Office of Education and Training, MSHA,".	
"Office of Education and Training, MSHA".	"District Manager".
§ 48.3(h):	
"Office of Education and Training, MSHA,".	"District Manager".
§ 48.3(h)(1):	
"Office of Education and Training, MSHA,".	"District Manager".
"Office of Education and Training, MSHA,".	"District Manager".
"Office of Education and Training".	"Office of Education and Policy Development".
§ 48.3(h)(3):	
"Chief of the Training Center"	"District Manager".
"Training Center Chief"	"District Manager".
§ 48.3(i):	
"Chief of the Training Center"	"District Manager".
"Chief of the Training Center"	"District Manager".
"Chief of the Training Center"	"District Manager".
"Director of Education and Training".	"Administrator for Coal Mine Safety and Health or Administrator for Metal and Non-metal Safety and Health, as appropriate".
"Director of Education and Training".	"Administrator".
"Chief of the Training Center's".	"District Manager's".
"chief of the training center"	"District Manager".
§ 48.3(j):	
"Chief of the Training Center"	"District Manager".
§ 48.3(j)(1):	
"Chief of the Training Center"	"District Manager".
"Chief of the Training Center"	"District Manager".
§ 48.3(j)(2):	
"Chief of the Training Center"	"District Manager".
§ 48.3(l):	
"Chief of the Training Center, MSHA, in".	"District Manager of".
"Training Center Chief"	"District Manager".
§ 48.3(m):	
"Chief of the Training Center or the Director of Education and Training".	"District Manager".
"Chief of the Training Center or the Director of Education and Training".	"District Manager".
§ 48.3(n):	
"Chief of the Training Center or the Director of Education and Training".	"District Manager".
§ 48.4(b):	
"Chief of the Training Center"	"District Manager".
§ 48.5(b)(14):	
"Training Center Chief"	"District Manager".
§ 48.6(b)(8):	
"Training Center Chief"	"District Manager".
§ 48.7(a)(4):	
"Training Center Chief"	"District Manager".
§ 48.8(b)(12):	
"Training Center Chief"	"District Manager".
§ 48.11(a)(5):	
"Chief of the Training Center"	"District Manager".
§ 48.12:	
"Training Center Chief"	"District Manager".
§ 48.12(a):	
"Training Center Chief"	"District Manager".
"Director of Education and Training".	"Administrator for Coal Mine Safety and Health or Administrator for Metal and Non-metal Safety and Health, as appropriate".
"Chief of the Training Center's".	"District Manager's".
§ 48.12(b):	
"Director of Education and Training".	"Administrator".
"Chief of the Training Center"	"District Manager".
"Director"	"Administrator".
§ 48.12(c):	
"Director of Education and Training".	"Administrator".
§ 48.22(a):	
"Chief of the Training Center, MSHA".	"District Manager".

Previous wording	New wording
§ 48.23(c):	
"Chief of the Training Center, MSHA,".	"District Manager".
§ 48.23(d):	
"Chief of the Training Center".	"District Manager".
"Chief of the Training Center".	"District Manager".
"Chief of the Training Center".	"District Manager".
"Chief of the Training Center".	"District Manager".
§ 48.23(e):	
"Chief of the Training Center".	"District Manager".
"Office of Education and Training, MSHA,".	"District Manager".
"Chief of the Training Center".	"District Manager".
"Office of Education and Training, MSHA".	"District Manager".
"by the Office of Education and Training, MSHA,".	
"Office of Education and Training, MSHA,".	"District Manager".
§ 48.23(h):	
"Office of Education and Training, MSHA,".	"District Manager".
§ 48.23(h)(1):	
"Office of Education and Training, MSHA,".	"District Manager".
"Office of Education and Training, MSHA,".	"District Manager".
"Office of Education and Training".	"Office of Education and Policy Development".
§ 48.23(h)(3):	
"Chief of the Training Center".	"District Manager".
"Training Center Chief"	"District Manager".
§ 48.23(i):	
"Chief of the Training Center".	"District Manager".
"Chief of the Training Center".	"District Manager".
"Chief of the Training Center".	"District Manager".
"Director of Education and Training".	"Administrator for Coal Mine Safety and Health or Administrator for Metal and Non-metal Safety and Health, as appropriate".
"Director of Education and Training".	"Administrator".
"Chief of the Training Center's".	"District Manager's".
"Chief of the Training Center".	"District Manager".
§ 48.23(j):	
"Chief of the Training Center".	"District Manager".
§ 48.23(j)(1):	
"Chief of the Training Center".	"District Manager".
"Chief of the Training Center".	"District Manager".
§ 48.23(j)(2):	
"Chief of the Training Center".	"District Manager".
§ 48.23(l):	
"Chief of the Training Center, MSHA, in".	"District Manager of"
"Training Center Chief"	"District Manager".
§ 48.23(m):	
"Chief of the Training Center or the Director of Education and Training".	"District Manager".
"Chief of the Training Center or the Director of Education and Training".	"District Manager".
§ 48.23(n):	
"Chief of the Training Center or the Director of Education and Training".	"District Manager".
§ 48.24(b):	
"Chief of the Training Center".	"District Manager".
§ 48.25(a):	
"Chief of the Training Center".	"District Manager".
"Training Center Chief"	"District Manager".
§ 48.25(b)(13):	
"Training Center Chief"	"District Manager".
§ 48.25(b)(6):	
"Training Center Chief"	"District Manager".
§ 48.27(b)(4):	
"Training Center Chief"	"District Manager".
§ 48.28(b)(11):	
"Training Center Chief"	"District Manager".
§ 48.31(a)(5):	
"Chief of the Training Center".	"District Manager".
§ 48.32:	
"Training Center Chief"	"District Manager".
§ 48.32(a):	
"Training Center Chief"	"District Manager".
"Director of Education and Training".	"Administrator for Coal Mine Safety and Health or Administrator for Metal and Non-metal Safety and Health, as appropriate".
"Chief of the Training Center's".	"District Manager's".
§ 48.32(b):	
"Director of Education and Training".	"Administrator".
"Chief of the Training Center".	"District Manager".
"Director"	"Administrator".
§ 48.32(c):	
"Director of Education and Training".	"Administrator".
§ 49.8(a):	
"Office of Education and Training".	"Office of Education and Policy Development".
§ 49.8(b)(4):	
"Office of Education and Training".	"Office of Education and Policy Development".
§ 49.8(d)(2):	
"Office of Education and Training".	"District Manager".
"Office of Education and Training".	"District Manager".
§ 49.8(e):	
"Chief of the Training Center".	"District Manager".
"Training Center Chief"	"District Manager".
"Director of Education and Training".	"Administrator for Coal Mine Safety and Health or Administrator for Metal and Non-metal Safety and Health, as appropriate".
"Director of Education and Training".	"Administrator".
§ 49.8(f):	
"Office of Education and Training, MSHA".	"District Manager".
§ 57.18–28(a):	
"Mine Safety and Health Administration, Division of Education and Training Operations, to give such instruction".	"District Manager of the area in which the mine is located".
§ 57.18–28(b):	
"Mine Safety and Health Administration, Division of Education and Training Operations to give such instructions".	"District Manager of the area in which the mine is located".
"Mine Safety and Health Administration, Division of Education and Training Operations to give such instruction".	"District Manager".
§ 57.18–28(d):	
"Nearest Mine Safety and Health Administration training center".	"District Manager".
§ 57.18–28(e):	
"Mine Safety and Health Administration training center or".	
§ 75.153(c):	
"Training Center Chief of the Training Center".	"District Manager".
"The MSHA Training Districts".	"Coal Mine Safety And Health Districts".
§ 75.153(g):	
"Training Center Chief of the Training District wherein he is employed,".	"District Manager".
§ 75.160–1:	
"Training Center Chief"	"District Manager".
§ 75.1713–3:	
"Training Center Chief"	"District Manager".
"Training Center Chief"	"District Manager".
§ 75.1721(a):	
"Or Training Center Chief as appropriate".	
§ 75.1721(c):	
"Training Center Chief"	"District Manager".
§ 77.103(c):	
"Training Center Chief of any Training Center".	"District Manager".
"The MSHA Training District".	"Coal Mine Safety and Health Districts".
§ 77.103(g):	
"Training Center Chief of the Training District wherein he is employed,".	"District Manager".
§ 77.107–1:	
"Training Center Chief of the Training Center".	"District Manager of the Coal Mine Safety and Health District.".
§ 77.1703:	
"Training Center Chief"	"District Manager".
"Training Center Chief"	"District Manager".

[FR Doc. 82-14658 Filed 5-27-82; 8:45 am]

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federal register

Friday
May 28, 1982

Part V

Department of Labor

Wage and Hour Division, Employment Standards Administration

Office of the Secretary

Procedures for Predetermination of Wage Rates; Final Rule

DEPARTMENT OF LABOR

Wage and Hour Division, Employment Standards Administration

Office of the Secretary

29 CFR Part 1

Procedures for Predetermination of Wage Rates

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: This document provides the final text of regulations, 29 CFR Part 1, for the predetermination of prevailing wage rates under the Davis-Bacon and Related Acts. The method of determining prevailing wage rates has been revised and a provision for the issuance of semi-skilled classifications on wage determinations has been added.

DATES: Effective date: July 27, 1982. See Supplementary Information for dates of applicability.

FOR FURTHER INFORMATION CONTACT: William M. Otter, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Telephone: 202–523–8305.

SUPPLEMENTARY INFORMATION: On December 28, 1979, a proposal was published in the **Federal Register** (44 FR 77026) to make certain revisions to 29 CFR Part 1, Procedures for Predetermination of Wage Rates under the Davis-Bacon and Related Acts. As stated in the proposal, its purpose was to reexamine and revise the procedures in Part 1 for predetermination of wage rates under the Davis-Bacon and Related Acts.

On January 16, 1981, this regulation was published in the **Federal Register** (46 FR 4306) as a final rule with a scheduled effective date of February 17, 1981. However, pursuant to the President's Memorandum of January 29, 1981, the Department published a notice in the **Federal Register** on February 6, 1981 (46 FR 11253), delaying implementation of this regulation until March 30, 1981. The Department subsequently delayed the implementation of this regulation until August 15, 1981 in order to permit reconsideration pursuant to Executive Order 12291. See 46 FR 18973 (March 27, 1981); 46 FR 23739 (April 28, 1981); 46 FR 33514 (June 30, 1981); and 46 FR 36140 (July 14, 1981).

On August 14, 1981, a new regulatory proposal developed in accordance with Executive Order 12291 was published in the **Federal Register** (46 FR 41444), and the previously published rule was further postponed until action could be taken on the new proposal. (See 46 FR 41043.)

Interested persons were afforded the opportunity to submit comments to the Wage and Hour Division withing 60 days after publication of the proposal in the **Federal Register.** Comments were received from approximately 2,200 interested parties, including Members of Congress, contracting agencies, contractor associations, contractors, labor organizations, State and local governmental agencies, business organizations, and individuals. Many comments were received either supporting or opposing the proposal in general. More than 1,000 comments (mostly from construction firms and associations) were directed solely to the issue of helpers in this proposal and a related proposal in 29 CFR Part 5.

Contractor associations and business organizations submitting comments included the Associated General Contractors of America (AGC), the Associated Builders and Contractors, Inc. (ABC), the National Association of Home Builders (NAHB), the Chamber of Commerce of the United States (C of C), the National Association of Manufacturers (NAM), the Business Roundtable, the National Federation of Independent Business (NFIB), the National Utility Contractors Association (NUCA), the Sheet Metal and Air Conditioning Contractors' National Association, Inc. the American Road and Transportation Builders Association, the National League of Cities (NLC), the National Association of Counties, the Council of State Housing Agencies, the National Sand and Gravel Association, and the National Ready Mixed Concrete Association. Labor organizations commenting on the proposal included the Building and Construction Trades Department of the AFL–CIO (BCTD), the Laborers' International Union of North America (LIUNA), the United Brotherhood of Carpenters and Joiners of America (UBC), the International Brotherhood of Electrical Workers (IBEW), the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry (UA), the International Brotherhood of Teamsters (Teamsters), the International Association of Bridge, Structural and Ornamental Iron Workers (Iron Workers), the International Union of Operating Engineers (IUOE), the United Automobile Workers of America (UAW), the Sheet Metal Workers' International Association (SMW), the Operative Plasterers' and Cement Masons' International Association (OPCM), and the International Brotherhood of Painters and Allied Trades (PAT). Among those Federal agencies submitting comments were the Department of Defense of Defense (DOD), the Department of Transportation (DOT), the Department of Energy (DOE), the National Aeronautics and Space Administration (NASA), the U.S. Postal Service (USPS), and the Small Business Administration (SBA).

Discussion of Major Comments

The following is an analysis of all the principal comments received and the corresponding changes, if any, made to the proposed rule. Each submission has been thoroughly reviewed, and each criticism and suggestion has been given careful consideration. For each section and, where appropriate, subsection of the final rule, the analysis contains a description of the major comments, the Department's conclusions regarding those comments, and the substantive changes herein adopted.

Section 1.2(a)—Definition of Prevailing Wage

Numerous comments favoring the proposal to eliminate the 30 percent rule were received from such parties as the AGC, NAM, NLC, USPS, local government agencies, contractors, and State contractor associations. These commentators stated that a rate based on 30 percent does not comport with the definition of "prevailing", and that the 30 percent rule gives undue weight to collectively bargained rates. Commentators also asserted that the 30 percent rule is inflationary because it sometimes results in wage determination rates higher than the average.

Other contractors and associations, while agreeing in principle with the proposal's elimination of the 30 percent rule, asserted that the proposed change in the definition of prevailing wages did not go far enough. Several commentators, including the ABC, NAHB, and the Council of State Housing Agencies, recommended that the weighted average rate be used in all cases. The C of C and some others recommended that the prevailing rate be determined either by eliminating the higher 50 percent of the wage rates paid in a locality and adopting the weighted average of the lower 50 percent of the wages paid, or by adopting the entire

range of wage rates existing in a locality.

The BCTD, a few contractor associations, and some State labor departments commented in favor of retaining the current 30 percent rule for determining prevailing wages. The major arguments made by these commentators were that the term "prevailing" contemplates the most frequently paid actual rate and thus, even the 30 percent rule unduly constricts the meaning of the statutory language; that an average rate is an artificially determined rate and therefore less consonant with the legislative intent than a rate which is actually paid; that the rule has been used by the Department since 1935 and was specifically endorsed by the House Special Subcommittee on Labor in 1962; and that elimination of the rule would disrupt labor relations and harm the competitive standing of unionized firms. The BCTD also asserted that any immediate wage savings would be more than offset by lower productivity, and thus, that overall construction costs would increase.

The Department agrees with the criticisms of the 30 percent rule. However, the Department has rejected the suggestion to define the prevailing wage as the weighted average wage in all cases because the term "prevailing" contemplates that wage determination rates mirror, to the extent possible, those rates actually paid in appropriate labor markets. In addition, the definitions of prevailing wage urged by the C of C are contrary to the prevailing wage concept embodied in the Davis-Bacon Act. Using the average of the lower 50 percent of wage rates paid would exclude the higher 50 percent of wages from consideration and, therefore, could not be considered the prevailing wage. Similarly, adopting the entire range of wages in the locality would permit contractors to pay the lowest wage that exists for a particular classification, rather than the "prevailing" rate.

Based on the comments and our analysis of the statute, we have concluded the term "prevailing wage" contemplates the most widely paid rate as a definition of first choice. The Department has accordingly determined that the revision which defines prevailing wage as the majority, or weighted average where there is no majority, is the most proper interpretation of the statute. Section 1.2(a) is therefore adopted as proposed.

Section 1.3—Wage Data Considered—Use of Wage Data From Projects Subject to Davis-Bacon

The preamble to the proposed regulations solicited comments on whether projects subject to Davis-Bacon wage determinations should be excluded from the Department's wage surveys. Comments were specifically invited on the feasibility of differentiating Federal projects in wage surveys; the feasibility of determining prevailing wages for categories of construction which almost always involve Federal funding, if such projects are excluded; and the feasibility of differentiating projects where the contractor would otherwise have paid the wages contained in the wage determination.

Several commentators, including ABC, NAHB, NASA, and DOE, favored excluding Federal projects from wage surveys in all cases, although they did not comment specifically on the feasibility of such an exclusion. These commentators asserted that the Act was intended to require contractors to pay, at a minimum, those rates found to be prevailing on *private* construction projects in the area in which the federal work is to be performed. These commentators argued that including wage data from construction projects subject to the Act in surveys skews the survey results upward. DOT commented that it saw no problem in excluding wages paid on Federal projects from surveys. It recommended that such data be excluded except in those cases where there is not a sufficient sample of privately financed construction to establish a wage rate.

The BCTD, most building trades unions, the Teamsters, the United Auto Workers, the Minnesota Building and Construction Trades Department, the North Carolina and Iowa Departments of Transportation, the Texas Highway Department, the Texas Heavy-Highway Branch of AGC, and the Colorado Contractors Association opposed the exclusion of Federal wage data. Many of the union commentators asserted that the Act's legislative history shows no Congressional intent to restrict wage surveys to privately financed projects, and that the 1935 amendments extending the Act's coverage to public works implied that Federal projects would be surveyed since the Act requires payment of wages prevailing on projects "of a character similar", and there are few projects of a character similar to public works which are not federally financed.

Most commentators in opposition to the exclusion claimed that, as a practical matter, it would be administratively difficult or even impossible to establish wage determination rates for several types of construction projects that are always or nearly always federally financed, such as highways, bridges, dams, and sewage treatment plants, and for certain craft classifications in rural areas. The MBCTD claimed that it would also be administratively difficult and costly to determine whether a given wage rate would have been paid absent a wage determination, noting that the State of Minnesota had attempted to make such a differentiation in its wage surveys but was unable to do so.

The Department has concluded that, where practicable, it would be appropriate to exclude wage data from Davis-Bacon projects in determining prevailing wages. The Department also believes this result is in accordance with the statutory purpose. Accordingly, § 1.3 has been revised to provide that wages paid on projects subject to the Davis-Bacon Act will not be considered in developing wage determinations for "building" and "residential" projects unless the Department finds that there is not sufficient data from privately financed construction projects of a similar character to determine prevailing wages. We have also concluded that it would not be practical to determine prevailing wages for "heavy" and "highway" construction projects if Davis-Bacon covered projects are excluded in making wage surveys because such a large portion of those types of construction receive Federal financing. The regulation therefore permits the use of such data on these types of projects.

Section 1.6(a)(1)—Expiration Date of Project Wage Determinations

Several commentators, including ABC, AGC, and some State contractor associations, commented in favor of the proposal to extend the expiration date of project wage determinations from 120 days to 180 days.

The BCTD, the Teamsters, the UAW, and others opposed this proposed change, claiming that extending the duration of project determinations will increase the likelihood that rates contained in wage determinations will be out of date before the start of construction.

Extending the life of project wage determinations to 180 days will reduce the need for recompetition and other procurement delays caused by the expiration of such determinations after bid opening. Also, as a practical matter, it is the Department's experience that

most such determinations are used within a shorter period of time. Accordingly, this proposal is deemed reasonable and is adopted.

Section 1.6(b) and Appendix C

Several State chapters of AGC objected to the categorization of construction in proposed Appendix C (which embodies the substance of All Agency Memoranda Nos. 130 and 131) on the ground that it would amount to an imposition of standards that are nationwide in scope, ignoring local area construction practices. A few contractor associations stated that the categories of construction overlapped. Some associations disagreed with the proposed categorization of certain types of work. Contractor groups also suggested that the regulations require agencies to state specifically in the contract which schedule of wage rates is applicable.

The Department has reconsidered the advisability of including in the regulations the specific guidelines of All Agency Memoranda Nos. 130 and 131. It has concluded that the best interests of all concerned parties would be more fully served by retaining the Memoranda as guidelines rather than as regulations. However, in the near future the Department will amend the guidelines and issue a new memorandum to all federal agencies to insure that local practices will be the primary consideration in resolving disputes in this area. The Department will also publish this new memorandum as a notice to the public in the Federal Register.

Section 1.6(b) has also been amended to clarify that contracting agencies are responsible for identifying as specifically as possible the appropriate schedule(s) to be applied to a contract.

Accordingly, Appendix C is deleted from the regulations.

Section 1.6(c)—"10-Day Rule"; "90-Day Rule"

Several commentators, including ABC, NASA, DOE and some State highway agencies, objected to the proposed revisions of the "10-day rule" which would (1) require contracting agencies to accept modifications to wage determinations received less than 10 days before the opening of bids unless the agency finds there is not sufficient time to notify bidders of the modification, and (2) also require the agency to insert a report of such finding in the contract file, and make it available to the Administrator upon request. Most of these commentators recommended that the current "10-day rule" (which requires agencies to use modifications received less than 10 days before bid opening only if it is found that there is sufficient time to notify bidders) be retained, while others recommended that a 20-, 25-, or 30-day rule be adopted.

DOL's policy has been that bid solicitations should contain the most recently issued determination of current prevailing wages which can be included without causing undue disruption of the procurement process. However, in the past, many contracting agencies have declined to use wage modifications received less than 10 days before bid opening, even though there may have been more than sufficient time to notify bidders of the modification prior to bid opening.

The courts have held that the current "10-day rule" imposes an affirmative obligation on the contracting agencies to make a substantive determination as to whether there is sufficient time to notify bidders of modifications received less than 10 days before bid opening. (*Operating Engineers, Local 627* v. *Arthurs*, 355 Supp. 7 (W.D. Okla.), *Aff'd*, 480 F. 2d 603 (10th Cir. 1973).) In view of this obligation and the Department's experience that the agencies often misunderstand that obligation to make such a determination, it was decided that the Act could be better implemented by adopting the proposed revision. DOL also believes that the notification process can be completed in most cases without undue disruption of the procurement process or inflation of bid prices. Of course, it is recognized that there may be cases where an agency will find that it is not feasible to adopt modifications less than 10 days before bid opening. In such cases, the agency would simply be required to document its finding of insufficient time prior to bid opening and incorporate this finding in the contract file. While we have considered the objections to this reporting requirement, we find that written documentation of the agency's finding of insufficient time is in accord with sound administrative practices and does not impose an undue paperwork burden upon the agency.

ABC objected to the "90-day rule", which provides that if a contract to which a general wage determination has been applied has not been awarded within 90 days after bid opening, any modification published prior to contract award would be effective unless the agency has obtained an extension of the 90-day period from the Administrator. ABC asserted that the proposed rule would be disruptive to the procurement process and is beyond DOL authority.

The Department's obligation to insure that the most current determination of prevailing wages is included in contracts subject to the DBA is frustrated by lengthy delays which occur between bid opening and contract award. Further, the regulation permits the agency to request an extension of the 90-day period in cases of undue hardship. Therefore, we believe the "90-day rule" is appropriate.

Since it is the Department's experience that projects assisted under the National Housing Act and section 8 of the U.S. Housing Act of 1937 are not generally competitively bid and since it therefore would be confusing to suggest that the 10-day rule could apply to such projects, the Department has determined upon review that the references to competitive bidding should be deleted from the pertinent paragraphs in § 1.6(c). No other changes are being made in this section.

Section 1.6 (e) and (f)—Incorporation of Wage Determinations and Modifications After Contract Award

A few commentators questioned DOL's authority to require the incorporation of a new wage determination in a contract any time before award (or in some cases, after award) when the agency fails to include any wage determination in a covered contract, or has used an inapplicable wage determination or one that contains substantial errors. DOT, DOE, and NASA asserted that the contracting agency, not DOL, has authority to make determinations of coverage under the Davis-Bacon Act. ABC commented that the provisions in question are disruptive, and that the regulations should contain more specific criteria regarding the circumstances in which DOL would exercise its authority to incorporate new wage determinations.

The BCTD, several building trades unions, the Teamsters, and the UAW objected to the provision in § 1.6(f) that corrective action to include the proper wage determination after contract award would occur only if the contractor is compensated, in accordance with applicable procurement law, for any increase in wages resulting from such action, asserting that the agencies could use this provision to resist post-award amendment of any contract which contains an invalid wage determination.

Since the Davis-Bacon Act requires that all covered contracts contain an applicable wage determination, DOL must provide some mechanism for the incorporation of proper wage determinations in covered contracts after contract award. The Department's authority in this regard, including the

authority to determine questions of coverage under the Act, is derived from the Act as well as from Reorganization Plan 14 of 1950.

With respect to the ABC comment, the Department agrees that the provision in § 1.6(e)(2) permitting withdrawal of wage determinations containing "substantial errors" without regard to the 10-day rule is not sufficiently specific. Accordingly, § 1.6(e)(2) is revised to permit such withdrawals only as a result of a decision by the Wage Appeals Board.

As to the comments from labor organizations, we believe it would be inequitable to require corrective action after contract award if the contractor would be financially harmed in rectifying a Government error. Nor should contracting agencies be placed in the position of contravening procurement law. The regulation contemplates that the agencies will find a method to incorporate a proper wage determination in a contract and compensate a contractor, where appropriate, which is in accord with procurement law. Accordingly, no changes are made in § 1.6(f).

Section 1.7(b)—Scope of Consideration

Numerous commentators, including AGC, ABC, NLC, NAHB, State contractor associations, and individual contractors, agreed with the proposal to prohibit the use of wage survey data obtained from a metropolitan area in issuing a wage determination for a rural area, and vice versa. Their rationale was that this provision would prevent the "importation" of generally higher metropolitan wages into lower paid rural areas. NUCA commented that in the past, such importation has disrupted labor relations in rural areas, because employees who received high wages on a Davis-Bacon project were unwilling to return to their usual pay scales after the project was completed.

The BCTD and many individual building trades unions opposed the blanket prohibition. Several of these commentators stated that there is a need to retain flexibility in certain cases when wage data are unavailable in the rural area where the work will be performed, and that "importing" rates from nearby metropolitan areas in such cases is justified because workers from metropolitan areas often perform the work due to a shortage of skilled labor in the vicinity of the project.

Several commentators, including the AGC and some of its local chapters, noted that the definition of "area" in § 1.2(b) of this part includes political subdivisions smaller than the county, and claimed that our reliance in § 1.7(a) on the county as the normal survey area is not consistent with the intent of the Davis-Bacon Act. They suggested that DOL consider smaller local civil subdivisions within the county as the basis for making wage determinations. Other commentators, including the Texas Highway Department, the Texas Heavy-Highway Branch of AGC, and the Carolinas Branch of AGC, urged the Department to expand the area of consideration to the Standard Metropolitan Statistical Area or some other larger area, in cases where the same wage pattern exists throughout the area.

The Department has determined that its past practice of allowing the use of wage data from metropolitan areas in situations where sufficient data does not exist within the area of a rural project is inappropriate. Therefore, the prohibition proposed against this practice is adopted.

In response to the union comments, the Department notes that if sufficent data is not available from contiguous rural counties, it would be obtained from other rural counties in the State, and if, as these comments suggested, large numbers of workers from metropolitan areas typically work at higher metropolitan wage rates on projects in rural areas, those higher wages would be found and receive proper weight in surveys of wages paid in such areas.

With respect to comments on the size of the survey area, experience has demonstrated that the standard, but not inflexible, practice of using the county as the area of consideration is the most administratively feasible approach to collecting meaningful data. In our view, this practice is in accord with the Act. In answer to the commentators who suggested that we recognize areas larger than one county, where a survey reflects that the same rate in fact prevails in several contiguous counties within a State, a single wage determination may be used for the entire area.

Section 1.7(d)—Helpers

A very large number of commentators, particularly various contractor associations such as ABC and AGC and their affiliates, the NAM, NAHB, the Business Roundtable, the C of C, and numerous individual nonunion contractors, generally favored the proposal to increase recognition of helper classifications. They noted that the proposal reflects the construction industry's actual practice on private projects, and they stated that adoption of the proposal would result in increased job opportunities for youth, women, and minorities.

The building trades unions and some State and local governmental agencies opposed increased recognition of helpers on the grounds that this would undermine formally established apprentice and trainee programs to the determent of minorities and unskilled workers. In their view, it would also lead to shortages of qualified journeymen. Most union groups felt the proposal was contrary to the statute because it allows the use of helpers without a finding that such a classification practice prevails in the area.

The Department currently recognizes a helper classification only where it is a separate and distinct class of workers which prevails in the area, and where the helpers' scope of duties can be differentiated from those of journeymen. The Department has concluded this restrictive approach is inappropriate. Increased recognition of helpers will reflect the widespread industry practice of employing semi-skilled workers on construction projects, including both helpers working in a particular craft and cross-craft or general utility helpers. This will not only result in considerable cost savings to the Government but will result in more job opportunities for unskilled and semi-skilled workers (including youth, women, and minorities) and encourage their use in a manner which provides training. It will enhance productivity by allowing such workers to do tasks requiring more limited skills, thus allowing higher skilled workers to use their skills more effectively. It will also enable more contractors to compete for Government work. (See also the related changes proposed to 29 CFR Part 5 regarding the allowable use of helpers and the discussion of comments received thereon.)

Accordingly, § 1.7(d) is adopted with clarifying changes.

In addition to the above, minor editorial and language changes have been made in some sections.

Classification

This rule would not appear to require a regulatory impact analysis under Executive Order 12291 since the changes will result in substantial cost savings annually for both contractors and the Government while still assuring protection of local labor standards. However, because of the importance to the Government and the public of the issues involved, the Department has concluded that the regulation should be deemed a "major rule" for purposes of the Executive Order. It has been determined, in accordance with

Executive Order 12291, that these changes are the most cost-effective regulatory alternatives consistent with the purpose of the statute.

Summary of Final Regulatory Impact and Regulatory Flexibility Analysis

The Department has prepared its final regulatory impact analysis to identify and quantify the cost impact of the final Davis-Bacon regulations and various alternatives that were explored and to inform the public of the economic considerations behind these final revisions in accordance with Executive Order 12291.

The final analysis builds upon a preliminary regulatory impact analysis (PRIA) which accompanied the proposed revisions published on August 14, 1981 (46 FR 41444). The PRIA estimated that the proposed changes would result in substantial cost savings amounting to at least $670 million annually to both contractors and procuring agencies, while still assuring protection of local wage rates and practices. The Department requested comments and additional information on all economic assumptions used in the analysis, as well as any alternative suggestions designed to achieve the objectives of the Davis-Bacon and Related Acts at lower costs. The Department received numerous comments on the PRIA estimates and its economic assumptions. The Department has carefully reviewed all of these comments in finalizing the regulations and has incorporated these considerations, as appropriate, into the final regulatory impact analysis (FRIA).

The final rule must also consider the Regulatory Flexibility Act of 1980. This Act requires agencies to prepare regulatory flexibility analyses and to develop flexible alternatives whenever possible in drafting regulations that will have "a significant economic impact on a substantial number of small entities." The analysis summarized below meets the requirements set forth for assessing the economic impact of the final changes in the Davis-Bacon regulations on small entities as required under the Regulatory Flexibility Act.

A. Definition of "Prevailing" Rate

The existing regulations define the "prevailing" rate as the rate paid to the majority of the employees in a classification; or if there is no majority, the rate paid to the greatest number, provided it constitutes at least *30 percent* of the employees in the classification; or if no single rate is paid to at least 30 percent of the employees, the *weighted average* rate.

The proposed regulation re-defined the "prevailing" rate as the single rate paid to a majority of workers in a particular classification on similar construction in the locality, or the weighted average rate if no single rate is paid to a majority. The PRIA estimated that elimination of the "30 percent" rule would result in substantial cost savings on Federal and federally assisted construction contracts amounting to at least $120 million in Fiscal Year 1982 alone.

Many commentators on the preliminary analysis argued that the $120 million estimate of cost savings was too high. Construction unions generally faulted the analysis for ignoring the productivity differences between workers and for implicitly assuming that all workers on covered construction projects earn the prevailing (Davis-Bacon) rate. The Building and Construction Trades Department (BCTD) placed the maximum cost savings at $45 million annually and advocated retention of the current definition. In contrast, most contractor associations (which generally advocated greater revision of the definition) argued that few cost savings would result from the proposal because the wages of many workers are fixed by collective bargaining agreements. These groups offered alternative estimates ranging from no cost savings to $50 million.

While acknowledging the validity of several of these criticisms, it remains our position that the $120 million estimate represents a "best guess" of the likely cost savings. Many of the alternative estimates were based on an inaccurate reading of our methodology, which in fact took into account that few cost savings would result in highly unionized urban areas. In other cases, the direction of the bias asserted to exist in our PRIA by the comments was unclear, rather than working to inflate the cost savings. Moreover, the commentators ignored significant negative biases which would raise the cost savings, such as the bias resulting from the lack of construction wage data for small cities. All of the limitations associated with our methodology are clearly spelled out in the analysis.

After careful review of all the evidence, the Department has adopted the proposed definition not only because it will result in substantial budgetary savings, but also because it is most consistent with the "prevailing wage" concept contemplated in the legislation, under which rates are designed to mirror, to the extent possible, those customarily paid in appropriate labor markets.

The Department also considered defining the "prevailing" rate as the average in all cases as proposed by the Associated Builders and Contractors Inc. (ABC). This alternative was not selected because the term "prevailing" contemplates the most widely paid rate as a definition of first choice.

Several other alternatives were also considered including (1) setting wage determinations at the average of rates in the lower half of wage distributions for crafts in a locality (as proposed by the United States Chamber of Commerce); (2) issuing wage determinations as a range of wage rates reflecting the actual distribution of wages in a locality (also proposed by the United States Chamber of Commerce); and (3) allowing procurement agencies to set rates based on, rather than identical to, DOL determinations (the "decoupling" approach). The Department has carefully considered these options, but concluded that they would not be consistent with the statute's intent.

The DOL methodology which is the basis for the $120 million estimate of cost savings calculates the change in wage costs under different decision rules by comparing a large sample of 1,170 Davis-Bacon craft determinations in effect in 1981 with average wage rates for those crafts and localities derived from field surveys conducted by the Employment Standards Administration (ESA). Our sample covered nine crafts and three types of construction (i.e., building, highway and heavy and residential) across all regions of the country.

Because we know the decision rule actually used in setting each Davis-Bacon determination in the sample and the wage rates paid workers in geographic areas, the impact on Davis-Bacon rates of any change in administrative procedures can be readily determined. For example, to evaluate the percentage change expected in Davis-Bacon rates associated with dropping the 30 percent rule, all determinations in the sample based on this rule were compared with their corresponding average rates to calculate the percent differences in the Davis-Bacon rates. For those determinations based on the majority or average rule, the percent differences were set at zero.

However, many Davis-Bacon determinations are not based on comprehensive wage surveys but rather on collective bargaining agreements or state surveys. Hence, results based solely on the sample will be biased if there is a higher frequency of determinations based on the 30 percent

rule in non-surveyed areas. Clearly, average rates cannot be issued without a wage survey; hence, it is likely that Davis-Bacon determinations are implicitly based more frequently on the 30 percent rule in non-surveyed areas.

To adjust our estimates for this possible sample bias, we used both survey data and independent sources to construct estimates of percent differences for all areas lacking surveys. For example, in large urban areas where wage determinations are based on collective bargaining agreements, information on the percentage of workers who are unionized in the area was used to determine the impact of using the majority rule or the average. Where the extent of unionization was sufficiently high, current rates could be expected to prevail even in the absence of the 30 percent rule. We, therefore, assumed that there would be no change in Davis-Bacon rates. Otherwise, we used estimates of percent changes from Davis-Bacon rates to average rates derived from a CEA study of less unionized urban areas.

With estimates in hand for each county, we then summed the percentage differences for each type of construction across all geographic areas (both rural and urban) based on their relative contribution to total public construction activity. This resulted in three separate estimates of the expected percentage change in Davis-Bacon wage rates from adopting different administrative procedures, one for each construction sector.

The final step involves matching these percent changes in wages to estimates of the total labor costs expected to be covered by Davis-Bacon in Fiscal Year 1982 for each type of construction. We then added up the separate labor cost savings estimates for each construction sector to form our final estimate of the aggregate wage cost savings from alternative wage determination rules. The final regulatory impact analysis describes the methodology in further detail.

This methodology was used to estimate the cost impact of dropping the 30 percent rule and of using the average rule in all cases. This procedure produced cost savings ranging from $60 million to $173 million from eliminating the 30 percent rule. The average cost savings in this range is around $120 million. The corresponding estimates of cost savings from switching to an average rule in all cases range from $127 million to $288 million, with average cost savings set at $210 million.

This methodology could not be applied to estimate the cost impact of most other alternatives under consideration because of the absence of independent data on which to calculate the differences in wages resulting from these other options for non-surveyed areas. Also, and perhaps more importantly, this methodology measures only the changes in Davis-Bacon rates, not actual changes in wage rates paid on Davis-Bacon projects. The further one moves the Davis-Bacon minimum below the average, the less reflective it is of actual prevailing wages and hence of the real cost savings to be anticipated.

Although the Department concluded that such an approach would be inconsistent with the statute's intent, we developed a crude estimate of the potential cost savings from the alternative calling for a range of wages rather than a single rate for each determination in a locality, using our methodology and the results of a CEA study which estimated the net impact of setting minimum wages on Davis-Bacon projects. This estimate is similar to the alternative that establishes a range of wage rates, since the lowest rate in the range effectively becomes the Davis-Bacon minimum. This procedure produced cost savings estimates ranging from $505.3 million to $631 million with a midpoint estimate of $568.2 million for this option.

Much of these cost savings would be passed on to small contractors. The Census Bureau's Economic Census of Construction shows that in 1977 there were 53,665 construction establishments with fewer than 20 employees involved in construction work. These small contractors accounted for about 56 percent of all such construction establishments, but only about 17 percent of employment. While we could use relative employment percentages to distribute the total cost savings from adopting alternative wage determination procedures among large and small contractors, this would be inappropriate since smaller contractors are more likely to pay wages normally below Davis-Bacon rates, resulting in relatively larger cost savings for small contractors from any lowering in Davis-Bacon rates. Although we can not develop numerical cost estimates, the cost savings would be expected to be substantial.

While our approach provides a reasonable approximation of the wage cost savings expected to result from the final regulation, it should be stressed that they are only a proxy for actual construction *cost* differences. Nevertheless, these wage estimates are a useful indicator of the order of magnitude of the lower construction costs that may be expected from the final change in the definition of prevailing wages.

B. Cost Impact of the Expanded Issuance of Semi-Skilled Classifications

The Department has long permitted exceptions from predetermined Davis-Bacon rates set for a craft classification for apprentices and trainees who are in approved programs. The Department has also recognized a helper classification in some areas under certain well-defined situations where (1) it constitutes a separate and distinct class of workers (i.e., the scope of duties of the helper is defined and can be differentiated from journeyman duties); (2) the particular helper classification prevails in the area; and (3) the helper is not used as an informal apprentice or trainee.

During its review, the Department concluded that the current policies regarding semi-skilled crafts do not adequately reflect construction industry practices, in particular, the widespread use of helpers to perform certain craft tasks. The proposed revisions allowed for the issuance of semi-skilled classifications such as helpers or other subclassifications of a journeyman class that could be identified in the locality. Helpers were permitted as long as their use did not exceed a ratio of one helper to five journeymen. The proposal further allowed contractors to conform rates after award for helper classifications which were not issued in the wage determinations, but which the contractor felt were appropriate to performing the contract work so long as those classifications were currently utilized in the locality. The PRIA estimated that these proposed changes would result in significant cost savings of about $450 million in Fiscal Year 1982.

Many commentators viewed these cost estimates as excessively high. Contractor associations welcomed the helper classifications, but criticized the 1:5 ratio as an artificial rule that would prohibit the following of area practices. These groups argued that the ratio, coupled with the considerably lower ceilings specified by collectively bargained contracts, would significantly dampen the cost saving—to about $200 million annually. Construction unions, on the other hand, did not comment on the ratio *per se*, but instead focused on the PRIA assumption that each helper employed on Davis-Bacon projects would replace one journeyman. They argued that the analysis overstated the cost savings because it ignored the low productivity of helpers relative to journeymen and the likelihood that helpers would be better substitutes for lower-paid laborers and apprentices than for journeymen. The construction

unions also pointed to possible long-term cost increases due to a shortage of skilled craftsmen.

These comments prompted a thorough re-evaluation of the helper cost methodology. Some comments required no new adjustment; for example, our methodology already controlled for the minimal use of helpers on union projects. The revised helper methodology incorporated relevant criticisms from both business and labor groups to the extent permitted by available data. The revised estimates were also based on more recent data showing a sharp drop in construction industry employment (and hence anticipated helper employment on Davis-Bacon projects).

The final helper regulations preserve the basic elements of the proposal with several changes. These changes include: (1) Lowering the ratio from 1:5 to 2:3 (2 helpers allowed for every 3 journeymen) to better reflect the diversity in industry practices, and (2) permitting helpers to include multitrade, as well as single craft, helpers to provide employers with maximum flexibility in their employment practices on Davis-Bacon jobs.

The basic methodology remains the same as that found in the PRIA—using evidence on the mix of skills in the construction industry *as a whole* to predict the increased helper employment on Davis-Bacon projects as a result of the regulation. The expected savings in wage costs on Davis-Bacon construction are derived by multiplying estimates of increased helper employment by changes in wage bills for contractors.

However, in the present analysis, we develop separate estimates of the likely cost savings from the regulations for the unrestricted use of helpers and for alternative ratios of helpers to journeymen. In addition, we test the sensitivity of the estimates to various assumptions regarding the skill level of workers replaced by helpers. One set of cost estimates assumes that helpers replace journeymen only. A second series of cost estimates allows helpers to replace laborers as well as journeymen.

The initial step involves determining the number of construction workers employed on Davis-Bacon projects and the number of helpers likely to be employed on Federal and federally-assisted construction work. For this analysis, we use a more recent estimate of construction employment showing that there were 758,000 construction workers on Davis-Bacon projects during 1980 (the PRIA used an estimate of one million total employees in the construction industry covered by Davis-Bacon in 1979). The FRIA discusses the derivation of these estimates in further detail.

While their skill composition is unknown, we assume that in the absence of any restrictions on their use, the helper share of employment on Davis-Bacon projects would be identical to that found overall in construction (excluding residential construction under 5 stories). The estimated helper share based on the 1976–1977 BLS survey of large metropolitan areas would be 3.2 percent and 5.6 percent, depending on whether we used the entire survey or only those occupations in the survey that specifically identify helpers.

However, the helper shares estimated directly from the BLS survey may be biased because of its limitation to large metropolitan areas and the 1976–1977 period. The BLS survey shows about 78 percent of construction workers under collective bargaining agreements. Although such agreements are almost certainly more prevalent on Davis-Bacon construction that on all construction, the BLS survey probably over-represents the percent of union workers on Davis-Bacon projects nationwide. This means that estimates of the helper employment share based on the BLS survey will be too small compared to total Davis-Bacon construction. To correct this bias, we base alternative helper estimates on the conservative assumption that the true union share of Davis-Bacon employment is 50 percent. Weighting the individual estimates found in the BLS survey data of helper employment shares within the union and non-union sectors produces adjusted estimates of the helper share of 5.98 percent and 9.4 percent.

This gives us four estimates of helper employment. Assuming that the high unionization rate found in the BLS survey of large cities prevails in all areas with Davis-Bacon projects, we can estimate that there will be between 24,256 and 42,448 additional helpers on Davis-Bacon projects. Assuming that 50 percent of the workers on Davis-Bacon jobs are organized would translate into higher estimates—45,328 and 71,252 additional helpers on Davis-Bacon jobs.

When helpers substitute for laborers in some cases as well as journeymen, the helper estimates need to be further adjusted. While it is difficult to evaluate the precise extent of this combined substitution, we use the estimated helper shares from above, but assume that helpers replace both types of labor as long as the proportion of laborers and journeymen found in the BLS Survey remains constant (i.e., the laborer to journeymen ratio). The BLS data shows the laborer to journeymen ratio to range between 2:5 and 5:11 for all construction projects in the sample. This produces estimates of helpers ranging from 24,256 to 64,056.

The second step is to calculate the expected hourly wage cost savings from hiring these helpers instead of journeymen. Using the PRIA procedures, we estimate the average wage differential between helpers and journeymen, based on the same 1977 BLS survey of large metropolitan areas adjusted to FY 1982 levels. This produces estimates of $5.72 and $5.73 as the absolute wage differential between helpers and journeymen.

For the adjusted estimates where we assume that 50 percent of Davis-Bacon is covered by union contracts, it was necessary to recalculate the wage rates accordingly. Separate union percentages for journeymen and helpers from the BLS survey were used to weight the union and non-union average hourly wage rates to arrive at the new overall averages of about $6.70.

The above estimates of wage differences assume that helpers replace only journeymen. If helpers substitute for laborers in some cases as well as journeymen, the wage differences in some cases will narrow substantially—ranging from $4.95 to $5.71. The final regulatory impact analysis describes these wage calculations in further detail as well as the biases involved in the use of average wage rates.

The next ingredient needed to compute the expected cost savings is an estimate of average hours worked annually in construction. The PRIA used an estimate of 1535 hours worked per year. However, in light of the ABC comments showing that contractors' annual work hours average well over 1900 hours and the fact that seasonality is already controlled for by our use of annual averages of monthly employment levels, we used 1924 hours from *Employment and Earnings* published by the Bureau of Labor Statistics as the estimate of annual hours worked per full year construction worker to convert helper employment levels into their total hours equivalents.

Our estimates of the resulting cost savings from increased recognition of helpers with no ratio were obtained simply by multiplying numbers of helpers by hours worked in a year (1924) and various estimates of the existing wage differential between helpers and journeymen and laborers.

However, where there is a ceiling restriction on the employment of helpers to journeymen, another step is necessary—modifying the methodology

to lower the estimates of helper employment. The new calculations assume that any ceiling has no impact on the union sector, since there are few helpers in union firms. However, the 1976–1977 BLS survey suggests that outside of residential construction under 5 stories, the average non-union ratio of helpers to journeymen is around 1:4. This means that the proposed 1:5 ratio or to a lesser extent the final 2:3 ratio would be limiting for some non-union firms and that the overall helper:journeymen ratio on federally-finded non-union projects would fall somewhat below 1:5.

For our analysis, we assumed that the proposed 1:5 regulation would result in an average ratio of 1 to 5.5 on federally-funded non-union projects, while a ratio of 2:3 would result in a higher average of 1 to 4.25 on these same projects. These new ratio assumptions have the effect of lowering the previous helper estimates.

Finally, when helpers substitute for laborers in some cases as well as journeymen, the helper estimates need to be further adjusted in the presence of a ratio. In this case, the ceiling restrictions lower helper employment in the non-union sector in two ways—(1) Directly decreasing the allowed substitution of journeymen, and (2) increasing the number of laborers required to keep the proportion of laborers to journeymen constant.

The results of these calculations show that with a 1:5 ceiling and with helpers replacing journeymen, the estimated cost savings range between $263.49 million and $535.43 million. The corresponding midpoint estimate is roughly $400 million. This is the revised "best" estimate for the proposed regulation if helpers can replace only journeymen. With this same 1:5 ceiling, but with helpers replacing both laborers and journeymen, the estimated cost savings drop by approximately one-third—to $303.41 million on average. This supports the unions' contention of lower cost savings when helpers substitute for low skilled as well as higher skilled workers.

In light of the comments on the August proposal, the Department has decided to raise the ceiling from one helper for every five journeymen to two helpers for every three journeymen. The higher ratio will better reflect the wide diversity in practices among different types of construction and localities. The 2:3 ratio also increases the cost savings substantially.

If helpers replace journeymen only, the estimated cost savings range from $305.76 million to $640.95 million. This places the midpoint estimate of the likely cost savings with a 2:3 ceiling on the employment of helpers relative to journeymen at roughly $473.36 million. (This compares well to the PRIA estimates of $450 million in cost savings for the proposal under the assumption that helpers substitute only for journeymen.)

Once the final regulation is in effect, the more likely situation is one in which helpers would in some instances replace laborers as well as journeymen. If this is the case, the estimated cost savings range from $246.43 million to $479.89 million. This puts the average estimate of cost savings at $363.16 million assuming that helpers, in fact, replace both laborers and journeymen. This estimate also represents our "best guess" about the likely impact of the final regulation.

On the basis of this evidence, the Department has concluded that the final regulation will result in substantial cost savings and at the same time reflect industry practice, thereby providing contractors with the necessary flexibility in choosing their optimal employment mix on Davis-Bacon jobs. The final helper provision will also provide substantial cost savings for smaller contractors who predominate in the construction industry.

C. Summary

The final revisions discussed above, in conjunction with the changes to Part 5 of the Davis-Bacon rules (e.g. deletion of the requirement for submission of weekly payroll records) will result in substantial cost savings annually of $585 million for both contractors and the government while still assuring protection of local wage rates and practices. The changes will have a substantial beneficial impact on small contractors.

Copies of the complete analysis may be obtained from the Administrator, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210.

Conclusion

The Solicitor of Labor has determined, in accordance with Executive Order 12291, that this regulation is clearly within the authority delegated to the Secretary of Labor by the Davis-Bacon Act (40 U.S.C. 276a *et seq.*), Reorganization Plan No. 1950 (5 U.S.C. Appendix), and the Copeland Act (40 U.S.C. 276c), as well as 5 U.S.C. 301, 29 U.S.C. 259, and the laws listed in Appendix A of this part. The Solicitor, as set forth above in the discussion of the major issues, has determined that this regulation is consistent with the Congressional intent of the Davis-Bacon and related Acts that wage determinations issued under those Acts reflect the rates prevailing on similar construction in the locality, and that such wage determinations be incorporated in contracts subject to those Acts.

Dates of applicability. The provisions of this part shall be applicable only as to wage surveys completed on or after July 27, 1982. Except for § 1.6, which shall be applicable only to contracts entered into pursuant to invitations for bids issued or negotiations concluded on or after July 27, 1982. None of the revisions herein shall be applicable to any contract entered into prior to July 27, 1982.

This document was prepared under the direction and control of William M. Otter, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 1

Administrative practice and procedures, Government contracts, Labor, Minimum wages, Wages.

Accordingly, 29 CFR Part 1 is revised as set forth below.

Concurrent with the publication today of this final rule, the final rule previously published in the **Federal Register** on January 16, 1981 (46 FR 4306) and subsequently stayed is hereby withdrawn.

Signed at Washington, D.C. on this 25th day of May 1982.

Raymond J. Donovan,

Secretary of Labor.

Robert B. Collyer,

Deputy Under Secretary for Employment Standards.

William M. Otter,

Administrator, Wage and Hour Division.

PART 1—PROCEDURES FOR PREDETERMINATION OF WAGE RATES

Sec.

1.1 Purpose and scope.
1.2 Definitions.
1.3 Obtaining and compiling wage rate information.
1.4 Outline of agency construction programs.
1.5 Procedure for requesting wage determinations.
1.6 Use and effectiveness of wage determinations.
1.7 Scope of consideration.
1.8 Reconsideration by the Administrator.
1.9 Review by Wage Appeals Board.
Appendix A.
Appendix B.

Authority: 5 U.S.C. 301; R.S. 161, 64 Stat. 1267; Reorganization Plan No. 14 of 1950, 5 U.S.C. Appendix; 29 U.S.C. 259; 40 U.S.C.

276a—276a-7; 40 U.S.C. 276c; and the laws listed in Appendix A of this Part.

§ 1.1 Purpose and scope.

(a) The procedural rules in this part apply under the Davis-Bacon Act (946 Stat. 1494, as amended; 40 U.S.C. 276a—276a-7) and other statutes listed in Appendix A to this part which provide for the payment of minimum wages, including fringe benefits, to laborers and mechanics engaged in construction activity under contracts entered into or financed by or with the assistance of agencies of the United States or the District of Columbia, based on determinations by the Secretary of Labor of the wage rates and fringe benefits prevailing for the corresponding classes of laborers and mechanics employed on projects similar to the contract work in the local areas where such work is to be performed. Functions of the Secretary of Labor under these statutes and under Reorganization Plan No. 14 of 1950 (64 Stat. 1267, 5 U.S.C. Appendix), except those assigned to the Wage Appeals Board (see 29 CFR Part 7), have been delegated to the Assistant Secretary of Labor for Employment Standards who in turn has delegated the functions to the Administrator of the Wage and Hour Division, and authorized representatives.

(b) The regulations in this part set forth the procedures for making and applying such determinations of prevailing wage rates and fringe benefits pursuant to the Davis-Bacon Act, each of the other statutes listed in Appendix A, and any other Federal statute providing for determinations of such wages by the Secretary of Labor in accordance with the provisions of the Davis-Bacon Act.

(c) Procedures set forth in this part are applicable, unless otherwise indicated, both to general wage determinations published in the **Federal Register** for contracts in specified localities, and to project wage determinations for use on contract work to be performed on a specific project.

§ 1.2 Definitions.[1]

(a)(1) The "prevailing wage" shall be the wage paid to the majority (more than 50 percent) of the laborers or mechanics in the classification on similar projects in the area during the period in question. If the same wage is not paid to a majority of those employed in the classification, the "prevailing wage" shall be the average of the wages paid, weighted by the total employed in the classification.

[1] These definitions are not intended to restrict the meaning of the terms as used in the applicable statutes.

(2) In determining the "prevailing wages" at the time of issuance of a wage determination, the Administrator will be guided by paragraph (a)(1) of this section and will consider the types of information listed in § 1.3 of this part.

(b) The term "area" in determining wage rates under the Davis-Bacon Act and the prevailing wage provisions of the other statutes listed in Appendix A shall mean the city, town, village, county or other civil subdivision of the State in which the work is to be performed.

(c) The term "Administrator" shall mean the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, or authorized representative. In the absence of the Wage-Hour Administrator, the Deputy Administrator of the Wage and Hour Division is designated to act for the Administrator under this part. Except as otherwise provided in this part, the Assistant Administrator for Government Contract Wage Standards is the authorized representative of the Administrator for the performance of functions relating to the making of wage determinations.

(d) The term "agency" shall mean the Federal agency, State highway department under 23 U.S.C. 113, or recipient State or local government under Title 1 of the State and Local Fiscal Assistance Act of 1972.

§ 1.3 Obtaining and compiling wage rate information.

For the purpose of making wage determinations, the Administrator will conduct a continuing program for the obtaining and compiling of wage rate information.

(a) The Administrator will encourage the voluntary submission of wage rate data by contractors, contractors' associations, labor organizations, public officials and other interested parties, reflecting wage rates paid to laborers and mechanics on various types of construction in the area. The Administrator may also obtain data from agencies on wage rates paid on construction projects under their jurisdiction. The information submitted should reflect not only the wage rates paid a particular classification in an area, but also the type or types of construction on which such rate or rates are paid, and whether or not such rates were paid on Federal or federally assisted projects subject to Davis-Bacon prevailing wage requirements.

(b) The following types of information may be considered in making wage rate determinations:

(1) Statements showing wage rates paid on projects. Such statements should include the names and addresses of contractors, including subcontractors, the locations, approximate costs, dates of construction and types of projects, whether or not the projects are Federal or federally assisted projects subject to Davis-Bacon prevailing wage requirements, the number of workers employed in each classification on each project, and the respective wage rates paid such workers.

(2) Signed collective bargaining agreements. The Administrator may request the parties to an agreement to submit statements certifying to its scope and application.

(3) Wage rates determined for public construction by State and local officials pursuant to State and local prevailing wage legislation.

(4) In making wage rate determinations pursuant to 23 U.S.C. 113, the highway department of the State in which a project in the Federal-Aid highway system is to be performed shall be consulted. Before making a determination of wage rates for such a project the Administrator shall give due regard to the information thus obtained.

(5) Wage rate data submitted to the Department of Labor by contracting agencies pursuant to 29 CFR 5.5(a)(1)(ii).

(6) Any other information pertinent to the determination of prevailing wage rates.

(c) The Administrator may initially obtain or supplement such information obtained on a voluntary basis by such means, including the holding of hearings, and from any sources determined to be necessary. All information of the types described in § 1.3(b) of this part, pertinent to the determination of the wages prevailing at the time of issuance of the wage determination, will be evaluated in the light of § 1.2(a) of this Part.

(d) In compiling wage rate data for building and residential wage determinations, the Administrator will not use data from Federal or federally assisted projects subject to Davis-Bacon prevailing wage requirements unless it is determined that there is insufficient wage data to determine the prevailing wages in the absence of such data. Data from Federal or federally assisted projects will be used in compiling wage rate data for heavy and highway wage determinations.

§ 1.4 Outline of agency construction programs.

To the extent practicable, at the beginning of each fiscal year each agency using wage determinations

under any of the various statutes listed in Appendix A will furnish the Administrator with a general outline of its proposed construction programs for the coming year indicating the estimated number of projects for which wage determinations will be required, the anticipated types of construction, and the locations of construction. During the fiscal year, each agency will notify the Administrator of any significant changes in its proposed construction programs, as outlined at the beginning of the fiscal year. This report has been cleared in accordance with FPMR 101–11.11 and assigned interagency report control number 1671–DOL–AN.

§ 1.5 Procedure for requesting wage determinations.

(a)(1) Except as provided in paragraph (b) of this section, the Federal agency shall initially request a wage determination under the Davis-Bacon Act or any of its related prevailing wage statutes by submitting Standard Form 308 to the Department of Labor at this address:

U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Branch of Construction Wage Determinations, Washington, D.C. 20210.

The agency shall check only those classifications on the applicable form which will be needed in the performance of the work. Inserting a note such as "entire schedule" or "all applicable classifications" is not sufficient. Additional classifications needed which are not on the form may be typed in the blank spaces or on a separate list and attached to the form.

(2) In completing SF–308, the agency shall furnish:

(i) A sufficiently detailed description of the work to indicate the type of construction involved. Additional description or separate attachment, if necessary for identification of type of project, shall be furnished.

(ii) The county (or other civil subdivision) and State in which the proposed project is located.

(3) Such request for a wage determination shall be accompanied by any pertinent wage payment information which may be available. When the requesting agency is a State highway department under the Federal-Aid Highway Acts as codified in 23 U.S.C. 113, such agency shall also include its recommendations as to the wages which are prevailing for each classification of laborers and mechanics on similar construction in the area.

(b) Whenever the wage patterns in a particular area for a particular type of construction are well settled and whenever it may be reasonably anticipated that there will be a large volume of procurement in that area for such a type of construction, the Administrator, upon the request of a Federal agency or in his/her discretion, may publish a general wage determination in the **Federal Register** when, after consideration of the facts and circumstances involved, the Administrator finds that the applicable statutory standards and those of this part will be met. If there is a general wage determination applicable to the project, the agency may use it without notifying the Department of Labor, *provided*, that questions concerning its use shall be referred to the Department of Labor in accordance with § 1.6(b).

(c) The time required for processing requests for wage determinations varies according to the facts and circumstances in each case. An agency should anticipate that such processing in the Department of Labor will take at least 30 days.

§ 1.6 Use of effectiveness of wage determinations.

(a)(1) Project wage determinations initially issued shall be effective for 180 calendar days from the date of such determinations. If such a wage determination is not used in the period of its effectiveness it is void. Accordingly, if it appears that a wage determination may expire between bid opening and contract award (or between initial endorsement under the National Housing Act or the execution of an agreement to enter into a housing assistance payments contract under section 8 of the U.S. Housing Act of 1937, and the start of construction) the agency shall request a new wage determination sufficiently in advance of the bid opening to assure receipt prior thereto. However, when due to unavoidable circumstances a determination expires before award but after bid opening (or before the start of construction, but after initial endorsement under the National Housing Act, or before the start of construction but after the execution of an agreement to enter into a housing assistance payments contract under Section 8 of the U.S. Housing Act of 1937), the head of the agency or his or her designee may request the Administrator to extend the expiration date of the wage determination in the bid specifications instead of issuing a new wage determination. Such request shall be supported by a written finding, which shall include a brief statement of the factual support, that the extension of the expiration date of the determination is necessary and proper in the public interest to prevent injustice or undue hardship or to avoid serious impairment in the conduct of Government business. The Administrator will either grant or deny the request for an extension after consideration of all of the circumstances, including an examination to determine if the previously issued rates remain prevailing. If the request for extension is denied, the Administrator will proceed to issue a new wage determination for the project.

(2) General wage determinations issued pursuant to § 1.5(b) and which are published in the **Federal Register**, shall contain no expiration date.

(b) Contracting agencies are responsible for insuring that only the appropriate wage determination(s) are incorporated in bid solicitations and contract specifications and for designating specifically the work to which such wage determinations will apply. Any question regarding application of wage rate schedules shall be referred to the Administrator, who shall give foremost consideration to area practice in resolving the question.

(c)(1) Project and general wage determinations may be modified from time to time to keep them current. A modification may specify only the items being changed, or may be in the form of a supersedeas wage determination, which replaces the entire wage determination. Such actions are distinguished from a determination by the Administrator under paragraphs (d), (e) and (f) of this section that an erroneous wage determination has been issued or that the wrong wage determination or wage rate schedule has been utilized by the agency.

(2)(i) All actions modifying a project wage determination received by the agency before contract award (or the start of construction where there is no contract award) shall be effective except as follows:

(A) In the case of contracts entered into pursuant to competitive bidding procedures, modifications received by the agency less than 10 days before the opening of bids shall be effective unless the agency finds that there is not a reasonable time still available before bid opening, to notify bidders of the modification and a report of the finding is inserted in the contract file. A copy of such report shall be made available to the Administrator upon request. No such report shall be required if the modification is received after bid opening.

(B) In the case of projects assisted under the National Housing Act, modifications shall be effective if received prior to the beginning of

construction or the date the mortgage is initially endorsed, whichever occurs first.

(C) In the case of projects to receive housing assistance payments under section 8 of the U.S. Housing Act of 1937, modifications shall be effective if received prior to the beginning of construction or the date the agreement to enter into a housing assistance payments contract is executed, whichever occurs first.

(ii) Modifications to project wage determinations and supersedeas wage determinations shall not be effective after contract award (or after the beginning of construction where there is no contract award).

(iii) Actual written notice of a modification shall constitute receipt.

(3) All actions modifying a general wage determination shall be effective with respect to any project to which the determination applies, if published before contract award (or the start of construction where there is no contract award), except as follows:

(i) In the case of contracts entered into pursuant to competitive bidding procedures, modifications published less than 10 days before the opening of bids shall be effective unless the agency finds that there is not a reasonable time still available before bid opening to notify bidders of the modification and a report of the finding is inserted in the contract file. A copy of such report shall be made available to the Administrator upon request. No such report shall be required if the modification is published after bid opening.

(ii) In the case of projects assisted under the National Housing Act, modifications shall be effective if published prior to the beginning of construction or the date the mortgage is initially endorsed, whichever occurs first.

(iii) In the case of projects to receive housing assistance payments under section 8 of the U.S. Housing Act of 1937, modifications shall be effective if published prior to the beginning of construction or the date the agreement to enter into a housing assistance payments contract is signed, whichever occurs first.

(iv) If under paragraph (c)(3)(i) of this section the contract has not been awarded within 90 days after bid opening, or if under paragraph (c)(3) (ii) or (iii) of this section construction has not begun within 90 days after initial endorsement or the signing of the agreement to enter into a housing assistance payments contract, any modifications published in the Federal Register prior to award of the contract or the beginning of construction, as appropriate, shall be effective with respect to that contract unless the head of the agency or his or her designee requests and obtains an extension of the 90-day period from the Administrator. Such request shall be supported by a written finding, which shall include a brief statement of the factual support, that the extension is necessary and proper in the public interest to prevent injustice or undue hardship or to avoid serious impairment in the conduct of Government business. The Administrator will either grant or deny the request for an extension after consideration of all the circumstances.

(v) A modification to a general wage determination is "published" within the meaning of this section on the date of publication in the **Federal Register**, or on the date the agency receives actual written notice of the modification from the Department of Labor, whichever occurs first.

(vi) Modifications or supersedeas wage determinations to an applicable general wage determination published after contract award (or after the beginning of construction where there is no contract award) shall not be effective.

(d) Upon his/her own initiative or at the request of an agency, the Administrator may correct any wage determination, without regard to paragraph (c) of this section, whenever the Administrator finds such a wage determination contains clerical errors. Such corrections shall be included in any bid specifications containing the wage determination, or in any on-going contract containing the wage determination in question, retroactively to the start of construction.

(e) Written notification by the Department of Labor prior to the award of a contract (or the start of construction under the National Housing Act, under section 8 of the U.S. Housing Act of 1937, or where there is no contract award) that (1) there is included in the bidding documents or solicitation the wrong wage determination or the wrong schedule or that (2) a wage determination is withdrawn by the Department of Labor as a result of a decision by the Wage Appeals Board, shall be effective immediately without regard to paragraph (c) of this section.

(f) The Administrator may issue a wage determination after contract award or after the beginning of construction if the agency has failed to incorporate a wage determination in a contract required to contain prevailing wage rates determined in accordance with the Davis-Bacon Act, or has used a wage determination which by its terms or the provisions of this part clearly does not apply to the contract. Further, the Administrator may issue a wage determination which shall be applicable to a contract after contract award or after the beginning of construction when it is found that the wrong wage determination has been incorporated in the contract because of an inaccurate description of the project or its location in the agency's request for the wage determination. Under any of the above circumstances, the agency shall either terminate and resolicit the contract with the valid wage determination, or incorporate the valid wage determination retroactive to the beginning of construction through supplemental agreement or through change order, *provided* that the contractor is compensated for any increases in wages resulting from such change. The method of incorporation of the valid wage determination, and adjustment in contract price, where appropriate, should be in accordance with applicable procurement law.

(g) If Federal funding or assistance under a statute requiring payment of wages determined in accordance with the Davis-Bacon Act is not approved prior to contract award (or the beginning of construction where there is no contract award), the agency shall request a wage determination prior to approval of such funds. Such a wage determination shall be issued based upon the wages and fringe benefits found to be prevailing on the date of award or the beginning of construction (under the National Housing Act, under section 8 of the U.S. Housing Act of 1937 or where there is no contract award), as appropriate, and shall be incorporated in the contract specifications retroactively to that date, *provided,* that upon the request of the head of the agency in individual cases the Administrator may issue such a wage determination to be effective on the date of approval of Federal funds or assistance whenever the Administrator finds that it is necessary and proper in the public interest to prevent injustice or undue hardship, *provided further* that the Administrator finds no evidence of intent to apply for Federal funding or assistance prior to contract award or the start of construction, as appropriate.

§ 1.7 Scope of consideration.

(a) In making a wage determination, the "area" will normally be the county unless sufficient current wage data (data on wages paid on current projects or, where necessary, projects under construction no more than one year prior to the beginning of the survey or the request for a wage determination, as

appropriate) is unavailable to make a wage determination.

(b) If there has not been sufficient similar construction within the area in the past year to make a wage determination. Wages paid on similar construction in surrounding counties may be considered, *provided* that projects in metropolitan counties may not be used as a source of data for a wage determination in a rural county, and projects in rural counties may not be used as a source of data for a wage determination for a metropolitan county.

(c) If there has not been sufficient similar construction in surrounding counties or in the State in the past year, wages paid on projects completed more than one year prior to the beginning of the survey or the request for a wage determination, as appropriate, may be considered.

(d) Classifications and wage rates will be issued for identifiable "classes of laborers and mechanics." Semi-skilled classifications of helpers will be issued when the classifications are identifiable in the area. The use of helpers, apprentices and trainees is permitted in accordance with Part 5 of this subtitle.

§ 1.8 Reconsideration by the Administrator.

Any interested person may seek reconsideration of a wage determination issued under this part or of a decision of the Administrator regarding application of a wage determination. Such a request for reconsideration shall be in writing accompanied by a full statement of the interested person's views and any supporting wage data or other pertinent information. The Administrator will respond within 30 days of receipt thereof, or will notify the requestor within the 30 day period that additional time is necessary.

§ 1.9 Review by Wage Appeals Board.

Any interested person may appeal to the Wage Appeals Board for a review of a wage determination or its application made under this part, after reconsideration by the Administrator has been sought pursuant to § 1.8 and denied. Any such appeal may, in the discretion of the Wage Appeals Board, be received, accepted, and decided in accordance with the provisions of 29 CFR Part 7 and such other procedures as the Board may establish.

Appendix A

Statutes Related to the Davis-Bacon Act Requiring Payment of Wages at Rates Predetermined by the Secretary of Labor

1. The Davis-Bacon Act (secs. 1–7, 46 Stat. 1494, as amended; Pub. L. 74–403, 40 U.S.C. 276a–276a–7).

2. National Housing Act (sec. 212 added to c. 847, 48 Stat. 1246, by sec. 14, 53 Stat. 807; 12 U.S.C. 1715c and repeatedly amended).

3. Housing Act of 1950 (college Housing) (amended by Housing Act of 1959 to add labor provisions, 73 Stat. 661; 12 U.S.C. 1749a(f)).

4. Housing Act of 1959 (sec. 401(f) of the Housing Act of 1950 as amended by Pub. L. 86–372, 73 Stat. 661; 12 U.S.C. 1701q(c)(3)).

5. Commercial Fisheries Research and Development Act of 1964 (sec. 7, 78 Stat. 199; 16 U.S.C. 779e(b)).

6. Library Services and Construction Act (sec. 7(a), 78 Stat. 13; 20 U.S.C. 355c(a)(4), as amended).

7. National Technical Institute for the Deaf Act (sec. 5(b)(5), 79 Stat. 126; 20 U.S.C. 684(b)(5)).

8. National Foundation on the Arts and Humanities Act of 1965 (sec. 5(k), 79 Stat. 846 as amended; 20 U.S.C. 954(j)).

9. Elementary and Secondary Education Act of 1965 as amended by Elementary and Secondary and other Education Amendments of 1969 (sec. 423 as added by Pub. L. 91–230, title IV, sec. 401(a)(10), 84 Stat. 169, and renumbered sec. 433, by Pub. L. 92–318; title III, sec. 301(a)(1), 86 Stat. 326; 20 U.S.C. 1232(b)). Under the amendment coverage is extended to all programs administered by the Commissioner of Education.

10. The Federal-Aid Highway Acts (72 Stat. 895, as amended by 82 Stat. 821; 23 U.S.C. 113).

11. Indians Self-Determination and Education Assistance Act (sec. 7, 88 Stat. 2205; 25 U.S.C. 450e).

12. Indian Health Care Improvement Act (sec. 303(b), 90 Stat. 1407; 25 U.S.C. 1633(b)).

13. Rehabilitation Act of 1973 (sec. 306(b)(5), 87 Stat. 384, 29 U.S.C. 776(b)(5)).

14. Comprehensive Employment and Training Act of 1973 (sec. 606, 87 Stat. 880, renumbered sec. 706 by 83 Stat. 1845; 29 U.S.C. 986; also sec. 604, 88 Stat. 1846; 29 U.S.C. 964(b)(3)).

15. State and Local Fiscal Assistance Act of 1972 (sec. 123(a)(6), 86 Stat. 933; 31 U.S.C. 1246(a)(6)).

16. Federal Water Pollution Control Act (sec. 513 of sec. 2, 86 Stat. 894; 33 U.S.C. 1372).

17. Veterans Nursing Home Care Act of 1964 (78 Stat. 502, as amended; 38 U.S.C. 5035(a)(8)).

18. Postal Reorganization Act (sec. 410(b)(4)(C); 84 Stat. 726 as amended; 39 U.S.C. 410(b)(4)(C)).

19. National Visitors Center Facilities Act of 1968 (sec. 110, 32 Stat. 45; 40 U.S.C. 808).

20. Appalachian Regional Development Act of 1965 (sec. 402, 79 Stat. 21; 40 U.S.C. App. 402).

21. Health Services Research, Health Statistics, and Medical Libraries Act of 1974 (sec. 107, see sec. 306(h)(2) thereof, 83 Stat. 370, as amended by 90 Stat. 378; 42 U.S.C. 242m(h)(2)).

22. Hospital Survey and Construction Act, as amended by the Hospital and Medical Facilities Amendments of 1964 (sec. 605(a)(5), 78 Stat. 453; 42 U.S.C. 291e(a)(5)).

23. Health Professions Education Assistance Act (sec. 303(b), 90 Stat. 2254; 42 U.S.C. 293a(g)(1)(C); also sec. 308a, 90 Stat. 2256; 42 U.S.C. 293a(c)(7)).

24. Nurse Training Act of 1964 (sec. 941(a)(1)(C), 89 Stat. 364; 42 U.S.C. 296a(b)(5)).

25. Heart Disease, Cancer, and Stroke Amendments of 1965 (sec. 904, as added by sec. 2, 79 Stat. 928; 42 U.S.C. 299d(b)(4)).

26. Safe Drinking Water Act (sec. 2(a), see sec. 1450e thereof, 88 Stat. 1691; 42 U.S.C. 300j–9(e)).

27. National Health Planning and Resources Act (sec. 4, see sec. 1604(b)(1)(H), 88 Stat. 2281, 42 U.S.C. 300o–3(b)(1)(H)).

28. U.S. Housing Act of 1937, as amended and recodified (88 Stat. 667; 42 U.S.C. 1437j).

29. Demonstration Cities and Metropolitan Development Act of 1966 (secs. 110, 311, 503, 1003, 80 Stat. 1259, 1270, 1277, 1284; 42 U.S.C. 3310; 12 U.S.C. 1715c; 42 U.S.C. 1437j).

30. Slum clearance program: Housing Act of 1949 (sec. 109, 63 Stat. 419, as amended; 42 U.S.C. 1459).

31. Farm housing: Housing Act of 1964 (adds sec. 516(f) to Housing Act of 1949 by sec. 503, 78 Stat. 797; 42 U.S.C. 1486(f)).

32. Housing Act of 1961 (sec. 707, added by sec. 907, 79 Stat. 496, as amended; 42 U.S.C. 1500c–3).

33. Defense Housing and Community Facilities and Services Act of 1951 (sec. 310, 65 Stat. 307; 42 U.S.C. 1592i).

34. Special Health Revenue Sharing Act of 1975 (sec. 303, see sec. 222(a)(5) thereof, 89 Stat. 324; 42 U.S.C. 2689j(a)(5)).

35. Economic Opportunity Act of 1964 (sec. 607, 78 Stat. 532; 42 U.S.C. 2947).

36. Headstart, Economic Opportunity, and Community Partnership Act of 1974 (sec. 11, see sec. 811 thereof, 88 Stat. 2327; 42 U.S.C. 5992a).

37. Housing and Urban Development Act of 1965 (sec. 707, 79 Stat. 492 as amended; 42 U.S.C. 3107).

38. Older Americans Act of 1965 (sec. 502, Pub. L. 89–73, as amended by sec. 501, Pub. L. 93–29; 87 Stat. 50; 42 U.S.C. 3041a(a)(4)).

39. Public Works and Economic Development Act of 1965 (sec. 712, 79 Stat. 575 as amended; 42 U.S.C. 3222).

40. Juvenile Delinquency Prevention Act (sec. 1, 88 Stat. 536; 42 U.S.C. 3884).

41. New Communities Act of 1968 (sec. 410.82 Stat. 516; 42 U.S.C. 3909).

42. Urban Growth and New Community Development Act of 1970 (sec. 727(f), 84 Stat. 1803; 42 U.S.C. 4529).

43. Domestic Volunteer Service Act of 1973 (sec. 406, 87 Stat. 410; 42 U.S.C. 5046).

44. Housing and Community Development Act of 1974 (secs. 110, 802(g), 88 Stat. 640, 724; 42 U.S.C. 5310, 1440(g)).

45. Developmentally Disabled Assistance and Bill of Rights Act (sec. 126(4), 89 Stat. 488; 42 U.S.C. 6042(4); title I, sec. 111, 89 Stat. 491; 42 U.S.C. 6063(b)(19)).

46. National Energy Conservation Policy Act (sec. 312, 92 Stat. 3254; 42 U.S.C. 6371j).

47. Public Works Employment Act of 1976 (sec. 109, 90 Stat. 1001; 42 U.S.C. 6708; also sec. 208, 90 Stat. 1008; 42 U.S.C. 6728).

48. Energy Conservation and Production Act (sec. 45(h), 90 Stat. 1168; 42 U.S.C. 6881(h)).

49. Solid Waste Disposal Act (sec. 2, 90 Stat. 2828; 42 U.S.C. 6979).

50. Rail Passenger Service Act of 1970 (sec. 405d, 84 Stat. 1337; 45 U.S.C. 565(d)).

51. Urban Mass Transportation Act of 1964 (sec. 10, 78 Stat. 307; renumbered sec. 13 by 88 Stat. 715; 49 U.S.C. 1609).

52. Highway speed ground transportation study (sec. 6(b), 79 Stat. 893; 49 U.S.C. 1636(b)).

53. Airport and Airway Development Act of 1970 (sec. 22(b), 84 Stat. 231; 49 U.S.C. 1722(b)).

54. Federal Civil Defense Act of 1950 (50 U.S.C. App. 2281(i)).

55. National Capital Transportation Act of 1965 (sec. 3(b)(4), 79 Stat; 40 U.S.C. 682(b)(4)).

Note.—Repealed Dec. 9, 1969 and labor standards incorporated in sec. 1–1431 of the District of Columbia Code.

56. Model Secondary School for the Deaf Act (sec. 4, 80 Stat. 1027, Pub. L. 89–694, but not in the United States Code.

57. Delaware River Basin Compact (sec. 15.1, 75 Stat. 714, Pub. L. 87–328) (considered a statute for purposes of this part but not in the United States Code).

58. Energy Security Act (Sec. 175(c), Pub. L. 96–294, 94 Stat. 611; 42 U.S.C. 8701 note).

Appendix B

Boston Region

For the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont:

Assistant Regional Administrator for Wage-Hour, Employment Standards Administration, U.S. Department of Labor, JFK Federal Building, Government Center, Room 1612C, Boston, Massachusetts 02203 (telephone: 617–223–5565).

New York Region

For the States of New Jersey and New York and for the Canal Zone, Puerto Rico, and the Virgin Islands:

Assistant Regional Administrator for Wage-Hour, Employment Standards Administration, U.S. Department of Labor, 1515 Broadway, Room 3300, New York, New York 10036 (telephone: 212–399–5443).

Philadelphia Region

For the States of Delaware, Maryland, Pennsylvania, Virginia, and West Virginia, and the District of Columbia:

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Part VI

Department of Labor

Wage and Hour Division, Employment Standards Administration

Office of the Secretary

Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act); Final Rule

DEPARTMENT OF LABOR

Wage and Hour Division, Employment Standards Administration

Office of the Secretary

29 CFR Part 5

Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: This document provides the final text of regulations, 29 CFR Part 5, Subpart A, on labor standards applicable to contracts for federally financed and assisted construction subject to the Davis-Bacon and Related Acts and contracts subject to the Contract Work Hours and Safety Standards Act (CWHSSA). Changes have been made to eliminate the requirement that contractors and subcontractors submit weekly payrolls to the appropriate Federal agencies, and to provide for the increased use of helpers on covered projects. In addition, the definition of the "site of the work" has been revised for clarification.

DATES: Effective date: July 27, 1982, except § 5.5(a)(1) (ii), (iv) and (a)(3)(i), which contain information collection requirements which are under review at OMB. See Supplementary Information for dates of applicability.

FOR FURTHER INFORMATION CONTACT: William M. Otter, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone: 202–523–8305.

SUPPLEMENTARY INFORMATION: On December 28, 1979, a proposal was published in the **Federal Register** (44 FR 77080) to make certain revisions to Subpart A of Regulations, 29 CFR Part 5, Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act). The purpose of this proposal was to revise, update, and clarify this subpart.

On January 16, 1981, the regulation was published in the **Federal Register** (46 FR 4380) as a final rule with a scheduled effective date of February 17, 1981. However, pursuant to the President's Memorandum of January 29, 1981, the Department published a notice in the **Federal Register** on February 6, 1981 (46 FR 11253), delaying implementation of this regulation until March 30, 1981. The Department subsequently delayed the implementation of this regulation until August 15, 1981 in order to permit reconsideration of the rule pursuant to Executive Order 12291. See 46 FR 18973 (March 27, 1981); 46 FR 23739 (April 28, 1981); 46 FR 33514 (June 30, 1981); and 46 FR 36140 (July 14, 1981).

On August 14, 1981, a new regulatory proposal developed in accordance with Executive Order 12291 was published in the **Federal Register** (46 FR 41456) and the previously published rule was further postponed until action could be taken on the new proposal. (See 46 FR 41043.)

Interested persons were afforded the opportunity to submit comments to the Wage and Hour Division within 60 days after publication of the proposal in the **Federal Register**. Comments were received from approximately 2,200 interested parties, including members of Congress, contracting agencies, contractor associations, contractors, labor organizations, State and local governmental agencies, business organizations, and individuals. Many comments were received either supporting or opposing the proposal in general. More than 1,000 comments (mostly from contractors and contractor associations) were directed solely to the issue of whether the use of helpers should be limited to a ratio to journeymen of 1:5, as had been proposed.

Contractor associations and business organizations submitting comments included the Associated General Contractors of America (AGC), the Associated Builders and Contractors, Inc. (ABC), the National Association of Home Builders (NAHB), the Chamber of Commerce of the United States (C of C), the National Association of Manufacturers (NAM), the Business Roundtable, the National Federation of Independent Business, the National Utility Contractors Association (NUCA), the Sheet Metal and Air Conditioning Contractors' National Association, Inc., the American Road and Transportation Builders Association, the National League of Cities (NLC), the National Association of Counties, the Council of State Housing Agencies, the National Sand and Gravel Association, the National Ready Mixed Concrete Association, and others. Labor unions and organizations commenting on the proposal included the Building and Construction Trades Department of the American Federation of Labor-Congress of Industrial Organizations (BCTD), the Laborers' International Union of North America (LIUNA), the United Brotherhood of Carpenters and Joiners of America (UBC), the International Brotherhood of Electrical Workers (IBEW), the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry (UA), the International Brotherhood of Teamsters (Teamsters), the International Association of Bridge, Structural and Ornamental Iron Workers (Iron Workers), the International Union of Operating Engineers (IUOE), the United Automobile Workers of America (UAW), the Sheet Metal Workers' International Association (SMW), the Operative Plasterers' and Cement Masons' International Association (OPCM), the International Brotherhood of Painters and Allied Trades (PAT), and others. Among those Federal agencies submitting comments were the Department of Defense (DOD), the Department of Transportation (DOT), the Department of Energy (DOE), the National Aeronautics and Space Administration (NASA), the U.S. Postal Service (USPS), the General Services Administration (GSA), and the Small Business Administration (SBA).

Discussion of Major Comments

The following is an analysis of all the principal comments received and the corresponding changes, if any, made to the proposed rule. Each submission has been thoroughly reviewed, and each criticism and suggestion has been given careful consideration. For each section and, where appropriate, subsection of the final rule, the analysis contains a description of the major comments, the Department's conclusions regarding those comments, and the substantive changes herein adopted.

Section 5.2(1)—Definition of "Site of Work"

The ABC, AGC, several other contractor associations, individual contractors, and DOT opposed the proposed definition of "site of work", stating it was an expansion of statutory coverage and, in addition, was confusing and subject to different interpretations. They recommended that the definition be limited to the physical places where the construction work is to be performed. Some contractor associations suggested excluding any commercial material supplier or other similar operation located near, but not

on, the actual location of the construction project if the operation is established prior to the start of contract work.

Labor organizations, including the BCTD, the Teamsters, and the UAW, commented that the proposed definition unduly restricted Davis-Bacon coverage by placing limitations on coverage of facilities not directly on the construction site, thus depriving workers at such facilities of labor standards protections.

The Department's proposal would codify its longstanding interpretation of "site of work" in the regulations. Necessarily, the provision embodies some flexibility in order to allow for its application to the varied fact situations encountered in particular cases.

However, in response to industry comments, this section has been clarified, explicitly providing that operations of a "commercial supplier" or "materialman" established by the supplier of the materials prior to the opening of bids and not located at the actual site of the project are not covered by the Act.

Sections 5.2(n)(4), 5.5(a)(1)(ii)(A), and 5.5(a)(4)(iv)—Helpers

Many commentators, including the ABC, AGC, NAM, NAHB, the Business Roundtable, the C of C, and individual contractors, generally favored the proposal to increase recognition of a semi-skilled helper classification; however, they opposed the ratio limitations on their use contained in the proposal at § 5.5(a)(4)(iv). While some of these commentators argued that the use of helpers varies too greatly by craft, job needs, and geographic area to establish a fixed nationwide ratio, a number simply recommended a more liberal ratio. The AGC also opposed the requirement in the conformance procedures in § 5.5(a)(1)(ii)(A) that helper wage rates must bear a "reasonable relationship" to the rates on the wage determination.

The building trades unions and some State and local governmental agencies opposed increased recognition of helpers on the grounds that this would undermine formally established apprentice and trainee programs to the detriment of minorities and unskilled workers, and would lead to shortages of qualified journeymen.

Several commentators expressed the view that the proposed definition in § 5.2(n)(4) was too broad to distinguish helpers' duties from those of a journeyman or apprentice. A parallel concern, particularly articulated by the Laborers' International Union, is that the proposed definition is essentially a statement of traditional laborers' work, and consequently could result in the misclassification of workers into lower paying jobs.

The Department currently recognizes a helper classification only where it is a separate and distinct class of workers, which prevails in the area, and where the helpers' scope of duties can be differentiated from those of journeymen. When the use of helpers has been permitted under these criteria, no ratio as to their use has been applied.

Increased recognition of helpers, both helpers working in a particular craft and cross-craft or general utility helpers, reflects the widespread industry practice of employing semi-skilled workers (with some overlap between their duties and those of journeymen) on construction projects. The very large number of comments received reflects a wide acceptance of the proposed helper definition. Section 5.2(n)(4) is therefore adopted as proposed.

However, in view of the concerns expressed that the proposed ratio of one helper to five journeymen did not give adequate consideration to the number of helpers used in the industry, the Department has concluded that a more liberal ratio would be consistent with the statutory intent and provide training opportunities.

Accordingly, the ratio has been changed to permit not more than two helpers for every three journeymen (or not more than 40 percent of the total number of helpers and journeymen) in the contractor's workforce, as illustrated by the following chart:

Journeymen	Helpers	Total[1]
1	0	1
2	0	2
2	1	3
3	1	4
3	2	5
4	2	6
5	2	7
5	3	8
6	3	9
6	4	10
7	4	11
8	4	12
8	5	13
9	5	14
9	6	15
10	6	16

[1]Helpers and journeymen.

To assure that the ratio does not disrupt existing established local practices in areas where wage determinations currently contain helper classifications without restriction as to the number permitted, interested parties (which would include contracting agencies), prior to bid opening on a contract, may request a variance from the ratio provision pursuant to § 5.14 of the regulations. Such variances will be considered for the applicable helper classification(s) upon a showing that the wage determination for the type of construction in effect in the area prior to the effective date of these regulations contains one or more helper classifications, and that there was a practice in the area of utilizing such helpers on Davis-Bacon projects in excess of a ratio of two to every three journeymen in the classification.

With respect to the comment regarding conformance of wage rates, it is fundamental to this process that a reasonable relationship be maintained to the wages for the various job classifications on the wage determination. Accordingly, § 5.5(a)(1)(ii)(A) is adopted without change. (See also the related changes proposed to 29 CFR Part 1 regarding the issuance of helper classifications on wage determinations and the discussion of comments received thereon.)

Section 5.5(a)(1)(ii)(B)—Review of Conformances Agreed to by the Interested Parties

No comments were received concerning the conformance procedures. However, as a result of DOL's review of the proposal, it has been determined that a modification is appropriate to insure consistency in procedures contained in § 5.5(a)(1)(ii) (B) and (C). Ordinarily, DOL expects to complete review of proposed conformance actions agreed to by the interested parties within a 30 day period as provided in the proposed regulations. However, in a few instances, more time is needed, especially where an area practice survey is necessary to ascertain prevailing wage relationships and/or the proper classification of the unlisted classes. Accordingly, the language of this section is amended to allow DOL (with notification to the agency) additional time to complete a review.

Section 5.5 (a)(2) and (b)(3)—Cross-Withholding

The ABC, the NAHB, other contractor associations and some State highway agencies opposed the provisions which would allow agencies to withhold contract monies due a contractor from contracts other than those on which the alleged violations occurred if necessary to satisfy Davis-Bacon and Contract Work Hours and Safety Standards Act underpayments ("cross-withholding"). These groups contended that neither statute authorizes cross-withholding, citing *Whitney Bros. Plumbing and Heating* v. *United States* (224 F. Supp. 860 (D. Alaska 1963)). They further contended that these proposals would, in effect, redelegate withholding

authority from the contracting agency to the DOL.

The BCTD and other labor organizations opposed the proposed limitation on cross-withholding to those contracts which involve the same prime contractors as unduly restrictive.

Both the Davis-Bacon Act and the CWHSSA require that all covered contracts contain language to permit the contracting agency to withhold funds to satisfy unpaid wages. Because neither statute specifically provides for cross-withholding, agencies generally have refrained from doing so. Accordingly, many contractors and subcontractors have escaped payment of back wages because violations were not discovered until after final payment on the contract had been made.

The decision in *Whitney Bros.* precluded withholding from another contract under the language of the contract clause in the regulations as they existed at that time. In Decision No. B-177554 (March 22, 1973), the GAO recommended that the Department adopt regulations specifically permitting cross-withholding. In addition, GAO commented in favor of the cross-withholding provisions contained in the stayed DOL regulations of January 16, 1981, which were substantially identical to the current proposal.

While the Department recognizes that the contracting officer undertakes the actual withholding of payment of contract funds, it is clear that to require the agency to take withholding action upon request of DOL is not a redelegation of the contracting agency's authority. Rather, it is simply the exercise of DOL authority under Reorganization Plan No. 14 of 1950 in order to accomplish its enforcement and oversight responsibilities.

With respect to the comments by labor organizations that the cross-withholding provisions are unduly restrictive, we note that the provisions are so structured because the Government has no direct contractual relationship with subcontractors, and because prime contractors are responsible for violations committed by their subcontractors.

Accordingly, no substantive changes are being made in these sections. However, § 5.5(b)(3) is amended to correspond to the language in § 5.5(a)(2), which specifically states that cross-withholding is only permitted on contracts with the same prime contractor.

Section 5.5(a)(3)(ii) and (iii)—Elimination of Weekly Payroll Submission Requirement

Numerous commentators, including ABC, AGC, several regional and State contractor associations, and the Postal Service commented that eliminating the submission of weekly payroll reports would result in significant construction cost savings, alleviate unnecessary paperwork burdens, simplify contract administration, and still comply with the requirements of the Copeland Act. However, ABC disagreed with the proposal to permit agencies, at their discretion, to request payroll reports. It argued that existing recordkeeping, inspection, and posting requirements are sufficient to ensure compliance; it also maintained that the proposed provision would only cause confusion among contractors as to what their obligations are because of possible differing reporting requirements from one agency to another. Some commentators suggested requiring the submission of the compliance statements only at certain points during the course of the project, such as at the beginning and the end of the project.

The BCTD, UAW, Teamsters, and several other labor organizations, a few contractor associations, GSA, and several State and local contracting agencies opposed the elimination of the weekly payroll submission on the grounds that its elimination would make it more difficult for agencies and DOL to monitor compliance with the Davis-Bacon and Copeland Acts, while increasing enforcement costs. They further contended that weekly payroll submissions are not an onerous recordkeeping burden on contractors since the records must be kept anyway, and questioned the Department's authority to eliminate what they regard as a statutory requirement of the Copeland Act.

The Department believes that the provisions of the Copeland Act requiring a weekly statement with respect to the wages paid each employee during the preceding week can be legally satisfied by the weekly submission of a statement certifying that the wages paid are in compliance with the Act. Further, this proposed change is in accord with the Department's mandate, under the Paperwork Reduction Act, to reduce unnecessary paperwork burdens on the public wherever possible.

With respect to the arguments regarding the provision allowing contracting agencies to request payroll submissions at their discretion, the Department recognizes the significant role of the agencies in assuring compliance with the Davis-Bacon and Copeland Act standards. Therefore, we believe it necessary and appropriate to provide a mechanism whereby the procuring agencies can obtain payroll information where deemed necessary to insure compliance. However, § 5.6(a)(3) of the final regulation has been revised to provide that requests for payroll submissions will only be made as part of a specific compliance check or enforcement action. Clarifying changes have also been made to § 5.5(a)(3).

With regard to the comments that enforcement would be more difficult with the elimination of weekly payroll submissions, the regulations continue to require the maintenance of payrolls and basic records by the contractor. They further require that such records be submitted for inspection on request of the agency or the Department of Labor. Failure to submit such records upon request may be grounds for debarment. In addition, the regulations specify that falsification of the weekly statement of compliance may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code. The Department feels that these requirements are sufficient to ensure enforcement of the Act.

It should be noted that notwithstanding the change in reporting, prime contractors continue to be responsible for insuring that all laborers and mechanics employed on the contract are paid in compliance with the Davis-Bacon and Related Acts. Accordingly, since subcontractors will only be required to submit a weekly statement of compliance, and will no longer be required to submit copies of their payrolls each week, prime contractors may wish to provide in their subcontracts for the examination of subcontractor payrolls.

Section 5.5(a)(9)—Disputes Concerning Labor Standards

Several commentators objected to the portion of § 5.5(a)(9) which states that disputes arising out of the labor standards provisions of the contract are not subject to the general disputes clause of the contract, but rather to the provisions of Parts 5, 6, and 7 of this Title. Federal agencies commented that the provision conflicts with the authority of the contracting officer as set forth in the Contract Disputes Act of 1978 (Pub. L. 95-563, 41 U.S.C. Sec. 601 *et seq.*). Reorganization Plan No. 14 of 1950, as explained in the President's message accompanying the plan, invests in the Secretary of Labor the responsibility "to

coordinate the administration of laws relating to wages and hours on Federally-financed or assisted projects by prescribing standards, regulations, and procedures to govern the enforcement activities of the various Federal agencies." With respect to the Contract Disputes Act of 1978, section 14 of that statute sets forth specific amendments to existing statutes. Significantly, no change, repeal, amendment, or other reference was made to the Davis-Bacon and Related Acts, the Contract Work Hours and Safety Standards Act, the Copeland Act, or Reorganization Plan No. 14 of 1950. Therefore, in our view, the Department's authority to resolve disputes under these statutes and Reorganization Plan No. 14 is not impinged by section 14 of the Contract Disputes Act. This conclusion is corroborated by section 6(a) of the Contract Disputes Act, which states in pertinent part, that "the authority of this subsection shall not extend to a claim or dispute for penalties or forfeitures prescribed by statute or regulation which another Federal agency is specifically authorized to administer, settle, or determine."

To insure effective and consistent administration, the authority to resolve labor disputes should reside in the Department of Labor, since it is the agency which has the primary responsibility for protecting labor standards and the expertise in the law and the regulations. It should be noted that the General Accounting Office stated previously that it had no objection to the adoption of this provision. Accordingly, this section is hereby adopted.

Section 5.5(a)(10)—Certification of Eligibility

ABC and DOT opposed the provisions prohibiting contract award to a potential contractor where another person or firm which has been debarred pursuant to section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) has "an interest" in a bidder's firm, asserting that the phrase "an interest" is too vague and that the regulation should prohibit contract award only where a person or firm has a "controlling" or "substantial" interest.

Section 3(a) of the Davis-Bacon Act prohibits the award of contracts to a firm in which another person or firm debarred because of violations of the Act has "an interest", while § 5.12(a)(1) of the regulations prohibits award if a person or firm, debarred for violations of a related Act, has "a substantial interest" in the potential contractor's firm. In both cases, the intent is to prohibit debarred persons or firms from evading the ineligibility sanctions by using another legal entity to obtain Government contracts.

Although the language of the Davis-Bacon Act requires debarment of any firm in which a debarred contractor has an "interest", the regulation, as drafted, is not intended to prohibit bidding by a potential contractor where a debarred person or firm holds only a nominal interest in the potential contractor's firm. Accordingly, no changes are made in this section. Decisions as to whether "an interest" exists will be made on a case-by-case basis considering all relevant factors.

In addition to the above, minor editorial and language changes have been made in some sections.

Classification

This rule would not appear to require a regulatory impact analysis under Executive Order 12291 since the changes will result in substantial cost savings annually for both contractors and the Government while still assuring protection of local wage rates and practices. However, because of the importance to the Government and the public of the issues involved, the Department has concluded that the regulation should be deemed a "major rule" for purposes of the Executive Order. It has been determined, in accordance with Executive Order 12291, that these changes are the most cost-effective regulatory alternatives consistent with the purpose of the statute.

Summary of Final Regulatory Impact and Regulatory Flexibility Analysis

The Department has prepared its final regulatory impact analysis to identify and quantify the cost impact of the final Davis-Bacon regulations and various alternatives that were explored and to inform the public of the economic considerations behind final revisions in accordance with Executive Order 12291.

The final analysis builds upon a preliminary regulatory impact analysis (PRIA) which accompanied the proposed revisions published on August 14, 1981 (46 FR 41444). The PRIA estimated that the proposed changes would result in substantial cost savings amounting to at least $670 million annually to both contractors and procuring agencies, while still assuring protection of local wage rates and practices. The Department requested comments and additional information on all economic assumptions used in the analysis, as well as any alternative suggestions designed to achieve the objectives of the Davis-Bacon and Related Acts at lower costs. The Department received numerous comments on the PRIA estimates and its economic assumptions. The Department has carefully reviewed all of these comments in finalizing the regulations and has incorporated these considerations, as appropriate, into the final regulatory impact analysis (FRIA).

The final regulation must also consider the Regulatory Flexibility Act of 1980. This Act requires agencies to prepare regulatory flexibility analyses and to develop flexible alternatives whenever possible in drafting regulations that will have "a significant economic impact on a substantial number of small entities." The analysis summarized below meets the requirements set forth for assessing the economic impact of the final changes in the Davis-Bacon regulations on small entities as required under the Regulatory Flexibility Act.

A. Cost Savings from Eliminating Weekly Payroll Submissions

Current DOL regulations implementing the Copeland Act in 29 CFR Part 5 require contractors to submit a statement of compliance together with a copy of the weekly payroll. Contractors have raised numerous concerns that the requirements for weekly submissions of payroll records impose substantial administrative burdens on contractors, while contributing little to enforcement of the Davis-Bacon Act.

The January 16 regulation made it clear that contractors were allowed to submit payroll records in any form, thereby eliminating the costs of transcribing payroll data onto the optional government forms. The August proposal went even further—eliminating payroll submissions entirely, requiring only a weekly certified "Statement of Compliance". However, under the proposal agencies were permitted to request submissions of payrolls where necessary. The Department also considered eliminating all weekly submissions, but concluded that the Copeland Act requires that contractors submit each week a statement on the wages paid to each employee during the preceding week. The proposed regulation thus conformed with the recommendations of two study groups of the Commission on Government Procurement.* The PRIA estimated the cost of compliance with these weekly payroll submissions at $100 million.

Contractor associations generally supported these changes and the cost estimates. However, ABC argued that

* See GAO, *The Davis-Bacon Act Should be Repealed*, April 1979, pp. 70–82.

the cost savings were only $50 million and further that the Department should eliminate individual agency discretion to request payroll reports because it would only cause confusion among contractors as to what their obligations are because of possible differing reporting requirements from one agency to another. Construction unions commenting on the preliminary analysis challenged the reliability of these estimates, arguing that the true savings are far lower. They also found the analysis inadequate for ignoring the enforcement benefits of the payroll reporting requirement and argued that elimination of payrolls would make it difficult for agencies and DOL to monitor compliance with the Davis-Bacon and Copeland Acts, while increasing compliance costs. However, the PRIA in fact acknowledged the biases in the estimates of cost savings. Even allowing for these biases, the likely cost savings would still appear substantial. Moreover, the union data on back wages recovered through Davis-Bacon enforcement actions using payroll submissions leads us to conclude that the payroll reporting requirement is an inefficient enforcement tool. Most of this amount would be recovered even without the reporting requirement since retention of payrolls is mandatory and they must be made available upon request.

After careful review of the evidence, the Department has concluded that this proposed change meets the Administration's objective of eliminating unnecessary reporting burdens imposed on the public and should be adopted. However, the final regulation has been revised to provide that requests for payroll submission will only be made as part of a specific compliance check or enforcement action. These final changes recognize the fact that weekly submissions of payrolls are simply not cost-effective since these forms are infrequently used by many Federal agencies. The final regulation should substantially eliminate the $100 million in administrative costs involved.

While we have made no independent estimate of the administrative costs associated with this provision because of data limitations, several estimates of the costs of compliance with the Davis-Bacon and Copeland Act reporting requirements are available.

A previous DOL estimate uses a 5.5 million estimate of the annual burden hours for compliance with the Paperwork Reduction Act. Assuming a $5.00 hourly wage rate for a bookkeeper for these burden hours, this procedure produces a $27.5 million estimate of the costs of Davis-Bacon reporting requirements.

A second estimate comes from a 1972 survey by the Associated General Contractors of America (AGC) of its membership to estimate the administrative costs of the payroll reporting requirements of the Davis-Bacon Act. Thirty-four respondents reported estimates of administrative costs per million dollars of contract price. On the basis of this information, AGC estimated that .5 percent of the overall cost of Davis-Bacon contracts was accounted for by the payroll reporting and recordkeeping requirements. Applying this estimate to the FY 1982 estimated value of Federal construction of $30.3 billion yields an annual cost saving of nearly $152 million.

This study provides an upperbound estimate of the resulting cost savings since it includes other recordkeeping items such as the maintenance and storage of detailed payrolls on each employee for specified time periods and the prominent posting of wages paid each worker at their work site. However, the costs of weekly payroll submissions were certainly a large component of these administrative costs. Moreover, on the basis of GAO's estimate of about 600,000 prime and subcontracts annually, this estimate translates into about $250 per contract, a not unreasonable estimate of the costs of compliance with this provision. Finally, this survey refers to 1973 administrative costs and is not adjusted to reflect subsequent increases in costs. GAO's estimate which is based on this survey adjusts the AGC figure downward to $100 million to reflect the likely survey biases. This appears to be an appropriate estimate of the likely reduction in administrative costs from eliminating the weekly payroll submissions.

Much of these cost savings would be passed on to the 53,665 smaller contractors with fewer than 20 employees involved in construction work. These small contractors account for 56 percent of government contractors, but only about 15 percent of government-owned construction receipts. Since both the AGC and ABC surveys indicated that administrative costs were relatively higher for these small contractors, we used both percentages to estimate the impact of eliminating weekly payroll submissions on smaller contractors. The resulting estimated cost savings to these small contractors range from $15 million to $56 million annually.

B. Cost Impact of the Expanded Issuance of Semi-Skilled Classifications

The Department has long permitted exceptions from predetermined Davis-Bacon rates set for a craft classification for apprentices and trainees who are in approved programs. The Department has also recognized a helper classification in some areas under certain well-defined situations where (1) it constitutes a separate and distinct class of workers (i.e., the scope of duties of the helper is defined and can be differentiated from journeyman duties); (2) the particular helper classification prevails in the area; and (3) the helper is not used as an informal apprentice or trainee.

During its review, the Department concluded that the current policies regarding semi-skilled crafts do not adequately reflect construction industry practices, in particular, the widespread use of helpers to perform certain craft tasks. The proposed revisions allowed for the issuance of semi-skilled classifications such as helpers or other subclassifications of a journeyman class that could be identified in the locality. Helpers were permitted as long as their use did not exceed a ratio of one helper to five journeymen. The proposal further allowed contractors to conform rates after award for helper classifications which were not issued in the wage determinations, but which the contractor felt were appropriate to performing the contract work so long as those classifications were currently utilized in the locality. The PRIA estimated that these proposed changes would result in significant cost savings of about $450 million in Fiscal Year 1982.

Many commentators viewed these cost estimates as excessively high. Contractor associations welcomed the helper classifications, but criticized the 1:5 ratio as an artificial rule that would prohibit the following of area practices. These groups argued that the ratio, coupled with the considerably lower ceilings specified by collectively bargained contracts, would significantly dampen the cost savings—to about $200 million annually. Construction unions, on the other hand, did not comment on the ratio *per se*, but instead focused on the PRIA assumption that each helper employed on Davis-Bacon projects would replace one journeyman. They argued that the analysis overstated the cost savings because it ignored the low productivity of helpers relative to journeymen and the likelihood that helpers would be better substitutes for lower-paid laborers and apprentices than for journeymen. The construction

unions also pointed to possible long-term cost increases due to a shortage of skilled craftsmen.

These comments prompted a thorough re-evaluation of the helper cost methodology. Some comments required no new adjustment; for example, our methodology already controlled for the minimal use of helpers on union projects. The revised helper methodology incorporated relevant criticisms from both business and labor groups to the extent permitted by available data. The revised estimates were also based on more recent data showing a sharp drop in construction industry employment (and hence anticipated helper employment on Davis-Bacon projects).

The final helper regulations preserve the basic elements of the proposal with several changes. These changes include: (1) Lowering the ratio from 1:5 to 2:3 (2 helpers allowed for every 3 journeymen) to better reflect the diversity in industry practices, and (2) permitting helpers to include multitrade, as well as single craft, helpers to provide employers with maximum flexibility in their employment practices on Davis-Bacon jobs.

The basic methodology remains the same as that found in the PRIA—using evidence on the mix of skills in the construction industry *as a whole* to predict the increased helper employment on Davis-Bacon projects as a result of the regulation. The expected savings in wage costs on Davis-Bacon construction are derived by multiplying estimates of increased helper employment by changes in wage bills for contractors.

However, in the present analysis, we develop separate estimates of the likely cost savings from the regulations for the unrestricted use of helpers and for alternative ratios of helpers to journeymen. In addition, we test the sensitivity of the estimates to various assumptions regarding the skill level of workers replaced by helpers. One set of cost estimates assumes that helpers replace journeymen only. A second series of cost estimates allows helpers to replace laborers as well as journeymen.

The initial step involves determining the number of construction workers employed on Davis-Bacon projects and the number of helpers likely to be employed on Federal and federally-assisted construction work. For this analysis, we use a more recent estimate of construction employment showing that there were 758,000 construction workers on Davis-Bacon projects during 1980 (the PRIA used an estimate of one million total employees in the construction industry covered by Davis-Bacon in 1979). The FRIA discusses the derivation of these estimates in further detail.

While their skill composition is unknown, we assume that in the absence of any restrictions on their use, the helper share of employment on Davis-Bacon projects would be identical to that found overall in construction (excluding residential construction under 5 stories). The estimated helper share based on the 1976–1977 BLS survey of large metropolitan areas would be 3.2 percent and 5.6 percent, depending on whether we used the entire survey or only those occupations in the survey that specifically identify helpers.

However, the helper shares estimated directly from the BLS survey may be biased because of its limitation to large metropolitan areas and the 1976–1977 period. The BLS survey shows about 78 percent of construction workers under collective bargaining agreements. Although such agreements are almost certainly more prevalent on Davis-Bacon construction than on all construction, the BLS survey probably over-represents the percent of union workers on Davis-Bacon projects nationwide. This means that estimates of the helper employment share based on the BLS survey will be too small compared to total Davis-Bacon construction. To correct this bias, we base alternative helper estimates on the conservative assumption that the true union share of Davis-Bacon employment is 50 percent. Weighting the individual estimates found in the BLS survey data of helper employment shares within the union and non-union sectors produces adjusted estimates of the helper share of 5.98 percent and 9.4 percent.

This gives us four estimates of helper employment. Assuming that the high unionization rate found in the BLS survey of large cities prevails in all areas with Davis-Bacon projects, we can estimate that there will be between 24,256 and 42,448 additional helpers on Davis-Bacon projects. Assuming that 50 percent of the workers on Davis-Bacon jobs are organized would translate into higher estimates—45,328 and 71,252 additional helpers on Davis-Bacon jobs.

When helpers substitute for laborers in some cases as well as journeymen, the helper estimates need to be further adjusted. While it is difficult to evaluate the precise extent of this combined substitution, we use the estimated helper shares from above, but assume that helpers replace both types of labor as long as the proportion of laborers and journeymen found in the BLS Survey remains constant (i.e., the laborer to journeymen ratio). The BLS data shows the laborer to journeymen ratio to range between 2:5 and 5:11 for all construction projects in the sample. This produces estimates of helpers ranging from 24,256 to 64,056.

The second step is to calculate the expected hourly wage cost savings from hiring these helpers instead of journeymen. Using the PRIA procedures, we estimate the average wage differential between helpers and journeymen, based on the same 1977 BLS survey of large metropolitan areas adjusted to FY 1982 levels. This produces estimates of $5.72 and $5.73 as the absolute wage differential between helpers and journeymen.

For the adjusted estimates where we assume that 50 percent of Davis-Bacon is covered by union contracts, it was necessary to recalculate the wage rates accordingly. Separate union percentages for journeymen and helpers from the BLS survey were used to weight the union and non-union average hourly wage rates to arrive at the new overall averages of about $6.70.

The above estimates of wage differences assume that helpers replace only journeymen. If helpers substitute for laborers in some cases as well as journeymen, the wage differences in some cases will narrow substantially—ranging from $4.95 to $5.71. The final regulatory impact analysis describes these wage calculations in further detail as well as the biases involved in the use of average wage rates.

The next ingredient needed to compute the expected cost savings is an estimate of average hours worked annually in construction. The PRIA used an estimate of 1535 hours worked per year. However, in light of the ABC comments showing that contractors' annual work hours average well over 1900 hours and the fact that seasonality is already controlled for by our use of annual averages of monthly employment levels, we used 1924 hours from *Employment and Earnings* published by the Bureau of Labor Statistics as the estimate of annual hours worked per full year construction worker to convert helper employment levels into their total hours equivalents.

Our estimates of the resulting cost savings from increased recognition of helpers with no ratio were obtained simply by multiplying numbers of helpers by hours worked in a year (1924) and various estimates of the existing wage differential between helpers and journeymen and laborers.

However, where there is a ceiling restriction on the employment of helpers to journeymen, another step is necessary—modifying the methodology

to lower the estimates of helper employment. The new calculations assume that any ceiling has no impact on the union sector, since there are few helpers in union firms. However, the 1976–1977 BLS survey suggests that outside of residential construction under 5 stories, the average non-union ratio of helpers to journeymen is around 1:4. This means that the proposed 1:5 ratio or to a lesser extent the final 2:3 ratio would be limiting for some non-union firms and that the overall helper:journeymen ratio on federally-funded non-union projects would fall somewhat below 1:5.

For our analysis, we assumed that the proposed 1:5 regulation would result in an average ratio of 1 to 5.5 on federally-funded non-union projects, while a ratio of 2:3 would result in a higher average of 1 to 4.25 on these same projects. These new ratio assumptions have the effect of lowering the previous helper estimates.

Finally, when helpers substitute for laborers in some cases as well as journeymen, the helper estimates need to be further adjusted in the presence of a ratio. In this case, the ceiling restrictions lower helper employment in the non-union sector in two ways—(1) directly decreasing the allowed substitution of journeymen, and (2) increasing the number of laborers required to keep the proportion of laborers to journeymen constant.

The results of these calculations show that with a 1:5 ceiling and with helpers replacing journeymen, the estimated cost savings range between $263.49 million and $535.43 million. The corresponding midpoint estimate is roughly $400 million. This is the revised "best" estimate for the proposed regulation if helpers can replace only journeymen. With this same 1:5 ceiling, but with helpers replacing both laborers and journeymen, the estimated cost savings drop by approximately one-third—to $303.41 million on average. This supports the unions' contention of lower cost savings when helpers substitute for low skilled as well as higher skilled workers.

In light of the comments on the August proposal, the Department has decided to raise the ceiling from one helper for every five journeymen to two helpers for every three journeymen. The higher ratio will better reflect the wide diversity in practices among different types of construction and localities. The 2:3 ratio also increases the cost savings substantially.

If helpers replace journeymen only, the estimated cost savings range from $305.76 million to $640.95 million. This places the midpoint estimate of the likely cost savings with a 2:3 ceiling on the employment of helpers relative to journeymen at roughly $473.36 million. (This compares well to the PRIA estimates of $450 million in cost savings for the proposal under the assumption that helpers substitute only for journeymen.)

Once the final regulation is in effect, the more likely situation is one in which helpers would in some instances replace laborers as well as journeymen. If this is the case, the estimated cost savings range from $246.43 million to $479.89 million. This puts the average estimate of cost savings at $363.16 million assuming that helpers, in fact, replace both laborers and journeymen. This estimate also represents our "best guess" about the likely impact of the final regulation.

On the basis of this evidence, the Department has concluded that the final regulation will result in substantial cost savings and at the same time reflect industry practice, thereby providing contractors with the necessary flexibility in choosing their optimal employment mix on Davis-Bacon jobs. The final helper provision will also provide substantial cost savings for smaller contractors who predominate in the industry.

C. Summary

The final revisions discussed above, in conjunction with the changes proposed to Part 1 of the Davis-Bacon rules (e.g. a change in the definition of "prevailing rate") will result in substantial cost savings annually of $585 million for both contractors and the government, while still assuring protection of local wage rates and practices. The changes will have a substantial beneficial impact on small contractors.

Copies of the complete analysis may be obtained from the Administrator, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the reporting and recordkeeping provisions that are included in §§ 5.5(a)(1)(ii), 5.5(a)(1)(iv), and 5.5(a)(3)(i) have been or will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained and the public notified to that effect through a technical amendment to this regulation.

Other information collection requirements contained in this regulation (see §§ 5.5(a)(3)(i), 5.5(c), and 5.5(d) (1) and (3)) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control Number 1215–0017.

Conclusion

The Solicitor of Labor has determined in accordance with Executive Order 12291, that this regulation is clearly within the authority delegated to the Secretary of Labor by the Davis-Bacon Act (40 U.S.C. 276a *et seq.*), Reorganization Plan No. 14 of 1950 (5 U.S.C. Appendix), the Copeland Act (40 U.S.C. 276c), the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 *et seq.*), as well as 5 U.S.C. 301, 29 U.S.C. 259, and the remaining laws listed in § 5.1(a) of this part. The Solicitor, as set forth above in the discussion of the major issues, has determined that this regulation is consistent with the Congressional intent of the Davis-Bacon and related Acts that contractors on Federal and federally assisted projects subject to these Acts pay their workers at least the prevailing wages established in accordance with industry classification and wage practices. The regulation also provides protection for the workers and mechanisms for enforcement, as intended by the Davis-Bacon and related Acts, CWHSSA, and the Copeland Act.

Dates of Applicability

The provisions of §§ 5.2 and 5.5 of this part shall be applicable only as to contracts entered into pursuant to invitations for bids issued or negotiations concluded on or after July 27, 1982, *Provided,* however, that § 5.5(a)(1)(ii) concerning submission of a weekly "Statement of Compliance" will be applicable July 27, 1982 with respect to existing contracts, if the contracting agency and the contractor agree to amend the contract to delete the clause contained in existing § 5.5(a)(1)(ii) requiring weekly submission of payrolls, and incorporate § 5.5(a)(1)(ii) herein in the contract.

This document was prepared under the direction and control of William M. Otter, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 5

Government contracts, Investigations, Labor, Minimum wages, Penalties, Recordkeeping requirements, Reporting requirements, Wages.

Accordingly, 29 CFR Part 5 is revised as set forth below.

Concurrent with the publication today of this final rule, the final rule previously

published in the Federal Register on January 16, 1981 (46 FR 4380) and subsequently stayed is hereby withdrawn.

Signed at Washington, D.C. on this 25th day of May 1982.

Raymond J. Donovan,
Secretary of Labor.

Robert B. Collyer,
Deputy Under Secretary for Employment Standards.

William M. Otter,
Administrator, Wage and Hour Division.

PART 5—LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (ALSO LABOR STANDARDS PROVISIONS APPLICABLE TO NONCONSTRUCTION CONTRACTS SUBJECT TO THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT)

Subpart A—Davis-Bacon and Related Acts Provisions and Procedures

Sec.
5.1 Purpose and scope.
5.2 Definitions.
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5.12 Debarment proceedings.
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5.14 Variations, tolerances, and exemptions from Parts 1 and 3 of this subtitle and this part.
5.15 Limitations, variations, tolerances, and exemptions under the Contract Work Hours and Safety Standards Act.
5.16 Training plans approved or recognized by the Department of Labor prior to August 20, 1975.
5.17 Withdrawal of approval of a training program.

* * * * *

Authority: 40 U.S.C. 276a–276a–7; 40 U.S.C. 276c; 40 U.S.C. 327–332; Reorganization Plan No. 14 of 1950, 5 U.S.C. Appendix; 5 U.S.C. 301; and the statutes listed in section 5.1(a) of this part.

§ 5.1 Purpose and scope.

(a) The regulations contained in this part are promulgated under the authority conferred upon the Secretary of Labor by Reorganization Plan No. 14 of 1950 and the Copeland Act in order to *coordinate* the administration and enforcement of the labor standards provisions of each of the following acts by the Federal agencies responsible for their administration and of such additional statutes as may from time to time confer upon the Secretary of Labor additional duties and responsibilities similar to those conferred upon the Secretary of Labor under Reorganization Plan No. 14 of 1950:

1. The Davis-Bacon Act (sec. 1–7, 46 Stat. 1949, as amended; Pub. L. 74–403, 40 U.S.C. 276a–276a–7).
2. Copeland Act (40 U.S.C. 276c).
3. The Contract Work Hours and Safety Standards Act (40 U.S.C. 327–332).
4. National Housing Act (sec. 212 added to c. 847, 48 Stat. 1246, by sec. 14, 53 Stat. 807; 12 U.S.C. 1715c and repeatedly amended).
5. Housing Act of 1950 (college housing) (amended by Housing Act of 1959 to add labor provisions, 73 Stat. 681; 12 U.S.C. 1749a(f)).
6. Housing Act of 1959 (sec. 401(f) of the Housing Act of 1950 as amended by Pub. L. 86–372, 73 Stat. 681; 12 U.S.C. 1701q(c)(3)).
7. Commercial Fisheries Research and Development Act of 1964 (sec. 7, 78 Stat. 199; 16 U.S.C. 779e(b)).
8. Library Services and Construction Act (sec. 7(a), 78 Stat. 13; 20 U.S.C. 355c(a)(4), as amended).
9. National Technical Institute for the Deaf Act (sec. 5(b)(5), 79 Stat. 126; 20 U.S.C. 684(b)(5)).
10. National Foundation on the Arts and Humanities Act of 1965 (sec. 5(k), 79 Stat. 846 as amended; 20 U.S.C. 954(j)).
11. Elementary and Secondary Education Act of 1965 as amended by Elementary and Secondary and other Education Amendements of 1969 (sec. 423 as added by Pub. L. 91–230, title IV, sec. 401(a)(10), 84 Stat. 169, and renumbered sec. 433, by Pub. L. 92–316; title III, sec. 301(a)(1), 86 Stat. 326; 20 U.S.C. 1232(b)). Under the amendment coverage is extended to all programs administered by the Commissioner of Education.
12. The Federal-Aid Highway Acts (72 Stat. 895, as amended by 82 Stat. 821; 23 U.S.C. 113).
13. Indian Self-Determination and Education Assistance Act (sec. 7, 88 Stat. 2205; 25 U.S.C. 450e).
14. Indian Health Care Improvement Act (sec. 303(b), 90 Stat. 1407; 25 U.S.C. 1633(b)).
15. Rehabilitation Act of 1973 (sec. 306(b)(5) 87 Stat. 384, 29 U.S.C. 776(b)(5)).
16. Comprehensive Employment and Training Act of 1973 (sec. 606, 87 Stat. 880, renumbered sec. 706 by 88 Stat. 1845; 29 U.S.C. 966; also sec. 604, 88 Stat. 1848; 29 U.S.C. 964(b)(3)).
17. State and Local Fiscal Assistance Act of 1972 (sec. 123(a)(6), 88 Stat. 933; 31 U.S.C. 1246(a)(5)).
18. Federal Water Pollution Control Act (sec. 513 of sec. 2, 86 Stat. 894; 33 U.S.C. 1372).
19. Veterans Nursing Home Care Act of 1964 (78 Stat. 502, as amended; 38 U.S.C. 5035(a)(6)).
20. Postal Reorganization Act (sec. 410(b)(4)(C); 84 Stat. 726 as amended; 39 U.S.C. 410(b)(4)(C)).
21. National Visitors Center Facilities Act of 1968 (sec. 110, 32 Stat. 45; 40 U.S.C. 808).
22. Appalachian Regional Development Act of 1965 (sec. 402, 79 Stat. 21; 40 U.S.C. App. 402).
23. Health Services Research, Health Statistics, and Medical Libraries Act of 1974 (sec. 107, see sec. 308(b)(2) thereof, 88 Stat. 370, as amended by 90 Stat. 370; 42 U.S.C. 242m(b)(2)).
24. Hospital Survey and Construction Act, as amended by the Hospital and Medical Facilities Amendments of 1964 (sec. 605(a)(5), 78 Stat. 453; 42 U.S.C. 291e(a)(5)).
25. Health Professions Educational Assistance Act (sec. 303(b), 90 Stat. 2254; 42 U.S.C. 293a(g)(1)(C); also sec. 308a, 90 Stat. 2258, 42 U.S.C. 293a(c)(7)).
26. Nurse Training Act of 1964 (sec. 941(a)(1)(C), 89 Stat. 384; 42 U.S.C. 296a(b)(5)).
27. Heart Disease, Cancer, and Stroke Amendments of 1965 (sec. 904, as added by sec. 2, 79 Stat. 928; 42 U.S.C. 299d(b)(4)).
28. Safe Drinking Water Act (sec. 2(a) see sec. 1450e thereof, 88 Stat. 1691; 42 U.S.C. 300j–9(e)).
29. National Health Planning and Resources Act (sec. 4, see sec. 1604(b)(1)(H), 88 Stat. 2281, 42 U.S.C. 300o–3(b)(1)(H)).
30. U.S. Housing Act of 1937, as amended and recodified (88 Stat. 667; 42 U.S.C. 1437j).
31. Demonstration Cities and Metropolitan Development Act of 1966 (secs. 110, 311, 502, 1003, 80 Stat. 1250, 1270, 1277, 1284; 42 U.S.C. 3310; 12 U.S.C. 1715c; 42 U.S.C. 1437j).
32. Slum clearance program: Housing Act of 1949 (sec. 109, 63 Stat. 419, as amended; 42 U.S.C. 1459).
33. Farm housing: Housing Act of 1964 (adds sec. 516(f) to Housing Act of 1949 by sec. 503, 78 Stat. 797; 42 U.S.C. 1486(f)).
34. Housing Act of 1961 (sec. 707, added by sec. 907, 79 Stat. 499, as amended; 42 U.S.C. 1500c–3).
35. Defense Housing and Community Facilities and Services Act of 1951 (sec. 310, 65 Stat. 307; 42 U.S.C. 1592i).
36. Special Health Revenue Sharing Act of 1975 (sec. 308, see sec. 222(a)(5) thereof, 89 Stat. 324; 42 U.S.C. 2689j(a)(5)).
37. Economic Opportunity Act of 1964 (sec. 607, 78 Stat. 532; 42 U.S.C. 2947).
38. Headstart, Economic Opportunity, and Community Partnership Act of 1974 (sec. 11, see sec. 811 thereof, 88 Stat. 2327; 42 U.S.C. 2992a).
39. Housing and Urban Development Act of 1965 (sec. 707, 79 Stat. 492 as amended; 42 U.S.C. 3107).
40. Older Americans Act of 1965 (sec. 502, Pub. L. 89–73, as amended by sec. 501, Pub. L. 93–29; 87 Stat. 50; 42 U.S.C. 3041a(a)(4)).
41. Public Works and Economic Development Act of 1965 (sec. 712; 79 Stat. 575 as amended; 42 U.S.C. 3222).
42. Juvenile Delinquency Prevention Act (sec. 1, 88 Stat. 809; 42 U.S.C. 3884).
43. New Communities Act of 1968 (sec. 410, 82 Stat. 516; 42 U.S.C. 3909).
44. Urban Growth and New Community Development Act of 1970 (sec. 727(f), 84 Stat. 1803; 42 U.S.C. 4529).
45. Domestic Volunteer Service Act of 1973 (sec. 406, 87 Stat. 410; 42 U.S.C. 5046).
46. Housing and Community Development Act of 1974 (secs. 110, 802(g), 88 Stat. 640, 724; 42 U.S.C. 5310, 1440(g)).

47. Developmentally Disabled Assistance and Bill of Rights Act (sec. 126(4), 89 Stat. 486; 42 U.S.C. 6042(4); title I, sec. 111, 89 Stat. 491; 42 U.S.C. 6063(b)(19)).

48. National Energy Conservation Policy Act (sec. 312, 92 Stat. 3254; 42 U.S.C. 6371j).

49. Public Works Employment Act of 1976 (sec. 109, 90 Stat. 1001; 42 U.S.C. 6706; also sec. 208, 90 Stat. 1008; 42 U.S.C. 6728).

50. Energy Conservation and Production Act (sec. 451(h), 90 Stat. 1166; 42 U.S.C. 6881(h)).

51. Solid Waste Disposal Act (sec. 2, 90 Stat. 2823; 42 U.S.C. 6979).

52. Rail Passenger Service Act of 1970 (sec. 405d, 84 Stat. 1337; 45 U.S.C. 565(d)).

53. Urban Mass Transportation Act of 1964 (sec. 10, 78 Stat. 307; renumbered sec. 13 by 88 Stat. 715; 49 U.S.C. 1609).

54. Highway Speed Ground Transportation Study (sec. 6(b), 79 Stat. 893; 49 U.S.C. 1636(b)).

55. Airport and Airway Development Act of 1970 (sec. 22(b), 84 Stat. 231; 49 U.S.C. 1722(b)).

56. Federal Civil Defense Act of 1950 (50 U.S.C. App. 2281i).

57. National Capital Transportation Act of 1965 (sec. 3(b)(4), 79 Stat. 644; 40 U.S.C. 682(b)(4). Note.—Repealed December 9, 1969, and labor standards incorporated in sec. 1–1431 of the District of Columbia Code).

58. Model Secondary School for the Deaf Act (sec. 4, 80 Stat. 1027, Pub. L. 89–694, but not in the United States Code).

59. Delaware River Basin Compact (sec. 15.1, 75 Stat. 714, Pub. L. 87–328) (considered a statute for purposes of the plan but not in the United States Code).

60. Energy Security Act (sec. 175(c), Pub. L. 96–294, 94 Stat. 611; 42 U.S.C. 8701 note).

(b) Part 1 of this subtitle contains the Department's procedural rules governing requests for wage determinations and the issuance and use of such wage determinations under the Davis-Bacon Act and its related statutes as listed in that part.

§ 5.2 Definitions.

(a) The term "Secretary" includes the Secretary of Labor, the Deputy Under Secretary for Employment Standards, and their authorized representatives.

(b) The term "Administrator" means the Administrator of the Wage and Hour Division or the authorized representative as set forth in this part. In the absence of the Wage-Hour Administrator, the Deputy Administrator of the Wage and Hour Division, is designated to act for the Administrator under this Part. Except as otherwise provided in this Part, the Assistant Administrator for Government Contract Wage Standards is the authorized representative of the Administrator in the administration of the statutes listed in § 5.1.

(c) The term "Federal agency" means the agency or instrumentality of the United States which enters into the contract or provides assistance through loan, grant, loan guarantee or insurance, or otherwise, to the project subject to a statute listed in § 5.1.

(d) The term "Agency Head" means the principal official of the Federal agency and includes those persons duly authorized to act in the behalf of the Agency Head.

(e) The term "Contracting Officer" means the individual, a duly appointed successor, or authorized representative who is designated and authorized to enter into contracts on behalf of the Federal agency.

(f) The term "labor standards" as used in this part means the requirements of the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act (other than those relating to safety and health), the Copeland Act, and the prevailing wage provisions of the other statutes listed in § 5.1, and the regulations in Parts 1 and 3 of this subtitle and this part.

(g) The term "United States or the District of Columbia" means the United States, the District of Columbia, and all executive departments, independent establishments, administrative agencies, and instrumentalities of the United States and of the District of Columbia, including corporations, all or substantially all of the stock of which is beneficially owned by the United States, by the foregoing departments, establishments, agencies, instrumentalities, and including nonappropriated fund instrumentalities.

(h) The term "contract" means any prime contract which is subject wholly or in part to the labor standards provisions of any of the acts listed in § 5.1 and any subcontract of any tier thereunder, let under the prime contract. A State or local Government is not regarded as a contractor under statutes providing loans, grants, or other Federal assistance in situations where construction is preformed by its own employees. However, under statutes requiring payment of prevailing wages to all laborers and mechanics employed on the assisted project, such as the U.S. Housing Act of 1937, State and local recipients of Federal-aid must pay these employees according to Davis-Bacon labor standards.

(i) The terms "building" or "work" generally include construction activity as distinguished from manufacturing, furnishing of materials, or servicing and maintenance work. The terms include without limitation, buildings, structures, and improvements of all types, such as bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, canals, dredging, shoring, rehabilitation and reactivation of plants, scaffolding, drilling, blasting, excavating, clearing, and landscaping. The manufacture or furnishing of materials, articles, supplies or equipment (whether or not a Federal or State agency acquires title to such materials, articles, supplies, or equipment during the course of the manufacture or furnishing, or owns the materials from which they are manufactured or furnished) is not a "building"or "work" within the meaning of the regulations in this part unless conducted in connection with and at the site of such a building or work as is described in the foregoing sentence, or under the United States Housing Act of 1937 and the Housing Act of 1949 in the construction or development of the project.

(j) The terms "construction", "prosecution", "completion", or "repair" mean all types of work done on a particular building or work at the site thereof (or, under the United States Housing Act of 1937 and the Housing Act of 1949, all work done in the construction or development of the project), including without limitation, altering, remodeling, installation (where appropriate) on the site of the work of items fabricated off-site, painting and decorating, the transporting of materials and supplies to or from the building or work by the employees of the construction contractor or construction subcontractor, and the manufacturing or furnishing of materials, articles, supplies or equipment on the site of the building or work (or, under the United States Housing Act of 1937 and the Housing Act of 1949, in the construction or development of the project), by persons employed by the ontractor or subcontractor. However, the term "initial construction" in section 113 of Title 23, U.S.C., which pertains to Federal-aid highway work, does not include repair or maintenance work.

(k) The term "public building" or "public work" includes building or work, the construction, prosecution, completion, or repair of which, as defined above, is carried on directly by authority of or with funds of a Federal agency to serve the interest of the general public regardless of whether title thereof is in a Federal agency.

(l) The term "site of the work" is defined as follows:

(1) The "site of the work" is limited to the physical place or places where the construction called for in the contract will remain when work on it has been completed and, as discussed in

paragraph (l)(2) of this section, other adjacent or nearby property used by the contractor or subcontractor in such construction which can reasonably be said to be included in the "site".

(2) Except as provided in paragraph (l)(3) of this section, fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards, etc., are part of the "site of the work" provided they are dedicated exclusively, or nearly so, to performance of the contract or project, and are so located in proximity to the actual construction location that it would be reasonable to include them.

(3) Not included in the "site of the work" are permanent home offices, branch plant establishments, fabrication plants, and tool yards of a contractor or subcontractor whose locations and continuance in operation are determined wholly without regard to a particular Federal or federally assisted contract or project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, tool yards, etc., of a commercial supplier or materialman which are established by a supplier of materials for the project before opening of bids and not on the project site, are not included in the "site of the work". Such permanent, previously established facilities are not a part of the "site of the work", even where the operations for a period of time may be dedicated exclusively, or nearly so, to the performance of a contract.

(m) The term "laborer" or "mechanic" includes at least those workers whose duties are manual or physical in nature (including those workers who use tools or who are performing the work of a trade), as distinguished from mental or managerial. The term "laborer" or "mechanic" includes apprentices, trainees, helpers, and, in the case of contracts subject to the Contract Work Hours and Safety Standards Act, watchmen or guards. The term does not apply to workers whose duties are primarily administrative, executive, or clerical, rather than manual. Persons employed in a bona fide executive, administrative, or professional capacity as defined in Part 541 of this title are not deemed to be laborers or mechanics. Working foremen who devote more than 20 percent of their time during a workweek to mechanic or laborer duties, and who do not meet the criteria of Part 541, are laborers and mechanics for the time so spent.

(n) The terms apprentice, trainee, and helper are defined as follows:

(1) "Apprentice" means (i) a person employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or (ii) a person in the first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice;

(2) "Trainee" means a person registered and receiving on-the-job training in a construction occupation under a program which has been approved in advance by the U.S. Department of Labor, Employment and Training Administration, as meeting its standards for on-the-job training programs and which has been so certified by that Administration.

(3) These provisions do not apply to "apprentices" and "trainees" employed on projects subject to 23 U.S.C. 113 who are enrolled in programs which have been certified by the Secretary of Transportation in accordance with 23 U.S.C. 113(c).

(4) A "helper" is a semi-skilled worker (rather than a skilled journeyman mechanic) who works under the direction of and assists a journeyman. Under the journeyman's direction and supervision, the helper performs a variety of duties to assist the journeyman such as preparing, carrying and furnishing materials, tools, equipment, and supplies and maintaining them in order; cleaning and preparing work areas; lifting, positioning, and holding materials or tools; and other related, semi-skilled tasks as directed by the journeyman. A helper may use tools of the trade at and under the direction and supervision of the journeyman. The particular duties performed by a helper vary according to area practice.

(o) Every person performing the duties of a laborer or mechanic in the construction, prosecution, completion, or repair of a public building or public work, or building or work financed in whole or in part by loans, grants, or guarantees from the United States is "employed" regardless of any contractual relationship alleged to exist between the contractor and such person.

(p) The term "wages" means the basic hourly rate of pay; any contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a bona fide fringe benefit fund, plan, or program; and the rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing bona fide fringe benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program, which was communicated in writing to the laborers and mechanics affected. The fringe benefits enumerated in the Davis-Bacon Act include medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing; unemployment benefits; life insurance, disability insurance, sickness insurance, or accident insurance; vacation or holiday pay; defraying costs of apprenticeship or other similar programs; or other bona fide fringe benefits. Fringe benefits do not include benefits required by other Federal, State, or local law.

(q) The term "wage determination" includes the original decision and any subsequent decisions modifying, superseding, correcting, or otherwise changing the provisions of the original decision. The application of the wage determination shall be in accordance with the provisions of § 1.6 of this title.

§§ 5.3-5.4 [Reserved]

§ 5.5 Contract provisions and related matters.

(a) The Agency head shall cause or require the contracting officer to insert in full in any contract in excess of $2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, or a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1, the following clauses (or any modifications thereof to meet the particular needs of the agency. *Provided,* That such modifications are first approved by the Department of Labor):

(1) *Minimum wages.* (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or

rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH–1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(*1*) Except with respect to helpers as defined in 29 CFR 5.2(n)(4), work to be performed by the classification requested is not performed by a classification in the wage determination; and

(*2*) The classification is utilized in the area by the construction industry; and

(*3*) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, agree with the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, or the laborers or mechanics to be employed in the classification or their representatives, do not agree with the contracting officer on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(B) or (C) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) *Withholding.* The (write in name of Federal Agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) *Payrolls and basic records.* (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly

number of hours worked, deductions made and actual wages paid. (Approved by the Office of Management and Budget under OMB control number 1215–0017.) Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a "Statement of Compliance" to the (write in name of appropriate Federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the "Statement of Compliance" to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency). The prime contractor is responsible for the submission of the "Statement of Compliance" by all subcontractors.

(B) Each "Statement of Compliance" shall be signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(*1*) That the payroll for the payroll period contains the information required to be maintained under § 5.5(a)(3)(i) of Regulations, 29 CFR Part 5 and that such information is correct and complete;

(*2*) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR Part 3;

(*3*) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the (write the name of the agency) or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. In addition, the contractor or subcontractor shall submit the required payroll records upon request of authorized representatives of the (write the name of the agency) or the Department of Labor. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) *Apprentices, trainees, and helpers*—(i) *Apprentices.* Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) *Trainees.* Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid

fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) *Equal employment opportunity.* The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

(iv) *Helpers.* Helpers will be permitted to work on a project if the helper classification is specified on an applicable wage determination or is approved pursuant to the conformance procedure set forth in § 5.5(a)(1)(ii). The allowable ratio of helpers to journeymen employed by the contractor or subcontractor on the job site shall not be greater than two helpers for every three journeymen (in other words, not more than 40 percent of the total number of journeymen and helpers in each contractor's or in each subcontractor's own work force employed on the job site). Any worker listed on a payroll at a helper wage rate, who is not a helper as defined in 29 CFR 5.2(n)(4), shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any helper performing work on the job site in excess of the ratio permitted shall be paid not less than the applicable journeyman's (or laborer's, where appropriate) wage rate on the wage determination for the work actually performed.

(5) *Compliance with Copeland Act requirements.* The contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

(6) *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the (write in the name of the Federal agency) may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) *Contract termination: debarment.* A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) *Compliance with Davis-Bacon and Related Act requirements.* All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) *Disputes concerning labor standards.* Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) *Certification of Eligibility.* (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(b) *Contract Work Hours and Safety Standards Act.* The Agency Head shall cause or require the contracting officer to insert the following clauses set forth in paragraphs (b)(1), (2), (3), and (4) of this section in full in any contract subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by § 5.5(a) or § 4.6 of Part 4 of this title. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of eight hours in any calendar day or in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of forty hours in such workweek, whichever is greater.

(2) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of $10 for each calendar day or which such individual was required or permitted to work in excess of eight hours or in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) *Withholding for unpaid wages and liquidated damages.* The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by

the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

(c) In addition to the clauses contained in paragraph (b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in § 5.1, the Agency Head shall cause or require the contracting officer to insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Agency Head shall cause or require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job. (Approved by the Office of Management and Budget under OMB control number 1215–0017.)

§ 5.6 Enforcement.

(a)(1) It shall be the responsibility of the Federal agency to ascertain whether the clauses required by § 5.5 have been inserted in the contracts subject to the labor standards provisions of the Acts contained in § 5.1. Agencies which do not directly enter into such contracts shall promulgate the necessary regulations or procedures to require the recipient of the Federal assistance to insert in its contracts the provisions of § 5.5. No payment, advance, grant, loan, or guarantee of funds shall be approved by the Federal agency unless the agency insures that the clauses required by § 5.5 and the appropriate wage determination of the Secretary of Labor are contained in such contracts. Furthermore, no payment, advance, grant, loan, or guarantee of funds shall be approved by the Federal agency after the beginning of construction unless there is on file with the agency a certification by the contractor that the contractor and its subcontractors have complied with the provisions of § 5.5 or unless there is on file with the agency a certification by the contractor that there is a substantial dispute with respect to the required provisions.

(2) Statements of Compliance submitted pursuant to § 5.5(a)(3)(ii) shall be preserved by the Federal agency for a period of 3 years from the date of completion of the contract and shall be produced at the request of the Department of Labor at any time during the 3-year period.

(3) The Federal agency shall cause such investigations to be made as may be necessary to assure compliance with the labor standards clauses required by § 5.5 and the applicable statutes listed in § 5.1. Investigations shall be made of all contracts with such frequency as may be necessary to assure compliance. Such investigations shall include interviews with employees, which shall be taken in confidence, and examinations of payroll data and evidence of registration and certification with respect to apprenticeship and training plans. Requests for submission of payrolls as provided in § 5.5(a)(3)(iii) shall be made only in conjunction with specific compliance checks or enforcement actions. In making such examinations, particular care shall be taken to determine the correctness of classifications and to determine whether there is a disproportionate employment of laborers, of helpers where they are listed on the wage determination or conformed under § 5.5(a)(1)(ii), and of apprentices or trainees registered in approved programs. Such investigations shall also include evidence of fringe benefit plans and payments thereunder. Complaints of alleged violations shall be given priority.

(4) In accordance with normal operating procedures, the contracting agency may be furnished various investigatory material from the investigation files of the Department of Labor. None of the material, other than computations of back wages and liquidated damages and the summary of back wages due, may be disclosed in any manner to anyone other than Federal officials charged with administering the contract or program providing Federal assistance to the contract, without requesting the permission and views of the Department of Labor.

(5) It is the policy of the Department of Labor to protect the identity of its confidential sources and to prevent an unwarranted invasion of personal privacy. Accordingly, the identity of an employee who makes a written or oral statement as a complaint or in the course of an investigation, as well as portions of the statement which would reveal the employee's identity, shall not be disclosed in any manner to anyone other than Federal officials without the prior consent of the employee. Disclosure of employee statements shall be governed by the provisions of the "Freedom of Information Act" (5 U.S.C. 552, see 29 CFR Part 70) and the "Privacy Act of 1974" (5 U.S.C. 552a).

(b) The Administrator shall cause to be made such investigations as deemed necessary, in order to obtain compliance with the labor standards provisions of the applicable statutes listed in § 5.1, or to affirm or reject the recommendations by the Agency Head with respect to labor standards matters arising under the statutes listed in § 5.1. Federal agencies, contractors, subcontractors, sponsors, applicants, or owners shall cooperate with any authorized representative of the Department of Labor in the inspection of records, in interviews with workers, and in all other aspects of the investigations. The findings of such an investigation, including amounts found due, may not be altered or reduced without the approval of the Department of Labor. Where the underpayments disclosed by such an investigation total $1,000 or more, where there is reason to believe that the violations are aggravated or willful (or, in the case of the Davis-Bacon Act, that the contractor has disregarded its obligations to employees and subcontractors), or where liquidated damages may be assessed under the Contract Work Hours and Safety Standards Act, the Department of Labor will furnish the Federal agency an enforcement report detailing the labor standards violations disclosed by the investigation and any action taken by the contractor to correct the violative practices, including any payment of back wages. In other circumstances, the Federal agency will be furnished a letter of notification summarizing the findings of the investigation.

§ 5.7 Reports to the Secretary of Labor.

(a) *Enforcement reports.* (1) Where underpayments by a contractor or subcontractor total less than $1,000, and where there is no reason to believe that the violations are aggravated or willful (or, in the case of the Davis-Bacon Act that the contractor has disregarded its obligations to employees and subcontractors), and where restitution has been effected and future compliance assured, the Federal agency need not submit its investigative findings and recommendations to the Administrator, unless the investigation was made at the request of the Department of Labor. In the latter case, the Federal agency shall submit a factual summary report detailing any violations including any data on the amount of restitution paid, the number of workers who received restitution, liquidated damages assessed under the Contract Work Hours and Safety Standards Act, corrective measures taken (such as "letters of notice"), and any information that may be necessary to review any recommendations for an appropriate adjustment in liquidated damages under § 5.8

(2) Where underpayments by a contractor or subcontractor total $1,000 or more, or where there is reason to believe that the violations are aggravated or willful (or, in the case of the Davis-Bacon Act, that the contractor has disregarded its obligations to employees and subcontractors), the Federal agency shall furnish within 60 days after completion of its investigation, a detailed enforcement report to the Administrator.

(b) *Semi-annual enforcement reports.* To assist the Secretary in fulfilling the responsibilities under Reorganization Plan No. 14 of 1950, Federal agencies shall furnish to the Administrator by April 30 and October 31 of each calendar year semi-annual reports on compliance with and enforcement of the labor standards provisions of the Davis-Bacon Act and its related acts covering the periods of October 1 through March 31 and April 1 through September 30, respectively. Such reports shall be prepared in the manner prescribed in memoranda issued to Federal agencies by the Administrator. This report has been cleared in accordance with FPMR 101–11.11 and assigned interagency report control number 1482–DOL–SA.

(c) *Additional information.* Upon request, the Agency Head shall transmit to the Administrator such information available to the Agency with respect to contractors and subcontractors, their contracts, and the nature of the contract work as the Administrator may find necessary for the performance of his or her duties with respect to the labor standards provisions referred to in this part.

(b) *Contract termination.* Where a contract is terminated by reason of violations of the labor standards provisions of the statues listed in § 5.1, a report shall be submitted promptly to the Administrator and to the Comptroller General (if the contract is subject to the Davis-Bacon Act), giving the name and address of the contractor or subcontractor whose right to proceed has been terminated, and the name and address of the contractor or subcontractor, if any, who is to complete the work, the amount and number of the contract, and the description of the work to be performed.

§ 5.8 Liquidated damages under the Contract Work Hours and Safety Standards Act.

(a) The Contact Work Hours and safety Standards Act requires that laborers or mechanics shall be paid wages at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of eight hours in any calendar day or forty hours in any work week. In the event of violation of this provision, the contractor and any subcontractor shall be liable for the unpaid wages and in addition for liquidated damages, computed with respect to each laborer or mechanic employed in violation of the Act in the amount of $10 for each calendar day or workweek in which such individual was required or permitted to work without payment of required overtime wages. Any contractor or subcontractor aggrieved by the withholding of liquidated damages shall have the right to appeal to the head of the agency of the United States (or the territory or District of Columbia, as appropriate) for which the contract work was performed or for which financial assistance was provided.

(b) *Findings and recommendations of the Agency Head.* The Agency Head has the authority to review the administrative determination of liquidated damages and to issue a final order affirming the determination. It is not necessary to seek the concurrence of the Administrator but the Administration shall be advised of the action taken. Whenever the Agency Head finds that a sum of liquidated damages administratively determined to be due is incorrect or that the contractor or subcontractor violated inadvertently the provisions of the Act notwithstanding the exercise of due care upon the part of the contractor or subcontractor involved, and the amount of the liquidated damages computed for the contract is in excess of $500, the Agency Head may make recommendations to the Secretary that an appropriate adjustment in liquidated damages be made or that the contractor or subcontractor be relieved of liability for such liquidated damages. Such findings with respect to liquidated damages shall include findings with respect to any wage underpayments for which the liquidated damages are determined.

(c) The recommendations of the Agency Head for adjustment or relief from liquidated damages under paragraph (a) of this section shall be reviewed by the Administrator or an authorized representative who shall issue an order concurring in the recommendations, partially concurring in the recommendations, or rejecting the recommendations, and the reasons therefor. The order shall be the final decision of the Department of Labor, unless a petition for review is filed pursuant to Part 7 of this title, and the Wage Appeals Board in its discretion reviews such decision and order; or, with respect to contracts subject to the Service Contract Act, unless petition for review is filed pursuant to Part 8 of this title, and the Board of Service Contract Appeals in its discretion reviews such decision and order.

(d) Whenever the Agency Head finds that a sum of liquidated damages administratively determined to be due under section 104(a) of the Contract Work Hours and Safety Standards Act for a contract is $500 or less and the Agency Head finds that the sum of liquidated damages is incorrect or that the contractor or subcontractor violated inadvertently the provisions of the Contract Work Hours and Safety Standards Act notwithstanding the exercise of due care upon the part of the contractor or subcontractor involved, an appropriate adjustment may be made in such liquidated damages or the contractor or subcontractor may be relieved of liability for such liquidated damages without submitting recommendations to this effect or a report to the Department of Labor. This delegation of authority is made under section 105 of the Contract Work Hours and Safety Standards Act and has been found to be necessary and proper in the public interest to prevent undue hardship and to avoid serious impairment of the conduct of Government business.

§ 5.9 Suspension of funds.

In the even of failure or refusal of the contractor or any subcontractor to comply with the labor standards clauses contained in § 5.5 and the applicable statutes listed in § 5.1, the Federal agency, upon its own action or upon written request of an authorized representative of the Department of Labor, shall take such action as may be necessary to cause the suspension of the payment, advance or guarantee of funds until such time as the violations are discontinued or until sufficient funds are withheld to compensate employees for the wages to which they are entitled and to cover any liquidated damages which may be due.

§ 5.10 Restitution, criminal action.

(a) In cases other than those forwarded to the Attorney General of the United States under paragraph (b), of this section, where violations of the labor standards clauses contained in § 5.5 and the applicable statutes listed in § 5.1 result in underpayment of wages to employees, the Federal agency or an authorized representative of the Department of Labor shall request that restitution be made to such employees or on their behalf to plans, funds, or programs for any type of bona fide fringe benefits within the meaning of section 1(b)(2) of the Davis-Bacon Act.

(b) In cases where the Agency Head or the Administrator finds substantial evidence that such violations are willful and in violation of a criminal statute, the matter shall be forwarded to the Attorney General of the United States for prosecution if the facts warrant. In all such cases the Administrator shall be informed simultaneously of the action taken.

§ 5.11 Dispute concerning payment of wages.

(a) This section sets forth the procedure for resolution of disputes of fact or law concerning payment of prevailing wage rates, overtime pay, or proper classification. The procedures in this section may be initiated upon the Administrator's own motion, upon referral of the dispute by a Federal agency pursuant to § 5.5(a)(9), or upon request of the contractor or subcontractor(s).

(b)(1) In the event of a dispute described in paragraph (a) of this section in which it appears that relevant facts are at issue, the Administrator will notify the affected contractor and subcontractor(s) (if any), by registered or certified mail to the last known address, of the investigation findings. If the Administrator determines that there is reasonable cause to believe that the contractor and/or subcontractor(s) should also be subject to debarment under the Davis–Bacon Act or § 5.12(a)(1), the letter will so indicate.

(2) A contractor and/or subcontractor desiring a hearing concerning the Administrator's investigative findings shall request such a hearing by letter postmarked within 30 days of the date of the Administrator's letter. The request shall set forth those findings which are in dispute and the reasons therefor, including any affirmative defenses, with respect to the violations and/or debarment, as appropriate.

(3) Upon receipt of a timely request for a hearing, the Administrator shall refer the case to the Chief Administrative Law Judge by Order of Reference, to which shall be attached a copy of the letter from the Administrator and response thereto, for designation of an Administrative Law Judge to conduct such hearings as may be necessary to resolve the disputed matters. The hearing shall be conducted in accordance with the procedures set forth in 29 CFR Part 6.

(c)(1) In the event of a dispute described in paragraph (a) of this section in which it appears that there are no relevant facts at issue, and where there is not at that time reasonable cause to institute debarment proceeding under § 5.12, the Administrator shall notify the contractor and subcontractor(s) (if any), by registered or certified mail to the last known address, of the investigation findings, and shall issue a ruling on any issues of law known to be in dispute.

(2)(i) If the contractor and/or subcontractor(s) disagree with the factual findings of the Administrator or believe that there are relevant facts in dispute, the contractor or subcontractor(s) shall so advise the Administrator by letter postmarked within 30 days of the date of the Administrator's letter. In the response, the contractor and/or subcontractor(s) shall explain in detail the facts alleged to be in dispute and attach any supporting documentation.

(ii) Upon receipt of a response under paragraph (c)(1)(i) of this section alleging the existence of a factual dispute, the Administrator shall examine the information submitted. If the Administrator determines that there is a relevant issue of fact, the Administrator shall refer the case to the Chief Administrative Law Judge in accordance with paragraph (b)(3) of this section. If the Administrator determines that there is no relevant issue of fact, the Administrator shall so rule and advise the contractor and subcontractor(s) (if any) accordingly.

(3) If the contractor and/or subcontractor(s) desire review of the ruling issued by the Administrator under paragraph (c)(1) or (2) of this section, the contractor and/or subcontractor(s) shall file a petition for review thereof with the Wage Appeals Board within 30 days of the date of the ruling, with a copy thereof the Administrator. The petition for review shall be filed in accordance with Part 7 of this title.

(d) If a timely response to the Administrator's findings or ruling is not made or a timely petition for review is not filed, the Administrator's findings and/or ruling shall be final, except that with respect to debarment under the Davis-Bacon Act, the Administrator shall advise the Comptroller General of the Administrator's recommendation in accordance with § 5.12(a)(1). If a timely response or petition for review is filed, the findings and/or ruling of the Administrator shall be inoperative unless and until the decision is upheld by the Administrative Law Judge or the Wage Appeals Board.

§ 5.12 Debarment proceedings.

(a)(1) Whenever any contractor or subcontractor is found by the Secretary of Labor to be in aggravated or willful violation of the labor standards provisions of any of the applicable statutes listed in § 5.1 other than the Davis-Bacon Act, such contractor or subcontractor or any firm, corporation, partnership, or association in which such contractor or subcontractor has a substantial interest shall be ineligible for a period not to exceed 3 years (from the date of publication by the Comptroller General of the name or names of said contractor or subcontractor on the ineligible list as provided below) to receive any contracts or subcontracts subject to any of the statutes listed in § 5.1.

(2) In cases arising under contracts covered by the Davis-Bacon Act, the Administrator shall transmit to the Comptroller General the names of the contractors or subcontractors and their responsible officers, if any (and any firms in which the contractors or subcontractors are known to have an interest), who have been found to have disregarded their obligations to employees, and the recommendation of the Secretary of Labor or authorized representative regarding debarment. The Comptroller General will distribute a list to all Federal agencies giving the names of such ineligible person or firms, who shall be ineligible to be awarded any contract or subcontract of the United States or the District of Columbia and any contract or subcontract subject to

the labor standards provisions of the statutes listed in § 5.1.

(b)(1) In addition to cases under which debarment action is initiated pursuant to § 5.11, whenever as a result of an investigation conducted by the Federal agency or the Department of Labor, and where the Administrator finds reasonable cause to believe that a contractor or subcontractor has committed willful or aggravated violations of the labor standards provisions of any of the statutes listed in § 5.1 (other than the Davis-Bacon Act), or has committed violations of the Davis-Bacon Act which constitute a disregard of its obligations to employees or subcontractors under section 3(a) thereof, the Administrator shall notify by registered or certified mail to the last known address, the contractor or subcontractor and its responsible officers, if any (and any firms in which the contractor or subcontractor are known to have a substantial interest), of the finding. The Administrator shall afford such contractor or subcontractor and any other parties notified an opportunity for a hearing as to whether debarment action should be taken under paragraph (a)(1) of this section or section 3(a) of the Davis-Bacon Act. The Administrator shall furnish to those notified a summary of the investigative findings. If the contractor or subcontractor or any other parties notified wish to request a hearing as to whether debarment action should be taken, such a request shall be made by letter postmarked within 30 days of the date of the letter from the Administrator, and shall set forth any findings which are in dispute and the reasons therefor, including any affirmative defenses to be raised. Upon receipt of such request for a hearing, the Administrator shall refer the case to the Chief Administrative Law Judge by Order of Reference, to which shall be attached a copy of the letter from the Administrator and the response thereto, for designation of an Administrative Law Judge to conduct such hearings as may be necessary to determine the matters in dispute. In considering debarment under any of the statutes listed in § 5.1 other than the Davis-Bacon Act, the Administrative Law Judge shall issue an order concerning whether the contractor or subcontractor is to be debarred in accordance with paragraph (a)(1) of this section. In considering debarment under the Davis-Bacon Act, the Administrative Law Judge shall issue a recommendation as to whether the contractor or subcontractor should be debarred under section 3(a) of the Act.

(2) Hearings under this section shall be conducted in accordance with 29 CFR Part 6. If no hearing is requested within 30 days of receipt of the letter from the Administrator, the Administrator's findings shall be final, except with respect to recommendations regarding debarment under the Davis-Bacon Act, as set forth in paragraph (a)(2) of this section.

(c) Any person or firm debarred under § 5.12(a)(1) may in writing request removal from the debarment list after six months from the date of publication by the Comptroller General of such person or firm's name on the ineligible list. Such a request should be directed to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210, and shall contain a full explanation of the reasons why such person or firm should be removed from the ineligible list. In cases where the contractor or subcontractor failed to make full restitution to all underpaid employees, a request for removal will not be considered until such underpayments are made. In all other cases, the Administrator will examine the facts and circumstances surrounding the violative practices which caused the debarment, and issue a decision as to whether or not such person or firm has demonstrated a current responsibility to comply with the labor standards provisions of the statutes listed in § 5.1, and therefore should be removed from the ineligible list. Among the factors to be considered in reaching such a decision are the severity of the violations, the contractor or subcontractor's attitude towards compliance, and the past compliance history of the firm. In no case will such removal be effected unless the Administrator determines after an investigation that such person or firm is in compliance with the labor standards provisions applicable to Federal contracts and Federally assisted construction work subject to any of the applicable statutes listed in § 5.1 and other labor statutes providing wage protection, such as the Service Contract Act, the Walsh-Healey Public Contracts Act, and the Fair Labor Standards Act. If the request for removal is denied, the person or firm may petition for review by the Wage Appeals Board pursuant to 29 CFR Part 7.

(d)(1) Section 3(a) of the Davis-Bacon Act provides that for a period of three years from date of publication on the ineligible list, no contract shall be awarded to any persons or firms placed on the list as a result of a finding by the Comptroller General that such persons or firms have disregarded obligations to employees and subcontractors under that Act, and further, that no contract shall be awarded to "any firm, corporation, partnership, or association in which such persons or firms have an interest." Paragraph (a)(1) of this section similarly provides that for a period not to exceed three years from date of publication on the ineligible list, no contract subject to any of the statutes listed in § 5.1 shall be awarded to any contractor or subcontractor on the ineligible list pursuant to that paragraph, or to "any firm, corporation, partnership, or association" in which such contractor or subcontractor has a "substantial interest." A finding as to whether persons or firms whose names appear on the ineligible list have an interest (or a substantial interest, as appropriate) in any other firm, corporation, partnership, or association, may be made through investigation, hearing, or otherwise.

(2)(i) The Administrator, on his/her own motion or after receipt of a request for a determination pursuant to paragraph (d)(3) of this section may make a finding on the issue of interest (or substantial interest, as appropriate).

(ii) If the Administrator determines that there may be an interest (or substantial interest, as appropriate), but finds that there is insufficient evidence to render a final ruling thereon, the Administrator may refer the issue to the Chief Administrative Law Judge in accordance with paragraph (d)(4) of this section.

(iii) If the Administrator finds that no interest (or substantial interest, as appropriate) exists, or that there is not sufficient information to warrant the initiation of an investigation, the requesting party, if any, will be so notified and no further action taken.

(iv)(A) If the Administrator finds that an interest (or substantial interest, as appropriate) exists, the person or firm affected will be notified of the Administrator's finding (by certified mail to the last known address), which shall include the reasons therefor, and such person or firm shall be afforded an opportunity to request that a hearing be held to render a decision on the issue.

(B) Such person or firm shall have 20 days from the date of the Administrator's ruling to request a hearing. A detailed statement of the reasons why the Administrator's ruling is in error, including facts alleged to be in dispute, if any, shall be submitted with the request for a hearing.

(C) If no hearing is requested within the time mentioned in paragraph (d)(2)(iv)(B) of this section, the

Administrator's finding shall be final and the Administrator shall so notify the Comptroller General. If a hearing is requested, the ruling of the Administrator shall be inoperative unless and until the administrative law judge or the Wage Appeals Board issues an order that there is an interest (or substantial interest, as appropriate).

(3)(i) A request for a determination of interest (or substantial interest, as appropriate), may be made by any interested party, including contractors or prospective contractors and associations of contractor's representatives of employees, and interested Government agencies. Such a request shall be submitted in writing to the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210, to the attention of the Office of Government Contract Wage Standards.

(ii) The request shall include a statement setting forth in detail why the petitioner believes that a person or firm whose name appears on the debarred bidders list has an interest (or a substantial interest, as appropriate) in any firm, corporation, partnership, or association which is seeking or has been awarded a contract of the United States or the District of Columbia, or which is subject to any of the statutes listed in § 5.1. No particular form is prescribed for the submission of a request under this section.

(4) *Referral to the Chief Administrator Law Judge.* The Administrator, on his/her own motion under paragraph (d)(2)(ii) of this section or upon a request for hearing where the Administrator determines that relevant facts are in dispute, will by order refer the issue to the Chief Administrative Law Judge, for designation of an Administrative Law Judge who shall conduct such hearings as may be necessary to render a decision solely on the issue of interest (or substantial interest, as appropriate). Such proceedings shall be conducted in accordance with the procedures set forth at 29 CFR Part 6.

(5) *Referral to the Wage Appeals Board.* If the person or firm affected requests a hearing and the Administrator determines that relevant facts are not in dispute, the Administrator will refer the issue and the record compiled thereon to the Wage Appeals Board to render a decision solely on the issue of interest (or substantial interest, as appropriate). Such proceeding shall be conducted in accordance with the procedures set forth at 29 CFR Part 7.

§ 5.13 Rulings and interpretations.

All questions relating to the application and interpretation of wage determinations (including the classifications therein) issued pursuant to Part 1 of this subtitle, of the rules contained in this part and in Parts 1 and 3, and of the labor standards provisions of any of the statutes listed in § 5.1 shall be referred to the Administrator for appropriate ruling or interpretation. The rulings and interpretations shall be authoritative and those under the Davis-Bacon Act may be relied upon as provided for in section 10 of the Portal-to-Portal Act of 1947 (29 U.S.C. 259). Requests for such rulings and interpretations should be addressed to the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210.

§ 5.14 Variations, tolerances, and exemptions from Parts 1 and 3 of this subtitle and this part.

The Secretary of Labor may make variations, tolerances, and exemptions from the regulatory requirements of this part and those of Parts 1 and 3 of this subtitle whenever the Secretary finds that such action is necessary and proper in the public interest or to prevent injustice and undue hardship. Variations, tolerances, and exemptions may not be made from the statutory requirements of any of the statutes listed in § 5.1 unless the statute specifically provides such authority.

§ 5.15 Limitations, variations, tolerances, and exemptions under the Contract Work Hours and Safety Standards Act.

(a) *General.* Upon his or her own initiative or upon the request of any Federal agency, the Secretary of Labor may provide under section 105 of the Contract Work Hours and Safety Standards Act reasonable limitations and allow variations, tolerances, and exemptions to and from any or all provisions of that Act whenever the Secretary finds such action to be necessary and proper in the public interest to prevent injustice, or undue hardship, or to avoid serious impairment of the conduct of Government business. Any request for such action by the Secretary shall be submitted in writing, and shall set forth the reasons for which the request is made.

(b) *Exemptions.* Pursuant to section 105 of the Contract Work Hours and Safety Standards Act, the following classes of contracts are found exempt from all provisions of that Act in order to prevent injustice, undue hardship, or serious impairment of Government business:

(1) Contracts of $2,000.00 or less.

(2) Purchases and contracts other than construction contracts in the aggregate amount of $2,500.00 or less. In arriving at the aggregate amount involved, there must be included all property and services which would properly be grouped together in a single transaction and which would be included in a single advertisement for bids if the procurement were being effected by formal advertising.

(3) Contract work performed in a workplace within a foreign country or within territory under the jurisdiction of the United States other than the following: A State of the United States; the District of Columbia; Puerto Rico; the Virgin Islands; Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (ch. 345, 67 Stat. 462); American Samoa; Guam; Wake Island; Eniwetok Atoll; Kwajalein Atoll; and Johnston Island.

(4) Agreements entered into by or on behalf of the Commodity Credit Corporation providing for the storing in or handling by commercial warehouses of wheat, corn, oats, barley, rye, grain sorghums, soybeans, flaxseed, rice, naval stores, tobacco, peanuts, dry beans, seeds, cotton, and wool.

(5) Sales of surplus power by the Tennessee Valley Authority to States, counties, municipalities, cooperative organization of citizens or farmers, corporations and other individuals pursuant to section 10 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 8311).

(c) *Tolerances.* (1) The "basic rate of pay" under section 102 of the Contract Work Hours and Safety Standards Act may be computed as an hourly equivalent to the rate on which time-and-one-half overtime compensation may be computed and paid under section 7 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 207), as interpreted in Part 778 of this title. This tolerance is found to be necessary and proper in the public interest in order to prevent undue hardship.

(2) Concerning the tolerance provided in paragraph (c)(1) of this section, the provisions of section 7(d)(2) of the Fair Labor Standards Act and § 778.7 of this title should be noted. Under these provisions, payments for occasional periods when no work is performed, due to vacations, and similar causes are excludable from the "regular rate" under the Fair Labor Standards Act. Such payments, therefore, are also excludable from the "basic rate" under the Contract Work Hours and Safety Standards Act.

(3) See § 5.8(c) providing a tolerance subdelegating authority to the heads of

agencies to make appropriate adjustments in the assessment of liquidated damages totaling $500 or less under specified circumstances.

(4)(i) Time spent in an organized program of related, supplemental instruction by laborers or mechanics employed under bona fide apprenticeship or training programs may be excluded from working time if the criteria prescribed in paragraphs (c)(4)(ii) and (iii) of this section are met.

(ii) The apprentice or trainee comes within the definition contained in § 5.2(n).

(iii) The time in question does not involve productive work or performance of the apprentice's or trainee's regular duties.

(d) *Variations.* (1) In order to prevent undue hardship, a workday consisting of a fixed and recurring 24-hour period commencing at the same time on each calendar day may be used in lieu of the calendar day in applying the daily overtime provisions of the Act to the employment of firefighters or fireguards, under the following conditions: (i) Where such employment is under a platoon system requiring such employees to remain at or within the confines of their post of duty in excess of 8 hours per day in a standby or on-call status; and (ii) if the use of such alternate 24-hour day has been agreed upon between the employer and such employees or their authorized representatives before performance of the work; and (iii) provided that, in determinirig the daily and the weekly overtime requirements of the Act in any particular workweek of any such employee whose established workweek begins at an hour of the calendar day different from the hour when such agreed 24-hour day commences, the hours worked in excess pf 8 hours in any such 24-hour day shall be counted in the established workweek (of 168 hours commencing at the same time each week) in which such hours are actually worked. (Approved by the Office of Management and Budget under OMB control number 1215–0017.)

(2) In the event of failure or refusal of the contractor or any subcontractor to comply with overtime pay requirements of the Contract Work Hours and Safety Standards Act, if the funds withheld by Federal agencies for the violations are not sufficient to pay fully both the unpaid wages due laborers and mechanics and the liquidated damages due the Unites States, the available funds shall be used first to compensate the laborers and mechanics for the wages to which they are entitled (or an equitable portion thereof when the funds are not adequate for this purpose); and the balance, if any, shall be used for the payment of liquidated damages.

(3) In the performance of any contract entered into pursuant to the provisions of 38 U.S.C. 620 to provide nursing home care of veterans, no contractor or subcontractor under such contract shall be deemed in violation of Section 102 of the Contract Work Hours and Safety Standards Act by virtue of failure to pay the overtime wages required by such section for work in excess of 8 hours in any calendar day or 40 hours in the workweek to any individual employed by an establishment which is an institution primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, a work period of 14 consecutive days is accepted in lieu of the workweek of 7 consecutive days for the purpose of overtime compensation and if such individual receives compensation for employment in excess of 8 hours in any workday and in excess of 80 hours in such 14-day period at a rate not less than 1½ times the regular rate at which the individual is employed, computed in accordance with the requirements of the Fair Labor Standards Act of 1938, as amended. (Approved by the Office of Management and Budget under OMB control number 1215–0017.)

§ 5.16 Training plans approved or recognized by the Department of Labor prior to August 20, 1975.

(a) Notwithstanding the provisions of § 5.5(a)(4)(ii) relating to the utilization of trainees on Federal and federally assisted construction, no contractor shall be required to obtain approval of a training program which, prior to August 20, 1975, was approved by the Department of Labor for purposes of the Davis-Bacon and Related Acts, was established by agreement of organized labor and management and therefore recognized by the Department, and/or was recognized by the Department under Executive Order 11246, as amended. A copy of the program and evidence of its prior approval, if applicable shall be submitted to the Employment and Training Administration, which shall certify such prior approval or recognition of the program. In every other respect, the provisions of § 5.5(a)(4)(ii)—including those relating to registration of trainees, permissible ratios, and wage rates to be paid—shall apply to these programs.

(b) Every trainee employed on a contract executed on and after August 20, 1975, in one of the above training programs must be individually registered in the program in accordance with Employment and Training Administration procedures, and must be paid at the rate specified in the program for the level of progress. Any such employee listed on the payroll at a trainee rate who is not registered and participating in a program certified by ETA pursuant to this section, or approved and certified by ETA pursuant to § 5.5(a)(4)(ii), must be paid the wage rate determined by the Secretary of Labor for the classification of work actually performed. The ratio of trainees to journeymen shall not be greater than permitted by the terms of the program.

(c) In the event a program which was recognized or approved prior to August 20, 1975, is modified, revised, extended, or renewed, the changes in the program or its renewal must be approved by the Employment and Training Administration before they may be placed into effect.

§ 5.17 Withdrawal of approval of a training program.

If at any time the Employment and Training Administration determines, after opportunity for a hearing, that the standards of any program, whether it is one recognized or approved prior to August 20, 1975, or a program subsequently approved, have not been complied with, or that such a program fails to provide adequate training for participants, a contractor will no longer be permitted to utilize trainees at less than the predetermined rate for the classification of work actually performed until an acceptable program is approved.

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Friday
May 28, 1982

Part VII

Department of Labor

Wage and Hour Division, Employment Standards Administration

Office of the Secretary

Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants From the United States

DEPARTMENT OF LABOR

Wage and Hour Division, Employment Standards Administration

Office of the Secretary

29 CFR Part 3

Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants From the United States

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: This document is a final regulation revising the requirements under the Copeland "Anti-Kickback" Act for weekly reporting of wages paid on Federally financed and assisted construction contracts which are subject to federal wage standards. The regulation revises the statement required by the Copeland Act to be submitted each week. In addition, Department of Labor Optional Form WH–347, "Payroll (For Contractor's Optional Use)", is eliminated. This change conforms to the revision made today by separate document, published elsewhere in this issue, in § 5.5(a)(3)(ii) of Regulations, 29 CFR Part 5 eliminating the requirement under the Davis-Bacon and Copeland Acts that contractors and subcontractors submit weekly a certified copy of all payrolls to the appropriate Federal agency.

DATES: Effective July 27, 1982. The provisions of this revised regulation shall be applicable as to contracts entered into pursuant to invitations for bids issued or negotiations concluded on or after July 27, 1982.

FOR FURTHER INFORMATION CONTACT: William M. Otter, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone: 202–523–8305.

SUPPLEMENTARY INFORMATION: The Copeland Act (40 U.S.C. 276c) requires that contractors and subcontractors performing on Federal and Federally assisted contracts must submit weekly a statement with respect to the wages paid each employee during the preceding week. Section 3.3(b) of Regulations, 29 CFR Part 3 currently requires that this statement be made on either (1) Optional Form WH–348, "Statement of Compliance"; or (2) an identical form on the back of Optional Form WH–347, "Payroll (For Contractor's Optional Use)"; or (3) any form with identical wording.

On August 14, 1981, a proposal was published in the **Federal Register** (46 FR 41456) to make certain revisions to Subpart A of Regulations, 29 CFR Part 5, Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act). Among the changes contained in the August 14, 1981 proposal was the elimination, in 29 CFR 5.5(a)(3)(ii), of the requirement that contractors and subcontractors submit weekly a certified copy of all payrolls to the appropriate Federal agency. The requirement that contractors and subcontractors submit weekly statements, set forth in the regulations, certifying compliance with the requirements of the Davis-Bacon and Related Acts and the Copeland Act was retained. The revised statement is essentially similar to the statement formerly required by that section and by § 3.3(b) and the language contained on WH–348 and on the back of WH–347. Interested persons were afforded the opportunity to submit comments to the Wage and Hour Division within 60 days after publication of the proposal in the **Federal Register.**

By separate document the Department has today published as a final rule the revisions to Subpart A of 29 CFR Part 5, including the proposed change in 29 CFR 5.5(a)(3)(ii) discussed above. As a result of that action, the Department is also eliminating as now unnecessary Form WH–347 which was utilized for the submission of payroll information.

Accordingly, to reflect these changes § 3.3(b) of Regulations, 29 CFR Part 3 is revised as set forth below by incorporating the statements of compliance to which contractors and subcontractors must certify. Since this revision merely tracks the change in 29 CFR 5.5(a)(3)(ii) duly promulgated following notice and comment as outlined above, separate notice and comment on this rule is found to be unnecessary. Accordingly, the revision to § 3.3(b) is adopted as a final rule without separate notice and comment.

Classification

This rule is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

The Department believes that the proposed rule will have no "significant economic impact * * * upon a substantial number of * * * small (business) entities" within the meaning of section 3(a) of the Regulatory Flexibility Act, Pub. L. 96–354, 91 Stat. 1164 (to be codified at 5 U.S.C. 605(b)). The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. This conclusion is reached because the rule merely revises the language required in the statement, tracking a corresponding change made in 29 CFR Part 5, and eliminates two forms. Accordingly, no regulatory flexibility analysis is required.

Regulatory Flexibility Act Certification

I, Raymond J. Donovan, Secretary of Labor, hereby certify, pursuant to 5 U.S.C. 605(b), that the rule contained in 29 CFR Part 3, concerning statements of compliance with labor standards requirements, will not have a significant economic impact on a substantial number of small entities. This conclusion is based upon the fact that this rule merely revises the language required in the statement, tracking a corresponding change made in 29 CFR Part 5, and eliminates one form.

Signed at Washington, D.C. this 25th day of May 1982.

Raymond J. Donovan,

Secretary of Labor.

This document was prepared under the direction and control of William M. Otter, Administrator, Wage and Hour Division, U.S. Department of Labor.

List of Subjects in 29 CFR Part 3

Employee benefit plans, Government contracts, Labor, Recordkeeping requirements, Reporting requirements, Wages.

PART 3—CONTRACTORS AND SUBCONTRACTORS ON PUBLIC BUILDING OR PUBLIC WORK FINANCED IN WHOLE OR IN PART BY LOANS OR GRANTS FROM THE UNITED STATES

Accordingly, 29 CFR Part 3 is amended as set forth below:

Signed at Washington, D.C. on this 25th day of May 1982.

Raymond J. Donovan,

Secretary of Labor.

Robert B. Collyer,

Deputy Under Secretary for Employment Standards.

William M. Otter,

Administrator, Wage and Hour Division.

29 CFR Part 3 is amended by revising paragraph (b) of § 3.3 to read as follows:

§ 3.3 Weekly statement with respect to payment of wages.

* * * * *

(b)(1) Each contractor or subcontractor engaged in the construction, prosecution, completion, or repair of any public building or public work, or building or work financed in whole or in part by loans or grants from the United States, shall furnish each week a statement with respect to the wages paid each of its employees engaged on work covered by 29 CFR Parts 3 and 5 during the preceding weekly payroll period.

(2) Each "Statement of Compliance" shall be signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be maintained under § 5.5(a)(3)(i) of this Chapter, 29 CFR Part 5 and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in §§ 3.5–3.8;

(iii) That each laborer or mechanic has been paid not less than the wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The willful falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of Title 18 and section 231 of Title 31 of the United States Code.

* * * * *

(R.S. 161, sec. 2, 48 Stat. 848; Reorg. Plan No. 14, of 1950, 64 Stat. 1267; 5 U.S.C. 301; 40 U.S.C. 276c)

[FR Doc. 82-14667 Filed 5-27-82; 8:45 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
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DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
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DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Last Listing May 27, 1982

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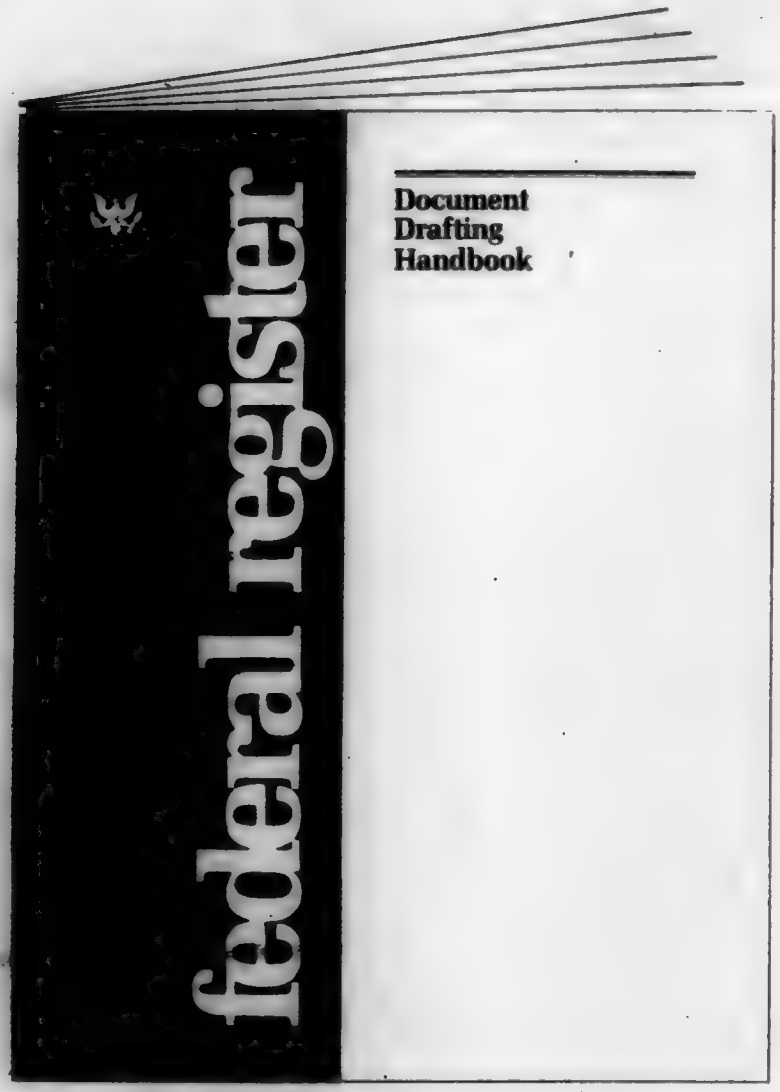

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code of federal regulations

LSA

List of CFR Sections Affected

June 1982

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PARALLEL TABLE OF
AUTHORITIES AND RULES

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HOW TO USE THIS FINDING AID

The CFR is revised annually according to the following schedule:

Titles 1–16—as of Jan. 1
17–27—as of April 1
28–41—as of July 1
42–50—as of Oct. 1

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PARALLEL TABLE OF AUTHORITIES AND RULES

Following Title 50 is an update to Table I—Parallel Table of Authorities and Rules found in the CFR Index and Finding Aids. This table contains references to new authorities cited for CFR regulations added or revised since January 1, 1982, as well as removals from Table I for CFR regulations removed since January 1, 1982.

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INQUIRIES AND SUGGESTIONS

Loren S. Myers was Chief Editor of the LSA, assisted by Carolyn T. Payne. The LSA was prepared under the direction of Martha B. Girard, assisted by Ruth C. Pontius. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office are welcomed. Please send your suggestions to John E. Byrne, Director, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

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72.13 (b)(4) added 11002
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82.1 (q) added; interim 11245
82.3 (c)(1) added 1109
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(c)(1)(i) removed 4043
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(c)(1) added 21238
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92.1 (z) corrected 594
92.2 (i)(2)(iii) introductory text and (A) revised; interim 4046
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92.4 Amended 746
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(a)(5)(ii) revised; interim 24541
92.11 (e), (f) introductory text and (7)(i) and (iii) introductory text, (B), and (C) amended; (f)(6)(ii)(D) added; (f)(7)(ii), (iii)(A), and (g) introductory text revised; (f)(3) removed 594
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94.11 (a) amended; interim 12613
97.2 Table revised 23430
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145.13 (a) removed; (b) redesignated as (a)	21991
145.14 Introductory text and (a)(5) amended	21991
145.23 (b)(3)(ii) and (d)(1)(v) amended; (c)(1)(i), (ii) introductory text, and (ii)(a), and (e)(1)(i) and (ii) revised; (c)(1)(ii)(c) removed; (f) added	21992
145.33 (b)(3)(ii) and (d)(1)(v) amended; (c)(1)(i), (ii) introductory text, and (ii)(a), and (e)(1)(i) and (ii) revised	21992
145.43 (b)(3)(ii) amended; (d) added	21993
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145.53 (b)(3)(ii) and (5) and (c)(1)(ii) amended; (c)(1)(i) revised	21993
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548.112a (a)(1) revised; (c)(5)(ii)(c) added 17986
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(c)(50)(ix)(B), (51)(xx), (52)(xx), (54)(i)(C), (56)(ii)(B), (58)(viii), (79)(iii)(B), (85)(vii), (87)(vi) and (vii), (95)(ii)(B), and (103)(iv)(B), (v)(B) and (xii) added; eff. 8-17-82 ..... △26390
(c)(67)(iv)(B), (92)(v), (94)(iii), (101)(ii), and (103)(iii)(B) and (C) added; eff. 8-20-82 ..... △26619
(c)(51)(xiv)(B), (80)(i)(B), (ii), and (81)(i)(B) added ..... △27068
(c)(78)(ii) added; eff. 7-30-82 ..... △28375
52.222 (b)(4) added 42460
(b)(6) added ..... △19331
(b)(5) and (d)(4)(i) added ..... △19697
(d)(6) added ..... △25015
(d)(2) added ..... △27069
52.223 (b)(5) added 42460
(c)(2) added ..... △11869
(b)(9) added ..... △13141
(b)(7) added ..... △18856
(b)(6) added ..... △19331
(b)(5)(ii) through (vii) added ..... △19697
(b)(8) added ..... △25015
(d) added ..... △27069
52.226 (a) removed 42461

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52.231 (a) removed 42461
52.232 (a)(5) and (6) added 42460
(a)(4)(i)(B) and (ii) through (iv) removed ..... △10208
(a)(7) added ..... △11869
(a)(3)(i)(B), (ii), (iii) and (iv) removed ..... △15788
(a)(12) added ..... △18856
(a)(9) added ..... △19331
(a)(10) added ..... △19697
(a)(4)(v) added; eff. 7-6-82 ..... △24308
(a)(13) added ..... △25015
(a)(8) added ..... △27069
52.233 (a)(4) added; (d)(7) and (g)(1)(vii) removed 42460
(d)(8), (11), (13), (20), (24), (26), and (g)(1)(viii) removed ..... △19697
(d)(3) and (18), and (g)(1)(iii) and (xvi) revised ..... △27069
52.237 (a)(2) added ..... △11869
52.238 Table amended 42461
Table amended ..... △11870, 13141, 18856, 19332, 19697
Table amended ..... △25015, 27069
Footnote j added; eff. 7-30-82 ..... △28375
52.239 Added ..... △11870
52.245 Removed ..... △19698
Removed ..... △27069
52.246 (b)(1)(iv) added ..... △15586
(b)(1)(iii) added ..... △18856
(b)(3) added; eff. 8-17-82 ..... △26385
52.252 (b)(1)(iv) added ..... △15586
(b)(1)(iii) added ..... △18856
(b) introductory text revised; (b)(2) removed ..... △19332
52.253 (b)(3) added 42461
(b)(4) added ..... △11870
(b)(1)(v) added ..... △15586
(b)(1)(iv) added ..... △18856
(b)(2)(iii) added ..... △19332
(b)(3)(ii) through (vii) added ..... △19698
(b)(5) revised; eff. 7-6-82 ..... △24308
52.254 (a)(1) introductory text and (ii) revised 42461
(a)(4) revised ..... △11870
(a)(3)(vi) added ..... △15587
(a)(3)(v) and (5) added ..... △18856
(a)(1)(i) added ..... △19698
52.255 (b)(1)(ii) removed; (b)(3)(ii) added 42461
(b)(3)(xiv) added ..... △3550
(b)(3)(xiii) added ..... △18856
(b)(1)(v) through (ix) removed; (b)(3)(ix) added ..... △19332

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		Page
	(b)(1)(iii), (v), (viii), and (ix) removed; (b)(3)(iii) through (viii) added	△19698
	(b)(1)(i) and (2) added; eff. 8-17-82	△26390
	(b) revised	△27069
52.256	(b) introductory text revised	60203
	(b)(1)(ii) added	△19332
	(b)(2) added	△19698
52.261	Removed	△11870
52.262	Removed	△11870
52.264	Removed	△27069
52.265	Removed	△19698
52.274	(j) through (o), (s), and (t) removed; eff. 8-20-82	△26619
52.280	(b)(1)(ii) added	△25016
52.320	(c)(24) added	58080
	(c)(26) added	59537
	(c)(25) added	△4258
52.331—52.340	Removed	58080
52.370	(c)(11) corrected	34801
	(c)(16) correctly added	43418
	(c)(14) and (15) added	43422
	(c)(17) added	51915
	(c)(18) added	56615
	(c) introductory text revised; (c)(19) added	62062
	(c)(20) added	△763
	(c)(25) correctly added	△6828, 28373
	(c)(23 added; eff. 7-7-82	△24552
52.373	(a) added	56615
52.380	Correctly designated	34801
	(d)(1) and (2) removed; (d)(9) and (10) and (e) added	56615
	(d)(9)(ii) and (iv) removed	62062
	(c)(1), (3), and (6) removed	△763
52.420	(c)(17) added	43150
	(c)(18) added	43677
	(c)(22) added	47544
	(c)(19), and (20) added	47779
	(c)(16) added	53663
	(c)(26) and (27) added	△5718
	(c)(23), (24), and (25) added	△10536
	(c)(28) and (29) added	△11014
52.432	(b) revised	△11014
52.433	Revised	47779
	Removed	△10536
52.470	(c)(18) added	61262
	(d) and (c)(4) through (8) redesignated as (c)(4) through (9); (c)(19), (20), and (21) added	61262
	(c)(10) and (18) correctly designated	△28373
52.471	Table amended	61263
52.472	(c) revised	61263
52.473	Added	61263
52.474	Removed	61263
52.476	Removed	61263
52.478	Removed	61263
52.479	(a) and (c) removed; (b) revised	61263
52.481	Table revised	61263
52.483	Removed	61263
52.490	Removed	61263
52.491	Removed	61263
52.492	Removed	61263
52.493	Removed	61263
52.494	Removed	61263
52.495	Removed	61263
52.496	Removed	61263
52.520	(c)(28) added	36700
	(c)(25) added	43151
	(c)(29) added	47220
	(c)(36) added	53141
	(c)(31) added	55970
	(c) introductory text revised; (c)(33) added	57486
	(c) introductory text revised; (c)(32) added	57488
	(c) introductory text revised; (c)(35) added	61122
	(c)(18) amended; (c)(30) added	61270
	(c) introductory text revised; (c)(34) added	62061
	Technical correction	62850
	(c) introductory text revised; (c)(40) added	△3112
	(c) introductory text revised; (c)(41) added	△13337
	(c) introductory text revised; (c)(42) added	△15583
	(c) introductory text revised; (c)(38) added	△15794
	(c) introductory text revised; (c)(43) added; eff. 7-9-82	△19994
	(c) introductory text revised; (c)(46) added; eff. 8-17-82	△26386
	(c) introductory text revised; (c)(44) added; eff. 7-29-82	△28097
52.528	(b) removed	61270
	Technical correction	62850
52.570	(c)(22) added	40007
	(c)(23) added	41051
	(c)(24) added	41499

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(c)(25) added 54941
(c)(29) added 55968
(c) introductory text revised; (c)(28) added 57488
(c)(26) added ..... △6018
(c) introductory text revised; (c)(27) added ..... △15795
52.581 (a) and (b) removed ..... △6018
52.620 (c)(12) added 40513
(c)(13) added ..... △3111
52.720 (c)(16) introductory text revised 44185
(c)(27) and (28) added 51605
(c)(33), (34), and (35), added 56198
(c)(16) amended; (c)(36) and (37) added 57895
(c)(24) comment response and petition for reconsideration ..... △8772
(c)(29) added ..... △12166
(c)(30) added ..... △13338
(c)(16)(i), (ii), and (iii) removed ..... △17816
(c)(32) added ..... △22363
(c)(31) added; eff. 7-9-82 ..... △25009
(c)(33) and (34) added; eff. 7-21-82 ..... △26620
52.725 (a)(3) added; (b) revised; (c) removed 44185
(a)(1) removed 59972
(a) removed; eff. 7-21-82 ..... △26620
52.726 (a) introductory text revised; (a)(1) removed; eff. 7-21-82 ..... △26620
52.737 Removed 56198
52.770 (c)(23) added 40005
(c)(22) added 44448
(c)(25) and (26) added 54943
(c)(27) and (28) added 57895
(c)(30) added ..... △4992
(c)(29) added ..... △6275
(c)(24) added ..... △6622
(c)(19) added ..... △10824
(c)(31) added ..... △20586
(c)(32) added; eff. 8-23-82 ..... △26833
52.773 (e) added ..... △6275
(c) added ..... △6623
(a) revised; (b) added ..... △10825
(b) revised ..... △20586
52.783 (a) revised ..... △6275
52.795 (c), (d), and (e) added ..... △10825
52.820 (c)(37) added 51607
(c) introductory text revised; (c)(38) and (40) added 59974

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(c)(34) added ..... △1120
(c) introductory text revised; (c)(39) added ..... △9462
(c) introductory text revised; (c)(41) added ..... △15583
(c)(42) added ..... △15584
(c)(26a) added; eff. 7-26-82 ..... △22533
52.822 (b) removed 47546
52.823 Amended 47546
52.825 (c) table amended 51607
(c) table amended ..... △15584
52.826 (b) removed 47546
(a), (c), and (e)(1) and (2) removed 59974
(e) removed ..... △9462
52.827 Amended 47546
52.870—52.884 (Subpart R) State implementation plan documents availability ..... △11661, 12965
52.870 (c)(10) added 51743
(c) introductory text revised; (c)(11) added 61118
(c) introductory text revised; (c)(12) added ..... △3113
(c) introductory text revised; (c)(13) correctly added ..... △8358
(c) introductory text revised; (c)(13) added; eff. 7-19-82 ..... △26388
52.873 Amended 35089, 61118
52.875 (a)(1) revised 35090
(a)(3)(ii) removed; eff. 7-19-82 ..... △26388
52.879 Table amended 51743, 61118
52.920—52.936 (Subpart S) Final determination ..... △6624
52.920 (c)(17) added 40187
(c)(16) added 40189
(c)(20) added 45610
(c)(19) added 53410
(c)(25) added 53411
(c) introductory text revised; (c)(18) added 56199
(c) introductory text revised; (c)(24) added 57044
(c) introductory text revised; (c)(22) added 57488
(c) introductory text revised; (c)(21) and (27) added 58082
(c) introductory text revised; (c)(23) added 58083
(c)(26) added ..... △1292
(c)(28) added ..... △9833
(c) introductory text revised; (c)(29) added ..... △15789

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(c) introductory text revised; (c)(32) added; eff. 7-12-82 ..... △20126
(c) introductory text revised; (c)(30) added; eff. 8-9-82 ..... △25012
52.922 (d) and (e) added 40187
52.930 (a) removed 40189
(a) added 57488
(b)(1) revised 58082
52.932 (b) and (c) redesignated from 52.936 (a) and (b) 40188
52.936 Removed; regulations transferred to 52.932 (b) and (c) 40188
52.970 (c)(20) added 40006
(c)(24) and (25) added 53413
(c)(16) revised; (c)(20) through (22) added ..... △6017
(c)(14) added ..... △6624
(c)(28) through (31) added ..... △16016
(c)(23) and (26) added ..... △16017
(c)(33) added; eff. 7-9-82 ..... △19994
(c)(34) and (36) through (38) added; eff. 8-9-82 ..... △25013
52.973 Removed ..... △6017
52.976 (c) removed ..... △6017
52.980 (c) added ..... △3116
52.1020 (c)(14) added 43152
(c) introductory text revised; (c)(15) added ..... △948
(c)(11) amended; (c)(17) added ..... △6830
(c)(16) added ..... △9463
52.1024 Table amended ..... △6830
52.1025 (e) removed ..... △ 6830
52.1030 Added ..... △948
52.1070 (c)(45) added 39822
(c)(48) added 41778
(c)(44) added 43679
(c)(46) and (47) added 44450
(c)(49) added 44758
Heading revised; (c)(37) through (40) added 45336
(c)(43) added 45339
(c)(41) and (42) added 45341
(c)(51) and (52) added 49588
(c)(50) added 49853
(c)(53) added 50070
(c)(54) added 56195
(c)(56) and (57) added 61264
(c)(55) added 62848
(c)(59) added ..... △7835
(c)(60), (61), and (62) added ..... △7836
(c)(63) added ..... △15141
(c)(64) added; eff. 7-9-82 ..... △19995
(c)(19) and (20) revised; (c)(58) added ..... △20127
(c)(67) added; eff. 7-19-82 ..... △26382
52.1073 (b) revised; (c) and (e) removed; (d) redesignated as (c) and revised; (f) redesignated as (d) ..... △20128
52.1074 (a) and (b) removed; (c) redesignated as (a) ..... △20128
52.1075 Added 45341
(a) and (b) removed; (c) redesignated as (a) ..... △20128
Removed; eff. 7-19-82 ..... △26382
52.1076 Removed ..... △20128
52.1077 (b) and (c) removed ..... △20128
52.1080 (c) through (e), (h), (i), and (k) removed ..... △20128
52.1081 Removed ..... △20128
52.1083 Removed ..... △20128
52.1084 Removed ..... △20128
52.1089—52.1100 Removed ..... △20128
52.1103—52.1106 Removed ..... △20128
52.1108 Removed ..... △20128
52.1109 Removed ..... △20128
52.1111 Removed ..... △20128
52.1116 (b) revised ..... △7835
52.1120—52.1166 (Subpart W) State implementation plan documents availability 54939
52.1120 (c)(38) added 40688
(c)(30) revised 43148
(c)(35) added 44186
(c)(33) amended 46133
(c)(39) added 47451
(c)(43) added 61119
(c)(41) added 61124
(c)(44) added ..... △3353
(c)(45) added ..... △6013
(c)(40) added ..... △9836
(c)(42) added ..... △13144
(c)(46) added ..... △15790
(c)(48) added; eff. 7-2-82 ..... △23927
(c)(49) added; eff. 8-9-82 ..... △25008
52.1122 (b) removed; eff. 8-30-82 ..... △28373
52.1126 (b) amended 46133
52.1129 Removed; eff. 8-30-82 ..... △28372
52.1130 Removed; eff. 8-30-82 ..... △28372
52.1132 Removed; eff. 8-30-82 ..... △28373
52.1133 Removed; eff. 8-30-82 ..... △28373
52.1138—52.1140 Removed; eff. 8-30-82 ..... △28373
52.1144 Removed; eff. 8-30-82 ..... △28373
52.1145 (j)(8) added; eff. 8-30-82 ..... △28373
52.1146 Removed; eff. 8-30-82 ..... △28373

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52.1148—52.1157 Removed; eff. 8-30-82 ..... △28373
52.1160 Removed; eff. 8-30-82 ..... △28373
52.1161 (b)(2) through (8) and (c) through (k) removed; eff. 8-30-82 ..... △28373
52.1166 (b) added 43148
(a)(8) and (9) removed ..... △3353
(a)(2) through (5) removed ..... △9836
52.1170 (c)(36) added 34584
(c)(39) added 43423
(c)(41) added 57896
(c)(40) added 58674
(c)(42) added ..... △1293
(c)(44) added ..... △3765
(c)(48) added ..... △3765
(c)(45) through (47) added ..... △6014
(c)(50) added ..... △6828
(c)(49) added ..... △7228
(c)(43) added ..... △7662
(c)(52) and (53) added ..... △12626
(c)(51) added ..... △15793
(c)(48) corrected ..... △19133
(c)(54) and (55) added; eff. 7-19-82 ..... △21535
52.1175 (e) table amended 34585, 58674
(e) table amended ..... △3766, 6014, 6829, 12626
52.1220 (c)(18) added 57896
(c)(19) added 59973
(c)(20) added ..... △19522
(c)(21) added; eff. 7-21-82 ..... △26624
52.1226 Revised ..... △19522
52.1230 Revised ..... △19522
52.1320—52.1339 (Subpart AA) State implementation plan documents availability ..... △6829
52.1320 (c)(30) added 43139
(c)(16)(iii) revised; (c)(29) added 45131
(c)(32) added 53142
(c)(33) added 54732
(c) introductory text revised; (c)(31) added 55519
(c)(34) added 55969
(c) introductory text revised; (c)(35) added 61123
(c)(33) removed ..... △15581
(c)(16) introductory text, (18), and (25) introductory text amended; (c)(25)(vii) revised; (c)(36) added ..... △25144
(c) introductory text revised; (c)(37) added ..... △26834
(c)(33) correctly designated ..... △28373

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52.1324 (c)(1)(ii) removed 43140
(c)(2) removed 45131
(c)(1) introductory text and (iii)(A) and (B) removed 55519
(c) removed ..... △25144
52.1332 Table footnotes correctly added ..... △19523
52.1335 (a) table amended 53142, 55969, 61123
52.1339 (a) and (b) removed ..... △26835
52.1370 (c)(10) correctly designated ..... △28373
52.1382 (c)(3) added; eff. 7-2-82 ..... △23928
52.1420 (c)(21) added 49123
(c) introductory text revised; (c)(22) added ..... △3114
(c)(23) and (24) added; eff. 7-26-82 ..... △22955
52.1424 Removed; eff. 7-26-82 ..... △22955
52.1429 Removed; eff. 7-26-82 ..... △22955
52.1470 (c)(19) added 40513
(c)(14)(vii), (16)(viii) and (ix), (17)(ii), (19)(ii) and (22) added 43142
(c)(20) added 45607
(c)(24) added ..... △9834
(c)(21), (23) and (24)(ii) added ..... △15792
(c)(14)(viii), (16)(x), (22)(ii), and (24)(iv) added; eff. 8-17-82 ..... △26387
(c)(24)(iii) added ..... △26621
(c)(16)(vii) added ..... △27069
(c)(14)(vi) and (16)(viii) added; eff. 7-23-82 ..... △27071
(c)(19)(iii) added; eff. 7-30-82 ..... △28375
52.1472 (b)(7) added ..... △27069
52.1474 (a)(1), (2) and (3) removed ..... △15792
(a)(4) added ..... △27069
52.1476 (c) added 43142
52.1478 Added 43142
52.1480 Table amended 45607
Table amended ..... △27070
52.1481 (c)(1) revised 45607
(b)(7) added ..... △27070
51.1485 Revised ..... △26621
52.1520 (c)(18) added 36700
(c)(19) added ..... △764
(c)(20) added; eff. 8-6-82 ..... △24554
52.1527 (a)(1) removed ..... △764
52.1570 (c)(30) added 47780
(c)(31) added; (c) introductory text revised 54543

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(c) introductory text revised; (c)(32) added; eff. 8-10-82	△25335
52.1582 (c) removed	57677
52.1583 Removed	57677
52.1584 Removed	57677
52.1585 Removed	57677
52.1587—52.1591 Removed	57677
52.1593 Removed	57677
52.1595 Removed	57677
52.1599 Removed	57677
52.1600 Removed	57677
52.1605 Added	61266
Amended	57677
52.1620 (c)(20) added	40006
(c)(21) added	42065
(c)(22) added	43153
(c)(23), (24), and (25) added	△13339
(c)(29) added	△16331
(c)(26) added; eff. 7-2-82	△18859
(c)(28) added	△19333
(c)(27) added; eff. 7-6-82	△19334
(c)(17) through (29) correctly designated	△28373
52.1624 (d) removed	43154
Removed	△19333
52.1625 (a) revised	43152
52.1626 (b) table amended	△13340
52.1628 (a)(1), (2), and (3) revised	43152
52.1630 Table amended; eff. 7-6-82	△19335
52.1670 (c)(61) added	44982
(c)(63) added	47071
(c)(44)(v) revised	55692
(c) introductory text revised; (c)(64) added	△7665
(c) introductory text revised; (c)(65) added	△9464
(c)(65) corrected	△10208
52.1673 Revised	44982
52.1676 (b) added	55693
52.1678 (d) added	55693
52.1679 Added	55692
Table amended	62064
52.1680 Added	55693
52.1683 Removed	62064
52.1770 (c)(28) added	43138
(c) introductory text revised; (c)(29) added	58083
(c) introductory text revised; (c)(30) added	△7837
52.1778 (a) and (b) removed	△7837
52.1870 (c)(31) added	41053
(c)(30) added	43423
(c)(31) removed	53411
(c)(16) and (22) revised	57489
(c)(32) added	57491
(c)(33) and (34) added	57896
(c)(38) added	61655
(c)(37) added	62849
(c)(39) added	△3115
(c)(41) added	△9835
(c)(40) added	△12166
(c)(25) deferral withdrawn	△15783
(c)(25) revised	△20588
(c)(35) added; eff. 7-13-82	△20771
(c)(42) added	△25145
(c)(43) added; eff. 7-29-82	△28098
52.1873 Amended; eff. 7-29-82	△28099
52.1875 (a) table footnote e corrected	43423
(a) table footnote f revised	49124
(a) table footnote f corrected	△27071
52.1878 (h) revised	55108
52.1880 (d)(1) revised	43423
52.1881 (b)(35)(vi) and (vii) and (38)(iii) and (iv) confirmed; response to petitions for reconsideration	37642
(b)(39)(vi)(A) and (B) and (viii)(A) through (H) revised; (b)(39)(viii)(I) and (J) added	43046
(b)(52) revised	49125
(b)(35)(B)(vii) and (38)(iv) removed	62274
(a) deferral withdrawn; (a) introductory text and (6) revised	△15783
(a)(4) and (8) revised	△16786
(a)(4) and (8) amended	△20589
(b)(38)(x) correctly designated	△28373
(a)(4) and (8) amended; eff. 7-30-82	△28377
52.1882 (j) added	49125
52.1885 (b)(1) removed; eff. 7-29-82	△28099
(b)(5) and (6) correctly designated	△28373
52.1886 (b)(2) and (3) removed	57489
52.1887 (b)(3) removed	57490
52.1920 (c)(22) added	40006
(c)(19) and (20) added	△15797
(c)(18) added	△16330
(c)(17) added; eff. 7-13-82	△20772
(c)(21) and (22) correctly designated	△28373
52.1925 Table amended	△16330
52.1970 (c)(35) added	43143
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52.1985 Revised 54940
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52.2020 (c)(34) added 39823
(c)(35) added 41780
(c)(23) revised 43140
(c)(36) added 43424
(c)(38) added 45763
(c)(37) added 46134
(c)(4) revised 51611
(c)(39) added 55972
(c) introductory text revised; (c)(40) added 61268
(c)(42) added 62850
(c)(41) added ..... △8359
(c)(43) added ..... △16326
(c) introductory text revised; (c)(45) correctly added; eff. 7-9-82 ..... 25010, 28373
(c)(19) and (45) correctly designated ..... △28373
52.2022 (d) revised 43141
52.2034 Revised 43141
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52.2037 (a)(1) removed; (a)(2) and (3) redesignated as (a)(1) and (2) and revised ..... △8359
(a)(2) removed; eff. 7-9-82 ..... △25010
52.2055 (a) and (b) removed 51742
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52.2070—52.2085 (Subpart OO) State implementation plan documents availability 60204
52.2070 (c)(14) added 63043
(c)(15) added ..... △17817
52.2120 (c)(14) added 35259
(c)(15) added 37048
(c)(16) added 40190
(c)(17) added 55099
(c)(19) added 55968
(c) introductory text revised; (c)(18) added 57488
(c) introductory text revised; (c)(20) added 58083
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52.2126 Removed 61270
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52.2131 (a) and (b) removed ..... △6018
52.2170 (c)(8) added 54542
52.2172 Revised 54542
52.2175 Removed 54542
52.2220 (c)(30) amended; (c)(37) added 43970

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(c) introductory text revised; (c)(38) added 56199
(c) introductory text revised; (c)(39) added 57488
(c) introductory text revised; (c)(40) added 58083
(c) introductory text revised; (c)(35) added 61121
(c) introductory text revised; (c)(43) added 61271
(c) introductory text revised; (c)(41) added; eff. 7-12-82 ..... △20305
(c) introductory text revised; (c)(45) added ..... △23162
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(c) introductory text revised; (c)(46) added; eff. 8-20-82 ..... △26622
(c)(33) revised; (c)(44) added; eff. 8-23-82 ..... △27272
52.2225 (a) removed 43971
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52.2231 (a) and (b) removed ..... △23162
52.2270 (c)(25) added 35643
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52.2275 (a)(1) and (2) removed 35643
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52.2276 (b) and (c) added 43425
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52.2291 Correctly designated ..... △28374
52.2299 Revised 35643
52.2320 (c)(9) added 61851
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52.2330 Revised 61852
52.2334 Removed 61851
52.2346 Revised ..... △6428
52.2370 (c) introductory text revised; (c)(14) added ..... △950
(c)(15) added ..... △6015
(c) introductory text revised; (c)(16) added ..... △16332
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52.2431 (e) removed 57284
52.2435 (a), (b), (c), and (f) removed; (g) and (h) redesignated as (a) and (b) ..... △19525
52.2441—52.2447 Removed ..... △19525
52.2470 (c)(29) added 41054
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(c)(25) added; table amended ..... △7840
(c)(28) added ..... △12167
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52.2473 Amended 45609
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52.2479 (a)(1) through (6) removed; table added 45609
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(a) introductory text revised; (a)(1) added; table amended ..... △16019
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52.2487 Removed 45610
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52.2530 Removed 43144
52.2570 (c)(20) added 41055
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57.1000 (Subpart J) Added ..... △21791
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58.20 (c) and (e) amended 44164
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58.34 Introductory text amended 44164
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61.14 (a) revised ..... △24704
60.16 Revised ..... △951
60.42 (b)(3) added 57498
60.45 (g)(1)(iii) added 57498
60.47 Added 55980
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60 Appendix A amended	53148
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61 Authority delegation notices	△22095
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(b)(LL) revised	△17285
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(b)(MM)(viii) added	△20305
61.4 (b)(E) revised	△7666
61.14 (a) revised	△24704
61.53 (d)(2) revised	△24704
61 Appendix B amended	△24705
62.100—62.110 (Subpart B) Added	△7667
62.850—62.855 (Subpart E) Added; eff 7-12-82	△20491
62.1100—62.1103 (Subpart F) Added; eff. 7-29-82	△28100
62.1110 (Subpart TT) Added; eff. 8-10-82	△25336
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62.1875 Section and undesignated center heading added	△10536
62.2101—62.2129 (Subpart J) Added	41783
62.2350 (Subpart K) Added	△7667
62.2600—62.2610 (Subpart L) Added; eff. 7-26-82	△23163
62.3300—62.3325 (Subpart O) Added	57896
62.3625 Added	57896
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62.4350—62.4354 (Subpart S) Added; eff. 7-26-82	△22956
62.4620—62.4623 Undesignated center heading revised; eff. 7-12-82	△20491
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62.4624—62.4626 Undesignated center heading added; eff. 7-12-82	△20491
62.4624 Redesignated from 62.4620 (c) and heading revised; eff. 7-12-82	△20491
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62.4629—62.4630 Undesignated center heading added; eff. 7-12-82	△20493
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62.5101 Section and undesignated center heading added	62852
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62.7850 Section and undesignated center heading redesignated as 62.7854; new 62.7850 added	△10005
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62.7854 Section and undesignated center heading redesignated from 62.7850	△10005
62.8350 (Subpart II) Added	41056
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62.8360 Section and undesignated center heading added	62853
62.9600 Existing text designated as (a); (b) added	52107
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86.081-8 (a)(1)(iii) revised..... △6630
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(3) revised; (a)(11), (b)(2)(iii)(A) and (B), (v), (e)(1) and (2), (f)(1) and (2), and (g)(3)(i) and (ii) added; (b)(2)(ii) removed; interim 50478
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86.082-28 (a)(4)(i)(A) introductory text and (B), (ii)(A) and (B), and (b)(4)(i)(B) revised; (a)(4)(i)(A)(4) and (b)(4)(i)(A)(4) added; interim 50485
86.082-30 (a)(2), (3), (6) through (9), and (b)(5)(ii) and (iii) revised; interim 50486
86.082-34 Added; interim 50486
86.083-9 (g)(2) redesignated as (g)(4); new (g)(2), (5), and (6) added; (g)(3) revised; interim ..... △21796
86.084-23 (a), (c)(1)(i) and (2) revised; (c)(1)(ii) removed; interim 50486
86.084-24 (a)(2), (4), (8), (9), (10), (b)(1)(i) through (iv), (vii), (2)(iii), (e), and (g)(3) revised; (a)(11), (b)(2)(iii) and (v) added; (b)(1)(v), (vi), and (2)(ii) removed; interim 50487
86.084-25 (a) introductory text, (1) introductory text, and (i) introductory text, (10), (b)(5)(iv) and (v) revised; (a)(8)(ii) and (iii) and (b)(3)(ii) and (iii) removed; interim 50488
86.084-26 (a)(3)(i)(A) and (ii), (4)(i) and (ii), (5) through (8), (b)(2)(ii), (4)(i)(A), (ii)(A), and (iv), (c)(4), and (d)(2)(i) and (3) revised; (a)(4)(iii) added; (a)(3)(i)(B) and (C), (4)(i)(B) and (C), and (ii)(B) and (C), and (d)(4) removed 50489
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86.513-78 Removed; interim 50498
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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Rules and Regulations

Federal Register
Vol. 47, No. 105
Tuesday, June 1, 1982.

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary of Agriculture to the General Counsel to reflect the transfer of the Law Library to the Office of the General Counsel; to reflect the abolishment of the Board of Forest Appeals; and to clarify the General Counsel's authority to certify documents on file in the Department.

EFFECTIVE DATE: June 1, 1982.

FOR FURTHER INFORMATION CONTACT: Robert Siegler, Deputy Assistant General Counsel, Office of the General Counsel, Department of Agriculture, Washington, D.C. 20250; (202) 447–6035.

SUPPLEMENTARY INFORMATION: Prior to 1942, the Law Library was a part of the Office of the Solicitor. In 1942, it was consolidated with other library units of the Department into the Department Library by Order of the President. Although the President's Order terminated six months after the end of World War II, the Law Library remained a part of the Department Library, and then the National Agricultural Library. Although the Law Library performs a valuable service for employees of all agencies of the Department as well as the general public, its main purpose is to support the activities of the Office of the General Counsel. It has therefore been determined that the Law Library should be under the supervision of the General Counsel. Accordingly, this document delegates to the General Counsel responsibility for the overall management and operation of the Law Library.

In addition, the responsibility to designate the Chairman and Alternate Chairman of the Board of Forest Appeals, is currently delegated to the General Counsel. On June 28, 1977, 42 FR 32780, regulations were published which established new administrative review procedures for the Forest Service. The regulations deleted 36 CFR 211.23, which related to membership on the Board of Forest Appeals, as well as other provisions of the regulations relating to the duties of the Board. While 36 CFR 211.19 provides that the provisions of the former regulations relating to the duties of the Board remain in effect for cases pending on September 25, 1974, all such cases have been disposed of. Accordingly, there is no longer in existence a Board of Forest Appeals. This document, thus, removes the General Counsel's authority to designate the Chairman and Alternate Chairman of the Board.

Lastly, the General Counsel is currently authorized to certify documents as true copies of those on file in the Department pursuant to 28 U.S.C. 1733. The current delegation does not reflect the provisions of Pub. L. 93–595 which enacted the Federal Rules of Evidence. Section 2(c) of that Act amended 29 U.S.C. 1733 to provide that said section 1733 did not apply to cases, actions, and proceedings to which the Federal Rules of Evidence apply. In commenting on the effect of the exclusion in section 1733, both the Judiciary Committees of the Congress stated that section 1733 was amended since it is largely, if not entirely, encompassed by rule 803(8) relating to public records and reports. However, because of the possibility that section 1733 may encompass some matters not covered by rule 803, section 1733 was not repealed, but amended to provide that it did not apply to actions, cases, and proceedings to which the Federal Rules of Evidence are applicable. Since there may be instances where it would be appropriate for the General Counsel to certify documents pursuant to 28 U.S.C. 1733 or some other authority, the authority to certify documents is not being limited to any specific statutory basis.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less that 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Lastly, this action is not a rule as defined by Pub. L. 96–354, the Regulatory Flexibility Act and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 2 reads as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, unless otherwise noted.

2. Section 2.31 is amended by revising paragraphs (c) and (f) to read as follows:

§ 2.31 Delegations of authority to the General Counsel.

* * * * *

(c) Certify documents as true copies of those on file in the Department.

* * * * *

(f) Responsible for the overall management and operation of the Law Library, furnishing complete legal and legislative library services to the Office of the General Counsel and the Department.

* * * * *

Dated: May 26, 1982.

John R. Block,

Secretary of Agriculture.

[FR Doc. 82–14744 Filed 5–28–82; 8:45 am]
BILLING CODE 3410–01–M

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 82-320]

Mediterranean Fruit Fly

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: The Mediterranean fruit fly quarantine and regulations quarantine California and impose restrictions on the movement of regulated articles from regulated areas in California. This document amends the quarantine and regulations by deleting the previously regulated areas in Los Angeles, San Benito, and Stanislaus Counties from the list of regulated areas. The effect of this action is to delete restrictions on the interstate movement (movement from California into or through any other State, Territory, or District of the United States) of regulated articles from the previously regulated areas in Los Angeles, San Benito, and Stanislaus Counties. This action is warranted because such restrictions are no longer necessary for the purpose of preventing the artificial spread of the Mediterranean fruit fly.

DATES: Effective date of amendment June 1, 1982. Written comments concerning this rule must be received on or before August 2, 1982.

ADDRESSES: Written comments should be submitted to Thomas Lanier, Assistant Director, Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 643 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 641 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: B. Glen Lee, Emergency Programs Coordinator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 610 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8365.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

For this rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291. Also, the Assistant Secretary for Marketing and Inspection Services has waived the requirements of Secretary's Memorandum 1512-1.

Certification Under the Regulatory Flexibility Act

Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action affects the interstate movement of regulated articles from areas in Los Angeles, San Benito, and Stanislaus Counties in California. There are thousands of small entities that move such articles interstate from California and many more thousands of small entities that move such articles interstate from other States. However, based on information compiled by the U.S. Department of Agriculture, it has been determined that fewer than 120 small entities move such articles interstate from the previously regulated areas in Los Angeles, San Benito, and Stanislaus Counties. Further, the overall economic impact from this action is estimated to be less than $375,000.

Emergency Action

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication of this document without opportunity for a public comment period because otherwise there would be unnecessary restrictions imposed on the interstate movement of certain articles. This situation requires immediate action to delete such unnecessary restrictions.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this action effective less than 30 days after publication of this document in the **Federal Register.** Comments have been solicited for 60 days after publication of this document, and a final document discussing comments received and any changes required will be published in the **Federal Register** as soon as possible.

Background

Because of infestations of the Mediterranean fruit fly found in areas in California, the Mediterranean fruit fly quarantine and regulations were made effective on July 20, 1981 (46 FR 37706-37713), and amendments to the quarantine and regulations were made effective on August 7, August 19, and September 2, 1981 (46 FR 40203-40205, 42072-42073, 44144-44145). The quarantine and regulations are set forth in 7 CFR 301.78 through 301.78-10.

For the purpose of preventing the artificial spread of the Mediterranean fruit fly to noninfested areas in the United States, the quarantine and regulations restrict the interstate movement (movement from California into or through any other State, Territory, or District of the United States) of articles designated as regulated articles from areas designated as regulated areas. The quarantine and regulations currently list as regulated areas all of Alameda, Santa Clara, Santa Cruz, and San Mateo Counties. Also, prior to the effective date of this document, the quarantine and regulations listed the following areas in Los Angeles, San Benito, and Stanislaus Counties as regulated areas:

Los Angeles County. That portion of the county bounded by a line beginning at a point where the southern boundary of the Angeles National Forest meets San Gabriel Canyon Road; then southwesterly along San Gabriel Canyon Road to Azusa Avenue; then southerly along Azusa Avenue to Foothill Boulevard; then easterly along Foothill Boulevard to Alosta Avenue; then easterly along Alosta Avenue to its intersection with Grand Avenue; then southerly along Grand Avenue to the northern city limits of Walnut; then southwesterly along the Walnut and West Covina City limits to Nogales Street; then southerly along Nogales Street to Valley Boulevard; then westerly along Valley Boulevard to Hacienda Boulevard; then southerly on Hacienda Boulevard to the Pomona Freeway (Interstate 60); then westerly along the Pomona Freeway to Rosemead Boulevard; then northerly on Rosemead Boulevard to Huntington Drive; then easterly along Huntington Drive to Santa Anita Avenue; then northerly along Santa Anita Avenue to Foothill Boulevard; then easterly on Foothill Boulevard to the city limits to Monrovia; then northerly along the city limits of Monrovia and Arcadia to the southern boundary of the Angeles National Forest; then easterly along the Angeles National Forest boundary to the point of beginning.

San Benito County. That portion of the county bounded by a line beginning at a point where La Gloria Road intersects the Monterey-San Benito County line; then northerly on said county line to the San Benito-Santa Cruz County line; then easterly on said county line to the San Benito-Santa

Clara County line; then easterly on said county line to San Benito-Merced County line; then southerly on said county line to the point where San Benito, Merced, and Fresno County lines intersect; then westerly from said intersection on an imaginary line to the intersection of La Gloria Road and State Highway 25; then westerly on La Gloria Road to the point of beginning.

Stanislaus County. That portion of the county beginning at a point where the San Joaquin River intersects the San Joaquin-Stanislaus County line, then southerly along the San Joaquin River to Hills Ferry Road, then westerly along Hills Ferry Road to its intersection with State Route J 18, then westerly along State Route J 18 to its intersection with Interstate 5, then due west from the intersection of State Route J 18 and Interstate 5 along an imaginary line to its intersection with Orestimba Creek, then westerly three miles along Orestimba Creek, then due north along an imaginary line to its intersection with the San Joaquin-Stanislaus County line, then easterly along said line to the point of beginning.

Based on trapping and sampling surveys conducted by inspectors of the U.S. Department of Agriculture and State agencies of California, it has now been determined that the Mediterranean fruit fly has been eradicated from the previously infested areas in Los Angeles, San Benito, and Stanislaus Counties.

Under these circumstances there is no longer a basis for imposing restrictions on the movement of articles from the areas in Los Angeles, San Benito, and Stanislaus Counties previously regulated because of the Mediterranean fruit fly. Therefore, in order to relieve unnecessary restrictions on the interstate movement of articles from this area, it is necessary as an emergency measure to delete the areas in Los Angeles, San Benito, and Stanislaus Counties from the list of regulated areas.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant pests, Plants (agriculture), Quarantine, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

§ 301.78–3 [Amended]

Accordingly, § 301.78–3(c) of the Mediterranean fruit fly quarantine and regulations (7 CFR 301.78–3(c)) is amended by removing the references to and descriptions of regulated areas in Los Angeles, San Benito and Stanislaus Counties.

(Secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); 37 FR 28464, 28477, as amended; 38 FR 19141)

Done at Washington, D.C., this 20th day of May 1982.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 82-14589 Filed 5-28-82; 8:45 am]
BILLING CODE 3410-34-M

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7 CFR Part 301

[Docket No. 82-319]

Imported Fire Ant Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which amended the list of regulated areas under the imported fire ant quarantine and regulations by adding areas in Alabama, Arkansas, Georgia, Mississippi, North Carolina, South Carolina, and Texas to the list of generally infested areas. The quarantine and regulations, among other things, impose restrictions on the interstate movement of regulated articles from generally infested areas. This action is necessary in order to prevent the artificial spread of the imported fire ant.

EFFECTIVE DATE: June 1, 1982.

FOR FURTHER INFORMATION CONTACT: Thomas J. Lanier, Chief Staff Officer, Regulatory Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 635, Federal Building, 6505 Belcrest Road, Hyattsville, MD. 20782, (301) 436–8247.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

For this rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291 and the Department of Agriculture has waived the requirements of Secretary's Memorandum 1512–1.

Certification Under the Regulatory Flexibility Act

Dr. H. C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action affects the interstate movement of regulated articles from specified areas in the States of Alabama, Arkansas, Georgia, Mississippi, North Carolina, South Carolina, and Texas. There are thousands of small entities that move such articles interstate from those States and many more thousands of small entities that move such articles interstate from other States. However, based on information compiled by the Department, it has been determined that approximately 180 small entities move such articles interstate from the specified areas in those States. Further, the overall economic impact from this action is estimated to be less than $1,500.

Background

A document published in the **Federal Register** on January 12, 1982 (47 FR 1257–1265), set forth an interim rule amending § 301.81–2a of the imported fire ant quarantine and regulations (7 CFR 301.81–2a). The document amended the quarantine and regulations by adding areas in Alabama, Arkansas, Georgia, Mississippi, North Carolina, South Carolina, and Texas to the list of generally infested areas.

The amendment became effective on the date of publication. The document provided that the amendment was necessary as an emergency measure in order to prevent the artificial spread interstate of the imported fire ant.

Comments were solicited for 60 days after publication of the amendment. Two written comments were received in response to the amendment. One of the comments was from a Texas Department of Agriculture official and the other from a representative of a public interest organization. Both comments were in favor of the amendment.

It appears that the factual situations which were set forth in the document of January 12, 1982, still provide a basis for the amendment. Accordingly, it has been determined that the amendment should remain effective as published in the **Federal Register** on January 12, 1982.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant pests, Quarantine, Imported fire ant.

(Secs. 8, 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33 (7 U.S.C. 161, 162, 150ee); 37 FR 28464, 28477 as amended; 38 FR 19141; 7 CFR 301.81–2, 39 FR 21117)

Done at Washington, D.C., this 26th day of May 1982.

T. J. Lanier,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 82-14607 Filed 5-28-82; 8:45 am]
BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 923

[Cherry Regulation 21]

Sweet Cherries Grown in Designated Counties in Washington; Grade, Size, Container and Pack Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This regulation sets minimum grade, size, container and pack requirements on the handling of sweet cherries, other than Rainier, Royal Anne, and other light sweet cherries, grown in designated counties in the State of Washington. Such action is necessary to promote orderly marketing of suitable quality and sizes of fresh Washington cherries in the interest of producers and consumers.

DATES: June 1, 1982 through July 16, 1982; comments which are received by July 1, 1982 will be considered prior to issuance of a final rule to become effective July 17, 1982.

ADDRESS: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Acting Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

The Washington cherry regulation would be issued under the marketing agreement and Order No. 923 (7 CFR Part 923), regulating the handling of sweet cherries grown in designated counties in Washington. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Washington Cherry Marketing Committee, established under the order, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

Under the terms of the regulation, grade, size, container and pack requirements would be effective June 1, 1982 through July 16, 1982. Although the final regulation would be effective for an indefinite period, the committee would continue to meet prior to and during each season and consider recommendations for modification, suspension, or termination of the regulation. Prior to making any such recommendations, the committee would submit to the Secretary a marketing policy for the season including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate committee recommendations and information submitted by the committee, and other available information, and determine whether modification, suspension, or termination of regulation of shipments of Washington sweet cherries would tend to effectuate the declared policy of the act.

The three most important sweet cherry producing States in the U.S. are Washington, Oregon and California; of these three, Washington has been the leading State every year since 1970. Production for fresh use in California in 1981 was 24,000 tons. Fresh production in Oregon was 6,600 tons. Based on these figures, Washington State had 51 percent of the total West Coast fresh production in 1981. The Washington sweet cherry crop is primarily utilized as fresh.

The minimum grade and size requirements are designed to enhance the image of Washington sweet cherries and thereby improve sales and returns to growers. The shipment of low quality fruit disrupts orderly marketing because low quality fruit undermines buyer confidence in the quality of fruit sold in the markets. The grade and size requirements are designed to provide ample supplies of good quality fruit in the interest of producers and consumers. The container and pack requirements are designed to prevent deceptive packaging and to assure satisfactory arrival condition of fruit in the markets.

Most Washington sweet cherry sales are consummated by telephone with the buyer not seeing the fruit as it is initially purchased. Based on current and anticipated market conditions, the Washington Cherry Marketing Committee finds that the regulations recommended will maximize benefits to producers and consumers by providing for good quality fruit and stable market conditions. Hence, establishment of acceptable quality and container standards are important in successfully marketing the crop. These requirements are essentially the same as those in effect in prior years except that beginning on June 1, 1982, additional containers are authorized for use in shipping sweet cherries.

To minimize disruption as much as possible and still bring this marketing order into compliance with the Secretary's guidelines for fruit, vegetable, and specialty crop marketing orders, issued January 25, 1982, this regulation is being issued with the understanding that the Washington Cherry Marketing Committee will initiate certain actions in 1982. These actions are necessary so that operations under the program will conform with the guidelines. These guidelines state that orders containing quality provisions like the Washington Cherry order, should not be used as a form of supply control. In evaluating quality control programs, emphasis is placed on (1) whether quality controls have varied significantly from season to season or within seasons, (2) whether the percentage of product meeting minimum quality standards has been declining, or (3) whether the standards have been tightened over the years. In addition, to conform with the guidelines, marketing orders should contain limitation on committee tenure and provide for periodic referenda.

It is found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and that good cause exists for making these regulatory provisions effective as specified in that (1) the sweet cherry regulation was recommended by the committee following discussion at a public meeting on May 11, 1982, (2) the requirements for Washington sweet cherries are essentially the same as those which were in effect during the 1980–81 marketing season, (3) Washington sweet cherry handlers have been apprised of these requirements and the effective date, and (4) shipment of the current crop of cherries will begin in early June, 1982, and this regulation should be applicable to all shipments.

List of Subjects in 7 CFR Part 923

Marketing agreements and orders, Cherries, Washington.

PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Therefore, new § 932.321 is added to read as follows (§ 923.321 expires July 16, 1982, and will not be published in the annual Code of Federal Regulations):

§ 923.321 Cherry regulation 21.

(a) During the period June 1, 1982 through July 16, 1982, no handler shall handle, except as otherwise provided in paragraphs (b), (c) and (d) of this section, any lot of cherries, except cherries of the Rainier, Royal Anne, and similar varieties commonly referred to as "light sweet cherries," unless such cherries meet each of the following applicable requirements:

(1) Washington No. 1 grade except that the following tolerances, by count, of the cherries in the lot shall apply in lieu of the tolerances for defects provided in the Washington State Standards for Grades of Sweet Cherries: *Provided,* That a total of 10 percent for defects including in this amount not more than 5 percent, by count, of the cherries in the lot, for serious damage, and including in this latter amount not more than one percent, by count, of the cherries in the lot, for cherries affected by decay: *Provided further,* That the contents of individual packages in the lot are not limited as to the percentage of defects, but the total of the defects of the entire lot shall be within the tolerances specified.

(2) At least 95 percent, by count, of the cherries in the lot shall measure not less than 48/64 inch in diameter, except as hereinafter provided in paragraph (b)(2)(ii) of this section and subparagraph (3) of this paragraph.

(3) At least 90 percent, by count, of the cherries in any lot of face-packed containers or any containers of 20 pounds, net weight, or more shall measure not less than 54/64 inch in diameter and not more than 5 percent, by count, of such cherries may be less than 48/64 inch in diameter.

(b) *Containers.* During the period June 1, 1982, through July 16, 1982, no handler shall handle any lot of cherries, except cherries of the Rainier, Royal Anne, and similar varieties commonly referred to as "light sweet cherries," unless such cherries are in containers which meet each of the following applicable requirements:

(1) The net weight of loose packed (jumble-filled) cherries in any container shall be 12 pounds or 20 pounds, or greater. The net weight of face-packed cherries in any container shall be 15 pounds.

(2) Subject to the provisions of subdivisions (i) and (ii) of this subparagraph, shipments of cherries may be handled in such experimental containers as have been approved by the Washington Cherry Marketing Committee.

(i) All shipments handled in such containers shall be under the supervision of the committee; and

(ii) At least 90 percent, by count, of the cherries in any lot of such containers shall measure not less than 54/64 inch in diameter, and not more than 5 percent, by count, of such cherries may be less than 48/64 inch in diameter.

(c) *Pack.* (1) When containers of cherries are marked with one of the row count/row size designations shown in Column 1 of the following table, at least 90 percent, by count, of the cherries in any lot shall be not smaller than the corresponding diameter shown in Column 2 of such table: *Provided,* That of the 10 percent smaller cherries permitted not more than 5 percent, by count, may be smaller than 54/64 inch in diameter.

TABLE

Column 1—row count/row size	Column 2 diameter (inches)
9	73/64
10	69/64
11	58/64

(2) When containers of cherries are marked with a minimum diameter of 54/64 inch, at least 90 percent, by count, of the cherries in any lot shall be not smaller than such minimum diameter: *Provided,* That of the 10 percent smaller cherries permitted not more than 5 percent, by count, may be smaller than 48/64 inch in diameter.

(3) When containers of cherries are marked with a minimum diameter larger than 54/64 inch, at least 90 percent, by count, of the cherries in any lot shall be not smaller than the diameter so marked: *Provided,* That of the 10 percent smaller cherries permitted not more than 5 percent, by count, may be smaller than 54/64 inch in diameter.

(d) *Exceptions.* Any individual shipment of cherries which meets each of the following requirements may be handled without regard to the provisions of paragraphs (a), (b), and (c) of this section, and of §§ 923.41 and 923.55 of this part:

(1) The shipment consists of cherries sold for home use and not for resale;

(2) The shipment does not, in the aggregate, exceed 100 pounds, net weight, of cherries; and

(3) Each container is stamped or marked with the words "not for resale" in letters at least one-half inch in height.

(e) *Definitions.* When used herein, "Washington No. 1" and "diameter" shall have the same meaning as when used in the Washington State Standards for Grades of Sweet Cherries (Order 1550 effective April 29, 1978, WAC 16-414-050); "face-packed" means that cherries in the top layer in any container are so placed that the stem ends are pointing downward toward the bottom of the container; "row count/row size" means the number of cherries of a uniform size necessary to pack row-faced across a 10½ inch inside width container or comparable number of cherries when packed loose in a container.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674))

Dated: May 27, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-14852 Filed 5-28-82; 8:45 am]

BILLING CODE 3410-02-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Deregulation of the Accounting Manual for Federal Credit Unions and the Data Processing Guidelines for Federal Credit Unions

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: This rule removes the Accounting Manual for Federal Credit Unions (Accounting Manual) and Data Processing Guidelines for Federal Credit Unions from incorporation by reference in the NCUA Rules and Regulations. This document also deletes § 701.14 which lists those manuals and books, along with descriptions of their content, that have been incorporated by reference for the use by Federal credit union officials. Deletion of this section is a housekeeping measure as it essentially duplicates the content of § 701.2. This rule and a companion Interpretive Ruling and Policy Statement cause the above manuals to no longer have the effect of rule. These actions provide credit unions with greater flexibility in the area of recordkeeping.

EFFECTIVE DATE: May 27, 1982.

ADDRESS: National Credit Union Administration, 1776 G Street NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Joseph Visconti or Mike Fischer of the Department of Supervision and Examination, Telephone (202) 357–1065.

SUPPLEMENTARY INFORMATION: Because of delays encountered in distribution of the revised Accounting Manual for Federal Credit Unions, the NCUA Board extended the comment period of the proposed rule and its companion action, proposed IRPS 81–6 (46 FR 48940, October 5, 1981) from November 27, 1981, until April 15, 1982. During this comment period, 16 comment letters were received representing two trade associations, several state credit union leagues, and a number of individual credit unions.

The overwhelming majority of commenters supported the deregulatory effort. Concern was voiced by representatives of two major trade associations about the potential cost effect of the deregulation on small credit unions. The major concern was that the services of professional accountants might be necessary for small credit unions to ensure their accounting practices are in compliance with the required principles and standards.

Section 2030 of the Accounting Manual provides credit unions the option of adopting accounting principles and standards not inconsistent with statutory or regulatory requirements. Credit unions electing this option would be responsible for ensuring the alternative principles and standards meet NCUA requirements. In such cases, it may be necessary for the credit unions to obtain outside assistance to ensure compliance and thus, incur a cost. However, because adoption of alternative accounting principles is optional and the accounting principles in Section 2000 of the Accounting Manual provide the framework for a sound accounting basis for the overwhelming majority of accounting transactions in Federal credit unions, the number of credit unions that incur a cost will be minimal.

Several commenters suggested changes to various sections of the Accounting Manual and these comments and recommendations will be considered at the next scheduled change to the Accounting Manual. The agency will accept comments and recommendations for changes to the Accounting Manual on a continuing basis.

One commenter suggested that the publication entitled Data Processing Guidelines for Federal Credit Unions also be deleted from incorporation by reference at this time. The agency had anticipated removing this manual from incorporation by reference at the time the manual is revised. However, since this manual is closely related to, and can be considered an extension of, the Accounting Manual, the Board has determinded to include the manual's deletion with the action to deregulate the Accounting Manual.

The NCUA Board, after reviewing and considering the comments, has determined that the proposed rule is beneficial for credit unions and, therefore, approves this final rule.

Note.—Credit unions are reminded that there are instructions and discussions in the Accounting Manual that provide guidance for compliance with statutory and regulatory requirements. For example: Section 4000 of the Accounting Manual discusses statutory regular reserve transfer requirements of the Federal Credit Union Act and how the transfer is calculated. The discussions in the Accounting Manual which relate to the Federal Credit Union Act, NCUA Rules and Regulations, or any other statutory requirements are only summaries and Federal credit unions should not interpret deregulation of the Accounting Manual as relief from those rules and statutes.

Regulatory Flexibility Analysis

The rule will not have a significant economic impact on a substantial number of small credit unions because the rule removes most of the procedures in the Accounting Manual from having the force of regulation and, therefore, provides wider latitude in the accounting operations in all Federal credit unions. Therefore, a Regulatory Flexibility analysis is not required.

Effective Date

Final rule is being made effective in less than 30 days because it relieves restrictions, 5 U.S.C. 553(d)(1).

Determination to Not Obtain Public Comments on the "Data Processing Guidelines"

The NCUA Board finds, for good cause, that obtaining public comment on the deregulation of the "Data Processing Guidelines" is unnecessary. The Data Processing Guidelines are similar in nature to the Accounting Manual, so that the Board believes that the comments received on the Accounting Manual are sufficient. Therefore, solicitation of public comments is not required, 5 U.S.C. 553 (b)(B).

List of Subjects in 12 CFR Part 701

Credit unions, Reporting requirements.

(12 U.S.C. 1789(11))

By the NCUA Board, May 20, 1982.

Rosemary Brady,

Secretary of the NCUA Board.

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. Accordingly 12 CFR 701.2 is revised to read as follows:

§ 701.2 Incorporation by reference.

(a) The publication used by Federal credit unions, which is identified in this chapter, is hereby incorporated by reference pursuant to 5 U.S.C. 552(a)(1) and the regulation issued thereunder.

(b) Copies of the publication prescribed in this chapter may be obtained on request addressed to National Credit Union Administration, Washington, D.C. 20456.

(c) Revisions or amendments of the publication may be issued from time to time by the National Credit Union Administration. An historic file of such amendments or revisions is maintained and made available for inspection at the National Credit Union Administration, Washington, D.C. 20456.

(d) The publication listed below is hereby incorporated by reference:

(1) Federal Credit Union Bylaws. (Approved by the Office of the Federal Register through June 30, 1982.)

(e) Copies of this publication are on file with the Director, Office of Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408. The text of any changes in said publication will be filed with the Director, Office of the Federal Register, and a notice thereof will be periodically published in the **Federal Register.**

§ 701.14 [Removed]

2. Accordingly 12 CFR 701.14 is removed.

The following Interpretive Ruling and the Appendix will not appear in the Code of Federal Regulations.

12 CFR 702.3 Full and Fair Disclosure Required

[IRPS 81–6]

Interpretive Ruling and Policy Statement

Agency. National Credit Union Administration (NCUA).

Action. Final action on Interpretive Ruling and Policy Statement.

Summary. This Interpretive Ruling and Policy Statement (IRPS) advises credit unions that by adhering to the accounting principles and standards in Section 2000 of the Accounting Manual, they would be in compliance with the

full and fair disclosure provisions of 12 CFR Part 702. This IRPS and a companion rulemaking have the effect of eliminating the Accounting Manual for Federal Credit Unions and Data Processing Guidelines for Federal Credit Unions from having the effect of rule. These actions provide credit unions with greater flexibility in the area of recordkeeping.

Effective date: May 27, 1982.

Address: National Credit Union Administration, 1776 G Street NW., Washington, D.C. 20456.

For Further Information Contact: Joseph Visconti or Mike Fischer of the Department of Supervision and Examination, Telephone (202) 357–1065.

Supplemental Information: The proposal for IRPS 81–8 was issued as a companion action to the proposed deregulation of the Accounting Manual for Federal Credit Unions (Accounting Manual) by removing it from the incorporation by reference provisions of 12 CFR 701.2 (46 FR 48940 October 5, 1981). Because of delays encountered in the distribution of the Accounting Manual, the NCUA Board extended the comment periods on both proposals from November 27, 1981, until April 15, 1982 (47 FR 963 January 8, 1982, and 47 FR 2122 January 14, 1982).

In all, 16 comment letters were received from two trade associations, several credit union leagues, and a number of individual credit unions. Virtually all were supportive of the deregulation effort.

The majority of the comments received agreed that the accounting principles and standards in Section 2000 were sufficient to insure credit union compliance with 12 CFR 702.3 (full and fair disclosure required). However, concern was voiced by several commenters that certain provisions in Section 2030 of the Accounting Manual contradicted the intent of the deregulatory effort. The commenters pointed out that while that section permits the adoption of alternative accounting principles that conform to generally accepted accounting principles (GAAP), the adoption of those principles is effectively barred by the following statement:

> Credit unions may adopt such accounting profession pronouncements provided they are not inconsistent with the principles, standards and procedures set forth herein or statutory or regulatory requirements.

The word "procedures" in this statement implies that the procedures in the Accounting Manual must be employed to ensure compliance with full and fair disclosure. This language in Section 2030 of the Accounting Manual will be changed at the next revision to read:

> Credit unions may adopt such accounting profession pronouncements provided they are not inconsistent with statutory or regulatory requirements or the principles and standards set forth herein.

A similar change has been made in paragraph 2 of the IRPS.

Two commenters suggested that credit unions be authorized to defer losses from the sale of mortgage loans and mortgage related securities similar to the treatment of such losses which is permissible for savings and loan associations. The commenters recognized that such deferral is not in conformance with GAAP and is not permitted by Section 2000 of the Accounting Manual. Although the Agency is currently reviewing the issue of loss deferral, it is a separate issue and not a part of this deregulation action.

Two commenters suggested that by changing the account "Reserve for Contingencies" to "Reserve for Loss Contingencies," credit unions are precluded from establishing "an account for general contingencies." In those cases where a credit union wishes to earmark a portion of undivided earnings for capital accumulation or for some other general purpose the amounts so earmarked can be recorded in Account No. 942—Appropriated Undivided Earnings. This is a new account which was added in the recent Accounting Manual revision for such uses.

Two commenters suggested that the requirement to discontinue interest accrual and reverse the accrual entry on loans which are delinquent 6 months or more was too stringent. They suggested that the reversal should not occur until the loan is determined to be a loss or until the loan is 12 months delinquent. Appropriate changes to pages 2–12 and 4–79 of the Accounting Manual will be made to accommodate this suggestion.

One commenter suggested several changes to Section 5000 to make the Accounting Manual consistent with recent changes to Regulations Z and E. Appropriate changes will be made to the Accounting Manual at a later date.

One commenter requested a further extension of 90 days on the comment period in order to assess the impact on data processing which will result from changes in the Accounting Manual. Although a further extension of the comment period on deregulation of the Accounting Manual is not warranted, the Agency will continue to accept comments and recommendations on any and all parts of the Accounting Manual. Changes to the Manual will be made on a regular basis and comments and recommendations will be considered at those times.

In a companion action, final rules have been issued that remove the Accounting Manual for Federal Credit Unions (Accounting Manual) and Data Processing Guidelines for Federal Credit Unions (Data Processing Manual) from incorporation by reference in the National Credit Union Administration Rules and Regulations under 12 CFR 701.2 and 12 CFR 701.14.

In October 1981, the Accounting Manual was extensively revised, a summary of the significant changes is attached as Appendix A. Sections 1000, 3000, 4000, 5000, 6000, and 7000 provide guidance and offer suggestions to Federal credit unions for accounting in all areas of operations. The accounting principles and standards that Federal credit unions are expected to follow in maintaining financial records and preparing statements are contained in Section 2000.

The full and fair disclosure provisions of 12 CFR 702.3 define the required level of disclosure needed on financial statements, require Federal credit unions to select an accounting basis that is described in the Accounting Manual, and instruct credit unions to prepare financial statements in the manner prescribed in the Accounting Manual or equivalent financial statements. This statement is to advise Federal credit unions that adherence to the accounting principles and standards in Section 2000 of the Accounting Manual will ensure compliance with the full and fair disclosure provisions of § 702.3. Of course, alternative accounting principles and guidelines not inconsistent with statutory or regulatory requirements may also satisfy these disclosure requirements. The remainder of the Accounting Manual for Federal Credit Unions presents guidelines and recommended procedures and practices.

There are instructions and discussions in the Accounting Manual that provide guidance for compliance with statutory and regulatory requirements. For example: Section 4000 of the Accounting Manual discusses statutory regular reserve transfer requirements of the Federal Credit Union Act and how the transfer is calculated. The discussions in the Accounting Manual which relate to the Federal Credit Union Act, NCUA Rules and Regulations or any other statutory requirement are only summaries and Federal credit unions should not interpret deregulation of the Accounting Manual as relief from those rules and statutes.

Accordingly, IRPS 81–8 is approved as an Interpretive Ruling and Policy Statement.

Text of Statement of Interpretation and Policy

1. *Full and Fair Disclosure:* 12 CFR 702.3(a) defines full and fair disclosure as the level of disclosure a prudent person would provide to a credit union member, the National Credit Union Administration, or a creditor to fairly inform them of the financial condition and results of operation of the credit union. The accounting principles discussed in Section 2020 of the Accounting Manual provide for a level of disclosure in financial reporting that will meet the requirements of this Section of the regulation. Major concepts of Section 2020 are summarized as follows:

a. Going Concern Concept—Each credit union will normally maintain its accounts as a "going concern" on the basis that its operations will be continued indefinitely. Therefore, assets and liabilities will represent the value to the credit union as a "going concern" and will not be based on liquidation values. Whenever unusual cirmcumstances indicate a limited life for a credit union, e.g., if the credit union goes into a liquidation status, the "going concern" concept will no longer apply. As a result, appropriate modifications will be required to realistically state assets and liabilities and recognize appropriate revenues and expenses. These modifications would include, for example, a re-evaluation of the loan portfolio to recognize possible discounts on sales of loans, an evaluation of the realizable value of fixed assets in liquidation, possible adjustments required in the carrying value of deferred charges and deferred income, etc.

b. Monetary Basis for Accounting—Accounts of each credit union will be stated in terms of the dollar amounts involved at the time transactions occur. The recording of each transaction in terms of dollar units provides the best feasible indicator as to its relative impact on the overall operations of the credit union. It also permits identification of the amount of assets, liabilities, income or expenses represented by the transaction.

c. Consistency in Accounting From Period to Period—Consistent accounting practices will normally be followed by each credit union from one accounting period to the next. However, when a material change in accounting treatment occurs, the facts must be disclosed on credit union financial statements, including the dollar effect upon the balance sheet and the changes in net income for the period.

d. Timely Recognition in Accounting Records—Accounting transactions will be recorded on a timely basis so that all material information applicable to each accounting period will be shown in the records. To properly recognize in accounting records and financial reports the reasonable value of assets, liabilities, and shareholders' equity, each credit union will make provision for estimated losses to be sustained in the collection or conversion of loans and other assets by charges against current expenses. Estimated amounts will be used in accruing income or expenses if actual amounts are not known and cannot be readily determined. Differences between the actual and estimated amounts will be absorbed in the operations of the subsequent accounting period unless they are so large that they seriously distort net income.

e. Materiality—Material facts, individually and cumulatively, relating to credit union financial activity must be recognized in the accounts of a credit union and reported on its financial statements. A statement, fact, or item is material if, giving full consideration to the surrounding circumstances as they exist at the time, it is of such a nature that its disclosure, or the method of treating it, would be likely to influence or to "make a difference" in the judgment and conduct of a reasonable person. The accumulation of many small items each of which in itself would not be "material", would be "material" if the overall effect would tend to influence the judgment and conduct of a reasonable person.

f. Conservative Accounting—Each credit union will maintain its accounting records on a conservative basis. It will make reasonable provisions in the accounts, based on its best judgment, for potential losses on recorded assets and the settlement of contingent liabilities. It will neither overstate nor understate materially its assets, liabilities, revenues or expenses.

g. Internal Control—Each credit union will adopt appropriate measures of internal control to improve the dependability of its accounting records.

h. Complete Recording of Income and Expenses—All income, expenses, gains and losses will be recorded in income and expense accounts and shown on the Statement of Income prepared for the accounting period. Income and expense accounts will include actual and estimated loan losses, as well as entrance fees, late charges and other assessments against members.

i. Accounting and Dividend Periods—Credit union accounting periods may be monthly, quarterly, semiannually, or annually depending on the period selected by the credit union to close its books. Each credit union must close its books at least annually. It is recommended that Federal credit unions close the books at the end of each regular share account dividend period unless dividends are paid more frequently than monthly. Provision must be made for statutory reserve transfers and adjustments to meet valuation allowance requirements when a credit union elects not to close the books at the end of any dividend period except where such dividend period is more frequent than monthly.

j. Fiscal Year—The fiscal year of all Federal credit unions will begin January 1 and end December 31. This is a requirement of Section 110 of the Federal Credit Union Act.

2. *Alternative Accounting Principles Available:* Within the accounting principles authorized by NCUA for use by credit unions, various alternatives are provided for adoption at the option of any credit union for certain types of transactions. These alternatives are designed to provide the flexibility required for meaningful accounting under a variety of circumstances that may be encountered by credit unions of different size and scope of operations. Absolute uniformity is not required so long as each credit union conforms its accounting to the authorized accounting principles and standards.

The American Institute of Certified Public Accountants (AICPA), the Financial Accounting Standards Board (FASB), and their committees establish generally accepted accounting principles (GAAP), accounting guidelines, and preferred accounting treatment for various activities. Credit unions should refer to such accounting profession pronouncements particularly where an activity is not addressed in the Accounting Manual or other NCUA publications. Credit unions may adopt such accounting profession pronouncements provided they are not inconsistent with statutory or regulatory requirements or the principles and standards set forth in Section 2000 of the Accounting Manual.

3. *Selection of an Accounting Basis:* 12 CFR 702.3(b)(2)(i) requires Federal credit unions to select an accounting basis as provided in the Accounting Manual. The requirements of the Accounting Bases are discussed in Section 2020 of the manual. Credit unions must use the accrual or modified cash basis of accounting. The accrual basis is the

method of accounting under which liabilities and expenses are recorded when incurred whether or not paid, and income is recorded when earned whether or not received. Under the modified cash basis, transactions are recorded when funds are received or disbursed except as described below. Provision must be made to reflect: liabilities not paid when due; dividends and interest refunds applicable to, but not paid in an accounting period; deferred credits and charges applicable to future accounting periods; estimated losses that may be sustained on loans and other risk assets; and depreciation on fixed assets. The NCUA Board encourages all Federal credit unions to adopt the accrual basis of accounting because that method more precisely matches costs with income in accounting cycles and provides for more timely recognition of changes to assets and liabilities. It is also recognized by the NCUA Board that the accrual method may be unnecessarily burdensome for many smaller Federal credit unions. Thus, adoption of the accrual basis of accounting should be subject to the following considerations:

a. The adoption of the accrual basis of accounting is strongly recommended for credit unions with assets of $2 million or more.

b. Credit union accounting should be maintained on the accrual basis by all other credit unions for which such basis is deemed practicable by the board of directors.

c. Where the accrual basis is followed, a cash basis of accounting and reporting may be applied to particular accounts where the results would be only insignificantly different from the accrual basis. For this purpose "insignificantly" refers to differences which would not be considered important for a proper evaluation of the condition of, or operation of, the credit union.

d. Credit unions for which adoption of the accrual basis is not practicable will use a modified cash basis of accounting.

At the $2 million asset range, operations are generally sufficient in scope to require relatively advanced management techniques such as budgeting and asset/liability management. To be effective, these techniques require financial data and records which fully reflect the results of financial transactions in appropriate accounting periods. Accordingly, the NCUA Board considers accrual accounting to be a requisite of sound operations and not an unnecessary burden.

4. *Use and Content of Financial Statements:* 12 CFR 702.3(b)(2)(ii) requires the use of financial statements or equivalent format described in the Accounting Manual. Section 2080 of the Accounting Manual sets forth the conditions necessary to produce financial statements that will meet the full and fair disclosure requirements of the regulation. Major conditions are as follows:

a. *Purpose of Financial Statements*—The financial statements of Federal credit unions provide the vehicle for accomplishing the most important external function of the accounting process; that of presenting fairly the financial position of the credit union at a particular date and the results of operations for a particular period in accordance with generally accepted accounting principles and the principles prescribed in Section 2000 of the Accounting Manual. The financial statements are needed to permit management to make sound decisions and effectively manage the credit union and to show how management has carried out its stewardship to shareholders. In order to provide for full and fair disclosure on financial statements all assets, liabilities, reserves, and retained earnings, including valuation allowance accounts as may be necessary to present fairly the credit union's financial position; and all income and expenses necessary to present fairly the results of the credit union's operations for the period covered by the report must be disclosed.

b. *Frequency of Financial Statements*—As required by Article VIII, Section 5(d) of the Federal Credit Union Bylaws, a Statement of Financial Condition and Statement of Income must be prepared monthly. To provide for full and fair disclosure of financial condition, a Statement of Changes in Equity should be prepared quarterly or at the end of a regular share account dividend period, if the dividend period is longer than quarterly. Credit unions following the accrual basis of accounting should prepare a Statement of Changes in Financial Position on an annual basis.

c. *Chart of Accounts*—For purposes other than reporting to the National Credit Union Administration, any credit union may utilize a different system for numbering its General Ledger accounts than the system discussed in Section 4000 of the Accounting Manual. Any such alternate system adopted must permit the classification of transactions in at least the detail required to properly complete the financial report Forms FCU 109A, FCU 109B, FCU 109C, FCU 109D, and FCU 109E. These forms constitute the majority of the semiannual call report submitted by federally insured credit unions to NCUA under the provisions of 12 CFR 701.13 and 12 CFR 741.7 of the NCUA Rules and Regulations. The required account numbers for these forms are described in Section 4000 of the Accounting Manual. The account numbers are also printed on the financial reporting forms.

Sections 1000, 3000, 4000, 5000, 6000, and 7000 of the Accounting Manual are instructional in nature and designed to assist credit unions to maintain accurate records and prepare financial statements which fully disclose their financial condition. While the procedures in these sections are optional, adherence to the principles and standards discussed in Section 2000 will ensure compliance with the full and fair disclosure requirements of Part 702 of the NCUA Rules and Regulations. Alternate procedures and principles not consistent with statutory or regulatory requirements may also satisfy compliance with Part 702.

By the National Credit Union Administration Board, May 20, 1982.

Rosemary Brady,

Secretary of the NCUA Board.

Appendix A—Outline of Revisions to the Accounting Manual for Federal Credit Unions

Section 1000—General Instructions

Reference to the Condensed Version of the *Accounting Manual for Federal Credit Unions* has been deleted since that publication has been cancelled. New sections on Specialized Accounting and Operational Procedures, and Managerial Accounting are introduced.

Section 2000—Accounting Principles and Standards for Federal Credit Unions

Section 2020.10, "Accounting Basis," recommends the adoption of the accrual basis of accounting for all credit unions particularly for those with assets of $2 million or more.

Section 2020.11, "Accounting and Dividend Periods," recommends that FCUs close the books at the end of each dividend period unless the dividend period is more frequent than monthly.

Section 2030, "Accounting Profession Pronouncements," has been added to recognize the existence of generally accepted accounting principles (GAAP) and other recognized accounting guidelines. This section indicates that credit unions should rely on GAAP when the Manual does not address a specific activity.

Section 2050.1.7.1 requires the accrual of dividends whenever dividend rates are specified or contracted for in advance.

Section 2060.4, "Reserve for Loss Contingencies," is the new account title for the previous "Reserve for Contingencies." This section specifies that loss contingency expenses will not be charged directly to Reserves for Loss Contingencies.

Section 2070.1.12, "NCUA Insurance Guaranty," defines the topic, and states that a guaranty will not be recorded as income.

Section 2070.2.4, "Accrued Interest on Loans Included in Valuation Allowance," provides that interest will not be accrued on loans that are 6 months or more delinquent.

Section 2080.5, "Notes to Financial Statements," is a new section that states the purpose of and requirements for such notes.

Section 2080.10, "Chart of Accounts," is a new section that was added to require the use of Section 4000's Chart of Accounts for reporting to the National Credit Union Administration.

Section 3000—Financial Reports

Section 3020, "Frequency of Report Requirements," has been revised to eliminate the reference to the Statistical Report which has been cancelled. It also eliminates any references to the Statement of Changes in Undivided Earnings and the Statement of Changes in Equity, since these have been consolidated into a "Statement of Changes in Equity."

Section 3050.3, "Supporting Schedules for Financial Statements," is a new section for the new form FCU 109C that is used to provide notes to the financial statements. Following this section are completed sample financial statements.

Section 3050.5, "Statement of Changes in Equity," provides the new consolidated statement of changes for all undivided earnings and reserve accounts.

Section 3050.6, "Statement of Changes in Financial Position," includes the completely revised statement to provide more detailed information about the credit union's sources and uses of funds for the current year.

Section 3050.7.1, "Illustration of the Use of Notes to the Financial Statements," provides illustrated financial statements with their accompanying notes, providing examples of how notes can be prepared.

Section 4000—General Ledger Accounts

Section 4030.2.9, "Conversion to the Accrual Basis of Accounting," is a new discussion on how to convert to the Accrual Basis of Accounting.

Section 4030.2.10, "Transactions after Conversion", is a new section that provides instructions on the use of some of the accrued income and expense accounts.

Section 4040, "Chart of General Ledger Accounts," provides a complete listing of all of the new General Ledger Accounts that are used in this manual.

Section 4050.4, "Asset Accounts (700 Series)," was revised to expand the listing of investment asset accounts. Thus, the accrued income asset accounts were moved to the 780 account numbered series. Investment Asset Accounts now spread from Account No. 740 to 759, the latter being the Allowance for Losses on Investments, which was formerly Account No. 749. Common Trust Investments (Account No. 743) now includes Mutual Fund Investments.

Section 4050.5, "Liability Accounts (800 Series)," under Dividends Payable (Account No. 820) previously required that all dividend periods must be established so that the last dividend period of any calendar year end on December 31. Dividend periods will no longer be limited to the December 31st requirement, provided that the cost of the dividends is accrued through December 31 by recording the dividend expense and the corresponding accrued liability.

Section 4050.6, "Savings and Equity Accounts," has been amended to permit reference to share accounts as savings rather than equity. The discussion included in the Regular Reserve (Account No. 931) reflects the reduced transfer requirements of Pub. L. 95–22 of April 1977. The Reserve for Loss Contingencies (Account No. 933), (formerly the Reserve for Contingencies) has been revised to limit the establishment of such a reserve to probable losses that are known and determinable in amount. A new account, Appropriated Undivided Earnings (Account No. 942), was established for the purpose of allocating undivided earnings for planned expenditures or liabilities.

Section 5000—General Accounting and Operating Procedures

Section 5030.1.5.1, "Termination of a Joint Account," is an expanded version of this topic which is based on a current NCUA legal opinion.

Section 5040.2.1, "Pledge of Shares," includes legal interpretations on the subject and provides sample wording and advice that can be followed when initiating a pledge.

Section 5040.4.1., "Applying for the loan," incorporates the new "Application for Loan" form NCUA 6001.

Section 5040.5.2.4 provides a new discussion of the board of directors' authority to establish interest rates based on various classifications of loans.

Section 5040.5.7 provides a new discussion of the assessment and administration of late charges.

Section 5040.5.8 provides a new narrative outline on the loan security reporting requirements of Federal Reserve Board Regulation G, "Securities Credit by Persons Other Than Banks, Brokers and Dealers."

Section 5050.1.1, "Balancing Out Teller's Funds," contains new instructions for credit union operating personnel on how to balance a cash drawer.

Section 5050.1.1.2, "Check Endorsements," is a new discussion on the various types of check endorsements, and the basis for each.

Section 5050.1.5, "Balancing Teller's Cash Receipts and Disbursements Using Online Computer Terminals," is a new subsection that was added to provide teller instructions when using an on-line computer terminal.

Section 5050.1.6, "Receipts and Disbursements Using Automatic Transfer Accounts and NOW Accounts," is a new discussion that addresses credit union disbursements via an automatic transfer or Negotiable Order of Withdrawal Account.

Section 5050.2.8, "Change Funds and Monetary Reserve Requirements of Regulation D," provides a clarification that change funds are included in the definition of "vault cash" in satisfying the monetary reserve requirements of Regulation D.

Section 5060.5, emphasizes providing necessary detail in support of bank reconcilements.

Section 5060.11, "Preparing the Schedule of Delinquent Loans," includes a new discussion on the preparation of form FCU 118LC, Schedule of Delinquent Lines of Credit.

Section 5070.1, "End of Accounting Period," urges the closing of the credit union's books at the end of each dividend period.

Section 5070.2, "Interest Refunds," reflects Change No. 39 to the NCUA Rules and Regulations which authorizes refunds of interest that vary according to different classes of loans.

Section 5080, "Subsidiary Recordkeeping," is a consolidation of former references to subsidiary recordkeeping.

Section 5080.5, "Other Subsidiary Records for Other General Ledger Accounts," emphasizes the need to maintain subsidiary ledgers when there are two or more separate items supporting one General Ledger Account.

Section 5090.2, "Direct Deposit of Federal Recurring Payments," is a new subsection which provides instructions for handling those payments including the use of a preselected date when the deposit is credited to the member's account.

Section 5090.4, "Payroll Deduction Plans," provides a new discussion on providing disclosure information regarding the operation of payroll deduction plans.

Section 5090.8, "Distribution of Statements of Account," provides an expanded discussion regarding distribution of members' accounts in consideration of the Federal Reserve Board's Regulation Z requirements.

Section 5090.8.1, "No Mail Accounts," provides credit union officials and operating personnel with instructions for handling members' "no mail" accounts.

Section 5090.9, "Regulation E", provides a discussion of statement distribution requirements and composition of the statement based on this Federal Reserve Board regulation.

Section 5100.3, "Automatic Teller Machine (ATM)," discusses the advantages of such machines in view of the services that they can provide.

Section 5120.2, "Allowance for Depreciation," provides new acceptable depreciation ranges for depreciable assets.

Section 5140, "Internal Controls," includes expanded comments on the maintenance of administrative and accounting controls that comprise a good system of internal control.

Section 5140.4, "Management Official Interlocks," is a discussion of the Depository Institution Management Interlocks Act and the related requirements of Part 711 of the NCUA Rules and Regulations.

Section 5150, "Share, Share Draft and Share Certificate Accounts," is a consolidation of the Pub. L. 95–22 authority for varible share accounts as expressed in the former "1978 Interim Dividend Guidelines for FCUs" and current NCUA Rules and Regulations.

Section 5160, "Dividends," is an expansion of the "1978 Interim Guidelines for FCUs" and the instructions found in the previous version of the Accounting Manual for FCUs.

Section 5190.3.3, "Microfiched or Microfilmed Records," is a new presentation on the use of current microfilming processes for the storage and maintenance of the vital records of the credit union.

Section 5200.1.1., "Essentials Needed For Offering the Sale Of, And Cashing Of, Money Orders and Checks," provides a listing of the items needed for this members' service.

Section 5200.6, "Group Purchasing and Insurance Activities," addresses the problem of computing the amount of direct and indirect costs in providing a service.

Section 5210, "Third Party Payments," provides a consolidated summary of a credit union's authority to make payments to third parties on behalf of credit union members.

Section 5210.1.2., "Electronic Funds Transfer Act," provides a definition of an electronic funds transfer and provides a summary of some of the Act's provisions.

Section 5210.1.3, "Automatic Clearing House," provides a brief discussion of the purpose and operations of such a facility.

Section 5220, "Delinquency Control," provides advice for credit union managers for the implementation and administration of an effective collection program. It expresses the need, benefits and elements of delinquency control. Method "D" for delinquency computation was deleted since it allowed delinquent interest payments to be counted as satisfying the note's repayment terms.

Section 5220.2.8.15, "Ethical Loan Collection Practices," provides an outline of collection procedures that can be used while preserving courtesy and respect for the borrower. Observance of these procedures will asssist the credit union in avoiding unnecessary law suits from unfair debt collection practices.

Section 5230, "Reserve Requirements," provides a discussion on regular reserve transfer requirements.

Section 5230.1.3, "Split-Rate Transfers," provides a discussion on how split-rate transfers to reserves are computed. There will be occasions when a credit union has satisfied the requirements of one transfer rate and can thus drop to a lower rate of transfer during the same accounting period. This subsection provides an example of such a computation.

Section 5240, "Liquidity Reserve Computation," provides a discussion on the requirements of liquidity reserves in connection with Part 742 of the NCUA Rules and Regulations.

Section 5240.2, "Regulation D," provides summary of this Federal Reserve Board regulation, which addresses transaction accounts and nonpersonal time deposits and their monetary reserving requirements.

Section 5250, "Correspondent Credit Unioning," provides a new discussion on this program and the requirements and procedures to be followed.

Section 5260, "Safe Deposit Box Service," provides an outline of the precautions, safeguards and internal controls which must be considered.

Section 5270, "Federal Funds Transactions," includes a discussion of the authority for Federal credit unions to participate in the Federal Funds market.

Section 5290.1, "Political Contributions By Federal Credit Unions," is a new discussion on the subject.

Section 6000—Specialized Accounting and Operational Procedures

This section covers topics primarily related to the larger credit unions having more complex operations. Operational and accounting procedures are provided for such activities as: share drafts; credit card programs; investment in credit union service corporations; fixed assets; branch offices; offices on Department of Defense facilities; leases; and the purchase sale and pledge of eligible obligations. Guidance is also provided on a broad range of topics including: pension plans; real estate lending; long-term investments; treasury tax and loan accounts; public unit accounts; corporate central credit unions; and membership in the Central Liquidity Facility.

This is an entirely new major section of the *Accounting Manual for Federal Credit Unions*. It recognizes the use and application of current generally accepted accounting principles (GAAP) in regard to credit union programs or services. This section represents a special effort to update credit union accounting practices so that they will be more in tune with GAAP as set forth by the American Institute of Certified Public Accountants.

Section 7000—Managerial Accounting

This section describes the budgetary process including the planning function, budget preparation, financial control and evaluation. Various techniques of asset/liability management are discussed and examples of the spread analysis and allocation-of-funds methods are illustrated. A listing of ratios which can be used to measure liquidity, capital adequacy and profitability are provided.

Section 8000—Appendices

Section 8000 includes tables that are used in other sections of this Manual. New tables that have been added are: Table 8–2 Present Value of $1 Per Period; Table 8–3 Present Value of $1; Table 8–4 Future Value of an Annuity of $1 Per Period; Table 8–5 Future Value of $1; and Table 8–6 Mortgage Yield Conversion Table. Table 8–7 Dividend Table has been revised. Table 8–8 Level Payment Delinquency Table for Loans has been expanded to cover loans for 360 months and interest rates of 15%, 18% and 21% APR.

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BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-ANE-14; Amdt. 39-4395]

Airworthiness Directives; Avco Lycoming Williamsport Division Reciprocating Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment amends an existing Airworthiness Directive (AD), applicable to various Avco Lycoming model reciprocating engines which requires replacement of the sintered iron impellers in the oil pump, by providing clarification changes.

DATES: Effective June 7, 1982. Comments on the rule must be received on or before July 7, 1982. Compliance schedule as prescribed in body of the AD.

ADDRESSES: The applicable service bulletins specified in the AD may be obtained from Avco Lycoming Williamsport Division, Williamsport, Pennsylvania 17701, or may be examined at the FAA, New York Aircraft Certification Office, Federal Building, JFK International Airport, Jamaica, New York 11430. A copy of each of the service bulletins is contained in the Rules Docket, Federal Aviation Administration, Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Mr. I. Mankuta, Propulsion Section, ANE–174, New York Aircraft Certification Office, Federal Building, JFK International Airport, Jamaica, New York 11430; telephone: (212) 995–2894.

SUPPLEMENTARY INFORMATION: Many inquiries were received on AD 81–18–04R1, Amendment 39–4199 as amended by Amendment 39–4256, requesting assistance in determining if a specific engine had the suspect oil pump parts. This was due to the number of modifications to which oil pumps were subjected to in the past resulting from compliance with Lycoming service publications and parts replaced during overhaul and remanufacture. Current service bulletins do not include sufficient details to enable owners to readily determine if their engine has a suspect oil pump. Therefore, additional clarifying information is being included in this amendment. There are no procedural or compliance changes to the context of the AD.

Since this amendment provides clarification only, and imposes no additional burden on any person, notice and public procedure is impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Safety.

Request for Comments on the Rule

Although this action is in the form of a final rule which was not preceded by notice and public procedure, comments

are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation.

Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the AD and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations, 14 CFR 39.13 is amended by further amending Amendment 39-4199, as amended by Amendment 39-4258, AD 81-18-04R1, as follows:

(1) Revise the Applicability paragraph to read as follows:

81-18-04R2 Avco Lycoming: Amendment 39-4199 as amended by 39-4258 and 39- Applicability: All O-235, O-290-D, -D2, O-320, IO-320, AIO-320, AEIO-320, LIO-320, O-340, O-360, IO-360, AIO-360, AEIO-360, HO-360, HIO-360, LO-360, LIO-360, TIO-360, TO-360, LTO-360, VO-360, IVO-360, O-540 and IO-540 series engines, except for the following: O-320-H2AD, O-360-E1A6D, LO-360-E1A6D, TO-360-E1A6D, LTO-360-E1A6D, IO-540-P1A5, IO-540-R1A5, IO-540-S1A5 and;

O-540/IO-540 series engines built with large capacity oil pumps and dual magnetos designated with "5D" in the model suffix (Example: IO-540-K1A5D).

(2) Revise the sentence under "compliance required * * *" as follows:

To prevent failure of engine oil pumps which incorporate sintered iron impellers, accomplish the following:

(3) In paragraph (a), insert the words "and in addition; all" between "L-22571-51A" and "of" so that it reads as follows:

"* * * L22571-51A, and in addition; all of the above engines * * *";

and in the last sentence of paragraph (a), add "regardless of serial numbers" after "April 1, 1981."

(4) In paragraph (a)(1), add the following after "approved alternate method":

"unless it can be established that a sintered iron impeller is not installed (see NOTE below)."

(5) Revise paragraph (b) in wording and form to read as follows:

(b) Compliance is required within the next 25 hours in service after the effective date of this AD for:

Lycoming models O-360-A1LD S/Ns L-17555-36A through L-22462-36A, O-360-A1F6D S/Ns L-16685-36A through L-22582-36A, O-360-A5Ad S/Ns L-17057-36A through L-20038-36A, IO-360-A1B6D/-A3B6D S/Ns L-9598-51A through L-16595-51A, L-17273-51A, L-17312-51A through L-17319-51A, L-17321-51A, L-17336-51A through L-17340-51A, L-17347-51A through L-17351-51A, L-17355-51A, L-17358-51A, L-17377-51A through L-17380-51A, IO-360-C1E6D, S/N L-14527-51A, TO-360-C1A6D S/Ns L-101-69A through L-243-69A, and in addition, all of the above model engines which were overhauled in the field between April 7, 1970, and October 15, 1976, regardless of serial numbers; and all of the above model engines which were remanufactured and shipped before April 1, 1981, regardless of serial numbers.

(6) In paragraph (b)(1) after the word "alternate" at the end of the paragraph, add "unless it can be established that a sintered iron impeller is not installed. (See NOTE below)"

(7) Revise paragraph (c) to read as follows:

(c) For all other engines in the subject Applicability paragraph not specifically listed in Paragraphs (a) and (b) above, comply with Avco Lycoming Service Bulletin No. 456 dated August 21, 1981, or FAA approved revision or alternate, at 2000 hours since new or since last overhaul, whichever is later, or whenever the accessory section is removed. Those engines which have accrued 2000 hours or more on the effective date of this AD must comply within the next 100 hours in service. Compliance is required as described herein unless it can be established that a sintered iron impeller is not installed. (See Note below).

(8) Revise the two sentences below paragraph (c) by inserting "New York Aircraft Certification Office" in lieu of "Engineering and Manufacturing Branch, FAA Eastern Region."

(9) Revise the Note to read as follows:

Note.—Engines originally manufactured prior to 1970 did not incorporate sintered iron impellers. For these engines, reference should be made to engine maintenance/overhaul logbook records, Lycoming build records, and pertinent Service Bulletins. Service Bulletin Nos. 381C and 385C describe a method to determine if the early design oil pump with aluminum/steel impellers is installed. Aluminum/steel impellers do not require replacement.

Amendment 39-4258 became effective November 19, 1981.

This amendment 39-4395 becomes effective June 7, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—This regulation provides clarification of an existing AD as a result of inquiries made by the public concerning AD 81-18-04R1. For this reason, and as discussed in the preamble, the FAA has determined that it: (1) Is not a major rule under Executive Order 12291; (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) is certified that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Burlington, Massachusetts, on May 20, 1982.

John B. Roach,

Acting Director, New England Region.

[FR Doc. 82-14586 Filed 5-28-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-ANE-12; Amdt. 39-4389]

Airworthiness Directives; Bendix Engine Products Division, Models D-2000 and D-2200 Magnetos

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comment.

SUMMARY: This amendment issues a new airworthiness directive (AD) applicable to Bendix D-2000 and D-2200 magnetos. The AD requires inspection of the rotating distributor gear electrode for looseness and, if lose, replacement prior to further flight.

DATES: Effective June 9, 1982. Comments related to this amendment must be received on or before July 9, 1982. Compliance is required as set forth in the AD.

ADDRESSES: Bendix Service Bulletin No. 617 may be acquired from the manufacturer at the Engine Products Division, Sidney, New York 13838.

A copy of the service bulletin is contained in the Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591, and in the Rules Docket, Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Mr. A. T. Farrar, Propulsion Section, ANE-174, New York Aircraft Certification Office, Federal Building, JFK International Airport, Jamaica, New York 11430; telephone (212) 995-2894.

SUPPLEMENTARY INFORMATION: There have been reports of engine malfunctions which were attributed to a

loosening of the rotating distributor gear electrode in these magnetos. Looseness of the electrode has led to short circuits within the distributor resulting in power loss and engine damage. The manufacturer now fabricates electrodes which are welded to the gear axle. This AD requires periodic inspections of the distributor gear electrodes and eventual replacement with the welded type.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Safety.

Request for Comments on the Rule

Although this action is in the form of a final rule which involves requirements affecting immediate flight safety and, thus, was not preceded by notice and public procedures, comments are invited on the rule.

When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the AD and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations, 14 CFR 39.13, is amended by issuing a new AD as follows:

Bendix: Applies to Bendix Engine Products Division D–2000 and D–2200 series magnetos with serial numbers below 35480 (red identification plate) and with serial numbers below 8122106 (blue identification plate), unless identified with an "X" in the upper left corner of the identification plate.

Compliance required as indicated, unless already accomplished.

To reduce the possibility of engine power loss and engine damage resulting from looseness of the distributor gear electrode, accomplish Paragraphs (a) and (b):

(a) Comply with the inspection requirements specified in the "Detailed Instructions" of Bendix Service Bulletin No. 617, dated November 1961, or later FAA-approved revision in accordance with the following schedule:

Magneto Time In Service Since New or Overhaul—Accomplish

Less than 500 hours—Within the next 50 hours in service and every 100 hours in service thereafter up to 550 hours in service

500 hours or more—Within the next 50 hours in service

(b) Magnetos with 1900 hours or more in service since new or overhaul: Within the next 100 hours time in service, replace distributor gear assembly with new serviceable gear assembly in accordance with Bendix Service Bulletin No. 617, dated November 1961, or later FAA approved revision.

(c) If the distributor block is contaminated with brass filings or bronze colored dust, inspect the engine as follows:

(1) Observe engine pistons through spark plug hole for evidence of burning.

(2) Check valve dry tappet clearance per engine manufacturer's instructions.

If piston damage, or lower than specified dry tappet clearance, is present, the engine must be inspected in accordance with the engine manufacturer's instructions for continued airworthiness.

Equivalent means of compliance may be approved by the Chief of the New York Aircraft Certification Office, ANE–170, Federal Aviation Administration (FAA), New England Aircraft Certification Division, Federal Building, JKF International Airport, Jamaica, New York 11430. As permitted by FAR 21.197, aircraft may be flown to a base where maintenance required by this AD can be accomplished.

This AD is effective June 9, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Burlington, Massachusetts, on May 18, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82-14589 Filed 5-28-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-NM-32-AD; Amdt. 39-4393]

Airworthiness Directives; British Aerospace Model HS/BH/DH 125 Airplanes Up to and Including Series 600

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) which requires installation or replacement, as required, of a fuse for the auxiliary power unit (APU) start cable on British Aerospace Model HS/BH/DH 125 aircraft up to and including Series 600A aircraft. At present, some models have no fuse while others have a fuse of insufficient amperage rating to permit normal operational loads. This new fuse will protect the primary electrical (PE) busbar in the event of a fault condition on the APU start cable as well as protecting the start cable.

DATE: Effective date June 8, 1982.

ADDRESS: The service bulletin specified in this Airworthiness Directive may be obtained upon request from British Aerospace, Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041. This document may also be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. R. J. Huhn, Foreign Aircraft Certification Branch, ANM–150S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767–2530. Mailing address: FAA Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington, 98168.

SUPPLEMENTARY INFORMATION: The United Kingdom Civil Aviation Authority (CAA) has classified British Aerospace Corporation HS–125 Service Bulletin 49–23–(6525) mandatory. This service bulletin requires the installation of a 275 ampere fuse to protect the PE busbar and the APU start circuit on certain HS/BH/DH–125 airplanes. The manufacturer has found that the existing 200 ampere circuit protection is insufficient to permit reliable operation of the APU start circuit. Furthermore, on

some models no fuse is installed. In order to correct this condition, the CAA, which is the Civil Airworthiness Authority for the United Kingdom, is requiring installation of a 275 ampere fuse in accordance with HS–125 Service Bulletin 49–23–(6525), Revision 5, dated August 18, 1981.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, an AD is being issued which requires installation of a 275 ampere fuse on certain HS/BH/DH–125 airplanes in accordance with HS–125 Service Bulletin 49–23–(6525), Revision 5, dated August 18, 1981.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

British Aerospace (Hawker Siddeley): Applies to all Model HS/BH/DH 125 aircraft up to and including Series 600A aircraft, certificated in all categories, S/Ns as listed in British Aerospace, Aircraft Group, 125 Series Aircraft Service Bulletin 49–23–(6525), Revision 5, dated August 18, 1981. Compliance is required as indicated unless already accomplished. To protect the PE busbar and ensure APU start circuit operation, accomplish the following:

1. Within the next 100 hours time in service after the effective date of this AD, install a 275 ampere airfuse in accordance with the applicable instructions in paragraph 2, "Accomplishment Instructions," of British Aerospace, Aircraft Group, 125 Series Aircraft Service Bulletin (SB) No. 49–23–(6525), Revision 5, dated August 18, 1981.

2. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

3. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

This amendment becomes effective June 8, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Washington, on May 19, 1982.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 82–14548 Filed 5–28–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 82–NM–30–AD; Amendment 39–4392]

Airworthiness Directives; British Aerospace Model HS/BH/DH 125 Airplanes up to and Including Series 700

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds an Airworthiness Directive (AD) that requires a visual inspection of the flap nose ribs for cracks on all British Aerospace Model HS/BH/DH 125 aircraft up to and including series 700. If cracks exist it is possible that the structural capability of the flap will be compromised and the flap could detach during take off or landing.

DATE: Effective date June 8, 1982.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request from British Aerospace, Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041. This document may also be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT:

Mr. R. J. Huhn, Foreign Aircraft Certification Branch, ANM–150S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767–2530. Mailing address: FAA Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The United Kingdom Civil Aviation Authority (CAA) has classified British Aerospace Corporation HS–125 Service Bulletin 57–58 mandatory. This service bulletin requires a one time visual inspection of the flap nose ribs for cracks which may have formed during manufacture of BAC HS–125 airplanes. If cracks are found that are within certain limits, the airplane can be flown provided it is reinspected every 40 hours time in service until a permanent repair is made. Cracks beyond acceptable limits must be repaired prior to further flight. If undetected cracks are allowed to grow, the flap could separate during takeoff or landing. In order to prevent this from occurring, the CAA is requiring an inspection and repair as necessary.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist on airplanes of this model registered in the United States, an AD is being issued which requires a one time visual inspection of the flap nose ribs for cracks within the next 100 flight hours time in service after the effective date of this AD or upon the accumulation of 600 flight hours time in service, whichever occurs later. The inspection is to be made in accordance with HS–125 Service Bulletin 57–58, Revision 2, dated April 10, 1980.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

British Aerospace (Hawker Siddeley): Applies to British Aerospace Model HS/BH/DH 125 up to and including series 700 airplanes certificated in all categories. To prevent structural failure of the flap, accomplish the following within the next 100 hours time in service after the effective date of this AD or before the accumulation of 600 hours time in service on the airplane, whichever is later, unless already accomplished.

1. Visually inspect the flap outboard hinge nose ribs for cracks in accordance with the instructions in paragraph 2A of British Aerospace, Aircraft Group, 125 Service Bulletin (SB) No. 57–58, Revision 2, dated April 10, 1980.

a. If no cracks are found, no further action is necessary.

b. If an cracks are found during the inspection required by paragraph 1, above, which do not exceed the criteria in paragraph 2A(5) of the service bulletin, reinspect at intervals not exceeding 40 hours time in service from the last inspection until a permanent repair is incorporated.

c. If cracks are found during the inspection required by paragraph 1 or during the repetitive inspection required by paragraph 1.b, above, which exceed the criteria in paragraph 2A(5) of the service bulletin, replace the flap with a serviceable flap or contact the manufacturer for instructions to make a permanent repair before further flight.

2. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

3. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

The manufacturer's specifications and procedures indentified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 522(a)(1).

This amendment becomes effective June 8, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Washington, on May 19, 1982.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-14549 Filed 5-28-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-NM-29-AD; Amdt. 39-4391]

Airworthiness Directives; British Aerospace Model HS/BH/DH-125 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document adds a new Airworthiness Directive (AD) applicable to British Aerospace (formerly Hawker Siddeley Aviation, Ltd.) HS/BH/DH-125 series airplanes up to and including series 700 which requires inspection of the main landing gear restrictor valves for debris contamination and the installation of in-line filters. This action is necessary to prevent debris contamination of the restrictor valve which could result in a landing gear malfunction.

DATES: Effective date June 8, 1982.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to British Aerospace, Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041. This document may also be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert J. Huhn, Foreign Aircraft Certification Branch, ANM-150S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2530. Mailing address: FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The United Kingdom Civil Aviation Authority (CAA) has classified British Aerospace Corporation HS-125 Service Bulletin 32-190 mandatory. This service bulletin requires disassembly and inspection for debris contamination of the main landing gear restrictor valves and the installation of in-line filters. Two service incidents have occurred in which a blocked restrictor valve prevented the associated main landing gear from being lowered by either normal or auxiliary means. In order to prevent this from occurring, the CAA is requiring an inspection and modification.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of §21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, an AD is being issued which requires an inspection of the main landing gear restrictor valves and the installation of line filters in accordance with HS-125 Service Bulletin 32-190 dated August 28, 1981.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

British Aerospace (Formerly Hawker Siddeley Aviation, Ltd.): HS/BH/DH-125 series airplanes certificated in all categories up to and including series 700 which have not been modified in accordance with Modification 252837. Compliance is required within 100 flight hours time in service after the effective date of this AD, unless already accomplished. To prevent blocking of the main landing gear restrictor valves, accomplish the following:

1. Disassemble the main landing gear restrictor valves and inspect for debris contamination, reassemble, and install in-line filters in accordance with British Aerospace Aircraft Group 125 Series Aircraft Service Bulletin 32-190 dated August 28, 1981.

2. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of this AD.

3. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

This amendment becomes effective June 8, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption, "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Washington, on May 19, 1982.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-14580 Filed 5-28-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-NM-28-AD; Amdt. 39-4390]

Airworthiness Directives; British Aerospace Model HS/DH/BH-125 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document amends an existing Airworthiness Directive (AD) which requires repetitive inspection and rework or replacement of the bridge casting for the nose landing gear drag stay assembly on British Aerospace (formerly Hawker Siddeley Aircraft, Ltd.) Model HS/DH/BH-125 airplanes. Since the issuance of the AD, the airframe manufacturer, with the concurrence of the United Kingdom Civil Aviation Authority (CAA), has found that the repetitive inspection interval may be extended without compromising safety. The FAA concurs with Revision 2 of Service Bulletin 32-184 which incorporates the repetitive inspection interval revision. The AD is therefore being amended to increase the inspection interval from 600 landings/one year to 900 landings/two years, whichever occurs first.

DATE: Effective date June 8, 1982.

ADDRESS: The applicable service bulletin may be obtained upon request to British Aerospace, Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041. This document may also be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert J. Huhn, Foreign Aircraft Certification Branch, ANM-150S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2530. Mailing address: FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: AD 80-12-05, Amendment 39-3789 (45 FR 37179, June 2, 1980) requires repetitive inspections of the bridge casting on the nose landing gear drag assembly. Since Amendment 39-3789 was issued, the manufacturer has determined that the repetitive inspection interval may be extended without compromising safety from 600 landings/one year to 900 landings/two years, whichever occurs first. The CAA, which is the Civil Airworthiness Authority for the United Kingdom, concurs with this action. Based on this finding, the FAA is amending AD 80-12-05 to allow the increased time between repetitive inspections.

Since this amendment is relieving and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending AD 80-12-05, Amendment 39-3789 (45 FR 37179, June 2, 1980), by revising paragraph (a) to read as follows:

(a) Upon the accumulation of 2000 landings on the bridge casting or within the next 100 landings after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 900 landings on the bridge casting from the last inspection or every two years, whichever occurs first, inspect and rework or replace as necessary the bridge casting P/N 25UN49A in accordance with Section 2A "Accomplishment Instructions" of British Aerospace Service Bulletin 32-184, Revision 2, dated October 20, 1980, or an FAA-approved equivalent.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

This amendment becomes effective June 8, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves an amendment that is relieving in nature and does not impose any additional burden on any person. This amendment is not major under Executive Order 12291 (46 FR 13193; February 19, 1981), and not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because its anticipated impact is so minimal, it does not warrant preparation of a regulatory evaluation and it is certified it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington, on May 19, 1982.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-14581 Filed 5-28-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-ANE-15; Amdt. 39-4396]

Airworthiness Directives; Detroit Diesel Allison 250-B15G, 250-B17, 250-B17B, and 250-B17C Model Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires a one time check of the propeller governor feather system on Detroit Diesel Allison 250-B15G, 250-B17, 250-B17B, and 250-B17C model engines. The AD is prompted by a report of possible calibration errors in a suspect group of governors that could

cause the governors to be slow or incapable of feathering the propeller.

DATES: Effective—June 7, 1982.

Comments must be received on or before July 7, 1982.

Compliance required as set forth in the AD.

ADDRESSES: The applicable service bulletin may be obtained from Detroit Diesel Allison, Division of General Motors Corporation, Service Department, Indianapolis, Indiana 46206. A related service bulletin may be obtained from Woodward Governor Company, 5001 North Second Street, Rockford, Illinois 61101.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Smalley, Chicago Aircraft Certification Office, ACE–115C, Aircraft Certification Division, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018; telephone (312) 694–7126.

SUPPLEMENTARY INFORMATION: A manufacturing process calibration error may exist in a suspect group of governors that could cause slow propeller feathering or an inability to feather when manual feather is attempted. Since this condition possibly exists on governors within the suspect group, this AD requires a one-time ground operation test of the governors.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedures hereon are impracticable, and good cause exists for making this amendement effective in less than 30 days.

Although this action, which involves requirements affecting immediate flight safety, is in the form of a final rule and thus was not preceded by notice and public comment, comments are now invited on the rule. When the comment period ends, the FAA will use the comments submitted together with other available information, to review the regulation. Public comments are helpful in evaluating the effects of the rule and in determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule.

List of Subjects in 14 CFR Part 39

Engines, Propellers, Air transportation, Aircraft, Aviation safety, Safety.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Detroit Diesel Allison: Applies to Detroit Diesel Allison (DDA) combined power turbine and propeller governor assembly, DDA P/N 6875706, (Woodward P/N 8210–018) with the following serial numbers:

004780A	1814712A
1282800A	1814713A
1282910A	1816433A
1282921A	1819864A
1283049A thru 1283081A	1820615A thru 1820617A
1585707A thru 1585740A	1820648A
1704950A thru 1704966A	1821184A
1709149A	1821845A
1712127A	1821854A
1713260A thru 1713303A	1821882A
1720002A	1823181A
1720003A	1823182A
1720471A	1740082A
1720472A	1740083A
1720989A	1740231A
1747750A	1743198A
1747751A	1743199A
1747817A	1746478A
1747948A	1746506A
1748580A	1747637A
1749652A	1747638A
1750588A	1747842A thru 1747845A
1751790A	1753623A
1751791A	1753624A
1751812A	1806013A
1752000A thru 1752011A	1806047A
1752015A	1807845A
1752147A	1807846A
1752148A	1807957A
1752132A	1807958A
1812368A	1808591A
1812819A	1808973A

The above governors are installed on, or are spares for, Detroit Diesel Allison 250–B15G, B17, B17B, and B17C engines which are installed on, but not limited to, Cessna 401, 401A, 401B, 402, 402A, 402B, and 414 airplanes modified in accordance with STC SA117NW and Government Aircraft Factories (GAF) Nomad N22B and N24A.

Compliance is required, unless already accomplished, within the next 50 hours time in service or the next 30 days, whichever occurs first, after the effective date of this AD:

a. Complete the ground functional check in accordance with the accomplishment instructions of Detroit Diesel Allison Alert Service Bulletin No. CEB–A–87 or CEB–A–1151, or later FAA-approved revision, as appropriate.

b. Governors that fail the check must be removed and replaced with a properly calibrated governor prior to next flight.

Equivalent means of compliance may be approved by the Chief, Chicago Aircraft Certification Office, Federal Aviation Administration (FAA), 2300 East Devon Avenue, Chicago, Illinois.

Note.—The following service bulletins refer to this subject: DDA No. CEB–A–87, for 250–B15G engines, dated February 5, 1982. DDA No. CEB–A–1151, for 250–B17, –B17B, and –B17C, engines, dated February 5, 1982. Woodward No. 33577, dated February 1982.

This amendment becomes effective June 7, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1364(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the Courts of Appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Burlington, Massachusetts, on May 20, 1982.

John B. Roach,

Acting Director, New England Region.

[FR Doc. 82-14694 Filed 5-28-82; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82–NM–39–AD; Amdt. 39–4394]

Airworthiness Directives; McDonnell Douglas Model DC–9 Series and C–9 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document amends an existing Airworthiness Directive (AD) which requires eddy current or dye-penetrant inspection for cracks in the upper fuselage skin in the area of the aft pressure bulkhead tee on McDonnell Douglas Models DC–9 and C–9 series airplanes. These cracks, if left unattended, could result in structural failure of the fuselage shell and rapid decompression of the aircraft. This amendment is needed to clarify certain provisions of that AD and add an additional alternate inspection procedure.

DATES: Effective date June 8, 1982.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). This information also may be examined at FAA Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168; or 4344 Donald Douglas Drive, Long Beach, California 90808.

FOR FURTHER INFORMATION CONTACT: Harry J. Irwin, Aerospace Engineer, Airframe Branch, ANM–120L Federal Aviation Administration, Northwest Mountain Region, Los Angeles Area Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548–2826.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive requiring eddy current or dye-penetrant inspection for cracks in the upper fuselage skin in the area of the aft pressure bulkhead tee on McDonnell Douglas Models DC–9 and C–9 series airplanes was published in the **Federal Register** June 15, 1981, (46 FR 31268). Following public comments and participation, the Final Rule, AD 81–26–03 Amendment 39–4282 was published in the **Federal Register** December 17, 1981, (46 FR 61443).

Since the issuance of Amendment 39–4282, it has come to the attention of the Los Angeles Area Aircraft Certification Office that the amendment did not clearly reflect the fact that the interim repair referenced under Paragraph B was accepted for 4,000 landings. This amendment clarifies this point and also provides an alternative eddy current test procedure as specified in Revision 2 to McDonnell Douglas Alert Service Bulletin A53–147 dated June 3, 1981.

Since this amendment provides an alternate means of compliance, it has no adverse economic impact and imposes no additional burden on any person; therefore, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation Safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending AD 81–26–03, Amendment 39–4282, as follows:

Revise Paragraph A *Inspection Requirements* to read as follows:

A. Inspection Requirements—Inspect the upper skin splice area for cracks at the tee cap in the aft fuselage pressure bulkhead between Longerons 14 left and 14 right. Use either eddy current inspection procedures in accordance with paragraph 5 or 6, or dye-penetrant inspection procedures in accordance with paragraph 7, both listed in the Accomplishment Instructions of McDonnell Douglas Service Sketch No. 3145A as provided in McDonnell Douglas DC–9 Alert Service Bulletin A53–147, Revision 2, dated June 3, 1981 (hereinafter referred to as ASB 53–147). The inspections shall be performed in accordance with the compliance schedule shown in the following tabulation:

Revise the opening sentence of Paragraph B.2. to read as follows:

2. Condition 2. If skin cracks were previously repaired by the interim repair procedure specified in ASB 53–147, per Service Rework Drawing JO60143, before the accumulation of 4,000 landings since installation of interim repair:

Add the following to paragraph B.3 to read as follows:

or

(c) Accomplish the interim repair(s) specified in ASB 53–147 per Service Rework Drawing J060143, as applicable, and remove such interim repair(s) by accomplishing the requirements of B.2.(a) or B.2.(b) above within 4,000 landings.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60).

These documents also may be examined at FAA Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168; or Los Angeles Area Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808.

This Amendment becomes effective June 8, 1982.

(Sec. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves an amendment that is relieving in nature and does not impose any additional burden on any person. This amendment is not major under Executive Order 12291 (46 FR 13193; February 19, 1981) and not significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Because its anticipated impact is so minimal, it does not warrant preparation of a regulatory evaluation, and I certify that it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

This rule is a final order of the Administrator. Under section 1006(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Washington on May 19, 1982.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 82–14555 Filed 5–28–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Airworthiness Docket No. 82–ASW–13; Amdt. 39–4387]

Airworthiness Directives; Sikorsky S–76A Helicopters Certified in All Categories

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective to all persons the requirements of telegraphic airworthiness directive (AD) T82–06–51, which was previously made effective by individual telegrams to all known United States operators of Sikorsky S–76A helicopters certificated in all categories. The telegraphic AD required initial and recurrent visual inspections of the main gearbox shaft and spur pinions. In addition, a replacement time was established.

DATES: Effective June 3, 1982, to all persons except those persons to whom it was made immediately effective by the telegram dated March 5, 1982.

Compliance schedule—as prescribed in text of AD.

ADDRESSES: The applicable Alert Service Bulletin may be obtained from: Manager of Maintenance Services, S–76 and Commercial Product Support, Sikorsky Aircraft Division, North Main Street, Stratford, Connecticut 06602.

This document may be examined at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas; at the Federal Aviation Administration, New England

Region, 12 New England Executive Park, Burlington, Massachusetts; and at the Rules Docket, Room 916, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Martin Buckman, ANE–153, Boston Aircraft Certification Branch, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7329.

SUPPLEMENTARY INFORMATION: Fatigue cracks have been detected on two occasions in shaft and spur pinions, P/N 76351–09012–103, installed in the main gearbox of Sikorsky Model S–76A helicopters. These cracks, which were in the threaded area at the lower end of the shaft, were found during overhaul of main gearbox assemblies. In addition, a complete failure in this area occurred during recent bench tests of this assembly. To prevent loss of essential drive from an engine following a failure of a shaft and spur pinion, a telegraphic AD, T82–06–51, was issued on March 5, 1982, requiring initial and repetitive visual inspections of the shaft and spur pinions, as installed in the Sikorsky Model S–76A helicopter. In addition, the AD established a replacement time for these components. Sikorsky Alert Service Bulletin No. 76–66–16A provided similar preventive measures.

This condition still exists and the AD with minor editorial changes is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective for all persons.

Since a situation exists that requires immediate adoption of this rule, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aircraft, Aviation safety, Air transportation, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Sikorsky: Applies to Sikorsky Model S–76A series helicopters certificated in all categories equipped with P/N 76851–09000–001 or prior dash-numbered main gearbox assemblies. To prevent possible failure of a main gearbox shaft and spur pinion P/N 76851–09012–103 due to fatigue cracks propagating in the bottom threaded area, accomplish the following:

1. Within the next 50 hours' time in service, unless already accomplished within the last 50 hours' time in service, and thereafter every 100 hours' time in service from the last inspection, inspect all shaft and spur pinions, P/N 76351–09012–103, with 1,500 or more hours' time in service since new on the effective date of this AD, in accordance with Sikorsky Alert Service Bulletin No. 76–66–16A or later FAA-approved revision, or FAA-approved equivalent.

2. Within the next 100 hours' time in service and thereafter every 100 hours' time in service from the last inspection, inspect all shaft and spur pinions, P/N 76351–09012–103, with 1,100 or more but less than 1,500 hours' time in service since new on the effective date of this AD, in accordance with Sikorsky Alert Service Bulletin No. 76–66–16A or later FAA-approved revision, or FAA-approved equivalent.

3. Inspect shaft and spur pinions with less than 1,100 hours' time in service since new on the effective date of this AD before the accumulation of 1,200 hours' time in service, and thereafter every 100 hours' time in service in accordance with Sikorsky Alert Service Bulletin No. 76–66–16A or later FAA-approved revision, or FAA-approved equivalent.

4. If a crack is found, replace the shaft and spur pinion with a serviceable part prior to further flight.

5. Replace the shaft and spur pinions, P/N 76351–09012–103, with a serviceable part prior to the accumulation of 1,500 hours' time in service since new or within 200 hours' time in service after the effective date of this AD, whichever occurs later. Thereafter, replace shaft and spur pinions with serviceable parts prior to accumulation of 1,500 hours' time in service.

6. All shaft and spur pinions whose hours' time in service cannot be established are to be inspected in accordance with paragraph 1 and are to be replaced with a serviceable part within 200 hours' time in service from the effective date of this AD.

Equivalent means of compliance may be approved by the Chief, Boston Aircraft Certification Branch, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

This amendment becomes effective June 3, 1982 to all persons except those persons to whom it was made immediately effective by telegraphic AD T82–06–51, issued March 5, 1982, which contained this amendment.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption, **"FOR FURTHER INFORMATION CONTACT."**

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, Texas, on May 14, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82–14552 Filed 5–28–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 82–ASO–19]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Areas; Melbourne, Florida; and Titusville, Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the descriptions of the Melbourne and Titusville, Florida, Transition Areas by correcting the geographical coordinates of three airports and correcting the name of one airport. No change in airspace is intended.

DATES: Effective date: 0901 G.m.t., September 2, 1982. Comments must be received on or before August 15, 1982.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, ATTN: Chief, Airspace and Procedures Branch, ASO–530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763–7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box

20636, Atlanta, Georgia-30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves the correcting of an airport name and the geographical coordinates of three airports and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the description of the Melbourne and Titusville, Florida, Transition Areas by correcting the geographical coordinates of Melbourne Regional Airport, Titusville-Cocoa Airport and Patrick Air Force Base. Also, the name of Kennedy Spaceport is being corrected to NASA Shuttle Landing Facility. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3 dated January 29, 1982. Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to reflect the proper geographical coordinates and airport name in the descriptions of the Melbourne and Titusville, Florida, Transition Areas. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is contrary to the public interest and that good cause exists for making this amendment effective in less than 45 days after its publication in the **Federal Register.**

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 G.m.t, September 2, 1982, as follows:

Melbourne, Florida—Amended

By deleting "* * * lat. 28°06'01"N., long. 80°38'00"W * * * *" and "* * * lat. 28°14'21"N., long 80°36'28"W * * * *" and substituting therefor "* * * lat. 28°06'06"N., long. 80°38'26"W * * * *" and "* * * lat. 28°14'17"N., long. 80°36'33"W * * * *"

Titusville, Florida—Amended

By deleting "* * * lat. 28°30'42"N., long. 80°48'00"W * * *," and "* * * Kennedy Spaceport * * *" and substituting therefor "* * * lat. 28°30'45"N., long. 80°48'11"W * * * *" and "* * * NASA Shuttle Landing Facility * * *"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on May 19, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82-14526 Filed 5-28-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASO-9]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area, Wadesboro, North Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Wadesboro, North Carolina, Transition Area by lowering the base of controlled airspace north of Anson County Airport from 1,200 to 700 feet AGL. A new standard instrument approach procedure has been developed to the airport, and additional controlled airspace is required to protect Instrument Flight Rule (IFR) operations.

EFFECTIVE DATE: 0901 GMT, September 2, 1982.

FOR FURTHER INFORMATION CONTACT:

Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

History

On Monday, March 22, 1982, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by lowering the base of controlled airspace north of the Anson County Airport from 1,200 to 700 feet AGL (47 FR 12193). The purpose of this action is to provide additional controlled airspace to accommodate IFR operations in the vicinity of the airport. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received in response to the proposal. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3 dated January 29, 1982.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations provides controlled airspace protection for additional IFR operations at Anson County Airport. A new standard instrument approach procedure, NDB Runway 16, utilizing the Wadesboro NDB, will be established in conjunction with the alteration of the transition area.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 GMT, September 2, 1982, as follows:

Wadesboro, North Carolina Revised

By deleting the words "* * * southwest of the VORTAC * * *" and substituting for them the words "* * * southwest of the VORTAC; within 3 miles each side of the 340° bearing from the Wadesboro RBN (Lat. 35°10'26" N., Long. 80°05'00" W.), extending from the 6.5-mile radius area to 8.5 miles north of the RBN * * *"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec.

6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on May 20, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82-14525 Filed 5-28-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASW-12]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area: Ardmore, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter the transition area at Ardmore, OK. The intended effect of the amendment is to provide additional controlled airspace for aircraft executing new instrument approach procedures to the Ardmore Municipal Airport. This amendment is necessary to provide protection for aircraft executing standard instrument approach procedures (SIAP's) using the partial instrument landing system (ILSP) to be installed on Runway 30.

EFFECTIVE DATE: September 2, 1982.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation, Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On March 29, 1982, a notice of proposed rulemaking was published in the **Federal Register** (47 FR 13168) stating that the Federal Aviation Administration proposed to alter the Ardmore, OK, transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, by the Administrator, Subpart G of Part 71, § 71.181, of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC 70-3 dated January 29, 1982, is amended, effective 0901 GMT, September 2, 1982, as follows:

Ardmore, OK Revised

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Ardmore Municipal airport (latitude 34°18'12" N., longitude 97°00'59" W.) and 4.5 miles each side of the 135° bearing from the airport, extending from the 8.5-mile radius area to 17 miles southeast, and within 2 miles each side of the Ardmore VORTAC 233° and 053° radials extending from the 8.5-mile radius area to 8 miles southwest of the VORTAC; and within 2 miles north and 8 miles south of the 265° bearing from the Springtown NDB (latitude 34°17'58" N., longitude 97°08'29" W.) extending to 8 miles west of the NDB; and within a 5-mile radius of the Downtown Ardmore Airport (latitude 34°08'50" N., longitude 97°07'21" W.) and within 3.5 miles each side of the 168° bearing of the Arbuckle NDB (latitude 34°09'11" N., longitude 97°07'33" W.) extending from the 5-mile radius area to 11.5 miles south of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 1103; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. It is certified that the rule will not have a significant economic impact on a substantial number of small entities as the anticipated impact is minimal.

Issued in Forth Worth, TX, on May 20, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-14526 Filed 5-28-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AWP-7]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Control Zone, Palm Springs, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the description of the Palm Springs, California, Control Zone by adding a control zone extension to the southeast. The Control Zone extension is necessary to provide controlled airspace for Instrument Flight Rule (IFR) operations.

EFFECTIVE DATE: 0900 G.m.t., July 8, 1982. Comments on the rule must be received by June 21, 1982.

ADDRESSES: Send comments on the proposal in triplicate to Director, Federal Aviation Administration, Attn: Chief, Airspace and Procedures Branch, AWP-530, 15000 Aviation Boulevard, Lawndale, California 90261. A public docket will be available for examination in the Office of the Regional Counsel, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone: (213) 536-6270.

FOR FURTHER INFORMATION CONTACT: Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; Telephone (213) 536-6182.

SUPPLEMENTARY INFORMATION:

History

The purpose of this amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to designate a control zone extension to provide controlled airspace for IFR operations. This amendment represents a change in the technical description of the control zone and imposes no greater constraints on the public than presently exist.

Request for Comments on the Rule

Although this action is in the form of a final rule and was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate,

it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

This amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) designates a control zone extension to the southeast of the Palm Springs Municipal Airport. Therefore, I find that notice or public procedure under 5 U.S.C. 553 is impractical and good cause exists for making the rule effective without prior notice and public procedure hereon.

List of Subjects in 14 CFR Part 71

Control zones.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 455) is amended, effective 0901 G.m.t., July 8, 1982, as follows:

71.171 Palm Springs, California

Following " * *" longitude 116°30'18" W.), add: "within 2 miles each side of the Thermal VORTAC 305° radial extending from the 5 mile radius zone southeast to 16.5 miles northwest of the Thermal VORTAC" * * *

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510, Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1955(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Los Angeles, California, on May 20, 1982.

Robert F. Smith,

Acting Director, Western-Pacific Region.

[FR Doc. 82-14691 Filed 5-28-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-ACE-21]

Designation of Federal Airways, Area Low Point Routes, Controlled Airspace and Reporting Points; Alteration of Transition Area, Neodesha, Kans.; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction of final rule.

SUMMARY: This action corrects a rule appearing in FR Doc. 82-9255 on pages 15103 and 15104 in the issue of Thursday, April 8, 1982. Subsequent to the issuance of this rule, it has been determined that the radial cited was magnetic rather than true as intended.

EFFECTIVE DATE: July 8, 1982.

FOR FURTHER INFORMATION CONTACT: Don A. Peterson, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: Subsequent to the issuance of this Final Rule on April 8, 1982, altering the transition area at Neodesha, Kansas, it has been determined that the radial cited for the Chanute VOR is magnetic and not true as intended. Action is taken herein to make this correction. Since the change is editorial in nature, notice and public procedure thereon are not considered necessary.

In FR Doc. 82-9255, appearing at page 15104 in the **Federal Register** of April 8, 1982, line 5 of the description of the transition alteration reading "2.5 miles each side of the Chanute VOR 185°" should be changed to read "2.5 miles each side of the Chanute VOR 192°."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

Note.—The FAA has determined that this correction of a regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this correction to a final rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on May 19, 1982.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 82-14690 Filed 5-28-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket Number 81-ACE-4]

Designation of Federal Airways, Area Low Point Routes, Controlled Airspace and Reporting Points; Designation of Transition Area, Benton, Kans.; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction of final rule.

SUMMARY: This action corrects a rule appearing in FR Doc. 82-9254 on page 15106 in the issue of Thursday, April 8, 1982. Subsequent to the issuance of this rule, it has been determined that the radial cited was magnetic rather than true as was intended.

EFFECTIVE DATE: July 8, 1982.

FOR FURTHER INFORMATION CONTACT: Don A. Peterson, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: Subsequent to the issuance of the Final Rule on April 8, 1982 (47 FR 15106), designating a transition area at Benton, Kansas, it has been determined that the radial cited for the Wichita VORTAC is is magnetic and not true as was intended. Action is taken herein to make this correction. Since the change is editorial in nature, notice and public procedure thereon are not considered necessary.

In FR Doc. 82-9254, appearing at page 15106 in the **Federal Register** of April 8, 1982, line 6 of the description of the transition area, reading "VORTAC 070° radial extending from the 5," should be changed to read, "VORTAC 078° radial extending from the 5."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49

U.S.C. 1655(c)); § 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this correction of a regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this correction to a Final Rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on May 19, 1982.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 82-14894 Filed 5-28-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 23068; Amdt. No. 1217]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

List of Subjects in 14 CFR Part 97

Aviation safety, Standard instrument approaches

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

*** * * Effective July 8, 1982**

Bentonville, AR—Bentonville Muni, VOR-A, Amdt. 4
Livermore, CA—Livermore Muni, VOR/DME-A, Amdt. 3, cancelled
Reedley, CA—Reedley Muni, VOR-A, Original, cancelled
Tifton, GA—Henry Tift Myers, VOR Rwy 27, Amdt. 6
Tifton, GA—Henry Tift Myers, VOR Rwy 33, Amdt. 8
Kailua-Kona, HI—Ke-ahole, VOR or TACAN Rwy 35, Amdt. 4
Elgin, IL—Elgin, VOR Rwy 36, Amdt. 5
Pekin, IL—Pekin Muni, VOR-A, Amdt. 3

Owensboro, KY—Owensboro-Daviess County, VOR Rwy 5, Amdt. 9
Hagerstown, MD—Washington County Regional, VOR Rwy 9, Amdt. 6
Middlefield, OH—Geauga County, VOR-A, Amdt. 4
Urbana, OH—Grimes Field, VOR-A, Original
Altus, OK—Altus Muni, VOR-A, Amdt. 2
Clinton, OK—Clinton-Sherman, VOR Rwy 35L, Amdt. 7
Sand Springs, OK—William R. Pogue Muni, VOR-A, Orig., cancelled
Cheraw, SC—Cheraw Muni, VOR/DME Rwy 7, Amdt. 1
Gallatin, TN—Gallatin Muni, VOR/DME-A, Amdt. 4
Lebanon, TN—Lebanon Muni, VOR/DME-A, Amdt. 4
Nashville, TN—Nashville Metropolitan, VOR/DME Rwy 2L, Amdt. 1, cancelled
Nashville, TN—Nashville Metropolitan, VOR/DME Rwy 13, Amdt. 10
Nashville, TN—Nashville Metropolitan, VOR/DME Rwy 20L, Amdt. 2
Nashville, TN—Nashville Metropolitan/ VOR/DME Rwy 20R, Amdt. 3
Nashville, TN—Nashville Metropolitan, VOR Rwy 31, Amdt. 25
Shelbyville, TN—Bomar Field-Shelbyville Muni, VOR Rwy 18, Amdt. 2
Shelbyville, TN—Bomar Field-Shelbyville Muni, VOR/DME Rwy 18, Original
Shelbyville, TN—Bomar Field-Shelbyville Muni, VOR Rwy 36, Amdt. 12
Smyrna, TN—Smyrna, VOR/DME Rwy 14, Amdt. 4
Smyrna, TN—Smyrna, VOR/DME Rwy 32, Amdt. 10
Tullahoma, TN—Tullahoma Muni Airport; Soesbe-Martin Field, VOR-A, Amdt. 1
Tullahoma, TN—Tullahoma Muni Airport; Soesbe-Martin Field, VOR/DME-B, Amdt. 1
Appleton, WI—Outagamie County, VOR/ DME Rwy 3, Amdt. 1

• • • Effective May 13, 1982

Webster City, IA—Webster City Muni, VOR/ DME Rwy 14, Amdt. 1

• • • Effective May 12, 1982

Clinton, IA—Clinton Muni, VOR Rwy 3, Amdt. 9
Clinton, IA—Clinton Muni, VOR/DME Rwy 21, Amdt. 4

• • • Effective May 11, 1982

Fort Dodge, IA—Fort Dodge Muni, VOR Rwy 12, Amdt. 13

• • • Effective May 7, 1982

Norfolk, NE—Karl Stefan Memorial, VOR Rwy 1, Amdt. 2
Norfolk, NE—Karl Stefan Memorial, VOR Rwy 13, Amdt. 2
Norfolk, NE—Karl Stefan Memorial, VOR Rwy 19, Amdt. 2
Norfolk, NE—Karl Stefan Memorial, VOR Rwy 31, Amdt. 2

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

• • • Effective July 8, 1982

West Palm Beach, FL—Palm Beach International, LOC BC Rwy 27R, Amdt. 9
Kailua-Kona, HI—Ke-ahole, LOC Rwy 17, Amdt. 2
Tullahoma, TN—Tullahoma Muni Airport; Soesbe-Martin Field, SDF Rwy 18, Amdt. 1
Appleton, WI—Outagamie County, LOC BC Rwy 21, Amdt. 2

• • • Effective June 10, 1982

Ontario, CA—Ontario Intl, LOC Rwy 26R, Original

• • • Effective May 12, 1982

Clinton, IA—Clinton Muni, LOC Rwy 3, Amdt. 1

• • • Effective May 7, 1982

Norfolk, NE—Karl Stefan Memorial, LOC Rwy 1, Amdt. 5

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

• • • Effective July 8, 1982

Clarksville, AR—Clarksville Muni, NDB-A, Amdt. 2
Manila, AR—Manila Muni, NDB Rwy 36R, Amdt. 4
Miami, FL—Dade-Collier Training and Transition, NDB Rwy 9, Amdt. 10
West Palm Beach, FL—Palm Beach International, NDB Rwy 9L, Amdt. 17
Madison, MN—Madison-LAC QUI Parle County, NDB Rwy 31, Amdt. 2
Clinton, OK—Clinton-Sherman, NDB Rwy 17R, Amdt. 8
Cheraw, SC—Cheraw Muni, NDB Rwy 25, Amdt. 1
Fayetteville, TN—Fayetteville Muni, NDB Rwy 1, Amdt. 4
Lewisburg, TN—Ellington, NDB Rwy 20, Amdt. 3
Murfreesboro, TN—Murfreesboro Muni, NDB Rwy 18, Amdt. 1
Nashville, TN—Nashville Metropolitan, NDB Rwy 2L, Amdt. 2
Nashville, TN—Nashville Metropolitan, NDB Rwy 2R, Amdt. 2
Nashville, TN—Nashville Metropolitan, NDB Rwy 20R, Amdt. 2
Smyrna, TN—Smyrna, NDB Rwy 32, Amdt. 6
Houston, TX—Hull Field, NDB Rwy 35, Amdt. 1
Houston, TX—Hull Field, NDB Rwy 17, Amdt. 5
Moen Island, TT—Truk Intl, NDB-A, Amdt. 1, cancelled
Moen Island, TT—Truk Int., NDB-B, Amdt. 1
Appleton, WI—Outagamie County, NDB Rwy 3, Amdt. 8
Appleton, WI—Outagamie County, NDB Rwy 11, Amdt. 1
Appleton, WI—Outagamie County, NDB Rwy 29, Amdt. 1
Delavan, WI—Lake Lawn, NDB Rwy 18, Original

• • • Effective June 10, 1982

Britton, SD—Britton Muni, NDB Rwy 13, Original

• • • Effective May 12, 1982

Clinton, IA—Clinton Muni, NDB Rwy 3, Amdt. 1
Clinton, IA—Clinton Muni, NDB Rwy 14, Amdt. 3

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

• • • Effective July 8, 1982

Miami, FL—Dade-Collier Training and Transition, ILS Rwy 9, Amdt. 11
Hilo, HI—General Lyman Field, ILS Rwy 26, Amdt. 6
Kailua-Kona, HI—Ke-ahole, ILS/DME Rwy 17, Amdt. 6
Boston, MA—General Edward Lawrence Logan Intl, ILS Rwy 33L, Amdt. 17
Hagerstown, MD—Washington County Regional, ILS Rwy 27, Amdt. 3
Calverton, NY—Calverton Naval Weapons Industrial Reserve Plant/Peconic Field, ILS Rwy 5, Amdt. 9, cancelled
Clinton, OK—Clinton-Sherman, ILS Rwy 17R, Amdt. 4
Nashville, TN—Nashville Metropolitan, ILS Rwy 2L, Amdt. 2
Nashville, TN—Nashville Metropolitan, ILS Rwy 20R, Amdt. 2
Nashville, TN—Nashville Metropolitan, ILS Rwy 31, Amdt. 2
Smyrna, TN—Smyrna, ILS Rwy 32, Amdt. 2
Appleton, WI—Outagamie County, ILS Rwy 3, Amdt. 10

• • • Effective June 10, 1982

Ontario, CA—Ontario Intl, ILS Rwy 26R, Amdt. 34, cancelled

• • • Effective May 11, 1982

Fort Dodge, IA—Fort Dodge Muni, ILS Rwy 6, Amdt. 5

Note.—The FAA published an amendment in Docket No. 22899, Amdt. No. 1215 to Part 97 of the Federal Aviation Regulations (vol. 47 FR No. 85, page 18849; dated May 3, 1982) under section 97.29 effective June 10, 1982, which is hereby amended as follows: San Francisco, CA, San Francisco Intl, ILS Rwy 19L Amdt. 17 is rescinded.

5. By amending § 97.31 RADAR SIAPs identified as follows:

• • • Effective July 8, 1982

Oklahoma City, OK—Wiley Post, RADAR-1, Original
Nashville, TN—Nashville Metropolitan, RADAR-1, Amdt. 18
Amarillo, TX—Amarillo International, RADAR-1, Amdt. 13

6. By amending § 97.33 RNAV SIAPs identified as follows:

• • • Effective July 8, 1982

Elgin, IL—Elgin, RNAV Rwy 18, Amdt. 6
Pekin, IL—Pekin Muni, RNAV Rwy 9, Amdt. 2
Shelbyville, TN—Bomar Field-Shelbyville Muni, RNAV Rwy 18, Amdt. 1
Tullahoma, TN—Tullahoma Muni Airport; Soesbe-Martin Field, RNAV Rwy 36, Amdt. 1
Appleton, WI—Outagamie County, RNAV Rwy 29, Amdt. 1

• • • Effective May 12, 1982

Clinton, IA—Clinton Muni, RNAV Rwy 21, Amdt. 6

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. The FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C. on May 21, 1982.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1981.

John M. Howard,

Acting Chief, Aircraft Programs Division.

[FR Doc. 82-14534 Filed 5-28-82; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 806

Rule Change for Annual Survey of Foreign Direct Investment in the United States

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Final rule.

SUMMARY: This action amends the regulations by raising the acreage exemption level for reporting in the BE–15, Annual Survey of Foreign Direct Investment in the U.S. This action is necessary because the projected manhour burden on small businesses is excessive.

EFFECTIVE DATE: This document is effective on June 1, 1982, beginning with the 1981 BE–15 report, which is currently being prepared.

FOR FURTHER INFORMATION CONTACT: George R. Kruer, Chief, International Investment Division, Bureau of Economic Analysis, U.S. Department of Commerce, Washington, D.C. 20230, (202) 523–0657.

SUPPLEMENTARY INFORMATION: Based on partial data now available from the BE–12, Benchmark Survey of Foreign Direct Investment in the U.S. 1980, the 200 acre exemption level presently prescribed for the BE–15 annual sample survey would result in a much larger number of forms being filed, and, therefore, a larger public manhour burden, than contained in the current Office of Management and Budget approval for the use of this form. Most of these reports would have to be submitted by small businesses. Therefore, in order to reduce the burden on small businesses and to bring the overall burden down, the acreage exemption level is being raised to 1,000 acres. (The $5,000,000 exemption level criterion for total assets, sales or gross operating revenues, excluding sales taxes; and net income after income taxes; remains unchanged.)

Given the extremely small part of the universe accounted for by these small affiliates, the statistical validity of the sample data will not be impaired.

Pursuant to 5 U.S.C. 553(b) and (d), the Administrative Procedures Act, this rulemaking is being issued as a final rulemaking rather than as a proposed rulemaking. The above cited subsections provide that a notice of proposed rulemaking is not required when the agency for good cause finds that such a notice is unnecessary or contrary to the public interest or when the rulemaking grants or recognizes an exemption. BEA has determined that this rulemaking meets these criteria in that this rule change will result in a reduction in burden by granting an exemption and will not affect the statistical validity of the data.

The Bureau of Economic Analysis has determined that this final rule change is not "major" under Executive Order 12291. The purpose of the change is to bring the public-use burden in closer conformance to the Department of Commerce allocated FY 1982 Information Collection Budget ceiling.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to preparation of a regulatory flexibility analysis are not applicable to this rule change because it will not have a significant economic impact on a substantial number of small entities. In fact, the opposite is true, the burden is being reduced by raising the exemption level.

Accordingly, the General Counsel, Department of Commerce, has certified under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this rule change will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 15 CFR Part 806

Economic statistics, Foreign investments in the United States, Penalties, Reporting requirements, United States investments abroad.

Part 806 is therefore modified as set forth below.

George Jaszi,

Director, BEA.

PART 806—DIRECT INVESTMENT SURVEYS

In § 806.15, paragraph (i) is revised to read as follows:

§ 806.15 Foreign direct investment in the United States.

* * * * *

(i) Annual report form. BE–15—Annual Survey of Foreign Direct Investment in the United States: One report is required for each consolidated U.S. affiliate, except a bank, exceeding an exemption level of $5,000,000, except that a U.S. affiliate which owns 1,000 acres or more of U.S. land must report regardless of the value of the items on which the exemption level is based, i.e., total assets; sales or gross operating revenues, excluding sales taxes; and net income after income taxes, whether positive or negative. U.S. affiliates that are banks are exempt from the reporting requirements of this survey.

* * * * *

(5 U.S.C. 301, 22 U.S.C. 3101–3108; E.O. 11961)

[FR Doc. 82-14796 Filed 5-28-82; 8:45 am]
BILLING CODE 3510-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Medical Devices

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority regarding medical devices. Bureau of Radiological Health (BRH) officials are being delegated additional authority in the approval process for radiation-emitting medical devices. Bureau of Biologics (BB) officials are being delegated authority over medical devices which also are biologics or are used in the production of biologics. The new delegations will provide greater operating flexibility, more effective and efficient operations, and more expeditious handling of submissions from regulated industry.

EFFECTIVE DATE: June 1, 1982.

FOR FURTHER INFORMATION CONTACT:

Robert L. Miller, Office of Management and Operations (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 9, 1982 (47 FR 15412), the agency announced the availability of a document describing the division of the responsibilities for medical devices under the Medical Device Amendments of 1976 to the Federal Food, Drug, and Cosmetic Act among FDA's BMD, BRH, and BB. BRH is the lead Bureau for regulation of devices that involve the use of radiation. BB is the lead Bureau for regulation of devices that are used in the processing or administration of biological products. BMD is the lead Bureau for all other devices.

A more detailed description of affected products and of the programs for which BMD, BRH, or BB is responsible is contained in the document, "Working Relationships Agreement Among Bureau of Medical Devices, Bureau of Radiological Health, and Bureau of Biologics," available from the Dockets Management Branch (HFA–305), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Requests for copies of the document should be identified with docket number 82N–0058.

FDA is making specific changes to the delegations of authority as follows:

1. In § 5.45(e) (21 CFR 5.45(e)) by adding the Director, Deputy Director, and Director of the Division of Compliance of BB to the delegates authorized to perform functions relating to the export of medical devices.

2. In § 5.47 (21 CFR 5.47) by adding the Director, Deputy Director, and Director of the Division of Compliance of BB to the delegates authorized to perform functions relating to the detention of adulterated or misbranded medical devices.

3. In § 5.49 (21 CFR 5.49) by adding the Director and Deputy Director of BRH, and the Director and Deputy Director of BB to the delegates authorized to perform functions relating to the use of alternative evidence for determination of the effectiveness of medical devices.

4. In § 5.50 (21 CFR 5.50) by adding the Director and Deputy Director of BRH, and the Director and Deputy Director of BB to the delegates authorized to perform functions relating to notification to petitioners of determinations made on petitions for reclassification of medical devices.

5. In § 5.52 (21 CFR 5.52) by adding the Director and Deputy Director of BB to the delegates authorized to perform functions related to notification to sponsors of deficiencies in petitions for reclassification of medical devices.

6. In § 5.53 (21 CFR 5.53) by adding the Director and Deputy Director of BRH, and Director and Deputy Director of BB to the delegates authorized by paragraphs (a) and (b) to perform functions relating to approval, disapproval, revocation, or declaration as complete or incomplete product development protocols, and the approval, disapproval, or withdrawal of approval of applications for premarket approval for medical devices. Authority to approve, disapprove, or withdraw approval of supplemental premarket approval applications is being delegated to the Deputy Associate Director for Device Evaluation and the Directors of Device Evaluation Divisions of BMD.

7. In § 5.54 (21 CFR 5.54) by adding the Director and Deputy Director of BB to the delegates authorized to make determinations that medical devices present unreasonable risk of substantial harm.

8. In § 5.55 (21 CFR 5.55) by adding the Director and Deputy Director of BB to the delegates authorized to perform functions relating to orders to repair or replace, or make refunds for, medical devices.

9. In § 5.59 (21 CFR 5.59) by adding the Deputy Associate Director for Device Evaluation and the Directors of Device Evaluation Divisions of BMD, the Director and Deputy Director of BRH, and the Director and Deputy Director of BB to the delegates authorized to perform functions relating to approval, disapproval, or withdrawal of applications for investigational device exemptions.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies); Organizations and functions (Government agencies).

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Part 5 is amended:

1. By revising § 5.45(e) to read as follows:

§ 5.45 Imports and exports.

* * * * *

(e) The following officials are authorized to perform all the functions of the Commissioner of Food and Drugs pertaining to exportation of medical devices under section 801(d) of the Federal Food, Drug, and Cosmetic Act:

(1) For medical devices assigned to their respective Bureaus, the Director, Deputy Director, and the Associate Director for Compliance of the Bureau of Medical Devices, the Director, Deputy Director, and the Director of the Division of Compliance of the Bureau of Radiological Health, and Director, Deputy Director, and the Director of the Division of Compliance of the Bureau of Biologics;

(2) Regional Food and Drug Directors; and

(3) District Directors.

2. By revising § 5.47 to read as follows:

§ 5.47 Detention of adulterated or misbranded medical devices.

The following officials are authorized to perform all the functions of the Commissioner of Food and Drugs pertaining to detention, under section 304(g) of the Federal Food, Drug, and Cosmetic Act, of medical devices that may be adulterated or misbranded:

(a) For medical devices assigned to their respective Bureaus, the Director, Deputy Director, and the Associate Director for Compliance of the Bureau of Medical Devices, the Director, Deputy Director, and the Director of the Division of Compliance of the Bureau of Radiological Health, and the Director, Deputy Director, and Director of the Division of Compliance of the Bureau of Biologics;

(b) Regional Food and Drug Directors, and

(c) District Directors.

3. By revising § 5.49 to read as follows:

§ 5.49 Authorization to use alternative evidence for determination of the effectiveness of medical devices.

For medical devices assigned to their respective Bureaus, the Director, the Deputy Director, and the Associate Director for Device Evaluation of the Bureau of Medical Devices, the Director and Deputy Director of the Bureau of Radiological Health, and the Director and Deputy Director of the Bureau of Biologics, may authorize under section 513(a)(3)(B) of the Federal Food, Drug, and Cosmetic Act (the act) the use of valid scientific evidence (other than that prescribed by section 513(a)(3)(A) of the act) for determining the effectiveness of

medical devices for the purposes of sections 513, 514, and 515 of the act.

4. By revising the introductory paragraph of § 5.50 to read as follows:

§ 5.50 Notification to petitioners of determinations made on petitions for reclassification of medical devices.

For medical devices assigned to their respective Bureaus, the Director, Deputy Director, and the Associate Director for Device Evaluation of the Bureau of Medical Devices, the Director and Deputy Director of the Bureau of Radiological Health, and the Director and Deputy Director of the Bureau of Biologics, are authorized to notify petitioners of:

* * * * *

5. By revising § 5.52 to read as follows:

§ 5.52 Notification to sponsors of deficiencies in petitions for reclassification of medical devices.

For medical devices assigned to their respective Bureaus, the Director, Deputy Director, and the Associate Director for Device Evaluation of the Bureau of Medical Devices, the Director and Deputy Director of the Bureau of Radiological Health, and the Director and Deputy Director of the Bureau of Biologics, are authorized to notify sponsors of deficiencies in petitions for reclassification of medical devices submitted under sections 513(f) and 520(l) of the Federal Food, Drug, and Cosmetic Act.

6. By revising § 5.53 (a) and (b) to read as follows:

§ 5.53 Approval, disapproval, or withdrawal of approval of applications for premarket approval for medical devices.

(a) For medical devices assigned to their respective Bureaus, the Director, Deputy Director, and the Associate Director for Device Evaluation of the Bureau of Medical Devices, the Director and Deputy Director of the Bureau of Radiological Health, and the Director and Deputy Director of the Bureau of Biologics, are authorized to approve, disapprove, declare as complete or incomplete, or revoke product development protocols for medical devices submitted under section 515(f) of the Federal Food, Drug, and Cosmetic Act.

(b)(1) For medical devices assigned to their respective Bureaus, the Director, Deputy Director, and the Associate Director for Device Evaluation of the Bureau of Medical Devices, the Director and Deputy Director of the Bureau of Radiological Health, and the Director and Deputy Director of the Bureau of Biologics, are authorized to approve, disapprove, or withdraw approval of applications for premarket approval for medical devices submitted under sections 515 and 520(l) of the Federal Food, Drug, and Cosmetic Act.

(2) For medical devices assigned to the Bureau of Medical Devices, the Deputy Associate Director for Device Evaluation of the Bureau of Medical Devices is authorized to approve, disapprove, or withdraw approval of supplemental premarket approval applications.

(3) For medical devices assigned to their respective Divisions of the Bureau of Medical Devices, the Directors of the Divisions of Cardiovascular Devices; Gastroenterology/Urology and General Use Devices; Anesthesiology and Neurology Devices; Obstetrics/Gynecology and Radiology Devices; Surgical and Rehabilitation Devices; Clinical Laboratory Devices; and Ophthalmic, Ear, Nose, Throat, and Dental Devices of the Bureau of Medical Devices, are authorized to approve, disapprove, or withdraw approval of supplemental premarket approval applications.

* * * * *

7. By revising § 5.54 to read as follows:

§ 5.54 Determinations that medical devices present unreasonable risk of substantial harm.

For medical devices assigned to their respective Bureaus, the Director and Deputy Director of the Bureau of Medical Devices, the Director and Deputy Director of the Bureau of Radiological Health, and the Director and Deputy Director of the Bureau of Biologics, are authorized to determine that medical devices present unreasonable risk of substantial harm to the public health, and to order adequate notification thereof, under section 518(a) of the Federal Food, Drug, and Cosmetic Act.

8. By revising § 5.55 to read as follows:

§ 5.55 Orders to repair or replace, or make refunds for, medical devices.

For medical devices assigned to their respective Bureaus, the Director and Deputy Director of the Bureau of Medical Devices, the Director and Deputy Director of the Bureau of Radiological Health, and the Director and Deputy Director of the Bureau of Biologics, are authorized to order repair or replacement of, or refund for, medical devices under section 518 (b) and (c) of the Federal Food, Drug, and Cosmetic Act.

9. By revising § 5.59 to read as follows:

§ 5.59 Approval, disapproval, or withdrawal of approval of applications for investigational device exemptions.

(a) For medical devices assigned to their respective Bureaus, the Director, Deputy Director, and the Associate and Deputy Associate Director for Device Evaluation of the Bureau of Medical Devices, the Director and Deputy Director of the Bureau of Radiological Health, and the Director and Deputy Director of the Bureau of Biologics, are authorized to approve, disapprove, or withdraw approval of applications for investigational device exemptions submitted under section 520(g) of the Federal Food, Drug, and Cosmetic Act.

(b) For medical devices assigned to their respective Divisions of the Bureau of Medical Devices, the Directors of the Divisions of Cardiovascular Devices; Gastroenterology/Urology and General Use Devices; Anesthesiology and Neurology Devices; Obstetrics/Gynecology and Radiology Devices; Surgical and Rehabilitation Devices; Clinical Laboratory Devices; and Ophthalmic, Ear, Nose, Throat, and Dental Devices of the Bureau of Medical Devices, are authorized to approve, disapprove, or withdraw approval of applications for investigational device exemptions submitted under section 520(g) of the Federal Food, Drug, and Cosmetic Act.

Effective date. This regulation shall become effective June 1, 1982.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: May 24, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-14723 Filed 5-28-82; 8:45 am]

BILLING CODE 4110-01-M

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21 CFR Parts 436, 442, 444, 448, 449, and 450

[Docket No. 82N-0123]

Antibiotic Drugs; Updating and Technical Changes

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic regulations by making corrections, minor noncontroversial technical changes, and a revocation in the regulations providing for the certification of certain antibiotic and antibiotic-containing drugs for human use. These changes will result in more accurate and usable regulations that reflect current certification practices.

DATES: Effective June 1, 1982; comments, notice of participation, and request for hearing by July 1, 1982; data, information, and analyses to justify a hearing by August 2, 1982.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan Eckert, Bureau of Drugs (HFD–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

SUPPLEMENTARY INFORMATION: FDA is amending the antibiotic drug regulations by making corrections, minor noncontroversial technical changes, and a revocation in antibiotic drug regulations that provide for certification of antibiotic and antibiotic-containing drugs intended for human use. To aid in understanding the types of changes included in this document, the changes have been grouped into three general classes for discussion in this preamble: monograph corrections, technical changes, and revocation.

Monograph Corrections

1. In § 436.325(e), the term "arahypoxanthine" in the third sentence is corrected to read "9-β-D-arabinofuranosyl-hypoxanthine" to reflect current nomenclature.

2. Section 442.208 is amended as follows:

a. In paragraph (a)(1), the word "potency" is corrected to read "cefamandole content" in the second sentence; the word "Its" is corrected to read "It" in the fourth sentence; and the last sentence is corrected to reference to the sterile bulk monograph;

b. In paragraph (a)(3)(i)(*a*), the words "cefamandole content, microbiological activity" are corrected to read "potency"; and

c. In paragraph (b)(1)(i), the word "or" is corrected to read "and" in the second sentence.

3. In § 444.342b(b)(1)(iii), the word "give" is corrected to read "obtain" in the first sentence.

4. In § 444.542f(b)(1)(ii), the word "the" is added in the fifth sentence.

5. In § 444.542g(b)(2), the word "jar" is added and the word "give" is corrected to read "obtain" in the first sentence.

6. In § 444.542h(b)(1)(ii), the word "jar" is added and the word "give" is corrected to read "obtain" in the first sentence.

7. In § 444.542j(b)(1)(iii), the word "give" is corrected to read "obtain" in the second sentence.

8. In § 448.25(b)(1), the word "give" is corrected to read "obtain" in the first sentence.

Technical Changes

1. In §§ 436.106(a), 444.342b(b)(1)(iii), 444.542f(b)(1)(ii), 444.542g(b)(2), 444.542h(b)(1)(ii), 444.542j(b)(1)(iii), 448.25(b)(1), 449.550c(b)(1)(iii), 449.550e(b)(1)(iii), and 449.550g(b)(1)(iii), the term "95 percent ethyl alcohol" is replaced by "alcohol U.S.P. XX", wherever it appears. The gramicidin potency assay is extremely sensitive to reagent impurities because of the low concentrations used in this assay. Consistent results cannot be obtained from alcohol not meeting the United States Pharmacopeia (U.S.P.) XX requirements.

2. In §§ 444.542f(b)(1)(ii), 449.550c(b)(1)(iii), and 449.550e(b)(1)(iii), the extraction procedures are amended to provide for the use of alcohol U.S.P. XX in the dilution to volume of the combined extractives to improve the accuracy of the gramicidin potency assay.

3. In § 444.542f(b)(1)(ii), the extraction procedure is amended to conform with all other monographs providing extraction procedures for ointments containing gramicidin.

4. Section 442.8a is added to provide for a sterile bulk, sterile cefamandole nafate. The sterile bulk is used in the manufacture of the only cefamandole nafate dosage form, cefamandole nafate for injection.

5. In § 450.24(a)(1), the chemical name of doxorubicin hydrochloride in the first sentence is revised to be in agreement with the United States Adopted Names (USAN) definition.

Revocation

Section 442.8 is removed. This bulk product is not used in the manufacture of any dosage form.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR

Part 436

Antibiotics.

Part 442

Antibiotics, cepha.

Part 444

Antibiotics, oligosaccharide.

Part 448

Antibiotics, peptide.

Part 449

Antibiotics, antifungal.

Part 450

Antibiotics, antitumor.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 701(f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371(f) and (g))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Parts 436, 442, 444, 448, 449, and 450 are amended as follows:

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

1. Part 436 is amended:

§ 436.106 [Amended]

a. In § 436.106, paragraph (a) is amended in the table in the fourth and seventh columns for the item "Gramicidin" by changing "95% ethyl alcohol" to read "alcohol U.S.P. XX".

b. In § 436.325(e) by revising the last sentence, to read as follows:

§ 436.325 High pressure liquid chromatography assay for vidarabine.

* * * * *

(e) * * * The elution order is void volume, 9-β-D-arabinofuranosylhypoxanthine (if present), vidarabine, and adenine (if present).

* * * * *

PART 442—CEPHA ANTIBIOTIC DRUGS

2. Part 442 is amended:

§ 442.8 [Removed]

a. By removing § 442.8 *Cefamandole nafate.*

b. By adding new § 442.8a, to read as follows:

§ 442.8a Sterile cefamandole nafate.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Sterile cefamandole nafate is the sodium salt of 7-*D*-mandelamido-3-[[(1-methyl-1*H*-tetrazol-5-yl)thio]methyl]-8-oxo-5-thia-1-azabicyclo[4.2.0]-oct-2-ene-2-carboxylate formate (ester). It is so purified and dried that:

(i) Its potency is not less than 610 micrograms and not more than 1,000 micrograms of cefamandole per milligram on an anhydrous basis.

(ii) It is sterile.
(iii) It is nonpyrogenic.
(iv) It passes the safety test.
(v) Its moisture content is not more than 2.0 percent.
(vi) Its pH in an aqueous solution containing 100 milligrams per milliliter is not less than 3.5 and not more than 7.0
(vii) It passes the identity test.
(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.
(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:
(i) Results of tests and assays on the batch for potency, sterility, pyrogens, safety, moisture, pH, and identity.
(ii) Samples required:
(*a*) For all tests except sterility: 10 packages, each containing approximately 500 milligrams.
(*b*) For sterility testing: 20 packages, each containing equal portions of approximately 250 milligrams.
(b) *Tests and methods of assay*—(1) *Potency.* Use any of the following methods; however, the results obtained from the hydroxylamine colorimetric assay shall be conclusive.
(i) *Hydroxylamine colorimetric assay.* Proceed as directed in § 442.40(b)(1)(ii) of this chapter, except use the cefamandole working standard.
(ii) *Polarographic assay.* Proceed as directed in § 436.324 of this chapter.
(iii) *Microbiological agar diffusion assay.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to obtain a concentration of 1 milligram of cefamandole per milliliter (estimated). Hydrolyze this solution in a 37° C constant temperature water bath for 60 minutes. Further dilute a portion of the hydrolyzed solution with 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to the reference concentration of 2.0 micrograms of cefamandole per milliliter (estimated).
(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.
(3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a solution containing 50 milligrams of cefamandole per milliliter.
(4) *Safety.* Proceed as directed in § 436.33 of this chapter.
(5) *Moisture.* Proceed as directed in § 436.201 of this chapter.
(6) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 100 milligrams per milliliter.
(7) *Identity.* Proceed as directed in § 436.211 of this chapter, using the mineral oil mull prepared as described in paragraph (b)(2) of that section.

c. In § 442.208 by revising the second, fourth, and last sentences in paragraph (a)(1), by revising paragraph (a)(3)(i)(*a*), and by revising the second sentence of paragraph (b)(1)(i), to read as follows:

§ 442.208 Cefamandole nafate for injection.

(a) * * *
(1) * * * Its cefamandole content is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of cefamandole that it is represented to contain. * * * It is nonpyrogenic. * * * The cefamandole nafate used conforms to the standards prescribed by § 442.8a(a)(1).
* * * * *
(3) * * *
(i) * * *
(*a*) The cefamandole nafate used in making the batch for potency, moisture, pH, and identity.
* * * * *
(b) * * *
(1) * * *
(i) * * * If it is represented as a single dose container, remove all the withdrawable contents with a suitable hypodermic needle and syringe. * * *
* * * * * *

PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

3. Part 444 is amended:

a. In § 444.342b(b)(1)(iii) by revising the first two sentences, to read as follows:

§ 444.342b Neomycin sulfate-polymyxin B sulfate-gramicidin ophthalmic solution.

* * * * *
(b) * * *
(1) * * *
(iii) *Gramicidin content.* Proceed as directed in § 448.25(b)(1) of this chapter, except to prepare the sample for assay remove a representative sample with a suitable syringe, place into an appropriate volumetric flask, and dilute with alcohol U.S.P. XX to obtain a stock solution of convenient concentration. Make proper estimated dilutions in alcohol U.S.P. XX to the reference concentration.* * *
* * * * * *

b. In § 444.542f by revising paragraph (b)(1)(ii), to read as follows:

§ 444.542f Neomycin sulfate-gramicidin topical ointment; neomycin sulfate-gramicidin-triamcinolone acetonide ointment; neomycin sulfate-gramicidin-fludrocortisone acetate ointment.

* * * * *
(b) * * *
(1) * * *
(ii) *Gramicidin content.* Proceed as directed in § 448.25(b)(1) of this chapter, except prepare the sample for assay by the following method: Place an accurately weighed representative portion into a separatory funnel. Dissolve the ointment in approximately 50 milliliters of petroleum ether. Extract this solution with four 20-milliliter portions of 80 percent alcohol prepared from alcohol U.S.P. XX. Combine the extractives in a suitable volumetric flask, bring to volume with alcohol U.S.P. XX, and mix well. From this stock solution, dilute an aliquot with alcohol U.S.P. XX to the reference concentration. Its content of gramicidin is satisfactory if it is not less than 90 percent and not more that 140 percent of the number of milligrams of gramicidin that it is represented to contain.
* * * * * *

c. In § 444.542g(b)(2) by revising the first and third sentences, to read as follows:

§ 444.542g Neomycin sulfate-gramicidin-triamcinolone acetonide cream.

* * * * * *
(b) * * *
(2) *Gramicidin content.* Proceed as directed in § 448.25(b)(1) of this chapter, except to prepare the sample for assay proceed as follows: Place an accurately weighed representative portion into a high-speed glass blender jar and add sufficient alcohol U.S.P. XX to obtain a stock solution of convenient concentration. * * * Make proper estimated dilutions of an aliquot to the reference concentration with alcohol U.S.P. XX.* * *

d. In § 444.542h(b)(1)(ii) by revising the first and third sentences, to read as follows:

§ 444.542h Neomycin sulfate-gramicidin-triamcinolone acetonide lotion; neomycin sulfate-gramicidin-fludrocortisone acetate lotion.

* * * * * *
(b) * * *
(1) * * *
(ii) *Gramicidin content.* Proceed as directed in § 448.25(b)(1) of this chapter, except prepare the sample by placing an accurately measured representative portion into a high-speed glass blender jar with sufficient alcohol U.S.P. XX to obtain a stock solution of convenient concentration.* * * Make proper

estimated dilutions in alcohol U.S.P. XX to the reference concentration. * * *

e. In § 444.542j(b)(1)(iii) by revising the second and fourth sentences, to read as follows:

§ 444.542j Neomycin sulfate-polymyxin B sulfate-gramicidin-benzocaine ointment.

* * * * *

(b) * * *

(1) * * *

(iii) * * * Add that quantity of alcohol U.S.P. XX which is sufficient to obtain a stock solution of convenient concentration. * * * Make proper estimated dilutions of an aliquot to the reference concentration with alcohol U.S.P. XX * * *

* * * * *

PART 448—PEPTIDE ANTIBIOTIC DRUGS

4. Part 448 is amended in § 448.25 by revising paragraph (b)(1), to read as follows:

§ 448.25 Gramicidin.

* * * * *

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient alcohol U.S.P. XX to obtain a stock solution of convenient concentration. Further dilute the stock solution volumetrically with alcohol U.S.P. XX to the reference concentration of 0.04 microgram of gramicidin per milliliter (estimated).

* * * * *

PART 449—ANTIFUNGAL ANTIBIOTIC DRUGS

5. Part 449 is amended:

a. In § 449.550c by revising paragraph (b)(1)(iii), to read follows:

§ 449.550c Nystatin-neomycin sulfate-gramicidin-triamcinolone acetonide ointment; nystatin-neomycin sulfate-gramicidin-fluorocortisone acetate ointment.

* * * * *

(b) * * *

(1) * * *

(iii) *Gramicidin content.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Accurately weigh and dissolve a representative portion of the sample in approximately 50 milliliters of petroleum ether in a separatory funnel. Extract with 20 milliliters of 80 percent alcohol prepared from alcohol U.S.P. XX. Repeat the extraction three times. Combine the extractives in a suitable volumetric flask, bring to volume with alcohol U.S.P. XX, and mix well. Further dilute with alcohol U.S.P. XX to the reference concentration of 0.04 microgram of gramicidin per milliliter (estimated).

* * * * *

b. In § 449.550e by revising paragraph (b)(1)(iii), to read as follows:

§ 449.550e Nystatin-neomycin sulfate-gramicidin-triamcinolone acetonide cream.

* * * * *

(b) * * *

(1) * * *

(iii) *Gramicidin content.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Accurately weigh a representative portion of the sample and dissolve in approximately 50 milliliters of petroleum ether in a separatory funnel. Extract with 20 milliliters of 80 percent alcohol prepared from alcohol U.S.P. XX. Repeat the extraction three times. Combine the extractives in a suitable volumetric flask, bring to volume with alcohol U.S.P. XX, and mix well. Futher dilute with alcohol U.S.P. XX to the reference concentration of 0.04 microgram of gramicidin per milliliter (estimated).

c. In § 449.550g by revising paragraph (b)(1)(iii), to read as follows:

§ 449.550g Nystatin-neomycin sulfate-gramicidin topical powder.

* * * * *

(b) * * *

(1) * * *

(iii) *Gramicidin content.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed representative sample in alcohol U.S.P. XX and filter. Collect the filtrate and dilute a portion with alcohol U.S.P. XX to the reference concentration of 0.04 microgram of gramicidin per milliliter (estimated).

* * * * *

PART 450—ANTITUMOR ANTIBIOTIC DRUGS

6. Part 450 is amended in § 450.24 by revising the first sentence in paragraph (a)(1), to read as follows:

§ 450.24 Doxrubicin hydrochloride.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Doxrubicin hydrochloride is the monohydrochloride salt of (8*S*, 10*S*)-10-[(3-amino-2,3,6-trideoxy-a-L-*lyxo*-hexopyranosyl)oxy-8-glycoloyl-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-5,12-naphthacenedione. * * *

* * * * *

These amendments institute changes that are corrective, editorial, or of a minor substantive nature. Because the amendments are not controversial and because when effective they provide notice of accepted standards, FDA finds that notice, public procedure, and delayed effective date are unnecessary and not in the public interest. The amendments, therefore, are effective June 1, 1982. However, interested persons may, on or before July 1, 1982, submit written comments on this regulation to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before July 1, 1982, a written notice of participation and request for hearing, and (2) on or before August 2, 1982, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a subbmission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch, between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall be effective June 1, 1982.

(Secs. 507, 701(f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g)))

Dated: May 17, 1982.

James C. Morrison,

Acting Assistant for Regulatory Affairs.

[FR Doc. 82-14722 Filed 5-28-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 440

[Docket No. 82N-0122]

Penicillin Antibiotic Drugs; Bacampicillin Hydrochloride for Oral Suspension

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the certification of a new dosage form of bacampicillin hydrochloride, bacampicillin hydrochloride for oral suspension. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective June 1, 1982; comments, notice of participation, and request for hearing by July 1, 1982; data, information, and analyses to justify a hearing by August 2, 1982.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, Bureau of Drugs (HFD–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to providing for the certification of a new dosage form of bacampicillin hydrochloride, bacampicillin hydrochloride for oral suspension. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in Part 440 (21 CFR Part 440) to provide for its certification.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 440

Antibiotics, Penicillin.

PART 440—PENICILLIN ANTIBIOTIC DRUGS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 701(f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371(f) and (g))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 28052; May 11, 1981)), Part 440 is amended by redesignating existing §440.108 as §440.108a and by adding new §§ 440.108 and 440.108b, to read as follows:

§ 440.108 Bacampicillin hydrochloride dosage forms.

§ 440.108b Bacampicillin hydrochloride for oral suspension.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Bacampicillin hydrochloride for oral suspension is a mixture of bacampicillin hydrochloride with one or more suitable and harmless buffers, diluents, sweetening ingredients, suspending agents, flavorings, and colorings. When reconstituted as directed in the labeling, it contains bacampicillin hydrochloride equivalent to 17.5 milligrams of ampicillin per milliliter. Its potency is satisfactory if it is not less than 90 percent and not more than 125 percent of the number of milligrams of ampicillin that it is represented to contain. Its loss on drying is not more than 2.0 percent. When reconstituted as directed in the labeling, its pH is not less than 6.5 and not more than 8.0. It gives a positive identity test for bacampicillin hydrochloride. The bacampicillin hydrochloride conforms to the standards prescribed by § 440.8(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The bacampicillin used in making the batch for potency, safety, moisture, pH, and identity.

(*b*) The batch for potency, loss on drying, pH, and identity.

(ii) Samples required:

(*a*) The bacampicillin used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of 6 immediate containers.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.204 of this chapter, except:

(i) Use the ampicillin working standard as the standard of comparison;

(ii) Use 4.0 milliliters of sample solution in lieu of the 2.0 milliliters specified in paragraph (c)(1) of that section; and

(iii) Calculate the potency of the sample as follows:

$$\text{Milligrams of ampicillin per dose} = \frac{V_u \times F \times d}{n \times 4{,}000}$$

Prepare the sample as follows: Reconstitute the drug as directed in the labeling. Place an accurately measured portion equivalent to one dose into a 250-milliliter volumetric flask. Add 200 milliliters of a solvent mixture of 95 percent ethanol and 0.1*M* phosphoric acid (8:2). Shake for 30 minutes on a wrist action shaker and dilute to volume with the solvent mixture. Centrifuge a portion of the sample solution for 10 minutes at 6,000 rpm. Use the clear supernatant without further dilution.

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, using the drug reconstituted as directed in the labeling.

(4) *Identity.* Proceed as directed in § 436.330 of this chapter, except prepare the sample as follows: Reconstitute as directed in the labeling. Place 8.0 milliliters of the sample into a 100-milliliter volumetric flask, add 70 milliliters of 95 percent ethyl alcohol and shake for 30 minutes. Dilute to volume with 95 percent ethyl alcohol.

This regulation announces standards that FDA has accepted in a request for approval of an antibiotic drug. In accordance with the conditions for certification in section 507 of the act (21 U.S.C. 357), FDA permits the manufacturer to market this drug on a "release" status pending this regulation's effective date. Because this regulation is not controversial and because when effective it provides notice of accepted standards and permits earlier certification of regulated products, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. The amendment, therefore, is effective June 1, 1982. However, interested persons may, on or before

July 1, 1982, submit written comments on this rule to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before July 1, 1982, a written notice of participation and request for hearing, and (2) on or before August 2, 1982, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall be effective June 1, 1982.

(Secs. 507, 701 (f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g)))

Dated: May 17, 1982.

James C. Morrison,

Acting Assistant for Regulatory Affairs.

[FR Doc. 82-14722 Filed 5-28-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Change of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the change of sponsor of two new animal drug applications (NADA's) from Abbott Laboratories to CEVA Laboratories, Inc. Supplemental NADA's filed by CEVA provide for this change.

EFFECTIVE DATE: June 1, 1982.

FOR FURTHER INFORMATION CONTACT: John R. Markus, Bureau of Veterinary Medicine (HFV–104), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION: CEVA Laboratories, Inc., 10560 Barkley, Overland Park, KS 66212, filed supplemental NADA 38–624 for Pro-Gallimycin 5 and 10 (erythromycin and arsanilic acid) for poultry and NADA 41–955 for Erythromycin Medicated Premix-10 for swine providing for a change of sponsor from Abbott Laboratories. By letter, Abbott confirmed the change of sponsor to CEVA. The supplement is approved and the regulations are amended to reflect the change.

This action, the change of sponsor of several NADA's, does not involve changes in manufacturing facilities, equipment, procedures, or personnel. Under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of this action did not require a reevaluation of the safety and effectiveness data in the parent applications.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section (a)(1) of the Order.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.248 by revising paragraph (a) to read as follows:

§ 558.248 Erythromycin thiocyanate.

(a) *Approvals.* Use of premix levels of 2.2, 5, and 10 percent granted to No. 050604 in § 510.600 of this chapter as follows:

(1) 2.2 percent as in paragraph (e) of this section.

(2) 5 and 10 percent as in paragraphs (e)(1) (i) and (iii) of this section.

* * * * *

Effective date. June 1, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: May 24, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82-14720 Filed 5-28-82; 8:45 am]

BILLING CODE 4160-01-M

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM81-2; Order No. 425]

Rules of Practice and Procedure Governing Use of Computer Studies and Analyses in Evidentiary Presentations; Correction

Issued: May 25, 1982.

AGENCY: Postal Rate Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule governing computer studies and analyses that appeared at page 12794 in the Federal Register of Thursday, March 25, 1982, (47 FR 12794). The action is necessary to correct three cross-references and to include a citation to the authority under which the rule is issued.

FOR FURTHER INFORMATION CONTACT: David F. Stover, General Counsel, Postal Rate Commission, Suite 500, 2000 L Street, N.W., Washington, D.C. 20268, (202) 254–3824.

The following corrections are made in FR Doc. 82–7998 appearing on page 12794 in the issue of March 25, 1982;

1. On page 12795, column two, fourth paragraph, the first reference in the third sentence reads: "Subsection (k)(3)(iii)(c)". It is corrected to read: "Subsection (k)(3)(iv)".

2. On page 12795, column three, first paragraph, the first reference in the first sentence reads: "Subsection (k)(3)(iii)(c)." It is corrected to read: "Subsection (k)(3)(iv)".

3. On page 12795, column three, third paragraph, the first reference in the second sentence reads: "Subsection (k)(3)(ii)". It is corrected to read: "Subsection (k)(3)(iii)".

4. On page 12796, the citation to the authority under which the rule is issued was omitted. The citation is: (39 U.S.C. 3603).

By the Commission.

David F. Harris,

Secretary.

[FR Doc. 82-14782 Filed 5-28-82; 8:45 am]

BILLING CODE 7715-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 762

[OPTS-62022; 2097-6(a)]

Fully Halogenated Chlorofluoroalkanes; Temporary Special Exemption for Automatic Timed-Release Insecticide Dispensing Systems Used in Storage of Tobacco

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is amending its cholorfluorocarbon (CFC) propellant rule to add an immediately effective special exemption permitting the limited use of CFCs in automatic timed-release insecticide dispensing systems used in the treatment of stored tobacco until December 31, 1982. This action is necessary to alleviate the short-run impacts of EPA's denial of the request for an essential use exemption for these systems, which is published elsewhere in this issue of the **Federal Register**. The immediately effective special exemption will allow the limited use of CFCs in these systems during the 1982 insect infestation season, and provide the market with time to respond to the denial of the essential use exemption.

DATES: This temporary exemption is effective from June 1, 1982 to December 31, 1982.

ADDRESSES: The official record for this rulemaking is available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays at: Environmental Protection Agency, Rm. E–107, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–511, 401 M St., SW., Washington, D.C. 20460, Toll free: (800–424–9065), in Washington, D.C.: (554–1404), Outside the USA: (Operator–202–554–1404).

SUPPLEMENTARY INFORMATION:

I. Background

In 1978, EPA promulgated a rule (40 CFR Part 762) which prohibited almost all manufacturing, processing, and distribution in commerce of fully halogenated chlorofluoroalkanes (hereinafter referred to as cholorfluorocarbons or CFCs) for aerosol propellant uses. That rule was published in the **Federal Register** of March 17, 1978 (43 FR 11318). The rule consisted of two separate parts. Part 712 dealt with recordkeeping, while Part 762 addressed specific regulation of the substances. On June 30, 1980 (45 FR 43721), EPA promulgated a rule consolidating both Parts into a revised Part 762.

EPA has granted exemptions from this general prohibition for uses determined by the Agency to be "essential" according to certain criteria described in "Essential Use Determinations—Revised," a support document to the March 17, 1978 CFC rule.

On December 30, 1980, Virginia Chemicals Inc. (hereinafter referred to as VCI or the Company) sent a letter to EPA requesting an essential use exemption from the Agency's chlorofluorocarbon aerosol rule for its A-System, a CFC-propelled insecticide dispensing system used in the treatment of stored tobacco. Based on evidence available to EPA at that time, the Agency granted an immediately effective temporary essential use exemption for long-term tobacco storage until December 31, 1981, published in the **Federal Register** of May 18, 1981 (46 FR 27120). Short-term tobacco storage (less than three years) was not included because the Agency determined that it did not satisfy the essentiality criteria.

As more fully explained elsewhere in today's **Federal Register**, EPA has concluded, on the basis of additional data and analyses, that the A-System is not an essential use of CFCs according to EPA's criteria, and has denied the request for an essential use exemption from the CFC rule.

II. Agency Decision

A. Granting a Special Exemption

For the reasons stated below, EPA is promulgating an immediately effective special exemption to permit the limited processing of CFCs for the A-System for use during 1982. The special exemption allows VCI to process CFCs for use in the A-System during the 1982 tobacco insect infestation season; however, in no event does it allow VCI to process CFCs for the A-System for use after December 31, 1982. The Agency is issuing this special exemption only because of the potential economic hardship created for VCI's 1981 customers of the A-System if the system were unavailable during the 1982 insect infestation season. This allows the Company's 1981 customers time to respond to EPA's denial of its essential use exemption and convert to alternative insect control systems for use during the 1983 infestation season and thereafter.

Until mid-February 1982, when EPA informed the Company that its case for an essential use exemption appeared questionable, the Company and its customers apparently expected EPA to grant the request for a permanent essential use exemption. Thus, the Company's customers saw no reason either to consider or to obtain alternative insect control systems.

Today's denial of the Company's essential use exemption leaves its customers only a limited time to prepare for the insect infestation season, which begins in the late spring. In the absence of this special exemption, the Company's customers would be compelled to shift to other systems of insect control within a relatively short period of time.

The necessity of such a speedy conversion poses at least two potential problems. First, although some of the Company's competitors have indicated that conversion to alternative insecticide dispensing systems of insect control could be accomplished in time for the 1982 infestation season, it does not appear that this is possible for all of the Company's customers. Some of the Company's customers have stated that there is not enough time to purchase and install an alternative system for this year's infestation season. Second, it appears to EPA that many of the Company's customers do not have any real knowledge of alternative systems, and cannot now make an informed choice regarding which alternative system or systems would best serve

their needs. The choice of a system involves consideration of a variety of factors, including relative costs of a system, the size and location of the warehouse, the nature of the tobacco being stored, and preferences of eventual purchasers.

EPA is concerned that compelling the Company's customers to shift to other systems of insect control in time for this year's insect infestation season may create undue hardship. Some persons may need more time to investigate which system or systems is best for their particular circumstances; others may need more time to arrange credit, or obtain necessary capital; still others may wish to begin partial conversion to one or more systems this year. Permitting the Company's customers adequate notice and time to choose and convert to alternative systems should eliminate the major immediate impacts that the denial might otherwise cause.

Weighed against these concerns, and possible hardships, the potential negative impacts on the environment and the Company's competitors of a one-year temporary exemption are relatively minor. The amount of the additional CFCs which will be released during 1982 is relatively small—approximately 9,000 kilograms (20,000 pounds). Furthermore, while the Company's competitors may lose some sales this year of their alternative insect control systems, they can now begin marketing their systems to the Company's customers for installation before the 1983 season.

When EPA granted the temporary essential use exemption to VCI in 1981, the Agency understood that the Flue-Cured Tobacco Stabilization Cooperative Corporation was the only company engaged in long-term tobacco storage. In fact, during the 1981 insect infestation season VCI sold its A-System to a number of additional firms. EPA has not yet determined whether all of these 1981 customers were engaged in long-term tobacco storage, as required by the 1981 rule. However, the 1982 rule extends the coverage of the 1982 exemption to all of VCI's 1981 A-System customers, without regard to whether they were entitled to the exemption in 1981. This action is taken because the objective of the rule is to mitigate the economic hardship likely to be sustained by these customers as a result of the timing of EPA's denial of the exemption request. The hardship sustained is similar, regardless of whether the sales were proper under the 1981 exemption.

In light of the foregoing considerations, EPA is imposing several conditions on the special exemption. The first condition restricts the Company's sales of the CFC-propelled insecticide to its 1981 A-System customers and for use only in those tobacco storage facilities where the A-System was used in 1981.

The second condition restricts the total volume of CFCs which can be processed for the A-System in 1982 to the total volume of CFCs processed by the Company in 1981 for the A-System. The Agency recognizes that since the severity and length of the insect infestation season differs from year to year, it is impossible to predict the exact amount of insecticide VCI's customers will need in 1982. Therefore, under this rule the Agency may allow up to a twenty percent (20%) increase over the volume processed in 1981 if the 1982 tobacco insect infestation season is substantially more severe and more lengthy than it was in 1981. However, before EPA will authorize VCI to process CFCs in an amount which exceeds the volume processed in 1981, VCI must provide the Agency with data substantiating that the 1982 insect infestation is substantially more severe and more lengthy than the 1981 infestation.

The third condition sets forth a method of calculating the total volume of CFCs which may be processed for the A-System in 1982. All calculations must be submitted to EPA prior to commencing any processing of CFCs for the A-System, and, in any event, no later than one month after the effective date of this rule.

The fourth and fifth conditions require reporting of data on processing and sales in 1981 and 1982. In particular, the Company is required to submit to EPA's Pesticides and Toxic Substances Enforcement Division, at specified times, information relating to the total volumes of CFCs over which the Company has control; who sold CFCs to the Company; and who bought the Company's A-Systems canisters. The reporting requirements are necessary for two reasons. First, all recordkeeping and reporting requirements for the CFC aerosol ban rule expired in March 1982. Second, the reporting requirements and other conditions are intended to ensure that neither VCI nor its customers stockpile supplies for use after December 31, 1982.

The sixth condition requires VCI to notify its A-System customers that its canisters containing CFC propellants will no longer be sold for use after December 31, 1982.

B. Reason for not Providing a Public Comment Period

Under the Administrative Procedure Act (APA), an agency generally must publish a rule in proposed form and solicit public comment prior to promulgating the rule in final form. However, the APA also provides that an agency may dispense with such procedures when the agency finds that notice and public comment are "impracticable, unnecessary, or contrary to the public interest" and includes in the rule a brief statement explaining the basis for this finding (5 U.S.C. 553[b][B]). Under this authority, EPA is publishing this rule without opportunity for public comment for the reasons stated below.

In order to make the A-System available for the 1982 insect infestation season, the Company must begin taking orders for and processing the CFC-propelled insecticides as soon as possible. Any delay in permitting these activities to begin immediately would effectively eliminate the benefit of the relief granted by this special exemption. Therefore, public comment would be impracticable.

The Agency had intended to make a determination by the end of 1981 whether the use of CFC-propelled insecticides for tobacco storage is an essential use of CFCs. EPA was not able to do so, because it had difficulty in obtaining information regarding the availability, cost, and health and environmental impacts of alternative systems. This information is necessary to assess the request in light of the essentiality criteria.

Further, in mid-October 1981, approximately two and a half months before a decision was scheduled to be made, the Company modified its exemption request to include the use of CFC-propelled insecticides for short-term tobacco storage. This modification completely changed the rationale for the Company's request. The Company now asserts that no meaningful difference exists between long-term and short-term storage; in contrast, the basis for granting the 1981 temporary essential use exemption for long-term storage was the earlier claim made by the Company that long-term storage is unique. Although EPA has since found no basis for granting a permanent exemption for any use of the A-System, long or short-term, consideration of the conflicting assertions made by the Company further delays EPA's action on this essential use exemption request.

As stated earlier, it appears that it will not be possible for some of the Company's customers to investigate,

select and purchase an alternative system of insect control before the 1982 infestation begins. The purpose of this special exemption is to prevent undue hardship on the Company's customers.

III. Regulatory Impacts

A. Executive Order 12291

Section 8(a)(1) of Executive Order 12291 exempts regulations that respond to emergency situations. In this instance, compliance with the Executive Order is impractical because delay in promulgating the rule would effectively eliminate the benefit of the relief granted by this special exemption. Moreover, this regulation is not a "major" rule as set forth in the Executive Order. It has a relatively small impact on the economy. Accordingly, no Regulatory Impact Analysis is required.

B. Regulatory Flexibility Act

As mandated by the Regulatory Flexibility Act, EPA is certifying that this regulation will not have a significant impact on a substantial number of small entities. The effect of the rule is to reduce the burden on the users of the A-System, by providing time for them to shift to alternative insect control systems. It is anticipated that small firms and warehouses will especially benefit from having an additional year to make decisions regarding which alternative system or systems are most effective and economical. Some of the Company's competitors are small entities; however, granting a special exemption for the A-system for one more insect infestation season should not impose a significant impact on them.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 (PRA) (44 U.S.C. 350 *et seq.*) authorizes the Director of the Office of Management and Budget to review certain information requests by Federal agencies. EPA has determined that the reporting requirements included in this rule do not constitute "information collection requests" under sections 3502(4) and (11) of PRA, because they would not impose identical reporting requirements on ten or more persons. Only Virginia Chemicals Inc. is required to report under this rule.

IV. Rulemaking Record

The rulemaking record for this action consists of the rulemaking record for EPA's CFC rule (40 CFR Part 762) published in the Federal Register of March 17, 1978 (43 FR 11318); and all correspondence and records of communications pertaining to the request of Virginia Chemicals Inc. for an essential use exemption (some items have been designated as Confidential Business Information), including the following documents:

A. Federal Register Notices

1. Federal Register of May 10, 1961 (46 FR 27120). USEPA. "Fully Halogenated Chlorofluoroalkanes; Temporary Exemption for Automatic Timed-Release Insecticide Dispensing System Used in Long-Term Storage of Tobacco."

B. Other Government Publications

1. USDA, Agricultural Research Service, "Stored Tobacco Insects: Biology and Control (Agriculture Handbook No. 223)," 1972.
2. USDA, Agricultural Research Service, "Breeding and production—tobacco (National Research Program No. 20070)," October 1976.

C. Company Correspondence

1. The ACA Corporation.
Trade materials for Fogmaster 7401 Micro-Jet ULV Fogger, undated.
2. American Tobacco Company.
(a) Record of Communication between Ellen Warhit, Economics and Technology Division/Office of Toxic Substances (ETD/OTS), and Jim Ancell, American Tobacco, 01/27/82.
(b) Letter from Ellen Warhit, ETD/OTS, to Jim Ancell, American Tobacco, dated 01/29/82.
3. Automatic Spray Systems, Incorporated (ASSI).
(a) Record of Telephone Conversation between Ellen Warhit, ETD/OTS, and Constant Ray, ASSI, 1/26/82.
(b) Record of Telephone Conversation between Ellen Warhit, ETD/OTS, and Constant Ray, ASSI, 1/29/82.
(c) Letter from Ellen Warhit, ETD/OTS, to Constant Ray, ASSI, dated 1/29/82.
(d) Record of Telephone Conversation between Pamela Moore, Chemical Control Division/Office of Toxic Substances (CCD/OTS), and Constant Ray, ASSI, 02/02/82.
(e) Identical with item C.13.(c).
(f) Identical with item C.5.(e).
4. Brown and Williamson Tobacco Corporation.
(a) Record of Communication between Ellen Warhit, ETD/OTS, and J. O. Puckett, Brown & Williamson, 01/27/82.
(b) Letter from Ellen Warhit, ETD/OTS, to J. O. Puckett, Brown & Williamson, dated 01/29/82.
(c) Letter from J. O. Puckett, Brown and Williamson, to Ellen Warhit, ETD/OTS, dated 02/02/82.
(d) Letter from J. O. Puckett, Brown and Williamson, to Pamela Moore, CCD/OTS, dated 03/05/82.
5. Capitol Chemicals (CC).
(a) Record of Meeting between Pamela Moore, CCD/OTS, and Douglas Rollow, CC, 01/29/82.
(b) Record of Meeting attended by Rich Guimond, Larry Dorsey, Emery Lazar, and Pamela Moore (all CCD/OTS), Ellen Warhit (ETD/OTS), and Douglas Rollow (CC), 02/01/82.
(c) Materials submitted by CC to EPA at meeting on 02/01/82 (including photographs of CC's insecticide dispensing systems; correspondence between CC and Pest Management Services Pty. Ltd. (Victoria, Australia); trade information from The Commonwealth Industrial Gases Limited (N.S.W., Australia); bid for fumigation of Flue-Cured Tobacco Cooperative Stabilization Corporation (FCTCSC) warehouses completed by Home Exterminating Company, dated 03/05/80; letter from B. & D.A. Weisburger Insurance, Inc., to FCTCSC, dated 02/29/80; letter from CC to FCTCSC, dated 03/05/80).
(d) Record of Telephone Conversation between Pamela Moore, CCD/OTS, and Douglas Rollow, CC, 02/02/82.
(e) Record of meeting attended by Emery Lazar, Pamela Moore, Jared Flood (all CCD/OTS), Ellen Warhit (ETD/OTS), Douglas Rollow (CC), William Rollow, Esq. (Whiteford Hart), and Constant Ray (ASSI), 02/11/82.
6. Cigar Association of America.
(a) Identical with item C.12.(d).
7. Cleary, Gottlieb, Steen and Hamilton (Cleary Gottlieb).
(a) Identical with item C.12 (d).
(b) Recommended draft rules submitted by Cleary Gottlieb to OTS, dated 03/02/82.
(c) Letter from Douglas Kliever, Cleary Gottlieb, to Emery Lazar, CCD/OTS, dated 03/11/82 (with enclosure: letter from Autin Carolina Company).
(d) Letter from Douglas Kliever, Cleary Gottlieb, to Don Clay, OTS, dated 04/06/82.
(e) Letter from A. E. Conroy II, PTSED/OTS, to Douglas Kliever, Cleary Gottlieb, dated 04/13/82.
8. Flue-Cured Tobacco Cooperative Stabilization Corporation (FCTCSC).
(a) Record of Telephone Conversation between Michael Deshaies, CCD/OTS, and Thomas Dean, FCTCSC, 07/13/81.
(b) Record of Telephone Conversation between Michael Deshaies, CCD/OTS, and Thomas Dean, FCTCSC, 07/27/81.
(c) Letter from Thomas Dean, FCTCSC, to Sarah Shapley, Industry Assistance Office/Office of Toxic Substances (IAO/OTS), dated 01/28/82 (with enclosure).
9. Philip Morris Inc.
(a) Record of Telephone Conversation between Michael Deshaies, CCD/OTS, and Dr. M. Arthur Manzelli, Philip Morris, 07/13/81.
(b) Letter from Michael Deshaies, CCD/OTS, to Dr. M. Arthur Manzelli, Philip Morris, dated 07/13/81.
(c) Letter from Dr. M. Arthur Manzelli, Philip Morris, to Michael Deshaies, CCD/OTS, dated 07/21/81.
(d) Record of Telephone Conversation between Michael Deshaies, CCD/OTS, and Dr. M. Arthur Manzelli, Philip Morris, 07/22/81.
(e) Letter from Dr. M. Arthur Manzelli, Philip Morris, to Pamela Moore, CCD/OTS, dated 02/17/82 (with enclosures).
10. Research Products Company.
(a) Letter from Jim Allen, Research Products, to Doug Rollow, Capitol Chemical Company, dated 03/01/82.
11. Universal Leaf Company (ULC).

(a) Record of Telephone Conversation between Michael Deshaies, CCD/OTS, and David Chilton, ULC, 07/24/81.

12. Virginia Chemicals Inc. (VCI).

(a) Letter from Donald Ellison, VCI, to Michael Deshaies, CCD/OTS, dated 10/15/81 (with enclosures: additional petitions from Carolina Leaf Tobacco Co., Inc., China American Tobacco Company, Thorpe-Greenville Export Tobacco Co., and A. C. Monk & Co., Inc.; VCI's and FCTCSC's Response to EPA's Questions of 09/11/81).

(b) Materials provided by Donald Ellison, VCI, to Pamela Moore, CCD/OTS, in meeting, 11/25/81 (including VCI Customer List for CFC-Propelled Insecticide through September 30, 1981, and supporting petitions from Mullins Leaf Tobacco Company and K. R. Edwards Leaf Tobacco Company).

(c) Letter from Donald Ellison, VCI, to Larry Dorsey, CCD/OTS, dated 01/25/82 (with enclosures).

(d) Record of Meeting attended by Edward Klein, Emery Lazar, Pamela Moore (all CCD/OTS), Ellen Warhit (ETD/OTS), Sarah Shapley (AO/OTS), Steve Atkinson (EPA Office of General Counsel), and representatives of VCI, Cleary Gottlieb, and the Cigar Association of America, 02/09/82.

(e) Letter from Don Clay, OTS, to Donald Ellison, VCI, dated 04/01/82.

(f) Letter from David N. David, VCI, to Don Clay, OTS, dated 04/12/82.

(g) Telegraphic message from A. E. Conroy II, PTSED/OTS, to David N. David, VCI, dated 04/14/82.

(h) Letter from A.E. Conroy II, PTSED/OTS, to Donald Ellison, VCI, dated 04/19/82.

13. Whiteford, Hart, Carmody, and Wilson (Whiteford Hart).

(a) Letter from William Rollow, Whiteford Hart, to Pamela Moore, CCD/OTS, dated 02/10/82 (with enclosure: statement of ACA Corporation, signed by Constant Ray).

(b) Identical with item C.5.(e).

(c) Letter from William Rollow, Whiteford Hart, to Pamela Moore, CCD/OTS, dated 02/16/82 (with enclosure: statement of ACA Corporation, signed by Constant Ray).

(d) Letter from William Rollow, Whiteford Hart, to Constant Ray, Automatic Spray Systems Co., dated 02/16/82.

14. Zoecon Corporation.

(a) Letter from David Sullivan, Zoecon, to Mr. John B. Ritch, Jr., IAO/OTS, dated 06/23/81.

(b) Record of Telephone Communication between Michael Deshaies, CCD/OTS, and David Sullivan, Zoecon, 07/08/81.

(c) Record of Telephone Communication between Michael Deshaies, CCD/OTS, and David Sullivan, Zoecon, 07/22/81.

D. Intra-Governmental Communications

1. U.S. Department of Agriculture.

(a) Telephone Communication between Michael Deshaies, CCD/OTS, and Dana Childs, USDA (Tobacco Research, Richmond, VA), 07/16/81.

(b) Record of Telephone Conversation between Ellen Warhit, ETD/OTS, and Dana Childs, USDA, 01/26/82.

(c) Letter from Ellen Warhit, ETD/OTS, to Dana Childs, USDA, dated 01/29/82.

(d) Letter from Dana Childs, USDA, to Ellen Warhit, ETD/OTS, dated 02/01/82.

2. Office of Pesticide Programs/EPA.

(a) Memorandum from Salvatore Biscardi, TOX/HED/OTS, to Mr. Franklin Gee, OPP, dated 04/25/79 (with attachment).

(Sec. 6, 90 Stat. 2020, (15 U.S.C. 2065))

List of Subjects in 40 CFR Part 762

Environmental protection, Hazardous materials, Recordkeeping and reporting requirements, Fully halogenated chlorofluoroalkanes.

Dated: May 19, 1982.

Anne M. Gorsuch,

Administrator.

PART 762—FULLY HALOGENATED CHLOROFLUOROALKANES

Therefore, 40 CFR Part 762 is amended by adding a new paragraph (c) to § 762.59 to read as follows:

§ 762.59 Special exemptions.

* * * * *

(c) Effective June 1, 1982, Virginia Chemicals Inc. (VCI) may process chlorofluorocarbons (CFCs) for incorporation into its automatic timed-release insecticide dispensing A-System for use before December 31, 1982. This exemption is further limited by the following conditions:

(1) Sales shall be made only to VCI's 1981 A-System customers for use limited to those tobacco storage facilities where the A-System was employed in 1981.

(2) The total volume of CFCs which can be processed in 1982 for the A-System by VCI shall also be limited to the total volume processed for the A-System in 1981. The Agency may authorize the processing of a total volume of CFCs for the A-System in 1982 which exceeds by no more than twenty percent (20%) the total volume processed in 1981. The Director of the Pesticides and Toxic Substances Enforcement Division will authorize such an increase upon a finding that VCI has submitted data which substantiates that the 1982 insect infestation is substantially more severe and more lengthy than the 1981 infestation.

(3) The total volume of CFCs which may be processed for the A-System in 1982 is to be determined in the following manner.

(i) First, determine the total volume of CFCs processed for the A-System in 1981.

(ii) Second, determine the total volume of CFCs processed for the A-System which was in VCI's inventory on January 1, 1982, including the total volume of CFCs in canisters which have been returned to VCI for refilling.

(iii) Third, determine the volume of CFCs in A-System canisters which remain in the 1981 customers' inventories. This listing must be certified as accurate by each customer.

(iv) Fourth, subtract the combined amounts determined in (ii) and (iii) from the total volume of CFCs processed for the A-System in 1981, to determine the volume of CFCs which may be processed for A-System use in 1982.

(v) These calculations must be submitted to EPA's Pesticides and Toxic Substances Enforcement Division, prior to commencing any processing of CFCs for the A-System in 1982, and no later than one month after the effective date of this rule.

(4) By July 1, 1982, VCI shall submit to EPA's Pesticides and Toxic Substances Enforcement Division (PTSED) [EN-342], Mr. Ralph Turpin, Acting Chief, Case Development and Legal Branch, 401 M Street SW., Washington, D.C. 20460 (202-755-0899), the following information:

(i) The total volume of CFCs purchased by VCI in 1981, and from whom they were purchased.

(ii) The total volume of processed and unprocessed CFCs that VCI had in its inventory on January 1, 1981 and on January 1, 1982.

(iii) The total volume of CFCs processed for the A-System that VCI had in its inventory on January 1, 1981 and on January 1, 1982.

(iv) The total volume of CFCs that VCI's 1981 customers of the A-system had in their inventories on January 1, 1981 and on January 1, 1982.

(v) The total volume of CFCs processed for the A-System in 1981.

(vi) The total volume of CFCs sold in the A-System in 1981.

(vii) A list of the 1981 A-System customers.

(viii) The total volume of CFCs for the A-System which each customer was sold in 1981. This shall include the total number of A-System canisters sold to each customer and the total number of used canisters returned to VCI from each customer.

(5) By January 31, 1983, VCI shall submit to EPA's Pesticides and Toxic Substances Enforcement Division (PTSED) [EN-342], Mr. Ralph Turpin, Acting Chief, Case Development and Legal Branch, 401 M Street SW., Washington, D.C. 20460 (202-755-0899), the following information:

(i) The total volume of CFCs purchased by VCI in 1982, and from whom they were purchased.

(ii) The total volume of processed and unprocessed CFCs that VCI had in its inventory on January 1, 1983.

(iii) The total volume of CFCs processed for the A-System that VCI had in its inventory on January 1, 1983.

(iv) The total volume of CFCs that VCI's 1981 customers of the A-System had in their inventories on January 1, 1983.

(v) The total volume of CFCs processed for the A-System in 1982.

(vi) The total volume of CFCs sold in the A-System in 1982.

(vii) A list of 1982 A-System customers.

(viii) The total volume of CFCs for the A-System which each customer was sold in 1982. This shall include the total number of A-System canisters sold to each customer and the total number of used canisters returned to VCI from each customer.

(6) By July 1, 1982, VCI shall notify in writing its 1981 customers of the A-System that the CFC-propelled system will no longer be sold for use after December 31, 1982.

[FR Doc. 82-14784 Filed 5-28-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 762

[OPTS-62021; 2097-6(h)]

Fully Halogenated Chlorofluoroalkanes; Denial of Exemption for Use of Chlorofluorocarbons in Automatic Timed-Release Insecticide Dispensing Systems Used in Storage of Tobacco

AGENCY: Environmental Protection Agency (EPA).

ACTION: Rule related notice.

SUMMARY: The Environmental Protection Agency (EPA) is denying a request for an essential use exemption to the chlorofluorocarbon (CFC) rule for the use of CFCs in automatic timed-release insecticide dispensing systems used in tobacco storage. This action is being taken because the applicant has failed to establish that this use of CFCs is an essential use under EPA's criteria. As a result of this action, previous users of these systems will have to use one or more of the available alternative systems. However, EPA is issuing a final rule, appearing elsewhere in this issue of the **Federal Register**, which delays the effect of this denial by permitting the limited use of CFCs in the automatic timed-release insecticide dispensing system until December 31, 1982.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office, (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St., SW., Washington, D.C. 20460, Toll-free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator 202-554-1404).

SUPPLEMENTARY INFORMATION: In 1978, EPA promulgated a rule (40 CFR Part 762) which prohibited almost all manufacturing, processing, and distribution in commerce of fully halogenated chlorofluoroalkanes (hereinafter referred to as chlorofluorocarbons or CFCs) for aerosol propellant uses. That rule was published in the **Federal Register** of March 17, 1978 (43 FR 11318). The rule consisted of two separate parts. Part 712 dealt with recordkeeping, while Part 762 addressed specific regulation of the substances. On June 30, 1980 (45 FR 43721), EPA promulgated a rule consolidating both Parts into a revised Part 762.

EPA has granted exemptions from this general prohibition for uses determined by the Agency to be "essential" according to certain criteria described in "Essential Use Determinations—Revised," a support document to the March 17, 1978 CFC rule.

The four criteria upon which an exemption is evaluated for essentiality are:

1. Nonavailability of alternative products.

2. Economic significance of the product, including the economic effects of removing the product from the market.

3. Environmental/health significance of the product.

4. Effects on the "Quality of Life" resulting from no longer having the product available or using an alternative product.

On December 30, 1980, Virginia Chemicals Inc. (the Company) sent EPA a letter requesting an essential use exemption from the 1978 chlorofluorocarbon aerosol ban rule for its A-System, a CFC-propelled insecticide dispensing system used in the treatment of stored tobacco. The Company contended that this product provides a unique protective system for stored tobacco, and further contended that there is no equally efficient system of dispensing the insecticides without CFCs, especially for long-term tobacco storage. The Agency considered the essential use exemption request in light of the four essentiality criteria listed above.

The Company also presented evidence which seemed to indicate that, for long-term tobacco storage, no suitable alternative to the A-System was available. The Company asserted that the alternative methods of insect control for long-term tobacco storage were ineffective, prohibitively costly, or harmful to the health of workers. The Company's claim seemed reasonable, but was not fully documented at that time. Accordingly, EPA granted an immediately effective essential use exemption for an automatic timed-release insecticide dispensing system for long-term tobacco storage until December 31, 1981, notice of which was published in the **Federal Register** of May 18, 1981, (46 FR 27120). Short-term tobacco storage (less than three years) was not included because the Agency determinded that alternative systems existed and were being successfully used by a large segment of the tobacco industry; therefore, CFC use in short-term tobacco storage did not satisfy the essentiality criteria.

Since May 1981, EPA has been investigating whether the use of CFC-propelled insecticides in long-term tobacco storage constitutes an essential use of CFCs. Until October 1981, the Company continued to contend that the A-System provides unique protection for long-term tobacco storage. On October 15, 1981, the Company expanded its essential use exemption request to include short-term tobacco storage. The Company now maintains that it was mistaken last year when it presented evidence that long-term storage was unique and deserved special consideration. It now maintains that the distinction between short-term and long-term storage is not meaningful, and that the key distinction is between the requirements of persons who store tobacco for ultimate sale in a product, e.g., cigarettes, and the requirements of the submarket comprised of persons who store it for sale as a commodity or for special applications, e.g., cigar wrappers.

The Company contends that tobacco sold as a commodity or for special applications must conform to more stringent quality standards than tobacco which is sold in products, since the quality of the tobacco is evident on sight. It contends that, for this submarket, it is also crucial that no residue remain to damage the appearance, odor, or taste of the tobacco. The Company therefore maintains that the use of a highly effective insect control system is necessary for this submarket, and that only its A-System is sufficiently effective.

However, EPA has no evidence that this is the case. A variety of technically adequate, safe, and cost-effective non-CFC-propelled insect control systems are being used by a large segment of the tobacco industry, reportedly including persons that are part of the submarket identified by the Company. Several of these substitute systems rely on alternative methods of propelling the

insecticide such as the Allegheny system which uses compressed air to propel the insecticide. Another alternative system approved by EPA's Office of Pesticide Programs (OPP) is the Kabat system. In this system methoprene is directly applied to the tobacco. Dianex is a new system which has recently been registered by OPP and is now ready for marketing. In addition, there are some portable systems which can be used to protect very small areas.

In the course of investigating the availability of alternatives, EPA also examined their potential environmental and health impacts and has determined that these alternatives pose no substantiated adverse effects.

Analysis of the economic costs of the alternative available systems shows that some of the alternatives would cost about the same as the A-System and that others would be even more cost effective. Therefore, the economic cost of converting to alternative systems is acceptable.

The Company has failed to make a convincing case that adequate grounds exist for granting an essential use exemption. For EPA to grant an essential use exemption in this case, removal of the product would have to result in adverse economic, environmental, or human health impacts. There is no evidence that these adverse impacts will occur if the product is taken off the market. Thus, the A-System does not meet the essentiality criteria and does not qualify for an essential use exemption. There is a small submarket likely to experience short-term economic hardship if this CFC-propelled insecticide is immediately taken off the market. It appears to the Agency that several 1981 users of the A-System do not have any real knowledge of alternative dispensing systems. These 1981 customers cannot now make an informed choice regarding which alternative systems would best serve their needs for the 1982 insect infestation season. Therefore, EPA is issuing an immediately effective special exemption, appearing elsewhere in this issue of the **Federal Register**, which permits the limited use of CFCs in automatic timed-release insecticide dispensing systems used in the treatment of stored tobacco until December 31, 1982.

EPA has established a record of its consideration of this exemption request. It is available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays at: Environmental Protection Agency, Room E-607, 401 M Street SW., Washington, D.C. 20460.

For the above reasons, the request is denied.

(Sec. 6, Pub. L. 94-469, 90 Stat. 2020 (15 U.S.C. 2605))

List of Subjects in 40 CFR Part 762

Environmental protection, Hazardous materials, Recordkeeping and reporting requirements, Fully halogenated chlorofluoroalkanes.

Dated: May 19, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-14783 Filed 5-28-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA 6320]

Changes in Special Flood Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Interim rule.

SUMMARY: This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations for new buildings and their contents and for second layer insurance on existing buildings and their contents.

DATES: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM) in effect prior to this determination.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Associate Director, State and Local Programs and Support reconsider the changes. These modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table. Send comments to that address also.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E. Chief, Engineering Branch, Office of State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0220.

SUPPLEMENTARY INFORMATION: The numerous changes made in the base (100-year) flood elevations on the Flood Insurance Rate Map(s) make it administratively infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection. Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or techincál data.

These modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968) (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 65.4.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time, enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

The changes in the base (100-year) flood elevations listed below are in accordance with 44 CFR 65.4.

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Illinois: Alexander	City of Cairo	*The Cairo Evening Citizen*, Mar. 5, 1982, Mar. 12, 1982.	Honorable Alan E. Moss, Mayor, City of Cairo, 1601 Washington Ave., Cairo, Ill. 62914.	Mar. 12, 1982	170004C.
Michigan: Oakland	City of Rochester	*The Rochester Clarion*, Mar. 3, 1982, Mar. 10, 1982.	Mr. Kenneth Johnson, City Manager, City of Rochester, P.O. Box 10, 400 Sixth Street, Rochester, Mich. 48063.	Mar. 12, 1982	260926C.
Pennsylvania: Delaware	Borough of Aldan	*Delaware County Daily Times*, Mar. 5, 1982, Mar. 12, 1982.	Thomas Shalko, President of Council Borough of Aldan, Springfield Road and the Railroad, Aldan, PA 19018.	Mar. 12, 1982	420401C.
Pennsylvania: Luzerne	Township of Kingston	*The Dallas Post*, Mar. 3, 1982, Mar. 10, 1982.	Mark A. Kunkle, Township Manager, Township of Kingston, Kingston Township Municipal Building, 11 Carverton Road, Trucksville, PA 18708.	Mar. 12, 1982	420613C.
Florida: Clay	City of Green Cove Springs	*Clay County Crescent*, Mar. 11, 1982, Mar. 25, 1982.	Mr. William Vermilling, City Manager, Green Cove Springs, City Hall, 229 Walnut Street, Green Cove Springs, FL 32043.	Mar. 26, 1982	120065C.
Florida: Orange	City of Orlando	*The Sentinel Star*, Mar. 10, 1982, Mar. 24, 1982.	The Honorable William Frederick, Mayor, City of Orlando, City Hall, 400 S. Orange Avenue, Orlando, Fla. 32801.	Mar. 26, 1982	120186(B).
Indiana: Dearborn	City of Aurora	*The Journal Press*, Mar. 18, 1982, Mar. 25, 1982.	The Honorable Robert L. Cheek, City of Aurora, 216 3rd Street, Aurora, Indiana 47001.	Mar. 26, 1982	165172B.
Michigan: St. Clair	Township of Fort Gratiot	*The Times Herald*, Mar. 19, 1982, Mar. 26, 1982.	Mr. Maurice Foley, Township Supervisor, Township of Fort Gratiot, 3720 Keewahdin Drive, Port Huron, Michigan 48060.	Mar. 26, 1982	260196C.
Ohio: Lucas	Village of Waterville	*The Anthony Wayne Herald*, Mar. 17, 1982, Mar. 24, 1982.	Mr. Clayton Chandler, Municipal Administrator, Village of Waterville, P.O. Box 250, Waterville, Ohio 43566.	Mar. 26, 1982	390637C.
New York: Tioga	Village of Owego	*The Binghamton Press*, Mar. 19, 1982, Apr. 2, 1982.	Hon. John Shafer, Mayor, Village of Owego, 90 Temple Street, Owego, N.Y. 13827.	Apr. 2, 1982	360840B.
Wisconsin: Calumet, Outagamie and Winnebago.	City of Appleton	*The Post Crescent*, Apr. 1, 1982, Apr. 8, 1982.	The Honorable Dorothy Johnson, City of Appleton, 200 North Appleton Street, Appleton, Wisconsin 54913.	Apr. 8, 1982	555542B.
Connecticut: Fairfield County	City of Danbury	*The Danbury News Times*, Apr. 9, 1982, Apr. 16, 1982.	The Honorable James E. Dyer, Mayor, City of Danbury, City Hall, 155 Deerhill Avenue, Danbury, Connecticut 06810.	Apr. 16, 1982	090004B.
Pennsylvania: Bucks	Township of East Rockhill	*The Free Press*, Apr. 23, 1982, Apr. 30, 1982.	Paul G. Hunsicker, Chairman, East Rockhill Township, Board of Supervisors, 1622 Ridge Road, Perkasie, PA 18944.	Apr. 30, 1982	420187B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 4, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14806 Filed 5-28-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA-6321]

Communities With Minimal Flood Hazard Areas for the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities' Special Flood Hazard Areas are small in size, with minimal flooding problems. Because existing conditions indicate that the area is unlikely to be developed in the foreseeable future, there is no immediate need to use the existing detailed study methodology to determine the base flood elevations for the Special Flood Hazard Areas.

Therefore, the Agency is coverting the communities listed below to the Regular Program of the National Flood Insurance Program (NFIP) without determining base flood elevations.

EFFECTIVE DATE: Date listed in fourth column of list of Communities with Minimal Flood Hazard Areas.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: In these communities, the full limits of flood insurance coverage are available at actuarial, non-subsidized rates. The rates will vary according to the zone designation of the particular area of the community.

Flood insurance for contents, as well as structures, is available. The maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program.

Flood insurance coverage for property located in the communities listed can be purchased from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program. The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the **Federal Register.**

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies

that this rule if promulgated will not have significant economic impact on a substantial number of small entities. This rule provides routine legal notice regarding the completed stage of engineering tasks in delineating the special flood hazards areas of the specified community and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance—flood plains.

The entry reads as follows:

§ 65.7 List of communities with minimal flood hazard areas.

State and county	Community	Date of conversion to regular program
Oklahoma: Beckham.	City of Elk City	June 1, 1982.
Georgia: Bartow	Town of White	June 4, 1982.
Pennsylvania: Schuylkill.	Township of Branch.	June 4, 1982.
Idaho: Twin Falls	City of Hansen	June 8, 1982.
Texas: Hidalgo	City of Alton	June 8, 1982.
New York: Rensselaer.	Village of Schaghticoke.	June 11, 1982.
Pennsylvania: Fulton	Township of Bethel	June 11, 1982.
Washington	Township of Buffalo.	June 11, 1982.
Bradford	Township of Canton.	June 11, 1982.
Huntingdon	Township of Tell	June 11, 1982.
Virginia: Charlotte	Town of Drakes Branch.	June 11, 1982.
Texas: Liberty	City of Dakotta	June 15, 1982.
Ellis	City of Ennis	June 15, 1982.
New York: Wyoming.	Village of Pike	June 18, 1982.
Pennsylvania: Mercer	Borough of Jackson Center.	June 18, 1982.
Mercer	Township of Lake	June 18, 1982.
Virginia: Mecklenburg.	Town of Chase City	June 18, 1982.
Georgia: Bartow	City of Cartersville	June 25, 1982.
Douglas	City of Douglasville	June 25, 1982.
New York: Allegany	Town of Wirt	June 25, 1982.
Pennsylvania: Crawford	Township of Summerhill.	June 25, 1982.
Mercer	Township of Wolf Creek.	June 25, 1982.
Louisiana: Natchitoches.	Village of Goldonna	June 29, 1982.
Oklahoma: Kiowa	City of Hobart	June 29, 1982.
Kiowa	Town of Lone Wolf	June 29, 1982.
Okmulgee	City of Morris	June 29, 1982.
Adair	Town of Westville	June 29, 1982.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: May 6, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14680 Filed 5-28-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Federal Emergency Management Agency, National Flood Insurance Program, (202) 287–0230, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Agency has resolved the appeals presented by the community.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

Lists of Subjects in 44 CFR Part 67

Flood insurance, Flood Plains.

The final base (100-year) flood elevations for selected locations are:

FINAL BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arkansas	City of Mountain Home, Baxter County (FEMA 6094)	Hicks Creek	Approximately 100 feet downstream of Meadowbrook Drive.	*700
			Approximately 150 feet upstream of Meadowbrook Drive.	*702
			Approximately 170 feet downstream of State Highway 5 (East 9th Street).	*742
			Approximately 230 feet upstream of State Highway 5 (East 9th Street).	*747
		Indian Creek	Approximately 100 feet upstream of East 4th Street extended.	*756
		Dodd Creek	Approximately 300 feet downstream of U.S. Highway 62.	*752

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 200 feet upstream of U.S. Highway 62	*758
			Approximately 160 feet downstream of Butcher Drive	*760
			Approximately 290 feet upstream of Butcher Drive	*764
Maps available for inspection at City Hall, 720 South Hickory Street, Mountain Home, Arkansas 72153.				
New York	Batavia, city, Genesee County (Docket No. FEMA-6009).	Tonawanda Creek	Downstream corporate limits	
			*887	
		Upstream South Lyon Street	*889	
			Upstream corporate limits	*896
Maps available for inspection at the Batavia City Engineer's Office, 10 West Main Street, Batavia, New York.				
New York	Evans, town, Erie County (Docket No. FEMA-6109)	Little Sister Creek	Confluence with Lake Erie	*580
			Upstream Dennis Road	*598
			Upstream private road	*602
			Upstream State Route 5	*615
			Upstream Delameter Road	*643
		Tributary No. 2 to Little Sister Creek.	Confluence with Little Sister Creek	
			*604	
		Upstream State Route 5	*615	
			Downstream Church Road	*646
			Downstream Delameter Road	*660
			170' upstream Norfolk and Western Railway	*668
		Pike Creek	Confluence with Lake Erie	*580
			Upstream private drive	*595
			Approximately 1,820' upstream of private drive	*610
			Upstream Wisconsin Road	*640
			Upstream Delameter Road	*658
			Upstream Derby Road	*693
			Upstream Depot Street	*704
		Rusch Creek	Confluence with Lake Erie	*580
			Downstream private drive	*594
			Upstream Old Lake Shore Drive	*613
			Downstream seminary access road	*630
			Downstream Nottle Creek Drive	*641
			Upstream Prescott Drive	*661
			Upstream Hamilton Drive	*680
			Upstream Revere Drive	*683
		Farm Brook	Confluence with Lake Erie	*580
			Downstream Waterman Road	*585
			Upstream Madison Avenue	*598
			Approximately 1,000' upstream of Dawn Avenue	*801
Maps available for inspection at the office of the Building Inspector, Evans Town Hall, 42 North Main Street, Angola, New York.				
Texas	Humble, city, Harris County (Docket No. FEMA-5078)	West Fork San Jacinto River	Intersection of Route 59 and corporate limits	*95
			Confluence of Spring Creek	*98
		Spring Creek	Downstream corporate limits	*96
			Upstream corporate limits	*70
		Tributary A	Northbound U.S. 59	*95
		Tributary C	Downstream corporate limits	*98
			2,100' upstream of corporate limits	*71
			5,000' upstream of corporate limits	*79
		Tributary D	Downstream corporate limits	*68
			Intersection of Wilson Road	*72
		Garners Bayou	1,000' upstream of corporate limits	*65
			Downstream of Southern Pacific Railroad	*69
			Upstream corporate limits	*76
		Reinhardt Bayou	Upstream of confluence with Garners Bayou	*54
			Downstream of upstream corporate limits	*72
Maps available for inspection at City Hall, Humble, Texas.				
Texas	City of Wharton, Wharton County (FEMA-6218)	Colorado River	Just upstream of U.S. Highway 59	*103
			Approximately 2640 feet upstream of the Southern Pacific Railroad.	*104
		Baughman Slough	Just downstream of Fulton Street	*98
			Just upstream of the Southern Pacific Railroad	*102
		Lower Caney Creek	At northernmost corporate limits	*98
Maps available for inspection at City Hall, 101 West Burleson Street, Wharton, Texas 77488.				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: May 4, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14660 Filed 5-28-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 81 and 87

Stations on Land in the Maritime and Aviation Services; Amendment To Simplify and Clarify Specific Language

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document will simplify and clarify the rules. This action results from the Commission's effort to simplify or eliminate unnecessary language, and deletes unnecessary and redundant sections. These changes do not present additional subject matter nor impose additional duties.

EFFECTIVE DATE: June 3, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert H. McNamara, Private Radio Bureau (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Parts 81 and 87

Radio, Telephone, Coast stations, Aeronautical stations.

Adopted: May 18, 1982.

Released: May 20, 1982.

1. We are amending Parts 81 and 87 of the Commission's rules to delete unnecessary and redundant sections thereby clarifying the rules. These sections do not present additional subject matter nor impose additional duties. This action originates from our effort to review the rules and simplify or eliminate unnecessary language. The affected sections are: §§ 81.69, 81.371, 81.474 and 87.115.

2. Authority for this action is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.231(d) of the Commission's rules. Since the amendment is editorial in nature, the public notice, procedure and effective date provisions of 5 U.S.C. 553 do not apply.

3. In view of the above, it is ordered, That §§ 81.69, 81.371, 81.474 and 87.115 of the rules are amended in accordance with the attached appendix, effective June 3, 1982.

4. Regarding questions on matters covered in this document contact Robert H. McNamara, (202) 632-7175.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Edward J. Minkel,

Managing Director.

Appendix

Parts 81 and 87 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA—PUBLIC FIXED STATIONS

§ 81.69 [Removed]

1. Part 81 is amended by removing § 81.69.

§ 81.371 [Removed]

2. Part 81 is amended by removing § 81.371.

§ 81.474 [Amended]

3. Section 81.474 is amended by removing the words "Subpart E of this part" and inserting, in their place, the words "Subpart E of Part 83."

PART 87—AVIATION SERVICES

Section 87.115 is revised to read as follows:

§ 87.115 Station identification.

(a) Aircraft stations shall be identified by one of the following means of identification:

(1) Aircraft radio station call sign.

(2) Assigned FCC Control number (assigned to ultralight aircraft).

(3) The characters corresponding to the registration marking ("N" number) of the aircraft, omitting the prefix letter "N", preceded by the type of aircraft. When initiated by a ground station aircraft stations may use an abbreviated call sign consisting of the type aircraft followed by the last three characters of the registration marking.

(4) The radiotelephony designator of the aircraft operating agency followed by the flight identification number.

Note.—The operating agency radiotelephony designators referred to in subdivision (4) of this subparagraph are designators assigned and authorized by the Federal Aviation Administration. The flight identification number is the "trip number" assigned by the company.

(5) An aircraft identification approved in advance by the FAA for use by aircraft stations participating in an organized flying activity of short duration.

(b) A land station in the aviation services shall identify by means of radio station call letters, its location, its assigned FAA identifier or the name of the city area or airdrome which it serves together with such additional identification as may be required. An aeronautical enroute station which is a part of multistation network may also be identified by the location of its control points.

(c) Survival craft stations shall identify, so far as practicable, by transmitting an appropriate reference associating the survival craft station with its parent aircraft. No identification is required when distress signals are transmitted automatically. Transmissions other than distress or emergency signals, i.e., for equipment testing or adjustment, shall be identified by the call sign or by the official aircraft registration number of the parent aircraft followed by a single digit other than 0 or 1.

(d) Radio systems where the transmission of specific identification is considered to be impracticable are exempted from the provisions of this section; e.g., airborne weather radar, radio altimeter, air traffic control transponder, distance measuring equipment, collision avoidance equipment, racon, radiosonde, radio relay, radionavigation land test station (MTF), and automatically controlled aeronautical enroute stations.

[FR Doc. 82-14742 Filed 5-28-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 90

Private Land Mobile Radio Services; Amendment of the Commission's Rules to Define Permissible Paging Techniques in the Private Land Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission amends its rules to reflect that digital modulation is a permissible method of paging. Although digital modulation has been permitted for paging systems for some time, a recent Commission clarification of digital modulation designators necessitates this editorial Order. This Order clarifies that digitally modulated equipment is Type Accepted for use in private paging systems.

DATE: Effective May 14, 1982.

FOR FURTHER INFORMATION CONTACT: Keith A. Plourd, Private Radio Bureau, Rules Division, (202) 632-6497.

SUPPLEMENTARY INFORMATION:

List of Subjects Affected in 47 CFR Part 90

Private land mobile radio services, Public safety radio services, Industrial radio services, Land transportation

radio services, General technical standards.

Order

Adopted: May 14, 1982.

Released: May 19, 1982.

By the Managing Director.

In the matter of amendment of Part 90 of the Commission's rules to define permissible paging techniques in the Private Land Mobile Radio Services.

1. Part 90 of the Commission's Rules and Regulations (47 CFR § 90.1 *et seq.*) authorizes one-way paging operations in the private land mobile radio services. These rules also specify that only A1, A2, F1 or F2 emission is authorized for this purpose.

2. Traditionally, we have construed the F2 emission designator within the meaning of the Private Land Mobile rules to encompass the direct modulation of the carrier frequency, phase, amplitude or combinations thereof (i.e. digital modulation) and we have routinely authorized these types of paging systems in the private services.

3. Recently, the Commission issued a Public Notice (Mimeo #003929) dated October 9, 1981, which stated henceforth that digital modulation techniques would be designated F3Y or F9Y.

4. Accordingly, the Private Radio Service rules are amended to reflect that digital modulation, which was formerly designated F2 and is now designated F9Y, is also a permissible method of paging in the Private Land Mobile Radio Services. Since this represents no substantive change in the Commission's Rules or the types of systems we authorize, but only a procedural change in the manner in which we designate the emission involved in operational techniques which we have traditionally authorized in the private services, there is no need for public notice and comment thereon. 5 U.S.C. 553(b).

5. Authority for this action is contained in sections 4(i) and 303(r) of the Communications Act of 1934 as amended (47 U.S.C. 154(i) and 303(r)) and § 0.231(d) of the Commission's rules and regulations. (47 CFR 0.231(d)).

6. Accordingly, Part 90 of the Commission's Rules and Regulations is amended as set forth in the Appendix below, effective May 14, 1982.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Edward J. Minkel,

Managing Director.

Appendix

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

The Commission corrects 47 CFR Part 90, as follows:

1. In § 90.207 entitled, "Types of emissions," paragraph (d) is revised to read as follows:

§ 90.207 Types of emissions.

* * * * *

(d) For non-voice paging operations, only A1, A2, F1, F2 or F9Y emission will be authorized.

* * * * *

2. In § 90.233 entitled, "Secondary base/mobile non-voice signaling operations.," paragraph (d) is revised to read as follows:

§ 90.233 Secondary base/mobile non-voice signaling operations.

* * * * *

(d) Secondary non-voice operations under this section may not be authorized for paging, telemetry, radiolocation, AVM, radioteleprinter, radiofacsimile, or radio call box operations. These operations are authorized under other sections of this part.

3. Section 90.485, entitled "One-way paging operations in the 806–821 MHz and 851–866 MHz bands", is revised to read as follows:

§ 90.485 One-way paging operations in the 806–821 MHz and 851–866 MHz bands.

Except as provided at § 90.385(c) of the rules, systems of communication licensed in the 806–821 MHz and 851–866 MHz bands may not be employed for non-voice paging operations.

4. In Section 90.487 entitled "One-way paging operations in the bands below 512 MHz.," paragraph (a) is revised to read as follows:

§ 90.487 One-way paging operations in the bands below 512 MHz.

(a) Subject to specific prohibition or restriction by rule provisions governing the radio service in which a licensee's radio system is authorized, digitally modulated paging, tone only and tone and voice paging operations are permitted.

* * * * *

[FR Doc. 82-14757 Filed 5-28-82; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Amdt. 2 to S.O., 1499]

Chicago and North Western Transportation Company Authorized To Use Tracks and/or Facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Notice.

SUMMARY: Amendment No. 2 to Service Order No. 1499, authorizes Chicago and North Western Transportation Company (CNW) to use tracks and/or facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, (Richard B. Ogilvie, Trustee) (MILW). This order permits CNW, under agreement with the Trustee, to operate MILW lines between Jefferson and Herndon, Iowa, as part of a program to provide access to lines under purchase agreement which are in need of refurbishing.

EFFECTIVE: 11:59 p.m., May 30, 1982, and continuing in effect until 11:59 p.m., May 31, 1983, unless modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275–7840 or 275–1559.

Decided: May 25, 1982.

SUPPLEMENTARY INFORMATION: Upon further consideration of Service Order No. 1499 (47 FR 13530), and good cause appearing therefor:

It is ordered, that § 1033.1499 *Service Order No. 1499, Chicago and North Western Transportation Company authorized to use tracks and/or facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, debtor (Richard B. Ogilvie, trustee),* is amended by substituting the following paragraph (n) for paragraph (n) thereof:

(n) *Expiration date.* The provisions of this order are extended for one year, and shall expire at 11:59 p.m., May 31, 1983, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., May 30, 1982.

This action is taken under authority of 49 U.S.C. 10304–10305 and Section 122, Public Law 96–254.

This amendment shall be served upon

the Association of American Railroads, Transportation Division, as agent of the railroad subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

List of Subjects in 49 CFR Part 1033

Railroads.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien:

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-14771 Filed 5-28-82; 8:45 am]
BILLING CODE 7035-01-M

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Proposed Rules

Federal Register
Vol. 47, No. 105
Tuesday, June 1, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 54

Standards for Grades of Lamb, Yearling Mutton, and Mutton Carcasses

AGENCY: Agricultural Marketing Service (AMS), USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the official U.S. standards for grades of lamb, yearling mutton, and mutton carcasses. The major changes proposed are (1) that carcasses with only one break joint be classed as lamb if their other maturity characteristics are typical of lamb, and (2) that feathering be dropped as a quality factor and that the quality grade be based on flank fat streakings in relation to maturity with a minimum firmness specified for each grade. In addition, the quality and conformation compensations would be standardized and descriptions of degrees of muscling associated with each grade would be added to the conformation descriptions. The proposed changes would simplify the teaching and application of the quality grade standards without significantly affecting the number of lamb carcasses in any grade. They also would allow some young carcasses which are now classed as yearling mutton to be classed as lamb.

DATE: Comments must be received on or before July 15, 1982.

ADDRESSES: Written comments to: Meat Standardization and Review Branch; Livestock, Meat, Grain, and Seed Division; Agricultural Marketing Service; 2–M Annex; U.S. Department of Agriculture; Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Fuller, Deputy Director; Livestock, Meat, Grain, and Seed Division; Agricultural Marketing Service; U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–4727.

SUPPLEMENTARY INFORMATION:

Regulatory Impact Analysis

This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a nonmajor rule pursuant to sections 1(b)(1), (2), and (3) of that order because: (1) it will not have an annual effect on the economy of $100 million or more; (2) it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (3) it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The proposed changes, if adopted, would not significantly affect the number of lamb carcasses in any grade. The requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*) which deals with the impact of regulations on small entities have also been satisfied, in that the Administrator has determined that this proposed rule would not have a significant impact on a substantial number of small entities.

Comments

All persons who desire to submit written data, views, or comments on this proposal are invited to submit such material to the Meat Standardization and Review Branch; Livestock, Meat, Grain, and Seed Division; AMS; 2–M Annex; U.S. Department of Agriculture; Washington, D.C. 20250, on or before July 15, 1982. Comments must be signed and include the address of the sender and should bear reference to the date and page number of this issue of the **Federal Register**. Since the comments will be considered in the resolution of this proposal, they should include definitive information which explains and supports the sender's views. All written submissions will be made available for public inspection at the Meat Standardization and Review Branch; Livestock, Meat, Grain, and Seed Division; AMS; 2–M Annex; during regular business hours.

Background

The grading of ovine carcasses (lamb, yearling mutton, and mutton) is a voluntary service, provided under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*), which is designed to facilitate the marketing of livestock and meat. Quality grades for lamb were officially adopted in 1931 and revisions were made in 1940, 1951, 1957, and 1960. Yield grades were adopted in 1969, and limitations on the form and location of grading were instituted in 1980. There have been no changes in the quality grade requirements since 1960.

Class Requirements

During the slaughter of mature sheep, the foot and pastern are removed at the ankle (between the proximal sesmoids and the metacarpal bone), leaving a "round" or "spool joint" on the lower end of the cannon bone (metacarpal). Located immediately above the "spool joint" at the zone of bone growth—the junction of the epiphysis and the diaphysis—is the "break joint". Growth in this zone ceases when the cartilage ceases to regenerate and is ultimately replaced by bone. In young ovine animals it is usually possible to remove the foot at the "break joint." Thus, these two types of joints have been used as a major factor in classification of ovine carcasses as lamb, yearling mutton, or mutton. The grade standards require a carcass to have two break joints present in order to be classified as lamb. Missing cannon bones ("trotters") are assumed to have had spool joints. This requirement has been specifically written into the standards since 1951 and was an understood requirement under less specific written standards between 1931 and 1951.

Although, under the current grade standards, a carcass must have two break joints to be classed as lamb, the standards provide for carcasses with two break joints to be classed as yearling mutton if the lean color and rib bones indicate more advanced maturity. Research conducted for USDA at Texas A&M University in 1966 and 1967 showed that some ewe carcasses had spool joints as early as 9 months of age while a significant number of wether (castrated male sheep) carcasses still had break joints at 21 months of age. There are also indications that ram lambs may display spool joints earlier than expected. These data would support the classification of some carcasses with both break joints present as yearling mutton. However, since the

presence of break joints is a completely objective determination which is strongly associated with the lamb class, carcasses with two break joints are almost never classed as yearling mutton. By contrast, these data would also support the classification of some carcasses with spool joints or missing trotters as lamb, which is not permitted under present requirements. Some young animals will, for reasons apparently related to sexual maturity, as pointed out above, ossify and display a spool joint earlier than expected. Also, during the normal slaughter operation a trotter may be inadvertently damaged and removed, or a trotter may be removed for meat inspection purposes (e.g., a broken leg, indications of arthritis, or fecal contamination will cause the damaged part to be removed). Such circumstances would justify changes in the classification requirements for lamb.

Based on the available research, it is clear that some changes are justified in the break joint requirements for classification as lamb. There are three options available: (1) Continue requiring that carcasses have two break joints present to be classed as lamb; (2) Drop the break joint requirement completely; and (3) Require only one break joint for classification as lamb. In each option the rib bones and lean color and texture would be used in classification, but the importance of these factors relative to the break joints would vary considerably.

Option one, to continue the present requirements, would not take the available current research into consideration. It would continue to place major emphasis on the break joints, which, although they are not always precise indicators of age, are a completely objective factor which graders can rapidly determine.

Option two, to drop the break joint requirement completely, would have the greatest impact (both positive and negative) of any of the options. Adoption of this option would best reflect the research which indicates a wide variation in the age at which the break joints are ossified. Classification would then be based on other skeletal factors and lean color and texture, and would prevent one factor (break joints) from completely overriding other considerations. However, the factors then used in classification would be completely subjective and would probably result in more variation between individual graders in classification. This change would allow a number of carcasses now classed as yearling mutton to be classed as lamb. Conversely, if break joints are completely ignored, an increased number of carcasses with break joints would probably be classed as yearling mutton based on other skeletal factors and lean color and texture. The present break joint requirement for lamb requires packers to leave the trotters on the carcasses. Removing the break joint requirement completely would remove a restraint on the grading of imported lamb which is usually received without trotters.

Option three, allowing carcasses with only one break joint to be classed as lamb, would accomplish some of the positive aspects of the change while avoiding some of the negative aspects. Presently a few carcasses are produced which have one break joint and one spool joint. There are also some carcasses which have one break joint, and for various reasons, the other trotter is missing. This option, as proposed herein, would make these carcasses eligible for classification as lamb if their other maturity characteristics are typical of lamb. It would also continue the use of an objective factor (break joints) as a major consideration in classification of lamb and yearling mutton. This change would probably result in 1–2 percent more carcasses classed as lamb annually.

Quality Grade Reqirements

The quality grade standards for lamb, yearling mutton, and mutton carcasses were last revised in 1960. That change and previous changes in 1957 were based primarily on recommendations from an industrywide committee and the results of meetings with industry representatives around the country. The resultant standards base the quality grades on a combination of conformation and quality. There are limits on the amount of emphasis placed on conformation in each grade and on quality in some grades. The rate of compensation (or displacement) of conformation for quality and of quality for conformation is different for different grades. Quality is based on a combination of feathering between the ribs, flank fat streakings, and flank fullness and firmness; each in relation to maturity. Maturity is based on break joints, width and color of rib bones, and color and texture of the lean flesh. This system is difficult to teach, learn, and apply.

In 1968 USDA contracted with Texas A&M University to conduct a comprehensive study of lamb quality and palatability. That study, reported to USDA in 1968, indicated that the quality grades could be greatly simplified and, at the same time, be improved as predictors of palatability. In that study the overall quality grade accounted for only 6.8 percent of the variation in the palatability of lamb primal cuts. However, a combination of flank streakings and flank color accounted for 19.9 percent of the variation.

Simplification of the quality grade standards is a change which has been recommended previously. Training graders and others to apply all the current grade factors properly in lamb grading is very difficult. Also, in actual grading operations graders can rapidly and accurately determine the grade of a lamb carcass without evaluating each factor individually. Thus, the complexity of the present standards has resulted in a system where even experienced graders may sometimes have difficulty using all the grade factors properly when they need to do so. In 1976 USDA conducted studies to determine the effects of a simplification of the standards on grading. The results showed that, of the factors used in grading, flank streakings was the factor on which graders were the most uniform and repeatable. When the grade based on a single factor was compared to the grade based on all three grade factors, the grade based on flank streakings resulted in the fewest carcases changing grades. Thus, on the basis of palatability research, grader repeatability, and minimum grade change, it is proposed that the quality grades for lamb be based on flank fat streakings in relation to maturity.

Other Considerations

Under this proposal the conformation grade requirements would be unchanged, except that descriptions of various degrees of muscling associated with each grade will be added. However, the rate of compensation of quality for conformation and conformation for quality would be modified in some grades. In the present grades compensation is on an equal basis in some cases, and in other cases a half grade of superior conformation or quality is needed to compensate for a third grade of inferior quality or conformation. Since the rate of compensation for both quality and conformation are different in different grades, the situation is often confusing. Teaching these compensations to new graders and students is especially difficult. Under the proposed standards all compensations of conformation for quality and quality for conformation would be on an equal basis. The limits and extent of compensations would not be changed.

Because of the limited number of young carcases which fail to quality for

Good and because of the limited variation among such carcases, it was determined that four quality grades would be sufficient for young carcases. Therefore it is proposed that the Cull grade be dropped for the lamb and yearling mutton classes and all carcasses which fail to quality for Good be graded Utility. The Cull grade would be kept for the mutton class.

No substantive changes are proposed in the determination or application of the yield grade standards.

A section would be added to the standards to outline the scope of the standards, clarifying the fact that the standards apply to sides as well as carcasses.

In summary, the significant changes involved in this proposed revision of the standards for grades of lamb, yearling mutton, and mutton carcasses would provide for the following:

(1) Feathering and flank fullness and firmness woud be eliminated as factors in determining the quality grade.

(2) Quality grade would be based on the development of flank fat streakings—in relation to maturity. Flank streaking requirements for each grade would be the same as now specified.

(3) A minimum level of lean flesh and external fat firmness would be specified for each grade.

(4) Procedures to differentiate between ovine classes would be changed to allow carcasses with a missing break joint or with one spool joint to be classed as lamb under certain conditions which relate to their other evidences of maturity.

(5) The rate of compensation of conformation for quality and quality for conformation would be changed to be on an equal basis in all grades.

(6) The Cull grade would be dropped for the lamb and yearling mutton classes.

Minor changes also are proposed throughout the standards to improve clarity and facilitate uniform interpretation.

The proposed changes in the standards for lamb, yearling mutton, and mutton carcasses do not necessitate corresponding changes in the standards for grades of slaughter lambs, yearlings, and sheep.

List of Subjects in 7 CFR Part 54

Meat and meat products, grading and certification, Lamb.

PART 54—MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION AND STANDARDS)

For the reasons set out in the preamble, the official U.S. standards for grades of lamb, yearling mutton, and mutton carcasses in 7 CFR Part 54, would be amended by adding § 54.121 and by revising §§ 54.122, 54.123, 54.124, 54.125, and 54.126 to read as follows:

1. The authority citation for Part 54 reads as follows:

Authority: Sec. 203, 60 Stat. 1087, as amended; Sec. 205, 60 Stat. 1090, as amended (7 U.S.C. 1622 and 1624); 19 FR 74, as amended.

2. A new § 54.121 would be added and § 54.122–54.126 would be revised to read as follows:

Note.—In this document, new or revised text is enclosed by arrows(►◄).

►§ 54.121 Scope.

These standards for grades of lamb, yearling mutton, and mutton are written primarily in terms of carcasses. However, they also are applicable to the grading of sides. To simplify the phrasing of the standards, the words "carcass" and "carcasses" are used also to mean "side" or "sides."◄

§ 54.122 Differentiation between lamb, yearling mutton, and mutton carcasses.

►(a) Ovine carcasses are classified as lamb, yearling mutton, or mutton depending upon their evidences of maturity as indicated by the development of their muscular and skeletial systems. Typical lamb carcasses tend to have slightly wide and moderatley flat rib bones and a light red color and fine texture of lean. By contrast, typical yearling mutton carcasses have moderately wide rib bones which tend to be flat and a slightly dark red color and slightly coarse texture of lean. Typical mutton carcasses have wide, flat rib bones and a dark red color and coarse texture of lean.

(b) In the dressing of ovine carcasses, both front cannon bones (trotters) normally are left attached to the carcass although in some instances, one or both trotters may be removed. If present, trotters will terminate in—perfect break joints (all ridges forming break joint intact and well defined), imperfect break joints, or spool joints. For determining the maturity of ovine carcasses, it is assumed that there was a spool joint on any missing trotter. These variations, as indicated by the following guidelines, are important considerations in determining whether a carcass is classed as lamb, yearling mutton, or mutton.

(c) A carcass with perfect break joints on both trotters will be classed lamb or yearling mutton based on its other evidences of maturity.

(d) A carcass with spool joints on both trotters will be classed as yearling mutton or mutton based on its other evidences of maturity. Mutton carcasses always have spool joints on both front trotters.

(e) A carcass which has a perfect break joint on one trotter and has either (1) a spool joint on the other trotter, or (2) has had the other trotter removed, will be classed as a lamb if its other maturity characteristics are not more advanced than described in the grade specifications as typical of the more mature lamb group. Otherwise, such carcasses will be classed as yearling mutton. Maturity within the lamb class shall be based on the combination of lean and skeletal characteristics.◄

(f) Except for the above referenced considerations given to break joints and spool joints, in making other maturity evaluations, more consideration is given to the characteristics of the flesh than is given to characteristics of the skeleton.

§ 54.123 Application of standards.

(a) *Grade factors.* (1) The grade of an ovine carcass is based on separate evaluations of two general considerations: Palatability-indicating characteristics of the lean and conformation, herein referred to as "quality;" and the estimated percent of closely trimmed, boneless, major retail cuts to be derived from the carcass, herein referred to as "yeild." (However, the grade of an ovine carcass when applied by Federal meat graders may consist of an identification for the qualtiy grade, the yield grade, or a combination or both the quality and yield grades.) In previous grade standards for ovine carcasses, the Department used the term "quality" to refer only to the palatability-indicating characteristics of the lean without reference to conformation. Its use herein to include consideration of conformation is not intended to imply that variations in conformation are either directly or indirectly related to differences in palatability.

(2) The grade standards are written so that the quality and yield grade standards are contained in separate sections. The quality grade section is divided further into three separate sections applicable to carcasses from lambs, yearling mutton, and mutton. ►There are four quality grades within each class—Prime, Choice, Good, and Utility for lamb and yearling mutton, and Choice, Good, Utility, and Cull for mutton.◄ There are five yield grades applicable to all classes of ovine carcasses, denoted by numbers 1 through 5, with Yield Grade 1 representing the highest degree of cutability.

(3) Carcasses qualifying for any particular grade may vary with respect to the relative development of their individual grade factors, and there will be carcasses which qualify for a particular grade in which the development of some of these individual grade factors will be more typical of other grades. Because it is impractical to describe the nearly limitless number of such recognizable combinations of characteristics, the standards for each quality and yield grade describe only carcasses which have a relatively similar development of individual factors and which are also representative of the lower limits of each grade. In the quality grade standards, examples of the extent to which superiority in quality may compensate for deficiencies in conformation, and vice versa, are indicated for each grade. In the Prime and Choice grades certain minimum requirements for external fat covering also are indicated.

(b) *Quality grades.* (1) The quality grade of an ovine carcass is based on separate evaluations of two general considerations►—the◄ quality or the palatability-indicating characteristics of the lean and the conformation of the carcass.

(2) Conformation is the manner of formation of the carcass with particular reference to the relative development of the muscular and skeletal systems►although it also is influenced, to some extent, by the quantity and distribution of external finish. However, external fat in excess of that normally adjusted fat thickness over the ribeye left on retail cuts is not considered in evaluating conformation. The conformation descriptions included in each of the grade specifications refer to the thickness of muscling and to an overall degree of thickness and fullness of the carcass. Carcasses which meet the requirements for thickness of muscling specified for a grade will be considered to have conformation adequate for that grade despite the fact that, because of a lack of fatness, they may not have the overall degree of thickness and fullness described.◄ The conformation of a carcass is evaluated by averaging the conformation of its various component parts, giving consideration not only to the proportion that each cut is of the carcass weight but also to the general desirability of each cut as compared with other cuts. Superior conformation implies a high proportion of edible meat to bone and a high proportion of the weight of the carcass in the more demanded cuts and is reflected in carcasses which are very ►thickly muscled, very wide and thick in relation to their length, and which have a very plump, full, and well-rounded appearance.◄ Inferior conformation implies a low proportion of edible meat to bone and a low proportion of the weight of the carcass in the more demanded cuts and is reflected in carcasses which are►very thinly muscled, very narrow in relation to their length, and which have a very angular, thin, and sunken appearance.◄

(3) The quality of the lean flesh is best evaluated by consideration of its texture, firmness, and marbling, as observed in a cut surface, in relation to the apparent maturity of the animal from which the carcass was produced.► However, in grading ovine carcases direct observation of these characteristics usually is not possible. Therefore, the quality of the lean is evaluated indirectly by giving consideration to the quantity of fat streakings within and upon the inside flank muscles in relation to the apprarent evidences of maturity. Within each grade, the requirements for flank fat streakings increase progressively with evidences of advancing maturity. To facilitate the application of this principle, the relationship between flank fat streakings, maturity, and quality is shown in figure 1. Flank fat streakings are categorized in descending order of quantity as follows: abundant, moderately abundant, slightly abundant, moderate, modest, small, slight, traces, practically devoid, and devoid. In addition, the standards specify a minimum degree of firmness of lean flesh and external fat for each grade and a minimum degree of external fatness for carcasses in the Prime and Choice grades. The different degrees of firmness in descending order of firmness are: extremely firm, tends to be extremely firm, firm, tends to be firm, moderately firm, tends to be moderately firm, slightly firm, tends to be slightly firm, tends to be slightly soft, slightly soft, tends to be moderately soft, moderately soft, soft and slightly watery, and soft and watery.◄

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RELATIONSHIP BETWEEN

RELATIONSHIP BETWEEN FLANK FAT STREAKINGS, MATURITY AND QUALITY

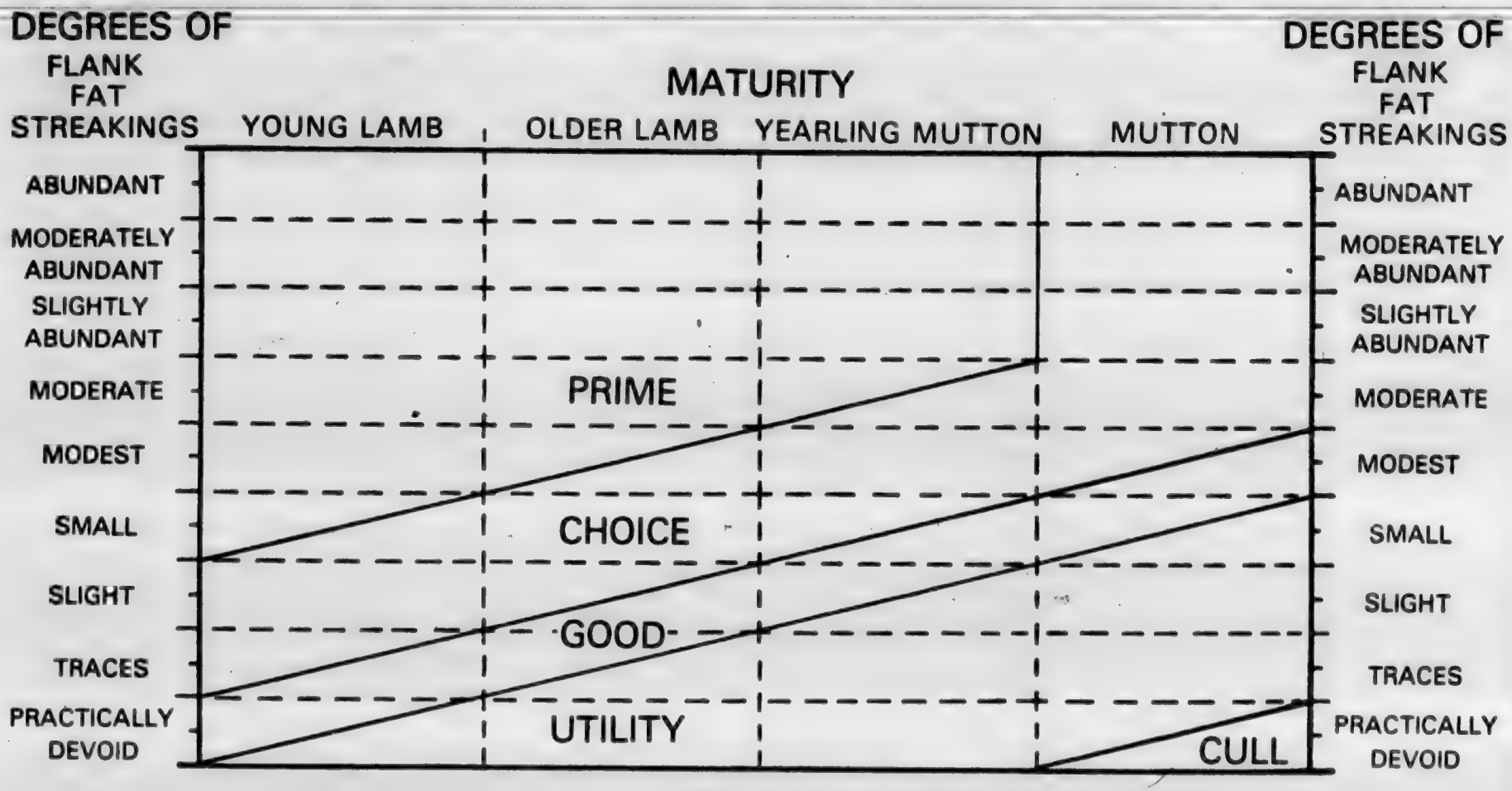

Figure 1

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►(4)◄ The quality standards are intended to apply to all ovine carcasses without regard to the apparent sex condition of the animal at time of slaughter. However, carcasses from males which have thick, heavy necks and shoulders typical of uncastrated males are discounted in quality grade in accord with the extent to which these characteristics are developed. Such discounts may vary from less than one-half grade in carcasses from young lambs in which such characteristics are barely noticeable to as much as two full grades in carcasses from mature rams in which such characteristics are very pronounced.

(c) *Yield grades.* (1) The yield grade of an ovine carcass is determined by considering three characteristics: The amount of external fat, the amount of kidney and pelvic fat, and the conformation grade of the legs.

(2) The amount of external fat for carcasses with a normal distribution of this fat is evaluated in terms of its actual thickness over the center of the ribeye muscle and is measured perpendicular to the outside surface between the 12th and 13th ribs. On intact carcasses, this fat thickness is measured by probing. ►On carcasses which do not have a normal distribution of external fat, the fat thickness measurement over the ribeye may be adjusted, as necessary, to reflect unusual amounts of fat on other parts of the carcass.◄ In determining the amount of this adjustment, particular attention is given to the amount of external fat on those parts where fat is deposited at a faster-than-average rate, particularly the rump, outside of the shoulders, breast, flank, and cod or udder. Thus, in a carcass which is fatter over these other parts than is normally associated with the actual fat thickness over the ribeye, the measurement is adjusted upward. Conversely, in a carcass which has less fat over these other parts than is normally associated with the actual fat thickness over the ribeye, the measurement is adjusted downward. In many carcasses no such adjustment is necessary; however, an adjustment in the thickness of fat measurement of 0.05 or 0.10 inch is not uncommon. In some carcasses a greater adjustment may be necessary. As a guide in making these adjustment, the standards for each yield grade include an additional related measurement—body wall thickness, which is measured 5 inches laterally from the middle of the backbone between the 12th and 13th ribs. As the amount of external fat increases, the percent of retail cuts decreases—each 0.05 inch change in changes the yield grade by one-third of a grade.

(3) The amount of kidney and pelvic fat considered in determining the yield grade includes the kidney knob (kidney and surrounding fat) and the lumbar and pelvic fat in the loin and leg which are removed in making closely trimmed retail cuts. The amount of these fats is evaluated subjectively and expressed as a percent of the carcass weight. As the amount of kidney and pelvic fat increases, the percent of retail cuts decreases—a change of 1 percent of the carcass weight in kidney and pelvic fat changes the yield grade by one-fourth of a grade.

(4) The conformation grade of the legs is evaluated as described in the quality standards. The evaluation is made in terms of thirds of a grade and coded using 15 for high Prime and 1 for low Cull. An increase in the conformation grade of the legs increases the percent of retail cuts—a change of one-third of a grade changes the yield grade by 5 percent of a grade.

►(5)◄ The standards include an equation for determining yield grade. The application of this equation usually results in a fractional grade. However, in normal grading operations any fractional part of a yield grade is dropped. For example, if the computation results in a yield grade of 3.9, the final yield grade is 3—it is not rounded to 4.

►(6)◄ The yield grade standards for each of the first four yield grades list characteristics of a carcass with descriptions of the amount of external fat normally present on various parts of the carcass. These descriptions are not specific requirements—they are included only as illustrations of carcasses which are near the borderline between grades. For example, the characteristics listed for Yield Grade 1 represent a carcass which is near the borderline of Yield Grade 1 and Yield Grade 2. These descriptions facilitate the subjective determination of the yield grade without making detailed measurements and computations. The yield grade for most ovine carcasses can be determined accurately on the basis of a visual appraisal.

§ 54.124 Specifications for official U.S. standards for grades of lamb carcasses (quality).

(a) *Prime.* (1) Lamb carcasses ►having minimum conformation◄ qualifications for the Prime grade ►tend to be thickly muscled throughout,◄ are moderately wide and thick in relation to their length and have moderately plump and full legs, moderately wide and thick backs, and moderately thick and full shoulders.

(2) ►Minimum requirements for fat streakings within and upon the inside flank muscles are specified for two maturity groups which cover the entire range of maturity within the lamb class. Typical carcasses from the younger group◄ have moderately narrow, slightly flat rib bones; moderately red and moist and porous break joints; ►fine texture of lean;◄ and a slightly dark pink color of inside flank muscles. ►The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum small to maximum small (see Figure 1).◄

(3) ►Typical carcasses from the more mature group◄ have slightly wide, moderately flat rib bones; slightly red but slightly dry and hard break joints; ►moderately fine texture of lean;◄ and a light red color of inside flank muscles. ►The minimum degree of flank fat streakings required increases with advancing maturity throughout this group from a minimum modest amount to a maximum modest amount (see Figure 1).◄

(4) Regardless of the extent to which the conformation of a carcass may exceed the minimum requirements for Prime, ►a carcass must have minimum Prime quality to be eligible for the Prime grade.◄ However, a development of quality which is superior to that specified as minimum for the Prime grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Prime as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Prime grade ►(one degree of flank fat streakings more than required as the minimum for Prime)◄ may have conformation equivalent to the mid-point of the Choice grade and remain eligible for Prime. However, in no instance may a carcass be graded Prime which has a development of conformation inferior to that specified as minimum for the Choice grade. ►In addition, to be eligible for Prime, the lean flesh and external fat of lamb carcasses must be not less than tends to be moderately firm. Also, to be eligible for Prime, a carcass must have at least a very thin covering of external fat over the top of the shoulders and the outsides of the center parts or the legs, and the back must have at least a thin covering of fat, that is, the muscles of the back may be no more than plainly visible through the fat.◄

(b) *Choice.* (1) Lamb carcasses ►having minimum conformation◄ qualifications for the Choice grade ►are slightly thick muscled throughout, they◄ tend to be slightly wide and thick in relation to their length and tend to have slightly plump and full legs, slightly wide and thick backs, and slightly thick and full shoulders.

(2) ►Minimum requirements for fat streakings within and upon the inside flank muscles are specified for two maturity groups which cover the entire range of maturity within the lamb class. Typical carcasses from the younger group◄ have moderately narrow, slightly flat rib bones; moderately red and moist and porous break joints; fine texture of lean; and a moderately dark pink color of inside flank muscles. ►The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum traces to maximum traces (see Figure 1).◄

(3) ►Typical carcasses from the more mature group◄ have slightly wide, moderately flat rib bones; slightly red but slightly dry and hard break joints; ►moderately fine texture of lean;◄ and a moderately light red color of inside flank muscles. ►The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum slight to maximum slight (see Figure 1).◄

►(4) A development of quality which is superior to that specified as minimum for the Choice grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Choice as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Choice grade may have conformation equivalent to the mid-point of the Good grade and remain eligible for Choice. However, in no instance may a carcass be graded Choice which has a development of conformation inferior to that specified as minimum for the Good grade. Also, a carcass which has conformation at least one-third grade superior to that specified as minimum for the Choice grade may qualify for Choice with a development of quality equivalent to the lower limit of the upper third of the Good grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality. In addition, to be eligible for Choice, the lean flesh and external fat of lamb carcasses must be not less than tends to be slightly firm. Also, to be eligible for Choice, a carcass must have at least a very thin covering of external fat over the top of the shoulders and the outside of the center parts of the legs, and the back must have at least a thin covering of fat, that is, the muscles of the back may be no more than plainly visible through the fat.◄

(c) *Good.* (1) Lamb carcasses ►having minimum conformation◄ qualifications for the Good grade ►are slightly thin muscled throughout,◄ are moderately narrow in relation to their length and have slightly thin, tapering legs, and slightly narrow and thin backs and shoulders.

(2) ►Minimum requirements for fat streakings within and upon the inside flank muscles are specified for two maturity groups which cover the entire range of maturity within the lamb class. Typical carcasses from the younger group◄ have moderately narrow, slightly flat rib bones; moderately red and moist and porous break joints; ►fine texture of lean;◄ and a dark pink color of inside flank muscles. ►The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum practically devoid to maximum practically devoid (see Figure 1).◄

(3) ►Typical carcasses from the more mature group◄ have slightly wide, moderately flat rib bones; slightly red but slightly dry and hard break joints; ►moderately fine texture of lean;◄ and a slightly dark red color of inside flank muscles. ►The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum traces to maximum traces (see Figure 1).◄

(4) ►A development of quality which is superior to that specified as minimum for the Good grade may compensate, on an equal basis, for development of conformation which is inferior to that specified as minimum for Good as indicated in the following example: A carcass which has evidences of quality at least one-third grade superior to that specified as minimum for the Good grade may have conformation equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for Good. However, in no instance may a carcass be graded Good which has a development of conformation inferior to the minimum for the upper one-third of the Utility grade. Also, a carcass which has conformation at least one-third grade superior to that specified as minimum for the Good grade may qualify for Good with a development of quality equivalent to the lower limit of the upper third of the Utility grade. Compensation of superior conformation for inferior quality is also limited to one-third grade of deficient quality. In addition, to be eligible for Good, the lean flesh and external fat of lamb carcasses must be not less than slightly soft.◄

(d) *Utility.* ► The Utility grade includes those lamb carcasses whose characteristics are inferior to those specified as minimum for the Good grade.◄

§ 54.125 Specifications for official U.S. standards for grades of yearling mutton carcasses (quality).

(a) *Prime.* (1) Yearling mutton carcasses having minimum ►conformation◄ qualifications for the Prime grade ►tend to be thickly muscled throughout,◄ are moderately wide and thick in relation to their length and have moderately plumb and full legs, moderately wide and thick backs, and moderately thick and full shoulders.

(2) ►Minimum requirements for fat streakings within and upon the inside flank muscles are specified for one maturity group which covers the entire range of maturity within the yearling mutton class. Typical yearling mutton carcasses have moderately wide rib bones which tend to be flat; slightly coarse texture of lean; and a slightly dark red color of inside flank muscles. The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum moderate to maximum moderate (see Figure 1).◄

►(3)◄ Regardless of the extent to which the conformation of a carcass may exceed the minimum requirements for Prime, ►a carcass must have minimum Prime quality to be eligible for the Prime grade.◄ However, a development of quality which is superior to that specified as minimum for the Prime grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Prime as indicated in the following example: A carcass which has evidences of quality equivalent to the mid-point of the Prime grade ►(one degree of flank fat streakings more than required as the minimum for Prime)◄ may have conformation equivalent to the mid-point of the Choice grade and remain eligible for Prime. However, in no instance may a carcass be graded Prime which has a development of conformation inferior to that specified as minimum for the Choice grade. ►In addition, to be eligible for Prime, the

lean flesh and external fat must be not less than tends to be moderately firm. Also, to be eligible for Prime, a carcass must have at least a very thin covering of external fat over the top of the shoulders and the outsides of the center parts of the legs, and the back must have at least a thin covering of fat, that is, the muscles of the back may be no more than plainly visible through the fat.◄

(b) *Choice.* (1) Yearling mutton carcasses ►having minimum conformation◄ qualifications for the Choice grade ►are slightly thick muscled throughout, they◄ tend to be slightly wide and thick in relation to their length and tend to have slightly plump and full legs, slightly wide and thick backs, and slightly thick and full shoulders.

(2) ►Minimum requirements for fat streakings within and upon the inside flank muscles are specified for one maturity group which covers the entire range of maturity within the yearling mutton class. Typical yearling mutton carcasses have moderately wide rib bones which tend to be flat; slightly coarse texture of lean; and a color of inside flank muscles which tends to be moderately dark red. The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum small to maximum small (see Figure 1).◄

(3) ►A◄ development of quality which is superior to that specified as minimum for the Choice grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Choice as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Choice grade may have conformation equivalent to the mid-point of the Good grade and remain eligible for Choice. However, in no instance may a carcass be graded Choice which has a development of conformation inferior to that specified as minimum for the Good grade. ►Also, a carcass which has a development of conformation at least one-third grade superior to that specified as minimum for the Choice grade may qualify for Choice with a development of quality equivalent to the lower limit of the upper third of the Good grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality. In addition, to be eligible for Choice, the lean flesh and external fat must be not less than tends to be slightly firm. Also, to be eligible for Choice, a carcass must have at least a very thin covering of external fat over the top of the shoulders and the outside of the center parts of the legs, and the back must have at least a thin covering of fat, that is, the muscles of the back may be no more than plainly visible through the fat.◄

(c) *Good.* (1) Yearling mutton carcasses ►having minimum conformation◄ qualifications for the Good grade ►are slightly thin muscled throughout,◄ are moderately narrow in relation to their length and have slightly thin, tapering legs, and slightly narrow and thin backs and shoulders.

(2) ►Minimum requirements for fat streakings within and upon the inside flank muscles are specified for one maturity group which covers the entire range of maturity within the yearling mutton class. Typical yearling mutton carcasses have moderately wide rib bones which tend to be flat; slightly coarse texture of lean; and a moderately dark red color of inside flank muscles. The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum slight to maximum slight (see Figure 1).◄

►(3) A development of quality which is superior to that specified as minimum for the Good grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Good as indicated in the following example: A carcass which has evidence of quality at least one-third grade superior to that specified as minimum for the Good grade may have conformation equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for Good. However, in no instance may a carcass be graded Good which has a development of conformation inferior to the minimum for the upper one-third of the Utility grade. Also, a carcass which has conformation at least one-third grade superior to that specified as minimum for the Good grade may qualify for Good with a development of quality equivalent to the lower limit of the upper third of the Utility grade. Compensation of superior conformation for inferior quality is also limited to one-third grade of deficient quality. In addition, to be eligible for Good, the lean flesh and external fat must be not less than slightly soft.◄

(d) *Utility.* ►The Utility grade includes those yearling mutton carcasses whose characteristics are inferior to those specified as minimum for the Good grade.◄

§ 54.126 Specifications for official U.S. standards for grades of mutton carcasses (quality).

(a) *Choice.* (1) Mutton carcasses ►having minimum conformation◄ qualifications for the Choice grade ►are slightly thick muscled throughout, they◄ tend to be slightly wide and thick in relation to their length and tend to have slightly plump and full legs, slightly wide and thick backs, and slight thick and full shoulders.

(2) ►Minimum requirements for fat streakings within and upon the inside flank muscles are specified for one maturity group which covers the entire range of maturity within the mutton class. Typical mutton carcasses have wide, flat rib bones; coarse texture of lean; and a dark red color of inside flank muscles. The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum modest to maximum modest (see Figure 1).◄

(3) ►A◄ development of quality which is superior to that specified as minimum for the Choice grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Choice as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Choice grade ►(two degrees of flank fat streakings more than required as the minimum of Choice)◄ may have conformation equivalent to the mid-point of the Good grade and remain eligible for Choice. However, in no instance may a carcass be graded Choice which has a development of conformation inferior to that specified as minimum for the Good grade. ►Also, a carcass which has conformation at least one-third grade superior to that specified as minimum for the Choice grade may qualify for Choice with a development of quality equivalent to the lower limit of the upper third of the Good grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality. In addition, to be eligible for Choice, the lean flesh and external fat must be not less than tends to be slightly firm. Also, to be eligible for Choice, a carcass must have at least a very thin covering of external fat over the top of the shoulders and the outside of the center parts of the legs, and the back must have at least thin covering of fat, that is, the muscles of the back may be more than plainly visible through the fat.◄

(b) *Good.* (1) Mutton carcasses ►having minimum conformation◄ for

the Good grade are slightly thin muscled throughout,◄ moderately narrow in relation to their length and have slightly thin, tapering legs, and slightly narrow and thin backs and shoulders.

(2) ►Minimum requirements for fat streakings within and upon the inside flank muscles are specified for one maturity group which covers the entire range of maturity within the mutton class. Typical mutton carcasses have wide, flat rib bones; coarse texture of lean; and a dark red color of inside flank muscles. The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from a minimum small amount to a maximum small amount (see Figure 1).◄

(3) ►A development of quality which is superior to that specified as minimum for the Good grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Good as indicated in the following example: A carcass which has evidences of quality at least one-third grade superior to that specified as minimum for the Good grade may have conformation equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for Good. However, in no instance may a carcass be graded Good which has a development of conformation inferior to that specified as minimum for the Utility grade. Also, a carcass which has conformation at least one-third grade superior to that specified as minimum for the Good grade may qualify for Good with a development of quality equivalent to the lower limit of the upper third of the Utility grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality. In addition, to be eligible for Good, the lean flesh and external fat must be not less than slightly soft.◄

(c) *Utility.* (1) Mutton carcasses ►having minimum conformation◄ qualifications for the Utility grade ►are thinly muscled throughout,◄ are very angular and very narrow in relation to their length and have thin, slightly concave legs, very narrow and sunken backs, and narrow, sharp shoulders. hips and shoulder joints are ►slightly◄ visible.

(2) ►Minimum requirements for fat streakings within and upon the inside flank muscles are specified for one maturity group which covers the entire range of maturity within the mutton class. Typical mutton carcasses have wide, flat rib bones; coarse texture of lean; and a very dark red color of inside flank muscles. The minmum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum practically devoid to maximum practically devoid (see Figure 1).◄

►(3) A development of quality which is superior to that specified as minimum for the Utility grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Utility as indicated in the following example: A carcass which has evidence of quality at least one-third grade superior to that specified as minimum for the Utility grade may have conformation equivalent to the minimum for the upper one-third of the cull grade and remain eligible for Utility. However, in no instance may a carcass be graded Utility which has a development of conformation inferior to the minimum for the upper one-third of the Cull grade. Also, a carcass which has conformation at least one-third grade superior to that specified as minimum for the Utility grade may qualify for Utility with a development of quality equivalent to the lower limit of the upper third of the Cull grade. Compensation of superior conformation for inferior quality is also limited to one-third grade of deficient quality. In addition, to be eligible for Utility, the lean flesh and external fat must be not less than soft.◄

(d) *Cull.* ►The Cull grade includes those mutton carcasses whose characteristics are inferior to those specified as minimum for the Utility grade.◄

Done at Washington, D.C., on: May 25, 1982.

Eddie F. Kimbrell,

Deputy Administrator, Commodity Services.

[FR Doc. 82-14745 Filed 5-28-82; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1200

Proposed Rules of Practice and Procedure Governing Proceedings Under Research, Promotion, and Education Programs; Proposed Rules of Practice and Procedure Governing Proceedings to Formulate and Amend an Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service establishes rules of practice and procedure governing proceedings to formulate and amend orders under research, promotion, and education programs. Legislation established for such programs provides that programs be effectuated through the promulgation of an order, which must be approved by the affected producers (and in certain cases importers or end-product manufacturers) in a referendum. This subpart would establish the procedures which would be followed in developing and amending the order to effectuate such programs.

DATE: Comments due by July 16, 1982.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077–S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, phone (202) 447–2615.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

The Agricultural Marketing Service oversees nationally coordinated programs of research, consumer information, promotion, and nutrition education. Each such program is provided for by separate enabling legislation and effectuated through the promulgation of an order, which must be approved by affected domestic producers and in certain programs also by affected importers or end-product manufacturers in a referendum. Previously a subpart has been promulgated under each program establishing the procedures to be followed in developing and amending the order. However, all of these procedures must confirm with the administrative procedure provisions in 5 U.S.C. 553. Therefore procedures under all programs are similar and may be established jointly under 7 CFR Part 1200 Rules of Practice and Procedure Governing Proceedings Under Research, Promotion, and Education Programs.

This joint codification would provide greater consistency among these programs, greatly reduce labor and time in amending such procedures, and provide significant savings in publication costs in the Code of Federal Regulations and the Federal Register.

Presently four research, promotion, and education programs are in operation. These programs include Cotton Research and Promotion, Part 1205; Potato Research and Promotion Plan, Part 1207; Egg Research and Promotion, Part 1250; and Wheat and Wheat Foods Research and Nutrition Education, Part 1280. In addition, procedures to formulate a Beef Research and Information Order are contained in Part 1260. The subpart establishing procedures to formulate an order under each of these parts would be terminated upon the effective date of this subpart.

This rule would establish procedures to develop and amend any subsequent research, promotion, and education programs, including a proposal for an order which may be submitted pursuant to the Floral Research and Consumer Information Act.

List of Subjects in 7 CFR Part 1200

Administrative practice and procedure.

Accordingly, the following new subpart would initiate a new Part 1200 of Chapter XI of Title 7 of the Code of Federal Regulations:

PART 1200—RULES OF PRACTICE AND PROCEDURE GOVERNING PROCEEDINGS UNDER RESEARCH, PROMOTION, AND EDUCATION PROGRAMS

Subpart—Rules of Practice and Procedure Governing Proceedings To Formulate and Amend an Order

Sec.

1200.1 Words in the singular form.
1200.2 Definitions.
1200.3 Proposals.
1200.4 Reimbursement of U.S. Department of Agriculture expenses.
1200.5 Institution of proceedings.
1200.6 Docket number.
1200.7 Judge.
1200.8 Motions and requests.
1200.9 Conduct of the hearing.
1200.10 Oral and written arguments.
1200.11 Certification of the transcript.
1200.12 Copies of the transcript.
1200.13 Administrator's recommended decision.
1200.14 Submission to Secretary.
1200.15 Decision by the Secretary.
1200.16 Execution of the order.
1200.17 Filing.
1200.18 Ex parte communications.
1200.19 Additional documents to be filed with hearing clerk.
1200.20 Hearing before Secretary.

Authority: Beef Research and Information Act, as amended, Pub. L. 94–294, 94th Cong., approved May 28, 1976, 7 U.S.C. 2901–2918; Cotton Research and Promotion Act, as amended, Pub. L. 89–502, 89th Cong., approved July 13, 1966, 7 U.S.C. 2101–2119; Egg Research and Consumer Information Act, as amended, Pub. L. 93–428, 93rd Cong., approved October 1, 1974, 7 U.S.C. 2701–2718; Floral Research and Consumer Information Act, Pub. L. 97–98, 97th Cong., approved December 22, 1981, 7 U.S.C. 4301–4319; Potato Research and Promotion Act, Pub. L. 91–670, 91st Cong., approved January 11, 1971, 7 U.S.C. 2611–2627; Wheat and Wheat Foods Research and Nutrition Education Act, Pub. L. 95–113, 95th Cong., approved September 29, 1977, 7 U.S.C. 3401–3417.

Subpart—Rules of Practice and Procedure Governing Proceedings To Formulate and Amend an Order

§ 1200.1 Words in the singular form.

Words in this subpart in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 1200.2 Definitions.

As used in this subpart, the terms as defined in the Act shall apply with equal force and effect. In addition, unless the context otherwise requires:

(a) The term "Act" means the Beef Research and Information Act, as amended, Pub. L. 94–294, 94th Cong., approved May 28, 1976, 7 U.S.C. 2901–2918; the Cotton Research and Promotion Act, as amended, Pub. L. 89–502, 89th Cong., approved July 13, 1966, 7 U.S.C. 2101–2119; the Egg Research and Consumer Information Act, as amended, Pub. L. 93–428, 93rd Cong., approved October 1, 1974, 7 U.S.C. 2701–2718; the Floral Research and Consumer Information Act, Pub. L. 97–98, 97th Cong., approved December 22, 1981, 7 U.S.C. 4301–4319; the Potato Research and Promotion Act, Pub. L. 91–670, 91st Cong., approved January 11, 1971, 7 U.S.C. 2611–2627; the Wheat and Wheat Foods Research and Nutrition Education Act, Pub. L. 95–113, 95th Cong., approved September 29, 1977, 7 U.S.C. 3401–3417; and any subsequent research, consumer information, promotion, and nutrition education acts established as Public Law by Congress.

(b) The term "Department" mans the United States Department of Agriculture.

(c) The term "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

(d) The term "judge" or "administrative law judge" means any administrative law judge appointed pursuant to 5 U.S.C. 3105 and assigned to conduct the hearing.

(e) The term "Administrator" means the Administrator of the Agricultural Marketing Service, with power to redelegate, or any officer or employee of the Department to whom authority has been delegated or may hereafter be delegated to act in the Administrator's stead.

(f) The term **"Federal Register"** means the publication provided for by the Federal Register Act, approved July 26, 1935 (44 U.S.C. 1501–1511), and acts supplementing and amending it.

(g) The term "hearing" means that part of the proceeding which involves the submission of evidence.

(h) The term "order" means any order or plan or any amendment to it which may be issued pursuant to the Act.

(i) The term "proceeding" means a proceeding forming the basis on which an order may be issued.

(j) The term "hearing clerk" means the hearing clerk, U.S. Department of Agriculture, Washington, D.C.

(k) The term "board" means the board or council established by the order to administer the program.

§ 1200.3 Proposals.

(a) An order may be proposed by any organization certified pursuant to the Act or any interested person affected by the Act, including the Secretary. Any person or organization other than the Secretary proposing an order shall file with the Administrator a written application, together with a copy of the proposal, requesting the Secretary to hold a hearing upon the proposal. Upon receipt of such proposal, the Administrator shall cause such investigation to be made and such consideration to be given as, in the Administrator's opinion, are warranted. If the investigation and consideration lead the Administrator to conclude that the proposed order will not tend to effectuate the declared policy of the Act, or that for other proper reasons a hearing should not be held on the proposal, the Administrator shall deny the application, and promptly notify the applicant of such denial, which notice shall be accompanied by a brief statement of the grounds for the denial.

(b) If the investigation and consideration lead the Administrator to conclude that the proposed order will tend to effectuate the declared policy of the Act, or if the Secretary desires to propose an order, the Administrator shall sign and cause to be served a notice of hearing, as provide herein.

§ 1200.4 Reimbursement of U.S. Department of Agriculture expenses.

If provided for in the act or any amendment thereto, expenses incurred by the Secretary in preparing or amending the order, administering the

order, and conducting the referendum shall be reimbursed.

§ 1200.5 Institution of proceedings.

(a) *Filing and contents of the notice of hearing.* The proceeding shall be instituted by filing the notice of hearing with the hearing clerk. The notice of hearing shall contain a reference to the authority under which the order is proposed; shall define the scope of the hearing as specifically as may be practicable; shall contain either the terms or substance of the proposed order or a description of the subjects and issues involved; and shall state the time and place of such hearing, and the place where copies of such proposed order may be obtained or examined. The time of the hearing shall not be less than 15 days after the date of publication of the notice in the **Federal Register**, as provided herein, unless the Administrator shall determine that an emergency exists which requires a shorter period of notice, in which case the period of notice shall be that which the Administrator may determine to be reasonable in the circumstances: Except that in the case of hearings on amendments to an order, the time of the hearing may be less than 15 days but shall not be less than three days after the date of publication in the **Federal Register**.

(b) *Giving notice of hearing and supplemental publicity.* (1) The Administrator shall give or cause to be given notice of hearing in the following manner:

(i) By publication of the notice of hearing in the **Federal Register**;

(ii) By mailing a copy of the notice of hearing to each organization known by the Administrator to be interested therein;

(iii) By issuing a press release containing the complete text or a summary of the contents of the notice of hearing and making the same available to such newspapers as, in the Administrator's discretion, are best calculated to bring the notice to the attention of the persons interested therein; and

(iv) By forwarding copies of the notice of hearing addressed to those Governors of the States and executive heads of territories and possessions of the United States and the mayor of the District of Columbia that are directly affected by such order.

(2) Legal notice of the hearing shall be deemed to be given if notice is given in the manner provided by paragraph (b)(1)(i) of this section failure to give notice in the manner provided in paragraphs (b)(ii), (iii), and (iv) of this section shall not affect the legality of the notice.

(c) *Record of notice and supplemental publicity.* There shall be filed with the hearing clerk or submitted to the judge at the hearing an affidavit or certificate of the person giving the notice provided in paragraphs (b)(1)(iii) and (iv) of this section. In regard to the provisions relating to mailing in paragraph (b)(1)(ii) of this section, determination by the Administrator that such provisions have been complied with shall be filed with the hearing clerk or submitted to the judge at the hearing. In the alternative, if notice is not given in the manner provided in paragraphs (b)(1)(ii), (iii), and (iv) of this section there shall be filed with the hearing clerk or submitted to the judge at the hearing a determination by the Administrator that such notice is impracticable, unnecessary, or contrary to the public interest with a brief statement of the reasons for such determination. Determinations by the Administrator as herein provided shall be final.

§ 1200.6 Docket number.

Each proceeding, immediately following its institution, shall be assigned a docket number by the hearing clerk and thereafter the proceeding may be referred to by such number.

§ 1200.7 Judge.

(a) *Assignment.* No judge who has any pecuniary interest in the outcome of a proceeding shall serve as judge in such proceeding.

(b) *Power of judge.* Subject to review by the Secretary, as provided elsewhere in this subpart, the judge in any proceeding shall have power to:

(1) Rule upon motions and requests;

(2) Change the time and place of hearings, and adjourn the hearing from time to time or from place to place;

(3) Administer oaths and affirmations and take affidavits;

(4) Examine and cross-examine witnesses and receive evidence.

(5) Admit or exclude evidence;

(6) Hear oral argument on facts or law; and

(7) Do all acts and take all measures necessary for the maintenance of order at the hearings and the efficient conduct of the proceeding.

(c) *Who may act in absence of judge.* In case of the absence of the judge or the judge's inability to act, the powers and duties to be performed by the judge under this part in connection with a proceeding may, without abatement of the proceeding unless otherwise ordered by the Secretary, be assigned to any other judge.

(d) *Disqualification of judge.* The judge may at any time withdraw as judge in a proceeding if such judge deems himself or herself to be disqualified. Upon the filing by an interested person in good faith of a timely and sufficient affidavit of personal bias or disqualification of a judge, the Secretary shall determine the matter as a part of the record and decision in the proceeding, after making such investigation or holding such hearings, or both, as the Secretary may deem appropriate in the circumstances.

§ 1200.8 Motions and requests.

(a) *General.* (1) All motions and requests shall be filed with the hearing clerk, except that those made during the course of the hearing may be filed with the judge or may be stated orally and made a part of the transcript.

(2) Except as provided in § 1200.17(b) such motions and requests shall be addressed to, and ruled on by, the judge if made prior to certification of the transcript pursuant to § 1200.11 or by the Secretary if made thereafter.

(b) *Certification to Secretary.* The judge may, in his or her discretion, submit or certify to the Secretary for decision any motion, request, objection, or other question addressed to the judge.

§ 1200.9 Conduct of the hearing.

(a) *Time and place.* The hearing shall be held at the time and place fixed in the notice of hearing, unless the judge shall have changed the time or place, in which event the judge shall file with the hearing clerk a notice of such change, which notice shall be given in the same manner as provided in § 1200.5 (relating to the giving of notice of the hearing): Except that if the change in time or place of hearing is made less than five days prior to the date previously fixed for the hearing, the judge either in addition to or in lieu of causing the notice of the change to be given, shall announce, or cause to be announced, the change at the time and place previously fixed for the hearing.

(b) *Appearances.* (1) *Right to appear.* At the hearing, any interested person shall be given an opportunity to appear, either in person or through authorized counsel or representative, and to be heard with respect to matters relevant and material to the proceeding. Any interested person who desires to be heard in person at any hearing under these rules shall, before proceeding to testify, state his or her name, address, and occupation. If any such person is appearing through a counsel or representative, such person or such counsel or representative shall, before

proceeding to testify or otherwise to participate in the hearing, state for the record the authority to act as such counsel or representative, and the names, addresses, and occupations of such person and such counsel or representative. Any such person or such counsel or representative shall give such other information respecting such appearance as the judge may request.

(2) *Debarment of counsel or representative.* (i) Whenever, while a proceeding is pending before the judge, such judge finds that a person, acting as counsel or representative for any person participating in the proceeding, is guilty of unethical or unprofessional conduct, the judge may order that such person be precluded from further acting as counsel or representative in such proceeding. An appeal to the Secretary may be taken from any such order, but the proceeding shall not be delayed or suspended pending disposition of the appeal: Except that the judge may suspend the proceeding for a reasonable time for the purpose of enabling the client to obtain other counsel or representative.

(ii) In case the judge has ordered that a person be precluded from further action as counsel or representative in the proceeding, the judge within a reasonable time thereafter shall submit to the Secretary a report of the facts and circumstances surrounding such order and shall recommend what action the Secretary should take respecting the appearance of such person as counsel or representative in other proceedings before the Secretary. Thereafter the Secretary may, after notice and an opportunity for hearing, issue such order respecting the appearance of such person as counsel or representative in proceedings before the Secretary as the Secretary finds to be appropriate.

(3) *Failure to appear.* If any interested person fails to appear at the hearing, that person shall be deemed to have waived the right to be heard in the proceeding.

(c) *Order of procedure.* (1) The judge shall, at the opening of the hearing prior to the taking of testimony, have noted as part of the record the notice of hearing as filed with the Office of the Federal Register and the affidavit or certificate of the giving of notice or the determination provided for in § 1200.5(c).

(2) Evidence shall then be received with respect to the matters specified in the notice of the hearing in such order as the judge shall announce.

(d) *Evidence.* (1) *General.* The hearing shall be publicly conducted, and the testimony given at the hearing shall be reported verbatim.

(i) Every witness shall, before proceeding to testify, be sworn or make affirmation. Cross-examination shall be permitted to the extent required for a full and true disclosure of the facts.

(ii) When necessary, in order to prevent undue prolongation of the hearing, the judge may limit the number of times any witness may testify to the same matter or the amount of corroborative or cumulative evidence.

(iii) The judge shall, insofar as practicable, exclude evidence which is immaterial, irrelevant, or unduly repetitious, or which is not of the sort upon which responsible persons are accustomed to rely.

(2) *Objections.* If a party objects to the admission or rejection of any evidence or to any other ruling of the judge during the hearing, such party shall state briefly the grounds of such objection, whereupon an automatic exception will follow if the objection is overruled by the judge. The transcript shall not include argument or debate thereon except as ordered by the judge. The ruling of the judge on any objection shall be a part of the transcript. Only objections made before the judge may subsequently be relied upon in the proceeding.

(3) *Proof and authentication of official records or documents.* An official record or document, when admissible for any purpose, shall be admissible as evidence without the presence of the person who made or prepared the same. The judge shall exercise discretion in determining whether an official publication of such record or document shall be necessary, or whether a copy would be permissible. If permissible such a copy should be attested to by the person having legal custody of it, and accompanied by a certificate that such person has the custody.

(4) *Exhibits.* All written statements, charts, tabulations, or similar data offered in evidence at the hearing shall, after identification by the proponent and upon satisfactory showing of authenticity, relevancy, and materiality, be numbered as exhibits and received in evidence and made a part of the record. Such exhibits shall be submitted in quadruplicate and in documentary form. In case the required number of copies is not made available, the judge shall exercise discretion as to whether said exhibits shall, when practicable, be read in evidence or whether additional copies shall be required to be submitted within a time to be specified by the judge. If the testimony of a witness refers to a statute, or to a report or document (including the record of any previous hearing), the judge, after inquiry relating to the identification of such statute, report, or document, shall determine whether the same shall be produced at the hearing and physically be made a part of the evidence as an exhibit, or whether it shall be incorporated into the evidence by reference. If relevant and material matter offered in evidence is embraced in a report or document (including the record of any previous hearing) containing immaterial or irrelevant matter, such immaterial or irrelevant matter shall be excluded and shall be segregated insofar as practicable, subject to the direction of the judge.

(5) *Official notice.* Official notice at the hearing may be taken of such matters as are judicially noticed by the courts of the United States and of any other matter of technical, scientific, or commercial fact of established character: Except that interested persons shall be given an adequate period of time, at the hearing or subsequent to it, of matters so noticed and shall be given adequate opportunity to show that such facts are inaccurate or are erroneously noticed.

(6) *Offer of proof.* Whenever evidence is excluded from the record, the party offering such evidence may make an offer of proof, which shall be included in the transcript. The offer of proof shall consist of a brief statement describing the evidence to be offered. If the evidence consists of a brief oral statement or of an exhibit, it shall be inserted into the transcript in toto. In such event, it shall be considered a part of the transcript if the Secretary decides that the judge's ruling in excluding the evidence was erroneous. The judge shall not allow the insertion of such evidence in toto if the taking of such evidence will consume a considerable length of time at the hearing. In the latter event, if the Secretary decides that the judge erred in excluding the evidence, and that such error was substantial, the hearing shall be reopened to permit the taking of such evidence.

§ 1200.10 Oral and written arguments.

(a) *Oral argument before the judge.* Oral argument before the judge shall be in the discretion of the judge. Such argument, when permitted, may be limited by the judge to any extent that the judge finds necessary for the expeditious disposition of the proceeding and shall be reduced to writing and made part of the transcript.

(b) *Briefs, proposed findings, and conclusions.* The judge shall announce at the hearing a reasonable period of time within which interested persons may file with the hearing clerk proposed findings and conclusions, and written

arguments or briefs, based upon the evidence received at the hearing, citing, where practicable, the page or pages of the transcript of the testimony where such evidence appears. Factual material other than that adduced at the hearing or subject to official notice shall not be alluded to therein, and, in any case, shall not be considered in the formulation of the order. If the person filing a brief desires the Secretary to consider any objection made by such person to a ruling of the judge, as provided in § 1200.9(d), that person shall include in the brief a concise statement concerning each such objection, referring, where practicable, to the pertinent pages of the transcript.

§ 1200.11 Certification of the transcript.

The judge shall notify the hearing clerk of the close of a hearing as soon as possible thereafter and of the time for filing written arguments, briefs, proposed findings, and proposed conclusions and shall furnish the hearing clerk with such other information as may be necessary. As soon as possible after the hearing, the judge shall transmit to the hearing clerk an original and three copies of the transcript of the testimony and the original and all copies of the exhibits not already on file in the office of the hearing clerk. The judge shall attach to the original transcript of the testimony a certificate stating that, to the best of the judge's knowledge and belief, the transcript is a true transcript of the testimony given at the hearing, except in such particulars as the judge shall specify, and that the exhibits transmitted are all the exhibits as introduced at the hearing with such exceptions as the judge shall specify. A copy of such certificate shall be attached to each of the copies of the transcript of testimony. In accordance with such certificate the hearing clerk shall not upon the official record copy, and cause to be noted on other copies of the transcript, each correction detailed therein by adding or crossing out (but without obscuring the text as originally transcribed) at the appropriate place any words necessary to make the same conform to the correct meaning, as certified by the judge. The hearing clerk shall obtain and file certifications to the effect that such corrections have been effectuated in copies other than the official record copy.

§ 1200.12 Copies of the transcript.

(a) During the period in which the proceeding has an active status in the Department, a copy of the transcript and exhibits shall be kept on file in the office of the hearing clerk where it shall be available for examination during official hours of business. Thereafter said transcript and exhibits shall be made available by the hearing clerk for examination during official hours of business after prior request and reasonable notice to the hearing clerk.

(b) If a personal copy of the transcript is desired, such copy may be obtained upon written application filed with the reporter and upon payment of fees at a rate that may be agreed upon with the reporter.

§ 1200.13 Administrator's recommended decision.

(a) *Preparation.* As soon as practicable following the termination of the period allowed for the filing of written arguments or briefs and proposed findings and conclusions the Administrator shall file with the hearing clerk a recommended decision.

(b) *Contents.* The Administrator's recommended decision shall include: (1) A preliminary statement containing a description of the history of the proceedings, a brief explanation of the material issues of fact, law, or discretion presented on the record, and proposed findings and conclusions about such issues, including the reasons or basis for such proposed findings; (2) a ruling upon each proposed finding or conclusion submitted by interested persons; and (3) an appropriate proposed order effectuating the Administrator's recommendations.

(c) *Exceptions to recommended decision.* Immediately following the filing of the recommended decision, the Administrator shall give notice thereof and opportunity to file exceptions thereto by publication in the **Federal Register.** Within a period of time specified in such notice any interested person may file with the hearing clerk exceptions to the Administrator's proposed order and a brief in support of such exceptions. Such exceptions shall be in writing, shall refer, where practicable, to the related pages of the transcript, and may suggest appropriate changes in the proposed order.

(d) *Omission of recommended decision.* The procedure provided in this section may be omitted only if the Secretary finds on the basis of the record that due and timely execution of the Secretary's functions imperatively and unavoidably requires such omission.

§ 1200.14 Submission to Secretary.

Upon the expiration of the period allowed for filing exceptions or upon request of the Secretary, the hearing clerk shall transmit to the Secretary the record of the proceeding. Such record shall include: All motions and requests filed with the hearing clerk and rulings thereon; the certified transcript; any proposed findings or conclusions or written arguments or briefs that may have been filed; the Administrator's recommended decision, if any; and such exceptions as may have been filed.

§ 1200.15 Decision by the Secretary.

After due consideration of the record, the Secretary shall render a decision. Such decision shall become a part of the record and shall include: (a) A statement of findings and conclusions, including the reasons or basis for such findings, upon all the material issues of fact, law, or discretion presented on the record, (b) a ruling upon each proposed finding and proposed conclusion not previously ruled upon in the record, (c) a ruling upon each exception filed by interested persons, and (d) either (1) denial of the proposal to issue an order, or (2) if the findings upon the record so warrant, an order, the provisions of which shall be set forth and such order shall be complete except for its effective date and any determinations to be made under § 1200.16: Except that such order shall not be executed, issued, or made effective until and unless the Secretary determines that the requirements of § 1200.16 have been met.

§ 1200.16 Execution of the order.

(a) *Issuance of the order.* The Secretary shall, if the Secretary finds that it will tend to effectuate the purposes of the Act, issue and make effective the order which was filed as part of the Secretary's decision pursuant to § 1200.15: Except that the issuance of such order shall have been approved or favored by eligible voters as required by the applicable Act.

(b) *Effective date of order.* No order shall become effective in less than 30 days after its publication in the **Federal Register,** unless the Secretary, upon good cause found and published with the order, fixes an earlier effective date.

(c) *Notice of issuance.* After issuance of the order, such order shall be filed with the hearing clerk, and notice thereof, together with notice of the effective date, shall be given by publication in the **Federal Register.**

§ 1200.17 Filing, extension of time, effective date of filing, and computation of time.

(a) *Number of copies.* Except as provided otherwise herein, all documents or papers required or authorized by the foregoing provisions hereof to be filed with the hearing clerk shall be filed in quadruplicate. Any documents or papers so required or

authorized to be filed with the hearing clerk shall be filed with the judge during the course of an oral hearing.

(b) *Extension of time.* The time for filing of any document or paper required or authorized by the foregoing provisions to be filed may be extended by the judge (before the record is so certified by the judge) or by the Secretary (after the record is transmitted to the Secretary) upon request filed, and if, in the judgment of the judge or the Secretary, as the case may be, there is good reason for the extension. All rulings made pursuant to this paragraph shall be filed with the hearing clerk.

(c) *Effective date of filing.* Any document or paper required or authorized by the foregoing provisions to be filed shall be deemed to be filed when it is postmarked or, if otherwise delivered, when it is received by the hearing clerk.

(d) *Computation of time.* Sundays and Federal holidays shall be included in computing the time allowed for the filing of any document or paper: Except that when such time expires on a Sunday, or a Federal holiday, such period shall be extended to include the next following business day.

§ 1200.18 Ex parte communications.

(a) At no stage of the proceeding following the issuance of a notice of hearing and prior to the issuance of the Secretary's decision thereon shall an employee of the Department who is or may reasonably be expected to be involved in the decision process of the proceeding discuss ex parte the merits of the proceeding with any person having an interest in the proceeding or with any representative of such person: Except that procedural matters and status reports shall not be included within the limitation: And except further that an employee of the Department who is or may reasonably be expected to be involved in the decisional process of the proceeding may discuss the merits of the proceeding with such a person if all parties known to be interested in the proceeding have been given notice and an opportunity to participate. A memorandum of any such discussion shall be included in the record of the proceeding.

(b) No person interested in the proceeding shall make or knowingly cause to be made to an employee of the Department who is or may reasonably be expected to be involved in the decisional process of the proceeding an ex parte communication relevant to the merits of the proceeding except as provided in paragraph (a) of this section.

(c) If an employee of the Department who is or may reasonably be expected to be involved in the decisional process of the proceeding receives or makes a communication prohibited by this section, the Department shall place on the public record of the proceeding:

(1) All such written communications;

(2) Memoranda stating the substance of all such oral communications; and

(3) All written responses, and memoranda, stating the substance of all oral responses thereto.

(d) Upon receipt of a communication knowingly made or knowingly caused to be made by a party in violation of this section, the Department may, to the extent consistent with the interest of justice and the policy of the underlying statute, take whatever steps are deemed necessary to nullify the effect of such communication.

(e) For the purposes of this section, "ex parte communication" means any oral or written communication not on the public record with respect to which reasonable prior notice to all interested parties is not given, but which shall not include requests for status reports (including requests on procedural matters) on a proceeding.

§ 1200.19 Additional documents to be filed with hearing clerk.

In addition to the documents or papers required or authorized by the foregoing provisions of this subpart to be filed with the hearing clerk, the hearing clerk shall receive for filing and shall have custody of all papers, reports, records, orders, and other documents which relate to the administration of any order and which the Secretary is required to issue or to approve.

§ 1200.20 Hearing before Secretary.

The Secretary may act in the place and stead of a judge in any proceeding herein. When the Secretary so acts, the hearing clerk shall transmit the record to the Secretary at the expiration of the period provided for the filing of proposed findings of fact, conclusions, and orders, and the Secretary shall then, after due consideration of the record, issue the final decision in the proceeding: Except the Secretary may issue a tentative decision in which event the parties shall be afforded an opportunity to file exceptions before the issuance of the final decision.

Effective date: This subpart shall become effective on May 25, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-14900 Filed 5-28-82; 8:45 am]

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FEDERAL RESERVE SYSTEM

12 CFR Part 202

[Reg. B; Docket No. R-0203]

Equal Credit Opportunity; Proposed Board Interpretations; Consideration of Income and Disclosure of Reasons for Adverse Action

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed Board interpretations.

SUMMARY: The Board proposes to adopt two interpretations of Regulation B, Equal Credit Opportunity. The Board seeks comment on whether creditors affected by the interpretations will encounter technical problems in complying with these interpretations. The first interpretation discusses how users of judgmental and credit scoring systems must treat income derived from alimony, child support, separate maintenance, part-time employment, retirement benefits or public assistance to comply with the regulation's requirement that creditors not "discount or exclude from consideration" such income. The second interpretation explains how creditors should select and disclose the principal reason or reasons for adverse action. These interpretations derive from questions that have been raised about the application of Regulation B to credit scoring systems, but the basic principles apply to judgmental systems as well.

DATE: Comments must be received on or before July 1, 1982.

ADDRESS: Comments may be mailed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to Room B-2223, 20th and Constitution Avenue, NW., Washington, D.C. between 8:45 a.m. and 5:15 p.m. Comments may be inspected at Room B-1122 between 8:45 a.m. and 5:15 p.m. All material submitted should refer to Docket No. R-0203.

FOR FURTHER INFORMATION CONTACT: Lucy Griffin, Senior Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. (202-452-2412).

SUPPLEMENTARY INFORMATION: (1) *Introduction.* In response to requests for clarification on how certain provisions of its Regulation B (12 CFR Part 202) apply to the operation of numerical credit scoring systems,[1] the Board asked

[1] Basically, credit scoring is the use of statistical techniques to assign points or weights to various applicant characteristics (e.g., income, credit

Continued

for public comment (44 FR 23865, April 23, 1979) on four questions about Regulation B's application to credit scoring systems:

- May a credit scoring system score the fact that an applicant has more than one job or multiple sources of income, and may it score secondary income differently from primary income?
- How must a scoring system consider the amount of an applicant's income derived from part-time employment, pension, or alimony?
- How must a creditor using a scoring system select the specific reasons for adverse action?
- Under what circumstances may a creditor employing a credit scoring system use the reasons for adverse action contained in Regulation B's model statement?

The Board received almost 300 written comments from members of Congress, industry, academics, and others. The comments expressed a wide diversity of views about how Regulation B's rules should apply to credit scoring systems. The multiplicity of viewpoints and the underlying technical complexity of the questions raised in the comment process led to a thorough reconsideration of the issues and the policy options available. Based on that review, the Board issued for public comment (45 FR 56818, August 26, 1980) two proposed interpretations. The first proposal addressed several issues concerning consideration of income and income reliability. The second proposal set forth several principles governing the selection and disclosure of adverse action. Both proposed interpretations affirmed the Board's conclusion, based upon an analysis of the comments and the Equal Credit Opportunity Act, that the rules in Regulation B apply to all creditors, whether they evaluate creditworthiness judgmentally or through a credit scoring system.

The Board received almost 300 written comments on these proposals from members of Congress, federal and state agencies, industry, consumers, and academics. Generally, creditors (retailers, oil companies, financial institutions, and trade associations) claimed that a properly designed credit scoring system is an accurate, objective mechanism for determining creditworthiness. They suggested that to preserve the empirical and statistical character of such a system, a creditor should be allowed wide latitude to include in or exclude from a particular system the amount and sources of an applicant's income depending on whether those factors were related in a statistically significant way to creditworthiness as established by the creditor developing the system. They also advocated that wide latitude be given to determining the most appropriate way for selecting and disclosing the principal reason or reasons for an adverse credit decision.

Consumer commenters (including several members of Congress and a number of individual consumers) generally were concerned that the Board not reduce or eliminate what they perceived as the basic protections already afforded by the law. They were opposed to allowing creditors the degree of flexibility sought by the industry because of the belief that such flexibility might be used to mask illegally discriminatory practices.

Based on a review of the comments and its own analysis, the Board has redrafted the proposed interpretations. Before adopting them in final form, however, the Board wishes to provide an opportunity for comment on technical problems creditors might encounter in complying with the interpretations. The Board also solicits comments on whether a period of time is needed for technical adjustments to existing credit scoring systems to comply with the interpretations. Because comments are only being solicited on the technical difficulties creditors would encounter in complying with the interpretations, the Board finds it is not necessary to follow the expanded rulemaking procedures set forth in the Board's policy statement of January 15, 1979 (44 FR 3957). Instead, the Board finds that a 30 day comment period is sufficient.

The first interpretation (§ 202.601) addresses several issues concerning consideration of income and income reliability. The interpretation clarifies that Regulation B applies to credit scoring systems as well as to judgmental systems. The interpretation also advises that income need not be considered, but that, if income is considered, protected income must be considered on an individual basis and not assigned a weight based on aggregate statistics.

The second interpretation (§ 202.901) sets forth several principles governing the selection and disclosure of reasons for adverse action. The interpretation advises creditors that the process used to select specific reasons for adverse action must identify the factors that were most significant in the applicant's failure to achieve a passing score in a credit scoring system. The interpretation also advises creditors that the reasons must be taken from those factors actually considered for that applicant. Finally, the interpretation advises creditors on proper use of the model form for disclosing reasons for adverse action.

(2) *Regulatory flexibility analysis.* The economic impact of either interpretation is unlikely to be large. Creditors currently using credit scoring systems which treat protected income in a manner that violates the first interpretation will have to modify their systems. This will entail the retraining of persons making loan evaluations and the probable expense of further statistical analysis. Most creditors have the tools needed for making such changes as part of their procedures for normal periodic updates of their systems. System modifications to conform to the interpretation, however, might require a system update earlier than would normally be performed. The economic impact of the second interpretation, governing the selection and disclosure of reasons for adverse action, is likely to be even smaller, as it should not require any new statistical analysis. The impact of either interpretation on users of judgmental systems should involve at most the expense of new forms and instructions for loan officers. Offsetting these costs, the clarifications provided by the interpretations will probably help both applicants and creditors. With more precise instructions on the proper treatment of protected income, creditors who previously may have been reluctant to use income in their credit systems may now do so. The benefits of the second interpretation will accrue primarily to applicants who are rejected because of incorrect information and to applicants who are unaware of their credit weaknesses.

List of Subjects in 12 CFR Part 202

Banks, banking; Civil rights; Consumer protection; Credit; Federal Reserve System; Marital status discrimination; Minority groups; Penalties; Religious discrimination; Sex discrimination; Women.

PART 202—EQUAL CREDIT OPPORTUNITY

(3) *Text of interpretations.* Pursuant to the authority granted in Section 703(a) of the Equal Credit Opportunity Act (15 U.S.C. 1691(a)), the Board proposes to adopt the following two interpretations

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history) or other factors relevant to the transaction (e.g., type of security) in order to predict the likelihood that the applicant will satisfactorily repay the credit. In Regulation B, an empirically and statistically derived credit scoring system is contrasted with the judgmental evaluation performed by a credit officer or committee; compare the definition of "a demonstrably and statistically sound, empirically derived credit system" in § 202.2(p) with the definition of "judgmental system of evaluating applicants" in § 202.2(t).

§§ 202.601 and 202.901) of Regulation B (12 CFR Part 202) to read as follows:

§ 202.601 Consideration of income.

(a) Regulation B prohibits creditors from discounting or excluding the income of an applicant (or the spouse of the applicant) from consideration because of a prohibited basis or because the income is derived from alimony, child support, separate maintenance, part-time employment, retirement benefits or public assistance ("protected income").[3] A creditor may consider, however, the probability of any income continuing in evaluating an applicant's creditworthiness, and may consider the extent to which alimony, child support or separate maintenance is likely to be consistently made. Regulation B applies equally to all methods of credit evaluation—whether performed judgmentally or through the use of a credit scoring system.[3]

(b) Creditors need not consider income at all. However, creditors that do consider income should consider the amount of income as required in § 202.6(b)(5). A credit scoring system will not be deprived of its status as a "demonstrably and statistically sound, empirically derived" credit scoring system because it aggregates income (including a type of income which, by itself, would not be selected as a predictive characteristic).

(c) Creditors have asked whether evaluating or deriving a point score for certain types of income (such as Social Security and alimony) during the development of the system constitutes "consideration" of that income for purposes of the regulation, enabling the creditor to discount or exclude such income based upon these aggregate statistics. In the Board's view, the statute requires that evaluation of protected income be made on an individual basis, and not based upon aggregate statistical relationships such as those underlying credit scoring models. Thus, creditors may not use blanket rules which automatically deem a certain type of protected income to be unreliable. Nor may the average reliability of a particular type of protected income be used to predict the reliability of the same types of income for an individual applicant.

(d) For creditors that do consider income, there are several acceptable methods under § 202.6(b)(5) which creditors using credit scoring systems may use for this purpose. First, creditors can score the amount of all income stated by the applicant without taking steps to evaluate the income. This method could be used in a system which is based on the income the applicant states; the creditor need not actually verify the amount. Second, based on an individual evaluation of each component of the applicant's income, the creditor may score reliable income separately from income that is not reliable. Alternatively, the creditor may include a portion or disregard a portion of income to the extent that it is not reliable, before aggregating and scoring all reliable income. Third, if the creditor does not evaluate all income components, any component of protected income that is not evaluated must be treated as reliable. In considering the separate components of an applicant's income, the creditor may not automatically discount or exclude from consideration any income of a type protected by § 202.6(b)(5).

(e) Creditors have asked whether credit scoring systems may place values on the number of sources from which earned income is received without violating the regulation's prohibition against discounting income. The regulation does not prohibit consideration of the number of earned income sources for an individual applicant. For example, a creditor may take into account the fact that an individual applicant has more than one source of earned income—a full-time and a part-time job, or two part-time jobs. Alternatively, a creditor might score an individual applicant's earned income from a second source differently than the applicant's earned income from a primary source. Creditors may not, however, treat as an adverse factor the fact that an individual applicant's only source of earned income is derived from a part-time job.

§ 202.901 Disclosure of reasons for adverse action.

(a) The Board has been asked for an interpretation of § 202.9 of Regulation B regarding the selection and disclosure of the reasons for adverse action [4] where a credit scoring system is used, alone or in conjunction with a judgmental evaluation. Although the issue has arisen in the context of credit scoring, as a general principle the provisions of Regulation B apply equally to both judgmental and credit scoring systems of credit evaluation. The reasons for adverse action disclosed under § 202.9(a)(2) and (b)(2) must relate to factors actually scored or reviewed by the creditor. The creditor must disclose the specific reason or reasons for the adverse action.

(b) Many credit systems contain features that call for automatic adverse action because of one or more negative factors in the applicant's record (such as the applicant's previous bad credit history with that creditor, a declaration of bankruptcy, or the fact that the applicant is a minor) that cannot be offset by other factors. When a creditor takes adverse action because of an automatic factor, the creditor must disclose that specific factor.

(c) If the creditor does not automatically reject the application, and bases the decision on a credit scoring system, the reasons disclosed must relate only to those factors actually scored in the system, not to factors that are not included in the credit scoring system. Similarly, in a judgmental system, the reasons disclosed must relate to the factors in the applicant's record actually reviewed by the person making the decision and must accurately describe the reasons for adverse action. If the credit evaluation system employs both judgmental and credit scoring components, the factors to be disclosed will be determined by whether the final decision resulted from the judgmental or the scoring system assessment of the application. Thus, if the creditor initially credit scores an application and takes adverse action as a result of that scoring, the reasons for adverse action must relate only to the factors actually scored in the system. If the application passes the credit scoring stage successfully but the creditor then takes adverse action based on the judgmental assessment, one or more of the reasons disclosed must relate to the factors in the applicant's record that were reviewed judgmentally.

Any notification given to an applicant against whom adverse action is taken shall

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[3] Section 202.6(b)(5) states in relevant part:

A creditor shall not discount or exclude from consideration the income of an applicant or the spouse of the applicant because of a prohibited basis or because the income is derived from part-time employment, or from an annuity, pension, or other retirment benefit; but a creditor may consider the amount and probable continuance of any income in evaluating an applicant's creditworthiness. Where an applicant relies on alimony, child support, or separate maintenance payments in applying for credit, a creditor shall consider such payments as income to the extent that they are likely to be consistently made. Factors that a creditor may consider in determining the likelihood of consistent payments include, but are not limited to, whether the payments are received pursuant to a written agreement or court decree; the length of time that the payments have been received; the regularity of receipt; the availability of procedures to compel payment; and the creditworthiness of the payor. . . .

[3] The only differences in evaluation procedures for the two methods of judging creditworthiness sanctioned by the law relate to consideration of age and receipt of public assistance. (See § 202.6(b)(2)(ii) and (iii).)

[4] Section 202.9(a)(2) states in relevant part:

be in writing and shall contain * * * a statement of specific reasons for the action taken.

Section 202.9(b)(2) states in relevant part:

A statement of reasons for adverse action shall be sufficient if it is specific and indicates the principal reason(s) for the adverse action. A creditor may formulate its own statement of reasons in check list or letter form or may use all or a portion of the sample form printed [in this subsection], which, if properly completed, satisfies the requirements of subsection (a)(2)(ii). Statements that the adverse action was based on the creditor's internal standards or policies or that the applicant failed to achieve the qualifying score on the creditor's credit scoring system are insufficient.

(e) The regulation does not require that any one method be used for selecting reasons for the adverse credit decision, nor does it mandate that a specific number of reasons be disclosed. However, disclosure of more than four reasons is not likely to be helpful to the applicant. The Board recognizes that there may be a number of valid methods for selection of reasons for denial which meet the requirements of Regulation B. One method, for example, would be to identify those factors for which the applicant's score fell furthest below the average score for each of these factors achieved by applicants whose total score was at or slightly above the minimum passing score.[5]

(f) Creditors may identify reasons for adverse action by mathematical or manual selection. No factor or factors may be arbitrarily excluded from the pool of factors subject to disclosure. The creditor must disclose reasons actually considered (such as "age of automobile") even if the relationship of that factor to predicting creditworthiness may not be clear to the applicant.

(g) Creditors have also asked about proper use of the sample form set forth in § 202.9(b)(2) when providing reasons for adverse action. The sample form is illustrative and may not be appropriate for all creditors. It was designed to disclose those factors which creditors most commonly consider. Some of the reasons listed on the form could be misleading when compared to the factors actually scored. In such cases, it is improper to complete the form by simply checking the closest identifiable factor listed. For example, a creditor that considers only bank references (and disregards finance company references althgether) should disclose "insufficient bank references" (not "insufficient credit references"). Similarly, a creditor that considers bank references and other credit references as separate factors should treat the two factors separately in disclosing reasons. The creditor should either add those other factors to the form or check "other" and include the appropriate explanation.

[5] For example, if a scoring system with a maximum score of 300 points has a cut-off score of 200 points, the creditor could use applicants whose total scores fall between 200 and, for example, 205 points to determine the average score for those factors.

By order of the Board of Governors of the Federal Reserve System, May 25, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-14708 Filed 5-28-82; 8:45 am]

BILLING CODE 6210-01-M

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12 CFR Part 202

[Reg. B; Docket No. R-0185]

Equal Credit Opportunity; Proposed Withdrawal of Proposed Amendments

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed withdrawal of proposed amendments.

SUMMARY: The Board proposes to withdraw amendments to the business credit provisions of Regulation B which it published for comment in October 1978. The Board specifically solicits comment, however, on whether creditors should be required to give business credit applicants a written notice of adverse action in certain loan transactions under $100,000. The amendments to the business credit rules would have (1) eliminated the partial exemption that currently exists with respect to record keeping and adverse action notification requirements in certain loan transactions under $100,000; (2) subjected business credit to the general bar in the regulation against asking an applicant's marital status; and (3) incorporated official staff interpretation EC-0009 into the regulation to make clear that creditors must give business applicants some notice, oral or written, of action taken on an application within a reasonable time. The amendments would have affected only the mechanical requirements of the regulation and their withdrawal will not affect the substantive provisions of the Equal Credit Opportunity Act and Regulation B which will continue to prohibit discrimination on the basis of sex, marital status, race, etc. in any aspect of a business credit transaction.

DATE: Comments must be received on or before July 1, 1982.

ADDRESS: Comments may be mailed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to Room B-2223, 20th and Constitution Avenue, N.W., Washington, D.C. between 8:45 a.m. and 5:15 p.m. Comments may be inspected at Room B-1122 between 8:45 a.m. and 5:15 p.m. All material submitted should refer to Docket No. R-0185.

FOR FURTHER INFORMATION CONTACT: Claudia J. Yarus, Staff Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3667).

SUPPLEMENTARY INFORMATION: (1) *Introduction.* Regulation B (12 CFR Part 202) prohibits discrimination, in any aspect of a credit transaction, on the basis of race, color, religion, national origin, sex, marital status, age, receipt of public assistance, or the exercise of rights under the Consumer Credit Protection Act. The regulation applies to all credit transactions, including business credit.

The regulation sets certain mechanical requirements that creditors must follow with regard to applications that they receive. Sections 202.9 and 202.12(b) of Regulation B provide, respectively, that a creditor must give the applicant notice of the action taken on an application and retain, for 25 months, the records regarding the application. When the creditor rejects a credit application it must give an "adverse action" notice consisting of a written statement of reasons (or of the right to request the reasons) for the credit denial, together with a short summary of the applicant's rights under the Equal Credit Opportunity Act.

Because of the specialized nature of the business credit application process, Section 203.3(e) of Regulation B provides a partial exemption for business credit transactions from these notification and record keeping requirements. An applicant for business credit may *request* written notice of reasons for adverse action, but does not receive the written notice automatically. The business applicant may also *request* to have records of the application retained for 25 months. If there is no such request, the creditor may discard its records of the application 90 days after it rejects the credit request.

In October 1978 the Board published for comment proposed changes to these business credit provisions (43 FR 49967). The proposed amendments would have applied to direct loan applications in which the aggregate of any amount already owed to a creditor and the amount applied for is less than $100,000. Creditors would have been required in such cases to give written notification of adverse action to the applicant, and to

retain the records of the application for 25 months.

The proposed rulemaking was in response to petitions from the President's Interagency Task Force on Women Business Owners and the staff of the Federal Trade Commission. The Interagency Task Force and the FTC staff both expressed concern about effective enforcement of the act in business credit transactions. With regard to the adverse action notice, they contended that unless a creditor gives notice, women and minority group members who own small businesses may not realize that the act applies to business credit. The FTC staff also suggested that subjecting business credit applications to record retention would ensure the availability of documentary evidence to both private litigants and enforcement agencies.

Another proposal related to marital status inquiries. Regulation B generally prohibits creditors from inquiring about an applicant's marital status except in the case of applications for secured credit. Section 202.3(e)(1) of Regulation B provides, however, that a creditor who receives an application for business credit is not subject to this restriction. The Interagency Task Force on Women Business Owners expressed concern that the current exemption may dilute the protection of the act for women business owners. The Board published for comment a proposed amendment that would have eliminated the exemption, making business credit subject to the general information bar against marital status inquiries.

Based on a review of the comments received and its own analysis, the Board proposes to withdraw the proposed amendments. Because of the time that has elapsed since the amendments were published, however, the Board is soliciting comment specifically on whether there have been intervening developments which suggest that creditors should be required to give business credit applicants a written notice of adverse action for direct loans in which the aggregate of any amount already owed to a creditor and the amount applied for is less than $100,000. The Board understands that some creditors automatically provide a written notice of adverse action to their business credit applicants and that this is useful to the applicants. The Board is particularly interested in learning what impact, if any, the requirement of an adverse action notice would have on current creditor practices if the Board should decide to adopt this part of the amendment proposed in 1978. The Board finds that it is not necessary to follow the expanded rulemaking procedures set forth in the Board's policy statement of January 15, 1979 (44 FR 3957). Instead, the Board finds that a 30 day comment period is sufficient.

The Board's proposed withdrawal of the business credit amendments is based on a number of factors. In the intervening years since the amendments were proposed, little or no concrete evidence of the specific problems that these amendments were intended to alleviate (and no general evidence of widespread problems) has been brought to the attention of the Board. In light of the costs and burdens that would be associated with the implementation of these amendments, their adoption appears unwarranted at this time. The regulation already provides that business credit applicants may receive written notice and have records retained on request, and any existing problems could be handled, for example, through educational efforts. The likely benefits of prohibiting inquiry about an applicant's marital status also appear to the Board to be rather limited. Because most applications for business credit are for secured credit, creditors would in most cases continue to be able to inquire about marital status.

The proposal published by the Board also would have codified within the text of the regulation an official staff interpretation, EC–0009, which was issued on November 2, 1977. That staff interpretation requires creditors to give business applicants some notice, either oral or written, of action taken on an application within a reasonable time. Official staff interpretation EC–0009 will remain in effect even if the Board withdraws the proposed amendments.

Creditors are also reminded that the proposed amendments which the Board proposes to withdraw would have affected only the mechanical requirements of the regulation. The substantive provisions of the Equal Credit Opportunity Act and Regulation B continue to prohibit discrimination on the basis of sex, marital status, race, etc. in any aspect of a business credit transaction.

(2) *Regulatory flexibility analysis.* In 1981 the denial rate at commercial banks for business credit applicants desiring to start a new business was estimated to be approximately 50 percent. The denial rate estimated for existing businesses was 27 percent.[1] Many of these denials would have required written "adverse action" notification and record retention for 25 months under the proposed amendments. At the 1981 level of denials, the annual compliance cost of the proposed amendments to the banking industry as a whole could be substantial. Although the impact on after-tax profits would likely be minimal for virtually all banks, many of the relatively small short-term loans that are currently available to small businesses could become unprofitable. Many banks find it difficult to provide affordable credit to their small business customers during periods of high interest rates. The proposed amendments could only aggravate the credit problems of small businesses, because the cost of compliance would ultimately be passed on to borrowers as increased cost of credit and reduced credit availability.

Small banks would likely be affected more than other banks by the proposed amendments. Their business loans tend to be exclusively to small business. Small banks' loan portfolios contain relatively few loans over $100,000, and their average loan size is less than that for other banks. Therefore, the amendments would likely result in a greater cost per dollar of loan for small banks and their customers.

The potential negative impact of the proposed amendments on cost and availability of relatively small short-term small business loans would affect all creditors subject to the act, not only commercial banks.

The potential benefits of the proposed amendments appear to be limited. Survey evidence shows that small business credit is more costly and less accessible to some groups protected by the act,[2] but evidence suggesting that the disparity is caused by unlawful discrimination rather than a legitimate evaluation of risk is meager. Furthermore, it is unlikely that the proposed amendments could effectively uncover any unlawful discrimination that may exist. The business credit process is complex, and the multitude of factors considered in approving or denying business credit make such discovery difficult.

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[1] *Survey of Commercial Bank Lending to Small Business*, February 1982, Cynthia Glassman and Peter Struck. The denial rate is an estimate of the proportion of written credit applications turned down by all federally insured commercial banks that had at least $1 million in commercial and industrial loans in their portfolios on December 31, 1980. These figures do not include informal applications and may reflect unusually weak credit demand caused by high interest rates. Thus, the number of rejected applications subject to the proposed amendments may be much larger. Estimates in the survey reflect the banks' perceptions of their small business lending, not the perceptions of the small business community.

[2] *Federal Monetary Policy and Its Effect on Small Business*; H.R. Report of the Committee on Small Business, 1980.

List of Subjects in 12 CFR Part 202

Banks, banking, Civil rights, Consumer protection, Credit, Federal Reserve System, Marital status discrimination, Minority groups, Penalties, Religious discrimination, Sex discrimination, Women.

(3) *Text of 1978 proposal.* For the convenience of commenters the text of the 1978 proposal is included in this material. At that time, the Board proposed to amend § 202.3 by removing paragraph (e)(1), by renumbering existing paragraphs (e)(2), (3), and (4) as paragraphs (e)(1), (2), and (3), respectively, and by revising the paragraphs renumbered (e)(1) and (3), to read as follows:

§ 202.3—Special Treatment for Certain Classes of Transactions

* * * * *

(e) *Business credit.* The following provisions of this part shall not apply to extensions of credit of the type described in subsection (a)(4):

(1) Section 202.9(a) relating to notifications, except that:

(i) This exemption is not available regarding applications for or existing extensions of direct loans where the aggregate of the amounts owed by the applicant to the creditor and any amount applied for is less than $100,000; and

(ii) In the case of any application or account where this exemption is available, the creditor nevertheless shall notify the applicant, orally or in writing, within a reasonable time of any action taken regarding the application or account; and if the applicant, within 30 days after a notification of adverse action is given, requests in writing the reasons for such action, the creditor shall furnish a written statement of specific reasons for the adverse action and the ECOA notice within 30 days of such a request, in accordance with § 202.9(b);

(2) Section 202.10 relating to furnishing of credit information; and

(3) Section 202.12(b) relating to record retention, except that:

(i) This exemption is not available regarding applications for or existing extensions of direct loans where the aggregate of the amounts owed by the applicant to the creditor and any amount applied for is less than $100,000; and

(ii) In the case of any application or account where this exemption is available, the creditor nevertheless shall comply with § 202.12(b) if the applicant, within 90 days after adverse action has been taken, requests in writing that the records relating to the application or account be retained.

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(4) *Authority.* 15 U.S.C. 1691.

By order of the Board of Governors of the Federal Reserve System, May 25, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-14707 Filed 5-28-82; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 350

Special Reporting Basis for Insured Savings Banks

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") proposes to modify the basis upon which insured savings banks prepare the reports of condition and income that are filed with the FDIC. This proposed rule contains two parts: the first part requires that all debt and equity securities acquired by a savings bank on or after January 1, 1983, be reported on a current value basis; and the second part permits savings banks to defer and amortize all gains and losses on dispositions of financial assets acquired prior to January 1, 1983. The effect of this rule would be to provide savings banks with the ability to restructure their asset portfolios while placing a market discipline over their decisions to acquire or hold investment securities.

DATE: Comments must be received by August 2, 1982.

ADDRESS: Comments should be sent to the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429, or delivered to Room 6108 at the same address between the hours of 9:00 a.m. and 5:00 p.m. on business days. Comments received may be inspected in Room 6108 between 9:00 a.m. and 4:15 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Paul L. Sachtleben, Projects and Planning Specialist, (202) 389–4141, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: The current economic difficulties of thrift institutions generally are well known. If the unrealized economic losses in bond and mortgage portfolios were recognized by marking them to market (as opposed to the current accounting practice of carrying them at amortized historical cost), the average result would be a substantial charge against net worth. Because of the unique asset/liability structure of savings banks and the changed economic environment, risk considerations dictate that asset maturities be kept reasonably consistent with the short-term liabilities which finance them. Accounting measurements and financial reporting on a continuing current value basis would further encourage maturity matching. Application of such a standard to the entire balance sheet would not change the current economic position of the institution. However, current value financial reporting would bring that position into focus to facilitate a better evaluation of the performance of the institution both by its management and by the FDIC.

The losses currently being reported by many thrift institutions in part are the delayed result of using the historical cost basis of reporting which has de-emphasized interest rate risk. Additionally, in many cases, the accounting result of a transaction may have an overriding influence on management decisions. For example, managment may be deterred from a decision to sell a bond and reinvest the proceeds in a manner more consistent with a prudent business strategy when the transaction triggers accounting recognition of a loss. The FDIC believes that this is an inappropriate basis upon which to make a decision. As a consequence, accounting-driven anomalies such as the carrying of tax-exempt securities by institutions not in a taxable position can and do result. In short, the traditional historical cost-based accounting measurements which savings banks continue to apply today have become less satisfactory because their relevance has been reduced in the current environment of interest rate volatility.

The FDIC believes that current value reporting by savings banks is a desirable goal since it stresses that the discipline of the marketplace is preferable to traditional accounting conventions as the determinant of funding and investment decisions. Nevertheless, the proposed regulation limits the application of current value accounting to debt and equity securities acquired on or after January 1, 1983, because of the difficulties inherent in assigning current values to the remaining financial assets and to financial liabilities. The market values of debt and equity securities can generally be determined from their current market prices, a measurement which is based on verifiable evidence. The current value of other financial assets and liabilities must be measured as the present value of expected future cash inflows or outflows. This computation is a function of three factors: (1) The amounts of the expected future cash flows, (2) the timing of the expected future cash flows, and (3) the appropriate interest rate at which to discount the expected future cash flows.

While these factors can be developed at present for any specific financial asset or liability, each one will depend to a greater or lesser extent on a variety of estimates, assumptions, and judgments which lack verifiability. Therefore, the FDIC encourages the savings bank industry and the accounting profession to develop objective standards for measuring the present value of expected future cash flows associated with financial assets and liabilities lacking current market prices. Once a consensus has been reached, whether for a single class of asset or liability such as 1–4 family conventional mortgages or for a broader segment of the balance sheet such as loans, the FDIC will consider extending the current value reporting requirement beyond debt and equity securities.

The purpose of the optional provision of the proposed regulation is to furnish savings banks with both the opportunity and the flexibility to narrow the maturity gap between their assets and liabilities, not to bolster earnings artificially through accounting devices. The ability to defer losses will therefore provide savings banks with a foundation upon which to make more prudent investment decisions concerning continued retention or disposition of existing financial assets. Additionally, the proposed regulation may serve to increase potential liquidity for savings banks. Therefore, as savings banks reduce their present asset/liability mismatches through comprehensive asset restructuring programs and/or the repayment of borrowings, the proposed option will enable these institutions to better withstand future changes in market interest rates.

The present asset/liability structure of savings banks and the attendant maturity and interest rate imbalances are the product of many factors; however, the form of ownership of a savings bank does not appear to be one of them. In general, both mutual and stock savings banks are experiencing similar problems as a result of these imbalances. Because the proposed regulation is limited in scope to regulatory reporting only, the traditional historical cost basis of accounting for reporting to other users of savings bank financial data (including stockholders) need not be affected. For this reason, the Corporation has determined that the proposed regulation should apply to all insured savings banks.

Periodic Restatement

The proposed § 350.3 would require savings banks to restate the book values of newly acquired debt and equity securities to their current values quarterly. Since the regulation relates only to the preparation of reports of condition and income, the existing accounting records of savings banks will need to be supplemented, at a minimum, by workpaper schedules on a current value basis to assure proper reporting to the FDIC. The revaluations of debt and equity securities to current values will establish new amounts of premium and discount each quarter. Computations of new rates of amortization or accretion applicable to these restated securities will follow at a similar frequency. Therefore, this ongoing procedure is more involved than under the present historical cost reporting basis where such rates are set for the life of an asset or liability at the time of acquisition.

Table A below illustrates the type of supplemental workpaper recordkeeping necessary for current value reporting for debt securities. The example presents the pro forma entries which would be made over a six-month period for a bond investment were the bank's accounting records maintained on this reporting basis rather than on a historical cost basis.

Method of Amortization

The proposed § 350.4 would allow a savings bank, at its option, to defer gains and losses on all dispositions of financial assets acquired prior to January 1, 1983. This election would apply to every disposition; selective application to individual transactions would not be permitted. Savings banks would be required to amortize the gains and losses using the interest method. The FDIC believes that the interest method will reflect most accurately the effects on an institution's financial condition of a sale or other disposition of low-yielding assets and subsequent use of the proceeds in a more profitable manner. Application of the interest method will result in an annual amortization that represents the diffference between the interest that would have been earned from the assets disposed of, and that which would be earned if the proceeds were invested in new assets with the same remaining contractual life and repayment requirements as the disposed assets. The assumed rate of earnings on the assets acquired by reinvestment of the proceeds should be the rate of return provided the purchaser of the disposed assets. The regulation requires that the yield to the purchaser must be calculated assuming the same remaining life as is being used to amortize the loss. When income tax benefits or deferred acquisition credits reduce the amount amortized, each period's amortization should be ratably adjusted for such amounts.

Tables B and C below illustrate the interet method of amortization of deferred losses on two types of savings bank financial assets. The first example assumes the savings bank sells $50,000 principal amount of a 25-year, 9% mortgage which it carries on its books at par for a yield to maturity of 9%. The mortgage is priced to yield 16% to the purchaser until its scheduled maturity. The sales price of $30,877.56 indicates a loss of $19,122.44 which, in the absence of income tax benefits, is deferred and amortized over the 25-year remaining contractual life of the mortgage. The second example assumes the savings bank sells $100,000 par value of a 10-year, 8% bond which it carries on its books at par for a yield to maturity of 8%. The bond is priced to yield 15% to the purchaser until its scheduled maturity. The sales price of $64,320 indicates a loss of $35,680 which, in the absence of income tax benefits, is deferred and amortized over the 10-year remaining life of the bond.

In both examples, had income tax benefits been available to the savings bank, each loss to be deferred and amortized would have been reduced by the appropriate tax rate.

TABLE A.—CURRENT VALUE WORKPAPER ENTRIES

	Debit	Credit
Jan. 1, 1983:		
Investments	$985,600	
Cash and due from banks		$985,600
To record the purchase of a $1,000,000 par value, 14% bond, due 1-1-95, to yield 14.25%.		
Mar. 31, 1983:		
(a) Investments	119	
Income earned, not collected	35,000	
Bond income		35,119
To record income and discount accretion on the bond. Bond income: ($985,000 × .1425) ÷4=$35,119.		
Mar. 31, 1983:		
(b) Investments	28,481	
Holding gain		28,481
To restate the carrying value of the bond to reflect its current value of $1,014,400 and its new yield of 13.75%.		
June 30, 1983:		
(a) Income earned, not collected	35,000	
Investments		130
Bond income		34,870
To record income and premium amortization on the bond. Bond income: ($1,014,400 × .1375) ÷4=$34,870.		
June 30, 1983:		
(b) Holding loss	41,870	
Investments		41,870
To restate the carrying value of the bond to reflect its current value of $972,400 and its new yield of 14.50%.		
July 1, 1983:		
Cash and due from banks	70,000	
Income earned, not collected		70,000

TABLE A.—CURRENT VALUE WORKPAPER ENTRIES—Continued

	Debit	Credit
To record the receipt of the semiannual interest payment on the bond.		
Carrying Value of the Bond During this Period		
Date of Entry		Carrying Value
Jan. 1, 1983		$965,800
Mar. 31, 1983 (a)		985,919
Mar. 31, 1983 (b)		1,014,400
June 30, 1983 (a)		1,014,270
June 30, 1983 (b)		972,400

TABLE B.—AMORTIZATION SCHEDULE

[For loss from sale of 9% coupon, $50,000 par, 25-year mortgage (carried at par) at a price of $30,877.56 to yield 16% to maturity]

Year	Interest method interest income on mortgage sold based on book yield to maturity	Interest method interest income on mortgagte sold based on sales price yield to maturity	Interest method amortization of deferred loss before any applicable tax benefits (col. 2–col. 1)
	(1)	(2)	(3)
1	$4,477.37	$4,933.25	$455.88
2	4,425.04	4,915.68	490.65
3	4,367.80	4,895.06	527.29
4	4,305.20	4,870.96	565.76
5	4,236.72	4,842.66	605.94
6	4,161.82	4,809.49	647.68
7	4,079.99	4,770.61	690.72
8	3,990.28	4,725.03	734.75
9	3,892.26	4,671.59	779.34
10	3,785.05	4,608.95	823.91
11	3,667.77	4,535.52	867.75
12	3,539.50	4,449.45	909.95
13	3,399.20	4,348.54	949.34
14	3,245.73	4,230.24	984.51
15	3,077.87	4,091.57	1,013.71
16	2,894.26	3,929.02	1,034.76
17	2,693.43	3,738.46	1,045.03
18	2,473.75	3,515.06	1,041.31
19	2,233.47	3,253.18	1,019.71
20	1,970.65	2,946.19	975.54
21	1,683.18	2,586.32	903.14
22	1,368.74	2,164.45	795.71
23	1,024.80	1,669.90	645.10
24	648.60	1,090.16	441.57
25	237.11	#10.55	173.44
Total	75,879.42	95,001.98	19,122.44

TABLE C.—Amortization Schedule

[For Loss from sale of 8% coupon, $100,000 par, 10-year bond (carried at par) at a price of $64,320 to yield 15% to maturity]

Year	Interest method interest income on bond sold based on book yield to maturity	Interest method interest income on bond sold based on sales price yield to maturity	Interest method amortization of deferred loss before any applicable tax benefits (col. 2–col. 1)
	(1)	(2)	(3)
1	$8,000.00	$9,709.80	$1,709.80
2	8,000.00	9,975.89	1,975.89
3	8,000.00	10,283.39	2,283.39
4	8,000.00	10,638.74	2,638.74
5	8,000.00	11,049.39	3,049.39
6	8,000.00	11,523.95	3,523.95
7	8,000.00	12,072.37	4,072.37
8	8,000.00	12,706.12	4,706.12
9	8,000.00	13,436.52	5,436.52

TABLE C.—Amortization Schedule—Continued

[For Loss from sale of 8% coupon, $100,000 par, 10-year bond (carried at par) at a price of $64,320 to yield 15% to maturity]

Year	Interest method interest income on bond sold based on book yield to maturity	Interest method interest income on bond sold based on sales price yield to maturity	Interest method amortization of deferred loss before any applicable tax benefits (col. 2–col. 1)
	(1)	(2)	(3)
10	8,000.00	14,281.83	6,281.83
Total	80,000.00	115,680.00	35,680.00

Cost and Benefits of the Proposal

The following information is being set out in compliance with the Corporation statement of policy "Development and Review of FDIC Rules and Regulations" adopted by the Board of Directors on May 21, 1979 (44 FR 31007, May 30, 1979; etc.). No regulatory flexibility analysis as set out in the Regulatory Flexibility Act, Pub. L. No. 96–354 (to be codified in 5 U.S.C. 602–612) will be undertaken. This is done under authority of section 3 of that Act which says that no flexibility analysis need be done if the head of the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Requiring savings banks to adopt current value reporting for newly acquired debt and equity securities as specified in the proposal would impose some burden on the affected institutions. Similarly, some burden would be imposed on those savings banks choosing to avail themselves of the optional portion of this proposed regulation.

Depending on whether or not the bank availed itself of the optional treatment of gains and losses on dispositions of financial assets, the burden might include: the cost of the annual certified public accountant review of the deferred gain/loss account; the cost of systems changes to facilitate the revaluation of affected debt and equity securities and the accrual adjustments resulting from the quarterly revaluations; and the cost to complete supplemental schedules which will be added to present reports of condition and income for monitoring the deferred gain/loss account and revaluation activity.

The FDIC's preliminary assessment of the implementation burden associated with this proposed regulation included solicitation of cost estimates from accounting firms and savings banks. The results of these discussions were not conclusive, inasmuch as the cost of the certified public accountant's review and systems changes would vary depending on the quality of existing systems and recordkeeping procedures. Comment is specifically requested on this issue.

The adoption of this proposed regulation would provide certain benefits for the savings bank industry and the public. Bank management and boards would be more cognizant of the effect of market conditions on their debt and equity securities. Savings banks would be provided with the opportunity and flexibility to narrow the maturity gap between their assets and liabilities through comprehensive restructuring programs and, under certain circumstances, to dipose of assets that can be sold on a favorable yield basis.

As of December 31, 1981, there were 331 insured savings banks, eight of which has assets of less than $25 million and 109 of which had assets between $25 and $100 million.

After consideration of the issues discussed above, the Board of Directors of the FDIC certifies, based on information now available, that adoption of this proposal will not have a significant economic impact on a substantial number of small entities. Comments have specifically been requested regarding cost factors associated with the implementation of the provisions of this proposal by savings banks. Such comments will be fully considered by the Board and, if warranted, a final regulatory flexibility analysis will be published with any such final rule the FDIC may promulgate.

Alternative

In addition to the valuation and reporting basis proposed in the regulation, other accounting alternatives that would afford savings banks the opportunity to restructure their asset portfolios while deferring recognition of the depreciation present in them, were considered by the FDIC. One such alternative, a one-time restatement of assets and liabilities to their current values with prospective amortization of the initial excess book value, would provide savings banks the flexibility to restructure their asset portfolios. Under this approach, the deferred charge (excess book value) would be amortized (expensed) on a straight-line basis over the average life of the restated investment securities and loans, while the discount on the restated assets would be accreted to income using the interest method. This alternatives was found objectionable due to the earnings impact resulting from the use of distinctly different amortization methods for the deferred charge and the

restated assets. The earnings of a savings bank that had a high proportion of mortgage loans relative to investments in debt securities would be artificially bolstered by this accounting methodology. Conversely, the reported earnings of a savings bank that had a large investment in debt securities relative to mortgage loans would be unduly penalized by such an approach.

The FDIC also considered approaches where the amortization period exceeded the remaining life of the asset. Such approaches were also rejected because of the impact on reported earnings.

Issues for Specific Comment

The FDIC is particularly interested in receiving comment on the following issues:

(1) With respect to the valuation requirements of proposed section 350.3:

(a) Should the revaluations be based on spot market prices (or interest rates) or on some average for the reporting period?

(b) With what frequency should the revaluation be made?

(c) Should net holding gains or losses on debt and equity securities be credited or charged directly to net worth accounts or be reflected in net income for the period?

(d) To what extent should the difference between the selling price and carrying value of a debt or equity security sold between revaluation dates be classified as a holding gain or loss?

(2) With respect to the optional deferral provisions of proposed § 350.4:

(a) Should deferred gains and losses on dispositions of debt securities be amortized to the call date rather than the contractual maturity?

(b) Should redeemable preferred stock be considered debt securities for purposes of amortizing deferred gains and losses?

(c) What is the appropriate amortization period for deferred gains and losses on dispositions of common and preferred stocks?

(d) What is the appropriate amortization period for deferred gains and losses on dispositions of other financial assets?

(3) At least two state banking commissioners have voiced objection to the concept of loss deferral accounting. The FDIC is specifically interested in receiving comments from banking commissioners as to their willingness to accept the changes in regulatory accounting procedures along the lines proposed.

(4) Commentators are specifically requested to provide dollar cost estimates of the burden associate with the implementation of procedures under this proposed regulation, particularly with respect to the quarterly revaluations and the attendant changes in calculating amortization schedules for the periodically revalued debt and equity securities.

(5) Commentators are also requested to discuss the effects the proposed regulation may have on the housing market and the muncipal bond market.

FDIC intends to submit to the Office of Information and Regulatory Affairs of the Office of Management and Budget for approval under the Paperwork Reduction Act of 1980 (12 U.S.C. 3501 *et seq.*) any additional reporting burdens that may be created by the current value accounting rule when that rule becomes effective.

List of Subjects in 12 CFR Part 350

Accounting; Banks, Banking, Reporting requirements; Savings banks.

In view of the foregoing, it is proposed that 12 CFR Part 350 be added as follows:

PART 350—SPECIAL REPORTING BASIS FOR INSURED SAVINGS BANKS

Sec.

350.1 Purpose and scope.
350.2 Definitions.
350.3 Valuation of certain financial assets acquired on or after January 1, 1983.
350.4 Treatment of gains and losses on disposition of financial assets.

Authority: Sec. 2(7)(a), Pub. L. No. 797, 64 Stat. 876 as amended by sec. 2, Pub. L. No. 86–671, 74 Stat. 547; title IX, sec. 910(g), Pub. L. No. 91–609, 84 Stat. 1812; secs. 6(c)(8), (9) and (10), Pub. L. No. 95–369, 92 Stat. 617; title III, secs. 302, 310(a) and (b), Pub. L. No. 95–630, 92 Stat. 3675 and 3678 (12 U.S.C. 1817(a)); and sec. 2(g) "Seventh" and "Tenth," Pub. L. No. 797, 64 Stat. 881 as amended by title III, sec. 309, Pub. L. No. 95–630, 92 Stat. 3677 (12 U.S.C. 1819 "Seventh" and "Tenth").

§ 350.1 Purpose and scope.

(a) *Purpose.* This part is issued to assure that financial data provided or made available to the Federal Deposit Insurance Corporation and the boards and managements of savings banks are presented in a manner which provides for a more accurate evaluation of future performance of savings banks.

(b) *Scope.* This part applies to all insured savings banks.

§ 350.2 Definitions.

For the purposes of this Part 350, the following definitions apply:

(a) "Appropriate current interest rate" means the effective interest rate that would be received by the savings bank on the same or similar securities at the time of revaluation. All relevant factors such as collateral, credit risk and term to maturity should be considered.

(b) "Book value" or "carrying value" means an amount at which an asset is stated in the savings bank's financial statements after addition or deduction of any premium or discount.

(c) "Current value" means an amount assigned to a financial asset following its revaluation. The current value of debt and equity securities should be assigned at current market prices or, for debt securities lacking current market prices, at the present value of the amounts to be received in the future determined by using appropriate current interest rates.

(d) "Debt securities" means those marketable obligations which are commonly regarded as debt securities for regulatory reporting purposes: U.S. Treasury securities; U.S. Government agency and corporation obligations; securities of states and political subdivisions in the United States (other than obligations of industrial development authorities); and other bonds, notes, and debentures. Securities of states and political subdivisions in the U.S. and other bonds, notes, and debentures are generally acquired through a broker or dealer in securities rather than through direct negotiations between the insured savings bank (acting alone or with a group of financial institutions) and the obligor. Hence, the term debt securities does not include private placements or direct loans to governmental units or other borrowers.

(e) "Disposition" means the sale of a financial asset or the prepayment at a discount of a savings bank's mortgage loans by existing borrowers.

(f) "Equity securities" means preferred and common stocks other than (1) investments in subsidiaries or service corporations and (2) investments accounted for by the equity method.

(g) "Financial assets" means assets for which the savings bank receives payment of interest as compensation for the use of its funds, including lease financing receivables and assets acquired on a discount basis with no stated rate of interest, and equity securities.

(h) "Holding gain" means the amount by which an asset's current value immediately following a revaluation exceeds its carrying value immediately prior to the revaluation. The carrying value immediately prior to a revaluation includes amortization of any premium or accretion of any discount (using the interest method of amortization) for the period since the last revaluation.

(i) "Holding loss" means the amount by which an asset's carrying value immediately prior to a revaluation exceeds its current value immediately

following the revaluation. The carrying value immediately prior to a revaluation includes amortization of any premium or accretion of any discount (using the interest method of amortization) for the period since the last revaluation.

(j) "Insured savings bank" means, only for the purpose of this Part 350, a bank in stock or mutual form insured in accordance with the Federal Deposit Insurance Act (12 U.S.C. 1811 *et seq.*) which conducts a savings bank business pursuant to the laws of the state in which it is chartered.

(k) "Interest method of amortization" means the method of amortization which results in recognition of interest at a constant rate when applied to the carrying value of an asset at the beginning of any given accounting period.

(l) "Straight-line method of amortization" means the method of amortization which results in a constant amount of income or expense during each accounting period, regardless of the carrying value of an asset.

§ 350.3 Valuation of certain financial assets acquired on or after January 1, 1983.

For purposes of preparing reports of condition and income, all insured savings banks are required to periodically restate the recorded values of all debt and equity securities that are acquired or funded on or after January 1, 1983. At the end of each quarterly reporting period the book values of the debt and equity securities subject to this reporting requirement shall be restated to their reasonably estimated current values to reflect changes in these values. Holding gains or losses shall be computed at the end of each quarter (or, in the case of the disposition of securities subject to this reporting requirement prior to the end of a quarter, on the date of disposition) and included in the determination of net income for the reporting period. For all other financial assets acquired or funded on or after January 1, 1983, discount or premium, if any, should be accreted or amortized using the interest method.

§ 350.4 Treatment of gains and losses on disposition of financial assets.

Effective January 1, 1983, insured savings banks may elect to defer and amortize all gains and losses on dispositions of financial assets that were acquired prior to January 1, 1983, for purposes of preparing reports of condition and income that are filed with the FDIC provided, that:

(a) The savings bank board of directors shall specifically authorize, and note such authorization in their official records, the reporting treatment of gains and losses permitted in this § 350.4. The Board of directors shall also approve written investment strategies that outline how the sales proceeds will be used to improve the institution's future profitability and/or reduce interest-rate risk. The FDIC regional director should be notified, within 10 days after the aforementioned official authorization, of the savings bank's election to defer and amortize gains and losses on dispositions of financial assets and be provided one copy of the official authorization and a copy of the written investment strategies.

(b) The state supervisory authority has provided the savings bank a specific or blanket concurrence to adopt for state law or state reporting purposes the treatment of gains and losses permitted in this § 350.4.

(c) The net amount of the deferred gains and losses (net of related income taxes computed in accordance with generally accepted accounting principles) are carried in a separate account and are readily identifiable in the institution's statement of conditions.

(d) For dispositions of financial assets other than common stocks and preferred stocks the deferred gains and losses are recognized by periodic charges to income based on the interest method. The periodic amortization will equal the amount of discount/premium that would have been accredited/amortized, using the interest method, had the asset been purchased at its sales price on the date of its disposition and held to maturity.

(e) For common stocks and preferred stocks the deferred gains and losses are recognized by periodic charges to income based on the straight-line method of amortization. The amortization period for such gains and losses will not exceed ten years.

(f) On an annual basis the amortization schedule for the deferred gain/loss account is reviewed for reasonableness by a qualified independent certified public accountant. The written scope and results of such review should be maintained in the files of the savings bank and made available for FDIC review for as long as the deferred gain/loss account remains on the books of the savings bank.

By order of the Board of Directors.

Dated: May 24, 1982.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[FR Doc. 82-14743 Filed 5-28-82; 8:45 am]

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch. VII

Semi-Annual Agenda of Regulations

AGENCY: National Credit Union Administration.

ACTION: Publication of Semi-Annual Agenda of Regulations.

SUMMARY: Pursuant to the Regulatory Flexibility Act and agency policy, NCUA is publishing a list of regulations under review as of April 30, 1982.

ADDRESS: National Credit Union Administration, 1776 G Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: (a) On the Regulatory Flexibility Act or the Agenda, Robert Monheit, Senior Attorney/Regulatory Development Coordinator, Office of General Counsel, National Credit Union Administration at the above address. Telephone: (202) 357-1030. (b) On a particular regulation, contact the person named in the listing for that regulation at the above address.

SUPPLEMENTARY INFORMATION: On January 1, 1981, the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) became effective. This law requires, among other things, that each agency publish a regulatory flexibility agenda listing regulations that the agency expects to propose that are likely to have a significant economic impact on a substantial number of small entities (5 U.S.C. 602). NCUA has defined "small entities" to include credit unions with less than $1 million in assets. NCUA believes, at this time, that none of the regulations listed in the agenda set forth below will have a significant economic impact on a substantial number of these small credit unions.

On June 1, 1981, NCUA published a statement of policy (IRPS 81-4, 46 FR 29248) setting forth the procedures for the development of new regulations and the review of existing regulations. NCUA has decided to continue to publish its agenda in a manner that is broader than that required by the Regulatory Flexibility Act. NCUA believes that the agenda is a useful tool to enable the credit union community and the public to track regulatory development and to effectively participate in that process. The format of this agenda has been changed from previous publications in order to make it easier for the public to track the rulemaking and review process. A separate section, "Completed Reviews", has been added, listing final actions

taken since the last publication of the agenda.

AGENDA

I. Completed Reviews—Listed Below are Regulator Reviews that have been Completed Since the Last Publication of the Agenda

1.a. Section 701.35, Share, Share Draft, and Share Certificate Accounts—deregulation.

b. Need: To permit Federal credit unions maximum flexibility in designing share, share draft, and share certificate accounts to meet the needs of their members, to permit payment of dividends without ceilings set by regulation, and to remove required advertising and disclosure requirements.

Legal Basis: 12 U.S.C. 1757(6), 1766(a).

c. Status: Advance Notice of Proposed Rulemaking issued December, 1981 (46 FR 62663). Proposed rule issued March 10, 1982 (47 FR 10234). Final rule issued April 27, 1982 (47 FR 17978), effective April 27, 1982. Final rule places responsibility for determining dividend rates, account structures, terms and conditions on the Federal credit union, within the limitations of the Federal Credit Union Act. Final rule requires that advertising and disclosures concerning accounts be accurate.

d. For Further Information Contact: Randall J. Miller, staff Economist, telephone: (202) 357–1090.

2.a. Section 701.38, Borrowed Funds From Natural Persons—conforming amendments.

b. Need: To eliminate restrictions on Federal credit union borrowing tied to share account restrictions that were eliminated.

Legal Basis: 12 U.S.C. 1757(6), 1766(a).

c. Status: Final rule issued April 27, 1982 (47 FR 17978), effective April 27, 1952.

d. For Further Information Contact: Randall J. Miller, Staff Economist, telephone: (202) 357–109.

3.a Section 701.21–1A, Interest Rates on Loans to Members.

b. Need: Since the economic conditions justifying ther NCUA Board's decision in December, 1980 to raise the ceiling from the statutory 15 percent to 21 percent remain basically unchanged, an extension of the ceiling at 21 percent is necessary to permit Federal credit unions to plan beyond the June 3, 1982 expiration date.

Legal Basis: 12 U.S.C. 1757(5)(A)(vi)(I), 1757(5)(A)(ix).

c. Status: Final rule issued March 10, 1982 (47 FR 10199), extending the 21 percent ceiling to Sept. 4, 1983.

d. For Further Information Contact: Randall J. Miller, Staff Economist, telephone: (202) 357–1090.

4.a. Section 749.3, Storage Provided by the Administration—eliminating the program of free offsite storage of credit union vital records.

b. Need: To reduce operating costs of NCUA.

Legal Basis: 12 U.S.C. 1776(a), 1783.

c. Status: Final rule issued Feb. 24, 1982 (47 FR 8006), effective April 1, 1982, discontinuing the free storage program.

d. For Further Information Contact: Troy T. Robinson, Office of Services, telephone: (202) 357–1003.

5.a. Part 748, Minimum Security Device and Procedures.

b. Need: Would simplify and update existing regulations, and deregulate unnecessary provisions.

Legal Basis: 12 U.S.C. 1785.

c. Status: Final rule issued April 27, 1982 (47 FR 17980), effective April 27, 1982. Final rule eliminated mandatory minimum specifications for security devices, eliminated reporting requirement and modified others.

d. For Further Information Contact: Thomas A. Straslicka, Department of Supervision and Examination, telephone: (202) 357–1065.

6.a. Part 720, Disclosure of Official Records—prohibiting the release of confidential documents except under certain conditions.

b. Need: Would clarify existing agency policy on the implementing of the Freedom of Information Act.

Legal Basis: 5 U.S.C. 552, 12 U.S.C. 1766, 1789.

c. Status: Final rule issued Dec. 29, 1981 (46 FR 62833), effective Dec. 29, 1981.

d. For Further Information Contact: Anne K. Scully, Staff Attorney, Office of General Counsel, telephone: (202) 357–1030.

7.a. Section 701.32, Payment on Shares by Public Units.

b. Need: Review to deregulate and eliminate unnecessary provisions.

Legal Basis: 12 U.S.C. 1766, 1752, 1757(6), 1785(f) and 1787.

c. Status: Final rule repealing § 701.32 issued April 27, 1982 (47 FR 17979), effective April 27, 1982.

d. For Further Information Contact: Thomas C. Buckman, Department of Supervision and Examination, telephone: (202) 357–1065.

II. Regulations Under Review—Listed Below are Regulatory Reviews Currently Under Consideration

1.a. Part 721, Group Purchasing and Insurance Activities—permitting Federal credit unions to inform their members of, or to endorse, group purchasing and insurance plans.

b. Need: Final regulations issued September 28, 1981 (46 FR 47435) are revised to further increase the flexibility of operations of Federal credit unions and to reduce regulatory burdens.

c. Status: Final rule issued September 28, 1981 (46 FR 47435) effective date delayed indefinitely (47 FR 8006). New proposed rule issued Feb. 24, 1982 (47 FR 8027) which would not require investigation reports nor require prior notice to members of the sale of mailing lists, and would simplify reimbursement calculation. Comment period closing April 16, 1982 but extended to June 30, 1982.

d. For Further Information Contact: Linda M. Cohen, Director, Division of Chartering and Education, telephone: (202) 357–1080.

2.a. Part 760, Flood Insurance—governing FCU lending secured by improved realty, or a mobile home when either is located in a flood plain.

B. Need: Would provide a plain English version of present NCUA flood insurance regulations.

Legal Basis: 12 U.S.C. 1757, 1789, 42 U.S.C. 4102a, 4106.

c. Status: Proposed rule issued October 15, 1980 (45 FR 68398), comment period closed December 15, 1980. Under review by staff. Intended to require only what is required under Federal law concerning flood insurance.

d. For Further Information Contact: John L. Culhane Jr., Senior Attorney, Office of General Counsel, telephone: (202) 357–1030; or Ben R. Henson, Division of Chartering and Education, telephone: (202) 357–1080.

3.a. Section 701.20, Surety Bond Coverage for Federal Credit Unions—setting forth minimum standards.

b. Need: Would update and simplify standards, deregulate unnecessary provisions, and reduce minimum requirements where possible.

Legal Basis: 12 U.S.C. 1761a, 1761b, 1766.

c. Status: Proposed rule issued June 2, 1981 (46 U.S.C. 29482), comment period closed July 31, 1981. Final rule under study by staff.

d. For Further Information Contact: Layne Bumgardner, Department of Supervision and Examination, telephone: (202) 357–1065.

4.a. Part 747, Subpart I, Equal Access to Justice Act—rules and procedures applicable to recovery of attorneys fees and other expenses in agency adjudications.

b. Need: Implements the Equal Access to Justice Act.

Legal Basis: 5 U.S.C. 504, 12 U.S.C. 1766, 1789.

c. Status: Interim rule issued October 1, 1981 (46 FR 48120) effective October 1, 1981, with comment period closing November 30, 1981. Final rule to be presented to the NCUA Board in June 1982.

d. For Further Information Contact: Anne K. Scully, Staff Attorney, Office of General Counsel, telephone: (202) 357–1030.

5.a. Sections 701.2 and 701.14, Incorporation by Reference of the "Accounting Manual for Federal Credit Unions"—deregulation to status of guideline for safe and sound practices and for full and fair disclosure.

b. Need: In light of the increasing divergence in the operation of Federal credit unions, would permit the use of accounting methods and procedures that differ from those in the manual. Proposed rule would give greater flexibility to Federal credit unions.

Legal Basis: 5 U.S.C. 552(a)(1), 12 U.S.C. 1766, 1789.

c. Status: Proposed rule issued October 5, 1981 (46 FR 48940), comment period extended to April 15, 1982 (47 FR 633). Final rule to be presented to the NCUA Board May 20, 1982.

d. For Further Information Contact: Harry Moore or Joseph Visconti, Department of Supervision and Examination, telephone: (202) 357–1065.

6.a. Sections 701.26, 701.27–1, 701.28, Joint Operations and Services, including Credit Union Service Center, Purchase and Sale of Accounting Services.

b. Need: To review and consolidate redundant provisions and to update and revise if necessary.

Legal Basis: 12 U.S.C. 1766 and 1789.

c. Status: Proposed rule issued November 25, 1981 (46 FR 57693). Comment period closed January 22, 1982.

d. For Further Information Contact: Joseph W. Petrosky, Department of Supervision and Examination, telephone: (202) 357–1065.

7.a. Section 701.21–4, Loans to Officials—to require board of director approval of loans to officials under certain conditions.

b. Need: To review existing regulation to simplify, update, and revise.

Legal Basis: 12 U.S.C. 1757(5)(A)(iv).

c. Status: Regulatory review to be presened to the NCUA Board during September 1982.

d. For Further Information Contact: Layne Bumgardner, Department of Supervision and Examination, telephone: (202) 357–1065.

8.a. Section 701.27–2, Credit Union Service Organization.

b. Need: Review to deregulate, simplify, and eliminate unnecessary restrictions.

Legal Basis: 12 U.S.C. 1766, 1789.

c. Status: Proposed rule issued March 10, 1982 (47 FR 10232) expanding investment opportunities in such organizations, permitting such organizations to charge fees and earn profits, and providing a list of approved activities. Comment period closes May 10, 1982.

d. For Further Information Contact: Todd A. Okun, Assistant General Counsel, Office of General Counsel, telephone: (202) 357–1030.

9.a. Part 703, Investments and Deposits.

b. Need: Review to determine extent to which regulatory restrictions should be removed.

Legal Basis: 1757(7)(C), 1757(7)(D), 1757(8).

c. Status: Advance Notice of Proposed Rulemaking and review memorandum under consideration by staff.

d. For Further Information Contact: Robert M. Fenner, Deputy General Counsel or Ross Kendall, Staff Attorney, Office of General Counsel, telephone: (202) 357–1030.

10.a. Part 745, Clarification and Definition of Account Insurance Coverage.

b. Need: Review to determine whether regulation provides coverage tothe extent permitted by statute.

Legal Basis: 12 U.S.C. 1781.

c. Status: Staff considering draft of proposed rule to expand definition of trust account to include employees' interests in deferred compensation plan.

d. For Further Information Contact: Steven R. Bisker, Senior Attorney, Office of General Counsel, telephone: (202) 357–1030.

11.a. Section 701.1, Organizing a Federal Credit Union.

b. Need: Review to deregulate and eliminate repetitious provisions already contained in the Federal Credit Union Act, Federal Credit Union Bylaws, or in guidelines set forth in other publications.

Legal Basis: 12 U.S.C. 1766, 1789.

c. Status: Draft proposed rule under consideration by staff.

d. For Further Information Contact: John W. Lander, Department of Chartering and Education, telephone: (202) 357–1060.

12.a. Part 742, Liquidity Reserves.

b. Need: Review to deregulate.

Legal Basis: 12 U.S.C. 1762.

c. Status: Proposed rule eliminating liquidity reserve requirement to be presented to the NCUA Board May 20, 1982.

d. For Further Information Contact: Robert M. Fenner, Deputy General Counsel, or Barbara Burrows, Staff Attorney, Office of General Counsel, telephone: (202) 357–1030.

III. Regulations to Be Reviewed—Listed Below are Target Dates or Status Reports for the Review of Regulations Later This Year

1.a. Part 735, Employee Responsibility and Conduct—review to update.

b. Status: A memorandum concerning the need to revise this regulation has been submitted to the NCUA Board.

c. For Further Information Contact: James J. Engel, Assistant General Counsel, Office of General Counsel, telephone: (202) 357–1030.

2.a. Section 701.36, Federal Credit Union Ownership of Fixed Assets—review to update and revise if necessary.

b. Status: Preliminary review under study by staff.

c. For Further Information Contact: Layne Bumgardner, Department of Supervision and Examination, telephone: (202) 357–1065.

3.a. Parts 706 and 707, Conversion from Federal to State Credit Union, and Conversion from State to Federal Credit Union—review to determine whether the regulations on this subject are necessary or whether the subject may be covered in a manual.

b. Status: Preliminary review under study by staff.

c. For Further Information Contact: Jon Lander, Department of Chartering and Education, telephone: (202) 357–1060.

4.a. Parts 708 and 709, Mergers of Credit Unions, Division of Assets, Liabilities, and Capital—review to determine whether regulations on these subjects are necessary or whether they may be covered in a manual.

b. Status: Under review by staff in light of recent policy decisions by NCUA Board.

c. For Further Information Contact: Jon Lander, Department of Chartering and Education, telephone: (202) 357–1060.

5.a. Part 741, Requirements for Insurance—review to update, revise, and simplify.

b. Status: Preliminary review under consideration by staff.

c. For Further Information Contact: Chester Sievinski, Department of the Insurance Fund, telephone: (202) 357–1010.

6.a. Part 740, Advertisement of Insured Status, review to update, simplify and revise if necessary.

b. Status: Preliminary review under consideration by staff.

c. For Further Information Contact: Chester Slevinski, Department of the Insurance Fund, telephone: (202) 357–1010.

7.a. Section 700.1 Definitions—review to update and clarify.

b. Status: Proposed rule delayed pending review of reserve regulations.

c. For Further Information Contact: Layne Bumgardner, Department of Supervision and Examination, telephone: (202) 357–1065.

10.a. Section 702.3, Full and Fair Disclosure—review to update, revise, and simplify.

b. Status: Policy on classification of loans issued by NCUA Board April 1, 1982. No further rulemaking intended.

c. For Further Information Contact: Layne Bumgardner, Department of Supervision and Examination, telephone: (202) 357–1065.

11.a. Section 702.1 and 702.2, Reserves—review to update, simplify and revise if necessary.

b. Status: Preliminary review under consideration by staff.

c. For Further Information Contact: Randall Miller, Staff Economist, telephone: (202) 357–1090.

12.a. Section 701.12, Supervisory Committee Audit—review to determine whether the regulation on this subject is necessary or whether the subject might better be covered in a manual.

b. Target Date: December 1, 1982.

c. For Further Information Contact: Layne Bumgardner, Department of Supervision and Examination, telephone: (202) 357–1065.

13.a. Section 701.19, Retirement Benefits for Employees of Federal Credit Unions—review to update, revise and simplify if necessary.

b. Target Date: Preliminary review drafted and under consideration by staff.

c. For Further Information Contact: Layne Bumgardner, Department of Supervision and Examination, telephone: (202) 357–1065.

14.a. § 701.33, Compensation of Officials—review to update, revise and simplify if necessary.

b. Status: Preliminary review under consideration by staff.

c. For Further Information Contact: Ross P. Kendall, Staff Attorney, Office of General Counsel, telephone: (202) 357–1030.

16.a. Part 750—Tort Claims Against the Government—review to update, simplify and revise if necessary.

b. Target Date: December 31, 1982.

c. For Further Information Contact: Jay C. Keithley, Senior Attorney, Office of General Counsel, telephone: (202) 357–1030.

17.a. Section 701.37–1, Treasury Tax and Loan Accounts—review to simplify and revise.

b. Status: Staff preparing review memorandum.

c. For Further Information Contact: Layne Bumgardner, Department of Supervision and Examination, telephone: (202) 357–1065.

18.a. Section 701.31, Nondiscrimination Requirements—review to simplify and revise.

b. Target Date: September 30, 1982.

c. For Further Information Contact: Harry J. Blaisdell, Department of Chartering and Education, telephone: (202) 357–1080; or John L. Culhane, Jr., Senior Attorney, Office of General Counsel, telephone: (202) 357–1030.

19.a. Part 704, Corporate Central Federal Credit Unions—review to update, simplify, and revise.

b. Target Date: September 30, 1982.

c. For Further Information Contact: Layne Bumgardner, Director, Department of Supervision and Examination, telephone: (202) 357–1065.

20.a. Part 711, Management Interlocks—review to simplify and revise.

b. Target Date: September 30, 1982.

c. For Further Information Contact: Ross P. Kendall, Staff Attorney, Office of General Counsel, telephone: (202) 357–1030.

21.a. Part 725, Central Liquidity Facility—review to update and simplify.

b. Target Date: September 30, 1982.

c. For Further Information Contact: Charles Filson, Central Liquidity Facility, telephone: (202) 357–1130.

22.a. Part 747, Rules of Practice and Procedure review to simplify and revise.

b. Target Date: November 30, 1982.

c. For Further Information Contact: Robert S. Monheit, Senior Attorney, Office of General Counsel, telephone: (202) 357–1030.

23.a. Section 701.6, Fees Paid by Federal Credit Unions—review to revise and simplify if necessary.

b. Target Date: May 31, 1982.

c. For Further Information Contact: John R. Sander, Planning and Budget Officer, Office of Services, telephone: (202) 357–1100.

Rosemary Brady,

Secretary, National Credit Union Administration.

May 21, 1982.

[FR Doc. 82-14765 Filed 5-28-82; 8:45 am]

BILLING CODE 7535-01-M

12 CFR Part 701

Deregulation of "Organizing a Federal Credit Union," "Standard Form of Bylaws", "Amendment of Bylaws and Charters"

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: This proposed rule would deregulate the majority of § 701.1 entitled "Organizing a Federal Credit Union" and would delete §§ 701.3 and 701.4 entitled "Standard form of bylaws" and "Amendment of bylaws and charters", respectively, of NCUA's Rules and Regulations. The proposal would eliminate repetitious statements, procedures, and other provisions already contained in the Federal Credit Union Act, the Federal Credit Union Bylaws or which represent guidelines covered in other publications and forms. This proposed action is being requested as part of NCUA's continuing effort to conduct a review of its rules and regulations. The proposal further emphasizes the NCUA Board's commitment to encourage groups to obtain new Federal credit union charters and to encourage boards of directors to submit charter changes to serve as many qualifying people as possible within the authority of the Federal Credit Union Act.

DATE: Comments must be received on or before July 26, 1982.

ADDRESS: Comments should be sent to Rosemary Brady, Secretary, National Credit Union Administration Board, 1776 G Street, NW, Washington, D.C. 20456. Telephone: (202) 357–1100.

FOR FURTHER INFORMATION CONTACT: Jon W. Lander, Department of Chartering and Education, at the above address. Telephone: (202) 357–1060.

SUPPLEMENTARY INFORMATION: Effective March 6, 1980, NCUA published a final rule revising the chartering and charter amendment policies and procedures for Federal credit unions. This revision was promulgated after an extensive study of the regulations and guidelines implementing NCUA chartering policy. The policy adopted was designed to accomplish three objectives:

(1) To provide more flexibility in administering the policy,

(2) To provide more support and more guidelines to new and developing Federal credit unions, and

(3) To provide for a more open and public participation process.

It is the view of the NCUA Board that changing social, commercial, and economic conditions necessitate the

need for even more flexibility in the decision-making process. The NCUA Board is convinced that in these difficult economic and budgetary times, boards of directors must be free to adopt charter changes that are permitted by statute and will be the most beneficial for their credit union. Along the lines, the NCUA Board has already delegated additional authority to the regional directors to approve/disapprove new charters, charter amendments and mergers. The NCUA Board, through deregulation, intends to further emphasize its goal to develop and maintain sound credit union services for as many qualifying people as possible within the authority of the Federal Credit Union Act. It is in this spirit that the following proposal is offered.

Analysis of Proposed Changes

1. It is proposed that procedures describing the charter application process be deleted as duplicative and unnecessary. Several of the steps in the charter application process are covered in Section 103 of the Federal Credit Union Act and Article XI of the Federal Credit Union Bylaws. Those steps not expressly covered in the Federal Credit Union Act or Bylaws are included as guidelines in the Chartering and Organizing Manual and/or on the charter application forms. Since the majority of new Federal credit union charters are investigated by league organizers or volunteers, the steps not explicitly covered in the Federal Credit Union Act or the Federal Credit Union Bylaws should more properly be in the form of guidelines rather than in the form of rules and regulations. The guidelines, examples, and procedures set forth in the manual are intended to be illustrative rather than all inclusive.

2. It is proposed that the current portion of the regulation describing charter application forms and investigations documentation be deleted as duplicative and unnecessary. Section 104 of the Federal Credit Union Act specifically describes the investigation of an organization certificate and the requirements thereof. Also, section 109 of the Federal Credit Union Act delineates common bond and membership requirements.

3. It is proposed that the published notice of intent to charter a community Federal credit union be deleted as unnecessary. It is the view of the NCUA Board that a sufficient amount of time has elapsed (2 years) to evaluate the effectiveness of this requirement. In the majority of community cases coming before the NCUA Board, no responses have been received as a result of the public notice. Our records indicate that the NCUA Board acted upon 84 community charter cases during the 2-year period 4/1/80 to 4/1/82 which involved a published public notice. In 53 of these cases (63%), there were no comments received in response to the public notice. In only 8 cases (less than 10%), were there any responses from organizations or individuals other than credit unions or credit union members opposing a community proposal. Of the approximate 340 total comments recieved on these 84 cases, only 17 (5%) were from an organization or individual other than a credit union or credit union member. NCUA procedures require that regional directors write each credit union thast might be impacted by a community charter proposal. Also, the NCUA Board recently approved a change in community chartering guidelines to limit approval authority for regional directors to those cases where the total population does not exceed 35,000. This change is consistent with the 25,000 population limit that was in effect prior to March 6, 1980 (effective date of regulation requiring a public notice). With these procedures in place, the public notice requirement poses an additional burden and unnecessarily delays the investigation and decision-making process.

4. It is proposed that the current portion of the regulation that describes standard "usual wording" be deleted as this information is duplicated in the Chartering and Organizing Manual.

5. It is proposed that the current portion of the regulation that describes disapproval of a charter application or charter amendment be retained but the wording made more concise.

6. It is proposed that § 701.3 of the regulation be eliminated in its entirety. The statements are informational in nature and duplicate the authority contained in Section 108 of the Federal Credit Union Act.

7. It is proposed that § 701.4 of the regulation be eliminated in its entirety. The statements are informational in nature and duplicate the authority contained in Article XXI of the bylaws.

Procedures for Regulatory Development

The NCUA Board certifies that these proposed changes, if adopted will not have a significant economic impact on a substantial number of small Federal credit unions (Federal credit unions with less than $1,000,000 in assets). Since the regulation applies primarily to new groups organizing credit unions, the proposed changes, if adopted, will reduce the burden on members of the general public. No additional burdens are proposed. Instead, duplicate procedures are being eliminated to make it easier for new FCUs to be chartered. Therefore, a regulatory analysis is not required. 5 U.S.C. 605(b).

List of Subjects in 12 CFR Part 701

Credit Unions, Reporting requirements.

Accordingly, the NCUA Board proposes to amend 12 CFR 701.1, 701.3 and 701.4. By the NCUA Board, May 20, 1982.

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789))

Rosemary Brady,

Secretary of the Board.

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. It is proposed that 12 CFR 701.1 be amended to read as follows:

§ 701.1 Organizing a Federal Credit Union.

(a) Persons desiring to form a Federal credit union shall submit a charter application to NCUA in accordance with the requirements of Sections 103, 104 and 109 of the Federal Credit Union Act and Article XI of the Federal Credit Union Bylaws.

(b) If a charter application or charter amendment is disapproved, the officials will be advised in writing of the basis for the decision.

§§ 701.3 [Removed]

2. It is proposed that 12 CFR 701.3 be removed.

§ 701.4 [Removed]

3. It is proposed that 12 CFR 701.4 be removed.

[FR Doc. 82-14773 Filed 5-28-82; 8:45 am]

BILLING CODE 7535-01-M

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12 CFR PART 721

Federal Credit Union Insurance and Group Purchasing Activities

AGENCY: National Credit Union Administration.

ACTION: Extension of comment period.

SUMMARY: Based on requests from interested parties, the NCUA Board is extending the comment period on the proposed rule regarding its insurance/group purchasing regulation.

DATE: Comments must be received by June 30, 1982.

ADDRESS: Send comments to Robert Monheit, Regulatory Development Coordinator, National Credit Union Administration, 1776 G Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT:
Joseph Myers, Department of Chartering and Education, National Credit Union Administration, (202) 357–1080.

SUPPLEMENTARY INFORMATION: On February 24, 1982 (47 FR 8027) NCUA proposed to revise its insurance/group purchasing regulation. April 16, 1982 was set as the close of the comment period. Subsequently, however, several commenters requested an opportunity to provide additional information to the NCUA Board. Accordingly, the comment period is hereby extended until June 30, 1982.

By the National Credit Union Administration Board on May 13, 1982.

Rosemary Brady,
Secretary of the Board.

[FR Doc. 82-14766 Filed 5-28-82; 8:45 am]
BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 82-ACE-12]

Transition Area, Wetzville, Mo.; Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a 700-foot transition area at Wentzville, Missouri, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Wentzville, Missouri, Airport, utilizing the Foristell VOR as a navigational aid. This proposed action will change the airport status from VFR to IFR.

DATES: Comments must be received on or before July 7, 1982.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:
Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374–3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by designating a 700-foot transition area at Wentzville, Missouri. To enhance airport usage, a new instrument approach procedure is being developed for the Wentzville, Missouri, Airport, utilizing the Foristell VOR as a navigational aid. This radio facility will provide new navigational guidance for aircraft utilizing the airport. The establishment of a new instrument approach procedure, based on this navigational aid, entails designation of a transition area at Wentzville, Missouri, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and enroute environment. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71), by designating the following transition area:

Wentzville, Missouri

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Wentzville, Missouri Airport (Latitude 38°49'15" N, Longitude 90°50'05" W) and within 2 miles each side of the FTZ VORTAC 040° T extending from the 5-mile radius area to 5.5 miles southwest of the Wentzville Airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.65 of the Federal Aviation Regulations (14 CFR 11.65))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on May 19, 1982.

John E. Shaw,
Acting Director, Central Region.

[FR Doc. 82-14695 Filed 5-28-82; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-114 (Texas—23)]

High-Cost Gas Produced From Tight Formations; Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that the Clearfork Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on June 24, 1982.

PUBLIC HEARING: No public hearing is schedule in this docket as yet. Written requests for a public hearing are due on June 9, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Walter W. Lawson, (202) 357–8556.

SUPPLEMENTARY INFORMATION:

Issued: May 25, 1982.

I. Background

On April 13, 1982, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that a portion of the Clearfork Formation, located in Pecos County, Texas, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that a portion of the Clearfork Formation (Clearfork) be designated a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended portion of the Clearfork Formation is located in Pecos County, Texas, Railroad Commission District 8. The recommended area is located approximately 12 miles southeast of Imperial, Texas, and is within the H&TC RR Block 2 and H&GN RR Block 9 Surveys in Pecos County. The Clearfork Formation is a typical limebank deposit, and is a continuous geologic formation throughout the recommended area. It is overlain by a thin Triassic formation and underlain by eroded Ordovican rocks.

The top of the Clearfork is encountered at measured depths ranging from about 2,900 feet on the west, to 3,000 feet on the east. A well log for the George T. Abell No. 1–A well is included in the recommendation as a type log, showing a typical Clearfork section, occurring between the measured depths of 2,895 and 4,124 feet.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing in support of this recommendation demonstrates that:

(1) The average *in situ* goes permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing State and Federal regulations assure that development of this formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Texas that the recommended portion of the Clearfork Formation, as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before June 24, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–114 (Texas—23) and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than June 9, 1982.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

PART 271—CEILING PRICES

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulation, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

Section 271.703 is amended by adding paragraph (d)(116) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(116) *Clearfork Formation in Texas.* RM79–76–114 (Texas—23).

(i) *Delineation of formation.* The Clearfork Formation is found in Pecos County in Texas. The designated area is located approximately 12 miles southeast of the city of Imperial, Texas, within the H&TC RR Block 2 and H&GN RR Block 9 Surveys.

(ii) *Depth.* The top of the Clearfork Formation ranges from a measured depth of 2,900 feet in the west, to 3,000 feet in the east. A typical Clearfork

section occurs between the measured depths of 2,895 and 4,124 feet on the well log of the George T. Abell No. 1–A well.

[FR Doc. 82-14711 Filed 5-28-82; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Parts 651 and 654

Preference in Federal Procurement for Labor Surplus Areas Under Executive Orders 12073 and 10582

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule.

SUMMARY: The Department of Labor is proposing to modify its regulations for classifying labor surplus areas under Executive Order 12073 and areas of substantial unemployment under Executive Order 10582 in order to delete references to Defense Manpower Policy No. 4A (DMP–4A), to change the date of the annual listing of labor surplus areas so that the annual listing will be effective on a fiscal year basis, and to revise the complaint procedures.

DATE: Interested persons are invited to submit written comments on or before July 1, 1982.

ADDRESS: Comments may be mailed to Joyce A. Kaiser, Administrator, Office of Policy, Evaluation and Research, Room 9000, 601 D Street NW., Washington, D.C. 20213.

FOR FURTHER INFORMATION CONTACT: James W. Higgins, Division of Labor Market Information. Telephone: (202) 376–6499.

SUPPLEMENTARY INFORMATION: Executive Orders 10582 and 12073, and the Buy American Act of 1933, authorize the Department of Labor to classify labor surplus areas to encourage the purchase of goods and services by the Federal government and the placement of Federal facilities in areas with the highest unemployment. Firms which agree to perform most of the work in such labor surplus areas are eligible for preference in the award of procurement contracts and grants and the execution of agreements.

Prior to June 23, 1980, the Secretary of Labor had certain duties pursuant to the Federal Emergency Management Agency's Defense Manpower Policy No. 4A (DMP–4A). 32A CFR Part 134 (1979). Effective June 23, 1980, DMP–4A was replaced by DMP–4B, in order to recognize Executive Order 12073 and to preserve the mobilization aspects of the labor surplus area program. 45 FR 34884 (May 23, 1980). Although specific responsibilities had been assigned to the Secretary of Labor under DMP–4A, those responsibilities were not carried over to DMP–4B. Accordingly, the Department of Labor is proposing to delete all references to DMP–4A in its regulations for classifying labor surplus areas.

The regulations for classifying labor surplus areas in 20 CFR Part 654, Subparts A and B, establish June 1 as the annual date of the eligibility determinations. In order to make the annual listing conform to the fiscal year period, the Department of Labor is proposing to amend its regulations to change the annual date of the eligibility determinations to October 1. The change would become effective October 1, 1983, and would require extending the current listing for four months beyond its expiration date of May 31, 1983. Under the proposed modification, the current listing would remain in effect through September 30, 1983, when it would be replaced by the next annual listing of labor surplus areas on October 1, 1983.

Section 654.5(b) of the Department's regulations for classifying labor surplus areas indicate that until the end of Fiscal Year 1981, Current Population Survey (CPS) data would be used in classifying civil jurisdictions within those standard metropolitan statistical areas and for central cities for which CPS data were used to determine annual unemployment data prior to January 1, 1978. With the expiration of Fiscal Year 1981, it is proposed that the current § 654.5(b) be deleted.

It is also proposed that § 654.9, concerning the filing of Employment Service-related complaints, be modified to reflect the fact that the classification of labor surplus areas no longer involves the Department of Labor's regional offices but is done exclusively in the Department's national office. As a result, the complaint procedure would be modified to have complaints sent directly to the Assistant Secretary for Employment and Training rather than to a Department of Labor regional office. Other minor technical, editorial, and clarifying amendments are proposed as well.

The proposed rule is not expected to have any economic or inflationary impact and it is certified, pursuant to 5 U.S.C. 605(b) that the changes will not have significant impact on a substantial number of small entities. The financial and other impact of this regulation is less than specified in Section 1(b) of Executive Order 12291 (46 FR 13193), for designation as a major rule which requires a regulatory impact analysis. Therefore, a regulatory analysis was not prepared for this proposed rule.

Authority: 41 U.S.C. 10a *et seq.*; 29 U.S.C. 49 *et seq.*; E.O. 12073; E.O. 10582, as amended by E.O. 11051 and 12146.

List of Subjects in 20 CFR Part 651

Employment, Labor.

List of Subjects in 20 CFR Part 654

Agriculture, Employment, Government procurement, Housing standards, Labor, Migrant labor, Unemployment.

Proposed rule:

Accordingly, it is proposed to amend Part 651 and Part 654, Subparts A and B, of Chapter V of Title 20, Code of Federal Regulations, as follows:

PART 651—GENERAL PROVISIONS GOVERNING THE FEDERAL-STATE EMPLOYMENT SERVICE SYSTEM

PART 654—SPECIAL RESPONSIBILITIES OF THE EMPLOYMENT SERVICE SYSTEM

Part 654 and § 651.9 [Amended]

1. It is proposed to amend the table of contents for Part 654, and § 651.9 *Consolidated table of contents for Parts 651–658*, by removing the reference to "654.2 Description of DMP–4A.", by adding a reference to "654.10 Transition provision."; and by revising the heading for Subpart A to read "Subpart A—Responsibilities Under Executive Order 12073."

2. The heading for Subpart A of Part 654 is proposed to be revised as follows:

Subpart A—Responsibilities Under Executive Order 12073

* * * * *

§ 654.1 [Amended]

3. Section 654.1 is proposed to be amended by removing from the first sentence therein the phrase "Defense Manpower Policy No. 4A of the Federal Preparedness Agency, General Services Administration (32A CFR Part 134—Preservation of the Mobilization Base Through the Placement of Procurement and Facilities in Labor Surplus Areas (DMP–4A)), and."

§ 654.2 [Removed]

4. Section 654.2 is proposed to be removed.

§ 654.3 [Amended]

5. Section 654.3 is proposed to be amended by removing from the first sentence therein the word "also."

§ 654.4 [Amended]

6. Section 654.4 is proposed to be amended as follows:

a. In paragraph (a)(3) the period after the word "above" would be removed and "; or" inserted in lieu thereof.

b. In paragraph (a)(4) the period after the parenthetical phrase would be removed and "; or" inserted in lieu thereof.

c. In paragraph (c) the words ", for the purposes of Defense Manpower Policy No. 4A" would be removed.

d. In paragraph (d) the date "June 1" would be removed and the date "October 1" inserted in lieu thereof.

§ 654.5 [Amended]

7. Section 654.5 is proposed to be amended as follows:

a. In paragraph (a) the words ": *Provided, however,* That no" would be removed and ". "No" inserted in lieu thereof.

b. Paragraph (b) would be removed.

c. Paragraph (c) would be redesignated as paragraph (b); and would be amended by inserting the words "the unemployment rate during" after the words "without regard to" in the first sentence therein; and by removing the words "or (b)" from the second sentence therein.

§ 654.6 [Amended]

8. Section 654.6 is proposed to be amended by removing from paragraph (a) the words "and (b)"; and by removing from paragraph (b) the citation "§ 654.5(c)" and inserting in lieu thereof the citation "§ 654.5(b)."

§ 654.7 [Amended]

9. Section 654.7 would be amended by inserting at the end thereof the following sentence: "The Assistant Secretary periodically may cause these lists to be published in the **Federal Register.**"

§ 654.8 [Amended]

10. Section 654.8 would be amended by removing from the introductory language the words "Defense Manpower Policy No. 4A" and inserting in lieu thereof the words "Executive Order 12073."

11. Section 654.9 would be revised to read as follows:

§ 654.9 Filing of complaints.

Complaints alleging that the Department of Labor has violated the labor surplus area regulations should be mailed to the Assistant Secretary for Employment and Training, U.S. Department of Labor, Washington, D.C. 20210. Such complaints should include: (a) The allegations of wrong-doing; (b) the date of the incident; and (c) any other relevant information available to the complainant. The Assistant Secretary shall make a determination and respond to the complainant after investigation of the incident. If the complaint is not resolved following this investigation, the Assistant Secretary, at his discretion, may offer, in writing by certified mail, the complainant a hearing before a Department of Labor Administrative Law Judge: *Provided,* That the complainant requests such a hearing from the Assistant Secretary within 20 working days of the certified date of receipt of the Assistant Secretary's offer of a hearing.

12. A new § 654.10 would be added, to read as follows:

§ 654.10 Transition provisions.

The annual list of labor surplus areas for the period June 1, 1982, through May 31, 1983, shall be extended through September 30, 1983.

13. Section § 654.14 would be revised to read as follows:

§ 654.14 Filing of complaints.

Complaints arising under Subpart B of this part alleging that the Department of Labor has violated the labor surplus area regulations shall be made pursuant to the procedures set forth at § 654.9.

Signed at Washington, D.C., this 24th day of May 1982.

Albert Angrisani,

Assistant Secretary of Labor.

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 250

Indian Fishing—Hoopa Valley Indian Reservation

May 18, 1982.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Department of the Interior is proposing to revise its conservation regulations governing Indian fishing on the Hoopa Valley Reservation in response to recommendations for changes received from Indians of the reservation. The most significant proposed change is a ban on gillnet fishing during the fall chinook run from 9 a.m. Monday to 5 p.m. Wednesday of each week and from 9 a.m. to 5 p.m. on Thursdays and Fridays.

DATE: Comments must be received no later than July 1, 1982.

ADDRESS: Written comments should be addressed to the Area Director, Sacramento Area Office, Bureau of Indian Affairs, Federal Building, 2800 Cottage Way, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Wilson Barber, Superintendent, Northern California Agency, Bureau of Indian Affairs, P.O. Box 367, Hoopa, California 95546, telephone number (916) 625-4285.

SUPPLEMENTARY INFORMATION: The Department of the Interior is responsible for the supervision and management of Indian Affairs under 43 U.S.C. 1457, 25 U.S.C. 2, 9 and 13 and the Reorganization Plan No. 3 of 1950 (64 Stat. 1262), including the protection of Indian fishing rights.

These regulations are being transferred from Part 258 to Part 250 as part of a complete reorganization of Title 25 of the Code of Federal Regulations. A redesignation table was published in the **Federal Register** on March 30, 1982 (47 FR 13328), making the transfer effective.

Normally tribal governments are responsible for regulation of Indian fishing on a reservation. Tribal regulation on the Hoopa Valley Indian Reservation has not been possible because the reservation is shared by two tribes, one of which does not currently have a functioning government. The Bureau of Indian Affairs has made major efforts to assist the Yurok Tribe in developing an organized government that will be able to participate with the Hoopa Valley Tribe in regulation of the Indian fishery. To date, however, these efforts have not met with success. While the efforts to resolve the organizational problems continue, the Department will continue to regulate the fishery to assure the continued existence of this valuable tribal asset.

In early December 1981, Deputy Assistant Secretary of the Interior—Indian Affairs (Policy), Roy Sampsel, visited the reservation and adjoining areas to discuss with the Indian community the state of the fishery resource. One frequent comment made to Mr. Sampsel was that the Indians of the reservation were not asked to participate in the writing of the regulations or in their subsequent changes. In response to this and other comments, it was proposed that a questionnaire be developed for the purpose of soliciting the opinions of the Indian community regarding revisions to the regulations. Further, Mr. Sampsel proposed that a committee of Indian

volunteers be called to oversee this questionnaire process.

In response to Mr. Sampsel's suggestion, a fishery screening committee was formed. That committee developed a set of proposed revisions to the current regulations. It also developed a pamphlet, which was distributed to the Indian community, containing the proposed changes, a copy of the existing regulations, and a questionnaire soliciting the views of the Indian community on the regulations and the proposed changes. Four hundred persons returned the questionniare. One hundred and twenty-one identified themselves as persons holding fisher's identification cards. Another 115 said they did not have a card and 184 declined to say whether they had a card. The questionnaires were sent only to persons who are eligible to fish under the current regulations. Comments on the proposals developed by the fishery screening committee were also received from the Hoopa Valley Tribe, the Karok Tribe and owners of sportfishing camps along the Klamath River.

The 184 individuals who declined to say whether they had identification cards also urged that no changes at all be made in the regulations until the resolution of two lawsuits, *Short* v. *United States*, No. 102–63 in the Court of Claims, dealing with the rights to share in timber receipts from unallotted trust lands, and *Puzz* v. *Department of the Interior*, No. C–80–2908 TEH, in the United States Court for the Northern District of California, concerning the authority of the Hoopa Valley Business Council. Some of these individuals assert that the current regulations are adequate, but none explain what harm they anticipate would result from amending the regulations prior to the resolution of the two lawsuits.

Almost all other persons who commented urged that some changes be made in the regulations. It is our view, as discussed below, that a number of changes should be made in the regulations both to make them more effective in conserving the resource and to alleviate unnecessary burdens on the persons governed by the rules. Accordingly, we are proposing that the regulations be amended as discussed below:

1. It is proposed to add a new paragraph (c) to § 250.1 to make it clear that these rules apply to the activities of eligible Indians involving fish caught on the reservation regardless of where those activities occur within the United States. This change would make clear the intent of the present regulations so there will be no doubt that an Indian accused of selling fish off the reservation may be tried in the court of Indian offenses. This change was supported by 187 of those persons who answered the questionnaire.

2. It is proposed to rewrite § 250.2 to state in more understandable language what it currently says in legal jargon—that a person who violates the regulations may still be prosecuted after the regulations are changed so long as what that person did was a violation of the regulations in effect at the time the person did it. This change was supported by 193 respondents to the questionnaire.

3. It is proposed to delete the statement in paragraph (b) of § 250.3 that persons not governed by the regulations must comply with all other applicable laws when fishing on the reservation. This language could be construed as a legal conclusion by the Secretary that may or may not be warranted depending upon the facts of a particular case. It is proposed to delete the languate as being unnecessary and ambiguous. This change was supported by 191 respondents to the questionnaire.

4. A new paragraph (f) to § 250.3 is proposed to provide that the court records involving alleged violations that occurred when the fishers were under the age of 18 will be kept confidential and that the records may only be released upon approval of the court. This change was supported by 195 respondents.

5. It is proposed to revise the definition of consumptive or subsistence fishing to include the taking of fish to be eaten by any members of an eligible Indian's family—not just members of the immediate family.

6. It is proposed to change the definition of fishing gear to delete boats and motors. This would exclude boats and motors from property subject to forfeiture for violations of the regulations.

7. It is proposed to modify the definition of gillnet to make it more accurate.

8. It is proposed to modify the definition of set-net to include a gillnet that is anchored on at least one end. The present definition states that a set-net is anchored at each end. This change would permit more rapid changes in the deployment of a net to conform to shifting currents.

9. It is proposed to define snag gear based on the language in the regulations of the California Fish and Game Commission concerning multiple hook restrictions. 14 Calif. Admin. Code 2.10. The new definition is proposed so that eligible fishers will be on notice as to what types of gear are prohibited. The definition is based on California's regulations to avoid any confusion that might result from using a different definition and to enable the Indian court to use state court case law in deciding cases. This change was previously published in the Federal Register last year in 46 FR 55542, dated November 10, 1981.

10. It is proposed to modify § 250.6 to permit Indians found fishing without an identification card in their possession to avoid a citation or arrest by presenting evidence later that they have an identification card. If an enforcement officer can determine on the scene that the person is eligible to fish then no citation, arrest or seizure would occur. Such a person may, however be required to show within seven days that he or she possesses an identification card. Failure to make this showing would result in suspension of fishing rights until the showing is made. If the enforcement officer is unable to determine that the person has been issued an identification card, the officer may cite the person and seize any gear or fish. Any seized fish will be preserved for seven days. If the person shows within seven days that he or she has been issued an identification card, the fish are returned. Otherwise, the fish are forfeited and the person may be subject to other penalties for fishing without an identification card. These procedures are modeled after the procedures used by the California Highway Patrol when officers stop a driver who is not carrying a driver's license. There were 167 respondents to the questionnaire who supported this proposal.

11. It is proposed to make substantial changes to logsheet reporting requirements because the provisions put into effect last year have not worked. The requirement that all logsheets that are due have to be submitted before a fishing card is issued for the next year would be deleted. The fishing cards that have been issued have no expiration date and are not issued annually. Fishing rights have not been suspended for failure to file the logsheets because such a penalty has been regarded as too drastic. It is also proposed to require the forms be submitted only for months in which a fisher caught at least one anadromous fish. Many persons only fish one or two months a year. Requiring them to file negative reports for the other ten or eleven months is a regulatory burden that cannot be adequately justified by the benefits from receiving such reports. The BIA will make a major effort this year to make sure each person who holds a fishers identification card receives copies of the

logsheet and to encourage them to complete the reports and send them in.

12. It is proposed to revise § 250.7 to prohibit any fisher from fishing any net that is not identified with his or her number and to forbid the fishing of nets with more than one identification number on them. This proposed change was previously published last November in 46 FR 55543, dated November 10, 1981. The fishery screening committee proposed slightly different language from the original proposal and proposed stating that the identification number could be attached at either one of the two ends of the net. It is also proposed to state that another eligible fisher may accompany the person whose number is on the net to provide assistance.

This proposal has been very controversial because frequently different members of a family check the same net at different times. This proposal is not designed to make that practice illegal. Each eligible fisher can have his or her own detachable float with his or her personal number on it. These floats may be obtained from the BIA or a sealed empty bleach bottle can serve that function. When a different family member goes to tend a net previously tended by another family member, he or she removes the first person's float, attaches his or her own, and takes the other float back to the house.

The reason for this requirement is to make it clear who is legally responsible for a net being fished in violation of the regulations. The person whose float is on the net will be held responsible. An alternative is simply to hold the person who owns the net responsible regardless of who was tending the net. This is the approach most cities use when dealing with illegally parked cars. The owner is held responsible even if it wasn't the owner who parked the car illegally. Most Indians who have expressed an opinion to Department officials so far seem to prefer the approach we are proposing rather than holding the owner liable for all violations.

13. It is proposed to ban the use of gillnets on the reservation from 9 a.m. Mondays to 5 p.m. Wednesdays and from 9 a.m. to 5 p.m. on Thursdays and Fridays during the fall chinook run. These closures would be in effect only from July 15, 1982 to September 30, 1982. After September 30, 1982, fishing with gillnets would be prohibited only from 9 a.m. to 5 p.m. on Mondays. The fishery screening committee proposed 9 a.m. to 5 p.m. closures during the week. The Hoopa Valley Business Council recommended that there be daytime closures seven days a week and 24-hour closures on Mondays and Tuesdays.

The fishery screening committee gave the following reasons for proposing the daytime closures:

a. As a demonstration of the Indian community's concern for what had happened to their birthright—Klamath River salmon.

b. To better allocate the resource among the Indians living along the rivers.

c. To reduce friction with sport fishers.

d. To increase spawner escapement.

The committee expressed the hope that being the first user group to propose restrictions on itself would lead to greater restraint on the part of other user groups. Because the committee is unsure whether its proposed action will have the desired effect, it limited its recommendation to 1982 only.

An additional benefit of reducing the total number of fishing hours is that monitoring the harvest will be easier since harvest monitor personnel need be on the river only during the times fishing is taking place.

The Hoopa Valley Business Council urged additional closures because the daytime-only closures would probably have only a minimal effect on reducing the harvest. Given the high harvest level last year on a depressed run, additional restrictions are advisable. Some eligible fishers are able to fish only during daylight hours on weekends. In order to give them an opportunity to fish, we have not adopted the Business Council's recommendation that weekend daylight gillnet fishing be banned too.

The committee's recommendation for weekday daytime closures was supported by 156 respondents to the questionnaire.

14. It is proposed to require only one end of a set-net to be anchored. Many people place their nets to fish eddies. The net, to be properly placed, needs to conform to the actual shape of the eddy, which changes from time to time. Traditionally this was accomplished by staking only one end of the net and allowing the current to form the unstaked end into the proper shape.

15. It is proposed to prohibit setting a net in a manner that impedes boats from reaching a dock. The fishery screening committee recommended this provision in order to reduce friction with sport fishers.

16. It is proposed to modify the prohibition against placing nets close to the mouths of tributaries by requiring nets to be at least 100 feet—instead of only 20 feet—from the mouth of a tributary. It is also proposed, however, to apply this restriction only to those streams that can be used for spawning purposes by anadromous fish. There were 188 respondents to the questionnaire who supported this proposal.

17. It is proposed to permit the use of traps that will catch eels but no other anadromous species. Language in § 250.8(a) and § 250.4(g) will also be modified to clarify that fishing for eels is covered by these regulations. A committee proposal to permit the use of traps to catch eels was supported by 201 respondents.

18. It is proposed to authorize the BIA agency to issue special gillnets and identification numbers to eligible Indians for the purpose of fishing for elderly and incapacitated eligible fishers. Persons fishing such nets would not be permitted to fish their own net at the same time. Fish caught in these "community nets" would be distributed according to rules established by the agency and provided to each person fishing such a net. In the past there have been disputes over which fish were caught in a community net and which were caught in the fisher's personal net. It is also proposed to permit specifically the payment of persons fishing such nets provided the payment is not based on the weight or number of fish caught. Permitting payment (in a manner that is clearly compensation for labor rather than a sale of fish) should improve the prospect for developing a workable community assistance program. There were 190 respondents to the questionnaire who supported this proposal.

19. It is proposed to add a new provision requiring that all fish caught in a gillnet be preserved or consumed before they rot. This provision was proposed last year in 46 FR 55542, dated November 10, 1981. This requirement is needed to reduce waste of the resource. The proposed daytime closure will assist in addressing this problem. The proposed changes, however, would still permit a net to be in the water Friday evening until Monday morning. Especially when water temperatures are higher, captured fish can rot in the water in that length of time. This requirement is needed to assure that nets are checked as frequently as necessary to avoid waste.

There have also been instances where some persons have dumped fish apparently because they were unable to arrange an illegal sale of the fish. The addition of the provision may help, to a small extent, to discourage the catching of fish for purposes of sale.

20. It is proposed to add an additional paragraph to § 250.8 permitting an eligible fisher to assist another eligible fisher in emergency situations that could

lead to the loss of gear or life. There were 187 respondents to the questionnaire who supported this proposal.

21. It is proposed to modify § 250.9 to require the marking of only those fish that leave the reservation. The marking requirement is designed to put potential buyers on notice that purchase of the fish is illegal. Since almost all fish in illegal commerce leave the reservation, marking only fish that leave the reservation will be adequate. It is also proposed to change from requiring the clipping of the top of the tail to requiring the removal of the dorsal fin because it is much easier to remove that fin. Both of these measures are designed to reduce the burden on Indian fishers of complying with these regulations in a manner that does not compromise the goals of the regulations. It is also proposed to delete the option of marking the fish with an indelible dye. Apparently this marking method has not been used. Since marking with the dye was required on only one side of the fish, it has been necessary to retain fish as evidence or photograph both sides of the fish to establish in court that it had not been marked. Deletion of this requirement will make it possible to show that a fish was not marked with a single photograph demonstrating that the dorsal fin has not been removed.

22. It is proposed to require anyone transporting 15 or more fish off the reservation at one time to obtain a transportation permit in addition to removing the dorsal fins. The permits, which could be obtained from enforcement officers or from appropriate officials of the Hoopa Valley Tribe, would state the destination of the fish and when and how they would be taken to that destination. This approach was proposed by the Hoopa Valley Business Council. More careful monitoring of the transportation of substantial quantities of fish is needed to prevent large-scale commercial fishing activity.

23. It is proposed to revise § 250.14 to require enforcement officers to notify owners of unattended nets directly when their nets are seized. Currently notice of the seizure of an unattended net is published in the newspaper. Under the proposed revision, publication would be used only if the officer is unable to contact the owner by mail.

24. It is proposed to assign responsibility for selling seized fish to the Superintendent of the Northern California Agency instead of to law enforcement officers. This change was proposed last year in 46 FR 55542, dated November 10, 1981. It is also proposed to state that the regulations do not prohibit undercover agents from selling fish caught on the reservation as part of their duties and to state that the regulations do not authorize purchase from anyone other than the Superintendent or someone known by the buyer to be authorized to sell seized fish on behalf of the Superintendent. We have been informed that one state court mistakenly concluded that these regulations authorized the purchase of illegally caught fish from an undercover law enforcement officer. These changes are proposed to avoid such a misunderstanding of the intent of the regulations in the future.

25. It is proposed to add a new paragraph (d) to § 250.14 directing the Agency Superintendent to conduct an investigation into any allegation of misconduct by any law enforcement officer under the superintendent's supervision and to make available to the complainant, upon written request, the findings of the investigation.

26. It is proposed to make the following revisions in § 250.15 concerning penalties for violations of the rules:

a. Persons who violate the time closures for the first time would have their net placed on the bank and fish seized. The seizure of the fish can be contested in court if the fisher wishes. If a person commits a second violation the maximum penalty is a $300 fine, three months in jail, suspension of tribal fishing rights for 90 days during the fishing season, or forfeiture of fishing gear or any combination of these. For a third or subsequent violation the maximum penalties are a $500 fine, six months in jail, suspension of fishing rights for 120 days during the fishing season, or forfeiture of fishing gear or any combination of these.

b. Persons who violate the gear marking requirements or who allow an ineligible person to assist them would be liable for no more than a $100 fine or forfeiture of fish or fishing gear or a 30 day suspension of fishing rights during the fishing season or any combination of these. The penalty for a second violation would be $200 fine, forfeiture of fish or gear, or 60 day suspension of fishing rights or any combination of these. For third and subsequent violations the maximum fine is $300 and a 90 day suspension of fishing rights.

c. For a first offense persons who violate the restrictions on the type of gear that can be used would be liable for a maximum fine of $100, a maximum jail sentence of ten days, maximum suspension of fishing rights for 30 days, forefeiture of fish or fishing gear or any combination of these. For a second violation the maximum fine increases to $200. The maximum jail time increases to 15 days and the possible suspension of fishing rights is 60 days. For third or subsequent violations the maximums are a $300 fine, 20 days in jail and 90 days suspension of tribal fishing rights.

d. Persons who fail to present proof that they have a fishing identification card within seven days after having been asked to present the card while fishing may have their fishing rights suspended pending proof of compliance with the requirement that they have a fishing card. For a second violation a maximum penalty of 60 days suspension of fishing rights may be imposed. For a third or subsequent violation the penalty can be as much as a 90 day suspension of fishing rights.

e. Persons who violate the ban on commercial fishing or the fish marking requirements are subject to a maximum $500 fine or a maximum jail sentence of six months or both. Fishing rights during the fall chinook runs may also be suspended for 180 days.

f. Persons who violate the restriction on impeding boats from docking may be fined no more than $25 or sentenced to perform a maximum of two days of community service.

g. Persons who refuse to obey a lawful order of the court of Indian offenses may be fined a maximum of $100 and have their fishing rights suspended for up to 60 days. Violation of a court order suspending fishing rights, however, can result in a $200 fine and a 30 day jail sentence or both.

h. For purposes of calculating whether there have been one or more previous violations only violations occuring within the previous three years could be counted.

With the exception of the penalties dealing with commercial fishing (including the marking requirements that are designed to make the sale of fish more difficult), the penalties being proposed are somewhat lighter than the current penalties, but significantly greater than those proposed by the fishery screening committee. The maximum possible penalties are retained for commercial fishing violations, because the desire to over harvest the resource in order to make money continues to be the most serious of those threats to the resource that are subject to these regulations. Penalties for other offenses, especially first offenses, have been made lighter because those violations pose a less serious threat to the resource.

Many persons have complained that the regulations are difficult to understand. We have made an effort to write the rules as simply as we can.

Some portions of the regulations dealing with what happens in the courts and how decisions are made to change the rules during the season describe fairly complicated processes and cannot be simplified as much as we would like. The rules that fishers need to know in order to fish legally, however, can be stated simply. We are planning to hand out pamphlets to all fishers describing those rules in simple language. If these proposed rules are adopted that pamphlet would read like this:

From July 15, 1982, Through September 30, 1982

You may not fish with a gillnet on Monday after 9 a.m.

You may not fish with a gillnet on Tuesday at all.

You may not fish with a gillnet on Wednesday until after 5 p.m.

You may not fish with a gillnet on Thursday between 9 a.m. and 5 p.m.

You may not fish with a gillnet on Friday between 9 a.m. and 5 p.m.

You may fish with a gillnet at all other times.

After September 30, 1982, you may Fish With a Gillnet on the Reservation at any Time Except from 9 a.m. to 5 p.m. on Mondays

You may not use a gillnet that is longer than one hundred feet.

You may fish two gillnets at the same time so long as the length of both added together is not more than 100 feet.

You may not use more than two gillnets at any one time. You may not use a drift-net below the Highway 101 Bridge. Any set-net you use must be anchored on at least one end. You may not place a net in any creek or within one hundred feet of the mouth of any of these creeks:

Blue Creek	Pine Creek
Mill Creek	Rouch Creek
Supply Creek	Terwer Creek
Hunter Creek	Ah-Pah Creek
Pecwan Creek	Mettah Creek
Surpur Creek	Tully Creek
Tectah Creek	Soctish Creek
Hostler Creek	Tish-Tang Creek
McGarvey Creek	Omagar Creek
Tarup Creek	Bear Creek
Morek Creek	Johnson Creek
Beaver Creek	Hospital Creek
Campbell Creek	Salt Creek
Richardson Creek	

You may not set a net within 500 feet in any direction of the mouth of the Trinity River.

You may use a trap only if it will catch only eels.

You may use no other trap, and you may not use wire, fencing materials, snag gear, explosives, stunning agents or chemicals in any form to catch fish.

You may not set a net within 400 feet of the test seining operation of the U.S. Fish and Wildlife Service or the California Department of Fish and Game.

You may not set a net in a manner that makes it hard for a boat to reach a dock.

You must preserve, eat or make ceremonial use of any fish you catch before it rots.

You must have your identification number on any net you are fishing, but you may help someone else fish if that person is with you and has his or her identification number on the net.

If someone else uses or tends your net, that person must put his or her own identification number on the net and yours must be removed.

Only one number can be on the net at any one time.

So you can change the identification number when necessary, you should have the number on a special float that can be easily attached and detached from the net. The BIA will provide you with a float for that purpose or you may us an empty plastic bottle that has been sealed. Many persons use bleach bottles for that purpose.

You must have your fisher's identification card with you at all times when you are fishing or transporting fish.

You may not sell or trade any fish.

The fish you catch may be used only for ceremonial purposes or for eating by you, other Indians of the reservation or members of the family of any Indian of the reservation.

If you are taking fish off the reservation, you must cut off the dorsal (top) fin before taking them off the reservation.

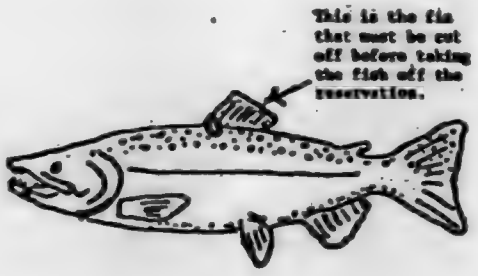

If you want to take 15 or more fish off the reservation at one time, you must go to a BIA enforcement officer or to a Hoopa tribal fisheries officer and get a permit for that purpose.

Once a month you must report the fish you catch on the attached form. If you need help completing the form, BIA enforcement officers, Fish and Wildlife employees or Hoopa tribal fisheries employees will help you. If you need more forms, they will see that you get them.

If you catch fish below the Highway 101 Bridge you must bring them to the Fish and Wildlife inspection stations located there for the biologists there to look at.

You may not let anyone who does not have an identification card use your nets or help you fish.

If you have any questions about these rules, BIA enforcement officers will help you. If they give you any advice they will write down what they told you for their own records. They will give you a copy of what they have written if you want.

Recommendations received but not being proposed.

1. The fishery screening committee recommended that the regulations state that these regulations preempt any state jurisdiction over Indian fishing. The question of whether the state has any remaining jurisdiction over Indian fishing even though the Federal Government is regulating such fishing is presently at issue in a number of cases that are in the courts. Under the current caselaw, resolution of that issue involves a number of factual issues. The answer can change, depending on the situation at any given time. For that reason we believe the preemption issue is best left to the courts.

2. The Hoopa Valley Business Council recommended that these regulations state they may be superseded by any ordinances the council might enact. While we might have no objection to a particular ordinance the council might adopt, we are not prepared to agree in advance to the validity of such ordinances.

3. The fishery screening committee recommended the closure of the Klamath River to fishing during November to commemorate KAMUS, the Indian New Year. Many Indians who commented on the committee's proposals said they were unaware that it was traditional not to fish the river during that month. Because the harvest during past Novembers has usually been quite low, there appears to be no special conservation need to close the river during that month. The committee's proposal was part of a package that did not include night-time closures on Mondays and Tuesdays, which we are proposing. It is doubtful whether the committee would have recommended a November closure if it had assumed there would be the Monday and Tuesday closures during the fall run.

4. The fishery screening committee also recommended that drift-nets be permitted below the Highway 101 Bridge

after December 2, 1982. The committee anticipated that adoption of this recommendation would result in some increase in the harvest of sturgeon. The U.S. Fish and Wildlife Service is just beginning to develop good data on the sturgeon runs in the Klamath River. We do not wish to encourage an increased harvest of sturgeon until more is known about the strength of the run.

5. The Hoopa Valley Business Council recommended daytime closures on weekends as well as weekdays. Many Indians are unable to fish during the week and feel unsafe fishing at night. We believe some daytime fishing opportunity should continue to be available for those people. Because harvests during the daytime are much less than nighttime harvests, permitting daytime fishing two days a week will have a very limited impact on the size of the total harvest.

6. The fishery screening committee recommended that the rule prohibiting the placement of nets that cover more than one-third of the distance from bank to bank be changed to prohibit only covering more than one-third of the swift-flowing channel of the river. This proposal would probably be unworkable because of problems in determining with precision where the swift-flowing channel is at each location along the river.

7. The committee also recommended that persons wishing to remove fish from the reservation be permitted to obtain a transportation permit in lieu of removing the dorsal fin. Removing the dorsal fin is required in order to put buyers on notice that the fish was caught on the reservation and may not be sold. Issuance of a permit for transportation purposes would not accomplish this purpose.

8. The committee also recommended that in-season adjustments be the responsibility of the Area Director of the Bureau of Indian Affairs instead of the Director of the U.S. Fish and Wildlife Service. It is intended that in-season adjustments be made primarily based on biological considerations. For that reason it is preferable to have the decision made by the Fish and Wildlife Service.

9. The committee recommended substantially ligher penalties for almost all offenses—including commercial fishing offenses. The committee's recommendations provided for almost no jail sentences. Because of the substantial threat to the resource posed by commercial fishing, it is particularly important to retain significant penalties. The committee proposed establishing minimum penalties. The overall effect would be to reduce substantially the discretion of the court. The degree to which a particular offense represents a serious threat to the resource if a person is not punished depends to a great extent on the particular circumstances of the case. It is advisable to accord the court rather broad discretion to take those particular circumstances into account.

10. Several commenters urged strict penalties for persons not carrying their fisher's identification cards when fishing. While failure to carry the card causes some unnecessary enforcement problems, it does not pose a serious threat to the resource. For that reason it is proposed to provide only light punishment for that offense.

11. One commenter objected to requiring a fisher to bring in proof that the fisher has a card when an officer is unable to determine on the scene that a card has been issued to that person. Failure to carry the card—especially in the absence of sufficient other identification to permit the officer to verify on the spot that the person has been issued a card—causes a much greater inconvenience to the officer than the burden on the fisher to cary the card. Requiring the fisher to make a showing that the card has been issued is intended to give that person an incentive for carrying the card in the first place.

12. One commenter urged that nets be limited to 50 feet in length. Reducing by half the permissible length of the net could make it considerably more difficult for Indians to catch the fish they need for their own consumption needs.

13. A commenter urged that a minimum mesh size of 7.25 inches be imposed. Presumably, this proposal is made in order to limit the Indian harvest of steelhead. The information available to us indicates the Indian harvest of steelhead is quite low and poses no threat to the steelhead stocks.

14. A commenter recommended that all gillnet fishing be banned on Sundays. Such a ban would severely restrict the fishing opportunities of persons who can fish only on weekends.

15. A commenter suggested that only reservation residents be permitted to fish on the reservation. We do not believe the law would support exclusion of all non-reservation residents from fishing.

16. It was recommended that a permit be required for all fish taken from the reservation. Such a requirement would impose a major burden on Indian fishers and the BIA and it would do little to protect the resource.

17. One commenter urged that escapement be assured not only for propogation and sports fishing but also for harvest by Karok and Shasta Indian people living along the Klamath and Salmon Rivers. The restrictions imposed on harvests on the reservation are intended to provide an opportunity for other Indians fishing above the reservation to harvest fish in addition to providing enough fish for spawning escapement.

18. A commenter urged that members of the Karok Tribe be included as eligible fishers on the reservation. Some Karok Indians meet the present criteria and are eligible to fish on the reservation. We know of no legal basis, however, for recognizing an Indian fishing right on the reservation for everyone who is a Karok Indian.

19. The Hoopa Valley Business Council recommended that all penalties be applicable to anyone who is 16 years old and that persons who are 16 years old or 17 years old be liable for all penalties except incarceration. Based on past experience in regulating the fishery, we do not see a need to provide more severe penalties for persons in this age group.

20. The Hoopa Valley Business Council has recommended that snagging and snag gear be defined as follows: "The use of a fishing pole, multiple point hook and weight to hook fish as they swim by. The use of a multiple point hook when used in conjunction with bait or lure shall not be considered snagging provided the multiple hook is 1.0 inches or less between any two points." We will give further consideration to this recommendation but, at present, we prefer the definition we have proposed because it is consistent with the definition used by California.

21. The Hoopa Valley Business Council urged that all biological personnel doing work on the reservation be required to obtain a special permit to work on the reservation. The people who do this work are state, tribal and Federal employees and should have documents identifyig them as such. No purpose would be served by requiring them also to obtain a special permit authorizing them to work on the reservation.

22. The Hoopa Valley Business Council recommended that we include a provision stating that the Bureau of Indian Affairs is not responsible for damage to fish held or stored under these regulations unless neglect is proven. It is unlikely that such a statement in the regulations would alter the liability the BIA would otherwise have for damage to seized fish.

23. The Hoopa Valley Business Council recommended that the identification number be placed on the

end of the net closest to the center of the stream to avoid the danger that an enforcement vessel would damage a net while checking the identification number. In some instances it may be a substantially greater burden for a fisher to have to go out into the river to change the identification float. Enforcement officers can use binoculars, if necessary, to check the identification number from a distance.

24. The Council also recommended that the Rest Home be required to report the fish that it receives from community fishers. This information can be collected from the fishers themselves.

25. Several commenters recommended that enforcement officers carry with them a complete list of everyone who has a fisher's identification card. We intend to do this, but we do not think it necessary to state it in the regulations. Even with such a list, however, identification of some type may be necessary for the officer to establish the identity of the individual.

26. One commenter recommended that daytime closures be limited to the area below the Highway 101 Bridge. Although some of the reasons for the daytime closures may be more important below the bridge, those reasons also apply above the bridge.

27. Some commenters urged that the court not be given discretion to release information about juveniles who have been before the court. Confidentiality is adequately protected by requiring a court to decide in each case where information is sought whether its release is justified. Giving the court discretion permits release of information when there is a sound reason for it while guarding against unwarranted harm to the individual that can result from having a "record" in the courts.

28. One commenter recommended that snagging be legalized. In some circumstances—such as where a barrier of some kind slows the migration of fish—permitting snagging can result in a serious depletion of the resource. This recommendation has also not been proposed because the current status of the resource does not justify changes in the rules that are likely to result in a higher harvest level.

29. Some persons assert that the present definition of an eligible fisher is arbitrary because it excludes many Indians who could prove they have rights on the reservation but happen not to be members of the Hoopa Valley Tribe, happen not to have become plaintiffs in the *Short* case (many because they were too young at the time) and happen to have been away from the reservation for an extended period of time sometime in the past ten years. The Bureau of Indian Affairs intends to consider this problem further, but has not yet developed a specific proposal to be published for comment in these proposed regulations.

30. A proposal to authorize non-Indian spouses of disabled eligible fishers to fish has not been adopted because of serious legal questions concerning the authority of the Interior Department to regulate such fishing.

The primary authors of this document are David Etheridge, Office of the Solicitor, Division of Indian Affairs, Department of the Interior, and John Bushman, Northern California Agency, Bureau of Indian Affairs.

It has been determined that this proposed rule is not a major rule as that term is defined in Executive Order 12291 of February 17, 1981, 46 FR 13193, because it will have a limited economic impact on a small number of people.

It has been determined that this proposed rule would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, Pub. L. 96–354.

The information collection requirement contained in § 250.9 will be submitted to the Office of Management and Budget for approval as required by 44 U.S.C. § 3507. The collection of this information will not be required until it has been approved by the Office of Management and Budget.

List of Subjects in 25 CFR 250

Fisheries, Fishing, Indians—lands, and penalties.

It is proposed to revise 25 CFR Part 250 to read as follows:

PART 250—INDIAN FISHING—HOOPA VALLEY INDIAN RESERVATION

Sec.

250.1 Purpose and information collection.
250.2 Effect of changes in the regulations.
250.3 Application.
250.4 Definitions.
250.5 Eligible Fisher—Eligible Indian.
250.6 Fishers identification cards required.
250.7 Identification of gear.
250.8 Permissible and prohibited fishing.
250.9 Catch marking and tranportation of fish.
250.10 Consultation.
250.11 In-season and emergency regulations.
250.12 Fish catch reporting.
250.13 Identification of persons fishing.
250.14 Enforcement.
250.15 Penalties.
250.16 Forceable assault and impeding a law enforcement officer.
250.17 Hoopa Valley Indian Reservation Court of Indian Offenses.
250.18 Execution of judgments pending appeals.

Authority: 43 U.S.C. 1457, 25 U.S.C. 2, 9, and 13, and the Reorganization Plan No. 3 of 1950 (65 Stat. 1262).

§ 250.1 Purpose and information collection.

(a) The regulations contained in this Part govern fishing by eligible Indians on the Hoopa Valley Indian Reservation. The purpose of these regulations is to protect the fishery resources and to establish procedures for the exercise of the fishing rights of Indians of the Reservation until a Reservation-wide management mechanism is established with the capability to manage and regulate the Indian fisheries on the Reservation. The regulations are intended to promote reasonably equal access to the fishery resources of the Reservation by all Indians of the Reservation, and to assure adequate spawning escapement.

(b) The limited extent to which regulation is undertaken by this Part is not intended nor should it be construed as a conclusion that the Secretary does not have the authority to take additional measures to protect fishery resources on the Reservation if it is later determined that such measures are necessary.

(c) The regulations of this part govern all eligible Indians of the Hoopa Valley Indian Reservation. Violations of these regulations occurring either on or off the reservation are punishable in the court of Indian offenses.

(d) [Reserved for information collection.]

§ 250.2 Effect of changes in the regulations.

A person who violates the regulations of this Part may still be prosecuted after the regulations are changed so long as what that person did was a violation of the regulations in effect at the time the person did it.

§ 250.3 Application.

(a) The provisions of these regulations and all in-season adjustment orders issued under them apply to the waters of the Klamath and Trinity Rivers and their tributaries within the exterior boundaries of the Hoopa Valley Indian Reservation.

(b) Any person who is not an Indian of the Reservation as determined under § 250.5 is not regulated under this Part at this time.

(c) Children under the age of 10 years are not liable for violation of the provisions of this part. Such children are not eligible to receive fisher identification cards, but may accompany adult eligible fishers. Adults in the company of such children shall be held liable for actions of such children that

are in violation of the provisions of this Part.

(d) Children between the ages of 10 and 16 are entitled to fisher identification cards and are subject to the provisions of this Part, but such children are not subject to a fine or incarceration for violation of the provisions of this part.

(e) Eligible Indian fishers who are 17 or 18 years old are subject to all penalties prescribed in this part except incarceratiion.

(f) All court and enforcement records concerning vilolations or alleged violations which occurred when the violators or alleged violators were under the age of 18 shall be strictly confidential. Records may only be released to other agencies or persons by petition to and approval of the Court of Indian Offenses. Nothing in this paragraph shall bar the use of statistical compilations of juvenile records or the use of a violator's prior record in the sentencing phase of a Court of Indian Offenses prosecution.

§ 250.4 Definitions.

"Channel" means the wetted area from bank to bank.

"Commercial fishing" means the taking of fish or fish parts with the intent to sell or trade them or profit economically from them.

"Consumptive or subsistence fishing" means the taking of fish to be eaten by Indians of the Reservation or their families.

"Drift-net (pole net)" means a gillnet which is not staked, anchored or weighted, but drifts free.

"Eligible fisher—eligible Indian" means any Indian who is determined to be an Indian of the Reservation under § 250.5.

"Enforcement Officer" means:

(a) any enforcement officer of the Department of the Interior;

(b) Any U.S. Marshal;

(c) Any tribal enforcement officer; or

(d) Any person deputized to enforce these regulations.

"Fish or fishing" means the fishing for, catching, or taking or the attempted fishing for, catching, or taking of any anadromous fish within the exterior boundaries of the Reservation. Placement of a net in the water constitutes fishing regardless of whether or not the person who placed the need in the water intended to catch fish.

"Fishers identification card" means the identification (I.D.) card issued by the Hoopa Valley Tribe to its members or the card issued by the Bureau of Indian Affairs identifying the holder as a person eligible to fish as an Indian of the Reservation. The identification card shall include the name, basis for eligibility to fish, address, birthdate, color or hair, color of eyes, height, weight, identification number, and photograph of the holder and the disclaimer provided in § 250.5.

"Fishing gear" means any gillnet, seine, hook-and-line, and other apparatus used for taking fish.

"Gillnet" means a flat net suspended vertically in the water with meshes that allow the head of a fish to pass through or become entangled.

"Hand dip net" means a section of netting distended by a rigid frame operated by a process commonly recognized as dipping. Such nets may be of any size.

"Identification number" means the identification number assigned by the Bureau of Indian Affairs identifying the eligible fisher by number. This number is to be obtained by the eligible fisher and placed on his or her fishing gear where required by these regulations.

"Logsheet" means that record maintained by eligible fishers of fish caught for reporting catch data for use by a biologist in developiong fish run and spawning escapement information.

"Reservation" means the Hoopa Valley Indian Reservation as extended, including those parts known as the "Extension" and the "Hoopa Square."

"Secretary" means the Secretary of the Interior or his/her designated representative.

"Set-net" means a gillnet which is staked or anchored or weighted on at least one end so that it does not drift free.

"Snag gear" means and includes:

(a) Any multiple hook with shortest distance between hook points greater than 1.25 inches or shank longer than two inches, and

(b) Any weight exceeding one-half ounces attached to any multiple hook or to the line, directly or indirectly, within 18 inches of any multiple hook.

"Stretched measure" means the distance between the inside of one knot and the outside of the opposite (vertical) knot on one mesh of a gillnet. Measurement shall be taken when the mesh is stretched vertically while wet, by using a tension of ten (10) pounds on any three (3) consecutive meshes, then measuring the middle mesh of the three while under tension.

"Subsistence or consumptive fishing" means the taking of fish to be eaten by Indians of the Reservation or their families.

§ 250.5 Eligible Fisher—Eligible Indian.

(a) The following persons may exercise fishing rights under the authority of this Part:

(1) Enrolled members of the Hoopa Valley Tribe,

(2) Plaintiffs in the case entitled *Jessie Short et al. v. United States*, Ct. Cls. No. 102–63, and

(3) Persons who are allottees or direct descendants of allottees on the Hoopa Valley Indian Reservation, who currently and for eight (8) of the past ten (10) years have resided on the Reservation or within 60 miles thereof.

(b) Disclaimer: Determination of eligibility to fish under paragraph (a) of this section shall not be considered evidence of entitlement or lack of entitlement or in any way affect eligibility for enrollment or other tribal benefits or rights on the Hoopa Valley Indian Reservation.

(c) Except as provided under § 250.3(c) an eligible Indian as determined under this section who allows an ineligible person to assist in an Indian fishery on the Reservation is subject to the penalties set out in § 250.15.

§ 250.6 Fishers identification cards required.

(a) Persons qualifying as an "Eligible Fisher" or "Eligible Indian" under § 250.5 shall obtain an Indian fishers identification card and have it in his or her possession before exercising any Indian fishing rights or transporting fish caught on the Reservation in the exercise of Indian fishing rights.

(b) (1) When an Indian, as defined in § 250.5, is stopped by a law enforcement official and is unable to produce his or her I.D. card the law enforcement official shall make every reasonable effort to determine whether that person was issued an identification card.

(2) If the enforcement official can determine that the person is eligible to fish then no penalty or seizure of gear or fish shall occur. However, that fisher may be issued a citation requiring him or her to appear within seven (7) days and offer proof that he or she still possesses an identification card. If that person does not appear within the specified time, he or she shall be given notice that his or her tribal fishing rights have been suspended until proof of compliance is presented and he or she shall be subject to the penalties prescribed in § 250.15.

(3) (i) If the enforcement officer cannot determine with certainty that the fisher has a current identification card then the officer shall issue that person a citation and may seize any gear or fish within that person's possession.

(ii) If any fish are seized they shall be frozen and stored by the BIA for seven (7) days.

(iii) If the fisher appears within the seven (7) days and presents proof of issuance of a valid I.D. card any gear or fish seized shall be returned to him or her.

(iv) If the fisher does not appear within seven (7) days the fisher shall forfeit any fish seized and may be subject to the penalties prescribed in § 250.15.

(4) Repeated violators of § 250.6(b)(2) or (3) are subject to the penalties prescribed in § 250.15.

(c) Fisher identification card. A fisher identification card shall be issued to tribal members by the Hoopa Valley Tribe or by the Bureau of Indian Affairs, Hoopa Agency, to applicants who fulfill eligibility requirements in § 250.5(a). Such cards may be obtained by contacting the Agency Superintendent, P.O. Box 367, Hoopa, California 95546, telephone number (916) 625–4285, or the Hoopa Valley Tribal Office. The card shall be signed by the card holder. The card shall be countersigned by the authorized official of the Bureau of Indian Affairs or the Hoopa Valley Tribe certifying that the card holder is recognized as eligible to exercise Indian fishing rights on the reservation.

(d) Each eligible Indian who fishes must file logsheets reporting catch data. The logsheet shall be mailed or delivered to the address printed on the logsheet by the 15th day of the month following the period covered by the logsheet. A fisher must file a logsheet for each month during which that person catches at least one anadromous fish. Logsheet forms will be provided to Indian fishers by the Bureau of Indian Affairs.

§ 250.7 Identification of gear.

(a) At the time an eligible fisher applies for a fisher identification card he or she shall be assigned an identification number and shall be required to attach the identification number to any net he or she is is using for fishing on the reservation. Each net must have floats or corks attached which float and are visible at all times the net is in the water.

(b) All fishing nets shall be conspicuously marked so that the fisher's identification may be read without removing the gear from the water. Only one number may be on the net at one time and it shall be attached to either end of the net. In absence of proof to the contrary, unmarked nets shall be presumed not to be used in the exercise of the fishing rights of Indians of the Reservation and will be subject to seizure by a law enforcement official.

(c) Except as may be provided for elsewhere in this Part, no eligible Indian fisher may allow his or her identification number to be used on a net that he or she is not attending or fishing.

(d) Except as may be provided for elsewhere in this part, no eligible Indian fisher may attend or fish a net that is not marked with his or her own identification number unless he or she is accompanied by the eligible fisher whose identification number is on the net.

(e) The person whose number is on the net is liable if the net is being used in a manner that violates the regulations of this part.

(f) Nothing in the regulations of this Part prohibits an eligible Indian fisher from requesting or giving assistance to another eligible fisher where the person needing assistance is faced with an emergency situation that could lead to loss of gear or life.

§ 250.8 Permissible and prohibited fishing.

(a) Except as otherwise prohibited by these regulations the Hoopa Valley Indian Reservation is open to the taking of anadromous fish by eligible Indians for subsistence and ceremonial purposes unless specifically closed by the regulations of this Part or by properly adopted in-season and emergency regulations promulgated hereafter.

(b) During the period of July 15, 1982 through September 30, 1982, fishing with gillnets is permitted as follows:

Sunday—fishing permitted all day
Monday—fishing prohibited after 9:00 a.m.
Tuesday—fishing prohibited all day
Wednesday—fishing prohibited until after 5:00 p.m.
Thursday—fishing prohibited from 9:00 a.m. to 5:00 p.m.
Friday—fishing prohibited from 9:00 a.m. to 5:00 p.m.
Saturday—fishing permitted all day

(c) After September 30, 1982, fishing with gillnets is permitted seven (7) days per week and twenty-four hours per day except that all nets must be out of the water between the hours of 9:00 a.m. and 5:00 p.m. on Monday of each week.

(d) Fishing is permitted under these regulations for subsistence and ceremonial purposes only.

(e) Commercial fishing is prohibited by these regulations.

(f) Fish caught on the Hoopa Valley Indian Reservation may not be sold.

(g) Drift-net fishing is not permitted below the Highway 101 Bridge.

(h) No eligible fisher may use more than two gillnets, the combined length of which may not exceed one hundred (100) feet.

(i) Set-nets or drift-nets may be joined end-to-end so as to form a single straight-line net as long as the new length does not exceed 100 feet.

(j) At least one end of a set-net shall be anchored or staked at all times it is in use.

(k) The anchoring of nets to any boat dock or placement of nets in such a manner as to impede boat traffic from docking at or departing from any boat dock is prohibited.

(l) No set-net or combination of set-nets, staggered or joined, may be placed in the Klamath River or Trinity River in such a way that it covers more than one-third (⅓) of the distance across the wetted area of any channel.

(m) No set-nets may be placed in any tributary creek of either the Klamath and Trinity Rivers or within one hundred (100) feet of the mouth of any of the following creeks:

(1) Blue Creek
(2) Mill Creek
(3) Supply Creek
(4) Hunter Creek
(5) Pecwan Creek
(6) Surpur Creek
(7) Tectah Creek
(8) Hostler Creek
(9) McGarvey Creek
(10) Tarup Creek
(11) Morek Creek
(12) Beaver Creek
(13) Campbell Creek
(14) Richardson Creek
(15) Pine Creek
(16) Roach Creek
(17) Terwer Creek
(18) Ah-Pah Creek
(19) Mettah Creek
(20) Tully Creek
(21) Soctish Creek
(22) Tish-Tang Creek
(23) Omagar Creek
(24) Bear Creek
(25) Johnson Creek
(26) Hospital Creedk
(27) Salt Creedk

(n) No set-nets may be placed within five hundred (500) feet in any direction of the confluence of the Klamath and Trinity Rivers.

(o) The use of traps that will catch any fish other than eels, and the use of wire, fencing materials, snag gear, explosives, stunning agents or caustic or lethal chemicals in any form is expressly prohibited in all fisheries.

(p) No set-net may be placed within 400 feet of the test seining operation of the U.S. Fish and Wildlife Service or the California Department of Fish and Game.

(q) Any eligible Indian as determined under this Part who knowingly and maliciously misappropriates the use of another eligible Indian's I.D. number shall be subject to the penalties set out in § 250.15.

(r) Set-net locations: Set-net locations shall be determined by the individual Indian fishers in accordance with tradition and custom and in a manner consistent with the provisions of this § 250.8. Disputes over set-net locations are to be resolved between the parties. If no satisfactory resolution is reached then all disputes are to be referred by the parties to elders or knowledgeable adults of the community for the particular area in which the unresolved dispute takes place.

(s) Dip-net and hook-and-fishing: Eligible Indians may engage in dip-net fishing or hook-and-line fishing at all

times on the Reservation except when fishing is prohibited for all persons by emergency regulations promulgated hereafter for conservation purposes. Fishers identification cards shall be carried by all eligible Indians when engaged in dip-net or hook-and-line fishing.

(t) Special fishing for rest home, elderly and incapacitated persons of the Hoopa Valley Indian Reservation:

(1) The Northern California Agency of the Bureau of Indian Affairs may issue special gillnets and I.D. numbers to eligible Indian fishers for the purpose of fishing for the Hoopa Square rest home and other eligible persons who are elderly, incapacitated or otherwise incapable of fishing for themselves. Such gillnets shall be clearly marked with numbers assigned by the Bureau of Indian Affairs.

(2) Only eligible Indian fishers may attend these nets and when fishing such a special community net an eligible Indian may not fish any other net.

(3) All fish caught in these special nets shall be distributed pursuant to rules and procedures established by the Northern California Agency.

(4) Nothing in these regulations shall prohibit payments to fishers using these special nets from appropriate funding sources. Payment may not be based on the number or weight of the fish caught. Any community fisher who violates this section is subject to the penalties prescribed in § 250.15.

(u) Research and test fisheries: Fish capture techniques including trapping, netting and electrofishing may be employed by biologist of fisheries management agencies working on the rivers for biological research, enhancement or other resource management purposes. Indians of the Reservation may observe research and test fisheries upon making arrangements with the agency conducting the research activity.

§ 250.9 Catch marking and transportation of fish.

(a) *Marking.* (1) Fish which will not be transported outside the reservation boundaries do not need to be marked.

(2) Any eligible fisher shall mark each fish by removing the dorsal fin prior to removing it from the reservation.

(b) *Off-reservation transportation of fish.* (1) No eligible Indian fisher may transport off the reservation at one time 15 or more fish of any species or size caught on the reservation without having in his or her possession a valid transportation permit issued pursuant to this section. A transportation permit may be obtained from any enforcement officer or, in the case of Hoopa tribal members, from the Fisheries Department of the Hoopa Valley Tribe. Violations of this section shall be subject to the penalties set forth in § 250.15. The permit so issued shall state the following:

(i) The name and address of the person to whom the permit is issued.

(ii) The date of issue.

(iii) License number of the vehicle to be used to transport the fish.

(iv) The name and address of the person to receive the fish.

(v) The estimated time of arrival.

(vi) The quantity of fish to be transported.

(vii) The name of the issuing officer and agency.

§ 250.10 Consultation.

The Bureau of Indian Affairs Agency Superintendent or a designated representative of the Superintendent shall hold meetings as needed on the reservation to consult with Indians of the Reservation on the status of the fishery, ocean harvests, in-season adjustments to the regulations, and other relevant matters. At the end of each presentation, comments will be received from those in attendance. A written summary of those comments shall be maintained as a record by the Bureau of Indian Affairs, Northern California Agency.

§ 250.11 In-season and emergency regulations.

(a) The Director of the U.S. Fish and Wildlife Service or a specifically authorized delegate of the Director is authorized to make in-season and emergency changes to the regulations when necessary to ensure proper management of the fisheries of the Klamath and Trinity Rivers. This authority includes the following powers:

(1) To close all or part of an Indian fishery when, in the Director's judgment, a closure is necessary to meet conservation needs.

(2) To re-open all or part of an Indian fishery when, in the Director's judgment that action will not jeopardize spawning escapement.

(b) In-season or emergency regulations shall be effective 24 hours after publication in the *Eureka Times Standard*. They shall stay in effect until modified or rescinded by the Director. Failure to complete subsequent provisions of this section shall not affect the validity of any in-season or emergency adjustment.

(c) Notification of in-season or emergency adjustments:

(1) The Superintendent of the Northern California Agency is responsible for having each emergency or in-season adjustment to the fishing regulations published in the *Eureka Times Standard* as a legal notice at least twenty-four (24) hours before it is to become effective, and in the *Del Norte Triplicate, Klamity Kourier,* and the *Arcata Union* as promptly as possible.

(2) The BIA Area Director shall have each in-season adjustment or emergency regulations published in the Federal Register as promptly as possible.

(3) The Superintendent of the Northern California Agency shall attempt to post each emergency or in-season adjustment at least twenty-four (24) hours before it is to become effective at each of the following locations:

(i) Hoopa Post Office;
(ii) Hoopa Shopping Center;
(iii) Northern California Agency, Bureau of Indian Affairs;
(iv) Willow Creek Post Office;
(v) Willow Creek Public Library;
(vi) Weitchpec Bulletin Board, Pierson's Store;
(vii) Weitchpec Elementary School;
(viii) Pecwan Church;
(ix) Pecwan Elementary School;
(x) Requa Community Center;
(xi) Resighini Rancheria Office;
(xii) Klamath Post Office;
(xiii) Requa Inn;
(xiv) U.S. Coast Guard Station, Requa;
(xv) Klamath Grocery Store;
(xvi) Klamath Field Office, Bureau of Indian Affairs;
(xvii) Bureau of Indian Affairs, Eureka;
(xviii) Bureau of Indian Affairs, Redding;
(xix) Crescent City Post Office;
(xx) Crescent City Court House;
(xxi) Eureka Post Office; and
(xxii) Eureka Courthouse.

(4) If the owners of the property at the following locations so desire, a courtesy copy of the notice will be provided:

(i) Hoopa Tribal Office,
(ii) Young's Bar,
(iii) Dad's Camp,
(iv) Chub's Camp,
(v) Gensaw's Landing,
(vi) Notchkeo,
(vii) Terwar,
(viii) Bacon's Camp,
(ix) Sim's Camp,
(x) Mattz's Dock, and
(xi) Others that may so request.

§ 250.12 Fish catch reporting.

(a)(1) Any eligible fisher who catches fish on the Klamath River below Highway 101 Bridge shall bring such fish for inspection to the U.S. Fish and Wildlife Service inspection stations located along that portion of the river.

(2) All eligible fishers shall allow access to harvested fish to biologists, enforcement officers and Indian trainees for the purpose of monitoring the harvest and to check for compliance with the provisions of this part.

(b) Fish catch data shall be compiled and summarized by the U.S. Fish and Wildlife Service and made available upon request. It will not be permissible to release catch information for individual fishers of the Reservation.

(c) U.S. Fish and Wildlife Service will compile in-season catch data from information obtained from fishers spot checks, landing counts, creel census, and from other information collected by state and Federal officials.

§ 250.13 Identification of persons fishing.

Each eligible fisher shall produce for examination the applicable Indian fishers identification card required under these regulations upon demand of an enforcement officer.

§ 250.14 Enforcement.

Eligible Indians who violate these regulations or any in-season or emergency adjustment promulgated under these regulations shall be subject to prosecution before the Court of Indian Offenses for the Hoopa Valley Indian Reservation. The pertinent provisions of 25 CFR Part 11 and the Indian Civil Rights Act of 1968 apply.

(a) *Citations:* Law enforcement officers may issue citations to any eligible Indian the officer believes has committed a violation of the regulations of this Part. Such citation shall state when and where the person cited is expected to appear in court and the offense with which the person is charged.

(b) *Seizure:* Confiscation of fishing gear and fish.

(1) Any net or other fishing gear used in violation of these regulations and any fish caught or possessed in violation of these regulations may be seized by a law enforcement officer. Fishing gear or fish so seized shall be held pending disposition by court order except as specifically provided for in these regulations.

(2) When a net or other fishing gear is seized and the owner is unknown to the enforcement officer, the officer shall, without unreasonable delay, commence proceedings in the Court of Indian Offenses by petitioning the Court for a judgment forfeiting the fishing gear and/or fish. When a net or other fishing gear is seized and the owner is known and the fishing gear is marked with an identification number the enforcement officer shall, without unreasonable delay, notify by registered mail the holder of the indentification number that his/her fishing gear has been seized. The notice of seizure shall state the date of seizure, the place of seizure, and the time of seizure, and shall direct the person whose gear has been seized to directly notify the Court to arrange to have the matter placed on the Court Calendar.

(3) Upon filing of such petition, the enforcement officer shall set out details of the seizure citing time, place and location of such seizure. A notice of seizure shall be left at the site where the fishing gear and/or fish were confiscated. The Court upon receipt of the petition shall fix a time for a hearing and cause notices for unidentified gear or fish to be posted and published. Notices shall be posted for 14 days at both courthouses of the Court of Indian Offenses. The Clerk of the Court shall publish notices in local news media having circulation on the Reservation. Such notices shall be published for a period of five (5) days and shall set forth the reason for the hearing. Once a person claims seized fishing gear or fish the publication of the notice shall cease.

(4) Any fishing gear or fish ordered forfeited shall be disposed of as directed by the Secretary.

(5) Any person who satisfies the court that he or she is the owner of any fishing gear or fish seized under this section may intervene in the forfeiture proceeding on behalf of the fishing gear or fish.

(6) Except as may be specifically provided for in these regulations all fish seized shall be promptly sold by the Superintendent, Northern California Agency, except that two fish may be retained by law enforcement officers for evidentiary purposes in the Court of Indian Offenses, and the proceeds held pending adjudication of the charge that was the basis for the seizure. Proceeds from sales of fish that are found, upon adjudication, to have been taken in violation of these regulations shall be transferred to a special Hoopa-Yurok Fund in the U.S. Treasury. Nothing in this section shall be construed to prevent undercover law enforcement officers from selling fish as pat of their duties. The regulations of this Part do not authorize the purchase of fish from anyone other than the Superintendent, Northern California Agency or a delegate of the Superintendent who has furnished to the buyer proof of authority to sell fish.

(c) *Arrests:*

(1)(i) Each judge of the Court of Indian Offenses is authorized to issue warrants for the arrest of an eligible Indian.

(ii) No arrest warrant may be issued except upon a written affidavit based upon reliable information or belief alleging that there is probable cause to believe that the person to be arrested has violated the regulations of this Part.

(2) A law enforcement officer may arrest any individual without a warrant if that officer has probable cause to believe that person is violating the regulations contained in this Part in the officer's presence.

(3) Any eligible Indian charged with a violation of the regulations of this Part may be admitted to bail in an amount set by the Court of Indian Offenses. The Court may release a prisoner on his or her own recognizance in an appropriate case.

(d) *Complaint procedures:* Any person regulated under this Part may file a complaint, in writing, against a law enforcement officer. The Superintendent of the Northern California Agency shall, without unreasonable delay, conduct an investigation into any allegation of misconduct by a BIA law enforcement officer in carrying out the duties of that office. Upon completion of the investigation the Superintendent shall make available to the complainant, upon written request, the findings of the investigation.

§ 250.15 Penalties.

(a) Any eligible Indian who violates the time closure provisions, paragraphs (a), (b), or (c) of § 250.8 shall be subject to the following penalties:

(1) *1st violation:* A law enforcement officer who finds a net which is otherwise in conformance with these regulations shall remove the net from the water and place the net on the bank and seize any fish trapped in the net. The officer shall leave a notice on the net which sets forth the reason(s) the net was removed from the river and the amount of fish, if any, that was seized. The officer, without unreasonable delay, shall cause a certified letter to be mailed to the holder of the identification number of the net. Said letter shall set forth the right of that person to institute proceedings in the Court of Indian Offenses challenging the validity of the alleged violation(s) and the seizure of any fish. If no proceeding is instituted within 15 days from receipt of the formal notice, that person shall be deemed to have waived his or her right to contest the validity of the alleged violation(s) and any fish seized shall then be disposed of by the Secretary or his/her representative.

(2) *2nd violation:* All fish seized shall be forfeited and the holder of the identification number on the net seized shall be subject to no more than a $300 fine or three months in jail or suffer

suspension of tribal fishing rights for 90 days during the fishing season or forfeiture of fishing gear or any combinations of the above.

(3) *3rd or subsequent violations:* The eligible Indian fisher regulated under this Part shall suffer no more than $500 fine or 6 months in jail or suffer suspension of tribal fishing rights for 120 days during the fishing season or forfeiture of fishing gear or any combinations of the above.

(b) Any eligible Indian fisher who violates § 250.7 or §250.5(c) of this Part shall be subject to the following penalties:

(1) *1st violation:* Not more than $100 fine or forfeiture of fish or fishing gear or thirty (30) days suspension of tribal fishing rights during the fishing season or any combination of the above.

(2) *2nd violation:* Not more than a $200 fine or forfeiture of fish or fishing gear or sixty (60) days suspension of tribal fishing rights during the fishing season or any combination of the above.

(3) *3rd or subsequent violations:* Not more than a $300 fine or forfeiture of fish or fishing gear or ninety (90) days suspension of tribal fishing rights during the fishing season or any combination of the above.

(c) Any eligible Indian fisher who violates §§ 250.8(g), (h), (i), (j), (k), (l), (m), (n), (o), or (p) shall be subject to the following penalties:

(1) *1st violation:* Not more than $100 fine or 10 days in jail or foreiture of fish or fishing gear or suffer 30 days suspension of tribal fishing rights during the fishing season or any combination of the above.

(2) *2nd violation:* Not more than a $200 fine or 15 days in jail or forfeiture of fish or fishing gear or suffer 60 days suspension of tribal fishing rights during the fishing season or any combination of the above.

(3) *3rd or subsequent violations:* Not more than $300 fine or 20 days in jail or forfeiture or fish or fishing gear or suffer 90 days suspension of tribal fishing rights during the fishing season or any combination of the above.

(d)(1) If an eligible Indian fisher fails to appear after being issued a citation pursuant to §250.6(b)(2) and offer proof that he or she has an identification card, the Court of Indian Offenses may, on petition of the prosecutor, order suspension of the fisher's fishing rights pending the presentation of the required proof.

(2) If an eligible fisher violates § 250.6 a second time, a penalty may be imposed of not more than sixty (60) days suspension of tribal fishing rights during the fall chinook run.

(3) For a third or subsequent violation of § 250.6 the penalty may be not more than ninety (90) days suspension of tribal fishing rights during the fall chinook run.

(e) Any eligible Indian regulated under this part who violates paragraph (e), (f), (g), or (t) of § 250.8 or § 250.9 shall be fined not more than $500, sentenced to jail for a period of not to exceed six (6) months or have his or her tribal fishing rights suspended for not more than one hundred eighty days during the fall chinook runs.

(f) Any eligible Indian regulated under this part who violates the prohibition against impeding boat and dock traffic contained in § 250.8(k) shall be fined not more than $25 or sentenced to perform no more than two (2) days community service as directed by the Court of Indian Offenses.

(g) Any eligible Indian who refuses to obey a lawful order of the Court of Indian Offenses shall be fined not more than $100 or suffer suspension of fishing rights for a period not to exceed sixty (60) days or any combination thereof.

(h) Any eligible Indian who violates a lawful order of the Court of Indian Offenses suspending that persons tribal fishing rights shall be fined not more than $200 or sentenced to jail for a period not to exceed thirty (30) days, or both.

(i) Except as otherwise provided for in this part, for purposes of determining imposition of fines and sentences under this part, the number of prior violations shall include all violations occurring in the previous three (3) years.

§ 250.16 Forceable assault and impeding a law enforcement officer.

Any person who forcibly assaults, resists, impedes, or interferes with a law enforcement officer engaged in the enforcement of the regulations of this part shall be prosecuted in the Federal courts under 18 U.S.C. 1111 and 1114.

§ 250.17 Hoopa Valley Indian Reservation Court of Indian Offenses.

The Hoopa Valley Indian Reservation Court of Indian Offenses established under 25 CFR Part 11 has jurisdiction which is limited to trying persons accused of violating these regulations and determining whether nets, or other fishing gear and fish are forfeited.

§ 250.18 Execution of judgments pending appeal.

Notwithstanding the provisions of § 11.6 of this title, the judgment of the trial court is not automatically stayed upon the filing of an appeal. A judgment may be stayed only by the order of the trial court or the court of appeals.

Dated: May 18, 1982.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82-14709 Filed 5-28-82; 8:45 am]

BILLING CODE 4310-02-M

Office of Surface Mining Reclamation and Enforcment

30 CFR Part 916

Public Comment Period and Opportunity for Public Hearing on Modified Portions of the Kansas Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining (OSM) is announcing procedures for the public comment period and for a hearing on the substantive adequacy of proposed amendments to the Kansas permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

This notice sets forth the times and locations that the Kansas program and proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments and the procedures that will be followed for the public hearing.

DATES: Written comments must be received on or before 4:00 p.m. on July 1, 1982 to be considered in the Director's decision on whether to approve or disapprove the proposed amendments.

A public hearing on the proposed modifications has been scheduled for June 23, 1982 from 7:00 p.m. to 9:00 p.m.

Any person interested in making an oral or written presentation at the hearing should contact Richard Reike at the address and phone number listed below by June 11, 1982. If no person has contacted Mr. Reike to express an interest in participating in the hearing by the above date, the hearing will be cancelled. A notice announcing any cancellation will be published in the **Federal Register.**

ADDRESSES: Written comments should be mailed or hand delivered to: Richard Reike, Director, Missouri State Office, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106.

The public hearing will be held at the Holiday Inn, Highway 69 North, Pittsburg, Kansas. Copies of the Kansas program, the proposed modifications to the program, a listing of scheduled

public meetings, and all written comments are available for review at the OSM State Office and the Office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays: Office of Surface Mining, Missouri State Office, 5th Floor, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106; Mined Land Office, 107 West 11th Street, Pittsburg, Kansas 66726; Kansas Corporation Commission, Legal Office, State Office Building, 4th Floor, 915 Harrison, Topeka, Kansas 66617.

FOR FURTHER INFORMATION CONTACT: Richard Reike, Director, Kansas State Office, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, Telephone: (816) 274–3920.

SUPPLEMENTARY INFORMATION: On February 26, 1980, OSM received a proposed regulatory program from the State of Kansas. On September 4, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved in part and disapproved in part the proposed program (45 FR 58569–59576). The State of Kansas resubmitted its proposed regulatory program and after a subsequent review, the Secretary approved the program subject to the correction of six minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the January 21, 1981 **Federal Register** (46 FR 5892–5899).

To correct the minor deficiencies outlined in the Secretary's conditional approval, Kansas submitted amended statutory provisions to OSM on May 20, 1981. Receipt of these amendments to remove conditions and a request for public comments were announced in the August 25, 1981 **Federal Register** (46 FR 42874–42875). The amendments to satisfy the conditions of approval were approved on April 14, 1982 (47 FR 16012–16014). At the same time that Kansas submitted provisions to satisfy the conditions, the State also submitted other proposed statutory amendments. Although listed as "Additional amendments" in the August 25, 1981 **Federal Register**, comment on these amendments was not specifically invited. Therefore, in accordance with 30 CFR 732.17, notice of receipt and request for public comment on these additional amendments is being published today.

House Bill 2182 enacted May 14, 1981, amended the Kansas Mined Land Conservation and Reclamation Act (MLCRA) as follows:

(1) Section 49–403 of the MLCRA was amended to include the definitions of geologist and geology.

(2) Section 49–405c of the MLCRA was amended to include a provision that a penalty be placed in an interest-bearing escrow account in the event the person contests the amount of the penalty or the fact of the violation.

(3) Section 49–406 was amended to provide:

(a) For geologists to certify maps that accompany permit applications;

(b) That bonding requirements may be satisfied by depositing cash, negotiable bonds, negotiable certificates of deposit or irrevocable letters of credit with the State treasurer.

(4) Added a provision excluding the extraction of coal incidental to highway construction from the provisions of the Kansas MLCRA.

(5) Added a provision creating the mined-land reclamation fund in the State treasury.

See Administrative Record KS–234 for the full text of these amendments.

The Director now seeks public comment on whether these statutory amendments are consistent with SMCRA.

Additional Determinations

Executive Order 12291

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 6 and 8 of Executive Order 12291 for all actions taken to approve, or conditionally approve, State regulatory programs, actions or amendments. Therefore, this proposed program amendment is exempt from preparing a Regulatory Impact Analysis and regulatory review by OMB.

Regulatory Flexibility Act

The Department of the Interior has determined, pursuant to the Regulatory Flexibility Act 5, U.S.C. 601 *et seq.*, that this action will not have a significant effect on a substantial number of small entities.

National Environmental Policy Act

Pursuant to Section 702(d) of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1292(d), this rule is not a major Federal action and therefore no environmental impact statement, FONSI, or environmental assessment need be prepared on this rulemaking.

List of Subjects in 30 CFR Part 916

Coal mining, Intergovernmental relations, Suface mining, Underground mining.

(Pub. L. 95–87, Secs. 102, 201 and 503; 30 U.S.C. 1202, 1211, and 1253)

Dated: May 26, 1982.

J. Steven Griles,

Director, Office of Surface Mining.

[FR Doc. 82–14792 Filed 5–28–82; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 925

Public Comment Period and Opportunity for Public Hearing on Modified Portions of the Missouri Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining (OSM) is announcing procedures for the public comment period and opportunity for a hearing on the substantive adequacy of proposed amendments to the Missouri permanent regulatory program.

This notice sets forth the times and locations that the Missouri program and proposed amendments are available for public inspection, the comment period during which interested persons may submit comments on the proposed amendments, and the procedure that will be followed for the public hearing.

DATES: Written comments must be received on or before 4:00 p.m. on July 1, 1982 to be considered in the Director's decision on whether to approve or disapprove the amendments.

A public hearing on the proposed amendments has been scheduled for June 21, 1982, from 7:00 p.m. to 9:00 p.m. Any person interested in making an oral or written presentation at the hearing should contact Richard Rieke at the address and telephone number listed below by June 11, 1982. If no person has contacted Mr. Reike by the above date to express an interest in participating in the hearing, the hearing will be cancelled. A notice announcing any cancellation will be published in the **Federal Register.**

ADDRESSES: Written comments or requests for a public hearing should be mailed or hand-delivered to: Richard Rieke, Director, Missouri State Office, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, Telephone: (816) 374–3920.

The public hearing will be held at the Federal Building, 601 E. 12th, Kansas City, Missouri.

Copies of the full text of the Missouri program, the proposed modifications to the program, a list of all scheduled public meetings and copies of all written comments are available for review at

the OSM State Office and the central office of the Missouri Land Reclamation Commission listed below, Monday through Friday, 8 a.m. to 4 p.m., excluding holidays:

Missouri State Office, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106
Missouri Land Reclamation Commission, 1026–D N.E. Drive, Jefferson City, Missouri 65102

FOR FURTHER INFORMATION CONTACT: Richard Rieke, Director, Missouri State Office, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, Telephone: (816) 374–3920

SUPPLEMENTARY INFORMATION: On February 1, 1980, OSM received a proposed regulatory program for the State of Missouri. On November 14, 1980, the Secretary approved the program subject to the correction of minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the November 21, 1980 **Federal Register** (45 FR 77017–77028).

To correct the minor deficiencies outlined in the Secretary's conditional approval, Missouri submitted amended rules to OSM on December 3, 1980, and March 12, 1981. Receipt of these amendments to remove conditions and a request for public comment were announced in the August 25, 1981 **Federal Register** (46 FR 42875–42876). With one exception, the amendments to satisfy the conditions of approval were approved on May 11, 1982 (47 FR 20116).

At the same time that Missouri submitted provisions to satisfy the conditions, the State also submitted other proposed regulatory amendments. Comment on these additional proposals was not solicited in the August 25, 1981 **Federal Register.** Therefore, in accordance with 30 CFR 732.17, a notice of receipt and request for comment on these additional proposed amendments is being published today.

Amendments have been proposed to the following sections of the Missouri regulations:

(1) 10 CSR 40–6.090(3)
Permit Reviews—Review of Outstanding Permits
Proposed: May 1, 1980 (5 Mo.R.#491)
Final: August 1, 1980 (5 Mo.R.#860)
(2) 10 CSR 40–6.090(4)(C)
Permit Revisions—Approval Time
Proposed: May 1, 1980 (5 Mo.R.#492)
Final: August 1, 1980 (5 Mo.R.#860)
(3) 10 CSR 40–7.030(1)(E)
Bond Release—Review of Decision
Proposed: May 1, 1980 (5 Mo.R.#493)
Final: August 1, 1980 (5 Mo.R.#860)
(4) 10 CSR 40–7.040(2)(C)
Bond Forfeiture
Proposed: May 1, 1980 (5 Mo.R.#494)
Final: August 1, 1980 (5 Mo.R.#864)
(5) 10 CSR 40–6.010(6)
Permit Fees
Proposed: June 2, 1980 (5 Mo.R.#549)
Final: September 2, 1980 (5 Mo.R.#1149)
(6) 10 CSR 40–2.080
Blasting Procedures
Proposed: August 1, 1980 (5 Mo.R.#808)
Final: November 3, 1980 (5 Mo.R.#1337)
(7) 10 CSR 40–3.050
Use of Explosives—Surface Blasting Requirements
Proposed: August 1, 1980 (5 Mo.R.#809)
Final: November 3, 1980 (5 Mo.R.#1338)
(8) 10 CSR 40–6.070
Permit Review—Definition of Irreparable Damage
Proposed: August 1, 1980 (5 Mo.R.#809)
Final: November 3, 1980 (5 Mo.R.#1338)
(9) 10 CSR 40–8.030(5)–(13)(A)
Inspection and Enforcement
Proposed: May 1, 1980 (5 Mo.R.#495)
Final: August 1, 1980 (5 Mo.R.#561)

See Administrative Record MO–223 for the full text of these amendments.

(10) 10 CSR 40–3.100(4)(B)
Protecting Fish and Wildlife
Proposed: September 2, 1980 (5 Mo.R.#939)
Final: December 1, 1980 (5 Mo.R.#1432)

See Administrative Record MO–230 for the full text of this amendment.

The Director now seeks public comment on whether these proposed regulatory amendments are consistent with the Secretary's regulations.

Additional Determinations

Executive Order 12291

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 6 and 8 of Executive Order 12291 for all actions taken to approve, or conditionally approve, State regulatory programs, actions, or amendments. Therefore, this proposed program amendment is exempt from preparing a Regulatory Impact Analysis and regulatory review by OMB.

Regulatory Flexibility Act

The Department of the Interior has determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that this action will not have a significant effect on a substantial number of small entities.

National Environmental Policy Act

Pursuant to Section 702(d) of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1292(d), this rule is not a major Federal action significantly affecting the quality of the human environment. Accordingly, no environmental impact statement, environmental assessment or FONSI need be prepared on this rulemaking.

List of Subjects in 30 CFR Part 925

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

(Pub. L. 95–87, Secs. 102, 201 and 503; 30 U.S.C. 1202, 1211, and 1253)

Dated: May 26, 1982.

J. Steven Griles,
Director, Office of Surface Mining.

[FR Doc. 82–14790 Filed 5–28–82; 8:45 am]
BILLING CODE 4310–05–M

National Park Service

36 CFR Part 9

Mining and Mining Claims; Petition for Rulemaking and Request for Comments

AGENCY: National Park Service, Interior.

ACTION: Notice of petition for rulemaking and request for comments.

SUMMARY: The Department of the Interior has been petitioned by American Borate Co., Cyprus Industrial Minerals, Pfizer, Inc., and U.S. Borax to amend the regulations governing mining activities on patented and valid unpatented mining claims within units of the National Park System. This notice sets forth the proposed amendments, the Department's analysis of some of the proposals, and requests public comments.

DATES: Written comments will be accepted until July 1, 1982.

ADDRESS: Comments should be addressed to: Associate Director, Management and Operations, National Park Service, 18th and C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Willis Kriz, Land Resources Division, National Park Service, (202) 523–5252.

SUPPLEMENTARY INFORMATION: Part 9, Subpart A of Title 36, Code of Federal Regulations was promulgated pursuant to the Mining in the Parks Act, Pub. L. 94–429, 16 U.S.C. 1901 *et seq.* (henceforth "The Act"). The regulations implement section 2 of the Act, which requires the Secretary of Interior to promulgate those regulations he deems necessary or

desirable to regulate mining activities resulting from the exercise of valid existing rights on patented or unpatented mining claims within any area of the National Park System so as "to preserve for the benefit of present and future generations the pristine beauty of [the] area" and to further the "preservation and management" of those areas. The regulations also were promulgated to implement section 4 of the Act, which imposed a four year moratorium on new surface disturbance from mining activities within Death Valley National Monument, Mount McKinley National Park, and Organ Pipe Cactus National Monument.

The petitioners note in their submission that the four-year moratorium on surface disturbance expired on September 28, 1980, and has not been renewed or extended. This expiration has rendered obsolete some of the provisions of 36 CFR Part 9, Subpart A. The Department agrees that some provisions of the regulations must now be deleted and that technical changes are required in others because the moratorium has expired.

Petitioners have also submitted numerous specific amendments to the existing regulations as set forth below. They maintain that the amendments strike a better balance between the need to protect valid existing rights and to maintain efficient production of resources, while protecting park objectives. The major features of these amendments have been reviewed by the Department. The full text of the proposed changes are included as an appendix to this notice.

Mineral Resource Areas

One major feature of the proposed amendments would amend § 9.2(o) to allow for special "mineral resource areas" in Death Valley National Monument which contain significant mineral values and within which the extraction of these mineral resources will not significantly injure or adversely affect the unit. The proposed amendments to section 9.4 would allow claimholders operating within these designated mineral resource areas to conduct surface operations outside the boundaries of their claim, providing certain conditions are met.

Scope of Regulations

Section 9.1 has also been proposed for amendment by petitioners to redefine the scope of the regulations. Rather than regulating "all activities resulting from the exercise of valid existing mineral rights on claims within any unit of the National Park System," the petitioners propose that the regulations apply to mining operations as defined in § 9.2(b). The definition proposed for § 9.2(b) is limited to "surface functions, work and activities in connection with mining on claims" and is further limited to activities "on Federal lands." This represents a change from the previous scope of the regulations.

Plan of Operations Approval

The proposal also calls for several changes in the standards for approval of mining plans of operation. One proposed change is the elimination of separate standards for operations associated with unpatented claims or claims patented with surface use restrictions, where the surface of the claim has not been previously "significantly disturbed for purposes of mineral extraction prior to January 26, 1977."

Reclamation Requirements

There are two proposed changes in reclamation requirements. The first (§ 9.11(a)(2)(ii)) is the elimination of the requirement to prevent surface subsidence as a separate standard. The other change is the elimination of the requirement in § 9.11(b) to "restore" the area to "a condition equivalent to its pristine beauty." The operator remains responsible to "reclaim" the area. Most operations occur on sites which have been mined or are adjacent to mined areas.

Assessment Work

The petition proposes a revision to the assessment work requirement in § 9.7. The Department agrees with the purpose of the proposal, and has partially suspended the requirement in §9.7(b)(2) of the existing regulations.

The Department seeks public comment on any of the other proposed amendments to the regulations. Comments on the adequacy of the existing regulations, as well as additional proposals to amend Part 9, Subpart A, will also be welcome.

List of Subjects in 36 CFR Part 9

Environmental protection, mines, National parks, oil and gas exploration, Public lands—mineral resources, Public lands—rights of way.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

The petition proposes that 36 CFR Part 9, Subpart A, be revised to read as follows:

PART 9—MINERALS MANAGEMENT

Subpart A—Mining and Mining Claims

Sec.

9.1 Purpose and scope.
9.2 Definitions.
9.3 Access permits.
9.4 Mineral Resource Areas.
9.5 Recordation
9.6 Transfers of interest.
9.7 Assessment work.
9.8 Use of water.
9.9 Plan of operations.
9.10 Plan of operations approval.
9.11 Reclamation requirements.
9.12 Supplementation or revision of plan of operations.
9.13 Performance bond.
9.14 Appeals.
9.15 Use of roads by commercial vehicles.
9.16 Penalties.
9.17 Public inspection of documents.
9.18 Surface use and patent restrictions.

Subpart A—Mining and Mining Claims

§ 9.1 Purpose and scope.

These regulations will govern mining operations as defined in § 9.2(b) of this part in a manner which will preserve and allow the exercise of all valid existing mineral rights as of September 28, 1976, to the maximum extent possible consistent with the purposes for which the National Park System and each unit thereof were created, for the benefit of present and future generations. These procedures apply to all operations conducted on claims in any unit of the National Park System.

§ 9.2 Definitions.

The terms used in this Part shall have the following meanings:

(a) *Secretary.* The Secretary of the Interior.

(b) *Operations.* All surface functions, work and activities in connection with mining on claims, including: prospecting, exploration, development and extraction; dumping mine wastes and stockpiling ore; transport or processing of mineral commodities; reclamation of the surface disturbed by such activities; on Federal lands.

(c) *Operator.* A person conducting or proposing to conduct operations.

(d) *Person.* Any individual, partnership, corporation, association, or other entity.

(e) *Superintendent.* The Superintendent, or his designee, of the unit of the National Park System containing claims subject to these regulations.

(f) *Surface mining.* Mining in surface excavations, including placer mining, mining in open glory-holes or mining pits, mining and removing ore from open cuts, and the removal of capping or overburden to uncover ore.

(g) *The Act.* The Act of September 28, 1976, 90 Stat. 1342, 16 U.S.C. 1901 et seq.

(h) *Commercial vehicle.* Any motorized equipment used for

transporting the product being mined or excavated, or for transporting heavy equipment used in mining operations.

(i) *Unit.* Any National Park System area containing a claim or claims subject to these regulations.

(j) *Claimant.* The owner, or his legal representative, of any claim lying within the boundaries of a unit.

(k) *Claim.* Any valid, patented or unpatented mining claim, mill site, or tunnel site.

(l) *Regional Director.* Regional Director for the National Park Service region in which the given unit is located.

(m) *Designated roads.* Those existing roads determined by the Superintendent in accordance with 36 CFR 2.6(b) to be open for the use of the public or an operator.

(n) *Production.* Number of tons of a marketable mineral extracted from a given operation.

(o) *Mineral Resource Area.* A defined area within the Death Valley National Monument unit which contains significant mineral resource value and within which it is deemed that the extraction of these minerals values will not significantly injure or adversely affect the unit.

§ 9.3 Access permits.

(a) Subject to such reasonable terms and conditions as may be necessary to prevent unavoidable and substantial harm to the unit, the Superintendent shall recognize a right of access and issue permits for access to holders of mineral rights adequate to secure to the owner reasonable use and enjoyment of such rights. All operators seeking new or continued access to and from a claim must file for access permits in accordance with these regulations, unless access to a mining claim is by designated road or by pack animal or foot. (See § 9.7 of this part for restrictions on assessment work and § 9.9(d) and § 9.10(g) for extensions of permits.)

(b) Prior to the issuance of a permit for access to any claim or claims within or without the monument, the operator shall file with the Superintendent a notice indicating the nature of any activities to be conducted on the claim and a description of the means of access to be utilized. A permit shall issue unless the Superintendent, within the authority granted under the Act, determines the proposed activity requires an approved plan of operations or the means of access will cause irrepairable significant damage to the unit.

(c) Access to claims outside a unit will be allowed without permit across unit lands provided such access is by foot, pack animal, or designated road. Persons using such roads for access to such claims shall comply with the terms of § 9.15 of this part where applicable.

§ 9.4 Mineral Resource Areas.

(a) The following areas which are identified by a map on file with the **Federal Register** and the National Park Service (available upon request), are hereby designated as mineral resource areas.

(b) The holder of a valid mining claim, patented or unpatented, located within a mineral resource area shall be entitled to an approved plan of operations on monument lands within such mineral resource area for use for mining operations in connection with the operator's existing mining claim or claims located within said mineral resource area provided the Regional Director determines

(1) That the proposed use of monument lands will result in no substantially greater impact to the unit than use of land within the operator's mining claim or mill site; and (2) that a benefit (i.e. decreased time of operation, decreased area of disturbance, decreased visual impact, increased productivity, etc.) to either the monument and/or the operator will result.

§ 9.5 Recordation.

(a) Any unpatented mining claim in a unit in existence on September 28, 1976, which was not recorded on or before September 28, 1977, in accordance with the Notice of October 20, 1976 (41 FR 46357) or 36 CFR 9.5 as promulgated on January 26, 1977, is, pursuant to section 8 of the Act, conclusively presumed to be abandoned and shall be void.

(b) Any unpatented mining claim in a unit established after September 28, 1976, or in an area added to an existing unit after that date, shall be recorded with the Bureau of Land Management in accordance with the provisions of section 314 of the Federal Land Policy and Management Act (FLPMA), 90 Stat. 2769, 43 U.S.C. 1744, and regulations implementing it (43 CFR 3833.1).

(c) A claimant of an unpatented mining claim in any unit shall file annually with the Bureau of Land Management a notice of intention to hold a claim or evidence of annual assessment work required by section 314 of FLPMA, as implemented by 43 CFR 3833.2. A copy of each such filing will be provided to the Superintendent of the appropriate unit by the Bureau of Land Management.

(d) The effect of failure to file an instruments required by paragraphs (b) and (c) of this section shall be controlled by 43 CFR 3833.4. Recordation or filing under this section will not render any claim valid which would not otherwise be valid under applicable law and shall not give the claimant any rights to which he is not otherwise entitled by law.

(Act of September 28, 1976 (16 U.S.C. 1901 et seq.), Act of August 25, 1916 (16 U.S.C. 1 and 2–4) and 245 DM (42 FR 12931), as amended)

§ 9.6 Transfers of interest.

Whenever a claimant who has recorded his unpatented claims(s) with the Superintendent pursuant to the requirements of § 9.5 sells, assigns, bequeaths, or otherwise conveys all or any part of his interest in his claim(s), the Superintendent shall be notified within 60 days after completion of the transfer of: The name of the claim(s) involved; the name and legal address of the person to whom an interest has been sold, assigned, bequeathed, or otherwise transferred; and a description of the interest conveyed or received. Copies of any recorded transfer documents shall be provided by the Superintendent to the Bureau of Land Management upon request. The transferee shall assume all obligations imposed pursuant to existing permits or plans of operation. Failure to so notify the Superintendent shall render any existing access permit or plan of operations voidable. Compliance with this section will effect a transfer of any existing permit or plan of operations.

§ 9.7 Assessment work.

Commencing September 1, 1976, no plan of operations shall be approved where its sole purpose is compliance with the requirement of annual assessment work required by Revised Statute 2324 (30 U.S.C. 28), and provided a notice of intent to hold is filed in compliance with § 9.5, of this part, the Secretary will not challenge the validity of any claim for failure to perform assessment work.

§ 9.8 Use of water.

(a) No operator may use for operations any water from a point of diversion which is within the boundaries of any unit prior to notification of the Superintendent. The Superintendent shall not object to the use of water from such source where the right to the water has been perfected under applicable State law, has a priority date prior to the establishment of the unit and such use has not been abandoned.

(b) If an operator whose operations will require the use water from a point of diversion within the boundaries of the unit can show that he has a perfected State water right junior to the reserved

water right of the United States and can demonstrate that the exercise of that State water right will not diminish the Federal right, which is that amount of water necessary for the purposes for which the unit was established, he will be authorized to use water from that source for operations, if he has complied with all other provisions of these regulations.

§ 9.9 Plan of operations.

(a) No operations shall be conducted within any unit until a plan of operations has been submitted by the operator to the Superintendent and approved by the Regional Director. All operations within any unit shall be conducted in accordance with an approved plan of operations.

(b) The proposed plan of operations shall relate, as appropriate, to the proposed operations (e.g. exploratory, developmental or extraction work) and shall include but is not limited to:

(1) The names and legal addresses of the following persons: The operator, the claimant if he is not the operator, and any lessee, assignee, or designee thereof;

(2) A map or maps showing the proposed area of operations; existing roads or proposed routes to and from the area of operations; areas of proposed mining; location and description of surface facilities, including dumps;

(3) A description of the mode of transport and major equipment to be used in the operations;

(4) A description of the proposed operations and an estimated timetable for each phase of operations and the completion of operations;

(5) The nature and extent of the known deposit to be mined. When the claim is located in a National Monument in Alaska and is unpatented, a completed Supplemental Claim Information Statement shall be submitted describing the quantity, quality, and any previous production of the deposit;

(6) A mining reclamation plan demonstrating compliance with the requirements of § 9.11;

(7) An environmental report analyzing the following:

(i) The environment to be affected by the operations,

(ii) The impacts of the operations on the unit's environment,

(iii) Steps to be taken to insure minimum surface disturbance,

(IV) Methods for disposal of all rubbish and other solid and liquid wastes.

(v) Alternative methods of extraction and the environmental effects of each,

(vi) The impacts of the steps to be taken to comply with the reclamation plan, and

(8) Any additional information that is required to enable the Regional Director to effectively analyze the effects that the operations will have on the preservation, management and public use of the unit, and to make a decision regarding approval or disapproval of the plan of operations and issuance or denial of the access permit.

§ 9.10 Plan of operations approval.

(a) The Regional Director shall approve a plan of operations unless it is found that:

(1) The claim was patented without surface use restriction and the operations on Federal lands would constitute a nuisance in the vicinity of the operation, or would significantly injure or adversely affect the unit; or

(2) The operations would constitute a nuisance in the vicinity of the operations, or would significantly injure or adversely affect the unit.

(3) The operations would result in the destruction of surface resources, such as trees, vegetation, soil, water resources, or loss of wildlife habitat, not required for development of the claim; or

(4) The plan does not satisfy the requirements of § 9.9.

(b) Within 30 days of the receipt of a proposed plan of operations, the Regional Director shall make an environmental analysis of such plan, and

(1) Notify in writing the operator that he has approved or rejected the plan of operations (if the plan is rejected in whole or in part the reasons for such rejection shall be specifically stated); or

(2) Notify the operator of any changes in, or additions to the plan of operations which are necessary before such plan will be approved; or

(3) Notify the operator that the plan is being reviewed, but that more time, not to exceed an additional 30 days, is necessary to complete such review, and setting forth the reasons why additional time is required. Provided, however, that days during which the area of operations is inaccessible for such reasons as inclement weather, natural catastrophe, etc., for inspection shall not be included when computing either this time period, or that in paragraph (b) of this section; or

(4) Notify the operator that the plan will be considered for approval within thirty (30) days after a final environmental impact statement, if required, has been prepared and filed with the Council on Environmental Quality.

(c) Failure of the Regional Director to act on a proposed plan of operations and related permits within the time period specified shall constitute an approval of the plan and related permits for a period of three (3) years.

(d) The Regional Director's analysis may include:

(1) An examination of the environmental report filed by the operator;

(2) An evaluation of measures and timing required to comply with reclamation requirements;

(3) An evaluation of necessary conditions and amount of the bond or security deposit to cover estimated reclamation costs;

(4) An evaluation of the need for any additional requirements in access permit; and

(5) A determination regarding the impact of this operation and the cumulative impact of all operations on the management of the unit.

(e) Prior to approval of a plan of operations, the Regional Director shall comply with the National Historic Preservation Act, as amended, and implementing regulations.

(1) The operator shall comply with the Antiquities Act (16 U.S.C. 431–433) (see 43 CFR Part 3).

(2) The operator shall immediately bring to the attention of the Superintendent any cultural and/or scientific resource included within the provisions of the Antiquities Act (16 U.S.C. 431–433) (see 43 CFR Part 3) or the Archeological Resources Protection Act (16 U.S.C. 470aa *et seq.)* that might be altered or destroyed by his operation and shall leave such discovery intact until told to proceed by the Superintendent. The Superintendent will evaluate the discoveries brought to his attention, and will determine within ten (10) working days what action will be taken with respect to such discoveries.

(f) The operator shall protect all survey monuments, witness corners, reference monuments and bearing trees against destruction, obliteration, or damage from mining operations, and shall be responsible for the reestablishment, restoration, or referencing of any monuments, corners and bearing trees which are destroyed, obliterated, or damaged by such mining operations.

(g) Pending approval of the plan of operations, the Superintendent shall approve, on a temporary basis, the continuation of existing operations where necessary to enable timely compliance with these regulations and with Federal, State, or local laws, or where a halt to existing operations

would result in an unreasonable economic burden or injury to the operator. Such work shall be conducted in accordance with all applicable laws and in a manner prescibed by the Superintendent and designed to minimize or prevent significant injury to the unit.

(h) Approval of each plan of operations is expressly conditioned upon the Superintendent having such reasonable access to the claim as is necessary to properly monitor and insure compliance with the plan of operations.

§ 9.11 Reclamation requirements.

(a) As contemporaneously as possible with the operations, but in no case later than six (6) months after completion of operations and within the time specified in an approved mining reclamation plan, unless a longer period is authorized in writing by the Superintendent, each operator shall initiate reclamation as follows:

(1) Where the claim was patented without surface use restriction, the operator shall unless directed to the contrary by the Superintendent:

(i) Unless otherwise requested remove all above ground structures, equipment, and other manmade debris used for operations; and

(ii) Rehabilitate the area of operations to a condition which would not constitute a nuisance:

(2) On any claim which was patented with surface use restrictions or is unpatented, each operator shall take steps to reclaim the property including where feasible:

(i) Unless otherwise requested removing all above ground structures, equipment and other manmade debris;

(ii) Replacing overburden and spoil, wherever economically and technologically practicable;

(iii) Grading to reasonably conform the contour of the area of operations to a contour similar to that which existed prior to the initiation of operations, where such grading will not jeopardize reclamation;

(iv) Replacing the natural topsoil necessary for vegetative restoration; and

(v) Reestablishing native vegetative communities.

(b) Reclamation under paragraph (a)(2) of this section is acceptable where the operator makes reasonable efforts to provide for the safe movement of native wildlife, the reestablishment of native vegetative communities, the normal flow of surface and reasonable flow of subsurface waters, the return of the area to a condition which does not jeopardize visitor safety or public use of the unit.

(c) Reclamation required by this section shall apply to operations authorized under this Part, except that all terms relating to reclamation of previously issued special use permits revoked by this part for operations to be continued under an approved plan of operations shall be incorporated into the operator's reclamation plans.

§ 9.12 Supplementation or revision of plan of operations.

(a) An approved plan of operations may require reasonable revision or supplementation to adjust the plan to changed conditions or to correct oversights.

(1) The Regional Director may propose an alteration by notifying the operator in writing of the proposed alteration and the justification therefor. The operator shall have thirty (30) days to comment on the proposal.

(2) The operator may initiate an alteration by submitting to the Superintendent a written statement of the proposal, and the justification therefor.

(b) Any proposal for revision or supplementation under paragraph (a) of this section shall be reviewed and decided by the Regional Director in accordance with § 9.10. Where the operator believes he has been aggrieved by a decision under this paragraph, he may appeal the decision pursuant to § 9.14. While the decision is on appeal, the original plan shall remain in effect.

§ 9.13 Performance bond.

(a) Upon approval of a plan of operations the operator shall be required to file a suitable performance bond with satisfactory surety, payable to the Secretary or his designee. The bond shall be conditioned upon faithful compliance with applicable regulations, the terms and conditions of the permit, lease, or contract, and the plan of operations as approved, revised or supplemented.

(b) In lieu of a performance bond, an operator may elect to deposit with the Secretary, or his designee, cash or negotiable bonds of the U.S. Government. The cash deposit or the market value of such securities shall be at least equal to the required sum of the bond.

(c) The bond or security deposit shall be in an amount equal to the estimated cost of completion of reclamation requirements either in their entirety or in a phased schedule for their completion as set forth in the approved, supplemented or revised plan of operations.

(d) In the event that an approved plan of operations is revised or supplemented in accordance with § 9.12, the Superintendent may adjust the amount of the bond or security deposit to conform to the plan of operations as modified.

(e) The operator's and his surety's responsibility and liability under the bond or security deposit shall continue until such time as the Superintendent determines that successful reclamation of the area of operations has occurred, which in no case shall exceed five (5) years following completion of reclamation.

(f) When all required reclamation requirements of an approved plan of operations are completed, the Superintendent shall notify the operator that performance under the bond or security deposit has been completed and that it is released.

§ 9.14 Appeals.

(a) Any operator aggrieved by a decision of the Regional Director in connection with the regulations in this Part may file with the Regional Director a notice of appeal followed by a written statement of reasons setting forth in detail the respects in which the decision is contrary to, or in conflict with, the facts, the law, these regulations, or is otherwise in error. The notice of appeal shall be filed with the Regional Director within thirty (30) days after the date of notification to the operator of the action or decision complained of. A statement of reasons shall be filed within fifteen (15) days thereafter. Upon receipt of such written statement from the aggrieved operator, the Regional Director shall promptly review the action or decision and within 30 days shall either reverse his original decision or prepare his own statement, explaining that decision and the reasons therefor, and forward the statement and record on appeal to the Director, National Park Service, for review and decision. Copies of the Regional Director's statement shall be furnished to the aggrieved operator, who shall have 30 days within which to file exceptions to the Regional Director's decision. The Department has the discretion to initiate a hearing before the Office of Hearing and Appeals in a particular case. (See 43 CFR 4.700.)

(b) The official files of the National Park Service on the proposed plan of operations and any testimony and documents submitted by the parties on which the decision of the Regional Director was based shall constitute the record on appeal. The Regional Director shall maintain the record under separate cover and shall certify that it is the record on which his decision was based

at the time it is forwarded to the Director of the National Park Service. The National Park Service shall make the record available to the operator upon request.

(c) If the Director considers the record inadequate to support the decision on appeal, he may provide for the production of such additional evidence or information as may be appropriate, or may remand the case to the Regional Director, with appropriate instructions for further action.

(d) On or before the expiration of forty-five (45) days after his receipt of the exceptions to the Regional Director's decision, the Director shall make his decision in writing; Provided, however, That if more than forty-five (45) days are required for a decision after the exceptions are received, the Director shall notify the parties to the appeal and specify the reason(s) for delay. The decision of the Director shall include (1) a statement of facts, (2) conclusions, and (3) reasons upon which the conclusions are based. The decision of the Director shall be the final administrative action of the agency on a proposed plan of operations.

(e) A decision of the Regional Director from which an appeal is taken shall not be automatically stayed by the filing of a statement of appeal. A request for a stay may accompany the statement of appeal or may be directed to the Director. The Director shall promptly rule on requests for stays. A decision of the Director on request for a stay shall constitute a final administrative decision.

§ 9.15 Use of roads by commercial vehicles.

(a) After January 26, 1977, no commercial vehicle shall use roads administered by the National Park Service without first being registered with the Superintendent.

(1) A fee shall be charged for such registration based upon a posted fee schedule, computed on a ton-mile basis. The fee schedule posted shall be subject to change upon 60 days notice.

(2) An adjustment of the fee may be made at the discretion of the Superintendent where a cooperative maintenance agreement is entered into with the operator.

(b) No commercial vehicle which exceeds roadway load limits specified by the Superintendent shall be used on roads administered by the National Park Service unless authorized by written permit from the Superintendent.

(c) Should a commercial vehicle used in operations cause damage to roads or other facilities of the National Park Service, the operator shall be liable for all damages so caused.

§ 9.16 Penalties.

Undertaking any operation within the boundaries of any unit in violation of this Part shall be deemed a trespass against the United States, and the penalty provisions of 36 CFR Part 1 are inapplicable to this Part.

§ 9.17 Public inspection of documents.

(a) Upon receipt of the plan of operations the Superintendent shall publish a notice in the **Federal Register** advising the availability of the plan for public review.

(b) Any document required to be submitted pursuant to the regulations in this Part shall be made available for public inspection at the Office of Superintendent during normal business hours. The availability of such records for inspection shall be governed by the rules and regulations found at 43 CFR Part 2.

§ 9.18 Surface use and patent restrictions.

(a) The regulations in 43 CFR 3826.2–5 and 3826.2–6, 3826.4–1(g) and 3826.4–1(h), and 3826.5–3 and 3826.5–4 will apply to any claimant who wishes to take his claim to patent in Olympic National Park, Glacier Bay National Monument or Organ Pipe Cactus National Monument.

(b) The additional provisions of 43 CFR, Subpart 3826 and 36 CFR 7.28 and 7.44(a) and (b) will continue to apply to existing permits until 120 days after January 26, 1977, unless extended by the Regional Director. (See § 9.10(g)).

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–5–FRL–2066–3]

Approval and Promulgation of Air Quality Implementation Plans; Coke Batteries, Indiana

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: The purpose of this notice is to announce the receipt of additional State Implementation Plan (SIP) revisions to control particulate matter emissions from coke batteries located in the State of Indiana, to discuss the results of the United States Environmental Protection Agency's (U.S. EPA) review and proposed action on these revisions and to invite public comments.

DATE: Comments on these revisions and on U.S. EPA's proposed action are due on or before July 1, 1982.

ADDRESSES: Copies of the SIP revisions are available at the following addresses for inspection:

United States Environmental Protection Agency, Region V, Office of Enforcement Counsel, 230 South Dearborn Street, Chicago, Illinois 60604

United States Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460

Indiana State Board of Health, Air Pollution Control Division, 1330 West Michigan Street, Indianapolis, Indiana 46206

WRITTEN COMMENTS SHOULD BE SENT TO: Docket Clerk, Office of Enforcement Counsel, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Louise Gross, 312–886–6844.

SUPPLEMENTARY INFORMATION: On June 26, 1979, the State of Indiana submitted to U.S. EPA a proposed revision of its SIP pursuant to Part D of the Clean Air Act (Act), as amended in 1977. The revision applied to areas of Indiana that had not attained the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide(SO_2), ozone (O_3), carbon monoxide (CO) and total suspended particulates (TSP). As required by the Act, the purpose of this revision was to implement measures for controlling the emissions of these pollutants in nonattainment areas and to demonstrate that these measures would provide for attainment of the NAAQS as expeditiously as practicable, but not later than December 31, 1982, for the primary standards or by December 31, 1987, under certain conditions, for ozone and carbon monoxide. In addition, some of these rules contained requirements to control emissions in areas which have either attained the NAAQS or have been designated as "unclassified," under Section 107 of the Act.

The requirements for an approvable SIP are described in a **Federal Register** notice published on April 4, 1979 (44 FR 20372), and are not reiterated in this notice. Supplements to the April 4, 1979 notice were published on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), September 17, 1979 (44 FR 53761) and November 23, 1979 (44 FR 67182) discussing, among other things, additional criteria for SIP approval.

On March 27, 1980, in the context of proposed rulemaking, U.S. EPA announced receipt of the Indiana submittal, the results of U.S. EPA's review of that submittal, and invited public comment (45 FR 20432). Excluded from the announcement, however, was U.S. EPA's review and proposed rulemaking for that portion of the Indiana submittal pertaining to particulate emission from iron and steel sources.

On July 3, 1980, U.S. EPA addressed iron and steel sources, proposing to disapprove revised Indiana Regulation APC–3 (opacity) and new Regulation APC–9 (coke batteries). 45 FR 45314. Since Regulation APC–23 (particulate matter) as submitted by the State of Indiana on June 26, 1979, did not cover all of the nonattainment counties which contain iron and steel process sources, i.e., Lake, Marion and Vigo, U.S. EPA did not propose rulemaking for that regulation. In its **Federal Register** action, U.S. EPA discussed the history of the Indiana submission, the relevant Clean Air Act requirements and its applicable policies.

On October 6, 1980, Indiana submitted another revised opacity rule, recodified at 325 IAC 5–1. This rule contained a number of new provisions, including opacity limits for non-stack sources of visible emissions. The State has also submitted county-specific regulations as amendments to APC–23 (now recodified at 325 IAC 6–1) for Lake (325 IAC 6–1–10, 6–1–11), Marion (325 IAC 6–1–12) and Vigo Counties (325 IAC 6–1–13). Finally, Indiana has made certain revisions to coke battery rule APC–9, now recodified as Rule 325 IAC 11–3 (Rule 11–3). This rule was submitted to U.S. EPA on August 27, 1981.

In light of these changes, U.S. EPA recently reproposed rulemaking on March 3, 1982 (47 FR 9019), concerning Indiana's particulate rules for sources other than coke batteries. At that time, the Agency also indicated its intention to take separate action on Rules 6–1–10 and 6–1–11 insofar as they affected iron and steel sources.

In today's rulemaking, U.S. EPA proposes conditionally to approve coke battery Rule 11–3 for the State of Indiana, and conditionally to approve the Indiana Part D particulate control strategies in Marion and Vigo Counties (325 IAC 6–1–12 and 6–1–13, respectively). With regard to Lake County, U.S. EPA is currently reviewing a particulate control strategy which has been prepared by the Lake County Attainment Task Force, and submitted informally to U.S. EPA by the State of Indiana. This strategy is intended to be incorporated into 325 IAC 6–1 (325 IAC 6–1–10, 6–1–11) and will include coke battery mass emissions limitations which reflect the requirements of Rule 11–3. The Agency's proposed rulemaking on Rule 11–3, therefore, encompasses coke batteries in Lake County. U.S. EPA will address 325 IAC 6–1–10 and 6–1–11 in a subsequent notice.

The measures proposed for conditional approval today will be in addition to, and not in lieu of, existing SIP regulations. The current emission control regulations for any soure will remain applicable and enforceable to prevent a source from operating without controls, or under less stringent controls, while it is moving toward compliance with the new regulations or, if it chooses, challenging the new regulations.

In some instances, the present emission control regulations contained in the federally approved SIP are different from the regulations currently being enforced by the State. In these situations, the present federally approved SIP will remain applicable and enforceable until there is compliance with the newly promulgated and federally approved regulations. Failure of a source to meet the present federally approved SIP regulations will result in appropriate enforcement action, including assessment of noncompliance penalties. Furthermore, if there is any instance of delay or lapse in the applicability or enforceability of the new regulations, because of a court order or for any other reasons, the existing SIP regulations will be applicable and enforceable.

The only exception to this rule is in cases where there is a conflict between the requirements of new regulations and the requirements of the existing regulations such that it would be impossible for a source to comply with the pre-existing SIP while moving toward compliance with the new regulations. In these situations, the State may exempt a source from compliance with the existing SIP regulations. Any such exemptions must be drawn as narrowly as possible. They will be reviewed and acted on by U.S. EPA either as part of these promulgated regulations or as a future SIP revision.

In its new review, U.S. EPA specifies portions of the proposed SIP regulations as being approvable and conditionally approvable. U.S. EPA will conditionally approve a regulation if the State proposal contains minor deficiencies, and if the State provides assurances that it will submit corrections on a specified schedule.

Information about the administrative mechanism for conditional approvals of State implementation plans is contained in the July 2, 1979 (44 FR 38583) and November 23, 1979 (44 FR 67182) **Federal Register** publications. Failure by the State to correct the noted deficiencies within time frames agreed between the U.S. EPA Regional Office and the State will result in disapproval of those portions of the Indiana SIP.

U.S. EPA solicits comments on both the proposed SIP revisions and the proposed U.S. EPA action on these revisions from all interested parties. U.S. EPA also encourages residents and industries in adjoining States to comment on any interstate air quality impacts of the proposed Indiana SIP revisions.

Total Suspended Particulate Control for the Indiana Iron and Steel Industry—General Comments

Part D of the Clean Air Act requires SIPs to include strategies and regulations adequate to insure attainment of the primary NAAQS as expeditiously as practicable but not later than December 31, 1982, and, in the interim, to provide reasonable further progress toward attainment through the application of reasonably available control technology (RACT) on all stationary sources. EPA has defined RACT as: The lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.[1] Therefore, depending on site-specific considerations, such as geographic constraints, RACT can differ for similar sources.

U.S. EPA believes that the burden of demonstrating that a regulation represents RACT rests with the State. In reviewing a proposed SIP revision to determine its adequacy, U.S. EPA can verify independently that the provisions in the State plan represent RACT. Although U.S. EPA has not specified uniform RACT standards for the iron and steel industry, it has collected data which reflects the emission limitations achieved by various iron and steel sources applying control technology. This data is available for review in the rulemaking docket on this notice at the

[1] U.S. EPA articulated its definition of RACT in a memorandum from Roger Strelow, Assistant Administrator for Air and Waste Management, to Regional Administrators, Regions I–X, on "Guidance for Determining Acceptability of SIP Regulations in Non-attainment Areas." Section 1.a (December 9, 1976), reprinted in (1976) 7 Environmental Reporter, Current Developments (BNA) 1210 col. 2; and in EPA's publication Workshop on Requirements for Non-attainment Area Plans—Compilation of Presentations 154 (OAQPS No. 1–2–103, revised edition April 1978).

address cited above. Where a State proposes regulations which are not technically supported by U.S. EPA's data, the State must submit adequate data supporting its proposal as representing RACT. U.S. EPA will consider the information submitted by the State, together with the data in the technical support document and any public comments received in making its final RACT determination.

In cases where the attainment of NAAQS cannot be demonstrated despite the application of reasonably available control technology to traditional sources of particulate matter such as industrial point and industrial fugitive sources, U.S. EPA will approve State SIPs contingent upon a commitment by the State to study further the causes for particulate nonattainment, including the degree to which nontraditional area sources affect air quality.

To remedy its particulate nonattainment problem associated with its iron and steel industry, the State of Indiana has proposed a control strategy which consists of the following rules: 325 IAC 5–1, containing visible emission limitations; Regulation 325 IAC 11–3, regulating coke oven batteries; and Regulation 325 IAC 6–1, containing emission limitations for stationary sources of particulates located in nonattainment areas.

The major iron and steel facilities in Indiana which produce particulate emissions are located in Lake, Marion, Porter, and Vigo Countries. Lake, Marion and Vigo Countries have been designated as nonattainment for both the primary and secondary particulate NAAQS. Regulations for these counties must consequently meet the requirements of both Part D and Section 110 of the Act. Porter County is at the present time designated as unclassified, although U.S. EPA proposed to redesignate the area as nonattainment for particulate matter on November 5, 1981. 46 FR 54974. Regulations for this area must therefore comport with section 110 of the Act.

In today's action, U.S. EPA proposes conditionally to approve coke battery Rule 11–3 for the entire State. U.S. EPA is taking no action in this notice on opacity regulation 325 IAC 5–1, having addressed this rule in an earlier rulemaking document. Furthermore, since coke batteries are the only iron and steel process sources located in Marion and Vigo Counties, and those counties are subject to Rule 11–3, there is no need specifically to address Rules 6–1, 6–1–12 or 6–1–13 other than their relationship to the combustion stack and compliance schedule provisions of Rule 11–3 as discussed below.

Today's reproposal and reopening of the comment period for Rule 11–3 rules is necessary because of the substantial amendments submitted by the State.

Regulation 325 IAC 11–3 (Coke oven batteries)

Regulation 325 IAC 11–3, formerly APC–9, establishes emission limitations and inspection procedures for all coke oven batteries for which construction or modification commenced prior to June 10, 1979. For those batteries commencing construction or modification on or after this date, the State intends to establish the appropriate emission limits as conditions of construction and operating permits issued under Article 2 of its rules.

On July 3, 1980; U.S. EPA proposed to disapprove that version of APC–9 which had been promulgated by the State on June 19, 1979, and submitted to U.S. EPA on June 26, 1979. The bases for this proposed disapproval can be summarized as follows:

1. The compliance schedules in the regulation permitted sources to delay unnecessarily compliance for certain coke oven emission sources to July 1, 1982.

2. Indiana's prohibition of visible emissions on any battery from more than 10 percent of the total oven doors, plus four doors, was not Reasonably Available Control Technology (RACT).

3. The inspection procedures for charging operations were unclear in regard to the "one in twenty exemption."

4. The State had required, but failed to define, "efficient baffles" in its quench tower rule.

5. The requirement of a total dissolved solids content of no more than 1500 milligrams per liter in the quench water make-up was not RACT.

6. Because Rule APC–23 did not cover all nonattainment counties with coke batteries, some underfire stacks were limited by Regulation APC–4R, which would generally establish a limit of 0.3 grain of particulate matter per dry standard cubic foot, a level which does not constitute RACT.

7. The regulation incorrectly referenced Appendix B of 40 CFR Part 60 for performing emission tests, instead of Appendix A.

8. The rule enabled the Indiana Air Pollution Control Board to establish testing procedures without U.S. EPA approval.

9. The regulation required a device which is capable of capturing and collecting coke side particulate matter, designed and operated in compliance with an operating permit to collect 90% of the pushing emissions. Since the rule did not specify a method of measuring the 90% capture level, U.S. EPA determined that this provision was unenforceable.

10. The regulation did not contain an inspection procedure to determine compliance with the gas collector main emission limits.

11. The rule had no limit to the number of charge port lids open during decarbonization which could be exempted from the recording of topside visible emissions.

On May 22, 1981, the Indiana Air Pollution Control Board amended Rule 11–13. The Board formally submitted the new rule on August 27, 1981, with the following changes:

1. The State has amended the inspection procedures for observing charging emissions. Section 4(a) contains new provisions which have been added to clarify the "one in twenty exemption." U.S. EPA has determined that this language sufficiently clarifies the exemption, and that the standard now satisfies the RACT requirement.

2. Section 2(g), relating to the control of pushing emissions, now includes a presumption of 90% collection capability, where the Board has approved the control device's construction and design through the State operating permit procedure. As discussed in greater detail below, U.S. EPA has determined that this provision is still unenforceable, and is therefore being conditionally approved today.

3. The State has amended Section 2(h), which imposes requirements on quenching operations, to include a definition of "efficient baffles."

4. In Section 4(b), the State has amended its inspection procedures to specify safety precautions for observing topside emissions. Indiana also added an exemption from the topside emissions compliance demonstration, for a maximum of three ovens opened during a decarbonization or charging period. U.S. EPA has determined that these are acceptable procedures, and that the State's topside emissions limit satisfies the RACT requirements.

5. In Section 4(d), the State has corrected the typographical error to reference Appendix A of 40 CFR Part 60.

6. Indiana has added an inspection procedure, Section 4(e), to determine compliance with the gas collector main emission limits. U.S. EPA has determined that this procedure is acceptable, and that the State's gas collector main emission limits satisfy the RACT requirement.

In addition to the above, Section 3(i) of 325 IAC 11–3 provides that particulate emissions from battery underfire stacks are limited by the emission limits determined pursuant to Regulations 325 IAC 6–2 (formerly APC–4R) for attainment and unclassified counties, and 325 IAC 6–1 (formerly APC–23) for nonattainment counties. At the time of U.S. EPA's July 3, 1980, proposal, 325 IAC 6–1 did not include Vigo and Lake Counties, so that the non-RACT limits in APC–4R would have been applicable. Subsequent to the July 3, 1980 proposal, Indiana has amended APC–23 (now codified at 325 IAC 6–1) so that it now includes country-specific appendices for Lake and Vigo counties.[2] The Vigo County appendix 325 IAC 6–1–13 contains, an emission limit of 0.03 gr/dscf for the Indiana Gas & Chemical coke battery underfire stacks. The Agency believes that this limit represents RACT and proposes to approve it for Vigo County.

The Marion County appendix, 325 IAC 6–1–12, does not contain any stack limits for the Citizen's Gas & Coke batteries. Under 325 IAC 6–1, where a county has a specific appendix but does not list a particular source, that source must comply with the rule's general emission limitation of 0.03 gr/dscf. Since this limit constitutes RACT, U.S. EPA proposes to approve the rule for Marion County Coke batteries.[3]

Because Porter County is attainment for particulates, U.S. EPA also proposes to approve the non-RACT combustion stack limit of APC–4R for Porter County Coke batteries, in accordance with Section 110 of the Act.

U.S. EPA has reviewed the above changes and believes that they are responsive to the deficiencies cited in the July 3, 1980, proposal as indicated. With regard to the remaining deficiencies, the Agency has determined as follows:

1. *The compliance schedules.* Rule 325 IAC 11–3 establishes the potential for different compliance schedules, dependent on such factors as the specific battery operation and the promulgation of new or more stringent rules. The following coke battery operations need not achieve final compliance with the applicable limitations until July 1, 1982: charging, lids, offtake piping, collector mains and doors. In the July 3, 1980, rulemaking, U.S. EPA expressed concern that these schedules might not satisfy Section 172 of the Clean Air Act, which requires attainment of the national ambient air quality standards as expeditiously as practicable and reasonable further progress toward attainment. The Agency noted that a number of Indiana sources had already installed the type of equipment and implemented the operating and maintenance practices required by Rule 11–3.

As a result, U.S. EPA requested that the State substantiate a clear need for this additional time. The State has not done so. In a letter of October 7, 1980, from Ralph C. Pickard, Technical Secretary of the Indiana Air Pollution Control Board, to Ms. Cynthia Colantoni of the Enforcement Division, Mr. Pickard stated that the State believed the schedules were justified, because sources were required to meet "new" limits. As discussed more fully below, the Agency proposes to approve the State's compliance schedule.

Under Rule 11–3 the compliance schedules for precarbonization towers, pushing, quenching and underfire stacks are to be determined pursuant to Rule 6–1. Section 4(a) of this rule generally requires the meeting of certain increments and a demonstration of compliance by December 31, 1981. Under Section 4(b), the Board may grant further extensions up to December 31, 1982, only where: 1) The source demonstrates that compliance with the interim or final dates is not possible and 2) the source submits a letter of intent, which includes a schedule of dates culminating in the December 31, 1982 compliance date. Any such alternative plan must be incorporated into the source's permit and submitted to U.S. as a SIP revision.

It should be noted that under Section 4(d) of Rule 6–1, the Board can establish alternative compliance in certain situations where the State promulgates new or more stringent rules. Such extensions are to be granted in accordance with Section 4(b), which requires the submission of these extensions as SIP revisions. At the time these alternative plans are submitted to U.S. EPA. the Agency will review them to ensure that they are consistent with the Act, including the requirement that the air quality standards be attained by December 31, 1982.

Although Indiana's new standards do not necessarily impose more stringent requirements than the existing SIP which might require additional time for compliance, U.S. EPA proposes to approve these schedules for three reasons. First, Rule 11–3 establishes meaningful interim compliance dates. For example, by July 1, 1981, visible emissions during charging are limited to 150 seconds during five (5) consecutive charging periods. Within one year, these emissions are to be reduced further to 125 seconds for the 5 periods. Similar interim schemes are provided for lids, offtake piping, collector mains and doors. The Agency believes that these interim reductions represent reasonable further progress toward attainment of the standards, as required by Section 172(b) of the Act.

In addition, the Agency believes that disapproval of these dates at this time and the subsequent rulemaking which such a disapproval would necessitate might further delay final compliance. This would violate the intent of Section 172 of the Act to attain the national ambient air quality standards as expeditiously as practicable. Finally, as a practical matter, it is unlikely that U.S. EPA will be able to publish its final rulemaking action on this regulation before July 1,, 1982. U.S. EPA, therefore, proposes to approve the schedules in Rule 11–3.

2. *The door standard.* Rule 11–3 prohibits visible emissions on any coke oven battery from more than 10 percent of the total oven doors, plus four doors. U.S. EPA proposed to disapprove this standard for two reasons. First, the Agency stated that the exemption of four oven doors above the 10% level was not supported by its data, although a two-door exemption could be. In addition, Indiana's rule is based upon the total number of oven doors, rather than the total number of *operating* ovens.

The difference between a two and four door cut-off, in Indiana, translates to a 1–2% differential allowable door leak rate depending upon the specific coke oven battery. U.S. EPA does not believe that the emissions rate equivalent to this differential is important enough to warrant a change in the emissions standard.

The requirement to base a RACT standard on the percentage of door leaks on operating ovens derives from the fact that coke oven batteries are sometimes repaired in a manner which leaves half the ovens functioning while the remainder are brought cold for rebricking. Counting the cold ovens in the calculation of percent doors leaking means including those ovens which are cold and therefore not potential leakers. This, in effect, permits the operating oven leak rate to double. Since the fact that a partial rehabilitation is underway does not diminish the ability of an operator to seal the still operating oven doors, the increase in such allowable emissions that would occur by basing

[2] As stated earlier, U.S. EPA will address the Lake County appendix to Rule 6–1 in a separate Federal Register notice.

[3] The acceptability of the combustion stack limits for Lake County will be addressed when the Agency takes action on the Lade County plan.

such a regulation on the total number of ovens in a battery is judged not to reflect reaonably available controls. Therefore, U.S. EPA will conditionally approve the door standard for nonattainment counties if, during the public comment period, Indiana either submits a rule which is based on the total number of operating ovens and requires final compliance no later than December 31, 1982 or submits a schedule to make such a change. For Porter County, where RACT is not required, U.S. EPA proposes to approve the door standard.

3. *Quench tower emission standards.* Indiana's regulations control quench tower emission via Rule 11–3 which requires the use of "efficient" baffles (defined per amended Section 2(h)), and via a requirement that quench water make-up must contain a total dissolved solids (TDS) content of no more than 1500 milligrams per liter. In the July 3, 1980 rulemaking, U.S. EPA referenced technical information which indicated that Indiana's standard did not represent RACT. Subsequently, U.S. EPA has reviewed the comments to the proposal, as well as additional information. As a result, the Agency has concluded that the Indiana limitations on coke quenching satisfy the RACT requirements. The pertinent data supporting this conclusion has been placed in the docket of this proceeding.

Indiana has not, however, submitted a method by which compliance with the standard is to be demonstrated, i.e., the definition of make-up water, the number of samples to be taken over a specified time period and the method of analyzing for dissolved solids. U.S. EPA, proposes to conditionally approve this standard on the condition that, during the public comment period, Indiana either submits such procedures to U.S. EPA, or provides a schedule by which these procedures will be submitted to U.S. EPA.

4. *Alternate test methods.* Section 4(d) of the rule states that testing to determine the amount of particulate matter emitted from any facility subject to a grain loading or process weight limitation shall be conducted "in accordance with the procedures set forth in Methods 1–5, Appendix A of 40 CFR Part 60, revised as of August 18, 1977, or other procedures approved by the Board." In U.S. EPA's July 3, 1980 action, the Agency noted that such a provision could permit the Board to authorize compliance testing methods other than U.S. EPA-approved reference methods. The Agency noted that this contravened the general scheme of the Clean Air Act, and was specifically in conflict with 40 CFR 51.6(d), which obligates a State to submit to U.S. EPA any State action which purports to modify a SIP requirement. To correct this deficiency, U.S. EPA stated that Indiana must make a commitment to ensure than any alternative Board testing procedures be submitted to U.S. EPA. This deficiency has not yet been corrected.

U.S. EPA proposes to conditionally approve testing method Section 4(d) on the condition that the State makes a commitment during the comment period to ensure that alternative Board testing procedures are submitted to U.S. EPA as SIP revisions.

5. *Pushing standard.* In its 1979 regulation, Indiana required all batteries to be equipped with a device capable of capturing and collecting coke-side particulate matter such that the effluent gas emissions contain no more than 0.04 gram per 2.0 kilogram of coke pushed (0.04 lb/ton). In addition, the rule required that this device be designed and operated in compliance with an operating permit to collect 80 percent of the pushing emissions. In the 1981 amendment to Rule 11–3, Indiana added language stating that the device will be assumed to be collecting 90 percent of the pushing emissions if 1) the construction and design of the device has been approved by the Board by granting the permit and 2) the device is operated properly in compliance with the permit conditions. These permits are to be submitted to U.S. EPA as SIP revisions.

The addition of this new language, however, does not cure the deficiency cited in U.S. EPA's July 3, 1980 rulemaking. That is, the rule still fails to specify a method of measuring whether the device in fact captures 90 percent of the emissions. As noted in the earlier rulemaking, ascertaining the level of captured emissions is a subjective process, complicated by the fact that the emissions from any single oven will vary from push to push. A design efficiency percentage provision does not prevent coke batteries and/or their pushing systems from emitting excessive emissions, since it is not an actual emission limitation; nor is it a determinable quantity, even on a design basis. Having the Indiana Air Pollution Control Board review and approve a pushing system's construction and design prior to installation does not eliminate these problems.

U.S. EPA proposes conditionally to approve the State pushing standard if, during the public comment period, the State provides an enforceable method of observing and evaluating the capture efficiency of the pushing control device or provides a schedule by which this method will be submitted to U.S. EPA. In the alternative, Indiana may substitute an opacity standard for uncaptured emissions, along with an approporiate observation method.

U.S. EPA has previously proposed conditionally to approve the Marion and Vigo County Part D TSP control strategies and regulations except for those portions of the control strategies and regulations which apply to iron and steel process sources. The proposed conditional approval of 325 IAC 11–3 (which requires RACT for the iron and steel sources in Marion and Vigo Counties) in today's notice completes U.S. EPA's proposed rulemaking action on the Part D TSP control strategy, as a whole, for Marion and Vigo Counties.

Interested persons are invited to comment on the proposed Indiana regulations and on U.S. EPA's proposed action. Comments should be submitted to the address listed in the front of this Notice. Public comments received within 30 days of publication will be considered in U.S. EPA's final rulemaking on the Regulations discussed herein.

It should be noted that in conjunction with U.S. EPA's July 3, 1980 proposal, extensive comments have been submitted. Since these comments are part of the docket for this rulemaking, there is no need to resubmit them. In addition, since the public has already had the opportunity to review the docket and to avoid further delay, U.S. EPA does not intend to extend further the public comment period unless good cause is shown.

All comments received will be available for inspection at Region V's Office of Enforcement Counsel, 230 South Dearborn Street, Chicago, Illinois 60604.

In this notice U.S. EPA is specifying those portions of the proposed revisions to the SIP which it considers approvable or conditionally approvable. For minor deficiencies, U.S. EPA proposes to approve the SIP on the condition that, during the public comment period, the State corrects these deficiencies or provides strong assurances that they will be corrected by specified dates. The July 2, 1979 (44 FR 38583) and November 23, 1979 (44 FR 67182) Federal Register notices discuss conditional approvals in more detail.

Pursuant to the provisions of 5 U.S.C. Section 605 (b) the Administrator has certified on January 27, 1981 (46 FR 8709) that the attached rule will not have a significant economic impact on a substantial number of small entities.

This action only proposes to approve State actions. It will impose new requirements.

Under Executive Order 12291, U.S. EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it only proposes to approve a State action and does not impose any additional requirements in and of itself. This regulation was submitted to the Office of Managment and Budget (OMB) for review as required by Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

This notice of proposed rulemaking is issued under the authority of Sections 110(a) and 172 of the Clean Air Act, as amended (42 U.S.C. 7410(a), 7502).

Dated: February 17, 1982.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 82-14798 Filed 5-28-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-5-FRL-2053-7]

Approval and Promulgation of Implementation Plans; Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: EPA is proposing to approve amendments to the Total Suspended Particulate (TSP) State Implementation Plan (SIP) for Wisconsin on the condition that NR 154.11(7)(b) is amended and submitted to the Agency with an acceptable numerical limitation for the charging operation. EPA's proposed action is based upon a revision request which was submitted by the State to satisfy the requirements of Part D of the Clean Air Act.

DATE: Comments on this revision and on the proposed EPA action must be received by July 1, 1982.

ADDRESSES: Copies of the SIP revision are available at the following addresses for review. (It is recommended that you telephone Debra Marcantonio at 886-6088 before visiting the Region V office).

Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604;

Wisconsin Department of Natural Resources, Bureau of Air Management, 101 South Webster, Madison, Wisconsin 53707.

Comments on this proposed rule should be addressed to: (Please submit an original and thirteen copies if possible), Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, USEPA, Region V, 230 South Dearborn, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio, Air Programs Branch, Region V, Environmental Protection Agency, Chicago, Illinois 60604, 886-6088.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962) pursuant to the requirements of section 107 of the Clean Air Act, EPA designated portions of the following counties as nonattainment for the primary TSP standard and other portions as nonattainment for the secondary TSP standard: Columbia County, Milwaukee County, Rock County and Waukesha County. Additionally, EPA also designated the following counties or portions there of as nonattainment for the secondary TSP standard: Brown County, Dane County, Douglas County, Kenosha County, La Crosse County, Manitowoc County, Marathon County, Racine County, Winnebago County and Wood County. (For the specific nonattainment areas of each county see 40 CFR 81.350). LaCrosse County was, however, redesignated as attainment for TSP on August 14, 1981 (46 FR 41056).

Part D of the Act requires each state to revise its SIP to meet specific requirements for the areas designated as nonattainment. These SIP revisions must demonstrate attainment of the primary TSP NAAQS as expeditiously as practicable, but no later than December 31, 1982 and attainment of the secondary TSP NAAQS as expeditiously as practicable. If attainment of the NAAQS cannot be demonstrated for an area designated as nonattainment for TSP by the required date, an accepted alternative SIP for that area must include provisions for applying reasonably available control technology (RACT) to traditional sources of particulate emissions and studying the nature and extent of the nontraditional particulate source emissions in the area. This study would then be used in designing a control strategy for such sources. The requirements for an approvable SIP are further described in a **Federal Register** notice published April 4, 1979 (44 FR 20372). Supplements to the April 4, 1979 notice were published on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182).

In this notice EPA is specifying those portions of the proposed revisions to the Wisconsin SIP which it considers approvable or conditionally approvable. For minor deficiencies, EPA proposes to approve the SIP on the condition that the State provides strong assurances that the deficiencies will be corrected by specified dates. The July 2, 1979 (44 FR 38583) and November 23, 1979 (44 FR 38583) **Federal Register** Notices discuss conditional approvals in more detail.

On April 4, 1980 (45 FR 22982) and July 3, 1980 (45 FR 45318) EPA proposed action on Wisconsin's TSP SIP as was effective in the State at that time. However, on November 6, 1980, the Director of the Wisconsin DNR withdrew several amendments to the TSP plan. These amendments were originally submitted to the Agency on November 27, 1979 and were acted upon as part of the April 4, 1980 and July 3, 1980 proposed rulemaking actions. The following Wisconsin regulations were withdrawn: NR 154.11(2)(b), NR 154.11(3)(c) and (e), and NR 154.11(4) (c), (e) and (f). On April 9, 1981 (46 FR 21165), EPA notified the public of this withdrawal in the **Federal Register**.

On June 10, 1981, the Wisconsin in DNR submitted revisions to the Wisconsin TSP plan which included amendments to those portions of the plan which were previously withdrawn as well as additional revisions. This notice reproposes action on amendments to NR 154.11, Control of Particulate Emissions as Submitted on November 27, 1979 and amended on June 10, 1981. These regulations were officially published in final form in the Wisconsin Register 308, in August 1981. Additionally, EPA withdraws the July 3, 1980 (45 FR 45318) and April 9, 1981 (46 FR 21165) proposed rulemakings as they relate to NR 154.11.

The amendments to NR 154.11 for the Part D nonattainment areas apply to significant sources as determined by a modeling analysis under NR 154.03 affecting both primary and/or secondary nonattainment areas. In order to define which sources are subject to its RACT regulation Wisconsin has submitted a list of sources which affect the primary nonattainment areas. Wisconsin will submit any revisions to this list to EPA.

The nonattainment areas analyzed by Wisconsin are the same or contain the EPA designated nonattainment areas except that Wisconsin has not submitted a nonattainment plan for Pacific Township, Columbia County. Wisconsin plans to request EPA to redesignate this area to attainment in the near future based on recent monitoring data. However, until the area

is redesignated, the requirements of Part D are applicable and have not been met for the Columbia County nonattainment area.

The amendments submitted by Wisconsin to satisfy the Part D requirements for all other nonattainment areas consist of RACT regulations for traditional/industrial sources of particulate matter. Additionally, Wisconsin has committed to submit by April 30, 1982 studies of nontraditional sources of fugitive dust (e.g., nonindustrial storage piles, parking lots and roads).

These studies will consist of extensive fugitive emission inventories for each of the nonattainment areas.

EPA has determined that Wisconsin's TSP plan satisfies the requirements for an approvable SIP except for a few deficiencies. EPA has discussed each deficiency with the State and it has agreed to submit the materials outlined below to correct these deficiencies. A detailed discussion of the deficiencies is contained in the technical support document which is available at the Region V office listed above.

Additional information State has committed to submit to EPA	Projected submittal date
List of affected sources subject to RACT regulations for secondary nonattainment areas for both point and fugitive sources.	Dec. 1, 1982.
Revised opacity reading procedures which corrects and clarifies the data reduction method.	June 30, 1982.
The criteria Wisconsin will use to determine which roadways and storage piles are subject to the control requirements of RACT [(NR 154.11) (2)(b)(1) and (2)]. These criteria shall address the determination of silt content of storage piles and traffic volume of roads.	Do.
Procedures Wisconsin will use to evaluate and enforce the requirements of watering, chemical suppression, treatment with stabilizers and cleaning as outlined in NR 154.11(2)(b).	Do.
Clarification will be provided regarding those situations in which a fuel burning installation is subject to an emission limit other than that defined by the boiler emission equation as contained in NR 154.11(4)(e).	Apr. 30, 1982.

Additionally, EPA has concerns with the fugitive emission sources exempted by the RACT regulations in NR 154.11(2)(b) 1, 2, and 3. (These regulations contain applicability exemptions for storage piles and material handling operations that have material with less than 5 percent silt content and for roadways and areas subject to traffic of 10 vehicles in any hour or less.) In response to this concern Wisconsin has agreed to review the progress toward attainment that the RACT emission limits will provide. If attainment is not met by these strategies Wisconsin will reevaluate the fugitive emission sources exempted by the RACT regulation in NR 154.11(2)(b) 1, 2, and 3.

One remaining deficiency, not discussed above, concerns regulation NR 154.11(7)(b). This regulation applies to the only two foundry coke batteries in Wisconsin and defines several of the essential operating elements of a well-charged battery. However, it fails to include a standard by which to measure performance during the charging operation at a particualr facility. For example, EPA has approved as RACT a standard which prevents the duration of visible emissions during any 5 consecutive charging operations to aggregate more than 125 seconds. EPA has discussed this deficiency with the State and the State plans to submit an acceptable RACT-level visible emissions limit for the charging operation. Since the correction of this deficiency impacts Wisconsin's air quality and will require the State to adopt an additional regulation, EPA is proposing to conditionally approve NR 154.11(7)(b).

Therefore EPA is today proposing to conditionally approve the revisions to the TSP SIP for Wisconsin 1) with the understanding that Wisconsin submit the information outlined in the register to correct the deficiencies and 2) on the condition that NR 154.11(7)(b) is amended and submitted to the Agency with an acceptable RACT-level emissions limitation for the charging operation.

The measures proposed for promulgation today will be in addition to, and not in lieu of, existing SIP regulations. The present emission control regulations for any source will remain applicable and enforceable to prevent a source from operating without controls, or under less stringent controls, while it is moving toward compliance with the new regulations or if it chooses, challenging the new regulations. In some instances, the present emission control regulations contained in the federally-approved SIP are different from the regulations currently being enforced by the State. In these situations, the present federally-approved SIP will remain applicable and enforceable until there is compliance with the newly promulgated and federally-approved regulations. Failure of a source to meet applicable pre-existing regulations will result in appropriate enforcement action, including assessment of noncompliance penalties. Furthermore, if there is any instance of delay or lapse in the applicability of the new regulations, because of a court order or for any other reason, the pre-existing regulations will be applicable and enforceable.

The only exception to this rule is in cases where there is a conflict between the requirements of the new regulations and the requirements of the existing regulations such that it would be impossible for a source to comply with the pre-existing SIP while moving toward compliance with the new regulations. In these situations, the State may exempt a source from compliance with the pre-existing regulations. Any exemption granted will be reviewed and acted on by EPA.

A thirty day comment period is being provided to enable publication of final action on this submission as expeditiously as possible. Final action approving this revision will satisfy one of the requirements of a Part D SIP. Until the State has an approved Part D SIP, it is subject to the new source growth prohibitions of section 110(a)(2)(I) of the Act. Furthermore, EPA believes that the thirty days provide the public with ample time to review and comment on today's proposed rulemaking.

Pursuant to the provisions of 5 U.S.C. section 605(b) the Administrator has certified on January 27, 1981 (46 FR 8709) that the regulatory actions approving revisions to SIP's under sections 110 and 172 of the Act will not if promulgated have a significant economic impact on a substantial number of small entities. This action if promulgated, only approves state actions. It will impose no new requirements.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation if promulgated is not Major because it approves regulations which are already effective in the State and therefore it imposes no new requirements.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air Pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110, 172 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7502, and 7601(a))

Dated: March 16, 1982.

Valdas. V. Adamkus,

Regional Administrator.

[FR Doc. 82-14781 Filed 5-28-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF ENERGY

[6450-01]

41 CFR Ch. 9

Proposed Amendments to the DOE Procurement Regulations; Correction

AGENCY: Energy Department.

ACTION: Proposed Correction rule.

SUMMARY: The notice of proposes rulemaking published at 47 FR 18923 on May 3, 1982 contained an effective date of June 2, 1982. This was an error. The notice of proposed rulemaking is open for public review and comment for a thirty day period ending June 2, 1982. The effective date, if any, will be some later date following analysis of comments. An additional week is being added to the comment period to compensate for this error.

Interested persons are invited to participate by submitting data, views or arguments regarding the amendments proposed at 47 FR 18923. All written comments received will be carefully assessed and fully considered prior to publication of the proposed amendment as a final regulation.

DATE: Public comments must be received by June 9, 1982.

ADDRESS: Comments should be addressed to the Department of Energy, Procurement Policy Branch, MA931.1, Forrestal Building, Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:
Richard B. Langston, Procurement Policy Branch, Procurement and Assistance Management Directorate, Department of Energy, (202) 252-8188.

Issued in Washington, D.C., May 25, 1982.

Berton J. Roth,
Deputy Director, Procurement and Assistance Management Directorate.

[FR Doc. 82-14712 Filed 5-28-82; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6333]

National Flood Insurance Program Proposed Zone Designation and Base Flood Elevation Determinations for the City of Lancaster, Fairfield County, Ohio

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed Rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety-days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at City Hall, 104 East Main Street, Lancaster, Ohio.

Send comments to: Honorable Kenneth E. Mace, Mayor, City of Lancaster, City Hall, 104 East Main Street, Lancaster, Ohio 43130.

FOR FURTHER INFORMATION CONTACT:
Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support gives notice of the proposed base flood elevations and zone designations for the City of Lancaster, Ohio, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

These zone designations and base (100-year) flood elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents.

The proposed zone designations and base flood elevations are as follows:

Source of flooding	Location	Elevation, national geodetic vertical datum (feet)	Zone designation
Ewing Run	Immediately downstream of Rainbow Drive	838	A3, C.
	Approximately 500 feet downstream of Rainbow Drive	835	A3, C.
	Approximately 1150 feet upstream of Pleasantville Road	829	A3.
	Immediately upstream of Pleasantville Road	825	A3.
	Confluence with Fetters Run	823	A3.
Lateral A	Between points approximately 500 and 1000 feet, respectively, upstream of Memorial Drive		C.
Fetters Run	Approximately 750 feet upstream of Fair Avenue	853	A3.
	Immediately upstream of Fair Avenue	832	A3.
	Immediately downstream of Fair Avenue	830	A3.
	Immediately upstream of Sixth Avenue	826	A3.
	Immediately upstream of Cherry Street	824	A3.
	Confluence with Ewing Run	823	A3.
Baldwin Run	Confluence with Fetters Run and Ewing Run	823	A3.
	Immediately upstream of Main Street	821	A3.
	Immediately downstream of Main Street	819	A3.
	Immediately upstream of the Conrail Railroad	817	A3, C.
	Immediately downstream of the Conrail Railroad	815	A3, C.
	Upstream of Lawrence Street	814	A3.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies

that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67.

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support).

Issued: May 19, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–14610 Filed 5–28–82; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 67

[Docket No. FEMA–6326]

Proposed Special Flood Hazard Areas for the City of Alpine, Utah County, Utah Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed special flood hazard areas as described below.

The proposed special flood hazard areas are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the floodprone areas and the proposed special flood hazard areas are available for review at the City Clerk's Office, Alpine City Hall, 20 North Main Street, Alpine, Utah.

Send comments to: honorable Don A. Christiansen, Mayor, City of Alpine, 20 North Main Street, Alpine, Utah 84003.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Enmergency Management Agency, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed special flood hazard areas for the City of Alpine in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

The special flood hazard area, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed special flood hazard areas will also be used to calculate the appropriate flood insurance premium rates.

The proposed special flood hazard areas, identified as Zone A, are being added along Dry Creek and Fort Creek.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128) Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: May 14, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–14611 Filed 5–28–82; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 67

[Docket No. FEMA–5047]

Proposed Flood Elevation Determinations Under National Flood Insurance Program for City of Palm Springs, Calif.

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule; revision.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Palm Springs, California.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 45 FR 77082 on November 21, 1980 and in the *Desert Sun*, published on or about November 4, 1980, and November 11, 1980, and hence supersedes those previously published rules for the areas cited below.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Department of Community Development, City Hall, 3200 E. Tahquitz, Palm Springs, California.

Send comments to: Honorable Frank M. Bogert, P.O. Box 1786, Palm Springs, California.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the City of Palm Springs, California, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67.

Flood insurance, Flood plains.

The proposed base (100-year) flood elevations are:

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD)
Aronas Canyon Creek: 900 feet southeast of intersection of Camino Real and Murray Canyon Drive	*523
Chino Canyon Creek:	
Intersection of San Rafel Drive and Lynette Drive	*528
100 feet downstream of intersection of creek and Indian Avenue	*618
Palm Canyon Wash:	
200 feet upstream of intersection of Wash and Golf Club Drive	*335
50 feet upstream of intersection of wash and Bogie Road	*362
100 feet upstream of intersection of Wash and Bogart Trail	*545
Tahquitz Creek:	
50 feet upstream of intersection of creek and Bogie Road	*362
50 feet upstream of intersection of creek and Farrell Drive	*369
75 feet downstream of intersection of creek and Palm Canyon Drive	*444
Intersection of Camino Real and San Lorenzo Road	#2
Tramview Wash: Area enclosed by Club Circle Drive	#3
Tramview Wash Tributary: Intersection of Siminole Road and Linden Way	#2
Whitewater River:	
Intersection of Vista Chino and Bogie Road	*457
Intersection of Montecito Circle and Montecito Drive	#3
West Cathedral Channel: 150 feet upstream of intersection of channel and Dunn Road (upstream crossing)	*715

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 26, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director).

Issued: May 11, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14613 Filed 5-28-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6246]

Proposed Flood Elevation Determinations Under National Flood Insurance Program for Town of Belleair Shore, Fla.

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule; revision.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Belleair Shore, Florida.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 47 FR 5017 on February 3, 1982 and in the *Clearwater Sun*, published on or about December 17, 1982, and December 24, 1982, and hence supersedes those proviously published rules for the areas cited below.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above named community.

ADDRESSES: Maps and other information showing the detailed outlines of the floodprone areas and the proposed flood elevations are available for review at Town Hall, 880 Gulf Boulevard, Belleair Shore, Florida.

Send comments to: The Honorable Morton H. Raymond, 880 Gulf Boulevard, Belleair Shore, Florida. 33535.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert G. Chappell, National Flood Insurance Program, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Town of Belleair Shore, Florida, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, imposed no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67.

Flood insurance, Flood plains.

The proposed base (100-year) flood elevations are:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Gulf of Mexico: West side of Gulf Boulevard (State Highway 699, County Road 208) at its intersection with Causeway Boulevard	*10

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: May 10, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14613 Filed 5-28-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR PART 67

[Docket No. FEMA-6323]

National Flood Insurance Program Proposed Zone Designation and Base Flood Elevation Determinations for the City of DeKalb, DeKalb County, Illinois

AGENCY: Federal Emergency Management Agency. (FEMA).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program. (NFIP).

DATES: The period for comment will be ninety-days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at 200 South Fourth Street, DeKalb, Illinois.

Send comments to: John Cartwright, City Manager, City of DeKalb, 200 South Fourth Street, DeKalb, Illinois 60115.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION:

The Associate Director, State and Local Programs and Support gives notice of the proposed base flood elevations and zone designations for the City of DeKalb, Illinois, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These zone designations and base (100-year) flood elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, Sate, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents.

The proposed zone designations and base flood elevations are as follows:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum	Zone designation
South Branch Kishwaukee River	Portions of the community south of Fairview Drive and bounded on all sides by the corporate limits.	852	A5, B, C.
	Portions of the community south of Barb Boulevard, west of Seventh Street, north of Fairview Drive and bounded on the west by the corporate limits.	851	A5, B, C.
	Portions of the community east of North First Street between Dresser Road and Stoney Creek Road.	839 to 837	A3, B, C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67.

Flood insurance, Flood plaines.

(National Flood Insurance Act of 1968 (Title XII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 12, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14614 Filed 5-28-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6322]

National Flood Insurance Program, Proposed Zone Designation and Base Flood Elevation Determinations for the Village of Long Grove, Lake County, Illinois

AGENCY: Federal Emergency Management Agency. (FEMA).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations described below

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety-days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone

designations are available for review at the Village Hall, North Old McHenry Road, Long Grove, Illinois.

Send comments to: D. M. Doughty, Village Administrator, Village of Long Grove, Route 6—Box 193, Long Grove, Illinois 60047.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support gives notice of the proposed base flood elevations and zone designations for the Village of Long Grove, Illinois, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These zone designations and base (100-year) flood elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They shoud not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents.

The proposed zone designations and base flood elevations are as follows:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum	Zone designation
Buffalo Creek	Sumpter Drive	711	A2.
	State Highway 53	722	A2.
Localized Ponding	Portions of the area bounded on the north and south by the corporate limits, on the east by Schaeffer Road, and on the west by Checker Road and the corporate Limits.		A.
	Portions of the area bounded on the north by Coach Road and Lexington Drive, on the east by Lincoln Avenue, on the south by the corporate limits, and on the west by Hicks Road.		A, C.
	Portions of the area bounded on the north by State Highway 53, on the east by Hicks Road, and on the south and west by the corporate limits.		A.
	Portions of the area bounded on the north and south by the corporate limits, on the east by Arlington Heights Road, and on the west by Long Grove Road and State Highway 83.		A.
	Portions of the area bounded on the north by South Branch Indian Creek and the corporate limits, on the east by Old McHenry Road, on the south by Cuba Road, and on the west by the corporate limits.		A.
	Portions of the area bounded on the north by South Branch Indian Creek, on the east by Willowbrook Road, on the south by the corporate limits, and on the west by Old McHenry Road.		A.
	Portions of the area bounded on the north by an east-west line passing through the junction of Hilltop Road and State Highway 83, and on the east, south, and west by the corporate limits.		A.
	Portions of the area bounded on the north and west by the corporate limits, on the east by Mundelein Road, and on the south by Lake Zurich Road.		A.
	Portions of the area bounded on the north by Forest Lake Drain and Indian Creek, on the east by State Highway 83, and on the south and west by the corporate limits.		A.
	Portions of the area bounded on the north by Oakwood Road and Indian Creek, on the east by the corporate limits, on the south by a locus of points 400 feet south of Port Clinton road, and on the west by State Highway 83.		A.
South Branch Indian Creek	Portions of the area bounded on the north by Lake Zurich Road, on the east and south by South Branch Indian Creek, and on the west by the corporate limits.		B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 17, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–14615 Filed 5–28–82; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 67

[Docket No. FEMA–6254]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 47 FR 10256 on March 10, 1982. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the Township of Franklin, York County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Federal Emergency Management Agency, National Flood Insurance Program (202) 287–0230, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Township of Franklin, York County, Pennsylvania, previously published at 47 FR 10256 on March 10, 1982, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom

authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

Under the Source of Flooding of Dogwood Run, the location description "Approximately 1,600' upstream of Greenhouse Road" should be amended to read "approximately 1,400' upstream of Greenhouse Road." The corresponding elevation is correct as published.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: May 11, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14616 Filed 5-28-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6000]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule, revision.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Manheim, Lancaster County, Pennsylvania.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in the **Federal Register** at 46 FR 14143 on February 26, 1981, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in each community.

ADDRESSES: Maps and other information showing the detailed outlines of the floodprone areas and the proposed flood elevations are available for review at the Borough Hall, Manheim, Pennsylvania. Send comments to: Honorable James Brosey, Mayor of Manheim, 20 East High Street, Manheim, Pennsylvania 17545.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Federal Emergency Management Agency, National Flood Insurance Program, (202) 287–0230, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Borough of Manheim, Lancaster County, Pennsylvania, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 USC 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Chickies Creek	Power Road	*357
	Downstream of State Route 772	*388
	Downstream of East Stiegel Street.	*400
	Downstream of East High Street	*401
Rife Run	Upstream of West High Street	*392
	Upstream of West Colebrook Street.	*400
	Upstream corporate limits (4th crossing).	*406

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: May 4, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14617 Filed 5-28-82; 8:45 am]

BILLING CODE 6718-03-M

Notices

Federal Register
Vol. 47, No. 105
Tuesday, June 1, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Food Stamp Program; 25 Percent State Share of Collected Claims

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice informs State agencies responsible for administering the Food Stamp Program that they may retain 25 percent of the value of those nonfraud claims recoveries that did not result from administrative error. This retention is authorized by the Omnibus Budget Reconciliation Act of 1981. The ability to retain these funds is intended to provide State agencies an additional incentive to pursue collection of claims.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas O'Connor, Supervisor, Policy and Regulations Section, Program Standards Branch, Program Development Division, Food and Nutrition Service, USDA, Alexandria, Virginia 22302.

DATE: Effective January 1, 1982.

SUPPLEMENTARY INFORMATION:

Classification

This notice has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512–1, and has been classified "not major." The notice will not have an annual effect on the economy of $100 million or more, nor is it likely to result in a major increase in costs or prices for consumers, individual industries, Federal, State of local government agencies or geographic regions. Because this notice will not affect the business community, it will not result in significant adverse effects on competition, employment, investment, productivity, or innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This notice has also been reviewed with regard to the requirements of the Regulatory Flexibility Act, Pub. L. 96–354. The Administrator of the Food and Nutrition Service (FNS) has certified that the notice will not have a significant economic impact on a substantial number of small entities. State agencies will be affected because they will be permitted to retain 25 percent of the value of collected food stamp nonfraud claims that did not result from administrative error.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507) the reporting and recordkeeping provisions that are included in this notice will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained.

In addition to the current retention of 50 percent of the value of food stamp fraud claims collected, a State agency may now also retain 25 percent of the value of collected nonfraud claims that did not result from administrative error. However, State agencies will continue to return to FNS the full value of all overissuance recoveries which result from errors by administering agencies. The additional claims retention is provided for by Section 114 of the Omnibus Budget Reconcilation Act of 1981. It is believed that the ability to retain additional funds should provide State agencies an additional incentive to pursue collection of these nonfraud claims. Because the Department wishes to have this provision codified, it will eventually be incorporated in rules currently being prepared to address fraud and other overissuance recoveries.

To retain 25 percent of the value of collected nonfraud claims that did not result from administrative error, the State agency must follow the procedures outlined at 7 CFR 273.18(f) regarding retention of 50 percent of collected fraud claims. Under these procedures, the State agency will retain the full value of all nonfraud claims recoveries, and the State's letter of credit will be amended on a quarterly basis to reflect the State's retention of 25 percent of the value of those nonfraud claims that did not result from administrative error. The State agency must report the amount recovered from such claims on Form FNS–209, Status of Claims Against Households, submitted monthly to FNS. Such amounts shall also be reported by the State agency on other letter of credit documents as required. In accounting for these nonfraud claim collections, the State agency shall include cash repayments and the value of the allotments offset against restoration of lost benefits. The FNS–209 is now being redesigned to account for inadvertent household error claims and administrative error claims. Until the redesigned FNS–209 is in use, State agencies wishing to retain 25 percent of the collections made on inadvertent household error claims will have to annotate the FNS–209 to differentiate between these two nonfraud claims categories. In addition, any State agency may choose to retain 25 percent of the collections made on inadvertent household error claims between January 1, 1982, and publication of this notice. State agencies wishing to retain their 25 percent share of such collections which have already been reported to FNS must submit a revised FNS–209 for each month involved. The revised FNS–209 will have to be annotated to differentiate between the two categories of nonfraud claims, and a note must be included in the remarks section which shows the additional amounts being retained as a result of the retention of the State's share.

(Sec. 114, Pub. L. 97–35, 95 Stat. 366; 91 Stat. 958 (7 U.S.C. 2011–2027))

(Catalog of Federal Domestic Assistance Program No. 10.551, Food Stamps)

Dated: May 25, 1982.

Samuel J. Cornelius,

Administrator, Food and Nutrition Service.

[FR Doc. 82-14734 Filed 5-30-82; 8:45 am]
BILLING CODE 3410-30-M

Soil Conservation Service

Nemasket River Corridor RC&D Measure, Mass.

AGENCY: Soil Conservation Service USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture,

gives notice that an environmental impact statement is not being prepared for the Nemasket River Corridor RC&D Measure, Bristol County, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Sherman L. Lewis, State Conservationist, Soil Conservation Service, 451 West Street, Amherst, MA 01002, telephone 413–256–0441.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Sherman L. Lewis, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns improvements of anadromous fish habitat and recreation capacity. The planned works of improvement include clearing of soil deposits and aquatic plants at selected locations, installation of fishways, a nature trail, improved canoe access, and a rest area for canoeists.

The Notice of a Finding of N. Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental assessment are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Sherman L. Lewis.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register** (July 1, 1982).

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 18, 1982.

Sherman L. Lewis,

State Conservationist.

[FR Doc. 82–14727 Filed 5–28–82; 8:45 am]

BILLING CODE 3410–16–M

Webber Pond Watershed Project, Maine

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Billy R. Abercrombie, State Conservationist, Soil Conservation Service, USDA Office Building, University of Maine, Orono, Maine 04473, telephone 207–866–2132.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Webber Pond Watershed, Kennebec County, Maine.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Billy R. Abercrombie, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for watershed protection. The planned works of improvement include accelerated technical assistance for land treatment and water quality improvement.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Billy R. Abercrombie. An environmental impact appraisal has been prepared and sent to various Federal, State and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register** (July 1, 1982).

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Dated: May 21, 1982.

Billy R. Abercrombie,

State Conservationist.

[FR Doc. 82–14758 Filed 5–28–82; 8:45 am]

BILLING CODE 3410–16–M

CIVIL RIGHTS COMMISSION

Michigan Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Michigan Advisory Committee to the Commission will convene at 5:00p and will end at 9:00p, on June 17, 1982, at the Westin Hotel, Renaissance Center, Detroit, Michigan, 48243. The purpose of this meeting will be to discuss the equality in education and economic development of minorities in the State of Michigan.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Dr. M. H. Rienstra, 1225 Thomas South East, Grand Rapids, Michigan, 49506, (616) (949–4000 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois, 60604, (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 24, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82–14778 Filed 5–28–82; 8:45 am]

BILLING CODE 6335–01–M

New Jersey Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New Jersey Advisory Committee to the Commission will convene at 6:30p and will end at 8:30p, on June 24, 1982, at the Ramada Inn, 100 Naricon Place, East Brunswick, New Jersey, 08816. The purpose of this meeting will be to discuss program planning activities for Fiscal Year 1983.

Persons desiring additional information should contact the Chairperson, Clyde C. Allen, 620 Sheridan Avenue, Plainfield, New Jersey, 07060, (212) 572–7577 or the Eastern Regional Office, Jacob K. Javits Building, 26 Federal Plaza, Room 1639, New York, New York, 10278, (212) 264–0400.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 25, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82–14777 Filed 5–28–82; 8:45 am]

BILLING CODE 6335–01–M

Oklahoma Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Oklahoma Advisory Committee to the Commission will convene at 8:00a and will end at 6:00p on June 21, 1982, and at 8:00a and will end at 3:00p, on June 22, 1982, at the Quality Inn Central, 112 North Eastern Avenue, in Room C–2, Oklahoma City, Oklahoma, 73117. The purpose of this meeting will be to conduct a consultation on block grant programs in Oklahoma. After the consultation on June 22, 1982, from 3:00p until 6:00p, an Advisory Committee planning meeting will convene to discuss the Committee's report *Employment in the Oklahoma State Department of* Education and the status of desegregation in higher education in the State of Oklahoma.

Persons desiring additional information should contact the Chairperson, Dr. Earl D. Mitchell, 3 Summit Circle, Stillwater, Oklahoma, 74074, (405) 624–6212 or the Southwestern Regional Office, Heritage Plaza, 418 South Main, San Antonio, Texas, 78204, (512) 229–5570.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 25, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-14779 Filed 5-28-82; 9:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[Order No. 41–5; D.O.O. 10–3, 40–1]

Assistant Secretary for Trade Development; Organization and Function

Effective Date: February 15, 1982.

Part I. Effect on Other Orders

This order supersedes ITA Organization and Function Order 41–5 dated January 16, 1981, as amended (46 FR 19965, 46 FR 48736 and 46 FR 51005).

Part II. Purpose, Scope, and Principal Organization

Section 1. Purpose

This order delegates authorities from the Assistant Secretary for Trade Development ("the Assistant Secretary") to the Deputy Assistant Secretaries for Trade Development, Export Development, Industry Projects, Trade Information and Analysis, Textiles and Apparel, and Trade Adjustment Assistance, and prescribes the internal organization and assignment of functions for all elements under the direction of the Assistant Secretary. In addition the Assistant Secretary, through the Deputy Assistant Secretary for Export Development, coordinates with the Director General of the Commercial Services in directing the delivery of services in support of the Department's substantive trade development programs through the District Offices of the U.S. Commercial Service.

Section 2. Organization and Line of Authority

.01 The internal organization structure and line of authority for functions prescribed in this order is as depicted in the attached organization chart.[1]

.02 The Assistant Secretary reports and is responsible to the Under Secretary for International Trade. The Assistant Secretary assists and advises on policies pertaining to U.S. business sectors and carries out programs of the Department to promote world trade and to strengthen the international trade and investment posture of the U.S. The Assistant Secretary serves as the National Export Expansion Coordinator.

.03 Except as otherwise provided, the Assistant Secretary for Trade Development may redelegate authorities to any appropriate officer or agency of the Government subject to such conditions in the exercise of such authorities as he or she may prescribe. Notwithstanding any provision of this delegation of authority, the Assistant Secretary may at any time exercise any authority delegated to the Deputy Assistant Secretaries to any employee.

Section 3. Principal Functions

.01 The Assistant Secretary advises on international trade and investment policies pertaining to U.S. business sectors and carries out programs to promote world trade and to strengthen the international trade and investment position of the U.S. In carrying out these functions, the Assistant Secretary directs the Department's programs for participation in trade fairs, trade missions and other overseas trade promotion events; conducts programs within the U.S. to expand the export-consciousness of American firms, particularly small and medium-sized businesses, and to facilitate their entry into international trade; implements and monitors the sectoral aspects of the Multilateral Trade Negotiations (MTN) and provides advice and assistance to U.S. businesses on rights and opportunities resulting from the MTN; carries out special industry activities to promote exports of major projects and high technology products; examines and develops trade and investment policy recommendations which are industry sector or product-specific in nature (in consultation with units of International Economic Policy, where significant country or regional issues are involved); represents the Department on such matters, as assigned; obtains private sector views with respect to international economic and commercial policy issues; conducts programs aimed at assistance to industries faced with import competition; and manages ITA's trade-related information and research gathering and dissemination functions. The Assistant Secretary advises Departmental and ITA officials on policies and programs relating to these functions and serves as the National Export Expansion Coordinator.

.02 The Assistant Secretary directs the activities of:

a. Deputy Assistant Secretary for Trade Development;

b. Deputy Assistant Secretary for Export Development;

c. Deputy Assistant Secretary for Industry Projects;

d. Deputy Assistant Secretary for Trade Information and Analysis;

e. Deputy Assistant Secretary for Textiles and Apparel; and

f. Deputy Assistant Secretary for Trade Adjustment Assistance.

.03 The *Office of the Assistant Secretary for Trade Development* includes the *Deputy Assistant Secretary for Trade Development* who serves as the principal deputy to the Assistant Secretary, performs such duties as the Assistant Secretary assigns, and performs the functions of the Assistant Secretary in the latter's absence. The Office of the Assistant Secretary also includes the *Office of Policy and Coordination* which provides policy support to the Assistant Secretary and is headed by a *Director* who directs:

a. The *Coal Export Staff* advises on coal export policy matters. The Director of the staff is Executive Director of the Coal Interagency Working Group and the Commerce Department Coal Export Task Force, both chaired by the Assistant Secretary. The staff proposes programs and coordinates Commerce/ITA programs dealing with coal exports; maintains liaison with the coal industry and other private sector and state and local government organizations concerned with coal exports; monitors trade and domestic economic situations

[1] Filed as part of the original document.

which affect coal exports; and reports periodically through the Office Director, to the Assistant Secretary on the progress of Commerce's coal export programs and those of other agencies.

b. The *PEC Staff* provides staff support to the President's Export Council and, in this capacity, communicates the PEC's recommendations through the Secretary of Commerce to the President; and coordinates information from ITA, other Departmental units, and other governmental units that the PEC deems necessary.

c. The *Policy and Coordination Staff* provides staff support to the Assistant Secretary regarding special assignments and projects that require coordination of diverse policy-oriented analytical assignments spanning organizations and responsibility in ITA and in Trade Development; conducts research to identify problems and opportunities facing U.S. exporters; examines the capability of international institutions to resolve economic issues and make recommendations for changes in the U.S. relationship with these institutions; evaluates and analyzes U.S. and foreign export incentives and disincentives; coordinates with other ITA and Commerce units in developing the Department's position on export policy related issues which are industry sector or product-specific in nature; undertakes analyses to identify problem areas for U.S. exports and recommend policy options to alleviate these problems; evaluates domestic economic policies in the context of their impact on U.S. exports; and represents the Department, as assigned, in interagency meetings concerned with policy issues under the purview of the Assistant Secretary.

Part III. Deputy Assistant Secretary for Export Development

Section 1. Delegation of Authority

.01 Pursuant to Department Organization Order 10–3 the following authorities delegated to the Assistant Secretary for Trade Development by the Under Secretary are hereby delegated to the Deputy Assistant Secretary for Export Development:

a. Such provisions of the Act of February 14, 1903, as amended, (15 U.S.C. 1512 *et seq.*; 15 U.S.C. 171 *et seq.*) to foster, promote, and develop the foreign and domestic commerce of the United States, as are necessary to the performance of the Deputy Assistant Secretary's functions;

b. Section 601(b)(1) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2351(b)(1) conferred on the Secretary under Executive Order 12163 of September 29, 1979, relating to drawing the attention of private enterprise to opportunities for investment and development in less developed friendly countries and areas;

c. Such portions as are necessary to the performance of the Deputy Assistant Secretary's functions of the delegation of authority, dated June 25, 1982 from the United States Information Agency under Section 5(e) of Executive Order 11034 of June 25, 1962 as amended by Executive Order 11380 of November 8, 1967, insofar as said delegation pertains to U.S. participation in trade missions abroad under the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 1451 *et seq.*);

d. Executive Order 10978 of December 5, 1961 regarding the Presidential "E" Award, "E" Certificate of Service, and "E Star" Award, except final selection of recipients;

e. The Act of October 18, 1962, as amended (46 U.S.C. 1122b), which authorized mobile trade fairs;

f. Section 4221 of the Internal Revenue Code of 1954 (26 U.S.C. 4221) and Section 309 of the Tariff Act of 1930, as amended (19 U.S.C. 1309), insofar as they relate to findings with respect to exemptions from taxes and import duties on supplies and equipment for aircraft;

g. The Act of May 27, 1970 (Pub. L. 91–269, 22 U.S.C. 2801 *et seq.*) relating to U.S. participation in international expositions;

h. The Act of December 29, 1979 (Pub. L. 96–169, 93 Stat. 1281) regarding U.S. participation in the International Energy Exposition to be held in Knoxville, Tennessee in 1982;

i. Title III of Pub. L. 96–481 (15 U.S.C. 649a–649d), relating to making grants (including contracts and cooperative agreements) for small business international marketing programs; and

j. Other authorities of the Assistant Secretary necessary to perform the functions assigned to the DAS.

.02 Except as otherwise provided, the DAS may redelegate the above authorities, subject to such conditions in the exercise of such authorities as he or she may prescribe.

Section 2. Office of the Deputy Assistant Secretary

.01 The *Deputy Assistant Secretary for Export Development* develops domestic and overseas programs designed to stimulate the expansion of U.S. exports, including activities to foster an export consciousness among U.S. manufacturing and service industries and evaluates the effectiveness of these programs; develops programs to improve the access of U.S. products and services to foreign markets, including identifying barriers and surveying U.S. laws and practices affecting international trade; provides counseling, information, facilitative assistance and assistance in resolving trade complaints to U.S. business; develops and executes a national export awareness campaign; develops and conducts overseas trade promotion events and missions including direction of event scheduling and exhibitor recruitment; provides Departmental recognition of domestic and foreign trade promotion events; provides for Departmental recognition and participation in international expositions held in the United States; develops export promotional materials; directs the delivery of promotional programs to be carried out by the U.S. Commercial Service (USCS) and Foreign Commercial Service (FCS) and participates with the Director General of the Commercial Services to determine priorities among these programs; establishes and maintains working relationships with U.S. business firms, other Federal agencies, private organizations and foreign government entities in the U.S. having an interest in and/or responsibility for export development, foreign procurement, or export sales.

.02 The Office of the DAS includes the *Deputy* who assists in the direction of export development programs and performs the functions of the DAS in the latter's absence.

.03 The Office of the DAS also includes the *International Expositions Staff* which is headed by a Director who reviews applications for Federal recognition of international expositions to be held in the United States and prepares the report to the President for decision on such recognition; coordinates all Department activities involving the Bureau of International Expositions (BIE) in Paris and furnishes official U.S. representation to BIE; prepares the plan required of the Secretary of Commerce by Section 3 of Pub. L. 91–269 for Federal participation in international expositions to be held in the United States; and carries out such plans and other responsibilities of the Department of Commerce for ensuring appropriate Federal participation in such expositions; and supports, as appropriate, the activities of any Commissioner General appointed by the President or the Secretary for particular expositions. The relationship between the Staff and the Commissioner General shall be established for each exposition by agreement between the Commissioner General and the

Assistant Secretary for Trade Development.

.04 The DAS directs the following offices:

a. Office of Export Marketing Assistance;

b. Office of Export Promotion;

c. Office of International Services; and

d. Office of East-West Trade Development.

Section 3. Office of Export Marketing Assistance

.01 The *Office of Export Marketing Assistance* includes the *Director* who provides principal direction to developing programs designed to foster an export consciousness in the United States and stimulate exports by all segments of the domestic economy which have the capability to export. The Office includes:

.02 The *Investment Advisory Staff* encourages and facilitates foreign direct capital investment and licensing by foreign firms in the United States; develops information on domestic investment, joint ventures and licensing opportunities for foreign business people and obtains specific investment, joint venture and licensing proposals from potential foreign investors for the U.S. business community; provides information and counsel to U.S. business concerning existing and planned overseas investments; and furnishes information to U.S. foreign investors on private and public sources of investment capital, particularly foreign sources, guarantees and related types of capital for overseas investments and loans, particularly in developing countries.

.03 The *Export Awareness Division* conducts domestic programs which stimulate an interest in exporting and provides information and assistance to firms interested in international trade. The Division includes the *Minority Business Assistance Staff* which identifies minority-owned businesses having export potential; ensures the widest possible participation of these firms in export development and other Federal export assistance programs; administers the joint working agreements with the Minority Business Development Agency; ensures all ITA and Department elements and other Federal Government agencies are sensitive to the export assistance needs of minority business when they develop programs or regulations; and assists individual minority businesses with particular export-related problems by acting as their liaison with other ITA elements. The Division includes:

a. The *Export Marketing Advisory Service Branch* provides individual counseling services to U.S. exporters and prospective exporters on the mechanics of exporting; assists in the resolution of commercial trade disputes; and operates the Tailored Export Marketing Plans Service (TEMPS) through which the export capability of selected small and minority companies is determined, markets are identified, export marketing strategies are developed and advice and counsel provided. The services are provided in cooperation with the District Offices of the USCS.

b. The *Export Information Branch* serves as the central point for the coordination and development of export education activities. The Branch prepares promotional literature to support export development programs and establishes facilities to develop and manage related publications; prepares "awareness" and general "how-to" brochures and publications; collects and arranges for the dissemination of foreign market reports, operates the New Product Information Service and produces the *Commercial News U.S.A.*; organizes conferences, seminars and other promotional activities to familiarize U.S. industry with the advantages of exporting; directs the national multiplier program; administers the President's "E" and "E Star" Awards; and, in cooperation with the Office of Public Affairs and delivered through the FCS and the USCS, ensures that these publications, programs and services receive wide dissemination.

.04 The *Exporter Liaison Division* encourages U.S. firms to export to their full potential, particularly small and medium-sized companies; in cooperation with other ITA elements, develops programs aimed at such firms to ease their entrance into the world market; and works with all elements of the export community to support private sector program initiatives and develop joint programs. The Division includes:

a. The *Industry Relations Branch* maintains information on U.S. technological developments and marketing trends in selected industry segments with respect to foreign markets and exporting; works with trade associations to identify "export capable" firms not exporting to their potential; encourages trade associations to promote exporting activities by their members; assists industry in obtaining export development officials as speakers on exporting for conferences, seminars and workshops; works with USCS District Offices to assist export expansion activities of State, regional and local agencies; and oversees the implementation of the ITA/SBA and ITA/EDA agreements.

b. The *Foreign Buyers Branch* stimulates and arranges visits to U.S. expositions and industrial facilities by foreign business people and government officials; with the assistance of the FCS, identifies prospective foreign buyers and directs buyers to domestic trade shows; and arranges meetings between visiting foreign business people and U.S. manufacturers in order to facilitate sales.

Section 4. Office of Export Promotion

.01 The *Office of Export Promotion* includes the *Director* who for those countries and areas of the world not covered by the Office of East-West Trade Development (see Section 7), provides principal direction to overseas event scheduling and to exhibitor recruitment, staffing and overseas staging of the Department's trade promotion programs. The Office includes:

.02 The *Resources Management Division* provides fiscal management and support for trade promotion events including scheduling, design planning and development for international/U.S. commercial exhibitions; organizes, executes and supervises U.S. commercial exhibits at international trade fairs and at Export Development Offices (EDO), provides for leasing, design and refurbishment of overseas fixed facilities; and provides for the shipment of participants' products for overseas trade promotion events.

.03 The *Industry Participation Division* develops and manages industry-wide recruitment campaigns to attract U.S. industry to overseas exhibitions; conduct industry procurement and assists the Office of Export Marketing Assistance in structuring an industry liaison program to support recruitment activities. The Division includes branches which for their designated industry and business sectors recruit industry participants in exhibitions, serve as a conduit for industry views on overseas activities and scheduling of events, and serve as primary contact for overseas exhibition initiatives with their industries.

.04 The *Special Promotions Division* develops and plans trade promotion techniques for export promotion activities; in conjunction with EDO's and the Offices reporting to the regional DAS's in IEP, schedules and develops trade and seminar missions; organizes activities of U.S. Specialized Trade and Seminar Missions; provides advice and planning supervision for Industry-Organized Government-Approved Missions; assigns trade and seminar mission directors and other personnel;

develops itineraries, publicity and contacts with the EDO's and the FCS posts; operates special export promotional events including U.S. Industry Catalog Exhibitions, Video Tape/Catalog Exhibitions and Consumer Product Promotions, through overseas agents, distributors and retail organizations; and develops new export promotion techniques.

Section 5. Office of International Services

.01 The *Office of International Services* includes the *Director* who provides policy guidance and program recommendations to foster the international operations of the U.S. service industries (such as insurance, accounting, engineering and construction, advertising, computer and telecommunications services, leasing, franchising, and air and marine shipping); examines and develops policy recommendations relating to U.S. and foreign taxation of business operations, international technology transfer, international business practices, international aspects of antitrust, international standardization, patent and copyright protection, and related matters arising from the international commercial and investment operations of U.S. firms, especially as they relate to service industries; analyzes and acts on problems affecting the international competitive position of U.S. service industries; provides surveys of U.S. service industries' international operations, disclosing extent of operations and balance of payments impact; develops and implements promotional programs to aid in U.S. international sales of services; and formulates and coordinates policy recommendations and represents ITA, the Department, and the U.S. at interagency meetings and bilateral and multilateral negotiations concerned primarily with service issues. The Offices includes:

.02 The *Industry Programs Division* identifies and evaluates obstacles to a free flow of services internationally and actions that could be taken to reduce or eliminate these obstacles; facilitates the sale abroad of U.S. services; analyzes U.S. policies, rules and regulations affecting the service industries to determine the impact on their international competitive position; develops and analyzes policy recommendations in the transportation area, including responses to requests for reciprocal exemption from U.S. customs duties and taxes on supplies and fuel for foreign aircraft, international conventions and agreements on liability and documentation, and prepares position papers for and represents the Department at meetings of the International Maritime Consultative Organization, United Nations Conference on Trade and Development (UNCTAD), and other international organizations on these issues; provides analytical and other support to the United States Trade Representative (USTR), Services Industry Policy Committee, and the Servie Industry Sector Advisory Committee; maintains liaison with trade and industry groups and individual firms to ascertain the nature of foreign government restrictions affecting the service sector abroad; and prepares periodic reports on services trade flows and the U.S. market share of the service industries throughout the world.

.03 The *Foreign Business Practices Division* formulates policy and program recommendations relating to international business operations of American service industries and other firms, specifically with reference to restrictive business practices, patents, trademarks, copyrights, product standardization, transfer of technology, commercial law, arbitration, state-trading, and U.S. and foreign tax measures and practices; develops policy and program recommendations for the protection of American property rights abroad, and with respect to drafting and negotiation of treaties, conventions, and agreements bearing on the international operations of American business; conducts comparative analyses of foreign competitive practices, including product standards, licensing, patent policies and related transfer of technology issues, taxation, and joint exporting, especially as they relate to service industries; and provides information and advice to U.S. firms on such matters.

Section 6. Office of East-West Trade Development

The *Office of East-West Trade Development* is headed by a *Director* who, for communist countries, formulates promotional programs to support U.S. firms interested in initiating or expanding commercial relationships with communist countries; plans and procures commercial trade fair exhibitions; identifies qualified U.S. firms and arranges for their participation; undertakes appropriate follow-up activities to facilitate the establishment and/or development of trade relationships by participants; plans and conducts U.S. trade missions, seminars, exhibits and other events to promote international trade and investment and encourages utilization of these trade promotion techniques by U.S. business; establishes Business Information Offices and Business Development Offices at selected international trade fairs and at other appropriate locations; and tests new trade promotion techniques and recommends appropriate action for consideration by ITA officials.

Part IV. Deputy Assistant Secretary for Industry Projects

Section 1. Delegation of Authority

.01 Pursuant to Department Organization Order 10–3, the following authorities delegated to the Assistant Secretary for Trade Development are hereby redelegated to the Deputy Assistant Secretary for Industry Projects:

a. Such provisions of the Act of February 14, 1903, (15 U.S.C. 1512 *et seq.*; 15 U.S.C. 171 *et seq.*) as amended, to foster, promote, and develop the foreign and domestic commerce of the United States, as are necessary to the performance of the DAS's functions;

b. Section 104 of the Trade Act of 1974 (19 U.S.C. 2114) and section 135 of the Trade Act of 1974 as amended by Section 1103 of the Trade Agreements Act of 1979 (19 U.S.C. 2155) and section 4(d) of Executive Order 11846 of March 27, 1975, relating to the industry consultations program;

c. Section 5(b) and 5(c) of Executive Order 11846 of March 27, 1975, relating to quantitative import restrictions (and monitoring of imports under orderly market agreements); and

d. Other authorities of the Assistant Secretary necessary to perform the functions assigned to the DAS.

.02 Except as otherwise provided, the DAS may redelegate the above authorities, subject to such conditions in the exercise of such authorities as he or she may prescribe.

Section 2. Office of the Deputy Assistant Secretary

.01 The *Deputy Assistant Secretary for Industry Projects* examines and develops policy recommendations relating to international sectoral issues (except as regards the services industry); represents the Department on the Organization for Economic Cooperation and Development (OECD) Steel Committee and, as assigned, in other interagency and international meetings on international industry-specific policy matters; oversees the development of positions and policy approaches for individual industry sectors; oversees the development of international industry-specific policy negotiating goals and objectives; assists

U.S. firms on major international business transactions and foreign capital projects with major export potential; and identifies key issues and develops policies relating to international finance and monetary affairs.

.02 The DAS directs the following offices:

a. Office of International Sector Policy;

b. Office of Major Projects; and

c. Office of International Finance.

Section 3. Office of International Sector Policy

.01 The *Office of International Sector Policy* includes the *Director* who examines and develops policy recommendations relating to international sectoral issues; represents the Department on the OECD Steel Committee and, as assigned, in other interagency and international meetings on international industry-specific policy matters; develops positions and policy approaches relating to trade problems and opportunities for industry sectors; and develops recommendations for international industry-specific policy negotiating goals and objectives. The Director coordinates private sector participation in the international trade and sector policy development process, including operation of the *Trade Advisory Center* which provides information and advice to the private sector concerning rights and opportunities created by U.S. trade agreements and administers the private sector advisory process, including the Industry Consultations Program. The Office includes:

a. Basic Industries Division;

b. Capital Goods Industries Division;

c. Consumer Goods and Automotive Industries Division;

d. Trade Monitoring Division; and

e. International Resources Division

.02 The three *industry divisions*, for the respective sectors covered, provide policy guidance and program recommendations to foster the international commercial operations of U.S. industries; identify and evaluate policies, programs and practices which inhibit or impede the free flow of goods produced by U.S. industries; recommend actions which could be taken to reduce or eliminate the injurious effects of such policies, programs and practices; analyze U.S. and foreign government policies, rules and regulations affecting the ability to conduct trade; provide staff support and leadership within the Department to coordinate with other agencies and Departmental units efforts to solve problems faced by U.S. industries in foreign markets; provide representation at interagency and international meetings on matters related to international sectoral issues; develop positions on proposed legislation affecting U.S. tariffs and trade measures; represent ITA and, as directed, the Department at interagency meetings and at Congressional committee hearings dealing with U.S. trade and tariff legislation when the focus of such meetings, is on specific industry sectors; develop proposals on new trade measures for executive or legislative branch action and review such proposals of other agencies; assess the impact fo imports, federal import policies, rules, regulations and legislation on U.S. industries and recommend appropriate action including product-specific analysis in support of the Generalized System of Preferences (GSP); develop positions on and represent the Department in the intragency evaluation of International Trade Commission and other relief recommendations intended to safequard the competitiveness of U.S. industries from unfair and/or injurious import competition, including, as directed, participation in the development of positions on the negotiation of Orderly Marketing Agreements; and coordinate preparations for, and participation in, the negotiation of agreements, arrangements or understandings concluded on product-specific and an industry sector basis, e.g., Agreement on Trade in Civil Aircraft.

.03 The *Trade Monitoring Division* monitors, collects, and analyzes data pertaining to international trade in specific import sensitive industrial products, as such data relates to Orderly Marketing Agreements; and produces market impact studies, product trade pattern analyses, and penetration studies.

.04 The *International Resources Division* examines and develops policy recommendations regarding international commodity problems and issues affecting non-fuel resources, including adequacy of long-term supplies of raw materials and other primary products on which the United States is dependent for imports, U.S. access to foreign sources of such commodities, and foreign investment conditions in raw materials; participates in the implementation of U.S. policy in these areas through representation on councils administering international agreements and meetings of other international organizations dealing with resource and commodity issues; develops, coordinates and supervises preparations for, participation in, and implementation of resource and commodity consultations and negotiations which cover a wide range of resource commodity issues and organizations including the International Tin Agreement, the International Lead and Zinc Study Group, the UNCTAD Tungsten Committee, the International Coffee Agreement, the International Rubber Agreement, the UNCTAD meetings on copper, and the Intergovernmental Groups on Jute, Hard Fibers and Tea; and analyzes and makes recommendations, as necessary, on the commodity policy implications of U.S. actions and programs such as those of critical raw materials affecting imports.

Section 4. Office of Major Projects

.01 The *Office of Major Projects* includes the *Director* who serves as the focal point in the Department for providing government-wide assistance to U.S. firms on major international business transactions and foreign capital projects; identifies such transactfons and projects with major U.S. export potential which should be brought to the attention of U.S. industries and which are likely to require special U.S. Government assistance for successful participation by American firms; informs U.S. firms of specific large-scale projects overseas with significant potential for exports of U.S. goods and services; assists them in competing for such projects and transactions, coordinating support from other areas of the Department and other federal agencies as necessary; and establishes and maintains close relationships with principal groups, organizations, and firms in industries involved. The Office includes:

a. Electrical Power Generation, Transmission and Distribution Equipment Division;

b. Transportation and Communications Equipment Division; and

c. Minerals, Metals and Fuels Production and Processing Division.

.02 Each division is responsible for major international business transactions and foreign capital projects in the industries for which it is responsible.

Section 5. Office of International Finance

The *Office of International Finance* includes the *Director* who identifies key issues and examines and develops policy recommendation relating to international finance and monetary affairs; coordinates the development of ITA's position on international financial and monetary issues, including export financing, export and investment guarantees, credit and credit insurance,

foreign lending and assistance activities of U.S. and international agencies, and balance of payments measures; represents the Department at the National Advisory Council on International Monetary and Financial Policies (NAC) and other bodies and agencies dealing with these issues; participates in international conferences on financial matters such as those held under the auspices of the OECD and UNCTAD; provides analytical and staff support for the Secretary's participation as a member of the Export-Import Bank Board of Directors and as Chairman of the Export Expansion Advisory Committee of the Export Expansion Facility administered by the Export-Import Bank; and acts as the Department's principal liaison with banks, other private financial institutions, and U.S. Government and multilateral agencies engaged in international financing activities. The Office supports measures to obtain adequate and competitive financing for U.S. firms competing for exports, including major infrastructure and industrial systems contracts abroad.

Part V. Deputy Assistant Secretary for Trade Information and Analysis

Section 1. Delegation of Authority

.01 Pursuant to the authority delegated to the Assistant Secretary by the Under Secretary and subject to such policies and directives as the Assistant Secretary may prescribe, the following authorities are hereby delegated to the Deputy Assistant Secretary for Trade Information and Analysis:

a. The Act of February 14, 1903, as amended, (15 U.S.C. 1512 *et seq.*; 15 U.S.C. 171 *et seq.*) to foster, promote, and develop the foreign and domestic commerce of the United States;

b. Executive Order 11858 of May 7, 1975, relating to foreign investment in the United States;

c. Sections 3 and 4 of Executive Order 11961 of January 19, 1977, as amended by Executive Order 12013 of October 7, 1977, which delegates to the Secretary of Commerce the authority of the President under sections 4(a), 4(b), and 5(c) of the International Investment Survey Act of 1976 (Pub. L. 94–472, 90 Stat. 2059, 22 U.S.C. 3103 (a) and (b), and 3104(c)), and Section 4(e) of International Investment Survey Act, as amended by Pub. L. 97–33 (95 Stat. 170, to be codified at 22 U.S.C. 3101(e)). The functions thereunder shall be carried out in coordination with the Bureau of Economic Analysis (DOO 35–1A), including to the extent feasible, the division or assignment of responsibilities. All regulations established to carry out functions under the Act shall be issued by the Under Secretary in consultation with the Director, Bureau of Economic Analysis. All reports to be submitted to the Congress required to be undertaken pursuant to the Act, shall be issued by the Secretary; and

d. Other authorities of the Assistant Secretary necessary to perform the functions assigned to the DAS.

.02 Except as otherwise provided, the DAS may redelegate the above authority subject to such conditions in the exercise of such authority as he or she may prescribe.

Section 2. Office of the Deputy Assistant Secretary

.01 The *Deputy Assistant Secretary for Trade Information and Analysis* initiates and reviews research studies and forecasts on developments affecting U.S. trade and competitiveness and manages a program of trade and international economic analyses and statistics for U.S. government agencies and business; directs a program to analyze and report on foreign investment in the United States; and directs the development and dissemination of international trade information.

.02 The Office of the DAS includes the *Deputy* who assists in the direction of trade information and analysis programs and performs the functions of the DAS in the latter's absence.

.03 The Deputy Assistant Secretary oversees the following offices:

a. Office of Trade Data Analysis;

b. Office of Trade Information Services;

c. Office of Program Evaluation and Support; and

d. Office of Trade and Investment Analysis.

Section 3. Office of Trade Data Analysis

.01 The *Office of Trade Data Analysis* includes the *Director*, who oversees an international Trade Policy Information System (TPIS) providing government-wide information support for the analysis of trade policy issues; heads an interagency council dealing with coordination of computerized trade information; acquires and integrates into the system quantitative and narrative data bases; carries out quantitative research studies using trade and trade-related information; maintains data on U.S. and international trade and publishes a series of reports; and plans, develops, and implements a system of international economic statistics for advance warning of international economic development. The Office includes:

.02 The *Trade Performance Division* maintains data on U.S. trade; compiles foreign trade data for comparative trade analysis; produces reports on global trade market shares; maintains large-scale matrices of competitor nation trade behavior; develops and implements a statistical system of early indicators of international economic developments; maintains a trade data reference facility; and produces reports on U.S. trade statistics and international economic data, including the quarterly International Economic Indicators.

.03 The *Systems and Analysis Division* plans, develops, and implements an international Trade Policy Information System (TPIS); in coordination with the Office of Management and Systems, develops and obtains computer software and facility access essential to the retrieval and use of international trade data; coordinates with other parts of the Department to receive input in the form of various data bases; incorporates the data into the system as practicable; ensures that the information system is usable in monitoring MTN implementation; carries out quantitative research on statistical and econometric topics related to the information data base; initiates and reviews analysis of quantitative measurement problems; constructs data series appropriate to identify and resolve key international economic issues; and provides guidance to users regarding the procedures for using the TPIS for data retrieval and quantitiative analysis.

Section 4. Office of Trade Information Services

01. The *Office of Trade Information Services* includes the *Director* who directs the development and operation of systems designed to facilitate the flow of trade opportunity related information among users in Washington, USCS District Offices and FCS posts abroad, and to the states and businesses, and to provide business users timely access to export information and services, specifically: World Traders Data Reports, general and specific commercial information about foreign markets, promotional events and opportunities for U.S. exporters; and sources of assistance to U.S. companies engaged in or interested in exporting. The Office includes:

.02 The *Systems Support Division* in coordination with the Office of Management and Systems, develops and executes formal plans for the design and implementation of automated trade opportunity information to U.S. exporters and foreign buyers; based on

requirements for trade information processing and dissemination, manages the system development activities necessary to satisfy trade requirements; selects vendors and ensures that contractor results adhere to specifications; and provides assistance to users of the system on information storage and retrieval, data base managment, telecommunications system integration issues and computer program design and development for this system.

.03 The *User Services Division* advises U.S. companies, ITA personnel and other users about the trade opportunity information available from the office and other sources; maintains reference and information files and inventories of printed lists, reports, tender documents, etc.; executed retrievals of export information from data files; retrieves and lays out camera copy and produces export information in printed formats; processes orders and intitiates and follows up requests for individual reports and services requested by business and other users; distributes export information to requestors; conducts user billing, collection, and accounting; and through the USCS, promotes the services of the Office to prospective business users, private-sector information vendors, states, other government agencies, and multiplier organizations such as banks and trade associations.

.04 The *Information Acquisition and Management Division* collects trade opportunity data from Foreign Service and Foreign Commercial Service Posts and U.S. Commercial Service District Offices; provides data quality control (i.e., editing entering and maintaining the data in computerized form); specifies input record and reporting requirements; coordinates export information requirements to be included in the FCS/PCAP and USCS/PERFORM systems to ensure they reflect information strategy and targeting guidelines; maintains keyword codes; and obtains export-related data from other governmental and private sector sources.

.05 The *Targeting Division* identifies the mix of industries, products, and foreign markets that represent an optimum focus for trade development activities and programs; analyzes the factors that suggest potential for the promotion and export of specific U.S. product categories; prepares planning profiles for targeted industries; develops recommendations on the allocation of export promotion resources; and maintains information on proposed and actual allocation of promotion resources relevant to the targeting recommendations.

.06 The *Market Research Division* designs, acquires and produces research on markets for U.S. products in countries and regions abroad for use as a direct information source to the U.S. business community; analyzes, reports and makes recommendations on the implications of completed market research for domestice export campaigns and overseas country and event programming; and maintains market research materials on target and other selected industries and markets.

Section 5. Office of Program Evaluation and Support

The *Office of Program Evaluation and Support* includes the *Director* who coordinates and monitors Commerce contributions and clearance of policy and resource management papers (PARMs) within the National Security Council/Interdepartmental Group structure; develops and manages a planning system which includes the setting of short -and long-term objectives, goals, and strategies; develops program initiatives and priorities for trade development activities; recommends the allocation of related resources; provides criteria for measuring and evaluating the performance of these programs; consults with other ITA units in development of this system; makes recommendations designed to improve the efficiency, effectiveness and responsiveness of programs which will enable the Assistant Secretary for Trade Development to meet international market developments and exporter needs, and to achieve trade development objectives; maintains a system to forecast quantitative accomplishments for these programs; prepares analyses, of program performance; directs and conducts value analysis, benefit/cost analyses and similar analyses; reviews and coordinates responses to program recommendations monitors compliance with an implementation of the endorse program recommendations; and develops and manages the trade development user fees program.

Section 6. Office of Trade and Investment Analysis

.01 The *Office of Trade and Investment Analysis* includes the Director who directs the development and implementation of policies relating to foreign direct investment in the U.S.; directs the accomplishment of analysis and reporting requirements in accordance with the International Investment Survey Act of 1976 and Executive Orders 11858 and 11961; and directs statistical and analytical studies of trade between the U.S. and foreign countries and related trade issues and policies.

The Office of the Director includes a *Deputy* who assists in the direction of trade and investment analysis programs and performs the functions of the Director in the latter's absence. The Office includes:

.02 The *Investment Research Division* prepares and publishes studies, reports, and analyses on the determinants, characteristics, effects, and interrelationships of U.S. direct investment abroad and foreign direct investment in the United States, including the incidence, concentration and distribution of both outward and inward investment by industry sector and foreign nation involved; evaluates and assesses the impact of such investment on U.S. economic security, balance of payments and trade, and other economic interests, both sectorally and in the aggregate; prepares reports for Commerce officials, the Committee on Foreign Investment in the United States (CFIUS), and the Congress on foreign investment trends at the sectoral level; as instructed, prepares special analytical and policy reports required by CFIUS and Commerce Department officials; develops and maintains data on outward and inward investment trends; works with Federal agencies gathering investment data to improve data collection and reporting; and prepares recommendations for presentation to CFIUS and the Congress to effect such improvement.

.03 The *Investment Analysis Division* monitors, investigates and develops information on inward investment transactions and the operations of foreign-owned firms in the U.S., including the consolidation and modification of information from existing sources such as Federal and state government agencies, commercial and investment banks, and other public and private organizations, both domestic and international; prepares analyses of significnt individual investment transactions in support of CFIUS activities; prepares and publishes periodic and special reports on inward investment transactions and trends; and as requested, develops policy recommendations for Departmental officials on inward investment issues, including proposed and pending legislation, and executive branch initiatives.

.04 The *Trade Analysis Division* conducts research and analysis of U.S. international trade and competitive

performance; conducts quantitiative research into the factors affecting U.S. trade and comeptitiveness; develops and/or utilizes a variety of economic models for analyzing, simulating, and forecasting U.S. trade; analyzes trends and current developments in U.S. trade; monitors and evaluates trends and changes in U.S. competitive performance; produces periodic reports interpreting U.S. trade trends and developments; conducts special studies on specific developments in U.S. trade; as instructed, prepares policy analyses and recommendations on trade questions; and alerts Departmental officials to significant developments in U.S. trade and competitive performance.

.05 The *International Economics Division* performs research and analysis on international economic factors affecting U.S. trade; studies foreign economic behavior and economic interrelationships; evaluates changes in the trade performance of the United States and competitor nations; analyzes the U.S international economic position in the light of expected global economic trends; utilizes economic models for analyzing, simulating, and forecasting the international economy; conducts special studies on specific international economic developments; produces periodic reports interpreting and analyzing trends and developments in the international economy; as instructed, prepares policy analyses and recommendations on international economic questions; and alerts Departmental officials to significant developments in the international economic area.

Part VI. Deputy Assistant Secretary for Textiles and Apparel

Section 1. Delegation of Authority

01. Pursuant to the authority delegated to the Assistant Secretary by the Under Secretary and subject to such policies and directives as the Assistant Secretary may prescribe, the following authorities are hereby delegated to the Deputy Assistant Secretary for Textiles and Apparel:

a. The Act of February 14, 1903, as amended, (15 U.S.C. 1512 *et seq.;* 15 U.S.C. 171 *et seq.)* to foster, promote and develop the foreign and domestic commerce of the United States;

b. Executive Order 11651 of March 3, 1972, as amended, by Executive Order 11951 of January 6, 1977, regarding Textile Trade Agreements and

c. Sections 5(b) and 5(c) of Executive Order 11846 of March 27, 1975, relating to quantitative import restrictions and monitoring of imports under orderly market agreements pertaining to the textile and apparel industry.

.02 Except as otherwise provided, the DAS may redelegate the above authorities, subject to such conditions in the exercise of such authorities as he or she may prescribe.

Section 2. Office of the Deputy Assistant Secretary

.01 The *Deputy Assistant Secretary for Textiles and Apparel* directs the development of the Department's position on international textile agreements and on relations with the domestic textile and apparel industries; participates in the negotiation of international textile agreements; oversees studies and analyses of domestic and foreign fiber, textile, and apparel industries; coordinates interagency relations, legislative comment, and liaison with industry, trade groups, and foreign government officials; oversees efforts to improve U.S. textile industry productivity and the promotion of export expansion activities; and chairs the Committee for the Implementation of Textile Agreements, the Management-Labor Textile Advisory Committee, the Importers' and Retailers' Textile Advisory Committee, and the Exporters' Textile Advisory Committee.

.02 The DAS oversees the Office of Textiles and Apparel.

Section 3. Office of Textiles and Apparel

.01 The *Office of Textiles and Apparel* includes the *Director* who oversees studies and analyses of domestic and foreign fiber, textile, and apparel industries; coordinates interagency relations, legislative comment, and liaison with industry, trade groups, and foreign government officials; directs efforts to improve U.S. textile and apparel industry productivity and export expansion activities; ensures that the Office provides appropriate administrative support to the Committee for the Implementation of Textile Agreements, the Management-Labor Textile Advisory Committee, the Importers' and Retailers' Textile Advisory Committee, and the Exporters' Textile Advisory Committee; and acts as alternate chairperson for the Committee for the Implementation of Textile Agreements (CITA). The Director participates in the negotiation of international textile agreements. The immediate Office of the Director includes the *Domestic Programs Staff* which analyzes domestic and foreign industry infrastructure, distribution systems, structural assistance programs, and new technologies to develop initiatives which will improve the domestic textile and apparel industries' productivity, marketing, and management information. The Office includes:

.02 The *International Agreements and Monitoring Division* provides Executive Secretariat services for, chairs the working group of, and coordinates public input to the CITA; identifies and recommends solutions to problems arising under the bilateral agreements; implements CITA decisions; monitors restrained imports and prepares performance reports; identifies uncontrolled sources of potential market disruptions; participates in, prepares back-up materials for, and recommends positions and goals for international negotiations and consultations; and reviews and works to improve U.S. and foreign textile agreement data.

.03 The *Industry Assessment Division* evaluates the current state of the domestic and foreign fiber, textile and apparel industries; determines the impact of raw fiber trade, textile and apparel imports, federal import policies, regulations, and legislation, and domestic raw material and energy supplies on the industries and recommends appropriate action; and prepares data and analyses on the industries for panels and speeches, reports to international organizations, and publications.

.04 The *Market Expansion Division,* with respect to the textile and apparel industries, identifies and analyzes economic trends, political developments as they may affect U.S. exports, and current and proposed foreign trade barriers which affect such industries in coordination with other elements reporting to the Assistant Secretary; develops and coordinates domestic trade and export expansion programs with other elements of ITA; advises other Government agencies of the impact that their overseas development programs have on such industries; administers the Exporters' Textile Advisory Committee; provides staff support and technical assistance in negotiation of international tariff agreements; and publishes studies on opportunities and barriers to the U.S. textile export market.

Part VII. Deputy Assistant Secretary for Trade Adjustment Assistance

Section 1. Delegation of Authority

.01 Pursuant to the authority delegated to the Assistant Secretary by the Under Secretary and subject to such policies and directives as the Assistant Secretary may prescribe, the following

authorities are hereby delegated to the Deputy Assistant Secretary for Trade Adjustment Assistance:

a. The Act of February 14, 1903, as amended, (15 U.S.C. 1512 *et seq.*; 15 U.S.C. 171 *et seq.*) to foster, promote, and develop the foreign and domestic commerce of the United States; and

b. Chapters 3 and 4 of Title II of the Trade Act of 1974, as amended (19 U.S.C. 2341 *et seq.*, 2371 *et seq.*), pertaining to trade adjustment assistance to firms, industries, and communities, except the provisions of 19 U.S.C. 2354 pertaining to studies and reports and information activities in response to investigations and findings of the International Trade Commission (see DOO 35–5A). The Assistant Secretary for Economic Development retains this authority through September 30, 1981, with respect to adjustment assistance projects in process prior to September 20, 1981, and thereafter such authority to perform all functions related to the furnishing of adjustment assistance (excluding additional assistance or increasing the Government's liability) with respect to those adjustment assistance projects approved prior to October 1, 1981 (see DOO 10–4).

.02 Except as otherwise provided, the DAS may redelegate the above authorities, subject to such conditions in the exercise of such authorities as he or she may prescribe.

Section 2. Office of the Deputy Assistant Secretary

.01 The *Deputy Assistant Secretary for Trade Adjustment Assistance* directs the trade adjustment assistance program; develops policies to implement the trade adjustment assistance programs; directs the certification of firms as eligible to apply for assistance; directs the provision of technical and financial assistance to certified firms; directs the provision of trade adjustment assistance to trade impacted industries and communities; develops a monitoring program to assure that firms comply with the terms of their adjustment proposals and any agreements pertaining to the adjustment assistance received; establishes procedures for dealing with delinquent firms; evaluates the performance of firms which have received trade adjustment assistance; coordinates the trade adjustment assistance program with other federal agencies, including the Department of Labor, the International Trade Commission, and the Office of the United States Trade Representative (USTR); and provides representation for the Commerce Labor Adjustment Action Committee (CLAAC).

.02 The DAS directs the Office of Trade Adjustment Assistance.

Section 3. Office of Trade Adjustment Assistance

.01 The *Office of Trade Adjustment Assistance* includes the following divisions:

.02 The *Certification Division* develops policies, plans and procedures to certify firms eligible to apply for Trade Adjustment Assistance; reviews certification petitions for acceptance or rejection, prepares notices of actions taken, conducts investigations for all accepted petitions, and issues certificates of eligibility to (or denies the petitions of) forms according to the terms of the Trade Act of 1974; maintains control under the appropriate reporting system of TAA activities and is responsible for regular reports to the appropriate offices within ITA and the Department; and provides policy guidance and direction to USCS District Offices regarding trade adjustment and industry assistance projects, including specialized training for staff.

.03 The *Technical Assistance Division* develops policies, guidelines and procedures for providing technical asistance to firms, industries, and communities adversely affected by imports under the Trade Act; established, supervises, coordinates and minitors the operation of Trade Adjustment Assistance Centers (TAACs) to assure uniform operations; evaluates the effectiveness of assistance provided to eligible firms and assists in improving each TAAC's performance; provides assistance to firms that prefer not to work with a TAAC, by providing grants or cooperative agreements to industry experts; reviews recovery plans submitted by certified firms and offers advice to the DAS on the capability of the firm to such a plan; reviews, processes, supervises and monitors all technical assistance projects referred by DOC industry teams; develops, analyzes and processes proposals for interagency transfers of funds to benefit industries adversely affected by imports and monitors results of such transfers; provides advice and guidance about technical assistance to firms, industries, and communities, as requested; develops, reviews, processes, supervises and monitors industry assistance cooperative agreements to industry associations or other appropriate organizations for studies of new markets, technology, products, export development, and industry evaluation or analysis; coordinates technical assistance activities with other Federal agencies and departments; and assesses program results and provides program status reports or other special studies needed by the DAS/TAA and other Department officials relative to firms, industry, and community technical assistance.

.04 The *Financial Assistance Division* develops policies, procedures and guidelines for evaluating adjustment proposals and applications for loans and loan guarantees to be provided to certified firms; reviews formal adjustment proposals submitted as part of an application to determine if the firm can either recover from the impact of foreign competition in its existing market or successfully penetrate a new market; reviews all proposals and applications to ensure compliance with applicable regulatory and statutory requirements such as environment, civil rights, or flood hazard, as well as special requirements of the Trade Act; negotiates loan terms and conditions to attain reasonable assurance of loan repayment, recovery of firm and the permanent employment opportunities to be created or maintained by the project; evaluates and makes recommendations regarding comprehensive financing after processing of such applications, monitors trade adjustment recipients to ensure adherence to adjustment plans and recommends any modifications; supervises the provision of specialized assistance to recipients of TAA loans or loan guarantees who may have repayment or other problems in meeting program objectives. Supervises and monitors financial assistance granted for construction projects processed by the Division, including certifications for loan disbursements; and deobligates trade assistance loan funds not required because of withdrawals, cancellations, and underruns.

Part VIII. Administration, Public Affairs and Program Support

Management analysis, automated data processing, budget, personnel, public affairs, and administrative support services will be provided by offices reporting to the Director of Administration. Field support will be provided by the Director General of the Commercial Services.

Approved:

Lionel H. Olmer,

Under Secretary for International Trade.

William H. Morris, Jr.,

Assistant Secretary for Trade Development.

[FR Doc. 82-14730 Filed 5-28-82; 8:45 am]

BILLING CODE 3510-25-M

Application For Duty-Free Entry of Scientific Articles; Correction

In FR Doc. 82–13744 appearing at page 21903 in the **Federal Register** of May 20, 1982, Docket Number 81–00153 is corrected to read: 82–00153.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82–14796 Filed 5–28–82; 8:45 am]

BILLING CODE 3510–25–M

Initiation of Antidumping Investigation; Bicycle Tires and Tubes From Taiwan

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of antidumping investigation.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping investigation to determine whether bicycle tires and tubes ("BTT's") from Taiwan are being, or are likely to be, sold in the United States at less than fair values. We are notifying the United States International Trade Commission ("ITC") of this action so that it may determine whether imports of this merchandise are materially injuring, or threatening to materially injure, a United States industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before June 15, 1982, and we will make ours on or before October 7, 1982.

EFFECTIVE DATE: June 1, 1982.

FOR FURTHER INFORMATION CONTACT: Steve Garment, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, (202) 377–1757.

SUPPLEMENTARY INFORMATION:

The Petition

On April 30, 1982, we received a petition from counsel for the Carlisle Tire & Rubber Company, Carlisle, Pennsylvania, which constitutes the United States bicycle tire and tube industry. In compliance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that bicycle tires and tubes from Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the "Act"), and that these imports are materially injuring, or are threatening to materially injure, a United States industry. The allegation of sales at less than fair value is supported by comparisons of United States prices (developed by petitioner from market research, competitive bidding, and trade contacts by petitioner's sales personnel) on sales of the merchandise in the United States with home market prices in Taiwan (obtained by petitioner from market research in Taiwan) on sales made in Taiwan.

Case History

On January 13, 1978, the same petitioner filed an antidumping complaint with the Treasury Department on this identical product. On December 29, 1978, Treasury published in the **Federal Register** a notice of "Final Determination of Sales at Not Less Than Fair Value and Discontinuance of Antidumping Investigation" (43 FR 61066–61067). That notice stated that "* * * bicycle tires and tubes from the Republic of China, other than that merchandise produced by Cheng Shin Industrial Co., Ltd. and Kenda Rubber Tire Corp., are not being sold at less than fair value." In the case of both Cheng Shin Industrial Co., Ltd. and Kenda Rubber Tire Corp., the margins were found to be *minimal* and assurances of no future sales at less than fair value have been received. Therefore, with respect to these two firms, Treasury discontinued the antidumping investigation.

The petitioner filed a complaint with the United States Customs Court on April 9, 1979, requesting that the Court hold the Secretary's negative determination unlawful and remand the matter to the Secretary for a redetermination of less than fair value margins. On February 16, 1982, the Department of Commerce requested the United States Court of International Trade to remand this action to enable the Department of Commerce to make all necessary recalculations in accordance with the Court's decision. On May 12, 1982, the Court granted this request and directed the Department to report the Secretary's redetermination to the court within 90 days of the order.

Initiation of Investigation

Under section 732(c) of the Act (19 U.S.C. 1673a(c)), we must determine, within 20 days after the petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition filed by the industry, and we have found that it meets these requirements. Therefore, in accordance with section 732(c)(2) of the Act, we are initiating an antidumping investigation to determine whether bicycle tires and tubes from Taiwan are being, or are likely to be, sold at less than fair value in the United States. If our investigation proceeds normally, we will make our preliminary determination by October 7, 1982.

Scope of the Investigation

The merchandise covered by this investigation is pneumatic bicycle tires and tubes of rubber or plastic, currently classifiable under item numbers 772.48 and 772.57, respectively, *Tariff Schedules of the United States* ("TSUS").

Notification to ITC

Section 732(d) of the Act (19 U.S.C. 1673a(d)) requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information.

We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

Pursuant to section 733(a) of the Act (19 U.S.C. 1673b(a)), the ITC will determine within 45 days whether there is a reasonable indication that imports of bicycle tires and tubes from Taiwan are materially injuring, or are threatening to materially injure, a United States industry. If the ITC determination is negative, this investigation will terminate; otherwise, it will proceed according to the statutory procedures.

This notice is published pursuant to section 732(c)(2) of the Act (19 U.S.C. 1673a(c)(2)) and 353.37(b) of the Commerce Department Regulations (19 CFR 353.37(b)).

May 21, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82–14793 Filed 5–28–82; 8:45 am]

BILLING CODE 3510–25–M

Initiation of Countervailing Duty Investigation; Toy Balloons (Including Punchballs) and Playballs From Mexico

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in Mexico of toy balloons (including punchballs) and playballs receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If the investigation proceeds normally, we will announce a preliminary determination on or before August 11, 1982.

EFFECTIVE DATE: June 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mary A. Martin, Import Administration Specialist, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202) 377–1279.

SUPPLEMENTARY INFORMATION:

Petition

On May 18, 1982, we received a petition from National Latex Products Company ("National Latex"), Ashland, Ohio, on behalf of the U.S. industry producing toy balloons (including punchballs) and playballs. Complying with the filing requirements of 19 CFR 355.26(a), the petition alleges that the government of Mexico is subsidizing its producers and exporters of toy balloons (including punchballs) and playballs. Section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) ("the Act"), applies to this investigation because Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act (19 U.S.C. 1671(b)).

The merchandise is nondutiable. There will be no injury determination in this proceeding because there are no "international obligations" within the meaning of section 303(a)(2) of the Act which require such a determination for nondutiable merchandise from Mexico.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on toy balloons (including punchballs) and playballs, and we have found that the petition meets these requirements.

Therefore, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Mexico of toy balloons (including punchballs) and playballs, as listed in the "Scope of the Investigation" section of this notice, received bounties or grants. If our investigation proceeds normally, we will make our preliminary determination by August 11, 1982.

Scope of Investigation

The merchandise covered by the petition consists of toy balloons (including punchballs) and playballs. Balloons and punchballs are currently classifiable under TSUSA number 737.9530 and playballs under TSUSA number 735.0990. These products enter the United States duty-free under the Generalized System of Preferences.

Balloons and punchballs are inflatable, thin-walled articles made by dipping non-porous forms (called "mandrels") in natural latex. Punchballs have slightly thicker walls than ballons and are sold packaged with bands.

A playball is a hollow sphere produced from polyvinyl chloride (a thermoplastic resin) and other thermoplastics that will bounce when inflated with air and which yields diameters from 4 to 20 inches. Playballs are not nylon-wound or made of rubber, and are not to be confused with sportballs (used in athletic activities).

The alleged manufacturers of these products are Latex Occidental, S.A. (balloons and punchballs), and Industrias Salver (Playballs), both located in Guadalajara, Mexico.

Background

A similar petition from National Latex was filed on May 14, 1981. On June 17, 1981, we published a notice of Dismissal of Countervailing Duty Petition (46 FR 31698). That dismissal was based on the conclusion that a notice of initiation in an earlier proceeding involving Mexican duty-free merchandise created an "international obligation" within the meaning of section 303(a)(2) which required that countervailing duties not be imposed on nondutiable merchandise from Mexico unless there was an affirmative determination of injury to a U.S. industry. Since National Latex did not allege injury to a U.S. industry, we dismissed the petition. The notice stated: "Because of the absence of any allegation of injury, the petition, which is satisfactory otherwise, does not allege the elements necessary for the imposition of countervailing duties."

National Latex challenged this dismissal in the Court of International Trade. After a thorough examination, the Department of Justice concluded that further defense of this action was not appropriate. Accordingly, on May 13, 1982, the Government stipulated with the plaintiff, National Latex, that National Latex could file a new petition and ITA would consider it without regard to the issue of injury. The new petition was filed on May 18, 1982.

Allegations of Bounties or Grants

The petition alleges that producers and exporters of toy ballons (including punchballs) and playballs in Mexico receive the following benefits that constitute bounties or grants: tax certificates under the Certificado de Devolucion de Impuesto ("CEDI") program on exports; free zone and in-bond assembly benefits; tax certificates under the Certificates of Fiscal Promotion ("CEPROFI") program for "priority" industrial activities; preferential financing under several programs including the Fund for the Promotion of Exports of Mexican Manufactured Products ("FOMEX"), the Guarantee Fund for the Development of Small and Medium Sized Industries ("FOGAIN"), the Industrial Equipment Fund ("FONEI") and the National Fund for Industrial Development ("FOMIN"); export insurance and trade development services; and rail freight rebates.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 26, 1982.

[FR Doc. 82-14794 Filed 5-28-82; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

Revision to Federal Information Processing Standard 71; Advanced Data Communication Control Procedures (ADCCP)

On May 14, 1980, a notice was published in the Federal Register (45 FR 31769–31770), announcing the approval of Federal Information Processing Standards Publication (FIPS PUB) 71, Advanced Data Communication Control Procedures.

As a result of substantive comments concerning this standard which were received after its adoption, revisions to FIPS 71 were proposed to make it more clearly consistent with the revised Federal Standard 1003, Synchronous Bit-Oriented Data Link Procedures (Advanced Data Communication Control Procedures), being processed by

the General Services Administration and the National Communications System. Notice of these proposed revisions was published in the **Federal Register**, on February 25, 1981, (46 FR 14029–14031) for public comment and sent to all Federal agencies and State governments for comment. A subsequent **Federal Register** notice on March 20, 1981, (46 FR 17823–17824) corrected that notice.

Under the provisions of Pub. L. 89–306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce has approved the following revisions to FIPS PUB 71.

Revisions to FIPS PUB 71

The specifications section of FIPS PUB 71, Advanced Data Communication Control Procedures, is revised to add the following two new items:

(4) All systems shall implement the 16-bit frame check sequence (FCS) specified in American National Standard X3.66–1979, referenced above.

A 32-bit FCS may also be provided for use when it has been determined that a higher degree of error protection is necessary on a link. For a discussion of the relative merits of the 16-bit and 32-bit FCS, see FIPS PUB 78, Guideline for Implementing Advanced Data Communication Control Procedures, section 7.8.

The equations for 32-bit FCS generation are:

$$\frac{X^{32}G(X)+X^{k}L(X)}{P(X)}=Q(X)+\frac{R(X)}{P(X)}$$

$$FCS=L(X)+R(X)=\overline{R(X)}$$

The arithmetic is modulo 2.

$$L(X)=X^{31}+X^{30}+X^{29}+X^{28}+X^{27}+X^{26}+X^{25}+X^{24}+X^{23}+X^{22}+X^{21}+X^{20}+X^{19}+X^{18}+X^{17}+X^{16}+X^{15}+X^{14}+X^{13}+X^{12}+X^{11}+X^{10}+X^{9}+X^{8}+X^{7}+X^{6}+X^{5}+X^{4}+X^{3}+X^{2}+X^{1}+1.$$

R(X)=The remainder which is of degree less than 32.

k=The number of bits represented by G(X).

P(X)=The generator polynomial $X^{32}+X^{26}+X^{23}+X^{22}+X^{16}+X^{12}+X^{11}+X^{10}+X^{8}+X^{7}+X^{5}+X^{4}+X^{2}+X^{1}+1$.

G(X)=The message polynomial, which includes the contents of the address, control, and information fields, excluding the zero bits inserted for transparency (see American National Standard X3.66–1979, section 3.7).

The generation of the remainder R(X) differs from that used in conventional (non-ADCCP) check sequence generation by the presence of the $X^{k}L(X)$ term in the generation equation. When the 32-bit FCS generation is by the usual shift register technique, the $X^{k}L(X)$ term is added in either of two ways:

1. Preset the shift register to all ones rather than to all zeros as in conventional (non-ADCCP) generation procedures. Otherwise, shift the data G(X) through the register as in conventional procedures, or,

2. Invert the first 32 bits of G(X) before shifting into the register and shift the remaining part of G(X) through the register uninverted. This requires that G(X) contain at least 32 bits.

Whether 1 or 2 is used, the shift register contents, after shifting through G(X), are R(X). These contents are inverted bit-by-bit and transmitted as the FCS sequence.

The transmitted sequence is always (in algebraic notation):
$M(X)=X^{32}G(X)+FCS$.

The received sequence will be denoted $M^{*}(X)$ and may differ from the transmitted sequence M(X) if transmission errors are introduced. The checking process always involves dividing the received sequence by P(X) and testing the remainder. Direct division, however, does not yield a unique remainder and it is expected that in most cases the received sequence will be modified for checking purposes by the addition of terms which will cause the division to yield such a unique remainder when $M^{*}(X)=M(X)$, i.e., when the frame is error free.

Two classes of checking equations are given below:

$$\frac{X^{\gamma}[M^{*}(X)+X^{k}L(X)]}{P(X)}=Q(X)+\frac{R(X)}{P(X)}$$

(Equation 1)

In this case, the unique remainder is the remainder of the division $X^{\gamma}\frac{L(X)}{P(X)}$

When $\gamma=0$ the remainder is L(X) (32 ones).

When $\gamma=32$ the remainder is $X^{31}+X^{30}+X^{26}+X^{25}+X^{24}+X^{18}+X^{15}+X^{14}+X^{12}+X^{11}+X^{10}+X^{8}+X^{6}+X^{5}+X^{4}+X^{3}+X^{1}+1$.

$$\frac{X^{\gamma}[M^{*}(X)+(X^{k}+1)\,L(X)]}{P(X)}=Q(X)+\frac{R(X)}{P(X)}$$

(Equation 2)

In this case, the unique remainder is always zero regardless of the value of γ.

Shift register implementation of the above equations normally use $\gamma=32$ (pre-multiplication). When this is the case, the added term $X^{k}L(X)$ in Equations 1 and 2 is added by either inverting the first 32 received bits of $M^{*}(X)$ before shifting them through the checking register or by presetting the register to all ones and shifting all of $M^{*}(X)$ through normally. Thus, the receiver action on the leading portion of a frame is the same with either Equation 1 or 2.

The +1 of the term $(X^{k}+1)L(X)$ of Equation 2 is added by inverting the 32-bit FCS. This implies a 32-bit storage delay by the 32-bit FCS function at the receiver since the location of the 32-bit FCS is not known until the closing flag is received.

(5) To maximize interoperability among major Federal data communication networks, while still allowing flexibility to tailor a network for efficient day-to-day use, the following features are required:

a. The W bit in the frame reject (FRMR) information field shall be set to indicate the cause of the frame rejection condition. (See American National Standard X3.66–1979, section 7.5.3.1.)

b. A FRMR with the W bit set to one notifies a primary/combined station that an invalid or unimplemented frame was received by the remote secondary/combined station. (See American National Standard X3.66–1979, section 7.5.3.1.) During the remainder of the physical connection, and while the primary/combined station remains on-line, the primary/combined station shall not subsequently transmit this invalid or unimplemented frame to the remote station.

The cross-index section of FIPS PUB 71 is revised to add the following new items:

(c) FIPS PUB 78, Guideline for Implementing Advanced Data Communication Control Procedures.

(d) International Standard 3309: Data Communications—High-level Data Link Control Procedures—Frame Structure.

(e) International Standard 4335: Data Communications—High-level Data Link

Control Procedures—Elements of Procedures.

(f) Addendum 1 to International Standard 4335: Data Communications—High-level Data Link Control Procedures—Elements of Procedures.

(g) Addendum 2 to International Standard 4335: Data Communications—High-level Data Link Control Procedures—Elements of Procedures.

(h) International Standard 6159: Data Communications—High-level Data Link Control Procedures—Unbalanced Classes of Procedure.

(i) International Standard 6256: Data Communications—High-level Data Link Control Procedures—Balanced Class of Procedure.

(j) International Telegraph and Telephone Consultative Committee (CCITT) Recommendation X.25: Interface Between Data Terminal Equipment (DTE) and Data Circuit-Terminating Equipment (DCE) for Terminals Operating in the Packet Mode on Public Data Networks.

(k) CCITT Recommendation X.75: Terminal and Transit Call Procedures and Data Transfer Systems on International Circuits Between Packet-Switched Data Networks.

Persons desiring further information about these revisions to FIPS PUB 71 may contact Mr. George E. Clark, Jr., System Components Division, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, DC 20234, telephone: 301/921-3723.

Dated: May 11, 1982.

Ernest Ambler,

Director.

[FR Doc. 82-14770 Filed 5-28-82; 8:45 am]

BILLING CODE 3510-CN-M

National Technical Information Service

Intent To Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Bentley Laboratories, Inc. having a place of business at Irvine, California 92714 an exclusive right in the United States to manufacture, use and sell products embodied in the invention, "Oximeter for Monitoring Oxygen Saturation in Blood," U.S. Patent No. 3,790,072 (dated March 26, 1974). Copies of the Patent may be obtained from the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101-4.1. The proposed license may be granted unless, within sixty days from the date of this Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, at the address above. NTIS will maintain and make available for public inspection a file containing all inquiries, comments and other written materials received in response to this Notice and a record of all decisions made in this matter.

Dated: May 21, 1982.

Douglas J. Campion,

Office of Government Inventions and Patents, National Technical Information Service, Department of Commerce.

[FR Doc. 82-14726 Filed 5-28-82; 8:45 am]

BILLING CODE 3510-04-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Advisory Panel on ROTC Affairs; Notice of Open Meeting

May 20, 1982.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following panel meeting:

Name of panel: Army Advisory Panel on ROTC Affairs
Date of Meeting: June 22-23, 1982.
Place: Rodeway Inn, 6802 Sprague Avenue, Tacoma, Washington 98409
Time: 8 am-5 pm, June 22 and 23, 1982.

Proposed Agenda

The meeting will be conducted in both workshop and general sessions and include a panel visit to the US Army Fourth ROTC Region ROTC Advanced Camp at Fort Lewis, Washington. The Panel will receive an ROTC update and participate in discussions concerning ROTC plans and initiatives to attract and retain students in engineering and scientific disciplines. This meeting is open to the public. Any interested person may appear before, or file statements with the Panel at the time and in the manner permitted by the Panel.

Robert A. Sullivan,

Major General, GS, Deputy Chief of Staff for ROTC.

[FR Doc. 82-14757 Filed 5-28-82; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 1), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on June 16-17, 1982, from 9 a.m. to 5 p.m. each day, at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of the current and near-term U.S.-Soviet naval balance and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United State Code.

For further information concerning this meeting, contact Lieutenant K.M. Cummings, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 392, Alexandria, Virginia 22311. Phone (703) 756-1205.

Dated: May 24, 1981.

F.N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy Alternate Federal Register Liaison Officer.

[FR Doc. 82-14752 Filed 5-28-82; 8:45 am]

BILLING CODE 3810-AF-M

Office of the Secretary

Per Diem, Travel and Transportation Allowance Committee

AGENCY: Per Diem, Travel and Transportation Allowance Committee, Office of the Secretary, DOD.

ACTION: Publication of changes in per diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 111. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico and possessions of the United States. Bulletin Number 111 is being published in the Federal Register to assure that

travelers are paid per diem at the most current rates.

EFFECTIVE DATE: June 1, 1982.

SUPPLEMENTARY INFORMATION: This document gives notice of changes in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. Distribution of Civilian Per Diem Bulletins by mail was discontinued effective June 1, 1979. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of changes in per diem rates to agencies and establishments outside the Department of Defense.

The text of the Bulletin follows:

Civilian Personnel Per Diem Bulletin Number 111 to the Heads of Executive Departments and Establishments

Subject: Table of maximum per diem rates in lieu of subsistence for United States Government civilian officers and employees for official travel in Alaska, Hawaii, the Commonwealth of Puerto Rico and Possessions of the United States

1. This bulletin is issued in accordance with Memorandum for Heads of Executive Departments and Establishments from the Deputy Secretary of Defense, August 17, 1966, "Executive Order 11294, August 4, 1966 Delegating Certain Authority of the President to Establish Maximum Per Diem Rates for Government Civilian Personnel in Travel Status," in which this Comittee is directed to exercise the authority of the President (5 U.S.C. 5702(a)(2)) delegated to the Secretary of Defense for Alaska, Hawaii, the Commonwealth of Puerto Rico, the Canal Zone and possessions of the United States. When appropriate and in accordance with regulations issued by competent authority, lesser rates may be prescribed.

2. The maximum per diem rates shown in the following table are continued from the preceding Bulletin Number 110 except in the case identified by an asterisk which rates are effective on the date of this Bulletin. The date of this Bulletin shall be 1 June 1982.

3. Each Department or Establishment subject to these rates shall take appropriate action to disseminate the contents of this Bulletin to the appropriate headquarters and field agencies affected thereby.

4. The maximum per diem rates referred to in this Bulletin are:

Locality	Maximum rate
Alaska:	
Adak[1]	$112.50
Anaktuvuk Pass	140.00
Anchorage	89.00
Barrow	168.00
Bethel	114.00
College	97.00
Cordova	89.00
Deadhorse	107.00
Dillingham	103.00
Dutch Harbor	82.00
Elelson AFB	97.00
Elmendorf	89.00
Fairbanks	97.00
Ft. Richardson	89.00
Ft. Wainwright	97.00
Juneau	97.00
Ketchikan	96.00
Kodiak	103.00
Kotzebue	109.00
Murphy Dome	97.00
Nostak	109.00
Nome	110.00
Noorvik	109.00
Petersburg	90.00
Point Hope	100.00
Prudhoe Bay	107.00
Shemya AFB[1]	11.00
Shungnak	109.00
Sitka-Mt. Edgecombe	96.00
Skagway	96.00
Spruce Cape	103.00
Tanana	110.00
Valdez	93.00
Wainwright	79.00
Wrangell	90.00
All Other Localities	93.00
American Samoa	65.00
*Guam M.I.	74.00
*Hawaii:	
Oahu	91.00
All Other Localities	67.00
Johnston Atoll[1]	16.75
Midway Island[1]	12.50
Puerto Rico:	
Bayamon:	
12-16—5-15	119.00
5-16—12-15	89.00
Carolina:	
12-16-5-15	119.00
5-16—12-15	89.00
Fajardo (Including Luquillo)[4]	
12-16—5-15	119.00
5-16—12-15	89.00
Ft. Buchanan (Incl. GSA Service Center, Guaynabo):	
12-16—5-15	119.00
5-16—12-15	89.00
Ponce (Incl. Ft. Allen NCS)	70.00
Roosevelt Roads:	
12-16—5-15	119.00
5-16—12-15	89.00
Sabana Seca:	
12-16-5-15	119.00
5-16—12-15	89.00
San Juan (Incl. San JuaN Coast Guard Units):	
12-16—5-15	119.00
5-16—12-15	89.00
All Other Localities	77.00
Virgin Islands of U.S.:	
12-1—4-30	102.00
5-1—11-30	82.00
Wake Island[1]	15.00
All other Localities	20.00

[1] Commercial facilities are not available. This per diem rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the travelers.

[2] Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meals and incidental expenses.

M.S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

May 26, 1982.

[FR Doc. 82-14754 Filed 5-28-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Defense Waste Processing Facility Savannah River Plant Aiken, S.C.; Record of Decision

This Record of Decision has been prepared pursuant to regulations of the Council on Environmental Quality (40 CFR Part 1505) and Implementing Procedures of the Department of Energy (45 FR 20694).

Decision

The Department of Energy (DOE) has decided to construct and operate a Defense Waste Processing Facility (DWPF) at the Savannah River Plant (SRP) to immobilize existing and future high-level radioactive wastes (HLW) generated and stored at SRP. The DWPF will be built at Site S in stages; construction of the sludge processing facility will begin first, followed by facilities to treat the salt cake and supernatant liquid. The strategy for disposal of the immobilized HLW is to dispose of it of site in a Federal geologic repository. Decontaminated salt will be disposed of on site. The selection of the waste form for the DWPF, and the siting and design of the repository will be addressed in subsequent environmental analyses.

Background

The SRP near Aiken, South Carolina, is a major installation of the DOE for the production of nuclear materials for national defense. It began operations in the early 1950's and is the nation's primary source of reactor-produced defense materials. These operations also generate HLW from the chemical processing of fuel and target materials after their irradiation in the SRP nuclear reactors. The HLW is stored in underground tanks at SRP. It is composed of sludge, crystallized salt cake, and a supernatant aqueous solution.

The long-term management strategies for the SRP HLW were evaluated in the "Environmental Impact Statement—Long Term Management of Defense High-Level Radioactive Waste (Research and Development Program for Immobilization), Savannah River Plant,

Aiken, South Carolina" (DOE/EIS–0023), November 1979. As a result, DOE decided to continue the research and development program directed toward immobilization of the SRP HLW, and not to undertake an R&D program on direct disposal of waste in bedrock under SRP (Record of Decision, February 13, 1980).

The Department of Energy published the "Environmental Impact Statement—Defense Waste Processing Facility, Savannah River Plant, Aiken, South Carolina" (DOE/EIS–0082), in February 1982. The proposed action in the EIS was: (1) To select a disposal strategy for existing and future SRP high-level radioactive waste, and (2) to decide on the construction and operation of a DWPF to immobilize the HLW in a form suitable for shipment to and disposal in a Federal repository. Reasonable alternatives for the proposed action were also analyzed. Notice of the availability of the EIS was published in the **Federal Register** by the Environmental Protection Agency on March 12, 1982 (47 FR 10901).

The analysis of alternative strategies for the disposal of the immobilized HLW relies on analyses and decisions resulting from the "Environmental Impact Statement—Management of Commercially Generated Waste," DOE/EIS–0046F, October 1980. Based on this EIS, DOE decided to: (1) Adopt a strategy to develop mined geologic repositories for disposal of commercially generated HLW and transuranic wastes, while continuing to examine subseabed and very deep hole disposal as potential backup technologies, and (2) conduct a research and development program to develop repositories and the necessary technology to ensure the safe, long-term containment and isolation of the wasted.

Description of Alternatives

The preferred disposal strategy identified in the EIS is disposition of the immobilized HLW in a Federal geologic repository. The following alternative strategies were considered:

1. Indefinite tank storage at SRP (no action).
2. Other
   a. Subseabed disposal.
   b. Very deep hole disposal.
   c. Rock melting.
   d. Island disposal.
   e. Ice sheet disposal.
   f. Deep well disposal.
   g. Partitioning and transmutation.
   h. Space disposal.

Disposal in a Federal geologic repository will require that the SRP HLW be processed into a form meeting applicable repository criteria. The following immobilization alternatives were considered:

1. *Reference Immobilization Alternative:* Construction and operation of a large Defense Waste Processing Facility for the integrated processing of sludge, salt cake, and supernatant to form: (1) Borosilicate glass for disposal in a Federal repository, and (2) decontaminated salt for disposal at SRP. The immobilized HLW would be stored temporarily at SRP until a Federal repository becomes available. Borosilicate glass is presented in the EIS as the reference waste form for immobilizing the SRP HLW. Alternative waste forms are being evaluated. The selection of the waste form for the DWPF will be addressed in a subsequent environmental review.

2. *Delayed Alternative:* This action delays construction and operation of a DWPF under the reference immobilization alternative for ten (10) years. It assumes that by then a Federal repository would be available to receive the immobilized waste so that no more then ninety (90) days of interim storage may be required, and that a decision on a waste form would have been made for the DWPF.

3. *Staged Process Alternative (Preferred Alternative):* This alternative was developed from the reference immobilization alternative and would incorporate a phased or modular construction program along with improvements resulting from ongoing R&D. First, a facility would be constructed to treat the sludge, and then a facility would be constructed to treat the salt cake and supernatant. In this alternative, construction costs would be spread more evenly over the years of construction.

Alternative sites, all located near the middle of the SRP site, were considered for the DWPF. The construction site, Site S_t was chosen primarily because of its proximity to the HLW storage tanks and to a suitable salt disposal area, as well as its suitability for construction. Although site S was not clearly the environmentally preferred site, differences in potential environmental impact were not or sufficient magnitude to affect the selection of Site S based on the above considerations.

Disposal alternatives considered for the decontaminated salt include: Land disposal, returning it to the waste tanks, and packaging it for shipment to a geologic repository. Land disposal in a form commensurate with its chemical and radioactive properties is the preferred disposal method. Four sites at SRP were considered for disposal of the decontaminated salt. The primary advantages of Site Z are its proximity to the DWPF and the depth of groundwater. These considerations make Site Z the environmentally preferable alternative.

Basis for Decision

High-level defense waste must be managed so that current and future generations will be protected from potential hazards. The principal objective for disposal is to isolate the waste from the human environment with minimum reliance on maintenance and surveillance. Continued tank storage at SRP would require periodic construction of, and transfer of, the wastes to replacement tanks and is an interim measure.

The strategy of geologic disposal of the immobilized SRP HLW was adopted based on numerous analyses and on the decision for disposal of commercially generated HLW. As discussed in both DOE/EIS–0046F and DOE/EIS–0082, systems that can adequately dispose of commercial radioactive wastes can reasonably be expected to adequately dispose of defense wastes because they produce lower temperature and lower radiation levels than do comparable commercial high-level wastes.

The construction and operation of the DWPF in stages is consistent with DOE policies and earlier documents (ERDA 77–42, ERDA–1537, and DOE/EIS–0023) for SRP waste management and operations. Although the reference immobilization alternative is technically viable, the staged process alternative achieves the same objectives with comparable safety and environmental impact at lower initial capital cost. Ongoing research and development efforts will further refine design, construction, the operational aspects of the DWPF. The process for the actual DWPF, as build, may therefore differ from the present descriptions due to the incorporation of such refinements.

None of the immobilization and disposal alternatives is so clearly environmentally superior that it can be identified as environmentally preferable. As stated in the Record of Descision for DOE/EIS–0046F, the long-term effects of mined geologic disposal and those of the backup disposal strategies (subseabed and very deep hole concepts) would be very similar, and the radiation doses to the public are only a small fraction of the naturally occurring doses. The immobilization alternatives are similar environmentally. In general, the staged process appears to be environmentally, slightly preferable.

Considerations in the Implementation of the Decision

The DWPF will be designed and built to comply with DOE standards including

earthquake, tornado, fire, radiation protection, and environmental protection. The construction of the DWPF will not pose any significant or unmitigable impacts. Measures to minimize potential environmental impacts include sound engineering design, proper construction practices (e.g., erosion and storm run/off control to minimize aquatic impacts), and an effective quality assurance program. Impacts on a one hectare wetland, one of about 200 Carolina Bays on the SRP site, however, cannot be avoided. No practicable alternatives of locating the DWPF at Site S exist that would avoid eliminating the wetland. DWPF construction at alternative sites would impact similar wetlands. The final site layout and design of the DWPF will include all practicable methods of mitigating the impact. For example, permanent retention of storm run-off sedimentation basins after DWPF construction will result in manmade wet areas similar in most respects to the natural wetland. The ongoing comprehensive environmental monitoring programs will be expanded to detect any unanticipated impact of DWPF construction and operation.

For the United States Department of Energy.

Dated: May 24, 1982.

Herman E. Roser,

Assistant Secretary for Defense Programs.

[FR Doc. 82-14710 Filed 5-28-82; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

Final Charges for Operation and Maintenance Charges on Customer-Owned Facilities

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Final notice of charges for operation and maintenance charges on customer-owned facilities.

SUMMARY: Bonneville Power Administration (BPA) by **Federal Register** notice of May 3, 1982, published proposed adjustments to operating and maintenance charges on customer-owned transmission related facilities (47 FR 18947). Written comments and requests for data were solicited, and were to be submitted by May 24, 1982. This notice announces the final charges.

DATE: The charges will be effective July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Ms. Donna L. Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212; (503) 230-3478. BPA maintains toll-free lines for the use of persons within the region. Oregon callers may use 1-800-452-8429; callers in Washington, Idaho, Montana, Wyoming, Utah, Nevada, and California may use 1-800-547-6048. Messages and requests for information received outside of normal business hours (4:30 p.m. to 7:30 a.m.) may be recorded on the toll-free lines.

Additional information is available from:

Mr. George E. Gwinnutt, Area Manager, Suite 288, 1500 NE. Irving Street, Portland, Oregon 97232, 503-230-4551;

Mr. Ladd Sutton, District Manager, Room 206, 211 East Seventh Street, Eugene, Oregon 97401, 503-345-0311;

Mr. Ronald H. Wilkerson, Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518;

Mr. Gordon H. Brandenburger, District Manager, P.O. Box 758, Kalispell, Montana 59901, 406-755-6202;

Mr. Ronald K. Rodewald, District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377;

Mr. Thomas M. Noguchi, Acting Area Manager, Room 250, 415 First Avenue North, Seattle, Washington 98109, 206-442-4130;

Mr. Roy Nishi, Area Manger, West 101 Poplar, Walla Walla, Washington 99362, 509-525-5500, extension 701;

Mr. Robert N. Laffel, District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

SUPPLEMENTAL INFORMATION: In its **Federal Register** notice of May 3, 1982, BPA announced the need to increase its operation and maintenance (O&M) charges over its January 1, 1981, charges, effective July 1, 1982. BPA had previously notified its customers through BPA's Area and District offices of the need for the increase. Under the terms of various agreements, BPA's O&M charges may be unilaterally adjusted by BPA "when necessary to conform with BPA's cost of operating and maintaining like facilities." These O&M charges listed below are based upon a system-wide 3-year rolling year cost for O&M on the various types of equipment, by voltage class.

By the close of business on May 24, 1982, BPA has received no written data, views, or comments on the proposed adjustments. BPA, therefore, finds that based on the staff analysis of the costs of operating and maintaining customer-owned facilities, BPA's proposed adjustments are reasonable and accurately reflect the costs of providing these services.

In consideration of the foregoing, BPA hereby establishes the following charges for operation and maintenance on customer-owned facilities performed by BPA.

ANNUAL O&M CHARGES FOR CUSTOMER-OWNED FACILITIES

Terminal Charges:	
Low voltage industrial terminal	36,624
Other low-voltage terminal	4,152
115-kV terminal	8,112
230-kV terminal	12,828
500-kV terminal	37,104
Power Circuit Breakers:	
Low voltage industrial	5,976
69 kV and under	3,516
115 kV	8,900
230 kV	11,616
500 kV	28,476
Switches and Capacitors:	
Group operated 345 kV and under	396
Group operated 500 kV and above	2,580
Hook operated 345 kV and under	120
Load break 345 kV and under	1,296
Capacitors per KVAR (series)	0.444
Capacitors per KVAR (shunt)	0.444
Transformers:	
230/low voltage	8,028
230/115 kV	35,784
500/230 kV	100,380
Industry transformers 230/low voltage	22,392

Issued in Portland, Oregon on May 24, 1982.

Edward W. Sienkiewicz,

Acting Administrator.

[FR Doc. 82-14806 Filed 5-28-82; 10:19 am]

BILLING CODE 6450-01-M

Energy Information Administration

Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

Correction

In FR Doc. 82-13817 appearing at page 21914 in the issue for Thursday, May 20, 1982, please make the following correction:

On page 21914, in the third column, in the table, the entries for California and Texas should not have carried any footnote references.

BILLING CODE 1505-01-M

FEDERAL MARITIME COMMISSION

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal

Maritime Commission, Washington, D.C. 20573.

Global Freight International, Inc., 130 Eastern Avenue, Chelsea, MA 02150, Officer: Bernard Alexander Wilcken, President

Faros International Inc., 6623 S.W. 140th Avenue, Miami, FL 33182, Officers: Ana Maria Cuellar, President/Treasurer; Aida Fernandez, Vice President/Secretary

Central Dispatch, Inc., 1800 Fourth Street, Harvey, LA 70085, Officers: John C. Centanni, President; John C. Centanni, Jr., Director; Ms. John C. Centanni, Vice President; Clarence J. Champagne, Jr., Secretary/Treasurer; Chester Piassa, Vice President

Interfreight Shipping Corp., 1950 Troutman Street, Maspeth, NY 11385, Officers: Yonatan Ben-Haim, President/Director/Stockholder; Shlomo Greenberg, Secretary/Director/Stockholder

Tiger InterModal, Inc., d.b.a., SeaTiger, 110 W. Ocean Blvd., Suite C, Long Beach, CA 90802, Officers: Thomas B. Liesy, President; Martin A. Lynch, Vice President/Director; Robert J. Harter, Jr., Vice President/Secretary/Director; Denis P. Kalscheur, Treasurer; James A. Mucci, Assistant Vice President; James A. Colby, Assistant Vice President; Michael Erenberg, Assistant Secretary; Ralph E. Walters, Assistant Treasurer; Wayne M. Hoffman, Director.

Dated: May 26, 1982.

By the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-14772 Filed 5-28-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comments on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *The Girard Company,* Bala Cynwyd, Pennsylvania; to acquire 100 percent of the voting shares or assets of TGC Holdings, Inc., Bala Cynwyd, Pennsylvania, and through it to acquire 100 percent of the voting shares or assets of Girard Bank Delaware, Wilmington, Delaware. Comments on this application must be received not later than June 23, 1982.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Chemical Financial Corporation,* Midland, Michigan; to acquire 100 percent of the voting shares or assets of The Pinney State Bank, Cass City, Michigan. Comments on this application must be received not later than June 23, 1982.

C. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Southwest Bancshares,* Houston, Texas; to acquire 100 percent of the voting shares or assets of Haltom City State Bank, Haltom City, Texas. Comments on this application must be received not later than June 23, 1982.

Board of Governors of the Federal Reserve System, May 24, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-14704 Filed 5-28-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo),* (or continue to engage in a activity earlier commenced *de novo),* directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than June 23, 1982.

A. Federal Reserve Bank of Cleveland (Harry W. Huning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Interstate Financial Corporation,* Dayton, Ohio (insurance underwriting; Ohio): To engage through its subsidiary Financial Interstate Life Insurance Company, Phoenix, Arizona, in acting as an underwriter of credit life and credit accident and health insurance which is directly related to extensions of credit by other subsidiaries of Interstate Financial Corporation. These activities will be conducted from the offices at 34 North Main Street, Dayton, Ohio 45402, serving Montgomery and Greene Counties and counties contiguous thereto.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Bank System, Inc.,* Minneapolis, Minnesota (trust company activities; Florida): To engage, through a subsidiary known as First Trust Company of Florida (National Association), Sarasota, Florida, in activities performed by a trust company, including activities of a fiduciary, agency, or custodial nature, in the manner authorized by federal and state law. Such activities will be conducted at an office located at Sarasota, Florida, serving the State of Florida.

C. Federal Reserve Bank of Minneapolis (Lester G. Gable, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *The Marine Corporation,* Milwaukee, Wisconsin, (trust company activities including acting as a fiduciary;

Wisconsin): To engage, through a subsidiary, Marine Trust Company, N.A., in the activity of acting as a trust company including developing and administering new fiduciary relationships of all types. This activity will be conducted from a trust service office operating at the Marine First National Bank, 110 West Milwaukee Street, Janesville, Wisconsin, serving Rock County, Wisconsin. Comments on this application must be received not later than June 15, 1982.

2. *The Marine Corporation,* Milwaukee, Wisconsin, (trust company activities including acting as a fiduciary; Wisconsin): To engage, through a subsidiary, Marine Trust Company, N.A., in the activity of acting as a trust company including developing and administering new fiduciary relationships of all types. This activity will be conducted from a trust service office operating at the Marine Bank, Watertown, N.A., 500 Main Street, Watertown, Wisconsin, serving Jefferson and Dodge Counties, Wisconsin. Comments on this application must be received not later than June 15, 1982.

3. *Walter E. Heller International Corporation,* Chicago, Illinois (real estate appraisal, Dallas, Texas): To engage, through its wholly-owned subsidiary, Abacus Realty Appraisers, Inc., in the appraisal of real estate. These activities would be conducted from an office in Dallas, Texas, serving the States of Arkansas, Louisiana, New Mexico, Oklahoma and Texas. Comments on this application must be received not later than June 17, 1982.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *BankAmerica Corporation,* San Francisco, California (industrial loan company, financing, servicing, and insurance activities; *de novo* office; Iowa and Illinois): To engage, through its indirect subsidiaries, FinanceAmerican Thrift Corporation, an Iowa Corporation, and FinanceAmerica Credit Corporation, a Delaware corporation, in the following activities: (1) acting as an industrial loan company under the Iowa Industrial Loan Law; (2) making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company or an industrial loan company; (3) servicing loans and other extensions of credit; and (4) offering credit-related life insurance, credit-related accident and health insurance, and credit-related property insurance. Such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses, making loans secured by real and personal property, and offering credit-related life, credit-related accident and health, and credit-related property insurance directly related to extensions of credit made or acquired by FinanceAmerica Thrift Corporation and FinanceAmerica Credit Corporation in the States of Iowa and Illinois. It is further proposed that FinanceAmerica Thirft Corporation will issue investment certificates or accept savings accounts from Iowa residents. FinanceAmerica Credit Corporation will act as an industrial loan company to the extent of making extensions of credit to Illinois residents. The activities of both corporations will be conducted from a *de novo* office located in Davenport, Iowa, serving the entire States of Iowa and Illinois.

2. *Old National Bancorporation,* Spokane, Washington, (expanded mortgage banking activities; Colorado): To engage, through its subsidiary, Bancshares Mortgage Company, in mortgage banking activities, including making or acquiring, for its own account or for the account of others, loans or other extensions of credit, secured by real estate mortgages or deeds of trust, and the servicing of such loans, and such other activities as are incidental to the operations of a mortgage company, including, acting as agent or broker for the sale of mortgage redemption life and disability insurance and property and casualty insurance the issuance of which is directly related to the making, acquiring, or servicing of such loans. These activities will be conducted at offices in Denver, Colorado, serving Colorado.

3. *Old National Bancorporation,* Spokane, Washington (expanded insurance activities; Colorado): To engage, through its subsidiary, Union Securities Co., in insurance activities, including acting as agent or broker for the sale of mortgage redemption life and disability insurance and property and casualty insurance the issuance of which is directly related to extensions of credit. These activities will be conducted at offices in Denver, Colorado, serving Colorado.

4. *Seafirst Corporation,* Seattle, Washington (mortgage banking and insurance activities; California): To engage through its Seafirst Mortgage of California Division in making and acquiring loans and other extensions of credit secured by real estate mortgages and deeds of trust, and acting as agent for the sale of credit life and accident and disability insurance directly related to its extensions of credit. These activities would be conducted from an office in the San Francisco S.M.S.A., serving the State of California.

Board of Governors of the Federal Reserve System, May 24, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-14666 Filed 5-28-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citizens First Bancorp, Inc.,* Glen Rock, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens First National Bank of New Jersey, Ridgewood, New Jersey. Comments on this application must be received not later than June 23, 1982.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *W B Bancorp, Inc.,* New Berlin, Illinois; to become a bank holding company by acquiring at least 80 percent of the voting shares of Warren-Boynton State Bank, New Berlin, Illinois. Comments on this application must be received not later than June 23, 1982.

2. *W.S.B. Inc.,* Washington, Iowa; to become a bank holding company by acquiring at least 80 percent of the voting shares of Washington State Bank, Washington, Iowa. Comments on this

application must be received not later than June 23, 1982.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Kerrville Bancshares, Inc.*, Kerrville, Texas; to become a bank holding company by acquiring at least 80 percent of the voting shares of The Bank of Kerrville, Kerrville, Texas. Comments on this application must be received not later than June 23, 1982.

2. *Winn Bancshares, Inc.*, Winnfield, Louisiana; to become a bank holding company by acquiring at least 80 percent of the voting shares of Winn State Bank and Trust Company, Winnfield, Louisiana. Comments on this application must be received not later than June 23, 1982.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *El Camino Bancorp*, Anaheim, California; to become a bank holding company by acquiring 100 percent of the voting shares of El Camino Bank, Anaheim, California. Comments on this application must be received not later than June 23, 1982.

Board of Governors of the Federal Reserve System, May 24, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-14703 Filed 5-28-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than June 21, 1982.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Alabama Bancshares, Inc.*, Montgomery, Alabama (insurance activities; Alabama): To engage, through its subsidiary, FAB Agency, Inc., as agent or broker of credit life and accident and health insurance that is directly related to the extension of credit by the bank; and property and casualty insurance, including dual and single interest insurance, which is directly related to extensions of credit by the bank, insurance protecting collateral in which the lender has acquired a security interest, and insurance customarily sold to individual borrowers in connection with or as part of an insurance package with insurance protecting collateral. These activities would be conducted at the following offices: First Alabama Bank of Anniston, N.A. (now Anniston National Bank), Anniston, Alabama; First Alabama Bank of Troy, N.A. (now First Farmers & Merchants National Bank of Troy), Troy, Alabama; First Alabama Bank of Walker County (now Cordova Citizens Banks), Cordovo, Alabama, serving the Alabama cities of Anniston, Troy, and Cordova.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Seafirst Corporation*, Seattle, Washington (mortgage banking and insurance activities; California): To engage through its subsidiary, Seafirst Mortgage of California division, in making and acquiring loans and other extensions of credit secured by real estate mortgages and deeds of trust, and acting as agent for the sale of credit life and accident and disability insurance directly related to its extensions of credit. These activities would be conducted from an office in the San Francisco S.M.S.A., serving the state of California.

Board of Governors of the Federal Reserve System, May 24, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-14705 Filed 5-28-82; 8:45 am]

BILLING CODE 6210-01-M

Knob Noster Bancshares, Inc.; Formation of Bank Holding Company

Knob Noster Bancshares, Inc., Knob Noster, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 87 per cent or more of the voting shares of The Bank of Knob Noster, Knob Noster, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Knob Noster Bancshares, Inc., Knob Noster, Missouri, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 255.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to act through its subsidiary Knob Noster Insurance Agency, Knob Noster, Missouri, as an insurance agent or broker in a community having a population not exceeding 5,000.

Applicant states that the subsidiary would perform general insurance services, including acting as broker or agent for the sale of credit life, accident and health, property and casualty lines, in a community that has a population not exceeding 5,000. These activities would be performed from offices of Applicant's subsidiary in Knob Noster, Missouri, and the geographic areas to be served are eastern Johnson County and northwestern Pettis County, Missouri. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consumation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question

must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than June 23, 1982.

Board of Governors of the Federal Reserve System, May 24, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-14706 Filed 5-28-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Citizens First Bancorp, Inc.*, Owensboro, Kentucky; to become a bank holding company by acquiring 100 percent of the successor by merger to citizens State Bank, Owensboro, Kentucky. Comments on this application must be received not later than June 24, 1982.

B. **Federal Reserve Bank of Minneapolis** (Lester G. Gable, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

Correction

1. This notice corrects a previous Federal Register document (FR Doc. 82-14153) published at page 22598 of the issue for May 25, 1982. *Americana Bancorporation of Danube, Inc.*, Edina, Minnesota; to become a bank holding company by acquiring additional 76 percent of the voting shares of Americana State Bank of Danube, Danube, Minnesota. Applicant currently owns 24 percent of Bank's Shares. Comments on this application must be received not later than June 18, 1982.

2. *McLeod Bancshares, Inc.*, Glencoe, Minnesota; to become a bank holding company by acquiring 86.27 percent of the voting shares of First National Bank of Glencoe, Glencoe, Minnesota. Comments on this application must be received not later than June 24, 1982.

3. *Teton Bancshares, Inc.*, Fairfield, Montana; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Fairfield, Fairfield, Montana. Comments on this application must be received not later than June 24, 1982.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Elk City State Bancshares, Inc.*, Elk City, Oklahoma; to become a bank holding company by acquiring at least 80 percent of the voting shares of Elk City State Bank, Elk City, Oklahoma. Comments on this application must be received not later than June 24, 1982.

2. *Westminster Bankshares, Ltd.*, Denver, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of Westminster Mountain Bank, Westminster, Colorado. Comments on this application must be received not later than June 24, 1982.

Board of Governors of the Federal Reserve System, May 24, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-14697 Filed 5-28-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Company; Proposed de Novo Nonbank Activities

The bank holding company listed in this notice has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to the application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on the application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for the application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropirate Federal Reserve Bank not later than June 24, 1982.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *First Interstate Bancorp*, Los Angeles, California (mortgage banking and insurance activities; United States): To engage, through its subsidiary, First Interstate Mortgage Company, in making acquiring, selling, and servicing loans and other extensions of credit secured by real estate mortgages; and the sale as agent or broker of life and disability mortgage redemption insurance. These activities would be conducted from the Company's offices in Pasadena, San Diego, Tustin, San Francisco, Campbell, Fresno, Hayward, and Modesto, all in California; Houston, Texas; and in Seattle, Washington, The geographic area to be served within the first year will include the States of Arizona, California, Colorado, Florida, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Texas, Utah, and Wyoming.

Board of Governors of the Federal Reserve System, May 25, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-14698 Filed 5-28-82; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Secretary, Board of Governors of the Federal Reserve System, Washington, D.C.:

1. *Mercantile Texas Corporation,* Dallas, Texas; to acquire 100 percent of the voting shares of Grand Prairie State Bank, Grand Prairie, Texas. This application may be inspected at the Federal Reserve Bank of Dallas. Comments on this application must be received not later than June 24, 1982.

Board of Governors of the Federal Reserve System, May 25, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-14688 Filed 5-28-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Assistant Secretary for Health

Advisory Committees; Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory bodies scheduled to meet during the month of June 1982:

Name: Health Care Technology Study Section
Date and Time: June 14–15, 1982, 8:30 a.m.
Place: Gramercy Inn, South Scott Room, 1616 Rhode Island Avenue, NW., Washington, D.C. 20036
Open June 14, 1:30 p.m.–3:30 p.m.
Closed for remainder of meeting.
Purpose: The Committee is charged with the initial review of health research grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research (NCHSR).
Agenda: The open session of the meeting on June 14 will include a presentation by the Acting Director, NCHSR, and a business meeting covering administrative matters and reports. The closed portion of the meeting will be utilized in a review of health services research grant applications relating to the delivery, organization, and financing of health services. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Assistant Secretary for Health, pursuant to Pub. L. 92–463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Dr. Alan E. Mayers, National Center for Health Services Research, OASH, Room 7–50A, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436–8920.

* * * * *

Name: Health Services Developmental Grants Review Subcommittee
Date and Time: June 17–18, 1982, 9:00 a.m.
Place: Gramercy Inn, South Scott Room 1616 Rhode Island Avenue NW., Washington, D.C. 20036
Open June 17, 1:30 p.m.–3:00 p.m.
Closed for remainder of meeting.
Purpose: The Subcommittee is charged with the initial review of grant applications for Federal Assistance in the program areas administered by the National Center for Health Services Research.
Agenda: The open session of the meeting on June 17, 1982 will be devoted to a business meeting covering administrative matters and reports. During the closed sessions the Subcommittee will be reviewing research grant applications relating to the delivery, organization and financing of health services. The closing is in accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Assistant Secretary for Health, pursuant to Pub. L. 92–463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Ms. Elinor Walker, National Center for Health Services Research, OASH, Room 7–50A, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436–8920.

* * * * *

Name: Health Services Research Review Subcommittee
Date and Time: June 24–25, 1982, 9:00 a.m.
Place: Gramercy Inn, South Scott Room 1616 Rhode Island Avenue NW., Washington, D.C. 20036
Open June 24, 1:30 p.m.–3:00 p.m.
Closed for remainder of meeting.
Purpose: The objective of the Subcommittee is to advise the Secretary and make recommendations to the director, National Center for Health Services Research, concerning the scientific and technical merit review of health services research grant applications involving primarily the analysis and use of economic, statistical, and other theoretical approaches which examine problems associated with the delivery of health services.
Agenda: The open session of the meeting on June 24, 1982 will be devoted to a business meeting covering administrative matters and reports. During the closed session, the Subcommittee will be reviewing research grant applications relating to the delivery, organization, and financing of health services. The closing is in accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Assistant Secretary for Health, pursuant to Pub. L. 92–463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Anthony Pollitt, Ph.D., National Center for Health Services Research, OASH, Room 7–50A, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436–8920.

Agenda items are subject to change as priorities dictate.

Dated: May 25, 1982.

Harold Margulies,

Acting Deputy Assistant Secretary for Health Research, Statistics, and Technology.

[FR Doc. 82-14780 Filed 5-28-82; 8:45 am]

BILLING CODE 4160-17-M

Food and Drug Administration

Drug Abuse Advisory Committee; Notice of Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), the Food and Drug Administration is announcing the renewal of the Drug Abuse Advisory Committee by the Secretary, Department of Health and Human Services.

DATE: Authority for this committee will expire on May 31, 1984, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

Dated: May 25, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-14715 Filed 5-28-82; 8:45 am]

BILLING CODE 4160-01-M

Pulmonary-Allergy Drugs Advisory Committee; Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), the Food and Drug Administration is announcing the renewal of the Pulmonary-Allergy Drugs Advisory Committee by the Secretary, Department of Health and Human Services.

DATE: Authority for this committee will expire on May 30, 1984, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

Dated: May 25, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc 82-14714 Filed 5-28-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82N–0078; DESI Nos. 5213, 6290, 6303, 8658, and 11935]

Drugs For Human Use; Drug Efficacy Study Implementation; Revocation of Exemption for Certain Effective Oral Prescription Drugs Offered for Relief of Symptoms of Cough, Cold, or Allergy ("Paragraph XIV/Category 15"); Followup Notice and Opportunity for Hearing

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: FDA revokes the temporary exemption for certain oral prescription drug products offered for relief of symptoms of cough, cold, or allergy. The exemption has permitted the products to remain on the market beyond the time limit scheduled for implementation of the Drug Efficacy Study. FDA announces the conditions for marketing these products for the indications for which they are now regarded as effective and offers an opportunity for a hearing concerning indications reclassified to lacking subtantial evidence of effectiveness.

DATE: Revocation of exemption effective June 1, 1982. Hearing requests due on or before July 1, 1982. Supplements to approved new drug applications and data in support of hearing requests due on or before August 2, 1982.

ADDRESSES: Communications in response to this notice should be identified with Docket No. 82N–0078, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to full new drug applications (identify with NDA number): Divisionof Surgical-Dental Drug Products (HFD–160), Rm. 16B–06, Bureau of Drugs.

, Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD–530), Bureau of Drugs.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD–310), Bureau of Drugs.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFI–35), Rm. 12A–12.

Requests for hearing, supporting data, and other comments: Dockets Management Branch (HFA–305), Rm. 4–62.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD–501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT: David T. Read, Bureau of Drugs (HFD–32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In notices published in the **Federal Register** (DESI 5213 on April 20, 1972 (37 FR 7827); DESI 6290 on June 16, 1971 (36 FR 11758, formerly Docket No. FDC–D–324); DESI 6303 on May 22, 1971 (36 FR 9339), amended on March 10, 1973 (38 FR 7265, formerly Docket No. FDC–D–601); DESI 8658 on February 9, 1973 (38 FR 4005, formerly Docket No. FDC–D–542); DESI 11935 on July 27, 1972 (37 FR 15022)), FDA classified the drug products described below as less than effective for their labeled indications (probably effective, possibly effective, and lacking substantial evidence of effectiveness).

Subsequently, in a notice published in the **Federal Register** of December 14, 1973 (38 FR 34481), FDA granted a temporary exemption from the time limits established for completing certain phases of the drug efficacy study (DESI) program, for certain oral prescription drugs offered for relief of cough, cold, allergy, and related symptoms. That exemption covered the drugs that are the subject of this notice and superseded the notices published earlier. The exemption was granted because of the close relationship between drugs sold over the counter (OTC)—and thus subject to the ongoing OTC drug review (21 CFR Part 330)—and prescription drugs offered for relief of cough, cold, allergies, and related symptoms. Postponement of final evaluations on the DESI prescription products enabled the agency to consider the recommendations of the OTC drug review panel in addition to any evidence submitted by NDA holders in response to various DESI notices covering relevant products. Those recommendations and a proposed monograph for over-the-counter cold, cough, allergy, bronchodilator, and antiasthmatic (CCABA) drugs were published in the **Federal Register** of September 9, 1976 (41 FR 38312).

On the basis of additional data and information submitted on the drugs listed below, and the recommendations of the OTC drug review panel, the Director of the Bureau of Drugs has reclassified the following drug products:

1. NDA 5–213: Hycodan Syrup, tablets, and Powder containing hydrocodone bitrartrate and homatropine methylbromide; Endo Laboratories, Inc., Subsidiary of the DuPont Co., 1 Rodney Sq., Wilmington, DE 19892 (DESI 5213).

2. NDA 5–845: as it pertains to Benadryl with Ephedrine Sulfate Kapseal containing diphenhydramine hydrochloride and ephedrine sulfate; Parke-Davis, Division of Warner-Lambert Co., 201 Tabor Rd., Morris Plains, NJ 07950 (DESI 11935).

3. NDA 7–838: Chlor-Trimeton Repetabs Tablets containing 12 mg chlorpheniramine maleate; Schering Corp., Galloping Hill Rd., Kenilworth, NJ 07033 (DESI 6290).

4. NDA 10–533: PBZ Lontabs and PBZ–SR (formerly "Pyribenzamine Lontabs" 50 mg and 100 mg, respectively) containing tripelennamine hydrochloride; Ciba Pharmaceuticals, Co. (DESI 6290).

5. NDA 10–799: as it pertains to Dimetane Extentabs containing brompheniramine maleate; A. H. Robins Co., Pharmaceutical Division, 1407 Cummings Dr., Richmond, VA 23220 (DESI 6303).

6. NDA 11–945: Hispril Spansule Capsules containing diphenylpyraline hydrochloride; Smith Kline & French Laboratories, Division of SmithKline Corp., 1500 Spring Garden St., P.O. Box 7929, Philadelphia, PA 19101 (DESI 6303).

7. NDA 12–394: Disophrol Tablets containing dexbrompheniramine maleate and pseudoephrine sulfate; Schering Corp. (DESI 11935). This product is identical to another Schering product, Drixoral.

8. NDA 13–097: Novrad with A.S.A. Pulvules containing levopropoxyphene

napsylate and aspirin; Eli Lilly & Co., 740 S. Alabama St., Box 618, Indianapolis, IN 46206 (DESI 8658). Approval of this new drug application was withdrawn on June 7, 1977 (42 FR 29104) for failure to file reports required by section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)). That withdrawal of approval is not affected by today's action, which consititutes FDA's conclusions on the effectiveness of this product, and those that are identical, related, or similar to it.

The temporary exemption announced in the December 14, 1973 notice, as it pertains to the drug products listed above, is hereby revoked. These drugs are regarded as new drugs (21 U.S.C. 321(p)) and an approved new drug application is required for marketing them. Supplemental new drug applications are now required to revise the labeling in and to update previously approved applications providing for these drugs. This notice does not prevent the FDA, in any future OTC drug monograph, from including any of the ingredients listed above, and requiring labeling different from that approved for prescription use.

In addition to the holders of the new drug applications specifically named above, this notice applies to any person who manufactures or distributes a drug product that is not the subject of an approved new drug application and that is identical to a drug product named above. It may also be applicable, under 21 CFR 310.6, to a related or similar drug product that is not the subject of an approved new drug application. (This notice does not apply to OTC drugs. 21 CFR 310.6(f).) It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drugs are effective for the indications listed in the labeling conditions below. The drugs lack substantial evidence of effectiveness for their other labeled indications.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The preparation is in the same form suitable for oral administration as the relevant product listed above.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indications are as follows:

For Hycodan Syrup, Tablets, and Powder:
For the symtomatic relief of cough.
For Benadryl with Ephedrine Sulfate Kapseal, and Disophrol Tablets:
For the treatment of the symptoms of seasonal and perennial allergic rhinitis, and vasomotor rhinitis, including nasal obstruction (congestion).
For Chlor-Trimeton Repetabs, PBZ Lontabs and PBZ–SR, Dimetane Extentabs, and Hispril Spansule Capsules:
Perennial and seasonal allergic rhinitis.
Vasomotor rhinitis.
Allergic conjunctivitis due to inhalant allergens and foods.
Mild, uncomplicated allergic skin manifestations of urticaria and angioedema.
Amelioration of allergic reactions to bloods or plasmas.
Dermographism.
As therapy for anaphylactic reactions adjunctive to epinephrine and other standard measures after the acute manifestations have been controlled.
For Novrad with A.S.A. Pulvules:
For the cough and fever, aches and pains of a cold.

3. *Marketing Status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before August 2, 1982., the holder of the application has submitted (i) supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H (21 CFR 314.1(c)) to the extent required in abbreviated new drug applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) containing full information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H (21 CFR 314.1(c)) must be obtained before marketing such products. The bioavailability regulations (21 CFR 320.21) require any person submitting a full or abbreviated new drug application after July 7, 1977, to include either evidence demonstrating the in vivo bioavailability of the drug or information to permit waiver of the requirement. Bioavailability data will not be waived for controlled release dosage forms. Marketing drug products before approval of a new drug application will subject those products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, that meets the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), and demonstrates the effectiveness of the drug products in indications for prescription use not referred to in paragraph B.2.b., above.

Notice is given to the holders of the new drug applications, and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug applications and all amendments and supplements thereto providing for the indications lacking substantial evidence of effectiveness on the ground that new information before him with respect to the drug products, evaluated together with the evidence available to him when the applications were approved, shows there is a lack of substantial evidence that the drug products will have all the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application supplemented, in accord with this notice, to delete the claims lacking substantial evidence of effectiveness.

This notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21

CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act under the exemption for products marketed before June 25, 1938, in section 201(p) of the act, or under section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with section 505 of the act (21 U.S.C. 355) and the regulations promulgated under it (21 CFR Parts 310, 314), the applicants and all other persons who manufacture or distribute a drug product that is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug applications should not be withdrawn, and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and of all identical, related, or similar drug products not the subject of a new drug application.

An applicant or any other person subject to this notice under 21 CFR 310.6 who decides to seek a hearing, shall file (1) on or before July 1, 1982, a written notice of appearance and request for hearing, and (2) on or before August 2, 1982, the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a granting or denial of a hearing, are contained in 21 CFR 314.200.

The failure of the applicants or any other person subject to this notice under 21 CFR 310.6 to file a timely written notice of appearance and request for hearing as required by 21 CFR .200 constitutes an election by the person not to make use of the opportunity for a hearing concerning the action proposed, and a waiver of any contentions concerning the legal status of the relevant drug product. Any such drug product labeled for the indications referred to in this notice as lacking substantial evidence of effectiveness may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such a drug product from the market. Any new drug product marketed without an approved new drug application is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must present specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, and denying a hearing.

All submissions pursuant to this notice are to be filed in four copies. Except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, the submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)), and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70 and 5.82).

Dated: April 23, 1982.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 82-14713 Filed 5-28-82; 8:45 am]

BILLING CODE 4110-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. D-82-667]

Order of Succession, Acting Assistant Secretary for Community Planning and Development

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Order of Succession.

SUMMARY: The Assistant Secretary for Community Planning and Development is revising the designation of officials authorized to serve as Acting Assistant Secretary for Community Planning and Development when, by reason of absence, disability, or vacancy in office, neither the Assistant Secretary nor the General Deputy Assistant Secretary is available to exercise the power or perform the duties of the Office.

EFFECTIVE DATE: June 1, 1982.

FOR FURTHER INFORMATION CONTACT: Robert Heller, Organization and Management Services Division, Office of Management, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6087. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: This revision of the Order of Succession for Acting Assistant Secretary for Community Planning and Development is necessary to reflect a recent reorganization of the Office of Community Planning and Development. This Order of Succession supersedes the Order of Succession of designees to act as Acting Assistant Secretary for Community Planning and Development published on February 25, 1974, at 39 FR 7193. The authorization to act under this Order is subject to the 30-day limitation of the Vacancies Act, 5 U.S.C. 3348, whereby a vacancy caused by death or resignation of an appointee, whose appointment is vested in the President by and with the advice and consent of the Senate, may be filled temporarily for not more than 30 days.

Accordingly, the Assistant Secretary designates as follows:

(a) During any period when, by reason of absence, disability, or vacancy in office, neither the Acting Assistant Secretary for Community Planning and Development nor the General Deputy Assistant Secretary for Community Planning and Development is available to exercise the powers or perform the duties of the Office of the Assistant Secretary for Community Planning and Development, the following (and those designated to act in their absence, disability, or vacancy) are hereby designated to serve as Acting Assistant Secretary for Community Planning and Development with all the powers, functions, and duties delegated or assigned to the Assistant Secretary for Community Planning and Development, provided that (1) no official is authorized to serve as Acting Assistant Secretary for Community Planning and Development unless all other officials (or those designated to act for them) whose position titles preceding his/hers in this designation are unable to act by reason of absence, disability, or vacancy in office, and (2) such authorization to serve as Acting Assistant Secretary for Community Planning and Development does not exceed 30 days pursuant to the Vacancies Act, 5 U.S.C. 3348:

1. Deputy Assistant Secretary for Program Management

2. Deputy Assistant Secretary for Program Policy Development and Evaluation

3. Deputy Assistant Secretary for Field Operations and Environment/ Energy Programs

4. Director of Office of Management

(b) Each head of an organization unit of the Office of Community Planning and Development is authorized to designate an employee under his/her supervision to act for him/her by reason of absence, disability, or vacancy in the position of head of the unit.

(c) Supersedure. This Order of Succession supersedes the Order published on February 25, 1974, at 39 FR 7193.

(Sec. 7(d) of the Department of HUD Act, 42 U.S.C. 3535(d); Delegation of Authority published on March 16, 1971, at 36 FR 5004)

Dated: May 24, 1982.

Jack R. Stokvis,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 82-14785 Filed 5-28-82; 8:45 am]

BILLING CODE 4210-29-M

Government National Mortgage Association

[Docket No. N-82-1129]

Fee Changes for Mortgage-Backed Securities Program

AGENCY: Government National Mortgage Association (GNMA), HUD.

ACTION: Notice of proposed fee changes.

SUMMARY: The Government National Mortgage Association (GNMA) is proposing to require an Issuer Application Fee and to increase its Commitment Application Fee for the Mortgage-Backed Securities Program.

COMMENTS DUE: August 2, 1982.

ADDRESS: Interested persons are invited to submit comments regarding this Notice to Warren Lasko, Executive Vice President, Government National Mortgage Association, Room 6100, 451 Seventh Street, S.W., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Warren Lasko, Executive Vice President, Government National Mortgage Association, 451 Seventh Street, S.W., Washington, D.C. 20410. Telephone (202) 755-5926. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: Sections 390.15, and 390.33 and 390.47 of 24 CFR Part 390 provide that the Government National Mortgage Association (GNMA) may impose application and guaranty fees in connection with the guaranty by GNMA of pass-through, bond-type and graduated payment mortgage-backed securities. GNMA approves a financial institution for issuer status as part of the procedure for awarding each of its commitments for the guaranty of mortgage-backed securities. The proposed issuer application fee is intended to defray the additional costs associated with the processing of an initial application for issuer approval. No additional issuer application fee will be charged in connection with subsequent applications for commitments to guarantee; provided, the financial institution furnishes GNMA annually with an audited financial statement and obtains from GNMA at least one commitment to guarantee securities every two calendar years.

GNMA is proposing to change its schedule of fees effective October 1, 1982 as follows:

(1) *Issuer Application Fee*—An Issuer Application Fee of $250 will be required from any mortgage lending institution not an issuer which applies on or after October 1, 1982, for GNMA approval to become an issuer of mortgage-backed securities.

(2) *Commitment Application Fee*—At present, issuers are required to pay a flat fee of $500 with each application for a commitment by GNMA to guaranty mortgage-backed securities. GNMA is proposing to increase this fee on a sliding-scale basis, for commitments issued on or after October 1, 1982 as follows:

(a) For the first $1.5 million of commitment amounts, $500;

(b) For each $1 million (or part thereof) above $1.5 million, $200. For example, the Commitment Application Fee for a commitment in the amount of $4.65 million would be $1,300.

(3) *Single Fee for Construction and Project Loan Securities*—In the case of an application for commitments by GNMA to guaranty both construction and project loan securities, in connection with a single project, a single commitment application fee will be charged.

(Sec. 306(g), 309(a), National Housing Act, as amended; 12 U.S.C. 1712(g), 1723(a).

Dated: May 24, 1982.

Robert W. Karpe,

President, Government National Mortgage Assn.

[FR Doc. 82-14786 Filed 5-28-82; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Pipeline Rights-of-Way Applications; Louisiana, Meridian

Notice is hereby given under Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185) as amended by Public Law 93-153, that Natural Gas Pipeline Company of America has applied for a 36-inch natural gas pipeline right-of-way that will cross the following lands.

Louisiana Meridian

T. 14 S., R. 11 W.,
Section 11, 12, 14, 15, 17 and 18
T. 14 S., R. 12 W.,
Section 13 and 14

This pipeline will convey natural gas across 4.95 miles of Sabine National Wildlife Refuge, Cameron Parish, Louisiana.

The purpose of this notice is to inform the public that the United States Fish and Wildlife Service will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so within thirty (30) days and send their name and address to the Regional Director, United States Fish and Wildlife Service, 75 Spring Street, S.W., Atlanta, Georgia 30303-3376.

James W. Pulliams, Jr.,

Regional Director.

May 12, 1982.

[FR Doc. 82-14756 Filed 5-28-82; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Indian Affairs

Nisqually Indian Reservation, Washington; Addition of Various Lands to the Nisqually Reservation

May 14, 1982.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

On May 14, 1982, pursuant to authority contained in Section 7 of the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 467), the following described land, located in Thurston County, Washington, was added to and made a part of the Nisqually Indian Reservation.

Willamette Meridian

Tract No. 130-T1138:

The west 220 feet (as measured at right angles to the west line of Government Lot 5) of that portion of Lot 5 of section 34, Township 18 North, Range 1 East, Thurston County, Washington, lying northerly of the north right-of-way line of Secondary State

Highway 5–1, containing 6.12 acres, more or less.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82–14730 Filed 5–28–82; 8:45 am]
BILLING CODE 4310–02–M

Grand Portage Indian Reservation, Minnesota; Proclaiming Certain Lands as Part of the Grand Portage Indian Reservation

May 14, 1982.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM. 8.1.

On May 14, 1982, pursuant to authority contained in Section 7 of the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 467), the following described lands were added to and made a part of the Grand Portage Indian Reservation.

4th Principal Meridian

T. 62 N., R. 5 E.,
Sec 6. Lots 9, 10 and Part of 12 lying south of the old state highway and particularly described by metes and bounds as follows:
Beginning at a point on shore of Lake Superior opposite the bearing tree of Section 7 of the meander corner of Sections 6 & 7; thence due west 544.5 feet (NV4° E) to shore of Lake Superior; thence along shore N. 83°30′ W., for a distance of 905 feet to approximate meander corner of Sections 6 and 1 of Ranges 4 & 1 East; thence North 100 feet to old state highway; thence N. 89° E. 619 feet; thence S. 87°30′ E. 748 feet; thence N. 79° 241.5 feet; thence N. 52°30′ E. 564 feet to Reservation River; thence along river S. 62° E., 300 feet; thence S. 24°30′ E. 137 feet to shore of Lake Superior; thence S. 82° W., along shore 328 feet; thence S. 67°30′ W., to point of beginning. Containing 11 acres more or less according to the survey thereof;
Sec. 7 Lot 1;
T. 63 N., R. 5 E.,
Sec. 18, Lots 5, 8 and W½SE¼;
Sec. 19, Lots 1, 2, 3, 4, 5, 6, 7, and 8 E½NW¼; and E½SW¼;
Sec. 30, Lots 1, 2, 3, 4, 5, 6, 7, and 8;
Sec. 31, Lots 1, 2, 3, 4, and 5;
T. 63 N., R. 6 E.,
Sec. 2, Lots 1 and 2;
Sec. 3, Lot 1;
Sec. 10, Lot 2;
R. 63 N., R. 6 E.,
Sec. 21, Lots 1 and 2;
Sec. 22, Lots 2, 3, 4, and the West 1320 feet of Lot 1;
Sec. 23, Lots 1 and 2;
Sec. 24, Lots 1, 5, 6, and SE¼ and SE¼SE¼;
Sec. 25, N½ and NW¼SE¼;
Sec. 26, inclusive;
Sec. 27, all except Lot 6;
Sec. 28, Lots 1, 2, 3, and NE¼NE¼;
Sec. 34, Lots 1, 4, 5, NE¼ and E½SE¼;
Sec. 35, inclusive;
Sec. 36, Lots 1, 2, and 3;
T. 63 N., R. 7 E.,
Sec. 4, Islands 2, 3, and 4;
Sec. 5, Islands 2, 7, and 8 (a portion of which is in Sec. 6);
Sec. 6, Island 7;
Sec. 8, Island 2;
T. 64 N., R. 7 E.,
Sec. 25, Lots 1 and 2 less the eastern 10 acres of Lot 1;
Sec. 26, Lots 1, 2, 3, and 4;
Sec. 27, Lots 1, 2, 3, 4, and N½SW¼;
Sec. 28, Lots 1, 2, 3, 4, and 5;
Sec. 29, Lots 1, 2, 3, 4, and SW¼SW¼;
Sec. 30, SE¼SW¼ and SW¼NW¼;
Sec. 31, Island 2 and Lots 1, 2, 3, 4, 5, and NW¼NE¼ and NE¼NW¼ and NE¼;
Sec. 32, Island 2 and Lots 1, 2, 4, and 5 and NW¼NE¼ and NW¼;
Sec. 33, Islands 3 and 4 and Lot 1.

Subject to all valid existing easements, rights-of-way, reservations of oil, gas and minerals, and other rights of record.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82–14732 Filed 5–28–82; 8:45 am]
BILLING CODE 4310–02–M

Bureau of Land Management

[INT DEIS 82–25]

Bruneau-Kuna Grazing Draft Environmental Impact Statement; Notice of Public Hearings and DEIS Availability

AGENCY: Bureau of Land Management, Interior.

ACTION: Public hearings on Bruneau-Kuna Grazing DEIS.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental impact statement for a proposed grazing management program for the Bruneau Resource Area and the southern portion of the Owyhee Resource Area of the Boise District, southwestern Idaho. The proposal involves changes in initial stocking rates, implementing improved grazing management and installation of range improvements. Approximately 2.4 million acres of public lands are involved. Copies of the draft environmental impact statement are available for inspection at the following locations:

Boise District Office, Bureau of Land Management, 3948 Development Avenue, Boise, Idaho 83705, Telephone: (208) 334–1582;
Idaho State Office, Bureau of Land Management, Federal Building, 550 West Fort Street, Boise, Idaho 83724, Telephone: (208) 334–1770.

A limited number of single copies may be obtained from the Idaho State Director or the Boise District Manager, Bureau of Land Management, at the above addresses.

Notice is also given that public hearings will be held at:

Rimrock Junior-Senior High School, Highway 78, Grandview, Idaho, June 29, 1982, at 7:30 p.m.
Boise Public Library Auditorium, 715 South Capital Blvd., Boise, Idaho, July 1, 1982, at 7:00 p.m.

DATES: June 29, 1982—Public hearing at Rimrock High School, Grandview, Idaho; July 1, 1982—Public hearing in Boise, Idaho; July 19, 1982—Deadline for receiving written testimony.

ADDRESS: Written comments on the Draft EIS should be sent to: Bureau of Land Management, Bruneau-Kuna Grazing EIS, 3948 Development Avenue, Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT: Ted Milesnick, EIS Team Leader, BLM, Boise District Office, Telephone: (208) 334–1582.

SUPPLEMENTARY INFORMATION: Individuals wishing to testify may do so by appearing at a hearing place as previously specified. Persons wishing to give testimony will be limited to 10 minutes, with written submissions invited. Prior to giving testimony at public hearings, individuals or spokesmen are requested to complete a hearing registration form. Registration forms may be obtained by contacting Ted Milesnick at the above address.

Clair M. Whitlock

Idaho State Director.

[FR Doc. 82–14706 Filed 5–28–82; 8:45 am]
BILLING CODE 4310–84–M

Burley District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting and agenda for Burley District Grazing Advisory Board.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92–463, the Federal Advisory Committee Act, and Pub. L. 94–579, the Federal Land Policy and Management Act, that the Burley District Grazing Advisory Board will meet on June 30 and July 1, 1982.

The meeting will consist of two parts, a field tour and an office session. The field tour will convene at the parking lot of Twin Falls City Hall, 321 Second Avenue East, Twin Falls, Idaho, on June 30, 1982, and will depart at 9:00 a.m.

MDT. The office session will convene at 8:30 a.m., in the Twin Falls City Council Chambers at the above address on July 1, 1982.

Agenda items for the meeting will include: (1) Tour of Twin Falls Planning Unit and review of the Twin Falls EIS; (2) Orientation to the Board and discussion of the functions of the Board; (3) Organization of the Board (election of officers); (4) Use of FY 83 Range Betterment Funds; (5) Discussion of the Final Range Management and Rangeland Improvement Policies; (6) Review of new allotment management plan proposals; (7) Set date for next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Board between 2:30 and 3:30 p.m. on July 1, 1982, or they may file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, Route 3, Box 1, Burley, Idaho 83318, by June 25, 1982. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager. Persons desiring to make the field trip should furnish their own transportation and lunch.

Summary minutes of the Board meeting will be maintained in the District Office and will be available for public inspection and reproductions (during regular business hours 7:45 a.m. to 4:30 p.m., Monday through Friday) within 30 days following the meeting.

Dated: May 19, 1982.

K. Lynn Bennett,

Acting District Manager.

[FR Doc. 82-14730 Filed 5-28-82; 8:45 am]

BILLING CODE 4310-84-M

[M 20575]

Montana; Partial Termination of Proposed Withdrawal and Reservation of Land

May 18, 1982.

The Forest Service, United States Department of Agriculture, filed an application for withdrawal of the following described land from operation of the public land laws, including location and entry under the mining laws. The Notice of Proposed Withdrawal was published as Federal Register Document No. 72-2166 on page 3195 of the issue of February 12, 1972; partially terminated in Federal Register Document No. 77-16316 on page 29566 of issue of June 9, 1977; republished in Federal Register Document No. 77-16315 on page 29565 of issue of June 9, 1977; and partially terminated in Federal Register Document No. 82-13149 on page 20898 of issue of May 14, 1982. The applicant agency has cancelled its application in part as to the following:

Principal Meridian—Lewis and Clark National Forest

Calf Creek Administrative Site

T. 13 N., R. 6 E.,
Sec. 33, SE¼SE¼.
Contains approximately 40 acres.

Newlan Creek Administrative Site

T. 11 N., R. 7 E.,
Sec. 9, W½NE¼.
Contains approximately 80 acres.

Moose Creek Campground

T. 12 N., R. 7 E.,
Sec. 5, S½NW¼NW¼NE¼, W½SW¼NW¼NE¼,
SE¼NE¼NW¼, and NE¼SE¼NW¼.
Contains approximately 30 acres.

Jumping Creek Campground

T. 12 N., R. 7 E.,
Sec. 36, S½NE¼NE¼NE¼, S½NW¼NE¼NE¼, S½NE¼NE¼, SE¼NW¼NE¼, N½NE¼SW¼NE¼, and N½N½SE¼NE¼.
Contains approximately 55 acres.

Grasshopper Campground

T. 9 N., R. 8 E.,
Sec. 17, NE¼NE¼NW¼, S½NE¼NW¼, and N½SE¼NW¼.
Contains approximately 50 acres.

Lamb Creek Campground

T. 12 N., R. 8 E.,
Sec. 33, S½S½SW¼NE¼, S½SW¼SE¼NE¼, S½S½SE¼NW¼, N½NE¼SW¼, SE¼NE¼SW¼, W½NE¼SE¼, and NW¼SE¼.
Contains approximately 115 acres.

The total area described aggregates approximmately 370 acres in Meagher County.

Therefore, pursuant to the regulations contained in 43 CFR 2091.2-5(b)(1), at 8 a.m. on July 2, 1982, such lands will be relieved of the segregative effect of the above mentioned applications.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-14734 Filed 5-28-82; 8:45 am]

BILLING CODE 4310-84-M

[M 55062]

Montana; Invitation, Coal Exploration License Application

May 18, 1982.

Members of the public are hereby invited to participate with Consolidation Coal Company in a program for the exploration of coal deposits owned by the United States of America in the following described lands located in Big Horn County, Montana:

T. 9 S., R. 39 E., P.M.M.
Sec. 25: Lots 1, 2, 3, 4, W½E½, W½
Sec. 26: E½
Sec. 35: NE¼
T. 9 S., R. 40 E., P.M.M.
Sec. 30: Lots 3, 4, E½SW¼, W½SE¼
1359.17 acres.

Any party electing to participate in this exploration program shall notify, *in writing*, both the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107, and Consolidation Coal Company, Western Exploration Group, Denver Office, #14 Inverness Drive East, Building 6Q, Englewood, Colorado 80112. Such written notice must refer to serial number M 55062 and be received no later than 30 calendar days after publication of this Notice in the Federal Register or 10 calendar days after the last publication of this Notice in the Hardin Herald, whichever is later. This Notice will be published for two consecutive weeks.

This proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the U.S. Minerals Management Service, 2525 4th Avenue North, Billings, Montana, and the Bureau of Land Management, Montana State Office, Granite Tower Building, 222 North 32nd Street, Billings, Montana. The exploration plan is available for public inspection at either of these offices at the addresses given.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-14735 Filed 5-28-82; 8:45 am]

BILLING CODE 4310-84-M

[N-16653]

Nevada; Airport Lease Application Withdrawn

May 18, 1982.

Notice is hereby given that Desert Paradise, Inc. has withdrawn its airport lease application involving the following described lands:

Mount Diablo Meridian, Nevada

T. 10 S., R. 62 E.
Sec. 36, SE¼NE¼, E½SE¼.
T. 11 S., R. 62 E.
Sec. 1, Lot 1.

Withdrawal of the application was accepted on March 15, 1982 and at that time the lands were relieved of the segregative effect of the application.

Wm. J. Malencik,

Chief, Division of Operations.

[FR Doc. 82-14737 Filed 5-28-82; 8:45 am]

BILLING CODE 4310-84-M

[Wyoming 78469]

Wyoming; Application

May 17, 1982.

Notice is hereby given that pursuant to the Act of May 24, 1928, 49 U.S.C. 211–214, the City of Evanston, Wyoming, has applied for an airport lease for the following public land:

Sixth Principal Meridian, Wyoming

T. 15 N., R. 121 W.,
Sec. 14, SE¼SE¼NE¼ and SE¼;
Sec. 23, E½.

The land described contains 490 acres.

The purpose of this notice is to inform the public that the filing of this application segregates the described land from all other forms of use or disposal under the public land laws.

Interested persons desiring to express their views should promptly send their comments, together with their name and address to the District Manager, Bureau of Land Management , P.O. Box 1869, Highway 187 North, Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-14736 Filed 5-28-82; 8:45 am]

BILLING CODE 4310-84-M

Utah; Uinta-Southwestern Utah Coal Region; Coal Leasing Notice of Change in Regional Coal Team Meeting and Request for Comments

AGENCY: Bureau of Land Management, Interior.

ACTION: Change in the date and location of the previously announced Regional Coal Team meeting, extension of time for public comment, clarification of tract data.

SUMMARY: A Federal Register notice on May 12, 1982 (pages 20383–20385) announced a Regional Coal Team (RCT) meeting and invited public comment on the proposed ranking subfactors. It has become necessary to postpone the scheduled RCT meeting and reschedule it at a later date. This will allow more time to gather information necessary to rank the tracts. The comment period on ranking subfactors can also be extended. Information is provided clarifying some of the tract data.

DATES: Written comments on the tracts and ranking subfactors will now be received by the Regional Coal Team Chairman until June 30, 1982. The Regional Coal Team will now meet on July 20–21, 1982, starting at 9:00 a.m.

ADDRESSES: Comments on the potential lease tracts and the ranking factors should be addressed to Edward F. Spang, Chairman, Regional Coal Team, Nevada State Director, Bureau of Land Management, Federal Building, 300 Booth Street, Reno, Nevada 89509.

The Regional Coal Team meeting will be in the Hotel Utah (Grand Ball Room I) on July 20 and (Bonneville III) on July 21, Main at South Temple, Salt Lake City, Utah.

FOR FURTHER INFORMATION CONTACT: Max Nielson, Coal Project Manager, Uinta-Southwest Utah Region, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah, telephone (801) 524–5326.

SUPPLEMENTARY INFORMATION: The Regional Coal Team will meet on July 20–21, 1982, at 9:00 a.m. in the Hotel Utah, Salt Lake City, Utah. The Regional Coal Team will discuss, rank, and select the coal lease tracts that will be considered for Round II of potential leasing in the Uinta-Southwestern Utah Coal Production Region. The tracts to be ranked were listed in the previous announcement. It is pointed out that the term used "Estimated In-Place Reserves" may more properly be indicated as "Estimated In-Place Resources or Reserves." Good data are available on some of the tracts; however, many lack detail information on the coal resources. The "multiple tracts" in the Muddy Area to be considered for ranking include: Quitchupah—9720 acres and an estimated 265.5 million tons of in-place coal, The Pines—8655 acres and an estimated 172.2 million tons of in-place coal. It should also be mentioned the possible Federal lease sale will now be in February of 1984. All other data in the May 12, 1982 announcement pertains to the new schedule.

Dated: May 24, 1982.

Dean Stepanek,

Associate State Director.

[FR Doc. 82-14753 Filed 5-28-82; 8:45 am]

BILLING CODE 4310-84-M

Application Procedures; Place of Filing of Simultaneous Oil and Gas Leasing Applications

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Existing regulations under § 3112.2–1(a) of Title 43 of the Code of Federal Regulations require the filing of simultaneous oil and gas lease applications on a form approved by the Director, Bureau of Land Management.

Beginning on July 1, 1982, the only form approved by the Director for use in the Simultaneous Oil and Gas program administered by the New Mexico State Office and the Eastern States Office is the Automated Simultaneous Oil and Gas Lease Application (Bureau of Land Management Form 3112–6 and 3112–6(a), OMB No. 1004–0065). Applications for a simultaneous oil and gas for lands lease under the jurisdiction of these offices must, on or after July 1, 1982, be submitted to the Bureau of Land Management's Wyoming State Office, 2512 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82001.

Any applications filed in the Bureau of Land Management's New Mexico State Office and Eastern States Office or applications filed in the Wyoming State Office on the manual form or on the automated form received in a condition that the authorized officer determines would prevent automated processing, will not be accepted. The authorized officer will be guided in the decision of whether an application form is acceptable or unacceptable by criteria furnished in the Bureau's manuals and in instruction memoranda. Applications determined to be unacceptable will be returned to the applicant along with the filing fee. All applications shall be filed in accordance with Group 3100, subchapter C, Chapter II of Title 43 of the Code of Federal regulations.

Forms 3112–6 and 3112–6(a), which are machine readable, will allow an applicant to file for up to 600 tracts on a single application. Copies of the form are available from any of the Bureau of Land Management State offices. Additional copies of the application form can be purchased from the Superintendent of Documents.

Bureau of Land Management applicants who have filed Form 3112–6 (Part A) with the Wyoming State Office need not file that form again. Applicants are reminded that one copy of Form 3112–6(a) (Part B) must be filed for each State drawing. For example, applicants wishing to file for leases in both Wyoming and New Mexico must file two copies of Part B; one for parcels in each State.

The Bureau of Land Management will continue to use the Simultaneous Oil and Gas Lease Application (Bureau of Land Management Form 3112–1) in State offices located in Arizona, California, Idaho, Montana, Oregon, and Utah. The automated form is designed to accommodate the automated processing of simultaneous oil and gas lease applications. The development of the automated process is a result of the Bureau's efforts to expedite the issuance of leases and lessen the paperwork burden on the public.

The Wyoming State Office is also the proper office for filing simultaneous oil

and gas applications for leases in Wyoming, Colorado and Nevada. It is anticipated that in the near future, the Wyoming State Office will be designated the proper office for filing all simultaneous oil and gas lease applications. Future **Federal Register** notices will announce effective dates both for forms and filing for any affected State office.

Dated: May 26, 1982.

James M. Parker,

Acting Director, Bureau of Land Management.

[FR Doc. 82-14606 Filed 5-28-82; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 21, 1982. Pursuant to § 6013 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by June 16, 1982.

Carol D. Shull,

Acting Keeper of the National Register.

CALIFORNIA

Humboldt County

Arcata, *Jacoby Building,* 791 8th St.

Los Angeles County,

Pasadena, *Bowen Court,* 539 E. Villa St.

Nevada County

Truckee, *Kruger House,* 10292 Donner Pass Rd.

GEORGIA

Bulloch County

Statesboro, *Jaeckel Hotel,* 50 E. Main St.
Statesboro, *McDougald, John A., House,* 121 S. Main St.

Chatham County

Burroughs, *St. Bartholomew's Church,* Cheves Rd.

Coffee County

Douglas, *Pope, Lonnie A., House,* Jackson St. and Central of Georgia RR tracks

Colquitt County

Moultrie, *Moultrie High School,* 7th Ave.

DeKalb County

Decatur, *Scottish Rite Hospital for Crippled Children,* 321 W. Hill St.
Decatur, *Steele-Cobb House,* 2832 Fox Hills Dr.

Dougherty County

Albany, *Albany Housefurnishing Company, 226 W. Broad Ave.*
Albany, *New Albany Hotel,* 245 Pine St.

Early County

Jakin, *Harrell, Jane Donaldson House,* SR 1975 off U.S. 84

Elbert County

Elberton, *Chandler, Asa House,* 1003 Old Petersburg Rd.

Floyd County

Rome, *Battey, Dr. Robert, House,* 725 E. 2nd Ave.

Fulton County

Atlanta, *Glenridge Hall,* Glenridge Dr.

Gwinnett County

Lawrenceville, *Ware, Clarence R., House,* 293 N. Perry St.

Habersham County

Cornelia, *Cornelia Community House,* U.S. 123 at LaVista Lane
Hollywood vicinity, *Acoa,* Mathis Rd.

Liberty County

Flemington, *Flemington Presbyterian Church,* Off Old Sunbury Rd.

Meriwether County

Greenville, *Hill, Burwell O., House,* La Grange St.

Murray County

Chatsworth, *Wright Hotel,* 201 E. Market St.

Randolph County

Cuthbert, *Henderson, Fletcher, House,* 1017 Andrew St.

Richmond County

Augusta, *Springfield Baptist Church,* 112 12th St.

Seminole County

Donalsonville, *Southeastern Holiness Institute (Chason's Hospital),* 102 Hospital Circle

Stephens County

Toccoa, *Walters-Davis House,* 429 E. Tugalo St.

Tattnall County

Reidsville, *Alexander Hotel,* 204 W. Brazell St.

Taylor County

Reynolds, *Ricks, Ferdinand A., House,* S. Collins and E. Calhoun Sts.

Terrell County

Bronwood, *Bronwood Calaboose,* GA 118.
Dawson, *Dawson Woman's Clubhouse,* 311 6th Ave.

Toombs County

Vidalia, *Brazell, Crawford W., House,* 607 Jackson St.

Twiggs County

Jeffersonville vicinity, *Wimberly Plantation,* Jeffersonville Rd., GA 96
Jeffersonville, *Richland Baptist Chuch,* Richland Rd.

Walton County

Campton vicinity, *Harris, William, Family Farmstead,* GA 11
Walnut Grove, *Brodnax, Samuel H., House,* GA 81

Wilkinson County

Gordon, *Elam-Camp House,* 216 Jackson St.

ILLINOIS

Mercer County

Aledo, *Mercer County Courthouse,* SE 3rd St. (IL 17)

INDIANA

Grant County

Marion, *Grant County Jail and Sheriff's Residence,* 215 E. 3rd St.

Monroe County

Ellettsville vicinity, *St. John's Lutheran Church,* Old Dutch Church Rd.

Tippecanoe County

Lafayette vicinity, *Hawkins-Bower House,* 615 Elston Rd.
West Lafayette, *Pierce, James, Jr., House,* 4623 N., 140 W.

Vanderburgh County

Evansville, *Geupel, John M., Building (Super D) (Downtown Evansville MRA),* 413 Main St.
Evansville, *Albion Flats (Downtown Evansville MRA),* 701 Court St.
Evansville, *American Trust and Savings Bank (Indiana Bank) (Downstown Evansville MRA),* 524–530 Main St.
Evansville, *Archer, Samuel, House (Downtown Evansville MRA),* 110 Waltnut St.
Evansville, *Auto Hotel Building (Downtown Evansville MRA),* 111–115 SE 3rd St.
Evansville, *Bacon, Hillary, Store (Woolworth's) (Downtown Evansville MRA),* 527 Main St.
Evansville, *Barrett's Britz Building (Downtown Evansville MRA),* 415 Main St.
Evansville, *Buckingham Apartments (Downtown Evansville MRA), 314–316 SE 3rd St.*
Evansville *Building at 1031 Main Street (Downtown Evansville MRA),* 1031 Main St.
Evansville, *Building at 223 Main Street (Downtown Evansville MRA),* 223 Main St.
Evansville, *Busse House (Downtown Evansville MRA),* 120 SE 1st St.
Evansville, *Cadick Apartments (Plaza Building), (Downtown Evansville MRA),* 118 SE 1st St.
Evansville, *Cadick Poultry (Downtown Evansville MRA),* 420 NW 4th St.
Evansville, *Central High School Gymnasium (Downtown Evansville MRA),* Court and NW 6th Sts.
Evansville, *Central Library (Downtown Evansville MRA),* 22 SE 5th St.
Evansville, *Citizens National Bank (Downtown Evansville MRA),* 329 Main St.
Evansville, *Claremont Apartment Hotel and Tea Room (Downtown Evansville MRA),* 119–135 Locust St.

Evansville, *Conner's Bookstore (Dallas Music) (Downtown Evansville MRA)*, 611–613 Main St.
Evansville, *Court Building (Furniture Building) (Downtown Evansville MRA)*, 123–125 NW 4th St.
Evansville, *Doescher Building (Downtown Evansville MRA)*, 12–12½ SE 2nd St.
Evansville, *Dowson-Winslow Shop (Downtown Evansville MRA)*, 411 Main St.
Evansville, *Denton, James F., Works Building (Downtown Evansville MRA)*, 420 NW 4th St.
Evansville, *Dottie's Tavern (Downtown Evansville MRA)*, 501–503 Market St.
Evansville, *Eagles Home (Downtown Evansville MRA)*, 221 NW 5th St.
Evansville, *Elmendorf's (Downtown Evansville MRA)*, 314–316 NW 3rd St.
Evansville, *Evansville Brewing Company (Downtown Evansville MRA)*, 401 NW 4th St.
Evansville, *Evansville Journal News (Downtown Evansville MRA)*, 7–11 NW 5th St.
Evansville, *Firestone Tire and Rubber Store (Downtown Evansville MRA)*, 900 Main St.
Evansville, *First Baptist Church (Downtown Evansville MRA)*, 320 Cherry St.
Evansville, *Fourth Street Park (Downtown Evansville MRA)*, SE 4th between Oak and Cherry
Evansville, *Gazebo Plants (Elm Apartments) (Downtown Evansville MRA)*, 310–312 NW 3rd St.
Evansville, *Geiger, Fred and Sons National Biscuit Company (Downtown Evansville MRA)*, 401 NW 2nd St.
Evansville, *Gemcraft-Wittmer Building (Downtown Evansville MRA)*, 609 Main St.
Evansville, *General Cigar Company Building (Downtown Evansville MRA)*, 223 NW 2nd St.
Evansville, *German Bank (Downtown Evansville MRA)*, 301–303 Main St.
Evansville, *Glass Specialty Company (Downtown Evansville MRA)*, 315 Court St.
Evansville, *Goldman's Pawn Shop-Evansville (Downtown Evansville MRA)*, 107–109 SE 4th St.
Evansville, *Gottman Building (Downtown Evansville MRA)*, 615 Main St.
Evansville, *Harding and Miller Music Company (Downtown Evansville MRA)*, 518–520 Main St.
Evansville, *Hose House #12*, 1409 First Ave.
Evansville, *Huber Motor Sales Building (Downtown Evansville MRA)*, 215–219 SE 4th St.
Evansville, *Hughes, William, Department Store (Downtown Evansville MRA)*, 508–514 Main St.
Evansville, *Huston Building (Downtown Evansville MRA)*, 12–16 NW 6th St.
Evansville, *Hutchinson, Andrew, House (Downtown Evansville MRA)*, 410 Fulton Ave.
Evansville, *Indiana Bell Building (Downtown Evansville MRA)*, 129–133 NW 5th St.
Evansville, *Ingle Terrace (Downtown Evansville MRA)*, 609–619 Ingle St.
Evansville, *Kaiser's (Downtown Evansville MRA)*, 412 Main St.
Evansville, *Kay's Place (Downtown Evansville MRA)*, 318–320 3rd St.
Evansville, *Kramer House (Downtown Evansville MRA)*, 203 NW 7th St.
Evansville, *Krieger-Ragsdale Building (Downtown Evansville MRA)*, 109 SE 2nd St.
Evansville, *Kronenberger (Downtown Evansville MRA)*, 102—104 SE 5th St.
Evansville, *Kuebler-Artes Building (Downtown Evansville MRA)*, 327 Main St.
Evansville, *Kuehn, August, House (Downtown Evansville MRA)*, 608–610 Ingle St.
Evansville, *Leich, Charles, and Company (Downtown Evansville MRA)*, 420 NW 5th St.
Evansville, *Lincoln Motor Company (Downtown Evansville MRA)*, 405–411 Market St.
Evansville, *Lockyear College (Downtown Evansville MRA)*, 209 NW 5th St.
Evansville, *Long, Lewis E., Building and Paints (Downtown Evansville MRA)*, 18–20 NW 6th St.
Evansville, *Masonic Temple (Downtown Evansville MRA)*, 301 Chestnut St.
Evansville, *McCurdy Hotel (Downtown Evansville MRA)*, 101–111 SE 1st St.
Evansville, *Mesker, George L., and Company Building (Downtown Evansville MRA)*, 30 Ingle St.
Evansville, *Midwest Remodeling (Downtown Evansville MRA)*, 328 NW 3rd St.
Evansville, *Montgomery Ward Building (Downtown Evansville MRA)*, 517 Main St.
Evansville, *Morris Plan (Central Union Bank) (Downtown Evansville MRA)*, 20 NW 4th St.
Evansville, *National City Bank (Downtown Evansville MRA)*, 227 Main St.
Evansville, *Newman, M. G., Building (Downtown Evansville MRA)*, 211–213 SE 4th St.
Evansville, *Nienaber, Damron, Commercial Block (Downtown Evansville MRA)*, 325 SE 6th St.
Evansville, *O'Donnell Building (Downtown Evansville MRA)*, 22 NW 6th St.
Evansville, *Old Fellwock Auto Company (Downtown Evansville MRA)*, 214 NW 4th St.
Evansville, *Old Hose House No. 4 (Downtown Evansville MRA)*, 623 Ingle St.
Evansville, *Orr Iron Company (Downtown Evansville MRA)*, 1100 Pennsylvania St.
Evansville, *Parson and Scoville Building (Downtown Evansville MRA)*, 915 Main St.
Evansville, *Pearl Steam Laundry (Downtown Evansville MRA)*, 428 Market St.
Evansville, *Puster, L., and Company Furniture Manufactory (Downtown Evansville MRA)*, 328 NW 6th St.
Evansville, *Raben Armstrong (Heimann and Heimann) (Downtown Evansville MRA)*, 416 NW 4th St.
Evansville, *Richardt, Patrick Henry, House (Downtown Evansville MRA)*, 213 NW 5th St.
Evansville, *Roelker, John H., House (Downtown Evansville MRA)*, 555 Sycamore St.
Evansville, *Rose Terrace (Downtown Evansville MRA)*, 301–313 NW 7th St.
Evansville, *Salem's Baptist Church (Downtown Evansville MRA)*, 728 Court St.
Evansville, *Sam's Cleaners (Downtown Evansville MRA)*, 308 NW 3rd St.
Evansville, *Schultz, J. H., Company Shoes (Downtown Evansville MRA)*, 325 Main St.
Evansville, *Scotsman Ice (Downtown Evansville MRA)*, 415 NW 4th St.
Evansville, *Seventh Street Park (Downtown Evansville MRA)*, SE 7th St. between Walnut and Chestnut
Evansville, *Shekell's Christian Wunderlich Building (Downtown Evansville MRA)*, 431 Market St.
Evansville, *Siegel's Watch Shop (Downtown Evansville MRA)*, 317 Locust St.
Evansville, *Skora Building (Downtown Evansville MRA)*, 101–103 NW 2nd St.
Evansville, *St. John's Evangelical Protestant Church (Downtown Evansville MRA)*, 314 Market St.
Evansville, *St. Mary's Catholic Church Complex (Downtown Evansville MRA)*, 601–613 Cherry St.
Evansville, *Trinity Methodist Church (Downtown Evansville MRA)*, 216 3rd St.
Evansville, *Turley-Harmon Building (Downtown Evansville MRA)*, 12–14 NW 3rd St.
Evansville, *Van Cleave Flats (Downtown Evansville MRA)*, 704–708 Court St.
Evansville, *Victory Theater and Hotel Sonntag (Downtown Evansville MRA)*, 600–614 Main St.
Evansville, *Wabash Valley Motor Company (Downtown Evansville MRA)*, 206–206 SE 8th St.
Evansville, *Walnut Street School (Downtown Evansville MRA)*, Walnut and 9th Sts.
Evansville, *Woolworth's (Downtown Evansville MRA)*, 521–523 Main St.
Evansville, *YMCA (Downtown Evansville MRA)*, 203 NW 5th St.
Evansville, *YMCA (Downtown Evansville MRA)*, 118 Vine St.
Evansville, *Zion Evangelical Church (Downtown Evansville MRA)*, 415 NW 5th St.

White County

Monticello, *Reynolds, James Culbertson, House*, 417 N. Main St.

KENTUCKY

Fayette County

Lexington vicinity, *Grimes House and Mill Complex*, Grimes Mill Rd.
Lexington, *Cloud House*, 3740 Versailles Rd.

Oldham County

Goshen vicinity, *Yager House (Pine Grove Stock Farm)*, SE of Goshen on Covered Bridge Rd.

LOUISIANA

Orleans Parish

New Orleans, *Hernsheim, Simon, House (Columns Hotel)*, 3811 St. Charles Ave.

St. Mary Parish

Baldwin vicinity *Birg House*, off LA 182

St. Tammany Parish

Abita Springs, *Longbranch Hotel Complex*, Rangeline Rd.

MICHIGAN

Clare County

Farwell, *Hitchcock, George and Martha, House*, 205 E. Michigan St.

MISSISSIPPI

Marshall County

Holly Springs, *Chalmers Institute (Holly Springs MRA)*, W. Chulahoma Ave.
Holly Springs, *Depot-Compress Historic District (Holly Springs MRA)*, Bounded by RR tracks, Chesterman St., College and Van Dorn Aves.
Holly Springs, *East Holly Springs Historic District (Holly Springs MRA)*, Bounded by Compress, Chesterman, Randolph and Spring Sts. and Salem, Van Dorn Aves.
Holly Springs, *Hillcrest Cemetery (Holly Springs MRA)*, Center St.
Holly Springs, *Malone House (Holly Springs MRA)*, 197 W. College Ave.
Holly Springs, *North Memphis Street Historic District (Holly Springs MRA)*, Bounded by N. Memphis St., Falconer, Salem, and Park Aves. and the Anderson Chapel
Holly Springs, *Oakview (Rust College Infirmary) (Holly Springs MRA)*, Rust College Campus, Rust Ave.
Holly Springs, *Old Water and Electric Light Plant (Holly Springs MRA)*, 140 E. Falconer Ave.
Holly Springs, *Southwest Holly Springs Historic District (Holly Springs MRA)*, Bounded by S. Center, S. Memphis, and Craft Sts. Marbury Ct. and Ghulahoma, Gholson, Elder and Mason Aves.

MISSOURI

St. Louis (ind. city), Union Trust Company Building, 705 Oliver St.

St. Louis County

Webster Groves, *Marshall Place Historic District*, Marshall Pl.

NEW JERSEY

Essex County

Newark, *Home Office Building (Firemen's Insurance Company of Newark)*, 8—12 Park Pl.

Hudson County

Jersey City, *Paulus Hook Historic District*, Greene, Washington, Grand, Sussex, Morris, Essex, Warren and York Sts.

NEW YORK

Jefferson County

Clayton, *Johnston, Capt, Simon, House*, 507 Riverside Dr.

Saratoga County

Ballston Spa, *Union Mill Complex*, NY Route 50, Milton Ave.

NORTH CAROLINA

Guilford County

Greensboro, *Downtown Greensboro Historic Distric*, Elm, S. Davie, S. Green, and E. and W. Washigton Sts.

OHIO

Athens County

Athens, *Sheltering Arms Hospital*, Clark St.

Brown County

Ripley, *Red Oak Presbyterian Church*, Cemetery Rd.

St. Martin, *Murphy, Daniel, Log House*, Anderson State Rd.

Franklin County

Columbus, *Jaeger Machine Company Office Building*, 550 W. Spring St.
Columbus, *Long and Third Commercial Building*, 104–114 E. Long St.

Henry County

Napoleon, *St. Augustine's Catholic Church*, 221 E. Clinton St.

Highland County

Hillsboro, *Lilley, Robert D., House*, 7915 OH 124

Licking County

Newark, *McNamar-McLure-Miller, Residence*, 124 W. Main St.

Muskingum County

Zanesville, *Alameda Apartments*, 7th St.

OREGON

Jackson County

Medford, *Fredenburg, Andrew J., House*, 243 S. Holly St.

PUERTO RICO

Loiza County

Loiza, *Cueva de Los Indios*, PR 187

SOUTH CAROLINA

Charleston County

Johns Island, *Moving Star Hall*, River Rd.

Kershaw County

Camden, *Murchison House*, Kershaw County Rd. 12

McCormick County

Mount Carmel, *Mount Carmel Historic District*, SC 823 and SC 81

Saluda County

Saluda, *March-Johnson House*, Intersection of S–41–21 and S–41–37

SOUTH DAKOTA

Bon Homme County

Scotland, *Campbell, Gen. Charles T., House*, 611 4th St.
Scotland, *St. Andrew's Episcopal Church*, 4th and Poplar St.

Brookings County

Brookings, *Brookings City Hall*, 4th St.

Brown County

Aberdeen, *Ward, Alonzo, Hotel*, 104 S. Main St.

Butte County

Belle Fourche, *Bolles, Charles, House*, 919 State St.
Belle Fourche, *Gay, Thomas Haskins, House*, 704 Harding

Charles Mix County

Academy, *Church of Christ in LaRoche Township*, SD 50
Platte, *Serven, Win, Hotel*, 311 Main St.

Clay County

Vermillion, *Willey, E. H., House*, 104 Court St.

Davison County

Mitchell, *Anderson, John F., House*, 323 N. Duff
Mitchell, *Beckwith, Louis, House*, 1311 S. Duff Dr.

Hamlin county

Estellin, *Lohr, Charles and Mary, House*, 1705 State Ave.

Hand County

Zell vicinity, *St. Mary's Church, School and Convent*, U.S. 212

Hutchinson County

Menno, *Ulmer, J. W., House*, 611 S. 5th St.

Minnehaha County

Sioux Falls, *Blackstone Court Apartments*, 303 W. 12th St.–
Sioux Falls, *Shriver-Johnson Building*, 230 S. Phillips Ave.

Pennington County

Keystone, *Byron, Lewis, House*, Cemetery Rd.
Keystone, *Keystone Trading Company Store*, SD 40
Rapid City vicinity, *Johnson Siding, House and Sawmill*, Rimrock Hwy.
Rapid City, *Holmes, Zack, House*, 816 St. James St.

Spink County

Ashton, *Ashton Methodist Church*, Corner of 2nd Ave. and 2nd St.

Turner County

Hurley, *I.O.O.F. Hall, Hurley Lodge No. 75*, Center Ave.

TEXAS

Bastrop County

Smithville, *Smithville Commercial Historic District*, 2nd, 3rd, and Main Sts.

Bowie County

Texarkana, *Rialto Building*, 317 State Line Ave.

Grimes County

Carlos vicinity, *Kellum Springs Archeological Site*, Sulphur Creek

Jefferson County

Beaumont, *Jefferson County Courthouse*, 1149 Pearl St.

Midland County

Midland, *Brown-Dorsey House*, 213 N. Weatherford

Travis County

Austin, *Evans Industrial Building*, Huston-Tillotson College Campus, 1820 E. 8th

VERMONT

Chittenden County

Charlotte, *McNeil Homestead*, Lake Camplain Off VT F5

Rutland County

Rutland, *Proctor-Clement House*, Field Ave.

Windsor County

Windsor, *Fowler-Steele House*, N. Main St.

WISCONSIN

Dane County

Madison, *Suhr, John J., House*, 121 Langdon St.

Manitowoc County

Maribel, *Rock Mill*, Off U.S. 141

Marathon County

Hamburg, *Fromm, Walter and Mabel, House*, Off WI 107

Ozaukee County

Mequon, *Clark, Jonathan, House*, 13615 N. Cedarburg Rd.

Mequon, *Reichert, John, Farmhouse*, 14053 N. Wauwatosa Rd.

Dodge County

Watertown, *Hartwig, Ferdinand C., House*, 908 Country Lane

[FR Doc. 82-14639 Filed 5-28-82; 8:45 am]

BILLING CODE 4310-70-M

Bureau Forms Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comment and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. William T. Adams, at 202-395-7340.

Title: 35 CFR Parts 1-3—General Regulations for areas administered by NPS.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: Individuals, groups, business, local and State Govts.

Annual Responses: 501,975.

Annual Burden Hours: 151,033.

Bureau clearance officer: Russell K. Olsen, 523-5092.

Russell K. Olsen,

Information Collection Clearance Officer.

May 18, 1982.

[FR Doc. 82-14731 Filed 5-28-82; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket 29916]

CSX Corp.; Control Exemption—Carolina, Clinchfield and Ohio Railway

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from prior approval under 49 U.S.C. 11343, the proposed acquisition by CSX Corporation of control of the Carolina, Clinchfield and Ohio Railway.

DATES: The exemption will be effective on July 1, 1982. Petitions to reopen this action must be filed on or before June 21, 1982.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room 5414, Interstate Commerce Commission, Washington, D.C. 20423

(2) Petitioner's representative: Garth E. Griffith, General Counsel, CSX Corporation, P.O. Box C-32222, Richmond, VA 23261.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: For further information, see the decision served concurrently in Finance Docket No. 29916. The decision may be purchased by contacting: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., N.W., Washington, D.C. 20423, (202) 289-4357—D.C. Metropolitan Area, (800) 424-5403—toll free for outside D.C. area.

Dated: May 24, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-14740 Filed 5-28-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte MC-43]

Lease and Interchange of Vehicles by Motor Carriers

Decided: May 24, 1982.

Indianhead Truck Line, Inc. (MC-108449) and I.N.F. Ltd. (MC-153601) petition for waiver of Subpart B (Sections 1057.11 and 1057.12) of the *Lease and Interchange of Vehicles Regulations* (49 CFR Part 1057), with respect to equipment augmented between them.

Findings

1. Petitioners are commonly controlled and jointly administer a common safety program.

2. Petitioners have acceptable fitness records.

3. Greater economy and efficiency would result if the requirements of Subpart B were waived in part.

It is ordered:

1. The petition of Indianhead Truck Line, Inc., and I.N.F. Ltd., for waiver of Subpart B (§§ 1057.11 and 1057.12) is granted, except for Paragraphs (b) and (c) of § 1057.11, with respect to equipment augmented between them, provided petitioners or their authorized representatives agree in writing that the lessee shall have control and rsponsibility for the operation of the equipment from the time possession is taken by the lessee and the receipt required under paragraph (b) of § 1057.11 is given to the lessor until the equipment is returned to the lessor and the receipt required under Paragraph (b) of § 1057.11 is received by the lessee or the equipment is returned to the lessor or given to another authorized carrier in an interchange of equipment. A copy of the agreement must be carried in the equipment while it is in the possession of the lessee.

2. The waiver granted in this decision does not affect the application of the leasing regulations to a lease between an owner-operator and the lessor carrier.

By the Motor Carrier Leasing Board, Board Members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien, Board Member Gaillard not participating.

Agatha L. Mergenovich

Secretary.

[FR Doc. 82-14748 Filed 5-28-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g. unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicants other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP1-90

Decided: May 21, 1982.

By the Commission, Review Board Number 1, Members Parker, Chandler and Fortier. Member Parker not participating in part.

MC 99581 (Sub-5), filed May 10, 1982. Applicant: VACA VALLEY BUS LINES, Inc., Box 818, Fairfield, CA 94533. Representative: Mike Pavlakis, Box 646, Carson City, NV 89702; (702) 882-0202. Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter and special operations between points in Sacramento and Yolo Counties, CA and those in Placer and El Dorado Counties, CA, located west of the Tahoe and El Dorado National Forests on the one hand, and, on the other, points in the U.S. (including AK but excluding HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the applications for common control to team 1, room 6358.

MC 108490 (Sub-2), filed May 14, 1982. Applicant: LYTLE TRANSFER LINE, INC., 181 Stanford Parkway, Findlay, OH 45840. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215, (614) 464-4103. Transporting *household goods,* between points in the U.S. (except HI).

MC 109571 (Sub-2), filed March 9, 1982 previously noticed in the **Federal Register** issue of March 25, 1982. Applicant: REILE'S TRANSFER AND DELIVERY, INC., 54 South 27½ Street, Fargo, ND 58103. Representative: Mike Miller, P.O. Box 1897, Fargo, ND 58107-1897, (701) 237-3166. Transporting (1) *paper and paper products, and (2) building materials,* between points in the U.S. (except AK and HI), under continuing contract(s) with Champion International Corporation of Stamford, CT, in (1) above, and Pierce Roofing and Sheet Metal, Inc., and Thompson Roofing Company, both of Fargo, ND, in (2) above.

Note.—The purpose of this republication is to correctly reflect Champion International Corporation of Stamford, CT, as the contracting shipper in part (1) of the caption summary.

MC 111310 (Sub-70), filed May 13, 1982. Applicant: MILLIS TRANSFER, INC., P.O. Box 352, Black River Falls, WI 54615. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703, (608) 256-74444. Transporting *such commodities* as are dealt in or used by grocery stores, food business houses, and variety stores, between points in the U.S. (except AK and HI).

MC 113751 (Sub-57), filed May 10, 1982. Applicant: HAROLD F. DUSHEK, INC., 10th and Columbia Sts. Waupaca, WI 54981. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, (608) 273-1003. Transporting *such merchandise as is dealt in by wholesale or retail food business houses,* between points in IL, on the one hand, and, on the other, points in MN and WI.

MC 119700 (Sub-83), filed May 17, 1982. Applicant: STEEL HAULERS, INC., 306 Ewing Avenue, Kansas City, MO 64125. Representative: Loyd Schottel, (same address as applicant), (816) 241-3954. Transporting *metal products,* between points in IL and MO, on the one hand, and, on the other, points in AR, IL, IN, IA, KS, KY, LA, MI, MN, MO, NE, OH, OK, SD, TN, TX, and WI.

MC 129790 (Sub-19), filed May 14, 1982. Applicant: JOSEPH A. BECKER, d.b.a. BECKER HI-WAY FRATE, Route 5, Box 10B, Albert Lea, MN 56007. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402, (612) 333-1341. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Seneca Food Corporation, of Janesville, WI.

MC 134940 (Sub-12), filed April 26, 1982. Applicant: VERNON KUFAHL, d.b.a. KUFAHL TRUCKING, 4704 North 32nd Ave., Wausau, WI 54401. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703, (608) 256-7444. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 138730 (Sub-11), filed May 17, 1982. Applicant: CARAVAN COACH LINES, INC., R.D. 3, Box 451, Wharton, NJ 07885. Representative: William F. King, Suite 304, Overlook Bldg., 6121 Lincolnia Road, P.O. Box 11278, Alexandria, VA 22312. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special operations, between Atlantic City, NJ, on the one hand, and, on the other, points in Wayne, Lackawanna and Luzerne Counties, PA.

MC 141961 (Sub-8), filed May 13, 1982. Applicant: CARMAN CARRIER, INC., P.O. Box 2139, Clarksville, IN 47130. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846-6655. Transporting *metal products*

and machinery, between points in the U.S. (except AK and HI).

MC 143501 (Sub-12), filed May 11, 1982. Applicant: R.G.C. CARGO CARRIERS, INC., 16651 S. Vincennes Rd., S. Holland, IL 60473. Representative: Dean N. Wolfe, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *such commodities* as are dealt in or used by manufacturers of chemicals, between points in the U.S. (except AK and HI), under continuing contract(s) with N L Chemicals, Division of N L Industries, Inc., of Hightstown, NJ.

MC 144821 (Sub-16), filed May 13, 1982. Applicant: FREEDOM FREIGHTWAYS, INC., 9060 Latty Avenue, St. Louis, MO 63134. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701, (601) 335–3576. Transporting *rubber and plastic products,* between St. Louis, MO, Columbus, OH, Los Angeles, CA, Houston, TX and Jacksonville, FL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146571 (Sub-3), filed May 17, 1982. Applicant: DONALD A. BENSEN, d.b.a. BENSEN TRUCKING, R.D. #1, Box 44, Mansfield, PA 16933. Representative: Daniel W. Krane, P.O. Box E, Shiremanstown, PA 17011, (717) 232–8324. Transporting *beer and malt beverages,* between those points in the U.S. in and east of MN, IA, MO, AR and LA.

MC 146630 (Sub-3), filed May 10, 1982. Applicant: SAWDUST SIERRA, INC., 2996 Timber Lane, Verona, WI 53593. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, P.O. Box 5086, Madison, WI 53705–0086, (608) 238–3119. Transporting *metal products, machinery, and transportation equipment,* between points in Dane County, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 148671 (Sub-2), filed April 29, 1982. Applicant: HARLAND QUACKENBUSH, d.b.a. H & D TRUCKING, 500 Dew Drop Cove, Casselberry, FL. Representative: Elbert Brown, Jr., P.O. Box 1378, Altamonte Springs, FL 32701, (305) 869–5936. Transporting *corrugated boxes,* between Tampa, FL, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Weyerhaeuser Company, of Tampa, FL.

MC 148831 (Sub-12), filed May 10, 1982. Applicant: STUMPS REFRIGERATED EXPRESS, INC., R.R. #1, Box 57, Tiro, OH 44887. Representative: David A. Turano, 100 East Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *meats, meat products, meat by-products, dairy products, and articles distributed by meat packinghouses,* between points in the U.S. (except AK and HI).

MC 151920, filed May 13, 1982. Applicant: TIDY TRANSPORT LTD., 20151 Logan Avenue, Langley, B.C. CN V3A 4L5. Representative: Robert G. Gleason, 1127 10th East, Seattle, WA 98102, (206) 325–8875. Transporting *metal products,* between points in WA, ID, and OR, under continuing contract(s) with Tidy Welders, Ltd., of Langley, B.C. CN.

MC 152650 (Sub-4), filed May 17, 1982. Applicant: SHAVER TRUCKING, INC., 3600 Highway #68 West, P.O. Box 104, Srpingdale, AR 72764. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prarie Grove, AR 72753, (501) 846–2185. Transporting *insulation, lead pigments and fertilizer compounds,* between points in Jasper County, MO, Wood County, TX, Jefferson County, NE, Polk County, GA, and Cherokee County, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 153601 (Sub-9), filed May 12, 1982. Applicant: I.N.F. LTD., 121 West Doty Street, Madison, WI 53703. Representative: Melvin M. Freese, 80 East Little Canada Road, St. Paul, MN 55117, (612) 483–6781. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with Ashland Oil, Inc., Ashland Petroleum Company Division, of Ashland, KY; Ralston Purina Company, of St. Louis, MO; Minnesota Diversified Products, Inc., of New Brighton, MN; and National Texture Corporation, of Minneapolis, MN.

MC 156500, filed May 3, 1982. Applicant: VANDCO, INCORPORATED, 1400 Division St., Marquette, MI 49855. Representative: Jere P. Stafford, (same address as applicant), (906) 228–6090. Transporting *such commodities* as are dealt in or used by grocery stores and food business houses, (a) between Minneapolis, MN, Kansas City, KS, Elk Grove Village, IL, Belleville, MI, Cincinnati, OH, Indianapolis, IN, and points in St. Louis County, MO, on the one hand, and, on the other, points in WI and the Upper Peninsular of MI, and (b) between Kansas City, KS, and Indianapolis, IN, on the one hand, and, on the other, Minneapolis, MN, and Elk Grove Village, IL, under continuing contract(s) with John Sexton & Company, of Chicago, IL.

MC 156821 (Sub-4), filed May 17, 1982. Applicant: PHOENIX TRUCKING CO., 6751 Tallmadge Road, Rootstown, OH 44272. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210, (703) 525–4050. Transporting *metal articles,* between points in NY, MI, IL, WV, IN, OH, PA, and Baltimore County, MD, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, KY, TN, and MS.

MC 157601 (Sub-2), filed May 17, 1982. Applicant: RICHARD HILL, d.b.a. HILL GRAIN CO., Route 1, Klondike, TX 75448. Representative: Timothy Mashburn, P.O. Box 2207, Austin, TX 78768–2207. Transporting *ores and minerals,* between points in Hunt, Fannin, Red River, Titus, Hopkins, Rains, Wood Van Zandt, Kaufman, Rockwall, Collin, Delta and Lamar Counties, TX, on the one hand, and, on the other, those points in OK on and south of a line beginning at the AR–OK State line and extending along Interstate Hwy 40 to junction U.S. Hwy 81, then along U.S. Hwy 81 to the OK–TX State line.

MC 159431, filed March 8, 1982, and previously noticed in the **Federal Register** issue of April 8, 1982. Applicant: MELVIN L. LYNCH, d.b.a. LYNCH MOVERS, 220 S. Main St., Wauconda, IL 60084. Representative: Donald S. Mullins, 1033 Graceland Ave., Des Plaines, IL 60016, (312) 298–1094. Transporting *furniture and fixtures, electrical machinery,* and (STCC Code 39) *miscellaneous products of manufacturing,* between points in the U.S. (except AK and HI), under continuing contract(s) with Gulbransen Co., Division of CBS Musical Instruments, of Deerfield, IL.

Note.—This republication clarifies the commodity description.

MC 160301, filed May 5, 1982. Applicant: TOPDRAW FREIGHT SYSTEM, INC., 3407 West Pershing Road, Chicago, IL 60632. Representative: Owen B. Katzman, 1828 L Street, NW, Suite 1111, Washington, DC 20036, (202) 822–8200. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except KS, ND, OK, and SD). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the applications for common control to team 1, room 6354.

MC 160950, filed May 14, 1982. Applicant: JAMES L. ANDRUS TRUCKING, P.O. Box 344, Mesquite, NV 89024. Representative: Douglas W. Dredge, 86 E. 1420 So., Farmington, UT 84025, (801) 825–9706. Transporting *soil amendments, shavings, and bark,* between points in the U.S., under continuing contract(s) with Kaibab Industries, of Phoenix, AZ.

MC 161971, filed May 11, 1982. Applicant: LAM-PIT TRUCK LINE, INC., 3 Milburn Avenue, Baldwin, NY 11510. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048, (212) 466–0220. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between points in the U.S., under continuing contract(s) with Lambro Industries, Inc., of Baldwin, NY.

MC 162001 filed May 14, 1982. Applicant: ACME PARCEL DELIVERY SERVICE, INC., 3016 South Ridgeland, Berwyn, IL 60402. Representative: Harold O. Orlofske, P.O. Box 366, Neenah, WI 54956, (414) 722–2848. Transporting *metal products and building materials,* between Chicago, IL, on the one hand, and, on the other, points in IN and WI.

MC 162011, filed May 14, 1982. Applicant: BOBBIE L. MCCOLLUM d.b.a. MCCOLLUM TRUCKING, Route 4, Box 245, Ellensburg, WA 98926. Representative: Bobbie L. McCollum, (same address as applicant), (509) 925–2445. Transporting *synthetic fire logs,* (1) between the port of entry on the International Boundary line between the U.S. and Canada, at Blaine, WA, and points in WA, OR, CA, ID, and MT; and (2) between points in King County, WA, and points in OR, CA, ID, and MT.

MC 162020, filed May 14, 1982. Applicant: 7 SEAS TRAVEL INC., 3801 N. University Drive, Sunrise, FL 33321. Representative: Lee A. Rosenkranz, 9470 Live Oak Place, Ft. Lauderdale, FL 33324, (305) 472–1987. As a broker at Ft. Lauderdale, FL, in arranging for the transportation of *passengers and their baggage,* in the same vehicle with passengers, beginning and ending at points in Dade, Broward and Palm Beach Counties, FL, and extending to points in the U.S. (except AK and HI).

MC 162030, filed May 17, 1982. Applicant: FRITZ AND NORM'S, INC., M–94, P.O. Box 198, Chatham, MI 49816. Representative: Alex J. Miller, 555 South Woodward Ave., Suite 512, Birmingham, MI 48011, (313) 647–3350. Transporting *petroleum and petroleum products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Norman Oil Company, Inc., of Chatham, MI, and Fritzler Oil Company, Inc., of Marquette, MI.

MC 162031, filed May 17, 1982. Applicant: GREAT LAKES EXPRESS, INC., Box 147, Farmington, MN 55024. Representative: James M. Christenson, 4444 IDS Center, 80 South Eight St., Minneapolis, MN 55402 (612)–339–4546. Transporting *concrete, concrete products and building materials,* between points in the U.S., under continuing contract(s) with North Star Concrete Company, of Mankato, MN.

Volume No. OP4–187

Decided: May 24, 1982.

By the Commission, Review Board Number 2, Members Carleton, Fisher and Williams.

FF–486 (Sub-2), filed May 19, 1982. Applicant: GULF FORWARDING, INC., P.O. Box 468, Biloxi, MS 39533. Representative: David Earl Tinker, 1000 Connecticut Ave., NW., Suite 1112, Washington, D.C. 20036 (202) 887–5868. As a *freight forwarder,* in connection with the transportation of *household goods, furniture, fixtures, unaccompanied baggage,* and *used automobiles,* between points in the U.S. (except AK).

MC 116676 (Sub-1), filed May 18, 1982. Applicant: WILLIAM SANTIAGO, 751 82nd St., Niagara Falls, NY 14304. Representative: Robert D. Gunderman, Can-Am Bldg., 101 Niagara St., Buffalo, NY 14202, (716) 954–5870. Transporting *passengers and their baggage,* in the same vehicle with passengers, limited to the transportation of not more than 14 passengers in any one vehicle, not including the driver, and not including children under 10 years of age who do not occupy a seat, between points in Erie, Niagara Counties, NY.

MC 120646 (Sub-34), filed May 17, 1982. Applicant: BRADLEY FREIGHT LINES, INC., P.O. Box 5875, Asheville, NC 28803. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., N.W., Washington, D.C. 20004 (202) 347–8862. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Henderson, Haywood, Buncumbe and Jackson Counties, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—Applicant intends to tack this authority with its presently authorized rights in MC-120646 (Sub 30X.)

MC 134800 (Sub-80), filed May 19, 1982. Applicant: B-D-R TRANSPORT, INC., P.O. Box 1277, Vernon Dr., Brattleboro, VT 05301. Representative: Edward T. Love, 4401 EW Hwy., Suite 404, Bethesda, MD 20814, (301) 986–9030. Transporting (1) *plumbing fittings and supplies,* between points in the U.S. (except AK and HI), under continuing contract(s) with Keeney Manufacturing Company, of Newington, CT, and (2) *maple syrup and syrup products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Coombs Maple Products, Inc., of Jacksonville, VT.

MC 143276 (Sub-40), filed May 17, 1982. Applicant: WEAVER TRANSPORTATION COMPANY, 184 N. Church Lane, Smyrna, GA 30080. Representative: Jack Weaver, (same address as applicant), (404) 794–7646. Transporting (1) *forest products,* (2) *lumber and wood products,* (3) *metal products,* (4) *clay, concrete, glass or stone products,* (5) *ores and minerals,* and (6) *building materials,* between points in AL, FL, GA, LA, MS, NC, SC, TN, and VA.

MC 153206 (Sub-3), filed May 18, 1982. Applicant: WORTH TRANSPORT COMPANY, 3100 North Summit St., Toledo, OH 43611. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215, (614) 224–3161. Transporting *machinery, chemicals and-related products, and petroleum, natural gas and their products,* between points in Walker County, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159836, filed December 23, 1981, previously noticed in the Federal Register issue of January 13, 1982, and republished this issue. Applicant: R. E. GREEN INC., Box 806, Three Forks, MT 59752. Representative: Ralph E. Green, (same address as applicant), (406) 285–6949. Transporting *irrigation equipment and building materials,* between points in Multnomah, Clackamas and Lane Counties, OR, and those in Spokane County, WA, on the one hand, and, on the other, points in Gallatin, Madison and Park Counties, MT.

Note.—The purpose of this republication is to correctly reflect the territorial description.

MC 162056, filed May 17, 1982. Applicant: BOSTEDER TRUCKING, INC., 4436 Clayton Rd., Hillside, IL 60162. Representative: Charles E. Dye, Swan Lake Village, Saddle Ridge #832, Portage, WI 53901, (608) 742–3579. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Yanmar Tractor (USA), Inc., of Bensenville, IL.

Volume No. OP5–118

Decided: May 24, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

FF-598, filed May 13, 1982. Applicant: DATA TRANSPORTATION CO., INC., 2311 Kruse Dr., San Jose, CA 95150. Representative: Alan F. Wohlstetter, 1700 K St., NW, Washington, DC 20006, (202) 833-8884. To operate as a *freight forwarder* arranging for the transportation of *general commodities* (except used household goods, unaccompanied baggage, used automobiles, classes A and B explosives, and commodities in bulk), between points in the U.S.

MC 18738 (Sub-69), filed February 16, 1982. Initially published in the Federal Register on March 3, 1982. Applicant: SIMS MOTOR TRANSPORT LINES, INC., 610 West 138th St., Riverdale, IL 60627. Representative: Carl L. Steiner, 29 South LaSalle St., Chicago, IL 60603, 312-236-9375. Transporting *clay, concrete, glass or stone products,* between points in Lawrence and Monroe Counties, IN, on the one hand, and, on the other, points in AL, AR, CO, CT, FL, GA, LA, MA, ME, MN, MS, NE, NC, ND, NH, NM, OK, RI, SC, SD, TX, and VT. Condition: Subject to the coincidental cancellation of the Certificate issued in this proceeding on April 29, 1982.

Note.—This application is republished to show Monroe County in lieu of Parke County, IN.

MC 80498 (Sub-14), filed May 14, 1982. Applicant: EARL C. SMITH, INC., 1720 Dove St., Port Huron, MI 48060. Representative: Ronald J. Mastej, 900 Guardian Bldg., Detroit, MI 48226, 313-963-3750. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk) between points in the U.S. under continuing contract(s) with Chrysler Corporation of Highland Park, MI.

MC 100449 (Sub-130), filed May 17, 1982. Applicant: MALLINGER TRUCK LINE, INC., 2100 North General Bruce Drive, Temple, TX 76501. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309, (515) 245-4300. Transporting *such commodities* as are dealt in by grocery, hardware or hospital supply businesses, between those points in the U.S. in and west of MI, OH, KY, TN, GA, and FL (except AK and HI).

MC 101619 (Sub-12), filed May 17, 1982. Applicant: HOVER TRUCKING CO., P.O. Box 758, 1431 So. 11th St., Niles, MI 49120. Representative: Paul D. Borghesani, 300 Communicana Bldg., 421 So. Second St., Elkhart, IN 46516, 219-293-3597. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in MI, IN, and Lake, Will, DuPage, Cook, McHenry, Kane, and Kendall Counties, IL, on the one hand, and, on the other, points in MI, IN, IL, OH, KY, TN, and WI.

MC 105159 (Sub-49), filed May 14, 1982. Applicant: KNUDSEN TRUCKING, INC., 1320 West Main St., Red Wing, MN 55068. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402, (612) 333-1341. Transporting *such commodities* as are dealt in or used by manufacturers of life jackets and outerwear, between points in MN, on the one hand, and, on the other, points in CT, IL, IN, MA, NJ, NY, and RI, under continuing contract(s) with Stearns Mfg. Co., of St. Cloud, MN.

MC 108449 (Sub-418), filed May 17, 1982. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Rd. C, St. Paul, MN 55113. Representative: W. A. Myllenbeck, (Same address as applicant), (612) 633-2661. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Dundee Cement Company of Clarksville, MO.

MC 114028 (Sub-42), filed May 20, 1982. Applicant: ROWLEY INTERSTATE TRANSPORTATION COMPANY, INC., 2010 Kerper Boulevard, Dubuque, IA 52001. Representative: Carl L. Steiner, 29 South LaSalle St., Chicago, IL 60603, (312) 236-9375. Transporting *bananas* between points in Broward County, FL, on the one hand, and, on the other, points in IL, IN, KY, MI, PA, VA, WV, and WI.

MC 126719 (Sub-8), filed May 14, 1982. Applicant: CARON TRANSPORT LTD., P.O. Box 3464, Station D, Edmonton, Alberta, Canada T5L 4J3. Representative: Charles A. Murray, Jr., 2822 Third Ave., N, Billings, MT 59101, (406) 252-4165. Transporting *chemicals and related products* between points in the U.S., under continuing contract(s) with Prairie Industrial Chemicals, Inc., and Saskatoon Chemicals, both of Saskatoon, Saskatchewan, Canada, Dow Chemical Canada Inc., of Ft. Saskatchewan, Alberta, Canada, Canada Colors & Chemicals Ltd., of Richmond, British Columbia, Canada, and Canadian Occidental Petroleum, Ltd., of North Vancouver, British Columbia, Canada.

MC 141318 (Sub-21), filed May 17, 1982. Applicant: WEATHER SHIELD TRANSPORTATION, LTD., P.O. Box LTD, Medford, WI 54451. Representative: Robert S. Lee, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, 612-333-1341. Transporting (1) *salt and salt products,* between points in the U.S. under continuing contract(s) with Cargill, Inc. of Minneapolis, MN, and (2) *salt and salt products, chemicals, seed,* and *such commodities* as are dealt in or used by manufacturers and distributors of turf maintenance and irrigation equipment, between points in the U.S. under continuing contract(s) with Reinders Brothers, Inc. of Elm Grove, IL.

MC 144449 (Sub-11), filed May 17, 1982. Applicant: A & A CONTRACT CARRIERS d.b.a. A & A MOVING & STORAGE CO., 2412 Blue Smoke Court South, Fort Worth, TX 76105. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103, (817) 337-4718. Transporting (1) *plastic and rubber products,* (2) *pulp, paper and related products,* (3) *packing materials,* and (4) *such commodities* as are used in the installation of the commodities in (1), (2), and (3) above, between points in the U.S., under continuing contract(s) with Sealed Air Corporation of Danbury, CT.

MC 146399 (Sub-3), filed May 17, 1982. Applicant: SERVICECRAFT DISTRIBUTION SYSTEMS, INC., 5650 Dolly Ave., Buena Park, CA 90620. Representative: Milton W. Flack, 8484 Wilshire Blvd., #840, Beverly Hills, CA 90211, (213) 655-3573. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Los Angeles and Orange Counties, CA, on the one hand, and, on the other, points in AZ, NV, NM, and TX.

MC 146898 (Sub-8), filed May 17, 1982. Applicant: MICKS SERVICE INC., 2146 Camanche Ave., P.O. Box 838, Clinton, IA 52732. Representative: Carl E. Munson, 469 Fischer Bldg., P.O. Box 796, Dubuque, IA 52001, 319-557-1320. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Clinton County, IA, on the one hand, and, on the other, Chicago, IL, and points in Rock Island County, IL.

MC 149199 (Sub-15), filed May 17, 1982. Applicant: FRONTIER EXPRESS, INCORPORATED, d.b.a. D & M TRANSPORTATION, Oklahoma City, OK 73109. Representative: G. Timothy Armstrong, 200 N. Choctaw, P.O. Box 1124, El Reno, OK 73036, (405) 262-1322. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Oklahoma City, OK, on the one hand, and, on the other, points in Comanche and Caddo Counties, OK.

Note.—Applicant intends to tack the requested authority with its existing regular route authority.

MC 149548 (Sub-2), filed May 14, 1982. Applicant: LAWRY AIR FREIGHT, INC., 16 Union Ave., Westfield, MA 01086. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103, 413–781–8205. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Hampden and Hampshire Counties, MA and Hartford County, CT, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 155138 (Sub-1), filed May 10, 1982. Applicant: KEN PULASKI d.b.a. KEN'S TRUCKING, 1524 East 12th St., Newton, KS 67114. Representative: Brad T. Murphree, 814 Century Plaza Bldg., Wichita, KS 67202, (316) 265–2634. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Harvey, McPherson, Reno, and Sedgwick Counties, KS.

MC 155529 (Sub-2), filed May 6, 1982. Applicant: G & D TRANSPORT, INC., P.O. Box 3754, 14763 Oyster Rd, Alliance, OH 44601. Representative: Philip B. Cochran, 50 West Broad St., Columbus, OH 43216, 614–464–4103. Transporting *such commodities* as are dealt in or used by manufacterers and distributors of *chemicals and related products, clay, concrete, glass or stone products, metal and metal products, plastic and plastic products* and *building materials*, between points in the U.S. (except AK and HI).

MC 157189 (Sub-1) filed May 17, 1982. Applicant: WALLACE RINGER d.b.a. RINGER OIL COMPANY, P.O. Box 188, Rush City, MN 55069. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603, Chicago, IL 60603, (312) 263–2306. Transporting *metal and plastic products* between points in Chisago County, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159239, filed April 23, 1982, published initally in the **Federal Register** on May 12, 1982. Applicant: ROYAL CHARTERS, LTD., 1810 Tray Lane, Kalamazoo, MI 49007. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933, 517–482–2400. Transporting *passengers and their baggage* in the same vehicle with passengers, in charter and special operations, beginning and ending in Kalamazoo County, MI and extending to points in the U.S. (except AK and HI).

Note.—This application is republished to show Kalamazoo County, MI in lieu of Kalamazoo, ML

MC 159579 (Sub-1) filed May 14, 1982. Applicant: SIMPSON'S CARRIER, INC., box 72, Rural Route, Plainview, NE 68769. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *building materials, metal products, and such commodities* as are dealt in or used by manufacturers and distributors of metal buildings, between St. Joseph, MO, Norfolk, NE, and points in Rock County, WI, and Labette County, KS, on the one hand, and, on the other, points in CO, IL, IA, KS, MN, MO, MT, NE, ND, SD, and WY.

MC 160628, filed May 14, 1982. Applicant: TITAN TRANSFER, INC., Amoco Truck Terminal—Rt. 7 River Rd., New Castle, DE 19720. Representative: Gerald K. Burns, 3308 Englewood Rd., Wilmington, DE 19810, (302) 575–3741. Transporting *building materials* and *clay, concrete, glass, or stone products*, between points in the U.S. (except AK and HI), under continuing contract(s) with IKO Products, of Edgemoor, DE.

MC 160709, filed May 7, 1982. Applicant: JAPAN TRAVELERS SERVICE, INC., 1100 Seventeenth St., NW., Suite 311, Washington, DC 20036. Representative: Barry R. Diamond, 805 King St., 4th Floor, Alexandria, VA 22314, 703–549–8010. Transporting *passengers and their baggage* in the same vehicle with passengers in special and charter operations, between points in VA, MD, PA, NJ, NY, WV, and DC.

MC 161889, filed May 7, 1982. Applicant: JOHNSON LEASING, INC., P.O. Box 107, Lynd, MN 56157. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424, (612) 927–8855. Transporting (1) *general commodities* (except classes A and B explosives and household goods), between points in Lyon County, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *metal products* between points in Dodge County, NE, on the one hand, and, on the other, points in MN, ND, and SD.

MC 161928, filed May 10, 1982. Applicant: BUDGET TOURS, INC., P.O. Box 8181, Atlanta, GA 30306. Representative: John P. Tucker, Jr., Suite 222, Lenox Towers, 3390 Peachtree Rd., NE., Atlanta, GA 30326, 404–231–3563. (1) Transporting *passengers and their baggage* in the same vehicle with passengers, in charter and special operations, beginning and ending at points in Clayton, Cobb, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett and Henry Counties, GA, and extending to points in the U.S., and (2) As a *broker* at Atlanta, GA, in arranging for the transportation by motor vehicle of *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, between points in GA, on the one hand, and, on the other, points in the U.S.

MC 161958, filed May 11, 1982. Applicant: TALBOT TOURS, INC., 1600 Willow St., Suite 102, San Jose, CA 95125. Representative: Serge V. Talbot (same address as applicant), 408–264–2040. As a *broker* at San Jose, CA, in arranging for the transportation of *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, between points in the U.S. (except AK and HI).

MC 161969, filed May 13, 1982. Applicant: GASPERINA NARDONE, RD #2 Box 321, Old Boston Road, Jenkins Township, PA 18641. Representative: Joseph A. Nardone, RD #2 Box 339, Old Boston Road, Jenkins Township, PA 18641, (717) 655–6148. To engage in operations, as a *broker*, at Jenkins Township, PA, in arranging for the transportation of *passengers and their baggage* in special and charter operations, beginning and ending at points in PA and extending to points in the U.S.

MC 161998, filed May 14, 1982. Applicant: CARPET EXPRESS, INC., 5314 South East Ave., Countryside, IL 60525. Representative: William D. Brejcha, 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601, 312–263–1600. Transporting *such commodities* as are dealt in or used by or distributed by wholesalers and retailers of carpets and textile mill products, between points in IL and those points in IN which are in the Chicago, IL commercial Zone, on the one hand, and, on the other, points in AL, GA, IL, IN, KY, and TN.

MC 162028, filed May 17, 1982. Applicant: STRUBE ENTERPRISES, INC., P.O. Box 932, Route 2, S/H 556 South Pittsburg, TX 75686. Representative: William R. Garrett, P.O. Box 636, S/H 77 East, Naples, TX 75568–0636, (214) 897–5611. Transporting *sand, rock and gravel*, between points in Howard, Miller, River, and Sevier Counties, AR, and Choctaw and McCurtain Counties, OK, on the one hand, and, on the other, points in Camp and Upshur Counties, TX, under continuing contract(s) with Norton Concrete Co., of Tyler, TX, and Pittsburg Sand & Gravel Co., of Pittsburg, TX.

MC 162079, filed May 18, 1982. Applicant: GRANITE CITY TRANSPORT, INC., P.O. Box 258, Sauk Rapids, MN 56379. Representative: Samuel Rubenstein, P.O. Box 5,

Minneapolis, MN 55440. (612) 542–1121. Transporting *fly ash and cement* between points in the U.S. (except AK and HI), under continuing contract(s) with Amcon Block, and Granite City Ready Mix, Inc., Both of St. Cloud, MN, and Watkins Redi-Mix Concrete, Inc., of Watkins, MN.

MC 162108, filed May 20, 1982. Applicant: A B LINES, INC., P.O. Box 6946, Rochester, MN 55901. Representative: Grant J. Merritt, 4444 IDS Center, 80 South Eighth St., Minneapolis, MN 55402, (612) 339–4546. Transporting *such commodities* as are used or dealt in by food business houses between points in the U.S. (except AK and HI), under continuing contract(s) with The Kroger Co., of Cincinnati, OH.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-14740 Filed 5-28-82; 8:45 am]

BILLING CODE 7035-01-M

International Communication Agency

Agency Forms Under Review by Office of Management and Budget

AGENCY: International Communication Media Staff, Television and Film Service, ICA.

ACTION: Notice.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the International Communication Agency has submitted to OMB for clearance a proposed revision to consolidate five currently approved forms into one, IAP–17, Application for Certificate of International Educational Character.

The application forms being consolidated are IAP–1, Application for Certificate of International Educational Character—Motion Picture (OMB number 3116–0002); IAP–2 * * * Recording (OMB number 3116–0003); IAP–3 * * * Filmstrips, Slides, Transparancies (OMB number 3116–0004); IAP–8 * * * Wall Chart, Map, and Poster (OMB number 3116–0005); and IAP–15 * * * Model (OMB number 3116–0007).

The application form is supplied on request to United States producers and distributors of educational, scientific, and cultural visual and auditory materials who have interest in exporting their materials abroad. The Agency certifies such qualified materials as of international educational character under the provisions of Pub. L. 89–634 and related administrative regulations published in the Code of Federal Regulations, Title 22—Part 502—World-Wide Free Flow (Export-Import of Audiovisual Materials.)

3,000 responses annually requiring 750 hours; not applicable under 3504(h) of Pub. L. 96–511.

Copies may be obtained from the Agency Clearance Officer, Mary Jane Winnett, Office of Management Plans/Analysis/Directives, Washington, D.C. 20547 (202) 724–0403. Comments should be sent to the Agency Clearance Officer and to Mr. David Reed, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 (202) 395–4814. Comments should be received within 30 days.

Mary Jane Winnett,

Management Assistant.

[FR Doc. 82-14741 Filed 5-28-82; 8:45 am]

BILLING CODE 8155-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Bureau for Private Enterprise; Notice Offering Financing Private Sector Enterprise and Intermediate Credit Lending Institutions in Developing Countries

I. The United States Agency for International Development (AID) Bureau for Private Enterprise (PRE) announces the establishment of a special program conducted pursuant to authority contained in the Foreign Assistance Act of 1961, as amended, to provide limited financing and other supporting measures for private investment for development projects in developing countries. Its objective is to promote the establishment and growth of the private sector and profit-making enterprises engaged in production, manufacturing, distribution, and services related to development activities in those countries. AID will make loans directly or in the form of credits for on-lending by indigenous development and financial, leasing and/or venture capital enterprises and provide other facilitations under the criteria outlined in this announcement for the establishment and expansion of such enterprises. The program will be implemented by AID's Bureau for Private Enterprise (PRE).

AID/PRE will receive applications directly from financial institutions and other intermediaries and from project sponsors who are direct investors in development projects for which loan financing is sought. If sponsors wish a third party to assist in the detailed financial, managerial, and technical matters in feasibility presentation required for financing approval, AID/PRE will consider requests for such assistance on a case-by-case basis, in an amount up to 1% of the total project financial requirements or $50,000, whichever is less, but never more than 50% of total feasibility cost.

II. Criteria and Requirements

A. Eligibility Criteria

AID/PRE is seeking projects to consider for financing which meet the following conditions:

1. *Target Countries:* Projects to be located in one of the ten following countries will be given priority:

Egypt
Kenya
Ivory Coast
Zimbabwe
Jamaica
Costa Rica
Pakistan
Thailand
Indonesia
Sri Lanka

Proposals for projects in other countries may be considerd where there is a viable private sector enjoying support by the government and where there is a bilateral AID program.

2. *Eligibility of Projects:* AID/PRE will only consider ventures with substantial local ownership. Sponsors (and their agents) must be either host country or U.S. firms or citizens. Minority participation by host government parastatal entities is not precluded. AID/PRE is particularly interested in utilizing the mechanism of a line of credit to an indigenous development and/or leasing, venture capital or other financial enterprise to permit access by the small/medium sized entrepreneurial venture. Priority consideration will be given to businesses within the agricultural sector.

3. *Development Impact:* As well as meeting feasibility and prospective venture—profitability requirements, projects must have a substantial development impact for example by:

Generating net employment opportunities;

Earning net foreign exchange;

Developing managerial, technical or other skills; or

Transferring technologies.

The proposal should document, in as much detail as possible, the likely development impacts of the projects.

B. Application Requirements

If the sponsor can demonstrate that it meets these criteria, a business plan should be submitted to AID's Bureau for

Private Enterprise for its initial consideration. At a minimum, the plan should include:

Project Description

1. Brief background, description, and present status of the project.
2. If established firm: company name, ownership, management, joint venture agreement/articles of incorporation/ other legal arrangements; and brief history and background of firm and owners.
3. If proposed venture: proposed legal arrangement, name, ownership, management, source of funds, and experience with indigenous or foreign enterprises.

Financing Requirements (From all Sources)

1. Total costs (broken out by project utilization).
2. Proposed financial structure including source of funds and anticipated terms, and critical factors affecting investment opportunity.

Technical Plan

1. Describe technology(ies) to be used; its appropriateness and feasibility and source(s).
2. Ease of incorporating the technology(ies) given existing levels of management/technical skills.
3. Advisory assistance/training requirements and how to be provided.
4. Source of raw materials, equipment and label.
5. Location in relation to markets and suppliers.
6. Relationship between activity and production.

Marketing Plan

1. Market and customer profile.
2. Transportation and distribution.
3. Pricing.
4. Competition.

Financial Plan

1. Source/application of funds statement (five years).
2. Projected pro forma income statement and balance sheet (five years).
3. Projected cash flow analysis and/or rate of return.

Legal Requirements

1. Legal impediments/requirements which will impact project success.
2. Import/export duties.
3. Tax legislation (e.g., dividends and profit, interest payments).
4. Foreign exchange restrictions/ regulations on repatriation of dividends, profits, interest and principal repayments and others.
5. Ownership/management requirements.
6. Other barriers to free market private enterprise activities.

Management Plan

1. Structure.
2. Skills (existing and needed).
3. Training requirements.

Implementation Plan

As much detail as possible should be given under each of the major topic areas described above. Any other factors or commitments critical to project success also should be decribed.

III. Terms and Conditions for Financing and Other Facilitation

AID has flexibility in negotiating terms and conditions depending upon the nature, risk level, and developmental impact of any project. Some general guidelines follow:

Amount of Financing: Up to $2.5 million with emphasis in range $250,000 to $1.0 million but not more than 25% of total project cost.

AID/PRE is particularly interested in solving intermediate and long-term fixed rate local capital market deficiencies.

Term—15 years maximum; grace period for principal negotiable.

Interest—Fixed rates will be established to emphasize that project can achieve free market competitive profitability.

Collateral—No fixed or minimum requirements.

Principal Repayment—Schedule negotiable, generally on quarterly or semi-annual basis.

Use of Loan Proceeds—Loans may be used to capitalize a new enterprise and/ or expansion of an existing enterprise.

Procurement—The intended country sources of goods and services used in proposed projects will be a consideration in determining eligibility for AID loans.

Inquiries and project proposals should be submitted to: Agency for International Development, Bureau for Private Enterprise, Office of Investment, Department of State, Room 5893, Washington, DC 20523.

Dated: May 20, 1982.

Elise R. W. du Pont,

Assistant Administrator Bureau for Private Enterprise.

[FR Doc. 82-14750 Filed 5-28-82; 9:45 am]

BILLING CODE 6116-01-M

Bureau for Private Enterprise; Notice Offering Financing Private Sector Agribusiness Enterprises in Developing Countries

I. The United States Agency for International Development (AID) Bureau for Private Enterprise (PRE) announces the establishment of a priority program conducted pursuant to authority contained in the Foreign Assistance Act of 1961, as amended, to support private sector investment and transfer of expertise in agribusiness and related business activities in selected developing countries. The phrase agribusiness will be defined in the broadest context including such related business activities as agricultural equipment leasing.

AID will make loans and provide other facilitation under the criteria in this announcement for the establishment and expansion of such enterprises. The program will be implemented by AID's Bureau for Private Enterprise (PRE).

AID/PRE will receive applications directly from project sponsors who are direct investors as well as from financial intermediaries involved in the project for which financing is sought. If sponsors wish a third party to assist in the detailed financial, managerial, and technical feasibility presentation required for financing approval, AID/ PRE will consider such assistance on a case-by-case basis, in an amount up to 1% of the total project financial requirements or $50,000 whichever is less, but never more than 50% of total feasibility cost.

II. Criteria and Requirements

A. *Eligibility Criteria:* AID/PRE is seeking projects to consider for financing which meet the following conditions:

1. *Target Countries:* Projects located in one of the ten following countries will be given priority:
Egypt
Kenya
Ivory Coast
Zimbabwe
Jamaica
Costa Rica
Pakistan
Thailand
Indonesia
Sri Lanka

Proposals for projects in other developing countries may be considered where there is a viable private sector enjoying support by the government and where there is a bilateral AID program.

2. *Eligibility of Projects:* AID/PRE will only consider ventures with substantial local ownership. Minority participation

by host government parastatal entities is not precluded.

3. *Development Impact:* As well as meeting feasibility and prospective venture—profitability requirements, projects must have a substantial development impact for example by:

Generating net employment opportunities;

Earning net foreign exchange;

Developing managerial, technical or other skills; or

Transferring technologies.

The proposal should document, in as much detail as possible, the likely development impacts of the projects.

B. Application Requirements (Investment Opportunity Proposal)

The following outlines preliminary project information required by AID/PRE to form an initial judgment concerning interest in providing financing.

Project Description

1. Brief background, description, and present status of the project.

2. If established firm: company name, ownership, management, joint venture agreement/articles of incorporation/other legal arrangements; and brief history and background of firm and owners.

3. If proposed venture: proposed legal arrangement, name, ownership, management, source of funds, and experience with indigenous or foreign enterprises.

Financing Requirements (From All Sources)

1. Total costs (broken out by project utilization).

2. Proposed financial structure including source of funds and anticipated terms, and critical factors affecting investment opportunity.

Technical Plan

1. Describe technology(ies) to be used; its appropriateness and feasibility and source(s).

2. Ease of incorporating the technology(ies) given existing levels of management/technical skills.

3. Advisory assistance/training requirements and how to be provided.

4. Source of raw materials, equipment and labor.

5. Location in relation to markets and suppliers.

6. Relationship between activity and production.

Marketing Plan

1. Market and customer profile.

2. Transportation and distribution.

3. Pricing.

4. Competition.

Financial Plan

1. Source/application of funds statement (five years).

2. Projected pro forma income statment and balance sheet (five years).

3. Projected cash flow analysis and/or rate of return.

Legal Requirements

1. Legal impediments/requirements which will impact project success.

2. Import/export duties.

3. Tax legislation (e.g., dividends and profit, interest payments).

4. Foreign exchange restrictions/regulations on repatriation of dividends, profits, interest and princpal repayments and others.

5. Ownership/management requirements.

6. Other barriers to free market private enterprise activities.

Management Plan

1. Structure.

2. Skills (existing and needed).

3. Training requirements.

Implementation Plan

As much detail as possible should be given under each of the major topic areas described above. Any other factors or commitments critical to project success also should be described.

III. Terms and Conditions for Financing and Other Facilitation

AID has flexibility in negotiating terms and conditions depending upon the nature, risk level, and developmental impact of any project. Some general guidelines follow:

Amount of Financing: Up to $2.5 million with emphasis in range $250,000 to $1.0 million but not more than 25% of total project cost.

AID/PRE is particularly interested in solving intermediate and long-term fixed rate local capital market deficiencies.

Term—15 years maximum; grace period for principal negotiable.

Interest—Fixed rates will be established to emphasize that project can achieve free market competitive profitability

Collateral—No fixed or minimum requirements.

Principal Repayment—Schedule negotiable, generally on quarterly or semi-annual basis.

Use of Loan Proceeds—Loans may be used to capitalize a new enterprise and/or expanded an existing enterprise.

Procurement—The intended country sources of goods and services used in proposed projects will be a consideration in determining eligibility for AID loans.

Submissions should be made to: Office of Investment, Bureau of Private Enterprise, Agency for International Development, Department of State, Room 5893, Washington, DC 20523.

Dated: May 20, 1982

Elise R. W. du Pont,

Assistant Administrator, Bureau of Private Enterprise.

[FR Doc 82-14790 Filed 5-28-82; 8:45 am]

BILLING CODE 4110-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Buprenorphine

May 24, 1982.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Authorization to import buprenorphine, a basic class of controlled substances listed in schedule II.

By notice dated December 28, 1981, and published in the **Federal Register** on January 5, 1982 (47 FR 362), Sterling Drug, Inc., 1778 North Centennial Drive, McPherson, Kansas 67460, made application to the Drug Enforcement Administration to be registered as an importer of buprenorphine (9064), a basic class of controlled substances listed in Schedule II.

No comments or objections to the above application for registration were received. Therefore, pursuant to section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations § 1311.42, the above firm was granted registration as an importer of the basic class of controlled substances listed above by notice dated February 24, 1982, and published in the **Federal Register** on March 2, 1982 (47 FR 8894).

The above-registered importer has now made application for an import permit to import buprenorphine. The Drug Enforcement Administration has reviewed the requirements for importation of Schedule II controlled substances under section 1002(a) of the Controlled Substances Import and Export Act. It has been determined that there is no domestic supply of buprenorphine available in the United States and that there are no applicants for registration as a bulk manufacturer of buprenorphine. Therefore, pursuant to his authority under section 1002(a) of the Controlled Substances Import and

Export Act (21 U.S.C. 952) and § 1312.13 of the Code of Federal Regulations (21 CFR 1312.13), the Acting Administrator has determined to allow the importation of buprenorphine effective upon the date of publication of this notice (June 1, 1982).

Dated: May 25, 1982.

Francis M. Mullen, Jr.,

Acting Administrator.

[FR Doc. 82-14740 Filed 5-28-82; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period May 17, 1982–May 21, 1982.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–12,832; North Hoquiam Cedar Products, Inc., Hoquiam, WA
TA–W–13,056; ICL, Inc., Utica, NY
TA–W–12,625; Linden Manufacturing Co., Womelsdorf, PA
TA–W–12,585; G.C. Fashions, Inc., Glen Cove, NY
TA–W–12,481; Ella Coat Co., Jersey City, NJ
TA–W–12,419; Tiara Coat Fashions, West New York, NJ
TA–W–12,688; Sellner Manufacturing Co., Faribault, MN
TA–W–12,480; C.A.M. Hoboken, NJ
TA–W–12,605; G.T.E. Products Corp., Halogen Dept., Hillsboro, NH
TA–W–12,362; Leather Sports, Inc., New York, NY
TA–W–12,026; RCR Sportswear, Inc. Passaic, NJ
TA–W–12,075; M.C.S. Fashions, Inc., Hialeah, FL
TA–W–12,488; Westclox U.S., Yadkinville, NC
TA–W–12,429; Italcraft, Inc., Hoboken, NJ
TA–W–12,707; G.T.E. Products (Formerly G.T.E. Sylvania), Circuit Products Div., Muncy, PA
TA–W–12,416; Pearl, Hobcken, NJ
TA–W–12,217; Midland Steel Products Co., Cleveland, OH
TA–W–12,581; Burlington Industrial Fabrics Co., Kernersville, NC
TA–W–12,430; Jersey Made Fashions, Inc., Hoboken, NJ
TA–W–12,777; Knudsen Pole Co., Shelton, WA
TA–W–12,756; J. F. McElwain Co., M. Factory, Athol, MA
TA–W–12,195; Bozak, Inc., South Norwalk, CT
TA–W–12,623; Elton Fashions, Passaic, NJ
TA–W–12,478; Rosalba Coat Co., Inc., Hoboken, NJ
TA–W–12,266; Scott & Fetzer Co., France Div., Westlake, OH
TA–W–12,500; Mold Masters Co., Imlay City, MO
TA–W–12,661; Huron Forge & Machine Co., Detroit, MI
TA–W–11,851; The Firestone Tire & Rubber Co., Firestone Tire Co. (U.S.), Memphis, TN
TA–W–11,918; Chicago Pneumatic Tool Co., Utica, NY
TA–W–11,957; Advance Glove Manufacturing Co., Detroit, MI
TA–W–12,294; Grafton Apparel Manufacturing Co., Inc., Grafton, W.VA.
TA–W–12,649; Beauti-Full Women, Inc., New York, NY
TA–W–12,651; R & S Apparel Contractors, Inc., New York, NY
TA–W–12,269; Mitchell Industries, Inc., Philadelphia, PA
TA–W–12,483; Manny's Outerwear, Inc., Elizabeth, NJ
TA–W–12,338; Standard Products Co., Inc., Campbell Plastics Div., Schenectady, NY
TA–W–12,423; Venus Coat Co., Jersey City, NJ
TA–W–12,666; Western Electric Co., Inc., Kansas City Works, Lee's Summit, MO
TA–W–12,636; Whitley Products, Inc., Pierceton, IN
TA–W–12,411; Venus Creations, Inc., New York, NY
TA–W–12,412; Venus Textile Manufacturing Co., Social Circle, GA

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–12,578; Milwaukee Tool & Equipment Co., Inc., Milwaukee, WI
TA–W–12,923; Middletown Leather Co., Hackettstown, NJ
TA–W–13,007; Coos Head Timber Co., Bunker Hill Sawmill, Coos Bay, OR
TA–W–12,703; Warrior Asphalt Co., Tuscaloosa, AL
TA–W–12,438; Bernardi Fashions, Inc., Jersey City, NJ
TA–W–13,108; Lukens Steel Co., Coatesville, PA
TA–W–12,687; Mayflower Coat Manufacturing Co., Brockton, MA
TA–W–12,759; Wayne Production Broaching Co., Morenci, MI
TA–W–12,684; Keds Corp., Lawrence, MA
TA–W–12,646; Watertown Industries, Inc., Watertown, TN
TA–W–12,580; A.C. Williams Co., Delaware Casting Div., Delaware, OH
TA–W–12,568; Uniroyal, Inc., Naugatuck, CT

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–13,105; U.S. Steel Corp., U.S.S. Fabrication Div., Ambridge, PA

Aggregate U.S. Imports of fabricated structual steel did not increase as required for certification.

TA–W–12,199; Hyster Co., Portland, OR

The investigation revealed that criterion (3) has not been met. Imports did not increase as required for certification.

TA–W–12,641; Park Silk Co., Inc., Lebanon, PA

The investigation revealed that criterion (3) has not been met. Imports did not increase as required for certification.

TA–W–12,767; Park Silk Co., Inc., New York, NY

The investigation revealed that criterion (3) has not been met. Imports did not increase as required for certification.

TA–W–12,446; Best Coat Co., Inc., Roxbury, MA

The investigation revealed that criterion (3) has not been met. Imports did not increase as required for certification.

TA-W-12,758; S & M Leather Coat Co., Trenton, NJ

The investigation revealed that criterion (3) has not been met. Imports did not increase as required for certification.

TA-W-12,559; ARP Instruments, Inc., Lexington, MA

The investigation revealed that criterion (3) has not been met. Imports did not increase as required for certification.

TA-W-12,720; CPC International, Inc., Corn Products Div., Pekin, IL

The investigation revealed that criterion (3) has not been met. Imports of corn sweeteners were neglible during the period under investigation.

TA-W-12,738; IAI Co., West Point, PA

The workers did not produce an article within the meaning of the Trade Act of 1974.

TA-W-12,601; Alpine Togs, Inc., New York, NY

The investigation revealed that criterion (2) has not been met. Sales or production, or both, did not decrease as required for certification.

TA-W-12,435; Al Kamen Coat Co., Inc., Hoboken, NJ

The investigation revealed that criterion (2) has not been met. Sales or production, or both, of the firm have not decreased absolutely as required for certification.

Affirmative Determinations

TA-W-12,061; Coats Plus, Inc., Hoboken, NJ

A certification was issued in response to a petition received on January 6, 1981 covering all workers separated on or after January 2, 1980.

TA-W-12,443; Russell Taylor, Inc., Secaucus, NJ

A certification was issued in response to a petition received on March 16, 1981 covering all workers separated on or after February 27, 1981.

TA-W-12,045; Reid Stevens, Commack, NY

A certification was issued in response to a petition received on January 2, 1981 covering all workers separated on or after November 1, 1980 and before April 1, 1981.

TA-W-12,315; Samsonite Corp., Denver, CO

A certification was issued in response to a petition received on February 9, 1981 covering all workers separated on or after February 2, 1980

TA-W-12,616; Toni Totes of Vermont, Inc., South Londonderry, VT

A certification was issued in response to a petition received on April 4, 1981 covering all workers separated on or after April 2, 1980 and before May 1, 1981.

TA-W-12,708; G.T.E. Products Corp., (Formerly G.T.E. Sylvania), Circuit Products Div., Williamsport, PA

A certification was issued in response to a petition received on May 18, 1981 covering all workers separated on or after October 15, 1980.

TA-W-12,572; Fox Shoe Manufacturing Corp., New York, NY

A certification was issued in response to a petition received on March 31, 1981 covering all workers separated on or after March 7, 1981.

TA-W-12,108; Mil Garment Co., Inc., Red Bank, NJ

A certification was issued in response to a petition received on January 13, 1981 covering all workers separated on or after May 17, 1980 and before December 1, 1980.

I hereby certify that the aforementioned determinations were issued during the period May 17, 1982–May 21, 1982. Copies of these determinations are available for inspection in Room 10332, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: May 25, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-14774 Filed 5-28-82; 8:45 am]

BILLING CODE 4510-28-M

Occupational Safety and Health Administration

[V-82-3]

Dow Chemical USA; Variance and Interim Order

AGENCY: Occupational Safety and Health Administration, Labor.

ACTIONS: (1) Notice of application for variance and interim order;
(2) Grant of interim order

SUMMARY: This notice announces the application of Dow Chemical USA for a variance and interim order pending a decision on the application for a variance from the standard prescribed in 29 CFR 1910.304(f)(6) (i) and (ii) concerning electrical grounding for fixed equipment.

It also announces the granting of an interim order until a decision is rendered on the application for variance.

DATES: The effective date of the interim order is June 1, 1982. The last date for interested persons to submit comments is July 1, 1982. The last date for affected employers and employees to request a hearing on the application is July 1, 1982.

ADDRESSES: Send comments or requests for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N3662, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Mr. James J. Concannon, Director, Office of Variance Determination, at the above address, Telephone: (202) 523-7183, or the following Regional and Area Offices.

Regional Offices

U.S. Department of Labor, OSHA, 1375 Peachtree Street, N.E., Suite 587, Atlanta, Georgia 30367
U.S. Department of Labor, OSHA, 32nd Floor, Room 3244, 230 South Dearborn Street, Chicago, Illinois 60604
U.S. Department of Labor, OSHA, 555 Griffin Square Building, Room 602, Dallas, Texas 75202
U.S. Department of Labor, OSHA, 911 Walnut Street, Room 406, Kansas City, Missouri 64128

Area Offices

U.S. Department of Labor, OSHA, Building 10, Suite 33, LaVista Perimeter Office Park, Tucker, Georgia 30084
U.S. Department of Labor, OSHA, Federal Office Building, Room 734, 234 North Summit Street, Toledo, Ohio 43604
U.S. Department of Labor, OSHA, Federal Office Building, Room 634, 200 North High Street, Columbus, Ohio 43215
U.S. Department of Labor, OSHA, Federal Office Building, Room 4028, 550 Main Street, Cincinnati, Ohio 45202
U.S. Department of Labor, OSHA, 1400 Torrence Avenue, 2nd Floor, Calumet City, Illinois 60409
U.S. Department of Labor, OSHA, 2320 LaBranch Street, Room 2118, Houston, Texas 77004
U.S. Department of Labor, OSHA, West Mark Building, Suite 212, 4120 West Markham, Little Rock, Arkansas 72205
U.S. Department of Labor, OSHA, Hoover Annex, Suite 200, 2156 Wooddale Boulevard, Baton Rouge, Louisiana 70806

U.S. Department of Labor, OSHA, 1150 Grand Avenue, 6th Floor, 12 Grand Building, Kansas City, Missouri 64106.

Notice of Application

Notice is hereby given that Dow Chemical USA, An operating Unit of the Dow Chemical Company, 2020 Dow Center, Midland, Michigan 48640, has made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance, and interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1910.304(f)(6)(i) and (ii) concerning electrical grounding for fixed equipment.

The addresses of the places of employment that will be affected by the application area as follows:

Texas Division with plants at Freeport, Texas; Oyster Creek Division with plants at Freeport, Texas and Russellville, Arkansas; Louisiana Division located at Plaquemine, Louisiana; Eastern Division with facilities at Dalton, Georgia, Findlay, Ohio, Granville, Ohio, Joliet, Illinois, Hebron, Ohio, Hanging Rock, Ohio, Magnolia, Arkansas and Riverside, Missouri; (herein collectively called "plant sites").

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by § 1910.304(f)(6)(i) and (ii) which states in part that non-current-carrying metal parts of fixed equipment shall be grounded by an equipment grounding conductor which is contained within the same raceway, cable, or cord, or runs with or encloses the circuit conductors.

The applicant contends that its grounding techniques provide (respecting safety from electrical shock hazards) employment and places of employment for employees that are as safe and healthful as would be provided by the requirements of the standard from which the variance is sought. This is because equipment grounding conductors are connected directly to adjacent ground mats consisting of interconnected cables, reinforcing steel and grounding rods instead of running these conductors back to the power source in close proximity to the circuit phase conductors and then grounding them at that point. (The applicant has submitted a complete description of its grounding method.) In actual operating experience, the applicant has found only insignificant impedance differences between this system and a system whereby the earth and a buried ground mat are used as the equipment grounding conductor. A key section of the OSHA electrical standard appears to be based on ensuringthat heavy fault currents will cause the feeder circuit breakers to trip. The applicant contends that for their integrated chemical process plants, they cannot operate safely with this type of system for isolating fault currents.

The applicant states that its plants are typically large installations with several different types of plants producing wide varities of industrial chemicals. At their largest installations (Texas and Louisiana Divisions), more than 100 different plants are involved. In many cases, they generate and distribute their own electrical power to these plants. These plants are intricately interconnected such that the product in one plant becomes the raw material for the next plant. Most of these are large plants which produce thousands of pounds per hour of products. In the event of electrical fault at some point in one of these individual plants, it is critical that the problem be localized and then shutdown only that particular piece of equipment or plant. If allowed to cascade throughout the whole system, there would be great hazard to the employees because of disrupted processes involving sensitive or dangerous chemical compounds or products and great economic loss due to unnecessary plant shutdowns. The applicant states that "these are the fundamental reasons why we have designed our plant grounding systems as we have—maximum worker and plant safety and efficient plant operations." With resistance grounded "y" systems and ungrounded delta systems, heavy fault currents are not needed for fault protection. Other means, such as relaying or alarms are used to provide protection.

The applicant further states that its system is certainly equivalent to OSHA's and, in fact, superior to it, particularly where electrolytic cells are in the surrounding area. When going from one side of an electrolytic cell line to another, the grounding potential may change due to the direct current. If a ground conductor is carried through the area of an electrolytic cell for several hundred feet, a difference of only 5–10 volts would cause a current to flow that could be excessive. This could have the potential to destroy the ground wire or start a fire and thereby present the increased threat of worker injury. Grounds installed by the ground mat system are exposed and visible for periodic inspection. These grounds are inspected periodically to ensure that the integrity is maintained.

The applicant strongly believes that its system is superior to that required by the standard that even if it was required to retrofit its plant sites (at a very considerable cost in time and dollars), it would not scrap its existing time-tested proven method of grounding by the buried ground mat system. Rather, the plants would have two systems of grounding, at an immense additional cost, with no demonstrable increase in worker safety. The applicant has been using the ground mat system of grounding for over 30 years without the ground wire returned to the source and has experienced absolutely no difficulty nor personnel injury due to a grounding failure or fault during this time.

Grant of Interim Order

It appears from the application for a variance and interim order and from the evidence submitted by the applicant that, as required by section 6(d) of the Act, DOW CHEMICAL USA will provide to the affected employees a place of employment as safe as that which would be provided if the applicant complied with 29 CFR 1910.304(f)(6)(i) and (ii). It further appears that an interim order is necessary to prevent undue hardship to the applicant and its employees pending a decision on the variance. Therefore it is ordered, pursuant to the authority in section 6(d) of the Occupational Safety and Health Act of 1970, in 29 CFR 1905.11(c) and in Secretary of Labor's Order No. 8–76 (41 FR 25059), that DOW CHEMICAL USA be, and it is hereby, authorized to use the electrical grounding method described in its application at the plant sites listed above in lieu of complying with 29 CFR 1910.304(f)(6)(i) and (ii). Additionally, the applicant shall agree to allow OSHA to inspect its premises in connection with this variance application and this interim order. All other provisions of the electrical standard are unaffected by this order and therefore must be complied with in conjunction with the terms of this order. DOW CHEMICAL USA shall give notice of this interim order to employees affected thereby by the same means required to be used to inform them of the application for a variance.

All interested persons, including employers and employees who believe they would be affected by the grant or denial of the application for variance, are invited to submit written data, views, and arguments relating to the pertinent application no later than July 1, 1982. In addition employers and employees who believe they would be affected by the grant or denial of the variance may request a hearing on the application no later than July 1, 1982, in conformance with the requirements of 29 CFR 1905.15. Submission of written comments and request for a hearing should be in quadruplicate, and must be addressed to the Office of Variance Determination at the above address.

The Assistant Secretary may revoke this order at any time if the applicant does not comply with any requirement of the order or the relevant standards, or if other information indicates that revocation of the interim order is warranted. Unless revoked, the interim order will remain in effect until a decision is made on the application for variance.

Signed at Washington, D.C. this 26th day of May, 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82-14775 Filed 5-28-82; 8:45 am]

BILLING CODE 4510-26-M

[V-82-2]

PACECO, Inc.; Application for Variance

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice of application for variance.

SUMMARY: This notice announces the application of PACECO, Inc. for a variance from the standard prescribed in 29 CFR 1910.107(d)(9) concerning spray finishing operations, air exhaust requirements.

DATES: The last date for interested persons to submit comments is July 1, 1982. The last date for affected employers and employees to request a hearing on the application is July 1, 1982.

ADDRESSES: Send comments or requests for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N3662, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Mr. James Concannon, Director, Office of Variance Determination, at the above address, Telephone: (202) 523-7183 or the following Regional and Area Offices:

U.S. Department of Labor OSHA, 1375 Peachtree Street NE., Suite 587, Atlanta, Georgia 30367

U.S. Department of Labor, OSHA, Federal Building, Suite 1445, 100 West Capital Street, Jackson, Mississippi 39201.

Notice of Application

Notice is hereby given that PACECO, Inc., Post Office Box 3400, Gulfport, Mississippi 39503-1400 has made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance from the standards prescribed in 29 CFR 1910.107(d)(9) concerning spray finishing operations, air exhaust requirements.

The address of the place of employment that will be affected by the application is as follows: PACECO Inc., West Seaway Access Road, Gulfport, Mississippi.

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regardless the merits of the application, the applicant contends that it is providing a place of employment as safe as that requested by § 1910.107(d)(9) which states, in part, "Air exhausted from spray operations shall not be recirculated."

The applicant contends that the variance is necessary to minimize the costs involved with handling and conditioning the large quantities of air required to ventilate the spray room and, further, that the proposed recirculation system will provide a place of employment as safe and healthful as that requested by the standard.

The applicant states that its processing unit includes three major rooms in which processing will be performed. These are a receiving area and machine blast room, a manual blast room, and a paint spray and cure room.

The receiving area and machine blast rooms contain an area for placement of fabrications and assemblies and a blasting machine.

The manual blast room contains equipment capable of manually blasting the steel assemblies and is temperature-humidity controlled. Manual blasting is performed continuously prior to the work batch being moved to the paint spray and cure room.

The paint spray and cure room is also temperature-humidity controlled. The assemblies are painted by four employees using air spray equipment, and cured after painting, and before removal from the room.

The applicant contends that employees will be in the paint spray and cure room only during painting operations. During curing this area will be essentially unoccupied.

The applicant states that the processing unit will be capable of processing, during an eight hour work period, one carload (80-foot standard-gauge railroad car) of randomly selected steel parts and assemblies. A single piece, however, shall neither exceed (1) 60 tons in weight, nor (2) the dimensional limitations of the blast machine. The approximate processing times are as follows:

Room 1, Dry and Machine Blast—0.2–0.5 hrs.

Room 2, Manual Airblast, Touch Up—1 hr.

Room 3, Paint—2.5 hrs.

Room 3, Cure (first coat)—4–5 hrs.

The applicant further contends that the processing unit is designed to comply with all building codes and all applicable OSHA, NFPA and EPA regulations except the portions of 29 CFR 1910.107(d)(9) regarding recirculated air in the paint spray and cure room.

The applicant states that the working area of the paint and cure room is approximately 45 feet wide, 44 feet high and 148 feet long. Double wall and door construction at each end provides the supply and return air plenums. The recirculated and makeup air will be handled in the ceiling plenum. During painting the air will be pulled across the assemblies at a rate of at least 100 feet per minute. Conditioned makeup air will be provided to maintain adequate ventilation, temperature and humidity control. The exterior doors and walls are solid and airtight. The south interior door is made of perforated panel through which air is supplied to the room from floor to ceiling and wall to wall. The north interior wall is a checker board of dry filters, floor to roof and wall to wall.

Two axial flow exhaust fans are located in the north plenum to exhaust to the atmosphere 32,000 CFM each. The ceiling plenum serves as fan room and supply duct for the south (supply air) plenum. There are four recirculating axial flow fans located in the ceiling plenum, each with a rated capacity of 65,200 CFM. Outside air, as needed for dilution temperature and humidity control, is drawn through a makeup air unit. There is a mix of 64,000 CFM of

conditioned outside air with 196,800 CFM return air to deliver 260,800 CFM through the south (supply air) plenum.

The applicant states that one detectig device for explosive paint vapors will be provided in the north (return air) plenum behind the filter wall and shall be interlocked so as to activate an audible and visible alarm and automatically shutdown the painting operation if the paint vapors exceed the permissible exposure limit (PEL) for the solvent or solvents in use. It is anticipated that four painters will apply approximately 20 gallons of paint per hour in this operation. The maximum solvent content of the various paints used is 65 percent. Based on these projection (20 GPH), the maximum dilution or makeup air required to maintain an 8 hour time weighted average below the permissible exposure level is considerably below 64,000 cubic feet per minute. The maximum makeup air quantity needed to maintain the instantaneous exposure level below the PEL is 66,000 CFM which is only slightly above the 64,000 CFM this is supplied. The spray equipment will also be interlocked with the organic vapor detection unit designed to automatically shut the spraying operation off whenever the instantaneous concentration exceeds the PEL for any of the solvents in use. As additional worker protection supplied air respirators approved by the U.S. Bureau of Mines for this type application will be furnished for all painters.

The applicant contends that its proposed method as described above will provide a place of employment for its employees which is as safe and healthful as the requiremens of the standard from which a variance is sought.

All interested persons, including employers and employees who believe they would be affected by the grant or denial of the application for variance, are invited to submit written data, views, and arguments relating to the pertinent application no later than July 1, 1982. In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application no later then July 1, 1982, in conformance with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Variance Determination at the above address.

Signed at Washington, D.C., this 26th day of May 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc 82-14770 Filed 5-28-82; 8:45 am]

BILLING CODE 4510-26-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 82-90; Exemption Application No. D-3031]

Exemption From the Prohibitions for Certain Transactions Involving the Retirement Program Plan for Union Carbide Corp. and its Participating Subsidiaries Located in New York, N.Y.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the following transaction:

(1) The investment by Metropolian Life Insurance Company Special Account No. 28 (the Account), a single customer separate account maintained by the Metropolitan Life Insurance Company (Metropolitan) for the Retirement Program Plan for Union Carbide Corporation and its Participating Subsidiaries (the Plan) in a joint venture (the Joint Venture) with O'Donnell, Brigham and Partners/Northwest (Northwest), a party in interest with respect to the Plan by virtue of its business relationships with Metropolitan; (2) the participation by Metropolitan in the Plan's decision to invest in the Joint Venture; (3) the loan of money (the Loan) by the Plan to Northwest in connection with the Joint Venture; and (4) the possible lease of portions of the Kent Facility to certain parties in interest.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On April 2, 1982, notice was published in the **Federal Register** (47 FR 14258) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b) (1) and (2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above-described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicants have represented that a copy of the notice was distributed in accordance with the requirements set forth in the proposed exemption. No public comments or requests for a hearing were received by the Department. However, the applicant has requested certain clarifications and modifications as follows: (1) Paragraph 6 of the Summary of Facts and Representations (the Summary) states that "a subsidiary of Northwest" will manage the Kent Facility. The applicants note that the managing agent is a partnerhsip composed of the same four partners as Northwest and as such is not a subsidiary of Northwest; (2) the brokerage commission to be paid Northwest for new tenants will be paid by the Joint Venture, not by the Plan as stated in the notice; (3) the applicants wish to substitute Mr. Leahy, who is independent of all parties to the transactions and who initially reviewed and approved the Plan's investment in the Joint Venture, to perform the monitoring functions of UCC described in the notice, thereby permitting UCC to have business relationships with Northwest in the future; and (4) paragraph 6 of the Summary states that "Northwest will not knowingly lease any portion of the Kent Facility to any party in interest with respect to the Plan." The applicants state that compliance with this condition poses administrative difficulties and wish to substitute the following condition, which they emphasize is adequately protective of the Plans: "Northwest will not lease any portion of the Kent Facility to Metropolitan, UCC, Northwest, the managing agent of the Kent Facility or any of their affiliates or any person who has discretionary authority, responsibility or control over the Plan assets involved in the Joint Venture." The Department notes and incorporates the clarifications described in comments 1 and 2. The Department has reviewed the requested modifications contained in comments 3 and 4 and believes that the

exemption as modified, will satisfy the statutory criteria of section 408(a). Therefore, the Department hereby approves and incorporates in the exemption the modifications described in comments 3 and 4. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type propoed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a), 406 (b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) The investment by the Plan, through the Account, in the Joint Venture; (2) the participation by Metropolitan in the Plan's decision to invest in the Joint Venture; (3) the loan by the Plan to Northwest; and (4) the possible lease of portions of the Kent Facility to certain parties in interest, provided that the terms and conditions of the above transactions are at least as favorable to the Plan as those obtainable from unrelated parties.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 28th day of May 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82–14983 Filed 5–28–82; 11:24 am]

BILLING CODE 4510–29–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITES

Artists in Education Advisory Panel; Notice of Meeting

Pursuant to Section 10 (a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Artists in Education Advisory Panel to the National Council on the Arts will be held on June 24, 1982, from 8:30 a.m.–6:00 p.m. in room 1426 and on June 25, 1982, from 8:30 a.m.–5:00 p.m. in room 2202 (EEOC) of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506.

A portion of this meeting will be open to the public on June 25th from 8:30 a.m.–5:00 p.m. to discuss policy issues.

The remaining sessions of this meeting on June 24th from 8:30 a.m.–6:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operation, National Endowment for the Arts.

[FR Doc 82–14704 Filed 5–28–82; 8:45 am]

BILLING CODE 7537–01–M

Theater Advisory Panel (Small Companies); Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committe Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Small Companies) to the National Council on the Arts will be held on June 25–26, 1982, from 9:00 a.m.–5:30 p.m. in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National

Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

May 24, 1982.

[FR Doc. 82-14763 Filed 5-28-82; 8:45 am]

BILLING CODE 7537-01-M

Theater Advisory Panel (Playwrights Fellowships); Notice of Meeting

Pursuant to Section 10 (a) (2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Playwrights Fellowships) to the National Council on the Arts will be held on June 25, 1982, from 11:00 a.m.–4:00 p.m. in room 1425 of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

Dated: May 24, 1982.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 82-14762 Filed 5-28-82; 8:45 am]

BILLING CODE 7537-01-M

Dance Advisory Panel (Dance/Film/Video); Notice of Meeting

Pursuant to Section 10 (a) (2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (Dance/Film/Video) to the National Council on the Arts will be held on June 23–24, 1982, from 8:30 a.m.–5:30 p.m. in the 12th floor screening room of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

Dated: May 24, 1982.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 82-14761 Filed 5-28-82; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Music Advisory Panel (Orchestra); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Orchestra) to the National Council on the Arts will be held on June 12, 1982, from 10:00 a.m.–4:30 p.m. in room 1426 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on June 12th, from 1:00 p.m.–4:30 p.m. to discuss policy, fiscal year 1984, and guidelines.

The remaining sessions of this meeting on June 12th from 10:00 a.m.–1:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

May 20, 1982.

[FR Doc. 82-14729 Filed 5-28-82; 8:45 am]

BILLING CODE 7537-01-M

Visual Arts Advisory Panel (Policy); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Policy) to the National Council on the Arts will be held on June 5–6, 1982, from 9:00 a.m.–5:30 p.m. in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on June 5th, from 1:30 p.m.–5:30 p.m. and on June 6th from 9:00 a.m.–5:30 p.m. to discuss policy and guidelines.

The remaining sessions of this meeting on June 5th from 9:00 a.m.—1:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

May 19, 1982.

[FR Doc. 82-14728 Filed 5-28-82; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 30-6931; Renewal of Byproducts Material License No. 19-06330-03]

Armed Forces Radiobiology Research Institute (Cobalt-60 Storage Facility; Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of May 25, 1982, oral argument on the appeal of the Citizens for Nuclear Reactor Safety, Inc. (CNRS), from the Licensing Board order resolving issues raised by the petition for leave to intervene, served April 2, 1982, will be heard at *10:00 a.m. on Thursday, June 17, 1982,* in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

Dated: May 25, 1982.
For the Appeal Board.

C. Jean Shoemaker,
Secretary to the Appeal Board.

[FR Doc. 82-14802 Filed 5-28-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-247-SP, 50-286-SP]

Consolidated Edison Co., of New York (Indian Point, Unit No. 2) and the Power Authority of the State of New York (Indian Point, Unit no. 3; Order Setting Location for Prehearing Conference and First Session of Evidentiary Hearing

May 26, 1982.

Upon consideration of the suggestions and arguments offered by various parties with respect to locations for subsequent sessions in this proceeding, and pursuant to the schedule set forth in our Memorandum and Order dated April 23, 1982, it is this 26th day of May, 1982.

Ordered:

(1) That the Prehearing Conference pursuant to 10 CFR 2.752 will be held in the Basement Hearing Room of the Social Services Building, 85 Court Street, White Plains, New York 10601. The Conference will begin at 9:30 a.m. on June 17, 1982.

(2) That the first session of the Evidentiary Hearing will be held in the Ceremonial Courtroom, Westchester County Courthouse, Grove Street, White Plains, New York 10601. The Hearing will begin at 9:30 a.m. on June 22, 1982.

Judge Carter participated in the issuance of this Order but was unavailable to sign it.

The Atomic Safety and Licensing Board.

Oscar H. Paris,
Administrative Judge.
Frederick J. Shon,
Administrative Judge.

[FR Doc. 82-14840 Filed 5-28-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-335]

Florida Power & Light Co.; Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 50 to Facility Operating License No. DPR-67, issued to Florida Power & Light Company (the licensee), which revised the Technical Specifications for operation of the St. Lucie Plant, Unit No. 1 (the facility), located in St. Lucie County, Florida. The amendment is effective as of the date of issuance.

The amendment pertains to the Environmental Technical Specifications (Appendix B to the Facility Operating License). The amendment (1) delete all water quality requirements, (2) allows termination and deletion of endangered sea turtle programs, (3) changes and deletes organization titles in the section on administrative controls and (4) makes minor revisions to locations of sample collection sites for the radiological monitoring program. The amendment also divides Appendix B Technical Specifications into two parts: Part I—Radiological Environmental Technical Specifications, and Part II—Environmental Protection Plan (Non-radiological) Technical Specifications.

The applications for amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has prepared an Environmental Impact Appraisal for this license amendment relating to the deletion of the endangered sea turtle programs, and has concluded that an environmental impact statement is not warranted because the action will not significantly affect the quality of the human environment. The Commission has determined that the organization changes in the administrative controls section of the environmental technical specifications and the changes to locations of sample collection sites for the radiological monitoring program will not result in any significant environmental impact and pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with these changes. The Commission has determined that the deletion of water quality requriements is a ministerial action required as a matter of law and that therefore no environmental impact statement or environmental impact appraisal and negative declaration need be prepared in connection with this action.

For futher details with respect to this action, see (1) the applications for amendment dated October 27, 1980 and March 12, 1981; (2) Amendment No. 50 to License No. DPR-67, and (3) the Commission's letter to the licensee dated May 21, 1982, and related Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 21st day of May 1982.

For the Nuclear Regulatory Commission.

Eben L. Conner,
Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-14799 Filed 5-28-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-289-SP (Restart)]

Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit No. 1); Notice of Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of May 17, 1982, oral argument on the emergency planning issues indicated in the order will be heard at *9:30 a.m. on Thursday, June 24, 1982,* in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

Dated: May 26, 1982.

For the Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 82-14800 Filed 5-28-82; 8:45 am]

BILLING CODE 7590-01-M

Nuclear Power Plant Staff Working Hours

AGENCY: Nuclear Regulatory Commission.

ACTION: Publication of revised policy regarding nuclear power plant staff working hours

SUMMARY: On February 11, 1982, the Nuclear Regulatory Commission published a "Policy on Factors Causing Fatigue of Operating Personnel at Nuclear Reactors," 47 FR 7352.

Comments received since publication have revealed questions concerning the policy statement. Accordingly, the policy statement has been revised and the revised version is reproduced below. Changes include: (1) The addition of a sentence which explicitly states that the objective of the working hour policy is to have operating personnel work an 8-hour day, 40-hour week; (2) The addition of a phrase to indicate that the stated working hour restrictions are applicable during extended periods of shutdown for refueling, major maitenance or major plant modifications; and (3) The addition of a phrase exempting extended shutdown periods from the requirements to consider use of overtime only on an individual basis.

Policy on Factors Causing Fatigue of Operating Personnel at Nuclear Reactors

Licensees of operating plants and applicants for operating licenses shall establish controls to prevent situations where fatigue could reduce the ability of operating personnel to keep the reactor in a safe condition. The controls should focus on shift staffing and the use of overtime—key job-related factors that influence fatigue.

The objective of the controls would be to assure that, to the extent practicable, personnel are not assigned to shift duties while in a fatigued condition that could significantly reduce their mental alertness or their decision making capability. The controls shall apply to the plant staff who perform safety-related functions (e.g., senior reactor operators, reactor operators, health physicists, auxiliary operators, and key maintenance personnel).

Enough plant operating personnel should be employed to maintain adequate shift coverage without routine heavy use of overtime. The objective is to have operating personnel work a normal 8-hour day, 40-hour week while the plant is operating. However, in the event that unforeseen problems require substantial amounts of overtime to be used, or during extended periods of shutdown for refueling, major maintenance or major plant modifications, on a temporary basis, the following guidelines shall be followed:

a. An individual should not be permitted to work more than 16 hours straight (excluding shift turnover time).

b. An individual should not be permitted to work more than 16 hours in any 24-hour period, nor more than 24 hours in any 48-hour period nor more than 72 hours in any seven day period (all excluding shift turnover time).

c. A break of at least eight hours should be allowed between work periods (including shift turnover time).

d. Except during extended shutdown periods, the use of overtime should be considered on an individual basis and not for the entire staff on a shift.

Recognizing that very unusual circumstances may arise requiring deviation from the above guidelines, such deviation shall be authorized by the plant manager or his deputy, or higher levels of management. The paramount consideration in such authorization shall be that significant reductions in the effectiveness of operating personnel would be highly unlikely.

In addition, procedures are encouraged that would allow licensed operators at the controls to be periodically relieved and assigned to other duties away from the control board during their tour of duty.

FOR FURTHER INFORMATION CONTACT:
Mr. Lawrence P. Crocker, (301) 492-8357.

Dated at Bethesda, Maryland, this 25th day of May, 1982.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Acting Chief, Licensee Qualifications Branch, Division of Human Factors Safety.

[FR Doc. 82-14801 Filed 5-28-82; 8:45 am]

BILLING CODE 7590-01-M

South Carolina Department of Health and Environmental Control and the Nuclear Regulatory Commission; Memorandum of Agreement Related to Use of Third Party Data and Regulation of NRC Licensee-Shippers of Radioactive Waste to the Barnwell Facility

The Memorandum of Agreement published below describes the cooperative regulatory policy being implemented by the NRC and the State of South Carolina with regard to enforcement activities at the low-level radioactive waste disposal facility located at Snelling, South Carolina. The basis for this Memorandum of Agreement are two-fold: (1) The Office of the Executive Legal Director, NRC, recently determined that information gathered by South Carolina State Inspectors can be used by the NRC in enforcement actions against NRC licensees; (2) Pursuant to the provisions of the South Carolina Radioactive Waste Transportation and Disposal Act of 1980, (Act No. 429), the State enhanced control over the shipment of radioactive waste into and within the State, and intensified its enforcement actions.

FOR FURTHER INFORMATION CONTACT:
Rovert E. Trojanowski, Regional State Liaison Officer, Telephone 404-221-5597, U.S. Nuclear Regulatory Commission, RII, 101 Marietta St., N.W., Suite 3100, Atlanta, Georgia 30303.

Dated at Atlanta, Georgia this 17th day of May 1982.

For the Nuclear Regulatory Commission.

James P. O'Reilly,

Regional Administrator, Region II.

Memorandum of Agreement Between the U.S. Nuclear Regulatory Commission and the S.C. Department of Health and Environmental Control, Related to the Use of Third Party Data and the Regulation of NRC Licensee-Shippers of Radioactive Waste to the Barnwell Facility; Background

The Chem-Nuclear Systems, Inc. (CNSI) low level radioactive waste disposal facility located at Snelling, South Carolina, has been in operation since 1971. Both the U.S. Nuclear Regulatory Commission (NRC) and the S.C. Department of Health and Environmental Control (DHEC) have responsibilities for the regulation of NRC licensees who ship radioactive waste to the disposal facility. NRC's regulatory authority is derived from the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and the regulations implementing these Acts contained in 10 CFR 71.5. South Carolina, an agreement State, derives its regulatory authority from the applicable State regulations which are compatible with the Federal regulations cited above.

CNSI operations are regulated under both a South Caroline agreement State license and an NRC license which authorizes the receipt and burial of special nuclear material (SNM) in quantities greater than authorized under State jurisdiction. Both DHEC and the NRC conduct routine periodic inspection for those portions of site operations

covered by their respective licenses. Since April 1979, DHEC has essentially maintained full time inspection coverage at the disposal facility. At the request of the State, NRC Region II has provided 13 days of inspection effort per calendar quarter since September 1979.

Pursuant to the provisions of the South Carolina Radioactive Waste Transportation and Disposal Act of 1980 (Act No. 429), the State enhanced control over the shipment of radioactive waste into and within the State, and intensified its enforcement actions. Specifically, the Act directs the Department of Health and Environmental Control (DHEC) to issue permits for the transportation of radioactive waste, and authorizes civil sanctions against shippers located in or out of the State for violations committed within South Carolina.

The Office of the Executive Legal Director, NRC, recently determined that information gathered by DHEC inspectors can be used by the NRC in enforcement actions against NRC licensees. Therefore, DHEC and NRC desire to coordinate their enforcement activities regarding the transportation and disposal of radioactive waste into and within South Carolina in order to avoid duplicative enforcement activities and promote the more efficient use of available inspector resources, both State and federal, thereby increasing the efficiency and effectiveness of their respective enforcement activities. Accordingly, NRC believes that DHEC's recommendation that the current level of NRC inspection coverage at the radioactive waste disposal facility at Snelling, South Carolina, which receives full time inspection coverage from DHEC, be reduced is well taken in light of DHEC's proven record of effective inspection and enforcement since the enactment of Act 429 of 1980 and its willingness to make its inspectors and reports available for use in NRC enforcement actions. NRC will continue to inspect its licensees to the applicable federal regulations, but the emphasis of these inspections will be at the point of origin as opposed to being conducted at the low level waste disposal facility.

Both the NRC and DHEC recognize that the adoption of these policies must be approached with a spirit of cooperation to include the timely exchange of pertinent information relative to NRC licensee-shipper data and other applicable information. This Memorandum of Agreement is intended to define broad policy matters and both parties agree to develop specific procedures, as necessary, to implement these policies.

Purpose

The purpose of this Memorandum of Agreement is to implement certain policies advantageous to both parties, and to promote compliance with State and federal laws regarding shipments of radioactive waste by NRC licensees into or within the State of South Carolina.

Agreements and Understandings

In order to define and clarify the roles of DHEC and the NRC, the parties agree as follows:

1. This agreement does not alter the authority of the State through DHEC to issue and to terminate transportation permits, to regulate operations at the site that are normally under the jurisdiction of the State, and to take any other actions normally under State jurisdiction.

2. This agreement does not alter the authority of the NRC to take enforcement actions against its licensees who violate NRC regulations, and to take any other actions normally under federal jurisdiction.

3. Efforts will be made by both parties to avoid duplicative and excessive action against a shipper for the same violation. However, this is not meant to preclude appropriate dual actions such as termination of a transportation permit by DHEC and NRC enforcement action for the same violation. Specifically, NRC will not normally impose civil penalties against NRC licensee-shippers when:

a. The evidence of violation is discovered by DHEC in the absence of NRC; and

b. A DHEC order for suspension or imposition of a civil penalty appears to NRC to provide an adequate remedial incentive for the licensee-shipper; and

c. The real or potential threat to the general public or the environment is determined to be minimal; and

d. There are not other aggravated or repetitive circumstances indicative of a general or specific disregard for regulatory requirements.

4. When a violation of State or federal requirements is observed by a DHEC inspector relative to a shipment by an NRC licensee, the following steps will be taken:

a. DHEC will notify NRC Region II by telephone within 24 hours of finding of the violation. On the basis of this notification, NRC will make the determination whether or not to dispatch an NRC inspector and/or investigator to the site.

b. If the NRC determines that an inspector or investigator should be dispatched to the disposal site, those personnel will be dispatched within 24 hours. DHEC may require, when appropriate, that the package or shipment be held until the NRC team arrives on the site.

c. If the decision is made that an NRC team will not respond to the site, DHEC will be informed of this decision, and NRC will consider other action based on the State evidence.

d. If enforcement action is warranted, DHEC will furnish a copy of its supporting evidence to the NRC. The amount of information required will be that necessary for effective enforcement action. Information will be in a mutually agreeable format and will be provided in a timely fashion.

e. This agreement recognizes that should an NRC licensee formally protest enforcement action based on information supplied by a DHEC inspector, that DHEC inspector may be required to provide testimony at an NRC hearing. The NRC will fund all travel costs associated with such testimony, and will supply appropriate legal counsel for the DHEC inspector.

5. Efforts will be made by both parties to keep the other informed in a timely manner of any significant enforcement actions, status of pending cases, changes in regulations, interpretations, new developments, Information Notices, Circulars, Bulletins or other announcements and information relating to their respective enforcement responsibilities at the Barnwell facility.

6. Neither the NRC nor DHEC will issue press releases or otherwise publicize contemplated enforcement action or evidence concerning an NRC licensee-shipper without prior notification to the other party to this agreement.

7. DHEC will notify NRC in a timely manner of any intent to diminish inspection frequencies of NRC licensee shipments of radioactive waste within South Carolina.

8. Routine or special inspections of arriving shipments at the disposal facility of CNSI and of NRC licensee-shippers will occasionally be made, as necessary, by NRC to ensure compliance with the applicable federal regulations.

9. The principal NRC contact for these matters is the Chief, Technical Inspection Branch, Engineering and Technical Programs Division, U.S. Nuclear Regulatory Commission, Region II, Atlanta, Georgia 30303. (404) 221–5525.

The principal contact for DHEC for these matters is the Chief, Bureau of Radiological Health, South Carolina Department of Health and Environmental Control, Columbia, South Carolina 29201. (803) 758–5548

10. Nothing in this agreement shall restrict or extend the constitutional or statutory authority of either agency. This agreement shall take effect immediately upon endorsement by S.C. Department of Health and Environmental Control and the U.S. Nuclear Regulatory Commission, and may be terminated upon thirty (30) days written notice by either party.

For the South Carolina Department of Health and Environmental Control.

Dated: May 4, 1982.

Robert S. Jackson,

Commissioner, South Carolina Department of Health and Environmental Control.

Dated this 17th day of May 1982, at Atlanta, Georgia.

For the United States Nuclear Regulatory Commission.

James P. O'Reilly,

Regional Administrator, Region II.

[FR Doc. 82-14690 Filed 5-28-82; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA); Special Committee 136—Installation of Emergency Locator Transmitters (ELT) in Aircraft; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of Special Committee 136 on Installation of Emergency Locator Transmitters (ELT) in Aircraft to be held on June 21-23, 1982 in Conference Rooms 5A-B, Federal Aviation Administration Building, 800 Independence Avenue, S.W., Washington, D.C. commencing at 1:00 p.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Thirteenth Meeting Held on April 5-7, 1982; (3) Review Second Draft of Committee Report on Minimum Operational Performance Standards for Emergency Locator Transmitters; (4) Consideration of Comments Received on Second Draft Report; and (5) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on May 21, 1982.

Karl F. Bierach,

Designated Officer.

[FR Doc. 82-14690 Filed 5-28-82; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 150—Minimum System Performance Standards for Vertical Separation Above Flight Level 290; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 150 on Minimum System Performance Standards for Vertical Separation above Flight Level 290 to be held on June 24-25, 1982 in RTCA First Floor Conference Room, 1717 H Street, NW., Washington, D.C. commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Review of Committee Terms of Reference; (3) Identification of Elements Related to Establishing Minimum System Performance Standards for Vertical Separation; (4) Establish Working Groups to Address Specific Tasks; (5) Develop Committee Work Program and Schedule for Accomplishment; (6) Assignment of Tasks; and (7) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street, NW., Washington, D.C. 20006, (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on May 25, 1982.

Karl F. Bierach,

Designated Officer.

[FR Doc. 82-14692 Filed 5-28-82; 8:45 am]

BILLING CODE 4910-13-M

Maritime Administration

Change of Name of Approved Trustee

Notice is hereby given that effective December 23, 1977, Girard Trust Bank, Philadelphia, Pennsylvania, changed its name to Girard Bank.

Dated: May 26, 1982.

By Order of the Maritime Administrator.

Georgia Pournaras Stames,

Assistant Secretary.

[FR Doc. 82-14731 Filed 5-28-82; 8:45 am]

BILLING CODE 4910-81-M

Research and Special Programs Administration

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of grants and denials of applications for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in April 1982. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
2587-X	DOT-E 2587	Denison, Inc., Fredonia, KS	49 CFR 173.315(a)(1)	To authorize shipment of liquid oxygen in non-DOT specification cargo tanks. (Mode 1.)
2709-X	DOT-E 2709	U.S. Department of Defense, Washington, DC.	49 CFR 173.52, 173.93, 177.821, 177.834(1)(1), 177.835(k).	To authorize use of DOT Specification 6J/2S metal drum/polyethylene containers or non-DOT specification drums for shipment of Class A and Class B explosive liquids. (Mode 1.)
2732-X	DOT-E 2732	U.S. Department of Energy, Washington, DC.	49 CFR 173.65(a), 173.65(b), 173.65(c)	To authorize use of non-DOT specification packagings for the transportation of high explosives. (Modes 1 and 2.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
2981–X	DOT–E 2981	Hercules, Inc., Wilmington, DE	49 CFR 173.84(a), 173.93(a)	To authorize transport of certain Class A and Class B explosives in packagings not provided in 49 CFR. (Modes 1 and 2.)
2981–X	DOT–E 2981	Austin Powder Co., Cleveland, OH	49 CFR 173.84(a), 173.93(a)	To authorize transport of certain Class A and Class B explosives in packagings not provided in 49 CFR. (Modes 1 and 2.)
3549–X	DOT–E 3549	U.S. Department of Energy, Washington, DC.	49 CFR 173.65(a), 173.77	To authorize shipment of certain Class A explosives in special, non-DOT specification packaging. (Modes 1 and 2.)
3563–X	DOT–E 3563	U.S. Department of Energy, Washington, DC.	49 CFR 172.101, 173.302(a), 173.395(a)	To authorize use of non-DOT specification cylinders for shipment of a nonflammable, nonliquefied compressed gas. (Modes 1, 2, 4, and 5.)
3648–X	DOT–E 3648	Airco Industrial Gases, Murray Hill, NJ	49 CFR 172.101, 173.315(a)	To authorize transport of certain cryogenic liquids in non-DOT specification vacuum insulated cargo tanks. (Mode 1.)
4291–X	DOT–E 4291	United Technologies Corp., Sunnyvale, CA.	49 CFR 173.239(a)(2)	To authorize use of a non-DOT specification aluminum portable tank for the shipment of a certain oxidizer. (Modes 1 and 2.)
4460–X	DOT–E 4460	Ethyl Corp., Baton Rouge, LA	49 CFR 173.29, 176.74(c), 176.76(g)(3)	To authorize special stowage limits for DOT Specification 51 portable tanks containing metallic sodium. (Mode 3.)
4554–X	DOT–E 4554	B.F. Goodrich Chemical Co., Cleveland, OH.	49 CFR 172.101, 173.315(a)(1)	To authorize use of a non-DOT specification cargo tank for transportation of liquefied ethylene. (Mode 1.)
4661–X	DOT–E 4661	Foote Mineral Co., Exton, PA	49 CFR 173.34(e)(1)	To authorize transport of butyl lithium in petroleum solvent in DOT specification 4BA240 cylinders with alternative retest procedures. (Modes 1, 2 and 3.)
5196–X	DOT–E 5196	Shell Oil Co., Houston, TX	49 CFR 172.101, 173.315(a)(1)	To authorize use of a non-DOT specification cargo tank for transportation of a flammable gas. (Mode 1.)
5861–X	DOT–E 5861	HTL Industries, Inc., Duarte, CA	49 CFR 173.304(a)(1), 175.3, 178.47	To authorize use-a stainless steel DOT Specification 4DS cylinder, for transportation of a nonflammable compressed gas. (Modes 1, 2, 4, and 5.)
5946–X	DOT–E 5946	U.S. Department of Energy, Washington, DC.	49 CFR 173.398(c)	To authorize shipment of radioactive waste materials in DOT Specification 17C or 17H steel drums or DOT Specification 19A or 19B wooden crates in ATMX 500 or 600 rail cars. (Mode 2.)
6016–X	DOT–E 6016	Strate Welding Supply Co., Inc., Buffalo, NY.	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen, and argon in non-DOT specification portable tanks. (Mode 1.)
6016–P	DOT–E 6016	Magnolia Welding Supply Co., Houston, TX.	49 CFR 173.315(a)	To become a party to Exemption 6016. (Mode 1.)
6016–X	DOT–E 6016	Airco, Inc., Murray Hill, NJ	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen, and argon in non-DOT specification portable tanks. (Mode 1.)
6016–X	DOT–E 6016	Harvey Co., Greensburg, PA	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen, and argon in non-DOT specification portable tanks. (Mode 1.)
6016–X	DOT–E 6016	Langdon Oxygen Co., Texarkana, TX	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen, and argon in non-DOT specification portable tanks. (Mode 1.)
6016–X	DOT–E 6016	O. E. Meyer & Sons, Inc., Sandusky, OH	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen, and argon in non-DOT specification portable tanks. (Mode 1.)
6064–X	DOT–E 6064	Martin Marietta Chemicals (Sodyeco Div), Charlotte, NC.	49 CFR 173.65(e), 178.24–4(a)	To authorize transport of a high explosive in DOT Specification 21P fiber drum having an inside polyethylene container similar to DOT Specification 2U with certain exceptions. (Mode 1.)
6113–X	DOT–E 6113	Providence Gas Co., Providence, RI	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification cargo tank for shipment of certain flammable gases. (Mode 1.)
61113–X	DOT–E 6113	Valley Gas Co., of Cumberland, RI	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification cargo tank for shipment of certain flammable gases. (Mode 1.)
6113–X	DOT–E 6113	Philadelphia Gas Works, Philadelphia, PA	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification cargo tank for shipment of certain flammable gases. (Mode 1.)
6205–X	DOT–E 6205	Northern Petrochemical Co., Morris, IL	49 CFR 172.101, 173.315(a)(1)	To authorize use of a non-DOT specification vacuum insulated cargo tank for the transportation of certain flammable gases. (Mode 1.)
6205–X	DOT–E 6205	Chicago Bridge and Iron Co., Oak Brook, IL.	49 CFR 172.101, 173.315(a)(1)	To authorize use of a non-DOT specification vacuum insulated cargo tank for the transportation of certain flammable gases. (Mode 1.)
6243–X	DOT–E 6243	Liquid Carbonic Corp., Chicago, IL	49 CFR 172.101, 172.101, 173.315(a), 173.315(a).	To authorize use of a non-DOT specification vacuum insulated cargo tank for transportation of liquified carbon monoxide. (Mode 1.)
6309–X	DOT–E 6309	Insta-Foam Products, Inc., Joliet, IL	49 CFR 173.315(a)(1)	To authorize use of non-DOT specification steel portable tanks for transportation of certain nonpoisonous, nonflammable compressed gases. (Modes 1 and 2.)
6309–X	DOT–E 6309	Olin Corp., Stamford, CT	49 CFR 173.315(a)(1)	To authorize use of non-DOT specification steel portable tanks for transportation of certain nonpoisonous, nonflammable compressed gases. (Modes 1 and 2.)
6464–X	DOT–E 6464	Fall River Gas Co., Fall River, MA	49 CFR 172.101, 173.315(a)	To authorize use of non-DOT specification cargo tanks for shipment of certain flammable gases. (Mode 1.)
6464–X	DOT–E 6464	Philadelphia Gas Works, Philadelphia, PA	49 CFR 172.101, 173.315(a)	To authorize use of non-DOT specification cargo tanks for shipment of certain flammable gases. (Mode 1.)
6501–X	DOT–E 6501	GOEX, Inc., Cleburne, TX	49 CFR 173.62	To authorize transport of liquid high explosives in DOT Specification 6D steel drums overpacked with a DOT Specification 2SL liner. (Mode 1.)
6607–X	DOT–E 6607	Bio-Lab, Inc., Conyers, GA	49 CFR 173.217(a)	To authorize a preformed expanded polystyrene inner pack, overpacked in a fiberboard box not provided for in the regulations for shipment of a certain oxidizing material. (Modes 1, 2, and 3.)
6657–P	DOT–E 6657	Mansfield Oxygen Corp., Mansfield, OH	49 CFR 173.34(e)(15)(i), 175.3	To become a party to Exemption 6657. (Modes 1, 2, 3, 4, and 5.)
6726–X	DOT–E 6726	Born Free Plastics, Inc., Gardena, CA	49 CFR 8 F, Part 173, Subpart D	To authorize manufacture, marking and sale of non-DOT specification reusable blow-molded polyethylene containers for shipment of certain corrosive liquids, flammable liquids and oxidizers. (Modes 1, 2.)
6735–X	DOT–E 6735	Great Lakes Chemical Corp., El Dorado, AR.	49 CFR 173.252(g)	To authorize transport of bromine in a non-DOT specification cylinder constructed in accordance with all requirements of DOT Specification 4B, 4BA or 4BW except that the cylinder shall be marked "DOT–E 6735" in lieu of the DOT specification marking. (Modes 1, 2, and 3.)
6746–X	DOT–E 6746	The Firestone Tire and Rubber Co., Akron, OH.	49 CFR 173.315(a)(1)	To authorize shipment of anhydrous ammonia in portable tanks built, marked and maintained in compliance with the DOT Specification MC–331 cargo tank. (Modes 1 and 3.)
6806–X	DOT–E 6806	Dow Chemical Co., Midland, MI	49 CFR 173.302(a), 175.3	To authorize transport of a flammable gas in a DOT Specification 3E1800 cylinder by passenger-carrying aircraft. (Mode 5.)
6825–X	DOT–E 6825	Richmond Lox Equipment Co., Livermore, CA.	49 CFR 172.101, 173.314(c)	To authorize manufacture, marking and sale of non-DOT specification vacuum insulated tank car tanks for transportation of liquefied flammable compressed gases. (Mode 2.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
6883-X	DOT-E 6883	Hedwin Corp., Baltimore, MD	49 CFR 173.119, 173.154, 173.221, 173.245(a)(26), 173.249(a)(1), 173.250a (a)(1), 173.256(a), 173.257(a)(1), 173.263(a)(28), 173.265(d)(6), 173.266 (b)(8), 173.272(g), 173.272(i)(9), 173.277(a)(6), 173.287(c)(1), 173.288, 173.289(a)(1), 173.292(a)(1), 173.346(a), 178.19.	To authorize manufacture, marking and sale of non-DOT specification molded polyethylene containers for shipment of oxidizers, poison B, corrosive liquids, organic peroxides and flammable liquids. (Modes 1, 2, and 3.)
6895-X	DOT-E 6895	Westinghouse Electric, Corp., Bloomfield, NJ.	49 CFR 173.140(a)(1), 175.3	To authorize shipment of a flammable liquid in a DOT Specification 37A steel drum. (Modes 1, 2, 3, and 4.)
6919-X	DOT-E 6919	Northern Petrochemical Co., Morris, IL	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification insulated cargo tank for shipment of certain flammable gases. (Mode 1.).
6921-X	DOT-E 6921	Cities Service Co., Tulsa, OK	49 CFR 172.101, 173.315(a)(1)	To authorize use of a non-DOT specification portable tank for the transportation of liquified helium. (Modes 1 and 3.)
6921-X	DOT-E 6921	Airco Industrial Gases, Murray Hill, NJ	49 CFR 172.101, 173.315(a)(1)	To authorize use of a non-DOT specification portable tank for the transportation of liquified helium. (Modes 1 and 3.)
6926-X	DOT-E 6926	Union Carbide Corp., New York, NY	49 CFR 173.365(a)(6), 173.365(a)(6), 178.238-3, 178.238-3.	To authorize use of a five-ply DOT Specification 44D extensible kraft paper bag not presently authorized for the shipment of poisonous solids. (Modes 1, 2, and 3.)
6984-X	DOT-E 6984	Austin Powder Co., Cleveland, OH	49 CFR 173.103(a), 173.66(g), 177.835(g)(2)(i).	To authorize packaging of 1000 or less electric blasting caps in inside pasteboard cartons or tubs, overpacked in an IME Standard 22 container. (Mode 1.)
6984P-X	DOT-E 6984	EDS Engineering & Drilling Co., Washington, MO.	49 CFR 173.103(a), 173.66(g), 177.835(g)(2)(i).	To become a party to Exemption 6984. (Mode 1.)
6985-X	DOT-E 6985	U.S. Department of Energy, Washington, DC.	49 CFR 173.154(a)(7), 173.86(a)	To authorize shipment of diallyl phtalate-pyrotechnic materials in a aluminum case packed in a DOT Specification 15A wooden box. (Mode 1.)
7014-X	DOT-E 7014	Eurotainer, Paris, France	49 CFR 173.125(a)	To authorize use of non-DOT specification intermodal portable tanks for transportation of ethyl alcohol. (Modes 1, 2, and 3.)
7015P-X	DOT-E 7015	Jack B. Kelley, Inc., Amarillo, TX	49 CFR 172.101, 173.315(a)(1)	To become a party to Exemption 7015. (Modes 1, 2, and 3.)
7062-X	DOT-E 7062	Bennett Industries, Pacoima, CA	49 CFR 173.245(a)(26), 173.249(a)(1), 173.250a (a)(1), 173.257(a)(1), 173.263(a)(28), 173.265(d)(6), 173.266 (b)(8), 173.272(i)(9), 173.277(a)(6), 173.287(c)(1), 173.289(a)(1), 173.292(a)(1), 178.19.	To authorize variation from the specifications of a DOT Specification 34 polyethylene container for certain liquid materials. (Modes 1, 2, and 3.)
7073-X	DOT-E 7073	Ethyl Corp., Baton Rouge, LA	49 CFR 173.354(a)(6)	To authorize use of non-DOT specification portable tanks for transportation of a Class B poisonous liquid. (Modes 1, 2, and 3.)
7227-X	DOT-E 7227	Richmond Lox Equipment Co., Livermore, CA.	49 CFR 172.101, 173.315	To authorize manufacture, marking and sale of vacume insulated non-DOT specification portable tanks for transportation of liquid nitrogen. (Mode 3.)
7438-X	DOT-E 7438	Ethyl Corp., Baton Rouge, LA	49 CFR 173.354(a)(5)	To authorize use of non-DOT specification cargo tanks for the transportation of a Class B poisonous liquid (Mode 1.)
7476-X	DOT-E 7476	Thompson Tank & Manufacturing Co., Inc., Long Beach, CA.	49 CFR 173.119(a), 173.119(m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To authorize manufacture, marking, and sale of certain non-specification cargo tanks for the transportation of certain flammable and corrosive liquids and poison waste material (Mode 1.)
7542-X	DOT-E 7542	U.S. Cylinders, Inc., Citronelle, AL	49 CFR 173.303(a)	To authorize manufacture, marking and sale of non-DOT specification steel cylinders for ship of certain flammable gases. (Modes 1 and 2.)
7558-X	DOT-E 7558	Union Carbide Corp., Danbury, CT	49 CFR 173.315(a)	To authorize the use of a non-DOT specification portable tank for the transportation of certain nonflammable gases. (Modes 1 and 3.)
7598-X	DOT-E 7598	Pratt & Whitney Aircraft Group, East Hartford, CT.	49 CFR 173.154(a), 173.182(b), 173.194(a), 173.234(a), 173.245(a), 173.249(a), 173.263, 173.264, 173.266, 173.268, 173.272, 173.283, 173.287, 173.352, 173.370, 178.255-1(a).	To authorize shipment of certain corrosive materials, oxidizers and Class B poisons in DOT Specification 60 except the ends are bolted instead of welded. (Mode 1.)
7607-X	DOT-E 7607	Engineering-Science, McLean, VA	49 CFR 172.101, 175.3	To authorize shipment of hydrogen in certain non-DOT specification seamless stainless steel cylinders. (Mode 5.)
7607-X	DOT-E 7607	Foxboro Analytical, South Norwalk, CT	49 CFR 172.101, 175.3	To authorize shipment of hydrogen in certain non-DOT specification seamless stainless steel cylinders. (Mode 5.)
7616-X	DOT-E 7116	The Kansas City Southern Railway Co., Kansas City, MO.	49 CFR 172.204(a), 172.204(d)	To authorize carrier to certify the shipping papers on behalf of the shipper when transporting certain hazardous materials by rail. (Mode 2.)
7657-X	DOT-E 7657	Welker Engineering Co., Sugar Land, TX	49 CFR 173.302(a)(1), 173.304(a)(1), 173.304(b)(1), 175.3.	To authorize manufacture, marking and sale of non-DOT specification stainless steel cylinders for transportation of compressed gases. (Modes 1 and 4.)
7770-X	DOT-E 7770	Fauvet-Girel, Paris, France	49 CFR 173.143, 173.264(b)(4)	To authorize transport of anhydrous hydrogen fluoride or anhydrous methylchloromethyl ether in certain non-DOT specification portable tanks. (Modes 1, 2, and 3.)
7770-X	DOT-E 7770	Eurotainer, Paris, France	49 CFR 173.143, 173.264(b)(4)	To authorize transport of anhydrous hydrogen fluoride or anhydrous methylchloromethyl ether in certain non-DOT specification portable tanks. (Modes 1, 2, and 3.)
7895-X	DOT-E 7895	Dow Corning Corp., Midland, MI	49 CFR 173.245(a), 173.280	To authorize use of DOT Specification 51 stainless steel portable tanks for shipment of certain corrosive materials. (Modes 1 and 3.)
7915-X	DOT-E 7915	U.S. Department of Defense, Washington, DC.	49 CFR 173.93(b)	To authorize transport of certain propellant explosives in water in DOT Specification MC-307 or MC-312 cargo tanks. (Mode 1.)
7915-X	DOT-E 7915	Olin Corp., East Alton, IL	49 CFR 173.93(b)	To authorize transport of certain propellant explosives in water in DOT Specification MC-307 or MC-312 cargo tanks. (Mode 1.)
7933-X	DOT-E 7933	Graif Brothers Corp., Springfield, NJ	49 CFR 173.119(a)(b), 173.124, 173.245(a)(26), 173.249(a)(1), 173.250a(a)(1), 173.257(a)(1), 173.263(a)(28), 173.265(d)(6), 173.266(b)(8), 173.272(i)(9), 173.277(a)(6), 173.287(c)(1), 173.289(a)(1), 173.292(a)(1), 173.364, 178.19.	To authorize manufacture, marking, and sale of non-DOT specification reusable, blow-molded, polyethylene containers for the transportation of certain corrosive and flammable liquids and an oxidizer. (Modes 1, 2, and 3.)
7954-X	DOT-E 7954	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 172.504,, 173.301(d)(2)	To authorize shipment of nonflammable gases in manifolded DOT Specification 3A2400 or 3AA2400 cylinders. (Mode 1.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7997-X	DOT-E 7997	Dow Chemical Co., Midland, MI	49 CFR 173.245	To authorize transport of bromine chloride in a DOT Specification MC-312/ISO type lead lined portable tank by highway and vessel. (Modes 1 and 3.)
8129-P	DOT-E 8129	IT Corp., Wilmington, CA	49 CFR Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8153-X	DOT-E 8153	Chemical Waste Management, Inc., Emelle, AL	49 CFR 173.119(a), 173.119(m), 173.245(a), 178.340-7, 178.342-5, 178.343-5.	To authorize use of a non-DOT specification cargo tank designed and constructed in full compliance with DOT Specification MC-307/312 except for bottom outlet valve variations for transportation of certain waste flammable liquids and corrosive materials. (Mode 1.)
8153-X	DOT-E 8153	Browning-Ferris Industries Chemical Services Inc., Houston, TX.	49 CFR 173.119(a), 173.119(m), 173.245(a), 178.340-7, 178.342-5, 178.343-5.	To authorize use of a non-DOT specification cargo tank designed and constructed in full compliance with DOT Specification MC-307/312 except for bottom outlet valve variations for transportation of certain waste flammable liquids and corrosive materials. (Mode 1.)
8162-X	DOT-E 8162	Structural Composites Industries, Inc., Pomona, CA.	49 CFR 173.302(a)(1), 173.304(a)(1), 175.3.	To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastic full composite cylinder, for transportation of nonflammable compressed gases. (Modes 1, 2, 3, 4, and 5.)
8180-X	DOT-E 8180	Dow Corning Corp., Midland, MI	49 CFR 173.136(a)(3), 173.247(a)(7)	To authorize use of non-DOT specification steel drums for shipment of a corrosive material and a flammable liquid. (Modes 1 and 2.)
8264-X	DOT-E 8264	Allied Corp., Morristown, NJ	49 CFR 173.272(a)(i)22, 174.3, 179.202-12(b).	To authorize shipment of oleum in DOT Specification 103AW or 111A100W2 tank cars equipped with safety valves instead of safety vents. (Mode 2.)
8269-X	DOT-E 8269	Olin Corp., East Alton, IL	49 CFR 173.93	To authorize shipment of certain identified solid propellant explosive, Class B, in non-DOT specification cylindrical metal cans overpacked in fiberboard boxes. (Mode 1.)
8303-X	DOT-E 8303	Martin Marietta Chemicals, Charlotte, NC	49 CFR 172.101, 173.154	To authorize transport of water-wet 2,4 dinitrophenol as flammable solid in DOT Specification 56 aluminum portable tanks. (Mode 1.)
8309-X	DOT-E 8309	Carrier Corp., Syracuse, NY	49 CFR 173.306(e)	To authorize shipment of refrigerating machines having two charged vessels containing more than 2,000 pounds of Freon (Group I refrigerant) but not more than 10,000 pounds. (Modes 1, 2, and 3.)
8328-X	DOT-E 8328	U.S. Coast Guard Research & Development Center, Washington, DC.	49 CFR 173.304(a), 173.306(a), 175.3	To authorize use of a non-DOT specification container for the transportation of a nonflammable foam-gas mixture. (Modes 1, 3, and 4.)
8352-X	DOT-E 8352	Degussa Corp., Teterboro, NJ	49 CFR 173.154	To authorize shipment of ammonium persulfate and sodium persulfate in non-DOT specification plastic bags similar to DOT Specification 44P bags. (Modes 1, 2, and 3.)
8353-X	DOT-E 8353	Thiokol Corp., Huntsville, AL	49 CFR 178.252-2(b)	To authorize an alternate closure device in a DOT specification 56 portable tank for the transportation of ammonium perchlorate. (Mode 2.)
8371-X	DOT-E 8371	Connecticut Bulk Carriers, Inc., Stamford, CT.	49 CFR 173.271	To authorize use of a non-authorized DOT specification portable tank lined with baked phenolic resin, for shipment of corrosive liquids. (Modes 1 and 3.)
8377-X	DOT-E 8377	Teledyne McCormick Selph, Hollister, CA	49 CFR 172.101, 173.113, 175.3	To authorize transport of devices described as detonating fuzes, Class C explosives in non-DOT specification fiberboard boxes packed in non-DOT specification strong wooden boxes. (Modes 1 and 4.)
8453-P	DOT-E 8453	D. C. Guelich Explosive Co., Clearfield, PA.	49 CFR 173.114a	To become a party to Exemption 8453. (Mode 1.)
8468-X	DOT-E 8468	Hedwin Corp., Baltimore, MD	49 CFR 173.119, 173.125, 173.154, 173.272, 173.288, 173.346.	To authorize manufacture, marking and sale of DOT Specification 34 drums for shipment of certain flammable, poison B, corrosive liquids and organic peroxides. (Modes 1, 2, and 3.)
8489-P	DOT-E 8489	Olin Corp., Stamford, CT	49 CFR 173.154, 173.182, 173.245b	To become a party to Exemption 8489. (Modes 1 and 3.)
8499-X	DOT-E 8499	Hedwin Corp., Baltimore, MD	49 CFR 173.119, 173.125, 173.154, 173.272, 173.288, 173.346.	To authorize manufacture, marking and sale of DOT Specification 34 drums of 30-gallon capacity for shipment of certain flammable, poison B, corrosive liquids and oxidizers. (Modes 1, 2, and 3.)
8556-X	DOT-E 8556	L'Air Liquide Corp., Paris, France	49 CFR 172.101, 173.315(a)	To authorize use of non-DOT specification portable tanks for shipment of liquefied hydrogen. (Modes 1 and 3.)
8636-X	DOT-E 8636	Ethyl Corp., Baton Rouge, LA	49 CFR 172.101 column 7a, Part 107 Appendix B1.	To authorize stowage of drums containing motor fuel antiknock compound underdeck instead of on deck without marking of the exemption number on the drum. (Mode 3.)
8644-X	DOT-E 8644	Richmond Lox Equipment Co., Livermore, CA.	49 CFR 172.101, 173.315	To authorize shipment of liquid nitrogen or oxygen in non-DOT specification tank motor vehicles (cargo tanks). (Mode 3.)
8660-X	DOT-E 8660	Hach Co., Ames, IA	49 CFR 172.400, 172.402(a)(2), 172.402(a)(3), 173.128, 173.136, 173.237, 173.246.	To authorize shipment of certain small quantities of Class B poisonous liquids and solids, excepted from labeling, when packaged in specially designed containers. (Mode 1.)
8666-P	DOT-E 8666	Sherwood Medical Industries, Inc., Deland, FL.	49 CFR 173.119, 175.3	To become a party to Exemption 8666. (Modes 1, 2, and 4.)
8704-X	DOT-E 8704	Thiokol Corp., Elkton, MD	49 CFR 172.101 column 6(b)	To authorize shipment of two rocket motors having excess gross weight. (Mode 4.)
8732-P	DOT-E 8732	Dow Chemical Co., Midland, MI	49 CFR 173.245	To become a party to Exemption 8732. (Mode 1.)
8775-X	DOT-E 8775	Osmose Wood Preserving Co., Buffalo, NY.	49 CFR 173.366(b)(3)	To authorize import shipments of arsenic trioxide in metal drums with a maximum capacity and gross weight which exceeds that presently authorized. (Modes 1 and 2.)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8656-N	DOT-E 8656	Waters Associates, Inc., Milford, MA	49 CFR 172.101, 173.118(a), 173.500(b)(4), 175.3, 175.30, 176.3, Parts 100-199.	To authorize the shipment of small quantities of flammable liquids in stainless steel, brass, or gold bellows assembly overpacked in a zip-loc polyethylene envelopment or polystyrene cases in a B-flute, single wall, corrugated fiberboard box. (Modes 1, 2, 3, 4, and 5.)
8770-N	DOT-E 8770	Eastman Kodak Co., Rochester, NY	49 CFR 172.402, 173.286(e)	To authorize shipment of a corrosive liquid and minute quantity of a flammable, poisonous solid in DOT Specification 12A, 12B or 15A fiberboard or wooden boxes with inside glass bottles. (Modes 1, 2, and 3.)

New Exemptions—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8772-N	DOT-E 8772	Armak Co., Chicago, IL	49 CFR 172.101 column 6(b)	To authorize an increase in the net quantity limitation, not exceeding five gallons per package, for shipment of certain corrosive liquids and flammable liquids that are corrosive, when shipped via cargo-only aircraft. (Mode 4.)
8784-N	DOT-E 8784	Boeing Aircraft Co., Seattle, WA	49 CFR 173.245, 173.346	To authorize use of a DOT Specification 57 steel portable tank for shipment of certain corrosive materials or poison B liquids. (Mode 1.)
8786-N	DOT-E 8786	Gas Spring Corp., Colmar, PA	49 CFR 173.1200(a)(8)(i), 173.306(a)(1), 175.3.	To authorize use of a non-DOT specification cylinder for shipment of limited quantities of compressed gases. (Modes 1, 2, 3, and 4.)
8788-N	DOT-E 8788	Frontier Industries, Santa Maria, CA	49 CFR 173.119, 178.340-7	To authorize manufacture, marking and sale of non-DOT specification cargo tanks similar to DOT Specification MC-312 except for circumferential reinforcement with ring stiffeners, for shipment of crude oil, petroleum, classed as a flammable liquid. (Mode 1.)
8790-N	DOT-E 8790	Rose Industries, Inc., Angleton, TX	49 CFR 173.119(a), 173.119(m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To authorize manufacture, marking and sale of non-DOT specification cargo tanks similar to DOT Specification MC-307/312 except for bottom outlet valve variation for shipment of liquid and semi-solid waste material. (Mode 1.)

Emergency Exemptions

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 8673-X	DOT-E 8673	Alaska International Airline, Anchorage, AK.	49 CFR 172.101(6)(b), 175.30	To authorize limited shipment of inhibited hydrochloric acid solution in a DOT Specification 60 rubber lined portable tank. (Mode 4).
EE 8738-X	DOT-E 8738	Flying Tiger Line, Los Angeles, CA	49 CFR 175.320(a)	To authorize transport of Class A explosives loaded on the same aircraft with Class C explosives and other cargo not presently permitted. (Mode 4).
EE 8746-X	DOT-E 8746	Rich International Airways, Inc., Miami, FL.	49 CFR 172.101, 175.320(a)	To authorize transport of Class A explosives loaded on the same aircraft with Class C explosives. (Mode 4).
EE 8803-N	DOT-E 8803	Resource Technology Services, Inc., Devon, PA.	49 CFR 172.101	To authorize one-time movement of silver picrate in two non-DOT specification glass bottles, packed in removable head metal drums and surrounded therein by vermiculite. (Mode 1).

Denials

5200-X Request by E. I. du Pont de Nemours & Company, Inc., Wilmington, DE to authorize use of DOT Specification 105A400W and 114A340W tank car tanks for shipment of flammable and nonflammable dispersant and refrigerant gases and mixtures denied April 20, 1982, as being unnecessary.

8728-N Request by S.A.Y. Industries Inc., Leominster, MA to authorize shipment of packages of Gasohol Plus (over 99% methyl alcohol), classed as a flammable liquid, without the flammable liquid label thereon denied April 20, 1982.

8771-N Request by Spencer Kellogg, Buffalo, NY to authorize marking of a compartmented cargo tank loaded with both a flammable and a combustible resin solution with only the identification number of the flammable resin solution denied April 20, 1982.

EE 8777-N Request by M&T Chemical Inc., Rahway, NJ to authorize an emergency exemption to ship tin tetrachloride, anhydrousin DOT Specification 6D/2SL packaging denied April 30, 1982.

8796-N Request by Petroplex Acidizing, Inc., Midland, TX to authorize shipment of hydrochloric acid solution in non-DOT specification steel cargo tanks denied April 15, 1982.

Issued in Washington, DC, on May 19, 1982.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-14634 Filed 5-28-82; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular; Public Debt Series—No. 14-82]

Interest Rates; F-1987 Series

May 26, 1982.

The Secretary announced on May 25, 1982, that the interest rate on the notes designated Series F-1987, described in Department Circular; Public Debt Series—No. 14-82 dated May 19, 1982, will be 13¾ percent. Interest on the notes will be payable at the rate of 13¾ percent per annum.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 82-14767 Filed 5-28-82; 8:45 am]

BILLING CODE 4810-40-M

Hazardous Substance Liability Insurance; Feasibility of Private Insurance for Post-Closure Financial Responsibility

AGENCY: Office of Financial Institutions and Capital Markets Policy, Office of the Secretary, Treasury.

ACTION: Cancellation of public hearing.

INFORMATION: The Comprehensive Environmental Response, Compensation and Liability Act of 1980 requires the President to make a determination, after a public hearing, on the feasibility of establishing or qualifying an optional system of private insurance for post-closure financial responsibility for hazardous waste disposal facilities. On May 5, 1982, the Department published a public notice (See 47 FR 19504) stating that a public hearing on this issue would be held on June 2, 1982 in the Main Treasury Building, Washington, D.C., if interested persons wished to make an oral presentation. The Department also stated that it would consider any written data that interested persons may wish to submit in lieu of making a presentation at a hearing.

Since no person has requested to make an oral presentation, there will be no hearing on June 2, 1982. The Department will consider, however, all

written comments that interested persons may wish to submit, provided such comments are received by June 9, 1982.

ADDRESS: All comments should be sent to Gordon Eastburn, Acting Deputy Assistant Secretary, Office of Financial Institutions and Capital Markets Policy, Room 3025, Department of the Treasury, Washington, D.C., 20220.

FOR FURTHER INFORMATION CONTACT:
Mark G. Bender, Senior Economist, Office of Financial Institutions and Capital Markets Policy, Room 2200, Department of the Treasury. Telephone (202) 566–2505.

Dated: May 26, 1982.

Gordon Eastburn,

Acting Deputy Assistant Secretary.

[FR Doc. 82–14821 Filed 5–28–82; 8:45 am]
BILLING CODE 4810–25–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 105
Tuesday, June 1, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

INTERNATIONAL TRADE COMMISSION

[USITC SE–82–20]

TIME AND DATE: 3:30 p.m., Tuesday, June 8, 1982.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigation 731–TA–93 (Frozen French Fried Potatoes from Canada)—briefing and vote.
6. Investigation 731–TA–94 (Bicycle Tires and Tubes from Taiwan)—vote.
7. Any items left over from previous agenda.

Portions closed to the public:

6. Investigation 731–TA–94 (Bicycle Tires and Tubes from Taiwan)—briefing.

CONTACT PERSON FOR MORE INFORMATION. Kenneth R. Mason, Secretary, (202) 523–0161.

[S–811–82 Filed 5–27–82; 10:14 am]

BILLING CODE 7020–02–M

2

LEGAL SERVICES CORPORATION

(Presidential Search Committee).

TIME AND DATE: 2 p.m.–5 p.m., Tuesday, June 15, 1982. (Continuation of the meeting is planned for June 16, 1982, as time permits)

PLACE: Legal Services Corporation, 733 15th Street, NW., Eighth floor conference room 2, Washington, D.C.

STATUS OF MEETING: Open (Portion of the meeting will be closed to discuss a personnel matter under 45 CFR 1622.5(a) and 1622.5(e)).

MATTERS TO BE CONSIDERED:

1. Status of Presidential Search.
2. Procedures for Final Selection.
3. Personnel Matters (Closed).

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Bernstein, Office of the President, (202) 272–4040.

Dated: May 26, 1982.

Gerald M. Caplan,
Acting President.

[S–810–82 Filed 5–27–82; 10:11 am]

BILLING CODE 6820–35–M

3

LEGAL SERVICES CORPORATION

(Provision of Legal Services Committee)

TIME AND DATE: 10 a.m.–12:30 p.m., Tuesday, June 15, 1982.

PLACE: Legal Services Corporation, 733 15th Street, NW., Eighth floor conference room 2, Washington, D.C.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Alternative Delivery Structure.
2. Private Bar Involvement.
3. Support Centers.
4. Client Representation.

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Bernstein, Office of the President, (202) 272–4040.

Dated: May 26, 1982.

Gerald M. Caplan,
Acting President.

[S–809–82 Filed 5–27–82; 10:11 am]

BILLING CODE 6820–35–M

4

LEGAL SERVICES CORPORATION

(Board of Directors)

TIME AND DATE: June Meeting as required by 45 CFR 1601.15(a) first Friday of June, 10 a.m. "Cancelled."

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Bernstein, Office of the President, (202) 272–4040.

Dated: May 26, 1982.

Gerald M. Caplan,
Acting President.

[S–812–82 Filed 5–27–82; 10:25 am]

BILLING CODE 6820–35–M

federal register

Tuesday
June 1, 1982

Part II

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Conditional Approval of the Permanent Regulatory Program Submission From the State of Illinois Under the Surface Mining Control and Reclamation Act of 1977

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

Conditional Approval of the Permanent Regulatory Program Submission From the State of Illinois Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: On December 22, 1981, the State of Illinois resubmitted to the Department of the Interior its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This follows an initial approval in part and disapproval in part of the proposed program which was published in the **Federal Register** on October 31, 1980 (45 FR 72468–72505). The purpose of the resubmission is to demonstrate the State's intent and capability to administer and enforce the provisions of SMCRA and the permanent regulatory program regulations, 30 CFR Chapter VII. Only those portions of the State's original submission which were not initially approved or which were changed are considered in this decision. This rule grants conditional approval of the Illinois permanent regulatory program.

A new Part 913 is being added to 30 CFR Chapter VII to implement this decision.

EFFECTIVE DATE: This conditional approval is effective June 1, 1982. This conditional approval will terminate as specified in 30 CFR 913.11 unless the deficiencies identified below have been corrected in accordance with the dates specified in 30 CFR 913.11, adopted below.

ADDRESSES: Copies of the Illinois program and the administrative record on the Illinois program are available for public inspection and copying during regular business hours at:

Office of Surface Mining, Administrative Record, Room 5315, 1100 "L" Street, NW, Washington, D.C., Phone: (202) 343–7896.

Office of Surface Mining, Federal Building and U.S. Courthouse, Fifth Floor, Room 510, 46 East Ohio Street, Indianapolis, Indiana 46204

Illinois Department of Mines and Minerals, Division of Land Reclamation, 227 South 7th Street, Suite 204, Springfield, Illinois 62706

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Abbs, Chief, Division of State Program Assistance, Program Operations and Inspection, Office of Surface Mining, Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, NW, Washington, D.C. 20240, Phone: (202) 343–5351

SUPPLEMENTARY INFORMATION:

A. General Background

The general background on the permanent program, the program approval process, and the Illinois program submission were discussed in the October 31, 1980 **Federal Register**, (45 FR 72468–72505). Amendments to the Federal permanent program regulations were published December 12, 1980 (45 FR 82084–83100); January 23, 1981 (46 FR 7894 and 7906); July 17, 1981 (46 FR 37232); August 17, 1981 (46 FR 41702); September 29, 1981 (46 FR 47720), October 8, 1981 (46 FR 50018–50019); October 28, 1981 (46 FR 53376), and November 2, 1981 (46 FR 54495). An interpretive rule was published November 7, 1980 (45 FR 73945–73946). Additional regulations were suspended August 19, 1981 (46 FR 42063) and December 7, 1981 (46 FR 59934), pending further rulemaking.

In the October 31, 1980 **Federal Register** notice, the Secretary announced his partial approval and partial disapproval of the Illinois program. The Illinois surface mining legislation was enacted September 22, 1979. The legislative provisions in the State's initial submission were approved with the exceptions noted under the heading "Approval in Part/Disapproval in Part", October 31, 1980 (45 FR 72504–72505). The program narrative portions of the initial submission were approved with the exceptions noted in the individual findings Nos. 14 through 31 in the October 31, 1980 **Federal Register** (45 FR 72468–72505). The proposed rules submitted by Illinois on June 16, 1980, were not fully promulgated by the 104th day following program submission, as required by 30 CFR 732.11(d). Therefore, the October 31, 1980 **Federal Register** notice did not contain findings on the State's regulatory provisions. However, the Illinois regulations were promulgated on September 12, 1980, and amendments subsequent to that time were adopted on January 4, 1982. The regulations become effective on the date of approval of the Illinois program.

B. Background on the Illinois Resubmission

In accordance with the procedures set forth in 30 CFR 732.13(f), the State of Illinois originally had 60 days from the date of publication of the Secretary's partial approval decision on October 31, 1980, to resubmit a revised program for consideration. On December 11, 1980, the Seventh Judicial Circuit Court of Sangamon County, Illinois enjoined the Illinois Department of Mines and Minerals (IDMM) from submitting or resubmitting to the Office of Surface Mining (OSM) the Illinois State program until June 11, 1981. The injunction was later extended for an additional six months, to December 11, 1981. Under the general statement of policy issued by OSM on August 26, 1981 (46 FR 43041–43043), the State had sixty days from the date the injunction was lifted within which to resubmit its program. The State submitted its revised program for consideration on December 22, 1981. Announcement of the Illinois resubmission was made in newspapers of general circulation within the State of Illinois and published in the **Federal Register** on December 24, 1981 (46 FR 62477–62478). That **Federal Register** notice also announced a public comment period extending to January 25, 1982, and a public hearing which was held on January 18, 1982, in Springfield, Illinois. Illinois submitted modifications to the resubmission on April 13, 1982, and a public comment period was opened on these modifications from April 14, through April 29, 1982.

Public disclosure of comments by Federal agencies was made on March 9, 1982 (47 FR 10058). On May 13, 1982 the Administrator of the Environmental Protection Agency transmitted her written concurrence on the Illinois program.

The Regional Director completed his program review on May 10, 1982, and forwarded the public hearing transcripts, written presentations, and copies of all comments to the Director together with a recommendation that the program be conditionally approved.

On May 13, 1982, the Director recommended to the Secretary that the Illinois program be conditionally approved.

The basis and purpose statement for the Secretary's decision to conditionally approve the Illinois program consists of this notice and the October 31, 1980 **Federal Register** notice, announcing the Secretary's initial decision. The Illinois program consists of the formal submission of March 3, 1980 (Administrative Record No. (ARN) ILL–0003), as amended on June 16, 1980, July 30, 1980, December 22, 1981, April 13, 1982, and April 28, 1982 (ARN ILL–0103, 0358, 0384, 0451 and 0465), and as clarified in meetings with Illinois described below.

Throughout the remainder of this notice, "Illinois program" or "Illinois

submission" is used to mean the documents cited above together with those parts of the initial submission partially approved on October 31, 1980. The term "resubmission" only refers to those portions of the Illinois program resubmitted on December 22, 1981 (ARN ILL–0384), as modified on April 13 and 28, 1982 (ARN ILL–0451 and 0465). The term "March 18 and 19, 1982, meeting" refers to a meeting held between OSM and the IDMM (ARN ILL–0443), the purpose of which was to discuss apparent deficiencies which had been found in the Illinois program submission.

On December 19, 1980, the State of Illinois sued OSM and the Department of Interior, alleging that the Secretary's initial decision was procedurally incomplete in that it failed, among other things, to specify those parts of the Illinois submittal which were specifically approved, to consider alternatives submitted, and to include sufficient detail to enable the State to prepare properly a resubmittal. The Secretary determined that his action was procedurally incomplete, as alleged, and a Stipulation for Consent Decree was approved and entered by Judge J. Waldo Ackerman in the U.S. District Court for the Central District of Illinois on August 14, 1981. Under the Consent Decree, the parties agreed to a number of items, including the following:

1. That in the October 31, 1980 initial decision, the Secretary failed to indicate those portions of the Illinois program that were approved, he did not consider as "state windows" the alternatives to the Secretary's regulations submitted by Illinois, and he did not take into account the regulations submitted to OSM on July 30, 1980.

2. The Illinois program submittal should be completely reexamined.

3. In order to provide for the resubmission of Illinois' program, the parties would initiate a series of meetings and discussions to reexamine the program to identify approved portions and review and identify those revised provisions which appear approvable, subject to any public comments or new information brought to OSM's attention during the formal review of Illinois' resubmission.

4. Illinois would resubmit its proposed program to the Secretary as soon as the injunction is lifted.

5. Meetings pursuant to the Consent Decree would be conducted in accordance with the Secretary's guidelines for contacts with Interior Department employees and officials during consideration of State permanent regulatory programs (44 FR 54444–54445, September 19, 1979).

When the Secretary announced his initial decision on the Illinois program, he included with the analysis his findings on the program provisions. During the period from the date of publication of the Secretary's decision (October 31, 1980) to the date of the resubmission (December 22, 1981), OSM and IDMM held several meetings to discuss the Secretary's findings and proposed additions or amendments to the Illinois program. The meetings were held on November 20, 1980, December 9 and 10, 1980, June 30 and July 1, 1981, and August 24 and 25, 1981. These meetings were conducted in accordance with OSM's Guidelines for Postsubmission Contacts Between the Department of the Interior, the States and the Public (44 FR 54444–54445, September 19, 1979). The results of these meetings are documented in the Administrative Record (ARN ILL–0251, 0304, 0305, 0347, and 0360), as are additional letters from OSM to IDMM (ARN ILL–0233, 0338, 0340, 0370, 0378 and 0462) providing comments on the status of the Illinois program. A number of deficiencies cited in the Secretary's initial decision were tentatively resolved at these meetings and except as noted under the heading "Secretary's Findings" below, Illinois has amended its program through its resubmission to correct the remaining deficiencies cited in the notice announcing the Secretary's initial decision. Previous findings such as 14.1 (45 FR 72472) and 15.1 (45 FR 72473) which were positive in nature and did not require further action are not rediscussed in this decision. Where appropriate, the reader is referred to specific findings in the October 31, 1980, **Federal Register** notice for a complete discussion of the issues.

C. Secretary's Findings

In reaching his decision to conditionally approve the Illinois program submission, the Secretary finds, in accordance with Section 503(a) of SMCRA and 30 CFR 732.15, that Illinois has the capability, except as noted below, to carry out the provisions of SMCRA and to meet its purposes in the following ways. Findings made under Section 503(a) (1) through (7) and (b) (1) through (4) are numbered (1) through (11). Findings made under 30 CFR 732.15(a), (b) (1) through (16), (c), and (d) are numbered (12) through (31).

Finding 1

The Illinois Surface Coal Mining Land Conservation and Reclamation Act (Illinois SCMLCRA), and the regulations adopted thereunder provide, except as noted in the findings below, for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands in Illinois in accordance with SMCRA. This finding is based on the requirements of Section 503(a)(1) of SMCRA (30 U.S.C. 1253(a)(1)). The issues underlying this finding are analyzed in Findings 12 through 31, below.

Finding 2

The Illinois SCMLCRA provides, except as noted in the finding below, sanctions for violations of Illinois laws, regulations or conditions of permits concerning surface coal mining and reclamation operations, and these sanctions meet the requirements of SMCRA, including civil and criminal actions, forfeiture of bonds, suspensions, revocations, and withholding of permits, and the issuance of cease-and-desist orders by the Illinois Department of Mines and Minerals or its inspectors.

This finding is based on the requirements of Section 503(a)(2) of SMCRA (30 U.S.C. 1253(a)(2)). The issues underlying this finding are analyzed in Finding 21, below.

Finding 3

The Illinois Department of Mines and Minerals has sufficient administrative and technical personnel and sufficient funds to enable Illinois to regulate surface coal mining and reclamation operations in accordance with the requirements of SMCRA. This finding is based on the requirements of Section 503(a)(3) of SMCRA (30 U.S.C. 1253(a)(3)).

Finding 4

Illinois SCMLCRA provides for the effective implementation, maintenance, and enforcement of a permit system that meets the requirements of SMCRA for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within Illinois.

This finding is based on the requirements of Section 503(a)(4) of SMCRA (30 U.S.C. 1253(a)(4)).

Finding 5

Illinois has established a process for the designation of areas as unsuitable for surface coal mining in accordance with Section 522 of SMCRA.

This finding is based on the requirements of Section 503(a)(5) of SMCRA (30 U.S.C. 1253(a)(5)). The issues underlying this finding are analyzed in Finding 22, below.

Finding 6

Illinois has established, for the purpose of avoiding duplication, a

process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with other Federal and State permit processes applicable to the proposed operations.

This finding is based on the requirements of Section 503(a)(6) of SMCRA (30 U.S.C. 1253(a)(6)).

Finding 7

Illinois has, except as noted in the findings below, fully enacted regulations consistent with regulations issued pursuant to SMCRA.

This finding is based on the requirements of Section 503(a)(7) of SMCRA (30 U.S.C. 1253(a)(7)). The issues underlying this finding are analyzed in Findings 14–31, below.

Finding 8

The Secretary has, through OSM, solicited and publicly disclosed on March 9, 1982 (47 FR 10058), the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise pertinent to the proposed Illinois program.

This finding is based on the requirements of Section 503(b)(1) of SMCRA (30 U.S.C. 1253(b)(1)).

Finding 9

The Secretary has obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of the Illinois program being approved today which relate to air or water quality standards promulgated under the authority of the Clean Water Act, as amended, 33 U.S.C. 1251 *et seq.*, and the Clean Air Act, as amended, 42 U.S.C. 1857 *et seq.*

This finding is based on the requirements of Section 503(b)(2) of SMCRA (30 U.S.C. 1253(b)(2)).

Finding 10

The Secretary has, through OSM, held a public review meeting in Springfield, Illinois on April 10, 1980, to discuss the completeness of the Illinois program submission, held public hearings in Springfield, Illinois on July 24, 1980, and Marion, Illinois on July 25, 1980, on the adequacy of the Illinois program submission, and held a public hearing on the resubmission of the Illinois program on Janaury 18, 1982, in Springfield, Illinois.

This finding is based on the requirements of Section 503(b)(3) of SMCRA (30 U.S.C. 1253(b)(3)).

Finding 11

The Secretary finds that the State of Illinois has the legal authority and qualified personnel necessary for the enforcement of the environmental protection standards of SMCRA and 30 CFR Chapter VII.

This finding is based on the requirements of Section 503(b)(4) of SMCRA (30 U.S.C. 1253(b)(4)).

Finding 12

In accordance with 30 CFR 732.15, the Secretary finds, on the basis of information in the Illinois program submission, including the section-by-section comparison of the Illinois law and the regulations with SMCRA and 30 CFR Chapter VII, public comments, testimony and written presentations at the public hearings, and other relevant information, that the Illinois program provides, except as noted in the findings below, for Illinois to carry out the provisions and meet the purposes of SMCRA and 30 CFR Chapter VII. The issues underlying this finding are analyzed in the findings discussed throughout this **Federal Register** notice.

Finding 13

Finding 13 of the October 31, 1980 **Federal Register** notice stated that the Illinois permanent program submission did not contain any proposed "state window" alternative approaches under the provisions of 30 CFR 731.13 (44 FR 15324). However, under the Stipulation for Consent Decree entered into by OSM and Illinois, OSM agreed that it had failed to consider as "state windows" the alternatives to the Secretary's regulations submitted by Illinois. Since that Consent Decree was filed on August 14, 1981, the Federal standards for reviewing State alternatives have been amended. The amended rules (46 FR 53376–53389, October 28, 1981) provide that a State may adopt and the Secretary may approve any provisions which are as effective as the Federal regulations in meeting the requirements of SMCRA. Therefore, any alternative approaches proposed by Illinois have been reviewed under the new standard.

Finding 14

The Secretary finds that the Illinois Department of Mines and Minerals has the authority under Illinois law to implement, administer, and enforce all applicable requirements consistent with 30 CFR Chapter VII, Subchapter K, and the Illinois program includes provisions, except as noted below, adequate to do so. Special provisions comparable to 30 CFR Parts 820, 822 and 825 for anthracite mines, alluvial valley floors, and special bituminous mines, are not applicable to or included in Illinois law or regulations. This finding is made under the requirements of 30 CFR 732.15(b)(1). Illinois incorporates provisions corresponding to Sections 515 and 516 of SMCRA in Articles III and IV, Illinois SCMLCRA and in the Illinois State Program Regulations Parts 1816 and 1817. Discussion of significant issues raised during the review of the Illinois environmental performance standards follows.

14.1 In response to findings made in the October 31, 1980 **Federal Register**, the State has changed the narrative discussion or promulgated regulations which are substantially identical to their Federal counterparts. For this reason, the Secretary finds that the problems raised by the following findings from the October 31, 1980 **Federal Register** no longer exist: 14.2, 14.4, 14.6, 14.7, 14.8, 14.10, 14.14, 14.15 and 14.16.

14.2 *Rule 1816.49(c)*—In the regulations concerning proposed permanent impoundments, Illinois provides that perimeter slopes shall be stable and consistent with the intended use and shall not be steeper than the angle of repose. The Federal regulation, 30 CFR 816.49(c), provides that the maximum slope adjacent to a proposed permanent impoundment must be 2h:1v. At the March 18 and 19, 1982 meeting (ARN ILL–0443), Illinois explained that the controlling factors in this rule are that the slopes be stable and consistent with the intended use of the impoundment and that the maximum slope allowed would depend on the use of the impoundment. The Secretary assumes that Illinois would not approve in a permit application any permanent impoundment unless the State made the necessary findings that perimeter slopes would be stable and consistent with the postmining use of the impoundment. Based on this understanding, the Secretary finds that the Illinois rule is as effective as 30 CFR 816.49(c) and therefore consistent with the Federal regulations.

14.3 *Rules 1816.64(a) and 1817.65(a)*—Illinois rule 1816.64(a) requires publication of a blasting schedule before beginning a blasting program in which blasts using more than 25 pounds of explosives are to be detonated. The Federal requirements for surface mines in 30 CFR 816.61(b) and 816.64(a)(1) provide that blasts using more than five pounds of explosive or blasting agent shall be conducted according to the published schedule. Illinois rule 1817.65(a) requires notice to residents before beginning a blasting program in which blasts using more than 25 pounds of explosives are to be

detonated. The Federal requirements for surface effects of underground mines in 30 CFR 817.65(a) provide that residents or owners of any dwelling located within one-half mile of the permit area are to be notified prior to *any* blasting event. Therefore, the Secretary finds the Illinois provisions are inconsistent with the Federal rules. As a condition of approval, Illinois must modify its regulations to: (1) Require publication of a blasting schedule for blasts using more than five pounds of explosives, consistent with 30 CFR 816.64(a); and (2) require notification of residents of *any* surface blasting event, consistent with 30 CFR 817.65(a).

14.4 *Rule 1816.103(a)(1)*—The Illinois regulation concerning cover or treatment of toxic materials and coal seams allows for covering the pit floor and the highest coal seam with a minimum of four feet of water. The Federal regulation, 30 CFR 816.103, does not allow for cover with water. Illinois submitted technical data (ARN ILL–0384, Volume R5) to support its contention that cover with water of final cut pits is an effective method of treatment. Illinois stated that when water covers a coal seam, air, an essential ingredient to acid production, is excluded, and no acid formation will occur. This conclusion is based on principles of pyrite oxidation, an acid producing process, and oxygen diffusion. OSM reviewed the technical reports used by Illinois to support its contention.

The Secretary finds that, while the general concept of covering with water has merit, the average depth of the study lakes used in the technical reports was nine meters or 29½ feet. OSM concurs that thermal stratification is effective in isolating the bottom strata (hypolimnion) from receiving or replenishing oxygen supplies from the upper strata (epilimnion). However, thermal stratification does not occur in fresh-water lakes unless they are approximately ten meters deep. In order to achieve an effective separation between the pyrites and the oxygen required to produce acid, the level of dissolved oxygen must be kept near zero. The most productive aquatic habitat is in shallow water up to a depth of one meter (3.3 feet) and this zone contains the highest levels of dissolved oxygen. Dissolved oxygen levels rise considerably during daylight hours as photosynthesis occurs in these shallow areas. In conclusion, covering with four feet of water is not effective in preventing acid production. At a minimum, the column of water should be about ten meters (33 feet) to assure strong thermal stratification and minimum levels of dissolved oxygen.

OSM conveyed its analysis of this rule in a letter to Illinois dated April 20, 1982 (ARN ILL–0462). Illinois submitted additional information in support of this proposal, dated April 28, 1982 (ARN ILL–0465). This material arrived too late to be made available for public review and comment. However, OSM analyzed this information and concluded that it did not provide adequate technical justification for approving this Illinois provision. Therefore, the Secretary cannot find that the Illinois provision is consistent with the Federal regulations or Section 515(b)(14) of SMCRA. The Secretary, however, has directed OSM to work with Illinois to further analyze the technical literature and provide assistance in developing a proposal consistent with the Act and the Federal regulations. Pending completion of that effort, the Secretary will condition approval of the Illinois program upon revisions to require a minimum cover of ten meters (33 feet) of water or to otherwise make the State program consistent with the Federal rule.

14.5 *Rule 1817.71(g)*—Illinois would allow depressions or impoundments on excess spoil fills when approved by the regulatory authority. The Federal regulations, 30 CFR 817.71(g), prohibit this practice in order to minimize infiltration of surface water into the fill so as to maintain the lowest possible hydrostatic pressure within the fill. Illinois has explained (ARN ILL–0451) that it does not intend to approve any "accidental" impoundments and that the Illinois provision was intended to address a situation where underground development waste is incorporated in the construction of coal processing waste impoundments.

Illinois explained further that the possibility of excess spoil fills in the establishment of an underground mine in Illinois is unlikely. In a situation where mine development waste is incorporated into the construction of coal processing waste impoundments, the requirements of Illinois rules 1817.91–1817.93 must be met, ensuring that safety and environmental concerns will be properly addressed. Illinois rules 1817.91–1817.93 are requirements for design and performance standards for coal processing waste dams and embankments. This approach is consistent with that followed by the Mine Safety and Health Adminstration. Based on this explanation and Illinois' assurance that it does not intend to approve any accidental impoundments, the Secretary finds rule 1817.71(g) no less effective than the Federal regulations.

14.6 *Rule 1816.22*—The Illinois performance standard for topsoil is entitled "Placeland Topsoil." The Illinois term "placeland" is defined as "undisturbed land prior to any mining activity." In order to make it clear that this does not exempt previously mined areas from the topsoil requirements, Illinois submitted a policy statement (ARN ILL–0451) explaining that the words "before any mining activity" are intended to refer only to the mining activity involved in the permit application which would be presently under consideration. Illinois explained that on some older, previously mined lands, topsoil was not required to be replaced and thus topsoil and/or substitute material may not be available. If topsoil and/or substitute material is present on an area that is to be re-mined, it must be removed pursuant to Section 1816.22. Based on this assurance, the Secretary finds the Illinois rule no less effective than the Federal regulations.

14.7 *Rule 1816.46*—Illinois uses the term "siltation structures" in connection with the performance standards for sediment control, and requires that such structures be designed, constructed and maintained in accordance with the "best technology currently available" (BTCA). The Illinois term "siltation structures" includes "sedimentation ponds." The Illinois rule would allow variances from the requirement of a sedimentation pond if an operator demonstrates that BTCA in a given situation is a siltation structure other than a sediment pond. The Federal rules, 30 CFR 816.46 and 817.46, require the use of sedimentation ponds because Section 515(b)(1)(B) requires BTCA for sediment control and at the present time, BTCA for sediment control is sedimentation ponds 44 FR 15159 (March 13, 1979). Illinois has submitted a statement (ARN ILL–0451) that it intends to retain the language currently used in its regulations and should a permit application propose to use a method other than a sediment pond and Illinois determines that this proposal is a better technology than use of a sediment pond, Illinois will submit the proposal to OSM for comment during the permit review process and prior to final action. The Secretary does not find this statement sufficient to assure that the Illinois rule is as effective as the Federal rule in meeting the requirements of Section 515(b)(10). Therefore, approval of the Illinois program is conditioned upon submission of a policy statement to the effect that Illinois understands that, at the present

time, BTCA for sediment control is sedimentation ponds and should Illinois wish to approve anything else, the State will first send the proposal to OSM for review and approval as either an experimental practice or a program amendment. The Secretary has directed OSM to work with Illinois to develop alternative approaches that will meet the requirement to use BTCA for sediment control.

14.8 *Rules 1816.133(c) and 1817.133(c)*—The Illinois rules omit the specific approval criteria for alternative postmining land uses contained in 30 CFR 816.133(c) and 817.133(c). Illinois has submitted a policy statement (ARN ILL–0451) explaining that all the factors in 30 CFR 816.133(c) applicable to area mining are included in the Illinois regulations, Sections 1780.2, 1780.18, 1780.23, 1816.97, 1816.100, 1816.133 (a), (d), and 1817.133 (a), (d). Based on this explanation, and after reviewing the provisions cited by the State, the Secretary finds the Illinois rules consistent with the Federal requirements and Section 515(b)(2) of SMCRA.

Finding 15

The Secretary finds that the Illinois Department of Mines and Minerals has the authority under Illinois law and the Illinois program includes provisions to implement, administer and enforce a permit system consistent with 30 CFR Subchapter G. This finding is made under the requirements of 30 CFR 732.15(b)(2).

Illinois incorporates provisions corresponding to Sections 506, 507, 508, 510, 511 and 513 of SMCRA and Subchapter G of 30 CFR Chapter VII in Article II, Illinois SCMLCRA and in the Illinois Regulations Parts 1770, 1771, 1778, 1779, 1780, 1782, 1783, 1785, 1786, 1787 and 1788.

Discussion of significant issues raised during the review of the Illinois permitting provisions follows.

15.1 In response to findings made in the October 31, 1980 **Federal Register**, the State has changed the narrative discussion or promulgated regulations which are substantially identical to their Federal counterparts. For this reason, the Secretary finds that the problems raised by the following findings from the October 31, 1980 **Federal Register** no longer exist: 15.2, 15.4, 15.8 and 15.9.

15.2 *Rule 1785.23(b)*—Illinois has provided an entirely new permitting category called "minor underground mine facilities not at or adjacent to the processing or preparation facility or area," which includes air shafts, fan and ventilation buildings, small support buildings, access power holes, and other small structures and roads. Illinois explained in its legal opinion (ARN ILL–0384, Volume R5) that this rule was adopted to take into account the distinct differences between surface and underground mining. There is no Federal counterpart to this provision. This category of facilities would be subject to an abbreviated permit application and review period on the basis that these types of structures have a very minimal impact on the land and the environment. The Secretary expressed a concern in the March 18 and 19, 1982 meeting (ARN ILL–0443) that air shafts are often large structures which can cause an extensive amount of surface disturbance and affect the hydrologic balance. Illinois has submitted a policy statement (ARN ILL–0451) explaining that:

(1) Illinois Rule 1785.23(c)(2)(v) requires a description of the measures to be used to comply with the applicable requirements of Section 1817.182; (2) Illinois Rule 1817.182(a) requires application of applicable performance standards of Parts 1817–1828 if such minor facilities significantly affect land, air or water resources; and (3) Illinois Rule 1817.182(k) requires that minor facilities be utilized in a manner which minimizes disturbance of the prevailing hydrologic balance and shall include sediment control measures such as those listed in 1817.45 or siltation structures which comply with 1817.46. Further, the IDMM may specify additional measures to be adopted by the permittee. Thus, should an air shaft be a large structure which may affect the environment, it would not be eligible for treatment under rule 1785.23(b). Based on these assurances, the Secretary finds the Illinois provision consistent with the Federal regulations.

15.3 *Rule 1784.20.* This Illinois rule requires underground permit applications to contain subsidence control information. The Illinois rule, which is virtually identical to its Federal counterpart, 30 CFR 784.20, provides that an application shall include a survey to show whether structures or renewable resource lands exist within the proposed permit and adjacent area and whether subsidence, if it occurred, could cause material damage or diminution of reasonably foreseeable use of such structures or renewable resource lands. If the survey makes this showing, a subsidence control plan is required which describes the measures to be taken to prevent or mitigate such effects.

However, because Illinois does not permit and bond the "shadow area" (the area beyond the permit area in which underground mine workings are located) much of the information required for the permit area under the Federal rule would not be required under the narrower Illinois definition of permit area. In order to accommodate this difference, Illinois adopted subsection (e) to Section 1784.20 which provides that applications for underground mining permits shall include as an appendix to the subsidence control plan "the information required concerning permit areas (also set out elsewhere in the application) together with all such information pertaining to *shadow areas*, described by the following sections: 1782.16(a), 1783.12(b), 1783.13(a), 1783.14(a), 1783.14(a)(2), 1783.15(a), 1783.22(b), 1783.24(e), (i), (j), (k), 1783.25(a), (d), (e), (g), 1784.11, 1784.20 and 1784.23(a)." (Emphasis added) The Illinois rule thus requires information in the subsidence control plan for the permit, shadow and adjacent areas which is consistent with the Federal requirement in 30 CFR 784.20.

At the March 18 and 19, 1982 meeting (ARN ILL–0443), OSM expressed concern that because the Illinois rule requires the survey only for the permit and adjacent areas, the shadow area seemed to be excluded. Thus, although 1784.20(e) would protect the shadow area through the subsidence control plan, the plan is not required unless a survey first shows that subsidence could damage existing resources. Illinois assured OSM that it was its intention to require the survey for the shadow area as well as the permit and adjacent areas, and pointed to the legal opinion (Volume R5) as demonstrating that the survey requirement included the shadow area. Illinois also submitted a policy statement (ARN ILL–0451) assuring OSM that it interprets its rules to require a survey for the shadow area. Specifically, Illinois noted that in adopting 1784.20(e), the State requires all applications to include "information required concerning the permit areas together with all such information pertaining to the shadow areas, described by the following sections: "* * * 1784.20 * * *." Thus, Illinois interprets the provision to require a survey of the shadow area. In addition, Illinois noted that subsidence control plans will probably always be necessary in Illinois, due to the existence of renewable resource lands within the State. Therefore, any permit application claiming that no such lands exist will draw immediate attention and be closely scrutinized.

Based on these assurances, the Secretary finds that Illinois rule 1784.20 has provided for subsidence control as effective as that required by 30 CFR 784.20.

Finding 16

The Secretary finds that Illinois Department of Mines and Minerals has the authority to regulate or prohibit coal exploration consistent with 30 CFR Parts 776 and 815 (coal exploration), and that the Illinois program includes provisions adequate to do so. This finding is made under the requirements of 30 CFR 732.15(o)(3).

The Illinois program incorporates provisions corresponding to Section 512 of SMCRA and 30 CFR Parts 776 and 815 in Article V, Illinois, SCMLCRA, and in the Illinois Regulations Parts 1776 and 1815.

Finding 17

The Secretary finds that the Illinois Department of Mines and Minerals does not have the authority under Illinois law and regulations to require that persons extracting coal incidental to government-financed construction maintain information on site consistent with 30 CFR Part 707.

However, the Illinois program does not contain provisions corresponding to Section 528(3) of SMCRA and 30 CFR Part 707 exempting the extraction of coal which is incidental to government-financed construction from the requirements of its program. Under the Illinios law and regulations, all such operations are subject to the full requirements of the State law and regulations. Therefore, the Illinois program is consistent with SMCRA. This finding is made under the requirements of 30 CFR 732.15(b)(4).

Finding 18

The Secretary finds that the Illinois Department of Mines and Minerals has the authority under Illinois law to enter, inspect, and monitor all coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands within Illinois consistent with the requirements of Section 517 of SMCRA (inspection and monitoring) and 30 CFR Subchapter L (inspection and enforcement) and that the Illinois program includes provisions adequate to do so. This finding is made under the requirements of 30 CFR 732.15(b)(5).

Provisions corresponding to Section 517 of SMCRA and Subchapter L of 30 CFR Chapter VII for inspection and monitoring are found in Article VIII, Illinois SCMLCRA and in the Illinois Regulations Parts 1840, 1842, 1843, and 1845. Discussion of significant issues raised during review of the Illinois inspection and monitoring provisions follows.

18.1 In response to findings made in the October 31, 1980 **Federal Register**, the State has changed the narrative discussion or promulgated regulations which are substantially identical to their Federal counterparts. For this reason, the Secretary finds that the problems raised by the following findings from the October 31, 1980 **Federal Register** no longer exist: 18.3, 18.4, 18.5, and 18.6.

Finding 19

The Secretary finds that the Illinois Department of Mines and Minerals has the authority under Illinois law and regulations and the Illinois program includes provisions, except as noted below, for implementation, administration and enforcement of a system of performance bonds and liability insurance, or other equivalent guarantees, consistent with 30 CFR Chapter VII, Subchapter J. This finding is made under the requirements of 30 CFR 732.15(b)(6). The performance bond and liability insurance provisions of Sections 507(f), 509, 510 and 519 of SMCRA and 30 CFR Subchapter J are incorporated in Article VI, Illinois SCMLCRA and in the Illinois Regulations Parts 1800, 1801, 1805, 1806, 1807, 1808, and 1810.

Discussion of significant issues raised during the review of the Illinois bonding provisions follows.

19.1 In response to findings made in the October 31, 1980 **Federal Register**, the State has changed the narrative discussion or promulgated regulations which are substantially identical to their Federal counterparts. For this reason, the Secretary finds that the problems raised by the following findings from the October 31, 1980 **Federal Register** no longer exist: 19.2, 19.3, and 19.4.

19.2 *Rule 1807.11(d)*—The Illinois rule provides that written notice of the inspection prior to bond release must be given to the surface owner but does not allow the surface owner to participate in the inspection. This is inconsistent with 30 CFR 807.11(d), which expressly provides that the surface owner may participate in the inspection. This right to participate is important in order for the surface owner to know whether or not to comment, and because under the terms of the lease, the surface owner may not have access to the leased land. Illinois submitted a policy statement (ARN ILL–0451) stating that it believes its Rules 1807.11(a), (c), and (e) provide protection to the landowner similar to that provided by 30 CFR 807.11(d). Under these State rules, the landowner is notified of the application for bond release and by registering a written objection, may require a hearing. The IDMM may then arrange with the applicant for access to the mining area. However, Illinois also stated that there are obvious practical benefits to *expressly* assuring that landowners, their lessees and agents are allowed to accompany the Department during its bond release inspection, and thus the IDMM will amend its rules to add an express provision to this effect. Approval of the Illinois program is conditioned upon a revision to the program to add an express provision allowing the surface owner to accompany the State inspector during the bond release inspection.

Finding 20

The Secretary finds that the Illinois Department of Mines and Minerals has the authority under Illinois law and provides regulations for civil and criminal sanctions for violations of Illinois law, regulations and conditions of permits and exploration approvals, including civil and criminal penalties, in accordance with Section 518 of SMCRA and consistent with 30 CFR Part 845. This finding is made under the requirements of 30 CFR 732.15(b)(7).

The Illinois program incorporates provisions corresponding to Section 518 of SMCRA and 30 CFR Part 845 in Article VIII, Illinois SCMLCRA and in the Illinois Regulations Part 845.

Discussion of significant issues raised during the review of the Illinois bonding provisions follows.

20.1 In response to findings made in the October 31, 1980 **Federal Register**, the State has changed the narrative discussion or promulgated regulations which are substantially identical to their Federal counterparts. For this reason, the Secretary finds that the problems raised by the following findings from the October 31, 1980 **Federal Register** no longer exist: 20.1, 20.5, 20.6, 20.7, 20.8, 20.9, 20.10, 20.11, 20.12, 20.13, 20.14, 20.15, 20.16, and 20.17.

20.2 *Rule 1845.17(b)*—The Federal rule, 30 CFR 845.17(b), provides that where an otherwise properly served assessment is refused, it is still deemed properly served. The Illinois rule is silent on what constitutes proper service under Illinois law. However, Illinois has provided a statement (ARN ILL–0451) explaining that under Illinois law, refusal of registered or certified mail service would not defeat effective service. Also, Illinois notes that Rule 1843.14(a)(2) on service of notices of violation and cessation orders provides that: "Service shall be complete upon tender of the notice or order or of the mail and shall not be deemed incomplete because of refusal to accept." Because the time for contesting facts of a notice of violation, as well as a proposed penalty, runs from the

service of the proposed assessment, 1845.18(b), Illinois concludes that the provisions of Rule 1843.14(a)(2), quoted above, apply to the mailing of the proposed assessment, and that refusal to accept certified mail does not avoid service. Based on this explanation, the Secretary finds that the Illinois provision is consistent with the Federal regulations.

Finding 21

The Secretary finds that the Illinois Department of Mines and Minerals has the authority under Illinois laws to issue, modify, terminate, and enforce notices of violation, cessation orders and show cause orders in accordance with Section 521 of SMCRA and 30 CFR Chapter VII, Subchapter L, and that the Illinois program includes provisions, except as noted below, adequate to do so. This finding is made under the requirements of 30 CFR 732.15(b)(8).

The authority to issue, modify, terminate, and enforce notices of violation, cessation orders and show cause orders is contained in Article VIII, Illinois SCMLCRA and in Illinois Regulations Parts 1840, 1842, 1843, and 1845. Discussion of significant issues raised during review of the Illinois enforcement provisions follows.

21.1 In response to findings made in the October 31, 1980 **Federal Register**, the State has changed the narrative discussion or promulgated regulations which are substantially identical to their Federal counterparts. For this reason, the Secretary finds that the problem raised by Finding 21.1 from the October 31, 1980 **Federal Register** no longer exists.

21.2 *Rule 1843.12(a)(2)*—Illinois rule 1843.12(a)(1) requires an authorized representative of the IDMM to issue a notice of violation if on the basis of a State inspection, he or she finds a violation. Illinois rule 1843.12(a)(2) provides that an authorized representative of IDMM may issue a notice of violation on the basis of a State inspection other than one described in 1843.12(a)(1).

During the meeting of March 18 and 19, 1982, OSM questioned Illinois' need for this provision since the analogous Federal regulation, 30 CFR 843.12(a)(2), seems to be directed at Federal, not State inspections. Illinois has indicated in a policy statement (ARN ILL–0451) that it intends to delete this provision from its regulations to avoid any confusion as to its meaning.

21.3 *Rule 1843.12(f)*—This Illinois rule provides for extensions of time beyond 90 days for abatement of violations where because of the nature of the violation or circumstances beyond the permittee's control, abatement is impossible or would cause greater environmental harm then would abatement at a later date. The Illinois rule was based on the proposed Federal rule published April 22, 1981 (46 FR 22902). However, the final Federal rules published August 17, 1981 (46 FR 41702) were more narrowly drawn than the proposed rules to avoid abuses of the extension.

Illinois rule 1843.12(f)(1) authorizes on extension in any situation where abatement would cause more environmental harm than it would prevent. The Federal rule, 30 CFR 843.12(f)(4), limits this basis for an extension to situations where climatic conditions preclude abatement within 90 days or where, due to climatic conditions, abatement within 90 days clearly: (i) Would cause more environmental harm than it would prevent; or (ii) requires action that would violate safety standards established by statute or regulation under the Mine Safety and Health Act.

The final Federal rule, 30 CFR 843.12(j), also requires that no extension may be granted for longer than 90 days without a fresh showing by the operator that the condition that had justified an extension in the first instance remains, and that all other requirements for an extension have been met. The purpose of this rule is to prevent the granting of extensions resulting in inordinate delays and procrastination on the part of operators in abating violations. Illinois has no counterpart to this requirement.

Accordingly, the Secretary finds that the Illinois rule is not consistent with 30 CFR 843.12. Approval of the Illinois program is conditioned on revisions to provide for extensions of the 90-day abatement period consistent with the Federal regulations.

Finding 22

The Secretary finds that the Illinois Department of Mines and Minerals has the authority under Illinois law and regulations to provide for designation of areas as unsuitable for surface coal mining consistent with 30 CFR Chapter VII, Subchapter F. This finding is made under the requirements of 30 CFR 732.15(b)(9). Illinois incorporates provisions corresponding to Section 522 of SMCRA and 30 CFR Chapter VII, Subchapter F in Article VII, Illinois SCMLCRA and in the Illinois Regulations Parts 1760, 1761, 1762, and 1764. Discussion of significant issues raised during the review of the Illinois provisions to designate areas as unsuitable for surface coal mining follows.

22.1 In response to findings made in the October 31, 1980 **Federal Register**, the State has changed the narrative discussion or promulgated regulations which are substantially indentical to their Federal counterparts. For this reason, the Secretary finds that the problems raised by the following findings from the October 31, 1980 **Federal Register** no longer exist: 22.2, 22.3, and 22.5.

22.2 *Rule 1761.11(h)*—The Illinois rule appears to allow reclamation operations to take place within areas designated by Congress as unsuitable for mining. At the March 18 and 19, 1982 meeting, OSM asked the State to clarify under what circumstances reclamation could take place. The State explained that reclamation operations would be allowed for approved abandoned mine land projects or mandated reclamation of areas previously mined illegally. Based on this explanation, the Secretary finds the Illinois rule consistent with Section 522(e) of SMCRA. The Secretary does not believe that Section 522(e) was intended to prohibit these activities. Therefore, approved reclamation operations are permitted on areas designated as unsuitable for surface coal mining operations.

22.3 *Rule 1764.15(e)*—The Illinois rule contains a subsection not found in the Federal rule which provides that processing of petitions may be deferred as not timely unless the petitioner demonstrates "* * * (i) that there is a serious possibility of an adverse effect on the petitioner's interest from coal mining in the area covered by the petition, and (ii) either that coal mining is being conducted or seriously being contemplated in the vicinity of the area covered by the petition, or that the enjoyment or exercise of the petitioner's interest may be adversely affected if the petition is not processed on a current basis * * *" In addition, Rule 1764.15(e)(2) provides that processing of active (not deferred) petitions may be prioritized by the IDMM to minimize interference between competing interests. Illinois explained in its legal opinion, Volume R5, that these provisions are an internal management system for petitions, consistent with Section 522(c) of SMCRA. Moreover, Illinois stated that since a deferred petition remains "of record" and "under study" under the Illinois statute, no grant of a permit application may be made.

OSM asked Illinois for clarification of both these provisions at the March 18 and 19, 1982 meeting. The State explained that it anticipated that a large number of petitions would be filed as

soon as the State received primacy and it had tried to arrive at a practical solution for processing these petitions in the event that the number of petitions exceeds the available State personnel. The State also assured OSM of its intention to process all petitions as expeditiously as possible. OSM representatives noted that the one-year period for petition processing in Section 522(c) of SMCRA was intended primarily for the operator's benefit so as not to unduly delay mining. Illinois rule 1764.15(e)(1) provides that any person having an interest in coal mining in the area subject to the petition may at any time upon written, certified mail notice to the Department and the petitioner briefly explain its interest in coal mining and request current processing of the petition.

The Secretary finds, based on these explanations and assurances provided by the State, that the Illinois rule is consistent with Section 522 of SMCRA and the Federal rules, and will provide adequate protection to petitioners and others.

22.4 *Rule 1764.17(a)*—In the meetings with Illinois of June 30, 1981 (ARN ILL–0347) and August 24, 1981 (ARN ILL–0360), OSM expressed concern that the entire relevant data base should be incorporated as part of the hearing record, so that for purposes of appeal of the administrative decision, the record would be complete. The Illinois rule provides for all parties to an administrative hearing on a petition to reference and place on the record appropriate portions of the data base. Similarly, the hearing officer would review the data base and place on the record those portions deemed applicable, allowing for comment and challenge by the involved parties. Any subsequent judicial review would then be based on the composite record. Based on discussions with Illinois and further review of Illinois' statute and regulations, that the State's procedure should result in all relevant portions of the data base relating to the allegations in the petition being placed on the record. The Secretary finds this is in accordance with Section 522 of SMCRA and consistent with the Federal regulations.

22.5 *Rule 1764.17*—The Illinois rule provides for quasi-adjudicatory hearings on petitions to designate areas unsuitable for mining. The Federal regulation, 30 CFR 764.17, provides that the hearing shall be legislative and fact-finding in nature, without cross-examination of witnesses. However, this rule is not based on interpreting Section 522 of SMCRA as requiring legislative hearings. Thus, the Secretary may approve State programs providing for quasi-adjudicatory hearings provided they contain adequate safeguards to protect witnesses from intimidation and to ensure that the State procedure is as effective as the Federal rule.

The Illinois rule provides that any party may be represented by counsel, make oral or written arguments, offer testimony and cross-examine witnesses, cause the issuance of subpoenas, or take any combination of such actions. The Illinois rule also provides that the rules of evidence applied in civil practice cases in Illinois courts shall be followed and that irrelevant, immaterial, or unduly repetitious evidence shall be excluded. However, the Illinois rule also provides that "evidence not admissible under such rules of evidence, including without limitation, citizen opinion on whether lands fall within the criteria for unsuitability and should be designated unsuitable, may be admitted if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs." The rule also provides that any part of the evidence may be received in written form.

Thus, the Illinois rule allows, but does not require certain adjudicatory techniques such as cross-examination of witnesses. The parties may elect to use such techniques as appropriate. The Secretary concludes that these adjudicatory techniques are no less effective in making reasonable decisions than the legislative techniques specified in the Federal rule, so long as use of these techniques does not chill the petition process. Therefore, the Secretary finds that the Illinois rule is no less effective than the Federal rule, with the understanding that the State will insure that use of these techniques will not hamper the petition process or place an unfair burden on any party.

Finding 23

The Secretary finds that the Illinois Department of Mines and Minerals has the authority under Illinois law and the Illinois program contains provisions for public participation in the development, revision and enforcement of the Illinois regulations consistent with the public participation requirements of SMCRA and 30 CFR Chapter VII. Illinois provides for public participation in the development, revision and enforcement of the Illinois program throughout the Illinois SCMLCRA and Illinois Regulations.

23.1 In response to findings made in the October 31, 1980 **Federal Register**, the State has changed the narrative discussion or promulgated regulations which are substantially identical to their Federal counterparts. For this reason, the Secretary finds that the problems raised by the following findings from the October 31, 1980 **Federal Register** no longer exist: 23.1, 23.2, 23.3, 23.4, 23.5, 23.6, 23.7, 23.8, 23.9, 23.10, 23.11, 23.12, 23.13, 23.14, 23.16, 23.17, 23.18, 23.19, 23.20, 23.21, and 23.22.

Finding 24

The Secretary finds that the Illinois Department of Mines and Minerals has the authority under Illinois law and the Illinois program includes provisions to monitor, review, and enforce the prohibition against indirect or direct financial interests in coal mining operations by employees of the Illinois Department of Mines and Minerals consistent with 30 CFR Part 705. This finding is made under the requirements of 30 CFR 732.15(b)(11). Illinois incorporates provisions which prohibit financial interests in coal mining operations in Section 9.06, Illinois SCMLCRA and in the Illinois Regulations Part 1705.

Finding 25

The Secretary finds that the Illinois Department of Mines and Minerals has the authority under Illinois SCMLCRA Section 3.13 to require the training, examination and certification of persons engaged in or responsible for blasting and the use of explosives in accordance with Section 719 of SMCRA. This finding is made under the requirements of 30 CFR 732.15(b)(12). Under 30 CFR 732.15(b)(12), the State is not required to implement regulations governing such training, examination and certification until six months after Federal regulations for these provisions have been promulgated. Federal regulations were promulgated on December 12, 1980 (45 FR 82084) but were never made effective. However, six months after OSM final rules on this subject become effective, Illinois will be required to have consistent regulations.

Finding 26

The Secretary finds that the Illinois Department of Mines and Minerals has the authority under Illinois law and regulations to provide for a small operator assistance program consistent with Section 507(c) of SMCRA and 30 CFR Part 795. This finding is made under the requirements of 30 CFR 731.15(b)(13). The Illinois program incorporates provisions corresponding to Section 507(c) of SMCRA and 30 CFR Part 795 in Section 2.02, Illinois SCMLCRA and in the Illinois Regulations Part 1795.

26.1 In response findings made in the October 31, 1980 **Federal Register**, the

State has changed the narrative discussion or promulgated regulations which are substantially identical to their Federal counterparts. For this reason, the Secretary finds that the problems raised by the following findings from the October 31, 1980 **Federal Register** no longer exist: 26.1 and 26.2.

Finding 27

The Secretary finds that the Illinois Department of Mines and Minerals has the authority under Illinois law and regulations to provide for protection of its employees in accordance with the protection afforded Federal employees under Section 704 of SMCRA. This finding is made under the requirements of 30 CFR 732.15(b)(14).

The Illinois program does not contain an express provision corresponding to Section 704 of SMCRA. However, in the March 18 and 19, 1982 meeting (ARN ILL–0443), Illinois pointed to the Illinois criminal code which provides criminal penalties for assault, battery, aggravated assault or battery, and intimidation (Ill. Rev. Statutes, Chapter 38, paragraphs 12–1 through 12–4, and 12–6) which should adequately deter violent or offensive physical interference with State employees. Illinois also submitted a statement (ARN ILL–0451) on the penalties for these crimes. Under Illinois law, any battery (including offensive touching) of a Department employee and any assault on a person known as a Department employee is a Class A misdemeanor, punishable by up to one year in jail. A person who threatens a Department employee with physical confinement, restraint, harm to any person or property, or threat of collective action is guilty of a Class 3 felony, punishable by a minimum of one year and up to ten years in the penitentiary. The Secretary thus finds that the Illinois program provides protection for employees of the IDMM consistent with the afforded Federal employees under Section 704 of SMCRA.

Finding 28

The Secretary finds that the Illinois Department of Mines and Minerals has the authority under Illinois law and the Illinois regulations provide for administrative and judicial review of State program actions in accordance with Sections 525 and 526 of SMCRA and 30 CFR Chapter VII, Subchapter L. This finding is made under the requirements of 30 CFR 732.15(b)(15).

The Illinois program incorporates provisions corresponding to Sections 525 and 526 of SMCRA and 30 CFR Chapter VII, Subchapter L in Article VIII, Illinois SCMLCRA; in the Illinois Regulations Parts 1840, 1842, 1843, and 1845; and in the Illinois Administrative Review Act. Discussion of significant issues raised during the review of the Illinois provisions for administrative and judicial review follows.

28.1 In response to findings made in the October 31, 1980 **Federal Register**, the State has changed the narrative discussion or promulgated regulations which are substantially identical to their Federal counterparts. For this reason, the Secretary finds that the problems raised by the following findings from the October 31, 1980 **Federal Register** no longer exist: 28.3 and 28.4.

28.2 *Section 8.06(b), 806(c), 8.07(d), and Rule 1843.17*—Section 526 of SMCRA requires an operator to exhaust administrative remedies before seeking judicial relief. The Illinois statute provides that an operator may seek immediate injunctive relief from enforcement action. Illinois Rule 1843.17 requires operators to first exhaust administrative remedies before seeking judicial relief. The legal opinions submitted by Illinois dated June 13, 1980 and December 22, 1981, conclude that this regulation is valid. The legal opinion (Volume R5) argues that Illinois courts will ordinarily defer to the regulatory provision since it provides a remedy at law, and an injuction is not thus properly issuable. After reviewing the legal opinions, the Secretary finds that the Illinois provisions are consistent with SMCRA.

Finding 29

The Secretary finds that the Illinois Department of Mines and Minerals has the authority under Illinois law and the Illinois program contains provisions to cooperate and coordinate with and provide documents and other information to the Office of Surface Mining under the provisions of 30 CFR Chapter VII. This finding is made under the requirements of 30 CFR 732.15(1)(16). This authority is provided throughout the Illinois SCMLCRA and the Illinois Regulations.

Finding 30

The Secretary finds that the Illinois SCMLCRA and regulations adopted thereunder and other laws and regulations do not contain provisions that would interfere with or preclude implementation of the provisions of SMCRA and 30 CFR Chapter VII, except as noted below. This finding is made under the requirements of 30 CFR 732.15(c). Discussion of significant issues raised during the review of the Illinois provisions follows.

30.1 In response to findings made in the October 31, 1980 **Federal Register**, the State has changed the narrative discussion or promulgated regulations which are substantially identical to their Federal counterparts. For this reason, the Secretary finds that the problems raised by the following findings from the October 31, 1980 **Federal Register** no longer exist: 30.2, 30.3, 30.4, 30.5 and 30.7.

30.2 *Rule 1701.5—Definition of "valid existing rights"*—The Illinois definition of "valid existing rights" (VER) provides that the IDMM may declare that VER exists where it finds that "a judicial finding of a taking or damaging of property would be made * * *" Illinois has provided a policy statement (ARN ILL–0451) explaining that its definition is based on Section 15, Article I of the Illinois Constitution and has submitted an analysis of Illinois court decisions on taking cases. Illinois states that the Illinois courts have consistently applied the test to determine whether a taking or damaging has occurred. The Illinois Constitution requires just compensation when property is taken or damaged. The provision requiring compensation when property is damaged was added in 1870, because prior to that time recovery was not allowed unless there had been a physical injury or possession, even though the property may have been rendered less valuable. The Illinois courts require that a special damage results, not of a kind and character suffered by the public generally. This holding has been affirmed by the Illinois Supreme Court and upheld by the United States Supreme Court. Based on this information, the Secretary finds that the Illinois definition is consistent with the Federal rule.

30.3 *Rule 1700.11(f)*—The Illinois rule provides that the following regulations and statutory provisions will not become applicable until eight months from the date of approval of the Illinois program: Parts 1816, 1817, 1818, 1819, 1823, 1824, 1825, 1826, 1827, and 1828, and Articles III, IV, V, and VII of the SCMLCRA. At the meeting of March 18 and 19, 1982, (ARN ILL–0443) OSM asked for clarification of this provision. OSM's concern was whether a new permanent program permit could be granted in the eight months after program approval if the performance standards of SMCRA are not applicable. Illinois stated that there was no requirement in SMCRA that operators must comply with the permanent program prior to eight months after program approval unless a State program requires such compliance.

OSM agreed at the meeting to review the relevent provisions of SMCRA.

Section 506(a) of SMCRA provides in relevent part that "no later than *eight months* from the date on which a State program is approved by the Secretary, * * * no person shall engage in or carry out on lands within a State any surface coal mining operations unless such person has first obtained a permit issued by such State pursuant to an approved State program * * *" (Emphasis added) Thus, under SMCRA operators need not begin meeting the permanent program performance standards until eight months from this date.

The Illinois rule requires, as do Sections 506(a) and 515(a) of SMCRA, that all permits issued under the approved State program shall require that all surface coal mining operations will meet all applicable performance standards of SMCRA after eight months from the date of approval of the Illinois program. Thus, the Secretary finds the Illinois provision consistent with SMCRA and the Federal regulations.

30.4 In Findings 30.4 and 30.5 of the October 31, 1980 **Federal Register**, the Secretary found that the Illinois definitions of "surface mining operations" and "underground mining operations" did not, when taken together, appear to include the surface impacts of underground coal mining. However, at a meeting held on November 20, 1980 (ARN Ill–0251) Illinois pointed out that the term "mining operations" in the Illinois statute acts as an "umbrella" term that includes both surface and underground mining. Furthermore, Illinois pointed to the defintions in its regulations, which should resolve any uncertainty. For example, the definition in Illinois rule 1701.5 of "surface coal mining operations" or "mining operations" includes "*surface impacts incident to an underground coal mine* * * *." (emphasis added) Similarly, the definition in Illinois rule 1701.5 of "underground mining operations" means "the underground excavation of coal and * * * surface operations incident to the underground extraction of coal * * *." The definition in rule 1701.5 of "underground mining activities" means "a combination of—(a) Surface operations incident to underground extraction of coal or in situ processing * * * and areas upon which materials incident to underground coal mining operations are placed, and (b) Underground operations * * * which affect the surface." Therefore, the Secretary finds that the Illinois statutory and regulatory definitions of these terms, when viewed as a whole, provide jurisdiction consistent with the definition of "surface coal mining operations" in Section 701(28) of SMCRA.

30.5 In Finding 30.1 of the October 31, 1980 **Federal Register** the Secretary found the Illinois definition of "affected land" in Section 1.03(a)(1) of the Illinois statute to be inconsistent with the definition in the Federal rules. Since that time, Illinois has revised a number of the definitions in its rules, including "affected area," "shadow area", "permit area," and "adjacent area". Though different conceptually than the Federal definitions, the Secretary has found that these definitions, taken together, are no less effective than the Federal definitions, for the reasons set forth below.

Illinois rule 1701.5 defines "permit area" as "the area of land and water within the boundaries of the permit which are designated on the permit application maps * * *." The definition of "shadow area" was added to accommodate the distinct differences between underground and surface coal mines in Illinois. Illinois rule 1701.5 defines "shadow area" as "any area beyond the limits of the permit area in which underground mine workings are located. This area includes all resources above and below the coal that are protected by the (Federal) Act that may be adversely impacted by underground mining operations including impacts of subsidence."

Illinois rule 1701.5 defines "affected area" as "with respect to surface mining activities, any land or water upon or in which those activities are conducted or located. With respect to underground mining activities, affected area means: Any water or surface land upon which those activities are conducted or located."

"Adjacent area" is defined in Rule 1701.5 as "land located outside the permit area, or shadow area, depending on the context in which adjacent area is used, where air, surface or ground water, fish, wildlife, vegetation or other resources protected by the (Federal) Act may be adversely impacted by surface coal mining and reclamation operations."

Illinois requires all "affected areas" to be permitted and bounded. Illinois does not require permitting and bonding of the areas overlying underground mine workings, but it does require submission of a subsidence control plant for the shadow area. See Finding 15.3.

Finding 31

The Secretary finds that the Illinois Department of Mines and Minerals and other agencies having a role in the program have sufficient legal, technical and administrative personnel and funds to implement, administer and enforce the provisions of the program, the requirements of 30 CFR 732.15(b) and other applicable State and Federal laws. This finding is made under the requirements of 30 CFR 732.15(d).

31.1 In response to findings made in the October 31, 1980 **Federal Register**, the State has changed the narrative discussion or promulgated regulations which are substantially identical to their Federal counterparts. For this reason, the Secretary finds that the problems raised by the following findings from the October 31, 1980 **Federal Register** no longer exist: 31.1, 31.2, 31.3, 31.4, 31.5, and 31.6.

D. Disposition of Agency and Public Comments

The comments received on the Illinois program during the public comment periods described above under "Background on the Illinois Resubmission" raised numerous issues. The Secretary considered these comments carefully in evaluating the Illinois resubmission, as indicated below.

Department of the Interior

1. The Minerals Management Service (MMS) (ARN ILL–0429) offered no comments on the resubmitted Illinois program but requested an opportunity to renew and comment should Illinois submit a separate program for the regulation of surface coal mining on Federal lands. Now that Illinois has assumed primary jurisdiction, the State may elect to enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands within the State. Under 30 CFR 745.11, MMS would have an opportunity to comment on any proposed cooperative agreement.

2. The Fish and Wildlife Service (FWS), in a letter dated February 12, 1982 (ARN ILL–0427), provided a Biological Opinion pursuant to Section 7 of the Endangered Species Act (ESA) that the Illinois program is not likely to jeopardize the continued existence of Federally listed species or destroy or adversely modify their critical habitats. The FWS did express concern about the lack of a defined mechanism to be used to assure the continued existence of listed species and advised that its Biological Opinion extends only to the approval of the program and another Opinion would be needed for oversight of the program.

OSM is presently developing regulations to replace the remanded 30 CFR 779.20 and 780.16, which required

fish and wildlife information and a plan in permit applications, and full promulgation along with subsequent amendment of Illinois' program may eliminate some of the FWS's concern. Pending this revision, OSM will work with Illinois to insure that the State is meeting its responsibilities for protection of endangered and threatened species as set out in the Illinois program. The FWS comments will also be considered in the development of an oversight plan.

3. The FWS (ARN ILL–0410) commented that, in general, the resubmitted program satisfies most fish and wildlife requirements of SMCRA, especially the procedures for coordinating with Federal agencies. However, the FWS suggested that the Illinois program narrative, Volume R2, Tab I, be amended to include the names of several individuals having responsibility for fish and wildlife matters in Illinois. The suggestion has been furnished to the State, but the Federal Act and rules do not require that this be done.

4. The FWS (ARN ILL–0410) commented that the resubmission does not define the mechanisms to be used to assure that the continued existence of a Federally listed threatened or endangered species will not be jeopardized, and to assure compliance with the Migratory Bird Treaty Act, Bald Eagle Protection Act, and other applicable Federal fish and wildlife laws. Specifically, the FWS noted that Illinois Rules 1770.12, 1776.12(a)(3)(i), 1776.13(b)(2), 1786.19, 1784.21 and 1817.44(a)(3) omit references to the ESA and a counterpart to 30 CFR 784.21 is omitted entirely.

The Illinois resubmission at Volume R2, Tabs I and J, describes the mechanism for coordinating with other agencies, including compliance with the ESA. In addition, Rules 1770.12, 1776.12(a)(3)(i), 1776.13(b)(2), 1786.19, and 1817.44(a)(3) are identical to their Federal counterparts. Rule 1786.19(o) specifically requires the IDMM to find, in writing, that issuance of a permit will not "affect the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitats as determined under the Endangered Species Act of 1973." The Secretary cannot require the State to do more than the Federal regulations require.

Illinois does not have a rule corresponding to 30 CFR 784.21, which required permit applications to contain fish and wildlife reclamation plans. However, 30 CFR 784.21 was suspended, and therefore Illinois is not required to include such a regulation until final Federal rules are promulgated. SMCRA and the Federal regulations do not require State programs to demonstrate specifically how they will comply with the Migratory Bird Treaty Act or the Bald Eagle Protection Act. Thus, the Secretary cannot require Illinois to provide this information. However, the Illinois procedures for coordinating with Federal agencies should provide adequate protection for bald eagles and migratory birds.

5. The FWS (ARN ILL–0410) commented that Illinois rule 1816.133 on determination of postmining land use considers only premining land capability rather than the three criteria in Section 508(a)(2) of SMCRA: (1) Use; (2) capability; and (3) productivity. However, Illinois Rules 1779.22 and 1780.23 require the permit applicant to provide information on the uses, capability and productivity of the land within the proposed permit area. Thus, the Secretary finds that the Illinois rules are consistent with Section 508(a)(2) of SMCRA and 30 CFR 779.22 and 780.23.

6. The FWS (ARN ILL–0410) commented that pages 9, 11, 14 and 34 of Illinois narrative Volume R2, Tab A, should be amended to show Federal agency notification requirements. The Illinois processes requiring coordination and consultation with Federal agencies involved in permit issuance are described in Volume R2, Tabs I and J.

Department of Agriculture

7. The Soil Conservation Service (SCS) (ARN ILL–0408 and 0409) commented that the questions raised by SCS in the review of the original Illinois submission have been satisfactorily addressed. The SCS also stated its position in reference to Illinois Rule 1823.14(a), that no natural soil in Illinois should be exempted from being reconstructed to a minimum depth of 48 inches providing it is formed in 48 inches or more of soil material. The Illinois rule is identical to its Federal counterpart.

Department of Labor

8. The Mine Safety and Health Administration (MSHA) (ARN ILL–0435) commented that the Illinois narrative Volume R2, page 76, requires the operator to attach to the mining plan a certification from MSHA verifying that all such impoundments meet minimum requirements pursuant to Pub. L. 83–566. MSHA notes that it has no jurisdiction under Pub. L. 83–566 and therefore does not issue a certification regarding it. The Illinois requirement to which MSHA refers is an interim permit application requirement, not a permanent program requirement subject to this approval.

9. MSHA (ARN ILL–0435) commented that Illinois narrative Volume R2, page 232 on rule 1816.49(b) requiring a 1.0-foot freeboard to be maintained appears to be in conflict with the OSM regulations which require a 3.0-foot freeboard at all times. The OSM regulations do not require a 3.0 foot freeboard at all times. The Federal requirements in 30 CFR 816.93(a)(1) and 817.93(a) are that design freeboard shall be no less than 3 feet. Illinois rules 1816.93(a)(1) and 1817.93(a)(1) contain an identical 3 foot requirement. Illinois inserts a standard of 1.0-foot freeboard in 1816.49(b) which is not present in 30 CFR 816.49(b). Therefore, Illinois is no less effective than the Federal regulations.

10. MSHA (ARN ILL–0435) commented that Illinois narrative Volume R2, page 288, requires approval of design and construction of dams with a height of 20 feet or more and with a storage of 20 feet or more. MSHA notes that its regulations require plans for an impounding structure with a height of 5 feet or more and a storage volume of 20 acre-feet or more, *or* with a height of 20 feet or more, *or* any impoundment, as determined by MSHA, which presents a hazard to coal miners. The Illinois rule 1816.46(d) is identical to the Federal requirement in 30 CFR 816.46(q), which imposes *additional* requirements for any embankment that is more than 20 feet in height or has a storage volume of 20 acre-feet or more. In suach a situation, the MSHA criteria of 30 CFR 77.216 must also be met.

Environmental Protection Agency

11. The Environmental Protection Agency (EPA) (ARN ILL–0414) commented that a supplemental opinion by the Illinois Attorney General is required to make the resubmission complete. The Federal rule, 30 CFR 731.14(c), provides that the legal opinion may be submitted by either the Attorney General or the chief legal officer of the State regulatory authority. As a part of its resubmission (Volume R5), Illinois submitted a legal opinion from the chief legal officer of the Illinois Department of Mines and Minerals. This opinion fulfills the requirement of 30 CFR 731.14(c).

12. EPA (ARN ILL–0414) commented that a map showing the jurisdictional boundaries of the Army Corps of Engineers would be a helpful addition to the Illinois narrative Volume R2. While such a map is not required, this suggestion has been furnished to the State.

13. EPA (ARN ILL–0414) commented that Illinois rule 1783.15, requiring the permit application to contain information on ground water, including

aquifers, has a provision allowing the applicant to claim that "no significant aquifer" exists. Under the rule, if the applicant makes such a claim, the applicant must state the basis for the determination. This issue was discussed at the March 18 and 19, 1982 meeting (ARN ILL-0443). OSM noted that the Federal performance standard counterpart to this permitting requirement, 30 CFR 816.52(a), requires monitoring "when surface mining activities may affect ground water systems which serve as aquifers which *significantly* ensure the hydrologic balance." (emphasis added) The important criterion is whether surface mining activities will affect significant aquifers, i.e., aquifers which significantly ensure the hydrologic balance. Illinois is free to reject an applicant's claim that no significant aquifer exists and require further information. Based on this provision and the Federal emphasis, the Secretary finds the Illinois rule consistent with the Federal regulations.

14. EPA (ARN ILL-0414) commented that Illinois erroneously omits a counterpart to 30 CFR 816.46(c), which requires sedimentation ponds to provide the required theoretical detention time, on the basis that the Federal rule was suspended. The Federal rule was suspended on December 31, 1979 (44 FR 77451). Therefore, Illinois is not required to include this regulation until final Federal rules are promulgated. However, Illinois rule 1816.46(b) requires that the sediment pond design criteria shall be no less stringent than current criteria of the U.S. Environmental Protection Agency and Office of Surface Mining, which is consistent with the Federal regulations.

15. EPA (ARN ILL-0414) commented that Illinois rules 1816.46(c) and 1816.71(a)(1) refer to the applicable effluent limitations contained in 1816.42, but that 1816.42 has no effluent limitations. Illinois rule 1816.42(a) incorporates by reference the applicable State and Federal effluent limitations and water quality requirements.

16. EPA (ARN ILL-0414) commented that Illinois rule 1817.41(c) qualifies the corresponding Federal provision by adding the phrase "as interpreted by the Agency primarily responsible for the enforcement thereof" to the requirements that "there shall be no violations of Federal and State water quality statutes, regulations, standards or effluent limitations." The Secretary understands this statement to mean as interpreted by the EPA but will suggest to Illinois that this phrase be deleted as unnecessary.

Public Comments

The following acronyms were used to identify commenters: Illinois South Project (ISP), which represented a number of groups; Village of Catlin, Illinois (VOC); Knox County Board (KCB); AMAX Coal Co. (AMAX); and Old Ben Coal Co. (Old Ben).

17. *Rule 1700.11(f).* ISP (ARN ILL-0412) commented that this rule provides that the performance standards shall not be applicable until eight months from the date of Secretarial approval and that this causes a blanket exemption from compliance. The Secretary has reviewed the rule and finds that Illinois is consistent with Section 506(a) of SMCRA which provides that no person shall conduct surface mining operations after eight months from the date of State program approval except under a permit issued pursuant to the permanent program. See Finding 30.3.

18. *Statutes 1.03(a)(1), (11), (24) and (26) and Rule 1701.5.* ISP (ARN ILL-0412) commented that Illinois has introduced confusion into the question of its jurisdiction over various kinds of mining activities because of the use of eight different terms throughout the Illinois law and regulations. The Secretary finds that the use of these different definitions provides greater detail and clarity that takes into account the unique mining conditions in Illinois and has found that the definitions are consistent with the Federal regulations and SMCRA. See Findings 30.4 and 30.5.

19. *Statute 1.03(a)(1) and Rule 1701.5.* ISP (ARN ILL-0412) objected to the Illinois definitions of "affected area" and "coal." The Secretary has addressed the definition of "affected area" in Finding 30.5. The Secretary disagrees that the definition of "coal" is a problem. The Illinois definition of "coal" in rule 1701.5 is identical to the Federal definition of "coal" at 30 CFR 700.5.

20. *Rule 1701.5.* ISP (ARN ILL-0412) commented that the Illinois definition of "intermittent stream" triples the drainage area needed to determine such a stream and thus weakens the application of the stream channel diversion standards at 1816.44 and 1817.44. Illinois explained in its legal opinion (Volume R5) that the preamble to the Federal rule on the definition of "intermittent stream" (44 FR 14932, March 13, 1979) indicates that the one-square mile watershed concept was adopted because at least two States, Alabama and Illinois, have found it easy to administer and apply. Illinois noted, however, that the one square mile rule in Illinois is that of the Illinois Department of Transportation, Division of Water Resources (IDOT/DWR) and is applicable to urban or urbanized areas. Illinois stated that it believed this one square mile rule was inappropriately applied to surface mining because areas to be surface mined are not urban areas. Accordingly, Illinois amended its definition of "intermittent stream" to mean a stream that drains a watershed of at least three square miles or below the local water table for at least some part of the year and obtains its flow from both surface runoff and ground water discharge. The three square mile standard represents middle ground between the six square mile (average annual flow of five cubic feet per second) jurisdiction for a Section 404 permit and the one square mile jurisdiction of IDOT/DWR which is concerned with flood storage capacity in urban areas.

Illinois stated that drainage ways with a watershed of less than three square miles will be treated under the diversion requirements of 1816.43 which should address concerns of how to handle flood volumes generated in these watersheds during the mining and restoration period.

The Secretary therefore finds that Illinois has adopted a reasonable definition of "intermittent stream" that recognizes the specific physical characteristics of Illinois and is no less effective than the Federal definition.

21. *Rules 1701.5 Definition of "permit term"*—KCB (ARN ILL-0402) commented that the definition of "permit term" in the State statute, Section 1.03(a)(18), is not consistent with the definition in the State rules because the rule definition includes "reclamation operations". KCB questioned whether the statutory definition would take precedence over the regulatory definition. The Secretary does not construe the statutory definition as limited to the period during actual mining operations. The Illinois rule is intended to implement the statutory definition and as such may expand upon it so long as it is not contrary to it.

22. *Rule 1701.5—Definition of "person having an interest which is or may be adversely affected or person with a valid legal interest".* KCB (ARN ILL-0402) questioned whether this definition would include as a "person" local units of government. The definition of "person" in 1701.5 includes "any agency, unit or instrumentality of Federal, State or local government * * *" Therefore, the definition questioned by the commenter would clearly include local units of government in the category of "persons" having an interest.

23. *Rule 1701.5.* ISP and VOC (ARN ILL–0412 and 0404) commented that the Illinois definition of "valid existing rights" is defective for the following reasons: (1) One provision would allow an administrative determination of when a judicial finding of a taking or damaging would be required, thus prejudging the constitutionality of the provision, (2) it would allow a final judicial order of a "taking" to be deemed a determination of VER, thus depriving interested persons of the right to appeal such an order; (3) it authorizes exemptions for VER for property rights which came into existence after August 3, 1977; (4) it authorizes exemptions for VER for operations under construction or in existence at the time a designation becomes effective; (5) it is not clear what a "taking" is or what the measure of damage should be; (6) to the extent the Illinois definition conflicts with the OSM definition it is ineffective; and (7) the term "valid existing rights" appears nowhere in the Illinois statute and is therefore unauthorized in the Illinois rules. The Secretary has considered these arguments and has concluded that the Illinois definition is consistent with SMCRA and the Federal rules. See Finding 30.2 above.

24. *Rule 1705.11.* KCB (ARN ILL–0402) recommended that all "contractual" employees who are not regular employees of the State or the IDMM should be required to file a statement of employment and financial interest. The Illinois definition of "employee" in 1701.5, which is identical to its Federal counterpart at 30 CFR 705.5, includes "consultants" who perform any function or duty under the Act, if they perform decisionmaking functions for the State Regulatory Authority under the authority of State law or regulations. Consultants would certainly include contractual employees who were hired to perform functions or duties under the Act if they perform decisionmaking functions. The Illinois rule is therefore consistent with the Federal conflict-of-interest provisions.

25. *30 CFR 780.4(c).* ISP (ARN ILL–0412) commented that the Illinois program fails to require that the regulatory authority integrate as closely as possible decisions to designate lands unsuitable with land use planning. The Secretary disagrees, finding the requirement to integrate land use planning decisions is provided in the Illinois statute 7.02(d) and in the narrative description in Volume R2, Tab K.

26. *Rules 1761.11(c) and 1761.12(e)(1).* ISP and VOC (ARN ILL–0412 and 0404) commented that Illinois prohibits mining only on publicly owned places on the National Register of Historic Places, while the Federal rule prohibits mining on any places listed on the National Register. Similarly, the Federal regulations require that a copy of the permit application be transmitted to the agency having jurisdiction over any places listed on the National Register, while Illinois limits this requirement to publicly owned places. The Federal regulations, 30 CFR 761.11(c) and 761.12(f)(1), were suspended on November 27, 1979, insofar as they applied to privately owned places listed on the National Register. Therefore, the Secretary cannot require Illinois to include these provisions.

27. *Rules 1761.11(e).* ISP (ARN ILL–0412) objected that, while 30 CFR 761.11(e) prohibits mining within 300 feet of an occupied dwelling without the written consent of the owner, Illinois' regulation prohibits such mining only with respect to dwellings in existence, under construction, or contracted for at the time of public notice of a permit application. The Illinois rule is intended to address a situation in which an individual moves a mobile home or trailer onto or near the permit area after public notice, thus possibly preventing mining. As stated in the February 23, 1982 letter to Illinois (ARN ILL–0430), OSM does not construe its regulation to allow ongoing mining to be halted by building or moving a dwelling within 300 feet of the permit area, so Illinois' concept is consistent with the Federal rule.

28. *Rule 1761.11(h).* ISP (ARN ILL–0412) requested clarification of this rule to insure that no mining or reclamation activities are conducted on designated lands. The Secretary finds that the Illinois rule is consistent with Section 522(e) of SMCRA. See Finding 22.2 above.

29. *Rule 1761.11(i).* ISP (ARN ILL–0412) asked for explanation of this rule, which provides that possession of a permit on an area designated as unsuitable does not bar the applicability of the designation provisions. Illinois has explained that the rule is a notification to operators that despite having a permit to mine, all coal lands are still subject to the relevant unsuitability provisions.

30. *Rule 1762.11(a).* Illinois rule 1762.11(a) provides that an area shall be designated as unsuitable if the IDMM finds that reclamation is not technologically and economically feasible under the State Act and these regulations. VOC (ARN ILL–0404) requested clarification of whether Illinois' addition of the term "under the State Act" limits the application of the rule on designations for technical and economic infeasibility. The State rule is identical to its Federal counterpart, 30 CFR 762.11(a), except that Illinois substitutes "State Act" for "the Act". Because the State statute is in accordance with SMCRA, the Secretary finds that the phrase does not make the State's rule inconsistent with SMCRA.

31. *Rule 1764.13(a).* KCB (ARN ILL–0402) commented on standing to petition, recommending an amendment to specify that a county unit of government has standing. The Illinois rule gives standing to all "interested parties" in the unsuitability designation process, which would include a county unit of government.

32. *Rule 1764.15(a)(3).* KCB (ARN ILL–0402) requested a definition of the term "frivolous", a criterion for rejection of an unsuitability petition. The Federal rules also use the term frivolous without defining it, and the Secretary cannot require the State to do so. The Secretary relies on the exercise of good judgment by the State to determine what is frivolous.

33. *Rules 1764.15(b) and 1764.17(e).* ISP (ARN ILL–0412) commented that the Illinois regulations require preparation of both a "Land Report" and a "detailed statement" to meet the requirement of a detailed statement in Section 522(d) of SMCRA, and requested clarification of the need for and use of these two reports. Illinois rule 1764.15(b) requires that a Land Report be prepared by the Institute of Natural Resources. Rule 1764.17(e) requires the IDMM to prepare a detailed statement prior to designating any land areas as unsuitable for surface coal mining operations. Rule 1764.19(a) requires the IDMM to reach a decision using, among other things, "the Land Report prepared under Section 1764.17(e)". The Land Report and the detailed statement are thus the same document.

34. *Rule 1764.15(b)(4).* ISP (ARN ILL–0412) objected to the absence of a requirement to publish a notice of receipt of a petition in the *Illinois Register.* The *Illinois Register* does not allow publication of notices other than rulemaking notices. The Illinois rule requires publication in a regional newspaper of general circulation in the locale of the area covered by the petition. Thus, the Secretary finds that the Illinois rule is no less effective than the Federal rules in providing notice to the public that a petition has been filed because persons having an interest in coal mining are generally located in the coal fields or rely on information reported in local newspapers.

35. *Rule 1764.15(e)(1) and (2).* ISP (ARN ILL–0412) commented that the Illinois rule on deferral of unsuitability petitions obstructs petitioners' rights and encourages deferral until actual conflict between development and preservation groups is present. ISP also commented that Illinois rule 1764.15(e)(2) authorizing the regulatory authority to "prioritize" petitions is unnecessary given the requirement of Section 522(c) that decisions be made within one year of receipt of the petition. The Secretary believes that Illinois has set forth a practical procedure for processing petitions within the mandates of SMCRA. See Finding 22.3 above.

36. *Rule 1764.17.* ISP (ARN ILL–0412) objected that the Illinois rule provides for adjudicatory hearings on petitions. The Secretary has found that the Illinois procedures for hearings on petitions to designate an area as unsuitable are consistent with the Federal rules and SMCRA. See Finding 22.5 above.

37. *Rule 1764.17(c)* VOC (ARN ILL–0404) commented that the notice of the public hearing on a petition should include the location where copies of the application may be reviewed and obtained. The Illinois rule is identical to its Federal counterpart, 30 CFR 764.17(c). The VOC suggestion, while useful, is not required.

38. *Statute 2.01 and Rules 1771.11(a) and 1771.21(a)(1).* ISP (ARN ILL–0412) commented that Illinois provisions are inconsistent with SMCRA 506(a) of SMCRA because "complete application" is defined as "* * * an apparent good faith effort * * *." The Secretary finds that the use of the modifier "apparent" does not limit a good faith effort and is consistent with OSM policy (See ARN ILL–0443). He notes that the American Heritage Dictionary defines "apparent" to mean "readily seen * * * plain or obvious." The Illinois provision is consistent with SMCRA and no less effective than the Federal regulations.

39. *Rule 1771.11(a)(2).* AMAX (ARN ILL–0403) requested clarification that the "initial decision" referred to in this rule relates to the approval or denial of the permit application. The Secretary certainly understands the phrase "initial decision" to refer to approval or denial of the permit application.

40. *Rule 1771.21(b)(1).* ISP (ARN ILL–0412) observes that Illinois does not include the word "complete" as a modifier for a permit application. However, Illinois rule 1771.23 does require that a complete application be filed.

41. *Rule 1776.11(b)(3).* ISP (ARN ILL–0412) commented that Illinois does not require a map of the exploration area and that this omission could hamper citizen participation. The corresponding Federal requirement, 30 CFR 776.11(b)(3), was suspended insofar as it required a map. Therefore, Illinois is not presently required to include this provision.

42. *Rule 1778.13(d) and 1782.13(d).* ISP (ARN ILL–0412) commented that a five-year cut-off date on permitting information on previous coal mining permits held by the applicant is not as effective as the Federal rules since they require information on permits subsequent to 1970. Illinois rule 1778.14 is identical to 30 CFR 778.14, which requires information on any permits suspended or revoked in the last five years. The Secretary finds, therefore, that Illinois rule 1778.13(d) requiring information on permits held during the previous five years is no less effective than the Secretary's regulations in meeting Section 507(b) of SMCRA.

43. *Rules 1778.14(d) and 1782.14(b)(6).* ISP (ARN ILL–0412) commented that Illinois requires applicants to provide information on their current financial condition which would provide assurance that no further bond forfeiture will occur. ISP noted that the Federal rules do not require this information and believes Illinois will use irrelevant information to make a decision on a permit application. Illinois requires this information only from applicants who have had a permit suspended or revoked, or a bond forfeited. As such, it is an additional requirement that is not inconsistent with the Federal regulations or Section 507(b)(5) of SMCRA.

44. *Rules 1778.16(c) and 1782.16(c).* ISP (ARN ILL–0412) commented that the rules contain typographical errors in that the references to 1761.12(e) should be to 1761.12(d). This information has been furnished to the State.

45. *30 CFR 778.19 and 782.19.* ISP (ARN ILL–0412) commented that the State fails to include a requirement for listing all other licenses and permits needed by the permit applicant. Illinois is not required to include a counterpart to these regulations so long as it demonstrates that it has provided for coordinating the review of other permits and licenses, as required by Section 503(a)(6) of SMCRA. The Secretary finds that Illinois has adequately provided for coordinating the review of other permits and licenses, as demonstrated in its legal opinion, volume R5, page 42 (ARN ILL–0384), and in its rule 1770.12 which requires the IDMM to coordinate the review and issuance of other permits and licenses.

46. *Rules 1779.5, 1780.5, 1783.5 and 1784.5.* ISP (ARN ILL–0412) expressed its concern about the possible hampering of public review by the manner in which Illinois allows applicants to incorporate data by reference in permit applications. These Illinois rules allow permit applicants to comply with the requirements of Parts 1778–1780 and 1782–1784 by relying on accurate data already in the possession of the applicant or the IDMM through incorporating such data by reference into permit applications. ISP requests that such data be explicitly cited by volume, page, etc. The IDMM requires that incorporated data be publicly available under Sections 507 and 513 of SMCRA and 30 CFR Part 786. The Secretary believes Illinois has provided appropriate safeguards to see that data so incorporated is available to the public.

47. *Rules 1779.7 and 1783.7.* ISP (ARN ILL–0412) commented that the Illinois rules allow permit applicants to comply with the requirements for information on seasonal variability of certain hydrologic and climatological data without collecting data over twelve months if accurate statistical procedures, as approved by the IDMM, are used to extrapolate from data collected in less time. The Secretary finds that because the IDMM must approve any alternative statistical procedures, the Illinois rule is as effective as the Federal rule.

48. *30 CFR 779.18 and 783.18.* ISP (ARN ILL–0412) objected to the absence of counterparts to the Federal rules which enable the regulatory authority to request certain climatological data. Because the Federal rules provide that requesting such data is discretionary, the State does not need to include these rules in its program.

49. *Rule 1779.27(d).* VOC (ARN ILL–0404) suggests that this rule should be revised to require a new soil survey if a current survey is not available. The Illinois rule is identical to its Federal counterpart, which requires a survey to be made if no soil survey exists.

50. *Rules 1780.12 and 1784.12.* Federal regulations at 30 CFR 780.12 and 784.12 set permit application requirements for preexisting structures, including a showing that the structure meets the interim or permanent program performance standards and a compliance plan if the structure must be modified. ISP [ARN ILL–0412] commented that the Illinois rules are ineffective because they require no specific showing as to compliance with performance standards, contain no mandatory requirements for compliance plans, and discuss plans for dams and embankments, which are expressly excluded from the existing structure

exemption at 30 CFR 701.11(d)(2) and Illinois rule 1700.11(d)(2).

The Secretary has examined the Illinois rules and notes the following: (1) Illinois rules 1780.12(a)(1) and 1784.12(a)(1) require the applicant to submit a description of each structure including sufficient information for the IDMM to determine if the structure *meets the performance standards.* This requirement is the functional equivalent of the "showing" required under 30 CFR 780.12 and 784.12; (2) Illinois rules 1780.12(b) and 1784.12(b) require that for each non-conforming structure to be modified or reconstructed, a compliance plan and schedule shall be submitted which should include sufficient detail to show that each non-conforming structure will be modified to meet the performance standards within the specified time-frame. In addition, rule 1786.21 provides that no permit application may be approved unless the IDMM finds that modification or reconstruction of a non-conforming structure will bring the structure into compliance with the design and performance standards of Parts 1810–1828 no later than six months after issuance of the permit, the risk of harm to the environment or public health or safety is not significant and that the applicant will monitor the structure to ensure compliance with the performance standards. These Illinois provisions, taken together, are virtually identical to the Federal counterparts at 30 CFR 780.12, 784.12, and 786.21; (3) contrary to the commenter's assertion, dams and embankments are not expressly excluded from the existing structure exemption at 30 CFR 701.11(d)(2). Rather, 30 CFR 701.11(d) provides only that the exemptions of 30 CFR 701.11(d)(1)(i) and (d)(1)(ii) are not applicable to dams and embankments. That is, dams and embankments must meet both the performance standards and design criteria of the permanent program. The Illinois rules 1780.12(a)(2) and 1784.12(a)(2) require the applicant to provide sufficient information for the IDMM to determine whether the structure meets the performance standards and design standards. If the structure does not meet these standards, rule 1780.12(b)(2) requires the structure to be reconstructed to meet these standards. This requirement is identical to that in 30 CFR 701.11(d)(1)(iii), (d)(1)(iv), 780.12(b), and 786.21(a)(2)(ii).

Therefore, the Secretary finds that the Illinois rules on permit application information for preexisting structures are no less effective than the Federal rules.

51. *Rule 1780.13.* ISP (ARN ILL–0412) asserts that the State has omitted certain requirements for data in an applicant's blasting plan and is thus less effective than the Federal rules.

Specifically, ISP noted that the Illinois rule fails to require that the permit application contain information on the types and amounts of explosives and a description of the blasting procedures that will be followed. Without this information, ISP asserted that the IDMM will be unable to ascertain whether the blasting plan will prevent damage to surrounding structures, especially old, plaster or lathe, or poorly constructed structures which are protected by Section 515(b)(15)(C) of SMCRA.

Illinois does not require all the detailed information required by the Federal rules. The Illinois rule does require, however, that the applicant explain how compliance with the performance standards will be achieved, and also requires information on notification to the public of blasting schedules and the availability of pre-blast surveys, a copy of the blasting log form, the anticipated minimum square root scaled distance to the nearest structure, a description of supervisory duties of persons responsible for blast preparation, and a description of unavoidable hazardous conditions for which deviation from the blasting schedule will be needed. Therefore, the Secretary finds that the State rule requires sufficient information in the blasting plan for the IDMM to determine that the operator will meet the performance standards of Section 515(b)(15) of SMCRA no less effectively than under its Federal counterpart.

52. *Rule 1780.15.* VOC (ARN–ILL–0404) commented that Illinois omits a counterpart to 30 CFR 780.15 (Air pollution control plan). The Federal rule has been suspended and Illinois is not required to include this provision until final Federal rules are promulgated.

53. *Rules 1780.21(c) and 1784.14(c).* ISP (ARN ILL–0412) commented that the Illinois rules track the corresponding Federal rules which require reclamation plans to include a determination of the probable hydrologic consequences of the proposed mining activities, except that Illinois substitutes "permit area" for "mine plan area." The use of the term "mine plan area" in the Federal rules was suspended and the term "permit area" was substituted on August 4, 1980. The Illinois rules are thus identical to their Federal counterparts.

54. *Statute 3.08(b) and Rule 1780.25.* ISP (ARN ILL–0412) states that Illinois' omission of a statement that permanent impoundments (last-cut lakes) "will not be allowed except as authorized in the mining and reclamation plan" renders the Illinois rule less effective than the Federal rule. The Federal rule, 30 CFR 780.25, does not contain this statement. The Secretary has approved the practice of leaving last-cut lakes. See Finding 14.2.

55. *Rule 1780.38.* ISP (ARN ILL–0412) commented that this rule, requiring the permit application to contain a rehabilitation design plan for siltation structures, diversions, impoundments and treatment facilities, provides a general exemption from design standards for these structures. Illinois (ARN ILL–0443, page 4, item 8) has explained that this provision is an additional requirement which assures State control over changes in the original design of siltation structures, before rehabilitation is allowed and the permit area abandoned. Based on this assurance, the Secretary finds the Illinois provision consistent with the Federal rules.

56. *Rule 1782.15(a).* ISP (ARN ILL–0412) commented that the State rule requiring a showing that the underground mine permit applicant has a right of entry excludes from the requirement areas which are not disturbed by surface activities but merely overlie underground workings. The State requires a description of the legal right to enter for the permit and shadow areas, including areas where subsidence is planned. The Secretary finds that this provision is no less effective than 30 CFR 782.15, which requires such a showing only for the permit area.

57. *Parts 1783 and 1784.* ISP (ARN ILL–0412) commented that these parts, concerning permit application requirements for underground mining, are less effective than the Federal rules due to the Illinois definitions for "permit area", "affected area", "adjacent area", and "shadow area" because they appear to exclude from the requirements "land or water which is located above undergound mine workings." The Secretary does not agree. See Findings 30.4 and 30.5 above.

58. *Rules 1783.12(b)* AMAX (ARN ILL–0403) suggested that the operator should have to identify cultural and historic resources only if they are to be "affected" by the mining operation. The Illinois rule is identical to the Federal rule, which requires that the permit list and describe these resources in order for the regulatory authority to determine whether they will be affected by the mining operation. Thus, the State's rule is no less effective than the Federal rule.

59. *Rule 1783.15(c).* ISP (ARN ILL–0412) commented that Illinois rule 1783.15, requiring the permit application to contain information on ground water, including aquifers, has a provision allowing an applicant to claim that no significant aquifer exists and therefore avoid the requirements of subsections (a) and (b). The Secretary has addressed this concern in comment number 13 above.

60. *Rule 1783.16(b)(2)(v).* ISP (ARN ILL–0412) pointed out a typographical omission of the word "in", which should appear before the word "milligrams". This comment has been furnished to the State.

61. *30 CFR 783.17.* ISP (ARN ILL–0412) commented that Illinois incorrectly omits a counterpart to 30 CFR 783.17, which requires the permit applicant to identify the extent to which mining activities may result in contamination or interruption of water supplies and identify alternative sources of supply, on the basis that 30 CFR 817.54, requiring replacement of water supply, was suspended. The Secretary finds that the omission of a counterpart to 30 CFR 783.17 does not make the State program inconsistent with the Federal rule because Illinois requires virtually the same information in rule 1784.14 on protection of the hydrologic balance.

62. *Rule 1783.19.* ISP (ARN ILL–0412) commented that the Illinois rule allows the permit applicant to wait until two years before revegetation begins to submit information on vegetative types and plant communities if reference areas will be used to determine the success of revegetation, while the Federal rule requires this information in the permit application. The Federal rule provides that the regulatory authority *may*, but is not required to, request a description of plant communities and vegetative types. Thus, the Illinois rule is consistent with 30 CFR 783.19.

63. *Rule 1783.24.* ISP (ARN ILL–0412) pointed out a typographical error in which the phrase "boundaries *and* land" should read "boundaries *of* land." This information has been provided to the State (ARN ILL–0443).

64. *Rule 1784.16.* ISP (ARN ILL–0412) pointed out that Illinois has inadvertently omitted from its resubmission a counterpart to 30 CFR 784.16(a)(2), containing design criteria for various kinds of impoundments. Illinois agreed in the March 18 and 19, 1982 meeting, that the provision in question was inadvertently omitted from the resubmission printing of its rules, but pointed out that it was adopted on September 16, 1980 and never repealed. Based on this assurance, the Secretary finds that the Illinois rules do contain this provision. (See ARN ILL–0443).

65. *Rule 1784.18(a).* ISP (ARN ILL–0412) commented that Federal rule 30 CFR 784.18(a) requires that permit applications address situations where approval to conduct underground mining activities within 100 feet of a road is sought, while Illinois requires such information only for the surface activities related to underground mining. However, Illinois rule 1786.19(d)(4) provides that the IDMM may not approve a permit where the permit area is within 100 feet of the outside right-of-way line of any public road. This requirement is identical to 30 CFR 786.19(d)(4). Therefore, the Secretary finds the Illinois rule no less effective than the Federal rule in complying with Section 522(e)(4) of SMCRA.

66. *Rule 1784.20.* ISP (ARN ILL–0412) commented that Illinois rule 1784.20, on subsidence control information, is not as effective as the Federal rule because due to the Illinois definitions of permit area, shadow area, affected area, and adjacent area, the pre-subsidence survey will not be conducted on all areas located above underground mine workings. Furthermore, ISP notes that certain environmental resources information is not included in 1784.20(e). The Secretary does not agree that Illinois rule 1784.20 is less effective than its Federal counterpart. See discussion under Findings 15.3 and 30.4.

67. *Rule 1784.20(e).* Old Ben (ARN ILL–0405) commented that this rule requires that the same information be submitted in two different places in the permit application: once in the body of application and once in the subsidence control plan. Old Ben recommends that the alternative of cross-referencing should be allowed. The Secretary finds that the suggestion has merit, but cannot be required of the State. However, the suggestion has been furnished to the State.

68. *Rule 1785.13 (b) and (e)(2).* ISP (ARN ILL–0412) commented that the Illinois rule authorizes experimental practices for agricultural postmining land uses, which is allegedly inconsistent with Section 711 of SMCRA and 30 CFR 785.13. Section 711 of SMCRA authorizes use of experimental practices to encourage advances in mining and reclamation practices, or to allow postmining land use for industrial, commercial, residential, or public use (including recreational facilities). Postmining land uses for non-commercial agricultural use are not authorized.

However, under Illinois rule 1785.13(h), Section 711 of SMCRA, and 30 CFR 785.13(d), the Secretary (through the Director, OSM) must approve any experimental practice. Unless all the criteria of Section 711 and 30 CFR 785.13 are met, permit approval will not be granted. Therefore, the Director, OSM, would be unable to approve any experimental practice which would allow a non-commercial agricultural postmining land use.

69. *Rule 1785.17.* ISP (ARN ILL–0412) commented that the Illinois rule on grandfathering of prime farmland deprives citizens of their right to have input into the grandfathering decision because Illinois has bifurcated the grandfather exemption decision from the permitting decision. Illinois rule 1786.19(1) provides that no permit shall be approved unless the IDMM finds that the applicant has, with respect to prime farmland, obtained a negative determination or satisfied the requirements of 1785.17. The applicant's claim that the operation is grandfathered (negative determination) would be subject to public comment during the permit application review period. These Illinois requirements are identical to their Federal counterparts at 30 CFR 785.17(a) and 786.19(1). The Secretary thus finds the Illinois rule no less effective than the Federal rules.

70. *Rule 1785.17.* ISP (ARN ILL–0412) commented that, despite the recent adoption by OSM of final rules establishing standards for exemptions from complying with the prime farmland requirements of the Act (46 FR 47722, September 29, 1981), Illinois has adopted only the vague language of Section 510(d) of SMCRA.

There has been extensive litigation over the "grandfather clause." The original Federal rule at 30 CFR 785.17(a) was suspended on December 31, 1979. Revised rules were promulgated on January 23, 1981, but the effective date was postponed several times to August 15, 1981. Illinois submitted its proposed regulatory program in March 1980 and promulgated final rules on September 12, 1980.

The State could not have anticipated the adoption of the final OSM rule on September 29, 1981. Furthermore, as stated in the October 31, 1980 initial decision on Illinois under "Effect of Litigation of the Federal Permanent Regulatory Program" (45 FR 72469): "* * * 3. A State program need not contain provisions to implement a suspended regulation and no State program will be disapproved for failure to contain a counterpart to a suspended regulation. 4. A State must have authority to implement all permanent program provisions of SMCRA, including those provisions of SMCRA

upon which the suspended regulations were based. 5. A State program may not contain any provision that is inconsistent with a provision of SMCRA * * *".

Illinois implements the statutory language of Section 510(d) of SMCRA in Rule 1785.17(a) in a manner consistent with SMCRA. Illinois will be afforded an opportunity to amend its regulations, as appropriate, under the provisions of 30 CFR 732.17, if necessary to make its program consistent with the September 29, 1981 rule.

71. *Rule 1785.17(b), 1785.17(d)(4) and 1823.11(a).* ISP (ARN ILL–0412) commented that Illinois appears to limit the scope of the prime farmland permitting requirements by imposing requirements only on "surface mining activities," rather than "surface coal mining and reclamation operations". Illinois rule 1785.17(d)(2) does not allow issuance of a permit unless the requirements of 1785.17(b) are met. Rule 1785.17(b) requires detailed permit application information and a plan for mining and restoration of the prime farmland to be affected. Rule 1785.17(b) is identical to its Federal counterpart, 30 CFR 785.17(b). Rule 1785.17(b) requires this information for land within the proposed permit area identified as prime farmland under 1779.27 or 1783.27. Illinois rule 1783.27 requires an investigation of areas affected by surface operations or facilities. This requirement is identical to its Federal counterpart, 30 CFR 783.27(a). The Secretary therefore finds the Illinois rules no less effective than the Federal rules.

72. *Rule 1785.17 (b)(6) and (d)(3).* KCB (ARN ILL–0402) commented that one of the application requirements for prime farmland is available agricultural school studies or other scientific data that demonstrates that the proposed method of reclamation will achieve, *within a reasonable time,* equivalent or higher levels of yield after mining as existed before mining. KCB commented that the phrase "within a reasonable time" should be defined or general parameters set. The Illinois rules are identical to their Federal counterparts, 30 CFR 785.17 (b)(7) and (d)(3). The Secretary cannot require the State to provide more stringent requirements than the Federal regulations.

73. *Rule 1785.17(e).* ISP (ARN ILL–0412) commented that this Illinois rule exempts certain surface facilities of underground mines from the prime farmland standards when the applicant demonstrates that: (1) No non-prime farmland is reasonably available for the surface facilities; (2) the ultimate land use will not have an adverse effect on surrounding prime farmlands; and (3) the applicant will use BTCA. ISP objected that this is an incorrect interpretation of the District Court ruling which remanded 30 CFR Part 823 as an across-the-board application of prime farmland standards to underground mines, but upheld the Secretary's authority to apply prime farmland standards to some underground mines. The Federal rule was suspended (45 FR 51547, August 4, 1980) and Illinois is not required to include it.

74. *Rules 1786.11(a), 1786.12(b), and 1786.17(a).* ISP (ARN ILL–0412) expressed concern about the possible inadequacy of time allowed by Illinois for public review and comment on a revision to a pending permit application. Illinois rule 1786.11(a)(6) allows permit applications to be revised until 20 days following the last newspaper notice that an application has been filed. The newspaper notice informs the public that such a revision may be filed. Comments on the application must be filed within 30 days after the last newspaper publication. Thus, according to ISP, the public may have as little as 10 days to review and comment on any revisions.

The Federal regulation, 30 CFR 786.11(d)(2), allows revisions, but does not provide any specific provision for notifying the public that a revision has been filed, nor does it provide for public comment. Therefore, the Illinois rule is no less effective than the Federal rule in meeting the requirements of Section 513(a) of SMCRA.

75. *Rule 1786.16.* KCB (ARN ILL–0402) pointed out a typographical error in that the reference to Section 1781.11(a) should be corrected to read Section 1786.11(a). This comment has been furnished to the State.

76. *Rule 1786.17(c)(2). KCB* (ARN ILL–0402) noted that the last sentence of subparagraph (c)(2) is incomplete. The words "are satisfied" were inadvertently omitted from the resubmission printing of the Illinois rules but are contained in the official version of the rules dated January 4, 1982 (ARN ILL–0444).

77. *Rule 1788.12(a).* ISP (ARN ILL–0412) commented that the Illinois rule allows too much flexibility in permit revisions, especially in the parameters for what changes constitute "significant departures" from the method of mining originally contemplated. Rule 1788.12(a)(1) defines "significant departures" as any changes in the method or conduct of mining and reclamation operation except: (1) Changes of direction of mining or location of mining equipment within the permit area; (2) substitution of mining equipment designed for the same purpose, the use of which is not detrimental to achievement of final reclamation; (3) for underground mines, any change in direction or location of mining within the permit area, in response to unanticipated events; (4) any other change described in writing which the IDMM approves in writing after determining that the described change will have no significant potential adverse impact on the achievement of final reclamation plans or upon the surrounding area; (5) any alteration in the reclamation plan which does not involve significant delay or any change in land use described in writing and excused by the IDMM; and (6) any temporary change in operation or reclamation plans necessitated by unanticipated and unusually adverse weather conditions, act of God, strikes, or other causes beyond the reasonable control of the permittee, after review and approval by IDMM. The Secretary finds that these exceptions are reasonable and that Illinois has adequately provided for permit revisions consistent with 30 CFR 788.12.

78. *Rule 1788.12(b)(5).* ISP (ARN ILL–0412) commented that this rule allows for such significant boundary changes without the need to apply for a new permit that it is inconsistent with Section 511(a)(2) of SMCRA and 30 CFR 788.12(a). As an example, ISP states that under Illinois rules a 101 acre site could be extended by 20 acres without obtaining a revised permit. The Secretary believes ISP has misread the Illinois rule. Rule 1788.12(b)(5) *requires* that an application for a revised permit be filed for *all* incidental boundary revisions. All other boundary revisions are subject to the requirements for new permits in Parts 1778–1785.

79. *Rule 1806.11.* AMAX (ARN ILL–0403) commented that Illinois should allow self-bonding. While self-bonding is authorized by Section 509(c) of SMCRA, the State is not required to provide for self-bonding.

80. *Statute 6.07 and Rule 1806.12(c).* ISP (ARN ILL–0412) commented that the Illinois statute appears to authorize discretionary authority to forfeit bonds rather than the mandatory authority provided by 30 CFR 808.11(a). The Secretary disagrees, finding that the Illinois statute, as implemented by 1808.11(a), is consistent with SMCRA. ISP also commented that the Illinois statute limits the amount of bond forfeiture to the amount for the area where the violation occurred, rather than for the entire permit area as required in Section 509 of SMCRA. The Secretary disagrees, finding that the

Illinois statute, as implemented by 1806.12(c), is consistent with SMCRA.

81. *Rule 1807.11(d).* ISP (ARN ILL–0412) commented that the Illinois rule, contrary to 30 CFR 807.11(d), does not allow the owner, agent or lessee to participate in the bond release inspection. The Secretary agrees that this is a problem which must be corrected (ARN ILL–0443, page 6, item 16) and Illinois has agreed to do so. See Finding 19.2.

82. *Rule 1816.11.* VOC (ARN ILL–0404) objected to the rule deleting certain perimeter requirements for signs and markers on blasting. Illinois has simplified the requirements set forth in the Federal rules. The Federal rule, 30 CFR 816.11, requires that conspicuous signs which state "Warning! Explosives in Use" must be placed at all entrances to the permit area from public roads or highways. Illinois omits this requirement but requires that "Blasting Area" signs be posted along the edge of any blasting area that comes within 100 feet of any road. The signs must explain the blast warning and all clear signals. Before any person could approach close enough to the blasting area to be harmed, he would see the warning signs near the roads in the blasting area. The Secretary, therefore, finds that the Illinois rules provide equivalent protection and thus are no less effective than the Federal rules.

83. *Rules 1816.21(a) and 1817.21(a).* ISP (ARN ILL–0412) pointed out that the word "moved" should be changed to "removed", in the general rule on topsoil removal. The Secretary disagrees that use of the word "moved" renders the Illinois rule any less effective than the Federal rule and notes that Illinois rule 1816.22, the substantive topsoil provision, requires all topsoil to be "removed".

84. *Rule 1816.22.* ISP (ARN ILL–0412) commented that Illinois appears to be exempting previously mined lands from topsoil removal requirements by introduction and definition of the term "placeland." The Secretary has addressed this concern in Finding 14.6.

85. *Rule 1816.23(b)(1)(i).* ISP (ARN ILL–0412) commented that the State rule is less effective than the Federal rule because it would allow the use of annual plants alone, rather than a mixture of annuals and perennials, on a stockpile of topsoil which will be in place one year or less. The Secretary, disagrees, because the Illinois rule in allowing annuals alone will provide for at least as much biomass and root growth as would occur from a mixture. Section 515(b)(5) of SMCRA states that stored topsoil must be covered by "quick growing plant or other means" to preserve from wind and water erosion. Should unexpected circumstances result in a stockpile being in place more than one year, the IDMM may require additional measures to prevent stockpile erosion. Therefore, the Secretary finds the Illinois rule is no less effective than the Federal rule.

86. *Rule 1816.42(a).* AMAX (ARN ILL–0403) requested that intercepted, non-affected drainage, when combined with mine drainage should not result in the operator meeting standards any more stringent than those which existed prior to mining. The Illinois rule is consistent with the Federal rules and in accordance with SMCRA.

87. *Statute 3.08 and Rules 1816.42(a), 1816.46 and 1816.47.* ISP (ARN ILL–0412) commented that the best technology currently available (BTCA) for siltation control is a sedimentation pond and as directed in 30 CFR 816.42(a)(1) all "surface drainage * * * shall be passed through "such structures". As set forth in Finding 14.7, the Secretary has required that the State propose a program amendment or experimental practice before allowing any exceptions or alternatives to sediment ponds (ARN ILL–0443).

88. *Rules 1816.42(a)(1) and 1817.42(a)(1).* The Illinois Environmental Protection Agency (ILL EPA) (ARN ILL–0401) commented that the term "siltation structure" is not defined in the regulations and recommended either deleting the term and substituting "sedimentation pond" or clarifying what the term "siltation structure" means and adding general requirements for siltation structures.

Illinois Rule 1701.5 defines "siltation structure" as "a device, or devices, used to remove, collect or otherwise control runoff so that resulting outflow will meet applicable effluent standards." The Illinois definition of "sedimentation pond" as "a primary sediment control structure * * *" makes it clear that a siltation structure includes, but is not limited to, sediment ponds. Illinois uses the same term ("siltation structure") employed in Section 515(b)(10) of SMCRA. The Secretary has advised Illinois that at the present time, the requirement to use the "best technology currently available" can be met only by using sedimentation ponds. Illinois has agreed not to approve any other siltation structures until it has submitted the proposal to OSM for review and approval. See Finding 14.7 above.

89. *Rules 1816.42(a)(1) and 1817.42(a)(2).* ILL EPA (ARN ILL–0401) commented that the Illinois rule requires siltation structures to be maintained, in part, until the untreated drainage from the disturbed area meets the applicable State and Federal water quality requirements for the receiving stream. ILL EPA recommended that the requirement be limited to only effluent limitations. The Secretary finds that the Illinois rule is identical to its Federal counterpart, 30 CFR 816.42(a)(2) and therefore consistent with it.

90. *Rule 1816.42(b), 1816.42(c), 1817.42(b), and 1817.42(c).* ILL EPA (ARN ILL–0401) commented that these rules refer to the effluent limitations of this section, implying that there are applicable effluent standards other than those set forth by Federal or State laws and regulations, and that these references are confusing unless Illinois intends to promulgate minimum standards. The Secretary interprets these references to allow, at a future date, for Illinois to include its own minimum standards. Until that time however, Illinois incorporates the applicable Federal effluent limitations at 40 CFR Part 434.

91. *Rule 1816.42(b).* ISP (ARN ILL–0412) commented that the Illinois rule contains no effluent standards comparable to 30 CFR 816.42(a)(7). Illinois incorporates by reference existing State and Federal effluent limitations and water quality standards in 1816.42.

92. *Rule 1816.43(h).* ISP (ARN ILL–0412) commented that the hydraulic conveyance rule for diversion of overland flow is ineffective because it allows for use of channels, banks and flood plains when the terrain can accommodate the precipitation event "without endangering health or the environment." In view of the precautionary phrase, the Secretary finds the State procedure acceptable, allowing use of natural flood conveyance and storage areas, rather than constructing artificial drainage ways—which may be far more disruptive of the ecology and local use in the Illinois landscape.

93. *Rules 1816.46 and 1817.46.* ISP (ARN ILL–0412) commented that Illinois omits from these rules what limited design parameters for sediment ponds remain after suspension of many of OSM's rules on design criteria for sediment ponds. ISP specifically cites requirements for theoretical detention time (30 CFR 816.46(c)), dewatering devices (30 CFR 816.46(d)), sediment removal (30 CFR 816.46(n)), and emergency spillways (30 CFR 816.46 (g) and (i)).

Illinois rule 1816.46(b) provides that sediment pond design criteria shall be published as technical guidelines and "shall be no less stringent than current criteria of U.S. Environmental Protection

Agency and Office of Surface Mining". Because so many Federal design standards had been suspended, Illinois apparently determined to simply incorporate whatever Federal criteria were currently in effect, rather than have to amend its rules frequently as the Federal regulations are revised. Therefore, the Secretary finds the Illinois rules on sediment pond design consistent with the Federal rules.

94. *Rules 1816.46(h) and 1817.46(g).* ISP (ARN ILL–0412) objected to the retention of sediment ponds as permanent structures after mining. The Federal rules, 30 CFR 816.46(u), provide for retention of ponds if compatible with the postmining land use. In addition, Illinois has included requirements for proper rehabilitation of such structures (Rule 1780.38). The Secretary finds that retention of ponds is consistent with the Federal rules.

95. *Rule 1816.49(c).* ISP (ARN ILL–0412) commented that the Illinois rule on perimeter slopes for permanent impoundments is less effective than the Federal rule because, unlike the 50% gradient slopes required in 30 CFR 816.49(c), Illinois allows angle or repose slopes. The Secretary has approved this provision with the understanding that any slopes approved by Illinois under the rule will be stable and consistent with the intended use of the impoundment. The controlling factors are suitability for intended use and protection of the environment. See Finding 14.2 above.

96. *Rule 1816.49(c)(iii).* ISP (ARN ILL–0412) commented that this rule provides that topsoil replacement will not be required on angle of repose slopes, although it does require that topsoil substitute material be placed on angle of repose slopes. ISP objects that topsoil substitute material may not be equivalent to topsoil, and that no practical method exists to place any soil medium on angle of repose slopes. As noted in Finding 14.2 above, the Secretary has approved the Illinois rule on permanent impoundments with the understanding that any slopes approved by Illinois will be stable and consistent with the intended use of the impoundment. Illinois rule 1816.49(c)(iii) does require that topsoil substitute material be placed on these slopes. The Secretary assumes that Illinois will not authorize permanent impoundments unless slope protection is provided that is adequate to minimize surface erosion, as required by Illinois rule 1816.49(d).

97. *Rule 1816.62(a).* ISP and KCB (ARN ILL–0412 and 0402) commented that Illinois should not require a written request for a pre-blast survey because the preamble to the Federal rule expressly rejected requiring that the request be in writing. The Secretary finds that the Act does not specify the form of the request, and accordingly, Illinois is not inconsistent with Section 515(b)(15)(E) of SMCRA.

98. *Rule 1816.64(a)(2).* ISP (ARN ILL–0412) commented that the Illinois rule is less effective than 30 CFR 1816.64(a)(2) because the applicability of the notification requirement is based on one-half mile from the *blasting area* rather than the *permit area,* as required by 30 CFR 816.64(a)(2). The Secretary finds, however, that Illinois rule 1816.64(a)(2) is no less effective than the Federal rule in meeting the requirements of the Act because Section 515(b)(15)(A) requires that copies of the schedule be mailed to residents living "within one-half mile of the proposed blasting *site*" (emphasis added).

99. *Rule 1816.64(a).* ISP and KCB (ARN ILL–0412 and 0402) objected to the Illinois rule allowing use of 25 pounds of explosives before public notice of blasting is required. The Federal counterpart rules impose the more stringent limit of 5 pounds. The Secretary agrees and has requested Illinois to correct this deficiency as a condition of approval. See Finding 14.3.

100. *Rule 1816.64(b)(2)(ii).* ISP (ARN ILL–0412) asserted that Illinois' omission of a limitation on blasting to "an aggregate of 4 hours in any one day" renders the State rule less effective than its Federal counterpart, 30 CFR 816.64(b)(2)(ii). However, the four-hour time limit in 30 CFR 816.64 is not necessarily related to the prevention of damage, but rather related to local public convenience. The IDMM has the authority under 1786.27 and 1786.29 to specify permit conditions, including limitations on blasting time, as appropriate for the locale. The Secretary is confident that Illinois will exercise its authority in a reasonable manner.

101. *30 CFR 816.64(b)(2)(v).* ISP (ARN ILL–0412) commented that Illinois omits a counterpart to this Federal rule requiring that blasting schedules include a description of unavoidable hazardous situations which require unscheduled detonation.

The types of situations requiring unscheduled detonation include unusual weather conditions or unavoidable delays that would threaten operator or public safety. Because 1816.65(a) requires advance authorization for unscheduled blasting, including public notice requirements, the Secretary finds that the omission of this provision from the blasting schedule does not render the Illinois rule less effective than the Federal rule in protecting the public from the effects of blasting.

102. *30 CFR 816.64(c)(2).* 30 CFR 816.64(c)(2) provides that if there is a substantial pattern of non-adherence to the published blasting schedule, the regulatory authority may require preparation of a revised blasting schedule. ISP (ARN ILL–0412) asserted that because Illinois omits a counterpart to this rule it is thus less effective. Illinois stated in its legal opinion (Volume R5) that it omitted this requirement because it is redundant. Illinois stated that since subsection (b)(1) states a requirement, it is unnecessary to adopt a rule—subsection (b)(2)—that says if you don't meet the requirement, then you must do what is necessary to meet the requirement. The Secretary agrees that such a requirement is unnecessary, given Illinois' authority to impose restrictions on the permittee (see comment number 100).

103. *30 CFR 816.65(a)(1) and 817.65(b)(1).* ISP (ARN ILL–0412) commented that Illinois omits counterparts to these Federal rules allowing the regulatory authority to specify more restrictive blasting periods to protect the public from adverse noise. The Secretary believes that Illinois has the authority and means to restrict periods of blasting without this particular provision, given its authority to impose permit terms and conditions under 1786.27 and 1786.29.

104. *Rules 1816.65(a) and 1817.65(b).* ISP (ARN ILL–0412) commented that the Illinois rules omit a requirement found in 30 CFR 816.65(a)(2)(ii) to provide oral notices to persons within one-half mile of the blasting site if blasting is to be conducted between sunset and sunrise. ISP noted that Illinois justifies this omission on the basis that it has not received any requests to blast between sunset and sunrise in the past three years. ISP submitted a copy of a request to blast at night dated March 10, 1980.

Illinois justifies its rule by explaining (in Volume R5) that special authorization by the IDMM is required before night blasting will be allowed, and such authorization will not be granted except when the public or mine employees will be endangered if the blast is not fired. This requirement is in contrast to the Federal rule which does not require advance approval for night blasting. ISP noted that OSM has found that oral notices are necessary to prevent abuses of the nighttime blasting provisions. However, no reference was provided to support this statement. The preamble to the Federal rules (44 FR 15187, March 13, 1979) states that controls must be imposed to ensure that the public is adequately warned of an

emergency blast. Illinois has stated that neighbors and/or local public safety agencies will be required to be notified, as circumstances warrant. Thus, Illinois has the authority to require oral notices if necessary. Moreover, operators are required under 1816.65(b) and 1817.65(c) to give warning and all-clear signals that are audible within one-half mile of the point of blast. Therefore, the Secretary finds that the requirements of advance authorization and warning signals and the authority to require oral notices makes the Illinois rule no less effective in meeting the requirements of the Act.

105. *Rule 1816.65(e) and 1817.65(f).* ISP and KCB (ARN ILL–0412) commented that the Illinois rule fails to protect "people living at a mine permit perimeter" from flyrock because the State rule would contain flyrock on the permit area, not restricting its occurrence to half the distance to the nearest dwelling, as required by 30 CFR 816.65(g). The Secretary does not agree that the Illinois rule is less effective. Illinois rule 1816.65(d) provides that blasting shall not be conducted within 300 feet of a dwelling unless waived by the owner, and Illinois rules 1816.65(c) and (f) require that blasting shall be conducted to prevent injury to persons and damage to property.

106. *Rule 1816.65(g).* ISP (ARN ILL–0412) commented that Illinois omits an air blast permissible limit of 109 decibels, C-weighted, slow response. The Secretary assumes that by deleting this standard, Illinois would not allow use of the C-weighted scale, which is the least accurate of the standards set forth in either the Federal or Illinois rule. The Illinois rule is therefore no less effective than its Federal counterpart, which allows use of this standard.

107. *Rule 1816.65(n).* ISP (ARN ILL–0412) objected to the Illinois rule because it omits authority to require reduction of maximum peak particle velocity because of special geologic and hydrologic conditions or age and type of structures in the area. The Secretary notes, however, that the Illinois language, although dissimilar in wording, nevertheless authorizes the IDMM to reduce the maximum peak particle velocity to enable the protection of property, people and natural resources.

108. *Rule 1816.68.* ISP (ARN ILL–0412) commented that the Illinois rule on blasting records omits requirements to include information on weather conditions and number of persons in the blasting crew. Although the Secretary agrees that the inclusion of such information in the record would facilitate post-blast investigations, its inclusion is not mandatory. Section 515(b)(15)(B) requires that records be maintained detailing the location of the blast, the pattern and depth of the drill holes, the amount of exposives used per hole, and the order and length of delay in the blasts. Therefore, the Secretary finds that the Illinois rule, which contains these requirements, is as effective as the Federal rule.

109. *Rule 1816.71.* ISP (ARN ILL–0412) objected to the classification of box-cut spoil as excess spoil and its inclusion in the Illinois excess spoil rule. ISP, apparently, wishes the box-cut spoil to be placed in the final cut—thus effecting a nearly complete return of the minesite to original contour. This request ignores the conventional and practicable area-mining method used in Illinois, in which the box cut and the last cut may be separated many miles in distance and years of time. The Secretary believes that the environmental performance standards of the Act are met, and can be met in the future, in this type of mining. The Illinois rule is consistent with SMCRA and is as effective as the Federal rules.

110. *Rule 30 CFR 816.83(a).* ISP (ARN ILL–0412) commented that 30 CFR 816.83(a) requiring coal processing waste banks to include a subdrainage system was suspended only to the extent that it failed to provide an exemption if the operator can demonstrate that an alternative will ensure structural integrity of the waste bank and protect water quality. ISP states that Illinois has omitted this rule in its entirety. However, the Secretary finds that Rule 1816.83(d) supplies the necessary control and is identical to 30 CFR 816.83(a).

111. *Statute 3.25(a) and (b) and Rules 1816.100 and 1817.100.* ISP (ARN ILL–0412) commented that these Illinois provisions, concerning extension of time for reclamation, conflict with Section 102(e) of SMCRA and 30 CFR 816.100 and 817.100 which require reclamation as contemporaneously as practicable. The Secretary finds that extensions of time are consistent with 30 CFR 816.101, which expressly authorizes them, and the Illinois provisions are thus consistent with SMCRA and the Federal regulations.

112. *Rule 1816.101(a)(3)(ii).* ISP (ARN ILL–0412) comments that this rule "affords operators a blanket exemption from contemporaneous reclamation requirements for as long as 26 months" and, furthermore, fails to assure erosion control on the fill during the interim period before final grading. The Secretary finds that the concept of separating rough and final grading is acceptable and that erosion can be controlled under the Illinois rule, if the State administers the rule to require reclamation to be as "contemporaneous as practicable" (SMCRA 515(b)(16)). It is noteworthy that SMCRA uses the term *practicable* not *possible*. The rules of Illinois to evaluate and to enforce this standard are as effective as the Federal rule.

113. *Rule 1816.102.* ISP (ARN ILL–0412) asserts that this Illinois rule is less effective than Federal rules because it allows a highwall remnant to remain (unreduced to 50 percent gradient, as is the above-water strata) below the mean low water line. The Secretary disagrees, because the limnological characteristics of almost any water body can be improved by a deep water zone. The most efficient place in the artificial water body to provide storage and depth is on the highwall side of the lake. Such a condition would be subsurface and therefore not a highwall, *per se*. This interpretation is supported by the water quality and water use criteria of SMCRA 515(b)(8).

114. *Statute 3.11(c) and Rule 1816.103.* ISP (ARN ILL–0412) expresses several concerns about the Illinois rule allowing the covering of the pit floor and the highest coal seam with four feet of water. The Secretary has examined the professional literature thoroughly and has concluded that, if Illinois wishes to allow this practice it must assure that at least 33 feet (not 4 feet) of water cover the coal seam at all times. This depth will allow thermal stratification so that deep water in contact with acid-forming materials will be generally unsuitable for acid formation. the Secretary has directed OSM to work with Illinois to review the literature and develop a proposal which is consistent with the Federal provisions. See Finding 14.4 above, which conditions approval of the Illinois program on a revision to this rule.

115. *Rule 1816.105(b)(7).* ISP (ARN ILL–0412) commented that "reference to final cut impoundments is improper . . . and should be disapproved." The Secretary disagrees, calling attention to language in the preamble allowing for last-cut lakes on prime farmland (44 FR 15087, March 13, 1979). See Finding 14.2 above.

116. *Rule 1816.115.* AMAX (ARN ILL–0412) commented on postmining land use as pasture, stating that the narrative requirement of actual "grazing" in Volume R2 is inconsistent with Rule 1816.115, which provides that the reclaimed land *may* be used for grazing but at a minimum must be restored to a condition *capable* of supporting the approved postmining land use of range

or pasture. This comment has been furnished to the State.

117. *Rule 1816.116(a)(3) and 1817.116(a)(3).* ISP (ARN ILL–0412) expressed concern that Illinois does not require consultation with other appropriate State and Federal agencies before approval of a revegetation technique and that the rule equates 90% ground cover with equal productivity. ISP also commented that Illinois deletes the reference to productivity in the underground mining rule. The Secretary finds that the Illinois rules will provide for consultation on techniques to measure the success of revegetation, as such techniques are developed, and further finds that Illinois Rules 1816.116(a)(3) and 1817.116(a)(3) are identical to their Federal counterparts, 30 CFR 816.116(b)(3) and 817.116(b)(3).

118. *Rule 1816.116(b)(3).* AMAX (ARN ILL–0403) commented on revegetation standards for success, suggesting that this rule be rewritten to change the reporting date from September to January and to begin the report period when the five-year period of responsibility begins. The Secretary finds that the suggestion, while it may be helpful, is not required of the State. The comment has been furnished to the State.

119. *Rule 1816.117(c).* ISP (ARN ILL–0412) commented that rules for tree and shrub stocking are inconsistent with Federal standards and must be disapproved. The Secretary finds that Illinois, by requiring a minimum stocking of 250 trees or shrubs per acre, has provided for the use of stocking patterns that will achieve the desired edge effect and aesthetics when revegetating for wildlife management, recreation, and shelter belts, and that the minimum stocking does not preclude requiring more plants when necessary. Therefore, the Illinois rule is no less effective than the Federal rule.

120. *Rule 1816.117(d).* ISP (ARN ILL–0412) commented that the rule establishes a vegetation sampling procedure to measure revegetation which shows an unwillingness to measure productivity as well as ground cover, and thus Illinois will be unsuccessful in measuring revegetation. Productivity of forest, wildlife, shelter belts, and recreational areas is assumed to be achieved when proper tree and shrub stocking and ground cover have been achieved. The Secretary finds that the Illinois rule is therefore no less effective than the Federal rule.

121. *Rule 1816.133.* ISP (ARN ILL–0412) objected to the lack of specific criteria for approving postmining land uses that are found in 30 CFR 816.133(c). ISP also commented that 1816.133(a)(2), which provides that the regulatory authority will make the determination of consistency with land use policies and plans, deletes references to local land use policies. ISP also objected to the Illinois rule, which provides that the proposed use must not be a hazard or threat or be impractical or unreasonable, rather than requiring a detailed description of postmining land use achievement, as required by Section 508(a)(4) of SMCRA. ISP stated that Illinois' proposed procedure to determine capabilities of affected lands through SCS classifications will be ineffective for mined lands because the system fails to address land use type issues except in a slope and soil type framework which is not appropriate for a mining situation with changes of land configuration, the inclusion of non-agricultural type uses and the creation of new soil types with no SCS classifications. ISP also pointed out the Flannery decision upholding the majority of the Federal rules at 30 CFR 816.133 and the need for Illinois to comply with these regulations. ISP ended the discussion of the objection to the State's rule 1816.133 with specific details on Illinois' past practice in allowing alternative land uses and the impacts on local land use. ISP stated that the Illinois rule as proposed is insufficient to meet the requirements of the Federal program as it requires insufficient information to evaluate postmining land use, fails to provide the consultation with land owner or land management agency, does not require a written statement of the views of authorities with statutory responsibility for land use policies and plans and the professional certifications. Finally, ISP stated that the use of SCS handbooks for determining land capabilities for mined lands is also without technical support. The Secretary has addressed these concerns in Finding 14.8.

122. *Rule 1817.101(b).* ISP (ARN ILL–0412) commented that this rule is less effective than 30 CFR 817.101(b) because it omits a requirement that affected surface areas be returned to approximate original contour. ISP also noted that 1817.101(b)(4) requires only that reclamation must "support" the postmining land use, which is less effective then the Federal rule. The Federal rule, 30 CFR 817.101(b)(2) uses the same word. The Federal counterpart, 30 CFR 817.101(b)(1), was suspended and Illinois is not required to include this provision until a final Federal rule is promulgated.

123. *Rule 1817.111.* ISP (ARN ILL–0412) asserted that this rule deletes the requirement that underground mining areas designated as prime farmlands must comply with the standards of Part 1823; and that it omits the term "native" plants from the permanent vegetative cover standard. The Secretary disagrees that an exemption has been effected. In Illinois Rule 1784.20 all surface effects of underground mining are subjected to the prime farmland standards. On the subject of "native" plants; the use of an acceptable vegetative cover will be assured by Illinois through the permitting process. Therefore, the deletion of the word "native" is not considered critical.

124. *Rule 1817.112.* ISP (ARN ILL–0412) commented that Illinois does not require field trials for introduced species, as does 30 CFR 817.112. The Secretary finds that sufficient review is afforded permit applications to insure that the use of introduced species will be monitored judiciously.

125. *Rule 1817.116(a)(3).* ISP (ARN ILL–0412) commented that Illinois has eliminated the productivity reference for equivalency of revegetation, improperly allowing a comparison of ground cover and productivity of the affected area with only the ground cover of the reference area. ISP stated that "Illinois must require that operators compare the productivity of the affected area with the productivity of a reference area or other reliable productivity data." The Secretary believes that standards of success for revegetation can best be developed on a State level and that the Illinois rule is supported by SMCRA 515 (b)(6) and (b)(19). See also responses to comments 117, 119 and 120.

126. *Rule 1823.1.* ISP (ARN ILL–0412) commented that Illinois exempts the applicability of prime farmland standards to underground mining operations and activities and to surface effects of underground mining that do not involve drilling, blasting, or mining. The District Court in *In re Permanent Surface Mining Regulation Litigation,* No. 79–1144 (D.D.C. 1980) remanded 30 CFR Part 823 to provide an exemption for surface facilities actively used over extended periods of time but which affect a minimal amount of land. Based on this remand, the Secretary finds that the Illinois rule is no less effective than the Federal rules.

127. *Rule 1823.11(a).* ISP (ARN ILL–0412) commented that this rule limits the applicability of prime farmland permitting standards to prime farmlands due to alleged inadequacies in definitions. The Secretary believes that Illinois need not employ the same terms so long as they are equivalent to the Federal definitions. Viewed as a whole the Illinois terms and standards (as explained in Findings 30.4 and 30.5)

provide consistent coverage no less effective than the Federal rules.

128. *Rule 1823.14(c).* KCB (ARN ILL–0412) commented that the term "excessive compaction" is not defined as it is in the Federal rule, 30 CFR 1823.14(c). The Federal rule was suspended insofar as it established a "moist bulk density" standard to define excessive compaction. Therefore, the Illinois rule is consistent with the existing Federal rule. Compaction as well as other soil reconstruction standards are to be developed by the Soil Conservation Service and the regulatory authority within each State.

129. *Rule 1823.15(b).* ISP and KCB (ARN ILL–0412) objected to several differences in the Illinois rule as compared to the Federal rule: Adoption of the phrase "plant with common crops" in place of "use for common crops"; the use of final grading in lieu of rough grading; and options given to operators for determination of productivity measures. The Secretary disagrees, finding the Illinois rules different but no less effective in protecting prime farmland. See responses to Comments 119 and 120 and Findings 30.4 and 30.5

130. *Rules 1825, 1825.11, and 1825.14.* ISP (ARN ILL–0412) raises many questions about the Illinois rule on high capability lands (for which there is no Federal counterpart). The Secretary finds that the explanations in resubmittal documents R5 (page 157) and R7 (page 322) demonstrate that the Illinois rule is no less effective than the Federal rules.

131. *Statute 8.02 and Rule 1840.2.* ISP (ARN ILL–0412) alleged that the Illinois rule undermines the requirement in Section 517(b)(1) that the regulatory authority impose monitoring and reporting obligations on the permittee by limiting the obligations to those instances where the Department deems it reasonable and necessary. The Secretary disagrees, finding that the Illinois rule in no way diminishes its authority or renders inconsistent or ineffective monitoring and reporting obligations of operators.

132. *30 CFR 842.11(b)(1)(i).* ISP (ARN ILL–0412) commented that Illinois omits a counterpart to 30 CFR 842.11(b)(1), which requires an authorized representative of the Secretary to immediately conduct an inspection if there is reason to believe that a violation exists. The Secretary believes that 30 CFR 842.11(b)(1)(i) applies to Federal and not State inspections. First, Part 842 is entitled "Federal Inspections" while Part 840 is entitled, "State Regulatory Authority Inspection and Enforcement." 30 CFR 840.15 incorporates only the public participation provisions of Part 842 into Part 840. Second, 30 CFR 842.11(b)(1)(i) requires an immediate *inspection* when there is reason to believe that a violation exists rather than immediate issuance of a notice of violation or cessation order. The commenter failed to read this subsection in conjunction with subsection (ii), which subsection refers to the other preconditions that must exist prior to conducting an immediate Federal inspection. These preconditions are: (1) Federal enforcement in the State under the permanent program, (2) failure of the State to take action after a 10-day notification period has expired or (3) adequate proof that an imminent danger exists. These preconditions are clearly those where OSM is either enforcing the permanent program in a State, or overseeing the State's enforcement of its approved program. 30 CFR Parts 840, 843 and 845 contain the required inspection and enforcement aspects of a State program, and Illinois has demonstrated that the provisions of its program are no less effective than the Federal regulations.

133. *Rule 1843.12(a)(1).* ISP (ARN ILL–0412) commented that 30 CFR 843.12(a)(1) prescribes those circumstances for which a notice of violation must be issued, including violations of "any condition of a permit or exploration approval imposed under (the State) program," and that the corresponding Illinois rule omits this language. However, Rule 1843.12(a)(1) does require issuance of a notice of violation for "a violation of the (Federal) Act, the State Act, or these regulations." Rule 1771.19 requires that "all persons shall conduct surface coal mining and reclamation operations under permits issued pursuant to Sections 1770–1778 of these regulations and *shall comply with the terms and conditions of the permit* and the requirements of the State Act, and these regulations, and the regulatory program." (Emphasis added.) Therefore, violation of a permit condition would mean violation of Rule 1771.19 and a notice of violation must be issued under 1843.12(a)(1). The Secretary finds the Illinois rule is no less effective than 30 CFR 843.12(a)(1) in meeting the requirements of Section 521(a)(3) of SMCRA.

134. *Rule 1843.12(a)(2).* ISP and Old Ben (ARN ILL–0412) commented that the rule is confusing, as it appears to apply to Federal inspections. The Secretary has advised Illinois (ARN ILL–0443) that the provisions pertaining to Federal inspections are not required in the State rules and Illinois has agreed to delete this requirement. (ARN ILL–0451).

135. *Rule 1843.12(f).* ISP (ARN ILL–0412) objected to the Illinois rule on extension of abatement beyond 90 days in enforcement actions. The Secretary has addressed this concern in Finding 21.3.

136. *Rule 1843.16(c).* ISP (ARN ILL–0412) observed that the Illinois reference to paragraph (4) should be to paragraph (a). This comment has been furnished to the State.

137. *Rule 1843.17.* Old Ben (ARN ILL–0405) asked for clarification on whether the hearing on temporary relief may be combined with any hearing held under 1843.16 or 1845.19. The Secretary interprets the Illinois rules as not allowing a combining of hearings under 1843.17(1) and 1843.16 or 1845.19.

138. *Rule 1843.22.* Old Ben (ARN ILL–0405) stated that 1843.22(e)(1)(B) should be amended by adding "other" to the phrase "any proceeding" to clarify that subsection (B) does not encompass subsection (A). The Secretary does not believe that clarification is needed, as subsection (A) and (B) are separated by a semicolon and the disjunctive word "or".

139. *Rules 1843.22(e) and (f).* ISP (ARN ILL–0412) commented that the Illinois program does not contain counterparts to Federal rules 43 CFR 4.1294(b) and 4.1295(b) providing for: (1) The award of costs and expenses "to any person other than a permittee or his representative from OSM, if the person initiates or participates in any proceeding under the Act upon a finding that the person made a substantial contribution to a full and fair determination of the issues," and (2) the award of costs incurred in seeking the award. Illinois rule 1843.22(e) provides that any person may be awarded costs from the permittee if the person made a substantial contribution to a full and fair determination of the issues. The Secretary therefore finds that the public will have access to award of costs that is no less effective than the Federal rules.

140. *Rule 1845.15(b)(2).* ISP (ARN ILL–0412) commented that Illinois has omitted a provision for alternative enforcement after the 30-day penalty period has expired. The Illinois provisions for alternative enforcement were inadvertently omitted from the resubmission. However, the Illinois rule amendments dated January 4, 1982 (ARN ILL–0444) do provide for alternative enforcement action consistent with 845.15(b)(2).

141. *Narrative Volume R1, Tab B.* ISP (ARN ILL–0412) recommended that Illinois be required to certify the accuracy of current statutory references because of the time that has passed

since Illinois' original submission. The Secretary believes that Illinois has made a good faith effort to provide correct citations and a certification is not necessary.

142. *Narrative Volume R1, Tab E.* ISP (ARN ILL–0412) commented that under Section 554 of the Administrative Procedures Act, an employee who presides at a formal administrative hearing may not supervise an employee engaged in the performance of investigative or prosecuting functions for an agency. ISP objected that under the Illinois procedure, the attorneys for the IDMM would be reviewing the decisions of their supervisor, the head of the Land Reclamation Division. However, the Secretary finds that Illinois has adequately explained its administrative review procedures in Volume R2, Tab O.

143. *Narrative Volume R1, Tab F.* ISP (ARN ILL–0412) commented that Illinois had not submitted key interagency agreements under the permanent program. These agreements were submitted on April 13, 1982 (ARN ILL–0451) and OSM reopened the public comment period on them.

144. *Narrative Volume R1, Tabs I and J.* ISP (ARN ILL–0412) expressed concern that Illinois lacks an adequate inspection staff. The Secretary finds that the number of employees available to conduct inspections is adequate based on the number of inspectable units in Illinois.

145. *Narrative Volume R1, Tabs D and J.* ISP (ARN ILL–0412) commented that Illinois lacks the necessary staff to inspect and enforce water quality standards and has failed to specify procedures for the reporting of data to the IDMM by the Illinois EPA. The Secretary finds that the IDMM has adequate staff to inspect and enforce water quality standards (see comment No. 144 above) and has specified procedures in the interagency agreement with the Illinois EPA (ARN ILL–0451).

146. *Narrative Volume R2, Tab G.* ISP (ARN ILL–0412) commented that the description of proposed procedures on civil penalties is inconsistent with the Federal law because it fails to provide for a maximum $5,000 penalty for each violation. However, Illinois rule 1845.14(a) provides for maximum penalties of $5,000, in accordance with Section 518(a) of SMCRA. Accordingly, the Secretary finds that the Illinois provision is consistent with the Federal regulations.

147. *Narrative Volume R1, Tab J.* ISP (ARN ILL–0412) stated that for the price the State is paying for outside legal counsel, the IDMM could hire four to six in-house legal counsel which would respond to the Secretary's original concern that Illinois in-house legal services were inadequate. The Secretary has found that Illinois will have adequate legal counsel and it is a matter of State discretion whether to use the services of outside legal counsel.

148. *Statute 1.03(25).* ISP and KCB (ARN ILL–0412 and 0402) stated that the use of definitions for both "toxic conditions" and "toxic materials," is confusing and that the weaker definitions for toxic materials should be deleted. Illinois rule 1701.5 defines both "toxic conditions" and "toxic materials" as those which will not support plant or animal life. The Secretary finds that the Illinois rule definition is no less effective than the Federal definitions.

149. *SMCRA 707.* ISP (ARN ILL–0412) commented that Illinois lacks a counterpart to Section 707 of SMCRA which is a severability clause that if any part of SMCRA is held invalid, preserves the remainder. The Secretary finds that the lack of such a clause is not significant, based on the explanation in the Attorney General's opinion (Volume 7 of the original submission) the Illinois State law provides that the remainder of a statute stands unless it is clear that the legislature would not have passed the statute without the stricken provision because it is such an integral part of the statute. (See ARN ILL–0103 and 0304).

150. *SMCRA 704.* ISP (ARN ILL–0412) commented that Illinois has failed to provide for protection for State employees. The Secretary disagrees, based on the information submitted by Illinois. See Finding 27.

151. *Statute 3.04.* ISP (ARN ILL–0412) commented that because the definition of "affected land" excludes surface over underground mine workings, Section 3.04 requiring backfilling and grading of "affected land" is inconsistent with Section 515(b)(3) of SMCRA. The Secretary has examined the definition and use of all terms relating to underground coal mining to ensure conformance with 30 CFR and SMCRA. See Findings 30.4 and 30.5 above. In this context the difference in definition of "affected land", and certain related terms, renders the Illinois rule no less affective than the Federal rules.

152. *Statute 3.04(c).* ISP (ARN ILL–0412) commented that the Illinois statute broadens the exemption from approximate original contour requirements of Section 513(b)(3) of SMCRA in order to treat overburden as excess spoil and allow last-cut lakes. The Secretary has approved the Illinois practice of leaving last-cut lakes. See Findings 14.2 and 14.4.

153. *Statute 3.15(b).* ISP (ARN ILL–0412) objected to the Illinois rule not conditioning the starting of the five-year period on the date of initial planting. The Secretary disagrees and finds the Illinois statute consistent with SMCRA. (See Comments on rules 1816.117(d), 1817.116(a)(3), and 1825).

154. *Statutes 3.15(b) and 7.01(b).* ISP (ARN ILL–0412) requested that the Illinois law be construed such that Section 3.16(b) which appears to authorize mining within 100 feet of a road, "does not override Section 7.01(b), which requires an opportunity for a public hearing and a written finding before mining may take place within 100 feet of a road." The Secretary has already found the Illinois statute to be consistent (See Finding 22.1 of the October 31, 1980 **Federal Register**).

155. *Statute 9.01(h).* ISP (ARN ILL–0412) commented that the Illinois statute provides that adopted rules shall be effective 30 days after filing of a rule unless a later date is specified, but no provision is made for compliance with 30 CFR 732.17, which requires submission to and approval by OSM before amendments are effective. The Secretary finds that express reference to compliance with 30 CFR 732.17 is not an element required to be included in a State program.

156. *Statute 9.01(h).* ISP (ARN ILL–0412) states that the Illinois statute is inconsistent with SMCRA because it prohibits the adoption of retroactive rules. The Secretary disagrees after careful review of this subject with Illinois (ARN ILL–0443). Illinois explained that the provision means that Illinois rules are effective prospectively and will be applicable to all permittees. Based on this assurance, the Secretary finds that the Illinois provision is consistent with SMCRA.

157. *Statute 8.05(c) and 8.07(f).* ISP (ARN ILL–0412) commented that Sections 8.05(c) and 8.07(f) authorizing awarding costs and expenses on the basis of the importance of the proceeding and participation of the parties in the efficient and effective enforcement of the Act is inconsistent with SMCRA. However, the Secretary finds that Illinois rule 1843.22 provides for award of costs in accordance with SMCRA and the Federal regulations. See comment number 139.

158. *Statute 8.04(e).* ISP (ARN ILL–0412) commented that the criminal sanctions of Section 8.04(e) are inconsistent with Section 518(e) of SMCRA, because they omit sanctions for violations of court orders. In addition, the Secretary notes that several Illinois cases, *In re Baker*, 71 Ill.

2d 480 (1978), and *People ex rel Chicago Power Assn. v. Barasn,* 21 Ill. 2d 407 (1961), have held that criminal contempt penalties are discretionary with the court and may include imprisonment and fines. These penalties are consistent with Section 518(e) of SMCRA. Therefore, the Secretary finds Section 8.04(e) of the Illinois statute is in accordance with SMCRA.

159. *Statute 8.05.* ISP (ARN ILL–0412) commented that Illinois must include a right of intervention in citizen suits consistent with Section 520(b)(1)(B). However, Section 520(b)(1)(B) provides that no citizen suit may be commenced "if the Secretary or the State has commenced and is diligently prosecuting a civil action *in a court of the United States or a State* to require compliance with the provisions of this Act, or any rule, regulations order, or permit issued pursuant to this Act, *but in any such action in a court of the United States any person may intervene as a matter of right."* (emphasis added). The Secretary finds that Congress by specifying a right of intervention in Federal court, did not intend to require intervention in State courts.

160. *Statute 8.06(b) and (c).* ISP (ARN ILL–0412) commented that the Illinois statute is inconsistent with SMCRA because it provides that an operator may seek immediate injunctive relief from enforcement action without first exhausting administrative remedies. The Secretary has addressed this concern in Finding 28.2.

161. *Statute 8.07(a).* ISP (ARN ILL–0412) commented on administrative review of enforcement actions, noting that "This problem appears to have been resolved by Illinois' rules at 1843.16(a) * * *" The Secretary agrees.

162. *Statute 9.06.* ISP (ARN ILL–0412) commented that the Illinois statute applies the conflict of interest provisions of Section 517(g) only to employees of the IDMM, although other State employees have duties under the Act. ISP notes that Illinois states that it requires all employees exercising duties under the State Act to file financial interest statements, but ISP requests further assurances that the definition of employee in 1701.5 and penalties for violation be specified in the program. The Secretary finds that Section 9.04 and 9.06 of the Illinois statute, when taken together, are consistent with SMCRA. Section 9.04 provides that the IDMM may delegate to or contract with other State agencies to perform duties under the State Act. Section 9.06 provides that no person employed by the IDMM shall have a direct or indirect financial interest in mining operations in violation of the Federal Act. Further, rule 1701.5 defines employee as any person employed by the IDMM who performs any duty or function under the Act. This definition is identical to the definition of employee in 30 CFR 705.5. Therefore, the Secretary finds that Illinois applies the conflict of interest provisions of Section 517(g) of SMCRA consistent with the Federal requirements in 30 CFR Part 705.

E. Background on Conditional Approval

The Secretary is fully committed to two key aims which underlie SMCRA. SMCRA calls for comprehensive regulation of the effects of surface coal mining on the environment and public health and safety and for the Secretary to assist the States in becoming the primary regulators under SMCRA. To enable the States to achieve that primacy, the Secretary has undertaken many activities, of which several are particularly noteworthy.

The Secretary has worked closely with several State organizations, such as the Interstate Mining Compact Commission, the Council of State Governments, the National Governors Association and the Western Interstate Energy Board. Through these groups, OSM has frequently met with State regulatory authority personnel to discuss informally how SMCRA should be administered, with particular reference to unique circumstances in individual States. Often these meetings have been a way for OSM and the States to test new ideas and for OSM to explain portions of the Federal requirements and how the States might meet them.

The Secretary has dispensed over $8.5 million in program development grants and over $54.8 million in initial program grants to help the States to develop their programs, to administer their initial programs, to train their personnel in the new requirements, and to purchase new equipment. In several instances, OSM detailed its personnel to States to assist in the preparation of their permanent program submissions. OSM has also met with individual States to determine how best to meet SMCRA's environmental protection standards.

Equally important, the Secretary structured the State program approval process to assist the States in achieving primacy. He voluntarily provided his preliminary views on the adequacy of each State program to identify needed changes and to allow them to be made without penalty to the State. The Secretary adopted a special policy to insure that communication between him and the States remained open and uninhibited at all times (44 FR 54444; September 19, 1979). This policy was critical to avoiding a period of enforced silence between OSM and a State after the close of the public comment period on its program and has been a vital part of the program review process.

The Secretary has also developed in his regulations the critical ability to conditionally approve a State program. Under 30 CFR 732.13 of the Secretary's regulations, conditional approval gives full primacy to a State even though there are minor deficiencies in a program. This power is not expressly authorized by SMCRA; it was adopted through the Secretary's rulemaking authority under 30 U.S.C. 201(c), 501(b), and 503(a)(7).

SMCRA expressly gives the Secretary only two options—to approve or disapprove a State program. Read literally, the Secretary would have no flexibility; he would have to approve those programs that are letter-perfect and disapprove all others. To avoid that result, and in recognition of the difficulty of developing an acceptable program, the Secretary adopted the regulation providing the authority to conditionally approve a program.

Conditional approval has a vital effect for States whose programs are approved. It results in the implementation of the permanent program in a State months earlier than might otherwise be anticipated. It also avoids the costly and cumbersome problem of implementing Federal programs where the State submittal was deficient in only minor respects. While this may not be significant in States that already have comprehensive surface mining regulatory programs, in many States earlier implementation will initiate a much higher degree of environmental protection. It also implements the rights SMCRA provides to citizens to participate in the regulation of surface coal mining through soliciting their views at hearings and meetings and enabling them to file requests to designate lands as unsuitable for mining if they are fragile, historic, critical to agriculture, or simply cannot be reclaimed to their prior productive capability.

The Secretary considers three factors in deciding whether a program qualifies for conditional approval. First is the State's willingness to make good faith efforts to effect the necessary changes. Without the State's commitment, the option of conditional approval may not be used.

Second, no part of the program can be incomplete. As the preamble to the regulations states, the program, even with deficiencies, must "provide for implementation and administration for all processes, procedures, and systems

required by SMCRA and these regulations" (44 FR 14961; March 13, 1979). That is, a State must be able to operate the basic components of the permanent program: The designation process; the permit and coal exploration systems; the bond and insurance requirements; the performance standards; and the inspection and enforcement systems. In addition, there must be a functional regulatory authority to implement the other parts of the program. If some fundamental component is missing, conditional approval may not be granted.

Third, the deficiencies must be minor. For each deficiency or group of deficiencies, the Secretary considers the significance of the deficiency in light of the particular State in question. Examples of deficiencies that would be minor in virtually all circumstances are correction of clerical errors and resolution of ambiguities.

Other deficiencies require individual consideration. An example of a deficiency that would most likely be major would be a failure to allow meaningful public participation in the permitting process. Although this would not render the permit system incomplete, because permits could still be issued, the lack of any public participation could be such a departure from a fundamental purpose of SMCRA that the deficiency would probably be major.

The granting of conditional approval is not and cannot be a substitute for the adoption of an adequate program. The purpose of the conditional approval authority is to assist States in achieving compliance with SMCRA, not to excuse them from compliance.

F. The Secretary's Decision

As indicated above under "Secretary's Findings," there are minor deficiencies in the Illinois program which the Secretary requires be corrected. In all other respects, the Illinois program meets the criteria for approval. The deficiencies identified in prior findings are summarized below and an explanation is given to show why the deficiency is minor, as required by 30 CFR 732.13(i).

1. As discussed in Finding 14.3, Illinois rules allow up to 25 pounds of explosives to be detonated before requiring publication of an operator's blasting schedule or before requiring notice to surface owners of any surface blasting event during underground mining operations. This deficiency is minor because few blasts of less than 25 pounds are detonated. Also, during the interim period until Illinois can amend these regulations, most operations will be operating under permits issued under the interim regulatory program which requires a blasting schedule be published in which blasts using more than 5 pounds of explosives are to be detonated and requires surface owners to be notified of any surface blasting event associated with underground mining operations.

2. As discussed in Finding 14.4, the Illinois regulations allow for covering the pit floor and highest coal seam with four feet of water. This deficiency is minor because during the period until Illinois can amend these regulations most operators will be operating under permits issued under the interim regulatory program, which does not allow for covering with water. Furthermore, Illinois has agreed not to use its authority to approve covering with less that 10 meters of water.

3. As discussed in Finding 14.7, Illinois regulations would allow variances from the requirement of a sedimentation pond if an operator demonstrates that the best technology currently available in a given situation is a siltation structure other than a sedimentation pond. This deficiency is minor because Illinois has agreed to send any such proposal to OSM for review and approval pending revision of the program.

4. As discussed in Finding 19.2, the Illinois regulation does not expressly guarantee the right of the surface owner to accompany the IDMM inspector on the bond release inspection. This deficiency is minor because during the short period before the regulation is amended, the Illinois rules do provide that the landowner must be notified of the application for bond release and by registering a written objection and requesting a hearing, the IDMM may arrange for access to the mining area.

5. As discussed in Finding 21.3, Illinois regulations on extensions of the 90-day abatement period on violations are inconsistent with the Federal rules. This deficiency is minor because Illinois rules 1843.12(f)(1) and (f)(6), among other provisions, require that extensions can be granted only when abatement within 90 days would: (1) Clearly cause more environmental harm than it would prevent; or (2) create an imminent danger or be expected to cause imminent environmental harm. The Secretary knows of no situation where more environmenal harm would be created by abatement except when abatement would be affected by climatic conditions. Furthermore, extensions are not mandatory and the Secretary is confident that Illinois will not grant any extensions that would be inconsistent with the Federal regulations.

Given the nature of the deficiencies set forth in the Secretary's findings and their magnitude in relation to all the other provisions of the Illinois program, the Secretary of the Interior has concluded that they are minor deficiencies. Accordingly, the program is eligible for conditional approval under 30 CFR 732.13(i) because:

1. The deficiencies are of such a size and nature as to render no part of the Illinois program incomplete;

2. All other aspects of the program meet the requirements of SMCRA and 30 CFR Chapter VII;

3. These deficiencies, which will be promptly corrected, will not directly affect environmental performance at coal mines;

4. Illinois has initiated and is actively proceeding with steps to correct the deficiencies; and

5. Illinois has agreed, by letter dated May , 1982, to correct three of the regulation deficiencies by December 1, 1982. Two other deficiencies, one of which relates to a policy interpretation of the IDMM only, will be corrected by June 1, 1983.

Accordingly, the Secretary is conditionally approving the Illinois program. If the deficiencies are not corrected by the above dates, the Secretary will take appropriate steps under 30 CFR Part 733 to terminate the State program. This conditional approval is effective on June 1, 1982. Beginning on that date, the Illinois Department of Mines and Minerals shall be deemed the regulatory authority in Illinois and all Illinois surface coal mining and reclamation operations on non-Federal and non-Indian lands and all coal exploration on non-Federal and non-Indian lands in Illinois shall be subject to the permanent regulatory program.

On non-Federal and non-Indian lands in Illinois, the permanent regulatory program consists of the State program approved by the Secretary. Following this approval, in accordance with Section 523(c) of SMCRA, Illinois may elect to enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands within the State.

The Secretary's approval of the Illinois program relates at this time only to the permanent regulatory program under Title V of SMCRA. The approval does not constitute approval of any provisions related to implementation of Title IV under SMCRA, the abandoned mine lands reclamation program. In accordance with 30 CFR Part 884, Illinois has submitted a State

reclamation plan. Now that its permanent program has been approved, all provisions relating to abandoned mined lands reclamation will be reviewed by officials of the Department of the Interior.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (Pub. L. 96-354), the Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities.

List of Subjects in 30 CFR Part 913

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Therefore, 30 CFR Chapter VII is amended by adding a new Part 913 as set forth herein.

Dated: May 17, 1982.

James G. Watt,

Secretary of the Interior.

PART 913—ILLINOIS

Secs.

913.1 Scope.

913.10 State regulatory program approval.

913.11 Conditions of State regulatory program approval.

Authority: Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

§ 913.1 Scope.

This part contains all rules applicable only within Illinois that have been adopted under the Surface Mining Control and Reclamation Act of 1977.

§ 913.10 State regulatory program approval.

The Illinois State program, as submitted on March 3, 1980, as amended and clarified on June 16, 1980, as resubmitted on December 22, 1981, and clarified in a meeting with OSM on March 18 and 19, 1982, in material submitted April 13, 1982, and in the letter to the Director of OSM, is conditionally approved effective June 1, 1982. Beginning on that date, the Department of Mines and Minerals, Division of Land Reclamation shall be deemed the regulatory authority in Illinois for all surface coal mining and reclamation operations and all exploration operations on non-Federal and non-Indian lands. Only surface coal mining and reclamation operations on non-Federal and non-Indian lands shall be subject to the provisions of the Illinois permanent regulatory program. Copies of the approved program, together with copies of the letter of the Department of Mines and Minerals agreeing to the conditions of 30 CFR 913.11, are available at:

Illinois Department of Mines and Minerals, Division of Land Reclamation, 227 South 7th Street, Suite 204, Springfield, Illinois 62706

Illinois Department of Mines and Minerals, Division of Land Reclamation, Southern District Field Office, Route 6, Box 140A, Marion, Illinois 62959

Office of Surface Mining, Federal Building and U.S. Courthouse, Fifth Floor, Room 510, 46 East Ohio Street, Indianapolis, Indiana 46204

Office of Surface Mining, Administrative Record, Room 5315, 1100 "L" Street, NW., Washington, D.C.

§ 913.11 Conditions of State regulatory program approval.

The approval of the Illinois State program is subject to the State revising its program to correct the deficiencies listed in this section. The program revisions may be made, as appropriate, to the statute, the regulations, the program narrative, or the Attorney General's opinion. This Section indicates, for the general guidance of the State, the component of the program to which the Secretary recommends the change be made.

(a) The approval found in § 913.10 will terminate unless Illinois submits to the Secretary by December 1, 1982, copies of promulgated regulations or otherwise amends its program to: (1) Allow only five pounds of explosives or less to be detonated without publishing notice of the operator's blasting schedule as required in 30 CFR 816.64(a)(1); and (2) require that surface owners or residents be notified of any surface blasting event as required by 30 CFR 817.65(a).

(b) The approval found in § 913.10 will terminate unless Illinois submits to the Secretary by June 1, 1983, copies of promulgated regulations or otherwise amends its program to require a cover of the pit floor and highest coal seam with a minimum of ten meters (33 feet) of water. Furthermore, pending completion of the above, Illinois may not use its authority to approve covering with less than 10 meters of water or the approval will terminate immediately.

(c) The approval found in § 913.10 will terminate unless Illinois submits to the Secretary by June 1, 1983, a policy statement or otherwise amends its program to the effect that Illinois understands that at the present time, the best technology currently available for sediment control is sedimentation ponds and should Illinois wish to approve any other technology, the State will first send the proposal to OSM for review and approval as either an experimental practice or a program amendment. Furthermore, pending completion of the above, Illinois may not use its authority to approve siltation structures other than sedimentation ponds or the approval will terminate immediately.

(d) The approval found in § 913.10 will terminate unless Illinois submits to the Secretary by December 1, 1982, copies of promulgated regulations or otherwise amends its program to guarantee the surface owner the right to participate in the inspection prior to bond release.

(e) The approval found in § 913.10 will terminate unless Illinois submits to the Secretary by December 1, 1982, copies of promulgated regulations or otherwise amends its program to provide more than 90 days for abatement of violations in accordance with 30 CFR 843.12(f) and 843.12(j).

[FR Doc. 82-14022 Filed 5-28-82; 8:45 am]

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Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Approval of the Abandoned Mine Land Reclamation Plan for the State of Illinois Under the Surface Mining Control and Reclamation Act of 1977

DEPARTMENT OF THE INTERIOR

30 CFR Part 913

Approval of the Abandoned Mine Land Reclamation Plan for the State of Illinois Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: On July 22, 1980, the State of Illinois submitted to OSM its proposed Abandoned Mine Land Reclamation Plan (Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of this submission is to demonstrate the State's intent and capability to assume responsibility for administering and conducting the Abandoned Mine Land Reclamation Program established by Title IV of SMCRA and regulations adopted by OSM (30 CFR Chapter VII, Subchapter R, 43 FR 49932–49952, October 25, 1978). After opportunity for public comment and review of the Plan submission, the Assistant Secretary for Energy and Minerals of the Department of the Interior has determined that the Illinois Abandoned Mine Land Reclamation Plan meets the requirements of SMCRA and the Secretary's Regulations. Accordingly, the Assistant Secretary has approved the Illinois Plan.

Final promulgation of this rule was delayed because Illinois did not have an approved State regulatory program under Title V of SMCRA and was enjoined from submitting its program. Under Section 405(c) of the SMCRA, the Department cannot approve a State abandoned mine land reclamation program unless that State has an approved State regulatory program pursuant to Section 503 of the SMCRA. The State of Illinois received such approval on May 17, 1982.

EFFECTIVE DATE: This rule is effective June 1, 1982.

ADDRESSES: Copies of the full text of the Illinois Plan are available for review during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Region III, Administrative Records Center, Public Review Facility, Room 512, Federal Building and U.S. Court House, 46 East Ohio Street, Indianapolis, Indiana 46204

Illinois Department of Mines and Minerals, 704 Stratton Building, 400 South Spring Street, Springfield, Illinois 62706

The Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5315, 1100 L Street, NW., Washington, D.C. 20005

FOR FURTHER INFORMATION CONTACT: Don Willen, Chief, Division of Abandoned Mine Land Reclamation, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone (202) 343–7951.

SUPPLEMENTARY INFORMATION:

General Background of the Abandoned Mine Land Reclamation Program

Title IV of the SMCRA establishes an abandoned mine land reclamation program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation under the program are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or Federal law.

Each State, having within its borders coal mined lands eligible for reclamation under Title IV of SMCRA, may submit to the Secretary a State reclamation plan demonstrating its capability for administering an abandoned mine reclamation program. Title IV provides that the Secretary may approve the plan once the State has an approved regulatory program under Title V of SMCRA. If the Secretary determines that a State has developed and submitted a program for reclamation and has the necessary State legislation to implement the provisions of Title IV, the Secretary shall grant the State exclusive responsibility and authority to implement the provisions of the approved plan. Section 405 of SMCRA (30 U.S.C. 1235) contains the requirements for State reclamation plans.

The Secretary has adopted regulations that specify the content requirements of a State reclamation plan and the criteria for plan approval (30 CFR Part 884, 43 FR 49947–49949, October 25, 1978). Under these regulations, the Director of the Office of Surface Mining is required to review the plan and solicit and consider comments of other Federal agencies and the public. If the State plan is disapproved, the State may resubmit a revised reclamation plan at any time.

Upon approval of the State reclamation plan, the State may submit to the Office on an annual basis a grant application for funds to be expended in that State on specific reclamation projects. These funds are necessary to implement the State reclamation plan as approved. The annual grant requests shall be made by the State and reviewed and approved by OSM in compliance with the requirements of 30 CFR Part 886.

To codify information applicable to individual States under SMCRA, including decisions on State reclamation plans, OSM has established a new Subchapter T to 30 CFR Chapter VII. Subchapter T consists of parts 900 through 950. Provisions relating to Illinois are found in 30 CFR Part 913.

Background on the Illinois Abandoned Mine Plan Land Reclamation Submission

On August 17, 1979, a cooperative agreement between the Illinois Department of Mines and Minerals, Abandoned Mine Lands Reclamation Council (AMLRC) and the Office of Surface Mining was approved. The purpose of this agreement was to assure that information required for the preparation of the Illinois Abandoned Mine Land Reclamation Plan would be assembled.

On April 11, 12, 18, and 21, 1980, the AMLRC held public meetings in Pinckneyville, Marion, Springfield, and Galesburg, Illinois for comments on the Plan.

On July 22, 1980, the State of Illinois submitted its proposed Abandoned Mine Land Reclamation Plan to the Office of Surface Mining.

On August 13, 1980, Illinois submitted additions and revisions to the Illinois Abandoned Mine Land Reclamation Plan as a result of public comments and discussions between representatives of Illinois and OSM. These additions and revisions are specifically identified in the letter from the Executive Director, AMLRC, to the Regional Director, Region III, OSM, dated August 13, 1980.

The Assistant Secretary has determined that these additions and revisions are insignificant in nature and, accordingly, require no further public comment.

All of the documents mentioned above are available for public inspection at the offices of OSM and at the Illinois Department of Mines and Minerals listed above under "Addresses."

Notice of receipt of the submission initiating the Plan review was published July 28, 1980 (45 FR 49958–49959). The announcement established a public comment period until August 27, 1980,

and scheduled a public hearing. On August 27, 1980, a public hearing was held by OSM in Springfield, Illinois and there were no public comments.

On October 24, 1980 (45 FR 70480–70481), OSM extended the public comment period on the Illinois Plan while a final decision by the Secretary on the Illinois permanent surface mining regulatory program was pending. This comment period was closed on January 4, 1982, 47 FR 57–58. On September 8, 1980, the Regional Director and on December 22, 1981, the Assistant Director for Program Operations and Inspection recommended to the Director that the Assistant Secretary approve the Illinois Reclamation Plan.

The administrative record on the Illinois Plan is available for review during regular business hours at the Office of Surface Mining Reclamation and Enforcement, Region III, at the address listed above in "Addresses."

Assistant Secretary's Findings

1. In accordance with Section 405 of SMCRA the Assistant Secretary finds that Illinois has submitted a Plan for reclamation of abandoned mines and has the ability and necessary State legislation to implement the provisions of Title IV of SMCRA.

2. The Assistant Secretary has determined, pursuant to 30 CFR 884.14, that:

(a) The Illinois Department of Mines and Minerals, Abandoned Mines Lands Reclamation Council has the legal authority, policies and administrative structure necessary to carry out the Plan;

(b) The Plan meets all the requirements of 30 CFR Chapter VII, Subchapter R;

(c) The State has an approved regulatory program; and

(d) The Plan is in compliance with all applicable State and Federal laws and regulations.

It should be noted the State of Illinois on page 30 of the Plan limits the expenditure of funds to abandoned coal mined lands for the five year period discussed in the Plan. The Assistant Secretary understands this provision to mean Illinois will not request funds for noncoal projects unless the Plan is amended to provide for noncoal reclamation projects consistent with Section 409 of SMCRA and the Secretary's regulations.

Further, it is understood that the funds available for use in carrying out noncoal reclamation are limited to those funds which must be allocated to the State under the provisions of subsection 402(g).

3. The Assistant Secretary has solicited and considered the views of other Federal agencies having an interest in the Plan as required by 30 CFR 884.14(a)(2). These agencies include: United States Geological Survey (USGS), Bureau of Indian Affairs (BIA), United States Fish and Wildlife Service (FWS), United States Corps of Engineers (COE), Heritage Conservation and Recreation Service (HCRS) now a part of the National Park Service (NPS), Soil Conservation Service (SCS), and U.S. Forest Service (USFS).

Disposition of Comments

The following comments received on the Illinois Abandoned Mine Land Reclamation Plan during the public comment period were considered in the Assistant Secretary's evaluation of the Illinois Plan as indicated.

1. The BIA commented that "Indian mounds and other historical sites" should be mentioned. OSM's response is that the Abandoned Mine Land Reclamation Program Final Rules (30 CFR 884.13(f)(5)(iii)) require a general narrative description of significant esthetic, historic, cultural and recreation values. Page 122 of the Illinois Plan discusses historic sites. As specific projects are developed each site will be examined as required by the National Environmental Policy Act (NEPA) for archaeological significance. OSM is satisfied that BIA's concern will be addressed in the project selection and review process which will occur under the Plan.

2. The COE commented that many abandoned mines in Illinois occupy areas adjacent to streams and wetlands which will require review to determine if a section 404 permit is required for excavation or redisposal of materials in the waterways and wetlands. OSM's response is that the State of Illinois is aware of the need for permits in the above situations and has provided for coordination with affected agencies in the development and review of proposed projects through the State Abandoned Mine Land Reclamation Council.

3. The USFS commented that the professional skills of personnel to be utilized to plan, supervise and perform the reclamation work is vague. OSM's response is that the Illinois Plan in the section on "Coordination of Reclamation Activities" (pp 39–43), provides for the formal participation of seven State agencies and direct program assistance to the AML Reclamation Council staff. These agencies include: The Department of Mines and Minerals, The Department of Conservation, The Department of Agriculture, The Department of Commerce and Community Affairs, The Institute of Natural Resources, the Environmental Protection Agency and the Capital Development Board. OSM is satisfied that the necessary professional personnel to carry out the reclamation program are available to the AML Reclamation Council.

4. The USFS commented that it is not clear how reclamation on Federal lands will be conducted under the Plan. OSM's response is that Illinois has indicated that reclamation projects on Federal lands will be done as part of the State Program following the priorities of the SMCRA and the State Plan.

5. The FWS commented that the Illinois Plan did not discuss how the State will comply with the Endangered Species Act as well as other acts under the FWS. OSM's response is that the Illinois Plan provides for the formal participation of the Department of Conservation in the review of all projects through membership on the Reclamation Council and through the A–95 review process. The Plan also provides for review of the annual grant by circulation to appropriate State and Federal agencies for review and comment and provides that the grant application will be submitted only after public comments have received full consideration. Moreover, the OSM and the FWS signed a Memorandum of Understanding on June 10, 1980 that provides for formal consultation on those projects which may affect threatened or endangered species. OSM is satisfied that provisions for addressing endangered species in the Illinois Plan are adequate.

6. The FWS commented that it was unclear if environmental assessments would be required for reclamation projects. OSM's reponse is that compliance with the National Environmental Policy Act (NEPA) is an OSM responsibility. It should be noted that an environmental analysis or environmental impact statement will be prepared for the approval of grants for the abandoned mine land reclamation projects under 30 CFR Part 886. The State of Illinois will provide input to the NEPA process through the development of environmental assessments as provided in step 6 of the State project selection process.

7. The SCS raised the need for certain technical corrections relative to wind and water erosion and the soils map included in the Plan. OSM's response is that these technical corrections have been brought to the attention of the AML Reclamation Council. The Council

will make these corrections when it updates or amends its Plan.

8. The HCRS commented that low priority projects which reclaim land for public use should be given additional consideration. OSM's response is that Section 403 of Pub. L. 95–87 sets forth the reclamation priorities of Title IV and the development of publicly owned lands is the lowest priority. When the State reaches the point in its program where it is considering these projects it may give additional weight to shared cost reclamation projects. The present Plan does not consider this because the Plan is for a period of five years and it is not anticipated that reclamation projects on the first five reclamation priorities will be completed in five years.

9. The HCRS commented that the Illinois Department of Conservation should be consulted during step 3 of the project selection process for their views regarding public recreation and conservation use. OSM's response is that the Illinois Plan provides for such input in step 5 of the project selection process, the same point at which all land uses and site potentials will be considered. The OSM is satisfied that the opportunity for consideration of recreation and conservation use exists and will be considered in the evaluation of proposed reclamation projects.

10. The HCRS commented that projects with water related and urban recreation potential be given special consideration in the Plan. OSM's response is that the Illinois Plan provides for projects to be selected in accordance with Pub. L. 95–87 and provides for flexibility in the selection process as conditions change. The OSM is satisfied that projects will be selected with consideration of all potential site uses, including water related and urban recreation.

11. The HCRS commented that during each year there should be at least one reclamation research and demonstration project with a recreation or conservation related component. OSM's response is that research and demonstration projects are priority #4 and provided for in the Illinois Plan. It should be noted that all multiple use projects will have recreation and conservation values as a component in the project selection process.

12. The HCRS commented that discretionary funds of the Program be allocated to the maximum extent possible for reclamation projects serving high priority recreation and conservation purposes. OSM's response is that the allocation of discretionary funds (Interior Reclamation Funds) is in accordance with the priorities established by the Act (SMCRA) and the Abandoned Mine Land Reclamation Program Regulations. Projects selected for funding will involve a mix of priority projects to the extent of fund availability.

13. The HCRS commented that AML funds should be utilized to improve conditions on the three Illinois Department of Conservation sites which have been surface mined for coal. OSM's response is that the State ranking and selection procedure in the Plan must be utilized to identify the highest priority projects for funding. When the above projects meet the ranking and selection criteria, and the State requests funding, the projects will be accomplished.

14. The HCRS commented that the Lake Central Regional Office of HCRS should be included in the reclamation planning stage of project selection. OSM's response is that Chapter 9 of the Illinois Plan specifically provides for review of projects by appropriate State and Federal agencies prior to submission of annual grant requests. The OSM is satisfied that this procedure provides adequate opportunity for the imput of HCRS and other Federal agencies.

15. The Ohio River Basin Commission commented that the Illinois Plan is consistent with the Commission's 1980 Regional Priorities Report. This Priorities Report recommends the expeditious submission and approval of State programs and prompt release of funds accumulated for State grants under Title IV of the Surface Mining Control and Reclamation Act of 1977.

Additional Findings

The Office of Surface Mining has examined this rulemaking under Section 1(b) of Executive Order No. 12291 (February 17, 1981), and has determined that, based on available quantitative data, it does not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval will not have an effect on costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; and

2. Approval will not have adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and the Office of Surface Mining has determined that the rule will not have a significant economic effect on a substantial number of small entities. The reason for this determination is that approval will not have demographic effects, direct costs, information collection and recordkeeping requirements, indirect costs, nonquantifiable costs, competitive effects, enforcement costs or aggregate effects on small entities.

The Assistant Secretary has determined that the Illinois Abandoned Mine Land Reclamation Plan will not have a significant effect on the quality of the human environment because the decision relates only to policies, procedures and organization of the State's Abandoned Mine Land Reclamation Plan. Therefore, under the Department of the Interior Manual, DM 516.2.3(A)(1), the Assistant Secretary's decision on the Illinois Plan is categorically excluded from the National Environmental Policy Act requirements. As a result, no environmental assessment or environmental impact statement (EIS) has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjunction with the implementation of Title IV. An environmental analysis or an EIS will be prepared for the approval of grants for abandoned mine land reclamation projects under 30 CFR Part 886.

The good cause for making this rule effective upon date of publication is: (1) The Office of Surface Mining wants to minimize the time between the approval of Title V regulatory programs and Title IV State reclamation programs; and (2) grants are pending approval of the Title IV plan and OSM wishes to expedite grant assistance to States to initiate needed reclamation work as required by the Act.

List of Subjects in 30 CFR Part 913

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: May 17, 1982.

J. Steven Griles,

Acting Director, Office of Surface Mining.

Daniel N. Miller, Jr.,

Assistant Secretary—Energy and Minerals.

PART 913—ILLINOIS

Therefore, Part 913 is amended by adding § 913.20 to read as follows:

§ 913.20 Approval of Illinois Abandoned Mine Land Reclamation Plan.

The Illinois Abandoned Mine Land Reclamation Plan, as submitted on July 20, 1980, is approved. Copies of the approved Plan are available at:

Office of Surface Mining Reclamation and Enforcement, Region III, Federal Building and U.S. Court House, 46 East Ohio Street, Room 520, Indianapolis, Indiana 46204
Illinois Department of Mines and Minerals, 704 Stratton Building, 400 South Spring Street, Springfield, Illinois 62706
The Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5315, 1100 "L" Street, NW., Washington, D.C. 20005.

(30 U.S.C. 1211(c)(2))

[FR Doc. 82-14923 Filed 5-28-82; 8:45 am]
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Tuesday
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Part IV

Department of Energy

Western Area Power Administration

Proposed Power Rates and Public Information and Public Comment Forums; Loveland-Fort Collins Area; and Colorado River Storage Project, Collbran Project, Provo River Project, and Rio Grande Project Post-1989 Marketing Plans

DEPARTMENT OF ENERGY

Western Area Power Administration

Proposed Power Rates and Public Information and Public Comment Forums—Loveland-Fort Collins Area

AGENCY: Western Area Power Administration, DOE.

ACTION: Proposed power rates and public information and public comment forums; Loveland-Fort Collins Area.

SUMMARY: The Western Area Power Administration (Western) is proposing a rate adjustment for sales of long-term firm capacity with energy, seasonal, or monthly capacity with energy and nonfirm energy from the Resource Coordination Program.

The Resource Goordination Program is a power pooling arrangement in which capacity in the Federal hydroelectric system is integrated with surplus offpeak energy generated by preference customers' thermal generation facilities. The purpose of this integration is to store and shape surplus energy to maximize its availability for the displacement of oil- and gas-fired peaking generation.

In this rate adjustment, Western proposes that the prices for the long-term firm capacity with energy, seasonal and monthly capacity with energy, and most classes of nonfirm energy made available through the Resource Coordination Program be set at a split-savings rate between the purchaser's avoided costs and the Resource Coordination Program's costs. Spot sales of nonfirm energy will be made using the Western Systems Coordinating Council Economy Energy Broker System.

DATES: Western will explain the basis of the proposed rate adjustment and will entertain questions about the rate adjustment at a public information forum which will be held on June 24, 1982, beginning at 9 a.m. and ending no later than 12 m.

Interested parties will be given the opportunity to make oral comments on the proposed rate adjustment at a public comment forum which will be held on July 22, 1982, beginning at 10:30 a.m. and ending no later than 4 p.m.

Written comments on the proposed rates are due in the office of the Area Manager of Western's Loveland-Fort Collins Area Office, at the address given below, by September 1, 1982.

ADDRESSES: The public information and public comment forums will be held at the Holiday Inn Denver-Northglenn, located north of Denver at the intersection of 120th Avenue and I–25 (Exit 223), in Northglenn, Colorado.

Documents used in developing the proposed rates will be available for inspection in Western's Loveland-Fort Collins Area Office at the address given below.

FOR FURTHER INFORMATION CONTACT:

Mr. Peter G. Ungerman, Area Manager, Loveland-Fort Collins Area Office, Western Area Power Administration, Department of Energy, P.O. Box 2850, Fort Collins, CO 80522, Phone: (303) 224–7201

Mr. Harold E. Hood, Director, Division of Marketing and Rates, Western Area Power Administration, Department of Energy, P.O. Box 3402, Golden, CO 80401, Phone: (303) 231–1545

SUPPLEMENTARY INFORMATION:

A. Regulatory Procedural Requirements

Western's power rates are established pursuant to the Department of Energy Organization Act of August 4, 1977 (42 U.S.C. 7101, *et seq.*); the Reclamation Act of 1902 (43 U.S.C. 372, *et seq.*); as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939, (53 Stat. 1194, 43 U.S.C. 485h(c)); and the acts specifically applicable to the project or system involved. The Secretary of Energy delegated to the Assistant Secretary of Resource Applications, by Delegation Order No. 0204–33 (43 FR 60636, December 28, 1978), the authority to develop, acting by and through the Administrator of Western, and to confirm, approve, and place in effect on an interim basis, power and transmission rates for Western. The Delegation Order also gave the Federal Energy Regulatory Commission the authority to make a final decision either confirming and approving, disapproving, or remanding such rates.

On March 19, 1981, Delegation Order No. 0204–33 was amended by substituting the "Assistant Secretary for Conservation and Renewable Energy" for the "Assistant Secretary for Resource Applications" (46 FR 25426, May 7, 1981).

Procedures for public participation in rate adjustments for power marketed by Western are found at 10 CFR Part 903.

1. Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*), each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, the rate adjustment for the P–SMBP relates to nonregulatory services provided by Western at a particular rate.

Under 5 U.S.C. 601(2), rates or services of particular applicability are not considered "rules" within the meaning of the Act. Since the rate for P–SMBP power is of limited applicability and is being set in accordance with specific regulations and legislation under particular circumstances, Western believes that no flexibility analysis is required.

2. Environmental Evaluation

In compliance with the National Environmental Policy Act of 1969 (NEPA) and Department of Energy (DOE) regulations published in the Federal Register on February 23, 1982 (47 FR 7976), Western conducts environmental evaluations of certain rate and allocation actions. According to section D of the DOE regulations, no formal NEPA documentation is necessary for this proposed rate. Section D indicates that contracts for short-term allocation of excess power, which this proposed rate covers, normally do not require either an environmental assessment or environmental impact statement. A memorandum will be prepared explaining the basis for that determination and an administrative determination will be made that no further documentation under NEPA is required.

3. Determination Under Executive Order 12291

DOE has determined that this is not a major rule because it does not meet the criteria of section 1(b) of Executive Order 12291, 46 FR 13193 (February 19, 1981). In addition, Western has an exemption from sections 3, 4, and 7 of Executive Order 12291.

B. Background

Western was established on December 21, 1977, under the Department of Energy Organization Act.

Western's Loveland-Fort Collins Area Office markets power generated at 16 federally owned and built hydroelectric powerplants located in Colorado, Wyoming, and Montana. Fifteen of these powerplants comprise the Pick-Sloan Missouri Basin Program-Western Division (P–SMBP–WD) power system.

Western proposes to dedicate approximately 69 MW of excess P–SMBP–WD firm capacity without energy in the summer season and 62 MW in the winter season, as well as any excess P–SMBP–WD seasonal capacity that may be available from time to time, for use in the Resource Coordination Program.

The Resource Coordination Program is a power pooling arrangement in which the participants integrate their individual generation resources to displace oil- and gas-fired peaking generation by converting offpeak surplus energy to onpeak use, and converting excess hydroelectric capacity and surplus offpeak energy to capacity with energy available during onpeak hours of high demand. The Resource Coordination Program participants consist of Western and non-Federal preference entities that own thermal generation facilities which can be used to serve offpeak firm power loads otherwise served by Federal hydroelectric resources.

A more detailed description of the Resource Coordination Program can be found in the notice of Western's proposed plan for marketing excess P–SMBP–WD capacity, also published in this **Federal Register** issue. As stated in that notice, Western proposes to make available excess firm P–SMBP–WD capacity and seasonal excess capacity for use in the Resource Coordination Program. In doing this, the Federal hydroelectric capacity can be integrated with the surplus energy of the non-Federal Resource Coordination Program participants and converted into long-term firm capacity with energy, seasonal, or monthly capacity with energy and nonfirm energy.

C. Resource Coordination Program Rates

Western proposes that the selling price for long-term firm capacity with energy, seasonal, or monthly firm capacity with energy and most classes of nonfirm energy sold through the Resource Coordination Program will be based on a split-savings rate between the purchaser's avoided cost and the Resource Coordination Program's costs. The Resource Coordination Program costs associated with the long-term and seasonal or monthly firm capacity with energy include the approved P–SMBP–WD capacity rate and thermal energy generation cost. The Resource Coordination Program cost associated with the nonfirm surplus energy is the energy producers' generation costs.

Spot sales of nonfirm energy will be made using the Western Systems Coordinating Council Economy Energy Broker System, where the price is set at a split-savings rate between the buyer's purchase quote and the Resource Coordination Program's sell quote. The Resource Coordination Program's operating agent will enter sell quotes based, in general, on the thermal energy generation costs and current hydrology conditions and system restraints.

These rates have been designed to be low enough to be competitive with the costs of energy produced by oil- and gas-fired peaking plants, in order to reduce consumption of oil and natural gas, and yet high enough to yield revenues sufficient to assure recovery of production costs; including repayment of P–SMBP–WD project costs.

Issued in Washington, D.C., May 25, 1982.

Ronald K. Greenhalgh,

Assistant Administrator for Washington Liaison.

[FR Doc. 82-14717 Filed 5-28-82; 8:45 am]

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Proposed Power Marketing Plan for Excess Capacity and Public Comment Forum; Loveland-Fort Collins Area

AGENCY: Western Area Power Administration, DOE.

ACTION: Proposed power marketing plan and public comment forum—Loveland-Fort Collins Area.

SUMMARY: On January 19, 1982, the Loveland-Fort Collins Area Office of the Western Area Power Administration (Western) held a public information forum to discuss four alternatives for marketing approximately 80 MW of previously unallocated firm capacity with energy available through 1989 from powerplants of the Pick-Sloan Missouri Basin Program—Western Division (P–SMBP–WD). Western has studied these alternatives, analyzed the comments received, and is now proposing to implement two of the alternatives discussed.

Western proposes to offer 10 MW of the long-term firm capacity without energy for sale to certain existing P–SMBP–WD firm power customers having sufficient existing P–SMBP–WD firm energy entitlements to support the additional allocation of capacity without energy. Western proposes to utilize the remainder of the excess firm capacity, together with seasonal excess capacity, to facilitate a Resource Coordination Program in the area managed by Western's Loveland-Fort Collins Area Office.

The Resource Coordination Program operationally integrates Federal hydroelectric generating resources with preference customer thermal generation resources to covert firm hydroelectric capacity and surplus thermal energy to firm capacity with energy, and offpeak surplus thermal energy to onpeak use in order to displace oil- and gas-fired peaking generation.

As stated previously, a public information forum has been held at which representatives of Western explained and answered questions concerning the excess capacity, the Resource Coordination Program, and four marketing alternatives. Since the marketing plan proposed today simply incorporates two of the alternatives discussed at that public information forum, Western will not hold another public information forum to discuss the proposed marketing plan. A public comment forum will, however, be held at which oral comments on the proposed marketing plan will be received.

DATES: The public comment forum will be held on June 24, 1982, beginning at 1 p.m. and ending no later than 4 p.m.

Written comments on the proposed marketing plan must be received by the Area Manager of Western's Loveland-Fort Collins Area Office, at the address given below, by July 1, 1982, to be assured of consideration.

ADDRESS: The public comment forum will be held at the Holiday Inn Denver-Northglenn, located north of Denver at the intersection of 120th Avenue and I–25 (Exit 223), in Northglenn, Colorado.

FOR FURTHER INFORMATION CONTACT:

Mr. Peter G. Ungerman, Area Manager, Loveland-Fort Collins Area Office, Western Area Power Administration, Department of Energy, P.O. Box 2650, Fort Collins, CO 80522, Phone: (303) 224–7201

Mr. Harold E. Hood, Director, Division of Marketing and Rates, Western Area Power Administration, Department of Energy, P.O. Box 3402, Golden, CO 80401, Phone: (303) 231–1545.

SUPPLEMENTARY INFORMATION:

1. Statutory Basis of Marketing Plan

The marketing plan for the excess capacity is being developed by Western pursuant to the Department of Energy Organization Act (Pub. L. 95–91, 91 Stat. 565, 42 U.S.C. 7101, *et seq.*), and the Reclamation Act of 1902 (32 Stat. 388, 43 U.S.C. 372, *et seq.*), as amended and supplemented by subsequent enactments, particularly by section 9c of the Reclamation Project Act of 1939 (53 Stat. 1194, 43 U.S.C. 485h(c)).

2. Background

Western's Loveland-Fort Collins Area Office markets power generated at 16 hydroelectric powerplants in Colorado, Wyoming, and Montana to 56 customers in a 200,000-square-mile service area. Fifteen of these powerplants comprise the P–SMBP–WD power system. The resource available for marketing through the 1989 summer billing season is 79 MW of excess P–SMBP–WD firm capacity in the summer season and 72

MW in the winter season, plus excess seasonal capacity, as available.

At a public information meeting held on January 19, 1982, Westen presented four alternatives for marketing the excess capacity. The four alternatives were: (1) To sell excess firm capacity without energy to existing P–SMBP–WD firm power customers who can use it with their existing P–SMBP–WD firm energy entitlements; (2) to sell excess firm capacity without energy to preference entities who would be required to return the energy; (3) to sell firm capacity with energy—Western would purchase the necessary firming energy; and (4) to sell firm capacity with energy and seasonal capacity with energy, as available, through the Resource Coordination Program, using the P–SMBP–WD excess capacity and surplus energy supplied by non-Federal Resource Coordination Program participants owning coal-fired generation facilities.

3. Comments and Decisions on the Four Alternatives

Western has received and analyzed written comments submitted by interested parties in response to the four marketing alternatives. Based on the comments, Western recognizes the unique capacity shortage situation of a few existing P–SMBP–WD firm power customers who favored alternative 1. In response to this specific need, Western proposes to make available a small amount of the excess firm capacity without energy to P–SMBP–WD firm power customers whose seasonal usage of P–SMBP–WD firm energy is less than their existing entitlement.

Alternative 2 was not accepted because so little interest in its adoption was expressed.

Alternative 3 was also rejected on the grounds that the energy purchases needed for firming would have to be funded either by advance payments by customers for energy purchases or with congressional appropriations.

Essentially, alternative 3 is the same as alternative 4—the end products are the same. Furthermore, alternative 4 evoked the most favorable responses. The preference entities owning surplus thermal generation are willing to sell it. However, these entities prefer to retain the management involvement offered under alternative 4. Preference entities not owning generation facilities have a greater need for firm capacity with energy than capacity without energy. For these reasons, Western feels that alternative 4 is preferable to alternatives 2 and 3.

In summary, Western proposes to implement a marketing plan based on a combination of alternatives 1 and 4; i.e., to offer 10 MW of long-term capacity without energy to certain existing P–SMBP–WD firm power customers and to dedicate the remaining long-term capacity together with seasonal excess capacity for use in the Resource Coordination Program through the 1989 summer billing season.

4. The Proposed Marketing Plan

A. Long-Term Capacity Without Energy to Existing P–SMBP–WD Customers—Alternative 1

Western proposes to offer 10 MW of long-term firm capacity without energy for sale on a two-season basis through the 1989 summer season.

To be eligible for an allocation, applicants must have existing P–SMBP–WD firm energy entitlements in each season sufficient to support the additional allocation of the capacity without energy. Successful applicants will have load patterns such that they are presently unable to utilize their full seasonal entitlement of up to 2550 kilowatthours per kilowatt of their existing P–SMBP–WD firm Contract Rate of Delivery (CROD). This firm capacity without energy will enable such allottees to utilize a greater amount of their seasonal entitlement of energy, but will not increase such entitlement.

There is no provision for return of energy.

If the offering is oversubscribed, the capacity will be apportioned based on the ratio of each applicant's existing P–SMBP–WD CROD to the total CROD of all eligible applicants. Any undersubscription, and any of this capacity allocated but not contracted for within a reasonable time, will become available for use in the Resource Coordination Program.

The term of the contracts will be through the 1989 summer season.

The price for this firm capacity without energy shall be the price for P–SMBP–WD peaking capacity given in rate schedule LM–FP2, or any superceding rate schedule, as of its effective date.

Transmission will be made to the same delivery points and under the same conditions as under the customer's existing contract for firm P–SMBP–WD power.

B. The Resource Coordination Program Offering—Alternative 4 Resource Coordination Program Information

The resource Coordination Program operationally integrates non-Federal thermal generation resources with Federal Hydroelectric resources to maximize the availability of firm capacity with energy and nonfirm onpeak energy and thus to displace the use of oil- and gas-fired peaking generation resources. Operationally, this Resource Coordination Program is founded on the following principles:

1. Thermal generation plants are most economically operated flat-loaded around the clock, at their designed output level;

2. Unlike thermal generation facilities, hydroelectric generators can be operated over a very broad range or turned off completely without suffering a significant cost penalty;

3. Onpeak energy has more value in the marketplace than offpeak energy; and

4. When onpeak energy can be made available on a firm basis, it has a capacity component as well as an energy component.

Therefore, the operational objective of resource coordination is to operate the thermal plants flat-loaded around the clock at their most efficient rate of capacity. To the extent that such operation of the thermal units generates more energy than required to meet the load obligations of the thermal plant owners during daily and seasonal low-load periods, the excess is used to supply Federal load obligations. The Federal generators are backed-off an equivalent amount.

Backing-off Federal hydroelectric generation keeps stored the water which would have been used to generate the energy needed to meet the Federal load obligation. This stored water is then used to generate surplus energy during daily and seasonal high-load periods when the energy is most valuable.

The enhanced value of this offpeak energy converted to nonfirm onpeak energy, firm capacity with energy, and seasonal capacity with energy by the hydrothermal integration process is split between Western's P–SMBP–WD project repayment account and the contributors of the thermal surplus energy. To the extent that the owners of thermal surplus energy are also allottees of P–SM–WD power, they enjoy a dual benefit—direct income from sales of the converted and enhanced energy, and a lower rate for their P–SMBP–WD allocation than they would otherwise have to pay.

Resource Coordination Program—Proposed Marketing Program

As stated previously, Western proposes to dedicate 69 MW of excess P–SMBP–WD firm capacity in the summer season and 62 MW in the winter season, as well as any excess capacity not allocated under alternative

1, together with any seasonal excess capacity that might be available from time to time, for use in the Resource Coordination Program through the 1989 summer season.

The excess P–SMBP–WD capacity will be integrated, through the Resource Coordination Program, with surplus thermal generation such that the Resource Coordination Program participants will be able to market long-term firm capacity with energy, seasonal, or monthly capacity with energy, and nonfirm energy.

The contracts for the long-term firm capacity with energy will be offered through the summer season of 1989. The amount of the energy entitlement that will be associated with the firm capacity with energy will vary during the term of the contracts depending, in part, on commitments from energy suppliers, prior contractual commitments of the energy suppliers, and the limits on the capability of Western's hyrdro-system to shape offpeak energy to on peak use. It is anticipated that the energy suppliers will be able to provide 3-year rolling commitments of energy.

The long-term firm capacity with energy and seasonal capacity with energy will first be offered to preference entities in the Loveland-Fort Collins Area Office market area. If the offering is oversubscribed, sales will be apportioned based on the ratio of each eligible applicant's requested CROD to the total unallocated and available P–SMBP–WD CROD. Any undersubscription will be offered next to other preference entities and to nonpreference entities.

Any that is allocated but not contracted for within a reasonable time may be reallocated as described in the preceding paragraph.

The long-term firm capacity with energy will be offered on a two-season basis. The summer season will be from the beginning of the April billing period through the end of the September billing period. The winter season shall be from the beginning of the October billing period through the March billing period.

Details of the proposed prices for sales of firm capacity with energy and nonfirm energy by the Resource Coordination Program's operating agent can be found in the notice of Western's proposed rate adjustment published in this same issue of the **Federal Register**.

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*), each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, the rate adjustment for the P–SMBP relates to nonregulatory services provided by Western at a particular rate.

Under 5 U.S.C. 601(2), rates or services of particular applicability are not considered "rules" within the meaning of the Act. Since the rate for P–SMBP power is of limited applicability and is being set in accordance with specific regulations and legislation under particular circumstances, Western believes that no flexibility analysis is required.

Environmental Evaluation

In compliance with the National Environmental Policy Act of 1969 (NEPA) and the Department of Energy (DOE) regulations published in the **Federal Register** on February 23, 1982 (47 FR 7976), Western conducts environmental evaluations of certain rate and allocation actions. Under the DOE regulations, Western will make an evaluation and determination of the possible environmental impacts of the proposed power marketing plan. A memorandum will be prepared explaining the basis for that determination and an administrative determination will be made of what level documetnation under NEPA is required.

Determination Under Executive Order 12291

The Department of Energy has determined that this is not a major rule because it does not meet the criteria of section 1(b) of Exectuvie Order 12291, 46 CFR 13193 (February 19, 1981). Western has an exemption from sections 3, 4, and 7 of Executive Order 12291.

Issued in Washington, D.C. May 25, 1982.

Ronald K. Greenhalgh,

Assistant Administrator for Washington Liaison.

[FR Doc. 82-14718 Filed 5-28-82; 8:45 am]

BILLING CODE 6450-01-M

Colorado River Storage Project, Collbran Project, Provo River Project, and Rio Grande Project Post-1989 Marketing Plans

AGENCY: Western Area Power Administration, DOE.

ACTION: Announcement of public information forum on the development of post-1989 marketing plans for the Colorado River Storage Project, the Collbran Project, the Provo River Project, and the Rio Grande Project (also includes any future projects constructed in the designated area).

SUMMARY: The Western Area Power Administration (Western) has scheduled a public information forum on June 10, 1982, at 10 a.m. at the Hotel Utah (Grand Ballroom No. 1) in Salt Lake City, Utah, to discuss development of post-1989 marketing plans for the Colorado River Storage Project (CRSP), the Collbran Project, the Provo River Project, and the Rio Grande Project, as well as any future projects which may be constructed in the marketing area. Topics will include marketing alternatives for the above-noted projects and participating projects, present and future. The possibility of integrating or consolidating individual project marketing plans for the marketing of the power from these resources as if from a single resource will also be discussed. A brief description of the projects follows:

1. Colorado River Storage Project (Glen Canyon, Morrow Point, Flaming Gorge, Blue Mesa, Crystal, and Fontenelle Dams). Authorized in 1956, the Colorado River Storage Project addresses the development and use of water resources of the Upper Colorado River. Encompassing the Upper Colorado River Basin (an area equal to about one-twelfth of the continental area of the United States), CRSP storage units equalize the erratic flows of the Colorado River and its tributaries so that water delivery commitments to the Lower Basin States, as well as to farmers, municipalities, and industries in the Upper Basin, can be met.

Delivery of this water to consumers is accomplished through the participating projects. Several participating projects, such as the Paonia Project in Colorado, have been completed, and others, such as the Central Utah Project, are under construction. Additional units may be built in coming years.

The installed capacity of the CRSP powerplants is currently 1,476.0 megawatts. The average annual generation is 5,360,000 megawatthours.

2. Collbran Project (Upper Molina and Lower Molina Dams). Authorized in 1952 and in service since 1962, the output of the Collbran Project is sold to Colorado-Ute Electric Association.

The installed capacity of the Collbran Project powerplants is presently 13.5 megawatts. The average annual generation is 55,000 megawatthours.

3. Provo River Project (Deer Creek Dam). Construction of the Deer Creek Powerplant was authorized by the Secretary of the Interior in 1951. The plant went into service in 1958. The Deer

Creek Dam spans the Provo River in central Utah.

The installed capacity of the Deer Creek Powerplant is 4.95 megawatts. The average annual generation is 24,000 megawatthours.

4. Rio Grande Project (Elephant Butte Dam). The Rio Grande Project was authorized in 1905. Elephant Butte Powerplant went into service in 1940. Elephant Butte Dam is located on the Rio Grande River in southern New Mexico.

The installed capacity of the Elephant Butte Powerplant is 24.3 megawatts. The average annual generation is 60,000 megawatthours.

The public information forum will provide an opportunity for questions and answers concerning development of a post-1989 marketing plan, including available power resources, electric service arrangements, allocations, etc.

DATES: The public information forum will be held on June 10, 1982, beginning at 10 a.m. at the Hotel Utah (Grand Ballroom No. 1) in Salt Lake City, Utah.

Following the public information forum, additional public meetings will be scheduled for the purpose of continuing consultation with interested parties in the development of post-1989 marketing plans. All such meetings will be scheduled and announced in advance.

ADDRESSES: For further information concerning the public information forum contact: Mr. Albert M. Gabiola, Area Manager, Salt Lake City Area Office, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147, Telephone: (801) 524–5493

SUPPLEMENTARY INFORMATION: Written comments concerning the post-1989 marketing plan may be submitted on or before August 9, 1982 to: Mr. Albert M. Gabiola, Area Manager, Salt Lake City Area Office, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147, Telephone: (801) 524–5493

Copies of comments will be available from the following Western offices:

Boulder City Area Office, Western Area Power Administration, P.O. Box 200, Boulder City, NV 89005

Loveland-Fort Collins Area Office, Western Area Power Administration, P.O. Box 2650, Fort Collins, CO 80522

Salt Lake City Area Office, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147

Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

Issued at Golden, Colorado, May 20, 1982.

William H. Clagett,

Deputy Administrator.

[FR Doc. 82-14716 Filed 5-28-82; 8:45 am]

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federal register

Tuesday
June 1, 1982

Part V

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Coal Mining Reclamation Operations on Federal Land Under the Permanent Program; State-Federal Cooperative Agreements; New Mexico

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 931

Surface Coal Mining and Reclamation Operations on Federal Lands Under the Permanent Program; State-Federal Cooperative Agreements; New Mexico

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is proposing to adopt a cooperative agreement (Agreement) between the Department of the Interior and the State of New Mexico for the regulation of surface coal mining operations on Federal lands in New Mexico under the permanent regulatory program. Such a cooperative agreement is provided for in the Surface Mining Control and Reclamation Act of 1977. This notice of proposed rulemaking provides additional information on the proposed terms of the cooperative agreement and other issues.

DATES: The public comment period on this proposed rule will extend until August 2, 1982. The public hearing will be held at the location shown in **"ADDRESSES,"** below, on July 20, 1982 beginning at 9:30 a.m. local time. Any person interested in making an oral or written presentation at the hearing must contact OSM at the address and phone number listed under **"FOR FURTHER INFORMATION CONTACT"** by July 1, 1982.

ADDRESSES: Written comments must be mailed to: Administrative Record R&I–06, Office of Surface Mining, Room 5315–L, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

Written comments may be hand carried to: Office of Surface Mining, Administrative Record R&I–06, Room 5315, 1100 L Street, NW., Washington, D.C.

Copies of the proposed agreement and of the related information required under 30 CFR Part 745 are available for inspection Monday through Friday, 8:30 a.m. to 4 p.m., excluding holidays, at the following addresses:

State of New Mexico, Energy and Minerals Department, Mining and Minerals Division, 525 Camino de los Marquez, Santa Fe, New Mexico 87501;

Office of Surface Mining, Room 5315, 1100 L Street, N.W., Washington, D.C. 20005.

The public hearing will be held at the State of New Mexico Energy and Minerals Department Conference Room, 525 Camino de los Marquez, Santa Fe, New Mexico 87501. If no person has contacted OSM by July 1, 1982, to express an interest to participate in the hearing, the hearing will be cancelled. A notice announcing any cancellation will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Andrew DeVito, Office of Surface Mining, South Interior Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Phone: (202) 343–5866.

SUPPLEMENTARY INFORMATION:

I. Procedural Matters

A. Public Hearing

Individual testimony at the public hearing will be limited to 15 minutes. The hearings will be transcribed by a court reporter. Filing of a written statement at the time of giving oral testimony will be helpful and would facilitate the job of the court reporter. Submission of written statements in advance of the hearing would greatly assist OSM officials who will attend the hearing by providing an opportunity to consider appropriate questions which could be asked for clarification or to request more specific information from the person testifying.

B. Public Meetings

Repesentatives of OSM will be available to meet during the comment period at the request of members of the public to receive their recommendations and comments concerning the proposed cooperative agreement. In order to schedule or attend such meetings, contact the individual listed under **"FOR FURTHER INFORMATION CONTACT."** OSM representatives will be available for these meetings between 9 a.m. and 4 p.m. local time, Monday through Friday, excluding holidays. All such meetings will be open to the public. Notices of such meetings and where they will be held will be posted in advance in the Adminstrative Record Room, Room 5315, 1100 L Street, NW., Washington, D.C. 20005.

C. Contacts with State Representatives

The Department has previously announced (45 FR 58378, September 3, 1980) its intention to follow the "Guidelines for Contacts with Employees and Officials During Consideration of State Permanent Regulatory Programs," published at 44 FR 54444 (September 19, 1979), during the process of developing cooperative agreements with the States. As written, the guidelines apply only to the State program review and decision process. However, the Department believes that the guidelines should also be applied in the development of State-Federal permanent program cooperative agreements because of the close interrelationship between each cooperative agreement and the approved State program. The need to preserve the ability of the Department and the State to work together through the stages of the cooperative agreement and the right of the public to be informed and to have the opportunity to comment meaningfully on issues raised are principles applicable to permanent program cooperative agreement rulemakings.

This decision requires that minor changes in the guidelines be made to clarify their applicability to cooperative agreement rulemakings. Accordingly, revised guidelines for contacts with Departmental employees and officials during permanent program cooperative agreement rulemakings are given below. See the notice of September 19, 1979, 44 FR 54444, for a full discussion of the guidelines and supporting principles. The September 19, 1979, guidelines remain fully applicable to the State program review process.

1. Upon request the Department will meet with any member of the public through the end of the public comment period. Notices of scheduled meetings will be posted in a public place. The meetings will be open.

2. The Department will meet with State representatives or have telephone conversations with them, upon the initiative of either party, up to the point of the Secretary's decision to enter into a permanent program cooperative agreement with a State. These meetings will be open to the public unless the Department decides an executive session is appropriate. Advance notice of scheduled meetings will be posted in a public place. Notice of the executive sessions will be posted in a public place.

3. The Department will keep a summary record of all meetings and discussions, whether in person or by telephone, on each proposed cooperative agreement. This record will include a summary of the discussions and a list of all written information OSM receives. All such records along with all written communications relating to the cooperative agreement shall be made available to the public.

4. In those instances where the Department has conducted meetings or discussions with a State after the close of the public comment period, the Department will include summaries of the meetings in the record and, if necessary to assure an effective opportunity for public participation,

provide an opportunity for the public to review the record of such meetings and discussions and to comment on them before a decision is made to enter into a permanent program cooperative agreement.

D. Public Comments

Written and oral comments should be as specific as possible. Although all comments are invited, those most likely to influence decisions on the cooperative agreement will be those which are supported by reasoning. OSM requests that five copies of written comments be submitted.

All written comments must be received by OSM by 5:00 p.m. EST on the date the comment period closes. OSM cannot ensure that written comments received after that hour, or delivered during the comment period to locations other than those specified above, will be considered and included in the Administrative Record. Notices of meetings, summaries of all meetings and telephone conversations, all public comments received, and a transcript of the public hearing will be made available for public review in the Office of Surface Mining at the address noted above.

II. Background

The purpose of this proposed rulemaking is to adopt a permanent program cooperative agreement between the Department of the Interior and the State of New Mexico which will give New Mexico primacy in the administration of its approved permanent regulatory program on Federal lands in that State. The State of New Mexico submitted a request for a permanent program cooperative agreement on February 9, 1981. Section 523(c) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), 30 U.S.C. 1201 *et seq.*, and the implementing regulations at 30 CFR Part 745 allow for the State and the Secretary of the Interior to enter into a permanent program cooperative agreement if the State has an approved State program for the regulation of surface coal mining operations.

Consistent with Congress' intent that implementation of the Act be accomplished in two phases, section 523(c) of the Act provides for two kinds of State-Federal cooperative agreements: initial program cooperative agreements and permanent program cooperative agreements. Initial program cooperative agreements are authorized by the second sentence of section 523(c), which provides that "States with cooperative agreements existing on the date of enactment of this Act, may elect to continue regulation on Federal Lands within the State, prior to approval by the Secretary of their State program, or imposition of a Federal program, provided that such existing cooperative agreement is modified to fully comply with the initial regulatory procedures set forth in section 502 of this Act." 30 U.S.C. 1273(c). Six States had cooperative agreements with the Department of the Interior prior to August 3, 1977. (Wyoming, Utah, New Mexico, North Dakota, Montana and Colorado.) On August 11, 1980, New Mexico's pre-August 3, 1977, cooperative agreement was modified to fully comply with the initial regulatory program promulgated pursuant to section 502 of the Act. 30 U.S.C. 1252. It was published in the **Federal Register** on August 11, 1980 (45 FR 53128) and codified at 30 CFR 211.77(c).

Permanent program cooperative agreements are authorized by the first sentence of section 523(c), which provides that "[a]ny State *with an approved State program* may elect to enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands within the State, provided the Secretary determines in writing that such State has the necessary personnel and funding to fully implement such a cooperative agreement in accordance with the provision of this Act." 30 U.S.C. 1273(c) (Emphasis added). The State of New Mexico has a State program which was conditionally approved by the Secretary and became effective upon publication in the **Federal Register** on December 31, 1980 (45 FR 86459).

In entering into a permanent program cooperative agreement with the State of New Mexico, the Secretary will be implementing two other requirements of section 523 of the Act. These statutory requirements are (1) consideration of the diverse and unique characteristics of Federal lands in New Mexico, if any, and (2) incorporation of the requirements of the approved State program into the Federal lands program in New Mexico. See 30 U.S.C 1273(a).

III. The State of New Mexico's Application

The State of New Mexico submitted its request for a permanent program cooperative agreement on February 9, 1981, along with proposed terms and the information required by the regulations at 30 CFR Part 745. Revisions to those terms were submitted on June 16, 1981. A Notice of Intent containing the June 16, 1981, version was published in the **Federal Register** on August 6, 1981 (46 FR 40050) with a request for comments from interested parties. On April 2, 1982, representatives from the State of New Mexico and OSM met to discuss the August 6, 1981, Notice of Intent. The full text of the proposed permanent program cooperative agreement resulting from that meeting appears at the end of this notice.

The procedures for States to elect to enter into permanent program cooperative agreements are found in 30 CFR Part 745. Sections 745.11(b)(1) through (8) of OSM's regulations require that certain information be submitted with af request for a permanent program cooperative agreement, if the information has not previously been submitted in the State program. Most of the information relating to the budget, staffing, organization and duties of the State regulatory authority, the New Mexico Division of Mining and Minerals, was described as appearing in New Mexico's Proposed Permanent Coal Program Text. See 30 CFR 745.11(b)(1), (2), (3), (4), (5) and (6). In addition the State submitted a written certification from the General Counsel of the Mining and Minerals Division that no State statutory, regulatory or other legal constraint exists which would limit the capability of the State of New Mexico to fully comply with section 523(c) of the Act, as implemented by 30 CFR 745. See 30 CFR 745.11(b)(8).

IV. The Text of the Proposed Agreement

A summary of the proposed cooperative agreement appears below. OSM emphasizes that the proposed permanent program cooperative agreement is subject to further change because of public comments and/or as a result of further discussion with the State of New Mexico.

Article I: Introduction and Purpose

This article would set forth the legal authority for the cooperative agreement which is contained in section 523 of the Act. The purposes of the agreement would also be listed.

Article II: Effective Date

This article would provide that the agreement would be effective following signing by the Secretary and the Governor, and upon publication as a final rule in the **Federal Register**. It would remain in effect until terminated as provided in Article XII.

Article III: Scope

Article III would provide that the laws, regulations, terms and conditions of New Mexico's State program are applicable to Federal lands in New Mexico except as otherwise stated in

the agreement, the Act, 30 CFR 745.13, or other applicable Federal laws. The effect of this provision would be to adopt the New Mexico State program as substantive Federal law on Federal lands, enforceable by the State and the United States. This provision would also specifically implement section 523(a) of the Act, which provides that "[w]here Federal lands in a State with an approved State program are involved, the Federal lands program shall, at a minimum, include the requirements of the approved State program." 30 U.S.C. 1273(a). Expressly excluded from the scope of the Agreement are the authorities and responsibilities reserved for the Secretary pursuant to the Act and 30 CFR 745.13.

Article IV: Responsibilities

This article would specify that the responsible agency in the State of New Mexico for purposes of administering this agreement would be the Mining and Minerals Division (Mining and Minerals), which has and must continue to have authority under State law to carry out this Agreement. Comments are invited on whether Mining and Minerals has sufficient authority to carry out the terms of this Agreement. See 30 CFR 745.11(f).

This article would obligate the State to have the necessary personnel to implement the provisions of the proposed agreement. It would also specify that the State would assume primary responsibility for the review and analysis of the permit application packages. The term "permit application package," used throughout the cooperative agreement, is a new term. It would include the requirements of the Mineral Leasing Act of 1920 (MLA), implemented by the 30 CFR Part 211 regulations of the Minerals Management Service, and the requirements of SMCRA for a surface coal mining permit, implemented by 30 CFR Part 741. Comments are invited on use of the term "permit application package." A definition of the term "permit application package" will be proposed soon in a notice of proposed rulemaking to amend the Federal lands regulations in 30 CFR Part 740–745.

Article V: Funding

Article V would provide that the State may be reimbursed pursuant to section 705(c) of the Act if the Agreement has been implemented and if necessary funds have been appropriated to OSM by Congress. Section 705(c) of the Act provides that a State with a cooperative agreement may receive an increase in its annual grant for the development, administration and enforcement of a State program on Federal lands by an amount which the Secretary determines is approximately equal to the amount the Federal government would have expended to regulate surface coal mining and reclamation operations on the Federal lands within the State. See 30 U.S.C. 1295(c). The reference in section 705(c) to section 523(d) is obviously a typographical error. The correct reference is section 523(c). The regulations implementing section 705(c) appear at 30 CFR 735.16 through 735.26. If adequate funds have not been appropriated, OSM and Mining and Minerals will meet to decide on appropriate measures to insure that mining operations are regulated in accordance with the State program. Funds provided to the State are to be adjusted in accordance with Office of Management and Budget (OMB) Circular A–102 (Uniform Requirements For Assistance To State And Local Governments), Attachment E (Program Income).

Article VI: Reports, Fees and Equipment

The article would deal with reports, permit application fees, and the availability of equipment and laboratories. The proposed provisions are short and self-explanatory.

Article VII: Permit Application Package

Under this article, an operator on Federal lands would be required by Mining and Minerals and the Director of OSM to submit a permit application package in an appropriate number of copies to Mining and Minerals. The permit application package is to be in the form required by Mining and Minerals and contain any supplemental information, such as data pertaining to the life of the mine, which may be required by the Department of the Interior. At a minimum, the permit application package must include the information necessary for Mining and Minerals and the Department to make a determination of compliance with the State program, applicable terms and conditions of the Federal coal lease, and applicable requirements of other Federal laws and regulations. Comments are invited on whether more specificity is required under subsection 11(e) of this Article regarding the State program and other Federal laws and regulations which may be applicable.

Article VII also would describe the procedures for the cooperative review and analysis of permit applications on Federal lands. The proposed agreement would identify Mining and Minerals as primarily responsible for the analysis and review of the permit application package on Federal lands in New Mexico. OSM would assist the State in carrying out its responsibility for the analysis and review. However, this would not preclude an independent determination by the Department of the Interior with respect to those statutory requirements and decisions which the Secretary cannot by statute delegate to the State.

In assuming primary responsibility for review and analysis of the permit application package, Mining and Minerals would also be the primary point of contact for operators on behalf of both the State and the Department. All joint State-Federal determinations would be channeled to the operator through Mining and Minerals. However, this would not preclude the Secretary from contacting the operator independently of the State to carry out his statutory responsibilities. Copies of any correspondence with the applicant as well as any information OSM receives from an applicant would be provided to Mining and Minerals.

In addition, this Article refers to Appendix B. The exact procedures to be followed in processing the permit application package or application for a permit revision would be listed in Appendix B, and in summary they would be:

A. Mining and Minerals would be the primary point of contact and would coordinate communications with the applicant. Mining and Minerals would receive copies of the permit application package or the application for a permit revision in an appropriate number. OSM would be required to transmit an appropriate number of copies to the appropriate Federal land management agency, Minerals Management Service, and other appropriate Federal agencies specified by the Secretary for their review.

Mining and Minerals would determine the completeness of the permit application package, coordinate the technical review of the permit application package, develop the decision document, and issue the permit or permit revision for surface coal mining operations. The Secretary would be required to review and approve the elements of the package relating to the MLA and other requirements of the permit application package such as cultural resources and post-mining land use which are required by Federal law and cannot be delegated to the State. Even though the permit is issued by the State, Federal lands may not be affected until the Secretary approves the mining plan pursuant to the requirments of the MLA as required by section 523(c) of the Act and complies with the requirements

of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.* Because of the timing requirements of NEPA, it is possible that the permit will be issued before the mining plan is approved by the Secretary. If a permit is issued prior to Secretarial approval, Mining and Minerals would reserve the right to modify the permit to conform with the Secretary's decision.

B. OSM, at the request of Mining and Minerals, would assist as possible in the review of the permit application package or application for a permit revision and provide technical assistance to Mining and Minerals. OSM also would coordinate with Mining and Minerals to incorporate NEPA requirements into the decision document. Responsibility for compliance with NEPA would remain with OSM.

C. The Minerals Management Service would assist Mining and Minerals as arranged and would be the point of contact with the applicant on issues concerned exclusively with its regulations codified at 30 CFR Part 211.

D. The appropriate Federal land management agency would assist Mining and Minerals as arranged and would determine whether the permit application or application for a permit revision provides for post-mining land use consistent with its land use plan and whether it provides sufficient protection for resources not covered by the Federal coal lease.

E. Other agencies specified by the Secretary would review the permit application package or application for a permit revision in regard to their responsibilities under Federal law.

Coal Exploration. The original cooperative agreement proposed by the State and published in the **Federal Register** on August 6, 1981 (46 FR 40050), contained an Article dealing with the regulation of coal exploration on Federal lands. This Article (formerly Article VIII) has been deleted pending further consideration of the proper roles of OSM, Minerals Management Service, Bureau of Land Management, and the State.

Article VIII: Inspections

This article would specify that Mining and Minerals must conduct inspections on Federal lands and prepare and file inspection reports in accordance with its approved State program.

Administrative provisions of this article include designation of Mining and Minerals as the primary point of contact with the operator and a provision for reasonable notice to the State prior to a Federal inspection.

The right of Federal and State agencies to conduct inspections for purposes outside the scope of the proposed cooperative agreement would not be affected. In particular, this article would preserve the Department's obligation and authority to conduct inspections pursuant to 30 CFR 743 and 842. The article would also reserve the Secretary's right to conduct inspections without prior notice to the State to carry out his responsibilities under the Federal Act.

Article IX: Enforcement

Proposed Article IX would set forth the enforcement obligations and authorities of OSM and Mining and Minerals. Mining and Minerals would have primary enforcement authority on Federal lands in accordance with the requirements of the cooperative agreement and the approved State program.

This article also would specify that the parties will consult prior to revoking or suspending a permit. The Secretary's obligation to enforce violations of Federal law other than the Act would be preserved, as would OSM's authority to take enforcement action to comply with Parts 843 and 845. In taking such action, OSM would apply the performance standards contained in the approved State program, but would use the Federal procedures and penalty system.

Article X: Bonds

Under this article, Mining and Minerals would require each operator to submit a single performance bond to meet Federal and State requirements. The bond would be payable to the State and the United States, if required by regulation. Mining and Minerals would be required to obtain the consent of the Department prior to releasing or forfeiting an operator's performance bond. In addition to a performance bond, an operator still would be required to furnish a lease bond and a lessee protection bond. Bonding requirements of the MLA and other Federal laws appear at 30 CFR Part 742 and 43 CFR Part 3474.

Article XI: Designation of Lands as Unsuitable

This article would describe the roles of Mining and Minerals and OSM in the review and processing of petitions to designate lands as unsuitable for surface coal mining operations on adjacent Federal and non-Federal lands. The authority to designate Federal lands as unsuitable would be reserved to the Secretary or his designated representative. See 30 CFR 745.13. Petitions for designation on Federal lands must be filed in accordance with 30 CFR Part 769.

Article XII: Termination of Cooperative Agreement

Article XII would provide for termination of the proposed permanent program cooperative agreement in accordance with 30 CFR 745.15.

Article XIII: Reinstatement of Cooperative Agreement

Article XIII would provide for reinstatement of the Agreement under 30 CFR 745.16.

Article XIV: Amendment of Cooperative Agreement

Article XIV would provide that the proposed permanent program cooperative agreement may be amended by mutual agreement of the Governor and Secretary in accordance with 30 CFR 745.14.

Article XV: Change in State or Federal Standards

This article would recognize that the Secretary or the State may, from time to time promulgate new or revised performance or reclamation requirements, or enforcement and administration procedures, necessitating corresponding changes to the cooperative agreement. Changes made by the State would be made in accordance with 30 CFR Part 732 in order to be consistent with State program regulations. Changes made by the Secretary would be made in accordance with section 501 of the Act.

Article XVI: Changes in Personnel and Organization

As required by 30 CFR 745.12, this Article would require the State and the Department to advise each other of changes in the organization, structure, functions, duties and funds of the offices, departments, divisions, and persons within their organizations which could affect administration or enforcement of the Agreement.

Article XVII: Definitions

This article would specify which definitions would apply. Basically, it would adopt the definitions presently in force in the Act, OSM's permanent regulatory program and the State program. In the case of conflict, the State definition would apply except in the case of a term which defines the Secretary's continuing responsibilities under the Act and other laws.

Article XVIII: Reservation of Rights

Article XVIII would recognize that the Act, 30 CFR 745.13 and other authorities prohibit the Secretary from delegating certain authorities to the State.

Article XVIII would state that the Agreement shall not be construed as waiving or preventing the assertion of any rights not expressly addressed in the Agreement or available to the parties under the authorities cited in Appendix A.

Pursuant to 30 CFR 745.13 and the terms of this Article, the Secretary would reserve authority and responsibility for several MLA functions (e.g., release of lease bonds). Under section 523 of the Act and 30 CFR 745.13(i), the Secretary must retain authority to approve mining plans or significant modifications thereto on Federal lands.

Section 745.13 of OSM's regulations lists other specific responsibilities reserved to the Secretary. Among these responsibilities is the designation of Federal lands as unsuitable for surface coal mining operations and the termination of such designations.

Other Reservations

The Department of the Interior also would reserve the authority and responsibility for several specific functions which are an integral part of the permit application package review procedures discussed earlier. These items include, but are not limited to, the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.;* compliance with the consultation requirements of the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.;* and section 106 of the National Historic Preservation Act of 1966, 16 U.S.C. 470f.

Compliance with NEPA

The Department and its member offices and bureaus must comply with NEPA, its implementing regulations and the Department's own guidelines. See 40 CFR 1500 *et seq.* (regulations of the Council on Environmental Quality) and 45 FR 27541 (April 23, 1980) (Department of the Interior Notice of Final Revised Procedures). See also 45 FR 10043 (February 14, 1980) (Notice of Proposed Revised Instructions for the Office of Surface Mining). These authorities require the Department, prior to a decision on a permit application package on Federal lands, to prepare an environmental assessment or environmental impact statement. The current regulations at 30 CFR 745.13(b) do not allow the Secretary to delegate his NEPA duties to the States. However, the Secretary believes that this regulation does allow States to assist in preparation of NEPA documents [see 40 CFR 1506.2), with final action reserved to the Secretary.

The Department invites comment on whether the procedures for compliance with NEPA and its implementing regulations and guidelines are adequately addressed in the proposed cooperative agreement.

The Endangered Species Act (16 U.S.C. 1536)

This Federal law requires that the Department take such steps as are necessary to insure that actions authorized, funded, or carried out by Federal departments and agencies do not jeopardize the continued existence of an endangered species, or result in the destruction or modification of a species critical habitat. 16 U.S.C. 1536. See 50 CFR Part 402 (regulations on interagency cooperation under the Endangered Species Act). OSM's regulations at 30 CFR 745.13(m) provide that the Secretary's obligation to consult under section 7(a) of the Endangered Species Act regarding actions on Federal lands may not be delegated to a State.

The National Historic Preservation Act (16 U.S.C. 470f)

Compliance with section 106 of the National Historic Preservation Act and its implementing regulations (36 CFR 800) is mandatory where the approval of mining on Federal lands may adversely affect sites, buildings, objects or districts which are listed on, or eligible for listing on, the National Register of Historic Places. Compliance is achieved through early consultation with and involvement of State Historic Preservation Officers and, in some cases, consultation with the Advisory Council on Historic Preservation.

OSM and the Department must also comply with Executive Order 11593, "Protection and Enhancement of the Cultural Environment" (May 13, 1971). Executive Order 11593 contains two principal requirements. First, with respect to properties not owned by the Federal government, agencies and departments must establish procedures for consultation with the Advisory Council on Federal plans and programs affecting such properties.

Second, the Order requires all Federal agencies and departments to inventory and nominate historic sites, buildings, districts and objects that are on Federal property and that may be eligible for inclusion on the National Register of Historic Places.

Pending completion of the inventory and nomination process, Federal agencies and departments must take measures to ensure that eligible properties are not substantially altered, and no action affecting an eligible property may be taken without first providing the Advisory Council on Historic Preservation an opportunity to comment. The Archeological and Historic Preservation Act of 1974, 16 U.S.C. 469a–1, provides a means for private parties or the Federal government to actually recover archeological materials and data through, for example, surveys, excavation and removal to a museum. See Statement of Program Approach of the Heritage Conservation and Recreation Service at 44 FR 18117 (March 26, 1979).

These responsibilities would be reserved to the Secretary under the proposed cooperative agreement since they are not "expressly addressed" (Article XVI).

Floodplain Management and Wetland Protection

The Office of Surface Mining has published a general statement of policy which describes the existing procedural mechanisms for compliance with Executive Order 11988, Floodplain Management (May 24, 1977) and Executive Order 11990, Protection of Wetlands (May 24, 1977). See 45 FR 49872 (July 25, 1980). Secretarial approval of surface coal mining opeations on Federal lands is discussed in that **Federal Register** notice at 45 FR 49872–73. As noted therein, the method and responsibility for compliance with these two orders is to be a subject of the permanent program cooperative agreements under 30 CFR 745.

Since the proposed cooperative agreement with New Mexico would not directly discuss compliance with these Orders, the obligation for compliance with them would remain with the Secretary and would not be delegated to New Mexico.

Recordkeeping and Reporting Requirements

The proposed rule was listed in the Department's October 30, 1981, Semiannual Agenda of rules scheduled for review and development.

There are recordkeeping and reporting requirements in the proposed rules which are the same as and required by the permanent program regulations. Those regulations required clearance from the Office of Management and Budget under 44 U.S.C. 3507 and were assigned the following clearance numbers:

Location of Requirement and OMB Clearance Number
Article VI.9, (Required by 30 CFR Part 735), 1029–0013

Article VII.11. (Required by 30 CFR Part 741), 1029–0026
Article VII.14. (Required by 30 CFR Part 786), 1029–0041
Article VIII.18. (Required by 30 CFR Part 840), 1029–0051
Article X.27. (Required by 30 CFR Part 800), 1029–0043

Statement of Economic Effects and of Environmental Impact

In a "Determination of Significance" document prepared on December 31, 1979, and approved by the Assistant Secretary, Energy and Minerals, on January 7, 1980, the Department determined that the "promulgation of proposed or final rules for entering into a cooperative agreement with a State pursuant to 30 U.S.C. 1273 for State regulation of surface coal mining and reclamation operations on Federal lands was not a significant action and would not require a regulatory analysis." A copy of this determination was filed with the Department's Office of Policy Analysis and the Division of General Law.

The Department has reviewed this determination in light of recent changes in the regulatory process brought about by Executive Order 12291, February 17, 1981; the Regulatory Flexibility Act (Pub. L. 96–354); and the Paperwork Reduction Act of 1980 (Pub. L. 96–511). Having conducted this review, the Department has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291. The document will not have a significant economic effect on a substantial number of small entities and therefore does not require a regulatory flexibility analysis under the Regulatory Flexibility Act, 5 U.S.C. 605(b). This determination was made by the Director, OSM and approved by the Assistant Secretary, Energy and Minerals. A copy is on file in the OSM Administrative Record Room, Room 5315, 1100 L Street, NW., Washington, D.C. 20005.

Proceedings relating to adoption of a permanent program cooperative agreement are part of the Secretary's implementation of the Federal lands program pursuant to section 523 of the Act. Such proceedings are, therefore, exempt under section 702(d) of the Act from the requirement to prepare a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

List of Subjects in 30 CFR Part 931

Coal mining, Intergovernmental relations, Surface mining, Underground Mining.

For the reasons set forth herein, it is proposed to amend 30 CFR Part 931.

Dated: May 11, 1982.

William P. Pendley,

Acting Assistant Secretary, Energy and Minerals.

PART 931—NEW MEXICO

1. Section 931.30 is added to read as follows:

§ 931.30 State-Federal Cooperative Agreement.

The State of New Mexico (State) acting through the Governor and the Department of the Interior (Department) acting through the Secretary enter into a Cooperative Agreement (Agreement) to read as follows:

Article I: Introduction and Purpose

1. This Agreement is authorized by section 523(c) of the Surface Mining Control and Reclamation Act (Federal Act), 30 U.S.C. 1273(c), which allows a State with a permanent regulatory program approved under 30 U.S.C. 1253 to elect to enter into an agreement with the Secretary for the regulation and control of surface coal mining and reclamation operations on Federal lands and by section 69–25A–27 NMSA 1978 of the Surface Mining Act (State Act).

The Agreement provides for State regulation of surface coal mining and reclamation operations on Federal lands within the State consistent with the State and Federal Acts, the State program (Program) (30 CFR 931) and the Federal lands program (30 CFR Parts 740–745). The term "Federal lands" is defined in the Federal Act and State and Federal regulations.

2. The purpose of this Agreement is to (a) foster State-Federal cooperation in the regulation of surface coal mining and reclamation operations; (b) eliminate intergovernmental overlap and duplication; and (c) provide uniform and effective application of the State and Federal lands programs in New Mexico.

Article II: Effective Date

3. This Cooperative Agreement is effective following signing by the Secretary and the Governor, and upon publication as a final rule in the **Federal Register**. This Agreement shall remain in effect until terminated as provided in Article XII.

Article III: Scope

4. This Agreement makes the laws, regulations, terms and conditions of the Program conditionally approved effective December 31, 1980 (30 CFR 931), or as hereinafter amended in accordance with 30 CFR 732.17, applicable to Federal lands within the State except as otherwise stated in this Agreement, the Act, 30 CFR 745 or other applicable Federal laws.

Article IV: Responsibilities

5. The Mining and Minerals Division (Mining and Minerals) of the New Mexico Energy and Minerals Department is and shall continue to be the sole agency responsible for administering this Agreement on behalf of the Governor on Federal lands throughout the State. Mining and Minerals has and shall continue to have authority under State law to carry out this Agreement. The Office of Surface Mining of the Department of the Interior (OSM) shall administer this Agreement on behalf of the Secretary in accordance with the regulations in 30 CFR Chapter VII.

6. To eliminate duplication and overlap, the State will assume the primary responsibility for the review and analysis of permit application packages subject to legal restrictions including those limitations in 30 U.S.C. 1272(b) and 1273 and in 42 U.S.C. 4321–4335. The State shall have the necessary personnel to fully implement this Agreement in accordance with the provisions of the Federal Act and the Program.

Article V: Funding

7. The State will devote adequate funds to the administration and enforcement of this Agreement on Federal lands within the State. If this Agreement has been carried out, and subject to appropriations, the Department shall provide the State with funds to defray the costs associated with carrying out responsibilities under this Agreement as provided in 30 U.S.C. 1296(c) and 30 CFR 735.16. Reimbursement shall be in the form of annual grants, and applications for said grants shall be processed and awarded in a tiely and prompt manner.

If sufficient funds have not been appropriated to OSM, OSM and Mining and Minerals shall promptly meet to decide on appropriate measures that will insure that mining operations are regulated in accordance with the Program.

Funds provided to the State shall be adjusted in accordance with Office of Management and Budget (OMB) Circular A–102, Attachment E.

Article VI: Reports, Fees and Equipment

8. Mining and Minerals shall make annual reports to OSM containing information respecting its compliance with the terms of this Agreement pursuant to 30 CFR 745.12(c). The State and OSM shall exchange, upon request, except where prohibited by Federal law, information developed under this Agreement. OSM shall provide Mining and Minerals with a copy of any evaluation report prepared concerning State administration and enforcement of this Agreement.

9. The amount of the fee accompanying an application for a permit shall be determined in accordance with State Rule 80–1, Part 5–25. All permit fees shall be retained by the State and deposited with the State Treasurer in the Oil and Gas Conservation Fund. The Financial Status Report submitted pursuant to 30 CFR 735.26 shall include a report of the amount of fees collected during the prior State fiscal year.

10. Mining and Minerals will assure itself access to equipment, laboratories and facilities with which all inspections, investigations, studies, tests and analyses can be performed, and which are necessary to carry out the requirements of this Agreement.

Article VII: Permit Application Package

11. Mining and Minerals and OSM shall require an operator on Federal lands to submit a permit application package or an application for a permit revision in an appropriate number of copies to Mining and Minerals. Any documentation or information submitted by the operator for the sole purpose of complying with the 3-year requirement of section 7(c) of the Mineral Leasing Act of 1920, 30 U.S.C. 181 *et seq.*, will be forwarded to the Minerals Management Service (MMS). If such documentation is submitted as part of a permit application package, a copy will be forwarded to MMS by Mining and Minerals.

The permit application package or application for a permit revision shall be in the form required by Mining and Minerals, shall satisfy the requirements of 30 CFR 741.12(b) and 30 CFR 741.13, and shall include the information required by, or necessary for, Mining and Minerals and the Secretary to make a determination of compliance with:

(a) Section 69–25A–1, *et seq.*, NMSA 1978;

(b) New Mexico Coal Surface Mining Commission Rule 80–1;

(c) Applicable terms and conditions of the Federal coal lease;

(d) Applicable requirements of the MMS's 30 CFR Part 211 regulations pertaining to the Mineral Leasing Act requirments; and

(e) Applicable requirements of the approved Program, and of other Federal laws, including, but not limited to, those listed in Appendix A.

12. Mining and Minerals shall assume the primary authority pursuant to section 523(c) of the Federal Act for the analysis and review of the permit application package or application for a permit revision according to the standards of the Program. OSM shall assist Mining and Minerals in the analysis of the permit application package or application for a permit revision according to the procedures set forth in Appendix B. The Department shall concurrently carry out its responsibilities under the Mineral Leasing Act (MLA), as amended, the National Environmental Policy Act (NEPA), and other public laws (including but not limited to those in Appendix A) that cannot, under the Act, be delegated to the State, according to the procedures set forth in Appendix B. The Secretary shall evaluate the Mining and Minerals analysis and conclusions as conducted pursuant to the Program and this Agreement as necessary to determine independently whether the Secretary concurs in Mining and Minerals' proposed decision. Based upon the information in the decision document, as described in Appendix B, and any other information which the Secretary is required to consider, the Secretary shall approve or disapprove the proposed mining operation.

13. Mining and Minerals shall be the primary point of contact with the operator. The Department will independently initiate contacts with the applicant regarding permit application packages or applications for a permit revision only where necessary to carry out its statutory responsibilities. When such action may generate correspondence with the applicant, a copy of all correspondence with the applicant that may have a bearing on decisions regarding the mining operation shall be sent to Mining and Minerals.

14. Mining and Minerals shall maintain a file of all original correspondence with the applicant and any information received from the applicant which may have a bearing on decisions regarding the permit application package or application for a permit revision. At the request of the Secretary or his designated agents, Mining and Minerals shall make available the Mining and Minerals files and send copies of such correspondence and information when requested to do so.

15. To the fullest extent allowed by State and Federal law, OSM and Mining and Minerals shall cooperate so that duplication will be eliminated in conducting the review and analysis of the permit application package or application for a permit revision.

16. Mining and Minerals will review permit application packages under sections 11–11 through 11–29 of the State of New Mexico Surface Coal Mining Regulations, Rule 80–1.

Article VIII: Inspections

17. Mining and Minerals shall conduct inspections on Federal lands and prepare and file inspection reports in accordance with its Program.

18. Mining and Minerals shall, subsequent to conducting any inspection on Federal lands, file with OSM on a timely basis, an inspection report adequately describing (1) the general conditions of the lands; (2) the manner in which the operations are being conducted; and (3) whether the operator is complying with applicable performance and reclamation requirements.

19. Mining and Minerals will be the point of contact qnd primary inspection authority in dealing with the operator concerning operations and compliance with the requirements covered by this Agreement, except as describe hereinafter. Nothing in this Agreement shall prevent Federal-inspections by authorized Federal agencies for purposes other than those covered by this Agreement.

20. The Department may conduct any inspections necessary to comply with 30 CFR Parts 842 and 743.

21. Except as provided below, the Secretary shall give Mining and Minerals reasonable notice of his intent to conduct an inspection in order to provide State inspectors an opportunity to join in the inspection. The Secretary reserves the right to conduct inspections without prior notice to Mining and Minerals to carry out his responsibilities under the Federal Act.

Article IX: Enforcement

22. Mining and Minerals shall be the primary enforcement authority under the Act concerning compliance with the requirements of this Agreement and the Program. Enforcement authority of the Secretary under other laws and orders including, but not limited to, those listed in Appendix A is reserved to the Secretary.

23. During any joint inspection by OSM and Mining and Minerals, Mining and Minerals shall have primary responsibility for enforcement procedures, including issuance of orders of cessation, notices of violation and assessment of penalties. OSM and Mining and Minerals shall consult prior to issuance of any decision to suspend or revoke a permit.

24. Mining and Minerals and OSM shall promptly notify each other of all violations of applicable laws, regulations, orders, approved mining and reclamation plans and permits subject to this Agreement and of all actions taken with respect to such violations.

25. During any inspection made solely by OSM or any joint inspection where Mining and Minerals and OSM fail to agree regarding the propriety of any particular enforcement action, OSM may take any enforcement action necessary to comply with 30 CFR Parts 843 and 845. Such enforcement action shall be based onthe performance standards included in the regulations of the approved Program, and the procedures and penalty system contained in 30 CFR Parts 843 and 845. This Agreement does not limit the Department's authority to enforce violations of standards and requirements which are authorized by Federal laws other than the Act.

26. Personnel of the State and the Department shall be mutually available to serve as witnesses in enforcement actions taken by either party.

Article X: Bonds

27. For all surface coal mines on Federal lands, Mining and Minerals and the Secretary shall require all operators to submit a single performance bond to cover the operator's responsibilities under the Act and the Program, payable to the State and the United States, if required by regulation. The performance bond shall be of sufficient amount to comply with the requirements of both State and Federal law and release of the bond shall be conditioned upon compliance with all applicable State and Federal requirements. If the cooperative agreement is terminated, all bonds will revert to being payable only to the United States. Submission of a performance bond does not satisfy the requirements for a Federal lease bond required by 43 CFR Part 3474 or a lessee protection bond required in addition to a performance bond, in certain circumstances, by section 715 of the Act.

28. Prior to releasing the operator from an obligation required under the Program under the performance bond for any Federal lands, Mining and Minerals shall obtain the consent of OSM. Mining and minerals shall also advise OSM of adjustments to the performance bond.

29. The operator's performance bond shall be subject to forfeiture with the consent of the Department, in accordance with the procedures and requirements of the Program.

Article XI: Designating Land Areas Unsuitable for All or Certain Types of Surface Coal Mining

30. Mining and Minerals and the Director will cooperate with each other in the review and processing of petitions to designate lands as unsuitable for surface coal mining operations. When either agency receives a petition that could impact adjacent Federal and non-Federal lands, the agency receiving the petition shall (1) notify the other of receipt and of the anticipated schedule for

reaching a decision; and (2) request and fully consider data, information and the views of the other.

The authority to designate Federal lands as unsuitable for mining is reserved to the Secretary or his designated representative.

Article XII: Termination of Cooperative Agreement

31. This Agreement may be terminated by the State or the Department under the provisions of 30 CFR 745.15.

Article XIII: Reinstatement of Cooperative Agreement

32. If this Agreement has been terminated in whole or in part it may be reinstated under the provision of 30 CFR 745.16.

Article XIV: Amendments of Cooperative Agreement

33. This Agreement may be amended by mutual agreement of the State and the Department. An amendment proposed by one party shall be submitted to the other with a statement of the reasons for such proposed amendment. The amendment shall be adopted after Federal rulemaking in accordance with 30 CFR 745.11. The party to whom the proposed amendment is submitted shall signify its acceptance or rejection of the proposed amendment, and if rejected shall state the reasons for rejection.

Article XV Changes in State or Federal Standards

34. The Department or the State may from time to time promulgate new or revised performance or reclamation requirements or enforcment and administration procedures. Each party shall, if it determines it to be necessary to keep this Agreement in force, change or revise its regulations and request necessary legislative action. Such changes shall be made under the procedures of 30 CFR Part 732 for changes to the State Program, and under the procedures of section 501 of the Federal Act for changes to the Federal lands program.

35. The State and the Department shall provide each other with copies of any changes to their respective laws, rules, regulations and standards pertaining to the enforcement and administration of this Agreement.

Article XVI: Changes in Personnel and Organization

36. The State and the Department shall, consistent with 30 CFR 745.12, advise each other of changes in the organization, structure, functions, duties and funds of the offices, departments, divisions and persons within their organizations. Each shall promptly advise the other in writing of changes in key personnel, including the heads of a department or division, or changes in the functions or duties of persons occupying the principal offices within the structure of the Program. The State and the Department shall advise each other in writing of changes in the location of offices, addresses, telephone numbers and changes in the names, locations and telephone numbers of their respective mine inspectors and the area within the State for which such inspectors are responsible.

Article XVII: Definitions

Terms and phrases used in this Agreement which are defined in the Federal Act, 30 CFR 700, 701, and 740, and defined in the New Mexico Surface Mining Act (69–25A–1, *et seq.*, NMSA 1978) and the rules and regulations promulgated pursuant to that Act, shall be given the meanings set forth in said definitions. Where there is a conflict between the above referenced State and Federal definitions, the definitions used in the approved Program will apply, except in the case of a term which defines the Secretary's continuing responsibilities under the Federal Act and other laws.

Article XVIII: Reservation of Rights

38. In accordance with 30 CFR 745.13, this Agreement shall not be construed as waiving or preventing the assertion of any rights that have not been expressly addressed in this Agreement that the State or the Secretary may have under other laws or regulations, including but not limited to those listed in Appendix A.

Governor of New Mexico

Date

Secretary of the Interior

Date

Appendix A

1. The Federal Land Policy and Management Act, 43 U.S.C. 1701, *et seq.*, and implementing regulations.
2. The Mineral Leasing Act of 1920, 30 U.S.C. 181, *et seq.*, and implementing regulations including 30 CFR Part 211.
3. The National Evironmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*, and implementing regulations including 40 CFR 1500 *et seq.*
4. The Endangered Species Act, 16 U.S.C. 1531, *et seq.*, and implementing regulations including 50 CFR 402.
5. The National Historic Preservation Act of 1966, 16 U.S.C. 470, *et seq.*, and implementing regulations including 36 CFR 800.
6. The Clean Air Act, 42 U.S.C. 7401, *et seq.*, and implementing regulations.
7. The Federal Water Pollution Control Act, 33 U.S.C. 1251, *et seq.*, and implementing regulations.
8. The Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 *et seq.*, and implementing regulations.
9. The Reservoir Salvage Act of 1960, as amended by the Preservation of Historical and Archaeological Data Act of 1974, 16 U.S.C. 469, *et seq.*
10. Executive Order 11593, Cultural Resource Inventories on Federal Lands.
11. Executive Order 11988 for Flood Plain Protection. Executive Order 11990 for Wetlands Protection.
12. The Mineral Leasing Act for Acquired Lands, 30 U.S.C. 351, *et seq.*, and the implementing regulations.
13. The Stock Raising Homestead Act of 1916, 43 U.S.C. 291, *et seq.*
14. The Constitution of the United States.
15. The Constitution of the State and State law.

Appendix B

Procedure for Cooperative Review of Permit Application Packages and Applications for Permit Revisions for Federal Mines in New Mexico

I: Point of Contact and Coordination During the Review of Permit Application Packages and Applications for Permit Revisions

A. The New Mexico Mining and Minerals Division (Mining and Minerals) will:

1. Be the point of contact and coordinate communications with the applicant on issues concerned with the development, review and approval of the permit application packages or applications for permit revisions, except on issues concerned with the requirements of the Mineral Leasing Act (MLA) or National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, and the requirements of other Federal laws not addressed in the applications.
2. Communicate with the applicant on issues of concern to the appropriate Federal land management agency (FLMA) and immediately advise FLMA and the Office of Surface Mining (OSM) of such issues and communication.
3. Communicate with the applicant on issues of concern to OSM, and immediately advise OSM of such issues and communications.
4. Communicate with the applicant on issues of concern to the Minerals Management Service (MMS) and immediately advise MMS and OSM of such issues and communications as they pertain to the application.
5. Communicate with the applicant on issues of concern to other agencies within the Department of the Interior, as appropriate, and immediately advise such agencies of such issues and communications.
6. Provide OSM with a copy of each apparent completeness review upon completion.

B. MMS will:

1. Receive any documentation required by the 30 CFR Part 211 regulations.
2. Be the point of contact with the applicant on issues concerned exclusively with the 30 CFR Part 211 regulations.
3. Provide Mining and Minerals and OSM with copies of pertinent correspondence.

C. OSM will:

Be responsible for ensuring that any information OSM receives which has a bearing on decisions regarding the permit application package or application for a permit revision is sent promptly to Mining and Minerals.

II: Receipt and Distribution of Permit Application Packages and Applications for Permit Revisions

A. Mining and Minerals will:

1. Receive the permit application package, the application for a permit revision or the correspondence from the applicant and transmit an appropriate number of copies to FLMA, MMS, OSM and other agencies

specified by the Secretary after the application has been filed. Such transmittal will include a request for a conference on the submissions, as needed.

2. Identify an application manager responsible for coordinating the review and notify OSM, MMS and FLMA as necessary.

3. Upon receipt of an application, meet with OSM to discuss the application and agree upon a schedule, and, when Mining and Minerals requests assistance, also agree upon a work plan with OSM.

B. OSM, MMS and FLMA will:

Identify an application manager upon receipt of the application and notify Mining and Minerals of the identity of the application manager.

III: Determination of Completeness

A. Mining and Minerals will:

1. Determine the completeness of a permit application package or application for a permit revision.

2. Issue public notice of the availability of complete applications for the public to review in accordance with the public review procedure set forth in Part II CSMC Rule 80–1.

IV: Determination of Preliminary Findings of Substantive Adequacy

A. Mining and Minerals will:

1. Consult with MMS, FLMA, OSM, and other Federal agencies specified by the Secretary to review the filed application for preliminary findings of substantive adequacy (henceforth "preliminary findings") and to assess the need for additional data requirements in their respective areas of responsibility.

2. Arrange meetings and field examinations with the interested parties as necessary to determine the preliminary findings.

3. Advise the applicant of the preliminary findings upon the advice and consent of FLMA, MMS, OSM and other Federal agencies specified by the Secretary.

4. Transmit the letter(s) informing the applicant of the preliminary findings with copies to FLMA, OSM, MMS and other agencies specified by the Secretary.

5. Furnish the Director with copies of correspondence with the applicant and all information received from the applicant as requested.

B. OSM will:

1. At the request of the Mining and Minerals, assist, as possible, in the review of the permit application package or application for a permit revision for preliminary findings and provide technical assistance to Mining and Minerals.

2. Furnish Mining and Minerals with preliminary findings within 45 calendar days of receipt of the permit application package or application for a permit revision with specified requirements for additional data.

3. No later than 30 days from notification of completeness, initiate NEPA compliance procedures.

4. Participate, as arranged, in meetings and field examinations.

C. FLMA will:

1. Review the permit application package or application for permit revision for preliminary findings as to whether the applicant's proposed post mining land use is consistent with FLMA's land use plan, and the adequacy of measures to protect Federal resources not covered by the rights granted by the Federal coal lease.

2. Furnish Mining and Minerals with preliminary findings within 45 calendar days of receipt of the permit application package or application for a permit revision with specific requirements for additional data.

3. Participate, as arranged, in meetings and field examinations.

D. MMS will:

1. Review the permit application package or application for a permit revision in regard to MLA requirements addressed in the application.

2. Furnish Mining and Minerals with the preliminary findings within 45 calendar days of receipt of the permit application package or application for a permit revision with specific requirements for additional data.

3. Participate, as arranged, in meetings and field examinations.

E. Other agencies specified by the Secretary will:

1. Review the permit application package or application for a permit revision for preliminary findings in regard to their responsibilities under law.

2. Furnish Mining and Minerals with preliminary findings within 45 calendar days of receipt of the application with specific requirements for additional data.

3. Participate, as arranged, in meetings and field examinations.

V: Findings of Technical Adequacy and NEPA Compliance

A. Mining and Minerals will:

1. Develop and coordinate the technical review of permit application packages or application for a permit revision. The review will include representatives of Mining and Minerals, MMS, FLMA, OSM and other agencies specified by the Secretary as appropriate.

2. Coordinate with OSM, for the purpose of eliminating duplication, and provide to OSM a complete technical analysis pursuant to the Federal Act and the Program as approved by the Secretary that will serve as the technical base for an Environmental Analysis (EA) or an Environmental Impact Statement (EIS) as may be necessary to determine NEPA compliance for each permit application package or application for a permit revision.

3. Coordinate, for the purpose of eliminating duplication, with MMS to conduct a technical analysis that will assist the MMS in making findings as may be necessary to determine compliance with the MLA.

4. Coordinate, for the purpose of eliminating duplication, with FLMA to conduct a technical analysis of issues regarding postmining land use and the adequacy of measures to protect Federal resouces not covered by the rights granted by the lease.

5. Coordinate, for the purpose of eliminating duplication, with other agencies specified by the Secretary, to conduct a technical analysis of issues within their jurisdiction.

B. OSM will:

1. At the request of Mining and Minerals assist as possible in the review of the permit application package or application for a permit revision for technical adequacy in a timely manner as set forth by a schedule developed by Mining and Minerals in cooperation with OSM.

2. As soon as possible after receipt of the permit application package or application for a permit revision, determine the need for an EA or an EIS, pursuant to NEPA, with the assistance of FLMA, MMS, Mining and Minerals and other appropriate agencies, as arranged.

3. Publish notices of NEPA documents as required by Federal law and regulations.

4. Take the leadership role for the development of the EA and/or EIS including identification of areas where additional data is necessary.

C. MMS will:

1. Review the permit application package or application for a permit revision for compliance with 30 CFR Part 211.

2. Furnish Mining and Minerals findings on compliance with 30 CFR Part 211 in a timely manner as set forth by a schedule developed by Mining and Minerals in cooperation with MMS.

3. Participate, as arranged, in meetings and field examinations.

D. FLMA will:

1. Determine whether the permit application package or application for a permit revision provides for post mining land use consistent with FLMA's land use plan and determine the adequacy of measures to protect Federal resources not covered by the rights granted by the Federal coal lease.

2. Furnish Mining and Minerals its determination on the technical adequacy in a timely manner as set forth by a schedule developed by Mining and Minerals in cooperation with FLMA.

3. Participate, as arranged, in meetings and field examinations.

E. Other agencies specified by the Secretary will:

1. Review the permit application package or application for a permit revision in regard to their responsibilities under law.

2. Furnish Mining and Minerals findings on compliance with other applicable Federal laws and regulations in a timely manner as set forth by a schedule developed in cooperation with Mining and Minerals.

3. Participate, as arranged, in meetings and field examinations.

VI: Preparation of the Decision Document and Transmittal

A. Mining and Minerals will:

1. Transmit copies of drafts of the decision document to MMS, FLMA and OSM.

2. Prepare the decision document for the permit application package or application for a permit revision, unless the work plan and schedule agreed upon provides otherwise. The decision document will be in a format approved by the Secretary. This decision document shall contain the following:

a. A brief but comprehensive discussion of the need for the proposal and alternatives to the proposal;

b. A preliminary draft analysis of the environmental impacts of the proposal and alternatives to the proposal prepared in

conformance with NEPA, the Council on Environmental Quality regulations and OSM's NEPA compliance handbook;

c. A finding of compliance with the Program as approved by the Secretary and the regulations promulgated thereunder, which will consist of an analysis of critical issues raised during the course of the review and the resolution of those issues;

d. All other specific written findings required under section 69–25A–14 NMSA 1978;

e. The incorporation of the NEPA findings of compliance, as may be necessary, into the decision document in cooperation with OSM;

f. The incorporation of the determinations and recommendations of FLMA;

g. The memorandum of recommendation from the MMS to the Assistant Secretary of the Interior for Energy and Minerals, with regard to MLA requirements;

h. The incorporation of the comments of other agencies specified by the Secretary, as appropriate.

3. Consider the comments of OSM, MMS and FLMA and transmit the final decision decision document for surface coal mining and reclamation operations approval to OSM.

B. OSM will:

1. Independently review the NEPA compliance document. Provide Mining and Minerals with an approved NEPA compliance finding and incorporate the finding into the decision document.

2. Evaluate the draft decision document and promptly inform Mining and Minerals of suggested changes that should be made.

3. Provide written comment to Mining and Minerals on the decision document within 30 days of receipt.

C. FLMA will:

1. Coordinate with Mining and Minerals to incorporate findings regarding postmining land use and the adequacy of measures to protect Federal resources not covered by the rights granted by the Federal coal lease.

2. Evaluate the draft decision document and promptly inform Mining and Minerals of suggested changes that should be made pertinent to FLMA's area of responsibility.

3. Provide written concurrence in the final decision document to Mining and Minerals with a copy to OSM with regard to postmining land use and the adequacy of measures to protect Federal resources not covered by rights granted by the Federal coal lease.

D. MMS will:

1. Provide Mining and Minerals with findings regarding its responsibilities under the MLA.

2. Evaluate the draft decision document and promptly inform Mining and Minerals of suggested changes that should be made pertinent to MMS responsibilities.

3. Provide written concurrence in the final decision document to Mining and Minerals with a copy to OSM with regard to its responsibilities.

E. Other agencies will:

1. Provide Mining and Minerals with findings regarding their responsibilities under law.

2. Evaluate the draft decision document and promptly inform Mining and Minerals in writing of suggested changes, if any, that should be made pertinent to their responsibilities.

3. Provide written concurrence in the final decision document to Mining and Minerals with a copy to OSM with regard to their responsibilities.

VII: Decision and Permit Issuance

A. The Secretary will:

1. Evaluate the analysis and conclusions as necessary to determine whether he concurs in the decision document insofar as it relates to his statutorily required decisions.

2. Inform Mining and Minerals immediately of his decision. Where the Secretary decides not to approve, the reasons for not approving shall be specified and recommendations for remedy shall be specified.

B. Mining and Minerals will:

1. Issue the permit or revised permit for surface coal mining and reclamation operations after making a finding of compliance with the approved Program and this Agreement.

2. Prohibit the operator from affecting Federal lands under the permit or revised permit until after the Secretary's approval of the mine plan has been received; if Mining and Minerals has issued a permit or revised permit prior to receipt of the Secretary's decision, reserve the right to modify the permit or revised permit to conform with the Secretary's decision.

VIII: Resolution of Conflict

A. Every effort will be made to resolve errors, omissions and conflicts on data and data analysis at the State and field level.

B. Areas of disagreement between the State and the Department shall be referred to the Governor and the Secretary for resolution.

[FR Doc. 82–14780 Filed 5–28–82; 8:45 am]

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federal register

Tuesday
June 1, 1982

Part VI

Department of Agriculture

Agricultural Marketing Service

Federally Licensed Warehouses; Marketing Transactions and Financial Statement Requirements

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 102

Federally Licensed Warehouses; Marketing Transactions and Financial Statement Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action makes final regulations relating to (1) minimum net asset requirements and (2) financial statement requirements for grain warehousemen licensed or applying for license under provisions of the U.S. Warehouse Act (7 U.S.C. 268).

The requirement for specified statements will enable the Agricultural Marketing Service analysts to make additional tests and provide ratios of value in determining a warehouseman's financial strength as well as to determine net asset position.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Orval Kerchner, Chief, Warehouse Development Branch, Warehouse Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3616).

SUPPLEMENTARY INFORMATION: This action was reviewed under the USDA procedure established in accordance with Executive Order 12291 of February 17, 1981, and was classified "nonmajor" as it does not meet the criteria contained therein for major regulatory actions. William T. Manley, Deputy Administrator for Marketing Program Operations, determined that the action would not have a significant impact on a substantial number of small business entities because licensing is an elective of the applicant and use of the services is voluntary.

On June 9, 1981, the Department of Agriculture published proposed regulations 46 FR 30620 amending 7 CFR Part 102. The purpose of the proposed regulations was to suggest for comment new regulations defining marketing transactions. Also, changes in existing regulations relating to bonding and net asset requirements, applicable to warehousemen licensed or applying for license under provisions of the U.S. Warehouse Act (7 U.S.C. 268) were specified. The comment period was scheduled to expire August 10 but was reopened to expire August 31, 1981. Fifty-five written responses were received with regard to the minimum net asset requirements, 7 comments indicated that the proposal should be substantially increased. One comment stated that the regulations should not be changed. The remaining 47 letters were either in favor of the proposal or did not offer any comment. The $10,000 minimum net asset requirement has been in effect at least since 1974. Increasing commodity values and apparent frequency of insolvencies argue for the increase to $25,000. Requirements at Agricultural Stabilization and Conservation Service approved warehouses was raised to this level some time ago. Therefore we conclude this proposal is reasonable at federally licensed warehouses.

This action addresses only that portion of the proposed rules establishing an increase from $10,000 to $25,000 in the requirement for minimum net assets; other regulations proposed in 46 FR 30620 will be considered as appropriate and when the effect of these changes and those in financial requirements as specified below can be evaluated.

On December 7, 1981, the Department of Agriculture published proposed regulations 46 FR 59930 amending 7 CFR Part 102. The purpose of the proposed regulations was to suggest for comment a requirement that grain warehousemen licensed and/or applying for license under provisions of the U.S. Warehouse Act (7 U.S.C. 268) provide the Secretary with an annual financial statement that had been audited by a certified public accountant. The comment period expired December 31, 1981, but on January 6, 1982, was extended to January 15, 1982. Fifty-nine written comments were received; 45 were opposed to the proposal as published. Opposition to the proposal was based on (1) limitation to auditing by Certified Public Accountants, (2) higher costs for warehousemen due to auditing procedures, and (3) possible ineffectiveness of such requirements to forecast, prevent or minimize bankruptcies any more than existing requirements.

The Department has carefully considered each written comment and the revised regulations reflect answers in part to some objections. The limitation of an audit using certified public accountants exclusively has been revised. Several comments recommended that statements reviewed or audited by independent public accountants which include Certified Public Accountants would provide the Department with sufficient financial information to satisfy its needs. The difference would be in the amount of verification rather than information furnished. The use of Certified Public Accountants could be overly restrictive adding to the cost and perhaps the immediate ability of warehousemen to comply. Statements may now be "reviewed" or "audited" by an independent public accountant, as well as an audit by a Certified Public Accountant, if the warehouseman subjects himself to an additional on-site examination by the Secretary and to an audit by the Secretary. This has the potential for reducing costs to the warehouseman. To ease the effect of the regulation on licensees who may not be able to rearrange their accounting commitments in time to make the July 1 effective date, the Secretary will be authorized to grant temporary waivers for good and sufficient reason. This also will benefit applicants for license who cannot meet the requirements at time of application or licensing.

The requirement for specified statements will enable the Agricultural Marketing Service analysts to make additional tests and provide ratios of value in determining a warehouseman's financial strength as well as to determine net asset position. This periodic review or audit of a warehouseman's financial position and condition by an independent public accountant will supplement the Department's examination program, together enhancing the value of warehouse receipts and assuring depositors of increased safety in dealing with warehousemen licensed under the Act.

List of Subjects in 7 CFR Part 102

Administrative practice and procedures, Grains, Surety bonds, Warehouses.

Said parts and regulations, therefore, are amended or revised as described below:

PART 102—GRAIN WAREHOUSES

1. Section 102.6 (7 CFR 102.6) is amended by adding new paragraphs (a), (b) and (c) and redesignating existing paragraphs (a) through (d) to read (d) through (g) as follows:

§ 102.6 Financial requirements.

(a) Each warehouseman conducting a warehouse licensed, or for which application for a license has been made under the regulations in this part, shall maintain complete, accurate and current financial records.

(b) Each warehouseman conducting a warehouse for which application for license is made shall provide with this application and each warehouseman licensed under these regulations annually, or more frequently if required, shall furnish to the Secretary financial

statements from the records required in paragraph (a) of this section prepared according to generally accepted accounting principles. Such statements shall include but not be limited to (1) balance sheet, (2) statement of income (profit and loss), (3) statement of retained earnings, and (4) statement of changes in financial position. The chief executive officer for the warehouseman shall certify under penalties of perjury that the statements as prepared accurately reflect the financial condition of the warehouseman as of the date named and fairly represent the results of operations for the period named.

(c) Each warehouseman conducting a warehouse licensed under these regulations shall have the financial statements required in paragraph (b) audited by an independent certified public accountant. Alternatively, financial statements audited or reviewed by an independent public accountant will be accepted with the understanding that the warehouseman will be subject to an additional on-site examination by the Secretary and to an audit by the Secretary. Audits and reviews by independent certified public accountants and independent public accountants specified in this section shall be made in accordance with standards established by the American Institute of Certified Public Accountants. The accountant's certification, assurances, opinion, comments, and notes on such statements, if any, shall be furnished along with the statements. Licensees who cannot immediately meet these requirements may apply to the Secretary for a temporary waiver of this provision. The Secretary may grant such waiver for a temporary period not to exceed 180 days if the licensee can furnish evidence of good and substantial reasons therefor.

2. Section 102.6 old paragraph (a) now (d) is amended by changing "$10,000" wherever used to "$25,000."

3. Section 102.6 old paragraph (b) now (e) is amended to refer to in the final sentence (d) rather than (a).

4. Section 102.6 old paragraph (c) now (f) is amended to refer to (d) and (e) rather than (a) and (b).

§ 102.7 [Amended]

5. Section 102.7 is amended by changing "$10,000" to "$25,000."

§ 102.9 [Amended]

6. Section 102.9(a) is amended by changing "$10,000" to "$25,000."

§ 102.14 [Amended]

7. Section 102.14(a) is amended to refer to in the final sentence § 102.6(d) rather than 102.6(a).

8. Section 102.14(c) is amended by changing "$10,000" to "$25,000."

§ 102.58 [Amended]

9. Section 102.58 (a) and (b) are amended to refer to § 102.6(d) rather than § 102.6(a).

Done at Washington, D.C., May 25, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-14798 Filed 5-28-82; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—JUNE 1982

This table is for determining dates in documents which give advance notice of compliance, impose time limits on public response, or announce meetings.

Agencies using this table in planning publication of their documents must allow sufficient time for printing production.

In computing these dates, the day after publication is counted as the first day. When a date falls on a weekend or a holiday, the next Federal business day is used (see 1 CFR 18.17).

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
June 1	June 16	July 1	July 16	August 2	August 30
June 2	June 17	July 2	July 19	August 2	August 31
June 3	June 18	July 5	July 19	August 2	September 1
June 4	June 21	July 6	July 19	August 3	September 2
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CFR CHECKLIST; 1981–82 ISSUANCES

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1981/82. New units issued during the month are announced on the back cover of the daily **Federal Register** as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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Air Pollution Control
Environmental Protection Agency

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Veterans Administration

Commodity Futures
Commodity Futures Trading Commission

Fisheries
National Oceanic and Atmospheric Administration

Meat and Poultry Products
Food Safety and Inspection Service

Mortgages
Comptroller of Currency

Pesticides and Pests
Environmental Protection Agency

Spices and Flavorings
Alcohol, Tobacco and Firearms Bureau

Water Pollution Control
Environmental Protection Agency

Selected Subjects

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 916 and 917

[Nectarine Reg. 14, Amdt. 1; Peach Reg. 14, Amdt. 1; Plum Reg. 19, Amdt. 1]

Nectarines Grown in California, and Fresh Pears, Plums and Peaches Grown in California; Amendment of Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends the minimum size requirements for shipments of specified varieties of fresh nectarines, peaches, and plums grown in California. These requirements are designed to promote marketing of suitable quality and sizes of fresh fruit in the interest of producers and consumers.

DATES: Interim rule effective June 2, 1982 through August 15, 1982, and allows for comments through June 30, 1982. Any comments which are received will be considered prior to issuance of a final rule to become effective August 16, 1982.

ADDRESS: Send two copies of comments to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

The amendments of regulations are issued under the marketing agreements, as amended, and Order Nos. 916 and 917, as amended (7 CFR Parts 916 and 917), regulating the handling of fresh nectarines, pears, plums and peaches grown in California. The agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Nectarine Administrative Committee, Peach Commodity Committee and Plum Commodity Committee, and upon other available information. It is hereby found that these actions will tend to effectuate the declared policy of the act.

The Nectarine Administrative Committee met on May 6, 1982, to consider supply and market conditions and other factors affecting the need for regulation. The committee estimated fresh shipments of California nectarines at 11.6 million packages, compared with actual shipments of 14.9 million packages last season. The committee reports that the 1982 California nectarine crop suffered some damage due to a late March cold storm but fruit is sizing normally. The committee reviewed the current grade and size regulation and, on the basis of its appraisal of current supply and demand factors, it recommended inclusion of six new nectarine varieties, and, removal from size regulation of three varieties no longer produced in commercially significant quantities. Varieties which should be included, as applicable, in subparagraphs (4) or (5) of § 916.356 which require that a maximum count per No. 22D standard lug box of 96 or 84 nectarines, respectively, are as follows: Sunfre, Autumn Delight, Late Tina Red, Red Jim, Summer Beaut and Sparkling Red (48–G–140). Varieties for which regulations should no longer apply and should be deleted from the applicable subparagraph are 73–40, Royal Grand and Sun King.

The Peach Commodity Committee met on May 5, 1982, to consider supply and market conditions and other factors affecting the need for regulation. The committee estimated fresh shipments of California peaches at 11.3 million packages, compared with actual shipments of 12.8 million packages last season. The committee reports that the 1982 California peach crop suffered some damage due to a late March cold storm but fruit is sizing normally. The committee reviewed the current grade and size regulation and, on the basis of its appraisal of current supply and demand factors, recommended inclusion of three new peach varieties, and, removal from size regulation of four varieties no longer produced in commercially significant quantities. Varieties which should be included as applicable in subparagraphs (3), (4), or (5) of § 917.459(a) which require 84, 80 or 72 peaches per No. 22D standard lug box, respectively, are as follows: Golden Lady, Early Redhaven, and Cassie. Varieties for which size regulations should no longer apply and should be deleted from the applicable subparagraph are: Dixired, Bella Rosa, Summertime, and Treasure.

The Plum Commodity Committee met on May 6, 1982, to consider supply and market conditions and other factors affecting the need for regulation. The committee estimated fresh shipments of California plums at 5.9 million packages, compared with actual shipments of 13.9 million packages last season. The committee reports that the 1982 California plum crop suffered severe damage due to a late March cold storm but fruit is sizing normally. The committee reviewed the current grade and size regulation, and, on the basis of its appraisal of current supply and demand factors, recommended inclusion of the new variety Angee in § 917.460(b)(2), which specifies a minimum grade of U.S. No. 1, except for an additional allowance for stem end cracks. The committee also recommended that in § 917.460(c), which contains size requirements, five new varieties (Early Hawaiian Ann, July Red, Milwaukee, Rosemary and Spring Beaut) should be regulated and two varieties (Beauty and Burmosa) should be removed from size regulation.

The amendments to the size requirements are necessary to prevent the shipment of California fruit of a smaller size than specified and are designed to provide ample supplies of good quality fruit in the interest of producers and consumers pursuant to the declared policy of the act. Modification of CFR designations

relating to the U.S. grade standards for nectarines, peaches, and plums, reflect redesignations outlined in FR document (46 FR 63203).

To minimize disruption as much as possible and still bring this marketing order into compliance with the Secretary's guidelines for fruit, vegetable, and specialty crop marketing orders issued January 25, 1982, these regulations are being issued with the understanding that the committees regulated under 7 CFR Parts 916 and 917 will initiate certain actions during 1982. These actions are necessary so that operations under the programs will conform with the guidelines. The guidelines state that orders such as these which contain quality provisions should not be used as a form of supply control. In evaluating quality control programs, emphasis is placed on: (1) Whether quality controls have varied significantly from season to season or within seasons; (2) whether the percentage of product meeting minimum quality standards has been declining; or (3) whether the standards have been tightened over the years. In addition, to conform with the guidelines, these marketing orders should contain a limitation on committee tenure.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and good cause exists for making these amendments effective as specified in that (1) shipment of the current crop soon will be underway; (2) the amendments to the regulations were recommended by the committee following discussion at public meetings; (3) California handlers have been apprised of these requirements and the effective date; (4) the requirements are basically the same as those currently in effect.

List of Subjects in 7 CFR Parts 916 and 917

Marketing agreements and orders, Nectarines, Pears, Plums, Peaches, California.

Therefore, §§ 916.356, 917.459, and 917.460 are revised as follows (these revisions expire August 15, 1982, and will not be published in the annual Code of Federal Regulations):

PART 916—NECTARINES GROWN IN CALIFORNIA

1. Section 916.356 (46 FR 37498) is amended by revising the introductory texts of paragraphs (a), (a)(4), and (a)(5), and paragraph (b) to read as follows:

§ 916.356 Nectarine Regulation 14.

(a) During the period June 2, 1982, through August 15, 1982, no handler shall handle:

* * * * *

(4) Any package or container of Apache, Armking, Arm Queen, Crimson Gold, Early Star, Gee Red, June Belle, June Grand, May Grand, Red June, Spring Grand, Sunfre, or Zee Gold variety nectarines unless: * * *

(5) Any package or container of Autumn Grand, Bob Grand, Clinton-Strawberry, Early Sun Grand, Ed's Red, Fairlane, Fantasia, Firebrite, Flamekist, Flavortop, Flavortop I, Gold King, Granderli, Hi-Red, Independence, Kent Grand, Late Le Grand, Le Grand, Moon Grand, Niagara Grand, Red Diamond, Red Free, Red Grand, Regal Grand, Richards Grand, Royal Giant, Ruby Grand, September Grand, Tasty Free, Tom Grand, Honey Gold, Larry's Grand, Son Red, Spring Red, Late Tina Red, Red Jim, Summer Beaut, Sparkling Red (48–G–140), Star Grand, Summer Grand, Sun Grand, or Autumn Delight variety nectarines unless: * * *

(b) As used herein, "U.S. No. 1" and "standard pack" mean the same as defined in the United States Standards for Grades of Nectarines (7 CFR 51.3145–3160); "No. 22D standard lug box" means the same as defined in Section 1380.19(17) of the "Regulations of the California Department of Food and Agriculture."

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

2. Section 917.459 (46 FR 38338) is amended by revising the introductory texts of paragraphs (a), (a)(3), (a)(4), and (a)(5), and paragraph (d) to read as follows (as published the designation for paragraph (a) was omitted):

§ 917.459 Peach Regulation 14.

(a) During the period June 2, 1982 through August 15, 1982, no handler shall handle:

* * * * *

(3) Any package or container of any type of Babcock, Bonjour, Cardinal, Early Coronet, Early Royal May, Firecrest, First Lady, Flavorcrest, JJK–1, June Lady, May Lady, Merrill Gemfree, Royal May, Springcrest, Royal Crest, May Crest, Golden Lady, or Tizz variety peaches unless: * * *

* * * * *

(4) Any package or container of Coronet, Indian Red, Merrill Gem, Redhaven, Redtop, Early Redhaven, or Regina variety peaches unless: * * *

(5) Any package or container of Angelus, Autumn Gem, Belmont, Cal Red, Carnival, Early Fairtime, Early O'Henry, Elegant Lady, Fairtime, Fay Elberta, Fayette, Fiesta, Fire Red, Flamecrest, Fortyniner, Franciscan, Gem Crest, Halloween, Jody Gaye, July Elberta (Early Elberta, Kim Elberta, and Socala), July Lady, Kearney, Mardigras, Merricle, O'Henry, Otani, Pacifica, Parade, Paradise, Preuss Suncrest, Red Cal, Redglobe, Red Lady, Regular Elberta, Rio Oso Gem, Scarlet Lady, Sparkle, Summerset, Suncrest, Sun Lady, Toreador, Cassie, or Windsor variety peaches unless: * * *

* * * * *

(d) As used herein, "U.S. No. 1" and "standard pack" mean the same as defined in the United States Standards for Grades of Peaches (7 CFR 51.1210–1223); and "No. 22D standard lug box" and "No. 12B standard fruit (peach) box" mean the same as defined in Section 1380.19(18) of the "Regulations of the California Department of Food and Agriculture."

3. Section 917.460 (46 FR 38339) is revised to read as follows:

§ 917.460 Plum Regulation 19.

(a) During the period June 2, 1982 through August 15, 1982, no handler shall ship any lot of packages or containers of any plums, other than the varieties named in paragraph (b) hereof, unless such plums grade at least U.S. No. 1: *Provided,* That maturity shall be determined by the application of color standards by variety or such other tests as determined to be proper by the Federal or Federal-State Inspection Service.

(b) During the period June 2, 1982 through August 15, 1982, no handler shall ship:

(1) Any lot of packages or containers of Tragedy or Kelsey plums unless such plums grade U.S. No. 1, with a total tolerance of 10 percent for defects not considered serious damage in addition to the tolerances permitted by such grade: *Provided,* That maturity shall be determined by the application of color standards by variety or such other tests as determined to be proper by the Federal or Federal-State Inspection Service.

(2) Any lot of packages or containers of Angee, Autumn Queen, Casselman, Empress, Freedom (42–26), Grand Rosa, Improved Late Santa Rosa, King David, Late Santa Rosa, Linda Rosa, Red Rosa, Rosa Grande, Roysum, SW–1, and Swall Rosa plums unless such plums grade U.S. No. 1, except that healed cracks emanating from the stem end which do not cause serious damage shall not be considered as a grade defect with respect to such grade: *Provided,* That

maturity shall be determined by the application of color standards by variety or such other tests as determined to be proper by the Federal or Federal-State Inspection Service.

(c) During the period June 2, 1982 through August 15, 1982, no handler shall ship any package or other container of any variety of plums listed in Column A of the following Table I unless such plums are of a size that an eight-pound sample, representative of the sizes of the plums in the package or container, contains not more than the number of plums listed for the variety in Column B of said table.

TABLE I

Column A, variety	Column B, plums per sample
Ace	55
Amazon	64
Andys Pride	69
Angeleno	57
Autumn Rose	72
Bee Gee	65
Black Beaut	74
Black Knight	58
Casselman	63
Durado	74
Early Hawaiian Ann	60
Ebony	55
El Dorado	55
Elephant Heart	53
Empress	57
Freedom	56
Fresno Rose	62
Friar	56
Frontier	61
Gar-Rosa	71
Golden Glow	60
Grand Rosa	54
July Red	54
July Santa Rosa	60
Kelsey	47
King David	50
King's Black	58
Laroda	58
Late Santa Rosa (including improved Late Santa Rosa and Swall Rosa)	64
Linda Rosa	53
Mariposa	51
Midsummer	53
Milwaukee	55
Nubiana	56
President	57
Queen Ann	50
Queen Rosa	53
Red Beaut	74
Red Rosa	64
Redroy	58
Rosa Ann	69
Rosemary	50
Rosa Grande	53
Rose Ann	50
Royal Red	74
Roysum	74
Santa Rosa	59
Simka, Arcosa, Nose Yorker	50
Spring Beaut	74
Standard	63
Tragedy	114
Wickson	51

(d) As used herein, "U.S. No. 1" and "serious damage" mean the same as defined in the United States Standards for Grades of Fresh Plums and Prunes (7 CFR 51.1520–15.38).

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 28, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-15021 Filed 6-1-82; 8:45 am]

BILLING CODE 3410-02-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release No. SAB–45]

Interpretations Relating to Financial Reporting Matters; Staff Accounting Bulletin No. 45

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Staff Accounting Bulletin.

SUMMARY: This Staff Accounting Bulletin presents the staff's view concerning the presentation of pro forma information under certain narrow circumstances. When a planned or consummated business combination to be accounted for as a pooling of interests involves a closely owned and managed enterprise and the salary of an owner-manager will be substantially changed resulting from a new employment contract, the registrant may include a supplemental pro forma presentation to reflect changes in salary expense following the merger. Although this interpretation focuses on the owner-manager's salary in particular, the staff believes that the general principles are relevant to other types of expenses related to owner-managers that might be substantially increased or reduced as a result of contractual agreements.

DATE: May 20, 1982.

FOR FURTHER INFORMATION CONTACT: Eugene W. Green, Office of the Chief Accountant (202/272–2130), or Howard P. Hodges, Jr., Chief Accountant, Division of Corporation Finance (202/272–2554), Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The statements in Staff Accounting Bulletins are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval; they represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

Shirley E. Hollis,

Assistant Secretary.

May 20, 1982.

Staff Accounting Bulletin No. 45

The staff hereby adds Topic, 2–C, regarding disclosure of pro forma financial information.

Topic 2: Business Combinations

* * * * *

C. Pro Forma Financial Information

Facts

Company X and Company Y (a closely owned and managed organization) agree to merge in a transaction to be accounted for as a pooling of interests. In connection with the merger agreement, the combined enterprise enters into an employment agreement with A, Company Y's executive officer and sole shareholder. The salary to be paid to A pursuant to the employment agreement is substantially less than the compensation A received from Company Y. Prior to the merger, a substantial portion of Company Y's annual earnings had been paid to the executive officer as salary.

Question 1

Is it appropriate to adjust Y's financial statements or the combined historical financial statements by transferring a portion of the executive officer's compensation from "Salary Expense" to "Distribution to Shareholder" in order to reflect the compensation level provided for in the new employment contract?

Interpretive Response

No. The determination of salary paid to owners is highly discretionary and although compensation exceeded that which will be paid in the future, retroactive adjustments to financial statements to reduce salary expense are not appropriate.

Question 2

In such circumstances, may pro forma financial information be presented for the combined enterprise which reflects the salary that will be paid to A after consummation of the transaction?

Interpretive Response

Yes. In exceptional circumstances, adjustments in officers' salaries, following consummation of a merger, may be so significant as to make the combined historical results of operations unrepresentative of future operating results. Under these circumstances, the

financial statements of the combined enterprise may be supplemented with a pro forma financial presentation which shows the effects of salary changes that are supported by employment agreements. Such pro forma presentation should be limited to the latest fiscal year and any subsequent interim period presented. It should be accompanied by an explanation that (1) the supplemental pro forma presentation is shown solely as a result of changed circumstances that will exist following consummation of the merger, (2) that A's duties and responsibilities will not be diminished with the result that other costs will be incurred that offset the pro forma adjustment to compensation expense, and (3) the information is necessary for investors to realistically assess the impact of the combination. The following is an example of such supplemental pro forma presentation.

	19X1	19X2	19X3
Combined net income	$10,000	$11,000	$12,000
Pro forma adjustment to compensation expense:			
Contractual reduction to be made in officer salary			80,000
Related income taxes			(30,000)
			50,000
Pro forma net income after contractual reduction to be made in officer salary			42,000
Per share of common stock:			
Net income	1.00	1.10	1.20
Pro forma after contractual reduction to be made in officer salary			4.20

[FR Doc. 82-14859 Filed 6-1-82; 8:45 am]

BILLING CODE 8010-01-M

17 CFR Part 211

[Release No. SAB-46]

Interpretations Relating to Financial Reporting Matters; Staff Accounting Bulletin No. 46

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Staff Accounting Bulletin.

SUMMARY: The interpretations in this Staff Accounting Bulletin revise existing staff interpretations of requirements for interim financial reporting resulting from the adoption of Accounting Series Release Nos. 286, 302 and 306. In addition, a revised topical index is being published to reflect the impact of all actions to date on the Staff Accounting Bulletin series.

DATE: May 20, 1982.

FOR FURTHER INFORMATION CONTACT: John W. Albert, Office of the Chief Accountant (202-272-2133) or Howard P. Hodges, Jr., Chief Accountant, Division of Corporation Finance (202-272-2554), Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The statements in Staff Accounting Bulletins are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval; they represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

May 20, 1982.

Shirley E. Hollis,

Assistant Secretary.

Staff Accounting Bulletin No. 46

The staff hereby deletes subsections 1 and 2(a) of topic 6-G of Staff Accounting Bulletin No. 40 and replaces them with the following revised staff interpretations. The staff is also amending subsection 2(b) of this same topic. These interpretations do not reflect any substantive changes in staff position. Rather, they simply reflect adoption of revised disclosure requirements for interim financial reporting announced in Accounting Series Release No. ("ASR") 286, the elimination of requirements for the presentation of separate financial statements of the parent company only and of consolidated subsidiaries engaged in diverse financial-type activities announced in ASR 302, and revisions to the disclosure requirements of Form S-K announced in ASR 306.

Topic 6: Interpretations of Accounting Series Releases

* * * * *

G. Accounting Series Release Nos. 177 and 286—Relating to Amendments to Form 10-Q, Regulation S-K, and Regulation S-X Regarding Interim Financial Reporting

General Facts

Disclosure requirements for quarterly data on Form 10-Q were amended in Accounting Series Release Nos. 177 and 286 to include condensed interim financial statements, a narrative analysis of financial condition and results of operations, a letter from the registrant's independent public accountant commenting on any accounting change, and a signature by the registrant's chief financial officer or chief accounting officer. In addition, certain selected quarterly data is required to be disclosed by registrants who meet criteria both as to size and trading activity.

1. Selected Quarterly Financial Data (Item 302(a) of Regulation S-K).[1]

a. Disclosure of Selected Quarterly Financial Data.

Facts:

Item 302(a)(1) of Regulation S-K requires disclosure of net sales, gross profit, income before extraordinary items and cumulative effect of a change in accounting, per share data based upon such income, and net income for each full quarter within the two most recent fiscal years and any subsequent interim period for which financial statements are included. Item 302(a)(3) requires the registrant to describe the effect of any disposals of segments of a business and extraordinary, unusual or infrequently occurring items recognized in each quarter, as well as the aggregate effect and the nature of year-end or other adjustments which are material to the results of that quarter. Furthermore, Item 302(a)(2) requires a reconciliation of amounts previously reported on Form 10-Q to the quarterly data presented if the amounts differ.

Question 1

Are these disclosure requirements applicable to supplemental financial statements included in a filing with the SEC for unconsolidated subsidiaries and 50% or less owned persons?

Interpretive Response

The summarized quarterly financial data required by Item 302(a)(1) need not be included in supplemental financial statements for unconsolidated subsidiaries and 50% or less owned persons unless the financial statements are for a subsidiary or affiliate that is itself a registrant which meets the criteria set forth in Item 302(a)(5).

Question 2

If a company is in a specialized industry where "gross profit" generally is not computed (e.g., banks, insurance companies and finance companies) what disclosure should be made to comply with the requirements of Item 302(a)(1)?

Interpretive Response

Companies in specialized industries should present summarized quarterly financial data which are most meaningful in their particular circumstances. For example, a bank might present interest income, interest

[1] As indicated in ASR 306, the Commission plans to reexamine the criteria for furnishing selected quarterly financial data in the near future.

expense, provision for loan losses, security gains or losses and net income. Similarly, an insurance company might present net premiums earned, underwriting costs and expenses, investment income, security gains or losses and net income.

Question 3

If a company wishes to make its quarterly and annual disclosures on the same basis, would disclosure of costs and expenses associated directly with or allocated to products sold or services rendered, or other appropriate data to enable users to compute "gross profit," satisfy the requirements of Item 302(a)(1)?

Interpretive Response

Yes.

Question 4

What is meant by "per-share data based upon such income" as used in Item 302(a)(1)?

Interpretive Response

Item 302(a)(1) only requires disclosure of per share amounts for income before extraordinary items and cumulative effect of a change in accounting. It is expected that when per share data is calculated for each full quarter based upon such income, the per share amounts would be both primary and fully diluted. Although it is not required by the rule, there are many instances where it would be desirable to also disclose other per share figures such as net earnings per share and the per share effect of extraordinary items. Where such disclosure is made, per share data should be both primary and fully diluted.

Question 5

What is intended by the requirement set forth in Item 302(a)(3) that registrants "describe the effect of" disposals of segments of a business, etc.?

Interpretive Response

The rule is intended to require registrants to "disclose the amount" of such unusual transactions and events included in the results reported for each quarter. Such disclosure would be made in narrative form. However, it would not require that matters covered by management's discussion and analysis of financial condition and results of operations be repeated. In this situation, registrants should disclose the nature and amount of the unusual transaction or event and refer to management's analysis for further discussion of the matter.

Question 6

What is intended by the requirement of Item 302(a)(3) to disclose "the aggregate effect and the nature of year-end or other adjustments which are material to the results of that quarter"?

Interpretive Response

This language is taken directly from Paragraph 31 of Accounting Principles Board Opinion No. 28 which relates to disclosures required for the fourth quarter of the year. The Opinion indicates that earlier quarters should not be restated to reflect a change in accounting estimate recorded at year end. However, changes in an accounting estimate made in an interim period that materially affect the quarter in which the change occurred are required to be disclosed in order to avoid misleading comparisons. In making such disclosure, registrants may wish to identify (but not restate) the prior periods in which transactions were recorded which relate to the change in the quarter.

Question 7

If a company has filed a Form 8 amending a previously filed Form 10–Q, is a reconciliation of quarterly data in annual financial statements with the amounts originally reported on Form 10–Q required?

Interpretive Response

Yes. However, if the company publishes quarterly reports to shareholders and has previously made detailed disclosure to shareholders in such reports of the change reported on the Form 8, no reconciliation would be required.

b. Financial Statements Presented on Other Than a Quarterly Basis.

Facts

Item 302(a)(1) requires disclosure of quarterly financial data for each full quarter of the last two fiscal years and in any subsequent interim period for which an income statement is presented.

Question 8

If a company reports at interim dates on other than a calendar-quarter basis (e.g., 12–12–16–12 week basis), will it be precluded from reporting on such basis in the future?

Interpretive Response

No, as long as it discloses the basis of interim fiscal period reporting and the interim fiscal periods on which it reports are consistently determined from year to year (or, if not, the lack of comparability is disclosed).

c. Application of Item 302(a) Requirements.

Facts

The requirements for disclosure of the selected quarterly financial data apply only to those companies meeting both of two tests based on the size of the company and the extent of trading in its securities, respectively. The size test is measured by total assets and net income, as defined. The trading test is measured by whether a registrant's securities are listed on a national securities exchange or quoted on the National Association of Securities Dealers Automatic Quotation System and meet the specified "actively traded" criteria set forth in the rule.

Question 1

Should the determination of net income, as defined, for each of the last three fiscal years be adjusted for restatements of prior years' figures as a result of changes in accounting principles, business combinations (accounted for as poolings of interests), prior-period adjustments, etc?

Interpretive Response

Net income, as defined, for the last three fiscal years should be determined each year on the basis of current financial statements which included those years. Such financial statements would reflect restatements, if any, of prior years' data in accordance with generally accepted accounting principles. However, as indicated in the interpretive response to Question 2 below, a registrant will not be required to retroactively disclose the quarterly financial data called for by Item 302(a) for the prior year as a result of such restatements if it did not meet such a requirement when the prior year financial statements were originally filed with the Commission.

Question 2

Is a registrant which meets the requirements to furnish selected quarterly financial data for the first time in the current year required to retroactively include the quarterly financial data for prior years' financial statements presented for comparative purposes?

Interpretive Response

No. Although Item 302(a)(1) requires disclosure of selected quarterly financial data for the two most recent years, a registrant will not be required to retroactively include the quarterly financial data called for by this instruction if it did not meet such a requirement when the financial statements were originally filed with the Commission.

Question 3

Is a closed-end investment company subject to the Investment Company Act of 1940 required to comply with the disclosure requirements of Item 302(a)?

Interpretive Response

A closed-end investment company which has securities registered pursuant to section 12(b) of the Exchange Act is not exempt from the requirements of Item 302(a). However, a closed-end investment company that is exempt from registration under section 12(g) of the Exchange Act is exempt from the requirements of Item 302(a).

Question 4

Should the $200 million total assets and $250,000 net income for each of the last three fiscal years tests be made at the beginning or end of the fiscal year?

Interpretive Response

In order to facilitate the engagement of independent accountants to perform a limited review of the quarterly financial statements on a timely basis, if desired, the size and income tests of Item 302(a) should be applied at the beginning of the fiscal year.

2. Amendments to Form 10–Q.

a. Form of Condensed Financial Statements.

Facts

Rules 10–01(a) (2) and (3) of Regulation S–X provide that interim balance sheets and statements of income shall include only major captions (i.e., numbered captions) set forth in Regulation S–X, with the exception of inventories where data as to raw materials, work in process and finished goods shall be included, if applicable, either on the face of the balance sheet or in notes thereto. Where any major balance sheet caption is less than 10% of total assets and the amount in the caption has not increased or decreased by more than 25% since the end of the preceding fiscal year, the caption may be combined with others. When any major income statement caption is less than 15% of average net income for the most recent three fiscal years and the amount in the caption has not increased or decreased by more than 20% as compared to the corresponding interim period of the preceding fiscal year, the caption may be combined with others. Similarly, the statement of changes in financial position may be abbreviated, starting with a single figure of funds provided by operations and showing other sources and applications individually only when they exceed 10% of the average of funds provided by operations for the most recent three years.

Question 1

If a company previously combined captions in a Form 10–Q but is required to present such captions separately in the Form 10–Q for the current quarter, must it retroactively reclassify amounts included in the prior-year financial statements presented for comparative purposes to conform with the captions presented for the current-year quarter?

Interpretive Response

Yes.

Question 2

In determining whether or not major income statement captions may be combined, does average "net income" for the last three years (using the company's last year end as the starting point) mean "net income" or income before extraordinary items and changes in accounting principles?

Interpretive Response

It means "net income."

Question 3

If a company uses the gross profit method or some other method to determine cost of goods sold for interim periods, will it be acceptable to state only that it is not practicable to determine components of inventory at interim periods?

Interpretive Response

The staff believes disclosure of inventory components is important to investors. In reaching this decision the staff recognizes that registrants may not take inventories during interim periods and that managements, therefore, will have to estimate the inventory components. However, the staff believes that management will be able to make reasonable estimates of inventory components based upon their knowledge of the company's production cycle, the costs (labor and overhead) associated with this cycle as well as the relative sales and purchasing volume of the company.

Question 4

If a company has years during which operations resulted in a net outflow of funds, should it exclude such years from the computation of funds provided by operations for the three most recent years in determining what sources and applications must be shown separately?

Interpretive Response

Yes. Similar to the determination of average net income, if operations resulted in a net outflow of funds during any year, such amount should be excluded in making the computation of funds provided by operations for the three most recent years unless operations resulted in a net outflow of funds in all three years, in which case the average of the net outflow of funds should be used for the test.

Question 5

Must a company include an analysis of changes in each element of working capital in the condensed statement of changes in financial position included in its Form 10–Q?

Interpretive Response

No. The statement of changes in financial position can be abbreviated and needs to include only funds provided by operations and other sources and applications of funds which exceed 10% of the average of funds provided by operations for the most recent three years.

b. Reporting Requirements for Accounting Changes.

1. Preferability.

Facts

Rule 10–01(b)(6) of Regulation S–X requires that a registrant who makes a material change in its method of accounting shall indicate the date of and the reason for the change. The registrant also must include as an exhibit in the first Form 10–Q filed subsequent to the date of an accounting change, a letter from the registrant's independent accountants indicating whether or not the change is to an alternative principle which in his judgment is preferable under the circumstances. A letter from the independent accountant is not required "when the change is made in response to a standard adopted by the Financial Accounting Standards Board which requires such a change."

* * * * *

2. Filing of a Letter from the Accountants.

Facts

The registrant makes an accounting change in the fourth quarter of its fiscal year. Rule 10–01(b)(6) of Regulation S–X requires that the registrant file a letter from its independent accountants stating whether or not the change is preferable in the circumstances in the next Form 10–Q. Item 601(b)(18) of Regulation S–K provides that the independent accountant's preferability letter be filed as an exhibit to reports on Forms 10–K or 10–Q.

Question 1

When the independent accountant's letter is filed with the Form 10–K, must another letter also be filed with the first quarter's Form 10–Q in the following year?

Interpretive Response

No. A letter is not required to be filed with Form 10–Q if it has been previously filed as an exhibit to the Form 10–K.

Staff Accounting Bulletin Series—Revised Topical Index Through Staff Accounting Bulletin No. 46

Topic 1: Financial Statements
- A. Target Companies
- B. (Deleted by SAB 44)
- C. Unaudited Financial Statements for a Full Year
- D. Foreign Companies
  1. (Deleted by Rel. 33–6362)
  2. "Free Distributions" by Japanese Companies
- E. Requirements for Audited or Certified Financial Statements
  1. Meaning of the Word "Audited"
  2. Qualified Auditors' Opinions

Topic 2: Business Combinations
- A. Purchase Method
  1. Cash Contingencies
  2. Determination of the Acquiring Corporation
  3. Acquisitions Involving Financial Institutions (Added by SAB 42)
- B. Merger Expenses
- C. Pro Forma Financial Information (Added by SAB 45)

Topic 3: Senior Securities
- A. Convertible Securities
- B. (Deleted by ASR 307)
- C. Balance Sheet Presentation for Preferred Stock with Sinking Funds or Mandatory Redemption Features

Topic 4: Equity Accounts
- A. Subordinated Debt
- B. Subchapter S Corporations
- C. Change in Capital Structure
- D. Cheap Stock
- E. Receivables from Sale of Stock
- F. Limited Partnerships
- G. Notes and Other Receivables from Affiliates

Topic 5: Miscellaneous Accounting
- A. Expenses of Offering
- B. Gain or Loss from Disposition of Equipment
- C. Tax Benefit of Loss Carryforwards
  1. Current Recognition of Tax Benefit
  2. Realization of tax Benefit
- D. Organization and Offering Expenses and Selling Commissions—Limited Partnerships Trading in Commodity Futures
- E. Accounting for Divestiture of a Subsidiary or Other Business Operation
- F. Accounting Changes Not Retroactively Applied Due to Immateriality

Topic 6: Interpretations of Accounting Series Releases
- A. Accounting Series Release No. 166—Disclosure of Unusual Risks and Uncertainties in Financial Reporting
  1. Market Value Changes
- B. (Deleted by SAB 44)
- C. (Deleted by SAB 44)
- D. Accounting Series Release No. 257—Requirements for Financial Accounting and Reporting Practices for Oil and Gas Producing Activities
  1. Estimates of Quantities of Proved Reserves
  2. Estimates of Future Net Revenues
  3. Disclosure of Reserve Information
  4. Filings by Canadian Registrants
- E. Accounting Series Release No. 269—Oil and Gas Producers—Supplemental Disclosure on the Basis of Reserve Recognition Accounting
  1. Provision for Income Taxes
- F. Accounting Series Release No. 125—Adoption of Amendments to Regulation S–X
  1. Rule 12–03
- G. Accounting Series Release No. 177—Relating to Amendments to Form 10–Q and Regulation S–X Regarding Interim Financial Reporting
  1. Selected Quarterly Financial Data (Revised by SAB 46)
  2. Amendments to Form 10–Q (Revised by SAB 46)
- H. Accounting Series Release No. 148—Disclosure of Compensating Balances and Short-Term Borrowing Arrangements
  1. Applicability
  2. Classification of Short-Term Obligations
  3. Compensating Balances
  4. Miscellaneous
- I. Accounting Series Release No. 149—Improved Disclosure of Income Tax Expense
  1. Tax Rate
  2. Taxes of Investee Company
  3. Net of Tax Presentation
  4. Loss Years
  5. Foreign Registrants
  6. Securities Gains and Losses
  7. Tax Expense Components v. "Overall" Presentation
- J. Accounting Series Release No. 261—Accounting Changes by Oil and Gas Producers
  1. First-time Registrants (Added by SAB 41)
- K. Accounting Series Release No. 302—Separate Financial Statements Required by Regulation S–X
  1. Early Adoption (Added by SAB 43)
  2. Parent Company Financial Information (Added by SAB 44)
  3. Undistributed Earnings of 50% or Less Owned Persons (Added by SAB 44)
  4. Application of Significant Subsidiary Test to Investees and Unconsolidated Subsidiaries (Added by SAB 44)

Topic 7: Real Estate Companies
- A. Reporting Requirements
- B. Land Development Companies
- C. Schedules of Real Estate and Accumulated Depreciation, and of Mortgage Loans on Real Estate
- D. Income before Depreciation

Topic 8: Retail Companies
- A. Sales of Leased or Licensed Departments
- B. Finance Charges

Topic 9: Finance Companies
- A. Points
- B. (Deleted by ASR 307)

Topic 10: Utility Companies
- A. Financing by Electric Utility Companies Through Use of Construction Intermediaries
- B. Estimated Future Costs Related to Spent Nuclear Fuel and Nuclear Electric Generating Plants
- C. Jointly Owned Electric Utility Plants
- D. Long-Term Contracts for Purchase of Electric Power

Topic 11: Miscellaneous Disclosure
- A. Operating-Differential Subsidies
- B. Depreciation and Depletion Excluded from Cost of Sales
- C. Tax Holidays
- D. Offsetting Assets and Liabilities
- E. Chronological Ordering of Data
- F. LIFO Liquidations
- G. Tax Equivalent Adjustment in Financial Statements of Bank Holding Companies

Note.—This topical index has been revised to reflect the impact of all actions affecting the Staff Accounting Bulletin series up through the issuance of Staff Accounting Bulletin No. ("SAB") 46. This index updates the index previously published in SAB 40 (January 23, 1981). For the convenience of users, the sources of any changes to the index published in SAB 40 are identified parenthetically.

[FR Doc. 82–14690 Filed 6–1–82; 8:45 am]
BILLING CODE 8010–01–M

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17 CFR Part 240

[Release No. 34–18737; File Nos. S7–855, 856, 922 and 923]

Net Capital Requirements for Brokers and Dealers

Correction

In FR Doc. 82–13819 appearing on page 21759 in the issue of Thursday,

May 20, 1982, make the following correction.

On page 21775, third column, the twenty-sixth line should read: "or an irrevocable letter of credit issued by a". (This correction affects § 240.15c3–3(b)(3)(iii).)

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 18 and 240

[T.D. ATF–104; Notice No. 384]

Reduction of the Regulatory Requirements on Producers of Volatile Fruit-Flavor Concentrate

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Final rule (Treasury decision).

SUMMARY: This final rule minimizes the regulatory requirements on producers of volatile fruit-flavor concentrate. These regulatory requirements appear in 27 CFR Parts 18 and 240.

Due to the limited jeopardy to the revenue, absence of a petition of abuse, and the small number of producers, ATF feels the continuation of historical regulatory requirements pertaining to concentrate producers is not in the best interest of the industry or the Government. ATF also feels the liberalization of these regulatory requirements is not contrary to its duty to protect the revenue. Therefore, ATF is issuing this final rule which promotes industry and Government efficiency by relaxing, where possible, regulatory requirements while continuing to provide adequate protection to the revenue.

EFFECTIVE DATE: July 2, 1982.

FOR FURTHER INFORMATION CONTACT: Jim Whitley, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (202–566–7626).

SUPPLEMENTARY INFORMATION:

Background

On September 18, 1981, ATF published Notice of Proposed Rulemaking No. 384 in the **Federal Register** (46 FR 46340), proposing to minimize the regulatory requirements on producers of volatile fruit-flavor concentrate. ATF solicited public comment concerning the proposal. Specific comments were requested concerning other regulatory requirements which could be liberalized or deleted, elimination of the requirements for a bond, changes in the elimination of certain recordkeeping requirements, and the benefit or detriment to the industry and the consumer perceived to result from implementation of the proposed rule.

Written Comments

ATF received four comments in response to its notice of proposed rulemaking. These comments were of a general nature and fully supported the changes advanced in the notice of proposed rulemaking. All of the comments were from industry members who produce volatile fruit-flavor concentrate from citrus fruit.

Two commenters recommended the manufacture of volatile fruit-flavor concentrate from citrus fruit be totally exempted from regulatory requirements since, although containing alcohol, they are nonpotable in their concentrated form because of their natural constituents. ATF acknowledges this recommendation; however, for the following reasons, it cannot be adopted. It is AFT's understanding that although some volatile fruit-flavor concentrates manufactured from citrus fruit are nonpotable because of their natural constituents, some are potable. In addition, volatile fruit-flavor concentrate manufactured from citrus fruit, or any other type of volatile fruit-flavor concentrate, may be diluted to the point it becomes a potable alcoholic solution which may be used for beverage purposes. For these reasons, ATF believes the general exemption of any manufacturer of volatile fruit-flavor concentrate from regulatory requirements would be inappropriate and contrary to our obligation to protect the revenue. Furthermore, to protect the revenue, Congress, by statute (26 U.S.C. 5001(a)(7) and 26 U.S.C. 5511), made all manufacturers and the manufacturing of volatile fruit-flavor concentrate subject to regulatory requirements. As a result, ATF may not exempt any manufacturer or the manufacturing of volatile fruit-flavor concentrate from the purview of the regulations.

New Regulations

This final rule revises the regulations in 27 CFR Part 18. These regulations relate to the location, construction, arrangement, equipment, and qualification of plants for the manufacture of volatile fruit-flavor concentrate (essence); and to the production, removal, sale, transportation, and use of concentrate and of the fruit mash or juice from which concentrate is produced. In addition, conforming revisions are made to 27 CFR Part 240.

This final rule provides simplified guidelines for the qualification and operation of concentrate plants. Numerous regulatory requirements are diminished or deleted. The major changes made to 27 CFR Part 18 and 27 CFR Part 240 are as follows:

(a) 27 CFR Part 18.

(1) *Qualification.* The requirement for submission of a plat and plan depicting the concentrate plant premises is deleted. The requirement for submission of a detailed plant description that includes major equipment, flow plants, and a statement of process is deleted. The requirement for listing all officers and directors is diminished to require only a listing of the officers and directors who have responsibility in connection with the operation of the concentrate plant.

(2) *Changes in proprietorship, control, and name.*

Changes in proprietorship, control, and name must still be submitted. However, the requirements have been made less stringent.

(3) *Changes in equipment and process.* The requirement to file an amended application covering changes in plant equipment (except stills) or the production process is deleted.

(4) *Bonds.* Bonds and consents of surety are no longer required.

(5) *Operations.* Operational requirements are relaxed. Equipment need not be marked as to use, etc., unless required by the regional regulatory administrator. Submission of a sample of each high-proof concentrate to be produced is no longer required. The concentrate plant proprietor will now be responsible for determining whether a particular concentrate is a high-proof concentrate. However, a proprietor may at any time submit a sample to the ATF National Laboratory for a determination of whether a concentrate is unfit for beverage use (nonpotable). The requirement that a proprietor notify the regional regulatory administrator of his suspension and resumption of operations is deleted.

(6) *Forms.* Four ATF forms are eliminated, one ATF form is changed from a monthly to an annual report, and one form is no longer required to be submitted by concentrate plant proprietors.

ATF Forms 3873(5520.1)—Application for Fruit-Flavor Concentrate and 3874 (5520.5)—Notice of Transfer of Fruit-Flavor Concentrate are eliminated. ATF Form 1694(5110.70)—Concentrate Manufacturer's Bond is eliminated. ATF Form 1695(5520.2)—Monthly Report of Concentrate Manufacturer is changed to an annual report. ATF Form 1533

(5000.18)—Consent of Surety is no longer required. ATF Form 27–G SUPPLEMENTAL (5520.4)—Application for Production of High Proof Concentrate is eliminated.

(7) *Records.* Where feasible, commercial records have been substituted for prescribed forms. A commercial record of transfer for all products shipped from a concentrate plant is now required. The record of transfer covering products shipped to a bonded wine cellar replaces the certificate that a bonded wine cellar proprietor secured from a concentrate plant proprietor.

(b) 27 CFR Part 240.

Several conforming changes are made to 27 CFR Part 240 regarding the elimination of ATF Forms 3873(5520.1) and 3874(5520.5). The recording of losses in transit or other discrepancies for concentrate received, which was formerly done on ATF Form 3874(5520.5), is transferred to the commercial record of material received and used.

General Information

These regulations modernize and simplify the requirements for proprietors to qualify and operate concentrate plants. In addition, where possible, ATF has minimized the regulatory requirements on producers of concentrate. As revised, 27 CFR Part 18 contains 37 regulation sections. This is a decrease of 34 sections. As stated previously, four public use forms are eliminated.

Furthermore, proprietors of concentrate plants benefit from this rule, in that potentially costly administrative burdens have been alleviated. Each major change, detailed in the NEW REGULATIONS portion of this preamble, is modernizing, liberalizing, and simplifying in nature. In addition, ATF feels these changes reflect an adherence to the spirit as well as the letter of Executive Order 12291 and the Regulatory Flexibility Act.

Executive Order 12291

It has been determined that this final rule is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. This rule is not expected to: Have significant secondary or incidental effects on a substantial number of small entities; or impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this rule will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal authors of this document are John Ference and Jim Whitley of the Bureau of Alcohol, Tobacco and Firearms. However, other personnel of the Bureau and of the Treasury Department have participated in the preparation of this document, both in matters of substance and style.

List of Subjects

27 CFR Part 18

Administrative practice and procedure, Authority delegations, Excise taxes, Exports, Labeling, Reporting requirements, Security measures, Spices and flavorings, Stills, and Surety bonds;

27 CFR Part 240

Administrative practice and procedure, Authority delegations, Claims, Electronic funds transfer, Excise taxes, Exports, Food additives, Fruit juices, Labeling, Liquors, Packaging and containers, Reporting requirements, Research, Scientific Equipment, Spices and flavorings, Surety bonds, Transportation, Warehouses, Wine, and Vinegar.

Authority and Issuance

Accordingly, under the authority in 26 U.S.C. 7805 (68A Stat. 917), the regulations contained in 27 CFR Part 18—Production of Volatile Fruit-Flavor Concentrate and 27 CFR Part 240—Wine are, respectively, revised and amended as follows:

Sec. A. Part 18 is revised in its entirety as follows:

PART 18—PRODUCTION OF VOLATILE FRUIT-FLAVOR CONCENTRATE

Subpart A—Scope

Sec.
18.1 Scope.
18.2 Applicability of law.
18.3 Unlawful operations.

Subpart B—Definitions

18.11 Meaning of terms.

Subpart C—Administrative and Miscellaneous Provisions

18.13 Alternate methods or procedures.
18.14 Emergency variations from requirements.
18.15 Right of entry and examination.
18.16 Forms prescribed.

Document Requirements

18.17 Retention of documents.
18.18 Execution under penalties of perjury.
18.19 Security.

Subpart D—Qualification

18.21 General.
18.22 Restrictions as to location and use.
18.23 Stills.

Application

18.24 Data for application.
18.25 Organizational documents.
18.26 Powers of attorney.
18.27 Additional requirements.

Changes After Original Establishment

18.31 General requirement.
18.32 Change in name.
18.33 Change in location.
18.34 Continuing partnerships.
18.35 Change in proprietorship.
18.36 Change in officers and directors.
18.37 Change in stockholders.
18.38 Permanent discontinuance.

Subpart E—Operations

18.51 Processing material.
18.52 Production of high-proof concentrate.
18.53 Use of concentrate.
18.54 Transfer of concentrate.
18.55 Label.
18.56 Return of concentrate.

Subpart F—Records and Reports

18.61 Records and reports.
18.62 Record of transfer.
18.63 Record of transfer to a bonded wine cellar.
18.64 Photographic copies of records.
18.65 Annual report.

Authority: August 16, 1954, Chapter 736, 68A Stat. 917 (26 U.S.C. 7805), unless otherwise noted.

Subpart A—Scope

§ 18.1 Scope.

The regulations in this part relate to the qualification and operation (including activities incident thereto) of plants for the manufacture of volatile fruit-flavor concentrate (essence). The regulations in this part apply to the

several States of the United States and the District of Columbia.

§ 18.2 Applicability of law.

Except as specified in 26 U.S.C. 5511, the provisions of 26 U.S.C. Chapter 51 are not applicable to the manufacture, by any process which includes evaporations from the mash or juice of any fruit, of any volatile fruit-flavor concentrate if—

(a) The concentrate, and the mash or juice from which it is produced, contains no more alcohol than is reasonably unavoidable in the manufacture of the concentrate; and

(b) The concentrate is rendered unfit for use as a beverage before removal from the place of manufacture, or (in the case of concentrate which does not exceed 24 percent alcohol by volume) the concentrate is transferred to a bonded wine cellar for use in the production of natural wine; and

(c) The manufacturer of concentrate complies with all requirements for the protection of the revenue with respect to the production, removal, sale, transportation, and use of concentrate, and of the mash or juice from which it is produced, as may be prescribed by this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1392, as amended (26 U.S.C. 5511))

§ 18.3 Unlawful operations.

(a) A manufacturer of concentrate who violates any of the conditions stated in § 18.2 is subject to the taxes and penalties otherwise applicable under 26 U.S.C. Chapter 51 in respect to such operations.

(b) Any person who sells, transports, or uses any concentrate or the mash or juice from which it is produced in violation of law or regulations is subject to all the provisions of 26 U.S.C. Chapter 51 pertaining to distilled spirits and wines, including those requiring the payment of the tax thereon.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1314, as amended (26 U.S.C. 5001))

Subpart B—Definitions

§ 18.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

ATF officer. An officer or employe of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

Bonded wine cellar. Premises established under 27 CFR Part 240 for the production, blending, cellar treatment, storage, bottling, or packaging of untaxpaid wine, and includes premises designated as "bonded winery."

Concentrate. Any volatile fruit-flavor concentrate (essence) produced by any process which includes evaporations from any fruit mash or juice.

Concentrate plant. An establishment qualified under this part for the production of concentrate.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, DC.

Executed under penalties of perjury. Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the application, report, form, or other document or, where no form of declaration is prescribed, with the declaration: "I declare under the penalties of perjury that this —— (insert type of document, such as application or report), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct and complete."

Fold. The ratio of the volume of the fruit mash or juice to the volume of the concentrate produced from the fruit mash or juice. For example, one gallon of concentrate of 100-fold would be the product from 100 gallons of fruit mash or juice.

Fruit. All products commonly known and classified as fruit, berries, or grapes.

Fruit mash. Any unfermented mixture of juice, pulp, skins, and seeds prepared from fruit, berries, or grapes.

High-proof concentrate. For the purposes of this part, "high-proof concentrate" means a concentrate (essence), as defined in this section, that has an alcohol content of more than 24 percent by volume and is unfit for beverage use (nonpotable) because of its natural constituents, i.e. without the addition of other substances.

Juice. The unfermented juice (concentrated or unconcentrated) of fruit, berries, or grapes, exclusive of pulp, skins, or seeds.

Person. An individual, trust, estate, partnership, association, company, or corporation.

Processing material. The fruit mash or juice from which concentrate is produced.

Proprietor. A person qualified under this part to operate a concentrate plant.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

Registry number. The number assigned to a concentrate plant by the regional regulatory administrator.

U.S.C. The United States Code.

Subpart C—Administrative and Miscellaneous Provisions

§ 18.13 Alternate methods or procedures.

(a) *General.* The proprietor, on specific approval by the Director, may use an alternate method or procedure in lieu of a method or procedure specifically prescribed in this part. The Director may approve an alternate method or procedure, subject to stated conditions, when he finds that—

(1) Good cause has been shown for the use of the alternate method or procedure;

(2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by the specifically prescribed method or procedure, and affords equivalent security to the revenue; and

(3) The alternate method or procedure will not be contrary to any provision of law, and will not result in an increase in cost to the Government or hinder the effective administration of this part.

(b) *Application.* A proprietor who desires to employ an alternate method or procedure shall submit a written application to the regional regulatory administrator, for transmittal to the Director. The application will specifically describe the proposed alternate method or procedure and set forth the reasons therefor. Alternate methods or procedures may not be employed until the application has been approved by the Director. Authorization for any alternate method or procedure may be withdrawn whenever in the judgment of the Director the revenue is jeopardized or the effective administration of this part is hindered by the continuation of the authorization.

§ 18.14 Emergency variations from requirements.

(a) *General.* The regional regulatory administrator may approve emergency variations from requirements specified in this part, where the regional regulatory administrator finds that an emergency exists, the proposed

variations are necessary, and the proposed variations—

(1) Will afford the security and protection to the revenue intended by the prescribed specifications;

(2) Will not hinder the effective administration of this part; and

(3) Will not be contrary to any provision of law.

Variations from requirements granted under this section are conditioned on compliance with the procedures, conditions, and limitations stated in the approval of the application. Failure to comply in good faith with such procedures, conditions and limitations will automatically terminate the authority for such variations and the proprietor thereupon shall fully comply with the prescribed requirements of regulations from which the variations were authorized. Authority for any variation may be withdrawn whenever in the judgment of the regional regulatory administrator the revenue is jeopardized or the effective administration of this part is hindered by the continuation of such variation.

(b) *Application.* A proprietor who desires to employ emergency variations shall submit a written application to the regional regulatory administrator. The application will describe the proposed variations and set forth the reasons therefor. Variations will not be employed until the application has been approved, except when an emergency requires immediate action to correct a situation that is threatening to life or property. Such corrective action may then be taken concurrent with the filing of the application and notification of the regional regulatory administrator via telephone.

§ 18.15 Right of entry and examination.

ATF officers may at all times, as well by night as by day, enter any concentrate plant to make examination of the materials, equipment, and facilities thereon; and make such gauges and inventories as they deem necessary. Whenever ATF officers, having demanded admittance and declared their name and office, are not admitted into such premises by the proprietor or other person having charge thereof, they may at all times use such force as is necessary for them to gain entry to such premises.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1357, as amended, 1392, as amended (26 U.S.C. 5203, 5511))

§ 18.16 Forms prescribed.

(a) The Director is authorized to prescribe all forms required by this part. All of the information called for in each form will be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form will be furnished as required by this part.

(b) The forms required by this part are detailed in "Public Use Forms" (ATF Publication 1322.1), a numerical listing of forms issued or used by the Bureau of Alcohol, Tobacco and Firearms. This publication is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(c) Submit requests for forms to the ATF Distribution Center, 3800 South Four Mile Run Drive, Arlington, Virginia 22206.

Document Requirements

§ 18.17 Retention of documents.

The proprietor shall maintain a file of all approved applications and other documents, on or convenient to the concentrate plant premises, available for inspection by ATF officers.

§ 18.18 Execution under penalties of perjury.

When a form or other document called for under this part is required to be executed under penalties of perjury, it will be so executed, as defined in § 18.11, and signed by an authorized person.

(Act of August 16, 1954, Pub. L. 591, Chapter 736, 68A Stat. 749 (26 U.S.C. 6065))

§ 18.19 Security.

The concentrate plant and equipment will be so constructed, arranged, equipped, and protected as to afford adequate protection to the revenue and facilitate inspection by ATF officers.

Subpart D—Qualification

§ 18.21 General.

A person who desires to engage in the business of manufacturing concentrate shall submit an application for registration on Form 27–G (5520.3) to the regional regulatory administrator and receive approval as provided in this part. All written statements, affidavits, and other documents submitted in support of the application or incorporated by reference are deemed a part thereof.

§ 18.22 Restrictions as to location and use.

(a) *Restrictions.* A concentrate plant may not be established in any dwelling house or on board any vessel or boat, or on any premises where any other business is conducted. The premises of a concentrate plant may be used only for the business stated in the approved application for registration.

(b) *Exceptions.* The regional regulatory administrator may authorize (1) the establishment of a concentrate plant on premise where other business is conducted, or (2) the use of the premises of a concentrate plant for other business. A person or proprietor desiring such authorization shall submit a written application to the regional regulatory administrator. The application will describe the other business by type and the premises to be used. If the premises of a concentrate plant are to be used for other business, the relationship (if any) to the concentrate plant will be described in the application. A concentrate plant may not be established on premises where other business is conducted or used to conduct other business until the application is approved. The regional regulatory administrator may decline to approve the application or withdraw the authorization if the revenue is jeopardized or the effective administration of this part is hindered.

§ 18.23 Stills.

(a) Any stills set up on concentrate plant premises and intended for the production of concentrate will be registered with the regional regulatory administrator of the region in which located, as required by 27 CFR 196.45. The listing of stills in the application and the approval of the application constitutes registration of such stills.

(b) The special occupational and commodity taxes imposed by 26 U.S.C. 5101 are not applicable to any stills set up on concentrate plant premises and used in the production of concentrate pursuant to this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1355, as amended, 1392, as amended (26 U.S.C. 5179, 5511))

Application

§ 18.24 Data for application.

Applications on Form 27–G (5520.3) will include the following:

(a) Serial number;

(b) Name and principal business address of the applicant, and the location of the plant if different from the business address;

(c) Purpose for which filed;

(d) Information regarding proprietorship, supported by the organizational documents listed in § 18.25; and

(e) Description of each still and a statement of its maximum capacity.

Where any of the information required by this section is on file with the

regional regulatory administrator, that information, if accurate and complete, may be incorporated by reference by the applicant and made a part of the application.

§ 18.25 Organizational documents.

The supporting information required by paragraph (d) of § 18.24 includes, as applicable:

(a) Extracts from the articles of incorporation or from the minutes of meetings of the board of directors, authorizing the incumbents of certain offices, or other persons, to sign for the corporation;

(b) Names and addresses of the officers and directors (Do not list officers and directors who have no responsibility in connection with the operation of the concentrate plant.);

(c) Names and addresses of the 10 persons having the largest ownership or other interest in the corporation or other entity, and the nature and amount of the stockholding or other interest of each, whether the interest appears in the name of the interested party or in the name of another for him; and

(d) In the case of an individual owner or a partnership, the name and address of every person interested in the concentrate plant, whether the interest appears in the name of the interested party or in the name of another for him.

§ 18.26 Powers of attorney.

The proprietor shall execute and file with the regional regulatory administrator a Form 1534 (5000.8) for every person authorized to sign or to act on behalf of the proprietor. (Not required for persons whose authority is furnished in the application.)

§ 18.27 Additional requirements.

(a) The regional regulatory administrator, to protect the revenue, may require—

(1) Additional information in support of an application for registration;

(2) Marks on major equipment to show serial number, capacity, and use;

(3) Installation of meters, tanks, pipes, or other apparatus; and

(4) Installation of security devices.

(b) Any proprietor refusing or neglecting to comply with any requirement of this section shall not be permitted to operate.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended, 1353, as amended, 1395, as amended (26 U.S.C. 5172, 5178, 5552))

Changes After Original Establishment

§ 18.31 General requirements.

Where there is a change with respect to the information shown in the application, the proprietor shall submit, within 30 days of the change (except as otherwise provided in this part), an amended application on Form 27–G (5520.3).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1392, as amended (26 U.S.C. 5511))

§ 18.32 Change in name.

The proprietor shall submit an amended application to cover any change in the individual, firm, or corporate name.

§ 18.33 Change in location.

The proprietor shall submit an amended application to cover a change in the location of a concentrate plant. Operation of the concentrate plant may not be commenced at the new location prior to approval of the amended application.

§ 18.34 Continuing partnerships.

If, under the laws of the particular State, the partnership is not immediately terminated on death or insolvency of a partner, but continues until the winding up of the partnership affairs is completed, and the surviving partner has the exclusive right to the control and possession of the partnership assets for the purpose of liquidation and settlement, the surviving partner may continue to operate the plant under the prior qualification of the partnership. If the surviving partner acquires the business on completion of the settlement of the partnership, such partner shall qualify in his own name form the date of acquisition, as provided in § 18.35. The rule set forth in this section also applies where there is more than one surviving partner.

§ 18.35 Change in proprietorship.

(a) *General.* If there is a change in the proprietorship of a concentrate plant, the outgoing proprietor shall comply with the requirements of § 18.38, and the successor shall, before commencing operations, file application and receive approval in the same manner as a person qualifying as the proprietor of a new concentrate plant. Processing material, concentrate and other materials may be transferred from an outgoing proprietor to a successor.

(b) *Fiduciary.* A successor to the proprietorship of a concentrate plant who is an administrator, executor, receiver, trustee, assignee, or other fiduciary shall comply with the provisions of paragraph (a) of this section. If the fiduciary was appointed by a court, the effective dates of the qualifying documents filed by the fiduciary shall be the effective date of the court order, or the date specified therein for the fiduciary to assume control. If the fiduciary was not appointed by a court, the date the fiduciary assumes control shall coincide with the effective date of the qualifying documents filed by the fiduciary.

§ 18.36 Change in officers and directors.

The proprietor shall submit an amended application to cover changes in the list of officers and directors furnished under the provisions of § 18.25.

§ 18.37 Change in stockholders.

The proprietor shall submit changes in the list of stockholders furnished under the provisions of § 18.25 annually on May 1. When the sale or transfer of capital stock results in a change of control or management of the business, the proprietor shall comply with the provisions of § 18.35.

§ 18.38 Permanent discontinuance.

A proprietor who permanently discontinues the business of a concentrate manufacturer shall, after completion of operations, file an application on Form 27–G (5520.3) to cover such discontinuance, giving the date of the discontinuance.

Subpart E—Operations

§ 18.51 Processing material.

(a) *General.* A proprietor may produce processing material or receive processing material produced elsewhere. Fermented processing material may not be used in the manufacture of concentrate. Processing material may be used if it contains no more alcohol than is reasonably unavoidable, and must be used when produced, or as soon thereafter as practicable.

(b) *Record of processing material.* A proprietor shall maintain a record, by kind and quantity, of processing material used.

§ 18.52 Production of high-proof concentrate.

(a) *General.* High-proof concentrate may be produced in a concentrate plant. Concentrate having an alcohol content of more than 24 percent by volume that is fit for beverage use may not be produced in a concentrate plant.

(b) *Determination.* A proprietor shall determine whether a particular concentrate is a high-proof concentrate. However, a proprietor may at any time submit a written request to the Director for a determination of whether a concentrate is unfit for beverage use. Each request for a determination will include information as to kind, percent alcohol by volume, and fold of the

concentrate. The request will be accompanied by a representative 8-ounce sample of the concentrate.

§ 18.53 Use of concentrate.

Concentrate may be used in the manufacture of any product made in the conduct of another business authorized to be conducted on concentrate plant premises under the provisions of § 18.22, if such product contains less than one-half of one percent of alcohol by volume.

§ 18.54 Transfer of concentrate.

(a) *Concentrate unfit for beverage use.* Concentrate (including high-proof concentrate and concentrate treated as provided in paragraph (c) of this section) unfit for beverage use may be transferred for any purpose authorized by law.

(b) *Concentrate fit for beverage use.* Concentrate fit for beverage use may be transferred only to a bonded wine cellar. If such concentrate is rendered unfit for beverage use, it may be transferred as provided in paragraph (a) of this section.

(c) *Rendering concentrate unfit for beverage use.* Concentrate may be rendered unfit for beverage use by reducing the alcohol content to not more than 15 percent alcohol by volume (if the reduction does not result in a concentrate of less than 100-fold), and adding to each gallon thereof, in a quantity sufficient to render the concentrate unfit for beverage use, the following:

(1) Sucrose; or

(2) Concentrated fruit juice, of at least 70 Brix, made from the same kind of fruit as the concentrate; or

(3) Malic, citric, or tartaric acid.

(d) *Record of transfer.* The proprietor shall record transfers of concentrate (including high-proof concentrate) on a record of transfer as required in §§ 18.62 or 18.63.

§ 18.55 Label.

Each container of concentrate will have affixed thereto, before transfer, a label identifying the product and showing (a) the name of the proprietor; (b) the registry number of the plant; (c) the address of the plant; (d) the number of wine gallons; and (e) the percent of alcohol by volume.

§ 18.56 Return of concentrate.

(a) *General.* The proprietor of a concentrate plant may accept the return of concentrate shipped by him.

(b) *Record of returned concentrate.* When the returned concentrate is received, the proprietor shall record the receipt, including a notation regarding any loss in transit or other discrepancy.

(c) *Report of returned concentrate.* The quantity of returned concentrate received will be reported on an unused line on the annual report Form 1695(5520.2).

Subpart F—Records and Reports

§ 18.61 Records and reports.

(a) *General.* Each proprietor shall keep records and reports as required by this part. These records and reports will be maintained on or convenient to the concentrate plant and will be available for inspection by ATF officers during business hours. Records and reports will be retained by the proprietor for three years from the date they were prepared, or three years from the date of the last entry, whichever is later.

(b) *Records.* Each proprietor shall keep such records relating to or connected with the production, transfer, or return of concentrate and the juice or mash from which it is produced, as will (1) enable any ATF officer to verify operations and to ascertain whether there has been compliance with law and regulations, and (2) enable the proprietor to prepare Form 1695(5520.2). A proprietor need not prepare a specific record to meet the record requirements of this part. Any book, paper, invoice, bill of lading, or similar document that the proprietor prepares or receives for other purposes may be used, if all required information is shown.

(c) *Reports.* Each proprietor shall prepare and submit reports (including applications) as required by this part.

§ 18.62 Record of transfer.

When concentrate, juice, or fruit mash is transferred from the concentrate plant premises, the proprietor shall prepare, in duplicate, a record of transfer. The record of transfer may consist of a commercial invoice, bill of lading, or any other similar document. The proprietor shall forward the original of the record of transfer to the consignee and retain the copy as a record. Each record of transfer shall show the following information:

(a) Name, registry number, and address of the concentrate plant;

(b) Name and address of the consignee;

(c) Kind (by fruit from which produced) and description of product, e.g. grape concentrate, concentrated grape juice, unconcentrated grape juice, grape mash;

(d) Quantity (in wine gallons); and

(e) For concentrate, percent of alcohol by volume.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1392, as amended (26 U.S.C. 5511))

§ 18.63 Record of transfer to a bonded wine cellar.

A proprietor transferring concentrate, juice, or fruit mash to a bonded wine cellar shall prepare a record of transfer as required by § 18.62 and enter the following additional information:

(a) Registry number of the bonded wine cellar;

(b) For each product manufactured from grapes or berries, variety of grape or berry;

(c) For concentrate, fold;

(d) For juice and fruit mash, whether volatile fruit flavor has been removed and, if so, whether the identical volatile fruit flavor has been restored; and

(e) For concentrated juice, total solids content before and after concentration.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1392, as amended (26 U.S.C. 5511))

§ 18.64 Photographic copies of records.

Proprietors may record, copy, or reproduce records required by this part by any process which accurately reproduces or forms a durable medium for reproducing the original of records. Whenever records are reproduced under this section, the reproduced records will be preserved in conveniently accessible files, and provisions will be made for examining, viewing, and using the reproduced record the same as if it were the original record. The reproduced record will be treated and considered for all purposes as though it were the original record. All provisions of law and regulation applicable to the original record are applicable to the reproduced record.

§ 18.65 Annual report.

An annual report, on Form 1695(5520.2), of concentrate plant operations shall be prepared by each proprietor. The report will be forwarded to the regional regulatory administrator not later than 15 days after the close of the calendar year for which rendered. When a proprietor permanently discontinues the business of manufacturing concentrate, the proprietor shall submit the annual report not later than 15 days after such discontinuance and mark the report "Final Report."

PART 240—WINE

Section B. Part 240 is amended as follows:

Par. 1. The table of sections is amended to remove the section headings for §§ 240.359a and 240.359b and to revise the section headings for §§ 240.357, 240.358 and 240.359. The

revised section headings read as follows:

* * * * *

Sec.
240.357 General.
240.358 Use of volatile fruit-flavor concentrate in cellar treatment of natural wine.
240.359 Use of juice (or must) from which volatile fruit flavor has been removed.

* * * * *

Paragraph 2. Section 240.353 is revised. As revised, § 240.353 reads as follows:

§ 240.353 Concentrated and unconcentrated fruit juice.

Concentrated fruit juice reduced with water to its original density, or to 22 degrees Brix, or to any degree of Brix between its original density and 22 degrees Brix, and unconcentrated fruit juice reduced with water to not less than 22 degree Brix, shall be deemed to be juice for the purpose of standard wine production. Where concentrated fruit juice is received on bonded wine cellar premises from other than a concentrate plant, the proprietor shall procure from the producer a certificate stating the kind of fruit juice from which it was produced and the total solids content of such juice before and after concentration. Concentrated or unconcentrated fruit juice may be used in juice or wine made from the same kind of fruit for purposes of developing alcohol by fermentation or for sweetening as provided in this part. Concentrated fruit juice, or juice which has been concentrated and reconstituted, may not be used in standard wine production if at any time it was concentrated to more than 80 degrees Brix.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1383, as amended (26 U.S.C. 5382))

Paragraph 3. Sections 240.357 through 240.359 are revised. As revised, these sections read as follows:

§ 240.357 General.

A proprietor may receive volatile fruit-flavor concentrate for use in the production of wine as provided in this part. A proprietor may, for any legitimate reason, return volatile fruit-flavor concentrate to the concentrate plant from which it was received, if the proprietor of the concentrate plant consents to the return. If volatile fruit-flavor concentrate is not used immediately, it will be stored on the bonded premises separately from essences and flavors which may be on hand for use in the production of special natural wine. The proprietor shall record the receipt or return of any volatile fruit-flavor concentrate in the manner required by § 240.915.

§ 240.358 Use of volatile fruit-flavor concentrate in cellar treatment of natural wine.

In the cellar treatment of natural wine, there may be added:

(a) To natural grape or berry wine of the winemaker's own production, volatile fruit-flavor concentrate produced from the same variety of grape or the same kind and variety of berry, or

(b) To natural fruit wine (other than grape or berry) of the winemaker's own production, volatile fruit-flavor concentrate produced from the same kind of fruit,

so long as the proportion of the volatile fruit-flavor concentrate to the wine does not exceed the proportion of the volatile fruit-flavor concentrate to the original juice (or must) from which it was produced.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1383, as amended (26 U.S.C. 5382))

§ 240.359 Use of juice (or must) from which volatile fruit flavor has been removed.

Juice (or must) or concentrated juice processed at a concentrate plant is deemed to be pure juice (or must) or concentrated juice even though volatile fruit flavor has been removed if, at such concentrate plant or at the bonded wine cellar, there is added to such juice (or must) or concentrated juice, or (in the case of a bonded wine cellar) to wine of the winemaker's own production made therefrom, either the identical volatile fruit flavor removed or:

(a) In the case of natural grape or berry wine of the winemaker's own production, an equivalent quantity of volatile fruit-flavor concentrate derived from the same variety of grape or the same kind and variety of berry, or

(b) In the case of natural fruit wine (other than grape or berry wine) of the winemaker's own production, an equivalent quantity of volatile fruit-flavor concentrate derived from the same kind of fruit.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1383, as amended (26 U.S.C. 5382))

§§ 240.359a and 240.359b [Removed]

Paragraph 4. Sections 240.359a and 240.359b are removed.

Paragraph 5. Section 240.915 is revised. As revised, § 240.915 reads as follows:

§ 240.915 Separate record of materials received and used.

Each proprietor producing wine shall maintain a separate record showing the receipt and use or other disposition of basic winemaking materials, such as fruit, juice or concentrated juice. Where juice (or must) or concentrated juice is received from a concentrate plant, the record shall also show whether the identical volatile fruit flavor has been restored to such juice (or must) or concentrated juice, and further, as to any such concentrated juice, its original density. If volatile fruit-flavor concentrate is received for use in the cellar treatment of natural wine, as authorized in Subpart O of this part, the record shall also show the receipt of such concentrate, a notation regarding any loss in transit or other discrepancy, the fold of such concentrate, the percent of alcohol by volume contained therein, and the use or other disposition of such concentrate. The record must show the date of receipt, the quantity received, the name and address of the person from whom received, and the date of use or other disposition of the materials. The invoices or commercial papers showing the receipt of materials will be retained in chronological order in support of the record. If materials are received off bonded premises and subsequently transferred to the bonded premises, the record will be maintained only with respect to materials received on the bonded premises and will show the date of transfer and quantity transferred, but the invoices or commercial papers covering the purchase of the materials will also be kept available for inspection. Where grapes (or other fruit) received on the bonded premises are used in producing juice to be stored for future use or for removal, the record will show the quantities of grapes used and juice produced. Where fruit or juice is used to produce concentrated juice the record will show the quantity of fruit or juice used and the quantity of concentrated juice produced. The record must also show the use or other disposition of the juice or concentrated juice produced. At the close of each month the materials account will be balanced and the totals reported on Form 5120.17(702).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381 (26 U.S.C. 5367))

Signed: April 26, 1982.

Stephen E. Higgins,

Acting Director.

Approved: May 13, 1982.

John M. Walker, Jr.,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 82-14814 Filed 6-1-82; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL-2106-7]

Approval and Promulgation of Implementation Plans; Massachusetts; Group II CTG Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving revisions to the State Implementation Plan (SIP) submitted by the State of Massachusetts. These revisions will reduce emissions of volatile organic compounds by imposing controls for surface coating of miscellaneous metal parts and products, graphic arts—rotogravure and flexography, and perchloroethylene dry cleaning systems. Approval of these regulations will help Massachusetts to attain the ozone (smog) National Ambient Air Quality Standard as required by Part D of the Clean Air Act.

EFFECTIVE DATE: July 2, 1982.

FOR FURTHER INFORMATION CONTACT: Betsy Horne, (617) 223–5630.

SUPPLEMENTARY INFORMATION: On February 8, 1982 (47 FR 5729), EPA published a Notice of Proposed Rulemaking (NPR) for Massachusetts Group II CTGs. Except for the specialty printing and test method portions of the Graphic Arts regulation, 310 CMR 7.18 (12), the state SIP revisions and the rationale for EPA's proposed action are explained in the NPR, and have not changed.

As explained in the NPR, EPA is currently taking no action on regulations to control emissions from external floating roof tanks, leaks from gasoline trucks and vapor collection systems, and test methods for drycleaning systems. In addition, the state has certified that there are no sources of synthesized pharmaceutical products, manufacture of pneumatic rubber tires, surface coating of flatwood paneling, and petroleum refining equipment.

Regarding specialty printing, the NRP proposed to take no action because the regulation did not define how specialty printing would be controlled.

During the public comment period, however, Massachusetts submitted a letter, dated March 10, 1982, which clarifies the state's procedures for controlling emissions from specialty printing. Those sources which were included in a special study to determine plant-specific control levels for the state's paper, fabric and vinyl coating industry will be regulated under those regulations. The paper, fabric and vinyl regulations, 310 CMR 7.18 (14), (15) and (16) were approved on March 8, 1982 (47 FR 9835). The remaining rotogravure and flexographic operations which print a design or image will be controlled under the graphic arts regulation. EPA finds that the state has adequately defined how it will control specialty printing and has met EPA requirements for this category of sources.

The NPR also proposed to take no action on test methods for specialty printing. The state's March 10 letter includes a policy memo indicating that it will only use EPA approved test methods for specialty printing operations and commits to amend the state regulation to require the use of EPA approved test methods. Thus, EPA is approving test methods as they apply to specialty printing.

Finally, today's rulemaking amends the Massachusetts VOC Surface Coating Bubble Regulation 310 CMR 7.18(2)(b) by procedures set forth in the July 21, 1981 Notice of Proposed Rulemaking (46 FR 37525) to allow surface coaters of miscellaneous metal parts and products and graphic arts-rotogravure and flexography to bubble their emissions to achieve compliance.

Action

EPA is approving: Regulation 310 CMR 7.18 (11), Surface Coating of Miscellaneous Metal Parts and Products; Regulation 310 CMR 7.18 (12), Graphic Arts—Rotogravure and Flexography; and Regulation 310 CMR 7.18 (13), Dry Cleaning Systems—Perchloroethylene, except applicable test methods.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 2, 1982. This action may *not* be challenged later in proceedings to enforce its requirements (See 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen oxides, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110(a) and Sec. 301(a), Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)))

Dated: May 24, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Massachusetts was approved by the Director of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart W—Massachusetts

1. Section 52.1120 is amended by adding paragraph (c)(48) as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(48) Regulations 310 CMR 7.18(11), Surface Coating of Miscellaneous Metal Parts and Products and (12), Graphic Arts—Rotogravure and Flexography with test methods; and (13) Perchloroethylene Dry Cleaning Systems without test methods, were submitted on July 21, 1981 and March 10, 1982 by the Department of Environmental Quality Engineering to meet Part D requirements for ozone attainment.

2. Section 52.1120 paragraph (c)(42) is amended by revising the first sentence to read as follows:

(c) * * *

(42) Regulation 310 CMR 7.18(2)(b), to allow existing surface coating lines regulated under 310 CMR 7.18 (4), (5), (6), (7), (11), (12), (14), (15), and (16) to bubble emissions to meet the requirements of Part D for ozone was submitted by the Governor on March 6, 1981, and a letter clarifying state procedures was submitted on November 12, 1981.

[FR Doc. 82-14887 Filed 6-1-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-8-FRL-2123-3]

Approval and Promulgation of State Implementation Plans, PSD Redesignation; Flathead Reservation

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The purpose of this notice is to approve the redesignation of the Flathead Reservation in the State of Montana to Class I under EPA's regulations for Prevention of Significant Deterioration of air quality (PSD). Class I applies to areas where only small increases in ambient levels of particulates and sulfur dioxide are allowed.

DATE: This action is effective July 2, 1982.

ADDRESSES: Copies of the revision are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices.

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295;

Environmental Protection Agency, Public Information Reference Unit, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460;

The Office of the Federal Register, 110 L Street, NW., Room 8401, Washington, D.C. 20408;

Environmental Protection Agency, Montana Office, Federal Building, Drawer 10096, 301 South Park, Helena, Montana 59626.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Alkema, Environmental Protection Agency, Federal Building, Drawer 10096, 301 South Park, Helena, Montana 59626, (406) 449–5414.

SUPPLEMENTARY INFORMATION: In a January 22, 1982 **Federal Register** notice (40 FR 3138), EPA proposed to approve the October 27, 1981 request of the Confederated Salish and Kootenai Tribal Council to redesignate the Flathead Reservation to Class I (PSD). The notice specified that comments were to be submitted by February 22, 1982.

As explained in the notice of proposed rulemaking, EPA must approve a redesignation request if the procedural requirements of section 164 of the Clean Air Act have been met. No comments were received raising any issues regarding the Tribal Council's compliance with the applicable procedures. However, one commenter questioned whether the redesignation, once approved, would be reversible or revocable by the Tribal Council. The conditions and procedures outlined in section 164 of the Act and in 40 CFR 52.21(g) apply to any redesignation and would clearly provide for a subsequent redesignation by the Tribal Council.

On February 17, 1982, EPA received a letter from the Department of the Interior (DOI) requesting that the comment period on the proposed rulemaking be extended for two weeks to March 8, 1982. In a letter to DOI dated February 25, 1982, EPA stated that it would honor DOI's request for the extension. However, no comments were ever received from DOI.

On December 21, 1981, the Administrator of EPA, Region VIII, wrote to the Governor of Montana advising him of the provisions of section 164(e) of the Clean Air Act. Under that Section, if the State disagrees with the proposed redesignation, the Governor may ask EPA to enter into negotiations to resolve any dispute. The Governor's response indicated that the State had no objections to the proposed redesignation since the Tribes had complied with EPA's procedural requirements, and since it would not impact any existing or proposed industrial development.

The Flathead Tribal Council has complied with the procedural requirements of section 164 of the Clean Air Act, and since no objections to the proposed redesignation were received, EPA is approving the redesignation.

Under section 307(b)(1) of the Clean Air Act, petitions for review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements (See section 307(b)(2)).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

This rulemaking is issued under the authority of section 164 of the Clean Air Act (42 U.S.C. 7474).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: May 24, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

Subpart BB—Montana

1. Section 52.1382 paragraph (c)(3) is added as follows:

§ 52.1382 Significant deterioration of air quality.

* * * * *

(c) * * *

(3) The Flathead Indian Reservation is designated Class I.

[FR Doc. 82-14866 Filed 6-1-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 162

[OPP-250023A; PH-FRL-1967-8]

Regulations for the Enforcement of the Federal Insecticide, Fungicide, and Rodenticide Act Exemption From Regulation of Certain Biological Control Agents

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from regulation under section 25(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, for certain organisms which are used as biological control agents and which are therefore considered "pesticides" under FIFRA. This exemption is made under the authority of FIFRA section 25(b)(1), on the grounds that such biological control agents are "adequately regulated by another Federal agency." This rule also sets forth the categories of organisms which are not exempted, and procedures for determining if a specific organism is, or should be, covered by this exemption.

EFFECTIVE DATE: Under sec. 25(e) of FIFRA (sec. 4 of the 1980 FIFRA Extension Act (Pub. L. 96–539)), this rule cannot take effect until Congress has had at least 60 "calendar days of continuous Congressional session" from the date of publication in which to review the rule. Since the actual length of this review period may be affected by Congressional action, it is not possible at this time to specify a date on which this regulation will become effective. Therefore, EPA will publish a notice in the **Federal Register** at the end of the review period announcing the effective date of this regulation.

FOR FURTHER INFORMATION CONTACT: Fred S. Betz, Section 25(b) Working Group Coordinator, Hazard Evaluation Division (TS–769), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1405).

SUPPLEMENTARY INFORMATION:

Background

This rule was published in the **Federal Register** of March 24, 1981 (46 FR 18322) in proposed form for public comment. Although originally proposed as a new section, § 162.5–1, in Part 162 of Title 40 of the Code of Federal Regulations, the final rule will be designated as a new paragraph (c) in existing § 162.5. The various paragraphs of this rule have been renumbered accordingly, although

the basic organization of the rule remains the same.

As explained in the preamble to the proposed rule, this final rule is promulgated as part of EPA's Policy for the Regulation of Biorational Pesticides as published in the **Federal Register** of May 14, 1979 (44 FR 28093). The purpose of this rule is to exempt from regulation under FIFRA many living organisms which may be intended for use as biological control agents for control of pests. Such organisms are technically defined as pesticides under FIFRA. These organisms are being exempted by the Administrator under the authority of FIFRA sec. 25(b)(1) on the grounds that they are already "adequately regulated" by the U.S. Departments of Agriculture or of the Interior. Other types of living organisms, which EPA does not believe are "adequately regulated," are listed as non-exempt in this rule. Changes in the list of exempt and non-exempt organisms may be made at a later date using procedures described in this final rule.

Comments

Comments on the proposed rule were received from five sources and are available for public inspection at the Office of the Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–401, 401 M St., SW., Washington, D.C. 20460.

Although most of the comments made only suggestions for minor changes in the rule, two commenters apparently disagreed with EPA's judgment that the Departments of Agriculture and of the Interior are adequately regulating the biological control agents exempted by this rule. EPA has considered these comments carefully and after further consultation with the Department of Agriculture, the Agency still believes that, given the nature and degree of risk posed by the exempted agents, these Departments do exercise adequate control over the exempted organisms through the regulatory and cooperative programs described in the preamble to the proposed rule (46 FR 18323). As explained in the proposed rule, this authority is sufficient to protect public health and the environment from unreasonable adverse effects which might be caused by the use of such organisms as pesticides. However, as the proposed and final rules expressly state in § 162.5–1(c)(3)(1) and § 162.5(c)(3)(iii)(A), respectively, any organism which is not, in fact, being adequately regulated by another agency can have its exemption withdrawn by amendment of this rule, unless that organism is of "a nature that does not require regulation" under FIFRA. In the latter case, the organism would qualify for exemption under sec. 25(b)(2) of FIFRA.

Any person who believes that a specific biological control agent should not be exempt, but should instead be regulated by EPA under FIFRA, can bring this to the attention of EPA by notifying the Registration Division (TS–767C) of the Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. Procedures for deciding whether or not a particular organism should be regulated under FIFRA are also incorporated into the final rule at § 162.5(c)(3) (proposed § 162.5–1). As explained in the preamble to the proposed rule, EPA will seek the best advice available in evaluating such situations, including expert advice from various Federal agencies.

After consideration of the remaining comments, EPA has made several, relatively minor, changes in this final rule. Most of these revisions were editorial corrections. However, § 162.5(c)(4)(i)(D) (formerly § 162.5–1(d)(1) (iv)) has been revised, as suggested by most of the commenters, to delete the proposed exemption for certain groups of fungi (e.g., teliomycetes and phragmobasidiomycetidae). This exemption was deleted because, as the comments pointed out, the proposed distinction between various taxonomic groups of fungi was confusing and would have been difficult to implement. Therefore, they suggested, and EPA agrees, that all fungi should, initially, be treated as subject to regulation under FIFRA (i.e., as non-exempt). However, the Agency will consider requests for exemption of specific groups of fungi in accordance with the procedures described in § 162.5(c)(3) (formerly § 162.5–1(c)).

On a similar subject, EPA considered a comment that nematodes should be added to the list of non-exempt organisms. The Agency has decided, however, that there is not yet any reason to believe that the use of nematodes as biological control agents presents any problems that cannot be adequately controlled by other Federal agencies. Therefore, nematodes have not been added to the list of non-exempt organisms in § 162.5(c)(4) of the final rule. However, EPA will carefully monitor the further development and use of nematodes as biological control agents, and if the situation warrants it, § 162.4(c)(4) may be amended to add nematodes to the list of non-exempt organisms.

Note.—EPA is currently reviewing all of the regulations designated as Part 162 of Title 40 of the Code of Federal Regulations (Registration, Reregistration, and Classification of Pesticides). These regulations may be revised and reorganized to make them easier to understand and to implement, and to make them more consistent with the amended FIFRA. In that case, the rule which is being promulgated today, § 162.5(c) (formerly § 162.5–1), may be redesignated and reorganized. However, EPA does not expect, at this time, that it will be necessary to make any substantive changes in this rule.

Statutory Review

The Secretary of Agriculture has reviewed this rule in accordance with sec. 25(a) of FIFRA and has concurred in its promulgation. In a letter dated December 14, 1981, however the USDA suggested that nematodes which vector non-exempt biological control agents should themselves be added to the list of non-exempt organisms. However, as discussed earlier in this preamble, EPA does not believe that the use of nematodes to vector pest pathogens is sufficiently widespread or hazardous to warrant imposition of the burden which this suggestion would create. Nevertheless, since the non-exempt pathogens carried by the nematodes would be fully subject to regulation under FIFRA, EPA would be able to study, and regulate, the means by which the non-exempt organisms are transmitted. Therefore, EPA could regulate, if necessary, the use of nematodes to vector non-exempt organisms without subjecting nematodes to FIFRA requirements in general, and without classifying them as nonexempt under this rule. As a result, EPA has not changed the regulation as suggested by USDA. After further discussion with EPA, the USDA has concurred in the Agency's decision with the understanding that EPA will be especially responsive to concerns which may be raised in the future about specific nematodes. If problems do arise which warrant full regulation under FIFRA, EPA will amend § 162.5(c)(4) to list nematodes as non-exempt organisms.

The FIFRA Scientific Advisory Panel (SAP) also received a copy of this rule for review in accordance with sec. 25(d) of FIFRA and in a memorandum dated October 30, 1981, the SAP waived review of the rule.

Regulatory Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement that a Regulatory Impact

Analysis be prepared. This regulation is not major because it merely exempts certain biological control agents from regulation under FIFRA and, therefore, it will not result in any increase in costs or prices for such products or in any other significant adverse effects on the economy of the United States.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA, and any response to those comments, are available for public inspection at: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Rm. E-107, Environmental Protection Agency, 401 M St., Washington, D.C. 20460, from 8 a.m. to 4 p.m. Monday through Friday, excluding legal holidays.

Statutory Review

The Secretary of Agricuture has reviewed this rule in accordance with sec. 25(a) of FIFRA and has concurred in its promulgation. In a letter dated December 14, 1981, however, the USDA suggested that nematodes which vector non-exempt biological control agents should themselves be added to the list of non-exempt organisms. However, as discussed earlier in this preamble, EPA does not believe that the use of nematodes to vector pest pathogens is sufficiently widespread or hazardous to warrant imposition of the burden which this suggestion would create. Nevertheless, since the non-exempt pathogens carried by the nematodes would be fully subject to regulation under FIFRA, EPA would be able to study, and regulate, the means by which the non-exempt organisms are transmitted. Therefore, EPA could regulate, if necessary, the use of nematodes to vector non-exempt organisms without subjectng nematodes to FIFRA requirements in general, and without classifying them as nonexempt under this rule. As a result, EPA has not changed the regulation as suggested by USDA. After further discussion with EPA, the USDA has concurred in the Agency's decision, with the understanding that EPA will be especially responsive to concern which may be raised in the future about specific nematodes. If problems do arise which warrant full regulation under FIFRA, EPA will amend § 162.5(c)(4) to list nematodes as non-exempt organisms.

Under sec. 3(a) of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354; 94 Stat. 1165, 5. U.S.C. 60 et seq.), this rule has been reviewed and it has been determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations. There will be no adverse impacts since the rule merely exempts some producers from compliance with certain regulatory requirements and imposes no new burdens on any person. In addition, the beneficial impact on the exempted businesses is relatively small since biological control agents generally have not been subjected to the same level of regulation under FIFRA as chemical pesticides. Accordingly, I certify that this regulation does not require a regulatory flexibility analysis under the Regulatory Flexibility Act.

(Sec. 25(b) (Pub. L. 95-396, 92 Stat. 819, 7 U.S.C. 136 et seq.))

List of Subjects in 40 CFR Part 162

Intergovernmental relations, Labeling, Packaging and containers, Pesticides and pests, Administrative practice and procedure.

Dated: May 19, 1982.

Anne M. Gorsuch,

Administrator.

PART 162—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Therefore, 40 CFR 162.5 is amended by adding a new paragraph (c), to read as follows:

§ 162.5 Pesticides required to be registered.

* * * * *

(c) *Exemption of certain pesticides from further regulation.*—(1) *General.* (i) This paragraph exempts certain biological control agents from the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, (Pub. L. 95-396; 92 Stat. 819; 7 U.S.C. 136 et seq.) under the authority of section 25(b)(1) of FIFRA. It does not exempt such organisms from any other applicable Federal or State law(s) or regulation(s).

(ii) Paragraph (c)(4) of this section exempts all living organisms which are considered pesticides by definition under FIFRA section 2(u), and which are defined as biological control agents by paragraph (c)(2) of this section, except those organisms specifically described in paragraph (c)(4)(i) through (v). The exemption made by paragraph (c)(4) is based on the fact that the exempted organisms are adequately regulated by the U.S. Departments of Agriculture or of the Interior, or by other Federal agencies, under express statutory grants of authority or under other programs administered by those agencies. This regulation also sets forth procedures which the Administrator will follow in making future determinations as to whether or not certain organisms are, or should be, exempt from regulation under FIFRA.

(2) *Definitions.* Unless otherwise indicated, terms used in this section have the meanings set forth in section 2 of FIFRA and in § 162.3. In addition, as used in this section, "biological control agent" means any living organism applied to or introduced into the environment to control the population or biological activities of another life form which is considered a pest under section 2(t) of FIFRA.

(3) *Procedures for determining exemptions.* In the future, when deciding whether a particular substance is an organism that should be regulated under FIFRA, or whether it is covered by the exemption in paragraph (c)(4) of this section:

(i) The Administrator will determine whether the substance is a pesticide as defined by section 2(u) of FIFRA. If it is not, then it is not subject to regulation under FIFRA.

(ii) If the substance is a pesticide, then the Administrator will determine if it is a biological control agent. If it is not, then paragraph (c)(4) of this section does not apply.

(iii) If the substance is a biological control agent, then the Administrator will determine whether it belongs to one of the classes specifically listed as non-exempt under paragraph (c)(4) (i) through (v) of this section.

(A) If the biological control agent is exempt from regulation, the Administrator may then consider whether it is being adequately regulated by another Federal agency. If it is not being adequately regulated, it will be made non-exempt by amendment of paragraph (c)(4) of this section, unless that biological control agent is of a nature that does not require regulation under FIFRA.

(B) If the biological control agent is listed as non-exempt under paragraph (c)(4)(i)-(v) of this section, the Administrator may determine how it is to be regulated under FIFRA, or whether it should be specifically exempted under section 25(b) of FIFRA.

(4) *Exemption; Exceptions*—As authorized by section 25(b)(1) of FIFRA, all biological control agents are hereby exempted from further regulation under FIFRA except the following:

(i) Living organisms taxonomically defined as viruses.

(ii) Living organisms taxonomically defined as bacteria including actinomycetes, rickettsia, mycoplasmas, or 1-forms of bacteria.

(iii) Living organisms classified as members of the animal subkingdom *Protozoa.*

(iv) Living organisms taxonomically defined as fungi.

(v) Living organisms classified as members of Class I, *Schizophyceae,* of Division I of the Plant Kingdom, *Protophyta,* including blue-green algae, as described in "Bergey's Manual of Determinative Bacteriology," 8th ed., 1974, p. 22.

[FR Doc. 82-14390 Filed 6-1-82; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 180

[PP 2F2634/R437; PH FRL 2132-4]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Glyphosate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the herbicide glyphosate and its metabolite in or on the raw agricultural commodity pineapple. This regulation to establish the maximum permissible level for the combined residues of herbicide in or on pineapple was requested by the Pineapple Growers Association of Hawaii.

EFFECTIVE DATE: Effective on June 2, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Robert J. Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking in the **Federal Register** of April 14, 1982 (47 FR 16051) which announced that the Pineapple Grower's Association of Hawaii, 1902 Financial Plaza of the Pacific, Honolulu, HI 96813, had submitted pesticide petition 2F2634 to the EPA proposing that a tolerance be established for the combined residues of the herbicide glyphosate [*N*-(phosphonomethyl)glycine] and its metabolite, aminomethylphosphonic acid in or on the raw agricultural commodity pineapple at 0.1 part per million (ppm).

No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The data submitted in the petition and all other relevant material have been evaluated and discussed in the notice of proposed rulemaking (47 FR 16051, April 14, 1982).

The data presented in column three, paragraph two was incorrect. The data is corrected to read: "Tolerances have previously been established on a variety of raw agricultural commodities at levels ranging from 0.1 to 18.0 ppm and food and feed additive regulations at 30.0 ppm. The tolerance on pineapple will contribute 0.00044 mg/day to the current theoretical maximum residue contribution (TMRC) of 0.3498 mg/day (1.5 kg) or 11.66 percent of the allowable daily intake (ADI) for a total TMRC of 0.3502 mg/day (1.5 kg) or 11.67 percent of the ADI. The ADI is based on a NOEL of 5.0 mg/kg day (3-generation rat reproduction study) with a 100-fold safety factor."

Based on the information considered by the Agency, it is concluded that establishment of this tolerance will protect the public health. Therefore, the regulation is established as set forth below.

Any person adversely affected by this regulation may, on or before July 2, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. Effective on: June 2, 1982.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: May 17, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTION FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.364(a) is amended by adding and alphabetically inserting the raw agricultural commodity pineapple to read as follows:

§ 180.364 Glyphosate; tolerances for residues.

(a) * * *

Commodities	Parts per million
Pineapple	0.1

[FR Doc. 82-14447 Filed 6-1-82; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 180

[PP 9E2164, 1E2465/R436; PH-FRL 2132-5]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Methomyl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide methomyl in or on the raw agricultural commodities green onions and pears. This regulation to establish the maximum permissible level for residues of the insecticide in or on the commodities was requested by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on June 2, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7700).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking in the **Federal Register** of April 14, 1982 (47 FR 16050) which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers

University, New Brunswick, NJ 08903, had submitted pesticide petitions numbers 9E2164 and 1E2465 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of Arizona, California, and Oregon (9E2164) and New York (1E2465).

These petitions requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for residues of the insecticide methomyl [*S*-methyl-*N*-[(methylcarbamoyl)oxy] thioacetimidate] in or on the raw agricultural commodities green onions at 3 parts per million (ppm) (9E2164) and pears at 4 ppm (1E2465).

No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The data submitted in the petitions and all other relevant material have been evaluated and discussed in the notice of proposed rulemaking (47 FR 16050, April 14, 1982). The pesticide is considered useful for the purpose for which the tolerances are sought.

Based on the information considered by the Agency, it is concluded that the tolerances established by amending 40 CFR Part 180 will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, on or before July 2, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objection. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Effective on: June 2, 1982.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e))).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: May 17, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.253 is amended by adding and alphabetically inserting the raw agricultural commodities green onions and pears to read as follows:

§ 180.253 Methomyl; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Onions, green	3
* * * * *	
Pears	4
* * * * *	

[FR Doc. 82–14448 Filed 6–1–82; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 1E2563/R435; PH–FRL 2132–6]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Metolachlor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule established tolerances for the indirect or inadvertent residues of the herbicide metolachlor in rotational and follow-up crops from direct application of metolachlor to certain agricultural crops. This regulation to establish the maximum permissible level for the residues of the herbicide in or on the commodities was requested by Ciba-Geigy Corp.

EFFECTIVE DATE: Effective on June 2, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice in the **Federal Register** of October 19, 1981 (46 FR 51282) which announced that Ciba-Geigy Corp., PO Box 11422, Greensboro, NC 27409, had filed a pesticide petition (PP 1E2563) with the EPA. The petition proposed that 40 CFR 180.366 be amended by establishing tolerances for the indirect or inadvertent residues of the herbicide metolachlor [2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl)acetamide] and its metabolites determined as 2-[(2-ethyl-6-methylphenyl)amino]-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound, in or on rotational grain crop forage and fodder at 0.5 part per million (ppm).

The petitioner subsequently amended the petition in the **Federal Register** of April 14, 1982 (47 FR 16094) by adding grain of the rotational crops, and listing individual grain crops as follows: grain of rotational barley, buckwheat, millet, milo, oats, rice, rye, and wheat at 0.1 ppm; forage and fodder of rotational barley, buckwheat, millet, milo, oats, rice, rye, and wheat at 0.5 ppm.

No comments were received in response to these notices of filing.

The data submitted in the petition and all other relevant material have been evaluated. The data considered in support of the tolerances included a rat acute oral toxicity study with a lethal dose (LD_{50}) of 2.78 grams (g)/kilogram (kg) of body weight (bw); a 90-day dog feeding study with a no-observed-effect level (NOEL) of 500 ppm; a 6-month dog feeding study with a NOEL of 100 ppm; a rat teratology study with a NOEL of 360 milligrams (mg)/kg; a rabbit teratology study with a NOEL of 360 mg/kg; a 2-generation rat reproduction study with a NOEL of 300 ppm; a mouse dominant lethal study (negative); an AMES mutagenicity assay (negative); a 2-year mouse oncogenicity study with no observed oncogenic potential at 30, 1,000, and 3,000 ppm; and a 2-year rat oncogenicity/chronic feeding study in which a NOEL was not established and which is discussed further below. In addition, the petitioner has submitted a 12-month interim report of an additional 2-year rat oncogenicity/chronic feeding study in progress. The final report is to be submitted to the Agency by September 1, 1983; however, no gross or microscopic findings that have been observed thus far appear to be treatment related. A second mouse

oncogenicity study is to be submitted to the Agency by November 1, 1982.

Results of the completed 2-year rat oncogenicity/chronic feeding study, performed by Industrial Biotest Laboratory (IBT), show a statistically significant increase in primary liver neoplasms in females of the high dose group (3,000 ppm). The Agency's review of this study indicated that the study is not completely adequate for all purposes. Based on the IBT study the Agency evaluated dietary exposure to metolachlor residues and has estimated that residues resulting from these tolerances and previously established tolerances result in a "worst case" oncogenic risk of less than one in one million. The Agency will reassess this risk estimate and reevaluate these and all other tolerances for metolachlor when data from the two new oncogenicity studies are received and reviewed.

Tolerances have previously been established for residues of metolachlor ranging from 0.02 ppm in meat, milk, poultry, and eggs to 3.0 ppm in peanut forage and hay. Based upon the NOEL of 100 ppm in the 6-month dog feeding study and a 1,000 fold safety factor, the acceptable daily intake (ADI) has been set at 0.0025 mg/kg/day with a maximum permissible intake (MPI) of 0.150 mg/day for a 60-kg person. Previously established and proposed tolerances have a theoretical maximal residue contribution (TMRC) of 0.0696 mg/day in a 1.5-kg diet or 46.42 percent of the ADI.

There are no regulatory actions pending against the continued registration of this chemical. The metabolism of metolachlor in plants and animals is adequately understood and an analytical method (gas chromatography) is available for enforcement purposes.

The pesticide is considered useful for the purpose for which the tolerances are sought and it is concluded that the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, on or before July 2, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

Effective on June 2, 1982.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: May 17, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.368 is amended by designating the existing text as paragraph (a) under the heading "Specific tolerances" and adding a new paragraph (b) under the heading "Indirect or inadvertant tolerances" to read as follows:

§ 180.368 Metolachlor; tolerances for residues.

(a) *Specific tolerances.* * * *

(b) *Indirect or inadvertent tolerances.* Tolerances are established for indirect or inadvertent residues of metolachlor in or on the following raw agricultural commodities when present therein as a result of the application of metolachlor to growing crops listed in § 180.368(a) to read as follows:

Commodities	Parts per million
Barley, fodder	0.5
Barley, forage	0.5
Barley, grain	0.1
Buckwheat, fodder	0.5
Buckwheat, forage	0.5
Buckwheat, grain	0.1
Millet, fodder	0.5
Millet, forage	0.5
Millet, grain	0.1
Milo, fodder	0.5
Milo, forage	0.5
Milo, grain	0.1
Oats, fodder	0.5
Oats, forage	0.5
Oats, grain	0.1
Rice, fodder	0.5
Rice, forage	0.5
Rice, grain	0.1
Rye, fodder	0.5
Rye, forage	0.5
Rye, grain	0.1
Wheat, fodder	0.5
Wheat, forage	0.5
Wheat, grain	0.1

[FR Doc. 82-14649 Filed 6-1-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 2F2542/R438; PH-FRL 2132-7]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Potassium Sorbate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule adds potassium sorbate to the chemicals listed in 40 CFR 180.2(a) as a pesticide chemical generally recognized as safe when used as a pre- or postharvest fungicide for purposes of section 408(a) of the Federal Food, Drug, and Cosmetic Act.

EFFECTIVE DATE: Effective on June 2, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Henry M. Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking in the Federal Register of April 21, 1982 (47 FR 17078) which announced that the Agency proposed adding potassium sorbate to the chemicals listed in 40 CFR 180.2(a) as a pesticide chemical generally recognized as safe when used as a pre- or postharvest fungicide for purposes of section 408(a) of the Federal Food, Drug, and Cosmetic Act.

No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The data submitted in the petition and all other relevant material have been evaluated and discussed in the notice of

proposed rulemaking (47 FR 17078, April 21, 1982). Based on the information considered by the Agency, it is concluded that establishment of this tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, on or before July 2, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Effective on June 2, 1982.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: May 17, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.2(a) is revised to read as follows:

§ 180.2 Pesticide chemicals considered safe.

(a) As a general rule, pesticide chemicals other than benzaldehyde (when used as a bee repellant in the harvesting of honey), ferrous sulfate, lime, lime-sulfur, potassium polysulfide, potassium sorbate, sodium carbonate, sodium chloride, sodium hypochlorite, sodium polysulfide, and sulfur, and, when used as postharvest fungicides, citric acid, fumaric acid, oil of lemon, oil of orange, sodium benzoate, and sodium propionate are not for the purposes of section 408(a) of the Act generally recognized as safe for use.

* * * * *

[FR Doc. 82-14483 Filed 6-1-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 1E2473/R441; PH-FRL 2135-7]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Chlorothalonil

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the fungicide chlorothalonil and its metabolite in or on the raw agricultural commodity mint hay. This regulation to establish a maximum permissible level for residues of the insecticide in or on the commodity was requested by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: June 2, 1982.

ADDRESS: Written objections may be submitted to the Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-7700).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking in the **Federal Register** of April 28, 1982 (47 FR 18150) which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition number 1E2473 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Indiana, Michigan, and Wisconsin.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerance for the combined residues of the fungicide chlorothalonil (tetrachloroisophthalonitrile) and its metabolite 4-hydroxy-2,5,6-trichloroisophthalonitrile in or on the agricultural commodity mint hay at 2.0 parts per million (ppm).

No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The data submitted in the petition and all other relevant material have been evaluated and discussed in the notice of proposed rulemaking (47 FR 18150, April 28, 1982). The pesticide is considered useful for the purpose for which the tolerance is sought.

Based on the information considered by the Agency, it is concluded that the tolerance established by amending 40 CFR Part 180 will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. Effective on: June 2, 1982.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: May 24, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.275 is amended by adding and alphabetically inserting the raw agricultural commodity mint hay to read as follows:

§ 180.275 Chlorothalonil; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Mint hay	2
* * * * *	

[FR Doc. 82-14663 Filed 6-1-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300059A; PH-FRL 2136-2]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Seven Rare Earth Chlorides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes exemptions from the requirement of tolerances for seven rare earth chlorides—cerous, dysprosium, europic, lanthanum, scandium, ytterbium, and yttrium when used as inert ingredients in pesticide formulations. This regulation was requested by Booz, Allen and Hamilton so that rare earth chlorides can be used as tagging agents in pesticide formulations.

EFFECTIVE DATE: June 2, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Peter Gray, Process Coordination Branch, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7700).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking in the **Federal Register** of April 28, 1982 (47 FR 18155) which announced that at the request of Booz, Allen and Hamilton, Suite 1000 N., 4550 Montgomery Ave., Bethesda, MD 20014, the Administrator proposed to amend 40 CFR 180.1001(d) by establishing exemptions from the requirement of tolerances for seven rare earth chlorides—cerous, dysprosium, europic, lanthanum, scandium, ytterbium, and yttrium when used as tagging agents in pesticide formulations.

No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The data submitted in the petition and all other relevant material have been evaluated and discussed in the notice of proposed rulemaking (47 FR 18155, April 28, 1982). The pesticide is considered useful for the purpose for which the exemptions from the requirement of tolerances are sought.

Based on the information considered by the Agency, it is concluded that this amendment to 40 CFR Part 180 will protect the public health. Therefore, the exemptions from the requirement of tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. Effective on: June 2, 1982.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: May 24, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.1001(d) is amended by adding and alphabetically inserting the seven rare earth chlorides to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
•	•	•
Cerous chloride.	10 ppm in formulation	Tagging agent.
•	•	•
Dysprosium chloride.	10 ppm in formulation	Tagging agent.
•	•	•
Europic chloride.	10 ppm in formulation	Tagging agent.
•	•	•
Lanthanum chloride.	10 ppm in formulation	Tagging agent.
•	•	•
Scandium chloride.	10 ppm in formulation	Tagging agent.
•	•	•
Ytterbium chloride.	10 ppm in formulation	Tagging agent.
•	•	•
Yttrium chloride.	10 ppm in formulation	Tagging agent.

[FR Doc. 82-14995 Filed 6-1-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6254

[Nev-044393]

Nevada; Revocation of Public Land Order No. 1409

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order will restore a 48-acre tract to national forest status and open it to such forms of disposition as may by law be made of national forest lands.

EFFECTIVE DATE: June 30, 1982.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office, 702-784-5703.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 1409 of April 19, 1957, which withdrew the following described land for use as a Forest Service roadside zone area, is hereby revoked:

Mount Diablo Meridian

A strip of land 200 feet on each side of the centerline of the Mt. Rose (Nevada No. 27) Forest Highway through the following legal subdivisions:

T. 17 N., R. 19 E.,
Sec. 4, SE¼NE¼, N½SE¼, SW¼SE¼.
T. 18 N., R. 19 E.,
Sec. 34, S½SW¼.

The area described contains approximately 48 acres in Washoe County within the boundaries of the Toiyabe National Forest.

2. At 8 a.m. on June 30, 1982, the land shall be open to such forms of disposition as may by law be made of national forest lands.

Inquiries concerning the land should be addressed to the Forest Supervisor,

Toiyabe National Forest, 111 N. Virginia Street, Reno, Nevada 89501.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

May 25, 1982.

[FR Doc. 82-14900 Filed 6-1-82; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 672

Foreign Fishing and Groundfish of the Gulf of Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues a final rule to implement Amendment 10 to the Fishery Management Plan for the Groundfish of the Gulf of Alaska. Amendment 10 decreases the allowable biological catch (ABC) of Pacific ocean perch in the Eastern Regulatory Area, sets annual optimum yield (OY) equal to ABC, and adjusts the OY components. The amendment and final rule prohibit all foreign fishing in the Eastern Regulatory Area between 132°40′ W. longitude and 140° W. longitude, but allow year-round foreign pelagic trawling within the Eastern Regulatory Area between 140° W. longitude and 147° W. longitude. NOAA also makes a technical change to clarify the Secretary's authority and makes certain changes in the regulatory text.

The intended effects of the regulations implementing this amendment are to (1) reduce the problem of gear conflicts and grounds preemption caused by foreign fishermen, (2) alleviate the high incidental catches of Pacific halibut in the foreign trawl fishery, and (3) aid the recovery of the severely depressed Pacific ocean perch resource.

EFFECTIVE DATE: June 1, 1982.

ADDRESS: Mr. Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Mr. Robert W. McVey, 907–586–7221.

SUPPLEMENTARY INFORMATION:

Background

The Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) governs foreign and domestic fishing for groundfish in the fishery conservation zone (FCZ) in the Western, Central, and Eastern Regulatory Areas of the Gulf of Alaska. Since its implementation in 1978, the FMP has been amended nine times.

Amendment 10 to the FMP was approved by the North Pacific Fishery Management Council (Council) on February 26, 1981. Proposed rules to implement the amendment were published in the **Federal Register** on December 7, 1981 (46 FR 59565). A correction to the proposed rule was published in the **Federal Register** on January 15, 1982 (47 FR 2386). As the preamble to the proposed rule explains, the amendment reduces the annual allowable biological catch (ABC) for the Pacific ocean perch in the Eastern Regulatory Area from 29,000 metric tons (mt) to 875 mt and sets the optimum yield (OY) equal to ABC. To achieve this OY, the amendment reduces the initial domestic annual harvest (DAH) for Pacific ocean perch from 1,315 mt to 500 mt, the initial total allowable level of foreign fishing (TALFF) from 10,205 mt to 200 mt, and the initial reserve amount from 2,880 mt to 175 mt. The amount of DAH set aside for domestic processing (DAP) is increased from 80 mt to 300 mt, and the amount of DAH allocated for processing by foreign processors under joint ventures (JVP) is decreased from 1,235 mt to 200 mt.

Amendment 10 also closes the FCZ in the Eastern Regulatory Area between 132°40′ W. longitude and 140°00′ W. longitude to all foreign trawling. Foreign fishing with longlines is currently prohibited east of 140°00′ W. longitude and all foreign fishing is prohibited in three small areas east of 140°00′ W. longitude. Foreign trawling is allowed at all times between 140°00′ W. longitude and 147°00′ W. longitude, but only with pelagic trawls equipped with recording net-sonde devices functioning properly during each tow.

The preamble to the proposed rule thoroughly discussed the need and justification for Amendment 10; it also invited public comments on the proposed rule until January 21, 1982. One letter of comment was received. After considering further the merits of and justifications for Amendment 10, the Assistant Administrator has given it final approval.

Finally, as stated in the preamble to the proposed rule, these regulations include technical changes to conform with the Magnuson Fishery Conservation and Management Act (Magnuson Act) definition of "Secretary" which includes the designee of the Secretary.

These final rules incorporate the following changes from the regulations as proposed. First, in § 611.20, Appendix 1, and in § 672.20, Table 1, the Reserve and TALFF amounts for thornyhead rockfish are corrected (*see* 47 FR 2386). Second, in § 672.20, Table 1, the TALFF amount for pollock in the Western, Central, and Eastern Areas, the JVP and TALFF amounts for Atka mackerel in the Central Area (46 FR 58336, December 1, 1981; 47 FR 1295, January 12, 1982), and a printing error in the spelling of species references in footnotes 2 and 5 are corrected. Third, § 611.92(f)(1) has been revised in response to a comment on the proposed rule. Fourth, certain nomenclature changes substituting the word "Secretary" for the words "Regional Director," in §§ 611.92, 672.20 and 672.22 have been corrected. Finally, §§ 611.92(a)(3) and 672.20(a) are amended by deleting obsolete textual material, and by indicating that the material contained in Appendix 1 to § 611.20 and in § 672.20, Table 1, is initial specifications.

Public Comments

Comment (1): The closure to foreign trawling in the Gulf of Alaska, east of 140° W. longitude, is not justified by any of the following three reasons used to support the amendment: (a) As a necessary savings measure for Pacific ocean perch; (b) as a halibut savings measure (since a representative of the International Pacific Halibut Commission (IPHC) opposed the closure on the basis that it was not needed); and (c) as a means of avoiding gear conflicts with U.S. longliners.

Response: For the reasons discussed in the preamble to the proposed rule, the Council is convinced that the proposed closure is necessary. In addition, the Council considered that there is the need to prevent grounds preemption by foreign trawlers. The grounds-preemption problem occurs primarily in the area east of 140° W. longitude and is a legitimate concern to U.S. longline fishermen who, as a result of the closure to foreign trawling, (1) will lose no more gear to foreign trawlers in the area, (2) will lose no more fishing time and fuel searching for lost gear from that source, (3) will be relieved of the burden of applying for reimbursements for such lost gear and fishing time, (4) will not be preempted physically from these fishing grounds, and (5) will not refrain from expanding their fishing into this area because of fear of losing their gear to foreign trawlers. The U.S. catching and processing industries should benefit, also, because U.S. longline fishermen can spread their effort over a larger area in which target-species abundance will be greater than would be the case if a

foreign trawler had already worked the area.

The IPHC believes the adoption of a pelagic-trawl gear requirement, instead of an area closure, would be adequate to conserve Pacific halibut. However, because one of the FMP's priority objectives is to protect the Pacific halibut resource throughout the Gulf of Alaska, the IPHC does not oppose the closure.

Comment (2): The closure is the latest in a series of management measures which have caused wastage of Gulf of Alaska groundfish resources by systematically preventing the harvest of optimum yields since 1978.

Response: NOAA agrees that the foreign trawl fishery has been subject to other time, area, and gear restrictions before this new closure. These restrictions have all been in effect since 1978 or earlier, except for a new gear area around Kodiak Island which was implemented on October 2, 1981, (46 FR 49128). The Kodiak gear area incorporated six existing, smaller gear areas with an additional ocean area, but lessened, by 5 weeks, the time during which gear restrictions would be imposed; i.e., foreign trawlers gained five weeks of fishing time.

An analysis of foreign trawl catches indicates that the closures have not been as damaging as suggested by the letter of comment. For instance, the total foreign trawl catch in the Gulf of Alaska increased almost 39 percent between 1978 and 1981, from 149,089 mt to 206,940 mt. Japan alone, the major harvester of the Gulf of Alaska's groundfish resources, increased its trawl catch by 72 percent between 1978 and 1981, from 50,902 mt to 87,645 mt.

NOAA contends that the groundfish OY has been underharvested in past years only because some nations, which traditionally use only bottom trawls, have chosen not to fish between December 1 and May 31, during which period only pelagic trawls are allowed. Cessation of trawling appears to have been an operational decision by those foreign nations. Other foreign nations use pelagic trawls successfully during the winter months in the Gulf of Alaska and catch a large portion of their annual allocations during the period. Foreign nations are encouraged to use pelagic trawls, which have proven effective; doing so would extend their fishing time and allow them to harvest more of their annual allocations.

Comment (3): The amendment discriminates against foreign persons in violation of the Magnuson Act, and is contrary to the purposes, policies, and national standards set out therein.

Response: Neither section 303(b) nor any other provision of the Magnuson Act requires that conservation and management measures apply equally to foreign and domestic fishermen. In fact, National Standard 4 specifically limits its requirements of nondiscrimination and equitable allocation to U.S. fishermen.

The findings, purposes, and policies stated in section 2 of the Magnuson Act (1) indicate that foreign fishing fleets in the FCZ have interfered with domestic fishing efforts, and have caused the destruction of the fishing gear of U.S. fishermen; and (2) call for conservation and management of fisheries resources, as well as for development of domestic fisheries—with emphasis on bottom fish off Alaska. The area closure imposed by the amendment is intended to reduce gear conflicts and grounds preemptions involving foreign trawl vessels, and to increase the efficiency of the domestic longline fishery. The requirement that foreign trawlers, fishing between 140° W. longitude and 147° W. longitude, use only pelagic trawls will essentially eliminate the high incidental catches of Pacific halibut, since this species is rarely taken in pelagic trawls. Protection of the halibut resource is a specific management objective of the FMP.

Experience indicates that the pelagic trawl requirement and the closure imposed by the amendment will not prevent the harvest of TALFF, and thus will not violate National Standard 1. Pelagic trawls have proven effective in the Gulf of Alaska, and their use will afford foreign nations a reasonable opportunity to harvest their allocations in affected areas. Bottom-dwelling species may be harvested by alternative methods such as longlining. While these measures may conceivably render foreign fishing operations less efficient and more costly (concerns raised by National Standards 5 and 7), they will improve efficiency and lower costs for domestic fisheries harvesting affected stocks. They will, in addition, further a conservation goal of the FMP, the protection of Pacific halibut. There is often a conflict between economic efficiency and other legitimate goals of fishery management. In developing the amendment, NOAA made a careful and considered selection among alternative management measures in order to meet the objectives of the Magnuson Act and the FMP while taking into account the interests of foreign fishermen.

Comment (4): The amendment violates the due process clause of the Fifth Amendment to the United States Constitution by discriminating against foreign persons in a manner that denies the equal protection of the law.

Response: In the past, the judicial decisions that have invalidated discriminatory classifications by the Federal government against aliens have involved only resident aliens. Because resident aliens are situated similarly to U.S. citizens, they have subjected themselves to the jurisdiction of the United States on a long-term basis that is not, as a practical matter, easily terminated. Therefore, there are compelling reasons for treating them similarly to citizens in the establishment of official classifications. Those reasons are not as compelling with respect to nonresident aliens.

Even resident aliens are subject to forms of official discrimination that may not be applied to citizens as a result of the plenary authority of the United States over foreign affairs, and the admission of foreign persons to U.S. jurisdiction. The authority of the Federal Government to impose conditions on the admission of foreign nationals to, and their continued presence in, its jurisdiction is treated as a political matter that is subject only to the most sparing judicial review. This is particularly the case when the aliens in question have not yet subjected themselves to U.S. jurisdiction.

Contrary to the commenters' assertions, aliens such as foreign fishermen do not subject themselves to the provisions of the Magnuson Act, except to the extent that they actually engage in fishing operations in the FCZ. Every time one of these aliens determines whether to fish in the FCZ, he has the option of not doing so, thus excluding himself from U.S. jurisdiction. This contrasts strongly with the situation of resident aliens and aliens involuntarily subjected to U.S. law enforcement jurisdiction.

It is also well established that when aliens such as foreign fishermen have not yet subjected themselves to U.S. jurisdiction, the United States has broad authority to impose quite burdensome conditions upon their entry. The management measures prescribed in the amendment are well within the limits of the U.S. authority to control and condition entry to its jurisdiction.

Comment (5): Existing scientific data do not justify lowering the Pacific ocean perch optimum yield to the extent proposed.

Response: Existing scientific data on the status of Pacific ocean perch stocks were thoroughly reviewed by the Council's Scientific and Statistical Committee (SSC). Acting on the SSC's analysis and on recommendations of the Council's plan maintenance team, both of which are composed of groundfish

scientists from the National Marine Fisheries Service and the Alaska Department of Fish and Game, the Council determined that drastic action was necessary and, therefore, reduced the harvest to its present level.

Comment (6): Although the preamble indicates foreign trawling between 140° W. longitude and 147° W. longitude must be conducted using pelagic gear only, year-round, the proposed rule as published contains no such provision.

Response: NOAA concurs that the proposed rule is not clear. The final rule has been clarified to express the intent of the amendment as stated in the preamble. The final rule allows foreign trawling year-round between 140° W. longitude and 147° W. longitude, but requires that pelagic trawls be used with properly functioning recording net-sonde devices.

Classification

The Assistant Administrator has determined that Amendment 10 to the FMP is necessary and appropriate for the conservation and management of fishery resources in the Gulf of Alaska. Further he has determined that it is consistent with the national standards in section 301 of the Magnuson Act, with other provisions of the Magnuson Act, and with other applicable law. Therefore, under sections 304 and 305 of the Magnuson Act, he has approved Amendment 10 and final implementing rules.

The Administrator of NOAA has determined that the regulations implementing this amendment do not constitute a "major rule" requiring a regulatory impact analysis under Executive Order 12291. By reducing the gear-conflict and grounds-preemption problems, and by enhancing the Pacific ocean perch and halibut resources in the eastern Gulf of Alaska, Amendment 10 will increase the long-term availability of these and other groundfish resources to the domestic groundfish fishery. Therefore, the amendment can be expected to encourage the expansion of the U.S. fishing industry, to reduce costs for consumers and producers in that industry, and to enhance the competitive position of the U.S. fishing industry relative to the fishing industries of other nations.

For the reasons set forth below, the Assistant Administrator finds that there is good cause for this rule to take effect on the date specified. The intended effects of this rule are to alleviate the high incidental catches of Pacific halibut in the foreign trawl fishery, to aid the recovery of the severely depressed Pacific ocean perch resource, and to reduce the problem of gear conflicts and grounds preemption caused by foreign fishing. A delay in the effective date of this action would cause further damage to threatened stocks, and would continue the likelihood of gear conflicts and ground preemption. The affected public has had advance notice of the implementation of these measures, and has had ample opportunity to comment, and to plan accordingly. Further delay in the effective date of this action is unnecessary and contrary to the public interest.

List of Subjects in 50 CFR Parts 611 and 672

Fish, Fisheries

Dated: May 25, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

For the reasons discussed in the preamble, 50 CFR Parts 611 and 672 are amended as follows:

PART 611—FOREIGN FISHING

1. The authority citation for Part 611 is revised to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, unless otherwise noted.

§ 611.20 Appendix 1 [Amended]

2. In § 611.20, Appendix 1, the entries for Pacific ocean perch and thornyhead rockfish under entry designated E (Gulf of Alaska groundfish fishery) for Alaska fisheries are revised to read as follows:

* * * * *

Species	Species code	Areas	OY	DAH	DAP	JVP	DNP	Reserve	TALFF
Pacific Ocean Perch [4]	790	Western	2,700	315	25	320		540	1,816
		Central	7,900	1,255	295	950		1,580	5,066
		Eastern	875	500	900	900		175	200
		Total	11,475	2,100				2,295	7,080
Thornyhead rockfish	748	Total	3,750	6	6	0		750	2,994

* * * * *

3. In § 611.92, paragraph (e)(2)(i) is removed; paragraphs (e)(2)(ii), (e)(2)(iii), and (e)(2)(iv) are redesignated as (e)(2)(i), (e)(2)(ii), and (e)(2)(iii) respectively; and paragraphs (a)(3), (e)(1), (e)(3)(i), and (f)(1) are revised to read as follows:

§ 611.92 Gulf of Alaska groundfish fishery.

(a) * * *

(3) The initial specifications for total allowable level of foreign fishing (TALFF), reserve, domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), optimum yield (OY), and domestic nonprocessed fish (DNP) are set forth in Appendix 1 to § 611.20. These initial specifications remain in effect from year to year until amended.

* * * * *

(e) *Closed areas.*—(1) *All fishing.* Foreign fishing for groundfish is prohibited in the following portions of the management area:

(i) Between 132°40′ W. longitude and 140°00′ W. longitude; and

(ii) *"Davidson Bank":* between 163°04′ W. longitude and 166°00′ W. longitude north of 53°00′ N. latitude.

(2) * * *

(3) *Fishing with longline gear.* (i) *General.* For the purpose of this section, "longline" means (A) a stationary, buoyed, and anchored line with hooks or pots attached, or (B) the taking of fish by means of such a device.

* * * * *

(f) *Gear restrictions.*—(1) *Vessels using trawl gear.* Vessels subject to this section may use only pelagic trawls (trawls in which neither the net nor the otter boards operate in contact with the seabed) equipped with recording net-sonde devices functioning properly during each tow from January 1 through December 31 in the area between 140° W. longitude and 147° W. longitude, and from December 1 through May 31 between 147° W. longitude and 170° W. longitude.

(i) The footrope of the net must not be in contact with the seabed for more than 10 percent of any tow, as inidcated by the net-sonde readout.

(ii) Vessels subject to this section must not attach to a pelagic trawl any protective device (such as chafing gear, rollers, or bobbins) which would make it possible to fish on the seabed.

* * * * *

4. In addition to the amendments set forth in item 3 above, a nomenclature

change is made throughout § 611.92 by removing the words "Regional Director" and inserting instead the word "Secretary" in the following places:

a. In paragraphs (c)(1)(ii)(A) and (c)(1)(ii)(B); the first and third references to "Regional Director" in paragraph (c)(1)(ii)(C)(*1*); in paragraphs (c)(1)(ii)(C)(*2*) and (c)(1)(ii)(C)(*3*); the third and fourth references to "Regional Director" in paragraph (c)(1)(ii)(C)(*4*)(*i*); in paragraphs (c)(1)(ii)(C)(*4*)(*ii*) and (c)(1)(ii)(C)(*5*); and

b. In paragraph (c)(2)(i)(B); the first reference to "Regional Director" in paragraph (c)(2)(ii); in paragraphs (c)(2)(ii)(A), (c)(2)(ii)(B), and (c)(2)(ii)(C).

PART 672—GROUNDFISH OF THE GULF OF ALASKA

5. The authority citation for Part 672 is revised to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

6. In § 672.20, paragraph (a) and Table 1 are revised to read as follows:

§ 672.20 Optimum yield.

(a) The initial annual specifications of optimum yield (OY), reserves, estimates of domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), domestic nonprocessed fish (DNP), and the total allowable level of foreign fishing (TALFF) for species regulated under this Part are set forth in Table 1. These specifications remain in effect from year to year until amended. When the combined catch by foreign and U.S. vessels reaches the OY amount for a species or species category, further fishing for all species will be prohibited in the applicable regulatory area or district for the remainder of the fishing year, except that fishing for sablefish by fishing vessels of the United States using longline gear will not be prohibited unless the OY for sablefish in the fishing area or district has been reached.

TABLE 1.—INITIAL (AS OF JANUARY 1, EACH YEAR) OPTIMUM YIELD (OY), DOMESTIC ANNUAL HARVEST (DAH), DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), DOMESTIC NONPROCESSED (DNP), RESERVE, AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF), ALL IN METRIC TONS

Species	Species code	Area	OY	DAH	DAP	JVP	DNP	Reserve	TALFF
Gulf of Alaska Groundfish Fishery:									
Pollock	701	Western [1]	67,000	5,775	25	5,750		11,400	39,825
		Central [1]	85,200	13,320	5,380	7,940		19,040	62,840
		Eastern [1]	16,600	2,215	695	1,520		3,320	11,065
		Total	168,800	21,310				33,760	113,730
Pacific cod	702	Western	18,560	1,880	240	1,040	600	3,312	11,368
		Central	33,540	6,050	3,480	1,370	1,200	6,700	20,762
		Eastern	9,900	2,070	280	590	1,200	1,980	5,850
		Total	60,000	10,000				12,000	38,000
Flounders	128	Western	10,400	700	100	600		2,080	7,620
		Central	14,700	1,120	300	820		2,940	10,640
		Eastern	8,400	1,360	900	460		1,680	5,360
		Total	33,500	3,180				5,700	23,620
Pacific ocean perch [2]	780	Western	2,700	345	25	320		540	1,815
		Central	7,900	1,255	295	960		1,580	5,065
		Eastern	875	500	300	200		175	200
		Total	11,475	2,100				2,295	7,080
Other rockfish [3]	840	Total	7,800	500	700	200		1,520	5,180
Sablefish [4]	703	Western	2,100	270	100	170		420	1,410
		Central	3,800	1,220	1,000	220		760	1,820
		Yakutat District [1]	3,400	1,380	1,180	200		1,420	600
		Southeast Outside District [1]	3,000	2,910	2,820	90		0	90
		Total	12,300	5,780				2,600	3,920
Atka mackerel	207	Western	4,678	290	0	290		936	3,452
		Central	20,836	1,080	0	1,080		4,167	15,589
		Eastern	3,186	700	0	700		637	1,849
		Total	28,700	2,070				5,740	20,890
Squid	800	Total	5,000	150	0	150		1,000	3,850
Other species [5]	499	Total	16,200	1,720	800	520	800	3,240	11,240
Thornyhead rockfish	749	Total	3,750	6	6	0		750	2,994

[1] See Figure 1 of § 611.92(a) for description of regulatory areas and districts.
[2] The category "Pacific ocean perch" includes *Sebastes* species *S. alutus* (Pacific ocean perch), *S. polyspinus* (north rockfish), *S. aleutianus* (rougheye rockfish), *S. borealis* (shortraker rockfish), and *S. zacentrus* (sharpchin rockfish).
[3] The category "other rockfish" includes all fish of the genus *Sebastes* except the category "Pacific ocean perch" as defined in footnote [2] above and *Sebastolobus* (thornyhead rockfish).
[4] Excludes values for the Southeast Inside District, which is not governed by these regulations.
[5] The category "other species" includes sculpins, sharks, skates, eulachon, smelts, capelin, and octopus.

7. In addition to the amendment set forth in item 6 above, a nomenclature change is made in § 672.20 in the following places:

a. In § 672.20(b)(1) remove the word "he" the first time it appears and replace with the words "the Secretary," remove the second reference to "Regional Director" and replace with the words "the Secretary," remove the second reference to the word "he" and replace with the words "the Regional Director;"

b. In § 672.20(c), remove the words "Regional Director" and replace with the word "Secretary" in paragraphs (c)(1) and (c)(2); in the first and third references to "Regional Director" in paragraph (c)(3)(i); and in paragraphs (c)(3)(iii), (c)(3)(iv)(B), and (c)(3)(v); furthermore, remove the word "he" and replace with the words "the Secretary" in paragraph (c)(3)(iv)(A)(*3*); and

c. In § 672.20(e)(1), remove the word "he" and replace with the words "the Secretary".

§ 672.22 [Amended]

8. In § 672.22 the following nomenclature change is made. Remove the words "Regional Director" and replace with the word "Secretary" in paragraphs (a)(1), (b)(1), and (b)(4)(i); in the first reference to "Regional Director" in paragraph (b)(4)(ii); and in paragraphs (b)(4)(iv) and (b)(5).

[FR Doc. 82-14671 Filed 6-1-82; 8:45 am]
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Proposed Rules

Federal Register
Vol. 47, No. 106
Wednesday, June 2, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 318 and 381

[Docket No. 81-037P]

Meat and Poultry Products; Approval of Substances

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to change its procedures governing approvals for various uses of substances in meat and poultry products. Under present regulations, approvals for the use of new substances, and authorizations for new uses or new levels of use for previously approved substances are ordinarily not granted prior to the completion of a rulemaking proceeding which specifically addresses the new substance and/or its proposed new use or level of use. If adopted, the proposal would provide a less burdensome procedure for granting such approvals. Applicants who could show that the substance has been affirmed by the Food and Drug Administration (FDA) as Generally Recognized as Safe, or is a food or color additive listed by FDA for the use intended, would be permitted to use the substance upon a determination by FSIS that the requested use in meat or poultry products is compatible with the recognized or regulated use and is suitable for that product.

DATE: Comments must be received on or before August 2, 1982.

ADDRESS: Written comments to Regulations Office, Attn: Annie Johnson, Room 2637, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. Oral comments regarding the proposed poultry products inspection regulations should be directed to Dr. Daniel D. Jones, (202) 447-7503. (See also "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Dr. Daniel D. Jones, Chief, Standards Branch, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-7503.

Executive Order 12291

The Agency has determined in accordance with Executive Order 12291 that this proposed rule is not a "major rule." It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not have a significant adverse effect on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

If adopted, the proposal will provide the Department with a more expedient and efficient method to handle petitions for the use of additives in meat and poultry products. No adverse economic impacts are expected on industry, consumer prices, competition, innovation, foreign trade or employment. Industry will benefit from the proposed action through the ability to use new additives or to implement new uses of previously approved additives faster than permitted by the current approval system. The proposed action will allow use of only those additives which have been approved for safety by FDA and which have received a determination of acceptance by FSIS.

Effect on Small Entities

The Administrator has determined that this action will not have a significant economic impact upon a substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because this will impose no new requirements on industry. The implementation of this proposed rule will merely allow meat and poultry processors to use new additives or to apply new uses of previously approved additives faster than permitted by the current approval system.

Comments

Interested persons are invited to submit written comments concerning this proposal. Written comments should be sent in duplicate to the Regulations Office. Comments should reference the docket number which appears in the heading of this document. Any person desiring an opportunity for oral presentation of views on the proposed amendments to the poultry products inspection regulations should make such request to Dr. Jones so that arrangements may be made for such views to be presented. A transcript will be made of all views orally presented. All comments submitted pursuant to this notice will be made available for public inspection in the Regulations Office between 9:00 a.m. and 4:00 p.m., Monday through Friday.

Background

Section 1(m)(2) of the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601(m)(2)) and section 4(g)(2) of the Poultry Products Inspection Act (PPIA) (21 U.S.C. 453(g)(2)) provide the Secretary of Agriculture with authority to regulate the use of food and color additives in meat and poultry products. Section 1(m)(2)(C) of the FMIA and section 4(g)(2)(C) of the PPIA provide that any meat or poultry carcass, part, or product is adulterated "if it bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug and Cosmetic Act (FFDCA)." Under section 409 of the FFDCA (21 U.S.C. 348), all food additives are deemed unsafe unless the Federal Food and Drug Administration (FDA) finds, by regulation, that they are safe for a particular use. Section 1(m)(2)(D) of the FMIA and section 4(g)(2)(D) of the PPIA provide that any meat or poultry carcass, part, or product is adulterated "if it bears or contains any color additive which is unsafe within the meaning of section 706 of the FFDCA." Under section 706 of the FFDCA (21 U.S.C. 376), all color additives are deemed unsafe unless FDA finds, by regulation, that they are safe for a particular use. Section 1(m)(2) of the FMIA and section 4(g)(2) of the PPIA also provide that the Secretary of Agriculture may issue regulations prohibiting the use of a food additive or color additive in a meat or poultry article in establishments receiving

Federal meat or poultry inspection services.

FDA Regulations

Meat and poultry products may contain a number of ingredients subject to regulation by the FDA under the FFDCA, including food additives, substances that are generaly recognized as safe (GRAS) for use in food, and color additives, and ingredients covered by FDA prior sanctions.

According to the FFDCA, a food additive is "any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food * * *" (21 U.S.C. 321(s)). Anyone wishing to use a new food additive must petition the FDA and obtain approval before using the substance in food. The sponsor must provide FDA with information on the substance's chemical composition, its method of manufacture, its intended technical effect and what amounts will be used to accomplish that effect. FDA may also require information on how to detect and measure the substance in food. In all instances, data must be provided on its toxicity, and the nature of its proposed use. The extent or amount of the data submitted will depend on the chemical structure of the substance.

FDA's food additive regulations are codified in several parts of Title 21 of the Code of Federal Regulations (CFR). Part 170 contains general miscellaneous provisions; Part 171 specifies how food additive petitions are submitted and handled; Part 172 lists food additives approved for direct addition to food; Part 173 lists secondary direct food additives permitted in food, e.g. enzyme preparation, microorganisms, solvents, and lubricants; Parts 174, 175, 176, 177 and 178 cover indirect food additives, e.g. substances not added directly to food but which are used in the preparation or packaging of food and as a consequence may become components of, or otherwise affect the characteristics of the food; Part 179 covers irradiation of food, a process included in the statutory definition of a food additive, (21 U.S.C. 321(s)). Part 180 lists certain indirect and direct food additives about which some safety questions have arisen. Part 180 permits such additives to be used on an interim basis until such time as studies can be completed and data made available to resolve those safety issues if the Commissioner of FDA determines that the continued use of these substances presents no public health concern.

The definition of "food additives' excludes certain substances which, under the FFDCA, may be used in foods, for example, substances that are "generally recognized as safe," color additives and "prior sanctioned" substances.

Part 181 of the FDA regulations lists several food ingredients which are "prior sanctioned." Prior sanctioned ingredients are those used in accordance with explicit sanctions or approvals granted prior to the enactment of the Food Additives Amendments in 1958. These prior sanctions may have been granted by FDA under the FFDCA (21 U.S.C. 321(s)(4)) or by USDA under the FMIA or the PPIA. Such ingredients, e.g. nitrites used in cured pork products, are not subject to the food additive provisions of the FFDCA.

A second exemption from the definition of "food additive" is "generally recognized as safe" or "GRAS" substances. These are defined by the FFDCA as substances generally recognized as safe among experts qualified by scientific training and experience to evaluate their safety. Designation as GRAS can come about in either of two ways: (1) By demonstration of common use in food prior to 1958 or (2) By scientific procedures. GRAS substances are not considered to be food additives as defined by the FFDCA. GRAS substances include a variety of common food ingredients. Although FDA advises that it would be impracticable to list all substances that are generally recognized as safe for their intended use, many GRAS substances are specifically listed in Part 182 of Title 21. In addition, FDA has an ongoing GRAS review program in which extensive data searches are made and safety reviews performed on GRAS substances. After each review, the data are made publicly available and FDA evaluates the data and determines whether the substances may be affirmed as GRAS and listed in Part 184 or Part 186 of Title 21. FDA may also find that a substance or a particular use of a substance is not generally recognized by qualified experts as safe for use in food. Such substances or uses may continue to be used under an "interim food additive" regulation (21 CFR 180) while specified studies are performed to resolve the safety question.

A "color additive" is material which "when added or applied to a food, drug, device or cosmetic or to the human body or any part thereof is capable of imparting color thereto" (21 U.S.C. 321(t)). FDA regulates color additives for use in foods under section 706 of the FFDCA (21 U.S.C. 376). FDA's color additive regulations are found in Parts 70, 71, 73, 74, 80, 81, and 82 of Title 21. As with food additives, only those listed for use in food may be so used. Petitions must be submitted to FDA for any new colors or uses along with appropriate safety data and other pertinent information.

Color additives found safe and suitable for use in foods are listed in 21 CFR 71, Subpart A, and Part 74, Subpart A. Parts 81 and 82 cover provisionally approved color additives, that is, certain colors which have been in use since before the enactment of the 1960 Color Additive Amendments, but about which some safety issues remain unresolved. These colors are permitted for limited use, as prescribed, until termination of the provisional listing or a regulation is promulgated under Part 73 or Part 74.

FSIS Procedures

At the present time, FSIS exercises its authority under the FMIA and PPIA in this area through regulations (9 CFR 318.7 and 381.147) providing that no meat or poultry product may bear or contain any substance, including substances which have been approved by FDA, unless the specific substance is approved and listed by FSIS in its regulations, or the Administrator has approved use in specific cases. The tables of substances in §§ 318.7 and 381.147 list a variety of substances along with their general classification (e.g. antioxidant), their function, the categories of products in which they may be used, and the permitted usage levels. In order to add a new substance to these listings, increase the permitted level of usage or expand the category of products in which an approved substance may be used, FSIS must amend its regulations by engaging in notice and comment rulemaking. This listing process is not required by statute. Thus, while current regulations dictate that FSIS amend its regulations in order to allow the use of new substances that have been found to be safe under the FFDCA, the Agency has the authority to modify these procedures.

FSIS reviews all requests for the new use of a substance already approved, or for use of new substances not previously approved, for the substance's safety and functionality. These reviews are carried out by four divisions of FSIS: the Food Ingredient Assessment Division, the Processed Products Inspection Division, the Standards and Labeling Division, and the Facilities, Equipment and Sanitation Division.

The Food Ingredient Assessment Division determines the safety aspect of direct and indirect additives. Their

assessment involves a determination of whether the substance has been previously approved for safety by FDA or USDA. If the substance is a food additive or color additive which has not been approved for safety by FDA, the petitioner is directed to obtain approval from FDA in regard to the safety of the substance. The functionality of scalding agents and chill tank additives is assessed by the Food Ingredient Assessment Division when safety checks are made. The Processed Products Inspection Division reviews the use of proposed packaging materials for meat and poultry products. If these materials are food additives or color additives, they must be approved by FDA before USDA will approve them. The Standards and Labeling Division determines the functionality of substances proposed to be added to meat or poultry products. This division also determines whether a substance is a direct or indirect additive. The review for approval of the use of sanitizing and cleaning agents is done by the Facilities, Equipment and Sanitation Division.

On many occasions an FSIS rulemaking proceeding authorizing a new use of a substance previously approved by FDA is an effective vehicle through which the Agency can either further evaluate questions of food safety or obtain additional data on the specific functional properties of a substance when used in meat and poultry products. Under those circumstances, when there is a need for this information, the current process of using notice and comment rulemaking should be continued. However, the Agency finds that in many instances the FDA approval proceeding has served to resolve fully any and all legitimate questions regarding both the safety and the functionality of an ingredient in meat and poultry products. In such cases, the need for FSIS's requiring a comprehensive rulemaking proceeding of its own to permit an ingredient's use in a meat or poultry product is questionable, since needless delays and expenses may result, and the use of ingredients may be withheld from the marketplace for months or even years after all serious questions about their safety or usefulness have been resolved.

In addition to the costs associated with delays, applications for approvals may result in unnecessary expenses to the petitioner and impose a substantial financial burden to small businesses. Moreover, the development and review of the rulemaking record obviously requires an expenditure of Agency resources that could be diverted into projects of higher priority or greater public impact. Under current regulations, the Agency is in a poor position to postpone rulemaking on this basis, since the use of the substance is not allowed pending the completion of the proceeding.

An additional problem with the present system is that the tables contained in §§ 318.7 and 381.147 are not all-inclusive. Both the meat and the poultry regulations provide that such additive usage may be permitted in certain other regulations or "by the Administrator in specific cases." However, this grant of authority to approve substances "in specific cases" is a narrow one that should not be used to establish general rules regarding the use of particular substances. Nevertheless, the authority has been exercised for many years. As a result, the regulations are not complete, and a full listing of all approved substances and uses is not available without reference to a number of letters, memoranda, and other sources, including the Agency's record of approved labels and product formulations.

Proposal

In view of the limitations associated with the continuation of the present system the Administrator has concluded that it is both appropriate and in the public interest to propose certain changes in the Agency's procedures for the review and approval of the uses of various substances in meat food and poultry products. Under the proposed regulations, the Administrator would reserve the authority to approve new substances, new uses for approved substances, and changes in usage levels for approved substances in or on meat or poultry or products thereof, provided:

1. That the substance is an approved food additive, color additive or GRAS substance permitted for use in food under Title 21, Parts 73, 74, 81, 172, 173, 182 or 184;

2. That the intended use is in accordance with any conditions specified in the FDA approval and would not violate any other applicable FDA requirement; and

3. That the Administator determines:

a. That the Agency concurs with conclusions of FDA regarding the safety of the substance;

b. That the available data indicate that the use of the substance would have an appropriate technical effect on the product; and

c. That the available data indicate that the substance would be used at the lowest amount reasonably required to accomplish its intended technical effect.

All products in which the substance is used would be required to be properly labeled and otherwise regulated in accordance with applicable requirements under the FMIA or PPIA.

Approval of new substances or new uses of listed substances could be initiated upon request to the Agency or on the Agency's own initiation. Interested parties would be requested to provide the information needed to make the appropriate determinations. When a review of the data supplied by the petitioner, including the FDA determination, indicates that approval would be appropriate, it would appear to be an unnecessary burden on interested parties and contrary to the public interest to engage in additional notice and comment rulemaking proceedings. Accordingly, the Agency's determination would be published as a final rule. In those instances where further data is deemed necessary by the Administrator in order to determine whether the substance in question should be used in meat food or poultry products, and in what amounts, notice and comment rulemaking will be instituted.

FSIS is interested in receiving comments on this proposal. The fundamental issue is whether the proposed procedures would eliminate unnecessary delays associated with the Agency's review of requests for approvals for use of chemical substances under the FMIA and PPIA, while continuing to assure that only ingredients which have been proven to be both safe and functional are utilized in meat food and poultry products prepared under Federal inspection. Specific suggestions on the mechanics of how to implement such a system would also be welcomed.

It is appropriate to emphasize what the Agency is not proposing to change:

1. The proposal is procedural in nature and its adoption will not in itself affect the permitted uses of any food ingredient. The Agency is not proposing a system whereby any processor possesses an automatic right to use an FDA-approved substance. Specific authorizations from the Administrator, consistent with the regulations being proposed, would be required in every instance before such a substance could be used.

2. The Agency would continue to exercise, as appropriate, its independent food safety authority under the FMIA and PPIA. If the Agency does not agree that a substance permitted for use in food by regulation under the FFDCA is safe and functional for an intended use in a meat food or poultry product, it

would deny the petitioned approval for use of the substance. The Agency would notify petitioners and other interested parties when additional data are needed to make a determination of safety and/or suitability, and will provide a reasonable amount of time for the development and submission of such data.

3. The Agency would also maintain its independent analysis of questions of the functionality and suitability of substances as used in meat food and poultry products. An FDA determination of safety for use in foods generally may provide an adequate basis for FSIS to conclude that the proposed use in meat food or poultry products is also safe. However, it would not create a right of automatic approval. The Agency would not approve the use of safe substances where there has been no demonstrated technical effect in meat or poultry food products, or where the proposed usage levels are above those necessary to achieve the appropriate technical effect in those products.

List of Subjects in 9 CFR Parts 318 and 381

Food additives, Meat and poultry products, Preparation of products.

Accordingly, the Federal meat inspection regulations would be revised to read as follows:

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS: REINSPECTION AND PREPARATION OF PRODUCTS

1. The authority citation for Part 318 reads as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254.

2. Section 318.7 would be revised to read as follows:

§ 318.7 Approval of substances for use in the preparation of products.

(a)(1) No substance may be used in the preparation of any product unless it is approved in paragraph (c)(4) of this section or elsewhere in Part 318 or in Part 319 of this subchapter, or by the Administrator in specific cases.

(2) Approval of new substances or new uses of approved substances may be granted by the Administrator if:

(i) The substance has been previously approved by the Federal Food and Drug Administration (FDA) for use in meat or meat food products as a food additive, color additive, or as a substance generally recognized as safe and is listed in Title 21 of the Code of Federal Regulations, Parts 73, 74, 81, 172, 173, 182 or 184, or it is otherwise permitted for use in food under the Federal Food, Drug, and Cosmetic Act;

(ii) Its use is in compliance with applicable FDA requirements; and

(iii) The Administrator has determined that:

(*A*) The use of the substance will not render the product in which it is used adulterated or misbranded or otherwise not in compliance with the requirements of the Act; and

(*B*) Its use is functional and suitable for the product and it is permitted for use at the lowest level necessary to accomplish the stated technical effect as determined in specific cases.

(3) Whenever the Administrator determines that approval of a new substance or new use of an approved substance should be granted in accordance with paragraph (a)(2) of this section, the Administrator shall issue a final rule amending the chart of substances in paragraph (c)(4) of this section to include the additional substance, and any technical effect, or change in level of use of the substance.

(4) No product shall bear or contain any substance which would render it adulterated or misbranded, or which is not approved in Part 318 or Part 319 of this subchapter, or by the Administrator in specific cases.

* * * * *

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

1. The authority citation for Part 381 reads as follows:

Authority: Section 14 of the Poultry Products Inspection Act, as amended by the Wholesome Poultry Products Act (21 U.S.C. 451 *et seq.*); the Talmadge-Aiken Act of September 28, 1962 (7 U.S.C. 450); and subsection 21 (b) of the Water Pollution Control Act, as amended by Pub. L. 91-224 and by other laws (33 U.S.C. 1254)).

2. Section 381.147 paragraph (f) would be revised to read as follows:

§ 381.147 Restrictions on the use of substances in poultry products.

* * * * *

(f)(1) No substance may be used as an ingredient or otherwise in the processing of any raw or cooked poultry product unless its use is approved as shown in Table 1 in paragraph (f)(3) of this section or elsewhere in this part, or by the Administrator in specific cases.

(2) Approval of new substances or new uses of approved substances may be granted if:

(i) The substance has been previously approved by the Federal Food and Drug Administration (FDA) for use in poultry or poultry food products as a food additive, color additive or as a substance generally recognized as safe and is listed in Title 21 of the Code of Federal Regulations, Parts 73, 74, 81, 172, 173, 182, or 184, or it is otherwise permitted for use in food under the Federal Food, Drug, and Cosmetic Act;

(ii) Its use is in compliance with applicable FDA requirements; and

(iii) The Administrator has determined that:

(*A*) The use of the substance will not render the product in which it is used adulterated or misbranded; or otherwise not in compliance with the Act; and

(*B*) Its use is functional and suitable, for the product, and it is permitted for use at the lowest level necessary to accomplish the desired technical effect as determined in specific cases.

(2) Whenever the Administrator determines that approval of a new substance or a new use of an approved substance should be granted in accordance with paragraph (f)(1) of this section, the Administrator shall issue a final rule amending Table 1 in paragraph (f)(3) of this section to include the additional substance, and any technical effect or change in the level of use of the substance.

(3) No poultry product shall bear or contain any substance which would render it adulterated or misbranded, or which is not approved in Part 381 or by the Administrator in specific cases.

* * * * *

Done at Washington, DC on May 17, 1982.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 82-14688 Filed 6-1-82; 8:45 am]

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DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 29

[Docket No. 82-9]

Adjustable-Rate Mortgages

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Proposed rule.

SUMMARY: The Office of the Comptroller of the Currency (Office) is proposing revisions to its adjustable-rate mortgage (ARM) regulation (12 CFR Part 29). That regulation was published on March 27, 1981 and amended on April 1, 1982. The proposed revisions would increase the flexibility of national banks to design ARM instruments by eliminating (1) limits on the frequency of payment and interest rate adjustments and (2) limits on the magnitude of interest rate

adjustments. The proposal would replace the requirement that the monthly payment be reset at a fully amortizing level at least once every five years with a requirement that the monthly payment be reset at a level sufficient to begin reducing the outstanding debt no later than during the 21st year. The proposal would retain (1) the requirement that changes in the ARM interest rate be tied to changes in an interest rate index and (2) most of the existing disclosure requirements. The revised regulation would result in a freer flow of bank funds into home mortgage lending and would eliminate the reporting requirement associated with payment-capped mortgage plans.

DATE: Comments on the proposed regulation must be received on or before July 2, 1982.

ADDRESS: Comments should be sent to Docket No. 82–9, Communications Division, Office of the Comptroller of the Currency, Washington, D.C. 20219, Attn: Marie Giblin. Telephone (202) 447–1800. Comments will be available for public inspection and photocopying.

FOR FURTHER INFORMATION CONTACT: Judith Naiman, Industry and Public Affairs, (202) 447–0934, David Nebhut, Economic and Policy Research Division, (202) 447–1825, or Francis S. Rath, Legal Advisory Services Division, (202) 447–1880, Office of the Comptroller of the Currency, Washington, D.C. 20219.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal drafter of this document was David Nebhut, Financial Economist, Economic and Policy Analysis Division, Office of the Comptroller of the Currency.

Special Analyses

The Secretary of the Treasury has expressly exempted this regulation from the requirement of preparing a regulatory flexibility analysis, since it will not have a significant economic impact on a substantial number of small entities. The revised regulation is expected to result in a freer flow of bank funds into home mortgage lending and will eliminate the reporting requirement associated with payment-capped mortgage plans. Any costs incurred by small banks as a result of the revision are likely to result from adjustments in computer programs and employee training. Those costs are expected to be minimal.

The Office of the Comptroller of the Currency has determined that the regulation does not constitute a major rule within the meaning of E.O. 12291. Accordingly, a regulatory impact analysis will not be prepared on the grounds that the proposed revision (1) will not have an annual effect on the economy of $100 million or more, (2) will not result in a major increase in the cost of bank operations or government supervision nor is it likely to generate substantially higher payment for borrowers, and (3) will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or competition with foreign-based entities.

Two proposed modifications of the regulation are the removal of interest rate caps and the removal of the limit on negative amortization. The current regulation permits interest rate increases in excess of the periodic caps to be carried over to future time periods. Therefore, the removal of the interest rate caps should have a relatively small effect on the overall amount that a borrower will pay over the life of the mortgage. However, removal of the caps, if not accompanied by a limitation on the size of payment changes, will increase the potential payment volatility of mortgage loans that provide for frequent paymemt changes. The removal of interest rate caps from the regulation does not precluded the imposition of caps by lenders. Lenders may choose to design instruments with interest rate caps in order to limit their credit risk.

The likely effect of the removal of the limit on negative amortization is more complicated to evaluate, but the Office believes that the removal of the limit will not substantially increase the cost of a loan relative to the amount actually borrowed. Negative amortization, in effect, means that the lender is advancing a portion of the interest due in a given month to the borrower. Therefore, higher payments on a loan that has had higher negative amortization are analogous to higher payments required to repay a larger principal balance. Further, increasing the amount of permissible negative amortization will enable borrowers to realize reduce monthly payments for some portion of the loan term.

Overall, the revision of the regulation will enhance the competitive position of national banks by permitting them to develop ARM instruments that are responsive to borrower needs.

Background and Analysis

On March 27, 1981, the Office adopted a final rule (46 FR 18932) establishing a framework within which national banks may make or purchase mortgage instruments that are responsive to changing interest rates and to bank deposit structures. That rule provided sufficient flexibility to accommodate most adjustable-rate mortgage lending programs then in existence. To promote continued innovation and experimentation, the rule permitted national banks to submit for review by the Office of the Comptroller of the Currency adjustable-rate mortgage plans that limit payment changes and provide for timely repayment of the loan but do not cap interest rate adjustments.

Since June 1981, the Office has permitted approximately 30 national banks to offer adjustable-rate mortgages that incorporate features not authorized by the ARM regulation. Most of the nonconforming ARM programs contain no caps on interest rates or on negative amortization and some use interest rate indexes not authorized by the Office's regulation. Instead of requiring changes in the design of those programs, the Office informed the banks of its concerns with such flexible instruments and permitted loans to be originated under those programs on an experimental basis.

The ARM rule was issued as an interim measure intended to smooth the transition from a market involving almost exclusively level-payment, fixed-rate mortgage loans to a market with a variety of flexible mortgage instruments. The Office anticipated reexamining the regulation two years after it was issued. However, the movement from standard fixed-rate mortgages to a variety of alternative mortgage instruments including ARMs, shared-appreciation mortgages, and mortgages designed to accelerate repayment of principal occurred more rapidly than expected.

Several factors are responsible for the rapid change in the ARM market. One factor is the increased flexibility under which other mortgage lenders operate. On April 30, 1981, the Federal Home Loan Bank Board (FHLBB) issued a regulation (46 FR 24148) permitting federally chartered savings and loan associations to offer a wide variety of adjustable mortgage loan instruments. That regulation neither restricts interest rate adjustments nor limits increases in the outstanding loan balance on mortgage loans made by federally chartered S&Ls. On July 29, 1981, the National Credit Union Administration (NCUA) issued a similar regulation (46 FR 38669) governing ARM lending by federally chartered credit unions and the FHLBB amended its regulation to permit graduated-payment adjustable mortgage loans. A number of states now permit state-chartered financial institutions to make ARMs that are more flexible than those permitted by the Office's regulation. Additionally, private mortgage insurers have shown their

willingness to insure ARMS that are more flexible than those the Office's regulation permits.

A second factor contributing to the development of the ARM market has been the creation of a secondary market in adjustable-rate mortgages. In June 1981, the Federal National Mortgage Association (FNMA) announced plans to purchase eight different types of ARMs. Of those eight, only two are consistent with the Office's current regulation. The six plans that national banks may not originate, except perhaps as payment-capped mortgages, do not have interest rate caps. Also, some permit more negative amortization than the regulation permits, and others use indexes not authorized by the Office.

The Office has permitted several national banks to offer four of the nonconforming FNMA plans under the provisions of the ARM regulation that permit experimentation with payment-capped mortgages. That process, however, involves delays in reviewing and responding to individual bank's submissions and could limit the ability of national banks to compete in the adjustable-rate mortgage market. The Office is, therefore, considering revising the regulation to authorize national banks to offer more flexible adjustable-rate mortgages.

The proposed revision to the regulation is consistent with the Office's belief that the design of adjustable-rate mortgage instruments can best be determined by the marketplace rather than by regulation. A lender's needs may depend on its deposit base, the customers it serves, the demands of secondary mortgage market investors, and the economic conditions of its region. Similarly, borrowers with differing expectations of income growth and differing preferences for housing are likely to demand different mortgage instruments. Lending institutions must have flexibility in designing mortgage instruments if the housing finance needs of various participants in the market are to be met.

Market imperfections, however, may prevent the efficient operation of a totally unregulated ARM market. The primary market imperfection is the high cost of obtaining information on an ARM. Those costs may prevent borrowers from accurately evaluating the instruments available. That problem can be compounded by the high transaction costs associated with mortgage loans that tend to lock borrowers into contracts, even if it is discovered after a contract is closed that a particular loan does not meet their needs. The Office's proposal addresses those problems in two ways. First, the requirement that the ARM interest rate be indexed to a market interest rate ensures that ARM interest rate changes are based on objective indicator of market conditions. This protects borrowers from arbitrary increases in the loan rate. Second, in recognition of the complexity of adjustable-rate mortgages, the proposal retains the requirement that banks disclose basic information to potential borrowers on the operation of the adjustable-rate mortgages it offers.

Proposed Changes in the OCC's ARM Regulation

Proposed changes in the OCC's ARM regulation are discussed below. No changes are proposed in the provisions of the regulation that are not addressed in this section.

Index

The proposed revision to the regulation permits national banks to use as an interest rate index any interest rate (or a moving average thereof) that is readily available to and verifiable by borrowers, and is beyond the control of the bank. If a bank bases interest rate changes on movements in a published average cost-of-funds index, it would be required to include in the disclosure notice a statement that such an index is likely to exhibit an upward bias over the next several years, regardless of movements in market rates of interest, as the interest rate ceilings on deposit instruments are phased out.

The Office's current adjustable-rate mortgage regulation (as amended on April 1, 1982 at 47 FR 13775) authorizes five interest rate indexes: the monthly and weekly average of the average auction rate on 6-month Treasury bills, the monthly and weekly average yield on Treasury securities with a maturity of three years, and the monthly average contract rate on previously occupied homes as complied by the Federal Home Loan Bank Board.

The Office limited the choice of indexes in its regulation in order to provide some uniformity in the ARM market, to simplify borrower comparisons of different ARM programs, and to facilitate the development of a secondary market in adjustable-rate mortgages. However, since FHLBB, NCUA and FNMA permit additional interest rate indexes, it is unlikely that continuing to limit the number of permissible indexes for national banks will promote uniformity in the adjustable-rate mortgage market or facilitate comparison shopping by potential borrowers.

The Office seeks comments on: (1) Whether there are any interest rate indexes that meet the proposed criteria but would be inappropriate interest rate indexes and (2) whether the above criteria exclude any interest rate indexes that would be appropriate.

Interest Rate Changes

(a) *Frequency.* The proposal removes (1) the limits on the frequency of interest rate adjustments and (2) the requirement that interest rate adjustments occur at regular intervals. It requires only that interest rate changes occur at intervals specified in the loan documents. The proposal retains the requirement that the borrower be notified of an impending interest rate adjustment 30 to 45 days before any interest rate adjustment may take effect.

The Office's existing regulation limits the frequency of interest rate adjustments to regular intervals of not more than once every 6 months. The initial fixed-rate period may exceed subsequent fixed-rate periods.

The limitation was included in the regulation to give borrowers some minimum period of payment stability. However, payments can be stabilized without restricting the frequency of interest rate changes, *e.g.*, the rate of amortization can be changed while the payment remains constant. To the extent that interest rate changes are cyclical, such an adjustment technique enables the lender to implement interest rate changes without deviating greatly from the original amortization schedule. Secular increases in the interest rate, however, would necessitate an eventual payment increase.

The Office requests comment on: (1) Whether the constraint on the frequency of interest rate adjustments should be retained and (2) the likely effect of its removal.

(b) *Magnitude.* The proposed amendment eliminates limits on the size of interest rate adjustments. The existing ARM rule limits interest rate adjustments to not more than 1 percentage point per six month period between adjustments and to not more than 5 percentage points at any single rate adjustment.

Regulatory constraints on the magnitude of interest rate changes impose some interest rate risk sharing between borrower and lender and dampen the potential volatility of monthly payments. At present market rates, the ARM interest rate cap implies a maximum annual payment change of approximately 15%.

The Office seeks comments on whether limitations on interest rate

adjustments should be eliminated from the regulation.

An alternative to requiring interest rate caps is to give national banks the option of choosing either a periodic interest rate cap or a periodic cap on monthly payment changes. The Office seeks comments on whether any such requirement would be appropriate.

(c) *Required and Permitted Changes.* The existing regulation requires that any periodic or aggregate limit on interest rate changes apply to both increases and decreases. The proposal removes that requirement.

Lenders offering ARMs have designed a number of instruments with interest rate increases and decreases that are not symmetrical. For example, an ARM may have an initial interest rate which is below the current market rate. To compensate the lender, a schedule is established at the outset that will increase the mortgage interest rate by increasing the spread between the loan rate and the index rate. During this graduation period, decreases in the interest rate that might otherwise have resulted from decreases in the index are not taken. The Office believes that national banks should have the ability to design instruments with such flexibility, provided that the schedule for interest rate and payment adjustments is explained clearly and accurately in the initial disclosure statement. The Office requests comments on: (1) The likely effect of removing the symmetry requirement and (2) whether the regulation should specify required and permitted interest rate changes.

(d) *Negative Amortization.* The proposed amendment does not change the permissible methods of implementing interest rate changes. It does, however, remove the restriction on the aggregate amount of negative amortization that may occur on an ARM made by a national bank. Banks are, however, required to set the installment payment at a level sufficient to begin reducing the outstanding loan principal no later than during the 21st year of the loan term and to amortize the entire principal of the loan without a substantial balloon payment by the end of the 30th year.

The Office's existing regulation permits interest rate changes to be implemented through changes in the monthly payment, changes in the rate of amortization, or a combination of those methods. Negative amortization is now limited to one percent of the outstanding loan balance at the beginning of a fixed-payment period times the number of 6-month periods between payment adjustments. Additionally, the monthly payment must be set at a fully amortizing level at least once every 5 years.

Negative amortization is an essential element of any graduated-payment mortgage. In the early years of the loan, the borrower's monthly payments are set at a level below that required to amortize the loan. During that period, the bank, in effect, lends the borrower the difference between the actual monthly payment and the payment required for full amortization of the loan. The higher monthly payments later in the loan term compensate the lender for the earlier period of negative or reduced amortization. A key feature of a graduated-payment mortgage loan is a predetermined schedule of payment increases designed to put the loan on a fully amortizing basis at the end of a specified period.

On other ARMs, negative amortization provides a cushion that enables borrowers to maintain level payments beyond the period for which the interest rate is fixed. Cyclical movements in the interest rate alter the rate of amortization rather than the size of monthly payments. If significant periods of negative amortization occur, the loan-to-value ratio may rise, which in turn increases the lender's risk.

The Office requests comment on whether the regulation should include any limits on negative amortization or guidelines to assure that the loan-to-value ratios on ARMs do not exceed an unsafe level.

Fees

The proposal does not prohibit fees for rate or payment adjustments or prepayment of principal. Lenders that charge such fees would be required to disclose the size of the fees and when and how such fees would be charged. The Office's existing adjustable-rate mortgage regulation prohibits charges for interest rate or payment adjustments and permits prepayment fees only up until 30 days before the first rate adjustment on an ARM.

The Office seeks comments on the desirability of permitting banks to charge fees for interest rate adjustments, payment adjustments, and prepayments. Also, the Office specifically requests comments on whether prepayment fees should be permitted if prepayments arise via accelerated amortization due to the nature of the ARM program.

Disclosure. (a) The proposed revision retains most of the disclosure requirements of the existing regulation. Listed below are the changes in the required disclosures.

(1) Banks using an average cost-of-funds index would be required to disclose that such an index is likely to have an upward bias as the phasing out of interest rate ceilings on depository instruments continues.

(2) The proposal requires lenders to describe the method used to calculate the initial monthly payment on the loan if it differs from the fully amortizing monthly payment.

(3) The proposal does not prohibit lenders from charging fees related to interest rate adjustments, changes in the monthly payment, or prepayment on an ARM. Lenders would be required to disclose on what basis such fees would be charged and the amount of such fees.

(4) The proposal revises the required hypothetical example that national banks must provide. The regulation stipulates an interest rate scenario that increases by 10 percentage points as rapidly as possible. The proposal requires each bank to determine the interest rate scenario to be used with its example. Comments are requested on whether the Office should specify an interest rate scenario to be used by all national banks offering ARMs and, if so, what rate scenario might be appropriate.

(5) Because the proposal greatly expands the variety of instruments that national banks may offer, it is unlikely that a single disclosure form would be suitable for all ARMs. The proposal, therefore, does not include a model disclosure form. Nevertheless, banks are required to explain to their borrowers the potential risks of ARMs. Disclosure documents will be tailored by the bank according to its ARM plan. Comments are requested on whether the provision of a model form by this Office is necessary and, if so, how a model disclosure form might be designed to accommodate the variety of ARMs that will appear on the market.

(6) The proposal authorizes national banks to offer ARMs on which payment changes occur at different intervals than interest rate changes. Therefore, the Office is proposing that payment adjustment notifications be provided at least 30 days and no more than 45 days before any payment change may take effect and that certain information be included in such notifications. The Office requests comments on whether payment change notification requirements should be included in the regulation.

(b) The proposal does not substantially alter the disclosure statement that national banks making short-term demand or balloon mortgages must provide to borrowers. The Office believes that statement conveys important information. The Office solicits comments on whether the

wording and the tone of that statement are appropriate and whether it provides borrowers with accurate and meaningful information regarding the nature of such loans.

List of Subjects in 12 CFR Part 29

National banks, Mortgages.

Proposed Amendment

Accordingly, the Office proposes to revise 12 CFR Part 29 to read as follows:

PART 29—ADJUSTABLE-RATE MORTGAGES

Sec.
29.1 Definition.
29.2 General rule.
29.3 Index.
29.4 Rate changes.
29.5 Prepayment fees.
29.6 Assumption.
29.7 Disclosure.

Authority: 12 U.S.C. 1 *et seq.*; 12 U.S.C. 93a; and 12 U.S.C. 371(g).

§ 29.1 Definition

An adjustable-rate mortgage loan is any loan made to finance or refinance the purchase of and secured by a lien on a one- to four-family dwelling, including a condominium unit, cooperative housing unit, or a mobile home, where such loan is made pursuant to an agreement intended to enable the lender to adjust the rate of interest from time to time. Adjustable-rate mortgage loans include loan agreements where the note and/or other loan documents expressly provide for adjusting the rate at periodic intervals. They also include fixed-rate loan agreements that implicitly permit rate adjustment by having the note mature on demand or at the end of an interval shorter than the term of the amortization schedule unless the national bank has clearly made no promise to refinance the loan (when demand is made or at maturity) and has made the disclosure specified in § 29.7(d).

§ 29.2 General rule.

National banks may make or purchase adjustable-rate mortgage loans only if they conform to the conditions and limitations contained in this part. National banks may make or purchase adjustable-rate mortgage loans pursuant to this Part without regard to any limitations that otherwise would be imposed on adjustable-rate mortgage lending by the laws of any State, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, or Guam, which limitations are hereby expressly preempted.

§ 29.3 Index.

Changes in the interest rate charged on an adjustable-rate mortgage loan must be linked to changes in the index specified in the loan documents, *i.e.*, a 1 basis point (1 basis point = .01 percentage point) change in the index must be translated into a 1 basis point change of the same direction in the contract interest rate except as otherwise provided in § 29.4(b). A national bank may use as an interest rate index any measure of market rates of interest that is readily available to and verifiable by the borrower and is beyond the control of the bank. The index for an adjustable-rate mortgage loan shall be either single values of the chosen measure or a moving average of the chosen measure calculated over a specified period. The initial index value shall be the most recently available index value on the date that the lender commits to the initial interest rate on the loan. Subsequent interest rate changes shall be based on the most recently available index value at the date for notifying borrowers of impending changes in the interest rate.

§ 29.4 Rate changes.

(a) *Frequency of changes.* Interest rate changes on an adjustable-rate mortgage loan shall occur at intervals specified in the loan documents.

(b) *Required and permitted rate changes.* Interest rate changes on adjustable-rate mortagage loans shall be subject to the following provisions:

(1) Interest rate increases permitted in accordance with this Part shall be at the option of the bank.

(2) Interest rate decreases warranted by decreases in the index shall be mandatory except to the extent they would exceed limitations established pursuant to § 29.4(b)(3); to the extent that rate increases fully reflecting increases in the index have not been implemented by the bank, either at its option or because of limitations on interest rate adjustments as permitted in § 29.4(b)(3); or to the extent that the bank has previously voluntarily reduced the interest rate on an adjustable-rate mortgage loan.

(3) Banks offering adjustable-rate mortgage loans may establish in the loan documents limitations on maximum or minimum interest rate increases or decreases, minimum increments of interest rate increases or decreases, and procedures for rounding the interest rate on the loan to the nearest percentage point or some fraction thereof.

(4) Voluntary interest rate reductions not related to index changes and changes in the index that do not result in equal changes in the interest rate (including differences between changes in the index rate and changes in the interest rate due to rounding) shall, to the extent not offset by subsequent movements of the index, be carried over and be available at succeeding rate change dates.

(5) A national bank may decrease the contract rate on an adjustable-rate mortgage at any time and by any amount beyond the decreases required by the rules contained in this Part.

(c) *Method of rate changes.* Interest rate changes to an adjustable-rate mortgage loan may be implemented through changes in the amount of the installment payment or the rate of amortization or any combination of these two methods, according to a schedule agreed upon by the borrower and the bank in the loan documents or as agreed upon by the parties at the time of an interest rate change. Notwithstanding the foregoing, installment payments shall be required for an adjustable-rate mortgage loan that are sufficient to reduce the outstanding principal balance of the loan beginning no later than during the twenty-first year and are sufficient to amortize the entire principal of the loan without a substantial ballon payment by the end of the thirtieth year. These methods are permissible regardless of any state-law prohibitions on the charging of interest on interest. Such prohibitions are expressly preempted, provided the interest rate charged by the national bank does not exceed the applicable usury limit, if any.

§ 29.5 Prepayment fees.

National banks offering or purchasing adjustable-rate mortgage loans may impose penalties for prepayments regardless of any state-law prohibitions of such fees, which prohibitions are expressly preempted.

§ 29.6 Assumption.

National banks offering or purchasing adjustable-rate mortgage loans that include due-on-sale clauses are not required to allow those loans to be assumed by new purchasers of the mortgaged property or to allow new purchasers to take title to such property subject to the lien of an adjustable-rate mortgage loan made pursuant to this Part, regardless of any limitations on the validity or enforceability of due-on-sale clauses found in state law, which limitations are expressly preempted. If a national bank does allow such a loan to be assumed or a purchaser to take title to property subject to the lien of an adjustable-rate mortgage loan made pursuant to this Part, the interest rate

and any other loan terms may be reset as of the date of assumption. In order for an adjustable-rate mortgage loan to qualify for the benefits of this section, the loan note must contain a clause stating that the loan is due on sale or must contain some other provision indicating that the loan may be assumed or the property purchased subject to the bank's mortgage lien only at the bank's discretion.

§ 29.7 Disclosure.

(a) A national bank offering adjustable-rate mortgage loans shall disclose in writing on the earlier of the date on which the bank first provides written information concerning adjustable-rate mortgage loans available from the bank or provides a loan application form to the prospective borrower, the following items:

(1) The fact that the interest rate may change and a brief description of the general nature of an adjustable-rate mortgage loan;

(2) The index used, including the name of at least one readily available source in which it is published. If the index is based on a cost of funds rate for any group of financial institutions subject to limitations on the interest they may pay certain classes of depositors, a bank must describe that fact and point out that the removal of interest rate ceilings will likely result in an upward bias on future movements of the index, regardless of movements in market interest rates;

(3) A 10-year series updated at least annually showing the values of the index on at least a semiannual basis, presented in a table. The table should show either single values of the measure of interest rates or an average of single values, consistent with the bank's adjustable-rate mortgage loan program;

(4) The frequency with which the interest rate and payment levels will be adjusted;

(5) The method used to calculate the initial monthly payment, if that payment differs from the fully amortizing payment;

(6) Any rules relating to changes in the interest rate, installment payment amount, and/or increases in the outstanding loan balance;

(7) A description of the method by which interest rate changes will be implemented, including an explanation of negative amortization and balloon payments, if they may occur in connection with the loan;

(8) A statement, if appropriate, of the rules or conditions relating to refinancing of short-term and demand mortgage loans, prepayment, and assumption;

(9) A statement, if appropriate, of fees that will be charged by the bank and/or any other persons in connection with the adjustable-rate mortgage loan, including fees due at loan closing, prepayment fees and fees that will be charged for interest rate or payment adjustments and a statement of when and how such fees will be charged;

(10) A schedule of the dollar amounts of the installment payments (principal and interest), and the outstanding loan balance at each payment adjustment date on a $10,000 adjustable-rate mortgage loan that might occur under the bank's adjustable-rate mortgage loan program. The initial interest rate should be a commitment rate offered by the bank within the preceding 12-month period.

(b) At least 30 days and no more than 45 days before any interest rate change may take effect, the bank must notify the borrower in writing of the following items:

(1) The current and proposed new interest rate;

(2) The base index value and the index values upon which the current interest rate and the new interest rate are based;

(3) The extent to which the bank has forgone any increase in the mortgage interest rate;

(4) The monthly payment due after implementation of the interest rate adjustment and/or other contractural effects of the rate change;

(5) The amount of the monthly payment, if different from that given in response to item 4, that would be required to fully amortize the loan at the new interest rate over the remainder of the loan term;

(6) The amount of the prepayment penalty, if any, that will be charged if the borrower chooses to prepay the loan rather than accept an interest rate increase.

(c) If under the bank's adjustable-rate mortgage program, a payment change may occur at a different date than an interest rate change, at least 30 days and no more than 45 days before any such payment change may take effect, the bank must notify the borrower in writing of the following items:

(1) An explanation of the circumstances that have led to such a payment change;

(2) The monthly payment due after implementation of the payment adjustment;

(3) The amount of the monthly payment, if different from that given in response to item 2, that would be required to fully amortize the loan at the new interest rate over the remainder of the loan term;

(4) The amount of any prepayment penalty that will be charged if the borrower chooses to prepay the loan.

(b) A national bank making any loan to finance or refinance the purchase of and secured by a lien on a one- to four-family dwelling which is either payable on demand or at the end of a term which, including any terms for which the bank has promised to refinance the loan, is shorter than the term of the amortization schedule, must include the following notice displayed prominently and in capital letters in or affixed to the loan application form and in or affixed to the loan note:

THIS LOAN IS PAYABLE IN FULL [AT THE END OF —— YEARS *or* ON DEMAND]. [AT MATURITY *or* IF THE BANK DEMANDS PAYMENT] YOU MUST REPAY THE ENTIRE PRINCIPAL BALANCE OF THE LOAN AND UNPAID INTEREST THEN DUE. THE BANK IS UNDER NO OBLIGATION TO REFINANCE THE LOAN AT THAT TIME. YOU WILL THEREFORE BE REQUIRED TO MAKE PAYMENT OUT OF OTHER ASSETS YOU MAY OWN, OR YOU WILL HAVE TO FIND A LENDER WILLING TO LEND YOU THE MONEY AT PREVAILING MARKET RATES, WHICH MAY BE CONSIDERABLY HIGHER THAN THE INTEREST RATE ON THIS LOAN. IF YOU REFINANCE THIS LOAN AT MATURITY, YOU MAY HAVE TO PAY SOME OR ALL CLOSING COSTS NORMALLY ASSOCIATED WITH A NEW LOAN, EVEN IF YOU OBTAIN REFINANCING FROM THE SAME BANK.

Fixed-rate short-term or demand loans for which this notice has been properly given will not be characterized as adjustable-rate mortgage loans.

(e) At the date on which the initial interest rate on an adjustable-rate mortgage loan is determined, the bank must inform the borrower of the initial index value against which interest rate changes will be measured. This initial index value must be included in the note which the borrower signs. The borrower must be given a copy of that note no later than at loan closing.

Dated: May 4, 1982.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 82-14851 Filed 6-1-82; 8:45 am]

BILLING CODE 4810-33-M

CIVIL AERONAUTICS BOARD

14 CFR Parts 231 and 298

[EDR-442; Economic Regulations Docket: 40717]

Transportation of Mail; Mail Schedules; Exemption for Air Taxi Operations; Elimination of Schedule Filing

Dated: May 20, 1982.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB proposes to eliminate requirements that airlines file flight schedules with the government, because airlines' voluntary publication in the Official Airline Guide satisfies the need for this information.

DATES: Comments by: July 2, 1982. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List by: June 14, 1982.

The Docket Section prepars the Service List and sends it to each person listed on it, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 40717, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue N.W., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Jack Calloway, Office of the Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-6042.

SUPPLEMENTARY INFORMATION: The first sentence of section 405(b) of the Federal Aviation Act requires each U.S. air carrier to file with the Board and the Postal Service a statement of the points that it is authorized to serve and all its schedules and schedule changes involving those points. The Board's rule implementing this statutory provision, except for commuter air carriers, is found at 14 CFR Part 231. Commuters are exempted from section 405(b) by § 298.10 of the air taxi rule (14 CFR Part 298), but file schedules in accordance with the simpler provisions of § 298.60. Certificated carriers, for their small-aircraft operations, have the option under § 298.99(a) of filing schedules in accordance with either scheme.

In the Airline Deregulation Act of 1978, Pub. L. 95-504, Congress added a new section 1601 to the Federal Aviation Act to provide for the termination of some Board functions and the transfer of others. In particular, section 1601(a)(1)(G) terminated the schedule-filing requirements of the first sentence of section 405(b) for domestic passenger transportation, effective December 31, 1981. In ER-1279, 47 FR 137, January 5, 1982, the Board amended Part 231 to reflect this change. The Board interpreted the statutory change as covering not only passenger service but also combination service (passengers and cargo on the same aircraft). The Board also noted that in 14 CFR Part 291 it had already exempted carriers from schedule filing for domestic cargo-only service, except for service that is wholly within Alaska or wholly within Hawaii. The amendment in ER-1279, therefore, added a new provision to Part 231 limiting the applicability of the part to foreign air transportation and to cargo-only air transportation within Alaska or Hawaii. ER-1279 was issued as a final rule without notice and comment, because it merely reflected a statutory change that had narrowed the Board's authority. A corresponding amendment of § 298.99(a) for the small-aircraft operations of certificated carriers was made by ER-1278, 47 FR 604, January 6, 1982.

The Board did not make a similar amendment of the commuter schedule-filing requirement in § 298.60 at that time, however, because it concluded that notice and comment were necessary for the following reason: Even though the original purpose of § 298.60 was eliminated for domestic service by the statutory change, the Board still had the legal authority to require domestic schedule-filing by commuters as a condition on the other exemptions afforded them by Part 298. The justification in ER-1279 for omitting notice and comment with regard to certificated carriers was therefore inapplicable to § 298.60.

The Board has concluded that its need for flight schedule information, not only from commuters but from all carriers, is satisfied by the carriers' voluntary submission of their schedules to the *Official Airline Guide*, which is published in the private sector. In order to eliminate unnecessary regulatory burdens and further the purposes of the Paperwork Reduction Act, Pub. L. 96-511, therefore, the Board now proposes to eliminate all remaining requirements that air carriers file flight schedules under Part 231 or 298.

This proposal encompasses all interstate, overseas, and foreign air transportation of passengers, property, and mail. The amendment of Part 231 would eliminate the existing rule and replace it with an exemption from the first sentence of section 405(b) of the Act. The corresponding amendment of Part 298 would remove § 298.60 for commuters and § 298.99(a) for the small-aircraft operations of certificated carriers.

On a related matter, the Board is concerned that it have advance notice of a carrier's plans to terminate service in a limited-designation international market, in order to facilitate replacement service. Neither the OAG nor the general schedules filed under Part 231 provide enough lead time, however, and the Board is considering whether to establish a separate, specialized notice or reporting requirement to this end. Any rule requiring such a notice would be the subject of a separate notice of proposed rulemaking.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96-534, the Board certifies that this rule will not, if adopted as proposed, have a significant economic impact on a substantial number of small entities. The effect of the rule would be to eliminate a reporting requirement that for small air carriers is already minor.

List of Subjects in Parts 231 and 298

Air carriers, Air taxis, Alaska, Antitrust, Consumer protection, Insurance, Postal Service, Reporting requirements

The Proposed Rule

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Parts 231 and 298 as follows:

1. Part 231, *Transportation of Mail; Mail Schedules*, would be retitled and revised to read:

PART 231—EXEMPTION FROM SCHEDULE FILING

Sec.
231.1 Applicability.
231.2 Exemption.

Authority: Secs. 101(3), 204, 401, 404, 405, 407, 416, 418, 419, 1601, Pub. L. 85-726, as amended, 72 Stat. 737, 743, 754, 760, 766, 771, 91 Stat. 1284, 92 Stat. 1732, 1744; 49 U.S.C. 1301, 1324, 1371, 1374, 1375, 1377, 1386, 1388, 1389, 1551.

§ 231.1 Applicability.

This part applies to all air carriers.

§ 231.2 Exemption.

Air carriers are hereby exempted from the requirements of the first sentence of section 405(b) of the Act.

Notice.—The first sentence of section 405(b) reads as follows: "Each air carrier shall, from time to time, file with the Board and the Postmaster General a statement showing the points between which such air carrier is authorized to engage in air transportation, and all schedules, and all changes therein, of aircraft regularly operated by the carrier between such points, setting forth in respect of each such schedule the points served thereby and the time of arrival and departure of each such point."

PART 298—EXEMPTION FOR AIR TAXI OPERATIONS

§ 298.60 [Reserved]

2. In Part 298, *Exemption for Air Taxi Operations*, § 298.60, *Filing of flight schedules by commuter air carriers*, would be removed and reserved.

§ 298.99 [Amended]

3. Also in Part 298, Subpart I, *Air Taxi Operations by Certificated Carriers*, would be amended by removing and reserving paragraph (a) of § 298.99, *Scope of filing and reporting requirements.*

(Secs. 101(3), 204, 401, 404, 405, 407, 416, 418, 419, 1601, Pub. L. 85–726, as amended, 72 Stat. 737, 743, 754, 760, 766, 771, 91 Stat. 1284, 92 Stat. 1732, 1744; 49 U.S.C. 1301, 1324, 1371, 1374, 1375, 1377, 1386, 1388, 1389, 1551)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-14900 Filed 6-1-82; 8:45 am]

BILLING CODE 6320-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 21

Selected Special Calls—Duties of Foreign Brokers, Domestic and Foreign Traders, Futures Commission Merchants and Contract Markets

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission is publishing for comment a proposed rule intended to facilitate the Commission's ability to acquire essential market data concerning futures and options trading on United States exchanges. This proposed rule would require a futures commission merchant ("FCM"), trader or foreign broker to provide to the Commission upon special call pertinent market information concerning its accounts. If the FCM, trader or foreign broker fails to respond to the special call, the Commission may direct the appropriate contract market and all FCMs to prohibit further trades in the contract market and in the delivery months or option expiration dates specified in the call by or on behalf of the FCM, trader or foreign broker named in the call unless such trades offset existing open contracts of such FCM, trader or foreign broker. This rule has been expanded from proposed rule § 21.03, 45 FR 31731 (May 14, 1980), to include within its provisions FCMs and domestic traders in addition to foreign brokers and traders and options in addition to futures contracts. However, the application of this rule will be limited to instances where the Commission needs information to determine whether the threat of a market manipulation, corner, squeeze or other market disorder exists in any contract market and where books and records of the FCM, trader or foreign broker upon whom the special call is made are not open at all times to inspection in the United States by any representative of the Commission.

DATE: Comments on the proposed rule should be submitted on or before July 2, 1982.

ADDRESS: Send comments to Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT: Maureen A. Donley, Office of General Counsel, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, (202) 254–9880.

SUPPLEMENTARY INFORMATION: The Commission believes that obtaining timely information concerning futures and options trading from market participants is critical to effectively monitoring conditions in the markets. The Commission has for the last several years sought to develop an effective means of obtaining this information without discouraging active participation in futures markets.

As part of this effort, on May 14, 1980, the Commission published for comment proposed rule § 21.03, "Futures Commission Merchants—Duties Concerning Accounts Carried for Foreign Brokers and Traders." 45 FR 31731. The Commission intended that the proposed rule:

> [F]acilitate the Commission's ability to acquire essential market data concerning futures trading on United States exchanges by foreign persons.

The Commission's proposed rule would have made it unlawful for any FCM to maintain an account or effect transactions for foreign persons until the FCM received a list of the beneficial owners of their foreign futures accounts. Upon a special call from the Commission, the FCM carrying the account would have been required to obtain and furnish to the Commission certain specific information about the account within as little as twenty-four hours. If the FCM were unable to provide the information, the FCM would have been required to liquidate all futures positions in the account. The proposed rule also would have required the FCM to notify the contract market upon which the liquidation would occur and to effect the orderly liquidation under the direction of the contract market.

The Commission received more than thirty comments on the proposal. Generally, the comments were critical of the proposed rule. Over half of the comments received specifically identified the rule's burden on FCMs as a reason that it should not be adopted. The most criticized provision of the proposed rule was the provision that would make it unlawful for an FCM to open a futures account or effect futures transactions for a foreign person until the FCM has received a list of all beneficial owners of all futures contracts carried or to be carried in the account. This provision was vigorously opposed by commentors because of the paperwork burden it would impose on FCMs. In addition, commentors criticized the proposed rule alleging that it unfairly imposed more severe consequences on a foreign market participant than on a domestic participant. Commentors also objected to the provision's automatic liquidation requirement. They contended that automatic liquidation was too harsh a result and may be inappropriate when, for example, a disruption or abnormalty already exists in the market and that the liquidation of large positions itself could create market disorder and price volatility and may invite market manipulation. Commentors also asserted that the automatic liquidation provision raised constitutional due process and statutory concerns.

The Commission continues to believe that additional procedures are needed to ensure that the Commission will be able to obtain needed market information. However, the Commission is sensitive to many of the concerns raised in the comments on proposed rule § 21.03. As a result, in response to these concerns, the Commission has reexamined the rule and is publishing for comment a modified rule § 21.03. The modified rule is designed to alleviate many of the burdens and concerns of the earlier proposed rule. The Commission believes that modified rule § 21.03 should satisfy the interests of the Commission and the concerns expressed by the commenters on the prior proposal.

In particular, this rule has been expanded from proposed rule § 21.03 to include within its provisions FCMs and domestic traders in addition to foreign brokers and traders and options in addition to futures contracts. However, the application of this rule will be limited to instances where the Commission needs information to

determine whether the threat of a market manipulation, corner, squeeze or other market disorder exists in any contract market and where books and records of the FCM, trader or foreign broker upon whom the special call is made are not open at all times to inspection in the United States by any representative of the Commission.

The Commission's Modified Proposed Rule

Paragraph (a) of the modified proposed rule defines two terms for purposes of rule § 21.03: "account of a futures commission merchant or foreign broker" means all open futures contracts on the records of the FCM or foreign broker recorded in the name or on behalf of the same person; "beneficial interest" is defined as having or sharing in any rights, obligations or financial interest in any futures account.

Paragraph (b) of the modified proposed rule would make it unlawful for a FCM to open an account for a customer or to effect transactions for an existing account until the FCM has fully explained the requirements of rule § 21.03. The FCM may explain the provisions of the rule in any manner it deems appropriate. This paragraph does not apply to any customer whose books and records are open at all times to inspection in the United States by any representative of the Commission.

Paragraph (c) of the modified proposed rule includes a requirement that the Commission determine prior to issuing a special call under § 21.03 that information concerning accounts carried or held by FCMs for another FCM, trader or foreign broker is necessary to enable the Commission to determine whether the threat of a market manipulation, corner, squeeze, or other market disorder exists. This provision is consistent with the Commission's authority to gather and assess current market data under Section 4i of the Commodity Exchange Act, as amended ("the Act"), 7 U.S.C. 6i.

Paragraph (d) provides that in the event the call is directed to a foreign broker or foreign trader, its agent designated pursuant to § 15.05 of this chapter, which is often an FCM, may be required to transmit any special call made pursuant to this section by telex or a similarly expeditious means of communication. Paragraph (d) does not bind the Commission to using the agent for foreign service under § 21.03.

In recognition of the concerns expressed in the comments, the Commission has modified the proposed rule to place the reporting burden directly on the FCM, trader or foreign broker to whom the special call is issued. In response to the special call, the FCM, trader or foreign broker would be required to transmit at the place and within the time required by the Commission certain information specified in § 21.03(e) (1) and (2). In determining the time within which the information responsive to the special call must be submitted, the Commission intends to take into account difficulty of transmission, time differences, the quantity and type of information requested and other appropriate factors. The special call, insofar as it may require a trader to provide the cash commodity transaction and position information required to be maintained pursuant to 17 CFR 18.05, shall be limited to futures or options positions of the trader in the United States. (§ 21.03(e)(2)(iv)).

Under the modified rule (§ 21.03(f)), the Commission may prohibit further trading in the contract market and in the delivery months or option expiration dates specified in the call except for liquidation trading instead of the automatic liquidation requirement of proposed rule § 21.03. This limitation of allowing trading for liquidation only is intended to preserve the status quo by prohibiting the FCM, trader or foreign broker from adding new positions for the delivery months or option expiration dates. This expedited procedure which does not provide for a hearing prior to the Commission's acting will provide the Commission with an effective means of enforcing special calls in appropriate circumstances. Where information that is needed to enable the Commission to determine whether the threat of market manipulation, corner, squeeze or other market disorder is not provided, this procedure allows the Commission immediately to prevent a FCM, trader or foreign broker from further building its position. The approach of permitting trading for liquidation only should avoid many concerns and problems of market disruption that certain commentors feared from the automatic liquidation required by proposed rule § 21.03.

The modified rule also provides for the opportunity to petition the Commission for a prompt hearing after the Commission acts under § 21.03(f). This provision (§ 21.03(g)) is designed to provide a meaningful opportunity, where appropriate, to contest any facts which formed the basis for the Commission's determination to limit trading for liquidation only.

The modified rule also provides in paragraph (h) for specific time limits and procedures in the event the Commission determines, during the course of or after it acts pursuant to § 21.03(f), that it is appropriate to commence an action under section 6(c) of the Act, 7 U.S.C. 9. The procedure set forth in modified rule § 21.03 does not preclude the Commission from taking other appropriate action under the Commodity Exchange Act or the Commission's Rules, including action under sections 6(b) or 6c of the Act, 7 U.S.C. 9 and 13a–1.

Certification Under the Regulatory Flexibility Act

The Commission does not believe that the rule proposal discussed herein will have an impact on small entities. The rule, if adopted by the Commission, would affect four categories of entities: contract markets, futures commission merchants, traders and foreign brokers. With respect to the first two categories, contract markets and registered futures commission merchants, the Commission has defined "small entity" to exclude such entities. *See* 47 FR 18618, 18619 (Apr. 30, 1982). With respect to traders and foreign brokers, the rule, if adopted, would only apply after a determination by the Commission that information is necessary "to determine whether the threat of a market manipulation, corner, squeeze, or other market disorder exists in any futures market" (Proposed rule § 21.03(c)). In this regard, the Commission has defined "small entity" not to include large traders, *i.e.*, "traders who hold or control positions in a significant number of futures contracts." *See* 47 FR 18620 (Apr. 30, 1982). Accordingly, pursuant to Section 3(a) of the Regulatory Flexibility Act, 94 Stat. 1168 (5 U.S.C. 605(b)), the Chairman, on behalf of the Commission, certifies that the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. However, the Commission particularly invites comments from any small firms or traders which believe that the promulgation of this rule will have such an impact.

PART 21—SPECIAL CALLS FOR INFORMATION FROM CONTRACT MARKETS, FUTURES COMMISSION MERCHANTS, MEMBERS OF CONTRACT MARKETS, AND FOREIGN BROKERS

List of Subjects in 17 CFR Part 21

Commodity futures, Futures commission merchants, Foreign brokers, Domestic and foreign traders, Reporting requirements, Special calls.

Accordingly, pursuant to the authority in Sections 4c, 4g, 4i, 5, 5a and 8a of the Commodity Exchange Act, as amended, 7 U.S.C. 6c, 6g, 6i, 7, 7a and 12a, the

Commission proposes to add new § 21.03 to Part 21 of its regulations as follows:

§ 21.03 Selected Special Calls—Duties of Foreign Brokers, Domestic and Foreign Traders, Futures Commission Merchants and Contract Markets.

(a) For purposes of this section the term "account of a futures commission merchant or foreign broker" means all open futures and options contracts on the records of the futures commission merchant or foreign broker recorded in the name or on behalf of the same person; the term "beneficial interest" means having or sharing in any rights, obligations or financial interest in any futures or options account.

(b) It shall be unlawful for a futures commission merchant to open futures or options accounts for a customer or to effect transactions in futures or options contracts for an existing account for a customer until the futures commission merchant has explained fully to the customer in any manner the futures commission merchant deems appropriate, the provisions of this section. This paragraph shall not apply to any customer whose books and records are open at all times to inspection in the United States by any representative of the Commission.

(c) Upon a determination by the Commission that information concerning accounts carried or held by any futures commission merchant for any other futures commission merchant, trader or foreign broker is necessary to enable the Commission to determine whether the threat of a market manipulation, corner, squeeze, or other market disorder exists in any contract market, the Commission may issue a call for information from the other futures commission merchant, trader, or foreign broker pursuant to the provisions of this section.

(d) In the event the call is directed to a foreign broker or foreign trader, its agent, designated pursuant to § 15.05 of this chapter, shall, if directed, promptly transmit calls made by the Commission pursuant to this section by telex or a similarly expeditious means of communication.

(e) The futures commission merchant, trader or foreign broker to whom the special call is issued must provide to the Commission the information specified below for the commodity, contract market, and delivery months or option expiration dates named in the call. Such information shall be filed at the place and within the time specified by the Commission.

(1) For each account of a futures commission merchant or foreign broker, including those accounts in the name of the futures commission merchant or foreign broker in which open futures or options contracts are carried on the records of the futures commission merchant or foreign broker on the dates specified in the call issued pursuant to this section, a futures commission merchant or foreign broker shall provide the Commission with the following information:

(i) The name and address of the person in whose name the account is carried, and, if the person is not an individual, the name of the individual to contact regarding the account;

(ii) The name and address of any other person who controls the trading of the account;

(iii) The name and address of any person who has a ten percent or more beneficial interest in the account;

(iv) The total open futures and options contracts in the account; and

(v) The number of futures contracts against which delivery notices have been issued or received and the number against which exchanges of futures for cash have been transacted during the period of time specified in the call.

(2) For each account of a trader, a trader shall provide the Commission with the following information:

(i) The total open futures and options contracts owned or controlled on the dates specified in the call;

(ii) The name and address of any person having a ten percent or more beneficial interest in the open futures or options contracts reported pursuant to § 21.03(e)(2)(i);

(iii) The name and address of any other person which controls the trading of the open futures or options contracts reported pursuant to § 21.03(e)(2)(i); and

(iv) The cash commodity transaction and position information required to be maintained pursuant to § 18.05 of this chapter as specified in the call which relates to futures or options positions of the trader in the United States.

(f) If the Commission has reason to believe that a futures commission merchant, trader or foreign broker has not responded as required to a call made pursuant to this section, the Commission may inform the contract market specified in the call and that contract market shall prohibit, and no futures commission merchant or foreign broker shall accept, an order for the execution of trades in the contract market and in the months or expiration dates specified in the call for or on behalf of the futures commission merchant, trader or foreign broker named in the call, unless such trades offset existing open contracts of such futures commission merchant, trader or foreign broker.

(g) Any person that believes he or she is or may be adversely affected or aggrived by action taken by the Commission under paragraph (f) of this section above shall have the opportunity for a prompt hearing after the Commission acts. Any such person may immediately present in writing to the Commission for its consideration any comments or arguments concerning the Commission's action and may present for Commission consideration any documentary or other evidence that person deems appropriate. Upon request, the Commission may, in its discretion, determine that an oral hearing be conducted to permit the further presentation of information and views concerning any matters by any or all such persons. The oral hearing may be held before the Commission or any person designated by the Commission, which person shall cause all evidence to be reduced to writing and forthwith transmit the same and a recommended decision to the Commission. The Commission's directive under paragraph (f) of this section shall remain in effect unless and until modified or withdrawn by the Commission.

(h), If, during the course of or after the Commission acts pursuant to paragraph (f) of this section, the Commission determines that it is appropriate to undertake a proceeding pursuant to section 6(b) of the Commodity Exchange Act, 7 U.S.C. 9, the Commission shall issue a complaint in accordance with the requirements of section 6(b), and, upon a further determination by the Commission that the conditions described in § 21.03(c) still exist, a hearing pursuant to section 6(b) of the Act shall commence no later than five business days after service of the complaint. In the event the persons served with the complaint under section 6(b) has, prior to the commencement of the section 6(b) hearing, sought a hearing pursuant to paragraph (g) above and the Commission has determined to accord him such a hearing, the two hearings shall be conducted simultaneously.

Dated: May 26, 1982.

Jane K. Stuckey,

Secretary of the Commission, Commodity Futures Trading Commission.

[FR Doc. 82-14804 Filed 6-1-82; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

[Regulation No. 4]

Federal Old-Age, Survivors, and Disability Insurance; Revised Medical Criteria for the Determination of Disability

Correction

In FR Doc. 82-12222 appearing at page 19620 in the issue of Thursday, May 6, 1982, please make the following changes:

(1) On page 19630, middle column, in item "C.2.", third line, "determining PaO_2" should be changed to read, "determining $PaCO_2$".

(2) On page 19640, first column, in item "13.25", paragraph "C", "extenteration" should be changed to read, "exenteration".

(3) On page 19641, middle column, last line, "rhonic" should be changed to read, "rhonchi".

(4) On page 19645, middle column, in paragraph "G", "A social" should be changed to read, "Asocial".

BILLING CODE 1505-01-M

VETERANS ADMINISTRATION

38 CFR Part 1

Disinterments from National Cemeteries

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The Veterans Administration proposes to change its regulation on disinterments from national cemeteries, to require that a request for disinterment include the consent of all living immediate family members over their notarized signatures as well as the notarized statement of the requester stating that all close living relatives have given consent. The change is being made because close living relatives and immediate family members have later protested the disinterment. This change is expected to eliminate the problem.

DATE: Comments are due on or before July 2, 1982.

ADDRESSES: Interested persons are invited to submit written comments, suggestion, or objections regarding this proposed regulation to: Administrator of Veterans Affairs (271A), 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received by July 2, 1982 will be available for public inspection only in the Veterans Services Unit, room, 132, of the above address, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays) until July 19, 1982.

FOR FURTHER INFORMATION CONTACT: Sonja McCombs (202) 389-2987.

SUPPLEMENTARY INFORMATION: 38 CFR 1.621 currently requires that all close living relatives of the decedent consent to the disinterment of remains from a national cemetery. This requirement brought objections from the immediate family. On March 21, 1980, 38 CFR 1.621 was substantially abbreviated to reduce the burden of those who requested authority to disinter remains from national cemeteries by requiring only the notarized statement, that all the living close relatives of the deceased consent, and signature of the requester. The proposed regulation to effect this abbreviated requirement was printed at 45 FR 18406 and 18407 but a final regulation was never printed. At this time, the VA is setting forth a new proposed amendment of 38 CFR 1.621 to require that a request for disinterment include the consent of all living immediate family members over their notarized signatures.

VA Form 40-4970, Request for Disinterment, was revised to reflect the abbreviated requirement. The Department of Memorial Affairs, Veterans Administration, has used VA Form 40-4970 since March 1980 and has encountered many problems with it. In one instance, a relative certified that there was no living spouse. The spouse later contacted the VA, very irate that her husband had been disinterred from the national cemetery. In another case, a relative signed a VA Form 40-4970 certifying that all close living relatives had agreed to the disinterment. This information later proved false. While the VA complied with a valid notarized request and was not responsible for the integrity of the sworn statement, the VA would prefer to avoid any further anguish to the family of the deceased veteran. This proposed amendment of 38 CFR 1.621 and revision of VA Form 40-4970 should eliminate future problems and be more acceptable to veterans and their families.

The Administrator has determined that this regulation is nonmajor in accordance with Executive Order 12291, Federal Regulation. The Administrator hereby certifies that this proposed amendment will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), this proposed rule is therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that these regulations apply almost exclusively to individual veterans and their survivors. They will have no significant impact on small entities (i.e., small business, small private profit and nonprofit organizations, and small governmental jurisdictions). There is no Catalog of Federal Domestic Assistance number for disinterment of remains from national cemeteries.

Information collection requirements contained in this regulation (§ 1.612) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB control number 2900-0365.

Approved: May 17, 1982.

Robert P. Nimmo,

Administrator.

List of Subjects in 38 CFR Part 1

Cemeteries, Claims, Government property, Veterans.

PART 1—GENERAL PROVISIONS

38 CFR 1.621 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1.621 Disinterments from national cemeteries.

(a) Interments of eligible decedents in national cemeteries are considered permanent and final. Disinterments will be permitted only for cogent reasons and then only with the prior written authorization of the Chief Memorial Affairs Director. Disinterments from a national cemetery will be approved only when all living immediate family members of the decedent, to include the person who initiated the interment (whether or not he or she is a member of the immediate family), give their consent, or when a court order or state instrumentality of competent jurisdiction directs the disinterment. "Immediate family members" are defined as surviving spouse, if not remarried, all adult children of the decedent, appointed guardian(s) of minor children, the appointed guardian of the surviving unremarried spouse or of the adult child(ren) of the decedent. When the person who initiated the interment is the remarried spouse, his or her written consent will not be required. In the absence of a surviving unremarried spouse and children, the decedent's parents will be considered "immediate family members." (38 U.S.C. 1004)

(b) All requests for authority to disinter remains will be submitted on VA Form 40-4970, Request for Disinterment, and will include the following information:

(1) A full statement of reasons for the proposed disinterment.

(2) Notarized statements by all eligible living immediate family members of the decedent, to include the person who initiated the interment (whether or not he or she is a member of the immediate family), that they consent to the proposed disinterment.

(3) A notarized statement, by the person requesting the disinterment that those who supplied affidavits comprise all the living immediate family members of the deceased. (38 U.S.C. 1004) (Approved by the Office of Management and Budget under OMB control number 2900-0365.)

* * * * * *

(38 U.S.C. 210(c))

[FR Doc. 82-14863 Filed 6-1-82; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[SW-9-FRL 2134-7]

California's Application for Interim Authorization; Phase II Component a Hazardous Waste Management Program

AGENCY: Environmental Protection Agency, Region 9

ACTION: Notice of public hearing and public comment period.

SUMMARY: Regulations to protect human health and the environment from the improper management of hazardous waste were published in the **Federal Register** on May 19, 1980 (45 FR 33063). The hazardous waste management program regulations include provisions for authorization of State program to operate in lieu of the Federal program and for a transitional stage in which States can be granted interim program authorization. This document announces the availability for public review of the California application for partial Phase II Component A Interim Authorization, invites public comment, and gives notice of a public hearing to be held on the application.

DATE: Comments on California's interim authorization application must be received before or by close of the public hearing on July 8, 1982.

PUBLIC HEARING: EPA will conduct a public hearing on California's interim authorization application at 1:30 p.m. and 7:30 p.m. on July 8, 1982. The State of California will participate in the public hearing.

ADDRESSES: Written comments should be sent to: Environmental Protection Agency, Region 9, Toxics and Waste Management Division, Paul Blais (T-2-1), 215 Fremont Street, San Francisco, CA 94105.

The public hearing will be held at: Environmental Protection Agency, Region 9, 215 Fremont Street, 6th Floor, Nevada Room, San Francisco, CA 94105.

Copies of the California interim authorization are available at the following addresses for inspection and copying by the public:

California Department of Health Services, Hazardous Waste Management Branch, 714 P Street, Room 523, Sacramento, CA 95814; (916) 323-2337

California Department of Health Services, Hazardous Waste Management Branch, 107 South Broadway, Room 7012, Los Angeles, CA 90012; (213) 620-2380

California Department of Health Services, Hazardous Waste Management Branch, 2151 Berkeley Way, Room 119, Berkeley, CA 94704; (415) 540-2043

Environmental Protection Agency, Region 9, Library Information Center, 215 Fremont Street, Room 601, San Francisco, CA 94105; (415) 974-8076

EPA Headquarters Library, 401 M Street S.W., Room 2404, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Paul Blais, RCRA State Programs Section Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105; (415) 974-8127.

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, as amended, to protect human health and the environment from the improper management of hazardous waste. These regulations inlude provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted interim authorization. The interim authorization program is being implemented, in two phases corresponding to the two stages in which the underlying Federal program will take effect.

California received interim authorization for Phase I on June 4, 1981. In the January 26, 1981 **Federal Register** (46 FR 7965), the Environmental Protection Agency announced the availability of components of Phase II interim authorization. Component A, published in the January 12, 1981 **Federal Register** (46 FR 2802), contains standards for permitting containers, tanks, surface impoundments, and waste piles. California's partial application for Phase II-A interim authorization does not cover new or existing surface impoundments.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 123 Subpart F (45 FR 33479).

As noted in the May 19, 1980 **Federal Register**, copies of complete State submittals for Phase II interim authorization are to be made available for public inspection and comment. In addition, a public hearing is to be held on the submittal.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indian—land, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalities, Confidential business information.

Dated: May 21, 1982.

Sonia F. Crow,

Regional Administrator.

[FR Doc. 82-14861 Filed 6-1-82; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 180

[PP 1E2541, 1E2547/P236; PH-FRL 2135-6]

Inorganic Bromides Resulting From Soil Treatment With Methyl Bromide; Proposed Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that tolerances be established for residues of the inorganic bromides, resulting from soil treatment with methyl bromide, in or on the raw agricultural commodities onions (dry bulb only), asparagus, and lettuce. The proposed amendment to establish a maximum permissible level for residues of the inorganic bromides in or on these commodities was submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before July 2, 1982.

ADDRESS: Written comments to: Donald R. Stubbs, Emergency Response Section,

Registration Division (TS–767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703–557–7700).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petitions 1E2541 and 1E2547 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of California, Oregon, and Washington (PP 1E2541) and California (PP 1E2547).

These petitions requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for residues of the inorganic bromides, resulting from soil treatment with methyl bromide, in or on the raw agricultural commodities onions (dry bulb only) (PP 1E2541) and asparagus and lettuce (PP 1E2547) at 200 parts per million (ppm). The petitions were later amended to propose tolerances at 300 ppm in or on each of the commodities.

The data submitted in the petitions and all other relevant material have been evaluated. The pesticide is considered useful for the purposes for which the tolerances are sought. The toxicological data considered in support of the proposed tolerances include the following three studies conducted before 1955 and rated as "supplemental" based on curent-day standards for testing: a 20-month rat feeding study with a systemic no-observed-effect level (NOEL) of 235 ppm; a 52-week rabbit feeding study with a systemic NOEL of 90 ppm; and a 1-year dog feeding study with a systemic NOEL of 2,900 ppm. Of significance are long-term clinical studies of inorganic bromides in humans to support the demonstrated safe use by humans of over-the-counter proprietary brominated analgesics. Agricultural tolerances have previously been established for residues of the inorganic bromides on various commodities at levels ranging from 5 ppm up to 240 ppm (40 CFR 180.123, 180.126, 180.146, 180.197, 180.199); food additive tolerances have been established at levels up to 400 ppm in major food items such as cheeses, dried eggs, and milled grain products (21 CFR 193.250), and in fermented malt-beverages (21 CFR 193.230).

Tolerances already exist for residues of the inorganic bromides in onions at 20 ppm and asparagus at 100 ppm, both from postharvest commodity fumigation with methyl bromide, and in lettuce at 130 ppm resulting from preharvest soil treatment with 1,2-dibromo-3-chloropropane.

The acceptable daily intake (ADI), based on studies of systemic effects in humans and using a 10-fold safety factor, is calculated to be 60 mg/kg of body weight (bw)/day, calculated as the bromide ion. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 600 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is currently estimated to be 125 mg/day. This does not take into account inorganic bromides in milk, eggs, meat and poultry resulting from ingestion of "background" inorganic bromides which are ubiquitous in nature, especially in in milk. The potential for increased exposure in the human diet from the proposed tolerances is not considered toxicologically significant.

The nature of the residues is adequately understood and an adequate analytical method (direct potentiometry using a solid state bromide electrode) is available for enforcement purposes. All residue data for each of the three commodities are from tests conducted in California. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerances established by amending 40 CFR Part 180 would protect the public health. It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request on or before July 2, 1982 that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, "[PP 1E2541, 1E2547/P236]". All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: May 21, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR 180.199 be revised to read as follows:

§ 180.199 Inorganic bromides resulting from soil treatment with combinations of chloropicrin, methyl bromide, and propargyl bromide; tolerances for residues.

Tolerances are established for residues of inorganic bromides (calculated as Br) in or on the following raw agricultural commodities grown in soil fumigated with combinations of chloropicrin, methyl bromide, and propargyl bromide. No tolerances are established for chloropicrin since it has been established that no residue of this substance remains in the raw agricultural commodity.

Commodities	Parts per million
Asparagus	300
Broccoli	25
Cauliflower	25
Eggplants	60
Lettuce	300
Muskmelons	40
Onions (dry bulb)	300
Peppers	25
Pineapples	25
Strawberries	25
Tomatoes	40

[FR Doc. 82–14882 Filed 6–1–82; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 1E2493/P232; PH-FRL 2135-8]

Cyano(3-Phenoxyphenyl)Methyl 4-Chloro-Alpha-(1-Methylethyl)Benzeneacetate; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for residues of the insecticide cyano(3-phenoxyphenyl)methyl 4-chloro-alpha-(1-methylethyl)benzeneacetate in or on the raw agricultural commodity filberts. The proposed amendment to establish a maximum permissible level for residues of the insecticide in or on the commodity filberts was submitted by the Interregional Research Project No. 4 (IR-4).

DATES: Comments must be received on or before July 2, 1982.

ADDRESS: Written comments to: Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs (703-557-7700) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition number 1E2493 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Oregon.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the insecticide cyano(3-phenoxyphenyl)methyl 4-chloro-alpha-(1-methylethyl)benzeneacetate in or on the raw agricultural commodity filberts at 0.2 part per million (ppm).

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance included an acute oral rat toxicity study with a median lethal dose (LD_{50}) of 1-3 grams (g)/kilogram (kg) of body weight (bw) (water vehicle) and 450 milligrams (mg)/kg of bw (dimethyl sulfoxide (DMSO) vehicles); a 90-day dog feeding study with a no-observed-effect level (NOEL) of 500 ppm (highest dose tested); a 90-day rat feeding study with a NOEL of 125 ppm; an 18-month mouse feeding study with a NOEL of less than 100 ppm with no oncogenic effects at the highest level fed (3,000 ppm); a 24-month mouse feeding study with a NOEL of 10-50 ppm for males and 50-250 ppm for females (no oncogenic effects were noted at 1,250 ppm, the highest dose tested); a 24-month rat feeding study that demonstrated no oncogenic effects at 1,000 ppm (only level tested) (significantly decreased body weight was observed at this dose level); a 2-year rat feeding study with a NOEL of 250 ppm (highest level fed)—no oncogenic effects were observed; a three-generation rat reproduction study with a NOEL of 250 ppm (highest level fed); teratology studies (in mice and rabbits), each negative at 50 mg/kg/day (highest dose tested); and the following mutagenicity studies: mouse dominant lethal (negative at 100 mg/kg of bw, which was the highest level fed); mouse host-mediated bioassay (negative at 50 mg/kg of bw, which was the highest level fed); Ames test in vitro (negative), and a bone marrow cytogenic study in the Chinese hamster (negative at 25 mg/kg of bw). The following studies assessing neurological effects were performed: a hen study negative at 1.0 g/kg of bw for 5 days, repeated at 21 days; a rat (6-day) acute study with a NOEL of 200 mg/kg of bw; a 15-month rat feeding study which resulted in a systemic NOEL of 500 ppm and a NOEL of 1,500 ppm with respect to nerve damage.

The acceptable dialy intake (ADI), based on the 2-year rat feeding study (NOEL of 12.5 mg/kg/day, or 250 ppm) and using a 100-fold safety factor, is calculated to be 0.1250 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 7.5 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5 kg daily diet is calculated to be 0.0541 mg/day; the current action will increase the TMRC by 0.0001 mg/day (0.18 percent). Published tolerances utilize 0.72 percent of the ADI; the current action utilizes less than 0.01 percent.

The nature of the residues is adequately understood and an adequate analytical method (electron-capture gas chromatography) is available for enforcement purposes. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR Part 180 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request July 2, 1982, that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, "[PP 1E2493/P232]". All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 [46 FR 24950].

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: May 24, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR 180.379 be amended by revising the chemical name to reflect "(1-methylethyl)" and adding and alphabetically inserting the raw agricultural commoditty filberts to read as follows:

§ 180.379 Cyano(3-phenoxyphenyl methyl 4-chloro-alpha-(1-methyl-ethyl)benzeneacetate; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Filberts	0.2
* * * * *	

[FR Doc. 82-14894 Filed 6-1-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 425

[WH-FRL 2135-4]

Leather Tanning and Finishing Industry Point Source Category Effluent Limitations Guidelines, Pretreatment Standards and Standards of Performance for New Sources

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability and request for comments.

SUMMARY: EPA proposed regulations on July 2, 1979 to limit effluent discharge to waters of the United States and introduction of pollutants into publicly owned treatment works from leather tanning and finishing facilities. EPA accepted comments on the proposed regulations until April 10, 1980. At a hearing in Washington, D.C., on February 15, 1980, the Agency announced that it would make available for public review additional information and data the Agency gathered after proposal of the regulations. EPA announces today the availability for public review of technical and economic data and related documentation received after proposal of the regulations. EPA is requesting comments on these supplementary record materials and on the Agency's preliminary analysis of how these materials might influence final rulemaking.

DATES: Comments must be submitted on or before July 19, 1982.

ADDRESS: Comments may be mailed to Mr. Donald F. Anderson, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Attention: Docket Clerk, Leather Tanning Rules, or delivered to the Docket Clerk, Rm. 911, East Tower, Waterside Mall, between the hours of 9:00 A.M. and 4:00 P.M. the supplementary information and data received, and the revised technical and economic data evaluation summaries will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2402 (Rear), Waterside Mall, 401 M Street, Southwest, Washington, D.C. 20460. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Donald F. Anderson, (202) 426-2707.

SUPPLEMENTARY INFORMATION:

A. Data Gathering and Review Efforts

In their comments on the proposed regulations, (44 FR 38746-38776, July 2, 1979), the leather tanning industry claimed that the data and other supporting record material relied upon by EPA in proposing these regulations contained a large number of errors.

The Agency responded to this comment by completely reviewing the entire data base and all documentation supporting this rulemaking. All historical data points were examined for background documentation, accuracy, and applicability. In its review of the data base, the Agency has corrected errors relating to previously reported data, including production levels, water use ratios, and technology cost.

EPA also conducted a program to acquire new data during the comment period. This program involved 56 information request mailings (developed in cooperation with and distributed by the Tanners' Council of America), 43 site visits, and 10 wastewater sampling visits. The Agency acquired a significant amount of additional information and data on production levels, wastewater flow data, methods capable of reducing flow, and control and treatment technology performance and cost.

The Agency also has considered new data, developed by a study of toxic pollutant treatability at publicly owned treatment works ("POTW study"), in reviewing the basis for pretreatment standards. The data considered is included in a report, entitled "Fate of Priority Pollutants in Publicly Owned Treatment Works—Interim Report," report number EPA-440/1-80-301, October 1980, which is available separately for review and comment. Interested parties should contact Mr. Robert Southworth at (202) 426-2707 to receive a copy of this report.

EPA analyzed the supplemented data base in order to verify or modify, as appropriate, the important underlying facets of the regulations, including: industry profile and subcategorization; water use and waste load generation; the performance and cost of control and treatment technologies as applied by direct dischargers and by publicly owned treatment works (POTWs); treated effluent variability analysis; economic analysis; and environmental analysis. The purpose of the balance of this notice which follows is to inform the public and the regulated community of the Agency's preliminary analysis of how the verified and supplemented record may influence final rulemaking for the leather tanning and finishing industry. This preliminary analysis is an extra effort by the Agency to ensure the fullest possible public participation in the development of this regulation.

The Agency is making available to the Tanners' Council of America (TCA), the trade association which represents most of the industry, a separate copy of all verified and updated data and summaries of all key technical and economic statistics.

B. Industry Subcategorization

In developing the proposed regulations, EPA identified seven categories within the leather tanning and finishing industry on the basis of hide or skin type and process employed. The seven subcategories were as follows:

1. Hair Pulp, Chrome Tan, Retan-Wet Finish
2. Hair Save, Chrome Tan, Retan-Wet Finish
3. Hair Save, Non-Chrome Tan, Retan-Wet Finish
4. Retan-Wet Finish
5. No Beamhouse
6. Through-The-Blue
7. Shearling

Upon further review of the industry, and in response to public comment, EPA is considering establishing two additional subcategories, 8 and 9. Subcategory 8 would cover pigskin tanneries which previously were included in subcategory 1. Subcategory 9 would cover plants which retan-wet finish splits, while plants which retan-wet finish grain sides remain in subcategory 4.

C. Methodology for Determining Representative Water Use and Wastewater Characteristics

EPA restudied the raw waste loads and water use ratios for each subcategory in order to determine representative values, and has applied a different methodology than that originally proposed. Due to the large inconsistencies in data reported by different tanneries, and in response to the commenters' concerns over the highly variable nature of the data itself,

it became apparent that an average subcategory value would be biased toward those facilities contributing a large number of data points for any particular parameter, and further would not adequately reflect the variability observed in parameter values. Therefore, the arithmetic mean of each facilitiy's data was computed and subcategory water use and wastewater characteristics for each parameter were determined using the median value of the family of plant mean values in each subcategory. This method would give equal weight to each facility's data, and provide a better estimate of central tendency since the median is less sensitive to extreme values in the data than the mean. The Agency feels that this change in methodology, coupled with the updated data base, would provide a more accurate representation of the industry's raw waste characteristics.

Table 1 is a listing of median flow ratios and the number of plants achieving them in each subcategory, including the two additional subcategories.

TABLE 1

Subcategory	No. of plants in subcategory data base	Median flow ratio (gallon/pound)	No. of plants operating below median flow
1	37	6.7	20
2	4	5.6	2
3	13	4.9	7
4	11	4.0	5
5	14	5.6	8
6	2	2.1	1
7	2	8.1	1
8	2	5.0	1
9	4	3.0	2

EPA identified achievable reduced flow ratios in most subcategories by taking the median of those plant average flow ratios which were less than or equal to the subcategory median ratios noted in Table 1. These reduced flow ratios and the number of plants achieving them in each subcategory are listed in Table 2.

TABLE 2

Subcategory	Reduced flow ratio (gallon/pound)	No. of plants meeting flow ratio
1	5.5	10
2	5.0	2
3	4.9	9
4	2.9	4
5	5.6	6
6	1.4	1
7	8.4	1
8	5.0	1
9	2.5	2

EPA also identified further reductions in water use achievable in five subcategories by new sources which have the capability of utilizing efficient processing methods and equipment. These new source flow ratios and the number of plants achieving them are listed in Table 3.

TABLE 3

Subcategory	New source flow ratio (gallon/pound)	No. of plants meeting flow ratio
1	4.2	8
2	4.9	1
3	4.2	4
4	2.9	4
5	3.9	3
6	1.4	1
7	8.4	1
8	4.1	1
9	2.5	2

Revised raw waste loads by subcategory are not repeated here but are included in the record at item I. E.

Toxic Pollutant Parameters

As part of the new data gathering effort described previously, EPA sampled the wastewaters from 10 plants for toxic pollutants present. The additional sampling added significantly to the toxic pollutant data base. This data indicates that 48 toxic pollutants were detected in the raw wastewaters of the industry, while only 13 were found to be present in treated effluents. Table 4 presents a list of these toxic pollutants.

TABLE 4—TOXIC POLLUTANTS DETECTED IN TREATED EFFLUENTS

Chromium
Copper
Lead
Nickel
Zinc
1,2-Dichlorobenzene
2,4,6-Trichlorophenol
Ethylbenzene
Methylene chloride
4-Nitrophenol
Pentachlorophenol
Phenol
Bis(2-ethylhexyl) phthalate

Variability of Treated Effluent Characteristics

The review and analysis of the updated data base also included recalculation of variability factors for regulated pollutants. The proposed effluent limitations were based on variability factors derived primarily by best engineering judgment. The revised variability factors are based on statistical analysis of the data by pollutant. The data sets subjected to this analysis were for plant numbers 47, 50, and 55. All data representing documented periods of plant start-up, upsets, mechanical or power failures, or similar circumstances which result in poor effluent quality (permit violations) were edited from the data base. Normal variability in effluent quality as represented by the resulting data base has been quantified utilizing the following methodology. The data for each pollutant from each plant were fit to a generalized form of the lognormal distribution. Daily maximum variability factors for each plant were determined by taking the ratio of the estimated 99th percentile concentration and the estimated long term mean of the fitted distribution. These values were combined across plants to obtain overall variability factors and effluent concentrations.

Maximum monthly effluent limitations were developed in a manner consistent with the method used to develop maximum day effluent limitations. The same distribution of daily effluent concentrations and estimated long term mean effluent concentrations were used in developing the maximum monthly effluent concentrations. The maximum monthly effluent limitations were based on statistical modeling techniques applied to available data to derive maximum monthly effluent limitations assuming eight sample observations per month, because this is expected to be typical in the industry. Monthly variability factors were determined by taking the ratio of the estimated 95th percentile of the distribution of the monthly arithmetic mean concentrations and the estimated long term mean effluent concentration. These factors were combined across plants in the same manner used for the maximum day variability factors.

The expected value of the maximum monthly average, as estimated by statistical modeling techniques, changes with the number of data points (sampling frequency). The expected value of the maximum monthly average based on sampling every day of the month (30 data points per monthly average) is substantially lower than the expected value based on sampling twice per week (eight data points). In this regard the Agency recognizes that individual plants in the industry may choose to sample more frequently than twice per week, for example to improve process control for biological treatment systems. However, EPA is considering requiring achievement of maximum monthly effluent limitations based on eight sampling days per 30 day period, or approximately twice per week. Compliance by a given discharger with these (eight day) limitations would be based on the arithmetic average of the actual number of measurements taken

during a 30 period, regardless of their frequency (e.g., three or four samples per week).

Appendix A includes tentative variability factors derived from analysis of the updated data base. The variability factors listed in Appendix A and the statistical methodology utilized in their development have been reviewed to ensure that they are representative of actual final effluent quality variability. The Agency specifically solicits comments on the appropriateness of this methodology and the resulting variability factors.

D. Cost Development and Economic Analysis

EPA has reevaluated the methodology used for developing the cost of complying with the proposed regulations. The results of that evaluation are discussed below.

One of the major comments by the TCA and members of the leather tanning industry has been that the cost of control and treatment technology was understated substantially, and that the economic analysis overstated the industry's economic condition in view of a recent severe downturn. The TCA's independent economic study indicated that the proposed regulations would force half of the plants in the industry to close.

In response to industry concerns, EPA completed a comprehensive review and revision of the entire engineering design and cost development procedure. Design factors generally were found to be correct, while a number of inadequacies and errors were found in the cost development procedures used for the proposed regulations. Revisions to subcategory median water use ratios, which generally increased, and the revised unit cost curves, taken together, have resulted in substantial increases in the cost of control and treatment technologies. EPA also revised its costing procedures by developing a credit applicable to direct dischargers for previous expenditures on in-place technologies. Results of these revisions are discussed in appropriate sections in this notice.

EPA also reevaluated the methodology used for assessing the economic impact of the cost of complying with the proposed regulations. Specifically, the economic analysis methodology employs basic capital budgeting techniques to determine whether or not facilities will continue operation following imposition of pollution control requirements and to evaluate reductions in profitability. The Agency developed model plants which represent production type (i.e., cattlehide-chrome tannery, sheepskin, etc.), discharge status (direct or indirect), and production size. In addition, to verify model plant results, EPA performed a plant specific analysis for 13 of the 20 direct discharging tanneries.

The decision criteria for plant closures are based on net present value analysis (NPV) and cash flow analysis. Cash flow analysis measures the total annual expenditures and total revenues, the difference being the "net cash flow." Under NPV analysis, the net cash flows for each year (over the life of an investment) are discounted at the interest rate representing the industry cost of capital. Plants are projected to close or refrain from entry if both the NPV and the sum of the NPV and annual cash flow are negative.

EPA also completed a major reassessment of the economic conditions of the industry, with the assistance of summary data provided by the TCA, financial data provided by a number of individual firms, and other data collected by the Agency's economic contractor. The basis for the economic analysis was updated to reflect conditions through 1979, including hide prices, demand for and prices of finished leather, plant utilization rates, international competition, and related factors, with control technology cost data expressed in first quarter 1980 dollars. EPA evaluated seven model plants for indirect dischargers, in addition to the 15 model plants evaluated for the proposed regulations. Plant specific analyses again were performed for 13 of the 20 direct dischargers, including consideration of an allowance for previous expenditures on in-place control technologies. Preliminary results of the revised economic analysis are presented in the appropriate sections in this notice.

E. BPT

The Agency has reviewed the proposed BPT (best practicable control technology currently available) which was based on equalization, primary coagulation-sedimentation, and biological treatment in the form of extended aeration activated sludge. This technology has been demonstrated within the industry. However, as of this date it still has not been applied in all subcategories. The similarity in treatability of wastewaters generated by plants in all subcategories permits transfer of this technology among subcategories within the industry. Differences in wastewater volume and pollutant loading among subcategories has been accounted for by adjustments in unit process design (e.g., tank sizes, aeration equipment capacity, etc.) and associated cost.

The Agency also has reviewed preliminarily a substantial amount of data in the supplemented record concerning the performance of BPT technology. The methodology for evaluating the variability of treated effluent data, as described above under *Variability of Treated Effluent Characteristics*, used estimates of long term average effluent concentrations as the starting point for developing tentative variability factors. As a result of the supplemented data base and the refined methodology for evaluating that data, the Agency is considering changing its proposed BPT effluent concentrations.

Data from two POTW's with high proportions of tannery wastewater, Berwick and Hartland, Maine, (plant numbers 50 and 55, respectively) and from one direct discharger (plant number 47) were utilized to develop tentative weighted average long term effluent concentrations, as follows: BOD5—35 mg/l; TSS—48 mg/l; Chromium (Total)—0.76 mg/l; and Oil and Grease—15 mg/l. These average effluent concentrations were obtained by taking the estimated long term means for each plant and combining them by weighting based on the number of data points for each plant. The maximum day and maximum 30 day limitations produced were consistent with the data in the sense that the three facilities showed a violation rate in line with the 99th (maximum day) and 95th (maximum 30 day) percentile criteria used to develop the limitations.

In reviewing these concentrations, the Agency was concerned that the degree of operational proficiency required to achieve limitations based on the weighted average long term effluent concentrations may not allow adequate flexibility for individual plants in selection among options for upgrading. This is important because virtually all direct dischargers will require varying degrees of upgrading of both physical facilities and operational practices. Only marginal relaxation in the limitations is necessary to afford more flexibility, especially during the initial period of developing operational skills for newly upgraded physical facilities. The Agency also considered it important that all three plants used to develop the limitations should achieve the limitations, at least on a mass basis (lbs/day), approximately within the criteria used to develop them. In this regard, one of the plants (No. 47) used in the analysis had long term effluent BOD5 and TSS concentrations

somewhat higher than the weighted average long term effluent concentrations noted above. Engineering evaluation indicated that minor facility upgrading of this plant would be beneficial, although improved operational procedures alone could provide sufficient improvement to achieve the weighted average long term effluent concentrations. For this reason, the Agency did not consider it necessary to adjust the limitations up to the concentrations achieved by this plant. In addition, the Agency was concerned about the achievability of the TSS concentration for vegetable tanning wastewaters because solids can be somewhat difficult to physically separate in secondary clarifiers.

For these reasons, the Agency, by using best engineering judgment, has found it prudent to increase these long term effluent concentrations and is considering long term average final effluent concentrations, as follows: BOD5—40 mg/l; TSS—60 mg/l; Oil and Grease—20 mg/l; Total Chromium—1 mg/l. The concentrations underlying the regulations proposed in 1979 are as follows: BOD5—60 mg/l; TSS—95 mg/l; Oil and Grease—17 mg/l; and Total Chromium—2 mg/l. Appendix A lists the variability factors which could be applied to these concentrations together with flow ratios in Table 1 in order to develop maximum 30 day average (based on eight sampling days per 30 day period) and maximum day mass based effluent limitations which are listed in Appendix B. All three plants used to develop these BPT effluent limitations were found to be in compliance with either the concentrations, or the mass limitations (lbs/day), or both, approximately within the criteria used to establish them (i.e., maximum 30 day—95th percentile; maximum day—99th percentile). It is likely that the revised effluent limitations being considered by the Agency will provide a number of plants, other than those used to develop the limitations, with sufficient flexibility to allow selection of less costly options for upgrading than chosen by EPA, or improved operation and maintenance, or both.

The data sets, statistical methodologies, and underlying control technologies utilized to develop these concentrations have been reviewed to ensure that unique circumstances do not serve as the basis for effluent limitations which otherwise would be difficult to achieve. The Agency solicits comments on these technical aspects of BPT.

The Agency also reviewed the cost of upgrading from currently in-place technology to BPT technology for each of the 20 direct dischargers, and has determined that the total investment cost is $11.7 million, the total annual cost is $5.0 million, with an investment cost credit of $12.6 million for in-place technology. Preliminary economic impact analysis indicates that one of the 13 direct dischargers analyzed may close and two plants may become marginal as a result of these costs.

Public comments on the proposed regulation focused on the economic analysis of the cost of compliance with BAT. Therefore, the Agency specifically solicits comments on the economic analysis of the cost of compliance with BPT, and whether the 13 plants analyzed are representative of all 20 direct dischargers.

F. BAT

The Agency has reviewed the options previously set forth in the BAT (best available technology economically achievable) proposal, and is considering redefining some of those options. Proposed OPTION I was based on the addition of in-plant controls and segregated stream pretreatment to PBT technology. However, in view of the increase in cost for control technology and the economic posture of the industry, EPA is considering making BAT OPTION I equal to BPT. In addition, EPA is considering combining the effluent limitations and costs of proposed OPTION II, based on activated sludge upgraded primarily by powdered activated carbon (PAC) addition, with those of proposed OPTION I, primarily based on in-plant control and segregated stream pretreatment. This combination would remain as BAT OPTION II. The addition of multi-media filtration, (previously OPTION III) which was the basis for the proposed BAT regulation, would remain identified as OPTION III. The Agency is considering dropping proposed OPTION IV, which was based on the end-of-pipe addition of granular activated carbon columns, because it is too expensive and lacks demonstrated use in this industry.

Based on all available data it appears that the additional increment of investment cost beyond OPTION I for all direct dischargers to implement OPTION II would be $16.1 million, with total annualized cost of $4.3 million. Preliminary economic analysis indicates that 5 of 13 direct dischargers analyzed potentially may close. The additional increment of investment cost beyond OPTION II for all direct dischargers to implement OPTION III would be $3.6 million, with total annualized cost of $0.65 million. Preliminary economic analysis indicates that potentially two additional plants may close (or 7 of 13 direct dischargers analyzed) if this option were chosen.

Based upon this analysis, the Agency is considering OPTION I as the basis for BAT. OPTION I would require no more stringent effluent limitations (see Appendix B) or associated technology and cost than required by BPT. EPA specifically invites comment on this option and all other options.

EPA proposed BAT limitations for BOD5, TSS, oil and grease (as indicators for toxic pollutants) and for total chromium, COD, TKN, ammonia, phenol (total) and sulfide. Due to the potential economic impacts, as discussed above, the Agency is considering not selecting BAT OPTIONS II or III. Because BAT OPTION I (BPT) does not specifically control COD, TKN, ammonia, phenol (total), or sulfide, EPA is considering not regulating these pollutants under BAT OPTION I. EPA does, however, recognize that if BAT OPTION I is employed, site specific water quality problems may require more stringent permit requirements on a case-by-case basis. Accordingly, the Agency has developed preliminary achievable long term effluent concentrations for BOD5, TSS, oil and grease, total chromium, as well as COD, TKN, ammonia, and phenol (total) for BAT OPTIONS II and III. Appendix C includes these preliminary long term effluent concentrations which could be utilized, together with water use ratios in Table 2 and variability factors in Appendix A, to develop mass based effluent limitations for BAT OPTIONS II and III.

With regard to control of ammonia and TKN by BAT OPTIONS II and III, commenters objected to the substitution of epsom salts for ammonia in deliming. They argued that this substitution would harm leather quality and would substantially increase production costs. Accordingly, EPA has recalculated the incremental cost of BAT OPTION II excluding epsom salts deliming, but including the costs of other technology necessary to support nitrogen control by biological nitrification (i.e., pretreatment of segregated streams to reduce TKN in raw wastewater, additional aeration and chemical addition to control pH in activated sludge). EPA evaluation of the end-of-pipe technology indicates that consistently low TKN and ammonia effluent concentrations can be achieved with proper design and diligent operation of BAT OPTIONS II and III technology (see Appendix C).

G. BCT

BCT limitations are based on the "best conventional pollutant control

technology" for discharges of conventional pollutants from existing sources. Section 304(a)(4) defines conventional pollutants to include BOD, TSS, fecal coliform, pH and any additional pollutants defined by the Administrator as conventional. On July 30, 1979 the Administrator defined oil and grease as a conventional pollutant (44 FR 44501).

Section 304(b)(4)(B) of the Act requires that the methodology for determining BCT include two major factors: an industry cost-effectiveness test and a test that compares the cost for private industry to reduce its effluent levels with the cost incurred by POTWs.

The Agency's "cost-reasonableness" test was intended to consider these factors. However, that cost test was remanded by the United States Court of Appeals for the Fourth Circuit. *American Paper Institute* v. *EPA*, 660 F.2d 954 (4th Cir. 1981). The Agency is currently developing a new methodology.

The proposed regulation had set BCT equal to BAT in all subcategories. BPT is the minimum level of BCT control required by law. As noted previously, EPA is considering setting BAT equal to BPT. In addition, on the basis of available data EPA has not identified any economically achievable technology beyond BPT which would effect significant additional removal of conventional pollutants. Therefore, the Agency is considering setting BCT equal to BPT in all subcategories.

H. NSPS

The proposed new source performance standards (NSPS) were based upon the proposed BAT technology. Should the Agency decide that BAT will equal BPT, the Agency would probably consider adopting BPT technology with reduced flow ratios (noted earlier in Table 3 as new source flow ratios) in developing mass based effluent limitations. Appendix D includes mass based effluent limitations being considered by the Agency for NSPS.

I. PSES

PSES are designed to prevent the discharge of pollutants that pass through, interfere with, or otherwise are incompatible with a well operated POTW achieving secondary treatment requirements. EPA has determined generally that there is pass through of pollutants if the percent of pollutants removed by a well operated POTW achieving secondary treatment requirements is less than the percent removed by the BAT model treatment system. The general pretreatment regulations which served as a framework for these categorical regulations are found at 40 CFR Part 403, 43 FR 27736, June 26, 1978; 46 FR 9462, January 28, 1981.

The proposed pretreatment standards for existing sources (PSES) included concentration based limitations for ammonia, sulfide, and chromium, and subcategory specific ranges for pH. EPA has reviewed the entire technology, performance (including new data), and cost basis for this regulation. As a part of this review and in response to comments, EPA is considering developing two additional control technology options which are less costly and require less space for installation than the technology option which served as the basis for the proposed PSES regulation. These two additional technology options, and the technology option which served as the basis for the proposed PSES regulations, are discussed below. Discussion of regulatory options for each of the pollutants in the proposed PSES regulation follows the discussion of these technology options. Appendix E is a tabulation of pretreatment standards being considered by the Agency for chromium, sulfide, ammonia, and pH.

The first and least stringent of the two additional control technology options (TECHNOLOGY OPTION I) being considered by EPA incorporates: in-plant controls (depending on subcategory), including stream segregation and water conservation; segregated stream pretreatment, including fine screening and catalytic oxidation of beamhouse wastewaters; and pH control and monitoring (pH and flow) at the combined sewer discharge. TECHNOLOGY OPTION I includes control only for sulfide. The total industry cost could be as high as $39.5 million, with total annualized cost of $12.6 million, if all plants were required to install this technology. Preliminary economic analysis indicates no closures for this option, and all plants have adequate space to install this technology.

The second of the two additional control technology options being considered (TECHNOLOGY OPTION II) by EPA involves controls in addition to those in TECHNOLOGY OPTION I (depending upon subcategory) as follows: in-plant control, including chromium recovery and reuse; segregated stream pretreatment, including fine screening, equalization, and coagulation-sedimentation of tanyard wastewaters; and dewatering of sludges. TECHNOLOGY OPTION II includes control capability both for sulfide and chromium. The Agency found that from 5 to 10 percent of the indirect dischargers would not have adequate interior plant space or adjacent land available to install pretreatment TECHNOLOGY OPTION II. The total cost of installing this pretreatment technology (including both chromium and sulfide control) could be as high as $147 million with total annualized cost of $36.6 million, if all plants were required to install this technology. No closures are projected based on this cost, but the investment cost requirements may cause serious capital availability difficulties for many plants.

TECHNOLOGY OPTION III, which served as the basis for the proposed PSES regulations, incorporates controls in addition to those in TECHNOLOGY OPTION II (depending upon subcategory) as follows: segregated stream pretreatment, including flue gas coagulation-sedimentation of beamhouse wastewaters, equalization and coagulation-sedimentation of combined wastewaters in place of the same unit processes applied to segregated tanyard wastewaters. TECHNOLOGY OPTION III also includes control capability both for sulfide and chromium. The total industry cost could be as high as $214 million, with total annualized cost of $59.8 million, if all plants were required to install this technology. Preliminary economic analysis indicated that as many as 14 plants may close out of a total of 140 plants. In addition, the investment cost requirements may cause severe capital availability difficulties for many plants. Data and information in the record, gathered from visits during the comment period, indicates that approximately 20–25 percent of all indirect dischargers do not have adequate interior plant space or adjacent available land to install this technology.

Ammonia

In the discussion of BAT control technology, it was noted that EPA is considering not setting ammonia limitations on the basis of comments that in-process substitution for ammonia would not be feasible and that its costs are substantial. For the same reason, EPA is considering withdrawing the proposed pretreatment standard for ammonia.

Sulfide

The proposed regulation included a "zero" standard for sulfide (not detectable by the 304(h) analytical method) because of the potential for release of hydrogen sulfide gas in

sewers, headworks, and sludge management facilities at POTWs. Fatalities attributable to release of hydrogen sulfide gas have been documented. However, the severity of these problems varies by pH and time (slug loading), and by POTW (comingling of varying quantities of municipal and industrial wastewaters in collection sewers).

As a result of reviewing the supplemented data base and comments, the Agency is considering basing the sulfide pretreatment standard on a long term average effluent concentration of 9 mg/1 (the proposed pretreatment standard was 0.0 mg/1). This standard would be the same for TECHNOLOGY OPTIONS I, II, and III. Data available permitted calculation of a maximum day variability factor, found to be 2.7. The most severe hazard posed by hydrogen sulfide gas occurs during rapid fluctuations in pH caused by slug loading. For this reason, a 30 day average limitation does not provide an effective tool for controlling this hazard. Therefore, a maximum 30 day average pretreatment standard for sulfide is not being considered by the Agency at this time. The maximum day pretreatment standard would be applicable to plants in subcategories (nos. 1, 2, 3, 6, and 8) which incorporate sulfide unhairing operations and discharge high concentrations of sulfides. Appendix E includes a tabulation of maximum day concentrations being considered by the Agency for sulfide. The Agency is considering TECHNOLOGY OPTION I as the basis for a regulation which would control only sulfide. This TECHNOLOGY OPTION would afford the same level of control as the other two TECHNOLOGY OPTIONS, but at substantially lower cost and economic impact, and could be installed within available space at all plants.

The Agency is considering two regulatory options which would be used in conjunction with TECHNOLOGY OPTION I to control sulfide. The first regulatory option would be to promulgate a categorical pretreatment standard which would apply to all indirect dischargers covered by these regulations. The second regulatory option would be to promulgate a categorical pretreatment standard which would include a provision for waivers from this standard. A waiver would be requested by affected POTWs and would be based upon an evaluation of site specific factors which determine the degree of hazard of sulfide to human health. Among the factors which would be germane to a waiver request are: the presence of other industrial discharges which could decrease substantially the pH of tannery wastewater and liberate large quantities of hydrogen sulfide; the presence of other industrial discharges which could dilute tannery wastewaters to the point that sulfide concentrations pose no significant danger; the type of collection sewers, headworks, and sludge disposal facilities which could be subject to liberation of hydrogen sulfide gas; etc. The Agency solicits comments on these approaches to sulfide control and the specific procedures which should be adopted if the waiver approach is chosen.

Chromium

The proposed regulation included a pretreatment standard for chromium (total) applicable to all plants that was based primarily on pretreatment by coagulation-sedimentation of combined wastewater streams (TECHNOLOGY OPTION III). The proposed pretreatment standard was 2 mg/l. It was designed to avoid pass through of chromium from a POTW.

Review of data in the updated record indicates that three of the "captive" POTWs, which are designed to treat these wastewaters (more than 90 percent tannery wastewater in two cases) and are well operated, are removing from 95–98 percent of the chromium received. Data from an EPA study of 20 well operated POTWs achieving secondary treatment requirements indicates that chromium removals are not as high (73 percent) as achieved by the "captive" POTWs and by direct dischargers using BAT level treatment. Therefore there may be pass through of chromium at POTWs receiving these wastewaters if there is no pretreatment.

Among the three technology options described above, TECHNOLOGY OPTION II and TECHNOLOGY OPTION III include control capability for chromium. For TECHNOLOGY OPTION II, the achievable long term effluent concentration for chromium (total) would be 8 mg/l for those subcategories (nos. 4, 5, 7, and 9) which do not have beamhouse operations; the achievable long term effluent concentration for chromium (total) is 5 mg/l for those subcategories (nos. 1, 2, 3, 6, and 8) which do have beamhouse operations that generate wastewaters which dilute the pretreated tanyard stream prior to discharge to a POTW sewer. For TECHNOLOGY OPTION III, EPA has reviewed the supplemented record and as a result of that review has found that the achievable long term effluent concentration for chromium (total) would be revised to 8 mg/l for all subcategories (the proposed standard was 2 mg/l, as noted above). The preferred basis for a categorical pretreatment standard would be TECHNOLOGY OPTION II, because TECHNOLOGY OPTION III would have serious economic impacts, and because the technology could not be installed by 20–25 percent of the plants due to constraints on available plant space and adjacent land. Appendix A lists variability factors which could be applied to concentrations achievable by TECHNOLOGY OPTION II in order to develop maximum 30 day average (based on eight sampling days per 30 day period) and maximum day concentrations which are listed in Appendix E. The Agency's analysis suggests that 5–10 percent of the plants may have inadequate interior space or adjacent land available to install TECHNOLOGY OPTION II. EPA specifically requests comments as to whether there are any plants that would indeed have inadequate space to implement this option, and whether there are alternative methods to control chromium which such facilities could use.

pH

The proposed PSES regulations included pH limitations which differ by subcategory. The Agency intends to retain these pH limitations to provide reasonable assurance that massive quantities of hydrogen sulfide gas will not be liberated, and that favorable conditions for chromium precipitation will exist.

J. PSNS

The Agency proposed pretreatment standards for new sources (PSNS) which were based on the same technology required for PSES, plus physical-chemical treatment by the Chappel Process. One of the comments received by the Agency was that the Chappel Process was not reliably demonstrated. EPA agrees that this process has not been demonstrated for immediate use in all subcategories. Therefore, the Agency is considering establishing PSNS based on the same pretreatment technology option chosen for existing sources (PSES). Appendix E is a tabulation of preliminary pretreatment standards for new sources.

List of Subjects in 40 CFR 425

Leather and leather products industry, Water pollution control, Waste treatment and disposal.

Dated: May 20, 1982.

Rebecca Hanmer,

Acting Assistant Administrator for Water.

Appendix A.—Preliminary Parameter Variability Factors

	BOD	TSS	Chromium	Oil and grease
BPT Max. Month	1.89	1.85	1.59	1.58
BPT Max. Day	4.21	4.05	4.33	3.54
PSES Max. Month			1.5	
PSES Max. Day			2.4	

Appendix B.—Preliminary BPT and BAT Option I Effluent Limitations

Pollutant or pollutant property	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days
Subcategory 1: Hair Pulp/Chrome Tan/Retan-Wet Finish		
	Mass units—*kg/kkg (or pounds per 1,000 lb) of raw material*	
BOD5	9.41	4.22
TSS	13.58	6.20
Oil and Grease	3.96	1.77
Total Chromium	0.24	0.09
pH	(1)	(1)
Subcategory 2: Hair Save/Chrome Tan/Retan-Wet Finish		
	Mass units—*kg/kkg (or pounds per 1,000 lb) of raw material*	
BOD5	8.15	3.66
TSS	11.75	5.37
Oil and Grease	3.42	1.53
Total Chromium	0.21	0.08
pH	(1)	(1)
Subcategory 3: Hair Save/Non-Chrome Tan/Retan-Wet Finish		
	Mass units—*kg/kkg (or pounds per 1,000 lb) of raw material*	
BOD5	6.88	3.09
TSS	9.93	4.54
Oil and Grease	2.89	1.29
Total Chromium	0.18	0.06
pH	(2)	(2)
Subcategory 4: Retan-Wet Finish-Sides		
	Mass units—kg/kkg (or pounds per 1,000 lb) of raw material	
BOD5	6.46	2.90
TSS	9.32	4.26
Oil and Grease	2.72	1.21
Total Chromium	0.17	0.06
pH	(1)	(1)
Subcategory 5: No Beamhouse		
	Mass units—*kg/kkg (or pounds per 1,000 lb) of raw material*	
BOD5	8.15	3.66
TSS	11.75	5.37
Oil and Grease	3.42	1.53
Total Chromium	0.21	0.08
pH	(1)	(1)

Appendix B.—Preliminary BPT and BAT Option I Effluent Limitations—Continued

Pollutant or pollutant property	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days
Subcategory 6: Through-the-Blue		
	Mass units—*kg/kkg (or pounds per 1,000 lb) of raw materials*	
BOD5	2.95	1.32
TSS	4.26	1.84
Oil and Grease	1.24	0.55
Total Chromium	0.06	0.03
pH	(1)	(1)
Subcategory 7: Shearling		
	Mass units—*kg/kkg (or pounds per 1,000 lb) of raw material*	
BOD5	12.78	5.74
TSS	18.44	8.42
Oil and Grease	5.37	2.40
Total Chromium	0.33	0.12
pH	(1)	(1)
Subcategory 8: Pigskin		
	Mass units—*kg/kkg (or pounds per 1,000 lb) of raw material*	
BOD5	7.02	3.15
TSS	10.13	4.63
Oil and Grease	2.95	1.32
Total Chromium	0.18	0.07
pH	(1)	(1)
Subcategory 9: Retan-Wet Finish-Splits		
	Mass units—kg/kkg (or pounds per 1,000 lb) of raw material	
BOD5	4.21	1.89
TSS	6.06	2.76
Oil and Grease	1.77	0.79
Total Chromium	0.11	0.04
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.
[2] Within the range of 6.0 to 9.0 at all times.

Appendix C.—BAT Treatment Technology Performance; Preliminary Achievable Long Term Average Concentrations

Pollutant	Milligrams per liter: Option I (BPT) [1]	Option II	Option III
BOD5	40	25	20
TSS	50	30	15
Oil and Grease	20	15	10
Chromium (Total)	1.0	0.6	0.5
COD	500	250	200
TKN	(3)	20	20
Ammonia	(3)	15	15
Phenol (Total)	0.2	0.1	0.1
Sulfide	(4)	(4)	(4)

[1] For BAT OPTION I, COD, TKN, Ammonia, Phenol (Total), and Sulfide are not being considered for regulation; they are presented for information purposes only.
[2] TKN for subcategories 1, 2, 3, and 8 is 95 mg/l; for subcategory 6 insufficient data is available to establish TKN concentrations in existing discharges; TKN for subcategories 4, 5, 7, and 9 is 35 mg/l.
[3] Ammonia for subcategories 1, 2, 3, and 8 is 90 mg/l; for subcategory 6 insufficient data is available to establish Ammonia concentrations in existing discharges; Ammonia for subcategories 4, 5, 7, and 9 is 30 mg/l.
[4] Detection limit, which is 6 mg/l for small sample sizes.

Appendix D.—Preliminary NSPS Effluent Limitations

Pollutant or pollutant property	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days
Subcategory 1: Hair Pulp/Chrome Tan/Retan-Wet Finish		
	Mass Units—*kg/kkg (or pounds per 1,000 lb) of raw material*	
BOD5	5.03	2.66
TSS	8.56	3.91
Oil and Grease	2.49	1.12
Total Chromium	0.15	0.06
pH	(1)	(1)
Subcategory 2: Hair Save/Chrome Tan/Retan-Wet Finish		
	Mass Units—*kg/kkg (or pounds per 1,000 lb) of raw material*	
BOD5	6.65	3.07
TSS	9.87	4.51
Oil and Grease	2.87	1.29
Total Chromium	0.18	0.07
pH	(1)	(1)
Subcategory 3: Hair Save/Non-Chrome Tan/Retan-Wet Finish		
	Mass Units—*kg/kkg (or pounds per 1,000 lb) of raw material*	
BOD5	5.82	2.66
TSS	8.54	3.90
Oil and Grease	2.49	1.11
Total Chromium	0.15	0.05
pH	(1)	(1)
Subcategory 4: Retan-Wet Finish-Sides		
	Mass Units—*kg/kkg (or pounds per 1,000 lb) of raw material*	
BOD5	4.07	1.83
TSS	5.87	2.68
Oil and Grease	1.70	0.76
Total Chromium	0.11	0.04
pH	(1)	(1)
Subcategory 5: No Beamhouse		
	Mass Units—*kg/kkg (or pounds per 1,000 lb) of raw material*	
BOD5	5.46	2.45
TSS	7.87	3.60
Oil and Grease	2.29	1.03
Total Chromium	0.14	0.05
pH	(1)	(1)
Subcategory 6: Through-the-Blue		
	Mass Units—*kg/kkg (or pounds per 1,000 lb) of raw material*	
BOD5	1.98	0.88
TSS	2.85	1.30
Oil and Grease	0.83	0.37
Total Chromium	0.05	0.02
pH	(1)	(1)
Subcategory 7: Shearling		
	Mass Units—*kg/kkg (or pounds per 1,000 lb) of raw material*	
BOD5	11.76	5.28
TSS	16.96	7.75
Oil and Grease	4.94	2.21

APPENDIX D.—PRELIMINARY NSPS EFFLUENT LIMITATIONS—Continued

Pollutant or pollutant property	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days
Total Chromium	0.30	0.11
pH	(1)	(1)
Subcategory 8: Pigskin		
	Mass Units—*kg/1kg (or pounds per 1,000 lb) of raw material*	
BOD5	5.76	2.58
TSS	8.31	3.80
Oil and Grease	2.42	1.08
Total Chromium	0.15	0.06
pH	(1)	(1)

APPENDIX D.—PRELIMINARY NSPS EFFLUENT LIMITATIONS—Continued

Pollutant or pollutant property	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days
Subcategory 9: Retan-Wet Finish-Splits		
	Mass Units—*kg/1kg (or pounds per 1,000 lb) of raw material*	
BOD5	3.49	1.57
TSS	5.05	2.31
Oil and Grease	1.47	0.66
Total Chromium	0.09	0.03
pH	(1)	(1)

(1) Within the range of 6.0 to 9.0

APPENDIX E.—PRELIMINARY PRETREATMENT STANDARDS FOR EXISTING SOURCES (PSES) AND PRETREATMENT STANDARDS FOR NEW SOURCES (PSNS)

Subcategories	Pollutant or pollutant property	Milligrams per liter (mg/1): Maximum for any 1 day	Milligrams per liter (mg/1): Average of daily values for 30 consecutive days
1, 2, 3, 6, and 8	Total Chromium	12	6
	Sulfide	24	
	pH	(1)	(1)
4, 5, 7, and 9	Total Chromium	15	12
	pH	(2)	(2)

(1) Within the range of 7.0 to 10.0.
(2) Within the range of 6.0 to 10.0.

NOTE.—All concentrations are rounded to nearest interger value. See discussion under (PSES) for long term total chromium and sulfide concentrations and sulfide variability factor and Appendix A for chromium variability factors.

[FR Doc. 82-14880 Filed 6-1-82; 8:45 am]
BILLING CODE 6560-50-M

Notices

Federal Register
Vol. 47, No. 106
Wednesday, June 2, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL RIGHTS COMMISSION

Florida Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Florida Advisory Committee to the Commission will convene at 10:00 a.m. and will end at 3:00 p.m., on June 24, 1982, at the Howard Johnson Hotel, 200 South East Second Avenue, Miami, Florida. The purpose of this meeting will be to orient the new members of the newly rechartered Committee, discuss followup activities to the Miami hearing and program planning for the remainder of Fiscal Year 1982 and the entire Fiscal Year 1983.

Persons desiring additional information should contact the Chairperson, Teresa Saldise, 815 South West Thirteenth Court, Miami, Florida, 33135, (305) 856–1363 or the Southern Regional Office, Citizens Trust Bank Building, 75 Piedmont Avenue, N.E., Room 362, Atlanta, Georgia, 30303, (404) 221–4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington D.C., May 27, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82–14858 Filed 6–1–82; 8:45 am]

BILLING CODE 6335–01–M

Wyoming Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Wyoming Advisory Committee to the Commission will convene at 7:30 pm and will end at 10:00 pm, on June 23, 1982, at the Hitching Post Inn, 1700 West Lincolnway, in the Cheyenne West Room, Cheyenne, Wyoming, 82001. The purpose of this meeting will be to discuss the followup activities to the Committee's report "Workplace Conditions in Wyoming," program planning of future activities and projects and review the current activities in the Commission.

Persons desiring additional information should contact the Chairperson, Jamie C. Ring, 520 Parkview Drive, Casper, Wyoming, 82601, (307) 268–2269 or the Rocky Mountain Regional Office, Brook Towers, 1020 Fifteenth Street, Suite 2235, Denver, Colorado, 80202, (303) 837–2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington D.C., May 27, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82–14859 Filed 6–1–82; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Cordage From Cuba; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of countervailing duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on cordage from Cuba. This merchandise is covered by the embargo on trade with Cuba which has been in effect since February 7, 1962. As a result of the review, the Department has preliminarily determined to continue to use, for purpose of establishing a cash deposit of estimated countervailing duties on possible future entries, the rate established by the Department of the Treasury. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: June 2, 1982.

FOR FURTHER INFORMATION CONTACT: Tom Hodge or Joseph Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–1774).

SUPPLEMENTARY INFORMATION:

Background

On October 6, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 49168) the final results of its first administrative review of the countervailing duty order on cordage from Cuba (T.D. 53534, 19 FR 4560) and announced its intent to conduct the next administrative review by the end of July 1982. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Merchandise covered by the review is cordage which the Cuban government considered "binder twine and baler twine," but which does not meet the definition contained in the Tariff Schedules of the United States Annotated (TSUSA). Normally, binder twine and baler twine, as defined by the TSUSA, enter under items 315.2020 and 315.2040 of the TSUSA. The merchandise under consideration here is currently classifiable under item 315.2500 of the TSUSA.

Preliminary Results of the Review

As a result of our review, we preliminarily conclude that the merchandise has not been imported into the United States since 1962. There are no known unliquidated entries. This merchandise is covered by the embargo on trade with Cuba, in effect since February 7, 1962 (27 FR 1085).

Therefore, the Department has preliminarily determined to continue using the rate of 2.488¢ per pound established by T.D. 53534 for cash deposit of estimated countervailing duties on shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the present review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results by July 2, 1982 and may request disclosure and/or a hearing within 10 days of the date of publication. Any request for an administrative protective

order must be made no later than five days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce regulations (19 CFR 355.41).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-14879 Filed 6-1-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

[No. 346 (P6F)]

National Marine Fisheries Service; Proposed Modification of Permit

On July 16, 1981, notice was published in the **Federal Register** (46 FR 36879) that a scientific research permit had been issued under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) to the National Zoological of eithty (80) California sea lions.

Notice is hereby given that the Permit Holder has requested that the Permit be modified in the following manner:

Section A–1 is to be changed to read:

"A–1 Up to three hundred and thirty (330) California sea lions (*Zalophus californa*) of any age and of either sex may be taken over a three year period as described in the application and documents submitted in the modification request."

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this modification request to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this request should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, on or before July 2, 1982. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this request are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

The Permit and documents pertaining to the modification request are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: May 26, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals & Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-14901 Filed 6-1-82; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name Sea World Pty. Ltd. (P286).

b. Address P.O. Box 190, Surfers Paradise, Queensland, Australia 4217.

2. Type of Permit: Public Display.

3. Name and Number of Animals: California sea lions) (*Zalophus californianus*); 6.

4. Type of Take: To take for public display.

5. Location of Activity: From the surplus stocks at Sea Life Park, Hawaii.

6. Period of Activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, by July 2, 1982. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 FR 11619, March 12, 1975). In this regard, no application will be considered unless:

(a) It is submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the appropriate agency of the foreign government;

(b) It includes:

i. A certification from such appropriate government agency verifying the information set forth in the application;

ii. A certification from such government agency that the laws and regulations of the government involved permit enforcement of the terms of the conditions of the permit, and that the government will enforce such terms;

iii. A statement that the government concerned will afford comity to a National Marine Fisheries Service decision to amend, suspend or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Australian Department of Health have been found appropriate and sufficient to allow consideration of this permit application.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 30, South Ferry Street, Terminal Island, California 90731.

Dated: May 26, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-14902 Filed 6-1-82; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Privacy Act of 1974; Addition of a New System of Records

AGENCY: Department of the Air Force, DOD.

ACTION: Addition of a new system of records.

SUMMARY: The Department of the Air Force proposes to add a new system of records to its inventory of systems of records subject to the Privacy Act of 1974. The notice for this system is set forth below.

DATE: This action will be effective July 2, 1982.

ADDRESSES: Send comments to the System Manager named in the notice.

FOR FURTHER INFORMATION CONTACT: Mr. Jon E. Updike, HQ USAF/DAAD(S), Room 4A–1088, The Pentagon, Washington, D.C. 20330. Telephone 202/694–3431.

SUPPLEMENTARY INFORMATION: The Air Force systems of records notices inventory subject to the Privacy Act of 1974; Title 5 U.S.C. 552a (Pub. L. 93–579, 44 Stat. 1896 *et seq.*) have been published to date in the **Federal Register** at:

FR Doc. 82–674 (47 FR 2544) January 18, 1982
FR Doc. 82–2886 (47 FR 5285) February 4, 1982
FR Doc. 82–4481 (47 FR 7476) February 19, 1982
FR Doc. 82–9386 (47 FR 14936) April 7, 1982
FR Doc. 82–10539 (47 FR 16827) April 29, 1982

The Department of the Air Force submitted a new system report for the system of records under the provisions of 5 U.S.C. 552a(o) on April 22, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

May 27, 1982.

FO55 TAC A

SYSTEM NAME:

Crisis Management Information System.

SYSTEM LOCATION:

Tactical Air Command, TAC Numbered Air Force Headquarters and all Tactical Air Command Wings. The primary system is located at the HQ TAC Operations Center (TACOPS/DOCS).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Aircrew members in Tactical Air Command maintaining qualifications in command assigned aircraft.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual identification, currency and qualifications information to include SSN, availability, crew position and qualification, weather category, GCC training level and information listing deployed location if applicable. In addition, data from other systems are accessed to determine total flying time, total primary aircraft flying time, flying time for the current and previous month and the number of ocean crossings performed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To mobilize and generate forces in response to tasking. May be used to automatically generate lineup reports for routine deployments. Used at wing level to track availability of aircrew and aircraft on a daily basis.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in computer storage and on computer output products.

RETRIEVABILITY:

Data may be retrieved by either the individual's full SSN or last name.

SAFEGUARDS:

Access is protected by passwords which change every six months. Individual records are controlled by computer software and can be accessed only by personnel assigned to the command post serving the individual's unit.

RETENTION AND DISPOSAL:

Records will be retained for three years or until no longer needed, whichever is sooner. History files are retained at Headquarters Tactical Air Command for analyses purposes; magnetic media is overwritten or degaused. Printed material is destroyed by tearing into pieces, pulping, burning or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Tactical Air Combat Operations Staff, Assistant Deputy Director for TAC OPS Center, HQ Tactical Air Command, Langley AFB, VA 23665. Mail address TACOPS/DOC, Langley AFB, VA 23665.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the system manager. Make base level inquiries to the local command post.

RECORD ACCESS PROCEDURES:

Individual may obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

RECORD SOURCE CATEGORIES:

Information obtained from the individual, unit files or TAFTRAMS/AF0RMS (F05101 OTMUHJA/FO6005 XOOFFA) computer tapes.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 82–14639 Filed 6–1–82; 8:45 am]
BILLING CODE 3910–01–M

DEPARTMENT OF ENERGY

Intent To Grant Exclusive Patent License; Anthony's Manufacturing Co., Inc.

Notice is hereby given of an intent to grant to Anthony's Manufacturing Company, Inc. of San Fernando, California, an exclusive license to practice in the United States, the invention described in U.S. Patent No. 4,169,280, entitled "Method for Making Glass Nonfogging," in the field of use limited to glass doors and panels for refrigeration units. The patent is owned by the United States of America, as represented by the Department of Energy (DOE).

The proposed license will contain terms and conditions to be negotiated by the parties in accordance with 35 U.S.C. 209. DOE intends to grant the license, upon a final determination in accordance with 35 U.S.C. 209(c), unless within 60 days of this notice the Assistant General Counsel for Patents, Department of Energy, Washington, D.C. 20585, receives in writing any of the following, together with supporting documents:

(i) A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed license, or

(ii) An application for a nonexclusive license in the above-identified field of use to manufacture, use, and/or sell the invention in the United States, in which applicant states that he has already brought the invention to practical application or is likely to bring the invention to practical application expeditiously in such field of use.

The Assistant General Counsel for Patents will review all written responses to this notice. The license will be granted if, after expiration of the 60-day notice period, and after consideration of written responses to this notice, a determination is made, in accordance with 35 U.S.C. 209(c), that the license grant is in the public interest.

Signed at Washington, D.C. on this 25th day of May, 1982.

U.S. Department of Energy.

R. Tenney Johnson,

General Counsel.

[FR Doc. 82-14810 Filed 6-1-82; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF EDUCATION

Meeting; Intergovernmental Advisory Council on Education

AGENCY: Intergovernmental Advisory Council on Education.

ACTION: Amendment of notice.

SUMMARY: This document is intended to notify the public of changes in the Notice of Meeting of the Intergovernmental Advisory Council on Education, published Tuesday, May 25, 1982, on page 22584.

The meeting on June 10, 1982 (2:00 p.m. to 4:30 p.m.) will be held in Room 1134 at the Department of Education, 400 Maryland Avenue SW., Washington, D.C. The meeting on June 11, 1982 (9:00 a.m. to 4:30 p.m.) will be held in Room 3000 at the Department of Education, 400 Maryland Avenue SW., Washington, D.C.

Dated: May 26, 1982.

John H. Rodriguez,

Deputy Under Secretary for Intergovernmental and Interagency Affairs.

[FR Doc. 82-14843 Filed 6-1-82; 8:45 am]

BILLING CODE 4000-01-M

National Advisory Council on Vocational Education; Meeting

ACTION: Notice of partially closed meeting.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the National Advisory Council on Vocational Education. It also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act, and is intended to notify the general public of its opportunity to attend.

DATE: June 17, 1982.

ADDRESS: The Columbia Ballroom B of the Capitol Holiday Inn, 550 C Street, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Virginia Solt, NACVE Staff, 425—13th Street NW., Suite 412, Washington, DC (202) 376-8873.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Vocational Education is established under section 104 of the Vocational Education Amendments of 1968, Pub. L. 90-576. The Council is established to:

(A) Advise the President, the Congress, and the Secretary of Education concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(B) Review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to the Congress; and

(C) Conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

This meeting of the National Advisory Council on Vocational Education is partially open to the public. The Agenda will contain the following:

Thursday, June 17, 1982

9:00 a.m.–5:00 p.m.
Council Organization
Report from the Office of the Assistant Secretary
Congressional Briefing on Reauthorization Issues
Business/Education Cooperation

The Council will meet in partially closed session at the Capitol Holiday Inn, 500 C Street SW., Washington, DC on June 17, 1982, from approximately 11:30 A.M. to 12:30 P.M. in the Columbia Ballroom B to discuss personnel issues. The meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. Appendix I) and under exemptions (2) and (6) contained in the Government in the Sunshine Act (Pub. L. 94-409, 5 U.S.C. 552b(c)(2) and (6)). These discussions will touch upon matters that would disclose information of a personal nature, which disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session.

Summaries of the activities of the closed session and related matters which would be informative to the public consistent with the policy of Title 5 U.S.C. 552b(c) will be available to the public within 14 days of the meeting.

Records are kept of the Council's open proceedings and are available for public inspection at the office of the National Advisory Council on Vocational Education from 9:00 A.M. to 5:00 P.M., 425—13th Street NW., Suite 412, Washington, DC 20004.

Signed at Washington, DC, on May 25, 1982.

George Wallrodt,

Acting Executive Director.

[FR Doc. 82-14844 Filed 6-1-82; 8:45 am]

BILLING CODE 4000-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-31056; PH-FRL 2136-1]

Diamond Shamrock Corp.; Application To Register a Pesticide Product Involving a Changed Use Pattern

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register, or amend registration of, pesticide products involving changes use pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comments by July 2, 1982.

ADDRESS: Written comments, identified by the document control number (OPP-31056) and the file or registration number, should be submitted to: Franklin D. R. Gee, Product Manager (PM-17), Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA received an application as follows to register, or amend registration or, pesticide products involving changed use pattern pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of application does not imply a decision by the Agency on the application.

Application Received

File Symbol: 677–UUT.
Applicant: Diamond Shamrock Corp., Animal Health Division, 1100 Superior Ave., Cleveland, OH 44114.
Product name: Ectrin Insecticide 10% Water Dispersible Liquid.
Active ingredient: Cyano (3-phenoxyphenyl) methyl-4-chloro-alpha-(1-methylethyl) benzeneacetate 10%.
Proposed classification/Use: General. To include in its presently registered use the use as liquid applied directly to animals (beef and non-lactating cattle) and animal pemises.
Type registration: Conditional.

Notice of approval or denial or an application to register a pesticide product will be announced in the **Federal Register**. Except for such material protected by section 10 of FIFRA, the test data and other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice will be available in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing such comments telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended)

Dated: May 21, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82–14842 Filed 6–1–82; 8:45 am]

BILLING CODE 6560–50–M

[OPP–30218; PH–FRL 2135–5]

Zoecon Corp.; Application To Register a Pesticide Product Containing a New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register a pesticide product containing an active ingredient not included in any previously registered pesticide products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by July 2, 1982.

ADDRESS: Written comments, identified by the document control number (OPP–30218) and the file or registration number, should be submitted to: Franklin D. R. Gee, Product Manager (PM–17), Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee (703–557–2690).

SUPPLEMENTARY INFORMATION: EPA received an application as follows to register a pesticide product containing an active ingredient not included in any previously registered pesticide products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of this application does not imply a decision by the Agency on the application.

Application Received

1. File Symbol: 20954–RRL.
Applicant: Zoecon Corp., 975 California Ave., Palo Alto, CA 94304.
Product name: Mavrik 2E Insecticide.
Active ingredient: *N*[2-chloro-4-(trifluoromethyl) phenyl]-*D*-valine (±)-alpha-cyano (3-phenoxyphenyl)methyl ester 25.0%.
Proposed classification/Use: General. For use on ornamental plants, trees, shrubs, and turf; crops grown for planting seed use; nonbearing fruit, nut trees, and vines.
Type registration: Conditional.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. Except for such material protected by section 10 of FIFRA, the test data and other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice will be available in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing such comments telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended)

Dated: May 20, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82–14861 Filed 6–1–82; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee)

May 25, 1982.

Task Group A–1 of Working Group A: U.S. Requirements (*2 meetings*)
Chairman: V. Naleszkiewicz, (301) 652–4680
Meeting: Wednesday, June 2, 1982
Time: 9:30 A.M.–1:00 P.M.
Location: Federal Communications Commission, 2025 M Street, N.W., Room 7327, Washington D.C.
Meeting: Wednesday, June 23, 1982
Time: 9:30 A.M.–4:30 P.M.
Location: Federal Communications Commission, 2025 M Street, N.W., Room 7327, Washington D.C.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82–14855 Filed 6–1–82; 8:45 am]

BILLING CODE 6712–01–M

Publication of Foreign AM Broadcast Station Notifications in the Federal Register Discontinued

May 24, 1982.

As of April 1, 1982 the Commission has discontinued publication of foreign AM broadcast station notifications in the **Federal Register**. This action is being taken in connection with recent format changes for notifications as a result of the Final Acts of the Administrative Radio Conference on Medium Frequency (AM) Broadcasting in Region 2 (Western Hemisphere). Publication of receipt of future foreign AM broadcast station notifications will be done by public notice. This information will continue to be available from Downtown Copy Center, the Commission's Copy contractor and on the Commission's AM broadcast station data base. A micro fiche copy of the AM data base is

available for inspection at the FCC headquarters Public Reference Room and at the FCC Field Offices or can be purchased from the National Technical Information Service of the U.S. Department of Commerce.

The Commission is in receipt of Canadian change list Number 411, dated April 5, 1982, Number 412 dated May 4, 1982, and Mexican change list Number 297, dated April 30, 1982. They are available through the above sources.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-14657 Filed 6-1-82; 8:45 am]
BILLING CODE 6712-01-M

Radio Advisory Subgroup on Technical Matters; Resumes Meeting

The Technical Subgroup of the Advisory Committee on Radio Broadcasting will resume its continuing meeting on preparations for bilateral discussions between the United States and Canada concerning AM broadcasting at 10:00 a.m., Wednesday, June 10, 1982, in Room 5119, 2025 M Street, NW., Washington, D.C.

Under the Chairmanship of Wallace E. Johnson, the Subgroup will consider diurnal curves, technical standards for directional antenna systems, field strength measurement procedure, bracket angles, and related matters under consideration in bilateral discussions with Canada. The meeting is open for participation by all interested persons.

For further information, contact Mr. Wallace E. Johnson, at (202) 841-0500.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-14658 Filed 6-1-82; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 79-83]

Investigation of Unfiled Agreements in the North Atlantic Trades; Order of Investigation

On August 14, 1979, the Commission issued an Order of Investigation into the activities of conferences and carriers operating in the North-Atlantic trades of the United States. This action followed the issuance of indictments against seven major carriers and several individual employees. The indictments alleged an unlawful conspiracy to fix prices and other activities which contravened not only the antitrust laws but also the Shipping Act, 1916 (46 U.S.C. 801 *et seq.*) and regulations promulgated by the Commission. *Nolo contendere* pleas were entered in behalf of corporate and individual defendants.

Following the entry of these pleas, a private treble damage action was brought on behalf of a class of shippers against the major carriers operating in the North-Atlantic trades. The parties to this civil action have recently entered into a settlement agreement which provides for, among other things, the payment of over $50 million to the shipper plaintiffs.

At the time of the initiation of the Commission's investigation into the activities which are the subject of this proceeding, the Commission did not establish a procedural schedule for the investigation. The proceedings were deferred pending the completion of Commission efforts to obtain information from grand jury proceedings involving the subject trade. These efforts have not been fruitful. It is therefore incumbent upon the Commission to provide the parties with a procedural schedule and further definition of issues to be investigated.

The Commission's Order of August 14, 1979, focused upon determining whether violations occurred and whether penalties or remedial actions were required to prevent similar activities in the future. Furthermore, the conference agreements which were the subject of the criminal and treble damage proceedings were subjected to an investigation to determine whether they should be disapproved, cancelled or modified.

Since the return of the criminal indictments in 1979, millions of dollars in fines and settlements have been paid by respondents in proceedings related to their allegedly unlawful activities between 1971 and 1977. It is clear that payments of this magnitude will have a significant deterrent effect on carriers operating pursuant to agreements approved by the Commission under section 15 of the Act (46 U.S.C. 814). In view of these large fines and settlements paid by Respondents, the Commission, by this order, deletes those provisions of its Order of Investigation which dealt with the imposition of civil penalties.

The Commission remains, however, responsible for monitoring the implementation of agreements and cannot ignore allegations that activities violative of the Shipping Act, 1916 have occurred. Corollary proceedings involving antitrust violations are now complete and it is time for this investigation to proceed.

Therefore, it is ordered, that the Commission's Order of August 14, 1979 (the Order) is amended to delete issue number 4 of the first ordering paragraph;

It is further ordered, that this proceeding shall determine whether: (1) The Agreements listed on Appendix A of the Order should be disapproved, cancelled, or modified under the provisions of section 15; (2) the Respondents listed on Appendix B of the Order violated section 15 by taking concerted action which was beyond the scope of approved section 15 agreements; (3) the Respondents listed on Appendix B of the Order violated 46 CFR 537.3 by failing to furnish the Commission with a true and complete report of meetings held pursuant to approved agreements;

It is further ordered, that this matter is assigned to the Commission's Office of Administrative Law Judges for hearing and decision, with a public hearing to be held at a date and place hereafter determined by the Presiding Administrative Law Judge, but no later than 180 days after service of this order. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, that notice of this Order be published in the **Federal Register**, and a copy be served upon all parties of record;

It is further ordered, that all future notices, orders, or decisions issued in this proceeding, including notice of the hearing or any prehearing conferences, be mailed directly to all parties of record; and

It is further ordered, that all documents submitted by parties of record shall be filed in accordance with 46 CFR 502.118 as well as being mailed directly to all parties of record.

By the Commission.[1] [2]

Francis C. Hurney,

Secretary.

Docket No. 79-83—Investigation of Unfiled Agreements in the North Atlantic Trades

Commissioner Richard J. Daschbach, dissenting.

This investigation has little prospect for extracting the data needed to make a

[1] Vice Chairman Moakley dissents.

[2] Commissioner Daschbach dissents and issues the attached separate opinion.

determination whether the Respondents' activities occurring between 1971 and 1977 violated the Shipping Act, 1916. There is thus no purpose to be achieved by continuing it.

[FR Doc. 82-14846 Filed 6-1-82; 8:45 am]
BILLING CODE 6730-01-M

[Docket No. 82-22]

Review of Certain Portwide Exemptions; Availability of Finding of no Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Docket No. 82-22 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and that preparation of an environmental impact statement is not required. Under Docket No. 82-22, the Commission intends to review the portwide exemptions granted by the Commission to the ports of Pensacola, Port Everglades and Tampa, Florida pursuant to § 510.22(e) of Commission General Order 4 [46 CFR 510.33(e)].

This Finding of No Significant Impact (FONSI) will become final within 20 days unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

Francis C. Hurney,
Secretary.

[FR Doc. 82-14845 Filed 6-1-82; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than June 24, 1982.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Heritage Bancorporation,* Cherry Hill, New Jersey (mortgage banking activities; Texas): To engage through its subsidiary, Heritage Mortgage Finance Company, in making or acquiring residential and commercial first or second mortgage loans or other extensions or commitments of credit such as would be made by a mortgage banking company, purchasing such loans from corresponding mortgate bankers and other financial institutions, servicing such loans for others and acting as sales agent for credit life insurance and credit accident and health insurance on mortgage loans originated or serviced by it. These activities will be conducted from an office in Plano, Texas, serving the State of Texas. Comments on this application must be received not later than June 17, 1982.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Acorn Financial Corp.,* Oak Park, Illinois (leasing activities; Illinois): To engage through its subsidiary, Acorn Leasing Corp., in the leasing of personal property in accordance with Federal Reserve Board Regulation Y. These activities would be conducted from offices located in Oak Park, Illinois, serving the State of Illinois.

Board of Governors of the Federal Reserve System, May 26, 1982.
Dolores S. Smith,
Assistant Secretary of the Board.

[FR Doc. 82-14812 Filed 6-1-82; 8:45 am]
BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Minneapolis** (Lester G. Gable, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Trimont Bancorporation, Inc.,* Trimont, Minneapolis; to become a bank holding company by acquiring 88 percent of the voting shares of Triumph State Bank, Trimont, Minnesota. Comments on this application must be received not later than June 25, 1982.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *The First National Bancorporation of Heavener, Oklahoma, Inc.,* Heavener, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Heavener, Heavener, Oklahoma. Comments on this application must be received not later than June 25, 1982.

C. **Secretary, Board of Governors of the Federal Reserve System,** Washington, D.C.:

1. *United Midwest Bancshares, Inc.,* Cincinnati, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of Southern Ohio Bank, Cincinnati, Ohio. This application may be inspected at the Federal Reserve Bank of Cleveland.

Comments on this application must be received not later than June 25, 1982.

Board of Governors of the Federal Reserve System, May 26, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-14813 Filed 6-1-82; 8:45 am]

BILLING CODE 6210-01-M

Northwest Bancorporation; Proposed Acquisition of Dial Corporation; Correction

This document corrects a previous **Federal Register** document (FR Doc. 82-13719) published at page 21918 of the issue of May 20, 1982. Applicant proposes to engage in the additional activities of the sale and underwriting of credit-related insurance, and the sale of travelers checks. Applicant proposes to engage in all activities from offices of its subsidiary in 37 states. Regarding the previously published list of states, remove Michigan and insert Pennsylvania.

Board of Governors of the Federal Reserve System, May 26, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-14815 Filed 6-1-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

May 11, 1982.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.8(a) (formerly 25 CFR 54.8(a)) notice is hereby given that the Coastal Band of Chumash, c/o Frances Franco, 808 E. Cota, Santa Barbara, California 93103 has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on March 25, 1982. The petition was forwarded and signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.8(d) formerly § 54.8(d) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Service, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20242.

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 82-14823 Filed 6-1-82; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Emergency Vehicle Travel Closure; Jefferson County, Mont.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of closure.

DECISION: Notice is hereby given that an emergency vehicle travel closure is being implemented pursuant to 43 CFR 8341.2 on the Nursery Creek Road, Jefferson County, Montana.

The road located in the SW¼ Section 31, T7N, R3W, PMM. The road is being closed in order to prevent wheeled vehicles from adding to erosion on an already badly eroded road bed.

This designation becomes effective immediately and will remain in effect until rescinded or modified by the authorized officer.

ADDRESSES: For further information about this designation, contact either of the following Bureau of Land Management offices:

District Manager, Butte District Office, P.O. Box 3388, 106 N. Parkmont, Butte, Montana 59702, (406) 494-5059

Area Manager, Headwaters Resource Area, P.O. Box 3388, 106 N. Parkmont, Butte, Montana 59702, (406) 494-5059.

Lyle G. Fox,

Area Manager.

[FR Doc. 82-14849 Filed 6-1-82; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. OR 28793]

Oregon; Realty Action-Direct, Noncompetitive Sale; Public Land in Umatilla County

May 24, 1982.

The following described lands have been examined and identified as suitable for disposal by noncompetitive sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 stat. 2750; 43 U.S.C. 1713):

Willamette Meridian, Oregon

T. 4 N., R. 28 E.
Sec. 10, W½E½NE¼NW¼, W½NE¼NW¼.

The above described lands, comprising 30 acres, are being offered as a direct, non-competitive sale to the City of Hermiston, Oregon, at the appraised fair market value.

The lands involved are an integral part of the City of Hermiston's park complex. The sale will resolve a complicated situation; the City of Hermiston has had the lands under Recreation and Public Purposes patent since January 17, 1969. The city wants to keep the land in its natural environment and not develop the lands under the provisions of the Recreation and Public Purposes Act, hence they applied for direct sale.

Provisions in 43 CFR 2711.3-2(2)(b) provide for noncompetitive sale when in the opinion of the authorized officer, the public interest would be best served by a direct sale.

Disposal of the lands will serve important public objectives, that is, expansion of the City of Hermiston's—Hermiston Butte Park.

The lands are presently managed and designated for park purposes; part of the Hermiston Butte Park is presently owned by the City of Hermiston, the objective (park) cannot be achieved prudently or feasibly on lands other than the subject lands.

The lands are located within the city limits; management of the lands by the Bureau of Land Management is considered to be uneconomical and difficult. Disposal of the subject land is consistent with the Bureau's land-use planning. No other agency or group has expressed interest in acquisition of the lands.

The land will not be offered for sale for at least 60 days after the date of this notice.

Patent, when issued will contain the following conditions and Reservations;

1. A condition for issuance of a new patent pursuant to section 203 of the Federal Land Policy and Management Act of 1976 (90 stat. 2750; 43 U.S.C. 1713), will be that the city of Hermiston reconvey the land to the United States, in which the city received pursuant to the Recreation and Public Purposes Act of June 14, 1926 (44 stat. 741, as amended and supplemented, 43 U.S.C. 869, 869-1 thru 869-3 inclusive).

2. A right-of-way hereon for ditches or canals constructed by the authority of the United States. Act of August 30, 1890, 26 stat. 391; 43 U.S.C. 945.

3. All mineral deposits in the land so patented, and to it, or persons

authorized by it, the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior by prescribe.

And will be subject to:

1. Such rights for telephone line purposes as the Pacific Northwest Bell Telephone Company, or its successors, may have under right of way Oregon 010969 granted pursuant to the Act of March 4, 1911 (36 stat. 1253), as amended (43 U.S.C. 961).

2. Such rights for electric power transmission line purposes as the Pacific Power and Light Company, or its successors, may have under right-of-way Oregon 012079, granted pursuant to said Act of March 4, 1911, as amended.

3. Such rights for television and radio communication site purposes as J.R. Eliason doing business as Blue Mountain Communications, or his successors, may have under right-of-way Oregon 017504, granted pursuant to said Act of March 4, 1911, as amended.

4. Such rights for microwave site purposes as the West End Development Company, Inc., or its successors, may have under right-of-way OR 2482, granted pursuant to said Act of March 4, 1911, as amended.

5. Such rights for water pipeline and water plant purposes as the City of Hermiston, or its successors, may have under right-of-way Oregon 015330, granted pursuant to the Act of February 15, 1901 (31 stat. 790; 43 U.S.C. 959).

6. There is also reserved to the United States and to the Hermiston Irrigation District a 100-foot right-of-way for the reconstruction, repair, operation, and maintenance of any and all irrigation facilities constructed in connection with the Umatilla Project as presently located and existing on said tract of land. Said 100-foot right-of-way shall extend fifty feet on the right and fifty feet on the left, measured at right angles, from the centerline of said irrigation facilities.

Detailed information concerning the sale, including the Environmental Assessment Record and Land Report, is available for review at the Baker District Office, Federal Building, P.O. Box 987, Baker, Oregon 97814.

On or before July 16, 1982, interested parties may submit comments to the Baker District Manager, P.O. Box 987, Baker, Oregon 97814. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Gordon R. Staker,

District Manager.

[FR Doc. 82-14633 Filed 6-1-82; 8:45 am]

BILLING CODE 4310-84-M

Utah; White River Dam Project

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of Final Environmental Impact Statement.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior, Bureau of Land Management, has prepared a Final Environmental Impact Statement (EIS) for the proposed White River Dam Project in Uintah County, Utah.

SUPPLEMENTARY INFORMATION: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a Final EIS that addresses the State of Utah's proposed White River Dam Project in Uintah County, Utah. The proposal involves construction of an earthen dam across the White River and creation of a 13.5-mile reservoir. Also proposed are a 15 megawatt hydroelectric power plant, power transmission system, recreational facilities, and access roads. The Final EIS includes th Biological Opinion of the Fish and Wildlife Service regarding the impacts of the proposed project on threatened and endangered species.

FOR FURTHER INFORMATION CONTACT: Thomas F. Slater, Utah State Office, BLM, 136 East South Temple, Salt Lake City, Utah 84111 or phone (801) 524-5645.

Copies of the Final EIS are available for review at the Washington Office, BLM, 18th & C Street, NW., Washington, D.C. 20240. A limited number of copies are available upon request at the following locations:

Utah State Office, BLM, Public Room, 14th Fl., 136 East South Temple, Salt Lake City, UT 84111

Richfield District, BLM, 150 East 900 North, Richfield, Utah 84701

Vernal District, BLM, 170 South 5th East, Vernal, Utah 84078.

Dated: May 24, 1982.

Dean Stepanek,

Associate State Director.

[FR Doc. 82-14634 Filed 6-1-82; 8:45 am]

BILLING CODE 4310-84-M

[W-73959]

Conveyance of Public Land; Big Horn County, Wyoming

May 21, 1982.

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2743; 43 U.S.C. 1713), the Town of Greybull, Wyoming, has purchased by noncompetitive sale public land in Big Horn County, Wyoming, described as:

Sixth Principal Meridian, Wyoming

T. 52 N., R. 93 W.,
Sec. 17, lots 15, 16, 17, 18, 19, 21, 22, 23, N½NE¼SW¼.

Containing 47.97 acres.

The purpose of this notice is to inform the public and interested state and local governmental officials of the issuance of the conveyance document to the Town of Greybull, Wyoming.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-14630 Filed 6-1-82; 8:45 am]

BILLING CODE 4310-84-M

[W-74730]

Wyoming; Proposed Withdrawal and Opportunity for Public Meeting

On September 16, 1980, and May 4, 1982, the Deputy Assistant Secretary, Land and Water Resources, granted the Bureau of Land Management permission to file an application for the withdrawal of the following described land from the operation of the general public land laws including the mining laws, but not the mineral leasing laws, subject to valid existing rights:

Sixth Principal Miridian, Wyoming

T. 58 N., R. 94 W.,
Sec. 20, lots 1 to 8, inclusive, and S½N½;
Sec. 21, lots 4, 5, and SW¼NW¼;
Sec. 28, S½SE¼.

The area described contains 528.23 acres in Bighorn County, Wyoming.

For a period of two years from May 14, 1981, which was the date of the **Federal Register** publication for 349.48 acres of the proposed withdrawal, the above lands will be segregated from the operation of the general public land laws including the mining laws, but not the mineral leasing laws, subject to valid existing rights, unless rejected, or the withdrawal is approved prior to that date.

No licenses, permits, cooperative agreements or discretinary land use authorizations of a temporary nature will be allowed on the lands without the approval of an authorized officer of the Bureau of Land Management during the

segregation period of the proposed withdrawal.

Notice is hereby given that a public meeting may be afforded in connection with the proposed withdrawal. All interested persons who desire a meting to be held on the proposal must submit a written request for a meeting to the undersigned on or before September 8, 1982. Upon determination by the State Director, Bureau of Land Management, that a public meeting shall be held, a notice stating the time and place of the meeting, shall be published in the **Federal Register** and in at least one newspaper having a general circulation in the vicinity of the lands involved, at least 30 days before the scheduled date of the meeting. All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the BLM on or before September 8, 1982. The application and case file pertaining to it is available for public inspection at the address indicated below.

This application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

The proposed application for 349.48 acres of the lands involved, was published in the **Federal Register**, May 14, 1981, Vol. 46, No. 93 on page 26704. The proposed amendment for the remaining 178.75 acres, was published in the **Federal Register**, May 13, 1982, Vol. 47, No. 93 on page 20677.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary and prepare a report for consideration of the Office of the Secretary of the Interior. The final determination on the proposed withdrawal will be published in the **Federal Register**.

All communications in connection with this proposed withdrawal should be addressed to the Chief, Branch of Lands and Minerals operations, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82003.

William S. Gilmer,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-14832 Filed 6-1-82; 8:45 am]

BILLING CODE 4310-84-M

[A-16772]

Arizona; Public Lands Exchange; Mohave County

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Realty Action-Exchange, public lands in Mohave County, Arizona.

SUMMARY: The following described public lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Gila and Salt River Meridian, Arizona

T. 23 N., R. 13 W.,
Sec. 28, all.
Comprising 640 acres of public land.

In exchange for these lands, the Federal government will acquire non-Federal land from X-Bar 1 Ranch, Inc., described as follows:

Gila and Salt River Meridian, Arizona

T. 23 N., R. 14 W.,
Sec. 9, N½, E½SW¼, SE¼; (1st Priority)
Sec. 17, S½SW¼. (2nd Priority)
Comprising 640 acres of private land.

The exchange proposal involves only the surface estate of the private offered lands while the public selected includes the surface and mineral estates, with the exception of oil and gas.

The purpose of the exchange is to acquire the non-Federal lands which contain crucial mule deer habitat adjacent to the Peacock Mountains. Consolidation of Federal ownership will facilitate wildlife habitat management in this area. The exchange is consistent with the Bureau's planning system. The public interest will be well served by making the exchange.

The value of the lands and interests to be exchanged is approximately equal. Upon the completion of a final appraisal, acreages may be adjusted or a cash payment made, where the value of the public estates exceed that of the private, to equalize the value difference. Should the value of the private offered exceed the value of the selected public estates, those private lands, identified herein as the 1st Priority, will be acquired first, thereby utilizing a reduction in private acres in lieu of a Federal money payment.

Lands to be transferred from the United States will be subject to the following reservations, terms and conditions:

1. A right-of-way for ditches and canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

2. A reservation of all the oil and gas to the United States with the right to prospect for, mine and remove such deposits.

3. A public road easement sixty-six (66) feet-in-width traversing the south half of the subject public section to be transferred.

Private lands to be acquired by the United States will be subject to the following reservations, terms and conditions:

1. All minerals in the subject are reserved to the Santa Fe Pacific Railroad Company.

2. A reservation to John P. Rubel and Margaret Ann Rubel reserving an undivided one-half (½) of all unreserved minerals.

The publication of this notice in the **Federal Register** will segregate the public lands described herein to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. As set forth in 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed and shall be returned to the applicant. This segregative effect shall terminate upon issuance of patent to such lands, upon publication in the **Federal Register** of a termination of the segregation, or 2 years from date of this publication, whichever occurs first.

SUPPLEMENTARY INFORMATION: Detailed information concerning the exchange, including the environmental analysis and the record of public discussions, is available for review at the Kingman Resource Area Office, 2475 Beverly Avenue, Kingman, Arizona 86401.

For a period of 45 days interested parties may submit comments to the District Manager, Phoenix District Office, 2929 West Clarendon Avenue, Phoenix, Arizona 85017. Any adverse comments may be evaluated by the Arizona State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: May 24, 1982.

W. K. Barker,

District Manager.

[FR Doc. 82-14867 Filed 6-1-82; 8:45 am]

BILLING CODE 4310-84-M

[M 55063(ND)]

North Dakota; Coal Exploration License Application; Invitation

May 24, 1982.

Members of the public are hereby invited to participate with The Coteau Properties Company in a program for the exploration of coal deposits owned by

the United States of America in the following described lands located in Mercer County, North Dakota:

T. 145 N., R. 87 W., 5th P.M.,
Sec. 2, Lot 3, SE¼NW¼;
Sec. 6, SE¼;
Sec. 20, NW¼;
Sec. 32, E½;
Sec. 34, N½.
T. 146 N., R. 87 W., 5th P.M.,
Sec. 28, W½W½.
T. 144 N., R. 88 W., 5th P.M.,
Sec. 2, lots 3, 4, S½NE¼;
Sec. 6, lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 8, SW¼.
T. 145 N., R. 88 W., 5th P.M.,
Sec. 2, lot 1, SE¼NE¼;
Sec. 4, lot 4, SW¼NW¼, SW¼;
Sec. 22, all;
Sec. 26, N½NE¼, SW¼NE¼, W½, NW¼SE¼;
Sec. 28, NE¼NE¼, S½NE¼, SE¼NW¼, S½;
Sec. 34, N½N½, SE¼NE¼, SW¼, NE¼SE¼, S½SE¼.
T. 146 N., R. 88 W., 5th P.M.,
Sec. 20, SW¼;
Sec. 30, Lots 1, 2, 3, 4, E½W½, SE¼;
Sec. 32, S½NE¼, NW¼, S½.
T. 144 N., R. 89 W., 5th P.M.,
Sec. 2, lots 2, 3, 4, SW¼NE¼, S½NW¼, SW¼, W½SE¼;
Sec. 10, N½;
Sec. 12, all.

7207.49 acres.

Any party electing to participate in this exploration program shall notify, in writing, both the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107, and The Coteau Properties Company, Kirwood Office Tower, Bismarck, North Dakota 58501. Such written notice must refer to serial number M 55063 (ND) and be received no later than July 2, 1982 or 10 calendar days after the last publication of this notice in the Beulah Beacon, whichever is later. This notice will be published for two consecutive weeks.

This proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the U.S. Minerals Management Service, 2525 4th Avenue North Billings, Montana, and the Bureau of Land Management, Montana State Office, Granite Tower Building, 222 North 32nd Street, Billings, Montana. The exploration plan is available for public inspection at either of these offices at the addresses given.

Edgar O. Stark,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-14685 Filed 6-1-82; 8:45 am]

BILLING CODE 4310-84-M

Oregon; Realty Action; Non-Competitive Occupancy; Public Lands In Jackson County

May 24, 1982.

The following described land (revested Oregon and California Railroad Grant Land) has been examined and identified as suitable for lease under Section 302 of the Federal Land Policy and Management Act of 1975, (43 U.S.C. 1732, 1740), at not less than the fair market value:

Portion of N½NE¼NE¼ of Section 11 T. 38 S., R. 4 W., W.M.

The purpose of the lease is to authorize the use of a parcel one hundred fifty (150) feet by three hundred (300) feet for residential purposes approximately seven hundred fifty (750) feet west of the NE corner of Section 11, T. 38 S., R. 4 W., W.M. The tract contains 1.03 acres more or less. Because the private improvements already exist, the land will not be offered for lease through competitive bidding. The tract is to be leased to Mr. Robert E. Martindale of 939 Thompson Creek Road, Applegate, Oregon 97530 for a period not to exceed five (5) years. The tract presently contains a mobile home with attached bedroom, two story garage-storage building, above ground swimming pool and small wood shed. In addition, the tract is landscaped and contains a driveway. All improvements listed above are to be removed during the five (5) year period and the land restored to its natural state. The improvements were originally placed on the Bureau of Land Management administered land in trespass when the original owner of the improvements mistakenly assumed the lands to be his own.

Since the lease will be issued for a limited period of time only, and all improvements will be removed and the area restored to its natural state, the lease will not be inconsistent with the Bureau's long range plans and programs. The public interest will be well served by making the lease for a limited time only and restoring the site to its natural condition.

Detailed information concerning this lease, including the Land Report and environmental analysis is available for review at the Medford District Office, 3040 Biddle Road, Medford, Oregon 97501.

For a period of forty-five (45) days interested parties may submit comments to the District Manager, Bureau of Land Management, 3040 Biddle Road, Medford, Oregon 97501. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final action determination of the Department of the Interior.

Hugh R. Shera,

District Manager.

[FR Doc. 82-14846 Filed 6-1-82; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Getty Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Getty Oil Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3747, Block 199, High Island Area, offshore Texas.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 24, 1982.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-14820 Filed 6-1-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Superior Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that The Superior Oil Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS 0244 and 0245, Blocks 71 and 72, West Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Reglations.

Dated: May 20, 1982.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-14826 Filed 6-1-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Tenneco Oil Exploration and Production

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Tenneco Oil Exploration and Production has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 2927 Block 59, South Timbalier Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Reglations.

Dated: May 24, 1982.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-14827 Filed 6-1-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Union Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Union Oil Company of California has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3120, Block 34, Vermilion Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Reglations.

Dated: May 24, 1982.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-14828 Filed 6-1-82; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 26, 1982. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20243. Written comments should be submitted by June 17, 1982.

Carol D. Shull,

Acting Keeper of the National Register.

DELAWARE

Kent County

Leipsic, *Laws, Alexander, House (Leipsic and Little Creek Multiple Resource Area)* Front and Main Sts. (incorrectly published as Cannon, Wilson L., House)

SOUTH CAROLINA

Richland County

Columbia, *House of Peace Synagogue (Columbia Multiple Resource Area)* 1318 Park St. (proposed move)

[FR Doc. 82-14703 Filed 6-1-82; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Intent To Prepare Draft Environmental Impact Statements on Mining and Reclamation Plans for Surface Coal Mines Proposed by Consolidation Coal Company and Kiewit Mining and Engineering Company, Big Horn County, Montana

AGENCY: Office of the Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of intent to prepare two draft environmental impact statements and to conduct a public scoping meeting.

SUMMARY: The Office of Surface Mining (OSM) intends to prepare draft environmental impact statements on two proposed surface coal mining operations located in Big Horn County, Montana: Consolidation Coal Company's (Consol) proposed CX Ranch Mine and Kiewit Mining and Engineering Company's proposed Wolf Mountain Mine. Both of the proposed operations would be located near Squirrel Creek, approximately 2 miles northwest of Decker, Montana and 22 miles north of Sheridan, Wyoming. The proposed CX Ranch Mine would disturb 1,280 acres and would continue for 13 years with a maximum annual coal production of 8 million tons. The proposed Wolf Mountain Mine would disturb 1,947 acres and would continue for 20 years with a maximum annual coal production of 3 million tons. OSM has determined that the approval or disapproval of the proposed operations are major Federal actions significantly affecting the quality of the human environment, thereby requiring the preparation of the EIS's. OSM will conduct a public meeting to help determine the scope of the issues to be addressed in the EIS's, and identify significant issues and alternatives. The mining and reclamation plans submitted by Consol and Kiewit Mining are available for public review at the addresses listed below under "**ADDRESSES.**" Comments on the proposed plans and/or significant issues which should be addressed in the EIS's may be submitted for a 30 day period following publication of this notice.

DATES: The public scoping meeting will be held from 7:00 p.m. to 9:00 p.m., local time, on June 9, 1982. The comment period on the proposed plans will be accepted until July 2, 1982.

ADDRESSES: The public scoping meeting on the EIS's will be held at the Sheridan College, Sheridan, Wyoming. The mining and reclamation plans for the proposed mines are available for public review during normal working hours at the following locations:

Office of Surface Mining, Western Technical Service Center, Brooks Towers, 2nd Floor, 1020 15th Street, Denver, Colorado

Office of Surface Mining, Wyoming State Office, P.O. Box 1420, Mills, Wyoming

Montana Department of State Lands, Capitol Station, Helena, Montana

Written comments on the proposed plans and/or significant issues which should be addressed in the EIS's may be submitted to the Administrator, Office of Surface Mining, Western Technical Service Center, Brooks Towers, 1020 15th Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic or William Wiest, Office of Surface Mining, Western Technical Service Center, Brooks Towers, 1020 15th Street, Denver, Colorado 80202, telephone 303/837-5656.

SUPPLEMENTARY INFORMATION: The Montana Department of State Lands (DSL) will participate in the preparation of the EIS's. The EIS's will evaluate alternative actions that could be taken on the mining and reclamation plans by the Department of the Interior and the State of Montana. The major alternatives thus far identified for consideration are:

a. Approval of the mining and reclamation plans with design modifications and/or necessary stipulations to meet the requirements of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) and the Montana Environmental Quality Act, and regulations pursuant to these Acts;

b. No action or disapproval of the mining and reclamation plans.

The EIS's would be limited to a site-specific analysis of both coal mines within the permit area, adjacent areas, and regional areas. Since there are other energy developments proposed for the same regional area as the proposed mines, the cumulative impacts from all currently proposed developments will be evaluated using available information.

Dated: May 27, 1982.

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 82-14691 Filed 6-1-82; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 29863]

Soo Line Railroad Co. and Minneapolis, Northfield and Southern Railway, Inc.; Petition for Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission has exempted the consolidation of the Soo Line Railroad Company (Soo) and Minneapolis, Northfield and Southern Railway, Inc. (MNS) from regulation pursuant to 49 U.S.C. 10505. Rail operations will continue over the lines of MNS and there should be no substantial competitive impact arising from the transaction. MNS will be operated as a part of the Soo system after consolidation.

As a condition to use of the exemption, any employee of MNS or Soo affected by the consolidation shall be protected pursuant to *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60(1979). This will satisfy the requirement of 4g U.S.C. 10505(g)(2).

DATES: The exemption will become effective on June 2, 1982. Petitions to reopen must be filed no later than June 22, 1982.

ADDRESSES: Send petitions to reopen to:

(1) Interstate Commerce Commission, Section of Finance, Room 5417, Washington, D.C. 20423.

(2) Petitioner's representatives:

Byron D. Olsen, C. Harold Peterson, 804 Soo Line Building, Box 530, Minneapolis, MN 55440;

Faegre & Benson, 1300 Northwestern, National Bank Building, Minneapolis, MN 55402.

Copies of the full decision may be purchased by contacting: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, D.C. 20423, (202) 289-4357, DC Metropolitan Area, (800) 424-5403, toll free for outside the DC area.

Pleadings should refer to Finance Docket No. 29863.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275-7245 or Ernest B. Abbott (202) 275-3002.

SUPPLEMENTARY INFORMATION: For further information, see the Commission's decision in Finance Docket No. 29863.

Decided: May 21, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham,

Sterrett, Andre, and Simmons. Commissioner Simmons did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-14747 Filed 6-1-82; 8:45 am]

BILLING CODE 7035-01-M

Long- and Short-Haul Application for Relief (Formerly Fourth Section Application)

May 26, 1982.

This application for long- and short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. within 15 days from the date of publication of the notice.

No. 43987, Southwestern Freight Bureau, Agent (B-158), reduced rates on shipments of sugar, beet or cane, returned in the reverse direction, in Supplement No. 54 to its Tariff ICC SWFB 4412 effective June 16, 1982. Grounds for relief: Market Competition.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-14816 Filed 6-1-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP1-91

Decided: May 21, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier, (Member Parker not participating.)

MC 161790, filed May 3, 1982. Applicant: SURRATT TRUCK SERVICE, 411 Congress St., Chapin, IL 62628. Representative: Richard D. Surratt, (same address as applicant), (217) 472-7881. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161990, filed May 13, 1982. Applicant: C & G TRUCKING CORPORATION, 4843 West Potomac Avenue, Chicago IL 60651. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603 (312) 782-8880. As a broker of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP2-107

Decided: May 21, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 11592 (Sub-34), filed April 14, 1982. Applicant: BEST REFRIGERATED EXPRESS, INC., P.O. Box 7365, Omaha, NE 68107. Representative: Rick A. Rude, Suite 611, 1730 Rhode Island Ave., NW, Washington, DC 20036, (202) 223-5900. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Batavia, IL, and Irvington, NE, on the one hand, and, on the other, points in the U.S. (except AK and HI). NOTE: The purpose of this application is to substitute motor carrier service for abandoned rail service.

MC 141483 (Sub-5), filed May 3, 1982. Applicant: VALCON PACKAGE DELIVERY, INC., 3840 West St., Landover, MD 20785. Representative: Gerald K. Gimmel, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840-8565. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), and (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 152183 (Sub-4), filed April 28, 1982. Applicant: FLAMINGO TRANSPORT, INC., P.O. Box 890, Adairsville, GA 30103. Representative: Frank Linn, (same address as applicant), (404) 382-5852. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Blanche and Blue Pond, AL, Bartlett, Cartago, Cosco, Inyokern, Little Lake, Lone Pine, Olancha, Pencilwood, and Swanston, CA, Dundee, Lake Hamilton, and Waverly, FL, Chelsea and Menlo, GA, Corral and Hill City, ID, Addison, Grand Tower, Mooseheart, and Sand Ridge, IL, LaOtto, IN, Orange City, IA, Viola and Wier, KS, Benton and Hardin, KY, Amesbury and Salisbury, MA, Alden,

Bellaire, Bendon, Central Lake, Chief Lake, Ellsworth, Interlochen, Kaleva, Norwalk, and Rapid City, MI, Key West, MN, Fairfax and Tarkio, MO, Huntley and Ragan, NE, Pactolus, Stokes, and Whichard, NC, Dunseith, ND, and Ehrhardt and Lodge, SC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—The purpose of this application is to substitute motor carrier service for abandoned rail service.

MC 153093 (Sub-2), filed May 4, 1982. Applicant: ASSOCIATED MOVING & STORAGE CO., INC., P.O. Box 23053, New Orleans, LA 70183. Representative: Robert J. Gallagher, 1000 Connecticut Ave. N.W., Suite 1200, Washington, DC 20036, 202–785–0024. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 161602, filed April 21, 1982. Applicant: SHIPPERS AND TRUCKERS ASSISTANCE LOADING AND RESEARCH, INC., 6009 Wayzata Blvd., Suite 117, St. Louis Park, MN 55416. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424, 612–927–8855, As a *broker of general commodities* (except household goods), between points in the U.S. (including AK, but excluding HI).

Volume No. OP3–079

Decided: May 21, 1982.

By the Commission Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 109064 (Sub-45), filed April 28, 1982. Applicant: TEX-O-KAN TRANSPORTATION COMPANY, INC., 3301 E. Loop 820 S. Ft. Worth, TX 76112. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, (214) 255–6279. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 138144 (Sub-66), filed May 6, 1982. Applicant: FRED OLSON CO., INC., 6022 West State Street, Milwaukee, WI 53213. Representative: William D. Brejcha, 180 N. Michigan Avenue, Suite 1700, Chicago, IL 60601, (312) 263–1600. Transporting for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 154265 (Sub-3), filed May 10, 1982. Applicant: MIKE WILLIAMS TRANSFER, INC., 2 Foxhurst Court, Manhasset Hills, NY. Representative: Kenneth M. Piken, 95—25 Queens Boulevard, Rego Park, NY 11374, (212) 275–1000. Transporting for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 161885, filed May 7, 1982. Applicant: ROBERT L. NEWSOM, d.b.a. NEWSOM TRANSPORTATION, 1005 Lewell Ave., Salt Lake City, UT 84104. Representative: Irene Warr, 311 S. State St. Ste. 280, Salt Lake City, UT 84111, (801) 531–1300. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161934, filed May 11, 1982. Applicant: ALVIN HOWE, d.b.a. HOWE GRAIN AND SUPPLY, Box 116, Hartford, SD 57033. Representative: Alvin Howe, RR 1 Box 83, Lennox, SD 57039, (605) 743–5436. Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 161985, filed May 12, 1982. Applicant: COX TRUCK BROKERAGE, INCORPORATED, Speed & Briscoe Truck Stop, I95 & Lewistown Rd., P.O. Box 103, Mechanicsville, VA 23111. Representative: John A. Cox (Same address as applicant), (804) 798–1477. As a *broker of general commodities*, (except household goods), between point in the U.S.

Volume No. OP4–188

Decided: May 25, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 158286 (Sub-10), filed May 17, 1982. Applicant: M. T. TRUCK LINE, INC., 4947 W. 173rd St., Country Club Hills, IL 60477. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602, (312) 236–5944. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Williamsville and Cheektowaga, NY, and Wallen and Huntertown, IN, on the one hand, and on the other, points in the U.S. (except AK and HI). Condition: Issuance of a certificate in this proceeding is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at specified points. The certification should be sent to the Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, DC 20423.

MC 162016, filed May 17, 1982. Applicant: A. J. MURRAY & CO., INC., 111 John St., New York, NY 10038. Representative: Leonard Baldassano (same address as applicant), (212) 619–1981. As a broker of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP5–119

Decided: May 24, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 138388 (Sub-15), filed May 20, 1982. Applicant: CHESTER CAINE, JR., d.b.a. CAINE TRANSFER, Box 376, Lowell, WI 53557. Representative: James A. Spiegel, Old Towne Office Park, 6333 Odana Road, Madison, WI 53719, (608) 273–1003. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) between points in the U.S. (except AK and HI).

MC 42619 (Sub-7), filed May 18, 1982. Applicant: DASH TRANSPORTATION, INC., P.O. Box 221, Bloomingdale, IL 60108. Representative: Edward J. Kiley, 1730 M St., NW., Washington, D.C. 20036, (202) 296–2900. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 161738, filed April 29, 1982. Applicant: FRED C. DOSS, SR., 6601 Primrose Parkway, Muncie, IN 47302. Representative: Fred C. Doss, Sr., (same address as applicant), (317) 282–4298. Transporting, *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162038, filed May 17, 1982. Applicant: E. W. WILSON, d.b.a. TEXAS TRUCK BROKERS, Route 5, Box 16A, Denton, TX 76201. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004, 202–347–8862. As a *broker of general commodities* (except household

goods), between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-14817 Filed 6-1-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 261]

Motor Carriers; Permanent Authority Decisions; Restriction Removals, Decision-Notice

Decided: May 25, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian Carrier Applicants

In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC–157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Ewing, and Williams.

Agatha L. Mergenovich,

Secretary.

MC 35835 (Sub-35)X, filed February 10, 1982, previously noticed in the **Federal Register** of March 2, 1982, republished as follows: Applicant: JENSEN TRANSPORT, INC., 300 Ninth Ave., S.E., Independence, IA 50644. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Lead certificate: broaden to county-wide authority: Buchanan, Benton, Bremer, Black Hawk, Delaware, Fayette, Linn and Clayton Counties, IA (Independence and points within 25 miles thereof), sheet no. 3. The purpose of this republication is to correct a territorial omission.

MC 69397 (Sub-69)X, filed May 19, 1982. Applicant: JAMES H. HARTMAN & SON, INC., P.O. Box 85, Pocomoke City, MD 21851. Representative: Wilmer B. Hill, Suite 366, 1030 Fifteenth St., N.W., Washington, DC 20005. Sub-61F: (1) Broaden commodity description from lumber and lumber products, composition board, particleboard, fibreboard products, gypsum and gypsum products, and moulding to "lumber and wood products and building materials"; (2) change Savannah to Chatham County, GA; and (3) expand one-way to radial authority.

MC 69953 (Sub-1)X, filed May 17, 1982. Applicant: EAGLE TRANSFER CORPORATION, 435 Greenwich St., New York, NY 10013. Representative: Kenneth M. Piken, 95–25 Queens Blvd., Rego Park, NY 11374. Lead certificate: broaden from household goods to "household goods, furniture, and fixtures."

MC 112304 (Sub-264)X, filed May 20, 1982. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock St., Cincinnati, OH 45223. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Sub 263, broaden (1) general commodities (with exceptions) to "general commodities (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk)."

MC 128075 (Sub-44)X, filed May 10, 1982. Applicant: JOHNSRUD TRANSPORT, INC., P.O. Box 447, Cresco, IA 52136. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200–A, Park Ridge, IL 60010. Sub 3, broaden (1) agricultural implements, agricultural implement parts, roofing, iron and steel articles and feed to "machinery, metal products, pulp, paper and related products, petroleum, natural gas and their products, clay, concrete, glass, or stone products and lumber and wood products (except in bulk)"; agricultural implements and parts to "machinery and metal products"; farm machinery to "machinery", agricultural implements and machinery and parts to "machinery and metal products", and amusement park equipment and road contractors' and builders' equipment and machinery to "machinery, metal products, lumber and wood products, rubber and plastic products and clay, concrete, glass or stone products", (2) service to intermediate and off-route points in IA within 25 miles of Waukon to service at all intermedicate points and off-route points in Allamakee, Winneshiek, Fayette and Clayton Counties, IA; (3) Canton, IL to Fulton County; Rock Falls, IL to Whiteside County, Riceville, IA and points within 30 miles thereof to Worth, Cerro Gordo, Floyd, Mitchell, Howard, Winneshiek, Chickasaw and Fayette Counties, IA and Freeborn, Mower, and Fillmore Counties, MN; Stillwater, MN to Washington County; Arlington, Postville, Castalia, Monona, Decorah, Cresco, Chester, Lime Springs, New Hampton, Charles City, Plainfield, Waverly, Independence, Dyersville, Elma, Alta Vista, Calwell, Orchard, Colmar, and Stacyville, IA to Fayette, Allamakee, Clayton, Winneshiek, Howard, Chickasaw, Floyd, Bremer, Buchanan, and Dubuque Counties; Osage, IA to Mitchell County; Waterloo, IA to Black Hawk County; Lyle, MN to Mower County; Austin, MN and points within 5 miles thereof to Mower and Freeborn Counties and (4) to radial authority.

MC 134616 (Sub-3)X, filed May 17, 1982. Applicant: KEARNY'S TRUCKING SERVICE, INC., P.O. Box 284, Portland, PA 18351. Representative: Joseph A. Keating, Jr., 121 Main St., Taylor, PA 18517. No. MC –129459 Subs 14F, 17F and 19F permits: broaden to (1) "food and related products" from (a) dry spaghetti and macaroni, Subs 14F and 17F, and (b) foodstuffs (except in bulk), Sub 19F; and (2) "between points in the U.S. (except AK and HI)", under continuing contract(s) with named shippers, all Subs.

MC 141215 (Sub-5)X, filed May 17, 1982. Applicant: HICKS CORNERS TRUCKING, INC., Route 2, Highway 18, Dodgeville, WI 53533. Representative: Richard A. Westley, P.O. Box 5086, 4506 Regent Street, Madison, WI 53705. Sub 3F certificate, broaden to countywide authority as follows: Dane, Grant, Iowa and Lafayette Counties, WI (from Blue Mounds, Barneveld, Ridgeway,

Dodgeville, Edmund, Cobb, Montford, Fennimore, Stitzer, Lancaster, Livingston, Rewey, Leslie, Cuba City, and Platteville).

MC 145629 (Sub-6)X, filed May 13, 1982. Applicant: FUCHS, INC., R.R. 1, Box 576, Sauk City, WI 53583. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703. Lead and Subs 1 and 2 certificates, and No. MC-116982 and Subs 5, 7, 11, 13, 14, 15, and 16 permits, (1) broaden to: (a) "chemicals and related products" from dry fertilizer and agricultural chemicals in lead certificate and permit, and Subs 7 and 14, (b) "lumber and wood products" from lumber products in Sub 1, and from wood products in Sub 11, (c) remove complete, knocked down or in sections and in connection therewith restriction: from "prefabricated buildings, component parts thereof, etc." in Sub 5, and from "building and housing units, component parts, etc." in Subs 11 and 14, (d) "food and related products" from dry feed and feed ingredients in Sub 11; (2) remove facilities restrictions and broaden to counties: (a) Warrens, WI (Monroe County) Sub 1, (b) Madison, WI (Dane County) Sub 2; (3) change one-way to radial authority in lead certificate, and broaden to between points in the U.S. (except AD and HI), under continuing contract(s) with named shippers in all permits; (4) remove (a) restriction to in bulk in lead certificate, (b) restriction against the transportation of cement, and the originating at or destined to restriction in Sub 2, (c) wheeled undercarriage restriction in Subs 5, 11, and 14, (d) in bulk in tank vehicles exception in Sub 14 Sub 14 part (2).

MC 146149 (Sub-24)X, filed May 12, 1982. Applicant: KENNEDY FREIGHT LINES, INC., 4989 Vulcan Avenue, Columbus, OH 43228. Representative: Paul F. Beery, Esq., 275 East State Street, Columbus, OH 43215. Sub-No. 18F broaden to "furniture and fixtures" from new furniture, and to "food and related products, pulp, paper and related products, textile mill products, rubber and plastic products, chemicals and related products (except commodities in bulk), leather and leather products, and clay, concrete, glass, or stone products (except commodities in bulk) auto parts, sporting goods, and building materials," from infant articles, auto parts, sporting goods, and building materials.

MC 151929 (Sub-4)X, filed May 19, 1982. Applicant: INTERSTATE DRAYING CO., 8311 Durango, S.W., Tacoma, WA 98499. Representative: Daniel W. Baker, 100 Pine St, #2550, San Francisco, CA 94111. MC-75330 and Subs 12 and 13 certificates (acquired in MC-F-14466F), (1) remove exceptions of commodities of unusual value, livestock, requiring special equipment and those injurious to other lading (lead) and automobiles, trucks, truck trailers, buses, automobile chassis, truck chassis, truck trailer chassis, bus chassis, livestock, commodities requiring use of vehicles with mechanical, refrigeration, metal cans, and can tops, bottoms, and ends (Sub 12), (a) from general commodities authority to authorize "general commodities (except classes A & B explosives, household goods and commodities in bulk)" in lead and Sub 12, (b) from building, assembled or partially assembled to "lumber and wood products, clay, concrete, glass and stone products, and fabricated metal products" in Sub 13; (2) replace (a) Alameda, Oakland, Emeryville, Berkeley, San Leandro and San Francisco, CA with San Francisco and Alameda Counties, CA, in the lead, (b) facilities at Newark, CA with Alameda County, CA in Sub 13; (3) change one-way to radial authority in Sub 13.

[FR Doc. 82-14618 Filed 6-1-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions, Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP2-108

Decided: May 21, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 16513 (Sub-36), filed May 7, 1982. Applicant: REISCH TRUCKING AND TRANSPORTION CO., INC., 1301 Union Ave., Pennsauken, NJ 08110. Representative: Russell R. Sage, P.O. Box 11278, Alexandria, VA 22312, 703-750-1112. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Cerro Wire and Cable Company, of Maspeth, NY.

MC 107012 (Sub-761), filed April 15, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30

West, Fort Wayne, IN 46818. Representative: Bruce Boyarko, (same address as applicant), (219) 429–2224. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., (except AK and HI), under continuing contract(s) with F. W. Woolworth Co., Inc., of New York, NY.

MC 118883 (Sub-11), filed May 3, 1982. Applicant: VAN E. HAMLETT, Osage St., P.O. Box 8009, Nashville, TN 37208. Representative: Roland M. Lowell, 5th Floor, 501 Union St., Nashville, TN 37219, 615–255–0540. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with W.R. Grace & Co., of Cambridge, MA, Lightweight Concrete Company, Inc., of Nashville, TN, and Foamcrete, Inc., of Chattanooga, TN.

MC 119192 (Sub-19), filed April 28, 1982. Applicant: EASTERN DELIVERY SERVICE, INC., 80 Central Ave., Bridgeport, CT 06607. Representative: Gerald A. Joseloff, 410 Asylum St., Hartford, CT. 06103, 203–728–0700. Transporting *such commodities* as are dealt in and used by manufacturers and distributors of furniture, between points in the U.S. (except AK and HI).

MC 121212 (Sub-3), filed May 4, 1982. Applicant: CUMBERLAND TRUCKING CO., INC., 2550 Lunt Ave., Elk Grove Village, IL 60007. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602, 312–726–6525. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, IN, MI, and WI.

MC 121212 (Sub-4), filed May 10, 1982. Applicant: CUMBERLAND TRUCKING CO., INC., 2550 Lunt Ave., Elk Grove Village, IL 60007. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602, 312–726–6525. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in WI on and south of WI Hwy 33, points in IL and IN on and north of U.S. Hwy 24, on the one hand, and, on the other, points in Clayton, Fulton, DeKalb, Henry, Cobb, Douglas, Rockdale, and Gwinnett Counties, GA.

MC 126542 (Sub-20), filed May 10, 1982. Applicant: B. R. WILLIAMS TRUCKING, INC., P.O. Box 3310, Oxford, AL 36201. Representative: John W. Cooper, P.O. Box 162, Mentone, AL 35984, (205) 634–4885. Transporting *materials, parts, equipment and supplies* used in the manufacture and distribution of magnetic tape, between points in the U.S. (except AK and HI).

MC 126942 (Sub-2), filed April 28, 1982. Applicant: ALLSTATE BUS COMPANY, 2151 South Harvey St., Muskegon, MI 49442. Representative: Roger Kirschenbaum, Fifth Floor, Lenox Towers S, 3390 Peachtree Rd., N.E., Atlanta, GA 30326, 404–262–7855. Transporting *passengers and their baggage*, in charter and special operations, between points in the U.S. (including AK, but excluding HI), under continuing contract(s) with Brenner Tours, of Hopkins, MI.

MC 127253 (Sub-56), filed May 10, 1982. Applicant: STEWCO, INC., P.O. Box 728, Waskom, TX 76592. Representative: Frederick S. Wetzel, III, P.O. Box 5606, North Little Rock, AR 72119, (501) 376–3700. Transporting *commodities in bulk*, between points in AR, and points in the U.S. (except AK and HI).

MC 129712 (Sub-72), filed April 28, 1982. Applicant: GEORGE BENNETT MOTOR EXPRESS, INC., P.O. Box 569, McDonough, GA 30253. Representative: Guy H. Postell, Suite 675, 3384 Peachtree Rd., N.E., Atlanta, GA 30326, (404) 237–6472. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Markey Forest Products, Inc., of Walled Lake, MI.

MC 129712 (Sub-73), filed May 10, 1982. Applicant: GEORGE BENNETT MOTOR EXPRESS, INC., P.O. 569, McDonough, GA 30253. Representative: Guy H. Postell, Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA 30326, (404) 237–6472. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Cresline Plastic Pipe Co., Inc., of Mechanicsburg, PA.

MC 129923 (Sub-26), filed May 3, 1982. Applicant: SHIPPERS TRANSPORTS, INC., 5010 Commerce St., West Memphis, AR 72301. Representative: Edward G. Grogan, Twentieth Floor, First Tennessee Bldg., Memphis, TN 38103, (901) 526–2000. Transporting *food and related products*, between points in Caddo Parish, LA, on the one hand, and, on the other, points in CA, IL, KS, MN, NY, OR, PA, TN, TX, and WA.

MC 134453 (Sub-30), filed May 3, 1982. Applicant: STERNLITE TRANSPORTATION COMPANY, Winsted, MN 55359. Representative: Robert P. Sack, P.O. Box 21–307, Eagan, MN 55121, (612) 452–6770. Transporting *clay, concrete, glass or stone products*, between points in Stark County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 135812 (Sub-5), filed April 28 1982. Applicant: PROFESSIONAL DRIVER SERVICES, INC., 1631 Lebanon Rd., Nashville, TN 37210. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202, (502) 589–5400. Transporting *transportation equipment*, between points in the U.S. (except AK and HI), under continuing contract(s) with Ryder Truck Rental, Inc., of Miami, FL.

MC 139843 (Sub-19), filed May 7, 1982. Applicant: VERNON G. SAWYER, P.O. Drawer B, Bastrop, LA 71220. Representative: Harry E. Dixon, Jr., P.O. Box 4319, Monroe, LA 71203, 318–322–5252. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AR, AL, AZ, CA, CO, FL, GA, IL, IN, KS, KY, LA, MO, MS, NM, and TX.

MC 142723 (Sub-11), filed May 7, 1982. Applicant: BRISTOL CONSOLIDATORS, INC., 108 Riding Trail Lane, Pittsburgh, PA 15215. Representative: William A. Gray, 2310 Grant Bldg., Pittsburg, PA 15219, (412) 471–1800. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Fox Grocery Company, of Monroeville, PA.

MC 143832 (Sub-1), filed May 10, 1982. Applicant: L. E. C. FRIDAY, INC., 2000 Windingbrook Way. Westfield, NJ 07090. Representative: Elmer J. Schuman, (same address as applicant), (201) 589–1200. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Reliable Shippers Association, of Newark, NJ.

MC 145813 (Sub-5), filed May 3, 1982. Applicant: POINTS WEST TRUCKING, INC., 20727 Santa Clara St., Canyon Country, CA 91351. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *rubber and plastic products, and pulp, paper and related products*, between Los Angeles, CA, Chicago, IL, Sparks, NV, New York City, NY, points in Lewis County, NY, Sullivan County, TN, and Bergen and Passaic Counties, NJ, on the one hand, and, on the other, Chicago, IL, and points in CA, OR, WA, NV, UT, and AZ.

MC 150103 (Sub-19), filed May 10, 1982. Applicant: SCHWEIGER INDUSTRIES, INC., 116 West Washington St., Jefferson, WI 53549. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703, (608) 674–2440. Transporting *pulp, paper and related products, expanded cellular products, and packaging materials,* between points in the U.S. (except AK and HI).

MC 150612 (Sub-3), filed April 16, 1982. Applicant: SOUTHEASTERN SALES & DESIGN, INC., Highway 25 South, P.O. Box 199, Counce, TN 38326. Representative: Edward G. Grogan, Twentieth Fl., First Tennessee Bldg., Memphis, TN 38103, (901) 526–2000. Transporting (1) *iron and steel and iron and steel articles,* between points in the U.S. (except AK and HI), (2) *building materials,* between points in Hardin County, TN, and points in AL, AR, GA, IL, IN, KY, LA, MS, MO, OH, SC, TN and TX, (3) *iron and steel articles,* between points in Tishomingo County, MS, and points in AL, MS and TN, (4) *telephones, telephone and power cable, and transformers,* between points in AZ, NM, OK, TX, WI and points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the International Boundary line between the U.S. and Canada, and (5) *Mercer commodities,* between points in the U.S. (except AK and HI.)

MC 152353 (Sub-6), filed May 3, 1982. Applicant: WILLIAM TIMBLIN TRANSIT, INC., Route 1, Eden, WI 53019. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, (608) 273–1003. Transporting *rubber, metal, steel and related products,* between points in WI, on the one hand, and, on the other, points in IL, IN, MI, and MN.

MC 159832 (Sub-1), filed May 4, 1982. Applicant: PAR TRUCKING, INC., 1008 E. Morven, Lancaster, CA 93535. Representative: Robert Fuller, 13215 E. Penn St. Suite 310, Whittier, CA 90602, 213–945–3002. Transporting *ores and minerals, clay, concrete, glass or stone products, and chemicals and related products* (1) between points in AZ, CA, CO, ID, MT, NM, NV, OR, TX, UT, WA, and WY, and (2) between points in GA and LA, on the one hand, and, on the other, points in CA.

MC 161623, filed April 22, 1982. Applicant: TRANSSYSTEMS, INC., d.b.a. ABLETRANS CO., P.O. Box 5335, Lake Station, IN 46405. Representative: William Wilson (same address as applicant), 219–938–2096. Transporting (1) *metal products,* (2) *machinery,* and (3) *rubber and plastic products,* between points in the U.S. (except AK and HI).

MC 161932, filed May 11, 1982. Applicant: A. BEVERLY OLVERSON, d.b.a. NORTHERN NECK TOURS, P.O. Box D, Callao, VA 22435. Representative: Frederick A. Olverson (same address as applicant), (804) 529–6111. As a *broker* at Callao, VA, in arranging for the transportation by motor vehicle of *passengers and their baggage,* beginning and ending at points in VA, and extending to points in the U.S.

MC 161982, filed May 13, 1982. Applicant: THATCHER CORPORATION, d.b.a. ALADIN BUS LINES, 1605 N. Claymont St., Wilmington, DE 19802. Representative: Lee V. Henderson, 117 West 37th St., Wilmington, DE 19802, (302) 762–1030. Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter and special operations, beginning and ending at points in New Castle County, DE, and Chester and Philadelphia Counties, PA, and extending to points in the U.S. (except AK and HI).

MC 161993, filed May 13, 1982. Applicant: RICHARD E. SINGER, d.b.a. REEFER EXPRESS, 43550 Mayberry St., Hemet, CA 92343. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306, 805–872–1106. Transporting *such commodities,* as are dealt in or used by manufacturers of cosmetics and hair care products, between points in the U.S., under continuing contract(s) with Roux Laboratories, Inc., of Jacksonville, FL.

Volume No. OP3–082

Decided: May 25, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 48564 (Sub-1), filed May 18, 1982. Applicant: WEIL/THOMAN MOVING & STORAGE CO., 1617–29 Queen City Ave., Cincinnati, OH 45214. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting *household goods,* (1) between points in OH, IL, IN, KY, IA, MO, NJ, NY, PA, WV, and MI, and (2) between points in OH, IL, IN, KY, IA, MO, NJ, NY, PA, WV, and MI, on the one hand, and, on the other, points in CO, NM, ND, SD, NE, KS, OK, TX, MN, IA, MO, AR, LA, WI, IL, MI, IN, OH, KY, TN, AL, MS, ME, NH, VT, MA, RI, CT, NY, NJ, PA, DE, MD, WV, VA, NC, SC, GA, FL, and DC.

MC 69024 (Sub-8), filed May 17, 1982. Applicant: H. B. RUSSELL TRUCK SERVICE, INC., 104 Orange St., Red Bud, IL 62278. Representative: Floyd H. Stellhorn (same address as applicant), (618) 282–3206. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL and MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 78725 (Sub-7), filed May 17, 1982. Applicant: ROLLAND GUENTHER, d.b.a. R. GUENTHER TRUCKING, Post Office Box 175, Rose, OH 45061. Representative: Stephen L. Oliver, 275 E. State St., Columbus, OH 43215, (614) 228–8575. Transporting *malt beverages,* between Perry, GA, Newark, NJ, Milwaukee, WI, Peoria, IL, Tampa, FL, Winston-Salem, NC, Longview, TX, Memphis, TN, Oak Creek, WI, Eden, NC, Fulton, NY, Albany, GA, St. Paul, MN, Newport, KY, Monroe, WI, Detroit and Frankenmuth, MI, St. Louis, MO, and Cincinnati, OH, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 97244 (Sub-6), filed May 17, 1982. Applicant: MASS. TRANSPORTATION, INC., 187 Sidney Street, Cambridge, MA 02139. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, (617) 742–3530. Transporting *food and related products,* between points in IL, MA, NJ, and NY, on the one hand, and, on the other, points in CT, DE, GA, IL, ME, MD, MA, NH, NY, OH, PA, RI, VT, and VA.

MC 99464 (Sub-4), filed May 17, 1982. Applicant: IVAN W. WERNER AND WILLIAM R. DOUGLAS, d.b.a. PAWNEE TRANSFER, P.O. Box 227, Pawnee City, NE 68420. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Over regular routes, transporting *general commodities* (except household goods, commodities in bulk, and classes A and B explosives), between Pawnee City, NE and Falls City, NE: from Pawnee City over NE Hwy 50 to junction NE Hwy 4, then over NE Hwy 4 to junction U.S. Hwy 73, then over U.S. Hwy 73 to Falls City, NE, and return over the same route, serving all intermediate points and the off-route points of Peru, Brownville, Salem, and Rulo, NE.

Note.— This regular route authority may be tacked with applicant's existing authority. Applicant also intends to interline this authority with other authorized carriers.

MC 107445 (Sub-43), filed May 11, 1982. Applicant: UNDERWOOD MACHINERY TRANSPORT, INC., 940 W. Troy Ave., P.O. Box 33051,

Indianapolis, IN 46203. Representative: K. Clay Smith (same address as applicant), (317) 783–9235. Transporting (1) *building materials*, (2) *metal products* and (3) *those commodities* which because of their size or weight require the use of special handling or equipment, between points in Burlington County, NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 127974 (Sub-29), filed May 17, 1982. Applicant: P. LIEDTKA TRUCKING, INC., 110 Patterson Ave., Trenton, NJ 08610. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110–1097, (215) 561–1030. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 129784 (Sub-19), filed May 17, 1982. Applicant: DAVISION TRANSPORT, INC., P.O. Drawer 846, Ruston, LA 71270. Representative: Dennis W. Ledet (same address as applicant) (318) 255–3850. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), (a) between points in AR, LA, MO, MS, OK, TN, and TX, and (b) between points in LA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 136545 (Sub-41), filed May 17, 1982. Applicant: NUSSBERGER BROS. TRUCKING CO., INC., 929 Railroad St., Prentice, WI 53556. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 8056, Madison, WI 53705, (608) 238–3119. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in IA, MI, MN and WI and points in IL and IN on and north of U.S. Hwy 36, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146055 (Sub-20), filed May 18, 1982. Applicant: DOUBLE "S" TRUCKLINE, INC., 731 Livestock Exchange Bldg., Omaha, NE 68107. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114, (402) 397–9900. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of pet foods, between points in CA, IL, ID, OH, TX, LA, MS, AL, and WA, on the one hand, and, on the other, points in the U.S.

MC 146985 (Sub-20), filed May 18, 1982. Applicant: MIDWEST EASTERN TRANSPORT, INC., 731 South Main St., P.O. Box 1614, Elkhart, IN 46515. Representative: Phillip A. Renz, Suite 200, Metro Bldg., Fort Wayne, IN 46802, (219) 423–3595. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Eli Lilly International Corporation, of Indianapolis, IN.

MC 151195 (Sub-2), filed May 17, 1982. Applicant: DUWAINE HELLICKSON, d.b.a. HELLICKSON LIVESTOCK AND GRAIN, P.O. Box 146, Ostrander, MN 55961. Representative: Val M. Higgins, 1600 TCF Tower, 121 S. 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting *metal products*, between Cincinnati, OH, on the one hand, and, on the other, points in WI, IA, MN, SD, ND, IN, IL, and MO.

MC 154464 (Sub-4), filed May 17, 1982. Applicant: B-HI TRANSPORT, INC., P.O. Box 1227-Taylor St., Searcy, AR 72143. Representative: Larry Bowen (same address as applicant), (501) 268–3897. Transporting *food and related products*, between Searcy, AR, Hammond, IN and Lansing, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 156254 (Sub-10), filed May 17, 1982. Applicant: CONTRACT TRUCKERS, INC., 530 Haunted Lane, Cornwells Heights, PA 19020. Representative: Russell S. Callahan, P.O. Box 1806, Brockton, MA 02403, (617) 580–1000. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S.

MC 156694 (Sub-1), filed May 17, 1982. Applicant: TWIN CITY WAREHOUSES, INC., 800 Chatham Rd., Winston-Salem, NC 27101. Representative: Mark C. Ellison, Suite 329, 300 Interstate N. Pkwy, Atlanta, GA 30339 (404) 955–4020. Transporting *caskets*, between Winston-Salem, NC, on the one hand, and, on the other, points in WV.

MC 161094, filed May 17, 1982. Applicant: G & G TRUCKING, INC., 9780 So. 60th St., Franklin, WI 53132. Representative: Harold O. Orlofske, P.O. Box 368, Neenah, WI 54956, (414) 722–2848. Transporting (1) *metal products* and (2) *machinery*, between points in WI, on the one hand, and, on the other, points in the U.S. (except HI).

MC 162025, filed May 17, 1982 Applicant: B. MASSEY AND G. ODOM, d.b.a. COWBOY TRUCKING, Route 3, Box 1, Sulphur Springs, TX 75482. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245, (214) 358–3341. Transporting *food and related products*, between points in TX, TN, AL, GA, and FL.

MC 162034, filed May 17, 1982. Applicant: A & B CHARTER CORP., 6128 Rod Ave., Woodland Hills, CA 91367. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, (714) 667–8107. Transporting *passengers and their baggage*, in round trip charter operations, beginning and ending at points in Los Angeles County, CA and extending to points in AZ, NV, UT, OR, WA and WY.

MC 162035, filed May 17, 1982. Applicant: MERCHANTS TRANSPORT OF HICKORY, INC., 543 12th St. Dr., N.W., Hickory, NC 28601. Representative: William H. Borghesani, Jr., 1150 17th St., NW., Suite 1000, Washington, DC 20036, (202) 457–1122. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) between points in NC, SC, GA, PA, TN, FL, VA, Mobile; Baldwin, Montgomery, Coosa, Elmore, Autauga, Shelby, Jefferson, Morgan, Marshall, Limestone Counties, AL, McDowell, Mercer, Monroe, Summers, Wyoming, Raleigh, Greenbrier, Fayette, Boone, Berkeley, Kanawha Counties, WV, and Washington, Prince Georges, Charles, and Baltimore Counties, MD.

MC 162044, filed May 17, 1982. Applicant: AMITY ENTERPRISES, INCORPORATED, 5111 Clairton Blvd., Pittsburgh, PA 15236. Representative: Kay Tischerl, (same address as applicant), (412) 884–2707. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, between points in the U.S., under continuing contract(s) with Amity Travel Service Inc., of Pittsburgh, PA.

MC 162045, filed May 17, 1982. Applicant: JAYCO ENTERPRISES, INC., d.b.a. JET, INC., P.O. Box 460, Middlebury, IN 46540. Representative: Paul D. Borghesani, 300 Communicana Bldg., 421 So. Second St., Elkhart, IN 46516, (219) 293–3597. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contracts with (1) A & E Systems, Inc., of Santa Anna, CA, (2) Carr-Griff, Inc., of Anaheim, CA, (3) Deutsch Kase Haus, of Middlebury, IN, (4) Ger-Win Vans, Inc., of Bristol, IN, (5) Jayco, Inc., of Middlebury, IN, (6) K. Z., Inc., of Middlebury, IN, (7) L & W Engineering, Inc., of Middlebury, IN, (8) RVC, Inc., of Middlebury, IN, (9) Shomco, Inc., of Elkhart, IN, (10) Skylark Incorporated, of Bristol, IN, (11) Van American, Inc., of Goshen, IN, and (12) Ziggity Systems, Inc., of Middlebury, IN.

MC 162055, filed May 17, 1982. Applicant: TRAILER-MOVERS, INC., P.O. Box 522834, Miami, FL 33152. Representative: Robert L. Cope, 1730 M St., N.W., Suite 501, Washington, DC 20036, (202) 298–2900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, FL, GA, and SC.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–14820 Filed 6–1–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–173

The following applications were filed in Region I. Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 120913 (Sub-1–1TA), filed May 13, 1982. Applicant: A & P TRANSPORTATION, INC., 255 Brigham Street, Marlboro, MA 01752. Representative: David P. LaCroix, P.O. Box 539, Marlboro, MA 01752. *Contract carrier:* irregular routes: *Electrical and electronic equipment, computers, data processing, and distribution thereof,* between points in the U.S., under continuing contract(s) with Digital Equipment Corp., Northboro, MA 01532. Applicant intends to tack to present authority. Supporting shipper: Digital Equipment Corp, 450 Whitney Street, Northboro, MA 01532.

MC 49743 (Sub-1–1TA), filed May 14, 1982. Applicant: ADMIRAL MOVING AND STORAGE, INC.,.420 Ellington Road, South Windsor, CT 06074. Representative: Gerald A. Joseloff, 410 Asylum Street, Hartford, CT 06103. *Office furniture, furnishings and equipment* between the facilities of G. F. Business Equipment, Inc. in Hartford County, CT on the one hand, and on the other, points in MA. Supporting shipper: G. F. Business Equipment, Inc., 30 Garden Street, Hartford, CT 06101.

MC 134806 (Sub-1–29TA), filed May 18, 1982. Applicant: B–D–R TRANSPORT, INC., Vernon Drive, P.O. Box 1277, Brattleboro, VT 05301. Representative: Edward T. Love, 4401 East West Highway, Suite 404, Bethesda, MD 20814. *Contract carrier:* irregular routes: *Paper products* from Dalton, MA to Denver, CO, Salt Lake City, UT, Portland, OR, Seattle, WA and points in CA, under continuing contract(s) with Byron Weston Company, Division of Crane & Company, Dalton, MA. Supporting shipper: Byron Weston Company, Division of Crane & Company, 800 Main Street, P.O. Box 256, Dalton, MA 01226.

MC 134806 (Sub-1–30TA), filed May 18, 1982. Applicant: B–D–R TRANSPORT, INC., Vernon Drive, P.O. Box 1277, Brattleboro, VT 05301. Representative: Edward T. Love, 4401 East West Highway, Suite 404, Bethesda, MD 20814. *Contract carrier:* irregular routes: *Groceries and foodstuffs,* between Denver, CO, Phoenix, AZ, and all points in CA, on the one hand, and, on the other, N. Leominster, MA, under continuing contract(s) with NEOPC, Inc., N. Leominster, MA. Supporting shipper: NEOPC, Inc., 609 Main Street, N. Leominster, MA 01453.

MC 162010 (Sub-1–1TA), filed May 14, 1982. Applicant: BAYFIELD TRANSPORTATION COMPANY, 182 West 25th Street, Bayonne, NJ 07002. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Contract carrier:* irregular routes: *Light bulbs, incandescent and flourescent and materials and supplies used in the manufacturing and sales thereof, except in bulk,* between East Brunswick and Finderne, NJ, on the one hand, and, on the other, points in the U.S., except AK and HI, under continuing contract(s) with Action Tungsram, Inc., East Brunswick, NJ. Supporting shipper: Action Tungsram, Inc., 11 Elkins Road, East Brunswick, NJ 08816.

MC 134272 (Sub-1–1TA), filed May 17, 1982. Applicant: DAY & ROSS, LTD., Mapleton Road, P.O. Box 2099, Station A, Moncton, N.B., CD E0J 1N0. Representative: John C. Lightbody, Esq., Murray, Plumb & Murray, 30 Exchange Street, Portland, ME 04101. *Contract carrier:* irregular routes: *Insecticides, herbicides and fungicides in bags, cartons, or drums,* from Philadelphia, PA to U.S./CD border at Houlton ME, under continuing contract(s) with Rohm and Haas Company of Philadelphia, PA. Supporting shipper: Rohm and Haas, Independence Mall, West, Philadelphia, PA 19105.

MC 148141 (Sub-1–2TA), filed May 19, 1982. Applicant: GOODY PRODUCTS, INC., 969 Newark Turnpike, Kearny, NJ 07032. Representative: William Jacobs, (same as applicant). Contract carrier: irregular routes: *Molybdenum Concentrates and Ferro Molybdenum in packages, in package,* between points in the U.S., (except AK and HI), under continuing contract(s) with Duval Sales Corporation, Houston, TX. Supporting shipper: Duval Sales Corporation, Pennzoil Place, P.O. Box 2967, Houston, TX 77001.

MC 156045 (Sub-1–1TA), filed May 20, 1982. Applicant: H. P. LEASING, INC., 44 Chandler Drive, Somerset, MA 02726. Representative: Frank M. Cushman, 5 Carbrey Avenue, Sharon, MA 02067. *Contract carrier:* irregular routes: *General commodities (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment)* between all points in the 48 contiguous U.S. (excluding AK and HI) under continuing contract(s) with AAA Cargo Brokers, Inc., Sharon, MA. Supporting shipper: AAA Cargo Brokers, Inc., 36 South Main Street, Sharon, MA 02067.

MC 162113 (Sub-1–1TA), filed May 19, 1982. Applicant: J. E. TRANSPORTS, INC., 885 Main Street West, Listowel, Ontario, CD N4W 3H8. Representative: Russell R. Sage, P.O. Box 11278, Alexandria, VA 22312. *General*

commodities (except household goods, commodities in bulk and Classes A and B explosives) between the points of entry on the International boundary between the U.S. and CD (1) on the Niagara River, on the one hand, and, on the other, Buffalo and Niagara Falls, NY, and (2) on the St. Lawrence River, on the one hand, and, on the other, Alexandria Bay, Ogdensburg and Rooseveltown, NY. Supporting shipper(s): There are 43 statements in support of this application which may be examined at the Regional Office of the I.C.C. in Boston, MA.

MC 161642 (Sub-1–1TA), filed May 17, 1982. Applicant: J & M DELIVERY & CAR SERVICE, INC., 465 Barell Avenue, Carlstadt, NJ 07072. Representative: A. David Millner, Esq., 7 Becker Farm Road, P.O. Box Y, Roseland, NJ 07068. *Contract carrier:* irregular routes: *Paper articles and related materials,* from Leetsdale, PA, to Carlstadt, NJ and Baltimore, MD, under contract(s) with Pryor Corporation of Chicago, IL. Supporting shipper: Pryor Corporation, 400 North Michigan Avenue, Chicago, IL 60611.

MC 161984 (Sub-1–1TA), filed May 13, 1982. Applicant: DON JACKSON EXPRESS, INC., 575 Kennedy Road, Cheektowaga, NY 14227. Representative: Jerry B. Sellman, 50 West Broad Street, Columbus, OH 43215. *Contract carrier:* irregular routes: *General commodities (except Classes A and B explosives, household goods, commodities in bulk, and commodities which, because of their size or weight, require special equipment),* between points in Erie, Niagara, Monroe and Onondaga Counties, NY, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with SPEC/COM Corporation of Cheektowaga, NY. Applicant intends to interline. Supporting shipper: SPEC/COM Corporation, 575 Kennedy Road, Cheektowaga, NY 14227.

MC 154763 (Sub-1–2TA), filed May 18, 1982. Applicant: JET LINE SERVICES, INC., 441 Rear Canton Street, P.O. Box 180, Stoughton, MA 02072. Representative: Roger E. Cowley, (same as applicant). *Hazardous waste (excluding nuclear and radioactive waste)* between points in CT, ME, MA, NH, RI, and VT, on the one hand, and, on the other, points in the U.S. in and east of WI, IL, KY, TN, and MS. Supporting shipper(s): Recycling Industries, Inc., 385 Quincy Avenue, Braintree, MA 02184; U.S. Environmental Protection Agency, 60 Westview Street, Lexington, MA 02173.

MC 150430 (Sub-1–2TA), filed May 20, 1982. Applicant: MIDLAND TRANSPORT LIMITED, P.O. Box 929, Moncton, New Brunswick, CD E1C 8N6. Representative: Fritz R. Kahn, Suite 1100, 1660 L Street, N.W., Washington, DC 20036. *Contract carrier:* irregular routes: *Such commodities as are dealt in by a manufacturer of tires,* between points in the States of MD, GA, SC and FL and points on the U.S./CD International Boundary on the ME/New Brunswick border under continuing contract(s) with Michelin Tires (Canada) Ltd. of Granton, Nova Scotia, CD. Supporting shipper: Michelin Tires (Canada) Ltd., P.O. Box 399, New Glasgow, Nova Scotia, CD B2H 5E6.

MC 151593 (Sub-1–3TA), filed May 13, 1982. Applicant: DON MONTEIRO TRUCKING INC., 122 Park Street, Stoneham, MA 02180. Representative: William F. Mix, 21–A Muzzey Street, Lexington, MA 02173. *Clay, concrete, earth or stone products, (except commodities in bulk),* between points in MA on the one hand, and, on the other, points in ME, NH, VT, RI, CT, NY, NJ, and PA. Supporting shipper(s): Deering Mason Supply Corp., 158 Essex Street, Melrose, MA 02176; Ideal Cement Block Co., 232 Lexington St., Waltham, MA 02154; Linden & Malden Cement Block Co., Inc., 636 Lynn Street, Malden, MA 02148.

MC 162114 (Sub-1–1TA), filed May 19, 1982. Applicant: OCEAN FREIGHT SYSTEMS, INC., 1413 President Street, Brooklyn, NY 11213. Representative: Ira S. Lipsius, c/o Schindel, Cooper & Farman, 225 W. 34th Street, New York, NY 10122. *Cotton piece goods, upholstery fabrics, artificial leathers and paper goods* (1) from points in SC, NC and VA to points within the New York City Commercial Zone and (2) from points in NC, SC and MA to the Port of New York. Supporting shipper(s): Broadway Supply & Manufacturing Co., 490 Broadway, New York, NY 10042; Joy Fabrics, Inc. & Aurora International, 19 Brook Road, Needham Heights, MA 02104; A-One Merchandising, Inc., 445 Empire Blvd., Brooklyn NY 11225.

MC 151193 (Sub-1–31TA), filed May 17, 1982. Applicant: PAULS TRUCKING CORPORATION, 286 Homestead Avenue, P.O. Drawer D, Avenel, NJ 07001. Representative: Michael A. Beam (same as applicant). *Contract carrier:* irregular routes: *Pulp board, artists board cloth, artists supplies, display racks, paper cutters or trimmers and foam board,* between points in NJ, IL, GA, TX, MA, CA, OH, IN, RI, MD, VA, NC, SC, PA and NY, under continuing contract(s) with Charles T. Bainbridge's Sons, Inc. of Edison, NJ. Supporting shipper: Charles T. Bainbridge's Sons, Inc., 50 Northfield Avenue, Edison, NJ 08817.

MC 151193 (Sub-1–30TA), filed May 17, 1982. Applicant: PAULS TRUCKING CORPORATION, 286 Homestead Avenue, P.O. Drawer D, Avenel, NJ 07001. Representative: Michael A. Beam (same as applicant). *Contract carrier:* irregular routes: *Cleaning compounds, deodorants, disinfectants, chemicals (except hazardous waste), scouring pads, and equipment, materials and supplies used in the manufacture, distribution and sale of such commodities (except in bulk),* between AZ, CA, CO, FL, GA, IL, IA, NB, MA, MD, MO, NJ, and OH, under continuing contract(s) with Airwick Industries, Inc., of Carlstadt, NJ. Supporting shipper: Airwick Industries, Inc., 111 Commerce Road, Carlstadt, NJ 07072.

MC 149536 (Sub-1–6TA), filed May 19, 1982. Applicant: RODCO LEASING, INC., 380 Union Street, West Springfield, MA 01089. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. *Contract carrier:* irregular routes: *General commodities (except Class A and B explosives, household goods and commodities in bulk)* between points in the U.S. (except AK and HI), under continuing contract(s) with Friendly Ice Cream Corporation, Wilbraham, MA 01095. Supporting shipper: Friendly Ice Cream Corporation, 1855 Boston Road, Wilbraham, MA 01095.

MC 5723 (Sub-1–1TA), filed May 20, 1982. Applicant: VANGUARD INTERSTATE TOURS, INC., 1 Westerly Road, Ossining, NY 10510. Representative: Jeremy Kahn, Suite 733 Investment Building, 1511 K Street, NW., Washington, DC 20005. *Contract carrier:* regular routes: *Passengers* between Poughkeepsie, NY and Tarrytown, NY, serving the intermediate points of Wappingers Falls, Fishkill, White Plains, and Harrison, NY, from Poughkeepsie over U.S. Hwy 9, via Wappingers Falls and Fishkill, to its intersection with Hwy. I–84, then over Hwy. I–84 to its intersectionwith Hwy. I–684, then over Hwy. I–684 to White Plains, then over city streets to Harrison, then over city streets to Tarrytown, and return over the same route. Restricted to transportation performed under continuing contract(s) with Hudson Valley Commuters Association, Ltd., Hopewell Junction, NY. Supporting shipper: Hudson Valley Commuters Association, Ltd., R.D. 7, Box 68, Hopewell Junction, NY 12533.

The following applications were filed in Region 2. Send protests to: ICC, FED. Res. Bank Bldg., 101 North 7th St., Rm. 620, Philadelphia, PA 19106.

MC 160862 (Sub-II–1TA), filed April 21, 1982. Originally published in the **Federal Register** on May 3, 1982.[1] Applicant: CORSAIR FREIGHTWAYS CORP., 10 E. Oregon Ave., Philadelphia, PA 19148. Representative: Richard Rueda, 135 N. 4th St., Philadelphia, PA 19106. *Contract; irregular: such commodities as are dealt in or used by retail department stores,* between points in OH on the one hand, and, on the other, points in the states of OH, PA, NY, GA, KY, NC, TN, VA, CT, NJ, MA, DE, MD, WV, SC, AL, MS, IN, IL and WI, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Gold Circle Stores, 6575 Huntley Road, Worthington, OH 43085.

MC 140889 (Sub-II–30TA), filed May 20, 1982. Applicant: FIVE STAR TRUCKING, INC., 4720 Beidler Rd., Willoughby, OH 44094. Representative: Ignatius B. Trombetta, One Public Square, Suite 1001, Cleveland, OH 44113. *Contract, irregular: Food and related products* from points in Cuyahoga County, OH to points in Spotsylvania and Roanoke Counties, VA; McLean County, IL; Dallas County, TX; Los Angeles County, CA; Fulton County, GA and Ramsey County, MN under a continuing contract(s) with Orlando Baking Co. of Cleveland, OH, for 270 days. An underlying E.T.A. seeks 120 days authority. Shipper: Orlando Baking Co., 7777 Grand Ave., Cleveland, OH 44104.

MC 154014 (Sub-II–2TA), filed May 18, 1982. Applicant: ALLEN TRUCK & TRAILER LEASING, INC., 125 West Peach St., P.O. Box 724, Connellsville, PA 15425. Representative: Guy H. Postell, Suite 675, 3384 Peachtree Rd., N.E., Atlanta, GA 30326. (1) *Beer and carbonated beverages,* between Connellsville, PA, on the one hand, and, on the other, Newport, KY; Cincinnati and Cleveland, OH; and Southton, PA; and (2) *glass and glass products, advertising material, tableware, and premiums,* between points in PA, NJ, NY, MA, RI, ME, CT, MD, WV, NC, SC, GA, TN, IL, OH, IN, MI & VA for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Connellsville Bottling Works, 237–39 N. First St., Connellsville, PA 15425.

MC 126910 (Sub-II–1TA), filed May 18, 1982. Applicant: KING B. ROWLAND TRUCKING, INC., 55 E. Washburn St., New London, OH 44851. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *Cement, in bulk,* from Bessemer and Wampum, PA, and Dundee, MI, to Norwalk, Shelby, Ashland, and Willard, OH for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Jennings Ready Mix, P.O. Box 387, Norwalk, OH 44857.

MC 161925 (Sub-II–1TA), filed May 20, 1982. Applicant: KENNEDY LEASING, INC., P.O. Box 68, Birdsboro, PA 19508. Representative: Lynn E. Zampella, P.O. Box 68, Birdsboro, PA 19508. *Paper products* between New Philadelphia, OH: Williamsport, Birdsboro, and Thornburg, PA on the one hand, and, on the other, pts. in MD, NY, PA, NJ, MA, DE, RI, CT, NH, and VA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Beacon Container Corp., 700 W. 1st St., Birdsboro, PA 19508; Great Plains Bag Corp., 2127 Reiser Ave., New Philadelphia, OH 44663.

MC 162061 (Sub-II–1TA), filed May 18, 1982. Applicant: H. A. RICKERT, LTD., 22 Red Ridge Rd., Levittown, PA 19056. Representative: Wayne N. Cordes, 27 South State St., Newtown, PA 18940. *Passengers and their baggage in special and charter operations, in limousine vehicles capable of transporting six passengers or less, not including drivers,* between pts. in NY, NJ, and PA, for 180 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Women's Realty, Inc., 7802 Ventnor Ave., Margate, NJ 08402; Brown & Fleming Associates, Inc., 211 W. State St., Media, PA 19063; Innovative Travel Group, 1546 Atlantic Ave., Atlantic City, NJ 08401; American Universal Insurance Co., 608 Court St., Suite 309, Reading, PA 19601.

MC 155377 (Sub-II–3TA), filed May 19, 1982. Applicant: PGT TRUCKING, INC., P.O. Box 197, Rt. 68, Industry, PA 15052. Representative: Jon F. Hollengreen, 1020 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., N.W., Washington, DC 20004. *Fabricated metal products, and materials, supplies and equipment used in the manufacture and installation thereof,* between points in PA and OH, on the one hand, and, on the other, points in the U.S. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Combustion Service & Equipment Co., 2016 Babcock Blvd., Pittsburgh, PA 15209.

MC 158859 (Sub-II–4TA), filed May 20, 1982. Applicant: O. DEAN TRANSPORTATION, INC., 405 W. Williamsburg Rd., Sandston, VA 23150. Representative: P. Owen Dean (same address as applicant). Contract, irregular: *Metal products, parts and supplies used in the manufacture of the above commodities* between Bristol, VA, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with Reynolds Metals Co. Supporting shippers: Reynolds Metals, Co., 7900 Reycan Rd., Richmond, VA 23237–2292.

MC 152509 (Sub-II–27TA), filed May 18, 1982. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., 1370 Ontario St., Cleveland, OH 44101. Representative: J. L. Nedrich (same address as applicant). Contract, irregular: *General commodities (except Classes A and B explosives, household goods as defined by the Commission)* between points in the U.S., under continuing contract(s) with General Electric Co. Supporting shippers: General Electric Co., 200 Taylor St., Ft. Wayne, IN 46804.

MC 140889 (Sub-II–29TA), filed May 18, 1982. Applicant: FIVE STAR TRUCKING, INC., 4720 Beidler Rd., Willoughby, OH 44094. Representative: Ignatius B. Trombetta, One Public Square, Suite 1001, Cleveland, OH 44113. Contract, irregular: *machinery and metal productrs, food and related products, rubber and plastic products, chemical and related products, glass products and notions* from points in Franklin County, OH to points in Baldwin and Fulton Counties, GA; Austin and Harris Counties, TX; Los Angeles County, CA; Hillsborough County, FL; Oklahoma, Tulsa and Osage Counties, OK; Union County, NJ; Dean and Milwaukee Counties, WI; and Johnson and Wyandotte Counties, KS, under a continuing contract(s) with Triangle Distributing, Inc. of Westerville, OH, for 270 days. An underlying ETA seeks 120 days authority. Shipper: Triangle Distributing, Inc., P.O. Box 155, Westerville, OH 43081.

MC 102299 (Sub-II–1TA), filed May 18, 1982. Applicant: THE BALTIMORE & ANNAPOLIS RAILROAD COMPANY, 801 Baltimore-Annapolis Blvd., Glen Burnie, MD 21061. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St., NW., Washington, DC 20005. *Passengers and their baggage, in the same vehicle with passengers, in special operations,* beginning and ending at Glen Burnie, Baltimore and Rosedale, MD and extending to the facilities of Caesar's Boardwalk Regency Hotel, Atlantic City, NJ. An underlying ETA seeks 120 days authority. Supporting shipper(s): There are 13 supporting statements attached to this application which may be examined at the Philadelphia Regional Office.

MC 107012 (Sub-II–219TA), filed May 18, 1982. Applicant: NORTH

[1] The purpose of this republication is to include the state of VA, which was left out of the original publication.

AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same as applicant). Contract, irregular: *General commodities (except classes A and B explosives)* between points in the U.S., under continuing contract(s) with Convergent Technologies, Inc., Santa Clara, CA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Convergent Technologies, Inc., 2500 Augustine Dr., Santa Clara, CA 95051.

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, NE., Atlanta, GA 30309.

MC 161796 (Sub-3–TA), filed May 17, 1982. Applicant: JERRY D. RAINEY, d.b.a. J. R. EXPRESS, Greenland Road, Anderson, SC 29622. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Contract:* Irregular: *Fiberglass yarn, fiberglass fabric and fiberglass products* from Anderson, SC to points in CT, MA, NJ, NY, NH, PA, RI and VA under continuing contract(s) with Clark-Schwebel Fiber Glass Corp., P.O. Box 2627, Anderson, SC 29621. Supporting shipper: Clark-Schwebel Fiber Glass Corp., P.O. Box 2627, Anderson, SC 29621.

MC 118159 (Sub-3–6TA), filed May 17, 1982. Applicant: DISTRIBUTION SERVICE SYSTEMS, INC., 2961 Interstate Street, Unit 2, Charlotte, NC 28208. Representative: Charles W. Singer, P.O. Box 2298, Green Bay, WI 54306. *General commodities (except household goods as defined by the Commission, commodities in bulk and Classes A and B explosives),* between points in the US, under contract with The Mead Corporation, and its subsidiaries and affiliates. Supporting shipper: The Mead Corporation, Courthouse Plaza, N.E., Dayton, OH 45463.

MC 153180 (Sub-3–3TA), filed May 17, 1982. Applicant: M & T DRUM SERVICE, INC., Route 4, Box 1230, Huntersville, NC 28078. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. *Chemical waste materials (hazardous and non-hazardous),* (1) between the facilities of ENSCO located in the US, on the one hand, and, on the other, all points in the US, and (2) between the facilities of Chemical Waste Management, Inc. located in the US, on the one hand, and, on the other, points in the US, in and east of MN, IA, MO, OK, and TX. Supporting shippers: ENSCO, 1015 Louisiana Ave., Little Rock, AR 72202; Chemical Waste Management, Inc., Highway 17, Milemarker 163, Emelle, AL 35459.

MC 161834 (Sub-3–1TA), filed May 17, 1982. Applicant: KWIK-WAY TRUCKING CO., INC., Route 2, Post Office Box 108, Vale, NC 28168. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. *Inboard and outboard boat engines and assemblies,* (1) from Detroit, MI and its commercial zone to Ft. Lauderdale, FL, and (2) from Detroit, MI and its commercial zone and Cleveland, OH and its commercial zone to Miami, FL. Supporting shippers: Jerry's Marine Service of Ft. Lauderdale, FL, Inc., 120 S.W. 16th Street, Ft. Lauderdale, FL 33315; Commander Marine Corp., 4780 N.W. 128th St. Road, Miami, FL 33054.

MC 115654, (Sub-3–33TA), filed May 17, 1982. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Jackie Hastings Jones (same address as applicant). *Bananas,* From Tampa, FL to points in KY and TN. Supporting shipper: Del Monte Banana Company, P.O. Box 011940, Miami, FL 33101.

MC 144447 (Sub-3–1TA), filed May 17, 1982. Applicant: TREXLER TRUCKING, INC., Route 1, Box 538, Gold Hill, NC 28071. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. *Cement paving material,* from Winston-Salem, NC to points in VA, SC, GA, WV, KY, and TN. Supporting shipper: Dixie Concrete Co., Inc., 3300 N. Liberty St., Winston-Salem, NC 27105.

MC 145716 (Sub-3–1TA), filed May 17, 1982. Applicant: INTERNATIONAL TRANSPORTATION SERVICE, INC., 3300 Northeast Expressway, Suite 1–M, Atlanta, GA 30341. Representative: Brian Weir, 3300 Northeast Expressway, Suite 1–M, Atlanta, GA 30341. *Contract* irregular, *general commodities (except classes A & B explosives and household goods)* between all points in the US, (except AK and HI) under continuing contract(s) with The Sherwin-Williams Co. Supporting shipper: The Sherwin-Williams Co., 1370 Ontario St., Clevand, OH 44101.

MC 151826 (Sub-3–5TA), filed May 14, 1982. Applicant: J & S TRUCK SERVICE, INC., P.O. Box 807, Lexington, NC 27292. Representative: C. Jack Pearce, Suite 1200, 1000 Connecticut Avenue, N.W., Washington, D.C. 20036. *Chemicals drugs and equipment and supplies used in the operation of hospital,* between, on the one hand, Pittsylvania County, VA, Campbell County, VA, Nash County, NC, Scotland County, NC, Spartanburg County, SC and Franklin County, OH, and, on the other hand, points and places in the US, (except AK and HI). Supporting shipper: Abbott Laboratories, 1400 Sheridan Road, Chicago, IL 60064.

MC 161841 (Sub-3–1TA), filed May 14, 1982. Applicant: PRMMI TRUCKING, INC., 30 Maritime and Faragate Streets, Jacksonville, 32203. Representative: Morris R. Garfinkle, 1054 Thirty-first Street, N.W., Washington, D.C. 20007. *General commodities (except Classes A and B explosives)* (1) between points in the Commercial Zone of Elizabeth, NJ restricted to traffic having a prior or subsequent movement by water; (2) between points in the Commercial Zone of Baltimore, MD restricted to traffic having a prior or subsequent movement by water; (3) between points in the Commercial Zone of Charleston, SC restricted to traffic having a prior or subsequent movement by water; (4) between points in the Commercial Zone of Jacksonville, FL restricted to traffic having a prior or subsequent movement by water; (5) between points in the Commercial Zone of Miami, FL restricted to traffic having a prior or subsequent movement by water; (6) between points in the Commercial Zone of New Orleans, LA restricted to traffic having a prior or subsequent movement by water; and (7) between points in the Commercial Zone of Houston, TX restricted to traffic having a prior or subsequent movement by water. Supporting shippers: Puerto Rico Marine Management, Inc., Fleet and Bombay Streets, Elizabeth NJ 07207; Florida Feed Mills, Inc., 2762 West Beaver Street, Jacksonville, FL 32203; United Rice Packing Co., Inc., P.O. Box 50700, New Orleans, LA 70150.

MC 159639 (Sub-3–2TA), filed May 13, 1982. Applicant: FLA-TEX, INC., 195 N. Rifle Range Rd., Bartow, FL 33830. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *Automobile Parts or Components* between Toledo, OH; Goldsboro, NC; Buffalo, NY and Detriot, MI on the one hand, and, on the other, Harlingen, TX. Supporting shipper: Magic Valley Muffler Mfg., Inc., 402 North T., Suite B, Harlingen, TX 78550.

MC 161991 (Sub-3–1TA), filed May 13, 1982. Applicant: DAVID THOMPSON TRUCKING COMPANY, 5801 Kinghurst Dr., Charlotte, N.C. 28212. Representative: David Thompson (same address as applicant). *Printed matter and related items and food and related items* between points in Mecklenburg County, NC, on the one hand, and, on the other, points in NC and SC, on commodities having a prior or

subsequent movement. There are five supporting shippers and their statements may be examined at the Regional Office in Atlanta, Ga.

MC 155013 (Sub-3–7TA), filed May 13, 1982. Applicant: FREIGHTMASTER, INC., P.O. Box 664, Taylorsville, NC 28681. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064. *Contract;* Irregular; *Such commodities as are dealt in by farm supply stores* between Statesville, NC, Washington, NC, and Sumpter, SC on the one hand, and, on the other, points in OH, IL, IN, TN, KY, PA, MN, WI, VA, NY, NJ, LA, MS, AR, AL, MO, IA, MI, GA, and FL. Under continuing contract(s) with FCX, Inc. Supporting shipper: FCX, Inc., P.O. Box 2149, Raleigh, NC 27602.

MC 161769 (Sub-3–2TA), filed May 13, 1982. Applicant: ECONO-TOURISTIC ASSOCIATES, INC., 60 Lockwood Ave., Charleston, SC 29401. Representative: Kim G. Meyer, 235 Peachtree St., N.E., Ste. 1200, Atlanta, GA 30303. *Passengers and their baggage in the same vehicle with passengers, in round-trip charter operations,* (1) beginning and ending at points in Huntsville, Birmingham, Montgomery, AL; Albany, Augusta, Atlanta, Macon, GA; Beaufort, Charleston, Greenville, Columbia, SC; Jacksonville, Tallahassee, Pensacola, Orlando, FL and Nashville, TN (and their commercial zones) and extending to Fontana Dam, NC (and its commercial zone) and (2) beginning and ending at points in Fontana Dam, NC (and its commercial zone) and extending to Knoxville, TN (and its commercial zone). Supporting shipper: Fontana Villiage Resort, Fontana Dam, NC 28733.

MC 157238 (Sub-3–2TA), filed May 12, 1982. Applicant: JUNIOUS O'NEAL TRAFTON, Route 1, Box 35–A, Scotchland Rd., Camden, NC 27921. Representative: Junious O'Neal Trafton (same address as above). *Passengers and their baggage in special and charter operations* beginning and ending at points in Camden, Currituck, Pasquotank and Perquimans Counties, NC, and extending to points in AL, AZ, CA, CT, DE, FL, GA, KY, LA, MD, NY, MA, MI, NJ, OH, PA, SC, TN, TX, VA, and WV. There are 10 statements of support attached to this application which may be examined at the ICC Regional office in Atlanta, GA.

MC 107980 (Sub-3–4TA), filed May 12, 1982.. Applicant: SUMMERFORD TRUCK LINE, INC., P.O. Box 487, Ashford, AL 36312. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. *General commodities (except Classes A and B explosives, household goods and commodities in bulk)* between Houston County, AL, on the one hand, and, on the other, Mobile, AL and New Orleans, LA and points in their respective commercial zones, having a prior or subsequent movement by water. Supporting shippers: Akwell Industries, Inc., P.O. Box 1252, Dothan, AL 35302; and Sony Magnetic Products of America, U.S. Highway 84 West, Dothan, AL 36301.

MC 151407 (Sub-3–4TA), filed May 18, 1982. Applicant: T & T TRUCKING, INC., 274 N.W. 37th Street, Miami, FL 33127. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Chemicals and related products (except commodities in bulk, Classes A and B explosives and radioactive materials)* from Dade County, FL to Oakland, San Francisco and Los Angeles, CA; Portland, OR and Tacoma, WA. Supporting shipper(s): Pet Chemicals, Inc., 7781 N.W. 73rd Court, Miami Springs, FL 33166.

MC 146496 (Sub-3–13TA), filed May 18, 1982. Applicant: JOSEPH MOVING & STORAGE CO., INC., d.b.a. ST. JOSEPH MOTOR LINES, 5724 New Peachtree Rd., Chamblee, GA 30341. Representative: Thomas H. Davis, 5724 New Peachtree Rd., Chamblee, GA 30341. *Contract carrier:* irregular routes: *Tires and tire related products* between points in the US (except AK and HI) under continuing contract(s) with Dunlop Tire Company. Supporting shipper: Dunlop Tire Company, Division of Dunlop Tire & Rubber Corp., P.O. Box 1109, Buffalo, NY 14240

MC 161852 (Sub-3–1TA), filed May 18, 1982. Applicant: TROPHY TRANSPORT, INC., P.O. Box 2352, Dalton, GA 30720. Representative: Gerald K. Gimmel, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877. *Contract;* Irregular. (1) *Carpets and materials, equipment and supplies* used in the manufacture thereof between Dalton, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI) under a continuing contract with Beaulieu of America, Inc., (2) *Carpets, rugs and padding,* from Dalton, GA, to points in AL, AZ, AR, LA, MS, NM, OK, TN, and TX, under a continuing contract with Dalyn Corp. of Dalton, GA. Supporting shippers: Beaulieu of America, 600 Fifth Ave., Dalton, GA and Dalyn Corp., P.O. Box 1031, Dalton, GA 30720.

MC 148928 (Sub-3–1TA), filed May 18, 1982. Applicant: R & H TRUCKING, INC., Route 2, Nichols, SC 29581. Representative: Jon F. Hollengreen, 1020 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., N.W., Washington, DC 20004. *Fertilizer and related products,* between points in NC, SC and GA. Supporting shippers: There are seven statements of support attached to this application, which may be examined at the I.C.C. Regional Office, Atlanta, GA.

MC 153376 (Sub-3–2TA), filed May 18, 1982. Applicant: HEADRICK TRUCKING, Route 1, Box 258–B, Crandall, GA 30711. Representative: Thomas W. Headrick (same address as applicant). *Contract:* Irregular. *Crushed Limestone Rock* from Andrews, NC, and Chattanooga, TN, to Dalton, GA. From Chattanooga, TN to Chatsworth, GA. Supporting shippers: Georgia Talc Company, P.O. Box 370, Chatsworth, GA 30705; H&S Industries, Inc., P.O. Box 601, Dalton, GA 30720.

MC 162054 (Sub-3–1TA), filed May 18, 1982. Applicant: DAY TOURS, 210 West Main Street, Conover, NC 28613. Representative: Mary Ann Monday (same address as applicant). *Passengers in special and charter operations* between Conover, NC, and Knoxville, TN. There are five (5) statements of support attached to this application and may be reviewed at the ICC Regional Office in Atlanta, GA.

MC 162070 (Sub-3–1TA), filed May 18, 1982. Applicant: JIM HARDY, JR., Rt. 2, Box 279, Senatobia, MS 38668. Representative: Jim Hardy, Jr., Rt. 2, Box 279, Senatobia, MS 38668. *Contract carrier;* irregular routes; metal products, machinery and mercer commodities between on the one hand Shelby County, TN and on the other hand points in the US, under continuing contract with National Machines Works, Inc. of Memphis, TN. Supporting shipper: National Machine Works, Inc., 1586 E. Brooks Road, Memphis, TN 38116.

MC 157848 (Sub-3–2TA), filed May 18, 1982. Applicant: O.K.T., INC., 114 Raleigh St., Hamlet, NC 28345. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180. *Contract: Irregular; canned and frozen foodstuffs* between Milton, DE on the one hand, and, on the other points in NC, SC, GA & FL under continuing contract with Draper-King Cole, Inc. of Milton, DE. Supporting shipper: Draper-King Cole, Inc., P.O. Box 218, Milton, DE 19968.

MC 126542 (Sub-3–8TA), filed May 18, 1982. Applicant: B.R. WILLIAMS TRUCKING, INC., P.O. Box 3310, Oxford, AL 36201. Representative: John W. Cooper, P.O. Box 162, Mentone, AL 35984. *Contract Carrier,* Irregular Routes, *Materials, Parts, Equipment and Supplies used or utilized in the manufacture and shipping of Magnetic Tape* between points in the U.S. except AK and HI. under continuing contracts with Sony Magnetic Products of America, Inc. Supporting shipper: Sony

Magnetic Products of America, Inc., U.S. Highway 84–W, Dothan, AL 36301.

MC 118883 (Sub-3–1TA), filed May 18, 1982. Applicant: VAN E. HAMLETT, P.O. Box 8009, Nashville, TN 37207. Representative: Roland M. Lowell, 5th Floor—501 Union St., Nashville, TN 37219. *Contract carrier;* irregular routes; *Vermiculite,* between Nashville, TN and its commerical zone, on the one hand, and on the other, AL, AR, KY and MS, under a continuing contract(s) with W. R. Grace and Co. Supporting shipper: W. R. Grace & Co., 62 Whittemore Avenue, Cambridge, MA 02140.

MC 147630 (Sub-3–1TA), filed May 18, 1982. Applicant: WILLIAM CHARLES REAK, d.b.a. NORTHWEST FLORIDA DRIVEAWAY, 201 Poinciana Drive, Post Office Box 777, Gulf Breeze, 32561. Representative: William Charles Reak (same address as applicant), *Motor vehicles, by driveaway and/or towbar service* between points in FL, AL, and MS, on the one hand, and on the other, points in the US, except Ak and HI. There are 7 support statements attached to the application which may be examined at the Regional Office, Interstate Commerce Commission, Atlanta, GA.

MC 153679 (Sub-3–6TA), filed May 18, 1982. Applicant: CUMBERLAND FREIGHT LINE, INC., 13th Street, Smyrna, TN 37167. Representative: J. Greg Hardeman, 618 United American Bank Building, Nashville, TN 37219. *Contact,* irregular: *Such commodities as are dealt in or used by retail or wholesale groceries or grocery distribution warehouses,* between points in Davidson Co., TN, on the one hand, and points in the U.S. and on the other, (except AK and HI), under a continuing contract with C. B. Ragland Company, Nashville, TN. Supporting shipper: C. B. Ragland Company, 2720 Eugenia Avenue, Nashville, TN 37204.

MC 161911 (Sub-3–1TA), filed May 18, 1982. Applicant: NORDIC EXPRESS, INC., 3737 U.S. Alt 19 N., Holiday, FL 33590. Representative: M. Craig Massey, Attorney at Law, 211 East Lime Street, Post Office Drawer 1109, Lakeland, FL 33802. *Meat meat products, and meat by-products,* between points in IA, IL, WI, IN, and Omaha, NE, on the one hand, and on the other hand, points in AL, GA, FL, MS, SC, and LA. Supporting shipper: John Amiss Meats, Inc., 3009 West Tharpe St., Tallahassee, FL 32303.

MC 162069 (Sub-3–1TA), filed May 19, 1982. Applicant: BODWAY TRUCKING, INC., P.O. Box 9416, Jacksonville, FL 32208. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Contract:* Irregular: *(1) Paper and paper products and, (2) Machinery,* (1) Between Jacksonville, FL on the one hand, and on the other, Gulfport, MS; Chattanooga, TN; Spartanburg and Florence, SC; Mobile and York, AL; Raleigh, NC and points in GA, (2) Between Jacksonville, FL on the one hand, and on the other, Elizabeth, NJ; Bethesda, OH; Kansas City, MO; Chicago, IL and Portland, IN. Supporting shipper: Four M Corporation, 7660 Gainesville Avenue, Jacksonville, FL 32208.

MC 155314 (Sub-3–6TA), filed May 21, 1982 Applicant: R.C. HOFFMAN ENTERPRISES, INC., P.O. Box 3927, Lake Wales, FL 33852. Representative: H. Barney Firestone, Sullivan & Associates, Ltd., 180 N. Michigan Avenue, Suite 1700, Chicago, IL 60601. *Meats, meat products and meat by products,* between points in MI, on the one hand, and, on the other, points in FL, LA, GA, AL, MS, NC, SC, TN, TX, and KY. Supporting shipper: B. DeYoung & Company, P.O. Box 2136, Clearwater, FL 33517.

MC 148620 (Sub-3–10TA), filed May 21, 1982. Applicant: K.G.L. CONTRACTING SERVICES, INC., P.O. Box 8202, Pembroke Pines, FL 33024. Representative: Robert W. Gerson, 1400 Candler Building, 127 Peachtree Street, N.W., Altanta, GA 30303. *Contract* carrier, irregular *meats, meat products, meat by-products and articles and supplies used by meat packing houses, between points in in the U.S., under continuing contract(s) with Swift Independent Packing Company. Supporting shipper: Swift Independent Packing Company, 115 W. Jackson Blvd., 7th Floor, Chicago, IL 60604.*

MC 37698 (Sub-3–11TA), filed May 21, 1982. Applicant: YOUNGBLOOD TRUCK LINES, INC., P.O. Box 1048, Fletcher, NC 28732. Representative: Leonard S. Cassell (Same address as above). *General Commodities (except Classes A and B explosives, commodities in bulk and household goods, as defined by the Commission),* between Philadelphia, PA and points in Philadelphia Commercial Zone, and Baltimore, MD and points in the Baltimore Commerical Zone, on the one hand, and, on the other, points in the U.S., except AK and HI. Supporting shipper: N. P. Express, Inc., Douglassville, PA 19518.

MC 154861 (Sub-3–8TA), filed May 21, 1982. Applicant: CAROLINA MOTOR EXPRESS, INC., P.O. Box 550, Forest City, NC 28043. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue, N.W., Washington, DC 20005. *Meat and meat products, and materials and supplies used in the manufacture and distribution thereof,* between the facilities of Dixie Packers, Inc., at points in Madison County, FL, on the one hand, and, on the other, points in the U.S.-(except AK and HI). Supporting shipper: Dixie Packers, Inc., P.O. Box 622, Madison, FL 32340.

MC 162132 (Sub-3–1TA), filed May 21, 1982. Applicant: MARTHA D. WEEKS, d.b.a. M. D. WEEKS TRUCKING CO., P.O. Box 538, Hamilton, AL 35570. Representative: Norman T. Fowlkes III, 1919 Pennsylvania Ave., NW., Suite 500, Washington, DC 20006. *Metal products and machinery,* between points in Marion County, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Continental Conveyor and Equipment Co., Inc., 4th Ave., South Champion Street, Winfield, AL 35594.

MC 45656 (Sub-3–4TA), filed May 21, 1982. Applicant: ANDERSON TRUCK LINE, INC., P.O. Box 1196, Lenoir, NC 28645. Representative: Dan E. Anderson (same as above). *Furniture and fixtures,* between points in DE on the one hand, and, on the other, points in NC, SC, AL, GA, TN, VA, MD and DC. Supporting shippers: there are twenty-three (23) supporting statements attached to this application which may be examined at the Atlanta, GA regional office.

MC 162058 (Sub-3–1TA), filed May 24, 1982. Applicant: MIDNIGHT EXPRESS, INC., Rt. 1 Box 16 BD, Richmond, KY 40475. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. *Malt beverages* between, KY, OH, MI, WI, IN, IL, MO, TN, TX, FL, WV, VA, NC, SC and GA. Supporting shipper(s): Schoenling Brewery Co., 1625 Central Parkway, Cincinnati, OH 45214; Mid State Distributing Co., 2425 Palumbo Drive, Lexington, KY 40509; Dixie Beer Dists., Inc., 4703 Allmond Ave., Louisville, KY 40209.

MC 159639 (Sub-3–3TA), filed May 25, 1982. Applicant: FLA-TEX, INC., 195 North Rifle Range Rd., Bartow, FL 33830. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *Meat, Meat Products, or Meat By-Products* (1) between Laredo, TX on the one hand, and, on the other, points in FL, GA, NC, VA, TN, MS, KY, OH, PA, NY, MI, AL, IN, IL, IA, NE, MN, WI, KS and CA (2) between Lima, OH on the one hand, and, on the other, points in IL, IA, NE, KS; and (3) between Champlain, NY on the one hand, and, on the other, points in OH and TX. Restricted to shipments for the account of Mid-West Commodity Export Services of Fla., Inc. Supporting shipper: Mid-West Commodity Export Services of Fla., Inc., 3401 N. Tamiami Trail, Suite 208, Naples, FL 33940.

MC 154861 (Sub-3–9TA), filed May 24, 1982. Applicant: CAROLINA MOTOR EXPRESS, INC., P.O. Box 550, Forest City, NC 28043. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue, N.W., Washington, DC 20005. *Contract* carrier, irregular *general commodities (except classes A & B explosives, household goods, and commodities in bulk),* between points in the U.S. (except AK and HI), under continuing contract(s) with United Freight, Inc., of Morrow, GA. Supporting shipper: United Freight, Inc., 1260 Southern Road, Morrow, GA 30260.

The following applications were filed in region 4. Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 69024 (Sub-4–4TA), filed May 17, 1982. Applicant: H. B. RUSSELL TRUCK SERVICE, INC., 104 Orange Street, Red Bud, IL 62278. Representative: Floyd H. Stellhorn (same address as applicant), *Grain bins, cleaners, handling equipment, and agricultural machinery,* between points in Shelby County, MO and Marion County, KS, on the one hand, and on the other, points in AZ, AR, CA, CO, IL, IN, IA, LA, MN, MT, ND, OH, OK, NE, NM, PA, SD, MO, KS, TN, TX, WY, WI and KY. Supporting shipper(s): Golden Grain Corporation, P.O. Box 190, Clarence, MO 63437.

MC 74755 (Sub-4–3TA), filed May 14, 1982. Applicant: SUELZER MOVING & STORAGE, INC., 4325 Meyer Road, Fort Wayne, IN 46806. Representative: Richard A. Huser, One Indiana Square, Suite 2120, Indianapolis, IN 46204. Contract: Irregular; *Household goods (as defined by the Commission). Between points in the U.S.. Restricted to service performed under continuing contract(s) with General Electric Motor Business Group of Fort Wayne, Indiana.*

MC 99123 (Sub-4–9TA), filed May 5, 1982. Applicant: QUAST TRANSFER, INC., P.O. Box 7, Winsted, MN 55395. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. Common; Regular *general commodities* (except household goods, commodities in bulk and classes A and B explosives), 1) Between Minneapolis and Browns Valley, MN, serving the off-route points of Donnelly, Hanover, Cyrus and Collis, from Minneapolis over MN Hwy 55 to junction MN Hwy 124, then over MN Hwy 124 to junction MN Hwy 23, then over MN Hwy 23 to junction MN Hwy 9, then over MN Hwy 9 to junction MN Hwy 28, then over MN Hwy 28 to Browns Valley, and return over the same route; 2) Between Litchfield, MN and Milbank, SD, over U.S. Hwy 12; 3) Between the junction of MN Hwy 22 and MN Hwy 7 and Ortonville, MN, over MN Hwy 7; 4) Between Stewart and Montevideo, MN, serving the off-route point of Cottonwood, over U.S. Hwy 212; 5) Between Buffalo and Norwood, MN, over MN Hwy 25; 6) Between Paynesville and Hector, MN, over MN Hwy 4; 7) Between Willmar, MN and the junction of U.S. Hwy 71 and U.S. Hwy 212, over U.S. Hwy 71; 8) Between Paynesville and Granite Falls, MN, over MN Hwy 23; 9) Between Benson and Montevideo, MN, over MN Hwy 29; 10) Between Morris and Appleton, MN, over U.S. Hwy 59; 11) Between Graceville and Ortonville, MN, over U.S. Hwy 75; 12) Between Willmar and Milan, MN, over MN Hwy 40; 13) Serving in connection with routes 1) through 12): all intermediate points and the off-route points in Hennepin, Meker, Kandiyohi, Chippewa, Swift and Big Stone Counties, MN, in Renville and Lac Qui Parle Counties, MN on and north of U.S. Hwy 212, in Wright County, MN south of MN Hwy 55, and in Stevens County, MN south of MN Hwy 9 and 28; 14) tacking and interline authorized. There are 9 supporting shippers. Corresponding 30 day ETA application filed simultaneously herewith.

MC 111310 (Sub-4–15TA), filed May 14, 1982. Applicant: MILLIS TRANSFER, INC., P.O. Box 352, Black River Falls, WI 54615. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. *Split leather hides* between St. Joseph, MO, Red Wing, MN, Whitehall, MI, Gloversville, NY, and Manchester, NH, on the one hand, and, on the other, Milwaukee, WI An underlying ETA seeks 120 days authority. Supporting shipper: General Split Corporation, 5050 South Second St., P.O. Box 491, Milwaukee, WI 53201.

MC 133314 (Sub-4–5TA), filed May 17, 1982. Applicant: SILVAN TRUCKING COMPANY INC., [R.R. 2, Box 137, Pendleton, IN., 46064. Representative: Walter F. Jones, Jr., 1111 E. 54th Street, Indianapolis, IN., 46220, (317) 257–4066. *Contract irregular General Commodities* (except in bulk, household goods and Classes A and B explosives) between Peoria, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Federal Warehouse Company, 200 National Road, East Peoria, IL., 61611.

MC 138388 (Sub-4–4TA), filed May 18, 1982. Applicant: CHESTER CAINE, JR., d.b.a. CAINE TRANSFER, an Individual, Box 376, Lowell, WI 53557. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Fertilizer and fertilizer ingredients* between points in WI, on the one hand and, on the other hand, points within IA, IN, IL, MI, MN and OH. An uderlying ETA seeks 120 days authority. There are six supporting shippers.

MC 140290 (Sub-4–1), filed May 18, 1982. Applicant: KESSEL TRUCKING CO., INC., 615 North Main, Blue Earth, MN 56013. Representative: STEPHEN F. GRINNELL, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402. *Contract Irregulars Pre-cast utility manholes and related products,* between Winnebago, MN on the one hand, and, on the other, points in AR, IA, IL, IN, KS, MI, MO, NE, ND, SD, WI and WY under continuing contract(s) with Winnebago Concrete. An underlying ETA seeks 120 days' authority. Supporting shipper: Winnebago Concrete, Winnebago, MN.

MC 150079 (Sub-4–3TA), filed May 14, 1982. Applicant: K.R.C. TRANSIT, INC., P.O. Box 572, Westmont, IL 60559. Representative: STEPHEN H. LOEB, Suite 4, 2777 Finley Road, Downers Grove, IL 60515. *Aluminum and Aluminum articles,* between the facilities of Kaiser Aluminum & Chemical Sales, Inc., at or near Wanatah, IN, on the one hand, and, on the other, points in MI, and OH. Supporting shipper: Kaiser Aluminum & Chemical Sales, Inc., 9700 S Harlem, Bridgeview, IL 60455.

MC 157516 (Sub-4–6TA), filed May 14, 1982. Applicant: ALL AREA EXPRESS, INC., P.O. Box 5027, Sioux Falls, SD 57117. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *Pallet racking, mezzanines, and parts and accessories therefor,* between the facilities of Prest Equipment Co. at or near Brookings, SD, on the one hand, and, on the other, points in the U.S. Supporting shipper: Prest Equipment Co., 500 Innsbrook Lane, Brookings, SD 57006.

MC 161830 (Sub-4–1TA), filed May 14, 1982. Applicant: ESCANABA OIL COMPANY, INC., 2501–14th Ave. So., Escanaba, MI 49829. Representative: Edward H. Schaus, Comptroller, 2501–14th Ave. So., Escanaba, MI 49829. *Transport instruments, documents, currency, receipts, data processing materials and correspondence,* between points in MI and WI. Supporting shipper: Walch Development Company, 2501–14th Ave. South, Escanaba, MI 49829.

MC 162013 (Sub-4–1TA), filed May 14, 1982. Applicant: P & S EXPRESS, INC., Box 685, Vincennes, IN 47591. Representative: Norman R. Garvin, Scopelitis & Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204–3491. *Malt beverages,* from Evansville, IN to points in FL. Applicant has applied for corresponding emergency temporary authority seeking

120 days authority. Supporting shipper: G. Heileman Brewing Company, Inc., 100 Harborview Plaza, La Crosse, WI 54601.

MC 1–62029 (Sub-4–1TA), filed May 17, 1982. Applicant: G.J.G. ENTERPRISES, INC., 109 Brookside Drive, O'Fallon, IL 62269. Representative: Robert L. Glock (same address as applicant). *Contract* irregular: *General commodities (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk),* between points in the U.S. (except AK & HI), under continuing contracts with Switzer Candy Co. and Hollywood Brands, Inc. Supporting shipper(s): Switzer Candy Co., 1600 N. Broadway, St. Louis, MO 63102, and Hollywood Brands, Inc., 836 S. Chestnut, Centralia, IL 62801.

MC 162048 (Sub-4–1TA), filed May 17, 1982. Applicant: GALLATI CARTAGE OF MICHIGAN, INC., 6134 W. Jefferson Ave., Detroit, MI 48209. Representative: Raymond P. Keigher, Esquire, Suite 102, 401 E. Jefferson St., Rockville, MD 20850. *General commodities* (except those of unusual value, classes A and B explosives, those which because of size or weight require the use of special equipment, and hazardous waste), between Detroit, MI and points in its commercial zone, on the one hand, and, on the other, points in CT, DE, IL, IN, MD, MA, MI, MN, NJ, NY, OH, PA, VA and WV, for 270 days: An underlying ETA seeks 120 days authoirty. Supporting shipper: Trans Freight Line, 57 Claywood Rd., Willowdale, Ontario, CD M2N 2R3.

MC 162052 (Sub-4–1), filed May 17, 1982. Applicant: MPG TRANSPORT LTD., 21630 W. McNichols, Detroit, MI 48219. Representative: ALEX J. MILLER, 555 S. Woodward Avenue, Suite 512, Birmingham, MI 48011. *Contract irregular Such goods, materials and supplies as are used in the manufacture, maintenance, sale and installation of swimming pools* between points in NY, MI, OH, IL, IN, PA, TX, LA, OK, and KY, under continuing contract with Kayak Manufacturing Corp. Supporting shipper: Kayak Manufacturing Corp., 5460 Transit Rd., Depew, NY.

MC 15735 (Sub-4–18TA), filed May 20, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract* irregular: *Household goods* between points in the U.S. (except AK and HI) under continuing contract with Sperry Corporation. Supporting shipper: Sperry Corporation, Blue Bell, PA.

MC 143500 (Sub-4–10TA), filed May 17, 1982. Applicant: R.B. CARRIERS, INC., 305 S. Missouri Ave., P.O. Box 942, Jeffersonville, IN 47130. Representative: Dean N. Wolfe, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877. *Contract;* Irregular: (1) *plastic materials other than expanded group, flakes NOI, granular, lump, pellets, powder, or solid mass;* (2) *plastic materials, liquid, rubber material group, latex liquid;* and (3) *materials, equipment, and supplies used in the manufacture and distribution of plastic materials and rubber materials,* between Louisville, KY, and its commercial zone, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY, under continuing contract with The B F Goodrich Company. Underlying ETA seeks 120 days authority. Supporting shipper: The B F Goodrich Company, 6100 Oak Tree Blvd., Cleveland, OH 44131.

MC 153063 (Sub-4–1TA), filed May 19, 1982. Applicant: KOHORST BEVERAGE COMPANY, INC., West Sinclair Lewis Avenue, Sauke Centre, MN 56378. Representative: Richard P. Anderson, P.O. Box 2581, Fargo, ND 58108. *Fresh and frozen meat, meat products and meat by-products,* from the facilities of Long Prairie Packing, Inc. at or near Long Prairie, MN, to points in IA, IL, IN, OH and WI. Supporting shipper: Long Prairie Parking, Inc., P.O. Box 148–Hwy. 171 North, Long Prairie, MN 56347.

MC 154207 (Sub-4–4TA), filed May 17, 1982. Applicant: J. C. ELLIS TRANSPORTATION, INC., P.O. Box 1009, Washington, Park, IL 62204. Representative: John M. Hessel, One Mercantile Center, Thirty-Second Floor, St. Louis, MO 63101. *Contract;* Irregular *Bleach and soap products* from its origin points of St. Louis, MO and its commercial zone, Chicago, IL and its commercial zone and Omaha, NE and its commercial zone to points within MO, IL, IN, OH, MI, WI, MS, TX, AR, KY, LA, MN, OK, KS, NE, CO, IA, PA, NC, SC, GA, AL, TN. Supporting shipper: Purex Corporation, 6901 McKissock Avenue, St. Louis, MO 63147.

MC 156539 (Sub-4–5TA), filed May 19, 1982. Applicant: HOUSER TRANSPORT, INC., 3125 U.S. Rte. 30, West, Fort Wayne, IN 46806. Representative: James P. Kirkhope, for Transport Management Services, Inc., P.O. Box 15296, Fort Wayne, IN 46885. *Contract,* Irregular: *Iron and Steel Articles* between Chicago, IL, Houston, TX, Douglas and Milwaukee Counties, WI on the one hand, and, on the other, points in the U.S. (except AK and HI) when moving immediately prior to or subsequent to a movement by water, under continuing contract(s) with Intraha Shipping, Inc., of Houston, TX. Supporting shipper: Intraha Shipping, Inc., 11767 Katy Freeway, Houston, TX 77079. An underlying ETA seeks 120 days authority.

MC 160983 (Sub-4–1TA), filed May 20, 1982. Applicant: GIN'S TRANSPORTATION INC., 5000 Wyoming, No. 114, Dearborn, MI 48126. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Iron and Steel articles,* from (1) Detroit, MI to Alpharetta, GA and (2) from Detroit, Ecorse, Livonia, and Warren, MI to Morristown, TN. An underlying ETA seeks 120 days authority. Supporting shipper: (1) U.S.I. Business Co., P.O. Box 888347, Atlanta, GA 30338 and (2) Lear-Sigler, 325 Industrial Ave., Morristown, TN 37814.

MC 161139 (Sub-4–2TA), filed May 20, 1982. Applicant: REDER, LTD., 1817 Winter St., Superior, WI 54880. Representative: Richard A. Westley, Attorney, 4506 Regent Street, Suite 100, P.O. Box 5086, Madison, WI 53705–0086, 608–238–3119. *Malt beverages, and related materials and supplies, and return of empty containers,* from Memphis, TN to (a) the facilities of Hudson Distributing Co. at or near Hudson, WI; (b) the facilities of Reinerio Beverages, Inc. at or near Ashland, WI; (c) the facilities of Rohlfing, Inc. at or near Duluth, MN; and (d) the facilities of Williamson Distributing, Inc. at or near Hayward, WI. Supporting shippers: Hudson Distributing Co., 1810 Webster Street, Hudson, WI 54016; Reinerio Beverages, Inc., 420 Ellis Avenue, Ashland, WI 54806; Rohlfing, Inc., 1 South 24th Avenue, W., Duluth, WI 55806; and Williamson Distributing, Inc., 511 Minnie Avenue, Box 374, Hayward, WI 54843.

MC 161561 (Sub-4–2TA), filed May 20, 1982. Applicant: KYGER TRANSPORT, INC., 2009 Ladoga Road, Crawfordsville, IN 47933. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Anhydrous ammonia,* from Huntington and Walton, IN to points in MI. Supporting shipper: Triple T Chemicals, Inc., 9725 Mallery Drive, Noblesville, IN 46060.

MC 162090 (Sub-4–1TA), filed May 19, 1982. Applicant: HIRNING TRUCKING, INC., Route 4, Box 311, Dickinson, ND 58601. Representative: Charles E. Johnson, Box 2056, Bismarck, ND 58502. (1) *Fertilizer* from points in MN to points in ND, (2) *lumber, lumber products, lumber mill products and forest products* from WA, OR, ID, MT, CA, CO, WY, UT and SD to ND, SDD, NB, KS, MO, IL, IN, MI, WI, IA and MN, (3) *general commodities* (except commodities in bulk, household goods and Classes A and B explosives) from

points in the U.S. (except AK and HI) to Stark County, ND *ETA seeks 120-day authority.* Application supported by seven shippers.

MC 162094 (Sub-4–1TA), filed May 19, 1982. Applicant: WILCZEK TRUCKING COMPANY, 4242 S. Knox, Chicago, IL 60632. Representative: Stephen H. Loeb, Suite 4, 2777 Finley Road, Downers Grove, IL 60515. *Contract, Irregular: Liquid waste products, in bulk, in shipper owned trailers,* from points in IA, IN, KY, MI, MN, MO, OH, and WI to the facilities of Envirite Corporation at Harvey, IL. Supporting shipper: Envirite Corporation, 16435 S Center, Harvey, IL 60426.

MC 162095 (Sub-4–1TA), filed May 19, 1982. Applicant: TRI–LINE TRANSPORTATION, INC., 14 East 5th Street, Ada, MN 56510. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309. *Contract;* Irregular. *Lumber and wood products, paper and paper products, insulation, doors, windows, packaging materials and sawmill machinery,* between points in the U.S. (except AK and HI) restricted to traffic originating at or destined to facilities of Louisiana-Pacific Corporation, under contract with Louisiana-Pacific Corporation. Supporting shipper: Louisiana-Pacific Corporation, 1300 S.W. Fifth Avenue, Portland, OR 97201.

MC 162128 (Sub-4–1TA), filed May 19, 1982. Applicant: ON THE ROAD TRANSPORTATION, INC., P.O. Box 183, 5713 Middaugh, Downers Grove, IL 60516. Representative: Stephen C. Herman, 20 North Wacker Drive, Suite 1760, Chicago, IL 60606. *Contract* irregular: *Passengers and their baggage* in 16-passenger vans between points in the U.S., under continuing contract with On The Road Tours, Inc., P.O. Box 183, 5713 Middaugh, Downers Grove, IL 60516.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 148045 (Sub-5–3TA), filed May 17, 1982. Applicant: QUAD CITY SPOTTING SERVICE, INC., P.O. Box 4168, Davenport, IA 52808. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. *Such commodities as are dealt in or used by wholesale and retail grocery and food business houses,* from Moorhead, Perham and Minneapolis, MN, Chicago and Elgin, IL, and Iowa City, IA, to the facilities of Coppa Distributing Company at Stevens Point, WI. Supporting shipper: Coppa Distributing Company, 2828 Wayne St., Stevens Point, WI 54481.

MC 153483 (Sub-5–4TA), filed May 18, 1982. Applicant: ANTWEILER TRUCKING CO., INC., Star Route, Montgomery City, MO 63361. Representative: James C. Swearengen, P.O. Box 456, Jefferson City, MO 65102. *General commodities in container trailers,* between Galveston Co., TX, on the one hand, and on the other hand, all points in the US except AK, AZ, CA, CT, ID, ME, MA, NV, NH, OR, RI, UT, VT, WA, and HI. Supporting shipper: Philippine Micronesia and Orient Navigation Company, 181 Fremont Street, San Francisco, CA.

MC 154461 (Sub-5–2TA), filed May 17, 1982. Applicant: VILLAGE CHARTERS, INC., Suite 404, Colorado Derby Bldg., 202 West 1st Street, Wichita, KS 67202. Representative: Michael D. Gragert, Attorney at Law, Suite 920, Century Plaza Bldg., 111 West Douglas, Wichita, KS 67202. *The transportation of passengers and their baggage in the same vehicle with the passengers in special charter operations,* between all points and places in KS and the counties of Kay, Grant, Noble, Garfield and Pawnee in the State of OK on the one hand, and, on the other, all points and places in the U.S. (excluding HI and AK). Supporting shippers: Donna L. Redwood, Blackwell Travel Agency, 123 N. Main Street, Blackwell, OK 74631; Donna Bartlett, Bartlett Tours, P.O. Box 2284, Onca City, OK 74602.

MC 154464 (Sub-5–1TA), filed May 17, 1982. Applicant: B–HI TRANSPORT, INC., P.O. Box 1227, Taylor Street, Searcy, AR 72143. Representative: Larry Bowen (same as applicant). *Food and Related Commodities (except in bulk)* between Searcy, AR, Hammond, IN, and Lansing, IL, on the one hand, and, on the other, pts in the U.S. (except AK and HI). Supporting shipper: Land O' Frost of Arkansas, Inc., Hastings Ave., Searcy, AR 72143.

MC 161013 (Sub-5–1TA), filed May 18, 1982. Applicant: OSCAR MELVIN EMFINGER, SR., and OSCAR MELVIN EMFINGER, JR., d.b.a. EMFINGER'S MOBILE HOME MOVERS, Rt. 4, Box 96, Shreveport, LA 71107. Representative: Ilene Emfinger, Rt. 4, Box 96, Shreveport, LA 71107. *New and secondary house trailers in towaway service* from LA to TX, AR, and MS. Supporting shipper: Harper's Holiday Homes, Bossier City, LA.

MC 161693 (Sub-5–1TA), filed May 18, 1982. Applicant: CLINTON LITSEY, d.b.a. STUCKY FEEDERS SUPPLY, R.R. 1, Box 99, Sedgwick, KS 67135. Representative: Clinton Litsey (same as applicant). *Open top roll off refuse containers* between points in Harvey County, KS, and points in AZ, AR, CO, IA, LA, MN, MO, NE, NM, ND, OK, SD, TX, UT, and WY. Supporting shipper: Marvin Heppner, d.b.a. Heppner's, Box 488, Hesston, KS 67062.

MC 162025 (Sub-5–1TA), filed May 17, 1982. Applicant: B. MASSEY and G. ODOM, d.b.a. COWBOY TRUCKING, Route 3, Box 1, Sulphur Springs, TX 75482. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Orange and grapefruit jucie concentrates, and corn syrup* (1) from Memphis, TN to Pts in FL, GA and AL and (2) from points in FL to Sulphur Springs, TX. Supporting shipper(s): Cargill, Inc., 2330 Buoy Street, Memphis, TN 38113 and Southland Corporation, 2828 N. Haskell Street, Dallas, TX 75221.

MC 162027 (Sub-5–1TA), filed May 17, 1982. Applicant: FERRIS CONSTRUCTION, INC., 2005 W. Chestnut, Enid, OK 73701. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154. *Metal products,* between Major and Garfield Counties, OK on the one hand, and, on the other, points in TX. Supporting shippers: There are four (4) supporting shippers.

MC 67234 (Sub-5–25TA), filed May 21, 1982. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. Contract, irregular; *general commodities (except Classes A and B explosives and commodities in bulk)* between points and places in the US (including AK and HI), under continuing contract(s) with Intel Corporation. Supporting shipper: Intel Corporation, 3065 Bowers Avenue, Santa Clara, CA 95050.

MC 114028 (Sub-5–5TA), filed May 21, 1982. Applicant: ROWLEY INTERSTATE TRANSPORTATION COMPANY, INC., 2010 Kerper Boulevard, Dubuque, IA 52001. Representative: Carl L. Steiner, 29 South LaSalle Street, Chicago, IL 60603. *Bananas* from Tampa, FL, to Dover and Wilmington, DE; Chicago, IL; Indianapolis and Terre Haute, IN; Des Moines, Dubuque and Waterloo, IA; Louisville, KY; Albert Lea and Hopkins, MN; Newark, NJ; Norfolk and Richmond, VA; and Madison and Milwaukee, WI. Supporting shipper: Turbana Banana Corp., 2701 LeJeune Road, Coral Gables, FL 33134.

MC 126421 (Sub-5–1TA), filed May 21, 1982. Applicant: GYPSUM TRANSPORT, INC., P.O. Drawer 2879, Abilene, TX 79604. Representative: Jerry B. Matthews (same as applicant).

Lumber, plywood, sheetrock, skids, beams, paneling, hard board and other building materials from AL, AR, LA and MS to TX. Supporting shipper: Morgan Building Corporation, Dallas, TX.

MC 133471 (Sub-5–2TA), filed May 19, 1982 Applicant: HOWARD TRUCKING CO., 203 West Main Street, New Iberia, LA 70560. Representative: Otto A. Girouard, Jr. (same as applicant).' *Machinery, equipment, materials, and supplies used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products* between points in TX and LA, on the one hand, and points in FL, NC, NJ, GA, on the other. Supporting shipper: Shell Offshore, Inc., New Orleans, LA.

MC 138391 (Sub-5–1TA), filed May 21, 1982. Applicant: G & H TRANSPORTATION CO., INC., P.O. Box 157, Widener, AR 72394. Representative: Frank B. Hand, Jr., 523 S. Cameron St., Winchester, VA 22601. Contract, Irregular; *Chemicals, in containers*, from El Dorado, AR to points in CA, under contract with Great Lakes Chemical Corp., El Dorado, AR.

MC 140033 (Sub-5–17TA), filed May 21, 1982. Applicant: COX REFRIGERATED EXPRESS, INC., P.O. Box 20235, Dallas, TX 75220. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *Such Articles as are dealt in by manufacturers or distributors of Automotive Accessories* between facilities of A.R.A. Manufacturing Company at Grand Prairie, TX on the one hand, and, on the other, points in the U.S. Restricted to shipments originating at or destined to facilities of A.R.A Manufacturing Company of Grand Prairie, TX. Supporting shipper: A.R.A. Manufacturing Company, P.O. Box 870, Grand Prairie, TX 75050.

MC 144510 (Sub-5–3TA), filed May 19, 1982. Applicant: JERRY J. KOBS, INC., 131 Bridge Court, Sergeant Bluff, IA 51054. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114. *Meats and packinghouse products*, from the facilities of Cornland Beef Industries, Lexington, NE to pts in CT, DE, IA, MD, MA, ME, NH, NJ, NY, PA, RI, VA, VT, and the DC. Supporting shipper: Cornland Beef Industries, P.O. Box 130, Lexington, NE 68850.

MC 145040 (Sub-5–2TA), filed May 21, 1982. Applicant: RAMSEY'S TRAILWAYS, INC., P.O. Box 667, Jonesboro, LA 71251. Representative: Don A. Smith, P.O. Box 43, Fort Smith, AR 72902. Common regular: (A) *Passengers, mail, express newspapers and baggage.* (B) *Passengers and their baggage in special or charter operation.* (1) Between Pine Bluff, AR and Jct. U.S. Hwy 165 and U.S. Hwy 65, serving all intermediate points: From Pine Bluff over AR Hwy 15 to Warren, AR, then over AR Hwy 4 to its Jct. with AR Hwy 35, then over AR Hwy 35 to Jct. U.S. Hwy 165, then over U.S. Hwy 165 to its Jct. with U.S. Hwy 65, and return; (2) Between McGehee, AR and Greenville, MS, serving all intermediate points: From McGehee, AR over U.S. Hwy 65 to Jct. U.S. Hwy 82, then over U.S. Hwy 82 to Greenville, and return; (3) Between Lake Village, AR and Lake Providence, LA, serving all intermediate points: From Lake Village over U.S. Hwy 65 to Lake Providence, and return; (4) Between Lake Providence, LA and Monroe, LA, serving all intermediate points: From Lake Providence over U.S. Hwy 65 to its Jct. with LA Hwy 2, then over LA Hwy 2 to Bastrop, LA, then over U.S. Hwy 165 to Monroe, and return; (5) Between Lake Providence, LA and Clayton, LA, serving all intermediate points: From Lake Providence over U.S. Hwy 65 to Clayton, and return. B. Between points in (A) above and points in the U.S., except AK and HI. Supporting shipper: Arrow Coach Lines, Little Rock, AR.

MC 145096 (Sub-5–1TA), filed May 20, 1982. Applicant: LIBERTY WASTE CARRIERS, INC., P.O. Box 3370, Baytown, TX 77520. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767. *Waste products for reuse and recycling and waste products for disposal* from Bayport, Deer Park and Port Arthur, TX to points in AR and LA. Supporting shipper: The Lubrizol Corp., Deer Park, TX.

MC 146055 (Sub-5–17TA), filed May 20, 1982. Applicant: DOUBLE "S" TRUCKLINE, INC., 731 Livestock Exchange Bldg., Omaha, NE 68107. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. *Meats and packinghouse products*, from pts in CO, IL, IA, KS, MO, NE, OK, and TX to the facilities of E. A. Miller & Sons Packing Company of Hyrum, Utah. Supporting shipper: Union Packing Company of Omaha, 4501 So. 36th Street, Omaha, NE 68107.

MC 147067 (Sub-5–1TA), filed May 21, 1982. Applicant: MACMILLAN OIL COMPANY, INC., 4306 Second Avenue, Des Moines, IA 50306. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309. *Alcohol, in bulk* from Cedar Rapids and Council Bluffs, IA to points in NE and MO. Supporting shipper: ADM Corn Sweeteners, Division of Archer Daniels Midland Company, Box 1445, Cedar Rapids, IA 52406.

MC 147198 (Sub-5–51TA), filed May 19, 1982. Applicant: ECONOMY TRANSPORT, INC., P.O. Box 10686, Jefferson, LA 70181–0686. Representative: Donald A. Larousse (same as applicant). *Plastic Materials* between the facilities of Valite Division of Valentine Sugars, Inc. located in Lockport, LA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Valite Division of Valentine Sugars, Inc., 1001 Charbonnet Street, New Orleans, LA 70117.

MC 148648 (Sub-5–3TA), filed May 20, 1982. Applicant: GREAT PLAINS TRANSPORTS, INC., P.O. Box 923, Clinton, OK 73601. Representative: Clayte Binion, 623 South Henderson, 2nd Floor, Fort Worth, TX 76104. *Oilwell drilling rigs*, between points in TX, on the one hand, and, on the other, points in ND. Supporting shipper: Crawford Drilling Co., P.O. Box E, Quanah, TX 79252.

MC 152959 (Sub-5–14TA), filed May 21, 1982. Applicant: MOBILE EXPRESS, INC., P.O. Box 8167, Longview, TX 75067. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract: Irregular; *Trailers or Trailer Chassis and/or Parts Thereof* between points in the United States. Restricted to shipments for the accounts of The Budd Leasing Corp.; Trailmobile, Inc. and Utility Trailer Company. Supporting shippers: Utility Trailer Company, P.O. Box 17970, El Paso, TX 79917; Trailmobile, Inc., 200 E. Randolph Drive, Chicago, IL 60601; The Budd Leasing Corp., P.O. Box 501, Troy, MI 48099.

MC 156581 (Sub-5–4TA), filed May 19, 1982. Applicant: METROPLEX FREIGHT SERVICE, INC., 1804 Vantage St., Carrollton, TX 75006. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *Such Articles as are dealt in by wholesale, retail, variety and discount stores and such materials, equipment and supplies necessary for the manufacture, sale and distribution of such articles* between Oklahoma City, OK on the one hand, and, on the other, points in AL, AR, CO, GA, IA, IN, KS, KY, LA, MI, MO, NE, NM, MS, OH, OK, TN and TX. Restricted to shipments originating at or destined to facilities of Fox Meyer of Oklahoma City, OK. Supporting shipper: Fox Meyer, 4529 Enterprise Place, P.O. Box 24087, Oklahoma City, OK 73124.

MC 156634 (Sub-5–3TA), filed May 21, 1982. Applicant: NEBRASKALAND TRUCKING, INC., Route No. 3, Box 63,

Blair, NE 68008. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Building materials and supplies* from Lincoln and Fairbury, NE to Santa Clara, Sacramento, Santa Rosa and Livermore, CA, and from Rocklin, CA to Aurora, OR, Stayton, OR, Las Vegas, NV, Reno, NV, Yakima, WA, Tacoma, WA, Denver, CO, Colorado Springs, CO, Provo, UT, Sandy City, UT, Albuquerque, NM, Clarksville, TX, Temple, TX, Grand Island, NE, Lincoln, NE, Chicago, IL, Elkhart, IN, Troy, MI, Grandville, MI, and Dayton, OH. Supporting shippers: FibreForm Wood Products, P.O. Box 370, Rocklin, CA 95677 and Provenzano Bros, Inc., 1850 DeLaCruz Blvd., Santa Clara, CA 95050.

MC 158785 (Sub-5–2TA), filed May 21, 1982. Applicant: CORNPATCH EXPRESS, INC., Box 387, Ayrshire, IA 50515. Representative: Larry Rustan, Box 387, Aryshire, IA 50515. Contract, irregular; *Meat and packinghouse products,* from the facilities of Beef Specialists of Iowa, Inc. in Iowa to Los Angeles and San Francisco, CA, Miami, FL, Atlanta, GA, Chicago, IL, Minneapolis/St. Paul, MN, Omaha, NE, and points in NC and SC, under contract with Beef Specialists of Iowa, Inc. Supporting shipper: Beef Specialists of Iowa, Inc., Hartley, IA.

MC 160401 (Sub-5–2TA), filed May 21, 1982. Applicant: GLIDEWELL TRUCKING, INC., Rt. 1, Box 171, Ozark, MO 65721. Representative: Don Glidewell (same address as applicant). Contract, Irregular; *General commodities (except class A and B explosives, household goods, commodities in bulk, and hazardous materials)* between points in the U.S. under continuing contract(s) with General Electric Company of Ft. Wayne, IN. Supporting shipper: General Electric Company, Motor Technology Operation, 2000 Taylor St., Ft. Wayne, IN 46804.

MC 161899 (Sub-5–1TA), filed May 20, 1982. Applicant: HOWARD L. GAST, INC., Box 42, Nevada, MO 64772. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. (1) *Fertilizer* between all points in the U.S. (except AK and HI), and (2) *General commodities* (Except classes A and B explosives and household goods as defined by the Commission) between the facilities of Doane Products Company, at Joplin, MO, on the one hand, and, on the other, points in KS, NE, AR, TX and IL. Supporting shippers: Estech Chemical, E. Hickory, Nevada, MO 64772; Vistron Corporation, 905 E. Hickory, Nevada, MO 64772; MFA Plant Foods Division, Route 1, Nevada, MO 64772; and Doane Products Company, 20th & State Line, Joplin, MO 64802.

MC 162083 (Sub-5–1TA), filed May 19, 1982. Applicant: PRATER ENTERPRISES, INC., Route 2, Box 54, Canadian, TX 79014. Representative: Timothy Mashburn, P.O. Box 2207, Austin, TX 78768–2207. *Machinery, equipment, materials and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products,* between points in TX, OK, NM, KS, CO and WY. Supporting shippers: Diamond Shamrock Corporation, Route 1, Box 26, Canadian, TX 79014; E.T.S. Enterprises, Inc., Box 955, Canadian, TX 79014; NASCO, P.O. Box 845, Canadian, TX 79014; Oilfield Rental Service, Box 1229, Canadian, TX 79014; Petex Drilling Fluids, Ptrn, 210 West Park Avenue, Suite 1000, Oklahoma, City, OK 73102.

MC 162098 (Sub-5–1TA), filed May 20, 1982. Applicant: CMS SERVICES, INC., 800 Alsue, Fort Worth, TX 76140. Representative: Clayte Binion, 623 So. Henderson, 2nd Floor, Fort Worth, TX 76104. Contract; irregular. *Communication machinery and equipment* between points in the Fort Worth-Dallas commercial zone on the one hand, and, on the other, points in TX. Having an immediate prior movement in interstate commerce. Supporting shipper: Southwestern Bell Telephone Co., Ft. Worth, TX.

MC 162129 (Sub-5–1TA), filed May 21, 1982. Applicant: DON D. L. BUCHANAN TOURS, d.b.a. BUCHANAN TOURS, P.O. Box 18825, Wichita, KS 67218. Representative: Don D. L. Buchanan (same as applicant). *Passengers and baggage in special and charter operations* between points in KS, MO, OK, NE, AR. Supporting shippers: Les Amies Investment Club, Derby, KS; Wichita Art Association, Wichita, KS; Cherry Creek Village Nursing Center, Wichita, KS; Women's Networking Group, Derby, KS.

MC 162134 (Sub-5–1TA), filed May 21, 1982. Applicant: TABANI, LTD., P.O. Box 8391, Des Moines, IA 50301. Representative: Mark U. Abendroth, P.O. Box 2745, Des Moines, IA 50315. Contract; Irregular. *Beer on Palletts and Banded Cardboard,* between points in IA, MN, WI, IL, and MO. Supporting shipper: Hamm's Des Moines Co., Inc., 323 E. Locust, Des Moines, IA 50305.

The following applications were filed in region 6. Send protests to: Interstate Commerce Commission, Region 6, Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 162097 (Sub-6–1TA), filed May 19, 1982. Applicant: THIEN NGUYEN, AND HUONG NGUYEN d.b.a. CHAMPION TOURS, 2872 Manda Dr., San Jose, CA 95124. Representative: Michael L. Pham, 111 West St. John—Ste. 222C, San Jose, CA 95113–1175. *Passengers and their baggage in charter operations,* from San Jose, CA to Reno, NV and return for 270 days. Supporting shippers: There are 5 supporting shippers. Their statements may be examined in the Regional Office listed above.

MC 138702 (Sub-6–1TA), filed May 20, 1982. Applicant: ECONOMY CARRIERS LTD., 4066 Ogden Rd., S.E., Calgary, AB, Canada T2G 4P7. Representative: John T. Wirth, 717–17th St., Ste. 2600, Denver, CO 80202–3357. *Anhydrous ammonia,* between ports of entry on the International Boundary line between the U.S. and Canada in MT on the one hand, and on the other, points in MT, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Martrex, Inc., Ste 325, Wood Hill Plaza, Minnetonka, MN 55343.

MC 162130 (Sub-6–1TA), filed May 20, 1982. Applicant: W. S. EMERIAN TRUCKING, INC., 2693 So. Chestnut Ave., Fresno, CA 93725. Representative: Rick S. Emerian (same as applicant). *Contract Carrier,* Irregular routes: *Flat Glass,* between Fresno County, CA, on the one hand, and, on the other, points in Sacramento, San Joaquin, Los Angeles, Ventura, San Francisco, Marin, Contra Costa, Alameda, Santa Clara, San Mateo, and Solano counties, CA, having a prior or subsequent out of state movement, for the account of Guardian Industries Corp., for 270 days. Supporting shipper: Guardian Industries Corp., 11535 E. Mountainview, Kingsburg, CA 93631.

MC 156697 (Sub-6–2TA), filed May 19, 1982. Applicant: DESERT ROUSTABOUT AND CONSTRUCTION COMPANY, INC., d b.a. DRC HOTSHOT SERVICE, P.O.B. 1622, Evanston, WY 82930. Representative: Kevin M. Clark, 2417 Bank Dr., Ste. 8, Boise, ID 83705. *Mercer Commodities* (except complete drilling rigs), between points in ID, WY, OR, WA, MT, CA, NV, NM, OK, TX, LA, UT, CO, ND, and SD, for 270 days. An underlying ETA seeks identical authority for 120 days. Supporting shippers: Homeco, P.O.B. 250, Montpelier, ID 83254; Mitchell Energy and Development, 1719 Colo. Nat'l. Bldg., 950 17th St., Denver, CO 80202; Mid-Continent Supply Co., Hwy. 30, Montpelier, ID 83254; Northern

Rental Sales, 1101 E. Main, Ste. 1025, Evanston, WY 82930.

MC 162119 (Sub-6–1TA), filed May 20, 1982. Applicant: DALTON ENTERPRISES, INC., P.O. Box 7127, Long Beach, CA 90807. Representative: John C. Russell, 1545 Wilshire Blvd., Los Angeles, CA 90017. *Contract Carrier,* Irregular Route: *Sucker rods and accessories,* from Tulsa, OK to points in CA, for the account of Dover Corp/ Norris Division, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Dover Corp/Norris Division, 4801 W. 49th St., Tulsa, OK 74101.

MC 115067 (Sub-6–3TA), filed May 19, 1982. Applicant: INDEPENDENT MOTOR TRANSPORT, INC., P.O.B. 10243, Portland, OR 97210. Representative: James L. Kampstra (same as applicant). *Contract Carrier,* Irregular routes: (1) *Paper Products,* between the facilities of American Can Co. at Halsey, OR, on the one hand, and, on the other, points in CA, OR, and WA., (2) *Freight of all kinds,* between points in OR, and WA, for the account of National Piggyback Services Inc., for 270 days. Supporting shippers: American Can Co., 355 Gellert Blvd., Daley City, CA 94015; and National Piggyback Services Inc., 3601 N.W. Yeon, Suite 210, Portland, OR 97210.

MC 160378 (Sub-6–1TA), filed May 17, 1982. Applicant: KEN-MAC TRAILER TOWING LTD., 11147 Bridge St., Surrey B.C., Canada V3V 3V1. Representative: James W. McGaw, 11402 87A Ave., Delta B.C., Canada V4C 3A6. (1) *Mobile Homes* from manufacturers in WA requiring specialized running gear to port of entry Blaine, WA for furtherance to Point Roberts, WA via British Columbia. (2) *Mobile machinery* from port of entry Blaine, WA to Everret, WA and return, for 270 days. Supporting shippers: Gulf Aire Manufactured Housing, 1721 Benson Rd., Point Roberts, WA 98281; and P.R.M. Holdings Ltd., 5640 Abbey Dr., Delta, B.C., Canada.

MC 121759 (Sub-6–2TA), filed May 19, 1982. Applicant: KIMKRIS TRUCKING CO., INC., 1101 Wright Ave., Richmond, CA 94804. Representative: William D. Taylor, 100 Pine St., #2550, San Francisco, CA 94111. *Contract Carrier,* irregular routes: *video software, cartridges, games, programs and related materials and supplies; semi-conductor chips; plastic; printed materials, manuals and booklets,* between points in Los Angeles, Santa Clara, Alameda and Santa Cruz Counties, CA; Lake County, IL; El Paso County, TX and Maricopa County, AZ, under a continuing contract(s) with Atari, Inc., Sunnyvale, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Atari, Inc., 1295 Borregas Ave., Sunnyvale, CA 94086.

MC 162096 (Sub-6–1TA), filed May 19, 1982. Applicant: DEL EUGENE LILLEY, d.b.a. LILLEY TRANSPORTATION, 25293 Thistlebrook Ave., Sunnymead, CA 92388. Representative: (same as applicant). (1) *Liquid plastics, resin compounds, cement mix, paint,* between points in CA, on the one hand, and, on the other, ID, OR, NV, UT, WA, WY. (2) *Plastic carry cases* from Riverside County, CA, to points in NV, OR, WA. (3) *Petroleum products not in bulk* between Los Angeles County, CA, and Casper, WY. (4) *Petroleum lube oil, hydraulic fluids, rust preventatives, defoaming compounds, and grinding compounds,* between Los Angeles County, CA and WA. (5) *Frozen and chilled foodstuffs,* from Riverside County, CA on the one hand, and, on the other points in, AZ, ID, NV, UT and (6) *Plastic articles, salesmen's samples, Cutlery NOI, and housewares,* between points in CA on the one hand, and, on the other, points in AZ, ID, NV, UT, WY, for 270 days. Supporting shippers: There are 6 shippers. Their statements may be examined at the Regional Office listed above.

MC 162109 (Sub-6–1TA), filed May 20, 1982. Applicant: MAYPOLE PACKER SALES & RENTAL, INC., 1203 W. Dunnam, Hobbs, NM 88240. Representative: Alan W. Ralston (same as applicant). *Mercer commodities,* between OK, TX and NM for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Getty Oil Company, P.O.B. 730, Hobbs, NM 88240 and Shell Oil Co., Star Rt., H, Box 861, Hobbs, NM 88240.

MC 162118 (Sub-6–1TA), filed May 20, 1982. Applicant: NOEL McKEAN, d.b.a. McKEAN TRUCKING, Rt. 1, Box 40, Horseshoe Bend, ID 83629. Representative: Kevin M. Clark, 2417 Bank Dr., Ste. 8, Bosie, ID 83705. *Contract carrier,* irregular routes, *Travertine, Machinery, Equipment and Supplies used in the production of finished-Travertine,* between points in the U.S. (except AK and HI), for 270 days, under continuing contract(s) with The Marble Shop, Inc., Knoxville, TN. An underlying ETA seeks authority for 120 days. Supporting shipper: The Marble Shop, Inc., P.O.B. 10127, Knoxville, TN 37919.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-14813 Filed 6-1-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 82–12845 appearing on page 20390 in the issue of Wednesday, May 12, 1982, on page 20391, second column, insert the following above "MC 161588 * * *":

"Volume No. OP5–160

Decided: May 4, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell."

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Agency Forms Under Review

May 25, 1982.

OMB has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. The list has all the entries grouped into new forms, revisions, extension, or reinstatments. Each entry contains the following information:

(1) The name and telephones number of the Agency Clearance Officer (from whom a copy of the form and supporting documents is available); (2) The office of the agency issuing this form; (3) The title of the form; (4) The agency form number, if applicable; (5) How often the form must be filled out; (6) Who will be required or asked to report; (7) An estimate of the number of responses; (8) An estimate of the total number of hours needed to fill out the form; (9) An indication of whether section 3504(H) of Pub. L. 96–511 applies; (10) The name and telephone number of the person or office responsible for OMB review.

Copies of the proposed forms and supporting documents may be obtained from the Agency Clearance Officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the reviewer listed at the end of each entry and to the agency clearance officer. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer and the agency clearance officer of your intent as early as possible.

DEPARTMENT OF JUSTICE

Agency Clearance Officer Larry E. Miesse—202–633–4312

New

• Immigration and Naturalization Service
Supplemental Qualifications Statement Immigration Inspector, SG–5
On occasion
Individuals or households
Non-status candidates for entry level inspector position: 10,000 responses; 10,000 hours; not applicable under 3504(h)
Andy Uscher—395–4814

Revision

• National Institute of Justice
Office of Justice Assistance, Research and Statistics
National Criminal Justice Reference Service/User Registration Forms
On occassion
Individuals or households
State or local government
Users of National Criminal Justice Reference Service: 41,000 responses; 1,353 hours; not applicable under 3504(h)
Andy Uscher—395–4814

Reinstatement

• Immigration and Naturalization Service
Guarantee of Payment
On occasion
Businesses or other institutions
Masters of vessels or aircraft; 1,000 responses; 83 hours; not applicable under 3504(h)
Andy Uscher—395–4814

• Immigration and Naturalization Service
Aircraft/Vessel Reporting
On occasion
Businesses or other institution
Carriers: 600,000 responses: 100,000 hours; not applicable under 3504(h)
Andy Uscher—395–4814

• Immigration and Naturalization Service
Assurance by U.S. Sponsor in behalf of an applicant for refugee status
Nonrecurring
Individuals or households
Refugee sponsors: 150,000 responses; 50,000 hours; not applicable under 3504(h)
Andy Uscher—395–4814

• Immigration and Naturalization Service
Application to pay off on discharge alien crewman
On occasion
Businesses or other institutions
Pilots, Masters or agents: 300,000 responses; 7,500 hours; not applicable under 3504(h)
Andy Uscher—395–4814

• Immigration and Naturalization Service
Child's personnel description form
Nonrecurring
Individuals or households
Applicants for naturalization: 17,000 responses; 1,417 hours; not applicable under 3504(h)
Andy Uscher—395–4814

• Immigration and Naturalization Service
Application for special certificate of Naturalization to obtain recognition as a citizen of the U.S. by a foreign state
Nonrecurring
Individuals or households
Naturalized citizens: 2,000 responses; 500 hours; not applicable under 3504(h)
Andy Uscher—395–4814

• Immigration and Naturalization Service
Request that applicant for naturalization appear for interview
Nonrecurring
Individuals or households
Applicants for naturalization; 200,000 responses; 16,660 hours; not applicable under 3504(h)
Andy Uscher—395–4814

Larry E. Miesse,

Department Clearance Officer, Systems Policy Staff, Justice Management Division.

[FR Doc. 82–14624 Filed 6–1–82; 8:45 am]
BILLING CODE 4410–01–M

Drug Enforcement Administration

[Docket No. 82–11]

Care Clinic, Inc., Detroit, Michigan; Hearing

Notice is hereby given that on March 12, 1982, the Drug Enforcement Administration, Department of Justice, issued to Care Clinic, Inc., an Order To Show Cause as to why the Drug Enforcement Administration should not revoke DEA Certificate of Registration PC0166707 previously issued to Respondent as a narcotic treatment program under 21 U.S.C. 823(g), and why it should not deny Respondent's pending application(s) for renewal of such registration.

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. on Tuesday, June 15, 1982, in Courtroom 2–B, Macomb County Court Building, 40 North Gratiot Avenue, Mt. Clemens, Michigan.

Dated: May 28, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82–14622 Filed 6–1–82; 8:45 am]
BILLING CODE 4410–09–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–237, 50–249, 50–254, and 50–265]

Commonwealth Edison Co.; and Iowa-Illinois Gas & Electric Co., Issuance of Amendments to Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 72 to Provisional Operating License No. DPR–19, and Amendment No. 64 to Facility Operating License No. DPR–25, issued to Commonwealth Edison Company, which revised the Technical Specifications for operation of the Dresden Nuclear Power Station Unit Nos. 2 and 3, located in Grundy County, Illinois. The Commission has also issued Amendment No. 77 to Facility Operating License No. DPR–29, and Amendment No. 71 to Facility Operating License No. DPR–30, issued to Commonwealth Edison Company and Iowa-Illinois Gas and Electric Company, which revised the Technical Specifications for operation of the Quad Cities Nuclear Power Station, Unit Nos. 1 and 2, located in Rock Island County, Illinois. The amendments are to become effective 30 days after installation and testing of the equipment.

The amendments approve changes to the provisions of the Appendix A Technical Specifications pertaining to under voltage protection.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) and environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in

connection with issuance of these amendments.

For futher details with respect to this action, see (1) the application for amendments dated March 4, 1982, and supporting submittals dated July 27, 1977, June 26, 1980, October 1, 1980, October 20, 1981 and January 6, 1982; (2) Amendment No. 72 to License No. DPR–19, Amendment No. 64 to License No. DPR–25, Amendment No. 77 to Licénse No. DPR–29 and Amendment No. 71 to License No. DPR–30; and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street, N.W., Washington, D.C., and at the Morris Public Library, 604 Liberty Street, Morris, Illinois, for Dresden 2 and 3 and at the Moline Public Library, 504–17th Street, Moline, Illinois, for Quad Cities 1 and 2. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 19th day of May, 1982.

For the Nuclear Regulatory Commission.

Dennis M. Cruthfield,

Chief, Operating Reactors Branch No. 5 Division of Licensing.

[FR Doc. 82–14883 Filed 6–1–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–329 and 50–330]

Consumers Power Co. Midland Plant, Units 1 and 2; Issuance of Amendments to Construction Permits

Notice is hereby given that pursuant to a Memorandum and Order dated April 30, 1982, by the Atomic Safety and Licensing Board, the U.S. Nuclear Regulatory Commission has issued Amendment No. 3 to Construction Permit No. CPPR–81 and Amendment No. 3 to Construction Permit No. CPPR–82, which were issued to Consumers Power Company for construction of Midland Plant, Units 1 and 2, located in Midland County, Michigan.

The Board's Order, which imposes certain interim conditions on the construction permits pending issuance of a Partial Initial Decision, was issued in connection with ongoing proceedings with respect to an Order issued by the NRC modifying the construction permits for the facility. Notice of these proceedings was published in the **Federal Register** on March 20, 1980 (45 FR 19214). An amended notice was published in the **Federal Register** on May 28, 1980 (45 FR 35949).

The Commission has found that this action does not constitute an undue risk to the health and safety of the public, and is not inimical to the common defense and security. In addition, the issuance of these amendments will not result in any significant environmental impact; and pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

A copy of the Memorandum and Order, dated April 30, 1982, the contruction permits, the amendments and other related documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Grace Dow Memorial Library, 1710 W. St. Andrews Road, Midland, Michigan. Single copies of the amendments may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washingon, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 26th day of May 1982.

For the Nuclear Regulatory Commission,

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 82–14884 Filed 6–1–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–272 and 50–311]

Public Service Electric & Gas Co., et al.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 44 to Facility Operating License No. DPR–70 and Amendment No. 8 to Facility Operating License No. 75, issued to Public Service Electric and Gas Company, Philadelphia Electric Company, Delmarva Power and Light Company and Atlantic City Electric Company (the licensees), which revised Technical Specifications for operation of the Salem Nuclear Generating Station, Unit Nos. 1 and 2 (the facilities) located in Salem County, New Jersey. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specification related to surveillance of the automatic isolation and interlock action of the RHR System from the Reactor Coolant System.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated May 17, 1982, (2) Amendment Nos. 44 and 8 to License Nos. DPR–70 and DPR–75, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md. this 25th day of May, 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82–14885 Filed 6–1–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–244]

Rochester Gas & Electric Corp.; Issuance of Amendments to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 50 to Provisional Operating License No. DPR–18, to Rochester Gas and Electric Corporation (the licensee), which revised the Technical Specifications for operation of the R. E. Ginna Nuclear Power Plant (facility) located in Wayne County, New York. This amendments is effective as of its date of issuance.

The amendments approves provisions which update the containment isolation valve Table 3.6–1, to reflect plant system modifications.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of this amendments was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendments.

For further details with respect to this action, see (1) the application for amendment notarized April 16, 1982 (transmitted by letter dated April 22, 1982) (2) Amendment No. 50 to License No. DPR-18, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Rochester Public Library, 115 South Avenue, Rochester, New York 14627. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 22nd day of May, 1982.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 82-14886 Filed 6-1-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-259, 50-260, and 50-296]

Tennessee Valley Authority; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 84 to Facility Operating License No. DPR-33, Amendment No. 81 to Facility Operating License No. DPR-52, and Amendment No. 55 to Facility Operating License No. DPR-68 issued to Tennessee Valley Authority (the licensee), which revised the Technical Specifications for operation of the Browns Ferry Nuclear Plant, Units 1, 2, and 3, located in Limestone County, Alabama. The amendments are effective as of the date of issuance.

These amendments change the Technical Specifications to add additional requirements for inspection of snubbers and seismic restraints in response to our generic request of November 20, 1980 to All Power Reactor Licensees.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated April 28, 1981, as supplemented by letter dated March 9, 1982, (2) Amendment No. 84 to License No. DPR-33, Amendment No. 81 to License No. DPR-52, and Amendment No. 55 to License No. DPR-68, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Alabama 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 24th day of May 1982.

For The Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-14887 Filed 6-1-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Emergency Core Cooling Systems; Meeting

The ACRS Subcommittee on Emergency Core Cooling Systems will hold a meeting on June 16 and 17, 1982, at the Westbank Hotel, 475 River Parkway, Idaho Falls, ID. The Subcommittee will discuss the General Electric Company's request for a change in 10 CFR 50.46 Appendix K required decay heat generation assumptions. The Subcommittee will also review the status of selected NRC LOCA/ECCS research programs.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions which will be closed to protect proprietary information (Sunshine Act Exemption 4). One or more closed sessions may be necessary to discuss such information. To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows: *Wednesday and Thursday, June 16 and 17, 1982—8:30 a.m. until the conclusion of business each day.*

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding the topics to be discussed.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the

opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Paul Boehnert (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m. EDT.

I have determined, in accordance with subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close sessions of this meeting to public attendance to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: May 27 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–14882 Filed 6–1–82; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Reactor Operations and TMI–2 Action Plans; Cancelled Meeting

The ACRS Combined Subcommittees on Reactor Operations and TMI–2 Action Plans scheduled for June 2, 1982 has been cancelled indefinitely. Notice of this meeting was published May 17, 1982 (FR 47 21160).

Dated: May 27, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–14881 Filed 6–1–82; 8:45 am]

BILLING CODE 7590–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

- (1) *Collection title:* Earnings and disability monitoring.
- (2) *Form(s) submitted:* G–19, G–254.
- (3) *Type of request:* Revision.
- (4) *Frequency of use:* Annually, on occasion.
- (5) *Respondents:* Railroad Retirement Act annuitants and employers.
- (6) *Annual responses:* 11,400.
- (7) *Annual reporting hours:* 1,231.
- (8) *Collection description:* The reports obtain information about an annuitant's employment and earnings. Under the RRA, an annuity can be reduced or not paid depending on the amount of earnings and type of work performed.

- (1) *Collection title:* Statement regarding adoption.
- (2) *Form(s) submitted:* G–118.
- (3) *Type of request:* Revision.
- (4) *Frequency of use:* On occasion.
- (5) *Respondents:* Individuals acting on behalf of child annuity applicant.
- (6) *Annual responses:* 600.
- (7) *Annual reporting hours:* 150.
- (8) *Collection description:* The Railroad Retirement Act provides for the payment of an insurance annuity to a child alleged to have been adopted by the deceased railroad employee if the child meets the dependency requirements under the act. The statements executed by the applicant filing on the child's behalf, or other person in support of the application, will be used for determining whether the child is entitled to benefits.

- (1) *Collection title:* Certification of relinquishment of rights.
- (2) *Form(s) submitted:* G–88.
- (3) *Type of request:* Extension.
- (4) *Frequency of use:* On occasion.
- (5) *Respondents:* Applicants for employee, spouse or divorced spouse annuities.
- (6) *Annual responses:* 3,900.
- (7) *Annual reporting hours:* 325.
- (8) *Collection description:* The report obtains evidence that an applicant for an employee, spouse or divorced spouse annuity under the RRA has relinquished rights to return to employer service, a requirement for receipt of annuity.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents can be obtained from Pauline Lohens, the agency clearance officer (312–751–4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Milo Sunderhaus (202–395–6880), Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

William A. Oczkowski,

Director of Planning and Information Management.

[FR Doc. 82–14940 Filed 6–1–82; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 18758; File No. SR–Amex–82–6]

Self Regulatory Organizations; Filing of Proposed Rule Change by American Stock Exchange, Inc.

May 24, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 20, 1982, the American Stock Exchange, Inc. ("Amex") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would amend Amex Rule 400 to clarify the responsibilities of broker-dealers relative to the handling of customer accounts that are introduced by one broker-dealer to another under a fully disclosed carrying agreement. The proposed rule would require all such agreements to allocate between the parties the responsibility for each of the following functional areas: (1) Opening, approving, and monitoring of accounts; (2) extension of credit; (3) maintenance of books and records; (4) receipt and delivery of funds and securities, (5) safeguarding of funds and securities; (6) confirmations and statements; and (7) acceptance of orders and execution of transactions. The allocation of functions is intended to relieve a party to the agreement from duties and responsibilities allocated to the other party which, under the framework of exchange regulation, would otherwise be imposed upon both parties.[1] Furthermore, the amended rule would require written disclosure to customers regarding the allocation of customer-related functions, in an effort to assure customer nderstanding regarding the relationship between the introducer and the responsiblity each organization assumes with respect to the customer's accounts.

Under the proposed rule change, carrying agreements would be filed with the Amex for review and approval. However, under the current plan between the New York Stock Exchange ("NYSE") and Amex allocating regulatory responsibilities under SEC

[1] The Commission notes that no contractual arrangement for the allocation of functions between an introducing and carrying organization can operate to relieve either organization from its respective responsibilities under the federal securities laws.

Rule 17d–2, the NYSE will continue to have the responsibility for the receipt and approval of all dual-member carrying agreements.[3] There are currently no sole-Amex member firms with carrying relationships for which the Amex would have responsibility.

The Amex filing states that the proposed amendment is consistent with Section 6(b) of the Act in general, and furthers the objectives of Sections 6(b)(1) and 6(b)(5) of the Act in particular, in that it is designed to ensure member firm compliance with appropriate regulatory requirements, as well as the continued protection of customers with introduced accounts.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission on or before June 23, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–Amex–82–6.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–14892 Filed 6–1–82; 8:45 am]

BILLING CODE 8010–01–M

[3] In this regard, the Amex proposal is designed to bring its carrying agreement rule, Rule 400, into conformity with the recently amended comparable NYSE rule, Rule 382. *See*, Securities Exchange Act Release No. 18497, (Feb. 19, 1982).

[Release No. 18756; File No. SR–MSTC–82–8]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Midwest Securities Trust Co.

May 24, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 8, 1982, the Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change establishes, pursuant to MSTC Rule 6 and with respect to mandatory reorganizations for cash, a cut-off date according to which MSTC will charge and credit the cash amount of the offer to its participants' accounts. With respect to value positions existing at the close of the cut-off date (the fifth business day after the effective date of the reorganization), MSTC will charge a participant's account for short value positions and will credit a participant's account for long value positions and for future settling trades that become free positions. MSTC will assess such charges and apply such credits to a participant's account on the sixth business day following the effective date of the reorganization. Whenever free positions exist on the effective date of the reorganization, MSTC shall make appropriate payment on the offer agent's first payment date if MSTC's Capital Structures Department can verify, before 11 a.m. CST on the payment date, that the agent will release payment. Previously, MSTC did not assess charges or apply credits to its participants' accounts until it received payment from the offer agent. A securities issue subject to mandatory reorganization for cash shall become ineligible for deposit at MSTC by its participants (except to cover short value positions or future short settling trades) when MSTC sends all physical shares of that issue to the offer agent.

MSTC believes that the proposed rule change is consistent with Section 17A(b)(3)(A) of the Act in that it provides for the administration and enforcement of the rules of the clearing agency. MSTC further believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act in that it assures the safeguarding of securities and funds in the custody of the clearing agency.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission on or before June 23, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–MSTC–82–8.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–14894 Filed 6–1–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 18755; File No. SR–MSE–82–4]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the Midwest Stock Exchange, Inc.

May 24, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 10, 1982, the Midwest Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change described below. The Commission is

publishing this notice to solicit comments on the proposed rule change from interested persons.

The MSE proposes to amend its Article XX, Rule 36(b)(2)(vii) (dealing with the designation of certain ITS trading commitments), to incorporate Rule 10a–1 under the Act in its entirety. The MSE's current Rule 36(b)(2)(vii) appears to incorporate only paragraph (a) of Rule 10a–1 under the Act. In its filing the MSE has stated that the purpose of this proposed rule change is to clarify the original intent of the Exchange at the time its rule was adopted, which was to include all provisions of Rule 10a–1 rather than just paragraph (a) of Rule 10a–1. The MSE further indicates that Rule 36(b)(2)(vii) has always been interpreted to include all provisions of Rule 10a–1. The MSE asserts that the statutory basis of this proposed rule change is Section 6(b)(5) of the Act in that the incorporation of Rule 10a–1 in its entirety to MSE's ITS rule will prohibit manipulation and deceptive acts and in general will promote just and equitable principles of trade and protect investors and the public interest.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 unere the Act. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission on or before June 23, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–MSE–82–4.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–14893 Filed 6–1–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 18759; File No. SR–MCC–82–6]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the Midwest Clearing Corp.

May 24, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 30, 1982, the Midwest Clearing Corporation ("MCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change authorizes MCC to make cash dividends and bond interest payments available to MCC participants on payment day; participant accounts with long positions will be credited and participant accounts with short value positions will be debited on payment date for cash dividends and bond interest payments. Previously, the credits and debits for cash dividends and bond interest payments were made on the day after payment date. The proposed policy will make funds available one day earlier and should improve the utilization of funds for MCC participants and/or their customers. This rule change, however, is not applicable to stock dividends, stock splits and foreign dividends which require conversions to U.S. funds.

The foregoing rule change has become effective, pursuant to Section 19(b)(3)(B) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission on or before June 23, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–MCC–82–6.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–14900 Filed 6–1–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 18757; File No. SR–MCC–82–4]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Midwest Securities Trust Co.

May 24, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 8, 1982, the Midwest Clearing Corporation ("MCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change establishes, pursuant to MCC Rule 11 and with respect to mandatory reorganizations for cash, a cut-off date according to which MCC will charge and credit the cash amount of the offer to its participants' accounts. With respect to value positions existing at the close of the cut-off date (the fifth business day after the effective date of the reorganization), MCC will charge a participant's account for short value positions and will credit a participant's account for long value positions and for future settling trades that become free

positions. MCC will assess such charges and apply such credits to a participant's account on the sixth business day following the effective date of the reorganization. Whenever free positions exist on the effective date of the reorganization, MCC shall make appropriate payment on the offer agent's first payment date if MCC's Capital Structures Department can verify, before 11 a.m. CST on the payment date, that the agent will release payment. Previously, MCC did not assess charges or apply credits to its participants' accounts until it received payment from the offer agent. A securities issue subject to mandatory reorganization for cash shall become ineligible for deposit at MCC by its participants (except to cover short value positions or future short settling trades) when MCC sends all physical shares of that issue to the offer agent.

MCC believes that the proposed rule change is consistent with Section 17A(b)(3)(A) of the Act in that it provides for the administration and enforcement of the rules of the clearing agency. MCC further believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act in that it assures the safeguarding of securities and funds in the custody of the clearing agency.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission on or before June 23, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–MCC–82–4.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–14896 Filed 6–1–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12444; 812–5176]

Capitol Life Insurance Co. et al.; Application

May 24, 1982.

In the matter of The Capitol Life Insurance Company, Capitol Life Separate Account A, 1600 Sherman Street, Denver, Colorado 80203 and Security First Financial, Inc., 1800 Avenue of the Stars, Los Angeles, California 90067 (812–5176).

Notice is hereby given that The Capitol Life Insurance Company ("Capitol Life"), a stock life insurance company organized under the laws of the State of Colorado, Capitol Life Separate Account A ("Separate Account"), established by Capitol Life and registered as a unit investment trust under the Investment Company Act of 1940 ("Act"), and Security First Financial, Inc., a registered broker-dealer and the principal underwriter for the Separate Account (hereinafter collectively referred to as "Applicants"), filed an application on April 23, 1982 for an amended order pursuant to Section 11 of the Act, approving certain offers of exchange, and pursuant to Section 6(c) of the Act, exempting Applicants from the provisions of Sections 26(a) and 27(c)(2) of the Act. The requested order would supplement the previously granted exemptive relief (1) to the extent necessary pursuant to Section 11 of the Act to include the newly-established Series M, which will be invested solely in shares of an additional fund, Security First Money Market Fund, Inc., in the offer of exchange allowing accumulation units of one series of the Separate Account to be exchanged for those of other series, and to the extent necessary pursuant to Section 6(c) of the Act to include Series M in the exemptions from Sections 26(a) and 27(c)(2) of the Act, pertaining to the current safekeeping arrangement of the Separate Account. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

The Separate Account is registered as a series-type unit investment trust under the Act. The Separate Account presently consists of four series, each of which invests solely in the shares of one of the following open-end diversified management investment companies: Security First Legal Reserve Fund, Inc., Security First Variable Life Fund, Inc., T. Rowe Price Prime Reserve Fund, Inc. ("Reserve Fund") and T. Rowe Price Growth Stock Fund, Inc. (hereinafter collectively referred to as the "Funds").

Applicants state that following the issuance of Internal Revenue Service Revenue Ruling 81–225, investments in T. Rowe Price Growth Stock Fund, Inc. and Reserve Fund were restricted to individuals whose contracts were issued under certain tax-qualified plans.

Applicants represent that the two series investing in the T. Rowe Price Funds are available only to participants under group contract plans qualifying under Sections 401 and 457 of the Internal Revenue Code ("I.R.C.") and to those individuals who were participants on or before issuance of Revenue Ruling 81–225 on September 25, 1981 under programs described in I.R.C. Sections 403(a), 403(b) and 408(b). Applicants further represent that Series M and its underlying money market fund will be made available solely to participants who are not eligible for the existing series that invests in Reserve Fund, thereby, providing all participants with a money market fund investment alternative. Applicants represent that the principal investment objectives of both Reserve Fund and Security First Money Market Fund, Inc. are the preservation of capital, liquidity, and the realization of the highest possible current income consistent with these objectives.

Applicants describe the contracts as group single payment and flexible payment variable annuity contracts designed to provide annuity benefits to persons participating in various types of annuity plans or arrangements. Applicants assert that the contracts are designed to be used both in connection with retirement plans or individual retirement arrangements which qualify for special tax treatment under the I.R.C. and in connection with non-qualified plans. Applicants further state that the contracts issued by Capitol Life through the Separate Account will not be changed as a result of the addition of the newly-established Series M, except that an endorsement will be added to permit

eligible participants to transfer their contract amounts into that Series.

Applicants seek to amend and supplement the orders of September 13, 1974 (Release No. IC–8497), November 30, 1978 (Release No. IC–10502), July 23, 1980 (Release No. IC–11271), June 12, 1981 (Release No. IC–11814), and August 28, 1981 (Release No. IC–11923) only to the extent necessary to include Series M in the offers of exchange approved by such orders pursuant to Section 11, and to include Series M in the exemptions from Sections 26(a) and 27(c)(2) previously granted pursuant to Section 6(c).

Section 11

Section 11(a) makes it unlawful for any registered open-end investment company or principal underwriter therefor to make an offer to the holder of a security of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) of the Act provides, in relevant part, that, irrespective of the basis of exchange, the provisions of subsection (a) shall be applicable to any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company.

The order previously granted and amended approved the conversion or transfer of contract units from any one of the four Series of the Separate Account to any other Series of the Separate Account then in existence. Applicants propose that this conversion right be extended so as to encompass Series M, except as such right may be restricted as a result of Revenue Ruling 81–225.

Sections 27(c)(2) and 26(a)

Section 27(c)(2), in relevant part, prohibits the issuer of a periodic payment plan certificate and any depositor or underwriter for such issuer from selling such periodic payment plan certificate unless the proceeds of all payments (other than any sales load) are deposited with a qualified bank acting as trustee or custodian and held under an indenture or agreement containing specified provisions. Section 26(a) requires that such indenture or custodianship agreement must provide, *inter alia*, that the trustee or custodian (i) shall have possession of all property of the unit investment trust and segregate and hold the same in trust subject only to the charges and collections specifically allowed under clauses (A), (B) and (C) of such section until distribution to the security holders of the trust; (ii) shall not resign until the trust has been liquidated or a successor has been appointed; (iii) may collect from the income and, if necessary, from the corpus of the trust such fees for services provided for in the agreement; (iv) shall not allow as an expense any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative services of a character normally performed by the trustee or custodian itself. Section 6(c) authorizes the Commission to exempt any person, security or transaction, from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Pursuant to previously granted and amended exemptions from the provisions of Sections 26(a) and 27(c)(2) of the Act, Capitol Life acts as custodian of the assets of the Separate Account. All such assets, however, are held for safekeeping pursuant to an agreement between Capitol Life and the State Street Bank and Trust Company of Boston, Massachusetts. Insofar as the contract amounts proposed to be funded in Series M are not included within the terms of these orders, Applicants request that the orders of exemption from Sections 26(a) and 27(c)(2) be amended to the extent necessary to include amounts invested in Series M in the relief previously granted.

Applicants have consented that the request for the foregoing exemptions may be made subject to the following conditions: (1) That the deductions for administrative services shall not exceed such reasonable amount as the Commission shall prescribe, and the Commission may reserve jurisdiction for such purpose, and (2) that the payment of sums and charges out of the assets of the Separate Account shall not be determined to be exempted from regulation by the Commission by reason of the requested amended order, provided that Applicants' consent to this condition shall not be determined to be a concession to the Commission of authority to regulate the payment of sums and charges out of such assets other than charges for administrative services, and Applicants reserve the right in any proceeding before the Commission, or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums and charges.

Notice is further given that any interested person may, not later than June 18, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following June 18, 1982, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing, if ordered, and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–14899 Filed 6–1–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12446; 812–5091]

Hartford Fund, Inc., and Hartford Variable Annuity Life Insurance Co.; Application

May 24, 1982.

In the matter of Hartford Fund, Incorporated and Hartford Variable Annuity Life Insurance Company, Hartford Plaza, Hartford, CT 06115 (812–5091).

Notice is hereby given that Hartford Fund, Incorporated ("Fund"), registered under the Investment Company Act of 1940 ("Act") as an open-end diversified management series investment company, and Hartford Variable Annuity Life Insurance Company ("HVA"), a stock life insurance company (hereafter collectively referred

to an "Applicants"), filed an application on January 28, 1982, and amendments thereto on March 22, 1982 and May 11, 1982, pursuant to Section 6(c) of the Act for an order exempting Applicants from the provisions of Section 15(a) of the Act to the extent requested. All interested persons are referred to the application on file with the Commission for a statement of representations contained therein which are summarized below.

HVA presently provides investment advisory services to the Fund pursuant to a written Investment Advisory Agreement ("Agreement") which was approved by the Fund's disinterested directors at a meeting held on October 10, 1981 and became effective November 1, 1981, but which has not been approved by the Fund shareholders.

Applicants state that the fee being charged the Fund by HVA pursuant to the terms of the Agreement is .325 of 1% annually of the Fund's average net assets up to $50,000,000; .275 of 1% on the next $100,000,000 and .225 of 1% on all sums in excess of $150,000,000, payable quarterly. The fee is the same as the investment advisory fee charged to the Fund under the prior advisory contract that had been approved by Fund shareholders. Applicants represent that the Fund's board of directors initially scheduled the annual meeting of the Fund shareholders for February 10, 1982. Among the matters to be considered by Fund shareholders at that meeting was approval of the Agreement. Subsequently, the Fund was advised by its independent accountants that audited financial statements for 1981 for inclusion in the Fund's 1981 Annual Report to shareholders would not be available until after that date.

Rule 20a–1 under Section 20(a) of the Act requires that proxy solicitations by a registered investment company must comply, *inter alia*, with the provisions of Rule 14a–3 under Section 14(a) of the Securities Exchange Act of 1934. Rule 14a–3(b) provides that if a proxy solicitation relates to an annual meeting of shareholders at which directors are to be elected, then the proxy material must include or be preceded by a current annual report. Applicants state that they could not print and mail the requisite proxy materials in time to hold a meeting on February 10, 1982.

In addition, Applicants state that Hartford and its related companies are presently studying the organizational question of centralizing all investment advisory services within a single corporate entity, Hartford Investment Management Company ("HIMCO"), which might result in requesting Board and shareholder approval of HIMCO as investment adviser or sub-adviser to the Fund. The Fund's management determined, therefore, that it should postpone the Fund shareholders meeting to a point in time when this organizational question has been resolved. The Fund's management has postponed the shareholders' meeting until no later than July 1, 1982.

Section 15(a)

Section 15(a) of the Act provides, in pertinent part, as follows:

> It shall be unlawful for any person to serve or act as investment adviser of a registered investment company, except pursuant to a written contract, which contract, whether with such registered company or with an investment adviser of such registered company has been approved by the vote of a majority of the outstanding voting securities of such registered company * * *

Rule 15a–4, adopted under Section 15(a) of the Act, provides, *inter alia*, that a person may act as investment adviser for an investment company pursuant to a written contract which has not been approved by a majority of the outstanding voting securities of such company during the 120-day period after the termination of an investment advisory contract by an event described in paragraph 3 of Section 15(a) of the Act provided that (a) such contract has been approved by the investment company's board of directors, including a majority of the directors who are not interested persons thereof, and (b) the compensation to be received under that contract does not exceed the compensation which would have been received under the most recent investment advisory contract that had been approved by the vote of a majority of the outstanding voting securities of the investment company. Applicants represent that they were unable to hold the meeting prior to the expiration of the "safe-harbor" period provided by this rule.

Applicants request that the Commission enter an order exempting them from the provisions of Section 15(a) of the Act in order that HVA may continue to serve as investment adviser to the Fund, pursuant to the Agreement which became effective on November 8, 1981, until no later than July 1, 1982, the date set for the shareholders' meeting at which the existing Agreement or a new investment advisory agreement with HIMCO or the existing Agreement and a sub-investment advisory agreement between HVA and HIMCO will be presented to the Fund's shareholders for their approval.

Section 6(c)

Applicants state that it is necessary to seek exemptive relief under Section 6(c) of the Act from the provisions of Section 15(a) of the Act. Section 6(c) authorizes the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from the provisions of the Act and rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants assert that such an exemptive order is necessary and appropriate and that it is in the public interest and consistent with the protection of investors that the Agreement pursuant to which HVA is providing advisory services to the Fund be allowed to continue in effect uninterrupted. Applicants state that to interrupt the Agreement, which has been approved by the Fund's directors as being in the best interests of the Fund, would halt the provision of very important and necessary advisory services by HVA. Furthermore, Applicants assert that the nature of the Fund's portfolios for the several series demands a continuity of services. To interrupt the flow of such services, Applicants state, would be detrimental to the Fund.

For the above reasons, Applicants respectfully request the Commission to issue an order exempting them from the provisions of Section 15(a) of the Act until the holding of the annual shareholders' meeting, presently rescheduled for July 1, 1982, at which the Agreement will be submitted for approval. Applicants further request that the Commission order be entered on a *nunc pro tunc* basis as of February 28, 1982.

Notice is further given that any interested person may, not later than June 18, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated

under the Act, an order disposing of the application will be issued as of course following June 18, 1982, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion.

For the Commission, by he Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-14896 Filed 6-1-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12445; 811-1573]

Hartford Variable Annuity Life Insurance Company Separate Account; Application

May 24, 1982.

In the matter of Hartford Variable Annuity Life Insurance Company Separate Account, Hartford Plaza, Hartford, CT 06115 (811-1573).

Notice is hereby given that Hartford Variable Annuity Life Insurance Company Separate Account ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on March 25, 1982, pursuant to Section 8(f) of the Act and Rule 8f-1 thereunder, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined by the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that on December 12, 1967, it registered under the Act, and that on the same date it filed a registration statement pursuant to the Security Act of 1933 with respect to $10,000,000 in value of variable annuity contracts. Applicant further states that the registration statement was declared effective by the Commission on June 28, 1968 and that it commenced a public offering of the contracts on the same day.

According to the application, the owners of the contracts issued by Applicant approved the dissolution of Applicant at an annual meeting held on December 16, 1981. In connection therewith, the contractowners also approved the merger with Hartford Variable Annuity Life Insurance Company QP Variable Account ("HVA-QP-VA"), Hartford Variable Annuity Life Insurance Company DC Variable Accounts I and II ("HVA-DC-VA-I" and "HVA-DC-VA-II") and Hartford Variable Annuity Life Insurance Company NQ Variable Account ("HVA-NQ-VA").

Applicant states that under the terms of the Agreement and Plan of Reorganization ("Plan"), Applicant and Hartford Fund, Inc. ("Hartford"), an open-end, diversified, management investment company registered under the Act, agreed that Applicant would sell all of its portfolio assets and would assign and transfer those liabilities relating to its portfolio transactions existing at the time of the transfer to Hartford in exchange for shares of the Hartford Stock Series.

The number of Hartford Fund Stock Series to be issued would be determined by dividing the difference between (1) the value of Applicant's portfolio assets transferred to Hartford (such value to be determined as of the close of business of the New York Stock Exchange on the date that the Plan would be implemented) and (2) the amount of those liabilities relating to Applicant's portfolio transactions assumed by Hartford, by (3) the net asset value of a Hartford Fund Stock Series share determined as of the close of business on the date that the Plan would be implemented. Applicant would then transfer the Hartford Fund Stock Series shares that it received upon the exchange and the liabilities relating to the outstanding contract obligations to HVA-QP-VA, HVA-NQ-VA, HVA-DC-VA-I and HVA-DC-VA-II (collectively "Unit Trust Separate Accounts").

The transfer of the Hartford Fund Stock Series shares to each of the unit Trust Separate Accounts would be in proportion to the Applicant's contract reserves and liabilities transferred to each of the Unit Trust Separate Accounts: in making such allocations, reserves and other liabilities were to be identified with specific outstanding contracts issued with respect to Applicant and such identified reserves and liabilities would be transferred to the appropriate Unit Trust Separate Accounts.

The contractowners would continue to hold their existing contracts, the only change therein being that the units of interest credited to the contractowners' accounts would no longer be units of interest issued with respect to Applicant but rather would be units of interest issued with respect to HVA-QP-VA, HVA-DC-VA-I, HVA-DC-VA-II or HVA-NQ-VA, depending upon whether he contract was non-tax qualified or tax qualified and whether the contract had been issued in connection with a deferred compensation plan or other tax qualified pension or profit sharing plan.

Applicant states that an order was entered by the Commission on January 20, 1982 pursuant to Section 17(b) exempting Applicants from the provisions of Section 17(a) in connection with the above described merger. The application further states that the Insurance Department of the State of Connecticut was notified of the dissolution and that no other state approval is required to terminate the existence of Applicant.

Applicant also represents that there are no remaining securityholders, retained assets or outstanding liabilities, or pending litigation or administrative proceedings involving Applicant.

Section 8(f) of the Act provides, in part, that when the Commission upon application finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested party may, not later than June 18, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following June 18, 1982, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing, if ordered, and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-14899 Filed 6-1-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12447; 812-5156]

Working Capital Trust; Application

May 26, 1982.

In the matter of Working Capital Trust, 200 Berkeley Street, Boston, Massachusetts 02116 (812-5156).

Notice is hereby given that Working Capital Trust ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on April 5, 1982, and an amendment thereto on April 23, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting the Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to calculate its net asset value per share using the amortized cost method of valuation for its existing portfolio and any future series of shares representing investment exclusively in money market securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, Applicant is a Massachusetts business trust whose shares will be purchased only through the Working Capital Account Program offered by Crocker National Bank ("Bank") whereby cash that is in a checking account maintained by the Bank or in a securities brokerage margin account with Bradford Brokerage Settlement, Inc., will automatically be invested in shares of the Applicant. Applicant represents that the Bank also serves as its investment adviser, and that Massachusetts Financial Services Company provides personnel to administer the general business affairs of the Applicant. Applicant states that its investment objective is to seek as high a level of current income as is considered consistent with the preservation of capital and liquidity through investment in a variety of short-term money market securities (except those issued by the Bank) and repurchase agreements collateralized by such securities.

Applicant further states that the Declaration of Trust permits it to issue shares of separate series. While the Applicant now has only one portfolio, Applicant states it is possible that it may in the future issue shares of separate series representing interests in separate portfolios of securities. The exemptive relief requested by the Applicant in this application will pertain only to the existing portfolio and any future series of shares representing investment exclusively in money market securities ("Money Market Portfolios").

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) With respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c-1 adopted under the Act provides, in part, that no registered investment company shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things: (1) Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977). In view of the foregoing, Applicant requests exemptions from Section 2(a)(41) of the Act, and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit the securities in the existing and future Money Market Portfolios of the Applicant to be valued by means of the amortized cost method of valuation.

Section 6(c) of the Act provides, in pertient part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions from any provision or provisions of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the exemptive relief requested, Applicant asserts that many of its investors require an investment vehicle that offers a constant net asset value per share and a relatively smooth stream of investment income. Applicant further asserts that use of the amortized cost method of valuation permits it to provide investment vehicles with those features. In addition, Applicant represents that its board of trustees has determined that, absent unusual circumstances, amortized cost represents the fair value of its portfolio securities.

The Applicant further proposes the following conditions upon it use of amortized cost valuation, each to apply only to existing and future Money Market Portfolios.

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's board of trustees undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share for each Money Market Portfolio, as computed for the purpose of distribution, redemption and repurchase at $1.00 per share.

2. Included within the procedures to be adopted by the board of trustees shall be the following:

(a) Review by the board of trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share of each Money Market Portfolio, and the maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of one percent, a requirement that the trustees will promptly consider what actions, if any, should be initiated.

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the trustees in the exercise of their discretion to be appropriate indicators of value which may include, inter alia, (1) quotations or estimates of market value of individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

(c) Where the board of trustees believes the extent if any deviation from the $1.00 amortized cost price per share for each Money Market Portfolio may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include; redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average maturity of portfolio instruments; withholding dividends; or utilizing a net asset value per share as determined by using market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity for each Money Market Portfolio appropriate to its objective of maintaining a stable net asset value per share; provided, however, that it will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted averaged portfolio maturity in excess of 120 days.

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1, above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the trustees' considerations and actions taken in connection with the discharge of their responsibilities, as set forth above, to be included in the minutes of the trustees' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its porfolio investments in each Money Market Portfolio, including repurchase agreements, to those United States dollar denominated instruments which the trustees determine present minimal credit risks, and which are of "high quality" as determined by any major rating service or in the case of any instrument that is not rated, of comparable quality as determined by the trustee.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than June 21, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-14697 Filed 6-1-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-5406]

Credi-I-F.A.C., Inc.; License Termination

Notice is hereby given that Credi-I-F.A.C., Inc., Banco Cooperativo Plaza Building, 623 Ponce de Leon Avenue, Hato Rey, Puerto Rico 00917 has officially dissolved and ceased existence as a business entity effective August 31, 1981. Credi-I-F.A.C., Inc., was licensed by the Small Business Administration on September 11, 1980.

Under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the regulations promulgated thereunder, the license to operate as a small business investment company is hereby terminated, and accordingly, all rights, privileges, and franchises derived therefrom also have been terminated as of the date of this notice.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies)

Dated: May 25, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-14674 Filed 6-1-82; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 05/05-0169]

Michigan Tech Capital Corp.; Application for License To Operate as a Small Business Investment Company (SBIC)

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1981)), under the name of Michigan Tech Capital Corp., Academic Office Building, Michigan Technological University, Houghton, Michigan 49931, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*) and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and shareholders of the Applicant are as follows:

Name, Address, Title, and Relationship

Edward J. Koepel, 288 M–26, Lake Linden, Michigan 49945—President and Director

Clark L. Pellegrini, 1023 Mine Street, Calumet, Michigan 49913—Vice President, Treasurer and Director

Richard E. Tieder, Rt. 1, Box 80, Houghton, Michigan 49931—Secretary, Vice President and Director

Richard D. McLellan, 800 Michigan National Tower, Lansing, Michigan 48933—Assistant Secretary and Treasurer

Walter R. Sauer, Fisherman's Road, Calumet, Michigan 49913—Director

Martin J. Caserio, 15801 Providence Drive, Southfield, Michigan 48075—Director

Michigan Tech Ventures, Inc., P.O. Box 364, Houghton, Michigan 49931—100 percent Shareholder

Michigan Technological University, Academic Office Building, Houghton, Michigan 49931—100 percent Shareholder of Michigan Tech Ventures, Inc.

Michigan Technological University is a State of Michigan institution.

The Applicant will begin operations with $600,000 of private capital derived from the sale of 60,000 shares to Michigan Tech Ventures, Inc. (MTV). MTV will purchase the Applicant's

shares with funds derived through the sale of its stock to Michigan Technological University (MTU). Private funds from MTU's endowment fund will be used to purchase the stock of MTV.

The Applicant will conduct it operations in the State of Michigan.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness in accord with the Act and Regulations.

Notice is hereby given that any person may (not later than 15 days from the publication of this Notice) submit written comments on the proposed company to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Houghton, Michigan.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Date: May 26, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-14675 Filed 6-1-82; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2041]

Massachusetts; Declaration of Disaster Loan Area

The area of Notre Dame Street, Choate Street, St. Joseph Street, Bedard Street and Pleasant Street in the City of Fall River, Bristol County, Massachusetts, constitutes a disaster area because of damage resulting from a fire which occurred on May 11, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 18, 1982, and for economic injury until the close of business on February 18, 1983, at: U.S. Small Business Administration, District Office, 150 Causeway Street, 10th Floor, Boston, Massachusetts 02114, or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

	Percent
Homeowners with credit available elsewhere	15%
Homeowners without credit available elsewhere	7%
Businesses with credit available elsewhere	15%
Businesses without credit available elsewhere	8
Businesses (EIDL) without credit available elsewhere	8
Other (non-profit organizations including charitable and religious organizations)	11%

It should be noted that assistance for agricultural enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96-302.

Information on recent statutory changes (Pub. L. 97-35, approved August 13, 1981) is available at the above-mentioned office.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: May 18, 1982.

Donald Templeman,

Acting Administrator.

[FR Doc. 82-14676 Filed 6-1-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 806]

Determination To Authorize Continuation of Certain Assistance, Credits and Guarantees to Haiti

Pursuant to section 721(b) of the International Security and Development Cooperation Act of 1981, and the authority vested in me by Presidential delegation, I hereby:

(1) Determine that the Government of Haiti is cooperating with the United States in halting illegal emigration from Haiti;

(2) Determine that the Government of Haiti is not aiding, abetting, or otherwise supporting illegal emigration from Haiti;

(3) Determine that the Government of Haiti has provided assurances that it will cooperate fully in implementing United States development assistance programs in Haiti (including programs for prior fiscal years);

(4) Determine that the Government of Haiti is not engaged in a consistent pattern of gross violations of internationally recognized human rights; and

(5) Authorize the expenditure of funds available for fiscal year 1982 for Haiti to carry out chapter 1 of part 1 or chapter 2 or chapter 5 of part II of the Foreign Assistance Act of 1961, as amended, and the extension of credits and guaranties for the fiscal year 1982 for Haiti under the Arms Export Control Act.

This determination together with the justification therefor shall be reported to the Congress immediately. This determination shall be published in the **Federal Register.**

Alexander Haig, Jr.,

Secretary of State.

April 5, 1982.

[FR Doc. 82-14850 Filed 6-1-82; 8:45 am]

BILLING CODE 4710-10-M

VETERANS ADMINISTRATION

Privacy Act of 1974; Amendment of Systems and Revised Systems of Records

Notice is hereby given that the Veterans Administration is considering changing two systems of records entitled, "Investigation Reports of Persons Allegedly Involved in Irregularities Concerning VA and Federal Laws, Regulations, Programs, Etc.—VA" (11VA51), and "Missing Veterans File—VA" (19VA53), respectively set forth on pages 666 and 669 of the Privacy Act Issuances, 1980 Compilation, Volume 5. These two systems are being completely revised as part of an overall agency effort to administratively update its Privacy Act system of records. The notices of systems of records are being rewritten in a clearer, more concise manner, in order to better identify to the public the types of individuals covered by the systems of records, the types of records being maintained by the VA, and the types of routine use disclosures currently being made from the systems. The routine use statements are being separated and/or rewritten in order to be more concise and to conform with the requirements of the VA confidentiality statutes. Also, for the purpose of easier usage and understandability of the systems, the sequence of listing the routine use statements is being changed.

In VA system of records 11VA51, current routine use numbers 4, 5, 6, and 8 are being deleted. In the revised system notice proposed routine use numbers 8, 9, and 10 are being added. Routine use number 8 concerns the release of information in order for the VA to respond to and comply with the issuance of a Federal subpoena. Routine use number 9 concerns the release of information in order for the VA to respond to and comply with the issuance of a State or municipal subpoena. Routine use number 10 concerns the release of information to the Office of Special Counsel when required for that office's review of a

complainant's allegations of prohibited personnel practices.

The Administrator of Veterans Affairs has exempted this system of records from certain provisions of the Privacy Act of 1974, as permitted by 5 U.S.C. 552a(j)(2) and 5 U.S.C. 552a(k)(2).

In VA system of records 19VA53, current routine use numbers 3 and 5 are being deleted. In the revised system notice, proposed routine use numbers 2, 3 and 7 are being added. Routine use number 2 concerns the release of information to a Federal agency as relevant and necessary to that agency's decision regarding: the hiring, retention or transfer of an employee; the issuance of a security clearance; the letting of a contract; or the issuance or continuance of a license, grant or other benefit given by that agency. Routine use number 3 concerns the release of information to a State or local agency as relevant and necessary to that agency's decision regarding: the hiring, retention or transfer of an employee; the issuance of a security clearance; the letting of a contract; or the issuance or continuance of a license, grant or other benefit given by that agency. Routine use number 7 concerns the release of information to the Federal Bureau of Investigation (FBI) and U.S. Passport Office, as necessary, to obtain status and location of a missing veteran to assist the VA's decision concerning benefits for dependents.

In accordance with 5 U.S.C. 552a(b)(3), the Veterans Administration has adopted and published routine uses for its systems of records. A routine use allows the agency to disclose Privacy Act records/information without the written consent of the individual to whom the record pertains. Within the VA, routine uses are principally used to permit disclosure of information from a Privacy Act system of records to a third party to enable the VA to carry out its programs in the most expeditious manner possible. Generally, a routine use identified in a VA system of records will either specifically identify information, or in the alternative, the general subject matter (i.e., a major group of information such as "identifying information" and "medical information"] which is being disclosed. In those instances where a routine use identifies disclosure of a general subject matter, the general subject matter will be specifically described in the "Categories of records in the system" section of the system of records. Routine uses may be used in conjunction with one another. Each VA system of records contains the routine uses which are applicable for that system.

For purposes of these VA systems of records, the subsequent definitional terms or concepts are used as follows:

1. Veteran—a person who served in the active military, naval or air service, and who was discharged or released therefrom under conditions other than dishonorable and whose name and address and other information is maintained by the VA by virtue of the administration of veterans benefits under title 38, United States Code. For purposes of those system notices (unless specifically stated otherwise in the "categories of individuals covered by this system" section of a system of records) the term veteran will also include the dependents of a veteran and any other individual who has been granted veteran status by virtue of a specific statutory authority. The name, address and other information regarding a veteran is protected by 38 U.S.C. 3301 and 4132 in addition to the Privacy Act. Accordingly, any disclosures of information concerning a veteran made from a Privacy Act systems of records under a routine use or other Privacy Act authority shall be consistent with the provisions of 38 U.S.C. 3301 and 4132.

2. Claimant—Any individual making a claim for a benefit under title 38, United States Code, e.g., veteran, nonveteran life insurance beneficiaries.

3. Record—Any item, collection or grouping of information about an individual that is maintained by the agency. It is noted that the term "record" may be used with regard to as little as one descriptive item about an individual.

4. Information v. Data—"Information" is individually identifiable (e.g., record includes an individual's name or address or other identifying information) whereas "data" is not individually identifiable.

5. Disclosures made "At the Request of the Veteran"—In a few routine use notices, for purposes of section 3301 of title 38, United States Code the VA has identified situations when the disclosure of a veteran's name and address by the VA to a third party is being made "at the request of the veteran." In these instances, an express or implied consent to disclose a veteran's name or address may be inferred by the VA when a veteran has submitted a claim for VA benefits, inquired into benefits provided by the VA, or has sought assistance from the VA in obtaining any other benefits (e.g., employment, State or local agency benefits programs) to which the veteran might be entitled and referral of the name and address of the veteran by the VA to a third party will reasonably be required for the VA to act on the request of the veteran for assistance.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed system of records to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420. All relevant material received before July 2, 1982 will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays) until July 19, 1982. Any person visting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in Room 132. Visitors to any VA field station will be informed that the records are available only in Central Office and furnished the address and room number.

If no public comment is received during the 30-day review period allowed for public comment or unless otherwise published in the **Federal Register** by the Veterans Administration, the revised systems of records statements are effective June 2, 1982.

Approved: May 26, 1982.

By direction of the Administrator:

Charles T. Hagel,

Deputy Administrator.

Notice of Systems of Records

1. The system identified as 11VA51, "Investigation Reports of Persons Allegedly Involved in Irregularities Concerning VA and Federal Laws, Regulations, Programs, Etc.—VA" appearing at 42 FR 49733, is revised as follows:

11VA51

SYSTEM NAME:

Investigation Reports of Persons Allegedly Involved in Irregularities Concerning VA and Federal Laws, Regulations, Etc.—VA (11VA51).

SYSTEM LOCATION:

Inspector General, Office of Investigations (51), Washington, D.C. 20420.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The following categories of individuals will be covered by the system: (1) Employees, (2) veterans and, (3) third parties such as contractors, who conduct official business with the VA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records (or information contained in records) in this system include reports of investigation of the Office of Inspector General. These reports may include (1) a narrative summary or synopsis; (2) exhibits; (3) internal documentation and memoranda, and (4) affidavits. The name of the subject of an investigation, station at which an investigation took place, Inspector General's investigation number, time period investigation took place, and the Inspector General's recommended action are maintained on a file card. A summary of the report of investigation is also maintained.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, U.S.C. 210(c)(1); title 5, U.S.C., Appendix 1, section 7(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

1. The record of an individual who is covered by this system may be disclosed to a member of Congress or staff person acting for the member when the member or staff person requests the records on behalf of and at the request of that individual.

2. Any information in this system may be disclosed to a Federal agency, upon its official request, to the extent that it is relevant and necessary to that agency's decision regarding: The hiring, retention or transfer of an employee, the issuance of a security clearance, the letting of a contract, or the issuance or continuance of a license, grant or other benefit given by that agency. However, in accordance with an agreement with the U.S. Postal Service, disclosures to the U.S. Postal Service for decisions concerning the employment of veterans will only be made with the veteran's prior written consent.

3. Any information in this system may be disclosed to a State or local agency, upon its official request, to the extent that it is relevant and necessary to that agency's decision on: The hiring, transfer or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance or continuance of a license, grant or other benefit by the agency; PROVIDED, that if the information pertains to a veteran, the name and address of the veteran will not be disclosed unless the name and address is provided first by the requesting State or local agency.

4. Any information in this system, except the name and address of a veteran may be disclosed to a Federal, State or local agency maintaining civil or criminal violation records, or other pertinent information such as prior employment history, prior Federal employment background investigations, and/or personal or educational background in order for the VA to obtain information relevant to the hiring, transfer or retention of an employee, the letting of a contract, the granting of a security clearance, or the issuance of a grant or other benefit. The name and address of a veteran may be disclosed to a Federal agency under this routine use if this information has been requested by the Federal agency in order to respond to the VA inquiry.

5. Any information in this system, except the name and address of a veteran, which is relevant to a suspected violation or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, may be disclosed to a Federal, State, local or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto.

6. The name and address of a veteran, which is relevant to a suspected violation or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, may be disclosed to a Federal agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto, in response to its official request.

7. The name and address of a veteran, which is relevant to a suspected violation or reasonably imminent violation of law concerning public health or safety, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, may be disclosed to any foreign State or local governmental agency or instrumentality charged under applicable law with the protection of the public health or safety if a qualified representative of such organization, agency or instrumentality has made a written request that such name and address be provided for a purpose authorized by law.

8. Any information in this system may be disclosed to a Federal grand jury, a Federal court or a party in litigation, or a Federal agency or party to an administrative proceeding being conducted by a Federal agency, in order for the VA to respond to and comply with the issuance of a Federal subpoena.

9. Any information in this system may be disclosed to a State or municipal grand jury, a State or municipal court or party in litigation, or to a State or municipal administrative agency functioning in a quasi-judicial capacity or a party to a proceeding being conducted by such agency, in order for the VA to respond to and comply with the issuance of a State or municipal subpoena; PROVIDED, that any disclosure of claimant information concerning a veteran-claimant made under this routine use must comply with the provisions of 38 CFR 1.511.

10. Any information in this system may be disclosed to the Office of Special Counsel, upon its official request, when required for the Special Counsel's review of the complainant's allegations of prohibited personnel practices.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in individual file folders and on file cards.

RETRIEVABILITY:

File cards may be indexed by the last name of the subject(s) of an investigation. File folders containing reports of investigation and summaries of the reports are individually retrievable by means of a cross indexing with the file cards.

SAFEGUARDS:

Access to the file folders and file cards (which are kept in cabinets) is restricted to authorized personnel on a need-to-know basis. The file room and cabinets are locked after duty hours, and the building is protected from unauthorized access by a protective service.

RETENTION AND DISPOSAL:

Investigation reports are maintained by the Office of Inspector General until final action is taken. Once final action has been taken, the report is to the VACO Records Management Section where it is maintained for 5 years. It is then forwarded to the Federal Records Center where it is maintained for 25 years and then destroyed by shredding. File cards and summaries of all investigations are maintained by the Office of Inspector General for 30 years and then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Investigations (51), VA Central Office, Washington, D.C. 20420.

NOTIFICATION PROCEDURE:

An individual who wishes to determine whether a record is being maintained by the Assistant Inspector General for Investigations under his or her name in this system or wishes to determine the contents of such records should submit a written request or apply in person to the Assistant Inspector General for Investigations (51). However, a majority of records in this system are exempt from the notification requirement under 5 U.S.C. 552a (j) and (k). To the extent that records in this system of records are not subject to exemption, they are subject to notification. A determination as to whether an exemption applies shall be made at the time a request for notification is received.

RECORD ACCESS PROCEDURES:

An individual who seeks access to or wishes to contest records maintained under his or her name in this system may write, call or visit the Assistant Inspector General for Investigations (51). However, a majority of records in this system are exempt from the record access and contesting requirements under 5 U.S.C. 552a (j) and (k). To the extent that records in this system of records are not subject to exemption, they are subject to access and contest. A determination as to whether an exemption applies shall be made at the time a request for access or contest is received.

CONTESTING RECORD PROCEDURES:

(See Record access procedures above.)

RECORD SOURCE CATEGORIES:

Information is obtained from third-party organizations such as schools and financial institutions, VA employees, veterans and VA records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under 5 U.S.C. 552a(j)(2), the head of any agency may exempt any system of records within the agency from certain provisions of the Privacy Act, if the agency or component that maintains the system performs as its principal function any activities pertaining to the enforcement of criminal laws. The Inspector General Act of 1978, Pub. L. 95–452, mandates the Inspector General to recommend policies for, and to conduct, supervise and coordinate activities in the Veterans Administration and between the Veterans Administration and other Federal, State and local governmental agencies with respect to all matters relating to the prevention and detection of fraud programs and operations administered or financed by the Veterans Administration and to the identification and prosecution of participants in such fraud. Under the Act, whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law, the Inspector General must report the matter expeditiously to the Attorney General.

This system of records has been created in major part to support the criminal law-related activities assigned by the Inspector General to the Office of Investigations. These activities constitute the principal function of this staff.

In addition to principal functions pertaining to the enforcement of criminal laws, the Inspector General may receive and investigate complaints or information from various sources concerning the possible existence of actvities constituting noncriminal violations of law, rules or regulations, or mismanagement, gross waste of funds, abuses of authority or substantial and specific danger to the public and safety. This system of records also exists to support inquiries by the Assistant Inspector General for Investigations into these noncriminal violation types of activities.

Based upon the foregoing, the Administrator of Veterans Affairs has exempted this system of records, to the extent that it encompasses information pertaining to criminal law-related activities, from the following provisions of the Privacy Act of 1974, as permitted by 5 U.S.C. 552a(j)(2):

5 U.S.C. 552a(c) (3) and (4);
5 U.S.C. 552a(d);
5 U.S.C. 552a(e) (1), (2) and (3);
5 U.S.C. 552a(e)(4) (G), (H) and (I);
5 U.S.C. 552a(e) (5) and (8);
5 U.S.C. 552a(f);
5 U.S.C. 552a(g).

The Administrator of Veterans Affairs has exempted this system of records, to the extent that it does not encompass information pertaining to criminal law-related activities under 5 U.S.C. 552a(j)(2), from the following provisions of the Privacy Act of 1974, as permitted by 5 U.S.C. 552a(k)(2):

5 U.S.C. 552a(c)(3);
5 U.S.C. 552a(d);
5 U.S.C. 552a(e)(1);
5 U.S.C. 552a(e)(4) (G), (H) and (I);
5 U.S.C. 552a(f).

Reasons for exemptions: The exemption of information and material in this system of records is necessary in order to accomplish the law enforcement functions of the Office of Inspector General, to prevent subjects of investigations from frustrating the investigatory process, to prevent the disclosure of investigative techniques, to fulfill commitments made to protect the confidentiality of sources, to maintain access to sources of information and to avoid endangering these sources and law enforcement personnel.

2. The system identified as 19VA53, "Missing Veterans File—VA", appearing at 42 FR 49736, is revised as follows:

19VA53

SYSTEM NAME:

Missing Veterans File—VA (19VA53).

SYSTEM LOCATION:

Inspector General, Office of Policy, Planning and Resources (53) Washington, D.C. 20420.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The following categories of individuals will be covered by the system: Veterans (not including dependents) who cannot be located after a reasonable effort by the VA, but whose status must be determined in order for dependents to receive benefits.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records (or information contained in records) in this system may include: (1) The standard missing veteran letter, issued monthly by the Inspector General's office to all VA facilities, which contains the name of a veteran who cannot be located by a Regional Office; (2) correspondence between the Regional Office and the Inspector General regarding Federal Bureau of Investigation (FBI) and U.S. Passport Office information concerning the status (alive or dead) and location of the veteran; (3) similar correspondence between the Inspector General and the FBI and U.S. Passport Office. Information in these records may include the veteran's name, birth date, claims folder number, social security number and last known address. Identifying information and a history of the case are maintained on a file card.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, U.S.C. 210(c)(1).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

1. The record of an individual who is covered by this system may be disclosed to a member of Congress or

staff person acting for the member when the member or staff person requests the record on behalf of and at the request of that individual.

2. Any information in this system may be disclosed to a Federal agency, upon its official request, to the extent that it is relevant and necessary to that agency's decision regarding: the hiring, retention or transfer of an employee; the issuance of a security clearance, the letting of a contract, or issuance or continuance of a license, grant or other benefit given by that agency. However, in accordance with an agreement with the U.S. Postal Service, disclosures to the U.S. Postal Service for decisions concerning the employment of veterans will only be made with the veteran's prior written consent.

3. Any information in this system may be disclosed to a State or local agency, upon its official request, to the extent that it is relevant and necessary to that agency's decision on: the hiring, transfer or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance or continuance of a license, grant or other benefit by that agency; PROVIDED, that if the information pertains to a veteran, the name and address of the veteran will not be disclosed unless the name and address is provided first by the requesting State or local agency.

4. Any information in this system, except the name and address of a veteran which is relevant to a suspected violation or reasonably imminent violation of law whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, may be disclosed to a Federal, State, local or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

5. The name and address of a veteran, which is relevant to a suspected violation or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, may be disclosed to a Federal agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto, in response to its official request.

6. The name and address of a veteran, which is relevant to a suspected violation or reasonably imminent violation of law concerning public health or safety, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, may be disclosed to any foreign, State or local governmental agency or instrumentality charged under applicable law with the protection of the public health or safety if a qualified representative of such organization, agency or instrumentality has made a written request that such name and address be provided for a purpose authorized by law.

7. Identifying information of a missing veteran may be disclosed to the FBI and U.S. Passport Office, upon their official request, as necessary to obtain status (alive or dead) and location to assist in the VA's decision concerning benefits for dependents.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records (or information from those records) are maintained in individual file folders and on file cards.

RETRIEVABILITY:

Records are indexed by the veteran's last name.

SAFEGUARDS:

Access to the records and file cards is restricted to authorized personnel on a need-to-know basis. The file room and cabinets are locked after duty hours and the building is protected from unauthorized access by a protective Service.

RETENTION AND DISPOSAL:

File folders are maintained by the Office of the Inspector General for six months after the veteran is located or declared dead. Folders for those veterans declared missing for seven or more years are maintained for one year following such a declaration. The folders are then forwarded to the VACO Records Management Section where they are maintained for five years and then destroyed by shredding. File cards are maintained by the Inspector General for 15 years.

SYSTEM MANAGERS AND ADDRESS:

Assistant Inspector General for Policy, Planning and Resources (53) VA Central Office, Washington, D.C. 20420.

NOTIFICATION PROCEDURES:

An individual who wishes to determine whether a record is being maintained by the Assistant Inspector General for Policy, Planning and Resources (53) under his or her name in the system or wishes to determine the contents of such records should submit written request or apply in person to the Assistant Inspector General for Policy, Planning and Resources (53).

RECORDS ACCESS PROCEDURES:

An individual who seeks access to or wishes to contest records maintained under his or her name in his system may write, call or visit the Assistant Inspector General for Policy, Planning and Resources (53).

CONTESTING RECORD PROCEDURES:

(See Records access procedures above.)

RECORD SOURCE CATEGORIES:

Information is obtained from the Federal Bureau of Investigation, U.S. Passport Office, and VA records.

[FR Doc. 82-14636 Filed 6-1-82; 8:45 am]
BILLING CODE 8320-01-M

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on June 29, 1982, at 10:00 a.m., the Muskogee Station Committee on Educational Allowances shall meet at Room 2A20, 125 South Main Street, Muskogee, Oklahoma, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Universal Aviation, P.O. Box 1310, Stillwater, Oklahoma, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: May 24, 1982.

Ray E. Smith,

Director, VA Regional Office, 125 South Main Street, Muskogee, OK 74401.

[FR Doc. 82-14631 Filed 6-1-82; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 106
Wednesday, June 2, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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CIVIL AERONAUTICS BOARD

[M–355, May 27, 1982]

TIME AND DATE: 10 a.m., June 3, 1982.

PLACE: Room 1027 (open), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Docket 13795, *Supplemental Air Service Proceeding;* Docket 40254, *Complaint of California Air Charter, Inc., et al.;* (OGC)
3. Docket 36815, *Alaskan Carriers Fitness Investigation;* Docket 37020, *Alaska Bush Points Show Cause Proceeding;* Docket 34275, *Application of Klondike Air, Inc.,* (Memo 1315, OGC)
4. Docket 35918, *Deutsche Lufthansa Aktiengesellschaft Enforcement Proceeding,* review on board initiative of Chief ALJ's granting BCCP motion to dismiss complaint in Part 250 denied-boarding notice proceeding. (Memo 1320, OGC)
5. Docket 39932, Denied boarding compensation. (OGC, BDA, OC, OEA, BIA, OCCCA)
6. Comments on a bill to amend the Federal Aviation Act to continue a uniform mandatory joint fare system for six years. (OGC)
7. Docket 40213, Petition of Davis Agency to expand applicability of Overseas Military Personnel Charters; and application for *pendente lite* waiver of Part 372. (OGC, BIA, BDA)
8. Revision of the "33 percent notice" in Part 323 to reflect the limits on the Board's statutory authority established by the D.C. Circuit Court in the Delta case. (OGC, BDA, OCCCA)
9. Docket 38904, A 2-year review for fitness determinations for non-operating carriers. (Memo 1130–A, OGC, BDA)
10. Commuter carrier fitness determination of Great Lakes Aviation, Ltd. (BDA)
11. Commuter carrier fitness determination of Omniflight Airways, Inc. d.b.a. Chesapeake & Potomac Airways, Inc. (BDA)
12. Dockets 40612, 40631 and EAS–631, Air U.S. 30–day notice and request for exemption to reduce service below essential between Sheridan, Wyoming, and Denver, Colorado, on short notice. (BDA)
13. Dockets 40555, 40656, and 40657, Notices and exemption request of Pioneer Airways regarding the provision of essential air service at Sidney, Alliance and Chadron, Nebraska. (BDA, OCCCA)
14. Docket 40625, Application of Jeffrey D. Haddock and Ronald A. Watson, d.b.a. Valdez Airlines, under expedited procedures, for a section 401 certificate. (Memo 1319, BDA)
15. Docket 40294, Final order in the *United States-Latin America All-Cargo Show Cause Proceeding.* (Memo 960–A, BIA)
16. Dockets 32660 and 38623, IATA Petition for Partial Reconsideration of Orders 81–7–96 and 81–8–62 concerning constructions rules for international passenger fares. (Memo 1317, BIA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673–5068.

[S–623–82 Filed 5–2–82; 3:29 pm]
BILLING CODE 6320–01–M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Tuesday, June 8, 1982.

PLACE: 2033 K Street NW., Washington, D.C., fifth floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Financial Rule Enforcement Review.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–619–82 Filed 5–20–82; 2:44 pm]
BILLING CODE 6351–01–M

3

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 22447, May 24, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., May 26, 1982.
CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company

CAP–40. Project No. 6067–000, Western Hydro Electric, Inc.

Kenneth F. Plumb,
Secretary.

[S–615–82 Filed 5–28–82; 10:22 am]
BILLING CODE 6717–02–M

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

May 26, 1982.

TIME AND DATE: 10 a.m., Wednesday, June 2, 1982.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. Monterey Coal Company, Docket Nos. LAKE 80–413–R and LAKE 81–59. (Issues include whether the judge erred in vacating a citation alleging a violation of 30 CFR 77.216(c), dealing with impoundments.)

* * * * *

TIME AND DATE: 11 a.m., Wednesday, June 2, 1982.

PLACE: Same as above.

STATUS: Closed (pursuant to 5 U.S.C. 552(c)(10).

MATTERS TO BE CONSIDERED: 2. Monterey Coal Company—same as above.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653–5632.

[S–617–82 Filed 5–20–82; 12:50 pm]
BILLING CODE 6735–01–M

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NATIONAL TRANSPORTATION SAFETY BOARD

[NM–82–14]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 22831, May 25, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Tuesday, June 1, 1982.

CHANGE IN MEETING: A majority of the Board has determined by recorded vote

that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below.

STATUS: The first three items will be open to the public; the fourth will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report.* Eastern Airlines Flight 935, Lockheed L-1011-385, N309EA, near Colts Neck, New Jersey, September 22, 1981.
2. *Letter* to Federal Aviation Administration regarding Petition for Rulemaking, "National Association of Flight Instructors; Student Recreational, Recreational, Student other than Recreational and Private Pilot Certificates," Dkt. No. 22692, Petition Notice PR 82-3.
3. *Recommendation* to Federal Highway Administration and the American Trucking Association, Inc., concerning the improper installation of wheel bearings in commercial vehicle aluminum wheels.
4. *Opinion and Order:* Petition of Parker, Dkt. SM-2828; disposition of the Administrator's appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382-6525.

May 27, 1982.

[S-814-82 Filed 5-28-82; 9:16 am]

BILLING CODE 4910-58-M

5

NUCLEAR REGULATORY COMMISSION

DATE: Week of May 31, 1982.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Tuesday, June 1:*

10:00 a.m.:
Briefing on Mid Year Resource and Program Review (Public Meeting)
2:00 p.m.:
Briefing on Environmental Qualification of Electrical Equipment—Final Rule (Public Meeting)

Wednesday, June 2:

10:00 a.m.:
Discussion of Response to Court Decision in NRDC v. NRC (S-3 Rule) (Closed—Exemption 10)
2:30 p.m.:
Analysis of Licensing Board Decision on San Onofre Units 2 and 3 (Emergency Planning) (Closed—Exemption 10)

Thursday, June 3:

10:00:
Briefing on Efforts to Improve IAEA Safeguards (Closed—Exemption 1)
2:00 p.m.:
Affirmation/Discussion Session (Public Meeting)
Affirmation and/or Discussion and Vote:
a. SECY-82-185—Final Amendment to 10 CFR Part 50 and to Appendix E: Modification to Emergency Preparedness Regulations Relating to Low Power Operation (Postponed from May 27)

Friday, June 4:

2:00 p.m.:
Meeting with ACRS (Public Meeting)

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

May 25, 1982.

Walter Magee,

Office of the Secretary.

[S-813-82 Filed 5-27-82; 4:04 pm]

BILLING CODE 7590-01-M

7

NUCLEAR REGULATORY COMMISSION

DATE: Week of May 24, 1982 (Changes).

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE DISCUSSED: *Friday, May 28* (Additional Item):

11:00 a.m.:
Affirmation/Discussion Session (Public Meeting)
Affirmation and/or Discussion and Vote:
a. Approval under Section 145 b. of the Atomic Energy Act of 1954, as amended, for the employment of Ms. Saundra R. Frager as a secretary to Commissioner James K. Asselstine and for access to national security information and restricted data.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

Dated: May 28, 1982.

Walter Magee,

Office of the Secretary.

[S-824-82 Filed 5-28-82; 3:29 pm]

BILLING CODE 7590-01-M

8

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m. on June 10, 1982.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell (202) 634-4015.

Dated: May 28, 1982.

[S-820-82 Filed 5-28-82; 3:28 pm]

BILLING CODE 7600-01-M

9

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m. on June 17, 1982.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell (202) 634-4015.

Dated: May 28, 1982.

[S-821-82 Filed 5-28-82; 3:28 pm]

BILLING CODE 7600-01-M

10

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m. on June 24, 1982.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell, (202) 634-4015

Dated: May 28, 1982.

[S-823-82 Filed 5-28-82; 3:28 pm]

BILLING CODE 7600-01-M

11

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

(Northwest Power Planning Council)

TIME AND DATE: 9 a.m., June 2, 1982; 9 a.m., June 3, 1982.

PLACE: Holiday Inn, 3300 Vista Avenue, Boise, Idaho.

MATTERS TO BE CONSIDERED:

1. Staff briefing on draft contractor report on model conservation standards.

2. Staff briefing on the Department of Energy's proposed appliance efficiency standards.
3. Conservation and its Treatment in the Bonneville Power Administration Rate Case.
4. Council's Fiscal Year 1984 and Revised Fiscal Year 1983 Budgets.
5. Briefing: "Electronic Industry Growth Trends in the Northwest."
6. Council Business.

CONTACT PERSON FOR MORE INFORMATION: Ms. Bess Wong (503) 222–5161.

Edward Sheets,

Executive Director.

[S–616–82 Filed 5–28–82; 2:24 pm]

BILLING CODE 0000–00–M

12

POSTAL SERVICE

(Board of Governors)

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 9:00 a.m. on Tuesday, June 8, 1982, in the Benjamin Franklin Room, 11th Floor, 475 L'Enfant Plaza SW, Washington, D.C. The meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245–4632.

Agenda

1. Minutes of the Previous Meeting.
2. Remarks of the Postmaster General.
   (In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. he might report, for example, the appointment or assignment of a key official, or the effect on postal operations of unusual weather or a major strike in the transportation industry. Nothing that requires a decision by the Board is brought up under this item. As part of his remarks, the Postmaster General will brief the Board on USPS organization and an overview of progress under the Postal Reorganization Act.)
3. Report on Operations Group Programs.
   (Mr. Jellison, Senior Assistant Postmaster General, Operations Group, will provide a report on Operations Group programs.)
4. Report of the Chief Postal Inspector.
   (Mr. Fletcher, Chief Postal Inspector, will provide a report on the Inspection Service.)
5. Implementation of Board Resolution 81–9.
   (The Board will resume its consideration of the implementation of this Resolution during the remainder of fiscal year 1982, discussion of this agenda item not having been completed at the Board's previous meetings.)
6. Report of the Regional Postmaster General.
   (Mr. Daws, Regional Postmaster General, will report on postal conditions in the Eastern Region.)
7. Capital Investment Projects:

a. Real Estate Purchase for Chicago Main Post Office.
   (Mr. Carlin, Regional Postmaster General, Central Region, will present a proposal for acquisition of land for Chicago Main Post Office.)

b. Mail Processing Facility for Suffolk County, Long Island, New York.
   (Mr. Mulligan, Regional Postmaster General, Northeast Region, will present a proposal for a new Mid-Island Mail Processing Facility.)

8. Planning Assumptions and Areas of Emphasis for USPS Strategic Business (1983–1987).
   (The Board will consider approval of a paper that sets forth and explains these planning assumptions in some detail.)

Louis A. Cox,

Secretary.

[S–616–82 Filed 5–28–82; 10:42 am]

BILLING CODE 7710–12–M

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federal register

Wednesday
June 2, 1982

Part II

Consumer Product Safety Commission

Regulatory Flexibility Act; Semiannual Regulatory Flexibility Agenda

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

Regulatory Flexibility Act; Semiannual Regulatory Flexibility Agenda

AGENCY: Consumer Product Safety Commission.

ACTION: Publication of regulatory flexibility agenda.

SUMMARY: The Regulatory Flexibility Act requires each federal agency to publish twice each year a regulatory flexibility agenda listing rules expected to be proposed or promulgated which are likely to have a significant economic impact on a substantial number of small entities. In this document the Commission publishes its third semiannual regulatory flexibility agenda.

DATE: The Commission welcomes comments from small entities, including small businesses, small organizations, and small governmental units, upon each subject area of the agenda. Written comments concerning the agenda should be received in the Office of the Secretary by August 2, 1982.

ADDRESS: Comments on the regulatory flexibility agenda should be sent to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492–6800, and should be titled "Regulatory Flexibility Agenda."

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact: Douglas Noble, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492–6554. All inquiries from the press and broadcast media should be directed to Lou Brott, Office of Public Affairs, Consumer Product Safety Commission, Washington, D.C. 20207, (202) 634–7780. For further information regarding a particular item on the agenda, consult the individual listed in the column headed "contact" for that particular item.

SUPPLEMENTARY INFORMATION: The recently enacted Regulatory Flexibility Act (5 U.S.C. 601 et seq.), contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small businesses, small governmental organizations, and other small entities. Section 602 of the Act (5 U.S.C. 602) requires each agency to publish twice each year a regulatory flexibility agenda containing a brief description of any rule expected to be proposed or promulgated which will likely have a "significant economic impact" on a "substantial number" of small entities. The agency must also provide a summary of the objectives and legal basis for each agenda item and a schedule for acting on each item as well as the name and address of the agency official knowledgeable about the items listed. Further, agencies are required to provide notice of their agendas to small entities and solicit their comments by direct notification or by inclusion in publications likely to be obtained by such entities.

In addition, President Reagan's Executive Order 12291 requires executive agencies to publish, twice each year, a regulatory agenda of proposed regulations issued or expected to be issued, and further states that such an agenda may be incorporated with an agenda published under the Regulatory Flexibility Act. While the Commission, as an independent agency, is not required to follow E.O. 12291, the Commission plans to comply voluntarily with those provisions concerning publication of a regulatory agenda.

In the **Federal Register** of November 19, 1981 (46 FR 56811), the Commission published its second agenda under the Regulatory Flexibility Act. In this notice, the Commission publishes its third semi-annual agenda.

The agenda published below has seven new entries which did not appear on the previous agenda. They are:

1. Consideration of a final amendment to labeling regulations issued under the Federal Hazardous Substances Act to establish specific requirements for type size and conspicuousness related to package size. This amendment of the labeling regulations was proposed on December 13, 1978 (43 FR 58195).

2. Possible proposal of policy statements regarding the applicability of the children's sleepwear standards to set forth factors to be considered in determining whether certain "borderline" garments are items of children's sleepwear subject to those standards. A decision of the United States Court of Appeals for the Fourth Circuit in the case of *National Knitwear Manufacturers Association v. CPSC* (No. 81–1002, December 11, 1981) set aside policy statements on the same subject issued by the Commission on November 6, 1980.

3. Proposal of amendments to the regulations implementing the Standard for the Flammability of Clothing Textiles (16 CFR Part 1610) to reduce testing and recordkeeping burdens on manufacturers issuing guaranties under that standard.

4. Consideration of final amendments to regulations implementing the Standard for the Flammability of Clothing Textiles (16 CFR Part 1610) and the Standard for the Flammability of Vinyl Plastic Film (16 CFR Part 1611) to resolve questions about the applicability of these two standards to various products, including multi-layer fabrics with an outer layer of film or coated fabric, such as those used for disposable diapers.

5. Possible proposal of a rule under the Federal Hazardous Substances Act to address risks of strangulation associated with falling toy chest lids. The Commission published an advance notice of proposed rulemaking on this subject in the **Federal Register** of April 14, 1982 (47 FR 16041).

6. Possible proposal of amendments of regulations defining the terms "extremely flammable," "flammable," and "combustible" for purposes of labeling household substances under the Federal Hazardous Substances Act. The proposed amendment under development would specify a closed-cup apparatus and procedure for classifying flammability characteristics of household substances. Such a test would be similar to the method used by other Federal agencies for flammability testing.

7. Possible revocation of those parts of the Safety Standard for Architectural Glazing Materials (16 CFR Part 1201) which prescribe a modulus of elasticity test, a hardness test, and an indoor aging test, all applicable to plastic glazing materials. The Commission proposed this partial revocation in the **Federal Register** of December 14, 1981 (46 FR 60830) after it preliminarily determined that these tests may not be reasonably necessary to reduce or eliminate any unreasonable risk of injury associated with plastic glazing materials.

Five entries listed in the previous agenda do not appear in the current agenda, published below.

One entry concerned proposal of a negative labeling rule for children's thermal underwear to state that such garments do not meet the requirements of the children's sleepwear flammability standard and are not intended for use as sleepwear. This project was terminated when a proposed regulation was submitted to the Commission for approval and did not receive three affirmative votes.

A second entry, concerned a ban on urea-formaldehyde foam insulation for installation in residences and schools which was published in the **Federal**

Register of April 2, 1982 (47 FR 14386), to become effective August 10, 1982.

Three other entries have been deleted because all rulemaking activities associated with those entries have been completed. Those entries concerned partial revocation of the ban on unstable refuse bins; issuance of an exemption from requirements for child-resistant packaging of potassium supplements dispensed in unit dose form; and a consumer product safety rule requiring oxygen depletion sensors on unvented gas space heaters.

The Commission received three comments on its previous regulatory agenda. All were from small mattress manufacturers, and all urged amendment of the mattress flammability standard to eliminate or reduce requirements for testing and recordkeeping which that standard imposes on mattress manufacturers. The agenda published below includes an entry headed "Mattress Flammability Standard Amendment" which indicates that in the near future, the Commission may publish an advance notice of proposed rulemaking to initiate a proceeding for amendment of the mattress standard to reduce or eliminate requirements for production testing of mattresses by manufacturers. The Commission is also considering the possibility of making certain technical changes to the standard to improve its clarity and simplify the wording of some provisions.

The third semi-annual regulatory flexibility agenda, published below lists anticipated regulatory activities under development or review; a brief description and summary of each regulatory activity (including objectives and legal basis for each); an approximate schedule of target dates (subject to revision) for the development or completion of each activity; and the name and telephone number of a knowledgeable agency official concerning particular items on the agenda.

Dated: May 27, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

SEMIANNUAL REGULATORY FLEXIBILITY AGENDA ENTRIES

Anticipated regulatory activities	Legal basis	Brief description and summary	Approximate schedule for development or completion	Contact
Upholstered furniture cigarette flammability standard.	FFA	A finding of possible need for a flammability standard to decrease injuries and deaths associated with cigarette ignited upholstered furniture fires was published on Nov. 29, 1972 (37 FR 25239). In October, 1981 the Commission voted to defer indefinitely regulatory action in order to work with manufacturers participating in a voluntary action program of the Upholstered Furniture Action Council that may eliminate the need for a mandatory standard. This action followed a series of tests to evaluate the effectiveness of the voluntary program. Second evaluation of the industry's voluntary program will be made by the Commission staff in late 1982.	September-October 1982, second evaluation of effectiveness of program.	James Hoebel, Office of Program Management (301) 492-6554.
Coal and wood burning stoves labeling requirements.	CPSA	On June 6, 1979 the Commission granted a petition that requested that manufacturers be required to label and provide instructions on the minimum clearance to combustibles and the chimney type required for these stoves. Hazard data shows injuries and deaths associated with these stoves, some of which may be prevented by this rule. On Nov. 17, 1980 (45 FR 76016) labeling requirements were proposed. In July, 1981 the Commission decided to defer a decision on a final rule pending staff review of current changes in voluntary standards and industry conformance to those standards.	Schedule to be determined.	Do.
Flammability classification regulations.	FHSA	The Federal Hazardous Substances Act, as amended, authorizes the Commission to issue regulations to define the terms "extremely flammable," "flammable," and "combustible" for purposes of labeling household substances which may present a flammability hazard. The Commission is developing proposed regulations to change from an open-cup to a closed-cup apparatus, and to specify an appropriate procedure for classifying flammability characteristics of household substances. If issued on a final basis, the proposed regulations would make the apparatus and procedures used by the Commission compatible with flammability tests used by other Federal agencies.	August-September 1982, publication of proposal for public comment.	Do.
Mattress flammability standard amendment.	FFA	As part of a statutory review of the mattress standard, the standard may be amended to reduce the testing requirements for mattresses, thereby, reducing the sampling and recordkeeping costs to manufacturers while maintaining the level of protection the standard affords consumers. In addition, the standard may be amended to provide technical clarifications and wording simplification.	April-May 1982, Commission decision on advance notice of proposed rulemaking.	Do.
Clothing textiles and vinyl plastic film flammability standards amendment.	FFA	Clarifying amendments were proposed in 1981 to resolve questions which had arisen about interpretation of the standards and their applicability to various products, including multilayer fabrics with an outer layer of film or coated fabric, such as those used for disposable diapers. On Feb. 24, 1982, the Commission published a final amendment to the regulation to exempt vinyl film used as the outer layer of a disposable diaper from any requirement for separate testing if a full thickness of the assembled article passes the test in the applicable standard. The period for comment on all remaining issues raised by the proposed amendments was extended to May 25, 1982.	Commission decision on final amendments, schedule to be determined.	Do.
Regulatory review of clothing textiles standard.	FFA	In March 1982, the Commission considered a review of the clothing textiles standard which the staff undertook to determine if any testing and recordkeeping burden imposed by the standard and implementing regulations could be eliminated or reduced. In response to directions from the Commission the staff will prepare drafts of proposed amendments to the regulations at 16 CFR 1610.37 and 1610.36 to allow manufacturers to design and implement their own programs of reasonable and representative tests to support guaranties. To exempt certain fabrics from requirements for further testing to support guaranties; and to reduce the period for retention of test records from three years to one year.	June-July 1982, Commission decision to proposed amendments.	Do.
Antenna standards.	CPSA	On Apr. 12, 1979 the Commission decided to proceed on internal development of a safety standard for omnidirectional CB base-station antennas to address the hazard of electrocution and other electrical injuries when putting up or taking down these antennas. Notice of proceeding to develop the standard was issued Sept. 14, 1979 (44 FR 53676). On Aug. 14, 1981 the Commission proposed the standard and a nonmandatory test method (46 FR 41062).	May 1982 Commission decision on the final standard and certification rule.	Carl Blechschmidt, Office of Program Management (301) 492-6554.

SEMIANNUAL REGULATORY FLEXIBILITY AGENDA ENTRIES—Continued

Anticipated regulatory activities	Legal basis	Brief description and summary	Approximate schedule for development or completion	Contact
Chain saws	CPSA	Efforts in 1979 and 1980 to develop a voluntary chain saw standard were deemed unsuccessful. Subsequently, the Commission decided that a mandatory standard was needed to reduce kickback and other injuries and that it should be developed by Commission staff. On May 11, 1981 the Commission published (46 FR 26262) a notice of proceeding to develop a safety standard. The Commission approved issuance of an advance notice of proposed rulemaking on Apr. 14, 1982.	April–May 1982 publication of ANPR in FEDERAL REGISTER. Comments on advance notice of proposed rulemaking will be received through June 1982.	Do.
Lawn mowers	CPSA	On May 5, 1977 (42 FR 23052) a lawn mower standard was proposed, which contained requirements for blade contact, thrown objects, fuel ignition, electrically powered mowers, and riding mowers. On Feb. 15, 1979, the Commission finalized a standard on walk behind power mowers addressing blade contact only. The Commission has decided to proposed to withdraw the portions of its May 5, 1977 proposal relating to thrown object, fuel ignition, riding mowers, and electrically powered mowers. On Nov. 5, 1981 (46 FR 54932) the Commission amended the lawn mower standard to allow manual restart after engine-kill blade stop, as directed by Congress.	Commission decision on proposed withdrawal, July 1982.	Do.
Architectural glazing standard, partial revocation.	CPSA	In the FEDERAL REGISTER of Dec. 14, 1981 (46 FR 60630) the Commission proposed a partial revocation of the Safety Standard for Architectural Glazing Materials to eliminate a modulus of elasticity test, a hardness test, and an indoor aging test, all applicable to plastic glazing materials. The Commission proposed this partial revocation of the standard after it preliminarily determined that these tests may not be reasonably necessary to reduce or eliminate any unreasonable risk of injury associated with plastic glazing materials. The staff is evaluating comments received in response to this proposal.	May–June 1982, Commission decision on issuance of partial revocation on a final basis.	Ronald Medford, Office of Program Management (301) 492–6554.
Petition CP 82–2, power mower standard.	CPSA	In correspondence dated Mar. 19, 1982, the Toro Company petitioned the Commission for a 1-year extension of the effective date of the power mower standard. If granted, the delay would have to be accomplished by rulemaking procedures.	May 7, 1982, Commission voted to deny petition.	Douglas L. Noble, Office of Program Management (301) 492–6554.
Crib amendment	FHSA	In December 1978 the Commission directed staff to prepare an amendment to the full size crib regulation after identifying neck and head entrapment hazards associated with certain cutout designs on cribs. The amendment under consideration would apply also to nonfull size cribs and would prohibit hazardous configurations by adding to the crib requirements a performance test to simulate the entrapment hazard pattern.	June 1982, Commission decision on final amendment.	Terri Rogers, Office of Program Management (301) 492–6554.
Infant strangulations	FHSA	Hazard information identified a risk of strangulation presented by some infant toy products. This project may result in a proposed regulation that will address the generic problems associated with these toys.	May 1982, Commission decision on alternatives.	Do.
Toys chests	FHSA	Hazard information shows injuries and deaths associated with toy chests. On Apr. 7, 1982, the Commission approved initiation of rulemaking proceedings to address the strangulation risk caused by falling toy chest lids by issuing an Advance Notice of Proposed Rulemaking (ANPR).	Schedule to be determined. Apr. 14, 1982, publication of ANPR in FEDERAL REGISTER. Comments to be received through June 14, 1982.	Do.
Abestos regulation	CPSA	Hazard information shows that asbestos presents a risk of cancer and respiratory disease. On Oct. 17 1979, the Commission issued an advance notice of proposed rulemaking (44 FR 60057) on asbestos in consumer products. On Mar. 4, 1982, the Commission decided to convene a Chronic Hazards Advisory Panel on Asbestos in Consumer Products.	Fall, 1982, Report of Chronic Hazard Advisory Panel. Based upon the findings of the panel, an Advance Notice of Proposed Rulemaking on selected asbestos products may be issued in Winter, 1982.	Sandra Eberle, Directorate for Health Sciences (301) 492–6957.
Physician drugs samples policy statement.	PPPA	The Commission proposed on Mar. 23, 1978 (43 FR 12029) a policy to require safety packaging on drug samples dispensed by physicians to be consistent with its policy for pharmacists which states that manufacturers are responsible for placing a drug in child resistant packaging when the package is intended to be dispensed to consumers.	April–May 1982, Commission decision on final policy statement.	Virginia White, Directorate for Health Sciences (301) 492–6957.
Prednisone tablets exemption.	PPPA	On June 5, 1981, Maynond Pharmaceutical Company petitioned the Commission to exempt certain prednisone tablets from child prednisone tablets from child resistant packaging requirements. On Mar. 10, 1982 (47 FR 10235) the Commission proposed to exempt this drug when dispensed in packages containing not more than 105 mg. of prednisone.	July 1982, Commission decision on final rule.	Virginia White, Directorate for Health Sciences (301) 492–6957.
Benzidine congener dyes ban.	CPSA	Hazard information shows that benzidine congener dyes may present a carcinogenic health hazard. Consumer exposure to the dyes occurs usually from dye products for home dyeing application or those sold as arts and crafts materials. The Commission has granted a petition to propose a ban on consumer dye product containing benzidine congener dyes.	Summer, 1982, Commission decision on whether to initiate a regulatory proceeding.	Abbie Gerber, Directorate for Health Sciences, (301) 492–6994.
Final order amending FHSA label conspicuousness requirements.	FHSA	On Dec. 19, 1978 (43 FR 58195) the Commission proposed to amend the existing general requirements at 16 CFR 1500.121. The amendment would establish specific type size and conspicuousness requirements related to the size of the package.	July 1982, Commission decision on final rule.	Wade Anderson, Directorate for Compliance and Administrative Litigation (301) 492–6400.
Proposed replacement enforcement policy statements on applicability of the children's sleepwear standards.	FFA	The Dec. 11, 1981 Fourth Circuit, U.S. Court of Appeals decision in *National Knitwear Manufacturers Association v. CPSC* (No. 81–1002), set aside the Commission's statements of policy on the applicability of the children's sleepwear standards for procedural reasons. Since these enforcement policy statements serve a useful purpose both for industry and the agency, this commission is considering replacement enforcement policy statements.	June 1982, Commission decision on proposed statements of policy.	Elizabeth Gomille, Directorate for Compliance and Administrative Litigation (301) 492–6400.

[FR Doc. 82–14837 Filed 6–1–82; 8:45 am]

BILLING CODE 6355–01–M

federal register

Wednesday
June 2, 1982

Part III

Department of Education

National Institute of Handicapped Research Funding Priorities for Fiscal 1982 and Research and Training Center Grants

DEPARTMENT OF EDUCATION

National Institute of Handicapped Research; Funding Priorities for Fiscal 1982

AGENCY: Department of Education.

ACTION: Final funding priorities for the National Institute of Handicapped research for fiscal year 1982.

SUMMARY: The Secretary announces final priorities for research to be supported by the National Institute of Handicapped Research (NIHR) in fiscal year 1982. NIHR program regulations authorize the Secretary to establish priorities by reserving funds to support particular research activities. Department administrative regulations require that if priorities are not already established within program regulations that they first be proposed for public comment before they are finalized and announced. Proposed priorities were published in the **Federal Register** earlier this fiscal year. These final priorities inform potential grant applicants and others of the research areas in which NIHR intends to hold grant competitions during the remainder of fiscal year 1982.

EFFECTIVE DATE: Unless the Congress takes certain adjournments, these priorities will take effect 45 days after publication in the **Federal Register**. If you want to know the effective date of these priorities, call or write the Department of Education contact person. At a later date the Secretary will publish a notice in the **Federal Register** stating the effective date of these priorities.

FOR FURTHER INFORMATION CONTACT: Betty Jo Berland, National Institute of Handicapped Research, 400 Maryland Avenue, S.W., Washington D.C. 20202, Telephone: (202) 472–6651, TTY for deaf individuals (202) 472–4217.

SUPPLEMENTARY INFORMATION: A total of 17 priorities were proposed in the **Federal Register** on January 21, 1982 (47 FR 3028) for public comment. In that notice, it was made clear that the number of priorities to be funded would depend on the availability of funds at the time of the Application Notice. Since the publication of the proposed priorities, it has been determined that approximately $500,000–$600,000 will be available to fund two Research and Training Center grants.

However, the Secretary is reproposing in fiscal year 1983 all of those priorities for which there is public support but which are not being selected for funding this fiscal year. Because most of the Institute's current grants will expire in fiscal year 1982, it is anticipated that funds will be available for a substantial portion of the proposed 1983 priorities. Interested parties are urged to comment on the 1983 proposed priorities that were published in the **Federal Register** on May 19, 1982 at 47 FR 21567–21576.

The Secretary announces that the final funding priorities for fiscal year 1982 for NIHR are: (1) A Rehabilitation Research and Training Center on the unique rehabilitation needs and service delivery problems of handicapped residents of the Pacific Basin; and (2) A Rehabilitation Research and Training Center on methods to meet the unique rehabilitation needs of Native Americans taking into consideration cultural aspirations and the unique service delivery problems of this population.

The Congress has shown continuing interest in the establishment of Research and Training Centers for both the Pacific Basin and Native Americans. This interest has been demonstrated particularly by language included in committee and conference reports accompanying the Supplemental Appropriations and Rescission Act of 1981.

With respect to the Pacific Basin, the Conferees states that "NIHR shall give serious attention to addressing the pressing needs of the Pacific Basin under their Research and Training Authority." For administrative reasons, this priority could not be funded in fiscal year 1981 and thus is being addressed this year. Congressional concern stems from the high incidence of impairment in this geographic area, with a unique mix of handicapping conditions, lack of rehabilitative care, and lack of knowledge about rehabilitation of unusual conditions or delivery of rehabilitation services to a culturally and geographically dispersed population.

In providing additional funds to NIHR in fiscal year 1981, the Chairman of the Senate Labor—HHS—Education Subcommittee stated, "Serious attention should be given to addressing the needs of Native Americans with neurosensory disabilities under the Institute's Research and Training Center authority." (On the basis of comments and other input, the Secretary has decided not to limit this priority to a neurosensory focus, but to permit applicants to assess needs and design research to meet those needs.) NIHR has cofunded a feasibility study on establishing a Research and Training Center for Native Americans, and the findings have supported the establishment of a such Center, based on the high incidence and prevalence of impairments among this population and the lack of knowledge on how to provide effective rehabilitation services.

The Secretary shares Congressional concern about establishing Centers for the Pacific Basin and Native Americans. Thus, with very limited funds available, the Secretary has determined that the funding of these two initiatives is the highest priority for this fiscal year.

Summary of Comments and Responses

Summaries of the public comments received and the Secretary's response to these comments are printed below. The comments and responses appear in the same order in which the referenced priorities appeared in the Notice of Proposed Priorities.

Comment: Many commenters discussed priority one on vocational rehabilitation research and supported it. Commenters stressed the importance of research on client assessment, client-job matching, and linking services to jobs through interagency cooperation.

Response: A change has been made in this priority. This area is being proposed for more substantial funding in 1983 through the support of several Centers and projects. There are not sufficient monies to fund a project in this area in fiscal year 1982.

Comment: Several commenters addressed priority two on increasing public-private sector collaboration. Commenters supported the priority and suggested research on incentives/disincentives and transfer of research knowledge into production.

Response: A change has been made in this priority. The Secretary intends to propose funding a Rehabilitation Engineering Center in this area in fiscal year 1983, since there are insufficient resources to fund this priority area this year.

Comment: A number of comments were received on the third priority, research on measurement of function. Commenters emphasized development and implementation of new assessment tools.

Response: Some changes have been made in this priority. Because of the importance of this research area, the Secretary will propose establishing a Rehabilitation Engineering Center in this area in 1983. There are insufficient funds to fund research in this area this year.

Comment: Several commenters discussed priority four, research on private sector rehabilitation activities. There was both support for and objection to this priority. Supporters suggested that successful elements of private sector rehabilitation could be incorporated into public programs. Opponents believe public funds should

not be used for inquiry outside the public system.

Response: No change has been made in this priority. The Secretary believes that particularly in an era of reduced resources, it is essential to learn of exemplary private sector practices. There are insufficient funds to announce this priority in fiscal year 1982, but it will be reproposed in 1983.

Comment: Many commenters supported priority five on the vocational rehabilitation needs of learning disabled individuals. Many also commented on the need for research in additional areas not specified in the Notice.

Response: A change has been made. Because of the high volume of support and information provided by commenters, the Secretary has expanded the scope of this priority for fiscal year 1983 and intends to fund both a Research and Training Center and a Research and Demonstration Project in this area. There are insufficient funds to announce this priority for 1982.

Comment: A few comments were received supporting priority number six, research on arthritis, mostly from service providers and public service organizations. One commenter noted that rural manual laborers with arthritis are a particularly underserved group.

Response: A change has been made in this priority. The Secretary is proposing a Research and Training Center in this area for fiscal year 1983. No special emphasis will be placed by NIHR on rural laborers, although prospective grantees may decide to include this target population in their research. The commenter mentioned above cited service needs of this group, but did not present evidence that research was needed in this area. There are not sufficient funds to announce this priority this year.

Comment: Several commenters discussed priority seven on orthopedic footwear. One suggested that it be combined with research on orthoses and prostheses.

Response: A change has been made in this priority. The Secretary will propose in fiscal year 1983 that research on orthopedic footwear be conducted in a Rehabilitation Engineering Center along with research on prostheses, orthoses, and functional electrical stimulation. There are not sufficient funds to announce this priority in 1983.

Comment: There were a number of comments supporting priority eight, research on communication aids for persons unable to speak.

Response: A change has been made in this priority. The Secretary is proposing that a Rehabilitation Engineering Center in this area be a priority in 1983. There are insufficient funds to undertake a project in this area this year.

Comment: Several commenters supported number nine, a system for dissemination of exemplary research findings as a priority, although many stated that they gave it a relatively low priority. Comments suggested that components of such a system are already operational and that what is needed is a more cohesive organizational network.

Response: No change has been made in this priority. There are not sufficient funds to announce a priority in this area this year.

Comment: Several commenters mentioned the tenth priority, on research on rural outreach. Many of these were from organizations which provide various services in rural areas. Commenters stressed personal assistance, mobility, medical care and communication to be among the principal unmet needs of this population.

Response: No change has been made in this priority. This priority will be proposed again for fiscal year 1983 since there are insufficient funds to announce a priority in this area this year.

Comment: Many commenters supported priority 11, research to aid burn-injured individuals. Most of the comments were identical letters from families and friends of burn-injured persons, and stressed the seriousness of the problem, implying the need for expanded services as much as research. One commenter, a burn care center, suggested areas of research such as studies of recovery in children and adults and longitudinal studies of the adjustment process.

Response: A change has been made in this priority. The Secretary will propose this priority for 1983, incorporating some of the comments made. There are insufficient funds to announce a priority in this area this year.

Comment: There was a large number of comments on priority 12, severe head trauma. The overwhelming majority of the comments were from individuals, usually relatives and friends of persons with severe head injuries. These letters, often duplicate, stressed the seriousness of the impairment and the need for treatment. Many stressed the need for long-term care, and support for families of head trauma victims.

Response: A change has been made in this priority. Because of its significance, the Secretary will propose that additional resources be devoted to research in this area and will propose a funding priority for a Research and Training Center in 1983. The Secretary also notes the difference between the need for care and the need for research and notes that NIHR must concentrate on researchable issues. There are insufficient funds to announce a priority in this area this year.

Comment: There were very few comments on number 13, development of portable communication devices for deaf-blind persons. Support appeared to come from specialists involved in communication disorders.

Response: A change has been made in this priority. This priority will not appear as a separate priority in fiscal year 1983, although such devices could be developed within some of the proposed Rehabilitation Engineering Centers, along with other projects.

Comment: A few commenters supported number 14, research on maintenance of gains in the deinstitutionalization process.

Response: A change has been made in this priority. The Secretary proposed that research in this area be incorporated into a proposed Research and Training Center for fiscal year 1983 on community services for mentally retarded persons. A strong emphasis was placed on this area by the National Council on the Handicapped and by representatives of the Administration on Developmental Disabilities.

Comment: Several commenters discussed priority 15, a Research and Training Center to investigate the rehabilitation needs of the Pacific Basin. There was a little opposition to this priority on the grounds that geographic area should not be a factor.

Response: No change has been made in this priority. The Secretary notes the specific requirement in section 204(b)(1) of the Act that Research and Training Centers address problems based on needs in their specific geographic areas. The Secretary also notes that the Federal Government has special responsibility for residents of this area under current treaty obligations. Congressional guidance on fiscal year 1982 appropriations requested that the Institute give serious attention to the many pressing needs of residents of the Pacific Basin under the legislative authority establishing Research and Training Centers. The Secretary has selected this priority for funding in fiscal year 1982.

Comment: A number of commenters supported number 16, research on rehabilitation needs of Native Americans, as a priority. They noted the high incidence of handicapping conditions and serious needs for improved rehabilitation service delivery to Native Americans. Some commenters suggested that the focus of the research

be limited to a specific type of handicap, such as neurosensory or renal impairment. There were also several commenters who questioned the desirability of focusing research on a specific population or ethnic group.

Response: No change has been made in this priority. The Secretary concurs with the comments that emphasis must be placed on this population group in order to address the unique cultural and geographic barriers to services. Native Americans have a higher than average incidence of impairments, including such disabling conditions as neurosensory impairments, end-stage renal disease, diabetes, and many orthopedic conditions. NIHR has supported feasibility and planning studies in this area in anticipation of funding a Research and Training Center. Congressional guidance included in deliberations on appropriations, indicates an intention that NIHR move to address these problems through support of a research center in this area. The Secretary has decided not to limit this priority to specific types of handicaps because of the large number of rehabilitation needs of this population. The Secretary has selected this priority for funding in fiscal year 1982.

Comment: A number of commenters supported priority 17 for research on the rehabilitation needs of minority populations. A few questioned this priority on the grounds that improved rehabilitation services generally would have a universal impact and therefore there should not be any focus on special populations. One commenter suggested that youth be added as a minority and another suggested the inclusion of women.

Response: No change has been made in this priority. The Secretary concurs with the recommendations of the National Council on the Handicapped and with the comments that ethnic minority groups experience both high rates of disability and low utilization of rehabilitation services. Both aspects need further investigation. Youth is not added as a minority category at this time because the Secretary is proposing a Research and Training Center devoted to research on children and youth and one devoted to learning disabilities which focuses on this age group. The Secretary has not stressed women as a specific minority in this priority at this time, since women were not mentioned as a separate target group in the NIHR Long Range Plan from which the priorities are drawn. However, minority women are a prime target population for this priority. This priority will be proposed again in fiscal year 1983 since there are insufficient funds to announce it as a priority this year.

(Catalog of Federal Domestic Assistance No. 84.133—National Institute of Handicapped Research)

Dated: May 26, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82-14877 Filed 6-1-82; 8:45 am]

BILLING CODE 4000-01-M

National Institute of Handicapped Research—Research and Training Center Grants

AGENCY: Department of Education.

ACTION: Application notice for fiscal year 1982.

Applications are invited for new Research and Training Center Grants for Fiscal Year 1982.

Authority for this program is contained in section 204(b)(1) of the Rehabilitation Act of 1973, as amended by Pub. L. 95-602. (29 U.S.C. 762(b)(1)).

Closing Date for Transmittal of Applications

Applications for grant awards must be mailed or hand delivered by 23 July 1982.

Applications Delivered by Mail

An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.133, Washington, D.C. 20202.

An applicant must show proof of mailing, consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered. Amendments received after the closing date also will not be considered in the review of the application.

Applications Delivered by Hand

An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information

Awards are made under this program to States and public or private agencies and organizations including institutions of higher education. The purpose of this program is the establishment and support of Rehabilitation Research and Training Centers to be operated in collaboration with institutions of higher education for the purpose of (A) providing training (including graduate training), (B) providing coordinated and advanced programs of research in rehabilitation, and (C) providing training (including graduate training) for rehabilitation research and other rehabilitation personnel.

Available Funds:

Utilizing the remainder of Fiscal Year 1982 funds the National Institute of Handicapped Research expects to have approximately $500,000–$600,000 available for funding the following: (1) a Rehabilitation Research and Training Center on the unique rehabilitation needs and service delivery problems of handicapped residents of the Pacific Basin; and (2) a Rehailitation Research and Training Center on methods to meet the unique rehabilitation needs of Native Americans, taking into consideration cultural aspirations and the unique service delivery problems of this population. One grant will be awarded in each area under this announcement. Average funding for each center ranges from $250,000 to $300,000. Each will be funded up to a maximum of 60 months.

These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless the amount is otherwise specified by statute or regulations.

Application Forms

Application forms and further information may be obtained by writing to or calling the National Institute of Handicapped Research, U.S. Department of Education, Switzer Office Building, Room 3511, 400 Maryland Avenue, SW., Washington, D.C. 20202. (Attention: Peer Review Unit). Telephone: (202) 245–0565.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. Applicants are urged not to submit information that is not requested.

Applicable Regulations

The following regulations are applicable to this program:

(a) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78);

(b) National Institute of Handicapped Research Regulations (34 CFR Parts 350 and 352); and

(c) The Final Funding Priorities for the National Institute of Handicapped Research for Fiscal Year 1982 which are published in this issue of the **Federal Register.**

Applicants for Fiscal Year 1982 grants should base their applications on Section 204(b)(1) of the Act, applicable NIHR regulations, and EDGAR.

FOR FURTHER INFORMATION CONTACT: Ms. Edythe Glazer, National Institute of Handicapped Research, U.S. Department of Educatin, Switzer Office Building, Room 3511, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–0565; TTY for Deaf Individuals (202) 472–4216.

(29 U.S.C. 760–762)

(Catalog of Federal Domestic Assistance No. 84.113, National Institute of Handicapped Research)

Dated: May 26, 1982.

Darld J. Long,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 82–14878 Filed 6–1–82; 8:45 am]

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federal register

Wednesday
June 2, 1982

Part IV

Nuclear Regulatory Commission

Notice of Request for Comments on Proposed Legislation; Nuclear Standardization Act of 1982

NUCLEAR REGULATORY COMMISSION

Notice of Request for Comments on Proposed Legislation; Nuclear Standardization Act of 1982

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of request for comments on proposed legislation; Nuclear Standardization Act of 1982.

SUMMARY: The Nuclear Regulatory Commission proposes to submit the "Nuclear Standardization Act of 1982" to Congress for legislative consideration. The proposal provides for design approval and stability of design for standardized nuclear power plants, one-step licensing, and early site approval. The proposed legislation is being issued to inform the public and to provide an opportunity for public comment. The Commission expects that further revisions may be needed and is, accordingly, requesting comments on the proposed "Nuclear Standardization Act of 1982."

Commissioners Ahearne, Gilinsky and Roberts have filed separate comments on the proposed legislation. Those comments are incorporated as a part of this notice for public information and comment. Differing opinions of members of the Regulatory Reform Task Force are also included, and public comment is invited on these opinions as well. Public comments on these separate views will be considered by the Commission.

The Regulatory Reform Task Force is also considering presentation of further legislative proposals for Commission approval. Such proposals may include but are not necessarily limited to: (1) Amendment of § 189 a. of the Atomic Energy Act of 1954, as amended, to clarify the scope of the Commission's discretion in selecting hearing formats; (2) elimination of mandatory requirement for construction permit hearings; (3) a stability of design amendment to apply to all nuclear power plants; and (4) amendment of § 201(a)(1) of the Energy Reorganization Act of 1974, 42 U.S.C. 5841(a)(1) to eliminate the "present" requirement in the quorum rule. A brief description of these further legislative proposals follows.

Four alternatives for amending 189 a. are currently being considered. The first alternative would incorporate the Shelly amendment and add a new subsection 189 c. to provide for a hybrid hearing process.

The second alternative is the same as the first except it would delete the mandatory requirement for construction permit hearings and require 30 days notice prior to granting applications for construction or operation of nuclear power plants or testing facilities.

Alternative three is the same as two except it would give the Commission broad discretion in selection of a hearing format. Alternative four would be a variation on three with the primary thrust being to give the Commission maximum discretion in selecting the type of hearing to be held.

The stability of design proposal would read essentially the same as § 196 of the "Nuclear Standardization Act of 1982" except it would apply to all nuclear plants rather than to just standardized nuclear plants.

The proposed change in section 201(a)(1) of the Energy Reorganization Act of 1974 would permit the Commissioners to waive the requirement that a quorum be "present" in order to vote. This amendment would permit the Commission to take decisional action in writing without the necessity of holding a formal meeting where Commissioners would be physically present.

Public comment is also invited on these legislative proposals. It is conceivable that other proposals will be suggested through public comment. The Commission will consider such proposals in making its ultimate determination on the content of the legislative package to be sent to Congress.

DATE: Comments are due on or before July 16, 1982.

ADDRESSES: All interested persons who desire to submit written comments or suggestions for consideration in connection with this proposed legislation should send them to: Chairman, Regulatory Reform Task Force, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Copies of public comments on this proposed legislation may be examined at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: The Regulatory Reform Task Force, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; Telephone: 202-634-3258.

Dated at Washington, D.C., this 27th day of May 1982.

For the U.S. Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

Background and Section by Section Analysis

I. Background

A. The Present Licensing Process

The Atomic Energy Act of 1954 in its present form provides for a two-stage facility licensing process. First, a construction permit must be obtained from the Commission authorizing construction of the proposed facility at the site where it will be operated. This stage of review has focused on the preliminary design of the facility and the suitability of the proposed site. A public hearing must be held by the Commission prior to the issuance of any construction permit for a facility for industrial or commercial purposes, such as a nuclear power plant, or for a testing facility.

The second stage of the process concerns operating licenses. No person may operate a facility without first obtaining an operating license from the Commission. This second stage of review is focused on the final design of the facility, and a public hearing must be held before issuance of an operating license if one is requested by any person whose interest may be affected. The Commission is also authorized by the Act to issue a license to manufacture one or more facilities. Thus, in some situations the first step in the facility licensing process may be issuance of a license to manufacture, followed by issuance of a construction permit and operating license authorizing installation and operation of the facility on-site. It may be noted that no manufacturing licenses have been issued although provisions for issuance of such licenses is made in the Commission's regulations and a proceeding is in progress.

In addition, the Advisory Committee on Reactor Safeguards, a statutory committee of independent experts on nuclear facility safety, is required by the Act to review each application for a construction permit or an operating license for a nuclear facility for industrial or commercial purposes, such as a nuclear power plant, or for a testing facility, and submit a public report to the Commission.

The overall lead-time involved for this two-stage licensing process covers approximately a 12 year period consisting of three basic phases:

1. Utility Planning Phase,

2. Construction Permit Review and Hearing Phase, and

3. Construction and Preoperational Testing Phase.

The utility planning phase begins at the time the utility decides to add power to its system and continues until an application consisting of a Preliminary Safety Analysis Report (PSAR) and an Environmental Report (ER) is submitted to the NRC by the applicant and docketed for review. The construction permit review and hearing phase begins at the docketing of the application and continues until a decision is made regarding the issuance of a construction permit. This phase consists of a plant safety review, a safeguards review, an environmental review, an antitrust review by the NRC staff and public hearings on the construction permit application.

Normally, the applicant's Preliminary Safety Analysis Report and Environmental Report are tendered at about the same time and proceed on parallel review paths, beginning with a review for completeness. If the application is reasonably complete, it is docketed. The docketing of an application launches the safety review by the Commission's technical branches, issuance of the NRC staff's Safety Evaluation Report, consideration by the Advisory Committee on Reactor Safeguards (ACRS), and issuance of supplemental Safety Evaluation Reports by the NRC staff, as required, to address any issues raised by the ACRS or any other appropriate issues. In addition, an environmental review is conducted by NRC technical specialist branches and by special teams from national laboratories, and draft and final environmental statements are published and widely distributed to municipal, State, and Federal agencies, and the general public.

Following the conclusion of the safety and environmental reviews and issuance of appropriate supplements to the Safety Evaluation Report and the Final Environmental Statement, a public hearing takes place. Under the Atomic Energy Act, hearings are mandatory for all power reactor construction permit applications. At the conclusion of these hearings a decision is made whether or not to issue the construction permit.

A Limited Work Authorization (LWA) may be granted by the Director of Nuclear Reactor Regulation for limited construction work to be carried out prior to a decision on the construction permit. Two types of LWA's are granted. One type authorizes site preparation work, installation of temporary construction support facilities, excavation, construction of service facilities and certain other construction not subject to quality assurance requirements. The second type of LWA authorizes the installation of structural foundations.

An LWA may be granted only after the licensing board has made all of the required NEPA findings and has determined that there is reasonable assurance that the proposed site is a suitable location for a nuclear power reactor from a radiological health and safety standpoint. The second type of LWA may be granted if, in addition to the findings described above, the board determines that there are no unresolved safety issues relating to the work to be authorized.

The antitrust review and hearing process proceeds in a parallel path with the safety and environmental reviews and the hearing process, except that a hearing on antitrust matters is required only: (1) When requested by the Attorney General; (2) when any person whose interest may be affected files a timely petition requesting a hearing; or (3) when the Commission determines on its own initiative that a hearing should be held.

The construction phase continues until the plant is built, preoperationally tested, and is ready for fuel loading. While the plant is being constructed, typically when construction is about 50% completed, the applicant submits a Final Safety Analysis Report and an Environmental Report-OL Stage. Then, the NRC staff prepares its Safety Evaluation Report and updates its prior environmental review and analysis. Public hearings on the operating license are offered. If hearings are conducted, findings are made by a licensing board subject to Commission review. If no hearing is requested, findings are made by the Director of Nuclear Reactor Regulation, also subject to Commission review. If a favorable decision is ultimately rendered, the operating license is issued.

B. One-step vs. Two-step Licensing

The two-step licensing process was a prudent course to follow when the nuclear power industry process was in its early conceptual and developmental years. In the early years there were many first-time nuclear plant applicants, designers and constructors and many unproven design concepts. The concern about the ability of a new industry to meet construction permit stage commitments for the final design was justified, as was the reevaluation for this purpose at the operating license stage.

The situation, however, has been altered substantially in the intervening 28 years since the enactment of the Atomic Energy Act of 1954. Final designs for most plants could be described at the construction permit stage. Even though preliminary designs may be proposed for valid reasons, experience obtained in designing and licensing nuclear plants provides a sound basis for moving from the existing two-step licensing process to a one-step process.

Experience has demonstrated that the two-step process exacerbates construction scheduling problems because design of the plant, regulatory design review and the hearing process occur during construction. The one-step process would place design, design review and hearing before construction begins thereby making construction scheduling more certain. Experience also suggests that the two-step process has a negative effect on the creditability of the process, i.e., the granting of a construction permit has been interpreted by some as being so conclusive as to render the issuance of an operating license pro forma. Under a one-step process construction and operation will be considered concomitantly.

Moreover, the two-step licensing process was put in place years before the enactment of environmental laws such as NEPA. The objectives of these laws could be better served by a one-step licensing process which encourages earlier identification and resolution of licensing issues, particularly regarding the siting of a nuclear power plant. Such a process would also accommodate participation by states on matters in which they have both an interest and responsibility.

The problems created by the two-step licensing process can best be resolved by a one-step process. The concept of a combined CP–OL reflects the fact that in a more mature technology, applicants for a license to construct and operate a commercial nuclear power plant should be able to submit the final design information at the outset. This would significantly change the principal purpose to be served by the NRC review prior to the commencement of operation. The rationale is that if the Commission can make a one-step determination on site suitability and the final design of a plant early in the licensing process, it should do so and should not be required to perform the same exercise a second time.

Early site reviews, standardized plant approvals, stability of plant design and one-step licensing go to the very heart of the proposed legislation.

II. Section-by-Section Analysis

Section 101. Construction Permits and Operating Licenses

This amends section 185 by deleting language providing that a construction permit must specify the earliest and latest dates for completion and that failure to complete a facility by the stated date shall result in forfeiture of the permit, absent good cause shown. This section also adds two new subsections to section 185.

Subsection a. of section 185 authorizes the NRC to grant a construction permit for a production or utilization facility and, upon additional findings and absent any good cause shown to the Commission to the contrary, to grant an operating license. This subsection is also amended by deleting the requirement for specification of the earliest and latest completion dates for construction permits. This provision is not useful and tends to produce unnecessary paperwork and expenditure of resources. Presumably, the intent of such a provision is to see that construction is diligently pursued once a construction permit is granted. In fact, the large investment required to construct nuclear plants is a more substantial driving force in that same direction. By eliminating the requirement, the impetus for diligence in construction is not lost and the need to process applications for extensions of time, along with all the attendant administrative problems, is obviated.

A new subsection b. of section 185 authorizes the Commission to rely upon certification of need for power made by the Federal Energy Regulatory Commission. The importance of subsection b. is that it eliminates the necessity of the Commission to duplicate need for powur studies wherever need for power is a determining factor in reaching a licensing decision.

Subsection c. of section 185 permits issuance of a combined construction permit and operating license for a standardized nuclear power plant. This, in effect is one-step licensing for standardized nuclear power plant designs. A combined construction permit and operating license could be issued only if the application contains sufficient information to support the issuance of both the construction permit and operating license. Inshort, the application must include an essentially complete final design for a whole nuclear power plant usable at multiple sites.

Subsection c., like subsections 193d.(1) and 194d.(1), provides an opportunity for public hearing. In all three instances the hearing provision was inserted to assure flexibility of the hearing process for standardized plants. Section 189a. has various interpretations. Some suggest that it requires very formal adjudicatory procedures while others urge that nothing in section 189a. precludes a more flexibile approach to establishing hearing procedures. In order to avoid unfavorable consequences which could result by reason of the uncertain meaning of section 189a., independent opportunities for hearing are spelled out in sections 185, 193 and 194. This is done with a view toward establishing hearing procedures which are flexible enough to optomize the balance among public participation, accuracy of decisionmaking and efficiency of process. Unencumbered by the confusion surrounding the interpretation of section 189a., the Commission is free to establish rules and regulations on hearings for standardized plants considering only the applicability of the Administrative Procedure Act and established case law. In this circumstance, the Commission has a range of options to adopt rules which could establish a hearing process as simple as requiring only written submission of the entire case or as complex as the formalzied hearing process now used by the Commission pursuant to section 189a. By separately providing the opportunity for hearing under sections 185, 193 and 194, use of the formal procedures currently employed by the Commission under 189a. is not required, but, on the other hand, is not precluded. Thus, under this proposal, the advantage of flexibility is gained and the potential for use of procedures pursuant to 189a. are not lost. This type of flexibility is necessary to assure that procedures can be developed commensurate with the evolution of standardization.

The new subsection c. also provides that after issuance of a combined construction permit and operating license for a standardized nuclear power plant, the Commission shall assure through inspections and tests that construction and operation are conducted in conformity with the combined construction permit and operating license. The principal purpose of this provision is to guarantee that the conceptual design submitted is the one that is actually put in place for operation. It is anticipated that the NRC will conduct its inspections and test during both construction and preoperational testing. Additionally, prior to full power ascension, pursuant to appropriate rules and regulations, the utility would certify to the Commission that the plant had been constructed and would operate in conformity with the combined construction permit and operating license.

Section 102. Early Site Approval

This is a new section 193 which authorizes the approval of one or more sites for nuclear power generation facilities prior to the filing of any application to construct or operate such facility or facilities. The purpose of this authorization is to permit the resolution of site-specific questions at an early stage in the licensing process. This would serve to focus public participation on a crucial aspect of the overall facility planning and construction process at an early point in time when public participation can be most effective. This provision is an integral part of the effort to promote the early, effective and efficient resolution of issues in the licensing process.

Subsection a. of section 193 provides that an applicaton for early site approval may be filed by any Federal, State, regional or local governmental agency, or a utility, and the NRC is authorized to issue a site permit even though no application for a construction permit or a combined construction permit and operating license has been filed. This provision permits an early and specific focus on the suitability of a site for nuclear power plant construction without requiring the devlopment of custom design.

Subsection b. of section 193 provides for the waiving of fees for an application for a site permit, an amendment, or a renewal of a site permit under section 193 and provides that the Commission is authorized to allocate the costs among applicants which later propose to use the approved site. The early development of sites is essential to the overall standardization program and can materially enhance the use of time and resources of the Commission.

Subsection c. of section 193 provides that each application under subsection a. shall contain such information as is required by the Commission in its rules and regulations to determine the suitability of the site for its intended use. It is currently envisioned that the application would set forth an envelope of plant parameters including: (1) The number, type or types and thermal power level of the facilities with respect to which the application for site approval is made; (2) the boundaries of the site; (3) the proposed general location of each facility on the site; (4) the proposed maximum levels of radiological and thermal effluents that each such facility will produce; (5) the

type or types of cooling systems, intake and outflow, that may be employed by each facility; (6) the seismic, meteorological, hydrologic, and geologic characteristics of the proposed site as well as population density of the surrounding area; and (7) such other information as the Commission may by rule or regulation require. By describing the site in such a way, the Commission could determine the site suitability for one or several generic designs that may be developed prusuant to section 194, the provision for standardized plant designs.

Subsection d.(1) of section 193 authorizes the Commission to approve an application and issue a site permit with appropriate conditions if, after considering all the information in the application and providing an opportunity for a public hearing, the NRC finds that the proposed site is suitable for the construction and operation of the type of facility described in the application consistent with the public health and safety. The opportunity for hearing and the hearing, if held, would be in accordance with the rules and regulations of the Commission,the appropriate provisions of the Administrative Procedure Act and applicable case law.

Subsection d.(2) of section 193 provides that any final determination of the Commission on an application filed under this section shall be a final order of the Commission for the purposes of judicial review. This provision specifies the point of time in the administrative process when review by the courts is appropriate.

Subsection e.(1) of section 193 provides that a site permit shall be valid for a facility to be constructed on the site if an application has been filed within a period of ten years from the date of issuance of the site permit. The effect of this provision is that the rights accruing under a site permit are effectively exercised upon the filing of either a construction permit or a combined CP/OL application. In such a case, a request for renewal would be unnecessary to continue the effectiveness of the site permit.

Subsection e.(2)(A) of section 193 authorizes the Commission to renew a site permit for not less than five or more than ten years from the date of renewal. Renewal would be based only upon the application of a permit holder. The minimum period of five years is set to assure that the resources used to review a renewal request are directed toward meaningful results. For example, allowing repeated renewals for only six months or a year could cumulatively tax the resources of the agency and industry alike. Moreover, it is contemplated that information necessary to form a sound basis for the decision to renew for periods of five to ten years will be readily available and well within the state-of-the-art.

Subsection e.(2)(B) of section 193 sets out the criteria the Commission shall apply in deciding whether to renew a site permit. In the absence of significant new information relevant to the site, and in the absence of a showing that the site will not comply with this Act or NRC regulations, it is mandatory that the Commission renew the site permit.

Subsection f. of section 193 assures that a site aproved under this section may be used for any other purpose.

Subsection g. of section 193 provides for a request to the Commission for a determination with respect to limited aspects of the suitability of a site for its intended purpose. This provision assures that the Act will not be construed as eliminating the effect of current Commission rules and regulations concerning limited site suitability, 10 CFR 2.600 *et seq.*

Section 103. Approval of Standardized Facility Designs

This is a new section 194, which provides for approval of standardized nuclear power plant designs. As with early site approvals, this section is intended to facilitate early resolution of design related issues with full opportunity for participation by interested persons. Although the NRC currently has procedures for approving standardized designs, this section gives explicit statutory support to the standardization concept and establishes requirements for NRC approval of standardized facility design. This section will encourage the development and use of standardized designs, will enhance safety, and will contribute to a better utilization of time and resources. A key incentive is the provision allowing the NRC initial waiver of application and issuance fees and allocation of those fees to users.

Because of the dynamic state of the technology and the variety of circumstances in which the standardization concept may be applied, a technical definition and explication of standardization in the Bill would be inappropriate. The flexibility to deal with this problem could be better accommodated in the Commission's rules and regulations. For the purposes of this section and this Bill, however, it is generally contemplated that a standardized design will be an essentially complete final design for a whole nuclear power plant usable at multiple sites. The final design should be described in such a way as to provide a reciprocal envelope of parameters for sites selected pursuant to section 193 to assure that the plant could be constructed on a site of given general characteristics. Typically, a final design should be described in such a manner that it could be used at most sites with a minimum of adaptions because of specific site characteristics. The Commission contemplates and encourages development and use of whole plant standardized designs as an effective means of improving both efficiency and the public health and safety.

The application requirements for approval of a standardized design will be set out in the Commission's rules and regulations. If, after NRC review of the information in the application, and after providing the opportunity for a public hearing, the Commission determines that the design is suitable for construction and operation, it will issue an approval and the design may be banked for future use. Regarding the combination of a pre-approved standardized design with a pre-approved site, it is contemplated that there may be a hearing if there are outstanding issues, i.e., issues raised by the matching of the site with the design or by significant new information which has come to light since either the site or design hearings. However, issues would not trigger new opportunities for hearing at the time the site and design are matched unless it could be demonstrated that, through the exercise of diligence, the basis for such issues was not and could not have been known at the time when site hearings or design hearings were appropriate.

Subsection a. of section 194 authorizes the NRC to approve standardized designs even though no application for a construction permit or combined construction permit and operating license has been filed by an applicant. This provision permits design applications and approvals to be made before initiation of construction of a nuclear plant. It is a key feature in removing design review and approval from the construction schedule phase.

Subsection b. of section 194 provides that notwithstanding section 161w. of the AEA or the Independent Officers Appropriation Act of 1952, no application filing or issuance fees shall be required for an application for approval or for an amendment or renewal of an approval of a complete standardized facility. The NRC is authorized to allocate the costs ordinarily defrayed by fees collected among future applicants for permits or

licenses which propose to use the approved standardized design. This provision is added as an incentive to vendors and architect-engineer firms to develop and seek approval for standardized designs. However, if fees cannot be defrayed because a design is not used during the initial ten year approval, the applicant must pay the full amount plus accrued interest.

Subsection c. of section 194 provides that applications for standardized design approval shall be in writing and shall contain information necessary to enable the Commission to determine the suitability of the design for its intended purpose. The information should constitute an essentially complete final design for a whole nuclear power plant useable at multiple sites.

Subsection d.(1) of section 194 authorizes the Commission to approve an application and issue a standardized design approval with appropriate conditions if, after considering all the information in the application and providing an opportunity for a public hearing, the NRC finds that the design is suitable for the construction and operation of the type of facility described in the application consistent with the public health and safety. The opportunity for hearing and the hearing, if held, would be in accordance with the rules and regulations of the Commission, the appropriate provisions of the Administrative Procedure Act and applicable case law.

Subsection d.(2) of section 194 provides that any final determination of the Commission on an application filed under this section shall be a final order of the Commission for the purposes of judicial review. This provision specifies the point of time in the administrative process when review by the courts is appropriate.

Subsection e.(1) of section 194 provides that a design approval shall be valid for a facility to be constructed on the site if an application has been filed within a period of ten years from the date of issuance of the design approval. The effect of this provision is that the rights accruing under a design approval are effectively exercised upon the filing of either a construction permit or a combined CP/OL application. In such a case, a request for renewal would be unnecessary to continue the effectiveness of the design approval.

Subsection e.(2)(A) of section 194 authorizes the Commission to renew a design approval for not less than five or more than ten years from the date of renewal. Renewal would be based upon the application of a permit holder. The minimum period of five years is set to assure that the resources used to review renewal requests are directed toward meaningful results. For example, allowing renewals for only six months or a year could cumulatively tax the resources of the agency and industry alike. Moreover, it is contemplated that information necessary to form a sound basis for the decision to renew for periods of five to ten years will be readily available and well within the state-of-the-art.

Subsection e.(2)(B) of section 194 sets out the criteria the Commission shall apply in deciding whether to renew a design approval. Renewal shall be granted unless it can be demonstrated that the design will not comply with the Atomic Energy Act or the Commission's applicable regulations in existence at the time that renewal is requested or that without a change to the design the overall risk of plant operation to the public health and safety, or common defense and security, will be substantially greater than that estimated to exist at the time of the initial issuance of the approval for which renewal is applied and the design change is necessary to bring the plant within acceptable levels of risk. This provision allows for updating designs at the time a request for renewal of an approval is made.

Section 104. Stability of Standardized Plant Design

Section 196 establishes a standard for providing stability of standardized plant designs once those designs have been approved. The standards set forth in section 196 are essentially the same as the standards set forth for renewals under section 194 except that the application of the standard is to plants which have already been approved and are not being considered for renewal, or are under construction or in operation. Section 196 also permits the licensee to make voluntary design changes subject to appropriate Commission review for the purpose of improving plant safety or operations. This provision would allow changes to be made as appropriate and necessary to conform with emerging codes and technological improvements. The key element of this section is the emphasis on overall risk of plant operation as the standard for safety.

This section provides protection from unnecessary piecemeal changes for standardized designs giving finality to design approvals and, therefore, greater certainty in the stability of the review process. This section should serve as an incentive for the development and use of standardized designs.

BILLING CODE 7590-01-M

DRAFT BILL

To amend the Atomic Energy Act of 1954, as amended, to improve the nuclear siting and licensing process, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Nuclear Standardization Act of 1982."

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FINDINGS AND PURPOSES

SEC. 2. (a) The Congress, recognizing that a clear and coordinated energy policy consistent with public health and safety must include an effective and efficient licensing process for siting, construction, and operation of nuclear power reactors which meet applicable criteria, finds and declares that:

(1) standardization of nuclear power plant designs can enhance the public health and safety;

(2) the licensing and construction of nuclear power plants should be facilitated by the use of previously approved standardized plant designs which reduce the need for individual plant licensing reviews;

(3) the national interest requires improved planning for future energy supply and demand;

(4) interstate commerce is substantially affected by the siting, construction, and operation of nuclear power reactors;

(5) the national interest requires an opportunity for public participation in siting and licensing of nuclear power reactors;

(6) it is efficient and in the public interest for the Nuclear Regulatory Commission to rely upon determinations respecting the need for new electric generating facilities made by competent Federal, State or regional authorities;

(7) it is in the national interest that planning for energy facility siting and need for power determinations be made consistent with national and regional energy needs;

(8) the licensing process should produce greater stability in licensing standards and criteria for standardized plants;

(9) licensing decisions should be rendered in a timely manner in order to assure an adequate and reliable source of electricity consistent with public health and safety;

(10) it is appropriate and in the public interest for the Commission to consider the economic consequences of its regulatory practices;

(11) licensing decisions should be made final at the earliest feasible phase of the licensing process and should not be subject to duplicative adjudication in the absence of a showing that without a change to the design, the overall risk of plant operation to the public health and safety, or the common defense and security will be substantially greater than that estimated to exist at the time of the initial issuance of the design approval and the design change is necessary to bring the plant within acceptable levels of risk;

(12) procedures should be adopted to permit site selection and approval at the earliest practicable time in advance of a commitment to a specific facility design and in advance of an application for a construction permit;

(13) the Nuclear Regulatory Commission should continue to exercise its independent statutory responsibilities to protect the public health and safety and the common defense and security, taking into account that perfect safety is an unattainable goal for any energy source and that the cost of safety requirements should

be given consideration consistent with the public health and safety.

(b) The purposes of this Act are:

(1) to improve the effectiveness and efficiency of the nuclear power reactor licensing process, through encouraging the use of standardization of designs for nuclear power plants, consistent with sound public health and safety principles;

(2) to provide for early site selection and approval;

(3) to improve the stability of licensing standards and criteria for standardized plants; and

(4) to improve the quality of public participation in the nuclear power plant licensing process.

TITLE I - PLANNING, SITING, AND LICENSING

CONSTRUCTION PERMITS AND OPERATING LICENSES

SEC. 101. Section 185 of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"SEC. 185. CONSTRUCTION PERMITS AND OPERATING LICENSES. --

"a. All applicants for licenses to construct or modify production or utilization facilities shall, if the application is otherwise acceptable to the Commission, be initially granted a construction permit. Upon the completion of the construction or modification of the facility, upon the filing of any additional information needed to bring the original application up to date, and upon finding that the facility authorized has been constructed and will operate in conformity with the application as amended and in conformity with the provisions of this Act and of the rules and regulations of the Commission, and in the absence of any good cause being shown to the Commission why the granting of an operating license would not be in accordance with the provisions of this Act, the Commission shall thereupon issue an operating license to the applicant. For all other purposes of this Act, a construction permit is deemed to be a 'license'.

"b. In making a determination on the issuance of any permit or license, the Commission is authorized to rely upon the certification of need for power made by the Federal Energy Regulatory Commission or its successor. If the Commission declares its reliance upon such certification, it shall constitute a definitive determination of need for the

power to be provided by the facility for the purposes of any other provision of Federal law administered by the Commission.

"c. Notwithstanding any other provision of this section, the Commission shall issue to the applicant a combined construction permit and operating license for a standardized nuclear power plant after providing an opportunity for public hearing, if the application contains sufficient information to support the issuance of both a construction permit and operating license in accordance with the rules and regulations of the Commission and to enable the Commission to make the determinations relating to the common defense and security and the public health and safety required by sections 103 and 182. After issuance of a combined construction permit and operating license for a standardized nuclear power plant, the Commission shall assure through inspections and tests that construction and operation is conducted in conformity with the application and the combined construction permit and operating license consistent with the rules and regulations of the Commission. Prior to the commencement of operation, the Commission shall find that the facility has been constructed and will operate in conformity with the combined construction permit and operating license, the provisions of this Act, and the rules and regulations of the Commission".

EARLY SITE APPROVAL

SEC. 102. The Atomic Energy Act of 1954, as amended, is amended by adding a new section 193 to read as follows:

"SEC. 193. EARLY SITE APPROVAL. --

"a. The Commission is authorized to issue a site permit approving use of a site or sites for one or more utilization or production facilities upon the application of any Federal, regional, State or local governmental agency, or a utility, notwithstanding the fact that no application for a construction permit or a combined construction permit and operating license for such facility or facilities has been filed. For all other purposes of this Act, a site permit is a 'license'.

"b. Notwithstanding section 161 w. of this Act or the Independent Offices Appropriation Act of 1952, no application filing or issuance fees shall be required for an application for a site permit, an amendment, or a renewal of a site permit under this section. The Commission is authorized to allocate the costs that would otherwise have been defrayed by fees required of applicants under this section among applicants for permits or licenses which propose to use the approved site. If no application for construction of a nuclear power plant is filed within the initial ten year approval period, the fee shall become immediately due and payable by the applicant for the site permit.

"c. Each application under subsection a. shall be in writing and shall contain information required by the Commission in its rules and regulations to determine the suitability of the site for its intended purpose.

"d. (1) If, after considering all information submitted in the application, and after providing an opportunity for public hearing, the Commission determines that the proposed site is suitable for the construction and operation of the facility or facilities described in the application consistent with public health and safety, it shall approve the application and issue a site permit with appropriate conditions as necessary.

"(2) Any final determination of the Commission on an application filed pursuant to this section shall be a final order of the Commission for purposes of judicial review.

"e. (1) A site permit issued by the Commission under this section shall be valid with respect to an application for a construction permit or a combined construction permit and operating license which meets the conditions of the site permit and is filed within a period of ten years from the date of issuance of the site permit.

"(2) (A) No less than twelve or more than thirty-six months prior to the expiration of the ten year period, the holder of the site permit may apply for a renewal of the site permit. Upon review by the Commission, the Commission may renew for good cause shown a site permit for an additional period of time of not less than five or more than ten years from the date of renewal, pursuant to appropriate Commission rules and regulations.

"(B) Upon application for renewal of a site permit pursuant to subparagraph (A), the Commission shall renew the site permit unless it finds that significant new information relevant to the site has become available and it is likely that the site will not comply with this Act or the Commission's rules and regulations for protection of the public health and safety or the common defense and security.

"f. Approval of a site under this section shall not preclude its use as a site for an alternate or modified type of energy facility or for any other purpose. Other uses may, however, affect the validity of the site permit or the conditions of its use for nuclear power plant siting as the Commission may determine.

"g. Nothing in this section shall preclude the Commission from inviting a request for a determination with respect to limited aspects of the suitability of the site for its intended purpose".

APPROVAL OF STANDARDIZED PLANT DESIGNS

SEC. 103. The Atomic Energy Act of 1954, as amended, is amended by adding a new section 194 to read as follows:

"SEC. 194. APPROVAL OF STANDARDIZED PLANT DESIGNS. --

"a. The Commission is authorized and directed to estabish procedures permitting the approval of standardized nuclear power plant designs, notwithstanding the fact that no application for a construction permit or combined construction permit and operating license for such facility has been filed.

"b. Notwithstanding section 161 w. of this Act or the Independent Offices Appropriation Act of 1952, no application filing or issuance

fees shall be required for an application for a design approval, an amendment, or a renewal of an approval of a complete standardized plant design under this section. The Commission is authorized to allocate the costs that would otherwise have been defrayed by fees required of applicants under this section among applicants for permits or licenses which propose to use the approved standardized plant design. If no application for construction of a nuclear power plant is filed within the initial ten year approval period, the fee shall become immediately due and payable by the applicant for the design approval.

"c. Each application for an approval under subsection a. shall be in writing and shall contain information required by the Commission in its rules and regulations to determine the suitability of the design for its intended purpose.

"d. (1) If, after considering all information submitted in the application, and after providing an opportunity for public hearing, the Commission determines that the proposed standardized plant design is suitable for the construction and operation of the facility or facilities described in the application consistent with public health and safety, it shall approve the application and issue an approval with appropriate conditions as necessary.

"(2) Any final determination of the Commission on an application filed pursuant to this section shall be a final order of the Commission for purposes of judicial review.

"e. (1) Any approval issued by the Commission under this section shall be valid with respect to an application for a construction permit or a combined construction permit and operating license which meets the

conditions of the approval and is filed within a period of ten years from the date of approval.

"(2) (A) No less than twelve or more than thirty-six months prior to the expiration of the ten year period provided under paragraph (1), the entity to whom the approval was issued may apply for renewal of the approval. Upon review by the Commission, the Commission may renew the approval for an additional period of time of not less than five or more than ten years from the date of renewal pursuant to such rules and regulations as the Commission may deem appropriate.

"(B) Upon application for renewal of an approval issued pursuant to subsection a., the Commission shall renew the approval unless it finds that significant new information relevant to the design has become available subsequent to its approval and that as a result it is likely that: (1) the design will not comply with this Act or the Commission's applicable regulations; or (2) without a change to the design, the overall risk of plant operation to the public health and safety, or the common defense and security will be substantially greater than that estimated to exist at the time of the initial issuance of the approval for which renewal is applied and the design change is necessary to bring the plant within acceptable levels of risk".

STABILITY OF STANDARDIZED PLANT DESIGNS

SEC. 104. The Atomic Energy Act of 1954, as amended, is amended by adding a new section 196 to read as follows:

"SEC. 196. STABILITY OF STANDARDIZED PLANT DESIGNS. --

"No licensee of, or license applicant for a production or utilization facility shall be required to change an approved final standardized plant design unless it can be demonstrated that without a change to the design, the overall risk of plant operation to the public health and safety, or the common defense and security will be substantially greater than that estimated to exist at the time of the initial issuance of the approval and the design change is necessary to bring the plant within acceptable levels of risk. This provision shall not preclude the imposition of design change requirements for renewal of and approval of a design nor shall it preclude a licensee from making voluntary design changes subject to appropriate Commission review for the purpose of improving plant safety or operations".

TITLE II -- CONFORMING AMENDMENTS

ANTITRUST PROVISIONS

SEC. 201. Section 105 c. of the Atomic Energy Act of 1954, as amended, is amended in the first sentence of paragraph (2) by inserting "and/" after the word "construct".

GENERAL PROVISIONS

SEC. 202. Section 161 o. of the Atomic Energy Act of 1954, as amended, is amended by inserting the words "or approvals authorized by sections 193 and 194" after the number "104".

REVOCATION

SEC. 203. Section 186 a. of the Atomic Energy Act of 1954, as amended, is amended by inserting the words "or section 193" after the words "section 182".

TITLE III -- EFFECTIVE DATES

SEC. 301. All sections of this Act shall take effect as of the date of enactment, and shall apply to all proceedings pending as of the date of enactment or commenced on or after the date of enactment.

COMPARATIVE DRAFT BILL

ATOMIC ENERGY ACT OF 1954, AS AMENDED

"SEC. 105. ANTITRUST PROVISIONS. -

* * *

"c. ***

"(2) Paragraph (1) of ~~this~~ subsection shall apply to an application for a license to construct and/ or operate a utilization or production facility under section 103: Provided, however, That paragraph (1) shall not apply to an application for a license to operate a utilization or production facility for which a construction permit was issued under section 103 unless the Commission determines such review is advisable on the ground that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous review by the Attorney General and the Commission under this subsection in connection with the construction permit for the facility".

SEC. 161. GENERAL PROVISIONS. - In the performance of its functions the Commission is authorized to -

* * *

"o. Require by rule, regulation, or order, such reports, and the keeping of such records with respect to, and to provide for such inspections of, activities and studies of types specified in section 31 and of activities under licenses issued pursuant to sections 53, 63, 81, 103, and 104, or approvals authorized by sections 193 and 194, as may be

necessary to effectuate the purposes of this Act, including section 105; and"

"SEC. 185. CONSTRUCTION PERMITS AND OPERATING LICENSES. --

"a. All applicants for licenses to construct or modify production or utilization facilities shall, if the application is otherwise acceptable to the Commission, be initially granted a construction permit. [The construction permit shall state the earliest and latest dates for the completion of the construction or modification. Unless, the construction or modification of the facility is completed by the completion date, the construction permit shall expire, and all rights thereunder be forfeited, unless upon good cause shown, the Commission extends the completion date.] Upon the completion of the construction or modification of the facility, upon the filing of any additional information needed to bring the original application up to date, and upon finding that the facility authorized has been constructed and will operate in conformity with the application as amended and in conformity with the provisions of this Act and of the rules and regulations of the Commission, and in the absence of any good cause being shown to the Commission why the granting of [a] an operating license would not be in accordance with the provisions of this Act, the Commission shall thereupon issue [a] an operating license to the applicant. For all other purposes of this Act, a construction permit is deemed to be a 'license'.

"b. In making a determination on the issuance of any permit or license, the Commission is authorized to rely upon the certification of

need for power made by the Federal Energy Regulatory Commission or its successor. If the Commission declares its reliance upon such certification, it shall constitute a definitive determination of need for the power to be provided by the facility for the purposes of any other provision of Federal law administered by the Commission.

"c. Notwithstanding any other provision of this section, the Commission shall issue to the applicant a combined construction permit and operating license for a standardized nuclear power plant after providing an opportunity for public hearing, if the application contains sufficient information to support the issuance of both a construction permit and operating license in accordance with the rules and regulations of the Commission and to enable the Commission to make the determinations relating to the common defense and security and the public health and safety required by sections 103 and 182. After issuance of a combined construction permit and operating license for a standardized nuclear power plant, the Commission shall assure through inspections and tests that construction and operation is conducted in conformity with the application and the combined construction permit and operating license consistent with the rules and regulations of the Commission. Prior to the commencement of operation, the Commission shall find that the facility has been constructed and will operate in conformity with the combined construction permit and operating license, the provisions of this Act, and the rules and regulations of the Commission".

"SEC. 186. REVOCATION. -

"a. Any license may be revoked for any material false statement in the application or any statement of fact required under section 182 or section 193, or because of conditions revealed by such application or statement of fact or any report, record, or inspection or other means which would warrant the Commission to refuse to grant a license on an original application, or for failure to construct or operate a facility in accordance with the terms of the construction permit or license or the technical specifications in the application, or for violation of, or failure to observe any of the terms and provisions of this Act or of any regulation of the Commission".

"SEC. 193. EARLY SITE APPROVAL. --

"a. The Commission is authorized to issue a site permit approving use of a site or sites for one or mure utilization or production facilities upon the application of any Federal, regional, State or local governmental agency, or a utility, notwithstanding the fact that no application for a construction permit or a combined construction permit and operating license for such facility or facilities has been filed. For all other purposes of this Act, a site permit is a 'license'.

"b. Notwithstanding section 161 w. of this Act or the Independent Offices Appropriation Act of 1952, no application filing or issuance fees shall be required for an application for a site permit, an amendment, or a renewal of a site permit under this section.

The Commission is authorized to allocate the costs that would otherwise have been defrayed by fees required of applicants under this section among applicants for permits or licenses which propose to use the approved site. If no application for construction of a nuclear power plant is filed within the initial ten year approval period, the fee shall become immediately due and payable by the applicant for the site permit.

"c. Each application under subsection a. shall be in writing and shall contain information required by the Commission in its rules and regulations to determine the suitability of the site for its intended purpose.

"d. (1) If, after considering all information submitted in the application, and after providing an opportunity for public hearing, the Commission determines that the proposed site is suitable for the construction and operation of the facility or facilities described in the application consistent with public health and safety, it shall approve the application and issue a site permit with appropriate conditions as necessary.

"(2) Any final determination of the Commission on an application filed pursuant to this section shall be a final order of the Commission for purposes of judicial review.

"e. (1) A site permit issued by the Commission under this section shall be valid with respect to an application for a construction permit or a combined construction permit and operating license which meets the conditions of the site permit and is filed within a period of ten years from the date of issuance of the site permit.

"(2) (A) No less than twelve or more than thirty-six months prior to the expiration of the ten year period, the holder of the site permit may apply for a renewal of the site permit. Upon review by the Commission, the Commission may extend for good cause shown or renew a site permit for an additional period of time of not less than five or more than ten years from the date of renewal, pursuant to appropriate Commission rules and regulations.

"(B) Upon application for renewal of a site permit pursuant to subparagraph (A), the Commission shall renew the site permit unless it finds that significant new information relevant to the site has become available and it is likely that the site will not comply with this Act or the Commission's rules and regulations for protection of the public health and safety or the common defense and security.

"f. Approval of a site under this section shall not preclude its use as a site for an alternate or modified type of energy facility or for any other purpose. Other uses may, however, affect the validity of the site permit or the conditions of its use for nuclear power plant siting as the Commission may determine.

"g. Nothing in this section shall preclude the Commission from inviting a request for a determination with respect to limited aspects of the suitability of the site for its intended purpose".

"SEC. 194. APPROVAL OF STANDARDIZED PLANT DESIGNS. --

"a. The Commission is authorized and directed to estabish procedures permitting the approval of standardized nuclear power plant

designs, notwithstanding the fact that no application for a construction permit or combined construction permit and operating license for such facility has been filed.

"b. Notwithstanding section 161 w. of this Act or the Independent Offices Appropriation Act of 1952, no application filing or issuance fees shall be required for an application for a design approval, an amendment, or a renewal of an approval of a complete standardized plant design under this section. The Commission is authorized to allocate the costs that would otherwise have been defrayed by fees required of applicants under this section among applicants for permits or licenses which propose to use the approved standardized plant design. If no application for construction of a nuclear power plant is filed within the initial ten year approval period the fee shall become immediately due and payable by the applicant for the design approval.

"c. Each application for an approval under subsection a. shall be in writing and shall contain information required by the Commission in its rules and regulations to determine the suitability of the design for its intended purpose.

"d. (1) If, after considering all information submitted in the application, and after providing an opportunity for public hearing, the Commission determines that the proposed standardized plant design is suitable for the construction and operation of the facility or facilities described in the application consistent with public health and safety, it shall approve the application and issue an approval with appropriate conditions as necessary.

"(2) Any final determination of the Commission on an application filed pursuant to this section shall be a final order of the Commission for purposes of judicial review.

"e. (1) Any approval issued by the Commission under this section shall be valid with respect to an application for a construction permit or a combined construction permit and operating license which meets the conditions of the approval and is filed within a period of ten years from the date of approval.

"(2) (A) No less than twelve or more than thirty-six months prior to the expiration of the ten year period provided under paragraph (1), the entity to whom the approval was issued may apply for renewal of the approval. Upon review by the Commission, the Commission may renew the approval for an additional period of time of not less than five or more than ten years from the date of renewal pursuant to such rules and regulations as the Commission may deem appropriate.

"(B) Upon application for renewal of an approval issued pursuant to subsection a., the Commission shall renew the approval unless it finds that significant new information relevant to the design has become available subsequent to its approval and that as a result it is likely that: (1) the design will not comply with this Act or the Commission's applicable regulations; or (2) without a change to the design, the overall risk of plant operation to the public health and safety, or the common defense and security will be substantially greater than that estimated to exist at the time of the initial issuance of the approval for which renewal is applied and the design change is necessary to bring the plant within acceptable levels of risk".

"SEC. 196. STABILITY OF STANDARDIZED PLANT DESIGNS. --

"No licensee of, or license applicant for a production or utilization facility shall be required to change an approved final standardized plant design unless it can be demonstrated that without a change to the design, the overall risk of plant operation to the public health and safety, or the common defense and security will be substantially greater than that estimated to exist at the time of the initial issuance of the approval and the design change is necessary to bring the plant within acceptable levels of risk. This provision shall not preclude the imposition of design change requirements for renewal of and approval of a design nor shall it preclude a licensee from making voluntary design changes subject to appropriate Commission review for the purpose of improving plant safety or operations".

COMMISSIONER ROBERTS' SEPARATE VIEWS
REGARDING THE PROPOSED NUCLEAR STANDARDIZATION ACT OF 1982

Administrative agencies generally should strive for three goals in their decisionmaking process: efficiency, accuracy, and acceptability. I believe that this proposed legislation will admirably assist the NRC in achieving these goals. The procedures outlined in the proposed Act enable the agency (1) to undertake early site reviews and issue early site permits if the sites are found satisfactory, (2) to combine the construction permit and operating license reviews, and (3) to review and approve, if satisfactory, standardized plant designs. The agency's efficiency will obviously be increased with no concomitant adverse effect on the high level of accuracy already existent in the agency's decisions or on the acceptability of the agency's decisions. Moreover, like Commissioner Ahearne, I believe that the proposed Act will enhance safety through its provisions for plant standardization. Enhanced safety should flow from the greater familiarity of both licensees and the NRC with fewer plant designs. Thus, I conclude that the proposed Act furthers both the general administrative and specific safety goals of the NRC.

As noted by Commissioner Ahearne, any licensing reform legislation inevitably touches upon the NRC hearing process. This proposed legislation is no different. I believe that the proposed Act's provision for more flexible hearing procedures will greatly enhance the efficiency and acceptability of the agency's decisions without adversely affecting their accuracy. It is my observation that the agency's present highly-formalized, court-room procedures frustrate those members of the public who genuinely want to learn about the health and

environmental effects of generating electricity by nuclear reactors and assist those who wish to delay the licensing of these reactors. More flexible hearing procedures should enable members of the public to explore their concerns without the present interference of traditional trial-type procedures.

Due to my interest in extending informal hearing procedures to situations not covered in the proposed legislation, I would like to receive comments on what types of hearing procedures Section 189a of the Atomic Energy Act (AEC) does require. In my mind, the assertion in the proposed legislation that the section's interpretation is encumbered with confusion is an understatement. Since coming to the Commission, I have understood from various sources (1) that Section 189a does not, on its face, require adjudicatory hearings, (2) that the legislative history of this section does not indicate that Congress intended NRC hearings to be adjudicatory, (3) that while the legislative history of the first sentence in Section 189a does not suggest adjudicatory hearings, the legislative history of the second and third sentences do suggest Congress intended adjudicatory hearings, (4) that inaction by the Joint Committee on Atomic Energy demonstrates that Congress intended NRC hearings to be adjudicatory, and (5) that the Joint Committee on Atomic Energy concluded that the Atomic Energy Act (AEA) did not require adjudicatory hearings and thus that the AEC (the NRC's predecessor) did not need legislation to change the AEA in order to hold informal hearings. I am thus interested in the views of the commenters on these interpretations and on what precisely Section 189a requires. Beyond that, I am interested in the views of the commenters on whether legislation is needed to protect the Commission from court challenges if the Commission changes its rules to permit informal hearings.

Separate Views, and Request for Comments, by Commissioner Ahearne

In addressing a legislative proposal, the major question should be what does the proposal accomplish -- in this case, what could be done if this proposal were law that cannot be done now.

The present proposal would make the following changes:

(1) Modify the fee schedule.

(2) Rely on the Federal Energy Regulatory Commission for need-for-power determinations.

(3) Provide for a one-stop construction and operating license.

(4) Provide for a standard plant approval.

(5) Provide for an early site permit.

(6) Allow modification of the hearing procedures now in use.

The NRC can almost do (3) to (6) by appropriate rule changes. However, I believe the current proposal can have two significant benefits: it can give strong emphasis to standardized plants and could serve to improve the hearing process.

The concept of standardization of plants has been under discussion for at least fifteen years. During this time, there has been continuing expressions of support from the AEC and the NRC and, at various times, industry interest. As the once thought large market for nuclear plants evaporated, the interest on the part of the industry similarly declined. During the last several years, several licensing reform bills have been proposed, some including support for standardization. More recently, the Office of Technology Assessment produced a study supporting standardization. It is difficult to analytically demonstrate that standardization will improve safety. I personally have reached the conclusion it will. I believe that safety improvement will come from having a few types of plants built and operated, manufacturers, construction managers, and operators becoming more familiar with those plants, and allowing NRC staff review to focus upon more critical questions rather than, for the sake of completeness, going through extensive reviews of lesser important items. Consequently, I have concluded that for purposes of safety it is appropriate for the NRC to

strongly support moving towards requiring standardization. This is particularly true at a time when a decreasing potential market and increasing financial pressures make taking shortcuts in maintenance and operation more likely.

Improving the hearing process is a goal long sought after. Therefore, licensing reform legislation always addresses the NRC hearing process. Section 181 of the Atomic Energy Act requires that "the provisions of the Administrative Procedure Act shall apply to all agency actions taken under this act . . . ." Section 189a of the Atomic Energy Act requires "[i]n any proceeding under this Act for the granting, suspending, revoking, or amending of any license or construction permit . . . the Commission shall grant a hearing upon the request of any person whose interest may be affected by the proceeding. . . . The Commission shall hold a hearing after thirty days notice and publication once in the Federal Register, on each application under Section 103 or 104b for a construction permit for a facility . . . . In cases where such construction permit has been issued following the holding of such a hearing, the Commission may, in the absence of a request therefore by any person whose interest may be affected, issue an operating license without. . . a hearing but upon thirty days notice and publication once in the Federal Register of its intent to do so." Section 189a has been interpreted by many within and without the NRC to require a formal adjudicatory hearing for granting of construction permits and operating licenses for nuclear power reactors. Substantial debate has focused on whether the statute or the legislative history developed prior to passage of the Act and its amendments support such a requirement. Nevertheless, for several decades both the NRC and its predecessor, the AEC, have supported the position through the actual practice of its boards and in a brief filed with the Court of Appeals that 189a does require a formal on-the-record adjudicatory hearing for the licensing of power reactors. Consequently, a modification of this practice is a substantial policy issue and one which I believe now requires a change in the Atomic Energy Act to assure that any modification will withstand legal challenge.

Consequently, I believe any final package that the Commission would propose supporting standardization should include an explicit discussion and description of the revised licensing hearing process, including a proposed amendment to the Atomic Energy Act to amend 189a. I would be interested in receiving public comment on the hybrid

hearing that has been discussed in the Senate: initial filings are based upon the information available and are done in writing; subsequent issues may be handled in writing or by oral argument; and cross-examination may be allowed, depending upon the type of issue that is being examined.

In addition, I have several modifications to the proposal which, although not accepted by the Commission, I believe should be considered:

(1) Since this bill would strongly support standardized plants, it seems odd not to include a definition of standardization. I would accept Commissioner Gilinsky's proposed definition:

> An essentially complete final design for a whole nuclear power plant, intended for use at multiple sites.

I would be interested in comments on this definition or suggestions of another.

(2) Even if the pre-approved site and standardized design approaches were accepted, the NRC must have procedures for use when a non-standardized plant is proposed for use on a pre-approved site, and for when a standardized plant is proposed for use on a site that has not been reviewed. These procedures should be outlined. I would also outline revised procedures for a non-standardized plant used at a site that has not been reviewed since I believe the entire formal hearing process should be modified and legislation would help avoid extended legal battles.

(3) I would modify Subsection e.(2)(B) of Section 194, the associated section-by-section analysis, and (10) of the Findings and Purposes as follows:

> "(B) Upon application for extension or renewal of an approval issued pursuant to subsection a., the Commission shall extend or renew the approval unless it finds that significant new information relevant to the design has become available subsequent to its approval and that as a result it is likely that: (1) the design will not comply with this Act or the Commission's applicable regulations; or (2) ~~without a change to the design, the overall risk of plant operation to the public health and safety,~~

~~or-the-common-defense-and-security-will-be substantially-greater-than-that-estimated-to exist-at-the-time-of-the-initial-issuance-of the-approval-for-which-renewal-is-applied-and~~ the design change is necessary to bring the plant within acceptable levels of risk."

This deletion is appropriate because the struck section adds nothing. This result follows from the form of the requirement: renewal will be granted unless "(2) without . . . is applied and the design change . . . risk." (emphasis added) According to the proposed provision, both factors are necessary for renewal not to be granted. Thus, if the NRC does not find such change is necessary to bring the plant within an acceptable level of risk, then renewal will be granted, even if without a change the overall risk will be substantially greater than originally thought. However, under the general requirements of the Atomic Energy Act the NRC cannot grant approval if we find that the plant is not within acceptable levels of risk. Thus if "the design change is necessary to bring the plant within acceptable levels of risk," renewal will not be granted whether or not the overall risk is substantially greater. Therefore, the struck phrase is irrelevant at best and probably misleading.

COMMISSIONER GILINSKY'S SEPARATE VIEWS REGARDING THE PROPOSED NUCLEAR STANDARDIZATION ACT OF 1982

I agree with the proposal to broaden the basis upon which early site approvals can be obtained, by authorizing entities other than the utility which will build a reactor, such as the Federal, State, or local governments, to seek approval of a site well in advance of the time when the utility would generally apply for such approval. However, it is not clear to me that the other provisions of the proposed bill are necessary. Indeed, it seems that the only objective of this legislation, apart from broadening early site approvals, is to undermine the Commission's hearing procedures. If that is so, this bill is mistitled.

As far as I can determine, the Atomic Energy Act presently authorizes the Commission to take virtually all the actions which would be authorized by the proposed Nuclear Standardization Act of 1982.[1] It is not the Commission's lack of legal authority which is holding back standardization. Indeed, several reactor vendors and

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[1] The only exception is the proposal to postpone payment of application fees for early site approval reviews and standardized plant design reviews until the site or design is actually used or until NRC approval lapses. This modest encouragement to applicants hardly justifies enactment of such an extensive bill.

architect-engineering firms have already asked the Commission to approve various standardized designs. It seems to me that the Commission could make better use of its time by reviewing its regulations and the staff's practices than by developing legislation.

Going beyond this, I would note that the Commission could, by amending its regulations, go much further than the proposed bill and require that all applicants, and not just those using a standardized design, submit an essentially complete plant design as part of the construction permit application. The Operating License hearing could then be limited to issues which were not covered in the Construction Permit proceeding or which relate to the construction of the plant. This approach would, for all practical purposes, be the equivalent of one-step licensing.

I would be interested in comments which discuss whether the objectives of the proposed bill could be more satisfactorily achieved by revising the Commission's regulations and the staff's procedures. I would also be interested in views which address the issue of restructuring the present construction permit and operating license hearings by requiring an essentially complete design to be submitted with the application for a construction permit.

Assuming that some version of the proposed bill will be submitted to Congress, I would be interested in comments on several aspects of, and modifications to, the bill drafted by the Commission's task force:[2]

(1) The background statement asserts that the type of hearing required by Section 189a of the Atomic Energy Act is uncertain and that, in order to avoid this uncertainty, the Commission should have the discretion to prescribe any type of hearing it wishes for standardized plant design applications, subject only to the limitations of the Administrative Procedure Act.

The statement's remarks on the interpretation of section 189a as it relates to power reactor initial licensings are, at best, disingenuous. As a number of members of the Regulatory Reform Task Force have noted, the Commission has for 28 years consistently interpreted section 189a to require adjudicatory hearings in power reactor initial licensing cases. Throughout this period, the

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2 The exact language of the modifications to sections 2, 102, 103 and 104, is shown in the mark-up of those sections which follows.

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(2)

Congress, and most particularly the Joint Committee on Atomic Energy, was aware of this agency's practice. It would take an act of Congress to overturn this long standing interpretation of the Act. The approach advocated in the background statement would only serve to increase, rather than to reduce, confusion.

If the hearing requirements of the Atomic Energy Act are to be revised, it should as part of a systematic review of the hearing process rather than as a back-stairs effort to dismantle the hearing process.

(2) Section 101 of the bill initially provided that the Commission could rely on a need for power finding made by any governmental entity which has a colorable interest in the plant. The Commission has agreed to my suggestion that the bill should instead vest the Federal Energy Regulatory Commission ("FERC") with the responsibility for making this finding. As the Federal agency with broad responsibility for the economic regulation of power generation, FERC is in the best position to evaluate the need for power in terms of the Federal government's concerns. It should be noted that this finding would in no way supplant the

various findings regarding need for a plant which are currently required under applicable state law.

(3) Section 102 should be modified to require that issues relating to the match between an early approved site and the reactor design be heard in the construction permit hearing. A separate hearing to resolve these issues should be required where a plant with a standardized design is to be built at a site which received an early NRC approval.

(4) Section 102 provides that the Commission may postpone the collection of fees associated with the review of an early site approval application until an application to use the site is filed or until the site approval expires. This section should be amended to authorize the Commission to charge accrued interest on the postponed fees. Otherwise, applicants using sites which have received early approval will be the beneficiaries of a reduced fee schedule as a result of inflation.

(5) Section 103, which specifies when an applicant for an extension or renewal of an approval can be required to modify its design, should be changed

to provide that the Commission may require a standardized design to be modified not only where the design fails to comply with the Atomic Energy Act or the Commission's regulations, or where it is discovered to pose a greater risk than was originally estimated, but also where it is demonstrated that a change will reduce the overall risk of plant operation by some sufficiently large margin.

The approach taken by the proposed act appears to assume that there will be no significant improvements in knowledge or technology during the ten year life of the original license and that the level of risk found acceptable at the time of the original licensing will continue to be acceptable over the fifteen to twenty year term of an extended license. Since our experience tends to belie the notion that major improvements are unlikely, I would suggest that the act be modified to preserve the option of requiring some innovations where it can be shown that such changes will substantially reduce the overall risk of plant operation.

(6) In addition, Section 103 should, like Section 102, be modified to authorize the Commission to collect accrued interest on deferred licensing fees.

(7) A new section 104, defining "standardized design" to mean an essentially complete final design for a whole nuclear power plant, intended for multiple use should be added to the act. The proposed act currently defines this term only in the background statement. It would be better practice to define such a crucial term in the body of the statute.

(8) Section 105, which specifies when a licensee can be required to modify an approved final standardized design, should be amended to conform to the terms of section 103, as modified pursuant to paragraph five above.

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Commissioner Gilinsky's Modifications to the Proposed Standardization Act of 1982

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress, recognizing that a clear and coordinated energy policy consistent with public health and safety must include an effective and efficient licensing process for siting, construction, and operation of nuclear power reactors which meet applicable criteria, finds and declares that:

(1) the licensing and construction of nuclear power plants should be facilitated by the use of previously approved standardized plant designs which reduce the need for individual plant licensing reviews;

(2) the national interest requires improved planning for future energy supply and demand;

(3) interstate commerce is substantially affected by the siting, construction, and operation of nuclear power reactors;

(4) the national interest requires an opportunity for early public participation in siting and licensing of nuclear power reactors;

(5) it is efficient and in the public interest for the Nuclear Regulatory Commission to rely upon determinations respecting the need for new electric generating facilities made by competent Federal, State or regional authorities;

(6) it is in the national interest that planning for energy facility siting and need for power determinations be made consistent with national and regional energy needs;

(7) the licensing process should produce greater stability in licensing standards and criteria for standardized plants;

(8) licensing decisions should be rendered in a ~~more~~ timely manner in order to assure an adequate and reliable source of electricity consistent with public health and safety;

(9) it is appropriate and in the public interest for the Commission to consider the economic consequences of its regulatory practices;

(10) licensing decisions should be made final at the earliest feasible phase of the licensing process and should not be subject to duplicative adjudication in the absence of a showing that without a change to the design, (1) the design will not comply with this Act or the Commission's applicable regulations; (2) the overall risk of plant operation to the public health and safety, or the common ~~defense and~~ security will be significantly ~~substantially~~ greater than that estimated to exist at the ~~time~~ of the initial issuance of the ~~design~~ approval and the design change is necessary to bring the plant within acceptable levels of risk; or, (3) it can be demonstrated that the design change is necessary to reduce substantially the overall risk of plant operation.

(11) procedures should be adopted to permit site selection and approval at the earliest practicable time in advance of a commitment to a specific facility design and in advance of an application for a construction permit;

(12) the Nuclear Regulatory Commission should continue to exercise its independent statutory responsibilities to protect the public health and safety and the common defense and security, taking into account that perfect safety is an unattainable goal for any energy source and that the cost of safety requirements should be given consideration consistent with the public health and safety.

(b) The purposes of this Act are:

(1) to improve the effectiveness and efficiency of the nuclear power reactor licensing process, through encouraging the use of standardization of designs for nuclear power plants, consistent with sound public health and safety principles;

(2) to provide for early site selection and approval;

(3) to improve the stability of licensing standards and criteria for standardized plants; and

(4) to improve the quality of public participation in the nuclear power plant licensing process.

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EARLY SITE APPROVAL

SEC. 102. The Atomic Energy Act of 1954, as amended, is amended by adding a new section 193 to read as follows:

"SEC. 193. EARLY SITE APPROVAL. --

"a. The Commission is authorized to issue a site permit ~~for approval~~ approving use of a site or sites for one or more utilization or production facilities upon the application of any Federal, regional, State or

local governmental agency, or a utility, notwithstanding the fact that no application for a construction permit or a combined construction permit and operating license for such facility or facilities has been filed. For all other purposes of this Act, a site permit is a 'license'.

"b. Notwithstanding section 161 w. of this Act or the Independent Offices Appropriation Act of 1952, no application filing or issuance fees shall be required for an application for a site permit, or an amendment, extension or renewal of a site permit under this section. The Commission is authorized to allocate the costs, and the accrued interest thereon, that would otherwise have been defrayed by fees required of applicants under this section among applicants for permits or licenses which propose to use the approved site. If no application for construction of a nuclear power plant is filed within the initial ten year approval period, the fee, and the accrued interest thereon, shall become immediately due and payable by the applicant for the site permit.

"c. Each application under subsection a. shall be in writing and shall contain information required by the Commission in its rules and regulations to determine the suitability of the site for its intended purpose.

"d. (1) If, after considering all information submitted in the application, and after providing an opportunity for public hearing, the Commission determines that the proposed site is suitable for the construction and operation of the facility or facilities described in the application consistent with public health and safety, it shall approve the application and issue a site permit with appropriate conditions as necessary.

"(2) Any final determination of the Commission on an application filed pursuant to this section shall be a final order of the Commission for purposes of judicial review.

"e. (1) A site permit issued by the Commission under this section shall be valid with respect to an application for a construction permit or a combined construction permit and operating license which meets the conditions of the site permit and is filed within a period of ten years from the date of issuance of the site permit. Issues relating to the match between the site parameters and the reactor design will be heard in the construction permit hearing. Where a combined construction permit and operating license has been issued for a standardized design, a separate hearing will be held to resolve any issues relating to the match between the site parameters and plant design.

"(2) (A) No less than twelve or more than thirty-six months prior to the expiration of the ten year period, the holder of the site permit may apply for an extension or renewal of the site permit. Upon review by the Commission, the Commission may extend for good cause shown or renew a site permit for an additional period of time of not less than five or more than ten years from the date of extension or renewal, pursuant to appropriate Commission rules and regulations.

"(B) Upon application for extension or renewal of a site permit pursuant to subparagraph (A), the Commission shall extend or renew the site permit unless it finds that significant new information relevant to the site has become available and it is likely that the site will not comply with this Act or the Commission's rules and regulations for protection of the public health and safety or the common defense and security. . .

"f. Approval of a site under this section shall not preclude its use as a site for an alternate or modified type of energy facility or for any other purpose. Other uses may, however, affect the validity of the site permit or the conditions of its use for nuclear power plant siting as the Commission may determine.

"g. Nothing in this section shall preclude the Commission from inviting a request for a determination with respect to limited aspects of the suitability of the site for its intended purpose".

APPROVAL OF STANDARDIZED PLANT DESIGNS

SEC. 103. The Atomic Energy Act of 1954, as amended, is amended by adding a new section 194 to read as follows:

"SEC. 194. APPROVAL OF STANDARDIZED PLANT DESIGNS. --

"a. The Commission is authorized and directed to estabish procedures permitting the approval of standardized nuclear power plant designs, notwithstanding the fact that no application for a construction permit or combined construction permit and operating license for such facility has been filed.

"b. Notwithstanding section 161 w. of this Act or the Independent Offices Appropriation Act of 1952, no application filing or issuance fees shall be required for an application for approval or for an amendment, extension or renewal of an approval of a complete standardized plant design under this section. The Commission is authorized to allocate the costs, and accrued interest thereon, that would otherwise have been defrayed by fees required of applicants under this section among applicants for permits or licenses which propose to use the approved standardized plant design.

"c. Each application for an approval under subsection a. shall be in writing and shall contain information required by the Commission in its rules and regulations to determine the suitability of the design for its intended purpose.

"d. (1) If, after considering all information submitted in the application, and after providing an opportunity for public hearing, the Commission determines that the proposed standardized plant design is suitable for the construction and operation of the facility or facilities described in the application consistent with public health and safety, it shall approve the application and issue an approval with appropriate conditions as necessary.

"(2) Any final determination of the Commission on an application filed pursuant to this section shall be a final order of the Commission for purposes of judicial review.

"e. (1) Any approval issued by the Commission under this section shall be valid with respect to an application for a construction permit or a combined construction permit and operating license which meets the conditions of the approval and is filed within a period of ten years from the date of approval.

"(2) (A) No less than twelve or more than thirty-six months prior to the expiration of the ten year period provided under paragraph (1), the entity to whom the approval was issued may apply for an extension or renewal of the approval. Upon review by the Commission, the Commission may extend or renew the approval for an additional period of time of not less than five or more than ten years from the date of extension or renewal pursuant to such rules and regulations as the Commission may deem appropriate.

"(B) Upon application for extension or renewal of an approval issued pursuant to subsection a., the Commission shall extend or renew the approval unless it finds that significant new information relevant to the design has become available subsequent to its approval and that as a result it is likely that: (1) the design will not comply with this Act or the Commission's applicable regulations; or (2) without a change to the design, the overall risk of plant operation to the public health and safety, or the common defense and security will be ~~substantially~~ significantly greater than that estimated to exist at the time of the initial issuance of the approval for which renewal is applied and the design change is necessary to bring the plant within acceptable levels of risk"~~.~~ ; or (3) it can be demonstrated that the design change is necessary to reduce substantially the overall risk of plant operation.

DEFINITIONS

SEC. 104. The Atomic Energy Act of 1954, as amended, is amended by adding a new subsection to Section 11 to read as follows, and by renumbering the existing subsections of Section 11 to accommodate this change,:

"bb. The term "standardized design" means an essentially complete final design for a whole nuclear power plant, intended for multiple use."

STABILITY OF STANDARDIZED PLANT DESIGNS

SEC. ~~104.~~ 105. The Atomic Energy Act of 1954, as amended, is amended by adding a new section 196 to read as follows:

"SEC. 196. STABILITY OF STANDARDIZED PLANT DESIGNS. --

"No licensee of, or license applicant for a production or utilization facility shall be required to change an approved final standardized plant design unless it can be demonstrated that without a change to the design: (1) the design will not comply with the Atomic Energy Act or the Commission's applicable regulations in existence at the time that the license was granted; or (2) the overall risk of plant operation to the public health and safety, or the common defense and security will be significantly ~~substantially~~ greater than that estimated to exist at the time of the initial issuance of the approval and the design change is necessary to bring the plant within acceptable levels of risk; or (3) the overall risk posed by plant operation will be substantially greater than if the change to the design were made. This provision shall not preclude the imposition of design change requirements for renewal of and approval of a design nor shall it preclude a licensee from making voluntary design changes subject to appropriate Commission review for the purpose of improving plant safety or operations".

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SEPARATE VIEWS OF TASK FORCE MEMBERS PETER CRANE & SEYMOUR WENNER REGARDING THE PROPOSED NUCLEAR STANDARDIZATION ACT OF 1982

The draft "Nuclear Standardization Act of 1982," forwarded to the Commissioners in SECY-82-128, is in our view a generally desirable piece of legislation. We wish to state, however, our disagreement with the portions of the legislation which describe the type of hearing to be held on site permits, standardized designs, and combined construction permits/operating licenses.

Under the proposed bill, as described on pages 8 and 9 of the "Background," such hearings could be formal or could be so informal as to permit the entire case to be handled on the basis of written submissions. According to the "Background," the meaning of Section 189a. of the Atomic Energy Act is uncertain, and by providing for hearings governed only by the Administrative Procedure Act and applicable case law, the bill would result in a hearing process "unencumbered by the confusion surrounding the interpretation of Section 189a."

We do not believe that there is any significant confusion surrounding the meaning of Section 189a., which provides in pertinent part: "In any proceeding under this Act, for the granting, suspending, revoking, or amending of any license or construction permit ... the Commission shall grant a hearing upon the request of any person whose interest may be affected by the proceeding, and shall admit any such person as a party to such proceeding." The statute, to be sure, speaks only of a "hearing," without specifying that the hearing is to be adjudicatory. However, 28 years of consistent agency practice, effectively ratified by years of close

oversight by the Joint Committee on Atomic Energy, have firmly embedded the adjudicatory nature of Section 189a. hearings in the law. In our view, it would require explicit Congressional action to alter the meaning of Section 189a. from that which has been accepted by the agency and the courts for so long a period of time.

Furthermore, neither the draft bill nor the "Background" mentions the Atomic Energy Act in this connection; the "Background" merely states that the hearings on CP/OLs, site permits, and standardized designs will be governed by the Administrative Procedure Act and applicable case law. Without an unequivocal statement in the bill -- or at the very least, in the accompanying analysis -- that these hearings are not to be governed by Section 189a., a reviewing court might well find that these were proceedings "for the granting ... of any license or construction permit" and as such, subject to the requirements of Section 189a. Thus, the result of this section of the bill may be to increase confusion rather than reduce it.

In our view, the question of the type of hearing most likely to accomplish the Commission's purposes is a serious and complex issue, worthy of careful study. If any legislative change in the existing process is deemed to be desirable, We believe that it should be made across the board, rather than confined to site permits, standardized designs, and combined CP/OLs, and that it should be the subject of a legislative proposal separate from the present standardization-oriented bill.

Finally, on a separate matter, we believe that the discussion of "One-step vs. Two-step Licensing" on pages 5 and 6 of the "Background" overstates the shortcomings of the two-stage licensing process.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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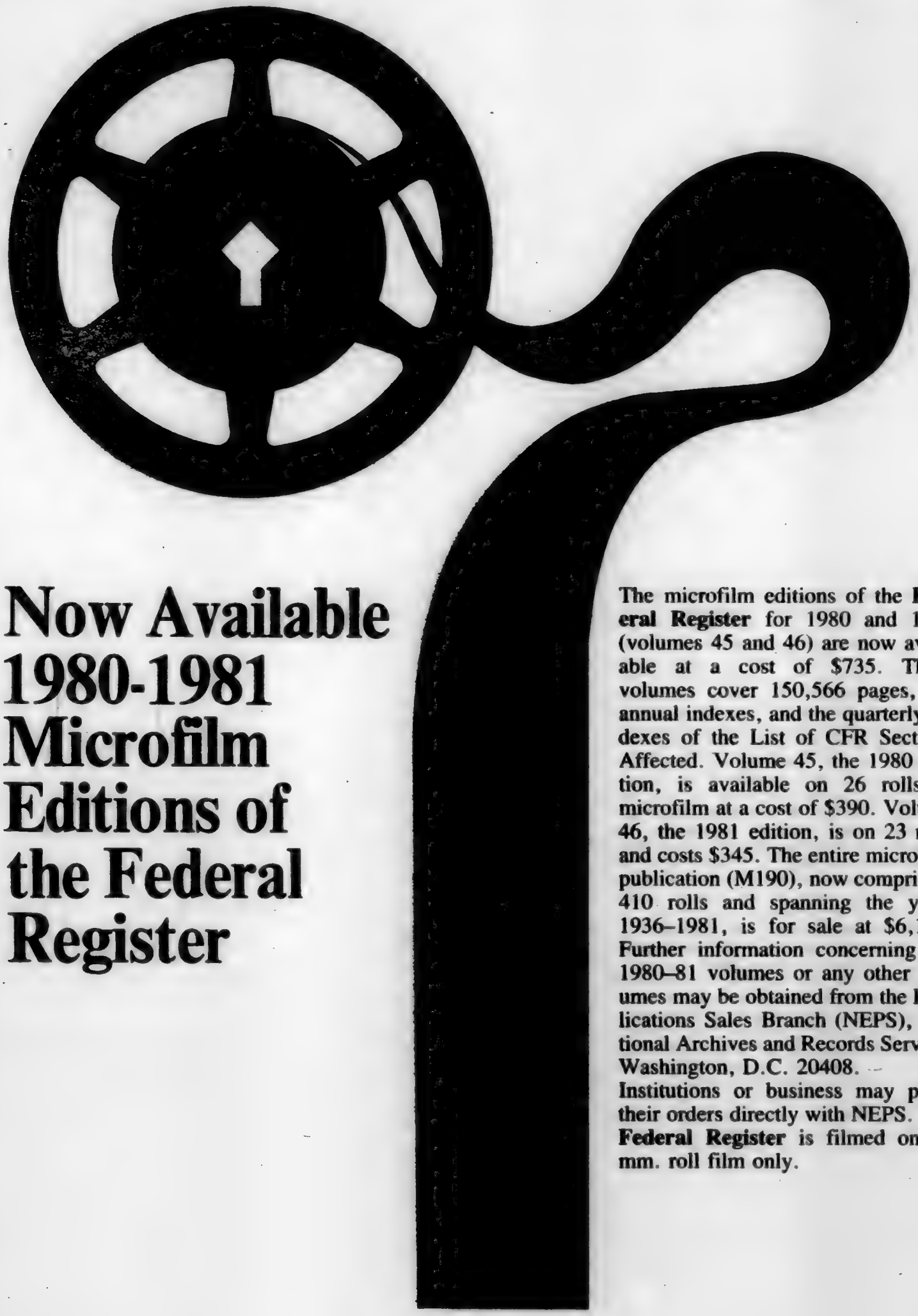

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6-3-82
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Pages 24097-24250

federal register

Thursday
June 3, 1982

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Aviation Safety
Federal Aviation Administration

Coal Mining
Surface Mining Reclamation and Enforcement Office

Conflicts of Interest
Commodity Futures Trading Commission

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Income Taxes
Internal Revenue Service

Loan Programs—Business
Small Business Administration

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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There are no restrictions on the republication of material appearing in the **Federal Register.**

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Navy Department

Marketing Agreements
Agricultural Marketing Service

Mines
Geological Survey

Natural Gas
Federal Energy Regulatory Commission

Radio Broadcasting
Federal Communications Commission

Trade Practices
Federal Trade Commission

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Federal Register
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Presidential Documents

Title 3—

The President

Proclamation 4944 of June 1, 1982

National P.O.W.–M.I.A. Recognition Day, 1982

By the President of the United States of America

a Proclamation

Since the Revolutionary War, when General George Washington complained of the treatment accorded to captured soldiers of the Continental Army, the United States has recognized the uncommon hardships experienced by our soldiers held prisoner during times of war. Called upon to defend American ideals while undergoing extreme adversity in violation of fundamental moral standards and the international codes and customs for the treatment of prisoners of war, our soldiers have fulfilled their duty to their services and country.

Similarly, our country has recognized the acute suffering experienced by the families of our soldiers held captive or missing in action. The uncertainty these service families live with day-to-day surely touches the heart of every American.

The Congress has by Joint Ressolution designated July 9, 1982 as National P.O.W.–M.I.A. Recognition Day and on this day we should recognize the special debt owed to our fellow citizens who gave up their freedom and their families in the service of our country. We must also remember our still-missing servicemen, for whose families, relatives and friends the anguish and bitterness of war are enduring aspects.

Our Nation must not forget and will continue to seek answers to their fates.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate July 9, 1982 as National P.O.W.–M.I.A. Recognition Day, a day dedicated to all former American prisoners of war, to those still missing, and to their families. I call on all Americans to join in honoring those who made the uncommon sacrifice of being held captive in war, and their loved ones.

I call upon State and local officials and private organizations to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of June, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-15182
Filed 6-1-82; 4:08 pm]
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Presidential Documents

Proclamation 4945 of June 1, 1982

National Orchestra Week, 1982

By the President of the United States of America

A Proclamation

America's 1572 symphony and chamber orchestras are among this Nation's finest cultural and artistic resources. Each year, our orchestras provide inspiration and enjoyment to more than 23 million people throughout the country.

This country's orchestras are internationally recognized as being among the finest in the world. They set the standards of excellence against which other musical endeavors are measured.

Orchestras contribute more to their community than fine concert music. Today, orchestras serve their communities in many ways. They reach audiences beyond the concert hall through regional and national tours, free outdoor concerts and benefit performances. In addition, orchestras offer educational programs which introduce school age children to the lasting beauty of music. Orchestras also cooperate in joint artistic ventures, thereby helping to support a multitude of additional arts activity in their communities.

The success of America's orchestras has been the result of the combined effort of skilled professionals and dedicated volunteers. It is their partnership with the government and the private sector which enables them to promote and produce music in their communities.

These orchestras provide the opportunity for American trained musicians and conductors to promote the performance of American music. The American orchestra both builds and preserves our Nation's heritage.

In recognition of the contribution of America's orchestras to the Nation, Congress has, by Senate Joint Resolution 145, requested me to designate June 13–19, 1982, as National Orchestra Week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the week of June 13–19, 1982 as National Orchestra Week and call upon all Federal, State and local government agencies, interested groups and organizations, and the people of the United States to observe that week by engaging in appropriate programs and activities, thereby showing their support of America's orchestras and the arts.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of June, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-15289
Filed 6-2-82; 11:42 am]
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Rules and Regulations

Federal Register
Vol. 47, No. 107
Thursday, June 3, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Office of the Secretary, USDA

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary of Agriculture and General Officers of the Department to reflect a reorganization in Departmental administration.

EFFECTIVE DATE: June 3, 1982.

FOR FURTHER INFORMATION CONTACT: Fay S. Landers, Chief, Classification, Position Management, and Organization Staff, Office of Personnel, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–6104).

SUPPLEMENTARY INFORMATION: The delegations of authority to the Assistant Secretary for Administration and to the administrative staff offices reporting to the Assistant Secretary for Administration are amended to reflect the recent reorganization in that area. The Office of Operations and Finance has been separated into the Offices of Operations; Finance and Management; Administrative Systems, and Information Resources Management. The functions performed by the Office of Safety and Health Management have been transferred to the Office of Finance and Management. Certain incidental functions have been transferred from the Office of Small and Disadvantaged Business Utilization to the Office of Finance and Management. The EEO complaint and appeal functions in the Office of Equal Opportunity have been transferred to the Office of Personnel. The Office of Equal Opportunity has been renamed the Office of Minority Affairs. This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Lastly, this action is not a rule as defined by Pub. L. 96–354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 2 reads as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, unless otherwise noted.

Subpart C—Delegation of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Program, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries

2. Section 2.25 is amended by redesignating paragraphs (j) and (k) as paragraphs (k) and (l), by revising paragraphs (b), (c), (d), (f), (h), and (i), and by adding new paragraph (j) as follows:

§ 2.25 Delegations of authority to the Assistant Secretary for Administration.

* * * * *

(b) *Related to finance and management.*

(1) Designate the Department's Director of Finance and Comptroller of the Department Working Capital Fund.

(2) Establish Departmental policies, standards, techniques, and procedures applicable to all USDA agencies for the following areas:

(i) Development, maintenance, review and approval of all internal control, fiscal, financial management and accounting systems including the financial aspects of payroll and property systems.

(ii) Selection, standardization, and simplification of program delivery processes utilizing grants, cooperative agreements and other forms of federal assistance.

(iii) Review and approval of federal assistance, internal control, fiscal, accounting and financial management regulations and instructions proposed or issued by USDA agencies for conformity with Departmental requirements.

(3) Establish policies related to the Department Working Capital Fund.

(4) Approve regulations, procedures and rates for goods and services financed through the Department Working Capital Fund which will impact the financial administration of the Fund.

(5) Exercise responsibility and authority for all matters related to the Department's accounting and financial operations including such activities as:

(i) Financial administration, including accounting and related activities.

(ii) Reviewing financial aspects of agency operations and proposals.

(iii) Furnishing consulting services to agencies to assist them in developing and maintaining accounting and financial management systems and internal controls, and for other purposes consistent with delegations in paragraph (b)(2) of this section.

(iv) Reviewing and monitoring agency implementation of Federal assistance policies.

(v) Reviewing and approving accounting systems documentation including related development plans, activities, and controls.

(vi) Monitoring agencies' progress in developing and revising accounting and financial management systems and internal controls.

(vii) Evaluating financial systems to determine the effectiveness of procedures employed, compliance with regulations, and the appropriateness of policies and practices.

(viii) Coordinating the activities of the Office of Finance and Management, the Office of Administrative Systems, the Office of Operations, the Office of Information Resources Management, the Office of Personnel and other staff offices in activities related to the development and maintenance of accounting and administrative systems including those activities listed above and any others which impact on them.

(xi) Promulgation of Department schedule of fees and charges for reproductions, furnishing of copies and making searches for official records pursuant to the Freedom of Information Act, 5 U.S.C. 552.

(6) Designate the Department's Chief Management Improvement Officer.

(7) Establish Department programs, policies, standards, systems, techniques and procedures to improve the management and operational efficiency and effectiveness of the USDA including:

(i) Implementation of the policies and procedures set forth in OMB Circulars No. A–76: Policies for Acquiring Commercial or Industrial Products and Services Needed by the Government, and No. A–117: Management Improvement and the Use of Evaluation in the Executive Branch.

(ii) Increased use of operations research and management science in the areas of productivity and management.

(iii) All activities financed through the Department Working Capital Fund.

(8) Designate the Commercial Industrial Officer for USDA.

(9) Develop Departmental policies, standards, techniques, and procedures for the conduct of reviews and analysis of the utilization of the resources of State and local governments, other Federal agencies and of the private sector in domestic program operations.

(10) Represent the Department in contacts with the Office of Management and Budget, General Services Administration, General Accounting Office, Department of the Treasury, Office of Personnel Management, Department of Health and Human Services, Department of Labor, Environmental Protection Agency, Department of Commerce, Congress of the United States, State and local governments, universities, and other public and private sector individuals, organizations or agencies on matters related to assigned responsibilities.

(11) Maintain the Departmental inventory of commercial activities required by OMB Circular No. A–76 and provide Departmentwide technical assistance to accomplish Circular objectives.

(12) Administer a productivity program in accordance with Executive Order 12089 and other policy and procedural directives and laws to:

(i) Assess and improve productivity of the Department.

(ii) Assist agencies in developing, implementing and maintaining productivity measurement systems.

(13) Establish Departmentwide safety and health policy and provide leadership in the development, coordination, and implementation of related standards, techniques, and procedures, and represent the Department in complying with laws, Executive Orders and other policy and procedural issuances related to occupational safety and health within the Department.

(14) Represent the Department in all rulemaking, advisory or legislative capacities on any groups, committees, or Governmentwide activities that affect the USDA Occupational Safety and Health Management Program.

(15) Determine and/or provide Departmentwide technical services and regional staff support for the safety and health programs.

(16) Administer the computerized management information systems for the collection, processing and dissemination of data related to the Department's occupational safety and health programs.

(17) Improve Departmental management by: Performing management studies and reviews in response to agency requests for assistance; enhancing management decisionmaking by developing and applying analytic techniques to address particular administrative operational and management problems; searching for more economical or effective approaches to the conduct of business; developing and revising systems, processes, work methods and techniques; and undertaking other efforts to improve the management effectiveness and productivity of the Department.

(18) Administer the Department's Occupational Health and Preventive Medical Program, as well as design and operate employee assistance and workers' compensation activities.

(19) Provide education and training on a Departmentwide basis for safety and health related issues and develop resource and operational manuals.

(20) Administer the Department's Management Improvement Program including the provision of assistance to agencies through management studies and planning review; review the management and operating policies and processes; search for more economical approaches to the conduct of business and provide such other assistance as will aid in improving the management effectiveness and operation of the Department's programs.

(21) Administer the Department's management review program. This authority includes the development and promulgation of departmental directives regulating the management review function.

(22) Develop, design, install, and revise systems, processes, work methods, and techniques, and undertake other system engineering efforts to improve the management and operational effectiveness of the USDA.

(c) *Related to operations.*

(1) Promulgate Departmental policies, standards, techniques, and procedures, and represent the Department, in the following:

(i) Contracting for and the procurement of administrative and operating supplies, services, equipment and construction.

(ii) Socioeconomic programs relating to contracting, except matters otherwise assigned.

(iii) Selection, standardization, and simplification of program delivery processes utilizing contracts.

(iv) Acquisition, leasing, utilization, value analysis, construction, maintenance, and disposition of real and personal property, including control of space assignments.

(v) Acquisition, storage, distribution and disposition of forms, supplies and equipment.

(vi) Mail management.

(vii) Motor vehicle fleet and other vehicular transportation.

(viii) Transportation of things (traffic management).

(ix) Prevention, control, and abatement of air and water pollution at Federal facilities (E.O. 11507).

(x) Implementation of the Uniform Relocation Assistance and Real Property Policies Act of 1970 (Pub. L. 91–646).

(xi) Develop and implement energy management actions related to the internal operations of the Department. Maintain liaison with other government agencies in these matters.

(2) Operate, or provide for the operation of, centralized Departmental services for printing, copy reproduction, offset composition, supply, mail, automated mailing lists, excess property pool, resource recovery, shipping and receiving, forms, labor services, issuance of general employee identification cards, supplemental distribution of Department directives, space allocation and management, central Secretary's records, and related management support.

(3) Exercise the following special authorities:

(i) Designate the Department's Debarring Officer to perform the functions of 41 CFR Subpart 1–1.6 and 41 CFR 4–1.601–1(a).

(ii) Conduct liaison with the Office of the Federal Register including the

making of required certifications pursuant to 1 CFR Part 4.

(iii) Maintain custody and permit appropriate use of the official seal of the Department.

(iv) Establish policy for the use of the official flags of the Secretary and the Department.

(v) Make determinations and findings authorizing use of negotiation in accordance with 41 U.S.C. 252(c)(11) for purchases and contracts for experimental, developmental, or research work, or for the manufacture or furnishing of property for experimentation, development, research, or test which will not require the expenditure of more than $25,000 (41 CFR 1–3.211; 1–3.203).

(vi) Coordinate collection of historical material for Presidential Libraries.

(vii) Oversee the safeguarding of unclassified materials designated "For Official Use Only."

(4) Exercise full Departmentwide contracting and procurement authority for automatic data processing and data transmission equipment, software, services, maintenance, and related supplies, subject to the review of the Senior Official designated under the Paperwork Reduction Act of 1980. This includes the promulgation of Department directives regulating the management or related contracting and procurement functions.

(5) Provide staff assistance for the Secretary, general officers and other Department and agency officials.

(6) Represent the Department in contacts with the General Accounting Office, the General Services Administration, the Office of Management and Budget, and other organizations or agencies on matters related to assigned responsibilities.

(7) Serve as the Acquisition Executive in USDA to integrate and unify the management process for the Department's major system acquisitions and to monitor implementation of the policies and practices set forth in OMB Circular A–109, Major Systems Acquisitions. This delegation includes the authority to:

(i) Insure that OMB Circular A–109 is effectively implemented in the Department and that the management objectives of the Circular are realized.

(ii) Review the program management of each major system acquisition.

(iii) Designate the program manager for each major system acquisition.

(iv) Designate any Departmental acquisition as a major system acquisition under A–109.

(d) *Related to management services.*

(1) Provide management support services for the Secretary of Agriculture and for the general officers of the Department, except the Inspector General. As used herein, such management support services shall include:

(i) Budget, accounting, fiscal and related management services, with authority to take action required by law or regulation to provide such services for Working Capital Funds and general appropriated and trust funds.

(ii) Personnel services, as listed in paragraph (e)(10) of this section, and organizational support services, with authority to take actions required by law or regulation to perform such services.

(iii) Procurement, property management, space management, communications (telephone), messenger, and related services with authority to take actions required by law or regulation to perform such services.

(iv) Automation, forms management, files management, and directives management with authority to take actions required by law or regulation to perform such services.

* * * * *

(f) *Related to information resources management.*

(1) Assist the Senior Official designated under the Paperwork Reduction Act of 1980, with the development of Departmental information resource management principles, policies and objectives.

(2) Coordinate with the Senior Official designated under the Paperwork Reduction Act of 1980, the development and promulgation of Departmental information resources management standards, guidelines, rules, and regulations necessary to implement approved principles, policies, and objectives.

(3) Develop and implement an information resources management planning system which will integrate short-term and long-term objectives and coordinate agency and staff office initiatives in support of the objectives.

(4) Provide Departmentwide guidance and direction in planning, developing, documenting, and managing applications software projects in accordance with Federal and Department information processing standards, procedures, and guidelines.

(5) Provide Departmentwide guidance and direction in all aspects of the USDA information management program including feasibility studies; economic analyses; systems design; acquisition of equipment, software, services, and timesharing arrangements; systems installation; systems performance and capacity evaluation; and security. Monitor these activities for agencies' major systems development efforts to assure effective and economic use of resources and compatibility among systems of various agencies when required.

(6) Manage the Departmental Computer Centers, including setting of rates to recover the cost of goods and services within approved policy and funding levels.

(7) Review and evaluate information resource management activities related to delegated functions to assure that they conform to all applicable Federal and Department information resource management policies, plans, standards, procedures, and guidelines.

(8) Design, develop, implement, and revise systems, processes, work methods, and techniques to improve the management and operational effectiveness of information resources.

(9) Administer the Departmental records, forms, reports, and directives management programs, in coordination with the Senior Official designated under the Paperwork Reduction Act of 1980.

(10) Manage all aspects of the USDA telecommunications program including planning, development, acquisition, and use of equipment and systems for voice and data communications, excluding the actual procurement of data transmission equipment, software, maintenance, and related supplies. Manage Departmental telecommunications contracts. Provide technical advice throughout the Department on telecommunications matters.

(11) Implement a program for applying information resources management technology to improve productivity in the Department.

(12) Provide leadership to integrate and unify the management process for the Department's major information resource management system acquisitions and to monitor implementation of the policies and practices set forth in applicable OMB Circulars.

(13) Provide Departmental services related to Departmental administrative regulations, Secretarial issuances, and related management support.

(14) Plan, develop, install, and operate computer-based systems for message exchange, scheduling, computer conferencing, and other applications of office automation technology which can be commonly used by multiple Department agencies and offices.

(15) Represent the Department in contacts with the General Accounting Office, the General Services Administration, the Office of

Management and Budget, the National Bureau of Standards, and other organizations or agencies on matters related to delegated responsibilities.

* * * * *

(h) *Related to equal opportunity.*

(1) Provide overall leadership, coordination, and direction for the Department's programs of civil rights, including program delivery compliance and equal employment opportunity, with emphasis on the following:

(i) Actions to enforce Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, prohibiting discrimination in Federally assisted programs;

(ii) Actions to enforce Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, prohibiting discrimination in Federal employment;

(iii) Actions to enforce Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 *et seq.*, prohibiting discrimination on the basis of sex in USDA education programs and activities funded by the Department;

(iv) Actions to enforce Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, prohibiting discrimination on the basis of handicap in USDA programs and activities funded by the Department;

(v) Actions to enforce the Age Discrimination Act of 1975, 42 U.S.C. 6102, prohibiting discrimination on the basis of age in USDA programs and activities funded by the Department;

(vi) Actions to enforce related Executive Orders, Congressional mandates, and other laws, rules, and regulations, as appropriate;

(vii) Actions to develop and implement the Department's Federal Women's Program; and

(viii) Actions to develop and implement the Department's Hispanic Employment Program.

(2) Evaluate Departmental agency programs, activities, and impact statements for civil rights concerns.

(3) Provide leadership and coordinate USDA agency and Department systems for targeting, collecting, analyzing, and evaluating program participation data and equal employment opportunity data.

(4) Provide leadership and coordinate Departmentwide programs of public notification regarding the availability of USDA programs on a nondiscriminatory basis.

(5) Serve as the focal point through which all contacts with the Department of Justice are made involving matters relating to Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and Section 504 of the Rehabilitation Act of 1973, as amended, except those matters in litigation, including administrative enforcement actions, which shall be coordinated by the Office of the General Counsel.

(6) Serve as the focal point through which all contacts with the Department of Health and Human Services are made involving matters relating to the Age Discrimination Act of 1975, except those matters in litigation, including administrative enforcement action, which shall be coordinated by the Office of the General Counsel.

(7) Order proceedings and hearings in the USDA pursuant to § 15.9(e) and § 15.86 of this subtitle which concern consolidated or joint hearings within the Department and/or with other Federal departments and agencies.

(8) Order proceedings and hearings in the USDA pursuant to § 15.8(c) of this subtitle after the program agency has advised the applicant or recipient of his/her failure to comply and has determined that compliance cannot be secured by voluntary means.

(9) Issue orders to give a notice of hearing or the opportunity to request a hearing pursuant to Part 15 of this subtitle; arrange for the designation of an Administrative Law Judge to preside over any such hearing; and determine whether the Administrative Law Judge so designated will make an initial decision or certify the record to the Secretary of Agriculture with his/her recommended findings and proposed action.

(10) Authorize the taking of action pursuant to § 15.8(a) of this subtitle relating to compliance by "other means authorized by law."

(11) Make determinations required by § 15.8(d) of this subtitle that compliance cannot be secured by voluntary means, and then take action, as appropriate.

(12) Make determinations that program complaint investigations performed under § 15.6 and § 15.52 of this subtitle establish a proper basis for findings of discrimination, and that actions taken to correct such findings are adequate.

(13) Conduct investigations and compliance reviews Departmentwide, except with regard to equal employment discrimination complaints.

(14) Develop regulations, plans, and procedures necessary to carry out the Department's civil rights programs, including the development, implementation, and coordination of Action Plans.

(15) Provide liaison on equal employment opportunity programs and activities with the Equal Employment Opportunity Commission, the Office of Personnel Management, USDA agencies, Department employees, and applicants for positions within the Department.

(16) Maintain liaison with the historically Black colleges and universities, and assist USDA agencies in strengthening those minority institutions, by facilitating institution participation in USDA programs and activities and by encouraging recruitment of institution graduates for USDA employment.

(17) Is designated as the Department's Director of Equal Employment Opportunity with authority to perform the functions and responsibilities of that position under 29 CFR Part 1613, including the authority to make changes in programs and procedures designed to eliminate discriminatory practices and improve the Department's program for equal employment opportunity, and the authority to make decisions on complaints of discrimination and order such corrective measures as may be considered necessary, including the recommendation for such disciplinary action as is warranted when an employee has been found to have engaged in a discriminatory practice.

(18) Administer the Department's equal employment opportunity program.

(19) Coordinate activities of agency EEO Counselors, as related to Departmental policies and procedures.

(20) Process formal EEO discrimination complaints, up to the appellate stage, by employees or applicants for employment.

(21) Administer the discrimination appeals and complaints program for the Department, including all formal individual or group appeals, where the system provides for an avenue of redress to the Department level, Equal Employment Opportunity Commission, Office of Personnel Management or other outside authority.

(22) Provide liaison on EEO matters concerning complaints and appeals with the USDA agencies and Department employees.

(i) *Related to small and disadvantaged business utilization.*

(1) In compliance with Pub. L. 95-507, the Assistant Secretary for Administration shall be the deputy to the Secretary for procurement related to small and disadvantaged business utilization.

(2) Administer the Department's Small and Disadvantaged Business Program related to procurement contracts, minority bank deposits, and grants and loan activities affecting small and minority business, including women-owned business, Labor Surplus Area concerns, and the small business and

small minority business subcontracting programs.

(3) Implement and administer programs described under Section 8 and Section 15 of the Small Business Act, as amended.

(4) Provide Departmentwide liaison and coordination of activities related to small and disadvantaged businesses with the Small Business Administration and others in the public and private sector.

(5) Develop policies and procedures required by the applicable provisions of the Small Business Act, as amended, including the establishment of goals.

(j) *Related to administration systems.*

(1) Exercise responsibility and authority for operating USDA's Central Accounting System and related administrative systems including:

(i) Management of the National Finance Center (NFC), which includes developing, maintaining, and operating manual and automated administrative and accounting systems for the USDA agencies related to the Central Accounting System, Departmentwide payroll and personnel information, statistics, administrative payments, billings and collections, and related reporting systems that are either requested by the agencies or required by the Department.

(ii) Management of the NFC automated data processing and telecommunications systems and coordination with the Office of Information Resources Management to assure that the hardware and software located at the NFC will be integrated with and compatible with all other systems.

(iii) Exercise leadership in developing new or modified accounting systems and documentation supporting the Central Accounting System which includes working with the USDA agencies and coordinating with the Office of Finance and Management to obtain General Accounting Office approval.

(iv) Review and approve the issuance of accounting and management instructions related to the operation of the NFC.

(2) Provide management support services for the NFC, and by agreement with agency heads concerned, provide such services for other USDA tenants housed in the same facility. As used herein, such management support services shall include:

(i) Personnel services, as listed in paragraph (e)(10) of this section, and organizational support services, with authority to take actions required by law or regulation to perform such services.

(ii) Procurement, property management, space management, communications, messenger, paperwork management, and related administrative services, with authority to take actions required by law or regulation to perform such services.

* * * * *

Subpart J—Delegations of Authority by the Assistant Secretary for Administration

3. Section 2.75 is revised to read as follows:

§ 2.75 Director, Office of Finance and Management.

(a) *Delegations.* Pursuant to § 2.25 (b), (d), and (i), the following delegations of authority are made by the Assistant Secretary for Administration to the Director, Office of Finance and Management (OFM):

(1) The Director, OFM, is designated as the Department's Director of Finance and Comptroller of the Department Working Capital Fund.

(2) Establish Departmental policies, standards, techniques, and procedures applicable to all USDA agencies for the following areas:

(i) Development, maintenance, review and approval of all internal control, fiscal, financial management and accounting systems including the financial aspects of payroll and property systems.

(ii) Selection, standardization, and simplification of program delivery processes utilizing grants, cooperative agreements and other forms of Federal assistance.

(iii) Review and approval of Federal assistance, internal control, fiscal, accounting and financial management regulations and instructions proposed or issued by USDA agencies for conformity with Departmental requirements.

(3) Advise the Assistant Secretary for Administration on the establishment of policies related to the Department Working Capital Fund.

(4) Approve regulations, procedures and rates for goods and services financed through the Department Working Capital Fund which will impact the financial administration of the Fund.

(5) Exercise responsibility and authority contained in paragraph (a)(2) of this section including such activities as:

(i) Financial administration, including accounting and related activities.

(ii) Reviewing financial aspects of agency operations and proposals.

(iii) Furnishing consulting services to agencies to assist them in developing and maintaining accounting and financial management systems and internal controls, and for other purposes consistent with delegations in paragraph (a)(2) of this section.

(iv) Reviewing and monitoring agency implementation of Federal assistance policies.

(v) Reviewing and approving accounting systems documentation including related development plans, activities, and controls.

(vi) Monitoring agencies' progress in developing and revising accounting and financial management systems and internal controls.

(vii) Evaluating financial systems to determine the effectiveness of procedures employed, compliance with regulations, and the appropriateness of policies and practices.

(viii) Coordinating with the Office of Administrative Systems, the Office of Operations, the Office of Information Resources Management, the Office of Personnel and other staff offices in activities related to the development and maintenance of accounting and administrative systems including those activities listed above and any others which impact on them.

(xi) Promulgation of the Department schedule of fees and charges for reproductions, furnishing of copies and making searches for official records pursuant to the Freedom of Information Act, 5 U.S.C. 552.

(6) Provide budget, accounting, fiscal and related financial management services, with authority to take action required by law or regulations to provide such services for Working Capital Funds and general appropriated and trust funds for:

(i) The Secretary of Agriculture;

(ii) The general officers of the Department, except the Inspector General;

(iii) The offices and agencies reporting to the Assistant Secretary for Administration; and

(iv) Any other officers and agencies of the Department as may be agreed.

(7) The Director, OFM, is designated as the Department's Chief Management Improvement Officer.

(8) Establish Department programs, policies, standards, systems, techniques and procedures to improve the management and operational efficiency and effectiveness of the USDA including:

(i) Implementation of the policies and procedures set forth in OMB Circulars No. A-76: Policies for Acquiring Commercial or Industrial Products and Services Needed by the Government, and No. A-117: Management

Improvement and the Use of Evaluation in the Executive Branch.

(ii) Increased use of operations research and management science in the areas of productivity and management.

(iii) All activities financed through the Department Working Capital Fund.

(9) Designate the Commercial Industrial Officer and administer a program to implement the provisions of Circular No. A–76 for:

(i) Office of Finance and Management,

(ii) All activities of staff offices reporting to the Assistant Secretary for Administration financed through the Department Working Capital Fund, and

(iii) Other offices and agencies as agreed upon.

(10) Develop Departmental policies, standards, techniques, and procedures for the conduct of reviews and analysis of the utilization of the resources of State and local governments, other Federal agencies and of the private sector in domestic program operations.

(11) Represent the Department in contacts with the Office of Management and Budget, General Services Administration, General Accounting Office, Department of the Treasury, Office of Personnel Management, Department of Health and Human Services, Department of Labor, Environmental Protection Agency, Department of Commerce, Congress of the United States, State and local governments, and universities, and other public and private sector individuals, organizations or agencies on matters related to assigned responsibilities.

(12) Maintain the Departmental inventory of commercial activities required by OMB Circular No. A–76 and provide Departmentwide technical assistance to accomplish Circular objectives.

(13) Improve Departmental management by: performing management studies and reviews in response to agency requests for assistance or as directed by the Assistant Secretary for Administration; enhancing management decisionmaking by developing and applying analytic techniques to address particular administrative operational and management problems: searching for more economical or effective approaches to the conduct of business; developing and revising systems, processes, work methods, and techniques; and undertaking other efforts to improve the management effectiveness and productivity of the Department which shall be coordinated with other staff offices reporting to the Assistant Secretary for Administration whenever they impact upon their delegated policy authorities.

(14) Administer a productivity program in accordance with Executive Order 12089 and other policy and procedural directives and laws to:

(i) Assess and improve productivity of the Department.

(ii) Assist agencies in developing, implementing and maintaining productivity measurement systems.

(15) Establish Departmental policies and procedures for, and administer that portion of the Department's Small and Disadvantaged Business Program related to minority bank deposits, and grants and loan and other Federal assistance activities affecting small and minority business not delegated to the Director, Office of Small and Disadvantaged Business Utilization, in § 2.79 of this part.

(16) Establish Departmentwide safety and health policy and provide leadership in the development, coordination, and implementation of related standards, techniques, and procedures, and represent the Department in complying with laws, Executive Orders and other policy and procedural issuances related to occupational safety and health within the Department.

(17) Represent the Department in all rulemaking, advisory or legislative capacities on any group, committee, or Governmentwide activities that affect the USDA Occupational Safety and Health Managment Program.

(18) Determine and/or provide Departmentwide technical services and regional staff support for the safety and health programs.

(19) Design, develop and maintain computerized management information systems for the collection, processing and dissemination of data related to the Department's occupational safety and health programs.

(20) Administer the Department's Occupational Health and Preventive Medical Program, as well as, design and operate employee assistance and workers' compensation activities.

(21) Provide education and training on a Departmentwide basis for safety and health related issues and develop resource and operational manuals.

4. Section 2.76 is revised to read as follows:

§ 2.76 Director, Office of Operations.

(a) *Delegations.* Pursuant to § 2.25(c), (d), and (k) of this part, the following delegations of authority are made by the Assistant Secretary for Administration to the Director, Office of Operations:

(1) Promulgate Departmental policies, standards, techniques, and procedures, and represent the Department, in the following:,

(i) Contracting for and the procurement of administrative and operating supplies, services, equipment and construction.

(ii) Socioeconomic programs relating to contracting, excepting those matters otherwise assigned to the Director, Office of Small and Disadvantaged Business Utilization.

(iii) Selection, standardization, and simplification of program delivery processes utilizing contracts.

(iv) Acquisition, leasing, utilization, value analysis, construction, maintenance, and disposition of real and personal property, including control of space assignments.

(v) Acquisition, storage, distribution and disposition of forms, supplies and equipment.

(vi) Mail management.

(vii) Motor vehicle fleet and other vehicular transportation.

(viii) Transportation of things (traffic management).

(ix) Prevention, control, and abatement of air and water pollution at Federal facilities (E.O. 11507).

(x) Implementation of the Uniform Relocation Assistance and Real Property Policies Act of 1970 (Pub. L. 91–646).

(xi) Development and implementation of energy management actions related to the internal operations of the Department. Maintain liaison with other Government agencies in these matters.

(2) Operate, or provide for the operation of, centralized Departmental services to provide printing, copy reproduction, offset composition, supply, mail, automated mailing lists, excess property pool, resource recovery, shipping and receiving, forms, labor services, issuance of general employee identification cards, supplemental distribution of Department directives, space allocation and management, central Secretary's records, and related management support.

(3) Exercise the following special authorities:

(i) The Director, Office of Operations, is designated as the Department's Debarring Officer, and authorized to perform the functions of 41 CFR Subpart 1–1.6 and 41 CFR 4–1.601–1(a).

(ii) Conduct liaison with the Office of the Federal Register including the making of required certifications pursuant to 1 CFR Part 4.

(iii) Maintain custody and permit appropriate use of the official seal of the Department.

(iv) Establish policy for the use of the official flags of the Secretary and the Department.

(v) Make determinations and findings authorizing use of negotiation in accordance with 41 U.S.C. 252(c)(11) for purchases and contracts for experimental, developmental, or research work, or for the manufacture or furnishing of property for experimentation, development, research, or test which will not require the expenditure of more than $25,000 (41 CFR 1-3.211; 1-3.203).

(vi) Coordinate collection of historical material for Presidential Libraries.

(vii) Oversee the safeguarding of unclassified materials designated "For Official Use Only."

(4) Provide procurement, property management, space management, communications (telephone), messenger, and related services with authority to take actions required by law or regulation to perform such services for:

(i) The Secretary of Agriculture;

(ii) The general officers of the Department, except the Inspector General;

(iii) The offices and agencies reporting to the Assistant Secretary for Administration; and

(iv) Provide such of the above services for any other officers or agencies of the Department as may be agreed.

(5) Exercise full Departmentwide contracting and procurement authority for automatic data processing and data transmission equipment, software, services, maintenance, and related supplies, subject to the review of the Senior Official designated under the Paperwork Reduction Act of 1980. This authority includes the promulgation of Departmental directives regulating the management of contracting and procurement functions.

(6) Provide related support services needed by the Department to carry out defense responsibilities.

(7) Provide staff assistance for the Secretary, general officers and other Department and agency officials.

(8) Represent the Department in contacts with the General Accounting Office, the General Services Administration, the Office of Management and Budget, and other organizations or agencies on matters related to assigned responsibilities.

(9) Exercise authority under the Department's Acquisition Executive (Assistant Secretary for Administration) to integrate and unify the management process for the Department's major system acquisitions and to monitor implementation of the policies and practices set forth in OMB Circular A-109, Major Systems Acquisitions. This delegation includes the authority to:

(i) Insure that OMB Circular A-109 is effectively implemented in the Department and that the management objectives of the Circular are realized.

(ii) Review the program management of each major system acquisition.

(iii) Designate the program manager for each major system acquisition.

(iv) Designate any Departmental acquisition as a major system acquisition under A-109.

5. A new § 2.77 is added to read as follows:

§ 2.77 Director, Office of Administrative Systems.

(a) *Delegations.* Pursuant to § 2.25(j), the following delegations of authority are made by the Assistant Secretary for Administration to the Director, Office of Administrative Systems:

(1) Establish and maintain a Washington Headquarters Office to coordinate the activities of the National Finance Center and administrative systems with USDA agencies, staff offices, Office of the Secretary, and related Governmental departments and agencies.

(2) Exercise responsibility and authority for operating USDA's Central Accounting System and related administrative systems including:

(i) Management of the National Finance Center (NFC), which includes developing, maintaining, and operating manual and automated administrative and accounting systems for the USDA agencies related to the Central Accounting System, Departmentwide payroll and personnel information, statistics, administrative payments, billings and collections, and related reporting systems and those program and administrative accounting systems that are either requested by the agencies or required by the Department.

(ii) Management of the NFC automated data processing and telecommunications systems and coordination with Office of Information Resources Management to assure that the hardware and software located at the NFC will be integrated with and compatible with all other systems.

(iii) Exercise leadership in developing new or modified accounting systems and documentation supporting the Central Accounting System which includes working with the USDA agencies and coordinating with the Office of Finance and Management to obtain General Accounting Office approval.

(iv) Review and approve the issuance of accounting and management instructions related to the operation of the NFC.

(3) Provide management support services for the NFC, and by agreement with agency heads concerned, provide such services for other USDA tenants housed in the same facility. As used herein, such management support services shall include:

(i) Personnel services, as listed in § 2.25(e)(10) of this part, and organizational support services, with authority to take actions required by law or regulation to perform such services.

(ii) Procurement, property management, space management, communications, messenger, paperwork management, and related administrative services, with authority to take actions required by law or regulation to perform such services.

6. Section 2.78 is revised by adding paragraphs (a)(22) through (a)(26) and by revising paragraph (a)(13) to read as follows:

§ 2.78 Director, Office of Personnel.

(a) *Delegations.* * * *

(13) Provide personnel services, as listed in paragraph (a)(10) of this section, and organizational support services, with authority to take actions required by law or regulation for:

(i) The Secretary of Agriculture;

(ii) The general officers of the Department, except the Inspector General;

(iii) The offices and agencies reporting to the Assistant Secretary for Administration; and

(iv) Provide such of the above services, for any other officer or agency of the Department as may be agreed.

* * * * * *

(22) Coordinate activities by Agency EEO Counselors, as related to Departmental policies and procedures.

(23) Process formal EEO discrimination complaints, up to the appellate stage, by employees or applicants for employment.

(24) Administer the discrimination appeals and complaints program for the Department, including all formal individual or group appeals, where the system provides for an avenue of redress to the Department level, Equal Employment Opportunity Commission, Office of Personnel Management or other outside authority.

(25) Perform staff work for the Director of Equal Employment Opportunity on the preparation of decisions on complaints of discrimination.

(26) Provide liaison on EEO matters concerning complaints and appeals with the USDA agencies and Department employees.

7. Section 2.79 is revised to read as follows:

§ 2.79 Director, Office of Small and Disadvantaged Business Utilization.

(a) *Delegations.* Pursuant to § 2.25(i) of this part, the following delegations of authority are made by the Assistant Secretary for Administration to the Director, Office of Small and Disadvantaged Business Utilization:

(1) Administer that portion of the Department's small and disadvantaged business activities related to procurement contracts affecting small and minority businesses, including women-owned business, Labor Surplus Area concerns, and the small business and small minority business subcontracting programs.

(2) Implement and administer programs described under Section 8 and Section 15 of the Small Business Act, as amended.

(3) Provide Departmentwide liaison and coordination of activities related to small and disadvantaged businesses with the Small Business Administration and others in the public and private sector.

(4) Develop policies and procedures required by the applicable provisions of the Small Business Act as amended, to include the establishment of goals.

8. Section 2.80 is revised to read as follows:

§ 2.80 Director, Office of Minority Affairs.

(a) *Delegations.* Pursuant to § 2.25(h), the following delegations of authority are made by the Assistant Secretary for Administration to the Director, Office of Minority Affairs.

(1) Provide overall leadership, coordination, and direction for the Department's programs of civil rights, including program delivery compliance and equal employment opportunity, with emphasis on the following:

(i) Actions to enforce Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, prohibiting discrimination in Federally assisted programs;

(ii) Actions to enforce Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e prohibiting discrimination in Federal employment;

(iii) Actions to enforce Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 *et seq.*, prohibiting discrimination on the basis of sex in USDA education programs and activities funded by the Department;

(iv) Actions to enforce Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, prohibiting discrimination on the basis of handicap in USDA programs and activities funded by the Department;

(v) Actions to enforce the Age Discrimination Act of 1975, 42 U.S.C. 6102, prohibiting discrimination on the basis of age in USDA programs and activities funded by the Department;

(vi) Actions to enforce related Executive Orders, Congressional mandates, and other laws, rules, and regulations, as appropriate;

(vii) Actions to develop and implement the Department's Federal Women's Program;

(viii) Actions to develop and implement the Department's Hispanic Employment Program.

(2) Evaluate Departmental agency programs, activities, and impact statements for civil rights concerns.

(3) Provide leadership and coordinate USDA agency and Department systems for targeting, collecting, analyzing, and evaluating program participation data and equal employment opportunity data.

(4) Provide leadership and coordinate Departmentwide programs of public notification regarding the availabiltiy of USDA programs on a nondiscriminatory basis.

(5) Serve as the focal point through which all contacts with the Department of Justice are made involving matters relating to Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and Section 504 of the Rehabilitation Act of 1973, as amended, except those matters in litigation, including administrative enforcement actions, which shall be coordinated by the Office of the General Counsel.

(6) Serve as the focal point through which all contacts with the Department of Health and Human Services are made involving matters relating to the Age Discrimination Act of 1975, except those matters in litigation, including administrative enforcement action, which shall be coordinated by the Office of the General Counsel.

(7) Order proceedings and hearings in the Department of Agriculture pursuant to § 15.9(e) and § 15.86 of this subtitle which concern consolidated or joint hearings within the Department and/or with other Federal departments and agencies.

(8) Order proceedings and hearings in the Department of Agriculture pursuant to § 15.8(c) of this subtitle after the program agency has advised the applicant or recipient of his/her failure to comply and has determined that compliance cannot be secured by voluntary means.

(9) Issue orders to give a notice of hearing or the opportunity to request a hearing pursuant to Part 15 of this subtitle; arrange for the designation of an Administrative Law Judge to preside over any such hearing; and determine whether the Administrative Law Judge so designated will make an initial decision or certify the record to the Secretary of Agriculture with his/her recommended findings and proposed action.

(10) Authorize the taking of action pursuant to § 15.8(a) of this subtitle relating to compliance by "other means authorized by law."

(11) Make determinations required by § 15.8(d) of this subtitle that compliance cannot be secured by voluntary means, and then take action, as appropriate.

(12) Make determinations that program complaint investigations performed under § 15.6 and § 15.52 of this subtitle establish a proper basis for findings of discrimination, and that actions taken to correct such findings are adequate.

(13) Conduct investigations and compliance reviews Departmentwide, except with regard to equal employment discrimination complaints.

(14) Develop regulations, plans, and procedures necessary to carry out the Department's civil rights programs, including the development, implementation, and coordination of Action Plans.

(15) Perform staff work for the Director of Equal Employment Opportunity including coordination of the Department's affirmative employment program, special emphasis programs, Federal equal opportunity recruitment program equal employment opportunity evaluations, and development of policy.

(16) Provide equal employment opportunity services for managers and employees in the Departmental staff offices.

(17) Provide liaison on equal employment opportunity programs and activities with the Equal Employment Opportunity Commission, the Office of Personnel Management, USDA agencies, Department employees, and applicants for positions within the Department.

(18) Maintain liaison with the historically Black colleges and universities, and assist USDA agencies in strengthening those minority institutions, by facilitating institution participation in USDA programs and activities and by encouraging recuritment of institution graduates for USDA employment.

9. A new § 2.81 is added to read as follows:

§ 2.81 Director, Office of Information Resources Management.

(a) *Delegations.* Pursuant to § 2.25(d), (f), and (k) of this part, the following delegations of authority are made by the Assistant Secretary for Administration

to the Director, Office of Information Resoures Management:

(1) Assist the Senior Official designated under the Paperwork Reduction Act of 1980 with the development of Departmental information resource management principles, policies and objectives.

(2) Coordinate with the Senior Official designated under the Paperwork Reduction Act of 1980, the development and promulgation of Departmental information resources management standards, guidelines, rules, and regulations necessary to implement approved principles, policies, and objectives.

(3) Develop and implement an information resources management planning system which will integrate short-term and long-term objectives and coordinate agency and staff office initiatives in support of the objectives.

(4) Provide Departmentwide guidance and direction in planning, developing, documenting, and managing applications software projects in accordance with Federal and Department information processing standards, procedures, and guidelines.

(5) Provide Departmentwide guidance and direction in all aspects of the USDA information management program including feasibility studies; economic analyses; systems design; acquisition of equipment, software, services, and timesharing arrangements; systems installation; systems performance and capacity evaluation; and security. Monitor these activities for agencies' major systems development efforts to assure effective and economic use of resources and compatibility among systems of various agencies when required.

(6) Manage the Departmental Computer Centers, including setting of rates to recover the cost of goods and services within approved policy and funding levels.

(7) Review and evaluate information resource management activities related to delegated functions to assure that they conform to all applicable Federal and Department information resource management policies, plans, standards, procedures, and guidelines.

(8) Design, develop, implement, and revise systems, processes, work methods, and techniques to improve the management and operational effectiveness of information resources.

(9) Administer the Departmental records, forms, reports, and directives management programs, in coordination with the Senior Official designated under the Paperwork Reduction Act of 1980.

(10) Manage all aspects of the USDA telecommunications program including planning, development, acquisition, and use of equipment and systems for voice and data communications, excluding the actual procurement of data transmission equipment, software, maintenance, and related supplies. Manage Departmental telecommunications contracts. Provide technical advice throughout the Department on telecommunications matters.

(11) Implement a program for applying information resources management technology to improve productivity in the Department.

(12) Provide leadership to integrate and unify the management process for the Department's major information resource management system acquisitions and to monitor implementation of the policies and practices set forth in applicable OMB Circulars.

(13) Provide Departmental services related to Departmental administrative regulations, Secretarial issuances, and related management support.

(14) Plan, develop, install, and operate computer-based systems for message exchange, scheduling, computer conferencing, and other applications of office automation technology which can be commonly used by multiple Department agencies and offices.

(15) Provide automation, forms management, files management, directives management, and related services, with authority to take any action required by law or regulation to provide such services, for:

(i) The Secretary of Agriculture;

(ii) The general officers of the Department, except the Inspector General;

(iii) The offices and agencies reporting to the Assistant Secretary for Administration; and

(iv) Provide such of the above service for any other officer or agency of the Department as may be agreed.

(16) Represent the Department in contacts with the General Accounting Office, the General Services Administration, the Office of Management and Budget, the National Bureau of Standards, and other organizations or agencies on matters related to delegated responsibilities.

(17) Provide staff assistance as required for the Secretary, general officers, and other Department and agency officials.

(18) Provide related support services needed by the Department to carry out defense responsibilities.

Dated: May 28, 1982.

For Subpart C:

John R. Block,

Secretary of Agriculture.

Dated: May 19, 1982.

For Subpart J:

John Schrote,

Assistant Secretary for Administration.

[FR Doc. 82-15024 Filed 6-2-82; 8:45 am]

BILLING CODE 3410-01-M

Agricultural Marketing Service

7 CFR Part 979

Melons Grown in South Texas; Approval of Amendment No. 1 to Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the handling regulation, § 979.304 to permit shipments of honeydew melons in experimental bulk boxes and in pony cartons of specified sizes. It will provide information for the industry concerning the economic feasibility of making shipments in this manner while continuing to provide the consumer with melons of acceptable quality at reasonable prices.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 447-2615. The Final Impact Statement relating to this final rule is available from Mr. Porter.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act.

Information collection requirements contained in this regulation (7 CFR Part 979) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB No. 0581-0076.

This final rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "nonmajor" rule. William T. Manley, Acting Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

This amendment is based upon committee recommendations resulting from a telephone vote concluded May 25, 1982. The handling regulation is being amended to permit experimental shipments of honeydew melons in bulk containers and in pony cartons. The bulk containers will have dimensions of

4 feet long by 4 feet wide by 2 feet deep or containers deemed similar by the committee. The container is intended to serve as a display for the retailer so that the melons need not be unpacked. The committee believes that since this type of bulk bin is of a relatively modest size it may improve efficiency and reduce costs while still providing substantially greater protection than if they were piled directly in the bed of a truck or trailer.

Handlers may also ship honeydew melons in pony cartons of specified dimensions. Pony cartons are smaller than cartons presently authorized but serve the same purpose.

Inasmuch as the inspection and grade requirements of the melons so packed remain unchanged, this amendment will not permit the bulk shipments of questionable quality melons that were prevalent in the area prior to inception of the order. Handlers using these bulk containers shall provide the committee with such information as it deems necessary to properly evaluate the merits of these experimental containers.

Findings. After consideration of all relevant matters, it is found that the following amendment will tend to effectuate the declared policy of the act.

It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice or engage in public rulemaking procedure, and that good cause exists for not postponing the effective date of this section until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that (1) to maximize benefits to producers, this amendment should apply to as many shipments as possible during the effective period, (2) compliance with this amendment will not require any special preparation on the part of handlers, (3) information regarding the committee's recommendation has been made available to producers and handlers in the production area, and (4) this amendment relieves restrictions on the handling of production area honeydew melons.

List of Subjects in 7 CFR Part 979

Marketing agreements and orders, Melons, Texas.

PART 979—MELONS GROWN IN SOUTH TEXAS

Section 979.304 *Handling regulation* (47 FR 13118) is hereby amended by adding a new paragraph (e)(3) and a new paragraph (f)(5).

§ 979.304 Handling regulation.

* * * * *

(e) * * *

(3) Upon approval of the committee, experimental shipments of honeydew melons may be made in bulk containers measuring 4 feet long by 4 feet wide by 2 feet deep, or containers deemed similar by the committee. Shipments of honeydew melons also may be made in pony cartons having dimensions of 17 inches long by 14½ inches wide by 5⅝ inches deep. Container requirements of paragraph (b) of this section shall not apply, but such shipments shall meet all other applicable requirements of this section.

(f) * * *

(5) Each handler making experimental shipments of honeydew melons in bulk bins approved under paragraph (e)(3) shall report on each shipment as directed by the committee.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

Dated: May 28, 1982, to become effective upon signing.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-15623 Filed 6-2-82; 8:45 am]

BILLING CODE 3410-02-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 122

[Rev. 3, Amdt. 17]

Business Loans; Export Revolving Line of Credit Loans

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This amendment to Part 122 establishes the regulations for Export Revolving Line of Credit Loans. This final rule considers the written comments received in response to the proposed rule that was published in the **Federal Register** on December 3, 1981. (46 FR 58701).

EFFECTIVE DATE: June 3, 1982.

FOR FURTHER INFORMATION CONTACT: Questions regarding this final rule may be directed to: Robert H. Bartlett, Chief, Program Operations Branch; Office of Business Loans, (202) 653–6470.

SUPPLEMENTARY INFORMATION: SBA received thirty-one written responses to the proposed rule. Twenty-eight of the replies indicated support for the proposed program. Most of the respondents suggested one or more modifications or clarifications of the proposed regulations; seven of the replies were supportive of the proposed rule as published (no changes or clarifications requested). Three responses were critical of the concept, citing the opinion that demand would be limited, and that unbankable transactions are unworthy of Government assistance. Another respondent believes that the program is ill conceived to meet the needs of exporters. Deficiences cited were inadequate loan amounts, general availability of private financing for exporting needs, and the opinion that export development financing would be speculative and insufficient to adequately accomplish the purposes envisioned by the program.

One comment indicated that export financing should receive preference over other types of SBA loans and that program modifications are needed to enable exporters to compete effectively. However, no specifics were presented as to the modifications that are felt to be needed.

Ten of the responses were concerned about collateral requirements. A number of these questioned the prohibition against taking collateral located in foreign countries and whether such items as letters of credit, export receivables, Foreign Credit Insurance Association (FCIA) insured receivables or guarantees from the Export-Import Bank would qualify as acceptable collateral. The primary purpose of the program is for pre-export financing. Conventional methods of financing should be available to conclude the transaction without a government guarantee beyond the point that the goods are ready for export. However, this program can be used if needed where secured by an acceptable letter of credit, insured receivables, or any other assets that are under the jurisdiction of the United States Courts.

Another area of concern of five banker respondents concerned permissible service and commitment fees chargeable to the borrower. Two of these wanted to know whether the commitment fee allowed on this program precludes the two percent service fee allowed to offset extraordinary participant expense in servicing such collateral as inventory and accounts receivable. This service fee, where warranted, is permissible in addition to the commitment fee. One banker favored an unrestricted commitment fee while another respondent believed that one percent should adequately cover expenses.

One respondent proposed that SBA guarantee the participant's cost of funds to ensure the availability of level rates of interest for smaller firms. This would require that SBA subsidize the rate during periods of ascending interest

rates. There is no statutory authority that would enable SBA to provide this type of subsidy. Two respondents suggested that qualifying banks be certified for discretionary authority to commit SBA to a line of credit. The feasibility of this approach is currently under study by SBA. An additional suggestion was for SBA to issue letters of credit. This type of activity is beyond the scope of the enacted statutory authority.

Use of proceeds was discussed by six of the respondents. Clarification was requested as to whether the program covers the final stages (shipping and receivable collection) of export transactions. Proceeds may be used to develop a foreign market and to finance pre-export production. It is anticipated that normal lending channels should provide adequate financing at the point that the export product is ready for shipment. However, the program can be used where needed for shipping and receivable collection overseas. Another respondent proposed that eligible use of proceeds also include the purchase of goods to fill an existing export sales contract. SBA interprets this use of proceeds to be within the scope of the program where borrowed funds are necessary in this type of transaction. However, with normal trade terms from the supplier and pre-arranged export financing, an interim lender should normally be unnecessary. Verification of use of proceeds by the participant was a matter of concern to one respondent. The requirements of this program would be no different than other SBA programs. A prudent approach to verification would vary according to circumstances but would include the normal surveillance and monitoring that is customarily enlisted by lenders. Another reply expressed the opinion that proceeds should be used only for the accumulation of inventory for confirmed orders with repayment requested at the time of shipment. Program funds to finance market development were believed to be inappropriate by three respondents. Another respondent recommended that participants be required to accept letters of credit from all African Nations or be barred from the program. This recommendation was rejected since it might severely limit the program.

Six of the responses discussed the maturity which, by law, cannot exceed 18 months. Most of these were concerned about the process for renewal of the line. No provisions exist for renewals but borrowers are permitted to reapply upon expiration of an existing line of credit. One respondent believed that 18 months may not be long enough in some cases. Another respondent believes that penetration of foreign markets financed by a line of credit should be automatically converted to a term loan where the development efforts are unsuccessful. Presently, a term loan can be used to refund a line of credit but no provision exists for an automatic conversion. SBA believes that each problem line of credit should be individually handled without prior commitment to automatic conversion which can limit workout flexibility.

Responses in six cases pertained to documentation requirements. The required monthly progress reports were believed valid by two respondents, one of whom suggested a simple format and the other would "put the burden on the borrower, not the lender". Another suggestion was that withholding taxes be verified by a certification from the exporter. Another respondent felt that a cashflow statement would be unnecessary in some cases, and two respondents objected to the "documentation burden" in generalized terms. Documentation and monitoring requirements would be similar to those of other SBA programs. While SBA continues to seek ways to simplify requirements, the participant is expected to obtain prudent documentation when foreign transactions are involved. SBA believes that a cashflow statement is a vital tool to determine the amount needed, to evidence repayment ability, and to monitor borrower progress after disbursement.

One response proposed that the rule requiring applicant to be in operation for a minimum of twelve (12) months as a prerequisite to program eligibility be waived where "applicant * * * relies on others with twelve months experience". SBA believes that exporting is sufficiently complex to warrant exclusion of new firms from this program. However, eligibility may exist under our regular lending program. An additional suggestion was received concerning the standard operating procedures (SOP) that will be used to implement this program. A reply was made directly to this respondent.

In response to an oral suggestion, a modification has been made in the final rules to require that the cashflow statement cover the term of the loan instead of a minimum of 12 months.

This action is being taken in order to implement the specific statutory authority contained in Pub. L. 96-481 which authorized a revolving line of credit for small business exporters.

SBA has determined that this proposal does not constitute a major rule for the purpose of E.O. 12291. This rule will not result in a major increase in costs or price for consumers, individual industries, Federal, State or local government agencies or geographic regions, and will not have significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States enterprises to compete in domestic or export markets. We are certain that the annual effect of this rule on the economy will be less than one hundred million dollars ($100,000,000). Our estimated loan volume for fiscal year 1983 is ten million dollars ($10,000,000).

In addition, for the purpose of compliance with the Regulatory Flexibility Act, Pub. L. 96-354, SBA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

This regulation will not impose any special reporting, record keeping, or burdens on the small businesses that avail themselves of this assistance.

List of Subjects in 13 CFR Part 122

Small business, Loan program-business, Trust and trustees, Business loans, Export.

Accordingly, pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 631 et seq.), Part 122, Chapter 1, Title 13 of Code of Federal Regulations is amended by adding a new subpart D to read as follows:

PART 122—BUSINESS LOANS

* * * * *

Subpart D—Export Revolving Line of Credit

Sec.

122.400 General.
122.401 Eligibility.
122.402 Use of Proceeds.
122.403 Fees.
122.404 Maturity.
122.405 Collateral.
122.406 Additional loan conditions.

Subpart D—Export Revolving Line of Credit

Authority: Sec. 5(b)(6) Small Business Act. 15 U.S.C. 631 et seq.

§ 122.400 General.

Section 7(a)(14) of the Small Business Act, as amended, authorizes the use of regular business loans under section 7(a) to finance export assistance, and specifically authorizes extensions and revolving lines of credit for export purposes, to develop foreign markets

and for pre-export financing. The interest rates, allowable fees, size limitations and other standards or guidelines that are applicable to all section 7(a) guaranteed loans (see Subpart A of this Part and Parts 120 and 121 of this Chapter) also apply to these loans unless modified by this subpart. A small business may have other 7(a) loans in addition to an Export Revolving Line of Credit (ERLC) loan, so long as the total outstanding balance of all such loans will not exceed the $500,000 (SBA share) statutory ceiling. This Subpart deals only with ERLC loans which are guaranteed by SBA.

§ 122.401 Eligibility.

An applicant for an ERLC loan, in addition to meeting the eligibility criteria applicable to all section 7(a) loans, must have been in operation for at least 12 full months prior to filing an application.

§ 122.402 Use of proceeds.

Proceeds of an ERLC loan can be used only to penetrate or develop a foreign market and to finance labor and materials for pre-export production. Professional export marketing advice or services, foreign business travel or participation in trade shows are examples of eligible expenses to develop or penetrate a foreign market. The cost of acquiring or renting office or commercial space in a foreign country, equipping such an office or wages for a staff in such an office are examples of ineligible uses of proceeds, since these funds should be provided through equity capital or a term loan.

§ 122.403 Fees.

In addition to fees permitted under § 120.3(b) of this Chapter and § 122.18 of this part, the participant in an ERLC loan is permitted to charge the borrower a commitment fee equal to one-fourth of one percent of the loan or two hundred dollar ($200.00) minimum. This fee cannot be charged until the SBA has approved the lender's request for guarantee. The participating institution may also be permitted by SBA to charge borrower a service fee, not to exceed two percent (2%) per annum on the outstanding balance of the loan, for the handling of accounts receivable or inventory collateral. There must be a showing by the institution that extraordinary servicing is involved and the fee does not represent additional interest or profit on the loan. If receivables or inventory constitute only a part of the collateral for the loan, the service fee may be charged only on that part of the loan secured by such collateral. The two percent (2%) service charge is the maximum charge allowable; the actual fee must be commensurate with the extra service involved. Approval of the service charge will be considered by SBA at the written request of the participating institution.

§ 122.404 Maturity.

The maturity of an ERLC loan, together with all extensions and renewals, cannot exceed eighteen (18) months.

§ 122.405 Collateral.

Only collateral that is located in the United States, its territories and possessions will be acceptable security for these loans.

§ 122.406 Additional loan conditions.

(a) *Projected Cash Flow Statement.* An ERLC loan application must include a projected cash flow that supports the need for the funds and that evidences repayment ability. The projection must cover the applicant's total operation and clearly identify the use(s) of the loan proceeds and source(s) of repayment. The projection must cover the term of the loan.

(b) *Monthly Progress Reports.* Every ERLC borrower must submit monthly progress reports to the lender and explain discrepancies between the projected cash flow and the progress report.

(c) *Withholding Taxes.* Every applicant for an ERLC loan must be current on all payroll taxes and have in operation a depository plan for the payment of future withholding taxes.

(Catalog of Federal Domestic Assistance Program No. 59.012 Small Business Loans)

Dated: May 11, 1982.

James C. Sanders,

Administrator.

[FR Doc. 82-15017 Filed 6-2-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 82-ACE-14]

Designation of Federal Airways, Area Low Point Routes, Controlled Airspace and Reporting Points; Alteration of Control Zone, Lincoln, Nebr.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the control zone at Lincoln, Nebraska, to totally encompass a 6-mile radius of Lincoln Airport, Lincoln, Nebraska. This action is necessary to include approximately 1 square mile of additional controlled airspace, which had previously been excluded within a 1-mile radius of Arrow Airport. Since Arrow Airport has been abandoned, the exclusion is no longer necessary.

EFFECTIVE DATE: September 2, 1982.

FOR FURTHER INFORMATION CONTACT: Don A. Peterson, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR 71.171) is to alter the Lincoln, Nebraska, control zone. The alteration is necessary to provide approximately 1 square mile of additional controlled airspace in order to totally encompass the Lincoln Airport. This newly added airspace had been excluded because of the existence of Arrow Airport. Since that airport has been abandoned, there is no further reason for this exclusion. Because this change is not significant and does not impose any additional burden, notice and public procedure under 5 U.S.C. 553(b) is impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT September 2, 1982, by altering the following control zone:

Lincoln, Nebraska

Within a 6-mile radius of Lincoln Airport (latitude 40°50'58" N., longitude 96°45'31" W.); and within 1.5 miles each side of the 325° track angle from the Runway 14 threshold extending from the 6-mile radius to 7 miles northwest of the Lincoln Airport; and within 2 miles each side of the Lincoln ILS localizer north course extending from the 6-mile radius to 14 miles north of the Lincoln Airport; and within 2 miles either side of the Lincoln VORTAC 015° radial extending from the 6-

mile radius to 8 miles north of the Lincoln VORTAC; and within 2 miles each side of the Lincoln VORTAC 187° radial extending from the 6-mile radius to 13 miles south of the Lincoln VORTAC.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.69 of the Federal Aviation Regulations (14 CFR 11.69)).

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Mo., on May 21, 1982.

John E. Shaw,

Acting Director, Central Region.

[FR Doc 82-15006 Filed 6-2-82; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C-3090]

Volkswagen of America, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a Warren, Mich. producer and seller of motor vehicles and replacement parts to cease including in owners' manuals for diesel engine vehicles any instructions for oil filter installation that differs from that provided to its dealers. The order requires the company to include in future maintenance manuals a conspicuous statement warning of the need to follow oil filter installation instructions carefully to avoid serious engine damage. Further, the firm is required to reimburse current and past owners of 1977–1981 Volkswagen and Audi diesels for repairs which resulted from oil filter leaks; notify these owners of the reimbursement offer by first class mail; and provide them with currently recommended oil filter installation information. Additionally, the company is required to locate and pay reimbursement to eligible owners in a timely manner, and maintain specified records for a period of three years.

DATE: Complaint and order issued May 24, 1982.[1]

FOR FURTHER INFORMATION CONTACT:

FTC/PE, Stephen H. Meyer, Washington, D.C. 20580. (202) 724–1515.

SUPPLEMENTARY INFORMATION: On Tuesday, Sept. 29, 1981, there was published in the **Federal Register**, 46 FR 47619, a proposed consent agreement with analysis In the Matter of Volkswagen of America, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533–20 Disclosures; § 13.533–45 Maintain records; § 13.533–57 Restitution. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1710 Qualities or properties; § 13.1730 Results; § 13.1740 Scientific or other relevant facts. Subpart—neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1863 Limitations of product; § 13.1885 Qualities or properties; § 13.1895 Scientific or other relevant facts.

List of Subjects in 16 CFR Part 13

Motor vehicles, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Carol M. Thomas,

Secretary.

[FR Doc 82-15028 Filed 6-2-82; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and Decision and Order filed with the original document.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 140

Regulation Concerning Conduct of Members and Employees and Former Members and Employees of the Commission; Receipt and Disposition of Foreign Gifts and Decorations

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: Section 515 of the Foreign Relations Authorization Act, Fiscal Year 1978, as subsequently amended, revising 5 U.S.C. 7342, provides, among other things, that Federal departments and agencies of all three branches of the United States government, including the Commission, are required to issue regulations setting forth the responsibilities of their employees concerning receipt and disposition of gifts and decorations from foreign governments. Previously, government-wide policy was set by the Department of State. The Commission is amending its regulations to conform with 5 U.S.C. 7342, as amended.

EFFECTIVE DATE: June 3, 1982.

FOR FURTHER INFORMATION CONTACT:

Howard L. Schwartz or Helen Blechman, Attorneys, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, (202) 254–9880.

SUPPLEMENTARY INFORMATION: The Commodity Futures Trading Commission ("Commission"), in conformance with Section 515 of the Foreign Relations Authorization Act, Fiscal Year 1978, Pub. L. 95–105, 91 Stat. 862 *et seq.* (1977), as subsequently amended by Pub. L. 95–426, 92 Stat. 994–995 (1978), which amended Section 7342 (Receipt and disposition of foreign gifts and decorations) of Title 5, United States Code, is amending Part 140, Subpart C of its regulations, 17 CFR Part 140, Subpart C, to add a rule setting forth the responsibilities of Commission members and employees concerning receipt and disposition of gifts and decorations from foreign governments.

The Constitution of the United States, Article I, Section 9, Clause 8, prohibits federal officers and employees from accepting gifts or decorations from foreign governments without the consent of Congress in the following terms:

* * * No Person holding any Office of Profit or Trust under [the United States], shall, without the Consent of the Congress, accept of any present, Emolument, Office, or

Title, of any kind whatever, from any King, Prince, or foreign State.

Congress, in Public Law 95–105, has given its consent to the acceptance and retention by federal officers and employees of certain gifts and decorations tendered by foreign governments. Conversely, to the extent Congress has not consented to the retention of a foreign gift or decoration, it shall be refused or, if accepted, shall become the property of the United States. In that law, Congress also directed each federal agency to develop implementing regulations, pursuant to guidance of Secretary of State, who previously had government-wide policy responsibility with respect to foreign gifts and decorations as authorized by Congress. In accordance with 5 U.S.C. 7342 and the State Department guidance, the Commission is promulgating new Rule 140.735–8A.

Discussion of Rule 140.735–8A

Definitions. Subparagraph (a)(1) of Rule 140.735–8A provides that the rule applies to Commission members and employees, including experts or consultants under contract with the Commission, and the spouses (unless separated) and dependents of such persons.

Subparagraph (a)(2) sets forth the definition of "foreign government," which includes any unit of foreign governmental authority, any international or multinational organization and any agent or representative thereof.

A "gift" as defined in subparagraph (a)(3) includes any tangible or intangible present (other than a decoration) from a foreign government, except grants and other forms of assistance to which Section 108A of the Mutual Educational and Cultural Exchange Act of 1961 applies. Subparagraph (a)(4) defines a "decoration" to include any form of award from a foreign government.

Prohibition. Paragraph (b) provides that Commission members and employees shall not request or otherwise encourage the tender of a foreign gift or decoration; accept a gift of currency, unless it has an historical or numismatic value; accept foreign travel expenses such as transportation, food and lodging, other than as authorized in subparagraph (c)(5); or accept any foreign gift or decoration except as is authorized by the rule.

Gifts Which May Be Accepted. Subparagraph (c)(1) provides that gifts of minimal value tendered or received as a souvenir or mark of courtesy from a foreign government may be accepted by a Commission member or employee without further approval. If the value of the gift is uncertain, the recipient is responsible for establishing that it is of minimal value, as defined by this rule. Documentary evidence may be required in support of the valuation. Subparagraph (a)(5) defines "minimal value" to mean a retail value in the United States at the time of acceptance of the gift of $140 or less, except as periodically redefined by the Administrator of General Services.

Gifts of More Than Minimal Value. Subparagraph (c)(2) provides that Commisson members and employees may accept, on behalf of the United States, gifts of more than minimal value tendered or received from a foreign government when it appears that to refuse the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States. When a tangible gift of more than minimal value is accepted on behalf of the United States, it becomes the property of the United States.

Subparagraph (c)(3) provides that Commission members and employees may also accept a gift of more than minimal value if it consists of an educational scholarship or medical treatment.

Subparagraph (c)(4) requires that, within 60 days of acceptance of a tangible gift of more than minimal value (unless the gift is an educational scholarship or medical treatment), a Commission member or employee must file a statement with the Executive Director of the Commission containing: his name and position at the Commission; a brief description of the gift; the circumstances justifying acceptance; the identity if known, of the foreign government and the name and position of the individual who presented the gift; the date of acceptance; the estimated value of the gift; and the disposition or current location of the gift.

Gift of Travel or Expenses for Travel. Subparagraph (c)(5) provides that Commission members and employees are authorized to accept from a foreign government gifts of travel or expenses for travel taking place entirely outside the United States (such as transportion, food and lodging) of more than the minimal value if the acceptance is approved by the Commission's Executive Director, based upon a finding that it is consistent with the interests of the Commission. Either prior to or within 30 days after accepting such a gift of travel or travel expenses, the Commission member or employee concerned shall file a statement with the Executive Director containing: his name and position at the Commission; a brief description of the gift; the circumstances justifying acceptance; the identity, if known, of the foreign government and the name and position of the individual who presented the gift; and the date of acceptance.

Decorations. Paragraph (d) provides that Commission members or employees may accept, retain and wear decorations tendered by a foreign government in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance, subject to the approval of the Executive Director. Without this approval, the decoration is deemed to have been acepted on behalf of the United States. In that event, it shall beome the property of the United States and shall be deposited by the employee, within 60 days of acceptance, with the Executive Director for official use or forwarded to the Administrator of General Services for disposal in accordance with paragraph (g) herein.

Under normal circumstances, it can be expected that the Commission member or employee will be notified of the intent of a foreign government to award him or her or a spouse or dependent a decoration for outstanding or unusally meritorious service sufficiently in advance so that the approval required can be sought prior to its acceptance. A request for the approval of the Executive Director shall be submitted in writing, stating the nature of and reason for the decoration. Whenever possible, the request should also be accompanied by a statement by the foreign government, preferably in the form of the citation which shows the basis for the award.

Disposition of gifts or decorations accepted on behalf of the United States. Paragraph (e) provides that, within 60 days after acceptance of a tangible gift of more than the minimal value or a decoration for which approval by the Executive Director has not been given, a Commission member or employee shall deposit the gift or decoration for disposal with the Executive Director or deposit the gift with the Commission for official use, subject to approval of the Commission upon the recommendation of the Executive Director.

A gift or decoration may be retained for official use if the Commission determines that it can be properly displayed in an area accessible to employees and members of the public. Within 30 days after termination of the official use of a gift or decoration, the Executive Director shall forward the gift or decoration to the Administrator of General Services in accordance with paragraph (g) of this rule.

Paragraph (f) provides that, whenever possible, gifts or decorations that have been deposited with the Executive Director for disposal shall be returned to the donor. The Executive Director, in coordination with the Office of the General Counsel, will examine the circumstances surrounding the donation, assessing whether any adverse effect on the foreign relations of the United States might result from the return of the gift or decoration to the donor. Appropriate Department of State officials will be consulted if a question of adverse effect on the United States foreign relations arises.

Paragraph (g) provides that gifts or decorations that have not been returned to the donor, retained for official use or whose official use has terminated shall be forwarded by the Executive Director to the Administrator of General Services for appropriate disposition in accordance with applicable law.

Report to the Secretary of State. In accordance with subparagraph (c)(6), not later than January 31 of each year the Executive Director will compile a listing of all statements filed during the preceding year by Commission members and employees pursuant to subparagraphs (c)(4) and (c)(5) and will transmit the listing to the Secretary of State who, in accordance with 5 U.S.C. 7342(f)(1), publishes a comprehensive listing of such statements from all federal agencies in the Federal Register.

Violation. Paragraph (h) reflects the fact that the United States Attorney General, pursuant to 5 U.S.C. 7342(h), may bring a civil action in any United States district court against any Commission member or employee who knowingly solicits or accepts a gift from a foreign government not consented to by Congress in 5 U.S.C. 7342, or who fails to deposit or report such gift as required by 5 U.S.C. 7342, and that the court may assess a civil money penalty.

Further, paragraph (i) provides that a violation of this rule by a Commission employee may be cause for appropriate disciplinary action, in addition to any penalty prescribed by law.

Proof of Minimal Value. Paragraph (j) provides that the recipient has the burden of proving minimal value. In the event of a dispute over the value of a gift, the Executive Director shall arrange for an outside appraiser to determine whether the gift is of more or less than minimal value. Further, when requested by the Administrator of General Services, the Executive Director shall arrange for appraisal of a gift or decoration.

Prohibition on the Use of Commission Funds. Paragraph (k) reflects the prohibition on use of appropriated funds, other than monies in the State Department account entitled "Emergencies in the Diplomatic and Counselor Service," to buy any tangible gift of more than the minimal value for any foreign individual, unless the gift has been approved by Congress.

The Commission finds that this rule relates solely to agency organization, procedure and practice. Therefore, the provisions of the Administrative Procedure Act, as codified, 5 U.S.C. 553, generally requiring notice of proposed rulemaking and other opportunity for public participation are not applicable. The Commission further finds that, because of the need promptly to adopt a rule under the Foreign Gifts and Decorations Act which has been effective for quite some time, there is good cause to make this rule effective upon publication in the Federal Register. Accordingly, this rule will become effective on June 3, 1982.

List of Subjects in 17 CFR Part 140

Commodity futures, Conflict of interests, Organization and functions (Government agencies).

In consideration the foregoing and pursuant to the authority in 5 U.S.C. 7342(g)(1) and Sections 2(a)(11) and 8a(5) of the Commodity Exchange Act, 7 U.S.C. 4a(j) and 12a(5), the Commission hereby amends Part 140, Subpart C, of Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 140—ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE COMMISSION

1. The table of sections of Subpart C of Part 140 is amended as follows:

* * * * *

§ 140.735–8A Receipt and disposition of foreign gifts and decorations.

* * * * * *

2. A new § 140.735–8A is added as follows:

§ 140.735–8A Receipt and disposition of foreign gifts and decorations.

(a) For purposes of this section only:

(1) "Commission member" or "employee" means any Commission member or any person employed by or who occupies an office or a position in the Commission; an expert or consultant under contract with the Commission, or in the case of an organization performing services under such contract, any individual involved in the performance of such service; and the spouse, unless the individual and his or her spouse are separated, and any dependant, as defined by Section 152 of the Internal Revenue Code of 1954, of any such person.

(2) "Foreign government" means:

(A) Any unit of foreign governmental authority, including any foreign national, state, local, and municipal government;

(B) Any international or multinational organization whose membership is composed of any unit of foreign government described in paragraph (a)(2)(A) of this section; and

(C) Any agent or representative of any such unit or such organization, while acting as such.

(3) "Gift" means a tangible or intangible present (other than a decoration) tendered by, or received from, a foreign government, except grants and other forms of assistance to which section 108A of the Mutual Educational and Cultural Exchange Act of 1961 applies.

(4) "Decoration" means an order, device, medal, badge, insignia, emblem, or award tendered by, or received from, a foreign government.

(5) "Minimal value" means a retail value in the United States at the time of acceptance of $140 or less, except as redefined to reflect changes in the consumer price index at three year intervals by the Administrator of General Services pursuant to authority granted in 5 U.S.C. 7342(a)(5)(A).

(b) Commission members and employees shall not:

(1) Request or otherwise encourage the tender of a gift or decoration;

(2) Accept a gift of currency, except that which has an historical or numismatic value;

(3) Accept travel or expenses for travel, such as transportation, food and lodging, from foreign governments, other than those authorized in paragraph (c)(5) of this section; or

(4) Accept any gift or decoration, except as authorized by this section.

(c) Gifts which may be accepted:

(1) Commission members and employees may accept and retain gifts of minimal value tendered or received as a souvenir or mark of courtesy from a foreign government without further approval. If the value of a gift is uncertain, the recipient shall be responsible for establishing that it is of minimal value, as defined in this section. Documentary evidence may be required in support of the valuation.

(2) Commission members and employees may accept, on behalf of the United States, gifts of more than minimal value tendered or received from a foreign government when it appears that to refuse the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States. When a tangible gift of more than minimal value is accepted

on behalf of the United States, it becomes the property of the United States.

(3) Commission members and employees may accept a gift of more than minimal value where such gift is in the nature of an educational scholarship or medical treatment.

(4) Within 60 days after accepting a tangible gift of more than minimal value, other than a gift described in paragraph (c)(5) of this section, a Commission member or employee shall file a statement with the Executive Director of the Commission which shall include the following information:

(A) The name and position of the Commission member or employee;

(B) A brief description of the gift and the circumstances justify acceptance;

(C) The identity, if known, of the foreign government and the name and position of the individual who presented the gift;

(D) The date of acceptance of the gift;

(E) The estimated value in the United States of the gift at the time of acceptance; and

(F) The disposition or current location of the gift.

(5) Commission members and employees are authorized to accept from a foreign government gifts of travel or expenses for travel taking place entirely outside the United States, such as transportation, food and lodging, of more than minimal value if the acceptance is approved by the Executive Director, upon a finding that it is consistent with the interests of the Commission. Either prior to or within 30 days after accepting each gift of travel or travel expenses pursuant to this subparagraph, the Commission member or employee concerned shall file a statement with the Executive Director containing the following information:

(A) The name and position of the Commission member or employee;

(B) A brief description of the gift and the circumstances justifying acceptance;

(C) The identity, if known, of the foreign government and the name and position of the individual who presented the gift; and

(D) The date of acceptance.

(6) Not later than January 31 of each year the Executive Director shall compile a listing of all statements filed during the preceding year by Commission members and employees pursuant to paragraphs (c)(4) and (c)(5) of this section and shall transmit the listing to the Secretary of State.

(d) Commission members or employees may accept, retain and wear decorations tendered by a foreign government in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance, subject to the approval of the Executive Director. Without this approval, the decoration is deemed to have been accepted on behalf of the United States, shall become the property of the United States, and shall be deposited by the employee, within 60 days of acceptance, with the Executive Director for official use or forwarding to the Administrator of General Services for disposal in accordance with paragraph (g) of this section. Under normal circumstances, it can be expected that a Commission member or employee will be notified of the intent of a foreign government to award him or her or a spouse or dependent a decoration for outstanding or unusually meritorious service sufficiently in advance so that the approval required can be sought prior to its acceptance. A request for the approval of the Executive Director shall be submitted in writing, stating the nature of the decoration and the reason why it is being awarded. Whenever possible, the request should also be accompanied by a statement from the foreign government, preferably in the form of the citation, which shows the basis for the tender of the award, whether it is in recognition of active field service in time of combat operations or for other outstanding or unusually meritorious performance.

(e) Within 60 days after acceptance of a tangible gift of more than minimal value or a decoration for which the Executive Director has not given approval, a Commission member or employee shall:

(1) Deposit the gift or decoration for disposal with the Executive Director; or

(2) Subject to the approval of the Commission, upon the recommendation of the Executive Director, deposit the gift or decoration with the Commission for official use.

A gift or decoration may be retained for official use if the Commission determines that it can be properly displayed in an area accessible to employees and members of the public. Within 30 days after termination of the official use of a gift, the Executive Director shall forward the gift to the Administrator of General Services in accordance with paragraph (g) of this section.

(f) Whenever possible, gifts and decorations that have been deposited with the Executive Director for disposal shall be returned to the donor. The Executive Director, in coordination with the Office of the General Counsel, shall examine the circumstances surrounding the donation, assessing whether any adverse effect on the foreign relations of the United States might result from the return of the gift or decoration to the donor. The appropriate Department of State officials shall be consulted if a question of adverse effect on United States foreign relations arises.

(g) Gifts and decorations that have not been returned to the donor, retained for official use, or for which official use has terminated, shall be forwarded by the Executive Director to the Administrator of General Services for transfer, donation, or other disposal in accordance with the provisions of the Federal Property and Administrative Services Act of 1949, as amended, and 5 U.S.C. 7342.

(h) In accordance with 5 U.S.C. 7342(h), the United States Attorney General may bring a civil action in any United States district court against any Commission member or employee who knowingly solicits or accepts a gift from a foreign government not consented to by the Congress of the United States in 5 U.S.C. 7342, or who fails to deposit or report such gift as required by 5 U.S.C. 7342. The court may assess a penalty against such Commission member or employee in any amount not exceeding the retail value of the gift improperly solicited or received plus $5,000.

(i) A violation of the requirements set forth in this section by a Commission employee may be cause for appropriate disciplinary action which may be in addition to any penalty prescribed by law.

(j) (1) The burden of proving minimal value shall be on the recipient. In the event of a dispute over the value of a gift, the Executive Director shall arrange for an outside appraiser to determine whether the gift is of more or less than minimal value.

(2) When requested by the Administrator of Government Services, the Executive Director shall arrange for an appraisal of a gift or decoration.

(k) No appropriated funds of the Commission may be used to buy any tangible gift of more than minimal value for any foreign individual, unless the gift has been approved by Congress.

* * * * *

Issued by the Commission in Washington, D.C. on May 27, 1982.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82-15029 Filed 6-2-82; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM 79–14]

Incremental Pricing Regulations Implementing the Incremental Pricing Provision of the Natural Gas Policy Act of 1978; Order of the Director, OPPR of Publication of Incremental Pricing Acquisition Cost Thresholds Under Title II of the NGPA

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order prescribing incremental pricing thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: June 1, 1982.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, D.C. 20426, (202) 357–8500.

Order of the Director, OPPR

Issued May 26, 1982.

Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of June 1982 is issued by the publication of a price table for the applicable month.

List of Subjects in 18 CFR Part 282

Natural gas.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

TABLE I.—INCREMENTAL PRICING ACQUISITION COST THRESHOLD PRICES

	January	February	March	April	May	June	July	August	September	October	November	December
Calendar year 1980												
Incremental pricing threshold	$1.702	$1.736	$1.750	$1.762	$1.776	$1.786	$1.804	$1.819	$1.834	$1.849	$1.863	$1.877
NGPA section 102 threshold	2.358	2.381	2.404	2.428	2.453	2.478	2.504	2.532	2.560	2.588	2.614	2.640
NGPA section 109 threshold	1.796	1.799	1.812	1.825	1.839	1.853	1.867	1.883	1.899	1.915	1.929	1.943
130 percent of No. 2 fuel oil in New York City threshold	7.170	7.260	7.410	7.110	7.380	8.040	7.840	7.380	7.400	7.400	7.450	7.580
Calendar year 1981												
Incremental pricing threshold	$1.891	$1.909	$1.925	$1.942	$1.954	$1.967	$1.980	$1.990	$2.000	$2.010	$2.025	$2.041
NGPA section 102 threshold	2.667	2.698	2.729	2.761	2.787	2.813	2.840	2.863	2.888	2.909	2.946	2.971
NGPA section 109 threshold	1.957	1.975	1.993	2.011	2.024	2.037	2.050	2.060	2.070	2.080	2.096	2.112
130 percent of No. 2 fuel oil in New York City threshold	7.610	7.760	8.260	9.010	9.510	9.430	9.380	9.260	8.860	8.700	8.930	8.990
Calendar year 1982												
Incremental pricing threshold	$2.057	$2.071	$2.085	$2.099	$2.106	$2.113						
NGPA section 102 threshold	3.003	3.033	3.053	3.093	3.112	3.132						
NGPA section 109 threshold	2.128	2.143	2.158	2.173	2.180	2.187						
130 percent of No. 2 fuel oil in New York City threshold	9.180	9.340	9.470	9.340	9.280	9.000						

[FR Doc. 82–15018 Filed 6–2–82; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 148

[T.D. 82–102]

Personal Declarations and Exemptions; Registration of Travelers' Foreign-Made Articles To Be Taken Abroad

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to reflect existing Customs guidelines to standardize procedures for the registration of foreign-made tourist articles to be taken abroad temporarily by United States travelers. Registration is limited to those articles having serial numbers, or distinctive, permanently affixed markings uniquely distinguishing those articles from similar ones when they are returned to the United States. Standardized registration procedures are necessary because there have been great variations from one Customs region to another and even from one port of entry to another within the same region, as to what articles Customs would register.

EFFECTIVE DATE: July 6, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph O'Gorman, Office of Inspection, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202–566–8157).

SUPPLEMENTARY INFORMATION:

Background

All merchandise of foreign origin imported into the United States is subject to a customs duty unless it has been specifically exempted from this duty. Under § 148.1(a), Customs Regulations (19 CFR 148.1(a)), any person, except a nonresident seaman, airman, or person engaged in similar employment, who intends to take valuable effects of foreign origin abroad may register those articles before departure from the United States. The purpose of this provision is to facilitate identification of the articles upon their return to the United States so that the

traveler would not have to pay duty on articles that were already subject to duty payment when originally imported.

Under § 148.1(b), before leaving the United States, the person could present valuable effects of foreign origin to a Customs officer together with a properly executed Customs Form 4457, "Certificate of Registration For Personnal Effects Taken Abroad." The Customs officer would examine the articles, verify their description on the form, and sign the form. The form would be returned to the person for presentation to Customs at the port of entry upon return of the articles. A Customs Form 4455, "Certificate of Registration," could be required in any case in which a Customs Form 4457 would not adequately serve the purpose of registration.

It was Customs policy to permit the registration of any foreign-made article considered by the traveler to be "valuable." In practice, this led to great variations from one Customs region to another and even from one port of entry to another within the same region, as to what articles Customs would register. For example, at many ports, travelers were limited to registering foreign-made articles which had a serial number or other unique permanent marking. At other locations, there was no such limitation and a traveler could register a coat or piece of jewelry and merely provide a description of the article. As a result, a Customs officer at a port where strict registration limitations were enforced had to attempt to clear travelers whose registration certificates were secured at a port with more liberal registration standards. Without a serial number or other unique permanent marking, it was often very difficult for the Customs officer at the port of entry to determine whether the article returned to the United States was the same article that previously was registered. Also, liberal registration procedures at some locations encouraged fraud. Travelers could intentionally import articles similar to those they had previously registered in an attempt to avoid the payment of the duty.

The liberal registration procedures also led to occasional difficulties for travelers. Some travelers found that they were unable to register certain articles at one Customs port after previously having registered similar articles at a different port. Also, travelers who registered a non-serially-numbered article may believe erroneously that the registration process automatically precluded any doubt on the part of Customs that the article being returned from abroad was the article previously registered. Such situations have led to misunderstandings in some instances.

To resolve these difficulties, Customs prepared new guidelines to standardize procedures for the registration of foreign-made articles to be taken abroad temporarily by travelers. Customs officers were advised by internal directives to register only those foreign-made articles having serial numbers or other unique, permanently affixed markings.

Customs determined to amend the Customs Regulations to conform the regulations to the new registration standards. In this regard, on September 21, 1981, Customs published a notice of proposed rulemaking in the Federal Register (46 FR 46594) to amend § 148.1(a), Customs Regulations (19 CFR 148.1(a)), to reflect the Customs guidelines to standardize procedures for the registration of foreign-made articles to be taken abroad temporarily by United States travelers. It was proposed that registration would be restricted to those articles having serial numbers, or distinctive, permanently affixed markings uniquely distinguishing those articles from similar ones when they are returned to the United States. Also, it was proposed to delete the word "valuable" from the section heading and paragraphs (a) and (b) of § 148.1, because Customs believes the term is too vague.

Pursuant to the notice, interested parties were given until November 20, 1981, to submit comments on the proposal. Five commenters responded to the notice. Based on the comments received, two changes are being made to the amendments as proposed. Additionally, Customs has determined to make a change to clarify § 148.1(b).

Discussion of Comments

One commenter supports the rule to standardize registration procedures for travelers' foreign-made articles and commends the Customs Service for the proposal.

One commenter suggests that for a person living some distance from a Customs office, such as 20 miles, Customs should provide a procedure, in conjunction with the U.S. Postal Service, that the person's articles be registered at a local post office. Customs notes that the U.S. Postal Service was contacted previously regarding this proposal. Unfortunately, the U.S. Postal Service was unable to provide the registration service unless a fee was charged to Customs or the person registering the articles. Customs found this to be unacceptable because it believes the registration service should be provided free of charge.

One commenter objects to the deletion of the word "valuable" from the regulations and suggests that Customs be more specific in its definition of the word and specify a minimum dollar amount for those articles which must be registered. Customs disagrees with this comment. Because all merchandise of foreign origin imported into the United States is subject to a Customs duty unless specifically exempted from the duty, Customs believes that any article, regardless of its value, that has a serial number, or distinctive, permanently affixed marking, should be eligible for registration.

This commenter states that frequent registration is necessary for travelers who go abroad often, and suggests that a person in that category be provided a special form which would permit appropriate articles to be registered on the form which could then be used again over a specified period of time.

Customs believes this suggestion has merit, but does not believe it necessary to use another form. Rather, Customs will amend § 148.1(c) to provide that Customs Form 4457 shall be valid for reuse as long as the document remains legible to identify the registered articles.

The above commenter notes that the proposed regulation covers only those articles having serial numbers, or distinctive permanently affixed markings and not other articles such as jewelry or clothing which have no such numbers or markings. The commenter suggests that the guidelines of the proposed rule should cover these articles.

Customs has determined that registration should be limited to only those articles having serial numbers, or distinctive permanently affixed markings. Customs intention in establishing this registration policy has been to allow the Customs officer to easily identify any registered item as being entitled to duty-free entry. At least with regard to those articles properly registered, there should be no delay in clearance procedures. However, with regard to items such as jewelry and clothing, which cannot be readily identified, a Customs officer necessarily must question the traveler further to verify the claim of prior possession. This could result in some delay in clearance procedures.

As an alternative to the registration procedure for those articles which cannot be registered, there are other methods that may be helpful to persons taking foreign-made articles abroad. These alternatives include travelers

carrying with them copies of bills of sale, insurance papers, jewelry appraisals, and repair receipts that may be helpful to identify the articles upon their return.

Another commenter notes that in the title and "Supplementary Information" material of the proposed rule, the word "tourist" is used, but is not used in the proposed amendatory language. The commenter believes that the use of this word in the title and "Supplementary Information" material may be interpreted so as to exclude a large number of travelers who are traveling for business, family, or other non-tourist reasons.

Customs believes this comment has merit and has substituted the word "traveler" for the word "tourist" where appropriate.

Two commenters suggest that Customs permit the use of photographs of articles not having serial numbers or other permanently affixed unique markings in the registration procedures. They state that the photographs would provide satisfactory identification of the items. One commenter indicates that the photographs should be of professional quality. The other commenter suggests that Customs take the pictures and charge for the service.

Customs disagrees with this suggestion. In the past, Customs has discovered instances of attempts to import merchandise similar to articles registered by means of photographs. Use of multiple pictures of an item would not assure its identification as the registered item when returned to the United States. Accordingly, Customs cannot accept photographs as part of its registration procedures.

Other Change

In order to reduce the possibility of fraudulent use of the registration documents, it is Customs policy that the form will be made available to the traveler for completion only at the time of registration. To clarify this point, the first sentence of § 148.1(b) is amended accordingly.

Executive Order 12291

As indicated in the proposed rule, this document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Applicability of the Regulatory Flexibility Act

Pursuant to the provisions of section 3 of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601, *et seq.*), and as indicated in the proposed rule, the Secretary of the Treasury has determined that the regulations set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, these regulations are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Drafting Information

The principal author of this document was Charles D. Ressin, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development

List of Subjects in 19 CFR Part 148

Customs duties and inspection, Exports, Imports.

Amendments to the Regulations

Part 148, Customs Regulations, (19 CFR Part 148), is amended as set forth below.

William T. Archey,

Acting Commissioner of Customs.

Approved: May 11, 1982.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

Section 148.1 of Subpart A, Part 148, Customs Regulations (19 CFR 148.1), is revised to read as follows:

Subpart A—General Provisions

§ 148.1 Registration of effects to be taken abroad.

(a) *Persons who may use procedure.* Any person, except a nonresident seaman, airman, or person engaged in similar employment, who intends to take effects of foreign origin abroad may register such articles before departure from the United States in order to facilitate their identification on return to the United States. Only articles of foreign origin having serial numbers or other distinctive, permanently affixed unique markings can be registered.

(b) *Procedures for registration.* Applicants for registration of articles of foreign origin shall present the articles to a Customs officer and at that time, complete a Customs Form 4457. After the Customs officer has examined the articles and verified their description, he shall sign the form and return it to the applicant for presentation on return of the articles. Customs Form 4455 may be required in any case in which Customs Form 4457 will not adequately serve the purpose of registration.

(c) *Presentation on return and reuse.* The form shall be presented to the Customs officer when the registered articles are returned to the United States. The form shall be valid for reuse as long as the document is legible to identify the registered articles.

(R.S. 251, as amended (19 U.S.C. 66); sections 484, 498, 624, 46 Stat. 722, as amended, 728, as amended, 759 (19 U.S.C. 1484, 1498, 1624))

[FR Doc. 82–15070 Filed 6–2–82; 8:45 am]

BILLING CODE 4820–02–M

INTERNATIONAL COMMUNICATION AGENCY

22 CFR Part 514

Exchange-Visitor Program

AGENCY: International Communication Agency.

ACTION: Final rule.

SUMMARY: These rules amend the Exchange-Visitor Program regulations and are authorized by section 804(l) of the United States Information and Educational Exchange Act of 1948, as amended (86 Stat. 493, as amended; 22 U.S.C. 1474(l), as amended). Section 804 of the Act expressly authorizes the Director of the International Communication Agency to employ aliens within the United States for the translation or narration of foreign languages or the preparation or production of foreign language programs and such aliens may be admitted under section 101(a)(15) of the Immigration and Nationality Act for such time and under conditions and procedures as may be established by the Director and the Attorney General. The following rules have been established under the authority of the Director and the Attorney General.

EFFECTIVE DATE: May 25, 1982.

FOR FURTHER INFORMATION CONTACT: C. Normand Poirier, Deputy General Counsel, International Communication Agency, Washington, D.C. Area Code (202) 724–9168.

SUPPLEMENTARY INFORMATION: The Agency finds, in accordance with 5 U.S.C. 553 (a) and (b) (A) and (B) that the rules relate to Agency personnel and to Agency procedure and practice and the impact on the general public so insignificant that notice and public procedure in accordance with 5 U.S.C. 553 are not necessary.

E.O. 12291

USICA has determined that this is not a major rule for the purposes of E.O. 12291, Federal Regulation, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investments, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 22 CFR Part 514

Cultural exchange programs.

PART 514—EXCHANGE-VISITOR PROGRAM

Part 514 is amended as follows:

1. Amend § 514.2 by adding a paragraph (h):

§ 514.2 [Amended]

* * * * *

(h) An "alien employee of the International Communication Agency," for the purpose of service in the Associate Directorate for Broadcasting as an international radio or television broadcaster or in the Press and Publications Service of the Associate Directorate for Programs as a copy writer, translator or editor, relating to the translation or narration of colloquial speech in foreign languages or the preparation and production of foreign language programs or the selection, evaluation, editing, and adaptation of source material for use in programming.

2. Amend § 514.23 by adding a paragraph (a)(1)(viii):

§ 514.23 [Amended]

(a) * * *

(1) * * *

(viii) Alien employees of the Associate Directorate for Broadcasting or of the Associate Directorate for Programs (Press and Publications Service) of the International Communication Agency engaged in the translation or broadcast narration of foreign languages or the preparation and production of foreign language programs—ten years, and such additional periods of time as the Director of the International Communication Agency may from time to time determine in individual cases.

Dated: May 25, 1982.

Charles Z. Wick,

Director.

[FR Doc. 82-15157 Filed 6-2-82; 8:45 am]
BILLING CODE 8230-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 891

[Docket No. R-82-978]

Review of Applications for Housing Assistance and Allocation of Housing Assistance funds

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Interim rule.

SUMMARY: HUD proposes to revise the regulations for the allocation of housing assistance funds and for local government and HUD review of applications for housing assistance. The revisions include a more explicit description of the process to be followed by HUD field offices in allocating and reallocating funds, including procedures for consultation with local governments; elimination of the areawide housing opportunity plan (AHOP) requirements; and changes in the criteria for local government and HUD review of applications for assisted housing. These amendments implement the Housing and Community Development Amendments of 1981.

EFFECTIVE DATE: July 26, 1982. Due date for comments: August 2, 1982.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection during regular business hours at the above address. The interim rule may be changed on the basis of comments received.

FOR FURTHER INFORMATION CONTACT: Robert J. Coyle, Office of Policy and Budget, Room 9220, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Telephone (202) 755-6454. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Part 891 describes the roles of HUD and the local governments in the allocation of assisted housing resources and in the review of applications for housing assistance under a variety of HUD programs. The principal legislative authority for Part 891 is contained in section 213 of the Housing and Community Development Act of 1974, as amended. Section 213 requires that, to the maximum extent practicable, financial assistance shall be allocated or reserved in accordance with goals described in local, State or other housing assistance plans (HAPs). Section 213 also requires that, so far as practicable, HUD shall consider relative housing needs in different areas and communities in allocating this assistance.

The major impetus for revising Part 891 is found in section 321 of the Housing and Community Development Amendments of 1981. The 1981 housing legislation was approved as Title III, Subtitle A of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35). Three basic changes affecting the allocation process are contained in the 1981 legislation:

1. Section 321(c) amends section 5(c) of the U.S. Housing Act of 1937 to specify that the balance of contract authority after deducting for public housing modernization shall be allocated in accordance with section 213(d) of the Housing and Community Development Act of 1974, except that, on a national basis, HUD may not contract more than 45 percent of the balance for existing and moderate rehabilitation, and not more than 55 percent of the balance for new construction and substantial rehabilitation.

2. Section 321(c) also amends section 5(c) to require that, to the extent allowable within these percentages and the available contract and budget authority, HUD shall accommodate the perferences of local governments regarding housing type, program type, and the extent to which the allocation should be used for public housing modernization. Such preferences are to be established by the local governments after consultation with their public housing agencies (PHAs).

3. Section 321(e) amends section 213(d) of the Housing and Community Act of 1974 to limit the contract authority retained by the HUD central office to not more than 15 percent of the total amount available, and to require that these funds be used only for specified purposes.

The last comprehensive revisions to Part 891 were published on January 16, 1978 (Subparts E and F) and October 30, 1978 (Subparts A through D). On December 15, 1980 (45 FR 82273), HUD published a proposed rule outlining procedures for a limited consultation with local governments during the allocation process, and specifying that

assisted housing funds may not be reallocated to another State unless HUD had determined that allocation areas within the same State cannot use the funds. Only four comments were received on the proposed rule. Three were in favor of the consultation procedures, with one suggesting that the opportunity for consultation also be extended to smaller cities; this has been addressed in the broader consultation process contained in this rule. One was opposed to any possible reallocation of funds to another State; however, HUD has chosen to retain the flexibility of the statutory language, which requires only that allocation areas in the same State receive first preference in the use of reallocated funds. Publication of a final rule was deferred pending changes required by the 1981 housing legislation.

Part 891 is being revised to accomplish the following major objectives:

1. To clarify the process HUD field offices use to allocate and reallocate assisted housing resources, including new procedures for consultation with local governments during the allocation process.

2. To eliminate the AHOP regulations (Subparts E and F).

3. To modify the criteria for local government and HUD review of assisted housing applications to reflect changes in the content of HAPs and statutory requirements for greater local government determination over the use of assisted housing resources.

Clarification of the Allocation Process

Subpart D of the regulations has been revised to clarify the process HUD uses in allocating housing assistance. The following revisions are included:

Section 891.403 Allocation to HUD field offices. This section has been revised to clarify that the statutory requirement that 20 to 25 percent of the contract authority be allocated to nonmetropolitan areas applies to the total contract authority available for any fiscal year. In paragraph (b), the amount and possible uses of the contract and budget authority retained by the Assistant Secretary for Housing have been revised to conform with section 321(e) of the 1981 housing legislation. This section has also been revised to indicate that contract authority for amendments to housing assistance contracts, for conversion of projects from one form of assistance to another, or for housing assistance in connection with the disposition of HUD-owned properties, and loan authority for amendments to outstanding section 202 fund reservations, may be assigned to the field offices without regard to relative housing needs.

Section 891.404 Field office preliminary allocation plan. This section has been revised to describe the steps the field office uses to develop its preliminary allocation plan. HUD expects to issue an Allocation Procedures Notice with the assignment of funds to the field offices, providing them with more specific procedures for establishing allocation areas, developing the preliminary allocation plan, and carrying out the consultation process required by § 891.405.

Section 891.405 Field office consultation procedures. This new section establishes general procedures for field office consultation with single-jurisdiction allocation areas. It also provides guidelines to the field offices for carrying out consultation with local governments in multi-jurisdictional allocation areas, with particular emphasis on those where all of the contract authority for an allocation area is to be targeted to previously underfunded localities or an areawide housing plan has been developed. In each case, the purpose is to provide affected local governments with an opportunity to review HUD's preliminary allocation plan and to indicate their preferences with regard to housing type, program type, and the extent to which they wish to use their allocation for public housing modernization. Also included in this section are procedures for HUD field office consultation with State housing agencies and the Farmers Home Administration.

Section 891.406 Approval of the allocation plan. This section describes the required contents of the final allocation plan and establishes a deadline of 30 working days for its completion.

Section 891.407 Exchanges and reallocations of contract authority. This section clarifies the procedures to be followed in the event that all of the contract authority for an allocation area cannot be used for the indicated program type or housing type during the fiscal year. Also included are the procedures for reallocating uncommitted contract authority to other allocation areas within the same field office jurisdiction, as well as to other field offices or regions. These procedures have been modified to indicate that uncommitted contract authority may not be reallocated to another State unless HUD has determined that it cannot be used in the same State.

Elimination of the AHOP Program

Subparts E and F, which contained the implementing regulations for the AHOP program, have been deleted, since the AHOP program is being phased out. This decision is a result of a number of legislative and budgetary changes affecting HUD's programs. First, the repeal of the section 701 planning assistance program eliminates a major source of funding which APOs have used to prepare AHOPs. Second, HUD has determined that the development of areawide housing plans on a voluntary basis and their use in the allocation process can be carried out without the detailed submission requirements of Subpart E. Finally, the reduced level of funding for assisted housing makes it highly unlikely that any AHOP bonus funds as provided for in Subpart F can be made available.

To eliminate the AHOP program, the following changes are being made to Part 891:

1. Subparts E and F are deleted.

2. All definitions in § 891.102(b) related to AHOP program are deleted, and a new term, "areawide housing plan," has been defined to cover those AHOPs that are still in effect and to accommodate similar efforts to assure that assisted housing is distributed on a broad geographic basis. The definition specifies that an areawide housing plan must contain a statement of actions to be undertaken to further fair housing in the area.

3. Other references to AHOPs throughout Part 891 are deleted or modified to use this new term.

Consistent with these revisions, HUD will no longer accept applications for the development of AHOPs, nor will HUD review or approve any pending AHOP applications. Existing AHOPs will continue to be in effect for the duration of their approval period, and will continue to be used in the field office allocation process. HUD will not renew or extend any existing AHOPs.

Although the AHOP program is being terminated, HUD is encouraging local governments within an allocation area to continue to work together in evaluating their housing needs and in developing areawide housing plans. As stated in § 891.405(b), where an areawide housing plan has been developed by two or more local governments or by an APO on behalf of the local governments, the field office shall consult with local government and APO representatives on their preferences in the use of available contract authority, and on the need for

targeting to previously underfunded localities.

Modifying Criteria for Local Government and HUD Review of Applications

Section 321(c) of the Housing and Community Development Amendments of 1981 imposes two new conditions on the use of housing type as a factor in the allocation and delivery of assisted housing. First, section 321(c) limits the percentage of available contract authority that may be used for existing housing and moderate rehabilitation, and for new construction and substantial rehabilitation. Second, section 321(c) permits local governments to indicate a preference for a housing type mix which may be different from the annual or three-year goals in their HAPs.

Subpart B has been revised to recognize the need for greater flexibility with regard to the use of housing type as one of the criteria in the review of applications for housing assistance. The substantive changes to Subpart B are as follows:

1. All requirements for an independent HUD review for consistency with three-year housing type goals in the HAP have been deleted.

2. Provisions have been added to indicate that, if the local government objects to a project application because it would cause the locality to exceed the three-year goal for that housing type in its HAP, HUD will disapprove the application.

3. Language has been added to clarify that consistency with household type goals must take into account other applications previously approved during the three-year period.

4. A provision has been added to indicate that HUD will not approve an application for new construction or substantial rehabilitation in a location which is not within the general locations specified in the HAP, unless the local government submits (and HUD approves) a HAP amendment.

Need for Interim Rule

The subject matter of this rulemaking action relates to grants and loans, and is therefore exempt from the notice and public comment requirements of section 553 of the Administrative Procedure Act. As a matter of policy, HUD submits many rulemaking actions dealing with such subject matter to public comment, either before or after effectiveness of the action, notwithstanding the statutory exemption.

The Secretary has determined that delay of effectiveness of this rule until after consideration of public comments would be impracticable and contrary to the public interest. Accordingly, the rule is published as an interim rule, to become effective upon expiration of the first period of 30 calendar days of continuous session of Congress after publication (Section 7(o)(3), Department of HUD Act (42 U.S.C. 3535(o)(3)). This will assure that the provisions of the 1981 housing legislation concerning the use of the contract authority retained by the HUD central office and the need for accommodation of local governmental preferences will apply to this year's allocation of housing assistance. While the Administration's budget proposals may result in these statutory changes having a more limited effect than expected, there will still be an impact on this year's allocation. The 1979 amendment limiting HUD's ability to transfer fair-shared contract authority from one State to another had previously been implemented only by internal HUD instructions; incorporating this statutory requirement in the regulations is important to make its existence widely known and to help assure that it is fully considered by the field offices. Since this 1979 amendment also applies to recaptured contract authority, its prompt implementation becomes even more important.

The requirement in the 1981 legislation for the accommodation of local governmental preferences also necessitates some substantive changes in the procedures for local government and HUD review of housing applications during the fiscal year. In addition, a number of technical revisions have been made in the regulations in order to clarify and simplify the procedures for processing applications by the field offices. These modified review and comment procedures will apply to all new projects, as well as to previous projects where a change in the project site or the number of units triggers another local government review opportunity.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 5218, 451 Seventh Street, S.W., Washington, D.C. 20410.

This rule does not constitute a "major rule" as defined in Executive Order 12291 on Federal Regulation, issued on February 17, 1981. Analysis of the rule indicates that it does not have an annual effect on the economy of $100 million or more; it will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and it will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of the U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

This rule was listed as item (B) 1. H-4-81 under the Office of Housing in the Department's Semiannual Agenda of Regulations, published on August 17, 1981 (46 FR 41708) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The programs in the Catalogs of Federal Domestic Assistance which are affected by this rule are as follows:

14.103 Interest Reduction Payments—Rental and Cooperative Housing for Lower-Income Families
14.105 Interest Reduction—Homes for Lower-Income Families
14.146 Low-Income Housing—Assistance Program (Public Housing)
14.147 Low-Income Housing—Homeownership Opportunities for Low-Income Families
14.149 Rent Supplements—Rental Housing for Lower-Income Families
14.156 Lower-Income Housing Assistance Program (Section 8)
14.157 Housing for the Elderly or Handicapped
14.158 Public Housing—Comprehensive Improvement Assistance Program

List of Subjects in 24 CFR Part 891

Housing, Intergovernmental relations, Grant programs–housing and community development, Loan programs–housing and community development.

Accordingly, 24 CFR Part 891 is amended as follows:

1. By revising the Table of Contents for subpart D to read as follows:

PART 891—REVIEW OF APPLICATIONS FOR HOUSING ASSISTANCE AND ALLOCATIONS OF HOUSING ASSISTANCE FUNDS

* * * * *

Subpart D—Allocation of Contract and Budget Authority for Housing Assistance

Sec.
891.401 General.
891.402 Determination of lower-income housing needs.
891.403 Allocation to HUD field offices.

Sec.
891.404 Field office preliminary allocation plan.
891.405 Field office consultation procedures.
891.406 Approval of the allocation plan.
891.407 Exchanges and reallocations of contract authority.

2. By removing Subparts E and F in the table of contents.

3. By revising Subpart A to read as follows:

Subpart A—General Provisions

§ 891.101 Applicability and scope.

(a) This part describes the roles and responsibilities of HUD and the local governments under section 213 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 1439). It applies to the allocation of contract, budget and loan authority and the review and approval of applications for housing assistance under the U.S. Housing Act of 1937, as amended (42 U.S.C. 1437 *et seq.*), sections 235 and 236 of the National Housing Act (12 U.S.C. 1715z, 1715z–1), section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), and section 202 of the Housing Act of 1959 (12 U.S.C. 1701q). This part applies in only a limited manner to the allocation of contract authority for public housing modernization. It does not apply to public housing operating subsidy assistance.

(b) HUD and local government reviews of applications for housing assistance shall be based upon applicable housing assistance plans (HAPs) or comparable estimates of need for non-HAP areas. The three-year goals in the HAP are applicable to the fiscal year in which they are initially approved and the two succeeding fiscal years. An interim HAP will be applicable only if it is used as the basis for the allocation or reallocation of contract and budget authority.

§ 891.102 Definitions.

Act. The Housing and Community Development Act of 1974, as amended.

Allocation area. A municipality, county, or group of municipalities or counties or Indian areas identified by the HUD field office for the purpose of allocating housing assistance.

Application for housing assistance. The first submission to HUD for housing assistance under one of the programs identified in § 891.101(a). For the purposes of this part, the term includes an application, a first application for mortgage insurance, a preliminary proposal, or a proposal, so long as it meets the applicable program regulations. For the public housing and State agency programs, the first application identifying a project site will be considered the application for housing assistance.

Areawide housing plan. A plan for the distribution of assisted housing resources developed by two or more local governments in an allocation area or by an areawide planning organization on behalf of the local governments. The plan shall include a statement of actions to be undertaken to further fair housing in the area covered by the plan. For the purposes of this part, the term includes areawide housing opportunity plans (AHOPs) approved under Subpart E of this part prior to October 1, 1981.

Areawide planning organization (APO). An organization which is established under State law, interstate compact or interlocal agreement for the purpose of formulating policies and plans for the orderly development of a substate or interstate region or planning district, and which is formally charged with carrying out the provisions of Section 401 of the Intergovernmental Cooperation Act of 1968.

Budget authority. The maximum amount authorized by the Congress for payments over the term of assistance contracts.

Chief executive officer. The elected official or legally designated official who has the primary responsibility for conducting the governmental affairs of a unit of general local government. Examples of the "chief executive officer" include: the elected mayor of a municipality; the elected county executive of a county; the presiding officer of a county commission or board in a county that has no elected county executive; the official designated by the governing body of the local government pursuant to law (e.g., the city manager or city administrator); and the chairman, governor, chief or president of an Indian tribe or Alaskan native village.

Contract authority. The maximum amount authorized by the Congress for annual payments under assistance contracts.

Fiscal year. The official operating period of the Federal government, beginning on October 1 and ending on September 30.

Field office manager. Area office managers, those service office supervisors who have been delegated the responsibility of managers under the housing assistance programs, and the Denver regional administrator.

FmHA. The Farmers Home Administration of the Department of Agriculture.

Household type. The three household types are: elderly, small family, and large family. References to household type shall mean the household type within the appropriate tenure type.

Housing assistance plan (HAP). A local housing assistance plan approved by HUD and meeting the requirements of 24 CFR 570.306 or 570.437.

Housing type. The four housing types are: new construction, substantial rehabilitation, moderate rehabilitation, and existing housing.

HUD. The Department of Housing and Urban Development.

Loan authority. The amount authorized by the Congress for HUD to make direct loans to cover eligible development costs of a section 202 project.

Local government. Any city, county, town, township, parish, village or other unit of general local government which is a general purpose political subdivision of a State or the Commonwealth of Puerto Rico; Guam, the Commonwealth of the Northern Marianas, the Virgin Islands and American Samoa, or a general purpose political subdivision thereof; a combination of such political subdivisions recognized by the Secretary of HUD: the District of Columbia; the Trust Territory of the Pacific Islands; Indian tribes, bands, groups and nations, including Alaska Indians, Aleuts and Eskimos; and any Alaskan native village of the United States. The term also includes a State or local public body or agency, community association, or other entity which is approved by HUD to provide public facilities or services to a new community meeting the requirements of Title IV of the Housing and Urban Development Act of 1968 (42 U.S.C. 3901) or Title VII of the Housing and Urban Development Act of 1970 (42 U.S.C. 4501).

Metropolitan area. See SMSA.

Public housing agency. Any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of housing for lower-income families.

SMSA. A standard metropolitan statistical area as established by the Office of Management and Budget. Where an SMSA is divided among two or more field offices, references to SMSA shall mean the portion of the SMSA within the field office jurisdiction.

State housing agency. A Statewide agency which qualifies as a public housing agency and has been notified by HUD under 24 CFR Part 883 that it is authorized to apply for a set-aside or to

use the fast-track procedures of Part 883, or both.

Tenure type. The two tenure types are owners and renters.

Urban county. Any county within a metropolitan area which is authorized under State law to undertake essential community development and housing assistance activities in its unincorporated areas, and which meets the other requirements of 24 CFR 570.307 for qualification as an urban county.

Subpart B—Applications for Housing Assistance in Areas with Housing Assistance Plans

4. In § 891.202, by revising (a) introductory text, (a)(3), (b) (2) through (5), and by adding (a)(4), and (b) (6) and (7), to read as follows:

§ 891.202 Notification of local government.

(a) The field office shall notify the chief executive officer of the local government having a HAP, no later than ten working days after receipt (or completion of any preliminary review and determination that the application is acceptable for further processing), that an application for housing assistance to be provided in that jurisdiction has been received and is under consideration. Simultaneously with the notification of the chief executive officer, the field office shall also notify the A–95 clearinghouse and initiate the A–95 review process for determining consistency with State, areawide and local comprehensive planning and other coordination matters.

* * * * *

(3) When the application is for housing assistance within an area covered by an urban county HAP, the field office shall notify the chief executive officer of the urban county, indicating that comments on HAP consistency are the responsibility of the urban county. In addition, the field office shall request the chief executive officer of the locality in which the housing is to be located to comment, indicating that the purpose of the request is to encourage coordination between Federal programs and local planning, but is not required under section 213 of the Act.

(4) For a section 8 existing housing or moderate rehabilitation application submitted in accordance with 24 CFR Part 882, the field office shall notify the chief executive officers of the localities that are identified in the application as:

(i) Primary areas from which households to be assisted under the existing housing program will be drawn, or

(ii) Primary areas in which units will be rehabilitated under the moderate rehabilitation program.

(b) * * *

(2) Indicate whether the number of units in the application, when taken together with other applications previously approved, would exceed the three-year household type and housing type goals in the HAP.

(3) Indicate whether the proposed location is in a general location identified in the HAP.

(4) Indicate that any objection to the approval of the application based on inconsistency with the approved HAP must be received within 30 calendar days from the date of the field office letter.

(5) Indicate that, where there is no objection to the approval of the application despite an inconsistency with the approved HAP, the local government must resolve the inconsistency in accordance with § 891.204 (a)(2) or (a)(3).

(6) Invite the submission of any other comments which are relevant to the field office's consideration of the application (e.g., comments on the project site, whether the project is approvable under local codes and zoning ordinances, etc.).

(7) Indicate that any objections or comments should be sent by the chief executive officer to the appropriate A–95 clearinghouse simultaneously with, or prior to, the submission to the field office.

5. By revising § 891.203(b) to read as follows:

§ 891.203 Review and comment period.

* * * * *

(b) Applications for housing assistance shall be reviewed for consistency with the HAP on which the invitation or notification of funds availability was based. If a HAP was not in effect at the time that the invitation or notification was issued, the field office shall not be required to review the applications for consistency with any subsequently approved HAP. However, where an interim or amended HAP is approved prior to approval of the applications, the chief executive officer may indicate in writing that special circumstances require its consideration in the review of the applications received. The field office shall make an independent determination of whether consideration of the interim or amended HAP is in the public interest.

6. In § 891.204, by revising (a)(2), (b) (1) and (2), and by adding (a)(3), to read as follows:

§ 891.204 Local government response.

(a) * * *

(2) If the number of units in the application, when taken together with other applications previously approved, would exceed the three-year household type goals in the HAP and there is no objection to the approval of the application, the local govenment shall satisfy the requirements of § 891.206(a) or § 891.206(b), whichever is appropriate.

(3) If an application for newly constructed or substantially rehabilitated units is in a location which is not within the general locations specified in the HAP and there is no objection to the approval of the application, the local government shall submit a HAP amendment in accordance with 24 CFR 570.306(g), revising the general locations to include the proposed project.

(b) * * *

(1) The proposed number of units, when taken together with other applications previously approved, would exceed the three-year household type or housing type goals in the HAP.

(2) The proposed location of newly constructed or substantially rehabilitated units is not within the general locations specified in the HAP.

* * * * *

7. By revising § 891.205 (c)(1) through (4), and by adding (c)(5), to read as follows:

§ 891.205 HUD review of applications for housing assistance.

* * * * *

(c) * * *

(1) The field office shall not approve an application which, taken together with other applications previously approved, would exceed the three-year household type goals in the HAP, unless the requirements of § 891.206 are satisfied.

(2) The field office shall not approve an application which, taken togther with other applications previously approved, would make it unlikely that the housing assistance made available during the three-year period would be proportional to the three-year household type goals in the HAP.

(3) The field office may approve an application which, taken together with other applications previously approved, would exceed the three-year goal for that housing type in the HAP, unless the local government has submitted a written objection in accordance with § 891.204(b).

(4) The field office shall not approve an application for newly constructed or substantially rehabilitated units in a

location which is not within the general locations specified in the HAP, unless the local government submits and the field office approves a HAP amendment in accordance with 24 CFR 570.306(g), revising the general locations to include the proposed project. Such amendment may be limited to the specific project site.

(5) Notwithstanding the other provisions of this subpart, where the local government is required to emphasize a particular household type because it had proportionally underserved that household type in providing assisted housing under a previous HAP, the field office shall not approve an application which exceeds the three-year HAP goals for other household types until the requirement has been met.

8. By revising § 891.206 introductory text, and (b) to read as follows:

§ 891.206 Variations from HAP goals.

The field office shall not approve an application for housing assistance which, when taken together with other applications previously approved, would exceed the three-year household type goals in the HAP, unless the following conditions are satisfied:

(a) * * *

(b) *Applications which exceed the three-year HAP goals by more than 20 percent.* The field office manager, prior to approving an application which would exceed the three-year household type goals by more than 20 percent, must receive and approve a HAP amendment submitted in accordance with 24 CFR 570.306(g).

* * * * *

Subpart C—Applications for Housing Assistance in Areas Without Housing Assistance Plans

9. By revising § 891.302(a) to read as follows:

§ 891.302 Finding of need for housing assistance.

* * * * *

(a) The initial determination of need for housing assistance within an allocation area is made as part of the allocation process in § 891.404. In making this determination, the field office shall give consideration to the contents of any applicable State or areawide housing plan proposing housing assistance in the area, as well as generally available data on population, poverty, housing overcrowding, housing vacancies, amount of substandard housing, or other objectively measurable conditions pertaining to lower-income housing needs.

* * * * *

10. By revising § 891.303(a)(3) to read as follows:

§ 891.303 Notification of local governments.

(a) * * *

(3) For a section 8 existing housing or moderate rehabilitation application submitted in accordance with 24 CFR Part 882, the field office shall notify the chief executive officers of the localities that are identified in the application as:

(i) Primary areas from which households to be assisted under the existing housing program will be drawn, or

(ii) Primary areas in which units will be rehabilitated under the moderate rehabilitation program.

* * * * *

11. By revising § 891.305(c) to read as follows:

§ 891.305 HUD review of applications for housing assistance.

* * * * *

(c) The field office shall promptly notify both the chief executive officer and the applicant of the HUD determination with respect to the approval or disapproval of the application for housing assistance.

12. By revising subpart D to read as follows:

Subpart D—Allocation of Contract and Budget Authority for Housing Assistance

§ 891.401 General.

This subpart establishes the procedures for allocating contract and budget authority under section 213(d) of the Act for the programs identified in § 891.101(a). It describes the allocation of contract and budget authority by the Assistant Secretary for Housing to the regional administrators or directly to the field office managers, by the regional administrators to the field office managers, and by the field office managers to allocation areas within their jurisdictions. References to allocation of contract authority are also applicable to loan authority for the section 202 program.

§ 891.402 Determination of lower-income housing needs.

(a) Before contract and budget authority is allocated, the Assistant Secretary for Policy Development and Research shall determine the relative need for lower-income housing assistance in each HUD field office jurisdiction. So far as practicable, this determination shall be based on the most recent national census data available relating to population, poverty, housing overcrowding, housing vacancies, amount of substandard housing, or other objectively measurable conditions pertaining to lower-income housing needs. The actual data used to determine housing needs for a particular program may reflect age, income, or other relevant characteristics of prospective program participants.

(b) Using the housing needs criteria identified in paragraph (a), the Assistant Secretary for Policy Development and Research shall develop a separate housing needs percentage for the metropolitan and nonmetropolitan portions of each field office jurisdiction, adjusted to reflect the relative cost of providing housing among the field office jurisdictions.

§ 891.403 Allocation to HUD field offices.

(a) The Assistant Secretary for Housing shall determine the amount of contract and budget authority to be allocated by considering as available any unreserved contract and budget authority from prior fiscal years, as well as any newly appropriated contract and budget authority for each housing program. On a nationwide basis, at least 20 percent but not more than 25 percent of the total contract authority available for any fiscal year shall be allocated for use in nonmetropolitan areas.

(b) A portion of the contract and related budget authority available for any fiscal year for the housing programs listed in § 891.101(a), not to exceed 15 percent of the total, may be retained by the Assistant Secretary for Housing for subsequent allocation to specific areas and communities, and may be used only for:

(1) Unforeseeable housing needs, especially those brought on by natural disasters or special relocation requirements;

(2) Support for the needs of the handicapped or for minority enterprise;

(3) Providing for assisted housing as a result of the settlement of litigation;

(4) Small research and demonstration projects;

(5) Lower-income housing needs described in HAPs, including activities carried out under areawide housing plans;

(6) Innovative housing programs or alternative methods for meeting lower-income housing needs approved by the Assistant Secretary for Housing, including assistance for infrastructure in connection with the Indian housing program.

(c) Contract authority assigned for a particular purpose under paragraph (b), but not reserved as of the end of the fiscal year, may be reassigned to field offices in the next fiscal year without regard to meeting the requirements of paragraph (d) of this section.

(d) Contract authority, except that retained pursuant to paragraph (b), shall be allocated, so far as practicable, in accordance with the housing needs percentages calculated for each field office jurisdiction under § 891.402(b). Contract authority for amendments to housing assistance contracts, for conversion of projects from one form of assistance to another, or for housing assistance in connection with the disposition of HUD-owned properties, and loan authority for amendments to outstanding Section 202 fund reservations, may be assigned to the field offices without regard to these housing needs percentages.

§ 891.404 Field office preliminary allocation plan.

(a) *General objective.* The field office shall develop a preliminary allocation plan which provides for the equitable distribution of available contract authority, consistent with relative housing needs and annual goals for housing assistance, and taking into consideration national program objectives and local preferences for the utilization of available contract authority.

(b) *Establishing allocation areas.* Allocation areas, consisting of one or more cities or counties, shall be established by the field office. Allocation areas shall be identical for all of the housing programs identified in § 891.101(a). Each allocation area shall be of sufficient size, in terms of population and housing need, that the amount of contract authority being allocated to the area will support at least one economically feasible project. In establishing allocation areas, counties and cities within SMSAs should not be combined with counties that are not in SMSAs.

(1) Individual SMSAs shall be established as metropolitan allocation areas if they are capable of supporting feasible projects. Where individual SMSAs are too small to support feasible projects, they should be combined to form metropolitan allocation areas.

(2) SMSA central cities and other local governments shall be established as single-jurisdiction allocation areas if they are capable of supporting feasible projects, and if the balance of the SMSA within the field office jurisdiction is also capable of supporting feasible projects.

(3) The jurisdictional boundaries of areawide housing plans should be considered in establishing allocation areas.

(c) *Determining the amount of contract authority.* The field office shall determine the amount of contract authority to be allocated to each allocation area, based upon a housing needs percentage which represents the needs of that area relative to the needs of the metropolitan or nonmetropolitan portion of the field office jurisdiction, whichever is appropriate. The housing needs percentage for each allocation area shall be based upon the criteria identified in § 891.402(a).

(d) *Targeting for underfunding.* The field office shall identify those localities whose needs have been underfunded in prior years relative to the needs of other localities in the same allocation area. To the extent practicable, contract authority shall be targeted within allocation areas to previously underfunded localities.

(e) *Developing the preliminary allocation plan.* The field office shall develop a preliminary allocation plan which reflects the amount of contract authority determined for each allocation area in paragraph (c). For each allocation area, the plan shall indicate the proposed number of assisted housing units by housing type and program type for each household type, and the estimated amounts of contract and budget authority for each. To the maximum extent practicable, the distribution of assisted units within each allocation area shall be consistent with the housing type and household type proportions reflected in the aggregate of the annual goals in local HAPs, areawide housing plans, and estimates of need for non-HAP areas. The distribution of contract authority by individual program need not be the same for each allocation area, so long as the total amounts of contract authority made available to the field office for each program type and for the metropolitan and nonmetropolitan portions are not exceeded.

§ 891.405 Field office consultation procedures.

(a) *Consultation with single-jurisdiction allocation areas.* The field office shall consult with the chief executive officers of SMSA central cities and other local governments that have been designated as single-jurisdiction allocation areas pursuant to § 891.404(b)(2). Sufficient time should be provided prior to the consultation to allow the local government to review the preliminary allocation plan and to consult with its local public housing agency. As part of the consultation process, the field office shall ask the chief executive officer to comment on local government preferences with regard to housing type, program type, and the extent to which the local government wishes to use its allocation for carrying out public housing modernization. The field office shall accommodate these preferences as much as possible, consistent with limitations on contract authority by housing type assigned to the field office, the contract authority made available to the allocation area, and the competing preferences of local governments in other allocation areas.

(b) *Consultation with multi-jurisdictional allocation areas.* The field office shall develop appropriate procedures for consultation with local governments within each multi-jurisdictional allocation area about the preliminary allocation plan. Local governments shall have an opportunity, after consulting with their public housing agencies, to indicate their preferences with regard to housing type, program type, and the extent to which they wish to compete for the use of available contract authority for carrying out public housing modernization. The field office shall accommodate these preferences as much as possible, consistent with limitations on contract authority by housing type assigned to the field office, the contract authority made available to the allocation area, and the competing preferences of other local governments within the allocation area and in other allocation areas.

(1) Where all of the contract authority for an allocation area is to be targeted for exclusive use in previously underfunded localities in accordance with § 891.404(d), consultation shall be limited to those localities.

(2) Where an areawide housing plan has been developed by two or more local governments or by an APO on behalf of the local governments, the field office shall consult with local government and APO representatives on their preferences and on the need for targeting to previously underfunded localities.

(c) *Consultation with State housing agencies and FmHA.* The field office manager shall meet with representatives of the State housing agencies and FmHA, as appropriate, in order to reach agreement on what portion of the housing assistance in each allocation area will be provided by the set-asides for their respective programs. If the field office and the State agency or FmHA cannot agree, the regional administrator shall resolve the differences. The

regional administrator shall also coordinate the use of any State agency or FmHA set-aside which affects more than one field office jurisdiction.

§ 891.406 Approval of the allocation plan.

After the consultation procedures in § 891.405 are completed and appropriate adjustments made, the field office manager shall approve the allocation plan. For each allocation area within the field office jurisdiction, the plan shall indicate the number of assisted housing units by housing type and program type for each household type, the amounts of contract and budget authority for each, and any amounts allocated for public housing modernization. The plan shall include a map or maps clearly showing the allocation areas within the field office jurisdiction. The approved allocation plan should be completed within 30 working days after receipt of the field office allocation.

§ 891.407 Exchanges and reallocations of contract authority.

(a) The field office shall make every reasonable effort to obtain a sufficient number of approvable applications to use the available contract authority for each allocation area in a manner consistent with the housing, household and program types specified in the allocation plan. If this objective cannot be achieved, the field office shall make exchanges or reallocations of contract authority in accordance with the following procedures.

(1) If applications for a particular program type or housing type would not use all of the contract authority designated for that program type or housing type in the allocation area, the field office shall attempt to exchange the remaining contract authority for an equal amount of contract authority in another program type or housing type in another allocation area, so long as the total amount of contract authority for each allocation area remains unchanged.

(2) If applications are not sufficient to use all of the contract authority designated for a particular household type in the allocation area, even after exchanges in program type and housing type, the remaining contract authority may be provided to localities within the allocation area that have already met their annual household type goals on a proportional basis.

(3) If the field office manager determines that not all of the contract authority allocated for a particular allocation area is likely to be used during the fiscal year, the remaining authority may be reallocated to other allocation areas where it is likely to be used during that fiscal year.

(4) If the regional administrator or the Assistant Secretary for Housing determines that not all of the contract authority allocated to a field office is likely to be used during the fiscal year, the remaining authority may be reallocated to another field office where it is likely to be used during that fiscal year. Only the Assistant Secretary for Housing may reallocate contract authority among regional administrators.

(b) Any exchanges or reallocations of contract authority between allocation areas, field offices, or regions shall be consistent with the assignment of contract and budget authority for the specific program type and housing type, any established set-asides, and metropolitan and nonmetropolitan designations.

(c) In addition to the requirements of paragraph (b), contract authority shall not be reallocated for use in another State unless the field office manager, the regional administrator, or the Assistant Secretary for Housing has determined that other allocation areas within the same State cannot use the available authority in accordance with HAPs during that fiscal year.

§§ 891.501.—891.507 (Subpart E) [Removed]

13. By deleting Subpart E.

§§ 891.601.—891.607 (Subpart F) [Removed]

14. By deleting Subpart F.

(Sec. 7 (d) and (o), Department of Housing and Urban Development Act, 42 U.S.C. 3535 (d) and (o); sec. 213, Housing and Community Development Act of 1974, as amended, 42 U.S.C. 1439)

Dated: May 7, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 82-15001 Filed 6-2-82; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 26a

[T.D. 7818]

Due Date of the Generation-Skipping Transfer Tax Return

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides a temporary regulation establishing a new initial filing date for the generation-skipping transfer tax return. The generation-skipping transfer tax was added to the Internal Revenue Code of 1954 (Code) by the Tax Reform Act of 1976. It affects trustees and beneficiaries of generation-skipping trust.

DATE: The regulations apply generally to any generation skipping transfer made after June 11, 1976.

FOR FURTHER INFORMATION CONTACT: Robert H. Waltuch of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3287, not a toll free call.

SUPPLEMENTARY INFORMATION:

Background

On August 5, 1980, § 26a.2621-1 of the Temporary Generation-Skipping Transfer Tax Regulations was published in the **Federal Register** (45 FR 51771) relating to the filing of the generation-skipping transfer tax returns.

Under § 26.a2621-1(k) as originally published, the earliest date for filing Form 706-B, Generation-Skipping Transfer Tax Return, was February 5, 1981. Another temporary regulation, which appeared in the **Federal Register** (46 FR 10907) on February 5, 1981, changed the earliest date for filing Form 706-B to October 15, 1981, and provided that the earliest date for filing the information returns, Forms 706-B(1) and (2), was June 30, 1981. A subsequent news release, IR-81-65, stated that the earliest date for filing Forms 706-B(1) and (2) was August 14, 1981.

Subsequently another temporary regulation, which appeared in the **Federal Register** (46 FR 54541) on November 3, 1981, changed the earliest date for filing Form 706-B to February 15, 1982.

Provision of the Regulation

Under this temporary regulation Form 706-B, the tax return, is due no earlier than December 31, 1982.

Executive Order 12291 and Regulatory Flexibility Act

The Commissioner of Internal Revenue determined that this temporary rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. For the reasons set forth in the following paragraph no general notice of proposed rulemaking is required by 5 U.S.C. 553(b). Accordingly, no

Regulatory Flexibility Analsyis is required for this rule.

This Treasury decision adds a temporary regulation to enable taxpayers to comply with the due dates for filing the generation-skipping transfer tax returns. Because this regulation is necessary to provide immediate guidance to taxpayers, it is impractical to issue this Treasury decision with notice and public procedure.

Drafting Information

The principal author of this regulation is Robert H. Waltuch of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both in matters of substance and style.

List of Subjects in 26 CFR Part 26a

Estate taxes, Generation skipping transfer tax.

PART 26a—TEMPORARY GENERATION-SKIPPING TRANSFER TAX REGULATIONS UNDER THE TAX REFORM ACT

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 26a is amended as follows:

The first sentence of § 26a.2621-1(k) is removed and a new sentence is inserted in its place to read as set forth below.

§ 26a.2621-1 Generation-skipping transfer tax return requirements.

* * * * *

(k) *Initial filing date.* Notwithstanding any other provision of these regulations, the time for filing Form 706-B shall be the date determined under paragraph (c) of this section or December 31, 1982, whichever is later. * * *

This Treasury decision adds a temporary regulation to enable taxpayers to comply with the due dates for filing the generation-skipping transfer tax returns. Because this regulation is necessary to provide immediate guidance to taxpayers, it is impractical to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Secs. 2622 and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1887, 68A Stat. 917, 26 U.S.C. 2622, 7805))

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: March 30, 1982.

John E. Chapoton,
Assistant Secretary of the Treasury.

[FR Doc. 82-15136 Filed 6-2-82; 8:45 am]
BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Geological Survey

30 CFR Part 231

Operating Regulations for Exploration, Development, and Production

AGENCY: Minerals Management Service, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking will revise the definition of "mining supervisor" and amend the section of "enforcement of orders." The action is being taken to clarify the meaning of these regulations. The intended effect of this action is to make it clear how these regulations will apply in practice.

EFFECTIVE DATE: July 6, 1982.

ADDRESS: Acting Chief, Onshore Minerals Management Division, Minerals Management Service 12203 Sunrise Valley Drive, Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT: Walter Lewiecki (703) 860-7506, FTS 928-7506; or Cecil Feeney (703) 860-6259, FTS 928-6259.

SUPPLEMENTARY INFORMATION: The principal authors of this proposed rulemaking are Walter Lewiecki, Branch of Solid Minerals Management, and Cecil Feeney, Branch of Rules and Procedures, both in the Onshore Minerals Management Division, Minerals Management Service, Reston, Virginia.

Proposed rulemaking was published November 17, 1981, on page 56433 of the **Federal Register** and invited comments for 30 days ending December 17, 1981.

One letter of comment was received on the proposed rulemaking. It suggested that paragraphs (a) and (b) of § 231.73 be rewritten to require that notices of noncompliance, orders, and instructions be in writing. This suggestion has not been adopted because when § 231.73 is together with §§ 231.71 and 231.72, it is clear that these communications must be written.

Paragraph (c) of § 231.2 has been revised in this final rulemaking by changing agency, organization, and position titles. These title changes implement Secretarial Order 3071 (47 FR 4751) which transferred the functions of the Conservation Division in the Geological Survey to the Minerals Management Service. Therefore, this rulemaking action does not initiate these changes, but is an administrative action reflecting change. For this reason, the Department has determined that, under 5 U.S.C. 553(b)(B), it is unnecessary to solicit public comments through a proposed rulemaking.

The Department of the Interior has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291 because the regulatory revisions set forth in this rulemaking will not result in any adverse economic impact on the public but merely clarify existing rules to eliminate confusion.

The Department has also determined that the rulemaking will not have a significant economic impact on a substantial number of small entities, and does not require a regulatory flexibility analysis under the Regulatory Flexibility Act. Since the revisions contained in this rulemaking will clarify existing requirements, they will not have any new economic effects on small entities.

This rulemaking does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 231

Environmental protection, Mines, Public lands—mineral resources.

Under the authority of the Act of February 25, 1920 (30 U.S.C. 189), and the Act of April 17, 1926 (30 U.S.C. 275), and Secretarial Order 3071, Part 231, Chapter II, Title 30 of the Code of Federal Regulations is amended as set forth below.

Dated: May 5, 1982.

Daniel N. Miller, Jr.,
Assistant Secretary of the Interior.

PART 231—OPERATING REGULATIONS FOR EXPLORATION, DEVELOPMENT, AND PRODUCTION

1. Section 231.2 is amended by revising paragraph (c) as set forth below and the note following paragraph (c) is removed.

§ 231.2 Definitions.

* * * * *

(c) Mining Supervisor. The District Mining Supervisor, of the Minerals

Management Service; a representative of the Secretary, subject to the direction and supervisory authority of the Director; the Deputy Director for Minerals Management; the Chief, Onshore Minerals Management Division; the appropriate Regional Minerals Manager; and the Deputy Minerals Manager for Mining, Minerals Management Service, authorized and empowered to regulate operations and to perform other duties prescribed in the regulations in this part, or any subordinate acting under the direction of such official.

* * * * *

2. Section 231.73 is amended by revising paragraphs (b) and (c) to read as follows:

§ 231.73 Enforcement of orders.

* * * * * *

(b) A notice of noncompliance shall specify in what respects the operator has failed to comply with the provisions of applicable regulations, the terms and conditions of the permit or lease, the requirements of an approved exploration or mining plan or the orders and instructions of the mining supervisor, and shall specify the action which must be taken to correct the noncompliance and the time limits within which such action must be taken. The lessee/operator shall notify the mining supervisor when noncompliance items have been corrected.

(c) If in the judgment of the mining supervisor such failure to comply with the regulations, the terms and conditions of the permit or lease, the requirements of approved exploration or mining plans, or with the mining supervisor's orders or instructions threatens immediate, serious, or irreparable damage to the environment, the mine or the deposit being mined, or other valuable mineral deposits or other resources, the mining supervisor is authorized, either in writing or orally with written confirmation, to order the suspension of operations without prior notice.

[FR Doc. 82-15027 Filed 6-2-82; 8:45 am]
BILLING CODE 4310-MR-M

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30 CFR Part 270

Geothermal Resources Operations on Public, Acquired and Withdrawn Lands

AGENCY: Minerals Management Service, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking will amend geothermal regulations that relate to plans of operation and the reporting of exploration expenditures. The changes are needed to clarify the data collection requirements to be contained in a plan of operation and to reduce the frequency of reporting about expenditures for diligent exploration credit. The intended effects of this rulemaking are to prevent misinterpretation and to reduce the quantity of required reports.

EFFECTIVE DATE: July 6, 1982.

ADDRESS: Minerals Management Service, 12203 Sunrise Valley Drive, Mail Stop 656, Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald R. Daniels, (703) 860-7535, (FTS) 928-7535; Chief, Branch of Fluid Minerals.

SUPPLEMENTARY INFORMATION: The principal authors of this proposed rulemaking are Mr. William Isherwood, Acting Deputy Minerals Manager for Geothermal, Minerals Management Service, Menlo Park, California and Mr. Cecil R. Feeney, Branch of Onshore Rules and Procedures, Minerals Management Service, Reston, Virginia.

This rule was published as a proposed rulemaking amending regulations administered by the U.S. Geological Survey, which are now administered by the Minerals Management Service. Proposed rulemaking was published September 18, 1981, on pages 44778 and 44779 of the **Federal Register** and invited comments for 30 days ending October 8, 1981. Only three letters of comment were received.

Comments on the proposed amendment of § 270.34 were supportive, so it remains unchanged in this final rulemaking.

One comment suggested that the proposed revision of § 270.77 could be interpreted to mean that diligent exploration expenditures which are not reported within 60 days after the lease year in which they were made would disqualify them for future credit. Section 270.77 has been reworded to make it clear that it is possible to credit diligent exploration expenditures to future years even though not reported within 60 days following the lease year in which the expenditures were made.

Another comment suggested that annual reports be required for lease years 6 through 10 because minimum expenditures, under 43 CFR 3203.5, are required for these years. This suggestion has not been adopted because future credits could have been applied to these years making an annual report repetitious.

An additional section (§ 270.2-1), that was not published in the proposed rulemaking, is included in this final rulemaking. It is nonsubstantive in nature and therefore unnecessary to publish as proposed rulemaking.

Paperwork Reduction Act of 1980

The information collection requirement contained in section 270.77 has been approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and assigned clearance number 1028-0040.

The information requirement contained in § 270.34 is not required to obtain an OMB clearance number because there will be less than ten respondents per year.

Executive Order 12291

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 because its annual effect on the geothermal industry is estimated to result in a minor decrease in dollar expenditures and the impact of these expenditures on those factors used to evaluate the economy will be insignificant.

Regulatory Flexibility Act

The Department has also determined that the rulemaking will not have a significant economic impact on a substantial number of small entities, and does not require a regulatory flexibility analysis under the Regulatory Flexibility Act. The number of small entities affected is limited by the large investments required to develop geothermal resources. The economic impact will be insignificant because the rulemaking will provide only for limited decreases in dollar expenditures.

List of Subjects in 30 CFR Part 270

Environmental protection, Geothermal energy, Government contracts, Public lands—mineral resources, Reporting requirements.

Under the authority of section 24 of the Geothermal Steam Act of 1974, 84 Stat. 1573 (30 U.S.C. 1023), Part 270, Chapter II, Title 30 of the Code of Federal Regulations is amended as set forth below.

Dated: March 26, 1982.

William P. Pendley,

Acting Assistant Secretary of the Interior.

PART 270—GEOTHERMAL RESOURCES OPERATIONS ON PUBLIC, ACQUIRED, AND WITHDRAWN LANDS

1. Part 270 is amended by adding a new § 270.2-1 to read as follows:

§ 270.2–1 Information collection.

(a) The information collection requirement contained in § 270.34 is needed to document planned operations on geothermal leases. This information will be used to evaluate technical feasibility and environmental impacts of geothermal operations on Federal lands. The obligation to respond is mandatory. Clearance under 44 U.S.C. 3507 is not required by 44 U.S.C. 3506(c)(5).

(b) The information collection requirement contained in § 270.77 has been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1028–0040. The information is being collected to document exploration expenditures for which diligence credit is desired. This information will be used to determine if expenditures qualify as diligent exploration under 43 U.S.C. 3203.5. The obligation to respond is required to obtain a benefit.

2. Section 270.34 is amended by revising paragraph (k), and the last two undesignated of § 270.34 are combined to be one undesignated paragraph and a new sentence is added to the beginning of that paragraph to read as follows:

§ 270.34 Plan of operation.

* * * * *

(k) Provisions for collecting data concerning the existing air and water quality, noise, seismic and subsidence activities, and ecological systems of the leased lands for a period of at least 1 year prior to production with some of the collection to be continued during production and abandonment.

The Supervisor may reduce the data collection requirements of paragraph (k) of this section, including the duration of data collection, commensurate with the level of potential environmental impacts from proposed projects. * * *

3. Section 270.77 is revised to read as follows:

§ 270.77 Report of expenditures for diligent exploration operations.

For exploration expenditures to be considered for qualification as diligent exploration under 43 CFR 3203.5, the lessee or operator must submit to the Supervisor a report of the expenditures no later than 60 days after the end of a lease year if the expenditures are to be credited for that lease year or future lease years.

[FR Doc. 82–15030 Filed 6–2–82; 8:45 am]

BILLING CODE 4310–MR–M

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 943

Approval of Program Amendment From the State of Texas Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation of Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The State of Texas has proposed to alter its permanent program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) by amending its regulations relating to bonding. Part 943 is hereby amended to reflect the approval of this amendment to the Texas permanent program.

EFFECTIVE DATE: The approval of this amendment is effective on June 3, 1982.

ADDRESSES: See "Supplementary Information" where copies of the Texas program, the amendment being approved today, and the administrative record for this rulemaking, are available.

FOR FURTHER INFORMATION CONTACT: Robert Markey, Director, Oklahoma State Office, Office of Surface Mining, Room 3432, 333 West Fourth Street, Tulsa, Oklahoma 74103, Telephone: (918) 581–7927.

SUPPLEMENTARY INFORMATION:

Availability of Copies

Copies of the Texas program, the amendment being approved today, and the administrative record for this rulemaking are available for public inspection and copying during regular business hours at:

Office of Surface Mining Reclamation and Enforcement, Oklahoma State Office, Room 3432, 333 West Fourth Street, Tulsa, Oklahoma 74103

Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5315, 1100 L Street, N.W., Washington, D.C. 20240

Texas Railroad Commission, Surface Mining and Reclamation Division, 105, West Riverside Drive, Austin Texas 78704

Texas Railroad Commission, Surface Mining and Reclamation Division, Field Office, 2202 Old Henderson Highway, Tyler, Texas 75703

Texas Railroad Commission, Surface Mining and Reclamation Division, Field Office, Shank Office Building, 1419 Third Street, Floresville, Texas 78114

Background on the Amendment

The Secretary of the Interior has approved Texas' permanent State regulatory program to control surface coal mining and reclamation operations. See 45 FR 13008, February 27, 1980, 45 411137, June 18, 1980; and 45 FR 7867, November 26, 1980. Part of the approved program consists of a body of State regulations needed to implement, administer and enforce a system of performance bonds and liability insurance, or other equivalent guarantees, consistent with the requirement of 30 CFR Chapter VII, Subchapter J.

On September 18, 1981, the Railroad Commission of Texas submitted a set of proposed revisions to the State's bonding regulations (TX–259).

On March 11, 1982, the Office of Surface Mining notified the Railroad Commission of Texas that several elements of the State's proposed amendment required additional clarification (TX–260).

In response to OSM's request, the Railroad Commission of Texas submitted additional information on March 23, 1982, to clarify several provisions of the proposed amendment to the Texas State Program (TX–261).

On April 2, 1982, the Director of the Office of Surface Mining Reclamation and Enforcement (OSM) published notice in the **Federal Register** announcing receipt of the program amendment (46 FR 14171–14172). The notice announced a public comment period through May 12, 1982, and also announced that a public hearing would be held if requested of the Oklahoma State Office Director by April 23, 1982.

The State Office Director did not receive any requests for a public hearing, so none was held. Several written comments were considered by OSM and are addressed below under the section entitled "Disposition of Comments."

On May 13, 1982, the State Office Director recommended to the Director of OSM that the program amendments be approved.

Director's Findings

Pursuant to 30 CFR 732.17(h)(9) and 732.15(b)(6), the Director finds that the program amendment is in accordance with the provisions of Sections 509 and 519 of SMCRA and is no less effective than the provisions of 30 CFR Chapter VII, Subchapter J which contain minimum bond and insurance requirements for surface coal mining and reclamation operations.

Disposition of Comments

The Director's disposition of public comments received on the program amendment is set forth below.

1. The Texas Agricultural Experiment Station commented that Texas bonding rule 051.07.01.313.(a) provides for partial release of the performance bond to operators before the end of the liability period. The Director finds the Texas provision to be in accordance with Section 519 of SMCRA which provides for bond release in whole or in part as reclamation is satisfactorily completed. Further, Texas' bond release schedule is identical to the schedule prescribed by 30 CFR 807.12(b). Under both schedules, up to 85 percent of the bond may be released when the operator has completed all reclamation activities. The remaining 15 percent will be held as a contingency amount in case the initial revegetation attempt proves unsuccessful. If funds in excess of 15 percent are required to restore revegetation, sufficient bond amount must be retained. For these reasons, the Director finds Texas rule 051.07.01.313.(a) no less effective than the provisions of 30 CFR 807.12(b); therefore, no further change will be required.

2. The Texas Agricultural Experiment Station expressed concern that Texas rule 051.07.04.306.(b) is unclear because it does not specify the precise time the liability period commences after the last year of augmented seeding, fertilizing, irrigation or other work. On August 6, 1980, the Federal rules at 30 CFR 805.13(b) were amended (45 FR 52319). In the preamble of that rule change, OSM explained that certain practices are exempt from the term "augmentation" if such practices are documented as normal on similar lands (See 45 FR 52310, August 6, 1980). OSM stated that the regulatory authority must both determine what practices constitute "normal practices," and establish standards for evaluating augmentation. 30 CFR 805.13(b) requires that the period of liability must begin after the last year of augmented practices. The Texas Surface Coal Mining and Reclamation Act at Section 23(B)(20) contains language similar to 30 CFR 805.13(b) in its provision covering the period of the liability. In addition, under both the Federal and Texas rules, should a portion of the initial successful tract fail, further augmentation triggering a new liability period will be required. For these reasons, the Director finds the Texas provisions no less effective than the Federal rules; therefore, no further changes will be required.

Director's Decision

The Texas program bonding amendment submitted to OSM on September 18, 1981, by the Railroad Commission of Texas and clarified by Texas on March 23, 1982, is hereby approved. The approval of this amendment is effective June 3, 1982.

Other Information

On August 28, 1981, the Office of Management and Budget (OMB) granted the Office of Surface Mining (OSM) an exemption from Sections 3, 4, 6 and 8 of Executive Order 12291 for all actions taken to approve or conditionally approve, State regulatory programs, actions, or amendments. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Secretary has determined that pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this action.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96-354, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 30 CFR Part 943

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

PART 943—TEXAS

Therefore, 30 CFR Chapter VII is amended by adding a new paragraph (b) to § 943.15 as set forth herein.

§ 943.15 Approval of regulatory program amendments.

* * * * *

(b) The Texas permanent regulatory program amendment received by OSM on September 18, 1981, as clarified by Texas on March 23, 1982, is approved effective June 3, 1982.

(30 U.S.C. 1253).

Dated: May 28, 1982.

J. Steven Griles,

Acting Director, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 82-15031 Filed 6-2-82; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 209

Service Charges for Allotments of Pay to Savings Accounts of Federal Civilian Employees; Postponement of Effective Date

AGENCY: Bureau of Government Financial Operations, Fiscal Service, Treasury.

ACTION: Postponement of effective date.

SUMMARY: The Department of the Treasury has delayed indefinitely the imposition of increased service charges assessed to financial organizations that accept savings allotments from the pay of civilian employees who are employed within the United States. The increased service charges were scheduled to take effect for the first pay period that begins on or after May 31, 1982. As this scheduled increase has not been delayed indefinitely, the existing service charges of six (6) cents per payroll deduction and twelve (12) cents per total remittance by an agency to a financial organization will continue in effect.

EFFECTIVE DATE: Postponed indefinitely as of June 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. John MacArthur, Government Accounting Systems Staff, Bureau of Government Financial Operations, Room 412, Treasury Annex, Department of the Treasury, Washington, DC 20226 . (202/566-8374).

SUPPLEMENTARY INFORMATION: On March 8, 1982, the Fiscal Service, Department of the Treasury published a Final Rule (47 FR 9823) amending 31 CFR 209.8, the regulation governing accounts of civilian employees who are employed within the United States. The amendment would have increased the service charges to twelve (12) cents per payroll deduction and twenty-seven (27) cents for each remittance by an agency to a financial organization.

These increased service charges were to become effective for the first full agency pay period that begins on or after May 31, 1982. The Department has determined that this increase in service charges will be delayed indefinitely.

Accordingly, the current service charges of six (6) cents per deduction and twelve (12) cents per remittance will continue in effect for an indefinite period.

Dated: May 28, 1982.

W. E. Douglas,

Commissioner.

[FR Doc. 82-15103 Filed 6-2-82; 8:45 am]

BILLING CODE 8810-35-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) Has determined that USS COPELAND (FFG 25) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval frigate, and (2) has found that USS COPELAND (FFG 25) is a member of the FFG 7 class of ships, certain exemptions for which have been previously granted under 72 COLREGS Rule 38. The intended effect of this rule is to warn mariners in waters where the 72 COLREGS apply.

EFFECTIVE DATE: April 12, 1982.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, USN, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332, Telephone Number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in Executive Order 11964 and 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS COPELAND (FFG 25) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(a) regarding the arc of visibility of its forward masthead light; Annex I, Section 2(a)(i), regarding the height above the hull of its forward masthead light; and Annex I, Section 3(b), regarding the horizontal relationship of its sidelights to its forward masthead light, without interfering with its special function as a Navy frigate. The Secretary of the Navy has also certified that the above-mentioned light is located in closest possible compliance with the applicable 72 COLREGS requirements. Notice is also provided to the effect that USS COPELAND (FFG 25) is a member of the FFG 7 class of ships for which certain exemptions, pursuant to 72 COLREGS Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to this ship. Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a manner different from that prescribed herein will adversely affect the ship's ability to perform its military function.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

Accordingly, 32 CFR Part 706 is amended as follows:

§ 706.2 [Amended]

1. Table One of § 706.2 is amended as follows to indicate the certifications issued by the Secretary of the Navy:

Vessel	Number	Distance in meters of forward masthead light below minimum required height, § 2(a)(i) Annex I
. . . . .		
USS COPELAND	FFG 25	1.6
. . . . .		

2. Table Four of § 706.2 is amended by adding to the existing paragraph 8 the following vessel for which navigational light certifications are herewith issued by the Secretary of the Navy:

USS COPELAND (FFG 25)

3. Table Four of § 706.2 is amended by adding to the existing paragraph 9 the following vessel for which navigational light certifications are herewith issued by the Secretary of the Navy:

Vessel	Number	Distance in meters of forward masthead lights in meters
. . . . .		
USS COPELAND	FFG 25	2.75

(Executive Order 11964 (33 U.S.C. 1605))

Dated: April 2, 1982.

Approved:

James F. Goodrich,

Acting Secretary of the Navy.

[FR Doc 82-15013 Filed 6-2-82; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) Has determined that USS JOHN L. HALL (FFG 32) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval frigate, and (2) has found that USS JOHN L. HALL (FFG 32) is a member of the FFG 7 class of ships, certain exemptions for which have been previously granted under 72 COLREGS Rule 38. The intended effect of this rule is to warn mariners in waters where the 72 COLREGS apply.

EFFECTIVE DATE: April 12, 1982.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, USN, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332, telephone number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in Executive Order 11964 and 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS JOHN L. HALL (FFG 32) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(a) regarding the arc of visibility of its forward masthead light; Annex I, Section 2(a)(i), regarding the height above the hull of its forward masthead light; and Annex I, Section 3(b), regarding the horizontal relationship of its sidelights to its forward masthead light, without interfering with its special function as a Navy frigate. The Secretary of the Navy has also certified that the above-mentioned light is located in closest possible compliance with the applicable 72 COLREGS requirements. Notice is also provided to the effect that USS JOHN L. HALL (FFG 32) is a member of the FFG 7 class of ships for which certain exemptions, pursuant to 72 COLREGS Rule 38, have been previously authorized by the Secretary of the Navy.

The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to this ship. Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, the publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a manner different from that prescribed herein will adversely affect the ship's ability to perform its military function.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

Accordingly, 32 CFR Part 706 is amended as follows:

§ 706.2 [Amended]

1. Table One of § 706.2 is amended as follows to indicate the certifications issued by the Secretary of the Navy:

Vessel	Number	Distance in meters of forward masthead light below minimum required height. Sec. 2(a)(i), annex I
• • • • •		
U.S.S. John L. Hall	FFG 32	1.6
• • • • •		

2. Table Four of § 706.2 is amended by adding to the existing paragraph 8 the following vessel for which navigational light certifications are herewith issued by the Secretary of the Navy:

U.S.S. John L. Hall (FFG 32)

3. Table Four of § 706.2 is amended by adding to the existing paragraph 9 the following vessel for which navigational light certifications are herewith issued by the Secretary of the Navy:

Vessel	Number	Distance of sidelights forward of masthead lights in meters
• • • • •		
U.S.S. John L. Hall	FFG 32	2.75

(Executive Order 11964; (33 U.S.C. 1605))

Dated: April 12, 1982.

Approved:

James F. Goodrich,

Acting Secretary of the Navy.

[FR Doc 82-15014 Filed 6-2-82; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6252

[CA 12252]

California; Reservoir Site Restoration 56, Partially Revoking Reservoir Site Reserve 17; Powersite Cancellation 359, Partial Cancellation of Powersite Classification 267; Partial Revocation and Restoration of Public Land Order 548

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes an Executive, Secretarial and Public Land Order which withdrew lands for flood control purposes by the Corps of Engineers insofar as it affects a 0.48-acre parcel of land. The land will be restored to operation of the public land laws generally.

EFFECTIVE DATE: June 3, 1982.

FOR FURTHER INFORMATION CONTACT: Marie M. Getsman, California State Office, 916–484–4431.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination by the Federal Energy Regulatory Commission in DA–1138 California, it is ordered as follows:

1. Executive Order of June 8, 1926, creating Reservoir Site Reserve No. 17; Secretarial Order of August 24, 1933, creating Powersite Classification 267; and Public Land Order 548 of January 26, 1949, which withdrew land for the Department of the Army, Corps of Engineers for flood control purposes are hereby revoked insofar as they affect the following described land:

Mount Diablo Meridian

T. 26 S., R. 33 E.,
Sec. 18, lots 5, 6, 7, 8, 9, 10, 11 (formerly described as a portion of the W½W½W ½NW¼NW¼NE¼).

The area described aggregates 0.48 acres in Kern County.

2. The State of California has waived its preference right of application for highway rights-of-way or material sites afforded it by Section 24 of the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

3. Effective immediately, the above described land shall be open to disposal under Section 203 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2750, 43 U.S.C. 1713, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. The land remains withdrawn under the mining laws 30 U.S.C. Ch. 2.

Dated: May 25, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-15015 Filed 6-3-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6253

[W-34551]

Wyoming; Modification of Public Land Order No. 5345

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will modify Public Land Order No. 5345 to allow consummation of a pending Bureau of Land Management exchange of land. The lands remain withdrawn from all other forms of disposition including the mining laws.

EFFECTIVE DATE: June 3, 1982.

FOR FURTHER INFORMATION CONTACT: W. Scott Gilmer, Wyoming State Office, 307–778–2220, extension 2336.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 5345 of May 31, 1973, creating the Middle Fork of the Powder River protective withdrawal is hereby modified to allow an exchange of the following described lands.

Sixth Principal Meridian

T. 42 N., R. 85 W.,
Sec. 19, S½NE¼, SE¼NW¼;
Sec. 20, SW¼NW¼.

The area described contains 160 acres in Johnson County, Wyoming.

2. Effective immediately, the lands shall be open to applications for exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1716, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law.

The lands continue to be withdrawn from the remaining general public land laws, including the mining laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, P.O. Box 1828, Cheyenne, Wyoming 82001.

Dated: May 25, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-15019 Filed 6-2-82; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

Ocean Salmon Fisheries Off the Coasts of California, Oregon, and Washington

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule.

SUMMARY: NOAA issues emergency regulations to amend, on an interim basis, the regulations for the ocean salmon fisheries off the coasts of Washington, Oregon, and California. These regulations contain management measures similar to those contained in a Secretarial Amendment which was approved by the Assistant Administrator for Fisheries, NOAA, on May 26, 1982. Specific management measures in these regulations vary by fishery and area, but generally establish fishing seasons and gear restrictions. These regulations are intended to prevent overfishing, to allow more salmon to survive the ocean fisheries and reach the Indian subsistence fisheries in internal waters, and to achieve spawning escapement requirements.

DATES: Interim rule is effective on June 1, 1982, and remains effective through July 15, 1982.

ADDRESS: Copies of a supplemental regulatory impact review/initial regulatory flexibility analysis for these regulations are available from the Director, Northwest Region, National Marine Fisheries Service (NMFS), 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115; or Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins (Regional Director, NMFS) 206-527-6150; or A. W. Ford (Regional Director, NMFS) 213-548-2575.

SUPPLEMENTARY INFORMATION:

Background

The fishery management plan (FMP) for the Commericial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California, prepared by the Pacific Fishery Management Council (Council) was approved by the Assistant Administrator for Fisheries (Assistant Administrator) on March 2, 1978. Regulations to implement the FMP were first published on April 14, 1978, (43 FR 15629), as emergency rules. Regulations to implement the 1981 amendment to the FMP were last issued as final rules on September 9, 1981 (46 FR 44989), as corrected on September 16, 1981 (46 FR 45960), except off California where 1980 regulations were reinstated (published on January 29, 1982, 47 FR 4275).

The Council has amended the FMP to improve management of the salmon fisheries in 1982. A final supplement to the Environmental Impact Statement (FSEIS) for the 1982 FMP amendment has been filed with the Environmental Protection Agency. A notice of availability of the FSEIS was published on April 30, 1982. The 1982 amendment was intended to (1) provide adequate spawning escapements from ocean salmon fisheries for the various salmon runs; (2) meet treaty obligations to Indian fishermen; and (3) allow for a viable harvest for each segment of the salmon fishery, including the commercial and recreational ocean fisheries and the various internal water fisheries. The Council's 1982 FMP amendment, as it applies to the commerical salmon fishery north of Cape Blanco, Oregon, and to the recreational fisheries coastwide, was approved by the Assistant Administrator on May 6, 1982, under section 304 of the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* (Magnuson Act). Emergency interim rules to implement those portions of the Council's amendment were published on May 18, 1982 (47 FR 21256). The portion of the Council's recommended amendment for the commercial fisheries south of Cape Blanco was disapproved by the Assistant Administrator because it would not have allowed sufficient spawning escapement to the Klamath River and upper Sacramento River and would have unduly restricted the ocean harvest.

On April 23, 1982, the Council notified the Assistant Administrator that it did not intend to alter its 1982 recommendation for the management of the commercial ocean salmon fisheries south of Cape Blanco. Therefore, a Secretarial Amendment was prepared to amend the FMP and implement appropriate management measures pertaining to the Klamath River and upper Sacramento River chinook stocks under section 304(c) of the Magnuson Act. That section authorizes the Secretary of Commerce (Secretary) to prepare FMPs or amendments to FMPs if the involved Council does not develop such FMP or amendment within a reasonable period. The Council was apprised of the Secretary's intention to prepare a Secretarial amendment prior to publication of these rules. This Secretarial amendment will become available for public review and comment, as required by section 305(a) of the Magnuson Act, subsequent to the Council's 45-day review of that document.

Section 305(e) of the Magnuson Act authorizes the Secretary to promulgate emergency regulations to amend regulations implementing an FMP. The Assistant Administrator has determined that existing regulations pertaining to the commercial fisheries south of Cape Blanco should be amended by emergency regulations under that section. This emergency rulemaking remains in effect for 45 days and may be extended for a second 45-day period.

Status of the Salmon Resource in 1982

Current information on abundance of the major stocks of chinook and coho salmon available in 1982 to the commercial ocean fisheries south of Cape Blanco, Oregon, was summarized briefly in the preamble to the emergency interim rule implementing the approved portions of the Council's 1982 amendment (47 FR 21256, May 18, 1982). That information is discussed in detail in Chapter IV of the Report accompanying the Council's 1982 FMP amendment. Status-of-stocks information and other factors were considered in selecting the management measures contained in the Secretarial amendment.

Management Measures

For the commercial ocean salmon fisheries south of Cape Blanco, Oregon, the Secretary has selected management measures which are intended to achieve spawning escapement goals and allocations to Indian fisheries while equitably apportioning the regulatory burden and minimizing shifts in fishing effort along the coast. These management measures consist of fishing seasons, gear restrictions, size restrictions, and management subareas.

From Cape Blanco, Oregon, to the Oregon-California border, commercial

fishing for all salmon species, except coho, is restricted to using barbless hooks during the period May 1 through May 31; this commercial season continues from June 1 through June 8, but fishing is restricted to using whole natural bait or artificial plugs not less than five inches long. Commercial fishing for all salmon is prohibited from June 9 through June 30. The commercial fishing season for all salmon species opens on July 1 and closes when the coho quota for the commercial fisheries south of Cape Falcon is reached. From the date the coho quota is reached, fishing for all salmon species, except coho, using whole bait or large plugs, continues through September 5. Fishing for all salmon species, except coho, using barbless hooks, continues from September 6 through October 31.

From the Oregon-California border to Point Arena, California, commercial fishing for all salmon species, except coho, is restricted to using barbless hooks during the period May 1 through May 24. (See *caveat* below.) Fishing for all salmon species begins on May 25 and ends on June 8. Commercial fishing for all salmon species is prohibited from June 9 through June 30. Fishing for all salmon species resumes on July 1 and continues through September 30.

From Point Arena, California, to the U.S.-Mexico border, commercial fishing for all salmon species, except coho, is restricted to using barbless hooks during the period April 22 through May 24. (See *caveat* below.) Fishing for all species of salmon begins on May 25 and ends on June 15. Commercial fishing for all salmon species is prohibited from June 16 through June 30. Fishing for all salmon species resumes on July 1 and continues through September 30.

Caveat: Since these emergency rules were not promulgated prior to May 25, 1982, seasons and gear restrictions specified for 1980 applied with respect to early seasons for the commercial fishery off California (See 47 FR 4275). Thus, (1) the all-species-except-coho commercial fishery south of Point Arena, California, did not open until May 1, 1982 (rather than on April 22); and (2) the all-species commercial fishery for all of California began on May 16, 1982 (rather than on May 25).

Minimum size limits for commercially-caught coho and chinook remain the same as those applicable during 1981. Off Oregon, minimum sizes are 16 inches for coho and 26 inches for chinook. Off California, minimum sizes are 22 inches for coho and 26 inches for chinook. Other regulations pertaining to commercial salmon fishing south of Cape Blanco, Oregon, were published on May 18, 1982 (47 FR 21256).

Classification

The Assistant Administrator has determined that these emergency regulations are necessary and appropriate for conservation of the salmon resources and management of the salmon fisheries off the coasts of Oregon and California and that they are consistent with the Magnuson Act, including the national standards, and other applicable law.

Recognizing the critical need for specific regulations for the 1982 commercial ocean salmon fisheries south of Cape Blanco, Oregon, the Assistant Administrator has determined that an emergency exists and these regulations are issued under section 305(e) of the Magnuson Act to amend the existing regulations. He has determined that continued effect of the regulations now in force would not provide adequate protection of the resource and would cause unnecessary economic hardships for fishermen and coastal communities; therefore, it is necessary to promulgate these emergency regulations immediately.

The Assistant Administrator finds for good cause that the reasons which justify promulgating emergency regulations under section 305(e) of the Magnuson Act also make it impracticable and contrary to the public interest to provide notice and opportunity for comment upon, or to delay for 30 days the effective date of these emergency regulations, under the provisions of section 553 (b) and (d) of the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*

The NOAA Administrator has determined that the rules are not "major" under Executive Order (E.O.) 12291 requiring a regulatory impact analysis. A supplemental regulatory impact review (RIR) has been prepared. This review contains an analysis of the expected impacts of the management measures and alternative management options. The review supports the determination that these rules are not "major" under the E.O. 12291 criteria. This review indicates that the generally less restrictive management measures imposed on the commercial ocean fisheries south of Cape Blanco, Oregon, in 1982 will have beneficial economic impacts on commercial fishermen and industries dependent on the ocean fisheries. The RIR estimates that ex-vessel revenue in 1982 compared to 1981 will be the same for the troll fisheries between Cape Blanco and the California-Oregon border, and will increase $1,527,000 in California. Appendix G of the 1982 FMP amendment describes the procedures used, and the assumptions made, to estimate these values.

The NOAA Administrator has determined that the emergency which justifies the promulgation of emergency regulations under section 305(e) of the Magnuson Act also constitutes an emergency situation under section 8(a)(1) of E.O. 12291. Because it is imperative to implement these rules immediately, it is impracticable to comply with section 3(c)(3), which requires that NOAA transmit to the Director of the Office of Management and Budget (OMB) a copy of every nonmajor rule, at least 10 days prior to publication. However, a copy of these emergency regulations and a copy of the supplemental RIR has been transmitted to the Director of OMB.

The Regulatory Flexibility Act does not apply to these emergency rules, which will be published without prior opportunity for public comment.

This action was within the range of alternatives analyzed in the FSEIS for the 1982 FMP amendment which supplements the original environmental impact statement and previous supplements prepared for the FMP. Therefore, an additional supplement is not required. The 1982 FSEIS is on file with the Environmental Protection Agency. A notice of availability on this FSEIS was published on April 30, 1982.

These emergency regulations which amend regulations pertaining to the commercial fisheries south of Cape Blanco, Oregon, do not entail any Federal collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3507.

List of Subjects in 50 CFR Part 661

Fish; Fisheries.

Dated: May 28, 1982.

E. Craig Felber,

Chief, Management Services Staff, National Marine Fisheries Service.

PART 661—OCEAN SALMON FISHERIES OFF THE COASTS OF CALIFORNIA, OREGON AND WASHINGTON

For the reasons set out in the preamble, 50 CFR Part 661, as printed in the emergency interim rule published on May 18, 1982 (47 FR 21256), is amended as follows:

1. The authority citation for Part 661 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

§ 661.3 [Amended]

2. In § 661.3, the definition of *Subarea* is amended by revising paragraph (e)(2), and paragraph (f)(1) to read as follows:

* * * * *

(e) Subarea E:

(1) * * *

(2) Southern boundary: a line extended due west from Point Arena, California, at 39°00'00" N. latitude.

(f) Subarea F:

(1) Northern boundary: a line extended due west from Point Arena, California, at 39°00'00" N. latitude.

* * * * *

3. In § 661.20, paragraphs (a)(4)(i) through (iv), (a)(5)(i) through (iii), and (a)(6)(i) through (iii); the seasons indicated for Subareas D through F in the table at paragraph (b)(2); and paragraph (b)(3) are revised to read as follows:

§ 661.20 Commercial fishing.

(a) * * *

(4) Subarea D (Cape Blanco, Oregon, to the Oregon-California border):

(i) The season for all salmon species, except coho, begins on May 1 and ends on May 31; during this season, only the gear specified in § 661.20(b)(2) may be used.

(ii) The season for all salmon species, except coho, reopens on June 1 and ends on June 8; during this season, only the gear specified in § 661.20(b)(3) may be used.

(iii) The season for al salmon species, including coho, begins on July 1 and ends when the commercial coho quota is reached.

(iv) The season for all salmon species, except coho, continues from the date the commercial coho quota is reached and ends on October 31; during this season, only the gear specified in § 661.20(b)(3) may be used before September 6, and only the gear specified in § 661.20(b)(2) may be used after September 5. (5) Subarea E (Oregon-California border to Point Arena, California):

(i) Subsequent to the 1982 season, the season for all salmon species, except coho, begins on May 1 and ends on May 24; during this season, only the gear specified in § 661.20(b)(2) may be used.

(ii) The season for all salmon species, including coho, begins on May 25 and ends on June 8.

(iii) The season for all salmon species, including coho, reopens on July 1 and ends on September 30.

(6) Subarea F (Point Arena, California, to U.S.-Mexico border):

(i) Subsequent to the 1982 season, the season for all salmon species, except coho, begins on April 22 and ends on May 24; during this season, only the gear specified in § 661.20(b)(2) may be used.

(ii) The season for all salmon species, including coho, begins on May 25 and ends on June 15.

(iii) The season for all salmon species, including coho, reopens on July 1 and ends on September 30.

(b) * * *

(2) * * *

Subarea and Season

A May 1–31
B May 1–31
C May 1–31 and after September 5 during the season specified in § 661.20(a)(3)(iv)
D May 1–31 and after September 5 during the season specified in § 661.20(a)(4)(iv)
E May 1–24 (subsequent to the 1982 season).
F April 22–May 24 (subsequent to the 1982 season)

* * * * *

(3) No person shall engage in commercial salmon fishing using other than hooks with whole natural bait or salmon plugs not less than five (5) inches long from June 1 to June 15 in subarea C, from June 1 to June 8 in subarea D, or from the date the coho commercial quota is reached to September 5 in subareas C and D. Gear commonly known as "spoons," "wobblers," "dodgers," and flexible plastic lures, are not considered salmon plugs, and are prohibited during the times specified in this § 661.20(b)(3).

* * * * *

[FR Doc. 82-15019 Filed 6-29-82; 3:22 pm]

BILLING CODE 3510-22-M

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50 CFR Part 661

Ocean Salmon Fisheries Off the Coasts of California, Oregon, and Washington

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule.

SUMMARY: NOAA issues an emergency regulation to close the territorial sea off the coast of Oregon north of Cape Falcon to recreational fishing between May 29 and June 11. This action is taken to implement a decision by the Secretary of Commerce to preempt State management authority. The Secretary found that the State of Oregon's action to open its waters to recreational fishing during this period would have a substantial and adverse effect on the carrying out of the fishery management plan for the ocean salmon fishery.

DATES: The emergency rule is effective from 0001 hours local time, May 29; through 2400 hours local time, June 11, 1982.

FOR FURTHER INFORMATION CONTACT: H.A. Larkins (Regional Director, NMFS), 206–527–6150.

SUPPLEMENTARY INFORMATION: Section 306(b) of the Magnuson Conservation and Management Act (16 U.S.C. 1856(b)), authorizes the Secretary of Commerce to regulate a fishery within State boundaries if he makes two findings: (1) Fishing in the fishery is engaged in predominately within and beyond the fishery conservation zone (FCZ); (2) a State has taken action, the results of which will substantially and adversely affect the carrying out of the fishery management plan (FMP) for the fishery.

NOAA published emergency regulations to implement the approved portions of an FMP amendment prepared by the Pacific Fishery Management Council for the 1982 ocean salmon fishery (47 FR 21256, May 18, 1982). During its deliberations on management measures for the 1982 season, the Council considered but rejected a proposal to open the area between Leadbetter Point, Washington, and Cape Blanco, Oregon, for a recreational chinook-only fishery between May 29 and June 11. Federal regulations thus prohibit recreational fishing in the FCZ in this area until June 12.

On May 21, the Oregon Fish and Wildlife Commission confirmed its earlier decision to deviate from the management regime contemplated by the FMP, as amended, by opening Oregon waters north of Cape Blanco for a two-week recreational fishery for chinook only, between May 29 and June 11.

On May 22, the Assistant Administrator for Fisheries, NOAA, served notice on the State of Oregon of initiation of a proceeding to preempt Oregon's fishery management authority with respect to recreational fishing in the territorial sea off the coast of Oregon north of Cape Falcon between May 29 and June 11. Only the area between Cape Falcon and the Oregon-Washington border was proposed for preemption because the impacts of fishing in that area on Oregon Production Index area coho and Columbia River chinook were considered much greater than impacts of fishing south of Cape Falcon.

During the week of May 24, proceedings were held according to regulations appearing at 50 CFR part 619 (47 FR 12181, March 22, 1982). An administrative law judge, after considering submissions from the State of Oregon and the Assistant Administrator, recommended that the Secretary preempt Oregon's authority to the extent proposed. On May 28, the Secretary decided to preempt that authority and to issue a regulation closing Oregon's waters north of Cape Falcon to recreational fishing until June 12, 1982.

This rule is issued under the authority of section 305(a) of the Magnuson Act to respond to the emergency created by Oregon's decision to open its waters for the two-week recreational fishery. The rule will prevent hooking mortality on approximately 4,800 coho and wastage of undersized chinook that would have been taken incidental to the chinook-only recreational fishery.

Classification

The Assistant Administrator finds for good cause that the reasons for preemption and for issuing an emergency rule under section 305(e) of the Magnuson Act also make it impracticable and contrary to the public interest to provide notice and opportunity for comment upon, or to delay for 30 days the effective date of this emergency rule, under the provisions of sections 553(b) and (d) of the Administrative Procedure Act.

The NOAA Administrator has determined that this rule is not "major" under Executive Order 12291, and that the situation justifying issuance of this rule under section 305(e) of the Magnuson Act constitutes an emergency situation under section 8(a)(1) of the Executive Order. NOAA has transmitted a copy of this emergency rule and the regulatory impact review prepared on the 1982 FMP amendment to the Director of the Office of Management and Budget.

This action is not subject to provisions of the Regulatory Flexibility Act insofar as the rules will be published without prior opportunity for public comment. It is covered by the final supplement to the environmental impact statement, for which a notice of availablity was published on April 30, 1982.

This emergency rule does not entail any Federal collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 50 CFR Part 661

Fish, Fisheries, Fishing, Indians.

Dated: May 28, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

PART 661—OCEAN SALMON FISHERIES OFF THE COASTS OF CALIFORNIA, OREGON AND WASHINGTON

For the reasons set out in the preamble, 50 CFR Part 661 is amended as follows:

1. The authority citation for Part 661 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

§ 661.3 [Amended]

2. For the reasons set out in the preamble, 50 CFR 661.3 is amended by adding the following sentence to the end of the definition of the term "Fishery Management Area":

* * * In addition, the Fishery Management Area includes the territorial sea off the coast of Oregon north of Cape Falcon (at 45°46'00" N. latitude), with respect to recreational fishing in subarea B during the period May 29 through June 11, 1982, prior to the recreational fishing season specified for subarea B in § 661.21(a)(2).

* * * * *

[FR Doc. 82-15020 Filed 5-28-82; 3:22 pm]

BILLING CODE 3510-22-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 693; Valencia Orange Reg. 692 Amdt. 1]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period June 4–June 10, 1982, and increases the quantity of such oranges that may be so shipped during the period May 28–June 3, 1982. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective June 4, 1982, and the amendment is effective for the period May 28–June 3, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under Secretary's Memorandum 1512–1, and Executive Order 12291 and has been designated a "non-major" rule. This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of Calilfornia. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on February 5, 1982. The committee met again publicly on June 1, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for Valencia oranges is easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restriction on the handling of Valencia oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 908

Agricultural marketing service, Marketing agreements and orders, California, Arizona, Oranges (Valencia).

1. Section 908.993 is added as follows:

§ 908.993 Valencia Orange Regulation 693.

The quantities of Valencia oranges grown in Arizona and California which may be handled during the period June 4, 1982, through June 10, 1982, are established as follows:

(1) District 1: 306,000 cartons;
(2) District 2: 294,000 cartons;
(3) District 3: Unlimited cartons.

2. Section 908.992 Valencia Orange Regulation 692 (47 FR 23138), is hereby amended to read:

§ 908.992 Valencia Orange Regulation 692.

* * * * *

(1) District 1: 416,000 cartons;
(2) District 2: 384,000 cartons;
(3) District 3: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: June 2, 1982.

D. S. Kuryloski,

Deputy Director Fruit and Vegetable Division Agricultural Marketing Service.

[FR Doc. 82-15287 Filed 6-3-82; 11:30 am]

BILLING CODE 3410-02-M

Proposed Rules

Federal Register
Vol. 47, No. 107
Thursday, June 3, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-CE-18-AD]

Airworthiness Directives; Flight Equipment and Engineering Corporation 639 and 675 Series Seats

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes a new Airworthiness Directive (AD) which will require modification of Flight Equipment and Engineering Corporation 639 and 675 series seats by replacement of P/N 31620 track lock fittings with stronger P/N 33667 fittings. The proposed action will enable the seat attachment structure to meet the requirements of Technical Standard Order (TSO) C-39a. Failure to meet these requirements could increase the probability of the seats becoming detached from the aircraft during a survivable crash landing and increase the potential for occupant injury.

DATE: Comments must be received on or before July 8, 1982.

COMPLIANCE: Within the next 60 calendar days after the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from Flight Equipment and Engineering Corporation, P.O. Box 522173, Miami, Florida 33152, or the Atlanta Aircraft Certification Office, FAA, 3400 Norman Berry Drive, East Point, Georgia 30320 or the Rules Docket at the address below. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 82-CE-18-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Jack Bentley, ACE-120A, Atlanta Aircraft Certification Office, FAA, P.O. Box 20636, Atlanta, Georgia 30320; Telephone (404) 763-7407.

SUPPLEMENTARY INFORMATION:

Comments invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability Of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 82-CE-18-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

It has been found that the presently installed P/N 31620 track lock fittings on Flight Equipment and Engineering Corporation 639 and 675 series seats do not meet the 1.33 times the ultimate load strength required by Paragraph 4.1.3 of NAS 809, Specification—Aircraft Seats and Berths, incorporated by reference in applicable Technical Standard Order (TSO) C-39a for these seats. Although this condition does not represent a hazard to the aircraft or occupants during normal operation, the increased possibility of a failure of the fittings during a survivable crash would increase the potential for occupant injury. The seat manufacturer has developed a new P/N 33667 track lock fitting meeting the applicable TSO requirements and is making it available to replace the existing fittings.

Since the condition described herein is likely to exist or develop in other seats of the same design, the AD would require replacement of the presently installed P/N 31620 track lock fitting with a new increased strength P/N 33667 fitting.

Replacement of the existing fittings with the new fittings is necessary to assure the design strength of the seat attachment is realized during a survivable crash and reduce the potential for passenger injury should such an event occur on an aircraft utilizing these seats.

There are approximately 600 seats affected by the proposed AD, the cost of new parts, installation labor and administrative cost of the AD are estimated to be $14,750 to the private sector.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Flight Equipment and Engineering Corporation: Applies to 639 and 675 series seats of the model and serial numbers listed below manufactured in accordance with FAA Technical Standard Order (TSO) C-39a, Aircraft Seats and Berths, and installed in aircraft certificated in any category. These seats are believed to be installed in, but not necessarily limited to, Douglas Model DC-9 Series and Boeing Model 737 Series airplanes.

Model No.	Serial No.
639NL	19554 thru 19561
639-3WL	19476 thru 19499, 19940, 22273
639-3WR	19500 thru 19523, 19941, 22274
639-3XL	19524, 19525
639-3XR	19526, 19527
639-3ZR	19530, 19531
639-3AAL	19532, 19533
639-3AAR	19534, 19535
639-3ABL	19536, 19537
639-3ABR	19538, 19539
639-3ACL	19540, 19541
639-3ACR	19542, 19543
639-3AER	19662, 19663
639-3AQL	21050 thru 21063
639-3AQR	21064 thru 21077
639-3ASL	21078
639-3ASR	21079
639-3ATL	21080
639-3ATR	21081
639-3AUR	21082

Model No.	Serial No.
639-3AVL	21083
639-3AVR	21084
639-3AWL	21085
639-3AWR	21086
639-3AXR	21087
639-3AZL	21090
639-3AZR	21091
639-3BBL	21289 thru 21299, 21332 thru 21342
639-3BBR	21300 thru 21310, 21343 thru 21353
639-3BCL	21311, 21354
639-3BCR	21312, 21355
639-3BDL	21313, 21356
639-3BDR	21314, 21357
639-3BEL	21315, 21325
639-3BER	21316, 21326
639-3BFL	21317, 21327
639-3BGR	21318, 21328
639-3BHL	21319, 21358
639-3BHR	21320, 21359
639-3BKR	21323, 21331
675-3AR	21484 thru 21526, 21680 thru 21707, 21766 thru 21783, 22152 thru 22172, 22233 thru 22236 22873 thru 22883, 23025 thru 23028
675-3BL	21527 thru 21529, 21708, 21709, 21794, 21795, 22173, 22174, 22884, 23030
675-3BR	21530 thru 21532, 21710, 21711, 21796, 21797, 22175, 22176, 22885, 23031
675-3CL	21533 thru 21535, 21712, 21713, 21798, 21799, 22177, 22178, 22886, 23032
675-3CR	21536 thru 21538, 21714, 21715, 21800, 21801, 22179, 22180, 22887, 23033
675-3DL	21539 thru 21541, 22888, 23034
675-3DR	21542 thru 21544, 22889, 23035
675-3EL	21545 thru 21547, 22890, 23036
675-3FR	21548 thru 21550, 22891, 23037
675-3GL	21551 thru 21553, 21716, 21717, 21802, 21803, 22892, 23038
675-3GR	21554 thru 21556, 21718, 21719, 21804, 21805, 22893, 23039
675-3JR	21563 thru 21565, 22895, 23042
675-3KR	21724, 21725, 22333, 23043, 23197
675-3MR	21726, 21727, 22239, 22240, 23044
675-3NL	21728, 21729, 22241, 22242, 22334, 23045, 23198
675-3NR	21730, 21731, 21810, 21811, 22243, 22244, 23046
675-3PL	21732, 21733, 22245, 22246, 23047
675-3PR	21734, 21735, 22247, 22248, 23048
675-3QL	22181
675-3QR	22182
675-3SR	22183
675-3TR	22184
675-3UL	21812, 21813, 23049
675-3UR	21814, 21815, 23050
675-3AL	21481 thru 21483, 21652 thru 21679, 21736 thru 21765, 22128 thru 22151, 22227 thru 22232, 22862 thru 22872, 23020 thru 23024

Compliance

Required within 60 calendar days after the effective date of this AD unless already accomplished.

To assure the seat attachment meets strength requirements of TSO C–39a, accomplish the following:

(a) Replace existing P/N 31620 track fittings with P/N 33667 fittings having increased strength.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(c) An alternate means of compliance with this AD may be used if approved by the Chief, Atlanta Certification Office, FAA, P.O. Box 20639, Atlanta, Georgia 30320.

Flight Equipment Service Bulletin No. 675–25–63 dated April 6, 1982, Subject: Replacement of Leg Frame Rear Floor Track Fitting—Replacement of, pertains to the subject matter of this AD.

(Sec. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a) 1421 and 1423); section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85.)

Note.—The FAA has determined that this document involves a proposed regulation that is not major under the provisions of Executive Order 12291, because of its minimal economic impact as summarized earlier in this document. It has been further determined that this proposed regulation is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft regulatory evaluation for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "**FOR FURTHER INFORMATION CONTACT.**" In addition, I certify under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities since it involves few, if any, small entities.

Issued in Kansas City, Missouri, on May 18, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82–15007 Filed 6–2–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

Federal Aviation Administration

[Airspace Docket No. 82–ANE–11]

Designation of Federal Airways, Area Low Routes, Controlled Airspace and Reporting Points; Establishing of Gager Field, Bozrah, Connecticut, 700-Foot Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to establish a 700-foot transition area to provide controlled airspace protection for aircraft executing new RNAV Runway 02 or RNAV Runway 20 Standard Instrument Approach Procedures (SIAP's) at Gager Field, Bozrah, Connecticut.

DATE: Comments must be received on or before June 30, 1982.

ADDRESSES: Send comments on the proposal intriplicate to: Chief, Operations, Procedures and Airspace Branch, ANE–530, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. The docket may be examined at the following location: Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: David Hurley, Operations, Procedures and Airspace Branch ANE–530, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7285.

Comments Invited

Interested persons may participate in the proposed rulemaking process by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Chief, ANE–530, Operations, Procedures and Airspace Branch, ANE–530, Air traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or before June 30, 1982, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8085. Communications must identify the number of this NPRM.

Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a 700-foot transition area at Gager Field, Bozrah, Connecticut. This action will provide controlled airspace protection for aircraft executing either RNAV Runway 02 or RNAV Runway 20 Standard Instrument Approaches Procedures.

List of Subjects in 14 CFR Part 71

Navigation facilities.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of the Federal Aviation Regulations [14 CFR Part 71] by adding a

new 700-foot transition area at Bozrah, Connecticut, to read as follows:

Bozrah, Connecticut

"That airspace extending upward from 700 feet above the surface within a 5 miles radius of the center, 41°33'52"N 72°11'52"W, of Gager Field, Bozrah, CT; within 2.5 miles each side of the Runway 02 centerline extended, 190°38'40"T, from the 5 mile radius area to 9.5 miles south of the end of the runway; and within 2.5 miles each side of the Runway 20 centerline extended, 10°38'40"T, from the 5 mile radius area to 9 miles north of the end of the runway excluding the Willimantic, Connecticut Transition Area.

(Sec. 307(a) of the Federal Aviation Act of 1958 [49 U.S.C. 1348(a); section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c); § 11.61 of the Federal Aviation Regulations (14 CFR 11.61)))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is certified that this (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anitcpated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Burlington, Massachusetts, on May 21, 1982.

John B. Roach,

Acting Director, New England Region.

[FR Doc. 82-15005 Filed 6-2-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AAL-6]

Palmer, Alaska; Proposed Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a control zone at Palmer, AK. This action would provide controlled airspace needed to accommodate prescribed instrument approach procedures.

DATE: Comments must be received on or before July 2, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Alaskan Region, Attn: Chief, Air Traffic Division, Docket No. 82-AAL-6, 701 C Street, Box 14, Anchorage, Alaska 99513.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m. The FAA Rules Docket is located in the office of the Regional Counsel, 3rd floor, Federal Building, 701 C Street, Anchorage, Alaska.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Jerry M. Wylie, Operations, Procedures, and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, Alaska 99513, telephone (907) 271-5903.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commentators wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stampted postcard on which the following statement is made: "Comments to Airspace Docket No. 82-AAL-6." The postcard will be dated/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Operations, Procedures, and Airspace Branch, Air Traffic Division, Alaskan Region, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, Alaska 99513, or by calling (907) 271-5903. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2, which describes application procedures.

The Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a control zone at Palmer, AK. As a result of user requests for an IFR approach procedure to Palmer, AK, the FAA has developed a prescribed instrument approach procedure utilizing the Big Lake VOR/DME. This amendment would establish controlled airspace, within a 5 mile radius of the Palmer, AK, Airport, to protect the prescribed instrument approach procedure. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Palmer, AK [New]

Within a 5 mile radius of the center, lat. 61°35'40" N., long. 149°05'20" W., of Palmer Airport.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) is appropriate to have a comment period of less than 45 days. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Anchorage, Alaska, on May 24, 1982.

Robert L. Faith,

Director, Alaskan Region.

[FR Doc. 82-15004 Filed 6-2-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AWP-8]

Proposed Establishment of Transition Area, San Andreas, California

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a 700 foot transition area at San Andreas, California, in order to provide controlled airspace for aircraft executing a new instrument approach procedure to the Calaveras County-Rasmussen Field, San Andreas, California, utilizing the Linden, California, VORTAC.

DATE: Comments must be received on or before July 1, 1982.

ADDRESSES: Send comments on the proposal in triplicate to Director, Federal Aviation Administration, Attn: Chief, Airspace and Procedures Branch, AWP-530, 15000 Aviation Boulevard, Lawndale, California 90261. A public docket will be available for examination in the Office of the Regional Counsel, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone: (213) 536-6270.

FOR FURTHER INFORMATION CONTACT: Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; Telephone (213) 536-6182.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the Airspace Docket Number and be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. All communications received on or before July 1, 1982, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested parties.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Chief, Airspace and Procedures Branch, AWP-530, 15000 Aviation Boulevard, Lawndale, California 90261, or by calling (213) 536-6180. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a 700 foot transition area for San Andreas, California. This action will provide controlled airspace for aircraft utilizing IFR procedures to and from Calaveras County-Rasmussen Field.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Subpart G, § 71.181 of Part 71 of the Federal Aviation Administration (14 CFR Part 71) as republished in (46 FR 540) as follows:

San Andreas, California

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Calaveras County-Rasmussen Field Airport (latitude 38°08'45" N., longitude 120°38'49" W.) and within three miles each side of the Linden, California, VORTAC (latitude 38°04'29" N., longitude 121°00'10" W.) 075°T (059°M) radials extending from the 5-mile radius area to 10 miles northeast of the VORTAC.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Los Angeles, California, on May 21, 1982.

DeWitte T. Lawson, Jr.,

Acting Director, Western-Pacific Region.

[FR Doc. 82-15006 Filed 6-2-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-117 (New Mexico-16)]

High-Cost Gas Produced From Tight Formations; New Mexico

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of New Mexico that the Chacra Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on June 28, 1982.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on June 11, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Victor Zabel, (202) 857-8616.

SUPPLEMENTARY INFORMATION:

Issued: May 27, 1982.

I. Background

On May 17, 1982, the State of New Mexico Oil Conservation Division (New Mexico) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Chacra Formation located in Rio Arriba County, New Mexico, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether New Mexico's recommendation that the Chacra Formation be designated a tight formation should be adopted. The United States Department of the Interior, Minerals Management Service (formerly the U.S. Geological Survey) concurs with New Mexico's recommendation. New Mexico's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The area recommended for tight formation designation includes approximately 6,720 acres located in the southeastern portion of the San Juan Basin in Rio Arriba County, New Mexico. The proposed area includes all of Sections 16, 21, 22, 25 through 28, 34 through 36, and the S/2 of Section 23 in Township 25 North, Range 6 West, NMPM. The average depth to the top of the Chacra Formation is 3,390 feet. The thickness of the formation averages about 130 feet.

III. Discussion of Recommendation

New Mexico claims in its submission that evidence gathered through information and testimony presented at a public hearing in Case No. 7489, Order No. R-6939 convened by New Mexico on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stiumulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

New Mexico further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by New Mexico that the Chacra Formation, as described and delineated in New Mexico's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before June 28, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-117 (New Mexico-16), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than June 11, 1982.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, (15 U.S.C. 3301-3432))

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event New Mexico's recommendation is adopted.

Kenneth W. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703 is amended by adding new paragraph (d)(119) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(119) *Chacra Formation in New Mexico.* RM79-76-117 (New Mexico-16).

(i) *Delineation for formation.* The Chacra Formation is located in all of Sections 16, 21, 22, 25 through 28, 34 through 36, and the S/2 of Section 23, Township 25 North, Range 6 West, NMPM in Rio Arriba County, New Mexico.

(ii) *Depth.* The Chacra Formation averages approximately 130 feet in thickness. The average depth to the top of the Chacra Formation is 3,390 feet.

[FR Doc. 82-15011 Filed 6-2-82; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-143-80]

Investment Credit for Movie and Television Films

AGENCY: Internal revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to investment credit for movie and television films. Changes to the applicable law were made by the Tax Reform Act of 1976. The regulations would provide the public with additional specificity as to the definition of a qualified film and would affect taxpayers that own movie and television films which they place in service.

DATES: Written comments and requests for a public hearing must be delivered or mailed by August 2, 1982. It is proposed that, if adopted, the amendments are proposed to be effective with respect to films and tapes placed in service after June 3, 1982.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-143-80), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Mary Frances Pearson of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224,

Attention: CC:LR:T (202–566–3458, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 48(k) of the Internal Revenue Code of 1954. These amendments are proposed to provide additional specificity for the definition of a "qualified film", in § 1.48–8(a)(3). The regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Section 48(k)(1)(B)defines the term "qualified film". The term does not include any film or tape the market for which is primarily topical or is otherwise essentially transitory in nature. Existing regulation § 1.48–8(a)(3)(iii) states that a film is topical or essentially transitory in nature if it primarily deals with events and personalities of current interest at the time the film or tape is place in service. Although the regulations provide guidance as to what film markets will be classified as "topical," the regulatory definition of a "transitory" film market requries additional specificity. The proposed amendments to the regulation indicate that the market for a film must be neither topical nor transitory to meet the definition of a qualified film. Accordingly, the proposed amendments reflect the position of the Service since the enactment of the Tax Reform Act of 1976 that the market for a film is essentially transitory in nature if, in the normal operation of the particular market for which the film is produced, films are shown once. For example, the market for serialized day-time television dramas is essentially transitory in nature because the films or tapes that are produced for that market usually are shown once.

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Mary Frances Pearson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices in the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Lists of Subjects in 26 CFR Part 1

Income taxes, Tax liability, Tax rates, Credits.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Section 1.48–8 is amended by revising paragraph (a)(3)(iii) and by adding a new paragraph (a)(3)(iv).

The new and revised provisions read as follows:

§ 1.48–8 Motion picture and television films and tapes.

(a) *Entitlement to investment credit* * * *

(3) *Qualified film.* * * *

(iii) *Topical films and tapes.* The term "qualified film" does not include any film or tape the market for which is primarily topical. The market for a film or tape is primarily topical if the film or tape deals with events and personalities of current interest at the time the film or tape is placed in service. It does not matter that a film or tape the market for which is topical may be shown in subsequent years or is actually shown in subsequent years. These films and tapes include news shows such as the evening news and news specials relating to current affairs, interview shows such as "The Tonight Show" or "Meet the Press," game shows, award shows, and shows consisting of sporting events. Similarly, a variety show does not qualify for the credit since it presents entertainers primarily as personalities of current interest as opposed to a dramatic or situation comedy show which presents entertainers as characters in a dramatization. Films and tapes the market for which is primarily topical do not include, however, dramatized recreations of recent events.

(iv) *Transitory films and tapes.* With respect to films and tapes placed in service after June 3, 1982, the term "qualified film" does not include any film or tape the market for which is essentially transitory in nature. The market for a film or tape is essentially transitory in nature if, in the normal operation of the particular market for which the film or tape is produced, films or tapes are shown once. For example, the market for serialized daytime television dramas is essentially transitory in nature because the films or tapes that are produced for that market usually are shown once. Unlike the test for determining whether the market for a film or tape is primarily topical, the test for determining whether the market for a film or tape is essentially transitory does not entail an inquiry into the subject matter of the film or tape.

* * * * *

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

[FR Doc. 82–15020 Filed 6–2–82; 8:45 am]
BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Parts 1, 2, 3, 4, 5, 6, 7, and 12

General Regulations for Areas Administered by the National Park Service; Extension of Comment Period

AGENCY: National Park Service, Interior.

ACTION: Extension of the comment period.

SUMMARY: On March 17, 1982 (47 FR 11598) the National Park Service published proposed general regulations for areas administered by it. This notice extends the comment period on that proposed rule.

DATES: The National Park Service will consider all comments received on these proposed rules by July 19, 1982.

ADDRESS: Comments should be directed to: Associate Director, Management and Operations, National Park Service,

Department of the Interior, 18th and C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Maureen Finnerty, Division of Ranger Activities and Protection, Washington, D.C. 20240, Telephone: (202) 343–5607 or 4874.

SUPPLEMENTARY INFORMATION: On March 17, 1982, the National Park Service published proposed general regulations to provide guidance and controls for public use and recreation activities (*e.g.*, fishing, camping, winter activities, boating) in areas administered by it.

Several individuals and organizations have requested an additional period of time in which to comment. Because of the widespread public interest in these rules and in an effort to ensure maximum public involvement on a nationwide basis, the Service is extending the comment period until July 19, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82–15142 Filed 6–2–82; 8:45 am]

BILLING CODE 4310–70–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 122

[W–2–FRL 2136–6]

Extension of Period for Public Comment on Reconsideration of Effluent Limitations; Caribbean Rum Distilling

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: At the written request of Bacardi Corporation and in response to telephone inquiries from other persons, EPA has granted an extension of the period for public comment concerning the reconsideration of National Pollutant Discharge Elimination System (NPDES) effluent limitations for the . . . discharge of rum distillery wastes. Notice of the comment period was published on April 9, 1982 (47 FR 15368, April 9, 1982) with a deadline of May 24, 1982 for the submission of written comments.

DATE: The deadline for submission of written comments is extended until June 17, 1982.

ADDRESSES: Parties wishing to submit written comments should do so by filing them with Conrad Simon, Director, Water Management Division, United States Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10278, with a copy to Weems Clevenger, Director, EPA Caribbean Office, Stop 8 ½ Ave., Fernandez Juncos, P.O. Box 792, San Juan, Puerto Rico 00902, no later than the close of business on June 17, 1982. Documents are available for public inspection at both of the above addresses.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Langone, Water Management Division, United States Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10278, (212) 264–9876; Mr. Weems Clevenger, at the above address or at (809) 725–7825.

Jacqueline E. Schafer,

Regional Administrator.

May 26, 1982.

[FR Doc. 82–15061 Filed 6–2–82; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3830

Location of Mining Claims; Extension of Comment Period on Proposed Rulemaking

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of extension of comment period.

SUMMARY: A proposed rulemaking amending the regulations of Recordation of Mining Claims and Filing of Proof of Annual Assessment Work or Notice of Intention to Hold Mining Claims, Mill or Tunnel Sites was published in the **Federal Register** on May 4, 1982 (47 FR 19298). The proposed rulemaking allowed 30 days for the public to file comments. Pursuant to requests for an extension of the comment period, the Department of the Interior has determined that the comment period should be extended for an additional 30 days to provide the affected public a longer period to analyze and comment on this proposal. The comment period is hereby extended for 30 additional days ending on July 6, 1982.

DATE: Comments should be submitted by July 6, 1982.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street N.W., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: George Schmidt, (202) 343–8537,
or
Robert C. Bruce, (202) 343–8535.

Dated: June 1, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82–15114 Filed 6–2–82; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[Docket No. 20735; RM–1974; RM–2655; FCC 82–225]

Changes in the Rules Relating to Noncommercial, Educational FM Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Proposed rules.

SUMMARY: The FCC proposes rules limiting the facilities of noncommercial, educational FM stations to protect the reception of TV Channel 6 broadcasts. The limitations would apply to new stations and to existing stations that request changes in their service area. Rules are necessary because noncommercial FM stations can cause interference to the service provided by Channel 6 TV stations. This action would remedy, in part, the effects of the Second Report and Order in this rule making proceeding which caused a number of licensees of 10 watt, Class D noncommercial, educational FM stations to upgrade their facilities. This resulted in an increase in the number of Channel 6 interference complaints. The proposed rules would place constraints on the technical facilities of new or modified noncommercial, educational FM stations to avoid additional interference. Questions are also raised concerning the need for an assignment table for noncommercial, educational FM stations.

DATES: Comments are due on August 24, 1982, and reply comments are due on October 8, 1982.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Gordon W. Godfrey, Broadcast Bureau, Washington, D.C. 20554 (202) 632–9660.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of changes in the rules relating to noncommercial, educational FM broadcast stations, Docket No. 20735, RM–1974, RM–2655.

Second Further Notice of Proposed Rule Making

Adopted: May 13, 1982.

Released: May 28, 1982.

By the Commission: Commissioner Dawson concurring in part and dissenting in part.

Introduction

1. In this Second Further Notice of Proposed Rule Making the Commission addresses the remaining issues requiring resolution in this comprehensive proceeding. They are: (1) The need to adopt additional assignment standards for educational FM broadcast stations to provide protection to the reception of Channel 6 television signals; and (2) the need for an assignment table for noncommercial, educational FM stations.

2. Briefly, the Commission proposes to adopt standards which would limit interference to TV Channel 6 reception as a result of noncommercial, educational FM station operation on the basis of recently obtained technical information. However, while we do not propose rules which would create an assignment table for noncommercial, educational FM stations, for reasons which will be discussed, we retain an open mind and request comments on this issue.

TV Channel 6 Interference Protection Standards

3. The Commission has, over the past few months, expended considerable staff time in reviewing the technical filings in response to the Notice and the Further Notice.[1] In addition, we have conducted tests at our Laurel Laboratory to confirm engineering "hunches" in areas where insufficient information was contained in the docket file. During the period the interference question has been open to public comment and under study by the Commission, the process of granting authorizations to construct educational FM facilities has been clouded by uncertainty over the outcome of this proceeding. The Commission's action in granting requests for new or modified educational FM stations has been challenged for its failure to recognize the impact these stations have on the service areas of TV Channel 6 stations ("McGraw-Hill Broadcasting Company v. FCC", Case 78–1695, U.S. Court of Appeals for the District of Columbia Circuit). We hope that consideration of this document will help to dispel much of the accumulated uncertainty.

4. The spectrum between 88 and 108 MHz is allocated for FM broadcasting and of this, the lower 4 MHz (88–92 MHz) is reserved for noncommercial, educational FM broadcasting. This spectrum is immediately adjacent to TV Channel 6 (82–88 MHz) so the potential exists for inter-service interference. As a practical matter, the comparatively narrow bandwidth (.2 MHz) used in FM broadcasting, coupled with the high selectivity of FM receivers, effectively precludes TV-to-FM interference. The reverse is not true, however, since the wide bandwidth (6 MHz) used in TV broadcasting, coupled with our policy of not assigning adjacent TV channels in the same area, has resulted in the development of TV receivers with inadequate adjacent channel selectivity.[2] Accordingly, as noncommercial, educational FM broadcasting has developed in the lower portion of the FM band, interference caused to the reception of TV Channel 6 has increased. While this interference problem exists for most of the educational FM band, it is aggravated as the frequency of the FM station approaches 88.1 MHz (*i.e.*, as the FM frequency moves closer to Channel 6). Since existing Commission rules do not recognize the problem, there is presently no restriction on the location or facilities of a noncommercial, educational FM station with a view toward protecting the reception of TV Channel 6.

5. The amount of interference resulting from the operation of a noncommercial, educational FM station is fundamentally dependent upon the selectivity of the TV receiver and the signal strength ratio (at the TV receiver) between the TV and FM signals.[3] The selectivity of the TV receiver varies as a function of frequency. In the case of noncommercial, educational FM stations, selectivity is least (and susceptibility to interference greatest) at the lower edge of the noncommercial educational FM band. It has been argued by noncommercial, educational FM interests that the educational FM to TV Channel 6 interference problem is entirely due to poor selectivity in TV receivers and that manufacturers should be required to produce a higher quality product. However, receiver manufacturers and TV Channel 6 station interests argue that the interference problem is equally (if not primarily) due to FCC allocations policies, and that it would be impossible to produce a TV receiver with appropriate wide bandwidth (6 MHz) and sufficient selectivity to adequately attenuate the signal of a noncommercial educational station which may be located as little as 0.1 MHz removed.

6. While the Commission in the past has not adopted rules for FM in consideration of television receiver performance, we feel that in this particular case the reason for the interference problem lies somewhere between the two positions mentioned above. Accordingly, we have developed some TV Channel 6 interference protection standards which we feel should constitute an adequate solution to this problem. These standards should not be viewed as static. They were developed with the aid of a sophisticated computer program that has capabilities which we are not immediately using but which we propose to use. The computer program also lacks other capabilities which are desirable. The standards being proposed should be viewed as being in the first stage of development with subsequent stages clearly charted, but dependent on Commission staff resources for attainment. In this sense, we believe they are unique in that they have been developed to meet an immediate need; yet, they are based on dynamic characteristics permitting their later refinement. This area is discussed in more detail, *infra*.

7. Because of our desire to later modify the assignment standards if adopted, they may rightly be viewed as interim standards until the refinement process is complete. Normally the Commission would not propose to adopt standards when it recognizes the necessity of later modifying them. In this instance we are persuaded that the need for the standards, in terms of permitting the orderly processing of educational FM applications on a clearly recognized

[1] See the Notice of Proposed Rule Making, Docket 20735, published in the **Federal Register** (41 FR 16973) on April 23, 1976 and the Further Notice of Proposed Rule Making, Docket 20735, published in the **Federal Register** (43 FR 27682) on June 26, 1978.

[2] We are referring to channels which are adjacent in terms of frequency, not channel number. Channels 3 (60–66 MHz) and 4 (66–72 MHz) are adjacent to each other in both frequency and channel number, while Channels 6 (82–88 MHz) and 7 (174–180 MHz) are adjacent in channel number only.

[3] The signal strengths of the TV and FM stations are functions of effective radiated power (ERP), antenna height and distance, and may be predicted using appropriate curves in FCC–OCE Report No. R–6602 (Development of VHF and UHF Propagation Curves for TV and FM Broadcasting), September 7, 1966. (See also §§ 73.333 and 73.699 of the Commission's rules.) Conversely, once the signal strength of either the TV or FM station and the TV receiver selectivity is known (which may include consideration of the use of an external FM band reject filter), it is possible to calculate the effective interference resulting from the operation of the FM station.

basis, outweighs any inconvenience of having to revisit them in the future. Finally, we must point out that any proposed refinements would not impose additional restrictions on educational FM stations, but would simply improve our ability to judge the interference potential of each application and in many cases to authorized facilities in excess of those proposed in this document. We proceed with our discussion of the development of the proposed protection standards.

8. For the purposes of this discussion, we are treating noncommercial, educational FM stations as being in either of two situations:

1. Non-co-located with the TV Channel 6 station; and,

2. Co-located with the TV Channel 6 station.[4]

Historically, the first situation has resulted in the greatest number of TV Channel 6 interference problems and we address it initially.

9. We began our analysis of this situation by approximating the capability of an average television receiver to reject unwanted educational FM signals when tuned to Channel 6. To do this an undesired-to-desired (U/D) signal strength ("rejection") ratio was established for each educational FM frequency using FCC/OST Lab Report No. 79-01.[5] The FCC report from which the rejection ratios were taken describes the results of studies involving 45 television receivers. The receivers may be categorized as 20 "older" receivers, 20 "newer" receivers and 5 "special" receivers. The 20 "older" receivers were manufactured during the period from 1968 to 1976. The "newer" receivers were manufactured in 1977 and 1978. The "special" receivers incorporated unusual or sophisticated circuitry or components, or were otherwise atypical.

10. We concluded (as did most of those who filed comments earlier in this proceeding) that it would be more appropriate to use the median rejection ratios from the 20 "newer" receivers to establish receiver performance since they are more representative of receivers in general use than those in the "older" group. We found, however, that there were deviations in the performance of the "newer" television receivers in a few instances. For example, as the educational FM station's frequency increased, the rejection capability of the television receiver, which should increase, might do so for some FM frequencies but not for others, due to predictable alignment irregularities. When the rejection ratios for the 20 "older" receivers were added into the median calculations, there were no irregular values. This led us to believe that the irregularities noted were due to the small sample size being tested and were not a general indication of receiver performance. To correct for this, rejection values that decreased from the preceding ratio (of the next lower fequency) were replaced with the ratio from the lower frequency. Intermediate channel U/D ratios were obtained using linear interpolation between adjacent channel ratios. This results in the following table:

TABLE A

FM channel	Frequency	U/D ratios for TV signal Strengths of		
		−65 dBm	−45 dBm	−15 dBm
	(megahertz)	(decibels)	(decibels)	(decibels)
201	88.1	1.0	−4.5	−7.5
202	88.3	3.8	−2.8	−6.8
203	88.5	6.5	−1.0	−6.0
204	88.7	9.3	1.3	−5.5
205	88.9	12.0	3.5	−5.0
206	89.1	16.5	3.5	−5.0
207	89.3	21.0	3.5	−5.0
208	89.5	21.0	3.5	−4.5
209	89.7	21.0	3.5	−4.0
210	89.9	21.0	3.5	−4.0
211	90.1	21.0	3.5	−4.0
212	90.3	21.8	4.3	−3.3
213	90.5	22.5	5.0	−2.5
214	90.7	24.5	5.5	−1.5
215	90.9	27.0	6.0	−0.5
216	91.1	28.0	7.5	
217	91.3	29.0	9.0	
218	91.5	33.5	12.5	
219	91.7	36.0	16.0	
220	91.9	39.0	16.5	

The headings for the three columns of ratios (−65 dBm, −45 dBm and −15 dBm) indicate the TV Channel 6 signal strengths used for that series of tests. The −65 dBm signal strength was chosen to simulate reception at the Grade B contour. With no interference, it resulted in a "passable" picture with some apparent receiver noise (or "snow").[6] The introduction of "just perceptible" interference from an FM station did not and would not affect a "passable" picture significantly, because "just perceptible" interference would probably not be noticed by an average viewer. Likewise, "fine" or "excellent" pictures would not be altered to "passable" by the introduction of "just perceptible" interference. Therefore, we believe we should allow FM stations to cause more than "just perceptible" interference. Thus, we propose to use the −65 dBm ratios universally (*i.e.*, for signal strengths greater than −65 dBm) in our interference model. However, it should be recognized that this choice may result in "excellent" or "fine" pictures being degraded to "passable" or even "marginal" because as can be seen from the above tables, use of the −65 dBm ratios may result in interference signal levels which are 20 dB (100 times) above "just perceptible" levels for desired levels of −45 dBm and −15 dBm. Comment is sought on this proposed use of the −65 dBm TV receiver selectivity data.

11. We turn our attention next to the usefulness of external FM filters that could be attached to the receiver to theoretically increase its overall rejection capability. We found that information in the Docket file on the efficacy of external FM band-reject filters was sparse and contradictory. For the most part it consists of statements that filters did (or did not) help in specific cases. However, we believe that by reducing the FM signal, filters can improve the situation in many interference cases, particularly those where the interference is not severe. Because the Docket file lacks convincing data on how much attenuation a filter can provide without degrading the TV signal itself, the FCC Laboratory staff has performed a brief series of tests on different filters.[7] It was concluded that filters could reasonably be expected to provide 20 dB attenuation for FM frequencies above 88.7 MHz (Channel 204), and 8 dB attenuation of a signal at 88.1 MHz (Channel 201). We assume that people experiencing interference will obtain a filter,[8] so we believe we should use the above values, as well as 11 dB, 14 dB and 17 dB for FM Channels 202, 203 and 204, respectively. Comment

[4] When using the term "co-located" in this document, we mean that the noncommercial, educational FM station's antenna is within one mile of the TV Channel 6 station's antenna. Thus, unless otherwise indicated when used herein, co-located will refer to "proximate" rather than "exact" co-location.

[5] See FCC/OST Lab Report No. 79-01 (Tests of TV Receivers for "Just Perceptible" Interference to TV Channel 6 from Educational FM Signals), September, 1979.

[6] Definitions for picture quality are found in Engineering Aspects of Television Allocations, Report of the Television Allocations Study Organization (TASO) to the Federal Communications Commission, March 16, 1959. A "passable" picture is of acceptable quality with no objectionable interference. A "marginal" picture is poor in quality and interference is somewhat objectionable.

[7] This information is contained in an FCC/OST Report entitled "Options for Relief of Interference to TV Channel 6 from Educational FM Stations" by Hector Davis. As soon as internal approval is given, a preliminary copy of this Report will be placed in the Docket file. In the event this information cannot be made available in a timely manner, the Commission will consider requests for extension of the comment period, or may extend the comment period on its own motion.

[8] This assumption reflects our rejection of the opinion set forth by certain TV Channel 6 interests that the general public should bear no burden in the resolution of Channel 6 interference problems. We believe owners of receivers with poor selectivity must bear part of the burden for the interference susceptibility of the set.

is sought on the use of FM-reject filter performance in the model generally, and on the use of this new data in particular.

12. When the —65 dBm ratios and the filter values are combined, the following relative powers would be permitted (referenced to a value determined at 90.1 MHz, Channel 211):

TABLE B

FM channel	Frequency (megahertz)	Power adjustment (decibels)
201	88.1	−32.0
202	[illegible]	−26.2
203	[illegible]	−20.5
204	88.7	−14.7
205	88.9	−[illegible]
206	[illegible]	−4.5
207	[illegible]	0
208	[illegible]	0
[illegible]	[illegible]	0
210	[illegible]	0
211	[illegible]	0
212	[illegible]	+0.8
213	[illegible]	+1.5
214	[illegible]	+3.8
215	[illegible]	+6.0
216	91.1	+7.0
217	91.3	+8.0
218	91.5	+11.5
219	91.7	+15.0
220	91.9	+18.0

For the reference channel (90.1 MHz, Channel 211) the U/D ratio to be used for determining predicted interference is 41 dB.

13. In order to evaluate the relative effects of noncommercial, educational FM stations located at different distances from a Channel 6 TV station, a special computer program was developed by the Commission's staff.[9] The program introduces a new method of determining interference called "effective interference." In general, the probability of receiving service (or stated another way, the percentage of locations receiving service) varies with the distance from the TV station. At the Grade B contour there is a 50% probability of receiving service. At the Grade A contour there is a 70% probability. Likewise, the probability of a receiver tuned to Channel 6 receiving interference from an educational FM station varies with the distance from the FM station. Effective interference is the combination or joint probability of receiving service and interference summed up for all locations within the service area of the TV station. When multiplied by population density, the effective interference value gives the total number of people receiving interference. Effective interference presents a more accurate and flexible criterion for evaluating interference than the standard method. The standard method involves calculating the area inside a contour around an FM station where 50% or more of the locations receive interference regardless of whether or not they receive service.

14. The program allows choice of the minimum probability of acceptable reception to be defined as service. Traditionally, allocation standards for television stations have considered service to a distance where the probability of acceptable reception is 50%. This has been defined as the Grade B contour. While reception can exist beyond the Grade B contour, protecting it from interference would result in a much smaller number of possible stations. Accordingly, for determining the effective interference of a noncommercial, educational FM station, we believe we should consider only service inside the TV Channel 6 station's Grade B contour.

15. To facilitate the computer studies it was necessary to hold several parameters constant. For example, the FM station frequency was fixed at 90.1 MHz (the adjustment to be used for other frequencies has been given in Table B). The FM station antenna height was fixed at 100 feet HAAT. For higher antenna heights, the power of the FM station must be reduced so that the station's predicted F(50,50) field strength (usually determined at 1.0 mile) does not exceed that expected at 100 feet HAAT.

16. Additionally, the Channel 6 power and antenna height were fixed at 100 kW (20 dBk) and 1,000 feet HAAT. The permitted FM power will depend on the Channel 6 field strength at the FM station, so the choice of the Channel 6 facilities has only a very minor effect on the results. For a specific FM frequency and antenna height, the field strength allowed at the TV Channel 6 station's Grade A contour is the same, regardless of any variation in the TV facilities. Finally, no consideration was given to terrain roughness or to the use of a different antenna polarization by the educational FM station from that employed by Channel 6 stations.[10]

[9] This information is contained in a Report entitled "A Computer Program for TV Interference," FCC/OST Computer Program TVINT, by Harry K. Wong. As soon as internal approval is given, a copy of this Report will be placed in the Docket file. In the event this information cannot be made available in a timely manner, the Commission will consider requests for extension of the comment period, or may extend the comment period on its own motion.

[10] It was hoped that vertical polarization of noncommercial, educational FM signals would provide a measurable amount of additional protection to TV Channel 6 signals. However, all of the data available at this time indicates that while vertical polarization may prove helpful in reflection-free radio environments, it is of very uncertain value otherwise, particularly in urban environments. Accordingly, consideration of this potential effect has not been included in the model but we do plan to consider it further as noted in Paragraph 35.

17. The record in this proceeding indicates that the most serious instances of interference result when a noncommercial, educational FM station is located between the TV Channel 6 station's A and Grade B contours. For purposes of making the initial computer studies, the distance between stations was fixed at 34.3 miles in order to simulate locating the FM station at the Grade A contour of a 100 kW, 1000 feet HAAT Channel 6 station. The following table indicates the result:

TABLE C

FM station power (watts ERP)	FM station protected service area		Area within which probability of interference exceeds 1 pct [1] (square mile)	Effective interference (square mile)
	Square miles	Radius		
100	39	3.5	3.8	0.04
500	88	5.3	8.4	0.15
1,000	125	6.4	11.9	0.29
5,000	276	9.4	27.2	0.94
10,000	401	11.3	39.8	1.47
50,000	868	16.6	90.8	3.90
100,000	1,182	19.4	155.8	8.00

[1] The probability of interference is assumed negligible where it is less than 1 pct. This is necessary because constraints on computer processing time limit the accuracy of the program when small effective interference areas are being considered.

18. While every attempt has been made to make the effective interference determination accurately reflect the average effect of a noncommercial, educational FM station, it is quite possible in individual cases that the actual interference will be different than that predicted. Nevertheless, the table given above represents our best estimate of the average area that will lose Channel 6 service, despite the anticipated use of filters.

19. It is necessary to strike a balance between the conflicting goals of limiting TV Channel 6 interference and providing for a viable educational FM service. Clearly, limiting the predicted effective interference to 0.04 square mile would prevent most interference, but at the Grade A contour, Channels 201–204 would be unusable and Channels 205 and 206 would be usable only by 10 watt, Class D stations serving very small areas. On the other hand, allowing the predicted effective interference to be as large as 5 or 6 square miles would introduce minimal additional burdens on the educational FM service, but would cause a large potential expense in terms of viewers losing TV Channel 6 service.

20. With due consideration to the interference side of the equation, we consider it important to allow some primary educational FM use of most of the educational FM spectrum. Any restriction of maximum power to less than 100 watts (the minimum Class A station power) would result in only secondary (10 watt, Class D) stations being allowed. Therefore, we have decided to impose a limit of 0.30 square mile of predicted effective interference on new noncommercial, educational FM stations. The result of this limit at the Grade A contour is to require stations using the four lowest educational FM channels (201–204) to operate with less than 100 watts ERP. It should be evident that the selection of the effective interference value has a direct effect on the facilities which would be permitted at noncommercial, educational FM stations. To the extent possible, interested parties should study the Commission's computer model referenced in Footnote 9, in addition to the values given in Table C, to understand this relationship. Parties should file substantive comments with supporting documentation on what degree of effective interference should be deemed permissible.

21. Based on additional computer studies with the assumed noncommercial, educational FM station not located at the Grade A contour, but with the effective interference fixed at .30 square mile, the most severe limit on FM power is for a station located just inside a TV Channel 6 station's Grade B contour. At that location, a Channel 211 station would be limited to a maximum ERP of −18 dBk at an antenna HAAT of 100 feet. The effect of this restriction is to make the lower 6 channels (201–206) unusable and the middle 11 channels (207–217) limited to an ERP of less than 100 watts. Accordingly, we propose to reverse our decision in the Second Report and Order in this proceeding to the extent that we would allow continued and new operation of 10 watt, Class D stations at locations where the FM frequency and the TV Channel 6 field strength result in a maximum permitted power of less than 100 watts. These Class D operations would not be protected from interference from higher powered facilities in less restricted locations, but they would receive protection from each other. We specifically seek comments on this proposal.

22. The results of computer studies done with the permitted effective interference fixed at .30 square mile are summarized in the following table and illustrated by the following graph:

TABLE D

TV channel 6 station F(50,50) field strength (dBu)	Permitted FM station ERP at 100 feet HAAT for operation on channel 211 (dBk)
90.0	18.0
85.0	12.7
80.0	7.7
75.0	3.3
70.0	0.8
65.0	−2.2
60.0	−7.0
55.0	−11.8
50.0	−16.9
49.0	−17.8
48.0	−18.6
47.8	−18.6
47.6	−18.6
47.4	−18.4
47.2	−17.4
47.0	−15.3
46.0	−1.7
45.0	5.1
40.0	20.0
30.0	33.4
20.0	45.1
10.0	50.9

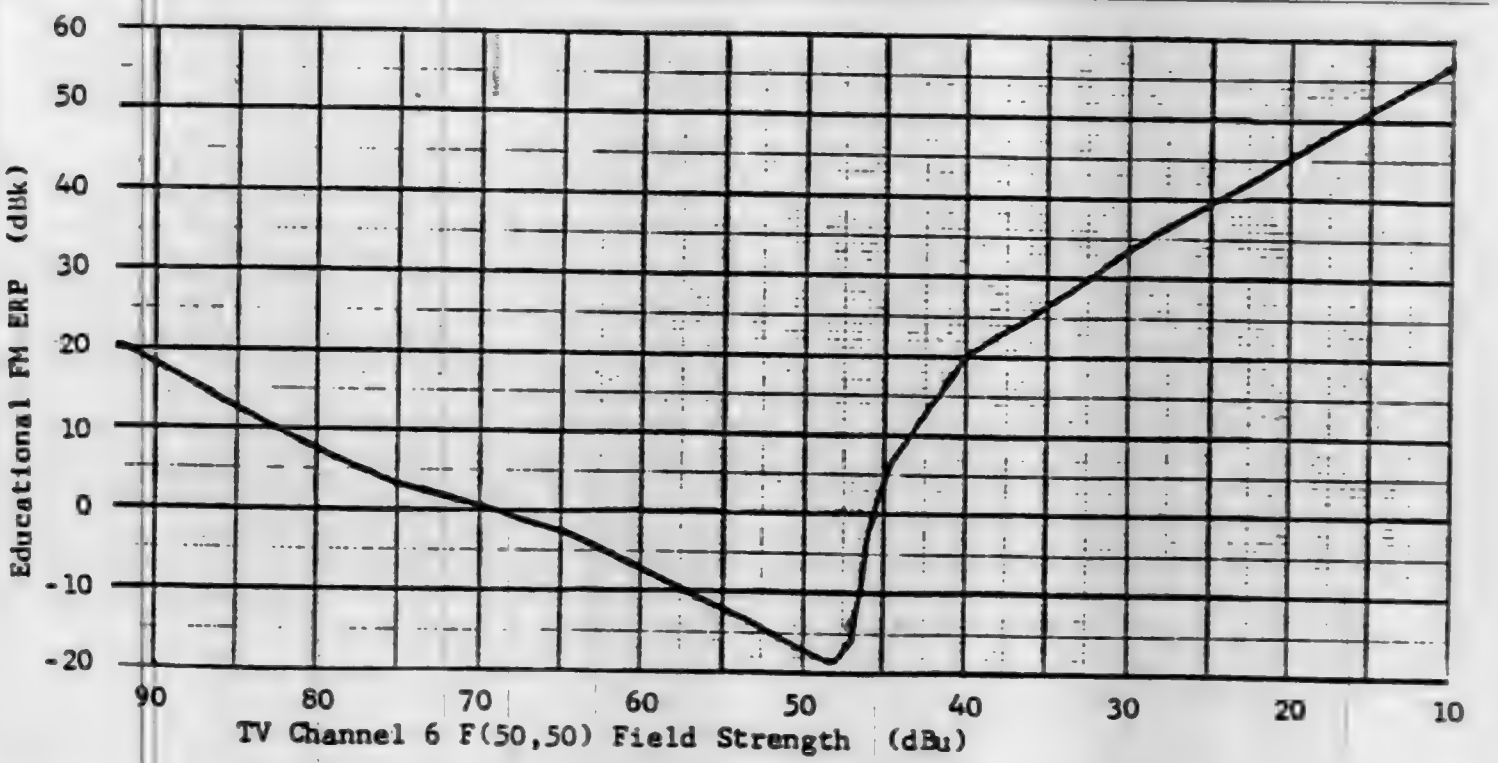

The data should be used as follows:

(1) The noncommercial, educational FM station applicant should determine the distance to the nearest authorized, full service Channel 6 TV broadcast station. We are not proposing protection for vacant TV allotments, low power TV stations or TV translator stations.

(2) Using the TV Channel 6 station's authorized ERP and HAAT, and the F(50,50) propagation curves in the Commission's Rules (see § 73.699, Figure 9), the predicted field strength at the proposed FM station transmitting site should be determined.

(3) If the predicted TV Channel 6 signal strength appears in the left column of Table D, the permitted power (for a station on 90.1 MHz, Channel 211, with an antenna HAAT of 100 feet or less) is read from the right column. If the predicted field strength falls between two values in the left column, the applicant should interpolate linearly between the corresponding values in the right column.

(4) If the intended HAAT of the FM station is greater than 100 feet, a reduction in the permitted power found in step 3 is necessary.

(a) Using the permitted power found in step 3, a 100 foot HAAT and the FM F(50,50) curves (see § 73.333, Figure 1), the predicted field strength at one mile should be determined. If the FM station is to be located more than 1.0 mile outside the TV Channel 6 Grade B contour (F(50,50) Channel 6 field strength equals 47 dBu at the Grade B contour), the predicted field strength at the distance from the FM station to the Grade B contour should be determined.

(b) Using the intended antenna HAAT, the appropriate distance from step (a) and the FM F(50,50) curves, the permitted power should be reduced to that which produces the predicted field strength determined in step (a).

(5) If the FM station's frequency is not 90.1 MHz, the permitted power should be further adjusted by the value indicated in Table B.

23. For example, suppose an applicant determines that, considering only FM stations, a 1 kW ERP, 200 feet HAAT station at 90.9 MHz (Channel 215) would fit at a site 40.0 miles from a 100 kW (20 dBk), 1000 feet HAAT Channel 6 TV station. From the F(50,50) curves, the predicted TV Channel 6 field strength at the FM site is 63.6 dBu. From Table D, the permitted power is between −2.2 dBk and −7.0 dBk. Interpolating linearly, the permitted power is (($3.6/5.0$)×4.8)−7.0=−3.5 dBk. From the FM F(50,50) curves a −3.5 dBk, 100 feet HAAT station would have a predicted field strength at 1.0 mile of 88.5 dBu. For a 200 foot HAAT FM Station to have a predicted F(50,50) field strength of 88.5 dBu at 1.0 mile, the power must be reduced to −9.5 dBk. Finally, from Table B, a +6.0 dB power adjustment due to frequency is necessary, so the permitted power for the noncommercial, educational FM station would be −3.5 dBk (450 watts).

24. In some cases, the educational FM station's predicted interference area will occur where Channel 6 service is not expected due to interference from either a Channel 5 or a different Channel 6 station. If there is no service to be lost, we clearly can relax the restrictions. While the existence of a TV interference source is not a factor in the computer model, we propose the following additional procedure to consider it.

25. Co-channel TV interference has traditionally been considered to occur when the undesired station's F(50,10) field strength is less than 28 dB below the desired station's F(50,50) field strength. Interference from a lower adjacent channel station (Channel 5 in this case) is considered to occur when the undesired station's F(50,50) field strength is more than 6 dB above the

desired station's F(50,50) field strength.[11] As with educational FM interference, these situations only result in a probability of interference, so there will be locations that will continue to receive service despite the prediction of interference.

26. Since there will be locations still getting service in the TV interference area, we propose a conservative additional adjustment to the previously computed allowable educational FM station's power. If, at the proposed educational FM station's site, an interfering Channel 5 or Channel 6 station's field strength exceeds the above interference criteria by X dB, we propose to allow the educational FM station an X dB increase in power. Extending the example in paragraph 23, if an applicant's site is 25 miles from a TV station operating on Channel 5 with 100 kW ERP and an antenna height 1,000 feet AAT, the Channel 5 F(50,50) field strength would be 75 dBu. Since that value is 11.4 dB higher than the 63.6 dBu predicted Channel 6 field strength, interference from Channel 5 is predicted to occur. The educational FM station's permitted power may be increased by 5.4 dB (11.4 dB—6 dB) so instead of −3.5 dBk, this applicant would be permitted 1.9 dBk (1,500 watts).

27. This is a conservative adjustment because interference from the educational FM station occurs in the immediate vicinity of the station's transmitting antenna where its field strength is decreasing rapidly with distance (3 to 10 dB per mile). On the other hand, the interfering signal from the TV station will, in most cases, be changing at a rate of 1 dB per mile or less. If the TV D/U ratio required to provide Channel 6 service at the educational FM station's location is 5 dB less than required, in other words the ratio is −11 dB instead of −6 dB, the −6 dB D/U contour within which service would be rendered is at least 5 miles away. Over that 5 mile distance the educational FM station's field strength will probably decrease by 15 to 20 dB. Therefore, the 5 dB increase in educational FM station power would not cause its interference to extend into the predicted Channel 6 service area.

28. Table D includes values down to a predicted TV field strength of 10 dBu which is far beyond a station's Grade B coutour. A number of factors which were not considered in the computer studies decrease the likelihood that an FM station, even on Channel 201, would cause noticeable interference inside a TV Channel 6 station's Grade B contour for a station-to-station distance of more than 140 miles. Front-to-back rejection of receiving antenas should reduce the chance of interference. Other sources of additional programming may be available to Channel 6 viewers near the Grade B contour so that the few locations that are predicted to get interference may not contain anyone attempting to watch Channel 6. We believe it is unlikely that an FM station located 100 miles from a Channel 6 service area would be the principal cause of anyone's interference. For these reasons, we do not propose to place any restriction on a noncommericial, educational FM station located more than 140 miles from a Channel 6 TV station (these locations would be 60 to 100 miles beyond the Grade B contour).

29. Also, Table D only includes values up to a predicted TV Channel 6 signal strength of 90 dBu. For most Channel 6 stations, this predicted field strength would occur 8 to 15 miles from the TV tower. In areas closer to the TV tower, two phenomena occur. The vertical radiation pattern of the transmitting antenna begins to have an effect. With the main lobe directed at the radio horizon, the ERP toward receiving locations close to the tower can be significantly less than that which would normally be expected. The result can be that the median field strength will remain relatively constant over this area, whereas application of the F(50,50) curves would indicate a continuously increasing field strength as the distance from the station decreases.

30. The other factor that becomes significant as the FM site approaches the TV Channel 6 site is the correlation between the field strengths of the two signals. This factor leads us to a discussion of the situation that exists when the noncommercial, educational FM station and the TV station are co-located. When this occurs, locations that receive a Channel 6 field strength that is 10 dB less than the predicted F(50,50) value are also likely to receive an FM field strength approximately 10 dB less than the predicted F(50,50) value. Because of the small amount of predicted effective interference we propose to allow, most of the actual cases of interference resulting from the operation of noncommercial, educational FM stations, in areas close to TV Channel 6 stations will be within a mile or so of the FM stations. Therefore, the field strength correlations are expected to be a factor primarily where the two stations are less than one mile apart. Accordingly, we believe the noncommercial, educational FM station and a TV Channel 6 station should be regarded as co-located if the distance between the respective site coordinates is less than or equal to one mile. Because of the transmitting antenna vertical radiation pattern, we propose to require that when the noncommercial, educational FM station is more than one mile from the TV Channel 6 station and the F(50,50) Channel 6 predicted field strength is greater than 90 dBu, the field strength should be assumed to be 90.0 dBu.

31. In the Notice of Proposed Rule Making in this proceeding, the Commission proposed the co-location rules suggested by CPB.[12] Those rules would provide for maximum power of a co-located noncommercial, educational FM station as a function of the FM channel, pursuant to the following table:

TABLE E

Educational FM channel	Effective radiated power (dBk)
201	0.5
202	3.7
203	4.9
204	7.0
205	9.2
206	11.4
207	13.5
208	15.7
209	17.9
210–220	20.0

32. We proposed to require that the noncommercial, educational FM station applicant demonstrate that its antenna and the antenna of the TV Channel 6 station "have essentially similar horizontal and vertical radiation patterns." [13] While we expect noncommercial, educational FM station applicants to coordinate such operation with the TV Channel 6 licensee and to use antennas with similar patterns, we now do not believe that this should be made a requirement set forth in a rule. We point out that considering TV receiver selectivity at −65 dBm (Table A) and assuming the additional filter rejection discussed in Paragraph 11, the proposed values are conservative.[14]

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[11] See, A Review of the Technical Planning Factors for VHF Television Service, Gary S. Kalagian, FCC/OST/RS 77-01 (1977), National Technical Information Service No. 286341.

[12] See *Op. Cit.* at Footnote 1, *supra, (Notice)* Appendix A, proposed § 73.600, from which this table is derived.

[13] *Ibid.*, Appendix A, Page 18, proposed § 73.507(a)(1).

[14] We note that EIA presented an analysis in its comments which indicated that perceptible interference could result from the CPB co-location proposal. This interference is projected to occur only when the −45 dBm ratios are used. No interference is anticipated when the −65 dBm ratios are used, and the EIA analysis gave no consideration to the use of filters to reduce or eliminate interference that may occur.

33. In view of the foregoing, we propose to adopt the CPB values as the maximum ERP that a co-located noncommercial, educational FM station may use. We have presented a table (rather than the graph submitted by CPB) so that there will be no variance in interpretation. We do not propose to require that the vertical or horizontal radiation patterns of the TV and FM station antennas be similar in view of the protection being afforded. Further, we do not propose to adopt the rule proposed by CPB which would require a demonstration that coupling between the FM and TV station antennas (or transmitters) will not result in the radiation of cross-modulation components. We believe that the current requirement in § 73.316(e) is sufficiently responsive to this possibility.

34. One flexibility present in the computer program developed by the Commission that will permit its future refinement is the ability to consider the number of persons receiving interference from an educational FM station when used with population density information. In other words, interference could be limited to a specific number of persons instead of a land area. This would permit educational FM stations to operate with facilities in excess of those indicated in the Appendix when interference occurs over uninhabited or sparsely populated land areas. To incorporate this level of flexibility, however, would require an investment of staff resources that the Commission does not now possess. Consequently, we propose to adopt rules that limit the interference in terms of land area and not in terms of the actual population receiving interference. The proposed rules contain a provision permitting educational FM stations to operate with greater facilities when the Channel 6 licensee agrees to permit such operation. Factors which should be considered include the population density in the vicinity of the FM site, the presence of a TV translator station, high cable TV penetration, or terrain barriers to service or interference. We stress that we do not have the staff to give individual consideration to educational FM applicants who fail to coordinate their request for greater facilities with the Channel 6 licensee. Consequently, the proposed rules require coordination and approval from the Channel 6 licensee as a condition for acceptance of those applications requesting greater than permitted facilities.

35. One reason for our reluctance to consider individual requests in the processing of applications and our preference that applicants would refrain from filing a large number of waiver requests, is our desire to devote our available staff resources to the refinement of the computer program already developed, should it be implemented. This program now lacks the ability to consider several factors which have an impact on the facilities permitted educational FM stations. These include alternate sources of the programming being interfered with, the use of vertical polarization by noncommercial, educational FM stations and the impact cable TV has on the number of persons receiving interference. We propose to investigate the incorporation of some or all of the above factors into the program as our resources allow and we specifically invite comments on the advantages and problems associated with the use of vertical-only polarization at noncommercial, educational FM stations. Meanwhile, adoption of the proposed standards will permit the routine processing of noncommercial, educational FM applications using clearly defined guidelines. At a minimum, these standards would return a sense of certainty to the application processing procedure.

36. The rules being proposed herein are based upon a level of TV receiver performance which is, in the Commission's view, less than desirable. We know from experience that it is possible to build receivers with improved rejection ratios. The prototype receiver constructed under contract for the Commission by Texas Instruments displays superior rejection capability. We would like to see the same level of performance available in consumer models. Receiver manufacturers have been largely unresponsive to the presence of the educational FM-Channel 6 interference problem over the 16 years in which the Commission has made known its concern. Continuation of this stance will only serve to increase demand for Commission regulation of receiver characteristics and, in the interim, handicap the effective and efficient use of educational FM spectrum allocation.[15]

37. Under the rule amendments proposed in the Appendix, existing educational FM stations (*i.e.*, those for which a license or construction permit has been issued) would be grandfathered as long as any changes made in their facilities would not cause Channel 6 interference in a new area. Otherwise, the new Channel 6 TV protection standards would be applied. However, we would point out that in some cases, application of the new standards might require such a substantial reduction in the desired FM station service area that the licensee may decide to terminate operation entirely. Accordingly, we ask for comment on an alternative which would allow such broadcasters to alter their service areas in a way that would eliminate the interference to an equal sized area while allowing predicted interference to new Channel 6 service areas. Thus, no increase in interference would be permitted, but the area over which the interference takes place could change. In connection with such a change, the FM licensee could be required to provide filters or take other remedial measures to minimize the severity of interference caused to the newly affected population. However, some limit on the financial liability of the FM licensee in the resolution of such interference may be appropriate. We ask that these issues be given careful consideration and that the comments be as comprehensive as possible.

Assignment Table Versus "Demand System"

38. Presently, noncommercial, educational FM assignments are made on what is called a "demand basis." The applicant may propose to locate a station virtually anywhere, provided the location, in conjunction with the proposed facilities, satisfies the technical standards designed to prevent objectionable interference between FM stations. The geographical spacings between stations needed to meet the interference standards vary according to the frequency, ERP and antenna height of nearby FM stations. Thus, if the location of a station would result in its compatibility with the existing radio environment, it would be technically acceptable to the Commission.

39. The principal advantage of the demand system is the flexibility it provides licensees in meeting local needs. It provides for the installation of technical facilities which will achieve the service area desired by the applicant after taking into consideration circumstances imposed by the existing radio environment. In areas where the

[15] Legislation has been introduced in the U.S. Senate to give the Commission authority to regulate the interference susceptibility of receivers. See S. 929 (97th Congress, 1st Session). The Commission is on record as supporting this and similar legislation which would result in some control over receiver design.

spectrum is crowded, the demand system provides the best means of squeezing additional stations into a community. It results in the use of the spectrum without the burden of a formal allocation proceeding which would be needed to amend any assignment table set forth in the Commission's rules. Since stations are assigned simply on a first-come, first-served basis, the demand system has also eliminated any requirement to consider and select among competing assignment plans developed by national, state or local planning groups.

40. While it provides easy access to the spectrum, the principal problem with the demand system is that assignment efficiency may be sacrificed since there is presently no evaluation of the preclusionary impact of each new assignment. Many of those filing comments earlier in this proceeding believe that the demand system has resulted in haphazard growth in the number of stations and inefficient station placement.[16] Since existing stations are protected only in terms of their actual facilities, new stations (and upgrading of poorly situated existing stations) can preclude well placed existing stations from upgrading their facilities to provide for an expanded service area, thereby inhibiting the development of the most efficient noncommercial, educational FM network.[17]

41. The development and use of an assignment table for noncommercial, educational FM stations was seen by a number of those filing comments earlier in this proceeding as a remedy to these difficulties. First, it was argued that the use of a table would enable the application of a number of assignment principles and policy guidelines to what is presently seen as a haphazard process under the demand system. Such a table could express, in a simple way, the complexities of interstation mileage separation criteria, protection of Channel 6 TV reception, and other relevant technical considerations.

42. Second it was suggested that an assignment table could help to assure an equitable allocation of FM spectrum space among the nation's communities. Experience with commercial FM broadcasting prior to the establishment of an assignment table had shown that FM channels available near larger metropolitan areas were often quickly exhausted. Nearby smaller communities that did not have an immediate demand for local FM service later found themselves precluded from obtaining an assignment due to the large number of assignments in the larger cities. The assignment table sought to avoid this situation by alloting the FM spectrum in a planned fashion. Channels were reserved for future use in areas lacking a current demand but where future growth was probable.

43. General opposition to the use of an assignment table is based largely on the assertion that such a table would almost certainly fail to properly anticipate local needs, and that it would be impossible for any single entity to develop a table which would be generally acceptable. This situation is likely to result from a lack of consensus about the policy priorities which should direct the assignment of channels. Additionally, amendment of a table to accommodate changed needs or circumstances is seen by many of those filing comments as a relatively expensive and time consuming process that would be particularly burdensome to many applicants for noncommercial, educational FM stations.

44. In its comments of January 3, 1977, the Corporation for Public Broadcasting (CPB) advanced a number of new proposals which it believed would encourage more efficient and effective assignment of the spectrum remaining in the reserved portion of the FM band.[18] The most significant of these suggestions was the development of a tentative nationwide noncommercial, educational FM assignment table which was set forth for comment by the Commission in the Further Notice. CPB indicated that while any community with a need for an educational FM station should be allowed to have one, it was impossible to try to anticipate demand in every community in the nation. Thus, the table was to be considered incomplete and freely amendable in order to accommodate future needs. In submitting the table, CPB emphasized that it was in no way to be considered the "final word" and that substantial reform was anticipated.

45. Initial reaction to the CPB table was mainly critical of the assignment criteria.[19] That it is difficult for any single entity to anticipate local needs was evidenced by comments from representatives of several predominantly rural states that the table appeared oriented toward the more highly populated areas rather than inhabited areas, and that it conflicted with a number of state plans for noncommercial, educational FM radio. Many states and state-approved commissions recommended the use of substantially different assignment criteria. The fact that CPB based many of its proposed assignments on noncommercial TV reservations was also attacked. The Intercollegiate Broadcasting System (IBS) pointed out in its comments that after 25 years, 308 out of 425 (72%) of the educational TV assignments remain unused. TV Channel 6 interests argued that the protection to be afforded their operations was inadequate, although they favored the use of an assignment table as a means of expressing any more appropriate standards that might be developed by the Commission. Others criticized the fact that the table appeared to be compiled on the premise that many existing Class D stations would not upgrade to Class A or larger facilities. Thus, many stations at educational institutions were omitted.[20]

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[16] Ideally, co-channel stations with comparable facilities should be located in a triangular lattice pattern for optimized system coverage. While such an arrangement is impractical in the real world, efficiency may be optimized by careful selection of transmitting sites.

[17] See the Notice of Inquiry, Notice of Proposed Rule Making, and Memorandum Opinion and Order, Docket 14185 (FCC 61–833), published in the **Federal Register** (28 FR 6130) on July 8, 1961, where it is demonstrated (in paragraphs 39–42) that the efficiency of a station is directly related to its service area and the distance to the nearest co-channel station. Since efficiency is proportional to the square of the service radius divided by the square of the spacing, and since spacing increases more slowly than the service radius, efficiency becomes optimum as the service area increases. In other words, a few stations with large power and antenna heights are more efficient (according to this definition) than a larger number of stations with less powerful facilities. Thus, improvement in individual station service area is an important step in the optimization of any network of radio stations.

[18] CPB requested adoption of a nationwide table of assignments and nine discrete classes of stations in the noncommercial, educational FM band, "alternate channel co-location" (where stations with a ±2 or 3 channel relationship would be permitted to co-locate) and establishment of minimum, as well as maximum, ERP levels for noncommercial, educational FM stations co-located with Channel 6 TV stations. Four other proposals pertaining to the use of Channel 200 and continued Class D station operation were also made. However, inasmuch as these issues were rendered moot by the Second Report and Order in this proceeding (43 FR 39704, September 6, 1978), there is no need to further consider them.

[19] The assignment criteria forming the basis of the table were essentially as follows: (1) Service in the first 248 communities in the 1970 Bureau of Census list of "Urbanized Areas;" (2) Service to every community where there was an existing noncommercial TV reservation; (3) The number of stations per community would be 5 where the population was more than 1,000,000, 4 if between 250,000 and 1,000,000, 3 if between 50,000 and 250,000 and 1 if 50,000 or less; (4) No assignments would be made within 60 miles of a Channel 6 TV station (unless the FM and TV station were co-located) on FM Channels 201–209. No restrictions on location would apply to operation on FM Channels 210 or higher.

[20] In fact, since the table was first submitted by CPB, approximately 80% of the existing Class D stations have applied for increased facilities. This has had the effect of precluding many of the assignments proposed by CPB.

46. Since there were in excess of 1,000 noncommercial, educational FM stations already, other more general comments argued that an assignment table could do little more than reflect the status quo. The sentiment was expressed that the additional number of assignments possible in urbanized areas was few, while the number in rural areas was so great that the use of the demand system would be more appropriate and offer greater flexibility. National Public Radio (NPR) suggested the use of a six-class station assignment system, the use of a more limited table and the need for a freeze on all noncommercial, educational FM station grants in order that any table submitted could be properly analyzed in a static environment.

47. In response to these criticisms, CPB, in its comments of January 15, 1980, submitted a revised and expanded table based upon a new set of assignment criteria.[21] CPB noted that the "Mexican Table" (see § 73.504) had apparently proven workable, with amendments made as necessary, and indicated that it had considered input from many state associations and other interested parties concerning specific needs and priorities for new stations.[22]

48. Having reviewed the comments, the Commission found itself substantially in accord with the opinions expressed in Paragraph 46, *supra*. Nonetheless, recognizing that a limited table might have some value, we decided to investigate the feasibility of it. A computer evaluation of the CPB table was conducted in March of last year. Finding no persuasive reason why the class structure of commercial and noncommercial stations should be different, we equated the stations in the CPB table with the classes of stations proposed for commercial use in BC Docket No. 80-90.[23] In that proceeding, five classes of stations were proposed with the following maximum facilities:

Class of station	ERP (kw)	HAAT (meters)
A	3	300/91.5
B1	20	300/91.5
B	50	500/152.4
C1	100	1,000/304.8
C	100	2,000/609.6

It was felt that stations with the equivalent of Class A facilities or less should be excluded from the limited table and continue to be made available on a demand basis. (Of course, Class A station assignments could not be made if they conflicted with reservations in the limited table.) CPB's recommended B2, B1, C2 and C1 classes were changed to our proposed B1 and C1 classes. This reduced the number of entries in the CPB table to 182.

49. These entries were computer evaluated for co-channel and first, second and third adjacent channel compatibility with the existing FM environment and proximity to Channel 6 stations. The computer evaluation indicated that at that time, 61 proposals (34%) were capable of adoption and 121 were not. Thirty-one stations (17%) were rejected solely due to proximity to Channel 6 TV stations.[24] Forty-nine (27%) were precluded by existing facilities for which a license or construction permit was outstanding (including instances where the proposed assignment was precluded because of adjacent channel interference considerations). The remaining 41 stations (22%) were rejected solely because of conflict with applications already on file (it was presumed that all of the applications would be granted).

50. The study was repeated in August of last year It was found that 56 (31%) proposals were capable of adoption. There was no change in the number of FM stations precluded by Channel 6 TV stations. Fifty-nine (32%) were precluded by existing facilities for which a license or construction permit was outstanding and thirty-five (19%) conflicted with applications already on file.

51. From the above, it can be seen that over the relatively short period of 5 months, 4 proposed allotments were precluded by FM actions. Further, application of the Channel 6 protection model proposed herein would probably reduce the number of table allotments by 15 to 20. However, this loss could probably be offset by reducing the class of station at 15 to 20 of the proposals rejected. Lastly, of the 90 to 94 proposals precluded by FM applications, construction permits and licenses, only about 25 are eliminated primarily due to a station or application in the same city (or within 10 miles) with facilities greater than Class A. This means that many of the assignments that have been made would have to have gone through some kind of table amendment process had the table been placed in the rules at an earlier date. For these reasons, and because a substantial number of the remaining assignments in the limited table are in relatively unpopulated areas of the country where the desired assignments would be readily available under the demand system the Commission believes that there would be little, if any, advantage to adopting an assignment table for noncommercial, educational FM stations at this time. Nevertheless, we seek additional comment on the desirability of the CPB table at this time, and on the limited version of it as discussed above.

52. We also seek comment on two other issues loosely related to the CPB table question.

53. Currently, we have no maximum power and antenna height restrictions in the noncommercial, educational FM band. However, a note in the rules warns applicants for more than the commercial maximums that their requests "will not necessarily be granted." We herein propose to adopt the commercial FM maximum power and antenna height limits for noncommercial, educational FM stations, since as explained above, there appears to be no compelling reason why they should be different.

54. We also propose to amend the rules governing the determination of objectionable interference among noncommercial, educational FM stations so that they will parallel the prohibited overlap rules in § 73.37 for AM broadcast stations. Generally speaking, this will not mean that an application that is now acceptable under the present rules will be unacceptable, or vice-versa. However, the shift from interference ratios to prohibited overlap will eliminate the anomaly involving second and third adjacent channel stations which move closer to each

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[21] There were three assignment criteria of a general nature and five of a specific nature:

General: (1) First public radio service to every citizen of the U.S.; (2) Increased access to public radio media by minorities and women; (3) Increased capability for educational institutions to use noncommercial radio.

Specific: (1) Attempt to allocate new channels in unserved markets with a population of 200,000 or more; (2) Upgrade facilities of existing stations where it would add significantly to the population receiving first FM service; (3) Allocate channels at sites with nearby colleges, universities and other appropriate support institutions; (4) Allocate channels to rural communities of 10,000 or more; (5) Attempt to allocate new channels to upgrade existing services everywhere in order to establish the potential for second and third services.

[22] However, several of those filing comments pointed to the need to continually amend the "Mexican Table" as a good example of the difficulty in predicting the need for noncommercial, educational FM service and argued that such amendments constituted a needless burden that would be imposed by the use of a more extensive assignment table.

[23] See the Notice of Proposed Rule Making, BC Docket No. 80-90 (FCC 80-106), released March 14, 1980, and published in the **Federal Register** (45 FR 17602) on March 19, 1980.

[24] At the time of this study, the Channel 6 protection model previously discussed had not been developed. The simplistic approach was taken of rejecting the FM stations if they were located near or within the Grade B contour of a nearby Channel 6 TV station.

other. Currently, if second and third adjacent channel stations which already violate the objectionable interference prohibition in § 73.509 move closer to each other, it appears as thought the interference area is decreased. Indeed, if the two antennas are co-located, it appears that there would be no interference when § 73.509 is applied. In fact, the desired-to-undesired interference ratios in § 73.509 are not valid at the high signal strengths that occur when the two antennas approach each other By changing the focus from objectionable interference to prohibited overlap, this anomaly will be eliminated. We previously followed this approach in AM when we amended the AM rules in the same manner to eliminate the same anomaly. See the Report of the Commission in Docket No. 8089 and the associated Order, 12 FR 3893 (June 14, 1947).

55. Regulatory Flexibility Act Initial Analysis

I. *Reason for action.* Growth in noncommercial, educational FM and public radio over the past decade has exacerbated interference to the reception of TV Channel 6 transmissions. A resolution to this problem is necessary to alleviate the interference and to enable applicants for noncommercial, educational FM stations to reasonably plan the facilities of new desired stations.

The remaining oustanding issue in this proceeding, the need for an assignment table for noncommercial, educational FM stations is being raised again at this time because it is believed to be unnecessary in view of the state of development of nationwide noncommercial, educational FM radio.

II. *The objectives.* The Commission, in the proposed rules herein set forth for public comment, desires to strike a reasonable balance between affording protection to the reception of TV Channel 6 transmissions and providing for reasonable noncommercial, educational FM station facilities.

Final resoulution of this issue and the question of an assignment table for noncommercial, educational FM stations will permit the proceeding to be terminated.

III. *Legal basis.* Action proposed is in furtherance of Sections 303(r) and 4(i) of the Communications Act of 1934, as amended, which permits the Commission to make such rules and regulations, not inconsistent with law, as may be necessary in the execution of its functions, with the additional view of the public welfare.

IV. *Description, potential impact and number of small entities affected.* On the matter of Channel 6 TV protection standards, no impact on existing broadcast licensees and construction permit holders is anticipated. Approximately 40% of the applicants for new or substantially modified facilities would be affected by the new rules, which would require a reduction in effective radiated power or antenna height for noncommercial, educational FM stations located near Channel 6 TV stations. The proposed rules would, in effect, limit the service areas of such new stations and as a result, would limit the potential audience. This is likely to have an additional adverse impact in terms of the financial support available for the affected FM stations in areas served by Channel 6 TV stations. Further, at least in the larger metropolitan areas, it is generally not possible to authorize additional high-powered noncommercial stations due to existing co-channel and adjacent channel protection criteria. Adoption of the proposed rules would further reduce the probability of such a grant where it is now possible if the station is within or near the service contour of a TV Channel 6 station. In the future, most noncommercial, educational FM stations authorized in these areas would probably be small or medium sized operations. In sum, adoption of the proposed rules will generally limit the size of new noncommercial, educational FM stations and make upgrading of many existing stations unlikely when these stations are located in areas served by Channel 6 TV stations.

On the other issue, the need for an assignment table for noncommercial, educational FM stations, the Commission believes that the net impact will be neutral. Existing stations presently unable to upgrade to larger facilities are likely to be similarly restricted in the future. Existing stations capable of upgrading would retain this option if restrictive assignments were not included in the table.

V. *Recording, record-keeping and other compliance requirements.* None. However, if an assignment table for noncommercial, educational FM stations is adopted, amendment of such a table under existing regulations would be a time-consuming, burdensome and expensive process for smaller applicants and licensees.

VI. *Federal rules which overlap, duplicate or conflict with these rules.* Adoption of the proposed Channel 6 TV protection rules will inhibit achievement of the goals set out in section 390 of the Communications Act of 1934, as amended, which would: (1) Extend delivery of public telecommunications services to as many citizens of the United States as possible by the most efficient and economical means (this objective has traditionally been sought by the installation of a smaller number of high-powered stations with large service areas); (2) increase public telecommunications services and facilities available to, operated by, and owned by minorities and women (the potential number and size of such stations would be reduced by adoption of the proposed rules); and (3) strengthen the capability of existing public television and radio stations to provide public telecommunications services to the public (adoption of the proposed rules would reduce the number of existing FM station upgrades possible and by reducing the potential facilities of new FM stations, would limit diversity of service).

VII. *Any significant alternatives minimizing the impact on small entities and consistent with the stated objective.* No other significant alternatives appear available. Maintaining the *status quo* would result in additional interference to TV Channel 6 reception. Were the Federal Communications Commission to have statutory authority to regulate the design of television receivers, the impact on noncommercial, educational FM broadcasters could be softened by mandating state-of-the-art receiver improvements which would spread the burden for resolving the interference situation over a larger part of the telecommunications industry.

The Secretary shall cause a copy of this Second Further Notice of Proposed Rule Making, including the Initial Regulatory Flexibility Analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility act (Pub. L. No. 96–354, 94 Stat. 1164, 50 U.S.C. *et seq.*).

56. Accordingly, it is proposed to amend Part 73 of the Commission's Rules as set forth in the attached Appendix.

57. Authority for the action taken is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

58. Pursuant to the procedures set forth in §§ 1.4, 1.415 and 1.419 of the Commission's rules and regulations, interested parties may file comments on or before August 24, 1982, and reply comments on or before October 8, 1982. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments or other appropriate pleadings.

59. In accordance with § 1.419 of the Commission's rules and regulations, an

original and five copies of all comments, reply comments, pleadings, briefs or other documents shall be furnished the Commission. Members of the general public who wish to participate informally in this proceeding may submit one copy of their comments, specifying Docket No. 20735.

60. All filings in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters at 1919 M St., NW., Washington, D.C.

61. For further information in this proceeding, contact Gordon Godfrey, Broadcast Bureau, (202) 632–9660. For purposes of this nonrestricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rule making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments or pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits an *ex parte* presentation must serve a copy of that presentation of the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously filed written comments on the proceeding must prepare a written summary of that presentation; and, on the day of oral presentation, that written summary must be served on the Commission's secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, providing that such information or a statement indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order. A summary of the Commission's procedure governing *ex parte* contracts in informal rule makings is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554 (202) 632–7000.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; (47 U.S.C. 154, 303))

Federal Communications Commission.

William J. Tricarico,

Secretary.

PART 73—RADIO BROADCAST SERVICES

Appendix

It is proposed to amend 47 CFR Part 73 of the Commission's rules and regulations as follows:

1. It is proposed to revise § 73.509 as follows:

§ 73.509 Prohibited overlap.

(a) An application for a new station or an application for a change in a station which would result in a non-Class D (secondary) station will not be accepted if the proposed operation would involve overlap of signal strength contours with any other station more than 320 kilometers (199 miles) from the U.S.-Mexican border and operating in the reserved band (Channels 200–220, inclusive) as set forth below:

Frequency separation	Contour of proposed station	Contour of any other non-class D (secondary) station
Cochannel	0.1 mV/m (40 dBu). 1 mV/m (60 dBu)	1 mV/m (60 dBu) 0.1 mV/m (40 dBu).
200 kHz	0.5 mV/m (54 dBu). 1 mV/m (60 dBu)	1 mV/m (60 dBu) 0.5 mV/m (54 dBu).
400 kHz	10 mV/m (60 dBu) 1 mV/m (60 dBu)	1 mV/m (60 dBu) 10 mV/m (60 dBu).
600 kHz	100 mV/m (100 dBu). 1 mV/m (60 dBu)	1 mV/m (60 dBu) 100 mV/m (100 dBu).

(b) An application by a Class D (secondary) station, other than an application to change class, will not be accepted if the proposed operation would involve overlap of signal strength contours with any other station as set forth below:

Frequency separation	Contour of proposed station	Contour of any other station
Cochannel	0.1 mV/m (40 dBu).	1 mV/m (60 dBu).
200 kHz	0.5 mV/m (54 dBu).	1 mV/m (60 dBu).
400 kHz	10 mV/m (60 dBu)	1 mV/m (60 dBu).
600 kHz	100 mV/m (100 dBu).	1 mV/m (60 dBu).

(c) The following standards shall be used to compute the distances to the pertinent contours:

(1) The distance to the 60 dBu (1 mV/m) contours shall be computed using Figure 1 of § 73.333 (F(50,50) curves).

(2) The distance to the other contours shall be computed using Figure 1a of § 73.333 (F(50,10) curves). In the event that the distance to the contour is below 16 kilometers (10 miles), and therefore not covered by Figure 1a, the curves in Figure 1 shall be used.

(d) An application for a change (other than a change in channel) in the facilities of a noncommercial, educational FM broadcast station covered by this Section will be accepted even though overlap of signal strength contours as mentioned in this Section would occur with another station in an area where such overlap does not already exist, if:

(1) The total area of overlap with that station would not be increased;

(2) There would be no net increase in the area of overlap with any other station;

(3) The area of overlap does not move significantly closer to the station receiving the overlap; and,

(4) There would be created no area of overlap with any station with which the overlap does not now exist.

(e) The provisions of this section concerning prohibited overlap will not apply where the area of such overlap lies entirely over water.

(f) No application for FM Channel 200 will be accepted if the requested facility would cause interference to Channel 6 operations, including TV translators on this channel. Such objectionable interference will be considered to exist whenever the 15 dBu contour based on the F(50,10) curves on § 73.333 Figure 1a of the proposal would overlap the 40 dBu contour based on the F(50,50) curves in § 73.699 Figure 9, of the television station.

2. In § 73.512, paragraph (c) would be revised as follows:

§ 73.512 Special procedures applicable to Class D noncommercial, educational FM stations.

* * * * *

(c) New Class D station applications are acceptable for filing in areas where the provisions of § 73.525 would preclude the assignment of at least Class A minimum facilities. An application for a Class D station to

operate in the State of Alaska is also acceptable provided the provisions of § 73.509 (a) or (b) are satisfied.

* * * * *

3. A new § 73.525 entitled "TV Channel 6 Protection" is created to read as follows:

§ 73.525 TV Channel 6 protection.

(a) Noncommercial, educational FM stations authorized as of 1982, may make changes in operating facilities or location that do not result in an altered service area without considering the requirements of this section.

(b) Absent concurrence from an affected TV Channel 6 licensee, no application for a facility located more than 1.6 kilometers (approximately 1 mile) but less that 225 kilometers (approximately 140 miles) from a Channel 6 TV station and which will be operated on any channel available pursuant to § 73.501 of this Part will be accepted for filing unless it conforms to the power limitations set forth in paragraph (c) of this section. Stations to be located less than 1.6 kilometers (approximately 1 mile) from a TV Channel 6 station shall conform to the power limitations set forth in paragraph (d) of this section.

(c) Follow the steps below to determine the maximum effective radiated power of a noncommercial, educational FM station to be located more than 1.6 kilometers (approximately 1 mile) but less than 225 kilometers (approximately 140 miles) from a TV Channel 6 station:

(1) The distance to the authorized TV Channel 6 station shall be determined by use of the method set forth in § 73.208(c).

(2) The predicted TV Channel 6 field strength at the proposed FM transmitter site shall be determined by use of the distance determined in subparagraph (1), the authorized effective radiated power and the antenna height above average terrain of the TV Channel 6 station, and Figure 9 of § 73.699 (F(50,50) curves) of this Part.

(3) The initial permitted FM station power, assuming an antenna height of 30 meters (100 feet) above average terrain, shall be obtained from the following table. If the TV Channel 6 field strength determined in paragraph (c)(2) of this section does not correspond exactly with a field strength in the table, linear interpolation shall be used. If the TV Channel 6 field strength determined in paragraph (c)(2) of this section is greater than 90 dBu, then the initial power shall be the value corresponding to a TV Channel 6 field strength of 90 dBu.

TABLE A

TV channel 6 station F(50,50) field strength (dBu)	Permitted FM station ERP @ 30 meters (100 feet) HAAT for operation on channel 211 (dBk)
90.0	15.0
80.0	7.7
75.0	3.3
70.0	0.8
65.0	−2.2
55.0	−11.8
50.0	−16.9
48.0	−18.6
47.6	−18.6
47.4	−18.4
47.2	−17.4
47.0	−15.3
46.0	−1.7
45.0	5.0
40.0	20.0
30.0	33.4
10.0	36.8

(4) If the antenna height above average terrain of the requesfed facility is greater than 30 meters (approximately 100 feet), the initial power determined in paragraph (c)(3) of this section shall be reduced by the amount necessary to result in an equivalent predicted field strength, pursuant to the following procedures:

(i) If the TV Channel 6 field strength determined in subparagraph (2) of this section is greater than 46.5 dBu, equivalence shall be determined at 1.6 kilometers (approximately 1.0 mile).

(ii) If the TV Channel 6 field strength determined in subparagraph (2) of this section is less than 46.5 dBu, then the distance to the TV Channel 6 47 dBu contour shall be determined by use of the TV Channel 6 authorized effective radiated power and antenna height above average terrain, and Figure 9 of § 73.699 (F(50,50) curves). The difference between the TV Channel 6 47 dBu distance and the distance determined in paragraph (c)(1) of this section is the distance at which equivalence shall be determined.

(iii) The equivalent FM station field strength shall be determined using Figure 1 of § 73.333 (F(50,50) curves.

(5) The requested FM station effective radiated power shall not exceed the value determined in paragraph (c)(4) of this section plus the value from the following table that corresponds with the requested channel:

TABLE B

FM channel	Frequency (megahertz)	Power adjustment (decibel)
201	88.1	−32.0
202	88.3	−26.2
203	88.5	−20.5
204	88.7	−14.7
205	88.9	−9.0
206	89.1	−4.5
207	89.3	0
208	89.5	0

TABLE B—Continued

FM channel	Frequency (megahertz)	Power adjustment (decibel)
209	89.7	0
210	89.9	0
211	90.1	0
212	90.3	+0.8
213	90.5	+1.5
214	90.7	+3.8
215	90.9	+6.0
216	91.1	+7.0
217	91.3	+8.0
218	91.5	+11.5
219	91.7	+15.0
220	91.9	+18.0

(6) In this subparagraph, the symbol "D" represents the desired Channel 6 field strength in dBu, found in paragraph (c)(2) of this paragraph. The symbol "U" represents an undesired Channel 5 or Channel 6 field strength, also in dBu, calculated in accordance with paragraphs (c)(1) and (2), except, if the undesired station is on Channel 6, Figure 9a of § 73.699 (F(50,10 curves) is used in lieu of Figure 9.

(i) If the undesired station is on Channel 5 and the value of the following function is greater than zero, that value is added to the permitted power from paragraph (c)(5) of this paragraph:

U−D−6 dB.

(ii) If the undesired station is on Channel 6 and the value of the following function is greater than zero, that value is added to the permitted power from subparagraph (5) of this paragraph:

28 dB+U−D.

(iii) If both subdivisions (i) and (ii) of this subparagraph result in values greater than zero, only the larger of the two values is added to the permitted power from paragraph (c)(5) of this paragraph.

(d) The requested effective radiated power of a noncommercial, educational FM station to be located less than 1.6 kilometers (approximately 1.0 mile) from a TV Channel 6 station shall not exceed the following values:

TABLE C

Educational FM channel	Effective radiated power (dBk)
201	0.5
202	3.7
203	4.9
204	7.0
205	9.2
206	11.4
207	13.5
208	15.7
209	17.9
210–220	20.0

[FR Doc. 82-15012 Filed 6-2-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 172 and 173

[Docket No. HM-166-0; Notice No. 82-4]

Deletion of Certain Commodity Entries

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Materials Transportation Bureau (MTB) proposes to delete certain entries in the Hazardous Materials Table, § 172.101 and to remove or amend sections in Part 173 of the Hazardous Materials Regulations associated with some of the entries which are proposed for deletion.

The reason for this action is to remove entries from the Hazardous Materials Table which are vague, unnecessary, or which describe materials that present such a minimal hazard that they may not meet the definition of a hazardous material.

DATE: Comments must be received by August 2, 1982.

ADDRESS: Address Comments To: Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should identify the docket and be submitted in five copies. The Dockets Branch is located in room 8426 of the Nassif Building, 400 Seventh Street, S.W., Washington, D.C. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Irving R. Abis, Exemptions and Regulations Termination Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau, 400 7th Street, S.W., Washington, D.C. 20590. (202) 472-2726.

SUPPLEMENTARY INFORMATION: This notice proposes the deletion of 171 entries from the Hazardous Materials Table, § 172.101. The number of entries covered by this proposal according to class is as follows:

Combustible liquid	25
Corrosive material	11
Flammable gas	2
Flammable liquid	80
Flammable solid	25
Forbidden	2
Nonflammable gas	2
ORM-A	1
ORM-C	18
Oxidizer	2
Poison B	4
Cross Entries or Informational	40

The MTB has reviewed the properties of ten materials identified by Code 3 in the proposed regulatory text, and believes that they present only a minimal hazard in transportation. In almost all cases, the commodities identified by Code 3 do not meet the definition of a hazardous material. However, should this notice be promulgated as proposed, it would remain the shippers responsibility to determine whether the material to be offered for transportation meets the definition of a hazardous material. If it does the shipper must classify and ship the material according to hazard class, in compliance with all applicable regulations. With respect to any of the entires proposed for deletion, the material may still be regulated as a hazardous material even though the entry has been deleted. In that case a shipper would use the specific proper shipping name which is most appropriate, or an n.o.s. description if no specific name is appropriate.

This proposal is part of a continuing effort by the MTB to eliminate unnecessary regulation and to reduce the volume of regulation when appropriate. If this proposal is promulgated as an amendment, it will have the effect of reducing the size of the Hazardous Materials Table, thus making it easier to use.

List of Subjects in 49 CFR Parts 172 and 173

Hazardous materials transportation, Packaging and containers.

In consideration of the foregoing, it is proposed to amend the Hazardous Materials Regulations as follows:

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

§ 172.101 [Amended]

1. In § 172.101 the Hazardous Materials Table would be amended by removing the following entries:

[The reason that the MTB proposes to remove an entry is shown below by reason code associated with an entry.

1. Vague shipping description could be more appropriately described by using another entry.

2. Primarily shipped by water in international commerce. Shipping name from § 172.102 may be used. (See § 171.12).

3. Limited hazard not justifying a specific description. If the commodity meets the definition of a hazardous material, it should be shipped under another shipping name or an n.o.s. entry, as appropriate.

4. The word "waste" appears in the proper shipping name which could be confused with hazardous waste as defined in § 171.8.

5. Quantities being shipped under this description are not great enough to justify an entry under this specific description. Commodity should be shipped under another shipping name or an n.o.s. entry, as appropriate.

6. This entry is a cross-entry of an entry which is being proposed for deletion.

7. This is an information entry which is no longer needed.

8. Commodity could be better described using an n.o.s. entry.

9. Data available to MTB indicates that this material could not satisfy the definition of the hazard class assigned to it.]

Entry	Hazard class	Reason code
Acid, sludge	Corrosive material	1
Antifreeze compound, liquid	Combustible liquid	1
Antifreeze compound, liquid	Flammable liquid	1
Antifreeze preparation, liquid	Combustible liquid	1
Antifreeze preparation, liquid	Flammable liquid	1
Bags, sodium nitrate, empty and unlabeled.	Flammable solid	5
Boiler compound, liquid	Corrosive material	1
Bone oil	ORM-A	5
Bottles, having previously contained a hazardous material and not cleaned. See [illegible]		7
Box toe board (*nitrocellulose base*)	ORM-C	5
Box toe gum	Combustible liquid	5
Box toe gum	Flammable liquid	5
Burlap bags, cleaned (*vacuum cleaned, wheel cleaned, or otherwise mechanically brushed*). *See* Burlap cloth.		6
Burlap bags, new. *See* Burlap cloth.		6
Burlap bags, used and unwashed, *or* not cleaned.	ORM-C	5
Burlap cloth (*hessian*)	ORM-C	3
Burnt fiber	Flammable solid	5
Carbon remover, liquid	Flammable liquid	1
Charcoal, activated	Flammable solid	9
Charcoal screenings, wet	Forbidden	3
Charcoal, wet	Forbidden	3
Cigar and cigarette lighter fluid. See Lighter fluid.		6
Coal tar distillate	Combustible liquid	1
Coal tar distillate	Flammable liquid	1
Coal tar light oil	Combustible liquid	1
Coal tar light oil	Flammable liquid	1
Coal tar naphtha	Combustible liquid	1
Coal tar naphtha	Flammable liquid	1
Coal tar oil	Combustible liquid	1
Coal tar oil	Flammable liquid	1
Coconut meal pellets *containing at least 6% and not more than 13% moisture and not more than 10% residue by combined*	ORM-C	2
Cor. *See* Fibers		6
Cologne spirits (*alcohol*)	Flammable liquid	5
Columbian spirits (*wood alcohol*)	Flammable liquid	5
Copra	ORM-C	2
Copra pellets. See Coconut meal pellets.		6
Cosmetics, liquid, n.o.s	Corrosive material	1
Cosmetics, n.o.s	Combustible liquid	1
Cosmetics, n.o.s	Flammable liquid	1

Entry	Hazard class	Reason code
Cosmetics, n.o.s	Flammable solid	1
Cotton batting	ORM–C	1
Cotton batting droos. *See* Cotton batting.		6
Cotton, burnt. See Burnt cotton.		6
Cotton seed hull fiber *or* shavings, pulp, *or* cut linters. See Cotton batting.		6
Cotton sweepings. *See* Cotton waste.		6
Cotton wadding. *See* Cotton batting.		6
Cotton waste	ORM–C	4
Cotton waste, oily (*with more than 5% of animal or vegetable oil*)	Flammable solid	4
Creosote, coal tar	Combustible liquid	1
Creosote oil. See Creosote coal tar.		6
Crude nitrogen fertilizer solution (*more than 25.3 p.s.i.g.*).	Nonflammable gas	1
Dead oil. See Creosote, coal tar.		6
Denatured alcohol	Flammable liquid	1
Dressing, leather	Combustible liquid	1
Dressing, leather	Flammable liquid	1
Drugs, n.o.s	Flammable liquid	1
Drugs, n.o.s	Combustible liquid	1
Drugs, n.o.s	Flammable solid	1
Drugs, n.o.s	Oxidizer	1
Drugs, n.o.s. liquid	Corrosive material	1
Drugs, n.o.s. liquid	Poison B	1
Drugs, n.o.s. solid	Corrosive material	1
Drugs, n.o.s. solid	Poison B	1
Eradicator, paint *or* grease, liquid.	Flammable liquid	1
Excelsior (shredded wood) *when dry, clean, and free from oil*	ORM–C	3
Fabric with animal or vegetable oil. See Fibers *or* fabric, containing not more than 5% animal *or* vegetable fat.		6
Feed, wet, mixed	ORM–C	5
Felt, waste, wet. *See* Waste wool, wet.		6
Felt, waste. *See* Cotton waste		6
Fertilizer, tankage. *See* Garbage, tankage.		6
Fibers (*jute, hemp, flax, sisal, coir, kapok, and similar vegetable fibers*)	ORM–C	5
Fibers *or* fabric, containing not more than 5% animal *or* vegetable oil.	Flammable solid	5
Fibers, burnt	Flammable solid	5
Film, photographic (*including scrap film*), *safety, nonflammable, or slow burning. Not subject to requirements of this subchapter.*		7
Flax. See Fibers		6
Garbage tankage *containing 8% or more water.*	ORM–C	5
Garbage tankage, *containing less than 8% water*	Flammable solid	6
Gas drips, hydrocarbon	Combustible liquid	5
Gas drips, hydrocarbon	Flammable liquid	5
Gas oil. *See* Fuel oil		6
Hair, wet	Flammable solid	5
Hay	ORM–C	3
Hay *or* straw (*loose, wet, or damp*).		6
Hessian. See Burlap cloth		6
Hydrocarbon gas, liquefied	Flammable gas	1
Hydrocarbon gas, nonliquefied	Flammable gas	1
Insultation tape (*varnished cloth type*). *See* Oiled material.		6
Jute. See Fibers		6
Kapok. See Fibers		6
Leather bleach *or* dressing	Combustible liquid	1
Leather bleach *or* dressing	Flammable liquid	1
Lighter fluid	Flammable liquid	8
Medicines n.o.s	Combustible liquid	1
Medicines n.o.s	Flammable liquid	1
Medicines n.o.s	Flammable solid	1
Medicines n.o.s	Oxidizer	1
Medicines n.o.s. liquid	Corrosive material	1
Medicines n.o.s. liquid	Poison B	1
Medicines n.o.s. solid	Corrosive material	1
Medicines n.o.s. solid	Poison B	1
Mermetrahydro phthalic anhydride.	Corrosive material	9
Motor fuel, n.o.s	Combustible liquid	1
Motor fuel, n.o.s	Flammable liquid	1
Naphtha distillate	Combustible liquid	1
Naphtha distillate	Flammable liquid	1
Naphtha, solvent	Combustible liquid	1
Naphtha, solvent	Flammable liquid	1
Nickel catalyst, wet, *finely divided, activated, or spent. With not less than 40% water or other suitable liquid.*	Flammable solid	8
Nitrogen fertilizer solution	Nonflammable gas	1
Oakum	ORM–C	5
Oiled clothing (*manufactured article properly dried to prevent spontaneous heating*). *See* Oiled material.		6
Oiled material (*manufactured article properly dried to prevent spontaneous heating*).	ORM–C	5
Oiled paper (*manufactured article properly dried to prevent spontaneous heating*). *See* Oiled material.		6
Paper Scrap (*when dry, clean, and free from oil*).	ORM–C	3
Paper stock, wet	Flammable solid	3
Paper waste (*when dry, clean, and free from oil*). *See* Paper scrap.		6
Paper waste, wet. *See Waste Paper, wet.*		6
Petroleum crude, See Crude oil.		6
Petroleum naphtha	Combustible liquid	1
Plastic solvent, n.o.s	Combustible liquid	1
Plastic solvent, n.o.s	Flammable liquid	1
Polish, metal, stove, furniture *or* wood, liquid.	Combustible liquid	1
Polish, metal, stove, furniture *or* wood, liquid.	Flammable liquid	1
Potassium fluoride solution	Corrosive material	8
Pyroxylin solution	Combustible liquid	1
Pyroxylin solution	Flammable liquid	1
Pyroxylin solvent, n.o.s	Combustible liquid	1
Pyroxylin solvent, n.o.s	Flammable liquid	1
Rags, oily	Flammable solid	5
Rags, wet	Flammable solid	5
Range oil. *See* Fuel oil		6
Resin solution (*resin compound, liquid*).	Combustible liquid	1
Road oil	Combustible liquid	1
Rough ammoniate tankage (*7% or more moisture content*).	Flammable solid	5
Rough ammoniate tankage (*less than 7% moisture content*).	Flammable solid	5
Rubber curing compound (*solid*).	ORM–C	1
Rubber scrap *or* Rubber buffings.	Flammable solid	3
Rubber shoddy *or* Rubber, regenerated *or* Rubber, reclaimed.	Flammable solid	3
Rum, denatured	Flammable liquid	1
Rust preventive coating	Combustible liquid	1
Sawdust (*when dry, clean, and free from oil*).	ORM–C	3
Sisal. See Fibers		6
Sludge acid. *See* Acid, sludge		6
Solvent, n.o.s	Combustible liquid	1
Solvent, n.o.s	Flammable liquid	1
Spirits of salt. *See* Hydrochloric acid.		5
Straw. *See Hay*		6
Tankage. See Garbage tankage.		6
Tankage fertilizer	Flammable solid	5
Tankage, rough ammoniate	Flammable solid	5
Tar, liquid	Combustible liquid	1
Tar, liquid	Flammable liquid	1
Textile waste, wet	Flammable solid	5
Textile waste. *See* Cotton waste.		5
Tinning flux. *See* Zinc chloride solution.		1
Treated paper (*manufactured article properly dried to prevent spontaneous heating*). *See* Oiled material.		6
Treated textile (*manufactured article properly dried to prevent spontaneous heating*). *See* Oiled material.		6
Turpentine substitute	Combustible liquid	1
Turpentine substitute	Flammable liquid	1
Twisted jute packing (*rope*) (*treated or untreated*). *See* Oakum.		6
Waste paper, wet	Flammable solid	3
Waste textile, wet	Flammable solid	4
Waste wool, wet	Flammable solid	4
Water treatment compounds, liquid.	Corrosive material	1
Wax, liquid	Combustible liquid	1
Wet hair. See Hair, wet		6
Wet textile waste. *See* Waste textile, wet.		6
Wood shavings (*when dry, clean and free from oil*). *See* Sawdust.		6
Wool waste. *See* Cotton waste		6
Wool waste, wet. See Waste wool, wet.		6
Yeast, active, *in liquid or pressed form.*	ORM–C	5

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

2. In Part 173, the following sections would be removed in their entirety:

Sec.	Sec.
173.129	173.296
173.155	173.925
173.167	173.930
173.169	173.931
173.170	173.955
173.172	173.960
173.185	173.970
173.186	173.975
173.199	173.980
173.200	173.990
173.201	173.1000
173.210	173.1005
173.211	173.1030
173.213	173.1035
173.233	173.1085

§ 173.34 [Amended]

3. In § 173.34, the Table in paragraph (e)(13) would be revised by removing lines 9 and 10, which reference liquefied hydrocarbon gas.

§ 173.162 [Amended]

4. In § 173.162, paragraph (a)(1) would be removed and reserved.

§ 173.245 [Amended]

5. In § 173.245, paragraph (a)(15) would be revised as follows:

(a) * * *

(15) Spec. 17H (§ 178.118 of this subchapter). Metal drums (single trip). Authorized only for liquid boiler compounds, liquid water treatment compounds or viscous cleaning compounds, liquid.

* * * * *

6. In § 173.248, the section heading and introductory text of paragraph (a) would be revised to read as follows:

§ 173.248 Spent sulfuric acid, or spent mixed acid.

(a) Spent sulfuric acid, or spent mixed acid, resulting from the use of sulfuric acid in various processes, not containing hydrofluoric acid, must be packaged as follows:

* * * * *

7. In § 173.249, the section heading and introductory text of paragraph (a) would be revised, and paragraph (a)(4) would be removed and reserved as follows:

§ 173.249 Alkaline corrosive liquids, n.o.s.; Alkaline liquids, n.o.s.; Alkaline corrosive battery fluid; Potassium hydrogen fluoride solution; Sodium aluminate, liquid; Sodium hydroxide solution; Potassium hydroxide solution.

(a) Alkaline corrosive liquids, n.o.s.; Alkaline liquids, n.o.s.; Alkaline corrosive battery fluid; Potassium hydrogen fluoride solution; Sodium aluminate, liquid; Sodium hydroxide solution and Potassium hydroxide solution, when offered for transportation by carriers by rail freight, highway, or water must be packed in specification containers of a design and constructed of materials that will not react dangerously with or be decomposed by the chemical packed therein as follows:

(1) * * *

(2) * * *

(3) * * *

(4) [Reserved].

* * * * *

§ 173.301 [Amended]

8. In § 173.301, paragraph (d)(2) would be revised by removing the words "hydrocarbon gases" from line 5 and paragraph (d)(3) would be revised by removing the words "liquefied hydrocarbon gas" from lines 3 and 4.

§ 173.314 [Amended]

9. In § 173.314, the Table in paragraph (c) would be revised by removing the entries referencing liquid hydrocarbon gas.

(49 U.S.C. 1803, 1804, 1808; (49 CFR 1.53, App. A to Part 1 and paragraph (a)(4) of Appendix A to Part 106))

Note.—The Materials Transportation Bureau has determined that this proposed regulation is not a major rule under the terms of Executive Order 12291 and does not require a Regulatory Impact Analysis, is not significant under DOT policies and procedures and does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). Based on limited information concerning size and nature of entities likely to be affected by this proposal, I certify that this proposal will not, if promulgated, have a significant economic impact on a substantial number of small entities. A regulatory evaluation and an environmental assessment are available for review in the Docket.

Issued in Washington, D.C. on May 26, 1982.

Alan I. Roberts,

Associate Director for Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-14868 Filed 6-2-82; 8:45 am]

BILLING CODE 4910-60-M

Notices

Federal Register
Vol. 47, No. 107
Thursday, June 3, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Grants, Benefits and Contracts; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Grants, Benefits and Contracts of the Administrative Conference of the United States, to be held at 10:00 a.m., Thursday, June 17, 1982 at 400 Maryland Avenue, S.W., Room 5026, Washington, D.C. 20546.

The Committee will hear progress reports from three consultants. They are St. John Barrett, who is examining mediation procedures at the Department of Health and Human Services' Grant Appeals Board; Thomas J. Madden, who is studying problems relating to government officials' liability for violations of constitutional and statutory rights; and Professor Sallyanne Payton, who is preparing a report on possible approaches to resolving disputes under block grant programs. Also on the agenda for general discussion will be the topic of block grants and possible procedural approaches to ensuring their viability.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information contact Charles Pou, Jr., Office of the Chairman, Administrative Conference of the United States, 2120 L Street, N.W., Suite 500, Washington, D.C. (Telephone: 202–254–7065.) Minutes of the meeting will be available on request.

Richard K. Berg,
General Counsel.
May 27, 1982.
[FR Doc. 82-14990 Filed 6-3-82; 8:45 am]
BILLING CODE 6110-01-M

Committee on Informal Action; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Informal Action of the Administrative Conference of the United States, to be held at 10:30 a.m., Thursday, June 17, 1982, in the library of the Administrative Conference, 2120 L Street, N.W., Suite 500, Washington, D.C.

The Committee will meet primarily to discuss Professor Colin Diver's study of how and why federal agencies exercise their discretion to articulate their policies. Among the agencies to be discussed will be the Social Security Administration, the Parole Commission, the Securities and Exchange Commission and the Comptroller of the Currency.

Attendence is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting contact Jeffrey S. Lubbers, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, N.W., Suite 500, Washington, D.C. (Telephone: 202–254–7065.) Minutes of the meetings will be available on request.

Richard K. Berg,
General Counsel
May 28, 1982.
[FR Doc. 82-14991 Filed 6-2-82; 8:45 am]
BILLING CODE 6110-01-M

Notice of Public Meeting of Assembly

Notice is hereby given, pursuant to the Federal Advisory Committee Act, Pub. L. No. 92–463, that the membership of the Administrative Conference of the United States, which makes recommendations to administrative agencies, to the President, Congress, and the Judicial Conference of the United States regarding the efficiency, adequacy, and fairness of the administrative procedures used by administrative agencies in carrying out their programs, will meet in Plenary Session on Thursday, June 17, 1982 at 1:30 p.m. and on Friday, June 18, 1982 at 9:30 a.m. in The Amphitheater of the Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C.

The Conference will consider, not necessarily in the order stated, the following agenda items:

1. Proposed amendments to Section 2 of the Bylaws of the Conference.

2. A proposed recommendation respecting Exemption (b)(4) of the Freedom of Information Act.

3. A proposed recommendation on resolving disputes under Federal grant programs.

4. A proposed recommendation on procedures for negotiating proposed regulations.

5. A proposed recommendation on Federal regulation of cancer-causing chemicals.

6. A proposed recommendation on venue in suits against the Government.

7. A proposed statement with respect to pending legislation to revise the rulemaking provisions of the Administrative Procedure Act.

Plenary sessions are open to the public. Further information on the meeting, including copies of proposed recommendations, may be obtained from the Office of the Chairman, 2120 L Street, N.W., Suite 500, Washington, D.C. 20037, telephone (202) 254–7020.

Richard K. Berg,
General Counsel.
Dated: May 28, 1982.

[FR Doc. 82-14989 Filed 6-2-82; 8:45 am]
BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

Great Northern Mountain Alpine Winter Sports Site; Kootenai National Forest, Lincoln County, Montana; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C), of the National Environmental Policy Act of 1969, the Department of Agriculture, Forest Service, will prepare an environmental impact statement for the development of the proposed Great Northern Mountain Alpine Winter Sports site on the Libby Ranger District, Kootenai National Forest.

A range of alternatives for this site, broad enough to respond to major issues, concerns, and opportunities, will be considered. One alternative will be nondevelopment of the site. Other alternatives will consider different resort configurations and alternative levels of development. Alternative locations for ski lifts, ski trails, and support facilities will be considered.

Before the environmental analysis is started, Federal, State, and local agencies, potential developers, and other individuals or organizations who may be interested in or affected by the decision will be invited to participate in identification of: (a) Issues to be addressed, (b) issues to be analyzed in-depth, (c) determination of cooperating agencies and responsibilities, and (d) issues which are not significant, or which have been covered by prior environmental review and should be eliminated from detailed study.

The U.S. Fish and Wildlife Service of the Bureau of Land Management will be invited to participate as a cooperating agency to evaluate potential impacts on threatened and endangered species. The site is within grizzly bear habitat and the Cabinet Mountains grizzly recovery plan area.

The Forest Supervisor will conduct the scoping process during the months of March, April and May 1982. The research study plan will be completed by June 14. A public scoping meeting was held in Libby, Montana, on March 31, 7:30 p.m., at the Lincoln School lunch room.

It is anticipated that the analysis will require about 13 months. The draft environmental impact statement is scheduled for completion no later than June 1983, and the final environmental impact statement is scheduled for filing in December 1983.

Tom Coston, Regional Forester, Northern Region in Missoula, Montana, is the responsible official. Questions about the proposed action and environmental impact statement should be directed to William O'Brien, Special Projects Coordinator, Forest Supervisor's Office, Libby, Montana, 406–293–6211.

Written comments and suggestions concerning this Notice of Intent or on the proposal are encouraged and should be sent to the Forest Supervisor, Kootenai National Forest, Libby, Montana 59923.

Tom Coston,

Regional Forester.

[FR Doc. 82–14992 Filed 6–2–82; 8:45 am]

BILLING CODE 3410–11–M

Office of the Secretary

Forms Under Review by Office of Management and Budget

May 28, 1982.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate on the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commenting on a form but find that preparation time will prevent you from submitting comments promply, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Richard J. Schrimper, Statistical Clearance Officer, (202) 447–6201.

New

• Forest Service
Fair Market Rental Value of Public Grazing Land
Nonrecurring
State of local governments and businesses or other institution: 2,070 responses;
2,070 hours; not applicable under 3504(h)
Tom Seiger (703) 235–2594

• Agricultural Cooperative Service
The Future Role of Wool Marketing Cooperatives
Nonrecurring
Businesses or other institutions: 152 responses; 152 hours; not applicable under 3504(h)
Julie Hogeland (202) 382–1755

Revised

• Agricultural Stabilization and Conservation Service
7 CFR—Part 1435—Price Support Purchase Agreement Program for 1982 Crop
Sugar Beets and Sugarcane
Annually
Businesses or other institutions: 25 responses; 100 hours; not applicable under 3504(h)
H. E. Maynard (202)447–8480

Extension

• Agricultural Stabilization and Conservation Service
Farm Storage and Drying Equipment Loan Program—Loan Application and Approval
CCC–185
On occasion
Farms, and businesses or other institutions: 60,000 responses; 12,000 hours; not applicable under 3504(h)
Beverly Pritts (202) 447–8374

• Rural Electrification Administration
Area Coverage Survey Report
REA 569
On occasion
Businesses or other institutions: 200 responses; 800 hours; not applicable under 3504(h)
John Soma (202) 382–8529

• Economic Research Service
Survey of Cotton Ginning Charges and Related Data
Annually
Businesses or other institutions: 280 responses; 140 hours; not applicable under 3504(h)
Edward H. Glade, Jr. (202) 447–8776

Reinstatement

• Food and Nutrition Service
Monthly Report of the Child Care Food Program and Summer Food Service Program for Children
FNS–44
Monthly
State or local governments: 1,512 responses; 6,048 hours; not applicable under 3504(h)

Alan Rich (703) 756–3810
Richard J. Schrimper
Statistical Clearance Officer.

[FR Doc. 82–15002 Filed 6–2–82; 8:45 am]
BILLING CODE 3410–01–M

CIVIL AERONAUTICS BOARD

[Docket 40658]

The Hawaii Express Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to him.

Dated at Washington, D.C., May 27, 1982.

Elias C. Rodriguez,
Chief Administrative Law Judge.

[FR Doc. 82–15050 Filed 6–2–82; 8:45 am]
BILLING CODE 6320–01–M

[Docket 40580]

Samoa, Inc. d.b.a. Samoa Airlines, Inc., Fitness Investigation; Postponement of Hearing

By letter dated May 25, 1982, the applicant requested that the procedural dates established at the prehearing conference held in this proceeding on May 18, 1982, be postponed. The applicant requests that additional information be submitted on June 11, 1982, rebuttal exhibits be submitted on June 25, 1982, and the hearing be postponed until July 9, 1982. Counsel for the Bureau of Domestic Aviation, South Pacific Island Airways, and American Samoa Government have no objections to this request and, therefore, it will be granted.

Accordingly, notice is hereby given that a hearing in the above-entitled matter scheduled to be held on June 17, 1982 (47 FR 22995, May 26, 1982) is hereby postponed until July 9, 1982, at 10:00 a.m. (local time), in Room 1003, Hearing Room A, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., May 27, 1982.

John M. Vittone,
Administrative Law Judge.

[FR Doc. 82–15051 Filed 6–2–82; 8:45 am]
BILLING CODE 6320–01–M

[Docket 40462]

Sea Coast Airways Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge Ronnie A. Yoder. Future communications should be addressed to him.

Dated at Washington, D.C., May 27, 1982.

Elias C. Rodriguez,
Chief Administrative Law Judge.

[FR Doc. 82–15052 Filed 6–2–82; 8:45 am]
BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 18–82]

Foreign-Trade Zone 45, Portland, Oregon; Application for Additional Subzone

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port of Portland, an Oregon public corporation and grantee of Foreign-Trade Zone 45 and Subzone 45A in Portland, requesting authority to establish an additional subzone in Clackamas, Oregon, within the Columbia River Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on May 14, 1982. The applicant is authorized to make this proposal under Section 307.850 of the Oregon Revised Statutes.

On July 31, 1980, the Port received authority from the Board to establish a special-purpose subzone for the Beall Pipe and Tank Corporation, with zone manufacturing restricted to export operations (Board Order 161, 45 FR 52189, August 6, 1980). The facility, which covers 27 acres at 12805 North Burgard Road, Portland, produces straight seam and spiral weld steel pipe over 10 inches in diameter. The plant began operating under zone procedures in April 1982.

On January 11, 1982, the Beall Pipe facility was purchased by Northwest Pipe and Casing Company, a steel pipe producer with a 53-acre plant at 9200 S.E. Lawnfield Road, Clackamas, Oregon. The operations of this facility are almost identical to those of the company's newly purchased Portland plant. Both use steel coils of .125 to .156 inches in thickness in producing electric weld straight seam and spiral weld steel pipe over ten inches in diameter. The Portland facility has 6 pipe mills and a workforce of over 100 persons, and the Clackamas plant has 10 mills and employs 120 persons.

The application requests subzone status for Northwest Pipe's Clackamas plant with the same restrictions that are in effect at the Portland subzone. Zone procedures would be used for the storage of imported steel coils and for production of steel pipe for export.

Zone procedures will exempt Northwest Pipe from paying Customs duties on coil used in its exports. Just as with the Portland subzone, this would help make the company more competitive in export markets with foreign pipe manufacturers who have access to low-priced steel coil. By expanding its markets offshore, the company expects to increase production by up to 20 percent.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report thereon to the Board. The committee consists of Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Gene D. Lawrence, Director (Inspection and Control), U.S. Customs Service, Region VIII, 511 NW. Broadway, Room 148, Federal Building, Portland, Oregon 97209; and Colonel Terence J. Connell, District Engineer, U.S. Army Engineer District Portland, P.O. Box 2946, Portland, Oregon 97208.

Comments concerning the proposed zone expansion are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before June 28, 1982.

A copy of the application is available for public inspection at each of the following locations:

Office of the Director, U.S. Dept. of Commerce District Office, 1220 SW 3rd Avenue, Room 618, Portland, Oregon 97204

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and E Streets NW., Room 3721, Washington, D.C. 20230.

Dated: May 27, 1982.

John J. Da Ponte, Jr.,
Executive Secretary, Foreign-Trade Zones Board.

[FR Doc. 82–15060 Filed 6–2–82; 8:45 am]
BILLING CODE 3510–25–M

[Order No. 191]

Approval for Expansion of Foreign-Trade Subzone 46B, Union County, Ohio, Adjacent to the Columbus Customs Port of Entry

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the Greater Cincinnati Foreign-Trade Zone, Inc. (GCFTZ), Grantee of Foreign-Trade Subzone 46B, (Honda motorcycle plant), Union County, Ohio, has applied to the Board for authority to expand the subzone to include the adjacent site of Honda's new automobile manufacturing plant.

Whereas, the application was accepted for filing on March 1, 1982, and notice inviting public comment was given in the **Federal Register** on March 11, 1982 (47 FR 10612);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the Grantee is authorized to expand Subzone 46B in accordance with the application filed March 1, 1982. The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations not mentioned in the application. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, D.C. this 14th day of May 1982.

Malcolm Baldrige,

Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 82-15059 Filed 6-2-82; 8:45 am]
BILLING CODE 3510-25-M

International Trade Administration

[Order No. 41-5 (Amendment 1); D.O.O. Reference 10-3, 40-1]

Organization and Function Order; Assistant Secretary for Trade Development

Effective date: March 22, 1982.

ITA Organization and Function Order 41-5 of February 15, 1982 is amended to (1) reflect the transfer of authority and responsibility for the E-Award program and certain business counselling services to the Director General of the Commercial Services and (2) realign the remaining functions of the Deputy Assistant Secretary for Export Development.

1. Part II is amended, as follows:

Part II. Deputy Assistant Secretary for Export Development

Section 1. Delegation of Authority

.01 Pursuant to Department Organization Order 10-3 the following authorities delegated to the Assistant Secretary for Trade Development by the Under Secretary are hereby delegated to the Deputy Assistant Secretary for Export Development.

a. Such provisions of the Act of February 14, 1903, as amended (15 U.S.C. 1512 *et seq.*; 15 U.S.C. 171 *et seq.*), to foster, promote, and develop the foreign and domestic commerce of the United States, as are necessary to the performance of the Deputy Assistant Secretary's functions:

b. Section 601(b)(1) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2351(b)(1)) conferred on the Secretary under Executive Order 12163 of September 29, 1979, relating to drawing the attention of private enterprise to opportunities for investment and development in less developed friendly countries and areas;

c. Such portions as are necessary to the performance of the Deputy Assistant Secretary's functions of the delegation of authority, dated June 25, 1962 from the United States Information Agency under Section 5(e) of Executive Order 11034 of June 25, 1962 as amended by Executive Order 11380 of November 8, 1967, insofar as said delegation pertains to U.S. participation in trade missions abroad under the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 *et seq.*);

d. The Act of October 18, 1962, as amended (46 U.S.C. 1122b), which authorized mobile trade fairs;

e. The trade promotion and commercial functions transferred to the Secretary from the Secretary of State or the Department of State by Section 5(b)(1) of Reorganization Plan No. 3 of 1979 and Executive Order 12188 of January 2, 1980, as necessary to the implementation of trade development programs delivered through the Foreign Commercial Service.

f. The Act of May 27, 1970 (Pub. L. 91-269, 22 U.S.C. 2801 *et seq.*) relating to U.S. Participation in international expositions.

g. Section 4221 of the Internal Revenue Code of 1954 (26 U.S.C. 4221) and Section 309 of the Tariff Act of 1930, as amended (19 U.S.C. 1309) insofar as they relate to findings with respect to exemptions from taxes and import duties on supplies and equipment for aircraft;

h. The Act of December 29, 1979 (Pub. L. 96-169, 93 Stat. 1281) regarding U.S. participation in the International Energy Exposition to be held in Knoxville, Tennessee in 1982.

i. Title III of Pub. L. 96-481 (15 US.C. 649a-649d), relating to making grants (including cooperative agreements) for small business international marketing programs; and

j. Other authorities of the Assistant Secretary necessary to performing the functions assigned to the DAS.

.02 Except as otherwise provided, the Deputy Assistant Secretry for Export Development may redelegate these authorities to any appropriate officer or agency of the Government subject to such conditions in the exercise of such authorities as he or she may prescribe. Notwithstanding any provision of htis delegation of authority, the Deputy Assistant Secretary may at any time exercise any authority delegated to any employee.

Section 2. Office of the Deputy Assistant Secretary

.01 The *Deputy Assistant Secretary for Export Development* ("the DAS") develops domestic and overseas programs designed to stimulate the expansion of U.S. exports, including activities to foster an export consciousness among U.S. manufacturing and service industries and evaluates the effectiveness of these programs; develops programs to improve the access of U.S. products and services to foreign markets, including identifying barriers and surveying U.S. laws and practices affecting international trade; provides counseling, information, facilitative assistance and assistance in resolving trade complaints to U.S. business; develops and executes a national export awareness campaign; develops and conducts overseas trade promotion events and missions including direction of event scheduling,

exhibitor recruitment and resource management; directs the delivery of promotional programs to be carried out by the District Officers of the U.S. Commercial Service and the Foreign Commercial Service posts and participates with the Director General of the Commercial Services to determine priorities among these programs; establishes and maintains working relationships with U.S. businesses, other Federal agencies, private organizations and foreign government entities in the U.S. having an interest in and/or responsibility for export development, foreign procurement or export sales; provides Departmental recognitation of domestic and foreign trade promotion events; and provides for Departmental recognition of and participation in international expositions held in the United States. The functions of the DAS are carried out through the offices described below.

.02 The Office of the DAS includes the *Deputy* who assists in the direction of export development programs and performs the functions of the DAS in the latter's absence.

.03 The Office of the DAS also contains the *International Expositions Staff* which reviews applications for Federal recognition of international expositions to be held in the United States and prepares the report to the President for decision on such recognition; coordinates all Department activities involving the Bureau of International Expositions (BIE) in Paris and furnishes official U.S. representation to it; prepares the plan required of the Secretary of Commerce by Section 3 of P.L. 91–269 for Federal participation in international expositions to be held in the United States; and carries out such plans and other responsibilities of the Department of Commerce for ensuring appropriate Federal participation in such expositions. The Staff also is responsible for supporting, as appropriate, the activities of any commissioner general appointed by the President or the Secretary for particular expositions. The appropriate relationship between the Staff and commissioner general will be established for each exposition by agreement between the commissioner general and the Assistant Secretary for Trade Development.

.04 The Office of the DAS also contains the *USCS Liaison Staff* which directs the delivery of export development programs relevant to field support implementation through the Regional Managing Directors of the U.S. Commercial Service; reviews and evaluates the effectiveness of such implementation and jointly with the Director General, appraises the performance of the USCS regional managing directors; and develops, directs and administers the Small Business Export Expansion Assistance Program authorized by Sections 302 and 303 of Pub. L. 96–481.

.05 The DAS directs the following Offices:

a. Office of Event Management and Support Services;

b. Office of Consumer Goods, Transportation and Industrial Components Industries;

c. Office of Capital Goods Industries; and

d. Office of Service Industries

Section 3. Office of Event Management and Support Services

.01 The *Office of the Director* includes the *Director* who provides direction for facilitating and executing overseas activities arising from the work of other offices reporting to the DAS or agreements with other Agencies and Departmental operating units; managing the certification of domestic and foreign trade promotion events and activities; managing contract and other efforts to increase private sector assumption of appropriate export promotion activities; and serving as the central point for managing the administrative resources of the offices reporting to the DAS. The Office includes:

.02 The *Event Management Division* manages the certification of domestic and foreign export promotion events and activities; directs event scheduling coordination activities; provides overseas regional liaison; stimulates and arranges visits to U.S. exhibitions and industrial facilities for foreign business people and government officials; identifies, with the assistance of the Foreign Commercial Service, prospective foreign buyers and direct buyers to domestic trade shows; arranges meetings between visiting foreign business people and U.S. manufacturers in order to facilitate sales; and develops, recruits and manages the staging overseas of catalog and video-catalog exhibitions.

.03 The *Event Support Services Division* provides program coordination and support to the DAS; provides fiscal and personnel support for trade promotion programs including management of the Fiscal and Procurement Tracking System and liaison with the Offices of Budget and Personnel; supports overseas trade promotion events including design of U.S. commercial exhibits at overseas trade fairs and at overseas fixed display facilities; provides for leasing, design, refurbishment or disposition of overseas fixed facilities; provides for shipment of participants' products for all overseas trade promotion events; and develops and manages contracting and other efforts designed to increase private sector assumption of appropriate export promotion activities.

.04 The *Export Awareness Division* coordinates the development of promotional literature to support export development programs and related publications; prepares "awareness" and general "how-to" brochures and publications; and operates the New Product Information Service and produces the *Commercial News U.S.A.*

Section 4. Offices of Consumer Goods, Transportation and Industrial Components Industries; Capital Goods Industries; and Service Industries

.01 Each of these three Offices contains a *Director* who provides principl direction to developing programs designed to foster an export consciousness in United States industries and stimulates export marketing in all segments of the domestic economy which have the capability to export.

.02 Each Office includes divisions (see Sec. 5.04) which are responsible for carrying out the export development functions listed below with regard to industries assigned:

a. Communicates directly with other Federal agencies, international financial institutions and with U.S. Missions abroad including FCS post and is responsible for advising senior Department officials on U.S. Government actions which would increase the chances for, or present major obstacles to, the successful U.S. competition for export sales abroad.

b. Develops and maintains industry wide contacts to conduct recruitment campaigns to attract U.S. industry to participate in overseas exhibitions; provides input to the Trade Development Planning Process including industry targeting activities; serves as conduit for industry views on domestic and overseas export promotion events, activities and initiatives; and assures industry's views on such matters are expressed to ITA officals.

c. Maintains information on U.S. technological developments and marketing trends in selected industry segments with respect to the foreign markets and exporting; works with trade associations to identify "export capable" firms not fully exporting and encourages trade associations to promote exporting activities by their

members; and assists industry to obtain export development officials as speakers on exporting for conferences, seminars and workshops.

d. Works with U.S. Commerical Services (USCS) District Offices to assist export expansion activities of State, regional and local agencies and oversees the implementation of agreements between ITA and other agencies or Departmental units with respect to export development.

e. Provides, directly or through the USCS District Offices, information and counseling to U.S. exporters and prospective exporters on the mechanics of exporting; and provides prospective exporters with export marketing plans through which the export capability of companies is determined, viable markets are identified, export marketing strategies are developed, and advice and counsel provided.

f. Carriers out programs designned to facilitate foreign direct capital investment and licensing by foreign firms in the United States; develops information on domestic investment, joint ventures and licensing opportunties for foreign business people and obtains specific investment, joint venture and licensing proposals from potential foreign investors for the U.S. business community; and furnishes information to U.S. foreign investors on private and public sources of investment capital, particularly foreign sources, guarantees and particularly in developing countries.

g. Develops and plans innovative trade promotion techniques for export promotion activities; assists in certification of domestic and foreign export promotion events; organizes and operates a trade and seminar missions program; provides advice, planning and supervision of Industry-Organized Government-Approved activities and operates special export promotional events including U.S. industry catalog exhibitions, video/tape catalog exhibitions and consumer product promotions through overseas agents, distributors and retail organizations.

h. Encourages U.S. firms to export to their full potential; develops, in cooperation with other ITA elements, programs aimed at such firms to ease their entrance into the world market; and works with all elements of the export community to support private sector programs initiatives and develop joint programs.

.03 In addition to the functions identified in Section .02 above, the *Office of Service Industries* provides policy guidance and program recommendations to foster the international operations of the U.S. service industries (such as insurance, accounting, engineering and construction, advertising, computer and telecommunications services, leasing, franchising, and air and marine shipping); examines and develops policy recommendations relating to U.S. and foreign taxation of business operations, international technology transfer, international business practices, international aspects of antitrust, international standardization, patent and copyright protection, and related matters arising from the international commercial and investment operations of the U.S. firms, especialy as they relate to service industries; analyzes and acts on problems affecting the international competitive position of U.S. service industries; provides surveys of U.S. service industries' international operations, disclosing extent of operations and balance of payments impact; and formulates and coordinates policy recommendations and represents ITA, the Department, and the U.S. at interagency meetings and bilateral and multilateral negotiations concerned primarily with service issues.

.04 The Division in each Office are:

Office of Consumer Goods, Transportation and Industrial Components Industries

- Consumer Goods Industries Division
- Transportation Industries Division
- Industrial Components Industries Division

Office of Capital Goods Industries

- High Technology and Electronic Equipment Industries Division
- Production and Processing Machinery Industries Division
- Utilities and Construction Industries Division

Office of Service Industries

- International Business Practices Division
- Information, Finance and Management Service Industries Division
- Construction, Transportation and Tourism Service Industries Division

2. The attached organization chart [1] supersedes the chart attached to ITA Organization and Function Order 41–5 of February 15, 1982.

Approved:

Lionel H. Olmer,

Under Secretary for International Trade.

William H. Morris, Jr.,

Assistant Secretary for Trade Development.

[FR Doc. 82–14923 Filed 6–2–82; 8:45 am]

BILLING CODE 3510-25-M

[1] Filed with original.

Florida State University; Applications For Duty-Free Entry Of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Imports Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register**.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 82–00173. Applicant: Florida State University, Tallahassee, FL 32306. Article: Electron Microscope, Model JEM–100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to study the structure and ionic content of biological cells, isolated organelles and biological molecules. The properties of the materials or phenomena to be investigated will be of cellular origin, including DNA, proteins, cellular fractions, and cells at various stages of development. The article will also be used in the course: PCM 6155c-Electron Microscopy for Biologists with the objective of providing a comprehensive understanding of the theory and practice in analytical scanning transmission electron microscopy. Application received by Commissioner of Customs: April 15, 1982.

Docket No. 82–00176. Applicant: State of New York Dept. of Environmental Conservation, 50 Wolf Rd., Albany, New York 12233. Article: Trace Analysis System, TAGA 3000. Manufacturer: Sciex Division of MDS Health Group Limited, Canada. Intended use of article: The article is intended to be used in research on toxic airborne substances which are the result of industrial operations, municipal, power, and waste

management operations. One specific example would be the concentrations, effects and patterns of "acid rain" throughout the State. The identification and source of toxic materials in the atmosphere, and research into the means of its prevention, is an important step in the elimination of pollution. Application received by Commissioner of Customs: April 16, 1982.

Docket No. 82-00182. Applicant: Geophysical Institute, University of Alaska, Fairbanks, Alaska 99701. Article: Temperature Bridge Unit, GTB-1. Manufacturer: Richard Brancker Research Ltd., Canada. Intended use of article: The article is intended to be used for measurements of climatic changes by studying the temperature profiles in permafrost. Application received by Commissioner of Customs: May 3, 1982.

Docket No. 82-00183. Applicant: Sandia National Laboratories, Division 5111, 1515 Eubank SE, Albuquerque, NM 87185. Article: Specimen Holder for Electron Microscope. Manufacturer: JEOL Ltd., Japan. Intended use of article: This article is intended to be used to examine crystalline and non-crystalline solids, including iron, aluminum and steels, which have been ion implanted with a second species. These will be examined (a) just after implantation, (b) after furnace annealing, and (c) after pulsed electron beam or pulsed laser irradiation. The objective of these studies is to understand the fundamental processes occurrring during ion implantation and during pulsed electron-beam/laser irradiation so that these can be used to modify the surfaces of materials in a controlled, predictable manner. Application received by Commissioner of Customs: May 3, 1982.

Docket No. 82-00186. Applicant: Georgetown University Medical Center, 3800 Reservoir Road, NW., Washington, D.C. 20007. Article: Medical Irradiator with Accessories. Manufacturer: Isotopen-Technik, Dr. Sauerwein GmbH, West Germany. Intended use of article: The article is intended to be used for research and clinical objectives in the treatment of human cancer. The objectives of the research effort will be to optimize the irradiation delivery technique and dose distribution for the treatment of malignant tumors. Application received by Commissioner of Customs: May 3, 1982.

Docket No. 82-00187. Applicant: Northwestern University, 619 Clark Street, Evanston, IL 60201. Article: Voltage Clamp System. Manufacturer: List Electronic, West Germany. Intended use of article: The article is intended to be used to measure the amount of changes in electric current flowing into the cell through ionic channels in the cell membranes of muscles. Application received by Commissioner of Customs: May 3, 1982.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 15042 Filed 6-2-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigations; Certain Steel Products From the Republic of Korea

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigations.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating countervailing duty investigations to determine whether producers, manufacturers, or exporters in the Republic of Korea (Korea) of certain steel product receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission ("ITC") of these actions so that it may determine whether imports of certain steel products are materially injuring, or threatening to materially injure, a U.S. industry. If the investigations proceed normally, the ITC will make its preliminary determinations on or before June 21, 1982, and we will make ours on or before August 2, 1982.

EFFECTIVE DATE: June 3, 1982.

FOR FURTHER INFORMATION CONTACT: Richard Rimlinger or Steven S. Lim, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230, (202) 377-1276.

SUPPLEMENTARY INFORMATION:

Petition

On May 7, 1982, we received a petition from United States Steel Corporation on behalf of the U.S. industry producing certain steel products. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petitions allege that producers, manufacturers, or exporters in Korea of certain steel products receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended (19 U.S.C. 1677(5)) (the "Act") and that imports of certain steel products are materially injuring, or threatening to materially injure, a U.S. industry. Korea is a "country under the Agreement" within the meaning of section 701(b) of the Act. Therefore, Title VII of the Act applies to this investigation and an injury determination is required.

Initiation of Investigations

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation, and whether it contains information reasonably available to the petitioner supporting these allegations. We have examined the petitions on certain steel products and have found they meet these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating countervailing duty investigations to determine whether manufacturers, producers or exporters in Korea of certain steel products receive benefits that constitute subsidies within the meaning of section 771(5) of the Act. If our investigations proceed normally, we will make our preliminary determinations by August 2, 1982.

Scope of the Investigations

The products covered by these investigations are: small diameter (16" and under) welded carbon steel steel pipes and tubes, hot-rolled carbon steel plate, cold-rolled carbon steel sheet, hot-rolled carbon steel sheet and galvanized carbon steel sheet. For a further description of these products see the Appendix to this notice.

Allegations of Subsidies

The petition alleges that producers, manufacturers, or exporters in Korea receive the following benefits constituting subsidies from the Korean government: preferential rates for utilities, labor-related aids, tax incentives, preferential loans and loan guarantees, government purchases of steel at inflated prices, tariff incentives, and input subsidies on hot-rolled carbon steel sheet.

Notication of ITC

Section 702(d) of the Act requires us to notify the ITC of these actions and to provide it with the information used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in files, provided it confirms that it will not disclose such information

either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by June 21, 1982, whether there is a reasonable indication that imports of certain steel products from Korea are materially injuring, or threatening to materially injure, a U.S. industry. If its determinations are negative, these investigations will terminate; otherwise, they will continue according to the statutory procedure.

May 27, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

Description of Products

For purposes of this investigation:

1. The term *"hot-rolled carbon steel plate"* covers carbon steel products, whether or not corrugated or crimped; not pickled; not cold-rolled; not in coils; not cut, not pressed, and not stamped to non-rectangular shape; 0.1875 of an inch or more in thickness and over 8 inches in width; as currently provided for in items 607.6615, or 607.94, of the *Tariff Schedules of the United States Annotated ("TSUSA")*; and hot- or cold-rolled carbon steel plate which has been coated or plated with zinc including any material which has been painted or otherwise covered after having been coated or plated with zinc, as currently provided for in items 608.0710 or 608.11 of the TSUSA. Semi-finished products of solid rectangular cross section with a width at least four times the thickness in the cast condition or processed only through primary mill hot-rolling are not included.

2. The term *"hot-rolled carbon steel sheet"* covers the following hot-rolled carbon steel products. Hot-rolled carbon steel sheet is a hot-rolled carbon steel product, whether or not corrugated or crimped and whether or not pickled; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; over 8 inches in width and in coils or if not in coils under 0.1875 of an inch in thickness and over 12 inches in width; as currently provided for in items 607.6610, 607.6700, 607.8320, 607.8342, or 607.9400 of the *Tariff Schedules of the United States Annotated "TSUSA". PLEASE NOTE THAT THE DEFINITION OF HOT-ROLLED CARBON STEEL SHEET INCLUDES SOME PRODUCTS CLASSIFIED AS "PLATE" IN THE TSUSA (ITEMS 607.6610 AND 607.8320.*

3. The term *"cold-rolled carbon steel sheet"* covers the following cold-rolled carbon steel products. Cold-rolled carbon steel sheet is a cold-rolled carbon steel product, whether or not corrugated or crimped and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; over 8 inches in width and in coils or if not in coils under 0.1875 of an inch in thickness and over 12 inches in width; as currently provided for in items 607.8320 or 607.8344 of the *Tariff Schedules of the United States Annotated ("TSUSA"). PLEASE NOTE THAT THE DEFINITION OF COLD-ROLLED CARBON STEEL SHEET INCLUDES SOME PRODUCTS CLASSIFIED AS "PLATE" IN THE TSUSA (ITEM 607.8320).*

4. The term *"Galvanized carbon steel sheet"* covers hot- or cold-rolled carbon steel sheet which has been coated or plated with zinc including any material which has been painted or otherwise covered after having been coated or plated with zinc, as currently provided for in items 608.0710, 608.0730, 608.11 or 608.13 of the *Tariff Schedules of the United States Annotated ("TSUSA"). NOTE THAT THE DEFINITION OF GALVANIZED CARBON STEEL SHEET INCLUDES SOME PRODUCTS CLASSIFIED AS "PLATE" IN THE TSUSA (ITEMS 608.0710 and 608.11).* Hot- or cold-rolled carbon steel sheet which has been coated or plated with metal other than zinc is not included.

5. The term *"small diameter welded carbon steel pipes and tubes"* covers welded carbon steel pipes and tubes with walls not thinner than 0.065 of an inch, of circular cross section and 0.375 of an inch or more in outside diameter but not more than 16 inches as currently provided for in items 610.3206, 610.3209, 610.3231, 610.3232, 610.3241, 610.3244, and 610.3247, of the *Tariff Schedules of the United States Annotated ("TSUSA").* Pipes or tubes suitable for use in boilers, superheaters, heat exchangers, condensers, and feedwater heaters, or conforming to A.P.I. specifications for oil well tubing, with or without couplings, cold drawn pipes and tubes and cold-rolled pipes and tubes with wall thickness not exceeding 0.1 inch are *not included.*

[FR Doc. 82-15043 Filed 6-2-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigation; Large Diameter and Small Diameter Welded Carbon Steel Pipes and Tubes From Italy

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in Italy of large diameter and small diameter welded carbon steel pipes and tubes receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission ("ITC") of this action so that it may determine whether imports of large diameter and small diameter welded carbon steel pipes and tubes are materially injuring, or threatening to materially injure, a U.S. industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before June 21, 1982, and we will make ours on or before August 2, 1982.

EFFECTIVE DATE: June 3, 1982.

FOR FURTHER INFORMATION CONTACT: Charles E. Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, (202) 377-5288.

SUPPLEMENTARY INFORMATION:

Petition

On May 7, 1982, we received a petition from the United States Steel Corporation on behalf of the U.S. industry producing large diameter and small diameter welded carbon steel pipes and tubes. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges producers, manufacturers, or exporters in Italy of large diameter and small diameter welded carbon steel pipes and tubes receive subidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended (19 U.S.C. 1677(5)) ("the Act"), and that imports of large diameter and small diameter welded carbon steel pipes and tubes are materially injuring, or threatening to materially injure, a U.S. industry.

Since Italy is a "country under the Agreement" within the meaning of section 701(b) of the Act, Title VII of the Act applies to this investigation and an injury determination is required.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation, and whether it contains information reasonably available to the petitioner supporting these allegations. We have examined the petition on large diameter and small diameter welded carbon steel pipes and tubes and have found it meets these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Italy of large diameter and small diameter welded carbon steel pipes and tubes as listed in the "Scope of the Investigation" section of this notice receive benefits that constitute subsidies within the meaning of section 771(5) of the Act. If our investigation proceeds normally, we will

make our preliminary determination by August 2, 1982.

Scope of the Investigation

For purposes of this investigation, the term *"small diameter welded carbon steel pipes and tubes"* covers welded carbon steel pipes and tubes with walls not thinner than 0.065 of an inch, of circular cross section and 0.375 of an inch or more in outside diameter but not more than 16 inches as currently provided for in items 610.3208, 610.3209, 610.3231, 610.3232, 610.3241, 610.3244, and 610.3247, of the *Tariff Schedules of the United States Annotated ("TSUSA").* Pipes or tubes suitable for use in boilers, superheaters, heat exchangers, condensers, and feedwater heaters, or conforming to A.P.I. specifications for oil well tubing, with or without couplings, cold drawn pipes and tubes and cold-rolled pipes and tubes with wall thickness not exceeding 0.1 of an inch are *not included.*

The term *"large diameter welded carbon steel pipes and tubes"* covers welded carbon steel pipes and tubes with walls not thinner than 0.065 of an inch, of circular cross section and over 16 inches in outside diameter as currently provided for in items 610.3211, and 610.3251, of the *Tariff Schedules of the United States Annotated ("TSUSA").* Pipes or tubes suitable for use in boilers, superheaters, heat exchangers, condensers, and feedwater heaters, or conforming to A.P.I. specifications for oil well tubing, with or without couplings, cold drawn pipes and tubes and cold-rolled pipes and tubes with wall thickness not exceeding 0.1 of an inch are *not included.*

Allegations of Subsidies

The petition alleges producers, manufacturers, or exporters in Italy receive the following benefits which constitute subsidies: preferential loans and loan guarantees, interest subsidies, capital grants, local and federal tax exemptions, recapitalizations, debt conversion and equity infusions, research and development funding, labor-related aid, transportation subsidies, and other general and regional incentives.

The petition also alleges producers, manufacturer, or exporters in Italy of large diameter and small diameter welded carbon steel pipes and tubes benefit from the following European Communities subsidies: preferential loans and loan guarantees, research and development incentives, and assistance to labor.

Notification of ITC

Section 702(d) of the Act requires us to notify the U.S. International Trade Commission of this action and to provide it with the information used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by June 21, 1982, whether there is a reasonable indication that imports of large diameter and small diameter welded carbon steel pipes and tubes from Italy are materially injuring, or threatening to materially injure, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, it will continue according to statutory procedures.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 27, 1982.

[FR Doc. 82-15044 Filed 6-2-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigation; Small Diameter Welded Carbon Steel Pipes and Tubes From Brazil

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in Brazil of small diameter welded carbon steel pipes and tubes receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission ("ITC") of this action so that it may determine whether imports of small diameter welded carbon steel pipes and tubes are materially injuring, or threatening to materially injure, a U.S. industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before June 21, 1982, and we will make ours on or before August 2, 1982.

EFFECTIVE DATE: June 3, 1982.

FOR FURTHER INFORMATION CONTACT: Paul J. McGarr, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, (202)/377-1167.

SUPPLEMENTARY INFORMATION:

Petition

On May 7, 1982, we received a petition from the United States Steel Corporation on behalf of the U.S. industry producing small diameter welded carbon steel pipes and tubes. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges producers, manufacturers, or exporters in Brazil of small diameter welded carbon steel pipes and tubes receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended (19 U.S.C. 1677(5)) (the "Act") and that imports of these products are materially injuring, or threatening to materially injure, a U.S. industry.

Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act. Therefore, Title VII of the Act applies to this investigation and an injury determination is required.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation, and whether it contains information reasonably available to the petitioner supporting these allegations. We have examined the petition on small diameter welded carbon steel pipes and tubes and have found that it meets these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Brazil of small diameter welded carbon steel pipes and tubes as listed in the "Scope of the Investigation" section of this notice receive benefits that constitute subsidies within the meaning of section 771(5) of the Act. If the investigation proceeds normally, we will make our preliminary determination by August 2, 1982.

Scope of the Investigation.

For purposes of this investigation, the term *"small diameter welded carbons*

steel pipes and tubes" covers welded carbon steel pipes and tubes with walls not thinner than 0.065 of an inch, of circular cross section and 0.375 of an inch or more in outside diameter but not more than 16 inches as currently provided for in items 610.3208, 610.3209, 610.3231, 610.3232, 610.3241, 601.3244, and 610.3247, of the *Tariff Schedules of the United States Annotated.* Pipes or tubes suitable for use in boilers, superheaters, heat exchangers, condensers, and feedwater heaters, or conforming to A.P.I. specifications for oil well tubing, with or without couplings, cold drawn pipes and tubes and cold-rolled pipes and tubes with wall thickness not exceeding 0.1 of an inch are *not included.*

Allegations of Subsidies

The petition alleges producers, manufacturers, or exporters in Brazil of small diameter welded carbon steel pipes and tubes benefit from the following subidies: preferential loans and loan guarantees, preferential working capital and export financing, capital grants, tax exemptions, investment subsidies from tax rebates, overrebate of indirect taxes, accelerated depreciation, special amortization and tax-loss carry forward privileges for export-oriented projects, indirect subsidies through subsidized feedstock, labor subsidies, and transportation subsidies.

Notification of ITC

Section 702(d) of the Act requires us to notify the U.S. International Trade Commission of this action and to provide it with the information used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms it will to disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by June 21, 1982, whether there is a reasonable indication that imports of small diameter welded carbon steel pipes and tubes from Brazil are materially injuring, or treatening to materially injure, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, it will continue according to the statutory procedures.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 27, 1982.

[FR Doc. 82-15045 Filed 6-2-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigation; Large Diameter Welded Carbon Steel Pipes and Tubes From France

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in France of large diameter welded carbon steel pipes and tubes receive benefits that constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission ("ITC") of this action so that it may determine whether imports of large diameter welded carbon steel pipes and tubes are materially injuring, or threatening to materially injure, a U.S. industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before July 21, 1982, and we will make ours on or before August 2, 1982.

EFFECTIVE DATE: June 3, 1982.

FOR FURTHER INFORMATION CONTACT: Nicholas C. Tolerico, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, (202)/377-4036.

SUPPLEMENTARY INFORMATION:

Petition

On May 7, 1982, we received a petition from the United States Steel Corporation on behalf of the U.S. industry producing large diameter welded carbon steel pipes and tubes. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges producers, manufacturers, or exporters in France of large diameter welded carbon steel pipes and tubes receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended (19 U.S.C. 1677(5)) (the "Act") and that imports of these products are materially injuring, or threatening to materially injure, a U.S. industry.

Since France is a "country under the Agreement" within the meaning of section 701(b) of the Act, Title VII of the Act applies to this investigation and an injury determination is required.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation, and whether it contains information reasonably available to the petitioner supporting these allegations. We have examined the petition on large diameter welded carbon steel pipes and tubes and have found it meets these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in France of large diameter welded carbon steel pipes and tubes receive benefits that constitute subsidies within the meaning of section 771(5) of the Act. If our investigation proceeds normally we will make our preliminary determination by August 2, 1982.

Scope of the Investigations

The term *"large diameter welded carbon steel pipes and tubes"* covers welded carbon steel pipes and tubes with walls not thinner than 0.065 of an inch, of circular cross section and over 16 inches in outside diameter as currently provided for in items 610.3211, and 610.3251, of the *Tariff Schedules of the United States Annotated ("TSUSA").* Pipes or tubes suitable for use in boilers, superheaters, heat exchangers, condensers, and feedwater heaters, or conforming to A.P.I. specifications for oil well tubing, with or without couplings, cold drawn pipes and tubes and cold-rolled pipes and tubes with wall thickness not exceeding 0.1 of and inch are *not included.*

Allegations of Subsidies

The petition alleges producers, manufacturers, or exporters in France receive the following benefits that constitute subsidies: preferential loans and loan guarantees, the recapitalization of the French carbon steel industry under the 1978 Rescue Plan, regional development incentives, incentives to supplier industries, preferential export credits, and export insurance.

The petition also alleges producers, manufacturers, or exporters in France of large diameter welded carbon steel pipes and tubes benefit from the

following European Communities subsidies: preferential loans, loan guarantees, and research and development incentives.

Notification of ITC

Section 702(d) of the Act requires us to notify the U.S. International Trade Commission of this action and to provide it with the information used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistance Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by June 21, 1982 whether there is a reasonable indication that imports of large diameter welded carbon steel pipes and tubes from France are materially injuring, or threatening to materially injure, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, it will continue according to statutory procedures.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 27, 1982

[FR Doc. 82-15048 Filed 6-2-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigation, Large Diameter Welded Carbon Steel Pipes and Tubes From; The Federal Republic of Germany

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in the Federal Republic of Germany ("FRG") of large diameter welded carbon steel pipes and tubes receive benefits that constitutes subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission ("ITC") of this action so that it may determined whether imports of large diameter welded carbon steel pipes and tubes are materially injuring, or threatening to materially injure, a U.S. industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before June 21, 1982, and we will make ours on or before August 2, 1982.

EFFECTIVE DATE: June 3, 1982.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, (202) 377-1279.

SUPPLEMENTARY INFORMATION:

Petition

On May 7, 1982, we received a petition from United States Steel Corporation on behalf of the U.S. industry producing large diameter welded carbon steel pipes and tubes. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges producers, manufacturers, or exporters in the FRG of large diameter welded carbon steel pipes and tubes receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended (19 U.S.C. 1677(5)) ("the Act") and that imports of these steel products are materially injuring, or threatening to materially injure, a U.S. industry.

Since the FRG is a "country under the Agreement" within the meaning of section 701(8) of the Act, Title VII of the Act applies to this investigation and an injury determination is required.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation, and whether it contains information reasonably available to the petitioner supporting these allegations. We have examined the petition on large diameter welded carbon steel pipes and tubes and have found it meets these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in the FRG of large diameter welded carbon steel pipes and tubes, as listed in the "Scope of Investigation" section of this notice, receive benefits that constitute subsidies within the meaning of section 771(5) of the Act. If our investigation proceeds normally, we will make our preliminary determination by August 2, 1982.

Scope of the Investigation

The term *"large diameter welded carbon steel pipes and tubes"* covers welded carbon steel pipes and tubes with walls not thinner than 0.065 of an inch, of circular cross section and over 16 inches in outside diameter as currently provided for in items 610.3211, and 610.3251, of the *Tariff Schedules of the United States Annotated ("TSUSA")*. Pipes or tubes suitable for use in boilers, superheaters, heat exchangers, condensers, and feedwater heaters, or conforming to A.P.I. specifications for oil well tubing, with or without couplings, cold drawn pipes and tubes and cold-rolled pipes and tubes with wall thickness not exceeding 0.1 of an inch are *not included.*

Allegations of Subsidies

The petition alleges producers, manufacturers, or exporters in the FRG receive the following benefits that constitute subsidies: preferential loans and loan guarantees, coal and coke subsidies, capital grants, tax exemptions, labor-related aid, research and development funding, and other general and regional incentives.

The petition also alleges producers, manufacturers, or exporters in the FRG of large diameter welded carbon steel pipes and tubes benefit from the following European Communities subsidies: preferential loans and loan guarantees, research and development incentives, and assistance to labor.

Notification of ITC

Section 702(d) of the Act requires us to notify the U.S. International Trade Commission of this action and to provide it with the information used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfiential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by June 21, 1982, whether there is a reasonable indication that imports of large diameter welded carbon steel pipes and tubes from the FRG are materially injuring, or treatening to materially injure, a U.S. industry. If its determination is negative, this investigation will terminate;

otherwise, it will continue according to statutory procedures.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 27, 1982.

[FR Doc. 82-15047 Filed 6-2-82; 8:45 am]

BILLING CODE 3510-25-M

Niagara County Community College; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for Duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 82-00058. Applicant: Niagara County Community College, 3111 Saunders Settlement Road, Sanborn, New York 14132. Article: Gear Pump Test Set. Manufacturer: Plint & Partners, United Kingdom. Intended Use of Article: See Notice on page 4720 in the **Federal Register** of February 2, 1982.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: This application is a resubmission of Docket No. 81-00124, which was denied without prejudice to resubmission for informational deficiencies (July 27, 1981). The foreign article is a self-contained apparatus permitting the study of the performance characteristics of a gear pump and the teaching of the basic principles of fluid mechanics. The National Bureau of Standards advises in its memorandum dated April 15, 1982 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-15038 Filed 6-3-82; 8:45 am]

BILLING CODE 3510-25-M

Purdue University; Decision on Application For Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 82-00064. Applicant: Purdue University, FREH Hall, West Lafayette, IN 47907. Article: Fiber Optic Doppler Anemometer with Laser. Manufacturer: SIRA Institute Ltd., United Kingdom. Intended Use Of Article: See Notice on page 4720 in the **Federal Register** of February 2, 1982.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article has unique specifications including a fiber optic doppler probe that permits particle velocity determination in colloids with a very high solids content. The National Bureau of Standards advises in its memorandum dated April 19, 1982 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-15039 Filed 6-3-82; 8:45 am]

BILLING CODE 3510-25-M

University of California; Decision of Application For Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00047. Applicant: University of California, Lawrence Livermore National Laboratory, P.O. Box 5012, Livermore, CA 94550. Article: Imacon 500, Ultrafast Streak Camera. Manufacturer: Hadland Photonics, Ltd., United Kingdom. Intended Use of Article: See Notice on page 60868 in the **Federal Register** of December 14, 1981.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article offers time resolution of two picoseconds. The National Bureau of Standards advises in its memorandum dated April 6, 1982 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of not other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-15040 Filed 6-2-82; 8:45 am]

BILLING CODE 3510-25-M

University of California; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 82-00039. Applicant: University of California, Dept. of Biological Sciences, University Park, Los Angeles, CA 90007. Article: (3) Micromanipulators, MP1-S with Accessory. Manufacturer: Narishige Scientific Instrument Laboratory, Japan. Intended use of Article: See Notice on page 60867 in the Federal Register of December 14, 1981.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used is being manufactured in the United States. Reasons: The foreign articles allow independent control of roll, pitch and yaw. The Department of Health and Human Services advises in its memorandum dated March 17, 1982 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-15041 Filed 6-2-82; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

Invitation To Participate in International Laboratory Accreditation Conference (ILAC) 1982

AGENCY: National Bureau of Standards, Commerce.

ACTION: Invitation to participate in ILAC 82 Conference.

SUMMARY: The Sixth International Laboratory Accreditation Conference (ILAC) will be held in Tokyo, Japan at the Sasakawa Hall, October 18-22, 1982. ILAC is an informal organization of approximately 42 nations and 12 international organizations whose overall purpose and objective is to promote: (1) The development of national programs for accrediting testing laboratories; (2) the employment of harmonized accreditation criteria; and (3) the development of bilateral or multilateral arrangements which would encourage importers to accept the results of tests and data made by laboratories that have been accredited under a recognized laboratory accreditation program in exporting nations.

Annual conferences in support of ILAC's stated purpose have been held to develop information about laboratory accreditation systems, to provide a forum for discussing differences among such systems, to describe basic principles and criteria for operating such systems, and to develop bilateral or other arrangements which would establish mutual recognition of such systems or of test reports issued by laboratories accredited under such systems. Such bilateral arrangements are intended to minimize technical barriers to trade.

The United States delegation is chaired by the Director of the Office of Product Standards Policy. Anyone interested in attending this meeting in Tokyo as a member of the U.S. delegation, using his or her own financial resources, for hotel accommodations, food, and travel expenses, is invited to submit a request to Dr. Stanley Warshaw, Chairman, U.S. ILAC Delegation, Technology Building, Room B154, National Bureau of Standards, Washington, D.C. 20234. Such persons should have a background in standards development, association with a testing laboratory or knowledge of laboratory accreditation, product testing or product certification activities. No more than nine (9) individuals will be selected by Dr. Warshaw from among those who submit requests.

The registration fee for this ILAC conference is $290.00. A completed registration form must be sent to the host, the Japanese Standards Association, by the end of July. Any request to serve on the U.S. delegation should be submitted to Dr. Warshaw by June 30, 1982.

Ernest Ambler,

Director, National Bureau of Standards.

[FR Doc. 82-15050 Filed 6-2-82; 8:45 am]

BILLING CODE 3510-13-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Additional Import Controls on Certain Cotton and Man-Made Fiber Textile Products From Thailand

May 28, 1982.

ACTION: Controlling imports in Categories 314 (cotton poplin and broadcloth), 336 (cotton dresses), and 647/648 (man-made fiber trousers), produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1982, at respective levels of 7,000,000 square yards, 22,075 dozen, and 420,143 dozen.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654)).

SUMMARY: Under the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of October 4, 1978, as amended, between the Governments of the United States and Thailand, the United States Government has decided to control imports of cotton and man-made fiber textile products in Categories 314, 336, and 647/648, produced or manufactured in Thailand and exported to the United States during the twelve-month period which began on January 1, 1982, in addition to those categories previously designated.

EFFECTIVE DATE: June 3, 1982.

FOR FURTHER INFORMATION CONTACT: Gordana Slijepcevic, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On December 18, 1981, there was published in the **Federal Register** (46 FR 61689) a letter dated December 14, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool, and man-made fiber textile products, produced or manufactured in Thailand, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1982 and extends through December 31, 1982. In accordance with the terms of the bilateral agreement, as amended, the United States Government has decided also to control imports of cotton and man-made fiber textile products in categories 314, 336, and 647/648, produced or manufactured in Thailand and exported to the United States during the twelve-month period which began on January 1, 1982. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry for consumption, or withdrawal from warehouse for consumption, of cotton and man-made fiber textile products in Categories 314, 336, and 647/648, produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1981, in excess of the designated levels of restraint. The levels have not been adjusted to reflect any imports after December 31, 1981. Imports during the January–March 1982 period have amounted to 596,719 square yards in Category 314, 1,496 dozen in Category 336, and 103,143 dozen in Category 647/648 and will be charged. As the data become available, further charges will be made to account for imports during the period which began on April 1, 1982 and extends to the effective date of this action.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

May 28, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on December 14, 1981 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool, and man-made fiber textile products, produced or manufactured in Thailand.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of October 4, 1978, as amended, between the Governments of the United States and Thailand; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on June 3, 1982, and for the twelve-month period beginning on January 1, 1982 and extending through December 31, 1982, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 314, 336, and 647/648, produced or manufactured in Thailand and exported on and after January 1, 1982, in excess of the following levels of restraint:

Category	12-mo level of restraint[1]
314	7,000,000 square yards.
336	22,075 dozen.
647/648	420,143 dozen.

[1] The levels of restraint have not been adjusted to reflect any imports after December 31, 1981. Imports during the period, January through March 1982, have amounted to 596,719 square yards in Category 314; 1,496 dozen in Category 336; and 103,143 dozen in Category 647/648 of which 3,288 dozen should be charged to Category 647 and 99,855 dozen to Category 648.

Textile products in Categories 314, 336, and 647/648 which have been exported to the United States prior to effective date of this directive shall not be subject to this directive.

Textile products in Category 314, 336, and 347/348 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926) and May 13, 1982 (47 FR 20654).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Thailand and with respect to imports of cotton and man-made fiber textile products from Thailand have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-15089 Filed 6-2-82; 8:45 am]

BILLING CODE 3510-25-M

Announcing Sub-Levels of Restraint for Certain Cotton and Man-Made Fiber Apparel Products Produced or Manufactured in Sri Lanka

May 28, 1982.

ACTION: Establishing individual sub-levels of restraint for woven shirts and blouses of cotton and man-made fibers in Categories 340, 341, 640, and 641 within the overall limit of 1,316,635 dozen applicable to Category 340/341/640/641, produced or manufactured in Sri Lanka and exported to the United States during the twelve-month period which began on May 1, 1982.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654).)

SUMMARY: Under the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of July 7, 1980, notes dated April 20 and April 29, 1982 have been exchanged between the Governments of the United States and Sri Lanka agreeing to amend Annex B of the agreement to include the following sublimits within the overall Category 340/341/640/641 for the agreement year beginning on May 1, 1982 and extending through April 30, 1983:

Category	12-mo sub-level of restraint
340	411,350 dozen.
341	412,164 dozen.
640	80,357 dozen.
641	412,164 dozen.

EFFECTIVE DATE: June 3, 1982.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On April 30, 1982, there was published in the

Federal Register (47 FR 18638) a letter dated April 28, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain specified categories of cotton, wool, and man-made fiber textile products, including Category 340/341/640/641, produced or manufactured in Sri Lanka, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on May 1, 1982 and extends through April 30, 1983.

Pursuant to agreement between the two governments, effected by an exchange of notes dated April 20 and April 29, 1982, sublimits have been established for the individual categories within Category 340/341/640/641 during the agreement year which began on May 1, 1982. Accordingly, in the letter published below the Commissioner of Customs is directed by the Chairman of the Committee for the Implementation of Textile Agreements to prohibit entry for consumption, or withdrawal from warehouse for consumption, of cotton and man-made fiber textile products in Categories 340, 341, 640, and 641 in excess of the designated sublevels of restraint.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

May 28, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of April 28, 1982 from the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton and man-made fiber textile products, produced or manufactured in Sri Lanka.

Effective on June 3, 1982, you are directed to amend paragraph 1 of the directive of April 28, 1982 to include the following sub-limits within Category 340/341/640/641:

Category	12-mo. level of restraint [1]
340/341/640/641	1,316,635 dozen of which not more than 411,950 dozen shall be in Category 340; not more than 412,164 dozen shall be in Category 341; not more than 80,357 dozen shall be in Category 640; and not more than 412,164 dozen shall be in Category 641.

[1] The levels of restraint have not been adjusted to account for any imports after April 30, 1982.

In carrying out this directive, entries of textile products in Categories 340, 341, 640, and 641, which have been exported to the United States on and after May 1, 1981 and extending through April 30, 1982, shall, to the extent of any unfilled balances, be charged against the sublevels of restraint established for such goods during the twelve-month period which began on May 1, 1981 and extended through April 30, 1982. In the event the sublevels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the sublevels set forth in this letter.

The action taken with respect to the Government of Sri Lanka and with respect to imports of cotton and man-made fiber textile products from Sri Lanka has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-15065 Filed 6-2-82; 8:45 am]
BILLING CODE 3510-25-M

Proposed Amendment to a TSUSA Statistical Headnote Affecting the Textile Category Classification of Certain Cotton Fabrics (Printcloth)

May 28, 1982.

When the TARIFF SCHEDULES OF THE UNITED STATES Annotated (TSUSA) was adopted in 1963, the statistical headnote relating to printcloth provided for "a difference between the yarns per inch of the warp and of the filling, usually not over 15." This difference limitation was appropriate for the 100 percent cotton printcloth constructions which were produced at the time the TSUSA was adopted. In recent years, however, a cotton/polyester printcloth with 78x54 construction has been developed and is now a commonly quoted printcloth construction. Because of the outmoded definition remaining in Statistical Headnote 1(e) to Subpart A, Part 3 of Schedule 3, of the TSUSA, this printcloth which is in chief value of cotton is being entered under TSUSA Numbers 326.2092 and 326.3092 and classified in Category 320 (Other Fabrics), rather than in Category 315 (Printcloth).

In an effort to have all printcloth fabrics in chief value of cotton classified in Category 315, the Committee for the Implementation of Textile Agreements (CITA) has requested the Committee for the Statistical Annotation of Tariff Schedules (484e Committee) to consider broadening the statistical headnote definition to include imports of cotton fabric similar to those cotton fabrics domestically produced or marketed as printcloth. To that end the following language has been proposed:

Printcloth: The term printcloth means fabrics of average yarn numbers 26 through 40; weighing not more than 6 ounces per square yard; made of singles yarns; not combed; of plain weave; not fancy or figured; not yarn dyed; not napped; of a total count of more than 65 yarns per square inch; and of which the total count of the warp yarns per inch and the total count of the filling yarns per inch are each less than 62 percent of the total count of such yarns of the warp and filling per square inch.

If approved, the change would become effective on January 1, 1983.

The purpose of this notice is to invite anyone wishing to comment or provide information regarding this proposed change to submit such comments or information in ten copies by July 15, 1982 to Paul T. O'Day, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3001, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230. Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-15064 Filed 6-2-82; 8:45 am]
BILLING CODE 3510-25-M

Visa Requirement for Cotton, Wool and Man-Made Fiber Apparel Exported From the Republic of Indonesia; Correction

May 28, 1982.

On February 6, 1980, there was published in the **Federal Register** (45 FR 8084) a letter dated February 1, 1980, as amended, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established an export visa requirement for cotton, wool and man-made fiber apparel products in Categories 330–359, 431–459 and 630–659, produced or manufactured in the Republic of Indonesia and exported to the United States on and after March 15, 1980. The following sentence was

omitted from the letter to the Commissioner of Customs:

Merchandise for the personal use of the importer and not for resale does not require a visa for entry.

The letter which follows this notice further amends the letter of February 1, 1980 to include this provision.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

May 28, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: This letter further amends, but does not cancel, the letter of February 1, 1980 which directed you to prohibit, effective on March 15, 1980 and until further notice, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber apparel products in Categories 330–359, 431–459 and 630–659, produced or manufactured in the Republic of Indonesia and exported on and after March 15, 1980 for which the Government of the Republic of Indonesia had not issued an appropriate export visa.

The following sentence should be inserted in the letter of February 1, 1980 as paragraph 4: "Merchandise for the personal use of the importer and not for resale does not require a visa for entry."

This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-15062 Filed 6-3-82; 8:45 am]

BILLING CODE 3510-25-M

COPYRIGHT ROYALTY TRIBUNAL

[CRT Docket 80–4]

Order Directing Partial Distribution of 1979 Cable Royalty Fees

On March 8, 1982, the Tribunal published its final decision distributing 1979 cable television royalty fees (47 FR 9879). Subsequently, several parties to the proceeding filed appeals to the decision: National Association of Broadcasters, National Public Radio, Motion Picture Association of America, Spanish International Network, PTL, Christian Broadcasting Network, Joint Sports, and Old Time Gospel Hour.

On April 23, 1982, a joint motion was submitted by the parties to which the Tribunal awarded the 1979 cable royalty fund, requesting distribution of one-half of that fund pending appeals of the Tribunal's decision. On May 7, 1982, the Tribunal requested comments as to whether such a partial distribution should take place. These comments were filed on May 20, 1982, and reply comments on May 24, 1982. Comments by Old Time Gospel Hour and PTL Television Network stated opposition to a partial distribution. These two parties initially sought relatively small percentages of the royalty fund (4% and 7% respectively), and did not receive any award in the Tribunal's final decision. These two parties asserted that the program syndicators, because of the inadequacies of their claim, are not entitled to any of the fund at all (in the 1978 proceeding the program syndicators were awarded by the Tribunal 75% of the fund, and in the 1979 proceeding they were awarded 70% of the fund). Old Time Gospel Hour also is contesting any award to NAB for, among other reasons "a complete and total failure to establish copyright ownership." Old Time Gospel Hour and PTL argued that therefore more than 50% of the fund is still subject to appeal, and any 50% distribution by the Tribunal would necessarily involve funds still subject to dispute. They argued that the situation for 1979 is not the same as it was for 1978, when under none of the allocations submitted to the Tribunal during the proceedings nor under any of the theories presented in support of these allocations could any party receive less than 50% of the amount the Tribunal originally allocated in its final decision.

The Tribunal determines that the arguments of Old Time Gospel Hour and PTL are without merit and that the Tribunal cannot be precluded from exercising its discretion to vote for at least a partial distribution. Were the Tribunal not so to determine, the Tribunal could be blocked from any distribution by any claimant who filed for 100% of the fund and then, upon denial of such a claim, appealed.

Moreover, in the case of the 1978 proceeding, the Tribunal was faced with appeals from a decision that had not yet been tested in court, under which vitualy all aspects of the legal rulings and criteria employed in that decision were being taken up on appeal. Nonetheless, under its discretionary powers set forth in the statute, the Tribunal determined that at least one-half of the 1978 fund could be distributed and that sufficient moneys would remain to accommodate any adjustments that might be necessary in the Tribunal's original allocations if the decision reached on appeal so demanded. That determination by the Tribunal—to distribute 50% of the fund under such circumstances—was affirmed by the Court of Appeals (Order *Per Curiam* filed April 30, 1982). The 1978 royalty distribution by the Tribunal was also subsequently approved by the Court of Appeals on the merits in virtually all respects.

With regard to the 1979 cable royalty fund, therefore, the Tribunal is strengthened in its decision to proceed to a distribution of at least 50% of the fund pending appeal for the following reasons: 1) The request for partial distribution is supported by all the parties that were awarded 100% of the 1979 cable royalty funds. 2) The 1979 decision of the Tribunal has employed legal rulings and criteria established in its 1978 decision that have now been approved by the Court of Appeals. 3) The statute grants substantial discretion to the Tribunal in this matter, and its responsible exercise of that discretion was approved by the Court with regard to the 1978 fund. The mere fact that certain appellants elect to present an argument on appeal purporting to place in issue the entire fund or a major portion thereof, is no reason to dissuade this Tribunal from a similar, responsible exercise of that discretion with regard to the 1979 fund.

The Tribunal orders that 50% of the amounts allocated in the Tribunal's notice of Final Determination of March 8, 1982 be distributed to the parties effective July 2, 1982.

The distribution to be allowed at this time are:

Program suppliers	Percent
MPAA	33.198
Multimedia	0.56
SIN	6.248
NAB	0.28
Mutual of Omaha	0.035
Joint Sports Claimants	7.50
PBS	2.625
Music Performing Rights	2.125
National Public Radio	0.125
U.S. Television Broadcasters	2.25
Canadian Television	0.375
Total	50.000

Commissioner Frances Garcia,

Chairman.

May 28, 1982.

[FR Doc. 82-15060 Filed 6-3-82; 8:45 am]

BILLING CODE 1410-01-M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Realignment of Consumable Item Management Assignments

AGENCY: Defense Logistics Agency, DOD.

ACTION: Notice of finding no significant impact.

SUMMARY: The Defense Logistics Agency (DLA) has completed an Environmental Assessment concerning the realignment of consumable item management assignments within DoD in accordance with DLA regulation 1000.22, Environmental Considerations in DLA Actions in the United States, and regulations of the Council on Environmental Quality (40 CFR 1500–1508). The Environmental Assessment is an evaluation of the environmental consequencies of transferring management responsibility for 200,000 consumable supply items from the Military Services to the DLA and of maintaining responsibility as it is at present (status quo). A mission analysis projected that realignment could reduce overall staffing levels and produce an annual cost savings to DoD.

SUPPLEMENTARY INFORMATION: Material management activities considered in the proposed realignment encompass the transfer of supply items from 13 Military Service organizations (Army-5, Air Force-5, Navy-2, Marine Corps-1) to four Defense Supply Centers. The environmental analysis revealed that item management functions are wholly administrative in nature and are performed at each location on an extensive industrial complex in or near a large metropolitan area. Under these circumstances impacts on the natural environment would be minimal. The social-economic impacts on employees affected by position deletions and on the community should be avoided because reductions should generally be achieved through attrition. Furthermore, affected individuals will be provided the opportunity to fill vacant positions on the installation or to relocate along with the job being transferred. Considering the relatively small number of jobs involved and the broad economic base found at each of the metropolitan areas affected, analysis of the calculated economic impacts indicates that the net economic impact will be minimal.

Overall, it is concluded that the impacts of maintaining the status quo or realigning item management assignments would have no significant impact on the human environment and that preparation of an Environmental Impact Statement is not necessary.

FOR FURTHER INFORMATION CONTACT: Mr. Jan Reitman, Installation Services and Environmental Protection, DLA–WS, Cameron Station, Alexandria, VA 22314, 202–274–6967.

M. A. Johnson, Jr.,

Brigadier General, USMC, Chairman, DoD Joint Implementation Group, Realignment of Item Management Assignments.

May 27, 1982.

[FR Doc. 82–14994 Filed 6–2–82; 8:45 am]

BILLING CODE 3620–01–M

DEPARTMENT OF EDUCATION

National Advisory Council on Vocational Education; Meeting

AGENCY: National Advisory Council on Vocational Education, Ed.

ACTION: Amendment of notice.

SUMMARY: This document is intended to notify the general public of additions to Notice of Meeting of the National Advisory Council on Vocational Education published June 2, 1982 on Page 23969 47 FR published June 2, 1982.

SUPPLEMENTARY INFORMATION: The times, location, and agenda remain the same except that two meetings of the Council's Acting Executive Committee have been set for Thursday, June 3, 1982, at 1750 Pennsylvania Avenue NW, Suite 304 from 9:00 to 10:30 A.M., and on June 16, 1982, in Room 252 of the Capitol Holiday Inn, 550 C Street, SW from 4:30 to 7:00 P.M., both locations in Washington, DC. Discussions will be held of issues involving Council personnel, including performance and qualifications of Council staff. These discussions will touch upon matters that would disclose information of a personal nature, which disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. These meetings will be closed under the authority of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix I) and under exemptions (2) and (6) contained in the Government in the Sunshine Act (Pub. L. 94–409, 5 U.S.C. 552b(c)(2) and (6).

A summary of the activities of the closed sessions and related matters which would be informative to the public consistent with the policy of Title 5 U.S.C. 552b(c) will be available to the public within 14 days of the meeting at the Council's offices, 425—13th Street NW, Suite 412, Washington, DC from 9:00 A.M. to 5:00 P.M. daily.

Signed at Washington, DC on June 2, 1982.

George Wallrodt,

Acting Executive Director.

[FR Doc. 82–15286 Filed 6–2–82; 10:55 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EF81–2011–001 and EF81–2021–001]

Bonneville Power Administration; Notice of Filing

May 25, 1982

Take notice that on May 3, 1982, Bonneville Power Administration (BPA) filed a request for an extension of its wholesale power and transmission rate schedules for an indefinite period not to exceed five years from July 1, 1981, or until such time that the Commission confirms and approves such rate schedules, on a final basis.

BPA states that both its wholesale power rate schedules and transmission rate schedules will expire without replacements being in effect on June 30, 1982, unless the Commission takes action before that time.

Comments, protests, briefs and petitions to intervene already received by the Commission in this docket will be considered by the Commission in determining the appropriate action to be taken.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before June 10, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–14943 Filed 6–2–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 3672–000]

Columbia Irrigation District; Notice of Surrender of Preliminary Permit

May 26, 1982.

Take notice that the Columbia Irrigation District, Permittee for the proposed Horn Rapids Water Power Project No. 3672, has requested that its preliminary permit be terminated. The permit was issued on March 18, 1981, and would have expired on August 31, 1982. The project would have been located on Yakima River in Benton County, Washington.

The Permittee filed its request on April 26, 1982, and the surrender of the preliminary permit for Project No. 3672

is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 14912 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. C-82-31-000 and CP 82-32-000]

Comanche Natural Gas Co. et al.; Notice of Informal Technical Conference

May 25, 1982

In the matter of Comanche Natural Gas Co. Inc., Applicant; Arkansas-Louisiana Gas Company, Respondent; Comanche Natural Gas Company, Inc., Applicant; Lone Star Gas Company, a Division of Enserch Corporation, Respondent.

A technical conference will be held at the offices of the Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, D.C. 20426, Room 8402 on Tuesday, June 15, 1982, at 9:30 a.m. to discuss matters raised by the applications filed in Docket Nos. CP82-31 and CP 82-32.

Kenneth F. Plumb.

Secretary.

[FR Doc. 82-14944 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-521-000]

Commonwealth Edison Co.; Notice of Filing

May 25, 1982.

The filing Company submits the following:

Take notice that Commonwealth Edison Company, (CE) on May 14, 1982, tendered for filing proposed changes in its FERC Electric Tariff. The proposed changes revise the Electric Service Contract between CE and the City of Batavia, Illinois, to provide for a fourth point of electric supply to the City by the Company.

CE proposes an effective date of March 26, 1982, and therefore request waiver of the Commission's notice requirements.

CE states that a copy of the filing has been served upon the City of Batavia, Illinois.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 8, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14945 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP82-32-000]

Conoco, Inc. and Shell Oil Co.; Notice of Petition for Declaratory Order

May 26, 1982.

On April 16, 1982, Conoco Inc., 5 Greenway Plaza East, P.O. Box 2197, Houston, Texas 77001, and Shell Oil Company, One Shell Plaza, P.O. Box 2463, Houston, Texas 77001 (Petitioners) filed a petition pursuant to §§ 1.7(c) and 1.43 of the Federal Energy Regulatory Commission's (Commission) rules of practice and procedure for a Declaratory Order construing sections 105 and 106(b) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3315, 3316 (Supp. II 1978) and their applicability to certain sales of natural gas.

Petitioners state that their predecessors in interest to certain natural gas production from the West Seminole and Russell Fields, Gaines County, Texas, entered into contracts on November 1, 1954, with Pioneer Natural Gas Company (now a Division of Pioneer Corporation) (Pioneer) for the sale of such natural gas which, on November 8, 1978, was not dedicated to interstate commerce. The contracts contained the following provision:

This agreement shall be effective as of November 1, 1954, and shall continue in effect for a term of twenty-five (25) years from and after such date, provided that the primary term may be extended at the option of Buyer for an additional period equivalent to the period gas is used for injection purposes in the West Seminole Field, or the period which is necessary to enable Buyer to receive the quantity of gas not made available to it because of such injection operations, whichever is the shorter.

Petitioners state that gas injections into the West Seminole Field San Andres Unit began on or about February 26, 1963. On October 17, 1979, Pioneer exercised its option to extend the term of the respective contracts, according to Petitioners.

Petitioners request an order declaring that NGPA section 105 governs the maximum lawful price of first sales of the subject natural gas on and after November 1, 1979, whereas, according to Petitioners, Pioneer contends that NGPA section 106(b) should apply.

Any person desiring to be heard or to protest this petition should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before June 17, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the petition are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14913 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1831-001]

Peter J. DeMaria; Notice of Application

May 26, 1982.

The filing individual submits the following:

Take notice that on May 3, 1982, Peter J. DeMaria filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Treasurer, Appalachian Power Company
Treasurer, Beech Bottom Power Company, Inc.
Treasurer, Cardinal Operating Company
Director & Principal Accounting Officer, Columbus and Southern Ohio Electric Company
Treasurer, Indiana & Michigan Electric Company
Treasurer, Kanawha Valley Power Company
Treasurer, Kentucky Power Company
Treasurer, Kingsport Power Company
Treasurer, Michigan Power Company
Treasurer, Ohio Power Company
Treasurer, Wheeling Electric Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 16, 1982. Protests will be considered by the

Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14927 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC82-8-000]

The Detroit Edison Co.; Notice of Filing

May 26, 1982.

The filing company submits the following:

Take notice that on May 6, 1982, the Detroit Edison Company (Edison), 2000 Second Avenue, Detroit, Michigan 48226, submited an Application For Authority To Sell Certain Public Utility Facilities and/or a declaration as to the exempt status of these facilities which are proposed to be conveyed to the City of Croswell (Croswell) and for such further relief as may be appropriate.

Edison's filing states that the equipment consists of a small substation containing two three phase transformers and two single phase transformers and miscellaneous supporting equipment located on property owned by Croswell in the City of Croswell in Sanilac County, Michigan. The sales price is $69,000. Croswell is a wholesale for resale customer of Edison. Croswell is a municipal electric serving customers in the City of Croswell, in the State of Michigan.

The sale and conveyance to Croswell of the equipment is proposed in order to effectuate economies available to Croswell by the elimination or reduction of certain facility charges based upon the wholesale for resale rates for electric service supplied by Edison to Croswell. Edison requests approval of its Application or in the alternative, a determination by the Commission that the facilities are exempt from provisions of Section 203 of the Federal Power Act pursuant to Section 210(b)(1) of the Act. Edison also requests the acceptance for filing of the revised rate to be applicable upon completion of the sale.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before June 17, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14928 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC82-7-000]

The Detroit Edison Co.; Notice of Filing

May 26, 1982.

The filing company submits the following:

Take notice that on May 6, 1982, the Detroit Edison Company (Edison), 2000 Second Avenue, Detroit, Michigan 48226, submitted an Application For Authority To Sell Certain Public Utility Facilities and/or a declaration as to the exempt status of these facilities which are proposed to be conveyed to the Village of Clinton (Clinton) and for such further relief as may be appropriate.

Edison's filing states that the equipment consists of a small substation containing two three-phase transformers, one three-phase regulator and miscellaneous supporting equipment located on property owned by Clinton in the Village of Clinton in Lenawee County, Michigan. The sales price is $213,460.00. Clinton is a wholesale for resale customer of Edison. Clinton is a municipal electric serving customers in the Village of Clinton, in the State of Michigan.

The sale and conveyance to Clinton of the equipment is proposed in order to effectuate economies available to Clinton by the elimination or reduction of certain facility charges based upon the wholesale for resale rates for electric service supplied by Edison to Clinton. Edison requests approval of its Application or in the alternative, a determination by the Commission that the facilities are exempt from provisions of section 203 of the Federal Power Act pursuant to section 201(b)(1) of that Act. Edison also requests the acceptance for filing of the revised rate to be applicable upon completion of the sale.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before June 17, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14946 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-522-000]

Duke Power Co.; Notice of Filing

May 25, 1982

The filing Company submits the following:

Take notice that Duke Power Company (Duke Power) tendered for filing on May 14, 1982 a supplement to the Company's Electric Power Contract with the City of Gastonia. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 227.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the termination of Delivery Point No. 5.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power proposes an effective date of April 19, 1982.

According to Duke Power copies of this filing were mailed to the City of Gastonia and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 8, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14947 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-307-000]

El Paso Natural Gas Co.; Notice of Application

May 26, 1982.

Take notice that on April 30, 1982, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP82-307-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon the transportation of natural gas for Energy and Minerals Department of the State of New Mexico (EMD), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Applicant was authorized to transport up to 10,000 Mcf of natural gas per day for the account of EMD and deliver such gas to certain natural gas distributors designated by EMD which are served from Applicant's interstate pipeline system within the State of New Mexico. It is submitted that the natural gas transported by Applicant was royalty gas purchased by EMD from the Commissioners of Public Lands of the State of New Mexico from certain wells located within the state to protect Priority 1 and 2 end-users in the event of curtailment on the system of Applicant.

Applicant states that the transportation agreement expired by its own terms on March 1, 1982. It is further stated that the distributor customers would no longer require the protection afforded by the supplemental supplies of royalty gas; hence, EMD has advised Applicant that it would not seek an extension of the transportation agreement.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 17, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14914 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP79-337-004]

El Paso Natural Gas Co.; Notice of Petition To Amend

May 26, 1982.

Take notice that on April 28, 1982, El Paso Natural Gas Company (Petitoner), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP79-337-004 a petition to amend the order issued August 29, 1980, as amended, in Docket No. CP79-337 pursuant to Section 7(c) of the Natural Gas Act so as to reflect certain actual construction and operation of facilities in lieu of those authorized, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner asserts that by order issued August 29, 1980, as amended, it was authorized to construct, operate and/or modify certain pipeline, compression and meter facilities on its existing San Juan Triangle and San Juna Mainline transmission systems in Colorado, New Mexico, and Arizona. Petitioner explains that it was authorized, *inter alia*, to modify the Topock city gate meter station and the Franconia Junction check meter. .

Petitioner states that it did not modify the existing measurement facilities at the Topock city gate meter station or replace the check meter at Franconia Junction because subsequent studies showed no need to do so. Petitioner, therefore, requests the order issued August 29, 1980, as amended, be further amended so as to conform the Phase I facilities authorized to the facilities actually constructed.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 17, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determinig the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14915 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1857-001]

William N. English; Notice of Application

May 26, 1982.

The filing individual submits the following:

Take notice that on May 13, 1982, William N. English filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Treasurer and Assistant Secretary, Kentucky Utilities Company

Treasurer and Assistant Secretary, Old Dominion Power Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commissin, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 16, 1982. Protects will be considered by the Commission in determining the appropriate action to be taken but will

not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14048 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6017-000]

Lewis D. Evans; Notice of Application for License (5 MW or Less)

May 26, 1982.

Take notice that Lewis D. Evans (Applicant) filed on February 22, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for construction and operation of a water power project to be known as Ten Mile Creek Power Project No. 6017. The project would be located on Ten Mile Creek, partially within the Sequoia National Forest in Fresno County, California. Correspondence with the Applicant should be directed to: Mr. Lewis D. Evans, Post Office Box 820, Kings Canyon National Park, California 93633.

Project Description—The proposed project would consist of: (1) A 6-foot-high steel and concrete diversion structure at elevation 3,750 feet; (2) a 30-inch-diameter pipeline 4,500 feet long and a penstock 2,100 feet long; (3) a powerhouse at elevation 2,280 feet adjacent to the Kings River containing a turbine generator with a 4,950-kW capacity and a 19.6-GWh average annual energy production; (4) a transmission line 6,600 feet long; and (5) an access road 1.75 miles long. Applicant estimates that the project will cost $5,519,000.

Purpose of Project—The project would develop the hydropower potential of the lower part of Ten Mile Creek. Power would be sold to Pacific Gas and Electric Company.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 9, 1982, either the competing application itself (see 18 CFR 4.33(a) and (d)) or a notice of intent (see 18 CFR 4.33(b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 9, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14016 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6241-000]

Falling Waters Development, Inc. X; Notice of Application for Preliminary Permit

May 26, 1982.

Take notice that Falling Waters Development, Inc. X (Applicant) filed on April 21, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for Project No. 6241 to be known as the Falling Waters Development, Inc. X Project located on Mawah Creek near the town of Weitchpec in Humboldt County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. E. H. Ochinero, 2811 Bechelli Lane, Redding, California 96002.

Project Description—The proposed project would consist of: (1) A 5-foot-high, 10-foot-long concrete and natural fill diversion structure; (2) a 1,200-foot-long, 18-inch-diameter steel penstock; (3) a powerhouse with a total installed capacity of 435 kW; (4) a tailrace discharging into the Mawah Creek; and (5) a 0.5-mile-long, 12-kV transmission line interconnecting with an existing PG&E transmission line. The Applicant estimates that the average annual energy output would be 3.8 million kWh.

Purposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant is seeking issuance of a preliminary permit for a period of 24 months during which it would conduct engineering, environmental, and economic studies; negotiate power sales agreement with PG&E; apply for the State water rights permit; and prepare an FERC license application. The Applicant estimates the cost of conducting these studies to be $45,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 13, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 13, 1982, and should specify the type of application forthcoming. Any application for license

or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than October 12, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 13, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14906 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-251-001]

Flormex Energy Corp.; Notice of Amendment

May 26, 1982.

Take notice that on April 29, 1982, Flormex Energy Corporation (Applicant), 2601 East Oakland Park Boulevard, Fort Lauderdale, Florida 33306, filed in Docket No. CP82-251-001 an amendment to its pending application filed in Docket No. CP82-251-000 pursuant to Section 3 of the Natural Gas Act so as to reflect a change in the volume of gas to be imported, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant asserts that the volume of gas to be imported on a daily basis is 150,000 Mcf and up to an annual contract volume of 54,750,000 Mcf instead of 150,000 cubic feet and 54,750,000 cubic feet, respectively.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before June 17, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kennety F. Plumb,

Secretary.

[FR Doc. 82-14917 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1706-001]

Orin M. Goodlett; Notice of Application

May 26, 1982.

The filing individual submits the following:

Take notice that on May 13, 1982, Orin M. Goodlett filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Kentucky Utilities Company
Vice President, Old Dominion Power Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 16, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14949 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-58-000]

Gulf States Utilities Co.; Notice of Application

May 26, 1982.

Take notice that on May 17, 1982, Gulf States Utilities Company (Applicant) filed an Application pursuant to Section 204 of the Federal Power Act to guarantee the payment of up to $75,000,000 of Pollution Control Revenue Bonds to be issued by the Parish of Pointe Coupee for pollution control facilities located at Big Cajun #2, Coal Unit #3, a 540 megawatt coal fired unit in which the Company owns a 42% interest.

Any person desiring to be heard or to make any protest with reference to said Application should, on or before June 16, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The Application is on file and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14950 Filed 6-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1824-001]

Robert W. Hartwell; Notice of Application

May 27, 1982.

The filing individual submits the following:

Take notice that on May 20, 1982, Robert W. Hartwell filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director and President, Cliffs Electric Service Company
Vice President and Director, Upper Peninsula Generating Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 24, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14908 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2005-000]

Robert S. Hunter; Notice of Application

May 26, 1982.

The filing individual submits the following:

Take notice that on May 6, 1982, Robert S. Hunter filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director, Columbus and Southern Ohio Electric Company
Vice President, Indiana & Michigan Electric Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 16, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14951 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-144-000]

Hydro-Nelson, Ltd., Walker Mill Hydroelectric Facility; Notice of Application for Commission Certification of Qualifying Status of a Small Power Production Facility

May 27, 1982.

On May 10, 1982, Hydro-Nelson, Ltd., located at Rt. 1, Box 413, Afton, Va. 22920, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be a 750 kilowatt hydroelectric installation located on the Rockfish River in Schuyler, Nelson County, Virginia. There are no other such facilities located at the same site. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before July 6, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14909 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-59-000]

Interstate Power Co.; Notice of Application

May 26, 1982.

Take notice that on May 19, 1982, Interstate Power Company, (Applicant) filed an Application pursuant to Section 204 of the Federal Power Act, seeking an order authorizing the issuance and sale of 500,000 additional shares of Common Stock, par value $3.50 per share, pursuant to its Dividend Reinvestment and Stock Purchase Plan ("DRP").

Any person desiring to be heard or to protest said Application should file by June 17, 1982, a petition to intervene with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The Application is on file and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14852 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-57-000]

Iowa Southern Utilities Co.; Notice of Application

May 26, 1982.

Take notice that on May 17, 1982, Iowa Southern Utilities Company (Applicant), filed an Application for an order pursuant to Section 204 of the Federal Power Act authorizing the issuance and sale of 100,000 additional shares of its Common Stock, par value $10 per share, pursuant to its Employee Stock Purchase Plan.

Any person desiring to be heard or to make any protest with reference to said Application should, on or before June 16, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The Application is on file and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14853 Filed 6-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-519-000]

Kansas Gas & Electric Co.; Notice of Filing

May 25, 1982.

The filing Company submits the following:

Take notice that Kansas Gas and Electric Company (KG&E) on May 14, 1982, tendered for filing proposed changes in its FERC Electric Service Tariff No. 55.

KG&E states that the filing is for Full Requirements Service which provides

electric power and accompanying energy to be supplied to Missouri Public Service Company in the form of firm power service.

KG&E further states that this filing is necessary because the present contract between the Company and Missouri Public Service Company terminates on July 15, 1982 and both parties desire to continue essentially the same relationship in the future. This filing constitutes a vehicle whereby continuity of service can be maintained.

Copies of the filing were served upon Missouri Public Service Company and the Utilities Division of the Kansas Corporation Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 8, 1982. Protects will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14929 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-518-000]

Kentucky Power Co., Notice of Filing

May 25, 1982.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation (AEP) on May 13, 1982, tendered for filing on behalf of its affiliate Kentucky Power Company (KPCO) Modification No. 2 dated May 1, 1982 to the Interconnection Agreement dated May 14, 1963 between East Kentucky Power Cooperative Inc. (EKPC), and KPCO, KPCO's Rate Schedule FERC No. 14.

Section 1 of this agreement adds a Fuel Conservation Energy Service Schedule to the Interconnection Agreement and Section 2 modernizes the Billing and Payments Article of the Interconnection Agreement. Sections 3 and 4 of this Agreement update the Emergency Service and the Interchange Power Service Schedules. Sections 5 and 6 provide for an increase in the demand charge for Short Term and Limited Term Power to $1.25 per kilowatt per week and $6.50 per kilowatt per month respectively when KPCO is the supplying party and to $1.05 per kilowatt per week and $5.50 per kilowatt per month when EKPC is the supplying party. The transmission demand charge for Short Term and Limited Term Power has been increased to $0.24 per kilowatt per week and $1.00 per kilowatt per month respectively for both parties. The Short Term Power Service Schedule has also been reivsed to include a provision to allow for the sale of Short Term Power on a daily basis. The changes made in all of the service schedules in this Agreement are to comply with the Commission's Order 84 and to standardize the language of these Service Schedules with Service Schedules previously filed by AEP and accepted for filing by the Commission.

AEP requests an effective date of May 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon East Kentucky Power Cooperative, Inc. and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before June 7, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14930 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2004-000]

F. Ray Keyser, Jr.; Notice of Application

May 26, 1982.

The filing individual submits the following:

Take notice that on April 27, 1982, F. Ray Keyser, Jr., filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director, Central Vermont Public Service Corporation.

Vermont Yankee Nuclear Power Corporation.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 16, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14931 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP82-29-001, et. al.]

Lawrenceburg Gas Transmission Corp., et al.; Notice of Filing of Pipeline Refund Reports and Refund Plans

May 25, 1982.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before June 8, 1982. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing date	Company	Docket No.	Type filing
Apr. 8, 1982	Lawrenceburg Gas Transmission Corporation	RP82-29-001	LFUT report.
Apr. 19, 1982	Kansas-Nebraska Gas Company	RP82-44-001	Do.
May 3, 1982	Great Lakes Gas Transmission Company	RP80-134-007	Report.
Do	Panhandle Eastern Pipe Line Company	RP80-105-008	Do.

APPENDIX—Continued

Filing date	Company	Docket No.	Type filing
May 12, 1982	Consolidated Gas Supply Corporation	RP81-114-003	LFUT report.
May 17, 1982	National Fuel Gas Supply Corporation	RP80-135-016	Report.
Do	Tennessee Gas Pipeline Company	RP81-44-005	Do.

[FR Doc. 82-14932 Filed 1-2-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ID-1549-001]

Gerald P. Maloney; Notice of Application

May 26, 1982.

The filing individual submits the following:

Take notice that on May 6, 1982, Gerald P. Maloney filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President & Director—Appalachian Power Company
Vice President (principal financial officer) & Director—Columbus and Southern Ohio Electric Company
Vice President—Indiana-Kentucky Electric Corporation
Vice President & Director—Indiana & Michigan Electric Company
Vice President—Kanawha Valley Power Company
Vice President & Director—Kentucky Power Company
Vice President & Director—Kingsport Power Company
Vice President & Director—Michigan Power Company
Vice President & Director—Ohio Power Company
Vice President—Ohio Valley Electric Company
Vice President & Director—Wheeling Electric Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 16, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-14933 Filed 6-2-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5613-001]

Charles E. and Anne W. MacArthur; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

May 26, 1982.

Take notice that on May 18, 1982, Charles E. and Anne W. MacArthur (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*) for exemption of the proposed Browns Mill hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 5613) would be located on the Piscataquis River in the town of Dover-Foxcroft, Piscataquis County, Maine. Correspondence with the Applicant should be directed to: Mr. Charles E. MacArthur, 16 Vaughn Street, Dover-Foxcroft, Maine 04426.

Project Description—The Brouns Mill Project would consist of: (1) An existing 22-foot-high, 264.5-foot-long masonry and concrete dam; (2) a 4-acre reservoir with negligible storage capacity at elevation 344 feet M.S.L.; (3) an existing 24-foot-wide, 84-foot-long covered canal; (4) an existing 172-foot-long, 40 to 24-foot-wide open canal; (5) three existing steel penstocks approximately 50 feet in length; (6) an existing powerhouse containing turbine-generators with a total rated capacity of 450 kW to be rehabilitated to increase the total rated capacity to 550 kW; (7) an existing fish ladder; and (8) appurtenant facilities. The Applicant, who previously filed an application for license under P-5613, has asked that the license application be converted to a 5 MW exemption. The project would generate up to 2,500,000 kWh annually.

Purpose of Exemption—An exemption, if issued gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project. Energy produced at the project would be sold to Central Maine Power Company.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State of Maine Department of Marine Resources are requested, for the purposes set forth in Section 408 of the Act, to submit within 30 days from the date of issuance of this notice oppropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 30 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before July 16, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but

only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 16, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14807 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-524-000]

Minnesota Power & Light Co.; Notice of Filing

May 25, 1982.

The filing Company submits the following:

Take notice that Minnesota Power & Light Company (Minnesota) on May 14, 1982, tendered for filing a proposed contract to provide specified transmission service to the City of Staples, Minnesota (Staples).

Minnesota states that under the terms and conditions of the proposed contract, Minnesota will provide wheeling services to Staples for certain firm power purchase commitments by Staples from the United States Department of Interior, Western Area Power Administration, as evidenced by the contract number 2-07-00-PO-174, by and between Staples and the Western Area Power Administration dated November 17, 1981, as supplemented.

Minnesota requests waiver of the Commission's notice requirements to allow for an effective date of November 19, 1981.

Copies of the filing were served upon Stables and the Minnesota Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 8, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14864 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-318-000]

Mississippi River Transmission Corp.; Notice of Application

May 27, 1982.

Take notice that on May 7, 1982, Mississippi River Transmission Corporation (Applicant) 9900 Clayton Road, St. Louis, Missouri 63124, filed in Docket No. CP82-318-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continued transportation of natural gas for delivery and sale to Mid-Valley Pipel Line Company (Mid-Valley) for Mid-Valley's use in its Stevenson, Louisiana, compressor station all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that interruptible gas sales to Mid-Valley were initiated by Applicant's predecessor, Mississippi River Fuel Corporation (MRFC), in 1952 and were continued by Applicant following the acquisition of MRFC's pipeline facilities and operations in 1964. Applicant asserts, at that time, the sale was considered intrastate in character and not subject to the certificate requirements of the Natural Gas Act. Applicant further states that deliveries were resumed to Mid-Valley, having been suspended during most of the 1970's because of the interstate pipeline natural gas shortage, as well as the availability of other sources of compressor fuel to Mid-Valley. It is asserted that the delivery of natural gas to Mid-Valley has not been certificated. Therefore, Applicant requests authorization for the continued transportation of gas for delivery and sale on a interruptible basis to Mid-Valley. Applicant maintains that Mid-Valley's Stevenson, Louisana, compressor station's current maximum gas requirement is not expected to exceed 275 Mcf per day.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 18, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction confered upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14916 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-304-000]

Mississippi River Transmission Corp.; Notice of Application

May 27, 1982.

Take notice that on April 28 1982, Mississippi River Transmission

Corporation (Applicant), P.O. Box 14521, St. Louis Missouri 63178, filed in Docket No. CP82-304-000 an application pursuant to Section 7(b) of the Natural Gas Act and § 157.7(e) of the Regulations thereunder (18 CFR 157.7(e)) for permission and approval to abandon, during the 12-month period commencing August 28, 1982, direct sales service and facilities no longer required for deliveries of natural gas to Applicant's customers, all as more fully set forth in the application which is on file with the Commission and open to the public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in abandoning service and removing direct sales measuring, regulating and related facilities. Applicant states that it would abandon service and facilities only when deliveries to any one direct sales customer would not have exceeded 100,000 Mcf of natural gas during the last year of service.

The application further states that Applicant would not abandon any service unless it would have received a written request or written permission from the customer to terminate service. In the event such request or permission could not be obtained, a statement certifying that the customer has no futher need for service would be filed with the Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 18, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must filed a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of a the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, futher notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14019 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-517-000]

Nevada Power Co.; Notice of Filing

May 25, 1982.

The filing Company submits the following:

Take notice that on May 13, 1982, Nevada Power Company (Nevada) tendered for filing a new Service Schedule D, Savings Energy, between Nevada and the City of Vernon (Vernon). Said Service Schedule is a supplement to the Interconnection Agreement between the parties.

Nevada states that the Service Schedule will provide another market for the disposition of any excess coal-fired and other low cost energy on a split-savings basis and will reduce the annual energy costs of Vernon.

Nevada requests an effective date of May 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Nevada's jurisdictional customer, the CP National Corporation, and upon the State Regulatory Commissions of California and Nevada.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 7, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14065 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-377-001]

Northern Natural Gas Co., Division of InterNorth, Inc.; Petition To Amend

May 27, 1982.

Take notice that on May 5, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Petitioner), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP81-377-001, a petition to amend the order issued October 27, 1981, in Docket No. CP81-377-000 pursuant to Section 7(c) of the Natural Gas Act so as to authorize the addition of a delivery point to accommodate the sale of gas to Texas Eastern Transmission Corporation (Texas Eastern), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner maintains that by order issued October 27, 1981, it was authorized to sell gas to Texas Eastern at Ragley, Allen Parish, Louisiana. Petitioner assets that Ragley, Allen Parish, Louisiana, are two distinct delivery points, to wit: Ragley, Beauregard Parish and Allen, Allen Parish, which are both located in Louisiana.

Petitioner interprets the order issued October 27, 1981, in Docket No. CP81-377-000 as authorizing the Ragley, Beauregard Parish, Louisiana, delivery point. Petitioner assets that it had been the parties' intent that Petitioner would make gas available to Texas Eastern at the Ragley and Allen delivery points. Accordingly, Petitioner seeks authority to add Allen, Allen Parish, Louisiana, as an additional delivery point for the sale of gas to Texas Eastern.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 18, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party

to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14930 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-523-000]

Pacific Gas and Electric Co.; Notice of Filing

May 25, 1982.

The filing Company submits the following:

Take notice that Pacific Gas and Electric Company (Pacific) on May 14, 1982, tendered for filing an amendment, dated April 19, 1982, to the Power Sale, Exchange and Intergration Contract between Pacific and Sacramento Municipal Utility District (Sacramento). The amendment changes the wording of Article 20 of the Contract to provice for a one-time reduction of the termination notice of period.

Pacific states that the amendment allows either party to cancel the contract between December 21, 1981 and June 1, 1982, the cancellation to become effective January 1, 1988. The amendment extends the termination notice period established by the December 31, 1981 amendment to Article 20 previously filed in this docket on February 9, 1982; the notice period is extended from May 1 to June 1, 1982.

Pacific further states the effective date of the amendment is to be December 21, 1981, and requests waiver of the notice requirements with respect to that effective date in order to comply with the intent of the parties to the amendment.

According to Pacific copies of the filing have been sent to Sacramento and to the California Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 8, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14934 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-305-000]

Panhandle Eastern Pipe Line Co.; Notice of Application

May 26, 1982.

Take notice that on April 28, 1982, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP82-305-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon by sale to Missouri Edison Company (Missouri Edison) a portion of the Hercules Powder measuring and regulating station, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to abandon by sale to Missouri Edison its Hercules Powder measuring and regulating station and concomitant lease, the Hercules Powder laterial and all appurtenances, right-of-way easements, permits and property interests related thereto, and the Louisiana, Missouri, measuring and regulating station but not the concomitant leas to which Applicant reserves the right to build upon. Such facilities, it is asserted, are located in Pike County, Missouri, and are being sold for book value pursuant to a sales agreement dated May 27, 1981.

Applicant explains that the facilities being sold would be replaced by a proposed combined measuring and regulating station to be constructed by Applicant on the existing Louisiana, Missouri, lease.

It is submitted that the acquisition of the aforementioned facilities would enable Missouri Edison to serve better the two customers directly affected in that facilities required for measuring and regulating gas to those two customers would not have to be duplicated.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 17, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropirate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14921 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1969-001]

Keith R. Potter; Notice of Application

May 26, 1982.

The filing individual submits the following

Take notice that on May 14, 1982, Keith R. Potter filed an application pursuant to Section 305(b) of the Federal Power Act and the Commission's interim orders in *Edison Electric Institute*, Docket No. EL81-5-000 to hold the following positions:

Director—Illinois Power Company
Director—Continental Illinois Corporation
Director—Continental Illinois National Bank and Trust Company of Chicago

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests

should be filed on or before June 18, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14956 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-526-000]

Public Service Co. of Colorado; Notice of Filing

May 25, 1982.

The filing Company submits the following:

Take notice that on May 17, 1982, the Public Service Company of Colorado (PSC) tendered for filing a notice of cancellation of Rate Schedule FERC No. 21, between PSC and the Intermountain Rural Electric Association.

PSC proposes an effective date of June 18, 1982.

According to PSC copies of the filing were served upon the City of Aspen, Colorado, the Town of Lyons, Colorado, Home Light and Power Company, the City of Glenwood Springs, Colorado, Colorado-Ute Association, Inc., Central Telephone and Utilities, City of Burlington, Colorado, Town of Julesburg, Colorado, Intermountain Rural Electric Association, Inc. and the Public Utilities Commission of the State of Colorado.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 8, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14955 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3012-001]

The Saybrooke Manufacturing Co.; Application for License (5 MW or Less)

May 26, 1982.

Take notice that The Saybrooke Manufacturing Company (Applicant) filed on April 29, 1982, an application for license [puruant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as the Saybrooke Dam Project No. 3012. The project would be located on the South Branch-Pawtuxet River in Kent County, Rhode Island. Correspondence with the Applicant should be directed to: Steven Krous, Halliwell Associates, Inc., 865 Waterman Avenue, East Providence, Rhode Island 02914. This application was filed during the term of the Applicant's preliminary permit for Project No. 3012.

Project Description—The proposed project would consist of: (1) The existing granite block Saybrooke Dam, 110 feet long and 21 feet high; (2) an existing reservoir with negligible storage capacity with surface elevation of 77.2 feet m.s.l.; (3) an existing 150-foot long headrace; (4) an existing mill powerhouse; (5) two new turbine-generator units with a total installed capacity of 235 kW; (6) an existing 300-foot long tailrace; and (7) other appurtenances. Applicant owns all existing facilities. Applicant estimates that annual average generation would be 1,412,500 kwh.

Purpose of Project— Project energy would be sold to Narranganseit Electric Company.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before August 13, 1982, either the competing application itself [See 18 CFR 4.33 (a) and (d)] or a notice of intent [See 18 CFR 4.33 (b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in §4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 13, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14970 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6248-000]

Seattle Oil Service, Inc.; Application For Preliminary Permit

May 26, 1982.

Take notice that Seattle Oil Services, Inc. (Applicant) filed on April 23, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a) 825(r)] for Project No. 6248 to be known as the Waste Waterway 68D, Dike No. 9 Hydroelectric Project

located on Waste Waterway 63D, near the town of Othello in Adams County, Washington. The proposed project would effect the U.S. land administered by the U.S. Bureau of Reclamation. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Milton B. Rice, Seattle Oil Service, Inc., 6320 Fauntleroy Way, S.W., Seattle, Washington 98136.

Project Description—The proposed project would consist of: (1) a 5-foot high concrete intake structure diverting water from the existing U.S. Bureau of Reclamation Waste Waterway 63D; (2) a 4-foot diameter penstock; (3) a powerhouse with a total unstalled capacity of 250 kW; (4) a tailrace conveying the effluent to the Waste Waterway 63D and (5) a 80-foot long, 12-kV transmission line interconnecting with an existing 12-kV Washington Water Power Company transmission line. The Applicant estimates that the average annual output would be 1000 MWh.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorized construction. The Applicant is seeking issuance of a preliminary permit for a period of 18 months during which it would conduct engineering, economic, hydrological, and environmental studies and prepare an FERC license application. The cost of these studies is estimated by the Applicant to be $10,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 9, 1982, the competing application itself, or a notice of intent to file such an application [see 18 CFR 4.30 et seq. (1981)) and Docket No. RM81–15, issued October 29, 1981, 46 FR. 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 9, 1982, and should specify the type of application forthcoming. Any application for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than October 8, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 9, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–14922 Filed 6–3–82; 8:45 am]
BILLING CODE 6717–01–M

[Project No. 6134–000]

Michael Springer and James Boulden; Application for Preliminary Permit

May 26, 1982.

Take notice that Michael Springer and James Boulden (Applicants) filed on March 29, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for Project No. 6134 to be known as the West Walker River Project located on West Walker River in Mono County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. James Boulden, 729 Sexton Road, Sebastopol, California 95472.

Project Description—The proposed project would consist of: (1) A 2-foot-high wing wall diversion at elevation 5,500 feet; (2) a pipeline 1,020 feet long; (3) a powerhouse at elevation 5,475 feet containing a generating unit with a 300 kW capacity and 2.1 GWh annual energy output; and (4) transmission lines 800 feet long. The proposed market for project-generated power is the Sierra Pacific Power Company.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a term of 36 months, during which engineering, economic and environmental studies will be conducted to ascertain project feasibility and to support application for a license to construct and operate the project. The estimated cost of permit activities is $60,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 16, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981)); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 16, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than October 15, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the

Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 16, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14923 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1494-000]

William C. Tallman; Notice of Application

May 26, 1982.

The filing individual submits the following:

Take notice that on May 30, 1982, William C. Tallman filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Chairman and Chief Executive Officer, Public Service Company of New Hampshire
Chairman, Yankee Atomic Electric Company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 16, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14926 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP78-86-001]

Texas Eastern Transmission Corp.; Motion To Vacate Order

May 26, 1982.

Take notice that on April 28, 1982, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP78-86-001 a motion pursuant to Section 1.12 of the Commission's Rules of Practice and Procedure to vacate the order issued January 30, 1978, in Docket No. CP78-86, all as more fully set forth in the motion to vacate which is on file with the Commission and open to public inspection.

It is stated that by the order issued January 30, 1978, Texas Eastern was authorized to transport up to 1,000 Mcf of natural gas per day for a two-year term from the date of initial deliveries for Owens-Corning Fiberglas Corporation (Owens-Corning) for use in Owens-Corning's plant located in Huntingdon, Pennsylvania.

Texas Eastern states that the transportation service has never commenced and its gas supply has increased substantially thus obviating the need for the service. Texas Eastern, therefore, requests that the Commission vacate the January 30, 1978, order and terminate the proceeding.

Any person desiring to be heard or to make any protest with reference to said motion should on or before June 17, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not service to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14924 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-306-000]

United Gas Pipe Line Co.; Notice of Application

May 26, 1982.

Take notice that on April 29, 1982, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP82-306-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing a transfer of maximum daily quantity of gas delivered to Entex, Inc. (Entex) from one delivery point to another and for permission and approval to abandon the Chennault Distribution delivery point to Entex, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that by letter dated March 24, 1982, Entex has requested that Applicant abandon its deliveries of gas at the Chennault Distribution delivery point, Calcasieu Parish, Louisiana, and transfer the maximum daily quantity of 784 Mcf of gas applicable thereto to the Lake Charles Station No. 2 delivery point, Calcasieu Parish, Louisiana. It is asserted that upon such transfer the Lake Charles Station No. 2 maximum daily quantity would be 29,016 Mcf of gas.

It is submitted that this transfer would eliminate the need for Entex to undertake major repairs on its facilities which are immediately downstream from the Chennault delivery point. It is further submitted that service by Entex on the Chennault distribution system would be maintained by connecting that system with the distribution system served by deliveries from Applicant at Lake Charles Station No. 2.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 17, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules

of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in an hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14925 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF 82-113-000]

Walter Verduyn; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

May 26, 1982.

On April 10, 1982 Dr. Walter Verduyn, M.D. located at RR2, Elkader, Iowa 52043 filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be a 10 kilowatt wind installation located in Elkader, Iowa. There are no other such facilities located at the same site. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before July 6, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14926 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 5248-002 and 5250-001]

West Slope Power Co.; Notice Rejecting Appeal

May 26, 1982.

On December 31, 1981, the Deputy Director, Office of Electric Power Regulation, granted an exemption from licensing to West Slope Power Company, Project Nos. 5248-002 and 5250-001, Whiskey Creek, Madera County, California.

On March 1, 1982, Mr. Clair J. Bishop filed an untimely appeal of the Deputy Director's order. On April 5, 1982 this appeal was rejected as untimely.

On April 22, 1982, Mr. Bishop filed a second appeal of the Director's order. This appeal is also untimely. It fails to comply with the requirements of § 1.7(d) of the Commission regualtion (18 CFR 1.7 (d) (1981)). Good cause has not been shown why this second late appeal should now be considered.

Accordingly, Mr. Bishop's appeal filed April 22, 1982 is rejected.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14937 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2787-002]

White Current Corp.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

May 26, 1982.

Take notice that on April 13, 1982, White Current Corporation (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended),* for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 2787) would be located on the Ottauquechee River, in the Town of Hartland, in Windsor County, Vermont. Correspondence with the Applicant should be directed to: Roger Lamson, Esq., P.O. Box 414, North Hartland, Vermont 05052.

Project Description—The proposed project would consist of: (1) Three existing concrete gravity overflow-type dam sections about 7 feet high, having an aggregate length of 215 feet spanning the river and joining two islands; (2) an existing reservoir with a surface area of 22 acres; (3) a proposed headrace; (4) a proposed 40-foot long retaining wall; (5) a proposed powerhouse containing two turbines rated at 680 and 1395 hp, and two generators rated at 600 and 1250 kW; (6) a proposed tailrace; (7) a proposed 200-foot long transmission line; (8) a proposed substation containing one step-up transformer; and (9) appurtenant facilities. The estimated average annual generation is 4,811,924 kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Vermont Agency of Environmental Conservation, Fish and Game Department are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the

granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before July 26, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR § 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest or a petition to intervene in accordance with the requirements of the Rules of Practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 26, 1982.

Filing and Service of Responsive Documents—Any filing must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applicant Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Application specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14911 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: May 24, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
OHIO DEPARTMENT OF NATURAL RESOURCES									
-APEX NATURAL GAS COMPANY INC			RECEIVED:	04/30/82		JA: OH			
8230109A		3412725060	103			EDITH BUSSEY #1	CLINTON	10.8	NATIONAL GAS & OI
82301096		3412725060	107-TF			EDITH BUSSEY #1	CLINTON	10.0	NATIONAL GAS & OI
-BAK ENERGY CO			RECEIVED:	04/30/82		JA: OH			
8230110		3415521086	107-RT			YOUNGSTOWN AIRPORT #1	VIENNA	30.0	COLUMBIA GAS TRAN
-BLAUSER WELL SERVICE INC			RECEIVED:	04/30/82		JA: OH			
8230113		3410522165	103			FRANCIS H ANDREWS #1	OLIVE	21.0	COLUMBIA GAS TRAN
8230114		3410522172	103			HAROLD BREWER #1	OLIVE	15.0	COLUMBIA GAS TRAN
8230115		3410522173	103			PAUL ANDREWS #1	OLIVE	13.0	COLUMBIA GAS TRAN
-BROWN PETROLEUM CORP			RECEIVED:	04/30/82		JA: OH			
8230118		3415321056	103	107-TF		B5 #2	COPLEY	0.0	EAST OHIO GAS
8230116		3411926063	103	107-TF		KILPATRICK #4	LICKING	350.0	COLUMBIA GAS TRAN
8230117		3411926005	103	107-TF		KILPATRICK #6	LICKING	250.0	COLUMBIA GAS TRAN
-C J WARREN OIL COMPANY			RECEIVED:	04/30/82		JA: OH			
8230332		3412725090	103	107-TF		ESSINGTON #1	REHOBETH-NORTH	0.0	
8230334		3412725129	103	107-TF		ESSINGTON #2	REHOBETH NORTH	0.0	
8230333		3412725124	103	107-TF		MORRIS FRANCIS #2	SEGO-EAST	0.0	
8230331		3412725060	103	107-TF		MORRIS-FRANCIS #1	MADISON	94.1	FORAKER GAS CO IN
-CALTEK MINERALS CORP			RECEIVED:	04/30/82		JA: OH			
8230120		3411121973	107-DV			MARY DECKER #1	WAYNE	0950.0	COLUMBIA GAS TRAN
8230119		3411121967	107-DV			NORMAN ANDOR #1	FRANKLIN	0950.0	COLUMBIA GAS TRAN
8230121		3416724735	107-DV			THEODORE DYE #1	NEW MATAMORAS	430.0	COLUMBIA GAS TRAN
-CARMCO INC			RECEIVED:	04/30/82		JA: OH			
8230122		3410322913	103	107-TF		CARMELA TRAMONTE #2	GRANGER	20.0	
-CARROLL E VOGEL			RECEIVED:	04/30/82		JA: OH			
8230330		3416726103	107-DV			CONSOL #2	MARIETTA	13.0	
-CLARENCE SHERMAN			RECEIVED:	04/30/82		JA: OH			
8230301		3415722199	103	107-RT		GILBERT LADRACH #2	SUGARCREEK	10.0	EAST OHIO GAS CO
8230302		3415722226	103	107-TF		ORIN SWIHART #1	SUGARCREEK	10.0	EAST OHIO GAS CO
-CLINTON OIL CO			RECEIVED:	04/30/82		JA: OH			
8230123		3412725524	103	107-TF		O SIDWELL #1-712	DEAVERTOWN	10.0	
-CUYAHOGA EXPLORATION & DEVELOPMENT			RECEIVED:	04/30/82		JA: OH			
8230124		3411122606	107-DV			HERMAN RITCHIE #4	STAFFORD	23.8	
8230125		3411122629	103			ROBERT BINEGAR #2	GRAYSVILLE	12.8	
-DERBY OIL & GAS CORP			RECEIVED:	04/30/82		JA: OH			
8230127		3411926087	103	107-TF		BRYDE L LAPP #1A	SALEM	12.0	COLUMBIA GAS TRAN
8230126		3407523298	103	107-TF		ROMAN MILLER #1	HARDY	12.0	COLUMBIA GAS TRAN
-DERRICK PETROLEUM INC			RECEIVED:	04/30/82		JA: OH			
8230128		3403124535	107-TF			ETHEL SPEAKS #1	JACKSON	0.0	COLUMBIA GAS TRAN
-DISCOVERY OIL LTD			RECEIVED:	04/30/82		JA: OH			
8230129		3416923030	107-TF			W M BITTAKER #1	DOYLESTOWN	15.0	

JO NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-EDCO DRILLING & PRODUCING INC				RECEIVED: 04/30/82 JA: OH					
8230131		3403124731		103	107-TF	CRAWFORD WB-1A	RANDLE	18.0	
8230134		3416922109		107-RT		GEISER HO-1A	PAINT	18.0	COLUMBIA GAS TRAN
8230130		3403124704		103	107-TF	POWELL WB-4A	TRINWAY	18.0	
8230133		3407522143		107-RT		TROYER MO-1A	PAINT	18.0	COLUMBIA GAS TRAN
8230132		3407522140		107-RT		WEAVER MO-1A	SALT CREEK	18.0	COLUMBIA GAS TRAN
-EDWARD E ATHA				RECEIVED: 04/30/82 JA: OH					
8230107A		3400922318		103		CHESTER A COPELAND #3	ROME	2.6	
8230107B		3400922318		107-TF		CHESTER A COPELAND #3	ROME	2.6	
8230108A		3400922319		103		LLOYD DILLINGER #2	ROME	5.0	
8230108B		3400922319		107-TF		LLOYD DILLINGER #2	ROME	5.0	
-ENERGY DEVELOPMENT CORP				RECEIVED: 04/30/82 JA: OH					
8230135		3410322857		103	107-TF	IRENE C HOOD #1	MEDINA	18.0	COLUMBIA GAS TRAN
-ENERGY PRODUCTION INC				RECEIVED: 04/30/82 JA: OH					
8230137		3412122740		103	107-TF	FAFRAC #1	BELLE VALLEY	20.0	TEXAS EASTERN TRA
8230136		3412122739		103	107-TF	YERIAN #1	BELLE VALLEY	20.0	TEXAS EASTERN TRA
-ENNEY OILFIELD RENTAL CO				RECEIVED: 04/30/82 JA: OH					
8230138		3405921014		108		KACKLEY #2		0.7	COLUMBIA GAS TRAN
-ENTERPRISE ENERGY CORP				RECEIVED: 04/30/82 JA: OH					
8230140		3411522551		107-TF		ALLEN #2	CENTER	27.3	EAST OHIO GAS CO
8230142		3415123680		103	107-TF	DUTTON #10	SUGAR CREEK	27.3	
8230141		3411522557		107-TF		FRANKLIN REAL ESTATE #2	CENTER	27.3	EAST OHIO GAS CO
8230139		3405922976		103	107-TF	LARRICK #5	CENTER	27.3	COLUMBIA GAS TRAN
-GASEARCH INC				RECEIVED: 04/30/82 JA: OH					
8230146		3413322768		103	107-TF	TIMMONS #5	WINDHAM	0.0	AMERICAN ENERGY S
-GEO ENERGY INC				RECEIVED: 04/30/82 JA: OH					
8230147		3403521141		107-TF		SHAKER-HOLZWORTH #2	WEST VIEW	14.0	
-GNC ENERGY CORP				RECEIVED: 04/30/82 JA: OH					
8230143		3411522408		103		BARKMAN RAYMOND & CLARA #3	ROKEBY	15.0	COLUMBIA GAS TRAN
8230145		3411522464		103		MCCONKEY JAMES & JANICE #9	ROKEBY LOCK	15.0	
8230144		3411522455		103		SCHODITSCH JOHN & BARBARA #1	ROKEBY LOCK	15.0	COLUMBIA GAS TRAN
-H & S OPERATING COMPANY				RECEIVED: 04/30/82 JA: OH					
8230148		3407523265		107-TF		JOHN P MILLER #3	CLARK	12.0	COLUMBIA GAS TRAN
8230149		3407523266		107-TF		JOHN P MILLER #4	CLARK	12.0	COLUMBIA GAS TRAN
-HERALD OIL & GAS CO				RECEIVED: 04/30/82 JA: OH					
8230152		3410522355		103		ALVIN CLAIR WAGGONER #1	SCIPIO	0.0	COLUMBIA GAS TRAN
8230150		3410522201		103		CARL S NICHOLS SR #1	SALISBURY	0.0	COLUMBIA GAS TRAN
8230151		3410522354		103		ROGER BROWN #1	SALISBURY	0.0	COLUMBIA GAS TRAN
8230153		3410522366		103		SHERMAN BASHAM #1	SCIPIO	0.0	COLUMBIA GAS TRAN
-HOPEWELL OIL AND GAS DEVELOPMENT CO				RECEIVED: 04/30/82 JA: OH					
8230155		3411121956		107-DV		LEANDER KUHN #1	SENECA	10.0	COLUMBIA GAS TRAN
8230156		3411122666		107-DV		W CARPENTER #1A	SENECA	15.0	COLUMBIA GAS TRAN
-INLAND DRILLING CO INC				RECEIVED: 04/30/82 JA: OH					
8230157		3413321305		103	107-TF	HULAK-WEBB #2	RAVENNA	0.3	
8230158		3413321377		103	107-TF	SMITH #1	HUDSON	5.0	
-J D DRILLING CO				RECEIVED: 04/30/82 JA: OH					
8230159		3410522324		103		VIRGIL PARSONS #1	POMEROY	5.0	COLUMBIA GAS TRAN
8230160		3410522325		103		VIRGIL PARSONS #2	POMEROY	5.0	COLUMBIA GAS TRAN
8230161		3410522326		103		VIRGIL PARSONS #3	POMEROY	5.0	COLUMBIA GAS TRAN
-J P WHITE				RECEIVED: 04/30/82 JA: OH					
8230336		3400721712		103	107-TF	LUCE DEBOW #1	CHERRY VALLEY	50.0	OHIO GAS CO
8230335		3400721456		103	107-TF	SHADLE #1	CHERRY VALLEY	50.0	COLUMBIA GAS TRAN
-JAMES O BIEHL				RECEIVED: 04/30/82 JA: OH					

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8230112		3416726782		103		GERALD MCGREGOR #1	LAWRENCE	14.6	COLUMBIA GAS TRAN
-JAMES R BERNHARDT				RECEIVED: 04/30/82 JA: OH					
8230111		3410322805		103	107-TF	EAGLE WELL #1	ORANGER	7.0	COLUMBIA GAS TRAN
-KENOIL				RECEIVED: 04/30/82 JA: OH					
8230162		3416922325		107-TF		ROBERT PRINDLE #1	CANAAN	10.0	COLUMBIA GAS TRAN
-KING DRILLING CO				RECEIVED: 04/30/82 JA: OH					
8230163		3410322891		107-TF		JOSEPH T SLANOVEC #1	SEVILLE	10.0	COLUMBIA GAS TRAN
-KRAMER EXPLORATION CO				RECEIVED: 04/30/82 JA: OH					
8230164		3405320723		103		O JOHNSON #2	ADDISON	12.0	COLUMBIA GAS TRAN
-L & M PETROLEUM INC				RECEIVED: 04/30/82 JA: OH					
8230165		3416725489		103		JAMES WILCOX #1	JUNCTION CITY	10.0	COLUMBIA GAS TRAN
-LEADER EQUITIES INC				RECEIVED: 04/30/82 JA: OH					
8230167		3411926123		103	107-TF	GUINSLER #1	MONROE	14.0	
8230166		3411924552		107-RT		HOWARD CASTOR #1	MONROE	36.0	NATIONAL PETROLEU
-MCCORMICK OIL & GAS CO				RECEIVED: 04/30/82 JA: OH					
8230169		3405923152		107-TF		LESTER EVANS #1	OTSEGO FIELD	360.0	
-MORGAN-PENNINGTON INC				RECEIVED: 04/30/82 JA: OH					
8230170		3403124460		107-TF		FENDER #1	CRAWFORD	12.0	EAST OHIO GAS CO
-MORMACK INDUSTRY INC				RECEIVED: 04/30/82 JA: OH					
8230171		3416922831		107-TF		JAMES MARTY #1	MILTON GAS	60.0	COLUMBIA GAS TRAN
-MTM OIL CO				RECEIVED: 04/30/82 JA: OH					
8230168		3415321025		107-TF		S&C MACHINE #2	NORTON	12.0	
-NATIONAL PETROLEUM CORP				RECEIVED: 04/30/82 JA: OH					
8230172		3411122408		107-DV		STIMPERT #2	SUMMIT	15.0	TEXAS EASTERN TRA
-OPEX INC				RECEIVED: 04/30/82 JA: OH					
8230173		3411926895		103	107-TF	MOORE #1	NEWTON	0.7	NATIONAL GAS & OI
-OXFORD OIL CO.				RECEIVED: 04/30/82 JA: OH					
8230175		3411522076		107-TF		HAROLD JADWIN #1	DEERFIELD	10.0	
8230174		3411522059		107-TF		RAYMOND HIVNOR #1	DEERFIELD	16.0	
8230177		3411522150		107-TF		RICHARD CHRISTIANSEN #1	BLOOM	12.0	
8230176		3411522106		107-TF		ROBERT SMITH #2	DEERFIELD	16.0	
-POI ENERGY INC				RECEIVED: 04/30/82 JA: OH					
8230178		3413322548		103	107-TF	DEFER #2	STREETSBORO	27.0	
8230179		3415326698		107-RT		GENOVESE #1	HUDSON	14.1	
8230180		3415321026		107-RT		REESE-DRAY #1	BRACEVILLE	40.0	COLUMBIA GAS TRAN
-POWER RESOURCES INC				RECEIVED: 04/30/82 JA: OH					
8230181		3415723675		107-TF		CONOTTON LAND COMPANY #5	WARREN	0.8	M B OPERATING CO
8230182		3415723696		107-TF		STRAUB #1	FRANKLIN	1.0	EAST OHIO GAS CO
-RIMCO OPERATING INC				RECEIVED: 04/30/82 JA: OH					
8230185		3416922855		103	107-TF	C MCCLURE #1	CHESTER	12.0	COLUMBIA GAS TRAN
8230186		3416923198		103	107-TF	GEORGE #3	WAYNE	12.0	COLUMBIA GAS TRAN
8230187		3416923241		103	107-TF	GIBBONS #1	CONGRESS	12.0	COLUMBIA GAS TRAN
8230183		3416922241		103	107-TF	MOORHEAD #2	CLINTON	12.0	COLUMBIA GAS TRAN
8230184		3416922259		103	107-TF	SNURE #1	WAYNE	12.0	COLUMBIA GAS TRAN
-ROBERT E SHERRY				RECEIVED: 04/30/82 JA: OH					
8230303		3412724785		107-TF		R GIBSON #1A	HARRISON	24.0	
-ROVI RESOURCES CORP				RECEIVED: 04/30/82 JA: OH					
8230235		3411924742	D	108		B & C HARMON #1		5.0	COLUMBIA GAS TRAN
8230236		3411924743	D	108		B & C HARMON #2		5.0	COLUMBIA GAS TRAN
8230237		3411924751	D	108		B & C HARMON #3		5.0	COLUMBIA GAS TRAN
8230240		3411924761	D	108		B & C HARMON #4		5.0	COLUMBIA GAS TRAN
8230238		3411924759	D	108		B & C HARMON #5		5.0	COLUMBIA GAS TRAN
8230239		3411924760	D	108		B & C HARMON #6		5.0	COLUMBIA GAS TRAN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8230285		3411924996	D	108		B WILKINS #1		5.0	COLUMBIA GAS TRAN
8230286		3411924997	D	108		B WILKINS #2		5.0	COLUMBIA GAS TRAN
8230287		3411924998	D	108		B WILKINS #3		5.0	COLUMBIA GAS TRAN
8230288		3411924999	D	108		B WILKINS #4		5.0	COLUMBIA GAS TRAN
8230289		3411925000	D	108		B WILKINS #5		5.0	COLUMBIA GAS TRAN
8230290		3411925001	D	108		B WILKINS #6		5.0	COLUMBIA GAS TRAN
8230291		3411925002	D	108		B WILKINS #7		5.0	COLUMBIA GAS TRAN
8230292		3411925003	D	108		B WILKINS #8		5.0	COLUMBIA GAS TRAN
8230273		3411924944	D	108		D HUELSMAN #1		5.0	COLUMBIA GAS TRAN
8230274		3411924945	D	108		D HUELSMAN #2		5.0	COLUMBIA GAS TRAN
8230275		3411924946	D	108		D HUELSMAN #3		5.0	COLUMBIA GAS TRAN
8230270		3411924941	D	108		D HUELSMAN #4		5.0	COLUMBIA GAS TRAN
8230271		3411924942	D	108		D HUELSMAN #5		5.0	COLUMBIA GAS TRAN
8230269		3411924940	D	108		D HUELSMAN #6		5.0	COLUMBIA GAS TRAN
8230272		3411924943	D	108		D HUELSMAN #7		5.0	COLUMBIA GAS TRAN
8230243		3411924787	D	108		F REED #1		5.0	COLUMBIA GAS TRAN
8230244		3411924789	D	108		F REED #2		5.0	COLUMBIA GAS TRAN
8230245		3411924790	D	108		F REED #3		5.0	COLUMBIA GAS TRAN
8230278		3411924988	D	108		F WHITE #1		5.0	COLUMBIA GAS TRAN
8230279		3411924989	D	108		F WHITE #2		5.0	COLUMBIA GAS TRAN
8230276		3411924974	D	108		F WHITE #3		5.0	COLUMBIA GAS TRAN
8230288		3411924990	D	108		H HERRON #1		0.0	COLUMBIA GAS TRAN
8230293		3411925013	D	108		H HERRON #2		5.0	COLUMBIA GAS TRAN
8230284		3411924995	D	108		H HERRON #3		0.0	COLUMBIA GAS TRAN
8230283		3411924994	D	108		H HERRON #4		5.0	COLUMBIA GAS TRAN
8230282		3411924993	D	108		H HERRON #5		5.0	COLUMBIA GAS TRAN
8230281		3411924992	D	108		H HERRON #6		5.0	COLUMBIA GAS TRAN
8230294		3411925040	D	108		H HERRON #7		5.0	COLUMBIA GAS TRAN
8230246		3411924796	D	108		J & E FOUNDS #1		5.0	COLUMBIA GAS TRAN
8230253		3411924885	D	108		J & E FOUNDS #2		5.0	COLUMBIA GAS TRAN
8230252		3411924884	D	108		J & E FOUNDS #3		5.0	COLUMBIA GAS TRAN
8230254		3411924893	D	108		J & E FOUNDS #4		5.0	COLUMBIA GAS TRAN
8230255		3411924894	D	108		J & E FOUNDS #5		5.0	COLUMBIA GAS TRAN
8230256		3411924895	D	108		J & E FOUNDS #6		5.0	COLUMBIA GAS TRAN
8230257		3411924896	D	108		J & E FOUNDS #7		5.0	COLUMBIA GAS TRAN
8230260		3411924906	D	108		J & E FOUNDS #8		5.0	COLUMBIA GAS TRAN
8230259		3411924905	D	108		J & E FOUNDS #9		5.0	COLUMBIA GAS TRAN
8230258		3411924904	D	108		J & E FOUNDS #10		5.0	COLUMBIA GAS TRAN
8230234		3411924737	D	108		J & V MCINTIRE #1		5.0	COLUMBIA GAS TRAN
8230242		3411924780	D	108		R & E PATTEN #1		5.0	COLUMBIA GAS TRAN
8230250		3411924807	D	108		R & E PATTEN #2		0.0	COLUMBIA GAS TRAN
8230247		3411924798	D	108		R & E PATTEN #3		5.0	COLUMBIA GAS TRAN
8230248		3411924803	D	108		R & E PATTEN #4		5.0	COLUMBIA GAS TRAN
8230251		3411924808	D	108		R & E PATTEN #5		5.0	COLUMBIA GAS TRAN
8230249		3411924806	D	108		R & E PATTEN #6		5.0	COLUMBIA GAS TRAN
8230261		3411924913	D	108		R JOHNSON #1		5.0	COLUMBIA GAS TRAN
8230262		3411924914	D	108		R JOHNSON #2		5.0	COLUMBIA GAS TRAN
8230263		3411924915	D	108		R JOHNSON #3		5.0	COLUMBIA GAS TRAN
8230264		3411924916	D	108		R JOHNSON #4		5.0	COLUMBIA GAS TRAN
8230233		3411924736	D	108		W DINGEY #2		5.0	COLUMBIA GAS TRAN
8230241		3411924768	D	108		W DINGEY #3		5.0	COLUMBIA GAS TRAN
8230268		3411924939	D	108		W MILLER #1		5.0	COLUMBIA GAS TRAN
8230267		3411924938	D	108		W MILLER #2		5.0	COLUMBIA GAS TRAN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8230265		3411924917	D	108		W MILLER #3		5.0	COLUMBIA GAS TRAN
8230266		3411924937	D	108		W MILLER #4		5.0	COLUMBIA GAS TRAN
8230295		3411925041	D	108		W MILLER #5		5.0	COLUMBIA GAS TRAN
8230296		3411925042	D	108		W MILLER #6		5.0	COLUMBIA GAS TRAN
8230297		3411925043	D	108		W MILLER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8230265		3411924936	D	108		W MILLER #3		0.0	COLUMBIA GAS TRAN
8230266		3411924937	D	108		W MILLER #4		5.0	COLUMBIA GAS TRAN
8230277		3411924984	D	108		W MILLER #5		5.0	COLUMBIA GAS TRAN
8230189		3411924438	D	108		WODC #1		5.0	COLUMBIA GAS TRAN
8230192		3411924453	D	108		WODC #10		5.0	COLUMBIA GAS TRAN
8230191		3411924451	D	108		WODC #11		5.0	COLUMBIA GAS TRAN
8230201		3411924489	D	108		WODC #12		5.0	COLUMBIA GAS TRAN
8230193		3411924466	D	108		WODC #13		5.0	COLUMBIA GAS TRAN
8230200		3411924474	D	108		WODC #14		5.0	COLUMBIA GAS TRAN
8230199		3411924473	D	108		WODC #15		5.0	COLUMBIA GAS TRAN
8230198		3411924472	D	108		WODC #16		5.0	COLUMBIA GAS TRAN
8230197		3411924470	D	108		WODC #18		5.0	COLUMBIA GAS TRAN
8230196		3411924469	D	108		WODC #19		5.0	COLUMBIA GAS TRAN
8230195		3411924468	D	108		WODC #20		5.0	COLUMBIA GAS TRAN
8230194		3411924467	D	108		WODC #21		5.0	COLUMBIA GAS TRAN
8230202		3411924491	D	108		WODC #22		5.0	COLUMBIA GAS TRAN
8230203		3411924492	D	108		WODC #23		5.0	COLUMBIA GAS TRAN
8230205		3411924494	D	108		WODC #24		5.0	COLUMBIA GAS TRAN
8230204		3411924493	D	108		WODC #25		5.0	COLUMBIA GAS TRAN
8230207		3411924498	D	108		WODC #26		5.0	COLUMBIA GAS TRAN
8230206		3411924495	D	108		WODC #27		5.0	COLUMBIA GAS TRAN
8230208		3411924564	D	108		WODC #28		5.0	COLUMBIA GAS TRAN
8230213		3411924524	D	108		WODC #29		5.0	COLUMBIA GAS TRAN
8230216		3411924527	D	108		WODC #30		5.0	COLUMBIA GAS TRAN
8230215		3411924526	D	108		WODC #31		5.0	COLUMBIA GAS TRAN
8230214		3411924525	D	108		WODC #32		5.0	COLUMBIA GAS TRAN
8230217		3411924528	D	108		WODC #33		5.0	COLUMBIA GAS TRAN
8230218		3411924529	D	108		WODC #34		5.0	COLUMBIA GAS TRAN
8230219		3411924530	D	108		WODC #35		5.0	COLUMBIA GAS TRAN
8230222		3411924581	D	108		WODC #36		5.0	COLUMBIA GAS TRAN
8230223		3411924582	D	108		WODC #37		5.0	COLUMBIA GAS TRAN
8230224		3411924583	D	108		WODC #38		5.0	COLUMBIA GAS TRAN
8230212		3411924518	D	108		WODC #39		5.0	COLUMBIA GAS TRAN
8230211		3411924517	D	108		WODC #40		5.0	COLUMBIA GAS TRAN
8230210		3411924516	D	108		WODC #41		5.0	COLUMBIA GAS TRAN
8230209		3411924515	D	108		WODC #43		5.0	COLUMBIA GAS TRAN
8230221		3411924532	D	108		WODC #44		5.0	COLUMBIA GAS TRAN
8230220		3411924531	D	108		WODC #45		5.0	COLUMBIA GAS TRAN
8230229		3411924641	D	108		WODC #46		5.0	COLUMBIA GAS TRAN
8230228		3411924640	D	108		WODC #47		5.0	COLUMBIA GAS TRAN
8230225		3411924635	D	108		WODC #48		5.0	COLUMBIA GAS TRAN
8230226		3411924636	D	108		WODC #49		5.0	COLUMBIA GAS TRAN
8230227		3411924639	D	108		WODC #50		5.0	COLUMBIA GAS TRAN
8230230		3411924682	D	108		WODC #51		5.0	COLUMBIA GAS TRAN
8230231		3411924686	D	108		WODC #52		5.0	COLUMBIA GAS TRAN
8230232		3411924687	D	108		WODC #53		5.0	COLUMBIA GAS TRAN
8230190		3411924443	D	108		WODC #6		5.0	COLUMBIA GAS TRAN
8230188		3411924437	D	108		WODC #7		5.0	COLUMBIA GAS TRAN
-SANTA FE DRILLING CO INC		RECEIVED: 04/30/82				JA: OH			
8230300		3416724960		103		C M AND BERNICE SMITH #1	SALEM	50.0	
8230296		3416724027		103		GLENN & HELEN FULTON #1	SALEM	50.0	
8230295		3416723973		103		HOMER AND WYONA ANDERSON #2	SALEM	50.0	
8230299		3416724033		103		HOMER AND WYONA ANDERSON #2	SALEM	50.0	

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8230297		3416724028		103		LESLIE & MARY FULTON #2	SALEM	50.0	
8230298		3416724029		103		LESLIE AND MARY FULTON #1	SALEM	50.0	
-STOCKER&SITLER INC				RECEIVED:	04/30/82	JA: OH			
8230306		3411122109		107-DV		BAUER UNIT #1	WOODSFIELD	6.6	
8230305		3411122101		107-DV		BUTLER UNIT #1	WOODSFIELD	0.1	
8230311		3411122177		107-DV		DYE UNIT #2	HANIBAL	5.1	
8230309		3411122150		107-DV		RUFENER UNIT #2	WOODSFIELD	15.3	
8230310		3411122176		107-DV		RUFENER UNIT #4	HANNIBAL	42.0	
8230308		3411122139		107-DV		STALDER #1 (INDERMUHLE UNIT)	WOODSFIELD	22.2	
8230307		3411122116		107-DV		STARKEY UNIT #1	WOODSFIELD	0.1	
8230304		3411122100		107-DV		WINKLER UNIT #1	WOODSFIELD	7.8	
-STRATA CORP				RECEIVED:	04/30/82	JA: OH			
8230312		3412724098		107-TF		C BROWN #1	BEARFIELD	20.0	COLUMBIA GAS TRAN
-TEMPLETON ENERGY INC				RECEIVED:	04/30/82	JA: OH			
8230315		3404520752		103		CHARLES T & MARY K PALMER #1	RUSHVILLE	10.0	
8230316		3404520755		103		CONSTANCE A SIMS & MARGARET SIMS #1	RUSHVILLE	10.0	
8230314		3404520744		103		HOWARD B ROWLES #1	PLEASANT	10.0	
8230313		3404520736		103		PAUL & FLORENCE PETERS #2	RICHLAND	10.0	
8230318		3404520760		103		PAUL & FLORENCE PETERS #3	RUSHVILLE	10.0	
8230317		3404520756		103		THOMAS M & LAVERNA J ANSEL #1	BALTIMORE	10.0	
-TIGER OIL INC				RECEIVED:	04/30/82	JA: OH			
8230324		3412724750	D	107-DV		ABRAMS-BAILEY #1	PIKE	1.0	COLUMBIA GAS TRAN
8230326		3416726332	D	107-DV		ALMA SCHNEIDER #1	INDEPENDENCE	0.0	COLUMBIA GAS TRAN
8230325		3412725325	D	107-TF		FRANCES NOLL #1	READING	5.0	COLUMBIA GAS TRAN
8230321		3412122682		107-DV		GEORGE K STOFFEL #1	ELK	0.0	COLUMBIA GAS TRAN
8230322		3412122683		107-DV		GEORGE STOFFEL #2	ELK	0.0	COLUMBIA GAS TRAN
8230319		3412122177		107-TF		LEE CROCK #3	CENTER	20.0	EAST OHIO GAS CO
8230320		3412122681		107-DV		RAY BAKER #2	ELK	0.0	COLUMBIA GAS TRAN
8230323		3412122685		107-DV		ROY A STEPHENS #1	ELK	0.0	COLUMBIA GAS TRAN
-VIKING RESOURCES CORP				RECEIVED:	04/30/82	JA: OH			
8230327		3401320431		107-DV		DON HAGEN #1	WAYNE	30.0	
8230329		3401320433		107-DV		WM JAY FARSON #1	WAYNE	30.0	
8230328		3401320432		107-DV		WM TRUEX #1	WAYNE	30.0	
-WILLIAM F HILL				RECEIVED:	04/30/82	JA: OH			
8230154		3407523673		103		CLAUDE SAGE #1	KNOX	8.0	

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14938 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-C

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: May 24, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
FLORIDA DEPARTMENT OF NATURAL RESOURCES									
-EXXON CORPORATION				RECEIVED:	05/05/82	JA: FL			
8230413		0911320196	107	DP		JOHN W CANNON #40-1C	JAY/LEC	650.0	FLORIDA GAS TRANS
MONTANA BOARD OF OIL & GAS CONSERVATION									
-SOUTHLAND ROYALTY CO				RECEIVED:	05/03/82	JA: MT			
8230421	5-81-79	2516521178	103			FISHER 3235 #1	BOWDOIN-SWANSON CREEK	35.0	MONTANA DAKOTA UT
8230425	5-81-78	2510521179	103			STATE 1625 #1	BOWDOIN-SWANSON CREEK	42.7	MONTANA DAKOTA UT
-TRICENTROL UNITED STATES INC				RECEIVED:	05/03/82	JA: MT			
8230423	5-81-82	2501521521	103			PHILLIPS 4-4-T26N-R17E	SHERARD AREA - WILDCA	50.0	NORTHERN NATURAL
8230422	5-81-80	2504121983	108			SOLOMON 27-10-T31N-R16E	TIGER RIDGE FIELD-BUL	18.0	NORTHERN NATURAL
8230424	5-81-83	2500521877	108			STATE 5-16-T26N-R19E	SHERARD UNIT	11.0	NORTHERN NATURAL
NORTH DAKOTA INDUSTRIAL COMMISSION									
-BELCO PETROLEUM CORPORATION				RECEIVED:	05/03/82	JA: ND			
8230420	501	3305300983	102-4			SHEEP CREEK 16-25	SHEEP CREEK	0.0	KOCH OIL CO
-NUCORP ENERGY INC				RECEIVED:	05/03/82	JA: ND			
8230418	499	3300700707	103			FEDERAL #32-2	ELKHORN RANCH	67.0	KOCH HYDROCARBON
8230417	498	3310500909	102-4			ROBERT RIEDER #1	MISSOURI RIDGE	30.0	PHILLIPS PETROLEU
8230416	497	3310500935	102-4			ROBERT RIEDER #2	MISSOURI RIDGE	64.0	PHILLIPS PETROLEU
-TENNECO OIL COMPANY				RECEIVED:	05/03/82	JA: ND			
8230419	500	3300700542	102-2			ODERMAN 3-26	BIG STICK	14.6	WESTERN GAS PROCE
OHIO DEPARTMENT OF NATURAL RESOURCES									
-K S T OIL & GAS CO INC				RECEIVED:	05/04/82	JA: OH			
8230415		3415320747	103	107-TF		POWELL-HELLER #2	HUDSON	0.0	LIBBY OWENS FORD
OKLAHOMA CORPORATION COMMISSION									
-AMCANA OIL CORP				RECEIVED:	04/30/82	JA: OK			
8230341	13926	3500320831	103			MITCHELL 1-11	SOUTH CARMEN	75.0	PANHANDLE EASTERN
-AMSTAR OIL INC				RECEIVED:	04/30/82	JA: OK			
8230488	13843	3508120993	103			SWISHER #1		37.5	POLL GAS INC
-APACHE CORPORATION				RECEIVED:	04/30/82	JA: OK			
8230393	16967	3512920357	102-2			THOMPSON 1-12		73.0	EL PASO NATURAL G
-BEARD OIL COMPANY				RECEIVED:	04/30/82	JA: OK			
8230382	13932	3510929286	103			CARLISLE #1	CHOCTAW	35.0	OKLAHOMA NATURAL
8230379	13909	3510920315	103			CHOCTAW #2	CHOCTAW	70.0	OKLAHOMA NATURAL
8230383	13958	3510920478	103			CRUME #1	CHOCTAW	300.0	OKLAHOMA NATURAL

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8230381	13931	3510920465		103		SEPHUS #1	CHOCTAW	5.0	OKLAHOMA NATURAL
8230380	13921	3507323043		103		TODD #1	DOVER-EAST	70.0	PANHANDLE EASTERN
-BENTLEY & LAING				RECEIVED:	04/30/82	JA: OK			
8230402	13848	3510321383		103		WILL #1	WEST PERRY	109.5	AMINOIL USA INC
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	04/30/82	JA: OK			
8230373	13097	3509321925		103		A P OTTINGER #2	E CHANDEY DELL	28.0	CHAMPLIN PETROLEU
8230406	12394	3504700000		108		H WEURFLEIN #1	LAHOMA SOUTHEAST	4.0	OKLAHOMA GAS & EL
-ENERGY SERVICES INC				RECEIVED:	04/30/82	JA: OK			
8230351	16732	3504321289		102-4		REDMAN #36-1	WEST CANTON - 81	67.0	DELMI GAS PIPELIN
-F C D OIL CORP				RECEIVED:	04/30/82	JA: OK			
8230344	13914	3505320773		103		LAMONT 1-34	EAST LAMONT	58.8	CRA INC
-FALCON PETROLEUM COMPANY				RECEIVED:	04/30/82	JA: OK			
8230352	16586	3500722287		102-4		J L MITCHELL #2 007-72602	DOMBEY	127.7	PANHANDLE EASTERN
-G. W. SULLIVANT				RECEIVED:	04/30/82	JA: OK			
8230342	13926	3508320923		103		ANDY #1	NORTH HULL	837.2	EASON OIL CO
-GRACE PETROLEUM CORPORATION				RECEIVED:	04/30/82	JA: OK			
8230384	16574	3512920627		102-2	103	PYATT 1-16	INDIAN GULCH	0.0	
-GULF OIL CORPORATION				RECEIVED:	04/30/82	JA: OK			
8230388	13913	3501321459		103		MARSHALL CHARLES #1-8	COOPER	54.0	
8230486	12246	3506320553		102-4		MCDONALD /A/ #1	WEST GERTY	16.0	ARKANSAS LOUISIAN
-HADSON PETROLEUM CORP				RECEIVED:	04/30/82	JA: OK			
8230349	18096	3503120740		107-DP		HOOPER 1-17	EAST APACHE	1500.0	EL PASO NATURAL G
8230386	16964	3506120513		102-2		KERR LOCK & DAM #1	KINTA	365.0	ARKANSAS LOUISIAN
-HARMONY INDUSTRY				RECEIVED:	04/30/82	JA: OK			
8230374	16698	3510700000		108		SHIRA #1 O T C #107-469260	NORTH DUSTIN	5.6	
8230375	16699	3510700000		108		TERRELL #1 OTC 107 45355 O	NORTH DUSTIN	2.2	TRANSOK PIPE LINE
-HARPER OIL COMPANY				RECEIVED:	04/30/82	JA: OK			
8230364	13972	3508321770		103		GORDON #1	WEST ORLANDO	0.0	EASON OIL CO
-HENRY H GUNGOLL ASSOCIATES				RECEIVED:	04/30/82	JA: OK			
8230363	13863	3504720748		103		DEBRA 1-10	SOONER TREND	109.0	
-HOLD OIL CORP				RECEIVED:	04/30/82	JA: OK			
8230395	16903	3512120793		102-2		HOLD OIL CORP LIDA TATE #1	WIRTH	300.0	ARKANSAS LOUISIAN
-INDIAN WELLS OIL CO				RECEIVED:	04/30/82	JA: OK			
8230347	16670	3505300000		102-4		BRAMLETT 19-3	SOUTHWEST RENFROW	100.0	CRA INC
8230348	16669	3505320718		102-4		BRAMLETT 19-4	SOUTHWEST RENFROW	100.0	CRA INC
-J W ALBRITTON				RECEIVED:	04/30/82	JA: OK			
8230353	13972	3512320794		103		EONA KING #6	WEST ALLEN	55.0	ARKLA GAS CO
-JONES & PELLOW OIL CO				RECEIVED:	04/30/82	JA: OK			
8230368	13851	3505920786		103		BRAUN 11-1		24.0	NORTHERN NATURAL
-M P & R PRODUCTION CO				RECEIVED:	04/30/82	JA: OK			
8230359	13968	3510522259		103		LITTLE #1	S E LENAPAH - SE/4 SE	36.0	CITIES SERVICE GA
8230358	13967	3510522444		103		LITTLE #2	S E LENAPAH - SE/4 NW	36.0	CITIES SERVICE GA
8230355	13971	3510521767		103		STIMSON #1	S E LENAPAH - SW/4 NE	36.0	CITIES SERVICE GA
8230356	13970	3510521581		103		WELLER #2	S E LENAPAH - NW/4 NE	36.0	CITIES SERVICE GA
8230357	13969	3510521771		103		WELLER #3	S E LENAPAH - NW/4 SE	36.0	CITIES SERVICE GA
-MACKELLAR INC				RECEIVED:	04/30/82	JA: OK			
8230404	13884	3507322907		103		ALFRED #2	SOONER TREND	0.0	CITIES SERVICE GA
8230387	13885	3515320844		103		FREESE #2A	EAST GREEN VALLEY	0.0	ARCO OIL & GAS CO
-MAHAN-ROWSEY INC.				RECEIVED:	04/30/82	JA: OK			
8230366	13855	3502720505		103		MCLAUGHLIN #1	S W MOORE	657.0	SUN GAS CO
-MIDWEST ENTERPRISES INC				RECEIVED:	04/30/82	JA: OK			
8230345	13912	3518370706		103		RISING-HIRZEL #1	SOONER TREND	72.0	CONOCO INC
-MILLER & STANLEY OPERATING CO				RECEIVED:	04/30/82	JA: OK			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8230367	13854	3500920430		103		WESTER #1	SOUTH ERICK	150.0	EL PASO NATURAL G
-ONG EXPLORATION INC				RECEIVED:	04/30/82	JA: OK			
8230338	13955	3504722647		103		BILL BENNETT #2		150.0	ARCO OIL & GAS CO
8230337	13977	3504722648		103		BILL BENNETT #3	EAST MARSHALL	150.0	ARCO OIL & GAS CO
8230340	13935	3504722593		103		BUZZ BENNETT #2	N E MARSHALL	150.0	ARCO OIL & GAS CO
8230339	13954	3504722560		103		MURPHY #2	NORTHEAST MARSHALL	150.0	ARCO OIL & GAS CO
-P-T LTD 80				RECEIVED:	04/30/82	JA: OK			
8230365	13856	3504722600		103		ZELNICEK 20-1	SOONER TREND	35.0	WELLHEAD ENTERPRI
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	04/30/82	JA: OK			
8230391	13951	3513700000		108		DOYLE #1-2	DOYLE	4.0	AMINOIL USA INC
8230372	12085	3500722096		103		KNOWLES #3	S E COMO (TONKAWA)	0.0	EL PASO NATURAL G
8230396	12372	3513900000		108		MCDANIELS A #1	GUYMON HUGOTON	0.0	MICHIGAN WISCONSI
-R CLARK TAYLOR EXPLORATION INC				RECEIVED:	04/30/82	JA: OK			
8230398	13834	3508300000		103		G H #11-A	MULHALL	3.6	EASON OIL CO
-RICHARD WHEELER JR				RECEIVED:	04/30/82	JA: OK			
8230408	10523	3508321239		103		CAROLYNN #1	N W MULHALL	30.0	EASON OIL CO
8230409	10522	3508321232		103		HARRIET #1	ELKHORN	16.0	EASON OIL CO
8230410	10521	3508321105		103		LATTIMORE	CRESCENT	70.0	EASON OIL CO
8230407	11928	3508321651		103		LATTIMORE #3	NORTH CRESCENT	20.0	EASON OIL CO
8230371	12689	3508320902		103		WILSON	WEST LAWRIE	86.0	EASON OIL CO
-RICKS EXPLORATION CO				RECEIVED:	04/30/82	JA: OK			
8230378	13880	3504520927		103		JIMMIE 35A	N E GAGE	144.0	PANHANDLE EASTERN
8230370	13780	3507323012		103		MAJOR 16B	ALTONA	945.0	OKLAHOMA GAS & EL
-ROBERT GORDON OIL CO				RECEIVED:	04/30/82	JA: OK			
8230346	13910	3508100000		103		SOWARDS 1-A #081 70454	DAVENPORT	0.0	MERIDIAN ENERGY I
-SAKET PETROLEUM CORP				RECEIVED:	04/30/82	JA: OK			
8230397	13778	3511122499		103		BUCHANAN #1		0.0	PHILLIPS PETROLEU
-SOUTHLAND ROYALTY CO				RECEIVED:	04/30/82	JA: OK			
8230399	13837	3509321521		108-ER		REAY 1-18	N E SEILING	30.0	MICHIGAN WISCONSI
-SOUTHPORT EXPLORATION INC				RECEIVED:	04/30/82	JA: OK			
8230390	13940	3515321011		108		HEPNER NO 1-14	S FREEDOM	10.0	MICHIGAN WISCONSI
-STEPHENS PRODUCTION COMPANY				RECEIVED:	04/30/82	JA: OK			
8230392	16553	3502920285		102-2		WARREN JONES #1-29	CENTRAHOMA	350.0	EL PASO NATURAL G
-STEVE JERNIGAN INC				RECEIVED:	04/30/82	JA: OK			
8230394	16971	3501722539		162-2		WHITLEY #1-17	CONCHO	0.0	PHILLIPS PETROLEU
-TENNECO OIL COMPANY				RECEIVED:	04/30/82	JA: OK			
8230361	13963	3510321227		103		GOLDSBERRY #1-18	PERRY DISTRICT	25.0	ARCO OIL & GAS CO
8230360	13964	3510321226		103		GOLDSBERRY #2-18	PERRY DISTRICT	41.0	ARCO OIL & GAS CO
-TEXAS OIL & GAS CORP				RECEIVED:	04/30/82	JA: OK			
8230389	13904	3500700000		108		BARBY #2	MOCANE	16.0	NORTHERN NATURAL
-TEXOMA RESOURCES INC				RECEIVED:	04/30/82	JA: OK			
8230369	13824	3507323218		103		GARRETT-#1-24	BOONER TREND	60.0	CONOCO INC
-THE MIL-MC OIL CORP				RECEIVED:	04/30/82	JA: OK			
8230376	16902	3513721999		102-4		WILSON #5-A (103-2)	COMANCHE	219.6	
-TRANS-WESTERN EXPLORATION INC				RECEIVED:	04/30/82	JA: OK			
8230362	13961	3504321270		103		WILLIS #5-9	NORTH OAKWOOD	15.0	PHILLIPS PETROLEU
-UNIVERSAL RESOURCES CORPORATION				RECEIVED:	04/30/82	JA: OK			
8230385	13867	3509322251		103		ARTHUR 1-32		0.0	DELHI GAS PIPELIN
8230377	13866	3509322258		103		DAVID 1-24		0.0	DELHI GAS PIPELIN
-WAGNER & BROWN				RECEIVED:	04/30/82	JA: OK			
8230343	13915	3512920551		103		MALES #1	CRAWFORD (TONKAWA) N	189.0	DELHI GAS PIPELIN
-WAYMAN M BUCHANAN				RECEIVED:	04/30/82	JA: OK			
8230364	13861	3504700000		103		WILBUR FORD #1	CARRIER	365.0	PANHANDLE EASTERN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-WHITMAR EXPLORATION CO				RECEIVED: 04/30/82 JA: OK					
8230350	16753	3506120402		102-2		ARKANSAS KRAFT #1-10	SOUTH MCCURTAIN	0.0	ARKANSAS LOUISIAN
-WILLIAM MOSS PROPERTIES INC				RECEIVED: 04/30/82 JA: OK					
8230401	13845	3507323122		103		MERCER #20-1	SOONER TREND	73.0	CITIES SERVICE GA
-WOODS PETROLEUM CORP				RECEIVED: 04/30/82 JA: OK					
8230403	13849	3504921574		103		MCDANIEL #15-3	E ANTOICH	234.0	BUCKEYE NATURAL G
**********									
WEST VIRGINIA DEPARTMENT OF MINES									
**********									
-BEREA OIL AND GAS CORPORATION				RECEIVED: 04/30/82 JA: WV					
*8230412		4708121382		102-3		FOSTER SHOMO #1	VALLEY	22.5	CONSOLIDATED GAS
-BRAXTON OIL AND GAS CORP				RECEIVED: 05/04/82 JA: WV					
8230414		4708300477		103		PREISSE #2	ELLAMORE	50.0	COLUMBIA GAS TRAN
-CABOT OIL & GAS CORP				RECEIVED: 05/04/82 JA: WV					
8230444		4707900702		108		BLACK BETSY 12-1549	POCATALICO	10.3	TENNESSEE GAS PIP
8230441		4703903441		108		CANNELTON 14-1470	CABIN CREEK	18.0	TENNESSEE GAS PIP
8230443		4706700454		108		HILL & LONG 1-411	JEFFERSON	13.4	TENNESSEE GAS PIP
8230439		4703900137		108		HUNTINGTON 47-800	CABIN CREEK	4.5	TENNESSEE GAS PIP
8230440		4703900159		108		HUNTINGTON 51-820	CABIN CREEK	10.8	TENNESSEE GAS PIP
8230433		4704500467		108		LAWSON HEIRS "B" 1-1179	CHAPMANVILLE	13.4	TENNESSEE GAS PIP
8230434		4704500994		108		LAWSON HEIRS "B" 6-1184	CHAPMANVILLE	7.2	TENNESSEE GAS PIP
8230446		4710900093		108		N E SHIELDS 1-1185	BAILEYSVILLE	20.8	TENNESSEE GAS PIP
8230432		4700500371		108		PEYTONA COAL LAND 31-474	SHERMAN	16.0	TENNESSEE GAS PIP
8230445		4708100111		108		POCAHONTAS 21-1266	SLAB FORK	12.7	TENNESSEE GAS PIP
8230447		4710900677		108		RED ASH POCAHONTAS 2-1573	HUFF CREEK	16.6	TENNESSEE GAS PIP
8230442		4704700362		108		TUG FORK 5-1585	SANDY RIVER	16.7	TENNESSEE GAS PIP
8230438		4701500761		108		WEBSTER-HARDWOOD 1-1544	PLEASANTS	1.5	TENNESSEE GAS PIP
8230435		4709900598		108		WILSON COAL LAND 50-782	LINCOLN	21.5	TENNESSEE GAS PIP
8230436		4709901490		108		WILSON COAL LAND 87-1196	LINCOLN	20.3	TENNESSEE GAS PIP
-CARSON PETROLEUM CORP				RECEIVED: 05/04/82 JA: WV					
8230431		4702103550		108		FIDDLER #3	ELLIS RUN	25.0	CONSOLIDATED GAS
8230429		4700701407		108		RUSH #3	ROAD RUN	30.0	EQUITABLE GAS CO
8230430		4702103431		108		SHACKLEFORD #1-A	RIGHT FORK OF BIG ELL	0.0	CARNEGIE NATURAL
-CHASE PETROLEUM				RECEIVED: 05/04/82 JA: WV					
8230428		4708505044		107-DV		MIRACLE #2	UNION DISTRICT	39.0	
-J & J ENTERPRISES INC				RECEIVED: 05/04/82 JA: WV					
8230427		4701726750		107-DV		J-262	CENTRAL	0.0	COLUMBIA GAS TRAN
8230426		4701722583		107-DV		J-73 (K-8-#1 DOD-2583	CENTRAL	0.0	COLUMBIA GAS TRAN
-J C BAKER & SONS INC				RECEIVED: 05/04/82 JA: WV					
8230437		4700700312		108		STALNAKER	SALT LICK	1.0	CONSOLIDATED GAS
-L & M PETROLEUM INC				RECEIVED: 05/04/82 JA: WV					
8230450		4707320802		108		DAVIS/WAGNER #1	UNION	10.0	COLUMBIA GAS TRAN
-RESERVE OIL INC				RECEIVED: 04/19/82 JA: WV					
8230411	80-2351	4702102287		108		GARRETT #1	GLENVILLE SOUTH	9.0	CONSOLIDATED GAS
-RUSSELL V JOHNSON JR				RECEIVED: 05/04/82 JA: WV					
8230449		4708504752		108		E V COOKRO #1-N	MURPHY DISTRICT	16.0	CONSOLIDATED GAS
8230448		4708504751		108		E V COOKRO #1-S	MURPHY DISTRICT	6.5	CONSOLIDATED GAS

OTHER PURCHASERS VOLUME NO :654

8230412 BROOKLYN UNION GAS CO

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14699 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-C

[FR Doc. 82-14839 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-C

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: May 25, 1982.

JD/FD	JA DET	API NO	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION								
-ADOBE OIL & GAS CORPORATION			RECEIVED: 05/06/82		JA: TX			
8230713	F-78-050080	42[illegible]332292	102-4		E RANSON #1	HOWARDS CREEK MORRIS S	30.0	EL PASO NATURAL G
-ANNEX PETROLEUM INC			RECEIVED: 05/06/82		JA: TX			
8230558	F-03-047246	4214931247	102-2	103	SIDONIA #1	GIDDINGS (AUSTIN CHAL	396.0	CLAJON GAS CO
-AMOCO PRODUCTION CO			RECEIVED: 05/06/82		JA: TX			
8230705	F-7C-050063	4213730127	108		C O WHITWORTH #2	SAWYER (CANYON)	6.5	LONE STAR GAS CO
8230702	F-7C-050059	4243532543	108		EDWIN S MAYER JR "C" #7	SAWYER (CANYON)	20.0	LONE STAR GAS CO
8230703	F-7C-050060	4243532096	108		EDWIN S MAYER JR "D" #12	WHITEHEAD (STRAWN)	9.2	LONE STAR GAS CO
8230704	F-7C-050061	4243531209	108		STANLEY B MAYFIELD #1	SAWYER (CANYON)	7.3	LONE STAR GAS CO
8230586	F-35-048223	4216103649	102-4	107-TF	T E SMITH GAS UNIT #1	CHENEYBORO SW/9585/	456.0	LONE STAR GAS CO
8230706	F-08-050064	4222731964	103		TEXAS LAND & MTG CO "A" R/A "A" #99	IATAN EAST HOWARD	0.4	GETTY OIL CO
-ANADARKO PRODUCTION COMPANY			RECEIVED: 05/06/82		JA: TX			
8230577	F-10-047865	4223300000	108		JOHNSON #1	WEST PANHANDLE	1.5	PHILLIPS PETROLEU
-APEX PETROLEUM INC			RECEIVED: 05/06/82		JA: TX			
8230629	F-78-049496	420[illegible]332712	103		MCFARLAND #2	SANTA ANNA E (MARBLE	29.0	LONE STAR GAS CO
8230630	F-78-049497	420[illegible]332713	103		MCFARLAND #3	SANTA ANNA E (MARBLE	18.0	LONE STAR GAS CO
-ARAPAHO PETROLEUM INCORPORATED			RECEIVED: 05/06/82		JA: TX			
8230734	F-78-050173	4242900000	108		M O KENNEDY #1	STEPHENS COUNTY REGUL	13.0	BRECKENRIDGE GASO
8230735	F-78-050174	4242900000	108		WM BLACK #2A	STEPHENS COUNTY REGUL	14.0	BRECKENRIDGE GASO
-ARCO OIL AND GAS COMPANY			RECEIVED: 05/06/82		JA: TX			
8230496	F-06-048054	4236531087	102-2	107-TF	A C SOAPE GAS UNIT #3	CARTHAGE (COTTON VALL	200.0	SOUTHERN NATURAL
8230695	F-8A-050034	4210730528	103		GUY PRICE TR A #2	FORBES (GLORIETA)	273.7	
8230694	F-8A-050033	4210730609	103		GUY PRICE TR A #3	FORBES (GLORIETA)	127.7	
8230696	F-8A-050035	4210730631	103		GUY PRICE TR A #4	FORBES (GLORIETA)	146.0	
8230697	F-8A-050036	4210730632	103		GUY PRICE TR A #5	FORBES (GLORIETA)	127.7	
8230568	F-34-047621	4221530893	108		J R ALAMIA #1	SAN SALVADOR	15.0	TENNESSEE GAS PIP
-BAR M PETROLEUM CO INC			RECEIVED: 05/06/82		JA: TX			
8230584	F-03-048210	4228730930	103		HARRELL #1	GIDDINGS (AUSTIN CHAL	62.0	PERRY PIPELINE CA
-BEAL OPERATING			RECEIVED: 05/06/82		JA: TX			
8230710	F-7E-050070	4208332688	102-4		CARL STOUP #5 (097825)	STOUP (CAMP COLORADO)	9.0	ODESSA NATURAL CO
8230709	F-7E-050069	4208332739	102-4		CARL STOUP #6 (097826)	STOUP (CAMP COLORADO)	11.0	ODESSA NATURAL CO
-BEN HOGAN			RECEIVED: 05/06/82		JA: TX			
8230731	F-78-050158	4209330877	103		WENDELL POUNDS #7 (15572)	MITTIE (MARBLE FALLS)	6.0	SOUTHWESTERN GAS
-BLUE JAY EXPLORATION CO			RECEIVED: 05/06/82		JA: TX			
8230582	F-7C-048123	4246900000	102-4		SCHNEIDER-BRANDT UNIT #1	COLOGNE (3530)	160.0	
-BLUESKY OIL & GAS INC			RECEIVED: 05/06/82		JA: TX			
8230546	F-03-046347	4205131535	102-2		SUPAK UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
-BORDER EXPLORATION CO			RECEIVED: 05/06/82		JA: TX			
8230553	F-34-047033	4221551191	103		YTURRIA #1	JEFFERS W	985.0	VALERO TRANSMISSI
-BRIDWELL OIL CO			RECEIVED: 05/06/82		JA: TX			
8230486	F-78-038417	4242100000	103		IMA HIGGINS #1 (78128)	EUREKA (CADDO)	5.0	LONE STAR GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-BTA OIL PRODUCERS				RECEIVED:	05/06/82	JA: TX
8230625	F-8A-049423	4211531411		103		NAPPER #1
-C & K PETROLEUM INC				RECEIVED:	05/06/82	JA: TX
8230583	F-08-048152	4237133166		107-TF		SPECTRUM "7" GREENWOOD 1
-CARTER EXPLORATION CO				RECEIVED:	05/06/82	JA: TX
8230604	F-02-048930	4223931706		102-4	103	L R DRUSHEL #1
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	05/06/82	JA: TX
8230518	F-06-042409	4236500000		103	107-TF	CARTHAGE GAS UNIT 24 #4
8230471	F-04-037253	4235531765		102-4	103	CHAPMAN RANCH #3111
8230647	F-38-049792	4243131054		102-2		I W TERRY #14
8230552	F-08-046943	4243100000		102-2	103	J E WATSON "A" #2
*8230597	F-04-041654	4235531831		102-4	103	J W DRYDEN #7-U
*8230603	F-04-048914	4235531431		102-4		MRS EVA M JONES #2-L
-CHARLES M CHILDERS				RECEIVED:	05/06/82	JA: TX
8230633	F-7C-049631	4239932088		102-4		BRYAN #1
-CHEVRON U S A INC				RECEIVED:	05/06/82	JA: TX
8230749	F-08-050215	4200332985		103		COLUMBUS GRAY 21-24
8230751	F-08-050218	4222732577		103		G M DODGE #61
8230750	F-8A-050216	4241532116		103		SACROC UNIT #57-6
8230752	F-08-050219	4249531427		103		W E BAIRD NO 19-53E
8230725	F-08-050123	4249531309		103		W E BAIRD 18-68C
-CLARK FUEL PRODUCING CO				RECEIVED:	05/06/82	JA: TX
8230730	F-04-050136	4271500500		108		WOOD CONAN T #1 ID 038568
-CLAYTON OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230482	F-78-038133	4236731183		103		#81817
-CLAYTON W WILLIAMS JR				RECEIVED:	05/06/82	JA: TX
8230458	F-08-032070	4230100000		107-DP		GATAGA GAS UNIT #6
-CONOCO INC				RECEIVED:	05/06/82	JA: TX
8230662	F-78-049978	4243331399		103		GUEST CANYON SAND UT #49 ID #10855
-CORDOVA RESOURCES INC				RECEIVED:	05/06/82	JA: TX
8230531	F-78-042962	4213300000		103	108	WEBB #2
-CORPENING ENTERPRISES				RECEIVED:	05/06/82	JA: TX
8230547	F-78-046403	4236700000		108		LITTLE #1
-CORPUS CHRISTI OIL AND GAS CO				RECEIVED:	05/06/82	JA: TX
8230659	F-04-049967	4224731114		102-4		HOLBEIN #1
8230661	F-04-049969	4224731284		102-4		HOLBEIN #4
8230660	F-04-049968	4224731303		102-4		HOLBEIN #5-C
-D L DORLAND				RECEIVED:	05/06/82	JA: TX
8230591	F-08-048468	4222700000		103		EDWARDS "GH" #3 26958
8230590	F-08-048467	4222700000		103		M H O'DANIEL EST #1 26725
-DALTON M COBB				RECEIVED:	05/06/82	JA: TX
8230469	F-78-035466	4230130200		102-4		WOLF #1 #03143
-DAMSON OIL CORPORATION				RECEIVED:	05/06/82	JA: TX
8230519	F-02-042431	4202531396		102-4		RIGGLE-WENDTLAND #2
-DELTA OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230650	F-78-049938	4242900000		103		A R KNIGHT "B" #5 RRC #92552
8230655	F-78-049950	4242900000		108		R N RICHARDSON #2U RRC #70414
8230656	F-78-049953	4242900000		108		R N RICHARDSON RRC #70413
-DERRICK OIL & GAS INC				RECEIVED:	05/06/82	JA: TX
8230712	F-03-050079	4203900000		102-4		TIGNER-BINGHAM #2
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	05/06/82	JA: TX
8230484	F-10-038336	4229530948		103		OLA PIPER #B-720
8230569	F-10-047665	4229531086		103		VALENTINE SCHOENHALS "C" 510 #2

FIELD NAME	PROD	PURCHASER
WELCH S E (SPRABERRY)	5.5	PHILLIPS PETROLEU
GOMEZ (WOLFCAMP)	125.0	
CARMICHAEL (4310)	110.0	DELHI GAS PIPELIN
CARTHAGE (COTTON VALL	0.0	TENNESSEE GAS PIP
CHAPMAN RANCH (F-55)	6.2	TEXAS EASTERN TRA
CONGER SW (PENN)	180.3	NORTHERN NATURAL
CONGER SW (PENN)	60.0	NORTHERN NATURAL
STRATTON (F-31 RES 11	1277.5	TENNESSEE GAS PIP
STRATTON (G-21 RES 4)	164.0	TENNESSEE GAS PIP
CAROLYN (ELLEN)	333.0	UNION TEXAS PETRO
FUHRMAN-MASCHO	58.0	PHILLIPS PETROLEU
IATAN EAST (HOWARD)	16.0	GETTY OIL CO
KELLY-SNYDER	37.0	EL PASO NATURAL G
KERMIT (ELLENBURGER)	105.0	TRANSWESTERN PIPE
KEYSTONE (CLEARFORK)	128.0	TRANSWESTERN PIPE
SAM FORDYCE	18.0	VALERO INTERSTATE
PEASTER (BIG SALINE)	20.0	SOUTHWESTERN GAS
VERMEJO (FUSSELMAN)	0.0	
GUEST (CANYON SAND)	6.2	CITIES SERVICE CO
EASTLAND COUNTY REGUL	0.4	ODESSA NATURAL CO
TOTO (CADDO CONGLOMER	21.0	TEXAS UTILITIES F
LOS CUATES RANCH (YEG	0.0	VALERO INTERSTATE
LOS CUATES RANCH (670	0.0	VALERO INTERSTATE
LOS CUATES RANCH (656	0.0	VALERO INTERSTATE
DORLAND (FUSSELMAN)	24.0	GETTY OIL CO
DORLAND (FUSSELMAN)	24.0	GETTY OIL CO
WOLF (WOLFCAMP)	110.0	INTRATEX GAS CO
RIGGLE-WENDTLAND (160	500.0	VALERO TRANSMISSI
STEPHENS COUNTY REGUL	0.0	WARREN PETROLEUM
STEPHENS COUNTY REGUL	1.3	LONE STAR GAS CO
ROGERS RANCH (CONGL)	1.8	LONE STAR GAS CO
JULIFF	125.0	HOUSTON PIPE LINE
BRADFORD	0.0	TRANSWESTERN PIPE
LIPSCOMB SW	268.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	05/06/82	JA: TX
8230570	F-10-047666	4229531087		103		VALENTINE SCHOENHALS "C" 510 #3
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230654	F-78-049949	4242900000		108		R N RICHARDSON #2T RRC #70415
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230653	F-78-049948	4242900000		108		R N RICHARDSON #2V RRC #70416
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230652	F-78-049947	4242900000		108		R N RICHARDSON #2W RRC #70417
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230651	F-78-049946	4242900000		108		R N RICHARDSON #2X RRC #70418
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230657	F-78-049954	4242900000		108		R N RICHARDSON RRC #70419
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230658	F-78-049955	4242900000		108		R N RICHARDSON RRC #70420
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230648	F-78-049944	4242900000		108		R N RICHARDSON RRC #70421
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230649	F-78-049945	4242900000		108		R N RICHARDSON RRC #70422
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230646	F-78-049943	4242900000		108		R N RICHARDSON RRC #70423
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230645	F-78-049942	4242900000		108		R N RICHARDSON RRC #70424
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230644	F-78-049941	4242900000		108		R N RICHARDSON RRC #70425
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230643	F-78-049940	4242900000		108		R N RICHARDSON RRC #70426
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230642	F-78-049939	4242900000		108		R N RICHARDSON RRC #70427
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230641	F-78-049937	4242900000		108		R N RICHARDSON RRC #70428
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230640	F-78-049936	4242900000		108		R N RICHARDSON RRC #70429
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230639	F-78-049935	4242900000		108		R N RICHARDSON RRC #70430
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230638	F-78-049934	4242900000		108		R N RICHARDSON RRC #70431
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230637	F-78-049933	4242900000		108		R N RICHARDSON RRC #70432
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230636	F-78-049932	4242900000		108		R N RICHARDSON RRC #70433
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230635	F-78-049931	4242900000		108		R N RICHARDSON RRC #70434
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230634	F-78-049930	4242900000		108		R N RICHARDSON RRC #70435
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230632	F-78-049929	4242900000		108		R N RICHARDSON RRC #70436
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230631	F-78-049928	4242900000		108		R N RICHARDSON RRC #70437
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230630	F-78-049927	4242900000		108		R N RICHARDSON RRC #70438
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230629	F-78-049926	4242900000		108		R N RICHARDSON RRC #70439
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230628	F-78-049925	4242900000		108		R N RICHARDSON RRC #70440
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230627	F-78-049924	4242900000		108		R N RICHARDSON RRC #70441
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230626	F-78-049923	4242900000		108		R N RICHARDSON RRC #70442
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230624	F-78-049922	4242900000		108		R N RICHARDSON RRC #70443
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230623	F-78-049921	4242900000		108		R N RICHARDSON RRC #70444
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230622	F-78-049920	4242900000		108		R N RICHARDSON RRC #70445
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230621	F-78-049919	4242900000		108		R N RICHARDSON RRC #70446
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230620	F-78-049918	4242900000		108		R N RICHARDSON RRC #70447
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230619	F-78-049917	4242900000		108		R N RICHARDSON RRC #70448
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230618	F-78-049916	4242900000		108		R N RICHARDSON RRC #70449
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230617	F-78-049915	4242900000		108		R N RICHARDSON RRC #70450
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230616	F-78-049914	4242900000		108		R N RICHARDSON RRC #70451
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230615	F-78-049913	4242900000		108		R N RICHARDSON RRC #70452
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230614	F-78-049912	4242900000		108		R N RICHARDSON RRC #70453
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230613	F-78-049911	4242900000		108		R N RICHARDSON RRC #70454
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230612	F-78-049910	4242900000		108		R N RICHARDSON RRC #70455
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230611	F-78-049909	4242900000		108		R N RICHARDSON RRC #70456
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230610	F-78-049908	4242900000		108		R N RICHARDSON RRC #70457
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230609	F-78-049907	4242900000		108		R N RICHARDSON RRC #70458
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230608	F-78-049906	4242900000		108		R N RICHARDSON RRC #70459
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230607	F-78-049905	4242900000		108		R N RICHARDSON RRC #70460
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230606	F-78-049904	4242900000		108		R N RICHARDSON RRC #70461
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230605	F-78-049903	4242900000		108		R N RICHARDSON RRC #70462
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230602	F-78-049902	4242900000		108		R N RICHARDSON RRC #70463
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230601	F-78-049901	4242900000		108		R N RICHARDSON RRC #70464
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230600	F-78-049900	4242900000		108		R N RICHARDSON RRC #70465
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230599	F-78-049899	4242900000		108		R N RICHARDSON RRC #70466
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230598	F-78-049898	4242900000		108		R N RICHARDSON RRC #70467
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230596	F-78-049897	4242900000		108		R N RICHARDSON RRC #70468
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230595	F-78-049896	4242900000		108		R N RICHARDSON RRC #70469
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230594	F-78-049895	4242900000		108		R N RICHARDSON RRC #70470
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230593	F-78-049894	4242900000		108		R N RICHARDSON RRC #70471
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230592	F-78-049893	4242900000		108		R N RICHARDSON RRC #70472
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230588	F-78-049892	4242900000		108		R N RICHARDSON RRC #70473
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230587	F-78-049891	4242900000		108		R N RICHARDSON RRC #70474
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230586	F-78-049890	4242900000		108		R N RICHARDSON RRC #70475
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230585	F-78-049889	4242900000		108		R N RICHARDSON RRC #70476
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230584	F-78-049888	4242900000		108		R N RICHARDSON RRC #70477
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8230582	F-78-049887	4242900000		108		R N RICHARDSON RRC #70478
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230581	F-78-049886	4242900000		108		R N RICHARDSON RRC #70479
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8230580	F-78-049885	4242900000		108		R N RICHARDSON RRC #70480
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230579	F-78-049884	4242900000		108		R N RICHARDSON RRC #70481
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230578	F-78-049883	4242900000		108		R N RICHARDSON RRC #70482
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230577	F-78-049882	4242900000		108		R N RICHARDSON RRC #70483
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230576	F-78-049881	4242900000		108		R N RICHARDSON RRC #70484
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230575	F-78-049880	4242900000		108		R N RICHARDSON RRC #70485
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230574	F-78-049879	4242900000		108		R N RICHARDSON RRC #70486
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8230573	F-78-049878	4242900000		108		R N RICHARDSON RRC #70487
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8230572	F-78-049877	4242900000		108		R N RICHARDSON RRC #70488
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230571	F-78-049876	4242900000		108		R N RICHARDSON RRC #70489
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8230568	F-78-049875	4242900000		108		R N RICHARDSON RRC #70490
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230567	F-78-049874	4242900000		108		R N RICHARDSON RRC #70491
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8230566	F-78-049873	4242900000		108		R N RICHARDSON RRC #70492
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230565	F-78-049872	4242900000		108		R N RICHARDSON RRC #70493
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230564	F-78-049871	4242900000		108		R N RICHARDSON RRC #70494
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230563	F-78-049870	4242900000		108		R N RICHARDSON RRC #70495
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8230562	F-78-049869	4242900000		108		R N RICHARDSON RRC #70496
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230561	F-78-049868	4242900000		108		R N RICHARDSON RRC #70497
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230560	F-78-049867	4242900000		108		R N RICHARDSON RRC #70498
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230559	F-78-049866	4242900000		108		R N RICHARDSON RRC #70499
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230558	F-78-049865	4242900000		108		R N RICHARDSON RRC #70500
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8230557	F-78-049864	4242900000		108		R N RICHARDSON RRC #70501
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230556	F-78-049863	4242900000		108		R N RICHARDSON RRC #70502
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230555	F-78-049862	4242900000		108		R N RICHARDSON RRC #70503
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230554	F-78-049861	4242900000		108		R N RICHARDSON RRC #70504
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230553	F-78-049860	4242900000		108		R N RICHARDSON RRC #70505
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230551	F-78-049859	4242900000		108		R N RICHARDSON RRC #70506
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8230550	F-78-049858	4242900000		108		R N RICHARDSON RRC #70507
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8230549	F-78-049857	4242900000		108		R N RICHARDSON RRC #70508
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8230548	F-78-049856	4242900000		108		R N RICHARDSON RRC #70509
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230546	F-78-049855	4242900000		108		R N RICHARDSON RRC #70510
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230545	F-78-049854	4242900000		108		R N RICHARDSON RRC #70511
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230544	F-78-049853	4242900000		108		R N RICHARDSON RRC #70512
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230543	F-78-049852	4242900000		108		R N RICHARDSON RRC #70513
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8230542	F-78-049851	4242900000		108		R N RICHARDSON RRC #70514
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230541	F-78-049850	4242900000		108		R N RICHARDSON RRC #70515
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8230540	F-78-049849	4242900000		108		R N RICHARDSON RRC #70516
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8230539	F-78-049848	4242900000		108		R N RICHARDSON RRC #70517
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8230538	F-78-049847	4242900000		108		R N RICHARDSON RRC #70518
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230537	F-78-049846	4242900000		108		R N RICHARDSON RRC #70519
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230536	F-78-049845	4242900000		108		R N RICHARDSON RRC #70520
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230535	F-78-049844	4242900000		108		R N RICHARDSON RRC #70521
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230534	F-78-049843	4242900000		108		R N RICHARDSON RRC #70522
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230533	F-78-049842	4242900000		108		R N RICHARDSON RRC #70523
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230532	F-78-049841	4242900000		108		R N RICHARDSON RRC #70524
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230529	F-78-049840	4242900000		108		R N RICHARDSON RRC #70525
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230528	F-78-049839	4242900000		108		R N RICHARDSON RRC #70526
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230527	F-78-049838	4242900000		108		R N RICHARDSON RRC #70527
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230526	F-78-049837	4242900000		108		R N RICHARDSON RRC #70528
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230525	F-78-049836	4242900000		108		R N RICHARDSON RRC #70529
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230524	F-78-049835	4242900000		108		R N RICHARDSON RRC #70530
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230523	F-78-049834	4242900000		108		R N RICHARDSON RRC #70531
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230522	F-78-049833	4242900000		108		R N RICHARDSON RRC #70532
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230521	F-78-049832	4242900000		108		R N RICHARDSON RRC #70533
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8230520	F-78-049831	4242900000		108		R N RICHARDSON RRC #70534
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230516	F-78-049830	4242900000		108		R N RICHARDSON RRC #70535
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230515	F-78-049829	4242900000		108		R N RICHARDSON RRC #70536
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230514	F-78-049828	4242900000		108		R N RICHARDSON RRC #70537
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230513	F-78-049827	4242900000		108		R N RICHARDSON RRC #70538
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230512	F-78-049826	4242900000		108		R N RICHARDSON RRC #70539
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230511	F-78-049825	4242900000		108		R N RICHARDSON RRC #70540
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230510	F-78-049824	4242900000		108		R N RICHARDSON RRC #70541
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230509	F-78-049823	4242900000		108		R N RICHARDSON RRC #70542
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8230508	F-78-049822	4242900000		108		R N RICHARDSON RRC #70543
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230507	F-78-049821	4242900000		108		R N RICHARDSON RRC #70544
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230506	F-78-049820	4242900000		108		R N RICHARDSON RRC #70545
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230505	F-78-049819	4242900000		108		R N RICHARDSON RRC #70546
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230504	F-78-049818	4242900000		108		R N RICHARDSON RRC #70547
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230503	F-78-049817	4242900000		108		R N RICHARDSON RRC #70548
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230502	F-78-049816	4242900000		108		R N RICHARDSON RRC #70549
-DOMINION OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230501	F-78-049815	4242900000		108		R N RICHARDSON

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-DORCHESTER EXPLORATION INC				RECEIVED:	05/06/82	JA: TX			
8230643	F-08-049716	4243131007		103		WESTBROOK 27-3	CONGER (PENN)	109.0	ESPERANZA PIPELIN
-DORCHESTER GAS PRODUCING CO				RECEIVED:	05/06/82	JA: TX			
8230587	F-10-048302	4206500000		103		BURGIN #1A	PANHANDLE WEST	123.0	NORTHERN NATURAL
-DORONDOCO OPERATING CO INC				RECEIVED:	05/06/82	JA: TX			
8230600	F-7B-048866	4204900000		102-4		PUCKETT #2 (097760)	FROG (FRY)	49.0	LONE STAR GAS CO
-DURHAM INC				RECEIVED:	05/06/82	JA: TX			
8230698	F-8A-050037	4226300000		103		SHOOTING STAR #2	BOOMERANG SOUTH (STRA	6.0	SUN GAS CO
-E T S ENTERPRISES INC				RECEIVED:	05/06/82	JA: TX			
8230561	F-10-047343	4239330881		102-4		JONI #1	MCMORDIE RANCH (9700)	320.0	PIONEER CORP
-ENSERCH EXPLORATION INC				RECEIVED:	05/06/82	JA: TX			
8230497	F-01-048251	4201300000		103		H A SCHUMANN "B" #2	FASHING	600.0	NATURAL GAS PIPEL
-EXPANDO PRODUCTION CO				RECEIVED:	05/06/82	JA: TX			
8230533	F-09-044232	4250300000		102-4		GRAHAM P STEWART "B" 2	GARVEY (4345 CADDO)	2316.0	MID-STATES GAS CO
-EXXON CORPORATION				RECEIVED:	05/06/82	JA: TX			
*8230559	F-08-047303	4200332922		103		FULLERTON CLEARFORK UNIT #1417	FULLERTON	15.0	PHILLIPS PETROLEU
*8230641	F-08-049703	4200332966		103		FULLERTON CLEARFORK UNIT #2919	FULLERTON	15.0	PHILLIPS PETROLEU
*8230615	F-C4-049144	4227331314		103		K R SEELIGSON C-197-F (97148)	SEELIGSON (20-I-1)	137.0	ARMCO STEEL CORP
*8230649	F-04-049923	4235531705		103		PITA ISLAND GAS UN #2 WELL #7 96793	PITA ISLAND (J-19)	853.0	ARMCO STEEL CORP
-FOREST OIL CORPORATION				RECEIVED:	05/06/82	JA: TX			
8230564	F-04-047419	4247533072		102-2	107-TF	VERGARA RAYZOR #1	GATO CREEK (9800*)	250.0	UNITED TEXAS TRAN
-FORTUNE PRODUCTION CO				RECEIVED:	05/06/82	JA: TX			
*8230691	F-7C-050023	4223431879		103		MURPHEY "1221" #3	CAL SOUTH (CANYON)	78.7	CRA INC
-GETTY OIL COMPANY				RECEIVED:	05/06/82	JA: TX			
8230485	F-08-038385	4236500000		108-ER		SHARP-SMITH #1	CARTHAGE (L PETTIT)	19.0	ARKANSAS LOUISIAN
-GILLRING OIL CO				RECEIVED:	05/06/82	JA: TX			
8230470	F-04-035702	4235500000		108		C P TALBERT #1 (RRC #46773)	AGUA DULCE (5600)	12.0	TENNESSEE GAS PIP
-GULF OIL CORPORATION				RECEIVED:	05/06/82	JA: TX			
8230707	F-7C-050067	4210510400		108		F R HENDERSON #3	OZONA NORTHWEST (CANY	10.0	SHELL OIL CO
8230708	F-7C-050068	4210510138		108		F R HENDERSON #4	OZONA NORTHWEST (CANY	10.0	SHELL OIL CO
8230718	F-7C-050108	4210510139		108		F R HENDERSON #5	OZONA NORTHWEST (CANY	8.5	SHELL OIL CO
8230657	F-10-049963	4235700000		108		FROESE 19 - #1	FARNSWORTH/DES MOINES	14.0	NORTHERN NATURAL
8230664	F-08-049978	4247532086		103		HUTCHINGS STOCK ASSN #1090	WARD-ESTES NORTH	25.0	CABOT CORP
8230665	F-08-049980	4247532444		103		HUTCHINGS STOCK ASSN #1141	WARD-ESTES NORTH	5.0	CABOT CORP
8230613	F-08-049123	4247532453		103		HUTCHINGS STOCK ASSN #1153	WARD-ESTES NORTH	8.0	CABOT CORP
-GULFCO PRODUCTION INC				RECEIVED:	05/06/82	JA: TX			
8230512	F-03-041911	4220131156		102-4	103	NED S HOLMES #1	PAMALE RANKIN	406.0	HOUSTON PIPELINE
-H-M OIL CO				RECEIVED:	05/06/82	JA: TX			
8230596	F-03-048629	4228531558		102-4	103	HENRY CLAY MCELROY #1	SPEAKS S W (2500)	0.0	VALERO TRANSMISSI
8230581	F-02-048006	4246931766		102-4	103	NANCY SHELTON #2-C	UNA WEST (4250)	0.0	UNITED TEXAS TRAN
-HANIE IVY				RECEIVED:	05/06/82	JA: TX			
8230472	F-7B-037482	4204932594		102-2		DELBERT CONNAWAY #1	BROWN CO REGULAR (MAR	55.0	ODESSA NATURAL CO
8230473	F-7B-037483	4204932592		102-2		DELBERT CONNAWAY #2	BROWN CO REGULAR (MAR	55.0	ODESSA NATURAL CO
8230478	F-7B-037488	4204932484		102-2		IRA CONNAWAY #1	BROWN CO REGULAR (MAR	88.0	ODESSA NATURAL CO
8230474	F-7B-037484	4204932502		102-2		IRA CONNAWAY #11	BROWN CO REGULAR (MAR	81.0	ODESSA NATURAL CO
8230477	F-7B-037487	4204932483		102-2		IRA CONNAWAY #2	BROWN CO REGULAR (MAR	81.0	ODESSA NATURAL CO
8230476	F-7B-037486	4204932497		102-2		IRA CONNAWAY #5	BROWN CO REGULAR (MAR	80.0	ODESSA NATURAL CO
8230475	F-7B-037485	4204932498		102-2		IRA CONNAWAY #6	BROWN CO REGULAR (MAR	79.0	ODESSA NATURAL CO
-HENRY PETROLEUM CORP				RECEIVED:	05/06/82	JA: TX			
8230637	F-8A-049647	4211500000		103		DOSSEY #2	TEX-HAMON (DEAN)	0.0	GETTY OIL CO
-HERD PRODUCING COMPANY INC				RECEIVED:	05/06/82	JA: TX			
8230741	F-03-050189	4228731017		102-2		BREDTHAUER #2	GIDDINGS (AUSIN CHALK	198.0	TEXAS UTILITIES F
8230740	F-03-050188	4228731136		102-2		BREDTHAUER #3	GIDDINGS (AUSTIN CHAL	347.0	TEXAS UTILITIES F

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-HIGHLAND RESOURCES INC				RECEIVED: 05/06/82 JA: TX			TEAGUE TOWNSITE (COTT	730.0	LONE STAR GAS CO
8230549	F-05-046478	4216130687		103	107-TF	H D BLACK UNIT #2			
-HNG OIL COMPANY				RECEIVED: 05/06/82 JA: TX			LA PERLA (WILCOX 6800	89.6	HOUSTON PIPELINE
8230698	F-04-050021	4250500000		108		BRUNI MINERAL TRUST A #4			
-HUMBLE EXPLORATION CO INC				RECEIVED: 05/06/82 JA: TX			GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8230493	F-03-039472	4228700000		102-2	103	DOROTHY TAYLOR #1			
-I J WOLFSON				RECEIVED: 05/06/82 JA: TX			HERRON CITY (CONGL)	90.0	
8230541	F-09-046045	4250300000		102-4		WILLIAMS - MATHIS #1	HERRON BEND (STRAWN)	30.0	LONE STAR GAS CO
8230614	F-09-049184	4250300000		103		WILLIAMS #2			
-INDIAN WELLS OIL CO				RECEIVED: 05/06/82 JA: TX			PROBANDT (CANYON)	109.5	NORTHERN NATURAL
8230589	F-7C-048386	4223531811		102-2		MCMANUS 37-1	PROBANDT (CANYON)	73.0	NORTHERN NATURAL
8230651	F-7C-046089	4223531832		102-2		RICHEY 43A-3			
-INTEGRAL ENERGY CORP				RECEIVED: 05/06/82 JA: TX			GOOSE ISLAND (D SD LO	150.0	VALLEY PIPELINE I
8230527	F-04-042816	4208700000		103		STATE TRACT A2 #1			
-JACK N BLAIR				RECEIVED: 05/06/82 JA: TX			HOLLIJACK	100.0	PHILLIPS PETROLEU
8230593	F-08-050026	4213533834		102-4		VEST RANCH #6			
-JAMES M FORGOTSON				RECEIVED: 05/06/82 JA: TX			ROSEWOOD (COTTON VALL	180.0	ADVANCE TRANSPORT
8230489	F-06-038945	4245900000		102-2	107-TF	MANSELL A PETTY GU #1-A			
-JOE C RICHARDSON JR				RECEIVED: 05/06/82 JA: TX			RICHARDSON (MARMATON)	7.3	PHILLIPS PETROLEU
8230723	F-10-050110	4235731122		102-4		SUSAN "B" #1			
-JOHN A NEWMAN				RECEIVED: 05/06/82 JA: TX			TEMPLETON (GRAY)	72.0	LONE STAR GAS CO
8230483	F-78-038168	4208300000		103		FOY TOMLINSON 1-A			
-JOHN L COX				RECEIVED: 05/06/82 JA: TX			MCGILL (SPRABERRY)	10.0	PHILLIPS PETROLEU
8230481	F-7C-038015	4246100000		103		HALAMICEK "C" #1	SPRABERRY (TREND AREA	10.0	ALPINE OIL CO
8230543	F-08-046139	4231732451		103		HOLLOWAY #1-A RRC #21899	SPRABERRY (TREND AREA	10.0	ALPINE OIL CO
8230516	F-08-041784	4231732405		103		LYNN HENSON #1-X RRC #21898	SPRABERRY (TREND AREA	10.0	MOBIL PRODUCING T
8230545	F-7C-046193	4246131051		103		POWELL "16" #3	SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
8230504	F-7C-046186	4258332119		103		ROCKER B "MS" #4-X RRC #04855	SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
8230454	F-7C-037027	4238331669		103		ROCKER B "O" #17-X RRC#05172			
-JOSEPH F COPPENING				RECEIVED: 05/06/82 JA: TX			PERRIN (CHAPPEL LIME)	0.0	LONE STAR GAS CO
8233748	F-07-050209	4233733785		102-4		WALTERS #2 (ID NO 097678)			
-KEN PETROLEUM CORP				RECEIVED: 05/06/82 JA: TX			EL TORO (5600)	400.0	UNITED TEXAS TRAN
8230525	F-02-042818	4223931688		103		LORENZEN #1	JOHN COFFEE (5625)	400.0	UNITED TEXAS TRAN
8230586	F-02-042811	4223900000		102-4		LORENZEN #4			
-L R SPRADLING				RECEIVED: 05/06/82 JA: TX			PANHANDLE - CARSON CO	54.7	CABOT PIPELINE CO
8230474	F-10-039781	4206500000		103		BRYAN #2			
-LADD PETROLEUM CORPORATION				RECEIVED: 05/06/82 JA: TX			BOONESVILLE (BEND CON	99.4	LONE STAR GAS CO
8230560	F-09-047310	4236731578		103		STOVALL #3			
-LOGUE AND PATTERSON INC				RECEIVED: 05/06/82 JA: TX			YOUGEEN SOUTH (3700)	109.0	VALERO TRANSMISSI
8230700	F-02-050042	4202531607		103		HELDENFELS #1			
-LONE STAR NATURAL RESOURCES				RECEIVED: 05/06/82 JA: TX			BOB COOPER 6100'	150.0	VALERO INTERSTATE
8230567	F-04-047539	4204700000		102-4		TIJERINA #2			
-LONGHORN OIL & GAS CO				RECEIVED: 05/06/82 JA: TX			EAST FORT TRINIDAD (G	170.0	
8230516	F-03-042389	4222530385		102-2		EDGAR FOSTER #1			
-LORLAN OIL CO				RECEIVED: 05/06/82 JA: TX			KERMIT (YATES)	8.9	WEST TEXAS GAS IN
8230608	F-08-049566	4249500000		108		BROWN-ALTMAN "A" #1			
-MARSHALL EXPLORATION INC				RECEIVED: 05/06/82 JA: TX			BELLE BOWER (TRAVIS P	350.0	TENNESSEE GAS PIP
8230595	F-04-048421	4236531136		103		MAIZIE LYNCH #3			
-MARSHALL R YOUNG OIL CO				RECEIVED: 05/06/82 JA: TX			PAYTON	8.0	DEHLI GAS PIPELIN
8230742	F-08-050191	4247532307		103		M L JOHNSON #2	PAYTON	0.0	DEHLI GAS PIPELIN
8230743	F-08-050192	4247532285		103		M L JOHNSON #3	PAYTON	8.0	DEHLI GAS PIPELIN
8230744	F-08-050193	4247532388		103		M L JOHNSON #4	PAYTON	0.0	DEHLI GAS PIPELIN
8230745	F-08-050194	4247532309		103		M L JOHNSON #5			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-MARSHALL R YOUNG OIL CO				RECEIVED: 05/06/82 JA: TX			PAYTON	0.0	DEHLI GAS PIPELIN
8230746	F-08-050195	4247532386		103		M L JOHNSON #6			
-MCCOMBS OIL & GAS INC				RECEIVED: 05/06/82 JA: TX			MCCOMBS (CANYON)	0.0	
8230552	F-09-047311	4236731579		103		STOVALL #4			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230555	F-09-047312	4236731580		103		STOVALL #5			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230556	F-09-047313	4236731581		103		STOVALL #6			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230557	F-09-047314	4236731582		103		STOVALL #7			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230558	F-09-047315	4236731583		103		STOVALL #8			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230559	F-09-047316	4236731584		103		STOVALL #9			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230561	F-09-047317	4236731585		103		STOVALL #10			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230562	F-09-047318	4236731586		103		STOVALL #11			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230563	F-09-047319	4236731587		103		STOVALL #12			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230564	F-09-047320	4236731588		103		STOVALL #13			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230565	F-09-047321	4236731589		103		STOVALL #14			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230566	F-09-047322	4236731590		103		STOVALL #15			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230568	F-09-047323	4236731591		103		STOVALL #16			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230569	F-09-047324	4236731592		103		STOVALL #17			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230570	F-09-047325	4236731593		103		STOVALL #18			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230571	F-09-047326	4236731594		103		STOVALL #19			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230572	F-09-047327	4236731595		103		STOVALL #20			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230573	F-09-047328	4236731596		103		STOVALL #21			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230574	F-09-047329	4236731597		103		STOVALL #22			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230575	F-09-047330	4236731598		103		STOVALL #23			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230576	F-09-047331	4236731599		103		STOVALL #24			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230577	F-09-047332	4236731600		103		STOVALL #25			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230578	F-09-047333	4236731601		103		STOVALL #26			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230579	F-09-047334	4236731602		103		STOVALL #27			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230580	F-09-047335	4236731603		103		STOVALL #28			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230581	F-09-047336	4236731604		103		STOVALL #29			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230582	F-09-047337	4236731605		103		STOVALL #30			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230583	F-09-047338	4236731606		103		STOVALL #31			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230584	F-09-047339	4236731607		103		STOVALL #32			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230585	F-09-047340	4236731608		103		STOVALL #33			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230587	F-09-047341	4236731609		103		STOVALL #34			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230588	F-09-047342	4236731610		103		STOVALL #35			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230590	F-09-047343	4236731611		103		STOVALL #36			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230591	F-09-047344	4236731612		103		STOVALL #37			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230592	F-09-047345	4236731613		103		STOVALL #38			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230594	F-09-047346	4236731614		103		STOVALL #39			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230596	F-09-047347	4236731615		103		STOVALL #40			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230597	F-09-047348	4236731616		103		STOVALL #41			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230598	F-09-047349	4236731617		103		STOVALL #42			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230599	F-09-047350	4236731618		103		STOVALL #43			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230600	F-09-047351	4236731619		103		STOVALL #44			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230601	F-09-047352	4236731620		103		STOVALL #45			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230602	F-09-047353	4236731621		103		STOVALL #46			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230603	F-09-047354	4236731622		103		STOVALL #47			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230604	F-09-047355	4236731623		103		STOVALL #48			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230605	F-09-047356	4236731624		103		STOVALL #49			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230606	F-09-047357	4236731625		103		STOVALL #50			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230607	F-09-047358	4236731626		103		STOVALL #51			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230609	F-09-047359	4236731627		103		STOVALL #52			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230610	F-09-047360	4236731628		103		STOVALL #53			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230611	F-09-047361	4236731629		103		STOVALL #54			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230612	F-09-047362	4236731630		103		STOVALL #55			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230613	F-09-047363	4236731631		103		STOVALL #56			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230615	F-09-047364	4236731632		103		STOVALL #57			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230616	F-09-047365	4236731633		103		STOVALL #58			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230617	F-09-047366	4236731634		103		STOVALL #59			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230618	F-09-047367	4236731635		103		STOVALL #60			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230619	F-09-047368	4236731636		103		STOVALL #61			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230620	F-09-047369	4236731637		103		STOVALL #62			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230621	F-09-047370	4236731638		103		STOVALL #63			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230622	F-09-047371	4236731639		103		STOVALL #64			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230623	F-09-047372	4236731640		103		STOVALL #65			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230624	F-09-047373	4236731641		103		STOVALL #66			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230625	F-09-047374	4236731642		103		STOVALL #67			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230626	F-09-047375	4236731643		103		STOVALL #68			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230627	F-09-047376	4236731644		103		STOVALL #69			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230628	F-09-047377	4236731645		103		STOVALL #70			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230629	F-09-047378	4236731646		103		STOVALL #71			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230630	F-09-047379	4236731647		103		STOVALL #72			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230631	F-09-047380	4236731648		103		STOVALL #73			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230632	F-09-047381	4236731649		103		STOVALL #74			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230633	F-09-047382	4236731650		103		STOVALL #75			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230634	F-09-047383	4236731651		103		STOVALL #76			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230635	F-09-047384	4236731652		103		STOVALL #77			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230636	F-09-047385	4236731653		103		STOVALL #78			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230637	F-09-047386	4236731654		103		STOVALL #79			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230638	F-09-047387	4236731655		103		STOVALL #80			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230639	F-09-047388	4236731656		103		STOVALL #81			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230640	F-09-047389	4236731657		103		STOVALL #82			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230641	F-09-047390	4236731658		103		STOVALL #83			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230642	F-09-047391	4236731659		103		STOVALL #84			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230643	F-09-047392	4236731660		103		STOVALL #85			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230644	F-09-047393	4236731661		103		STOVALL #86			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230645	F-09-047394	4236731662		103		STOVALL #87			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230646	F-09-047395	4236731663		103		STOVALL #88			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230647	F-09-047396	4236731664		103		STOVALL #89			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230648	F-09-047397	4236731665		103		STOVALL #90			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230649	F-09-047398	4236731666		103		STOVALL #91			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230650	F-09-047399	4236731667		103		STOVALL #92			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230651	F-09-047400	4236731668		103		STOVALL #93			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230652	F-09-047401	4236731669		103		STOVALL #94			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230653	F-09-047402	4236731670		103		STOVALL #95			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230654	F-09-047403	4236731671		103		STOVALL #96			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230655	F-09-047404	4236731672		103		STOVALL #97			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230656	F-09-047405	4236731673		103		STOVALL #98			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230657	F-09-047406	4236731674		103		STOVALL #99			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230658	F-09-047407	4236731675		103		STOVALL #100			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230659	F-09-047408	4236731676		103		STOVALL #101			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230660	F-09-047409	4236731677		103		STOVALL #102			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230661	F-09-047410	4236731678		103		STOVALL #103			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230662	F-09-047411	4236731679		103		STOVALL #104			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230663	F-09-047412	4236731680		103		STOVALL #105			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230664	F-09-047413	4236731681		103		STOVALL #106			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230665	F-09-047414	4236731682		103		STOVALL #107			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230666	F-09-047415	4236731683		103		STOVALL #108			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230667	F-09-047416	4236731684		103		STOVALL #109			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230668	F-09-047417	4236731685		103		STOVALL #110			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230669	F-09-047418	4236731686		103		STOVALL #111			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230670	F-09-047419	4236731687		103		STOVALL #112			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230671	F-09-047420	4236731688		103		STOVALL #113			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230672	F-09-047421	4236731689		103		STOVALL #114			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230673	F-09-047422	4236731690		103		STOVALL #115			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230674	F-09-047423	4236731691		103		STOVALL #116			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230675	F-09-047424	4236731692		103		STOVALL #117			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230676	F-09-047425	4236731693		103		STOVALL #118			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230677	F-09-047426	4236731694		103		STOVALL #119			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230678	F-09-047427	4236731695		103		STOVALL #120			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230679	F-09-047428	4236731696		103		STOVALL #121			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230680	F-09-047429	4236731697		103		STOVALL #122			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230681	F-09-047430	4236731698		103		STOVALL #123			
-MCCOY EXPLORATION				RECEIVED: 05/06/82 JA: TX			MCCOY (CANYON)	0.0	
8230682	F-09-047431	4236731699		103		STOVALL #124			
-MCCOY EXPLORATION				RECEIVED: 05/06/

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8230746	F-08-050195	4247532369		103		M L JOHNSON #6	PAYTON	0.0	DEHLI GAS PIPELIN
-MAY PETROLEUM INC				RECEIVED:	05/06/82	JA: TX			
8230616	F-06-049175	4207330430		102-4		TRANSIER #1-D	LONE OAK (ODESSA)	365.0	
-MAYNARD OIL COMPANY				RECEIVED:	05/06/82	JA: TX			
8230648	F-02-049854	4202531756		102-4		BROWN "A" #1	NORBEE (HOCKLEY NE)	219.0	UNITED GAS PIPELI
-MCALESTER FUEL COMPANY				RECEIVED:	05/06/82	JA: TX			
8230737	F-02-050181	4246931654		102-4		J KORNFUEHRER EST #1 (ID NO 96542)	MISSION VALLEY (WILCO	8.0	
-MCBRAYER OIL CORP				RECEIVED:	05/06/82	JA: TX			
8230488	F-06-038827	4245930474		103	107-TF	S P WILLIAMS EST 6 U #1	ROSEWOOD (HOSSTON-COT	66.8	WESTERN GAS CORP
-MCCANN CORP				RECEIVED:	05/06/82	JA: TX			
*8230699	F-08-050038	4222732566		103		LOVELESS #1	COAHOMA (MISS)	49.7	GETTY OIL CO
-MCFARLANE OIL CO INC				RECEIVED:	05/06/82	JA: TX			
8230463	F-02-034938	4216130681		103		BEN SHELTON #1	LAKE FASTURE (6050)	0.0	TENNECO CHEMICALS
8230468	F-02-035326	4246931663		103		HENDERSON & PICKERING #13	PLACEDO	0.0	TENNECO CHEMICALS
-MCOR OIL DEVELOPMENT INC				RECEIVED:	05/06/82	JA: TX			
8230653	F-01-049947	4201331396		102-4		JOE MEYER #3	JOURDANTON WEST (ESCO	10.0	VALERO TRANSMISSI
8230654	F-01-049946	4201331392		102-4		KARL SCHRUTKA #2	JOURDANTON WEST (ESCO	10.0	VALERO TRANSMISSI
8230652	F-01-049946	4201331397		102-4		KARL SCHRUTKA #3	JOURDANTON WEST (ESCO	10.0	VALERO TRANSMISSI
8230651	F-01-049945	4201331395		102-4		STIEREN #2	JOURDANTON WEST (ESCO	8.0	VALERO TRANSMISSI
-MCR OIL CORP OF TEXAS				RECEIVED:	05/06/82	JA: TX			
*8230607	F-10-048969	4221100000		108		MATHERS RANCH #10	MATHERS RANCH - HUNTO	10.0	ARKANSAS LOUISIAN
8230462	F-10-033899	4221131268		103		STUDER #5	CANADIAN S E DOUGLAS	75.0	ARKANSAS LOUISIAN
-MES PETROLEUM CORP				RECEIVED:	05/06/82	JA: TX			
8230619	F-08-049357	4217331203		103		FRYSAK #1	SPRABERRY (TREND AREA	499.7	PHILLIPS PETROLEU
8230621	F-7B-049366	4235331154		103		MCLAUGHLIN #1	JMM (CANYON)	281.1	SUN GAS CO
-NEWBOURNE OIL COMPANY				RECEIVED:	05/06/82	JA: TX			
8230594	F-7C-048592	4238331873		103		CHRISTY "D" #2 RRC ID #08578	SPRABERRY (TREND AREA	10.0	UNION TEXAS PETRO
8230719	F-7C-050109	4238331926		103		UNIVERSITY "A" #1 RRC ID #09326	SPRABERRY (TREND AREA	15.0	DORCHESTER GAS PR
8230542	F-08-046101	4200332768		103		UNIVERSITY 9-32 RRC ID #27041	TRIPLE N (PENN UPPER)	20.0	PHILLIPS PETROLEU
-MITCHELL ENERGY CORPORATION				RECEIVED:	05/06/82	JA: TX			
8230460	F-09-032978	4249700000		108-ER		DOLLIE THORELL #1	RHONE (ATOKA)	6.0	NATURAL GAS PIPEL
8230480	F-7B-047982	4236700000		108		J T BAKER #2	SANDRA K (STRAWN)	10.5	SOUTHWESTERN GAS
8230487	F-09-038772	4249732132		103		S R CRUMPTON #2	BOONSVILLE (BEND CONG	120.0	NATURAL GAS PIPEL
8230548	F-09-046459	4223700000		108		SALLIE NASH #1 58944	BARTONS CHAPEL (E CON	4.1	BRAZOS OIL & GAS
-MOBIL PROD TEXAS & NEW MEXICO INC				RECEIVED:	05/06/82	JA: TX			
8230566	F-04-047529	4247932627		107-TF		W N MCELROY #1	CALLAGHAN N (WILCOX L	384.3	VALERO TRANSMISSI
8230565	F-04-047528	4247933042		107-TF		W N MCELROY #2	CALLAGHAN N (WILCOX L	782.9	VALERO TRANSMISSI
-MORROW RESOURCES INC				RECEIVED:	05/06/82	JA: TX			
8230701	F-7C-050055	4245130885		102-2	103	BROWN "A" #2	K W B (STRAWN LO)	61.6	LONE STAR GAS CO
-NAPECO INC				RECEIVED:	05/06/82	JA: TX			
8230576	F-08-047850	4237100000		102-3		CENTURION #1	FT STOCKTON (LEONARD)	91.0	
-NATURAL GAS ANADARKO INC				RECEIVED:	05/06/82	JA: TX			
8230570	F-10-047714	4235700000		103		V W RICHARDSON 1-46	ELLIS RANCH (CLEVELAN	300.0	TRANSWESTERN PIPE
-OIL AND GAS CO				RECEIVED:	05/06/82	JA: TX			
8230492	F-03-039453	4205131310		102-2		ENGLEMANN #1	GIDDINGS (AUSTIN CHAL	42.1	FERGUSON CROSSING
-OLSEN ENERGY INC				RECEIVED:	05/06/82	JA: TX			
8230692	F-08-050024	4237532370		103		DORR #1	DORR (QUEEN SAND)	22.3	PERRY PIPELINE CO
-ONEOK EXPLORATION CORP				RECEIVED:	05/06/82	JA: TX			
8230578	F-10-047985	4229530800		103		ARDREY #2	DARREN (MORROW MIDDLE	40.0	PHILLIPS PETROLEU
8230579	F-10-047986	4229500000		103		MARJORIE BAILEY #3	DARREN (MORROW MIDDLE	24.0	PHILLIPS PETROLEU
8230580	F-10-047969	4239600798		103		SCHNEIDER #4	DARREN (MORROW MIDDLE	20.0	PHILLIPS PETROLEU
-ORIGINALA PETROLEUM CORP				RECEIVED:	05/06/82	JA: TX			
8230598	F-7B-048781	4236332683		102-4		PADGETT RANCH #7	RSR (ATOKA 4300)	300.0	SOUTHWESTERN GAS

JD NO	JA DKT	API NO.	D	SEC(1)	SEC(2)	WELL NAME
-OVERLY OPERATING CO				RECEIVED:	05/06/82	JA: TX
8230644	F-04-049726	4247933215		103		MARTIN GONZALES #2
-PALO PETROLEUM INC				RECEIVED:	05/06/82	JA: TX
8230582	F-7B-049773	4213300000		102-4		J NUNNALLY #1
-PDC GAS CO				RECEIVED:	05/06/82	JA: TX
8230732	F-08-050166	4237100000		108		UNIVERSITY "B" #1
-PEND OREILLE OIL & GAS CO				RECEIVED:	05/06/82	JA: TX
8230645	F-02-049766	4229732942		102-4		C S NELSON TRUST #7
-PENNZOIL PRODUCING COMPANY				RECEIVED:	05/06/82	JA: TX
8230534	F-06-044237	4236531249		103	107-TF	BRUMBLE UNIT #3
8230540	F-06-045820	4236531815		103	107-TF	CORRIE STEELE #A-3
8230555	F-04-047144	4250531411		102-4		LAURO GARZA #A-1
-PENROC ENERGY				RECEIVED:	05/06/82	JA: TX
8230728	F-7B-050132	4235330991		103		POINDEXTER #1 (17651)
8230727	F-7B-050131	4235331885		103		POINDEXTER #1-R (16728)
8230726	F-7B-050130	4235331203		102-4		POINDEXTER "A" #2 (17809)
-PETROLEUM CORPORATION OF TEXAS				RECEIVED:	05/06/82	JA: TX
8230608	F-7B-049043	4241734130		103		DELTON JONES #1
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	05/06/82	JA: TX
8230466	F-10-035050	4217900000		108		ANNIE #1
8230461	F-10-033261	4242100000		108		BRIG #1
8230457	F-10-029492	4242100000		108		DUVALL A #1
8230513	F-10-042019	4242100000		108		FILES #3
8230514	F-10-042020	4219500000		108		HITCH E #2
8230467	F-10-035104	4217900000		108		JOHNSON A #3
*8230506	F-10-041261	4234100000		108		MCMANN #3
8230464	F-10-035041	4217900000		108		WHEAT #2
8230465	F-10-035042	4217900000		198		WHEAT #3
-R A W ENERGY CORP				RECEIVED:	05/06/82	JA: TX
8230554	F-7B-047099	4236732009		102-4		CITY OF GARNER #1
8230585	F-7B-048216	4236700000		103		GENIE SANDERS #1 RRC #69882
-R L ADKINS CORP				RECEIVED:	05/06/82	JA: TX
*8230632	F-7B-049630	4215131405		103		WICKHAM H #1 (17940)
-REO INDUSTRIES INC				RECEIVED:	05/06/82	JA: TX
8230711	F-10-050076	4223300000		103		WHITTENBURG 2-7
8230720	F-10-050110	4223300000		103		WHITTENBURG 33-24
8230722	F-10-050112	4223300000		103		WHITTENBURG 5-25
8230721	F-10-050111	4223300000		103		WHITTENBURG 9-7
-RETANCO INC				RECEIVED:	05/06/82	JA: TX
8230666	F-03-049985	4214931886		103		EDWIN ZIMMERHANZEL #1 (RRC #15253)
-RICHARD R DARNER				RECEIVED:	05/06/82	JA: TX
8230538	F-31-044803	4250700000		103		JONSSON GRIFFIN PERLITZ #1
8230537	F-31-044802	4250700000		103		JONSSON GRIFFIN PERLITZ #2
-RIDGE OIL CO				RECEIVED:	05/06/82	JA: TX
*8230747	F-7B-050200	4213333438		102-4	103	GRACEY #1
-RUTHERFORD OIL CORP				RECEIVED:	05/06/82	JA: TX
8230646	F-02-049771	4205731069		102-4		PATRICK H WELDER #A
-S K ROGERS OIL CO				RECEIVED:	05/06/82	JA: TX
8230620	F-8A-049364	4221933269		103		REEVES #2
-SAGE ENERGY CO				RECEIVED:	05/06/82	JA: TX
8230640	F-03-049699	4205131331		102-2		BIRCH CREEK A #3 RRC #
8230639	F-03-049696	4205131658		102-2		BROCK #1 RRC #14969
8230636	F-08-049643	4249531439		103		SEALY & SMITH 6-D #1 RRC #

FIELD NAME	PROD	PURCHASER
LA CRUZ (OLMOS)	108.0	DELHI GAS PIPELIN
BLIND HOG (CADDO)	52.9	ODESSA NATURAL CO
CARDINAL (QUEEN W)	0.0	NORTHERN NATURAL
LIMES (WILCOX 9900)	1095.0	TRANSCONTINENTAL
BETHANY EAST (COTTON	730.0	UNITED GAS PIPE L
BETHANY EAST/COTTON V	730.0	UNITED GAS PIPE L
ESCOBAS S (9,300')	803.0	
WHITE FLAT N (NOODLE	2.0	LONE STAR GAS CO
WHITE FLAT	3.0	LONE STAR GAS CO
ROBBINS (ODOM LO)	26.0	LONE STAR GAS CO
FRANK DOSS (DUFFER)	25.6	DELHI GAS PIPELIN
PANHANDLE GRAY	0.0	
TEXAS HUGOTON	0.0	MICHIGAN WISCONSI
TEXAS HUGOTON	0.0	MICHIGAN WISCONSI
COLDWATER CREEK-PENN	0.0	MICHIGAN WISCONSI
HITCHLAND WEST MORROW	0.0	PANHANDLE EASTERN
PANHANDLE GRAY	0.0	
PANHANDLE WEST	0.0	EL PASO NATURAL G
PANHANDLE GRAY	0.0	
PANHANDLE GRAY	0.0	
GARNER NORTH WEST (42	0.0	SOUTHWESTERN GAS
TOTO (CADDO CONGLOMER	0.0	LONE STAR GAS CO
WICKHAM (PALO PINTO)	102.0	PALO DURO PIPELIN
PANHANDLE HUTCHINSON	720.0	TRANS-PAN PIPELIN
PANHANDLE HUTCHINSON	720.0	TRANS-PAN PIPELIN
PANHANDLE HUTCHINSON	720.0	TRANS-PAN PIPELIN
PANHANDLE HUTCHINSON	720.0	TRANS-PAN PIPELIN
GIDDINGS (AUSTIN CHAL	86.3	PHILLIPS PETROLEU
PILOSA EAST (2ND SAN	30.0	SONGETT ENERGY IN
PILOSA EAST (2ND SAN	7.0	SONGETT ENERGY IN
RANGER NW (MARBLE FAL	38.9	COMPRESSOR RENTAL
BARBE CANAL (FRIO 617	1500.0	HOUSTON PIPE LINE
LEVELLAND	0.0	AMOCO PRODUCTION
GIDDINGS (AUSTIN CHAL	85.0	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	74.0	PHILLIPS PETROLEU
ARENOSO (STRAWN DETRI	0.6	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8230638	F-08-049655	4249500000		103		SCALY & SMITH 72 #3 RRC #25638	DARMEN N E (PENN)	23.0	EL PASO NATURAL G
-SAGE OIL CO				RECEIVED:	05/06/82	JA: TX			
8230663	F-09-049975	4207731679		103		J T LYLES #2	LA-PAN (ATOKA)	2.0	FAGADAU ENERGY CO
-SAMEDAN OIL CORPORATION				RECEIVED:	05/06/82	JA: TX			
8230520	F-03-042585	4222530359		103		ACKLEY #1	FORT TRINIDAD	200.0	SOUTH TEXAS GATHE
-SAMSON RESOURCES COMPANY				RECEIVED:	05/06/82	JA: TX			
8230532	F-10-043513	4221131333		107-DP		MCQUIDDY #1-4	HOWE RANCH	128.8	EL PASO NATURAL G
-SANDEFER OIL & GAS INC				RECEIVED:	05/06/82	JA: TX			
8230455	F-03-02184	4232100000		102-4		CORNELIUS GAS UNIT #2	WADSWORTH 320	450.0	DOW CHEMICAL U S
-SANTA FE ENERGY PRODUCTS CO				RECEIVED:	05/06/82	JA: TX			
8230738	F-08-050185	4200332468		103		ERNESTEEN #3	FUHRMAN-MASCHO (SAN A	21.0	PHILLIPS PETROLEU
8230739	F-08-050186	4200332469		103		ERNESTEEN #4	FUHRMAN-MASCHO	2.0	PHILLIPS PETROLEU
-SAXON OIL COMPANY				RECEIVED:	05/06/82	JA: TX			
8230563	F-08-047376	4231700000		103		RIKER #1	BREEDLOVE (EAST SPRAB	0.0	PHILLIPS PETROLEU
-SEATEX ENERGY CORP				RECEIVED:	05/06/82	JA: TX			
8230605	F-09-048943	4223733960		103		EDWARDS #1	BRYSON EAST (CONGL)	182.5	SOUTHWESTERN GAS
-SEQUOIA FOSSIL FUELS INC				RECEIVED:	05/06/82	JA: TX			
8230627	F-78-049482	4205933267		102-4		PRUET "A" #2	MEXIA CREEK (CONGL)	45.0	SIOUX PIPELINE CO
8230628	F-78-049483	4205933374		102-4		PRUET "A" #3	MEXIA CREEK (CONGL)	45.0	SIOUX PIPELINE CO
-SIOUX NATURAL GAS CORP				RECEIVED:	05/06/82	JA: TX			
8230556	F-7C-047219	4244330282		103		ALLISON "21-E" #1	ALLISON (DEVONIAN)	0.0	VALERO TRANSMISSI
8230557	F-7C-047222	4244330287		103		BARNER 2-10	ALLISON (DEVONIAN)	0.0	VALERO TRANSMISSI
-SOHIO PETROLEUM CO				RECEIVED:	05/06/82	JA: TX			
8230736	F-7C-050177	4217931239		103		W B ATKINSON "B" #5	CALVIN (DEAN)	30.0	EL PASO NATURAL G
-SOUTHERN UNION EXPLORATION COMPANY				RECEIVED:	05/06/82	JA: TX			
8230622	F-78-049482	4236332785		103		DORA TOLBERT #2	MINERAL WELLS	91.0	SOUTHWESTERN GAS
-STOWERS OIL & GAS				RECEIVED:	05/06/82	JA: TX			
8230601	F-10-048908	4217931000		103		MATHERS #1	PANHANDLE GRAY	72.0	NORTHERN NATURAL
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	05/06/82	JA: TX			
8230689	F-7C-050009	4209500000		108		A E KITCHENS #2	SPECK NORTH STRAWN	4.0	LONE STAR GAS CO
8230683	F-04-050002	4242731564		103		B G DE GARCIA #36	GARCIA (MILLER-C-1)	1.0	TRANSCONTINENTAL
8230539	F-04-045404	4242700000		108-ER		BENTSEN BROTHERS A #5L	HINDE	0.0	TRANSCONTINENTAL
8230686	F-03-050005	4237300000		108		DR H J PRATT #16	LIVINGSTON	16.0	CHANNEL INDUSTRIE
8230676	F-04-049995	4240931561		103		E H WELDER #1	PLYMOUTH (UPPER MAGNO	45.0	
8230680	F-78-049999	4213300000		108		E ROPER #11	EASTLAND COUNTY REGUL	3.0	LONE STAR GAS CO
8230669	F-78-049988	4213300000		108		E ROPER #5	EASTLAND COUNTY REGUL	3.5	LONE STAR GAS CO
8230687	F-78-050006	4242900000		108		FINCHER #13	STEPHENS COUNTY REGUL	15.0	WARREN PETROLEUM
8230618	F-7C-049269	4209500000		108		G H SPISER #1	SOUTH SPECK (STRAWN C	12.0	LONE STAR GAS CO
8230678	F-78-049997	4242900000		108		G W TAYLOR #1	STEPHENS COUNTY REGUL	9.0	WARREN PETROLEUM
8230520	F-6E-042821	4218300000		108		J C MCKINLEY #9	EAST TEXAS	1.0	UNITED GAS PIPELI
8230679	F-7B-049998	4213300000		108		J C RUST #12	EASTLAND COUNTY REGUL	3.0	LONE STAR GAS CO
8230682	F-7B-050001	4213300000		108		J R WOOD #1	EASTLAND COUNTY REGUL	0.5	SUN GAS TRANSMISS
8230668	F-78-049987	4213300000		108		J T ROPER #6	EASTLAND COUNTY REGUL	5.0	LONE STAR GAS CO
8230681	F-78-050000	4213300000		108		J WILLIAMSON #1	EASTLAND COUNTY REGUL	7.0	LONE STAR GAS CO
8230684	F-78-050003	4213300000		108		J WILLIAMSON B #2	LAKE LEON (DUFFER)	14.0	LONE STAR GAS CO
8230672	F-78-049991	4213300000		108		L C NORWOOD #13	EASTLAND COUNTY REGUL	2.0	LONE STAR GAS CO
8230673	F-7E-049992	4213300000		108		L C NORWOOD #14	EASTLAND COUNTY REGUL	2.0	LONE STAR GAS CO
8230671	F-78-049990	4213300000		108		L C NORWOOD #16	EASTLAND COUNTY REGUL	6.7	LONE STAR GAS CO
8230670	F-78-049989	4213300000		108		L C NORWOOD #3	EASTLAND COUNTY REGUL	2.0	LONE STAR GAS CO
8230674	F-78-049993	4213300000		108		L C NORWOOD #5	EASTLAND COUNTY REGUL	2.0	LONE STAR GAS CO
8230667	F-8A-049986	4221933219		103		S E LEVELLAND #261	LEVELLAND	5.0	AMOCO PRODUCTION
8230677	F-8A-049996	4221933329		103		S E LEVELLAND #274	LEVELLAND	3.0	AMOCO PRODUCTION
8230685	F-03-050004	4207100000		108		STATE TRACT 138 #3	REDFISH REEF NORTH (F	10.0	UNITED TEXAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8230688	F-03-050008	4207100000		108		STATE TRACT 307 #3
8230675	F-08-049994	4210332699		103		UNIVERSITY "L" #15
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	05/06/82	JA: TX
8230499	F-04-040400	4242731512		102-4		N R MONTALVO #11-U
8230500	F-04-040401	4242731512		102-4		N R MONTALVO 11-L
8230508	F-09-041745	4249732099		103		O J APPLING #2
8230509	F-10-041753	4239330835		103		O R TIPPS #1
8230515	F-10-042210	4219330781		103		O T ARCHER #4
8230498	F-05-040398	4234931607		103	107-TF	ROBERT C WALKER #1
-SUNDANCE ENERGY CORP				RECEIVED:	05/06/82	JA: TX
8230602	F-7B-048912	4209330863		103		BOBO #1-A (96813)
-SUPERIOR OIL CO				RECEIVED:	05/06/82	JA: TX
8230456	F-03-028334	4228730727		102-2		EDGMON-CAMERON #1
8230724	F-08-050121	4200332981		103		LOCKHART & BROWN "14" #1
8230733	F-08-050172	4200332980		103		LOCKHART & BROWN "14" #2
-T A O ENERGY				RECEIVED:	05/06/82	JA: TX
8230511	F-09-041809	4236332462		103		TAO ENERGY CO J T COOK #2
-TDC EXPLORATION INC				RECEIVED:	05/06/82	JA: TX
8230642	F-06-049707	4230530123		102-2		HAVARD UNIT #1
-TESORO PETROLEUM CORP				RECEIVED:	05/06/82	JA: TX
8230583	F-02-040896	4205730947		103		W J WALLACE #1
-TEXACO INC				RECEIVED:	05/06/82	JA: TX
8230451	F-10-009895	4219500000		108-ER		C C O'LOUGHLIN SR TRUST #2-U
8230624	F-8A-049406	4216532320		103		J B ROBERTSON #43
8230623	F-8A-049405	4216532249		103		ROBERTSON UNIT #42
8230558	F 08-046782	4247532070		103		STATE OF TEXAS "DC" #2
8230536	F-08-044534	4247532417		103		STATE OF TEXAS "FW" #4
-TEXAS OIL & GAS CORP				RECEIVED:	05/06/82	JA: TX
8230459	F-06-032730	4240131076		102-4	107-TF	HENDERSON "C" #1
8230585	F-02-041219	4217500000		102-4		HOFF D-1
8230562	F-06-047364	4245930513		103	107-TF	LEARD #1-2
8230495	F-04-039875	4224931398		102-4		RUPP #3
-THE DOW CHEMICAL COMPANY				RECEIVED:	05/06/82	JA: TX
8230609	F-03-049077	4224531510		102-4		HEBERT BROUSSARD #10
8230610	F-03-049078	4224531385		102-4		HEBERT BROUSSARD #11
8230611	F-03-049079	4224531252		102-4		HEBERT BROUSSARD "A" #2
8230612	F-03-049080	4224531439		102-4		HEBERT HEIRS #1
8230626	F-03-049433	4224531206		102-4		HEBERT-BROUSSARD "A" #1
-TIPPERARY OIL AND GAS CORP				RECEIVED:	05/06/82	JA: TX
8230517	F-03-042401	4214931203		103		ELLISOR "B" #1
-TOWNSEND CO				RECEIVED:	05/06/82	JA: TX
8230717	F-7C-050093	4239932151		103		DICKINSON #11 (09109)
8230714	F-7C-050088	4239900000		102-4		DICKINSON #4 (08629)
8230715	F-7C-050090	4239932016		102-4		DICKINSON #6 (08629)
8230716	F-7C-050091	4239932041		102-4		DICKINSON #7 (09170)
-TRANSCONTINENTAL OIL CORPORATION				RECEIVED:	05/06/82	JA: TX
*8230599	F-7C-048813	4241330997		102-2	103	UNIVERSITY 55-22 #17
-TRIPLE L OIL CO INC				RECEIVED:	05/06/82	JA: TX
8230588	F-04-048362	4235531829		102-4		H & F PROPERTIES #5-B
-TROJAN OIL PRODUCTION & SERVICES IN				RECEIVED:	05/06/82	JA: TX
8230635	F-7C-049634	4239932337		103		KING #2
8230634	F-7C-049632	4239932361		103		NORTHINGTON A-1
-TXO PRODUCTION CORP				RECEIVED:	05/06/82	JA: TX

FIELD NAME	PROD	PURCHASER
REDFISH REEF SW	8.0	UNITED TEXAS TRAN
DUNE	0.3	PHILLIPS PETROLEU
SUN NORTH (6150)	1020.0	TRANSCONTINENTAL
SUN NORTH (6250)	443.0	
BOONSVILLE	47.0	NATURAL GAS PIPEL
ST CLAIR	318.0	PIONEER NATURAL G
HANSFORD N	258.0	NORTHERN NATURAL
CHENEYBORO (COTTON VA	0.4	
BEATTIE N (MARBLE FAL	199.0	SOUTHWESTERN GAS
GIDDINGS (AUSTIN CHAL	182.0	PHILLIPS PETROLEU
NIX SOUTH	95.0	PHILLIPS PETROLEU
NIX SOUTH	412.5	PHILLIPS PETROLEU
PERRIN SW (CONGL 4850	1.0	LONE STAR GAS CO
ZAVALLA	406.0	PERRY PIPELINE CO
MAGNOLIA BEACH (7600'	150.0	CHANNEL INDUSTRIE
TWIN (DES MOINES)	3.4	NORTHERN NATURAL
ROBERTSON N (CLEARFOR	35.7	PHILLIPS PETROLEU
ROBERTSON N (CLEAR FO	18.6	PHILLIPS PETROLEU
WAR-WINK SOUTH (WOLFC	9.9	WESTAR TRANSMISSI
WAR-WINK S (WOLFCAMP)	128.3	WESTAR TRANSMISSI
HENDERSON NORTH (COTT	0.9	
BYRON HOFF (3260')	500.0	DELHI GAS PIPELIN
ROSEWOOD (COTTON VALL	0.0	
FALFURRIAS (9200' VIC	0.0	UNITED GAS PIPELI
GUM ISLAND N (FRIO 91	548.0	
GUM ISLAND W (10,500)	1600.0	
GUM ISLAND W (10,200)	25.0	
GUM ISLAND N (HACKBER	400.0	
GUM ISLAND W (10,600)	24.0	
GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
CLARKIRK (CROSSCUT)	24.0	LONE STAR GAS CO
BALLINGER WEST (CAPPS	10.0	LONE STAR GAS CO
BALLINGER WEST (CAPPS	9.0	LONE STAR GAS CO
BALLINGER WEST (DOG B	29.0	LONE STAR GAS CO
UNIVERSITY 54 (ELLENB	73.8	CRA INC
SAXET	0.0	DELHI GAS PIPELIN
BIG ED (GARDNER LIME)	6.0	LONE STAR GAS CO
BIG ED (GARDNER LIME)	1.0	LONE STAR GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROL	PURCHASER
8230535	F-06-044383	4240100000		102-4		BOLTON "A" #4	BOLTON (TRAVIS PEAK 7	0.0	
8230593	F-10-048476	4235731249		102-4		DANIELS "C" #3	RICKS (MORROW UPPER)	300.0	DELHI GAS PIPELIN
8230453	F-03-015868	4240700000		102-4	103	FOSTER MINERALS #1	MERCY W (MT SELMAN)	0.0	UNITED GAS PIPELI
-VANGUARD EXPLORATION CO INC				RECEIVED:	05/06/82	JA: TX			
8230597	F-09-048679	4249700000		108		PRICE #1	YOUNGER W (CADDO CONG	11.0	LONE STAR GAS CO
-W A HAWN JR				RECEIVED:	05/06/82	JA: TX			
8230452	F-05-012250	4221300000		103		W A HAWN JR GAS UNIT #1--RRC#81091	TRI-CITIES (TRAVIS PE	0.0	LONE STAR GAS CO
-W H (BILL) HOFFMANN				RECEIVED:	05/06/82	JA: TX			
8230479	F-78-037685	4213300000		108		H BRASHEARS #1 ID NO 56108	EASTLAND COUNTY REGUL	16.0	LONE STAR GAS CO
-W L PENNINGTON INC				RECEIVED:	05/06/82	JA: TX			
8230501	F-10-040558	4208731152		108-ER		EMMERT 1-100 ID#93035	PANHANDLE EAST	20.0	EL PASO NATURAL G
-W R EDWARDS JR				RECEIVED:	05/06/82	JA: TX			
8230729	F-10-056136	4233300000		103		MERCHANT ET AL #9	PANHANDLE HUTCHINSON	95.0	PANHANDLE PRODUCI
8230631	F-10-049517	4219500000		103		PITTMAN #8	TEXAS HUGOTON	108.0	DIAMOND SHAMROCK
-WAGNER & BROWN				RECEIVED:	05/06/82	JA: TX			
8230491	F-10-039180	4229530833		102-4	103	KILPATRICK #1-90	IVANHOE (TONKAWA)	75.0	NORTHERN NATURAL
-WESSELY ENERGY CORPORATION				RECEIVED:	05/06/82	JA: TX			
8230571	F-06-047745	4200130924		103		J W BARTON #1	CAYUGA (PETTIT)	55.0	LONE STAR GAS CO
-WESTLAND OIL DEVELOPMENT CORP				RECEIVED:	05/06/82	JA: TX			
8230617	F-08-049242	4237133523		107-DP		JV-P GRANDE #3 8004	PECOS GRANDE (DEVONIA	1100.0	LONE STAR GAS CO
-WILLIFORD ENERGY CO				RECEIVED:	05/06/82	JA: TX			
8230490	F-10-039127	4229500000		102-4	103	GADBERRY #1	LADY (MORROW UPPER)	0.0	
-WINN EXPLORATION/DULCE CO				RECEIVED:	05/06/82	JA: TX			
8230573	F-01-047817	4250731551		102-4		PRYOR RANCH #45-T	WINN-DULCE	0.0	NORTHERN NATURAL
8230572	F-01-047809	4250731584		102-4		PRYOR RANCH #49	WINN-DULCE	0.0	NORTHERN NATURAL
8230575	F-01-047812	4250731550		102-4		PRYOR RANCH 39	WINN-DULCE	0.0	NORTHERN NATURAL
8230574	F-01-047811	4250731551		102-4		PRYOR RANCH 45-C	WINN-DULCE	0.0	NORTHERN NATURAL
-WOODS PETROLEUM CORP				RECEIVED:	05/06/82	JA: TX			
8230529	F-8A-042899	4207931239		102-4	103	JENNIE B DENNY #1	BONANZA (SAN ANDRES)	28.0	WARREN PETROLEUM
8230522	F-8A-042751	4207931318		102-4	103	JENNIE B DENNY #2	BONANZA (SAN ANDRES)	15.0	WARREN PETROLEUM
8230524	F-8A-042753	4207931331		102-4	103	JENNIE B DENNY #3	BONANZA (SAN ANDRES)	7.0	WARREN PETROLEUM
8230521	F-8A-042750	4207931395		102-4	103	NICHOLS #1-4	BONANZA (SAN ANDRES)	8.0	WARREN PETROLEUM
8230523	F-8A-042752	4207931361		102-4	103	VERNON #3	BONANZA (SAN ANDRES)	16.0	WARREN PETROLEUM
-WOODS PETROLEUM CORPORATION				RECEIVED:	05/06/82	JA: TX			
8230530	F-8A-042900	4207931359		102-4	103	VERNON #1	BONANZA (SAN ANDRES)	15.0	WARREN PETROLEUM
-ZINN PETROLEUM CO				RECEIVED:	05/06/82	JA: TX			
8230592	F-03-048473	4219931376		103		KIRBY FOREST INDUSTRIES #1	SOUTH SEGNO (Y-5-6800	120.0	HOUSTON PIPELINE
8230606	F-03-048944	4232131058		103		PIERCE ESTATE #1	SOUTH BAY PRAIRIE	730.0	DOW CHEMICAL
-ZONERGY INC				RECEIVED:	05/06/82	JA: TX			
8230564	F-03-041369	4205100000		102-2		BATES-SOMERVILLE PLACE #1	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO

OTHER PURCHASERS VOLUME NO 655

8230508	PANHANDLE EASTERN P L CO
8230597	COLUMBIA GAS TRANS CO
8230559	AMOCO PRODUCTION CO
8230599	LONE STAR GAS CO
8230603	COLUMBIA GAS TRANSMISSION CORP
8230607	NORTHERN NATURAL GAS CO
8230615	E I DUPONT DE NEMOURS & CO INC
8230632	SID RICHARDSON CARBON & GASOLINE CO
8230641	AMOCO PRODUCTION CO
8230649	E I DUPONT DE NEMOURS & CO
8230691	LONE STAR GAS CO
8230699	EL PASO NATURAL GAS CO
8230747	LONE STAR GAS CO

CORRECTIONS TO PREVIOUS NOTICES OF DETERMINATION

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	Cs	Correction to prior Fed. Register notice
82-22172	CO	Davis CRLG Inc	Ernsting 1-28	621	04-05-82	C:	107-PE approved; not 107-TF
82-22173	CO	Davis DRLG Inc	Farmer 1-34	621	04-05-82	C:	107PE approved; not 107-TF
82-22174	CO	Davis DRLG Inc	Self 1-9	621	04-05-82	C:	107PE approved; not 107-TF
82-22325	OH	Oxford Oil Co	Harold Frash #1	622	04-05-82	C:	107RT Denied, not approved
82-22347	OH	Resource Production Inc	Clayton Allen #2	622	04-05-82	C:	108 Denied, not approved
82-22378	VA	Columbia Gas Trans.	Buchanan Energy Corp 820723	622	04-05-82	C:	107-DV approved, not 107-CS
82-22379	VA	Columbia Gas Trans.	W. Miller & C Charles 820637	622	04-05-82	C:	107-DV approved, not 107-TF
82-22380	VA	Columbia Gas Trans.	New Era Coal Corp 820038	622	04-05-82	C:	107-DV approved, not 107-CS
82-22401	TX	Clarion Resources, Inc	Haggard #1 #80141	623	04-05-82	C:	Applicant
82-22402	TX	Clarion Resources, Inc	Mayberry #1 RRC #85362	623	04-05-82	C:	Applicant
82-22708	TX	Sage Energy Company	Sealy & Smith 71-A #1 RRC #26635	624	04-05-82	C:	Well name
82-22938	PA	Fox Oil & Gas Inc.	Fred Hoehl #38	625	04-04-82	C:	Well name
82-23056	OK	Dyco Petroleum Corp	Baergen #1-34	626	04-05-82	C:	Well name
82-23177	OK	Texaco Inc	RR Glass No. 2	626	04-05-82	C:	Well name
82-23307	OH	Hopco Resources	Van Buren #1	627	04-13-82	C:	103 approved; 107-TF denied
82-23378	OH	Rimco Operating Co	Allen #1	627	04-13-82	C:	103 approved; 107-TF denied
82-23424	OH	Viking Resources Corp	Snyder Unit #3	627	04-13-82	C:	103 approved; 107-TF denied
82-23429	OK	Cotton Petroleum Corp	Sides #1	627	04-13-82	C:	107-PE approved, not 107-TF
82-23469	OK	Kaiser-Francis	McClung Unit	627	04-13-82	C:	108-ER approved
82-23504	TX	Ada Oil Exploration	Hogan #1	628	04-13-82	C:	Well name
82-23508	TX	Cashco Oil Co	W. P. Conley #1	628	04-13-82	C:	102-2 approved; not 102-4
82-23542	TX	Resources Investment	Hartman #2	628	04-13-82	C:	Well name
82-23567	TX	Chas F. Dominy	J L Boggus No. 1 RRC12238	628	04-13-82	C:	Well name
82-23586	TX	Powco Oil & Gas Inc.	J.A. Rowley #1	628	04-13-82	C:	107-RT approved, not 107-TF
82-23587	TX	Cordova Resources Inc	L E Brannin #1	628	04-13-82	C:	108 approved, not 103 & 108
82-23648	TX	American Quasar Pet. Co	Mitchell Place #2-71L	628	04-13-82	C:	Well name
82-23728	TX	R A W Energy Corp	Hollonay #3-L	628	04-13-82	C:	Well name
82-23740	TX	Hanley Company	Whiversity 2-36A (09201)#1	628	04-13-82	C:	103 approved, not 108
82-23807	TX	Mobil (Tex & NMINC)	C F H Blucher #34	628	04-13-82	C:	108 approved, not 108-SA
82-23881MM(NM)		Amoco Production Co	Federal BU #1Y	629	04-13-82	C:	Well name
82-23196	OK	Jones & Pellon Oil Co	Hankins 34-1	630	04-13-82	C:	Well name
82-24440	AR	Westland Exploration Co	Lucy Herbert No. 1-C Dunn "C"	631	04-14-82	C:	102-4 approved, not 103
82-24441	AR	Exxon Corporation	Chismville Gas Unit #1-U	631	04-14-82	C:	Well name
82-24442	AR	Exxon Corporation	Chismville Gas Unit #1-L	631	04-14-82	C:	Well name
82-25099	KY	J W Kinser	Wash Combs #1	634	04-20-82	C:	Well name

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14940 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-C

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: May 25, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION									
-ALICE-SIDNEY OIL CO			RECEIVED:	05/05/82	JA: LA				
8230950	82-0739	1711920272	102-4			DAVIS #1 CV RA SUA	ADA	36.5	ARKANSAS LOUISIAN
-AMERADA HESS CORPORATION			RECEIVED:	05/05/82	JA: LA				
8231042	82-1582	1711320930	102-4			F A GODCHAUX #1	LIVE OAK	1095.0	TRANSCONTINENTAL
8231043	82-1583	1711321996	102-4			F A GODCHAUX #2	LIVE OAK	1038.0	TRANSCONTINENTAL
-AMOCO PRODUCTION CO			RECEIVED:	05/05/82	JA: LA				
8230848	82-1419	1706320056	107-DP			J A THOM #1 16,700 TUSC RA SUE	LOCKHART CROSSING	2190.0	SOUTHERN NATURAL
8231050	82-1027	1707720264	107-DP			O E LACOUR #1	SCHWAB	3869.0	COLUMBIA GAS TRAN
8230948	82-0655	1707720257	107-DP			R L BERGERON #5 18,100' TUSC RA SUH	MOORE-SAMS	3650.0	TEXAS GAS TRANSMI
-ASPEN EXPLORATION			RECEIVED:	05/05/82	JA: LA				
8230939	81-2623	1700120865	102-4			FRUGE #1	CHURCH POINT	773.4	MONTEREY PIPELINE
-C & K PETROLEUM INC			RECEIVED:	05/05/82	JA: LA				
8230963	82-0838	1771120255	107-DP			STATE LEASE 8083 #1A	SHIP SHOAL BLK 39	0.0	
-CHEVRON U S A INC			RECEIVED:	05/05/82	JA: LA				
8230870	82-1279	1712120125	107-DP			D OLIVER #2 19,100 TUSC RA SUN	PROFIT ISLAND	3761.0	
8231024	82-1123	1709720635	107-DP			J B LOWREY HRS #3 18300 TUSC RA SUA	ELBA	3504.0	
8230842	82-1126	1707720222	107-DP			M M WAGLEY #2 L TUSC RA SUF	JUDGE DIGBY	177.0	SUGAR BOWL GAS CO
8230945	82-1030	1712120132	107-DP			O J CHAMPAGNE #1 19800 TUSC RA SUA	FALSE RIVER	438.0	SUGAR BOWL GAS CO
8230883	82-1125	1707720256	107-DP			VICTOR A DEBATAZ #1	MORGANZA	1805.1	
-COLUMBIA GAS DEVELOPMENT CORP			RECEIVED:	05/05/82	JA: LA				
8230859	82-1072	1709920981	107-DP			JEANERETTE LMBR & SHINGLE CO LTD #2	WILDCAT	1182.0	
-CONOCO INC			RECEIVED:	05/05/82	JA: LA				
8230964	82-0621	1771920867	103			*SL 2551 WD 84 WELL #18	WEST DELTA BLOCK 84	56.0	TENNESSEE GAS PIP
-CRYSTAL OIL COMPANY			RECEIVED:	05/05/82	JA: LA				
8230856	82-1599	1701521448	102-4			INT'L PAPER CO "B" #1 HAY RA SUC	ARKANA	77.2	ARKANSAS LOUISIAN
-ELSBURY & MCGREW			RECEIVED:	05/05/82	JA: LA				
8231044	82-0691	1705500000	102-4			C H JUDICE #1	JUDICE	144.0	TRANSCONTINENTAL
-EXCHANGE OIL & GAS CORPORATION			RECEIVED:	05/05/82	JA: LA				
8230947	82-0653	1770520109	107-DP			S/L 3624 #6	VERMILION BLOCK 16	730.0	TRANSCONTINENTAL
8230843	82-1124	1705520218	107-DP			SIDNEY DAILY #1	INDIAN BAYOU	730.0	LOUISIANA INTRAST
-FLYNN ENERGY CORP			RECEIVED:	05/05/82	JA: LA				
*8230965	82-0648	1710121227	107-DP			WILLIAMS #2	GARDEN CITY	1246.5	UNITED GAS PIPELI
-GETTY OIL CO			RECEIVED:	05/05/82	JA: LA				
8230849	82-1493	1707522922	107-DP			BURAS LEVEE DISTRICT #191	VENICE	500.0	UNITED GAS PIPELI
-GETTY OIL COMPANY			RECEIVED:	05/05/82	JA: LA				
8230904	81-2723	1700120655	103			E COBENA "B" #1-D	BRANCH	0.0	MONTEREY PIPELINE
8230905	81-2724	1700120655	103			E COBENA "C" #1	BRANCH	0.0	MONTEREY PIPELINE
-GULF OIL CORPORATION			RECEIVED:	05/05/82	JA: LA				
8230908	81-2731	1707522720	103			S L 195 00: #97-D	WEST BLACK BAY	29.5	SOUTHERN NATURAL
-HILLIARD OIL & GAS INC			RECEIVED:	05/05/82	JA: LA				
8230858	82-2096	1707522502	102-4			C V FOX #1	POINTE A LA HACHE	627.0	SOUTHERN NATURAL

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-HUNT ENERGY CORPORATION ET AL				RECEIVED:	05/05/82	JA: LA			
8230869	82-1276	1712520010		107-DP		GEORGIA PAC #1 16400 TUSC RA SUA	ST FRANCISVILLE	619.0	
-KERR-MCGEE CORP				RECEIVED:	05/05/82	JA: LA			
8230909	81-2733	1772720146		103		S L 9178 #1	CHANDELEUR SOUND BLOC	1643.0	
-LADD PETROLEUM CORPORATION				RECEIVED:	05/05/82	JA: LA			
8230850	82-1494	1707522540		107-DP		LL&E #5 LW 29 RASU	LAKE WASHINGTON	235.4	SOUTHERN NATURAL
-LONGHORN OIL & GAS CO				RECEIVED:	05/05/82	JA: LA			
8230857	82-2094	1700120951		102-4		HERSHEL B WILDER #1	CROWLEY	360.0	
-MARSHALL EXPLORATION INC				RECEIVED:	05/05/82	JA: LA			
8230941	81-2719	1703120841		103		FONVILLE #2 FBG RA SU 119	LOGANSPORT	255.0	TENNESSEE GAS PIP
8230940	81-2718	1703120843		103		JACK GAMBLE #2 FBG RA SU 81	LOGANSPORT	19.0	TENNESSEE GAS PIP
-MAY PETROLEUM INC				RECEIVED:	05/05/82	JA: LA			
8230906	81-2725	1705520173		103		M E MCCONNELL #2 (164453) CAM C RA	DUSON	730.0	TRANSCONTINENTAL
8230949	82-733	1705520206		102-4	103	M GUILBEAU "A" #1 BOL MEX 3 RA SUA	SCOTT FIELD	1460.0	LOUISIANA INTRAST
-MCMORAN EXPLORATION CO				RECEIVED:	05/05/82	JA: LA			
8230847	82-1365	1710121245		107-DP		J M BURGUIERES CO LTD #1	COTE BLANCHE ISLAND	1825.0	
-MID LOUISIANA GAS COMPANY				RECEIVED:	05/05/82	JA: LA			
8231003	82-1247	1711100000		108		MLGC FEE GAS #10	MONROE GAS FIELD	84.7	MID LOUISIANA GAS
8230757	82-1510	1707300000		108		MLGC FEE GAS #100	MONROE GAS FIELD	46.4	MID LOUISIANA GAS
8230756	82-1509	1707300000		108		MLGC FEE GAS #101	MONROE GAS FIELD	56.1	MID LOUISIANA GAS
8230755	82-1507	1711100000		108		MLGC FEE GAS #104	MONROE GAS FIELD	37.2	MID LOUISIANA GAS
8231005	82-1506	1711100000		108		MLGC FEE GAS #106	MONROE GAS FIELD	66.2	MID LOUISIANA GAS
8231090	82-1689	1711100000		108		MLGC FEE GAS #107	MONROE GAS FIELD	74.9	MID LOUISIANA GAS
8231089	82-1688	1711100000		108		MLGC FEE GAS #108	MONROE GAS FIELD	59.5	MID LOUISIANA GAS
8231017	82-1550	1711123297		103		MLGC FEE GAS #1080	MONROE GAS FIELD	26.1	MID LOUISIANA GAS
8231088	82-1687	1711100000		108		MLGC FEE GAS #109	MONROE GAS FIELD	57.0	MID LOUISIANA GAS
8231087	82-1686	1711100000		108		MLGC FEE GAS #110	MONROE GAS FIELD	87.7	MID LOUISIANA GAS
8231018	82-1551	1711123526		103		MLGC FEE GAS #1105	MONROE GAS FIELD	41.0	MID LOUISIANA GAS
8231110	82-1685	1711100000		108		MLGC FEE GAS #112	MONROE GAS FIELD	76.9	MID LOUISIANA GAS
8230810	82-1677	1711100000		108		MLGC FEE GAS #113	MONROE GAS FIELD	177.0	MID LOUISIANA GAS
8230811	82-1678	1711100000		108		MLGC FEE GAS #116	MONROE GAS FIELD	83.5	MID LOUISIANA GAS
8230812	82-1679	1711100000		108		MLGC FEE GAS #118	MONROE GAS FIELD	62.0	MID LOUISIANA GAS
8230809	82-1676	1711100000		108		MLGC FEE GAS #119	MONROE GAS FIELD	90.4	MID LOUISIANA GAS
8230808	82-1675	1711100000		108		MLGC FEE GAS #120	MONROE GAS FIELD	67.4	MID LOUISIANA GAS
8230815	82-1665	1711100000		108		MLGC FEE GAS #122	MONROE GAS FIELD	59.1	MID LOUISIANA GAS
8230816	82-1666	1711100000		108		MLGC FEE GAS #123	MONROE GAS FIELD	69.5	MID LOUISIANA GAS
8230817	82-1667	1711100000		108		MLGC FEE GAS #124	MONROE GAS FIELD	84.7	MID LOUISIANA GAS
8230818	82-1668	1711100000		108		MLGC FEE GAS #125	MONROE GAS FIELD	64.1	MID LOUISIANA GAS
8230819	82-1669	1711100000		108		MLGC FEE GAS #126	MONROE GAS FIELD	69.4	MID LOUISIANA GAS
8231054	82-1705	1711100000		108		MLGC FEE GAS #127	MONROE GAS FIELD	92.8	MID LOUISIANA GAS
8230881	82-1706	1711100000		108		MLGC FEE GAS #129	MONROE GAS FIELD	33.4	MID LOUISIANA GAS
8231055	82-1707	1707300000		108		MLGC FEE GAS #131	MONROE GAS FIELD	100.9	MID LOUISIANA GAS
8230882	82-1708	1711100000		108		MLGC FEE GAS #132	MONROE GAS FIELD	43.6	MID LOUISIANA GAS
8231056	82-1709	1711100000		108		MLGC FEE GAS #136	MONROE GAS FIELD	195.1	MID LOUISIANA GAS
8231099	82-1692	1711100000		108		MLGC FEE GAS #137	MONROE GAS FIELD	190.0	MID LOUISIANA GAS
8231081	82-1693	1711100000		108		MLGC FEE GAS #139	MONROE GAS FIELD	186.8	MID LOUISIANA GAS
8230762	82-1524	1711100000		108		MLGC FEE GAS #14	MONROE GAS FIELD	103.8	MID LOUISIANA GAS
8231082	82-1694	1711100000		108		MLGC FEE GAS #140	MONROE GAS FIELD	67.3	MID LOUISIANA GAS
8231091	82-1695	1711100000		108		MLGC FEE GAS #141	MONROE GAS FIELD	142.2	MID LOUISIANA GAS
8231080	82-1691	1711100000		108		MLGC FEE GAS #143	MONROE GAS FIELD	67.8	MID LOUISIANA GAS
8231078	82-1680	1711100000		108		MLGC FEE GAS #148	MONROE GAS FIELD	60.9	MID LOUISIANA GAS
8231093	82-1681	1711100000		108		MLGC FEE GAS #149	MONROE GAS FIELD	57.9	MID LOUISIANA GAS
8231079	82-1682	1711100000		108		MLGC FEE GAS #150	MONROE GAS FIELD	70.0	MID LOUISIANA GAS

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8231108	82-1683	1711100000	108			MLGC FEE GAS #151	MONROE GAS FIELD	87.8	MID LOUISIANA GAS
8231109	82-1684	1711100000	108			MLGC FEE GAS #152	MONROE GAS FIELD	39.6	MID LOUISIANA GAS
8230820	82-1670	1711100000	108			MLGC FEE GAS #154	MONROE GAS FIELD	113.6	MID LOUISIANA GAS
8230821	82-1671	1711100000	108			MLGC FEE GAS #155	MONROE GAS FIELD	106.8	MID LOUISIANA GAS
8230805	82-1672	1711100000	108			MLGC FEE GAS #156	MONROE GAS FIELD	101.4	MID LOUISIANA GAS
8230806	82-1673	1711100000	108			MLGC FEE GAS #157	MONROE GAS FIELD	82.3	MID LOUISIANA GAS
8230807	82-1674	1711100000	108			MLGC FEE GAS #159	MONROE GAS FIELD	76.3	MID LOUISIANA GAS
8231064	82-1720	1711100000	108			MLGC FEE GAS #161	MONROE GAS FIELD	121.7	MID LOUISIANA GAS
8230885	82-1721	1711100000	108			MLGC FEE GAS #162	MONROE GAS FIELD	123.8	MID LOUISIANA GAS
8231065	82-1722	1711100000	108			MLGC FEE GAS #163	MONROE GAS FIELD	105.1	MID LOUISIANA GAS
8231066	82-1723	1711100000	108			MLGC FEE GAS #164	MONROE GAS FIELD	76.4	MID LOUISIANA GAS
8231067	82-1724	1711100000	108			MLGC FEE GAS #165	MONROE GAS FIELD	62.6	MID LOUISIANA GAS
8230912	82-1717	1711100000	108			MLGC FEE GAS #167	MONROE GAS FIELD	54.3	MID LOUISIANA GAS
8231063	82-1718	1711100000	108			MLGC FEE GAS #169	MONROE GAS FIELD	112.7	MID LOUISIANA GAS
8230884	82-1719	1711100000	108			MLGC FEE GAS #170	MONROE GAS FIELD	71.6	MID LOUISIANA GAS
8231062	82-1716	1711100000	108			MLGC FEE GAS #171	MONROE GAS FIELD	76.9	MID LOUISIANA GAS
8230911	82-1715	1711100000	108			MLGC FEE GAS #172	MONROE GAS FIELD	103.4	MID LOUISIANA GAS
8231057	82-1710	1711100000	108			MLGC FEE GAS #173	MONROE GAS FIELD	23.2	MID LOUISIANA GAS
8230876	82-1711	1711100000	108			MLGC FEE GAS #174	MONROE GAS FIELD	115.2	MID LOUISIANA GAS
8231060	82-1712	1711100000	108			MLGC FEE GAS #175	MONROE GAS FIELD	89.3	MID LOUISIANA GAS
8230877	82-1713	1711100000	108			MLGC FEE GAS #176	MONROE GAS FIELD	98.5	MID LOUISIANA GAS
8231061	82-1714	1711100000	108			MLGC FEE GAS #178	MONROE GAS FIELD	56.7	MID LOUISIANA GAS
8231083	82-1695	1711100000	108			MLGC FEE GAS #179	MONROE GAS FIELD	77.2	MID LOUISIANA GAS
8231084	82-1696	1711100000	108			MLGC FEE GAS #180	MONROE GAS FIELD	103.3	MID LOUISIANA GAS
8231100	82-1697	1711100000	108			MLGC FEE GAS #181	MONROE GAS FIELD	54.0	MID LOUISIANA GAS
8231085	82-1698	1711100000	108			MLGC FEE GAS #182	MONROE GAS FIELD	64.2	MID LOUISIANA GAS
8231086	82-1699	1711100000	108			MLGC FEE GAS #183	MONROE GAS FIELD	34.2	MID LOUISIANA GAS
8231050	82-1700	1711100000	108			MLGC FEE GAS #184	MONROE GAS FIELD	66.4	MID LOUISIANA GAS
8231051	82-1701	1711100000	108			MLGC FEE GAS #185	MONROE GAS FIELD	54.0	MID LOUISIANA GAS
8231052	82-1702	1711100000	108			MLGC FEE GAS #186	MONROE GAS FIELD	47.2	MID LOUISIANA GAS
8231053	82-1703	1711100000	108			MLGC FEE GAS #187	MONROE GAS FIELD	34.4	MID LOUISIANA GAS
8231059	82-1704	1711100000	108			MLGC FEE GAS #188	MONROE GAS FIELD	67.6	MID LOUISIANA GAS
8231026	82-1461	1711100000	108			MLGC FEE GAS #24	MONROE GAS FIELD	55.4	MID LOUISIANA GAS
8231027	82-1462	1711100000	108			MLGC FEE GAS #25	MONROE GAS FIELD	69.3	MID LOUISIANA GAS
8231028	82-1463	1711100000	108			MLGC FEE GAS #27	MONROE GAS FIELD	55.8	MID LOUISIANA GAS
8230781	82-1190	1711100000	108			MLGC FEE GAS #273	MONROE GAS FIELD	62.3	MID LOUISIANA GAS
8230782	82-1191	1711100000	108			MLGC FEE GAS #274	MONROE GAS FIELD	70.2	MID LOUISIANA GAS
8230783	82-1192	1707300000	108			MLGC FEE GAS #275	MONROE GAS FIELD	111.2	MID LOUISIANA GAS
8230784	82-1193	1711100000	108			MLGC FEE GAS #276	MONROE GAS FIELD	98.3	MID LOUISIANA GAS
8230785	82-1194	1711100000	108			MLGC FEE GAS #278	MONROE GAS FIELD	95.1	MID LOUISIANA GAS
8230770	82-1456	1711100000	108			MLGC FEE GAS #28	MONROE GAS FIELD	98.8	MID LOUISIANA GAS
8230832	82-1530	1711100000	108			MLGC FEE GAS #280	MONROE GAS FIELD	54.2	MID LOUISIANA GAS
8231008	82-1531	1711100000	108			MLGC FEE GAS #281	MONROE GAS FIELD	85.2	MID LOUISIANA GAS
8230833	82-1532	1711100000	108			MLGC FEE GAS #282	MONROE GAS FIELD	61.1	MID LOUISIANA GAS
8230834	82-1533	1711100000	108			MLGC FEE GAS #283	MONROE GAS FIELD	41.3	MID LOUISIANA GAS
8230835	82-1534	1711100000	108			MLGC FEE GAS #284	MONROE GAS FIELD	99.2	MID LOUISIANA GAS
8231002	82-1469	1711100000	108			MLGC FEE GAS #285	MONROE GAS FIELD	25.4	MID LOUISIANA GAS
8230971	82-1470	1711100000	108			MLGC FEE GAS #286	MONROE GAS FIELD	155.3	MID LOUISIANA GAS
8230999	82-1471	1711100000	108			MLGC FEE GAS #287	MONROE GAS FIELD	74.6	MID LOUISIANA GAS
8230994	82-1472	1711100000	108			MLGC FEE GAS #288	MONROE GAS FIELD	142.1	MID LOUISIANA GAS
8230995	82-1473	1711100000	108			MLGC FEE GAS #289	MONROE GAS FIELD	55.3	MID LOUISIANA GAS
8230771	82-1457	1711100000	108			MLGC FEE GAS #29	MONROE GAS FIELD	122.0	MID LOUISIANA GAS
8231038	82-1185	1711100000	108			MLGC FEE GAS #290	MONROE GAS FIELD	79.1	MID LOUISIANA GAS

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8231039	82-1186	1711100000		108		MLGC FEE GAS #291	MONROE GAS FIELD	61.5	MID LOUISIANA GAS
8231040	82-1187	1711100000		108		MLGC FEE GAS #292	MONROE GAS FIELD	69.9	MID LOUISIANA GAS
8231041	82-1188	1711100000		108		MLGC FEE GAS #293	MONROE GAS FIELD	128.5	MID LOUISIANA GAS
8230837	82-1189	1711100000		108		MLGC FEE GAS #296	MONROE GAS FIELD	60.5	MID LOUISIANA GAS
8230787	82-1196	1711100000		108		MLGC FEE GAS #298	MONROE GAS FIELD	56.0	MID LOUISIANA GAS
8230788	82-1197	1711100000		108		MLGC FEE GAS #299	MONROE GAS FIELD	123.7	MID LOUISIANA GAS
8230789	82-1198	1711100000		108		MLGC FEE GAS #300	MONROE GAS FIELD	51.9	MID LOUISIANA GAS
8230979	82-1199	1711100000		108		MLGC FEE GAS #302	MONROE GAS FIELD	80.6	MID LOUISIANA GAS
8230786	82-1195	1711100000		108		MLGC FEE GAS #306	MONROE GAS FIELD	73.7	MID LOUISIANA GAS
8230973	82-1479	1711100000		108		MLGC FEE GAS #309	MONROE GAS FIELD	103.4	MID LOUISIANA GAS
8231038	82-1458	1711100000		108		MLGC FEE GAS #31	MONROE GAS FIELD	92.5	MID LOUISIANA GAS
8230974	82-1480	1711100000		108		MLGC FEE GAS #313	MONROE GAS FIELD	77.7	MID LOUISIANA GAS
8230975	82-1481	1711100000		108		MLGC FEE GAS #315	MONROE GAS FIELD	75.8	MID LOUISIANA GAS
8230976	82-1482	1711100000		108		MLGC FEE GAS #316	MONROE GAS FIELD	70.0	MID LOUISIANA GAS
8231031	82-1459	1711100000		108		MLGC FEE GAS #32	MONROE GAS FIELD	59.9	MID LOUISIANA GAS
8230977	82-1483	1711100000		108		MLGC FEE GAS #320	MONROE GAS FIELD	87.6	MID LOUISIANA GAS
8230982	82-1535	1711100000		108		MLGC FEE GAS #321	MONROE GAS FIELD	59.3	MID LOUISIANA GAS
8231004	82-1536	1711100000		108		MLGC FEE GAS #322	MONROE GAS FIELD	98.2	MID LOUISIANA GAS
8230967	82-1537	1711100000		108		MLGC FEE GAS #323	MONROE GAS FIELD	88.6	MID LOUISIANA GAS
8230968	82-1538	1711100000		108		MLGC FEE GAS #324	MONROE GAS FIELD	156.0	MID LOUISIANA GAS
8230969	82-1539	1711100000		108		MLGC FEE GAS #325	MONROE GAS FIELD	111.3	MID LOUISIANA GAS
8231029	82-1464	1711100000		108		MLGC FEE GAS #326	MONROE GAS FIELD	81.7	MID LOUISIANA GAS
8231032	82-1465	1711100000		108		MLGC FEE GAS #328	MONROE GAS FIELD	73.1	MID LOUISIANA GAS
8230955	82-1466	1711100000		108		MLGC FEE GAS #329	MONROE GAS FIELD	96.9	MID LOUISIANA GAS
8231025	82-1460	1711100000		108		MLGC FEE GAS #33	MONROE GAS FIELD	52.8	MID LOUISIANA GAS
8230956	82-1467	1711100000		108		MLGC FEE GAS #330	MONROE GAS FIELD	46.7	MID LOUISIANA GAS
8230970	82-1468	1711100000		108		MLGC FEE GAS #332	MONROE GAS FIELD	68.6	MID LOUISIANA GAS
8231037	82-1184	1711100000		108		MLGC FEE GAS #334	MONROE GAS FIELD	42.3	MID LOUISIANA GAS
8231036	82-1183	1711100000		108		MLGC FEE GAS #335	MONROE GAS FIELD	72.6	MID LOUISIANA GAS
8231035	82-1182	1711100000		108		MLGC FEE GAS #336	MONROE GAS FIELD	80.4	MID LOUISIANA GAS
8231034	82-1181	1711100000		108		MLGC FEE GAS #337	MONROE GAS FIELD	48.0	MID LOUISIANA GAS
8231033	82-1180	1711100000		108		MLGC FEE GAS #339	MONROE GAS FIELD	76.7	MID LOUISIANA GAS
8230957	82-1552	1711100000		108		MLGC FEE GAS #34	MONROE GAS FIELD	35.2	MID LOUISIANA GAS
8230767	82-1453	1711100000		108		MLGC FEE GAS #340	MONROE GAS FIELD	69.6	MID LOUISIANA GAS
8230768	82-1454	1711100000		108		MLGC FEE GAS #341	MONROE GAS FIELD	126.5	MID LOUISIANA GAS
8230769	82-1455	1711100000		108		MLGC FEE GAS #342	MONROE GAS FIELD	131.1	MID LOUISIANA GAS
8230766	82-1452	1711100000		108		MLGC FEE GAS #343	MONROE GAS FIELD	35.3	MID LOUISIANA GAS
8230980	82-1280	1711100000		108		MLGC FEE GAS #344	MONROE GAS FIELD	82.1	MID LOUISIANA GAS
8230972	82-1474	1711100000		108		MLGC FEE GAS #346	MONROE GAS FIELD	98.9	MID LOUISIANA GAS
8230996	82-1475	1711100000		108		MLGC FEE GAS #347	MONROE GAS FIELD	126.5	MID LOUISIANA GAS
8230997	82-1476	1711100000		108		MLGC FEE GAS #348	MONROE GAS FIELD	60.7	MID LOUISIANA GAS
8230998	82-1477	1711100000		108		MLGC FEE GAS #349	MONROE GAS FIELD	38.4	MID LOUISIANA GAS
8231019	82-1553	1711100000		108		MLGC FEE GAS #35	MONROE GAS FIELD	93.1	MID LOUISIANA GAS
8231000	82-1478	1711100000		108		MLGC FEE GAS #350	MONROE GAS FIELD	83.3	MID LOUISIANA GAS
8230861	82-1633	1711100000		108		MLGC FEE GAS #351	MONROE GAS FIELD	64.9	MID LOUISIANA GAS
8230874	82-1634	1711100000		108		MLGC FEE GAS #352	MONROE GAS FIELD	94.5	MID LOUISIANA GAS
8230862	82-1635	1711100000		108		MLGC FEE GAS #353	MONROE GAS FIELD	103.7	MID LOUISIANA GAS
8230863	82-1636	1711100000		108		MLGC FEE GAS #354	MONROE GAS FIELD	82.4	MID LOUISIANA GAS
8230875	82-1637	1711100000		108		MLGC FEE GAS #355	MONROE GAS FIELD	70.9	MID LOUISIANA GAS
8230823	82-1657	1711100000		108		MLGC FEE GAS #356	MONROE GAS FIELD	84.4	MID LOUISIANA GAS
8230824	82-1658	1711100000		108		MLGC FEE GAS #357	MONROE GAS FIELD	75.3	MID LOUISIANA GAS
8231020	82-1554	1711100000		108		MLGC FEE GAS #36	MONROE GAS FIELD	37.0	MID LOUISIANA GAS
8230792	82-1659	1711100000		108		MLGC FEE GAS #361	MONROE GAS FIELD	48.6	MID LOUISIANA GAS

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8230822	82-1656	1711100000		108		MLGC FEE GAS #363	MONROE GAS FIELD	70.8	MID LOUISIANA GAS
8230796	82-1655	1711100000		108		MLGC FEE GAS #365	MONROE GAS FIELD	86.5	MID LOUISIANA GAS
8230929	82-1613	1711100000		108		MLGC FEE GAS #366	MONROE GAS FIELD	54.5	MID LOUISIANA GAS
8230930	82-1614	1711100000		108		MLGC FEE GAS #367	MONROE GAS FIELD	112.2	MID LOUISIANA GAS
8230773	82-1615	1711100000		108		MLGC FEE GAS #368	MONROE GAS FIELD	128.0	MID LOUISIANA GAS
8230931	82-1616	1711100000		108		MLGC FEE GAS #369	MONROE GAS FIELD	110.0	MID LOUISIANA GAS
8230978	82-1484	1711100000		108		MLGC FEE GAS #37	MONROE GAS FIELD	9.2	MID LOUISIANA GAS
8230932	82-1617	1711100000		108		MLGC FEE GAS #370	MONROE GAS FIELD	101.0	MID LOUISIANA GAS
8230804	82-1608	1711100000		108		MLGC FEE GAS #371	MONROE GAS FIELD	121.3	MID LOUISIANA GAS
8230772	82-1609	1711100000		108		MLGC FEE GAS #372	MONROE GAS FIELD	136.5	MID LOUISIANA GAS
8230966	82-1610	1711100000		108		MLGC FEE GAS #373	MONROE GAS FIELD	148.8	MID LOUISIANA GAS
8230913	82-1611	1711100000		108		MLGC FEE GAS #374	MONROE GAS FIELD	121.7	MID LOUISIANA GAS
8230928	82-1612	1711100000		108		MLGC FEE GAS #375	MONROE GAS FIELD	64.5	MID LOUISIANA GAS
8230803	82-1603	1711100000		108		MLGC FEE GAS #377	MONROE GAS FIELD	61.7	MID LOUISIANA GAS
8230959	82-1604	1711100000		108		MLGC FEE GAS #378	MONROE GAS FIELD	56.7	MID LOUISIANA GAS
8230960	82-1605	1711100000		108		MLGC FEE GAS #379	MONROE GAS FIELD	61.4	MID LOUISIANA GAS
8230984	82-1555	1711100000		108		MLGC FEE GAS #38	MONROE GAS FIELD	138.9	MID LOUISIANA GAS
8230961	82-1606	1711100000		108		MLGC FEE GAS #381	MONROE GAS FIELD	75.6	MID LOUISIANA GAS
8230962	82-1607	1711100000		108		MLGC FEE GAS #383	MONROE GAS FIELD	74.5	MID LOUISIANA GAS
8230933	82-1618	1711100000		108		MLGC FEE GAS #385	MONROE GAS FIELD	43.1	MID LOUISIANA GAS
8230776	82-1619	1711100000		108		MLGC FEE GAS #386	MONROE GAS FIELD	85.2	MID LOUISIANA GAS
8230774	82-1620	1711100000		108		MLGC FEE GAS #387	MONROE GAS FIELD	99.4	MID LOUISIANA GAS
8230934	82-1621	1711100000		108		MLGC FEE GAS #388	MONROE GAS FIELD	78.7	MID LOUISIANA GAS
8230775	82-1622	1711100000		108		MLGC FEE GAS #389	MONROE GAS FIELD	97.0	MID LOUISIANA GAS
8231001	82-1556	1707300000		108		MLGC FEE GAS #39	MONROE GAS FIELD	39.5	MID LOUISIANA GAS
8230831	82-1645	1711100000		108		MLGC FEE GAS #390	MONROE GAS FIELD	78.1	MID LOUISIANA GAS
8230797	82-1646	1711100000		108		MLGC FEE GAS #391	MONROE GAS FIELD	114.0	MID LOUISIANA GAS
8230798	82-1647	1711100000		108		MLGC FEE GAS #392	MONROE GAS FIELD	74.6	MID LOUISIANA GAS
8230799	82-1648	1711100000		108		MLGC FEE GAS #394	MONROE GAS FIELD	60.0	MID LOUISIANA GAS
8230800	82-1649	1711100000		108		MLGC FEE GAS #395	MONROE GAS FIELD	72.8	MID LOUISIANA GAS
8230758	82-1511	1711100000		108		MLGC FEE GAS #396	MONROE GAS FIELD	84.1	MID LOUISIANA GAS
8230759	82-1512	1711100000		108		MLGC FEE GAS #397	MONROE GAS FIELD	83.1	MID LOUISIANA GAS
8230760	82-1513	1711100000		108		MLGC FEE GAS #398	MONROE GAS FIELD	115.8	MID LOUISIANA GAS
8230761	82-1514	1711100000		108		MLGC FEE GAS #399	MONROE GAS FIELD	48.7	MID LOUISIANA GAS
8230981	82-1246	1711100000		108		MLGC FEE GAS #4	MONROE GAS FIELD	30.6	MID LOUISIANA GAS
8231006	82-1515	1711100000		108		MLGC FEE GAS #400	MONROE GAS FIELD	58.9	MID LOUISIANA GAS
8230793	82-1660	1711100000		108		MLGC FEE GAS #401	MONROE GAS FIELD	132.7	MID LOUISIANA GAS
8230794	82-1661	1711100000		108		MLGC FEE GAS #403	MONROE GAS FIELD	155.1	MID LOUISIANA GAS
8230795	82-1662	1711100000		108		MLGC FEE GAS #404	MONROE GAS FIELD	87.0	MID LOUISIANA GAS
8230813	82-1663	1711100000		108		MLGC FEE GAS #405	MONROE GAS FIELD	88.6	MID LOUISIANA GAS
8230814	82-1664	1711100000		108		MLGC FEE GAS #406	MONROE GAS FIELD	142.6	MID LOUISIANA GAS
8230776	82-1624	1711100000		108		MLGC FEE GAS #407	MONROE GAS FIELD	84.7	MID LOUISIANA GAS
8230936	82-1625	1711100000		108		MLGC FEE GAS #408	MONROE GAS FIELD	95.1	MID LOUISIANA GAS
8230779	82-1626	1711100000		108		MLGC FEE GAS #409	MONROE GAS FIELD	58.1	MID LOUISIANA GAS
8230937	82-1627	1711100000		108		MLGC FEE GAS #410	MONROE GAS FIELD	75.8	MID LOUISIANA GAS
8230935	82-1623	1711100000		108		MLGC FEE GAS #411	MONROE GAS FIELD	83.6	MID LOUISIANA GAS
8230827	82-1641	1711100000		108		MLGC FEE GAS #414	MONROE GAS FIELD	47.1	MID LOUISIANA GAS
8230828	82-1642	1711100000		108		MLGC FEE GAS #415	MONROE GAS FIELD	54.6	MID LOUISIANA GAS
8230829	82-1643	1711100000		108		MLGC FEE GAS #416	MONROE GAS FIELD	67.4	MID LOUISIANA GAS
8230838	82-1644	1711100000		108		MLGC FEE GAS #417	MONROE GAS FIELD	64.7	MID LOUISIANA GAS
8230826	82-1640	1711100000		108		MLGC FEE GAS #418	MONROE GAS FIELD	127.2	MID LOUISIANA GAS
8230802	82-1652	1711100000		108		MLGC FEE GAS #419	MONROE GAS FIELD	97.1	MID LOUISIANA GAS
8230830	82-1651	1711100000		108		MLGC FEE GAS #420	MONROE GAS FIELD	110.5	MID LOUISIANA GAS

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8230839	82-1652	1711100000		108		MLGC FEE GAS #421	MONROE GAS FIELD	52.6	MID LOUISIANA GAS
8230840	82-1653	1711100000		108		MLGC FEE GAS #422	MONROE GAS FIELD	104.0	MID LOUISIANA GAS
8230841	82-1654	1711100000		108		MLGC FEE GAS #423	MONROE GAS FIELD	90.0	MID LOUISIANA GAS
8231089	82-1516	1711100000		108		MLGC FEE GAS #43	MONROE GAS FIELD	96.0	MID LOUISIANA GAS
8230825	82-1639	1711100000		108		MLGC FEE GAS #45	MONROE GAS FIELD	226.1	MID LOUISIANA GAS
8231010	82-1517	1711100000		108		MLGC FEE GAS #46	MONROE GAS FIELD	66.8	MID LOUISIANA GAS
8231011	82-1518	1711100000		108		MLGC FEE GAS #47	MONROE GAS FIELD	161.7	MID LOUISIANA GAS
8231012	82-1519	1711100000		108		MLGC FEE GAS #49	MONROE GAS FIELD	43.1	MID LOUISIANA GAS
8230836	82-1554	1711100000		108		MLGC FEE GAS #50	MONROE GAS FIELD	43.9	MID LOUISIANA GAS
8230890	82-1740	1711100000		108		MLGC FEE GAS #509	MONROE GAS FIELD	83.9	MID LOUISIANA GAS
8230985	82-1540	1711100000		108		MLGC FEE GAS #51	MONROE GAS FIELD	93.9	MID LOUISIANA GAS
8230901	82-1741	1711100000		108		MLGC FEE GAS #510	MONROE GAS FIELD	106.1	MID LOUISIANA GAS
8230902	82-1742	1711100000		108		MLGC FEE GAS #513	MONROE GAS FIELD	104.4	MID LOUISIANA GAS
8230893	82-1755	1711100000		108		MLGC FEE GAS #526	MONROE GAS FIELD	132.2	MID LOUISIANA GAS
8231075	82-1756	1711100000		108		MLGC FEE GAS #527	MONROE GAS FIELD	193.1	MID LOUISIANA GAS
8230894	82-1757	1711100000		108		MLGC FEE GAS #528	MONROE GAS FIELD	78.5	MID LOUISIANA GAS
8230986	82-1541	1711100000		108		MLGC FEE GAS #53	MONROE GAS FIELD	112.8	MID LOUISIANA GAS
8230891	82-1743	1711100000		108		MLGC FEE GAS #533	MONROE GAS FIELD	119.3	MID LOUISIANA GAS
8230895	82-1758	1711100000		108		MLGC FEE GAS #535	MONROE GAS FIELD	167.4	MID LOUISIANA GAS
8231094	82-1744	1711100000		108		MLGC FEE GAS #536	MONROE GAS FIELD	111.4	MID LOUISIANA GAS
8230888	82-1735	1711100000		108		MLGC FEE GAS #537	MONROE GAS FIELD	200.4	MID LOUISIANA GAS
8230844	82-1759	1711100000		108		MLGC FEE GAS #543	MONROE GAS FIELD	55.7	MID LOUISIANA GAS
8230864	82-1638	1711100000		108		MLGC FEE GAS #557	MONROE GAS FIELD	210.2	MID LOUISIANA GAS
8230987	82-1542	1711100000		108		MLGC FEE GAS #58	MONROE GAS FIELD	53.0	MID LOUISIANA GAS
8231070	82-1750	1711100000		108		MLGC FEE GAS #585	MONROE GAS FIELD	253.4	MID LOUISIANA GAS
8231071	82-1751	1711100000		108		MLGC FEE GAS #586	MONROE GAS FIELD	208.1	MID LOUISIANA GAS
8231072	82-1752	1711100000		108		MLGC FEE GAS #587.	MONROE GAS FIELD	106.8	MID LOUISIANA GAS
8231073	82-1753	1711100000		108		MLGC FEE GAS #589	MONROE GAS FIELD	73.5	MID LOUISIANA GAS
8231074	82-1754	1711100000		108		MLGC FEE GAS #590	MONROE GAS FIELD	129.5	MID LOUISIANA GAS
8231101	82-1736	1711120003		108		MLGC FEE GAS #594	MONROE GAS FIELD	41.3	MID LOUISIANA GAS
8230879	82-1726	1711120006		108		MLGC FEE GAS #597	MONROE GAS FIELD	91.3	MID LOUISIANA GAS
8231102	82-1737	1711120007		108		MLGC FEE GAS #598	MONROE GAS FIELD	120.1	MID LOUISIANA GAS
8230880	82-1727	1711120008		108		MLGC FEE GAS #599	MONROE GAS FIELD	130.4	MID LOUISIANA GAS
8231097	82-1728	1711120010		108		MLGC FEE GAS #602	MONROE GAS FIELD	95.2	MID LOUISIANA GAS
8230886	82-1729	1711120023		108		MLGC FEE GAS #606	MONROE GAS FIELD	121.6	MID LOUISIANA GAS
8231068	82-1725	1711120026		108		MLGC FEE GAS #607	MONROE GAS FIELD	109.6	MID LOUISIANA GAS
8230865	82-1746	1711120024		108		MLGC FEE GAS #608	MONROE GAS FIELD	80.7	MID LOUISIANA GAS
8230993	82-1485	1711120025		108		MLGC FEE GAS #609	MONROE GAS FIELD	253.6	MID LOUISIANA GAS
8230989	82-1543	1711100000		108		MLGC FEE GAS #61	MONROE GAS FIELD	80.5	MID LOUISIANA GAS
8231096	82-1747	1711120029		108		MLGC FEE GAS #610	MONROE GAS FIELD	146.3	MID LOUISIANA GAS
8230866	82-1748	1711120044		108		MLGC FEE GAS #614	MONROE GAS FIELD	110.9	MID LOUISIANA GAS
8230892	82-1749	1711120038		108		MLGC FEE GAS #615	MONROE GAS FIELD	58.5	MID LOUISIANA GAS
8231095	82-1745	1711120039		108		MLGC FEE GAS #616	MONROE GAS FIELD	98.9	MID LOUISIANA GAS
8231098	82-1761	1711120040		108		MLGC FEE GAS #617	MONROE GAS FIELD	114.9	MID LOUISIANA GAS
8230988	82-1544	1711100000		108		MLGC FEE GAS #62	MONROE GAS FIELD	41.9	MID LOUISIANA GAS
8230896	82-1762	1711120043		108		MLGC FEE GAS #620	MONROE GAS FIELD	172.3	MID LOUISIANA GAS
8230798	82-1486	1711120037		108		MLGC FEE GAS #621	MONROE GAS FIELD	202.5	MID LOUISIANA GAS
8230845	82-1763	1711120045		108		MLGC FEE GAS #622	MONROE GAS FIELD	86.1	MID LOUISIANA GAS
8231076	82-1764	1711120049		108		MLGC FEE GAS #623	MONROE GAS FIELD	201.2	MID LOUISIANA GAS
8230925	82-1760	1711120046		108		MLGC FEE GAS #624	MONROE GAS FIELD	160.3	MID LOUISIANA GAS
8231104	82-1731	1711120047		108		MLGC FEE GAS #625	MONROE GAS FIELD	125.3	MID LOUISIANA GAS
8231105	82-1732	1711120048		108		MLGC FEE GAS #626	MONROE GAS FIELD	93.2	MID LOUISIANA GAS
8231106	82-1733	1711120087		108		MLGC FEE GAS #627	MONROE GAS FIELD	230.7	MID LOUISIANA GAS

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8231107	82-1734	1711120051	108			MLGC FEE GAS #628	MONROE GAS FIELD	145.6	MID LOUISIANA GAS
8230887	82-1730	1711120055	108			MLGC FEE GAS #629	MONROE GAS FIELD	115.4	MID LOUISIANA GAS
8231021	82-1523	1711100000	108			MLGC FEE GAS #63	MONROE GAS FIELD	48.3	MID LOUISIANA GAS
8230924	82-1771	1711120057	108			MLGC FEE GAS #630	MONROE GAS FIELD	216.1	MID LOUISIANA GAS
8230791	82-1487	1711120056	108			MLGC FEE GAS #631	MONROE GAS FIELD	180.5	MID LOUISIANA GAS
8230916	82-1774	1711120058	108			MLGC FEE GAS #632	MONROE GAS FIELD	115.2	MID LOUISIANA GAS
8230914	82-1772	1711120059	108			MLGC FEE GAS #633	MONROE GAS FIELD	74.8	MID LOUISIANA GAS
8230915	82-1773	1711120060	108			MLGC FEE GAS #634	MONROE GAS FIELD	138.7	MID LOUISIANA GAS
8230900	82-1770	1711120061	108			MLGC FEE GAS #635	MONROE GAS FIELD	180.5	MID LOUISIANA GAS
8230764	82-1526	1711120063	108			MLGC FEE GAS #637	MONROE GAS FIELD	120.6	MID LOUISIANA GAS
8231007	82-1527	1711120064	108			MLGC FEE GAS #638	MONROE GAS FIELD	159.4	MID LOUISIANA GAS
8230765	82-1528	1711120065	108			MLGC FEE GAS #639	MONROE GAS FIELD	189.7	MID LOUISIANA GAS
8230788	82-1529	1711120070	108			MLGC FEE GAS #641	MONROE GAS FIELD	134.2	MID LOUISIANA GAS
8230763	82-1525	1711120072	108			MLGC FEE GAS #643	MONROE GAS FIELD	72.6	MID LOUISIANA GAS
8230918	82-1776	1711120075	108			MLGC FEE GAS #644	MONROE GAS FIELD	213.1	MID LOUISIANA GAS
8231103	82-1738	1711120101	108			MLGC FEE GAS #646	MONROE GAS FIELD	207.8	MID LOUISIANA GAS
8230919	82-1777	1711120102	108			MLGC FEE GAS #647	MONROE GAS FIELD	71.9	MID LOUISIANA GAS
8230920	82-1778	1711120104	108			MLGC FEE GAS #649	MONROE GAS FIELD	159.7	MID LOUISIANA GAS
8230921	82-1779	1711120078	108			MLGC FEE GAS #650	MONROE GAS FIELD	181.4	MID LOUISIANA GAS
8230917	82-1775	1711120073	108			MLGC FEE GAS #651	MONROE GAS FIELD	89.1	MID LOUISIANA GAS
8230944	82-1601	1711100000	108			MLGC FEE GAS #66	MONROE GAS FIELD	72.3	MID LOUISIANA GAS
8230889	82-1739	1711120238	108			MLGC FEE GAS #660	MONROE GAS FIELD	185.7	MID LOUISIANA GAS
8230943	82-1522	1711100000	108			MLGC FEE GAS #74	MONROE GAS FIELD	107.9	MID LOUISIANA GAS
8230950	82-1521	1711100000	108			MLGC FEE GAS #76	MONROE GAS FIELD	57.1	MID LOUISIANA GAS
8230922	82-1780	1711121848	108			MLGC FEE GAS #782	MONROE GAS FIELD	172.8	MID LOUISIANA GAS
8230938	82-1781	1711121850	108			MLGC FEE GAS #784	MONROE GAS FIELD	204.1	MID LOUISIANA GAS
8231014	82-1782	1711121851	108			MLGC FEE GAS #785	MONROE GAS FIELD	188.7	MID LOUISIANA GAS
8230801	82-1602	1711100000	108			MLGC FEE GAS #79	MONROE GAS FIELD	29.6	MID LOUISIANA GAS
8230777	82-1628	1711100000	108			MLGC FEE GAS #81	MONROE GAS FIELD	38.6	MID LOUISIANA GAS
8230878	82-1629	1711100000	108			MLGC FEE GAS #82	MONROE GAS FIELD	55.8	MID LOUISIANA GAS
8231013	82-1783	1711121953	108			MLGC FEE GAS #823	MONROE GAS FIELD	185.2	MID LOUISIANA GAS
8230872	82-1630	1711100000	108			MLGC FEE GAS #83	MONROE GAS FIELD	0.0	MID LOUISIANA GAS
8231069	82-1784	1711121966	108			MLGC FEE GAS #836	MONROE GAS FIELD	206.7	MID LOUISIANA GAS
8230860	82-1631	1706700000	108			MLGC FEE GAS #84	MONROE GAS FIELD	43.8	MID LOUISIANA GAS
8230873	82-1632	1706700000	108			MLGC FEE GAS #85	MONROE GAS FIELD	97.8	MID LOUISIANA GAS
8231016	82-1549	1711100000	108			MLGC FEE GAS #87	MONROE GAS FIELD	97.2	MID LOUISIANA GAS
8231015	82-1548	1711100000	108			MLGC FEE GAS #89	MONROE GAS FIELD	198.8	MID LOUISIANA GAS
8230846	82-1765	1711122481	108			MLGC FEE GAS #896	MONROE GAS FIELD	178.7	MID LOUISIANA GAS
8230992	82-1547	1711100000	108			MLGC FEE GAS #90	MONROE GAS FIELD	144.5	MID LOUISIANA GAS
8231077	82-1766	1711122517	108			MLGC FEE GAS #905	MONROE GAS FIELD	182.1	MID LOUISIANA GAS
8230991	82-1546	1711100000	108			MLGC FEE GAS #91	MONROE GAS FIELD	180.4	MID LOUISIANA GAS
8230990	82-1545	1711100000	108			MLGC FEE GAS #92	MONROE GAS FIELD	45.3	MID LOUISIANA GAS
8230897	82-1767	1711122570	108			MLGC FEE GAS #926	MONROE GAS FIELD	184.8	MID LOUISIANA GAS
8230753	82-1504	1711100000	108			MLGC FEE GAS #93	MONROE GAS FIELD	47.1	MID LOUISIANA GAS
8230754	82-1505	1711100000	108			MLGC FEE GAS #94	MONROE GAS FIELD	67.2	MID LOUISIANA GAS
8230954	82-1559	1711100000	108			MLGC FEE GAS #96	MONROE GAS FIELD	11.2	MID LOUISIANA GAS
8230953	82-1558	1711100000	108			MLGC FEE GAS #97	MONROE GAS FIELD	32.5	MID LOUISIANA GAS
8230898	82-1768	1707321461	108			MLGC FEE GAS #973	MONROE GAS FIELD	188.3	MID LOUISIANA GAS
8230952	82-1557	1707300000	108			MLGC FEE GAS #98	MONROE GAS FIELD	36.8	MID LOUISIANA GAS
8230899	82-1769	1711122742	108			MLGC FEE GAS #993	MONROE GAS FIELD	195.8	MID LOUISIANA GAS
-MILES OIL & GAS CO			RECEIVED: 05/05/82 JA: LA						
8230853	82-1586	1705921452	103			J E HARRIS #2 SER #157675	OLLA	18.0	TEXAS GAS TRANSMI
8230851	82-1584	1705921461	103			RANDALL EST #1 SER #157827	OLLA	31.0	TEXAS GAS TRANSMI

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8230852	82-1585	1705921462		103		RANDALL EST #2 SER #157828	OLLA	22.0	TEXAS GAS TRANSMI
8230854	82-1587	1705921440		103		T A HOPKINS #1 SER #157537	OLLA	50.0	TEXAS GAS TRANSMI
8230855	82-1588	1705921371		103		Y FLOWERS #1 SER #158687	OLLA	14.0	TEXAS GAS TRANSMI
-MITCHELL ENERGY CORPORATION				RECEIVED:	05/05/82	JA: LA			
8230907	81-2730	1704920160		103		DAVIS BROTHERS SHAREHOLDERS #1	CARTWRIGHT	192.0	LOUISIANA GAS PUR
-PEL-TEX OIL COMPANY INC				RECEIVED:	05/05/82	JA: LA			
8230942	82-0650	1710121231		107-DP		AVOCA INC #1	RAMOS	3600.0	
-PELTO OIL CO				RECEIVED:	05/05/82	JA: LA			
8230926	82-1347	1702321621		107-DP		S L 9086/001	WILDCAT 9733	2555.0	
-QUINTANA PETROLEUM CORP				RECEIVED:	05/05/82	JA: LA			
8231047	82-0843	1710922462		107-DP		BAGLEY J LIRETTE #4	NORTH LAPEYROUSE	1500.0	LOUISIANA INTRAST
8230946	82-0652	1711321137		107-DP		CHAS P ZAUNBRECHER #1	SOUTHEAST GUEYDAN	730.0	GULF ENERGY MARKE
8231046	82-0840	1771420082		107-DP		SL 6430 #5 TB N VUA	TIMBALIER BAY	2580.0	
-SUPERIOR OIL CO				RECEIVED:	05/05/82	JA: LA			
8231022	82-1029	1711321115		107-DP		C LEGE #1	S E GUEYDAN	3650.0	
8231023	82-1031	1711321100		107-DP		DALVA LEJEUNE #2	SOUTHEAST GUEYDAN	1000.0	MICHIGAN WISCONSI
8231048	82-0852	1710922440		107-DP		VUB: R W BUCKLEY UNIT 9 #8	FOUR ISLE DOME	600.0	UNITED GAS PIPELI
-TEXACO INC				RECEIVED:	05/05/82	JA: LA			
8231049	82-0854	1710922486		107-DP		LB U26 #12 VU 26	LAKE BARRE	1332.0	
8230868	82-1139	1710922439		107-DP		SL 788 CAILLOU ISLAND #678	CAILLOU ISLAND	1198.0	
8230871	82-1346	1710922422		107-DP		SL 188 LL&E U3 #10 VUD	CAILLOU ISLAND	889.0	
8230923	81-2756	1704520593		102-4		SL 334 #B-60 VERB B-60 RA SU	VERMILION BAY	243.0	COLUMBIA GAS TRAN
8230983	81-2757	1704520593		103		SL 334 VERMILION BAY B-60	VERMILION BAY	245.0	COLUMBIA GAS TRAN
-TEXAS CRUDE INC				RECEIVED:	05/05/82	JA: LA			
8231092	82-0961	1704520687		107-DP		PETIT ANSE #7	AVERY ISLAND	146.0	LOUISIANA INTRAST
-TEXAS OIL & GAS CORP				RECEIVED:	05/05/82	JA: LA			
8230910	81-2736	1701320448		103		CONTINENTAL CAN E #1 HOSS B SURR	BRYCELAND	51.1	DELHI GAS PIPELIN
8230951	82-314	1704920172		102-4		DAVIS BROS "J" #1	KELLEYS	149.7	DELHI GAS PIPELIN
8230903	81-2721	1706120278		103		DUGDALE #1	TREMONT	895.7	DELHI GAS PIPELIN
-TEXOMA PRODUCTION CO				RECEIVED:	05/05/82	JA: LA			
8230927	82-1127	1709923876		107-DP		WILLIAMS INC #3	WEST LAKE VERRET	915.0	SOUTHERN NATURAL
-UNION OIL COMPANY OF CALIF				RECEIVED:	05/05/82	JA: LA			
8230867	82-1128	1705721856		107-DP		STATE LEASE 3090 #11	CAILLOU ISLAND	2000.0	UNITED GAS PIPE L
-UNION TEXAS PETROLEUM				RECEIVED:	05/05/82	JA: LA			
8231045	82-231	1705320508		102-4 -4		MALLET #3	LAKE ARTHUR	1025.0	TEXAS GAS TRANSMI

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 273.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before June 18, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation

Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

BILLING CODE 6717-01-M

OTHER PURCHASERS VOLUME NO :656

8230965 MICHIGAN WISCONSIN P L CO

CORRECTIONS TO PREVIOUS NOTICES OF DETERMINATION

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C:	Correction to prior Fed. Register notice
80-10312	MT	Midlands Gas Corp	3170 - #1 Compton	136	01-28-80	C:	JA submitted affirmative 108 determina. on 5-21-82
80-33813	OK	Coastal Oil & Gas Corp	Jermyn #1-19	210	06-03-80	C:	108 - ER Approved
81-28592	OR	H Leslie Downs 1/	Bowen #2	431	05-29-81	C:	Well Name; Applicant name
81-32471	NM	Phillips Petroleum Co	Phillips -E State #15	447	07-01-81	C:	108 Denied; Not approved
81-47393	TX	American Quasar Pet.	Worsham 1-17	508	09-21-81	C:	107-DP approved; not 107-TF
82-09978	LA	Marathon Oil Company	CVOC Hunt Stewart #3CV5U	572/614	4-01-82	C:	108 Approved; not 108-ER
82-10615	TX	C L Gage Jr.	Luther Williams #1	575	01-14-82	C:	108 Approved; Not 103 & 108
82-15267	OK	St. Joe Pet. (US) Corp	Lavington No. 2	593	02-17-82	C:	Well name
82-17129	TX	Delta Drilling Co	Jones #2	600	03-01-82	C:	Well name
82-18848US(NM)		El Paso Natural Gas Co	San Juan 27-4 Unit #84	606	03-15-82	C:	Applicant, well name
82-2-909	NM	Harvey Yates Company	Fulton Collier No. 1	616	04-05-82	C:	Well name
82-20914	NM	McClellan Oil Corp	Mccrea Fee No. 1	616	04-05-82	C:	102-4 & 107-TF approved
82-20931	OK	Trans-Western Explo. Inc	Peterman #2-15	616	04-05-82	C:	Well name
82-21286	LA	WWF Oil Corporation	State Lease 1593 #2	617	04-05-82	C:	Well name
82-21534	OH	Ryder Resources Inc.	Hines #1	618	04-05-82	C:	103 & 107-DV approved
82-21808	PA	Robert H. Brace	McCall #2	620	04-05-82	C:	107TF Approved, not 102 2
82-21901	PA	Earl M. Richards	Richards-Amont #1	620	04-05-82	C:	107PE approved, not 107TF
82-21921	OK	Marion Corporation	Colpitt "A" #H-1	620	04-05-82	C:	Well name
82-21923	OK	Moran Exploration Inc	Zum Mallen #1	620	04-05-82	C:	Well name
82-21936	OK	Philip Boyle, Inc.	Oklahoma county #1	620	04-05-82	C:	Well name
82-21937	OK	Philip Boyle, Inc.	Dolese #1	620	04-05-82	C:	Well name
82-21969	TX	San Juan Explor. Co	Williams Unit #1	621	0-05-82	C:	107TF approved, not 107-DP
82-21989	TX	Energy Reserves Group	East Vermejo #1	621	04-05-82	C:	107-DP approved, not 107-TF
82-21997	TX	Cordova Resources Inc	L E Brannin #3	621	04-05-82	C:	103 approved, 108 withdrawn
82-21999	TX	Cordova Resources Inc	Sheppard #7	621	04-05-82	C:	103 approved, 108 withdrawn
82-22031	TX	Judy Oil Company	Boddy #2 RRC #04926	621	04-05-82	C:	Well name
82-22032	TX	Judy Oil Company	Boddy #1 RRC #04926	621	04-05-82	C:	Well name
82-22109	NM	MTH Limited Partnership	Acme #8	621	04-05-82	C:	102-2 & 107-TF Approved
82-22170	CO	Davis DRLG Inc	Haughman Farms 1-5	621	04-05-82	C:	107PE approved; not 107-TF
82-22171	CO	Davis DRLG Inc.	Hurch Field 1-4	621	04-05-82	C:	107PE approved; not 107-TF

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14941 Filed 6-2-82; 8:45 am]

BILLING CODE 6717-01-C

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 16995; Gen. Docket No. 80-741]

Further Comment Sought To Aid U.S. Planning for 1985/87 Space WARC

May 14, 1982.

The Commission has issued the second in a series of notices inviting public comments that will contribute to the development of U.S. proposals for a space services conference scheduled for July 1985 and September 1987.

The International Telecommunication Union is sponsoring the conference, which is formally titled "World Administrative Conference on the Use of the Geostationary-Satellite Orbit and the Planning of Space Services Utilizing It." The conference will try to forge an agreement that, in practice, guarantees all countries equitable access to the geostationary-satellite orbit and the frequency bands allocated to space services. Additionally, U.S. planners must satisfy national interests, and the five broad issues discussed in this notice are designed toward that end.

The notice discusses these issues in detail, but briefly the Commission asks:

- What are the U.S. objectives and philosophy for the conference?
- What is the scope of U.S. interests that needs to be considered?
- What principles need to be established to guide U.S. preparations and to develop proposals to meet the conference objective of guaranteeing equitable access to the orbit/spectrum resource?
- Should the conference adopt any detailed orbit/frequency plan for any space service or should it only consider coordinative arrangements that allow greater flexibility?
- What space services should be considered as possible candidates for planning?

Comments are due by August 2 and replies by September 1, 1982.

Action by the Commission May 13, 1982, by Second Notice of Inquiry (FCC 82-214). Commissioners Fowler (Chairman), Quello, Washburn, Fogarty, Jones, Dawson and Rivera.

For more information contact Thomas Tycz at 202-653-8102.

Note.—Because of the continuing effort to minimize publishing costs, the Second Notice will not be printed herein. However, copies may be obtained through any of the distribution centers listed in the FCC Office of Public Affairs, Room 202, 1919 M St., N.W., Washington, D.C.

William J. Tricarico,
Secretary, Federal Communications Commission.

[FR Doc. 82-14984 Filed 6-2-82; 8:45 am]

BILLING CODE 6712-01-M

Radio Technical Commission for Marine Services; Meetings

In accordance with Public Law 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 81

"Review of FCC Rules Applicable to VHF-FM Maritime Frequencies"
Notice of 6th Meeting
Wednesday, June 16, 1982—9:30 a.m.
Room 7327A
2025 "M" Street, N.W.
Washington, D.C.

Agenda

1. Administrative matters.
2. Evaluation of questionnaire concerning VHF-FM maritime frequencies.
3. Assignment of tasks.

Carl Gray, Chairman SC-81, Consultant, American Waterways Operators, Inc., 1055 Dalebrook Drive, Alexandria, VA 22308, Phone: (703) 360-4625

Special Committee No. 80

"FCC Rules Review as Required by Regulatory Flexibility Act of 1980"
Notice of 4th Meeting
Wednesday, June 16, 1982—2:00 p.m.
Conference Room 7327A
2025 "M" Street, N.W.
Washington, D.C.

Agenda

1. Administrative Matters.
2. Discussion concerning FCC Rules to be reviewed.
3. Assignment of tasks.

Charles S. Carney, Chairman SC-80, Nav-Com, Inc., 711 Grand Blvd., Deer Park, NY 11729, Phone: (516) 667-7710

Executive Committee Meeting

Notice of June Meeting
Thursday, June 17, 1982—9:30 a.m.
Conference Room 6204
Nassif Building
400 Seventh Street, S.W.
Washington, DC

Agenda

1. Administrative Matters.
2. Special Committee Reports.

Special Committee No. 74

"Digital Selective Calling"
Notice of 21st Meeting
Thursday, June 17, 1982—1:00 p.m.
Conference Room 9230/9232
Nassif (DOT) Building
400 Seventh Street, S.W. (at D Street)
Washington, DC

Agenda

1. Administrative Matters.
2. Discussion concerning Digital Selective Calling tests—past and future.
3. Develop and approve recommendations for submission to RTCM Executive Committee regarding future work and Chairmanship of Special Committee No. 74.

T. de Haas, Chairman, SC-74, National Telecommunications & Info. Admn., 325 Broadway; Bldg. 22, Boulder, CO 80303, Phone: (303) 497-3728

Special Committee No. 78

"Universal Marine Radiotelephone Compatibility"
Notice of 7th Meeting
Thursday, June 17, 1982—3:00 p.m.
Conference Room 9230/9232
Nassif Building
400 Seventh Street, S.W.
Washington, DC

Agenda

1. Administrative Matters.
2. Consideration of Working Papers.

T.B. Miller, Chairman SC-79, WJG Telephone Company, P.O. Box 9363, Memphis, TN 38109, Phone: (901) 789-3000

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632-6490).

William J. Tricarico,
Secretary, Federal Communications Commission.

[FR Doc. 82-14983 Filed 6-2-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Consumer Advisory Council; Solicitation of Nominations for Membership

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Solicitation of nominations for membership on the Board's Consumer Advisory Council.

SUMMARY: The Board is asking the public to nominate qualified individuals for 13 appointments to its Consumer Advisory Council. Nominations should include the name, address, and telephone number of the nominee, together with information about past and present positions held, special knowledge, interests, and experience related to consumer credit or other financial services. It is contemplated that the Board will announce its selection of new members by mid-November.

DATE: Nominations should be received by August 2, 1982.

ADDRESS: Nominations should be mailed to Dolores S. Smith, Assistant Director, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

FOR FURTHER INFORMATION CONTACT: Ann Marie Bray, Staff Assistant, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202) 452–2412.

SUPPLEMENTARY INFORMATION: The Consumer Advisory Council was established by the Congress in 1970 to advise the Board on the exercise of its duties under the Consumer Credit Protection Act and on other consumer-related matters. The Council by law represented the interests both of consumers and of the financial community. Members serve three-year terms that are staggered to provide the Council with continuity.

Thirteen new members will be selected this fall, to replace members whose terms expire on December 31, 1982. The Baord is particularly interested in candidates who are familiar with issues in the area of consumer credit and other financial services. In making the new appointments, the Board also will seek to complement the qualifications of continuing Council members in terms of affiliation and geographic representation. Each year the nominations have numbered in the hundreds. With only 13 vacencies, this means that many highly qualified and interested individuals will not have the opportunity to serve and that not every interested group can be represented.

The Council meets four times a year for approximately a day and a half. Council members are paid $100 for each day spent attending or traveling to and from meetings.

Nominations should be submitted in writing to Dolores S. Smith, Assistant Director, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, and must be received no later than August 2, 1982. Nominations should include the name, address and telephone number of the nominee, past and present positions held, and special knowledge, interests, or experience relating to consumer financial matters. This information will be made available for public inspection and copying upon request, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information. The Board expects to announce its selection of new members by mid-November.

The names and affiliations of current Council members (and the expiration date of their term of office) follow:

Chairman

Charlotte H. Scott, Professor of Business, Administration and Commerce, University of Virginia, Charlottesville, Virginia, December 31, 1982

Vice Chairman

Margaret Reilly-Petrone, Professor of Economics, Montclair College, Upper Montclair, New Jersey, December 31, 1982

Members

Arthur F. Bouton, President, American Association of Retired Persons, Little Rock, Arkansas, December 31, 1983
Julia H. Boyd, Certified Public Accountant, Alexandria, Virginia, December 31, 1982
Ellen Broadman, Counsel for Government Affairs, Consumers Union, Washington, D.C. December 31, 1982
Gerald R. Christensen, President and Chairman of the Board, First Federal Savings and Loan Association, Salt Lake City Utah, December 31, 1984
Joseph N. Cugini, President & General Manager, Westerly Community Credit Union, Westerly, Rhode Island, December 31, 1983
Richard S. D'Agostino, Senior Vice President, Girard Bank, Philadelphia, Pennsylvania, December 31, 1982
Susan Pierson De Witt, Assistant Attorney General and Chief of Consumer Protection, State of Illinois, Springfield, Illinois, December 31, 1983
Joanne Faulkner, Attorney, New Haven Legal Assistance Association, Inc., New Haven, Connecticut, December 31, 1982
Meridith Fernstrom, Vice President, Consumer Affairs, American Express Company, New York, New York, December 31, 1984
Allen J. Fishbein, Director, Neighborhood Revitalization Project, Center for Community Change, Washington, D.C. December 31, 1984
E. C. A. Forsberg, Sr., President and Chief Executive Officer, Gulf Finance Corporation, Atlanta, Georgia, December 31, 1984
Luther R. Gatling, President, Budget & Credit Counseling Service, New York, New York, December 31, 1983
Vernard W. Henley, President, Consolidated Bank and Trust Company, Richmond, Virginia, December 31, 1982
Juan Jesus, Hinojosa, Partner, Hinojosa & Ortiz, McAllen, Texas, December 31, 1982
Shirley T. Hosoi, Vice President, Franchising, First Interstate Bancorp, Los Angeles, California, December 31, 1982
George S. Irvin, President, George Irvin Chevrolet, Denver, Colorado, December 31, 1983
Harry N. Jackson, Vice President, Credit Dayton Hudson Corporation, Minneapolis, Minnesota, December 31, 1984
F. Thomas Juster, Director, Institute for Social Research, Survey Research Center, University of Michigan, Ann Arbor, Michigan, December 31, 1982
Robert J. McEwen, S.J., Professor of Economics, Boston College, Chestnut Hill, Massachusetts, December 31, 1982
Stanley L. Mularz, President, Trans Union Credit Information Company, Chicago, Illinois, December 31, 1983
William J. O'Connor, Jr., Partner, Phillips, Lytle, Hitchcock, Blaine & Huber, Buffalo, New York, December 31, 1983
Willard P. Ogburn, Deputy Director, National Consumer Law Center, Boston, Massachusetts, December 31, 1984
Janet J. Rathe, Executive Committee Member, Oregon Consumer League, Portland, Oregon, December 31, 1984
Rene Reixach, Staff Attorney, Greater Upstate Law Project, Rochester, New York, December 31, 1982
Peter D. Schellie, Partner, Bingham, Dana & Gould, Washington, D.C. December 31, 1982
Nancy Z. Spillman, Chair, Business Administration, Department and Professor of Economics, Los Angeles Trade Technical College, Los Angeles, California, December 31, 1983
Clinton Warne, President, Consumers League of Ohio, Cleveland, Ohio, December 31, 1984

Frederick T. Weimer, General Assistant to the Vice President and General, Credit Manager, Sears, Roebuck and Co., December 31, 1984

Board of Governors of the Federal Reserve System, May 26, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-14959 Filed 6-2-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested person may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than June 25, 1982.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Bankers Trust New York Corporation*, New York, New York (finance and factoring activities; western United States): To engage, through its subsidiary, BT Commerical Corporation, in making or acquiring loans or other extensions of credit such as would be made by a commercial finance company, including commercial loans secured by a borrower's accounts receivable, inventory or other assets; purchasing or acquiring accounts receivable and making advances thereon as would be done by a factor; servicing such loans or accounts for others; and acquiring and selling participations in such obligations. These activities would be conducted from an office in Los Angeles, California, serving California, Nevada, Oregon, Washington, Idaho, Utah, Arizona, Montana, Wyoming, Colorado, New Mexico, Alaska, and Hawaii.

B. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Security Pacific Corporation*, Los Angeles, California (securities and commerical paper clearing and custodian activities; United States): To engage through its subsidiary, Security Pacific Clearing & Services Corp., in certain clearing and custodian activities with respect to securities, commercial paper and similar instruments, such as acting as forwarding agent, coupon paying agent and provider of trade confirmation services for securities and acting as issuing and paying agent for commercial paper and similar instruments, as well as activities incident thereto, such as the making of call loans to securities dealers. These activities would be conducted from an office of Security Pacific Clearing & Service Corp. located in Philadelphia, Pennsylvania, serving the United States.

Board of Governors of the Federal Reserve System, May 27, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-14960 Filed 6-2-82; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551:

1. *Hospital Trust Corporation*, Providence, Rhode Island; to acquire 100 percent of the voting shares or assets of the successor by merger of HTC Properties, Providence, Rhode Island, and National Columbus Bancorp, Inc., Providence, Rhode Island, and thereby indirectly acquire 100 percent of Columbus National Bank of Rhode Island, Providence, Rhode Island. This application may be reviewed at the Federal Reserve Bank of Boston. Comments on this application must be received not later than June 27, 1982.

Board of Governors of the Federal Reserve System, May 27, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-14961 Filed 6-2-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Assistant Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Western Bancshares of Farmington, Inc.*, Farmington, New Mexico; to become a bank holding company by acquiring at least 80 percent of the voting shares of Western Bank,

Farmington, New Mexico. Comments on this application must be received not later than June 26, 1982.

B. **Secretary, Board of Governors of the Federal Reserve System,** Washington, D.C. 20551:

1. *Grupo Financiero del Estado S.A.*, Bogota, Colombia, through its subsidiary, Banco del Estado Holding Company, Inc., Atlanta, Georgia; to become a bank holding company by acquiring 82.2 percent of the voting shares of The First National Bank of DeKalb County, Decatur, Georgia. This application may be reviewed at the Federal Reserve Bank of Atlanta. Comments on this application must be received not later than June 26, 1982.

2. *HTC Properties,* Providence, Rhode Island; to become a bank holding company by acquiring 100 percent of the voting shares of National Columbus Bancorp, Inc., Providence, Rhode Island, and thereby indirectly acquire 100 percent of Columbus National Bank of Rhode Island. This application may be reviewed at the Federal Reserve Bank of Boston. Comments on this application must be received not later than June 26, 1982.

Board of Governors of the Federal Reserve System, May 27, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-14962 Filed 6-2-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Mangement

District Manager; Redelegation of Authority

Pursuant to the authority contained in section 3.1 of Bureau Order No. 701, as amended, the following specific authorities delegated to the District Manager in the cited order are hereby redelegated to the Area Managers:

Section 3.9—Land use.

(m) Rights-of-way.

(o) Special land-use permits.

The above authorities are to be performed in their respective areas of responsibility and in accordance with existing policies and regulations.

This redelegation is effective June 3, 1982.

Joseph C. Doss,

District Manager.

May 25, 1982.

[FR Doc. 82-14960 Filed 6-2-82; 8:45 am]

BILLING CODE 4310-84-M

Interim Management Plan for Off-Road Vehicles in the Challis Planning Unit

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of final plan.

Pursuant to 43 CFR Part 8340 (Management of Off-Road Vehicle Use on Public Lands), the Salmon, Idaho District of the Bureau of Land Management (BLM) announces that its ORV travel plan for the Challis Planning Unit has been finalized and is now available to the public.

The plan designates areas as either open, limited, or closed to ORV use. Designations are:

1. Closed Areas:

a. Malm Gulch Frail Lands Allotment, 9,136 acres: closed to all ORV use the entire year.

b. Sand Hollow area, 3,905 acres: closed to all ORV use the entire year.

c. Herd Lake Trail, 1 mile: closed to all ORV use the entire year.

2. Limited Areas:

a. Willow Creek Summit elk critical winter range, 10,015 acres: ORV use prohibited during winter season (December 1 to April 30).

b. Spar Canyon wild horse critical winter range, 11,200 acres: organized ORV use prohibited during winter season (December 1 to April 30).

c. Lone Pine Road, 1.5 miles: closed to wheeled vehicles (open to snowmobiles) the entire year.

d. French Creek Road, 1 mile: closed to 4-wheeled vehicles (open to trail bikes and snowmobiles) the entire year.

e. Bluett Creek Road, .25 mile: closed to 4-wheeled vehicles (open to trail bikes and snowmobiles) the entire year.

f. Wilderness Study Areas: ORV use limited the entire year to existing roads and trails in the following WSAs:

(1) Corral-Horse Basin (46–11), 48,500 acres.

(2) Boulder Creek (46–13), 1,930 acres.

(3) Jerry Peak (46–14), 46,150 acres.

(4) Jerry Peak West (46–14a), 13,530 acres.

3. Open Areas:

All other Federal lands within the Challis Planning Unit, 182,865 acres: open to ORV use subject to regulation as listed in 43 CFR Part 8340.

Copies of the final plan can be obtained by writing or calling BLM District Manager, P.O. Box 430, Salmon, Idaho 83467, (208) 756–2201.

Jerry Goodman,

Acting District Manager.

[FR Doc. 82-14997 Filed 6-2-82; 8:45 am]

BILLING CODE 4310-84-M

[W-78469]

Wyoming; Application

Notice is hereby given that pursuant to the Act of May 24, 1928, 49 U.S.C. 211–214, the City of Evanston, Wyoming, has filed an amendment to their pending application for an airport lease to include the following additional public land:

Sixth Principal Meridian, Wyoming

T. 15 N., R. 121 W.,
Sec. 14, SW¼SE¼NE¼.
The land described contains 10 acres.

The purpose of this notice it to inform the public that the filing of this application segregates the described land from all other forms of use or disposal under the public land laws.

Interested persons desiring to express their views should promptly send their comments, together with their name and address to the District Manager, Bureau of Land Management, P.O. Box 1869, Highway 187 North, Rock Springs, Wyoming 82901.

William S. Gilmer,

Acting Chief, Branch of Lands and Minerals Operations.

May 24, 1982.

[FR Doc. 82-14995 Filed 6-2-82; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Hunt Oil Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS 0424, 0425, and 0466, Blocks 62, 63, and 77, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway

Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 25, 1982.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82–14998 Filed 6–2–82; 8:45 am]

BILLING CODE 4310–31–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that ODECO Oil & Gas Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 2893, Block 24, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for pbulic review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 26, 1982.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82–14999 Filed 6–2–82; 8:45 am]

BILLING CODE 4310–31–M

Bureau of Reclamation

Contract Negotiations With the Springville and Mapleton Irrigation Companies, Strawberry Valley Project, Utah; Intent To Negotiate a Rehabilitation and Betterment Repayment Contract

The Department of the Interior, through the Regional Director, Upper Colorado Region of the Bureau of Reclamation (Bureau), intends to initiate negotiations with the Springville and Mapleton Irrigation Companies on the Strawberry Valley Project in central Utah near Spanish Fork, Utah, for repayment of a rehabilitation and betterment loan.

Investigation of the project by the United States began in 1903, making this project one of the earliest investigated under the Reclamation Act of June 17, 1902. Construction of the project was recommended by a board of engineers and was authorized by the Secretary of the Interior in 1905. By 1918, the Strawberry Valley Project was essentially completed at a total cost of $3,349,000.

A loan of $228,000 is being sought under the authority of the Rehabilitation and Betterment Act of October 7, 1949 (63 Stat. 724), as amended. The purpose of the loan is to provide funding for rehabilitation of a deteriorating siphon. The deterioration of the monolithic pipe portion of the existing siphon is from a chemical reaction within the concrete structure. The siphon delivers Strawberry Valley Project water to these irrigation companies.

All meetings scheduled by the Bureau with the irrigation companies for the purpose of discussing terms and conditions for the proposed contract will be open to the general public as observers. Advance notice of meeting will be furnished only to those parties who have submitted a written request for notification. Requests should be addressed to the Projects Manager, Bureau of Reclamation, Attention: UPO–400, P.O. Box 1338, Provo, UT 84601. All written correspondence concerning the proposed contract will be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

The public is invited to submit written comments on the form of the proposed contract for a 30-day period after the completed contract draft is made available to the public. However, in the event that little or no public interest in the negotiations is generated in response to this notice and local news releases, the availability of the proposed form of contract for public review and comment may not be formally published through the **Federal Register** or other media.

For further information on the contract negotiations, contact Mr. LaVar Richman, Chief, Repayment Staff, at the above address, or telephone (801) 374–8610.

Dated: May 28, 1982.

Aldon D. Nielsen,

Acting Assistant Commissioner of Reclamation.

[FR Doc. 82–15089 Filed 6–2–82; 8:45 am]

BILLING CODE 4310–09–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–167 (Sub-127N)]

Conrail Abandonment Between Greycourt and Vails Gate Junction, NY; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Greycourt and Vails Gate Junction in the County of Orange, NY, a total distance of 13.4 miles effective on February 23, 1982.

The net liquidation value of this line is $242,902. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–14976 Filed 6–2–82; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB-167 (Sub-325N)]

Conrail Abandonment Between Harleigh Junction and Gowen Colliery, PA; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Harleigh Junction and Gowen Colliery in the County of Luzerne, PA, a total distance of 9.1 miles effective on April 22, 1982.

The net liquidation value of this line is $301,778. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-14977 Filed 6-2-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-366N)]

Conrail Abandonment Between New Paris and Richmond, IN and OH; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between New Paris and Richmond in the Counties of Wayne and Preble, IN and OH, a total distance of 3.4 miles effective on March 11, 1982.

The net liquidation value of this line is $469,833. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-14978 Filed 6-2-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-407N)]

Conrail Abandonment in South Bend Between Milepost 10.5 and Milepost 11.8, St. Joseph County, IN; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 10.5 and milepost 11.8 in the County of St. Joseph, IN, a total distance of 1.3 miles effective on April 22, 1982.

The net liquidation value of this line is $58,808. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-14979 Filed 6-2-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-450N)]

Conrail Abandonment in Trenton Between Milepost 2.1 and Milepost 4.1, Mercer County, NJ; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 2.1 and milepost 4.1 in the County of Mercer, NJ, a total distance of 2.0 miles effective on April 26, 1982. The net liquidation value of this line is $20,203. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-14980 Filed 6-2-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-455N)]

Conrail Abandonment Between Mt. Holly and Ft. Dix, NJ; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Mt. Holly and Ft. Dix in the County of Burlington, NJ, a total distance of 9.7 miles effective on March 11, 1982.

The net liquidation value of this line is $248,573. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-14981 Filed 6-2-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 311 (Sub-4)]

Modification of the Motor Carrier Fuel Surcharge Program

AGENCY: Interstate Commerce Commission.

ACTION: Change in owner-operator fuel reimbursement figure.

SUMMARY: Due to an increase in the nationwide average cost of diesel fuel, owner-operator reimbursement has increased from 12.5 to 13 cents per mile.

EFFECTIVE DATE: This decision will be effective 10 working days from publication in the **Federal Register** which is June 17, 1982.

FOR FURTHER INFORMATION CONTACT:
Lee Alexander (202) 275-7723.
Ted Kalick (202) 274-6446.
Alan Rothenberg (202) 275-7597.
Richard Shullaw (202) 275-7639.

SUPPLEMENTARY INFORMATION: In a decision served April 16, 1982 (47 FR 17129, April 21, 1982), the Commission established owner-operator reimbursement as 12.5 cents per mile for all carrier-related business miles. This change became effective May 5, 1982. As noted in the October 8, 1981 decision (46 FR 50070, October 9, 1981), the mileage payment will change when the price of fuel in conjunction with the reimbusement formula causes the figure to rise or decline by .5 cents per mile.

As of May 24, 1982, the current price of diesel fuel was 125.0 cents per gallon. The reimbursement figure is 13.0. Ten working days after publication of the notice in the **Federal Register** which is June 17, 1982, carriers shall reimburse owner-operators at a minimum of 13.0 cents per mile.

During this 10-day period or after, if they choose, carriers may adjust their rates to reflect the upward change in owner-operator reimbursement by using the 10-day notice provisions of Special Permission No. 81–2500 (see part 2 of Appendix B and Appendix C to the October 8 decision). All other normal rate-making avenues are also available.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State having jurisdiction over transportation by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by depositing a copy with the Director, Office of the Federal Register, for publication.

Decided: May 26, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons.

Agatha L. Mergenovich,

Secretary.

APPENDIX A.—DIESEL FUEL—PRICES AND REQUIRED MILEAGE ESCALATION

Date	Increased fuel cost			
	Price (including taxes (cents))	Cents (total)	Over 63.5 (per mile [1])	Require [2] amount (cents)
(1)	(2)	(3)	(4)	(5)
Jan. 1, 1979	63.5	0	0	0
Nov. 16, 1981	130.5	67.0	13.4	14.2
Nov. 23, 1981	130.5	67.0	13.4	14.2
Nov. 30, 1981	131.0	67.5	13.5	14.3
Dec. 7, 1981	131.0	67.5	13.5	14.3
Dec. 14, 1981	131.0	67.5	13.5	14.3
Dec. 21, 1981	131.1	67.6	13.5	14.3
Dec. 28, 1981	131.1	67.6	13.5	14.3
Jan. 4, 1982	131.4	67.9	13.6	14.4
Jan. 11, 1982	131.3	67.8	13.6	14.4
Jan. 18, 1982	131.2	67.7	13.5	14.3
Jan. 25, 1982	131.0	67.5	13.5	14.3
Feb. 1, 1982	130.8	67.3	13.5	14.3
Feb. 8, 1982	130.3	66.8	13.4	14.2
Feb. 16, 1982	129.8	66.3	13.3	14.1
Mar. 22, 1982	129.3	65.8	13.2	14.0
Mar. 1, 1982	128.8	65.3	13.1	13.9
Mar. 8, 1982	126.7	63.2	12.6	13.4
Mar. 15, 1982	125.5	62.0	12.4	13.1
Mar. 22, 1982	124.4	60.9	12.2	12.9
Mar. 29, 1982	123.4	59.9	12.0	12.7
Apr. 5, 1982	121.9	58.4	11.7	12.4
Apr. 12, 1982	121.7	58.2	11.6	12.3
Apr. 19, 1982	121.3	57.8	11.6	12.3
Apr. 26, 1982	121.5	58.0	11.6	12.3
May 3, 1982	121.8	58.3	11.7	12.4
May 10, 1982	122.6	59.1	11.8	12.5
May 17, 1982	123.5	60.0	12.0	12.7
May 24, 1982	125.0	61.5	12.3	13.0

[1] In cents per mile assuming 5.0 miles per gallon (column 3 divided by 5.0 miles per gallon).

[2] Cost per mile increased by 6 percent for circuity (column 4 multiplied by 1.06).

[FR Doc. 82-14671 Filed 6-2-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority; Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register**.

An original and one copy of petition for leave to intervene must be filed with the Commission within 30 days after the date of this **Federal Register** notice addressing specifically the issue(s) indicated as the purpose for republication.

Volume No. OP5–120

MC 116068 (Sub-6) (republication), filed August 27, 1981, published in the **Federal Register** issue of September 23, 1981, October 29, 1981, November 30, 1981, and republished this issue. Applicant: D & F TRANSIT, INC., 4747 Genesee St., Cheektowaga, NY 14225. Representative: Gary E. Thompson, 4304 East-West Hwy., Bethesda, MD 20814, (301) 654–2240. An Order of the Commission, Division 2, decided April 8, 1982, and served April 15, 1982, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a common carrier, by motor vehicle, over irregular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, in round-trip charter operations, beginning and ending at points in Niagara, Erie, and Chautauqua Counties, NY, and extending to points in the United States, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 155109 (republication), filed October 8, 1981, published in the **Federal Register** issue October 29, 1981, February 19, 1982, and republished this issue. Applicant: ATLAS TRUCKING, INC., Hwy. 101 W., Port Angeles, WA 98362. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055, 206–228–3807. An Order of the Commission, Division 1, decided April 8, 1982, and served April 14, 1982, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a common carrier, by motor vehicle, over irregular routes, transporting (1) *machinery and pulp, paper and related products*, between points in Oregon, Washington, California, Idaho, Nevada, Arizona, Utah, Montana, Colorado, Nebraska, Kansas, and Wyoming, and (2) *building materials*, between points in Clallam, Gray's Harbor, and Jefferson Counties, WA, on the one hand, and, on the other, points in the states in part (1) above, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

Volume No. OP5–121

FF 579 (republication), filed November 9, 1981, published in the **Federal Register** issue of May 1, 1981, and republished this issue. Applicant: FREIGHT EXPEDITERS, INC., 600 Erieside Ave. Dock 26, Cleveland, OH 44114. Representative: Authur E. Gogol, 7723 Greenwich Road, Lodi, OH 44254, 216–948–2531. A order of the Commission, Review Board 1, decided April 5, 1982, and served April 19, 1982, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a freight forwarder, by motor vehicle, over irregular routes, in the transportation of *general commodities* (except classes A and B explosives), between ports and port cities in the United States (except Alaska and Hawaii), on the one hand, and, on the other, points in Kentucky and Ohio, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the applicant's actual grant of authority.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-14670 Filed 6-2-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29940]

Rail Carriers; Brockway, Inc.—Exemption From 49 U.S.C. Subtitle IV

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission has exempted Brockway, Inc., and its subsidiary pursuant to 49 U.S.C. 10505, from 49 U.S.C. Subtitle IV in connection with a line it proposes to purchase in Docket No. AB-167 (Sub-No. 445N), *Consolidated Rail Corporation; Abandonment in Perry and Muskingum Counties, OH.*

DATES: This exemption will become effective on May 28, 1982. Petitions to reopen must be filed no later than June 17, 1982.

ADDRESSES: Send petitions to:

(1) Interstate Commerce Commission, Section of Finance, Room 5417, Washington, DC 20423.

(2) Petitioner's representative: Dennis N. Barnes, 1800 M Street, N.W., Washington, DC 20036.

Pleadings should refer to Finance Docket No. 29940.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245 or Elaine Sehrt, (202) 275-7899.

SUPPLEMENTARY INFORMATION: For additional information, see the Commission's decision in Finance Docket No. 29940. To purchase copies of the full decision contact TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, DC 20423, or by calling locally at 289-4357, or toll free 800-424-5403.

Decided: May 26, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-14874 Filed 6-2-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29941]

Rail Carriers; Bay Colony Railroad Corp. Exemption From 49 U.S.C. 11301

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10505, the Interstate Commerce Commission exempts the issuance of stock and notes by the Bay Colony Railroad Corporation from the requirements of prior approval under 49 U.S.C. 11301.

DATES: Exemption effective on June 1, 1982. Petitions to reopen must be filed by June 21, 1982.

ADDRESSES: Send Pleadings to:

(1) Section of Finance, Room 5414, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's Representative: William P. Quinn, 1800 Penn Mutual Tower, 510 Walnut Street, Philadelphia, PA 19106.

Pleadings should refer to Finance Docket No. 29941.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, DC, 20423, or call 289-4357. Outside Washington, DC call Toll Free 800-424-5403.

Decided: May 27, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons. Vice Chairman Gilliam was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-14882 Filed 6-2-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-134)]

Rail Carriers; the Chesapeake & Ohio Railway Company—Exemption for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: John J. Sado, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The Chesapeake and Ohio Railroad Company (CO) filed a petition on May 7, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract tariffs ICC-CO-C-0013 and ICC-CO-C-0014 filed on May 10, 1982 to become effective on one day's notice. The contracts involve the movement of coal.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. The shipper has installed a new coking battery which will commence operations in late May. The new facility will increase shipper's demand for coal covered by this contract. Full coking operations will be delayed if the contracts' effective date is not advanced. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Petitioner's contracts ICC-CO-C-0013 and ICC-CO-C-0014 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings.

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the Federal Register.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505.)

Dated: May 27, 1982.

By the Commission, Division 2, Commissioners Gresham, Taylor, and Simmons. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-14873 Filed 6-2-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-135)]

Rail Carriers; The Pittsburgh & Lake Erie Railroad Co.—Exemption for Contract Tariff

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT:
John J. Sado, (202) 275–7277.

SUPPLEMENTARY INFORMATION: The Pittsburgh and Lake Erie Railroad Company (PLE) filed a petition on May 11, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC–PLE–C–14 filed on May 7, 1982 to become effective on one day's notice. The contract involves the movement of scrap iron and steel.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. The carrier faces a diversion of its shipper's traffic to barge competition if the contract's effective date is not advanced. We find this to be type of exceptional circumstances which warrants a provisional exemption.

Petitioner's contract ICC–PLE–C–14 may becoma effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 459 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the **Federal Register**.

This action will not significantly affect either the quality of the human environment of conservation of energy resources.

(49 U.S.C. 10505),

Dated: May 27, 1982.

By the Commission, Division 1, Commissioners Sterrett, Gilliam, and Tay Andre.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–14975 Filed 6–2–82; 8:45 am]
BILLING CODE 7035–01–M

[Ex Parte No. 387 (Sub-133)]

Rail Carriers; the Texas Mexican Railroad Co.—Exemption for Contract Tariff

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:
John J. Sado, (202) 275–7277.

SUPPLEMENTARY INFORMATION: The Texas Mexican Railroad Company (TM) filed a petition on May 10, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC–TM–C–16 filed on May 10, 1982 to become effective on one day's notice. The contract involves the movement of empty hoppers cars.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. Approximately 1000 empty hopper cars are in Mexico and need to be returned to the U.S. from the National Railways of Mexico to avert an accumulation of cars in Mexico and a possible embargo. Delay of the contract's effective date may case congestion in Mexico. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Petitioner's contract ICC–TM–C–16 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 459 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdication to institute a proceeding on its won initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the **Federal Register**.

This action will not significant affect either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505.)

Dated: May 26, 1982.

By the Commission, Division 1, Commissioners Sterrett, Gilliam, and Andre.

Agatha L. Mergenonich,

Secretary.

[FR Doc. 82–14972 Filed 6–2–82; 8:45 am]
BILLING CODE 7035–01–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–406–8]

Certain Ceramic Kitchenware and Tableware From the People's Republic of China

AGENCY: International Trade Commission.

ACTION: Institution of an investigation under section 406(a) of the Trade Act of 1974 (19 U.S.C. 2436(a)) and scheduling of a hearing to be held in connection therewith.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission, following receipt on May 14, 1982, of a petition filed on behalf of the American Dinnerware Emergency Committee (ADEC), has instituted investigation No. TA–406–8 under section 406(a) of the Trade Act of 1974 to determine, with respect to imports of ceramic household articles chiefly used for preparing, serving, or storing food or beverages, or food or beverage ingredients, provided for in items 533.15, 533.22, 533.24, 533.30, 533.32. 533.34, 533.39, 533.62, 533.74, 533.76, 533.78 and 533.79 of the Tariff Schedules of the United States, which is the product of the People's Republic of China, whether market disruption exists with respect to an article produced by a domestic industry. Section 406(e)(2) of the Trade Act defines such market disruption to exist whenever "imports of an article, like or directly competitive with an article produced by such domestic industry, are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat thereof, to such domestic industry.

EFFECTIVE DATE: May 24, 1982.

FOR FURTHER INFORMATION CONTACT:
Miriam A. Bishop, Office of Investigations, U.S. International Trade Commission, telephone 202–523–0291.

SUPPLEMENTARY INFORMATION:

Pubic hearing.—The Commission will hold a public hearing in connection with this investigation beginning at 10:00 a.m., e.d.t., on Monday, July 19, 1982, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. All parties will be given an opportunity to be present, to produce evidence, and to be heard at the hearing. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later that the close of business (5:15 p.m., e.d.t.) on Tuesday, July 6, 1982.

Perhearing procedure.—To facilitate the hearing process, it is requested that persons wishing to appear at the hearing submit prehearing briefs enumerating and discussing the issues which they wish to raise at the hearing. Fourteen copies of such prehearing briefs should be submitted to the Secretary to the Commission no later than the close of business on Wednesday, July 14, 1982. All parties submitting prehearing briefs and other documents shall serve copies on other parties of record in accordance with the requirements of § 201.16 of the rules (19 CFR 201.16, as published in 47 FR 6190 (Feb. 10, 1982)). Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data" and submitted in accordance with the procedures set forth in §§ 201.6 and 201.8(d) of the Commission's rules (19 CFR 201.6, 201.8(d), as published in 47 FR. 6188 (Feb. 10, 1982)).

Copies of prehearing briefs and other written submissions will be made available for public inspection in the Office of the Secretary. Oral presentations should, to the extent possible, be limited to issues raised in the prehearing briefs. All persons desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 10:00 a.m., e.d.t., on July 13, 1982, in Room 117 of the U.S. International Trade Commission Building.

Inspection of the petition.—A copy of the petition in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

For further information concerning the conduct of the investigation, hearing, procedures and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR 201).

By order of the Commission.
Issued: May 25, 1982.

Kenneth R. Mason,
Secretary.

[FR Doc. 82–15034 Filed 6–2–82; 8:45 am]
BILLING CODE 7020–02–M

[Investigation No. 337–TA–123]

Certain CT Scanner and Gamma Camera Medical Diagnostic Imaging Apparatus; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 30, 1982, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Technicare Corporation, 29100 Aurora Road, Solon, Ohio 44139. The complaint alleges unfair methods of competition and unfair acts in the importation of certain CT scanner and gamma camera medical diagnostic imaging apparatus ("scanners" and "cameras") into the United States, or in their sale, by reason of alleged infringement by said scanners of the claims of U.S. Letters Patent 4,220,860 and by said cameras of the claims of U.S. Letters Patent 4,151,416. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests the Commission to institute an investigation and, after a full investigation, to issue an exclusion order, prohibiting importation of the above-mentioned articles into the United States for the life of each patent in issue, or a permanent cease and desist order.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on May 26, 1982, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain CT scanner and gamma medical diagnostic imaging apparatus into the United States, or in their sale, by reason of the alleged infringement by said scanners of the claims of U.S. Letters Patent 4,220,860 and by said cameras of the claims of U.S. Letters Patent 4,151,416, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Technicare Corp., 29100 Aurora Rd., Solon, Ohio 44139.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Elscint Ltd., Advanced Technology Center, Haifa, Israel
Elscint, Inc., 138–160 Johnson Avenue, Hackensack, New Jersey 07602

(c) John Milo Bryant, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 124, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade

Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–0176.

FOR FURTHER INFORMATION CONTACT: John Milo Bryant, Esq., Unfair Import Investigations Divisions, Room 124, U.S. International Trade Commission, telephone 202–523–0419.

By order of the Commission.

Issued: May 26, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–15083 Filed 6–2–82; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–122; Order No. 4]

Certain Miniature, Battery-Operated, All-Terrain, Wheeled Vehicles; Hearing on Relief, Bonding, and the Public Interest and Schedule for Filing Written Submissions

Notice is hereby given that a hearing will be held before Administrative Law Judge Donald K. Duvall, the designated presiding officer, in connection with the above-styled investigation, at 10:00 a.m. on Monday, July 12, 1982, in Suite 201, 1010 Wisconsin Avenue, N.W., Washington, D.C. 20007. The purpose of this hearing is to create an administrative record, to be certified to the Commission, concerning the appropriate relief, the effect that such relief would have upon the public interest, and the proper amount of the bond in the event that the Commission determines that there is reason to believe there is a violation of section 337 and that temporary relief should be granted.

Parties to the investigation, Government agencies, public-interest groups, and interested members of the public may make oral presentations on the issues of relief, bonding, and the public interest. Presentations need not be confined to the evidentiary record certified to the Commission by the presiding officer and may include the testimony of witnesses. Oral presentations on relief, bonding, and the public interest will be heard in this order: complainants, respondents, Government agencies, the Commission investigative attorney, public-interest groups, and the interested members of the public.

If the Commission finds that there is reason to believe that a violation of section 337 has occurred, it may issue (1) an order which could result in the temporary exclusion of the subject articles from entry into the United States and/or (2) an order which could result in one or more respondents' being required to cease and desist from engaging in unfair methods of competition or unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in hearing presentations which address the form of relief, if any, which should be ordered.

If the Commission concludes that there is reason to believe that a violation of section 337 has occurred and contemplates some form of temporary relief, it must consider the effect of that relief upon the public interest. The factors which the Commission will consider include the effect that a temporary exclusion order and/or a cease and desist order would have upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the U.S. production of articles which are like or directly competitive with those which are the subject of the investigation, and (4) U.S. consumers.

If the Commission finds that there is reason to believe that a violation of section 337 has occurred and orders some form of temporary relief, the subject articles would be entitled to enter the United States under a bond in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in hearing presentations concerning the amount of the bond, if any, which should be imposed.

Persons making oral presentations on remedy, bonding, and the public interest will be limited to fifteen (15) minutes. The presiding officer may in his discretion expand the aforementioned time limits upon receipt of a timely request to do so.

The parties to the investigation and interested government agencies are encouraged to file briefs on the issues of remedy, bonding, and the public interest. The complainants and the Commission investigative attorney are also requested to submit a proposed temporary exclusion order and/or proposed cease and desist orders for the Commission's consideration. Persons other than the parties and Government agencies may file written submissions addressing the issues of remedy, bonding, and the public interest. Written submissions, including briefs, on the questions of remedy, bonding, and the public interest must be filed no later than the close of business on July 6, 1982. Written requests to appear at the hearing must be filed with the Office of the Secretary by June 25, 1982.

Any person desiring to discuss confidential information, or to submit a document (or a portion thereof) to the Commission in confidence, must request in camera treatment unless the information has already been granted such treatment by the presiding officer. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Documents or arguments containing confidential information approved by the Commission for in camera treatment will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Secretary's Office.

Notice of this investigation was published in the **Federal Register** of May 19, 1982, 47 FR 21638.

The Secretary shall publish this notice in the **Federal Register.**

Issued: May 24, 1982.

Judge Donald K. Duvall,

Presiding Officer.

[FR Doc. 82–15082 Filed 6–2–82; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–46 (Final)]

Certain Steel Wire Nails from Korea; Change of Public Hearing Date

AGENCY: International Trade Commission.

ACTION: Change of date of public hearing in connection with investigation No. 731–TA–46 (Final).

SUMMARY: Notice is hereby given that the United States International Trade Commission has changed the date of the previously announced public hearing in the subject investigation (46 FR 21641). The hearing will now be held on June 28, 1982, beginning at 10:00 a.m., in the United States International Trade Commission Building, 701 E St., NW., Washington, D.C.

SUPPLEMENTARY INFORMATION: Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on June 9, 1982. All persons desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m., on June 11, 1982, in Room 117 of the U.S. International Trade Commission Building and must file prehearing statements on or before June 22, 1982. Any person may submit to the Commission on or before July 6, 1982, written statements of information pertinent to the subject matter of the investigation.

FOR FURTHER INFORMATION CONTACT: Judity Zeck, Office of Investigations,

U.S. International Trade Commission (202) 523–0339.

By order of the Commission.

Issued: May 28, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-15035 Filed 6-2-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-91 (Preliminary)]

Sodium Nitrate From Chile

Determination

On the basis of the record [1] developed in investigation No. 731–TA–91 (Preliminary), the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury [2] by reason of imports from Chile of sodium nitrate, provided for in item 480.25 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value (LTFV).

Background

On April 12, 1982, a petition was filed by Olin Corp. with the U.S. International Trade Commission and the U.S. Department of Commerce alleging that imports of sodium nitrate from Chile are being sold in the United States at LTFV. Accordingly, the Commission instituted a preliminary antidumping investigation under section 733(a) of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise into the United States.

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on April 21, 1982 (47 FR 17136). The conference was held in Washington, D.C., on May 4, 1982, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Views of the Commission

The record of this investigation provides a reasonable indication that an industry in the United States is materially injured [3] by reason of imports from Chile of sodium nitrate allegedly sold at less than fair value (LTFV).[4] Our affirmative finding is based on the following: the substantial increase in the volume and market penetration of the alleged LTFV imports from Chile; underselling of the domestic product by Chilean imports; and the deteriorating condition of the domestic sodium nitrate industry.

Domestic Industry

Section 771(4)(A) of the Tariff Act of 1939 defines the term "industry" as the "domestic producers as a whole of a like product or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." [5] "Like product" is defined as a product which is like, or in the absence of like, most similar in characteristics and uses with, the article under investigation.[6]

The imported article subject to this investigation is sodium nitrate from Chile. Sodium nitrate ($NaNO_3$) is a colorless, solid chemical used in a variety of products, including fertilizers, explosives, glass, and charcoal. The imported product is mined from natural deposits of nitrate ore. It is produced in two grades: an agricultural grade of approximately 97 percent sodium nitrate, by weight, and an industrial grade of approximately 98 percent sodium nitrate, by weight.[7] Both grades of natural sodium nitrate are processed in the same manner. The difference between the grades is a function of the amount of moisture which is allowed to evaporate during storage.

Domestic sodium nitrate is produced synthetically in one grade of over 99 percent sodium nitrate, by weight. This grade has been sold for industrial, agricultural, and food use.[8]

Although natural and synthetic sodium nitrate differ in their production processes, their chemical compostion is virtually the same.[9] The domestic synthetic product and the grades of the imported natural product differ slightly in their purity.[10] Despite these small differences in purity, there does appear to be a substantial degree of substitutability among the different grades. The agricultural grade of sodium nitrate may not be used for some industrial purposes because of impurities, but it may be used for other industrial purposes, such as the manufacture of charcoal. The purer synthetic product appears to be usable for both agricultural and industrial purposes, but it is generally not competitive in the agricultural market because of price. In the event that this case returns to the Commission for a final investigation, we will want to explore further the extent of substitutability among the grades of sodium nitrate.

We conclude that domestic sodium nitrate is like the imported product because there is one chemical formula for sodium nitrate and there appears to be substantial substitutability in uses among the grades of natural and synthetic sodium nitrate. Therefore, we find that the domestic industry consists of the only U.S. producer of sodium nitrate, Olin Corporation.

Petitioner alleges that imports of sodium nitrate sold at LTFV were responsible for the material retardation

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[1] The record is defined in § 207.2(j) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(j)).

[2] Chairman Alberger, Commissioner Hagart and Commissioner Frank found only that there is a reasonable indication that an industry in the United States is materially injured.

[3] The votes of Vice Chairman Calhoun and Commissioners Stern and Eckes reflect the statutory language, which provides for a finding of "material injury *or* threat of material injury." (emphasis added) Section 733(a) of the Tariff Act of 1930, 19 U.S.C. 1673b(a).

[4] Material retardation of the establishment of the sodium nitrate industry is not an issue in this investigation because there is an industry already producing sodium nitrate.

[5] 19 U.S.C. 1677(4)(A).

[6] 19 U.S.C. 1677(10).

[7] Report at A–2.

[8] Approximately 98 percent of the domestic sodium nitrate is sold for industrial use. See further discussion below.

[9] The possibility that different means of production might create different industries was not raised as an issue in this case. The Commission held in a previous case, Menthol From Japan and the People's Republic of China, Inv. No. 731–TA–27 and 28 (Preliminary), USITC Pub. No. 1067 (1980), that the U.S. product was like both the synthetically produced imports and the natural imports.

[10] The Commission has dealt with the issue of grades based on degrees of purity in previous cases. In these cases the Commission found there to be one like product. In Sodium Gluconate From the European Community, Inv. No. 701–TA–79 (Preliminary), USITC Pub. No. 1169 (1981), the Commission stated that:

Since the characteristics of the two grades are basically the same, i.e., they have the same chemical formula, and since both the FCC grade and the technical grade in the majority of cases are interchangeable and compete against each other, we believe that the one like product in this case is all sodium gluconate produced in the United States. (Views of the Commission in Sodium Gluconate at 4).

The Commission reached a similar conclusion in Precipitated Barium Carbonate from the Federal Republic of Germany, Inv. No. 731–TA–31 (Final), USITC Pub. No. 1154 (1981). The reasoning given by the Commission in determining there was one like product within the meaning of the statute included the fact that there was basically one chemical formula and the grades could be substituted for each other. (Views of the Commission in Precipitated Barium Carbonate at 4–5).

of a domestic solar nitrate salts industry. Solar nitrate salts are a chemical mixture of approximately 60 percent sodium nitrate and 40 percent potassium nitrate used as a medium of heat storage in solar energy production.[11] Sodium nitrate is a pure chemical used in fertilizers, explosives, food, production of glass, and metal treatment. On the basis of our examination of characteristics and uses, we find that nitrate salts are not like the imported sodium nitrate under investigation. Nitrate salts are not a part of the sodium nitrate industry because nitrate salts and sodium nitrate are not like products.[12] The question of material retardation, therefore, does not arise inasmuch as there is an industry already producing sodium nitrate.

Reasonable Indication of Material Injury by Reason of LTFV Imports

Section 771(7) of the Act directs the Commission to consider, among other factors, (1) the volume of imports of the merchandise under investigation, (2) their impact on domestic prices, and (3) the consequent impact on the domestic industry.[13]

Volume of imports.—Although the domestic market for sodium nitrate steadily declined from 1979 through the first quarter of 1982, imports from Chile increased significantly.[14] As a result, the ratio of imports to apparent U.S. consumption rose dramatically in 1980 and continued to rise in 1981.[15]

Effect of the imports on prices.—Data on price effects are limited at this preliminary stage to comparisons of transaction prices for bag shipments [16] on an f.o.b. factory/f.o.b. warehouse basis. These data show that Chilean industrial grade sodium nitrate generally undersold U.S. sodium nitrate throughout the January, 1979 to March, 1982 period, with the widest margin of underselling occurring between April and September, 1981. The imported agricultural grade substantially undersold the domestic product throughout the entire period under investigation.[17]

Data gathered also show price depression since the fourth quarter of 1981.[18] The price of domestic sodium nitrate dropped between the third quarter of 1981 and the first quarter of 1982. The ratio of the cost of goods sold to net sales rose significantly in this period, a fact which normally would call for higher rather than lower prices.[19]

In a final investigation, we will want to look at a comparison of domestic and imported prices for bulk as well as bag shipments. Since transportation costs are important in this industry, we also hope to be able to compare delivered prices.

Impact of imports on the domestic industry.—A number of important indicators show that the domestic producer's sodium nitrate business declined as imports and import penetration increased. Olin experienced overall declining trends in production, capacity utilization, shipments, and financial performance.

During the period under investigation, Olin's production decreased substantially while its production capacity remained constant. As a result, Olin's capacity utilization rate fell. In the period January-March 1982, Olin's utilization rate fell even further to well below the previous year's January-March rate as production continued to decline.[20]

Olin's sodium nitrate shipments, including exports, declined significantly from 1979 to 1981. Likewise, shipments in January-March 1982 were significantly below the level of shipments in January-March 1981.[21]

Olin's profitability on sodium nitrate, as measured by net operating profit and return on fixed assets employed in the production of sodium nitrate, declined markedly from 1979 to 1981. Net operating profit fell precipitously in 1980, but then rose slightly in 1981. Olin's net operating profit in January-March 1982 deteriorated further compared with that in the corresponding period of 1981.[22] The ratio of Olin's net operating profit of loss to its investment in productive facilities, similarly, showed an overall declining trend. The ratio fell dramatically from 1979 to 1981, and declined even further in the first three months of 1982 compared with the similar period in 1981.[23]

The Commission confirmed the existence of four lost sales of domestic sodium nitrate to the imported product. The four firms involved reported that they viewed the domestic and imported products as equally satisfactory for their particular use and that the principal factor in their decision to alter their purchasing pattern in favor of the Chilean product was price.[24] [25]

Conclusion

Information in this preliminary investigation on the volume of the alleged LTFV imports, price effects, and the condition of the domestic sodium nitrate industry convinces us that the investigation should be continued.

Issued: May 27, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-15038 Filed 6-2-82; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

National Institute of Justice

Selective Prosecution by Career Criminal; Solicitation

The National Institute of Justice announces a competitive research cooperative agreement for the evaluation of *Selective Prosecution by*

[11] Petition at Attachment 13[c](1).

[12] Commissioner Frank notes that despite the fact that it is agreed that nitrate salts and sodium nitrate are not like products, there are certain implications flowing from the alleged LTFV Chilean sodium nitrate sales in the United States. He also notes that Olin in producing nitrate acid as one of its feedstock for its sodium nitrate, has had to operate below capacity recently for nitric acid because of falling sodium nitrate sales allegedly caused by Chilean pricing actions. Hence, Olin has lost a major portion of its in-house market for ammonia. This loss forced Olin to sell "large amounts of ammonia in the highly competitive, price sensitive merchant market." Any decline in income because of receiving lower prices on ammonia causes a decline in capability to sustain corporate research and development, maintain facilities and production capabilities which in turn are related to future capability to supply sodium nitrate that can be utilized as one of the major inputs for the potential domestic solar nitrate salts industry. Such a potential solar nitrate salt industry would probably save fuel and there are relationships to national security and the adequacy of present industry to meet near-term identified needs as well as long-term needs. Having a capable, useful product domestically available for tobacco, sugar beet and citrus crops, provides an alternative to other nutrients. It would be harmful not to have a sodium nitrate industry in the United States in the future if Olin ceased production. Reportedly, there will also be a rise of Olin's natural gas costs in the future when a new supply contract is arranged. Hence, this will further pressure Olin if alleged LTFV sales are allowed to continue. There is a more direct relationship between sodium nitrate capabilities and certain kinds of explosives. Commissioner Frank does not make an industry retardation argument, but rather wants to emphasize relationships among profits, research, capability maintenance and national security and even food supplies. *See* Post-Conference Brief of Olin Corporation, May 10, 1982, page 5.

[13] 19 U.S.C. 1677(7)(B). The industry data have been designated confidential because there is only one importer of Chilean sodium nitrate and only one domestic producer, Olin Corporation. Consequently, the discussion necessarily focuses on generalized trends.

[14] Report at A-6-8.

[15] *Id.* at A-15.

[16] The domestic producer only reported bag prices for one customer. *See* Report at Table 11, A-16.

[17] Report at Table 11, A-10.

[18] *Id.*

[19] *Id.* at A-13.

[20] *Id.* at A-9.

[21] *Id.* at A-9-10.

[22] *Id.* at A-13.

[23] *Id.* at A-13.

[24] *Id.* at A-16-16.

[25] Commissioner Frank notes that other problems are to be considered when considering he impact of alleged LTFV imports of Chilean sodium nitrate. These are: Are environmental restraint cost or lack of such restraints considered? Is the United States industry able to attract capital to maintain facilities? Can the United States industry afford to maintain adequately an invertory postition and distribution system?

Career Criminal Adjudication Programs. The purpose of this evaluation award is to identify and assess major activities and strategies that are being utilized by prosecutors to improve early case handling and effective prosecution of habitual offenders.

The solicitation asks for the submission of detailed proposals. A formal application will be requested following peer review process in accordance with the criteria set forth in the solicitation. In order to be considered, all papers must be received no later than midnight July 5, 1982. This cooperative agreement is planned for award in August, 1982 with funding support not to exceed $400,000.00 for 15 months. To maximize competition for the award, both profit-making and non-profit organizations are eligible to apply; however, a fee will not be paid.

Further information and copies of the solicitation can be obtained by contact Frank J. Vaccarella or Diann Stone at the Office of Program Evaluation, NIJ, 633 Indiana Avenue, NW., Washington, D.C. 20531, or phone (202) 724–2949.

May 24, 1982.

James L. Underwood,

Acting Director, National Institute of Justice.

[FR Doc. 82–15000 Filed 6–2–82; 8:45 am]

BILLING CODE 4410–18–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Meeting; Change of Date

On May 21, 1982 notice was published in the **Federal Register** at page 22262 of the Humanities Panel meeting to be held on June 14, 1982 from 8:30 a.m. to 5:30 p.m. in Room 1134 of the National Endowment for the Humanities, 806 15th Street NW., Washington, D.C. 20506. This meeting was to review applications for Research Materials: Publications Panel of the Division of Research Programs and was closed to the public. The date of this meeting has been changed to June 16, 1982.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 82–15057 Filed 6–2–82; 8:45 am]

BILLING CODE 7536–01–M

Humanities Panel; Meeting

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that the following meeting of the Humanities Panel will be held at 806 15th Street, NW., Washington, D.C. 20506:

Date: June 28–29, 1982.
Time: 9:00 a.m. to 5:30 p.m.
Room: 314
PROGRAM: This meeting will review applications submitted for the Youth Projects Program, Division of Special Program, for projects beginning after October 1, 1982.

The proposed meeting is for the purpose of Panel review, discussion, evaluation and recommendation of applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applications. Because the proposed meeting will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personnel privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that this meeting will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 82–15056 Filed 6–12–82; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Reports, Recommendations, Responses; Availability

Pipeline Accident Report: Pacific Gas & Electric Company Natural Gas Pipeline Puncture, San Francisco, California, August 25, 1981 (NTSB–PAR–82–1).

Safety Recommendations to:

National Weather Service, May 14, A–82–45: Establish a policy of transmitting all nonscheduled airport terminal forecasts and amendments to the FAA's Weather Message Switching Center for distribution on Service A circuits.

U.S. Coast Guard, May 14, M–82–20 thru –23: Institute VTS flow control of ferry and large vessel traffic crossing the Seattle Harbor, pier 52 ferry lanes during periods of restricted visibility; require that ferry pilots comply with standard ferry routes; reconsider all regulation deviations concerned with gyro equipment and piloting relative to navigation chart use and radar contact plotting which have been issued to the Washington State Ferries and other ferry operators to determine whether the deviations diminish safe navigation or passenger safety, and cancel or modify them as appropriate; revise 33 CFR Part 164, relative to gyrocompasses, vessel maneuvering characteristic data, chart use, and radar contact plotting, so that ferry passengers are afforded an equivalent amount of safety regardless of the ferries' gross tonnage.

Washington State Ferries, May 14, M–82–24 thru –31: Require ferry pilots to have area navigation charts on the chart desk ready for immediate use while underway; develop and provide the U.S. Coast Guard with ferry routing information to be used for inclusion on Puget Sound navigation charts and for VTS radar leadline development, and require ferry pilots to conform to such ferry routes; develop ferry maneuvering information, as described under 33 CFR 164.35(g), and have such information posted in the ferry pilothouses; establish a program for making periodic magnetic compass adjustments and require that ferry pilots regularly make and record compass observations so as to detect changes in deviations; provide ferries that are not equipped with radarscopes having direct plotting capability with rapid radar plotting sheets, and require that the bridgewatch regularly use this means for plotting the relative movement of closing radar contacts; require that ferry bridgewatch personnel observe proper vessel identification and communications procedures and also include course and speed information when exchanging communications with other vessels during close maneuvering encounters; review schedules on ferry routes and consider the feasibility of instituting special schedules that allow for reduced speeds during periods of restricted visibility; establish a program to inform ferry passengers of the action they should take in various types of emergencies, and make the information readily available by suitable means at ferry terminals and onboard the ferries.

Mississippi Department of Highways, May 25, H–82–10: Install appropriate advance warning signs to alert motorists of the potential hazard from turning trucks loaded with logs or other objects with extensive rear overhang at the intersection of U.S. Route 45 and Industrial Park Road and at all other intersections within the State where a similar hazard may exist.

Governor of Mississippi, May 25, H–82–11 and –12: Introduce and support legislation to require that the driver of any motor vehicle with a seating capacity of more than 16 passengers, whether so employed or acting voluntarily, shall possess, in addition to a

properly classified State driver's license, a certificate not more than 2 years old authenticating such driver's successful completion of a busdriver training course which conforms to Highway Safety Program Standard No. 17, Pupil Transportation Safety; assure that reference to the potential hazard from trucks hauling forest products or other objects with extensive rear overhang, particularly the hazard from the swinging overhang during a turning maneuver, is included as part of the curriculum for all schoolbus driver training programs and driver's education programs throughout the State.

Governors of Alabama, Georgia, Louisiana, Mississippi, Arkansas, South Carolina, Florida, and Texas, May 25, H–82–13: Conduct a study within each State to determine whether trucks hauling logs or other objects with extensive rear overhang represent a significant safety hazard to the motoring public, and if a hazard is found, take appropriate remedial action.

New York City Transit Authority, May 25, R–82–35 thru –42: Train operating department personnel in the differences between the two train control systems used on the NYCTA system; provide additional safeguards for "keying by"automatic signals in an emergency by requiring trains to stop at each signal and receive permission from the command center to proceed; require that any event or activity affecting the operation of trains be reported to the command center immediately; eliminate the practice of allowing nonoperating personnel to flag trains through red signals; accelerate the modernization of the NYCTA, with particular emphasis on eliminating the use of two different types of signal systems on the same route; improve procedures and coordination between operating departments for handling train operations during emergencies or maintenance work; review and revise operating rules, procedures, and practices for other-than-normal train operations, and insure proper training through instructions, drills, and monitoring of employee compliance; review and revise the procedures for notification of emergency and rescue personnel to eliminate delays and provide as much available information as possible to assist them assessing the equipment and manpower requirements. *May 25, R–82–22 and –23:* Revise current policy which permits passenger movement between cars to prohibit passenger movement between cars except in an emergency and install conforming end-door signs; institute enhanced educational surveillance and enforcement programs to prevent passengers from moving between coupled cars in transit service except in emergency.

American Public Transit Association, May 26, R–82–24: Notify member systems of the problems identified in the Safety Board's report "Accidents Involving Passengers Between Coupled Cars on the NYCTA," and encourage them to conduct continuing systemwide reviews of procedures and practices to eliminate residual hazards with regard to between-car passageway safety.

Metropolitan Dade County (Miami, Florida) Transit Agency and State of Maryland Department of Transportation, May 26, R–82–25: Review the compatibility of the design of its car end doors with its proposed operating policies regarding passenger use of those doors, and make necessary modifications to reduce the potential for between-car fatalities and injuries.

Boston & Maine Corporation, May 28, R–82–26 thru –32: Develop and implement a system that will ensure that blocking devices are promptly and properly applied; enforce operating rule 222 that requires operators to promptly report and the dispatcher to promptly record train passing times at locations where passing reports are required; provide a dispatcher telephone system common to all train order offices; revise the operating rule concerning Form J Holding Orders so that the rule specifically requires applying a blocking device to both the switch and the signal levers; when it becomes necessary to divert a train from its normal route, require the dispatcher to inform all employees who will handle the diverted train of the planned move and further require that the operators handling a diverted train report the train's passing times to each other; require that Bulletin Orders issued to govern train operations in special circumstances specifically describe the mode of operation and cite the applicable operating rules; uniformly identify the radio channels used by B&M employees on a systemwide basis so that employees know which channels that trains, mobile units, and manned base stations may use to communicate with each other.

Massachusetts Department of Public Utilities, May 28, R–82–33: Reevaluate that part of paragraph 154, chapter 160, of the Massachusetts General Laws Annotated which requires, "* * * one brakeman for the last car in every freight train to be stationed thereon * * *" to determine the advisability and necessity of having a brakeman so positioned. If it is found necessary, then specify the accommodations that shall be provided.

Federal Railroad Administration, May 28, R–82–34: Expedite implementation of Safety Board recommendations to study structural protection for occupants of control cars and locomotive operating compartments.

Recommendation Responses from:

Federal Aviation Administration, May 17, A–81–93: A test demonstrated that the electrical fault protection devices (circuit breakers) comply with the applicable airworthiness requirements, operate properly, and operate within the current state-of-the-art; *May 17, A–82–17 thru –23:* Emergency Airworthiness Directive 82–06–10 was issued Mar. 12 specifying the installation of the dual vacuum pump accessory kit in Cessna Model 210N aircraft equipped with deicer boots as a requirement for flight into known instrument meteorological conditions; a Special Certification Review of the Cessna 210 icing approval pointed out that it was unlikely that pneumatic system reliability comparable to that of the airplane's engine could be obtained with a single pump system; believes that FAR Section 61.65(c)(5) does place adequate emphasis on critical operational aspects of either partial panel or complete loss of flight instrumentation or equipment for the instrument pilot; does not concur with amending FAR 61.57(e), but will emphasize ensuring pilot competency in partial panel instrument skills during the training and testing of airmen in simulated emergency operations, by flight instructor refresher clinics, pilot examiner standardization courses, accident prevention program efforts, certification bulletins in appropriate orders, and FAA general aviation news publication; FAA service difficulty reports show that nearly all failures start with internal vane breakage and occur catastrophically without warning; Edo-Aire Manufacturing Co. has recently made major changes in its vacuum pump design; will review regulations governing flight instruments and other equipment which use pneumatic power; is requesting information on the effect of high-altitude operations on the life and reliability of light-weight, low-capacity vacuum pumps in turbocharged aircraft; *May 18, A–82–24 and –25:* Is preparing and will circulate soon for comment a proposal to revise the method by which the air phase of landing distances is determined; the proposal should not result in substantial changes in field lengths stated in 14 CFR 121.195; *May 24, A–82–26:* Will publish in the General Aviation Airworthiness Alert (AC–43–16) an item emphasizing the importance of not subjecting critical heat-treated aluminum alloy parts to extensive wear by welding or any other means; *May 28, A–77–22:* On Nov. 20 1980, issued Advisory Circular 20–105A updating statistical information and bringing to the attention of aircraft owners, operators, manufacturers, and maintenance personnel the circumstances surrounding engine power-loss accidents; *May 28, A–81–90:* Does not believe the emergency airport information feature to be an urgent modification since there is presently a requirement to have this type of information available at the operating positions.

U.S. Coast Guard, May 21, M–78–8, M–78–2, and M–81–84: Because the U.S. Maritime Administration and the Inter-governmental Maritime Consultative Organization have recently stopped work on voyage recorder projects and because of funding limitations, Coast Guard does not plan to actively pursue a voyage recorder project at this time.

Interstate Natural Gas Association of America, May 21, P–82–16: Member companies have been notified.

Southern Pacific Transportation Company, May 19, R–74–10: National Railroad Adjustment Board has ruled that the Southern Pacific cannot use the "Intoxilyzer," a device for measuring the concentration of alcohol in the bloodstream, to eliminate from the work force those individuals who are jeopardizing the safety of themselves, their fellow employees, the public and the railroad's property, through alcohol abuse.

Note.—Reports may be ordered from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, for a fee covering the cost of printing, mailing, handling, and maintenance. For information on reports call 703–487–4650 and to order subscriptions to reports call 703–487–4630. Single copies of recommendation letters (identified by recommendation

number) and response letters are free on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

H. Ray Smith, Jr.,
Federal Register Liaison Officer.
June 3, 1982.
[FR Doc. 82-15025 Filed 6-3-82; 8:45 am]
BILLING CODE 4910-58-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-368]

Arkansas Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 32 to Facility Operating License No. NPF-6 issued to Arkansas Power and Light Company (the Licensee), which revised the Technical Specifications for operation of Arkansas Nuclear One, Unit No. 2, located in Pope County, Arkansas. The amendment is effective within 30 days of its date of issuance.

The amendment modifies the ANO-2 Appendix A Technical Specifications dealing with the penalty applied to the calculation of the departure from nucleate boiling ratio (DNBR) to account for rod bowing.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration. The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this section, see (1) the Licensee's application dated March 5, 1982 as supplemented May 3, 1982 (2) Amendment No. 32 to License No. NPF-6, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Arkansas Tech University, Russellville, Arkansas. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director of Licensing.

Dated at Bethesda, Maryland this 20th day of May, 1982.

For the Nuclear Regulatory Commission.
Robert A. Clark,
Chief, Operating Reactors Branch No. 3, Division of Licensing.
[FR Doc. 82-15027 Filed 6-3-82; 8:45 am]
BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Perry Nuclear Power Plant Units 1 and 2; Meeting

The ACRS Subcommittee on Perry Nuclear Power Plant Units 1 and 2 will hold a meeting on June 28 and 29, 1982, at the Marriott Inn, 4277 West 150th Street, Cleveland, OH. The Subcommittee will review the application of the Cleveland Electric Illuminating Company, et al. for an Operating License for Units 1 and 2. Notice of this meeting was published May 19.

In accordance with the procedures outlined in the Federal Register on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Cognizant Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary and Industrial Security information. One or more closed sessions may be necessary to discuss such information. (SUNSHINE ACT EXEMPTION 4). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Monday, June 28, 1982—2:30 p.m. until the conclusion of business.

Tuesday, June 29, 1982—8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Cleveland Electric Illuminating Company, NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Gary Quittschreiber or the Staff Engineer, Mr. Anthony Cappucci (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., e.d.t.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary and Industrial Security information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: May 27, 1982.

John C. Hoyle,
Advisory Committee Management Officer.
[FR Doc. 82-15026 Filed 6-3-82; 8:45 am]
BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Reactor Radiological Effects; Meeting

The ACRS Subcommittee on Reactor Radiological Effects will hold a meeting on June 23, 1982 in Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittee will listen to presentations and discuss NRC proposed revision to 10 CFR Part 20 "Standards for Protection Against Radiation", and the use of Potassium Iodide (KI) for thyroid blocking in the event of a radiation accident.

In accordance with the procedures outlined in the Federal Register on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made

to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The subject meeting will be divided into two sessions as follows:

Wednesday, June 23, 1982.

8:30 a.m.–12:30 p.m.—NRC proposed revision to 10 CFR Part 20.

1:30 p.m. until the conclusion of business—Use of KI for thyroid blocking in the event of a radiation accident.

During the initial portion of each session, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the session.

The Subcommittee will then hear presentations by and hold discussions with respresentatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. John McKinley or the Staff Engineer, Ms. R. C. Tang (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., e.s.t.

Dated: May 27, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–15065 Filed 6–3–82; 8:45 am]

BILLING CODE 7590–01–M

PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

Public Meeting

Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committees Act, that the twenty-first meeting of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research will be held in the Conference Center of the One Washington Circle Hotel, One Washington Circle, N.W., Washington, D.C. from 9:00 a.m. to 5:00 p.m. on Thursday, June 10, 1982 and from 9:00 a.m. to 5:00 p.m. on Friday, June 11, 1982.

The meeting will be open to the public, subject to limitations of available space. The agenda will include, among other things, testimony and Commission deliberation on decisions about life-sustaining treatment.

During Thursday afternoon at approximately 3:30 p.m., and Friday afternoon, at approximately 1:15 p.m., fifteen minutes will be devoted to comments from the floor on the subject of any of the agenda items, limited to three minutes per comment. Written suggestions and comments will be accepted for the record from those who are unable to speak because of the constraints of time and from those unable to attend the meeting.

Records shall be kept on all Commission proceedings and will be available for public inspection at the Commission office, located in Suite 555, 2000 K Street, N.W., Washington, D.C. 20006.

For further information, contact Andrew Burness, Public Information Officer, at (202) 653–8051.

Alexander M. Capron,

Executive Director.

[FR Doc. 82–15066 Filed 6–3–82; 8:45 am]

BILLING CODE 6820–AV–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 22514; 70–6126]

American Electric Power Co., Inc.; Proposed Issuance and Sale of Common Stock to Trustee for System Employees Savings Plan

May 27, 1982.

American Electric Power Company, Inc. ("AEP"), 180 East Broad Street, Columbus, Ohio 43215, a registered holding company, has filed with this Commission a post-effective amendment to its declaration in this proceeding pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) promulgated thereunder.

By orders in this proceeding dated April 25, 1978, April 27, 1979, June 24, 1980, and June 30, 1981 (HCAR Nos. 20516, 21022, 21639, and 22112), AEP was authorized to issue and sell, from time to time through June 30, 1982, up to 1,800,000 shares of its authorized unissued common stock, $6.50 par value, to Bankers Trust Company, the Trustee for the AEP System Employees Savings Plan ("Savings Plan"). Through May 15, 1982, a total of 1,647,669 of such shares had been sold to the Trustee for a total price of $30,058,948, leaving a balance of 152,331 shares.

AEP now proposes to issue and sell to the Savings Plan Trustee, from time to time through June 30, 1985, up to an additional 2,000,000 shares of its authorized unissued common stock, plus the unsold balance of the shares of common stock heretofore authorized by the Commission for issuance to said Trustee. The price to the Trustee of such shares on any date of sale will be the average of the high and low sales price of AEP's common stock on the New York Stock Exchange on such date, but in no event less than the par value thereof.

The amended declaration and any further amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 25, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as now amended or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–15072 Filed 6–3–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12449; 812–5161]

Cash Account Fund, Inc.; Filing of Application

May 27, 1982.

Notice is hereby given that Cash Account Fund, Inc. (the "Applicant"), 120 South LaSalle Street, Chicago, IL 60603, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on April 12, 1982, for an order pursuant to Section 6(c) of the Act exempting it from the provisions of Section 2(a) (41) of the Act and Rules 2a–4 and 22c–1 under the Act to the extent necessary to permit Applicant to compute its net asset value per share using the amortized cost method of valuing portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations

contained therein, which are summarized below.

Applicant represents that it is a "money market" fund, the investment objective of which is maximum current income to the extent consistent with stability of capital. Applicant intends to pursue its objective by offering a Money Market Portfolio and a Government Securities Portfolio. The Money Market Portfolio will invest exclusively in money market instruments including United States and Canadian government securities and repurchase agreements of such instruments. The Government Securities Portfolio will invest exclusively in United States Treasury bills, notes, bonds and other obligations issued or guaranteed by the United States Government, its agencies or instrumentalities and repurchase agreements of such obligations. All investments are United States dollar-denominated and will mature in 12 months or less.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefore issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states, that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things: (1) Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in part, that the Commission, upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant requests an exemption from Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to permit it to use the amortized cost method of valuing portfolio securities. Applicant submits that the granting of the requested exemptions is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant represents that its board of directors has determined that, in the absence of unusual circumstances, amortized cost value would represent the fair value of its portfolio securities. It is represented that Applicant's board of directors also believe that the proposal would benefit its shareholders by assuring them the convenience of a stable price of $1.00 for each of their shares, together with protection against dilution and excessive risk in the form of conditions involving procedures for review by Applicant's board of directors and requirements as to the quality of its portfolio investments.

Applicant undertakes to adhere to the following conditions while operating under the exemptive order requested:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's board of directors undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objective, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution and redemption at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors of the Applicant shall be the following:

(a) Review by the board of directors as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset values per share of the Applicant, as determined by using available market quotations, from the $1.00 amortized cost price per share of the Applicant, and the maintenance of records of such review.[1]

(b) In the event that such deviation from Applicant's $1.00 amortized cost price per share should exceed ½ of 1%, a requirement that the board of directors promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes that the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or reduce to the extent reasonably practicable, such dilution or unfair results, which may include: redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications

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[1] In fulfilling this condition to determine the best approximation of market value, Applicant may utilize actual quotations provided by market-makers, estimates of market value reflecting current market conditions, or values obtained from yield data relating to classes of money market instruments published by reputable sources, under procedures established and reviewed by the board of directors.

[2] In fulfilling this condition, Applicant undertakes that if the disposition of a portfolio security by it should result in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available assets in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably possible.

thereto) described in paragraph 1 above; and, will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(b) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which the board of directors determines present minimal credit risk and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the board of directors.

6. Applicant will include in its quarterly reports, as an attachment to Form N–1Q, a statement as to whether any action taken pursuant to Paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than June 22, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, in any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-15701 Filed 6-2-82; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1–4060]

Duracell International, Inc., 9⅛% Sinking Fund Debentures (Due 2003), 8⅞% Sinking Fund Debentures (Due 1996); Application To Withdraw From Listing and Registration

May 27, 1982.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the specified securities from listing and registration on the New York Stock Exchange, Inc. ("NYSE").

The reasons alleged in the application for withdrawing these securities from listing and registration include the following:

The 9⅛% and 8⅞% debentures ("debentures") of Duracell International Inc. ("Company") are being withdrawn from listing and registration in connection with the assumption by Duracell Inc. of all of the Company's obligations on such debentures. In particular, the Company believes that the burden and expense of maintaining such listing and registration greatly exceed any benefits obtained by continued listing and registration, in view of the limited trading market and relatively small number of holders of the debentures.[1] The debentures are and will continue to be fully guaranteed by Dart & Kraft, Inc. and Dart Industries Inc. The NYSE has posed no objection in this matter.

Any interested person may, on or before June 18, 1982, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimons,

Secretary.

[FR Doc. 82-15074 Filed 6-2-82; 8:45 am]

BILLING CODE 8010-01-M

[1] According to the Company's delisting application, the Company believes there has been no trading of the debentures on the NYSE since December 31, 1981. Furthermore, as of May 7, 1982, the 9⅛% and 8⅞% debentures had only 34 and 41 holders of record, respectively.

[Release No. 12448; 812-5183]

State Bond Government Securities Fund, Inc.; Filing of Application

May 27, 1982.

Notice is hereby given that State Bond Government Securities Fund, Inc. ("Applicant"), 100–106 North Minnesota Street, New Ulm, Minnesota 56073, a no-load, open-end, diversified investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on April 30, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value its portfolio securities using the amortized cost valuation method. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market fund," designed to be an investment vehicle for investors who desire to place assets in money market investments consisting of U.S. Government securities where the primary considerations are high current income, preservation of capital, and liquidity. Applicant maintains that it seeks to provide a convenient means of investing short-term funds where the direct purchase of money market instruments may be undesirable or impractical and that safety and preservation of capital are emphasized. Applicant represents that its portfolio may be invested exclusively in a variety of high-quality short-term money market instruments, consisting of obligations issued or guaranteed by the U.S. Government or its agencies or instrumentalities, and repurchase agreements secured by such securities. Applicant states that U.S. Government securities in which Applicant may invest

include Treasury bills, notes and bonds and that agencies of the U.S. Government that issue or guarantee obligations include, among others, Agency for International Development, National Oceanic and Atmospheric Administration, Federal Energy Administration, Federal Aviation Administration, Economic Development Administration, Economic Rehabilitation Administration, Government National Mortgage Association, Maritime Administration, Small Business Administration, and The Tennessee Valley Authority. Obligations of instrumentalities of the U.S. Government include securities issued or guaranteed by, among others, Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, Federal Intermediate Credit Banks, Federal Land Banks, and the U.S. Postal Service. Applicant states further that some obligations of U.S. Government agencies and instrumentalities are supported by the full faith and credit of the U.S. Treasury; others are supported by the right of the issuer to borrow from the Treasury and that securities of some U.S. Government instrumentalities are supported only by the credit of the issuer, to which the U.S. Government may not be legally obligated to provide financial support.

Applicant states that it may also lend portfolio securities to brokers, dealers and financial institutions, but only if the borrower maintains with Applicant cash or equivalent collateral equal to at least 100% of the market value of those securities. Applicant states that in lending protfolio securities, its investment adviser will consider all relevant facts and circumstances, including the credit worthiness of a broker, dealer or financial institution to whom securities are to be lent. Applicant will not enter into any securities lending agreement having a duration of more than one year, and any securities with remaining maturities in excess of one year which it may receive as collateral for a particular loan will be held by Applicant only as collateral or, if acquired due to default of the borrower of its obligation to return the loaned securities, will be disposed of immediately. The application states that all investments by Applicant will consist of obligations maturing within one year from the date of acquisition, and the average maturity of all its investments (on a dollar-weighted basis) will be 120 days or less. The foregoing policies of Applicant are not fundamental, and may be changed by the Board of Directors without shareholder approval. However, shareholder approval would be required to change a limitation that Applicant may not invest in securities other than obligations issued or guaranteed by the U.S. Government, its agencies or instrumentalities.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 was adopted pursuant to Section 22(c) of the Act. Section 22(c), by reference to Section 22(a) of the Act, authorizes the Commission to adopt rules prescribing, *inter alia*, methods of computing the minimum purchase price and maximum redemption price of redeemable securities issued by a registered investment company. Rule 22c–1 provides, as here relevant, that no registered investment company issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Rule 2a–4 under the Act provides, as here relevant, that "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be determined with reference to (1) current market value for portfolio securities with respect to which market quotations are readily available and (2) for other securities and assets, fair value as determined in good faith by the board of directors of the registered company. In Release No. IC–9786, the Commission issued an interpretation of Rule 2a–4, expressing its view that it was inconsistent with Rule 2a–4 for certain money market funds to value their portfolio securities on an amortized cost basis and that such valuation should be made with reference to market factors.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities, or transactions from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that the experience of the money market fund industry tends to show that two qualities are helpful to attract investment: (1) stability of principal and (2) steady flow of investment income and that by utilizing U.S. Government securities of short maturities combined with a stable net asset value, preferably $1.00 per share, it would be possible to provide these features to a variety of investors. Applicant states further that investors can be expected to be concerned that the daily income declared by Applicant reflects income as earned and that the sales and redemption prices not change and that for this reason, Applicant would have a significant competitive disadvantage over the other money market funds, if its net asset value fluctuations were reflected in the price or included in dividends. Applicant maintains that it has an investment policy that investments are made only in instruments having a remaining maturity of one year or less and that its management has determined that an average portfolio maturity of 120 days or less combined with a stable price may accomplish both of the above aims of investors—that is, it somewhat obviates the possibility of a change in the price per share, while at the same time providing a yield on portfolio instruments more or less related to yields available in the general debt market, otherwise unavailable with a portfolio having an average maturity of a shorter duration. Applicant states further that, given the nature of its policies and operations, there will normally be a relatively negligible discrepancy between market value and amortized cost value of such securities.

On the basis of the foregoing, Applicant believes that the valuation of its portfolio securities on the amortized cost basis will benefit its shareholders by enabling Applicant to maintain more effectively a stable price per share while providing shareholders with the opportunity to receive a flow of investment income less subject to fluctuation than under procedures whereby its dividend would be adjusted by all realized and unrealized gains and losses on its portfolio securities. Applicant States that its Board of Directors has determined in good faith that in light of the characteristics of Applicant as generally described above, absent unusual or extraordinary circumstances, the amortized cost method of valuing portfolio securities is appropriate and preferable for Applicant and reflects fair value of such securities.

Therefore, Applicant submits that the standards of fairness expressed in

Section 6(c) of the Act are consistent with granting the requested exemption. In addition, as a condition to the granting of the exemption requested, Applicant agrees that the following may be made conditions of the order:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's Board of Directors undertakes—as a particular responsibility within the overall duty of care owed to shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by Applicant's Board of Directors shall be the following:

(a) Review by the Board of Directors, as it deems appropriate and at such intervals as are reasonable it light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and maintenance of records of such review. To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the Board in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1%, a requirement that the Board will promptly consider what action, if any, should be initiated.

(C) Where the Board of Directors believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses or the shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity that exceeds 120 days. In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio on maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board of Directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of Directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those U.S. dollar-denominated instruments which the Board of Directors determines present minimal credit risks and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board of Directors.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter, and, if any such action was taken, Applicant will describe the nature and circumstances of such action.

Notice is further given that any interested persons may, no later than June 18, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–15073 Filed 6–2–82; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Request for Comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments must be received on or before June 21, 1982. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the agency clearance officer of your intent as early as possible.

COPIES: Copies of the proposed form, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letters, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency

Clearance Officer and the OMB Reviewer.

AGENCY CLEARANCE OFFICER: Elizabeth M. Zaic, Small Business Administration, 1441 L St., N.W., Room 200, Washington, D.C. 20416, Telephone: (202) 653–8538.

OMB REVIEWER: J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395–7313.

BILLING CODE 8025-01-M

List of SBA Documents Submitted for Review

Contractors Subcontracting 13 CFR 107.102

1. Title of reporting or

List of SBA Documents Submitted for Review

1. Title of reporting or recordkeeping requirement	Contractors Subcontracting Program Compliance Review Report	13 CFR 107.102	13 CFR 107.201	13 CFR 107.1105
2. Name and phone number of issuing office	Office of Procurement and Technology Assistance, Subcontracting Branch, 202-653-6661	Office of Finance and Investment, Investment Div., 202-653-6584	Office of Finance and Investment, Investment Div., 202-653-6584	Office of Finance and Investment, Investment Div., 202-653-6584
3. Applicable SBA form numbers	SBA 745, 745 A	SBA 415, 415A, 415D	SBA 1022, 1022A, 159, 415C, 468, 468 Pt. III, 652A, 1045, 1069, & CO 158	SBA 415C
4. Number of forms in request	2	3	10	1
5. Frequency of use	On Occasion	On Occasion	On Occasion	On Occasion
6. Type of Affected Public	Federal Agency Contractors	Small Business Investment Companies	Small Business Investment Companies licensed by SBA	Small Business Investment Companies licensed by SBA
7. Are Small Businesses Affected	No	Yes	Yes	Yes
8. Standard Industrial Classification (SIC) Codes of respondents	Multiple			
9. Estimated Number of Responses	600	100	200	25
10. Estimated Burden Hours:				
Per Response	4.5	80	6	1/4
Total	27,500	8,000	1,200	6 1/4
11. Costs:				
To the Public		$300,000	$36,000	$12.50
To the Federal Government		$ 2,700		$100
12. Applicable Federal budget functional category	376	376	376	376
13. Nature of request	Revision	Extension (adjustment to burden)	New	Extension (adjustment to burden)
14. Rulemaking submission under Section 3504(h) of P.L. 96-511	No			No
15. Abstract	The forms are used to collect data for evaluating compliance of large business concerns with requirements of Sec. 8(d) of the Small Business Act, as amended by P.L. 95-507 and implemented under 13 CFR 125.9.	The regulation requires the use of forms, that have been approved under OMB No. 3245 0062, for applications for licensing as Small Business Investment Companies.	The regulation specifies requirements for application to SBA for leverage funds.	This regulation governs submission of information concerning substantive changes in licensees of Small Business Investment Companies.

BILLING CODE 8025-01-C

Dated: May 26, 1982.

Elizabeth M. Zaic,

Chief, Paperwork Management Branch, Small Business Administration.

[FR Doc. 82-15009 Filed 6-2-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation Advisory Board; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation, to be held at 11:00 a.m., June 25, 1982, at the Corporation's Administration Building, Andrews Street, Massena, New York. There will be no formal agenda for this meeting which will be devoted to an inspection of the Seaway Corporation's buildings and facilities.

Attendance at meetings in which a formal agenda is followed is open to the interested public but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the meetings. Persons wishing further information should contact, not later than June 23, 1982, Robert D. Kraft, Director, Plans and Policy Development, Saint Lawrence Seaway Development Corporation, 800 Independence Avenue, SW., Washington, D.C. 20591; 202-426-3574.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued at Washington, D.C. on May 24, 1982.

D. W. Oberlin,

Administrator.

[FR Doc. 82-14968 Filed 6-3-82; 8:45 am]

BILLING CODE 4915-61-M

Office of the Secretary

Minority Business Resource Center Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee act (Pub. L. 92-463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held June 23, 1982, at 10:00 a.m. until 1:00 p.m. in Room 10234-38 at the Department of Transportation, 400 7th Street, SW, Washington, D.C. 20590. The agenda for the meeting is as follows:

- Financial assistance program for MBEs
  - (a) Amtrack proposal
  - (b) Conrail proposal
- Surety bonding program
- Short-term lending program

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Minority Business Resource Center not later than the day before the meeting. Information pertaining to the meeting may be obtained from Ms. Betty Chandler, Minority Business Resource Center, 400 7th Street, SW, Washington, D.C. 20590, telephone (202) 426-2852. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on May 25, 1982.

Melvin Humphrey,

Director, Office of Small and Disadvantaged Business Utilization.

[FR Doc. 82-14806 Filed 6-2-82; 8:45 am]

BILLING CODE 4910-62-M

Urban Mass Transportation Administration

[Docket No. 81-B]

Elimination of Advanced Design Bus Specifications; Reopening of Comment Period

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of reopening of comment period

SUMMARY: In order to solicit complete and current public comment prior to a final decision, UMTA is reopening the docket.

DATE: Comments must be received on or before June 18, 1982.

ADDRESS: Comments must be submitted to UMTA docket No. 81-b, Urban Mass Transportation Administration, Room 9237, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 8:30 a.m. and 5 p.m., Monday through Friday. Receipt of comments will be acknowledged by UMTA if a self-addressed, stamped postcard is included with each comment.

FOR FURTHER INFORMATION CONTACT: Wilbur Hare, Office of Procurement and Third Party Contract Review, Room, 6431, 400 Seventh Street, SW., Washington, D.C. 20590, 202/426-2710

Dated: May 28, 1982

Andrew L. Lewis, Jr.,

Secretary.

[FR Doc. 82-15037 Filed 6-2-82; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Customs Service

Performance Review Boards; Appointment of Members

AGENCY: Customs Service, Treasury.

ACTION: General notice; correction.

SUMMARY: This document corrects the spelling of the name of a member of the U.S. Customs Service Performance Review Board which appeared at page 21373 in the **Federal Register** of Tuesday, May 18, 1982 (47 FR 21373).

FOR FURTHER INFORMATION CONTACT: Alexander Faison, Director, Office of Human Resources, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 3417, Washington, D.C., 20229 (202-566-5563).

The following correction is made to the document:

On page 21373, the spelling of the name "George Estengo", which appears in the last paragraph of the notice is corrected to read "George Astengo."

Dated: May 27, 1982.

Alexander Faison,

Director, Office of Human Resources.

[FR Doc. 82-15075 Filed 6-2-82; 8:45 am]

BILLING CODE 4820-02-M

Fiscal Service

[Dept. Circ. 570, 1981 Rev., Supp. No. 26]

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $1,293,000 has been established for the company.

Name of Company:

Occidental Fire & Casualty Company of North Carolina

Business Address:

5670 S. Syracuse Circle, Suite 500, Englewood, Colorado 80111

State of Incorporation:

North Carolina

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The

certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1981 Revision, at page 33972 to reflect this addition. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: May 25, 1981.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 82-14985 Filed 6-2-82; 8:45 am]

BILLING CODE 4810-35-M

[Dept. Circ. 570, 1981 Rev., Supp. No. 25]

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $1,613,000 has been established for the company.

Name of Company:

Republic Western Insurance Company

Business Address:

2721 North Central Avenue, Phoenix, Arizona 85004

State of Incorporation:

Arizona

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1981 Revision, at page 33973 to reflect this addition. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: May 21, 1982.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 82-14986 Filed 6-2-82; 8:45 am]

BILLING CODE 4810-35-M

[Dept. Circ. 570, 1981 Rev., Supp. No. 27]

Western National Assurance Co.; Surety Companies Acceptable on Federal Bonds: Termination of Authority

Notice is hereby given that the certificate of authority issued by the Treasury to Western National Assurance Company, Seattle, Washington, under Sections 6 to 13 of Title 6 of the United States Code, to qualify as an acceptable surety on federal bonds is hereby terminated, effective June 30 1982.

The company was last listed as an acceptable surety on federal bonds at 46 FR 33975, June 30, 1981.

With respect to any bonds currently in force with Western National Assurance Company, bond-approving officers of the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the company.

Questions concerning this notice may be directed to the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226, Telephone 202-634-5010.

Dated: May 25, 1982.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 82-14987 Filed 6-2-82; 8:45 am]

BILLING CODE 4810-35-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 107
Thursday, June 3, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, June 7, 1982, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Application for Federal deposit insurance (U.S. branch of a foreign bank):

Bank Leumi le-Israel B.M., Tel Aviv, Israel, for Federal deposit insurance of deposits received at and recorded for the account of its proposed branch to be located at 16530 Ventura Boulevard, Los Angeles, California.

Request pursuant to section 19 of the Federal Deposit Insurance Act for consent to service of a person convicted of an offense involving dishonesty or a breach of trust as a director, officer, or employee of an insured bank:

Names of person and of bank authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Alan J. Kaplan, Deputy Executive Secretary of the Corporation, at (202) 389–4446.

Dated: May 28, 1982.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[S-827-82 Filed 6-1-82; 10:54 am]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, June 7, 1982, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Applications for consent to purchase assets and assume liabilities and to establish one branch:

Mid-State Bank, Arroyo Grande, California, for consent to purchase the assets of and assume the liability to pay deposits made in the Goleta Valley Branch of Union Bank, Los Angeles, California, and to establish that branch as a branch of Mid-State Bank.

Inter Community Bank, Springfield, New Jersey, for consent to purchase the assets of and assume the liability to pay deposits made in the Whippany Branch of Security National Bank of New Jersey, Newark, New Jersey, and to establish that office as a branch of Inter Community Bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,078–L (Amendment)—Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico

Case No. 45,244–SR—Village Bank, Pueblo West, Colorado

Case No. 45,250–SR—Watkins Banking Company, Faunsdale, Alabama

Reports of committees and officers:

Minutes of the actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Deirectors.

Discussion Agenda:

No matter scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Alan J. Kaplan, Deputy Executive Secretary of the Corporation, at (202) 389–4446.

Dated: May 28, 1982.

Federal Deposit Insurance Corporation.
Alan J. Kaplan,
Deputy Executive Secretary.
[S-828-82 Filed 6-1-82; 10:54 am]
BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:15 a.m. on Friday, May 28, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met by means of a telephone conference call to consider certain matters which it determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), required its consideration on less than seven days' notice to the public.

The Board met in open session to consider a memorandum and resolution regarding the designation of a voting alternate on the Budget and Management Committee.

The Board then met in closed session to consider the following matters:

Application of First Commercial Bank, Sacramento, California, for consent to purchase the assets of and assume the liability to pay deposits made in thirteen branches of California Canadian Bank, San Francisco, California, and for consent to establish those thirteen branches as branches of First Commercial Bank.

Recommendations with respect to the initiation, termination, or conduct of administrative enforement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof.

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

In considering the matters in closed session, the Board determined, by the same majority vote, that the public interest did not require consideration of the matters in a meeting open to public observation and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

The Board further determined by the same majority vote, that no earlier notice of the meeting was practicable.

Dated: May 28, 1982.
Federal Deposit Insurance Corporation.
Alan J. Kaplan,
Deputy Executive Secretary.
[S-829-82 Filed 6-1-82; 10:54 am]
BILLING CODE 6714-01-M

4

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, June 8, 1982 at 10 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance. Litigation. Audits. Personnel. Labor-management relations/FEC–NTEU contract approval.

* * * * *

DATE AND TIME: Thursday, June 10, 1982 at 10 a.m.

PLACE: 1325 K Street, NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Advisory opinions
Draft AO 1982–34: A. N. Fritz, Treasurer, Sonat Inc., Political Action Committee
Draft AO 1982–35: David F. Dixon, on behalf of Al Hopfman, Candidate for U.S. Senate
Draft AO 1982–36: Thomas M. Gould, on behalf of National Audio-Visual Association, Inc. and Audio-Visual Communications Fund
Draft AO 1982–41: H. Lee Halterman, District Counsel, the Committee for Congressman Ronald V. Dellums
Debt settlement procedures
Appropriations and budget
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; Telephone: 202–523–4065.

Marjorie W. Emmons,
Secretary of the Commission.
[S-832-82 Filed 6-1-82; 3:17 pm]
BILLING CODE 6715-01-M

5

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., June 9, 1982.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Agreement No. 9474–7: Modification of the Thailand/Pacific Freight Conference Agreement to decrease the waiting period for exercising independent action.
2. Issuance of a circular letter pertaining to disclosure of the identity of a complainant under self-policing procedures.

Portions closed to the public:

1. Certificate of Financial Responsibility (Performance) of Canadian Cruise Lines, Ltd. covering the vessel *Prince George*.
2. Agreement No. T–3938 between American President Lines, Ltd. and the City of Los Angeles—Petition for Reconsideration or, in the Alternative, Petition for Declaratory Order by American President Lines, Ltd.
3. Docket No. 79–45: Louis Dreyfus Corporation, et al. v. Plaquemines Port, Harbor and Terminal District—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S-831-82 Filed 6-1-82; 11:44 am]
BILLING CODE 6730-01-M

6

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Monday, June 7, 1982

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTRACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: May 28, 1982.
James McAfee,
Associate Secretary of the Board.
[SR-825-82 File 6-1-82; 9:11 am]
BILLING CODE 6210-01-M

7

FEDERAL TRADE COMMISSION

TIME AND DATE: 10 a.m., Wednesday, June 9, 1982.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: Policy Review Session: Competition and Consumer Advocacy.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information: (202) 523–1992; Recorded Message: (202) 523–3806.

[S–629–82 Filed 6–1–82; 10:16 am]

BILLING CODE 6750–01–M

8

NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE

Public Meeting

DATE: June 9, 1982.

PLACE: 235 Russell Senate Office Building, Washington, D.C.

TIME: 1 p.m. until 3 p.m.

PURPOSE: General meeting to discuss the final study recommendations for the Insurance Premium and Special Allowance reports.

FOR FURTHER INFORMATION CONTACT: Doug Ross, Executive Director, (202) 472–9023.

This meeting was called by the Commission Chairman, Mr. David R. Jones. Submitted the 27th day of May, 1982.

[S–630–82 Filed 6–1–82; 11:36 am]

BILLING CODE 6820–BC–M

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Federal Register

Vol. 47, No. 107

Thursday, June 3, 1982

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Last Listing May 28, 1982

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

S.J. Res. 53/Pub. L. 97–187 To provide for the designation of September 5, 1982, as "Working Mothers' Day". (June 1, 1982; 96 Stat. 103) Price: $1.75.

S.J. Res. 59/Pub. L. 97–188 Designating the square dance as the national folk dance of the United States. (June 1, 1982; 96 Stat. 104) Price: $1.75.

S.J. Res. 160/Pub. L. 97–189 To provide for the designation of July 9, 1982, and April 9, 1983, as "National P.O.W./M.I.A. Recognition Day". (June 1, 1982; 96 Stat. 105) Price: $1.75.

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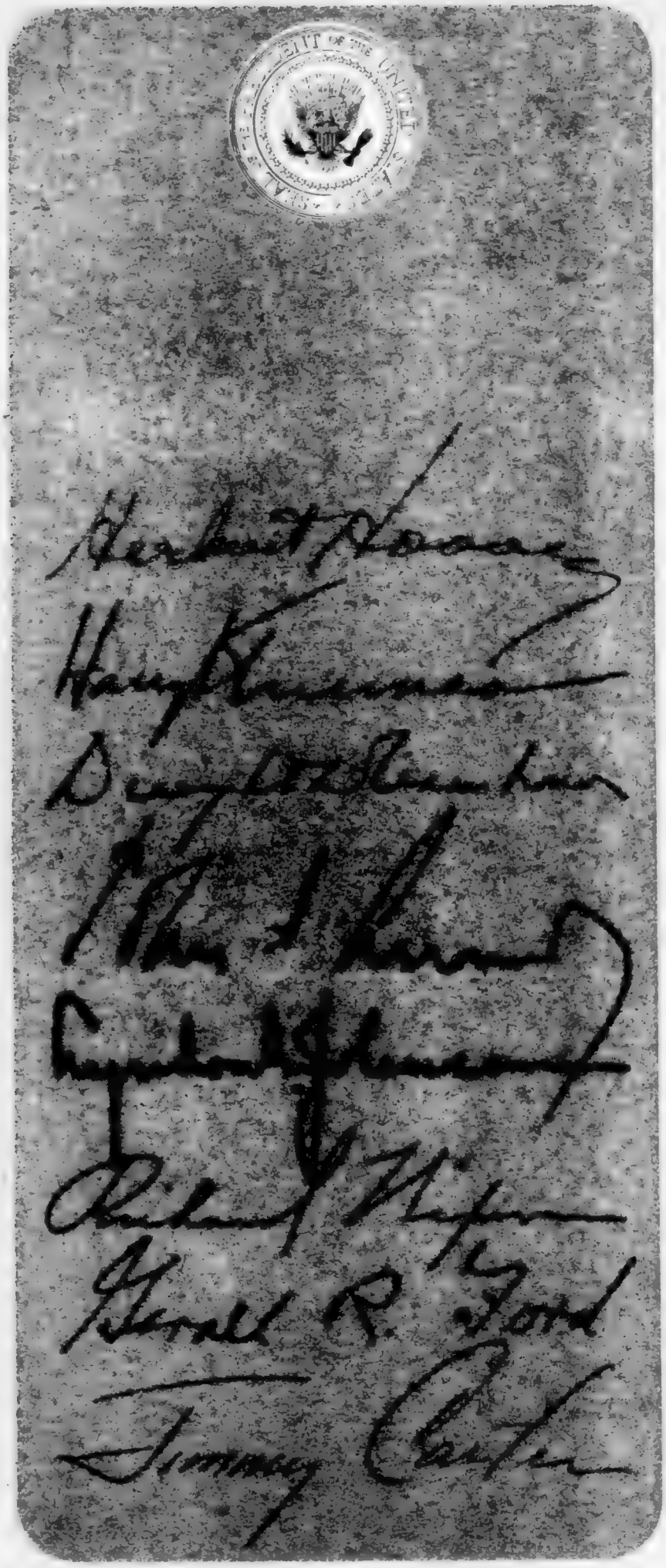

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1976–77 (Book III)	$20.00

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1977 (Book I)	$18.00
1977 (Book II)	$17.00
1978 (Book I)	$20.00
1978 (Book II)	$25.00
1979 (Book I)	$24.00
1979 (Book II)	$23.00
1980–81 (Book I)	$21.00
1980–81 (Book II)	$22.00

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Order from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

6-4-82
Vol. 47 No. 108
Pages 24251-24538

federal register

Friday
June 4, 1982

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Environmental Protection Agency
Animal Drugs
Food and Drug Administration
Animal Feeds
Food and Drug Administration
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Federal Reserve System
Chemicals
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Environmental Protection Agency
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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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There are no restrictions on the republication of material appearing in the **Federal Register.**

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Loan Programs—Communications
Rural Electrification Administration

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Agricultural Marketing Service

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Defense Department

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National Park Service

National Parks
National Park Service

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Railroads
Interstate Commerce Commission

Savings and Loan Associations
Federal Home Loan Bank Board

Securities
Securities and Exchange Commission

Supplemental Security Income
Social Security Administration

Veterans
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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 362]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period June 6–12, 1982. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: The regulation becomes effective June 6, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 7, 1981. The committee met again publicly on June 1, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Agricultural Marketing Service, Marketing Agreements and Orders, California, Arizona, Lemons.

Section 910.662 is added as follows:

§ 910.662 Lemon Regulation 362.

The quantity of lemons grown in California and Arizona which may be handled during the period June 6, 1982, through June 12, 1982, is established at 275,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: June 3, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82–15419 Filed 6–3–82; 11:59 am]

BILLING CODE 3410–02–M

Rural Electrification Administration

7 CFR Part 1701

[Bulletin 345–57]

Public Information; Appendix A—REA Bulletins PE–63, Specification for Microwave Radio Equipment

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: REA hereby amends Appendix A by issuing a revised Bulletin 345–57, REA Specification for Microwave Radio Equipment, PE–63. The last issue of this specification was in June 1969. Since that date technology in the electronics industry and in the design of telephony electronics has undergone significant advances. Many of the improvements have already received widespread acceptance by manufacturers and users of telephony electronics. There is a need to update the REA Specification for Microwave Radio Equipment to reflect these improvements so that REA telephone borrowers will continue to provide their subscribers with the most modern and efficient telephone service.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: C. F. Buster, Jr., Chief, Transmission Branch, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1367, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382–8665.
The Regulatory Impact Analysis describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA hereby amends Appendix A by issuing a revised Bulletin 345–57. This action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as not major. A Regulatory Flexibility Analysis is not required and an OMB Circular A–95 review is not applicable to this action.

This document was last revised in 1969, and there have been significant advances in technology since that time.

The existing document is not applicable to much of the new technology, so that its continuation would have forced REA borrowers to use outmoded less cost-effective technology. If the existing specification was withdrawn rather than revised there would be no REA radio equipment specification which manufacturers would be required to meet. Unacceptable radio equipment could be sold to REA borrowers which would result in the loss of telephone system effectiveness and a threat to REA loan security. As a result, revision of the document along these lines was considered to be in the best interest of the program.

This program is listed in the Catalog of Federal Domestic Assistance as 10.851—Rural Telephone Loans and Loan Guarantees.

A Notice of Proposed Rulemaking was published in the **Federal Register** on January 29, 1982. No public comments were received as a result of this notice.

List of Subjects, 7 CFR Part 1701

Administrative practice and procedure, Loan programs—communications, Telecommunications, Telephone.

Dated: May 28, 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-15253 Filed 6-3-82; 8:45 am]

BILLING CODE 3410-15-M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Docket No. R-0408]

Interest on Deposits; Temporary Supension of Early Withdrawal Penalty

AGENCY: Federal Reserve System.

ACTION: Temporary suspension of early withdrawal penalty.

SUMMARY: The Board of Governors, acting through its Secretary, pursuant to delegated authority, has suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors affected by severe storms and flooding in Wichita County, Texas.

EFFECTIVE DATE: May 25, 1982.

FOR FURTHER INFORMATION CONTACT: Daniel L. Rhoads, attorney (202/452-3711) or Beverly A. Belcamino, Attorney (202/452-3623).

SUPPLEMENTARY INFORMATION: On May 25, 1982, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141) and Executive Order 12148 of July 15, 1979, the President, acting through the Director of the Federal Emergency Management Agency, designated Wichita County, Texas, a major disaster area. The Board regards the President's action as recognition by the Federal government that a disaster of major proportions had occurred. The President's designation enables victims of the disaster to quality for special emergency financial assistance. The Board believes it appropriate to provide an additional measure of assistance to victims by temporarily suspending the Regulation Q early withdrawal penalty (12 CFR 217.4(d)). The Board's action permits a member bank wherever located, to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has suffered property or other financial loss in the disaster area as a result of the severe storms and flooding beginning on or about May 12, 1982. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed statement describing fully the disaster-related loss. This statement should be approved and certified by an officer of the bank. This action will be retroactive to May 25, 1982, and will remain in effect until 12 midnight, November 25, 1982.

List of Subjects in 12 CFR Part 217

Advertising, Banks, banking, Federal Reserve System, Foreign banking.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons in Wichita County, Texas, directly affected by the severe storms and flooding, good cause exists for dispensing with the notice and public participation provisions in section 553(b) of Title 5 of the United States Code with respect to this action. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, there is good cause to make this action effective immediate.

By order of the Board of Governors, acting through its Secretary, pursuant to delegated authority, May 28, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-15121 Filed 6-3-82; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563b

[No. 82-390]

Conversion From Mutual to Stock Form; Technical Amendments

Dated: May 28, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as the operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), is amending its Conversion Regulations to extend for one year, to May 5, 1983, the former three-year restriction on the post-conversion acquisition of more than ten percent of the stock of an institution which had converted from the mutual to the stock form of organization prior to May 5, 1982. The board also is extending the delegation of authority granted to the General Counsel to approve applications for conversion. This document corrects two inadvertent omissions to the amendments to Part 563b published at 47 FR 19673, May 7, 1982.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Harry M. Zimmerman, Jr., (202-377-6459), Director, Division of Securities and Corporate Analysis, or J. Larry Fleck, (202-377-6413), Deputy Director, Division of Securities and Corporate Analysis, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: By Resolution No. 82-311, effective May 5, 1982 (47 FR 19672; May 7, 1982), the Board adopted extensive amendments to Part 563b of the Rules and Regulations of the Federal Savings and Loan Insurance Corporation, 12 CFR Part 563b ("Conversion Regulations"). Among the amendments were the redesignation of § 563b.9(d) as § 563b.3(i)(3), and the revision of redesignated § 563.3(i)(3) to reduce from three years to one year the period during which no person without the prior written consent of the Corporation may offer to acquire or acquire more than ten percent of the stock of an institution which had converted to the stock form under the Conversion Regulations. Also in Resolution 82-311, the Board adopted new § 563b.3(i)(6), which permits converting institutions to adopt an optional charter provision which prohibits for a three-year period following conversion the acquisition by any person or more than ten percent of the equity securities of the converted institution.

The Board did not intend new § 563b.3(i)(3) to be applicable to institutions which had completed their conversions before the effective date of the amendment. However, the Board recognizes that because its amended

regulations do not have an explicit savings clause with respect to former § 563b.9(d), that intent may not be clear.

Having further considered the issue of the application of § 563b.3(i)(3), the Board has determined to redesignate certain paragraphs of § 563b.3(i), and to add new § 563b.3(i)(4), which provides that the provisions of former § 563b.9(d) shall continue to be applicable until May 5, 1983. This one-year period will enable recently converted institutions to assess their positions concerning the post-conversion acquisition of their equity securities, and to propose to their stockholders the adoption of the § 563b.(3)(i)(6) charter provision if they believe that it would be in the best interests of their stockholders.

In new § 563.8(w)(2) of the Conversion Regulations, the Board delegated to the General Counsel or his designee the authority to approve but not to deny applications for conversion, and to exercise any other authority of the Corporation under the Conversion Regulations, subject to certain specified exceptions. Through inadvertence the Board did not specifically delegate to the General Counsel or his designee the authority to approve but not to deny certain related applications that are an integral part of a conversion application, *i.e.*, applications for approval of security forms under § 563.1, applications for approval of charter and bylaws amendments affecting securities under § 563.1, and applications for approval of federal charter and bylaw amendments under §§ 544.1, 544.5 and 552.2 of the Rules and Regulations for the Federal Savings and Loan System. Therefore, the Board is amending 563b.8(w)(2) to extend the General Counsel's delegated authority to approve these related applications when filed with an application for conversion.

Because these amendments constitute technical revisions to the Board's Conversion Regulations, the Board has determined that the notice and comment procedures of 5 U.S.C. 522(b) and 12 CFR 508.11, and the 30-day delayed effective date imposed by 5 U.S.C. 552(d) and 12 CFR 508.14, are unnecessary and not in the public interest.

List of Subjects in 12 CFR Part 563b

Savings and loan associations, Securities.

Accordingly, the Board hereby amends Part 563b, Subchapter D, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

PART 563b— CONVERSION FROM MUTUAL TO STOCK FORM

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

1. Amend § 563b.3 by redesignating paragraphs (i)(4) through (i)(8) as paragraphs (i)(5) through (i)(9), respectively; adding new paragraph (i)(4); and revising redesignated paragraphs (i)(5) (ii) and (iii), and redesignated paragraph (i)(6); to read as follows:

§ 563b.3 General principles for conversions.

* * * * *

(i) *Acquisition of the securities of converting and converted insured institutions.*

* * * * *

(4) *Savings clause for institutions that had converted prior to May 5, 1982.* Until May 5, 1983, no person for a period of 3 years following the date of the completion of the conversion shall directly or indirectly offer to acquire or acquire the beneficial ownership of more than 10 percent of any class of equity securities of an insured institution converted in accordance with the provision of this Part 563b, without the prior written approval of the corporation.

(5) *Exceptions.*

* * * * *

(ii) Paragraphs (i) (2), (3), and (4) of this section shall not apply to any offer with a view toward public resale made exclusively to the association or underwriters or selling group acting on its behalf.

(iii) Unless made applicable by the Corporation by prior advice in writing, the prohibitions contained in paragraphs (i) (3) and (4) of this section shall not apply to any offer or announcement of an offer which if consummated would result in the acquisition by a person, together with all other acquisitions by the person of the same class of securities during the preceding 12-month period, of not more than 1 percent of the class of securities.

(6) *Criteria for denial.* The Corporation shall not approve an application involving an offer for, or an announcement thereof, or an acquisition of any security of a converted association submitted under paragraphs (i) (3) or (4) of this section if it finds that such offer frustrates the purpose of the provisions of this Part 563b, is manipulative or deceptive, subverts the fairness of the conversion, is likely to result in injury to the association, is not consistent with economical home financing, or is otherwise violative of law or regulation.

* * * * *

2. Amend § 563b.8 by revising paragraph (w)(2) to read as follows:

§ 563b.8 Procedural requirements.

* * * * *

(w) *Delegation of authority.*

(1) * * *

(2) *Approval of applications for conversion.* The Corporation delegates to the General Counsel or his designee the authority to approve but not to deny applications for conversion pursuant to the standards and restrictions set forth in this Part 563b, and to exercise any other authority of the Corporation under this Part 563b, excepting (i) the authority to waive any provision of this Part 563b pursuant to § 563b.1(a); (ii) the authority to approve other equitable provisions in the plan of conversion under § 563b.3(d)(13); (iii) the authority to approve any application for conversion in regard to which an objection has been filed pursuant to § 563b.4(b)(1); (iv) the authority to approve or deny an application for approval to offer to acquire or to acquire more than 10 percent of the stock of a converted insured institution under § 563b.3(i)(3); (v) the authority to approve or deny applications for conversion pursuant to § 563b.9; and (vi) the authority to approve or deny applications for conversion pursuant to § 563b.10. The Board also delegates to the General Counsel or his designee, in connection with the approval of an application for conversion under this Part 563b, the authority to approve but not to deny applications for approval of security forms, charter amendments, and bylaw amendments under § 563.1 of this Subchapter, and §§ 544.1, 544.5, and 555.2 of this Chapter.

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended. 12 U.S.C. 1725, 1726, 1730; Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943–48 Comp. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82–15199 Filed 6–3–82; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 157, 284 and 375

[Docket No. RM81-19-000; Order No. 234]

Interstate Pipeline Certificates for Routine Transactions

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is issuing final regulations amending Parts 157 and 375 of its regulations to provide procedures for the issuance of "blanket" certificates of public convenience and necessity under section 7 of the Natural Gas Act. Specifically, Part 157 is amended by adding Subpart F (§§ 157.201 through 157.218) to provide for a one-time certificate to be issued by the Commission to interstate pipelines. By accepting a blanket certificate, an interstate pipeline is authorized to undertake certain activities, subject to particular conditions and procedures. Some activities are automatically authorized without prior notification to the Commission, while other activities are authorized only after the Commission is notified and interested persons are provided the opportunity to file a protest. The activities covered by this final rule are (1) construction, acquisition, operation, and miscellaneous rearrangement of facilities, (2) construction and operation of sales taps, (3) changes in delivery points, (4) storage services, (5) an increase in storage capacity, (6) underground storage testing and development, (7) abandonment, (8) changes in rate schedule, and (9) changes in a customer's name. Other activities which may expand the blanket certificate program, such as transportation and off-system sales, are being considered in Docket No. RM81-29, (46 FR 24585, April 27, 1981). Section 375.307 of the Commission's regulations is amended to authorize the Director of the Office of Pipeline and Producer Regulation to perform certain activities consistent with the blanket certificate program. In addition, § 284.201 is amended to extend the Order No. 30 program through the ninetieth day following the effective date of the final rule in Docket No. RM81-29.

DATES: Effective July 6, 1982.

FOR FURTHER INFORMATION CONTACT: Thomas P. Gross, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426; (202) 357-8033.

SUPPLEMENTARY INFORMATION:

Issued: May 28, 1982.

The Federal Energy Regulatory Commission (Commission) is issuing final regulations as part of Parts 157 and 375 of its regulations to provide procedures for the issuance of blanket certificates of public convenience and necessity under section 7(c) of the Natural Gas Act. Specifically, Part 157 is amended by adding Subpart F (§§ 157.201 through 157.218) to provide for interstate pipeline blanket certificate and abandonment authorization for certain activities. Sections 157.209 and 157.210 are reserved for Docket No. RM81-29 in which final regulations will be considered for, among other things, transportation and off-system sales. Section 375.307 of the Commission's regulations is amended to authorize the Director of the Office of Pipeline and Producer Regulation to perform certain activities consistent with the blanket certificate program. In addition, § 284.201 is amended to extend the Order No. 30 program through the ninetieth day following the effective date of a final rule in Docket No. RM81-29.

I. Background

Section 7 of the Natural Gas Act, 15 U.S.C. 717f, provides that no natural gas company may engage in the transportation and sale of natural gas in interstate commerce for resale, the construction of facilities to be used in those activities, or the abandonment of any jurisdictional service or facilities, without first obtaining prior Commission approval for such activities. To fulfill this statutory responsibility, the Commission has implemented a number of different certificate programs. Some of these programs involve various generic determinations of public convenience and necessity and provide for the issuance of so-called "blanket certificates" (18 CFR 284.221 and 284.222) or "budget-type certificates" (18 CFR 157.7(b)-(g)) which permit interstate pipelines to undertake specific activities that fall within parameters established generically. Actions covered by section 7 which do not fall within these blanket or budget certificate programs must be authorized by certificates granted on a case-by-case basis.

In an effort to make the certificate process more efficient, the Commission has delegated a number of its activities to the Director of the Office of Pipeline and Producer Regulation (18 CFR 375.307). Nevertheless, the authorization of each activity which has been delegated requires significant time and effort by the pipeline companies and Commission staff. The Commission has also provided for expedited hearings by the full Commission of uncontested, routine applications (18 CFR 1.32 and 157.11). In addition, 18 CFR 157.7(a) provides for abbreviated applications when special information is not required or already has been filed with the Commission. Despite these efforts to expedite the process of considering and disposing of applications for certificates of public convenience and necessity and abandonments, the Commission is of the opinion that substantial opportunities for regulatory reform remain.

The Commission has issued two Notices of Proposed Rulemaking which would modify its procedures under the Natural Gas Act for issuing certificates of public convenience and necessity to jurisdictional natural gas companies. In the first notice issued March 10, 1981, the Commission proposed to reform the certificate procedure by initiating an integrated blanket certificate program. (Notice of Proposed Rulemaking, Docket No. RM81-19 issued March 10, 1981; 46 FR 16903, March 16, 1981.) The rule proposed procedures for automatically authorizing certain routine activities while establishing a notice and protest procedure for certain other routine activities. Certificates for activities not subject to the blanket certificate would continue to be issued on a case-specific basis. As proposed, those activities which could be authorized under a blanket certificate included construction and operation of facilities, transportation, construction and operation of sales taps, storage services, underground storage testing and development, and abandonments. Certain non-routine activities that the Commission believed should be included in the blanket certificate program were reserved for a second proposal.

On April 27, 1981, the Commission issued the second Notice of Proposed Rulemaking in which it proposed, among other things, additional activities that could be authorized under the blanket certificate program proposed in Docket No. RM81-19. (Notice of Proposed Rulemaking, "Sales and Transportation by Interstate Pipelines and Distributors," Docket No. RM81-29, issued April 27, 1981; 46 FR 24585, May 1, 1981.) That notice proposed to include certain sales for resale under the blanket certificate and to revise the Commission's regulations implementing section 311 of the Natural Gas Policy

Act of 1978 (NGPA). These proposals were excluded from Docket No. RM81–19 because it was expected that they would raise more difficult issues than those proposed in Docket No. RM81–19 and possibly would require more time to analyze. The Commission received written comments and held public hearings in both dockets.[1]

On July 1, 1981, the Commission issued a notice that staff's Environmental Assessment of its two proposals was available to the public and that written comments on its assessment would be received. 46 FR 35529, July 9, 1981.

By this rule, the Commission is issuing the first phase of final regulations implementing its blanket certificate program. The regulations provide procedures for issuing blanket certificates of public convenience and necessity under section 7(c) of the Natural Gas Act and, except for § 157.209 dealing with transportation, these regulations implement, with modifications, the proposed rules in Docket No. RM81–19. Activities covered by this rule include, among other things, construction and operation of facilities and sales taps, storage services, underground storage testing and development, and abandonments. Because staff is studying, among other issues, ways for treating revenues received from transportation services, § 157.209 dealing with such transportation is not included in this docket. When the Commission issues the second phase of its blanket certificate program in Docket No. RM81–29, it will address § 157.209 in that docket.[2] Because the Commission is still examining its transportation policies and will address those policies in Docket No. RM81–29, § 284.201(e) is amended by this rule to extend the Order No. 30 program until 90 days after the effective date of the final rule in Docket No. RM81–29. It is estimated that full implementation of the blanket certificate program will reduce regulatory burden on industry by approximately 25,000 hours per year.

II. Discussion

As proposed in Docket No. RM81–19, the blanket certificate is a one-time certificate issued by the Commission to interstate pipelines. Upon issuance of a blanket certificate, the certificate holder is authorized to undertake certain activities subject only to reporting requirements and, in somes cases, certain notice procedures.

The Commission expects the blanket certificate program to replace the case-specific authorization currently used for many projects. While acceptance of a blanket certificate by an interstate pipeline does not preclude the certificate holder from filing for case-specific authorization, the Commission expects the blanket certificate authority to be used for the activities which may be authorized under it. In reviewing and processing applications for case-specific authorization, the Commission will consider whether the proposed activity could have been authorized under a blanket certificate. Applications for proposed activities which are outside the scope of the blanket certificate program will be assigned, for the most part, a higher priority than applications for activities which could have been conducted under the blanket certificate. By assigning a higher priority to such applications, the Commission intends to encourage certificate holders to use the blanket certificate authorization.

As proposed in Docket No. RM81–19, the final regulations divide the various actions that the Commission certificates into several categories. The first category applies to certain activities performed by interstate pipelines that either have relatively little impact on ratepayers, or little effect on pipeline operations. This first category also includes minor investments in facilities which are so well understood as an established industry practice that little scrutiny is required to determine their compatibility with the public convenience and necessity. The second category of activities provides for a notice and protest procedure and comprises certain activities in which various interested parties might have a concern. In such cases there is a need to provide an opportunity for a greater degree of review and to provide for possible adjudication of controversial aspects. Activities not authorized under the blanket certificate are those activities which may have a major potential impact on ratepayers, or which propose such important considerations that close scrutiny and case-specific deliberation by the Commission is warranted prior to the issuance of a certificate.

The Commission received numerous comments in response to its proposals in Docket No. RM81–19. Many commenters supported the Commission's efforts to streamline and to expedite the granting of certificate applications. However, some commenters also added that the proposed regulatory reform did not go far enough, and, in some cases, urged that the recommendations of the Subcommittee on the Review of the Decisional Process of the Commission's Advisory Committee on Revision of Rules of Practice and Procedure (hereinafter the Subcommittee) be adopted. Specifically, they requested that the Commission adopt some variation of an "optional notice procedure" described in an appendix to the Subcommittee's report and prepared by a committee of the Interstate Natural Gas Association of America. Under this optional notice procedure, all projects could be authorized under abbreviated procedures unless they were protested, and the Commission would be required to issue a separate certificate for each authorized project. Unlike the optional notice procedure, the blanket certificate procedure would apply only to certain activities and would not require a separate certificate for each authorized project.

The Commission has carefully reviewed those comments and the recommendations of the Subcommittee and believes that the final regulations adopted in this rulemaking provide steamlined procedures which increase flexibility and reduce regulatory burden. While all the recommendations of the Subcommittee are not adopted in these final regulations, many of those proposals have formed the basis for these revised procedures and are incorporated into the final regulations with modifications. The Commission believes that the blanket certificate procedures adopted in this rule are administratively more manageable than the optional notice procedure because only certain types of activities are authorized under the blanket certificate. Moreover, this approach reduces paperwork because individual certificates are not issued for each project authorized under the blanket certificate. The Commission believes that these aspects make the blanket certificate procedures preferable to the optional notice procedure.

Several commenters expressed concern over who may apply for a blanket certificate. Under the proposed regulations, only interstate pipelines who previously had received a certificate under section 7 of the Natural Gas Act would be permitted to apply for a blanket certificate. Two of the commenters, not currently interstate pipelines, stated that they intend to construct and operate interstate facilities, and that under proposed § 157.204(a), they would not be permitted to apply for a blanket

[1] The public hearings for Docket Nos. RM81–19 and RM81–29 were held May 4, 1981 and June 5, 1981, respectively.

[2] The final rules in that docket will also address other amendments to the blanket certificate program, including § 157.210 for off-system sales by interstate pipelines.

certificate. They argue that by limiting the blanket certificate program to presently certificated interstate pipelines, and by requiring new entrants to obtain a case-specific determination, the Commission would delay the construction of new entrants' projects for periods up to six months and thereby place them at a competitive disadvantage with interstate pipelines able to construct comparable facilities under a blanket certificate.

In developing the final regulations implementing the blanket certificate program, the Commission has carefully considered who should be eligible for a blanket certificate, the nature of the activities which should be authorized under the certificate, and the reporting and notice requirements. In some cases, the authorization under the blanket certificate is predicated upon previous findings and filings in which jurisdictional entities would have been involved, such as specific rate determinations made in separate rate proceedings. The blanket certificate program is not designed to make such initial findings or filings, but presumes that the certificate holder will have established some previous jurisdictional and informational base with the Commission concerning such matters as rates, system supplies and certificated customers. Only natural gas companies which have been issued a certificate under section 7 of the Natural Gas Act (other than a limited-jurisdiction certificate) and had rates accepted by the Commission will have established this informational base with the Commission. The Commission believes that the blanket certificate should be limited to those entities because the blanket certificate permits the certificate holder to undertake all activities subject to the blanket certificate, including those which are predicated upon previous filings and findings.[3] Section 157.204(a) has been changed to reflect this limitation, and a new requirement has been added at § 157.204(d)(1) requiring the applicant for a blanket certificate to state the certificate proceeding in which it was found to be a natural gas company. The Commission notes that once a new entrant has been issued a certificate under section 7(c) of the Natural Gas Act and had rates accepted by the Commission, it will be eligible to apply for a blanket certificate.

[3] Moreover, the facilities which the two commenters intend to construct and operate would be their main line facilities, and would therefore be outside the scope of eligible facilities authorized under § 157.208.

1. Notice and Protest Procedure

Under the proposed regulations, certain activities would be either automatically authorized or subject to a notice and protest procedure prior to authorization. Some commenters, especially those supporting the optional notice procedure, urged the Commission to adopt a procedure in which certificate holders could elect to use the notice and protest procedure for activities which otherwise would be automatically authorized. They stated that an election procedure would add flexibility to the blanket certificate procedure and permit projects which could not be automatically authorized because of the annual cost limitation to be authorized under the notice procedure.

The Commission has reviewed the activities which are subject to automatic authorization and believes it would be inconsistent with the purposes of the blanket certificate program to permit such an election procedure. Administratively, it is more burdensome for the certificate holder to file, and the Commission to process, and application for the notice procedure than for the self-implementing procedure. If the proposed activity can be automatically authorized, the Commission does not believe that the additional administrative costs which would result from an election procedure can be justified. Moreover, as discussed elsewhere in this rule, the Commission is eliminating the annual cost limitations for projects subject to authorization under § 157.208.

If the activity is one of those listed in § 157.205(a), then it is subject to all the requirements of the notice procedure in § 157.205. A new paragraph has been added at § 157.205(c) to permit the Director of the Office of Pipeline and Producer Regulation (OPPR) to reject at any time a request which patently fails to comply with the filing requirements of § 157.205(b). Notice of all requests not so rejected by the Director of OPPR will be published in the **Federal Register**. Section 157.205(d), formerly proposed § 157.205(c), has been amended to require protests to be filed within 45 days after the date of issuance of the notice. If no protests are filed within the prescribed time, the application is finally authorized pursuant to § 157.205(h)(1), formerly § 157.205(f).

As proposed, § 157.205(d) now § 157.205(e), required that protests be served not only to the Secretary of the Commission and the certificate holder, but also to any intervenor or other party protesting the requested authorization. Because the service list will not be completed until after the protest period, the requirement that the protest be served on any intervenor and other protestors is deleted.

Many comments stated that the proposed rules should provide for a reconciliation period after a protest had been filed. Otherwise, a single protest, regardless of its merits, would remove an application from the blanket certificate procedures and subject it to full adjudication. The Commission agrees with this suggestion and believes that a reconciliation period will provide certificate holders an effective means to resolve minor differences which should not subject a proposed project to the full procedure of case-specific determination. To this end, § 157.205(f), formerly § 157.205(e), has been changed to provide for "a reconciliation period" of 30 days from the deadline for filing protests (45 days from the date of issuance of the notice of the request). This period of time should be sufficient for the certificate holder to resolve protests based on minor misunderstandings or the need for additional information. The Commission expects the parties to make a good faith effort to resolve the protest during the reconciliation period. The Director of OPPR, or his designee, may convene informal conferences during the reconcilation period after notifying the certificate holder, all protestors and all intervenors.

When protests are resolved during the 30-day reconciliation period, the protestor must submit a notice of withdrawal to the Secretary pursuant to § 157.205(g) within the reconciliation period. The withdrawal must state that the certificate holder, the protestor and all intervenors and staff concur in the withdrawal. Withdrawal of the protest must be served on the certificate holder, any intervenors and any other party requesting service.[4]

Section 157.205(h)(2) has been added to provide for final authorization of applications for which one or more protests have been filed, but subsequently withdrawn pursuant to § 157.205(g).

2. Standard Conditions and Reporting Requirements

Sections 157.206 and 157.207 impose certain conditions and reporting requirements on all interstate pipelines

[4] Several commenters stated that because of delays associated with printing and delivery of the Federal Register, they have experienced difficulties in meeting deadlines noticed through the Federal Register. The Commission believes that the above procedure and service requirements will provide sufficient time for affected persons to receive notice and file timely responses.

that accept a blanket certificate. Section 157.206(a), as proposed, stated that the Commission reserves the right to revoke any blanket certificate on 60-day's notice. Several commenters asserted that this provision violates due process requirements and requested that the Commission (1) publish guidelines for such revocation, (2) be required to state the reasons for revocation in the notice of revocation, and (3) permit the pipeline to respond to the notice of revocation.

The Commission believes that it has the authority to revoke any certificate, including a blanket certificate, under appropriate circumstances. However, rather than delay implementation of the blanket certificate program to formulate guidelines and procedures for such revocation, the Commission believes it more expeditious to delete the proposed special condition and rely upon existing authority. Such deletion does not affect the Commission's revocation authority. If the Commission undertakes to revoke a blanket certificate, it intends to comply with the applicable laws and due process requirements.

Section 157.206(b) provides that a certificate holder who proposes to recover in its rates any production-related costs incurred by it to compress, process, treat, or gather natural gas purchased or transported by it may be required to prove that the activities which engendered those costs were prudent. Many commenters objected to this condition because the Commission's policy on production-related costs is currently being contested in Opinion No. 90 and Order No. 94, and it will reduce the attractiveness of a blanket certificate. Several commenters argued that the condition unlawfully places pipelines at risk because they will not be able to ascertain in advance whether particular activities will be deemed prudent.

The Commission does not agree with this comment. The blanket certificate program will be effective only if specific rate disputes are deferred to an individual pipeline's rate case. Section 157.206(b) only requires that the certificate holder may be required to prove that production-related costs were prudently incurred. This condition eliminates any possible implication that issuance of the blanket certificate represents Commission approval that any production-related costs incurred from activities authorized under the blanket certificate were prudently incurred. Including § 157.206(b) in the blanket certificate conforms the blanket certificate to the Commission's existing policy on production-related costs. Accordingly, this condition is retained in the final rule.

Some commenters also requested that § 157.206(c) providing for the allocation of costs between the transportation of natural gas and liquids and liquefiable hydrocarbons be deleted. It is the Commission's practice to incorporate the text of § 157.206(c) into all certificates for facilities used to transport natural gas along with other substances. The purpose of the condition is to defer the allocation issue to the individual pipeline rate cases where the Commission can consider the overall operations of each particular pipeline. The Commission does not believe such issues can be handled on a generic basis in the blanket certificate proceeding without substantially reducing the effectiveness of a blanket certificate. Accordingly, § 157.206(c) has been retained in the final rule but is revised to reflect the Commission's current policy on liquids and liquefiables established in *Trunkline Gas Company, et al.*, Docket No. CP78-340 (issued March 4, 1981), 14 FERC ¶61,222.

Section 157.206(e) as proposed, would require the certificate holder to surrender any effective budget-type certificates upon acceptance of a blanket certificate. Moreover, the Commission will not accept any new applications for budget-type certificates. It is expected that the blanket certificate enventually will replace the budget-type certificate.

One commenter stated that authorization under the budget-type certificate should be permitted to continue in effect for projects which were started before the date of acceptance of the blanket certificate. This would enable a smooth transition between the two types of authorization.

The Commission agrees that projects which were initiated under a budget-type certificate should not become subject to the terms and conditions of the blanket certificate. However, the Commission does not deem the surrender of the budget-type certificate at time of acceptance of the blanket certificate as revocation of the budget-type certificate authorization for previously undertaken projects. Accordingly, projects commenced under the budget-type certificate, but not completed at the time of accepting the blanket certificate, will be treated as authorized under the budget-type certificate. In cases where the certificate holder has been issued a three-year storage field test certificate under a budget-type certificate pursuant to § 157.7(d), such testing will also be treated as authorized under that budget-type certificate and subject to the procedures and reporting requirements of § 157.7(d). Issuance of the blanket certificate will not extend the three-year period beyond the date on which it would have expired under the budget-type certificate. In order to distinguish between storage field testing performed under the budget-type certificate and such testing performed under the blanket certificate, § 157.204(d)(5) has been added to require an applicant for a blanket certificate to list in its application all on-going storage field tests which were commenced under a budget-type certificate. Finally, one change has been made in § 157.206(e) to clarify that this paragraph applies to currently effective budget-type certificates and that they must be surrendered effective upon acceptance of the blanket certificate.

Section 157.206(f), as proposed, required certain authorized activities to be completed and in actual operation or, in other cases, to be actually undertaken, within one year of the deadline for filing protests. Because the certificate holder will not begin the project until it is finally authorized, this paragraph is changed to provide that the commencement of the one-year period begins on the date the activity is finally authorized pursuant to § 157.205(h). In response to several commenters, a new sentence has added to § 157.206(f) to permit the certificate holder to apply for an extension of this deadline.

Section 157.206(g), as proposed, would have established conditions for the treatment of revenues received from transportation (including storage service). Because a final regulation for transportation and revenues derived from transportation will be considered in Docket No. RM81-29, this paragraph is deleted. Until the final regulations in Docket No. RM81-29 are effective, treatment of revenues from storage services authorized under § 157.213 will be subject to the treatment accorded such revenues under the pipeline's currently effective rates or rate settlement.

Section 157.207 establishes certain general reporting requirements applicable to all certificate holders. Proposed § 157.207(a) would have required an annual report on March 1 of each year of the previous calendar year's transactions. Several commenters requested that this date be changed to May 1 to give certificate holders sufficient time to gather the necessary data and to prepare the required report. Accordingly, § 157.207(a) is changed in the final regulations to require the

certificate holder to file the annual report on or before May 1.

Section 157.207(a) (1) through (7) requires the certificate holder to report certain information depending upon the activities which were undertaken for the previous calendar year. A new paragraph has been added at § 157.207(a)(8) to require the certificate holder to report the activities in § 157.207(a) (1) through (7) which were not undertaken, *e.g.* if no sales taps were authorized, the annual report should so indicate. This requirement will assure that no activities required to be reported will be inadvertently omitted from the annual report. In view of this addition, proposed § 157.208(e)(10) requiring a statement that no construction took place under the blanket certificate is deleted.

Some commenters interpreted proposed § 157.208(e) as requiring the certificate holder to file a separate annual report for activities authorized under § 157.208 in addition to the annual report required by § 157.207. This would be unnecessary, they state, because § 157.207(a)(1) requires the information listed in § 157.208(e) to be included in the annual report. They further assert that the filing requirements in proposed § 157.208(f)(1) are burdensome and unnecessary in view of the information that is filed in the annual report.

The Commission does not intend that the information required to be filed pursuant to § 157.208(e) be included in a separate annual report, but that it be filed as part of the annual report required by § 157.207. Section 157.208(e) is changed accordingly.

Proposed § 157.208(f)(1) required the certificate holder to file with the Commission statements during construction and after construction was completed indicating the actual construction date, the status of the construction, the actual date the facilities are placed in service, and the actual cost of the facilities. Because much of this information is already required to be filed in the certificate holder's annual report, the Commission believes it is unnecessary for the certificate holder to submit the information other than in the annual report. Accordingly, proposed § 157.208(f)(1) is deleted.

One comment stated that the Commission should require that the annual reports be served on the customers of the certificate holder and any state commission having regulatory authority over any such customer. The Commission recognizes that the annual report may contain some information which is useful to the certificate holder's customers or state commissions. However, the procedures under the blanket certificate are intended to be no more burdensome than the procedures under the abbreviated application procedure in § 157.7. Insofar as those procedures do not require any such comparable service, the Commission does not believe that the blanket certificate procedures should require such service. Because the annual report will be on file at the Commission, interested persons have access to it through the Division of Public Information or may request a copy from the certificate holder.

3. Construction, Acquisition and Operation of Facilities.

Under the proposed rule in § 157.208, the certificate holder would be authorized to construct and operate any minor facility or gas supply facility, subject to certain annual and per-project cost limitations. Many commenters stated that the proposed definitions of "minor facility," "gas supply facility," and "main line" were confusing and ambiguous and suggested, among other things, including "miscellaneous rearrangements of facilities" in, and excluding "sales taps" from, the definition of "minor facility." Some commenters suggested deleting the definitions of "minor facility" and "main line" in their entirely.

The Commission believes that there are certain types of activities which should be eligible for the streamlined procedures of a blanket certificate. The definitions of "minor facility," "gas supply facility" and "main line" were intended to determine the boundaries of those activities eligible for authorization under the § 157.208 procedures. However, the Commission agrees that these definitions can be clarified.

In the final regulations, § 157.208 has been revised to authorize the certificate holder (1) to make miscellaneous rearrangements of any facility or (2) to acquire, construct, or operate any eligible facility. A new paragraph has been added at § 157.202(b)(6) to define "miscellaneous rearrangement of any facility" as a rearrangement not resulting in any change of service rendered by those facilities. "Eligible facility" is defined in new § 157.202(b)(2)(i), subject to the exclusions in new § 157.202(b)(2)(ii), and is either a facility subject to Natural Gas Act jurisdiction necessary to provide service within existing certificated volumes or a gas supply facility. A "gas supply facility" is defined in § 157.202(b)(4) and, except for minor changes conforming the definition to the blanket certificate program, is the definition in § 157.7(b)(4)(i) under the Commission's abbreviated application procedures.

Section 157.202(b)(2)(ii) (A) through (H) lists exclusions from the definition of "eligible facilities."[5] Section 157.202(b)(2)(ii)(D) excludes facilities required to test, develop, or utilize an underground storage field. This change is intended to eliminate any overlap between §§ 157.208 and 157.215 regarding facilities required for testing or developing storage fields. If the facilities are required for utilization of the storage field, then the Commission believes that such facilities may have a significant impact on ratepayers, and such facilities should not be authorized under the blanket certificate procedures.

Because sales taps are authorized under the procedures in § 157.211, sales taps are excluded from the definition of "eligible facility" in § 157.202(b)(2)(ii)(E) and hence, from the authorization procedures in § 157.208.

Section 157.202(b)(2)(ii)(F) excludes facilities which cross state lines and are constructed for the primary purpose of transporting gas which is also transported by an intrastate pipeline under section 311(a)(2) of the NGPA. This exclusion affords the Commission the opportunity to identify interstate pipeline facilities intended to connect to existing or extended intrastate systems, such as the facilities in *Red River Pipeline*, Docket No. ST82-95 (February 22, 1982). Facilities to be constructed, operated, or acquired for this purpose must continue to be authorized under the case-specific procedures.

Section 157.202(b)(2)(ii)(G) also excludes from the definition of "eligible facility," facilities constructed to effect the purchase of gas from plants manufacturing synthetic gas or from plants gasifying liquefied natural gas. Because such facilities may have a significant impact on ratepayers, the Commission believes they should not be authorized under a blanket certificate, but should be subjected instead to the scrutiny of a case-specific determination.

Two commenters requested clarification of the meaning of "acquisition of facilities." The Commission intends that "acquisition of facilities" shall include facilities acquired not only by purchase, but also by lease. Lease arrangements are subject to the per-project cost limitations of Table I and will satisfy

[5] Section 157.202(b)(2)(ii)(C) excludes facilities, including compression and looping, which alters the capacity of a main line system. The Commission may consider expanding the blanket certificate program to include facilities altering main line capacity at a future date.

those limitations provided that the total lease charge (annual lease charge multiplied by the number of years of the lease) does not exceed the per-project cost limitations. A special condition has been added at § 157.208(f)(1) to this effect.

As proposed, § 157.208 required that the total cost of all facilities authorized during any calendar year under that section not exceed certain annual limits. The proposed regulations also set project cost limitations of $3.5 million for projects subject to automatic authorization, and $10 million for projects subject to the notice procedures.

Many commenters stated that the annual limits were unnecessary because the per-project cost limitation would serve to restrict the construction to routine facilities. Some commenters stated that the Subcommittee's recommendations did not include any cost limitations, and that both the annual and per-project cost limitations should be eliminated. Other commenters stated that the project cost limitation of $3.5 million for projects qualifying for automatic authorization was too low, and that project limits between $4 million and $5 million would be more realistic.

The Commission believes that the per-project cost limitations should be retained in the final regulations because they provide some basis for judging whether a proposed activity is sufficiently routine and will have a sufficiently small impact on ratepayers, so that it should be approved under the streamlined procedures of the blanket certificate regulations. However, the Commission also believes these project cost limitations should be revised. The proposed $3.5 million dollar figure was based on the existing project limitation under the budget-type certificates in § 157.7(b) for offshore construction. That figure was established on November 1, 1979 by Order No. 56 (Docket Nos. RM79-37 and RM79-43, issued November 1, 1979). In order to adjust this figure to account for increased construction costs, the final regulations for projects subject to the automatic authorization procedure revise the $3.5 million figure to $4.2 million by applying the "GNP implicit price deflator" for the period from 1979 through 1981. In order to reflect these increased construction costs for the projects subject to the notice and protest procedure, the $10 million dollar amount similarly is adjusted upward to $12 million dollars.

Under the proposed regulations, the project limits in Table I would be adjusted annually by the "GNP implicit price deflator." Many commenters argued against the use of the "GNP implicit price deflator" for adjusting these limits and recommended using the Handy-Whitman Index, a pricing index of various utility and utility-type equipment, updated semi-annually, for this purpose. The Commission believes that it is preferable to use the "GNP implicit price deflator" instead of an index based on a private collection of data not easily susceptible to governmental verification.[8] Accordingly, the final regulations retain the use of the "GNP implicit price deflator."

In some cases, the estimated cost of a project may fall within the per-project limitations in Table I of the regulations, but the actual costs may exceed those limitations. In such cases, a new paragraph at § 157.208(g) requires the certificate holder to apply to the Director of OPPR for a waiver of the per-project cost limitations. The reasons for the cost overruns will be examined and appropriate action taken at that time. The Commission expects the certificate holder to carefully and accurately estimate the project cost so that a waiver request will be filed only in unusual cases.

With respect to the annual cost limitations, the Commission agrees with the comments that, provided the activities sought to be approved under the blanket certificate comply with the other requirements of the blanket certificate program, there should not be an annual limit on the number of eligible transactions approved under the blanket certificate.[9] Given the high costs of purchased gas relative to the customer's total gas bill, it is unlikely that the cumulative effect of the activities approved under this section will have any significant effect on ratepayers. Moreover, because the cost of activities approved under this section is essentially the same for all certificate holders, elimination of annual cost limits will permit all certificate holders to participate in the benefits of these procedures to the same extent, regardless of their assets. Therefore, § 157.208(a) and Table I have been changed to eliminate the annual cost limitations, but retain the per-project cost limitations.

Several commenters stated that the filing requirements for prior notice proceedings in proposed § 157.208(c) (1) through (10) were excessive, and that the filing requirements for the optional notice procedure proposed by the Subcommittee would only require information necessary to inform interested persons and staff of the proposal and permit an informal judgment on the application. They state that the information required to be filed should not exceed that which is required to be filed under § 157.7(a) of the Commission's current regulations for applications.

The Commission has reviewed the filing requirements in § 157.208(c) and does not believe them to be excessive or burdensome. The information required to be filed is the minimum information necessary to adequately describe the proposal and for staff and other interested persons to evaluate the proposal's impact. Moreover, if the filing requirements were reduced, the Commission expects that more protests would be filed for the purpose of obtaining this information. It is likely that the increased administrative costs of processing and withdrawing these protests would be greater than the costs of having the information filed with the application.

The final regulations include several other changes to § 157.208 from the proposed regulations. Section 157.208(c) sets forth the information which must be included in the certificate holder's application for a project to be authorized under § 157.208(b). Both proposed and final § 157.208(c)(1) require the certificate holder to state the purpose of the facilities to be authorized under the notice procedure. In order to evaluate the effect that the project will have on the certificate holder's other existing or planned facilities, § 157.208(c)(1) has been changed also to require that the certificate holder describe that relationship.

Section 157.208(c)(3) requires the certificate holder to file a U.S. Geological Survey map of 7½ minute series, or equivalent. Some commenters requested that this requirement be deleted, or that maps should be required only when requested. Another commenter stated that a 7½ minute map may not provide sufficient detail to accurately delineate the sensitive environmental areas that must be shown on the map.

The Commission believes that the map is necessary to accurately identify the location of projects in relation to sensitive environmental areas. In most instances, a 7½ minute map will provide sufficient detail for interested persons to identify the sensitive environmental areas. However, in those cases where

[8] The "GNP implicit price deflator" is used to adjust periodically the maximum lawful prices under Title I of the NGPA.

[9] The Environmental Assessment concluded that elimination of the annual cost limits would not significantly affect environmental quality. Environmental Assessment of Blanket Certification of Routine Gas Pipeline Transactions, July 1981, at 30.

greater detail is needed, the certificate holder should file a map of higher resolution. Because it would be difficult to indicate all sensitive environmental areas on the map, § 157.208(c)(3) has been changed to require the certificate holder to indicate only those sensitive environmental areas within one-quarter mile of any project-related construction activity.

Section 157.208(c)(5) requires the certificate holder to include in its application a flow-diagram or comparative study showing daily design capacity, daily maximum capacity and operating pressures with and without the proposed facilities for that part of the system affected by the proposed project. Because the maximum operating pressure (a function of pipeline length, diameter and wall thickness) is essential to evaluating capacity and system operation but is not required to be reported in § 157.208(c)(5), § 157.208(c)(2) is changed to require the certificate holder also to state the maximum operating pressure in its application.

A new paragraph at § 157.208(c)(10) has been added for requests regarding acquisition of facilities. Section 157.208(c)(10)(i) requires the certificate holder to state the date of issuance, docket number and title of the proceeding of any certificate authorizing those facilities. This information will permit the Commission to maintain current records in those dockets previously authorizing those facilities. Section 157.208(c)(10)(ii) requires the certificate holder to state the amounts recorded in the accounts of the seller or lessor that apply to the facilities proposed to be acquired and the accumulated provisions for depreciation, depletion and amortization. This data will ensure that the acquisition price is within the project cost limitation and is determined to be consistent with the public convenience and necessity.

Proposed § 157.208(e)(2) requires the certificate holder to state in its annual report the location of the facilities. For purposes of monitoring compliance, this subparagraph has been changed to require the certificate holder also to report the purpose and the completion date of the facilities.

Proposed § 157.208(e)(8) required the certificate holder to state whether the annual report is for a full year or a partial year if it is for the certificate holder's first blanket certificate year. Because the annual cost limitations are eliminated from the final rule, this statement is no longer needed and is also eliminated.

Finally, § 157.208(f)(2) requires that the certificate holder not operate any facility authorized under the blanket certificate at a pressure exceeding the maximum operating pressure. This proposed paragraph stated that changes in the maximum operating pressure may be requested by filing a petition for amendment of the authorization under the blanket certificate. The final regulations clarify that changes in the maximum operating pressure should be filed pursuant to the notice procedure of § 157.205(b). Because of the need for safety and reliability of service, the Commission believes that the notice procedure is appropriate for changes in the maximum operating pressures.

4. Construction and Operation of Sales Taps

Under proposed § 157.211, sales taps for the delivery of gas to a "right-of-way grantor" and to an end user who is served from the certificate holder's general system supply are authorized under the blanket certificate. The Commission received many comments stating that the proposed definition of "right-of-way grantor" in § 157.202(i), now § 157.202(b)(9), is too narrow. They request that it be expanded to include any person or his successor in title who has granted a right-of-way easement to a certificate holder, regardless of whether such service was expressly made a condition of the written agreement granting the easement. Other commenters suggested that sales taps should be authorized for agricultural users who require natural gas for farm residential use, irrigation pumping, crop drying or raising animals where the land is traversed by a gathering system or pipeline right-of-way. Only two comments opposed expanding the definition, arguing that the restriction is necessary to insure that interstate pipelines do not use the blanket certificate to serve industrial loads located in the certificated service area of an intrastate distribution company.

After reviewing these comments, the Commission believes that the definition of "right-of-way grantor" should be changed to mean a person who grants a right-of-way easement to the certificate holder or any successor to an interest which is subject to the easement. The proposed definition was consistent with the Commission's policy which it has followed since 1976 to limit these taps to customers who granted easements in reliance upon obtaining gas service. *See,* for example, Opinion No. 773, issued August 13, 1976, in Docket No. CP75–333, 56 FPC 987. Based upon the comments, this definition is too narrow, and is changed accordingly. In short, it is not expected that the additional sales taps serving small loads which will result from service which was not expressly made a condition of a written agreement granting an easement will have any significant effect on the pipeline's existing customers.

Section 157.211(b)(1) as proposed, would permit sales taps pursuant to the notice procedure if, among other things, the gas is consumed by an end-user currently served directly or indirectly from the general system supply of the certificate holder. As proposed, this paragraph was intended to permit sales taps to consumers who not only are currently served, but also will be served directly or indirectly from the general system supply of the certificate holder. The final regulations include this clarification.

5. Changes in Delivery Points

Section 157.212 authorizes the certificate holder, subject to the notice procedure, to add new delivery points for a customer or to reassign volumes of gas to be delivered between delivery points, subject to certain conditions in § 157.212(a) (1) through (3). A number of comments requested that changes in delivery points be subject to automatic authorization so long as the parties agree and the total entitlement is not exceeded. One comment stated that the preamble in the Notice of Proposed Rulemaking, Docket No. RM81–19, stated that the notice procedure is required for changes in delivery points between rate zones, implying that a change within the same rate zone would be automatically authorized.

By requiring changes in delivery points to be subject to the notice procedure, the Commission intends that any change in delivery points, whether between rate zones or within a rate zone, will not be authorized unless the notice procedure of § 157.205 is followed. The notice procedure is necessary for changes in delivery points because such changes may result in the shifting of large volumes of gas to different delivery points. Such shifting may ultimately affect the certificate holder's load factor and result in rate implications for its customers.

6. Storage Services

As proposed, § 157.213 would provide for authorization of certain storage services under either automatic authorization or the notice procedure, depending on whether the service was for periods in excess of two years. That proposal is included in the final regulations with minor modifications. For compliance purposes, § 157.204(d)(4)

has been added to require an applicant for a blanket certificate to list in its application any currently effective storage service rate schedules which would apply to services performed under § 157.213 and an explanation of the treatment of revenues under such rate schedule. Section 157.213(c)(5) has also been added to require the certificate holder to cite the rate schedule applying to the storage service and to explain the treatment of revenues under that schedule.

As previously stated, regulations for transportation under a blanket certificate were proposed in Docket No. RM81–19, but are not included in these final regulations because staff is reviewing, among other things, appropriate ways of treating revenues derived from such transportation. When the Commission issues final regulations for transportation in Docket No. RM81–29, it will also address the manner in which such revenues should be treated. Such treatment may also apply prospectively to revenues derived from storage services performed under a blanket certificate. Until the final regulations for transportation in Docket No. RM81–29 become effective, however, revenues derived from storage services performed pursuant to § 157.213 are to be treated in accordance with the certificate holder's currently effective rates. This approach comports with current Commission practice in individual section 7(c) proceedings.

7. Underground Storage Testing and Development

Section 157.215 provides for automatic authorization, subject to certain conditions, for the construction and operation of natural gas pipeline and compression facilities to be used for the testing and development of underground reservoirs for the possible storage of gas. One of the proposed conditions in § 157.215(a)(5) would require that the total expenditure does not exeed $1,000,000 per calendar year. This amount was based on the existing limitation under the budget-type certificate in § 157.7(d). That figure was established on August 12, 1964, by Order No. 285, (Docket No. R–254 issued August 12, 1964). In order to reflect increased costs since the issuance of the limitation in 1964, the limitation has been adjusted in the final regulations by the "GNP implicit price deflator" from 1964 through 1981 to $2.7 million. The final regulation provides that this figure be adjusted each calendar year to reflect the "GNP implicit price deflator."

One commenter questioned an apparent contradiction between the preamble in the Notice of Proposed Rulemaking in Docket No. RM81–19 which stated that the three-year limitation from § 157.7(d) of the Commission's regulations would not be incorporated into the blanket certificate regulations, and proposed § 157.215(a)(1) which imposed such restriction.

By stating that the three-year limitation imposed by § 157.7(d) would be dropped, the Commission intended that the blanket certificate would not expire even though the three-year limitation on a particular storage project had expired. This aspect of the blanket certificate does not eliminate the requirement that the testing and development of a particular storage project must be completed within the three-year period. Accordingly, this requirement is retained in the final regulations at § 157.215(a)(1).

The same commenter stated that it was not clear what period of time applied to the total and single field injection quantities imposed by § 157.215(a)(2). This paragraph has been changed to clarify that, under the blanket certificate, the total quantity of gas injected into the storage fields should not exceed 10,000,000 Mcf at any time in all fields. Similarly, the total quantity of gas injected into a single field should not exceed 2,000,000 Mcf. Although the proposed regulation measured these quantities in MMBtu, the final regulation measures these quantities in Mcf because the volume of gas injected into the storage fields is more relevant than the Btu content of the gas.

8. Abandonment

Section 157.216(a) automatically authorizes certificate holders to abandon gas supply facilities if the supplier has been authorized to abandon its sale, or if no abandonment of the supplier's sale is required under section 7(b) of the Natural Gas Act by operation of section 601(a)(1) of the NGPA. Several commenters requested that if a seller does not apply for Commission authorization to abandon a facility, even though deliveries through the facility have ceased and the gas purchase contract has expired, the interstate pipeline should be permitted to treat such facilities as abandoned under § 157.216(a).

The Commission does not accept this suggestion. Under the Commission's current regulations, suppliers are required to initiate abandonment proceedings and to justify the abandonment in terms of the public convenience and necessity. If the supplier has not filed for abandonment of its service, the certificate holder may file a regular section 7(b) application for abandonment of its own facilities with a full explanation of the circumstances. This situation is outside the scope of activities contemplated by the blanket certificate.

9. Changes in Rate Schedules

Section 157.217 automatically authorizes the certificate holder to permit an existing customer to change from one rate schedule to another if the combined volumetric limitations on deliveries to the customer under both rate schedules are not increased, and the changes are consistent with the terms of effective tariffs. Several commenters requested that such changes be permitted only if the change in rate schedule was assented to by both the buyer and the seller.

The Commission agrees that both the certificate holder and the customer should agree with the change in rate schedule. The final regulation, as was the proposed regulation, is intended to apply only to changes in rate schedules which have been requested by a certificate holder's customer. This clarification is made in the regulation.

III. Environmental Compliance

On July 1, 1981, the staff issued a notice of the availability of its Environmental Assessment for Docket Nos. RM81–19 and RM81–29 (46 FR 35529, July 9, 1981). The Environmental Assessment concluded that implementation of the proposals in Docket Nos. RM81–19 and RM81–29 would not constitute a major Federal action significantly affecting the quality of the human environment. While stating that the conditions in § 157.206 would reduce the potential for adverse environmental impact to acceptable levels, it also recommended several clarifications and modifications to the proposals.

The Commission agrees with the conclusion of the Environmental Assessment that these rules do not constitute a major Federal action significantly affecting the quality of the human environment and herein adopts that conclusion. Most of the recommendations of the Environmental Assessment are incorporated into the final rule.

Section 7 of the Endangered Species Act of 1973, as amended, 16 U.S.C. 1536, requires Federal agencies to insure that any action authorized by them is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of the critical habitat of such species. That section also requires Federal agencies to

confer with either the Secretary of the U.S. Department of the Interior or the Department of Commerce, as appropriate, if the action is likely to jeopardize the continued existence of any species proposed to be listed under 16 U.S.C. 1533 or to result in the destruction or adverse modification of a critical habitat proposed to be designated for such species. The Environmental Assessment proposed that the Commission satisfy these requirements by designating the certificate holder as the Commission's non-Federal representative for purposes of informal consultations with the U.S. Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS).

The Commission adopts, with modification, the proposal in the Environmental Assessment as the means for complying with the Endangered Species Act. A new paragraph has been added at § 157.206(d)(7) to require each certificate holder, upon accepting the blanket certificate, to act as the Commission's non-Federal representative for purposes of complying with the Endangered Species Act. A new paragraph has also been added at § 157.206(d)(3)(i) stating that the certificate holder shall be deemed in compliance with § 157.206(d)(2)(vii) only if it complies with the procedures in Appendix I of Subpart F of Part 157.

Pursuant to the procedures in Appendix I, each certificate holder will be required to conduct informal consultation with the FWS or NMFS. As a result of consultation with either or both of these agencies, the consulted agency may either agree (1) that neither listed nor proposed species or their habitats are present; (2) that listed or proposed species or their habitats are present but would not be affected by the project; or (3) that a proposed species or its habitat may be affected. In such cases, the Commission's obligations under the Endangered Species Act would be statisfied and the certificate holder would be deemed in compliance with § 157.206(d)(2)(vii) of the Commission's regulations. If, however, the consulted agency (1) agrees that a listed species or its habitat may be affected, or (2) does not agree with the certificate holder's position on these issues, then the project shall not be authorized under the blanket certificate and the certificate holder shall not proceed with the proposed project under the blanket certificate.

Section 106 of the National Historic Preservation Act of 1966 (NHPA), (16 U.S.C. 470f) requires the head of any independent agency having authority to license any undertaking to take into account, prior to approving any undertaking, the effect of the undertaking on any district, site, building, structure, or object that is included in, or eligible for inclusion in, the National Register of Historic Places. Federal agencies are required to provide the Advisory Council on Historic Preservation (Advisory Council) a reasonable opportunity to comment with regard to such undertaking. The Environmental Assessment suggested that the Commission comply with section 106 of the NHPA by entering into a Programmatic Memorandum of Agreement with the Advisory Council pursuant to its regulations.

Although a Programmatic Memorandum of Agreement is one way for the Commission to satisfy its statutory obligations under the National Historic Preservation Act, the Commission believes that if the certificate holder complies with the procedures in Appendix II of this rule, the Commission will have statisfied its obligations. The type of transaction that may be authorized under the blanket certificate generally is not the type that will affect the environmental concerns protected by the NHPA. By accepting the blanket certificate, the certificate holder agrees to the conditions in § 157.206, including § 157.206(d)(2)(iv) and § 157.206(d)(3)(ii) which require compliance with the procedures in Appendix II. For those activities that the certificate holder complies with the procedures of Appendix II, the Commission finds that its obligations under NHPA are satisfied.

Under those procedures, a certificate holder is required to identify or cause to be identified listed properties, and unlisted properties that satisfy the National Register Criteria for Evaluation, that are located within the area of the project's potential environmental impact and may be affected by the undertaking. A project may proceed under the blanket certificate if, as a result of following the Appendix II procedures, the certificate holder and the appropriate State Historic Preservation Officer (SHPO) agree that listed or unlisted properties that satisfy the National Register Criteria for Evaluation either (1) do not occur in the area of the project's potential environmental impact, (2) do occur but will not be affected, or (3) will not be affected if the project is relocated. However, in those cases where the SHPO or the certificate holder finds that the project will affect listed properties, or unlisted properties satisfying the National Register Criteria for Evaluation, and the effect cannot be avoided by relocation, then the project shall not be authorized under the blanket certificate. The certificate holder may seek authorization for the project under a case-specific determination in which mitigation and minimization of the effect will be considered.

Section 157.206(d)(2)(vi) requires that all activities authorized by the blanket certificate shall be consistent with the Coastal Zone Management Act of 1972 (CZMA) (16 U.S.C. 1451, *et seq.*) as amended, and its regulations or compliance plans. Under the CZMA, administered by the U.S. Department of Commerce, all states with approved coastal management programs must be allowed to review all construction programs within their defined coastal zone before any Federal authorization is issued.

In order to be in compliance with CZMA, the certificate holder must obtain a determination from the state's designated agency that the proposed construction complies with the state's approved program. If such a determination could not be obtained, § 157.206(d)(2)(vi) of the Commission's regulations would not be satisfied and the project would not be authorized under the blanket certificate.[7] In those instances where the state waives its right to review the certificate holder's proposed project, the proposed project shall be deemed to be in compliance with § 157.206(d)(2)(vi). Section § 157.206(d)(3)(iii) has been added to this effect.

This Environmental Assessment recommended that the definition of "gas supply facility" be clarified to exclude facilities constructed to effect the purchase of gas from plants manufacturing synthetic gas, natural gas conditioning plants, or from plants gasifying liquefied natural gas. Provided this clarification is adopted, the Environmental Assessement stated that the Commission should state that "the construction of taps, meters, and regulating facilities within an existing

[7] If the activity is not in compliance with the state's approved program, the project may be prohibited by the CZMA unless, as section 307(c)(3)(A) of the CZMA (16 U.S.C. 1456(c)(3)(A)) states, in part, "the Secretary (of Commerce), on his own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the state, that the activity is consistent with the objectives of this chapter or is otherwise necessary in the interest of national security." Such an appeal would involve the Commission and would only be undertaken in a case-specific determination under section 7 of the Natural Gas Act.

right-of-way where the land use of the vicinity has not changed since the original facilities were installed" is excluded from the requirements of the National Historic Preservation Act of 1974, the Coastal Zone Management Act of 1972, and the Endangered Species Act of 1973.

As explained elsewhere in the preamble, the definitions of "gas supply facility" and "minor facility" have been combined into the definition of "eligible facility," subject to certain exclusions in § 157.202(b)(2)(ii). These exclusions include facilities constructed to effect the purchase of gas from plants manufacturing synthetic gas or from plants gasifying liquefied natural gas. However, the Environmental Assessment's recommendation that certain types of construction be excluded from the environmental requirements of the above statutes is not included in the final regulations. In Docket No. RM79–69, the Commission proposed to adopt as its policy the objectives and aims of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321–4347.[8] However, because certain categories of actions normally are not major Federal actions significantly affecting the quality of the human environment, the Commission also proposed in that rulemaking to exclude certain categories of actions. One of those actions was the "approval of taps, meters, and regulating facilities located within an existing right-of-way where the land use of the vicinity has not changed since the original facilities were installed." Because the Environmental Assessment's proposal is under consideration in another proposed rulemaking, the final decision to adopt that suggestion will be made when final regulations are issued in Docket No. RM79–69.

The Environmental Assessment recommended that the Director of OPPR be delegated authority to authorize transactions which comply with all aspects of the blanket certificate program except the environmental conditions of § 157.206(d) if appropriate mitigation measures subsequently had been developed to resolve the environmental problems.

The final regulations do not include such a delegation provision for environmental compliance. The requirements of the blanket certificate program are intended to establish the limits for which approval of certain activities is appropriate under the streamlined procedures of the blanket certificate and are consistent with the Commission's statutory obligations under the Natural Gas Act and environmental statutes. Such delegations would alter those limits and essentially open the blanket certificate program to all activities, which for one reason or another, fail to comply with the specific requirements. These regulations do include a delegation provision for projects authorized under § 157.208 whose actual costs exceed the pre-project cost limitations. However, this provision is necessary because cost overruns due to unforeseen events realistically may occur. The Commission does not believe a similar situation exists with respect to environmental compliance.[9]

Section 157.206(d)(1), as proposed, required all transactions authorized by the blanket certificate to be in full compliance with § 2.69 of the Commission's regulations; that section provides guidelines for planning, locating, clearing, and maintaining right-of-way and construction of above-ground facilities. The language in this subparagraph has been changed to more closely track the language in § 157.14(a)(6–c) of the Commission's regulations applying to applications for certificates of public convenience and necessity. Besides requiring the certificate holder to adopt the guidelines of § 2.69, it requires the certificate holder to issue the relevant portions of the guidelines to construction personnel, and instruct them to use the guidelines.

Section 157.206(d)(2) requires that all transactions be consistent with the provisions, regulations, and compliance plans of certain specified statutes and Executive Orders. One commenter stated that the list was not all-inclusive and that certain statutes which affect lands under the jurisdiction of the U.S. Department of the Interior should be added to the list.[10]

The Commission expects certificate holders to be in compliance with all applicable law. The list in § 157.206(d)(2) is intended to include the most applicable and significant environmental law but is not intended to be exhaustive. If a proposed activity does not comply with one of the requirements in § 157.206(d)(2), the Commission believes that the activity should be subject to the scrutiny of a case-specific determination. To the extent that other statutes apply to a transaction authorized under the blanket certificate, however, the certificate holder is still required to comply with those requirements, *e.g.*, the requirement that certificate holders secure a right-of-way grant from the U.S. Department of the Interior for appropriate transactions. The Commission expects that the U.S. Department of the Interior will require compliance with its statutory responsibilities.

One commenter suggested that the regulations provide some site selection criteria for projects approved under a blanket certificate. The Commission notes that § 157.206(d)(1) requires the certificate holder to adopt the guidelines in § 2.69 of the Commission's regulations.

One commenter stated that the definition of "senstitive environmental area" in proposed § 157.202(k) and the list of statutes and Executive Orders in § 157.206(d)(2) were redundant because compliance with the statutes and Executive Orders in § 157.206(d)(2) will insure that environmentally sensitive areas will not be significantly or adversely affected.

The Commission has defined the term "sensitive environmental area" in § 157.202(k), now § 157.202(b)(11), not only for the purpose of requiring that transactions not significantly impact or adversely affect such areas, but also for the purpose of requiring that such areas be identified as part of the filing requirements in §§ 157.208(c)(3) and 157.208(c)(11), formerly § 157.208(c)(10). The list of statutes and Executive Orders in § 157.206(d)(2) is included for the purpose of identifying significant environmental law which, if not complied with, will subject the activity to the scrutiny of a case-specific determination. Therefore, to the extent these sections overlap, such overlap is necessary because these sections serve different purposes.

Section 157.202(k)(5), now § 157.202(b)(11)(v), proposed to define a "sensitive environmental area" as a designated or proposed wilderness area or a national or a state wild and scenic river, wildlife refuge, or preserve. This definition has been changed, for the purpose of making it more technically correct, to apply to management areas and sanctuaries rather than preserves. Also, a new paragraph at

[8] Notice of Proposed Rulemaking, "Regulations Implementing the National Environmental Policy Act of 1969," Docket No. RM79–69, issued August 20, 1979 (44 FR 50052, August 27, 1979).

[9] The Commission notes that no such delegation provision for environmental compliance exists for the Commission's budget-type certificate programs.

[10] The additional statutes recommended to be included in § 157.206(d)(2) are: Mineral Lands Leasing Act, as amended; Federal Land Policy and Management Act of 1976; National Trails System Act, as amended; Land and Water Conservation Fund Act of 1965, as amended; Urban Park and Recreation Recovery Act of 1978; Federal Surplus Lands for Parks and Recreation Act of 1970; Archeological Resources Protection Act of 1979; American Indian Religious Freedom Act; National Wildlife Refuge System Administration Act of 1966.

§ 157.202(b)(11)(vii) has been added to comply with the policy of the American Indian Religious Freedom Act, 42 U.S.C. 1996, to include within the definition of "sensitive environmental areas," sites subject to use by American Indians and other Native Americans for religious purposes.

As proposed, § 157.206(d)(3), now § 157.206(d)(4), states that any transaction shall not significantly impact, or adversely affect: (i) an endangered or threatened species under the Endangered Species Act, or (ii) a sensitive environmental area. Because § 157.206(d)(2)(vii) requires the certificate holder to comply with the Endangered Species Act (pursuant to the procedure in Appendix I of Subpart F of Part 157), the requirement in former § 157.206(d)(3)(i) is unnecessary and is deleted from the final regulations.

Under the proposed rule, § 157.206(d)(4), now § 157.206(d)(5) required that any compressor installed pursuant to the blanket certificate not increase the ambient noise levels at nearby existing residences above a mean level (L_{dn}) of 55 dB(A). Several commenters opposed this limitation, claiming it is unreasonable and imposes an unnecessary financial burden on certificate holders.

The Commission has reviewed these comments and the discussion about noise levels in the Environmental Assessment, and agrees with the Environmental Assessment that an L_{dn} of 55 dB(A) is an appropriate maximum value for compressor facility noise under the blanket certificate. In the absence of a case-specific determination, this level will ensure that compressor noise will not significantly interfere with speech or other outdoor activities and will adequately protect the indoor noise environment. Several commenters noted that if the existing noise levels exceed an L_{dn} of 55 dB(A), then proposed § 157.206(d)(4), now § 157.206(d)(5), would not allow the installation of a compressor. The final regulations permit the necessary flexibility by allowing compressor facility noise to cause certain limited increases in ambient noise levels.

The new rule in § 157.206(d)(5) permits a compressor to be authorized under the blanket certificate provided the noise attributable to the compressor facility does not exceed a day-night sound level (L_{dn}) of 55 dB(A) at nearby noise-sensitive areas, such as schools, hospitals and residences. Under this rule, the ambient noise without compressor noise is irrelevant because only the compressor facility noise at the nearby noise sensitive area must not exceed an L_{dn} of 55 dB(A). For example, if the ambient noise level at nearby noise-sensitive areas without the compressor facility noise were an L_{dn} of 45 dB(A), then adding compressor facility noise with an L_{dn} of 55 dB(A) at the noise-sensitive area would result in an ambient noise level at an L_{dn} of 55.4 dB(A).[11] Similarly, if the ambient noise level at a nearby noise-sensitive area without compressor facility noise were at an L_{dn} of 60 dB(A), then adding a compressor facility with a noise level of an L_{dn} of 45 dB(A) at the noise sensitive area would result in an ambient noise level at an L_{dn} of 61.2 dB(A). Although the impact of the compressor facility on the ambient noise level at the noise-sensitive area would differ in these two cases, the certificate holder would be in compliance with § 157.206(d)(5) because the compressor facility noise at the noise sensitive area would not exceed 55 dB(A).[12] The Commission believes that this approach will add the necessary flexibility for installing a compressor facility, but will protect nearby noise-sensitive areas from experiencing an unacceptable involuntary increase in noise levels. If the noise-sensitive area was established after facility construction then those residents would have voluntarily accepted the existing noise levels, and the restrictions in new § 157.206(d)(5) should not apply. The final regulation is clarified in this respect.

The Commission emphasizes that the noise condition applies only to authorization under the blanket certificate and will identify projects involving long-term changes in noise levels which may have potentially significant adverse noise impact. Even if installation of a particular compressor facility is not authorized under a blanket certificate because of these restrictions, authorization would not necessarily be precluded under a case-specific determination where specific noise abatement techniques could be considered.

The Nuclear Regulatory Commission filed a comment stating its concern that activities authorized under §§ 157.208 and 157.215 might be undertaken in proximity to nuclear power reactor facilities without proper review and analysis of potential impact. They request that activities otherwise authorized under § 157.208 which are within 0.5 mile, or in the case of activities otherwise authorized under § 157.215 which are within 2.0 miles, of a nuclear power plant which is either operating or under construction, or for which a construction permit has been filed with the Nuclear Regulatory Commission, be subject to the scrutiny of a case-specific determination. Section 157.206(d)(6), has been added to comply with this request.

[11] Because decibels add logarithmically, the resultant sound level will not increase by 55dB(A).

[12] As the ambient noise level without the compressor facility increases, the incremental increase in the ambient noise level attributable to the compressor facility at the noise-sensitive area decreases.

IV. Summary of the Rule

The Commission is issuing final regulations at Subpart F of Part 157 establishing a procedure by which an interstate pipeline may obtain a blanket certificate under which certain routine activities would be authorized. Applications for a blanket certificate are to be filed in accordance with the procedures of § 157.204. Only interstate pipelines which previously have been issued a certificate under section 7 of the Natural Gas Act (other than a limited-jurisdiction certificate) are eligible to apply for a blanket certificate.

Upon being issued a blanket certificate, the certificate holder is authorized, pursuant to § 157.203, to engage in any of the activities specified in §§ 157.208 through 157.218.[13] The activities listed in § 157.203(b) are subject to automatic authorization while the transactions listed in § 157.203(c) are subject to the notice procedure of § 157.205.

Under the notice procedure of § 157.205, the Director of OPPR may reject requests which patently fail to comply with the filing requirements of § 157.205(b). Provided the request is not rejected, the Secretary shall publish notice of the request as soon as practicable. Protests and interventions must be filed within 45 days of the date of issuance of the notice.

After the deadline for filing protests and interventions has occurred, § 157.205(f) provides that the certificate holder, all protestors and intervenors, and staff shall have 30 days to resolve the protest. If the protest is not withdrawn pursuant to § 157.205(g) during this reconciliation period, the transaction shall not be authorized by the blanket certificate. Section § 157.205(h) provides for final authorization of transactions (1) which have not been protested, or (2) which have been protested but for which all protests have been withdrawn.

[13] Section 157.201(d) provides that nothing in Subpart F of Part 157 shall preclude an interstate pipeline from proceeding under any other provision of the Commission's regulations. Certificate holders who need to obtain a temporary certificate of public convenience and necessity should use the procedures in § 157.17.

Section 157.206 establishes certain standard conditions which are automatically incorporated into every blanket certificate and applicable to every certificate holder. This section includes conditions for the treatment of production-related costs, the apportionment of costs for the treatment and handling of liquids and liquefiables, environmental compliance, the surrender of budget-type certificates, commencement of the authorized transaction, and the filing of reports. Appendices I and II provide procedures for complying with the Endangered Species Act and the National Historic Preservation Act. The certificate holder is deemed in compliance with § 157.206(d)(2) (vii) and (iv) if he complies with those procedures.

Section 157.207 establishes general reporting requirements. Such requirements include an annual report to be filed on or before May 1, that lists, among other things, self-implementing activities authorized under the blanket certificate.

Sections 157.208 through 157.218 are the activities which may be authorized under a blanket certificate. These sections specify conditions which must be satisfied in order for the activity to be authorized, the contents of a request subject to the notice procedure, reporting requirements and other such conditions.[14] Section 157.209 proposed in Docket No. RM81–19 for transportation activities and § 157.210 proposed in Docket No. RM81–29 for off-system sales have been reserved and will be considered in Docket No. RM81–29.

Section 157.208 authorizes the certificate holder (1) to make miscellaneous rearrangements of any facility, or (2) to acquire, construct, and operate any eligible facility. Projects costing $4.2 million or less are subject to automatic authorization while projects costing more than $4.2 million, but less than $12 million, are subject to the notice procedure of § 157.205.

Section 157.211 provides for authorization of sales taps. The construction and operation of sales taps are automatically authorized if the natural gas is ultimately delivered to and consumed by a right-of-way grantor, and no more than 200 MMBtu of gas per day are delivered to the right-of-way grantor. Other sales taps are subject to the notice procedure if the natural gas is consumed by an end-user served from the certificate holder's general system supply, the volumes are within the customers' certificated entitlements, and the certificate holder's tariffs do not prohibit the addition of new delivery points.

Section 157.212 authorizes the certificate holder to add new delivery points for a customer, or to reassign volumes of gas which would be delivered to one of its delivery points to another delivery point, if the conditions in § 157.212(a) (1) through (3) are satisfied. These conditions assure that the customer does not receive an increase in volumes, the change is not prohibited by an existing tariff of the certificate holder, and the change in delivery points will not disadvantage the certificate holder's other customers.

Section 157.213 provides for the authorization of storage services under the blanket certificate. The storage services and any incidental transportation are automatically authorized if the storage service is within the certificated storage capacity of the certificate holder, the term of the service does not exceed two years, and the rate for the service is covered by an effective rate schedule. Any such storage arrangement which exceeds two years may be authorized under the blanket certificate, but is subject to the notice procedure.

Section 157.214 authorizes the certificate holder to provide for the storage of additional volumes of natural gas so long as the original certificate authorized the operation of a storage field, and the additional storage will not exceed the physical limitation of the facility and will not require the construction of additional facilities. Such authorization is subject to the notice procedure. Most problems which arise with respect to the storage of additional volumes in an existing facility concern the safety of providing such additional storage. Therefore, in requesting authorization for additional storage, the certificate holder must submit information which reflects the facility's ability to safely store additional volumes. In addition, the certificate holder must submit semi-annual reports containing information pertinent to the safety of the storage facilities until the storage inventory volume has approximately reached the maximum specified in the request. Thereafter, the reports shall continue on a semi-annual basis for a period of one year.

Section 157.215 provides for the automatic authorization of the construction and operation of natural gas pipeline and compression facilities for testing or developing underground reservoirs for storing gas. Total expenditures for such facilities are not to exceed $2.7 million per calendar year. This figure will be adjusted annually to reflect the "GNP implicit price deflator." Moreover, the cumulative volumes of gas injected into such prospective storage fields is not to exceed a total of 10,000,000 Mcf at any time and the cumulative volumes injected into any single field is not to exceed 2,000,000 Mcf over the term of the project.

Section 157.216 authorizes abandonment of gas supply facilities and service if the supplier has been authorized to abandon the sale, or the sale has ceased and has been removed from the Commission's abandonment jurisdiction by operation of section 601(a)(1) of the NGPA. The authority to abandon these facilities is automatic under the blanket certificate. Sales taps or lateral lines and related facilities and services may be abandoned subject to the notice procedure if all customers currently served through the tap or lateral line consent to the abandonment. The term "customers currently served" is used so that only customers remaining in business must concur in the abandonment. Consent is nof necessary from customers who no longer exist.

Section 157.217 automatically authorizes the certificate holder to shift purchases of an existing customer from one rate schedule to another. Such changes are authorized if they do not change the total volumetric limitations on deliveries for that customer and are consistent with the terms of effective tariffs.

Section 157.218 automatically authorizes amendments in outstanding certificates to reflect the change in the name of an existing customer if the name change is a result of corporate reorganization or acquisition. Because the Secretary of the Commission is already authorized to change the name of a certificate holder under § 375.302(a), no corresponding authority is needed under the blanket certificate.

Section 284.201(e) is amended to extend the Order No. 30 program until 90 days after the effective date of a final rule in Docket No. RM81–29. This extension is necessary because the Order No. 30 program is due to expire 90 days after the effective date of this rule. Written comments on the extension and incorporation of the Order No. 30 program were received in this docket. However, because the Commission's transportation policies, including the Order No. 30 program, will be reviewed in Docket No. RM81–29, it is necessary to extend the program until 90 days after the effective date of the final rule to be issued in Docket No. RM81–29.

[14] Fees and annual charges for such transactions are determined pursuant to 18 CFR Part 159 and in the case of transactions automatically authorized, should accompany the filing of the annual report.

Finally, § 375.307 is amended to authorize the Director of OPPR or his designee to perform certain actions consistent with the blanket certificate program. Section 375.307(a) (15) and (16) permit the Director to pass on applications for blanket certificates (including the waiver of project cost limitations and the convening of informal conferences during the 30-day reconciliation period) and to reject requests that patently fail to comply with the filing requirements in § 157.205(b) of the notice procedure, respectively. Section 375.307(t) authorizes the Director to compute and publish the project limits in Table I and Table II each calendar year.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act[15] requires the Commission to describe the impact that a proposed rule would have on small entities or to certify that the rule will not have a significant economic impact on a substantial number of small entities. The purpose of the blanket certificate program implemented by this rulemaking is to make the certificate process more efficient by streamlining and expediting the Commission review of routine certificate applications. This blanket certificate program is specifically designed to reduce the regulatory burdens of the certificate process on all entities, large and small, who ultimately may be affected by the process, either directly or indirectly.

In the Notice of Proposed Rulemaking in this docket, the Commission certified that this rulemaking would not have a significant impact on a substantial number of small entities. This certification was based upon the nature of the blanket certificate program and the characteristics of the entities subject to the program.

One commenter disagreed with this certification, stating that the Commission did not consider the economic effects on some small entities such as farmers seeking sales taps for essential agricultural purposes. As stated elsewhere in the preamble, the Commission agrees with that comment, and other comments, that sales taps to right-of-way grantors should be automatically authorized regardless of whether the service was made an express condition of the written agreement granting the easement. Accordingly, the final rule broadens the definition of "right-of-way grantor" to reduce the burden of authorizing such sales taps.

[15] 50 U.S.C. 601–612 (Pub. L. 96–354, September 19, 1980).

Therefore, in view of the nature of the blanket certificate program implemented by this rulemaking which reduces regulatory burdens, direct and indirect, large and small entities, and in view of the changes in the final rule to eliminate impacts raised by the comments, the Commission finds that the rule does not impose any regulatory or administrative burdens on a significant number of small entities and that it does not require an expense of resources by such entities. Accordingly, the Commission certifies that the rule does not have a significant economic impact on a substantial number of small entities.

VI. Effective Date

The regulations in this Final Rule will be effective July 6, 1982.

(Natural Gas Act, 15 U.S.C. 717–717w; Natural Gas Policy Act, 15 U.S.C. 3301–3432; Department of Energy Organization Act; 42 U.S.C. 7101–7352; E.O. 12009, 3 CFR 142)

List of Subjects in 18 CFR

Part 157

Natural gas.

Part 284

Continental shelf, Natural gas, Reporting requirements.

Part 375

Authority delegations (Government agencies).

In consideration of the foregoing, the Commission amends Parts 157, 284 and 375 of Chapter I, Title 18 of the Code of Federal Regulations as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. Part 157 is amended in the Table of Contents by adding Subpart F to read as follows:

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

* * * * *

Subpart F—Interstate Pipeline Blanket Certificates and Authorization Under Section 7 of the Natural Gas Act for Certain Transactions and Abandonment

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157.201 Applicability.
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157.208 Construction, acquisition, operation, and miscellaneous rearrangement of facilities.
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157.214 Increase in storage capacity.
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157.217 Changes in rate schedules.
157.218 Changes in customer name.
Appendix I Procedures for compliance with the Endangered Species Act of 1973 under § 157.206(d)(3)(i).
Appendix II Procedures for compliance with the National Historic Preservation Act of 1964 under § 157.206(d)(3)(ii).

2. Part 157 is amended by adding a new Subpart F and accompanying appendices to read as follows:

Subpart F—Interstate Pipeline Blanket Certificates and Authorization Under Section 7 of the Natural Gas Act for Certain Transactions and Abandonment

§ 157.201 Applicability.

(a) *Scope.* This subpart establishes a procedure whereby an interstate pipeline may obtain a blanket certificate authorizing certain construction and operation of facilities, transportation, sales arrangements and certain certificate amendments and abandonment under section 7 of the Natural Gas Act.

(b) *Who may apply.* This procedure is only applicable to interstate pipelines.

(c) *Cross-references.* For other blanket certificate authorizations applicable to interstate pipelines see Subpart G of Part 284 of this chapter.

(d) *Availability of case-specific certificates.* Nothing in this subpart shall preclude an interstate pipeline from proceeding under any other provision of the Commission's regulations to obtain Commission approval of abandonments or a temporary or permanent certificate of public convenience and necessity.

§ 157.202 Definitions.

(a) *General rule.* Terms defined in the Natural Gas Policy Act of 1978 (NGPA) shall have the same meaning for the purposes of this subpart as they have under the Natural Gas Policy Act of 1978.

(b) *Subpart F definitions.* For purposes of this subpart:

(1) "Certificate holder" means any interstate pipeline with an effective blanket certificate issued pursuant to this subpart.

(2)(i) "Eligible facility" means, except as provided in paragraph (b)(2)(ii), a facility subject to the Natural Gas Act jurisdiction of the Commission necessary to provide service within existing certificated volumes, or a gas supply facility.

(ii) *Exclusions:* "Eligible facility" does not include:

(A) A main line of a transmission system;

(B) An extension of a main line;

(C) A facility, including compression and looping, that alters the capacity of a main line;

(D) A facility required to test, develop or utilize an underground storage field or to store gas above ground in either a gaseous or liquefied state;

(E) Sales taps;

(F) A facility that crosses a state line and is constructed for the primary purpose of transporting gas which is also transported by an intrastate pipeline under section 311(a)(2) of the NGPA;

(G) A facility constructed to effect the purchase of gas from plants manufacturing synthetic gas or from plants gasifying liquefied natural gas.

(3) "Facility" does not include the items described in section 2.55 of this chapter.

(4) "Gas supply facility" means a facility subject to the Natural Gas Act jurisdiction of this Commission which is necessary to connect the system of a certificate holder, or the system of a pipeline (including the certificate holder) authorized to transport gas for or exchange gas with an interstate pipeline company, to natural gas supplies destined for the system supply of an interstate pipeline company.

(5) "Main line" means the principal transmission facilities of a pipeline system extending from supply areas to market areas and does not include small-diameter lateral or gathering lines.

(6) "Miscellaneous rearrangement of any facility" means any rearrangement of a facility that does not result in any change of service rendered by means of the facilities involved, e.g., changes in existing field operations or relocation of existing sales or transportation facilities when required by highway construction, dam construction or similar reasons.

(7) "Project" means a unit of improvement or construction which, upon completion, is used and useful without any further construction of facilities.

(8) "Project cost" means the total actual cost of constructing the jurisdictional portions of a project. In the case of a project constructed jointly by more than one interstate pipeline, the project cost is the total cost, irrespective of the amount paid by each pipeline.

(9) "Right-of-way grantor" means (i) a person who grants a right-of-way easement to the certificate holder; or (ii) any successor to an interest which is subject to the easement.

(10) "Sales tap" means metering and appurtenant facilities necessary to enable the certificate holder to deliver gas to a distribution customer or an end-user.

(11) "Sensitive environmental area" means:

(i) The habitats of species which have been identified as endangered or threatened under the Endangered Species Act (Pub. L. 93–205, as amended);

(ii) National or State Forests or Parks;

(iii) Properties listed on, or eligible for inclusion in, the National Register of Historic Places, or the National Register of Natural Landmarks;

(iv) Floodplains and wetlands;

(v) Designated or proposed wilderness areas, national or state wild and scenic rivers, wildlife refuges and management areas and sanctuaries;

(vi) Prime agricultural lands, designated by the Department of Agriculture; or

(vii) Sites which are subject to use by American Indians and other Native Americans for religious purposes.

(12) "Storage service" means the receipt of natural gas for injection into storage and the subsequent withdrawal of an equivalent volume (less any fuel or unaccounted for volumes) at a later date.

§ 157.203 Blanket certification.

(a) *Effect.* A blanket certificate issued pursuant to this subpart authorizes the certificate holder, in accordance with the provisions of this subpart, to engage in any of the activities specified in § 157.208 through § 157.218 (as may be amended from time to time).

(b) *Automatic authorization.* A blanket certificate issued pursuant to this subpart authorizes the certificate holder to engage in transactions described in §§ 157.208(a), 157.211(a), 157.213(a), 157.215, 157.216(a), 157.217 or 157.218 without further Commission approval.

(c) *Prior notice required.* A blanket certificate issued pursuant to this subpart authorizes the certificate holder to engage in activities described in §§ 157.208(b), 157.211(b), 157.212, 157.213(b), 157.214, or 157.216(b), if the requirements of § 157.205 have been fulfilled.

§ 157.204 Application procedure.

(a) *Who may apply.* Any interstate pipeline which has been issued a certificate, other than a limited-jurisdiction certificate, pursuant to section 7 of the Natural Gas Act and had rates accepted by the Commission may apply for a blanket certificate under this subpart.

(b) *Hearing procedure.* Upon receiving an application for a blanket certificate under this subpart, the Commission will conduct a hearing pursuant to section 7(c) of the Natural Gas Act and §§ 1.32 and 157.11 of this chapter.

(c) *Issuance.* If required by the present or future public convenience and necessity, the Commission will issue a blanket certificate to the applicant.

(d) *Application contents.* Applications for blanket certificates shall contain:

(1) Information indicating the exact legal name of the applicant; its principal place of business; whether the applicant is an individual, partnership, corporation or otherwise; citation to the certificate proceeding in which the applicant was found to be a natural gas company; the state under the laws of which the applicant is organized or authorized to do business; and the name, title, and mailing address and telephone number of the person or persons to whom communications concerning the application are to be addressed;

(2) A list of outstanding budget-type certificates issued to the applicant pursuant to § 157.7;

(3) A statement that the applicant will comply with the terms, conditions and procedures specified in this subpart;

(4) A list of any currently effective storage service rate schedules which would apply to service authorized by § 157.213 and an explanation of the treatment of revenues under such rate schedules; and

(5) A list of all on-going storage field tests which were commenced under a budget-type certificate issued under § 157.7(d).

§ 157.205 Notice procedure.

(a) *Applicability.* No activity described in §§ 157.208(b), 157.211(b), 157.212, 157.213(b), 157.214, or 157.216(b) is authorized by a blanket certificate issued under this subpart unless, prior to undertaking such activity:

(1) The notice requirements have been fulfilled in accordance with the provisions of this section; and

(2) Either (i) no protest has been filed pursuant to paragraph (e) of this section or, (ii) if a protest has been filed, it has been withdrawn pursuant to paragraph (g) of this section.

(b) *Contents.* For any activity subject to the requirements of this section, the certificate holder shall file with the Secretary of the Commission an original and fifteen copies of a request for authorization under the notice procedure of this section that contains:

(1) The exact legal name of the certificate holder and mailing address and telephone number of the person or persons to whom communications concerning the request are to be addressed;

(2) The docket number in which its blanket certificate was issued;

(3) Any information required in § 157.208 through § 157.218 for the particular activity;

(4) A verified statement that the proposed activity complies with the requirements of this subpart; and

(5) A form of notice suitable for publication in the **Federal Register** which briefly summarizes the facts contained in the request with sufficient particularity so as to notify the public of its scope and purpose.

(c) *Rejection of request.* The Director of the Office of Pipeline and Producer Regulation may reject at any time a request which patently fails to comply with the provisions of paragraph (b) of this section.

(d) *Publication of notice of request.* Unless the request has been rejected pursuant to paragraph (c) of this section, the Secretary of the Commission shall publish a notice of the request in the **Federal Register** as soon as it is practicable. The notice shall designate a deadline for filing protests or interventions to the request. The deadline shall be 45 days after the date of issuance of the notice of the request.

(e) *Protests.* (1) Any person or the Commission's staff may file a protest prior to the deadline. Copies of the protest must be served on the Secretary of the Commission and the certificate holder.

(2) Protests shall be filed in the following form:

UNITED STATES OF AMERICA BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION

[Name of pipeline holding blanket certificate] Docket No. [Include both docket no. of the blanket certificate and the prior notice transaction]

Protest To Proposed Blanket Certificate Activity

(Name of Protestor) hereby protests the request filed by (Name of pipeline) to conduct a (sale, transportation, construction of facilities, abandonment, etc.) under § 157.— of the Commission's regulations. Protestor seeks to have this request processed as a separate application.

(Include a brief statement of Protestor's interest in the activity and the grounds for the objection and whether the protestor seeks to be an intervenor.)

(f) *Effect of protest.* If a protest is filed in accordance with paragraph (e) of this section, then the certificate holder, the person who filed the protest, any intervenors, and staff shall have 30 days from the deadline determined in accordance with paragraph (d) of this section, to resolve the protest, and to file a withdrawal of the protest pursuant to paragraph (g) of this section. Informal settlement conferences may be convened by the Director of the Office of Pipeline and Producer Regulation or his designee. If a protest is not withdrawn pursuant to paragraph (g) of this section, the activity shall not be deemed authorized by the blanket certificate. Instead, the request filed by the certificate holder shall be treated as an application for section 7 authorization for the particular activity. The **Federal Register** notice of the request shall be deemed to be notice of the section 7 application sufficient to fulfill the notice requirement of §§ 157.9 and 157.10.

(g) *Withdrawal of Protests.* The protestor may withdraw a protest within the 30-day period following the deadline determined in accordance with paragraph (d) of this section by submitting written notice of withdrawal to the Secretary of the Commission and serving a copy to the certificate holder, any intervenors and any other party requesting service. The withdrawal must state that the certificate holder, the protestor, all intervenors and staff concur in the withdrawal.

(h) *Final authorization.* (1) If no protest is filed within the deadline prescribed by the Secretary, the certificate holder shall be deemed to be authorized to conduct the activity under its blanket certificate, effective upon the day after the deadline established by the Secretary.

(2) If one or more protests are filed within the deadline but subsequently withdrawn pursuant to paragraph (g) of this section, the certificate holder shall be deemed to be authorized to conduct the activity under its blanket certificate, effective upon the day after the withdrawal of all protests.

§ 157.206 Standard conditions.

Any activity authorized under a blanket certificate issued pursuant to this subpart shall be subject to the following conditions:

(a) *Revisions.* (1) The Commission reserves the right to amend the requirements of this subpart from time to time.

(2) The blanket certificate is not transferable in any manner and shall be effective only so long as the certificate holder continues the activities authorized by the order issuing such certificate and does so in accordance with the provisions of the Natural Gas Act, as well as applicable rules, regulations, and orders of the Commission.

(b) *Production-related costs.* At such time as the certificate holder proposes to recover in its rates any costs incurred by it to compress, process, treat, or gather natural gas purchased or transported by it, the certificate holder may be required to prove that the activity which engendered those costs was prudent. In determining prudence, the Commission will apply the statement of policy set out under § 2.102 of this chapter.

(c) *Liquids, liquefiable hydrocarbons and non-hydrocarbon constituents.* To the extent that the certificate holder transports liquids and liquefiable hydrocarbons or non-hydrocarbon constituents other than natural gas which are ultimately removed from the natural gas stream pursuant to the blanket certificate, or uses facilities authorized by the blanket certificate for the transportation of such substances, the issuance of the blanket certificate is without prejudice to a determination of the proper apportionment of costs between:

(1) The transportation and handling of liquids and liquefiable hydrocarbons or non-hydrocarbon constituents which are ultimately removed from the gas stream; and

(2) The transportation and handling of natural gas; at the time that the certificate holder files to include in its natural gas rates the costs associated with the facilities or the activities authorized herein, or in any proceeding where the apportionment of the certificate holder's costs to liquids and liquefiable hydrocarbons or non-hydrocarbon constituents is at issue.

(d) *Environmental compliance.* (1) The certificate holder shall adopt the guidelines set forth in § 2.69 of this chapter for all activities authorized by the blanket certificate and shall issue the relevant portions thereof to construction personnel, instructing them to use these guidelines.

(2) All activities shall be consistent with all applicable law including the provisions of the following statutues and regulations or compliance plans developed to implement these statutes:

(i) Clean Water Act, as amended (33 U.S.C. 1251 *et seq.*) and the National Pollution Discharge Elimination System Program, 40 CFR Part 122 *et seq.*;

(ii) Clean Air Act, as amended (42 U.S.C. 1801 *et seq.*) and air quality regulations and state implementation plans adopted pursuant to 40 CFR Parts 50–99;

(iii) Safe Drinking Water Act, as amended (42 U.S.C. 300f *et seq.*);

(iv) National Historic Preservation Act of 1966 (16 U.S.C. 470 *et seq.*);

(v) Archeological and Historic Preservation Act of 1974 (Pub. L. No. 93–291);

(vi) Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 *et seq.*);

(vii) Endangered Species Act of 1973, Pub. L. No. 93–205, as amended (16 U.S.C. 1531 *et seq.*);

(viii) Executive Order 11,988, May 24, 1977 requiring Federal agencies to evaluate the potential effects of any actions it may take on a floodplain;

(ix) Executive Order 11,990, May 24, 1977 requiring an evaluation of the potential effects of construction on wetland;

(x) Wild and Scenic Rivers Act (16 U.S.C. 1274 *et seq.*);

(xi) National Wilderness Act (16 U.S.C. 1133 *et seq.*);

(xii) National Parks and Recreation Act of 1978 (16 U.S.C. 1 and 230 *et seq.*).

(3) The certificate holder shall be deemed in compliance with:

(i) Paragraph (d)(2)(vii) of this section only if it adheres to the procedures in Appendix I of this subpart in which case the Commission finds that endangered species and their critical habitat are protected in accordance with 16 U.S.C. 1536;

(ii) Paragraph (d)(2)(iv) of this section only if it adheres to the procedures in Appendix II of this subpart in which case the Commission finds that there is no effect on any property protected by 16 U.S.C. 470f;

(iii) Paragraph (d)(2)(vi) of this section only if the appropriate state agency designated to administer the state's coastal zone management plan, prior to construction of the project, waives its right of review or determines that the project complies with the state's coastal zone managment plan.

(4) Any transaction authorized under a blanket certificate shall not significantly impact or adversely affect a sensitive environmental area.

(5) The noise attributable to any compressor facility installed pursuant to the blanket certificate shall not exceed a day-night sound level (L_{dn}) of 55 dB (A) at any noise-sensitive area unless the noise-sensitive areas (such as schools, hospitals, or residences) are established after facility construction.

(6) (i) Any activity otherwise subject to authorization under § 157.206 shall not be authorized if the activity is located within 0.5 mile of a nuclear power plant which is either operating or under construction, or for which a construction permit has been filed with the Nuclear Regulatory Commission.

(ii) Any activity otherwise subject to authorization under § 157.215 shall not be authorized if the activity is located within 2.0 miles of a nuclear power plant which is either operating or under construction, or for which a construction permit has been filed with the Nuclear Regulatory Commission.

(7) The certificate holder shall act as the Commission's non-Federal representative upon acceptance of the blanket certificate for purposes of complying with the Endangered Species Act of 1973.

(e) *Budget-type certificates.* Upon the acceptance of a certificate issued pursuant to this subpart, the certificate holder shall surrender any currently effective budget-type certificate issued pursuant to § 157.7 of this Part.

(f) *Commencement.* Any authorized construction, extension, or acquisition shall be completed and in actual operation by the certificate holder and any authorized operation, service or sale shall be actually undertaken within one year of the date the activity is authorized pursuant to § 157.205(h). The certificate holder may apply to the Director of the Office of Pipeline and Producer Regulation for an extension of this deadline.

(g) *Reports.* The certificate holder shall file reports as required by this subpart.

§ 157.207 General reporting requirements.

(a) *Annual report.* On or before May 1 or each year, the certificate holder shall file an annual report, under oath, and signed by a senior official of the company, listing for the previous calendar year:

(1) For each new facility authorized by § 157.208, the information specified by § 157.208(e);

(2) For each sales tap authorized pursuant to § 157.211(a), the information required by § 157.211(d);

(3) For each storage service authorized pursuant to § 157.213(a), the information specified in § 157.213(c);

(4) For each storage project tested or develeped pursuant to § 157.215, the information specified by § 157.215(b)(1);

(5) For each abandonment authorized pursuant to § 157.216(a), the information specified by § 157.216(d);

(6) For each change in rate schedule authorized pursuant to § 157.217, the information specified in § 157.217(b);

(7) For each change in customer name authorized pursuant to § 157.218, the information specified in § 157.218(b); and

(8) If any activity required to be reported under paragraphs (a) (1) through (7) of this paragraph was not undertaken, a statement to that effect.

(b) *Subsequent reports.* If any significant change occurs with respect to the information filed under this section, the certificate holder shall file with the Commission within 30 days, under oath, appropriate amendments to its annual report, signed by a senior official of the company.

(c) *Final reports.* Within thirty days after the termination of any arrangement authorized under § 157.213, the certificate holder shall file with the Commission a report, under oath, signed by a senior official of the company, stating:

(1) The identity of the certificate holder;

(2) The identity of all parties to the transaction;

(3) The dates of commencement and termination of the arrangement;

(4) Actual total and maximum daily volumes of natural gas transported/stored pursuant to the arrangement;

(5) Total revenues received and a complete statement of the manner in which the revenues were treated; and

(6) A brief explanation of the activity.

(d) *Other reports.* For other reporting requirements, see §§ 157.206 through 157.218.

§ 157.208 Construction, acquisition, operation, and miscellaneous rearrangement of facilities.

(a) *Automatic authorization.* If the project cost does not exceed the cost limitations set forth in column 1 of Table I, under paragraph (d) of this section, the certificate holder is authorized to (1) make miscellaneous rearrangements of any facility, or (2) acquire, construct, or operate any eligible facility.

(b) *Prior notice.* If the project cost is greater than the amount specified in column 1 of Table I, but less than the amount specified in column 2 of Table I, the certificate holder is authorized to (1) make miscellaneous rearrangements of any facility, or (2) acquire, construct, or operate any eligible facility.

(c) *Contents of request.* In addition to the requirements of § 157.205(b), requests filed for activities described under paragraph (b) of this section shall contain:

(1) A description of the purpose of the proposed facilities including their relationship to other existing or planned facilities;

(2) A detailed description of the proposed facilities specifying length,

diameter, wall thickness and maximum operating pressure for pipeline; and for compressors, the size, type, and number of compressor units, horsepower required, horsepower existing and proposed, volume of fuel gas, suction and discharge pressure and compression ratio;

(3) A USGS 7½ minute series (scale 1:24000) topographic map (or map of equivalent or greater detail, as appropriate) showing the location of the proposed facilities, and indicating the location of any sensitive environmental areas within one-quarter mile of project-related construction activities;

(4) A map showing the relationship of the proposed facilities to the applicant's existing facilities;

(5) A flow diagram or comparative study showing daily design capacity, daily maximum capacity and operating pressures with and without the proposed facilities for that portion of the certificate holder's system affected by the proposal;

(6) Gas supply and market data or studies, or other circumstances, supporting the need for the proposed facilities;

(7) The estimated cost and method of financing the proposed facilities;

(8) A statement clearly showing the effect on the certificate holder's operating revenues and operating expenses of the estimated revenues and expenses related to the proposed facilities;

(9) A statement explaining how the public convenience and necessity requires the approval of the project;

(10) For acquisitions of facilities:

(i) A statement referencing the date of issuance, docket number and title of the proceeding for any certificate issued by the Commission authorizing the facilities proposed to be acquired; and

(ii) The amounts recorded in the accounts of the vendor (seller or lessor) that apply to the facilities proposed to be acquired and the accumulated provisions for depreciation, depletion, and amortization;

(11) A concise analysis discussing the relevant issues outlined in Appendix B of Part 2 of this chapter. The analysis shall identify the existing environmental conditions and the expected significant impacts that the proposed action, including proposed mitigation measures, will cause to the quality of the human environment, including impact expected to occur to sensitive environmental areas. When compressor facilities are proposed, the analysis shall also describe how the proposed action will be made to comply with applicable State Implementation Plans developed under the Clean Air Act. The analysis shall also include a description of the contacts made, reports produced, and results of consultations which took place to ensure compliance with the Endangered Species Act, National Historic Preservation Act and the Coastal Zone Management Act.

(d) *Limits and inflation adjustment.* The limits specified in Tables I and II shall be adjusted each calendar year to reflect the "GNP implicit price deflator" published by the Department of Commerce for the previous calendar year. The Director of the Office of Pipeline and Producer Regulation is authorized to compute and publish limits for future calendar years as a part of Tables I and II, pursuant to § 375.307(t) of this chapter.

TABLE I

Year	Limit	
	Automatic project cost limit	Notice project cost limit
	(Column 1)	(Column 2)
1982	$4,200,000	$12,000,000

(e) *Reporting requirements.* For each facility completed during a calendar year pursuant to this section, the certificate holder shall file as part of the required annual report under § 157.207(a) the following information:

(1) A description of the facilities installed pursuant to this section, including a description of the length and size of pipelines, compressor horsepower, metering facilities, taps, valves, and any other facilities constructed;

(2) The specific purpose, location, and completion date of the facilities installed, and, if applicable, a statement indicating the extent to which the facilities were jointly constructed;

(3) The actual installed cost of each facility item listed pursuant to paragraph (e)(1), separately stating the cost of materials and labor as well as other costs allocable to the facilities;

(4) The estimated gas supply in Mcf at 14.73 psia made available to the certificate holder by means of the described facilities;

(5) The names of the fields connected;

(6) The specific location of the supply source or well attached if the attachment is for gas owned or produced by the certificate holder;

(7) The names of the independent producers, other sellers or intrastate pipelines from whom the gas is being purchased or received, together with the respective dates of their gas sales or transportation contracts and any FERC authorization or gas rate schedule designations if the facility is to receive gas purchased by the applicant;

(8) A description of the contacts made, reports produced, and results of consultations which took place to ensure compliance with the Endangered Species Act, the National Historic Preservation Act and the Coastal Zone Management Act;

(9) For acquisitions of facilities:

(i) A statement referencing the date of issuance, docket number and title of the proceeding for any certificate issued by the Commission authorizing the facilities acquired; and

(ii) The amounts recorded in the accounts of the vendor (seller or lessor) that apply to the facilities acquired and the accumulated provisions for depreciation, depletion, and amortization.

(f) *Special conditions.* (1) For purposes of comparing the project cost of leased facilities with the per-project cost limitations in Table I of this section, the project cost of leased facilities shall be the annual lease charge multiplied by the number of years of the lease.

(2) In the interest of safety and reliability of service, facilities authorized by the certificate shall not be operated at pressures exceeding the maximum operating pressure set forth in the request. In the event the certificate holder thereafter wishes to change such maximum operating pressure it shall file an appropriate request pursuant to the procedures set forth in § 157.205(b). Such request shall include the reasons for the proposed change. Nothing contained herein authorizes the certificate holder to operate any facility at a pressure above the maximum prescribed by state law, if such law requires a lower pressure than authorized hereby.

(g) If the actual cost of the project exceeds the per-project cost authorized under a blanket certificate in Table I of this section, the certificate holder shall apply to the Director of the Office of Pipeline and Producer Regulation for a waiver of those project cost limits.

§ 157.209 Transportation. [Reserved]

§ 157.210 Sales for resale. [Reserved]

§ 157.211 Construction and operation of sales taps.

(a) *Automatic authorization.* The certificate holder is authorized to construct and operate sales taps for the delivery of gas to an end user if:

(1) The natural gas is ultimately delivered to and consumed by a right-of-way grantor; and

(2) No more than 200 MMBtu of natural gas per day are to be delivered to the right-of-way grantor.

(b) *Prior notice.* Subject to the notice procedure of § 157.205, the certificate holder is authorized to construct and operate sales taps for service to other end-users if:

(1) The natural gas is ultimately consumed by an end-user who is, or will be, served directly or indirectly from the general system supply of the certificate holder;

(2) The volumes delivered are within the certificated entitlements of the customer; and

(3) The certificate holder's tariffs do not prohibit the addition of new delivery points.

(c) *Contents of request.* In addition to the requirements of § 157.205(b), requests for activities described under paragraph (b) should contain:

(1) The name of the distributor and/or the end-user and the location of all proposed sales taps;

(2) The authority for the current sale to the distributor and end-user;

(3) The quantity of gas to be sold through the proposed facility and its end-use; and

(4) The rate or rate schedule applicable to the sale made through the proposed tap.

(d) *Reporting requirements.* As part of the certificate holder's annual report of projects authorized under paragraph (a) of this section, the certificate holder shall report:

(1) The name of the end-user;

(2) The maximum daily volumes to be sold; and

(3) The actual cost of the sales tap and date placed in service.

(e) *Indirect customers.* The authorization in paragraphs (a) and (b) shall apply irrespective of whether the certificate holder sells the natural gas directly to the end-user or the natural gas is delivered to the end-user for the account of a local distribution company.

§ 157.212 Changes in delivery points.

(a) *Prior notice.* Subject to the notice requirements of § 157.205, the certificate holder is authorized to add new delivery points for a customer or to reassign volumes of gas to be delivered from one of the customer's delivery points to another, if:

(1) The total volumes to be delivered to the customer after the request do not exceed the total volumes authorized prior to the request;

(2) The change is not prohibited by an existing tariff of the certificate holder; and

(3) The certificate holder has sufficient capacity to accomplish the deliveries specified under the amendment without detriment or disadvantage to the certificate holder's other customers.

(b) *Contents of request.* In addition to the requirements of § 157.205(b), requests filed for activities described under paragraph (a) shall contain:

(1) The name of the customer;

(2) The location of the delivery points; and

(3) The present and proposed quantities of natural gas to be delivered at each of the affected delivery points.

§ 157.213 Storage services.

(a) *Automatic authorization.* The certificate holder is authorized to provide contract storage services and any incidental transportation on behalf of any person, if:

(1) The storage service is within the certificated capacity of the certificate holder's existing storage facilities;

(2) The storage arrangement does not exceed a period of two years;

(3) The rates charged for the storage and transportation service are covered by a currently effective rate schedule; and

(4) The contract for the storage service provides that the service under the contract shall be subject to the availability of capacity sufficient to provide the service without detriment or disadvantage to the certificate holder's existing customers who are dependent upon the certificate holder's general system supply.

(b) *Prior notice.* Subject to the notice requirements of § 157.205, the certificate holder is authorized to provide transportation and storage services specified in paragraph (a) for periods in excess of two years.

(c) *Contents of request and reporting requirements.* In any annual report filed for transactions under paragraph (a), and in any request for services authorized under paragraph (b), the certificate holder shall provide, in addition to the requirements of § 157.207(a) and § 157.205(b), the following information:

(1) The name of the customer;

(2) A copy of the storage service agreement;

(3) The location of the storage facility proposed to be used;

(4) The amount of storage capacity in the facility rendered under the contract, and the amount of uncommitted storage capacity remaining after executing the storage service agreement; and

(5) Citation to the rate schedule applying to the storage service and a statement explaining the treatment of revenues under that rate schedule.

§ 157.214 Increase in storage capacity.

(a) *Prior notice.* Subject to the notice requirements of § 157.205, the certificate holder is authorized to increase the maximum volume of natural gas authorized to be stored in a storage field to the extent that geological data and operating experience have demonstrated that a volume of natural gas greater than that currently certificated may be safely stored without the construction of additional facilities.

(b) *Contents of request.* In addition to the requirements of § 157.205(b), requests filed for activities described in paragraph (a) shall contain:

(1) Current and requested maximum storage capacity;

(2) Current and requested maximum storage pressure;

(3) Average depth of the storage formation;

(4) Copies of any geological or engineering studies that demonstrate the feasibility of the increase in storage volume; and

(5) A statement setting forth the purpose of the proposed increased capacity.

(c) *Reporting requirements.* For any storage facility whose capacity is increased pursuant to this section, the certificate holder shall submit semi-annual reports (to coincide with the termination of the injection and withdrawal cycles) containing the information listed in subdivisions (1) through (8) of this paragraph. The certificate holder shall continue to file semi-annual reports until the storage inventory volume has reached, or closely approximates, the maximum specified in the request. Thereafter, the reports shall continue on a semi-annual basis for a period of one year. The filing of reports shall be discontinued thereafter unless otherwise ordered by the Commission. (Volumes shall be stated at 14.73 psia and 60° F, and pressures shall be stated in psia.)

(1) The daily volume of natural gas injected into and withdrawn from the storage reservoir.

(2) The volume of natural gas in the reservoir at the end of the reporting period.

(3) The maximum daily injection or withdrawal rate experienced during the reporting period and the average working pressure on such maximum days taken at a central measuring point where the total volume injected or withdrawn is measured.

(4) Results of any tracer program by which the leakage of injected gas may

be determined. If the leakage of gas exists, the report should show the estimated total volume of gas leakage, the volume of recycled gas and the remaining inventory of gas in the reservoir at the end of the reporting period.

(5) Any surveys of pressures in gas wells, water levels in observation wells, pump test results for the aquifer-type reservoirs, and the results of back-pressure tests conducted during the reporting period.

(6) The latest revised structure and isopachous contour maps showing the location of the wells, the location and extent of the gas bubble in the storage reservoir for aquifer-type reservoirs and in any other reservoirs of the project in which gas bubbles are known to exist. This map need not be filed if there is no material change from the map previously filed.

(7) Discussion of current operating problems and conclusions.

(8) Such other data or reports which may aid the Commission in the evaluation of the storage project.

§ 157.215 Underground storage testing and development.

(a) *Automatic authorization.* The certificate holder is authorized to construct and operate natural gas pipeline and compression facilities for the testing or development of underground reservoirs for the possible storage of gas, if:

(1) The testing and development of a particular storage project will be completed within a three-year-period;

(2) The quantity of natural gas injected into the prospective storage fields pursuant to the blanket certificate does not exceed a total of 10,000,000 Mcf at any time in all fields with no more than 2,000,000 Mcf injected into any single field;

(3) Gas will be injected for testing purposes only during off-peak periods;

(4) The storage field developed pursuant to this section will not be utilized to render service without further authorization from the Commission, except that gas may be withdrawn on occasion for testing purposes; and

(5) The total expenditures per calendar year pursuant to this section do not exceed the amount specified in Table II as adjusted pursuant to § 157.208(d). These costs shall include expenditures for leases, wells, pipeline, compressors, and related facilities, but shall exclude the cost of the natural gas to be used for testing purposes.

TABLE II

Year	Limits
1982	$2,700,000

(b) *Reporting requirements*—(1) *Annual reports.* For any storage project tested or developed pursuant to this section, the certificate holder shall file as part of the annual report required under § 157.207(a) the following information:

(i) A description of the facilities constructed and the type of storage reservoir, i.e., gas expansion or dry gas, water-drive or aquifer;

(ii) The location of the facilities;

(iii) The cost of such facilities and date placed in service;

(iv) The monthly volumes of gas injected into and withdrawn from each reservoir;

(v) An estimate of the storage capacity and daily deliverability of each project; and

(vi) A description of the contacts made, reports produced, and results of consultations which took place to ensure compliance with the Endangered Species Act, the National Historic Preservation Act and the Coastal Zone Management Act.

(2) *Quarterly reports.* If the reservoir to be tested and developed is an aquifer-type reservoir, the certificate holder shall file, unless otherwise ordered by the commission, for each such project quarterly reports, under oath, until the project is either certificated for regular service or abandoned. The quarterly report shall contain the following information in addition to the data required by paragraph (b)(1) of this section:

(i) The daily volumes of natural gas injected into and withdrawn from the aquifer during the quarter and the volume of gas in the aquifer at the end of each month;

(ii) The maximum daily injection or withdrawal rate experienced during the quarter and the average working pressure on such maximum days taken at a central measuring point where the total volume injected or withdrawn is measured;

(iii) Results of any tracer program by which leakage of gas may be determined;

(iv) Any pressure surveys of gas wells and water levels in observation wells conducted during the quarter by individual well, and copies of any core analyses, gamma ray, neutron or other electric log surveys and back-pressure tests taken during the quarter;

(v) A map of the storage project showing the location of the wells, the latest revised structure contours, and the location and extent of the gas bubble. This map need not be filed if there is no material change from the map previously filed; and

(vi) Such other data or reports which may aid the Commission in the evaluation of the project.

(c) *Accounting.* The cost of any project ultimately determined to be infeasible for storage shall be charged to Account No. 822 of Part 201, Underground Storage Exploration and Development Expenses.

§ 157.216 Abandonment.

(a) *Automatic authorization.* The certificate holder is authorized pursuant to section 7(b) of the Natural Gas Act to abandon gas supply facilities, if:

(1) The supplier has been authorized to abandon its sale; or

(2) No abandonment of the supplier's sale is required under the Natural Gas Act by operation of section 601(a)(1) of the NGPA.

(b) *Prior notice.* Subject to the notice requirements of § 157.205, the certificate holder is authorized pursuant to section 7(b) of the Natural Gas Act to abandon any sales tap or lateral line and related facilities and service if all of the customers currently served [illegible] the sales tap or lateral line consent in writing to the abandonment.

(c) *Contents of request.* In addition to the requirements of § 157.205(b), requests filed for activities described under paragraph (b) shall describe:

(1) The location of the subject facilities;

(2) The docket authorizing the construction and operation of the facilities to be abandoned;

(3) An oath statement that all of the customers served by the subject facilities have consented to the abandonment, or an explanation of why the customers' consent is not available; and

(4) A proposed accounting treatment of any facilities to be abandoned.

(d) *Reporting requirements.* The annual report filed by the certificate holder shall contain, for each abandonment authorized under paragraph (a) of this section:

(1) The name of the supplier;

(2) The docket numbers of the certificates authorizing the sale of gas and the construction and operation of the facilities to be abandoned;

(3) The accounting treatment of the facilities abandoned; and

(4) The date the facilities were actually abandoned.

§ 157.217 Changes in rate schedules.

(a) *Automatic authorization.* The certificate holder is authorized to permit an existing customer, at the customer's request, to change from one rate schedule to another, if:

(1) The combined volumetric limitations on deliveries to the customer under both rate schedules are not increased, for either annual or peak day limitations; and

(2) The changes are consistent with the terms of effective tariffs on file with the Commission.

(b) *Reporting requirements.* In the annual report for any year in which the certificate holder has permitted an existing customer to change from one rate schedule to another pursuant to this section, the certificate holder shall state:

(1) The name of the customer;

(2) The rate schedules involved; and

(3) The effective date of the change.

§ 157.218 Changes in customer name.

(a) *Automatic authorization.* The effective certificates of the certificate holder may be amended to the extent necessary to reflect the change in the name of an existing customer, if:

(1) The change in customer name is the result of a corporate reorganization or acquisition;

(2) The certificate holder has filed any necessary conforming changes in its tariffs; and

(3) The customer's use of gas will not be affected.

(b) *Reporting requirements.* For each customer name change authorized during a calendar year, the certificate holder shall include as a part of its annual report:

(1) The old and new names of the customer; and

(2) A brief explanation of the reason for the name change.

Appendix I—Procedures for Compliance With the Endangered Species Act of 1973 Under § 157.206(d)(3)(i)

The following procedures apply to any certificate holder which undertakes a project to be authorized under a blanket certificate issued pursuant to Subpart F of Part 157 of the Federal Energy Regulatory Commission's (Commission) regulations.

Pursuant to § 157.206(d)(7) of the Commission's regulations, the certificate holder shall, upon acceptance of its blanket certificate, be designated as the Commission's non-Federal representative to the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) in order to conduct informal consultations with those agencies. For purposes of this appendix, "listed species" and "critical habitat" shall have the same meanings as set forth in 50 CFR 402.02. The certificate holder shall be deemed in compliance with § 157.206(d)(2)(vii) of the Commission's regulations only if, prior to constructing facilities or abandoning facilities by removal under the blanket certificate, it complies with the following procedures:

1. The certificate holder shall contact the appropriate regional office of either the FWS or the NMFS (or both the FWS and the NMFS, if appropriate) as determined pursuant to 50 CFR 402.01 for the purpose of initiating informal consultations.

2. The certificate holder shall be deemed in compliance with § 157.206(d)(2)(vii) of the Commission's regulations if the consulted agency (either the FWS or NMFS, or both if appropriate) initially determines, pursuant to the informal consultations:

(a) That no listed species or its critical habitat occur in the project area; and

(b) That no species proposed to be listed under 16 U.S.C. 1533 or its critical habitat occur in the project area.

3. If the consulted agency, pursuant to the informal consultations, initially determines that any species proposed to be listed under 16 U.S.C. 1533 or its critical habitat occur in the project area, then the certificate holder shall confer with the consulted agency on how potential impact can be avoided or reduced. Upon completion of the conference and the implementation of any mitigating measures the certificate holder elects to implement, and compliance with paragraph 4 of this Appendix, if applicable, the certificate holder shall be deemed in compliance with § 157.206(d)(2)(vii) of the Commission's regulations.

4. (a) If the consulted agency initially determines, pursuant to the informal consultations, that a listed species or its critical habitat may occur in the project area, then the certificate holder shall continue informal consultation with the consulted agency to determine if the proposed project may affect such species or habitat. Continued informal consultations may include discussions with experts (including experts provided by the consulted agency), field surveys, biological assessments, and formulation of mitigation measures.

(b) The certificate holder shall be deemed in compliance with § 157.206(d)(2)(vii) of the Commission's regulations if the consulted agency agrees with the certificate holder's determination resulting from the continued informal consultations, that the proposed project will not affect the listed species or its critical habitat.

(c) If the consulted agency does not agree with such determination by the certificate holder, or if the certificate holder concludes that the proposed project may affect listed species or the critical habitat of such species, then the certificate holder may not proceed with the proposed project under the blanket certificate.

Appendix II—Procedures for Compliance With the National Historic Preservation Act of 1966 Under § 157.206(d)(3)(ii)

The following procedures apply to any certificate holder which undertakes a project under the authority of a blanket certificate issued pursuant to Subpart F of Part 157 of the Federal Energy Regulatory Commission's (Commission) regulations. For the purposes of this appendix, the following definitions apply:

(a) "Listed property" means any district, site, building, structure or object which is listed (1) on the National Register of Historic Places, or (2) in the Federal Register as a property determined to be eligible for inclusion on the National Register.

(b) "SHPO" means the State Historic Preservation Officer or any alternative person duly designated to advise on cultural resource matters.

(c) "Unlisted property" means any district, site, building, structure or object which is not a listed property.

The certificate holder shall be deemed to be in compliance with § 157.206(d)(2)(iv) of the Commission's regulations only if, prior to constructing facilities or abandoning facilities by removal under the blanket certificate, it complies with the following procedures:

(1)(a) If Federally administered land would be directly affected by the project, then the procedures used by the appropriate Federal land managing agency to comply with section 106 of the National Historic Preservation Act of 1966, 16 U.S.C. 470f, shall take precedence over these procedures. The procedures in this appendix apply to state and private lands, and Federal lands for which there are no other Federal procedures.

(b) If there is no SHPO or if the SHPO declines to consult with the certificate holder, the certificate holder shall so inform the Environmental Evaluation Branch, Office of Pipeline and Producer Regulation, of the Commission, and shall not proceed with these procedures or the project until an alternate consultant has been duly designated.

(2) It shall be the certificate holder's responsibility to identify or cause to be identified listed properties and unlisted properties that satisfy the National Register Criteria for Evaluation (36 CFR 1202.6), that are located within the area of the project's potential environmental impact and that may be affected by the undertaking.

(3) The certificate holder shall:

(a) Check the National Register of Historic Places and consult with the SHPO to identify all listed properties within the area of the project's potential environmental impact;

(b) Consult with the SHPO, and to the extent deemed appropriate by the SHPO, check public records and consult with other individuals and organizations with historical and cultural expertise, to determine whether unlisted properties that satisfy the National Register Criteria for Evaluation are known or likely to occur within the area of the project's potential environmental impact; and

(c) Consult with the SHPO to determine the need for surveys to identify unknown unlisted properties. The certificate holder shall evaluate the eligibility of any known unlisted properties located within the area of the project's potential environmental impact according to the National Register Criteria for Evaluation.

(4) The certificate holder shall be deemed in compliance with § 157.206(d)(2)(iv) of the Commission's regulations if the SHPO agrees with the certificate holder that no survey is required, and that no listed properties or unlisted properties that satisfy the National Register Criteria for Evaluation occur in the

area of the project's potential environmental impact.

(5) If the SHPO determines that surveys are required to ensure that no listed properties, or unlisted properties that satisfy the National Register Criteria for Evaluation, occur within the area of the project's potential environmental impact, the certificate holder shall perform surveys deemed by the SHPO to be of sufficient scope and intensity to identify and evaluate such properties. The certificate holder shall submit the results of the surveys including a statement as to which unlisted properties satisfy the National Register Criteria for Evaluation, to the SHPO and solict comments on the surveys and the conclusions.

(6) The certificate holder shall be deemed in compliance with § 157.206(d)(2)(iv) of the Commission's regulations if, upon conclusion of the surveys, the certificate holder and the SHPO agree that no listed properties, and no unlisted properties which satisfy the National Register Criteria for Evaluation, occur in the area of the project's potential environmental impact.

(7) For each listed property, and each unlisted property which satisfies the National Register Criteria for Evaluation, which is located within the area of the project's potential environmental impact, the certificate holder, in consultation with the SHPO, shall apply the Criteria of Effect (36 CFR 800.3(a)) to determine whether the project will have an effect upon the historical, architectural, archeological, or cultural characteristics of the property that qualified it to meet National Register Criteria for Evaluation. The certificate holder shall be deemed in compliance with § 157.206(d)(2)(iv) of the Commission's regulations if the certificate holder and the SHPO agree that the project will not affect these characteristics.

(8) If either the certificate holder or the SHPO finds that the project may affect a listed property or an unlisted property which satisfies the National Register Criteria for Evaluation, located within the area of the project's potential environmental impact, then the project shall not be authorized under the blanket certificate unless such properties can be avoided by relocation of the project to an area where the SHPO agrees that no listed properties or unlisted properties that satisfy the National Register Criteria for Evaluation occur. The certificate holder shall be deemed in compliance with § 157.206(d)(2)(iv) of the Commission's regulations if the project is relocated as described above.

(9) If the certificate holder and the SHPO are unable to agree upon the need for a survey, the adequacy of a survey, or the results of application of the Criteria for Evaluation to an unlisted property, the project shall not be authorized under the blanket certificate.

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

3. Section 284.201 is amended by revising paragraph (e) to read:

§ 284.201 Definitions.

* * * * *

(e) "Fuel Shortage emergency period" means the period starting May 13, 1979, and ending at 11:59 p.m. on the ninetieth (90th) day following the effective date in the final rule in Docket No. RM81–29.

* * * * *

PART 375—THE COMMISSION

4. Section 375.307 is amended by adding new paragraphs (a)(15), (a)(16), and (t), to read as follows:

§ 375.307 Delegations to the Director of the Office of Pipeline and Producer Regulation.

The Commission authorizes the Director of the Office of Pipeline and Producer Regulation or the Director's designee to:

(a) Pass upon the following types of uncontested applications or uncontested amendments to applications:

* * * * *

(15) Applications for blanket certificates of public convenience and necessity pursuant to Subpart F of Part 157, including the waiver of the project cost limitation in § 157.208, and the convening of informal conferences during the 30-day reconciliation period pursuant to the procedures in § 157.205(f) and

(16) Requests which patently fail to comply with the provisions of § 157.205(b).

* * * * *

(t) Compute, for each calendar year, the project limits specified in Table I of § 157.208 and Table II of § 157.215(a) of this chapter, adjusted for inflation, and to publish such limits as soon as possible thereafter in the Federal Register.

[FR Doc. 82–15143 Filed 6–3–82; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

Supplemental Security Income for the Aged, Blind, and Disabled; Deeming of Income and Resources

AGENCY: Social Security Administration, HHS.

ACTION: Interim rules with comment period.

SUMMARY: These rules address the problem of certain beneficiaries of supplemental security income (SSI) payments who remain unnecessarily institutionalized because returning home for less costly medical treatment would result in loss of Medicaid eligibility. The rules provide that the Secretary, in appropriate circumstances, will not apply the ordinary SSI rules for deeming certain family members' income and resources to a noninstitutionalized individual. This is a temporary policy that will deal with this concern while States develop appropriate programs of home and community-based services under their Medicaid programs.

DATES: These rules are effective June 4, 1982. Comments may be submitted by August 3, 1982.

ADDRESS: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203. Comments received may be inspected during regular business hours by making arrangements with the contact person identified in the following paragraph.

FOR FURTHER INFORMATION CONTACT: Timothy D. Roberson, Department of Health and Human Services, Room 656–G Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201, (202) 245–7187.

SUPPLEMENTARY INFORMATION: Title XVI of the Social Security Act ("the Act") establishes a program of supplemental security income (SSI) for aged, blind, and disabled individuals. Under SSI, qualified needy individuals are entitled to cash payments. Under section 1902(a)(10)(A) of the Act, beneficiaries of SSI payments are in turn eligible for Medicaid in most States. (In 15 States, however, Medicaid eligibility for the aged, blind, and disabled is determined not by receipt of SSI payments, but rather, under section 1902(f) of the Act, by reference to those categories of individuals who were eligible in the States in 1972.)

An individual is eligible for SSI payments only if his or her income and resources fall below established limits. The method for determining the amount of an individual's income and resources is outlined in detail in sections 1612–1614 of the Act and the Department's regulations (20 CFR Part 416, Subparts K and L). An aspect of this income and resource determination is the statutory provision requiring, under certain circumstances, that income and resources of certain persons in the individual's family be considered in determining whether the individual is eligible to receive SSI payments. These provisions concerning the "deeming" of

income and resources appear in section 1614(f) of the Act.

Under section 1614(f)(1), the income and resources of an individual are deemed to include the income and resources of the individual's ineligible spouse if the spouse is living in the same household. Similarly, section 1614(f)(2) provides that the income and resources of a child under age 18 are deemed to include the income and resources of the child's parents, if they are living in the same household. In either case, income and resources of these family members is not to be considered "to the extent determined by the Secretary to be inequitable under the circumstances."

As noted above, in most States there is a direct connection between SSI eligibility and Medicaid eligibility and our implementation of the SSI deeming rules therefore affects eligibility for Medicaid. As those rules are currently implemented, they result, in some circumstances, in the unnecessary institutionalization of patients with consequent higher costs to State and Federal governments. Similar situations may exist where Medicaid eligibility is based on an individual's receipt of Federally administered State supplementary payments under section 1616 of the Act, since the SSI deeming rules are also used in those programs. Unnecessary institutionalization is fostered by the provision in section 1614(f) of the Act, which applies the deeming rules only to individuals living in the same household as their parents or spouse. Under current regulations, an institutionalized individual is considered not to be living in the same household as the individual's family, and as a result, family income is not deemed to the individual. The institutionalized individual may therefore be eligible for SSI payments (and hence in most States for Medicaid), even in cases where application of the deeming rules would make the individual ineligible if living at home. To retain SSI and Medicaid eligibility, some patients remain institutionalized even though their medical needs could be met at lower costs if they were living at home.

President Reagan drew attention to one such case in November 1981 involving a child who continued to be hospitalized despite the fact that her medical conditions could be treated at home at substantially less expense. As a disabled individual, the child was eligible for SSI in the hospital, and hence in her State for Medicaid, but she would have lost SSI and Medicaid eligibility had she moved home, because her parents' income would have been deemed to her and the income would have exceeded SSI eligibility limits. In light of substantial cost savings that would result to the Federal Government from the child's living at home, the Secretary of Health and Human Services exercised his authority under section 1614(f) of the Act and determined that it would be inequitable under the circumstances to apply the normal deeming rules in determining her eligibility. She was therefore able to move home, retain her SSI and Medicaid eligibility, and continue to receive medical treatment at a substantial savings to the Medicaid program.

There are a number of other currently institutionalized patients who also could be satisfactorily treated at home at less cost to the government but who remain institutionalized to avoid losing Medicaid eligibility through operation of the SSI deeming rules. In this document we are adopting two approaches to resolving this problem. An interim approach involves exercising the Secretary's discretion in particular cases, as was done in the case described above, not to apply the ordinary SSI deeming rules. The other, longer-term approach is to allow the States to take advantage of the flexibility under section 1915(c) of the Act to create appropriate programs to deal with these patients.

Long-Term Solution

The issue of inappropriate institutionalization of patients is not confined to cases where SSI eligibility rules discourage patients from living at home, but involves many other circumstances. In section 2176 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) Congress addressed this problem. New section 1915(c) was added to the Social Security Act authorizing the States, under a Secretarial waiver, to offer a wide array of home and community-based services that an individual may need to avoid institutionalization. The purpose of this legislation was to bring about cost savings and other benefits of deinstitutionalization. Interim final regulations implementing this new authority were issued in the **Federal Register** of October 1, 1981 (46 FR 48532).

Under section 1915(c)(1), a State Medicaid plan may provide approved home and community-based services to individuals who would otherwise require the level of care provided in a skilled nursing facility or intermediate care facility the cost of which could be reimbursed under the State Medicaid plan. This provision allows a State to provide home and community-based services under its Medicaid plan to individuals who, in the absence of such services, would require institutional care and would be eligible for Medicaid if institutionalized. Accordingly, under a section 1915(c) waiver, States may furnish approved home and community-based services to individuals who would be Medicaid-eligible if institutionalized, even if they would be ineligible for Medicaid while living at home because of the SSI deeming rules, or some other reason. States can implement this new authority to prevent unnecessary institutionalization by providing medical services at home and in the community.

Interim Solution

Since it will take time for States to develop and obtain approval of plans for home and community-based services, we are also adopting an interim approach. The Secretary has established a board within the Department that will, in appropriate cases, determine whether or not the normal SSI deeming rules should be applied. The facts of each case will be individually examined to determine whether, under section 1614(f) of the Act, it would be inequitable under the circumstances to consider family income and resources in determining an individual's eligibility for SSI payments.

The board will apply two basic principles in every case. First, a determination not to apply the SSI deeming rules must prospectively result in savings to the Medicaid program. This requirement would be met, for example, by showing that a currently institutionalized Medicaid patient who would otherwise remain in the institution could be treated less expensively at home and that Medicaid expenses would therefore be less.

Second, in each case it must be shown to the satisfaction of the board that the quality of medical care provided to the patient will be maintained after deinstitutionalization. This question may be of concern particularly in States whose Medicaid programs do not offer extensive medical services for patients living at home. Ordinarily the board would be satisfied by appropriate assurances of the attending physician or institution, subject to requests by the board for further information.

In addition to these two basic requirements, the board may impose additional requirements or standards in particular cases depending on the facts presented. We are adopting a case-by-case approach, rather than establishing firm rules for application across the board, because we are uncertain about the range of circumstances that may exist and about the need for additional

restrictions to prevent abuse. For example, an individual who is presently being cared for at home without Medicaid assistance might be institutionalized and thereby become eligible for Medicaid simply for the purpose of then being able to show that maintaining Medicaid eligibility after deinstitutionalization would result in savings to the government. In such a case, the board might well conclude that it would not be inequitable under the circumstances to apply the normal SSI deeming rules.

No specific method of application for a board determination is being prescribed except that all applications must be made on behalf of the individual by a State Medicaid agency, which must recommend that the SSI deeming rules not be applied. We believe that involving the State Medicaid agency will insure that we are acting on the best possible information about the circumstances of the particular patient, the savings that will result, and the medical services that would be available to the patient at home. A State agency's application should set forth information about the case sufficient to show that the basic criteria are met and that it would otherwise be inequitable under the circumstances to apply the SSI deeming rules. Further information may be requested by the board before acting on the application. Information on where to submit applications will be provided directly to the State Medicaid agencies.

Where the board determines not to apply the usual SSI deeming rules, it will ordinarily do so in a manner that maintains SSI eligibility, but does not result in unnecessary SSI program expenditures. Thus, the board will typically apply the deeming rules to the extent necessary to result in a minimal SSI or Federally administered State optional supplementary payment. That minimal payment would be sufficient to maintain Medicaid eligibility, which is the purpose of the board's action. All determinations by the board would be subject to revision based on new information or changed circumstances. The board would consider only application of the SSI deeming rules. All other aspects of determining SSI eligibility would be handled by the Social Security Administration under existing policies and procedures.

The board would also accept applications from States that do not link Medicaid eligibility to the receipt of SSI payments but instead determine Medicaid eligibility under section 1902(f) of the Act. If such a State uses SSI's normal deeming rules governing the amount of permissible income and resources, the State could also take advantage of the board's authority not to apply those rules. Board determinations would be based on the same criteria and procedures as for other States.

As noted above, the policy of individual deeming determinations is being utilized on an interim basis only, pending development by the States of appropriate programs under the new statutory authority allowing waivers for home and community-based services. The regulations provide that the board will continue case-by-case evaluation only through April 30, 1983, unless extended. That period of time should be sufficient for the States to develop appropriate programs of home and community-based services. Determinations made by the board would continue in effect after April 30, 1983, but would be subject to change. It is anticipated that determinations could be terminated for individuals residing in States that have adopted programs of home and community-based services.

We do not believe that case-by-case consideration of the SSI deeming rules is an appropriate long-term solution. State Medicaid programs may not currently provide home medical services that would permit an individual to be treated at home successfully. In such cases, deinstitutionalization depends on the State's developing an appropriate Medicaid program, which it can do under authority of section 1915(c) of the Act. Moreover, the States are in a better position to develop the appropriate approaches to avoiding institutionalization, which may require a variety of methods tailored to particular circumstances.

Waiver of Proposed Rulemaking

These regulations allow for action that will both reduce government expenditures and benefit patients who can be treated at home but are financially unable to do so because deinstitutionalization would result in the loss of Medicaid eligibility. In light of the benefit to all parties, we find use of notice and public procedure would be contrary to the public interest because it would delay these benefits for the time sufficient to conduct a rulemaking proceeding (5 U.S.C. 553(b)(B)).

Impact Analysis

Executive Order 12291

The Secretary has determined that the regulations do not meet the criteria for a "major rule," as defined by section 1(b) of Executive Order 12291. That is these regulations will not—

—Have an annual effect on the economy of $100 million or more;

—Result in a major increase in costs or prices for consumers, any industries, any government agencies or any geographic regions; or

—Have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises in domestic or import markets.

These rules simply reduce the cost of governmental expense for medical care. Because of the relatively small number of cases at issue, the savings are expected to be substantially less than the $100 million threshold.

Regulatory Flexibility Act

Section 604 of Pub. L. 96–354 (the Regulatory Flexibility Act of 1980) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis on certain regulations. The regulatory flexibility analysis is intended to explain what effect regulatory actions by agencies would have on small businesses and other small entities.

By allowing deinstitutionalization; these rules are expected to have the same impact as for the basic program of home and communtity-based services, which was previously determined not to meet the criteria for perparation of a regulatory flexibility analysis. (46 FR 48538–39). Accordingly, the Secretary certifies, under section 605(b) of the Regulatory Flexibility Act, that the regulations will not have a significant economic impact on a substantial number of small entities.

Comments

Although we are making these rules effective immediately, we invite the submission of comments on them. We will revise the rules if appropriate based on the comments received.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program.)

List of Subjects in 20 CFR 416

Administrative practice and procedure, Aged, Blind, Disabled, Public assistance programs, Supplemental Security Income (SSI).

Dated: May 6, 1982.

John A. Svahn,

Commissioner of Social Security.

Approved: May 6, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Part 416 of Title 20 of the Code of Federal Regulations is amended as follows:

Subpart K—Income

1. The authority citation for Subpart K of Part 416 reads as follows:

Authority: Secs. 1102, 1611, 1612, 1613, 1614, and 1631 of the Social Security Act as amended; Sec. 211 of Pub. L. 93–66; 49 Stat. 647 as amended, 86 Stat. 1466, 86 Stat. 1468; 86 Stat. 1470, 86 Stat. 1471, 86 Stat. 1475, 87 Stat. 154; 42 U.S.C. 1302, 1382, 1382a, 1382b, 1382c, and 1383.

2. Section 416.1161a is added to read as follows:

§ 416.1161a Income for deeming purposes where Medicaid eligibility is affected.

(a) *General.* In many States, an individual who is eligible for SSI or a Federally administered State optional supplementary payment is in turn eligible for Medicaid. In these States, in extraordinary cases, the Department will not apply the usual rules on deeming of income where those rules would result in an individual's being ineligible for SSI (or a Federally administered State optional supplementary payment) and Medicaid. Any determination made under this section may at any time be revised based on new information or changed circumstances.

(b) *When special deeming rules apply.* (1) The Department will consider not applying the usual deeming rules only upon application by a State Medicaid agency (requirement approved under OMB No. 09600304) and on condition that the agency must show:

(i) Deeming would result in lack of Medicaid eligibility for the individual

(ii) Medicaid eligibility would, prospectively, result in savings to the Medicaid program; and

(iii) The quality of medical care necessary for the individual would be maintained under the arrangements contemplated.

(2) The Department may also in particular cases require that additional facts be demonstrated, or that other criteria or standards be met, before it determines not to apply the usual deeming rules.

(c) *Amount of income to be deemed.* If the usual rules of deeming do not apply, the Department will determine an amount, if any, to be deemed.

(d) *Temporary effect of special deeming rules.* This provision is temporary and will be continued only through April 30, 1983, unless extended. Determinations made under this section will nevertheless remain in effect unless they are revised based on changed circumstances (including establishment in the State of a Medicaid program of home and community-based services) or new information.

Subpart L—Resources and Exclusions

3. The authority citation for Subpart L of Part 416 reads as follows:

Authority: Secs. 1102, 1601, 1602, 1611, 1612, 1613, 1614(f), and 1631(d), of the Social Security Act, as amended, 49 Stat. 647 as amended, 86 Stat. 1465, 1466, 1468, 1470, and 1473; 42 U.S.C. 1302, 1381, 1381a, 1382, 1382a, 1382b, 1382c(f), and 1383(d), unless otherwise noted.

4. Section 416.1204a is added to read as follows:

§ 416.1204a Deeming or resources where Medicaid eligibility is affected.

Section 416.1161a of this part describes certain circumstances affecting Medicaid eligibility in which the Department will not deem family income to an individual. The Department will follow the same standards, procedures, and limitations set forth in that section with respect to deeming of resources.

[FR Doc. 82–15102 Filed 6–3–82; 8:45 am]

BILLING CODE 4190–11–M

Food and Drug Administration

21 CFR Part 20

[Docket No. 81N–0043]

Freedom of Information Files

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the FDA regulation on record retention of files on freedom of information requests. The amendment will allow for a reasonable record retention and destruction plan and relieve FDA of the burden of keeping these files indefinitely.

EFFECTIVE DATE: June 4, 1982.

FOR FURTHER INFORMATION CONTACT: Gerald Deighton, Freedom of Information Staff (HFI–30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1813.

SUPPLEMENTARY INFORMATION: In the Federal Register of January 5, 1982 (47 FR 162), FDA published a proposal to amend the FDA regulation on record retention of files on freedom of information requests. The proposal allowed for the filing of comments by March 8, 1982.

Two comments were received. One comment, from the Acting Assistant Archivist for Federal Records Centers, General Services Administration (GSA), stated that the GSA General Records Schedule (GRS) 14 is mandatory and any deviation from the GRS standards that FDA might wish to make on the basis of comments received on the proposal must be approved by the archivist of the United States.

The amendments set forth in the January 5, 1982 proposal and as adopted below bring FDA's regulation into conformance with the GRS standards.

The other comment, from an individual, supported the proposal, but stated that the regulation should be simpler, shorter, and clearer.

The agency has carefully considered the comment, but has concluded that the amendments should be adopted as proposed.

List of Subjects in 21 CFR Part 20

Freedom of information.

PART 20—PUBLIC INFORMATION

Accordingly, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Part 20 is amended by revising § 20.31, to read as follows:

§ 20.31 Retention schedule of requests for Food and Drug Administration records.

(a) Unless unusual circumstances dictate otherwise, the Food and Drug Administration shall maintain and dispose of files of requests and reponses furnished thereto within the time limits authorized by GSA General Records Schedule 14, FPMR 101–11–4, January 10, 1977, as follows:

(1) Files created by the receipt of and response to freedom of information requests, except denials and/or appeals, may be destroyed 2 years from date of final response.

(2) Files created by a freedom of information request which was wholly or partially denied may be destroyed 5 years after the denial letter was issued.

(3) Files created by a freedom of information request which was wholly or partially denied and which denial

was subsequently appealed to the Department of Health and Human Services may be destroyed 4 years after final determination by FDA or 3 years after final adjudication by courts, whichever is later.

(b) This destruction schedule will automatically be revised whenever the time limits pertaining to these records are revised by the GSA General Records Schedule.

Effective date. June 4, 1982.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: May 28, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-15129 Filed 6-3-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 74, 81, and 82

[Docket No. 81N-0301]

D&C Green No. 6; Listing as a Color Additive in Externally Applied Drugs and Cosmetics; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of May 4, 1982, for a final rule that amended the color additive regulations by "permanently" listing D&C Green No. 6 for use in externally applied drugs and cosmetics. That document also provided for the depletion of existing stocks of D&C Green No. 6 for all uses involving ingestion of the color additive.

DATE: Effective date confirmed: May 4, 1982.

FOR FURTHER INFORMATION CONTACT: Garnett R. Higginbotham, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: FDA published a final rule in the Federal Register of April 2, 1982 (47 FR 14138) that amended the color additive regulations by "permanently" listing D&C Green No. 6 for use in externally applied drugs and cosmetics. That document also provided for the depletion of existing stocks of D&C Green No. 6 for all uses involving ingestion of the color additive.

Interested persons were given until May 3, 1982, to file objections. FDA received no objections on the final rule. Therefore, the agency concludes that the final rule published on April 2, 1982, for D&C Green No. 6 should be confirmed.

List of Subjects in 21 CFR Parts 74, 81, 82

Color additives, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706, 52 Stat. 1055-1056 as amended, 74 Stat. 399-407 as amended (21 U.S.C. 371, 376)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), notice is given that no objections or requests for a hearing were filed in response to the final rule of April 2, 1982. Accordingly, the amendments promulgated thereby became effective on May 4, 1982.

Dated: May 27, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-14984 Filed 5-28-82; 11:30 am]

BILLING CODE 4160-01-M

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21 CFR Parts 74, 81, and 82

[Docket No. 76C-0045]

D&C Green No. 5

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is "permanently" listing D&C Green No. 5 for use in drugs and cosmetics excluding use in the area of the eye. This action is in response to a petition filed by the Cosmetic, Toiletry, and Fragrance Association, Inc., the Pharmaceutical Manufacturers Association, and the Certified Color Manufacturers Association, Inc. This rule will remove D&C Green No. 5 from the provisional list of color additives for use in drugs and cosmetics.

DATES: Effective July 7, 1982; objections by July 6, 1982.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: For general information: Rudolph Harris, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

For information relating to the safety evaluation of D&C Green No. 5: Terry C. Troxell, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Color Additive Amendments of 1960 (the amendments) require FDA Premarket clearance of any color additive that is intended to be used or that is represented for use in or on food, drugs, certain medical devices, cosmetics, or the human body. Under the amendments, a use of a color additive may be approved and listed if there are sufficient data establishing that the color additive is safe for its intended use.

Recognizing that many colors were already in use at the time it enacted the amendments, Congress established transitional provisions to allow for the provisional listing and continued use of color additives for a period of time necessary to complete scientific investigations needed to evaluate their safety under the standards prescribed in the amendments.

Section 81.1 of the color additive regulations (21 CFR 81.1) identifies those color additives that are provisionally listed under section 203(b) of the Transitional Provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86-618), sec. 203, 74 Stat. 404-407 (21 U.S.C. 376, note)) and sets forth the closing date for each color additive. A closing date is the last day upon which a provisionally listed color additive can be used legally, absent an approval of a color additive petition and its listing. (See section 203(a)(1) of the Transitional Provisions.)

The color additive D&C Green No. 5 has been provisionally listed for use in ingested and externally applied drugs and cosmetics since the enactment of the amendments. During that time, a series of toxicological studies have been performed on this color additive. Based upon the evaluation of the results of these studies and other pertinent data, the agency concluded that D&C Green No. 5 is safe for use in ingested and externally applied drugs and cosmetics. FDA is therefore listing D&C Green No. 5 for such uses.

II. Regulatory History of D&C Green No. 5

D&C Green No. 5 was provisionally listed as a color additive for use in drugs and cosmetics in 1960 (25 FR 9759; October 12, 1960).

FDA published a notice in the Federal Register of November 20, 1968 (33 FR 17205) that a petition (CAP 8C0084) for the listing of D&C Green No. 5 as a color additive for use in drugs and cosmetics had been filed by the Toilet Goods Association, Inc. (now the Cosmetic, Toiletry, and Fragrance Association, Inc. (CTFA)); the Pharmaceutical Manufacturers Association (PMA); and the Certified Color Industry Committee (now the Certified Color Manufacturers

Association, Inc.), c/o Hazelton Laboratories, Inc., 9200 Leesburg Turnpike, Vienna, VA 22180. The petition was filed pursuant to section 706 of the act (21 U.S.C. 376). A subsequent notice published in the **Federal Register** of March 5, 1976 (41 FR 9584) amended the notice of filing for this petition to include the additional use of D&C Green No. 5 in cosmetics intended for use in the area of the eye. This latter use is not addressed in this final regulation but will be the subject of a later agency decision following receipt of appropriate data on this use.

Regulations published in the **Federal Register** of February 4, 1977 (42 FR 6991), required new chronic toxicity studies for D&C Green No. 5 as a condition of its continued provisional listing for ingested uses. Additional studies were not required for use of this color additive in externally applied drugs and cosmetics. The closing date for the provisional listing of the color additive for both ingested and external uses was postponed until January 31, 1981, for completion of the studies. Although the agency had intended to issue a rule on D&C Green No. 5 before expiration of the January 31, 1981 closing date, the order did not publish before President Reagan signed his Executive Memorandum of January 29, 1981, which directed agencies to postpone for 60 days all pending regulations, with certain exemptions that were inapplicable to the D&C Green No. 5 rule. The rule was published as soon as possible after the end of the postponement, in the **Federal Register** of March 27, 1981 (46 FR 18958). In that rule the agency established a new closing date of May 30, 1982, for the completion of the chronic toxicity studies and the submission of data to FDA on a prescribed schedule. The provisional listing in § 81.1(b) of D&C Green No. 5 will be removed when this order becomes effective on July 7, 1982, unless this order is stayed by the timely filing of objections. Published elsewhere in this issue of the **Federal Register** is an order extending the closing date for D&C Green No. 5 until August 3, 1982, to provide time for the submission and receipt of objections.

D&C Green No. 5 is currently listed as a color additive in nylon 66 and nylon 6 nonabsorbable surgical sutures (21 CFR 74.1205). The specifications published in this regulation for ingested and externally applied D&C Green No. 5 differ from those currently established for D&C Green No. 5 for use in coloring sutures. FDA is listing the color additive with two sets of specifications and will propose in the near future to remove the specifications for D&C Green No. 5 for use in coloring sutures. At the present time either set of specifications may be used for sutures.

III. Description of D&C Green No. 5

D&C Green No. 5 is principally the disodium salt of 2,2'-((9,10-dihydro-9,10-dioxo-1,4-anthracenediyl)diimino)bis-(5-methylbenzesulfonic acid) (CAS Reg. No. 4403-90-1). The manufacture of D&C Green No. 5 is accomplished by the sulfonation of D&C Green No. 6 with fuming sulfuric acid. Because D&C Green No. 6 is the starting material in this manufacturing process, the possibility exists that the chemicals used in the synthesis of D&C Green No. 6 may be present in minor amounts in D&C Green No. 5. In the preamble of the April 2, 1982 final regulation permanently listing D&C Green No. 6 (47 FR 14138), FDA explained that D&C Green No. 6 is formed by chemically reacting one molecule of quinizarin with two molecules of *p*-toluidine. The significance of these components is that Weisburger, et al., have demonstrated that *p*-toluidine is a carcinogen in mice.[1]

[1] In a 1978 paper, Weisburger, et al., Journal of Environmental Pathology and Toxicology, 2:325 (1978), reported on the chronic bioassay testing of *p*-toluidine, among 20 other aromatic amines and related compounds, for potential carcinogenicity. These studies were conducted under contract from the National Cancer Institute. *p*-Toluidine was orally administered to male Charles River CD (Sprague-Dawley derived) rats and to male and female Charles River CD-1 (HaM/ICR derived) mice (25 animals/sex/dose). The treatment levels employed were the maximum tolerated dose (MTD) and ½ MTD and were administered for 18 months followed by either a 3-month (mice) or 6-month (rats) delay in terminal sacrifice to allow time for expression of latent tumors. The dietary treatment levels were: 1. Rats—MTD=2,000 ppm (parts per million), ½ MTD=1,000 ppm and; 2. Mice—MTD=2,000 ppm for 6 months and 1,000 ppm for the next 12 months, ½ MTD=1,000 ppm for 6 months and 500 ppm for the next 12 months. The treated rats showed no increase in the incidence of tumors at any site examined. Male mice at both dose levels exhibited a statistically significant increase in hepatomas (liver tumors) as compared to untreated control groups. Female mice at the high dose level (MTD) showed a marginally significant increase of hepatomas. Male mice showed a much greater sensitivity to hepatoma induction than female mice.

Based on the conditions and results of this study, *p*-toluidine can be considered to be an animal carcinogen. Compared to other known animal carcinogens, its potency for inducing tumors is relatively weak, as shown by high dose levels required to induce tumors, and by the fact that tumor incidence was greatly enhanced in only 1 tissue type in 1 of the 3 sex/species groups tested.

The Cancer Assessment Committee of FDA's Bureau of Foods reviewed this study and other relevant data available in the literature pertaining to the potential carcinogenicity of *p*-toluidine. The Committee concluded "that the oral administration of *p*-toluidine induces liver tumors in male and, perhaps, female mice." The Committee further concluded that an estimate of the upper limit of human cancer risk from exposure to *p*-toluidine can be made based on the Weisburger, et al., study.

Residual amounts of reactants, such as *p*-toluidine and related manufacturing aids, are commonly found among the constituents of many color additives. The presence of such constituents is not unique to color additives, however. Numerous contaminants are unavoidably present in all chemical products, even in highly purified reagent grade chemicals.

Until recently there was no analytical evidence that *p*-toluidine actually is present in D&C Green No. 5. FDA did not detect *p*-toluidine in D&C Green No. 5 using a gravity elution chromatography method, an analytical procedure for uncombined intermediates. FDA considers the sensitivity of this method for *p*-toluidine to be at least 250 ppm. Because of the concern about the carcinogenic potential of *p*-toluidine, the agency asked CTFA to develop an analytical method that would reliably measure *p*-toluidine in D&C Green No. 5.

In response to the FDA's request, CTFA submitted a report prepared by Shiseido Laboratories (Yokohama, Japan) on the determination of residual *p*-toluidine in D&C Green No. 5. Shiseido's method uses high performance liquid chromatography (HPLC) separation with fluorescence detection. The reported limit of detection for this method is 0.1 ppm. Reproducibility and recovery data that were provided for a D&C Green No. 5 sample spiked with 3 ppm of *p*-toluidine were very good. FDA considers this method to be a valid analytical method for the determination of residual *p*-toluidine levels in D&C Green No. 5 at least to 3 ppm and probably lower. In addition, a HPLC method for detecting *p*-toluidine with a sensitivity of less than 10 ppm has been developed at FDA.

Using the HPLC method, Shiseido analyzed the residual *p*-toluidine in three commerical samples of D&C Green No. 5 manufactured in the U.S. The *p*-toluidine levels reported by Shiseido for these samples were 0.57, 1.49, and 2.54 ppm. FDA has examined seven additional batches of D&C Green No. 5. The largest response the agency observed was an apparent 2.5 ppm. Based on these analytical results, FDA expects that the average *p*-toluidine level in certified D&C Green No. 5 prepared in accordance with current good manufacturing practice will not exceed 5 ppm.

The *p*-toluidine found in D&C Green No. 5 is utilized in the first step in the synthesis process, the preparation of D&C Green No. 6, and is substantially removed by subsequent reaction with fuming sulfuric acid and purification.

Residual *p*-toluidine is not intended to and does not contribute any color to D&C Green No. 5, nor does it impart any color to drugs, cosmetic, or the human body. Consequently, FDA concludes that, although a small amount of *p*-toluidine is added to drugs and cosmetics with the addition of D&C Green No. 5, this chemical is not a color additive within the meaning of 21 U.S.C. 321(t) but is merely an impurity in D&C Green No. 5.

IV. Evaluation Of The Safety Of D&C Green No. 5 For Drugs And Cosmetic Use

A. *Statutory Safety Requirements.* Under section 706(b)(4) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 376(b)(4)), the so-called "general safety clause" for color additives, a color additive cannot be listed for a particular use unless the data presented to FDA establish that the color is safe for that use. Although what is meant by "safe" is not explained in the general safety clause, the legislative history makes clear that this word is to have the same meaning for color additives as for food additives. (See H. Rep. No. 1761, "Color Additive Amendments of 1960," Committee on Interstate and Foreign Commerce, 86th Cong., 2d Sess. 11 (1960).) The Senate report on the Food Additives Amendment of 1958 establishes that Congress did not intend the term "safe" to require absolute proof of safety. The Senate report states:

> The concept of safety used in this legislation involves the question of whether a substance is hazardous to the health of man or animal. Safety requires proof of a reasonable certainty that no harm will result from the proposed use of an additive. It does not—and cannot—require proof beyond any possible doubt that no harm will result under any conceivable circumstance.
>
> This was emphasized particularly by the scientific panel which testified before the subcommittee. The scientists pointed out that it is impossible in the present state of scientific knowledge to establish with complete certainty the absolute harmlessness of any chemical substance.

S. Rep. No. 2422, "Food Additive Amendment of 1958," Committee on Labor and Public Welfare, 85th Cong., 2d Sess. 6 (1958).

FDA has incorporated this concept of safety into its color additive regulations. Under 21 CFR 70.3(i), a color additive is "safe" if "there is convincing evidence that establishes with reasonable certainty that no harm will result from the intended use of the color additive." Therefore, the general safety clause prohibits approval of a color additive if doubts about the safety of the additive for a particular use are not resolved to an acceptable level in the minds of competent scientists.

The general safety clause is buttressed by the anticancer or Delaney Clause, section 706(b)(5)(B) of the act (21 U.S.C. 376(b)(5)(B)), which provides that a color additive like D&C Green No. 5 shall be deemed to be unsafe "if, the additive is found by the Secretary to induce cancer when ingested by man or animal" (21 U.S.C. 376(b)(5)(B)(i)).

B. *Prior Action by FDA.* In the past, FDA has terminated the provisional listing of several color additives that contained or were expected to contain a carcinogenic impurity or constituent. FDA terminated the provisional listing of carbon black (41 FR 41857; September 23, 1976) and graphite (42 FR 60734; November 29, 1977) because the agency expected that these colors contained polynuclear aromatic hydrocarbons (PNA's). The agency removed Ext. D&C Yellow No. 1 (42 FR 62476; December 13, 1977) from the provisional list because of evidence that this color could contain low levels of 4-aminobiphenyl and benzidine as impurities, and it terminated the listing of D&C Red Nos. 10, 11, 12, and 13 (42 FR 62475; December 13, 1977) because of the possibility that they contain -naphthylamine. In each of these actions, FDA was unable to resolve questions about the safety of use of these additives that were created by the presence of the carcinogenic impurity or constituent. Consequently, the agency acted under section 203(d)(1)(E) of the Transitional Provisions to remove the colors from the provisional list.[2]

However, FDA no longer believes that it must refuse to list a color additive simply because it contains or is expected to contain a carcinogenic constituent or impurity. This conclusion is supported by the 1979 decision by the United States Court of Appeals for the District of Columbia Circuit in *Monsanto* v. *Kennedy* 613 F.2d 947 (D.C. Cir. 1979). In discussing whether a substance that migrates into food is a food additive, that court endorsed the concept that there is "administrative discretion, inherent in the statutory scheme, to deal appropriately with de minimis situations." (*Id.* at 955.) The court's holding that FDA has discretion to find that low-level migration into food of substances in indirect additives is so insignificant as to present no public health or safety concern supports the agency's conclusion that, in appropriate circumstances, it can make a similar finding about a carcinogenic constituent or impurity that is present in a color additive.

In addition, the agency is confident that it possesses the capacity, through the use of extrapolation procedures, to assess adequately the upper limit of risk presented by use of a color additive that contains a carcinogenic impurity but that, in appropriate testing, has not been shown to cause cancer.

Theoretical extrapolation procedures for assessing the risk of low exposure to carcinogenic materials have been discussed for many years. However, FDA has been reluctant to use these procedures for regulatory decisionmaking. Many theoretical models have been developed to extrapolate from animal experimental data to the relatively low levels of possible human exposure at which possible carcinogenic effects cannot be experimentally demonstrated. Although most risk assessment models have their roots to some degree in the biological mechanisms of carcinogenesis (the processes of which still are not well understood), they can vary widely in the risk values that they predict. Thus, knowledge of the true risk at relatively low exposure is elusive.

Nevertheless, even though there is an inadequate scientific basis to have confidence in the accuracy of predictions of actual risk by these procedures, there has been growing recognition in FDA that by using certain conservative extrapolation models, it is possible to estimate an upper limit of risk. (See e.g., "Chemical Compounds in Food-Producing Animals" (44 FR 17069; March 20, 1979) and FDA's decision on lead acetate (45 FR 72112; October 31, 1980, and 46 FR 15500; March 6, 1981).) The estimate of the risk may be exaggerated by these models. However, for this reason, the estimate can be used with confidence to conclude that a substance is safe under specific conditions of use.

Recently, the agency has examined the risk associated with external drug and cosmetic use of D&C Green No. 6 that contains minor amounts of *p*-toluidine (47 FR 14138; April 2, 1981). Based on the estimate of risk, the agency concluded that the exposure to the residual impurity *p*-toluidine from use of drugs and cosmetics containing D&C Green No. 6 was sufficiently low to be considered safe.

Relying on these developments, FDA has proceeded to evaluate the safety of D&C Green No. 5.

C. *Use of D&C Green No. 5.* D&C Green No. 5 is a water soluble, oil insoluble color additive, the primary use

[2] However, FDA has always established specifications for commonly occurring impurities such as lead and arsenic, which are known carcinogens.

of which is in externally applied cosmetics, with minor use in ingested drugs (known use is approximately 100 pounds per year) and apparently trivial use in ingested cosmetics. D&C Green No. 5, a certifiable color, had an average yearly certified poundage of 6,711 pounds between 1970 and 1981. During that period, no lakes of D&C Green No. 5 were certified.

Many cosmetic manufacturers submit Cosmetic Product Ingredient Statements (formulations) to the FDA under the Voluntary Cosmetic Regulatory Program (21 CFR 720). This program provides information on the specific types of cosmetic products in which D&C Green No. 5 is used. Additionally, CTFA has provided data on maximum use levels in cosmetics based on a 1981 survey of manufacturers.

As of December, 1981, FDA's Voluntary Cosmetic Regulatory Program computer file contained 311 formulations that listed D&C Green No. 5 as an ingredient. Of these, 28 percent were noncoloring hair preparations (primarily shampoos and conditioners); 22 percent were fragrance preparations (e.g., colognes and perfumes); 21 percent were skin care preparations (e.g., creams and lotions); and, 12.5 percent were shaving preparations (primarily aftershave lotion). Based on the color intensity (absorptivity) of D&C Green No. 5, a fairly strong coloring effect would be obtained at 100 ppm in typical transparent cosmetic products. This is consistent with CTFA's 1981 survey where they reported that the maximum level of use of D&C Green No. 5 is less than 100 ppm in most products.

The use of D&C Green No. 5 in ingested cosmetics over the past 10 years was reported only in the category mouthwashes/breath fresheners (2 formulations in FDA's computer file) representing only 0.64 percent of total reported formulations. The 1981 CTFA survey indicated that there were no ingested cosmetic products, including lipsticks, that used D&C Green No. 5.

D&C Green No. 5 is used in coloring ingested drugs. The data in the original food additive petition (1968) indicated that D&C Green No. 5 was used to color 22 pharmaceutical products, including 21 for ingested use. Data from a 1976 PMA survey indicated that usage of D&C Green No. 5 had dropped to 14 ingested drugs. The drugs included three over-the-counter (OTC) preparations and seven drugs for long-term use (over 6 weeks), including one long-term pediatric drug. Of the 1,354 pounds of D&C Green No. 5 reported as used in these preparations, 1,250 pounds was used in one elixir product, which has since been discontinued. The daily dose of D&C Green No. 5 in current known drug products varies from 0.012 milligram per day to 2.28 miligrams per day.

Although the fraction of D&C Green No. 5 used in ingested drugs apparently is minor at this time, use in ingested drugs as provided in this rule represents the greatest potential internal exposure for individuals to this color additive. FDA estimates that D&C Green No. 5 may be used in a particular drug at a maximum level that could result in consumption of 50 mg per day of the color additive. However, the agency believes that lifetime averaged exposure from use of drugs containing D&C Green No. 5 would be a small fraction of the maximum exposure that might occur in a day. As a result, considering probable drug use and all other probable applications in compliance with these regulations, the lifetime-averaged individual exposure (internal and external) to D&C Green No. 5 is not likely to exceed 10 mg per day. Lifetime-averaged individual internal exposure, based on all known uses, would not likely exceed several tenths of a mg per day.

D. *Safety Studies on D&C Green No. 5.* To establish that D&C Green No. 5 is safe for use in ingested and externally applied drugs and cosmetics, the petitioners submitted reports on a number of animal toxicology studies on D&C Green No. 5. Among these studies were a lifetime oral feeding study in rats, a 2-year feeding study in dogs, and a three generation reproduction study in rats. There were no significant compound-related adverse effects observed in these studies.

FDA, however, concluded that the sensitivity (or power) of these chronic feeding toxicity studies was insufficient under current standards to provide the requisite demonstration of safety for ingested use. As a result, CTFA sponsored additional chronic feeding studies on D&C Green No. 5. The studies were conducted by Hazleton Laboratories America, Inc., Vienna, VA, and included a long-term feeding study on D&C Green No. 5 in rats exposed in utero and a long-term feeding study in mice. On May 29, 1981, the agency received the final reports on these studies from CTFA.

In the CTFA-sponsored studies in rats, D&C Green No. 5 was fed to Sprague-Dawley CD–1 rats exposed in utero at dietary levels of 0, 0.10, 0.25, and 1.0 percent for 130 weeks. Seventy males and seventy females were used for each dietary level. The agency concluded that the data from the in utero phase did not reveal any treatment-related differences in the reproduction indices of the treated groups when compared to the controls. The data in the study did indicate that body weight gains were lower in all treated animals during the gestation and lactation period when compared to the controls. In the long-term study there were increases in testicular weight and tests/body ratios. However, there were no reported histological alterations in the testes that could be attributed to treatment. There were no compound-related effects on survival or clinical signs, and no evidence of carcinogenicity in Sprague-Dawley rats.

In the long-term mouse study, D&C Green No. 5 was fed to albino mice (HaM/ICR Swiss) at dietary levels of 0.0, 0.05, 0.50, and 2.0 percent for 88 weeks in males and 97 weeks in females. Sixty males and sixty females were used for each dietary level and in each of two control groups. The toxicological findings in the female mice fed D&C Green No. 5 were comparable to the control group. There were no gross or histopathological changes that could be considered to be treatment related.

In male mice there were more liver neoplasms (hepatocellular adenomas and hepatocellular carcinomas) in the high dose group than in the controls, while their survival was less than that of other dose groups. The number of liver neoplasms in the low dose group was less than the controls, and the number in the intermediate dose group was similar to the controls. The findings were confounded, however, because following the test protocol, only the livers of mice in the control and high dose groups were subject to complete histopathological examination. Those in the low- and mid-dose groups that were grossly normal were not subjected to histopathological examination. The testing laboratory, on the basis of pairwise comparisons between the high dose group and the control groups, using a Fisher's exact statistical test, concluded that there was no significant evidence of a compound-related increase in liver neoplasms, and therefore that there was no need to look at other dosage groups. However, the agency concluded, on the basis of the data initially submitted, and on the assumption that all male mice liver neoplasms had been identified, that early mortality in the high dose group indicated the need for a survival adjusted statistical analysis. The incidental death survival adjusted analysis gave a p-value that was considered statistically significant for combined carcinomas and adenomas.

However, several factors that can be termed "biological" caused the agency to question whether the results of the

statistical analysis established that D&C Green No. 5 is a carcinogen. Historical data document that many strains of mice display a fairly high and variable incidence of spontaneous hepatocellular neoplasms. The agency believed that the incidence of neoplasms found in the high dose group could be within the range of historical spontaneous incidence of hepatocellular neoplasms in this strain of mice for this laboratory. Also, there was no evidence of metastatic disease in any of the treated groups. The presence of this disease might have supported a conclusion that the neoplasms were treatment related. Further, the proportion of livers judged to be normal by gross pathology was virtually identical in treated and control groups. In order to observe more carefully and in greater depth the condition of these livers, FDA requested additional microslides of the livers from male mice in the low- and mid-dose groups, along with the existing slides, for review by agency pathologists, as well as historical data on the incidence of spontaneous hepatocellular neoplasms.

Because of the apparent disparate conclusions the agency reached when it considered biological as opposed to mathematical factors, FDA arranged for external review of the data by the Board of Scientific Counselors (the Board) of the National Toxicology Program (NTP). A notice published in the Federal Register of February 19, 1982 (47 FR 7500) announced that the Board would meet to review these data on March 9, 1982 in Conference Rm. 425–403A, Hubert H. Humphrey Bldg., Department of Health and Human Services, 330 Independence Ave. SW., Washington, DC. The Board included the following members:

Dr. Norman Breslow, Department of Biostatistics SC–32, University of Washington, Seattle, WA 98195
Dr. Margaret Hitchcock, Associate Fellow, John B. Pierce Foundation Laboratories, New Haven, CT 06519
Dr. Marjorie G. Horning, Professor of Biochemistry, Institute for Lipid Research, Texas Medical Center, Houston, TX 77030
Dr. Mortimer L. Mendelsohn, Associate Director, Biomedical and Environmental, Lawrence Livermore Laboratory, University of California, Livermore, CA 95550
Dr. Norton Nelson, Director, Institute of Environmental Medicine, New York University Medical Center, 550 First Ave., New York, NY 10016
Dr. Stan D. Vesselinovitch, Professor, Department of Radiology and Pathology, University of Chicago, Chicago, IL 60637
Dr. Alice S. Whittemore, Adjunct Professor, Department of Family Community, and Preventive Medicine, School of Medicine, Stanford University, Stanford, CA 94305.

After considering the data, the Board concluded that the data are "indirect" and "equivocal," and that the statistical evidence is only "limited or suggestive" for carcinogenicity, in spite of the relatively low *p*-values obtained using the trend analysis.

From the data presented to them, the members of the Board could not unequivocally conclude that D&C Green No. 5 was not carcinogenic under the conditions of the test. However, the NTP summary minutes of the Board's meeting indicates that the members of the Board leaned strongly toward such a conclusion. The minutes report that Dr. Mendelsohn stated that "* * * when one considers the lack of toxicity in all the species and sexes looked at, he had to be skeptical as to whether the findings in male mice were significant. He said, at best, the effects were equivocal. Dr. Vesselinovitch agreed and reiterated his views as to the lack of biological significance to the findings."

Dr. Breslow indicated that in his opinion "* * * the most important caveat (to the statistically significant dose-related trend) was that these results take no account of the likely presence of extraneous sources of variation * * *." Based upon his assessment, Dr. Breslow suggested that the agency perform an analysis of variance on the spontaneous incidence of liver neoplasms in male mice of the CD–1 strain at Hazelton Laboratories and in the other studies on color additives currently on the provisional list. The purpose of this analysis would be to determine whether the incidence of hepatocellular tumors in the high dose male group treated with D&C Green No. 5 was significantly higher than the spontaneous background incidence.

FDA conducted the analysis of variance suggested by Dr. Breslow. This analysis indicated that the incidence of liver neoplasms in the high dose male mouse group is not outside the normal range of background spontaneous incidence observed in the historical controls (as defined by two standard deviations).

Traditionally, biologists have considered differences in animal response that are within two standard deviations from the normal variation observed to be of no biological significance. This result of the analysis of variance, therefore, serves to mitigate the significance of the low *p*-values that were calculated based on the use of only the concurrent control groups of animals.

As the agency prepared for the meeting of the Board and in the days following that meeting, as it considered further the results of its analysis of the microslides of the mouse livers, FDA became convinced that the data from the studies were not consistent with the data that would be produced by a carcinogen. The course of hepatocellular neoplastic disease in mice is progressive and is characterized by lesions with different identifiable morphologies and various degrees of size and malignancy. In ascending order, the progression of lesions are: foci of cellular alteration, adenoma, carcinoma, and metastatic carcinoma. A treatment-related production of liver neoplasia can be established not only by an increase in tumor incidence but also by a demonstration that the disease progressed further towards malignancy in treated groups than in the control groups.

The progress of liver cancer can be monitored by comparing the proportion of progressive lesions found in the treated group to that found in the control group. This comparison is actually an indirect measurement of the latency period of carcinogenesis. A shortening of this period is considered to be one of the primary indicators of an induced carcinogenic event, and studies with many bona fide carcinogens have indicated a more dramatic relationship between latency period and treatment than between tumor incidence and treatment.

In the test of D&C Green No. 5, the extent of liver involvement, as measured by the size and type of liver neoplasms, was similar in the treated and control groups. This result suggested to FDA that the small increased incidence of liver tumors in the high dose group was a spurious and nonreproducible occurrence.

In addition, none of the evidence available to the agency provided any basis upon which to expect that the liver is in any way a target organ for D&C Green No. 5. No non-neoplastic pathological changes in the liver were observed, and no enlargement or organ weight differences were noticed. In short, other than the observed higher incidence of liver tumors, there were no indications from pathology observations that the liver was a target organ.

Furthermore, D&C Green No. 5 itself is not mutagenic to several tester strains of *S. typhimurium* with or without activation with liver homogenates.

Finally, even though the trend test produced statistical "significance" for

the male mouse liver data, the apparent dose-response is unlike any observed for compound induced liver neoplasia in the National Cancer Institute (NCI) sponsored bioassay program. If a dose-response curve is constructed using the data, the slope of the curve is much shallower than that observed for chemicals shown to induce carcinogenic effects in the NCI bioassays. This curve does not reflect what the agency considers to be a biologically valid dose-response.

Therefore, collectively there exists a significant body of "biological" evidence that strongly supports the conclusion that D&C Green No. 5 is not a carcinogen. FDA finds that this evidence, when considered in conjunction with the results of the analysis of variance conducted by the agency, refutes any inference from the low *p*-values found in the statistical analysis of the data on D&C Green No. 5 that this color additive is a carcinogen.

Thus, in acceptable carcinogenicity bioassays in two species where numerous tissues were examined in both sexes, a slightly higher number of neoplasms was observed in only one site (the liver), one dose group of one sex and in one species. While two statistical measures (dose-related trend test and pairwise comparison) commonly used in the evaluation of bioassays indicated that this slightly higher number of liver tumors in the high dose group of male mice was statistically significant, all other evidence indicates that the effect was unlikely to be related to treatment with D&C Green No. 5. Evidence supporting the noncarcinogenicity of D&C Green No. 5 includes: (1) the fact that the incidence in the high dose group is within the normal range of background spontaneous incidence; (2) the absence of evidence of progressiveness that would be expected from a carcinogen; (3) the absence of observable non-neoplastic disease in the mouse liver; (4) the negative findings on testing D&C Green No. 5 for mutagenic activity; and (5) the atypical form of the apparent dose-response data. In conclusion, the evidence as a whole, convinces the agency that D&C Green No. 5 is noncarcinogenic (and nontumorigenic) under the conditions of the tests.

E. *Application of risk assessment in this rulemaking.* Because *p*-toluidine is present in D&C Green No. 5 in minor amounts, use of D&C Green No. 5 as authorized by this regulation will likely result in exposure to very small amounts of *p*-toluidine. In determining whether a color additive can be regulated, the terms of the Delaney Clause and the general safety clause must be addressed.

The Delaney Clause requires the disapproval of any color additive that has been shown to be a carcinogen in appropriate testing. However, the agency has concluded that the Delaney Clause applies only when the color additive as a whole is found to cause cancer and does not apply to individual impurity constituents of the color additive. As stated above, the agency finds no basis for concluding that D&C Green No. 5 itself is a carcinogen. The inapplicability of the Delaney Clause in a similar case, D&C Green No. 6, was discussed in the **Federal Register** of April 2, 1982 (47 FR 14138).

FDA does not suggest, however, that the presence of *p*-toluidine in D&C Green No. 5 should be ignored. On the contrary, it should be evaluated under the general safety standards of section 706 of the act, which require that the data establish that the color additive is safe for the regulated use, i.e., there is a reasonable certainty of no harm from the use of the color additive.

As in the D&C Green No. 6 rulemaking, the agency concludes that risk assessment procedures are appropriate to provide a basis for deciding whether there is a reasonable certainty of no harm from the use of D&C Green No. 5 in ingested and externally applied drugs and cosmetics.

The risk evaluation of *p*-toluidine consists of two parts: (a) assessment of probable exposure to *p*-toluidine from use of D&C Green No. 5 in ingested and externally applied drugs and cosmetics, and (b) extrapolation of the risk from *p*-toluidine observed in the animal bioassay to the conditions of probable exposure for humans.

1. *Exposure to p-toluidine.* Two measures of exposure to carcinogenic compounds that are relevant in assessing the public health hazard presented by *p*-toluidine are the maximum probable individual exposure and the total population exposure.

Of the two estimates, the total population exposure to *p*-toluidine can be more accurately calculated because the certified poundage of D&C Green No. 5 is known. If the average annual certification of D&C Green No. 5 containing 5 ppm of *p*-toluidine (the observed average is less than 3 ppm) is 10,000 pounds, then the average lifetime exposure to *p*-toluidine would be less than 0.27 nanograms (ng) per day per person, or if all of these products were consumed by only 10 percent of the population, 2.7 ng per day per person.

Although a measure of the total population exposure can be calculated quite simply, the maximum probable individual exposure depends on many factors, including the concentration of *p*-toluidine in products, the types of products used, the amount of product used per application, and the frequency of application.

In section IV C, the agency discussed the principal types of products in which D&C Green No. 5 is used and estimated that lifetime-averaged individual exposure to D&C Green No. 5 (internal or external) would not likely exceed 10 mg per day from the applications (mainly used in ingested drugs) that would be permitted by this regulation. If 5 ppm *p*-toluidine is present in an average sample of D&C Green No. 5, an individual exposed to 10 mg per day of D&C Green No. 5 would have a lifetime-average exposure of 50 nanograms (ng) per day *p*-toluidine. Current known uses of D&C Green No. 5, however, result in a much lower exposure to the color additive. Internal exposure is estimated not to exceed several tenths mg per day (lifetime-averaged). If 5 ppm *p*-toluidine is present in an average sample of D&C Green No. 5, an individual exposed to several tenths mg per day (e.g., 0.5 mg per day) would have a lifetime-averaged exposure of 2.5 ng per day.

2. *Extrapolation of risk.* The second part of the evaluation of the risk presented by *p*-toluidine in D&C Green No. 5 is an extrapolation from the actual compound related incidence (risk) found in animal bioassays to the conditions of probable exposure for humans.

The Weisburger paper reported the results of long-term feeding studies of *p*-toluidine in two rodent species, the mouse and the rat. The bioassay in the rat (male only) showed no evidence of *p*-toluidine-induced tumorigenicity. In the mouse bioassay, however, the incidence of *p*-toluidine-induced hepatomas was statistically significant. Male mice showed much greater sensitivity to hepatoma induction than female mice. Moreover, the tumor incidence per unit dose was higher in the low dose (½ MTD) than in the high dose (MTD) group. Consequently, the highest apparent potency was observed in the ½ MTD treated male mice group of all the experimental groups tested (dose/sex/species groups). Therefore, FDA chose the data on this group to estimate the upper limit of human risk because these data are unlikely to produce an underestimation of the actual risk.

FDA used two slightly different quantitative risk assessment procedures to extrapolate from the dose in the male mouse to the very low doses of possible human exposure. Both of these

procedures are conservative and, therefore, are not likely to underestimate the actual risk from very low doses. The use of different risk extrapolation procedures, conservative to different degrees, provides a range of estimates of the maximum risk (each risk value to be taken in the context of the assumptions and principles on which the particular extrapolation procedure is based) that serves as a basis for the agency to judge whether it is possible to determine to a reasonable certainty that no harm will result from the probable exposure to *p*-toluidine from the intended use of D&C Green No. 5.

One of the procedures FDA employed was the linear proportional model with dosage data expressed as a concentration in the total diet (e.g., ppm) and using the upper 99 percent confidence interval of the observed tumor incidence as described in FDA's March 20, 1979 proposal, "Chemical Compounds in Food-Producing Animals" (44 FR 17070). Under this procedure, the upper limit individual lifetime risk from exposure (oral) to 50 ng per day *p*-toluidine is 1 in 30 million. The second procedure the agency used, also a linear proportional model, estimated the even smaller possibility of risk of lifetime tumor incidence of 1 in 300 million.

Because the lifetime-averaged individual exposure to *p*-toluidine from the use of D&C Green No. 5 in internal and externally applied drugs and cosmetics would not likely exceed 50 ng per day, the agency concludes that there is a reasonable certainty of no harm from the exposure to *p*-toluidine that results from the use of D&C Green No. 5.

In arriving at the conclusion that exposure to *p*-toluidine from the use of D&C Green No. 5 is safe, FDA considered the possibility of exposure to minor amounts of *p*-toluidine impurities as a result of the synthetic process of manufacturing several related color additives. Regulations for three color additives now contain specifications on the maximum amount of *p*-toluidine permitted in the additive. D&C Green No. 6 (21 CFR 74.1206, 74.2206, and 82.1206)—0.1 percent *p*-toluidine, Ext. D&C Violet No. 2 (21 CFR 74.2602a)—0.1 percent *p*-toluidine, and D&C Violet No. 2 (21 CFR 74.1602, 74.2602, and 82.1602)—0.2 percent *p*-toluidine.

Certain other color additives might contain small amounts of *p*-toluidine. A preliminary review of the manufacturing processes of these color additives indicates that the level of *p*-toluidine would be far less than the level found in D&C Green No. 6 (approximately 400 ppm *p*-toluidine was found in D&C Green No. 6). In a recent Federal Register document (47 FR 14138; April 2, 1982) FDA assessed the upper limit risk from exposure to *p*-toluidine as a result of use of D&C Green No. 6 to be less than 1 in 15 million to 1 in 150 million in a lifetime and concluded that such exposure was safe. The agency will review thoroughly each of the other *p*-toluidine containing color additives and, if necessary to protect the public health, will propose regulatory action to limit further the cumulative exposure to *p*-toluidine from use of color additives. Regardless of the findings of these reviews, the agency considers the combined risk from exposure to *p*-toluidine from use of D&C Green No. 5 and D&C Green No. 6 to be sufficiently low that the additional exposure to *p*-toluidine from the other color additives would not affect its evaluation that the use of D&C Green No. 5 and D&C Green No. 6 is safe.

In section III, the agency stated that the average *p*-toluidine level in D&C Green No. 5 manufactured in accordance with current good manufacturing practice will not likely exceed 5 ppm. This level was employed in the risk analysis above. In order to ensure that the average level does not exceed 5 ppm, a regulatory specification of 15 pm is being established for the maximum amount of *p*-toluidine that can be present in a certified lot.

V. Conclusion

The agency, following evaluation of available data, concludes that D&C Green No. 5 is safe under the conditions of use set forth below for general use in drugs and cosmetics, and that certification is necessary for the protection of the public health.

The agency has determined under 21 CFR 25.24(d)(5) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Parts 74, 81, and 82

Color additives, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 706(b), (c), and (d), 74 Stat. 399–403 (21 U.S.C. 376(b), (c), and (d)) and the Transitional Provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Parts 74, 81, and 82 are amended as follows:

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

1. Part 74 is amended:

a. By revising § 74.1205, to read as follows:

§ 74.1205 D&C Green No. 5.

(a) *Identity.* (1) The color additive D&C Green No. 5 is principally the disodium salt of 2,2'-(9,10-dihydro-9,10-dioxo-1,4-anthracenediyl)diimino) bis-(5-methylbenzenesulfonic acid) (CAS Reg. No. 4403–90–1).

(2) Color additive mixtures for use in drugs made with D&C Green No. 5 may contain only those diluents that are suitable and those that are listed in Part 73 of this chapter for use in color additive mixtures for coloring drugs.

(b) *Specifications.* (1) D&C Green No. 5 for use in coloring surgical sutures shall conform to the following specifications and shall be free from impurities other than those named to the extent that such impurities may be avoided by current good manufacturing practice:

Sum of volatile matter (at 135° C) and chlorides and sulfates (calculated as sodium salts), not more than 20 percent.
Water insoluble matter, not more than 0.2 percent.
1,4-Dihydroxyanthraquinone, not more than 0.2 percent.
2-Amino-*m*-toluenesulfonic acid, not more than 0.2 percent.
Subsidiary colors, not more than 5 percent.
Lead (as Pb), not more than 10 parts per million.
Arsenic (as As), not more than 3 parts per million.
Total color, not less than 80 percent.

(2) D&C Green No. 5 for use in coloring drugs shall conform to the following specifications and shall be free from impurities other than those named to the extent that such other impurities may be avoided by current good manufacturing practice:

Sum of volatile matter (at 135° C) and chlorides and sulfates (calculated as sodium salts), not more than 20 percent.
Water-insoluble matter, not more than 0.2 percent.
1,4-Dihydroxyanthraquinone, not more than 0.2 percent.
Sulfonated toluidines, total not more than 0.2 percent.
p-Toluidine, not more than 0.0015 percent.
Sum of monosulfonated D&C Green No. 6 and Ext. D&C Violet No. 2, not more than 3 percent.
Lead (as Pb), not more than 20 parts per million.
Arsenic (as As), not more than 3 parts per million.

Mercury (as Hg), not more than 1 part per million.
Total color, not less than 80 percent.

(c) *Use and restrictions.* (1) D&C Green No. 5 may be safely used to color nylon 66 (the copolymer of adipic acid and hexamethylenediamine) and/or nylon 6 (poly-(e-caprolactam)) nonabsorbable surgical sutures for use in general surgery, subject to the following restrictions:

(i) The quantity of color additive does not exceed 0.6 percent by weight of the suture.

(ii) When the sutures are used for the purposes specified in their labeling, there is no migration of the color additive to the surrounding tissue.

(iii) If the suture is a new drug, an approved new drug application, under section 505 of the act, is in effect for it.

(2) D&C Green No. 5 may be safely used for coloring drugs generally in amounts consistent with current good manufacturing practice.

(d) *Labeling.* The label of the color additive shall conform to the requirements of § 70.25 of this chapter.

(e) *Certification.* All batches of D&C Green No. 5 shall be certified in accordance with regulations in Part 80 of this chapter.

b. By adding new § 74.2205, to read as follows:

§ 74.2205 D&C Green No. 5.

(a) *Identity and specifications.* The color additive D&C Green No. 5 shall conform in identity and specifications to the requirements of § 74.1205 (a)(1) and (b)(2).

(b) *Uses and restrictions.* D&C Green No. 5 may be safely used for color cosmetics generally except in the area of the eye in amounts consistent with current good manufacturing practice.

(c) *Labeling requirements.* The label of the color additive shall conform to the requirements of § 70.25 of this chapter.

(d) *Certification.* All batches of D&C Green No. 5 shall be certified in accordance with regulations in Part 80 of this chapter.

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

2. Part 81 is amended:

§ 81.1 [Amended]

a. In § 81.1 *Provisional lists of color additives* in paragraph (b) by removing the entry "D&C Green No. 5" from the table.

§ 81.27 [Amended]

b. In § 81.27 *Conditions of provisional listing* in paragraph (d) by removing the entry "D&C Green No. 5" from the table.

PART 82—LISTING OF CERTIFIED PROVISIONALLY LISTED COLORS AND SPECIFICATIONS

3. Part 82 is amended by revising § 82.1205, to read as follows:

§ 82.1205 D&C Green No. 5.

The color additive D&C Green No. 5 shall conform in identity and specifications to the requirements of § 74.1205(a)(1) and (b)(2) of this chapter.

Any person who will be adversely affected by the foregoing final rule may at any time on or before July 6, 1982, submit to the Dockets Management Branch (address above), written objections thereto. Objections shall show how the person filing will be adversely affected by the final rule, specify with particularity the provisions of the final rule considered objectionable, and state the grounds for the objections. Objections shall be filed in accordance with the requirements of 21 CFR 71.30. If a hearing is requested, the objections shall state the issue for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Three copies of all documents shall be filed and should be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the final rule may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This final rule shall become effective July 7, 1982, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the **Federal Register**.

(Sec. 706(c), (c), and (d), 74 Stat. 399–403 (21 U.S.C. 376(b), (c), and (d)); sec. 203, Pub. L. 86–618, Stat. 404–407 (21 U.S.C. 376, note))

Dated: May 27, 1982.

Arthur Hull Hayes, Jr.,
Commissioner of Food and Drugs.

[FR Doc. 82-14866 Filed 5-28-82; 11:32 am]

BILLING CODE 4160-01-M

21 CFR Part 81

[Docket No. 76N-0366]

Provisional Listing of D&C Green No. 5; Postponement of Closing Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of D&C Green No. 5 for use as a color additive in internally ingested and externally applied drugs and cosmetics. A new closing date for D&C Green No. 5 is being established to provide for receipt and evaluation of any objections submitted in response to the final regulation approving the petition for the listing of D&C Green No. 5 for these uses. The regulation that lists D&C Green No. 5 is published elsewhere in this issue of the **Federal Register.**

DATES: Effective May 27, 1982, the new closing date of D&C Green No. 5 will be September 2, 1982.

FOR FURTHER INFORMATION CONTACT: Rudolph Harris, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: The current closing date of May 30, 1982, for the provisional listing of D&C Green No. 5 was established by notice published in the **Federal Register** of March 27, 1981 (46 FR 18958). The May 30, 1982 closing date for D&C Green No. 5 was established to provide time for determining the applicability of the statutory standard for the listing of color additives to the results of scientific investigations of D&C Green No. 5.

After reviewing and evaluating the data, the agency has concluded that D&C Green No. 5 is safe for these uses. Therefore, elsewhere in this issue of the **Federal Register**, FDA is publishing a regulation that lists D&C Green No. 5.

The regulation set forth below will postpone the May 30, 1982 closing date for the provisional listing of that color additive until September 2, 1982. This postponement will provide sufficient time for receipt and evaluation of comments or objections submitted in response to the regulation that lists D&C Green No. 5 for use in internally ingested and externally applied drugs and cosmetics.

Because of the shortness of time until the May 30, 1982 closing date, FDA concludes that notice and public procedure on this regulation are impracticable. Moreover, good cause exists for issuing this postponement as a

final rule, because the agency has concluded that D&C Green No. 5 is safe for its intended use under the Color Additive Amendments of 1960. This regulation will permit the uninterrupted use of this color additive until September 2, 1982. To prevent any interruption in the provisional listings of D&C Green No. 5 and in accordance with 5 U.S.C. 553(d) (1) and (3), this regulation is being made effective on May 27, 1982.

List of Subjects in 21 CFR Part 81

Color additives, Cosmetics, Drugs.

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

§ 81.1 [Amended]

Therefore, under the Transitional Provisions of the Color Additive Amendments of 1960 to the Federal Food, Drug, and Cosmetic Act (Title II, Pub. L. 86-618, sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Part 81 is amended in § 81.1 *Provisional lists of color additives,* by revising the closing date for "D&C Green No. 5" in paragraph (b) to read "September 2, 1982."

Effective date. This regulation is effective May 27, 1982.

(Sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note))

Dated: May 27, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-14985 Filed 5-28-82; 11:32 am]

BILLING CODE 4160-01-M

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21 CFR Part 146

[Docket No. 78N-0236]

Grapefruit Juice; Establishment of Standards of Identity and Fill of Container; Confirmation of Effective Date and Further Amendment; Stay of One Provision

AGENCY: Food and Drug Administration.

ACTION: Final rule; further amendment and confirmation and stay of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date for compliance with the provisions of the final regulation establishing standards of identity and fill of container for grapefruit juice, except for the minimum 9-percent soluble solids requirement for "grapefruit juice from concentrate", the effective date of which is stayed pending determination of whether any issues raised by objections require a public hearing. FDA also is revising the "correction for acidity" requirement, providing for grape-fruit hybrids, and removing the alternative name ""reconstituted grapefruit juice."

DATES: The effective date of the minimum 9-percent soluble solids requirement for "grapefruit juice from concentrate" (21 CFR 146.132(a)(1) seventh sentence) is stayed.

EFFECTIVE DATE: Compliance with the provisions being revised herein may begin August 3, 1982. Effective July 1, 1983 for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date.

Objections to the provisions being revised herein by July 6, 1982.

Compliance with the final regulation, except for 21 CFR 146.132(a)(1) and (3)(i)(*b*) being herein revised, including any labeling changes, may have begun February 27, 1981, and all affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1983, shall fully comply.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: A final regulation was published in the **Federal Register** of January 27, 1981 (46 FR 8462) establishing standards of identity and fill of container for grapefruit juice in consideration of the Codex Alimentarius Commission's "Recommended International Standard for Grapefruit Juice Preserved Exclusively by Physical Means," and the U.S. Department of Agriculture's "United States Standards for Grades of Grapefruit Juice." The final regulation provided for the addition of concentrated grapefruit juice to grapefruit juice in an amount not to exceed 15 percent by weight of the grapefruit juice soluble solids, permitted the adjustment of grapefruit pulp, grapefruit oil, and grapefruit essence content (components derived from grapefruit) in accordance with good manufacturing practice, permitted the addition of specified dry nutritive carbohydrate sweeteners to grapefruit juice, established a minimum grapefruit juice soluble solids requirement of 9 percent by weight for the product "grapefruit juice from concentrate," and permitted the use of special liquid or dry sweeteners when concentrated juice is used in the preparation of "grapefruit juice from concentrate."

Interested persons who would be adversely affected were given to February 26, 1981, to file written objections to the final regulation and request a hearing on specific provisions to which there were objections. Five objections and requests for a hearing were filed jointly by the State of Florida, Department of Citrus, the Florida Citrus Commission, the Florida Citrus Processors Association, and the Florida Citrus Mutual. The Florida Farm Bureau Federation filed a letter in support of these objections.

Objections and Requests for a Hearing

1. An objection and request for a hearing was filed to the correction for acidity in § 146.132(a)(1) on the basis that the correction is made to the soluble solids content (exclusive of added sweeteners) rather than the degrees Brix. The objectors pointed out that the correction should be added to the refractive sucrose value to obtain the true degrees Brix (exclusive of added sweeteners.) This procedure is accepted by the grapefruit and orange industries for worldwide use and produces results comparable to those obtained by the Brix hydrometer.

The agency agrees and § 146.132(a)(1) is revised accordingly.

2. An objection and request for a hearing was filed relative to § 146.132(a)(3)(i)(*b*) which permits the alternative name "reconstituted grapefruit juice" to be used as the name of the food on the basis that the common or usual name is "grapefruit juice from concentrate" and that the use of any alternative name will be confusing to and contrary to the best interest of consumers.

The agency agrees and § 146.132(a)(3)(i)(*b*) is revised accordingly.

3. An objection and request for a hearing was filed to require in § 146.132(a)(3) that if any nutritive sweetener is added, the principal display panel of the label shall bear the statement "Sweetener added"; or if no sweetener is added, the word "unsweetened" may immediately precede or follow the words "Grapefruit Juice" or "Grapefruit Juice from Concentrate."

This requirement was inadvertently omitted from the final regulation which was thereafter corrected by adding this suggested requirement in a notice published in the **Federal Register** of April 10, 1981 (46 FR 21359).

4. An objection and request for a hearing was filed relative to § 146.132(a)(1) which requires the grapefruit from which the grapefruit juice is manufactured to conform to the characteristics of *Citrus Paradisi* Macfadyen. It requested that the paragraph be amended to allow up to 10 percent by volume of the unfermented juice obtained from mature hybrids of grapefruit on the basis that: (1) The quantitative limitation on the addition of citrus hybrids in citrus juices has been established by FDA in the definitions and standards of identity for many orange juice products; (2) hybrids of grapefruit have been used for a number of years in the production of grapefruit juice, concentrated grapefruit juice, and grapefruit juice from concentrate; and (3) Economic waste will result if the limited use of grapefruit hybrids is not allowed in grapefruit juice.

FDA agrees and § 146.132(a)(1) is revised accordingly.

5. An objection and request for a hearing was filed relative to the 9-percent minimum soluble solids requirement for "grapefruit juice from concentrate" in § 146.132(a)(1) on the basis that: (1) The average soluble solids of grapefruit in Florida, during the most recent 10 seasons has been 10.2 percent; (2) the average soluble solids of grapefruit in the other states within which grapefruit is grown probably exceeds 10 percent; (3) there is no technical difficulty in producing "grapefruit juice from concentrate" containing 10 percent soluble solids, rather than 9 percent; (4) the USDA voluntary grade standards and the Florida State Grades for "grapefruit juice from concentrate" provide that the minimum soluble solids level shall be not less than 10 percent; (5) the effect of a 9-percent minimum soluble solids requirement for "grapefruit juice from concentrate," in most instances, will be to dilute the finished product to a level substantially below that of the fruit from which the concentrated juice was made.

FDA is staying the effective date of the provisions of § 146.132(a)(1) that would establish a 9-percent minimum soluble solids requirement for grapefruit juice from concentrate while it determines whether the objectors have raised a genuine and substantial issue of fact that must be resolved at a public hearing, as provided for in 21 CFR 12.24.

The objectors have requested the issuance of an order establishing a minimum 9-percent soluble solids for grapefruit juice from concentrate for the duration of the stay. The agency advises that it does not have the authority to establish an interim minimum soluble solids requirement for "grapefruit juice from concentrate." However, pending resolution of the minimum soluble solids issue, FDA will not object to "grapefruit juice from concentrate" at a soluble solids of 9 percent.

Stay of Minimum Soluble Solids Requirement

Under section 701(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(e)) and § 12.23 (21 CFR 12.23), FDA hereby announces a stay of the effective date of those portions of § 146.132(a)(1) regarding the minimum 9 percent grapefruit soluble solids requirement of "grapefruit juice from concentrate" to which objections and requests for a hearing were received under § 12.22 (21 CFR 12.22) pending resolution of whether a public hearing is required.

List of Subjects in 21 CFR Part 146

Canned fruit juice; Food standards; Fruit juices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), notice is given that the effective date for complying with the January 27, 1981 final regulation (§ 146.132) as corrected April 10, 1981, and May 12, 1981, is July 1, 1983, with the following exceptions: In § 146.132(a)(1), the effective date for the minimum 9-percent soluble solids requirement for grapefruit juice from concentrate is stayed by the filing of proper objections and requests for a hearing, pending resolution of whether a public hearing is required. In addition: *it is ordered,* That § 146.132(a)(1) and (3)(i)(*b*) be revised to read as follows:

PART 146—CANNED FRUIT JUICES

§ 146.132 Grapefruit juice.

(a) *Identity*—(1) *Description.* Grapefruit juice is the unfermented juice, intended for direct consumption, obtained by mechanical process from sound, mature grapefruit (*Citrus paradisi* Macfadyen) from which seeds and peel (except embryonic seeds and small fragments of seeds and peel which cannot be separated by good manufacturing practice) and excess pulp are removed and to which may be added not more than 10 percent by volume of the unfermented juice obtained from mature hybrids of grapefruit. The juice may be adjusted by the addition of the optional concentrated grapefruit juice ingredients specified in paragraph (a)(2) of this section, but the quantity of such concentrated grapefruit juice ingredient added shall not contribute more than 15 percent of the grapefruit juice soluble solids in the finished food. The grapefruit pulp, grapefruit oil, and grapefuit essence (components derived from grapefruit) content may be adjusted in accordance with good manufacturing practice. The juice may have been concentrated and later reconstituted with water suitable for the purpose of maintaining essential composition and quality factors of the juice. It may be sweetened with the dry nutritive sweeteners referred to in paragraph (a)(2)(iii) of this section. If the grapefruit juice is prepared from concentrate, such sweeteners, in liquid form, referred to in paragraph (a)(2)(iii) of this section, also may be used. When prepared from concentrated grapefruit juice, exclusive of added sweeteners, the finished food contains not less than 9 percent, by weight, of soluble solids taken as the refractometric sucrose value (of the filtrate), corrected to 20° C, and corrected for acidity by adding $(0.012+0.193x-0.0004x^2)$, where x equals the percent anhydrous citric acid in the sample, to the refractometrically obtained sucrose value by the first method prescribed in "Correction of Refractometer Sucrose Readings for Citric Acid Content for Lemonade," by Yeatman, Senzel, and Springer," Journal of the Association of Official Analytical Chemists," vol. 59 p. 368 (1976). Copies are available from the Association of Official Analytical Chemists, 1111 N. 19th St., Suite 210, Arlington, VA 22209, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408. The food may contain one or any combination of the optional ingredients specified in paragraph (a)(2) of this section. Grapefruit juice, as defined in this paragraph, may be preserved by heat sterlization (canning), refrigeration, or freezing. When sealed in a container to be held at ambient temperatures, it is so processed by heat, before or after sealing, as to prevent spoilage.

* * * * *

(3) * * * (i) * * *

(*b*) "Grapefruit juice from concentrate" (*1*) if the food is prepared from concentrated grapefruit juice and water and/or grapefruit juice; or (*2*) if the food is prepared from grapefuit juice from concentrate and grapefruit juice. The words "from concentrate" shall be

shown in letters not less than one-half the height of the letters in the words "grapefruit juice."

* * * * *

Any person who will be adversely affected by the foregoing amendments to the final regulation as set forth above may at any time on or before July 6, 1982, submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specified factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. Except as to the amendments that may be stayed by the filing of proper objections, compliance with these amendments to the final regulation may begin August 3, 1982. Accordingly, except that the effective date of the provision establishing the 9-percent minimum grapefruit juice soluble solids requirement in § 146.132(a)(1) is stayed and except as to those provisions being herein revised, the effective date of § 146.132 (a) and (c) as published in the **Federal Register** of January 27, 1981, and as corrected in the **Federal Register** of April 10, and May 12, 1981 is confirmed as follows: Compliance with this regulation, including any required labeling changes, may have begun of February 27, 1981, and all affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1983, shall fully comply.

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)))

Dated: May 25, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-14909 Filed 6-29-82; 12:24 pm]

BILLING CODE 4160-01-M

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21 CFR Part 177

[Docket No. 80F-0401]

Indirect Food Additives: Polymers; Ethylene-1,4-Cyclohexylene Dimethylene Terephthalate Copolymer

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the extended safe use of ethylene-1,4-cyclohexylene dimethylene terephthalate copolymer as articles or components of articles intended for use in contact with food. This action is in response to a petition filed by Eastman Chemicals Division, Eastman Kodak Co., Kingsport, TN 37662.

DATES: Effective June 4, 1982; objections by July 6, 1982.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of October 17, 1980 (45 FR 69043), FDA announced that a petition (FAP 0B3523) had been filed by Eastman Chemicals Division, Eastman Kodak Co., Kingsport, TN 37662, proposing that § 177.1315 (21 CFR 177.1315) be amended to broaden the mole percentages of ethylene glycol and 1,4-cyclohexanedimethanol to 66-99 and 1-34, respectively, in the mixture used as a reactant with dimethyl terephthalate in the production of ethylene-1,4-cyclohexylene dimethylene terephthalate copolymer intended for use in contact with food. In a second notice published in the **Federal Register** of November 20, 1981 (46 FR 57135), FDA announced that in addition, Eastman Kodak had submitted an amendment to the original petition that the regulation also provide for the safe use of a molecularly oriented ethylene-1,4-cyclohexylene dimethylene terephthalate copolymer in contact with certain foods including nonalcoholic carbonated beverages.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below. In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in § 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has previously considered the potential environmental effects of this regulation as announced in the notice of filing published in the **Federal Register**. No new information or comments have been received that would alter the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

The format of the amended regulation is different from that of § 177.1315 as currently set forth in the Code of Federal Regulations. FDA has modified the form in which the specific limitations on the use of these ingredients are presented. This change has no substantive effect but is made merely for clarity.

List of Subjects in 21 CFR Part 177

Food additives; Polymeric food packaging.

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Part 177 is amended in § 177.1315 by revising paragraphs (a) and (b), by removing paragraphs (c) and (e), and by redesignating paragraph (d) as paragraph (c), as follows:

§ 177.1315 Ethylene-1,4-cyclohexylene dimethylene terephthalate copolymer.

* * * * *

(a) *Identity.* For the purposes of this section ethylene-1,4-cyclohexylene dimethylene terephthalate copolymers (1,4-benzene dicarboxylic acid, dimethyl ester, polymerized with 1,4-cyclohexanedimethanol and 1,2-ethanediol) (CAS Reg. No. 25640-14-6) are basic copolymers meeting the

specification prescribed in paragraph (b) of this section, to which may have been added certain optional substances required in their production or added to impart desired physical or technical properties.

(b) *Specifications:*

Ethylene-1,4-cyclohexylene dimethylene terephthalate copolymers	Inherent viscosity	Maximum extractable fractions of the copolymer in the finished form at specified temperatures and times (expressed in micrograms of the terephthaloyl moieties/square centimeter of food-contact surface)	Test for orientability	Conditions of use
1. *Non-oriented* ethylene 1,4-cyclohexylene dimethylene terephthalate copolymer is the reaction product of dimethyl terephthalate with a mixture containing 99 to 66 mole percent of ethylene glycol and 1 to 34 mole percent of 1,4-cyclohexanedimethanol (70 percent *trans* isomer, 30 percent *cis* isomer).	Inherent viscosity of a 0.50 percent solution of the copolymer in phenoltetrachloroethane (60:40 ratio wt/wt) solvent is not less than 0.660 as determined by using a Wagner viscometer (or equivalent) and calculated from the following equation: Inherent viscosity=(Natural logarithm of $(N_r)/(c)$ where: N_r=Ratio of flow time of the polymer solution to that of the solvent, and c=concentration of the test solution expressed in grams per 100 milliliters.	(1) 0.23 microgram per square centimeter (1.5) micrograms per square inch) of food-contact surface when extracted with water added at 180° F (82.2° C) and allowed to cool to 120° F (48.9° C) in contact with the food-contact article. (2) 0.23 microgram per square centimeter 91.5 micrograms per square inch) of food-contact surface when with 3 percent (by volume) aqueous acetic acid added at 180° F (82.2° C) and allowed to cool to 120° F (48.9° C) in contact with the food-contact article. (3) 0.08 microgram per square centimeter (0.5 microgram per square inch) of food-contact surface when extracted for 2 hours with *n*-heptane at 120° F (48.9° C). The heptane extractable results are to be divided by a factor of 5.	No test required	In contact with non-alcoholic foods excluding carbonated beverages: Conditions of hot fill not exceeding 180° F (82.2° C), storage at temperatures not in excess of 120° F (48.9° C). No thermal treatment in the container.
2. *Non-oriented* ethylene 1,4-cyclohexylene dimethylene terephthalate copolymer is the reaction product of dimethyl terephthalate with a mixture containing 69±3 mole percent of ethylene glycol and 31±3 mole percent of 1,4-cyclohexanedimethanol (70 percent *trans* isomer, 30 percent *cis* isomer).	....do	(1) 0.23 microgram per square centimeter (1.5 micrograms per square inch) of food-contact surface when extracted with water added at 180° F (82.2° C) and allowed to cool to 120° F (48.9° C) in contact with the food-contact article. (2) 0.23 microgram per square centimeter (1.5 micrograms per square inch) of food-contact surface when extracted with 3 percent (by volume) aqueous acetic acid added at 180° F (82.2° C) and allowed to cool to 120° F (48.9° C) in contact with the food-contact article.. (3) 0.08 microgram per square centimeter (0.5 microgram per square inch) of food-contact surface when extracted for 2 hours with *n*-heptane at 120° F (48.9° C). The heptane extractable results are to be divided by a factor of 5.. (4) 0.16 microgram per square centimeter (1.0 microgram per square inch) of food-contact surface when extracted for 24 hours with 8 percent (by volume) aqueous ethanol at 120° F (48.9° C).	No test required	In contact with food, including foods containing not more than 8 percent alcohol excluding carbonated beverages and beer. Conditions of fill and storage not exceeding 120° F (48.9° C). No thermal treatment in the container.
3. *Oriented* ethylene-1,4-cyclohexylene dimethylene terephthalate copolymer is the reaction product of dimethyl terephthalate with a mixture containing 99 to 85 mole percent ethylene glycol and 1 to 15 mole percent of 1,4-cyclohexanedimethanol (70 percent *trans* isomer, 30 percent *cis* isomer).	....do	(1) 0.23 microgram per square centimeter (1.5 micrograms per square inch) of food-contact surface of the oriented copolymer when extracted with water added at 190° F (87.8° C) and allowed to cool to 120° F (48.9° C) in contact with the food-contact article. (2) 0.23 microgram per square centimeter (1.5 micrograms per square inch) of food-contact surface of oriented copolymer when extracted with 3 percent (by volume) aqueous acetic acid added at 190° F (87.8° C) and allowed to cool to 120° F (48.9° C) in contact with the food-contact article.	When extracted with heptane at 150° F (65.6° C) for 2 hours: terephthaloyl moieties do not exceed 0.09 microgram per square centimeter (0.60 microgram per square inch) of food-contact surface.	In contact with non-alcoholic foods including carbonated beverages. Conditions of hot fill not exceeding 190° F (87.80° C), storage at temperatures not in excess of 120° F (48.9° C). No thermal treatment in the container.

Ethylene-1,4-cyclohexylene dimethylene terephthalate copolymers	Inherent viscosity	Maximum extractable fractions of the copolymer in the finished form at specified temperatures and times (expressed in micrograms of the terephthaloyl moieties/square centimeter of food-contact surface)	Test for orientability	Conditions of use
		(3) 0.08 microgram per square centimeter (0.5 microgram per square inch) of food-contact surface of oriented copolymer when extracted for 2 hours with *n*-heptane at 120° F (48.9° C). The heptane extractable results are to be divided by a factor of 5.		

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before July 6, 1982 submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective June 4, 1982.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: May 21, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-15130 Filed 6-3-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 544

Oligosaccharide Certifiable Antibiotic Drugs for Animal Use; Dihydrostreptomycin Sulfate Infection, Sterile

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by John D. Copanos & Co., Inc., providing revised labeling for use of dihydrostreptomycin sulfate injection to treat leptospirosis in dogs, horses, cattle, and swine.

EFFECTIVE DATE: June 4, 1982.

FOR FURTHER INFORMATION CONTACT: Richard A. Carnevale, Bureau of Veterinary Medicine (HFV–125), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1788.

SUPPLEMENTARY INFORMATION: John D. Copanos & Co., Inc., 6110 Robinwood Rd., Baltimore, MD 21225, is sponsor of NADA 65–120 for Veticare Sterile Dihydrostreptomycin Sulfate Injection (500 milligrams per milliliter) originally approved October 28, 1963. This product is similar to certain other injectable drugs containing dihydrostreptomycin and/or streptomycin which were subject of a National Academy of Sciences/National Research Council (NAS/NRC) review published in the **Federal Register** of July 1, 1970 (35 FR 10698). The NAS/NRC, review concluded, and FDA concurred, that the products are probably effective for treating certain diseases in cattle, horses, swine, dogs, cats, and turkeys, when such disease conditions are caused by pathogens sensitive to dihydrostreptomycin and/or streptomycin. The NAS/NRC review listed several labeling recommendations, required adequate documentation to support the labeling used, and requested that each sponsor of an NADA effective before October 10, 1962 update the NADA regarding drug components and composition, manufacturing methods, facilities, and controls, as required by section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

John D. Copanos & Co., Inc., submitted data and information and revised labeling to support use of the drug for dogs, horses, cattle, and swine for treatment of leptospirosis using deep intramuscular injection at 5 milligrams per pound of body weight every 12 hours for 3 to 5 days. This use of the drug conformed to the conclusions of the followup notice and opportunity for hearing for dihydrostreptomycin injectable animal drugs that was published in the **Federal Register** of June 27, 1978 (43 FR 27894). In the June 27, 1978 notice, the Bureau of Veterinary Medicine concluded that, when dihydrostreptomycin injection is administered by or under the order of a veterinarian, it is safe and effective for treating leptospirosis in dogs, horses, cattle, and swine if labeled for use as recommended in the notice and in § 544.274 (21 CFR 544.274). The revised labeling for NADA 65–120 provided for these recommendations. The supplemental NADA is approved and the regulations are amended to reflect the approval.

Because the revised claims represent a restricted use of the drug within previously approved uses, this approval poses no increase in the frequency of human exposure to residues of dihydrostreptomycin. Because no residues of the drug were detectable by an acceptable analytical method in the milk of dairy cattle when the animals were treated under conditions of use prescribed, recommended, or suggested in the proposed labeling, approval of this supplement poses no increased human risk of exposure to residues of the drug. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64376; December 23, 1977), this supplemental NADA has been treated as a Category II supplement which does not require a review of the human safety data supporting the parent application.

In addition to approval of the supplemental NADA, this final rule also establishes new § 544.275 (21 CFR 544.275). Current § 544.274 provides for several forms of streptomycin and dihydrostreptomycin injections. To eliminate confusion between these various drugs, § 544.274 is revised by removing paragraph (c), which reflects a

recently approved NADA similar to this approval, and new § 544.275 is established, setting forth the requirements for certification, tests and methods of assay, and conditions of marketing both NADA's for dihydrostreptomycin sulfate injection, sterile. This change is editorial in nature only and is not intended to affect any outstanding approvals.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 544

Animal drugs; Antibiotics, oligosaccharide.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b(i) and (n))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 544 is amended as follows:

PART 544—OLIGOSACCHARIDE CERTIFIABLE ANTIBIOTIC DRUGS FOR ANIMAL USE

§ 544.274 [Amended]

1. In § 544.274 *Streptomycin sulfate/dihydrostreptomycin sulfate/crystalline dihydrostreptomycin sulfate injectable* by removing paragraph (c).

2. By adding new § 544.275, to read as follows:

§ 544.275 Dihydrostreptomycin sulfate injection, sterile.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Dihydrostreptomycin sulfate injection, sterile, is an aqueous solution of dihydrostreptomycin sulfate. It contains one or more suitable and harmless preservatives and buffer substances. Each milliliter contains dihydrostreptomycin sulfate equivalent to 500 milligrams of dihydrostreptomycin. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the labeled amount of dihydrostreptomycin. It is sterile. It is nonpyrogenic. It contains no depressor substances. This test may be omitted if the dihydrostreptomycin sulfate used in making the batch was tested. Its pH is not less than 5.0 and not more than 8.0. The dihydrostreptomycin sulfate used in making the batch conforms to the requirements of § 444.10a(a) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of paragraph (c) of this section and § 510.55 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 514.50 of this chapter, each such request shall contain:

(i) The results of tests and assays on:

(*a*) The dihydrostreptomycin sulfate used in making the batch for potency, safety, depressor substances, loss on drying, pH, streptomycin content, and identity.

(*b*) The batch for potency, sterility, pyrogens, depressor substances, except that if the dihydrostreptomycin sulfate used has been tested for depressor substances this test may be omitted, and pH.

(ii) Samples required:

(*a*) The dihydrostreptomycin sulfate used in making the batch: 10 packages, each containing approximately 500 milligrams.

(*b*) The batch: (*1*) For all tests except sterility: A minimum of 5 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Using a suitable hypodermic needle and syringe, remove an accurately measured representative portion of the sample and dilute with sterile distilled water to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution to the reference concentration of 30 micrograms of dihydrostreptomycin per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 436.32 of this chapter, using a solution containing 10 milligrams of dihydrostreptomycin per milliliter.

(4) *Depressor substances.* Proceed as directed in § 436.35 of this chapter.

(5) *pH.* Proceed as directed in § 436.202 of this chapter, using the undiluted solution.

(c) *Conditions of marketing*—(1) *Specifications.* The product conforms to the requirements of paragraph (a) of this section.

(2) *Sponsor.* See No. 010719 in § 510.600(c) of this chapter for use as in paragraph (c)(4)(i), (ii), and (iii)(*a*) of this section; see No. 010271 for use in paragraph (c)(4)(i), (ii), and (iii)(*b*) of this section.

(3) *NAS/NRC status.* These conditions are NAS/NRC reviewed and found effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter but may require bioequivalency and safety information.

(4) *Conditions of use*—(i) *Amount.* 5 milligrams per pound of body weight every 12 hours.

(ii) *Indications for use.* Treatment of leptospirosis in dogs and horses due to *Leptospira canicola, L. Icterohemorrhagiae,* and *L. pomona;* in cattle due to *L. pomona;* and in swine due to *L. pomana* and *L. grippotyphosa.*

(iii) *Limitations.* (*a*) Administer by deep intramuscular injection only. Treatment should be continued for 3 to 5 days or until the urine is free of leptospira for at least 72 hours as measured by darkfield microscopic examination. Treatment with subtherapeutic dosages, excessive duration of therapy, or inappropriate use of this antibiotic may lead to the emergence of streptomycin or dihydrostreptomycin resistant organisms. The use of this drug must be discontinued for 30 days before treated animals are slaughtered for food. The drug is not for use in animals producing milk because use of the drug will result in contamination of the milk. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(*b*) Administer by deep intramuscular injection only. Treatment should be continued for 3 to 5 days or until the urine is free of leptospira for at last 72 hours as measured by darkfield microscopic examination. Treatment with subtherapeutic dosages, excessive duration of therapy, or inappropriate use of this antibiotic may lead to the emergence of streptomycin or dihydrostreptomycin resistant

organisms. The use of this drug must be discontinued for 30 days before treated animals are slaughtered for food. Milk taken from animals during treatment and for 48 hours (4 milkings) after latest treatment must not be used for food. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. June 4, 1982.

(Sec. 512(i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b(i) and (n)))

Dated: May 25, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82–15009 Filed 6–3–82; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 573

[Docket No. 81F–0157]

Food Additives Permitted in the Feed and Drinking Water of Animals; Selenium

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of selenium at a level not to exceed 0.3 part per million (ppm) in prestarter ration and starter ration for swine. A food additive petition providing for this use was filed by the Ralston Purina Co.

DATES: Effective June 4, 1982; objections by July 6, 1982.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 9, 1981 (46 FR 30568), a notice was published to reflect the filing of a food additive petition (FAP–2185) by the Ralston Co., Checkerboard Square, St. Louis, MO 63188, proposing that Part 573 (21 CFR Part 573) be amended to provide for the safe use of selenium at a level not to exceed 0.3 ppm in prestarter ration and starter ration for swine. Selenium is currently approved for use at not more than 0.1 ppm in the complete feed of swine as a nutrient. Information was submitted indicating higher mortality and other postweaning problems attributed to selenium deficiency occurring generally within 2 weeks postweaning. Data were submitted indicating a higher dietary level in weaned pigs may reduced onset of the deficiency condition. FDA has evaluated the data submitted in the petition and other relevant material and concluded that Part 573 should be amended to provide for the safe use of selenium as set forth below.

In accordance with § 571.1(h) (21 CFR 571.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Veterinary Medicine (address above) by appointment with the information contact person listed above. As provided in 21 CFR 571.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment. Therefore, an environmental impact statement will not be prepared. The agency's finding of no significant impact and the evidence supporting this finding as required by 21 CFR 25.1(f)(1)(iv) may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of that Order.

List of Subjects in 21 CFR Part 573

Animal feeds; Food additives.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Part 573 is amended in § 573.920 by revising paragraphs (b)(2) and (c)(1) and by adding new paragraph (c)(5) to read as follows:

PART 573—FOOD ADDITIVES PERMITTED IN FEED AND DRINKING WATER OF ANIMALS

§ 573.920 Selenium.

* * * * *

(b) * * *

(2) Swine:

(i) In complete feed (except prestarter ration and starter ration) at a level not to exceed 0.1 part per million.

(ii) In prestarter ration and starter ration at a level not to exceed 0.3 part per million.

* * * * *

(c) * * *

(1) It shall be incorporated into each ton of the complete feed of chickens, swine (except prestarter ration and starter ration), sheep, beef cattle, dairy cattle, and ducks by a premix containing no more than 90.8 milligrams of added selenium and weighing not less than 1 pound.

* * * * *

(5) It shall be incorporated into each ton of prestarter ration and starter ration of swine by a premix containing no more than 272.4 milligrams of added selenium and weighing not less than 3 pounds.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before July 6, 1982 submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and shall specify with particularity the provisions of the regulation to which objection is made. Each objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each objection shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Two copies of all documents shall be submitted except individuals may submit single copies and each shall be identified with the Docket No. 81F–0157. Objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. June 4, 1982.

(Sec. 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 348).)

Dated: May 27, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–15109 Filed 6–3–82; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF STATE

22 CFR Part 41

[Dept. Reg. 108.820]

Nonimmigrant Classification of Students

Correction

In FR Doc. 82–13812 on page 21776 in the issue of Thursday, May 20, 1982, make the following correction.

On page 21776, third column, the table at the bottom of the page should read as follows:

Class	Citation	Symbol to be inserted in visa
Vocational or other recognized nonacademic student.	101(A)(15)(M); 95 Stat. 1611.	M–1.
Spouse or minor child of alien classified M–1.	95 Stat. 1611.....	M–2.

BILLING CODE 1505–01–M

Bureau of Consular Affairs

22 CFR Part 41

[Dept. Reg. 108.820]

Nonimmigrant Classification of Students; Correction

AGENCY: Department of State.

ACTION: Final rule; corrections.

SUMMARY: This document corrects the final rule on nonimmigrant classification of students which appeared at page 21776 in the Federal Register of Thursday, May 20, 1982 (47 FR 21776).

This action is necessary to correct editorial errors in the language of the regulations.

FOR FURTHER INFORMATION:
Gerald M. Brown, Chief, Legislation and Regulations Division, Visa Services, Bureau of Consular Affairs. (202) 632–1900.

SUPPLEMENTARY INFORMATION:

§ 41.45 and § 41.68 [Corrected]

Accordingly, lines 13 (thirteen) through 15 (fifteen) of subparagraph (1), § 41.45(a) (FR page 21777), are corrected to read "signed by the alien and by a designated school official (the Form I–20A, when" and line 10 (ten) of column 3 (three) on FR page 21777 is corrected by deleting the words "of the accepting institution".

Dated: June 2, 1982.

Gerald M. Brown,
Chief, Legislation and Regulations Division, Visa Services.

[FR Doc. 82-15290 Filed 6-2-82; 11:55 am]

BILLING CODE 4710–06–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 868

[Docket No. R–82–909]

Comprehensive Improvement Assistance Program; Low-Income Housing

Correction

In FR Doc. 82–13898, appearing as Part II, at page 22312, in the issue of Friday, May 21, 1982, make the following change:

On page 22316, in the first column, in § 868.3, the definition "Special purpose modernization", the 16th line change "FFY 1982" to "FFY 1981".

BILLING CODE 1505–01–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF–105; Re: Notice No. 388]

Establishment of the Hudson River Region Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in New York State known as the "Hudson River Region." The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising will help consumers better identify wines they purchase. The use of this viticultural area as an appellation of origin will also help winemakers distinguish their products from wines made in other areas.

EFFECTIVE DATE: July 6, 1982.

FOR FURTHER INFORMATION CONTACT:
John A. Linthicum, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202–566–7602).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added a new Part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

Mr. Allan W. MacKinnon, proprietor of Cottage Vineyards located in Marlboro-on-the-Hudson, New York, petitioned ATF for the establishment of a viticultural area in southeastern New York State to be known as "Hudson River Region." In response to this petition, ATF published a notice of proposed rulemaking (Notice No. 388) in the Federal Register on October 21, 1981 (46 FR 51619) proposing the establishment of the Hudson River Region viticultural area.

Current and Historical Viticultural Development

The Hudson River Region consists of approximately 3,500 square miles encompassing all of Columbia, Dutchess, and Putnam Counties, the eastern portions of Ulster and Sullivan Counties, nearly all of Orange County and the northern portions of Rockland and Westchester Counties.

There are nearly 1,000 acres of grapevines growing in the proposed area, with more than 90% of this located in Columbia and Ulster Counties.

There are 13 wineries in the proposed area, including 9 wineries which were established after a 1976 New York State law liberalized the qualification procedures for small wineries.

Wine has been made continously in the Hudson River Region for over 300 years, since French Huguenots first settled at New Paltz, NY in 1677. The first commercial winery was established in 1827 on Croton Point in Westchester County. The oldest active winery in the

United States was established in 1839 at Washingtonville, NY.

On January 8, 1974, one winery in the area received permission from ATF to use the words "Hudson River Region" on its labels. Since then, most wineries in the area have been using that designation.

The region has been recognized as a significant wine producing region in several articles in *The New York Times, The New York Daily News,* and *The Long Island Newsday.*

Leon Adams in *The Wines of America* refers to the area as the "oldest wine growing district in the United States."

In *Grapes of New York,* considered by the petitioner to be "the definitive tome on the subject of viticulture in the State of New York," written by U. P. Hedrick as the report of the New York Agricultural Experiment Station for the year 1907, the Hudson River District is defined as one of the four commercial grape districts in the State.

Geographical Features

The Hudson River Region has been referred to as one of the most complex geological regions in the world. The grape lands in the area are in a geological division known at the Taconic Province. Glacial deposits of shale, slate, schist and limestone form the soil throughout the region.

Climatography publications of New York and the United States show that the mean annual precipitation is approximately 44 inches. The mean date of the last freeze in spring is May 10, and the mean date of the first freeze in autumn is October 10. The mean growing season is approximately 153 days.

Comments

ATF received six comments in response to the notice of proposed rulemaking. The commenters were one government agency, Columbia County Environmental Management Council, and five vineyards located in the proposed area: Benmarl Wine Co., Cascade Mountain Vineyards, Cottage Vineyards (the petitioner), Clinton Vineyards, Inc., and North Salem Vineyards, Inc. All comments were in favor of establishment of the Hudson River Region viticultural area. None of the comments took issue with the proposed boundary. Therefore, the boundary is adopted as proposed.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291, the Bureau has determined that this final regulation is not a major rule since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographical regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Drafting Information

The principal author of this document is John A. Linthicum, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, other personnel of the Bureau and of the Treasury Department have participated in the preparation of this document, both in matters of substance and style.

Authority and Issuance

This regulation is issued under the authority of 27 U.S.C. 205. Accordingly, 27 CFR Part 9 is amended as follows:

PART 9— AMERICAN VITICULTURAL AREAS

Par. 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.47. As amended, the table of sections reads as follows:

Sec.
9.47 Hudson River Region.

Par. 2. Subpart C is amended by adding § 9.47. As amended, Subpart C reads as follows:

§ 9.47 Hudson River Region.

(a) *Name.* The name of the viticultural area described in this section is "Hudson River Region."

(b) *Approved maps.* The approved maps for determining the boundaries of Hudson River Region viticultural area are four U.S.G.S. maps, as follows:

(1) Albany (NK 18–6), scale of 1:250,000 series;

(2) Hartford (NK 18–9), scale of 1:250,000 series;

(3) Scranton (NK 18–8), scale of 1:250,000 series;

(4) Binghamton (NK 18–5), scale of 1:250,000 series.

(c) *Boundary.* The Hudson River Region viticultural area is located in New York State. The boundary is as follows:

(1) The beginning point is the point where N.Y. Route 15 (Merritt Parkway) crosses the New York-Connecticut state line.

(2) The boundary proceeds northerly along the New York-Connecticut state line and the New York-Massachusetts state line to the northeast corner of Columbia County, New York.

(3) The boundary proceeds westerly along the Columbia County-Rensselaer County line to the Columbia County-Greene County line in the Hudson River.

(4) The boundary proceeds southerly along the Columbia County-Greene County line in the Hudson River to the northeast corner of Ulster County.

(5) The boundary proceeds westerly along the Ulster County-Greene County line to N.Y. Route 214.

(6) The boundary proceeds southerly along the eastern side of N.Y. Route 214 to the junction with N.Y. Route 28 in Phoenicia.

(7) The boundary proceeds southerly along the eastern side of N.Y. Route 28 to the junction with N.Y. Route 28A.

(8) The boundary proceeds southerly along the eastern side of N.Y. Route 28A to the intersection with the secondary, hard surface, southbound road leading toward Samsonville.

(9) The boundary proceeds southerly along the eastern side of this southbound road through Samsonville, Tabasco, Mombaccus, Fantinekill, and Pataukunk to the junction with U.S. Route 209.

(10) The boundary proceeds southerly along the eastern side of U.S. Route 209 to the New York-Pennsylvania state line in the Delaware River.

(11) The boundary proceeds easterly along the Delaware River to the New York-New Jersey state line.

(12) The boundary proceeds easterly along the New York-New Jersey state line to N.Y. Route 17.

(13) The boundary proceeds northerly along the western side of N.Y. Route 17 to the junction with Interstate Route 287.

(14) The boundary proceeds easterly along the northern side of Interstate

Route 287 to the junction with N.Y. Route 15.

(15) The boundary proceeds easterly along the northern side of N.Y. Route 15 to the beginning point.

Signed: April 22, 1982.

Stephen E. Higgins,

Acting Director.

Approved: May 13, 1982.

John M. Walker, Jr.,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 82-15079 Filed 6-3-82; 8:45 am]

BILLING CODE 4810-31-M

27 CFR Part 9

[T.D. ATF-106; Ref: Notice Nos. 352 and 387]

Establishment of the Lime Kiln Valley Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Treasury decision, final rule.

SUMMARY: This final rule establishes the Lime Kiln Valley viticultural area in San Benito County, California. The viticultural area, as established by this rule, differs from the proposed area of the petitioner, Enz Vineyards of Hollister, California. The original area covered approximately 9,500 acres while the approved area covers approximately 2,300 acres.

The Bureau of Alcohol, Tobacco and Firearms (ATF) believes the establishment of Lime Kiln Valley as a viticultural area and its subsequent use as an appellation of origin on wine labeling and in advertising will allow local wineries to better designate their specific grape-growing area and will enable consumers to better identify the wines they purchase.

EFFECTIVE DATE: July 6, 1982.

FOR FURTHER INFORMATION CONTACT: Roger L. Bowling, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37671, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas. These regulations also allow the name of an approved viticultural area to be used as an appellation of origin in wine labeling and advertising.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new Part 9 to 27 CFR for the listing of approved viticultural areas.

Section 9.11, Title 27 CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographic features. Section 4.25a(e)(2) outlines the procedures for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

ATF was petitioned to establish a viticultural area in San Benito County to be named "Lime Kiln Valley." The petitioner, in describing the climatic characteristics of the proposed area, stated that the western end of the proposed area, which is mountainous, received an average of 40 inches of rainfall per year, while the eastern end, being the valley floor, received an average of 16 inches a year.

Subsequently, ATF issued Notice No. 352, published in the **Federal Register** on October 27, 1980 (45 FR 70913), proposing the establishment of Lime Kiln Valley as a viticultural area. The boundaries of the proposed area were described by summits of peaks and generally followed the area's watershed boundary.

A public hearing concerning the establishment of Lime Kiln Valley was held in Hollister, California, on January 21, 1981. The testimony at the hearing supported the establishment of a viticultural area, but a problem arose concerning the amount of rainfall within the proposed boundaries.

The petitioner stated that the variation in the rainfall would affect any grapes grown in the mountainous area differently than the grapes grown on the valley floor. Witnesses state that no grapes were grown in the mountainous area and no plantings were anticipated. Vineyard expansions planned are in the area included within the amended boundaries of the viticultural area. After evaluating the entire record concerning the climate of the area, ATF believed the boundaries of the proposed Lime Kiln Valley should be amended to exclude the mountainous areas. This change would limit the proposed viticultural area to one which exhibits uniform climatic characteristics. To accomplish this, ATF published Notice No. 387 (46 FR 49599, October 7, 1981) which proposed an amended boundary based primarily on the 1,400-foot contour line and Cienega Road. With this amended boundary, Lime Kiln Valley qualifies as a distinct grape-growing region.

Included within the viticultural area is one winery, approximately 80 acres cultivated by two growers (one being the petitioner), and planned expansion by Enz Vineyards of another 100 acres.

Evidence Relating to the Name

The area derived its name from a number of lime kilns built in the area. Many of the kilns were in operation prior to 1910. Witnesses testified that this particular valley, although a portion of the larger Cienega Valley, has always been distinct and known as Lime Kiln Valley. Furthermore, on September 6, 1977, the County Board of Supervisors unanimously adopted a resolution which formally named the area "Lime Kiln Valley." Vineyards were planted in this area in 1887, and the history of San Benito County relates to vine cuttings brought from France and obtained by the Spanish padres in the area. The Enz Vineyards and winery has been producing and marketing wine referring to a Lime Kiln Valley appellation since the early 1970's.

One commenter stated the name "Lime Kiln Valley" is not an historical name for the area and noted that the name "Lime Kiln Valley" does not appear on any U.S.G.S. maps of the area.

After evaluating the information contained in the petition and the comments received, ATF believes the historical and current evidence does support the name "Lime Kiln Valley" as a distinct viticultural area.

Geographical Evidence

In accordance with 27 CFR 4.25a(e)(2), a viticultural area should possess geographical features which distinguish it from surrounding areas.

With the amended boundaries, the area averages about 16 inches of rainfall a year. Witnesses stated this amount is slightly higher than the surrounding areas, which average about 15 inches per year.

Winter temperatures average well below freezing, while the summer temperatures vary from 85-95 degrees during the day and drop to about 45-50 degrees at night. Witnesses further stated that these temperatures are cooler in the winter and warmer in the summer than the surrounding areas.

The soil in Lime Kiln Valley is basically a sandy and gravelly loam overlying bedrock of dolomite and limestone.

One commenter stated that the climate, topography, and soil of the proposed "Lime Kiln Valley" viticultural area was not distinct from the larger Cienega Valley. In addition, this commenter stated that the proposed area was too small to be of any consequence and its approval as a

viticultural area would create a de facto monopoly.

Based on the evidence discussed earlier, ATF believes the written and oral testimony supports the fact that the Lime Kiln Valley exhibits distinct geophysical and climatic characteristics and is distinguishable as a separate valley from the larger, more generally defined, Cienega Valley. The size of an area and whether or not it creates a de facto monopoly are not criteria in determining the distinctiveness of a proposed area. Therefore, ATF is establishing the Lime Kiln Valley as a viticultural area.

Boundaries

As discussed earlier, Notice No. 387 was issued to amend the boundaries as originally proposed. ATF believes the boundaries now used delineate an area which exhibits similar characteristics, but differ from surrounding areas. The boundaries are described by primarily Cienega Road and the 1,400-foot contour line.

While ATF believes that viticultural area boundaries based solely on man-made features are inappropriate, where such features closely approximate natural features, or where they provide a demarcation line from grape-growing areas as opposed to areas not suitable for grape-growing, or where they provide a line to delineate a climatic feature, it is acceptable to use these man-made features in describing boundaries.

Executive Order 12291

It has been determined that this final regulation is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The notice of proposed rulemaking which resulted in this final rule contained a certification under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that if promulgated as a final rule, it will not have a significant impact on a substantial number of small entities. Therefore, the requirement contained in the Regulatory Flexibility Act (5 U.S.C. 604) for a final regulatory flexibility analysis shall not apply to this final rule.

Disclosure

Copies of the petition, the maps, comments, notices, the hearing proceedings, and the final rule are available for inspection during normal business hours at: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4405, 12th and Pennsylvania Avenue, NW, Washington, DC.

Miscellaneous

ATF is approving this area as being viticulturally distinct from surrounding areas. By approving the area, wine producers are allowed to claim a distinction on wine labels. Any commercial advantage gained can only be substantiated by consumer acceptance of Lime Kiln Valley wines.

Drafting Information

The principal author of this document is Roger L. Bowling, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, personnel in other offices participated in the preparation of this document, both in matters of substance and style.

Federal Register Index Terms

27 CFR Part 9; Administrative Practice and Procedure; Consumer Protection; Wine.

Authority

Accordingly, under the authority contained in Section 5 of the Federal Alcohol Administration Act (49 Stat. 981, as amended; 27 U.S.C. 205), 27 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Par. 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.27. As amended, the table of sections reads as follows:

Sec.
9.27 Lime Kiln Valley.

Par. 2. Subpart C is amended by adding § 9.27. As amended, Subpart C reads as follows:

§ 9.27 Lime Kiln Valley.

(a) *Name.* The name of the viticultural area described in this section is "Lime Kiln Valley."

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Lime Kiln Valley viticultural area are two U.S.G.S. maps entitled:

(1) "Mount Harlan Quadrangle, California," 7.5 minute series; and

(2) "Paicines Quadrangle, California," 7.5 minute series.

(c) *Boundaries.* The Lime Kiln Valley viticultural area is located in San Benito County, California. From the beginning point at the intersection of Thompson Creek and Cienega Road, the boundary proceeds, in a straight line to the summit of an unnamed peak (1,288 feet) in the northwest quarter of Section 28, T.14 S./R.6 E.;

(1) Thence in a straight line from the summit of the unnamed peak (1,288 feet) to a point where it intersects the 1,400-foot contour line, by the elevation marker, in the southwest quarter of T.14 S./R.6 E, Section 28;

(2) Thence following the 1,400-foot contour line through the following sections; Sections 28, 29, and 30, T.14 S./R.6 E.; Section 25, T.14 S./R.5 E.; Sections 30, 19, 20, and returning to 19, T.14 S./R.6 E., to a point where the 1,400-foot contour line intersects with the section line between Sections 19 and 18, T.14 S./R.6 E.;

(3) Thence in a straight line to the Cienega School Building along Cienega Road;

(4) Thence along Cienega Road to the point of beginning.

Signed: April 8, 1982.

G. R. Dickerson,
Director.

Approved: May 11, 1982.

John M. Walker, Jr.,
Assistant Secretary (Enforcement and Operations).

[FR Doc. 82-15079 Filed 6-3-82; 8:45 am]
BILLING CODE 4810-31-M

DEPARTMENT OF LABOR

Wage and Hour Division, Employment Standards Administration

Office of the Secretary

29 CFR Part 5

Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule; correction.

SUMMARY: This document corrects the words of issuance contained in the final regulations for labor standards that appeared at page 23664 in the Federal

Register of Friday, May 28, 1982. This action is necessary to make it clear that Subpart B was not being eliminated.

EFFECTIVE DATE: July 27, 1982.

FOR FURTHER INFORMATION CONTACT: William M. Otter, Administrator Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, NW., Washington, D.C. 20219. Telephone: 202–523–8305.

SUPPLEMENTARY INFORMATION: On Friday, May 28, 1982, published at 47 FR 23658, the Department issued final regulations for labor standards applicable to contracts for federally financed and assisted construction subject to the Davis-Bacon and Related Acts and contracts subject to the Contract Work Hours and Safety Standards Act (CWHSSA). The preamble to that document clearly stated that only Subpart A of Part 5 was being amended. However, through inadvertence, the words of issuance failed to make that clear. This document corrects that error and makes it clear that Subpart B of Part 5 remains in effect. Accordingly, the words of issuance (appearing on page 23664 at the bottom of column three) which now read "Accordingly, 29 CFR Part 5 is revised as set forth below" is corrected to read "Accordingly, 29 CFR Part 5, Subpart A, is revised as set forth below."

Signed at Washington, D.C., on this 28th day of May 1982.

Raymond J. Donovan,

Secretary of Labor.

Robert B. Collyer,

Deputy Under Secretary for Employment Standards.

William M. Otter,

Administrator, Wage and Hour Division.

[FR Doc. 82–15070 Filed 6–3–82; 8:45 am]

BILLING CODE 4510–27–M

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29 CFR Part 5

Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule; correction.

SUMMARY: This document corrects a citation to a regulation contained in the dates of applicability section of the preamble of the final regulations that appeared at page 23664 in the **Federal Register** of Friday, May 28, 1982. This action is necessary in order to clarify the applicability of the revision concerning submission of a weekly "Statement of Compliance", contained in § 5.5(a)(3)(ii).

EFFECTIVE DATE: July 27, 1982.

FOR FURTHER INFORMATION CONTACT: William M. Otter, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone: 202–523–8305.

SUPPLEMENTARY INFORMATION: On Friday, May 28, 1982, published at 47 FR 23658, the Department issued final regulations for labor standards applicable to contracts for federally financed and assisted construction subject to the Davis-Bacon and Related Acts and contracts subject to the Contract Work Hours and Safety Standards Act (CWHSSA). Through inadvertence, the preamble to that document contained an error in the citations to § 5.5(a)(3)(ii) in the paragraph entitled "Dates of Applicability". The reference was to the revision concerning submission of a weekly "Statement of Compliance". This document corrects that error.

Accordingly, the citation (appearing three times in column three on page 23664 under "Dates of Applicability") which now reads "§ 5.5(a)(1)(ii)" is corrected to read "§ 5.5(a)(3)(ii)".

Signed at Washington, D.C. on this 1st day of June 1982.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 82–15198 Filed 6–3–82; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF DEFENSE

32 CFR Part 242b

General Procedures and Delegations of the Board of Regents of the Uniformed Services University of the Health Sciences

AGENCY: Uniformed Services University of the Health Sciences, DoDD.

ACTION: Final Rule.

SUMMARY: This document amends the General Procedures and delegations of the Uniformed Services to add one officer reporting to the President of the University.

EFFECTIVE DATE: June 4, 1982.

ADDRESS: Legal Counsel, Uniformed Services University of the Health Sciences, 4301 Jones Bridge Road, Bethesda, Maryland 20014.

FOR FURTHER INFORMATION CONTACT: Merel Glaubiger, Legal Counsel, 202/295–3028.

SUPPLEMENTARY INFORMATION: In FR Doc 77–36169 published in the **Federal Register** on December 20, 1977 (42 FR 63775) the Uniformed Services University of the Health Sciences published General Procedures and Delegations of the Board of Regents of the Uniformed Services University of the Health Sciences. This was amended in FR Doc 78–28367 published in the **Federal Register** on October 10, 1978 (43 FR 46531) to alter the number and responsibilities of officers reporting to the Dean of the University (President), and in FR Doc 81–8774 published in the **Federal Register** on March 23, 1981 (46 FR 18024) to realign certain functions of officers reporting to the Dean of the University (President). The purpose of this amendment is to add one officer reporting to the President of the University. The rule establishes the office of Vice President of the University.

Because this rule relates solely to matters of University organization and procedure, notice of proposed rulemaking and public participation in the rulemaking are not required by Section 553 of Title 5 of the United States Code.

List Of Subjects in 32 CFR Part 242b

Medical and dental schools, Uniformed services.

PART 242b—GENERAL PROCEDURES AND DELEGATIONS OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Accordingly, pursuant to the Uniformed Services Health Professions Revitalization Act, Sections 552 and 553 of Title 5 of the United States Code, and § 242b.8(a) of Title 32, Code of Federal Regulations, the Board of Regents of the Uniformed Services University of the Health Sciences, amends Part 242b, Chapter I, Title 32, Code of Federal Regulations by revising § 242b.7 (a)(7) and (b)(1)—(4) and by adding new paragraph (b)(5) to read as follows:

§ 242b.7 Officers of the University.

(a) * * *

(7) To assist in the performance of his or her duties, the President with the approval of the Board, shall appoint, to act under the President's authority and direction, officers as follows:

(i) Vice President of the University
(ii) Dean of the School of Medicine
(iii) Associate Dean
(iv) Associate Dean for Operations
(v) Associate Dean for Academic Affairs

* * * * *

(b) * * *

(1) Vice President of the University.

(i) The Vice President of the University will assist the President and will perform such duties as may be directed from time to time by the President.

(ii) In the absence of the President, the Vice President shall act for the President.

(2) Dean of the School of Medicine. (i) The Dean of the School of Medicine shall be responsible for planning, directing, and managing the activities of the School of Medicine.

(ii) He or she shall recommend to the President and to the Board, personnel for faculty appointments and will perform such duties as may be directed from time to time by the Board or the President.

(iii) He shall recommend to the President persons for appointment as the Associate Dean of the School of Medicine, Associate Dean for Operations, Associate Dean for Academic Affairs and such other administrative positions as he deems proper.

(3) Associate Dean of the School of Medicine. (i) The Associate Dean shall assist the Dean of the School of Medicine in planning, developing, and directing the activities and functions of the School of Medicine.

(ii) In the absence of the Dean, he or she shall act for the Dean.

(4) Associate Dean for Operations. (i) The Associate Dean for Operations shall be responsible for the support of the educational and research activities of the University including but not limited to:

(A) Financial Management;
(B) Building Services and Materiel Acquisition;
(C) Grants Management;
(D) Personnel/Manpower;
(E) Instructional and Research Support;
(F) Learning Resources Center; and
(G) Computer Operations.

(ii) He or she shall be responsible for the preparation of the University budget estimates and program submission presentations for the approval of the Board.

(iii) He or she shall make all books, records or vouchers available for the inspection of any member of the Board and shall report at each meeting of the Administrative Affairs Committee.

(iv) In the absence of the Dean and the Associate Dean, he or she shall act for the Dean.

(5) Associate Dean for Academic Affairs. (i) The Associate Dean for Academic Affairs shall be responsible for the overall management and supervision of the University's Basic Sciences Departments, Clinical Sciences Departments, and the Academic Sections including but not limited to:

(A) Operational and Emergency Medicine;
(B) Medical Education; and
(C) Medical History.

Dated: May 25, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 82-15200 Filed 6-3-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CRF Part 7

Cuyahoga Valley National Recreation Area; Alcoholic Beverages

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service is amending its special regulations by establishing restrictions on the consumption of beer and alcoholic beverages in the Cuyahoga Valley National Recreation Area. The restrictions are necessary to reduce the adverse impact on the park resources and to ensure the safety of park visitors.

EFFECTIVE DATE: June 4, 1982.

FOR FURTHER INFORMATION CONTACT: Lewis S. Albert, Superintendent, Cuyahoga Valley National Recreation Area, Telephone: (216) 650-4414.

SUPPLEMENTARY INFORMATION:

Background

This regulation is designed to provide greater resource and visitor protection. Cuyahoga Valley National Recreation Area was established to preserve the scenic, cultural, natural, and historic qualities of the Cuyahoga River Valley for all times and for the benefit and enjoyment of the people. Visitors from throughout the country come to rediscover the beauty of nature, the peace of the countryside, the substance of the past, relax in the open space set aside for recreation, and enjoy the cultural experiences available in the park.

During the thirty day public review and comment period, the National Park Service received a total of 19 written comments by individuals. All of the individual comments supported the proposed rule. No individual comment was received that opposed the regulation. The National Park Service also received five group comments. Four group comments with over 90 signatures, favored the regulation as written. One petition with 35 signatures opposed the rule.

Persons visiting Cuyahoga Valley NRA to enjoy the natural, cultural, and scenic features and setting are finding with increasing regularity that park areas are dominated by people who come to the park primarily to consume alcohol. These persons congregate in the parking lots and project a party-like atmosphere. This use adversely impacts the vegetation around the lots and discourages use of the recreation area by persons who wish to enjoy the natural and historic features. These visitors often see the crowds in the parking lots and leave the area.

This situation is generated by the fact that Cuyahoga Valley NRA is the only public park area in the region where the consumption of alcoholic beverages is permitted. Such consumption is prohibited in State and local park areas, and the prohibition is vigorously enforced by appropriate authorities.

Additionally, the consumption of alcohol has frequently led to disruptive behavior which conflicts with other uses and users of the park. Violators of liquor laws and related incidents constitute a major portion of the park's caseload, and these problems are increasing. In 1979, there were 414 alcohol violations handled in the Virginia Kendall Unit, also, that year rangers handled six disorderly conduct cases. The first seven months of 1981 produced 736 alcohol violations and 62 disorderly conduct cases. Traffic offenses also increased as did felony drug abuse. Vandalism, including broken bottles and property damage, increased proportionally.

Alcohol-related offenses are increasing. The factors influencing this increase have not been fully identified; however, there is clearly a correlation between alcohol consumption and offenses such as alcohol possession, drunk driving, public intoxication, and disorderly conduct. The relationship between alcohol consumption and other incidents such as driving violations and drug offenses is not documented;

however, many persons involved in such incidents either had consumed or possessed alcohol at the time of the incident.

The majority of the visitors contacted for alcohol-related incidents at the Virginia Kendall Unit were under 23 years of age, and visitors in this age group seldom make complaints about alcohol-related incidents in the park. Others do complain about the activities and conduct of those who have consumed significant amounts of alcohol. For example, in 1981, approximately 35 persons made specific complaints about alcohol consumption, party-like atmospheres, and disorderly behavior in the Kendall area.

Failure to implement this regulation means that the park would continue to be the only public outdoor recreation facility in northeast Ohio where alcohol is permitted.

Promulgation of this regulation is expected to result in a decrease in alcohol-related offenses.

These restrictions will primarily affect youths who visit the park for the principal purpose of consuming alcoholic beverages. Further, it is expected that the implementation of this regulation, coupled with routine patrol activities, will diminish public intoxication and drunk driving and reduce disorderly conduct and drug offenses. This effect will be perceived as adverse by the youths who have engaged in drinking activities but will be seen as beneficial by others. Ultimately, park rangers who have committed a considerable portion of their time to alcohol-related incidents will be free during peak use periods to engage in activities more useful and beneficial to the general public.

Implementation of this regulation will have a beneficial effect on the natural appearance of public use areas and trails. Presently, even with extensive litter pickup, significant numbers of bottles and cans are in evidence in use areas and along trails. These not only blight natural areas, but are safety hazards as well.

Prohibition of alcohol will also affect those who enjoy the moderate use of alcohol in an outdoor recreational setting and those who use it without infringing upon the reasonable use and enjoyment of the area by others.

Present regulations and their full enforcement have been inadequate in dealing with the problem so that the visiting public has not been afforded a reasonable opportunity to enjoy the resource in the manner intended. This new regulation will act as a preventive measure and help protect the basic resources for which the national recreation area was established, provide reasonable safety for persons visiting or residing in the park area, and better protect the experience of visitors to the park.

The exception contained in the regulation is intended to permit the consumption of alcoholic beverages and the possession of open containers of such beverages in residences.

In view of the approaching heavy public use season, it is deemed in the best interest of the public to make this regulation effective immediately.

A typographical error occurred in the printing of the proposed rule that is minor and has been corrected. The final rule should read "(2) Definition—Alcoholic beverages. Any liquid containing ½ of 1 percent or more of alcohol by weight." The proposed rule erroneously read "½ to 1 percent". This correction presents the final rule as submitted.

Drafting Information

The following persons participated in the writing of this regulation: Brian J. Heffugh, Chief, Resource Management and Visitor Protection; Robert J. Byrne, Chief Ranger; Gordon Wissinger, Park Ranger; and Judith L. Chavan, Resource Management Technician.

Compliance With Other Laws

Pursuant to the National Environmental Policy Act, 42 U.S.C. 4332, the Service has prepared an Environmental Assessment. Copies of the Environmental Assessment and the Finding of No Significant Impact are available for public review and comment in the Office of the Park Superintendent.

This rulemaking contains no provisions that would entail the collection of information in such a manner as would be subject to the Paperwork Reduction Act, 94 Stat. 2812, 44 U.S.C. 3501 *et seq.*

The Service has determined that this rulemaking is not a "major rule" within the meaning of Executive Order 12291, 46 FR 13193, (February 19, 1981). It has also determined that this rulemaking would not have a "significant economic effect on a substantial number of small entities", nor will it require the preparation of a regulatory analysis within the meaning of the Flexibility Act, 94 Stat. 1184, 5 U.S.C. 601 *et seq.* This finding is based on the fact that this regulation will result in an estimated annual $1,000 decrease in local sales of alcoholic beverages. This is considered a very slight effect on local businesses selling these beverages. Additionally, this rule may have a slight positive effect on businesses selling picnic supplies since more families may be attracted to Cuyahoga Valley National Recreation Area.

Authority

Section 3 of the Act of August 25, 1916, 39 Stat. 535, as amended (16 U.S.C. 3).

List of Subjects in 36 CFR Part 7

National Parks.

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

In consideration of the foregoing, Part 7 of Title 36 of the Code of Federal Regulations is amended by the addition of a new § 7.17 as follows:

§ 7.17 Cuyahoga Valley National Recreation Area.

(a) *Alcoholic beverages.*—(1) *Possession.* The possession or consumption of a bottle, can, or other receptacle containing an alcoholic beverage which has been opened, a seal broken, or the contents of which have been partially removed is prohibited, except in residences or other areas specifically authorized by the superintendent as to time and place.

(2) Definition—Alcoholic beverages. Any liquid beverage containing ½ of 1 percent or more of alcohol by weight.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

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36 CFR Part 50

National Capital Parks Regulations; Camping

AGENCY: National Park Service, Interior.

ACTION: Final Rule and policy statement.

SUMMARY: This document specifies the types of activities considered by the National Park Service to be camping which must be confined to designated camping areas. An Administrative Policy Statement explains the administration of this regulation. A recent court opinion has made it necessary to specify the types of activities considered to be camping.

EFFECTIVE DATE: June 4, 1982.

FOR FURTHER INFORMATION CONTACT: Sandra Alley, Associate Regional Director, Public Affairs, National Capital Region, National Park Service, 1100 Ohio Drive SW., Washington, D.C. 20242, telephone: 202-426-6700; Richard G. Robbins, Assistant Solicitor, National

Capital Parks, Office of the Solicitor, Department of the Interior, Washington, D.C. 20240, telephone: 202–343–4338.

SUPPLEMENTARY INFORMATION: The following persons participated in the writing of this regulation: Richard G. Robbins and Dianne H. Kelly, Office of the Solicitor.

I. Background

On November 13, 1981, an administrative policy statement and amendments to the National Park Service regulations governing demonstrations and special events in Washington, D.C. and its environs were published in the **Federal Register**, 46 FR 55959, November 13, 1981. In *Community for Creative Non-Violence v. Watt*, —— F.2d ——, slip op. 81–2381 (Decided January 22, 1982), the United States Court of Appeals for the District of Columbia Circuit held that sleeping by demonstrators in connection with the conduct of their First Amendment activities did not constitute camping as interpreted by the National Park Service in its administrative policy statement accompanying the recent revision of 36 CFR 50.19 (46 FR 55959). The National Park Service thus finds it necessary to specify the types of activities considered to be camping which must be confined to designated camping areas.

II. Effective Date

The Director of the National Park Service finds that good cause exists for suspending the 30-day delay of effectiveness of final regulations provided for in 5 U.S.C. 553(d).

III. Analysis of Comments

The American Civil Liberties Union submitted comments critical of the prohibition on sleeping in symbolic campsites, alleging, among other things, that the Park Service had violated the terms of the settlement agreement which it negotiated with the ACLU in *Women Strike for Peace v. Andrus* (now *Women Strike for Peace v. Watt*), Civ. No. 74–1303 (D.D.C.). The settlement produced revised regulations and an administrative policy statement which clarified long-standing Park Service policy that temporary structures could be erected as a symbolic campsite provided that the structures were not used for living accommodations. (46 FR 55959, November 13, 1981). The articulation of this principle in the policy statement involved no change of position by the Park Service; it merely served as explicit recognition of previous practice and policy. Further, the inclusion of the paragraph on symbolic campsites evolved from the good faith efforts of the Park Service to clarify a number of issues of concern to the ACLU which were not raised or addressed in the litigation. Finally, it must be emphasized that discussions about symbolic campsites were always based on the understanding between the Park Service and the ACLU that any structures erected for such a purpose would not be used for living accommodation activities such as overnight sleeping. The ACLU's claim in its comments that the Park Service failed to abide by its own policy statement in opposing overnight sleeping in campsites (*Community for Creative Non-Violence v. Watt*) appears to be a repudiation of the understanding on the uses of such campsites agreed to by the Park Service and the ACLU. The Park Service must accordingly reject that portion of the ACLU's comments.

The ACLU also asserted that the Park Service proposes to treat demonstrators differently from non-demonstrators, since napping in parks by office workers and the breaking of ground and building of fires in an event such as the Christmas Pageant of Peace are not prohibited. The Park Service wishes to make clear that sleeping and other activities listed as prohibited in the administrative policy statement and rule are prohibited if a reasonable person, viewing the totality of the circumstances, would conclude that the participants, in conducting these activities, were using the site as a living accommodation. In response to this concern expressed by the ACLU, the Park Service is adding to the third paragraph of the policy statement and to § 50.19(e)(6) a statement to read as follows:

> The above-listed activities are prohibited outside designated campgrounds when it reasonably appears in light of all the circumstances, that the participants, in conducting these activities, are in fact using the area as a living accommodation regardless of the intent of the participants or the nature of any other activities in which they may also be engaging.

Agreeing that camping *primarily* for living accommodation should not be permitted in undesignated parks, the ACLU suggested that camping which is incidental and integral to demonstration activity should be permitted. Such a distinction would put the Park Service in a position of having to scrutinize the content of every demonstration's message to determine when camping is or is not "incidental and integral" to a demonstration. This determination would have to turn not on the practical question of whether people are in fact living at a site, but rather on the nature and degree of the relationship between the content of the expression and the camping activities proposed. Were the Park Service to undertake this responsibility, it would be forced to exercise exactly the same type of content-based discretionary decision-making consistently condemned by the courts. Since the assertion of a nexus between content and camping would result in the provision of free, convenient living space for persons pursuing speech activities, it is reasonable to assume that the frequency of such claims would greatly multiply if the ACLU suggestion were adopted. Therefore, the Park Service believes that fair administration of its regulations requires the prohibition of use of park land for living accommodations for all park users, whether or not conducting demonstration activities.

The Washington Legal Foundation, Chamber of Commerce, and several other commentators, while supporting the ban on use of parks for living accommodations, submitted broader suggestions to restrict the erection and use of temporary structures in park areas. The Washington Legal Foundation presented a petition for rule-making reflecting the comments which it also submitted on the proposed rules. Their petition urged the Park Service to determine the appropriateness of structures based on each park's size and location, to regulate the size and aesthetic quality of temporary structures, to allow such structures in only a small percentage of park areas, and to ban structures within a three hundred yard radius of the White House.

As a result of the court decision in *Women Strike for Peace v. Morton*, 472 F. 2d 1273, the Park Service is required to allow the erection of structures by demonstrators to the same extent that it participates in or sponsors the erection of structures itself. Under current regulations, the Director of the National Capital Region has the authority to impose reasonable restrictions on the structures permitted in the interest of protecting the park areas involved, traffic and public safety considerations, and other legitimate park value concerns. 36 CFR 50.19(e)(8)(iii). The Park Service believes that the first three proposals of the Washington Legal Foundation, the Chamber of Commerce, and other commentators are already adequately addressed in these existing regulations. Furthermore, the use of temporary structures for living accommodations has been an isolated, temporary situation which should be corrected by the proposed regulations dealing with the specific harm caused by such use.

There is also no indication that allowing temporary structures within three hundred yards of the White House poses any danger which regulations should address. Courts have consistently held that regulations governing First Amendment activity must be drawn as narrowly as possible in furtherance of a legitimate government interest. In the absence of an identifiable threat, the existence of a legitimate government interest appears too tenuous to support more restrictive regulations.

The Park Service has previously considered the necessity of maintaining selected park areas as places of quiet reflection where demonstrations are not permitted. The result of such consideration has been the barring of demonstration activities at portions of historic monuments such as the Lincoln and Jefferson Memorials and the Washington Monument. In *Washington Free Community v. Wilson*, 334 F. Supp. 77 (1971), however, the court indicated that the hustle and bustle of some National Capital Region parks such as Lafayette Park preclude attempts to restrict demonstration activities to foster serenity which is not attainable in the midst of a downtown business district.

Comments by the Community for Creative Non-Violence and counsel for the group asserted that the proposed regulations were unconstitutional since they furthered no legitimate government interest and violated court rulings. The Park Service believes that a substantial government interest is involved in the prevention of use of the National Capital Parks as campgrounds for those wishing to express a point of view or, indeed, for any park visitors. The regulations banning the use of parks for living accommodations are designed not to stifle First Amendment expression, but to protect undesignated parks from activities for which they are not suited and the impacts of which they cannot sustain. Short-time, casual sleeping which does not occur in the context of using the park for living accommodations will not be affected by these regulations.

The Park Service also believes that the regulations are drawn in accord with relevant court decisions. The only case which found sleeping to be sufficiently expressive in nature to implicate a threshold First Amendment scrutiny was confined to the peculiar facts of the case and the particular regulation involved, which the court found provided too much open-ended discretion to the Park Service. The court explicitly stated that an across-the-board ban on sleeping outside official campgrounds might well be constitutionally acceptable if duly promulgated and even-handedly enforced. *United States v. Abney*, 534 F.2d 984 (D.C. Cir. 1976). Even when an activity might provoke initial First Amendment consideration, a legitimate government interest expressed in the most narrowly drawn restrictions possible is not an unconstitutional burden on free expression. The Park Service believes that preventing the use as public campgrounds of the Memorial Core and other park areas in the national capital constitutes such a legitimate government interest.

IV. Regulatory Changes

The decision by the United States Court of Appeals for the District of Columbia Circuit in *Community for Creative Non-Violence v. Watt*, which interpreted current regulations to allow sleeping by demonstrators in connection with First Amendment activity, has necessitated the addition of a definitional sentence to § 50.27 to avoid the use of the Memorial Core and other park areas of the nation's capital as a camping ground. Experience with administering the court's decision allowing sleeping has revealed that sleeping activity by demonstrators expands to include other aspects of living accommodations such as the storage of personal belongings and the performance of necessary functions which have converted the sleeping area into actual campsites. Since the urban and nationally significant nature of the national capital parks render them unsuitable for camping and incapable of sustaining the impacts from that type of activity, the National Park Service wishes to make clear that activities normally associated with camping, such as sleeping, which occur in the context of living accommodations, are not permitted outside designated campgrounds. This clarification will occur through the addition of a sentence to § 50.27 specifically defining the types of activities which the Park Service believes generate the adverse impacts of camping.

Reference to Prefatory Statement

In order to aid readers in understanding the administrative policies which have been developed to implement the revised regulations, a citation to the applicable Federal Register reference will appear at the conclusion of 36 CFR 50.27.

V. Administrative Policy Statement

Structures and Campsites

Because of the decision of the United States Court of Appeals for the District of Columbia Circuit in *Community for Creative Non-Violence v. Watt*, —— F.2d —— (D.C. Cir. 1982), slip. op. 81-2381, the National Park Service finds it necessary to clarify the definition of symbolic campsites and the extent to which temporary structures are permitted in connection with First Amendment activities.

It has been the long-standing administrative policy and practice of the National Park Service to allow demonstrators to erect temporary structures reasonably necessary for the conduct of their demonstration, including the provision of logistical support. The requirement that the erection of temporary structures be permitted arose out of the decision of the United States Court of Appeals for the District of Columbia Circuit in *Women Strike for Peace v. Morton*, 472 F.2d 1273 (D.C. Cir. 1972). Following this decision, it became the policy of the National Park Service to allow tents to be erected as temporary structures in connection with permitted demonstrations. Tents may be erected as a means of symbolizing the message of demonstrating groups or of providing support and logistical services. Examples of activities where the Park Service has permitted the erection of tents in connection with demonstration activities include: a demonstration by the Community for Creative Non-Violence in which a number of tents symbolized the need for housing for the homeless; demonstrations by anti-war veterans groups where the tents symbolized conditions in Vietnam; Indian teepees by Indian rights groups to symbolize the plight of Indians; and numerous other demonstrations where support service tents were used for first aid facilities, for lost children areas, and to shelter electrical and other sensitive equipment or displays.

Although it is the policy of the National Park Service to permit tents as temporary structures for the above purposes in connection with permitted demonstration activities, the Park Service does not permit camping or the erection of tents for camping in connection with demonstration activities in other than formally designated and maintained campgrounds. Camping is defined as the use of park land for living accommodation activities such as sleeping, or making preparations to sleep (including the laying down of

bedding for the purpose of sleeping), or storing personal belongings or making any fire, or using any tent or shelter or other structure or vehicle for sleeping or doing any digging or earth breaking or carrying on cooking activities. The above-listed activities constitute camping when it reasonably appears, in light of all the circumstances, that the participants, in conducting these activities, are in fact using the area as a living accommodation regardless of the intent of the participants or the nature of any other activities in which they may also be engaging. This policy is not intended to prohibit eating, cooking, and other traditional picnicking activities in areas designated for picnicking pursuant to 36 CFR 50.14.

The National Park Service emphatically believes that the Memorial Core area of the nation's capital is an especially unsuitable location for camping activities. The Memorial Core includes the Mall area, the Washington Monument grounds, the White House area, the Ellipse, Lafayette Park, East and West Potomac Park, the Jefferson and Lincoln Memorials, and the Kennedy Center. Were camping permitted in this area, other park visitors, including demonstrating park visitors, would be deprived of use of this nationally significant space. Camping could cause significant damage to park resources, create serious sanitation problems, and seriously tax law enforcement resources. It is probable that the cumulative impact of permitting any camping activities in the Memorial Core and other National Capital Park areas would cause the National Park Service to incur additional costs for park restoration, sanitary facilities and extra park personnel, including law enforcement personnel. Even though camping is now prohibited, the Park Service nevertheless receives several requests each year for camping in connection with demonstration activities. It is believed that these requests would increase dramatically were camping permitted because it would offer free, convenient living space for persons pursuing speech activities. Such use of park space would amount to a federal subsidy of the living costs of demonstrating park visitors and would create pressure from non-demonstrating visitors for similar accommodations.

It is the opinion of the National Park Service that allowing participants in any activity to live at the site of their activity would create unacceptable adverse impacts to park areas, deprive other visitors of use of the park area and create law enforcement confrontations arising from attempts to confine activities within specific parameters. In fact, experience with administering the court's decision in *Community for Creative Non-Violence v. Watt* revealed that activities by demonstrators expanded into a campground situation with serious adverse effects on Lafayette Park.

The National Park Service is mindful of the need to provide camping facilities in park areas within the Washington, D.C. metropolitan area. Fully equipped and maintained campgrounds are located in parks which can sustain the impacts from camping activities and which are within reasonable proximity to the capital. Demonstrating park visitors are free to avail themselves of these facilities.

Impact Analysis

The National Park Service has determined that this document is not a major rule requiring preparation of a Regulatory Impact Analysis under Executive Order 12291 and does not require a small entity flexibility analysis under Pub. L. 96-354. The rule is designed only to specify the types of activities considered by the National Park Service to be camping which must be confined to designated camping areas. People wishing to camp in the Washington, D.C. metropolitan area will continue to have access to park areas designated as public campgrounds. The rule will have no substantial impact on any aspect of the economy.

List of Subjects in 36 CFR Part 50

District of Columbia, National Parks, National Capital Parks.

Date Approved: May 11, 1982.

J. Craig Potter,

Assistant Secretary for Fish and Wildlife and Parks.

PART 50—NATIONAL CAPITAL PARKS REGULATIONS

In consideration of the foregoing, § 50.27 of Title 36 of the Code of Federal Regulations is accordingly amended:

1. The authority citation for Part 50 reads as follows:

Authority: Sec. 6, 30 Stat. 571, secs. 1–3, 39 Stat. 535, as amended, sec. 16, 43 Stat. 1126 as amended, 62 Stat. 81, secs. 1, 2, 67 Stat. 495–496; 8 D.C. Code 143, 16 U.S.C. 1, 16, 1c, 2, 2; 40 D.C. Code 613.

§ 50.27 [Amended]

2. By revising § 50.27(a) to read as follows:

(a) Camping is defined as the use of park land for living accommodation purposes such as sleeping activities, or making preparations to sleep (including the laying down of bedding for the purpose of sleeping), or storing personal belongings, or making any fire, or using any tents or shelter or other structure or vehicle for sleeping or doing any digging or earth breaking or carrying on cooking activities. The above-listed activities constitute camping when it reasonably appears, in light of all the circumstances, that the participants, in conducting these activities, are in fact using the area as a living accommodation regardless of the intent of the participants or the nature of any other activities in which they may also be engaging. Camping is permitted only in areas designated by the Superintendent who may establish limitations of time allowed for camping in any public camping ground. Upon the posting of such limitations in the campground no person shall camp for a period longer than that specified for the particular campground.

* * * * *

3. By amending § 50.27 to add paragraph (h) to read as follows:

* * * * *

(h) Further information on administering these regulations can be found at 47 FR 24302 (June 4, 1982).

[FR Doc. 82-15254 Filed 6-3-82; 8:45 am]

BILLING CODE 4310-70-M

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36 CFR Part 50

National Capital Parks Regulations; Camping

AGENCY: National Park Service, Interior.

ACTION: Final rule and policy statement.

SUMMARY: This final rule contains amendments to the National Park Service regulations governing demonstrations and special events in Washington, D.C. and its environs. An Administrative Policy Statement explains the administration of this regulation. These amendments and statement clarify the definition of symbolic campsites and the extent to which temporary structures are permitted in connection with First Amendment activities.

EFFECTIVE DATE: June 4, 1982.

FOR FURTHER INFORMATION CONTACT: Sandra Alley, Associate Regional Director, Public Affairs, National Capital Region, National Park Service, 1100 Ohio Drive, S.W., Washington, D.C. 20242, telephone: 202-426-6700; Richard G. Robbins, Assistant Solicitor, National Capital Parks, Office of the Solicitor, Department of the Interior, Washington, D.C. 20240, telephone: 202-343-4338.

SUPPLEMENTARY INFORMATION: The following persons participated in the writing of this regulation: Richard G. Robbins and Dianne H. Kelly, Office of the Solicitor.

I. Background

On November 13, 1981, an administrative policy statement and amendments to the National Park Service regulations governing demonstrations and special events in Washington, D.C. and its environs were published in the **Federal Register**, 46 FR 55959. Since that time, the United States Court of Appeals for the District of Columbia Circuit has interpreted that policy statement and those amended regulations as permission granted by the National Park Service to demonstrators to use as sleeping accommodations temporary structures such as tents erected for the purpose of symbolizing a message or providing logistical support. *Community for Creative Non-Violence* v. *Watt*, —— F.2d —— (D.C. Cir. 1982), slip. op. 81–2381. The National Park Service thus finds it necessary to clarify the definition of symbolic campsites and the extent to which temporary structures are permitted in connection with First Amendment activities.

In addition, experience with attempts to administer the amended regulations in the wake of the court decision has led to a change in the circumstances under which the erection of temporary structures will be permitted.

II. Effective Date

The Director of the National Park Service finds that good cause exists for suspending the 30-day delay of effectiveness of final regulations provided for in 5 U.S.C. 53(d).

III. Analysis of Comments

The American Civil Liberties Union submitted comments critical of the prohibition on sleeping in symbolic campsites, alleging, among other things, that the Park Service had violated the terms of the settlement agreement which it negotiated with the ACLU in *Women Strike for Peace* v. *Andrus* (now *Women Strike for Peace* v. *Watt*), Civ. No. 74–1303 (D.D.C.). The settlement produced revised regulations and an administrative policy statement which clarified long-standing Park Service policy that temporary structures could be erected as a symbolic campsite provided that the structures were not used for living accommodations. 46 FR 55959 (November 13, 1981). The articulation of this principle in the policy statement involved no change of position by the Park Service; it merely served as explicit recognition of previous practice and policy. Further, the inclusion of the paragraph on symbolic campsites evolved from the good faith efforts of the Park Service to clarify a number of issues of concern to the ACLU which were not raised or addressed in the litigation. Finally, it must be emphasized that discussions about symbolic campsites were always based on the understanding between the Park Service and the ACLU that any structures erected for such a purpose would not be used for living accommodation activities such as overnight sleeping. The ACLU's claim in its comments that the Park Service failed to abide by its own policy statement in opposing overnight sleeping in campsites (*Community for Creative Non-Violence* v. *Watt*) appears to be a repudiation of the understanding on the uses of such campsites agreed to by the Park Service and the ACLU. The Park Service must accordingly reject that portion of the ACLU's comments.

The ACLU also asserted that the Park Service proposes to treat demonstrators differently from non-demonstrators, since napping in parks by office workers and the breaking of ground and building of fires in an event such as the Christmas Pageant of Peace are not prohibited. The Park Service wishes to make clear that sleeping and other activities listed as prohibited in the administrative policy statement and rule are prohibited if a reasonable person, viewing the totality of the circumstances, would conclude that the participants, in conducting these activities, were using the site as a living accommodation. In response to this concern expressed by the ACLU, the Park Service is adding to the third paragraph of the policy statement and to § 50.19(e)(8) a statement to read as follows:

"The above-listed activities are prohibited outside designated campgrounds when it reasonably appears in light of all the circumstances, that the participants, in conducting these activities, are in fact using the area as a living accommodation regardless of the intent of the participants or the nature of any other activities in which they may also be engaging."

Agreeing that camping primarily for living accommodation should not be permitted in undesignated parks, the ACLU suggested that camping which is incidental and integral to demonstration activity should be permitted. Such a distinction would put the Park Service in a position of having to scrutinize the content of every demonstration's message to determine when camping is or is not "incidental and integral" to a demonstration. This determination would have to turn not on the practical question of whether people are in fact living at a site, but rather on the nature and degree of the relationship between the content of the expression and the camping activities proposed. Were the Park Service to undertake this responsibility, it would be forced to exercise exactly the same type of content-based discretionary decision-making consistently condemned by the courts. Since the assertion of a nexus between content and camping would result in the provision of free, convenient living space for persons pursuing speech activities, it is reasonable to assume that the frequency of such claims would greatly multiply if the ACLU suggestion were adopted. Therefore the Park Service believes that fair administration of its regulations requires the prohibition of use of park land for living accommodations for all park users, whether or not conducting demonstration activities.

The Washington Legal Foundation, Chamber of Commerce, and several other commentators, while supporting the ban on use of parks for living accommodations, submitted broader suggestions to restrict the erection and use of temporary structures in park areas. The Washington Legal Foundation presented a petition for rule-making reflecting the comments which it also submitted on the proposed rules. Their petition urged the Park Service to determine the appropriateness of structures based on each park's size and location, to regulate the size and aesthetic quality of temporary structures, to allow such structures in only a small percentage of park areas, and to ban structures within a three hundred yard radius of the White House.

As a result of the court decision in *Women Strike for Peace v. Morton*, 472 F.2d 1273, the Park Service is required to allow the erection of structures by demonstrators to the same extent that it participates in or sponsors the erection of structures itself. Under current regulations, the Director of the National Capital Region has the authority to impose reasonable restrictions on the structures permitted in the interest of protecting the park areas involved, traffic and public safety considerations, and other legitimate park value concerns. 36 CFR 50.19(e)(8)(iii). The Park Service believes that the first three proposals of the Washington Legal Foundation, the Chamber of Commerce, and other commentators are already adequately addressed in these existing regulations. Furthermore, the use of temporary structures for living

accommodations has been an isolated, temporary situation which should be corrected by the proposed regulations dealing with the specific harm caused by such use.

There is also no indication that allowing temporary structures within three hundred yards of the White House poses any danger which regulations should address. Courts have consistently held that regulations governing First Amendment activity must be drawn as narrowly as possible in furtherance of a legitimate government interest. In the absence of an identifiable threat, the existence of a legitimate government interest appears too tenuous to support more restrictive regulations.

The Park Service has previously considered the necessity of maintaining selected park areas as places of quiet reflection where demonstrations are not permitted. The result of such consideration has been the barring of demonstration activities at portions of historic monuments such as the Lincoln and Jefferson Memorials and the Washington Monument. In *Washington Free Community v. Wilson*, 334 F. Supp. 77 (1971), however, the court indicated that the hustle and bustle of some National Capital Region parks such as Lafayette Park preclude attempts to restrict demonstration activities to foster serenity which is not attainable in the midst of a downtown business district.

Comments by the Community for Creative Non-Violence and counsel for the group asserted that the proposed regulations were unconstitutional since they furthered no legitimate government interest and violated court rulings. The Park Service believes that a substantial government interest is involved in the prevention of use of the National Capital Parks as campgrounds for those wishing to express a point of view or, indeed, for any park visitors. The regulations banning the use of parks for living accommodations are designed not to stifle First Amendment expression, but to protect undesignated parks from activities for which they are not suited and the impacts of which they cannot sustain. Short-time, casual sleeping which does not occur in the context of using the park for living accommodations will not be affected by these regulations.

The Park Service also believes that the regulations are drawn in accord with relevant court decisions. The only case which found sleeping to be sufficiently expressive in nature to implicate a threshold First Amendment scrutiny was confined to the peculiar facts of the case and the particular regulation involved, which the court found provided too much open-ended discretion to the Park Service. The court explicitly stated that an across-the-board ban on sleeping outside official campgrounds might well be constitutionally acceptable if duly promulgated and even-handedly enforced. *United States v. Abney*, 534 F.2d 984 (D.C. Cir. 1976). Even when an activity might provoke initial First Amendment consideration, a legitimate government interest expressed in the most narrowly drawn restrictions possible is not an unconstitutional burden on free expression. The Park Service believes that preventing the use as public campgrounds of the Memorial Core and other park areas in the national capital constitutes such a legitimate government interest.

IV. Regulatory Changes

Structures and Campsites

In order to clarify the long-standing policy and practice of the National Park Service on the nature and use of temporary structures in connection with demonstration activities, the National Park Service is amending §50.19(e)(8) to forbid specifically the use of any such structures, including tents, for the purpose of conducting any living accommodation activity. The decision by the United States Court of Appeals for the District of Columbia Circuit in *Community for Creative Non-Violence v. Watt*,——F.2d——, slip. op. 81-2361 (Decided January 22, 1982), which interpreted the current regulation and policy statement to allow sleeping by demonstrators in temporary structures, has necessitated this clarification to avoid the use of the Memorial Core and other park areas of the nation's capital as a camping ground. Experience with administering the court's decision permitting sleeping has also confirmed the belief of the Park Service that activity by demonstrators would expand to include other aspects of living accommodations such as the storage of personal belongings and the performance of necessary sanitary functions, which have occurred in conjunction with the court-approved sleeping activities. The revised rule makes it clear that structures are permitted for symbolic or logistical purposes, but not for living accommodation types of activity.

In addition, the exemption in §50.19(b)(1) of groups of 25 or less from the permit requirement imposed on larger groups has led to the proliferation of tents and other structures erected by individuals in close proximity to each other. The increasing numbers of these structures, erected without prior knowledge of the Park Service, have imposed a significant cumulative impact on park resources and personnel and have resulted in uncontrolled and continuous pre-emption of substantial park areas by spontaneously erected structures. Accordingly, the Park Service is amending §50.19(e)(8) further to provide that the erection of structures other than lecterns or small speakers platforms is prohibited unless a demonstration permit is obtained.

Reference to Prefatory Statement

In order to aid readers in understanding the administrative policies which have been developed to implement the revised regulations, a citation to the applicable Federal Register reference will be included at the conclusion of 36 CFR 50.19.

Administrative Policy Statement

Structures and Campsites

Because of the decision of the United States Court of Appeals for the District of Columbia Circuit in *Community for Creative Non-Violence v. Watt*, —— F.2d —— (D.C. Cir. 1982), slip. op. 81-2381, the National Park Service finds it necessary to clarify the definition of symbolic campsites and the extent to which temporary structures are permitted in connection with First Amendment activities.

It has been the long-standing administrative policy and practice of the National Park Service to allow demonstrators to erect temporary structures reasonably necessary for the conduct of their demonstration, including the provision of logistical support. The requirement that the erection of temporary structures be permitted arose out of the decision of the United States Court of Appeals for the District of Columbia Circuit in *Women Strike for Peace v. Morton*, 472 F.2d 1273 (D.C. Cir. 1972). Following this decision, it became the policy of the National Park Service to allow tents to be erected as temporary structures in connection with permitted demonstrations. Tents may be erected as a means of symbolizing the message of demonstrating groups or of providing support and logistical services. Examples of activities where the Park Service has permitted the erection of tents in connection with demonstration activities include: a demonstration by the Community for Creative Non-Violence in which a number of tents symbolized the need for housing for the homeless; demonstrations by anti-war veterans groups where the tents symbolized conditions in Vietnam;

Indian teepees by Indian rights groups to symbolize the plight of Indians; and numerous other demonstrations where support services tents were used for first aid facilities, for lost children areas, and to shelter electrical and other sensitive equipment or displays.

Although it is the policy of the National Park Service to permit tents as temporary structures for the above purposes in connection with permitted demonstration activities, the Park Service does not permit camping or the erection of tents for camping in connection with demonstration activities in other than formally designated and maintained campgrounds. Camping is defined as the use of park land for living accommodation purposes such as sleeping activities, or making preparations to sleep (including the laying down of bedding for the purpose of sleeping), or storing personal belongings or making any fire, or using any tent or shelter or other structure or vehicle for the purpose of sleeping or doing any digging or earth breaking or carrying on cooking activities. The above-listed activities constitute camping when it reasonably appears, in light of all the circumstances, that the participants, in conducting these activities, are in fact using the area as a living accommodation regardless of the intent of the participants or the nature of any other activities in which they may also be engaging. This policy is not intended to prohibit eating, cooking, and other traditional picnicking activities in areas designated for picnicking pursuant to 36 CFR 50.14.

The National Park Service emphatically believes that the Memorial Core area of the nation's capital is an especially unsuitable location for camping activities. The Memorial Core includes the Mall area, the Washington Monument grounds, the White House area, the Ellipse, Lafayette Park, East and West Potomac Park, the Jefferson and Lincoln Memorials, and the Kennedy Center. Were camping permitted in this area, other park visitors, including demonstrating park visitors, would be deprived of use of this nationally significant space. Camping could cause significant damage to park resources, create serious sanitation problems, and seriously tax law enforcement resources. It is probable that the cumulative impact of permitting any camping activities in the Memorial Core and other National Capital Parks areas would cause the National Park Service to incur additional costs for park restoration, sanitary facilities and extra park personnel, including law enforcement personnel. Even though camping is now prohibited, the Park Service nevertheless receives several requests each year for camping in connection with demonstration activities. It is believed that these requests would increase dramatically were camping permitted because it would offer free, convenient living space for persons pursuing speech activities. Such use of park space would amount to a federal subsidy of the living costs of demonstrating park visitors and would create pressure from non-demonstrating visitors for similar accommodations.

It is the opinion of the National Park Service that allowing participants in any activity to live at the site of their activity would create unacceptable adverse impacts to park areas, deprive other visitors of use of the park area and create law enforcement confrontations arising from attempts to confine activities within specific parameters. In fact, experience with administering the court's decision in *Community for Creative Non-Violence v. Watt* allowing sleeping revealed that activities by demonstrators expanded into a campground situation with serious adverse effects on Lafayette Park.

The National Park Service is mindful of the need to provide camping facilities in park areas within the metropolitan Washington, D.C. area. Fully equipped and maintained campgrounds are located in parks which can sustain the impacts from camping activities and which are within reasonable proximity to the capital. Demonstrating park visitors are free to avail themselves of these facilities.

The information collection system contained in § 50.19 has been previously approved by the Office of Management and Budget and assigned OMB Approval No. 1024–0021.

Impact Analysis

The National Park Service has determined that this document is not a major rule requiring preparation of a Regulatory Impact Analysis under Executive Order 12291 and does not require a small entity flexibility analysis under Pub. L. 96–354. The rule is designed only to clarify the circumstances and conditions under which temporary structures may be permitted in connection with demonstration activities. People wishing to camp in the Washington, D.C. metropolitan area will continue to have access to park areas designated as public campgrounds. The rule will have no substantial impact on any aspect of the economy.

List of Subjects in 36 CFR Part 50

District of Columbia; National Parks; National Capital Parks.

Date approved: May 11, 1982.

J. Craig Potter,

Assistant Secretary, Fish, Wildlife and Parks

In consideration of the foregoing § 50.19 of title 36 of the Code of Federal Regulations is accordingly amended as follows:

PART 50—NATIONAL CAPITAL PARKS REGULATIONS

1. The authority citation for § 50.19 reads as follows:

(Sec. 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3); 245 DM 1 (44 FR 23384); Act of Aug. 6, 1956 (70 Stat. 1049) as amended; Act of Jan. 30, 1968 (82 Stat. 4); D.C. Code A. Section 6–108 (1973); and National Park Service Order No. 77 (38 FR 7478), as amended)

§ 50.19 [Amended]

2. By amending § 50.19(e)(8) by revising the introductory text and adding (e)(8)(v) to read as follows:

(e) * * *

(8) In connection with permitted demonstrations or special events, temporary structures, may be erected for the purpose of symbolizing a message or meeting logistical needs such as first aid facilities, lost children areas or the provision of shelter for electrical and other sensitive equipment or displays. Temporary structures may not be used outside designated camping areas for living accommodation activities such as sleeping, or making preparations to sleep (including the laying down of bedding for the purpose of sleeping), or storing personal belongings, or making any fire, or doing any digging or earth breaking or carrying on cooking activities. The above-listed activities constitute camping when it reasonably appears, in light of all the circumstances, that the participants, in conducting these activities, are in fact using the area as a living accommodation regardless of the intent of the participants or the nature of any other activities in which they may also be engaging. Temporary structures are permitted to the extent described above, provided prior notice has been given to the Director, except that:

(i) * * *

(ii) * * *

(iii) * * *

(iv) * * *

(v) Individuals or groups of 25 persons or less demonstrating under the small group permit exemption of § 50.19(b)(1) shall not be permitted to erect

temporary structures other than small lecterns or speakers platforms. This provision is not intended to restrict the use of portable signs or banners.

3. By revising § 50.19(h) to read as follows:

(h) Further information on administering these regulations can be found at 47 FR 24299 (June 4, 1982).

[FR Doc. 82-15101 Filed 6-3-82; 8:45 am]
BILLING CODE 4310-70-M

ADVISORY COUNCIL ON HISTORIC PRESERVATION

36 CFR Part 800

Protection of Historic and Cultural Properties

AGENCY: Advisory Council on Historic Preservation.

ACTION: Temporary suspension of certain regulations with request for comments.

SUMMARY: The Advisory Council on Historic Preservation temporarily suspends three sections of its regulations relating to protection of historic and cultural properties. The purpose of this suspension is to relieve agencies from certain paperwork requirements and time constraints which have been found to constitute an unnecessary regulatory burden.

DATE: These suspensions are effective on July 6, 1982. The Council invites comments during this 30-day period. The Council will consider any comments received before the effective date of this suspension and, if appropriate, modify the suspensions.

ADDRESS: Comments may be mailed to the Advisory Council on Historic Preservation, 1522 K Street, NW., Suite 430, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: John Fowler, General Counsel, 202-254-3967.

SUPPLEMENTARY INFORMATION: Since the Council published its regulations at 36 CFR Part 800 (44 FR 6068, January 30, 1979), Congress and the President have instituted several measures directing federal agencies to reduce the paperwork burdens, time delays and other unnecessary constraints of their regulations. The Council has undertaken an extensive review of its regulations, initiated in June, 1981. While permanent amendments embodying fundamental changes in the Section 106 process are currently under consideration, the Council has identified certain areas where regulatory burdens can be alleviated until the amendment process is completed. The Council temporarily suspends three portions of its regulations which impose paperwork burdens and time constraints that the Council has found to be unnecessary. The suspension will be in effect until the Council completes amendment of its regulations or until further notice.

Section 800.4(a)(4) currently requires the Agency Official to seek from the Secretary of the Interior a formal determination of the eligibility of a property for inclusion in the National Register of Historic Places prior to completing the process set forth in the Council's regulations. The Department of the Interior is currently considering a modification to the determination of eligibility process that would streamline determinations when the State Historic Preservation Officer and an Agency Official agree a property is eligible. The Council has identified the requirements of Section 800.4(a)(4) as hindering this modification. The Council is suspending this regulation to coincide with the Department's intended reform and eliminate an existing regulatory burden.

Section 800.6(c)(1) sets out directions for the preparation of Memoranda of Agreement. In the Council's experience, this provision has served to draw out the Memorandum of Agreement process by creating an overly rigid procedure for preparation of documents. The Council is suspending this section to allow more flexibility, and hence greater expediency, in the preparation of Memoranda of Agreement. The Council intends to issue guidance for the preparation of Memoranda of Agreement in lieu of the suspended regulations. This guidance will provide suggestions for efficient and thorough preparation of Memoranda of Agreement without imposing procedural strictures that could delay the process.

Section 800.6(d)(2)(ii) requires a minimum 60-day waiting period for full Council review of an undertaking except in exceptional cases. In the Council's experience, the 60-day waiting period has proved to be an unnecessary delay and has usually been waived as specified in the regulations. The Council is suspending this provision to eliminate this delay and to allow the Council to consider an undertaking at the time best suited to all the participants in the process.

The Council has determined that each of these suspensions will relieve a burden on complying agencies and that none of these suspensions effect any substantive rights of any party to the section 106 process or the public. None of these sections are mandated by statute. The suspensions are consistent with the policies set forth in Section 2 of Executive Order 12291.

The Council has determined that this document is not a major rule under Executive Order 12291 and does not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act of 1980 (Pub. L 96-354).

The Council has determined that these suspensions do not have a significant effect on the quality of the human environment under the National Environmental Policy Act, 42 U.S.C. 4321, *et seq.*, and that an environmental impact statement is not required.

The Council invites the public's comments on these temporary suspensions.

List of Subjects in 36 CFR Part 800

Historic preservation, Administrative practice and procedure.

Notice of Suspended Regulations

PART 800—PROTECTION OF HISTORICAL AND CULTURAL PROPERTIES

§ 800.4 and § 800.6 [Amended]

The regulations set forth in 36 CFR 800.4(a)(4), 800.6(c)(1), and 800.6(d)(2)(ii) are suspended until further notice.

Dated: May 28, 1982.

John Fowler,

Acting Executive Director.

[FR Doc. 82-15175 Filed 6-3-82; 8:45 am]
BILLING CODE 6310-10-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL 2072-4]

Approval and Promulgation of Implementation Plans; San Diego, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: On February 4, 1981, EPA published a notice of proposed rulemaking concerning a portion of the San Diego Air Basin non-attainment area plan (NAP) submitted by the State of California. That notice proposed to approve with conditions certain volatile organic compound (VOC) rules. Today's notice takes final action under the Clean Air Act to conditionally approve the San Diego VOC rules. This notice also corrects a clerical error made in a previous notice.

DATE: This action is effective July 6, 1982.

FOR FURTHER INFORMATION CONTACT: David P. Howekamp, Acting Director, Air Management Division, Region 9, Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105, Attn: Douglas Grano (415) 974–8222.

ADDRESS: A copy of today's revision to the California State Implementation Plan (SIP) is located at: The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408, Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION:

Background

On July 5, 1979, the California Air Resources Board (ARB) submitted the San Diego Air Basin NAP, including VOC rules, as a revision to the California SIP. On October 4, 1979 (44 FR 57109), EPA published a notice of proposed rulemaking on the NAP.

On October 15 and 25, 1979 and July 25 and December 15, 1980, ARB submitted additional VOC rules which supersede rules previously submitted and discussed in the October 4, 1979 notice.

On February 4, 1981 (45 FR 10570), EPA published a notice of proposed rulemaking for the San Diego VOC rules submitted in 1979 and 1980. That notice should be used as a reference in reviewing today's notice. The February 4, 1981 notice provides a description of the proposed SIP revisions, summarizes the applicable Part D requirements, compares the revisions to these requirements, identifies issues in the proposed revisions, and suggests corrections. That notice proposed to approve the VOC rules with conditions.

EPA published an additional Federal Register notice on March 20, 1981 (45 FR 17790) for the purpose of extending the public comment period to April 6, 1981.

Correction

On April 14, 1981, EPA published a final rulemaking notice (46 FR 21749) which approved, with conditions, portions of the San Diego NAP. The April 14 notice incorrectly approved San Diego County Air Pollution Control District (APCD) rule 20.7, "Standards for Authority to Construct: Significant Deterioration." It was and is EPA's intent to defer action on the above rule. Therefore today's notice rescinds the previous approval of rule 20.7.

Supplemental Revisions

After EPA's review, which appears in the February 4, 1981 proposal notice, the State submitted revisions to the NAP which corrected some of the deficiencies noticed by EPA. These revisions are discussed below.

On October 23, 1981, the State submitted amended San Diego County Rule 67.4, "Can and Coil Coating Operations", and Rule 67.6, "Solvent Cleaning Operations", as rule revisions. Rule 67.4 has been amended by specifying the VOC limits which a coating may contain. This amendment satisfies one of the conditions of approval recommended in EPA's notice of proposed rulemaking. Rule 67.6 has been amended to apply to all organic solvent cleaning operations. This amendment satisfies EPA's proposed condition of approval regarding this rule.

EPA has determined that "good cause" (see Administrative Procedure Act, 5 U.S.C. 5536(b)) exists to approve these revisions without providing further notice and opportunity to comment. EPA has already provided opportunity to comment on the substance of these rules and the proposed deficiencies in the February 4, 1981 proposal notice. Additional comment would serve no practical purpose since these revisions merely correct those deficiencies.

Public Comments

During the public comment period EPA received comments from the General Dynamics Corporation, the National Steel and Ship Building Company, Solar Turbines International, the San Diego County APCD, and the ARB. A document containing the summarization of substantive comments and the full EPA response to each, entitled "EPA Public Comment Technical Support Document", has been mailed to the five commenters and is also available for public inspection as a part of Document File NAP–CA–23 at the EPA Library in Washington D.C., at EPA Region IX office in San Francisco, CA and at the other Document File locations. EPA's final actions are based on the proposed rulemaking notice, and public comments received by EPA.

EPA Actions

EPA is taking final action under Section 172 of the Clean Air Act to approve all the following rules since they provide for reasonably available control technology (RACT): Rules 61.0, 61.1, 61.2, 61.3, 67.4, 67.5, 67.6 and 67.7.

EPA is taking final action under Section 110 of the Clean Air Act to approve rules 61.4 and 67.2 since they represent control measures necessary to attain the air quality standards.

EPA is also approving Rule 67.3, *Miscellaneous Metal Parts and Products*, with the following condition: By September 2, 1982, the State must provide either (1) an adequate demonstration that the rule represents RACT, (2) amend the rule so that it is consistent with the control techniques guideline (CTG), or (3) demonstrate that the regulation will result in VOC emission reductions which are within five percent of the reductions which would be achieved through the implementation of the CTG recommendations.

Under Executive Order 12291, EPA must judge whether a rulemaking action is "major." Further, under the Regulatory Flexibility Act, EPA must assess the effect of the rulemaking action on "small entities". This regulation is not "major" because it approves state and local actions and imposes no new requirements. I hereby certify that the action will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 12291, this regulation was submitted to the Office of Management and Budget for review.

Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1981.

(Sections 110, 129, 171–178, and 301(a) of the Clean Air Act, as amended (42 U.S.C. § 7410, 7429, 7501 to 7508, and 7601(a)))

List of Subjects in 40 CFR Part 52

Air Pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Date: May 10, 1982.

Anne M. Gorsuch,

Administrator.

Subpart F of Part 52 Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. Section 52.220 is amended by adding paragraphs (c)(52) (xvii), (85)(iv), (100), and (103)(ii), and by correcting paragraph (84)(i)(A) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(52) * * *

(xvii) San Diego County APCD.

(A) New or amended Rule 67.7 and 67.2.

* * * * *

(64) * * *

(i) * * *

(A) Rules 20.1, 20.2, 20.3, 20.4, 20.5 and 20.6.

* * * * *

(85) * * *

(iv) San Diego County APCD.

(A) New or amended Rules 61.0, 61.0 (n) and (o), 61.1, 61.1(a)(1) (i) and (h), 61.2, 61.2(a), 61.3 and 61.4

* * * * *

(100) Revised regulations for the following APCDs submitted on October 25, 1979, by the Governor's designee.

(i) San Diego County APCD.

(A) New or amended Rules 67.3 and 67.5.

* * * * *

(103) * * *

(ii) San Diego County APCD.

(A) New or amended Rule 67.4 and 67.6.

* * * * *

2. Section 52.232 is amended by adding paragraph (a)(4)(v) to read as follows:

§ 52.232 Part D conditional approval.

(a) * * *

(4) * * *

(v) For ozone:

(A) By September 2, 1982, the State must provide either (1) an adequate demonstration that Rule 67.3 represents RACT, or (2) Amend the rule so it is consistent with the CTG, or (3) Demonstrate that the rule will result in VOC emission reductions which are within five percent of the reductions which would be achieved through the implementation of the CTG recommendations.

* * * * *

3. Section 52.253 is amended by revising paragraph (b)(5) to read as follows:

§ 52.253 Metal surface coating thinner and reducer.

* * * * *

(b) * * *

(5) In the San Diego Intrastate Region, this section is rescinded:

(i) This section is rescinded for metal parts and products coaters which are subject to and in full compliance with San Diego APCD Rule 67.3, submitted on October 25, 1979.

* * * * *

[FR Doc. 82-15202 Filed 6-3-82; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 723

[OPTS-50028B; TSH-FRL 2105-2]

Premanufacture Notification; Exemption for Chemicals Used in or for the Manufacture or Processing of Instant Photographic and Peel-Apart Film Articles

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA exempts manufacturers of instant photographic and peel-apart film articles who manufacture and process new chemical substances used in or for the manufacture or processing of these articles from the premanufacture notice requirements of the Toxic Substances Control Act (TSCA) section 5. EPA is promulgating this rule in response to a petition for an exemption under TSCA section 5(h)(4) from the Polaroid Corporation. These companies may manufacture and process a new chemical substance for use in or for these articles, if they comply with certain restrictions on exposure and release, immediately upon submission of an exemption notice. Distribution in commerce of the peel-apart film article is not permitted until the manufacturer has complied with the premanufacture notification provisions of section 5(a)(1)(A) of the Act and the review period has ended without EPA taking action to prevent distribution or use of the new chemical substance.

DATE: These regulations will take effect on July 6, 1982.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St., SW., Washington, DC., 20460 Toll-free: (800-424-9065), In Washington, DC.: (554-1404), Outside the USA: (Operator 202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Background

A. Introduction

This rule is promulgated under the authority of section 5(h)(4) of the Toxic Substances Control Act (90 Stat. 2003; 15 U.S.C. 2601 *et seq.*) (TSCA).

Under section 5(a) of TSCA, any person who intends to manufacture or import a new chemical substance must notify EPA 90 days before manufacture or import begins. A new chemical substance is any chemical substance that is not on the Chemical Substance Inventory compiled by EPA under section 8(b) of TSCA. The requirement to submit premanufacture notices for new chemical substances became effective on July 1, 1979, 30 days after publication of the Initial Inventory. EPA proposed Premanufacture Notification Requirements and Review Procedures in the **Federal Register** of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 49964). EPA is operating under statements of Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) and November 7, 1980 (45 FR 74378) until those rules are promulgated.

Section 5(h)(4) of TSCA allows the Administrator, upon application and by rule, to grant an exemption from any requirement of section 5 if the Administrator determines that the manufacture, processing, distribution, use, or disposal of a chemical substance will not present an unreasonable risk of injury to health or the environment. To grant a section 5(h)(4) exemption, the Agency must follow the rulemaking procedures set out in sections 6(c) (2) and (3) of TSCA.

EPA received the first application for a section 5(h)(4) exemption from the Polaroid Corporation. Notice of receipt of this application was published in the **Federal Register** of February 19, 1981 (46 FR 13037). The proposed rule was published in the **Federal Register** of November 3, 1981 (46 FR 54585). The 30-day public comment period ended on December 3, 1981. A public hearing on the proposal was requested by the Natural Resources Defense Council and was held on December 15, 1981 in Washington, D.C. EPA received ten comments in response to the notice of proposed rulemaking from trade associations, chemical manufacturers, and an environmental organization. EPA has summarized its response to the major public comments received during this rulemaking. This summary is included in the public record.

The Agency is currently evaluating other applications for section 5(h)(4) exemptions. This final rule represents only one approach to exemptions under section 5(h)(4); other exemptions may use different approaches.

B. The Polaroid Application

The Polaroid Corporation applied for an exemption from the premanufacture notification requirements of section 5 of TSCA. The request was based on Polaroid's intention to maintain exposure safeguards and engineering controls during the manufacture and processing of new chemical substances used to manufacture the SX-70 instant film article. Polaroid proposed that, after certifying compliance with specified engineering controls, exposure limits,

and other exposure safeguards, it could manufacture and process the new chemical substance as soon as it submitted a premanufacture notice (PMN) instead of waiting until the end of the statutory 90-day notice review period. The use of exposure controls and safeguards would be supervised by Polaroid's corporate Chemical Health Committee. Polaroid would maintain the exposure safeguards throughout the notice review period. During this time, EPA would retain the right to regulate the chemical substance under sections 5(e) and 5(f) of TSCA. At the end of the review period, in the absence of regulatory action, EPA would add the chemical substance to the TSCA Chemical Substance Inventory and the exposure safegnard requirements would expire.

C. Alternatives Proposed

The November 3, 1981 proposals described four alternative approaches to this exemption rule which EPA considered. Under Alternative 1, EPA would have denied Polaroid's exemption application. However, the Agency believes that the manufacture and processing of new chemical substances used in or for the manufacturing and processing of instant photographic or peel-apart film articles will not present an unreasonable risk of injury to health or the environment when manufactured, processed, distributed, used, or disposed of under the provisions of this rule. For this reason, the Agency did not adopt Alternative 1.

Alternative 2 would have permitted the manufacturer to apply controls and safeguards based on the manufacturer's evaluation of the risk associated with the manufacture and processing of each new chemical substance. However, the use of discretionary controls would result in a broad range of exposures for the manufacturing and processing operations. The controls might or might not be appropriate for the substance's toxic or physical-chemical properties. Without restrictions on toxicity or the minimal controls and safeguards required by Alternative 4, it would be difficult for EPA to make the finding of no unreasonable risk. Furthermore, enforcement of the rule would be difficult and manufacturers would be uncertain of their compliance. For these reasons, the Agency did not adopt Alternative 2.

Alternative 3 would have required the mandatory use of specific controls and safeguards at all stages of a new chemical substance's manufacture, processing, distribution, use, and disposal. However, EPA believes that the nature of the photographic chemical substances included in this category and the circumstances of manufacture, processing, consumer use, and disposal make the imposition of specific mandatory controls unnecessary. Furthermore, it would be difficult for EPA to define specific controls and procedures for all the chemical substances that might be manufactured under the exemption. Mandatory controls at all stages would be expensive to implement and would be unnecessary for some new chemical substances. For these reasons, the Agency did not adopt Alternative 3.

This rule adopts the approach described in Alternative 4 of the proposal. It establishes workplace exposure limits and control guidelines for manufacturers of instant photographic and peel-apart film articles who manufacture and process new chemical substances for use in or for these articles. The final rule and the Agency's reasons for adopting this approach are described below.

II. The Final Exemption Rule

A. Summary of the Rule

The final rule exempts eligible manufacturers of instant photographic or peel-apart film articles from certain premanufacture notification requirements of section 5 of TSCA. Under this rule, manufacturers of instant photographic or peel-apart film articles are eligible for the exemption if they manufacture and process the new chemical substances used in or for the manufacture or processing of the film articles and they comply with the requirements of the rule. Eligible manufacturers do not have to submit a PMN 90 days before the start of manufacture of the new chemical substance.

Under this rule, the manufacturer of instant photographic film articles or peel-apart film articles may manufacture and process a new chemical substance used in such articles immediately upon submitting an exemption notice. However, distribution in commerce of the peel-apart film article is not permitted until the manufacturer complies with the premanufacture notification requirements of TSCA section 5(a)(1)(A) and the review period has ended without EPA taking action to prevent distribution or use.

The requirements of the rule were extensively discussed in the preamble of the proposed rule published in the Federal Register of November 3, 1981 (46 FR 54585). The rule requires that certain manufacturing, processing, and use operations involving the new chemical substances take place in a demarcated special production area. In the special production area, exposure must be limited to certain levels by engineering controls and personal safeguards. The risk of significant workplace exposure is further limited by the requirement that appropriate work practices, labeling, and appropriate programs of training and hygiene be followed. The rule also requires the manufacturer to control releases to land, water, and air appropriately.

The manufacturer must maintain records of each new chemical substance manufactured and processed under this exemption and must provide EPA an informational notice at the time manufacture begins. EPA has the authority to prohibit use of the exemption if the Agency determines that the manufacture, processing, distribution in commerce, use, or disposal of a specific new chemical substance under the terms of the exemption may present an unreasonable risk to health or the environment. Under these circumstances, the manufacturer would be required to cease production and submit a PMN.

B. Comparison of the Final Rule To The Proposal

The final rule adopts most of the provisions of the proposed rule published on November 3, 1981. This section of the preamble describes the major differences between the final rule and the proposal.

1. *Exemption category and peel-apart film articles.* The proposed rule would have applied only to new chemical substances used in or for the manufacture or processing of instant photographic film articles, such as Polaroid's SX–70 film article. New chemical substances used in or for the manufacture or processing of peel-apart film articles were not included under the proposed rule. However, in the proposal EPA solicited comment on whether such chemicals should be included in the exemption category.

After reviewing the comments, EPA has decided to include the manufacture and processing of new chemicals used in or for the manufacture and processing of peel-apart film articles in the final rule. Therefore, the exemption category in § 723.175(c) includes all new chemical substances used in or for instant photographic and peel-apart film articles. However, the distribution in commerce of peel-apart film articles containing the new chemical substances is limited by § 723.175(d)(2) of the rule. The peel-apart film article may not be distributed in commerce until the manufacturer has complied with the

PMN requirements of section 5(a)(1)(A) of the Act and the review period has ended without EPA action to prevent distribution or use. The final rule adopts TSCA's statutory definitions of "distribute in commerce" and "distribution in commerce." The Agency's reasons for expanding the category to include new chemical substances used in or for peel-apart film articles are discussed under IV.A. and IV.C. of this preamble.

2. *Applicability.* The proposed rule would have applied to all manufacturers of new chemical substances used in or for the manufacture or processing of instant photographic film articles. However, § 723.175(d) of the final rule limits the applicability of the exemption to companies that manufacture the instant photographic or peel-apart film articles. This change responds to comments that the exemption should not be available to manufacturers who have not demonstrated an ability to comply with the rule's terms. The Agency's reasons for limiting the applicability of this exemption are discussed under IV.B. of this preamble.

3. *Discharge to water.* The proposed rule placed limits on the concentration of new chemical substances in effluent streams released to a publicly-owned treatment works (POTW). No quantitative limit would have been placed on effluents released directly to the environment. However, in such circumstances, manufacturers would have been required to use appropriate methods of treatment and maintain records of the treatment methods used. The final rule does not place a quantitative limit on release to a POTW. Instead, § 723.175(h)(2) of the final rule requires that manufacturers use appropriate methods of pretreatment before discharging to a POTW or any receiving body of water. Section 723.175(i)(1)(viii) requires that the manufacturer summarize its treatment strategy in the exemption notice submitted to EPA when manufacture of the new chemical substance begins. The Agency's reasons for this change are discussed under IV.F. of this preamble.

4. *Prohibiting use of the exemption.* In the proposal, the Agency stated its intention to prohibit use of the exemption for any new chemical substance that may present an unreasonable risk. EPA might take such an action on the basis of information in the exemption notice. Some commenters suggested that the final rule be more explicit in its description of this authority.

Section 723.175(m) of the final rule gives EPA the authority to prohibit use of the exemption for a particular new chemical substance if the Agency determines that the manufacture, processing, distribution in commerce, use, or disposal of the new chemical substance under the terms of the exemption may present an unreasonable risk of injury to health or the environment. Prohibition does not require a separate rulemaking, nor does it require an affirmative demonstration that the new chemical substance will present an unreasonable risk. If EPA prohibits use of the exemption for a new chemical substance, the new chemical substance must undergo PMN review before further manufacture, processing, distribution, use, or disposal of the new chemical substance. Based on its experience with instant photographic chemicals in the PMN program, EPA believes that the use of this authority will be necessary only in exceptional circumstances.

5. *Areas immediately adjacent to the special production area.* The proposal required that the ambient air concentration of a new chemical substance in areas immediately adjacent to the special production area not exceed certain levels permitted inside the special production area. However, EPA does not believe that the approach taken in the proposal provided adequate protection for persons who may be exposed in areas adjacent to the special production areas. Therefore, the final rule has been changed. In areas immediately adjacent to the special production area, the ambient air concentration may not exceed the permissible exposure limits required for waiver of the respirator requirement inside the special production area. Manufacturers are required to periodically monitor those immediately adjacent areas where a risk of inhalation exposure is reasonably anticipated.

EPA does not expect that there will be a substantial risk of exposure to workers outside the special production area. However, this section of the rule recognizes that a clear-cut demarcation of the area of risk is difficult. It requires manufacturers to use reasonable judgment to limit the risk of employee exposure. The Agency believes this is a reasonable approach which is consistent with the other requirements of the exemption.

III. Regulatory Analysis

EPA performed a regulatory analysis to support this rule. This section summarizes EPA's analysis of the rule and explains the basis for the Agency's finding of no unreasonable risk.

A. Summary of Risk Assessment

To support this rulemaking, EPA originally analyzed the risks associated with exposure to a group of surrogate chemical substances of known carcinogenic risk at the proposed exposure limits. Carcinogenic risk was selected as an appropriate indicator of toxicity because it is a toxic effect, known to manifest itself at low levels of exposure, for which quantitative risk estimates can be derived by standard methods. This analysis demonstrated that the proposal's exposure limit for particulates (5 ug/m^3) would provide protection for particulates of relatively high carcinogenic potential. The proposed limit for gases and vapors (1 ppm) would provide similar protection for substances of moderate carcinogenic potential. However, the assessment indicated that gases and vapors from highly potent carcinogens could present a significant risk at 1 ppm. In the preamble to the proposal, the Agency expressed concern that the limit of 1 ppm for vapors and gases might not provide adequate protection.

EPA has decided that several factors mitigate its original concern about exposure to gases and vapors. The Agency's past experience with PMN chemicals indicates that most new chemical substances used in these processes are solids in wet cake or powdered crystalline form. The remaining chemical substances were relatively low vapor pressure liquids. This result is to be expected, because chemical substances of high volatility are generally unsuitable for instant photographic film applications. For these reasons, the Agency expects that very few new chemical substances manufactured for use in or for the manufacture and processing of instant photographic or peel-apart film articles will possess sufficiently high vapor pressure to present a substantial risk of inhalation exposure. Therefore, EPA has concluded that the physical nature of the new chemical substances will substantially limit exposure.

In addition, an Agency review of PMN data submitted for new chemical substances used in or for the manufacture or processing of photographic film articles suggests that its original quantitative risk assessment (which was based on chemicals of relatively high potency) was quite conservative. EPA's review indicated that only two of the eighty PMN chemicals considered raised any concern of potential carcinogenicity and that the evidence suggesting the possible carcinogenicity of these two chemical

substances was weak. As previously noted, the Agency expects that most of the new chemical substances manufactured under this exemption will have low volatility and that the exposure limits for particulates (5 ug/m^3) will provide protection against particulates of relatively high carcinogenic potency. Considering both the low expectation of carcinogenic concerns and the likely particulate nature of new chemical substances manufactured under this exemption, the Agency believes that compliance with the exposure limits of the exemption will ensure low risk in nearly all cases. However, to ensure against cases where a new chemical substance might have the potential to present a significant risk despite the exposure limits, EPA will review all exemption notices and will prohibit use of the exemption if the Agency determines that the new chemical substance may pose an unreasonable risk.

B. Economics

1. *Summary.* EPA does not know the identity or quantity of new chemical substances that will be manufactured and processed under this final rule. Therefore, EPA has been unable to develop a quantitative analysis of the rule's costs and benefits. The actual cost-benefit balance of the rule will depend on the toxicological and physical-chemical properties of the new chemical substances as well as variable factors such as each chemical substance's specific use and production volume. However, the Agency believes that the risk will be limited because of the nature of the instant photographic film articles, the requirement that new chemical substances used in peel-apart film articles be reviewed by the Agency prior to distribution of the article, the technical capability of the industry, and the other controls and safeguards imposed by the rule. EPA believes that the benefits derived from this rule will outweigh the associated costs.

The exposure limits and requirements of the rule will limit the risk associated with the new chemical substances included in the category. Any increase in cost associated with the use of controls will be balanced by relief from the 90-day PMN review delay. In an economic analysis submitted in support of its application, Polaroid argued that relief from the 90-day PMN review period was the critical benefit derived from this exemption and that the increased cost of controls and safeguards would have only a limited economic effect.

An immediate benefit of the rule is the elimination of delay in the introduction of new chemical substances used in or for instant photographic film articles and a reduction in the delay associated with using new chemical substances in or for peel-apart film articles. EPA expects that this elimination of delay will have a net positive effect on the industry. This rule will also allow EPA to allocate its resources to the review of other new chemical substances which may be of greater concern. A more complete economic analysis of this rule appears in the next section of this preamble.

After qualitatively balancing the potential risk presented by new chemical substances when manufactured and processed under the conditions of the exemption, the costs of compliance, and the benefits derived from exempting the new chemical substances, the Agency has made a determination that this rule provides substantial benefits with relatively low costs.

2. *Polaroid's economic analysis.* EPA's Economic Impact Analysis of this rule is contained in the public record of this rulemaking and is available for public inspection. The argument supporting the cost-effectiveness of Polaroid's section 5(h)(4) exemption request is also made in the document provided by Polaroid, "An Economic Assessment of Polaroid Corporation's Exemption Proposal Under Section 5(h)(4) of the Toxic Substances Control Act," by Christopher DeMuth. This document is included in the public record. Polaroid's analysis concludes that its exemption proposal is a highly cost-effective alternative to the 90-day PMN requirement, given the importance of innovation to Polaroid and the relatively low cost of implementing and enforcing strict workplace controls. Polaroid estimates that the maximum capital costs of meeting the requirements of the rule are between $600,000 and $1,200,000. The analysis calculates that this represents per-chemical capital costs of $125,000 for the first new chemical substance, $50,000 for the second, and less for each thereafter, approaching zero capital cost by the sixth chemical substance. Additional constant operating costs of $10,000 for each 90 days of workplace controls raise the total cost of safeguards to $135,000 for the first new chemical substance, $60,000 for the second, declining to $10,000 per 90 days for each chemical substance after the sixth chemical substance.

Polaroid believes that the benefits of avoiding the delay associated with PMN review will greatly exceed the increased costs of the workplace controls and safeguards proposed in their application. However, Polaroid's analysis does not quantify the cost of the 90-day delay, since this requires a number of assumptions about the value of future innovations. Instead, it estimates that the cost of the 90-day delay, with projected sales over the same period of 35 million film packs, is worth $229 million in revenues. The $125,000 spent for workplace controls on the first, most costly new chemical substance therefore represents 0.06 percent of revenues over 90 days, and 0.6 percent of the estimate of operating profit on those revenues. To make the exemption cost-effective for the first new chemical substance introduced, the value of the film to both consumers and Polaroid would have to increase by only 0.2¢. This amount would decrease to 0.014¢ once safeguard costs reach a constant level of $10,000 per innovation, a small amount in comparison to the estimated value of the innovation. The analysis also argues that because of Polaroid's past record of constant and rapid innovation in the composition of the SX–70 film article, the 90-day PMN requirement is almost certain to delay many small incremental improvements which the company considers crucial to market position, effective internal operations, and corporate morale.

The Agency has identified and addressed two economic issues raised by the proposed rule but not addressed in Polaroid's analysis: (i) Differences in costs between the exemption proposed by Polaroid and that proposed by EPA, and (ii) the competitive advantage the rule may provide to Polaroid Corporation. These are discussed below.

3. *Costs and economic benefits.* There are two major differences between the exemption analyzed by Polaroid and the rule proposed by EPA. First, the exemption analyzed by Polaroid required workplace safeguards only during the 90-day PMN review period. However, the final rule requires workplace controls to be in place at all times for new chemical substances used in or for the manufacture and processing of instant photographic film articles. EPA believes that the annual operating costs under this rule may be higher than the worst-case estimates of the Polaroid analysis, which estimated operating costs for 90 days only. The magnitude of the difference will depend on the number of production facilities converted to special production areas, the number of chemical substances introduced under the exemption, and the commerical life of those chemical substances. However, the manufacturer is free to submit a PMN at any time for

any new chemical substance. At the end of the notice review period, in the absence of action by EPA, the manufacturer would not be bound by the conditions of the exemption but would be free to use the discretionary control methods described in the PMN.

Second, although the costs of controls may be higher under the final rule than under the circumstances analyzed by Polaroid, a manufacturer will not have to file a PMN for the new chemical substance, except where the chemical substance will be used in or for a peel-apart film article. Therefore, reporting costs will be reduced.

4. *Competitive advantage accruing to Polaroid.* The ability of a company to realize benefits from this exemption rule is a function of its ability to comply with the exposure controls required by the rule. Firms such as Polaroid will be exempt from 90-day delays and will have a marketing advantage over firms which are unable to meet the terms of the exemption and therefore still have to file a PMN on each of their new chemical substances.

EPA is aware of only one other company, Eastman Kodak, which competes with Polaroid in the instant photographic film market. Polaroid controls two-thirds of the instant photographic film market, leaving Kodak with the other third. Since Polaroid is able to spread its costs over twice the number of film units, the impact of control costs on Kodak may be greater than on Polaroid. If the control costs to the two firms are similar, and the price and profit margins of the two firms' products are also similar, the analysis suggests that the estimated cost would not prohibit Kodak from taking advantage of the exemption, assuming that the benefits of the exemption are similar for the two firms.

C. Finding of No Unreasonable Risk

To grant an exemption under TSCA section 5(h)(4), the Administrator must find that a new chemical substance will not present an unreasonable risk of injury to health or the environment. Congress has not defined the term "unreasonable risk." (H.R. REP. NO. 1341, 94th Cong., 2nd sess. 35, (1976), reprinted in HOUSE COMM. ON INTERSTATE AND FOREIGN COMMERCE, LEGISLATIVE HISTORY OF THE TOXIC SUBSTANCES CONTROL ACT, 1976, at 422 (1976).) However, the legislative history of the term and overall Congressional policy on the purposes of premanufacture review of new chemical substances indicate that a determination of unreasonable risk of injury to health or the environment involves a balancing of a number of relevant considerations.

The Agency's decision to require exposure limits and controls as a condition of this exemption is based on a balancing of the risks of manufacture, processing, distribution, use, and disposal of the new chemical substance and the benefits that each of the rule's conditions will provide. EPA has determined that new chemical substances used in or for the manufacture and processing of instant photographic or peel-apart film articles will not present an unreasonable risk of injury to health or the environment under the conditions of this exemption rule. In making the finding, the Agency considered the information provided by Polaroid in its application, the PMNs submitted for new chemical substances used in or for the manufacture and processing of instant photographic and peel-apart film articles, and the comments received in response to the notice of proposed rulemaking.

1. *Manufacturing and processing.* The potential for exposure to the new chemical substances included in the exemption category is greatest for workers involved in the manufacture and processing of these new chemical substances. The likelihood of exposure is a function of the chemical's physical state and the nature of the manufacturing or processing operation. Exposure controls are extensively used in the instant photographic chemical industry to protect the worker and to ensure the purity and quality of the final product. PMN data indicate that new chemical substances manufactured and processed in this industry are generally produced in small volumes and incorporated into the final photographic film article in small amounts by processes that limit worker exposure.

Nevertheless, these conditions cannot guarantee that exposure will always be low in these operations. Therefore, the rule requires that manufacturers designate special production areas and comply with the rule's exposure limits for manufacturing and processing operations that may present significant potential for direct inhalation exposure. As explained in IV.D. of this preamble, EPA believes that these levels will ensure low risks in nearly all cases. However, to ensure against cases where a new chemical substance might have the potential to pose a significant risk despite the exposure limits, EPA will review the suitability of the exposure limits for each chemical substance manufactured under the exemption. The Agency will be able to halt production of a new chemical substance if it determines that the exposure might result in an unreasonable risk of injury. Because the major workplace concerns are likely to be for chronic effects manifesting themselves as a result of long-term, low-level exposure, this provision will significantly reduce the possibility of risk. While these requirements do not guarantee a situation of no risk, together they will ensure no unreasonable risk from the new chemical substances manufactured under the exemption.

EPA believes that the exposure limits are achievable through existing engineering controls in the instant photographic industry, supplemented by personal safeguards and work practices. The rule's requirement that manufactures use work practices and personal safeguards appropriate for the specific chemicals will effectively limit exposure and supplement the protection afforded by engineering controls. This overall approach will protect workers from exposure to the new chemical substance by limiting release of the chemical substance and the opportunity for exposure.

EPA believes that training programs, as required by the rule, will contribute to the effective control of exposure. The rule's requirement that signs identify the special production area and that labels identify the new chemical substance will also limit the risk of exposure by informing workers of the need for implementing safeguards and controls.

Based on the information submitted by Polaroid, EPA believes there will be no difference in the exposure to new chemical substances during the manufacture and processing of the new chemical substances used in or for instant photographic film articles and those used in or for peel-apart film articles when they are manufactured and processed under the rule's controls and safeguards.

2. *Distribution and use.* Under normal conditions, the construction of instant photographic film articles and the nature of their use will prevent any significant exposure to workers and consumers. These instant photographic film articles contain very small quantities and low concentrations of new chemical substances. They are designed so that the new chemical substance will remain sealed in the inert envelope of the article during normal distribution, use, and disposal. Therefore, EPA believes that even if the instant photographic film article is misused by consumers, there will be little human or environmental exposure to the new chemical substances.

The Agency recognizes that the nature, distribution, and use of peel-apart film articles are significantly different from instant photographic film articles such as Polaroid's SX–70 film article. While the rule's workplace controls and safeguards will be appropriate for the new chemical substances used in the manufacture and processing of peel-apart film articles, the distribution and consumer use of the peel-apart film articles increase the risk of human exposure. Therefore, the rule requires that chemicals used in or for peel-apart film articles complete premanufacture review before the peel-apart film articles are distributed in commerce.

3. *Environmental release and disposal.* Typically, the production volumes of the chemical substances in the exemption category are low, and the Agency believes that the practices currently followed in the industry can limit release to acceptable levels. Therefore, EPA has not set specific standards or limitations on release; rather, it believes that a general requirement that companies use appropriate controls (considering the toxicity and physical-chemical properties of the chemical) will effectively reduce risks to acceptable levels.

However, because the toxicological properties and production volumes of new chemical substances manufactured and processed under this exemption may vary, EPA believes that the manufacturers should not have total discretion to determine appropriate measures for controlling release. Therefore, in the exemption notice, they must provide information on the methods used to control or limit the discharge to water for each new chemical substance manufactured and processed under the exemption. EPA will review this information and prohibit further manufacture where it finds release may present an unreasonable risk. Because EPA expects that release rates and the volume of release will generally be low, the Agency will have adequate time to respond to any unusual situation before irreparable harm occurs. The final rule also requires that process waste from the special production area containing the new chemical substance be treated as hazardous waste and disposed of in accordance with the requirements of the Resource Conservation and Recovery Act (RCRA). The Agency believes that this approach is reasonable for the category of chemical substances and the industry segment covered by this rule.

Because the developed photograph is retained, there will be little consumer disposal of the instant photographic film article. The release of a new chemical substance to the environment due to consumer disposal is expected to occur at an extremely slow rate, in extremely low volumes, and at widely dispersed sites. The Agency believes that the small amount of new chemical substance contained in each instant photographic film article and the limited opportunity for human exposure and environmental release support the finding that these new chemical substances will not present an unreasonable risk of injury to health and the environment due to disposal by the consumer.

4. *Summary.* There is considerable judgment involved in making a finding of no unreasonable risk. The Agency has based its determination that this exemption category will not present an unreasonable risk of injury to health or the environment on a qualitative balancing of factors. The rule does not guarantee a situation of no risk. However, the Agency believes that the controls and limits of this rule will adequately limit exposure to new chemical substances in the exemption categories.

EPA has reviewed over 80 PMNs for photographic chemical substances. None of these chemical substances presented a high hazard concern. If the same types of chemical substances are manufactured under the conditions and limits of this rule, they are unlikely to present a risk of injury to humans or the environment. As an added safeguard, the rule allows EPA to review each new chemical substance manufactured under the rule and to prohibit use of the exemption for any new chemical substance which, in spite of the controls and limits of the rule, may present an unreasonable risk of injury to health or the environment.

The new chemical substances produced under the exemption will benefit both industry and consumers, because instant photography has consumer and industrial applications. These new chemical substances are likely to represent improvements in instant photography technology which will improve product quality and increase efficiency. Comparing these benefits with the low risk of injury from these new chemical substances when manufactured, processed, distributed, used, and disposed of under this rule, the Agency has concluded that these low risks are not unreasonable. To further limit risks from these substances would require more extensive and expensive controls. EPA believes that these additional controls would greatly increase the cost of the resulting products with only a marginal reduction of the risk where a risk existed. The Agency believes that the controls and limits of this rule will adequately protect against risks while retaining the benefits of the instant photographic products involved.

This finding of no unreasonable risk is not a statement of general Agency policy concerning the appropriate conditions for a section 5(h)(4) exemption. Rather, this final rule represents only one possible approach to a finding of no unreasonable risk.

IV. Major Issues

A. The Category

Under section 26(c) of TSCA, any action EPA may take on a single chemical substance, it may also take on a category of chemical substances. Polaroid Corporation's original proposal would have limited the exemption to new chemical substances manufactured and processed by Polaroid Corporation and used in or for its SX–70 instant photographic film article. Based on the information in Polaroid's application and comments received in response to the notice of receipt of the application, EPA determined that the terms and conditions of the exemption would result in no unreasonable risk if applied to a broader category of new chemical substances. Therefore, EPA originally proposed to define the exemption category to include all new chemical substances used in or for the manufacture and processing of instant photographic film articles, including intermediates.

In the proposal, the Agency raised the possibility of including chemical substances used in or for the manufacture and processing of peel-apart film articles in the final exemption rule and solicited comment on this issue. Some commenters urged EPA to expand the category to include these new chemical substances. As explained below, EPA has concluded that it is appropriate to expand the exemption category to include these chemical substances because the manufacture and processing of such chemical substances are substantially similar to those operations involving instant photographic film articles. The exemption category of the final rule therefore includes all new chemical substances used in or for the manufacture and processing of instant photographic or peel-apart film articles which are manufactured, processed,

distributed, used, and disposed of under the terms of this exemption. The exemption category is not based on the physical-chemical or toxicological properties of particular chemical substances in the category. Instead, the category is based on the likelihood of limited exposure throughout each chemical substance's life cycle.

Some commenters urged EPA to expand the category to include all new chemical substances used in or for all sensitized photographic articles. However, the Agency does not have sufficient information on the manufacture, processing, distribution, use, and disposal of these chemical substances in the record to make the necessary finding.

B. Applicability of the Exemption

The proposed rule would have applied to any manufacturer of new chemical substances used in or for the manufacture and processing of instant photographic film articles. The Agency has limited the applicability of this final rule to manufacturers of instant photographic or peel-apart film articles who manufacture and process new chemical substances used in or for the manufacture and processing of these film articles. This change responds to comments that the Agency should not grant exemptions to manufacturers unless EPA has a reasonable basis to conclude that they could comply with terms of the rule. The Agency is aware of only two manufacturers of instant photographic and peel-apart film articles, Kodak and Polaroid, who manufacture and process new chemical substances used in or for these film articles. EPA is familiar with the manufacturing practices and policies of these manufacturers. The Agency's review of PMNs submitted by these manufacturers has demonstrated that these manufacturers are capable of complying with the rule's conditions.

C. Peel-Aparts

The Polaroid Corporation asked EPA to expand the definition of instant photographic film article to include peel-apart film articles. To support this request, Polaroid submitted a risk assessment document. The Agency reviewed this document and included it in the public record of this rulemaking.

Peel-apart film articles are used and disposed of differently than instant photographic film articles. While the instant photographic film articles remain sealed during distribution and use, portions of the peel-apart film article—such as the developed photosensitive component, the reagent pod, and the reagent trap—are removed and discarded by the user after the photographic image is formed. The design of the peel-apart film article could lead to dermal exposure of consumers and environmental release of new chemical substances contained in the peel-apart film article.

However, EPA believes that the rule's exposure limits and safeguards for manufacture and processing will be appropriate for the new instant photographic chemicals, whether they are used in or for the manufacture and processing of peel-apart film articles or in or for instant photographic film articles. Based on the information currently available, EPA expects that the new chemical substances used in the two types of film article are likely to be similar, if not identical. Therefore, EPA believes that the manufacture and processing of chemicals for peel-apart film articles under the terms of this exemption will not present an unreasonable risk of injury to health or the environment.

For the above reasons, the final rule distinguishes between instant photographic and peel-apart film articles. The rule permits eligible manufacturers to manufacture and process new chemical substances used in or for instant photographic or peel-apart film articles. However, before the peel-apart film article containing a new chemical substance may be distributed in commerce, the manufacturer must comply with the requirements of section 5(a)(1) of TSCA, and a PMN for the new chemical substance must complete PMN review without the Agency taking action to limit distribution or use.

This is similar to the exemption provisions Polaroid originally proposed for their SX-70 film article. This provision will provide an economic benefit to the manufacturer because it will reduce the costs associated with PMN delay. The rule's controls and safeguards will ensure that there is no unreasonable risk of injury to human health or the environment from the manufacture, processing, or industrial disposal of the new chemical substance.

D. Exposure Limits

The proposed rule sets limits on exposure for manufacturing operations in the special production area. Commenters criticized these exposure limits as being unsupported. Some commenters stated that the exposure limits would not be appropriate for all new chemical substances.

In the proposal, EPA recognized that the exposure limits may not be appropriate for the exceptional situation where a new chemical substance is extremely toxic. However, the exposure limits are not intended to ensure that the new chemical substances will present no risk to the employee. The limits are objective performance standards, intended only to limit the risk associated with the manufacture and processing of new chemical substances of unknown toxicity. The exposure limits compare favorably with recognized permissible exposure limits for highly toxic chemical substances like carbon disulfide (vapor) and lead and cadmium (particulates).

As discussed earlier, EPA will have the opportunity to review new chemicals manufactured under this exemption and will be able to halt the production of chemical substances that may present an unreasonable risk. EPA's review of photographic chemicals in the PMN files, mentioned earlier, indicates that few new photographic chemicals are likely to raise significant levels of concern and require such action. Therefore, the Agency believes that the rule's exposure limits are conservative limits and are suitable for the new chemical substances that are likely to be manufactured under this exemption. The manufacturer may file a PMN for the exempt new chemical substance if it wishes to discontinue use of the exposure limits. If EPA takes no action during the PMN review period, the manufacturer may reply on the controls and safeguards described in the PMN. The final rule retains the exposure limits contained in the proposed rule.

E. Respirators

The proposed rule required workers to use a continuous flow air-line respirator or a pressure demand self-contained breathing apparatus while in the special production area. Some commenters criticized this requirement as unnecessary. One commenter suggested that the rule permit the use of cannister-type respirators.

The final rule retains the proposal's requirement that under some circumstances, workers in the special production area must use respiratory protection. However, unlike the proposed rule, which would have required use of an air-line respirator or pressure demand breathing apparatus, the final rule allows the manufacturer to determine the appropriate type of respirator protection. Air-line respirators and pressure demand breathing apparatus are effective against toxic or irritating vapors. However, EPA is concerned about exposure to particulates as well as vapors. The current National Institute of Occupational Safety and Health (NIOSH) certified equipment list cited in the rule details the respirators that are

appropriate for various conditions and circumstances of exposure. All of the particulate respirators are adequate to provide the level of protection required by this rule. EPA believes that the final rule's respirator requirement is less restrictive than the proposal's provision but still provides a considerable margin of safety for vapors and particulates of unknown toxicity.

F. Environmental Release and Disposal

1. *Release to land.* The proposed rule would have required manufacturers to evaluate and dispose of all process waste in accordance with the requirements of the Resource Conservation and Recovery Act (RCRA). The small generator exemption in 40 CFR 261.5 would not have applied.

EPA has revised somewhat the requirements for control of process wastes. Section 723.175(h)(1) of the final rule requires that all process waste from the manufacture and processing of the new chemical substance in the special production area be treated as hazardous waste, regardless of whether it meets the criteria for hazardous waste in current RCRA regulations. The Agency adopted this approach because of the potential risks that may be associated with new chemical substances of unknown chronic toxic potential. These new chemical substances may not possess the specific properties that are used to determine whether a waste is hazardous under existing regulations, yet they may have chronic toxic potential. (Because RCRA standards focus on the presence of specific chemicals known to be toxic, or on properties such as ignitability or corrosivity, these standards may not adequately address the potential toxicity of new, uncharacterized chemicals.)

The approach in this rule ensures that process waste containing a new chemical substance will be disposed of in a fashion that will not present an unreasonable risk of injury to health or the environment. The Agency believes that this is a reasonable approach to limit the risk associated with disposal of the new chemical substances manufactured and processed under the terms of this exemption.

Some commenters believed that the Agency's reliance on RCRA standards is inappropriate or unnecessary. Therefore, EPA considered requiring several different disposal control methods, including imposing a volume limit on the amount of new chemical substance that could be disposed of to land, rather than using the RCRA standards. However, the Agency decided that reliance on RCRA standards will afford adequate disposal safeguards while limiting the burden on manufacturers.

2. *Release to air.* The proposed rule required that process emissions to air be vented through control devices appropriate for the new chemical substances. In the proposal, EPA solicited comment on whether there should be a limit on the release to air of new chemical substances and whether alternative methods of controlling air release are available. EPA received very little comment on this particular issue. No commenters suggested an alternative method, although some commenters stated that limits were unnecessary. EPA considered imposing a limit on the amount of each new chemical substance released to air or a limit on air release from each site. The Agency did not adopt this strategy because it believes that the likelihood of significant exposure due to air release will be low. In addition, specific limits would be difficult to develop and would involve difficulties in compliance monitoring. The final rule retains the proposal's approach to air release and requires the use of appropriate controls.

3. *Release to water.* The proposed rule would have placed a limit on the concentration of each new chemical substance in the effluent streams released to a POTW. Appropriate methods of treatment, selected by the manufacturer, would have been used to control direct release. One commenter opposed this approach, arguing that the limits would not be adequate for highly toxic substances and that the provision placed too much reliance on the manufacturer's good faith discretion. Other commenters suggested that the limits on release to POTWs were unnecessary and would not be appropriate for all new chemical substances manufactured and processed under the exemption.

EPA considered the arguments raised by the comments, the available information on the environmental release of photographic chemicals, and its experience in the review of PMN chemicals in this category. In general, EPA believes that release of new photographic chemicals to POTWs will be low and that available methods of pretreatment are adequate, given the likely toxicity of these chemicals. Therefore, the final rule does not set specific standards for release to a POTW, but does require that the manufacturer use appropriate pretreatment methods before discharge to a POTW or any receiving water body. The pretreatment method must be adequate to prevent structural damage to, obstruction of, or interference with the operation of the POTW. In the case of direct release, the treatment method must be appropriate for the new chemical substance's physical-chemical properties and potential toxicity. The rule also requires that the exemption notice submitted for each new chemical substance summarize the methods of treatment that the manufacturer will use. EPA will review the methods and ensure that they are indeed appropriate for the specific new chemical substance.

EPA believes that this revision of the rule addresses the concerns of the commenters. It recognizes the utility of a case-by-case determination of discharge controls and limits while avoiding unnecessary restrictions. Manufacturers are still subject to existing standards of regulations. If the Agency determines that the reported discharge strategy may be inappropriate for a particular chemical substance, it will prohibit further use of the exemption under the authority of § 723.175(m) of the rule.

G. Notice and Reporting

The proposed rule would have required manufacturers to submit an exemption notice before beginning to manufacture or process a new chemical substance under the terms of the exemption. This notice would contain information on the new chemical substance and a certification of compliance with the terms of the exemption. Some commenters criticized the content of the notice and suggested that its information requirements were too detailed.

The rule retains the proposal's requirements. In addition, the final rule requires that the exemption notice include an estimate of the maximum annual production volume and a description of the methods used to control or treat water discharge. The Agency believes that the information required in the notice is the minimum necessary for effective oversight of this exemption. EPA will review the information in this notice to ensure that the new chemical substance will not present an unreasonable risk of injury to health or the environment.

H. Recordkeeping

The proposed rule would have required manufacturers to keep records of new chemical substances they manufactured and processed under the exemption for a period of 30 years from the final date of manufacture. These records would contain information on production volume, exposure monitoring, worker exposure, and the use of controls and safeguards.

Some commenters thought that these requirements were unnecessarily

burdensome while others supported the recordkeeping requirements of the proposal. EPA believes that, since no annual reporting is required, these requirements are reasonable and necessary for enforcing the rule.

There is often a long latent period between exposure to a chemical substance and any adverse effects due to that exposure. Therefore, it is reasonable to require that manufacturers retain records for a substantial length of time. EPA has attempted to minimize the specific records required and to make the recordkeeping requirements consistent with those already required under other authorities. The final rule retains the recordkeeping requirements of the proposal.

EPA intends to institute and audit program for this exemption, under which it will review the records of companies manufacturing chemicals under the exemptions. EPA will conduct this program under the inspection authority of TSCA section 11.

I. Amendment and Repeal

The proposed rule would have given EPA the authority to amend or repeal the exemption. Some commenters were confused about the significance of this authority and how EPA would use it. TSCA requires that any amendment or repeal of an exemption rule follow the rulemaking procedures of sections 6(c)(2) and (3) of the Act. EPA will consider repeal or amendment of the rule if it learns that the conditions of the exemption are not adequate to prevent an unreasonable risk of injury to health or the environment. To repeal or amend this rule, the Agency need not actually demonstrate an unreasonable risk but only the possibility that an unreasonable risk could exist.

EPA may also use the amendment or repeal process to make either general or specific changes in the substantive content of the rule. For example, amendment of the rule could involve expansion, restriction, or other modification of the rule's substantive terms. EPA could also amend the specific terms of the rule to expand the scope or applicability of the exemption category. This repeal or amendment could affect new chemical substances that are eligible for the exemption but are not yet in production, as well as chemical substances that are already being produced under the terms of the exemption.

J. Prohibition of use of the exemption

Repeal or amendment will not be used to respond to individual exemption notices. Instead, EPA will use the rule's authority to prohibit use of the exemption whenever the Agency determines that a new chemical substance may present an unreasonable risk of injury to health or the environment. This is a new section of the rule, although similar language appeared in the proposal. The new section responds to comments that the Agency failed to distinguish adequately between the authority to amend and repeal the rule and the authority to prohibit use of the exemption for individual chemical substances.

K. Inventory

The TSCA Chemical Substance Inventory is a list of chemical substances in commerce. Chemical substances not included on the Inventory are subject to the premanufacture notification requirements of TSCA section 5(a)(1).

New chemical substances manufactured or processed under this exemption will not be added to the Inventory. Therefore, manufacturers who wish to manufacture exempt chemicals outside the scope of the exemption will be required to first submit premanufacture notices. After review of the premanufacture notice and upon receipt of a commencement of manufacture notice, these chemical substances will be added to the Inventory.

V. Public Record

EPA has established a public record of this rulemaking (Docket Number: OPTS–50028). It is available for inspection in the OPTS Reading Room, Rm. E–107, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The public record includes: (1) All documents and information considered by the Agency in reviewing Polaroid's exemption application, except confidential business information contained in PMNs; (2) the comments received in response to the November 3, 1981 proposal; (3) the transcript of the public hearing held on December 15, 1981; and (4) a support document containing the Agency's response to the major public comments on this rule.

While confidential business information contained in PMNs was considered by the Agency in developing this rule, the Agency does not believe that it is necessary to disclose this information in this rulemaking. A nonconfidential report of our review of the PMN data is included in the public record.

The November 3, 1981 proposal listed the documents contained in the public record. The following documents have since been added to the public record:

39. SRI International, Analysis of Application from Polaroid Corporation for Exemption of Polaroid Corporation from TSCA Requirement: Subtask 2: "Perform a Market Analysis of the Instant Photographic Chemical Industry," dated October 30, 1981.

40. Public Comments in Response to November 3, 1981 **Federal Register** Proposed Rule (46 FR 54585), ten comments, dated December 3, 1981.

41. ICF, Incorporated, "Data Provided by PMN Submitters and Costs to Provide the Data," dated December 11, 1981.

42. "Transcript of Public Hearing on Proposed Rule to Exempt Chemicals Used in or for Instant Photographic Film Articles under Section 5(h)(4)," dated December 15, 1981.

43. Eastman Kodak, "Chemical Assessment Program of Eastman Kodak," dated February 9, 1982.

44. USEPA–OTS, "Memorandum from Joseph DeSantis to Edward Klein Describing March 23, 1982 Telephone Conversation with Jeffrey Bates, Attorney, Polaroid Corporation," dated March 29, 1982.

45. USEPA–OTS, "Economic Analysis of the Final Section 5(h)(4) Exemption Rule for Chemicals Used in or for Instant Photographic Film Articles," dated April 1, 1982.

46. Springborn Management Services, Inc., "The Cost of Engineering Controls (associated with proposed exemption rule for instant photographic chemicals): Final Report," dated April 2, 1982.

47. USEPA–OTS, "Nonconfidential Summary of Analysis of 80 Photographic PMNs received during 1981–82," dated April 8, 1982.

48. USEPA–OTS, "Summary of Response to Major Public Comments," dated April 27, 1982.

VI. Application of Executive Order 12291, Paperwork Reduction Act, and the Regulatory Flexibility Act

Under Executive Order 12291, EPA must determine whether a regulation is "major" and thus subject to the Regulatory Impact Analysis requirement. This regulation is not major because is does not satisfy any of the criteria for a major regulation outlined in the Executive Order. The annual impact of this rule on the economy will not exceed $100 million. EPA believes that the savings from reducing or eliminating PMNs for chemical substances used in or for the manufacture or processing of instant photographic and peel-apart film articles will outweigh the cost of submitting an

exemption application. No particular geographic region will be burdened. The exemption rule will not affect government agencies. The exemption will improve the ability of domestic manufacturers to compete with foreign competitors and will encourage domestic innovation. EPA expects that the net effect of this exemption rule on the economy will be positive.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

The requirements of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. 3501 *et seq.*, do not apply because the rule's recordkeeping and reporting requirements apply to fewer than ten companies. Also, under the provisions of 5 U.S.C. 605(b), the Regulatory Flexibility Act, EPA certifies that the attached rule will not have a significant economic impact on a substantial number of small entities. The two companies directly affected by the rule are not small businesses. Because only manufacturers of instant photographic and peel-apart film articles will be eligible for the exemption, custom chemical companies that supply chemical substances to these manufacturers would not be eligible for the exemption and therefore may be adversely affected. It is possible that some of these companies may be small manufacturers. Because the identity of these custom companies is considered confidential, EPA does not know their exact size. However, EPA believes that only a few companies—probably no more than ten—have been involved in custom chemical manufacture for the companies directly affected by the exemption; furthermore, most of the companies that the Agency has been able to identify as possible suppliers are large companies. Therefore, a certified above, this rule will not have a significant impact on a substantial number of small entities.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

List of Subjects in 40 CFR Part 723

Chemicals, Environmental protection, Premanufacture notification, Hazardous materials, Recordkeeping and reporting requirements.

Dated: May 28, 1982.

Anne M. Gorsuch,

Administrator.

Therefore, Chapter I of 40 CFR is amended by adding a new Part 723 consisting at this time of Subpart B, § 723.175, to read as follows:

PART 723—PREMANUFACTURE NOTIFICATION EXEMPTIONS

Subpart A [Reserved]

Subpart B—Specific Exemptions

Sec.

723.175 Chemical substances used in or for the manufacture or processing of instant photographic and peel-apart film articles.

Authority: Sec. 5, Toxic Substances Control Act, 15 U.S.C. 2604.

Subpart B—Specific Exemptions

§ 723.175 Chemical substances used in or for the manufacture or processing of instant photographic and peel-apart film articles.

(a). *Purpose and scope.* (1) This section grants an exemption from the premanufacture notice requirements of section 5(a)(1)(A) of the Toxic Substances Control Act (15 U.S.C. 2604(a)(1)(A)) for the manufacture and processing of new chemical substances used in or for the manufacture or processing of instant photographic and peel-apart film articles.

(2) To manufacture a new chemical substance under the terms of this exemption, a manufacturer of instant photographic or peel-apart film articles must:

(i) Submit an exemption notice when manufacture begins under paragraph (i) of this section.

(ii) Comply with certain requirements to limit exposure to the new chemical substance under paragraphs (e), (f), (g), and (h) of this section.

(iii) Comply with all recordkeeping requirements under paragraph (j) of this section.

(b) *Definitions.* (1) "Act" means the Toxic Substances Control Act (15 U.S.C. 2601 *et seq.*).

(2) An "article" is a manufactured item (i) which is formed to a specific shape or design during manufacture, (ii) which has end use function(s) dependent in whole or in part upon its shape or design during end use, and (iii) which has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the article and that may occur as described in § 710.2 of this chapter except that fluids and particles are not considered articles regardless of shape or design.

(3) The term "byproduct," "EPA," "impurities," "person," and "site" have the same meanings as in § 710.2 of this chapter.

(4) The term "category of chemical substances" has the same meaning as in section 26(c)(2) of the Act (15 U.S.C. 2625).

(5) The terms "chemical substance," "distribute in commerce," "distribution in commerce," "environment," "manufacture," "new chemical substance," and "process" have the same meanings as in section 3 of the Act (15 U.S.C. 2602).

(6) "Director of the Office of Toxic Substances" means the Director of the EPA Office of Toxic Substances or any EPA employee designated by the Office Director to carry out the Office Director's functions under this section.

(7) The term "exemption category" means a category of chemical substances for which a person(s) has applied for or been granted an exemption under section 5(h)(4) of the Act (15 U.S.C. 2604).

(8) The term "instant photographic film article" means a self-developing photographic film article designed so that all the chemical substances contained in the article, including the chemical substances required to process the film, remain sealed during distribution and use.

(9) "Intermediate" means any chemical substance which is consumed in whole or in part in a chemical reaction(s) used for the intentional manufacture of another chemical substance.

(10) "Known to or reasonably ascertainable" means all information in a person's possession or control, plus all information that a reasonable person similarly situated might be expected to possess, control, or know, our could obtain without unreasonable burden or cost.

(11) The term "peel-apart film article" means a self-developing photographic film article consisting of a positive image receiving sheet, a light sensitive negative sheet, and a sealed reagent pod containing a developer reagent and designed so that all the chemical substances required to develop or process the film will not remain sealed within the article during and after the development of the film.

(12) "Photographic article" means any article which will become a component of an instant photographic or peel-apart film article.

(13) "Special production area" means a demarcated area within which all manufacturing, processing, and use of a new chemical substance takes place, except as provided in paragraph (f) of this section, in accordance with the requirements of paragraph (e) of this section.

(14) "Test data" means:

(i) Data from a formal or informal study, test, experiment, recorded

observation, monitoring, or measurement.

(ii) Information concerning the objectives, experimental methods and materials, protocols, results, data analyses (including risk assessments), and conclusions from a study, test, experiment, recorded observation, monitoring, or measurement.

(15) "Used in or for the manufacturing or processing of an instant photographic or peel-apart film article," when used to describe activities involving a new chemical substance, means the new chemical substance (i) is included in the article, or (ii) is an intermediate to a chemical substance included in the article or is one of a series of intermediates used to manufacture a chemical substance included in the article.

(16) "Wet mixture" means a water or organic solvent-based suspension, solution, dispersion, or emulsion used in the manufacture of an instant photographic or peel-apart film article.

(c) *Exemption category.* The exemption category includes new chemical substances used in or for the manufacture or processing of instant photographic or peel-apart film articles which are manufactured and processed under the terms of this section.

(d) *Applicability.* This exemption applies only to manufacturers of instant photographic or peel-apart film articles who:

(i) Manufacture the new chemical substances used in or for the manufacture or processing of the instant photographic or peel-apart film articles.

(ii) Limit manufacture and processing of a new chemical substance to the site(s) listed in the exemption notice for that new chemical substance submitted under paragraph (i) of this section.

(iii) Comply with the requirements of paragraphs (e), (f), (g), (h), and (j) of this section.

(iv) Do not distribute in commerce or use a peel-apart film article containing a new chemical substance until submission of a premanufacture notice under section 5(a)(1)(A) of the Act (15 U.S.C. 2604) and until the review period for the notice has ended without EPA action to prevent distribution or use.

(e) *Conditions of manufacture and processing in the special production area.* All manufacturing, processing, and use operations involving the new chemical substance must be performed in a special production area under the conditions set forth in this paragraph until the new chemical substance has been incorporated into a wet mixture, photographic article, or instant photographic or peel-apart film article.

(1) *Exposure limits.* In the special production area, the ambient air concentration of the new chemical substance during manufacture, processing, and use cannot exceed an 8-hour time weighted average (TWA) of 10 ppm for gases and vapors and 50 $\mu g/m^3$ for particulates, with an allowable TWA excursion of 50 percent above those concentrations for a duration of 30 minutes or less.

(2) *Respiratory protection*—(i) *Respirator requirement.* Except as specified in paragraph (e)(2)(ii) of this section, each person in the special production area must wear an appropriate respiratory protection device to protect against dusts, fumes, vapors, and other airborne contaminants, as described in 29 CFR Part 1910.134. Selection of an appropriate respirator must be made according to the guidance of American National Standard Practices for Respiratory Protection Z88.2–1969 and the NIOSH Certified Equipment List, U.S. Department of Health and Human Services, NIOSH publication No. 80–144.

(ii) *Waiver of respirator requirement.* Employees are not required to wear respirators if monitoring information collected and analyzed in accordance with paragraph (e)(3) of this section demonstrates that the ambient 8-hour TWA concentration of the new chemical substance in the area is less than 1 ppm for gases and vapors and 5 $\mu g/m^3$ for particulates with an allowable TWA excursion of 50 percent above these concentrations for a duration of 30 minutes or less.

(iii) *Quantitative fit test.* Each respirator must be issued to a specific individual for personal use. A quantitative fit test must be performed for each respirator before its first use by that person in a special production area.

(3) *Monitoring*—(i) *When to monitor.* (A) When suitable sampling and analytic methods exist, periodic monitoring in accordance with this paragraph must be done to ensure compliance with the exposure limits of paragraphs (e)(1) and (2)(ii) of this section.

(B) When suitable sampling and analytic methods do not exist, compliance with the exposure limits of paragraph (e)(1) and the requirements of paragraph (e)(10) of this section must be determined by an evaluation of monitoring data developed for a surrogate chemical substance possessing comparable physical-chemical properties under similar manufacturing and processing conditions.

(ii) *Monitoring methods.* A suitable air sampling method must permit personal or fixed location sampling by conventional collection methods. A suitable analytic method must have adequate sensitivity for the volume of sample available and be specific for the new chemical substance being monitored. If chemical-specific monitoring methods are not available, nonspecific methods may be used if the concentration of the new chemical substance is assumed to be the total concentration of chemical substances monitored.

(iii) *Monitoring frequency.* (A) When suitable air sampling and analytical procedures are available, monitoring must be done in each special production area during the first three 8-hour work shifts involving the manufacture or processing of each new chemical substance. Thereafter, monitoring must be done in each special production area for at least one 8-hour period per month, during a production run in which the new chemical substance is manufactured or processed. Samples must be of such frequency and pattern as to represent with reasonable accuracy the mean level and maximum 30-minute level of employee exposure during an 8-hour work shift. In monitoring for an 8-hour work shift or the equivalent, samples must be collected periodically or continuously for the duration of the 8-hour work shift. Samples must be taken during a period which is likely to represent the maximum employee exposure.

(B) If the manufacturer demonstrates compliance with the exposure limits for 3 consecutive months, further monitoring of the identical process must be performed only every 6 months thereafter, unless there is a significant change in the process, process design, or equipment. If there is such a change, the manufacturer must begin monitoring again according to the schedule in paragraph (e)(3)(iii)(A) of this section.

(iv) *Location of monitoring.* Air samples must be taken so as to ensure that the samples adequately represent the ambient air concentration of a new chemical substance present in each worker's breathing zone.

(4) *Engineering controls and exposure safeguards.* Engineering controls such as, but not limited to, isolation, enclosure, local exhaust ventilation, and dust collection must be used to ensure compliance with the exposure limits prescribed in paragraphs (e)(1) or (e)(2)(ii) of this section.

(5) *Training, hygiene, and work practices*—(i) *Training.* No employee may enter a special production area before the completion of a training program. The training program must be

adapted to the individual circumstances of the manufacturer and must address: The known physical-chemical and toxicological properties of the chemical substances handled in the area; procedures for using and maintaining respirators and other personal safeguards; applicable principles of hygiene; special handling procedures designed to limit personal exposure to, and inadvertent release of, chemical substances; and procedures for responding to emergencies or spills.

(ii) *Hygiene.* Appropriate standards of hygiene must be observed by all employees handling a new chemical substance in manufacturing, processing, or transfer operations. The manufacturer must provide appropriate facilities for employee changing and wash-up. Food, beverages, tobacco products, and cosmetics must not be allowed in special production areas.

(iii) *Work practices.* Operating procedures such as those related to chemical weighing and filtering, or the charging, discharging and clean-up of process equipment, must be designed and conducted to ensure compliance with the exposure limits prescribed in paragraph (e)(1) or (e)(2)(ii) of this section. Written procedures and all materials necessary for responding to emergency situations must be immediately accessible to all employees in a special production area. Any spill or unanticipated emission must be controlled by specially trained personnel using the equipment and protective clothing described in paragraph (e)(6) of this section.

(6) *Personal protection devices.* All workers engaged in the manufacture and processing of a new chemical substance in the special production area must wear suitable protective clothing or equipment, such as chemical-resistant coveralls, protective eyewear, and gloves.

(7) *Caution signs.* Each special production area must be clearly posted with signs identifying the area as a special production area where new chemical substances are manufactured and processed under controlled conditions. Each sign must clearly restrict entry into the special production area to qualified personnel who are properly trained and equipped with appropriate personal exposure safeguards.

(8) *Removal for storage or transportation.* A new chemical substance that is not incorporated into a wet mixture, photographic article, or instant photographic or peel-apart film article may be removed from the special production area for purposes of storage between operational steps or for purposes of transportation to another special production area. Such storage or transportation must be conducted in a manner that limits worker and environmental exposure through the use of engineering controls, training, hygiene, work practices, and personal protective devices appropriate to the chemical substance in question.

(9) *Labeling.* (i) Any new chemical substance removed from a special production area or stored or transported between operational steps must be clearly labeled. The label must show the identity of the new chemical substance or an appropriate identification code, a statement of any known hazards associated with it, a list of special handling instructions, first aid information, spill control directions, and where applicable, the appropriate U.S. Department of Transportation notations.

(ii) No label is required if the new chemical substance has been incorporated into a photographic article, or if it is contained in a sealed reaction vessel or pipeline, or if it has been incorporated into an instant photographic or peel-apart film article.

(10) *Areas immediately adjacent to the special production area.* The ambient air concentration of the new chemical substance in areas immediately adjacent to the special production area must not exceed the exposure limit established in paragraph (e)(2)(ii) of this section for waiver of respirator protection within the special production area. Periodic monitoring in accordance with paragraph (e)(3) of this section must be performed in immediately adjacent areas where it is reasonable to expect a risk of inhalation exposure.

(f) *Conditions of processing outside the special production area.* A wet mixture may be incorporated into a photographic article or an instant photographic or peel-apart film article outside the special production area under the conditions listed in this paragraph:

(1) *Engineering controls and exposure safeguards.* Engineering controls must limit the exposure to a new chemical substance contained in a wet mixture.

(2) *Training, hygiene and work practices*—(i) *Training.* Training of employees involved in the handling of wet mixtures containing a new chemical substance must be adapted to the individual circumstances of the employees' activities and must address: procedures for using personal exposure safeguards, applicable principles of hygiene, handling procedures designed to limit personal exposure, and procedures for responding to emergencies and spills.

(ii) *Hygiene.* Appropriate standards of hygiene that limit exposure must be observed by all employees handling wet mixtures that contain new chemical substances.

(iii) *Work practices.* Work practices and operating procedures must be designed to limit exposure to any new chemical substance contained in wet mixtures. Any spills or unanticipated releases of a wet mixture must be controlled by trained personnel wearing appropriate protective clothing or equipment such as gloves, eye protection, and, where necessary, respirators or chemically imprevious clothing.

(3) *Personal protection devices.* All workers engaged in the processing of a wet mixture containing a new chemical substance must wear suitable protective clothing or equipment such as coveralls, protective eyewear, respirators, and gloves.

(g) *Incorporation of photographic articles into instant photographic and peel-apart film articles.* A photographic article may be incorporated into the instant photographic or peel-apart film article outside the special production area. The manufacturer must take measures to limit worker and environmental exposure to new chemcial substances during these operations using engineering controls, training, hygiene, work practices, and personal protective devices.

(h) *Environmental release and waste treatment*—(1) *Release to land.* Process waste from manufacturing and processing operations in the special production area that contain a new chemical substance are considered to be hazardous waste and must be handled in accordance with the requirements of Parts 262 through 267 and Parts 122 and 124 of this chapter.

(2) *Release to water* All wastewater or discharge which contain the new chemcial subtance must be appropriately pretreated before release to a Publicly Owned Treatment Works (POTW) or other receiving body of water. In the case of release to a POTW, the pretreatment must prevent structural damage to, obstruction of, or interference with the operation of the POTW. The treatment of direct release to a receiving body of water must be appropriate for the new chemical substance's physical-chemical properties and potential toxicity.

(3) *Release to air.* All process emissions released to the air which contain the new chemical substance must be vented through control devices appropriate for the new chemical

substance's physical-chemical properties and potential toxicity.

(i) *Exemption notice.* An exemption notices must be submitted to EPA when manufacture of the new chemical substance begins.

(1) *Contents of exemption notice.* The exemption notice must include the following information:

(i) *Manufacturer and sites.* The notice must identify the manufacturer and the sites and locations where the new chemical substance and the instant photographic or peel-apart film articles will be manufactured and processed.

(ii) *Chemical identification.* The notice must identify the new chemical substance as follows:

(A) *Class 1 substances.* For chemical substances whose composition can be represented by a definite structural disagram (class 1 substances), the notice must provide the chemical name (preferably CAS or IUPAC nomenclature), the molecular formula, CAS Registry Number (if available), known synonyms (including trade names), and a structural diagram.

(B) *Class 2 substances.* For chemical substances that cannot be fully represented by a structural diagram, (class 2 substances), the notice must provide the chemical name, the molecular formula, the CAS Registry Number (if available), and known synonyms (including trade names). The notice must identify the immediate precursors and reactants by name and CAS Registry Number (if available). The notice must include a partial or incomplete structural diagram, if available.

(C) *Polymers.* For a polymer, the notice must indentify monomers and other reactants used in the manufacture of the polymer by chemical name and CAS Registry Number. The notice must indicate the amount of each monoer used (by weight percent of total monomer); the maximum residual of each monomer present in the polymer; and a partial or incomplete structural diagram, if available. The notice must indicate the number average molecular weight of the polymer and charatterize the anticipated low molecular weight species. The notice must include this information for each typical average molecular weight composition of the polymer to be manufactured.

(iii) *Impurities.* The notice must identify the impurities that can be reasonably anticipated to be present in the new chemcial substance when manufactured under the exemption by name and CAS Registry Number, by class of substances, or by process or source. The notice also must estimate the maximum percent (by weight) of each impurity in the new chemical substance and the percent of unknown impurities present.

(iv) *Physical-chemical properties.* The notice must desribe the physical-chemical properties of the new chemical substance. Where specific physical-chemcial data are not available, reasonable estimates and the techniques used to develop these estimates must be provided.

(v) *Byproducts.* The notice must identify the name, CAS Registry number (if available), and the volume of each byproduct that would be manufactured during manufacture of the new chemical substance.

(vi) *Production volume.* The notice must include an estimate of the anticipated maximum annual production volume.

(vii) *Test data.* The notice must include all information and test data on the new chemical substance's health and environmental effects that are known to or reasonably ascertainable by the manufacturer.

(viii) *Identity of the article.* The notice must identify and describe the instant photographic film article(s) or peel-apart film article(s) that will contain the new chemical substance.

(ix) *Release to water.* The notice must include a description of the methods used to control and treat wastewater or discharge released to a POTW or other receiving body of water. The notice must also identify the POTW or receiving body of water.

(x) *Certification.* The manufacturer must certify in the notice that it is familiar with the terms of the exemption and that the manufacture, processing, distribution, use, and disposal of the new chemical substance will comply with those terms.

(2) *Duplication of information in premanufacture notice.* If a manufacturer who submits an exemption notice under this paragraph has already submitted, or simultaneously submits, a premanufacture notice under section 5(a)(1)(A) of the Act for the new chemical substance, it may, in lieu of submitting the information required by this paragraph, reference the required information to the extent it is included in the premanufacture notice. At a minimum, the exemption notice must identify the manufacturer and the new chemical substance, and contain the certification required by paragraph (i)(1)(x) of this section.

(3) *Address.* The exemption notice must be addressed to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC. 20460.

(j) *Recordkeeping.* (1) Manufacturers of a new chemical substance under this exemption must keep the following records for 30 years from the final date of manufacture.

(i) *Production records.* Each manufacturer must maintain records of the annual production volume of each new chemical substance manufactured under the terms of the exemption. This record must indicate when manufacture of the new chemical substance began.

(ii) *Exposure monitoring records.* Manufacturers must maintain an accurate record of all monitoring required by this section. Monitoring records may be adapted to the individual circumstances of the manufacturer but, at a minimum, must contain the following information: the chemical identity of the new chemical substance, date of the monitoring, the actual monitoring data for each monitoring location and sampling, and a reference to or description of the collection and analytic techniques. If the manufacturer does not monitor, the manufacturer must maintain a record of the reasons for not monitoring and the methods used to determine compliance with the exposure limits of paragraph (e)(1) of this section.

(iii) *Training and exposure records.* For each employee engaged in the manufacture or processing of a new chemical substance, the company must develop and maintain a record of the worker's participation in required training. This record must also demonstrate the regular use of personal exposure safeguards, including the results of any personal exposure monitoring, the results of the quantitative fit test for the worker's personal respirator, and any additional information related to the worker's occupational exposure.

(iv) *Treatment records.* Manufacturers who release treated wastewater or discharge containing a new chemical substance to a POTW or other receiving body of water must maintain records of the method of treatment.

(2) The manufacturer must make the records listed in paragraph (j)(1) of this section available to EPA upon written request by the Director of the Office of Toxic Substances. The manufacturer must provide these records within 15 working days of receipt of this request.

(k) *Confidentiality.* If the manufacturer submits information under paragraph (i) or (j) of this section which it claims to be confidential business information, the manufacturer must clearly identify the information at the

time of submission to the Agency by bracketing, circling, or underlining it and stamping it with "CONFIDENTIAL" or some other appropriate designation. Any information so identified will be treated in accordance with the procedures in Part 2 of this chapter. Any information not claimed confidential at the time of submission will be made available to the public without further notice to the submitter.

(l) *Amendment and repeal.* (1) EPA may amend or repeal any term of this exemption if it determines that the manufacturer, processing, distribution, use, and disposal of new chemical substances under the terms of the exemption may present an unreasonable risk of injury to health or the environment. EPA also may amend this exemption to enlarge the exemption category or to reduce the restrictions or conditions of the exemption.

(2) As required by section 5(h)(4) of the Act, EPA will amend or repeal the substantive terms of an exemption granted under this part only by the formal rulemaking procedures described in section 6(c)(2) and (3) of the Act (15 U.S.C. 2605(c)).

(m) *Prohibition of use of the exemption.* The Director of the Office of Toxic Substances may prohibit the manufacture, processing, distribution, use, or disposal of any new chemical substance under the terms of this exemption if he or she determines that the manufacture, processing, distribution in commerce, use, or disposal of the new chemical substance may present an unreasonable risk of injury to health or the environment.

(n) *Enforcement.* (1) A failure to comply with any provision of this part is a violation of section 15 of the Act (15 U.S.C. 2614).

(2) Submitting materially misleading or false information in connection with the requirements of any provision of this part is a violation of this regulation and therefore a violation of section 15 of the Act (15 U.S.C. 2614).

(3) Violators may be subject to the civil and criminal penalties in section 16 of the Act (15 U.S.C. 2615) for each violation.

(4) EPA may seek to enjoin the manufacture of a new chemical substance in violation of this exemption or act to seize any chemical substances manufactured in violation of the exemption under the authority of section 17 of the Act (15 U.S.C. 2616).

[FR Doc. 82-15113 Filed 6-3-82; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Federal Emergency Management Agency, National Flood Insurance Program, (202) 287-0230, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Agency has developed criteria for flood plain management in flood prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The final base (100-year) flood elevations for selected locations are:

FINAL BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in above ground. *Elevation in feet (NGVD) **Elevation in feet (MLLW).
Alabama	Unincorporated areas of Shelby County (FEMA 6224)	Cahaba River	Approximately 1,000 feet upstream from Tuscaloosa Road Bridge.	*358
			Approximately 500 feet downstream from Southern Railway Bridge.	*369
			Approximately 1,200 feet upstream from County Road 52 bridge.	*403
			Approximately 800 feet downstream from confluence of Patton Creek.	*423

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) **Elevation in feet (MLLW).
			Approximately 120 feet downstream from centerline of southbound lane of U.S. Highway 31.	*425
			Approximately 900 feet downstream from confluence of Acton Creek.	*426
			Approximately 1,000 feet downstream from County Road 29 (Caldwell Mill Road) bridge.	*435
		Buck Creek	Approximately 110 feet downstream from centerline of southbound lane of Interstate Highway 65.	*515
			Just upstream from U.S. Highway 31	*530
		Bishop Creek	Approximately 100 feet upstream from centerline of northbound lane of Interstate 65.	*482
			Approximately 200 feet downstream from Alabama Highway 119.	*493
			Just downstream from County Road 14	*518
		Yellowleaf Creek	Just downstream from Alabama Highway 25	*407
			Approximately 550 feet upstream from confluence of Muddy Prong.	*433
			Just upstream from County Road 51	*448
			Just downstream from County Road 55	*455
			Approximately 300 feet downstream from confluence of North Fork Yellowleaf Creek and South Fork Yellowleaf Creek.	*469
		Four Mile Creek	Approximately 100 feet downstream from County Road 61.	*423
			Just upstream from County Road 55	*459
			Just upstream from County Road 49	*476
		Muddy Prong	Just upstream from County Road 450	*440
			Just downstream from Seaboard Coast Line Railroad (upstream crossing).	*460
			Just downstream from new U.S. Highway 280	*462
			Approximately 650 feet downstream from County Road 91.	*473
		South Fork Yellowleaf Creek	Approximately 200 feet upstream from County Road 69.	*462
			Just downstream from County Road 47	*476
			Just downstream from County Road 69	*488
		Bolivar Creek	Just upstream from County Road 39	*510
		North Fork Yellowleaf Creek	Just downstream from County Road 432	*485
			Approximately 1,200 feet downstream from confluence of Spencer Creek.	*473
			Approximately 150 feet downstream from County Road 439.	*483
			Approximately 130 feet downstream from U.S. Highway 280.	*501
			Approximately 130 feet upstream from County Road 43.	*532
		Little Creek	Just upstream from Seaboard Coast Line Railroad	*476
			Just upstream from U.S. Highway 280	*484
			Just downstream from Alabama Highway 38	*493
		Hargis Retreat Creek	Approximately 150 feet upstream from U.S. Highway 280.	*501
			Approximately 200 feet upstream from Alabama Highway 38.	*507
		Spencer Creek	Just upstream from Breeched Dam	*474
			Just downstream from County Road 39	*517
			Just downstream from County Road 36	*549
		Yellow Creek	3,500 feet upstream from confluence with North Fork Yellowleaf Creek.	*505
		Waxahatchee-Big Creek	Approximately 300 feet downstream from County Road 52.	*434
			Approximately 300 feet upstream from Montevallo Road.	*468
			Approximately 200 feet downstream from Tuscaloosa Road.	*479
			Approximately 250 feet downstream from confluence of Wolf Creek.	*483
	Camp Branch	Approximately 300 feet upstream from County Road 42.	*434	
			Approximately 430 feet upstream from Alabama Highway 25.	*482
			Just upstream from Southern Railway	*484
			Approximately 200 feet upstream from County Road 42.	*501
			Just downstream from County Road 70	*537
		Wolf Creek	Approximately 750 feet upstream from County Road	*484
		Wildwood Creek	Just upstream from County Road 26	*521
		Kelley Creek	Just upstream from U.S. Highway 231	*433
			Just upstream from County Road 57	*442
		Beeswax Creek	Just upstream from County Road 61	*407
			Just upstream from County Road 30	*434
		Tributary to Beeswax Creek	Approximately 1,350 feet upstream from confluence with Beeswax Creek.	*428
		Little Beeswax Creek	Just upstream from County Road 28	*409
			Approximately 150 feet downstream from County Road 77.	*425

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in above ground. *Elevation in feet (NGVD) **Elevation in feet (M.L.W.)
		Tributary to Little Beeswax Creek	Just downstream from County Road 61	*450
			Just upstream from Alabama Highway 78	*495
		Walthall Branch	Just upstream from County Road 449	*419
			Just downstream from Harpersville corporate limits	*443
		Locust Creek	Approximately 250 feet downstream from Southern Railway	*414
	Maps available for inspection at Shelby County Planning Office, County Courthouse, Columbiana, Alabama 35051.			
Alaska	Delta Junction (city), Southeast Fairbanks Division, FEMA-6224.	Jarvis Creek	700 feet southwest from intersection of Donnely Street and Shaw Avenue.	**1,168
	Maps available for inspection at City Hall, Mile 265.5, Richardson Highway, Delta Junction, Alaska.			
Colorado	Olathe (town), Montrose County, FEMA-6224	Uncompahgre River	25 feet upstream of intersection of State Highway 348 and Uncompahgre River.	*5,337
			Intersection of Church Avenue and 6th Street	*5,343
	Maps available for inspection at Town Hall, 420 Horton Street, Olathe, Colorado.			
Connecticut	Columbia, (town), Tolland County (Docket No. FEMA-6215.	Hop River	Confluence with Willimantic River	*254
			Downstream of Hop River Road	*260
			Upstream of Parker Bridge Road	*263
		Willimantic River	Downstream corporate limits	*251
			Confluence of Hop River	*254
	Maps available for inspection at the Town Hall, Route 87, Columbia, Connecticut.			
Delaware	Dover (city), Kent County (Docket No. FEMA-6153)	St. Jones River	Downstream corporate limits	*8
			Upstream of Silver Lake Dam	*18
			Upstream corporate limits	*25
		Puncheon Branch	Confluence with St. Jones River	*8
			Approximately 50 feet upstream of U.S. Route 113A	*17
			Approximately 50 feet upstream of CONRAIL	*25
		Maidstone Branch	Approximately 3,500 feet upstream of CONRAIL	*26
			Confluence with St. Jones River	*24
			Approximately 1,050' upstream of CONRAIL	*28
		Cahoon Branch	Upstream corporate limits	*30
			Confluence with Maidstone Branch	*30
			Upstream corporate limits	*35
	Maps available for inspection at the City Engineer's Office, City Hall Annex, Dover, Delaware.			
Florida	Brevard County (unincorporated areas) FEMA-6246	Atlantic Ocean—Open Coast	Intersection of Flounder and Commercial Roads	*8
			Eastern end of 30th Street	*9
			Approximately 600 feet east of intersection of Pelican Drive and State Highway A1A.	*12
			State Highway A1A over Sebastian Inlet at southernmost county limits.	*13
		Atlantic Ocean—Indian River	Intersection of Florida East Coast Railroad and Huntington Avenue.	*4
			Intersection of Patti Drive and Fay Drive	*4
			Intersection of Bass Drive and South Tropical Trail	*5
			Western end of Woods Lane	*5
			Intersection of Cedar Lane and Riviera Boulevard	*6
			Approximately 500 feet east along Valkaria Road from its intersection with Florida East Coast Railroad.	*6
			Approximately 500 feet west along Long Point Road from its intersection with State Highway A1A.	*6
			Approximately 200 feet east of intersection of 14th Street and U.S. Highway 1.	*11
		Atlantic Ocean—Banana River	Intersection of Martin Boulevard and North Banana River Drive.	*4
			Intersection of Furman Road and North Banana River Drive.	*5
			Intersection of West Virginia and North Banana River Drive.	*6
			Southern end of Morris Manor	*7
			Intersection of Red Soil Way and South Patrick Drive	*5
		Atlantic Ocean—Sykes Creek	Eastern end of Smith Road	*5
			Approximately 150 feet west of intersection of Harbor and Tarpon Roads.	*4
		Atlantic Ocean—Sebastian Creek	Western side of U.S. Highway 1 over Sebastian Creek	*10
			Intersection of Main Street and Canal Drive	*7
			Sebastian Creek at southern county limits	*8
	Maps available for inspection at Water Management Department, Merritt Island Branch Courthouse, 2575 N. Courtney Parkway, Merritt Island, Florida.			
Florida	Cape Canaveral (city), Brevard County, FEMA-6246	Atlantic Ocean—Open Coast	Eastern end of Chandler Street (extended)	*8
		Atlantic Ocean—Banana River	Western end of Oak Lane	*4
			Western end of Center Street	*4
	Maps available for inspection at Building Department, 105 Polk Avenue, Cape Canaveral, Florida.			
Florida	Cocoa Beach (city), Brevard County, FEMA-6246	Atlantic Ocean—Open Coast	Approximately 400 feet east of intersection of Flager Lane and Ocean Beach Boulevard.	*9
			Approximately 500 feet east of intersection of Minutemen Causeway and State Highway A1A.	*11

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in above ground. *Elevation in feet (NGVD) **Elevation in feet (MLLW).
		Atlantic Ocean—Banana River	Angelo Lane	*4
			Intersection of Sarasota Lane and Banana River Boulevard.	*5
			Intersection of River View Lane and South 4th Street	*5
			Intersection of Brevard Avenue and S. 11th Street	*5
Maps available for inspection at Building Department, 57 Brevard, Cocoa Beach, Florida.				
Florida	Town of Cross City, Dixie County (FEMA-6129)	Ponding Area 1	2,700 feet east of intersection of Seaboard Coast Line Railroad and McArthur Avenue.	*40
		Ponding Area 2	1,400 feet east and 1400 feet south of Seaboard Coast Line Railroad and McArthur Avenue intersection.	*39
		Ponding Area 3	2,200 feet north and 600 feet east of State Road 351 (Cedar Street) and State Road 351A intersection.	*42
		Ponding Area 4	1,000 feet north and 300 feet east of State Road 351 (Cedar Street) and State Road 351A intersection.	*43
		Ponding Area 5	1,000 feet east along extension of State Road 351A and 50 feet south.	*41
		Ponding Area 6	700 feet east and 20 feet south from State Road 351 and Lydia Street intersection.	*41
		Ponding Area 7	400 feet south from Seaboard Coast Line Railroad and McArthur Avenue intersection.	*39
		Ponding Area 8	150 feet east of intersection of Gaulden Avenue extended to the south at corporate limit.	*37
		Ponding Area 9	200 feet south from Gaulden Avenue and Williams Street intersection.	*37
		Ponding Area 10	250 feet south from State Road 351 and Jones Street intersection.	*37
		Ponding Area 11	900 feet north from State Road 351 and Kenneth Street intersection.	*38
		Ponding Area 12	100 feet north and 30 feet east of intersection of Seaboard Coast Line Railroad and westernmost corporate limit.	*40
		Ponding Area 13	Just south of intersection of Seaboard Coast Line Railroad and westernmost corporate limit.	*40
		Ponding Area 14	250 feet west from Bishop Street and Camp Street intersection.	*38
		Ponding Area 15	650 feet south and 50 feet east from Camp Street and Kressman Street intersection.	*37
		Ponding Area 16	750 feet south and 75 feet west from Camp Street and Kressman Street intersection.	*35
		Ponding Area 17	200 feet west from Camp Street and Estelle Boulevard intersection.	*36
		Ponding Area 18	100 feet north and 300 feet west from State Road 351 (Camp Street) and Ann Lia Boulevard.	*37
		Ponding Area 19	150 feet south from intersection of Estelle Boulevard and westernmost corporate limit.	*36
Maps available for inspection at Town Hall, Franklin Street at Barber Avenue, Cross City, Florida 32628.				
Florida	Daytona Beach (city) Volusia County, FEMA-6246	Atlantic Ocean—Open Coast	Eastern end of Lenox Avenue	*9
			Approximately 500 feet northeast of the intersection of University Boulevard and North Atlantic Boulevard.	*11
		Atlantic Ocean—Halifax River Intracoastal Waterway.	Intersection of Mason Avenue and Root Street	*6
			Approximately 400 feet northeast along Lexington Drive from its intersection with Ballough Road.	*7
			Intersection of South Beach Street and Shady Place	*7
			Northern end of Goldfinch	*6
			Western end of Auditorium Avenue	*6
Maps available for inspection at Engineering Office, Caroline & Bellevue, Daytona Beach, Florida.				
Florida	Daytona Beach Shores (city), Volusia County, FEMA-6246.	Atlantic Ocean—Open Coast	Eastern end of Dotsfuhr Avenue	*9
			Approximately 400 feet northeast along Dunlawton Boulevard from its intersection with South Atlantic Avenue.	*11
Maps available for inspection at City Hall, 3050 S. Atlantic Avenue, Daytona Beach Shores, Florida.				
Florida	New Smyrna Beach (city), Volusia County, FEMA-6246.	Atlantic Ocean—Open Coast/Ponce de Leon Inlet.	Approximately 600 feet northeast along East 15th Avenue (extended) from its intersection with South Atlantic Avenue.	*11
			Eastern end of Oakwood Avenue	*9
		Atlantic Ocean—Indian River North/Intracoastal Waterway and Turnbull Bay.	Intersection of Cunningham Drive and Inlet Shores Drive.	*7
			Intersection of Spruce Avenue and Art Center Avenue	*7
			Approximately 100 feet east along Rio Del Mar Drive from its intersection with South Riverside Drive.	*8
Maps available for inspection at Building and Planning Department, 210 Sams Avenue, New Smyrna Beach, Florida.				
Florida	Ormond Beach (city), Volusia County, FEMA-6246	Atlantic Ocean—Open Coast	Approximately 500 feet northeast along Amsden Road (extended) from its intersection with Ocean Shore Boulevard.	*11

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in above ground. *Elevation in feet (NGVD) **Elevation in feet (M.L.W.)
			Approximately 350 feet northeast along Neptune Avenue (extended) from its intersection with Ocean Shore Boulevard.	*9
		Atlantic Ocean—Halifax River/Intracoastal Waterway and Tomoka River.	Approximately 100 feet east of eastern end of Tiffany Circle.	*4
			Approximately 200 feet east of the intersection of Wilmette Avenue and North Beach Street.	*5
			Eastern side of intersection of Highland Avenue and North Beach Street.	*8
Maps available for inspection at Department of Planning and Community Development, 22 S. Beach Street, Ormond Beach, Florida.				
Florida	Ponce Inlet (town), Volusia County, FEMA-6246	Atlantic Ocean—Open Coast/Ponce de Leon Inlet.	Approximately 200 feet east of the intersection of Ponce Street and Ocean Avenue.	*9
			Approximately 400 feet east of the intersection of Atlantic Avenue South and Cindy Lane.	*11
		Atlantic Ocean—Halifax River/Intracoastal Waterway.	Intersection of Anchor Drive and Peninsula Drive	*7
			Sailfish Drive	*7
			Approximately 1,000 feet south along Peninsula Drive from its intersection with Pine Street.	*8
Maps available for inspection at Town Hall, 4680 S. Peninsula Drive, Ponce Inlet, Florida.				
Georgia	City of Hinesville, Liberty County (FEMA-6154)	Peacock Creek	Just downstream of Sandy Run Road	*20
		Peacock Creek Tributary 1	Just downstream of Fraser Drive extended	*19
			Approximately 70 feet downstream of U.S. Highway 82	*51
		Mill Creek	Approximately 150 feet downstream of Perkin Road	*76
		Mill Creek Tributary 2	Just upstream of State Highway 196	*77
			Just upstream of Pineland Road	*83
Maps available for inspection at City Hall, 115 East South Street, Hinesville, Georgia 31313.				
Illinois	(V) Island Lake, McHenry and Lake Counties (Docket No. FEMA-6224).	Fox River	About 1.9 miles downstream of State Route 176	*738
			Just downstream of State Route 176	*739
		Cotton Creek	About 200 feet downstream of Slocum Lake Road	*736
			Just upstream of Slocum Lake Road	*740
			Just upstream of Island Lake Dam	*751
		Mutton Creek	Just upstream of Eastway Drive	*753
			Just upstream of Gravel Pit Road	*758
Maps available for inspection at the Village Hall, 333 West State, Island Lake, Illinois.				
Illinois	(C) Pinckneyville, Perry County (Docket No. FEMA-6224).	Railroad Tributary	At mouth	*414
			Just downstream of State Route 127	*414
		Beaucoup Creek	About 3500 feet downstream of State Route 154	*409
			About 1800 feet upstream of State Route 154	*412
			Just upstream of Missouri Pacific Railroad	*415
Maps available for inspection at the Clerk's Office, City Hall, 110 South Walnut, Pinckneyville, Illinois				
Indiana	(Uninc.) Boone County (Docket No. FEMA-6224)	Prairie Creek (near Lebanon)	About 2.3 miles downstream of U.S. Route 52	*895
			About 1,600 feet upstream of Deadend Road	*924
			About 1400 feet downstream of East Washington Street	*934
			About 1.0 mile upstream of 400 South Road	*950
		Praine Creek (near Thorntown)	At confluence with Sugar Creek	*814
		Sugar Creek	About 0.95 mile upstream State Route 47	*829
			About 0.86 mile downstream of Conrail	*906
		Eagle Creek	About 600 feet upstream of Interstate 65	*840
			About 600 feet downstream of 1000 East Road	*814
			Just upstream of Zionsville Road	*833
		Little Eagle Creek	About 0.85 mile upstream of State Route 32	*897
			At Town of Zionsville corporate limits	*836
		Fishback Creek	At upstream country boundary	*865
			About 1.23 miles downstream of Interstate 465	*863
		New Reynolds Ditch	About 0.70 mile upstream of State Route 334	*897
			About 150 feet downstream of Golf Course Drive	*932
			Just downstream of Elm Swamp Road	*940
Maps available for inspection at the Boone County Area Planning Commission Office, First Floor, Boone County Courthouse, Lebanon, Indiana.				
Indiana	(Uninc.) Dearborn County (Docket No. FEMA-6224)	Logan Creek	At mouth	*533
			About 0.06 mile upstream of State Route 46 (second crossing).	*566
		Whitewater River	About 0.28 mile downstream of State Street	*511
			Just downstream of Interstate 74	*533
			Just upstream of county boundary	*547
		Ohio River	At confluence with Laughery Creek	*486
			About 0.85 mile upstream of state boundary	*490
		Tanners Creek	At abandoned bridge	*482
			At Conrail	*488
		Wilson Creek	At mouth	*488
			Just upstream of farm bridge (about 3100 feet upstream of Wilson Creek Road).	*502
			About 1100 feet upstream of farm bridge (about 4200 feet upstream of Wilson Creek Road).	*511
		Laughery Creek	At mouth	*486
			About 5.0 miles above mouth	*486
Maps available for inspection at the Planning Office, Dearborn County Courthouse, Lawrenceburg, Indiana				

. FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in above ground. *Elevation in feet (NGVD) **Elevation in feet (MLLW).
Indiana	(T) Decker Knox County (Docket No. FEMA-6224)	White River	Within corporate limits	*418
Maps available for inspection at the Knox County Area Planning Commission, Knox County Courthouse, Vincennes, Indiana.				
Indiana	(T) Greendale, Dearborn County (Docket No. FEMA-6224).	Ohio River	At confluence with Tanners Creek	*489
			At confluence with Great Miami River	*490
Maps available for inspection at the Greendale Town Hall, 510 Ridge Avenue, Lawrenceburg, Indiana.				
Indiana	(C) Lawrenceburg, Dearborn County (Docket No. FEMA-6224).	Ohio River	About 0.75 mile downstream of confluence with Tanners Creek.	[illegible]
			About 2.45 miles upstream of confluence with Tanners Creek.	490
		Tanners Creek	Within the community	*489
Maps available for inspection at the City Hall, 405 Main Street, Lawrenceburg, Indiana.				
Indiana	(T) Marengo, Crawford County (Docket No. FEMA-6224).	Whiskey Run	About 1,200 feet downstream of Pleasant Street	*582
			About 1,400 feet upstream of Main Street	*588
		Brandywine Fork	At mouth	*582
			Just upstream of Jefferson Street	*587
			About 250 feet upstream of Southern Railway	*591
Maps available for inspection at the Town Hall, Route 1, Lincoln Avenue, Marengo, Indiana.				
Iowa	(C) Hastings, Mills County (Docket No. FEMA-6218)	Indian Creek	About 1000 feet downstream of County Road M-16	*1,000
			About 3600 feet upstream of County Road M-16 (at corporate limits).	*1,007
Maps available for inspection at the City Clerk's Office, City Hall, Hastings, Iowa.				
Iowa	(C) Malvern, Mills County (Docket No. FEMA-6224)	Silver Creek	About 1.0 mile downstream of Eleventh Street	*994
			About 500 feet upstream of Eleventh Street	*[illegible]
Maps available for inspection at the City Hall, Malvern, Iowa.				
Iowa	(Uninc.) Mills County (Docket No. FEMA-6224)	Missouri River	At downstream county boundary	*952
			Just upstream of Burlington Northern Railroad	*961
			At upstream county boundary	*973
		West Nishnabotna River	About 2,500 feet downstream of Norfolk and Western Railway.	*984
			Just upstream of Burlington Northern Railroad	[illegible]
			Just upstream of County Road H-26	*1,008
			About 5,100 feet downstream of County Road H-12	*1,029
			At upstream county boundary	*1,040
		Keg Creek	Just upstream of County Road H-34	[illegible]
			Just upstream of U.S. Route 275	[illegible]
			About 750 feet upstream of County Road H-20	*1,001
			About 2,000 feet downstream of County Road H-12	*1,016
			At upstream county boundary	*1,024
		Indian Creek	Mouth at West Nishnabotna River	*1,000
			About 8,600 feet upstream of County Road M-16	*1,010
			At County Road M-21	*1,041
			Just upstream of Burlington Northern Railroad	*1,048
			About 200 feet upstream of county boundary	*1,065
		Indian Creek Bypass No. 2	At County Road M-21	*1,047
			At Divergence with Indian Creek	*1,048
		Silver Creek	About 2.27 miles downstream of County Road L-63	*976
			About 0.30 mile upstream of U.S. Route 34	*1,008
			About 5.02 miles upstream of U.S. Route 34	*1,029
			About 6.57 miles upstream of U.S. Route 34	*1,035
		Pony Creek	Just downstream of U.S. Highway 34	[illegible]
			About 350 feet upstream of Interstate 29	*961
			About 3,000 feet downstream of Burlington Northern Railroad.	*967
			About 700 feet upstream of Burlington Northern Railroad.	*971
			About 2,700 feet upstream of Burlington Northern Railroad.	*977
			About 5,000 feet upstream of Burlington Northern Railroad.	*978
Maps available for inspection at the County Engineer's Office, County Courthouse, Glenwood, Iowa.				
Massachusetts	Leominster, city, Worcester County (Docket No. FEMA-6147).	North Nashua River	Downstream corporate limits	*279
			Confluence of Fall Brook	[illegible]
			Mechanic Street (upstream)	*293
			Confluence of Monoosnoc Brook	[illegible]
			State Route 2 (downstream)	[illegible]
			Upstream corporate limits	*332
		Monoosnoc Brook	Confluence with North Nashua River	[illegible]
			Whitney Street (upstream)	*324
			Adams Street (upstream)	*402
			Exchange Street (upstream)	*434
			West Street (upstream) (upstream crossing)	[illegible]
			Upstream corporate limits	*494

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in above ground. *Elevation in feet (NGVD) **Elevation in feet (M.L.L.W.)
		Fall Brook	Confluence with North Nashua River	*286
			Confluence of tributary A to Fall Brook	*286
			Litchfield Street (upstream) (downstream crossing)	*349
			Grant Street (upstream)	*481
			Decicco Drive (upstream)	*510
			Pleasant Street (upstream)	*580
			Fall Brook Reservoir Dam (upstream)	*654
		Tributary to Monoosnoc Brook	Confluence with Monoosnoc Brook	*434
			Kingman Drive (upstream)	*520
		Tributary A to Fall Brook	Confluence with Fall Brook	*286
			Conrail (upstream)	*360
			Dam (downstream)	*452
		Tributary B to Fall Brook	Confluence with Fall Brook	*349
			Central Street (upstream)	*381
			Approximately 800' upstream of Union Street	*399
		Tributary C to Fall Brook	Confluence with Fall Brook	*406
			Anthony Road (upstream)	*540
		Baker Brook	Downstream corporate limits	*351
			Upstream corporate limits	*393
Maps available for inspection at the Planning Department, City Hall, 25 West Street, Leominster, Massachusetts.				
Michigan	(V) Chesaning, Saginaw County (Docket No. FEMA-6224).	[illegible] River	About 1.5 miles downstream of Broad Street	*615
			Just upstream of Broad Street	*620
			About 1.1 miles upstream of Broad Street	*622
Maps available for inspection at the Village Hall, 1100 West Broad Street, Chesaning, Michigan.				
Michigan	(C) Grandville, Kent County (Docket No. FEMA-6224)	Huizenga drain	Just upstream of Kenowa Avenue	*618
			Just upstream of 44th Street	*628
			About 1500 feet upstream of Wilson Avenue	*636
		Huizenga drain branch No. 3	At confluence with Huizenga Drain	*622
			About 2650 feet upstream of Wilson Avenue	*625
		Grand River	At county boundary	*606
			At upstream corporate limits	*607
		Buck Creek	Just downstream of Canal Avenue	*595
			About 100 feet upstream of Cemetery Road	*619
			At upstream corporate limits	*633
Maps available for inspection at the City Hall, 3195 Wilson Avenue, S.W., Grandville, Michigan.				
Minnesota	(C) Oslo, Marshall County (Docket No. FEMA-6224)	Red River of the north	About 2750 feet downstream of State Highway 1 (at northeastern corporate limits).	*810
			About 850 feet upstream of Soo Line Railroad (at southern corporate limits).	*811
Maps available for inspection at the City Hall, P.O. Box 177, Oslo, Minnesota.				
Minnesota	(C) Stephen, Marshall County (Docket No. FEMA-6224).	Tamarac River	About 300 feet upstream of County Highway 5	*824
			At Lofgren Avenue	*830
Maps available for inspection at the City Hall, Stephen, Minnesota.				
Minnesota	(C) St. Vincent, Kittson County (Docket No. FEMA-6218).	Red River of the north	About 4,400 feet downstream of State Highway 171 (at northern corporate limits).	
			About 3,800 feet upstream of State Highway 171 (at southern corporate limits).	*794
Maps available for inspection at the City Hall, St. Vincent, Minnesota.				
Missouri	(V) Silex, Lincoln County (Docket No. FEMA-6224)	North Fork Cuivre River	Just downstream of Church Stream	*512
			Just downstream of County Highway E bridge	*513
		Mill Creek	Just downstream of Main Street	*512
			About 900 feet upstream of Main Street	*513
Maps available for inspection at the Mayor's Home, Culver and Williams Streets, Silex, Missouri.				
Nebraska	(C) Nebraska City, Otoe County (Docket No. FEMA-6224).	Missouri River	About 2.3 miles downstream of State Highway 2	*926
			About 1.13 miles upstream of confluence of Walnut Creek.	*935
		Tarkamia Creek	About 0.5 mile downstream of north-south county road (at downstream extraterritorial limits).	*964
			Just downstream of north-south county road	*975
			Just upstream of north-south county road	*981
			Just downstream of east-west county road	*981
			Just upstream of east-west county road	*989
			Just downstream of U.S. Highway 73–75	*1,019
			Just upstream of U.S. Highway 73–75	*1,029
			About 1,100 feet upstream of U.S. Highway 73–75	*1,038
		East tributary to tributary to South Table Creek.	At mouth at tributary to South Table Creek	*998
			Just downstream of east-west county road	*1,037
		West tributary to tributary to South Table Creek.	At mouth at tributary to South Table Creek	*1,005
			About 3,900 feet upstream of mouth	*1,032
		South Table Creek	At mouth at Missouri River	*931

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in [illegible] ground. *Elevation in feet (NGVD) **Elevation in feet (MLLW).
			Just upstream of Argo Avenue	*936
			Just upstream of Ninth Street	*953
			Just downstream of Trailer Court Street	*[illegible]
			Just upstream of Trailer Court Street	*973
			Just downstream of 19th Street	*973
			Just upstream of 19th Street	*[illegible]
			Just upstream of Steinhart Park Road	*985
			Just downstream of county road (west of KNCY towers).	*1,029
			Just upstream of county road (west of KNCY towers)	*1,040
			Just downstream of county road (to McCarthy School)	*1,080
			Just upstream of county road (to McCarthy School)	*1,097
			About 0.74 mile upstream of county road	*1,109
		Tributary to South Table Creek	Just downstream of Burlington Northern Railroad (downstream of 11th Corso).	*970
			About 3,200 feet upstream of 11th Corso	*985
			Just downstream of north-south county road	*1,022
			Just upstream of Burlington Northern Railroad (up- [illegible] crossing).	*1,029
			About 1.7 miles upstream of Burlington Northern Railroad (upstream crossing).	*1,066
		North Table Creek	At mouth at Missouri River	*931
		Just upstream of 16th Street	*961	
			Just downstream of Centennial Avenue	*1,007
			Just upstream of Centennial Avenue	*1,014
			Just downstream of county road	*1,032
			Just upstream of county road	*1,041
			Just downstream of county road (to McCarthy School	*1,088
			Just upstream of county road (to McCarthy School)	*1,093
			About 0.45 mile upstream of county road (at upstream extraterritorial limits).	*1,122
		Walnut Creek	About 1.0 mile upstream of mouth at Missouri River	*935
			Just downstream of north-south county road	*[illegible]
			Just upstream of Missouri Pacific Railroad	*978
			About 1.38 miles upstream of Missouri Pacific Railroad	*1,010
	Maps available for inspection at the City Clerk's Office, City Hall, 1409 Central, Nebraska City, Nebraska.			
New Hampshire	Rochester, city, Strafford County (Docket No. FEMA-6218).	Salmon Falls River	Approximately 900 feet downstream of corporate limits	*180
			Downstream corporate limits	*183
			Upstream Walnut Grove Road	*186
			Upstream U.S. Route 202	*[illegible]
			Upstream Flat Rock Bridge Road	*221
			Downstream Spaulding Avenue	*228
			Upstream corporate limits	*248
		Cocheco River	Downstream corporate limits	*124
			Upstream England Road	*127
			Upstream dam (1st crossing)	*161
			Upstream Spaulding Turnpike (1st crossing)	*184
			Upstream State Route 125	*185
			Upstream Bridge Street	*219
			Downstream Spaulding Turnpike (2nd crossing)	*226
			Upstream Little Falls Bridge Road	*233
			Upstream corporate limites (3rd crossing)	*[illegible]
	Maps available for inspection at the Planning Office, City Hall, 31 Wakefield Street, Rochester, New Hampshire.			
New Jersey	Greenwich, township, Gloucester County (Docket No. FEMA-6624).	Delaware River	Entire shoreline within community	*15
		Repaupo Creek	Confluence with Delaware River	*15
			Approximately 20' upstream of confluence with Delaware River.	*13
			Upstream State Route 44	*12
		Pargey Creek	Confluence with Repaupo Creek	*12
			Upstream Interstate 295	*10
		White sluice race	Confluence with Aunt Debs ditch	*13
			Approximately 1,700' upstream of confluence with Aunt Debs ditch.	*12
			Upstream Tomkin Station Road	*11
		London branch	Downstream of Interstate 295	*11
			Upstream of Interstate 295	*10
		Still run	Downstream of Interstate 295	*11
			Upstream of Interstate 295	*10
		Nehonsey Brook	Downstream State Route 44	*12
			Upstream State Route 44	*11
			Upstream Interstate 295	*10
		Clonmell Creek	Confluence with Delaware River	*15
			Approximately 20' upstream of Delaware River	*10
			Upstream of Conrail	*10
			Approximately 1,500' upstream of Delaware River	*11
	Maps available for inspection at the Municipal Building, Broad and Walnut Streets, Gibbstown, New Jersey.			

FINAL BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in above ground. *Elevation in feet (NGVD) **Elevation in feet (MLLW).
New Jersey	Jackson, township, Ocean County (Docket No. FEMA-6224).	North branch Metedeconk River	Downstream Corporate Limits	*88
			Bethel Church Road (upstream side)	*70
			Aldrich Road (upstream side)	*81
			Larsen Road (upstream side)	*86
			Upstream Corporate Limits	*93
		Tributary to Toms River	Approximately 50 feet downstream of Cassville-Toms River Road.	*112
			Cassville-Toms River Road (upstream side)	*116
			Approximately 7,785 feet upstream of Cassville-Toms River Road.	*125
Maps available for inspection at the Municipal Building, Route 528, Jackson, New Jersey.				
New Mexico	City of Belen, Valencia County (FEMA-5973)	Shallow flooding ponding area	Intersection of Castillo Avenue and 4th Street	*4,805
Maps available for inspection at City Hall, 503 Becker Avenue, Belen, New Mexico 87002.				
New York	Esperance, village, Schoharie County (Docket No. FEMA-6161).	Schoharie Creek	Downstream corporate limits	*574
			Upstream corporate limits	*582
Maps available for inspection at the Village Hall, Main Street, Esperance, New York.				
New York	Granby, town, Oswego County (Docket No. FEMA-6197).	Lake Neatahwanta	Entire shoreline	*373
			Downstream corporate limits	*316
			Downstream corporate limits at Fulton	*318
			Upstream corporate limits at Fulton	*356
			Downstream of County Road 46	*362
		Ox Creek	Upstream corporate limits	*364
			Upstream Route 48	*380
			Lay Creek Road	*386
Maps available for inspection at the Town Hall, County Route 8, Granby, New York.				
New York	Scriba, town, Oswego County (Docket No. FEMA-6197).	Lake Ontario	Entire shoreline	*249
		Oswego River	Dowstream corporate limits	*297
			Upstream corporate limits	*298
		Wine Creek	Upstream of City Line Road	*343
			Upstream of Hall Road	*345
			Downstream of Churchill Road	*346
		Walker Creek	Upstream of Middle Road	*324
			Approximately 1,600' downstream from Creamery Road.	*334
			Upstream of Creamery Road	*342
			Downstream of State Route 104	*346
			Upstream of State Route 104	*365
		Lakeview Creek	Confluence with Lake Ontario	*249
			Approximately 1,100' downstream from West Lake Road.	*259
			Downstream of East Lake Road	*264
		Lycoming Creek	Confluence with Lake Ontario	*249
			Approximately 3,800' downstream from West Lake Road.	*260
			Downstream of East Lake Road	*267
			Upstream of East Lake Road	*277
			Downstream of Parkhurst Road	*277
			Upstream of Parkhurst Road	*282
			Upstream of Lycoming Road (downstream crossing)	*287
			Approximately 1,800' upstream from Lycoming Road (downstream crossing).	*296
			Approximately 2,700' upstream from Lycoming Road (downstream crossing).	*305
			Approximately 900' downstream from Lycoming Road (upstream crossing).	*317
			Downstream of Lycoming Road (upstream crossing)	*318
			Upstream of Lycoming Road (upstream crossing)	*324
			Upstream of Minor Road	*329
		Cliff Road Creek	Confluence with Lake Ontario	*249
			Approximately 1,450' downstream from Cliff Road	*259
			Downstream of Cliff Road	*271
			Upstream of Cliff Road	*276
			Upstream of East Lake Road	*277
			Approximately 1,900' downstream from Conrail Bridge	*296
			Approximately 1,300' downstream from Conrail Bridge	*297
			Downstream of Conrail Bridge	*306
			City Line Road (extended)	*316
Maps available for inspection at the Municipal Building, Creamery Road, Scriba, New York.				
Oklahoma	Unincorporated areas of Tulsa County (FEMA-6218)	Arkansas River	Just upstream of 161st East Avenue extended	*597
			Just downstream of 145th East Avenue extended	*596
			Just upstream of 131st Street extended	*607
		Bird Creek	Just upstream of 96th Street (Jenks Bridge)	*615
			Just downstream of Mingo Valley Expressway	*620
			Just upstream of 86th Street	*610
			Approximately 600 feet upstream of 106th Street	*616
			Just downsteam of 136th Street	*626
			Just upstream of 156th Street North extended	*638
		Caney River	Just downstream of U.S. Highway 169	*606
		East Creek	Just downstream of 136th Street	*630
			Just downstream of 146th Street	*636
		Horsepen Creek	Just upstream of 129th East Avenue	*623
			Approximately 400 feet downstream of Memorial Drive	*630
			Approximately 400 feet downstream of 156th Street	*637
		Blackjack Creek	Just downstream of 146th Street	*609
			Just upstream of 136th Street	*626
			Just downstream of 129th Street	*662

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in above ground. *Elevation in feet (NGVD) **Elevation in feet (MLLW)
		Blackjack Creek tributary A	Just downstream of Atchison Topeka and Santa Fe Railway.	*623
		Cherry Creek (North Tulsa)	Just upstream of 156th Street	*619
			Just downstream of 146th Street	*644
			Just upstream of 136th Street	*661
		Elm Creek	Just upstream of 129th Avenue East	*591
			Just upstream of 26th Street North	*610
		Bird Creek tributary 5A	Just upstream of 76th Street North	*591
		Ranch Creek	Just upstream of 86th Street North	*594
			Just upstream of 106th Street North	*636
			Just downstream of 116th Street	*655
		Ranch Creek tributary A	Just upstream of the Atchison Topeka and Santa Fe Railway.	*597
			Just upstream of 86th Street North	*607
		Ranch Creek tributary B	Just upstream of the Atchison, Topeka and Santa Fe Railway.	*611
			At Mingo Road	*633
		Bird Creek tributary 5B	Just upstream of 76th Street North	*606
			Just upstream of 86th Street North	*638
		Charley Creek	Just upstream of U.S. Highway 75	*634
		Panther Creek	Just downstream of 116th Street	*627
		Delaware Creek	Just upstream of Texas and Pacific Railroad	*613
			Just upstream of Cincinnati Avenue	*616
		Delaware Creek tributary	Just downstream of Trenton Avenue	*616
		Hominy Creek	Just upstream of Cincinnati Avenue	*619
		Coal Creek	Just upstream of Yale Avenue	*653
			Just downstream of Dawson Road	*656
			Just upstream of St. Louis and San Francisco Railroad	*658
		Flat Rock Creek	Just upstream of Cincinnati Avenue	*638
		Mingo Creek	Approximately 800 feet downstream of 56th Street North.	*590
		Berryhill Creek	Approximately 200 feet upstream of 21st Street	*646
			Just upstream of 65th West Avenue	*667
		Berryhill tributary	Just upstream of 31st Street	*670
		Black Boy Creek	Just upstream of Keystone Expressway (U.S. Highway 64).	*606
			Just upstream of Cameron Road	*667
		Black Boy Creek tributary	Just upstream of Keystone Expressway (U.S. Highway 64).	*657
		Harlow Creek	Just upstream of 65th West Avenue	*659
		Harlow Creek tributary	Just upstream of Keystone Expressway (U.S. Highway 64.	*661
		Prattville Creek	Just upstream of 21st Street	*659
		Fisher Creek	Just upstream of 137th West Avenue	*656
			Approximately 200 feet upstream of 21st Street	*662
		Anderson Creek	Just upstream of 41st Street	*701
			Just upstream of 56th Street	*735
		Arkansas River tributary (at Sand Springs).	Just upstream of 4th Street	*676
			Just downstream of 6th Street	*682
		Euchee Creek	Just upstream of Keystone Expressway (U.S. Highway 64).	*652
			Just upstream of Willow Street	*679
		Shell Creek	Just upstream of Keystone Expressway	*688
		Sand Creek	Just upstream of the Keystone Expressway (U.S. Highway 64).	*692
		Little Sand Creek	Just upstream of the Keystone Expressway (U.S. Highway 64).	*705
		Posey Creek	Just upstream of Yale Avenue	*613
			Just upstream of South Harvard Avenue	*639
			Just upstream of South Lewis Avenue	*653
		Posey Creek tributary	Just upstream of South Harvard Avenue	*636
		Polecat Creek	Just upstream of Elwood Avenue	*625
			Just upstream of U.S. Highway 75	*631
		Coal Creek (West Tulsa)	Just upstream of Elwood Avenue	*626
			Just upstream of 111th Street	*625
			Just downstream of 121st Street	*644
			Just upstream of 151st Street	*704
		Coal Creek tributary B	Just downstream of 131st Street	*697
		Nickel Creek	Just downstream of 91st Street	*633
		Mooser Creek	Just upstream of 37th West Avenue	*706
		Cherry Creek (West Tulsa)	Just upstream of I-244 (U.S. Highways 66 and 75)	*637
		Broken Arrow Creek	Just upstream of 131st Street	*603
			Just upstream of 121st Street	*612
			Just downstream of 91st Street	*672
			Just downstream of 81st Street	*702
		West branch Broken Arrow Creek	Just downstream of 121st Street	*616
			Just downstream of 111th Street	*642
		Halley Creek	Just upstream of 129th East Avenue (Olive Avenue)	*597
			Just downstream of 131st Street (Jasper Street)	*607
			Just upstream of 121st Street	*621
			Just downstream of 111th Street	*629
			Approximately 600 feet downstream of 101st Street	*630
		White Church Creek	Just downstream of 129th East Avenue (Olive Avenue)	*641
			Just upstream of 121st Street	*650
		Fry ditch No. 1	Just upstream of 111th Street	*646
		Fry ditch No. 2 (shallow overland flooding No. 4).	Just upstream of downstream crossing of Mingo Road	*602
		Little Halley Creek	Just downstream of Mingo Road	*664
			Just upstream of Memorial Drive	*693
		East branch Halley Creek	Just downstream of 129th East Avenue	*650
		Shallow overland flooding area No. 7.	At 151st Street	*598
		Shallow overland flooding area No. 8.	At Northeast of Missouri Pacific Railroad	*600
		Snake Creek	Just downstream of Mingo Road	*606
		Snake Creek tributary	Just downstream of U.S. Highway 64 (Memorial Drive)	*603
		Duck Creek	Just downstream of Peoria Avenue	*648

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in above ground. *Elevation in feet (NGVD) **Elevation in feet (M.L.W).
			Just upstream of Okmulgee Expressway (U.S. Highway 75).	*686
		North Duck Creek	Just upstream of Okmulgee Expressway (U.S. Highway 75).	*672
		Arkansas River tributary (at Bixby)	Just upstream of Missouri Pacific Railroad	*800
Maps available for inspection at Tulsa County Courthouse, 500 South Denver Street, Tulsa, Oklahoma 74103.				
Pennsylvania	Penn, township, Snyder County (Docket No. FI-4851)	Susquehanna River	Downstream Corporate Limits	*430
			Upstream Corporate Limits	*434
		Penns Creek	Confluence with Susquehanna River	*430
			Upstream of U.S. Routes 11/15 (downstream crossing).	*435
			Upstream of U.S. Routes 11/15 (Market Street)	*436
			Upstream of Gravel Pit Road	*444
		Middle Creek	Upstream Corporate Limits	*433
			Confluence with Penns Creek	*433
			Upstream of dam	*441
			Upstream of State Route 35	*446
			Upstream of Creek Road	*456
		South tributary	Upstream Corporate Limits	*458
			Confluence with Penns Creek	*433
			Upstream Corporate Limits	*433
Maps available for inspection at the Penn Township Building, Clifford Road, R.D. 1, Selinsgrove, Pennsylvania.				
Commonwealth of Puerto Rico.	Rio Anton Ruiz, FEMA-6216	Rio Anton Ruiz	30 meters downstream of the confluence of Quebrada Mambiche and Quebrada Collores.	*28.2
		Quebrada Mambiche	18 meters upstream of the intersection of the center of Puerto Rico Highway 924 and Quebrada Mambiche.	*31.4
		Quebrada de las Mulas	20 meters upstream of the intersection of the center of Puerto Rico Highway 927 and Quebrada de las Mulas.	*20.2
		Atlantic Ocean	Intersection Puerto Rico Highway 3 and Rio Anton Ruiz.	*2.9
Maps available for inspection at Puerto Rico Planning Board, Minillas Government Center, North Building, 14th Floor, Santurce, Puerto Rico.				
Commonwealth of Puerto Rico.	Rio Blanco Basin, FEMA-6216	Rio Blanco	50 meters upstream of confluence with Quebrada Maizales.	*5.8
			25 meters upstream of the intersection of the center of Puerto Rico Highway 927 and Rio Blanco.	*7.4
		Rio Santiago	20 meters upstream of the intersection of the center of Puerto Rico Highway 31 and Rio Santiago.	*21.5
		Rio Santiago lateral branch	5 meters upstream of the intersection of the center of Puerto Rico Highway 31 and Rio Santiago Lateral Branch.	*18.4
		Atlantic Ocean	At mouth of Rio Blanco	*2.9
Maps available for inspection at Puerto Rico Planning Board, Minillas Government Center, North Building, 14th Floor, Santurce, Puerto Rico.				
Commonwealth of Puerto Rico.	Rio Culebrinas Basin, FEMA-6216	Rio Culebrinas (downstream reach)	5 meters upstream of the intersection of the center of Puerto Rico Highway 2 and Rio Culebrinas.	*5.5
		Upstream face of Camino Las Brejas (Puerto Rico Highway 110)	*19.0	
		Rio Culebrinas (at San Sebastian)	30 meters upstreams of the intersection of the center of Puerto Rico Highway 129 and Rio Culebrinas.	*62.4
		Cano Madre Vieja	10 meters upstream of the intersection of the center of Puerto Rico Highway 418 and Cano Madre Vieja.	*6.0
		Atlantic Ocean	At mouth of Rio Culebrinas	*1.5
Maps available for inspection at Puerto Rico Planning Board, Minillas Government Center, North Building, 14th Floor, Santurce, Puerto Rico.				
Commonwealth of Puerto Rico.	Rio Daguao Basin, FEMA-6162	Rio Daguao	15 meters upstream of the intersection of Puerto Rico Highway 976 (Bennington Road) and Rio Daguao.	*9.4
			10 meters upstream of the intersection of Puerto Rico Highway 924 and Rio Daguao.	*50.6
		Quebrada Celba	25 meters upstream of the intersection of Puerto Rico Highway 3 (Avenida Lauro Pinero) and Quebrada Celba.	*10.1
			10 meters upstream of the intersection of Puerto Rico Highway 975 (upstream crossing) and Quebrada Celba.	*56.9
		Quebrada Aguas Claras	Intersection of Puerto Rico Highway 979 (Tanama Drive) and Quebrada Aguas Claras.	*6.1
		Quebrada Aguas Claras tributary	25 meters upstream of the intersection of Puerto Rico Highway 3 (Avenida Lauro Pinero) and Quebrada Aguas Claras tributary.	*20.2
		Atlantic Ocean	At the mouth of Quebrada Celba (Bahia Domingues)	*2.9
Maps available for inspection at Puerto Rico Planning Board, Minillas Government Center, North Building, 14th Floor, Santurce, Puerto Rico.				
Commonwealth of Puerto Rico.	Rio de la Plata, FEMA-6048	Rio de la Plata (at Toa Baja)	At intersection of Puerto Rico Highway 866 and Calle Industria (Puerto Rico Highway 888).	*5.4
		Rio de la Plata (at Toa Alta)	At intersection of Puerto Rico Highway 861 and Rio de la Plata.	*17.7
		Rio de la Plata (at Comerio)	At intersection of Puerto Rico Highways 168 and 775	*165.8
		Rio de la Plata (at Cayey)	At intersection of Puerto Rico Highway 1 and Rio de la Plata.	*371.2
		Rio de la Plata tributary No. 1	At intersection of Puerto Rico Highway 735 and Rio de la Plata tributary No. 1.	*371.2
		Rio Guavate	At intersection of Puerto Rico Highway 52 and Rio Guavate.	*376.8
		Quebrada Santo Domingo	At intersection of footbridge (near east of Calle Munoz Rivera) and Quebrada Santo Domingo.	*376.2
		Rio de Alborito tributary No. 1	At intersection of Puerto Rico Highway 14 and Rio de Alborito tributary No. 1.	*669.2

FINAL BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in above ground. *Elevation in feet (NGVD) **Elevation in feet (MLLW).
		Rio Guadiana	At intersection of Caserio Candelario Torres Bridge and Rio Guadiana.	*114.0
		Rio de la Plata overflow	0.1 kilometer downstream of intersection of Puerto Rico Highway 165 and Rio de la Plata overflow.	*6.4
		Atlantic Ocean	At intersection of Puerto Rico Highway 165 and Rio Cocal.	*1.6
Maps available for inspection at Puerto Rico Planning Board, Minillas Government Center, North Building, 14th Floor, Santurce, Puerto Rico.				
Commonwealth of Puerto Rico.	Rio Grande de Manti basin, FEMA-6046	Atlantic Ocean	At mouth of Rio Grande de Manati	*1.6
		Rio Grandeo de Manati	Intersection of Rio Grande de Manati and center of abandoned railroad bridge.	*6.4
			Intersection of Rio Grande de Manati and Puerto Rico Highway 642.	**22.0
			Intersection of Rio Grande de Manati and center of Puerto Rico Highway 146.	*45.2
Maps available for inspection at Puerto Rico Planning Board, Minillas Government Center, North Building, 14th Floor, Santurce, Puerto Rico.				
Commonwealth of Puerto Rico.	Rio Jacaguas basin, FEMA-6075	Rio Jacaguas	Intersection of Puerto Rico Highway 1 and Puerto Rico Highway 510.	*11.0
			25 meters upstream of intersection of Rio Jacaguas and Puerto Rico Highway 149.	*77.0
		Rio Jacaguas (at Villalba)	20 meters downstream of intersection of Rio Jacaguas and Puerto Rico Highway 151.	*160.2
		Rio Inabon	50 meters upstream of intersection of Rio Inabon and Puerto Rico Highway 506.	*7.5
			20 meters upstream of intersection of Rio Inabon and Puerto Rico Highway 52.	*44.0
		Rio Guayo	20 meters downstream of intersection of Rio Guayo and Puerto Rico Highway 14.	*64.0
		Caribbean Sea	At mouth of Rio Jacaguas	*1.6
Maps available for inspection at Puerto Rico Planning Board, P.O. Box 41119, Minillas Station, Santurce, Puerto Rico.				
Virginia	Stony Creek, town, Sussex County (Docket No. FEMA-6153).	Nottoway River	Area south of State Route 40 by-pass and east of Interstate 95 at southeast corporate limits.	*73
		Stony Creek	Downstream corporate limits	*75
			Upstream of Seaboard Coast Line Railroad	*79
			Upstream corporate limits	*80
Maps available for inspection at the Town Hall, Stony Creek, Virginia.				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: May 4, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14586 Filed 6-3-82; 8:45 am]

BILLING CODE 6718-03-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order No. 1473]

Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Thirty-seventh Revised Service Order No. 1473.

SUMMARY: Pursuant to section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96–254, this order authorizes various railroads to provide interim service over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE: 12:01 a.m., June 1, 1982, and continuing in effect until 11:59 p.m., September 30, 1982, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275–7840 or 275–1559.

Decided: May 28, 1982.

Pursuant to section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96–254 (RITEA), the Commission is authorizing various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for those operations.

In view of the urgent need for continued rail service over RI's lines pending the implementation of long-range solutions, this order permits carriers to provide service to shippers which may otherwise be deprived of essential rail transportation.

Appendix A, to the previous order, is revised by adding at Item 18, the authority for the Iowa Railroad Company (IRRC) to extend its operations from Rock Island, Illinois to Dexter, Iowa, a distance of approximately 212 miles, and between Altoona and Pella, Iowa, a distance of approximately 47 miles. A portion of this operation was previously provided by Chicago and North Western Transportation Company (CNW), which authority is vacated by this order. Appendix A is further revised by adding at Item 28, the authority for a new operator, the Okarche Central Railway, Inc. (OCRI), to operate between Enid and El Reno, Oklahoma, a distance of approximately 59 miles. OCRI also requested authority to operate between El Reno and Council, Oklahoma, and at El Reno, however, that authority is currently held by the North Central Oklahoma Railway, Inc. (NCOR). There has been no indication by either the Trustee or NCOR that NCOR's agreement to operate those segments has terminated. Moreover, OCRI's application is silent with respect to the

overlapping segments. Therefore, that portion of the application is granted to OCRI as overlapping authority with NCOR to assure that shippers will continue to receive service while OCRI establishes divisions and interchange agreements. At such time as OCRI and NCOR mutually agree on terms for handling NCOR traffic over the overlapping segments, the order may be modified to reflect such agreement.

Appendix B of Thirteenth Revised Service Order No. 1473 is unchanged, and becomes Appendix B to this Order.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the named appendices be authorized to conduct operations using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days notice.

It is ordered,

§ 1033.1473. Service Order No. 1473.

(a) *Various Railroads authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, debtor (William M. Gibbons, Trustee).*

Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI; and as listed in Appendix B to this order, to provide for continuation of joint or common use facility agreements essential to the operations of these carriers as previously authorized in Service Order No. 1435.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service as authorized in paragraph (a).

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by section 122(a) Pub. L. 96–254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations. Termination of interim operations will require at least (30) thirty days notice to the Railroad Service Board and affected shippers.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of the operations over the RI lines authorized in paragraph (a), operators shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

1. In those instances where more than one railroad is involved in the joint use of RI tracks and/or facilities described in Appendix B, one of the affected carriers will perform the maintenance and have supervision over the operations in behalf of all the carriers as may be agreed to among themselves, or in the absence of such agreement, as may be decided by the Commission.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as the operations described in Appendix A by interim operators over tracks previously operated by the RI are deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

(k) In transporting traffic over these lines, all interim operators described in Appendix A shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) To the maximum extent practicable, carriers providing service under this order shall use the employees who normally would have performed the work in connection with traffic moving over the lines subject to this Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., June 1, 1982.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., September 30, 1982, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304, 10305, and section 122, Pub. L. 96–254.

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

List of Subjects in 49 CFR Part 1033

Railroads.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and William F. Sibbald, Jr. J. Warren McFarland not participating.

Agatha L. Mergenovich,

Secretary.

Appendix A—Ri Lines Authorized to be Operated by Interim Operators

1. *Louisiana and Arkansas Railway Company (LA):*

A. Tracks one through six of the Chicago, Rock Island and Pacific Railroad Company's (RI) Cadiz yard in Dallas, Texas, commencing at the point of connection of RI track six with the tracks of The Atchison, Topeka and Santa Fe Railway Company (ATSF) in the southwest quadrant of the crossing of the ATSF and the Missouri-Kansas-Texas Railroad Company (MKT) at interlocking station No. 19.

2. *Peoria and Pekin Union Railway Company (PPU):*

A. All Peoria Terminal Railroad property on the east side of the Illinois River, located within the city limits of Pekin, Illinois.

B. Mossville, Illinois (milepost 148.23) to Peoria, Illinois (milepost 161.0) including the Keller Branch (milepost 1.55 to 6.15).

3. *Union Pacific Railroad Company (UP):*

A. Beatrice, Nebraska.

B. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam, Nebraska.

4. *Toledo, Peoria and Western Railroad Company (TRW):*

A. Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois.

5. *Chicago and North Western Transportation Company (CNW):*

A. From Minneapolis-St. Paul, Minnesota, to Kansas City, Missouri.

B. From Rock Junction (milepost 5.2) to Inver Grove, Minnesota (milepost 0).

C. From Inver Grove (milepost 344.7) to Northwood, Minnesota.

D. From Clear Lake Junction (milepost 191.1) to Short Line Junction, Iowa (milepost 73.6).

*E. From East Des Moines, Iowa (milepost 350.8) to West Des Moines, Iowa (milepost 363.34).

F. From Short Line Junction (milepost 73.6) to Carlisle, Iowa (milepost 64.7).

G. From Carlisle (milepost 64.7) to Allerton, Iowa (milepost 0).

H. From Allerton, Iowa (milepost 363) to Trenton, Missouri (milepost 415.9).

I. From Trenton (milepost 415.9) to Air Line Junction, Missouri (milepost 502.2).

J. From Iowa Falls (milepost 97.4) to Estherville, Iowa (milepost 206.9).

K. From Bricelyn, Minnesota (milepost 57.7) to Ocheyedan, Iowa (milepost 246.7).

L. From Palmer (milepost 454.5) to Royal, Iowa (milepost 502).

M. From Dows (milepost 113.4) to Forest City, Iowa (milepost 158.2).

N. From Cedar Rapids (milepost 100.5) to Cedar River Bridge, Iowa (milepost 96.2) and to serve all industry formerly served by the RI at Cedar Rapids.

O. At Sibley, Iowa.

P. At Worthington, Minnesota.

Q. From Carlisle to Indianola, Iowa.

R. At Omaha, Nebraska, (between milepost 502 to milepost 504).

S. Peoria Terminal Company trackage from Iowa Junction (RI milepost 164.32/PTC milepost .91) through Hollis, Illinois to the Illinois River bridge (milepost 7.40).

6. *Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW):*

A. From West Davenport, through and including Muscatine, to Fruitland, Iowa, including the Iowa-Illinois Gas and Electric Company near Fruitland.

B. At Washington, Iowa.

C. From Newport, Minnesota to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil Refinery, at St. Paul Park, Minnesota.

D. From Davenport (milepost 182.35) to Iowa City, Iowa (milepost 237.01).

E. At Davenport, Iowa.

7. *St. Louis Southwestern Railway Company (SSW):*

A. From Brinkley to Briark, Arkansas, and at Stuttgart, Arkansas.

B. At North Topeka and Topeka, Kansas.

8. *Little Rock & Western Railway Company (LRWN):*

A. From Little Rock, Arkansas (milepost 135.2) to Perry, Arkansas (milepost 184.2).

B. From Little Rock (milepost 136.4) to the Missouri Pacific/RI Interchange (milepost 190.6).

9. *Missouri Pacific Railroad Company (MP):*

A. From Little Rock, Arkansas (milepost 135.2) to Hazen, Arkansas (milepost 91.5).

B. From Little Rock, Arkansas (milepost 135.2) to Pulaski, Arkansas (milepost 141.0).

C. From Hot Springs Junction (milepost 0.0) to and including Rock Island milepost 4.7.

D. From Wichita, Kansas (milepost 243.7) to Kechi, Kansas (milepost 235.9).

10. *Norfolk and Western Railway Company (NW):* is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Expressway, at which point the RI track connects to Chicago Regional Port District track, for the purpose of serving industries located adjacent to such tracks. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago Regional Port District Lake Calumet Harbor, West Side, will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.

11. *Cadillac and Lake City Railway Company (CLK):*

A. From Sandown Junction (milepost 0.1) to and including junction with DRGW Belt Line (milepost 2.7) all in the vicinity of Denver, Colorado, a distance of approximately 6.6 miles.

B. From Colorado Springs (milepost 609.1) to and including all rail facilities at Colorado Springs and Roswell, Colorado (milepost 602.8), all in the vicinity of Colorado Springs, Colorado, and Eastward from Colorado Springs to Falcon, Colorado (milepost 590.3), a total distance of approximately 25.1 miles.

C. From Simla, Colorado (milepost 558.3) to Colby, Kansas (milepost 387.0), a distance of approximately 171.3 miles.

D. Rock Island trackage rights over Union Pacific Railroad Company between Limon and Denver, Colorado, a distance of approximately 83.8 miles.

12. *Baltimore and Ohio Railroad Company (BO):*

A. From Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.

B. From Bureau, Illinois (milepost 114.12) to Henry, Illinois (milepost 126.94) a distance of approximately 12.8 miles.

13. *Keota Washington Transportation Company (KWTR):*

A. From Keota to Washington, Iowa; to effect interchange with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Washington, Iowa, and to serve any industries on the former RI which are not being served presently.

B. At Vinton, Iowa (milepost 120.0 to 123.0).

C. From Vinton Junction, Iowa (milepost 23.4) to Iowa Falls, Iowa (milepost 97.4).

14. *The La Salle and Bureau County Railroad Company (LSBC):*

A. From Chicago (milepost 0.60) to Blue Island, Illinois (milepost 16.61), and yard tracks 6, 9 and 10; and crossover 115 to effect interchange at Blue Island, Illinois. Street (Subdivision 1A, milepost 14.8), at Blue Island, Illinois.

B. From Western Avenue (Subdivision 1A, milepost 16.6) to 119th Street (Subdivision 1A, milepost 14.8), at Blue Island Illinois.

C. From Gresham (subdivision 1, milepost 10.0) to South Chicago (subdivision 1B, milepost 14.5) at Chicago, Illinois.

D. From Pullman Junction, Chicago, Illinois, (milepost 13.2) running southerly to the entrance of the Chicago International Port, a distance of approximately five miles, for the purpose of bridge rights only.

15. *The Atchison, Topeka and Santa Fe Railway Company (ATSF):*

A. At Alva, Oklahoma.

B. At St. Joseph, Missouri.

16. *The Brandon Corporation (BRAN):*

A. From Belleville, Kansas (milepost 226.1), to Manhattan, Kansas (milepost 143.0), a distance of approximately 83 miles.

17. *Iowa Northern Railroad Company (IANR):*

A. From Cedar Rapids, Iowa (milepost 100.5), to Manly, Iowa, (milepost 225.1).

B. At Vinton, Iowa, and west on the Iowa Falls Line to milepost 24.3.

18. *Iowa Railroad Company (IRRC):*

*A. From Council Bluffs (milepost 490.15) to West Des Moines, Iowa (milepost 363.34) a distance of approximately 126.81 miles.

B. From Audubon Junction (milepost 440.7) to Audubon, Iowa (milepost 465.1) a distance of approximately 24.4 miles.

C. From Hancock, Iowa (milepost 6.4) to Oakland, Iowa (milepost 12.3) a distance of approximately 5.9 miles.

+D. Overhead rights from West Des Moines, Iowa (milepost 363.34) to East Des Moines, Iowa (milepost 350.8). (This trackage is currently leased to the CNW, see Item, 5.E.)

+E. From East Des Moines, Iowa (milepost 350.8) to Iowa City, Iowa (milepost 237.01) a distance 113.79 miles.

+F. Overhead rights from Iowa City, Iowa (milepost 237.01) to Davenport, Iowa (milepost 182.35), including interchange with the Cedar Rapids and Iowa City Railway. (This trackage is currently leased to the MILW, see Item 6.D.)

*G. From Bureau, Illinois (milepost 114.2) to Davenport, Iowa (milepost 182.35)

H. From Rock Island, Illinois through Milan, Illinois, to a point west of Milan sufficient to serve the Rock Island Industrial Complex.

I. At Rock Island, Illinois including 26th Street Yard.

19. *Missouri-Kansas-Texas Railroad Company (MKT):*

A. From Oklahoma City, Oklahoma (milepost 496.4) to McAlester, Oklahoma (milepost 365.0), a distance of approximately 131.4 miles.

20. *Chicago Short Line Railway Company (CSL):*

A. From Pullman Junction easterly for approximately 1000 feet to serve Clear-View Plastics, Inc., all in the vicinity of the Calumet switching district.

B. From Rock Island Junction westerly for approximately 3000 feet to Irondale Wye.

21. *Kyle Railroad Company (Kyle):*

A. From Belleville (milepost 187.0) to Caruso, Kansas (milepost 430.0), a distance of approximately 243 miles. KYLE will be responsible for the maintenance of the jointly used track between Colby and Caruso as mutually agreed upon with CLK, and for coordinating operations.

22. *North Central Texas Railway, Inc. (NCTR):*

A. From Chico, Texas (milepost 562) to Dallas (North Junction), Texas (milepost 643.8).

B. Joint right-of-way district between Dallas (North Junction) and Endot, Texas (milepost 646.4).

23. *Enid Central Railway, Inc. (ENIC):*

A. From Enid, Oklahoma (milepost 345.27) to Kremlin, Oklahoma (milepost 330.03), including operations on the Ponca City Branch line from milepost 0.02 to milepost 0.30.

B. From North Enid, Oklahoma (milepost 0.30) to Ponca City, Oklahoma (milepost 54.8).

24. *North Central Oklahoma Railway, Inc. (NCOR):*

A. From Mangum, Oklahoma (milepost 97.2) to Chickasha, Oklahoma (milepost 0.0).

B. From Richards Spur, Oklahoma (milepost 486.45) to Anadarko, Oklahoma (milepost 463.39).

C. From Chickasha, Oklahoma (milepost 434.69) to El Reno, Oklahoma (milepost 400.31).

D. From El Reno, Oklahoma (milepost 513.31) to Council, Oklahoma (milepost 494.5).

25. *South Central Arkansas Railway, Inc. (SCAR):*

A. From El Dorado, Arkansas (milepost 99) to Ruston, Louisiana (milepost 154.77).

26. *Burlington Northern Railroad Company (BN):*

A. At Burlington, Iowa (milepost 0 to milepost 2.06).

B. At Okeene, Oklahoma.

C. At Lawton, Oklahoma.

27. *Fort Worth and Denver Railway Company (FWD):*

A. From Amarillo to Bushland, Texas, including terminal trackage at Amarillo, and approximately three (3) miles northerly along the old Liberal Line.

B. At North Fort Worth, Texas (milepost 603.0 to 611.4).

+28. *Okarche Central Railway, Inc. (OCRI):*

A. From Enid, Oklahoma (milepost 345.27) to El Reno Junction, Oklahoma (milepost 405.21).

B. From El Reno, Oklahoma (milepost 514.32) to Council, Oklahoma (milepost 496.40).

C. At El Reno, Oklahoma (milepost 402.73) to (milepost 404.19).

Note.—Certain segments of the above operation are overlapping with the NCOR (see Item 24). In the interest of operational clarity and efficiency, OCRI will be the supervising carrier for operations and maintenance.

+Added.
*Changed.

[FR Doc. 82-15123 Filed 6-3-82; 8:45 am]
BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 47, No. 108
Friday, June 4, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 720

Affirmative Employment Programs; Affirmative Action for Disabled Veterans

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: These proposed regulations implement OPM's responsibilities under section 403 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended, and section 307 of the Civil Service Reform Act of 1978. The regulations establish a Government-wide affirmative action program for disabled veterans in the Federal service.

DATE: Comments must be received by OPM by July 6, 1982.

ADDRESS: Send or deliver written comments to Assistant Director for Affirmative Employment Programs, U.S. Office of Personnel Management, 1900 E Street, NW, Room 7528, Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Hassan El-Amin or Marvin Kossmann, (202) 254–3058.

SUPPLEMENTARY INFORMATION: Under section 403 of the Vietnam Era Veterans Readjustment Assistance Act of 1974 (38 U.S.C. 2014), the former Civil Service Commission was given the responsibility for affirmative action programs in the executive branch with respect to disabled veterans. Subsequently, executive Order 12106 (1978) transferred various equal employment opportunity enforcement functions from the Civil Service Commission to the Equal Employment Opportunity Commission (EEOC), pursuant to Reorganization Plan No. 1 of 1978. In October 1980, Congress amended 38 U.S.C. 2014 and assigned OPM responsibility for planning, implementing and overseeing an affirmative action program for disabled veterans in the Federal service.

OPM and EEOC are working together and sharing responsibility for the program during fiscal year 1982. OPM will assume full responsibility for all aspects of the program as of October 1, 1982 (the beginning of fiscal year 1983). Accordingly, OPM and EEOC have instructed all Federal agencies to comply with instructions in EEOC's EEO–MD–709, "Affirmative Action for Hiring, Placement, and Advancement of Handicapped Individuals Including Disabled Veterans," during FY '82.

These proposed regulations implement OPM's responsibility under the law. They add Subpart C to Part 720 of Title 5 of the Code of Federal Regulations, and make other technical changes in Part 720 in connection with the addition of Subpart C. OPM will provide further guidance to federal agencies in Chapter 720 of the Federal Personnel Manual.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule for the purposes of E.O. 12291, Federal Regulation, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

I find that good cause exists for reducing the comment period on this proposed rulemaking from sixty to thirty days. The comment period is reduced in order to allow OPM to review comments and publish a final rule so that agencies have sufficient time to complete their affirmative action plans for disabled veterans by October 1, 1982.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because they apply only to Federal Government employment practices.

List of Subjects in 5 CFR Part 720

Equal employment opportunity, Government employees, Reporting requirements, Veterans.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, OMP proposes to amend 5 CFR Part 720 as shown:

1. By revising the Part heading to read as follows:

PART 720—AFFIRMATIVE EMPLOYMENT PROGRAMS

§ 720.101 [Amended]

2. In § 720.101, by redesignating the section title as "Federal Equal Opportunity Recruitment Program" and removing the word "subpart" and inserting in its place the word "section" in both places where it appears.

3. By adding a new § 720.102 to read as follows:

§ 720.102 Affirmative action for disabled veterans.

(a) Section 2014 of title 38, United States Code, provides, in part:

(c) Each department, agency, and instrumentality in the executive branch shall include in its affirmative action plan for the hiring, placement, and advancement of handicapped individuals in such department, agency, or instrumentality as required by section 501(b) of the Rehabilitation Act of 1973 (29 U.S.C. 791(b)), a separate specification of plans (in accordance with regulations which the Office of Personnel Management shall prescribe in consultation with the Administrator, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, consistent with the purposes, provisions, and priorities of such Act) to promote and carry out such affirmative action with respect to disabled veterans in order to achieve the purpose of this section.

(d) The Office of Personnel Management shall be responsible for the review and evaluation of the implementation of this section and the activities of each such department, agency, and instrumentality to carry out the purpose and provisions of this section. The Office shall periodically obtain and publish (on at least a semiannual basis) reports on such implementation and activities from each such department, agency, and instrumentality * * *

(e) The Office of Personnel Management shall submit to the Congress annually a report on activities carried out under this section * * *

(b) Section 3112 of title 5, United States Code, provides:

Under such regulations as the Office of Personnel Management shall prescribe, an agency may make a noncompetitive

appointment leading to conversion to career or career-conditional employment of a disabled veteran who has a compensable service-connected disability of 30 percent or more.

4. By adding a new Subpart C, to read as follows:

Subpart C—Affirmative Action for Disabled Veterans

Sec.
720.301 Purpose and authority.
720.302 Definition.
720.303 Agency programs.
720.304 Agency plans.
720.305 Agency accomplishment reports.
720.306 Responsibilities of the Office of Personnel Management.

Authority: 5 U.S.C. 7201; 42 U.S.C. 2000e; 38 U.S.C. 2014; 5 U.S.C. 3112.

Subpart C—Affirmative Action for Disabled Veterans

§ 720.301 Purpose and authority.

This subpart sets forth requirements for agency affirmative action programs designed to promote Federal employment and advancement opportunities for qualified disabled veterans. The regulations in this subpart are prescribed pursuant to responsibilities assigned to the Office of Personnel Management (OPM) under section 403 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended (38 U.S.C. 2014), and section 307 of the Civil Service Reform Act of 1978 (5 U.S.C. 3112).

§ 720.302 Definition.

As used in this subpart, "disabled veteran" means a person who:

(a) has served on active duty in the armed forces, and

(b) has been separated from the armed forces under honorable conditions, and

(c) either:

(1) has established the present existence of a service-connected disability, or

(2) is receiving compensation, disability retirement benefits, or a pension, under a statute administered by the Veterans Administration or a military Department.

§ 720.303 Agency programs.

(a) *Continuing programs.* Each Department, agency, or instrumentality in the executive branch shall conduct a continuing affirmative program for the recruitment, hiring, placement, and advancement of disabled veterans.

(b) *Program responsibility.* The head of each agency shall assign overall program responsibility to an appropriate agency official. The official so designated should be at a high enough level to ensure effective program administration and the devotion of adequate resources to the program.

(c) *Problem analysis.* Annually, OPM will provide appropriate data on the employment of disabled veterans to each agency participating in the Central Personnel Data File (CPDF). These data will be taken from CPDF. CPDF is considered to be each participating agency's official record of the status of disabled veteran employment. Each participating agency is responsible for assuring that such records are timely, accurate, and complete.

CPDF data must be used by participating agencies to identify problem areas and deficiencies in the employment and advancement of disabled veterans. OPM will establish with each agency not participating in CPDF, the nature and extent of data to be used identifying problems and deficiencies. Based on this analysis, agencies shall develop methods to improve the recruitment, hiring, placement, and advancement of disabled veterans, or revise or redirect existing methods, as necessary. These methods must then be translated into action items.

§ 720.304 Agency plan.

(a) *Plan development.* Each Department, agency, or instrumentality in the executive branch must have an up-to-date affirmative action plan for the employment and advancement of disabled veterans.

(1) Initial plans for fiscal year 1983 required under this subpart must be developed by October 1, 1982 and must be in effect on that day.

(2) Each agency must review its plan on an annual basis, together with its accomplishments for the previous fiscal year, updated employemnt data, and any changes in agency mission or structure, and update the plan as necessary.

(b) *Plan coverage.* (1) Each agency must have a nationwide plan covering all of its operating components and field installations. Nationwide plans shall include instructions assigning specific responsibilities on affirmative actions to be taken by the agency's various operating components and field installations to promote the employment and advancement of disabled veterans.

(2) Agency operating components and field installations must have a copy of the plan covering them, and must implement their responsibilities under it. Operating components and field installations shall develop separate plans when required to do so by the agency's headquarters or by OPM.

(c) *Plan Submission and Certification.* (1) Affirmative action plans developed under this section shall be submitted to OPM upon request. The Office of Personnel Management will review a selection of agency plans each fiscal year.

(2) Each agency must certify to OPM by November 1 of each year that it has an up-to-date plan as required by this section. This certification must indicate the date the agency's most recent plan was effective or was last amended, and may be submitted as part of the agency's annual accomplishment report required by section 720.305.

(d) *Plan Content.* Annual affirmative action plans for disabled veterans shall, at a minimum, contain:

(1) A statement of the agency's policy with regard to the employment and advancement of disabled veterans, especially those who are 30 percent or more disabled.

(2) The name and title of the offical assigned overall program leadership for the action plan.

(3) An assessment of the current status of disabled veteran employment, with emphasis on those veterans who are 30 percent or more disabled.

(4) A description of recruiting methods which will be used to seek out disabled veteran applicants, including special steps to be taken to recruit veterans who are 30 percent or more disabled.

(5) A description of how the agency will provide or improve internal advancement opportunities for disabled veterans.

(6) A description of how the agency will inform its operating components and field installations, on a regular basis, of their responsibilities for employing and advancing disabled veterans.

(7) A description of how the agency will monitor, review, and evaluate its planned efforts, including implementation at operating component and field installation levels during the period covered by the plan.

§ 720.305 Agency accomplishment reports.

(a) Not later than November 1 of each year, agencies must submit an annual report on their affirmative action program for disabled veterans to the Office of Personnel Management, covering the previous fiscal year.

(b) Agency annual accomplishment reports must describe:

(1) Methods used to recruit and employ disabled veterans, especially those who are 30 percent or more disabled.

(2) Methods used to provide or improve internal advancement opportunities for disabled veterans.

(3) A description of how the activities of major operating components and field installations were monitored, reviewed, and evaluated.

(4) An explanation of the agency's progress in implementing its affirmative action plan during the fiscal year.

§ 720.306 Responsibilities of the Office of Personnel Management.

(a) *Program review.* OPM will monitor agency program implementation through review of agency plans, direct agency contact, review of employment data, and through other appropriate means. As it deems appropriate, OPM will conduct onsite evaluations of program effectiveness, both at agency headquarters and at field installations or operating components.

(b) *Technical assistance.* The Office of Personnel Management will provide technical assistance, guidance, instructions, data, and other information as appropriate to supplement and support agency programs for disabled veterans.

(c) *Semiannual reports.* As provided by 38 U.S.C. 2014(d), OPM will, on at least a semiannual basis, publish reports on Government-wide progress in implementing affirmative action programs for disabled veterans.

(d) *Report to Congress.* As required by 38 U.S.C. 2014(e), OPM will report to Congress each year on the implementation and progress of the program. These reports will include specific assessments of agency progress or lack of progress in meeting the objectives of the program.

(38 U.S.C. 2014, 5 U.S.C. 3112)

[FR Doc. 82-15232 Filed 6-3-82; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1200

Rules of Practice and Procedure Governing Proceedings Under Research, Promotion, and Education Programs

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Correction.

SUMMARY: This corrects FR Doc. 82-14806 published at page 23733 of the Tuesday, June 1, 1982, Federal Register. In the last column, under "DATE: Comments due by * * *", correct "July 16, 1982" to read "June 16, 1982."

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250, phone (202) 447-2615.

Dated: June 2, 1982

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-15305 Filed 6-3-82; 8:45 am]

BILLING CODE 3410-02-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-18761; File No. S7-933]

Proposed Pro Rata Rule

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is publishing for comment a proposed rule that would govern the acceptance of securities deposited in response to a partial tender offer if a greater number of securities are deposited than the bidder is bound or willing to purchase. The proposed rule would provide that in such situations the bidder is required to accept securities on a pro rata basis according to the number of securities deposited by each depositor during the period such offer remains open.

The proposed rule is based on the Commission's assessment that, in light of current tender offer practices, extension of proration rights to the term of the tender offer is necessary to assure security holders the time to consider the merits of a tender offer and to obtain sufficient information upon which to base their investment decisions.

DATES: Comments should be submitted on or before July 6, 1982.

ADDRESSES: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comment letters should refer to File No. S7-933. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Arthur H. Miller, (202) 272-2589, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is publishing for comment proposed Rule 14d-8 under Sections 14(e) and 23(a) of the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78a *et seq.*). If adopted, the proposed rule would require that if a greater number of securities are deposited pursuant to a partial tender offer than the person making the tender offer is bound or willing to take up, the securities deposited must be taken up pro rata according to the number of securities deposited by each depositor during the period such offer remains open.[1] The proposed rule is based on the Commission's assessment that, in light of current tender offer practices, extension of proration rights to the term of the tender offer is necessary to assure security holders the time to consider the merits of a tender offer and to obtain sufficient information upon which to base their investment decisions.

The Commission recognizes that the longer the proration period: (a) The greater the degree to which the offer is likely to be oversubscribed during the proration period, and therefore the smaller the portion of the securities tendered that will be accepted; and (b) the greater the possibility that the bid will be defeated through defensive tactics of the subject company (*e.g.*, litigation) or higher offers by others. Therefore, in addition to the other issues set forth below, comments are requested on whether extending the proration period to the life of the offer [2] may work to the disadvantage of the investing public by: (a) Reducing the portion of the securities tendered during the proration period that will be accepted; (b) reducing the prices others will be willing to pay in the market for securities during the tender offer; and (c) reducing the willingness of first bidders to make tender offers (and therefore, reducing the aggregate volume of such offers).

I. Background

In 1968, Congress enacted the Williams Act [3] in response to concerns that security holders of companies subject to tender offers and other techniques for accumulating large blocks of equity securities of publicly held companies were compelled to make important investment decisions without adequate time to consider the merits of the offer and without sufficient information upon which to base their choices. In 1979, in response to serious

[1] If adopted proposed Rule 14d-8 would rescind the current version of Rule 14d-8 (17 CFR 240.14d-8), which provides that the current ten calendar day proration period can be extended at the bidder's option.

[2] Extending prorations throughout the tender offer will more than double the minimum proration period from ten calendar days to twenty business days.

[3] Act of July 29, 1968, Pub. L. No. 90-439, 82 Stat. 454 (codified at 15 U.S.C. 78m(d)-(e) and 78n(d)-(f) (1970)). The Williams Act added new Sections 13(d), 13(e), 14(d), 14(e) and 14(f) to the Exchange Act.

concerns that, under then current tender offer practices, security holders still lacked sufficient time and information to make important investment decisions, the Commission revised Regulation 14D (17 CFR 240.14d–1 *et seq.*) and adopted a new Regulation 14E (17 CFR 240.14e–1 *et seq.*), the principal purpose of which was to assure that security holders had adequate time to receive tender offer materials, consider the merits of the offer, and effect their investment decisions. To accomplish these goals, the Commission required that, among other things, tender offers remain open for at least twenty business days from the date of commencement and ten business days from the announcement of any price increase,[4] and that withdrawal rights be extended from seven calendar days from the date of commencement to fifteen business days from the date of commencement.[5]

Since the adoptions of Regulation 14D and Regulation 14E, new trends in tender offer practice have evolved that limit the effectiveness of the increased withdrawal rights and minimum tender offer period. Over the past year, there has been an increasing number of partial tender offers that provided for the minimum ten calendar day proration period. This increase appears to be attributable to a number of factors, including the trend toward tender offers so large that often only partial offers are feasible, a concomitant increase in the number of competing partial tender offers involving a number of price increases, and, more recently, the growing use by bidders of "two-step" offers that combine a partial cash tender offer with an offer of the securities of the bidder, usually in a subsequent second or third step merger transaction.[6] As a practical matter, security holders are compelled to make their investment decisions on these large and complex transactions within the ten calendar day proration period (which may be as few as six business days) or risk losing both the opportunity to sell into the market at prices reflecting the tender offer premium and the opportunity to participate in the cash (and frequently substantially higher priced) portion of the tender offer.[7]

The impact of the short proration period was highlighted this past summer by the three-way bidding contest for control of Conoco, Inc. by Joseph E. Seagram & Sons, Inc., E. I. DuPont de Nemours and Mobil Corporation, in which there were nine proration dates and six separate proration pools. Subsequent partial tender offers have continued to illustrate how important the proration period is under current tender offer practices. The Commission believes that the goal of informed decision making underlying the minimum tender offer period adopted under Section 14(e) of the Exchange Act requires an extension of the proration period.

The Commission recognizes that Section 14(d)(6) of the Exchange Act requires prorationing only during the first ten calendar days of a tender offer and for ten calendar days from the announcement of an increase in the consideration offered. However, the Commission believes that it has the authority to adopt proposed Rule 14d–8 pursuant to Section 14(e) of the Exchange Act. In 1970, two years after the enactment of the Williams Act, Section 14(e) was amended to give the Commission "full rulemaking authority" do "define and prescribe means reasonably designed to prevent * * * fraudulent, deceptive or manipulative" practices in connection with tender offers. The purpose of this additional grant of rulemaking authority was to give the Commission rulemaking powers to deal more effectively with rapidly evolving tender offer techniques that have the potential to injure investors.[8]

The ten day proration period, as used in current tender offers, can give rise to the types of practices that the 1970 amendments to Section 14(e) authorized the Commission to prevent by rulemaking. The Commission recognizes that, at the time the Williams Act originally was considered by Congress, proposals that would have extended pro rata treatment over the duration of the tender offer period and that would have given the Commission specific rulemaking authority with respect to proration were rejected.[9] Nonetheless, the Commission believes that in amending Section 14(e) in 1970 to give the Commission additional rulemaking authority, Congress recognized that the statutory scheme established in 1968 was inadequate to deal with continuously evolving tender offer practices, and that the Commission needed full rulemaking authority to deal more effectively with tender offer practices that had the potential to injure investors as these practices developed.[10]

II. Discussion

As used in recent partial tender offers, the minimum ten day proration period (1) fails to give some security holders an adequate opportunity to avail themselves of the minimum twenty business day tender offer period adopted pursuant to Section 14(e) of the Exchange Act and (2) leads to inordinately complex investment decisions.

A. Ten Calendar Proration Period

The end of the proration period represents a critical deadline for security holders faced with a partial tender offer. A security holder faced

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[4] Rule 14e–1 (17 CFR 240.14e–1).

[5] Rule 14d–7 (17 CFR 240.14d–7). In addition, Rule 14d–7 provides that security holders can withdraw deposited securities on the date and until the expiration of ten business days following the date of the commencement of a competing tender offer, so long as the bidder has not already accepted such securities for payment. Other provisions designed to accomplish these purposes specify the date an offer is deemed to have commenced (Rule 14d–2, 17 CFR 240.14d–2), the filings to be made by the bidder with the Commission (Rule 14d–3, 17 CFR 240.14d–3), the disclosures to be made by the bidder to security holders (Rule 14d–6, 17 CFR 240.14d–6), the procedures to be followed by the bidder and the subject company to ensure adequate dissemination of such disclosures (Rules 14d–4 and 14d–5, 17 CFR 240.14d–4 and 240.14d–5), the filing and dissemination requirements of certain enumerated persons that solicit or recommend the acceptance or rejection of an offer (Rule 14d–9, 17 CFR 240.14d–9), and the requirements of the subject company with respect to disclosing its position on the tender offer (Rule 14e–2, 17 CFR 240.14e–2).

[6] *See, e.g.*, Freund & Greene, Substance Over Form S–14: A Proposal to Reform SEC Regulation of Negotiated Acquisitions, 36 Bus. Law. 1483, 1485–88 (1981); Freund & Easton, The Three-Piece Suitor: An Alternative Approach to Negotiated Corporate Acquisitions, 34 Bus. Law. 1679, 1680–87 (1979).

[7] *See* Lederman & Vlahakis, Pricing and Proration in Tender Offers, 14 Rev. of Sec. Reg. 813, 817 (1981).

[8] *See* S. Rep. No. 1125, 91st Cong., 2d Sess. at 4, 6 (1970); H.R. Rep. No. 1655, 91st Cong., 2d Sess. at 4, 6 (1970). At the time the 1970 amendments to Section 14(e) were enacted, Senator Williams, the sponsor of the legislation, stated:

(The rulemaking authority) provision is of the utmost necessity. The techniques used in corporate takeovers and tender offers have become increasingly sophisticated and change rapidly. This is particularly true in situations where the takeover is resisted by incumbent management—industrial warfare develops. Claims and counterclaims, charges and countercharges are hurled back and forth. Efforts are often made to influence the price of the securities involved. The Commission must be given full rulemaking powers in order to deal with these rapidly changing problems.

116 Cong. Rec. S. 3024 (February 10, 1970). Although the Commission would be relying on its authority under Section 14(e) if it adopts proposed Rule 14d–8, the proposed rule would be adopted as part of Regulation 14D and would apply only to those tender offers already subject to mandatory prorationing. The Commission believes that this is appropriate since the problems that prompted the rule proposal exist principally in tender offers subject to mandatory prorationing.

[9] *See generally* Hearings on S. 510 Before the Senate Subcomm. on Securities of the Comm. on Banking and Currency, 90th Cong., 1st Sess. (1967); hearings on H.R. 14475 Before the House Subcomm. on Commerce and Finance of the Comm. on Interstate and Foreign Commerce, 90th Cong., 2d Sess. (1968).

[10] In addition to its rulemaking authority under Section 14(e), the Commission believes that the rulemaking authority granted to the Commission in Section 23(a) provides authority to adopt proposed Rule 14d–8.

with such an offer realistically must choose and implement one of three investment options before the proration period ends: (1) Tender to the bidder in order to be sure of participating in the tender offer; (2) sell on the open market at prices reflecting the tender offer price, the risks of proration and, in some cases, the likelihood of competing bids (foregoing any possible price increases and avoiding the risk of proration or bid failure); [11] or (3) hold and remain a security holder of the subject company at least for the immediate future. Failure to select one of these three options before the expiration of the proration period is tantamount to choosing the third, because the first and second options can disappear at the end of the proration period if the offer is oversubscribed.

Due to the short time period, some security holders do not have the time to make informed investment decisions within the 10 calendar day proration period. Even under the best circumstances, a ten calendar day period is insufficient for some security holders to obtain the requisite information about the tender offer, consider the information in view of personal circumstances, and, if the security holder decides to tender, physically deliver his letter of transmittal and share certificates (or a guarantee of delivery in lieu thereof) to the bidder's depository. If, as is common, the tender offer materials are sent by first-class mail on the first day of the tender offer, some security holders, many of them individuals, may not receive such materials until at least several days into a ten calendar day proration period, particularly when securities are held in street name or by nominees. A few security holders may not even receive tender offer materials sent first class on the first day of a tender offer until after the ten calendar day proration period has expired.[12]

To gain decision making time, many professional and sophisticated investors use extraordinary measures. These investors often dispatch messengers to pick up tender offer materials on the first day of the offer and frequently arrange for hand delivery of shares or letters of guarantee to the depository on the last day of the proration period. Non-professional, individual investors may not have these resources.[13]

A contested tender offer presents an even more difficult situation. If, as is common in such offers, the bidder elects not to mail its materials to security holders, but rather to publish a summary advertisement which invites interested security holders to request tender offer materials from the bidder,[14] the time needed for security holders to request the tender offer materials results in additional delay in the arrival of the tender offer materials. On the other hand, where the bidder has decided to mail its materials to security holders pursuant to the Commission's rules, in some cases, there have been delays in the commencement of the bidder's mailing that have reduced the security holders' decision making time. Thus, in a contested partial tender offer, it is possible that a few security holders will not receive the tender offer materials within the first ten calendar days of the offer, regardless of which method of dissemination a bidder uses.

It was just such problems that led the Commission in 1979 to require that tender offers be kept open for at least twenty business days from the date of commencement and at least ten business days from the date of an increase in the offering price.[15] However, the efficacy of these minimum time periods has been undermined in partial tender offers, where security holders faced with such offers have had to act within ten calendar days to protect their proration rights. It is anomalous that a security holder faced with a partial offer, that may include discussion of the issuance of the securities of the bidder in a second step transaction (in many cases worth significantly less than the cash paid in the first step), effectively has only ten calendar days in which to make his investment decision whereas a security holder faced with an "any and all" offer is assured at least twenty business days in which to make his decision.

The investment decision in an "any and all" offer is often far simpler than that in a partial offer. The security holder confronting a partial tender offer has a more complex task in assessing the risks of oversubscription and prorationing and the consequences of remaining a minority security holder of the subject company with the bidder now occupying a dominant role in the subject company's affairs.[16] Moreover, proposed second step mergers, which frequently are part of the plan of takeover, tend to be significantly more complicated in the context of partial offers which typically involve the issuance of the bidder's securities, whereas in the any and all cash offer context the second step merger is more commonly for the same cash amount per share.

B. Investment Decisions

In recent tender offers, short proration periods greatly complicated the investment decisions to be made by security holder and may have caused considerable confusion on several levels. First, it is questionable whether security holders fully appreciate the importance of deciding—before the

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[11] A security holder cannot depend on selling his shares into the market after expiration of the proration period at prices obtainable prior to the end of that period, since an announcement by the bidder at the end of the proration period that its offer is oversubscribed or even close to fully subscribed (absent some other factor such as a higher competing bid) may be expected to cause the market price of the subject company's securities to drop significantly below the tender offer price. This market price will reflect the likelihood of a competing bid and, in most cases, will be higher than the pre-offer market price for the subject company stock. One consequence of the extension of proration rights to the term of the offer may be to lower the market price for the securities during at the least some part of the tender offer period, as professional arbitrageurs will face an increased risk of proration.

[12] Just how long it takes for security holders to receive materials placed in the mails is impossible to determine and varies depending on a number of factors, such as the geographic location(s) where the materials are mailed, whether they are presorted by destination, and the time of year.

The length of the delivery process varies depending on a number of factors, including (i) the geographic proximity of the security holder, his stock certificates and the bidder's depository; (ii) whether the securities are registered in the security holder's name or held in "nominee" or "street" name; (iii) whether the security holder has a relationship with a stockbroker or bank that is able and willing to assist the security holder in delivery the shares or in submitting to the depository a "guarantee of delivery" on the security holder's behalf; and (iv) whether the stockbroker or bank imposes its own internal processing delays in order to handle the transaction for its client.

[13] *See* Nathan & Volk, Developments in Acquisitions and Acquisition Techniques Under the Williams Act, Practicing Law Institute, Twelfth Annual Institute on Securities Regulation 178, 181–182 (Fleischer, Lipton, Mundheim & Santoni, eds., 1981) (comments of Theodore Levine, Martin Lipton and Stephen R. Volk); Welles, Inside the Arbitrage Game, Institutional Investor 41, 46–51 (Aug. 1981). In the context of the tender offer of Mobil Inc. for Marathon Oil Corp., an article in the Wall Street Journal, Nov. 30, 1981 at 55, noted the advantages institutional investors and arbitrageurs have over non-professional investors.

(The institutions and arbitrageurs) will use armies of messengers to hand-deliver their tenders * * *, allowing them to defer a decision (whether to tender) until hours, or even minutes, before the (proration) deadlines.

But the estimated 36,000 individual shareholders without these advantages will face a (very) difficult week. "I feel sorry for any poor individual shareholder trying to figure this (tender offer) out," says Thomas O'Loughlin, energy analyst at Wilmington Trust.

[14] *See* Rule 14d–4.

[15] Rule 14e–1.

[16] See Corenco Corp. v. Schiavone & Sons, Inc., 362 F. Supp. 939, 948–50 (S.D.N.Y.), *aff'd*, 488 F.2d 207 (2d Cir. 1973) (partial bidder must disclose financial information about itself to help security holders decide whether to tender or remain security holders of the surviving corporate entity controlled by bidder); *see also*, Prudent Real Estate Trust v. Johncamp Realty, Inc., 599 F.2d 1140 (2d Cir. 1979) (same).

expiration of the proration period—whether to tender, sell or hold their stock. The varying legal consequences of the disclosed "proration date," "withdrawal date," and "expiration date" may also confuse some security holders. Moreover, it has come to the commission's attention that security holders may focus exclusively on the expiration date—twenty business days from the commencement of the offer—and ignore the importance of the shorter proration date. Such thinking could result in some security holders being shut out of offers.

Second, a short proration period, coupled with the pro rata provision which requires a bidder to extend the proration period for at least ten calendar days upon increasing the offered consideration, has given rise to a practice of timing price increases to establish a basis for interpreting the existing provisions to permit the creation of multiple "proration pools" rather than extending the initial proration period to the tenth calendar day from such increase. These multiple pools also complicate the decision making process notwithstanding the extensive disclosure concerning the effect of such pools.[17]

Third, an increase in consideration by a bidder after its initial proration period has ended that results in a new ten calendar day proration period may create the illusion that additional pro rata rights have been conferred when, in fact, none have. To illustrate, when an offer is oversubscribed during the initial proration period and thereafter the consideration offered is increased without an increase in the number of shares sought, no shares tendered into the second proration pool will be accepted for purchase, even though announcement of the second proration pool may cause security holders to expect that shares tendered into that pool will be purchased on a pro rata basis.

III. Inquiries Regarding Economic Implications

While the Commission believes that the proposed extension of the proration period is necessary in order to provide investors with the time specified in Regulations 14D and 14E to make informed decisions in the face of complex tender offers, the Commission is aware that, as with any additional regulation, there are economic consequences to such action.[18] The Commission recognizes that there are a number of informed commentators who question the efficiency even of the current scheme. Since the introduction of federal tender offer regulation, a number of economic and financial analyses of tender offers and tender offer regulation have argued that federal regulation has substantially increased the risks and costs to the first bidder, which may result in fewer initial takeover bids being commenced. Thus, these studies suggest, security holders of companies not subject to tender offers may have lost opportunities to receive any premium since possible tender offers for their securities were foregone. In addition, it has been argued that there are possible efficiency losses to the economy due to foregone tender offers. That is, some firms may be operated less efficiently than they could be, and not be potentially subject to tender offers, due to the generally higher costs and risks associated with making initial tender offers. The adoption of Regulation 14E and the 1979 revisions to Regulation 14D, according to this argument, have exacerbated the stituation. The Commission intends to evaluate the entire regulatory scheme applicable to tender offers, including these economic issues. The Commission's evaluation may include studies of these issues as well as the issuance of a release soliciting comment with respect to the implications of the regulatory scheme governing the commencement and conduct of tender offers subject to the Williams Act and soliciting suggestions for any possible legislative amendments the Commission should propose to the Williams Act.

IV. Impact on Competition

In addition to the issues raised by the proposal, the Commission requests written comment on whether the proposed rule, if adopted, would have an adverse effect on competition or would impose a burden on competition which is neither necessary nor appropriate in furthering the purposes of the Exchange Act. Comments on this inquiry should include, to the extent feasible, detailed empirical and evidentiary material in support of any conclusions, opinions or positions. Comments on this inquiry will be considered by the Commission in complying with its responsibilities under Section 23(a)(2) of the Exchange Act.

V. Regulatory Flexibility Act Certification

Pursuant to Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the Commission has certified that the rule proposed herein will not, if promulgated, have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefore, is attached to this release.

List of Subjects in 17 CFR Part 240

Reporting requirements, Securities.

Text of Proposal

In accordance with the foregoing, Title 17, Chapter 2, of the Code of Federal Regulations is proposed to be amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. By revising Rule 14d–8, § 240.14d–8, to read as follows:

§ 240.14d–8 Pro Rata Rights.

Notwithstanding the pro rata provisions of Section 14(d)(6) of the Act, if any person makes a tender offer or request or invitation for tenders for less than all of the outstanding equity securities of a class, and if a greater number of securities are deposited pursuant thereto than such person is bound or willing to take up and pay for,

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[17] The complexity inherent in multiple proration pools is well illustrated by the Conoco takeover contest. When Seagram, in its tender offer for Conoco, announced its first price increase (from $73 per share to $85 per share) on July 13, 1981, four days *before* the end of its initial proration period, it was required to and did extend its initial proration period to July 22, ten calendar days after July 13. However, when Seagram raised its price from $85 per share to $92 per share on July 23, 1981, one day after its initial extended proration period closed, it did not extend its initial proration period but, instead, created a new ten calendar day proration period running from July 23 to August 1, 1981. Because Seagam's tender offer was underscribed during the first proration period, all shares tendered during the first proration period were eligible for purchase and the percentage of Conoco's shares that Seagram was willing to purchase dropped from 51% at the outset of the offer to 38% during the second proration period, thus heightening the proration risk of Seagram's second proration pool.

In DuPont's competing bid for Conoco, when DuPont's first proration period expired, the cash portion of its offer was underscribed. All shares tendered to DuPont during such period and not withdrawn were accepted for cash entirely, subject to no prorationing. For the next ten days of its offer DuPont accepted shares for cash on a first come-first served basis. On the eleventh day from the expiration of its first proration period, DuPont announced a price increase and commenced a new ten day proration period. Shares tendered during this period, however, were not accepted for cash as the cash portion of the DuPont offer was fully subscribed prior to the announcement of the DuPont price increase.

[18] An immediate consequence will be an extension of the time before which securities may be accepted for payment in a partial tender offer. Since proposed Rule 14d–8 would extend the proration period to be coextensive with the duration of the offering period, in the simplest case, the bidder would have to wait until the expiration of the twentieth business day, rather than the fifteenth business day (i.e., termination of the withdrawal period), to accept securities for payment.

the securities taken up and paid for shall be taken up and paid for as nearly as may be pro rata, disregarding fractions, according to the number of securities deposited by each depositor during the period such offer, request or invitation remains open.

Authority: This rule is being proposed pursuant to Sections 14(e) and 23(a) of the Securities Exchange Act of 1934.

(Sec. 23, 48 Stat. 901; sec. 203(a), 49 Stat. 704; sec. 8, 49 Stat. 1379; sec. 10, 78 Stat. 580; sec. 3, 82 Stat. 455; secs. 3–5, 84 Stat. 1497; sec. 18, 89 Stat. 155; (15 U.S.C. 78n(e), 78w(a)))

By the Commission.

George A. Fitzsimmons,

Secretary.

May 25, 1982.

Regulatory Flexibility Act Certification

I, John S.R. Shad, Chairman of the Securities and Exchange Commission hereby certify, pursuant to 5 U.S.C. 605(b), that the proposed rule published in Securities Exchange Act Release No. 34–18761 (May 25, 1982) "Proposed Pro Rata Rule" will not, if promulgated, have a significant economic impact on a substantial number of small entities. Although the proposed rule would, by its terms, require that all bidders (including small entities) in oversubscribed partial tender offers for securities referred to in Section 14(d)(1) of the Securities Exchange Act of 1934 grant pro rata treatment according to the number of securities deposited by each depositor during the period such offer is held open, neither bidders in nor persons subject to such tender offers ordinarily are small entities within the meaning of Commission Rule 0–10, 17 CFR 240.0–10. Therefore, it is anticipated that the proposed rule will not have a significant impact upon small entities.

Dated: May 25, 1982.

John S. R. Shad,

Chairman.

[FR Doc. 82–15275 Filed 6–3–82; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79–76–098 (Montana—1)]

High-Cost Gas Produced From Tight Formations; Montana

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cosnst gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office Pipeline and Producer Regulation contains the recommendation of the State of Montana that the Bowdoin, Greenhorn, and Phillips Formations each be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on July 1, 1982. Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on June 16, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION:

Issued: June 1, 1982.

I. Backgroumd

On January 29, 1982, the State of Montana Board of Oil and Gas Conservation (Montana) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Bowdoin, Greenhorn, and Phillips Formations located in Phillips and Valley Counties, Montana, each be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations; this Notice of Proposed Rulemaking is hereby issued to determine whether Montana's recommendation that the Bowdoin, Greenhorn, and Phillips Formations each be designated a tight formation should be adopted. Inasmuch as approximately 70% of the recommended formation underlies Federal land, the United States Department of the Interior, Minerals Management Service (MMS) reviewed the recommendation. By letter dated February 24, 1982, MMS informed the Commission that it did not approve Montana's recommendation. In this letter, MMS stated that the production of gas from the subject formations presented neither extraordinary risk nor cost. MMS also stated that it believed that the applicant seeking the tight formation designations and its expert witnesses employed excessive manipulation of data in establishing permeability values and pre-stimulation flow rates. By letter dated March 26, 1982, MMS reversed its position as stated in the letter of February 24, 1982, and concurred with Montana's recommendation. Montana's recommendation and supporting data are on file with the Commission and are available for public inspection.

On April 22, 1982, the Commission received a letter from Mr. James M. Haughey, who represents Montana-Dakota Utilities Co. (MDU), which opposed the subject tight formation appplications when they were before the Montana Oil and Gas Conservation Board. MDU's April 22, 1982 letter protests the action of MMS by which it initially opposed the tight formation recommendations (as evidenced in its February 24, 1982 letter) and then reversed its position (as evidenced in its March 26, 1982 letter).

MDU alleges that MMS reversed its position after having made post-hearing contacts with persons who had filed the applications seeking the subject tight formation recommendations. MDU claims that the opponents of the applications (MDU and other) had no notice or knowledge of these post-hearing contacts and had no opportunity to counter the off-the-record arguments then made, to cross-examine witnesses or consider any other information presented during these contacts. MDU therefore requests that the Commission accept only MMS' February 24, 1982 letter opposing the tight formation recommendation, and disregard MMS' March 26, 1982 letter.

On April 27, 1982, the Commission received a letter from Commissioner Thomas J. Schneider of the Montana Public Service Commission (MPSC). MPSC requests that the Commission treat MMS' February 24, 1982 letter as final and reject the March 26, 1982 letter. MPSC further requested that the Commission investigate the circumstances described in MDU's letter.

The Commission was notified on May 11, 1982, by a letter from Senator Max Baucus that the matter raised by MDU and MPSC concerning MMS' actions has been forwarded to the United States Comptroller General with a request that the Comptroller General undertake an investigation of the matter.

The above discussed letters are in the public file in this docket, are available for public inspection and interested persons are invited to comment on the matters raised therein.

II. Description of Recommendation

The recommended formations underlie portions of Phillips and Valley Counties in northcentral Montana. The area encompasses portions of Townships 26 through 37 North, and Ranges 27 through 38 East, excluding certain areas in and around the Bowdoin Dome. The recommended formations are members of the Lower Colorado Group of Late Cretaceous age. The average depth to the top of the Bowdoin Formation is 1,800 feet with its base defined as the top of the Greenhorn Formation. The average depth to the top of the Greenhorn Formation is 2,050 feet with its base defined as the top of the Phillips Formation. The average depth to the top of the Phillips Formation is 2,070 feet.

III. Discussion of Recommendations

Montana claims in its submission that evidence gathered through information and testimony presented at a public hearing in Order No. 151–81, Docket No. 128–81 convened by Montana on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formations without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formations is expected to produce more than five (5) barrels of oil per day.

Section 271.703(c)(2)(i) states that the Commission will approve the designation of any formation recommended by a jurisdictional agency if the formation meets each of the guidelines set forth in § 271.703(c)(2)(i)(A), (B), (C), and (D). Preliminary Commission staff analysis indicates that Montana's recommendation may not meet the guidelines specified in § 271.703(c)(2)(i)(A) and (B). The Bowdoin Formation's average pre-stimulation flow rate appears to be in excess of the maximum allowable production rate set out in the regulations. The estimated average *in situ* gas permeability for the Bowdoin Formation, based on pressure build-up data, appears to be greater than the limit of 0.1 millidarcy. In addition, the average prestimulation flow rates for the three subject formations were calculated by the applicants using zero flow rates from wells which may not have been completed for production. Comments are specifically requested on these issues.

Montana further asserts that existing State and Federal Regulations assure that development of these formations will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Montana that the Bowdoin, Greenhorn, and Phillips Formations, as described and delineated in Montana's recommendation as filed with the Commission, each be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before July 1, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–098 (Montana–1), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than June 16, 1982.

List of Subjects in 18 CFR Part 271

Natural gas, incentive price, tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Montana's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703(d) is revised by adding new subparagraphs (113), (114), and (115) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(78) through (112) [Reserved]

(113) *Bowdoin Formation in Montana. RM79–76–098 (Montana–1)*—(i) *Delineation of formation.* The Bowdoin Formation is located in Phillips and Valley Counties, Montana, and underlies an area bounded by Townships 26 through 37 North and Ranges 27 through 38 East, excluding all or portions of Township 30 North, Ranges 32 through 35 East; Townships 31 through 33 North, Ranges 31 through 35 East; Townships 34 and 35 North, Ranges 31 and 32 East; Township 36 North, Ranges 30 and 31 East; and Township 37 North, Ranges 29 and 30 East.

(ii) *Depth.* The Bowdoin Formation lies between the base of the Niobrara Formation and the top of the Greenhorn Formation. The average depth to the top of the Bowdoin Formation is 1,800 feet.

(114) *Greenhorn Formation in Montana. RM79–76–098 (Montana–1)*—(i) *Delineation of formation.* The Greenhorn Formation is located in Phillips and Valley Counties, Montana, and underlies an area bounded by Townships 26 through 37 North and Ranges 27 through 38 East, excluding all or portions of Township 30 North, Ranges 32 through 35 East; Townships 31 through 33 North, Ranges 31 through 35 East; Townships 34 and 35 North, Ranges 31 and 32 East; Township 36 North, Ranges 30 and 31 East; and Township 37 North, Ranges 29 and 30 East.

(ii) *Depth.* The Greenhorn Formation lies between the base of the Bowdoin Formation and the top of the Phillips Formation. The average depth to the top of the Greenhorn Formation is 2,050 feet.

(115) *Phillips Formation in Montana. RM79–76–098 (Montana–1)*—(i) *Delineation of formation.* The Phillips Formation is located in Phillips and Valley Counties, Montana, and underlies an area bounded by townships 26 through 37 North and Ranges 27

through 38 East, excluding all or portions of Township 30 North, Ranges 32 through 35 East; Townships 31 through 33 North, Ranges 31 through 35 East; Townships 34 and 35 North, Ranges 31 and 32 East; Township 36 North, Ranges 30 and 31 East; and Township 37 North, Ranges 29 and 30 East.

(ii) *Depth.* The Phillips Formation lies between the base of the Greenhorn Formation and the top of the Belle Fourche Shale. The average depth to the top of the Phillips Formation is 2,070 feet.

[FR Doc. 82-15206 Filed 6-3-82; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 134

Proposed Change of Position Concerning Country of Origin Marking Requirements for Imported Semiconductor Devices; Including Transistors, Diodes, and Integrated Circuits; Extension of Time for Public Comment

AGENCY: Customs Service, Treasury.

ACTION: Notice of extension of time for comment.

SUMMARY: This notice extends the period of time within which interested members of the public may submit written comments with respect to a notice of proposed change of position relating to the marking requirements for imported semiconductor devices, including transistors, diodes, and integrated circuits. A document inviting the public to comment on the notice was published in the **Federal Register** on April 5, 1982 (47 FR 14493). Comments were to have been received on or before June 4, 1982. A request has been received to extend the period for the submission of comments claiming that additional time is needed because the proposed change presents major questions for the semiconductor industry which requires further study and analysis. Customs believes that the request has merit. Accordingly, the period of time for the submission of written comments is extended to July 6, 1982.

DATES: Comments must be received on or before July 6, 1982.

ADDRESS: Written comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Samuel Orandle, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5765).

Dated: May 28, 1982.

John P. Simpson,
Director, Office of Regulations and Rulings.

[FR Doc. 82-15169 Filed 6-3-82; 8:45 am]
BILLING CODE 4820-02-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 412; Re: Notice No. 360]

Los Carneros Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice amends the proposed boundaries of the previously proposed Los Carneros viticultural area. Evidence received at a public hearing and in response to Notice No. 360, published in the **Federal Register** on December 15, 1980, (45 FR 82470) indicates that the originally proposed area does not meet the requirements of 27 CFR 4.25a(e)(2). Therefore, the Bureau of Alcohol, Tobacco and Firearms (ATF) is proposing new boundaries delineating the area which it feels does meet the viticultural area requirements.

DATE: Comments must be received by August 3, 1982.

ADDRESSES: Send written comments to—Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385, (Notice No. 412).

Copies of comments will be available for public inspection during normal business hours at the—ATF Reading Room, Federal Building, Room 4405, 1200 Pennsylvania Avenue, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Steve Simon, Research and Regulations Branch (202-566-7626).

SUPPLEMENTARY INFORMATION:

Original Proposal

On December 15, 1980, ATF published a notice of proposed rulemaking, Notice No. 360, in the **Federal Register** proposing the establishment of the "Los Carneros" viticultural area in Napa County, California. A public hearing concerning the proposal was held in Santa Rosa, California, on January 14, 1981. ATF accepted written comments on the proposal until February 13, 1981.

The original Los Carneros proposal was based on a petition submitted by Beaulieu Vineyards. Under this proposal, the Los Carneros viticultural area would have comprised the area in Napa County south of the city of Napa and west of the Napa River.

Geographical Features. Section 4.25a(e)(2)(iii) requires a viticultural area to possess geographical features which distinguish the viticultural features of the area from the surrounding areas. The presence of Haire-Coombs soils constitutes the main agrological difference between the originally proposed Los Carneros area and the grape-growing areas in the more northern parts of Napa County. However, the evidence received in the public hearing indicates that these predominant Haire-Coombs series soils, the soils in the proposed area most desirable for grape cultivation, extend into Sonoma County.

Additionally, the record indicates that the climate in the area within Sonoma County and adjacent to the originally proposed area and the climate in the originally proposed area are essentially identical. Both the area in Sonoma County and the area in Napa County are characterized by generally cooler temperatures, a greater number of foggy days, and a more pronounced marine influence than the climate in the area to the north.

Based on this evidence, ATF does not feel that the originally proposed area is geographically distinguishable from the adjacent area in Sonoma County.

Proposed Name. Section 4.25a(e)(2) (i) and (ii) require evidence that the proposed viticultural area is known by the proposed name and the boundaries are as specified. One commenter at the public hearing claimed that the Los Carneros region was associated strictly with the Napa Valley viticultural area. The Napa Valley region is located entirely in Napa County. However, other persons at the public hearing claimed that the southern portion of the Sonoma Valley region was also known locally as the Los Carneros area. While most of the wineries currently producing wines labeled with a "Los Carneros" designation are located in Napa County, many of these wines labeled with the Los Carneros designation are derived, in part, from grapes grown in the southern end of the Sonoma Valley area. Also, at least one winery in Sonoma County (Buena Vista Vineyards) is closely identified with the Los Carneros region. According to the *Connoisseurs' Guide to California Wine*, March 25, 1979, at 72-

74 (vol. 4, issue 4), Buena Vista Vineyards has substantial acreage, located in the "Carneros" area, which overlaps from Sonoma County into Napa County.

Both the *Connoisseurs' Guide, supra,* and A. Lichine, *New Encyclopedia of Wines and Spirits* (2d ed. 1976) support the contention that the Los Carneros area includes portions of both Napa and Sonoma Counties. The *Connoisseurs' Guide, supra,* at 74 states that "Carneros" is the coolest viticultural area within Sonoma County and overlaps into Napa County. Alexis Lichine's *New Encyclopedia of Wines and Spirits, supra,* at 497 states that the "Carneros" region "straddles the border between Sonoma and Napa."

Based on this evidence ATF does not feel that the originally proposed viticultural area includes all the area historically and currently known to the industry and consumers as the Los Carneros region.

Other Comments. Several commenters addressed the issue of overlapping viticultural areas. ATF does not object to a proposed viticultural area solely on the grounds that it may partially or completely overlap another area. Regulations do not prohibit overlapping viticultural areas. Each proposed area must be judged individually.

New Proposal

ATF is amending the proposed boundary of the proposed Los Carneros viticultural area to include certain grape-growing areas of Sonoma County along San Pablo Bay with similar grape-growing characteristics, climate, and soil as the originally proposed area in Napa County. The new proposed boundary is described by using features which appear on the following United States Geological Survey maps—

(1) "Sears Point, Calif.," 7.5 minute series Quadrangle;

(2) "Sonoma, Calif.," 7.5 minute series Quadrangle;

(3) "Napa, Calif.," 7.5 minute series Quadrangle; and

(4) "Cuttings Wharf, Calif.," 7.5 minute series Quadrangle.

The new proposed boundary begins at the junction of Sonoma Creek and San Pablo Bay. The boundary then runs in a northerly direction up Sonoma Creek to State Road 121. From this junction of Sonoma Creek and State Road 121, the boundary runs easterly along State Road 121 to the Napa County-Sonoma County line and then northerly along the county line to the township line T.6.N./T.5.N. The boundary then runs easterly along this township line to Browns Valley Creek, then along Browns Valley Creek eastward to Napa Creek. The boundary then follows Napa Creek to the Napa River, and then in a southerly direction down the Napa River to the Napa County-Solano County line. The boundary then runs westerly on the Napa County-Solano County line to the beginning point.

Public Participation

ATF requests comments concerning this proposal from all interested persons. While this document proposes boundaries for the Los Carneros viticultural area, comments concerning other boundaries for this viticultural area will be considered.

Comments are particularly sought regarding the proposed overlap of the Los Carneros viticultural area into parts of the previously approval Napa Valley and Sonoma Valley viticultural areas. ATF's policy is to accept and consider any evidence showing viticultural areas to overlap one another, and if this evidence meets the criteria given in the regulations, such overlapping areas may be approved. As stated in T.D. ATF-96 (46 FR 59237), "Each area must be judged individually on the criteria required in the regulations. Each area must meet the same requirements concerning the area's proposed name and the presence of distinguishing geographical characteristics. In addition, the establishment of viticultural areas is an evolutionary process. ATF will continue to consider any new information concerning viticultural areas."

As proposed by this notice, Los Carneros would consist entirely of land that overlaps either Napa Valley or Sonoma Valley. Such overlapping is supported by the evidence that ATF has so far received. The original Los Carneros petition, which is not being adopted, proposed an area located only in Napa Valley. As another option, Los Carneros might conceivably be approved as a separate and distinct viticultural area, mutually exclusive from any other area—however, this could not be done unless substantial evidence were submitted to support retracting the boundaries of the Napa Valley and Sonoma Valley areas, through amendment of existing regulations.

Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action. ATF will not recognize any material or comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting the comment is not exempt from disclosure.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. Chapter 6) requires Federal agencies to make an initial and final analysis of regulatory proposals where the agency feels that the proposal will have a significant economic impact on a substantial number of small entities. In addition, the agency is required to determine if a proposal would have significant secondary or incidental effects on a substantial number of small entities, or cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

The value of an appellation of origin when used in wine labeling and advertising is primarily intangible. Moreover, the value of an appellation of origin such as "Los Carneros" may vary widely due to factors completely unrelated to this proposal. Therefore, ATF is not able to assign a realistic economic value to the use of "Los Carneros" as an appellation of origin. In the absence of evidence to the contrary, ATF does not expect this proposal, if promulgated as a final rule, to have a significant economic impact on a substantial number of small entities. This proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities, or cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Index Terms

List of **Federal Register** index terms for 27 CFR Part 9: Administrative Practice and Procedure, Consumer Protection, Wine, Viticultural Areas.

Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this proposal is not a major rule since it will not result in—

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographical regions; or

(c) Significant adverse effects on competition, employment, investment, innovation, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Drafting Information

The principal authors of this document were Thomas L. Minton and Steve Simon, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority: This viticultural area is proposed under the authority in 27 U.S.C. 205.

Signed: April 20, 1982.

Stephen E. Higgins,

Acting Director.

Approved: May 13, 1982.

John M. Walker, Jr.,

Assistant Secretary (Enforcement Operations).

[FR Doc. 82-15077 Filed 6-3-82; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1904

Exemption From Requirements for Recording Occupational Injuries and Illnesses; Proposed Rule and Amendment

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Proposed rule.

SUMMARY: OSHA is proposing to amend Part 1904 to exempt certain employer establishments from requirements to: (1) Maintain, retain, and provide access to the log and summary of occupational injuries and illnesses (§ 1904.2, § 1904.6 and § 1904.7); (2) maintain, retain, and make available for inspection the supplementary record of occupational injuries and illnesses (§ 1904.4 and § 1904.6); and (3) post the annual summary of occupational injuries and illnesses for each establishment (§ 1904.5).

The agency proposes to exempt employer establishments in the following Standard Industrial Classifications (SIC's):

SIC's 52–59 (Retail Trades) *except* SIC's 52–54
SIC's 60–67 (Finance, Insurance, and Real Estate)
SIC's 70–89 (Services) *except* SIC's 70, 75, 76, 79, 80

This action is part of OSHA's continuing effort to reduce the recordkeeping burden on employers. The primary value to OSHA of these records has been to help OSHA compliance officers assess workplace safety and health conditions as part of OSHA's general schedule (agency-initiated) inspections of establishments. Since 1977, however, OSHA has not included in its general inspection program those employers who would be exempt under this proposal. Further, because of low incidence rates at the affected firms and limited OSHA resources there is little likelihood that these firms would be included in any future targeting scheme. Thus, for these establishments, the primary agency use of these records no longer exists. OSHA, therefore, proposes to exempt these employers from the requirements to keep records. The proposed exemption will relieve a large number of employers of an unnecessary paperwork burden without lessening on-the-job safety protection for workers.

DATE: Comments must be received on or before July 6, 1982.

ADDRESS: Comments should be submitted to the Docket Officer, Occupational Safety and Health Administration, Docket No. P200, Room S6212, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Raymond Donnelly, Occupational Safety and Health Administration, Room N3622, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone (202) 523–8076.

SUPPLEMENTARY INFORMATION:

Background

The regulations concerning OSHA's occupational injury and illness recordkeeping system (29 CFR Part 1904) were adopted in 1971. Their purpose is to:

implement section 8(c)(1), (2), 8(g)(2) and 24(a) and (e) of the Occupational Safety and Health Act of 1970. These sections provide for recordkeeping and reporting by employers covered by the Act as necessary or appropriate for enforcement of the Act, for developing information regarding the causes and prevention of occupational accidents and illnesses, and for maintaining a program of collection, compilation and analysis of occupational safety and health statistics (29 CFR 1904.1).

On July 29, 1977, OSHA amended these regulations to exempt small employers with 10 or fewer employees from the recordkeeping requirements of Part 1904 (42 FR 38567). OSHA then stated that the amendment would continue the Congressional intent, expressed in previous appropriations acts (Pub. L. 93–517 and Pub. L. 94–206) to generally exempt employers with 10 or fewer employees from the recordkeeping requirements but not from the requirement in § 1904.8 to report accidents resulting in a fatality or multiple hospitalization nor from the requirement in § 1904.21 to participate in the Bureau of Labor Statistics' (BLS) annual statistical survey, if such an employer is selected to participate. OSHA also stated that the small employer exemption would carry out the mandate of section 8(d) of the Act which requires that information obtained under the Act be obtained with a minimum burden on employers (29 U.S.C. 657(d)).

OSHA now proposes to provide a comparable exemption for establishments which are classified in the Office of Management and Budget's Standard Industrial Classification (SIC) Manual as retail trade, finance, insurance, real estate and services—SIC's 52–89 (excluding 52–54, 70, 75, 76, 79 and 80).

For the purposes of this exemption, OSHA intends to apply the rules of classification of establishments set out in the Standard Industrial Classification Manual (Office of Management and Budget—1972, Supp. 1977) which is available in OSHA's Docket Office for inspection and copying. The SIC Manual can also be found in public libraries and will be available at all OSHA and BLS regional offices for reference, inspection and copying.

According to these rules, the SIC of an establishment is determined essentially by the principal product or group of products produced or distributed, or of services rendered. For retail trade, finance, insurance, and real estate, the criterion is the value of receipts; and for services, the value of receipts or revenues is the classification criterion. In establishments with diversified activities, the activity determined to account for the largest share of production or sales will identify the primary activity and thus the SIC classification. The proposed amendment (§ 1904.12(h)) contains a more detailed description of the establishments which are proposed for exemption.

Proposed Exemption From Log, Summary and Supplemental Record Requirements

The requirements to maintain, retain and provide access to the OSHA prescribed log, summary of occupational injuries and illnesses and supplemental record were intended to serve three main purposes.

First, these requirements were designed to aid OSHA's compliance safety and health officers to identify hazardous operations when conducting general schedule inspections. Establishments in SIC's 52–89, however, have not been targeted for general schedule inspections since 1977 because these establishments fall within less hazardous industrial divisions. For the

same reason, coupled with limited OSHA resources, it is highly unlikely that such firms would be included in any future targeting plan. Thus, for the establishments proposed for exemption the requirements have outlived their original purpose as a necessary component of general schedule inspection activity. It should be noted that inspections in these establishments will continue to be made in response to employee complaints, and as part of OSHA's investigation of fatalities, multiple hospitalization incidents, and imminent danger situations. In these cases, however, the hazard information is provided by the complaint itself or through prompt investigation.

The second purpose of these regulations was to provide employers and employees with useful information about conditions at their workplace. Statistics show that eliminating the requirement to maintain the OSHA log and supplemental record for the establishments affected by this proposed exemption would not result in the loss of useful information. Approximately 94 percent of all establishments in SIC's 52–89 (excluding 52–54, 70, 75, 76, 79, and 80) based on past BLS data, could be expected to have fewer than two injuries per establishment on an annual basis.

The third purpose of these regulations was to ensure the gathering of uniform, reliable safety and health statistics. OSHA does not intend, with this proposal, to exempt affected employers from participating in the Bureau of Labor Statistics annual survey of occupational injuries and illnesses. Currently, only a small percentage of these employers are asked to participate; in the future, these selected employers will be notified in advance by BLS of the requirement to participate in the survey and to maintain the OSHA log and make reports for the survey as requested by BLS.

Scope and Effect of Proposed Exemption

These exemptions will provide recordkeeping relief to a significant number of employers. It is estimated that 474,000 employers would be exempted under this proposal, leaving unchanged the small employer exemption which already covers approximately 80% of the establishments in SIC's 52–89. This exemption is proposed to take effect beginning January 1, 1983.

The scope of the proposed exemption is confined to establishments in the Major Industry Groups, within SIC's 52–89, which now meet two criteria. The first is that the establishments now fall within SIC's not now targeted for general schedule inspections. As discussed above, since 1977 all establishments in SIC's 52–89 have not been targeted for such inspections. The second criteria is that the establishments now fall within Major Industry Groups in SIC's whose average lost workday case injury rate (LWDC), as published by the Bureau of Labor Statistics, for 1978–80 is at or below 75 percent of the private sector average. Major Industry Groups in SIC's 52–89 which have LWDC averages above 75 percent of the private sector average and thus are not included in the proposed exemption are: building materials and garden supplies (SIC 52); general merchandise and food stores (SIC's 53, 54); hotels and other lodging places (SIC 70); repair (SIC's 75, 76) amusement, and recreation services (SIC 79); and health services (SIC 80).

In addition to those major industrial divisions addressed by our proposal, OSHA reviewed the lost workday case injury averages for the wholesale trade sector (SIC's 50, 51). It was found, however, that the LWDC average for both major wholesale groups for 1978–80 was higher than 75 percent of the private sector rate for the same time period. Therefore, the wholesale trade classification, both durable and nondurable goods, is not included in the proposed exemption.

Submission of Comments

Interested persons are invited to submit written comments on these proposed exemptions from certain requirements of Part 1904. Comments should be submitted in quadruplicate and be received by July 6, 1982. They should be sent to the Docket Office, Occupational Safety and Health Administration, Docket No. P200, Room S6212, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

OSHA, in accordance with Executive Order 12291 (46 FR 13193), hereby states that this rulemaking does not constitute a "major rule" since its effect will not meet any of the definitional elements in § 1(b) of the Executive Order. As stated above, the effect of this proposal would be to reduce many employers' paperwork burden, and accordingly result in lower costs to them. OSHA also certifies that this proposal does not require a regulatory flexibility analysis under the Regulatory Flexibility Act (Pub. L. 96–354; 94 Stat. 1164) because, it will not have a significant economic impact on a substantial number of small entities, in that no increased reporting requirements are proposed and competition within affected industries is not affected.

This document was prepared under the direction and supervision of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health.

Accordingly, pursuant to Section 8(g) of the Occupational Safety and Health Act of 1970 (84 Stat. 29 U.S.C. 657(g), 1593, 1600), Section 4 of the Administrative Procedures Act (45 U.S.C. 553), and Secretary of Labor's Order 8–76, it is hereby proposed to amend Part 1904 of Title 29 of the Code of Federal Regulations as set forth below.

Signed at Washington, D.C. this 28th day of May, 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

List of Subjects in 29 CFR Part 1904

Health records, Health statistics, Occupational safety and health.

It is proposed to amend Part 1904 of Title 29, Code of Federal Regulations as follows:

PART 1904—RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

1. By adding a new paragraph (h) to § 1904.12, to read as follows:

§ 1904.12 Definitions.

* * * * *

(h) *Establishments Classified in Standard Industrial Classification Codes. (SIC) 52–89*—(1) Establishments whose primary activity constitutes retail trade; finance, insurance, real estate and services are classified in SIC's 52–89.

(2) Retail trades are classified as SIC's 52–59 and for the most part include establishments engaged in selling merchandise to the general public for personal or household consumption. Some of the retail trades are: automotive dealers, apparel and accessory stores, furniture and home furnishings stores, and eating and drinking places.

(3) Finance, insurance and real estate are classified as SIC's 60–67 and include establishments which are engaged in banking, credit other than banking, security dealings, insurance, and real estate.

(4) Services are classified as SIC's 70–89 and include establishments which provide a variety of services for individuals, businesses, government agencies, and other organizations. Some of the service industries are: personal and business services, in addition to legal education, social, and cultural; and membership organizations.

(5) The primary activity of an establishment is determined as follows:

For finance, insurance, real estate, and services establishments, the value of receipts or revenue for services rendered by an establishment. In establishments with diversified activities, the activities determined to account for the largest share of production, sales or revenue will identify the primary activity. In some instances these criteria will not adequately represent the relative economic importance of each of the varied activities. In such cases, employment or payroll should be used in place of the normal basis for determining the primary activity.

2. By adding a new § 1904.16 to read as follows:

§ 1904.16 Establishments classified in Standard Industrial Classification Codes (SIC) 52–89, except 52–54, 70, 75, 76, 79 and 80.

An employer whose establishment is classified in SIC's 52–89 (excluding 52–54, 70, 75, 76, 79, and 80), need not comply, for such establishment, with any of the requirements of this part except the following: (a) Obligation to report under § 1904.8 concerning fatalities or multiple hospitalization accidents; and (b) obligation to maintain a log of occupational injuries and illnesses under § 1904.21, upon being notified in writing by the Bureau of Labor Statistics that the employer has been selected to participate in a statistical survey of occupational injuries and illnesses.

[FR Doc. 82–15010 Filed 6–1–82; 8:45 am]
BILLING CODE 4510–26–M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 219

National Forest System Land and Resource Management Planning

AGENCY: Forest Service, USDA.

ACTION: Proposed Rule; Extension of comment period and notice of meeting.

SUMMARY: Substantial public interest has developed in response to proposed revisions of regulations governing National Forest System land and resource management planning. The proposed rule was published February 22, 1982 (47 FR 7678–7696). In response to this interest, the Department will hold a meeting, open to the public, to discuss and consider topics that have emerged from comments on the proposed rule. Also the period for the public to comment on the proposed rule is hereby extended to July 6, 1982.

DATES: The meeting will be held June 30–July 2, 1982, beginning at 9 a.m. each day. Notice from those who plan to attend must be received by June 23, 1982.

Written comments on the proposed rule must be received by close of business July 6, 1982.

ADDRESSES: The meeting will be held at West Park Hotel, Club Room 1900 North Fort Myer Drive, Rosslyn, Virginia. Persons who wish to attend the meeting must notify: Charles R. Hartgraves, Director, Land Management Planning, Forest Service, USDA, P.O. Box 2417, Washinton, D.C. 20013, (202) 447–6697.

Comments on the proposed rule must be mailed to the same address.

FOR FURTHER INFORMATION CONTACT: Charles R. Hartgraves, (202) 447–6697.

SUPPLEMENTARY INFORMATION: On February 22, 1982, the Department of Agriculture published a proposed rule which would revise National Forest System land and resource management planning procedures. The existing regulations are mandated by the National Forest Management Act and are found at 36 CFR Part 219. The deadline for public comment on the proposed revisions was April 23, 1982.

To respond to public interest in the proposed amendments, the deadline for public comment is now extended to July 6, 1982. Also, a meeting will be held to discuss and consider, as a minimum, the following topics which have evolved from public consideration and comment on the proposed rule:

—Planning Principles
—Public Involvement
—Fish and Wildlife Requirements
—Departures from Even Flow Non-declining Yield Harvest Levels
—Formulation and Comparison of Alternatives
—Wilderness
—Regional Plans
—Treatment of RPA Goals in Planning
—Integrated Pest Management
—Interdisciplinary Analysis
—Monitoring
—Analysis of the Management Situation
—Economic Analysis Procedues
—Timber Suitability Evaluations

During the meeting the views of members of the former National Forest Management Act Committee of Scientists will be received. Under Section 6 of the National Forest Management Act, the Secretary of Agriculture appointed a Committee of Scientists to provide scientific and technical advice and counsel on proposed guidelines and procedures in relation to National Forest planning. Upon promulgation of the final planning rule in September 1979 (44 FR 53976), the Committee of Scientists was terminated. All former Committee members are being invited as individual consultants to discuss and consider the above major topics.

The meeting will be open to the public. As appropriate and as time permits, comments from the audience will be accepted. Persons who plan to attend must give notice by June 23, 1982.

Dated: June 1, 1982.

Douglas W. MacCleery,

Deputy Assistant Secretary, Natural Resource and Environment.

[FR Doc. 82–15194 Filed 6–3–82; 8:45 am]
BILLING CODE 3410–11–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 790

[OPTS–48001C; TSH–FRL 1627–3]

Toxic Substances Control Act Data Reimbursement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a rule to implement sections 4(c)(3), and 4(c)(4), of the Toxic Substances Control Act (TSCA), 15 U.S.C. Sec. 2603, 2604. This proposal sets forth methods of determining fair amounts for data reimbursement and resolving disputes that arise over reimbursement.

DATE: To ensure that all comments are considered in the development of the final rule, written comments must be submitted on or before September 2, 1982.

ADDRESS: Written comments should bear the document control number (OPTS–48001C) and be addressed to: Document Control Officer, Office of Pesticides and Toxic Substances (TS–793), Environmental Protection Agency, Room E–401, 401 M Street, SW., Washington, D.C. 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Industry Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Room E–511B, 401 M Street, SW., Washington, D.C. 20460, (202–382–3790). Outside Continental U.S.: (Operator—202–554–1404).

SUPPLEMENTARY INFORMATION:

I. Introduction

When the Administrator of the Environmental Protection Agency (EPA) promulgates a test rule, all of the manufacturers, importers, and

processors of the chemical which are subject to the rule are expected to jointly bear the cost of the test. If firms are unable to agree on the amount or method of reimbursement, section 4 requires the Administrator to issue reimbursement orders. This notice proposes a rule establishing procedures and substantive criteria for EPA's determination of fair and equitable reimbursement.

The proposal reflects EPA's review of the comments received in response to the Advance Notice of Proposed Rulemaking (ANPR) published in the **Federal Register** of September 18, 1979 (44 FR 54284). Many of the comments proved to be useful in drafting the proposed rule. A summary of comments and EPA's response to them may be found in the public file on this rule.

II. Statutory Scheme

A. Section 4

Section 4 of TSCA authorizes the Administrator to issue rules requiring the manufacturers (including importers) and processors of chemical substances or mixtures to test them in order to generate information from which the effects of the chemicals on health and the environment can be determined. Section 4(c) permits a person to apply for an exemption from testing which must be granted if the Administrator determines that the chemical to which the application pertains is equivalent to one for which test data have been submitted or are being developed, and that submission of data by the applicant would be duplicative (section 4(c)(2)). Persons receiving exemptions at any time before the end of the reimbursement period have an obligation to reimburse those who actually perform the required testing for a portion of the costs incurred in complying with the rule. The reimbursement period begins when the last nonduplicative test data are submitted and ends five years later or at the expiration of a period of time equal to the time necessary to develop that data, whichever is longer.

Under section 4(c), parties may seek assistance from the Agency only after the parties have tried and failed to agree on appropriate reimbursement. In that circumstance the Administrator must issue a reimbursement order directing persons who received exemptions to provide fair and equitable reimbursement to those who incurred the testing costs. The Administrator must base her orders on a rule developed in consultation with the Department of Jusice and the Federal Trade Commission. All relevant factors, including competitive position and the market shares of the persons providing and receiving reimbursement, are to be taken into account in developing the rule.

B. Section 5(h)(2)

Section 5(h)(2) provides reimbursement only for data submittal by persons giving notice under section 5(b)(2) for a chemical on the section 5(b)(4) list of chemicals which may present an unreasonable risk of injury to health or the environment. It does not provide a comprehensive reimbursement scheme for other data submitted under section 5.

The Agency is not proposing at this time to include section 5(h)(2) in the data reimbursement scheme. The general approach taken in this proposal for section 4 will probably work for section 5, but several differences will require adjustments which the Agency has not yet analyzed sufficiently. Because section 5(b)(4) has not been implemented, there is no immediate need for a reimbursement provision nor is there enough information to design the necessary provisions.

III. The Rule

A. Overview and Scope

In order to encourage negotiated settlements and to keep the administrative procedures for granting reimbursement orders as simple and efficient as possible, EPA is proposing a set of procedures and decision criteria which emphasize the factors relied on by the private sector in similar disputes.

This rule potentially affects all persons subject to test rules. Any person who receives an exemption from testing or data submission requirements or who is entitled to reimbursement for testing costs incurred by compliance with section 4(a) may ask EPA to resolve reimbursement disputes. The criteria and procedures contained in this rule will apply only to those who are involved in disputes for which government assistance has been requested. Subject to the anti-trust laws, voluntary cost allocation arrangements may be made in any manner agreeable to the parties.

When persons subject to a test rule are unable to agree on appropriate reimbursement, and request assistance, an informal hearing will be conducted by an independent hearing officer selected by the parties from a roster maintained by the American Arbitration Association. The procedures will be similar to those used in commercial arbitration, with some significant differences explained elsewhere in this notice.

The hearing officer will base his proposed order on the formula and criteria set forth in this rule. In general, a person's share of the test cost will be equal to his share of the total production of the test chemcial. All costs incurred in meeting the requirements of the test rule, including a reasonable profit, will be eligible for reimbursement. A person who believes that the formula will not provide fair and equitable reimbursement in a specific case may propose modifications to it.

The hearing officer's proposed order will become the final agency order thirty days after it is delivered unless reviewed by the Administrator. Petitions for review will be automatically granted when the hearing officer's order is based upon a modified formula. Review will be discretionary in other cases. If a party's appeal is denial or lost, he may seek review in federal district court.

B. Type of Administrative Proceeding

1. *Proposed Procedures.* EPA is proposing that the initial reimbursement decision by made by a private hearing officer on the basis of an informal adjudicatory hearing. The hearing will generally be conducted according to the April 1981 edition of the American Arbitration Association's "Rules for Commercial Arbitration" (Commercial Rules), with the changes described below. If the Commercial Rules change, EPA will change the data reimbursement procedures after appropriate notice and comment periods.

EPA believes an informal adjudication, like this modified arbitration procedure, has a number of advantages. Evidentiary rules are flexible so that less time will be spent arguing about the propriety and relevance of evidence. The hearings are apt to be less expensive, and less likely to create antagonism between the parties. The flexible process and greater discretion of the hearing officer will easily accommodate the variety of situations in which the reimbursement arguments will arise. The American Arbitration Association has considerable experience in conducting fact-finding adjudications of this sort, and has agreed to assist EPA in dealing with any unique problems that might arise.

While EPA considered the alternative of using its own employees (probably in a panel of two or three persons of different areas of expertise) to conduct the informal hearings, the Agency proposes relying on private hearing

officers for several reasons. Having the initial order made by an independent hearing officer will conserve Agency staff time and resources. Judging from the comments received on the ANPR, firms in the chemical industry trust persons who serve as arbitrators to be both impartial and efficient. Some commenters suggested that the problems of keeping financial and other business information confidential would be easier in a hearing conducted by a private hearing officer. Because hearing officers will be chosen for their knowledge of the issues, less explanation and background evidence will be necessary, and therefore the hearings should be shorter.

If the Agency, as a result of comments, concludes that it should not use private hearing officers, it will provide for its own employees to serve as hearing officers, using the same informal procedures described above. However, in this case the Agency may modify or eliminate the administrative review which is now included in the proposal.

2. *Differences from Commercial Arbitration.* Most of the changes EPA has made from the Commercial Rules result from the differences between voluntary arbitration and the statutory context of the reimbursement hearings. For example rules 1, 7, 9, 12, 14, and 15 all refer to agreements to arbitrate. EPA certainly encourages parties to make private agreements to arbitrate differences that arise over data reimbursement, but when they are able to do so they will not need assistance of the Agency. Commercial arbitration is binding because the parties voluntarily agree to give up some of their rights. The authority for reimbursement hearings is a statute rather than the mutual consent of the parties. Therefore, EPA's rules allow one party to initiate hearings, rather than requiring written agreement of all parties.

All references in the Commercial Rules to "arbitrator" and "award" will be deemed for the purposes of the EPA data reimbursement rule, to mean "hearing officer" and "proposed order."

The times given for chosing the hearing officer and locale are the same as the times given in rules 11 and 13, but the times begin to run from the end of the 30 day notice period during which additional interested parties may join. This ensures that all parties have an equal voice in the decisions.

Under Commercial Rule 23, stenographic records are only made at the request of the parties. However, EPA proposes that all data reimbursement hearings be recorded with the expense split among participants to facilitate review of the hearing officer's proposed order. EPA particulary invites comment on the feasibility and desirability of this requirement.

The need to protect confidential business information prompted the Agency to modify rules 25 and 31 for the purposes of data reimbursement hearings. The hearing officer will have the authority to exclude anyone, including a party, if necessary to protect the confidentiality of information, and therefore may also accept evidence in the absence of some parties.

EPA proposes a modified version of rule 27 to require oaths of both the hearing officer and witnesses.

EPA's modified rule 31 would allow the hearing officer to request EPA's Administrator to issue a subpoena, if information or attendance cannot be secured any other way.

Commercial rules 42, 43 and 45 pertaining to the award have been modified for the Agency's rule. Instead of an award, the hearing officer will issue a proposed order; which in addition to the order itself and the signature of the hearing officer, will contain a concise statement of basis and rational, and a schedule for payment of the reimbursement. This will aid the agency in making a fair and thorough review. Provision for filing of the proposed order has been deleted from rule 45, so the orders may be delivered either by mail or by personal service.

Parts "a" and "c" have been deleted from rule 47. They are not applicable since the method of appeal is provided by statute to EPA and then to federal court.

As in commercial arbitration, under rule 50, the parties will pay for hearing officer's expenses and the administrative expenses of the American Arbitration Association. By the authority of TSCA sec. 28(b), a party will pay for its share of the expenses up to $2500 per party or $100 per small business.

3. *Legal Issues.* In developing the proposed procedures, EPA evaluated the need for formal adjudications to resolve reimbursement issues, and the constitutionality of delegating the initial decision responsibility to a private party. The Agency's analysis of each of these issues is summarized below.

(i) *Formal adjudication.* EPA has concluded that it is not obligated to conduct formal trial-type hearings before issuing reimbursement orders. The formal hearing procedures described in the Administrative Procedure Act are necessary only when mandated by some other statue.[1] The APA alone contains no obligation to conduct formal adjudicatory hearings. *Reed v. Morton,* 480 F. 2d. 634 (9th Cir. 1973); cert. den., 414 U.S. 1064; *Marathon Oil Co. v. EPA,* 564 F. 2d. 1253 (9th Cir. 1977).

TSCA section 4(c) itself does not explicitly or impliedly require formal adjudication. It says nothing at all about hearings before the Administrator issues a reimbursement order. Nor is there an indication in the legislative history that Congress felt it was enacting a formal adjudicatory proceeding. Courts generally agree that failure to provide any hearing means that Congress did not intend APA procedures to apply. *Marathon Oil, Supra,* at 1263 and cases cited therein. There is a provision for judicial review of the final reimbursement orders, and this implies that some record must be created in the Agency so that a court can intelligently review the decision. However, it is not necessary to conduct a formal adjudication in order to create a sufficient record for review. *Yong v. Regional Manpower Administration,* 509 F. 2d 243 (9th Cir. 1975).

In some cases, courts have nevertheless required an administrative hearing on the basis of the constitutional requirement of procedural due process of law. *See e.g. Wong Yang Sung v. McGrath,* 339 U.S. 33 (1950). However, the cases make clear that in many circumstances it need not be an evidentiary or judicial type trial. The "resolution of the issue whether the administrative procedures provided here are constitutionally sufficient requires analysis of governmental and private interests that are affected." *Mathews v. Eldridge,* 424 U.S. 319, 334 (1976). In *Mathews v. Eldridge,* the Supreme Court indicated the factors that must be taken into account in making such a determination. They are: (1) the nature of the private interest at stake, (2) the risk of error and the value of additional procedural safeguards in protecting against it, and (3) the government's interest in the cost and difficulty of administering its programs. 424 U.S. at 335.

The private interest at stake in the reimbursement hearings is the amount of corporate contribution to joint testing. There does not seem to be anything inherent in the statutory right to a fair and equitable allocation which depends upon a formal trail. The value of

[1] "This section applies * * * in every case of adjudication required by statute to be determined on the record after opportunity for an agency hearing * * *" 5 U.S.C. Sec. 554(a).

additional safeguards, such as the opportunity for cross-examination, is low for these hearings. The concerns usually addressed by such procedures (veracity of the witnesses, and a chance to confront one's accuser) are not dominant in reimbursement disputes. Finally, there is the usual government interest in reducing the cost and burden of a hearing for itself as well as for the parties.

Therefore, the Agency believes that it may use informal procedures that will contribute to the expeditious handling of the data reimbursement orders so long as they conform to the basic requirements of due process.

(ii) *Delegation of initial decision to a private hearing officer.* The case law on delegation to private parties has been primarily concerned with statutes which delegated the power to regulate the activities of competitors. Even in such cases, the delegations have generally been upheld. In *Mulford v. Smith,* 307 U.S. 38 (1938), the Court considered a provision of the Agricultural Adjustment Act of 1938 which authorized local farmer committees to allocate quotas among farmers of the state. This delegation was found to be constitutional because there were definite, although not detailed, standards governing the delegated power, and because the scheme provided for both administrative review (by a local farmer's review committee) and judicial review. In *Sunshine Anthracite Coal v. Adkins,* 310 U.S. 381 (1940), the Court approved a scheme in which members of the coal industry recommended prices to a government commission, which generally accepted the recommendations. In upholding the scheme the Court found that the standards for setting prices were relatively specific. More importantly, the industry recommendations were formally subordinated to a government body.

The delegation to the National Association of Securities Dealers of the power to discipline securities dealers and brokers was upheld because the SEC had the power to review and expulsion or suspension of membership. *Johnson v. SEC,* 198 F. 2d 690 (2d Cir. 1952), *cert. denied; Silver v. NYSE,* 373 U.S. 341 (1963). Other delegations to private parties were upheld by the Court in *Currin v. Wallace,* 306 U.S. 1 (1939); and *U.S. Rock Royal Corp,* 307 U.S. 533 (1939) among other cases. The issue of delegation to private parties has not been specifically considered by Federal courts in recent years.

While the type of scheme EPA is proposing has never been directly addressed by the Supreme Court, EPA believes that under the criteria used in these decisions, the proposed delegation would be upheld. The fact that the hearing officer is not a competitor, but a disinterested person selected by the American Arbitration Association with the advice of the parties, is itself a strong guarantee against bias. The hearing officer's proposed order will be guided by EPA's reimbursement rules, and EPA will retain final authority over the reimbursement order. The reimbursement order is ultimately reviewable in federal court.

C. Timing and Circumstances of EPA's Involvement

1. *Initiation and participation.* In order to insure that the Agency is not unnecessarily involved, persons requesting a reimbursement proceeding must certify that they have attempted, but failed, to negotiate a settlement. Either the person seeking reimbursement or the person from whom the reimbursement is sought may initiate Agency proceedings.

EPA will attempt to consolidate all disputes related to a particular test rule to avoid the incomplete and inefficient computations that might result from a series of individual determinations. After a request for a hearing is made, EPA will publish a notice in the **Federal Register,** requiring any party wishing to participate in the proceeding to notify EPA within 30 days. Promptly after the end of the thirty-day period, when the Agency has the names of all those who wish to participate, the list of potential hearing officers will be mailed to them, and they will be asked to give a preference on the location.

2. *Timing.* The three periods during which most hearings will be held are: shortly after promulgation of the test rule, after completion of testing, and after the reimbursement period ends. Although it is expected that most disagreements will surface soon after the test rule is promulgated, the second and third formal opportunities to request EPA's involvement are being offered in the event that there are problems in deciding how to handle new market entrants or that there is a need to reallocate testing costs based on changed circumstances. A test rule remains in effect until the end of the reimbursement period (section 4(b)(4)). Those who enter the market late will have the same choice of testing by themselves, joining a consortium, or obtaining an exemption and incurring a reimbursement obligation. When late entrants can not achieve private agreements they may request EPA's assistance.

In addition, EPA proposes that if at any time other than the three formally designated periods a company has good cause to hold a hearing, it may petition the Agency.

3. *Defining the reimbursement period.* When a test rule requires several tests of varying lengths, the reimbursement period will begin when the last non-duplicative set of test data is submitted and will end after a period of time equal to that which had been necessary to develop the last data or after five years, whichever is longer.

Figuring a different reimbursement period for each test would increase the probability that EPA would be involved since separate arrangements would have to be made for each test. It would also multiply the possibilities for disagreement among the firms, and increase the transaction costs for all concerned. This option seems to needlessly complicate the reimbursement process. The other alternative of measuring the reimbursement period from the first data to be submitted, might result in the reimbursement period closing before all of the test data has been submitted.

D. Method of Allocation

In drafting the proposal EPA has, as directed by the Act, considered "all relevant factors, including the effect on the competitive position of the persons required to provide reimbursement in relation to the person to be reimbursed and the share of the market for such substance or mixture of the person required to provide reimbursement in relation to the share of such market of the persons to be reimbursed". The legislative history shows that Congress was concerned about the potential effects on small businesses, particularly anti-competitive possibilities.

The Agency has considered several alternatives in its efforts to design a system to provide "fair and equitable reimbursement". The first decision was to provide a general formula to guide the hearing officer. A formula has the advantages of predictability, consistency and accountability. However, it is clear that a certain amount of flexibility is also needed because no formula could cover all the situations in which data reimbursement arguments might arise. Commenters on the ANPR agreed that a general rule that could be adjusted for different circumstances would be best.

The second consideration was the variables that should go into the formula. Of the three most obvious bases for allocation: market share, size of the firm, or equal split without regard

to market share or size, market share seems to EPA to provide the most relevant and fairest basis for allocation of testing costs. The commenters on the ANPR agreed. Only one suggested equal distribution, the rest favored market share.

The only other factor mentioned by the Act is competitive position. Neither the Agency nor any other interested party has been able to define competitive position for the purpose of a distribution formula. The Agency believes that considerations of competitive position and proportion of exposure attributable to a firm, though they are not reducible to a general formula, may be relevant and helpful in specific cases. When a party thinks that competitive position, exposure, or any other factor should be taken into account, he can raise the issue for a hearing officer's consideration. The hearing officer will then have the discretion and the duty to adjust the general formula to produce a fair result.

The chosen method of allocating test costs appears to minimize the potential effects on small businesses. Every one of the 2 published and 50 completed but unpublished economic analyses of possible test chemicals shows that companies with the largest market shares are larger companies. In future situations when this is not true and a smaller company feels that it has been allocated an unfair share of test costs, it may propose an adjustment to the hearing officer.

1. *Market share.* EPA has been persuaded that production volume is the best measure of market share. The information is objective and, according to commenters, readily available. It is a fairly accurate reflection of market share and competitive position, which TSCA directs the Agency to consider. It thus provides a rough measure of the proportion of the profit generated by the test chemical which a company receives, and of the company's ability to contribute to the test costs. Production volume has been used for similar purposes in anti-trust actions. Finally, in many cases, quantity of production also has a general correlation to the amount of exposure attributable to each manufacturer, though it may vary according to how the chemical is used or processed.

2. *Calculation of production volume.* The period over which production volume will be measured begins with the calendar year before the test rule is promulgated and will continue through the most recent data available at the time of the hearing. Using a long period will reduce the possibility that calculations will be skewed by a temporary aberration and assure that disputes arising late in the reimbursement period will not be settled on the basis of outdated market information.

If relative production volumes change after reimbursement is made but before the reimbursement period ends, it will be up to the parties to decide whether the change is large enough to warrant reopening the issue. Again, if the parties cannot agree among themselves, they may approach the Agency for assistance.

Production volume will include amounts of the test chemical produced as a by-product or impurity.

3. *Exports, imports, and exempted uses.* Section 12(a)(2) specifically authorizes testing of chemicals destined for export in order to determine whether the manufacture or processing of them presents an unreasonable risk to the health or environment of this country. Therefore, production volume calculations will include export chemicals when the section 12(a)(2) finding has been made.

TSCA section 3(7) defines manufacture to include importation. Thus, importers will necessarily be subject to the same test and reimbursement rules as manufacturers. It will be relatively easy to include the importers of bulk chemicals in the cost allocation process, but when the chemical is part of a mixture, or has been processed into some other form, it will be more difficult. The proposed policy statement under section 13 defines importers and gives them the responsibility of certifying compliance with TSCA and its rules and orders. This puts the importer on notice that its actions and products must comply with TSCA. It also identifies a responsible party in the chain of those involved.

EPA is considering an approach similar to that followed for sections 5, 8, and 13 in which only importers of the test chemical in bulk and in mixtures will be responsible for complying with the rule and importers of articles incorporating the test chemical would not be. EPA particularly invites comment on the treatment of importers.

The Agency's interpretation of the Act is that quantities of chemicals manufactured or processed for the exempt uses listed in section 3(2) should not be used even to calculate reimbursement shares. However, the manufacturer will have to demonstrate to the satisfaction of the hearing officer that the amounts are entitled to exemption.

4. *Reimbursable costs.* It is possible that a firm may wish to conduct additional testing beyond that required by EPA (e.g., another dose level or species). EPA encourages any scientifically valuable testing which a company wishes to pursue, but TSCA does not authorize EPA to order data reimbursement for those extra costs. Of course firms may agree among themselves to split additional costs.

The Agency believes that all the actual direct costs of the test should be reimbursable. For both independent labs and companies doing in-house testing, a portion of fixed costs, including rent, equipment, and salaries, should be eligible for reimbursement. In addition, EPA considers the administrative costs of developing a protocol, evaluating data, arranging for funding, and supervising the actual tester to be reimbursable.

Independent laboratories will surely include a profit in their fee. A manufacturer with its own lab should also be able to earn a profit. To guard against excessive profits, the hearing officer will have the authority to review the overall costs as well as the amount claimed as profit. However, the profit earned will be presumed to be fair unless it is clearly excessive compared to similar situations.

Some costs may be incurred in repairing or repeating tests that have failed. EPA believes that these costs should be reimbursable, to the extent that they were not caused by the negligence of the tester. Compliance with published Good Laboratory Practices (44 FR 27362, 45 FR 77357) and any applicable test methodology requirements would help prove due care.

The Federal Trade Commission suggested that reimbursement be based, not on actual costs, but on the lowest bid in a competitive bidding system. A test sponsor would not have to hire the lowest bidder to do the testing, but could only be reimbursed by that amount. This would presumably encourage the sponsor to keep costs as low as possible. EPA has tentatively rejected this suggestion, but would be particularly interested in comments on this issue because it was not raised for comment in the ANPR.

Competitive bidding is not necessary to prevent artificial inflation of testing costs by the test sponsor. Laboratories are already in competition with each other and price is not the only factor by which they are evaluated. The speed with which the test could be conducted, the quality controls employed and other considerations are also part of the decision. Another check on inflated prices will be provided by EPA's economic impact analyses of proposed test rules which include a predicted

impact on the price per pound of the test chemical. EPA does not believe that artificial inflation of test costs will often be a problem.

Even if it were, a "shadow" competitive bidding process does not appear to be the best way to counter the problem. The lowest bid received would not necessarily be sufficient to fully comply with the test rule. In addition, many things can change or go wrong during a test, and it is usually not until it is over and evaluated that anyone can make an accurate calculation of cost. Excessive or inflated costs may well be at issue in the reimbursement hearings. The hearing officer can consider evidence on the issue, and certainly would not order companies to pay reimbursement for those portions of the test costs he considers excessive or unjustified.

E. Other Reimbursement Issues

1. *Reimbursement obligations of processors.* The proposed reimbursement rule reflects the assumption that manufacturers generally will pay for testing, and will pass on a share of the test costs to processors through increases in market price of chemicals. Thus, processors will usually discharge their data reimbursement obligation indirectly.

All the economic analyses done for proposed test rules show that the market will allow manufacturers to pass on a share of test costs to the processors in the form of a normal price increase. Thus, the processors will contribute indirectly to the cost of testing. If processors then were to be required to provide reimbursement, they would be paying twice. A somewhat less important reason for handling processors' obligation through the market is that for each rule there may be hundreds or thousands of processors. It would be economically and administratively inefficient to include every person. Furthermore, the Agency is presently considering blanket rather than individual exemptions. Without applications from individual companies it will be extremely difficult for EPA to identify and locate all of the small processors in a market.

However, EPA recognizes that there will be cases in which indirect payment by processors will not result in an equitable distribution of the burden. When necessary test rules will include special provisions giving the processors of that test chemical direct reimbursement obligations. In other cases manufacturers may argue to the hearing officer that fair and equitable reimbursement would not be possible without the contributions of the processors and list those companies that should be joined.

Like disputes with other manufacturers, disputes between manufacturers and processors must be negotiated voluntarily first. Only if those negotiations break down may the parties apply to EPA for a hearing. This gives processors notice that manufacturers want to include them in the cost sharing for a particular test, and makes them parties from the beginning.

When processors do participate for one of the above reasons, the hearing officer will determine allocation on a case-by-case basis. If the test rule contains a finding that all of the risk or exposure occurs within the processing, and therefore only processors should be obligated to test and provide reimbursement, reimbursement will be determined according to the amount of the test chemical processed. EPA particularly invites suggestions for alternative allocation formula to use with processors.

2. *Voluntary testing.* This proposal applies only to tests done pursuant to a section 4 test rule. It will not apply to voluntary tests and EPA can not promulgate test rules merely to afford a reimbursement remedy where completed or ongoing testing provides, or is likely to provide, adequate data for risk assessment.

EPA does not believe that the absence of mandatory data reimbursement will discourage voluntary testing. As long as voluntary arrangements are successful, EPA's involvement will be unnecessary. If the voluntary arrangements break down, for financial or other reasons, and EPA is able to make the necessary section 4(a) findings, data reimbursement assistance would become available.

3. *Section 8(a) reporting requirement.* If industry does ask EPA to intervene in reimbursement disputes, EPA will need production volume data. The mechanism by which EPA proposes to collect the data was suggested by the Chemical Manufacturer's Association.

EPA proposes a contingent reporting requirement that will go into effect only when EPA publishes a **Federal Register** notice announcing a request for a reimbursement proceeding. All manufacturers subject to the test rule will then have thirty days in which to report to EPA their production volume of the test chemical for the calendar year preceding promulgation of the test rule and for each subsequent year up to the present.

The advantage of this approach is that the reporting requirement becomes effective only when a live dispute arises, eliminating the submission of unnecessary data, conserving resources, and expediting reimbursement proceedings.

The automatic reporting requirement is limited to manufacturers. This does not rule out the possibility that processors may be required to furnish reimbursement information in some cases. If the manufacturers think that processors ought to have a direct reimbursement obligation in a particular case, they may raise the point either in their comments on the proposed testing rule or during a reimbursement hearing. If so, reporting requirement for processors may be added to a test rule where appropriate.

If EPA finds that it already has production data as a result of some other reporting requirement, or another source, the **Federal Register** notice which announces a request from one or more parties to commence reimbursement proceedings will also announce an immediately effective exemption from the reporting requirement.

If the parties convince the hearing officer that factors other than production volume should be considered, additional data may be needed. Use of a reporting rule in this situation would delay the hearing unnecessarily. Therefore, if the parties fail to provide the information voluntarily, the hearing officer may request the Administrator of EPA to issue subpoenas.

4. *Multiple testing.* One of the more difficult issues concerns the allocation of costs when two or more firms submit or plan to submit the same type of data on equivalent chemicals. Section 4(c) appears to require reimbursement of all persons who are developing or have developed data. It does not explicitly address the question of whether a person who received an exemption may select a data submitter or must distribute pro rata shares to everyone who has conducted testing.

In one of the pre-enactment versions of TSCA, EPA was given the authority to designate someone to conduct tests if the persons required to test were unable to agree on a test sponsor within a reasonable time or if the agreed upon sponsor was not acceptable to EPA. S. 776, 94th Cong., 1st Sess. Sec. 4(c) (1975). In its formal comments on this bill, EPA objected to the burden that this authority would place on EPA. Congress accepted EPA's comments and deleted the official designation provisions from TSCA. The legislative history suggests that authority to designate an official tester can not be implied from section 4. Further, EPA believes that arguments supporting designation of an "official"

sponsor overlook some important considerations. In particular, it is highly unlikely that any firm or consortium would start a second testing group unless they had valid reasons for wanting to carry out separate testing. EPA is reluctant to doom all chances for such consortiums to obtain reimbursement.

Therefore, EPA is following an approach which allows reimbursement to distributed more widely. After promulgation of the test rule, the various firms would make known their intent regarding testing. At that time, persons subject to the rule would align themselves with the various consortia. Because those who join consortia would be fulfilling their test rule obligations by sponsoring a test, they would not have to file for exemptions, nor would they have to reimburse the sponsors of any identical test. It is possible that a group would sponsor only some of the required tests, and would then have a reimbursment responsibility for those which it did not sponsor.

Persons who obtained exemptions without joining a consortium would divide their reimbursement shares among the testing groups, based on the percentage that each group's costs represent of the total cost of all testing. However, in a reimbursement proceeding, a consortium could argue that it should receive more than its pro rata share. The consortium would have the burden of proving why a pro rata distribution would not be fair and equitable in that case.

5. *Categories.* EPA discussed the financial aspects of testing structurally-related categories of chemicals in its proposed test rule and exemption policy, published in the **Federal Register** of July 18, 1980 (45 FR 48515). As illustrated by that discussion, and the comments submitted in response, the issue is an extremely difficult one. Because EPA is in the process of deciding important test rule issues which bear upon categories, EPA is not presently in the position to propose a generic reimbursement approach to categories. Rather, EPA will either propose specific approaches for categories when chemical specific test rules for categories are proposed or will amend this rule. In either case manufacturers and processors involved will have an opportunity to comment upon the modified approach before it is applied to them.

6. *Confidentiality.* There are two situations in which the Agency must help protect confidential business information: during reimbursement hearings, and during any Agency review of proposed orders. In the first situation the parties should be able to work out arrangements together with the presiding officer. For example, the hearings may be closed, or the arguments may be confined to the formula, and actual computation left to the presiding officer or an independent accountant. When an argument directly concerns the validity of the confidential figures being submitted it may be more difficult to shield the information. The Agency invites comment on the frequency with which this might happen, and ways in which such arguments might be handled. In the second situation, during the Agency review process, ample protection will be afforded by section 14(a) of TSCA.

7. *Enforcement.* EPA expects that in most cases debts created by an EPA reimbursement order will be paid without the need for further involvement by the Agency. If, following issuance of a final reimbursement order, a person owing reimbursement refuses to make payment, there are several alternative methods which may be used to compel him to do so. EPA believes that the parties initially should pursue whatever non-TSCA legal remedies may be available under state law, or federal law other than TSCA. If no such remedy is available, the party seeking payment may use the authority of section 20 of TSCA to directly sue the party from whom its is seeking payment, without requiring any EPA involvement. Section 20 allows "any person" to "commence a civil action against any person * * * who is alleged to be in violation of this Act * * *." A person who failed to fulfill a reimbursement obligation set forth in an Agency order would be in violation of the reimbursement rule under section 4 and in violation of the Act. Plaintiffs suing under section 20 can be awarded costs of the suit, including fees for attorneys and expert witnesses, if the "court determines that such an award is appropriate".

When the section 20 remedy is unavailable or ineffective, and the person seeking payment has no other legal remedy, he can request the Agency to use its own enforcement powers under section 16 or 17 of TSCA. Section 16 would allow the imposition of civil penalties up to $25,000 per day until the reimbursement order was obeyed, and section 17 conveys authority to bring court actions to compel payment.

IV. Public Participation

EPA is particularly interested in the comments of small manufacturers on the effect that this proposed rule would have on their competitive position. A public meeting will be arranged if interest is demonstrated. Written comments should bear the document control number (OPTS-48001C) and be addressed to: Document Control Officer, Office of Pesticides and Toxic Substances (TS-793), Environmental Protection Agency, Room E-401, 401 M Street, SW., Washington, DC 20460 (202-382-3532).

As required by TSCA section 4(c)(3), this rule is being developed in consultation with the Department of Justice and the Federal Trade Commission. Comments made by them have been placed in the public record and are available for inspection.

V. Regulatory Assessment Requirements

A. Regulatory Impact Analysis

Executive Order 12291, issued on February 17, 1981 requires all proposed rules to be accompanied by an initial determination of whether they are major rules. This proposed rule is not a major rule. This regulation is a procedural one, and imposes no new substantive burdens on the regulated industry. Its sole purpose and effect is to provide a mechanism for deciding disputes that arise over the sharing of test costs among those subject to a test rule. It was designed to leave primary responsibility in the private sector, involving the EPA as little as compliance with the language of section 4 will allow. This regulation will have virtually no effect on the economy. It will not cause major price or cost increases, it will not significantly affect competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposal was submitted to the Office of Management and Budget (OMB) which concurred in conformance with Executive Order 12291.

B. Regulatory Flexibility Analysis

EPA has evaluated this proposal under the mandate of the Regulatory Flexibility Act. Under the approach suggested in TSCA and adopted in this rule, the burden of sharing in test costs is apportioned among the manufacturers and processors of a test chemical according to their share of the market. In most cases this will mean that the smaller firms would have proportionally smaller shares of reimbursement. However, any firm may argue that extenuating circumstances make the amount unfairly high and that the hearing officer should modify the formula. It is expected that because most cost sharing arrangements will be private ones similar to those used now for voluntary testings, many small manufacturers as well as most small

processors will have *de facto* exemptions. Therefore, I certify that this rule will not have a significant impact on a substantial number of small entities.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 (PRA), 44 U.S.C. 3501 *et seq.*, authorizes the Director of the Office of Management and Budget to review certain information collection requests by federal agencies. EPA has determined that the reporting requirements set out in § 790.104 constitutes an information requirement subject to the terms of the PRA.

EPA believes that the reporting requirement proposed here minimizes the reporting burden by obtaining only information necessary to the resolution of reimbursement disputes, and only under limited circumstances. The reporting requirement is contingent on a request to EPA to resolve an actual reimbursement dispute and will not require the submission of information where there are no disputes requiring EPA intervention. Industry comments have indicated that most reimbursement issues will be settled privately, without need for EPA involvement. When disputes are referred to EPA, a minimum of necessary information will be collected. Production volume information will have practical utility because the Agency's formula allocates shares of test costs in proportion to a person's share of the total production of the chemical. The proposed rule specifies that EPA will grant immediate exemptions from the reporting requirement if it determines that the Agency already has the information, or does not need it to resolve the reimbursement dispute. Finally, the type of information required under this rule should be readily accessible within each entity subject to the rule.

Under the terms of the PRA this proposed rule is being forwarded to the Director of OMB. EPA will respond to any comments from the Director, and other public comments, when the final rule is published in the **Federal Register.**

List of Subjects in 40 CFR Part 790

Environmental protection, Test procedures, Data reimbursement, Hazardous materials, Chemicals.

Dated: May 26, 1982.

Anne M. Gorsuch,

Administrator.

Therefore, it is proposed that Chapter I, 40 CFR be amended by adding Part 790 consisting at this time of Subpart F to read as follows:

PART 790—TEST PROCEDURES: GENERAL

Subpart A–E [Reserved]

Subpart F—Data Reimbursement

Sec.

790.100 Scope and authority.
790.101 Applicability.
790.102 Definitions.
790.103 Initiation of reimbursement proceedings.
790.105 Reporting requirements.
790.106 Timing.
790.108 Hearing procedures.
790.109 Hearing fees and expenses.
790.110 Basis for the proposed order.
790.111 Processors.
790.112 Formula.
790.113 Production volume.
790.114 Costs.
790.116 Multiple tests.
790.117 Review
790.118 Availability of the order.
790.119 Prohibited acts.

Authority: Sec. 4 and 8 of TSCA, 15 U.S.C. Sec. 2603, 2607.

Subpart A–E [Reserved]

Subpart F—Data Reimbursement

§ 790.100 Scope and authority.

(a) This part establishes procedures and criteria to be used in determining fair amounts of reimbursement for testing costs incurred under section 4(a) of the Toxic Substances Control Act (TSCA) (15 U.S.C. 2603(a)).

(b) Section 4(c) of TSCA requires EPA to develop rules for the determination of fair and equitable reimbursement (15 U.S.C. section 2603(c)).

§ 790.101 Applicability.

(a) This rule is potentially applicable to all manufacturers and processors who may be required by a specific test rule promulgated under section 4(a) of TSCA to conduct tests and submit data, and who seek the assistance of the Administrator determining the amount or method of reimbursement.

(b) The provisions of this rule will take effect only when a manufacturer or processor requests EPA's assistance.

§ 790.102 Definitions.

Terms defined in the Act, and not explicitly defined herein, are used with the meanings given in the Act.

(a) "The Act" refers to the Toxic Substances Control Act TSCA (15 U.S.C. 2601 *et seq.*).

(b) "The Agency" or "EPA" refers to the Environmental Protection Agency.

(c) "Dispute" refers to a present controversy between parties subject to a test rule over the amount or method of reimbursement for the cost of developing health and environmental data on the test chemical, which the parties have been unable to resolve.

(d) "Exemption holder" refers to a manufacturer or processor, subject to a test rule, which has received an exemption under sections 4(c)(1) or 4(c)(2) of TSCA from the requirements of the test rule.

(e) A "party" refers to a person subject to a section 4 test rule, who

(1) Seeks reimbursement from another person,

(2) From whom reimbursement is sought, or

(3) Who intervenes in a data reimbursement proceeding in accordance with § 790.103.

(f) "Reimbursement period" refers to a period that begins when the data from the last non-duplicative test to be completed under a test rule is submitted to EPA and ends after an amount of time equal to that which had been required to develop that data or after five years, whichever is later.

(g) "Test rule" refers to a regulation ordering the development of data on health or environmental effects or chemical fate for a chemical substance or mixture pursuant to TSCA section 4(a).

§ 790.103 Initiation of reimbursement hearing.

(a) When persons subject to a test rule are unable to reach an agreement on the amount or method of reimbursement for test data development as described in TSCA section 4(c)(3)(A), any of them may initiate a hearing by filing two signed copies of a request for a hearing with a regional office of the American Arbitration Association and mailing a copy of the request to EPA, and to each party of whom they are aware.

(b) The request for hearing must contain the following:

(1) The names and addresses of the filing party and its counsel, if any.

(2) Identification of the test rule under which the dispute arose.

(3) A concise explanation of the issues on which the parties are unable to agree.

(4) A sworn statement by the filing party that the parties tried in good faith to reach an agreement on reimbursement and failed.

(c) The request for a hearing shall be accompanied by the appropriate administrative fee, as provided in a current Fee Schedule of the American Arbitration Association.

(d) Promptly upon receipt of the request for a hearing, the Administrator will publish a notice in the **Federal Register**, advising those subject to the test rule that a request for a hearing has been made.

(e) Any other person wishing to participate in the hearing shall so notify EPA wihtin 30 days of the **Federal Register** notice.

§ 790.104 Reporting requirement.

(a) Within 30 days after the **Federal Register** notice announcing a request for a hearing each person subject to the test rule must deliver to the Administrator information on its production volume for the calendar year preceeding publication of the test rule and for each year thereafter, up to the filing of the request for a hearing. If EPA already has the production volume information, or does not need it, the **Federal Register** notice will exempt persons subject to that test rule from this reporting requirement.

§ 790.106 Timing.

Request for hearings may be made:

(a) Between 90–120 days after EPA's acceptance of the protocol for the applicable test rule;

(b) For 30 days after publication of a **Federal Register** notice announcing the submission of the final test data, and

(c) For 30 days after the end of the reimbursement period;

(d) Or at any time for good cause.

§ 790.108 Hearing procedures.

Except as otherwise specified, hearings shall be conducted according to the April 1981 edition of the American Arbitration Association "Rules for Commercial Arbitration" in effect upon publication of this proposed rule. All references therein to "arbitrator" and "award" shall be deemed for the purposes of this rule to be to "hearing officer" and "proposed award".

(a) *Appointment of the Hearing Officer.* The list of potential hearing officers and locations shall be sent to the parties promptly upon completion of the notice period specified in § 790.103(d).

(b) *Stenographic record.* The American Arbitration Association shall arrange for a stenographic record, with cost to be split by the parties. In the event that it is needed for an appeal to EPA, the Agency shall pay for the cost of transcribing the record.

(c) *Attendance at hearings.* All parties may attend, but the hearing officer has the discretion to determine the propriety of the attendance of other persons. The hearing officer shall have the power, upon motion, to exclude any person, including a party or other essential person, during the testimony of any witness to protect confidential business information.

(d) *Evidence.* The rules of evidence will be those of the Commerical Rules except that a hearing officer may receive evidence in the absence of a party excluded to protect confidential business information.

(e) *Subpoenas.* The hearing officer may request the Administrator to issue subpoenas for information or for the attendance of persons that cannot be obtained in any other manner.

(f) *Oaths.* Both the hearing officer and witnesses shall take oaths.

(g) *Form of the proposed order.* The proposed order shall be in writing and shall be signed either by the sole hearing officer or by at least a majority if there is more than one. It shall contain a concise statement of its basis and rationale, and a timetable for payment of any ordered reimbursment.

§ 790.109 Hearing fees and expenses.

(a) The fees and expenses of conducting the reimbursement hearings shall be apportioned among the parties by authority of section 26(b) of TSCA, up to the limits for such fees. Fees and expenses in excess of the limit of $2,500 per person or $100 per small business will be paid by EPA.

§ 790.110 Basis for the proposed order.

(a) The hearing officer shall propose a fair and equitable amount of reimbursement based on the formula set forth in § 790.112.

(b) The formula shall be presumed to be fair and equitable as applied to all persons subject to a test rule. However, the hearing officer has the discretion to modify the formula if necessary to provide fair and equitable reimbursement.

(c) The burden of coming forward with the specific circumstances which necessitate modifications to the formula shall lie with the party requesting the modification.

§ 790.111 Processors.

(a) When test rules require both manufacturers and processors to conduct testing, processors shall not be required to provide reimbursement except in one of the following three circumstances:

(1) When one or more manufacturers demonstrate to the hearing officer that it is necessary to include processors in order to provide fair and equitable reimbursement in a specific case.

(2) When a test rule expressly obligates processors as well as manufacturers to make data reimburesment payments.

(3) When one or more processors voluntarily agree to reimburse manufacturers for a portion of test costs. Only those processors who volunteer will incur the obligation.

(b) A hearing including processors shall be initiated in the same way as those including only manufacturers. Voluntary negotiations must be attempted in good faith first, and the request for a hearing must contain the names of the parties and a sworn statement that the voluntary negotiations failed.

(c) When processors as well as manufacturers are required to provide reimbursement, the hearing officer will decide for each case how the reimbursement should be allocated among the participating parties. The proposed order shall follow as closely as possible the formula in § 790.112. When a test rule is applicable solely to processors, the hearing officer will apply the formula to the amount of the test chemical purchased or processed rather than the amount manufactured and sold.

§ 790.112 Formula.

A firm's share of the cost of testing shall be equal to its share of the total production volume of the test chemical according to the formula:

$$R_x = C\frac{V_x}{V_t}$$

Where

R = the reimbursement share owed by company X.

C = the total cost of the testing required by the test rule.

V_x = the volume of the test chemical produced by company X over the period defined by § 790.113.

V_t = the total volume of the test chemical produced over the period defined by § 790.113.

§ 790.113 Production volume.

(a) Production volume will be measured over a period that begins one calendar year before publication of the final test rule in the **Federal Register** and continues up to the latest data available upon settlement of a dispute.

(b) For the purpose of determining fair reimbursement shares, production volume shall include amounts of the test chemical imported in bulk form and the total domestic production of the chemical including that produced as by-products and impurities except (1) that destined for export and not covered by findings made under TSCA section 12(a)(2); and (2) that excluded from TSCA under section 3(2)(B). The burden of establishing the fact that particular amounts of the test chemical are actually produced for exempt purposes lies with the party seeking to exclude those amounts from the calculation of his production volume.

§ 790.114 Costs.

(a) All costs reasonable and necessary to comply with the test rule,

taking into account the practices of other laboratories in conducting similar tests, are eligible for reimbursement. Necessary costs include:

(1) Direct and indirect costs of planning, conducting, analyzing and submitting the test results to EPA.

(2) A reasonable profit, and a reasonable rate of interest and depreciation on the tester's initial capital investment.

(3) The cost of repeating or repairing tests where failure was demonstrably due to some cause other than negligence of the tester.

(b) Costs attributable to tests beyond those specified by EPA shall not be eligible for reimbursement under this rule.

§ 790.116 Multiple tests.

When more than one person performs tests required by the test rule, reimbursement shall be determined as follows. The costs of all the tests will be added together. Each exemption holder shall be responsible for a share of the total which is equal to its share of the total production of the test chemical. The exemption holders shall divide their shares between the test sponsors in proportion to the costs of their respective tests. Those sponsoring a particular test do not have to obtain exemptions for that test and therefore do not have reimbursement responsibilities for the same tests done by others.

§ 790.117 Review.

(a) The hearing officer's proposed order shall become a final Agency order unless accepted for review by the Administrator. Appeals shall be filed with EPA within 30 days after the proposed orders are delivered.

(b) Review must be granted upon appeal of a party when the hearing officer's order was based upon a modified formula as provided by § 790.112(b).

(c) Review may be granted at the Administrator's discretion, upon appeal of a party, when the hearing officer's proposed order was based upon the formula set out in this rule.

(d) When the proposed order and record of the hearing is inadequate for a full and fair review, the Administrator shall order the transcription of the stenographic record of the hearing, and request an administrative law judge of the Agency to compile any necessary additional information by holding oral arguments or any other reasonable means.

(e) The final Agency order may be reviewed in federal court as provided by 26 U.S.C. 2603(c).

§ 790.118 Availability of the award.

The final agency order shall be available to the public for inspection and copying pursuant to 5 U.S.C. 552(a)(2), subject to necessary confidentiality restrictions.

§ 790.119 Prohibited acts.

Failure to provide information required by the Agency or to pay the amounts awarded under this rule within time alloted in the final order shall constitute a violation of 15 U.S.C. 2614(1) or 2614(3).

[FR Doc. 82-15201 Filed 6-3-82; 8:45 am]
BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

Transportation and Public Utilities Service

41 CFR Part 101-41

Use of Cash to Procure Passenger Transportation Services Costing More Than $100; Extension of Comment Period

AGENCY: General Services Administration.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On March 30, 1982, the General Services Administration published a proposed rule in the **Federal Register** (47 FR 13387) concerning the use of cash to procure passenger transportation services costing more than $100. The period for commenting on that proposed rule has been extended until 4 p.m., May 14, 1982. This extension is the result of a request from the Air Transport Association of America, on behalf of its member carriers, to allow all the airlines to comment on the proposal.

DATE: Comments must be received by 4 p.m., June 11, 1982.

ADDRESS: Written comments should be sent to the General Services Administration (TACP), Washington, D.C. 20406.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Chief, Reports and Procedures Branch, Office of Transportation Audits (202-275-0664).

(31 U.S.C. 244 and 40 U.S.C. 486(c))

Dated: May 6, 1982.

Janice Mendenhall,

Acting Commissioner, Transportation and Public Utilities Services.

[FR Doc. 82-15190 Filed 6-3-82; 8:45 am]
BILLING CODE 6820-AM-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6333]

National Flood Insurance Program; Proposed Flood Elevation Determination

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., National Flood Insurance Program (202) 287-0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4 (a)).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the

second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

The proposed base (100-year) flood elevations for selections locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arizona	Tombstone (City), Cochise County	Walnut Gulch	Intersection of Camino San Rafeal Road and Ridge Road (Gleason Road).	*4,391
Maps available for inspection at City Clerk's Office, 315 E. Fremont, Tombstone, Arizona.				
Send comments to the Honorable Alex Gradillas, P.O. Box 339, Tombstone, Arizona 85630.				
Florida	Belleair Beach (City), Pinellas County	Gulf of Mexico	Intersection of Causeway Boulevard and Palm Drive	*10
Maps available for inspection at City Hall, 444 Causeway Boulevard, Belleaire Beach, Florida.				
Send comments to the Honorable Leonard K. Avant, 444 Causeway Boulevard, Belleair Beach, Florida 33535.				
Florida	Clearwater (City), Pinellas County	Alligator Creek	Intersection of Beachwood Avenue and Park Trail	*21
			Center of Logan Street, 100 feet west of its intersection with Belcher Road.	*44
		Gulf of Mexico	Intersection of Mandalay Avenue and Baymont Street	*11
			Intersection of Engman Street and Fairburn Avenue	*11
			Intersection of Edgewater Drive and Sunset Point Road.	*14
		Tampa Bay	Intersection of Bayshore Boulevard (County Road 30) and San Mateo Street.	*10
			Intersection of Perry Drive and Shinto Drive	*10
		Alligator Lake	Intersection of Arlie Avenue and Rose Road	*10
Maps available for inspection at Public Works Department, 10 S. Missouri Avenue, Clearwater, Florida.				
Send comments to the Honorable Charles F. Lecher, P.O. Box 4748, Clearwater, Florida 33518.				
Florida	Dunedin (City), Pinellas County	Curlew Creek	North end of Palm Boulevard, approximately 420 feet north along Palm Boulevard from its intersection with Fairway Drive.	*11
		Gulf of Mexico	Intersection of Lynhurst Street and Broadway	*11
			Intersection of Palm Boulevard and Edythe Drive	*12
			Intersection of King Duncan Boulevard and Loch Lomond Road.	*13
Maps available for inspection at Engineering Department, Police Administration Building, 737 Louden Avenue, 2nd Floor, Dunedin, Florida.				
Send comments to the Honorable Cecil Englebert, P.O. Box 750, Dunedin, Florida 33528.				
Florida	Gulfport (City), Pinellas County	Boca Ciega Bay	Intersection of 31st Avenue South and 58th Street South.	*11
Maps available for inspection at Engineering Department, 2401 53rd Street, South, Gulfport, Florida.				
Send comments to the Honorable Jay P. Clymer, P.O. Box 5187, Gulfport, Florida 33737.				
Florida	Indian Rocks Beach (City), Pinellas County	Gulf of Mexico	Intersection of East Gulf Boulevard and La Hacienda Drive.	*10
Maps available for inspection at Building Department, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida.				
Send comments to the Honorable Frank Proctor, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida 33535.				
Florida	Indian Shores (Town), Pinellas County	Gulf of Mexico	Intersection of 193rd Avenue and Whispering Pines Drive.	*10
Maps available for inspection at Building Department, 1930 Gulf Boulevard, Indian Shores, Florida.				
Honorable Donald C. Myers, P.O. Box 235, Indian Shores, Florida 33535.				
Florida	Largo (City), Pinellas County	Gulf of Mexico	Downstream (south) side of 8th Avenue at its crossing over McKay Creek.	*10
			Intersection of Indian Rocks Road and Anglers Lane	*10
		Boca Ciega Bay	Intersection of Pleasant View Drive and Circle Drive	*11
		Tampa Bay	Intersection of Egret Drive and Sandpiper Drive	*10
Maps available for inspection at Engineering Department, 214 Cleveland Avenue, Largo, Florida.				
Send comments to the Honorable Thomas D. Feester, P.O. Box 296, Largo, Florida 33540.				
Florida	Madeira Beach (City), Pinellas County	Gulf of Mexico	Intersection of North Bayshore Drive and 140th Avenue.	*11
Maps available for inspection at Building & Zoning Department, 300 Municipal Drive, Madeira Beach, Florida.				
Send comments to the Honorable J. Kenneth Jacobsen, P.O. Box 8605, Madeira Beach, Florida 33736.				

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Florida	North Redington Beach (Town), Pinellas County	Gulf of Mexico	Intersection of Bath Club Concourse and Gulf Boulevard (State Highway 699).	*10
Maps available for inspection at Building Department, 190—173rd Avenue, North Redington Beach, Florida.				
Send comments to the Honorable William H. Wadsworth, 190—173rd Avenue, North Redington Beach, Florida 33708.				
Florida	Oldsmar (City), Pinellas County	Old Tampa Bay	Intersection of Lake Way and Dolphin Drive South	*10
			Intersection of Buckingham Avenue and Lafayette Boulevard.	*10
		Lake Tarpon	Intersection of Lake Tarpon Outfall Canal and McMullen Booth Road (State Highway 583 and County Road 77).	*7
Maps available for inspection at Planning Department, 150 Fallers Lane, Oldsmar, Florida.				
Send comments to the Honorable Sandy J. Francisco, P.O. Box 100, Oldsmar, Florida 33557.				
Florida	Pinellas County (unincorporated areas)	Alligator Creek	50 feet downstream from the center of McMullen-Booth Road (State Highway 583) over the channel.	*12
			50 feet upstream from the center of Northeast Coachman Road (State Highway 590) over the channel.	*29
		Joe Creek	Intersection of Westchester Boulevard and Ashford Court.	*12
		Boca Ciega Bay	Intersection of Creek and 62nd Street North	*18
			Intersection of Heron Drive and 94th Street	*11
			Intersection of Oakhurst Drive and Walker Avenue	*11
			Intersection of Pinehurst Drive and Burning Tree Drive	*11
			Intersection of Seagull Drive South and Debbie Lane South.	*12
		Gulf of Mexico	Intersection of Harbor View Lane and Royal Drive	*10
			Intersection of Bay Shore Drive and 81st Avenue North.	*10
			Intersection of Monte Cristo Boulevard and Desoto Drive.	*11
		Tampa Bay	Intersection of Seaford Street and Iowa Avenue	*12
			Intersection of Snug Harbor Road and Gandy Crest Drive.	*9
			Intersection of Shore Boulevard and Phoenix Avenue	*10
			Intersection of Roberts Lane and Summerdale Drive	*10
			Intersection of Evergreen Avenue and Ulmerton Road (State Highway 686).	*10
		Anclote River	Intersection of Salt Lake Drive and Bayou Drive	*10
			Intersection of Anclote Road (County Road 47) and Brady Road (County Road 84).	*11
		Lake Tarpon	Intersection of Cypress Drive and Freshwater Drive	*7
			Intersection of Sandy Point Road and Anchorage Lane	*7
		Alligator Lake	Intersection of Seaboard Coast Line Railroad and a tributary to Alligator Lake, approximately 1500 feet northeast along the railroad from its intersection with McMullen-Booth Road (State Highway 583).	*18
Maps available for inspection at Zoning Department, 440 Court Street, Clearwater, Florida.				
Send comments to the Honorable Charles E. Rainey, 315 Court Street, Clearwater, Florida 33516.				
Florida	Redington Beach (Town), Pinellas County	Gulf of Mexico	Intersection of 159th Avenue and Gulf Boulevard (State Highway 699).	*11
Maps available for inspection at Town Hall, 105–164th Avenue, Redington Beach, Florida.				
Send comments to the Honorable Andy Miller, 105–164th Avenue, Redington Beach, Florida 33708.				
Florida	Redington Shores (Town), Pinellas County	Gulf of Mexico	Intersection of Coral Avenue and Gulf Boulevard (State Highway 699).	*10
Maps available for inspection at Building Department, 17798 Gulf Boulevard, Redington Shores, Florida.				
Send comments to the Honorable James R. Felmster, 17798 Gulf Boulevard, Redington Shores, Florida 33708.				
Florida	Safety Harbor (City), Pinellas County	Old Tampa Bay	Intersection of Birch Creek Drive and Honeysuckle Court.	*10
			Intersection of Hamilton Avenue and Spring Boulevard	*10
		Alligator Lake	Intersection of Division Street and Rome Avenue	*10
Maps available for inspection at Engineering Department, 750 Main Street, Safety Harbor, Florida.				
Send comments to the Honorable Doris Mellema, 750 Main Street, Safety Harbor, Florida 33572.				
Florida	St. Petersburg (City) Pinellas County	Tampa Bay	Intersection of 9th Street South and Bayou Boulevard	*8
			Intersection of Central Avenue and Bayshore Drive	*9
			Intersection of Chancellor Street and Massachusetts Avenue.	*9
			Intersection of 9th Street North (State Highway 686) and Roosevelt Boulevard (State Highway 686).	*10
		Boca Ciega Bay	Intersection of 50th Avenue South and 34th Street South (U.S. Highway 19, State Highway 55).	*10
			Intersection of Central Avenue and Sunset Drive	*12
		Joe Creek	Intersection of Keystone Court and 26th Avenue	*13
			Intersection of 38th Avenue North and 60th Street North.	*19
Maps available for inspection at Zoning Department, 205 9th Street, North, Room 202, St. Petersburg, Florida.				
Send comments to the Honorable Corrinne Freeman, P.O. Box 2842, St. Petersburg, Florida 33731.				

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Florida	St. Petersburg Beach (City), Pinellas County	Gulf of Mexico	Intersection of 21st Avenue and Gulf Boulevard (State Highway 699).	*10
			Intersection of 79th Avenue and Boca Ciega Avenue	*11
Maps available for inspection at Building Department, 7701 Boca Ciega Drive, St. Petersburg Beach, Florida.				
Send comments to the Honorable Otto Heiboth, P.O. Box 06719, St. Petersburg Beach, Florida 33706.				
Florida	South Pasadena (City), Pinellas County	Boca Ciega Bay	Intersection of Shore Drive and Pasadena Avenue (State Highway 690).	*11
Maps available for inspection at Building Department, 7047 Sunset Drive, South Pasadena, Florida.				
Send comments to the Honorable Thomas A. Ravelli, 7047 Sunset Drive, South Pasadena, Florida 33707.				
Florida	Tarpon Springs (City), Pinellas County	Gulf of Mexico	Intersection of Holiday Drive and Pinecrest Circle	*12
			Intersection of Ventor Avenue and Beach Drive	*16
		Lake Tarpon	Intersection of Jasmine Avenue and Oakwood Street	*7
		Anclote River	Intersection of Safford Avenue and Cedar Street	*10
Maps available for inspection at Building Department, South Pinellas and Court Street, Tarpon Springs, Florida.				
Send comments to the Honorable George C. Tsouralis, P.O. Box 1575, Tarpon Springs, Florida 33589.				
Florida	Treasure Island (City), Pinellas County	Gulf of Mexico	Intersection of 3rd Street East and Capri Boulevard	*11
			Intersection of 82nd Avenue and West Gulf Boulevard	*13
Maps available for inspection at Building Department, 120 108th Avenue, Treasure Island, Florida.				
Send comments to the Honorable Walter Stubbs, 120 108th Avenue, Treasure Island, Florida 33706.				
Georgia	City of Morrow, Clayton County	North Fork Juster Creek	Just upstream of Interstate Highway 75	*857
			Just upstream of Reynolds Road	*879
		Conine Creek	Approximately 300 feet from Interstate Highway 75	*870
		Duffey Tributary	Approximately 50 feet from Limit of Detailed Study	*865
		York Tributary	Just upstream of Duffey Drive	*850
			Just upstream of Argonne Drive	*864
		Stratford Tributary	Just upstream of Mural Circle	*867
Maps available for inspection at City Hall, 1500 Morrow Road, Georgia 30260.				
Send comments to Mayor George Crowe or Mr. Jim Millirons, City Manager, City Hall, 1500 Morrow Road, Morrow, Georgia 30260.				
Georgia	City of Stockbridge, Henry County	Brush Creek	Just upstream of East Atlanta Road	*745
			Just upstream of Davis Road	*758
			Just upstream of Shields Road	*774
Maps available for inspection at City Hall, 130 Berry Street, Stockbridge, Georgia 30281.				
Send comments to Mayor Rudy Kelley or Merle Manders, City Clerk, City Hall, P.O. Box 12, Stockbridge, Georgia 30281.				
Indiana	(Uninc.) Knox County	Wabash River	At confluence of White River	*405
			About 5.2 miles upstream of U.S. Route 50	*430
		White River	Mouth at Wabash River	*405
			About 3.7 miles upstream of confluence of Buckhorn Creek.	*428
		Maria Creek	Mouth at Wabash River	*430
			Just upstream of State Route 550	*460
		Small Creek	At mouth	*429
			Just downstream of State Route 550	*454
		Snapp Creek	About 1.8 miles upstream of U.S. Route 41	*446
		Keesinger Ditch	About 1.0 mile downstream of U.S. Route 50	*446
			About 1800 feet upstream of southeast 300 South Road.	*457
Maps available for inspection at the Area Plan Commission Office, Knox County Courthouse, 7th and Busseron Streets, Vincennes, Indiana.				
Send comments to Honorable Wilbur G. Parish, Chairman of the Knox County Board of Commissioners, Knox County, Knox County Courthouse, 7th and Busseron Streets, Vincennes, Indiana 47591.				
Louisiana	Town of Grand Isle, Jefferson Parish	Gulf of Mexico	At the intersection of Oleander Avenue and Church Road.	*14
			At the intersection of Oleander Avenue and Jean Lafitte Street.	*12
			At the intersection of Oleander Avenue and Leona Linda Avenue.	*12
			At the intersection of Oleander Avenue and Ludwig Lane.	*11
Maps available for inspection at Town Hall, Ludwig Lane, Grand Isle, Louisiana 70358.				
Send comments to Mayor Wayne C. Guidry or Kath Barthelemy, Town Clerk, Town Hall, P.O. Box 245, Grand Isle, Louisiana 70358.				
Louisiana	Unincorporated Areas of Iberia Parish	Gulf of Mexico/Vermilion Bay	State Highway 329 at the City of Emma	*11
			Intersection of Adolph Road and Segura Road	*11
			City of Delaware, intersection of Arpent Road and County Road 222.	*12
Maps available for inspection at Office of the Iberia Parish Secretary-Treasurer, Iberia Parish Courthouse, 1600 Iberia Street, New Iberia, Louisiana 70560.				
Send comments to Mr. Cliff Auchoin, President, Iberia Parish Policy Jury, or Mr. Ernest Freyou, Parish Secretary-Treasurer, Iberia Parish Courthouse, New Iberia, Louisiana 70560.				
Louisiana	Unincorporated Areas of Lafourche Parish	Gulf of Mexico	Shoreline of Lake Raccourci	*17

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 2,000 feet west of Bayou Lafourche at Southern Corporate Limits of City of Golden Meadow.	*16
			Confluence of Grand Bayou and Bayou Blue	*16
			Confluence of Bayou Pierce and Bayou Des Amoreux	*16

Maps available for inspection at Development Permit Office, Lafourche Parish Courthouse, Thibodaux, Louisiana 70302.

Send comments to Mr. Dick Egle, President, LaFourche Parish Police Jury or Mr. John Newton, Development Office, LaFourche Parish Courthouse, P.O. Box 1236, Thibodaux, Louisiana 70302.

Louisiana	Unincorporated Areas of St. Mary Parish	Gulf of Mexico	State Highway 83 at the Town of Florence	*13
			State Highway 317 at the Town of South Bend	*16
			At the western tip of Cypremort Point	*16

Maps available for inspection at St. Mary Parish Engineer's Office, St. Mary Parish Courthouse, Main Street, Franklin, Louisiana 70538.

Send comments to Mr. Emory C. Jennings, President, St. Mary Parish Police Jury, or Mr. F. K. Clausen, St. Mary Parish Engineer, St. Mary Parish Courthouse, Main Street, Franklin, Louisiana 70538.

Massachusetts	Burlington, Town Middlesex County	Vine Brook	At downstream corporate limits	*124
			Downstream of Wheeler Road	*144
			Upstream corporate limits	*180
		Sandy Brook	Confluence with Vine Brook	*126
			Approximately 1,000' upstream of Raymond Road extension.	*137
		Sawmill Brook	Downstream corporate limits	*107
			Approximately 300' upstream of Lucaya Circle (extended).	*126
		Tributary B to Vine Brook	Confluence with Vine Brook	*125
			Downstream of Route 3	*141
			Upstream corporate limits	*148
		Tributary C to Vine Brook	Confluence with Vine Brook	*136
			Approximately 0.3 mile upstream of Muller Road	*157

Maps available for inspection at the Office of the Town Engineer, Burlington Town Hall, 20 Center Street, Burlington, Massachusetts.

Send comments to the Honorable Arthur Ferreris, Chairman of the Town of Burlington Board of Selectmen, Town Hall, 29 Center Street, Burlington, Massachusetts 00013.

Michigan	(V) Clarkston, Oakland County	Clinton River	Just downstream of Pinehurst Street	*975
			Just downstream of Waldon Road	*978
			Just upstream of Waldon Road	*983
			Just downstream of East Church Street	*985
			Just upstream of East Church Street	*990
			Just downstream of North Main Street (near Washington Street).	*994
			Just upstream of Spillway Outlet	*1,000
			About 450 feet upstream of Miller Road	*1,002
		Clarkston Dam Outlet	At confluence with Middle Lake	*976
			About 650 feet upstream of Depot Street	*976
		Deer Lake	Shoreline	*976
		Middle Lake	Shoreline	*976
		Parke Lake	Shoreline	*991

Maps available for inspection at the Village Hall, 375 Depot, Clarkston, Michigan.

Send comments to Honorable Jackson Byers, Village President, Village of Clarkston, Village Hall, 375 Depot, Clarkston, Michigan 48016.

Michigan	(Twp.) Independence Oakland County	Clinton River	About 0.7 mile upstream of Woodhull Lake	*960
			Just upstream of Andersonville Road	*970
			Just upstream of Dixie Highway	*975
			Just upstream of Blue Grass Lane	*1,004
			About 650 feet upstream of Perry Lake Road	*1,012
		Sashabaw Creek	Just upstream of Mann Road	*962
			About 200 feet upstream of Maybee Road	*973
		Walters Lake Drain	About 600 feet upstream of mouth	*1,034
			Just upstream of Eston Road	*1,040
		Walters Lake	Shoreline	*1,042
		Dennis Lake	Shoreline	*1,033
		Round Lake	Shoreline	*1,042
		Whipple Lake	Shoreline	*1,034
		Deer Lake	Shoreline	*976
		Dark Lake	Shoreline	*976
		Lester Lake	Shoreline	*969
		Van Norman Lake	Shoreline	*969
		Townsend Lake	Shoreline	*960
		Woodhull Lake	Shoreline	*960
		Lake Oakland	Shoreline	*960
		Greens Lake	Shoreline	*970
		Middle Lake	Shoreline	*976
		Parke Lake	Shoreline	*991

Maps available for inspection at the Town Hall, P.O. Box 69, 90 North Main Street, Clarkston, Michigan.

Send comments to Honorable James Smith, Supervisor, Township of Independence, Town Hall, P.O. Box 69, 90 North Main Street, Clarkston, Michigan 48016.

Michigan	(V) Sparta Kent County	Nash Creek	About 1,700 feet downstream of Division Street	*740
			Just upstream of Chessie System	*745
			About 0.6 mile upstream of State Street	*754
		Rogue River	About 0.7 mile downstream of 13 Mile Road	*738
			About 150 feet upstream 13 Mile Road	*742

Maps available for inspection at the Village Hall, 160 East Division Street, Sparta, Michigan.

Send comments to Honorable Edward Soderstrom, Village President, Village of Sparta, Village Hall, 160 East Division Street, Sparta, Michigan 49345.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Michigan	(Twp.) West Bloomfield, Oakland County	Franklin Branch River Rouge	About 1.0 mile downstream of Ten Hill Road	*800
			About 1,600 feet upstream of Ten Hill Road (just upstream of dam).	*827
			Just downstream of Middlebelt Road	*854
			Just upstream of Middlebelt Road	*871
			About 2,800 feet upstream of Middlebelt Road (just downstream of dam).	*875
			About 2,800 feet upstream of Middlebelt Road (just upstream of dam).	*881
			Just downstream of Walnut Lake Road	*895
			Just upstream of Walnut Lake Road	*900
			Just upstream of Lockhart Drive	*926
			Just upstream of Check Dam	*949
		Simpson Lake Outlet	At confluence with Franklin Branch River Rouge	*872
			Just upstream of Spring Road	*875
			Just upstream of Walnut Lake Road	*879
		Walnut Lake Outlet	About 400 feet downstream of Middlebelt Road	*879
			About 625 feet upstream of Middlebelt Road	*883
		Pebble Creek	Just upstream of 14 Mile Road	*898
			About 2,300 feet upstream of Farmington Road (just upstream of Private Drive).	*927
			Just upstream of Nashway Drive	*945
			Just upstream of West Maple Road	*948
		Minnow Pond Drive	Just upstream of 14 Mile Road	*852
			About 2,900 feet downstream of West Maple Road	*925
			Just downstream of West Maple Road	*943
		Carus Lake-Pleasant Lake Channel	Just upstream of Haggerty Road	*946
			Just upstream of Grand Trunk Western Railroad	*942
			Just downstream of Halstead Road	*948
		Clinton River	Within the community	*852
		Pleasant Lake	Shoreline	*848
		Middle Straits Lake	Shoreline	*983
		Upper Straits Lake	Shoreline	*983
		Union Lake	Shoreline	*928
		Middle Straits Lake	Shoreline	*982
		Green Lake	Shoreline	*850
		Pine Lake	Shoreline	*932
		Walnut Lake	Shoreline	*883
		Simpson Lake	Shoreline	*879
		Woodpecker Lake	Shoreline	*949
		Morris Lake	Shoreline	*926
		Hammond Lake	Shoreline	*921
		Upper Long Lake	Shoreline	*914
		Cass Lake	Shoreline	*932
Minnesota	(C) Canby, Yellow Medicine County	Canby Creek	At downstream corporate limit	*1,200
			Just downstream of U.S. Highway 75	*1,230
			Just upstream of U.S. Highway 75	*1,235
			At upstream corporate limit	*1,237
		Shallow Flooding (overflow from Canby Creek).	Area Southeast of the intersection of County Highway 3 and St. Olaf Avenue, North, North of Canby Creek.	#1
Minnesota	(C) Mounds View, Ramsey County	Ardan Park Pond	Shoreline	*905
		Judicial Ditch No. 1 pond	Shoreline	*911
		Lois Drive Pond	Shoreline	*901
		Branch No. 5 Pond	Shoreline	*903
		County Road H-2 Pond	Shoreline	*901
		Belle Lane Pond	Shoreline	*899
		Bronson Drive Pond	Shoreline	*904
		Highway 10, County Road I Pond	Shoreline	*905
		Woodcrest Lake -1	Shoreline	*899
		Rice Creek Pond	Shoreline	*873
		Oak Lake Park Pond	Shoreline	*904
		Greenwood Drive Pond	Shoreline	*894
		Longview Drive Pond	Shoreline	*902
		Westcrest Lake -2	Shoreline	*899
		Spring View Lane Pond	Shoreline	*877
		Shallow Flooding (Ponding from Rainfall).	Southeast Pond	*874
			Knollwood Drive Pond	*893
			Long Lake Road Highway 10 Pond	*897
			Hillview Pond	*901
			Silver Lake Pond	*901
			Edgewood Drive Pond	*902
Missouri	(C) Mexico, Audrain County	Lakeview Park Creek	About .34 mile downstream of Huntingfield Road	*752

Maps available for inspection at the Township Hall, 4480 Orchard Lake Road, West Bloomfield, Michigan.

Send comments to Honorable John Doherty, Supervisor, Township of West Bloomfield, Township Hall, 4480 Orchard Lake Road, West Bloomfield, Michigan, 48033.

Maps available for inspection at the Administrative Assistant's Office, City Hall, 110 Oscar Avenue, North Canby, Minnesota.

Send comments to Honorable Darold Snortum, Mayor, City of Canby, City Hall, 110 Oscar Avenue, North, Canby, Minnesota 56220.

Maps available for inspection at the Clerk Administrator's Office, City Hall, 2401 Highway #10, Mounds View, Minnesota.

Please send comments to Honorable Duane McCarty, Mayor, City of Mounds View, City Hall 2401 Highway #10, Mounds View, Minnesota 55112.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of Huntingfield Road	*780
			Just upstream of private road (about .48 miles upstream of Huntingfield Road).	*786
			Just upstream of U.S. Highway 54	*773
			Just downstream of Missouri Power and Light Dam	*775
			Just upstream of Missouri Power and Light Dam	*795
			About .01 mile downstream of Osage Road	*797
			Just upstream of Osage Road	*805
			Just upstream of Illinois Central Gulf Railroad	*807
		North Fork Lakeview Park Creek	At confluence with Lakeview Park Creek	*797
			Just upstream of Lakeview Road	*800
			Just downstream of Illinois Central Gulf Railroad	*804
			Just upstream of Illinois Central Gulf Railroad	*809
		Davis Creek	About .22 mile downstream of State Highway 15	*735
			About .43 mile upstream of Kentucky Road	*740
		South Fork Salt River	Just downstream of County Highway J	*735
			Just downstream of Norfolk and Western Railway	*751
		Town Branch	Just downstream of State Highway J	*736
			Just downstream of Craig Street	*743
			Just upstream of Woodlawn Street	*749
			Just upstream of Calhoun Street	*751
			Just upstream of Jefferson Street	*760
			Just upstream of Olive Street	*769
			Just downstream of Green Boulevard	*816

Maps available for inspection at the City Engineer's Office, City Hall, 300 North Coal Street, Mexico, Missouri.

Send comments to Honorable Robert Griffith, Mayor, City of Mexico, City Hall, 300 North Coal Street, Mexico, Missouri 65265.

Missouri	(C) Union Franklin County	Bourbeuse River	About 0.24 mile downstream of U.S. Highway 50	*515
			About 0.85 mile upstream of U.S. Highway 50	*519
		Flat Creek	At confluence with Bourbeuse River	*515
			Just upstream of Church Street	*522
			About 0.23 mile upstream of Chicago, Rock Island and Pacific Railroad.	*580
		Fenton Creek	At confluence with Flat Creek	*515
			Just upstream of Chicago, Rock Island and Pacific Railroad.	*529
			Just upstream of St. Louis Rock Road	*538
			About 0.55 mile upstream of St. Louis Rock Road	*570
		Possum Creek	At confluence with Flat Creek	*524
			Just upstream of Main Street	*545
			About 0.65 mile upstream of Main Street	*600
		Flat Creek North Tributary	At confluence with Flat Creek	*530
			About 0.9 mile upstream of Chicago, Rock Island and Pacific Railroad.	*562

Maps available for inspection at the City Hall, 500 East Locus, Union Missouri.

Send comments to Honorable Charles Parent, Mayor, City of Union, City Hall, 500 East Locus, Union, Missouri 63084.

Missouri	(C) Wright City, Warren County	Peruque Creek	About 8,200 feet downstream of County Highway F	*871
			Just upstream of County Highway F	*896
			About 2,300 feet upstream of County Highway F	*792

Maps available for inspection at the City Hall, P.O. Box 436, Wright City, Missouri.

Send comments to Honorable William Schloeman, Mayor, City of Wright City, City Hall, P.O. Box 436, Wright City, Missouri.

Nebraska	(V) Pender Thurston County	Logan Creek	About 6,800 feet downstream of State Highway 94	*1,323
			Just upstream of State Highway 94	*1,330
			About 7,700 feet upstream of State Highway 94	*1,333
		Unnamed Tributary to Logan Creek.	At mouth	*1,331
			About 7,600 feet upstream of State Highway 9	*1,346
		Logan Creek Overflow	About 1,350 feet downstream of First Street	*1,325
			About 1,700 feet upstream of Willis Street	*1,331

Maps available for inspection at the City Office, City Hall, P.O. Box S, Pender, Nebraska.

Send comments to Honorable Kerwin Kent, Mayor, Village of Pender, City Hall, P.O. Box S, Pender, Nebraska 68047.

Nevada	Lyon County (Unincorporated Areas)	Carson River	80 feet east from center of intersection of Silver Street and U.S. Highway 50.	*4,359
		Gold Canyon Creek	70 feet upstream from center of State Highway 341	*4,905
		Walker River	Center of intersection of Willow Drive and State Highway 3.	*4,395

Maps available for inspection at Department of Public Works, Lyon County Courthouse, Yerington, Nevada.

Send comments to the Honorable Dave Andrulli, Lyon County Courthouse, Yerington, Nevada 89447.

Nevada	Yerington (City) Lyon County	Walker River	Intersection of Main Street and Goldfield Avenue	*4,379
			Intersection of McCormick Avenue and Wassuk Way	*4,390

Maps available for inspection at City Clerk's Office, 102 S. Main, Yerington, Nevada.

Send comments to the Honorable Vaughn B. Stive, P.O. Box 479, Yerington, Nevada 89447.

New Jersey	Beachwood, Borough, Ocean County	Jakes Branch	Downstream corporate limits	*16
			Upstream side of Double Trouble Road	*18
		Barnegat Bay	Chestnut Street (extended)	*21
			Toms River shoreline	*8

Maps available for inspection at the Borough Hall, 315 Atlantic City Boulevard, Beachwood, New Jersey.

Send comments to Honorable George Poth, Mayor of Beachwood, Borough Hall, 315 Atlantic City Boulevard, Beachwood, New Jersey 08722.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New Jersey	Cranford, Township, Union County	Rahway River	Upstream of Garden State Parkway	*44
			Upstream side of downstream crossing of Conrail	*53
			Upstream side of Droescher's Dam	*61
			Confluence with Orchard Street Branch	*66
			At upstream corporate limits	*71
		Orchard Street Branch	Confluence with Rahway River	*66
			Approximately 700' upstream of upstream Conrail crossing.	*75
		Gallowe Hill Road Branch	Confluence with Rahway River	*69
			Upstream side of Second Private Drive	*82
		College Branch	At confluence with Rahway River	*70
			Springfield Avenue bridge	*70

Maps available for inspection at the Municipal Building, 8 Springfield Avenue, Cranford, New Jersey.

Send comments to Honorable Gene Marino, Mayor of Cranford, Municipal Building, 8 Springfield Avenue, Cranford, New Jersey 07016.

New Jersey	Egg Harbor, Township, Atlantic County	English Creek	Downstream of Zion Road at spillway	*10
			Upstream of School Road	*16
			Approximately 4,100' upstream of School Road	*27
		Mill Branch	Confluence with Little Meadow Run	*12
			Upstream of Garden State Parkway	*17
			Upstream of Spruce Road	*25
			Upstream of Ridge Road	*26
			Approximately 3,200' upstream of Ridge Road	*30
		Little Meadow Run	Confluence with Mill Branch	*12
			Upstream of Garden State Parkway	*16
			Approximately 3,580' upstream of Spruce Road	*22
			Upstream of Delaware Road	*32
			Upstream of Ridge Road	*33
		Lakes Creek	Bevis Mill Road	*9
			Approximately 4,900' upstream of Bevis Mill Road	*13
		Maple Run	At confluence with Patcong Creek and Mill Branch	*12
			Approximately 1,800' upstream Mill Road	*14
		Patcong Creek	At spillway upstream of Central Avenue	*11
			At confluence with Mill Branch and Maple Run	*12
		North Branch	Downstream of Garden State Parkway	*14
			Upstream of Garden State Parkway	*19
			Upstream of Conrail	*30
			Upstream of upstream Conrail crossing	*46
		Great Egg Harbor Bay	Entire shoreline of Great Egg Harbor Bay within community.	*9
			Entire shoreline of Great Egg Harbor River	*9
			Entire shoreline for eastern portion of the township	*9

Maps available for inspection at the Office of the Construction Official, Egg Harbor Township Complex, Central Avenue and Bargaintown Road, Bargaintown, New Jersey.

Send comments to Honorable John J. Heinz, Jr., Mayor of Egg Harbor Township, R.D. 1, P.O. Box 262, Linwood, New Jersey 08221.

New Jersey	Kenilworth, Borough, Union County	Rahway River	Kenilworth Avenue (upstream)	*71
			Lenape Park Dam (upstream)	*73
		Drainage Ditch	Confluence with Rahway River	*71
			Confluence with Branch 10–30	*71
		Stream 10–30	Confluence with drainage ditch	*71
			Willshire Drive (upstream)	*74
		West Brook	Downstream corporate limits	*76
			Carnegie Avenue (upstream)	*82
			Sumner Street (upstream)	*88
		Branch 10–24	*Downstream corporate limits	*60
			Garden State Parkway (upstream)	*84
			Rahway Valley Railroad (upstream)	*89
		Branch 10–30–1	Confluence with drainage ditch	*71
			North 12th Street (extended)	*76
		Black Brook	Downstream corporate limits	*74
			Springfield Road (upstream)	*80

Maps available for inspection at the Borough Hall, 567 Kenilworth Boulevard, Kenilworth, New Jersey.

Send comments to Honorable Olivio Mancino, Mayor of Kenilworth, 567 Kenilworth Boulevard, Kenilworth, New Jersey 07033.

New Jersey	Keyport, Borough, Monmouth County	Raritan Bay	Corporate limits from State Highway No. 35 to approximately 675' northeast of West Front Street.	*13
			Corporate limits from approximately 1,250' northeast of West Front Street to confluence of Chingarora Creek with Raritan Bay.	*17
			Area approximately 1,300' southeast of confluence of Chingarora Creek with Raritan Bay to approximately 400' southeast of confluence of Chingarora Creek with Raritan Bay.	*15
			Eastern corporate limits approximately 1,425' from confluence of Chingarora Creek with Raritan Bay to Highway No. 36 extended.	*12

Maps available for inspection at the Municipal Building, 18 Main Street, Keyport, New Jersey.

Send comments to Honorable Richard W. Bergen, Mayor of Keyport, 18 Main Street, Keyport, New Jersey 07735.

New Jersey	Union Beach, Borough, Monmouth County	Raritan Bay	Shoreline from confluence of Chingarora Creek to Conaskonk Point.	*17

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Shoreline from Conaskonk Point to confluence of Waackaack Creek	*18
		Thomes Creek	Entire shoreline within community	*5
		Chingarora Creek	Shoreline from confluence with Raritan Bay to approximately 500 feet upstream of Raritan Bay.	*16
			Shoreline from approximately 500 feet upstream of Raritan Bay to St. Johns Avenue (extended).	*15
			Shoreline from St. Johns Avenue (extended) to upstream corporate limits.	*12

Maps available for inspection at the Municipal Building, 650 Poole Avenue, Union Beach, New Jersey 07735.

Send comments to Honorable Vincent L. Farley, Mayor of Union Beach, 650 Poole Avenue, Union Beach, New Jersey 07735.

New Jersey	West Cape May, Borough, Cape May County	Delaware Bay	Flooding affecting northwestern corporate limits	*8
		Atlantic Ocean	From southern corporate limits approximately 100 feet west of First Avenue to Sunset Boulevard.	*12
			From southern corporate limits approximately 100 feet west of First Avenue and approximately 340 feet east of Morrison Avenue to the northern corporate limits.	*10
			From southern corporate limits approximately 300 feet east of Morrison Avenue and approximately 400 feet west of South Bay Shore Road to Fifth Avenue.	*10

Maps available for inspection at the Municipal Building, West Cape May, New Jersey.

Send comments to Honorable John A. Vasser, Jr., Mayor of West Cape May, P.O. Box 399, West Cape May, New Jersey 08204.

New York	Village of Asharoken, Suffolk County	Long Island Sound	From Eaton's Neck Point to 600 feet east of Eaton's Neck Lighthouse.	*15
			From 600 feet east of Eaton's Neck Lighthouse to the southern corporate limit.	*18
			East of the intersection of Asharoken Avenue and Irvin Road.	*13

Maps available for inspection at the Village Hall, One Asharoken Avenue, Asharoken-Northport, New York.

Send comments to Honorable Peter C. Anderson, Mayor, Village of Asharoken, One Asharoken Avenue, Asharoken-NorthPort, New York 11768.

New York	Babylon, Town, Suffolk County	Atlantic Ocean	Entire shoreline within community	*15
			Fire Island Inlet shoreline within the community	*12
			Great South Bay shoreline within the community	*8

Maps available for inspection at the Babylon Town Hall, 200 East Sunrise Highway, Lindenhurst, New York 11757.

Send comments to Honorable Raymond Allmendinger, Town Supervisor of Babylon, Town Hall, 200 East Sunrise Highway, Lindenhurst, New York 11757.

New York	Clarkstown, Town, Rockland County	Crumm Creek	Confluence with Hackensack River	*124
			Downstream of Phillips Hill Road	*226
			Approximately 80' upstream of Little Tor Road	*269
			Downstream of Rollingwood Drive	*314
			Approximately 100' upstream of Mary Ann Lane	*350
			Downstream of Buena Vista Drive	*452
		Demarest Kill	Confluence with Hackensack River	*90
			Approximately 160' upstream of Old State Route 304	*104
			Upstream of Squadron Boulevard West	*126
			Upstream of New Hempstead Road	*151
			Upstream of Twin Elm Lane	*192
			Downstream of Middletown Road	*249
		East Branch Hackensack River	Confluence with Hackensack River	*86
			Downstream of Kings Highway	*121
			Approximately 100' upstream of Gilchrest Road	*134
			Approximately 880' upstream of U.S. Route 910	*151
		Hackensack River	Downstream corporate limits	*60
			Lake DeForest	*76
			Upstream of Old State Route 304	*90
			Downstream of Lucille Boulevard Dam	*116
			Confluence of Tome Brook	*126
		Mill Creek	Confluence with Hackensack River	*67
			Upstream of Demarest Mill Road	*120
			At Rockford Drive	*166
		Nauraushaun Brook	Downstream corporate limits	*198
			Downstream of Pelham Avenue	*255
			Upstream of North Middletown Road culvert	*288
			Downstream of Smith Road	*295
		Pascack Brook	Downstream corporate limits	*325
			Downstream of Old Nyack Turnpike	*343
			Upstream of Pascack Road	*361
			Upstream corporate limits	*406
		Tome Brook	Confluence with Hackensack River	*126
			Upstream of downstream dam	*212
			Upstream corporate limits	*296
		Hudson River	Entire shoreline within Clarkstown	*8

Maps available for inspection at the Department of Environmental Control, Town Hall, 10 Maple Avenue, New City, New York.

Send comments to Honorable Theodore Dusdanerio, Town Supervisor of Clarkstown, Town Hall, 10 Maple Avenue, New City, New York 10956.

New York	City of Glen Cove, Nassau County	Hempstead Harbor	From Matinicock Point to eastern corporate limits	*20
			From Soundbeach Drive extended to Southland Drive extended.	*17
			From Glen Cove Landing to southern corporate limits	*14

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Dosoris Pond	From Birch Lane extended to eastern corporate limits	*16
			From Danes Island Road to Birch Lane extended	*15
			From Lattingtown Road to 1,100 feet north of Lattingtown Road	*15

Maps available for inspection at the City Hall, Bridge Street, Glen Cove, New York.

Send comments to: Honorable Alan M. Parente, Mayor of Glen Cove, City Hall, Bridge Street, Glen Cove, New York 11542.

New York	Huntington, Town, Suffolk County	Long Island Sound	From southeastern corporate limits to Village of Asharoken.	*16
		Huntington Bay	From Village of Asharoken to confluence of Northport Bay.	*14
			Hungton Harbor from Village of Huntington Bay to approximately 900 feet northeast of Ketewomoke Drive extended.	*12
			Huntington Harbor from approximately 900 feet northeast of Ketewomoke Drive extended to Village of Lloyd Harbor.	*14
		xNorthport Bay	From confluence with Huntington Bay to approximately 450 feet northeast of Birmingham Drive extended.	*14
			From approximately 450 feet northeast of Birmingham Drive extended to Winkle Point Road extended.	*12
			From Winkle Point Road extended to Village of Asharoken.	*14
			From Village of Northport to Village of Huntington Bay	*14
		Cold Spring Harbor	Entire shoreline within the community	*12

Maps available for inspection at the Town Hall, 100 Main Street, Huntington, New York.

Send comments to Honorable Kevin Butterfield, Town Supervisor of Huntington, 100 Main Street, Huntington, New York 11743.

New York	Middletown, City, Orange County	Monhagen Brook	Downstream corporate limits	*467
			Downstream of Genung Street	*495

Maps available for inpection at the Department of Public Works, City Hall, 16 James Street, Middletown, New York.

Send comments to Honorable Richard Hutchings, Mayor of Middletown, City Hall, 16 James Street, Middletown, New York 10940.

New York	Village of North Haven, Suffolk County	Shelter Island Sound	From Gleason Point to the confluence with Stock Farm Creek.	*11
			From Tyndal Point to Farnum Pond	*9
			From 500 feet northwest of Corwin Road extended to South Ferry Road.	*11
			At Manor Drive extended	*9
			At Fresh Pond	*9
			Northeast of the intersection of South Ferry Road and Fresh Pond Road.	*9
		Noyack Bay	From Gleason Point to Short Beach Road	*10
		Sag Harbor Cove	From Short Beach Road to South Ferry Road	*9

Maps are available for inpection at the Village Hall, Main Street, Sag Harbor, New York.

Send comments to: Honorable Delories McNamara, Mayor, Village of North Haven, Village Hall, Main Street, Sag Harbor, New York 11963.

New York	Ocean Beach, village, Suffolk County	Atlantic Ocean	Entire shoreline within community	*15
		Great South Bay	Entire shoreline within community	*5

Maps available for inpection at the Village Hall, Ocean Beach, New York.

Send comments to Honorable Thomas Schwartz, Mayor of Ocean Beach, P.O. Box 457, Ocean Beach, New York 11770.

New York	Port Jefferson, village, Suffolk County	Long Island Sound	Entire shoreline	*16
		Port Jefferson Harbor	From Belle Terre/Port Jefferson corporate limits to 500 feet southwest of Belle Terre/Port Jefferson corporate limits.	*11
			From 500 feet southwest of Belle Terre/Port Jefferson corporate limits to Port Jefferson/Poquott corporate limits.	*14
		Mt. Sinai Harbor	From the mouth to approximately 250 feet east of Waterview Drive extended.	*16
			From approximately 250 feet east of Waterview Drive extended to the corporate limits.	*15

Maps available for inpection at the Office of the Village Clerk, Village Hall, 121 West Broadway, Port Jefferson, New York.

Send comments to Honorable Harold Sheprow, Mayor of Port Jefferson, Village Hall, 121 West Broadway, Port Jefferson, New York 11777.

New York	Quogue, village, Suffolk County	Atlantic Ocean	Entire shoreline within the community	*14
		Quantuck Bay	From southern corporate limits to south of Montauk Highway.	*8
			From south of Montauk Highway to northern corporate limits.	*7
		Shinnecock Bay	Southern portion of Shinnecock Bay up to approximately 750 feet north of Bay Road extended.	*9
			Entire shoreline of Quogue Canal	*9
			From approximately 750 feet north of Bay Road extended to northern corporate limits.	*7
			Entire shoreline of Stone Creek	*7
			Entire shoreline of Phillips Creek	*7

Maps available for inpection at the Village Office, Jessup Avenue, Quogue, New York.

Send comments to Honorable T. Decker Orr, Mayor of Quogue, Village office, Jessup Avenue, Quogue, New York 11959.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New York	Village of Shoreham, Suffolk County	Long Island Sound	Along the northernmost corporate limits between the western and eastern corporate limits.	*16
Maps available for inspection at the Office of the Village Clerk, Overhill Road, Shoreham, New York.				
Send comments to: Honorable James Jehle, Mayor, Village of Shoreham, Woodville Road, Shoreham, New York 11786.				
New York	Smithtown, town, Suffolk County	Long Island Sound	Entire shoreline within the community	*16
Maps available for inspection at the Town Hall, 99 West Main Street, Smithtown, New York.				
Send comments to Honorable Patrick Vecchio, Town Supervisor of Smithtown, 99 West Main Street, Smithtown, New York 11787.				
Ohio	(Uninc.) Lucas County	Blue Creek	At confluence with Swan Creek	*641
			Just upstream of Waterville-Swanton Road	*643
			Just upstream of Schadel Road	*647
			Just upstream of Neapolis-Waterville Road	*650
			About 2,300 feet upstream of Neapolis-Waterville Road.	*651
		Berger Ditch	About 600 feet downstream of Cedar Point Road	*576
			Just downstream of upstream corporate limits (about 5,200 feet upstream of Cedar Point Road).	*582
		Blystone Ditch	Just downstream of Monclova Road	*620
			Just upstream of the Norfolk and Western Railroad	*626
			Just downstream of Norfolk and Western Railroad (upstream of Black Road).	*632
		Carl Ditch	Just downstream of Perrysburg-Holland Road	*610
			Just upstream of Pillod Road	*617
			Just upstream of Holloway Road	*622
			About 450 feet upstream of Albon Road	*633
			Just downstream of Interstates 90 and 80	*639
		Cedar Creek	Just downstream of Lyon Road	*578
			About 500 feet upstream of Decant Road	*582
			About 100 feet downstream of Cousine Road	*586
			About 4,600 feet upstream of Cousine Road	*588
		Drennon Ditch	Just upstream of the Village of Holland corporate limits (about 2,000 feet downstream of Angola Road).	*629
			About 1,000 feet downstream of Angola Road	*632
			About 920 feet downstream of Angola Road	*638
			Just downstream of dam	*638
			Just upstream of dam	*644
			About 50 feet upstream of Angola Road	*647
			About 3,100 feet upstream of King Road	*652
			About 3,300 feet upstream of King Road	*656
			Just downstream of Centennial Road	*661
		Ebenbaum Ditch	About 400 feet upstream of Woods Avenue	*646
			About 700 feet upstream of Woods Avenue	*647
		Everett Ditch	At the confluence with Wolf Creek	*636
			At the confluence of Kujawski Ditch	*639
		Good Ditch	Just upstream of Holland-Sylvania Road	*626
			Just upstream of Interstate 475	*629
			About 50 feet upstream of McCord Road	*636
			Just upstream of King Road	*656
		Heldmen Ditch	About 50 feet downstream of the Interstate 475 culvert outlet.	*634
			About 700 feet upstream of Hill Avenue	*637
			About 100 feet downstream of McCord Road	*642
			About 300 feet upstream of Nebraska Avenue	*646
			Just downstream of Dorr Street	*654
		Hill Ditch	About 350 feet downstream of the Interstate 475 culvert outfall.	*635
			Just upstream of Wilford Road	*640
			Just upstream of the McCord Road culvert inlet	*646
			About 2,400 feet upstream of the McCord Road culvert inlet.	*649
		Kramer Ditch	About 1,550 feet upstream of the confluence with Swan Creek.	*615
			Just upstream of Weir	*619
			About 2,570 feet upstream of the confluence with Swan Creek.	*625
		Kujawski Ditch	At the confluence with Everett Ditch	*639
			Just upstream of the Crissey Road culvert inlet	*644
			About 1,650 feet upstream of the Crissey Road culvert inlet.	*647
			About 700 feet upstream of the Conrail bridge	*664
		Maumee River	Just upstream of Interstate 475	*585
			About 3.5 miles upstream of Abandoned Highway bridge.	*624
			At upstream county boundary	*646
		Ottawa River	About 300 feet upstream of Interstate 475	*609
			About 4,800 feet upstream of Sturbridge Road	*613
		Peter May Ditch	Just upstream of Derbeyshire Road	*635
			About 550 feet upstream of McCord Road	*640
			About 400 feet upstream of Perrine Road	*654
			Just downstream of King Road	*659

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Sautter Ditch	About 2,400 feet downstream of Corduroy Road	*578
			About 3,600 feet upstream of Jerusalem Road	*593
		Shontee Creek (West)	About 1,500 feet downstream of Omar Avenue	*584
			Just downstream of the Chessie System and Ann Arbor Railroad.	*590
		Silver Creek	About 1,750 feet downstream of Stickney Avenue	*585
			Just downstream of Stickney Avenue	*584
		Smith Ditch	At confluence with Hill Ditch	*640
			About 2,650 feet upstream of McCord Road	*653
		Stone Ditch	About 350 feet downstream of the Ohio Turnpike culvert outlet.	*628
			About 800 feet upstream of the Ohio Turnpike culvert inlet.	*632
			Just downstream of Salisbury Road	*638
		Swan Creek	Just upstream of Salisbury Road	*614
			Just downstream of Whitehouse-Spencer Road	*647
		Tenmile Creek	About 100 feet downstream of Brint Road	*656
			Just downstream of Centennial Road	*665
			Just downstream of Sylvania-Metanova Road	*656
		Thomas Ditch	Confluence with Wood Ditch	*647
			About 1,400 feet upstream of the confluence with Wood Ditch.	*648
			About 1,780 feet upstream of the confluence with Wood Ditch.	*651
		Tiff Ditch	About 650 feet upstream of Peartree Lane	*633
		Wood Ditch	At confluence with Kujawski Ditch	*644
			Just upstream of Conrail	*646
			About 1,050 feet upstream of Geiser Road	*650
		Wolf Creek	Just upstream of Holland-Sylvania Road	*606
			About 1,000 feet upstream of Perrysburg-Holland Road.	*618
			About 350 feet downstream of Roycroft Drive	*626
			About 4,400 feet upstream of Albon Road (at confluence of Everett Ditch).	*635
		Shallow Flooding (Overflow from Spenbraum Ditch).	Aboput 1,000 feet north of intersection of Gilhouse Road and Talmedge Road.	#1
		Lake Erie	Shoreline	*578
		Maumee Bay	Shoreline (east of City of Oregon)	*578
			Shoreline (west of City of Oregon)	*578

Maps available for inspection at the Lucas County Building Regulations Department, 437 Michigan Street, Toledo, Ohio.

Send comments to Honorable James Holvemer, President of the County Commissioners, Lucas County, Lucas County Courthouse, Toledo, Ohio 43604.

Oklahoma	City of New Cordell, Washita County	Calvary Creek	Just upstream of South Crider Road	*1,495
			Just upstream of Grant Street	*1,528
		Tributary No. 1 of Calvary Creek	Just upstream of South Crider Road	*1,516
			Just downstream of 14th Street	*1,550
		Tributary No. 1 of Tributary No. 1 of Calvary Creek.	Just upstream of 14th Street	*1,561

Maps available for inspection at City Hall, 101 East Main Street, New Cordell, Oklahoma 73632.

Send comments to Mayor Tom Crider or Jean Smith, City Recorder, City Hall, P.O. Box 417, New Cordell, Oklahoma 73632.

Pennsylvania	Rapho, township, Lancaster County	Little Chickies Creek	Downstream Drager Road	*273
			Upstream Dam	*290
			Upstream Pinkerton Road	*302
			Downstream Valley Road	*320
			Downstream Mount Joy Road	*327
			Upstream Mount Pleasant Road	*348
		Chickies Creek	Upstream Eby Chigues Road	*328
			Upstream Conrail	*335
			Approximately 200' upstream State Route 283	*350
			Downstream Erisman Road	*355
			Downstream Lebanon Road	*439
			At confluence of Shearers Creek	*448
		Rife Run	Upstream West Colebrook Road	*400
			Upstream Orchard Road	*410

Maps available for inspection at the Rapho Municipal Building, R.D. 2, Manheim, Pennsylvania.

Send comments to Honorable Abe Siegrist, Chairman of the Rapho Board of Supervisors, R.D. 2, Manheim, Pennsylvania 17545.

Rhode Island	Barrington, town, Bristol County	Massachuck Creek	Entire stream upstream of Washington Road	*9
		Brickyard Pond	Entire shoreline	*5
		Echo Lake	Entire shoreline	*5
		Narragansett Bay	Entire shoreline	*20
		Providence River	Entire shoreline	*20
		Palmer River	Shoreline from Conrail to northern corporate limits	*12
			Shoreline from confluence of Barrington River to Conrail.	*15
		Warren River	Shoreline from confluence of Narragansett Bay to approximately 350' east of Adams Point Road extended.	*20
			Shoreline approximately 350' east of Adams Point Road extended to Ferry Lane extended.	*19
			Shoreline Ferry Lane extended to confluence of Barrington River.	*18

Maps available for inspection at the Office of the Building Inspector, Town Hall, 283 County Road, Barrington, Rhode Island.

Send comments to Honorable Allen C. Klapper, President of the Barrington Town Council, Town Hall, 283 County Road, Barrington, Rhode Island 02806.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Rhode Island	Cranston, city, Providence County	Pawtuxet River	Upstream of Broad Street	*16
			Upstream of Conrail (downstream crossing)	*18
			Upstream of Elmwood Avenue	*21
			At confluence of Pocasset River	*23
			Upstream of State Route 37 (eastbound)	*24
			4,500' upstream State Route 37 (eastbound)	*26
			Upstream corporate limits	*28
		Furnace Hill Brook	At confluence with Meshanticut Brook	*62
			Upstream of Furnace Hill Road	*70
			Upstream of Phenix Avenue	*143
			Approximately 3,800' upstream Phenix Avenue	*254
			Upstream of Pippin Orchard Road	*325
		Furnace Hill Brook Tributary	At confluence with Furnace Hill Brook	*143
			Approximately 2,000' upstream of confluence with Furnace Hill Brook.	*200
			Approximately 3,700' upstream of confluence with Furnace Hill Brook.	*247
		Pocasset River	At confluence with Pawtuxet River	*23
			Upstream of Garden City Drive	*32
			Approximately 150' upstream Reservoir Avenue	*35
			Approximately 100' upstream of Park Avenue	*48
			Upstream of Print Works Pond Dam	*71
			Upstream of Access Road	*74
			Approximately 2,700' downstream upstream corporate limits.	*78
		Meshanticut Brook	At upstream corporate limits	*81
			At downstream corporate limits	*40
			Upstream of Conrail bridge	*46
			Upstream of Interstate Route 295 (southbound)	*51
			Upstream of State Route 37	*62
			Upstream of Meshanticut Drive	*66
			Upstream of Ambrose Street	*78
			Upstream of Phenix Avenue	*102
			Upstream of Scituate Avenue	*124
		Providence River	Entire shoreline within community	*20

Maps available for inspection at the City Planner's Office, City Hall, 869 Park Avenue, Cranston, Rhode Island.

Send comments to Honorable Edward D. DiPrete, Mayor of Cranston, City Hall, 869 Park Avenue, Cranston, Rhode Island 02910.

Rhode Island	North Kingstown, town, Washington County	Annaquatucket River	Upstream of Boston Neck Road	*22
			Upstream of Featherbed Lane	*28
			Upstream of Tower Hill Road (U.S. Route No. 1)	*42
			Upstream of Belleville-pond Dam	*49
			Upstream of Old Railroad Grade (downstream crossing).	*60
		Mattatuxet River	Approximately 100' downstream of Conrail	*81
			Confluence with Pettaquamscutt River	*11
			Upstream of State Route 138	*16
			Upstream of Dam	*39
		Quidnesset Brook	Approximately 3,800' downstream of Quidnesset Road	*14
			Approximately 1,000' upstream of Quidnesset Road	*19
		Sand Hill Brook	Approximately 100' downstream of North Quidnesset Road.	*16
			Upstream of Briarbrook Drive (downstream crossing)	*24
			Upstream of U.S. Route 1	*37
			Approximately 100' downstream of Devils Foot Road	*41
		Narragansett Bay	Shoreline from north corporate limits to Quonset Point	*19
			Shoreline from Quonset Point to south corporate limits	*17
		Potowomut River	Shoreline from confluence with Narragansett Bay to approximately 2,200' east of the confluence.	*18

Maps available for inspection at the Department of Planning and Development, Town Hall, 80 Boston Neck Road, North Kingstown, Rhode Island.

Send comments to Honorable Lloyd Sherman, President of the North Kingstown Town Council, Town Hall, 80 Boston Neck Road, North Kingstown, Rhode Island 02852.

Tennessee	City of Bradford, Gibson County	Town Creek	Just upstream of Illinois Central gulf Railroad	*349
			Just upstream of State Highway 105 (Main Street)	*356

Maps available for inspection at City Hall, East Main Street, Bradford, Tennessee 38316.

Send comments to Mayor Richard Belew or Mr. Roger Dudley, City Coordinator, City Hall, P.O. Box 67, Bradford, Tennessee 38316.

Tennessee	Town of Kenton, Gibson & Obion Counties	Carroll Creek	Just upstream of U.S. Route 45W	*305
		Unnamed Tributary to Carroll Creek.	Just upstream of Sanderson Street	*314

Maps available for inspection at Town Hall, 106 North Poplar, Kenton, Tennessee 38233.

Send comments to Mayor Damon Cross or Lamar King, Vice Mayor, Town Hall, 106 North Poplar, Kenton, Tennessee 38233.

Tennessee	Town of Milan, gibson County	Wolf Creek	Just upstream of U.S. Highway 79 (Vanhook Street)	*291
			Just upstream of State Route 104 (South 1st Street)	*295
		Clear Creek	Just at the confluence with Wolf Creek	*296

Maps available for inspection at Town Hall Building, South First Street, Milan, Tennessee 38358.

Send comments to Mayor Herb Davis or Parnell Lariders, Town Planning Director, Town Hall, South First Street, Milan, Tennessee 38358.

Tennessee	City of Trenton, Gibson County	North Fork of Forked Deer River	Just upstream of U.S. Highway 45 Bypass	*316

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Cain Creek Tributary	Just downstream of Kellwood Drive	*330
			Just upstream of College Street	*343
		North Fork Tributary	Just upstream of U.S. Highway 45W	*313
		North Fork Tributary No. 3	Just upstream of County Road	*320

Maps available for inspection at City Hall, 309 College Street, Trenton, Tennessee 38382.

Send comments to Mayor Ronnie A. Riley or Mr. Paul Bennett, City Utility Manager, City Hall, 309 College Street, Trenton, Tennessee 38382.

Texas	Village of Dickinson, Galveston County	Bensons Bayou	Just upstream of Deats Road	*12
			Approximately 700 feet upstream of Rodeo Bend Road	*14
		Bordens Gully	Approximately 200 feet downstream of Spruce Street	*12
			Just downstream of Hughes Lane	*14
		Dickinson Bayou	Approximately 800 feet upstream of Highway 3	*11
			Approximately 800 feet upstream of I-45 & 75	*12
			Just downstream of Highway 646	*13
		Gum Bayou	Just upstream of FM 517 (Flooding at this location is affected by backwater effects from Dickinson Bayou).	*11
		Magnolia	Approximately 500 feet upstream of Deats Road	*12
			Approximately 250 feet upstream of Sunset Drive	*14
		Tributary to Gum Bayou	Just downstream of the corporate limits	*13

Maps available for inspection at Village Hall, 2716½ Main Street, Dickinson, Texas 77539.

Send comments to Mayor Robert B. Holley or Ms. Lila K. Strawn, City Secretary, Village Hall, P.O. Box 1977, Dickinson, Texas 77539.

Texas	City of La Marque, Galveston County	Lower Highland Bayou	Just upstream of State Highway 6 near the southern corporate limits (Flooding at this location is affected by Coastal Surge from Galveston Bay).	*12
			Just upstream of Fairwood Road (Flooding at this location is affected by Coastal Surge from Galveston Bay).	*12
		Upper Highland Bayou and Diversion Channel	Just upstream of Old Camp Wallace Road (Flooding at this location is affected by Coastal Surge from Galveston Bay).	*12
		Unnamed Tributary 1	Just downstream of Main Street (FM 519)	*7
		Unnamed Tributary 2	Just downstream of Edna Street	*7
		Unnamed Tributary 3	Just downstream of FM 1765	*16
		Marchand Bayou	Just upstream of FM 519 (Flooding at this location is affected by Coastal Surge from Galveston Bay).	*12
			Just downstream of Newman Road	*15

Maps available for inspection at City Hall, 322 Laurel, La Marque, Texas 77568.

Send comments to Mayor Ronald Crowder or Mr. Ivan Langford, City Manager, City Hall, 322 Laurel, La Marque, Texas 77568.

Texas	Down of Pine Forest, Orange County	Ten Mile Creek	Approximately 300 feet upstream of Lake View Road	*15
			Just downstream of State Highway 1131	*17
		Tiger Creek	Just upstream of southern corporate limits	*14
			Approximately 600 feet upstream of Lake View and Cutoff Roads.	*16

Maps available for inspection at Orange County Commissioners Office, 190 Camp Street, Vidor, Texas 77662.

Send comments to Mayor Billie Buck, Pine Forest Town Hall, P.O. Box 1004, or County Commissioners Office, 190 Camp Street, Vidor, Texas 77662.

Texas	City of Port Arthur, Jefferson County	Rhodair Gully	Just upstream of Port Arthur Road	*10
			Just downstream of U.S. Highway 69	*15
		Alligator Gully	At the intersection of Memorial Freeway and Main "B" Canal.	*8
		Port Acres	At the intersection of State Highway 365 and Wilson Avenue.	*8
		Lakeside	Along Bayou Drive and Cashmere Drive	*1
		Crane Bayou	At the intersection of Main Avenue and 15th Street	*8
		Sabine Pass	At the entrance to Sabine Pass	*11
			Just south of Texas Point at mouth of Texas Bayou	*16
			At the Coast Guard Station at shore side	*13
			At Sabine Pass side	*14
			At Sabine Pass community at intersection of State Highway 87 and Broadway Street.	*12
			At Sabine Pass just upstream of U.S. Highway 82	*12
			At the crossing of State Highway 87 over the Intracoastal Waterway.	*12
			At Gulf Gate Bridge at Sabine/Neches Canal	*10
			At Main Avenue extended outside of the Levee	*8
		Neches River	At State Highway 87 (under the control of Wave Height Action).	*9
			At mouth of Molasses Bayou (affected by Wave Height Surge).	*8

Maps available for inspection at City Hall, 444 4th Street, Port Arthur, Jefferson County, Texas 77640.

Send comments to Mayor Bernis Sadler or Mr. Ross White, City Planner, City Hall, P.O. Box 1089, Port Arthur, Texas 77640.

Texas	City of Santa Fe, Galveston County	Highland Bayou above Diversion Dam.	Approximately 1,000 feet upstream of FM 646	*24
			Approximately 200 feet upstream of Avenue R	*29

Maps available for inspection at City Hall, 4925 Main Street, Santa Fe, Texas.

Send comments to Mayor John Roberts or Mr. William Lambert, City Manager, City Hall, P.O. Box 946, Alta Loma, Texas 77510.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Virginia	Newport News, city of	Chesapeake Bay	Hampton Roads from eastern corporate limits to Small Boat Harbor.	*13
			Entire shoreline os Small Boat Harbor	*10
		James River	From Small Boat Harbor to a point approximately 750' upstream of Museum Parkway (extended).	*13
			From a point approximately 750' upstream of Museum Parkway (extended) to confluence of Fishers Creek.	*12
			Fishers Creek from confluence to a point approximately 780' upstream.	*11
			Fishers Creek from a point approximately 780' upstream to a point approximately 1,170' downstream of Graham Drive (extended).	*10
			Fishers Creek from a point approximately 1,170' downstream of Graham Drive (extended) to a point approximately 900' upstream of Madison Lane North.	*9
			From confluence of Fishers Creek to confluence of Deep Creek.	*12
			*Deep Creek from confluence to a point approximately 7,680' upstream.	10
			Deep Creek from a point approximately 7,680' upstream to a point approximately 210' upstream of Warwick Boulevard.	*9
			From confluence of Deep Creek to Fort Eustis boundary.	*12
		Warwick River	From confluence with James River to Digges Drive (extended).	*12
			*From Digges Drive (extended) to confluence of Lucas Creek.	11
			Lucas Creek from confluence to a point approximately 1,110' downstream from Tabbs Lane.	*10
			Lucas Creek from a point approximately 1,110' downstream from Tabbs Lane to Gwynn Circle.	*9
			From confluence of Lucas Creek to a point approximately 600' downstream of Hoopes Road (extended).	*11
			From a point approximately 600' downstream of Hoopes Road (extended) to a point approximately 7,260' upstream of Hoopes Road (extended).	*10
			Form a point approximately 7,260' upstream of Hoopes Road (extended) to confluence of Stony Run.	*9
			Stony Run from confluence to a point approximately 750' downstream from Lucas Creek Road.	*9
			From confluence of Stony Run to a point approximately 270' upstream of Fort Eustis Boulevard.	*9
		Skiffes Creek	From northern boundary of Fort Eustis to a point approximately 4,530' downstream of the Chessie System Railroad.	*9

Maps available for inspection at the Public Works Department, City Hall, Newport News, Virginia.

Send comments to Honorable Robert T. Williams, City Manager of Newport News, 2400 Washington Avenue, Newport News, Virginia 23607.

Virginia	Norfolk, city	Chesapeake Bay	Entire shoreline within community	*12
			Entire shoreline of Willoughby Bay	*11
			Shoreline of Elizabeth River from Norfolk and Portsmouth Belt Railway Pier to confluence of southern and eastern Branches of Elizabeth River.	*12
			Shoreline of Layfayette River from confluence with Elizabeth River to Hampton Boulevard.	*10
			Shoreline of Layfayette River east of Hampton Boulevard.	*9
			Entire shoreline of southern and eastern Branches of Elizabeth River.	*9

Maps available for inspection at the City Hall, Norfolk, Virginia.

Send comments to Honorable Julian Hirst, City Manager of Norfolk, 1101 City Hall, Norfolk, Virginia 23501.

Virginia	Poquoson, city	Chesapeake Bay	Lambs Creek from confluence with Poquoson River to a point approximately 2,520' upstream.	*11
			Poquoson River from confluence with Lambs Creek to Hunts Point at confluence with Chesapeake Bay.	*11
			Shoreline from a point approximately 1,100' east of Wagner Road (extended) to confluence of Bennett Creek.	*13
			Bennett Creek from confluence with Lyons Creek to confluence of White House Cove.	*13
			Floyds Bay from confluence with Bennett Creek to a point approximately 300' upstream Forrest Road.	*11
			Shoreline from confluence with Bennett Creek to entrance of Sandy Bay.	*13
			Northwest Branch Back River from Tin Shell Point to confluence with Cedar Creek.	*11
			Ceder Creek from confluence of Northwest Branch Back River to confluence with Oxford Run.	*11

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Northwest Branch Back River from confluence with Cedar Creek to confluence with Brick Kiln Creek.	*11

Maps available for inspection at the City Hall, 830 Poquoson Avenue, Poquoson, Virginia.

Send comments to Honorable James Lord, City Manager of Poquoson, City Hall, 830 Poquoson Avenue, Poquoson, Virginia 23662.

Virginia	Sussex County	Nottoway River	Confluence of Rowanty Creek	*70
			Approximately 50' upstream of State Route 40	*73
			Approximately 100' upstream of Interstate 95	*83
			Upstream Seaboard Coastline Railroad	*89
			Upstream County boundary	*94
		Rowanty Creek	Confluence with Nottoway River	*70
			Upstream of State Route 602	*71
			Approximately 2,050' upstream of Interstate 95	*75
		Stony Creek	Confluence with Nottoway River	*72
			Upstream of Seaboard Coastline Railroad	*79
			Upstream of County boundary	*86
		Sappony Creek	Confluence with Stony Creek	*83
			Upstream of State Route 681	*88
			Approximately 12,900' upstream of State Route 681	*106
		Peaquarter Swamp	Confluence with Stony Creek	*83
		Swamp	Upstream of State Route 681	*91
			At County boundary	*121

Maps available for inspection at the County Courthouse, Sussex, Virginia.

Send comments to Honorable Richard Albert, County Administrator of Sussex, P.O. Box 1397, Sussex, Virginia 23884.

Wisconsin	(V) Cross Plains, Dane County	Black Earth Creek	About 200 feet downstream of U.S. Highway 14	*859
			About 0.5 mile downstream of Church Street	*865
			About 1,500 feet upstream of Church Street	*875
		Brewery Creek	Just downstream of Main Street	*874
			Just upstream of Lewis Street	*882
			Just upstream of Valley Street	*888
			About 600 feet upstream of Brewery Road	*905
		Enchanted Valley Creek	Just downstream of U.S. Highway 14	*875
			Just upstream of U.S. Highway 14	*878
			Just downstream of Brewery Road	*890
			Just upstream of Brewery Road	*896
			Just downstream of Military Road (near Brewery Road)	*903
			Just upstream of Military Road (near Brewery Road)	*910

Maps available for inspection at the Village Hall, 2107 Julius Street, Cross Plains, Wisconsin.

Send comments to Honorable Jerome Geurts, Village President, Village of Cross Plains, Village Hall, 2107 Julius Street, Cross Plains, Wisconsin 53528.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: May 19, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 14586 Filed 6-3-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL MARITIME COMMISSION

46 CFR Part 502

[General Order 16; Docket No. 82-21]

Improvements in Prehearing and Discovery Procedures

AGENCY: Federal Maritime Commission.

ACTION: Enlargement of Time to Comment.

SUMMARY: Pursuant to request of the Maritime Administrative Bar Association the time for filing comments in response to the notice of proposed rulemaking in this proceeding on improvements in prehearing and discovery procedures (47 FR 14734; April 6, 1982) is enlarged to and including June 21, 1982. Additional time is needed to allow members of that Association to review comments prepared by the Association's special committee on this matter.

DATE: Comments due June 21, 1982.

ADDRESSES: Comments (original and 15 copies) to: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573, (202) 523–5725.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573, (202) 523–5725.

SUPPLEMENTARY INFORMATION: None.

Francis C. Hurney,

Secretary.

[FR Doc. 82-15083 Filed 6-3-82; 8:45 am]

BILLING CODE 6730-01-M

Notices

Federal Register
Vol. 47, No. 106
Friday, June 4, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Rulemaking; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–163), notice is hereby given of a meeting of the Committee on Rulemaking of the Administrative Conference of the United States, scheduled to be held at 2:00–3:00 p.m., Tuesday, June 1, 1982, in the Library of the Administrative Conference, 2120 L Street, N.W., Suite 500, Washington, D.C.

The Committee will meet briefly to consider comments made by the Council of the Conference on several aspects of the Committee's proposed statement on pending legislation which would amend the informal rulemaking provisions of the Administrative Procedure Act. The need to act quickly to ready the Committee proposal for submission to the membership of the Conference precluded the usual advance notice of the meeting.

Attendance is open to the interested public, but limited to the space available. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting, contact Michael W. Bowers (202–254–7065). Minutes of the Committee meeting will be available on request.

Richard K. Berg,
General Counsel.
May 28, 1982.

[FR Doc. 82–15165 Filed 6–3–82; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Oregon; Revisions of Recreation Use Controls Within Boundaries of the Wild Section of Rogue River Component of National Wild and Scenic River System

Pursuant to 43 CFR 8351.2–1 the following Amendment is hereby made to the Federal Register, Vol. 47, No. 38, Thursday, February 25, 1982; of the same title, Section II, B–4, Commercial Use paragraph 4 should read:

"No commercial trip shall be greater than 12 persons total (for small trips), or 24 persons total (for large trips), including crew members, except for the following flexibility provisions:

"a. Recognizing that circumstances beyond an Authorized Outfitter's reasonable control may on short notice notice occasionally require carrying passengers not planned for, not available through the common pool, and in excess of normally allowed party sizes; up to 20 percent of an Authorized Outfitter's trips, according to the approved schedule, may carry as many as two persons beyond the authorized trip size for small trips, and as many as three persons beyond the authorized trip size for large trips. The maximum number of such trips for each Authorized Outfitter is determined in advance by the BLM Authorized Officer, and each Authorized Outfitter will be advised.

"b. From September 1, through the termination of the regulated season guided fishing trips are offered by some outfitters using small hard shell drift boats of limited carrying capacity each of which requires its own guide. Because of the need for a higher than usual ratio of guides to passengers for such trips, the total party size for small guided fishing trips scheduled from September 1 through the termination of the regulated season is authorized at 15 rather than 12 persons."

Hugh R. Shera,
Medford District Manager.

William Covey,
Forest Supervisor, Siskiyou National Forest.

[FR Doc. 82–15166 Filed 6–3–82; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF AGRICULTURE

Forest Service

Lincoln National Forest Grazing Advisory Board; Meeting

The Lincoln National Forest Grazing Advisory Board will meet at 10:30 a.m., July 7, 1982, at the Holiday Inn, Highway 70, Ruidoso, New Mexico. The purpose of the meeting is to provide grazing permittees of the Lincoln National Forest means for offering advice and recommendations concerning:

Management Plans
Range Improvements
(a) Range Betterment Funds
(b) Permit Modifications

Other items to be discussed are off-road vehicle use, base property requirements, and impacts on grazing by other resource activities.

The meeting will be open to the public. Persons who wish to attend should notify Don Cunico, Lincoln National Forest Supervisor's Office, Federal Building, 11th & New York, Alamogordo, New Mexico. Telephone: (505) 437–6030. Written statements may be filed with the Board before or after the meeting.

Rules for public participation will be established at the meeting.

Dated: May 20, 1982.

James R. Abbott,
Forest Supervisor.

[FR Doc. 82–15161 Filed 6–3–82; 8:45 am]

BILLING CODE 3410–11–M

Routt National Forest Grazing Advisory Board; Meeting

The Routt National Forest Grazing Advisory Board will meet July 29, 1982 at the Routt Forest Supervisor's Office, Hunt Building, 137 10th St., Steamboat Springs, Colorado. The board will leave at 8:30 a.m. to review grazing allotments in the Williams Fork drainage of the Middle Park Ranger District.

Other business will include: (1) A short business meeting, (2) review allotment management plans for high elevation sheep allotments, (3) review and make recommendations on use of vacant allotments, (4) review and make recommendations on use of range betterment funds, (5) review vegetative manipulation projects.

The meeting will be open to the public. Persons who wish to attend and participate should notify Jim Webb, Routt National Forest (303–879–1722) prior to the meeting. Public members may participate in discussions during

the meeting at any time or may file a written statement following the meeting.

Dated: May 28, 1982.

Jack Weissling,

Forest Supervisor.

[FR Doc. 82-15159 Filed 6-3-82; 8:45 am]

BILLING CODE 3410-11-M

Federal Grain Inspection Service

Renewals of Designation of the Sioux City Inspection and Weighing Agency, Inc., and A. V. Tischer and Son, Inc.

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the renewals of designation of the Sioux City Inspection and Weighing Agency, Inc. (Sioux City), and A.V. Tischer and Son, Inc. (Tischer), as official agencies responsible for providing inspection services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.)* (Act).

EFFECTIVE DATE: July 1, 1982.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2405 Auditors Building, Washington, DC 20250, telephone (202) 447-8525.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447-8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512-1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

The December 30, 1981, issue of the **Federal Register** (46 FR 63170) contained a notice from the Federal Grain Inspection Service (FGIS) announcing that Sioux City and Tischer's designations would terminate on June 30, 1982, and requesting applications for designation as the agency to provide official inspection services within each specified assigned area. Applications were to be postmarked by January 29, 1982.

FGIS announced the names of the applicants for designation for each agency and requested comments on same in the March 1, 1982, issue of the **Federal Register** (47 FR 8370). Comments were to be postmarked by April 15, 1982.

Four applicants requested designation for all or part of the geographic area currently assigned to Sioux City. Three requested designation for the entire geographic area. These were the Sioux City Inspection and Weighing Agency, Inc., applying for a renewal of designation; Fremont Grain Inspection Department, Inc. (Fremont), Fremont, Nebraska; and David L. Ayers (Ayers), Sioux City, Iowa, proposing to establish a new agency. The fourth, Aberdeen Grain Inspection, Inc. (Aberdeen), Aberdeen, South Dakota, requested designation for that portion of Sioux City's geographic area located in South Dakota.

Eight comments were received regarding the designation of the official agency in the Sioux City, Iowa, area cited in the December 30 issue of the **Federal Register**. Four commentors recommended the renewal of designation of Sioux City; three recommended the designation of Fremont; one expressed a preference to be serviced by a neighboring official agency. No comments were received regarding the designation of either Ayers or Aberdeen.

After considering all available information in relation to the criteria for designation in section 7(f)(1)(A) of the Act, and in accordance with section 7(f)(1)(B), it has been determinded that Sioux City is better able to provide official services in the geographic area for which it is being selected, and its designation is being renewed. This assigned area is the entire geographic area as described in the December 30 issue of the **Federal Register**.

Two comments were received regarding the renewal of designation of Tischer (the only applicant) as the official agency in the Fort Dodge, Iowa, area cited in the December 30 issue of the **Federal Register**. These commentors expressed a preference to be serviced by a neighboring official agency.

After considering all available information in relation to the criteria for designation in section 7(f)(1)(A) of the Act, and in accordance with section 7(f)(1)(B), it has been determinded that Tischer is better able to provide official services in the geographic area for which its designation is being renewed. This assigned area is the entire geographic area as described in the December 30 issue of the **Federal Register.**

Effective July 1, 1982, and terminating June 30, 1985, the responsibility for providing official inspection services in each geographic area as specified above will be assigned to Sioux City and Tischer, respectively.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection and where the agency and one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the agencies will provide official inspection services not requiring a licensed inspector to all locations within their geographic area.

Interested persons may contact the Regulatory Branch, specified in the address section of this notice, to obtain a list of the specified service points. Interested persons may also obtain a list of the specified service points by contacting the agencies at the following addresses:

Sioux City Inspection and Weighing Agency, Inc., 310 S. Floyd Boulevard, #302, Sioux City, IA 51101

A. V. Tischer and Son, Inc., P.O. Box 339, Fort Dodge, IA 50501

(Sec. 8, Pub. L. 94-582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: May 28, 1982.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 82-15141 Filed 6-3-82; 8:45 am]

BILLING CODE 3410-02-M

Request for Comments on Applicants for Designation in the Areas Currently Assigned to the Louisville Grain Inspection Services, Inc., Minot Grain Inspection, Inc., and Tri-State Grain Inspection Service, Inc.

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicants for designation as the official agency in the areas currently assigned to the Louisville Grain Inspection Services, Inc. (Louisville), Minot Grain Inspection, Inc. (Minot), and Tri-State Grain Inspection Service, Inc. (Tri-State). The designations terminate September 30, 1982.

DATE: Comments to be postmarked on or before July 19, 1982.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Regulations and Directives Management Staff, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 1642, South Building, 1400 Independence Avenue, SW., Washington, DC 20250, telephone (202) 382-0231. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:
Lewis Lebakken, Jr., telephone (202) 382–0231.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore the Executive Order and Secretary's Memorandum do not apply to this action

The April 1, 1982, issue of the **Federal Register** (47 FR 13981) contained a notice from the Federal Grain Inspection Service requesting applications for designation to perform official inspection services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71, *et seq.*) (Act), in the areas currently assigned to Louisville, Minot, and Tri-State, respectively. Applications were to be postmarked by April 30, 1982.

One applicant requested designation for all of the geographic area currently assigned to Louisville. That applicant is Louisville Grain Inspection Services, Inc., Louisville, Kentucky. One applicant requested designation for all of the geographic area currently assigned to Minot. That applicant is Minot Grain Inspection, Inc., Minot, North Dakota. One applicant requested designation for all of the geographic area currently assigned to Tri-State. That applicant is Tri-State Grain Inspection Service, Inc., Cincinnati, Ohio. Louisville, Minot, and Tri-State applied for renewals of designation for additional 3-year periods.

In accordance with § 800.206(b)(2) of the regulations under the Act, this notice provides interested persons the opportunity to present their views and comments concerning the applicants for designation. All comments must be submitted to the Regulations and Directives Management Staff, specified in the address section of this notice, and postmarked not later than July 19, 1982.

Consideration will be given to comments filed and to other information available before a final decision is made with respect to this matter. Notice of the final decision will be published in the **Federal Register** and the applicants will be informed of the decision in writing.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: May 28, 1982.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 82-15132 Filed 6-3-82; 8:45 am]
BILLING CODE 3410-02-M

Termination of Designations of the Idaho Grain Inspection Service, Inc., Lewiston Grain Inspection Service, Inc., and Utah Department of Agriculture

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces that the designations of three official agencies will terminate, in accordance with the U.S. Grain Standards Act, as amended, on November 30, 1982, and requests applications from parties interested in being designated as agencies to conduct official inspection services in the geographic areas currently serviced by each of the specified agencies. The official agencies are the Idaho Grain Inspection Service, Inc., Lewiston Grain Inspection Service, Inc., and Utah Department of Agriculture.

DATE: Applications to be postmarked on or before July 6, 1982.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2405 Auditors Building, Washington, D.C. 20250, telephone (202) 447–8525. All applications submitted pursuant to this notice will be made available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT:
James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

Section 7(f)(1) of the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, at 79(f)(1)) (Act), specifies that the Administrator of the Federal Grain Inspection Service is authorized upon application by any qualified agency of person, to designate such agency or person to perform official inspection services after a determination is made that the applicant is better able than any other applicant to provide official inspection services in an assigned geographic area.

Idaho Grain Inspection Service, Inc. (Idaho), P.O. Box 4209, Pocatello, Idaho 83201, was designate as an official agency under the Act for the performance of official grain inspection functions on July 1, 1981. Lewiston Grain Inspection Service, Inc., (Lewiston), 1450 Third Avenue North, Lewiston, Idaho 83501, was designated as an official agency under the Act for the performance of official grain inspection functions on July 24, 1978. The Utah Department of Agriculture (Utah) 147 North 200 West, Salt Lake City, Utah 84103, was designated as an official agency under the Act for the performance of official grain inspection functions on July 1, 1978. The agencies' designations will terminate on November 30, 1982. For Lewiston and Utah, this termination date reflects administrative extensions of official agency designations as discussed in the July 16, 1979, issue of the **Federal Register** (44 FR 41275). Section 7(g)(1) of the Act states generally that designations of official agencies shall terminate no later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Idaho pursuant to section 7(f)(2) of the Act and which is the geographic area that may be assigned to the applicant selected for designation is the southern half of the State of Idaho up to the northern boundaries of Adams, Valley, and Lemhi Counties.

The geographic area presently assigned to Lewiston pursuant to section 7(f)(2) of the Act and which is the geographic area that may be assigned to the applicant selected for designation is the northern half of the State of Idaho down to the northern boundaries of Adams, Valley, and Lemhi Counties.

The geographic area presentlyu assigned to Utah pursuant to section 7(f)(2) of the Act and which is the geographic area that may be assigned to the applicant selected for designation is the entire State of Utah.

Interested parties, including Idaho, Lewiston, and Utah, are hereby given opportunity to apply for designation as the official agency for each respective specified geographic area, as described above, under the provisions of section 7(f) of the Act and § 800.196(b) of the regulations issued thereunder. The designations in each specified geographic area are for the period beginning December 1, 1982, and terminating November 30, 1985. Parties wishing to apply for either of these designations should contact the Chief, Regulatory Branch, Compliance Division, at the address listed above for appropriate forms and information. Applicants must be postmarked not later than July 6, 1982 to be eligible for consideration.

In making a determination as to which applicant will be designated to provide official inspection services in the geographic areas, consideration will be given to all applications submitted and all other information available.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 [7 U.S.C. 79])

Dated: May 28, 1982.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 82–15131 Filed 6–3–82; 8:45 am]

BILLING CODE 3410–02–M

Soil Conservation Service

North Jefferson Elementary School Flood Prevention R. C. & D. Measure, West Virginia

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines, (40 CFR Part 1500); and the Soil Conservation Service Guidelines, (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the North Jefferson Elementary School Flood Prevention RC&D Measure, Jefferson County, West Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Craig M. Right, State Conservationist, Soil Conservation Service, 75 High Street, Morgantown, West Virginia 26505, telephone 304–291–4151.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Craig M. Right, State Conservationist , has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns works of improvement to be installed to provide flood prevention. The planned works of improvement include approximately 1,080 feet of grassed waterway, 600 feet of diversion and 620 feet of drain tile to be installed in the bottom of the diversion.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Craig M. Right.

No administrative action on implementation of the proposal will be taken until July 6, 1982.

Date: May 24, 1982.Q02

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Craig M. Right,

State Conservationist.

[FR Doc. 82–14629 Filed 6–3–82; 8:45 am]

BILLING CODE 3410–16–M

Belfast City Park R. C. & D. Measure, Maine

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Billy R. Abercrombie, State Conservationist, Soil Conservation Service, USDA Office Building, University of Maine, Orono, Maine, 04473, telephone 207–866–2132.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Guidelines (7 CFR Part 1500); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Belfast City Park R. C. & D. Measure, Waldo County, Maine.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Billy R. Abercrombie, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for flood prevention. The planned works of improvement include a surface water control and disposal system. Conservation practices include diversions, drop inlets, underground conduits, and seeding.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Billy R. Abercrombie. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

Dated: May 24, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Billy R. Abercrombie,

State Conservationist.

[FR Doc. 82–14607 Filed 6–3–82; 8:45 am]

BILLING CODE 3410–16–M

Eastanollee Creek Critical Area Treatment R.C. & D. Measure, GA.; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of A Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Eastanolle Creek Critical Area Treatment Measure, Camden County, Georgia.

FOR FURTHER INFORMATION CONTACT: Dwight M. Treadway, State Conservationist, Soil Conservation Service, 355 East Hancock Avenue (P.O. Box 832), Athens, Georgia 30613, telephone: 404–546–2273.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Dwight M. Treadway, State Conservationist, has determined that the preparation and review of an

environmental impact statement are not needed for this project.

The objective of the sponsors is to stabilize sediment producing areas in the Eastanollee Creek Watershed. The planned works of improvement include streambank stabilization with rock or similar material and other materials, Vegetative material will be used to stabilize 12.5 acres of eroding streambank or areas exposed following construction. About 30 acres of gullies and eroding areas will be graded, shaped, and vegetated. Conservation practices include preservation of native vegetation and immediate stabilization of exposed areas.

The Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting Dwight M. Treadway.

No administrative action on implementation of the proposal will be taken until July 6, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 27, 1982.

Dwight M. Treadway,

State Conservationist.

[FR Doc. 82-15176 Filed 6-3-82; 8:45 am]

BILLING CODE 3410-16-M

Office of Rural Development Policy

National Advisory Council on Rural Development; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-163), notice is hereby given of a meeting of the National Advisory Council on Rural Development. The meeting will be held on June 23 and June 24, 1982 at the John Deere Center, John Deere Road, Moline, Illinois 61265. The meetings will begin at 9:00 a.m. each day.

The purpose of the meeting will be to develop preliminary policy options related to rural development issues and to discuss specific assignments for the remainder of fiscal year 1982.

The meeting will be open to the public. In order to provide opportunity for the public to comment on the work of the Council, written statements will be received two weeks prior to and two weeks following the meeting. Due to the press of business, however, public participation will be limited to written statements. Views and comments will be addressed in writing, and, when deemed appropriate by the Co-Chair, may be addressed orally at the next meeting of the Council.

Written comments, both prior to and following the meeting, should be addressed to: Mr. Willard (Bill) Phillips, Jr., Acting Director, Office of Rural Development Policy, Room 4128-S, United States Department of Agriculture, 12th and Independence SW., Washington, D.C. 20250, (202) 382-0044.

Dated: May 28, 1982.

Willard Phillips, Jr.,

Acting Director, Office of Rural Development Policy.

[FR Doc. 82-15234 Filed 6-3-82; 8:45 am]

BILLING CODE 3410-07-M

CIVIL RIGHTS COMMISSION

Kentucky Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Kentucky Advisory Committee to the Commission will convene at 1:00p and will end at 4:00p, on June 29, 1982, at the Executive Inn, 978 Phillips Lane, in the Dolphin Room, Louisville, Kentucky 40213. The purpose of this meeting will be to review the draft of a report on fair housing.

Persons desiring additional information should contact the Chairperson, James M. Rosenblum, 33 Ten Broeck Way, Louisville, Kentucky 40222, (502) 636-1411 or the Southern Regional Office, Citizens Trust Bank Building, 75 Piedmont Avenue, North East, Room 362, Atlanta, Georgia 30303, (404) 221-4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., June 1, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-15162 Filed 6-3-82; 8:45 am]

BILLING CODE 6335-01-M

Nevada Advisory Committee; Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Advisory Committee to the Commission scheduled for 1:00-5:00p on June 24, 1982, in the Federal Building, Reno, Nevada, (FR Doc. 82-14317 on page 22995) has been changed.

The date and time remain June 24, 1982, beginning at 1:00p and will end at 5:00p, the location is the Washoe County School District, Administration Building, Board Room, 425 East Ninth Street, Reno, Nevada, 89520.

Dated at Washington, D.C., June 1, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-15163 Filed 6-3-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Certain Textiles and Textile Products From Argentina; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of countervailing duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on certain textiles and textile products from Argentina, specifically men's and boys' woolen apparel. The review covers the period January 1, 1980 through December 31, 1980. There have been no known shipments of this merchandise to the United States during this period of review and there are no known unliquidated entries. As a result of this review, the Department has preliminarily determined to require a cash deposit of estimated countervailing duties equal to the net subsidy calculated in the original investigation, that is, 3.23 percent of the f.o.b. invoice price of the merchandise. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: June 4, 1982.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202, 377-1775/2786).

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1978, the Department of the Treasury published in the **Federal Register** (43 FR 53421) an affirmative final countervailing duty

determination regarding certain textiles and textile products from Argentina. The notice stated that the Government of Argentina had provided bounties or grants on the manufacture, production or exportation specifically of men's and boys' woolen apparel within the meaning of section 303 of the Tariff Act of 1930 ("the Tariff Act").

On January 1, 1980, the provisions of title I of the Trade Agreements Act of 1979 became effective. On January 2, 1980, the authority for administering the countervailing duty law was transferred from the Department of the Treasury to the Department of Commerce ("the Department"). The Department published in the Federal Register of May 13, 1980 (45 FR 31455) a notice of intent to conduct administrative reviews of all outstanding countervailing duty orders. As required by section 751 of the Tariff Act, the Department has now conducted an administrative review of the order on certain textiles and textile products from Argentina.

Scope of the Review

Imports covered by the review are men's and boys' woolen apparel imported from Argentina. Such apparel is currently classifiable under the items of the Tariff Schedules of the United States Annotated (TSUSA) listed in the Appendix to this notice.

The review covers the period January 1, 1980 through December 31, 1980. We reviewed two programs: (1) the *reembolso*, a cash rebate of indirect taxes paid as a percentage of the value of the exported merchandise, found countervailable in the final determination; and (2) a preferential financing program found countervailable in another investigation.

Preliminary Results of the Review

In response to our questionnaire regarding the countervailing duty order, the Government of Argentina stated that there were no exports to the United States of this merchandise during the period of review. Our examination of import statistics for that period confirms the statement. Furthermore, there are no known unliquidated entries of this merchandise.

At the time of the final determination the preferential short-term financing did not appear to be a bounty or grant because the interest rate charged was not less than that available commercially. Based on information supplied by the Government of Argentina, we find that situation continued to exist through the period covered by this review. Additionally, due to a reduction in the rate of the *reembolso* effective December 24, 1981, there is no indication that the benefits received under this program will exceed those found in the final determination.

As a result of our review, we preliminarily determine the potential rate of subsidy to be 3.23 percent *ad valorem* the rate found in the original countervailing duty determination.

Accordingly, as provided for by section 751(a)(1) of the Tariff Act, the Department intends to notify the Customs Service to collect a cash deposit of estimated countervailing duties of 3.23 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results on or before July 6, 1982 and may request disclosure and/or a hearing on or before June 16, 1982. Any request for an administrative protective order must be made no later than June 10, 1982. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

June 1, 1982.

Appendix—Wearing Apparel

372.0800(b)
372.1020(a)(b)
372.1050(a)(b)
372.2500(for male infants)
372.3000(b)
372.3500(b)
372.4000(b)
372.4500(b)
373.0500 of wool
373.1500
376.0800(b)
376.3510(b)
376.4000(b)
376.4500(b)
379.1100
379.1300
379.1510 through 379.1530
379.1710 through 379.1750
379.2010
379.2020
379.3520(a)
379.8615(a)
379.8934 through 379.8956(a)
379.7100
379.7240 through 379.7295
379.7400
379.7510
379.7530
379.7605 through 379.7650
379.7810 through 379.7850
379.7900
379.8100
379.8311 through 379.8360
379.8410
379.8420
379.8615(a)
379.8715(a)
379.9815(a)

(a) Wool articles classified under this TSUSA item number are covered by this notice if they are included in the textile category system used by the United States to monitor and administer the U.S. textile trade agreements made pursuant to the Arrangement Regarding International Trade in Textiles, December 20, 1973, 25 U.S.T. 1001, TIAS 7840.

(b) If the item is for men and boys, it is included in this notice. The term "men and boys" should be interepreted in accordance with the applicable headnotes to the schedule part and subpart in which the TSUSA number falls. Where the phrase is not covered by such headnotes, items classified under the TSUSA number which can be used by either sex are covered by this notice. Items under TSUSA numbers identifiable as being intended exclusively for women are not covered by this notice.

[FR Doc. 82-15140 Filed 6-3-82; 8:45 am]
BILLING CODE 3510-25-M

Leather Wearing Apparel From Colombia; Preliminary Results of Administrative Review of Suspension Agreement

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Suspension Agreement.

SUMMARY: The Department has conducted an administrative review of the suspension agreement for the countervailing duty investigation on leather wearing apparel from Colombia. The review covers the period April 2, 1981 through August 31, 1981. As a result of the review, the Department preliminarily determines that Confecciones Amazonas Orinoco, a Colombian exporter of leather wearing apparel to the United States, has complied with the terms of the suspension agreement. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: June 4, 1982.

FOR FURTHER INFORMATION CONTACT: Susan Silver or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202, 377-3601/2786).

SUPPLEMENTARY INFORMATION:

Background

On January 15, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 3255) a preliminary affirmative countervailing duty determination regarding leather wearing apparel from Colombia. On April 2, 1981, the Department published in the **Federal Register** (46 FR 19963) a notice of suspension of countervailing duty investigation. The Department noted that the suspension agreement between Confecciones Amazonas Orinoco ("CAO") and the Department met the criteria provided in sections 704 (b) and (d) of the Tariff Act of 1930 ("the Tariff Act"). In the notice, the Department also announced its intent to conduct an administrative review of the suspension agreement within twelve months, as provided for in section 751 of the Tariff Act. The Department has now conducted that administrative review.

Scope of the Review

The leather wearing apparel covered by this review is currently classifiable in items 791.7620, 791.7640 and 791.7660 of the Tariff Schedules of the United States Annotated. This merchandise includes men's, boys', women's, girls' and infants' leather coats and jackets and other leather wearing apparel (such as vests, pants and shorts), as well as parts and pieces thereof.

The review covers the period April 2, 1981 through August 31, 1981, and the only program found to constitute a subsidy in the preliminary affirmative countervailing duty determination, the Tax Reimbusement Certificate Program ("CAT").

Analysis of Program

Under the CAT program, exporters of leather wearing apparel receive tax certificates equal to 12 percent of the domestic value-added content, or effectively 9 percent of the f.o.b. value of each shipment. In the preliminary affirmative determination, the Department found the full benefit to be countervailable. We have now preliminarily determined that the potential rate of subsidy under this program was 9 percent *ad valorem* during the review period.

Compliance With Agreement

In the suspension agreement, CAO renounced all CAT benefits associated with exports of leather wearing apparel to the United States, and agreed not to accept substitute or equivalent benefits. The agreement can remain in force only so long as the shipments covered by the agreement account for at least 85 percent of exports of such merchandise to the United States.

On the basis of information provided by the Banco de la Republica (the central bank of Colombia) and the Colombian government, we have found that CAO did not apply for and received no benefits under the CAT program during the period of review. The government has also certified that no substitute or equivalent benefits were available to CAO, and that CAO did not indirectly derive these benefits. Although other exporters began to export to the United States during this period, our examination of the submitted information indicates that CAO continued to account for at least 85 percent of U.S. imports of such Colombian leather wearing apparel.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that CAO has complied with the terms of the suspension agreement for the period April 2, 1981 through August 31, 1981.

Interested parties may submit written comments on these preliminary results on or before July 6, 1982 and may request disclosure and/or a hearing on or before June 16, 1982. Any request for an administrative protective order must be made no later than June 10, 1982. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

June 1, 1982.

[FR Doc. 82-15250 Filed 6-3-82; 8:45 am]

BILLING CODE 3510-25-M

Stainless Clad Steel Plate From Japan; Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Determination of Sales at Less Than Fair Value.

SUMMARY: We have determined that stainless clad steel plate from Japan is being sold, or is likely to be sold, in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930. The U.S. International Trade Commission ("ITC") will determine within 45 days of the publication of this notice whether these imports are materially injuring, or threatening to materially injure, a U.S. industry.

EFFECTIVE DATE: June 4, 1982.

FOR FURTHER INFORMATION CONTACT: Paul Nichols, Office of Investigations, International Trade Administration, Department of Commerce, Washington, DC 20230, (202) 377-1768.

SUPPLEMENTARY INFORMATION:

Case History

On October 6, 1981, we received a petition in proper form from counsel on behalf of Lukens Steel Company, Coatesville, Pennsylvania, alleging that stainless clad steel plate from Japan is being sold at less than fair value within the meaning of section 731 of the Tariff Act of 1930 ("the Act") (19 U.S.C. 1673).

Upon reviewing the petition, we determined it contained sufficient grounds to initiate an antidumping investigation, and we published a "Notice of Initiation" in the **Federal Register** on October 15, 1981 (46 FR 50814).

On November 13, 1981, the ITC determined that there is a reasonable indication that an industry in the United States is being materially injured, or is threatened with material injury, by reason of imports of stainless clad steel plate from Japan. The ITC published notice of its determination in the **Federal Register** on December 2, 1981 (46 FR 58619).

During the course of this investigation, including an on-site review of Japan Steel Works' ("JSW") records, JSW refused to disclose certain information on home market and U.S. sales which the Department believed to be necessary in order to assure itself that: (1) JSW properly selected "such or similar" sales in the home market from the total of all home market sales (the Department could not establish, for example, that sales selected by JSW were, in fact, those which were most similar to U.S. sales); and (2) all sales to the U.S. of stainless clad steel plate had been included in response to the Department's request.

On March 19, 1982, we preliminarily determined that stainless clasd steel plate from Japan is being, or is likely to be, sold in the United States at less than fair value (47 FR 12200). In view of JSW's refusal to allow access to certain information, this determination was based upon the best information available, which was found to be the petitioner's information. On April 2, 1982, we were notified by counsel for JSW that no further information would

be submitted by JSW in this proceeding. By separate letter of the same date, JSW also requested the return of all confidential documents, including the response submitted to the Department during the course of this investigation.

On April 6, 1982, counsel for Lukens was granted the opportunity to submit supplemental information prior to the final determination in this case. By letter dated April 7, 1982, Lukens informed the Department that it would not supplement nor amend the data submitted as part of its petition. On April 7, 1982, we returned to JSW all documents submitted by them during the course of this investigation.

The Department is making this final determination based on the best information otherwise available during the course of this proceeding, in accordance with section 776(b) of the Act (19 U.S.C. 1677e(b)). Information submitted by the petitioner at the time of the initiation of this case has been determined to be the best information available, as it was for the preliminary determination.

Scope of Investigation

The merchandise covered by this investigation is stainless clad steel plate currently classifiable under item number 607.94 of the *Tariff Schedules of the United States (TSUS)*. The product is a rectangular finished steel mill product consisting of a layer of stainless steel bonded to a substrate of less expensive carbon or low alloy steel. Depending on its intended use, stainless clad steel plate can be produced in various combinations of stainless and base materials, and in various other dimensions and qualities as specified by the customer. Stainless clad steel plate has many applications where the corrosion resistance of stainless steel and the higher design strength of carbon or alloy steel are required.

This investigation covers sales made between February 1 and October 31, 1981. JSW was the only known Japanese producer of clad steel plate for export to the United States during the investigative period.

Methodology of Fair Value Comparison

Comparisons were made between United States price and the foreign market value of the imported merchandise.

United States Price

We used purchase price, as defined in section 772(b) of the Act, to determine the United States price because the price of stainless clad steel plate to unrelated purchasers in the United States was agreed to before the merchandise was imported into the United States. We calculated the purchase price on the basis of data contained in the petition concerning JSW's delivered price to unrelated U.S. purchasers, with deductions for inland freight, handling, ocean freight, and Customs duty, which were also based upon data in the petition.

Foreign Market Value

We used the constructed value in accordance with section 773(a)(2) of the Act to determine foreign market value because of the absence of home market or third country sales data. We calculated constructed value on the basis of data contained in the petition concerning materials, labor, overhead costs and packing. We also included the statutory amounts for general expenses (10 percent) and profit (8 percent) in accordance with section 773(e)(1) of the Act.

Issue: In our preliminary determination, we considered the petitioner's contention that "critical circumstances" existed with respect to this case and determined that the allegation failed to satisfy the requirements of section 733(e)(1)(A)(ii).

DOC Position: No new information has been submitted which would factually support a determination different from the conclusion reached in the preliminary determination.

No additional issues have been raised by counsel for the petitioner or respondent since the preliminary determination.

Final Determination

Based on our investigation, and in accordance with section 735(a) of the Act, we have reached a final determination that stainless clad steel plate from Japan is being sold, or is likely to be sold, at less than fair value within the meaning of section 731 of the Act. Margins were found on all of the sales compared. The average margin on all sales compared was 14 percent.

We have provided interested parties with an opportunity to present oral views in accordance with 19 CFR 353.47 and written views in accordance with 19 CFR 353.46(a). All views presented have been considered in making this determination.

Continuation of Suspension of Liquidation

The liquidation of all entries, or withdrawals from warehouse, for consumption of this merchandise will continue to be suspended. The U.S. Customs Service will continue to require posting of a cash deposit, bond, or other security in the amount of 14 percent of the f.o.b. value of the imported product.

ITC Notification

We are notifying the ITC of this action so that it may determine whether these imports are materially injuring, or threatening to materially injure, a U.S. industry. That determination is due on or before July 19, 1982.

As section 735(c)(1)(A) of the Act requires, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

If the ITC determines that material injury does not exist, this proceeding will be terminated, and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, within seven days we will issue an antidumping order, directing customs officers to assess an antidumping duty on all stainless clad steel plate from Japan entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the United States price.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

May 28, 1982.

[FR Doc. 82-15251 Filed 6-3-82; 8:45 am]
BILLING CODE 3510-25-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Restraint Level of Certain Wool Apparel Products From Thailand

May 28, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing by 475 dozen the level of restraint established for wool sweaters in Category 445/446, produced or manufactured in Thailand and exported during the year which began on January 1, 1982 and extends through December 31, 1982. The adjusted level will be 11,715 dozen.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48983), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654))

SUMMARY: Under the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of October 4, 1978, as amended, between the Governments of the United States and Thailand, an investigation has been held concerning a discrepancy in the data affecting imports of wool textile products in Category 445/446. It has been concluded that 475 dozen have been improperly charged to the level of restraint established for the category during the year which began on January 1, 1982. Accordingly, the level of restraint for this category is being increased by 475 dozen to 11,715 dozen.

EFFECTIVE DATE: June 3, 1982.

FOR FURTHER INFORMATION CONTACT: Gordana Slijepcevic, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On December 18, 1981, there was published in the **Federal Register** (46 FR 61689) a letter dated December 14, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool, and man-made fiber textile products, produced or or manufactured in Thailand, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1982 and extends through December 31, 1982. As a result of a data discrepancy investigation, which uncovered an improper charge amounting to 475 dozen, the Chairman of the Committee for the Implementation of Textile Agreements, in the letter published below, directs the Commissioner of Customs to adjust the level of restraint for Category 445/446 by the amount of that charge to 11,715 dozen.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

May 28, 1982.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 14, 1981 by the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool, and man-made fiber textile products, produced or manufactured in Thailand.

Effective on June 3, 1982, paragraph 1 of the directive of December 14, 1981 is amended to include an adjusted level of restraint of 11,715 dozen for wool textile products in Category 445/446.[1]

The action taken with respect to the Government of Thailand and with respect to imports of wool textile products from Thailand has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exceptions to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR. Doc. 82–15252 Filed 6–3–82; 8:45 am]

BILLING CODE 3510–25–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

New

Report from Employer, School, Personal Reference.

Form is used by recruiters to request reference reports on applicants for enlistment in the Armed Forces. Information requested is necessary to determine eligibility for enlistment.

Former and current employers, schools attended, personal references; 840,180 responses; 140,030 hours.

Forward comments to Mr. Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, DC 20503, and Mr. John V. Wenderoth, DOD Clearance Officer, OASD(C), DIRMS, IRAD, Room 4B929, Pentagon, Washington, DC 20301; telephone (202) 697–1195.

A copy of the information collection proposal may be obtained from Mr. Robert L. Newhart, OASD, MRA&L(PI), Room 3C800, Pentagon, Washington, DC 20301; telephone (202) 695–0643.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

June 1, 1982.

[FR Doc. 82–15170 Filed 6–3–82; 8:45 am]

BILLING CODE 3810–01–M

[1] The level of restraint has not been adjusted to account for any imports after December 31, 1981.

DEPARTMENT OF ENERGY

Bonneville Power Administration

Errors and Ambiguities in Utility Power Sales Contracts Offered August 28, 1981; Correction

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of Correction of Errors and Ambiguities Contained in Utility Power Sales Contracts Offered August 28, 1981.

SUMMARY: This Notice describes corrections of errors and ambiguities contained in the utility power sales contract which was offered by BPA to its customers on August 28, 1981. These corrections will appear in an Amendatory Agreement to be offered to those BPA customers which were offered such contracts.

The Amendatory Agreement is part of a settlement package proposed by BPA customers to revolve outstanding contract issues and pending litigation. This Amendatory Agreement is being offered immediately to BPA customers since it merely corrects or explains existing contract language to conform with the original intent of the parties.

The Notice contains the August 28th utility power sales contract, general contract provisions, and exhibit language with new language inserted and underlined. The contract language is followed by an explanation of the issues involved and how the language was added to or modified.

All Federal actions are subject to the National Environmental Policy Act (NEPA). A preliminary analysis of the impacts of correcting the errors and ambiguities in the power sales contracts does not reveal significant impacts to the quality of the human environment. A Brief Memorandum to the Files, documenting these findings, will be prepared and will be available to the public upon request.

FOR FURTHER INFORMATION CONTACT:

Ms. Donna L. Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212, 503–230–3478. Oregon callers may use the toll-free number 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use 800–547–6048.

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97208, 503–230–4551;

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Street, Eugene, Oregon 97401, 503–345–0311.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2518.

Mr. Gordon H. Brandenburger, Kalispell District Manager, P.O. Box 758, Kalispell, Montana 59901, 406–755–6202.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington, 98801, 509–662–4377, extension 379.

Mr. Richard D. Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206–442–4130.

Mr. Roy Nishi, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509–525–5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.

SUPPLEMENTARY INFORMATION: The Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96–501 (Regional Act), required BPA to simultaneously offer, within 9 months of the date of enactment, which was December 5, 1980, long-term sales contracts to (1) existing public body and cooperative customers and investor-owned utility customers, (2) Federal agency customers, (3) electric utility customers participating in the residential exchange, and (4) direct-service industrial customers. BPA offered utility power sales contracts to its customer on August 28, 1981. The customers have 1 year, until August 28, 1982, to accept the offered contracts. This Notice corrects errors and ambiguities contained in the utility power sales contract offered on August 28, 1981.

On November 12, 1981, BPA's public agency customers met with BPA to discuss problems they felt remained unresolved with the offered contracts. They expressed the view that if these outstanding issues were resolved they might be able to sign the offered contracts.

BPA met with customer representatives on November 17 and November 20, 1981, to discuss the outstanding issues raised by the public agencies and investor-owned utilities. In response, BPA's Administrator sent out a November 27, 1981, letter to BPA's customers and interested parties noting customer concern regarding (1) errors and ambiguities in the contract, (2) issues relating to the optimum, efficient, and economical use of BPA and its customers systems, and (3) substantive issues related to each party's rights and obligations under the contracts. BPA stated that it would attempt to resolve issues included in categories (1) and (2) but would not discuss issues in category (3).

Just prior to expiration of the deadline for filing, each of BPA's customer classes filed a lawsuit challenging BPA's contract offers. These lawsuits include *Public Power Council v. Johnson, Pacific Power* and *Light v. Johnson*, and *Alcoa v. BPA* Ninth Court of Appeals Action No. 81–7806, 81–7803, and 81–7813, respectively. The first two lawsuits involved challenges to the utility power sales contract offer. The third lawsuit challenges provisions of BPA's residential purchase and sale agreement offer.

In March 1982, BPA reached a settlement agreement with the investor-owned utilities which were petitioners in *Pacific Power and Light v. Johnson* and the direct-service industries which were petitioners in *Alcoa v. BPA*. Settlement of these two lawsuits was conditioned on the public agencies not raising issues in their briefs in *Public Power Council v. Johnson* which the petitioners felt affected the cost or quality of service to investor-owned utilities or direct-service industries.

In April 1982, the BPA Administrator met with public agency customers to discuss whether it would be possible to reach a settlement instead of proceeding with its lawsuit. BPA encouraged the public agency customers to attempt to reach a settlement of outstanding issues with BPA's other customer classes. BPA also informed its public agency customers that BPA could not commit itself in a settlement agreement to offer contract amendments nor would BPA offer proposed contract amendments on issues of substance until BPA had provided for public comment, consulted with interested agencies and groups, and complied with the National Environmental Policy Act of 1969 (NEPA).

Between April 26 and April 30, 1982, BPA's public agency customers called a series of meetings of all BPA customers to attempt to resolve outstanding issues in the contract offers, including the issues raised in the lawsuits. BPA attended these meetings at the request of the public agency customers.

The areas of discussion included (1) errors and ambiguities in the utility power sales contract, (2) an investor-owned utility proposal to modify the Contracted Requirements provisions of the contract, and (3) issues in the public agency customers' lawsuit. The public agency customers called an additional meeting on May 7 where agreement was reached by BPA's customer classes on a package of proposed solutions which the customers asked the BPA Administrator to implement.

A part of the proposed settlement package is an Amendatory Agreement addressing the correction of errors and ambiguities, as described in this Notice. BPA has determined that the amendments proposed by utilities and listed below do not require public comment or consultation with interested agencies or groups before being offered. These amendments correct errors and clarify ambiguities discovered in the contracts offered on August 28, 1981. They do not change materially the obligations of the parties under the offered contracts. Other amendments proposed by the utilities do provide for different obligations under the contracts, and BPA will separately publish those proposed amendments, seek comment, and consult with interested agencies and groups before deciding whether they should be offered.

The following language is the resolution of "errors and ambiguities," identified by utilities, which will appear in the Amendatory Agreement described above. The original power sales contract, general contract provision and exhibit language is shown with the new language inserted and underlined. The language is followed by an explanation of the issue and how the contract language was added to or modifies.

A. Section 3(b) is deleted and replaced by a new section 3(b) ad follows:

1. *Existing Contract language with proposed new contract language inserted.*

"Actual Firm Peak Load" and "Actual Firm Energy Load" mean the actual maximum integrated one-hour monthly peak and average monthly energy loads, respectively, of the Purchaser's system in the Pacific Northwest, for each Billing Month, after adjustment pursuant to section 17(e). Such actual loads shall not include any load to the extent that the Purchaser had a unilateral right to interrupt such load during such month, even if such load was not actually interrupted, but shall include the amount of any load which the Purchaser *had a right to interrupt or* actually interrupted for the purpose of backing up or providing economic operation of *its system including* its Firm Resources. In addition, any New Large Single Load or portion of such load shall not be included in the Purchaser's firm loads hereunder prior to the date Bonneville is obligated to supply such load with Firm Power pursuant to the terms of section 8(e). Contractual obligations of the Purchaser to utilities outside its normal service area may, if permitted by the terms of section 12(a), be included in the Purchaser's Firm Resources, but shall not be included in the Purchaser's Actual Firm Loads hereunder. Actual Firm Peak Load and Actual Firm Energy Load shall be referred to collectively as "Actual Firm Load."

2. *Explanation of error or ambiguity and proposed resolution.* The contract as offered on August 28, 1981, includes a definition of Actual Firm Loads, Section 3(b), which BPA is obligated to serve pursuant to the power sales contract. There is a corresponding definition of Estimated Firm Loads, Section 3(o), which is used for planning purposes and determining BPA's estimated obligation to serve a utility in the upcoming Operating Year. Under the terms of both definitions, BPA does not provide service to any load where the purchaser has a unilateral right to interrupt service to such loads. The definitions provide an exception to this priniciple where the utility may interrupt the load only for the purposes of backing up its Firm Resources or promoting the economic operation of its Firm Resources. The parties agreed that the definition of Estimated Firm Load clearly included the loads covered by the exception but that it was ambiguous whether such loads were actually included by the language in the definition of Actual Firm Load. An additional issue was raised concerning the effect of the language on interruptible loads on the implementation of load management schemes. The utilities were concerned that the language on interruptible loads might prevent the use of load management schemes when load management was an alternative to the installation of additional distribution facilities in a congested urban area. Such result is an ambiguity in the language and would result in an unintended effect from the definition of Actual Firm Load and Estimated Firm Load.

It was determined that the ambiguity regarding which interruptible loads could receive service from BPA could be cleared up by the insertion of the words "had a right to interrupt or" between the words "purchaser" and "actually" in the second sentence of the definition of Actual Firm Loads. It was also determined that the insertion of the words "its system including" between the phrases "economic operation of" and "its Firm Resources" would make clear that load management schemes could promote economic operation of a utility's entire system instead of only its resource use. A corresponding change in the definition of estimated firm loads was also made to not preclude the intended use of load management schemes.

3. *Corresponding change in the existing contract language in section 3(o) to follow changes in section 3(b).*

"Estimated Firm Peak Load" and "Estimated Firm Energy Load" mean the best estimate of the maximum integrated one-hour monthly peak and average monthly energy loads of the Purchaser's system in the Pacific Northwest which are equally likely to be less than or greater than the Purchaser's actual peak and energy loads in each month under normal weather conditions, except that the Purchaser may increase the largest of such monthly peak loads during the Operating Year to represent the peak load which is equally likely to be less than or greater than the Purchaser's actual peak load during the Operating Year. Such system loads shall be reduced by any and all loads to the extent that the Purchaser has unilateral rights to interrupt deliveries to such load during each month of such Operating Year, excepting loads which the Purchaser has a right to interrupt for the purpose of backing up or providing economic operation of *its system including* its Firm Resources. In addition, any New Large Single Load or portion of such load shall not be included in the Purchaser's firm loads hereunder prior to the date Bonneville is obligated to supply such load with Firm Power pursuant to the terms of section 8(e). Contractual obligation of the Purchaser to utilities outside its normal service area may, if permitted by the terms of section 12(a), be included in the Purchaser's Firm Resources, but shall not be included in the Purchaser's firm loads hereunder. Estimated Firm Peak Load and Estimated Firm Energy Load shall be referred to collectively as "Estimated Firm Load."

B. Exhibit B, Section 8(d)(3) is deleted and replaced by a new Exhibit B, Section 8(d)(3) as follows:

1. *Existing general contract provision language with proposed new language inserted.*

Upon adoption of a methodology as provided in section 4(f)(2) and section 4(e)(3)(G) of Pub. L. 96–501, Bonneville will give notice of intent to adopt a *policy*, provide opportunity for public comment, and publish draft procedures in the **Federal Register** for imposing surcharges. Such *proposed policy* shall include:

(A) standards to be met before Bonneville will excuse surcharges which would otherwise be appropriate, consistent with Bonneville's obligations to implement cost-effective conservation measures to the maximum extent practicable;

(B) that Bonneville will impose surcharges to the extent not excused or suspended under the terms of the *policy;*

(C) an opportunity for interested persons to present views, data, questions, and arguments to Bonneville relevant to the imposition of surcharges in specific instances, and the adequacy of financial assistance made available by Bonneville;

(D) that surcharges imposed will be continued to the extent and for the period projected energy savings attributable to cost-effective model conservation standards are not achieved;

(E) for recovery from the Purchaser of the additional costs (including increases in the Utility's average system cost) that Bonneville will incur because the projected energy savings attributable to model conservation standards have not been achieved, subject to the limitations set forth in sections 4(f)(1) and 4(f)(2) of Pub. L. 96–501; *provided, however,* that surcharges will not be levied as a result of an increase in a Utility's average system cost except to the extent that the Utility failed to implement conservation measures that are designed to be cost-effective for its Consumers in terms of the electric rates its Consumers pay.

2. *Explanation of ambiguity and proposed resolution.* The utilities have expressed a concern that section 8(d)(3) of the General Contract Provisions imposed an unlawful method of establishing policy. Section 8(d)(3) requires BPA to establish standards for the imposition of conservation surcharges after the Regional Council adopts a methodology for determining when surcharges should be applied. Such standards should provide guidelines as to when BPA will exercise its discretion and not impose surcharges recommended by the Regional Council. Section 8(d)(3) included 5 standards and provided that "such rule shall include"

these standards. The utilities were concerned that by stating that the rule must include these standards, they would be denied an opportunity to comment on the standards.

The concern of the utilities was an unintended result. The contract amendment changes "such rule shall include" to "such proposed policy shall include" to reflect BPA's intent to allow interested parties an opportunity to comment on the proposed standards. BPA also changed the language of section 8(d)(3) from the development of a rule to the development of a policy to clearly reflect the Agency action which is occurring.

The correcting language provides that BPA will issue a proposed policy containing standards described in section 8(d)(3). The correcting language reflects that BPA would be required to provide notice of and an opportunity to comment on proposed standards under 8(d)(3) before adoption by BPA.

C. Exhibit B is amended by adding section 8(g) as follows:

1. *Existing general contract provision language with proposed new language inserted.*

(g) *Bonneville shall establish and apply a discount to the rate or rates of utility Customers with low system densities. The level of such discount and the standards for determining which Customers qualify for such discount shall be established pursuant to the rate adjustment process described in this section.*

After 5 years of experience in the application of such discount, Bonneville shall review the level and standards of such discount. Such review will occur independently of the rate adjustment process, and at such time Bonneville and the Purchaser may consider an amendment to this contract to fix the level of the discount and the standards for Customer qualification for the balance of the term of this contract, or such other amendments as the parties deem appropriate. Any such amendments shall be by mutual agreement of Bonneville and the Purchaser.

2. *Explanation of error and proposed resolution.* When BPA offered the power sales contract on August 28, 1981, BPA inadvertently omitted section 8(g) of the General Contract Provisions. This section provides for an independent review after 5 years of the discount for low system density which BPA has developed through the rate adjustment process. While BPA has previously sent a letter to its customers explaining the inadvertent omission of section 8(g) of the GCP's, it was determined that such section should be included in a signed amendment to the contract.

D. Exhibit B, Section 55 is deleted and replaced by a new Exhibit B, Section 55 as follows:

1. *Existing general contract provision language with proposed new language inserted.*

Resale of Power. The Purchaser shall not resell Firm Power delivered under this contract except to those Consumers and utilities within its service area in the Pacific Northwest to the extent such Consumers and utilities are normally dependent on the Purchaser for their firm power supplies. The Purchaser shall not sell power from its Firm Resources in such a manner as to increase the Purchaser's Computed Peak Requirement or Computed Average Energy Requirement on BPA in any month. These prohibitions on resale in this section shall not be interpreted as a general prohibition against the Purchaser simultaneously purchasing Firm Power from BPA and selling power generated at its own facilities to other utilities *or entities, nor shall these prohibitions be interpreted to preclude the Purchaser from reflecting the cost of Firm Power delivered under this contract in pricing such sales to other utilities or entities.*

2. *Explanation of error or ambiguity and proposed resolution.* An area of concern to generating utilities was BPA's intended application of section 55 of the General Contract Provisions regarding resale of power. These utilities were concerned that section 55 would prevent them from reflecting the cost of BPA power in pricing of their own surplus resources. It was agreed that the intent of such language was to require that surplus sales by utilities be made from its own resources and not from power purchased from BPA, but that the pricing of the sale of customer resources should not be affected by the contractual prohibition on reselling Federal power. This result was accomplished by inserting at the end of the section the phrase "or entities, nor shall these prohibitions be interpreted to preclude the Purchaser from reflecting the cost of Firm Power delivered under this contract in pricing such sales to other utilities or entities."

E. Exhibit D, Definition Z of section 7 is deleted and replaced by a new Definition Z as follows:

1. *Existing Contract contract language with proposed new language inserted.*

Z=The load growth of the Purchaser since passage of Pub. L. 96-501 and any deficits of investor-owned utilities determined by subtracting from BPA's estimate of the Purchaser's Actual Firm Load for the Operating Year for which the allocation will apply either (1) the Purchaser's Actual Firm Load in *the first Operating Year for which Bonneville's load growth notice in section 10(e) of this agreement is effective* for public body, cooperative and Federal agency Customers; or (2) the contribution to the Purchaser's Assured Capabilities for such Operating Year for a Purchaser on Computed Requirements or the planning capability for a Purchaser on Metered Requirements of any Firm Resources which were included as 5(b)(1)(A) resources in the Purchaser's Firm Resource Exhibit for investor-owned utilities. "Z" shall be deemed to be one for Customers where "Z" is less than one

2. *Explanation of ambiguity and proposed resolution.* Sections 9(e), 11(b)(4), and definition Z in Exhibit D of the contract offered on August 28, 1981, use a July 1, 1983, date to measure the load growth of a public agency in determining the amount of resources such utility should construct to meet its load growth under the Regional Act. It was felt that due to BPA's present draft forecast of regional loads and resources, the July 1, 1983, date was no longer appropriate for determining when public agency customers should commence constructing resources. It was felt that the section specified could be made effective by replacing the July 1, 1983, date with a later date when BPA would need to acquire resources to meet its obligations under the power sales contracts.

Correcting language was inserted in section 10(e) of the power sales contract to provide a 5-year notice to public agency customers of the need to commence construction of resources. BPA may give this notice at any time in the future when it determines additional resources are needed to meet regional needs. Such notice would provide a new date to measue a utility's obligation to construct resources to meet its load growth and make the referenced sections of the contract which depended on a July 1, 1983, date operative.

Definition Z of section 7 of Exhibit D in the power sales contract is used as the denominator of a ratio which allocates certain specified resources. These resources are allocated to different utilities based on the relative success each utility has had in developing resources to meet its load growth. This ratio is used to allocate intraclass excess entitlements described in section 5(e)(1) of the Regional Act. While the ratio using definition Z would work based on July 1, 1983, date, the ratio using definition Z as changed by the load growth notice in section 10(e) will more accurately reflect a customer's success in building resources to meet its load growth.

F. Exhibit K is deleted and replaced by a new Exhibit K as follows:

1. *Existing contract exhibit language.*

This exhibit is unique to the Customer.

2. *Proposed new contract or general contract provision language.*

(5) *Exhibit K is deleted and replaced by a new Exhibit K attached hereto and by this reference made a part of this contract in accordance with the specific provisions of this contract relating to Exhibit K.*

3. *Explanation of error or ambiguity and proposed resolution.* Exhibit K of the contract offered on August 28, 1981, provides an exhibit which lists in Table 1 a Purchaser's loads which are New Large Single Loads and in Table 2 a list of the Purchaser's loads and the amounts of energy which were contracted for, or committed to prior to September 1, 1979. These determinations are made pursuant to section 3(13) of Pub. L. 96–501 and section 8 of the power sales contract. The existing language specifies that Exhibit K is for information purposes only. Utilities were concerned that such phrase would reduce the certainty they hoped such exhibit would provide. They were also concerned that the word "none" listed on the Tables would imply that such utilities did not have any facilities which were contracted for, or committed to. It was agreed such language should be changed to "no determinations have been made as of the effective date set forth above.

G. Section 8(i) is deleted and replaced by a new Section 8(i) as follows:

1. *Existing Contract provision language with proposed new language inserted.*

(i) *Compliance.* Bonneville and the Purchaser agree that should a Purchaser fail to report a New Large Single Load of which the Purchaser has, or reasonably should have had knowledge, such Purchaser shall be backbilled from the date the increase in load became a New Large Single Load. For this subsection only, such backbilling shall include the following costs: (1) the difference between the Priority Firm Power Rate Schedule or its successor rate schedule and the New Resource Firm Power Rate Schedule or its successor rate schedule; (2) interest charges on the backbilled amount determined at Bonneville's prevailing interest rate; and (3) a late payment charge on the backbilled amount. *This section 8(i) shall not apply if the Purchaser is an investor-owned utility.*

2. *Explanation of error or ambiguity and proposed resolution.* Section 8(i) of the contract provides a backbilling provision in the event the customer fails to report a New Large Single Load. Such backbilling is based on the difference between the Priority Firm Power Rate Schedule and the New Resource Firm Power Rate Schedule. The contract offered on August 28,1981, failed to specify that such section does not apply to investor-owned utilities. Investor-owned utilities are already purchasing power at the New Resource Firm Power Rate Schedule so that billing for Firm Power would not be affected by a New Large Singel Load.

H. Section 9(e) is deleted and replaced by a new Section 9(e) as follows:

1. *Existing Contract provision language with proposed new contract language inserted.*

The limitations of subsection (b) above shall not apply if the Purchaser has developed adequate resources to meet its load growth including the increase in load resulting from service to a new facility of a Consumer or additional service to an existing facility of a Consumer and replace reductions in its Firm Resources which are included as 5(b)(1)(A) resources in its Firm Resources Exhibit. The Purchaser shall be deemed to have *developed* [built] adequate resources for Bonneville to supply such increase in load if *on an estimated basis,* the Purchaser has *provided* [developed] resources which were dedicated to its load *as 5(b)(1)(B) resources* or *made available* [sold] to BPA equal to the sum of (1) reductions in 5(b)(1)(A) resources between the '79–80 Operating Year and the date specified in subsection (b)(2) above *which either: (A) resulted from factors reasonably within the control of the Purchaser; or (B) the Purchaser could anticipate on the date it gave notice under subsection (b) above;* and (2) growth in Actual Firm Energy Load between (A) the *first Operating Year for which Bonneville's notice under section 10(e)* is effective and the date specified in (b)(2) above for public bodies, cooperatives and Federal agencies or (B) the '79–80 Operating Year and the date specified in (b)(2) above for investor-owned utilities.

2. *Explanation of ambiguity and proposed resolution.* Section 9(e) of the contract provides an exemption from the notice requirement of section 9(b) when the customer is adding a large single load. Section 9(b) of the contract provides for up to 7 years' notice before a utility can add a large single load of more than 35 average MW where BPA is unable to acquire resources to serve such load. Section 9(e) exempts a customer from such requirement when that customer has developed adequate resources to meet its load growth and replace reduction of resources it is required to have available to serve its load. Without the change in the amount of load growth the customer is required to construct resources to meet, this section would become inoperable since a utility should not build resources when there is no regional need. Using the load growth notice in section 10(e) will allow this section to operate as intended.

Language in the second sentence of section 9(e) was also changed to clarify how the measurement will be made as to whether a utility has developed adequate resources. The words "on an estimated basis" were inserted to clarify BPA's intent that a purchaser's load growth and reductions of resources would be measured on an estimated basis when a utility invoked the exemption of section 9(e). Conditions on how to measure reductions of 5(b)(1)(A) resources were also included to clarify that such reductions would be measured on an estimated basis. The amount of resources a customer would be required to develop would be fixed at the start of a 7-year period. The customer would then be responsible for ensuring that BPA has access to that amount of resources during such 7-year period. BPA would not be required to acquire the resources provided by the customer, but such resources would be available for acquisition if such resource turned out to be the cost-effective resource available to meet such obligation.

I. Section 10 is amended by adding a new Section 10(e) as follows:

1. *Proposed new contract language.*

(e) *For purposes of sections 9(e), 11(b)(4), and Definition Z of Exhibit D only, prior to July 1 of any year Bonneville may notify the Purchaser that Bonneville needs to acquire additional resources to meet the Purchaser's load growth occurring after the start of the Operating Year specified in the notice. Such Operating Year shall not commence prior to the expiration of the fifth full Operating Year after Bonneville notifies the Purchaser hereunder.*

2. *Explanation of error or ambiguity and proposed resolution.* Sections 9(e), 11(b)(4), and definition Z in Exhibit D of the contract offered on August 28, 1981, use a July 1, 1983, date to measure the load growth of a public agency in determining the amount of resources such utility should construct to meet its load growth under the Regional Act. It was felt that due to BPA's present draft forecast of Regional loads and resources, the July 1, 1983, date was no longer appropriate for determining when public agency customers should commence constructing resources. It was felt that the sections specified could be made effective by replacing the July 1, 1983, date with a later date when BPA would need to acquire resources to meet its obligations under the power sales contracts.

Correcting language was inserted in section 10(e) of the power sales contract to provide a 5-year notice to public agency customers of the need to commence construction of resources. BPA may give this notice at any time in the future when it determines additional

resources are needed to meet Regional needs. Such notice would provide a new date to measure a utility's obligation to construct resources to meet its load growth and make the referenced sections of the contract which depended on a July 1, 1982, date operative.

J. Section 11(b)(4) is deleted and replaced by a new Section 11(b)(4) as follows:

1. *Existing Contract provision language with proposed new contract language inserted.*

If regional curtailment has been requested after July 1, 1982, because BPA is unable to acquire sufficient resources to meet its firm obligations, BPA shall reduce the amount of load curtailment determined in paragraph (3) above during any month if the Purchaser's load growth as specified in subparagraph (A) below exceeds the amount of resources which the Purchaser has dedicated to its own load or made available to BPA as specified in subparagraph (B) below. Such amount of load curtailment for each month shall be reduced partially or in its entirety by the amount which (A) exceeds (B) below:

(A) the excess of the Purchaser's Actual Firm Energy Load in average megawatts over the Purchaser's Actual Firm Energy Load in average megawatts for the same month during the *Operating Year prior to the first Operating Year for which Bonneville's load growth notice in section 10(e) of this agreement is effective;* and

(B) the annual firm energy capability in average megawatts of (i) resources acquired by BPA from the Purchaser under Pub. L. 90–501; and (ii) the portion of the Purchaser's Firm Resources which are included as 5(b)(1)(B) resources in its Firm Resources Exhibit. Such resources shall not include conservation programs to the extent such programs have been reflected in the Purchaser's Actual Firm Energy Load in subparagraph (A) above.

2. *Explanation of error or ambiguity and proposed resolution.* Section 11 of the contract offered on August 28, 1981, provides a compensation payment in the event of Regional curtailment. This payment reflects the difference between a customer retail rate and the wholesale power rate a customer pays to BPA. This provision is designed to reduce the effect on utility retail rates due to regional curtailment programs designed to assist another utility.

Section 11(b)(4) provides that such compensation payment shall be reduced if BPA is the entity requesting regional curtailment and a utility has not developed adequate resources to meet its load growth. Customers would become ineligible for payments under section 11 without the load growth notice provided in section 10(e).

K. Section 12(b)(10) is deleted and replaced by a new Section 12(b)(10) as follows:

1. *Existing Contract language with proposed new contract language inserted.*

Any Firm Resource may be removed from the Purchaser's Firm Resources Exhibit for any Operating Year or Years to the extent that equivalent peak and energy capability from another *firm resource* is added to the Purchaser's Firm Resources Exhibit for such year or years. Such added resource shall be one which was not planned as of December 5, 1980, to meet the firm load growth in the Pacific Northwest or, if so planned, has been offered for sale to BPA and BPA has declined such offer.

2. *Explanation of error or ambiguity and proposed resolution.* Section 12(b)(10) of the contract was changed to reflect a typographical error in the first sentence of such subsection. The contract offered on August 28, 1981, capitalized the term firm resource in the phrase "from another firm resource is added" in the first sentence of section 12(b)(10). Firm resource in such phrase should be a lower case term.

L. Section 14 is amended by adding a new Section 14(e) as follows:

1. *Proposed new contract language.*

(e) *Nothing in this Power Sales Contract shall be construed to create, or to preclude, adversely affect of otherwise limit in any manner, rights of the Purchaser to purchase nonfirm energy from Bonneville under appropriate terms and conditions in separate agreements at the rate specified in the Wholesale Nonfirm Energy Rate Schedule or its successor.*

2. *Explanation of error or ambiguity and proposed resolution.* Utilities were concerned that failure to provide a mechanism for purchasing nonfirm energy by Metered Requirements customers could be interpreted as a waiver of the rights of such customers to purchase nonfirm energy from BPA. Section 14(e) of the contract is proposed to be added to ensure that no such intent was implied by the contract. The contract provides mechanisms for making sales of nonfirm energy to Computed Requirements customers which schedule power from BPA. Such mechanisms are not established under the contract for making nonfirm deliveries to a Metered Requirements customer and therefore billing provisions were not added for such customers. The correcting language of section 14(e) is being added to assure Metered Requirements customers that they are not losing any rights they may have to purchase nonfirm energy from BPA.

M. Section 17 is amended by resequencing subparagraphs 17(b)(1)(B) through (D) to 17(d)(1)(C) through (E) and adding a new section 17(d)(1)(B) as follows:

1. *Proposed new contract language.*

(B) *Except for the Flexibility Account balance previously retained in subparagraph (D) below, the amount of change in the Flexibility Account for any month of the Operating Year shall be limited to the sum of the following:*

(i) *For Firm Resources which the Purchaser includes in Coordination Agreement planning, such monthly change shall not exceed the limit allowed pursuant to section 9(m)(3) of the Coordination Agreement; and*

(ii) *For Firm Resources which the Purchaser does not include in Coordination Agreement planning, such monthly change shall not exceed the sum of the following:*

(a) *The algebraic difference for such month between the Purchaser's Estimated Firm Energy Load less the Estimated Firm Energy Load, if any, submitted under Coordination Agreement planning and the Purchaser's Actual Firm Energy Load less the Actual Firm Energy Load, if any, submitted under the Coordination Agreement; and*

(b) *The algebraic difference in energy capability between the actual maintenance outages of such resources for such month and the scheduled maintenance outages of such resources used in the calculation of the Purchaser's Assured Capability for such month; and*

(c) *For specific other purposes as mutually agreed by Bonneville and the Purchaser.*

2. *Explanation of error or ambiguity and proposed resolution.* Section 17(d) of the power sales contract establishes a Flexibility Account which allows a utility to make adjustments to its Assured Energy Capability in different months of an Operating Year. The flexibility account concept is established under the Pacific Northwest Coordination Agreement which provides for coordinated operations of generating utilities in the Pacific Northwest. Section 17(d) also established a Flexibility Account for resources which are not included in Coordination Agreement planning. It was the intent of the parties that the Flexibility Account for resources not included in Coordination Agreement planning should be identical to the Flexibility Account under Coordination Agreement planning.

The language in the power sales contract offered on August 28, 1981, does not clearly specify that the limit specified in section 9(m)(3) of the Coordination Agreement applies to the Flexibility Account established for resources not included in Coordination Agreement planning. Section 17(d)(1)(B) was added to the contract in the correcting language to make sure such limitation was applicable to Flexibility

Accounts for resources not included in Coordination Agreement planning.

N. Section 17(j) is amended by adding a new Section 17(j)(4) as follows:

1. *Proposed new contract language.*

(4) *Nothing in this section 17(j) shall be construed to limit, affect or otherwise modify Bonneville's obligation to acquire power for the Purchaser as provided in section 9(i) of Pub. L. 96-501.*

2. *Explanation of error or ambiguity and proposed resolution.* Section 17(j) of the contract provides that BPA will acquire replacement power for a delayed resource. Such sections provide that BPA will replace up to 50 percent of the lost resource at the request of a utility at the new resource firm power rate. Utilities were concerned that such limit to 50 percent implied a waiver of BPA's obligation under section 9(i) of the Regional Act to acquire replacement power for a utility. The corrective language includes section 17(j)(4) to assure utilities that nothing in section 17(j) limits their rights under section 9(i) in the Regional Act.

Issued in Portland, Oregon, May 28, 1982.

Earl E. Gjelde,

Acting Administrator.

[FR Doc. 82-15827 Filed 6-3-82; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 6291-000]

City of Arcata, California; Application for Preliminary Permit

May 28, 1982.

Take notice that City of Arcata, California (Applicant) filed on May 3, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 6291 to be known as the Grizzly Creek Water Power Project located on Grizzly Creek in Humboldt County, California near the town of Bridgeville. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Rory Robinson, City Manager, City of Arcata, 736 F Street, Arcata, California 95521.

Project Description—The proposed project would consist of: (1) An intake structure within the south bank of Grizzly Creek; (2) a 6,000-foot-long diversion conduit; (3) a 30-inch diameter, 2,500-foot-long penotock; (4) a powerhouse containing a single generating unit with a rated capacity of 650 kW; and (5) 12–kV, 8,000-foot-long transmission line connecting the project to an existing line southwest of the proposed powerhouse.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month permit to prepare a definitive project report including preliminary designs, results, of environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $60,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 18, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 18, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than October 18, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to invervenemust be received on or before August 18, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15821 Filed 6-3-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. EL82-16-000]

Commonwealth Edison Co.; Filing

May 28, 1982.

Take notice that on May 10, 1982, the Illinois Cities of Batavia, Geneva, Naperville, Rochelle, Rock Falls and St. Charles (Cities) filed a petition for relief, under sections 205, as amended and 206 of the Federal Power Act, from any further increases in Commonwealth Edison Company's (Edison) fuel adjustment charge and a request for investigation of Edison's fuel purchase practices, particularly in reference to fuel for the Collins generating plant.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before June 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to

intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15207 Filed 6-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-531-000]

Connecticut Light and Power Co.; Filing

May 28, 1982.

The filing Company submits the following:

Take notice that on May 17, 1982, the Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to Transmission Agreement dated November 1, 1981 between (1) CL&P, the Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO) and (2) the Massachusetts Municipal Wholesale Electric Company (MMWEC).

CL&P states that the Transmission Agreement provides for transmission services to certain member systems of MMWEC for the wheeling of MMWEC's entitlement in various generating facilities during the period from November 1, 1980 to April 30, 1981.

CL&P further states that the transmission charge rate is a monthly rate equal to one-twelfth of the annual average cost of transmission service on the Northeast Utilities system determined in accordance with Schedule C and Exhibits I, II and III thereto of the Transmission Agreement. The monthly transmission charge is determined by the product of (i) the transmission charge rate ($/kW-month), and (ii) the number of kilowatts which each MMWEC member is entitled to receive during such month. The monthly transmission charge is reduced by up to 50% to give due recognition for payments made by MMWEC members to other systems also providing transmission service.

CL&P requests that the Commission waive its notice requirements to allow for an effective date of November 1, 1980.

According to CL&P copies of this rate schedule have been sent to CL&P, HELCO, WMECO, and MMWEC (Ludlow, Massachusetts).

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 11, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15220 Filed 6-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6154-000]

David G. DeMera; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

May 26, 1982.

Take notice that on April 2, 1982, David DeMera (Applicant) filed an application, under section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended),* for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 6154) would be located on Mill and Sulphur Creeks, near Dinsmore, in Humboldt County, California. Correspondence with the Applicant should be directed to: David G. DeMera, Star Route 116-A, Carlotta, California 95528.

Project Description—The proposed project would consist of: (1) Two 3-foot-high natural rock diversion structures; (2) a low-pressure pipeline between the two diversion structures; (3) an 11,000-foot-long steel pipeline; (4) a powerhouse containing one generating unit rated at 540 kW; and (5) a 2,100-foot/long transmission line. The average annual generation would be 1.65 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before July 6, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 8, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the

Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15222 Filed 6-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-532-000]

Florida Power Corp.; Filing

May 28, 1982.

The filing Company submits the following:

Take notice that on May 17, 1982, Florida Power Corporation (Florida Power) tendered for filing a revision to the daily capacity charge for its scheduled interchange service to Florida Power & Light Company, Tampa Electric Company, the Orlando Utilities Commission, the Sebring Utilities Commission, the Jacksonville Electric Authority, and the Cities of Gainesville, Kissimmee, St. Cloud and Lakeland, Florida under interconnection agreements with each of these utilities. According to Florida Power, the revised charge of $87.42 per MW per day is based on 1981 data and is derived according to the same method shown in cost support schedules submitted with the interconnection agreements. According to Florida Power, the present daily capacity charge based on 1980 data is $82.66 per MW per day.

Florida Power requests that the revised daily capacity charge be made effective on May 1, 1982, and requests waiver of the notice requirement.

According to Florida Power, the filing has been served on each of the above-named utilities and the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 14, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15206 Filed 6-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-530-000]

Florida Power & Light Co.; Filing

May 28, 1982.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FP&L), on May 17, 1982, tendered for filing a document entitled Amendment Number Two to Agreement to Provide Specified Transmission Service Between Florida Power & Light Company and the Utilities Commission of the City of New Smyrna Beach, Florida, which original Agreement was executed January 28, 1977.

FP&L states that under Amendment Number Two of the Agreement the Contracted Demand for Transmission Service shall be 4,533 kW as of May 1, 1982.

FP&L requests an effective date of May 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served on the Utilities Commission, City of New Smyrna Beach.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 11, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15209 Filed 6-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6227-000]

Heber Light and Power Co.; Application for Exemption of Small Conduit Hydroelectric Facility

May 28, 1982.

Take notice that on April 19, 1982, Heber Light and Power Company (Applicant) filed an application, under section 30 of the Federal Power Act (Act) (16 U.S.C. 823(a), for exemption of a hydroelectric project from requirements of Part I of the Act. The Lake Creek Project (FER. Project No. 6227) is located on Lake Creek in Wasatch County, Utah. Correspondence with the Applicant should be directed to: Mr. Ray Farrell, Heber Light and Power Company, 31 South 1st West, Heber City, Utah 84032.

Purpose of Project—Project energy is used to supplement the power needs of three municipalities and adjacent rural areas in Wasatch County.

Project Description—The project consists of: (1) An existing 17,655-foot long, 22-inch diameter steel penstock; (2) an existing powerhouse containing one vertical impulse turbine/generator unit rated at 1,750 kW; (3) an existing 5-mile long, 12.47-kV transmission line; and (4) appurtenant facilities. The power plant operates under a static head of 1,031 feet, and produces approximately 9,500 MWh of energy annually.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State of Utah, Department of Natural Resources are requested, for the purposes set forth in section 30 of the Act, to submit within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly indentified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be

made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Appoicant's representatives.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 2, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15223 Filed 6-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6256-000]

Town of Gold Bar, Washington; Application for Preliminary Permit

May 28, 1982.

Take notice that the Town of Gold Bar (Applicant) filed on April 26, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a) 825(r)) for Project No. 6256 to be known as the Index Creek project located on Index Creek in the Snoqualmie National Forest in King County, Washington. The application is on file with the Commission and is available for public inspection.

Correspondence with the Applicant should be directed to: Charles R. Meyer, Attorney for Town of Gold Bar, P.O. Box 550, Sultan, Washington 98294.

Project Description—The proposed project would consist of: (1) Three diversion structures located at elevation 1950 feet on two tributaries and the mainstem of Index Creek; (2) four power conduits having a total length of 22,500 feet; (3) a powerhouse at elevation 800 feet containing two generating units with a total capacity of 9300 kW; and (4) a one-mile-long, 115-kV transmission line. Applicant estimates that the project would have an average annual output of 38,000 MWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. During the term of the permit Applicant would conduct studies to determine the engineering, environmental, economic, and financial feasibility of the project. Applicant estimates that the studies would cost $50,000.

Competing Applications—This application was filed as a competing application to Woods Creek, Inc's. application for Project No. 5856 filed on January 7, 1982. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 15, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15229 Filed 6-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-525-000]

Indianapolis Power & Light Co.; Filing

May 28, 1982.

The filing Company submits the following:

Take notice that Indianapolis Power & Light Company (IP&L) tendered for filing on May 17, 1982, Modification No. 1 dated June 1, 1982, to the Interconnection Agreement dated December 1, 1981 between IP&L and Hoosier Energy Rural Electric Cooperative, Inc. (Hoosier).

IP&L states that Modification No. 1 amends section 3 of Service Schedule D—Short Term Power of the 1981 Agreement by amending subsection 3.11 thereof to permit Hoosier to sell short term power to or through IP&L at less than $1.05 per kilowatt-week consistent with Hoosier's capacity costs. IP&L further states that by making these amendments, Hoosier is allowed the flexibility of selling to IP&L or to third parties through IP&L, short term power at a rate lower than $1.05 per kilowatt-week, which is a rate essentially based upon IP&L's capacity costs. IP&L's demand charge on short term sales to Hoosier remains fixed at $1.05 per kilowatt-week consistent with its costs and previous filing, but the daily demand charge also has been amended to ¼ of the weekly rate.

IP&L requests an effective date of June 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 10, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene or protest. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-15226 Filed 6-3-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-426-000]

Jersey Central Power & Light Co.; Order Accepting for Filing and Suspending Revised Rates, Granting Interventions, Granting in Part and Denying in Part Motions for Summary Disposition, and Establishing Procedures

Issued: May 28, 1982.

On March 31, 1982, Jersey Central Power & Light Company (JCP&L) tendered for filing revised rates [1] for firm power service to six wholesale customers.[2] The company has proposed a two-step rate increase. Phase A, for which JCP&L requests an effective date of May 31, 1982, would increase jurisdictional revenues by approximately $3.5 million (20.9%), based on a calendar 1982 test year. Phase B, for which JCP&L requests an effective date of June 1, 1982, represents an additional increase of about $2 million or a total of $5.5 million (32.8%).

Notice of the instant filing was issued on April 7, 1982, with responses due on or before April 21, 1982. A timely petition to intervene was filed by Allegheny Electric Cooperative, Inc. and the Boroughs of Butler, Pemberton, Lavallette, and Seaside Heights, New Jersey (Customers). The Borough of Lavalette also filed a separate protest. The Customers object to the two-step increase as an attempt to circumvent the Commission's suspension policy. As a result, they request that the Commission reject the proposed Phase B increase or, in the alternative, combine both phases as one rate for purposes of analysis and suspend the total increase for five months.

In addition, the Customers raise a number of rate base and cost of service issues. The Customers further request that the Commission, by summary disposition, exclude the following items from JCP&L's cost of service: (1) All amounts for cash working capital in excess of the 45-day rule traditionally used by the Commission; (2) all nuclear fuel in process included in rate base; and (3) extraordinary property losses in rate base associated with the company's abandonment of its Longwood Valley, Mount Hope, Atlantic Station, and Forked River generating units.

On April 23, 1982, an untimely petition to intervene was filed by the Borough of Madison, New Jersey (Madison). The pleading, dated April 16, 1982, states that Madison received notice of the filing on April 15, 1982, that as a full requirements wholesale customer of JCP&L it will be directly affected by this rate increase, and that it is in the process of retaining specialized counsel and intends to file a more detailed protest. Madison does not, however, raise any specific substantive issues.

On May 4, 1982, JCP&L filed an answer to the petitions to intervene. While not opposing the requests for intervention and a hearing, the company disputes the allegations raised in the Customers' petition and contends that the request to reject the Phase B rates or to consider both phases as one rate should be denied. JCP&L also challenges the motions for summary disposition and asserts that any suspension should be limited to one day.

Discussion

Initially, we find that participation by each of the petitioners is in the public interest. Inasmuch as Madison appears to have acted with due diligence upon notification of the filing and considering its direct interest as an affected wholesale customer, its apparent attempt to satisfy the prescribed comment deadline in the absence of specialized counsel, and the early stages of this proceeding, we further find that good cause exists to accept Madison's untimely petition. Accordingly, we shall grant the petitions of Madison and the Customers to intervene.

We find that JCP&L's submittal substantially complies with the Commission's filing regulations; [3] we shall therefore deny the Customers' motion to reject JCP&L's Phase B rates. We shall also deny the request that JCP&L's two-step increase be viewed as one rate. Nothing in the Federal Power Act or the Commission's regulations prohibits JCP&L from filing a two-phase increase, and we have previously sanctioned such filings. *See, e.g., Sierra Pacific Power Company,* Docket No. ER82-105-000 (February 5, 1982); *Pacific Gas and Electric Company,* Docket No. ER81-679-000, 17 FERC ¶61,069 (October 23, 1981.

The Customers contend, however, that the effect of JCP&L's filing is to place interim rates into effect in anticipation of a maximum suspension for the full increase—a policy which the Commission purportedly disapproved in *West Texas Utilities Company,* Docket No. ER82-23-000 (February 26, 1982). We disagree that the *West Texas* rationale is applicable here. In that proceeding, the utility's proposed rate increase was suspended for the full five months permitted by statute. In seeking rehearing, the company then proposed that a lower, interim rate be placed into effect during the suspension period. In the instant case, JCP&L has submitted both sets of rates concurrently. Unlike *West Texas,* there is no "moving target" to be evaluated by the Commission or by JCP&L's customers. So long as the two phases are independently evaluated for purposes of determining appropriate suspension periods, neither the company nor its customers will be subjected to irreparable harm.

Concerning the motions for summary disposition, the issue of working cash allowance raises questions of law or fact more appropriately resolved on the basis of an evidentiary hearing. However, consistent with Commission precedent, nuclear fuel in process [4] and unamortized investment in cancelled plants [5] must be excluded from rate base. We shall therefore deny the request for summary disposition as to cash working capital and grant summary dispositions as to the remaining two issues.

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[1] Designated as:

(1) Jersey Central Power & Light Company Sixth Revised Sheet No. 13 to FPC Electric Tariff, Original Volume No. 1, (Supersedes Fifth Revised Sheet No. 13)—Phase A rates.

(2) Seventh Revised Sheet No. 13 to FPC Electric Tariff, Original Volume No. 1 (Supersedes Sixth Revised Sheet No. 13)—Phase B rates.

[2] The affected wholesale customers are the Boroughs of Butler, Lavallette, Madison, Pemberton, and Seaside Heights, and the Allegheny Electric Cooperative, Inc.

[3] *See, Municipal Light Boards of Reading and Wakefield, Massachusetts* v. *EPC,* 450 F.2d 1341 (D.C. Cir. 1971).

[4] *E.g., Duke Power Co.,* Docket No. ER81-550-000, 17 FERC ¶61,053 (October 16, 1981; *Central Power & Light Co.,* Docket No. ER81-107-000, 15 FERC ¶61,191 (May 29, 1981.

[5] *E.g., New England Power Co.,* Opinion No. 48 (July 19, 1979) aff'd sub nom. New England Power Co. v. *FERC, Docket No. 80-1343 (D.C. Cir., October 15, 1981).*

We further note that JCP&L has included nuclear radwaste systems in rate base as a component of pollution control CWIP.[6] In *Louisiana Power & Light Company,* Opinion No. 110, 14 FERC ¶61,075 (January 28, 1981), we determined that radiation control facilities, including nuclear radwaste systems, do not qualify as pollution control CWIP within the scope of section 2.16(a) of the Commission's regulations. Therefore, we shall summarily reject JCP&L's inclusion of nuclear radwaste systems in rate base.

Because the cost of service effect of the summary dispositions on the Phase A rates is insubstantial,[7] we shall not require JCP&L to refile its Phase A rates. However, the effect on the Phase B rates is substantial and we shall require the company to file revised Phase B rates and supporting cost documents which reflect the exclusion of the three rate base component identified above.

Our preliminary review of the instant filing indicates that the rates proposed by JCP&L have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing, as modified by summary disposition, and we suspend their operation as ordered below.

In *West Texas, supra,* we noted that rate filings would ordinarily be suspended for one day where preliminary review indicates that the proposed increase may be unjust and unreasonable but may not generate substantially excessive revenues, as defined in *West Texas.* In the instant proceeding, our examination suggests that the proposed Phase A increase may not yield excessive revenues, much less substantial excessive revenues. With respect to the Phase B increase, however, our review indicates that they may produce substantially excessive revenues as defined in *West Texas.* Accordingly, we shall suspend the Phase A increase for one day to become effective subject to refund on June 1, 1982, and the Phase B rates for five months to become effective subject to refund on November 1, 1982.

JCP&L has requested that the Commission issue an order approving the use of tax normalization with respect to Accelerated Cost Recovery System (ACRS) property in order to satisfy the requirements of the Economic Tax Recovery Act of 1981 (ERTA). While we can conclude that the instant filing reflects a normalization method of accounting for post-1980 property additions, further analysis will be required in order to determine whether JCP&L has properly calculated the effects of normalization in its jurisdictional cost of service.

The Commission orders:

(A) The Customers' motion to reject JCP&L's Phase B rates is denied.

(B) JCP&L's proposed Phase A rates are hereby accepted for filing and suspended to become effective, subject to refund, on June 1, 1982.

(C) JCP&L's proposed Phase B rates, as modified by summary disposition, are hereby accepted for filing and suspended to become effective, subject to refund, on November 1, 1982.

(D) JCP&L's inclusion of nuclear radwaste systems, nuclear fuel in process, and unamortized investment in cancelled units in rate base is summarily rejected. The motion for summary disposition as to working cash allowance is denied. Within thirty (30) days of the date of this order, JCP&L shall file revised Phase B rates and cost support reflecting these determinations.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules and Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of JCP&L's rates.

(F) The petitioners are hereby permitted to intervene in this proceeding subject to the Commission's Rules of Practice and Procedure and the regulations under Federal Power Act; *Provided, however,* that participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; and *provided, further,* that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order or orders entered by the Commission in this proceeding.

(G) The Commission staff shall serve top sheets in this proceeding on or before June 11, 1982.

(H) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days of the service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(I) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15215 Filed 6-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-412-000]

Kansas Gas & Electric Co.; Order Accepting for Filing and Suspending Revised Rates and Proposed Cancellation of Transmission Service Schedule, Granting Interventions, Denying Motions for Rejection and Summary Disposition, and Establishing Hearing and Price Squeeze Procedures

Issued: May 28, 1982.

On March 30, 1982, Kansas Gas and Electric Company (KG&E) tendered for filing (1) increased rates for firm power service to fourteen full requirements and eight partial requirements municipal customers, to the Kansas Power and Light Company (KP&L), and Missouri Public Service Company (MPS); (2) revised rates for firm power and transmission services to Kansas Electric Power Cooperative, Inc. (KEPCO); and (3) a proposed cancellation of service Schedule T, Transmission Service, to the City of Chanute, Kansas.[1] The proposed rates would result in an increase in revenues of approximately $2,120,132 (7.74%) for the twelve months ending December 31, 1982. KG&E requests that the revised rates be made effective on May 31, 1982.[2]

Notice of KG&E's filing was issued on April 6, 1982, with responses due by April 21, 1982. On April 21, 1982, KP&L filed a petition to intervene which raises no substantive issues but note that the proposed rates may not be just and reasonable. On April 29, 1982, the Kansas State Corporation Commission

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[6] The primary function of a radwaste system is to remove dissolved wastes from primary cooling systems during the normal operation of a nuclear generating unit.

[7] Only the issue of nuclear radwaste systems affects the Phase A rates.

[1] See Attachment A for customers and rate schedule designations.

[2] We note that KG&E's contracts provide for unilateral rate changes only as to Cities of Augusta, Oxford, Burlington, Coffeyville, Girard, Wellington, and Winfield, and KP&L, MPS, and KEPCO.

filed an untimely notice of intervention also raising no specific issues.

On April 21, 1982, twenty-four Kansas Cities (Cities) filed a protest, petition to intervene, request for five month suspension, and motion for summary disposition.[3] The Cities seek rejection of KG&E's filing with respect to certain of these customers[4] on the grounds that under the *Mobile-Sierra* doctrine their contracts with KG&E permit rate changes only prospectively after an investigation under section 206 of the Federal Power Act. They allege in this connection that section 206 authorizes only one rate investigation at a time and note that two such proceedings are now before the Commission.[5] The Cities request rejection of KG&E's filing with respect to the Cities of Neodesha and Mulvane on the same grounds and allege that their contracts preclude any change in rates prior to a final Commission order and judicial review.

The Cities also request summary disposition with respect to KG&E's 30 day fuel oil inventory and use of a 100 percent demand ratchet for partial requirements customers. In addition, the Cities believe that the requested rate of return is excessive, that KG&E should not be permitted to withdraw the currently available transmission service schedule applicable to the City of Chanute, and that a five month suspension is warranted. Finally, the Cities allege price squeeze.

On April 21, 1982, KEPCO filed a protest, petition to intervene, and motion to reject or to suspend and initiate price squeeze proceedings. KEPCO sought rejection of KG&E's submittal on the ground that it did not substantially comply with the Commission's filing requirements. KEPCO requested, in the alternative, that we find the filing deficient and withhold the assignment of a filing date until KG&E complies with the filing requirements.[6]

In addition, KEPCO alleges price squeeze and challenges several aspects of the proposed cost of service, including (1) the rate of return on common equity, (2) the level of fuel stocks, (3) the depreciation expense, (4) the claimed production and transmission operating and maintenance expenses, (5) a decrease in the revenue credit allocated to KEPCO, (6) KG&E's proposed level and amortization period for deferred tax accounts, and (7) possibly excessive cash working capital.

KEPCO also appears to seek summary disposition with regard to KG&E's demand allocation calculation and KG&E's method of calculating the interest expense deduction for income tax purposes. With respect to the former, KEPCO states that KG&E's method violates Commission precedent by utilizing contract demand quantities rather than projected coincident peak demands. As to the latter, KEPCO suggests that KG&E has not calculated its interest expense deduction in accordance with the appropriate formula for determining interest expense chargeable to operations by a company that uses gross AFUDC rates.

On May 16, 1982, KG&E filed an answer to the pleadings of the Cities and KEPCO, in which it responded to all their allegations.

Discussion

The Commission finds that participation in this proceeding by each of the petitioners is in the public interest and that, as a matter of comity, good cause exists to permit the Kansas Commission to intervene out of time. Accordingly, the petitions to intervene will be granted.

We find the KG&E's submittal substantially complies with the Commission's filing requirements. Accordingly, KEPCO's motion to declare the filing deficient will be denied.[7]

The Cities' motion to reject the filing with respect to customers whose contracts preclude a change in rates prior to a final Commission order must also be denied. The fact that KG&E may not unilaterally increase rates under these contracts calls for a section 206 investigation, not for rejection.[8] The language of section 206 does not on its face or by reasonable implication preclude more than one rate investigation at the same time. No legitimate public policy goal would be advanced by precluding the company from attempting to demonstrate that more recent costs and revenues would support a different rate for a more recent period of time.

Concerning the allegation that KG&E's contracts with Neodesha and Mulvane preclude any rate change until authorized by the Commission and upon judicial review, we shall address that matter in a subsequent order. Inasmuch as the proposed rate change will not imminently become effective as to these customers, their rights will not be prejudiced by deferral of decision on this issue.

We find that the requests for summary disposition as to KG&E's fuel stock inventory and use of contract demand rather then coincident peak demands raise questions of law or fact most appropriately addressed during the course of the hearing to be convened pursuant to this order. Thus, these requests will be denied.

Our review of KG&E's testimony and test period cost of service indicates that, contrary to KEPCO's contentions, KG&E has calculated AFUDC on a net-of-tax basis and that its interest expense deduction for tax purposes has been calculated consistent with its test period AFUDC procedures. Accordingly, summary disposition of this issue is inappropriate.

The Cities' request for summary rejection of KG&E's 100% demand ratchet in the partial requirements rates also will be denied. We note that the demand ratchet has not changed from KG&E's prior rates and is a subject of litigation in Docket No. ER80–259, which is awaiting the judge's initial decision. It is therefore appropriate to make this issue subject to the outcome of the proceeding in Docket No. ER80–259.

Our preliminary review of KG&E's filing indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing and, as to the customers whose contracts permit unilateral rate changes, we shall suspend the rates as ordered below.

We recently addressed the Commission's suspension policy in the *West Texas Utilities Company*, Docket No. ER82–23–000 (February 26, 1982). In that order, we noted that rate filings would ordinarily be suspended for one day where preliminary review indicates that the proposed increase may be unjust and unreasonable but may not generate substantially excessive revenues, as defined in *West Texas*. In the instant proceeding, however, our preliminary review suggests that the proposed increase may yield

[3] On April 28, 1982, the City of Bronson withdrew as a petitioner to intervene.

[4] Arcadia, Arma, Blue Mound, Bronson, Elsmore, Erie, Haven, Mavan and Mount Hope.

[5] Docket Nos. ER77–578 and ER80–259.

[6] On May 18, 1982, KEPCO amended its pleading. KEPCO acknowledges receipt of additional workpapers from KG&E and indicates that a number of its prior informational concerns have been satisfied. Noting that KG&E's filing does substantially comply with the Commission's filing requirements, KEPCO has withdrawn its request for rejection but restates its request for issuance of a deficiency letter to obtain "full" compliance.

[7] *See Municipal Light Boards of Reading and Wakefield, Mass.* v. *FPC*, 450 F.2d 1341 (D.C. Cir. 1971).

[8] We have already stated that rate changes may be filed under these contracts, but that they will have effect prospectively only after a final Commission order determining just and reasonable rates. *Kansas Gas and Electric Company*, Docket No. ER77–578 (February 1, 1978).

substantially excessive revenues. As we stated in *West Texas*, under such circumstances, we shall suspend the rates for the maximum period. Accordingly, we shall suspend KG&E's rates for the customers subject to unilateral rate changes for five months, to become effective, subject to refund on October 31, 1982.

With respect to the proposed cancellation of the transmission service schedule to the City of Chanute, KG&E states that the service is to be withdrawn because it has not been used for some time. The Cities, however, over that such termination would deny the partial requirements customers access to alternate sources of power, KG&E demurs. Under these circumstances, the most appropriate course is to suspend the proposed cancellation for five months and set it for hearing. KG&E, as the proponent of the change in service, will bear the burden of persuasion.[*]

In light of the intervenors' price squeeze allegations, we shall institute price squeeze procedures and phase those procedures in accordance with the Commission's policy and practice established in *Arkansas Power and Light Company*, Docket No. ER79-339 (August 6, 1979).

The Commission orders:

(A) KEPCO's request for issuance of a deficiency letter is hereby denied.

(B) The Cities' request for rejection of KG&E's submittal as to those customers whose contracts permit rate changes to become effective only prospectively is denied.

(C) The requests for summary disposition are hereby denied.

(D) The demand ratchet issue is hereby made subject to the outcome of the proceeding in Docket No. ER80-259.

(E) KG&E's rates for customers whose contracts permit unilateral rate changes are hereby accepted for filing and are suspended for five months from sixty days after filing to become effective October 31, 1982, subject to refund.

(F) The rates with respect to the remaining customers are also hereby accepted for filing and are suspended, with the rates found to be just and reasonable by the Commission, to become effective prospectively following a final Commission order in this docket. As noted in the body of this order, the effective date as to Neodesha and Mulvane will be addressed at a later date.

(G) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regualtory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of KG&E's rates.

(H) KG&E's proposed cancellation of Service Schedule T, Transmission Service under the City of Chanute's rate schedule is hereby suspended for five months and set for hearing as noted in the body of this order.

(I) The petitions to intervene in this proceeding are hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *Provided, however,* that participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; and *provided, further,* that the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order of the Commission in this proceeding.

(J) The Commission staff shall serve top sheets in this proceeding on or before June 16, 1982.

(K) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (expect motions to consolidate or sever and motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(L) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The price squeeze portion of this case shall be governed by the procedures set forth in section 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(M) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission. Commissioner Hughes concurred with a separate statement.

Kenneth F. Plumb,

Secretary.

[*] Cancellation of a rate schedule is a change in service under section 205(d) of the Federal Power Act. *See* 18 CFR 2.4; *Pennsylvania Water and Power Company* v. *F.P.C.*, 343 U.S. 414 (1951). As the proponent of that change, KG&E bears the burden of persuasion. Administrative Procedure Act, 5 U.S.C. 556(d)

ATTACHMENT A—KANSAS GAS & ELECTRIC COMPANY, DOCKET NO. ER82-412-000

[Rate Schedule Designations]

Designation	Other party	Description
(1) Supplement No. 11 to Rate Schedule FPC No. 55	Missouri Public Service Company	Rate Schedule PWM-682.
(2) Supplement No. 14 to Rate Schedule FERC No. 134	City of Agusta	Amendment to Service Schedule A, Firm Power.
(3) Supplement No. 4 to Rate Schedule FERC No. 135	City of Oxford	Rate Schedule PWM-682.
(4) Supplement No. 2 to Supplement No. 1 to Rate Schedule FERC No. 144	City of Burlington	Amendment to Service Schedule A, Firm Power.
(5) Supplement No. 1 to Supplement No. 1 to Rate Schedule FERC No. 145	City of Wellington	Do.
(6) Supplement No. 1 to Supplement No. 1 to Rate Schedule FERC No. 146	City of Winfield	Do.
(7) Supplement No. 2 to Supplement No. 1 to Rate Schedule FERC No. 147	City of Girard	Do.
(8) Supplement No. 1 to Supplement No. 1 to Rate Schedule FERC No. 149	City of Coffeyville	Do.
(9) Supplement No. 5 to Rate Schedule FERC No. 150 (Supersedes Supplement No. 1).	Kansas Power & Light Company	Rate Schedule PMW-682.
(10) Supplement No. 8 to Rate Schedule FERC No. 151	KEPCO	Amendment to Service Schedule A, Firm Power and Service Schedule B, Transmission Service.
(11) Supplement No. 11 to Rate Schedule FPC No. 114	City of Arma	Rate Schedule PMW-682.
(12) Supplement No. 9 to Rate Schedule FPC No. 115	City of La Harpe	Do.
(13) Supplement No. 6 to Rate Schedule FPC No. 116	City of Elsmore	Do.
(14) Supplement No. 9 to Rate Schedule FPC No. 117	City of Blue Mound	Do.
(15) Supplement No. 9 to Rate Schedule FPC No. 118	City of Moran	Do.
(16) Supplement No. 10 to Rate Schedule FPC No. 119	City of Mulberry	Do.

ATTACHMENT A—KANSAS GAS & ELECTRIC COMPANY, DOCKET NO. ER82-412-000—Continued

[Rate Schedule Designations]

Designation	Other party	Description
(17) Supplement No. 8 to Rate Schedule FPC No. 120	City of Bronson	Do.
(18) Supplement No. 5 to Rate Schedule FPC No. 121	City of Savonburg	Do.
(19) Supplement No. 10 to Rate Schedule FPC No. 122	City of Haven	Do.
(20) Supplement No. 10 to Rate Schedule FPC No. 123	City of Mount Hope	Do.
(21) Supplement No. 10 to Rate Schedule FPC No. 124	City of Arcadia	Do.
(22) Supplement No. 10 to Rate Schedule FPC No. 125	City of Mindenmines	Do.
(23) Supplement No. 14 to Rate Schedule FPC No. 131	City of Neodesha	Do.
(24) Supplement No. 12 to Rate Schedule FPC No. 132	City of Mulvane	Do.
(25) Supplement No. 7 to Rate Schedule FPC No. 133	City of Erie	Do.
(26) Supplement No. 1 to Supplement No. 5 to Rate Schedule FPC No. 128	City of Chanute	Amendment to Service Schedule T—Transmission Service.

Hughes, Commissioner; Concurring

In a concurring opinion in Arizona Public Service Company, 16 FERC ¶ 61,066 (January 25, 1982) I discussed, at length, my views of the relationship of Sections 205 and 206 of the Federal Power Act and the contractual limitations on rate filings. This case provides an excellent illustration of the virtues of the course that I suggested there: that in the absence of a clear contrary intent we should regard contractual filing limits as permitting section 206(d) filings with effective dates deferred until final Commission action, or judicial review, if the contract so provides.

The municipals here boldly assert, without explanation or citation, that under section 206 a rate can only be subject to a single investigation. There is some intuitive merit in that position, since under section 206 the Commission tests the lawfulness of the currently effective rate and aims as prescribing a prospective just and reasonable substitute. Except in an unusual case it would not be appropriate or useful to maintain two dockets for that purpose. Section 205, on the other hand, all too readily accommodates pancaked cases, each focused on testing the lawfulness of rates to be effective for discrete periods of time.

The Commission's decision in this matter, with just as little explanation, rejects the customer's contention, so that it can make the equally baseless conclusion that "the fact that KG&E may not unilaterally increase rates under these contracts calls for a Section 206 investigation, not for rejection." (Slip Opinion, p. 4).

How much easier it would be to treat such filings as section 205 filings to become effective upon the Commission's final order, thereby avoiding needless and heedless commentary on the provisions of the Power Act.

David Hughes,

Commissioner.

[FR Doc. 82-15210 Filed 6-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-528-000]

Montaup Electric Co.; Filing

May 28, 1982.

The Filing Company submits the following:

Take notice that Montaup Electric Company ("Montaup") on May 14, 1982, tendered for filing a unit power sales agreement between Montaup and Newport Electric Corporation ("Newport"). Under the unit power sales agreement Montaup sells to Newport a total of 3000 kW of capacity and associated energy from Montaup's Somerset Units Nos. J-1 and J-2 for the period beginning May 1, 1982 and ending October 31, 1982. The agreement also provides for transmission service from the Somerset units over Montaup's system to Newport under a tariff on file with the Commission.

Montaup requests waiver of the Commission's 60-day notice requirement in order to allow an effective date of May 1, 1982.

Copies of this filing have been served on Newport, the Massachusetts Department of Public Utilities and the Rhode Island Public Utilities Commission.

Any person wishing to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20425, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 10, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15210 Filed 6-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER81-71-001]

New England Power Co.; Compliance Filing

May 28, 1982.

The filing company submits the following:

Take notice that on May 19, 1982, New England Power Company filed a refund compliance report pursuant to the Commission's letter order of April 19, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before June 14, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15211 Filed 6-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-414-000]

Ohio Edison Co.; Order Accepting Rates for Filing, Granting Intervention, and Terminating Docket

Issued: May 28, 1982.

On March 30, 1982, Ohio Edison Company (Ohio Edison) tendered for filing a proposed increase in its transmission rates for Wheeling Ohio Power Company (Ohio Power) energy to rural electric cooperative members of Buckeye Power, Inc.[1] The proposed rates are based on a twelve month test period ending December 13, 1982, and would increase revenues for this period by approximately $833,000 or 63%. Ohio Edison requested an effective date of June 2, 1982.

The instant filing concerns proposed increases in the Facilities Use Charges payable by Ohio Power to Ohio Edison. These charges are contained in Section 8 of the Agreement dated June 20, 1968 between Ohio Power and Ohio Edison (Ohio Edison FERC Rate Schedule No.

[1] Designated as follows:

Ohio Edison Company, Supplement No. 5 to Rate Schedule FPC No. 67 (Supersedes Supplement No. 2.)

67 and Ohio Power FERC Rate Schedule No. 71). Under this agreement, Ohio Edison buys specified amounts of power from Ohio Power at various points of interconnection and resells equivalent amounts of power back to Ohio Power at specified delivery points, where Ohio Power then delivers such power to Buckeye Power, Inc.

Notice of Ohio Edison's filing was issued on April 7, 1982, with comments, protests, or petitions to intervene due on or before April 21, 1982. On April 21, 1982. Ohio Power filed a petition to intervene and request for hearing, suspension and other relief, alleging that Ohio Edison is precluded by the contract of June 20, 1968, from effecting a unilateral rate change. Ohio Power requests that if the proposed rates are permitted at all, they be made effective only prospectively after final Commission order. Ohio Power further alleges that Ohio Edison has failed to show that the instant filing is permissible under either Section 205 of the Federal Power Act or the contract. Should this Commission find that Ohio Edison is permitted by contract or Section 205 to effect a unilateral rate change, Ohio Power requests a maximum suspension on the grounds that Ohio Edison's recent rate increase application in Docket No. ER82–79–000 was suspended for five months and reflects the identical test year submitted in the instant filing (order issued January 8, 1982).

Discussion

We believe that intervention in this proceeding by Ohio Power is in the public interest. Accordingly, the petition to intervene will be granted.

Our analysis of Ohio Edison's filing in this case indicates that the present agreement between Ohio Power and Ohio Edison provides for unilateral rate changes. We therefore find that Ohio Power's position on this issue is without merit.

The present Ohio Edison-Ohio Power Agreement provides in pertinent part that:

> 23. Action before Regulatory Authorities. Either party hereto may, upon delivery of prior written notice to the other, take such action before or make such filings with any regulatory authority having jurisdiction in respect of any term or provision of this Agreement as it shall deem appropriate and, in the event of any such action by either party hereto which effects or is intended to effect any change in any term or condition hereof, the terms and conditions hereunder shall be, except as provided in section 14 hereof, the terms and conditions as so changed or as shall result from any ensuing action by or before any regulatory authority having jurisdiction.

This language provides for changes to be made by action of the parties "before" regulatory authorities having jurisdiction. Thus, the present agreement provides for unilateral rate changes and Ohio Power's position is without merit. We note further that Ohio Power did not raise this fixed rate argument at the time of Ohio Edison's last rate increase in Docket No. ER79–197.

Ohio Power requests a maximum suspension on the grounds that Ohio Edison's recent rate increase application in Docket No. ER82–79–000, which was based on the identical test year submitted in the instant filing, was suspended for five months. With respect to this request, we note that Ohio Edison's application in Docket No. ER82–79–000 involves proposed rates for both partial requirement and transmission service to twenty-one municipal customers. While our analysis in that docket indicated that Ohio Edison's total proposed charges were excessive, its transmission rate taken alone was found to be cost-justified. Thus we shall deny Ohio Power's motion for a maximum suspension on the grounds that the instant filing is based on the same test year as Ohio Edison's submittal in Docket No. ER82–79–000.

Ohio Power also asserts in its petition that the proposed rates pose a potential detriment to Ohio Edison by virtue of the interrelationship between the 1968 Agreement between Ohio Edison and Ohio Power and a January 1, 1968 agreement, as amended, among Buckeye, Ohio Power, and five other electric utilities in Ohio, not including Ohio Edison (Ohio Power FERC Rate Schedule No. 70). Our review of this matter indicates that any remedy that may exist for the alleged detriment is beyond the scope of this proceeding. This proceeding deals with Ohio Edison's rates, not with the impact such rates may have on a separate agreement.

Since Ohio Power has raised no factual ratemaking issues and our preliminary analysis indicates that the rates are not excessive, Ohio Edison's submittal will be accepted for filing to become effective June 2, 1982, as requested.

The Commission orders:

(A) The petition to intervene of Ohio Power is hereby granted.

(B) Ohio Edison's submittal in this docket is hereby accepted for filing to become effective June 2, 1982, as requested.

(C) Docket No. ER82–414–000 is hereby terminated.

(D) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–15217 Filed 6–3–82; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. E–7278–000]

Otter Tail Power Co.; Payment

May 28, 1982.

Take notice that on February 19, 1982, the City of Elbow Lake, Minnesota (Elbow Lake) filed a notice of payment from Elbow Lake to Otter Tail Power Company pursuant to the Commission's order on remand, issued on November 20, 1981. Elbow Lake states that it remitted the sum of $47,009.55.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before June 14, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–15212 Filed 6–3–82; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. SA82–21–000]

Phillips Petroleum Co.; Application For Adjustment

Issued: May 27, 1982.

On May 7, 1982, Phillips Petroleum Company (Phillips) filed with the Federal Energy Regulatory Commission (Commission) an application for an adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301 *et seq.* (Supp. IV 1980), and 18 CFR 1.41 of the Commission's Rules of Practice and Procedure. Specifically, Phillips requests that the Commission waive 18 CFR 271.805(c) of the Commission's regulations which requires that a petition for a determination that an enhanced recovery technique is used be filed by the operator within 150 days after a stripper well under NGPA section 108 has produced more than the statutory amount of natural gas.

Phillips states that it filed for and received an affirmative section 108 determination on the Seaboard A No. 1 well located in Park County, Wyoming.

from the United States Geological Survey, Casper, Wyoming, and that the Commission noticed receipt of the determination on July 10, 1979, under Commission Control No. JD 79–12146. Phillips states that the determination became final on August 24, 1979. It further alleges that in its initial section 108 application for determination it stated that a pumping unit and an electric motor were included as part of the inventory for the well but that the equipment was not operable due to lack of electrical power. In addition, Phillips alleges that it stated that once power lines were constructed to connect to this equipment, and if production should exceed the 60 Mcf per day guidelines, Phillips intended to establish the enhanced recovery provisions of the NGPA. Phillips now states that production exceeded the statutory limit for the 90-day period ending April 1979, but due to inadvertant oversight it did not file either a notice of disqualification or petition for a determination of enhanced recovery technique until May 1982. Montana-Dakota Utilities Company purchases the gas produced from the subject well which is operated by Phillips. Waiver of the filing date requirement for an enhanced recovery technique petition by the Commission would permit Phillips to collect the NGPA section 108 maximum lawful price on and after April 30, 1979. Phillips alleges that a strict application of the Commission's regulations would subject it to a loss of approximately $80,700.00.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure as set forth in Order No. 24, issued March 22, 1979, 44 FR 18861 (March 30, 1979), as amended.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed within fifteen days after the publication of this notice in the Federal Register.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15225 Filed 6-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RA82-21-000]

Powerine Oil Co.; Filing of Petition For Review Under 42 U.S.C. 7194

May 27, 1982.

Take notice that Powerine Oil Company on May 5, 1982 filed a Petition for Review under 42 U.S.C. § 7194(b) (1977) Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before June 11, 1982, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before June 11, 1982, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H–025, 1000 Independence Avenue, S.W. Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15226 Filed 6-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER82-225-001 and ER82-222-002]

Resources Recovery (Dade County), Inc.; Order On Rehearing and Denying Intervention

Issued: May 24, 1982.

On January 12, 1982, Resources Recovery (Dade County), Inc. (RRD) tendered for filing a proposed initial rate schedule applicable to sales of energy and capacity to Florida Power and Light Company (FPL) from a solid waste resource recovery facility operated by RRD in Dade County, Florida. RRD is currently the operator of a qualifying small power production facility as defined in section 201 of the Public Utility Regulatory Policies Act of 1978 (PURPA) and section 292.204 of the Commission's regulations.[1] RRD is also subject to the provisions of the Federal Power Act (FPA).[2]

On March 12, 1982, the Commission issued an order in this proceeding Denying Motion to Reject, Accepting Initial Rates, Conditionally Granting Waiver, Dismissing Petition for Declaratory Order, and Granting Intervention.[3] On April 12, 1982, the Commission received a leter from RRD indicating acceptance of the condition contained in paragraph (B) of the Commission's order.[4] Also on April 12, 1982, FPL filed a timely application for rehearing and Metropolitan Dade County, Florida (Dade) filed an untimely petition to intervene and an application for rehearing.

On April 27, 1982, RRD filed an answer in opposition to Dade's petition to intervene pursuant to Section 1.8 of the regulations. RRD asserts that Dade has not shown good cause for late intervention. RRD further states that Dade does not have a sufficiently close relationship to this proceeding nor will it suffer a direct and immediate injury as a result of this proceeding, so intervention should be denied.

Also on April 27, 1982, FPL filed an answer in support of Dade's petition to intervene in this docket indicating that it has no objection to the granting of the petition.

For the reasons discussed below, we shall deny Dade's late-filed petition to intervene, and grant in part and deny in part the application for rehearing filed by FPL.

I. Background

In our earlier order, we accepted RRD's initial rate schedule filing and granted waiver of the 60-day notice requirement on the condition that RRD agree to make such refunds as may be ordered by the Commission in light of any relevant court decision or agency action.[5] RRD has accepted that

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[1] *See* Order Dismissing Petition for Declaratory Order, Docket No. QF81–19–000 (issued February 19, 1982); Order Denying Petition for Rehearing, Docket No. QF81–19–000 (issued May 4, 1982).

[2] RRD's facility is a 70 megawatt qualifying small power production facility. Section 210(e) of PURPA prohibits the Commission from exempting qualifying small power production facilities between 30 and 80 megawatts aggregate capacity from the provisions of the FPA.

[3] 18 FERC 61,243.

[4] Paragraph (B) of the Commission's March 12, 1982 order stated:

(B) RRD's petition for waiver of the sixty (60) day notice of filing requirement is hereby granted on the condition that RRD agrees to make any and all refunds, at the appropriate rate of interest, as shall be ordered by the Commission in light of any relevant court decision or agency action on remand as discussed above.

[5] *Id.*

condition. We also granted RRD's request for waiver of the cost of service data requirements under section 35.12 of our regulations and accepted the rates prescribed by the Florida Public Service Commission (FPSC) to become effective subject to the refund condition.[6]

II. Discussion

A. FPL—Application for Rehearing

In its petition for rehearing, FPL asks for Commission clarification, reconsideration, or modification, as appropriate, of our March 12 order with regard to the following issues. First, FPL asks that we reject RRD's rate filing unless RRD accepts the refund condition described above. Second, FPL asks that we require RRD to post a bond or provide other assurance that it will pay any refund that may be ordered. FPL indicates that the Commission has broad authority under section 309 of the FPA to require such assurance.[7] Third, FPL asks that we modify our prior order by deleting the finding that the FPSC rates are just and reasonable rates under the FPA. Fourth, FPL asserts that we should require RRD to submit the cost of service information required by section 35.12 of our regulations. Finally, FPL requests that we reject condition 7(b) of RRD's rate schedule.

1. *Acceptance of refund condition.* FPL's request that we reject RRD's rate filing absent RRD acceptance of our refund condition is moot. As noted above, RRD filed a letter indicating its acceptance of that condition on April 12, 1982.

2. *Bond requirement.* FPL requests that the Commission require RRD to post a bond or provide other assurance that it will pay any refund that may ultimately be ordered. FPL also requests that we modify our order to list both RRD and Resource Recovery (Dade County) Construction Corporation (RRDC) as the filing utilities. FPL indicates that RRDC is a sister corporation of RRD which claims title to the facility in question. Both RRD and RRDC are subsidiaries of Parsons & Whittermore, Inc. (P&W). FPL asks that we either require RRD and RRDC to jointly post bond in the amount of $5 million or that we require P&W to provide a guaranty of the refund obligation of its subsidiaries. FPL cites various cases which indicate the Commission's authority under section 309 is to be given a broad reading, thus permitting the Commission to require such assurances.

While we do not disagree that our authority under section 309 of the FPA is broad, we do not find FPL's suggested use of that authority appropriate in this case. FPL's request that we require RRD and RRDC or P&W to post bond or other assurances arises out of the underlying commercial contractual dispute between FPL, RRD, and Dade regarding ownership of the facility in question. It is not this Commission's role, however, to become involved in such disputes which are presently pending before a state forum of competent jurisdiction.[8] Neither is it our traditional practice to require that a going electric utility concern guaranty refunds either by bond or other economic assurances. The issue regarding which company will be liable under the refund obligation and the ability of that company to satisfy the refund obligation, if any, may be resolved in a judicial proceeding.

3. Just and reasonable finding. FPL asserts that the Commission should modify its order by deleting the finding that the rates prescribed by the FPSC are just and reasonable rates under the FPA. FPL states that there is no substantial evidence in the record to support such a finding. In the alternative, FPL suggests that the Commission clarify the order by indicating that such finding is not intended to limit the power of either this Commission or the FPSC to determine that different rates are appropriate and to order corresponding refunds.

In the March 12, 1982 order, we intended to make a generic finding that State commission rates set in compliance with Section 210 of PURPA and this Commission's rules thereunder shall be considered to be just and reasonable rates under the Federal Power Act. Having undertaken a major rulemaking to arrive at the Section 210 rules, we do not believe that a further hearing is required in order to determine that this Commission shall accept as just and reasonable the ratemaking standards which it has required the State Commissions to follow.

Since, however, a challenge had been made in the Florida State Courts to the FPSC rates and a challenge had been made to the Commission's rules under Section 210 of PURPA, which actions may affect the FPSC rates, we conditioned the acceptance of RRD's rates on an agreement to make them subject to refund pending the outcome of those court proceedings. Implicit in such a condition is our conclusion that the FPSC rates may not ultimately be found to be just and reasonable, depending on the outcome of the court proceedings. Thus, refunds may be ordered of any amounts in excess of what is ultimately determined to be the just and reasonable rate.

4. *Cost-of-service information.* In its application for rehearing, FPL requests that we condition our waiver of the cost of service data requirements in section 35.12 of our regulations on the requirement that RRD file cost information within a reasonable time after a rehearing order. FPL does not seek rejection of RRD's rates on the grounds that RRD did not provide this information initially. Rather, FPL suggests that this information may be necessary for Commission consideration in the event that the *American Electric Power Corp.* v. *FERC*[9] decision is not reversed. Moreover, FPL suggests that the filing of cost of service data by RRD will not impose a significant burden on RRD.

In our prior order, we noted that the *AEP* decision vacating our rules requiring the states to set full avoided cost rates for purchases from qualifying facilities has been stayed pending appeal. That decision remains stayed pending further appeal by the Commission.[10] Thus, we find that cost of service data are not required from RRD at this time.

5. *Interconnection.* FPL's final contention is that the Commission should reject condition 7(b) of RRD's rate schedule. FPL asserts that this condition, which requires FPL to maintain service necessary to receive power from RRD, is an attempt to obtain an interconnection order without meeting the requirements of sections 210 and 212 of the FPA, contrary to the ruling of *AEP*.

As we stated above with respect to FPL's cost of service information request, the mandate vacating the

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[6] RRD's rates for sales to FPL are the full avoided costs for FPL purchases from qualifying facilities as determined by the FPSC under Orders 9970, 10196, and 10331, and generally applicable orders amending those orders.

[7] Section 309 of the FPA states that the Commission has the authority:

to perform any and all acts, and to prescribe, issue, make, amend, and rescind such orders, rules, and regulations as it may find necessary and appropriate to carry out the provisions of this chapter. 16 U.S.C. 825h.

[8] *See* Order Denying Petition for Declaratory Order and Motion to Hold Proceeding in Abeyance, Docket No. QF81-19-000 (issued February 22, 1982) in which the Commission stated:

We find that it is not appropriate for the Commission to sift through the competing claims of the parties to determine, under state contract law, who is the rightful owner or operator of the facility under the terms of the contracts. Therefore, the commercial issues raised in FP&L's Petition for Declaratory Order should be resolved in the state forum of competent jurisdiction.

[9] No. 80-1780 (D.C. Cir. January 22, 1982).

[10] On April 9, 1982, the D.C. Court of Appeals denied rehearing. On April 20, 1982, the Commission filed a Motion for a Stay of the Mandate.

Commission's rules as a result of the *AEP* decision has been stayed pending further appeal. Thus, the requirement that FPL interconnect with RRD under section 292.303(c) of our regulations remains in effect. We therefore dismiss without prejudice FPL's request for hearing under section 206 of the FPA on this matter.

B. Dade County—Petition To Intervene

Dade County (Dade) did not file a timely petition to intervene in this proceeding. Rather, Dade has simultaneously petitioned to intervene and applied for rehearing. With regard to the late-filed petition to intervene, Dade asserts that it has a significant interest in this proceeding, that good cause exists for late intervention, and that its interests in this proceeding are substantially different from those of FPL. Dade's interest in the proceeding is based on its claims to beneficial ownership of the facility under state law and preservation of its property rights.

RRD opposes and FPL supports Dade's petition to intervene. RRD states that Dade has not shown good cause for the lateness of its petition. RRD indicates that Dade had actual knowledge of the proceedings yet chose to file its petition to intervene as late in the administrative process as possible. Thus, RRD argues that Dade's petition should be denied on lateness grounds alone.

RRD also argues that Dade has not satisfied the applicable criteria of section 1.8 of our regulations regarding grounds for intervention. RRD states that Dade is not entitled to intervene by statute, does not have an interest which may be directly affected by the proceeding, and is not entitled to discretionary intervention.

The due date for petitions to intervene in this proceeding was February 12, 1982, as established in the notice published in the **Federal Register** (47 FR 3853, January 27, 1982). An initial order was entered on March 12, 1982. Dade filed its petition to intervene and application for rehearing on April 12, 1982, the last day of the rehearing period.

Dade does not indicate that it was not on notice as to these proceedings. Rather, Dade asserts that it was engaged in good faith negotiations with RRD during the pendency of the proceedings. Therefore, Dade refrained from intervening in order to avoid any implication of bad faith in these negotiations. Dade asserts that, "after three months of inconclusive settlement negotiations, * * * [it] determined that protection of its property rights required it to resume pursuit of its legal remedies in the various judicial and administrative proceedings which affect its interest."

Section 1.8(d) of our regulation requires a showing of good cause in order to grant a petition to intervene filed out of time. In a recent order we stated:

> In determining whether good cause to permit a late intervention exists, the Commission will consider four factors: 1) the nature of the interest alleged by the late intervenor and whether that interest is adequately represented by other parties in the proceeding; 2) whether permitting the late intervention will prejudice other parties in the proceeding; 3) whether permitting the late intervention will delay resolution of the proceeding; and 4) the reasons offered by the late intervenor for not having filed on time.[11]

We have also indicated that late-filed petitions to intervene must show "extraordinary circumstances" which justify their lateness.[12] Because Dade seeks to intervene at the rehearing stage, it bears a heavier burden in demonstrating that good cause exists.

Dade has not demonstrated extraordinary circumstances which justify its lateness. It is apparent from the record before us that Dade knew or should have known of these proceedings in order to allow it to intervene in a timely manner.[13] Moreover, the nature of the interest alleged by Dade is not one which is appropriately raised in this proceeding. In its filing, Dade petitions us to establish an escrow account into which FPL would place payments for the sale of power to RRD. Dade asserts that it is entitled to such payments as the equitable owner of the facility under state law.

As we stated above with regard to FPL's bond request, this claim, which arises out of the complex commercial contractural dispute presently subject to arbitration, is best presented to a state forum of competent jurisdiction. We do not believe it would be appropriate to interfere in pending state proceedings by independently imposing escrow requirements.

For these reasons, we shall deny Dade's petition to intervene.

The Commission Orders

(A) The petition to intervene in this proceeding filed on April 12, 1982, by Metropolitan Dade County, Florida is hereby denied.

(B) The application for rehearing filed by Florida Power and Light Company pursuant to section 1.34 of our regulations, on April 12, 1982, is hereby granted in part and denied in part as described in the body of this order.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15230 Filed 6-3-82; 8:45 am]

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[11] *Consolidated Gas Supply Corporation*, Order Granting Rehearing, docket No. CP80-340-000 (issued May 13, 1982).

[12] *Colorado Interstate Gas Co.*, 50 F.P.C. 1916, 1919 (issued December 14, 1973).

[13] With regard to Dade's assertion that it did not wish to show bad faith in its contract negotiations, we note that, during the pendency of these proceedings, Dade sought review of the FPSC's interconnection order before the Florida State Supreme Court.

[Project No. 5651-002]

Snake River Pottery; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

May 28, 1982.

Take notice that on May 3, 1982, Snake River Pottery (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 5651) would be located on an unnamed Spring near Bliss, in Gooding County, Idaho. Correspondence with the Applicant should be directed to: Mr. Dale Hatch, P.O. Box 1071, Twin Falls, Idaho 83301.

Project Description—Applicant proposes to rehabilitate its existing project by replacing two existing generating units with installed capacity of 30 kW with new generating units with total rated capacity of 97 kW. The existing project consists of: (1) an intake structure; (2) a 650-foot-long penstock; (3) a powerhouse at elevation 2,710 feet m.s.l. that the Applicant would move to an elevation outside the A.J. Wiley Project No. 2845 reservoir boundary on the Snake River, when it is licensed for construction; and (4) a proposed 12.5-kV, 1,270-foot-long transmission line connecting the project with an existing Idaho Power Company line north of the project.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Idaho

Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife concerning the project and its resources are requested; however resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 9, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 C.F.R. 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 9, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15227 Filed 6-3-82; 8:45 am]

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[Docket No. ER82-427-000]

Southern Calif. Edison Co.; Order Accepting for Filing and Suspending Revised Rates, Denying Motions for Rejection and for Summary Disposition, Granting Interventions, and Establishing Hearing and Price Squeeze Procedures

Issued: May 28, 1982.

On March 31, 1982, Southern California Edison Company (SCE) tendered for filing a proposed two-step increase in its wholesale rates for service to eight wholesale customers.[1] The step one rates provide for an increase in jurisdictional revenues of approximately $38.5 million (15.8%) for the twelve month test period ending August 31, 1983. The step two rates, which reflect the costs associated with three nuclear units scheduled to commence service during the test year,[2] would result in an additional increase in revenues above the step one rates of aproximately $22 million (7.7%). SCE requests effective dates for the step one and step two rates of June 1, 1982, and June 2, 1982, respectively.[3]

Notice of the filing was issued on April 8, 1982, with responses due on or before April 23, 1982. On April 21, 1982, Arizona Public Service Company filed a petition to intervene. Timely petitions to intervene were also filed by the Cities of Anaheim, Riverside, Banning, Colton, and Azusa, California (Cities) and by the City of Vernon, California (Vernon). By letter dated May 13, 1982, the Honorable George E. Brown, Member of Congress, supported the Cities' protest expressing concern as to the level of SCE's rate increase and the proposed effective dates. On May 13, 1982, the City of Banning individually protested SCE's filing. In addition, on May 20, 1982, numerous citizens of Riverside submitted petitions, signed form statements, and individual comments supporting that city's protest.

Cities move to reject the step one increase because SCE has not filed separate cost support for its step one rates. Cities request summary disposition with respect to several cost of service and rate design items,[4] request a maximum suspension, allege price squeeze, and also object to other cost of service items. Cities also request an expedited hearing on SCE's fuel adjustment clause.[5]

Vernon also requests a five month suspension of the step two as well as the step one rates. Vernon objects to various cost of service items, and also alleges price squeeze. In addition, Vernon points out that SCE's present and proposed Rate Schedule TOU–R contains special conditions 3 and 4 concerning energy and billing demand determination and that such conditions of service are currently being litigated in Docket No. ER81–177–000. Therefore, Vernon requests that special conditions

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[1] *See* Attachment A for customers and rate schedule designations.

[2] SONGS 2 (scheduled for August 15, 1982), Palo Verde No. 1 (scheduled for May, 1983), and SONGS 3 (scheduled for August, 1983).

[3] SCE states that while it believes no suspension of its step two rates is warranted, SCE would not object to an effective date of the earlier of the in-service date of its San Onofre Nuclear Unit No. 2 (SONGS 2) (anticipated to be August 15, 1982) or five months after the June 2 proposed effective date, *i.e.*, November 2, 1982.

[4] The Cities request summary disposition with respect to SCE's: (1) cost of service inclusion of investments and other costs associated with Palo Verde No. 1 and SONGS 3; (2) improper assignment of regulatory commission expenses to wholesale service; (3) allocation of certain distribution expenses to wholesale service; (4) improper functionalization and allocation of materials and supplies to construction and electric operations; (5) inclusion of pre-certification expenses in the cost of service; (6) failure to properly synchronize interest expense during the test year; (7) inconsistent allocation of deferred taxes and underlying tax deductions; (8) expenses claimed for nuclear fuel purchased from a subsidiary; and (9) insufficient cost support for its proposed rate design.

[5] Such request is based on the fact that the Cities of Anaheim and Riverside engage in economy energy transactions and, therefore, these customers must have timely information as to the cost of energy to be purchased from SCE. The Cities contend that because SCE's fuel adjustment clause contains a one-month lagging feature, the actual cost of energy to be purchased cannot be determined.

3 and 4 contained in the proposed rate schedule be subject to the outcome of proceedings in Docket No. ER81–177–000. Vernon and Cities also request that if the Commission does not summarily reject the claimed costs associated with Palo Verde 1 and SONGS 3 or direct Edison to refile its cost of service to eliminate all costs projected beyond April 30, 1983, acceptance of Edison's filing be conditioned upon a binding commitment by Edison to refrain from filing any additional rate increase with a proposed effective date prior to August, 1983. The petitioners contend that based on historic slippage in nuclear unit in-service dates, commercial operation of Palo Verde 1 and SONGS 3 is not likely to occur during the test period.

On May 5, 1982, SCE filed a response to the Cities' motion to reject the filing and on May 10, 1982, an answer to the other pleadings. SCE requests that the Commission deny the motion to reject its filing, accept for filing its March 31, 1982 rate increase, deny the requests for summary disposition, deny the motion for conditions on the Commission's acceptance of the filing, deny the requests for expedited hearing, and summarily dispose of certain issues raised by the intervenors.

Discussion

Initially, we find that participation in this proceeding by Cities, Vernon, and Arizona Public Service Company is in the public interest and we shall therefore grant their petitions to intervene.

We find that SCE's submittal substantially complies with the Commission's filing regulations.[6] Thus, the concerns expressed by Cities do not constitue a sufficient basis on which to summarily reject SCE's filing.[7]

In view of the matters raised by the intervenors, our review indicates that SCE's revised rates have not shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing and suspend them as ordered below.

In *West Texas Utilities,* Docket No. ER82–123–000 (February 26, 1982), we noted that rate filings would ordinarily be suspended for one day where preliminary review indicates that the proposed rates may be unjust and unreasonable but may not produce substantially excessive revenues, as defind in *West Texas.* In the instant submittal, our examination suggests that the proposed increase may not yield substantially excessive revenues. Accordingly, we shall suspend SCE's step one rates for one day to become effective on June 2, 1982, subject to refund. Consistent with the company's suggestion, we shall suspend SCE's step two rates to become effective as of the earlier of the SONGS 2 in-service date or November 2, 1982, subject to refund.

The requests for summary disposition will be denied. These issues as well as the other matters raised by the intervenors present questions of law or fact more appropriately resolved on the basis of an evidentiary hearing. The requests to condition acceptance of SCE's filing by imposition of an arbitrary rate moratorium also will be denied.

The Cities also request that the fuel adjustment clause contained in the instant filing be subject to a separate and expedited hearing. We note that an identical fuel clause was submitted in SCE's prior rate increase filing in Docket No. ER81–177–000 and that the fuel clause issue is being considered as part of the ongoing proceeding in that docket. Since the issue is subject to litigation in ER81–177–000, the intervenors request for a separate and expedited hearing on the fuel clause issue in the instant docket will be denied as unnecessary.

As requested by the intervenors, Special Conditions of Service Nos. 3 and 4 will be subject to the outcome of proceeding in Docket No. ER81–177–000. In accordance with the Commission's policy and procedures established in *Arkansas Power and Light Company,* Docket No. ER79–339 (August 6, 1979), we shall phase the price squeeze issue raised by the intervenors.

The Commission orders:

(A) Cities' motion to reject SCE's filing in whole or in part is hereby denied.

(B) SCE's revised rates are hereby accepted for filing, and SCE's step one revised rates are hereby suspended for one day to become effective, subject to refund, on June 2, 1982. SCE's step two revised rates are suspended to become effective as of the earlier of the SONGS 2 in-service date or November 2, 1982, subject to refund. SCE shall notify the Commission of the implementation of the step two rates within ten (10) days thereafter.

(C) All motions for summary disposition or to condition acceptance of SCE's filing are hereby denied.

(D) Cities' motion for an expedited hearing on SCE's fuel clause contained in the instant filing is denied.

(E) Special Conditions of Service No. 3 and 4 shall be subject to the outcome of the proceedings in Docket No. ER81–177–000.

(F) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of SCE's rates.

(G) The petitions to intervene in this proceeding are hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *Provided, however,* that participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; and *provided, further,* that the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order of the Commission in this proceeding.

(H) The Commission staff shall serve top sheets in this proceeding on or before June 15, 1982.

(I) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(J) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the

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[6] *See Municipal Light Boards of Reading and Wakefield, Mass. v. FERC,* 450 F.2d 1341 (D.C. Cir. 1971). SCE has complied with the cost support requirements under section 35.13 for its proposed total increase of $80.5 million to be implemented in two steps. Since SCE has supported its total requested increase, separate cost support statements under section 35.13 of the regulations are not necessary or required for SCE's step one rates which were set simply by excluding fixed costs associated with SONGS 2.

[7] Vernon has argued that if only a one day suspension is granted the effective date of SCE's step one rates (proposed to be June 1, 1982) would precede the incurrence of test year costs by three months. In this regard, we note that section 35.13 of the Commission's regulations permits the filing of a Period II test year which begins no later than three months after the proposed effective date. Therefore, SCE's proposed June 1, 1982 effective date and Period II beginning September 1, 1982, meet the time requirements of section 35.13.

rate which, but for consideration of price squeeze, would be just and reasonable. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(K) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

RATE SCHEDULE DESIGNATIONS (DOCKET NO. ER82-427-000), SOUTHERN CALIFORNIA EDISON CO., FILING DATE: MAR. 31, 1982

Designation	Description	Other party
(1) Supplement No. 16 to Rate Schedule FERC No. 6 (Supersedes Supplement No. 14).	TOU-R (Step-One).	Arizona Public Service Co. (Cibola).
(2) Supplement No. 17 to Rate Schedule FERC No. 13 (Supersedes Supplement No. 15).	do	Vernon.
(3) Supplement No. 21 to Rate Schedule FERC No. 15 (Supersedes Supplement No. 19).	do	Anaheim.
(4) Supplement No. 18 to Rate Schedule FERC No. 16 (Supersedes Supplement No. 14).	do	Azusa.
(5) Supplement No. 22 to Rate Schedule FERC No. 17 (Supersedes Supplement No. 20).	do	Riverside.
(6) Supplement No. 19 to Rate Schedule FERC No. 21 (Supersedes Supplement No. 13).	do	Banning.
(7) Supplement No. 15 to Rate Schedule FERC No. 29 (Supersedes Supplement No. 13).	do	Arizona Public Service Company (Blythe).
(8) Supplement No. 17 to Rate Schedule FERC No. 31 (Supersedes Supplement No. 15).	do	Colton.
(9) Supplement No. 19 to Rate Schedule FERC No. 33 (Supersedes Supplement No. 15).	do	Southern California Water Co. (Hamlet).
(10) Supplement No. 20 to Rate Schedule FERC No. 33 (Supersedes Supplement No. 17).	do	Southern California Water Co. (Gold Hill).
(11) Supplement No. 17 to Rate Schedule FERC No. 6 (Supersedes Supplement No. 15).	do	Arizona Public Service Co. (Cibola).
(12) Supplement No. 18 to Rate Schedule FERC No. 13 (Supersedes Supplement No. 17).	do	Vernon.
(13) Supplement No. 22 to Rate Schedule FERC No. 15 (Supersedes Supplement No. 21).	do	Anaheim.

RATE SCHEDULE DESIGNATIONS (DOCKET NO. ER82-427-000), SOUTHERN CALIFORNIA EDISON CO., FILING DATE: MAR. 31, 1982—Continued

Designation	Description	Other party
(14) Supplement No. 17 to Rate Schedule FERC No. 16 (Supersedes Supplement No. 16).	do	Azusa.
(15) Supplement No. 23 to Rate Schedule FERC No. 17 (Supersedes Supplement No. 22).	do	Riverside.
(16) Supplement No. 18 to Rate Schedule FERC No. 21 (Supersedes Supplement No. 15).	do	Banning.
(17) Supplement No. 16 to Rate Schedule FERC No. 29 (Supersedes Supplement No. 15).	do	Arizona Public Service Co.
(18) Supplement No. 18 to Rate Schedule FERC No. 31 (Supersedes Supplement No. 17).	do	Colton.
(19) Supplement No. 21 to Rate Schedule FERC No. 33 (Supersedes Supplement No. 19).	do	Southern California Water Co. (Hamlet).
(20) Supplement No. 22 to Rate Schedule FERC No. 33 (Supersedes Supplement No. 20).	do	Souther California Water Co. (Gold Hill).

[FR Doc. 82-15216 Filed 6-3-82; 8:45 am]

BILLING CODE 6717-01-M

Omnibus Settlement For June 15, 1982

May 27, 1982.

In the matter of Tennessee Gas Pipeline Company, (Docket Nos. RP80-97 and RP81-54) Michigan Wisconsin Pipe Line Company, (Docket Nos. RP80-100 and RP81-61) Natural Gas Pipe Line Company of America, (Docket Nos. RP80-107 and RP81-49) Transcontinental Gas Pipe Line Corporation, (Docket Nos. RP80-117 and RP82-3) United Gas Pipe Line Company, (Docket Nos. RP80-121 and RP81-81) Trunkline Gas Company, (Docket No. RP80-106) Columbia Gulf Transmission Company, (Docket Nos. RP80-145 and RP82-83) Columbia Gas Transmission Corporation, (Docket No. RP80-146) Florida Gas Transmission Company, (Docket Nos. RP81-7 and RP81-84) High Island Offshore System, (Docket No. RP81-18) U-T Offshore System, (Docket No. RP81-20) Transwestern Pipeline Company, (Docket No RP81-130) Texas Eastern Transmission Corporation, (Docket No. RP81-109)

Take notice that on June 15, 1982, at 10:00 a.m., there will be a conference of all parties to the above-docketed proceedings, for the purpose of resuming settlement discussions pertaining to costs incurred by pipelines to provide transportation and separation services for producer-owned liquid and liquefiable hydrocarbons. Issues concerning the proper allocation of such costs appear to arise in the above-captioned dockets. These dockets, while not consolidated, will be jointly convened for purposes of these discussions as a matter of convenience, and to assure consistency in resolving these issues, to the extent possible.

This conference will be held in a hearing room at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. In addition to the parties, those having filed interventions in this proceeding will also be permitted to attend this conference. If, however, such persons have not previously been permitted to intervene in any of the above-captioned dockets by order of the Commission or of a Presiding Administrative Law Judge, attendance will not be deemed to authorize intervention as a party in any of these proceedings, nor will attendance by a person granted intervention in one or more of the above-captioned proceedings be deemed to authorize intervention in any other docket. Persons seeking further information about this conference should contact Richard Bonnifield, Commission Staff Attorney, at (202) 357-8583.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15228 Filed 6-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-526-000]

Union Electric Co.; Filing

May 28, 1982.

The filing Company submits the following:

Take notice that on May 17, 1982, Union Electric Company (UE) tendered for filing Third Amendment and Revised Schedule II to the Interchange Agreement dated May 2, 1969 between UE and St. Joseph Light and Power Company.

Said agreements provide for revisions in reservation charges for System Participation Power and Short-Term Power and the energy rate for Emergency Power under said Interchange Agreement.

UE requests an effective date of June 1, 1982 for the Amendment and revised Schedule.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825

North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 11, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15213 Filed 6-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4856-001]

Utah Board of Water Resources; Application for License (Over 5 MW)

May 28, 1982.

Take notice that the Utah Board of Water Resources (Applicant) filed on January 8, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as the Long Park Project No. 4856. The project would be located on Sheep Creek in Daggett County, Utah. Correspondence with the Applicant should be directed to: Daniel Lawrence, Director, Utah Board of Water Resources, 1636 West North Temple, Salt Lake City, Utah 84116.

Project Description—The proposed project would consist of: (1) the Applicant's existing earth-filled dam, 110 feet high and 790 feet long; (2) the existing reservoir covering approximately 400 acres with a storage of 13,700 acre-feet; (3) a new 42-inch diameter steel and concrete penstock 9,600 feet long; (4) a new 50- by 42-foot concrete powerhouse containing one 7.0-MW turbine/generator unit operating under a head of 1,025 feet; (5) a new 69-kV transmission line 9.3 miles long; and (6) appurtenant facilities.

Purpose of Project—The average annual generation of 21 million kWh would be sold to the Deseret Generation and Transmission Cooperative.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before Aug. 18, 1982, either the competing application itself (see 18 CFR 4.33(a) and (d)) or a notice of intent [See 18 CFR 4.33(b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before Aug. 18, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15231 Filed 6-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER79-121-005]

Utah Power & Light Co.; Compliance Filing

May 28, 1982.

The filing company submits the following:

Take notice that on May 24, 1982, Utah Power & Light Company submitted a revised filing in accordance with the Commission's letter of April 29, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, on or before June 9, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15232 Filed 6-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-423-000]

Virginia Electric and Power Co.; Order Accepting for Filing and Suspending Revised Rates, Denying Summary Disposition, Granting Interventions, and Establishing Price Squeeze and Hearing Procedures

Issued: May 28, 1982.

On March 31, 1982, Virginia Electric and Power Company (VEPCO) tendered for filing increased rates for ten municipal customers, eighteen cooperative customers and the North Carolina Eastern Municipal Power Agency.[1] The proposed rates would increase revenues by approximately $18,280,000 (9.1%) for the calendar year 1982 test period. VEPCO requests an effective date of May 30, 1982, subject to suspension no longer than one day; the company states, however, that if a pending settlement agreement in Docket No. ER81-388-000 is ultimately approved by the Commission, VEPCO will refund with interest any increased revenues above the settlement rate collected until September 1, 1982, so as to comply with the terms of the settlement agreement.

Additionally, VEPCO requests waiver of the following Commission requirements: (a) a portion of Statement AX (§ 35.13 of the regulations) which provides for the submission of certain rate orders; (b) § 35.14 of the regulations to the extent that it limits recovery of fuel costs through a fuel adjustment clause to the "net energy cost of purchases, *exclusive of capacity or demand charges;*" [2] and (c) the tax normalization provisions of section 35.25 as promulgated in Order No. 144-A (February 22, 1982).

Public notice of the filing was issued on April 6, 1982, with responses due on or before April 21, 1982. On April 19, 1982, petitions to intervene were filed individually by the Secretary of the Navy (Navy) and Bear Island Paper Company (Bear Island). The Navy states that while VEPCO's Military Service

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[1] *See* Attachment A for customers and rate schedule designations.

[2] VEPCO seeks permission to pass through the demand-related portion of its purchased power expenses to wholesale customers.

(MS) rate schedule is not subject to this Commission's jurisdiction, the terms of the Navy's contract with VEPCO link the MS rates to the rates set by the Commission for the RS rate schedule (Resale Service to Municipalities and Private Utilities). In developing rates for service to the Navy, VEPCO utilizes the same methodology, rate of return, test period, and effective date permitted pursuant to the RS rate schedule. Bear Island raises no substantive issues, but states that it is a high load factor industrial customer which purchases power furnished by VEPCO to the Rappahannock Electric Cooperative. Bear Island contends that its interests will not be adequately represented by other parties to this proceeding.

On April 20, 1982, ElectriCities of North Carolina and the North Carolina Eastern Municipal Power Agency (ElectriCities) filed a petition to intervene, protest, request for hearing, and a motion for summary disposition. The request for summary disposition applies to an alleged request by VEPCO for an advisory opinion on the proper treatment of Accumulated Deferred Investment Tax Credits (ADITC) in the capital structure.[3] Also, ElectriCities request that the proposed rates be suspended at least until September 1, 1982, as envisioned by the settlement agreement which is pending before the Commission in Docket No. ER81–388–000. ElectriCities allege the following improper adjustments or treatment in the wholesale cost of service: (1) excessive and unsupported operation and maintenance expenses; (2) excessive fuel stock allowance; (3) improper functionalization of deferred tax balances; (4) use of excessive depreciation rates; and (5) use of decommissioning expenses based on a mothballing method rather than an immediate dismantlement method. In addition, ElectriCities challenge VEPCO's request for waiver of the fuel clause requirements stating that the company is attempting to institute a purchased power adjustment clause and that a more economical alternative mix of economy power, short-term capacity and energy, and use of its oil-fired generation may reduce the level of capacity-related purchased power costs. Finally, ElectriCities allege that the proposed rates may result in a price squeeze.

[3] In a May 5, 1982 response, VEPCO states that it is not seeking an advisory opinion as to the proper treatment of ADITC, but that it has stated its position on the issue in the event that the Commission decides to reconsider its existing policy. VEPCO has also responded to other of the petitioners' contentions.

On April 21, 1982, Old Dominion Electric Cooperative and Prince William Electric Cooperative (Cooperatives) and the North Carolina Electric Membership Corporation (NCEMC) filed petitions to intervene. The Cooperatives and NCEMC request a five month suspension raising various cost of service issues including: (1) failure to synchronize interest expense deduction for tax purposes with the interest component of the requested rate of return; (2) inadequate support for test period increases in production and transmission operation and maintenance expenses; (3) questionable forecasts of test period demand and energy requirements; (4) overstatement of the wholesale customers' allocated share of nuclear fuel disposal costs; and (5) overstated cash working capital allowance. The Cooperatives and NCEMC object to VEPCO's proposed inclusion of capacity costs associated with purchased power expenses in the fuel adjustment clause, and contend that, if an automatic pass-through is permitted, the company should be required to credit the entire amount (capacity and energy) of intersystem sales against its recoverable fuel costs. The Cooperatives allege price squeeze and request the establishment of phased price squeeze proceedings. NCEMC, instead, seeks to have the price squeeze issue decided before the cost of service issues.

Discussion

We find that participation in this proceeding by each of the petitioners is in the public interest. Therefore, we shall grant the petitions to intervene.

Consistent with our conclusions in a previous proceeding[4] and based on the support submitted thus far, we shall deny VEPCO's request for waiver of the § 35.14 fuel clause regulations. However, we believe that this is an issue which the company should be permitted to pursue at hearing.

We shall grant VEPCO's request for waiver of the requirements of Statement AX since the rate orders required therein have been submitted in earlier proceedings before this Commission. With respect to VEPCO's request for waiver of the Commission's tax normalization requirements based on the company's assertion that the information was not completed in time to be included in its filing, we shall deny waiver and require VEPCO to file revised rates and cost of service statements which reflect tax normalization procedures consistent with Order No. 144–A and § 35.25 of the regulations.[5] Inasmuch as VEPCO is not seeking an advisory opinion concerning the treatment of ADITC and has not improperly reflected ADITC in its capitalization or rates, summary disposition, as requested by ElectriCities, is unnecessary and will be denied.

Our preliminary review of VEPCO's filing and the intervenors' pleadings indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept VEPCO's rates for filing and suspend them as ordered below.

We recently addressed the Commission's suspension policy in *West Texas Utilities Company*, Docket No. ER82–23–000 (February 26, 1982). In that order, we stated that where our preliminary examination indicates that revised rates may be unjust and unreasonable, but may not be substantially excessive as described in *West Texas*, we would generally suspend the rates for one day. In the case of VEPCO's rates, preliminary review suggests that the proposed rates may not produce excess revenues. Therefore, absent other circumstances, we would suspend VEPCO's rates for one day from the proposed effective date. As noted above, VEPCO ostensibly requests a May 30, 1982 effective date, although the company acknowledges that its pending offer of settlement in Docket No. ER81–388–000 contains a moratorium provision which would preclude the company from proposing to collect revised rates prior to September 1, 1982. That settlement has not been approved, although as to certain of VEPCO's customers, the settlement rates have been implemented on an interim basis pending Commission disposition on the merits.[6] The Commission expects that action on the settlement agreement will be forthcoming shortly. In order to maintain the *status quo ante* and to preserve the interests of all affected parties, we conclude that circumstances other than those related to rate level make it appropriate to suspend VEPCO's rates to become effective, subject to refund,

[4] *Florida Power & Light Company*, Docket No. ER81–588–000 (September 2, 1981).

[5] This conclusion is consistent with our decision in *Wisconsin Electric Power Company*, Docket No. ER82–347–000 (April 13, 1982), as to the most appropriate and equitable manner by which to implement the requirements of Order No. 144–A.

[6] By order issued on February 11, 1982, in Docket No. ER81–388–000, the Commission authorized VEPCO to collect the proposed settlement rates on an interim basis from the North Carolina cooperative customers.

on September 2, 1982. In the event that the settlement is rejected, the moratorium provision will be inapplicable and, upon request by VEPCO, the Commission will modify this order to provide for a one day suspension from May 31, 1982 (60 days after filing). If, however, the settlement is approved, the September 2 effective date will prevent VEPCO's customers from unnecessarily paying the increased rates immediately, revising their retail rates accordingly, and seeking any required regulatory approval for their own rate changes.

In accordance with the Commission's policy and practice established in *Arkansas Power and Light Company*, Docket No. ER79–339 (August 6, 1979), we shall phase the price squeeze issue raised by the intervenors.[7]

The Commission orders:

(A) ElectriCities' motions for summary disposition on the issue of ADITC is hereby denied.

(B) VEPCO's request for waiver of the outstanding filing requirements of § 35.13 of the regulations is hereby granted.

(C) VEPCO's request for waiver of the Commission's tax normalization requirements is hereby denied. VEPCO shall submit, within thirty (30) days of the date of this order, revised rates and cost statements which reflect tax normalization procedures consistent with Order No. 144–A and § 35.25 of the regulations.

(D) VEPCO's proposed rates, as modified to comply with Order No. 144–A, are hereby accepted for filing and suspended to become effective on September 2, 1982, subject to refund.

(E) VEPCO's request for waiver of the fuel adjustment clause regulations under section 35.14 is hereby denied, without prejudice to the company seeking to support its position at hearing that the demand-related portion of purchased power expenses should be collected through the fuel adjustment clause.

(F) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act [18 CFR, Chapter I], a public hearing shall be held concerning the justness and reasonableness of VEPCO's rates.

(G) The petitions to intervene are hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *provided, however, that participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; and provided, further,* that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order or orders entered by the Commission in this proceeding.

(H) The Commission staff shall serve top sheets in this proceeding on or before June 10, 1982.

(I) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(J) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may modify this schedule for good cause shown. The price squeeze portion of this case shall be governed by the procedures set forth in section 2.17 of the Commission's regulations as the may be modified prior to the initiation of the price squeeze phase of this proceeding.

(K) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[7] We perceive no basis for addressing the price squeeze issue at hearing in advance of the remaining issues since, as we have previously noted, it is necessary to develop a "just and reasonable rate but for price squeeze" in order to properly assess claims of price squeeze. Thus, we decline to depart from existing phasing practice as requested by NCEMC. However, we acknowledge that, under that practice, the presiding judge has discretion to modify the procedural schedule where good cause is found to do so.

ATTACHMENT A.—VIRGINIA ELECTRIC AND POWER COMPANY

[Docket No. ER82-423-000—Rate Schedule Designations]

Designation	Tariff customers
Eighth Revised Sheet Nos. 4 through 9 and 17 and Ninth Revised Sheet No. 10 to FPC Electric Tariff, First Revised Volume No. 1 (supersedes Seventh Revised Sheet Nos. 4 through 9 and 17 and Eighth Revised Sheet No. 10).	Town of [illegible] Town of Culpepper, Town of Elkton, Town of Enfield, Town of Franklin, City of Harrisonburg, Town of Iron Gate, City of Manassas, Town of Wakefield, Town of Windsor.

Designation	Description
Supplement No. 1 to Supplement No. 3 to Rate Schedule FERC No. 102.	Schedule RS-A, Interim Electric Service to North Carolina Eastern Municipal Power Agency.

Customer	Rate schedule	Supplement number		
		RC [1]	RC-F [2]	RC-Inter [3]
B-A-R-C EC	76	39	40	41
Community EC	77	51	52	53
Craig-Botetourt EC	78	36	37	38
Mecklenburg EC	79	62	63	64
Northern Neck	80	43	44	45
Prince George EC	82	44	45	46
Prince William EC	83	66	66	67
Shenandoah Valley EC	84	63	64	65
Southside EC	85	67	68	69
Tri-County EC	86	43	43	44
Albemarle EMC	88	40	41	42
Cape Hatteras EMC	89	26	27	28
Edgecombe-Martin County EMC	90	43	44	45
Halifax EMC	91	36	36	37
Roanoke EMC	92	47	48	49
Tideland EMC	93	32	33	34
Central Virginia EC	94	52	53	54
Rappahannock EC	101	43	44	45

[1] Firm resale schedule RC.
[2] Excess facilities schedule RC-F.
[3] Interruptible service schedule RC-Interruptible.

[FR Doc. 82-15219 Filed 6-3-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-529-000]

Western Massachusetts Electric Co.; Filing

May 28, 1982.

The filing Company submits the following:

Take notice that on May 17, 1982, Western Massachusetts Electric Company (WMECO) tendered for filing a proposed Purchase Agreement with Respect to Various Gas Turbine Units (Purchase Agreement) dated December 1981 between WMECO, the Connecticut Light and Power Company (CL&P) and the Hartford Electric Light Company (HELCO) (collectively the NU

Companies) and the City of Chicopee Municipal Lighting Plant (Chicopee).

WMECO states that the Purchase Agreement provides for a sale to Chicopee of a specified percentage of capacity and associated energy from five gas turbine generating units during the period from December 1, 1981 to November 30, 1982, together with related transmission service.

WMECO requests an effective date of December 1, 1981, and therefore requests waiver of the Commission's notice requirements.

WMECO states that the Capacity Charge for the proposed sevice was determined on a cost of service basis at the time that the sale was made and was determined in accordance with Appendix C and Exhibits thereto of the Purchased Agreement. The Transmission Charge rate is and annual average cost of transmission service on the Northeast Utilities (NU) system at the time that the sale was made and was determined in accordance with Appendix E and Exhibits thereto of the Purchase Agreement. The monthly Transmission Charge is determined by the product of (i) the transmission charge rate divided by twelve (S/KW-month), and (ii) the number of kilowatts of winter capability which Chicopee is entitled to receive. The Variable Maintenance Charge is desired from historical costs and the Additional Maintenance Charge is twice the Variable Maintenance Charge, based on manufacturer's recommendations.

WMECO states that copies of this rate schedule have been mailed or delivered to CL&P, HELCO and Chicopee, Chicopee, Massachusetts.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 10, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15233 Filed 6-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-347-001]

Wisconsin Electric Power Co.; Compliance Filing

May 27, 1982.

The filing Company submits the following:

Take notice that on May 11, 1982, Wisconsin Electric Power Company filed a compliance report pursuant to the Commission's order issued April 13, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before June 7, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15214 Filed 6-3-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2140-3]

Availability of Environmental Impact Statements Filed May 24 Through May 28, 1982 Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, Ms. Kathi Wilson, (202) 245-3006.

Corps of Engineers:
- EIS No. 820342, Final, COE, AK, Valdez Hydroelectric Powerplant, Allison Lake/ Copper River Basin, Due: July 6, 1982
- EIS No. 820343, Final, COE, MI, Harrisville Harbor Shore Erosion Damage Mitigation, Alcona County, Due: July 6, 1982
- EIS No. 820327, DSuppl, COE, IA, Blowers Creek Local Flood Protection Project, Black Hawk County, Due: July 19, 1982
- EIS No. 820341, DSuppl, COE, CA, South Fork Flood Control Project, Santa Clara River, Los Angeles Co., Due: July 19, 1982
- EIS No. 820350, DSuppl, COE, IL, Eldred and Spankey Drainage and Levee District Flood Control Project, Due: July 19, 1982

Department of Commerce:
- EIS No. 820347, Final, NOA, SEV, REG ATL Atlantic Bluefin Tuna Fishery, Fishery Management Plan, Due: June 8, 1982

Department of Interior:
- EIS No. 820329, Draft, BLM, SEV, ID NV Bruneau-Kuna Grazing Management Program, Due: July 19, 1982
- EIS No. 820339, Draft, BLM, CA, Western Counties Wilderness Study Project/ Escondido-Border Unit, Due: July 19, 1982
- EIS No. 820346, Draft BLM, ID, Owyhee Wilderness Study Areas Wilderness Designation, Owyhee County, Due: March 9, 1982
- EIS No. 820349, Draft, BLM, CA, Central California Study Areas, Wilderness Recommendations, Due: July 19, 1982
- EIS No. 820335, Final, BLM, UT, White River Dam Water Development Project, Uintah County, Due: July 6, 1982
- EIS No. 820332, Final, FWS, SEV, in MI, St. Joseph River Anadromous Fisheries Program, Due: July 6, 1982
- EIS No. 820351, Draft, OSM, MT, Rosebud's Area "C" Mine, Permit and Mining and Reclamation Plan, Due: July 2, 1982

Department of Transportation:
- EIS No. 820326, Final, FAA, AZ, Falcon Field Master Plan, Expansion of Facilities, Maricopa County, Due: July 6, 1982
- EIS No. 820336, DSuppl, FHW, NV, US 395 Construction, Winters Ranch to I-580, Washoe County, Due: July 19, 1982
- EIS No. 820345, Final, FHW, CA, Patten Way Construction, Webster Street and Lincoln Avenue, Due: July 6, 1982
- EIS No. 820344, Final, FHW, MD, MD-702 Extension, Old Eastern Avenue to Back River Neck Road, Due: July 6, 1982

Environmental Protection Agency:
- EIS No. 820328, Final, EPA, VT, Arlington Wastewater Treatment Facilities, Grant Bennington County, Due: July 6, 1982
- EIS No. 820330, Final, EPA, MD, Little Patuxent Water Quality Management Center (Savage Plant), Grant, Due: July 6, 1982
- EIS No. 820333, Final, EPA, PA, Leola Wastewater Treatment Facilities Plan, Grant, Lancaster County, Due: July 6, 1982

Department of Housing and Urban Development:
- EIS No. 820340, Draft, HUD, MT, Valley Unit Housing Development, Mortgage Insurance, Gallatin County, July 19, 1982
- EIS No. 820331, Report, HUD, CO, Colorado Springs Metropolitan Areawide Study, EL Paso County.
- EIS No. 820334, Final, CDB, MD, Carroll Creek Flood Control and Adjacent Park Improvements, CDBG, Due: July 6, 1982

Department of Defense, Navy:
- EIS No. 820337, Draft, USN, RI, Naval Education and Training Center, Homeporting of Frigate Vessels, Due: July 19, 1982

National Science Foundation:
- EIS No. 820338, Draft, NSF, HI, Mauna Kea 10-Meter Wave Telescope Installation, Grant, Hawaii County, Due: July 19, 1982

Nuclear Regulatory Commission:
- EIS No. 820348, Final NRC, IL, Clinton Power Station, Unit 1, Operating License, DeWitt County, Due: July 6, 1982

Amended Notice:
- EIS No. 760402, Draft, COE, CA, Nine-Par Sanitary Landfill Project, Santa Clara County, Permit, Due:[1]

[1] Published Federal Register 3-26-76—Officially Withdrawn.

Dated: June 2, 1982.

Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 82-15291 Filed 6-3-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59086A; TSH FRL 2136-5]

Benzoxazole Carbocyanine; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM-82-14) under section 5 of the Toxic Substances Control Act (TSCA) on April 14, 1982. Notice of receipt of the application was published in the **Federal Register** of April 23, 1982 (47 FR 17665). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective on May 26, 1982.

FOR FURTHER INFORMATION CONTACT: Anna Coutlakis, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-221, 401 M St., SW., Washington, DC 20460, (202-382-3742).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the **Federal Register**. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On April 14, 1982, EPA received an application for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM-82-14. The manufacturer claimed his identity, the specific chemical identity, the specific use and production volume of the new substance as confidential business information. The generic name of the new substance is benzoxazole carbocyanine, and it will be used as an ingredient in photographic film. The test marketing period is not to exceed 2 months. During manufacturing and processing, 19 workers will be dermally exposed for a total of 29 days. A notice published in the **Federal Register** of April 23, 1982 (47 FR 17665) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency has not received any comments concerning the application.

EPA has established that the test marketing of the substance described in TM-82-14, under the conditions set out in the application, will not present any unreasonable risk of injury to health or the environment. No significant health concerns were identified for the TME substance. Minimal exposure is expected during manufacture and processing of the chemical. There is low potential for human contact to the new substance in the photographic film. No significant environmental concerns were identified and environmental release of the substance will be low.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. Each bill of lading that accompanies a shipment of the substance during the test marketing period must state that the use of the substance is restricted to that described to EPA in the test marketing exemption application.

3. The production volume of the new substance may not exceed that described in the test marketing exemption application.

4. The test marketing activity approved in this notice is limited to a period of 2 months commencing on the date of signature of this notice by the Administrator.

5. The number of workers exposed to the new chemical should not exceed that specified in the application and the duration of exposure should not exceed that specified.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: May 26, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-15186 Filed 6-3-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59090; TSH FRL 2138-3]

Certain Chemicals; Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the **Federal Register** of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of two applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by June 21, 1982.

ADDRESS: Written comments, identified by the document control number "(OPTS-59090)" and the specific TME number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E-401, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm.

E–216, 401 M Street, SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TMEs received by EPA. The complete non-confidential document is available in the public reading room E–107.

TME 82–31

Close of Review Period. July 8, 1982.
Manufacturer. Confidential.
Chemical. (G) Substituted benzene compound.
Use/Production. (S) Intermediate for manufacture of a chemical substance. Prod. range: Confidential.
Toxicity Data. Confidential.
Exposure. Minimal number of technical personnel.
Environmental Release/Disposal. Confidential.

TME 82–32

Close of Review Period. July 9, 1982.
Manufacturer. Confidential.
Chemical. (G) Substituted benzene.
Use/Production. (S) Intermediate for manufacture of a chemical substance. Prod. range: Confidential.
Toxicity Data. Confidential.
Exposure. Minimal number of technical personnel.
Environmental Release/Disposal. Confidential.

Dated: June 1, 1982.

Denise F. Swink,

Acting Director, Management Support Division.

[FR Doc. 82–15184 Filed 6–3–82; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 78–371; FCC 82–160]

Exchange Network Facilities for Interstate Access (ENFIA)

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order extending agreement.

SUMMARY: In accordance with the original ENFIA agreement, approved on April 16, 1979, the Commission determines that an extension of the agreement for a maximum additional period of two years is in the public interest. The Commission also determines that the level of payment for the OCCs' use of jointly used subscriber plant is to be maintained at 55%.

DATES: See paragraph 34.

FOR FURTHER INFORMATION CONTACT: Aileen R. Amarandos, Common Carrier Bureau, (202) 632–9342.

SUPPLEMENTARY INFORMATION:

Memorandum Opinion and Order

Adopted: April 14, 1982.

Released: April 14, 1982.

By the Commission: Commissioner Quello concurring and issuing a statement; Commissioner Fogarty dissenting and issuing a statement; Commissioner Jones concurring and issuing a separate statement; Commissioner Dawson concurring and issuing a separate statement.

In the matter of Exchange Network Facilities for Interstate Access (ENFIA), CC Docket No. 78–371.

I. Introduction

1. On April 16, 1979 (44 FR 23933; April 23, 1979), this Commission issued an order in this proceeding approving an agreement among several carriers regarding Exchange Network Facilities for Interstate Access (ENFIA). 71 FCC 2d 440 (1979). This agreement established the methods to be used to compute charges of AT&T and GTE subsidiaries for the origination or termination of certain interstate telecommunications services provided by carriers other than telephone companies (OOCs).[1] That agreement is commonly known as the ENFIA agreement. The OCC services that are covered by the agreement are described as services that are "like" MTS and WATS or as "Execunet/SPRINT-type interstate services." Those terms describe some services that use local exchange switches at both ends. They do not include enhanced services or basic services that cannot be used for voice communications. The origination and termination or access service covered by the ENFIA agreement does not encompass every form of access service that conceivably might be provided for an Execunet/SPRINT-type service. The agreement is limited to the access that was then being provided for Execunet/SPRINT-type service. Such access is provided through line side terminations with a Class 5 switch that requires the use of seven digits to enable an OCC customer to reach an OCC switch.

2. The ENFIA agreement requires that charges be computed separately for three distinct elements. Element 1 consists of the line between an OCC switch and the local exchange or Class 5 switch. Charges for similar lines in other tariffs are incorporated by reference. Element 2 consists of the use of the traffic sensitive portion of that Class 5 switch and the use of other traffic sensitive switching and trunking facilities in connection with calls that are switched through more than one Class 5 switch in the same local exchange. The charge is computed to simulate the amounts that local exchange carriers receive through settlements or divisions of revenues when comparable service is provided for MTS or WATS. A discount from that simulated charge is included to compensate for local message unit charges that OCC customers pay to access an OCC switch. Element 3 consists of the use of non-traffic sensitive local exchange facilities such as terminals, inside wiring, subscriber lines, and the non-traffic sensitive portion of a Class 5 switch. That charge is also related to a simulated charge for MTS or WATS use of such facilities. The OCC charge is currently 55% of the simulated MTS–WATS charge. The charges specified in the ENFIA agreement were implemented in a tariff known as BSOC 8.

3. The ENFIA agreement was designed to provide an interim formula for the computation of such OCC access charges until this Commission or the Congress established a more comprehensive access compensation system. Paragraph 6 of the ENFIA agreement provides that the interim charges will be superseded by charges filed pursuant to an order of this Commission in the *MTS-WATS Market Structure Inquiry* (CC Docket No. 78–72) or charges established pursuant to new legislation relating to that subject. If neither contingency occurs before the fifth anniversary of the effective date, the agreement will expire.

4. Paragraph 11 specifies another contingency that would end the agreement. Expiration will occur on the third anniversary of the effective date unless this Commission has determined that an extension "is reasonable and in the public interest" and determines "an appropriate level of payment" for Element 3.[2]

[1] The term OCC has traditionally been used to describe a carrier that does not provide local exchange telephone service and does not participate in any joint rate offerings with carriers that do provide local exchange telephone service.

[2] This deadline is also made explicit in the BSOC 8 tariff, which states that a new rate level for Element 3 (Rate Level D) will be applicable from May 2, 1982 through April 15, 1983 if, prior to April 15, 1982, "the F.C.C. determines the rates are in the public interest and specifies an appropriate level of payment (Factor P) for the use of jointly used subscriber plant." Factor P represents a weighting applicable to the OCCs which approximates the cost and value differences between ENFIA connections and MTS and WATS connections. Rate Levels A, B and C for Factor P have been 35%, 45% and 55% respectively. Factor P is one component of

The Separations Amount and Billed Minutes are to be determined according to specific procedures set forth in the tariff, although, as set forth below, the calculation of Billed Minutes has been the subject of considerable controversy. The 1.015 component is a constant that provides for ENFIA-related use of Independent Telephone Company local exchange facilities involved in Bell-Independent Extended Area Service areas.

5. AT&T filed a new tariff on January 13, 1982, for the OCC access service that is presently provided under the ENFIA BSOC 8 tariff. The new tariff is known as BSOC 10. AT&T proposes to make BSOC 10 effective on April 16, 1982 if this Commission does not elect to extend the ENFIA agreement. However, if the ENFIA agreement is extended, BSOC 10 will automatically be withdrawn.

6. On March 1, 1982, we issued a Public Notice inviting parties to combine comments on the extension of the ENFIA agreement with petitions regarding the BSOC 10 tariff. The following parties filed either separate or combined pleadings: American Telephone and Telegraph Company (AT&T); ABC, CBS, and NBC (the Networks); the GTE Telephone Companies (GTE); MCI Telecommunications Corporation (MCI); Rochester Telephone Corporation (Rochester); Satellite Business Systems (SBS); Southern Pacific Communications Company (SPCC); Tel Systems Management Corporation (TSM); United States Independent Telephone Association (USITA); U.S. Telephone Communications (U.S. Tel.); United States Transmission Systems (USTS); Western Union Telegraph Company (Western Union); National Association of Regulatory Utility Commissioners (NARUC); Organization for the Protection and Advancement of Small Telephone Companies and National Telephone Cooperative Association (OPASTCO/NTCA); the Illinois Commerce Commission (Illinois); and the Kentucky Public Service Commission (Kentucky).[3]

II. Comments and Discussion

A. Public Interest Considerations

7. The first issue before the Commission is whether it is in the public interest to extend the ENFIA agreement for an additional two years. This question relates to the usefulness of the agreement and the formula it establishes as an interim mechanism for the determination of certain access costs pending a more permanent resolution of the access charge issue for all interstate services. Most of the parties have addressed the extension question in the context of the level of charges, and do not provide a separate assessment of the continued value of the agreement itself.

8. AT&T believes that the extension of the ENFIA agreement is a desirable course, but specifies that, under either of the two choices available to the Commission, the extension of ENFIA or the approval of the BSOC 10 tariff, the level of payment for Element 3 must be set at 100%. Similarly, GTE, NARUC and Kentucky generally favor extension of the agreement, on the condition that, in Phase II, actual billed minutes of use are used and the level of payment is set at 100%. The Networks say that the agreement should not be extended unless it is clear that users of MTS, WATS and private line services do not subsidize ENFIA customers. USITA's position is that the Commission should permit BSOC 10 to become effective on the ground that subsidies to the OCCs should be eliminated. OPASTCO/NTCA and Illinois do not take a specific position on the extension issue, but agree with the parties who argue that actual billed minutes and a payment level of 100% should be used. Rochester opposes the continuation of the agreement beyond a maximum period of one year and advocates an expeditious transition to state approved exchange access charges.

9. Some of the OCCs believe that the agreement has never represented a legitimate cost basis for rates and should not be extended. Both MCI and Western Union take this position, arguing that there is no record upon which the Commission can extend ENFIA into Phase II, and that considerations of parity with other technologically similar interstate services, particularly FX and CCSA, necessitate a return to the pre-ENFIA local business rate for OCC connections. MCI, along with SBS, SPCC, and U.S. Tel., also maintains that the continued use of a traffic sensitive measure to allocate non-traffic sensitive costs is another major infirmity of the ENFIA agreement, especially in light of the Commission's recent decision to freeze temporarily the percentage of non-traffic sensitive costs allocated to the interstate jurisdiction. Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board (CC Docket No. 80–286), FCC 82–98 released February 26, 1982. SPCC argues that the formula should not be extended, but that the charges for ENFIA should be capped at the current dollar level.

10. Other OCCs think the agreement should be extended, but urge that the charges not be increased. For example, SBS, USTS, U.S. Tel., and Tel. System generally believe that the agreement should be extended, but also specify that the rate level should be frozen. SBS provides specific reasons why an extension of the agreement itself would serve the public interest. SBS stresses the necessity of providing a workable interim solution to the access problem while a more permanent access charge mechanism is being developed. Both USTS and SBS perceive a need to avoid costly litigation among carriers concerning the proper level of ENFIA rates and prevent disastrous dislocations in the competitive marketplace.

11. We have determined that the public interest would be served by an extension of the ENFIA agreement. This decision is based upon essentially the same considerations which led us to conclude that the public interest would be served by approving the original agreement. When we approved that agreement, we were confronted with a choice between approving the agreement or conducting protracted proceedings to determine the lawfulness of an alternative AT&T ENFIA tariff that included substantially higher charges. We concluded that such proceedings would waste Commission and carrier resources because any ENFIA tariff would be superseded either by access charges to the established in CC Docket No. 78–72 or access charges established pursuant to legislation that was being actively considered in both houses of Congress. We are confronted with a

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Element 3 charges, which are derived through the following formula:

Use of Jointly Used Subscriber Plant = SEP Amount x Factor P x Billed Minutes x 1.015.

[3] The Commission has also received several informal or unsolicited submissions from the parties regarding this matter. For example, on November 30, 1981, AT&T made an informal filing consisting of cost, revenue and traffic data relating to Element 3. On December 17, 1981, MCI submitted a filing styled as a complaint concerning ENFIA charges. File No. E–81–37. This filing merely repeats arguments MCI has raised and which are being considered in this and other proceedings. Therefore, we are incorporating that "complaint" as a filing in CC Docket No. 78–72. We have also decided to consider it as a filing in this proceeding expressing MIC's views with respect to the appropriate level of payment during an ENFIA extension. On January 1, 1982, SPCC and USTS made a joint informational Submission addressed to Element 3. On February 10, 1982, MCI filed a petition regarding BSOC 10 also addressing the ENFIA agreement. On February 17, 1982, AT&T submitted a letter analyzing the joint SPCC/USTS Informational Submission, and on February 26, 1982, SPCC responded to AT&T's critique. Finally, on March 30, 1982, the Commission received a letter from the Minnesota Public Utilities Commission supporting the extension of the ENFIA agreement.

similar choice today. The BSOC 10 tariff would establish much higher OCC access charges and appears to raise significant questions that would require protracted investigation. This Commission is still in the process of formulating access charge computation rules in CC Docket No. 78–72 and the Congress is still actively considering bills that would establish access charges.

12. An investigation of BSOC 10 would be even more wasteful than an investigation of the original AT&T ENFIA tariff because we have made progress in formulating access charge computation rules in the intervening three years. We wll probably be adopting final access charge rules before any BSOC 10 investigation could be completed. In these circumstances, the public interest would clearly be served by an extension of the ENFIA agreement.

13. We reject the contentions of the parties that the agreement must be invalidated because it does not cure the lack of parity among interstate services. The telephone companies, the Networks, and NARUC basically argue that the agreement should be extended only if subsidies of OCCs are eliminated by increasing the level of payment toward 100% of the amount paid by MTS and WATS. In contrast, many of the OCCs assert that parity of charges between ENFIA and FX/CCSA services must be restored. The extent of any lack of parity between ENFIA and other interstate services and the appropriate level of discount for such a lack of parity, should it exist, are still unresolved questions. This is precisely the issue that is being addressed in the context of CC Docket No. 78–72. It would be imprudent to prejudge the result of that proceeding by replacing the ENFIA agreement with some other mechanism that might, in the final analysis, prove no more accurate than ENFIA. Such an action would also occasion needless dislocations in the marketplace since further adjustments would have to be made to the access charge schedules that will ultimately be approved. At this stage, the public interest is best served by an extension of an arrangement that was originally sanctioned by the parties themselves and that provides a reasonable interim solution to a very complex problem.

14. We also reject the contentions of some OCCs that the viability of the agreement has been vitiated by the Commission's recent action to freeze temporarily the subscriber plant factor (SPF) used in the jurisdictional allocation of non-traffic sensitive plant. The ENFIA agreement concerns the development of rates for an interstate service, not the apportionment of costs between jurisdictions. Therefore, as AT&T has noted, the structure of charges for Element 3 under the ENFIA agreement remains entirely consistent with SPF freeze. The SPF freeze will ultimately be reflected in the charges paid by OCCs, but the interim adoption of a percentage rather than usage based factor for allocations between state and interstate operations does not require the elimination of our current practice of using a traffic sensitive measure for the division of costs among services within the same jurisdication.[4]

15. In addition, we do not accept the arguments made by MCI, SBS, and SPCC that jurisdictional cost separations results cannot be used as a basis for ENFIA rates. These parties maintain that separations procedures are unlawful, that they create inappropriate subsidies, and that they are not intended to be used in ratemaking. These same objections were made by the OCCs to the Interim Cost Allocation Manual. In our *Report and Order* adopting that Manual, we acknowledged the shortcomings of the separations process but stated that the decision to use separations results as a measure of the costs to be allocated among AT&T's interstate services was the best of available alternatives. 84 FCC 2d 384 (1981), paragraph 27.[5] The same is true here. The separations process is currently under review by a Federal-State Joint Board in CC Docket No. 80–286, and, until final revisions to separations procedures are made and the access charge issue is resolved, there is no better alternative to the use of separations results in the computation of ENFIA charges as agree to by the parties. As noted by USTS, the signatories to the agreement certainly recognized that final decisions on these issues might not be made within the first three years of the ENFIA arrangement and this is why provisions for a two year extension were made. In our view, the fact that there are problems with separtations that are not yet resolved is an argument for extending the agreement rather than abandoning it.

16. The OCC arguments that the ENFIA agreement should be replaced by a frozen dollar rate level are also unpersuasive. MCI maintains that the FCC is not restricted to an extension of the formula, and that, from the beginning, it was understood that the parties would be free to advocate other positions in Phase II to achieve an acceptable "bottom line." However, the language of the original agreement makes it clear that the parties did not contemplate that ENFIA would be extended at a frozen rate. Rather, the agreement sets out a specific formula which governs any extension. Under the terms of the agreement, if we determine that an extension is in the public interest, only the percentage for Factor P must be established to initiate Phase II of the arrangement. Since freezing the dollar amount of ENFIA charges was not contemplated by the parties, we could take this step only by abandoning the agreement itself and prescribing in its place a new rate which happens to be equal to the rate developed under the agreement for an earlier period. If it is desirable to effectuate the intent of the parties—and we believe that such a goal is entitled to some weight—this can only be done by developing a rate based upon the formula in the agreement after the Commission has determined a new Factor P. Moreover, there is no basis here for prescribing the existing ENFIA rate. This rate is unrelated to costs and is otherwise unsupported by any record evidence. SPCC argues that, since the Commission has chosen to maintain the *status quo* for interstate allocations while deliberations on access charges and separations continue, the *status quo* must be maintained for OCCs as well. We reiterate that jurisdictional allocations are a separate consideration, and our policy choices in that area do not necessarily provide the proper precedent for our actions regarding arrangements among interstate services.

17. Another recent development must be taken into account in determining whether the agreement should be extended. AT&T and the Department of Justice have entered into an agreement with respect to the terms of a consent decree in an antitrust case.[6] Those terms include a requirement that access charge tariffs be filed for Bell Operating Companies, as defined in the decree, that specify an effective date for the tariffs that is within 18 months of the effective date of the decree. Such a tariff effective date may occur before April 16, 1984. These provisions of the decree, as noted by SBS, are a further reason for

[4] In addition, in our order adopting the SPF freeze, we explicitly stated that the action was non-prejudicial, and that it did not, as the OCCs seem to believe, constitute a final repudiation of the general applicability of traffic sensitive measures to non-traffic sensitive costs. Rather, it was adopted as an interim measure pending resolution of the issues in CC Docket No. 80–286.

[5] The Commission's decision in this matter has been unanimously upheld. MCI v. FCC, D.C. Cir. No. 81–1052 (April 13, 1982).

[6] Modification of Final Judgment, Civil Action No. 17–49 (D.D.C.).

the adoption of a non-disruptive interim approach to the ENFIA extension.

18. Finally, we do not believe that the nature of OCC services has changed so remarkably since the agreement was first adopted that the formula is no longer serviceable. Several of the OCCs indicate that their expansion into residential, off-peak hour services represents substantially altered circumstances from those that led them to agree to the inclusion of billed minutes in the formula for Element 3. They maintain that the reflection of these additional minutes in the ENFIA calculations will increase the charges so significantly that the formula must be viewed as unworkable. At this time, a dispute exists concerning the identification of relevant minutes of use for the purpose of calculating ENFIA rates. However, this matter need not be resolved to extend the agreement, since it will be examined in full in the context of revision to BSOC 8.[7] Therefore, we make no disposition here on the issue of the definition of the proper number of billed minutes to be used in the computations, and we find that the fact that a dispute exists concerning those minutes does not detract from the essential soundness of the agreement as an interim approach.

B. Level of Payment

19. There is disagreement among the parties as to the scope of the level of payment that the Commission is obligated to determine in the context of this action. The OCCs, including MCI, SBS, and SPCC argue that the Commission must make a general determination that ensures that local access will be available at reasonable rates. In a similar vein, but toward a different result, GTE, Kentucky, USITA, OPASTCO/NTCA, the Networks, NARUC and Illinois seem to indicate that, in order to extend the ENFIA agreement into Phase II, the Commission must make a broad assessment of the impact of ENFIA charges on local carriers and resolve matters concerning any subsidies that may be flowing to the OCCs. It is certainly true that in assessing the ultimate rate to be established in Phase II of ENFIA, the Commission must assure that the charges are reasonable, for both OCCs and local carriers, and that they are non-discriminatory to the extent that discrimination is discerned and found unjustified. However, as AT&T has observed, the question before us in this particular action is a narrow one.[8] Under the terms of both the original agreement and BSOC 8, the implementing tariff, the Commission is obliged to determine only the level of Factor P, or the percentage of the simulated MTS–WATS charge applicable to OCC ENFIA connections.[9]

20. With regard to that percentage factor, the lines between the parties are clearly drawn. The ENFIA agreement says that AT&T and GTE expect to urge that the Element 3 level of payment be increased to 100% during any extension and the OCCs expect to urge that the level of payment "be substantially reduced below the Phase I level." Those expectations have been realized. AT&T, GTE, OPASTCO/NTCA, Kentucky and Illinois specifically state that an increase from the present 55% to 100% should be instituted. USITA and the Networks ask for an elimination of the subsidy for OCCs. NARUC says that the percentage chosen should not fall below a level that is reasonable in light of any differences in the quality of interconnection, but suggests that the Commission "err on the high side." Generally, the parties arguing for a 100% factor contend that the OCCs provide services that are the functional equivalents of MTS and WATS, and that, unless ENFIA charges are put on par with the costs allocated to similar services, a significant shortfall will have to be borne by the customers of AT&T's other interstate offerings. These parties also assert that a 100% factor is necessary to avoid incentives for large MTS and WATS users to by-pass local exchange facilities. Finally, they observe that OCCs enjoy vigorous financial growth, and that since they are no longer fledglings in the marketplace, they must bear their fair share of relevant costs of access.

21. The OCCs, on the other hand, are mostly of the view that the structure of the ENFIA formula is now inadequate to reflect the cost conditions under which OCCs operate, and that the percentage factors should probably be reduced below 55%. They argue for the maintenance of a significant discount on the basis that parity of technical interconnection has not yet been achieved.[10]

22. In our order adopting the ENFIA agreement, we determined that the reduced percentage as agreed to by the parties were appropriate in part because of these differences in interconnection. *See* especially paragraph 38 and footnote 25. We assumed that the parties' estimate of cost and value differences provided a reasonable basis for an interim discount. The record in CC Docket No. 78–72 does not provide any concrete information with respect to the costs that would be incurred if local exchange switches were equipped to provide equal digit access. Nor does that record provide any information with respect to the value that interexchange service customers place on the ability to make calls of higher technical quality using fewer digits. This difference in access service cannot be viewed exclusively as a competitive problem. The requirement that additional digits be used and the possible existence of other transmission and signalling disparities place a burden on the end user of Execunet/SPRINT-type services. An end user would presumably expect some kind of discount if that user obtained an equally cumbersome service from AT&T. Failure to take such qualitative differences into account in establishing rates would arguably grant an undue preference to MTS–WATS users. Therefore, at this time, taking the extra digits and allegations of other factors into account, we cannot find that a discount that differs from the parties' original estimate would be appropriate for the purposes of this Order.

23. There is an additional reason why an increase to 100% would not be appropriate under the present circumstances. The SPCC comments in the original ENFIA proceeding noted that some traffic sensitive Central Office Category 6 investment that is allocated to the interstate jurisdiction is attributable to weighting factors that were designed to reflect differences in the use of such facilities by toll and local exchange costs. SPCC suggested that such costs be excluded from any OCC access charges because the OCC services use those facilities in the same manner as local exchange service. The AT&T reply comments agreed that some adjustment would be reasonable. SBS also notes the substandard quality generated in the VGCOCF and local switching and trunking facilities and the

[7] See paragraph 32, below.

[8] The applicability of ENFIA charges to resellers, an issue raised by U.S. Tel and TSM is outside of the scope of this particular decision, and will be treated separately.

[9] MCI claims that such a determination must be made pursuant to Section 205(a) of the Communications Act, and must be accompanied by hearings and opportunities for cross examination. However, as AT&T has pointed out, our authority to make these determinations is derived from the agreement itself. In specifying a percentage for Factor P, we are merely fulfilling our responsibilities as defined in the agreement, and the thousands of pages of pleadings filed by parties to this and related proceedings give us ample basis for such a limited action.

[10] SBS and USTS have itemized the aspects of unequal interconnection including, among other things, channel noise characteristics, lack of dial pulse access, lack of the digit dialing, and lack of call billing and automatic number identification.

general technical inadequacies of using business lines to terminate MTS and WATS like traffic. SBS argues that a non-parity factor to account for these inadequacies should be applied to ENFIA services as a whole.

24. Adjustments for these problems would logically be included in Elements 1 and 2 rather than Element 3. The ENFIA agreement does not authorize us to make interim adjustments in Elements 1 and 2. Therefore, to the extent they are appropriate, such differences in interconnection can be reflected only in an Element 3 adjustment. A 100% Element 3 level of payment would not be appropriate during an ENFIA extension because it would not include such adjustments.

25. However, we find that an adjustment in excess of 45% cannot be justified. MCI and Western Union assert that access charges should be reduced in order to equalize the charges with those applicable to FX and CCSA which use connections similar to those provided for Execunet/SPRINT services. Viewed from the perspective of the general using public, three different means currently exist for obtaining local exchange service for interstate access. First, users of public switched network services effectively pay the highest charges for their use of the local exchange based on a revenue requirement determined under the separations process.[11] Second, telephone company customers requiring access to local exchange facilities for such services as FX and CCSA pay relatively lower charges in accordance with rates stated in local exchange tariffs on file with various states. The third process of compensation for exchange access service is that which is embodied in the ENFIA agreement as applied to OCCs. The ENFIA payment levels are lower than MTS/WATS payments but higher than the rates that other telephone company customers pay for interstate use of the local exchange.

26. Disparities in the access costs that are reflected in rates for different telephone company services and the rates of "value added" carriers were explicitly recognized in the original ENFIA agreement. The parties probably selected an intermediate level of payment that is lower than the MTS/WATS level and higher than the level for many other services because they recognized that it would be impossible to establish parity between Execunet/SPRINT-type access and all other forms of access compensation until those disparities are eliminated through other proceedings. We santioned that approach for the interim period when we approved the original agreement. We believe it is still reasonable to allow OCCs to pay charges that are lower than MTS/WATS access costs and higher than other access costs during the interim period. That interim period will, of course, end when access charges are established pursuant to the rules we will be prescribing in CC Docket No. 78–72.

27. The use of an intermediate level charge during the interim period that will precede the elimination of unjustified disparities in access costs for other services is at least as appropriate today as if was in 1979. It is probably more appropriate because we are closer to the adoption of rules that will eliminate such unjustified access cost disparities among other services.

28. We have already mentioned that our recent decision in CC Docket No. 80–286 to adopt the Joint Board's recommendation to impose a temporary SPF freeze does not affect our decision to extend the ENFIA agreement. The SPF freeze also will have no effect at all on Rate Level D. The Separation Amount, (SEP Amount) which is one of the elements of the ENFIA formula will be determined for Rate Level D based upon 1981 costs which can be obtained from separations. However, it will not be possible to compute the SEP Amount for Rate Level E by obtaining a count of MTS and WATS minutes from the separations process itself. As a result of the SPF freeze, the minute count used in jurisdictional separations that is the basis of the calculation of the SEP Amount will no longer be performed. However, a count of MTS, WATS and ENFIA traffic is required for and will be obtained by using the methods that we have presecribed in the Interim Cost Allocation Manual. That Manual allocates interstate non-traffic sensitive exchange plant investment that is not allocated to private line services among the three message categories on the basis of unweighted relative use. A factor that represents MTS minutes as a percentage of total minutes is used to determine the portion of the total investment that is attributable to MTS. The same procedure is used for WATS and the Execunet/SPRINT services. The combined MTS/WATS cost that is computed under the Interim Cost Allocation Manual method can be divided by total MTS/WATS minutes to obtain an MTS/WATS per minute cost for purposes of computing the SEP Amount required by the ENFIA agreement. The parties to the ENFIA agreement must have contemplated such minor adjustments for separations changes that might occur before the agreement expired.

29. In their joint Informational Submission, SPCC and USTS suggest a different adjustment to reflect the SPF freeze. SPCC and USTS suggest that the exchange plant costs be allocated among Execunet-SPRINT-type services and other services upon the basis of the relative number of "access lines" for purposes of computing access charges for the Execunet/SPRINT-type services. Those carriers claim that the use of this alternative methodology would produce an Element 3 charge of $7.01 per month.

30. Any charge that reflects costs allocated on the basis of relative lines rather than relative usage would represent a radical departure from the rate computation methods that were contemplated by the parties to the ENFIA agreement at the time they entered into the agreement. A charge that is based upon such an alternative method could not accurately be described as an extension of the ENFIA agreement. It would also be inconsistent with the Interim Cost Allocation Manual. We have accordingly concluded that the SPCC–USTS Informational Submission is not useful for purposes of determining an appropriate level of payment for Element 3 during an extension of the ENFIA agreement.[12]

III. Conclusion and Ordering Clauses

31. We have determined that an extension of the ENFIA agreement is reasonable and in the public interest. We have also determined that the existing level of payment is appropriate at this time under these conditions (i.e., given the interim nature of the extension and our present lack of information as to ENFIA costs) for purposes of computing Element 3 charges during the extension period. The term "level of payment" refers to the percentage of the simulated MTS/WATS charge. We are not freezing the dollar amount of the Element 3 charge. Element 3 charges

[11] As has been recognized in CC Docket No. 80–286, a Federal-State Joint Board proceeding established to examine and modify certain aspects of the jurisdictional separations process, these charges do not necessarily reflect true costs.

[12] That Informational Submission would be of limited value even if we concluded that a line rather than a usage charge would be appropriate. SPCC and USTS have not defined "access lines" and have not described the facilities used for telephone company services that should be deemed to be equivalent to a line between a Class 5 and an OCC switch for purposes of obtaining a line count. It appears that SPCC and USTS must have used line count based on their VGCOCFs in order to produce an Element 3 charge of $7.01 per month. Since the number of VGCOCFs is not representative of OCC subscriber line usage, that procedure would not provide an appropriate line count, even if such costs where allocated on a per line basis.

that are computed pursuant to the ENFIA agreement are adjusted periodically to reflect changes in MTS/WATS cost and OCC usage.

32. Absent an agreement among the parties, the dispute concerning the proper calculation of billed minutes will be addressed in the context of revisions to BSOC 8. To ensure continued interconnection pending the resolution of this dispute, the Commission may draw upon its inherent statutory powers. See Sections 4(i) 201(a), and 204(b); of the Communications Act, 47 U.S.C. 154(i), 201(a) and 204(b); and *Lincoln Telephone and Telegraph Co. v. FCC*, 659 F. 2d 1092, 1107 (D.C. Cir. 1981).

33. In view of the contingent nature of the BSOC 10 tariff, we do not intend to conduct any proceedings with respect to that tariff. We will not rule on petitions for investigation, suspension or rejection with respect to BSOC 10 because our decision to extend the ENFIA agreement renders such petitions moot.

34. Accordingly, it is hereby ordered, that the agreement approved by the Memorandum Opinion and Order of this Commission in this proceeding adopted April 12, 1979, and released April 16, 1979, is extended until the earlier of:

(a) The effective date of access charge tariffs filed pursuant to an order of this Commission in CC Docket No. 78–72;

(b) The effective date of access charge tariffs filed pursuant to requirements imposed by future amendments to the Communications Act of 1934;

(c) April 16, 1984.

35. It is further ordered, that the level of payment for purposes of computing Element 3 charges should be 55% of MTS/WATS costs per minute for the use of the same facilities.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Action taken by Commission April 14, 1982.

Concurring Statement of FCC Commissioner James H. Quello

In re: The ENFIA Proceeding (CC Docket No. 78–371)

In my view, extension of the ENFIA agreement clearly serves the public interest, but it must be emphasized that this is strictly an interim solution which does not attempt to address the difficult policy questions surrounding the issue of access to the local exchanges. These policy questions are under active consideration by the Commission in its *MTS–WATS Market Structure Inquiry* (CC Docket No. 78–72). Further, the nature of the access issue has been significantly affected by the proposed AT&T-Justice Department settlement. Since the Commission is not prepared to resolve the access issues, the Commission must attempt to do its best to reasonably extend the negotiated agreement.

I do not fully support the majority opinion here because I share Commissioner Fogarty's concern that—under the existing separations process—the ordinary telephone ratepayer who uses MTS appears to be subsidizing users of OCC services. I believe that the percentage prescribed by the majority is too low. The OCC's are not a cottage industry, and they should be required to compete under equitable standards. Nevertheless, such a subsidy was written into the negotiated ENFIA agreement, and I am unwilling to support Commission imposition of a drastic change in the current rate structure without a better record than is obtainable at this time. Further, it is more consistent with long-term Commission goals that the Commission should err here on the side of unwarranted encouragement of competition rather than toward unnecessary restrictions in favor of a monopoly. I must emphasize, however, that this action should not be read as a signal that the Commission will encourage OCC competition through any type subsidy when a full record for decision has been compiled.

The unfairness which I perceive in this decision is an artifact of the separations process. Action on appropriate access charges for various telecommunications services will substitute reasoned decisionmaking for this necessarily arbitrary Commission choice. A very new telecommunications environment is evolving. This Commission action is clearly not a bridge to that environment, but I believe it constitutes a stepping stone placed in that direction.

Therefore, I concur.

Dissenting Statement of Commissioner Joseph R. Fogarty

In Re: *Exchange Network Facilities for Interstate Access (ENFIA), CC Docket No. 78–371.*

I opposed the ENFIA approach to setting interstate access charges from the beginning. I foresaw then that if the Commission accepted the ENFIA contract at some point we would be faced with the difficult problem of how to adjust the formula at the expiration of Phase *I* of the agreement. Instead, I urged the Commission to institute an investigation immediately to determine what rate should be prescribed. Had we taken that action, we by now would have completed the investigation and thereby avoided the dilemma which now confronts us.

The Commission did not adopt my recommendation, preferring instead to delay the agony of decision-making. As a consequence, we are stuck with an ENFIA contract, upon which we have placed our ostensible imprimatur, and only one—or perhaps two—options thereunder: first, if we find it in the public interest to do so, we may extend the contract for a period of two years; and second, after having determined that extension would be in the public interest, we may determine what the Element 3 Factor P percentage should be. Due to our limited authority under the contract, the Commission is placed in a difficult position. The ENFIA Agreement is not a statute; it is what the parties agreed to and, unfortunately, what we permitted them to agree to. So, faced with this reality, we have little choice but to extend the agreement.[1]

To extend the agreement is one thing, but to continue Factor P at 55% is quite another. Here, I must dissent from the majority's decision to maintain what I believe is a completely unjust and unreasonable 55% level of payment for the OCCs. In the majority's rush to protect the "status quo," it has neglected also to protect the interests of the American ratepayer. Once these ratepayers realize that by this decision the Commission has permitted the continued subsidization of the OCCs at their expense and in the amount of almost 7¢ per minute for each OCC call, they will be rightfuly outraged.[2] As my more conservative colleagues have so often observed in other contexts, "there is no such thing as a free lunch." I regret to see that the OCCs are given the status of an exception to prove this rule.

In its recent equalization filing, AT&T conceded that it was seeking FCC permission to require MTS, WATS and Private Line customers to cross-subsidize ENFIA in the amount of $107.7 million because of the fact that the ENFIA category was earning a negative (approximately minus 4%) rate of return.[3] This filing came soon after we had allowed AT&T to earn a 12.75% rate of return.[4] Given ENFIA's negative rate of return, common sense indicates that those interstate ratepayers who do not use OCC services are making-up the difference. Some would argue that it is not the public but telephone companies that absorb this amount but this argument is false. We are not dealing here with money being shifted from the corporate pocket of a local operating company to the corporate pocket of AT&T Long Lines. Instead, we are dealing with costs which, by law, must be borne by a ratepayer—either OCC or Non-OCC. This is not really a case of AT&T versus the OCCs, but of OCC customers versus other interstate ratepayers. If both our pro-competition and cost-causation theories are to reflect any intellectual honesty and integrity, all ENFIA-related costs should be borne by the OCCs and their customers. By deciding to maintain Factor P at 55%, the majority has taken a giant step away from the achievement of this goal.

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[1] A preferable alternative might have been to permit the ENFIA Agreement to lapse, accept for filing and then suspend a Bell tariff, and finally resolve many of these issues as quickly as possible in a tariff investigation.

[2] Many of the OCCs argue the separations costs do not represent true costs. However, until this issue is resolved by the Joint Board in Docket 80–282, the separations costs are the costs which provide the most relevant reference for ENFIA end-to-end MTS/WATS-type interstate service. This approach was recently approved by the D.C. Circuit Court of Appeals, in *MCI v. FCC*, No. 81–1052 (D.C. Cir., filed April 13, 1982). As a consequence, it would be unfair to non-OCC ratepayers not to use jurisdictional separations cost results as a basis for ENFIA rates.

[3] AT&T Transmittal No. 12904, filed in December 3, 1981.

[4] *AT&T*, 86 FCC 2d 221, *aff'd on recon.*, 87 FCC 2d 34 (1981).

On the record before this Commission, maintenance of the level of payment of 55% is unsupportable.[4] The types of factors which are used to justify the continuation of a 45% discount are not properly included in any consideration of Rate Element 3. They were disposed of by the parties in Rate Element 2 negotiations. The types of unequal interconnection outlined by the OCCs fail to justify the magnitude of the discount anyway.

Instead of maintaining the OCC level of payment of 55%, the Commission should have increased the level of payment to 65% in Step IV (1982–1983) and to 75% in Step V (1983–84). Under the plain language of the ENFIA Agreement, it is obvious that the parties agreed in Phase I, Steps I, II and III, that they would base the percentage level of OCC payment on combined OCC revenues. Under Step I the increase trigger amount was $110 million per year, under Step II the amount was more than $110 million but not exceeding $250 million per year. Based on staff projections, current combined OCC revenues are estimated to be in excess of $1 billion per year. The progression of the level of payment under Phase I was 10% per year—from 35% to 45% to 55%— and given the tremendous increase in OCC revenues, it is only logical and consistent with the agreement to extend the level of payment from 55% to 65% in the fourth year and from 65% to 75% in the fifth year. As footnotes 3 and 8 of the majority's decision make clear, the Commission has both the record and the authority to increase the Factor P percentage. Moreover, the Commission's broad authority and discretion to set percentages in rulemaking has been recently affirmed. *See WJG Telephone Company, Inc.*, v. *FCC*, No. 81–146 (D.C. Cir., filed April 9, 1982). This action would be a clear signal to all carriers—including both the OCCs and AT&T (subsequent to any Consent Decree divestiture)—that they will be expected eventually top pay 100% of their proper access costs.[5]

There are those who would argue that Factor P should remain at 55% to protect the nascent OCC industry. While I am not insensitive to the special needs of the infant and the infirm, the OCCs are no longer babes in need of an FCC incubator, given that their combined revenues for 1981 will exceed $1 billion. Further, I note that the parties who represent the actual toll ratepaying public—e.g. NARUC, Kentucky, Illinois, OPASTCO/NTCA—all support an increase in the level of payment. The facts upon which this issue should be decided—as distinguished from the plaintive wailings of some of the parties—clearly indicate that the infants have attained their majority and should be treated accordingly.

Under the ENFIA Agreement, the Commission was given the responsibility of determining that an extension of the agreement was reasonable and in the public interest as well as determining an appropriate level of payments. By no stretch of the imagination is 55% an appropriate level. In prescribing this inadequate level, the majority has failed to discharge its responsiblity with the effect that the vast majority of U.S. toll ratepayers will continue to subsidize competition for competition's sake.

April 14, 1982.

Concurring Statement of Commissioner Anne P. Jones

In Re: *Exchange Network Facilities for Interstate Access (ENFIA)—CC Docket No. 78–371.*

This Commission has been placed in an extremely difficult if not impossible position by the necessity to act on the ENFIA agreement without an adequate record—indeed without any meaningful record at all. I agree that an extension of the ENFIA agreement is in the public interest only in the very narrow sense that not extending this agreement may well lead to an even worse result. The determination that the level of payment should be set at 55 percent of the MTS/WATS equivalent is, in my view, a determination based upon the rawest sort of pragmatism. It most emphatically cannot and does not stand for a determination by this Commission that this is an appropriate level of discount for current OCC access to local telephone facilities, where such access may be inferior, by some measure, to that traditionally provided to the Bell/Independent interstate operation.

For pragmatic considerations I cannot dissent. In all honesty I cannot approve. Therefore, I concur.

Concurring Statement of Commissioner Mimi Weyforth Dawson Re: Exchange Network Facilities for Interstate Access (ENFIA) and Bell System Operating Companies Tariff FCC No. 8*

With these decisions the Commission is extending an agreement among AT&T, GTE and several other common carriers (OCCs) concerning the terms and conditions of interconnection to AT&T's and GTE's local operating companies, suspending AT&T's tariff which purports to honor the terms of that agreement and prescribing an interim rate pending the outcome of the investigation. I agree with the outcome of these decisions because I believe it does not produce an unreasonable increase in the interconnection rate for the OCCs. For reasons set forth below, any greater increase would not be appropriate in view of our projected course in resolving jurisdictional separations and access questions. However, I do not agree with the methodology used, *i.e.*, freezing the discount applied to level of payment,[1] and utilizing the number of billed minutes as a mechanism for adjusting the rate. I object to the focus on the billed minutes because it lends what may be undue credence to the practice of applying a traffic sensitive measure to determine the rate for use of non-traffic sensitive plant.

Rather, I urge the Commission to adopt a timetable that would establish parity of interconnection and access charges for all interstate competitors. That timetable could track the one agreed upon by AT&T and the Department of Justice in the proposed modification of the 1956 Consent Decree. In the interim, I believe the Commission should have increased the level of payment in ENFIA for Rate Level D to 65 percent. Additionally, if the access charge proceeding is not resolved prior to the onset of the fifth year of the ENFIA agreement, the level of payment should be increased to 75 percent. Finally, OCC minutes for interstate ratemaking purposes should be set equal to those used for separations purposes,[2] until the Commission determines an appropriate method by which to allocate NTS costs among interstate services. To do otherwise, in my opinion, would discourage efficient use of the telecommunications network.

As the preceding discussion indicates, the appropriate solution to any interim or final access charge question requires not only an understanding of today's exchange access costs and terms of exchange access, but also requires an in-depth look at jurisdictional separations and the interconnection agreements contained in the proposed Consent Decree modification between AT&T and the Department of Justice. We must evaluate any approach we take prior to solution of these issues in light of what the ultimate interconnection charges are likely to be when the anticipated changes in jurisdictional separations are completed and the right to equal interconnection for all interstate competitors is secured.

Currently, MTS and equivalent services pay, either directly or indirectly through the settlements process, the equivalent of an exchange access charge that contributes towards the cost of: 1) connecting facilities between the toll switching center and the local company's central office; 2) local exchange switching and trunking facilities; and 3) non-traffic sensitive (NTS) subscriber plant (which consists of regulated customer premises equipment, inside wiring, the customer-dedicated local telephone lines extending from the customer premises to the local central office, and the customer-dedicated portions of the local switch). The third cost element represents, by far, the

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[4] On this critical point, I join Commissioner Quello to the extent he believes that the percentage prescribed is too low (*See* Concurring Statement of Commissioner James H. Quello), and Commissioner Jones to the extent that she states that the level of payment decision does not stand for a determination that the 55% figure is an appropriate level of discount for current OCC access to local telephone facilities (*See* Concurring Statement of Commissioner Anne P. Jones).

[5] With regard to access costs, many parties assume that the Subscriber Plant Factor (SPF) will be reduced to Subscriber Line Usage (SLU). This has not been decided by the Joint Board in Docket 80–282, and it is premature for parties to make any assumptions based on such a result.

* Action taken by the Commission on April 14, and April 29, 1982.

[1] Because of the significant disparity in interconnection between the OCC and the AT&T/independent long distance services, the Commission has determined that a 55 percent discount is appropriate for the OCCs during the interim period prior to resolution of the access charge proceeding. The Commission believes this proceeding will be resolved before the extended ENFIA agreement expires on April 16, 1984.

[2] The Commission recently froze the percentage of non-traffic sensitive costs allocated to the interstate jurisdiction at 1981 levels. See Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board (CC Docket No. 80–286), FCC 82–98, released February 26, 1982. OCC minutes for separations purposes have been frozen at 3000 minutes per ENFIA line.

largest part of the exchange access expense that providers of MTS and equivalent services contribute to the local exchange carrier. For this element, the OCCs pay 55 percent of the amount that AT&T and GTE pay for an equivalent number of MTS/WATS minutes. Private line services, it should be noted, make no interstate contribution to local exchange carriers for subscriber plant.

The allocation of NTS subscriber plant is both the most important and the most controversial factor in determining costs for access purposes. Of course, any allocation of NTS costs between jurisdictions must be arbitrary "because there is no purely economic method of allocation." [3] Nevertheless, the percentage of NTS costs allocated to the interstate jurisdiction has risen over time from strict relative usage to the subscriber plant factor. With the onset of competition in the telecommunications industry, however, numerous parties have argued that the subscriber plant factor is not economically sustainable because the new competitors will simply bypass the local exchange to avoid paying excessive access charges. In response, the Commission has established a Federal/State Joint Board to examine the legal, economic and equitable arguments for changing the current allocation of exchange costs between jurisdictions.

The record amassed in the Joint Board proceeding to date is voluminous. Over seventeen volumes of comments have been filed in addition to cost data for over seven hundred telephone companies. The commenters, in my opinion, argue persuasively that the portion of NTS costs allocated to the interstate jurisdiction must drop considerably to conform with the dynamics of a competitive market. While the exact percentage to be allocated among jurisdictions, or the manner in which it should be allocated, has not been determined by this Commission, I think it is significant for our purposes here that the majority of respondents, including AT&T, support an interstate allocation of NTS costs of no more than about 10 percent, including appropriate adjustments to this average for areas in need of relief from significant upward rate pressure.

Acknowledging potential changes in jurisdictional separations is critical to our decision here because any interim access charge must be a stepping stone on the path that leads to our final destination. As mentioned, the record in the Joint Board proceeding supports a substantial reduction in the portion of NTS costs allocated to the interstate jurisdiction. Such a reduction means that the separations amount that the OCCs must pay for in the ENFIA tariff would drop precipitously. Assuming for illustrative purposes that the interstate allocation of NTS plant will drop to ten percent, then the ultimate charge for OCC access to the local exchange will not be significantly greater than the interim rate being prescribed through this order. This is true *even if* the level of payment in the ENFIA agreement is increased to 100 percent and AT&T's estimates concerning OCC minutes per line are employed for ratemaking purposes. Of course, if the Commission were to allocate NTS plant between jurisdictions on the principle of economic efficiency alone, the interstate portion of NTS costs would be much less than 10 percent.[4] This would result in even lower access charges for interstate competitors.

Faced with these longer term considerations, the Commission essentially is being forced in this proceeding to make premature judgments concerning quality of interconnection and the actual costs for that interconnection. It seems clear to me that the present record does not present any irrefutable facts on either of these issues. The only undisputed fact is that the parties have agreed to disagree. Moreover, the Commission has not made any fundamental or lasting decisions concerning separations, the allocation of costs among interstate services or interconnection, and we have seen that these parameters will be changing over time.

Therefore, I concur in these decisions only to the extent that I believe the interim rate prescription is in the public interest and will not be disruptive to the market. However, I sincerely regret that this Commission has missed the opportunity to spell out the beginning of a rational approach to resolving the issues of access and separations. Without such a beginning, I am fearful that any investigatory efforts in this area will simply act to obfuscate the real issue of how costs should be allocated efficiently.

[FR Doc. 82-15112 Filed 6-3-82; 8:45 am]
BILLING CODE 6712-01-M

[3] See *MCI* v. *FCC*, D.C. Cir 81-1062 at 16 (1982).

[4] See, *e.g.*, the Comments of NTIA in Docket 80-286, August 18, 1981.

June 1, 1982.

[Report No. 1354]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed by June 21, 1982. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Part 90 of the Commission's Rules to Prescribe Policies and Regulations to Govern the Interconnection of Private Land Mobile Radio Systems with the Public Switched Telephone Network in the Bands 806–821 and 851–866 MHz. (Docket No. 20846)
Filed by: Kenneth E. Hardman, Attorney for Telocator Network of America on 5–24–82. Paul Rodgers, Charles D. Gray & Deporah A. Dupont, Attorneys for National Association of Regulatory Utility Commissioners on 5–24–82. (Petition for Clarification)
Subject: Amendment of Parts 2 of the Commission's Rules governing Frequency Allocations, 22 of the Commission's Rules governing the Public Mobile Radio Services, 73 of the Commission's Rules governing the Radio Broadcast Services, and 74 of the Commission's Rules governing Experimental, Auxiliary, and Special Broadcast, and Other Program Distribution Services to reallocate UHF–TV Broadcast Channel 17 for common carrier fixed relay and control operations in the State of Hawaii. (Gen Docket No. 81–400, RM–2364)
Filed by: Arthur Blooston & Gerard J. Duffy, Attorneys for RadioCall, Inc., on 5–14–82.
Subject: Amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations. (Colorado Springs, Denver, Evergreen, Lamar, Monte Vista, and Pueblo, Colorado). (BC Docket No. 81–810, RM–3839)
Filed by: Eric L. Bernthal, Attorney for Sky Hi, Inc. (KKFM), on 5–24–82.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-15110 Filed 6-3-82; 8:45 am]
BILLING CODE 6712-01-M

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It

Task Group A–3 of Working Group A: U.S. Interests
Chairman: John Marus (212) 684–4700
Date: Tuesday, June 22, 1982
Time: 1–4 P.M.
Location: Federal Communications Commission, 1919 M Street, N.W., Room 650, Washington, D.C.
Agenda:

(1) Welcome and Introductions
(2) Approval of Agenda
(3) Subcommittee A–3 Mandate
(4) Proposed Report Outline for U.S. Interests
(5) Tentative Work Schedule
(6) Other Business
(7) Next Meeting
(8) Adjournment

Dated: May 28, 1982.

Federal Communications Commission

William J. Tricarico,

Secretary.

[FR Doc. 82-15111 Filed 6-3-82; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10327; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before June 24, 1982. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters, from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. 93–26.

Filing party: Ralph M. Pais, Esq., Graham & James, One Maritime Plaza, Suite 300, San Francisco, California 94111.

Summary: Agreement No. 93–26 amends the basic agreement of the North Europe -U.S. Pacific Freight Conference to extend the expiration date of the independent action clause through December 30, 1982.

Agreement No. T–2171–8.

Filing party: Ryokichi Higashionna, Ph. D., Director of Transportation, State of Hawaii, Department of Transportation, 869 Punchbowl Street, Honolulu, Hawaii 96813.

Summary: Agreement No. T–2171–8, between the State of Hawaii (Hawaii), Matson, Terminals, Inc. (Matson) and California and Hawaiian Sugar Company (H&C), modifies the parties' basic agreement, which provides for the lease of marine terminal space by Hawaii to Matson for use primarily as a container facility. The purpose of the modification is to terminate all container vessel terminal and stevedoring service operations by Matson at Fort Armstrong, Honolulu Harbor, as of September 6, 1981, but covers the continued operation of the molasses tank farm on Parcel I through June 30, 1983, with H&C. As compensation, Matson shall pay to Hawaii $0.94 per sq. ft. per annum for Parcel I consisting of 60,484 sq. ft., and $0.314 per sq. ft. per annum for Easement AB consisting of 24,695.20 sq. ft. Dockage, wharfage, storage charges and pipeline tolls will be assessed Matson according to Hawaii's tariff. The leased premises are to be used for the handling of bulk molasses transported by vessels which berth at Fort Armstrong's terminal and related activities.

Agreement No. T–3498–2.

Filing Party: Mr. Marion S. Moore, Jr., Traffic Manager, South Carolina State Ports Authority, P.O. Box 817, Charleston, South Carolina 29402.

Summary: Agreement No. T–3498–2, between South Carolina State Ports Authority (Authority) and Moller Steamship Compahy (Moller), modifies the basic agreement between the parties which provides for the preferential use by Moller of Berth No. 1, as well as the lease to Moller of 4.04 acres of land at the Authority's Columbus Street Terminal. The purpose of the modification is to (1) change the location of the premises to a 12.8 acre site at the Authority's Wando River Terminal, with a corresponding increase in rental; (2) designate an area for handling, stuffing and stripping of containers at the Container Freight Station; and (3) change the form of the agreement from a lease to a license.

By Order of the Federal Maritime Commission.

Dated: May 27, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82–15085 Filed 6–3–82; 8:45 am]

BILLING CODE 6730–01–M

[Docket No. 82–28]

Gila River Products v. the Sea-Land Service, Inc.; Filing of Complaint and Assignment

Notice is given that the complaint filed by Gila River Products against Sea-Land Service, Inc. was served May 26, 1982. Complainant alleges that respondent has demanded payment of rates for ocean transportation in violation of the Shipping Act, 1916.

This proceeding has been assigned to Administrative Law Judge John E. Cograve. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis G. Hurney,

Secretary.

[FR Doc. 82–15083 Filed 6–3–82; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules; Gannett Co. Inc.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Gannett Co. Inc. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain voting securities of Mississippi Media Corp. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Gannett Co. Inc. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: May 20, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82–15244 Filed 6–3–82; 8:45 am]

BILLING CODE 6750–01–M

Early Termination of the Waiting Period of the Premerger Notification Rules; McLean Securities

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: McLean Securities is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of Ferrell Lines Incorporated. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: May 14, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82–15243 Filed 6–3–82; 8:45 am]

BILLING CODE 6750–01–M

Early Termination of the Waiting Period of the Premerger Notification Rules; Saatchi & Saatchi Company, P.L.C.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Saatchi & Saatchi Company, P.L.C. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all the voting securities of Compton Communications, Inc. The grant as made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Saatchi & Saatchi Company, P.L.C. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: May 6, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons comtemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82–15241 Filed 6–3–82; 8:45 am]

BILLING CODE 6750–01–M

Early Termination of the Waiting Period of the Premerger Notification Rules; Western Institutional Properties Trust

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Western Institutional Properties Trust is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of Roxboro Investments (1976) Ltd. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: May 20, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82–15242 Filed 6–3–82; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on May 28.

Public Health Service

Center for Disease Control

Subject: National Immunization Survey—Supplement to September Current Population Survey—CPS–1/CPS–524(IM)—Reinstatement

Respondents: Individuals or households

OMB Desk Officer: Richard Eisinger

Social Security Administration

Subject: Calculation of 1978 Base Year Court Costs To Be Deducted From IV–D Claims for Certain Court Costs—New

Respondents: State or local governments

OMB Desk Officer: Milo Sunderhauf

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

J. J. Strnad, HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524.F, Washington, D.C. 20201

OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, ATTN: (name of OMB Desk Officer)

Dated: May 28, 1982.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 82-16100 Filed 6-3-82; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

[Docket No. 78N-0318; DESI 8082]

Calcium Propionate and Sodium Propionate Vaginal Gel; Denial of Hearing and Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs denies a hearing and withdraws approval of the new drug application for Propion Gel because the drug lacks substantial evidence of effectiveness. The drug is used in the treatment of vulvovaginal candidiasis.

EFFECTIVE DATE: June 14, 1982.

FOR FURTHER INFORMATION CONTACT: Suzanne O'Shea, Bureau of Drugs (HFD-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 8082) published in the **Federal Register** of July 28, 1972 (37 FR 15188), FDA announced its evaluation of a report received from the National Academy of Sciences-National Research Council (NAS-NRC), Drug Efficacy Study Group regarding Propion Gel (NDA 8-082), manufactured by Wyeth Laboratories, Inc., Division of American Home Products Corporation, P.O. Box 8229, Philadelphia, PA 19101 ("Wyeth"). The notice stated that the drug was probably effective for the treatment of vulvovaginal candidiasis and afforded Wyeth an opportunity to obtain and submit substantial evidence of the effectiveness of the product.

Wyeth submitted no data in response to the July 28, 1972 notice. Instead, in February 1973, it submitted to the Advisory Review Panel on Over-the-Counter (OTC) Antimicrobial Products information to show that Propion Gel is generally recognized as safe and effective for OTC use. Subsequently, the Advisory Review Panel on OTC Contraceptives and Other Vaginal Products (OTC Vaginal Products Panel) assumed responsibility for products used in treating vaginal infections or irritations. Although Propion Gel has been used to date only as a prescription drug, the OTC panel considered the information that Wyeth submitted. That panel's recommendation was that Propion Gel be found safe and effective as an OTC product for the symptomatic relief of minor vaginal irritations and for the physician-supervised treatment of *Candida albicans* infections.

In a notice of opportunity for hearing published in the **Federal Register** of February 2, 1949 (44 FR 6777), the Director of the Bureau of Drugs proposed to withdraw approval of the new drug application for Propion Gel as a prescription product on the grounds that the drug lacks substantial evidence of effectiveness. The Director explained that no data from adequate and well-controlled studies, as defined in 21 CFR 314.111(a)(5)(ii), had been submitted in response to the July 28, 1972 notice.

By submissions dated March 2 and April 3, 1979, Wyeth requested a hearing and filed information in support of Propion Gel's effectiveness as a prescription product. Wyeth objected to the proposed withdrawal of approval of Propion Gel, and offered several alternative courses of action. These are discussed below in section V.

After considering all of the material submitted by Wyeth and the findings of the OTC Vaginal Products Panel, the Commissioner concludes that there is no genuine and substantial issue of fact justifying a hearing, and that the legal objections offered are insubstantial. A full discussion follows.

I. The Drug

Propion Gel contains calcium propionate (10 percent) and sodium propionate (10 percent) in a water soluble base containing glycerin, boric acid (3 percent), and tragacanth.

II. Recommended Uses

The current labeling of Propion Gel offers the product for the treatment of vulvovaginal candidiasis.

III. Data Submitted to Support Claims of Effectiveness

Wyeth submitted summaries of 41 references from the medical literature (not all of which were fully identified) to the OTC Vaginal Products Panel, and incorporated them by reference into its hearing request.

Wyeth's submission is on its face inadequate to support a hearing or to demonstrate the safety and effectiveness of Propion Gel for prescription use. The submission fails to satisfy several requirements of 21 CFR 314.200, governing hearing requests. For example, the submission did not include any protocols or raw data of studies on which Wyeth relies to justify its request. 21 CFR 314.200(d). Nor did Wyeth submit an analysis specifying how each study meets each criterion of an adequate and well-contolled study. 21 CFR 314.200(d)(2). Most importantly, however, Wyeth's submission is deficient because the summaries submitted show that the references are not reports of adequate and well-controlled clinical investigations, but are merely generalized descriptions of the condition, isolated case reports, reports of in vitro studies, animal safety tests, or uncontrolled clinical studies. Effectiveness may be shown only by adequate and well-controlled clinical studies. 21 U.S.C. 355(d); 21 CFR 314.200(d)(1).

Of the 41 references submitted by Wyeth, the 17 listed below are, according to Wyeth's own summaries (which are condensed below), descriptions of vaginitis in general and a general recommendation of calcium propionate-sodium propionate vaginal jellies. None of the listed reports even purports to present adequate and well-contolled studies using control groups, blinding techniques, quantitative analyses, and statistical evaluation. 21 CFR 314.111(a)(5)(ii). They are, rather, isolated case reports, random experience, and reports lacking the details which permit scientific evaluation, which are inadequate to demonstrate the effectiveness of a product. 21 CFR 314.111(a)(5)(ii)(*c*).

1. Abel, S., "Diagnosis and Treatment of Vaginitis," *General Practice*, 4:35-40, 1951. The author recommends Propion Gel for mycotic vaginitis and states that the infection is usually cleared in two weeks.

2. Davis, P. L., "Monolilial Pruritis Ani et Vulvae," *Medical Times*, 82:859-60, 1954. The author states that relief was obtained with Propion Gel by many patients whose conditions were resistant to other therapy.

3. DeCosta, E. J., "Infections of the Vagina and Vulva," *Clinical Obstetrics and Gynecology*, 12:195-218, 1969. Possible causes of vulvovaginitis are discussed. Propion Gel is one of several treatments recommended for candidiasis.

4. Gray, L. A. and M. L. Barnes, "Vaginitis in Women, Diagnosis and Treatment," *American Journal of Obstetrics and Gynecology*, 92:125–36, 1965. In 476 patients complaining of discharge or vaginitis, *Candida albicans* was cultured in 33 percent of the patients. Treatment with propionic acid preparations appeared helpful.

5. Greenblatt, R. B. and J. W. Bennett, "Pediatric Gynecology and Endocrinology," *Pediatrics*, 18:318–22, 1956. The authors discuss causes of vulvovaginitis in children, and recommend Propion Gel for *Candida albicans* infection.

6. Heseltine, H. C. and T. Lefebvre, "Management Causes of Vaginal Discharge (Especially Trichomoniasis and Mycosis)," *Illinois Medical Journal*, 128:333–337, 1965. The author discusss causes of vaginitis. They recommend a jelly containing sodium and calcium propionate and propionic acid to treat infections caused by *Candida albicans*.

7. Idson, B., "Topical Fungal Infections," *Drug and Cosmetic Industry*, 92:422–424, 1963. The author reviews fungal infections and mentions Propion Gel for vaginal use.

8. Mussey, E., "Some Common Gynecological Complaints," *Proceedings of the Staff Meetings of the Mayo Clinic*, 34:291–299, 1949. Propion Gel is recommended for treatment of *Candida albicans* infection. The author states that the product is unlikely to cause secondary dermatitis.

9. Parker, R. T., C. P. Jones, and F. B. Carter, "Pruritis Vulvae in the Postclimacteric Woman," *Geriatrics*, 11:235–242, 1956. The authors claim that a vaginal jelly composed of calcium and sodium propionate is effective in the treatment of mycotic vulvovaginitis due to infection with *Candida albicans*.

10. Parker, R. T., C. P. Jones, and W. C. Thomas, "Causes and Therapy of Pruritis Vulvae," *Modern Medicine*, 98–100, 1956. The authors claim that mycotic infections are the second most common cause of itching and state that treatment with sodium and calcium propionate is simple and effective.

11. Patterson, J. F., "Office Gynecology," *North Carolina Medical Journal*, 17:165–170, 1956. The author discusses several gynecological problems and recommends Propion Gel to treat vaginitis caused by *Candida albicans*.

12. Peck, S. M., "Fungus Infections and Their Treatment," *Medical Annals of the District of Columbia*, 21:1–10, 1952. The author reviews several kinds of fungal infections and mentions liquids, powders, and ointments containing sodium propionate for treatment.

13. Peck, S. M. and L. Schwartz, "A Practical Plan for the Treatment of Superficial Fungus Infections," *Public Health Reports*, 58:337–345, 1943. The etiology, treatment, and prophylaxis of superficial fungal infections are discussed. One of the tinctures recommended contains sodium propionate as one of the components.

14. Tate, B. C., "The Choice of Fungicide," *Practitioner*, 169:193–195, 1952. The author discusses *Monilia* and ringworm infections. The use of sodium propionate ointment is mentioned.

15. Traylor, J. B., "Vaginal Discharge," *Journal of the Medical Association of Georgia*, 42:529–530, 1953. The author asserts that *Trichomonas vaginalis* is seen most often and that the second most common cause of vaginal discharge is infection with moniliasis. Treatment with Propion Gel for moniliasis is recommended.

16. Weinstein, B. B. and D. Weinstein, "Vaginitis," *Mississippi Doctor*, 29:117–122, 1951. The authors review various causes of vaginitis and recommend Propion Gel for treatment of *Candida albicans* infections.

17. Zuspan, F. P., et al., "Management of Patients with Vaginal Infections. An Invitational Symposium," *Reproductive Medicine*, 9:1–16, 1972. The authors recommend Propion Gel to treat vaginits caused by *Candida albicans*.

Several of Wyeth's summaries (Refs. 18 through 32, condensed below) are merely reports of in vitro studies or animal safety tests. These references also are insufficient to justify a hearing because effectiveness may be demonstrated only by adequate and well-controlled *clinical* studies. 21 U.S.C. 355(d); 21 CFR 314.111; 21 CFR 314.200(d)(1).

18. Cantarelli, P. R., "Effect of Sodium Propionate on the Growth of Some Yeasts," *Rev. Agr.*, 43(2):51, 1968. The author asserts that sodium propionate in culture media inhibited growth in the *Candida, Saccharomyces, Torulopsis, Pichia, Rhodotorula*, and *Zygosaccharomyces* genera.

19. Georges, A., "Fungistatic Activity of Propionic and Caprylic Acids in Relation to pH," *Archives Belges de Dermatologie et de Syphiligraphie*, 9:1–13, 1953. Under in vitro conditions, the bacteriostatic action of propionic acid is higher than caprylic acid, but the fungistatic activity of caprylic acid is greater than propionic acid.

20. Hara, S., et al., "Pharmacological and Toxic Actions of Propionates. Examination of General Pharmacological Actions and Toxicity of Sodium and Calcium Propionates," *Chemical Abstracts*, 62:977, 1965. When administered to rats orally, in short-term and long-term experiments, the propionates showed almost no toxicity.

21. Heseltine, W. W., "A Note on Sodium Propionate," *Journal pf Pharmacy and Pharmacology*, 4:120–122, 1952. The author asserts that a 20 percent sodium propionate solution instilled into rabbits' eyes caused no deleterious effects. Oral daily doses of 6 grams given to an adult male caused no adverse effects.

22. Heseltine, W. W., "Sodium Propionate and Its Derivatives as Bacteriostatics and Fungistatics," *Journal of Pharmacy and Pharmacology*, 4:577–581, 1952. The author describes the bacteriostatic and fungistatic activity of sodium propionate against 21 microoraganisms.

23. Heseltine, W. W., and L. D. Galloway, "Some Antibacterial Properties of Sodium Propionate," *Journal of Pharmacy and Pharmacology*, 3:581–585, 1951. Using in vitro assay methods, the authors show that sodium propionate inhibits a wide range of bacteria and fungi.

24. Keeney, E. L., "The Fungistatic and Fungicidal Effect of Sodium Propionate on Common Pathogens," *Bulletin of Johns Hopkins Hospital*, 73:379, 1943. The author determined the fungistatic and fungicidal activity of sodium propionate on several pathogenic fungi.

25. Keeney, E. L., et al. "Studies on Common Pathogenic Fungi and on Actinomyces Bovis. In Vitro Effects of Fatty Acids," *Bulletin of Johns Hopkins Hospital*, 75:377–392, 1944. The authors compared the in vitro fungistatic and fungicidal effects of sodium valerate, sodium caproate, sodium caprylate, sodium caprate, sodium undecylenate, and sodium propionate on common pathogens and on *Actinomyces bovis*.

26. Mariat, F., et al., "Fungistatic Action of Sodium Propionate and Sodium Lauryl Sulfate, Their Synergism When Used in Combination," *Annales de l'Institut Pasteur*, 91:678–683, 1956. The authors assert that there is a synergism between sodium propionate and sodium lauryl sulfate in their fungistatic activity on four pathogenic fungi.

27. Peck, S. M., "A New Method for the Evaluation of Anti-Fungicidal Chemicals," *Transactions of the New York Academy of Sciences*, 2:112–117, 1949. The author evaluates fungicides and their effects on the metabolism of the fungi in the formation of trichophytin.

28. Peck, S. M. and H. Rosenfield, "The Effects of Hydrogen Ion Concentration, Fatty Acids and Vitamin C on the Growth of Fungi," *Journal of Investigative Dermatology*, 1:237, 1938.

The authors study the in vitro fungicidal activity of various fatty acids.

29. Pomerat, C. M., and C. D. Leake, "Short Term Cultures for Drug Assays: General Considerations," *Annals of the New York Academy of Sciences,* 38:1110–1128, 1954. Propionic acid was found to be injurious to primary explants of chick spinal cord, heart, and spleen. Sodium propionate was found to be less toxic.

30. Theodore, F. H., "Inhibitory Effect of Sodium Propionate on Contaminant Fungi," *Eye, Ear, Nose, Throat Monthly,* 45:73–79, 1966. The author investigated the action of sodium proprionate and a propionate-naphazoline mixturec against fungi shown to be capable of ocular pathogenicity.

31. Vicher, E. E., et al., "The Effect of Sodium Propionate and Sodium Caprylate on the Fatty Acid Content of *Trichophyton Rubrum,*" *Mycopathologia,* 35:208–214, 1968. The authors conclude that both sodium propionate and sodium caprylate in subfungistatic concentrations manifest significant effects on the fatty acid synthesis and pigmentogenesis of *T. Rubrum.*

32. Wyss, O., et al., "The Fungistatic and Fungicidal Action of Fatty Acids and Related Compounds," *Archives of Biochemistry,* 7:415–425, 1945. Various saturated and unsaturated fatty acids were tested for their fungistatic and fungicidal activity.

The following references are, again as shown by Wyeth's own summaries (Refs. 33, 34, and 35, condensed below), reports of clinical studies of conditions other than vaginitis. These references are clearly inadequate to demonstrate the effectiveness of Propion Gel in treating vulvovaginal candidiasis. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*). In fact, Propion Gel is not mentioned in any of these studies.

33. Keeney, E. L. et al., "Propionate and Undecylenate Ointments in the Treatment of Tinea Pedis and an In Vitro Comparison of their Fungistatic and Antibacterial Effects with Other Ointments," *Bulletin of Johns Hopkins Hospital,* 75:417–439, 1944. In the vitro portion of the experiment, propionat-propionic acid ointment was superior in its fungistatic effect on *Trichophyton mentagrophytes* to undecylenate-undecylenic acid, ammoniated mercury (10%), sulfathiazole (5%), Whitfield's (half and full strength), and tyrothricin (0.5%). In the clinical portion of the study, comparable results were obtained in the treatment of athlete's foot.

34. Keeney, E. L. and E. N. Broyles, "Sodium Propionate in the Treatment of Superficial Fungus Infections," *Bulletin of Johns Hopkins Hospital,* 73:479–483, 1943. The results of treatment of 55 patients with athlete's foot due to *Trichophyton gypseum* and *Trichophyton purpureum* were reported. Following 20 weeks of continuous treatment, fungus material was found in only 3 patients. In 23 patients with tinea crusis treated with sodium propionate, 91 percent were cured. Treatment with sodium propionate was also successful in patients with several other conditions (none of which was vulvovaginal candidiasis).

35. Peck, S. M., et al., "Role of Sweat as a Fungicide," *Archives of Dermatology and Syphilology,* 39:126–146, 1939. The author claims that topical applications of ingredients of sweat, such as mixtures of lactic acid, propionic acid, butyric acid and ascorbic acid, are valuable in treating fungal infections. It is asserted that areas of the body which are exposed to greater concentrations of sweat have less tendency to fungal infections.

Wyeth identified six references (Refs. 36 through 41) that contain results of clinical studies which it asserts demonstrate that Propion Gel is effective in treating vulvovaginal candidiasis. As with the other 35 references, Wyeth submitted only a brief summary of the article reporting the study. However, even if Wyeth had submitted the articles themselves they would not justify a hearing because the articles are not reports of adequate and well-controlled studies. 21 CFR 314.200(d)(1).

A review of the articles describing the studies shows that five (Refs. 36 through 40) used no control group at all and that the sixth study (Refs. 41), which did use a control group, failed to collect critical data from it. Thus all six clinical studies failed to provide a comparison of the results of treatment of diagnosis with a control in such a fashion as to permit quantitative evaluation. 21 CFR 314.111(a)(5)(ii)(*a*)(*4*). The reports of these studies are also inadequate because they do not explain the methods of observation and recording of results or the steps taken to minimize bias on the part of the subject and observer. 21 CFR 314.111(a)(5)(ii)(*a*)(*3*). Furthermore, only two of the six studies (Refs. 40 and 41) were conducted using Propion Gel; the other studies tested other products with different formulations. The following descriptions of these articles show all six studies to be uncontrolled.

36. Alter, R. L., et al., "The Treatment of Mycotic Vulvovaginitis with Propionate Vaginal Jelly," *American Journal of Obstetrics and Gynecology,* 53:241–244, 1947. The authors treated 54 pregnant and nonpregnant patients who had mycotic vulvovaginitis. All patients were treated with a vaginal jelly containing calcium and sodium propionate. All patients obtained relief from pruritis vulvae within 76 hours. Of the nonpregnant patients, 80 percent were cured; of the pregnant patients, 39 percent were cured.

37. Branscomb, L. "Mycotic Vulvovaginitis," *Southern Medical Journal,* 41:534–537, 1948. *Candida albicans* was identified as the causative factor in 63 percent of 81 patients with vulvovaginal itching. All patients were propionate jelly. The author reports that a majority of the patients were relieved of itching in 72 hours, and 64.7 percent were cured within 3 weeks. Of the 18 patients not cured within 3 weeks, four were pregnant.

38. Davids, A. M., and A. Kurtin, "Fatty Acid Therapy of Pruritus Vulvae," *American Journal of Obstetrics and Gynecology,* 58:397–400, 1949. The authors tested sodium propionate ointment (15% sodium propionate), douches (5% sodium propionate), and suppositories (10% sodium propionate). In 23 case of pruritus, relief was obtained in 1 to 4 weeks. In 22 cases of menopausal or atrophic vulvitis, the pruritus disappeared in 2 to 8 weeks. The authors also state that they successfully treated two patients with vulvectomy and four patients with additional lichenification.

39. Jones, C. P., et al., "Mycotic Vulvovaginitis and the Vaginal Fungi," *American Journal of Obstetrics and Gynecology,* 54:738–747, 1947. The authors report on a series of 280 patients (189 pregnant, 91 nonpregnant) with mycotic vulvovaginitis. *Candida albicans* was identified as the causative organism in 91.07 percent of the patients. Over 100 patients obtained excellent results when treated with a calcium and sodium propionate jelly. Negative cultures were obtained in 80 percent of the nonpregnant patients and 33 percent of the pregnant patients. The authors also discussed vaginal fungi in general, their identification, symptomology, and various treatments.

40. Suran, R. R. and R. B. Greenbelt, "Propionic Acid in the Therapy of Mycotic Vulvovaginitis: A Method of Diagnosis," *Journal of the Medical Association of Georgia,* 38:89–94, 1949. In 35 of 37 patients with mycotic vulvovaginitis due to *Candida albicans,* Propion Gel gave symptomatic relief. Negative cultures were obtained in 50 percent of the pregnant patients and 34 percent of the nonpregnant patients.

41. Kantor, H. I., "Evaluation of Treatment for Monilia in Pregnancy," *American Journal of Obstetrics and*

Gynecology, 62:170–172, 1951. Seventy-two pregnant women who had been diagnosed, through positive *Monila* cultures, as having monilial vulvovaginitis were chosen for this study. Twenty-nine of these women served as a control group and received no treatment of any kind. The remaining 43 subjects were asked to follow a treatment of one-half to three-quarters of an applicatorful of Propion Gel nightly for at least 2 or 3 weeks. The researcher concluded, from questioning the subjects, that 38 of the 43 used the Propion Gel as prescribed.

Six weeks after starting treatment, 29 of the 38 subjects in the Propion Gel group stated that their symptoms had improved (76%). However, cultures taken at the same time showed that only 15 (44%) of the Propion Gel subjects had negative cultures, and that 19 (56%) had positive cultures (4 cultures not obtained).

Followup cultures in the Propion Gel group taken 6 weeks post delivery showed 25 (89%) negative and 3 (11%) positive cultures (11 cultures not obtained). (Since these figures add up to 39, rather than 38 subjects, an error was apparently made in reporting of the study.) Followup cultures taken from the control group at 6 weeks post delivery showed 28 were negative (96.5%) and 1 positive.

In short, the study results show that the group that received no Propion Gel treatment evidenced a post-delivery clinical cure rate greater than the group that received Propion Gel. Because the author did not present any data for the control group at 6 weeks after starting treatment, no comparison is possible for this portion of the study. 21 CFR 314.111(a)(5)(ii)(*a*)(*4*).

Negative results aside, this study is inadequate to justify a hearing because the procedures used were inadequate. For example, the report does not describe how the subjects were divided into test and control groups. Therefore, there is no assurance of comparability in the test and control groups of pertinent variables, such as age, or severity or duration of disease. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*). Nor does the study explain steps taken to minimize bias on the part of the subjects and observers. 21 CFR 314.111(a)(5)(ii)(*a*)(*3*). Apparently, no form of "blinding" was used to minimize bias on the part of the observers and analysts of the data.

Furthermore, the study design, although including a control group, fails to provide a comparison with the control in such a fashion as to permit quantitative evaluation at a significant point in the study. That is, the control group was not tested (either for subjective symptomatic relief or objective culture results) at 6 weeks after entry into the study. Consequently, no meaningful interpretation can be made of the data gathered on the treated group at that point of the study. 21 CFR 314.111(a)(5)(ii)(*a*)(*4*). Careful controls are especially important in studies on vulvovaginal candidiasis because a number of women with this condition may experience spontaneous remissions. (Isaacs, J. H., "Nystatin Vaginal Cream in Monilial Vaginitis," *Illinois Medical Journal*, 143:240–241, 1973.) Indeed, the statistics compiled in this study at 6 weeks post delivery—showing spontaneous cures in 28 of the 29 (96.5%) control patients—demonstrate this fact. Accordingly, because of the likelihood of spontaneous cures, there is no way to determine how many, if any, of the "cures" at 6 weeks after beginning treatment were attributable to Propion Gel.

In addtion to the 41 references listed above, Wyeth submitted the following excerpts from the medical literature (several of which were not fully identified) with its hearing request:

1. Benson, R. C., *Handbook of Obstetrics & Gynecology*, 6th Ed., Lang Medical Publications, Los Altos, Calif., 1977, pp. 476–80. This excerpt describes various vaginal disorders and lists Propion Gel and three other products for use in treatment of *Candida albicans* vaginitis.

2. Green, T. H., "Gynecology: Essential [sic] of Clinical Practice," pp. 229–233. This excerpt describes various vaginal disorders and lists Propion Gel and seven other products as effective for use in monilial vaginitis.

3. Wilson, J. R., "Vaginal Diseases," *Obstetrics & Gynecology*, 1975, pp. 595–596. This excerpt discusses candidiasis and states that propionic or ricinoleic acid jellies and several other products can be used with good results.

4. "Vulvovaginitis Method of James L. Breen, M.D., and Theodore Cohen, M.D.," in *1978 Current Therapy*, p. 808. This excerpt also discusses candidiasis and simply lists Propion Gel and five other products for treatment of vulvovaginal candidiasis.

These four excerpts from the medical literature are clearly testimonial in nature and do not offer any evidence from adequate and well-controlled clinical studies to support the efficacy of Propion Gel. Isolated case reports, random experience, and reports lacking the details which permit scientific evaluation, such as these, are inadequate to show the efficacy of a product. 21 CFR 314.111(a)(5)(ii)(*c*).

There is another serious defect in Wyeth's submission. None of the information submitted by Wyeth demonstrates the contribution of each component of the product. 21 CFR 300.50. Propion Gel is a low pH ointment containing 3 percent boric acid in addition to the propionic acids. Because boric acid itself can be an effective antifungal agent (Van Slyke, K. K., et al., "Treatment of Vulvovaginal Candidiasis With Boric Acid Powder," *American Journal of Obstetrics and Gynecology*, 141:145–148, 1981), any relief obtained from use of the product is not necessarily due to the propionic acid components. In addition, the acidic ointment alone would no doubt be soothing to inflamed and infected tissues. Thus, Propion Gel is properly considered a combination product, but no studies have been submitted to determine the contribution of each component.

IV. Summary

The information submitted by Wyeth is, on its face, inadequate to support a hearing for Propion Gel. 21 CFR 300.50; 21 CFR 314.111; 21 CFR 314.200. Of the 41 references submitted, only six even purported to be clinical studies on vulvovaginitis. The remaining 35 were in vitro studies, animal studies, studies on conditions other than vulvovaginitis, or mere testimonials.

With respect to the six studies on vulvovaginitis using human subjects, only two tested Propion Gel. None of these clinical studies were adequate and well controlled. Five of the six did not use any control group. The one study that did use a control group failed to compare its results with those of the treatment group at 6 weeks after treatment began; when the results of the control group (no treatment) were compared with the Propion Gel at 6 weeks post delivery, the no-treatment group exhibited a greater cure rate than the Propion Gel group.

Finally, no studies were submitted by Wyeth to show that each component in Propion Gel contributes to the effect claimed within the meaning of and as required by 21 CFR 300.50.

V. Legal Arguments

Wyeth argues that a hearing is justified because the NAS–NRC panel and the OTC Vaginal Products Panel found Propion Gel to be effective. As Wyeth notes, the NAS–NRC Panel on Drugs Used in Disturbances of the Reproductive System found Propion Gel to be effective in treating vulvovaginal candidiasis. It is also true that the OTC Vaginal Products Panel recommended that calcium propionate and sodium propionate be classified as generally

recognized as safe and effective (Category I) for the relief of minor vaginal irritations and that a professional labeling claim for the treatment of *Candida albicans* be allowed for these ingredients. However, as shown below, neither panel's recommendation warrants the holding of an evidentiary hearing.

At the outset, it is important to note that the NAS-NRC reports are only recommendations to the agency. *Holland-Rantos Co.* v. *United States Dep't of Health, Educ. & Welfare,* 587 F.2d 1173, 1175 (D.C. Cir. 1978); *Upjohn* v. *Finch,* 422 F.2d 944, 948 (6th Cir. 1970). So too are the OTC advisory review panel reports. 21 CFR 330.10(a)(5). It is also important to note that these recommendations cannot overcome any deficiencies in the data upon which they are based.

The NAS-NRC Panel identified three articles (by Alter et al. (Ref. 36), Jones et al. (Ref. 39), and Suran and Greenblatt (Ref. 40)) in support of its finding that Propion Gel is effective for treating vulvovaginal candidiasis. As discussed fully above, none of these studies used a control group and, therefore, none is an adequate and well-controlled study. 21 CFR 314.111(a)(5)(ii)(*a*)(*4*).

Similarly, in support of its recommendation to the Commissioner on sodium propionate and calcium propionate, the OTC Panel identified only Wyeth's submission of 41 references discussed above and one additional article:

Harvey, S. C., "Antimicrobial Drugs," *in* "Remington's Pharmaceutical Sciences," 15th Ed., Edited by Osol, A. and J. E. Hoover, Mack Publishing Co., Easton, PA, pp. 1167–1168, 1975.

The inadequacies of the 41 articles referred to in Wyeth's submission to the OTC Panel are discussed in detail above. The additional excerpt is a brief description of sodium propionate which states that propionic acid and its soluble salts are fungistatic and bacteriostatic against a number of gram-positive cocci. The excerpt does not refer to Propion Gel, nor is it even a report of a clinical study, much less a report of an adequate and well-controlled study. Isolated case reports, random experience, and reports lacking the details which permit scientific evaluation, such as this article, are inadequate to demonstrate effectiveness. 21 CFR 314.111(a)(5)(ii)(*c*).

Therefore, the discrepancy between the Commissioner's view and the views of the NAS-NRC Panel and the OTC Vaginal Products Panel is not an issue of fact justifying a hearing because effectiveness must be demonstrated by adequate and well-controlled clinical studies. 21 U.S.C. 355(d); 21 CFR 314.111(a)(5). Therefore, to grant a hearing based upon panel recommendations would be futile because, in the absence of adequate and well-controlled studies, as here, Propion Gel may not be found effective for its labeled indication. *Weinberger* v. *Hynson, Westcott & Dunning, Inc.,* 412 U.S. 609 (1973).

Wyeth also has requested that the Commissioner stay any decision on its hearing request until 30 days following publication of the final monograph for OTC vaginal products. Wyeth argues that it would be arbitrary and capricious to withdraw approval of the new drug application for Propion Gel for prescription use prior to publication of the final monograph for OTC vaginal products, that deferring a decision on the withdrawal of the new drug application would preserve the integrity of the OTC review process, and that the agency's handling of cough/cold products provides a precedent for such a deferral. The firm also asks for a determination whether Propion Gel is generally recognized as safe and effective is labeled in accordance with the tentative findings of the OTC Vaginal Products Panel.

As the Director pointed out in the notice of opportunity for hearing, OTC vaginal products are not the subject of this DESI proceeding. 44 FR 6778. There is no legal requirement that decision regarding OTC use of a drug for certain indications be made contemporaneously with decisions regarding prescription use of the same drug. To the contrary, docket management is a matter left to the discretion of the administrative agency. *REA Express, Inc.* v. *United States,* 568 F.2d 940, 950 (2d Cir. 1977), *cert. denied,* 435 U.S. 923 (1978). See also 21 CFR 314.200(h).

Although deferred action was appropriate for certain cough/cold products, it is not appropriate for Propion Gel. As explained in the **Federal Register** notice regarding cough/cold prescription products (38 FR 34482), many of the ingredients in those products also were contained in currently marketed OTC cough/cold products. Decisions on prescription products containing ingredients that were not components of OTC drug products, or that were found to be lacking substantial evidence of effectiveness, were not held in abeyance. Because Propion Gel was approved as, and has always been marketed solely as, a prescription product and because there is no other product containing the same ingredients that has been marketed as an OTC product, the cough/cold situation is inapposite, and Propion Gel is not an appropriate candidate for deferral. Furthermore, FDA is under court order to proceed expeditiously to complete implementation of the DESI review as soon as possible. *American Public Health Ass'n* v. *Veneman,* 349 F. Supp. 1311 (D.D.C. 1972). The only result of Wyeth's proposed stay would be a delay which is neither necessary nor desirable.

Nor does taking action on Propion Gel's new drug application prior to completion of the OTC review proceeding on vaginal products interfere with the integrity of the OTC review. They are separate proceedings. Wyeth may submit further data in the OTC proceeding and, as noted above, the OTC review may address other indications not under consideration here. Whether products such as Propion Gel, containing sodium propionate and calcium propionate, are generally recognized as safe and effective for OTC use is a matter properly resolved in the OTC review proceeding. Accordingly, Wyeth's request for a decision on the present OTC status of Propion Gel is denied.

Wyeth also argues that an administrative stay pending publication of the OTC final monograph on vaginal products would involve no health hazard. In support of this contention, the firm submitted a June 10, 1955 letter from the agency stating that Propion Gel was no longer regarded as a new drug. Such informal opinions have long since been revoked. 21 CFR 300.100(d). Moreover, even if Propion Gel were regarded as safe, there is no justification for permitting the continued marketing of a product that lacks substantial evidence of effectiveness.

The Commissioner also finds unconvincing Wyeth's contention that it will not know until publication of the final OTC monograph what information is required to justify a hearing with respect to Propion Gel. The agency's regulations set forth the information required to show effectiveness and, through those requirements, what is necessary to demonstrate an issue of fact justifying a hearing. 21 CFR 314.111(a)(5); 21 CFR 314.200(g)(1). As the Supreme Court has said with respect to these regulations, "the drug manufacturers have full and precise notice of the evidence they must present * * *" *Weinberger* v. *Hynson, Westcott & Dunning, Inc., supra,* 412 U.S. at 622. The regulations would not be clarified by staying a decision on the prescription product until publication of the final OTC monograph. Therefore, the Commissioner denies Wyeth's request

for a stay of the decision to grant or deny a hearing.

VI. Findings

On the basis of the foregoing, the Commissioner finds (1) that there is a lack of substantial evidence that Propion Gel is effective for its labeled indications, and (2) that there is a lack of substantial evidence that each component of Propion Gel contributes to the claimed effects. 21 U.S.C. 355(d); 21 CFR 300.50; 21 CFR 314.111(a)(5)(ii). Further, Wyeth has not demonstrated that there is a genuine and substantial issue of fact requiring a hearing.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 52 Stat. 1052 as amended (21 U.S.C. 355(e)) and under authority delegated to the Commissioners (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), the hearing request is denied and approval of NDA 8–082 for Propion Gel is withdrawn effective June 14, 1982.

Dated: May 27, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 82-15107 Filed 6-3-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82F–0131]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of tetrakis[methylene(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate)] methane as an antioxidant in lubricants with incidental food contact.

FOR FURTHER INFORMATION CONTACT: Julia L. Ho, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3624) has been filed by Ciba-Geigy Corp., Three Skyline Drive, Hawthorne, NY 10532, proposing that § 178.3570 *Lubricants with incidental food contact* (21 CFR 178.3570) be amended to provide for the use of tetrakis[methylene(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate)] methane as an antioxidant in lubricants with incidental food contact.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: May 26, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-15104 Filed 6-3-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 81N–0132]

Preparations Containing Carbazochrome Salicylate; Denial of Hearing and Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs is denying a hearing and withdrawing approval of the new drug application for Adrenosem Salicylate Tablets, Syrup, and Solution. The products contain carbazochrome salicylate and are used for reduction of bleeding for various surgical and other bleeding states.

EFFECTIVE DATE: June 14, 1982.

FOR FURTHER INFORMATION CONTACT: Carol Kimbrough, Bureau of Drugs (HFD–32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 5597) published in the **Federal Register** of January 10, 1970 (35 FR 396), the Food and Drug Administration (FDA) announced that it had evaluated reports received from the National Academy of Sciences/National Research Council, Drug Efficancy Study Group (NAS/NRC) on the drug products Adrenosem Tablets, Syrup, and Solution, containing carbazochrome salicylate (hereinafter referred to as Adrenosem) (NDA 8–644 held by Beecham-Massengill Pharmaceuticals, Division of Beecham, Inc., Bristol, TN 37620, hereinafter referred to as Beecham). At the time of publication of that notice, the products were marketed by the S. E. Massengill Co., Bristol, TN 37620.

The notice stated that carbazochrome salicylate preparations lacked substantial evidence of effectiveness for hematuria, metrorrhagia, and menorrhagia; for prevention or treatment of retinal hemorrhage and diabetic retinitis; for treatment of pulmonary bleeding, gingival bleeding, epistaxis, idiopathic purpura; and for familial hereditary telangiectasia. The drugs were evaluated as "possibly effective" for their other labeled indications. The holders of all approved new drug applications (NDA's) for carbazochrome salicylate preparations and any persons marketing such drugs without approval were given 60 days to delete from labeling those indications evaluated as lacking substantial evidence of effectiveness, and 6 months to submit data to FDA providing substantial evidence of effectiveness of the drugs for the "possibly effective" indications. The notice stated that at the end of the 6-month period, any such data would be evaluated to determine whether there was substantial evidence of effectiveness for any of those indications and, if no data were submitted or if data submitted did not provide such evidence, procedures would be initiated to withdraw approval of the NDA's for the drugs. Pursuant to the notice of January 10, 1970, Beecham submitted data from several studies to support the claims of effectiveness of Adrenosem for various surgical and other bleeding states. FDA reviewed the data and concluded that they did not provide substantial evidence that Adrenosem was effective for any of the indications studied. Accordingly, in a notice published in the **Federal Register** of August 6, 1974 (39 FR 28306) (formerly Docket No. FDC–D–563), the Director of the Bureau of Drugs responded in detail to the submission by Beecham and proposed to withdraw approval of the NDA for Adrenosem. Beechan and all other manufacturers or distributors of drug products identical, related, or similar to Adrenosem were given 30 days to request a hearing and 60 days within which to submit the data, information, and analyses relied upon to justify a hearing.

On August 21, 1974, Beecham filed a written notice of appearance and requested a hearing. On October 3, 1974, Beecham submitted data, information, and analysis in support of its hearing request.

On July 22, 1981, Beecham filed data on three additional studies not previously submitted to FDA. Although the submission did not comply with the requirements of 21 CFR 314.200(c), it has been included in FDA's evaluation of the hearing request.

The Commissioner, after consideration of all of the material submitted by Beecham, has concluded that there is no genuine issue of material

fact requiring a hearing, and that Beecham's legal objections are insubstantial. A full discussion follows.

I. The Drugs

A. *Adrenosem Tablets (1 and 2.5 milligrams).* Each tablet represents 1 or 2.5 milligrams adrenochrome semicarbazone (present as 26 milligrams or 65 milligrams carbazochrome salicylate, respectively).

B. *Adrenosem Syrup.* Each 5 milliliters represents 2.5 milligrams adrenochrome semicarbazone (present as 65 milligrams of carbazochrome salicylate).

C. *Adrenosem Solution (1 and 2 milliliter Ampuls).* Each milliliter represents 5 milligrams adrenochrome semicarbazone (present as 130 milligrams carbazochrome salicylate).

II. Recommended Uses

The labeling recommends Adrenosem for use "preoperatively (prophylactically) and therapeutically in conditions characterized by increased capillary permeability and associated capillary oozing."

III. Data Submitted To Support Claims of Effectiveness

To support its contention that a hearing is justified, Beecham submitted the following:

Exhibit I

This exhibit contains six studies and Beecham's analysis of them. The NAS/NRC Panel on Drugs Used in Surgery designated the studies as "controlled studies that have shown a reduction in blood loss in transurethral prostatectomy, in oral surgical procedures, and a reduction in the transplacental transmission of fetal erythrocytes * * *." The Panel identified other studies, however, that failed to show effectiveness: "However, many controlled studies (none of which are cited by the manufacturer in the package insert) fail to show any benefit from the use of the drug in these conditions and others, including radical mastectomy, plastic surgery, transurethral prostatectomy, thoracotomy, and tonsillectomy * * *." In Exhibit I, Beecham claims that these studies were either inappropriate or were otherwise defective, and objects to their being cited to "counterbalance" the importance of the "controlled" studies the Panel characterized as supporting effectiveness. Beecham proceeds to discuss the studies characterized by the Panel as "controlled" and showing effectiveness in reducing blood loss in transurethral prostatectomy and in oral surgical procedures, and a reduction in transplacental transmissions of fetal erythrocytes. Beecham contends that these studies establish the existence of an issue of fact justifying a hearing.

An evaluation of each of the six studies contained in Beecham's Exhibit I and a response to Beecham's claims regarding the evidentiary value of the studies appear below.

1–4. *Perkins* ("A Clinical Investigation of Adrenochrome Monosemicarabazone Sodium Salicylate," *Oral Surgery, Oral Medicine and Oral Pathology*, 10:230–236, 1957). The investigator describes four experiences (Groups A, B, C, and D) with the use of Adrenosem.

Group A: Beecham suggests that the study on "Group A" is the most relevant to Adrenosem's claims. In that study, "identical" bilateral oral surgical procedures on opposite quadrants of the same jaw were performed in 24 patients. The patients were treated with Adrenosem only during the second procedure, so that each patient served as his own control. Blood was collected by an aspirator; the volume and hemoglobin content were measured. The investigator found that significantly less blood was lost during the second operation than was lost during the first (P 0.01).

Evaluation: The types of surgical procedures performed during the study were not described, so it is impossible to ascertain whether the procedures were comparable as claimed; i.e., whether the treatment groups (first versus second) were comparable with respect to the surgical procedures employed, a pertinent variable. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*). Because the investigator knew when the drug was in use and when it was not, the possibility of bias on his part cannot be excluded. For example, a deeper cut may have been made during the first operation or the more difficult procedure may have been performed first. In fact, it happens that the mean operating time for the control side was 18 minutes, while that for the Adrenosem side was only 15, even though it might have been expected that the similar procedure should have been easier the second time. Section 314.111(a)(5)(ii)(*a*)(*3*) and (*4*) requires that the protocol (1) explain methods of observation so as to minimize bias; (2) compare results of treatment and control in such a fashion as to minimize bias; and, among other things, (3) state the precise nature of the control and explain the methods used to minimize bias. Manifestly, the study fails to meet these requirements.

Group B: The investigator included in this group "numerous surgical cases" in which Adrenosem was administered at dosages of 10 milligrams (mg). The investgator claims that Adrenosem was an effective hemostatic agent and that the speed of action varied in different patients: "In eleven cases the action of Adrenosem occurred five to ten minutes following parenteral administration of the drug. Twenty minutes after [administration] * * *, hemostatic effects were demonstrable in at least 80 percent of all patients. Twenty cases showed a reduction in bleeding twenty minutes following injection of Adrenosem Salicylate but as the operative procedure progressed the hemostatic effects disappeared. Secondary hemorrhage responded fairly well to Adrenosem * * *".

Evaluation: There was no actual study of Group B, only a discussion of subjective impressions of random cases, without any data to support the investigator's conclusions; e.g., it is not clear how the onset of action of Adrenosem was identified. The total number of patients who were treated is not identified, and there were no controls. The report of Group B, therefore, fails to satisfy the requirements of 21 CFR 314.111(a)(5)(ii) for an adequate and well-controlled clinical investigation.

Group C: Twenty-five male students took part in this study. Their average age was 22 years and their average weight was 149 pounds. The investigation was divided into two phases which were conducted 2 weeks apart. In the first phase Adrenosem was administered intramuscularly. In the second phase it was administered orally. Control bleeding time were determined using the right ear lobe. One hour after the injection or ingestion of Adrenosem, a second bleeding time was determined using the left ear. The two bleeding times were then compared. The mean bleeding time 1 hour after an intramuscular dose of Adrenosem was 84 seconds, as compared with a mean time of 107 seconds for the "control" ear lobes. The investigator claimed that this 23-second difference was statistically significant.

Evaluation: Bleeding times in the same person can vary widely, and their interpretation is somewhat subjective. The assessment or observation of bleeding times must be standardized to permit any valid conclusions, and must be blinded so that investigator bias in conducting the test is minimized. 21 CFR 314.111(a)(5)(ii)(*a*)(*5*). Moreover, the present report is little more than an anecdote, an assertion that bleeding time was "significantly" shortened. It is impossible from the data available to carry out an adequate quantitative comparison of the control and treatment

values, 21 CFR 314.111(a)(5)(ii)(*a*) (*4*) and (*5*), because individual values, standard deviations, or p values are not listed and raw data have not been supplied. Also, even the mean bleeding times obt ained during the second phase of the study were not reported. The only information regarding bleeding times on oral treatment was the remark that "the hemostatic effect of the liquid form and the injection form appears to be the same." These are obvious deficiencies under 21 CFR 314.111(a)(5)(ii)(*a*) and (*(3*) (*5*). The lack of data documenting the conduct and results of the study make it unsuitable for scientific evaluation.

Group D: There is very little information given for this group, only two short paragraphs in which the investigator states that the local hemostatic effect of Adrenosem was tested but "was not revealed" in this group of patients.

Evaluation: Adrenosem is recommended for use in conditions characterized by increased capillary permeability and associated capillary oozing, because it allegedly reduces capillary permeability. The investigator was obviously trying with this group of patients to test the validity of this theory. However he concluded that the results in this instance were not supportive of the drug's effectiveness.

5. *Messer et al.* ("Effect of Carbazochrome Salicylate on Transplacental Transmission of Fetal Erythrocytes," *Obstetrics and Gynecology,* 27:83–88, 1966). The investigators obtained blood smears within 48 hours postpartum from 129 women who received 10 mg of carbazochrome salicylate parenterally during labor. In addition, smears were taken from 128 women who before labor received carbazohrome orally (2.5 mg, three times a day, antepartum); 102 received the drug on a short-term schedule averaging 19 days antepartum, and 26 received the drug on a long-term schedule averaging 5 months antepartum. Seventy-five of the patients were in both groups; i.e., they received the drug both parenterally during labor and orally before labor. The smears were scanned for 15 minutes; the results were recorded as positive if fetal cells were identified, negative if none were seen. Results for "controls" were obtained from data on a group of 119 previously studied obstetric patients, plus 103 untreated obstetric patients studied concurrently with the treated women. (Maternal and fetal blood types, mode of delivery, and incidence of cervical laceration and manual placental removal were recorded for the group of 103 patients; it is not clear how the previous study on the group of 119 was conducted.) For the 222 patients considered as controls, 19 percent had demonstrable fetal red cells.

The investigators found that of the 129 patients receiving parenteral carbazochrome, 14 percent had fetal red cells demonstrated; of the group of 75 patients receiving both oral and parenteral medication, 6 percent had demonstrable fetal red cells. In the group of patients taking the medication orally on a long-term basis, however, 19 percent had fetal red cells as compared with 10 percent of those taking it on a short-term basis. The investigators concluded that Adrenosem appears to have some effect, when compared with the "controls" described above, in decreasing fetal maternal red-blood cell transfer.

Evaluation: Constructing a "control" group from a mixture of previously treated and currently treated patients (a combination of concurrent and historical controls) is a most unusual practice and requires explanation; in particular, the investigator must explain when the decision to do this was made and how bias was avoided if it was made after the concurrent controls were evaluated. 21 CFR 314.111(a)(5)(ii)(*a*) (*4*) and (*5*). This was not done in the study. The study also failed to mention how the patients were assigned to the treated and untreated (the concurrent 103 patients) groups, although there is no indication that assignment was made in a manner that would minimize bias. 21 CFR 314.111(a)(5)(iii)(*a*)(*2*)(*ii*).

The presence of fetal cells found is affected by a number of characteristics of the mother and could be affected also by the techniques used in looking for cells, so that it is essential in evaluating the effect of a drug that characteristics are similar in both the treatment and control groups. Although the investigators recognized the significance of ABO mother-baby incompatibility (incompatible cells are hemoloyzed and removed rapidly from the maternal circulation), and tested for it in 202 patients, they did not state the number of incompatible mothers belonging either to the control or the drug-treated group. Similarly, they did not report on Rh incompatability within the control or drug-treated group. They also neglected to make that distinction for the patients who had received cervical lacerations or who had been subjected to manual removal of the placenta, although they had found that mothers with these conditions had a higher incidence of fetal erythrocytes in their blood during the post-partum period than is generally encountered. Thus, comparability of the groups with respect to two pertinent variables that affect the incidence of fetal erythyrocytes in maternal blood was not established. Comparability in age was not established either. A fourth pertinent variable also was not addressed, viz., whether ascertainment of the presence of cells was comparable for control and treatment groups. Even assuming that the unblinded nature of the study did not affect the comparability of ascertainment in the concurrently treated patients (not necessarily a valid assumption, unless the reader was blind to treatment) there is no basis at all for thinking that ascertainment was similar in the 119 previously studied patients, unless the smears were blindly reread at the time of the present study. No evidence that such a procedure was carried out has been provided. The study, therefore, fails to meet the requirements of 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*), in that groups were not comparable with respect to pertinent variables.

There are also peculiarities in the results that require evaluation. The investigators did not offer any explanation as to why the mothers who had taken the medication orally for 5 months had a higher incidence of fetal erythrocytes in their circulation (19 percent) than the mothers who had taken the drug orally for only 19 days (10 percent, calculated by FDA from the study data reprinted in the literature report). The first of these values equals the control value. Analysis of results is apparently incomplete. 21 CFR 314.111(a)(5)(ii)(*a*)(*5*).

6. *Burke, Pogrund,* and *Clark* ("Hemostatic Agents in Control of Bleeding," *Clinical Research,* 8:127, 1960). In a study referred to by the investigators as double-blind, the investigators evaluated 7 hemostatic agents in transurethral prostatectomy in 225 patients. Only 14 of those patients received Adrenosem. The investigators collected the extravasated blood and irrigation fluid by means of an indwelling catheter and measured total volume and hemoglobin content. They reported that Adrenosem reduced the amount of lost blood and the blood loss per gram of removed tissue. The reduction was said to be satistically highly significant, as compared with an untreated control group.

Evaluation: Beecham has filed to provide any description or documentation of the methods of assignment of patients into groups (required under 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*ii*)], the methods used to assure comparability of patients in test and control groups (required

under 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*)), or methods used to maintain double-blilnd conditions (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)). Another report on the study, contained in a drat of a manuscript intended to be submitted elsewhere for publication by the same investigators, was included in the hearing request and indicates that the controls were untreated (no placebo) prostatectomized patients who were subjects in a previous study. The study thus was apparently not blind with respect to the untreated control group, even if it was blind as to which hemostatic agent was used. Moreover there was no concomitant control. While a historical control can be acceptable in some circumstances, the control group must be shown to be comparable to the treatment group with respect to pertinent variables (e.g., age, skill of the surgeon, difficulty of procedure, amount of tissue removed, and technique used). 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*). Since no evidence is provided to establish that the study was blinded, bias on the part of the investigators (e.g., in tabulating the data or in performing the surgery) may not have been minimized. 21 CFR 314.111(a)(5)(ii)(*a*)(*3*). Furthermore, the report on the conduct of the study is merely an abstract and does not provide a complete description or raw data sufficient for consideration as scientific evidence.

In summary, Exhibit I does not contain adequate and well-controlled studies, required under 21 CFR 314.111(a)(5)(ii). Furthermore, it fails to establish the existence of any issue of fact requiring a hearing.

Exhibit II

Beecham submitted an article by L. S. Persun, Jr. ("An Objective Appraisal of over 4,000 Tonsillectomy and Adenotonsillectomy Procedures," *The Laryngoscope,* LXXIV (2):260–266, 1964). The author described the incidence of primary bleeding (i.e., unusual bleeding during tonsillectomy and adenotonsillectomy) at a hospital during the year 1953, when Adrenosem was not used, and in the years 1955, 1956, 1957, and 1958, when it was used almost routinely. In 1961 and 1962, the author collected the data from the hospital records and found that the incidence of primary bleeding changed from 27.6 percent in 1953 to 12.7 percent in 1955, 20 percent in 1956, 22.2 percent in 1957, and 26.6 percent in 1958. The author concluded that the increase in bleeding after 1955 occurred because the frequency of preoperative injections of Adrenosem decreased from 88 percent in 1955 to 44.3 percent in 1956, 37.5 percent in 1957, and 29 percent in 1958. Beecham claims that because the data were gathered several years after treatment, there was no possibility of bias on the part of the surgeons or of the other hospital personnel, and that "blinding of the study was accomplished by the fact that operating surgeons and attending hospital personnel were not involved in any sort of clinical study, rather their duties were performed as usual."

In short, Beecham claims that the requirements for an adequate and well-controlled clinical investigation (21 CFR 314.111(a)(5)(ii)) were substantially met because the documented natural history of the patients constituted an adequate historical control. Beecham has petitioned in the alternative for a waiver of such requirements in the event FDA concludes that the study fails to satisfy the statutory requirements.

Evaluation: Any such historical control must be assessed cautiously, because over long time periods medical practice and the recording of events can change substantially and affect the apparent frequency of an event. In the present case, submitted data show that in 1955 the incidence of bleeding in patients not treated preoperatively with the drug was 39 percent (18 of 46) and in 1958 it rose to 83 percent (122 of 147). Such an increase in bleeding frequency in untreated patients from the baseline of 27.6 percent in 1953, the year before Adrenosem was introduced, indicates substantial variation in either the patient population treated, the procedures used, or the nature of observation by the medical staff, and plainly shows that year-to-year comparisons to assess drug effect are not valid. The data are peculiar in other respects. In 1958, the incidence of primary bleeding in patients who had received Adrenosem preoperatively in the form of injections was 10 percent, while the incidence of bleeding in patients who had received the drug as a syrup was 17.4 percent. The incidence in those who had received the drug in both forms (i.e., as an injection and as syrup), however, was 36 percent, an increase that defies any good explanation. These varying results certainly question effectiveness of Adrenosem. This study was, as its own introduction states, "in no respect a controlled study", nor were any measures used to minimize observer bias. 21 CFR 314.111(a)(5)(ii)(*a*)(*3*) and (*4*). There is no basis for granting the sponsor's request that FDA waive any of the requirements of 21 CFR 314.111(a)(5)(ii). The sponsor's request contains no information providing a sufficient explanation, as required by the waiver provisions in 21 CFR 314.111(a)(5)(ii)(*a*)(*5*), as to why specific criteria are not reasonably applicable to clinincal investigation of Adrenosem and what alternative procedures have been employed such that the study yields substantial evidence of effectiveness, despite nonconformance with the criteria.

Exhibit III

This portion of the submission includes an article ("Comparative Blood Loss in Hysterectomies—An Apparent Effect of Carbazochrome Salicylate on Postoperative Infections," *Obsterics and Gynecology,* 39:357–361, 1972), raw data, and other information about a study on comparative blood loss in hysterectomies by Eugene J. Diefenbach. In the study, 53 women who had undergone hysterectomies were treated with Adrenosem and 51 others were treated with saline. The medication was administered intramuscularly, 2 milliliters (mL) of solution (10 mg) at 5, 3, and 1 hours preoperatively, at 4 hours postoperatively, and as a single 2 mL injection 4 hours later, and then in the form of a syrup 15 mL (7.5 mg) every 4 hours for 32 hours. The investigator claimed that the medication was assigned and administered by the nursing or house staff "to insure that the operating team remained unaware of medication assignment," and that "all (medication) kits were coded and random-packed by the sponsor to avoid selecting the medication for any given patient". Blood loss was estimated by measuring blood volume preoperatively and at 2, 48, and 120 hours postoperatively, with the radioisotope dilution technique using I–131, labeled "human serum asbumin," obtained from an independent laboratory. Hemoglobin and hematocrit determinations were also made. The investigator found that patients who had received the drug lost less blood than the control patients in all measured intervals. The differences, however, were not statistically significant. There were highly significant differences in morbidity though. There were no "complications" in the 53 drug-treated patients; there were 15 cases of infection (pyelocystitis, pelvic or abdominal abscess, incisional or respiratory infection) in the control patients ($P<0.0001$).

Evaluation: Review of the submitted data shows that a plan for evaluation of postoperative morbidity was not included in the original protocol but "was added to the evaluative criteria by mutual agreement between the investigator and the sponsor". According to the report, "Postoperative morbidity or complication was recorded

when temperatures of 100.4° F or greater persisted for the second postoperative day or on any two consecutive such days". The Christensen memorandum of May 11, 1970 (NDA 8–844, Vol. #3) shows that this criterion was added after the study was completed, after the code had been officially broken, and after statistical analysis of the results had shown no drug effect (i.e., no significant differences in bleeding). Such a post-hoc analysis cannot be freed from potential analyst bias (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)), particularly when identification of an infection was made after the study was over, and can at best be considered a hypothesis to be subjected to further testing.

The submitted patient records do not show the original temperature values but only abbreviated transcripts of them. In most instances, especially for drug-treated patients, the transcripts simply contain the statement "not over 100.4° F". This part of the study lacks raw data. 21 CFR 314.200(d). Moreover, it is not apparent how the investigator made the diagnoses of pyelocystitis, pelvic or abdominal abscess, etc., or how he differentiated among similar conditions when the only criterion evidently used was temperature elevation. No reports of urinalyses, white blood counts, or other indicia of infection were submitted to FDA. Even if these diagnoses were correct, their significance is unclear. Adrenosem is not claimed to have antibiotic or anti-infective properties. The suggested rationale, that Adrenosem prevented "seepage and oozing" from "capillaries or microcirculatory vessels", and thus prevented bacterial growth in the "serosanguineous fluid", is wholly speculative and unsupported. In fact, submitted data show no significant differences in the amount of blood lost between the placebo and the drug group in any of the evaluation periods.

In sum, the only effect of Adrenosem that this study purported to show was discovered as an after-the-fact analysis of a parameter not included in the original study plan. Moreover, the reported effect is not one for which Adrenosem is indicated. Insofar as the claimed effect of Adrenosem is concerned—prevention of blood loss—the study showed no drug effect.

The study also failed to satisfy the requirements for an adequate and well-controlled study. First, the investigator very likely was able to distinguish the drug from the placebo. The "randomization schedule" indicates that each medication kit had two numbers, one consecutive and one random. The patient records show that only the consecutive numbers were used. The drug numbers were all in the 100 series (101–165), while the placebo numbers were all in the 200 series (201–265). Thus, the first digit revealed the identity of the medication. The submitted data indicate that in all probability, the principal investigator received a copy of the medication code on March 16, 1967, 3 days after the medication was shipped to him. Thus, the study may not have been blind at all, and bias in the selection of patients, operative technique, and post-operative treatment cannot be excluded. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*ii*).

In the second place, Beecham asserts that there were no transfusions of blood or blood products and mentions nothing about other fluids. The report describing the study ignored this subject completely. The patients' records show, however, that all patients except one control patient were administered considerable amounts of blood and/or other fluids. Mean values of blood volume, Hb, and Hct for each group were apparently calculated without applying corrections for the amount of blood or fluid administered. Thus, although the determination of these values appears to have been unbiased (they were performed by an independent laboratory that was unaware of the code), the results represent not only actual blood losses, but also the effect of any differences between the two groups in the amount of administered blood or fluids. Failure to discuss the transfusions and the methods by which administered blood or fluid was measured constitutes an inadequate description of observations and method of analysis. 21 CFR 314.111(a)(5)(ii)(*a*)(*3*) and (*5*).

Exhibit III also contained reprints from eight publications. The reprints do not discuss the use of Adrenosem; they report complications of hysterectomy. On the basis, the reprints do not support the effectiveness of the indications for Adrenosem.

Exhibit IV

This section contains reports from two previously sumitted studies which were discussed in the notice of opportunity for hearing of August 6, 1974. The McDevitt study (unpublished) involved 103 children 1 to 12 years of age who were undergoing elective tonsillectomy or adenotonsillectomy. Patients were alternatively assigned to an active group (treated with Adrenosem) or to a control group. Beecham reports that 42 of the 51 control patients exhibited some degree of bleeding, whereas only one of the 52 Adrenosem-treated patients exhibited reportable bleeding.

Evaluation: No attempt was made to minimize potential observer bias through blinding or other means. 21 CFR 314.111(a)(5)(ii)(*a*) (*3*) and (*4*). The drug is claimed to reduce capillary permeability and prevent or control capillary oozing. It is not purported to have an effect on larger vessels. Review of the patient records submitted indicates that of the control patients, four required sutures; three required sutures and clamps; nine required sutures, clamps, and packs; four required clamps and packs; eight required sutures and packs; and one required a clamp. None of the Adrenosem-treated patients required sutures, clamps, or packs. The fact that so many control patients required clamps and sutures allows one to speculate that the surgeon may have cut larger vessels in these patients than in Adrenosem-treated patients. Operating time was 21.4 minutes for the control patients versus 16.9 minutes for the Adrenosem-treated patients, a highly significant difference ($P < 0.01$). This may indicate that more difficult procedures were used for this group. In any case, it is apparent that patient groups were not comparable for pertinent variables—the difficulty of the procedure and the degree of trauma to larger vessels. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*).

The study was not blinded and treatments were not randomly assigned. The surgeon knew exactly who the control and Adrenosem-treated patients were; he had control over their assignment. Such a procedure fails to minimize bias in assignment to groups and cannot be considered adequate and well-controlled. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*ii*).

The second study, Horne and Scott ("Andrenosem Therapy for Bleeding Coincident with the Use of Intrauterine Contraceptive Devices: A Double-Blind Study," *Fertility and Sterility*, 21:230–233, March 1970), had a double-blind design. Thirty-nine women who had used intrauterine contraceptive devices for 3 months or longer and had experienced some intermenstrual or excessive menstrual bleeding associated with the device participated in the study. Each patient received 6 numbered bottles, each containing 100 tablets of medication. Three of the bottles contained the drug while the other bottles contained a matching placebo. The numbering of the bottles was randomized so that the sequence of drug and placebo tablets varied in eight ways. The women were aware that one-half of their supplies were placebo. Each woman was supplied with a special

calendar on which she recorded any bleeding, classified in three categories: S-staining or spotting, B=bleeding=1–3 tampons or pads daily, and F=flowing=4 tampons or pads or more daily. This information was recorded for two control cycles prior to therapy, then for six consecutive cycles on therapy, and finally for two subsequent cycles after therapy. Twenty-six of the women completed the study. The results showed no statistically significant reduction in the number of tampons or pads used during the days of menstruation, but there was a significant decrease both in the number of days of intermenstrual bleeding or staining (or spotting) and the number of tampons or pads used in the Adrenosem-treated cycles compared to the placebo cycles ($P < 0.01$ to < 0.001).

Evaluation: Although Beecham submitted copies of some of the raw data, the special calendar on which the women recorded their bleeding were not submitted. Those notes are essential to an evaluation of the study because only the women—not the physicians—directly evaluated the bleeding. 21 CFR 314.200(d). Without the raw data it is not clear how the investigators translated the summary reports for each woman into exact numbers of tampons per day, or how the summary designations of "S", "B", or "F" were used for further analysis.

Beecham failed to discuss the results obtained during the days of menstruation. Those results did not support effectiveness. This is an omission under 21 CFR 314.200(d)(1).

Finally, the submitted data indicate that as of March 10, 1969 (a date prior to the completion of the study and the evaluation of its results), one of the investigators knew the packaging scheme (i.e., the medication sequence for each of the eight combinations). This is apparent from the record of patient number 30 of which the investigator indicated which were the placebo and which were the drug periods. Thus, the study may not have been blind, at least for the investigator, and the possibility of bias in the evaluation and analysis of data cannot be excluded. 21 CFR 314.111(a)(5)(ii)(*a*)(*4*).

A later study of the effects of Adrenosem by the same investigator, Dr. Horne ("Adrenosem—A Systemic Hemostatic Agent—In Intercurrent Bleeding and/or Spontaneous Miscarriage During the First Trimester of Pregnancy"), showed no drug effect. The study evaluated the effect of Adrenosem on intercurrent bleeding and/or spontaneous miscarriage during the first trimester of pregnancy in one group of women with histories of spontaneous abortion or ectopic pregnancy, and another group of women with either no such histories or no previous pregnancies. The study showed no significant differences between the 56 drug treated women and the 52 women who received a placebo. The results of a similar, more recent study conducted by O. T. Bolding (with 53 women, initiated in 1973 and scheduled for completion by August 1974) have not been report to FDA.

Exhibit V

This section of the submission contains two films describing three operations—one dermabrasion, part of which was performed before and part after the administration of Adrenosem, and two rhinoplastics. One rhinoplasty was performed on a patient who had received Adrenosem and the other was performed on a control patient who had not received Adrenosem. These films do not represent controlled trials. The patients were selected in an unknown manner from an undefined group. It is not known, for example, whether the dermabrasion patient was the only one studied this way or whether he was chosen from a large group because he demonstrated the desired result. Treatment was known to both physician and patient and there was no attempt to minimize bias on the part of the investigators or analysts. 21 CFR 314.111(a)(5)(ii)(*a*)(*3*) and (*4*). Since the films are merely visual anecdotes, they are not relevant evidence of effectiveness. A discussion follows.

1. *Dermabrasion by H. J. Bernardt, M.D.* This film shows dermabrasion performed on both sides of the face of an adult male. The left side was planed before the patient was injected with Adrenosem; the right side and the forehead were planed half an hour after an intramuscular injection (2 mL) of the drug. The left side seemed to bleed more than the right side or the forehead. The narrator said that the bleeding on the left side required 8 minutes to stop, while the bleeding on the right side stopped within 1 minute.

Evaluation: The procedure was not blinded. The surgeon knew which side had been abrased before and after injection of the drug. The possibility of bias on his part cannot be excluded. 21 CFR 314.111(a)(5)(ii)(*a*)(*3*) and (*4*). When the scarred face of the patient was shown at the beginning of the film, the right side was photographed under contrast illumination, so that the "pits" were well outlined and appeared to be deep. The left (control) side was shown under more direct illumination, so the "pits" did not show up well, and this side appeared smoother. It is possible, however, that the left side actually had deeper scars and required deeper planing. Furthermore, it was obvious that the scarred area on the left side was larger than the scarred area on the right side, and that the surgeon moved the high-speed rotating brush (used for removing the skin) faster on the left (control) side than on the right side on forehead. That variation alone could account for a difference in bleeding. Greater brush pressure or deeper planing on the left side, which could have been caused unconsciously by a biased surgeon, could also account for differences in bleeding between the two sides. Therefore, this study does not constitute a basis upon which experts could fairly and responsibly conclude that the drug is effective. 21 CFR 314.111(a)(5)(i).

2. *Rhinoplasty by W. S. Brown, M.D.* Dr. Brown operated on two young females of the same age, heights, and weight, who had similar coagulation and bleeding times, red blood cell count, and Hb content. The first girl, who was not treated with Adrenosem, lost a large amount of blood during the operation (about 400 mL). "She had continuous and profuse bleeding. The blood flowed two freely to handle even with sponges and suction," according to the surgeon's description. In contrast, the second girl, who was treated with Adrenosem, had very little bleeding. There was no need to use suction and only a few sponges were used to wipe the blood she lost.

Evaluation: As in the previous film, this procedure was not blinded. The surgeon indicated that he was prejudiced in favor of Adrenosem and said that when he was asked to perform the two procedures, he was hesitant because he did not wish to proceed in one case without the use of Adrenosem. He may have cut the tissues deeper or been rougher on the first patient than he was on the second. In a normal person, bleeding during a surgical procedure is due mainly to severance of blood vessels and capillaries. It is minimized by the effectiveness of the surgeon in trying the bleeders and packing the oozing surfaces. The face that the study was not "blind" to the surgeon could undoubtedly bias results. Moreover, no statistical significance can be attached to the different result seen in just two patients, as this could easily be the result of chance.

Exhibit VI

This exhibit consists of the sponsor's medical rationale and conclusions that "there is evidence of hemostatic effect in appropriately controlled evaluations and this is sufficient to warrant continued marketing of Adrenosem".

This is conclusory statement, not a clinical investigation. 21 U.S.C. 355(e).

Exhibit VII

This exhibit consists of a list of 640 hospitals that purchased Adrenosem during the 5 months preceding the date of submission of the hearing request. A drug's marketing history does not satisfy the statutory requirements for substantial evidence of effectiveness. *Upjohn* v. *Finch*, 422 F. 2d 944, 954 (6th Cir. 1970).

Additional Studies

The following additional reports were contained in Beecham's 1981 submission:

1. An unpublished report describes a 10-subject dermabrasion study conducted in 1976 and 1977 by George A. Farber, M.D. The study design required that a "no treatment" control side of each patient's face was to be randomly selected, and that the dermabrasion procedure on that side the patient's face was to be completed. Then, either Adrenosem or placebo (a saline solution), selected randomly, was to be administered to the patient 30 minutes prior to initiation of dermabrasion on the other side of the face. Ratings comparing bleeding were to be recorded on an analogue scale by an observer who was to place a perpendicular mark on a horizontal line indicating the degree of bleeding, ranging from "no bleeding" at one end to "profuse bleeding" at the other end. Observations were to be recorded at 10 points throughout the dermabrasion procedure. A global evaluation was also to be made by the observer at the end of the dermabrasion. Beecham described the study as a "double-blind parallel group design" study that "despite the relatively small number of patients," showed that patients treated with Adrenosem prior to undergoing dermabrasion exhibited less bleeding than did patients given placebo. Beecham's analysis indicated that data sufficient for assessment were obtained for 9 of the 11 ratings available concerning each patient's bleeding, and that at 7 of these rating times, there was observed less bleeding for the 5 Adrenosem treated patients than the 5 treated with placebo. The difference was statistically significant ($p<0.05$).

Evaluation: The study population is inadequately described and there are a number of variables about which the report provides no information, thus making it impossible to conclude that comparability in test and control groups was assured, as is required by 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*). For example, although there is information indicating that there is comparability in sexual composition of the groups, there is inadequate data regarding comparability of the test and control groups with respect to age, concomitant medications, severity of the condition necessitating the surgery, and other variables. On a few of the patient report forms, however, there is information which appears to show that there were differences between the groups in important variables. For example, the record for patient number 4 states that a partial rather than a full face abrasion was performed. And the record for patient number 3 states that it was necessary to perform the dermabrasion deeper than usual due to the particular condition of the patient's skin. The record of patient number 2 indicates that the patient was taking two concomitant medications daily. With such a small study population (only 5 treated with Adrenosem and 5 with placebo), individual circumstances that appear to distinguish some patients from the other immediately raise doubts about the validity of comparisons between groups.

Surprisingly, although the results on the no treatment control side were presumably intended, in part, to serve as a baseline measurement that could show comparability between the placebo and Adrenosem groups, these results were not analyzed at all.

Although Beecham describes the study design as "double-blind," certain conditions existing at the time the study was in progress may have interfered with the "blinding" attempt and created a potential for bias on the part of the observer or the individual performing the dermabrasion. For example, although a randomization schedule was to be used to determine the control side, 9 of 10 controls were on the left side. Although it is unclear who gave the injections and in whose presence, there is no indication that adequate precautions were taken to prevent the person performing the dermabrasion from knowng which patients were in the various test categories. Efforts to minimize bias were thus inadequate. 21 CFR 314.111(a)(5)(ii). For example, the placebo and Adrenosem differ in color, so the individual injecting this substance, or anyone in a good position to observe the injection, might be aware of the nature of the injection. In addition, Adrenosem injectable is hypertonic in solution and consequently causes pain upon injection, whereas normal saline as used in the placebo is isotonic and does not cause pain. Therefore, just the reaction of the patient upon receiving the injection could indicate to the person performing the dermabrasion, or the observer, the nature of the injection.

In summary, this study is not adequate and well controlled. The deficiencies concerning the comparability of the small groups from which data were derived, and the inadequacy of blinding measures, with the resultant possibility of bias, indicate that the study and results cannot be relied upon as substantial evidence of effectiveness.

2. An unpublished report describes an 8-subject dermabrasion study in 1979 by George A. Farber, M.D. The design and execution of the study appear to be similar to that of his earlier study described immediately above (No. 1).

Evaluation: The criticisms of the study described above (No. 1) regarding comparability of test groups and adequacy of blinding are applicable also to this study. Moreover, as noted by Beecham, the study results showed only a trend in favor of Adrenosem. The results were not statistically significant. Even if the results had been more favorable to Adrenosem, this study contained a number of deficiencies in addition to those shared with the 1976–1977 study. The protocol called for a study involving 20 patients, but results were submitted for only 8. No mention is made of the remaining 12. There is included with the report a randomized set of 10 numbers, but no mention is made regarding the 2 numbers exceeding those required for the actual number of patients included in the study as finally submitted. Without information regarding these discrepancies from the protocol, one can only hypothesize as to whether the study was terminated prematurely because the results were thought to be unsuccessful or whether additional patients were studies without the results being submitted, etc. This lack of information essential to scientific evaluation prevents consideration of the report as relevant evidence. 21 CFR 314.111(a)(5)(ii)(*c*).

The extremely small number of patients for whom data are submitted would make it difficult to draw conclusions from the study, even if the results had attained statistical significance. Supporting the view that such a small study is inherently susceptible to inaccurate findings is the rather implausible suggestion yielded by this study that the placebo (saline solution) had the effect of inhibiting blood loss. (The report as submitted does not contain a compilation of a mean observed rating of bleeding for the control side of the face, although the ratings for the side treated with placebo

or Adrenosem are submitted. FDA has observed from the raw data, however, that for 9 of the 10 points at which each patient's bleeding was observed, the mean for bleeding on the placebo side of the face was less than for the control side.)

In summary, this study is not adequate and well-controlled because of basic deficiencies from the requirements of 21 CFR 314.111(a)(5)(ii), particularly those concerning the need for study groups to be comparable and for bias to be minimized. In addition, the results are not statistically significant.

3. An unpublished report describes a small dermabrasion study conducted in 1973 by Dr. Walter S. Brown. Although the design of the study required participation by 60 patients, information was submitted for only 20 patients; the data for the other 40 patients were considered invalid because the patients had received epinephrine injections prior to the dermabrasion. Patients included in the study were to meet various entrance criteria; e.g., having taken no antihistamines for 48 hours prior to the trial, having taken no aspirin products for at least 2 weeks, requiring a full-face dermabrasion, and having similar lesions on each side of the face. One side of the face of each patient, randomly selected, was to serve as the control while the other, randomly selected, was to receive either placebo (saline solution) or Adrenosem. Prior to surgery, all drapes, gauzes, sponges, plastic envelopes, and surgeon's gloves were collected and weighed. During surgery all blood from the abraded cheek was collected in sterile sponges and placed in the plastic envelope labeled for that side of the face. Upon completion of the procedure, both used and unused sponges and drapes were weighed. The difference in weights of the materials before and after the procedure represented blood loss. Efficacy as to be evaluated on the basis of (1) differences in the weight of blood absorbed by sponges, (2) differences in the time of onset of bleeding, (3) differences in the length of time from the commencement of dermabrasion to the cessation of bleeding, and (4) differences in the duration of bleeding time. Beecham stated that the study produced no statistically significantly results favoring Adrenosem.

Evaluation: The results of the study, as stated in Beecham's statistical evaluation, showed that Adrenosem was no more effective than placebo in controlling bleeding during dermabrasion. There was no statistically significant findings supporting the drug's effectiveness when evaluated under any of the four variables used as measurements.

IV. Summary

The hearing request contains reports from 10 clinical studies, 2 promotional films, and a list of 640 hospitals that had purchased Adrenosem during the 5 months preceding the date of the submission. None of the studies was a classical randomized blinded clinical trial, nor were adequate measures taken to minimize bias. 21 CFR 314.111(a)(5)(ii)(*a*)(*3*) and (*4*).

Seven of the studies (Perkins, Messer *et al.*, Persun, and McDevitt) were designed as unblinded studies. Because the measurements made in those studies involved subjective elements, some method of minimizing observer bias was needed. Consequently, those studies fail to provide substantial evidence of effectiveness.

The remaining three studies (Burke *et al.*, Diefenbach, and Horne) are described as double-blind, but it is not clear that they were. In the Burke study, the code for a number of hemostatic agents tested concurrently appears to have been made by the investigator himself, indicating that the study was not blind to the investigator. In addition, the "controls" were not study patients who received a placebo; apparently they were untreated patients from a previously study. 21 CFR 314.111(a)(5)(ii)(*a*) (*4*). In the Diefenbach study, consecutive numbers were used instead of the random code numbers. All the drug numbers were in the 100 series and all the placebo numbers were in the 200 series, thus facilitating decoding. Even if blinding had been successful, there was no significant difference in bleeding between groups. An additional criterion, "infection" (not defined), was added later, clearly in an unblinded manner, and there was no explanation of how analyst bias was minimized. 21 CFR 314.111(a)(5)(ii)(*a*)(*5*). There is also evidence that the randomization schedule was sent to the principal investigator at the beginning of the study. Similar evidence exists for the Horne study.

The studies contain other deficiencies as well. Copies of raw data and other information necessary to answer questions concerning the capability of the studies to meet the criteria cited in 21 CFR 314.111(a)(5)(ii) for adequate and well-controlled studies have either not been submitted at all (Burke *et al.*) or have been submitted only partially (Horne).

In the studies using a control group of some kind (other than those of Diefenbach and Horne), comparability in treatment group or in procedures used was either clearly lacking (McDevitt) or could not be assessed (Perkins, Messer, and Burke). 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*).

The July 22, 1981 submission contained reports from three additional studies, all using Adrenosem in dermabrasion. Although Beecham states that attempts were made to minimize bias in observation and recording of results, the information submitted fails to establish that adequate steps were taken. 21 CFR 314.111(a)(5)(ii)(*a*)(*3*). For example, there is no evidence that any study was "blind" to the surgeon who was actually performing the dermabrasion. Additionally, for the two studies using an observer to rate the degree of bleeding, there is some suggestion that the study was not blind to the observer. This is particularly important because, as Beecham has admitted, the measurement of effectiveness in these two studies (by Farber) is subjective in nature. Beecham states that photographs were taken to "document" the observer's ratings of the degree of bleeding, but the photographs themselves appear inadequate for objective assessment. For example, the patients' photographs were taken from a variety of different positions, some showing whole face, some half face, some head up, some head down, etc., and the sizes of the abraded areas varied. That indicates that differences pictured in bleeding may actually represent differences in surface area abraded rather than presence or absence of drug effect. The report contains no attempt to correlate the photographs with the observer's ratings. All three of the dermabrasion studies were conducted with a relatively small number of patients and were deficient in that it could not be ascertained whether the test and control groups were comparable with respect to pertinent variables (severity of condition, concomitant drugs, etc.). 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*).

The sponsor's "pooling" of results from the first and second Farber studies cannot elevate data that are basically unreliable because of defects in the conduct of the studies themselves to a level that constitutes substantial evidence of effectiveness. Even if the three studies had been adequate and well controlled, two of them (the second Farber study and the Brown study) would be of no support to Beecham because they did not produce results that statistically significantly favored Adrenosem.

V. Legal Arguments

Beecham presented a number of arguments in addition to the clinical data submitted, as follows:

1. Beecham objects generally to the requirements of 21 CFR 314.200(d) as excessively burdensome, contending that they force the applicant to "prove his entire case in detail before the FDA will consider whether to grant a hearing." That contention mischaracterizes the regulation. The Type of data and form of presentation required by § 314.200(d) is set forth in § 314.111(a)(5)(ii). That section does not specify the quantum of data that, on its face, will permit FDA to determine whether there exists a genuine and substantial issue of fact for a hearing, and it does not require an applicant to prove his case. The preamble of the 1974 final order promulgating the regulation (39 FR 9750) made it clear that "[T]he amount of evidence sufficient to satisfy this burden is entirely different from the amount necessary to establish the effectiveness of the drug" (39 FR 9755).

The Drug Amendments of 1962 imposed a responsibility on drug manufacturers to prove, and on FDA to review, the effectiveness of drugs then on the market that had been approved on the basis of safety alone. The Supreme Court, in discussing the Amendments, recognized that it would be impractical to conduct a hearing on every issue arising in the course of such a review, and it approved procedures designed to separate those issues for which a hearing was truly justified from those for which no hearing was required. *Weinberger* v. *Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609 (1973).

The burden on the manufacturer to collect and submit the necessary data is not excessive; without it, FDA's burden in reviewing and evaluating data would be insurmountable. With regard to the requirement that all raw data upon which the party requesting a hearing relies be submitted with a hearing request, the agency's response to comment No. 17 of the 1974 notice amending the requirements of 21 CFR 314.200 explains that all such raw data must be available to FDA to ensure that there is no misunderstanding with respect to the material on which the request relies (39 FR 9756). Only then can FDA fairly determine whether the data is adequate "on its face", as the Supreme Court announced in *Hynson*. The procedural regulation particularizes the statutory requirement that the manufacturer demonstrate effectiveness and clarify the most probative data (39 FR 9750, 9754). This format gives Beecham the opportunity to explain in detail how and why each relevant study satisfies the requirements of the statute and regulations and contains sufficient evidence of effectiveness to justify a hearing. It puts Beecham on notice is to just what is required.

2. Beecham objects to the format requirement for hearing requests. It is a well-recognized principle, applied by courts and administrative agencies, that hearing requests and other applications and pleadings may be required to be in a standard format and to contain specified types of information. *Weinberger* v. *Hynson, Westcott & Dunning, Inc., supra; Dyestuffs & Chemicals, Inc.* v. *Flemming*, 271 F.2d 281 (8th Cir. 1959), *cert. denied*, 362 U.S. 911 (1960); *United States* v. *Storer Broadcasting Co.*, 351 U.S. 192 (1956). The statute, 21 U.S.C. 371(a), clearly authorizes the Commissioner to promulgate reasonable format requirements for FDA. The courts have specifically approved the substance of the format requirements at issue here. *Weinberger* v. *Hynson, Westcott & Dunning, Inc., supra; Cooper Laboratories, Inc.* v. *Commissioner, FDA*, 501 F.2d 772 (D.C. Cir. 1974).

3. Beecham objects to the 60-day time limit for submission of the hearing request. The response to comment No. 11 in the 1974 notice (39 FR 9755) thoroughly addressed objections to the 60-day requirement for submission of data. It was determined that in all but a few cases, 30 days was ample time and 60 days was "an entirely reasonable period of time" within which to submit the required data and information. The response noted that all available data need not be submitted—only data and information satisfying the requirements of [currently] 21 CFR 314.200. In any event. Beecham was in no way prejudiced by that requirement. The original DESI announcement questioning the efficacy of Adrenosem was published in 1970. Beecham and its predecessor in interest had ample notice that the administrative process would lead to withdrawal of approval of the product unless substantial evidence of effectiveness was submitted.

4. Beecham claims that Adrenosem is the only drug recommended for control of bleeding and oozing from capillaries and that to withdraw approval of it without an opportunity for a hearing would unfairly deprive patients undergoing surgical procedures of the only drug recommended for such control. In fact, Adrenosem is not recommended by medical authorities for that purpose; e.g., it is not listed in the "AMA Drug Evaluations" or in other recognized books of therapeutics. "Remington's Pharmaceutical Sciences" (15th edition, p. 768) states that the clinical usefulness of Adrenosem is "scientifically unjustified." Furthermore, FDA did provide an opportunity for a hearing on genuine issues of material fact. However, none were presented.

5. Beecham cites footnote 17 in *Hynson, supra*, suggesting that 21 CFR 314.111(a)(5)(ii)(*a*)(*2*) might not be sufficient to allow FDA to base a hearing denial wholly thereon, raising terms such as "minimizing bias", "assures comparability", and "pertinent variables" as examples of overly vague terms. Beecham then claims that the nature of the drug effect exerted by hemostatic agents renders if difficult to select a bleeding model that complies with such terms; i.e., that provides statistically conclusive proof of significantly decreased blood loss following administration of the drug.

Footnote 17 specifically refers only to [currently] § 314.111(a)(5)(ii)(*a*)(*2*)(*i*), requiring "*adequate* assurance that they [subjects] are suitable for the purposes of the study." (Emphasis in original.) The Court recognized that the "qualitative standards 'adequate and suitable' " did not lend themselves to a clear-cut definition, so that it might not be possible to tell from the face of a study whether those standards had been met. In contrast, there are particular, scientifically recognized methods of assigning subject to test groups so as to "minimize bias" and "assure comparability" between groups. Beecham complains that the term "pertinent variables" is vague, yet the standard itself lists several pertinent variables—age, sex, severity of disease, etc. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*). Furthermore, even "a regulatory provision which seems vague in the abstract may nevertheless be conclusively at odds with the peculiarly deficient item of evidence." *Cooper Laboratories* v. *FDA*, 501 F.2d 772, 780 (D.C. Cir. 1974). Also § 314.111(a)(5)(ii)(*a*)(*4*) suggests some very specific ways in which bias can be minimized and comparability between groups can be assured. Beecham has simply failed to establish that its product meets these criteria or that it merits evaluation under different criteria.

6. Beecham attempts to "reserve" its right to utilize all other data and evidence of effectiveness of Adrenosem in additional submissions to FDA, at an administrative hearing, and in any judicial review proceeding. However, no such right exists. See, *Edison Pharmaceutical Co.* v. *FDA*, 600 F.2d 831 (D.C. Cir. 1969). A person requesting a

hearing must produce all studies known to it that are adequate, well-controlled, and relevant to the effectiveness of the drug. 21 CFR 314.200(d)(1). This ensures scientific accuracy, effective utilization of agency resources, and protection of the public health.

Of course, FDA recognizes that special circumstances may arise in cases where a study is in progress and results are not yet available. Section 314.200(c)(2) provides for such situations. However, Beecham has not claimed that there are any ongoing studies upon which it might rely, and can make no legal claim of a right to consideration of data submitted at a later date. In fact, Beecham's hearing request fails to cite 12 clinical studies initiated after 1970 and planned to be conducted under randomized double-blind conditions. These studies, which are summarized in the table below, apparently provided no results supporting claims of effectiveness of Adrenosem.

RANDOMIZED DOUBLE-BLIND CLINICAL STUDIES INITIATED AFTER 1970

No. and principal investigator	Surgical procedure or test	Number of patients till 8/24/74
1. J. D. Arnold	Ultrastracture and number of circulating platelets.	5
2. C. P. Alfrey	Template bleeding time, platelet count, plasma recalc. time in normal volunteers.	10
3. C. P. Alfrey	Same tests as above but before and after administration of 10 g aspirin.	10
4. C. P. Alfrey	Same tests as in No. 2 but in stabilized thrombocytopenic pts.	4
5. N. Orentreich	Dermabrasion in healthy volunteers.	94
6. N. Orentreich	Facial dermabrasion	15
7. M. Edgerton	Skin grafting (donor sites)	17
8. G. Smith	Skin grafting (donor sites)	90
9. G. Smith	Burn wound debridement + skin grafting.	8
10. M. Edgerton	Same as above	90
11. H. Leveen	Transurethral prostatic resection.	20
12. O. T. Bolding	Bleeding associated with IUCD.	53
Total number of patients		386

7. Beecham argues that an acknowledgment by NAS/NRC of the existence of controlled studies showing the effectiveness of Adrenosem for certain conditions established a material issue of fact requiring a hearing. FDA has reviewed the studies described by NAS/NRC as "controlled" and has concluded that they were not adequate and well controlled. The results of that review are described in Section III, above. It is noteworthy that NAS/NRC also stated that "many controlled studies * * * fail to show any benefit from the use of the drug", and that NAS/NRC itself determined that the drug was only possibly effective.

8. Beecham argues that, with reference to the NAS/NRC citation of controlled studies showing effectiveness, a retroactive application of the criteria for adequate and well-controlled studies described in 21 CFR 314.111(a)(5)(ii) is contrary to case law. Beecham further argues that many of FDA's objections to studies submitted are based upon imprecise standards contained in 21 CFR 314.111(a)(5)(iii)(*a*)(*2*) and, as such, reflect subjective determinations that are inadequate as a basis for denying a hearing. Although it is true that some of the criteria for adequate and well-controlled studies expressed in the regulations are not susceptible to precise objective measurement, it is equally true that a study can be so deficient that an analyst cannot relate the results to the criteria in a meaningful way. In such circumstances, FDA may properly find that there is no material issue of fact to justifying a hearing.

The Supreme Court has specifically held that if the information supplied does not even arguably meet the standards of 21 CFR 314.111(a)(5), then FDA is justified in withdrawing approval of an NDA without a formal hearing. *Weinberger* v. *Hynson, Westcott & Dunning, Inc., supra.*

VI. Findings

On the basis of the foregoing, the Commissioner finds that there is a lack of substantial evidence that Adrenosem Tablets, Syrup, and Solution are effective for any indication, and that Beecham has not demonstrated a genuine and substantial issue of fact requiring a hearing.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 76 Stat. 782 as amended (21 U.S.C. 355(e)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 formerly 5.1; see 46 FR 26052; May 11, 1981)), the hearing request is denied, and approval of NDA 8-644, and all amendments and supplements thereto, is withdrawn, effective June 14, 1982.

Dated: May 28, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 82-15106 Filed 6-3-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82N-0052; DESI 5595]

Sodium Pentobarbital and Carbromal for Oral Use; Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notices.

SUMMARY: This notice denies a request for hearing and withdraws approval of the new drug application for Carbrital Kapseals, Carbrital Half-Strength Kapseals, and Carbrital Elixir, all containing sodium pentobarbital and carbromal. These products are recommended for use as a sedative and hypnotic for insomnia. The basis of the withdrawal is thay the drug products lack substantial evidence of effectiveness for their labeled indications.

EFFECTIVE DATE: June 14, 1982.

FOR FURTHER INFORMATION CONTACT: Margery Erickson, Bureau of Drugs (HFD-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 5595) published in the **Federal Register** of June 18, 1971 (36 FR 11756), the Food and Drug Administration (FDA) evaluated the effectiveness of Carbrital Kapseals, Carbrital Half-Strength Kapseals, and Carbrital Elixir, all containing sodium pentobarbital (pentobarbital) and carbromal, NDA 5-595, held by Parke, Davis and Co., Division of Warner-Lambert Co., 201 Tabor Rd., Morris Plains, NJ 07950 (Parke-Davis). The announcement stated that FDA had evaluated the reports of the National Academy of Sciences/National Research Council Drug Efficacy Study Group (NAS/NRC), together with other evidence, and concluded that pentobarbital with carbromal was possibly effective for its sedative and hypnotic indications. Manufacturers were given 6 months to provide substantial evidence of effectiveness of the drug products for their recommended use.

In response to the June 18, 1971 notice, Parke-Davis submitted (1) a 4-patient sleep laboratory study comparing the effects of Carbrital Kapseals, pentobarbital, and placebo on sleep patterns and sleep stages in insomniac subjects, and (2) a 12-patient study comparing bromide levels in serum and urine in patients using Carbrital Kapseals and Neurosine (an antispasmodic containing triple bromides).

Subsequently, the Director of the Bureau of Drugs issued a notice (formerly Docket No. FDC-D-439) in the **Federal Register** of August 6, 1974 (39 FR 28309), that the submitted data had been found not to constitute substantial evidence of the effectiveness of the three combination drug products for

their recommended use. Accordingly, the Director proposed to withdraw approval of the new drug application for these products and offered an opportunity for a hearing on the proposal.

On September 5, 1974, Parke-Davis requested a hearing for each of the three products and, on October 4, 1974, submitted the data on which it now relies to justify a hearing. The October 4 submission included reports of three clinical studies, the above-mentioned sleep study, and affidavits in support of the claimed effectiveness of Carbrital. In later correspondence, dated November 24, 1975, February 27, 1976, and January 6, 1977, Parke-Davis submitted the results of three additional sleep studies.

Parke-Davis states that these studies are adequate and well controlled and provide substantial evidence that Carbrital preparations have the effects claimed in their labeling. Parke-Davis also states that it has met the requirements for fixed-combination prescription drugs for humans (21 CFR 300.50) because (a) its submission establishes that the addition of a subtherapeutic dose of carbromal to a therapeutic dose of pentobarbital produces a more rapid onset of action and a longer hypnotic activity than does pentobarbital alone, and (b) the scheduling of pentobarbital and Carbrital under the Controlled Substances Act (21 U.S.C. 801 et seq.) reflects a determination that the presence of carbromal minimizes the potential for abuse of the principal active ingredient (pentobarbital) in the Carbrital combinations.

The Commissioner of Food and Drugs has considered the material submitted by Parke-Davis and concluded that there is no genuine issue of material fact requiring a hearing and that Parke-Davis' legal argument, based on the claim of a reduced potential for abuse, is insubstantial. Specifically, he finds that the combination of carbromal and pentobarbital has not been shown to provide any benefit over that of pentobarbital alone, and therefore that carbromal has not been shown to contribute to the effects of the combination. 21 CFR 300.50. A full discussion follows:

I. The Drugs

Each Carbrital Kapseal contains a fixed combination of 1½ grains (gr) (97.5 milligrams (mg)) sodium pentobarbital and 4 gr (260 mg) carbromal. Each Carbrital Half-Strength Kapseal contains a fixed combination of ¾ gr (48.7 mg) sodium pentobarbital and 2 gr (130 mg) carbromal. Each fluid ounce of Carbrital Elixir contains a fixed combination of 2 gr (130 mg) sodium pentobarbital and 6 gr (390 mg) carbromal.

II. Recommended Uses

Carbrital Kapseals, Carbrital Half-Strength Kapseals, and Carbrital Elixir are now labeled for use as a sedative and hypnotic for insomnia.

III. Data Submitted To Support Claims of Effectiveness

Parke/Davis submitted reports of three clinical studies, reports of four sleep laboratory studies, four affidavits, two articles on insomnia, and an excerpt on pentobarbital in support of the effectiveness of Carbrital as a sedative and hypnotic for insomnia. The submission is evaluated as follows:

A. Clinical Study Comparing Carbrital and Placebo

"A Double Blind Study Designed To Compare Carbrital and Placebo as Hypnotic Agents," Dennis Slone, unpublished, 1967–1968.

This was a double-blind, crossover study comparing Carbrital to placebo in 43 patients who were diagnosed as having a wide variety of diseases (e.g., cardiovascular, dermatological, endocrine, gastrointestinal, genitourinary, joint, neurological, psychiatric, respiratory). The investigator states that patients who were chosen for the study were mentally alert and routinely had been receiving a hypnotic.

At bedtime, patients were given a capsule of Carbrital or an identical appearing placebo capsule. On the following night, patients were crossed over to the other treatment. The order of administration was randomized and was revealed neither to the patient nor to the investigator. On the morning following the two-night study, each patient was asked the following questions: (1) "On which night did you sleep better?" and (2) "On which night did it take longer to fall asleep?"

The investigator found a statistically significant difference favoring Carbrital over placebo only in the responses to the first question.

This study is not adequate and well controlled and cannot provide substantial evidence of the effectiveness of Carbrital because its design did not consider the requirements of the combination policy (21 CFR 300.50). That policy requires that each component of a fixed combination be shown to contribute to the claimed effect. (In this proceeding it is the contribution of the carbromal component which is at issue.) Because this study did not provide a comparison of Carbrital with pentobarbital, it is impossible to determine the contribution of carbromal to the combination (i.e., whether the data favoring Carbrital over placebo are attributable to the addition of carbromal to pentobarbital, or whether the same effect could have been achieved with pentobarbital alone). Accordingly, this study failed to provide any evidence of whether Carbrital is effective as a fixed combination. 21 CFR 300.50.

B. Clinical Studies Comparing Carbrital, Pentobarbital, and Placebo

1. "A Double-Blind Study To Compare Carbrital, Pentobarbital Sodium, Placebo as Hypnotic Agents," Pasquale J. Costa, unpublished, 1968.

This was a double-blind, crossover study comparing the effects of Carbrital, pentobarbital, and placebo in 54 patients. The three treatments were administered so that each patient received a different treatment each day over a 3-day testing period. All but five patients had a primary diagnosis of insomnia. The patients were divided into three equal groups and randomly assigned to one of three different sequences of drug administration. Each patient was given a single oral dose of the assigned regiment at bedtime. A nurse then observed the patient and recorded whether the patient fell asleep in less than 15 minutes, 15 to 30 minutes, 30 to 45 minutes, 45 to 60 minutes, or more than 60 minutes. The nurse also recorded whether the patient's total duration of sleep was more than 8 hours, 7 to 8 hours, 6 to 7 hours, 5 to 6 hours, or less than 5 hours. A series of questions concerning sleeping and reawakening were asked each patient on the morning after each of the three treatments.

In 1969, Parke-Davis conducted a statistical analysis of the study and concluded that "no significant difference was found between the three treatement groups (Carbrital, pentobarbital, and placebo) with respect to patient response to the ten primary measurements * * *." Parke-Davis subsequently provided another statistical analysis (using paired comparisons) in support of its hearing requests.

Parke-Davis states that its second analysis is more sensitive than the inital analysis and concludes that Carbrital is significantly more effective than pentobarbital in one of the parameters, "effect of medication before onset of sleep." This parameter was measured by the patient's response to the question "What was the effect of the medication before you fell asleep?" The patient was required to choose from the answers ranging from "very pleasant" to "very

unpleasant". Parke-Davis reported that after the administration of Carbrital, nine patients had a pleasant or very pleasant effect prior to onset of sleep; when crossed over to pentobarbital these patients had an unpleasant, a very pleasant, or no effect. Parke-Davis further reported that after administration of pentobarbital, only two patients had a pleasant or very pleasant effect prior to onset of sleep; when crossed over to Carbrital these patients had an unpleasant, a very unpleasant, or no effect. Using this paired analysis, Parke-Davis concluded that Carbrital was superior to pentobarbital ($p. < .05$).

This study is not an adequate and well-controlled clinical investigation for a number of reasons. First, the study did not provide adequate assurance that the patient populations was suitable for the study. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*). Because the design of the study requires testing with three treatments over a 3-day period, it is critical that each patient be expected to have sleep difficulties lasting at least three nights. Patients with intermittent problems lasting one or two nights would be unsuitable for such a study. The investigator's failure to provide any baseline data on patient's sleep histories makes it impossible to determine whether they were suitable for this study.

Another critical defect in this study was the failure of the investigator to provide washout periods between treatment administrations. Because the administration of a hypnotic drug on one night may affect sleep on a subsequent night, no-drug periods between treatment administrations were necessary to ensure that residual effects were not carried over to the subsequent phase of treatment. If there were such effects, patients would not have been comparable as they were given each therapy. Accordingly, there was a lack of assurance that the groups were comparable as to pertinent variables. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*).

The failure to consider the order of administration of treatments also indicates that inadequate measures were taken to minimize bias in the comparison of treatment groups. Because the study utilized a crossover design, patient responses may have been attributable to the order of drug administration (i.e., a period effect). For example, the patients who gave better responses on Carbrital may have received Carbrital before pentobarbital, while the patients who preferred pentobarbital may have received pentobarbital first. In that event each of the patients would have preferred the treatment received first, and any apparent difference between the treatments would be attributable to the order of drug administration. Accordingly, the order of drug administration should have been taken into account in the statistical analysis, and Parke-Davis' statistical analyses failed to assure that any apparent differences between treatments were not attributable to the order of drug administration. (See, Gart, J., "An Exact Test for Comparing Matched Proportions in Crossover Designs," *Biometrika*, Vol. 56, 75–80, 1969.) 21 CFR 314.111(a)(5)(ii)(*a*)(*5*).

Parke-Davis also failed to provide assurance that steps were taken to minimize bias on the part of the analyst. For example, 4 of the 11 efficacy variables, including "effect of medication before onset of sleep", were originally recorded on a five-point scale but were collapsed without explanation into a two-point scale—success or failure. Collapsing the categories after examination of the data could have introduced bias and distorted the results. Thus, the failure to explain the methods used to minimize bias on the part of the analyst violated another basis requirement of an adequate and well-controlled study. 21 CFR 314.111(a)(5)(ii)(*a*)(*4*).

Finally, even if the study were not fatally flawed, Parke-Davis' analysis did not show that Carbrital was superior to pentobarbital. Only 1 of 11 variables, "effect of medication before onset of sleep," significantly favored Carbrital over pentobarbital. The meaningfulness of this particular variable as a measure of the effectiveness of the combination for insomnia has not been established. More important, Parke-Davis' statistical analysis failed to address the issue of multiple comparisons. When comparisons are being made for many variables there is a much greater likelihood of finding a statistically significant difference for any one of those variables than when one variable is being analyzed. It was necessary, therefore, to adjust for the multiple comparisions that were made. Parke-Davis provided no statistical analysis which did so—a critical omission. 21 CFR 314.111(a)(5)(ii)(*a*)(*5*). When comparisons are made for 11 variables, the probability of finding 1 statistically significant comparison (at $p = .05$) in favor of the test drug grows. Thus, even accepting the validity of this variable, Parke-Davis' results do not disprove the null hypothesis: Carbrital is no more effective than pentobarbital alone.

Parke-David also stats that its reanalysis revealed other significant differences between Carbrital and pentobarbital. Specifically, Parke-Davis reports that the results with respect to "elapsed time between taking medication and sleep" and "patient has a good night's sleep" reached statistical significance favoring Carbrital over placebo while pentobarbital did not significantly differ from placebo. The appropriate comparision, however, is a direct one between Carbrital and pentobarbital. In such a comparision, Carbrital was found not be significantly superior to pentobarbital. Despite this finding, Parke-David contends that the other comparisons are sufficient to establish Carbrital's effectiveness in conformance with the combination policy (21 CFR 300.50).

Parke-Davis' position misinterprets the combination policy, which requires that each component of a combination product contribute to the claimed effect. Whether carbromal contributes to the claimed and established effect of pentobarbital in the combination product can be determined only by directly comparing the combination with the single entity, pentobarbital. The indirect comparison used by Parke-David does not address the question whether the addition of carbromal to the combination enhances the activity of pentobarbital. Rather, it only tells how each regimen performed in relation to placebo. Because the direct comparision of Carbrital and pentobarbital failed in light of the multiple comparisions issue to demonstrate that Carbrital is more effective than pentobarbital, the study does not show that carbromal makes a contribution to the effects of the combination.

2. "A Double-Blind Study To Compare Carbrital, Pentobarbital Sodium, Placebo as Hypnotic Agents," Charles Savarese, unpublished, 1968.

This study followed the basic protocol used in the Costa study except that the investigator does not claim that he selected a patient population of all insomniacs. Rather, he states only that he selected patients with various diseases who required administration of an oral hypnotic at bedtime. The data resulting from the Savarese study, like the Costa study, were originally analyzed in 1969. None of the tested parameters reached statistical significance favoring Carbrital over pentobarbital. As in the Costa study, Parke-Davis provided a second statistical analysis using its paired comparison technique. The later analysis reported a statistically significant difference favoring Carbrital over pentobarbital for only one

parameter, "disturbing interruptions of sleep."

This study is not an adequate and well-controled clinical investigation for the same reasons noted for the Costa study: (a) no assurance that the population was suitable for a 3-day study of insomnia (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*)); (b) no washout periods (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*)); (c) failure to account for the order of drug administration in the statistical analysis (21 CFR 314.111(a)(5)(ii)(*a*)(*5*)); (d) collapsing of efficacy categories after examination of data (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)); and (e) failure to provide a statistical analysis which considered the issue of multiple comparisions (21 CFR 314.111(a)(5)(ii)(*a*)(*5*)). In addition, as in Costa, only 1 variable ("disturbing interruptions of sleep") out of 11 allegedly reached a statistically significant difference favoring Carbrital. Moreover, as explained below, even this one difference was based upon a numerical error.

Table 9 of Parke-Davis' submission (Vol. III at 38) indicates that nine patients had an interruption of sleep with pentobarbital but not with Carbrital, while only two patients had an interruption of sleep with Carbrital but not with pentobarbital. This is reported as a significant difference favoring the combination ($p < .05$). However, a review of the individual case reports and of table 11 (Vol. III at 45) which lists all interruptions of sleep, shows that eight (rather than nine) patients actually had an interruption of sleep with pentobarbital but not with Carbrital, and that three (rather than two) patients actually had an interruption of sleep with Carbrital but not with pentobarbital. Accordingly, even under Parke-Davis' statistical analysis, the one comparision claimed to favor Carbrital was not statistically significant ($p > .05$).

3. Evaluation of pooled analysis of data from Costa and Savarese studies.

Parke-Davis conducted a statistical analysis of the pooled data from the Costa and Savarese studies in order to increase the sample size. Parke-Davis justified pooling on the ground that identical protocols were used in the two studies.

For a number of reasons the pooling of data from these studies is not appropriate. First, the pooled analysis is based upon individual studies that are not adequate and well controlled within the meaning of 21 CFR 314.111(a)(5)(ii). Therefore, the pooled analysis cannot yield results that are scientifically valid.

Moreover, pooling of data from one or more studies is justified only when the conditions under which studies were conducted are the same. With respect to the Costa and Savarese studies, the patient populations are quite different. In the Costa study all but five of the patients were diagnosed by the investigator as insomniacs, while the majority of those selected for the Savarese study were not diagnosed as insomniacs. Furthermore, the Savarese study included many patients (at least 29 of 80) with emotional or cerebral disease (including senility, cerebral arteriosclerosis, stroke, chronic brain syndrome, and schizophrenia), while the patients in the Costa study were primarily elderly convalescents without these conditions. Finally, because no prior baseline data on sleep patterns of the patients of both studies were provided, it is impossible to determine whether they were sufficiently comparable with respect to severity or duration of the condition to permit pooling. This is but another reason why pooling of the data from the two studies for statistical analysis is not justified. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*) and (*a*)(*5*).

In any event the pooled analyses suffer from the same deficiences as do the anlayses of the individual studies. Even taking these analyses at face value, the only variable for which a significant difference is reported by Parke-Davis is "disturbing interruptions of sleep." As before, when the multiple comparisons issue is taken into account, 1 significant comparison (at $p = .05$) out of 11, never replicated in another study, should not be considered to be an unusual event and does not provide convincing evidence that carbromal makes a contribution to the effects of the combination. In fact, as noted above, such a finding will emerge frequently as a matter of chance.

Parke-Davis reports that the Carbrital-pentobarbital comparison, "almost all of the parameters evaluated leaned strongly in favor of Carbrital * * *." The data do not support this claim. Of the 11 categories in which the drugs were compared, none, except for the category "disturbing interruptions of sleep" considered above, favored Carbrital over pentobarbital even at the 0.10 level of significance.

C. Sleep Laboratory Comparison Studies

Parke-Davis sponsored four sleep laboratory studies to compare the effects of Carbrital, pentobarbital, and placebo on the sleep patterns of patients. The first study was conducted by Anthony Kales. In an affidavit submitted by Parke-Davis, Dr. Kales characterized this investigation as a pilot study. Although Dr. Kales found the study to "suggest" effectiveness of Carbrital, he concluded that further investigation was necessary. Parke-Davis then conducted three additional sleep studies which were subsequently submitted to FDA. Although Parke-Davis did not file these additional studies in a timely fashion (see 21 CFR 314.200(c)(2)), the Commissioner nevertheless has considered them. These additional studies did not show that Carbrital is significantly superior to pentobarbital in any of the tested parameters. All four sleep studies are evaluated below.

1. "A study to compare the effects of CI–138 (Carbromal 4 gr and sodium pentobarbital, 1½ gr) with CI–643 (Pentobarbital, sodium, 1½ gr), and placebo on sleep patterns and sleep stages in insomniac patients as measured by continuous nightly monitoring of electro-encephalographic (EEG), electromyographic (EMG), and electro-ophthalmographic (EOG) tracings," Anthony Kales, unpublished, 1973.

This study was a double-blind, crossover laboratory investigation comparing the effects of Carbrital, pentobarbital, and placebo on sleep patterns and sleep stages in four insomniac patients through continuous nightly monitoring of EEG, EMG, and EOG tracings.

The subjects selected were four females between the ages of 21 and 45. Each subject had a chronic history of sleep induction time (onset of any sleep stage from "lights out") longer than 45 minutes and/or a history of frequent nocturnal awakenings. The subjects were monitored for four consecutive nights in the sleep laboratory and received a placebo each night. At bedtime, on nights 5, 6, and 7, two subjects received Carbrital and two received pentobarbital. On nights 8 through 11, all subjects received a placebo to wash out drug effect. On nights 12, 13, and 14, Carbrital was administered to the two subjects who had received pentobarbital earlier; the two subjects who had received Carbrital were crossed over to pentobarbital.

On each night of the study, electrodes were placed on the scalp, around the eyes, and under the chin. The head was bandaged and the leads from the electrodes attached to an eight-channel recorder. Each subject was then placed in a quiet room, medication was administered, lights were turned off, and the monitoring commenced and continued for 8 hours. Night 1 was used as an adaptation night and data derived from it were excluded from calculation. Data from nights 2, 3 and 4 (placebo)

were used as the baseline for comparison with the Carbrital and pentobarbital nights.

The effects of Carbrital, pentobarbital, and placebo were evaluated using the following comparisons: sleep induction time; sleep duration time; number of nocturnal awakenings; total wake time; total time and percentage of sleep time spent in stages REM (rapid eye movement) 1, 2, 3, and 4; and number of awakenings and percentages of sleep time spent in sleep stages REM 1, 2, 3, and 4.

The investigator of this study reported that Carbrital and pentobarbital individually were more effective than placebo, and that Carbrital "may" have been more effective than pentobarbital alone with regard to sleep induction time and decrease in total wake time in three of four patients.

This study was previously evaluated by FDA in the August 6, 1974 notice (39 FR 28309). Because the study was conducted on a very small population, four patients, FDA determined that no valid conclusions could be drawn concerning the effectiveness of the products and/or whether both active ingredients contribute to the claimed effects. As noted above, the investigator concluded that further study was required to reach a firm conclusion. As shown below, the three followup studies conducted by Parke-Davis did not confirm the author's suggestion that Carbrital may be more effective than pentobarbital.

2. "A study to compare the effects of CI–138 (Carbromal 240 mg and sodium pentobarbital, 110 mg) with CI–643 (Pentobarbital, sodium, 100 mg), and placebo on sleep patterns and sleep stages in insomniac patients as measured by continuous nightly monitoring of electro-encephalographic (EEG), electromyographic (EMG), and electro-ophthalmographic (EOG) tracings," Gerald Vogel, unpublished, 1975.

This was a double-blind, crossover study designed to compare the effects of Carbrital, pentobarbital, and placebo on the sleep patterns of four healthy adults with a history of difficulty in falling asleep. Two males and two females between the ages of 30 and 55 were selected. Each subject had a history of chronic insomnia with an initial sleep latency (i.e., time needed to fall asleep) usually more than 45 minutes and always more than 30 minutes, or a sleep latency following an awakening usually more than 30 minutes and always more than 15 minutes.

The following monitoring schedule was used: On nights 1 through 4, the subject received placebo and was monitored in a sleep laboratory; on nights 5 through 7, the subject received drug A and was monitored in a sleep laboratory; on nights 8 through 15, the subject received drug A and slept at home; on nights 16 through 18, the subject received drug A and was monitored in a sleep laboratory; and, on nights 19 through 22, the subject received placebo and was monitored in a sleep laboratory. These 22 consecutive nights were followed by 1 to 2 weeks of sleeping at home without drugs (i.e., "washout" period). Thereafter, the same 22-night schedule of placebo and drug administration was followed with drug B. The subjects were monitored by conventional EEG/EOG/EMG methods in the sleep laboratory.

During the laboratory nights, the following sleep variables were objectively measured (electrographically) for each subject: total sleep time; total wake time; percentage bedtime occupied by sleep; wakefulness to first half minute of sleep (sleep latency to first sleep); time from "lights out" to first 10 consecutive minutes of sleep (sleep latency to first persistent sleep); number of awakenings of 1 minute or longer; total wake time between first sleep and last sleep; minutes and percentage of total time of stages REM 1, 2, 3, 4, and movement time; REM latency; and total bed time. The morning following each night, six variables measuring subjective experience of sleep were assessed with questionnaires administered to each subject: time to fall asleep; number of awakenings; hours of sleep; hour of final awakening; soundness (depth) of sleep; and quality of sleep.

The investigator concluded that "both drugs (Carbrital and pentobarbital) objectively reduced insomnia by increasing total sleep time, decreasing sleep latencies, and decreasing intermittent wakefulness and both did so about equally well * * *. The only objective differences between the drugs were minimal * * *. But in our small sample, the addition of carbromal 240 mg to pentobarbital 100 mg seems to have added little or nothing to the effects of pentolarbital on objective measures of insomnia. Essentially the same can be said of subjective estimates of insomnia. We found no remarkable differences between the two drugs."

Parke-Davis provided a statistical analysis of the study which concluded that only one of the parameters revealed a statistically significant difference between pentobarbital and Carbrital; that is, pentobarbital had longer REM sleep. Parke-Davis did not explain the significance of this finding as required by 21 CFR 314.111(a)(5)(ii)(*a*)(*5*).

3. "A study to compare the effects of CI–138 (Carbromal 240 mg and sodium pentobarbital, 100 mg) with CI–643 (pentobarbital, sodium, 100 mg), and placebo on sleep patterns and sleep stages in insomniac patients as measured by continuous nightly monitoring of electro-encephalographic (EEG), electromyographic (EMG), and electro-ophthalmographic (EOG) tracings," E. O. Bixler and J. D. Kales, unpublished, 1975.

This study was conducted under the identical protocol used in the preceding study. The effects of Carbrital, pentobarbital, and placebo were evaluated in four patients on the basis of the following sleep parameters: sleep latency; wake time after onset of sleep; total wake time; total sleep time; and REM.

The investigators concluded that this study confirms the effectiveness of both drugs for short-term use but does not indicate that there are any significant differences between the drugs with respect to inducing and maintaining sleep over REM sleep and total wake time.

The statistical analysis submitted by Parke-Davis noted that only one of the five sleep parameters revealed a statistical difference between pentobarbital and Carbrital; that is, pentobarbital had longer REM sleep in minutes that Carbrital at the second treatment. The significance of this finding was not explained as required by 21 CFR 314.111(a)(5)(ii)(*a*) (*5*).

4. "A study to compare the effects of CI–138 (Carbromal 240 mg and sodium pentobarbital, 100 mg) with CI–643 (Pentobarbital, sodium, 100 mg), and placebo on sleep patterns and sleep stages in insomniac patients as measured by continuous nightly monitoring of electro-encephalographic (EEG), electro-myographic (EMG), and electro-ophthalmographic (EOG) tracings," I. Karacan, unpublished, 1976.

This was a double-blind, crossover sleep laboratory study designed to compare the effects of Carbrital, pentobarbital, and placebo on sleep patterns and sleep stages in 12 insomniac patients through continuous nightly monitoring of EEG-EOG tracings. Eight males and four females between the ages of 21 and 45 who satisfied the following insomniac conditions were entered into the study: complaint of abnormally long sleep latency; average sleep latency of at least 30 minutes on two pre-study nights of laboratory-monitored sleep; and complaint of shorter total sleep time than before initial onset of insomnia. Patients were instructed not to take any major

tranquilizers or sleep medications 4 weeks prior to the study.

All patients had 10 nights of laboratory-monitored sleep beginning with a pre-study period (nights 1 and 2) in which no medication was administered. This was followed by study nights 3 through 10 in which the patients were given identical-appearing capsules containing either Carbrital, pentobarbital, or placebo. All-night sleep monitoring produced values for 26 standard EEG–EOG parameters. Patients also completed a 24-item, presleep questionnaire each night and a 37-item, post-sleep questionnaire each morning.

The investigator found "no clear indications of relative superiority between the drugs."

It is apparent from the result of the Karacan study, the Vogel study, and the Bixler and Kales study that Carbrital is not superior to pentobarbital in any of the tested parameters. These three followup studies fail to replicate the tentative favorable results of the 1973 pilot study (Kales) and fail to provide substantial evidence that Carbrital meets the combination policy (21 CFR 300.50).

D. Affidavits

Parke-Davis submitted affidavits from Dr. Edward Carr Jr., Dr. Edward Felix Domino, Dr. Anthony Kales, and Dr. William Edward O'Malley. Generally, the affidavits conclude that on the basis of the studies submitted by Parke-Davis, Carbrital is more effective than placebo and may be more effective than pentobarbital alone with regard to sleep induction and decrease in total wake time. In addition, Drs. Carr, Domino, and O'Malley concluded that the Slone, Costa, Savarese, and Kales (pilot) studies were well-controlled clinical investigations which constitute substantial evidence that Carbrital preparations are effective for use as sedative-hypnotics for insomnia. The affiants did not provide any analysis to support their conclusions, and did not address specific criteria of the regulations. Nor did Parke-Davis revise these affidavits in light of the three additional sleep studies subsequently submitted which found no differences favoring Carbrital over pentobarbital.

It is well settled that affidavits do not constitute substantial evidence of a drug's effectiveness. *Weinberger* v. *Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609 (1973). Substantial evidence is statutorily defined as adequate and well-controlled investigations. 21 U.S.C. 355(d). Mere conclusory statements lacking details which permit scientific evaluation are not considered to be substantial evidence. 21 CFR 314.111(a)(5)(ii)(*c*).

As shown above, each of the studies submitted by Parke-Davis clearly fails to meet one or more of the regulatory criteria for adequate and well-controlled clincial investigations. Submission of conclusory affidavits cannot overcome these deficiencies or "change the scientific studies and the data reported into something they are not." *Cooper Laboratories, Inc.* v. *FDA*, 501 F. 2d 772, 785 (D.C. Cir. 1975) (quoting *Upjohn* v. *Finch*, 422 F. 2d 944, 955 (6th Cir. 1970)). Moreover, because the affidavits are merely conclusory and fail to address how the studies meet the specific regulatory criteria, they are clearly inadequate to create a genuine issue of fact requiring a hearing.

E. Other Studies

Parke-Davis submitted the following articles on insomnia: Jones, H. S. and I. Oswald, "Two Cases Of Healthy Insomnia," *Electroencephalography and Clinical Neurophysiology*, 24:378–380, 1968, and Johnson, L. C., "Psychological and Physiological Changes Following Total Sleep Deprivation," *in* "Sleep: Physiology and Pathology: a symposium," Edited by Kales, A., J. P. Lippincott & Co., Philadelphia, pp. 206–211, 1969. Parke-Davis also submitted an excerpt from a textbook regarding sodium pentobarbital, "The Pharmacological Basis of Therapeutics," 3rd Ed., Edited by Goodman, L. S. and A. Gilman, The MacMillan Co., New York, pp. 121–122, 1965. These publications do not even mention the Carbrital combinations and are, therefore, clearly unrelated to the use of Carbrital and whether it is effective as a fixed combination. 21 CFR 300.50; 21 CFR 314.111(a)(5)(ii).

IV. Summary

For the foregoing reasons, the medical evidence submitted by Parke-Davis fails to meet the statutory standard for "adequate and well-controlled investigations" (21 U.S.C. 355(d)), as particularized by 21 CFR 314.111(a)(5)(ii), or the requirements of 21 CFR 300.50.

The clinical study conducted by Slone was incapable of establishing carbromal's contribution to the claimed effects of Carbrital as required by 21 CFR 300.50.

The clinical study conducted by Slone was incapable of establishing carbromal's contribution to the claimed effect of Carbrital as required by 21 CFR 300.50.

The Costa and Savarese studies did not provide adequate assurance of suitable populations or comparable patient groups. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*) and (*iii*). The statistical analysis also failed to account for the order of drug administration. 21 CFR 314.111(a)(5)(ii)(*a*)(*5*). Also Parke-Davis did not explain whether and, if so, what steps were taken to minimize analyst bias in its reanalyses of these studies. 21 CFR 314.111(a)(5)(ii)(*a*)(*4*).

The pooling of the data from the Costa and Saverese studies is meaningless in light of the above described deficiencies in each study. In addition, the pooled results do not establish that Carbrital is superior to pentobarbital alone.

At least three of the four sleep laboratory studies provide affirmative evidence that Carbrital failed to meet FDA's policy for fixed-combination prescription durgs for humans (21 CFR 300.50) because the fixed combination of carbromal and pentobarbital was not shown to provide any benefit beyond that of pentobarbital alone.

Finally, all of the medical data submitted by Parke-Davis were derived from studies using the full-strength product Carbrital or a similar dosage formulation. No data were submitted on the formulations of Carbrital Half-Strength Kapseals or Carbrital Elixir. Accordingly, there is no evidence of any kind to support the claims for these formulations.

V. Legal Argument

As a fixed combination drug, Carbrital must satisfy the combination drug policy. Parke-Davis has argued that its submissions show that the addition of carbromal to pentobarbitol enhances the effectiveness of the pentobarbitol alone. For the reasons stated above, the data submitted by Parke-Davis do not support this claim.

Parke-Davis has also presented an alternative, purely legal argument why Carbrital meets the combination drug policy: Carbromal is said to minimize the potential for abuse of pentobarbitol. This assertion is not based on any factual evidence submitted by Parke-Davis. Rather, Parke-Davis states that (1) FDA has acknowledged that carbromal minimizes the potential for abuse of pentobarbitol and (2) pentobarbitol has been placed into schedule II of the Controlled Substances Act (CSA), while Carbrital is in schedule III.

Parke-Davis asserts that FDA has acknowledged a determination by the Drug Enforcement Administration (DEA) that the addition of carbromal to pentobarbitol minimizes the potential for pentobarbitol abuse. This is incorrect. FDA could not acknowledge such a finding by DEA, because DEA

has not determined that carbromal reduces the potential for abuse of pentobarbitol. DEA dis ask FDA to analyze the abuse potential of certain drugs, including pentobarbitol. However, FDA's report of April 5, 1973 to DEA, entitled "Control of the Barbiturate Sedative-Hypnotic Agents under the Controlled Substances Act," made no findings or recommendations concerning any barbiturate combination drug. Thus, neither FDA nor DEA have ever made any findings of fact concerning the abuse potential of Carbrital.

In the absence of any data on the potential for abuse of Carbrital, Parke-Davis relies upon the difference in scheduling under the CSA of pentobarbitol and Carbrital. When Congress enacted the CSA, all preparations containing barbituric acid were placed into schedule III. Following a rulemaking proceeding in 1973, several barbiturates, including pentobarbitol, where transferred into schedule II. The final rule provided that preparations containing pentobarbitol in combination with an active medicinal ingredient not listed in any schedule remain in schedule III (see 38 FR 31310). This action was taken without any findings being made about the abuse potential of any specific combination. Because carbromal, a drug not now marketed in the United States, was not listed in any CSA schedule, Carbrital remained a schedule III drug.

Thus, it can be seen that Parke-Davis' argument is a wholly legal one: A combination drug automatically has a lower abuse potential if it is in a less restrictive schedule than one of its components. This argument, which raises no factual issues, does not justify a hearing. A hearing is to be held to resolve factual disputes. Parke-Davis points only to difference in scheduling between pentobarbitol and combination drugs containing pentobarbitol to support its hearing request; no medical or scientific data have been submitted or cited.

This reliance exclusively upon scheduling misapprehends the nature of the scheduling process. Many factors go into the scheduling of drugs. These factors do not necessarily bear only upon actual abuse or abuse potential—a drug may remain in its original schedule, for example, simply because of insufficient information about abuse potential. The shifting of pentobarbitol from schedule III to schedule II does not reflect a considered judgment that Carbrital has a lower abuse potential, for neither FDA nor DEA studied that specific question.

As the sponsor of Carbrital, it is Parke-Davis' obligation to come forward with evidence that carbromal minimizes the potential for abuse of pentobarbitol. Lacking any evidence, Parke-Davis relies on a par se rule. This does not fulfill its obligation. Accordingly, Parke-Davis is not entitled to a hearing on the basis of 21 CFR 300.50(a)(2).

Parke-Davis also declares that carbromal is exempted from the new drug provisions of the Federal Food, Drug, and Cosmetic Act of 1938 under the grandfather clause. Parke-Davis concedes, however, that Carbrital, the drug at issue here, is not exempted and that it must therefore demonstrate the contribution of carbromal in the combination product. Accordingly, whether carbromal is or is not grandfathered is irrelevant.

VI. Findings

On the basis of the foregoing review of all the evidence submitted and the legal arguments offered, the Commissioner finds that there is a lack of substantial evidence that (1) Carbrital Kapseals, Carbrital Half-Strength Kapseals, and Carbrital Elixir have the effects they are represented to have under the conditions of use prescribed, recommended, or suggested in their present labeling, and (2) each component of the Carbrital products has been shown either to contribute to the total effects claimed, or to minimize the abuse potential of the principal active ingredient, pentobarbital. 21 U.S.C. 355 (d) and (e); 21 CFR 314.111(a)(5)(ii); 21 CFR 300.50.

Parke-Davis has failed to demonstrate the existence of a genuine and substantial issue of fact requiring a hearing.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 52 Stat. 1052–1053 as amended (21 U.S.C. 355(e))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), the request for a hearing is denied, and approval of NDA 5–595 for Carbrital Kapseals, Carbrital Half-Strength Kapseals, and Carbrital Elixir, and all amendments and supplements thereto, is hereby withdrawn. Distribution of these drug products in interstate commerce without an approved new drug application is illegal and subject to regulatory action. This order is effective June 14, 1982.

Dated: May 28, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 82-15105 Filed 6-3-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82M-0155]

Howmedica, Inc.; Premarket Approval of Deklene™ Nonabsorbable Surgical Sutures, U.S.P. Polypropylene Monofilament Surgical Sutures (DYED)

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the DEKLENE™ Nonabsorbable Surgical Sutures, U.S.P., Polypropylene Monofilament Surgical Sutures (Dyed) sponsored by Howmedica, Inc., New York, NY. These sutures are to be manufactured under an agreement with the Lukens Corp., Lynchburg, VA, which has authorized Howmedica, Inc., to incorporate by reference information contained in its approved new drug application for the Lukens Polypropylene Monofilament Surgical Suture. FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by July 6, 1982.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, Bureau of Medical Devices (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7445.

SUPPLEMENTARY INFORMATION: On June 25, 1981, Howmedica, Inc., New York, NY 10017, submitted to FDA an application for premarket approval of the DEKLENE™ Nonabsorbable Surgical Sutures, U.S.P., Polypropylene Monofilament Surgical Sutures (Dyed), a suture containing the color additive D&C Blue No. 6, and intended for general surgical use. The application included authorization from the Lukens Corp., Lynchburg, VA 24505, to refer to its approved new drug application for the Lukens Polypropylene Monofilament Surgical Suture. On April 30, 1982, FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295, 90 Stat. 539–583), nonabsorbable surgical sutures

were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), such sutures are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for permarket approval of nonabsorbable surgical sutures comply with the records and reports provisions of Subpart D of Part 310 (21 CFR Part 310) until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Bureau of Medical Devices. Contact Charles Kyper (HFK–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity For Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before July 6, 1982, file with the Dockets Management Branch (address above), four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 26, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82- Filed 6-3-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 81D–0214]

Availability of Draft Guidelines; Target Animal Safety for New Animal Drugs; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is extending the time for submitting comments on draft guidelines titled, "Target Animal Safety Proposed Guidelines for New Animal Drugs." The guidelines were prepared by the Bureau of Veterinary Medicine.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

DATE: Comments on or before September 3, 1982.

FOR FURTHER INFORMATION CONTACT: Donald A. Gable, Bureau of Veterinary Medicine (HFV–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3414.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 9, 1982 (47 FR 5939), FDA announced the availability of draft guidelines prepared by the Bureau of Veterinary Medicine. The guidelines are intended to aid sponsors of new animal drugs develop studies to establish the safety of their drug in the target animal species. Such data are required for new animal drug approval. The draft guidelines are a compilation in a single document of safety data guidelines for dogs and cats, horses, ruminants, swine, and poultry. The notice announcing the availability of the draft guidelines was issued under § 10.90(b) (21 CFR 10.90(b), which provides for the use of guidelines to establish procedures of general applicability that are not legal requirements but are acceptable to FDA. The agency invited the submission of written comments on or before June 4, 1982.

In a letter dated May 4, 1982 (on file with the Dockets Management Branch, Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857), the Animal Health Institute (AHI) asked that FDA extend the comment period for 90 days to enable it to provide adequate comments. To help assure the development of the most beneficial guidelines, FDA concludes that additional time for submission of comments is warranted.

Interested persons may submit written comments on the guidelines to the Dockets Management Branch (HFA–305) (address above) on or before September 3, 1982. Respondents should submit two copies (except that individuals may submit single copies) identified with the docket number found in brackets in the hearing of this document. The guidelines and received comments may be seen in the Dockets Management Branch from 9 a.m. to 4 p.m., Monday through Friday.

Dated: May 26, 1982.

Williams F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–14942 Filed 5–28–82; 11:25 am]

BILLING CODE 4160–01–M

[Docket No. 76N–0325; DESI 3265]

Darbid Tablets; Drugs for Human Use; Drug Efficacy Study Implementation; Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice reclassifies the irritable bowel syndrome indication for Darbid Tablets to lacking substantial evidence of effectiveness, proposes to withdraw approval of that indication, and offers an opportunity for a hearing on the proposal.

DATES: Requests for a hearing must be submitted on or before July 6, 1982. All data and information relied on to support a hearing request, and any other comments must be submitted on or before August 3, 1982.

ADDRESSES: Communications in response to this notice should be identified with Docket No. 76N–0325, and the reference number DESI 3265, and directed to the attention of the appropriate office named below, and addressed to the Food and Drug

Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to fill new drug applications (identify with NDA number): Division of Cardio-Renal Drug Products (HFD–110), Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD–530), Bureau of Drugs.

Requests for hearing, supporting data and information, reports of studies, and other comments: Dockets Management Branch (HFA–305).

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD–310), Bureau of Drugs.

Guidelines for dissolution testing: Division of Biopyarmaceutics (HFD–520), Bureau of Drugs.

Requests for the report of the National Academy of Sciences-National Research Counil: Public Records and Document Center (HFI–35), Rm. 12A–12.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD–501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT: Suzanne O'Shea, Bureau of Drugs (HFD–32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 18, 1971 (36 FR 11759), the Food and Drug Administration (FDA) announced its conclusion that Darbid Tablets, containing 5 mg isopropamide iodide (NDA 10–744; Smith Kline & French Laboratories, Division of Smith Kline Beckman Corp., 1500 Spring Garden St., Philadelphia, PA 19101), are effective as adjunctive therapy in peptic ulcer and probably effective as adjunctive therapy in treating the irritable bowel syndrome. FDA classified other indications as possibly effective and lacking substantial evidence of effectiveness.

In a notice of opportunity for hearing (NOOH) published in the **Federal Register** of March 22, 1977 (42 FR 15468), FDA stated that no data has been submitted on any of Darbid's less-than-effective indications, reclassified them to lacking substantial evidence of effectiveness, and offered an opportunity for a hearing on the reclassification.

In a notice published in the **Federal Register** of July 12, 1977 (42 FR 35895), FDA rescinded the 1977 NOOH as it pertained to the irritable bowel syndrome. Smith Kline & French Laboratories (SKF) has submitted data to support that indication, but the agency had inadvertently failed to review them. No hearing was requested on Darbid's other less-than-effective indications and they are no longer allowable in the labeling.

The data submitted to support the irritable bowel syndrome indication have now been reviewed and do not constitute substantial evidence of effectiveness. Therefore, the Director of the Bureau of Drugs reclassifies Darbid to lacking substantial evidence of effectiveness as adjuntive therapy for the irritable bowel syndrome and offers an opportunity for a hearing. A discussion of the data follows.

Data Reviewed

Irritable bowel syndrome (IBS) is a disease characterized by a variety of disorders of enteric function. The symptoms may be chronic or recurring. The most frequent symptom is abdominal pain of variable intensity, location, time of onset, and duration. The pain is usually relieved by a bowel movement, the passage of flatus, or an enema. Constipation or diarrhea is also often present, as well as postprandial fullness and gaseous distension of the abdomen. Almay, T. P., "Irritable Bowel Syndrome," *in* "Gastrointestinal Disease," edited by M. H. Sleisenger and J. S. Fordtran, pp. 1585–1597. Although it is widely believed that these symptoms are exacerbated by emotional tension and life stress, it has not been demonstrated that improvement in emotional problems leads to improvement of the gastrointestinal disease itself. Accordingly, improvement in the gastrointestinal symptoms that characterize the condition is the appropriate measure of Darbid's effectiveness in treating IBS.

SKF has submitted reports of three multi-clinic studies conducted under similar protocols in an effort to demonstrate the effectiveness of Darbid in treating IBS. SKF has designated the studies PM–180, PM–122, and PM–256. Two of the studies, PM–122 and PM–256, were designed to compare Combid, an SKF product containing Darbid and Compazine, with each of its components and placebo. The Darbid-placebo comparison has been extracted from those studies in order to determine the effectiveness of Darbid alone.

In all three studies patients were randomly assigned to either Darbid or placebo, were told to eat a bland diet, and were permitted antacids (different antacids and different frequencies for various investigators). Patients recorded their response each day on diary cards.

The patients were evaluated by the investigators at the initial visit and after the first, second, and fourth weeks of medication. Three related evaluations were made: (1) A variety of individual gastrointestinal symptoms (not all protocols called for evaluation of precisely the same symptoms) were evaluated on a scale of 0 to 3 (absent, mild, moderate, or severe) at each visit, (2) a gastrointestinal symptom morbidity score was calculated for each patient at each visit by adding the scores of the individual symptoms, and (3) a global evaluation of the effectiveness of the medication was made at the end of the investigation.

The investigators also evaluated Darbid's effectiveness in treating emotional symptom. The Bureau did not consider those evaluations in concluding that the drug lacks substantial evidence of effectiveness.

The study design used is adequate to determine the effectiveness of Darbid in treating IBS and, using it, SKF has presented some evidence of effectiveness. The Bureau concludes, however, that the favorable results obtained are not persuasive when considered along with the larger body of non-supportive results and that there is a lack of substantial evidence that Darbid is effective in the treatment of IBS.

PM–180—Four Investigators

The gastrointestinal symptoms evaluated in this study were abdominal discomfort or pain, distension, diarrhea, constipation, urgent or explosive bowel movements, and mucus in the stool.

Two of the four investigators, Drs. Weiss and Rowan, completed the study by enrolling 30 patients each. Drs. Sparberg and Grossberg were unable to complete the study, enrolling a combined total of 11 evaluable Darbid patients and 13 evaluable placebo patients.

SKF asserts that the two completed studies are the more definitive ones and demonstrate the effectiveness of Darbid. The firm states that data and analyses of the incomplete studies were submitted only to show that they do not negate the positive findings of the completed studies.

The Bureau acknowledges that the Weiss and Rowan studies each show statistically significant effects of Darbid in overall gastrointestinal symptom morbidity and in individual symptoms. A statistically significant difference in favor of Darbid in the global evaluation was also reported but the global evaluation in these studies is not useful, as it was not separated into emotional and gastrointestinal components. Thus, it cannot be determined to what extent

global improvement is attributable to improvement in emotional symptoms.

Data from the incomplete studies cannot be disregarded simply because the two completed studies provide some evidence of effectiveness. When the incomplete studies are considered, the results of the completed studies are less impressive.

In the incomplete studies, the change from initial severity in the gastrointestinal symptom morbidity scores are similar for the Darbid and placebo group. The good response to placebo in gastrointestinal symptom morbidity in the incomplete studies is in marked contrast to the response to placebo in the completed studies. The response in the incomplete studies is much more typical of results in studies of IBS, a cyclical, spontaneously resolving condition. The results of the four studies are shown in Table 1.

TABLE 1.—CHANGE FROM INITIAL SEVERITY IN GASTROINTESTINAL SYMPTOM MORBIDITY

	1st week	2d week	4th week
Incomplete studies:			
Grossberg:			
Darbid	8.4	9.7	10.1
Placebo	5.4	6.5	8.0
Sparberg:			
Darbid	3.3	3.7	4.7
Placebo	3.0	3.0	4.4
Completed studies:			
Rowan:			
Darbid	3.1	2.9	2.7
Placebo	0.6	0.9	0.9
Weiss:			
Darbid	2.5	4.7	5.8
Placebo	0.0	0.2	0.7

It can be seen that the placebo groups in the Rowan and Weiss studies had, on the average, almost no improvement over a 4 week period, a very unusual outcome. The disparity in the placebo response of the completed and incomplete studies is striking and has not been adequately explained. SKF attributes this lack of agreement to the fact that the incomplete trials were extended over a long period with few patients enrolled at any one time. By contrast, the Weiss and Rowan studies were completed in a short period with many patients enrolled at the same time, making it possible, SKF argues, for the investigator to continually reinforce his judgments of symptom severity. SKF asserts that it is "well-known that consistent subjective judgments enhance the sensitivity of clinical trial data." It must be pointed out, however, that if the severity rating scores are well defined, as they seem to be in this study, then the ratings should be less affected by this factor. In addition, it is just as likely in studies with few patients enrolled, the investigator may spend more time with each patient, possibly resulting in more careful attention to the severity ratings.

SKF states that the two predominant individual symptoms are abdominal pain and distension. As would be expected, these evaluations are consistent with the overall gastrointestinal symptom morbidity evaluations of which they are major components (Tables 2 and 3).

TABLE 2.—IMPROVEMENT IN ABDOMINAL PAIN

	Percentage of patients		
	1st week	2d week	4th week
Incomplete studies combined:			
Darbid	75	83	92
Placebo	62	69	85
Completed studies:			
Rowan:			
Darbid	80	87	87
Placebo	13	20	27
Weiss:			
Darbid	87	93	100
Placebo	13	20	20

TABLE 3.—IMPROVEMENT IN DISTENSION

	Percentage of patients		
	1st week	2d week	4th week
Incomplete studies combined:			
Darbid	83	80	83
Placebo	73	82	82
Completed studies:			
Rowan:			
Darbid	67	73	73
Placebo	14	14	29
Weiss:			
Darbid	40	85	80
Placebo	14	14	29

As in the overall gastrointestinal symptom morbidity evaluation, the lack of placebo response in the completed studies is surprising and unexplained.

Although the global evaluation is not a particularly useful measure of effectiveness in this study, it is interesting to note that a similar pattern emerges. In the Grossberg study, excellent or good global results were obtained by five or seven Darbid patients and seven of nine placebo patients. In the Sparberg study, excellent or good global results were obtained by three or four Darbid patients and three of four placebo patients. In contrast, in the Rowan study, excellent or good global results were obtained by 12 or 15 Darbid patients but only 2 of 15 placebo patients. In the Weiss study, excellent or good global results were obtained by 14 of 15 Darbid patients, but none of the placebo patients.

There is a further problem with the Weiss study, a particularly important one in view of the atypical results reported for the placebo group. The patient diary forms submitted to the agency, which according to the protocol were to have been completed by the patients, were in fact completed by the investigator. He explained the patients often completed the forms inadequately or had written illegibly. Therefore, he discussed the patients' forms with them and rewrote the forms himself. The original patient diary forms were destroyed. This explanation is insufficient to resolve major doubts about the adequacy of blinding in this study and the possibility of bias on the part of the investigator. 21 CFR 314.111(a)(5)(ii)(*a*)(*3*) and (*4*). It does not seem possible, for example that every diary was so poor it required replacement, yet Dr. Weiss provided no forms filled out by patients. Moreover, if the diary represents the physician's interpretation of the patient's report it is a "physician global" evaluation, not a patient report. In the absence of further explanation the Weiss study cannot be regarded as reliable.

PM–122—Ten Investigators

A total of 85 Darbid patients and 89 placebo patients were studied by 10 investigators. The gastrointestinal symptoms evaluated were abdominal pain, distension, diarrhea, constipation, alternating diarrhea and constipation, and urgent or explosive bowel movements. The symptom morbidity evaluations were made at the second and fourth weeks after the start of medication, and a global evaluation was made at the end of the study. Two analyses of this study were submitted by SKF—one in 1972, the other after publication of the original NOOH.

As in PM–180, the global evaluation is not a useful measure of effectiveness because it is not separated into gastrointestinal symptoms and emotional symptoms. In addition, by SKF's analysis, there is no difference between Darbid and placebo. When the global evaluations of all 10 investigators are pooled, 51 percent of the Darbid patients reported good or excellent results, compared with 48 percent of the placebo patients reporting good or excellent results.

With respect to individual symptoms, numerical differences favoring Darbid were present for distention and constipation especially at 2 weeks. There was little or no advantage of Darbid for abdominal discomfort, the most common symptom, or for diarrhea or alternating constipation and diarrhea. The individual symptoms (corrected by referring to the original patient records) were not tabulated by investigator, and no statistical analysis was performed because it was felt that results from symptom to symptom were correlated.

The major analysis, therefore, was of the overall gastrointestinal morbidity.

In its analysis of overall gastrointestinal symptom morbidity, SKF pooled the data of 8 of the 10 investigators, stating that 2 were excluded because of the low number of patients enrolled by those investigators. This is not, however, adequate justification for excluding these investigators, and may suggest some analyst bias. 21 CFR 314.111(a)(5)(ii)(*a*)(*4*) and (*5*).

There are unexplained differences between the 1972 analysis and the later analysis in gastrointestinal symptom morbidity. In the 1972 analysis, SKF reported statistically significant differences in favor of Darbid at both the second and fourth weeks. The later analysis covers seven fewer patients than the 1972 analysis. A statistically significant difference in favor of Darbid is reported only for the second week with mean adjusted scores of 3.9 for placebo vs. 3.0 for Darbid, obviously a small difference.

In addition, if gastrointestinal symptom morbidity is to be used as the main effectiveness variable, it must be demonstrated that the patient population for both treatment groups was similarly characterized with respect to individual symptoms at baseline (including an analysis of individual symptoms) by investigator, to show that groups were comparable with respect to pertinent variables. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*). SKF has submitted no tabulation to permit such an analysis.

PM–256—17 Investigators

The 17 investigators conducted two parallel studied, PM–256a examining patients with upper gastrointestinal functional disease (UGFD) and PM–256b examining patients with the IBS (called irritable colon syndrome by SKF). SKF submitted the results of the individual investigators in each study, the results of investigators combined within each study, and the results of PM–256a and PM–256b combined.

The major gastrointestinal symptoms evaluated in th IBS study were lower abdominal pain/discomfort, constipation, diarrhea, excessive flatus, and abnormal shape or consistency of stool. The minor gastrointestinal symptoms evaluated were nausea, vomiting, belching, and postprandial fullness. The major gastrointestinal symptoms studies in the UGFD investigation were abdominal discomfort, excessive belching, nausea and vomiting; minor symptoms were lower abdominal pain, alteration in bowel habits, apparent relationship between pain and bowel movements, and abnormal shape or consistency of stool.

The relevance of the investigation of UGFD to the determination of the effectiveness of Darbid in IBS is not clearly explained. Nevertheless, these data are summarized below along with the data from the study of IBS.

SKF first analyzed the results of the investigators individually with respect to major physical symptoms, minor physical symptoms, and total physical symptoms (major and minor symptoms combined). SKF cautioned that the study was planned with the expectation of not finding statistically significant differences within the 17 individual clinical trials. This expectation was largely realized, as shown in Table 4.

TABLE 4.—SIGNIFICANT DIFFERENCES IN FAVOR OF DARBID

	Major symptoms	Minor symptoms	Total physical symptoms
IBS study:			
Dr. Rowan		Week 1	
Dr. Vidins		Weeks 1, 2	
Dr. Berger			Week 2.
UGFD study:			
Dr. Rowan	Weeks 1, 4.		Week 1.
Dr. Bartol	Week 2.		Week 4.
Dr. Wachsman (Study II).		Week 1	

SKF's second analysis consists of the pooled data of 13 of the 17 investigators in each study. Statistically significant advantages for Darbid ($p < .05$) were obtained in very few evaluations in this analysis. Thus, this analysis cannot be taken as substantial evidence of effectiveness.

SKF excluded Dr. Welch because of the large number of protocol violations and early dropouts. SKF also excluded Drs. Mattingly, O'Malley, and Rider because they treated a small number of patients. Treating a small number of patients is not adequate justification for excluding the investigators. The Bureau has, therefore, reanalyzed the results including all patients of Drs. Mattingly, O'Malley, and Rider. This analysis does not differ appreciably from that of SKF.

The global evaluation is a useful measure of effectiveness in this investigation as it consists of an evaluation of "the patient's physical symptoms * * *." It appears, therefore, that emotional symptoms were not considered in this global evaluation. SKF states that the global evaluations in both studies support the desirable action of Darbid. SKF's analyis indicates that in the IBS study, 73 percent of the Darbid patients showed some improvement, compared with 66 percent of the placebo patients who showed some improvement, virtually no difference. In the UGFD study, SKF reported that 77 percent of the Darbid patients showed some improvement, as opposed to 64 percent of the placebo patients, in somewhat greater difference and consistent with the somewhat more favorable results in this study generally. The Bureau's calculations indicate, however, that these differences are not statistically significant.

By SKF's analysis of the IBS study, when the investigators are pooled, there is no statistically significant ($p. < .05$) difference between Darbid and placebo at any time period in major physical symptoms, minor physical symptoms, or total physical symptoms. By SKF's analysis of the UGFD study, when the investigators are pooled, statisically significant differences ($p. < .05$) in favor of Darbid were obtained only in major and total symptoms at the first week.

SKF conducted no statistical analysis of the individual symptoms, but simply submitted tabulations of responses. The Bureau's calculations, including all patients who completed the study, indicate that at the fourth week of the IBS study there are trends in favor of Darbid, but no statistically significant differences. In the UGFD study there is a statistically significant ($p. < .05$) result only for excessive belching. The trends for all other symptoms in the UGFD study favor Darbid except for abdominal discomfort which produced essentially equivalent results for Darbid and placebo.

SKF relies most on its "third level" analysis: the data of the IBS study combined with the data of the UGFD study. When the data of these studies were combined, SKF found significant differences ($p. < .05$) in favor of Darbid in the global evaluation, in major physical symptoms at the second week, in minor physical symptoms at the fourth week and in total physical symptoms at the second and fourth weeks. Significant differences ($p. < .05$) in favor of Darbid were also found for abdominal pain at the first and second week, and for vomiting at the second and fourth week.

It is, however, facially untenable to combine the data from these two studies when the two investigations examine different diseases with different symptomatology simply because the same investigators study both diseases. The 256a study provides some evidence of effectiveness of Darbid in UGFD, but the evidence is weak (global evaluation did not show a significant difference) and has not been confirmed by any other study. Study 256b, in IBS, although

well designed provides no support for the effectiveness of Darbid.

Summary

SKF has not submitted substantial evidence of effectiveness of Darbid in treating the irritable bowel syndrome. The results of three multiclinic studies were submitted and reviewed by the Bureau. SKF claims that the results of two individual investigators, Drs. Rowan and Weiss (PM–180), are sufficient to demonstrate the effectiveness of Darbid. The results of these two studies are not persuasive, however, because of the unusally low level of placebo response and because of a major irregularity in the data of one investigator. In PM–122, baseline comparability for individual gastrointestinal symptoms was not assessed and the small (albeit statistically significant) advantage for Darbid cannot be interpreted. In PM–256b, a well-controlled trial, SKF found no significant results in favor of Darbid. In PM–256a few significant results were obtained, but these results in UGFD have not been replicated in any other study. Thus, there is some evidence of effectiveness for Darbid in functional bowel disease but the inconsistent results and weakness of the data lead to the conclusion that the evidence cannot be considered substantial.

In addition to the holder of the new drug application specifically named above, this notice applies to any person who manufactures or distributes a drug product that is not the subject of an approved new drug application and that is identical to a drug product named above. It may also be applicable, under 21 CFR 310.6, to a related or similar drug product that is not the subject of an approved drug application. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that Darbid Tablets (isopropamide iodide) are effective as adjunctive therapy for the treatment of peptic ulcer. The drug now lacks substantial evidence of effectiveness as adjunctive therapy in the irritable bowel syndrome.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to accept abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under the conditions described below.

1. *Form of drug.* The drug is in tablet form.

2. *Labeling.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The indication may be stated as shown in either (i) or (ii) below. As a result of the Bureau of Drugs' previous recommendations, some NDA holders for other anticholinergic drug products have begun to use the language in item (ii). The Bureau anticipates that that language will be in the Indications section of the full labeling text that is to be published as a labeling guideline for anticholinergic drug products in the future. However, at the present time labeling will be considered acceptable if either item (i) or (ii) is used for the indication.

(i) For use as adjunction therapy for the treatment of peptic ulcer.

(ii) For use as adjunctive therapy for the treatment of peptic ulcer. (*Name of drug*) has not been shown to be effective in contributing to the healing of peptic ulcer, decreasing the rate of recurrence, or preventing complications.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before August 3, 1982, the holder of the application has submitted (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H (21 CFR 314.1(c)) to the extent required in abbreviated new drug applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained before marketing such products. In vitro dissolution testing data must be submitted. (Guidelines for dissolution testing are available from the Division of Biopharmaceutics at the address given above.) Marketing drug products before approval of a new drug application will subject those products, and the persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, that meets the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), and demonstrates the effectiveness of Darbid Tablets (isopropamide iodide) as adjunctive therapy in the treatment of the irritable bowel syndrome.

Notice is given to the holder of the new drug application, and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of that portion of NDA 10–744 and all amendments and supplements which pertian to the irritable bowel syndrome indication on the ground that new information before him, evaluated together with the evidence available to him when the application was approved, shows there is a lack of substantial evidence that Darbid Tablets will have all the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application supplemented, in accord with this notice, to delete the irritable bowel syndrome claim.

This notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act under the exemption for products marketed before June 25, 1938, in section 201(p) of the act, or under section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with section 505 of the act (21 U.S.C. 355) and the regulations promulgated under it (21 CFR Parts 310, 314), the applicant and all other persons who manufacture or distribute a drug product that is identical, related, or similar to the drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application

should not be withdrawn, and an opportunity to raise, for administrative determination, all issues relating to the legal status of the drug product named above and of all identical, related, or similar drug products not the subject of a new drug application.

An applicant or any other person subject to this notice under 21 CFR 310.6 who decides to seek a hearing shall file (1) on or before July 6, 1982, a written notice of appearance and request for hearing, and (2) on or before August 3, 1982, the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a granting or denial of a hearing, are contained in 21 CFR 314.200.

The failure of the applicant or any other person subject to this notice under 21 CFR 310.6 to file a timely written notice of appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by the person not to make use of the opportunity for a hearing concerning the action proposed, and a waiver of any contentions concerning the legal status of the relevant drug product. Any such drug product labeled for the irritable bowel syndrome indication may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such a drug product from the market. Any new drug product marketed without an approved new drug application is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must present specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, and denying a hearing.

All submissions pursuant to this notice are to be filed in four copies. Except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, the submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

(Federal Food, Drug, and Cosmetic Act secs. 502, 505, 52 Stat. 1050–1053 as amended (21 U.S.C. 352, 355), and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70 and 5.82))

Dated: May 26, 1982.

Harry M. Meyer, Jr.,

Director, Bureau of Drugs and Biologics.

[FR Doc. 82-14068 Filed 6-3-82; 8:45 am]

BILLING CODE 4160-01-M

Endocrinologic and Metabolic Drugs Advisory Committee; Meeting Change

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration announced in the **Federal Register** of May 14, 1982 (47 FR 20859) a meeting of the Endocrinologic and Metabolic Drugs Advisory Committee scheduled for June 24, 1982. The agency is republishing the notice of this meeting to include a closed session.

Endocrinologic and Metabolic Drugs Advisory Committee

Date, time, and place. June 24, 9 a.m., Conference Rms. G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and executive secretary. Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 12 m.; closed presentation of data and closed committee deliberations, 1 p.m. to 4 p.m.; A. T. Gregoire, Bureau of Drugs (HFD–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1869.

General function of the committee. The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drug products for use in treating endocrine and metabolic disorders.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to present information should contact the executive secretary.

Open committee discussion. The committee will discuss (1) the FDA Action Report and (2) Trilostane capsules for treatment of Conn's and Cushing's disease (NDA 18–719).

Closed presentation of data. The sponsor will present unpublished clinical data relating to IND 14,024, an aldose reductase inhibitor for treatment of diabetic retinopathy. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Closed committee deliberations. The committee will discuss the unpublished data relating to IND 14,024. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar, as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files complied for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made pbulic; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: May 27, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 82–14957 Filed 6–3–82; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 76N–0256; DESI 9149]

Trifluoperazine Hydrochloride; Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice announces the conditions for marketing trifluoperazine hydrochloride for the indication for which FDA now regards it as effective and offers an opportunity for a hearing concerning the indication reclassified in this notice to lacking substantial evidence of effectiveness. The drug is used for treating psychotic disorders.

DATES: Hearing requests due on or before July 6, 1982; supplements to approved new drug applications due on or before August 3, 1982.

ADDRESS: Communications in response to this notice should be identified with reference number DESI 9149, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to full new drug applications (identify with NDA number): Division of Neuropharmacological Drug Products (HFD–120), Rm. 10B–34, Bureaus of Drugs and Biologics.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD–530), Bureaus of Drugs and Biologics.

Requests for a hearing (identify with the Docket Number appearing in the heading of this notice): Dockets Management Branch (HFA–305), Rm. 4–62.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD–310), Bureaus of Drugs and Biologics.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD–501), Bureaus of Drugs and Biologics.

FOR FURTHER INFORMATION CONTACT: John H. Hazard, Jr., Bureaus of Drugs and Biologics (HFD–32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration announced its conclusions concerning the effectiveness of trifluoperazine drug products in a notice published in the Federal Register of April 3, 1971 (36 FR 6447) (DESI 9149, Docket No. FDC–D–334 (now Docket No. 76N–0256)), and amended on November 2, 1971 (36 FR 20997). On September 8, 1976 (41 FR 37834), the Director of the Bureau of Drugs reclassified the less-than-effective indications of the drug to lacking substantial evidence of effectiveness and offered an opportunity for hearing on the reclassification. The notice concluded that the drug was effective only for the indication "For use in the management of all manifestations of psychotic disorders."

On December 7, 1976 (41 FR 53539), the Director rescinded the previous 1976 notice insofar as it pertained to one of the less-than-effective indications. The Director has now evaluated data that the sponsor submitted to support the product's effectiveness for that indication, and announces his conclusions herein.

The present notice does not pertain to the indications classified as lacking substantial evidence of effectiveness in the April 3, 1971, and the September 8, 1976 notices. No person requested a hearing concerning them, and they are no longer allowed in the labeling. Any product labeled for those indications is subject to regulatory action. Products containing a drug other than trifluoperazine and included in those notices are not affected by this notice.

NDA 11–552; Stelazine containing trifluoperazine hydrochloride, in tablets of 1, 2, 5, or 10 mg; in 10 mg/mL concentrated solution; and in 2 mg/mL injectable solution; SmithKline Corp., 1500 Spring Garden St., Philadelphia, PA 19101.

For the indication "To control excessive anxiety, tension, and agitation as seen in neuroses or associated with somatic conditions," the sponsor presented data in three separate submissions.

1. *Cooperative Studies.* The first portion (Protocol 2291 of this submission was designed as a multicenter, double-blind, parallel group comparison of trifluoperazine and placebo in 107 patients having "psychoneurotic disorders of mild to moderate degree." Patients were required to show one or more of the following symptoms: Anxiety, agitation, tension, hyperactivity, fearful attitude, listlessness, sleep disturbances, or psychosomatic symptoms which may be accompanied by functional changes in a physiological system. The trial was to last 4 weeks, but depending on the

patients' responses, it could be extended to 6 weeks or terminated at 2 weeks.

Patients were required to be free of psychotropic medication for 7 days before being placed on a regimen of either 2 mg twice daily trifluoperazine tablets or 1 placebo tablets twice daily. The bottles had tear-off labels identifying the contents and were color coded.

Patients were seen at weeks 0, 2, and 4. Global change was assessed at the final visit. The Physicians Rating List (PRL) was completed at pre-trial and on the final visit. The PRL comprised 18 items each rated from 0 (symptom absent) to 3 (severe). The items from; the PRL were combined to form four factors: Anxiety Manifestations (agitation, hyperactivity, motor disturbance, and tension); Psychophysiologic Complaints (fatigue, psychosomatic, and vague somatic); Depression (guilt feelings, feeling of inferiority, poor interpersonal relationships); Total Morbidity (sum of all 18 items). It should be noted that the PRL, as developed by the sponsor for these studies, did not include "anxiety" as a variable for evaluation. Thus, the axiety manifestation section as described above assessed motor aspects and not the subjective experience of anxiety.

Studying the four factors, the sponsor performed both individual and combined statistical analyses of the results obtained by six of the investigators. A seventh investigator was not included because of protocol violations. The analyses comprised "standard statistical linear models," also referred to as "covariance analyses" in another section. The results for the six-investigator combined analysis indicated trifluoperazine produced more improvement than placebo on the global change variable and the PRL factors.

Although the study yielded significant results, the characteristics of the patients who were treated are unclear. Most important, excessive anxiety was not specifically required for a subject's inclusion in the study. It was only one of many possible symptoms which could be present in subjects who were diagnosed as having a psychoneurosis, and this category includes a variety of disorders. It is thus not clear that the patient population studied is relevant to the claimed use in controlling excessive anxiety. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*).

In addition, anxiety as a subjective experience was not included in the rating scale as a variable for assessment. This study was presumably carried out when anxiety was seen as a covert variable, leaving only the overt motor phenomena to be measured (e.g., tension, etc.). Such manifestations may or may not have been expressive of anxiety, and the investigator had to assume the presence of anxiety, based on a variety of behaviors. The observations made thus are only indirectly, if at all, measurements of the claimed effect. 21 CFR 314.111(a)(5)(ii)(*a*)(*3*).

A second seven-investigator study (Protocol 121) was a 4-week, double-blind, parallel group comparsion of trifluoperazine and placebo. Data were collected on 202 patients who had been placed on a regiment of either 2 mg twice daily trifluoperazine tablets or placebo. The inclusion criterion was as follows: "Mild to moderate adult psychoneurotic outpatients with mixed anxiety-depressive states." Patients were required to have some of the following symptoms: Agitation, hyperactivity, motor disturbances, guilt feelings, feelings of inferiority, poor interpersonal relationships, psychophysiologic complaints, sleep disturbances.

The effect of the durg on specific symptoms was to be evaluated using the PRL described above. To avoid bias, investigators were asked to file each PRL form and not refer to a patient's previous score at a subsequent rating. The scores were obtained before treatment and then again during treatment (either after 2 weeks or 4 weeks on medication).

When medication was terminated, all patients were evaluated using a global efficacy rating of overall improvement (excellent, good, fair, or poor) to further evaluate any differences between the treatments.

A review of the raw data from the PRL showed that most of the patients fell into two distinct groups. Three of the seven investigators had selected patients who were characterized at pretreatment as showing mixed anxiety and depression. That is, the patients had high scores on both the anxiety manifestations factor and depression factor and low scores on the physiological factor. Three other investigators described their patients as dominated by symptoms of psychoneurotic anxiety. This group had high scores on the physiological factor and low scores on the anxiety manifestations factor and depression factor. The data from the mixed anxiety and depression studies were analyzed by the sponsor individually and as a group. The same procedure was applied to the findings from the three psychoneurotic anxiety studies.

The results from six of the mixed anxiety and depression studies and the psychoneurotic anxiety studies indicated there were statistically significant differences on the four PRL factors and on the gloval efficacy variable favoring trifluoperazine over placebo. In the seventh study, there were protocol violations, and the number of patients not in violation was too small for a separate analysis.

The Bureau's criticism of the studies centers on three areas. First, the patient selection criteria that were used were neither clearly specified nor clearly relevant to the indication. One obvious example of this is the fact that in the patients studied by three of the seven investigators, physiologic symptoms, and not anxiety and depression, predominated. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*). Second, the blinding procedure was easily susceptible to breakdown. A system of color coding was used where the active drug was coded with one of three colors, and the placebo with one of two colors. Pronounced side effects, readily recognizable in some patients given drugs of the phenothiazine class, could quickly identify the colors associated with the active drug. 21 CFR 314.111(a)(5)(iii)(*a*)(*3*). Third, the Bureau finds the PRL to be deficient. The items in the scale are not defined, anchor points are not provided, and the scale itself is not validated. 21 CFR 314.111(a)(5)(ii)(*a*)(*3*).

The sponsor attempted to rebut this last criticism by presenting the views of one investigator who states that while the individual symptom scores do not appear to be reliable, the factor scores are reliable. In other words, the sponsor argued that if two symptom scores are highly correlated with each other, then there must be something reliable that the symptoms have in common. That view fails to consider the possibility that what they have in common may be unrelated to anxiety; i.e., correlation and validity must be distinguished. Furthermore, the sponsor's argument neglects the possibility that a rater's presumptions may influence more than one item in some manner. For example, if a rater presumes that people who feel guilty also have feelings of inferiority and poor interpersonal relations, then whenever the rater marks one of these symptoms high for a patient, he would mark the other symptoms high. Similarly, whenever a rater marked one of the these symptoms low, the rater would probably mark the other symptoms low. Should this presumption be widespread among raters, that is, if it were a social stereotype, then it will lead to a high correlation between all these symptoms based upon "halo effect" rather than on item reliability.

Because the PRL was the only scale used to measure change in symptomatology, the Bureau presented the question of efficacy as demonstrated by the studies to two consultants and to the Neuropharmacology Advisory Committee. The consensus was that the lack of clear, specific patient selection criteria made it impossible to determine the characteristics of the patients participating in the studies, and their relatinship to the indication, viz, "excessive anxiety and tension * * *." This, plus the lack of demonstrated validity for the PRL, made it difficult to determine the drug's exact effect. For this reason the Director recommended that the sponsor perform additional studies using other validated scales as support for both PRL and for clinical efficacy in anxious patients. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*), (*a*)(*3*), and (*a*)(*5*).

2. *Goldstein-Brauzer Study.* This study, submitted in July 1976, compared trifluoperazine, chlordiazepoxide, and placebo in 126 male and female psychoneurotic patients. An additional 45 patients were studied in a second phase.

The study's objective was to determine the clinical efficacy and patient tolerance of trifluoperazine when compared with chlordiazepoxide and placebo in subjects manifesting moderate to severe symptoms of anxiety and tension. The selection process excluded pregnant women and patients who were diagnosed as having metabolic or organic brain disease or pyschotic illness or serious liver, kidney, or cardiovascular disease. Also excluded were patients who were known to be hypersensitive to trifluoperazine or chlordiazepoxide. Those accepted by the project psychiatrist were randomly assigned to one of the three treatments, each containing approximately 40 patients. The trial was conducted under double-blind conditons for 4 weeks with either of the two active drugs or placebo.

All medication was furnished by the sponsor in identical appearing capsules. Trifluoperazine was dispensed in a dose range of from 2 to 10 mg daily, and chlordiazepoxide was dispensed in a dose range of 20 to 100 mg daily. Adjustments for each patient depended upon the patient's response to treatment. Adverse reactions were treated either with dose reduction and/or short-term addition of benztropine mesylate. Concomitant medication was limited to drugs needed for well-established organic diseases or birth control. Patients were not to have received other psychotropic drugs for at least 4 to 7 days before entering the study, and no other psychotropic drugs or hypnotics were to be taken during the study.

Efficacy was evaluated using two physician rating scales: a Modified Physician Questionaire (PQ) and the New Physicians Rating List (NPRL). Two self report forms, the Self Rating Symptom Scale (SRSS) and the Profile of Mood States (POMS), were also used. Measurements using all scales were obtained before the patient entered the study and at the end of the second and fourth weeks. A physician's global evaluation of improvement was to be made during the patient's final visit.

The design of the study appears adequate and appropriate. The entrance criteria of moderate to severe anxiety also appear to have been met, and there do not appear to have been any protocol deviations with regard to concomitant medications.

The results of the sponsor's analyses of the physician scales for the final week for the 126 patients indicated that both trifluoperazine and chlordiazepoxide produced more improvement than placebo on five of the ten variables. The analyses of the global change variables and the patients' scales were not significant.

There were a number of problems, however, with the analyses of the data. No explanation was given for the extremely high percentage of dropouts (49 percent) for patients on trifluoperazine. So large a dropout rate can jeopardize the effects of randomization, leaving groups that are no longer comparable, 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*), or more important, serve to exclude patients responding poorly to the drug, leading to a biased analysis. 21 CFR 314.111(a)(5)(ii)(*a*)(*4*). It probably would have been most appropriate to regard such patients as failing to respond to treatment; in any case, the sponsor would need to explain its handling of the group. Instead, the sponsor simply eliminated them and analyzed only the results of patients who completed the study. 21 CFR 314.111(a)(5)(ii)(*a*)(*4*). Many patients had adjustments in the level of their dosages during the course of treatment. No justification was given by the sponsor for the omission of accounting for variation of dosage in the analysis of the data by linear models. 21 CFR 314.111(a)(5)(ii)(*a*)(*5*).

In another instance the sponsor noted that not all patients kept all of their scheduled appointments, with the result that there were some missing data points. In these cases the sponsor said it substituted the data for the scale completed closest to the instance when the missing data should have been recorded. But reliance upon such estimation of missing data values is unacceptable since the sponsor did not specify clearly which and how many missing cases were involved. 21 CFR 314.111(a)(5)(ii)(*a*)(*3*) and (*5*).

Finally the global ratings did not support efficacy. The usual seven-point scale was compressed to a four-point scale. Though the reduction in range of the scale in the analysis is justified in part by the small number of patients appearing in the extreme categories, doing so may have masked a response pattern different from the one reported. 21 CFR 314.111(a)(5)(ii)(*a*)(*5*).

Following the completion of the 126 patients reported above, 45 additional patients were studied 7 months later, apparently in an attempt to increase the total number of participants and thus increase the significance of the findings. The sponsor apparently found no evidence suggesting a drug effect in these patients, and offered no explanation for the negative results. The sponsor, apparently after examining the results, did not provide an analysis of the total group but claimed that omitting those data from the larger study did not bias its results. There is no explanation provided of how analyst bias was avoided in this post-facto decision to exclude one group of patients from the analysis. 21 CFR 314.111(a)(5)(ii)(*a*)(*4*).

The Bureau performed a detailed analysis of the data from all 170 patients exposed to the drug in this study using an analysis of covariance with the baseline value of each efficacy variable as the covariate and treatment and epoch as factors. In no case did the probability values for comparisons among trifluoperazine, chlordiazepoxide, and placebo fall below 0.11. In most cases the *p*-values were considerably higher. Moreover, in most cases there was a significant treatment by epoch interaction, indicating that omitting the data from the second phase of the study (45 patients) did, in fact, bias the study results in favor of trifluoperazine. In conclusion, the analsyes of the total study indicated three was no difference in clinical effect between trifluoperazine, chlordiazepoxide, and placebo.

3. *Claghorn Study.* Submitted in September 1977, this double-blind, parallel group, 4-week study compared trifluoperazine (4 to 10 mg/day) and placebo in 74 psychoneurotic adult outpatients having moderate or severe states of manifest anxiety. Comprehensive inclusion criteria were employed which ensured the presence of subjective anxiety together with

muscular or autonomic phenomena. Psychological and behavioral changes were assessed before treatment and weekly during treatment for 4 weeks using the Hamilton Anxiety Scale (Hamilton), NPRL, and POMS. A seven-point global efficacy evaluation (marked worsening, moderate worsening, mild worsening, no change, mild improvement, moderate improvement, marked improvement) was completed at the conclusion of treatment. A record of adverse effects was kept.

The sponsor found statistical superiority of trifluoperazine to placebo on the Hamilton somatic factor and Hamilton total score, NPRL psychomotor, depression, and somatization factors, and NPRL total score, and global efficacy evaluation in patients who completed the trial. However, there were no statistically significant differences on the POMS self-rating scale.

Although the physician rating instruments (Hamilton and NPRL) used by the investigators yielded overall results supporting a total favorable therapeutic effect, no statistically significant differences between trifluoperazine and placebo were obtained on the "psychic" anxiety factor of the Hamilton or the NPRL. That is, there was no superiority of trifluoperazine on the basic anxiety variables. Hence, this study cannot be considered as providing evidence of the superiority of trifluoperazine over placebo for the emotional aspect of anxiety. 21 CFR 314.111(a)(5)(ii).

With the exception of one factor at one time point, trifluoperazine was not significantly better than placebo on any of the seven factors on the patient self-rating scale (POMS). (This is in contrast to the ratings obtained from the physician scales.) The sponsor discounts the results with the patient ratings with the comment that "the failure to find more statistically significant differences is probably related to the greater inherent variability that is known to be associated with self-rating scale data." However, the sponsor offers no documentation in support of this statement. 21 CFR 314.111(a)(5)(ii)(*a*)(*3*).

Aside from specific critiques of the sponsor's submissions, the wording of the entire indication encompasses a broader range of conditions than was actually studied. As it now reads, the indication describes two conditions, one for neurosis and one for somatic conditions. Since only psychoneurosis was included in the entry criteria for each of the four studies submitted, all studies were directed towards the neurosis condition. While autonomic and musculoskeletal symptoms are frequent concomitants of anxiety, they are secondary to the condition of anxiety and do not constitute somatic conditions with associated anxiety. Therefore, no data have been submitted to support the somatic conditions portion of the indication. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*).

For the reasons described above, the data submitted do not constitute substantial evidence that trifluoperazine hydrochloride is effective for the claimed indications.

Amendment

Accordingly, the September 8, 1976 notice is amended to read as follows as it pertains to trifluoperazine hydrochloride drug products.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the products specifically named above, this notice applies to any drug product that is not the subject of an approved new drug application and is identical to a product named above. It may also be applicable, under 21 CFR 310.6, to a similar or related drug product that is not the subject of an approved new drug application. It is a responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufacturers or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (HFD–310), (address given above).

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug is effective for the indication listed in the labeling conditions below. The drug lacks substantial evidence of effectiveness for its other labeled indications.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug is in tablet or concentrated solution form for oral administration, or injectable solution form.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations and the labeling bears adequate information for safe and effective use of the drug. The Indication is as follows:

For the managment of the manifestations of psychotic disorders.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before August 3, 1982, the holder of the application has submitted (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide full updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H (21 CFR 314.1(c)).

Data or information to comply with the bioavailability requirements of 21 CFR 320.21, if not already submitted, should be submitted in accord with paragraph (b) of that regulation.

b. Approval of an abbreviated new drug application (21 CFR 314.1(f))) containing full manufacturing information (under items 6, 7, and 8 of new drug application form FD–356H) must be obtained before marketing such products. Under 21 CFR 320.21, the application must include either evidence demonstrating the in vivo bioavailability of the drug or informaiton to permit waiver of the requirement. However, no waiver will be granted for the tablet dosage form, which is identified in 21 CFR 320.22(c) as a drug product with an actual or potential bioavailbility problem. Marketing before approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regualtory action.

c. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureaus of Drugs and Biologics is unaware of any adequate and well-controlled clinical investigation conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), demonstrating the effectiveness of the drug for the indications lacking substantial evidence of effectiveness referred to in paragraph A of this notice.

Notice is given to the holder of the new drug application and to all other interested persons that the Director of the Bureaus of Drugs and Biologics proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application and all amendments and supplements thereto providing for the indications lacking substantial evidence of effectiveness, referred to in paragraph A of this notice, on the grounds that new information before him with respect to the drug products, evaluated together with the evidence available to him at the time the application was approved, shows there is a lack of substantial evidence that the drug product will ahve all the effects its purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the lableing. An order withdrawing approval will not issue with respect to any application supplemented, in accord with this notice, to delete the claims lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6) e.g., any contention that any such product is not a new drug because it is generally recognized as safe effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act under the exemption for products marketed before June 25, 1938, contained in section 201(p) of the act, or under section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6) are hereby given an opportunity for a hearing to show why approval of the new drug applications should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of the drug products named above and of all identical, related, or similar drug products.

An applicant or any other person subject to this notice under 21 CFR 310.6 decides to seek a hearing, shall file (1) on or before July 6, 1982, a written notice of appearance and request for hearing, and (2) on or before August 3, 1982 the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of appearance and request for hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of the applicant or any other person subject to this notice under 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by the person not to make use of the opportunity for a hearing concerning the action proposed with respect to the product and constitutes a waiver of any contentions concerning the legal status of any such drug product. Any such drug product labeled for the indications lacking substantial evidence of effectiveness referred to in paragraph A of this notice may not thereafer lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved new drug application is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but msut set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drug will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quadruplicate. Such submissions except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)), and under the authority delegated to the Director of the Bureaus of Drugs and Biologics (21 CFR 5.82).

Dated: May 3, 1982.

Harry M. Meyer, Jr.,

Director, Bureau of Drugs and Biologics.

[FR Doc. 82-15274 Filed 6-3-82; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

Amended Notice of Meeting of the National Advisory Research and Resources Council

Notice is hereby given of a change in the Agenda of the meeting of the National Advisory Resources Council, June 7–8, 1982, Conference Rm. 10, Bldg. 31–C, National Institutes of Health, Bethesda, MD 20205, and published in the **Federal Register** on May 10, 1982, 47 FR 20031.

The following have been added to the open portion of the meeting on June 7: An address entitled, "Misconduct in Science," by the Associate Director for Extramural Research and Training, NIH, and a discussion of DRR Support of Service Costs, by the Acting Director, DRR. The following items have been deleted from the open session of the meeting on June 7: Staff reports by the Program Directors of the Animal Resources, Biomedical Research Support, Biotechnology Resources, General Clinical Research Centers, and Minority Biomedical Research Support Programs. The following has been added to the open portion of the meeting on June 8: A Council Discussion of Support of Service Costs.

Catalog of Federal Domestic Assistance Program Nos. 13.306, Laboratory Animal Sciences and Primate Research; 13.333, Clinical Research; 13.337, Biomedical Research Support; 13.371, Biotechnology Resources; 13.375, Minority Biomedical Research Support, National Institutes of Health)

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular)

Dated: May 27, 1982.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 82-15183 Filed 6-3-82; 8:45 am]

BILLING CODE 4140-01-M

Planning Subcommittee of the National Digestive Diseases Advisory Board; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Planning Subcommittee of the National Digestive Diseases Advisory Board on June 22, 1982, 10:00 a.m. to 8:00 p.m., in the Directors Room, Sheraton La Guardia Hotel, 90–10 Grand Central

Parkway, East Elmhurst, New York, 11369. The meeting, which will be open to the public, is being held to discuss the 1982 plans for the Board. Attendance by the public will be limited to space available.

Further information may be obtained by contacting Dr. Ralph Bain, Executive Director, National Digestive Diseases Advisory Board, P.O. Box 30377, Bethesda, Maryland 20205, (301) 496–2232. The agenda and rosters of the members can also be obtained from his office. Summaries of the meeting may be obtained by contacting Carole A. Peters, Committee Management Office, NIADDK, National Institutes of Health, Room 9A46, Building 31, Bethesda, Maryland 20205, (301) 496–5765.

Dated: May 27, 1982.

Betty J. Beveridge,

NIH, Committee Management Officer.

[FR Doc. 82–15134 Filed 6–3–82; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

California; Preliminary Wilderness Recommendations for the Central California Study Area, Bakersfield District; Availability of Draft Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a draft environmental impact statement concerning preliminary wilderness recommendations in central California. The proposed action recommends wilderness for 16,630 acres and 78,419 acres nonsuitable as wilderness. Alternatives consider all wilderness (95,049 acres), no wilderness, partial wilderness (34,007 acres wilderness) and no action.

Comments on the draft environmental impact statement are being solicited from public agencies and interested individuals and organizations. The Bureau of Land Management invites written comments on the statement to be submitted by July 28, 1982 to the District Manager, Bakersfield District, 800 Truxtun Avenue, Room 302, Bakersfield, California 93301.

A limited number of copies of the draft environmental impact statement are available at the following locations:

California State Office, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825, Telephone (916) 484–4541

Washington Office, Bureau of Land Management, Interior Building, 18th and C Streets, N.W., Washington, D.C. 20240

Dated: May 19, 1982.

Ed Hastey,

State Director.

[FR Doc. 82–15060 Filed 6–3–82; 8:45 am]

BILLING CODE 4310–84–M

California Preliminary Wilderness Recommendations for the Western Counties Wilderness Study Project, California Desert District; Availability of Draft Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a draft environmental impact statement concerning preliminary wilderness recommendations in Western Counties of the Escondido-Border Planning Unit. The proposed action recommends wilderness for 17,774 acres and 13,109 acres non-suitable as wilderness. Alternatives consider all wilderness (30,883 acres), no wilderness, partial wilderness (22,571 acres wilderness), no action (no wilderness) and other management (360 acres wilderness).

Comments on the draft environmental impact statement are being solicited from public agencies and interested individuals and organizations. The Bureau of Land Management invites written comments on the statement to be submitted by August 4, 1982 to the District Manager, California Desert District, 1695 Spruce Street, Riverside, California 92507.

A limited number of copies of the draft environmental impact statement are available at the following locations:

California State Office, Bureau of Land Management, 2800 Cottage Way, E–2841, Sacramento, CA 95825, Telephone (916) 484–4541

Washington Office, Bureau of Land Management, Interior Building, 18th and C Streets, N.W., Washington, D.C. 20240

Dated: May 20, 1982.

Richard F. Johnson,

State Director.

[FR Doc. 82–15066 Filed 6–3–82; 8:45 am]

BILLING CODE 4310–84–M

Idaho Draft Owyhee Wilderness Plan Amendment/Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Draft Owyhee Wilderness Plan Amendment/EIS availability and public hearings concerning the suitability or nonsuitability of roadless areas for preservation as wilderness.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a draft land use plan amendment and environmental impact statement for five Wilderness Study Areas (WSAs 16–40, 41, 42, 45 and 47) in the Owyhee Resource Area of the Boise District in southwest Idaho. A map showing the boundaries of the five areas is available from the Boise District Office. The Plan Amendment/EIS proposed that the five WSAs are nonsuitable for inclusion in the National Wilderness Preservation System. Copies of the Draft Plan Amendment/EIS are available for inspection at the following locations:

Boise District Office, Bureau of Land Management, 3948 Development Avenue, Boise, Idaho 83705, Telephone (208) 334–1582.

Idaho State Office, Bureau of Land Management, Federal Building, 500 W. Fort Street, Boise, Idaho 83724, Telephone (208) 334–1770.

A limited number of single copies may be obtained by contacting the Idaho State Director, or Boise District Manager, at the above addresses.

Notice is hereby given that the Draft Owyhee Wilderness Plan Amendment/EIS will be available for public review and comment for over 60 days from the date filed with the Environmental Protection Agency. The Bureau of Land Management invites written comments on the adequacy of the Draft Plan Amendment/EIS to be submitted by August 9, 1982.

Notice is also given the public hearings will be held at:

(1) Lion's Club Hall, Highway 95, Jordan Valley, Oregon 97910, July 7, 1982 at 7:00 p.m.

(2) Boise Public Library Auditorium, 715 South Capital Blvd., Boise, Idaho 83706, July 8, 1982 at 7:00 p.m.

DATES: July 7, 1982—Public hearing in Jordan Valley, Oregon. July 8, 1982—Public hearing in Boise, Idaho. August 9, 1982—Deadline for receiving written testimony.

ADDRESS: Written comments on the Draft Owyhee Wilderness Plan Amendment/EIS should be sent to: Bureau of Land Management, Owyhee Wilderness Plan Amendment/EIS, 3948 Development Avenue, Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT:
Ted Milesnick or John Benedict, BLM Boise District Office. Telephone: (208) 334–1582.

SUPPLEMENTARY INFORMATION:
Individuals wishing to testify may do so by apearing at a hearing place as previously specified. Persons wishing to give testimony will be limited to ten minutes with written submissions invited. Prior to giving testimony at public hearings, individuals or spokesmen are requested to complete a hearing registration form. Registration forms may be obtained by contacting the Boise District Manager at the above address.

Clair M Whitlock,
Idaho State Director.

[FR Doc. 82–15067 Filed 6–3–82; 8:45 am]
BILLING CODE 4310–84–M

Initiation of a Resource Management Plan in South Dakota

AGENCY: Bureau of Land Management, Interior; Miles City District.

ACTION: Initiation of land use planning.

In accordance with the requirements in 43 CFR 1601.3(g), notice is hereby given that the BLM is initiating the Resource Management Plan (RMP) for public lands in Harding, Butte, Lawrence, Meade, East River, Pennington, Custer, Fall River, Haakon, Stanley, Perkins, Jackson, Jones, Lyman, and Gregory Counties. In addition to 276,313 surface acres, the RMP will address, to the extent information is available, approximately 800,000 acres of federal minerals throughout South Dakota. This RMP is scheduled to be completed in fiscal year 1986, but may be completed prior to the scheduled completion.

There will be an open house public meeting at 310 Roundup Street in Belle Fourche on July 12, 1982 from 8:00 a.m. to 4:00 p.m. and from 6:00 p.m. to 8:00 p.m. to obtain public comment on the scope of the RMP and the issues to be addressed therein.

EFFECTIVE DATE: June 7, 1982.

FOR FURTHER INFORMATION CONTACT:
Ray Brubaker, District Manager, Miles City District, BLM P.O. Box 940, Miles City, Montana 59301, (406) 232–4331.

Ray Brubaker,
District Manager.

[FR Doc. 82–15146 Filed 6–3–82; 8:45 am]
BILLING CODE 4310–84–M

Circle West Coal Deposit, Circle, Mont.; Proposed Coal Exchange; Environmental Assessment

AGENCY: Miles City District, Bureau of Land Management, Interior.

ACTION: Proposed Coal Exchange.

SUMMARY: The Miles City District Office is preparing an Environmental Assessment (EA) on a proposed coal exchange in the Circle West coal deposit near Circle, Montana. The exchange would block-up checkerboard coal ownership patterns among the Federal Government, State of Montana and Meridian Land and Mineral Company. The result would be two separate coal tracts, one owned by the Federal Government and one by Meridian Land & Mineral Co. Status of State owned coal would not change. Each tract would contain approximately 350 million tons of recoverable lignite coal. The scope of the EA will be established from public input obtained during a public comment period and two public meetings.

DATES: The public comment period is open through July 9, 1982. Public meetings are scheduled June 29 and 30, 1982.

ADDRESSES: Written comments may be sent to the District Manager, Miles City District, BLM, P.O. Box 940, Miles City, Montana 59301. Public meetings are scheduled as follows: June 29, 1:30 p.m., Petro Room, Student Union, Eastern Montana College, Billings, Montana. June 30, 1:30 p.m., Vets Club, Circle, Montana.

SUPPLEMENTARY INFORMATION: The Environmental Assessment will assess impacts on the human and physical environments resulting from the proposed exchange. In addition the assessment will portray an overview of market potential of future development possibilities. The document will also address any public interest to be served by the proposed exchange.

The E.A. will be prepared under Council on Environmental Quality's (CEQ) NEPA Regulations and Department of Interior and BLM guidelines.

The exchange proposal does not lend itself to a large variety of alternatives. Either the coal will be exchanged or it won't. So far the following two alternatives have been identified. Additional reasonable alternatives may be developed from public input received during the public comment period and meetings.

1. Exchange as Proposed: This alternative will address exchanging coal in the Circle West coal deposit in order to block-up federal and private coal ownership as proposed by Meridian Land and Mineral Co. This would mean the exchange of approximately 70,000 acres of coal ownership totaling at least 700 million tons of lignite coal.

2. No Action: This alternative will address the existing situation without the exchange. The Federal coal would then remain in it's current status which includes being under consideration for leasing in the 1983 Ft. Union Sale. The Ft. Union Coal EIS will be the basis of existing situation discussion.

The EA is directed at assessing the environmental, realty and ownership impacts of exchanging coal ownerships as outlined in the Meridian proposal of November 2, 1981. As the Fort Union Regional EIS is including projected impacts from on-site facilities, the environmental assessment will use that information without further review and address the additional environmental impacts from the larger tracts that would be formed as a result of the exchange. During the course of the exchange project the major issue with the BLM is the question of serving the public interest. It must be demonstrated that the proposed action is in the public interest before a favorable decision to exchange can be made.

Additional issues may be added as a result of the public comment period and meetings. Legal issues raised will be referred to appropriate authority for resolution. Questions on legality can not be addressed in this assessment.

Robert A. Teegarden,
Acting District Manager.

[FR Doc. 82–15147 Filed 6–3–82; 8:45 am]
BILLING CODE 4310–84–M

[M 55149]

Montana; Realty Action—Exchange

May 25, 1982.

AGENCY: BLM—Lewistown District Office, Interior.

ACTION: Notice of Realty Action M 55149, Exchange of public and private lands, Fergus and Chouteau Counties, Montana.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Principal Meridian

T. 21 N., R. 19 E.,
Sec. 4, Lots 1, 2, and 3, S½NE¼ and SE¼NW¼.
T. 22 N., R. 19 E.,
Sec. 33, E½SE¼ and SW¼.

Aggregating 483.26 acres of public lands.

In exchange for these lands, the United States Government will acquire the surface estate in the following described lands:

Principal Meridian

T. 24 N., R. 6 E.,
Sec. 23, Tract II as described by mets and bounds on that certain Certificate of survey No. 390060 filed April 14, 1980 in Chouteau County.
T. 22 N., R. 17 E.,
Sec. 11, E½NE¼, SW¼NE¼ and SE¼NW¼; and
Sec. 13, S½SE¼.
T. 22 N., R. 18 E.,
Sec. 5, NE¼SW¼; and
Sec. 6, Lot 6 and NE¼SW¼.
Aggregating 362.77 acreas of private lands.

In addition to the above-described private lands, the United States Government will acquire the Voyageur Art Gallery in Fort Benton.

DATES: For a period of 45 days from the date of first publication of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, Airport Road, Lewistown, Montana 59457. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of this Department.

FOR FURTHER INFORMATION CONTACT: Information related to this exchange, including the environmental assessment and land report, is available for review at the Lewistown District Office, Airport Road, Lewistown, Montana 59457.

SUPPLEMENTARY INFORMATION: The purpose of the exchange is to acquire the Voyageur Art Gallery in Fort Benton to be used as a Recreation Visitor Contact Center on the Missouri River, and also to acquire additional recreation lands in the Missouri Breaks. The exchange is consistent with the Bureau's planning for the lands involved and has been discussed with State and local officials. The public interest will be well served by making the exchange.

The exchange will be made subject to:

1. A reservation to the United States of a right-of-way for ditchs or canals constructed by the authority of the United States in accordance with 43 U.S.C. 945, for the lands being transferred out of Federal ownership.
2. The reservation to the United States of all minerals in the lands being transferred out of Federal ownership.
3. All valid existing rights (e.g. rights-of-way, easements, and leases of record.)
4. Value equalization by cash payment or acreage adjustment.
5. The exchange must meet the requirements of 43 CFR 4110.4–2(b).

Michael J. Penfold,
State Director.

[FR Doc. 82–15149 Filed 6–3–82; 8:45 am]
BILLING CODE 4310–84–M

[N–10149, N–11698, N–12658]

Nevada; Classifications Vacated

May 26, 1982.

Pursuant to the authority designated by Bureau Order 701 and amendments thereto, exchange classifications N–10149, N–11698 and N–12658 are hereby vacated in their entireties. The land affected is described as follows:

Mount Diablo Meridian, Nevada

T. 14 N., R. 20 E.
Sec. 26, SE¼;
Sec. 35, NE¼, N½N½SE¼.
T. 12 N., R. 23 E.
Sec. 4, Lot 1, SE¼NE¼
Sec. 9, NE¼NE¼.
T. 13 N., R. 23 E.
Sec. 25, E½SE¼;
Sec. 33, SE¼SE¼.
T. 15 N., R. 20 E.
Sec. 23, NE¼NE¼NE¼NE¼, SW¼NE¼NE¼NE¼, SE¼NW¼NE¼NE¼, SE¼NE¼NE¼, NE¼NE¼SE¼NE¼, E½NW¼SE¼NE¼, N½SE¼SE¼NE¼, NE¼SW¼SE¼NE¼, E½E½NW¼SE¼, NE¼SE¼SW¼SE¼, S½SE¼SW¼SE¼.

There area described comprises 649.25 acres (439.25 acres in Douglas County, 160 acres in Lyon County and 50 acres in Carson City) in Nevada.

The segregative effect of the classification orders is removed upon publication of this notice in the **Federal Register.**

Edward F. Spang,
State Director, Nevada.

[FR Doc. 82–15155 Filed 6–3–82; 8:45 am]
BILLING CODE 4310–84–M

[OR 11159]

Oregon; Partial Termination of Proposed Withdrawal and Reservation of Lands

Notice of Forest Service, U.S. Department of Agriculture, application OR 11159 for withdrawal and reservation of lands was published as FR Doc. 75–12569 on page 20830 of the issue of May 13, 1975, and republished as FR Doc. 79–29994 on page 55669 of the issue of September 27, 1979. The purpose of the proposed withdrawal was to protect the scenic and recreational values involving the Cascade Lakes Highway Road Zone Addition; the proposed Bachelor Butte Recreation Area; and the proposed Todd Lake Recreation Area. The applicant agency has cancelled its application insofar as it affects all of the Cascade Lakes Highway Road Zone Addition and portions of the proposed Bachelor Butte and Todd Lake Recreation Areas. The following described lands are included in the cancellation:

Willamette Meridian

Deschutes National Forest

Cascade Lakes Highway Road Zone Addition: A strip of land 330 feet wide on each side of the surveyed centerline of said road through the following legal subdivisions:

T. 20 S., R. 7 E.,
Sec. 36, SE¼NE¼, SE¼SW¼, and SE¼.
T. 21 S., R. 7 E.,
Sec. 1, lots 3 and 4, SW¼NW¼, NW¼SW¼, and S½SW¼;
Sec. 12, E½W½ and NW¼NW¼;
Sec. 13, W½E½ and E½NW¼and NE¼SW¼;
Sec. 24, SE¼ and W½NE¼;
Sec. 25, E½;
Sec. 36, E½.
T. 22 S., R. 7 E.,
Sec. 1, E½;
Sec. 12, N½SE¼, SE¼SE¼, and NE¼;
Sec. 13, NE¼NE¼.
T. 23 S., R. 7 E.,
Sec. 12, lots 2 and 3, E½NE¼, S½SW¼, and SW¼SE¼;
Sec. 13, N½NW¼;
Sec. 14, NE¼NE¼.
T. 19 S., R. 8 E.,
Sec. 5, lot 4, S½NW¼, N½SW¼, SE¼SW¼, and SW¼SE¼;
Sec. 6, lot 1;
Sec. 8, NW¼NE¼, S½NE¼, NE¼NW¼, and E½SE¼;
Sec. 9, W½SW¼;
Sec. 10, W½W½ and SE¼SW¼;
Sec. 21, NW¼NW¼ and E½W½;
Sec. 27, SW¼SW¼;
Sec. 28, W½NE¼, NE¼NW¼, N½SE¼, and SE¼SE¼;
Sec. 33, E½E½ and SW¼SE¼;
Sec. 34, W½NW¼ and NW¼SW¼.
T. 20 S., R. 8 E.,
Sec. 4, lots 1 and 2, SW¼NE¼, SE¼NW¼, NE¼SW¼, S½SW¼, and NW¼SE¼;
Sec. 9, NW¼, N½SW¼, and SE¼SW¼;
Sec. 16, E½NW¼ and SW¼;
Sec. 20, NW¼NE¼, S½NE¼, NE¼SW¼, S½SW¼, and NW¼SE¼;
Sec. 21, NW¼NW¼;
Sec. 29, W½NW¼;
Sec. 30, NE¼NE¼, S½ NE¼, E½SW¼, N½SE¼, and SW¼SE¼;
Sec. 31, lots 1 and 2 and NE¼NW¼.
T. 22 S., R. 8 E.,
Sec. 7, lot 4;
Sec. 17, SW¼;
Sec. 18, lots 1, 2, and 3, SE¼NW¼, E½SW¼, and SE¼;
Sec. 19, SE¼NE¼, NE¼SE¼, and S½SE¼;
Sec. 20, NW¼ and NW¼SW¼;
Sec. 30, NE¼, SE¼SW¼, N½SE¼, and SW¼SE¼;
Sec. 31, E½W½ and NW¼NE¼.
T. 23 S., R. 8 E.,
Sec. 6, lots 3, 6, and 7, SE¼NW¼, and E½SW¼;
Sec. 7, lot 1.

Bachelor Butte Recreation Area

T. 18 S., R. 8 E.,
Sec. 24, SE¼;
T. 18 S., R. 9 E.,
Sec. 16, E½SW¼;
Sec. 18, lots 1 and 2, except that portion withdrawn by PLO 2751 of August 13, 1962;
Sec. 19, lots 1, 2, and 3, S½NE¼, SE¼NW¼, E½SW¼, and W½SE¼;
Sec. 28, NE¼NE¼, NE¼SW¼, NE¼NW¼SW¼, S½NW¼SW¼, and S½SW¼, except that portion withdrawn by PLO 2751 of August 13, 1962;
Sec. 30, W½E½, W½SE¼NE¼, W½NE¼SE¼, and NW¼SE¼SE¼;
Sec. 31, NW¼NE¼ and S½NE¼;
Sec. 32, NE¼NE¼, NE¼NW¼NE¼, S½NW¼NE¼, S½NE¼, S½S½NW¼, and NE¼SE¼NW¼;
Sec. 33, NW¼.

Todd Lake Recreation Area

T. 18 S., R. 9 E.,
Sec. 7, NE¼NE¼, W½E½, NW¼NE¼SE¼, S½NE¼SE¼, and SE¼SE¼;
Sec. 8, NE¼, N½NW¼, SE¼NW¼, NE¼SW¼, and N½SE¼.

The areas described aggregate approximately 4,857 acres in Deschutes and Klamath Counties, Oregon.

Pursuant to the regulations contained in 43 CFR 2310.2–1(c), the above-described lands will be open to entry and location under the mining laws (30 U.S.C. Ch. 2) at 9:30 a.m., on July 9, 1982.

Dated: May 25, 1982.

Leland D. Morrison

Acting, Chief, Branch of lands and Minerals Operations.

[FR Doc. 82–15150 Filed 6–3–82; 8:45 am]

BILLING CODE 4310–84–M

Prineville District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Prineville District Grazing Advisory Board will be held July 14, 1982.

The meeting will begin at 1:00 P.M. in the conference room of the Bureau of Land Management office at 185 East 4th Street, P.O. Box 550, Prineville, Oregon 97754.

The agenda will include: (1) Status of the Brothers Environmental Statement, (2) Placement of Allotments into Selective Management Categories, (3) Benefit/Cost Analysis of Rangeland Improvement proposed in Brothers EIS.

The meeting is open to the public. Anyone wishing to make oral or written statements to the board is requested to do so through the office of the District Manager, at the above named address, at least 2 days prior to the meeting date.

Summary minutes of the Board meeting will be maintained in the District Office and be made available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Gerald E. Magnuson,

District Manager.

May 18, 1982.

[FR Doc. 82–15148 Filed 6–3–82; 8:45 am]

BILLING CODE 4310–84–M

[W–73813]

Wyoming: Really Action—Exchange of Public Lands for Private Lands in the City of Worland, Washakie County

May 28, 1982.

The surface estate of the following described public land has been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716):

Sixth Principal Meridian, Wyoming

T. 47 N., R. 92 W.,
Sec. 30, Parcel A.
Containing 7.65 acres.

In exchange for these lands, the United States will acquire the surface estate in the following described land from Cloud Peak Investment, Inc.:

Sixth Principal Meridian, Wyoming

T. 47 N., R. 92 W.,
A parcel of land in the SE¼NW¼ of Section 30, being described as follows: Beginning at a point on the south line of Big Horn Avenue in the City of Worland, Wyoming, said point being located 101.24 feet west of the east line of said SE¼NW¼ Section 30; thence from a tangent bearing of N. 87°03′ E., along a curve to the left, having a radius of 1004.9 feet, for a distance of 101.75 feet, through a total angle of 5°48′05″, along said south line of Big Horn Avenue, to a point on the east line of said SE¼NW¼ Section 30; thence S. 0°21′ E. 221.21 feet, along said east line to a point located N. 0°21′ W., 254.92 feet from the southeast corner of said SE¼NW¼ Section 30; thence S. 89°52′ W. 101.24 feet; thence N. 0°21′ W., 201.11 feet to the point of beginning, containing 0.48 acres of land, more or less.

Acquisition of the above private lands will provide a more suitable site for the Bureau's new district office headquarters in the City of Worland by extending the Bureau's commercial frontage on Big Horn Avenue. The private lands are zoned commercial, permitting use for the Bureau's office site while the above public lands are zoned residential, precluding Bureau use for that purpose. Transfer of the lands to private ownership will enable development for residential purposes. The exchange is consistent with the City of Worland's land use planning and zoning.

No mineral estates will be exchanged. All mineral interests in both the public and private lands described above are owned by third parties.

No grazing use authorizations affect the above public lands.

This action is consistent with the provisions of Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716). The public interest will be well served by this exchange.

The exchange will be made subject to:

1. All valid existing rights (e.g. rights-of-way, easements, and leases of record);

2. Value equalization by cash payment.

Detailed information concerning the exchange including the planning documents and environmental assessment, is available for review at the Worland District Office, Bureau of Land Management, 1700 Robertson Avenue, Worland, Wyoming 82401.

Until July 12, 1982, interested parties may submit comments to the State Director, Bureau of Land Management (910), P.O. Box 1828, Cheyenne, Wyoming 82001. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this Notice of Realty Action will become the final determination of the Department of the Interior.

William S. Gilmer,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82–15154 Filed 6–3–82; 8:45 am]

BILLING CODE 4310–84–M

[Designation Order NM–030–82–01]

New Mexico Emergency ORV Closure

AGENCY: BLM, Las Cruces District, Interior.

ACTION: Emergency ORV Closure.

SUMMARY: Notice is hereby given relating to the use of Off-Road Vehicles on public lands in accordance with the authority and requirements of Executive Orders 11644 and 11989 and regulations contained in 43 CFR 8341.2.

DATE: This designation becomes effective when published.

ADDRESS: Las Cruces/Lordsburg Resource Area Office, 1705 North Valley Drive, Las Cruces, New Mexico 88001.

FOR FURTHER INFORMATION CONTACT: Daniel C. B. Rathbun, District Manager, Las Cruces District Office, P.O. Box

1420, Las Cruces, New Mexico 88004, Phone: (505) 524–8551.

SUPPLEMENTARY INFORMATION: The following described lands under the administration of the Bureau of Land Management are designated as limited to designated roads and trails until further notice. The area so designated is known as the West Potrillo Wilderness Study Area (WSA). The area is located within the Las Cruces/Lordsburg Resource Area of the Bureau of Land Management's Las Cruces District Office and consists of approximately 143,145 acres within Dona Ana County, New Mexico. The WSA is located approximately 40 miles southwest of Las Cruces, New Mexico.

This designation is a result of the observed damage caused by off-road travel within the WSA. This designation is necessary due to the Bureau of Land Management's wilderness mandate. This mandate is to prevent impairment of the wilderness characteristics of each WSA until Congress decides on the suitability of the WSA for inclusion in the National Wilderness Preservation System.

This designation will have an adverse affect on further off-road use of geophysical equipment for oil and gas exploration. There may also be an adverse affect on recreational off-road travel for activities such as hunting, rock hounding and pleasure driving.

A map with the designated roads and trails which will remain open for use by vehicles is available for review at the Las Cruces/Lordsburg Area Office located at 1705 North Valley Drive, Las Cruces, New Mexico.

Billy M. Brady,

State Director.

[FR Doc. 82-15151 Filed 6-3-82; 8:45 am]

BILLING CODE 4310-84-M

[NM 46404]

New Mexico; Termination of Proposed Withdrawal and Reservation of Lands

May 27, 1982.

The Corps of Engineers, Department of the Army, filed application NM 46404 for withdrawal and reservation of lands published as FR Doc. 81–21530, pages 37981–2 of the issue for July 23, 1981. The lands were temporarily segregated from the operation of the public land laws, including the mining and mineral leasing laws. The applicant agency now has a right-of-way granted under NM 45808 and has cancelled its application in its entirety.

New Mexico Principal Meridian

T. 17 S., R. 6 E.,

A strip of land situated in the N½ of Section 27 and the NE¼ of Section 28, being 5,026.63 feet long and 150.00 feet wide, lying 60.00 feet on the northerly side of and 90.00 feet on the southerly side of the following described centerline:

Beginning from a point on the west boundary of Holloman Air Force Base, said point bears S. 80°22'35† W., a distance of 1,337.75 feet from the section corner common to Sections 22, 23, 26 and 27;
Thence S. 41°46'42' W., a distance of 55.86 feet to a point;
Thence S. 41°41'37' W., a distance of 916.57 feet to a point;
Thence S. 83°24'21' W., a distance of 3,544.25 feet to a point;
Thence N. 39°05'40' W., a distance of 510.00 feet to the point. Termination.

A strip of land 1,433.00 feet in length and 20.00 feet in width situate in the NE¼ of Section 21. Commencing from the section corner common to Sections 15, 16, 21 and 22, south 56°30'00' west a distance of 2,080.00 feet to a point; thence south 63°45'00' east a distance of 450.00 feet to the true Point of Beginning for said tract;

Thence continuing S. 63°45'00' E., a distance of 470.00 feet to a point; Thence S. 14°00'00' E., a distance of 718.00 feet to a point; Thence S. 10°00'00' E., a distance of 245.00 feet to the Point of Termination for this parcel.

A tract of land situate in the S½S½NE¼ of Section 21. Commencing from the section corner common to Sections 15, 16, 21 and 22, thence south 56°30'00' west a distance of 2,080.00 feet to a point; thence south 63°45'00' east a distance of 920.00 feet to a point; thence south 14°00'00' east a distance of 718.00 feet to a point; thence south 10°00'00' east a distance of 245.00 feet to the true Point of Beginning, said Point of Beginning being the northeast corner of said parcel;

Thence continuing S. 10°00'00' E., a distance of 175.00 feet to a point, said point being the southeast corner of said parcel; Thence S. 89°52'00' W., a distance of 660.00 feet to a point, said point being on the 16th line of Section 21; Thence N. 00°42'00' E., along the east 16th line of Section 21, a distance of 175.00 feet to a point, said point, being the northwest corner of said parcel; Thence N. 89°52'00' E., a distance of 620.00 feet to the Point of Termination for said parcel.

A tract of land situate in the NE¼ and N½SE¼ of Section 28, being more particularly described as follows:
All of the W½NE¼ except the SW¼SW¼ SW¼NE¼, W½E½NE¼, SW¼SW¼ NE¼NE¼ NE¼, W½W½SE¼NE¼NE¼, W½W½E½SE¼ NE¼, NE¼NW¼ NE¼NW¼SE¼, N½NE¼ NE¼NW¼SE¼, N½NW¼NW¼NE¼SE¼, N½NE¼ NW¼NE¼SE¼, SE¼NE¼NW¼NE¼ SE¼, NE¼SE¼NW¼NE¼SE¼, NW¼SW¼ NE¼NE¼SE¼, W½NW¼NE¼NE¼SE¼.
Sec. 21, E½NW¼NE¼.

The area described contains approximately 173.69 acres in Otero County.

Therefore, pursuant to the regulations contained in 43 CFR 2310.2–1(c) and subject to any valid existing rights, the lands described will be relieved of the above mentioned segregative effect at 9:00 a.m. on July 12, 1982.

All valid applications received at or prior to 9:00 a.m. July 12, 1982, shall be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

Any questions concerning these lands should be directed to the Chief, Lands Unit, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501.

Dennis R. Erhart,

Acting Chief, Division of Operations.

[FR Doc. 82-15145 Filed 6-3-82; 8:45 am]

BILLING CODE 4310-84-M

[OR 3784 and OR 3784–A(WASH)]

Oregon and Washington Termination of Classification for Multiple use Management

1. By order of the Oregon State Director, Bureau of Land Management, which was published in the **Federal Register** on March 13, 1969 (34 FR 5184), 23,997.13 acres of public lands under the jurisdiction of the Bureau of Land Management were classified for multiple use management pursuant to the Classification and Multiple Use Act of September 19, 1964 (43 U.S.C. 1411–18) and the regulations in 43 CFR 2460. The lands are located in Wallowa County, Oregon, and Garfield and Asotin Counties, Washington.

2. Pursuant to 43 CFR 2461.3(c)(2), the classification is terminated in its entirety upon publication of this notice in the **Federal Register.**

3. At 9:30 a.m., on July 9, 1982, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands involved will be open to operation of the public land laws. All valid applications received at or prior to 9:30 a.m., on July 9, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. Subject to the provisions of existing withdrawals, the lands have been and continue to be open to operation of the mining laws and minerals leasing law.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: May 25, 1982.

Paul M. Vetterick,

Associate State Director.

[FR Doc. 82-15153 Filed 6-3-82; 8:45 am]

BILLING CODE 4310-84-M

Utah; Realty Action Exchange

The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

T. 41 S., R. 13 W., S.L.M.
Sec. 5: Lots 1, 2 SW¼NE¼, SE¼NW¼ (159.36 ac.)
Sec. 7: SW¼SE¼ (40 ac.)
T. 41 S., R. 16 W., S.L.M.
Sec. 33: E½SE¼ (80 ac.)
Sec. 34: W½SW¼ (80 ac.)
T. 42 S., R. 13 W., S.L.M.
Sec. 8: NE¼SE¼ (40 ac.)
T. 42 S., R. 14 W., S.L.M.
Sec. 10: Lots 5, 6, 10, 11, NE¼SE¼ (127.18 ac.)
Sec. 15: SW¼NE¼ (40 ac.)
T. 42 S., R. 16 W., S.L.M.
Sec. 4: Lots 4, 7, 8, 9, SW¼NE¼, SE¼NW¼, E½SW¼ (325.83 ac.)
Sec. 9: Lots 1 thru 6, E½NW¼, W½SE¼ (364.19 ac.)
Sec. 14: NE¼NW¼ (40 ac.)
T. 42 S., R. 17 W., S.L.M.
Sec. 1: Lot 1 (40 ac.)
Total Acres: 1,336.56.

In exchange for these lands, the Federal Government will acquire the following tracts of non-Federal land in Washington County from the Thorley Cattle Company described as follows:

T. 39 S., R. 10 W., S.L.M.
Sec. 11: W½NW¼, W½SW¼ (160 ac.)
Sec. 14: NW¼SW¼ (40 ac.)
Sec. 20: S½NW¼, SW¼NE¼, SE¼SE¼, W½SE¼, E½SW¼ (320 ac.)
Sec. 21: S½NW¼, SW¼ (240 ac.)
Sec. 22: E½NE¼SE¼ (20 ac.)
Sec. 27: NW¼, N½SW¼, N½SE¼ (320 ac.)
Sec. 28: SE¼NW¼, NE¼SW¼, S½SW¼, SE¼ (320 ac.)
Sec. 29: E½NE¼, SE¼ (240 ac.)
Sec. 33: NW¼NW¼, E½NW¼, NE¼ (280 ac.)
Sec. 34: W½NW¼ (80 ac.)
Total Acres: 2,020.

The purpose of the exchange is to acquire private lands for better land management of Federal range and wildlife programs in the Virgin River Planning Unit. The exchange will include both surface and mineral estates. The exchange is consistent with the Bureau's planning for the lands involved. The exchange would be in the public interest.

The value of the lands to be exchanged will be approximately equal. Acreage will be adjusted or money will be used to equalize the values upon completion of the final appraisal of the lands. Upon publication of this notice these lands are hereby segregated from appropriation under the public land laws, including the mining laws. This segregation is in effect for two years or upon publication in the Federal Register of a termination of the segregation, whichever occurs first.

The terms and conditions applicable to the exchange are:

1. The conveyance document will include a reservation for all oil and gas leases until the leases expire. At that time, all oil and gas values will be released to the Thorley Cattle Company.

2. The conveyance document will include a reservation of a right-of-way for ditches and canals constructed by the authority of the United States in accordance with 43 U.S.C. 945.

3. The exchange of these lands will be subject to all existing rights, i.e., rights-of-way, water rights, etc.

Detailed information concerning the exchange is available for review at the Dixie Resource Area Office, 24 East St. George Blvd., St. George, Utah 84770.

For a period of 45 days, interested parties may submit comments to the Cedar City District Office, 1579 North Main, P. O. Box 724, Cedar City, Utah 84720. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department.

Dated: May 26, 1982.

Morgan S. Jensen,
District Manager.

[FR Doc. 82-15150 Filed 6-3-82; 8:45 am]
BILLING CODE 4310-84-M

Virginia; Coal Lease Offering by Sealed Bid

[ES 24616]

U.S. Department of the Interior, Bureau of Land Management, Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304. Notice is hereby given that certain coal resources in the tracts described below in Virginia will be offered for competitive lease by sealed bid followed by oral bids which shall begin at the level of the highest sealed bid in $5.00 increments in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437), as amended, and the Department of Energy Organization Act of August 4, 1977 (91 Stat. 565, 42 U.S.C. 7101). Pursuant to the regulations of 43 CFR 3422.3–1, only those submitting sealed bids may offer oral bids, and ⅛ of the total bonus bid must be tendered at the time of sale. The sale will be held at 2:00 p.m. June 29, 1982, at the Public Room of the Eastern States Office. All bids must be submitted to BLM, Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304. No bids received after 2:00 p.m. June 29, 1982 will be considered.

Coal Offered

The coal resource to be offered is to be mined underground from the Splashdam seam in the following lands located in Jefferson National Forest, Dickenson County, Virginia on Forest Service Tracts J–550–e, J–550–e–L. Containing 250.9 acres.

Resources have been calculated for underground mining. Recoverable reserves are estimated to be 300,000 tons. The coal should average 15,500 Btu/lb., moisture and ash free, with sulfur content of approximately .63 percent.

The minimum sealed bid shall be $110.00 or more per acre.

Jeff O. Holdren,
Authorized Officer.

[FR Doc. 82-15152 Filed 6-3-82; 8:45 am]
BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Application

The applicants listed below wish to conduct certain activities with endangered species:

Applicant: Frida K. Hofmann, Los Altos, CA—PRT 2–9205

The applicant requests a permit to purchase in interstate commerce one pair of captive-bred red siskins (*Spinus cucullatus*) from Patricia Demko, Pittsburgh, PA for enhancement of propagation.

Applicant: Brookfield Zoo, Brookfield, IL—PRT 2–9200

The applicant requests a permit to export two captive-born Goeldi marmosets (*Callimico goeldii*) to the Skansen-Akvariet Zoo, Stockholm, Sweden for enhancement of propagation.

Applicant: Little Rock Zoo, Little Rock, AR—PRT 2–9198

The applicant requests a permit to purchase in interstate commerce one female captive-bred jaguar (*Panthera onca*) from the Jacksonville Zoo for enhancement of propagation.

Humane care and treatment during transport has been indicated by the applicants.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by

writing to the U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on this application within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: June 1, 1982.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82-15185 Filed 6-3-82; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This Notice announces that Exxon Company, U.S.A., Unit Suboperator (Texaco is Unit Operator) of the Eugene Island Block 330, I–1 Sand, Reservoir B, and Unit Operator of the Eugene Island Block 330, I–2 Sand, Reservoir B, Federal Unit Agreement Nos. 14–08–0001–16928 and 14–08–0001–16929, respectively, submitted on May 20, 1982, a proposed supplemental plan of development/production describing the activities it proposes to conduct on the Eugene Island Block 330 I–1, Reservoir B, and I–2 Sand, Reservoir B Federal Units.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m. 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837–4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 28, 1982.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-15173 Filed 6-3-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that The Superior Oil Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0247, Block 102, West Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 28, 1982.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-15174 Filed 6-3-82; 8:45 am]

BILLING CODE 4310-31-M

Office of Surface Mining Reclamation and Enforcement

[Federal Lease Nos. W–60231 and 2–0321779]

Availability of Final Environmental Impact Statement on the Proposed North Antelope Mine, Campbell County, Wyo.

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: (OSM–EIS–6) Notice of Availability of Final Environmental Impact Statement.

SUMMARY: Pursuant to Section 1506.6 of Title 40, Code of Federal Regulations, notice is hereby given that the Office of Surface Mining (OSM), Western Technical Center, has prepared a final environmental impact statement (EIS) on the proposed North Antelope Mine. The EIS has been written to assist the Department in making a decision on North Antelope Coal Company's application to surface mine about 190 million tons of coal (average annual production 5 mty) over a period of 39 years. Alternative B, approval of a mining and reclamation plan which meets the requirements of the Surface Mining Control and Reclamation Act, other applicable laws, and special wildlife measures, has been selected as OSM's preferred alternative.

ADDRESSES: Copies of the final EIS may be obtained from Allen D. Klein, Administrator, Office of Surface Mining, Western Technical Center, Brooks Tower, 1020 Fifteenth Street, Denver, Colorado 80202.

Copies of the EIS are available for review at the Converse County Courthouse and the Douglas Library, Douglas, Wyoming; Campbell County Courthouse and the George Amos Memorial Library, Gillette, Wyoming; and at the state of Wyoming, Department of Environmental Quality, 401 Nineteenth Street, Cheyenne, Wyoming.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic (telephone 303–837–5656) at the location given under "ADDRESSES."

SUPPLEMENTARY INFORMATION: The proposed North Antelope Mine site is located about 62 miles south of the City of Gillette, and 58 miles north of Douglas, and 60 miles west of Newcastle, Wyoming. The mine would encompass 3,702 acres of State, private and Federal land (Thunder Basin National Grasslands) of which 2,096 acres would be disturbed for mining, roads, and facilities. The EIS evaluates

three alternative actions the Department could take on the mining and reclamation plan which has been submitted to OSM and the State of Wyoming. Those alternatives are: (A) approval of a plan which meets the requirements of SMCRA and all other applicable laws; (B) alternative A plus additional wildlife measures; and (C) disapproval or no action.

OSM, with assistance from the Geological Survey, Forest Service, Interstate Commerce Commission, and State of Wyoming, has analyzed the impacts of the alternatives. On or before June 7, 1982, copies of the final EIS will be sent only to the agencies, individuals and organizations listed in Chapter V of the draft EIS, to those who commented on the draft EIS and to those who specifically requested a copy of the final EIS. However, copies of the final EIS will be mailed upon request.

Dated: May 27, 1982.

J. Steven Griles,

Director.

[FR Doc. 82-15245 Filed 6-3-82; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by special rule of the Commission's rules of practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP1-92

Decided: May 26, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 2110 (Sub-14), filed May 17, 1982. Applicant: BOWLUS TRUCKING CO., INC., 200 County Rd. 143, Fremont, OH 43420. Representative: Richard H. Brandon, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017, (614)-889-2531. Transporting (1) *chemical and related products,* between points in Bergen County, NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (2) *health care, medical and surgical supplies,* between Chicago, IL, and points in Somerset County, NJ, Grayson County, TX, and San Mateo County, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 13070 (Sub-6), filed May 20, 1982. Applicant: GERALD LIPPOLD & RODNEY ARNETT, d.b.a. LIPPOLD & ARNETT, 1302 South Broad, Carlinville, IL 62626. Representative: Rodney Arnett, (same address as applicant), (217) 854-2508. Transporting *food and related products,* between points in IL, MO, AR, OK, IN, IA, KY, TN, GA, FL, TX, LA, KS, and WI.

MC 39140 (Sub-181), filed May 20, 1982. Applicant: A. DUIE PYLE, INC., 200 Garfield Avenue, West Chester, PA 19380. Representative: Alan Kahn, 1430 Land Title Building, Philadelphia, PA 19110, (215) 561-1030. Transporting *metal products,* and *those commodities which because of their size or weight require the use of special handling or equipment,* between points in Chester and Montgomery Counties, PA, on the one hand, and, on the other, points in AL, CT, FL, GA, LA, MA, ME, MS, NC, NH, RI, SC, TX, and VA.

MC 104881 (Sub-9), filed May 20, 1982. Applicant: GAY TRUCK LINE, INC., P.O. Box 134, Highway 15 S., Falkner, MS 38629. Representative: Harold D. Miller, Jr., 17th Floor Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205, (601) 948-5711. Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), (1) between Holly Springs, MS, and the MS-AL state line, over U.S. Hwy 78; and (2) between Baldwyn, MS, and Tupelo, MS, over U.S. Hwy 45 and U.S. Hwy 45 by-pass, serving all intermediate points and serving points in Marshall, Union, Lee and Itawamba Counties, MS, as off-route points in connection with (1) and (2) above.

Note.—Applicant intends to tack this authority with its otherwise authorized regular route authority.

MC 108121 (Sub-20), filed May 19, 1982. Applicant: TRANSPORT STORAGE & DISTRIBUTING CO., 18800 Southcenter Parkway, Tukwila, WA 98188. Representative: Michael B. Crutcher, 2000 IBM Building, Seattle, WA 98101, (206) 623-7580. Transporting *transportation equipment,* between points in the U.S., under continuing contract(s) with General Motors Corporation of Detroit, MI.

MC 111310 (Sub-71), filed May 20, 1982. Applicant: MILLIS TRANSFER, INC., P.O. Box 352, Black River Falls, WI 54615. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703, (608) 256-7444. Transporting *such commodities as are dealt in or*

used by processors and distributors of hides, between Milwaukee, WI, and Manchester, NH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 113000 (Sub-7), filed May 20, 1982. Applicant: RICHARD A. EVAVOLD, d.b.a. EVAVOLD TRUCKING, P.O. Box 166, Ashby, MN 56309. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108 (701) 237–4223. Transporting *building materials,* between points in the U.S. (except AK and HI), under continuing contract(s) with Pal-O-Pak Insulation Co., Inc., of Hartland, WI, Dalton Lumber Co., of Dalton, MN, Carlson Bros. Construction, Inc., of Evansville, MN, and Lakeside Lumber, of Ashby, MN.

MC 133570 (Sub-13), filed May 20, 1982. Applicant: A OF I, INC, Bellefontaine Road, P.O. Box 58, Hamilton, IN 46742. Representative: James P. Kirkhope, P.O. Box 15296, Fort Wayne, IN 46885, (219) 422–8884. Transporting (1) *iron and steel articles,* (2) *plastic and rubber articles,* (3) *machinery,* (4) *automotive parts,* (5) *pulp, paper and related articles,* and (6) *materials, equipment and supplies* used in the manufacture, distribution, installation and sale of the commodities in (1), (2), (3), (4) and (5) above, between points in the U.S. (except AK and HI).

MC 138841 (Sub-22), filed May 18, 1982. Applicant: BLACK HILLS TRUCKING CO., P.O. Box 2130, Rapid City, SD 57709. Representative: James W. Olson, P.O. Box 1552, Rapid City, SD 57709 (605) 342–7080. Transporting *general commodities,* (except classes A and B explosives and household goods), between points in CA, CO, IL, IA, KY, MN, NE, NV, NJ, NY, OR, UT, and WI, on the one hand, and, on the other, points in IA, IL, MN, MO, MT, NE, ND, SD, WI, and WY.

MC 143501 (Sub-13), filed May 20, 1982. Applicant: R.G.C. CARGO CARRIERS, INC., 16651 S. Vincennes Rd., S. Holland, IL 60473. Representative: Dean N. Wolfe, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877 (301) 840–8565. Transporting *such commodities,* as are dealt in or used by manufacturers of mirrors and mirrored tiles, between points in the U.S., under continuing contract(s) with Hoyne Industries, Inc., of Chicago, IL.

MC 144510 (Sub-7), filed May 20, 1982. Applicant: JERRY J. KOBS, INC., 131 Bridge Court, Sergeant Bluff, IA 51054. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114 (402) 397–8990. Transporting *food and related products,* between points in Dawson County, NE, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 144821 (Sub-17), filed May 20, 1982. Applicant: FREEDOM FREIGHTWAYS, INC., 9060 Latty Ave., St. Louis, MO 63134. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701, (601) 335–3576. Transporting (1) *such commodities* as are dealt in or used by retail department, variety and specialty stores, between points in the U.S. (except AK and HI); (2) *chemicals and machinery,* between ponts in Ouachita Parish, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (3) *lumber and wood products, and petroleum, natural gas and their products,* between points in Dent County, MO, and Lunenburg County, VA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: To the extent the certificate embraces the transportation of liquefied petroleum gas, it shall be limited to 5 years from the date of its issuance.

MC 145101 (Sub-4), filed May 20, 1982. Applicant: BILLY P. RUPPE, d.b.a. RUPPE MOTOR LINES, 309 Kraft St., Gaffney, SC 29340. Representative: Billy P. Ruppe (same address as applicant), (803)–489–4715. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 146080 (Sub-3), filed May 17, 1982. Applicant: McKINLEY MUNCY, JR., d.b.a. CARDINAL BUS LINES, 2759 5th Ave., Huntington, WV 25702. Representative: McKinley Muncy, Jr. (same address as applicant), (304) 525–7611. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, between points in WV, KY, and OH, on the one hand, and, on the other, points in the U.S.

MC 146940 (Sub-3), filed May 17, 1982. Applicant: LUMBEE TRUCKING COMPANY, INC., Route 2, Box 139, Maxton, NC 28364. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204, (704) 372–6730. Transporting *containers,* between points in Robeson County, NC, on the one hand, and, on the other, points in Martin County, IN.

MC 148060 (Sub-11), filed May 14, 1982. Applicant: STIVER LINES, INC., P.O. Box 8346, Topeka, KS 66608. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612, (913)–233–9629. Transporting *food and related products,* between points in the U.S. (except AK and HI).

MC 149111 (Sub-4), filed May 19, 1982. Applicant: GENERAL COMMODITIES WAREHOUSE & DISTRIBUTING CO., INC., 1200 Lebanon Road, West Mifflin, PA 15122. Representative: Sally A. Davoren, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222, (412) 471–3300. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Lebanon Chemical Corporation, of Lebanon, PA, Giant Eagle Markets, Inc., of Pittsburgh, PA, and Joseph E. Seagram & Sons, Inc., of New York, NY.

MC 150030 (Sub-3), filed May 20, 1982. Applicant: NICHOLAS POLSELLI, d.b.a. TEMPERATURE CONTROL TRANSPORT, 74 South St., Troy, NH 03465. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181, (617) 235–5571. Transporting *food and related products,* between points in MA, on the one hand, and, on the other, points in CT, DE, GA, ME, MD, NC, NH, NJ, NY, PA, RI, SC, VA, VT, and DC.

MC 151941 (Sub-7), filed May 17, 1982. Applicant: DELMONT E. HARTT, INC., U.S. Route 2, Etna, ME 04435. Representative: John C. Lightbody, 30 Exchange St., Portland, ME 04101, (207)–773–5651. Transporting *food and related products,* between points in the U.S. (except AK and HI).

MC 153421 (Sub-2), filed May 19, 1982. Applicant: PRINTCO, INC., P.O. Box 16039, Memphis, TN 38116. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703)–751–2441. Transporting *such commodities as are dealt in or used by wholesale, retail discount, variety, and department stores,* between points in Pulaski County, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *chemicals and related products,* between points in the U.S. (except AK and HI).

MC 155040 (Sub-3), filed May 18, 1982. Applicant: FRANK A. KAISER III, d.b.a. L & D TRANSPORT, 10383 Ave. 408, Dinuba, CA 93618. Representative: Dwight L. Koerber, 110 North Second St., P.O. Box 1320, Clearfield, PA 16830, (814)–765–9611. Transporting (1) *metal products,* and (2) *rubber and plastic products,* between points in Fresno, Stanislaus and Alameida Counties, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 156180, filed May 17, 1982. Applicant: PAUL J. JENSEN AND BETTY L. JENSEN, d.b.a. JENSEN BUS

SERVICE, Route 1, Sauk City, WI 53583. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719, (608) 273–1003. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, between points in Sauk, Columbia, and Dane Counties, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 157680 (Sub-1), filed May 21, 1982. Applicant: PAUL ZIRKLE, d.b.a. ZIRKLE TRUCK LINE, 9021 SW 79th St., Auburn, KS 66402. Representative: Clyde N. Christey, Ks Creidt Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612, (913)–233–9629. Transporting *metal products*, between points in Shawnee and Osage Counties, KS, on the one hand, and, on the other, points in OK, TX and CO.

MC 160401, filed May 20, 1980. Applicant: GLIDEWELL TRUCKING, INC., Rte. 1, Box 171, Ozark, MO 65721. Representative: Don Glidewell (same address as applicant), (417) 587–3428. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Lily-Tulip, Inc., of Toledo, OH, and General Electric Company, of Ft. Wayne, IN.

MC 160520, filed May 20, 1982. Applicant: OWENS, MINOR INC., 624 Wholesalers Parkway, Harahan, LA 70123. Representative: Harold R. Ainsworth, 2307 American Bank Building, New Orleans, LA 70130. Transporting *intervenous solutions and sets, and hospital supplies*, between points in Jefferson Parish, LA, on the one hand, and, on the other, points in MS.

MC 160790 (Sub-1), filed May 20, 1982. Applicant: C & M EXPRESS, INC., 766 W. Broadway, Gardner, MA 01440. Representative: James F. Martin, 8 W. Morse Rd., Bellingham, MA 02019, (617)–966–2093. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between (1) points in ME, NH, VT, RI, CT, MA, NY, NJ and PA; and (2) points in ME, NH, VT, RI, CT, MA, NY, NJ and PA, on the one hand, and, on the other, those points in the U.S. on the east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca County, MN, then northward along the westen boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada.

MC 160911, filed May 17, 1982. Applicant: PERU HOLLOW TRANSPORT CO., 1303 Peru Hollow Rd., Norwalk, OH 44857. Representative: Dennis A. Brown (same address as applicant), (419)–744–2454. Transporting *rubber and plastic products*, between points in the U.S., under continuing contract(s) with Killian Latex, Inc., of Akron, OH.

MC 161761, filed May 20, 1982. Applicant: MONTCLAIR MOTOR EXPRESS, INC., 147 Eagel Rock Way, Montclair, NJ 07042. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239–4610. Transporting *general commodities* (except classes A and B explosives and household goods), between points in NY, NJ, PA, DE, MD, VA, CT, MA, RI, and DC.

MC 162051, filed May 17, 1982. Applicant: BYRON TIMMS, d.b.a. FRED'S OF ATMORE, 100–102 S. Main Street, Atmore, AL 36502. Representative: H. J. Holcomb, 4300 New Getwell Road, Memphis, TN 38118, (901) 365–8880 (Ext. 3053). Transporting *such commodities* as are dealt in or used by department stores, between points in AL and MS, on the one hand, and, on the other, Memphis, TN, under continuing contract(s) with Baddour, Inc., of Memphis, TN.

MC 162071, filed May 17, 1982. Applicant: THE HELEN TOUR COMPANY, P.O. Box 152, S. Main St., Helen, GA 30545. Representative: Pam Parker (same address as applicant), (404) 878–2400. As a broker at Helen, GA, in arranging for the transportation of *passengers and their baggage*, in the same vehicle with passengers, between points in GA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162100, filed May 20, 1982. Applicant: JOSEPH WRIGHT, d.b.a. SUCCESS DELIVERY SERVICE, 101 Keer Ave., Newark, NJ 07112. Representative: Rick A. Rude, Suite 611, 1730 Rhode Island Ave., NW., Washington, DC 20036, (202) 223–5900. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Inter State Express, Inc., of Brooklyn, NY.

Volume No. OP2–110

Decided: May 26, 1982.

By the Commission, Review Board No. 1, members Parker, Chandler, and Fortier.

MC 89693 (Sub-49), filed May 6, 1982. Applicant: HARMS PACIFIC TRANSPORT, INC., 7322 N. Division St., Suite 209, Spokane, WA 99208. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98009, 206–453–0312. Transporting *commodities in bulk*, between points in WA, ID, and OR.

MC 117173 (Sub-2), filed May 6, 1982. Applicant: McCARTER TRANSIT, INC., 2569 Darlington Rd., Beaver Falls, PA 15010. Representative: John A. Pillar, 1500 Bank Tower, 307 4th Ave., Pittsburgh, PA 15222, 412–471–3300. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, between points in the U.S., under continuing contract(s) with 20th Century Tours, Inc., of Youngstown, OH.

MC 119752 (Sub-12), filed May 11, 1982. Applicant: G & G HAULAGE CO., INC., 125 Henderson Street, Jersey City, NJ 07302. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048, (212) 466–0220. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI).

MC 124813 (Sub-241), filed May 6, 1982. Applicant: UMTHUN TRUCKING CO., 910 South Jackson St., Eagle Grove, IA 50533. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, 515–282–3525. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Weyerhaeuser Company, of Tacoma, WA.

MC 142872 (Sub-188), filed May 12, 1982. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., Highway 64 West, P.O. Drawer F, Mulberry, AR 72947. Representative: Harry Keifer (same address as applicant), 501–997–1683. Transporting *food and related products*, between points in Summit County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 143553 (Sub-11), filed May 6, 1982. Applicant: CONTINENTAL TRANSPORT SYSTEMS, INC., 35 Main St., Versailles, CT 06383. Representative: Ronald I. Shapss, 450 7th Ave., New York, NY 10123, 212–239–4610. Transporting (1) *chemicals and plastic articles*, between points in the U.S. (except AK and HI), under continuing contract(s) with Whitestone Chemical Company, of Spartansburg, SC, and (2) *chemicals, cleaning compounds, soaps, and toilet preparations*, between points

in the U.S. (except AK and HI), under continuing contract(s) with Purex Corporation, of Lakewood, CA.

MC 143553 (Sub-12), filed May 10, 1982. Applicant: CONTINENTAL TRANSPORT SYSTEMS, INC., 35 Main St., Versailles, CT 06383. Representative: Ronald I. Shapss, 450 7th Ave., New York, NY 10123, 212–239–4610. Transporting *metal products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Eastern Steel and Metal Co., of Milford, CT.

MC 145102 (Sub-87), filed May 13, 1982. Applicant: FREYMILLER TRUCKING, INC., 1400 S. Union Ave., Bakersfield, CA 93307. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703, 608–256–7444. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of building materials, between points in the U.S. (except AK and HI), under continuing contract(s) with Donn Corporation, of Westlake, OH.

MC 145632 (Sub-5), filed May 13, 1982. Applicant: OTTUMWA TRANSIT LINES, INC., 1414 West Second St., Ottumwa, IA 52501. Representative: Steven C. Schoenebaum, 1200 Register and Tribune Bldg., Des Moines, IA 50309, (515) 283–2076. Transporting *passengers and their baggage, in the same vehicles with passengers,* in special and charter operations, beginning and ending at points in Clark, Decatur, Lucas, and Wayne Counties, IA, and Audrain, Boone, Callaway, Carroll, Chariton, Howard, Lincoln, Linn, Livingston, Marion, Monroe, Montgomery, Pike, Ralls, Randolph, Saline, and Shelby Counties, MO, and extending to points in the U.S. (except AK and HI).

MC 148743 (Sub-3), filed May 10, 1982. Applicant: JOEY CRAWFORD TRUCKING CO., R. 1, Box 366–D, Farmington, MO 63640. Representative: Joey Crawford (same address as applicant), 314–756–3090. Transporting *commodities in bulk,* between those points in the U.S., in and east of ND, SD, WY, CO, and NM.

MC 156863, filed May 10, 1982. Applicant: ROSE CARTAGE SERVICE, INC., 17711 Paxton Ave., Lansing, IL 60438. Representative: Edward G. Finnegan, 134 North LaSalle St., Chicago, IL 60602, 312–782–9500. Transporting *building and construction materials, equipment, and supplies,* between points in IL, WI, IN, and MI, under continuing contract(s) with Harvey Cement Products, Inc., of Harvey, IL, and Continental Concrete Pipe Corporation, of Posen, IL.

MC 159733, filed May 10, 1982. Applicant: S & L TRUCKING, INC., P.O. Box 322, Harvard, IL 60033. Representative: William F. Mix, 21 A Muzzey St., Lexington, MA 02173, 617–861–7305, Transporting *General commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. under continuing contract(s) with Morton Chemicals, Division of Morton Norwich Products, of Woodstock, IL.

MC 161852 (Sub-1), filed May 6, 1982. Applicant: TROPHY TRANSPORT, INC., P.O. Box 2352, Dalton, GA 30720. Representative: Gerald K. Gimmel, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, 301–840–8665. Transporting *General commodities* (except classes A anf B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Beaulieu of America, Inc., Dalyn Corp., and L & P Sales, all of Dalton, Ga.

MC 161853, filed May 6, 1982. Applicant: SPECIAL OCCASION SERVICES, 1003 E. Catawba St., Belmont, NC 28012. Representative: Reita L. Spence (same as applicant) (704) 825–2242. As a *broker,* at points in NC and SC, in arranging for the transportation, by motor vehicle, of *Passengers and their baggage* in the same vehicle with passengers, in round-trip special and charter operations, beginning and ending at points in NC and SC, and extending to points in the U.S.

MC 161943, filed May 11, 1982. Applicant: MOTOR CARRIER EXPRESS, INC., 906 Woodland Drive, Cardinal Bldg., Suite 208, Elizabethtown, KY 42701, Representative: Douglas F. Stancell, P.O. Box 440, Hermitage, TN 37076, 615–885–1330. Transporting *General Commodities* (except classes A and B explosives and household goods), between points in KY and TN, on the one hand, and, on the other points in the U.S. (except AK and HI).

MC 161952, filed May 10, 1982. Applicant: UTILITY PROPANE COMPANY, One Elizabethtown Plaza, Elizabeth, NJ 07207, Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue, N.W., Washington, DC 20005, (202) 347–9332.Transporting *liquefied natural and petroleum gases, bulk heating oil and diesel fuel,* (1) between points in MA, RI, CT, NH, VT, ME, NY, NJ, PA, and DE; and (2) between points in MA, RI, CT, NH, VT, ME, NY, NJ, PA, and DE, on the one hand, and, on the other, those points in U.S. in and east of WI, IL, KY, TN, and MS. Condition: To the extent any certificate issued in this proceeding authorizes the transportation of liquefied and petroleum gases, it shall be limited in point of time to a period expiring 5 years from its date of issuance.

MC 161962, filed May 12, 1982. Applicant: P T L TRANSPORTS, INC., Rte. 1, Box 56M, Cyoress, TX 77429. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103, (817) 332–4718. Transporting *chemicals and related products,* between points in TX, on the one hand, and on the other, points in CA, CO, GA, IL, LA, MS, MO, NJ, OK, VA, and WA.

MC 162053, filed May 18, 1982. Applicant: ADVENTURE CHARTERS AND TOURS, INC., 4328 South Seville St., Las Vegas, NV 89121. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, 415–986–8696. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Clark County, NV, and Iron and Washington Counties, UT, and extending to points in the U.S. (except AK and HI).

Volume No. OP 2–111

Decided: May 27, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 42212 (Sub-4), filed May 20, 1982. Applicant: HARDER'S EXPRESS, INC., Rte. 9-H, Claverack, NY 12513. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, 201–836–1144. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NY, NJ, CT, and Berkshire County, MA, on the one hand, and, on the other, points in PA, DE, MD, WV, VA, VT, ME, NH, RI, MA, CT, NJ, NY, and DC.

MC 42343 (Sub-21), filed May 12, 1982. Applicant: CORPENZA, INC., 310 Chestnut Avenue, Vineland, NJ 08360. Representative: Mark D. Russell, Suite 348, Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004–1879, (202) 737–2188. Transporting *petroleum, natural gas and their products,* between points in Gloucester County, NJ, on the one hand, and, on the other, points in Berks, Cumberland, Lackawanna, Lancaster, Luzerne and York Counties, PA, and DE. Condition: To the extent any certificate issued in this proceeding authorizes the transportation of liquid petroleum gas, it shall be limited in point of time to a period expiring 5 years from its date of issuance.

MC 61502 (Sub-14), filed May 20, 1982. Applicant: WM. McCULLOUGH TRANSPORTATION CO., INC., 1130 U.S. Hwy No. 1, Elizabeth, NJ 07201. Representative: Ronald I. Shapss, 450 7th Ave., New York, NY 10123, 212–239–4610. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between Baltimore, MD, New York, NY, Charleston, SC, Boston, MA Philadelphia, PA, and Norfolk, VA, on the one hand, and, on the other, points in OH, IN, IL, NC, and SC.

MC 107012 (Sub-764), filed May 20, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, Fort Wayne, IN 46818. Representative: Bruce Boyarko (same address as applicant), 219–429–2224. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with M. Fortunoff of Westbury Corporation, of Westbury, NY.

MC 107012 (Sub-765), filed May 20, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, Fort Wayne, IN 46818. Representative: Bruce W. Boyarko (same address as applicant), 219–429–2224. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Western Publishing Co., Inc., of Racine, WI.

MC 107012 (Sub-766), filed May 20, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same address as applicant), 219–429–2224. Transporting *General commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Rockwool Industries, Inc., of Denver, CO.

MC 107012 (Sub-767), filed May 20, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same address as applicant), 219–429–2224. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with General Felt Industries, Inc., of Saddle Brook, NJ, and its subsidiaries.

MC 107012 (Sub-768), filed May 20, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same address as applicant), 219–429–2224. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Merillat Industries, Inc., of Adrian, MI.

MC 143553 (Sub-10), filed April 23, 1982. Applicant: CONTINENTAL TRANSPORT SYSTEMS, INC., 35 Main St., Versailles, CT 06383. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239–4610. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with The Stop & Shop Companies, Inc., of Boston, MA.

MC 145042 (Sub-18), filed May 11, 1982. Applicant: ZEELAND FARM SERVICES, INC., 2468 84th Ave., Zeeland, MI 49464. Representative: James R. Neal, 1200 Bank Lansing Bldg., Lansing, MI 48933, (517) 482–2400. Transporting *food and related products*, between those points in the U.S. in and east of MN, IA, MO, AR and LA.

MC 146502 (Sub-4), filed May 10, 1982. Applicant: L.F. CARTER, INC., Field Avenue, P.O. Box 224, Pittsford, VT 05763. Representative: Jack R. Abell, 29 South Main Street, P.O. Box 975, Rutland, VT 05701, (802) 775–6461. Transporting *ground limestone products and marble, granite and travertine building stone*, between points in Rutland County, VT, on the one hand, and, on the other, points in NJ, PA and RI, under continuing contract(s) with OMYA, Inc., of Proctor, VT.

MC 149063 (Sub-2), filed April 12, 1982. Applicant: BILL'S TRUCKING INC., 135 north State Street, Clairton, PA 15025. Representative: Robert J. Walshak (same address as applicant), (412) 461–4900. Transporting *metal products and machinery*, between points in the U.S., (except HI).

MC 151092, filed May 7, 1982. Applicant: LOCKLAR ENTERPRISES, INC., d.b.a. EXECUTIVE DELIVERY SERVICES, P.O. Box 18312, Greensboro, NC 27419. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Bldg., Charlotte, NC 28204, (704) 372–6730. Transporting *New furniture and fixtures*, between points in NC, on the one hand, and, on the other, points in the U.S. (except AK and HI.)

MC 14172 (Sub-1), filed May 10, 1982. Applicant: JIM MALEK d.b.a. JIM MALEK TRUCKING, 611 Shumway, Faribault, MN 55021. Representative: Jim Malek (same address as applicant), (507) 334–2129. Transporting *fabricated metal parts*, between points in the U.S., under a continuing contract(s) with Hofmann Industries, Inc., of Owatonna, MN.

MC 155913 (Sub-4), filed May 6, 1982. Applicant: SELDEN AND SPENCER, INC., Route 661, Chance, VA 22439. Representative: Carroll B. Jackson, 1610 Vincennes Rd., Richmond, VA 23229, (804) 282–3809. Transporting *(1) building materials, (2) chemicals and related products; (3) clay, concrete, glass or stone products, (4) lumber and wood products, (5) machinery, (6) metal products, (7) miscellaneous manufactured products, (8) pulp, paper and related products, (9) rubber and miscellaneous plastic articles, and (10) transportation equipment*, between points in VA, on the one hand, and, on the other, those points in the U.S. in and east of MI, IN, KY, TN, MS, and LA.

MC 157713 (Sub-2), filed May 13, 1982. Applicant: JOHNNY GOODNOH TRUCKING COMPANY, INC., Route 2, Box 45, Mulberry, AR 72947. Representative: George Spencer, 7 North Block, Fayetteville, AR 72701, (501) 442–0585. Transporting *barite and bentonite*, between points in Big Horn and Natrona Counties, WY, on the one hand, and, on the other, points in Beckham, Carter, Canadian, Custer, Garfield and Garvin Counties, OK, and Bee, Eastland, Ector, Grayson, Maverick, Midland, Reeves, Taylor and Washington Counties, TX.

MC 160983 (Sub-1), filed May 12, 1982. Applicant: GIN'S TRANSPORTATION, 5000 Wyoming, Dearborn, MI 48126. Representative: James F. Schouman, 21925 Garrison, Dearborn, MI 48124, (616) 561–3548. Transporting *iron and steel, and machinery* between points in MI, on the one hand, and, on the other, points in TN, KY, AL, GA, MO, IL, OH, IN, IA, WV, KS and PA.

MC 161653, filed April 23, 1982. Applicant: GOLD LINE TRANSPORT LTD., P.O. Box 91, Newcastle, New Brunswick, Canada E1V 3M2. Representative: Harold C. Pachios, 443 Congress Street, Portland, ME 04101, (207) 775–5831. Transporting *wood pulp, paper, and related products* between points in the U.S., under continuing contract(s) with Boise Cascade Canada Limited of Newcastle, New Brunswick, Canada.

MC 161872, filed May 6, 1982. Applicant: MARVIN MILLAM, d.b.a. M & L TRUCKING, Rte 1, Box 302, Brainerd, MN 56401. Representative: James M. Christenson, 4444 IDS Center, 80 South Eighth St., Minneapolis, MN 55402, (612) 339–4546. Transporting (1)

lumber, wood and forest products, between points in MN, WI, IA, SD, and ND, on the one hand, and, on the other, points in AL, MS, AR, MN, IA, MT, ID, WA, OR, CA, ND, SD, and WI.

MC 161902, filed May 10, 1982. Applicant: CKL BUS RENTAL SYSTEM, INC., d.b.a. CKL BUS SERVICE, 9 W Street, NW, Washington, D.C. 20001. Representative: Charles W. Tate (same address as applicant). Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter and special operations, between points in Washington, D.C., on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161922, filed May 10, 1982. Applicant: REXLOR TRANSPORT, P.O. Box 13, Upper Sandusky, OH 43351. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415, (212) 263–2078. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with anchor Swan Corporation, of Bucyrus, OH, the Budd Company, of Madison Heights, MI, Guardian Industries, Inc., of Upper Sandusky, OH, Interior Steel, of Rockville, MD, and Mills Metal Compartment Co., Inc., of Upper Sandusky, OH.

MC 162002, filed May 14, 1982. Applicant: VISTA ROYALE TRAVEL SERVICE, INC., 5430 Lauby Rd.-Akron-Canton Airport, North Canton, OH 44720. Representative: Boyd B. Ferris, 50 West Broad St., Columbus, OH 43215, 614–464–4103. As a *broker,* at North Canton, OH, in arranging for the transportation by motor vehicle, of *passengers and their baggage,* in the same vehicle with passengers, in charter and special operations, between points in OH, on the one hand, and, on the other, points in the U.S.

MC 162122, filed May 20, 1982. Applicant: ROBERT F. FENNESSEY, d.b.a. L & S TRANSFER, 117 Tosca Drive, Stoughton, MA 02072. Representative: Robert F. Fennessey (same address as applicant), (617) 344–6732. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) between points in CT, ME, MD, MA, NH, NJ, NY, PA, VT, and RI.

Volume No. OP4–189

Decided: May 24, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 54567 (Sub-17), filed May 17, 1982. Applicant: RELIANCE TRUCK CO., 2500 N. 24th Ave., Phoenix, AZ 85009. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014, (602) 264–4891. Transporting *general commodities* (except classes A and B explosives and household goods), between points in Rogers County, OK, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 65697 (Sub-64), filed May 18 1982. Applicant: TSC EXPRESS CO., P.O. Box 1695, Atlanta, GA 30301. Representative: Paul W. Smith, (same address as applicant), (404) 521–0730. Over regular routes, transporting *general commodities* (except classess A and B explosives), serving points in AL, GA, KY, MS, NC, and TN as off-route points in connection with carrier's otherwise authorized regular-route operations.

MC 70557 (Sub-58), filed May 17, 1982. Applicant: NIELSEN BROS. CARTAGE CO., INC., 4619 W. Homer St., Chicago, IL 60639. Representative: Edward G. Bazelon, 29 S. La Salle St., Chicago, IL 60613, (312) 236–9375. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Pensacola Christian Schools, Inc., of Pensacola, FL, Rand and McNally & Company, of Skokie, IL, Outboard Marine Corporation, of Waukegan, IL, and The Clorox Company, of Oakland, CA, and its wholly-owned subsidiaries.

MC 144057 (Sub-5), filed May 6, 1982. Applicant: WHITEHALL TRANSPORT, INC., P.O. Box 387, Whitehall, WI 54773. Representative: Joseph E. Ludden, 2707 S. Ave., P.O. Box 1567, La Crosse, WI 54601, (608) 788–2000. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Kane-Miller Corporation, of Tarrytown, NY, and Tonka Toys, of Mound, MN.

MC 160397, filed May 17, 1982. Applicant: C. R. COPE ENTERPRISES–LCM, Route 4, Box 120, Seminole, TX 79360. Representative: Timothy Mashburn, P.O. Box 2207, Austin, TX 78768, (512) 476–6391. Transporting *Mercer commodities,* between points in KY, MI, NC, SC, and VA, on the one hand, and, on the other, points in the U.S. in and west of LA, AR, MO, IA and MN.

MC 160457, filed May 17, 1982. Applicant: LAREWS LEASING CO., Route 5, Forest Pines Dr., P.O. Box 884, Statesboro, GA 30458. Representative: Ralph M. Andrews, (same address as applicant), (912) 489–8811. Transporting *passengers and their baggage,* in special and charter operations, beginning and ending at points in Bulloch, Jenkins, Screven, Effingham, Bryan, Liberty, Evans, Candler, and Chatham Counties, GA, and extending to points in the U.S. (except AK and HI).

MC 160767 (Sub–2), filed May 17, 1982. Applicant: LADD TRANSPORTATION, INC., One Plaza Center, P.O. Box HP–3, High Point, NC 27261. Representative: Beverly C. Davis (same address as applicant), (919) 889–0333. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Scott Paper Co., of Philadelphia, PA.

MC 161037, filed March 16, 1982. Applicant: TRI–S, INC., 112 Pine Knob Dr., South Windsor, CT 06074. Representative: Frank P. Pappalardo (same address as applicant), (203) 644–0860. Transporting *waste materials and hazardous waste materials,* between points in CT and MA, on the one hand, and, on the other, points in NY, NJ, OH, PA, MD, and CT.

MC 161067, filed May 17, 1982. Applicant: SAMAR MOTOR STAGES, INC., 4358 McClure Rd., Gurnee, IL 60031. Representative: Patrick H. Smyth, 105 West Madison St., Suite 1008, Chicago, IL 60602, (312) 263–2397. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special operations, beginning and ending at points in Lake County, IL and Kenosha County, WI, and extending to points in the U.S.

MC 161407 filed May 17, 1982. Applicant: MARTINI, INC., P.O. Box #1, Rt. #309, Drums, PA 18222. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18571, (717) 344–8030. Transporting *foodstuffs and related products,* (1) between Lackawanna County, PA, on the one hand, and, on the other, New York, NY, and points in Forseyth County, NC, Campbell County, KY, Baltimore County, MD, and Allen County, IN; and (2) between Luzerne County, PA, on the one hand, and, on the other, New York, NY, and points Peoria County, IL, Milwaukee County, WI, Houston County, GA, Monroe County, NY, Forseyth County, NC, and Campbell County, KY.

MC 162017, filed May 17, 1982. Applicant: ED OLPIN, d.b.a. OLPIN TRUCKING, 275 W 2nd S, Pleasant Grove, UT 84062. Representative: Bruce W. Shand, 311 S State St., Suite 280, Salt Lake City, UT 84111, (801) 531–1300. Transporting *food and related products,* between points in the U.S., under

continuing contract(s) with Timberlake Cheese Co., Inc., of Timber Lake, SD.

MC 162067, filed May 18, 1982. Applicant: SHIRLEY A. MITCHELL, d.b.a. HAPPY VAGABOND TOURS, R.R. 1, North Main, Crete, NE 68333. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St., NW, Washington, DC 20005, (202) 783–7900. To operate as a *broker*, at Crete, NE, in arranging for the transportation of *passengers and their baggage*, between points in the U.S. (except HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15128 Filed 6-3-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 8, 1961, are governed by special rule of the Commission's rules of Practice, see 49 C.F.R. 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 F.R. 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 F.R. 80109.

Persons wishing to oppose an application must follow the rules under 49 C.F.R. 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarly, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operatins (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP1–83

Decided: May 26, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 160421 (Sub-2), filed May 17, 1982. Applicant: TIGER EXPRESS, INC., Ripley St., Lake Station, IN 46405. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602, (312) 236–5944. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Hebron and LeRoy, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 162060, Filed May 18, 1982. Applicant: IMPERIAL DISTRIBUTION SERVICES, INC., P.O. Box 16362, Denver, CO 80216. Representative: Edward J. Kiley, 1730 M St., N.W., Washington, DC 20036 (202)–296–2900. As a *broker* of *general commodities* (except classes A and B expolsives and household goods), between points in the U.S. (except AK and HI).

MC 161101, filed May 20, 1982. Applicant: COURT TRANSPORTATION SERVICES, INC, 11 Baldwin St., Bloomfield, NJ 07003. Representative: Peter Gregory Lordi, Jr., (same address as applicant), (201)–429–8050. As a *broker* of *general commodities* (except household goods), between ponts in the U.S. (except AK and HI).

Volume No. OP2–109

Decided: May 26, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 161852, filed May 6, 1982. Applicant: TROPHY TRANSPORT, INC., P.O. Box 2352, Dalton, GA 30720. Representative: Gerald K. Gimmel, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, 301–840–8565. As a *broker of general commodities* (except household goods) between points in the U.S. (except AK and HI).

MC 162033, filed May 17, 1982. Applicant: DAVID DENEAULT, ROLAND DUBOIS d.b.a. DRD ASSOCIATES, 848 Pleasant St., New Bedford, MA 02740. Representative: David Deneault, (same address as applicant), 617–999–2929. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP2–112

Decided: May 27, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 161502, filed April 14, 1982. Applicant: KENNETH D. KIMBROUGH, 4725 W. Cochise Dr., Glendale, AZ 85302. Representative: Stephanie Kimbrough, (same address as applicant), (602) 931–0450. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161892, filed May 6, 1982. Applicant: HUBBARD EQUIPMENT CORP., 1612 Fifth Ave., Bay Shore, NY 11706. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572–5551. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) between points in the U.S. (except AK and HI).

Volume No. OP4–190

Decided: May 24, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 148857 (Sub-4), filed May 17, 1982. Applicant: CHILD TRUCK LINE, INC., 711 S. Third St., Chowchilla, CA 93610. Representative: Herb Nelson, P.O. Box 995, Chowchilla, CA 93610, (209) 665–3741. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) between points in the U.S. (except AK and HI).

MC 161527, filed May 14, 1982. Applicant: EVERETT JOHNSON, d.b.a. EVERETT JOHNSON TRUCKING, Rt. 9, Box 136, Caldwell, ID 83605. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343–3071. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 162047, filed May 18, 1982. Applicant: PANELLA TRUCKING, INC., 5000 E. Fremont St., Stockton, CA 95205. Representative: Daniel W. Baker, 100 Pine St., No. 2550, San Francisco, CA 94111, (415) 986–1414. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) between points in the U.S. (except AK and HI).

MC 162057, filed May 17, 1982. Applicant: L&T INVESTMENTS, INC., Route 4, Box 490, Trinity, NC 27370. Representative: William G. Morris, 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–15127 Filed 6–3–82; 8:45 am]

BILLING CODE 7035–01–M

[Permanent Authority Decisions Volume No. 262]

Motor Carriers; Permanent Authority Restriction Removals; Decision-Notice

Decided: May 28, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian carrier applicants: In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC–157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Ewing, and Williams.

Agatha L. Mergenovich,

Secretary.

MC 109449 (Sub-73)X, filed May 10, 1982. Applicant: KUJAK TRANSPORT, INC., 6366 West Sixth St., P.O. Box 799, Winona, MN 55987. Representative: Daniel O. Hands, 205 West Touhy Ave., Suite 200A, Park Ridge, IL 60068. Subs-66, 67, 70, and 71, (1) broaden to (A) "general commodities (except classes A and B explosives, household goods, and commodities in bulk)" from general commodities (with exceptions) in Sub 66 part (20), (B) "chemicals and related products" from fertilizer in Sub 66 parts (11), (12) and (27), (C) "ores and minerals and clay, concrete, glass or stone products" from sand and gravel in Sub 66 parts (14), (26) and (30), (D) "food and related products" from (a) grain products, dry animal and poultry feeds, and dry feed ingredients in Sub 66 part (31), (b) malt beverages and confectionery in Sub 67, (c) foodstuffs and nonedible food products in Sub 70, (E) "furniture and fixtures" from mattresses, box springs, hide-a-beds, studio couches, bedframes, headboards and roll-a-way cots in Sub 71; (2) remove the restriction to or against the transportation of bulk products and other restrictions limiting vehicle use in Subs 66 parts (12), (27), 67, 70 and 71, (3) expand to counties (A) Winona, MN (Winona County) in Sub 66, (B) points in IA, MN, and WI within 200 miles of Winona, MN (Winona, Houston, Fillmore, Wabasha, Olmstead, Mower, Goodhue, Dodge, Dakota, Ramsey, Washington, Chicago, Pine, Carlton, St. Louis, Freeborn, Waseca, Steele, Rice, Scott, Hennepin, Anoka Isanti, Kanabec, Aitkin, Faribault, Blue Earth, Micollet, Le Sueur, Carver, Sibley, McLeod, Wright, Sherburne, Benton, Morrison, Mille Lacs, Crow Wings, Cass, Martin, Watonwan, Brown, Renville, Meeker, Stearns, Todd, Wadena, Jackson, Cottonwood, Redwood, Chippewa, Kandiyohi, Pope, Doughlas, Nobles, Murray, Lyon, Yellow Medicine, Lac Qui Parle, and Swift Counties, MN, Allamakee, Benton, Black Hawk, Boone, Bremer, Buchanan, Butler, Cedar, Cerro Gordo, Chickasaw, Clay, Clayton, Clinton, Delaware, Dickinson, Dubuque, Emmet, Fayette, Floyd, Franklin, Grundy, Hamilton, Hancock, Hardin, Howard, Humboldt, Iowa, Jackson, Johnson, Jones, Kossuth, Linn, Marshall, Mitchell, Palo Alto, Pocahontas, Poweshiek, Story, Tama, Webster, Winnebago, Winneshiek, Worth and Wright Counties, IA, and points in Wisconsin), in Sub 66 parts (11) and (12), (C) Arcadia, Gale, Trempealeau and Doge, WI (Trempealeau County), and Buffalo, Cross and Glencoe, WI (Buffalo County) in Sub 66 part (20), (D) points in MN within 35 miles of Winona, MN (Winona, Houston, Fillmore, Wabasha and Olmstead Counties) in Sub 66 part (20), (E) Winona, MN and points within 5 miles thereof (Winona County, MN and Trempealeau County, WI) in Sub 66 part (26), (F) Cochrane, WI (Buffalo County) in Sub 66 part (31), (G) LaCrosse, WI (LaCrosse County), WI, New Ulm, MN (Brown County) and Reading, PA (Berks County) in Sub 67, (H) Hodgkins, IL (Cook County) in Sub 70; (4) remove the plantsite restriction in Subs 67, 70 and 71; (5) change one-way to radial in Sub 66 parts (11), (12), (14), (20), (26), (27) and (30), and Subs 67, 70 and 71; (6) remove originating at and/or destined to restriction in Subs 67 and 70.

MC 111936 (Sub-33)X, filed May 20, 1982. Applicant: MURROW'S TRANSFER, INC., P.O. Box 4095, High Point, NC 27263. Representative: Wilmer B. Hill, Suite 366, 1030 Fifteenth St., NW., Washington, DC 20005. Sub-Nos. 17 and 19 (1) broaden wire to "metal products", Sub 17 and foodstuffs to "food and related products", Sub 19, (2) broaden Kouts, IN facilities to Porter County; High Point, NC to Guilford County, Sub 17, and (3) to radial authority, Sub 17.

MC 126402 (Sub-21)X, filed May 20, 1982. Applicant: JACK WALKER TRUCKING SERVICE, INC., 1506 Fort Sumpter Ct., Lexington, KY 40505. Representative: William L. Willis, 702 McClure Bldg., Frankfort, KY 40601. Subs 1, 3, 4, 5, 6, 8, 9, 10, 12, 15, 16, 17, 18, and 19 certificates: broaden to (1) "food and related products" from malt beverages, in containers, and/or empty malt beverage containers, all Subs; (2) county-wide authority: (a) Sub 1, Milwaukee-Milwaukee County, WI; Fort Wayne-Allen County, IN; and Peoria-Peoria County, IL; (b) Sub 3, Milwaukee-Milwaukee County, WI; St. Joseph-Buchanan County, MO; South Bend-St. Joseph County, IN; and Darfork-Perry County, KY; (c) Sub 4, Milwaukee-Milwaukee County, WI, and St. Joseph-Buchanan County, MO; (d) Sub 5, Ft. Wayne-Allen County, IN; Milwaukee-Milwaukee County, WI; and Peoria Heights-Peoria County, IL; (e) Sub 8, Winston-Salem-Forsythe County, NC and facilities near Perry-Houston County, GA; (f) Sub 10, St. Joseph-Buchanan County, MO and Milwaukee-Milwaukee County, WI; (g) Sub 16, facilities in Bourbon County with Bourbon County, KY; (h) Sub 17, Eden-Rockingham County, NC; and (i) Sub 19, Perrysburg-Wood County, OH; and (3) radial authority, all Subs.

MC 143649 (Sub-9)X, filed May 20, 1982. Applicant: FIGANBAUM TRUCKING, INC., Tripoli, IA 50676. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Subs 1, 2, 5F, 7F, and 8F: (1) Broaden (a) fertilizer and fertilizer materials to "chemicals and related products" in Subs 1, 2, 7F and 8F; and (b) liquefied petroleum gas to "petroleum and coal products" in Sub 5F; (2) remove facility limitations; (3) change one-way to radial authority; (4) replace Whiteside County, IL and Clinton County, IA, for Albany, IL (Sub 1); Dubuque County, IA, Jo Daviess County, IL, and Grant County, WI, for East Dubuque, IL (Sub 2); Chickasaw County, IA, for New Hampton, IA (Sub 5F); and Cerro Gordo County, IA, for Mason City, IA (Sub 7F); and (5) remove in bulk/in tank vehicles restrictions in Subs 1, 5F, and 7F.

[FR Doc. 82-15128 Filed 6-3-82; 8:45 am]
BILLING CODE 7035-01-M

Decision Notice

Motor Carrier; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC-FC-79773. By decision of May 19, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to NORTHLAND PRODUCE, INC. of Permit No. MC-144696 (Sub-Nos. 8X and 12X) issued to MEEUWSEN PRODUCE, INC. authorizing the transportation of (1) *chemicals and related products,* between points in the United States, under continuing contract(s) with L. Perrigo Co., of Allegan, MI, and (2) *food and related products,* between points in the United States under continuing contract(s) with (a) Bil-Man Foods, Inc., of Zeeland, MI, (b) Seabrook Foods, Inc., of Fresno, CA, and (c) Benco Pet Foods, Inc. of Zanesville, OH. Representative: Edward N. Button, 635 Oak Hill Ave., Hagerstown, MD 21740.

Note(s).—(1) Application for temporary authority has been filed. (2) Transferee is a carrier.

MC-FC-79801. By decision of May 20, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to ALBERT FORTUNER of Certificate No. MC-95211 issued to JOE FORTUNER authorizing the transportation of (1) *household goods,* as defined in *Practices of Motor Common Carriers of Household Goods,* 17 M.C.C. 467, between Carbondale, PA, on the one hand, and, on the other points in NJ and NY and (2) *race and show horses,* between Carbondale, PA, on the one hand, and, on the other points in NY. Representative: Joseph A. Keating, Jr., 121 South Main St., Taylor, PA 18517.

Note.—Transferee is a non-carrier.

MC-FC-79802. By decision of May 19, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to RED LINE, INC., of Emporia, KS of Certificate No. MC-153839 and (Sub-No. 1) issued to TOM WILSON, INC., of Emporia, KS authorizing the transportation of *meat, meat products, and meat byproducts, and articles distributed by meat packing houses,* (1) between points in Osborne County, KS, on the one hand, and, on the other, Los Angeles, CA, St. Joseph, MO, and points in Fresno, Stanislaus, and San Joaquin Counties, CA, and York County, NE, and (2) between points in Jewell County, KS, on the one hand, and, on the other, Los Angeles, CA, Houston and Ft. Worth, TX, Tucson, AZ, Denver, CO, and Minneapolis, MN, and points in Stanislaus County, CA; and *food and related products,* between points in York County, NE, on the one hand, and, on the other, points in CA.

Representative: Larry E. Gregg, P.O. Box 1979, Topeka, KS 66601. TA lease is sought. Transferee is a carrier.

MC–FC–79812. By decision of 5/20/82 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to KOOTENAY MACHINERY TRANSPORT, INC., of Salmo, BC, Canada, of Certificate No. MC–114126 issued April 12, 1965, and MC–114126 (Sub-No. 5) issued May 4, 1965, to SALMO TRANSPORT, LTD., of Salmo, BC, Canada, authorizing: *ore concentrates,* in bulk, from ports of entry on the US-Canada boundary line at or near Oroville, Ferry, Danville, Laurier, Northport, and Metaline Falls, WA, and Port Hill and Eastport, ID, to Tacoma, WA, and Kellogg, ID, restricted to foreign commerce only, *cement and soda ash,* from Metaline Falls, WA, to the US-Canada boundary line at or near Nelway, BC, Canada; and *ore and ore concentrates,* from the port of entry on the US-Canada boundary line located at or near Metaline Falls, WA, to Metaline Falls, WA. Representative: Jack R. Davis, 1100 IBM Building, Seattle, WA 98101, (206) 624–7373. TA lease is sought. Transferee is not a carrier.

MC–FC–79813. By decision of May 20, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to PECK LEASING, INC., of Fall River, MA, of Permit No. MC–156045 issued December 17, 1981, MC–156045 (Sub-No. 1) issued November 2, 1981, and MC–156045 (Sub-No. 2) issued April 29, 1982, to H. P. LEASING, INC., of Somerset, MA, authorizing *general commodities* (except classes A and B explosives) between points in the U.S. under continuing contracts with (a) Transworld Adhesives and Chemical Corporation, of Rockland, MA, (b) Sarama Lighting of Mass., of Fall River, MA, and (c) Benny's Inc., of Esmond, RI; *general commodities* (except classes A and B explosives) between points in the U.S. under continuing contract with Hasbro Industries, of Pawtucket, RI; and *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. under continuing contracts with (a) Princess House, Inc., of No. Dighton, MA, (b) Titleist Golf Division of Acushnet Co., of New Bedford, MA, (c) Quality Carpet Inc., of Avon, MA, (d) Poly-American Inc., of Grand Prairie, TX, and (e) Globe Manufacturing Company of Fall River, MA. Representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043. Phone: 617–749–6500. TA lease is not sought. Transferee is not a carrier.

Note.—If transferee desires to become an applicant in transferor's pending proceeding in MC–156045 (Sub-No. 3) upon consummation of the transfer, an appropriate request for substitution of transferee as applicant should be filed jointly by transferor and transferee.

MC–FC–79825. By decision of 5/20/82 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the lease to GREEN ACRE ENTERPRISES, INC. of Plymouth, NC, of Certificate No. MC–151646 issued March 16, 1981, Permit No. MC–151646 (Sub-No. 1) issued May 6, 1981, and Certificate No. MC–151646 (Sub-No. 2) issued May 6, 1981, to MISS-ALA DISTRIBUTORS, INC., of Columbus, MS, for a period of one year. The operating authority involves the transportation of (1) *paper and paper products,* (2) *lumber and wood products,* and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, between the facilities of Weyerhaeuser Company, Inc., at points in (a) Lamar and Sumter Counties, AL, and (b) Calhoun, Lowndes, Neshoba and Perry Counties, MS, on the one hand, and, on the other, points in the U.S., (4) *furniture and fixtures* and *materials, equipment and supplies* used in the manufacture of furniture and fixtures, between points in the U.S., under continuing contract with Triangle Pacific Corporation, of Dallas, TX, and (5) *machinery* between points in Lowndes County, MS, on the one hand, and, on the other, points in AL, CT, MI, MN, OH, PA, TN, and WI. Representative: Donald B. Sweeney, Jr., Attorney, P.O. Box 2366, Birmingham, AL 35201. TA lease is not sought. Transferee is not a carrier.

MC–FC–79816. By decison of May 20, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to AMTRANS, INC., of Phoenix, AZ, of Certificate No. MC–145152 and all subs thereunder, issued to BIG THREE TRANSPORTATION, INC., of Springdale, AR, (James G. Nixon, Trustee in Bankruptcy) authorizing: *various commodities,* including foodstuffs, toilet articles, office furniture, electrical applicances, rubber and plastic articles, paper products, paint, aluminum paste, asphalt, and petroleum products, between named points throughout the U.S. Representative: Edward N. Button, 635 Oak Hills Ave., Hagerstown, MD 21740. TA lease is not sought. Transferee is not a carrier.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82–15125 Filed 6–3–82; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10254(b)(1) that the named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: American Can Company, American Lane, Greenwich, Connecticut 06830.

2. Wholly-owned subsidiaries which will participate in the operations, and states of incorporation:

(i) Fingerhut Corporation, Minnesota.

(ii) Pickwick International, Inc., Delaware.

(iii) U.S. Aluminum Corporation of Pennsylvania, Pennsylvania.

(iv) U.S. By-Products Corporation, Missouri.

(v) U.S. Reduction Co., Delaware.

(vi) Tinmet Corporation, Delaware.

(vii) Bigbee Transportation Company, Connecticut.

(viii) Figi's, Inc., Wisconsin.

(ix) Distribution & Transport, Inc., Minnesota.

1. Parent corporation and address of principal office: High Industries, Inc., 1905 Old Philadelphia Pike, Lancaster, Pennsylvania 17604.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) High Steel Structures, Inc. (Pennsylvania).

(ii) High Concrete Structures, Inc. (Pennsylvania).

(iii) Kurtz Bros., Concrete, Inc. (Pennsylvania).

(iv) Kurtz Transport, Inc. (Pennsylvania).

(v) Kurtz Materials Corporation (Delaware).

(vi) Lancaster Line & Stone Corporation (Pennsylvania).

(vii) High Realty Corporation (Pennsylvania).

(viii) High Associates, LTD. (Pennsylvania).

(ix) Lantz Builders, Inc. (Pennsylvania).

(x) High Steel Service Center, Inc. (Pennsylvania).

1. Parent Corporation and address of principal office: North American Philips

Corporation, 100 East 42 St., New York, NY 10017.

2. Wholly-owned subsidiaries which will participate in the operations:

Advance Transformer Co., an Illinois corporation, 2950 North Western Avenue, Chicago, Illinois 60618
Airpax Corporation, a Delaware corporation, Cheshire Industrial Park, Cheshire, Connecticut 06410
AKG Acoustics, Inc., a Delaware corporation, 77 Selleck Street, Stamford, Connecticut 06902
The Alliance Manufacturing Company, Inc., an Ohio corporation, 22790 Lake Park Boulevard, Alliance, Ohio 44601
American Color & Chemical Corporation, a Delaware corporation, 6525 Morrison Boulevard, Suite 310, Charlotte, North Carolina 28211
Amperex Electronic Corporation, a Delaware corporation, Providence Pike, Slatersville, Rhode Island 02876
Dialight Division, 203 Harrison Place, Brooklyn, New York 11237
Amperex Electronic Industries, Inc., a Delaware corporation, George Washington Highway, Smithfield, Rhode Island
Anchor Brush Company, Inc., a Delaware corporation, 625 South Railroad Street, Montgomery, Illinois 60538
Baker, Knapp & Tubbs, Inc., a Delaware corporation, 917 Merchandise Mart, Chicago, Illinois 60654
CPD, Inc., a Texas corporation, 8811 West Carpentar Freeway, Dallas, Texas 75247
Centralab, Inc., a Delaware corporation, 5855 North Glen Park Road, Milwaukee, Wisconsin 53209
Chicago Magnet Wire Corp., an Illinois corporation, 901 Chase Avenue, Elk Grove Village, Illinois 60007
Dent-X Corporation, a New York corporation, 36 Bulkley Avenue, Port Chester, New York 10573
Herman H. Smith, Inc., a Delaware corporation, 1913 Atlantic Avenue, Manasquan, New Jersey 08736
Kulka Electric Corp., a New York corporation, 520 South Fulton Avenue, Mount Vernon, New York 10550
Ludwig Industries, Inc., a Delaware corporation, 1730 North Damen Avenue, Chicago, Illinois 60647
Lustra Lighting Corporation, a Delaware corporation, 180 Manor Road, East Rutherford, New Jersey 07073
Magnavox CATV Systems, Inc., a Delaware corporation, 133 West Seneca Street, Manlius, New York 13104
Magnavox Government and Industrial Electronics Company, a Delaware corporation, 1313 Production Road, Fort Wayne, Indiana 46804
Mepco/Electra, Inc., a Delaware corporation, Columbia Road, Morristown, New Jersey 07960
N.A.P. Commercial Electronics Corp., a Delaware corporation, 100 First Avenue, Waltham, Massachusetts 02254
N.A.P. Consumer electronics Corp., a Delaware corporation, I–40 and Straw Plains Pike, P.O. Box 6950, Knoxville, Tennessee 37914
Norelco Service, Inc., a Delaware corporation, 100 East 42nd Street, New York, New York 10017
North American Philips Lighting Corporation, a Delaware corporation, Bank Street, Hightstown, New Jersey 08520
Ohmite Manufacturing Company, an Illinois corporation, 3601 Howard Street, Skokie, Illinois 60076
Philips Business Systems, Inc., a Delaware corporation, 175 Froehlich Farm Boulevard, Woodbury, New York 11797
Philips ECG, Inc., a Delaware corporation, 50 Johnson Street, Seneca Falls, New York 13148
Philips Electronic Instruments, Inc., a Delaware corporation, 750 South Fulton Avenue, Mt. Vernon, New York 10550
Philips Elmet Corporation, a Delware corporation, Lisbon Road, Lewiston, Maine 04340
Philips Medical Systems, Inc., a Delaware corporation, 710 Bridgeport Avenue, Shelton, Connecticut 06484
Philips Test & Measuring Instruments, Inc., a Delaware corporation, 85 McKee Drive, Mahwah, New Jersey 07430
Philips Ultrasound, Inc., a Delaware corporation, 2722 S. Fairview Street, Santa Ana, California 92704
The Selmer Company, a Delaware corporation, 640 Industrial Parkway, Elkhart, Indiana 46514
Solar Electric Corp., a Pennsylvania corporation, Harmer Street, Warren, Pennsylvania 16365
U.S. Appliances Corporation, a Delaware corporation, High Ridge Park, Building No. 3, Stamford, Connecticut 06904
Verd-A-Ray Corporation, a Delaware corporation, 615 Front Street, Toledo, Ohio 43605

1. Parent corporation and address of principal office: Peter J. Schmitt Co., Inc., 678 Bailey Ave., Buffalo, New York 14206.

2. Wholly-owned subsidiary which will participate in the operations, and State(s) of incorporation: DWG Transport, Inc. (New York).

1. Parent corporation and address of principal office: Schnadig Corporation, 4820 West Belmont Ave., Chicago, IL 60641.

2. Wholly-owned subsidiary which will participate in the operations, and State(s) of incorporation: K.I.S.S. Express Company (Illinois corporation).

1. Parent corporation (including all divisions within the corporation): Tultex Corporation, P.O. Box 5191A, Martinsville, VA 24115.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their principal offices:

A. Tultex Transportation, Inc., P.O. Box 5191A, Martinsville, VA 24115.

B. Peerless Spinning Corporation, Lowell, NC 28098.

C. Athletic Textile Co., Inc., Gastonia, NC 28052.

1. Parent Corporation: Unilever United States, Inc., 10 East 53rd St., New York, NY 10022.

2. Directly and Indirectly wholly-owned subsidiaries:

Lever Brothers Company, 390 Park Avenue, New York, NY 10022
Lever Brothers Export Corporation, 390 Park Avenue, New York, NY 10022
Thomas J. Lipton, Inc., 800 Sylvan Avenue, Englewood Cliffs, NJ 07632
Continential Foods, Inc. (S.A.), 800 Sylvan Avenue, Englewood Cliffs, NJ 07632
Continental Foods, Inc., 800 Sylvan Avenue, Englewood Cliffs, NJ 07632
Good Humor Corporation, 800 Sylvan Avenue, Englewood Cliffs, NJ 07632
Lipton Industries, Inc., 800 Sylvan Avenue, Englewood Cliffs, NJ 07632
Knox Gelatine, Inc., 800 Sylvan Avenue, Englewood Cliffs, NJ 07632
Pennsylvania Dutch-Mega, Inc., 523 S 17th Street, Harrisburg, PA 17105
Megs Realty, Inc., 523 S 17th Street, Harrisburg, PA 17105
Morton House Kitchens, Inc., 1001 7th Corso Street, Nebraska City, NB 68410
Lipton Pet Foods, Inc., 209 New Boston Street, Woburn, MA 01801
Lipton Prof. Soccer League, Inc., 800 Sylvan Avenue, Englewood Cliffs, NJ 07632
Erin Productions, Inc., 800 Sylvan Avenue, Englewood Cliffs, NJ 07632
A. Sahadi & Co., Inc., 2645 North Rose Street, Franklin Park, IL 60131
Lawry's Foods, Inc., 570 West Avenue 26, Los Angeles, CA 90065
Lawry's Foods International, Inc., 570 West Avenue 26, Los Angeles, CA 90065
Krenz Enterprises, Inc., 570 West Avenue 26, Los Angeles, CA 90065
National Starch & Chemical Corp., 10 Finderne Avenue, Bridgewater, NJ 08807
Proctor Chemical Co., Inc., Lumber Street, Salisbury, NC 28144

Seasonings, Inc., 1090 Pratt Boulevard, Elk Grove Village, IL 60007
Scientific Flavors, Inc., 2371 Berryllium Road, Scotch Plains, NJ 07076
Lutex Chemical Corp., Inc., 6153 Airways Boulevard, Chattanooga, TN 37421
Ensco, Inc., c/oNational Starch & Chemical Corp., 10 Finderne Avenue, Bridgewater, NJ 08807
Ablestik Laboratories, 833 West 182nd Street, Gardena, CA 90248
Permabond International Corp., 480 South Dean Street, Englewood, NJ 07631
Leland Chemical Corporation, HWY 74-76(P.O. Drawer 130), Leland, NC 28451
Island Falls Starch Co., Inc., Burleigh Street, Island Falls, MA 04747
Dycol Chemical, Inc., 10 Finderne Avenue, Bridgewater, NJ 08807

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15124 Filed 6-3-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29694]

Jefferson Warrior Railroad Company, Inc.—Acquisition and Operation—In Jefferson County, AL

Jefferson Warrior Railroad Company, Inc., P.O. Box 5327, Birmingham, AL 35207, represented by Curtis B. Hasty, Jr. and John F. Turbiville, P.O. Box 22601, Tampa, FL 33622, hereby gives notice that on the 17th day of May, 1982, it filed with the Interstate Commerce Commission at Washington, DC, an application pursuant to 49 U.S.C. 10901 for a decision approving and authorizing the acquisition and operation of a privately owned railroad, known as Mary Lee Railroad, a distance of 43.9 miles in Jefferson County, AL.

Pursuant to 49 U.S.C. 10901, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, DC 20423, and the aforementioned counsels for applicant, within 35 days after the filing of the application.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15122 Filed 6-3-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-144)]

MKT Exemption for Contract Tariff ICC-MKT-C-0165

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: John J. Sado (202) 275-7277.

SUPPLEMENTARY INFORMATION: The Missouri-Kansas-Texas Railroad Co. (MKT) filed a petition on May 19, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC-MKT-C-0165 to become effective on one day's notice. The contract was filed to become effective on 30 days' notice and involves incentive rates on corn, grain sorghums, soybeans and wheat for export.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. Cf. 49 U.S.C. 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. The shipper has made commitments to the surrounding country elevators, which are not served by rail, to handle through his elevator the vast amounts of wheat generated by the upcoming harvest. The harvest will begin shortly and the influx of grain expected to move through the shipper's elevator cannot physically be stored for the period of time required between issue and the effective date of the contract. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

MKT's contract may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

> If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the **Federal Register.**

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Dated: May 27, 1982.

By the Commission, Division 2, Commissioners Gresham, Taylor, and Simmons. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15118 Filed 6-3-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-36 (Sub-15)]

Oregon Short Line Railroad Co.; Abandonment and Discontinuance of Service by Union Pacific Railroad Company in Twin Falls County, ID; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the commission, Review Board Number 3, has issued a certificate authorizing abandonment by Oregon Short Line Railroad Company and discontinuance of service by Union Pacific Railroad Company on a line of railroad known as the Wells Branch extending form railroad milepost 0.59 near Twin Falls, ID, to the end of the line at milepost 29.35 near Rogerson, ID, a distance of 28.76 miles, in Twin Falls County, ID, subject to certain conditions. Since no investigation was instituted, the requirement of § 1121.38(b) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicants, with copies to Louis Gitomer, Acting Deputy Director, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than June 14, 1982. The offer, as filed, shall contain information required pursuant to

§ 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15115 Filed 6-3-82; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-139)]

Santa Fe Exemption for Contract Tariff ICC-ATSF-C-0069

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed on or before June 21, 1982.

FOR FURTHER INFORMATION CONTACT: John J. Sado, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The Atchison, Topeka, and Santa Fe Railway Company (Santa Fe) filed a petition on May 12, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC-ATSF-C-0069, to become effective on one day's notice. The contract was filed to become effective on 30 days' notice and involves transportation of empty covered hopper cars.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. Cf. 49 U.S.C. 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. Mexican railroads are delivering empty shipper covered hoppers to border points. Congestion is increasing at these points and may hamper Santa Fe's operations, since it has no control over Mexican railroads' tender of cars in interchange. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Santa Fe's contract may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings.

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed on or before June 21, 1982.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505).

Dated: May 28, 1982.

By the Commission, Division 1, Sterrett, Gilliam, and Andre.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15116 Filed 6-3-82; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-136)]

Seaboard Coast Line Railroad Co.; Exemption for Contract Tariff—ICC-SCL-C-0026

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed on or before June 21, 1982.

FOR FURTHER INFORMATION CONTACT: John J. Sado, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The Seaboard Coast Line Railroad Company (SCL) filed a petition on May 12, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC-SCL-C-0026 filed on May 12, 1982 to become effective on one day's notice. The contract involves the movement of grain, feed and feed ingredients.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. The shipper has opened a new feed mill which shipper cannot fully use until this contract becomes effective. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Petitioner's contract ICC-SCL-C-0026 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 459 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed on or before June 21, 1982.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Dated: May 27, 1982.

By the Commission, Division 2, Commissioners Gresham, Taylor, and Simmons. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15117 Filed 6-3-82; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-140)]

Union Pacific Railroad Co.; Exemption for Contract Tariff ICC-UP-C-0017

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's

notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: John J. Sado, (202) 275–7277.

SUPPLEMENTARY INFORMATION: Union Pacific Railroad Co. (UP) filed a petition on May 19, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its addendum to contract ICC–UP–C–0011 to become effective on one day's notice. The contract was filed to become effective on 30 days' notice and involves paper and paper articles.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. Cf. 49 U.S.C. 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. After the underlying contract became effective, the shipper discovered that its customers in Salt Lake City, UT would not purchase the shipper's paper and paper articles in the quantities necessary to justify the use of the type of boxcar the UP was required to supply. Therefore, the contract addendum was drawn allowing UP to supply smaller boxcars to the shipper. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

UP's contract may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed on or before June 21, 1982.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Dated: May 27, 1982.

By the Commission, Division 2, Commissioners Gresham, Taylor, and Simmons. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–15119 Filed 6–3–82; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 387 (Sub-130)]

Union Pacific Railroad Co., Exemption for Contract Tariff ICC-UP-C-0033

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: John J. Sado, (202) 275–7277.

SUPPLEMENTARY INFORMATION: The Union Pacific Railroad Company (UP) filed a petition on May 13, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC–UP–C–0033 filed on May 12, 1982 to become effective on one day's notice. The contract involves the movement of frozen foodstuffs.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. The contract provides for a minimum volume requirement based upon shipper's projection of its traffic year which began May 1, 1982. Further delay of the contract's effective date will hamper shipper's ability to meet the minimum volume requirement. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Petitioner's contract ICC–UP–C–0033 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 459 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed on or before June 21, 1982.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Dated: May 27, 1982.

By the Commission, Division 2, Commissioners Gresham, Taylor, and Simmons. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–15120 Filed 6–3–82; 8:45 am]

BILLING CODE 7035–10–M

[Docket No. AB–43 (Sub-84)]

Illinois Central Gulf Railroad Company-Abandonment-Between Clinton and Lincoln, IL, and Between Lincoln and New Holland, IL; Findings

The Commission has found that the public convenience and necessity permit the Illinois Central Gulf Railroad Company to abandon its line of railroad between Clinton (milepost 41.30) and Lincoln, IL (milepost 62.31) and between Lincoln (milepost 64.03) and New Holland, IL (milepost 74.50), a total distance of 31.48 miles in DeWitt and Logan Counties, IL. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered fiancial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice.

Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15421 Filed 6-3-82; 12:22 pm]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[No. 5.21 (Revised); also filed as Redelegation Nos. 23.6, 26.2, 38.19, 40.11, 41.5, 75.3, 99.15, and 100.4]

Redelegation of Authorities to the Field; Latin America and the Caribbean Region

Section I. Definition

AID Missions

AID Missions subject to this redelegation of authorities shall be the AID Missions to Bolivia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Haiti, Honduras, Jamaica, Nicaragua, Panama, Paraguay and Peru, and the Regional Office for Central American Programs (ROCAP) and the Regional Development Office for the Caribbean (RDO/C).

Section II. Authorities

A. *Implementing Authorities.* Authority to negotiate, execute, and implement, in accordance with the terms of the authorization thereof and in accordance with applicable statutes and regulations, loan, grant and guaranty (other than Housing Guaranty) agreements, and amendments thereto, to their respective countries or regions, whether heretofore or hereafter authorized, including, but not limited to, authority:

1. To sign project grant agreements with foreign governments, foreign government agencies, and international organizations having a membership consisting primarily of such foreign governments; and to sign all project loan and guaranty (other than Housing Guaranty) agreements and trust fund agreements;

2. To approve contractors, review and approve all borower/grantee contracts financed in whole or in part by an AID loan or grant and review and approve requests for proposals and invitations for bids with respect to such contracts;

3. To prepare, negotiate, sign and deliver Project Implementation Letters; and

4. To review and approve documents and other evidence submitted by borrowers or grantees in satisfaction of conditions precedent under such loan, grant or guaranty agreements.

(See Delegation Nos. 5, 38.)

(Please note that the Director, SER/CM, has redelegated to the principal AID officers at posts in the LAC Region the authority to (i) execute OPGs with U.S. PVOs, pursuant to Redelegation of Authority No. 99.1.95 and (ii) sign grants to foreign nongovernmental non-profit organizations, pursuant to Redelegation of Authority No. 99.1.122)

B. *Waiver Authorities for Source, Origin and Nationality.* Authority to waive, in accordance with the applicable statutes and regulations, including the terms of Delegation of Authority No. 40 (AID Handbook 5) and the criteria prescribed by Supplement B of AID Handbook 1:

(a) *Selected Free World.* U.S. source, origin and nationality requirements, to permit AID financing of the procurement of goods and services, other than transportation services, in countries included in AID Geographic Code 941] (Selected Free World) and the cooperating country, when the cost of goods and services does not exceed $200,000 (exclusive of transportation costs) of funds made available under the Foreign Assistance Act of 1961, as amended (the "Act"); provided, however, that any waiver of the United States source and origin requirements for motor vehicle procurement shall not exceed $50,000 for any one transaction; and provided further, however, that each such motor vehicle waiver shall contain the required certification, as set forth in Delegation of Authority No. 40; and

(b) *Free World.* U.S. or AID Geographic Code 941 source, origin and nationality requirements, to permit AID financing of the procurement of goods and services, other than transportation services, in any country included in AID Geographic Code 899 (Free World) or AID GEOGRAPHIC CODE 935 (Special Free World), when the cost of goods and services does not exceed $200,000 (exclusive of transportation costs) of funds made available under the Act; provided, however, that any waiver of the United States source and origin requirements for motor vehicle procurement shall not exceed $50,000 for any one transaction; and provided further, however, that each waiver hereunder shall contain the appropriate certification, as set forth in Delegation of Authority No. 40.

(See Delegation No. 40.)

C. *Excess Property.* In accordance with the provisions of Section 607 of the Act and of AID Handbook 16, and subsequent to my authorizing such assistance, authority to execute transfer or transfer/trust agreements with friendly countries or with international organizations having a membership primarily of foreign governments.

(See Delegation No. 41.)

D. *Extension of Terminal Dates.* In accordance with AIDTO Circular A–24, dated December 16, 1977, and Delegation of Authority No. 133, and any amendments thereto, authority to extend:

1. The terminal date for meeting initial conditions precedent for a cumulative period of not to exceed six months;

2. The terminal date for requesting disbursement authorizations for a cumulative period of not to exceed two years; and

3. The terminal date for completion of performing services and furnishing goods (PACD) for a cumulative period of not to exceed two years;

Provided, however, that this authority shall be exercised in writing, including a justification therefore, and a copy shall be forwarded to the Director, LAC/DR; and provided further, however, that this authority shall not be execised if the result of so doing will cause the total life of a project (*e.g.*, from point of initial obligation to revised PACD) to be more than ten years.

E. *Waiver Authorities for Competition Under Borrower/Grantee Contracts.* Authority to waive, in accordance with the terms and provisions of chapter 12 C4c of Supplement B of AID Handbook 1, competition in the procurement of goods and services and to authorize a single-source negotiated borrower/grantee contract; provided that the estimated procurement does not exceed $100,000 for services or $25,000 (exclusive of transportation) for commodities.

(Please note that the provisions for noncompetitive negotiation of AID direct contracts are set forth in the AIDPRs, Part 7–3.)

F. *Waivers of Advertisement Requirements.* Authority to waive the requirement that a notice of availability of an IFB, RFTP, RFQ, or prequalification questionnaire be publicized in the *Commerce Business Daily* or and AID Publication for contracts which are $200,000 or less in estimated value; provided, however, that this authority only shall be exercised to avoid serious delay in project implementation; and provided further, however, that efforts shall in

any event be made to secure proposals, bids, or offers from a reasonable number of potential contractors or suppliers.

Section III. Redelegation of Authorities

Pursuant to the authorities delegated to me as Assistant Administrator for Latin America and the Caribbean, I hereby delegate all of the authorities set forth in Section II hereof, retaining for myself concurrent authority to exercise any of the functions herein redelegated, to the Director of each Mission included in Section I.

Section IV. Miscellaneous

A. The authorities redelegated pursuant to Section III hereof shall be exercised after consultation with a Regional Legal Advisor or GC/LAC, as appropriate, and any other appropriate support office (e.g., Contract Management, Commodity Management).

B. The authorities redelegated pursuant to Section III hereof (other than those set forth in Section II.E) may, in the discretion of the Mission Director, be further redelegated to his/her deputy or the individual acting in such capacity or may be exercised by the person acting in the capacity of the Mission Director while the latter is out of the country (with my prior approval).

C. This redelegation of authorities shall become effective on the date of my execution of this document and shall supersede on that date all delegations of authority previously issued to the affected AID Missions by the Assistant Administrator for Latin America and the Caribbean and/or the Deputy U.S. Coordinator of the Alliance for Progress; provided, however, that all actions taken under the delegations of authority which are hereby superseded shall remain valid and are hereby reaffirmed.

Dated: April 18, 1982.

Otto J. Reich,

Assistant Administrator, Bureau for Latin America and the Caribbean.

[FR Doc. 82-15107 Filed 6-3-82; 8:45 am]

BILLING CODE 8116-01-M

[Redelegation of Authority No. 133.3

Redelegation of Authorities to the Field; Latin America and the Caribbean Region

Section I. Definition

AID Missions

AID Missions subject to this redelegation of authorities shall be the AID Missions to Bolivia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Haiti, Honduras, Jamaica, Nicaragua, Panama and Peru, and the Regional Office for Central American Programs (ROCAP) and the Regional Development Office for the Caribbean (RDO/C).

Section II. Authorities

Implementing Authorities

A. Authority to approve and to authorize funding for project and non-project assistance (other than Housing Investment Guaranties and Productive Credit Guaranties) in their respective countries, or regions (in the case of ROCAP and RDO/C), where such project or non-project assistance does not, over the approved life of the project or non-project assistance, exceed $5 million; provided, however, that, in the case of assistance in excess of $500,000 (or, for Operational Program Grants, $1 million), the Project Identification Document ("PID"), or other comparable material, for such assistance shall be submitted for review and approval to the LAC Bureau in AID/W prior to final approval by the AID Mission authorized hereby; and provided further, however, that the AID Missions may, upon submission of a PID, or other comparable material, to the LAC Bureau in AID/W, transfer final approval authority to the AA/LAC in cases where the AID Mission Director concludes that the Mission staff will require the assistance of the LAC Bureau to undertake the final review, or when host country considerations are sufficiently important to indicate that final approval by the AA/LAC would be the judicious course; and

B. Authority to approve amendments to project and non-project assistance, whether or not originally approved by the AID Mission, including those effecting an increase of the authorized amount of not to exceed $5 million; provided, however, that prior to the exercise of the authority to approve amendments, the AID Mission shall have communicated information to the LAC Bureau, satisfactory in form and substance to the LAC Bureau, of the scope of and justification for such amendment; and provided further, however, that no amendment shall be so approved if as a result thereof, the total life of project funding shall be more than $30 million.

Section III. Redelegation of Authority

Pursuant to the authorities delegated to me as Assistant Administrator for Latin America and the Caribbean, I hereby delegate all the authorities set forth in Section II hereof, retaining for myself concurrent authority to exercise any of the functions herein redelegated, including the authority to give final approval for any individual project or non-project assistance with a value of $5 million or less to the Directors of Missions included in Section I.

Section IV. Miscellaneous

A. The authorites redelegated pursuant to Section III hereof shall be exercised in accordance with applicable statutes and regulations, including the Foreign Assistance Act of 1961, as amended, and the AID handbooks and after consultation with a Regional Legal Advisor or GC/LAC, as appropriate, and with appropriate technical and support personnel.

B. The authorities redelegated pursuant to Section III hereof shall not be further redelegated; provided, however, that they may be exercised by the person acting in the capacity of the respective Mission director while the latter is out of the country (with my prior approval).

C. Nothing contained in this redelegation of authorities shall affect the authorities previously redelegated by me concerning waivers, excess property and the extension of terminal dates, such redelegated authorities to remain valid and in effect.

D. This redelegation of authorities shall become effective on the date of my execution of this document.

Otto J. Reich,

Assistant Administrator, Bureau for Latin America and the Caribbean.

[FR Doc. 82-15108 Filed 6-3-82; 8:45 am]

Dated: April 18, 1982.

BILLING CODE 8116-01-M

DEPARTMENT OF JUSTICE

Consent Decree Amendment Pursuant to Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on May 2), 1982 a proposed consent decree amendment in *United State* v. *Republic Steel Corporation*, Civil Action No. C79-1201, was lodged with the United States District Court for the Northern District of Ohio, Eastern Division. The proposed decree amendment provides for the amendment of a Consent Order lodged in that action on August 28, 1979, as amended by Stipulation lodged on December 30, 1980. The current amendment modifies certain final compliance dates at botteries 6 and 7 from December , 1980 and February, 1981 until April, 1981.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the

Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *Republic Steel Corporation*, D.J. Ref. 90-5-1-1-1056.

A copy of the proposed consent decree may be examined at the office of the United States Attorney, Northern District of Ohio, Eastern Division, Suite 500, United States Courthouse, 1404 East Ninth Street, Cleveland, Ohio; at the Region V Office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604; and the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resouces Division of the Department of Justice.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82-15189 Filed 6-3-82; 8:45 am]
BILLING CODE 4410-01-M

[AAG/A Order No. 6-82]

Privacy Act of 1974; Revised System of Records

Pursuant to subsection (e)(4) of the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Department of Justice proposes to modify a current system of records maintained by the Drug Enforcement Administration (DEA) entitled "Office of Internal Security Records (JUSTICE/DEA-010)." This is a system of records for which notice was published in the **Federal Register** on January 10, 1980.

DEA proposes to revise the system by changing the retention and disposal schedule for the records and by automating the records on certain categories of individuals, i.e., current DEA employees, DEA applicants, and DEA contractor employees. The "Retention and disposal," "Retrievability," and "Storage" sections of the notice have been changed to reflect those revisions. In addition, minor clarifying changes have been made to the "Categories or records * * *" and "Safeguards" sections of the notice.

The Office of Management and Budget (OMB), which has oversight responsibility under the Act, requires a 60-day period in which to review the proposal to partially automate this system. Therefore, OMB, the Congress and the public are invited to submit written comments to the Administrative Council, Justice Management Division, Department of Justice, Room 6239, 10th and Constitution Avenue, N.W., Washington, D.C. 20530. If no comments are received on or before August 3, 1982, the proposed revision will be implemented without further notice in the **Federal Register**. No oral hearings are contemplated.

A report of the proposed revisions has been provided to the Director, OMB, to the President of the Senate and to the Speaker of the House of Representatives.

Dated: May 27, 1982.

Kevin D. Rooney,

Assistant Attorney General for Administration.

JUSTICE/DEA-010

SYSTEM NAME:

Office of Internal Security Records.

SYSTEM LOCATION:

Drug Enforcement Administration, 1405 I Street NW., Washington, D.C. 20537. Also, field offices. See Appendix I for list of addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(A) DEA employees, past and present; (B) Applicants for employment with DEA; (C) Drug offenders, alleged drug offenders, and persons suspected of drug offenses; (D) Offenders, alleged offenders, and persons suspected of committing Federal and state crimes broadly characterized as corruption or integrity offenses; (E) Confidential informants; (F) Witnesses; (G) Non-implicated persons with pertinent knowledge of circumstances or aspects with pertinent knowledge of circumstances or aspects of a case or suspect. These are pertinent references of fact developed by personal interview or third party interview and are recorded as a matter for which a probable need will exist.

CATEGORIES OF RECORDS IN THE SYSTEM:

(A) Investigative reports with supporting memoranda and work papers relating to investigations of individuals and situations. (B) General files which include, among other things, supporting memoranda and work papers and miscellaneous memoranda relating to investigations of and the purported existence of situations and allegations about individuals. (C) Audit and inspection reports of inspections of DEA offices, personnel, and situations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Reorganization Plan No. 1 of 1968 and 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information contained in this system is provided to the following categories of users as a matter of routine uses for law enforcement and regulatory purposes: A. Other Federal law enforcement and regulatory agencies; B. State and local law enforcement and regulatory agencies; C. Foreign law enforcement agencies with whom DEA maintains liaison; D. The Department of State; E. The Department of Defense and Military Departments; F. U.S. Intelligence agencies concerned with drug enforcement; G. The United Nations; H. Interpol; I. To individuals and organizations in the course of investigations to elicit information.

In addition, disclosures are routinely made to the following categories for the purposes stated: A. To Federal agencies for national security clearance purposes and to Federal and state regulatory agencies responsible for the licensing or certification of individuals in the fields of pharmacy and medicine; B. To the Office of Management and Budget upon request in order to justify the allocations of resources; C. To state and local prosecutors for assistance in preparing cases concerning criminal and regulatory matters; D. To the news media for public information purposes; E. To Federal, State and local governmental agencies who are conducting suitability for employment investigations on current or prospective employees.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual records are maintained in standard investigation folders. Automated records are maintained on magnetic disks.

RETRIEVABILITY:

Access to manual records can be accomplished by the use of a card index maintained alphabetically by employee name. Access to the automated system is achieved by reference to personal identifiers, other data elements or any combination thereof.

SAFEGUARDS:

These records are maintained at DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. Access to the system is restricted to employees of the Office of Internal Security and upper level management officials. The records are stored in safe-type combinations lock file cabinets. Access to the system will be on a strict need-to-know basis.

RETENTION AND DISPOSAL:

Case files are destroyed after five years unless the Office of Internal Security of the Chief Counsel determines that these files are required for potential or ongoing litigation. This determination will be subject to annual review. General files and audit files shall be retained as long as the subject is employed at DEA and for two years after termination.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Inspector, Drug Enforcement Administration, 1405 I Street NW., Washington, D.C. 20537.

NOTIFICATION PROCEDURE:

Inquires should be addressed to Freedom of Information Unit, Drug Enforcement Administration, 1405 I Street NW., Washington, D.C. 20537.

RECORD ACCESS PROCEDURE:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

(A) DEA Investigations; (B) Federal, State and local law enforcement agencies; (C) Cooperating individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e)(4) (G), (H), (e)(5) and (8), (f), (g), (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the **Federal Register**.

[FR Doc. 82-15160 Filed 6-3-82; 8:45 am]
BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal Committee on Apprenticeship; Public Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) of October 6, 1972, notice is hereby given that the Federal Committee on apprenticeship (FQA) will conduct an open meeting on June 28, 1982, from 9:00 a.m.–4:30 p.m.; June 29, from 9:00 a.m.–12:00 noon at the National Association of Home Builders, 15th and M Street, NW, Washington, D.C.

The agenda for the meeting on June 28th will include:

1. Preview of the Agenda
2. Impact of Defense Spending in Skill Shortages in Apprenticeable Occupations
3. Status Report of Apprenticeship Activities at the U.S. Department of Labor
4. Apprenticeship Activities at the Veterans Administration
5. Report on National Association of State and Territorial Apprenticeship Directors (NASTAD)

The agenda for the meeting on June 29th will include:

6. Proposals for Reauthorization of CETA
7. Review of other pending Federal Legislation Affecting Apprenticeship
8. Vocational Education Apprenticeship Linkages
9. Criteria and Procedures for Determining Apprenticeable Occupations
10. Government's Role in Apprenticeship: the Federal Role; the State Role
11. Future Directions for the Federal Committee on Apprenticeship

Agenda is subject ot change due to time constraints and priority items which may come before the Committee between the time of this publication and the scheduled date of the FCA meeting.

Members of the public are invited to attend the proceedings. Any member of the public who wishes to file written data, views or arguments pertaining to the agenda may do so by furnishing it to the Executive Secretary at any time prior to the meeting. Thirty duplicate copies are needed for the members and for inclusion in the minutes of the meeting.

Any member of the public who wishes to speak at this meeting should so indicate in such a written statement, also the nature or intended presentation and the amount of time needed. The Chairperson will announce at the beginning of the meeting the extent to which time will permit the granting of such requests.

Communications to the Executive Secretary should be addressed as follows:

Mrs. M. M. Winters, Bureau of Apprenticeship and Training, ETA, U.S. Department of Labor, 601 D St., N.W., (Rm. 6114) Washington, D.C. 20213.

Signed at Washington, D.C., this 1st day of June 1982.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 82-15187 Filed 6-3-82; 8:45am
BILLING CODE 4510-30-M

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Annual List of Labor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATE: The annual list of labor surplus areas is effective on June 1, 1982.

SUMMARY: The purpose of this notice is to announce the annual list of labor surplus areas.

FOR FURTHER INFORMATION CONTACT: James W. Higgins, United States Employment Service, Attention: TEEPA, 601 D Street, N.W., Washington, D.C. 20213. Telephone: 202–376–6499.

SUPPLEMENTARY INFORMATION: Executive Order 12073 requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under that Order for classifying and designating areas as labor surplus areas.

Under Executive Order 10582 executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment as defined by the Secretary of Labor. The preference given to domestic suppliers under Executive Order 10582 has been modified by Executive Order 12260. Federal Procurement Regulations Temporary Regulation 57 (41 CFR Chapter 1, Appendix), issued by the General Services Administration on January 15, 1981 (46 FR 3519), implements Executive Order 12260. Executive agencies should refer to Temporary Regulation 57 in procurements involving foreign businesses or products in order to assess its impact on the particular procurements.

The Department of Labor's regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR Part 654, Subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas.

Subpart B of Part 654 states that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a labor surplus area under Subpart A. Thus, labor surplus areas under Executive Order 12073 are also areas of substantial unemployment under Executive Order 10582.

Pursuant to those regulations the Assistanct Secretary of Labor is publishing below the annual list of labor surplus areas for the use of all Federal departments and agencies in directing procurement activity and locating new plants or facilities.

Signed at Washington, D.C. on May 26, 1982.

Albert Angrisani,

Assistant Secretary of Labor.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE FROM JUNE 1, 1982, THROUGH MAY 31, 1983

Eligible labor surplus areas	Civil jurisdictions included
Alabama	
Autauga County	Autauga County.
Barbour County	Barbour County.
Bibb County	Bibb County.
Birmingham City	Birmingham City in Jefferson County.
Blount County	Blount County.
Bullock County	Bullock County.
Butler County	Butler County.
Calhoun County	Calhoun County.
Chilton County	Chilton County.
Choctaw County	Choctaw County.
Clarke County	Clarke County.
Coffee County	Coffee County.
Colbert County	Colbert County.
Conecuh County	Conecuh County.
Cullman County	Cullman County.
Dale County	Dale County.
Dallas County	Dallas County.
De Kalb County	De Kalb County.
Escambia County	Escambia County.
Etowah County	Etowah County.
Franklin County	Franklin County.
Greene County	Greene County.
Hale County	Hale County.
Jackson County	Jackson County.
Lauderdale County	Lauderdale County.
Lawrence County	Lawrence County.
Limestone County	Limestone County.
Lowndes County	Lowndes County.
Balance of Madison County	Madison County less Huntsville City.
Marengo County	Marengo County.
Marion County	Marion County.
Marshall County	Marshall County.
Mobile County	Mobile City in Mobile County.
Monroe County	Monroe County.
Morgan County	Morgan County.
Perry County	Perry County.
Pickens County	Pickens County.
Randolph County	Randolph County.
Russell County	Russell County.
St. Clair County	St. Clair County.
Sumter County	Sumter County.
Talladega County	Talladega County.
Tuscaloosa County	Tuscaloosa City in Tuscaloosa County.
Walker County	Walker County.
Washington County	Washington County.
Wilcox County	Wilcox County.
Winston County	Winston County.
Alaska	
Angoon Division	Angoon Division.
Bethel Division	Bethel Division.
Bristol Bay Borough Division	Bristol Bay Borough Division.
Cordova-McCharthy Division	Cordova-McCharthy Division.
Fairbanks Division	Fairbanks Division.
Haines Division	Haines Division.
Kenai-Cook Inlet Division	Kenai-Cook Inlet Division.
Ketchikan Division	Ketchikan Division.
Kobuk Division	Kobuk Division.
Kodiak Division	Kodiak Division.
Kuskokwim Division	Kuskokwim Division.
Matanuska-Susitna Division	Matanuska-Susitna Division.
Nome Division	Nome Division.
Outer Ketchikan Division	Outer Ketchikan Division.
Prince of Wales Division	Prince of Wales Division.
Seward Division	Seward Division.
Skagway-Yakutat Division	Skagway-Yakutat Division.
Southeast Fairbanks Division	Southeast Fairbanks Division.
Upper Yukon Division	Upper Yukon Division.
Valdez-Chitina Whittier	Valdez-Chitina Whittier.
Wade Hampton Division	Wade Hampton Division.
Wrangell-Petersburg Division	Wrangell-Petersburg Division.
Yukon-Koyukuk Division	Yukon-Koyukuk Division.
Arizona	
Apache County	Apache County.
Graham County	Graham County.
Navajo County	Navajo County.
Santa Cruz County	Santa Cruz County.
Yuma County	Yuma County.
Arkansas	
Ashley County	Ashley County.
Bradley County	Bradley County.
Chicot County	Chicot County.
Clay County	Clay County.
Cleburne County	Cleburne County.
Cleveland County	Cleveland County.
Crawford County	Crawford County.
Crittenden County	Crittenden County.
Cross County	Cross County.
Dallas County	Dallas County.
Desha County	Desha County.
Fort Smith City	Fort Smith City in Sebastian County.
Fulton County	Fulton County.
Grant County	Grant County.
Greene County	Greene County.
Hot Springs County	Hot Springs County.
Jackson County	Jackson County.
Balance of Jefferson County	Jefferson County less Pine Bluff City.
Lawrence County	Lawrence County.
Lee County	Lee County.
Lincoln County	Lincoln County.
Little River County	Little River County.
Logan County	Logan County.
Balance of Miller County	Miller County less Texarkana City, Ark.
Mississippi County	Mississippi County.
Monroe County	Monroe County.
Montgomery County	Montgomery County.
Newton County	Newton County.
Ouachita County	Ouachita County.
Philips County	Philips County.
Poinsett County	Poinsett County.
Prairie County	Prairie County.
Randolph County	Randolph County.
Scott County	Scott County.
Searcy County	Searcy County.
Balance of Sebastian County	Sebastian County less Fort Smith City.
Sharp County	Sharp County.
St. Francis County	St. Francis County.
Stone County	Stone County.
Van Buren County	Van Buren County.
White County	White County.
Woodruff County	Woodruff County.
California	
Alpine County	Alpine County.
Amador County	Amador County.
Butte County	Butte County.
Calaveras County	Calaveras County.
Compton City	Compton City in Los Angeles County.
Del Norte County	Del Norte County.
El Dorado County	El Dorado County.
Fresno City	Fresno City in Fresno County.
Balance of Fresno County	Fresno County less Fresno City.
Humboldt County	Humboldt County.
Imperial County	Imperial County.
Kings County	Kings County.
Lake County	Lake County.
Lassen County	Lassen County.
Madera County	Madera County.
Mariposa County	Mariposa County.
Mendocino County	Mendocino County.
Merced County	Merced County.
Modesto City	Modesto City in Stanislaus County.
Mono County	Mono County.
Balance of Monterey County	Monterey County less Salinas City.
Nevada County	Nevada County.
Ontario City	Ontario City in San Bernardino County.
Placer County	Placer County.
Plumas County	Plumas County.

Labor Surplus Areas Eligible for Federal Procurement Preference From June 1, 1982, Through May 31, 1983—Continued

Eligible labor surplus areas	Civil jurisdictions included
Salinas City	Salinas City in Monterey County.
San Benito County	San Benito County.
San Bernardino City	San Bernardino City in San Bernardino County.
Balance of San Bernardino County.	San Bernardino County less Ontario City. Rancho Cucamonga City. San Bernardino City.
Balance of San Joaquin County.	San Joaquin County less Stockton City.
Shasta County	Shasta County.
Sierra County	Sierra County.
Siskiyou County	Siskiyou County.
Balance of Solano County	Solano County less Fairfield City. Vallejo City.
Balance of Stanislaus County	Stanislaus County less Modesto City.
Stockton City	Stockton City in San Joaquin County.
Sutter County	Sutter County.
Tehama County	Tehama County.
Trinity County	Trinity County.
Tuolumne County	Tuolumne County.
Yolo County	Yolo County.
Yuba County	Yuba County.
Colorado	
Archuleta County	Archuleta County.
Conejos County	Conejos County.
Costilla County	Costilla County.
Lake County	Lake County.
Ouray County	Ouray County.
Pueblo City	Pueblo City in Pueblo County.
Saguache County	Saguache County.
Connecticut	
Ansonia Town	Ansonia Town.
Bozrah Town	Bozrah Town.
Bridgeport City	Bridgeport City.
Griswold Town	Griswold Town.
Killingly Town	Killingly Town.
Plainfield Town	Plainfield Town.
Plymouth Town	Plymouth Town.
Pomfret Town	Pomfret Town.
Putnam Town	Putnam Town.
Seymour Town	Seymour Town.
Sprague Town	Sprague Town.
Sterling Town	Sterling Town.
Thomaston Town	Thomaston Town.
Thompson Town	Thompson Town.
Torrington City	Torrington City.
Voluntown Town	Voluntown Town.
Waterbury City	Waterbury City.
Winchester Town	Winchester Town.
Delaware	
Wilmington City	Wilmington City in New Castle County.
District of Columbia	
Washington, DC	District of Columbia.
Florida	
Bay County	Bay County.
Calhoun County	Calhoun County.
Collier County	Collier County.
Franklin County	Franklin County.
Glades County	Glades County.
Gulf County	Gulf County.
Hendry County	Hendry County.
Hernando County	Hernando County.
Indian River County	Indian River County.
Lake County	Lake County.
Miami Beach City	Miami Beach City in Dade County.
Miami City	Miami City in Dade County.
Okeechobee County	Okeechobee County.
Polk County	Polk County.
Putnam County	Putnam County.
St. John County	St. John County.

Labor Surplus Areas Eligible for Federal Procurement Preference From June 1, 1982, Through May 31, 1983—Continued

Eligible labor surplus areas	Civil jurisdictions included
St. Lucie County	St. Lucie County.
Sumter County	Sumter County.
Georgia	
Atkinson County	Atkinson County.
Chattahoochee County	Chattahoochee County.
Chattooga County	Chattooga County.
Coffee County	Coffee County.
Crawford County	Crawford County.
Fannin County	Fannin County.
Floyd County	Floyd County.
Glascock County	Glascock County.
Gordon County	Gordon County.
Lincoln County	Lincoln County.
Macon County	Macon County.
McDuffie County	McDuffie County.
Murray County	Murray County.
Polk County	Polk County.
Rabun County	Rabun County.
Stephens County	Stephens County.
Stewart County	Stewart County.
Taliaferro County	Taliaferro County.
Terrell County	Terrell County.
Turner County	Turner County.
Warren County	Warren County.
Whitfield County	Whitfield County.
Wilcox County	Wilcox County.
Idaho	
Adams County	Adams County.
Benewah County	Benewah County.
Boise County	Boise County.
Bonner County	Bonner County.
Boundary County	Boundary County.
Clearwater County	Clearwater County.
Gem County	Gem County.
Idaho County	Idaho County.
Kootenai County	Kootenai County.
Lemhi County	Lemhi County.
Lewis County	Lewis County.
Valley County	Valley County.
Illinois	
Alexander County	Alexander County.
Aurora City	Aurora City in Kane County.
Bond County	Bond County.
Boone County	Boone County.
Bureau County	Bureau County.
Calhoun County	Calhoun County.
Chicago City	Chicago City in Cook County.
Cicero City	Cicero City in Cook County.
Clark County	Clark County.
Clay County	Clay County.
Clinton County	Clinton County.
Coles County	Coles County.
Cumberland County	Cumberland County.
Decatur City	Decatur City in Macon County.
East St. Louis City	East St. Louis City in St. Clair County.
Edgar County	Edgar County.
Effingham County	Effingham County.
Fayette County	Fayette County.
Franklin County	Franklin County.
Gallatin County	Gallatin County.
Greene County	Greene County.
Grundy County	Grundy County.
Hamilton County	Hamilton County.
Hardin County	Hardin County.
Jackson County	Jackson County.
Jasper County	Jasper County.
Jefferson County	Jefferson County.
Jersey County	Jersey County.
Johnson County	Johnson County.
Joliet City	Joliet City in Will County.
Kankakee County	Kankakee County.
Knox County	Knox County.
La Salle County	La Salle County.
Madison County	Madison County.
Marion County	Marion County.
Massac County	Massac County.
Montgomery County	Montgomery County.
Peoria City	Peoria City in Peoria County.
Perry County	Perry County.
Pope County	Pope County.

Labor Surplus Areas Eligible for Federal Procurement Preference From June 1, 1982, Through May 31, 1983—Continued

Eligible labor surplus areas	Civil jurisdictions included
Pulaski County	Pulaski County.
Putnam County	Putnam County.
Rock Island County	Rock Island County.
Rockford City	Rockford City in Winnebago County.
Saline County	Saline County.
Shelby County	Shelby County.
Balance of St. Clair County	St. Clair County less East St. Louis City.
Union County	Union County.
Vermilion County	Vermilion County.
Warren County	Warren County.
Waukegan City	Waukegan City in Lake County.
Wayne County	Wayne County.
White County	White County.
Whiteside County	Whiteside County.
Williamson County	Williamson County.
Indiana	
Adams County	Adams County.
Anderson City	Anderson City in Madison County.
Bartholomew County	Bartholomew County.
Blackford County	Blackford County.
Cass County	Cass County.
Clark County	Clark County.
Crawford County	Crawford County.
Daviess County	Daviess County.
De Kalb County	De Kalb County.
Dearborn County	Dearborn County.
Balance of Delaware County	Delaware County less Muncie City.
Elkhart County	Elkhart County.
Evansville City	Evansville City in Vanderburgh County.
Fayette County	Fayette County.
Floyd County	Floyd County.
Fountain County	Fountain County.
Franklin County	Franklin County.
Fort Wayne City	Fort Wayne City in Allen County.
Fulton County	Fulton County.
Gary City	Gary City in Lake County.
Grant County	Grant County.
Greene County	Greene County.
Hammond City	Hammond City in Lake County.
Harrison County	Harrison County.
Henry County	Henry County.
Howard County	Howard County.
Jackson County	Jackson County.
Jasper County	Jasper County.
Jay County	Jay County.
Jefferson County	Jefferson County.
Jennings County	Jennings County.
Knox County	Knox County.
La Porte County	La Porte County.
Lagrande County	Lagrande County.
Balance of Lake County	Lake County less Gary City. Hammond City.
Lawrence County	Lawrence County.
Balance of Madison County	Madison County less Anderson City.
Marshall County	Marshall County.
Martin County	Martin County.
Miami County	Miami County.
Balance of Monroe County	Monroe County less Bloomington City.
Muncie City	Muncie City in Delaware County.
Noble County	Noble County.
Ohio County	Ohio County.
Orange County	Orange County.
Owen County	Owen County.
Perry County	Perry County.
Porter County	Porter County.
Putnam County	Putnam County.
Randolph County	Randolph County.
Ripley County	Ripley County.
Rush County	Rush County.
Scott County	Scott County.
Shelby County	Shelby County.
South Bend City	South Bend City in St. Joseph County.
Spencer County	Spencer County.
Starke County	Starke County.
Steuben County	Steuben County.

Labor Surplus Areas Eligible for Federal Procurement Preference From June 1, 1982, Through May 31, 1983—Continued

Eligible labor surplus areas	Civil jurisdictions included
Sullivan County	Sullivan County.
Switzerland County	Switzerland County.
Terre Haute City	Terre Haute City in Vigo County.
Tipton County	Tipton County.
Union County	Union County.
Vermillion County	Vermillion County.
Wabash County	Wabash County.
Washington County	Washington County.
Wayne County	Wayne County.
White County	White County.
Whitley County	Whitley County.
Iowa	
Appanoose County	Appanoose County.
Chickasaw County	Chickasaw County.
Davenport City	Davenport City in Scott County.
Dubuque City	Dubuque City in Dubuque County.
Balance of Dubuque County	Dubuque County less Dubuque City.
Floyd County	Floyd County.
Jackson County	Jackson County.
Keokuk County	Keokuk County.
Balance of Scott County	Scott County less Davenport City.
Wapello County	Wapello County.
Kentucky	
Covington City	Covington City in Kenton County.
Balance of Jefferson County	Jefferson County less Louisville City.
Louisville City	Louisville City in Jefferson County.
Louisiana	
Alexandria City	Alexandria City in Rapides Parish.
Allen Parish	Allen Parish.
Ascension County	Ascension County.
Avoyelles County	Avoyelles County.
Beauregard County	Beauregard County.
Bienville County	Bienville County.
Concordia County	Concordia County.
East Carroll County	East Carroll County.
Evangeline County	Evangeline County.
Franklin Parish	Franklin Parish.
Grant Parish	Grant Parish.
Iberville County	Iberville County.
Jackson Parish	Jackson Parish.
Livingston County	Livingston County.
Madison Parish	Madison Parish.
Morehouse County	Morehouse County.
Balance of Ouachita Parish	Ouachita Parish less Monroe City.
Balance of Rapides Parish	Rapides Parish less Alexandria City.
Richland Parish	Richland Parish.
Sabine Parish	Sabine Parish.
St. James Parish	St. James Parish.
St. John Baptist Parish	St. John Baptist Parish.
St. Landry Parish	St. Landry Parish.
Tangipahoa Parish	Tangipahoa Parish.
Tensas Parish	Tensas Parish.
Union Parish	Union Parish.
Vernon Parish	Vernon Parish.
Washington County	Washington County.
Webster Parish	Webster Parish.
West Carroll County	West Carroll County.
Winn Parish	Winn Parish.
Maine	
Aroostook County	Aroostook County.
Somerset County	Somerset County.
Waldo County	Waldo County.
Washington County	Washington County.
Maryland	
Allegany County	Allegany County.
Baltimore City	Baltimore City.
Calvert County	Calvert County.

Labor Surplus Areas Eligible for Federal Procurement Preference From June 1, 1982, Through May 31, 1983—Continued

Eligible labor surplus areas	Civil jurisdictions included
Caroline County	Caroline County.
Dorchester County	Dorchester County.
Garrett County	Garrett County.
Kent County	Kent County.
Queen Annes County	Queen Annes County.
Somerset County	Somerset County.
St. Marys County	St. Marys County.
Washington County	Washington County.
Wicomico County	Wicomico County.
Worcester County	Worcester County.
Massachusetts	
Alford Town	Alford Town in Berkshire County.
Blackstone Town	Blackstone Town in Worcester County.
Brookfield Town	Brookfield Town in Worcester County.
Carver Town	Carver Town in Plymouth County.
Cummington Town	Cummington Town in Hampshire County.
Dunstable Town	Dunstable Town in Middlesex County.
Edgartown Town	Edgartown Town in Dukes County.
Fall River City	Fall River City in Bristol County.
Florida Town	Florida Town in Berkshire County.
Freetown Town	Freetown Town in Bristol County.
Granville Town	Granville Town in Hampden County.
Hardwick Town	Hardwick Town in Worcester County.
Harvard Town	Harvard Town in Worcester County.
Harwich Town	Harwich Town in Barnstable County.
Holland Town	Holland Town in Hampden County.
Lakeville Town	Lakeville Town in Plymouth County.
Leyden Town	Leyden Town in Franklin County.
Mashpee Town	Mashpee Town in Barnstable County.
Meridon Town	Meridon Town in Worcester County.
Milford Town	Milford Town in Worcester County.
Millville Town	Millville Town in Worcester County.
Monroe Town	Monroe Town in Franklin County.
New Ashford Town	New Ashford Town in Berkshire County.
North Adams Town	North Adams Town in Berkshire County.
Orange Town	Orange Town in Franklin County.
Orleans Town	Orleans Town in Barnstable County.
Phillipston Town	Phillipston Town in Worcester County.
Provincetown Town	Provincetown Town in Barnstable County.
Rochester Town	Rochester Town in Plymouth County.
Rockport Town	Rockport Town in Essex County.
Royalston Town	Royalston Town in Worcester County.
Sandwich Town	Sandwich Town in Barnstable County.
Savoy Town	Savoy Town in Berkshire County.
Tolland Town	Tolland Town in Hampden County.
Tyringham Town	Tyringham Town in Berkshire County.
Upton Town	Upton Town in Worcester County.
Wareham Town	Wareham Town in Plymouth County.
Wellfleet Town	Wellfleet Town in Barnstable County.

Labor Surplus Areas Eligible for Federal Procurement Preference From June 1, 1982, Through May 31, 1983—Continued

Eligible labor surplus areas	Civil jurisdictions included
Worthington Town	Worthington Town in Hampshire County.
Michigan	
Alcona County	Alcona County.
Alger County	Alger County.
Allegan County	Allegan County.
Alpena County	Alpena County.
Antrim County	Antrim County.
Arenac County	Arenac County.
Baraga County	Baraga County.
Barry County	Barry County.
Bay County	Bay County.
Benzie County	Benzie County.
Berrien County	Berrien County.
Branch County	Branch County.
Calhoun County	Calhoun County.
Cass County	Cass County.
Charlevoix County	Charlevoix County.
Cheboygan County	Cheboygan County.
Chippewa County	Chippewa County.
Clare County	Clare County.
Clinton County	Clinton County.
Clinton Township	Clinton Township in Macomb County.
Crawford County	Crawford County.
Dearborn City	Dearborn City in Wayne County.
Dearborn Heights City	Dearborn Heights City in Wayne County.
Delta County	Delta County.
Detroit City	Detroit City in Wayne County.
Dickinson County	Dickinson County.
East Lansing City	East Lansing City in Ingham County.
Balance of Eaton County	Eaton County less Lansing City-Eaton.
Emmet County	Emmet County.
Flint City	Flint City in Genesee County.
Balance of Genesee County	Genesee County less Flint City.
Gladwin County	Gladwin County.
Gogebic County	Gogebic County.
Grand Rapids City	Grand Rapids City in Kent County.
Grand Traverse County	Grand Traverse County.
Gratiot County	Gratiot County.
Hillsdale County	Hillsdale County.
Houghton County	Houghton County.
Huron County	Huron County.
Balance of Ingham County	Ingham County less East Lansing City.
	Lansing City-Ingham.
Ionia County	Ionia County.
Iosco County	Iosco County.
Iron County	Iron County.
Isabella County	Isabella County.
Jackson County	Jackson County.
Kalamazoo City	Kalamazoo City in Kalamazoo County.
Kalkaska County	Kalkaska County.
Balance of Kent County	Kent County less Grand Rapids City, Wyoming City.
Keweenaw County	Keweenaw County.
Lake County	Lake County.
Lansing City	Lansing City in Eaton County, Ingham County.
Lapeer County	Lapeer County.
Leelanau County	Leelanau County.
Lenawee County	Lenawee County.
Livingston County	Livingston County.
Luce County	Luce County.
Mackinac County	Mackinac County.
Balance of Macomb County	Macomb County Less Clinton Township, Roseville City, St. Clair Shores City, Sterling Heights City, Warren City.
Manistee County	Manistee County.
Marquette County	Marquette County.
Mason County	Mason County.
Mecosta County	Mecosta County.
Midland County	Midland County.
Missaukee County	Missaukee County.
Monroe County	Monroe County.
Montcalm County	Montcalm County.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE FROM JUNE 1, 1982, THROUGH MAY 31, 1983—Continued

Eligible labor surplus areas	Civil jurisdictions included
Montmorency County	Montmorency County.
Muskegon County	Muskegon County.
Newaygo County	Newaygo County.
Balance of Oakland County	Oakland County Less Farmington Hills City. Pontiac City. Royal Oak City. Southfield City. Troy City. Waterford Township.
Oceana County	Oceana County.
Ogemaw County	Ogemaw County.
Ontonagon County	Ontonagon County.
Osceola County	Osceola County.
Oscoda County	Oscoda County.
Otsego County	Otsego County.
Pontiac City	Pontiac City in Oakland County.
Presque Isle County	Presque Isle County.
Retford Township	Redford Township in Wayne County.
Roscommon County	Roscommon County.
Roseville City	Roseville City in Macomb County.
Saginaw City	Saginaw City in Saginaw County.
Balance of Saginaw County	Saginaw County less Saginaw City.
Sanilac County	Sanilac County.
Schoolcraft County	Schoolcraft County.
Shiawassee County	Shiawassee County.
St. Clair Shores City	St. Clair Shores City in Macomb County.
St. Clair County	St. Clair County.
St. Joseph County	St. Joseph County.
Sterling Heights City	Sterling Heights City in Macomb County.
Taylor City	Taylor City in Wayne County.
Tuscola County	Tuscola County.
Van Buren County	Van Buren County.
Warren City	Warren City in Macomb County.
Balance of Washtenaw County	Washtenaw County less Ann Arbor City.
Waterford Township	Waterford Township in Oakland County.
Balance of Wayne County	Wayne County less Dearborn City. Dearborn Heights City Detroit City. Livonia City. Redford Township. Taylor City. Westland City.
Westland City	Westland City in Wayne County.
Wexford County	Wexford County.
Wyoming City	Wyoming City in Kent County.

Minnesota

Aitkin County	Aitkin County.
Becker County	Becker County.
Carlton County	Carlton County.
Clearwater County	Clearwater County.
Cook County	Cook County.
Crow Wing County	Crow Wing County.
Hubbard County	Hubbard County.
Itasca County	Itasca County.
Kanabec County	Kanabec County.
Koochiching County	Koochiching County.
Mahnomen County	Mahnomen County.
Marshall County	Marshall County.
Morrison County	Morrison County.
Pennington County	Pennington County.
Pine County	Pine County.
Red Lake County	Red Lake County.
Roseau County	Roseau County.
Balance of St. Louis County	St. Louis County less Duluth City.

Mississippi

Alcorn County	Alcorn County.
Attala County	Attala County.
Benton County	Benton County.
Bolivar County	Bolivar County.
Coahoma County	Coahoma County.
George County	George County.
Greene County	Greene County.
Grenada County	Grenada County.
Holmes County	Holmes County.
Jackson County	Jackson County.
Jasper County	Jasper County.
Jefferson County	Jefferson County.
Jefferson Davis County	Jefferson Davis County.
Kemper County	Kemper County.
LeFlore County	LeFlore County.
Madison County	Madison County.
Marshall County	Marshall County.
Montgomery County	Montgomery County.
Noxubee County	Noxubee County.
Panola County	Panola County.
Perry County	Perry County.
Quitman County	Quitman County.
Sharkey County	Sharkey County.
Stone County	Stone County.
Sunflower County	Sunflower County.
Tallahatchie County	Tallahatchie County.
Tate County	Tate County.
Tishomingo County	Tishomingo County.
Tunica County	Tunica County.
Warren County	Warren County.
Washington County	Washinton County.
Winston County	Winston County.

Missouri

Bollinger County	Bollinger County.
Butler County	Butler County.
Carter County	Carter County.
Clark County	Clark County.
Douglas County	Douglas County.
Dunklin County	Dunklin County.
Franklin County	Franklin County.
Howell County	Howell County.
Iron County	Iron County.
Jefferson County	Jefferson County.
Madison County	Madison County.
Maries County	Maries County.
Mississippi County	Mississippi County.
Moniteau County	Moniteau County.
Morgan County	Morgan County.
Oregon County	Oregon County.
Pemiscot County	Pemiscot County.
Perry County	Perry County.
Pettis County	Pettis County.
Pike County	Pike County.
Ripley County	Ripley County.
Scott County	Scott County.
Shannon County	Shannon County.
St. Louis City	St. Louis City.
St. Francois County	St. Francois County.
Ste. Genevieve County	Ste. Genevieve County.
Stoddard County	Stoddard County.
Stone County	Stone County.
Texas County	Texas County.
Washington County	Washington County.
Wayne County	Wayne County.
Webster County	Webster County.
Wright County	Wright County.

Montana

Deer Lodge County	Deer Lodge County.
Flathead County	Flathead County.
Glacier County	Glacier County.
Lincoln County	Lincoln County.
Mineral County	Mineral County.
Ravalli County	Ravalli County.
Sanders County	Sanders County.

New Jersey

Camden City	Camden City in Camden County.
Cape May County	Cape May County.
Balance of Cumberland County.	Cumberland County less Vineland City.
Elizabeth City	Elizabeth City in Union County.
Balance of Hudson County	Hudson County less Bayonne City. Jersey City. Union City.
Jersey City	Jersey City in Hudson County.
Newark City	Newark City in Essex County.
Balance of Ocean County	Ocean County less Brick Township. Dover Township.
Passaic City	Passaic City in Passaic County.
Paterson City	Paterson City in Passaic County.
Union City	Union City in Hudson County.
Vineland City	Vineland City in Cumberland County.

New Mexico

Catron County	Catron County.
Grant County	Grant County.
Guadalupe County	Guadalupe County.
Luna County	Luna County.
McKinley County	McKinley County.
Mora County	Mora County.
Rio Arriba County	Rio Arriba County.
Sand Miguel County	San Miguel County.
Taos County	Taos County.
Valencia County	Valencia County.

New York

Buffalo City	Buffalo City in Erie County.
Cattaraugus County	Cattaraugus County.
Chemung County	Chemung County.
Clinton County	Clinton County.
Essex County	Essex County.
Franklin County	Franklin County.
Fulton County	Fulton County.
Genesee County	Genesee County.
Greene County	Greene County.
Hamilton County	Hamilton County.
Herkimer County	Herkimer County.
Jefferson County	Jefferson County.
Lewis County	Lewis County.
Montgomery County	Montgomery County.
Balance of Niagara County	Niagara County less Niagara Falls City.
Niagara Falls City	Niagara Falls City in Niagara County.
Orleans County	Orleans County.
Oswego County	Oswego County.
Schoharie County	Schoharie County.
St. Lawrence County	St. Lawrence County.
Balance of Suffolk County	Suffolk County Less Babylon Town. Brookhaven Town. Huntington Town. Islip Town. Smithtown Town.
Warren County	Warren County.
Wyoming County	Wyoming County.

North Carolina

Ashe County	Ashe County.
Bladen County	Bladen County.
Brunswick County	Brunswick County.
Cherokee County	Cherokee County.
Clay County	Clay County.
Cleveland County	Cleveland County.
Balance of Cumberland County.	Cumberland County less Fayetteville City.
Edgecombe County	Edgecombe County.
Franklin County	Franklin County.
Graham County	Graham County.
Halifax County	Halifax County.
Hoke County	Hoke County.
Northampton County	Northampton County.
Person County	Person County.
Richmond County	Richmond County.
Robeson County	Robeson County.
Rockingham County	Rockingham County.
Swait County	Swait County.
Tyrrell County	Tyrrell County.
Vance County	Vance County.
Yancey County	Yancey County.

North Dakota

Rolette County	Rolette County.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE FROM JUNE 1, 1982, THROUGH MAY 31, 1983—Continued

Eligible labor surplus areas	Civil jurisdictions included
Sioux County	Sioux County.
Ohio	
Adams County	Adams County.
Akron City	Akron City in Summit County.
Allen County	Allen County.
Ashtabula County	Ashtabula County.
Auglaize County	Auglaize County.
Belmont County	Belmont County.
Brown County	Brown County.
Canton City	Canton City in Stark County.
Carroll County	Carroll County.
Cincinnati City	Cincinnati City in Hamilton County.
Clermont County	Clermont County.
Cleveland City	Cleveland City in Cuyahoga County.
Crawford County	Crawford County.
Dayton City	Dayton City in Montgomery County.
Defiance County	Defiance County.
Elyria City	Elyria City in Lorain County.
Erie County	Erie County.
Fayette County	Fayette County.
Fulton County	Fulton County.
Guernsey County	Guernsey County.
Hamilton City	Hamilton City in Butler County.
Hardin County	Hardin County.
Harrison County	Harrison County.
Henry County	Henry County.
Highland County	Highland County.
Hocking County	Hocking County.
Huron County	Huron County.
Jackson County	Jackson County.
Jefferson County	Jefferson County.
Lawrence County	Lawrence County.
Logan County	Logan County.
Lorain City	Lorain City in Lorain County.
Balance of Lorain County	Lorain County less Elyria City.
	Lorain City.
Balance of Mahoning County	Mahoning County less Youngstown City.
Mansfield City	Mansfield City in Richland County.
Marion County	Marion County.
Mercer County	Mercer County.
Monroe County	Monroe County.
Morgan County	Morgan County.
Morrow County	Morrow County.
Muskingum County	Muskingum County.
Noble County	Noble County.
Ottawa County	Ottawa County.
Paulding County	Paulding County.
Perry County	Perry County.
Pike County	Pike County.
Portage County	Portage County.
Putnam County	Putnam County.
Ross County	Ross County.
Sandusky County	Sandusky County.
Scioto County	Scioto County.
Seneca County	Seneca County.
Shelby County	Shelby County.
Springfield City	Springfield City in Clark County.
Toledo City	Toledo City in Lucas County.
Balance of Trumbull County	Trumbull County less Warren City.
Tuscarawas County	Tuscarawas County.
Van Wert County	Van Wert County.
Vinton County	Vinton County.
Warren City	Warren City in Trumbull County.
Warren County	Warren County.
Washington County	Washington County.
Williams County	Williams County.
Wyandot County	Wyandot County.
Youngstown City	Youngstown City in Mahoning County.
Oklahoma	
Choctaw County	Choctaw County.
Coal County	Coal County.
Latimer County	Latimer County.
Pittsburg County	Pittsburg County.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE FROM JUNE 1, 1982, THROUGH MAY 31, 1983—Continued

Eligible labor surplus areas	Civil jurisdictions included
Pushmataha County	Pushmataha County.
Oregon	
Baker County	Baker County.
Clatsop County	Clatsop County.
Columbia County	Columbia County.
Coos County	Coos County.
Crook County	Crook County.
Curry County	Curry County.
Deschutes County	Deschutes County.
Douglas County	Douglas County.
Eugene City	Eugene City in Lane County.
Grant County	Grant County.
Harney County	Harney County.
Hood River County	Hood River County.
Jackson County	Jackson County.
Josephine County	Josephine County.
Klamath County	Klamath County.
Lake County	Lake County.
Balance of Lane County	Lane County less Eugene City.
Lincoln County	Lincoln County.
Linn County	Linn County.
Tillamook County	Tillamook County.
Union County	Union County.
Wallowa County	Wallowa County.
Wheeler County	Wheeler County.
Pennsylvania	
Altoona City	Altoona City in Blair County.
Armstrong County	Armstrong County.
Beaver County	Beaver County.
Bedford County	Bedford County.
Balance of Blair County	Blair County less Altoona City.
Bradford County	Bradford County.
Bristol Township	Bristol Township in Bucks County.
Butler County	Butler County.
Cambria County	Cambria County.
Cameron County	Cameron County.
Carbon County	Carbon County.
Clarion County	Clarion County.
Clearfield County	Clearfield County.
Clinton County	Clinton County.
Columbia County	Columbia County.
Crawford County	Crawford County.
Elk County	Elk County.
Erie City	Erie City in Erie County.
Fayette County	Fayette County.
Forest County	Forest County.
Fulton County	Fulton County.
Greene County	Greene County.
Huntingdon County	Huntingdon County.
Jefferson County	Jefferson County.
Juniata County	Juniata County.
Balance of Lackawanna County	Lackawanna County less Scranton City.
Lawrence County	Lawrence County.
Balance of Luzerne County	Luzerne County less Wilkes-Barre City.
Lycoming County	Lycoming County.
Mifflin County	Mifflin County.
Monroe County	Monroe County.
Northumberland County	Northumberland County.
Potter County	Potter County.
Reading City	Reading City in Berks County.
Schuylkill County	Schuylkill County.
Somerset County	Somerset County.
Sullivan County	Sullivan County.
Susquehanna County	Susquehanna County.
Tioga County	Tioga County.
Westmoreland County	Westmoreland County.
Wilkes-Barre City	Wilkes-Barre City in Luzerne County.
Wyoming County	Wyoming County.
Puerto Rico	
Aguadilla Municipio	Aguadilla Municipio.
Arecibo Municipio	Arecibo Municipio.
Bayamon Municipio	Bayamon Municipio.
Caguas Municipio	Caguas Municipio.
Carolina Municipio	Carolina Municipio.
Mayaguez Municipio	Mayaguez Municipio.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE FROM JUNE 1, 1982, THROUGH MAY 31, 1983—Continued

Eligible labor surplus areas	Civil jurisdictions included
Ponce Municipio	Ponce Municipio.
Balance of Puerto Rico	Puerto Rico less Aguadilla Municipio.
	Arecibo Municipio.
	Bayamon Municipio.
	Caguas Municipio.
	Carolina Municipio.
	Guaynabo Municipio.
	Mayaguez Municipio.
	Ponce Municipio.
	San Juan Municipio.
	Toa Baja Municipio.
	Trujillo Alto Municipio.
San Juan Municipio	San Juan Municipio.
Toa Baja Municipio	Toa Baja Municipio.
Trujillo Alto Municipio	Trujillo Alto Municipio.
Rhode Island	
Bristol Town	Bristol Town.
Johnston Town	Johnston Town.
New Shoreham Town	New Shoreham Town.
South Carolina	
Abbeville County	Abbeville County.
Allendale County	Allendale County.
Barnwell County	Barnwell County.
Chester County	Chester County.
Clarendon County	Clarendon County.
Colleton County	Colleton County.
Darlington County	Darlington County.
Dillon County	Dillon County.
Georgetown County	Georgetown County.
Greenwood County	Greenwood County.
Hampton County	Hampton County.
Marion County	Marion County.
Marlboro County	Marlboro County.
McCormick County	McCormick County.
North Charleston City	North Charleston City in Charleston County.
Oconee County	Oconee County.
Orangeburg County	Orangeburg County.
Saluda County	Saluda County.
Sumter County	Sumter County.
Union County	Union County.
Williamsburg County	Williamsburg County.
Tennessee	
Bedford County	Bedford County.
Bledsoe County	Bledsoe County.
Campbell County	Campbell County.
Cannon County	Cannon County.
Carroll County	Carroll County.
Chester County	Chester County.
Claiborne County	Claiborne County.
Clarksville City	Clarksville City in Montgomery County.
Clay County	Clay County.
Cocke County	Cocke County.
Crockett County	Crockett county.
Cumberland County	Cumberland County.
De Kalb county	De Kalb County.
Decatur County	Decatur County.
Dickson County	Dickson County.
Dyer County	Dyer County.
Fayette County	Fayette County.
Fentress County	Fentress County.
Franklin County	Franklin County.
Gibson County	Gibson County.
Grainger County	Grainger County.
Greene County	Greene County.
Grundy County	Grundy County.
Hamblen County	Hamblen County.
Hancock County	Hancock County.
Hardeman County	Hardeman County.
Hardin County	Hardin County.
Haywood County	Haywood County.
Henderson County	Henderson County.
Henry County	Henry County.
Hickman County	Hickman County.
Houston County	Houston County.
Humphreys County	Humphreys County.
Jackson County	Jackson County.
Jefferson County	Jefferson County.
Lake County	Lake County.
Lauderdale County	Lauderdale County.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE FROM JUNE 1, 1982, THROUGH MAY 31, 1983—Continued

Eligible labor surplus areas	Civil jurisdictions included
Lawrence County	Lawrence County.
Lewis County	Lewis County.
Lincoln County	Lincoln County.
Loudon County	Loudon County.
Macon County	Macon County.
Maury County	Maury County.
McMinn County	McMinn County.
McNairy County	McNairy County.
Meigs County	Meigs County.
Monroe County	Monroe County.
Morgan County	Morgan County.
Obion County	Obion County.
Overton County	Overton County.
Perry County	Perry County.
Pickett County	Pickett County.
Polk County	Polk County.
Putnam County	Putnam County.
Rhea County	Rhea County.
Roane County	Roane County.
Scott County	Scott County.
Sequatchie County	Sequatchie County.
Sevier County	Sevier County.
Stewart County	Stewart County.
Unicoi County	Unicoi County.
Union County	Union County.
Van Buren County	Van Buren County.
Weakley County	Weakley County.
Warren County	Warren County.
Wayne County	Wayne County.
White County	White County.
Texas	
Brownsville City	Brownsville City in Cameron County.
Balance of Cameron County	Cameron County less Brownsville City.
Dimmit County	Dimmit County.
El Paso City	El Paso City in El Paso County.
Balance of El Paso County	El Paso County less El Paso City.
Balance of Hidalgo County	Hidalgo County less McAllen City.
Laredo City	Laredo City in Webb County.
Matagorda County	Matagorda County.
Maverick County	Maverick County.
McAllen City	McAllen City in Hidalgo County.
Newton County	Newton County.
Port Arthur City	Port Arthur City in Jefferson County.
Balance of Potter County	Potter County less Amarillo City-Potter.
San Augustine County	San Augustine County.
Starr County	Starr County.
Texarkana City, Tex	Texarkana City, Tex., in Bowie County.
Val Verde County	Val Verde County.
Willacy County	Willacy County.
Zapata County	Zapata County.
Zavala County	Zavala County.
Utah	
Piute County	Piute County.
Sanpete County	Sanpete County.
Wasatch County	Wasatch County.
Vermont	
Essex County	Essex County.
Grand Isle County	Grand Isle County.
Virginia	
Alleghany County	Alleghany County.
Bath County	Bath County.
Brunswick County	Brunswick County.
Buena Vista City	Buena Vista City.
Caroline County	Caroline County.
Covington City	Covington City.
Dickenson County	Dickenson County.
Greensville County	Greensville County.
Highland County	Highland County.
Lancaster County	Lancaster County.
Lee County	Lee County.
Northampton County	Northampton County.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE FROM JUNE 1, 1982, THROUGH MAY 31, 1983—Continued

Eligible labor surplus areas	Civil jurisdictions included
Northumberland County	Northumberland County.
Page County	Page County.
Petersburg City	Petersburg City.
Richmond County	Richmond County.
Russell County	Russell County.
Smyth County	Smyth County.
Suffolk City	Suffolk City.
Sussex County	Sussex County.
Warren County	Warren County.
Waynesboro City	Waynesboro City.
Westmoreland County	Westmoreland County.
Williamsburg City	Williamsburg City.
Washington	
Adams County	Adams County.
Chelan County	Chelan County.
Clallam County	Clallam County.
Columbia County	Columbia County.
Cowlitz County	Cowlitz County.
Douglas County	Douglas County.
Everett City	Everett City in Snohomish County.
Ferry County	Ferry County.
Franklin County	Franklin County.
Grant County	Grant County.
Grays Harbor County	Grays Harbor County.
Jefferson County	Jefferson County.
Kittitas County	Kittitas County.
Klickitat County	Klickitat County.
Lewis County	Lewis County.
Mason County	Mason County.
Okanogan County	Okanogan County.
Pacific County	Pacific County.
Pend Oreille County	Pend Oreille County.
Skagit County	Skagit County.
Skamania County	Skamania County.
Spokane City	Spokane City in Spokane County.
Stevens County	Stevens County.
Tacoma City	Tacoma City in Pierce County.
Thurston County	Thurston County.
Wahkiakum County	Wahkiakum County.
Whatcom County	Whatcom County.
Yakima County	Yakima County.
West Virginia	
Barbour County	Barbour County.
Berkeley County	Berkeley County.
Braxton County	Braxton County.
Brooke County	Brooke County.
Balance of Cabell County	Cabell County less Huntington City-Cabell.
Calhoun County	Calhoun County.
Clay County	Clay County.
Fayette County	Fayette County.
Greenbrier County	Greenbrier County.
Hancock County	Hancock County.
Huntington City	Huntington City in Cabell County.
	Wayne County.
Jackson County	Jackson County.
Lewis County	Lewis County.
Lincoln County	Lincoln County.
Logan County	Logan County.
Marion County	Marion County.
Marshall County	Marshall County.
Mason County	Mason County.
McDowell County	McDowell County.
Mercer County	Mercer County.
Mingo County	Mingo County.
Nicholas County	Nicholas County.
Pendleton County	Pendleton County.
Pleasants County	Pleasants County.
Pocahontas County	Pocahontas County.
Preston County	Preston County.
Putnam County	Putnam County.
Raleigh County	Raleigh County.
Randolph County	Randolph County.
Ritchie County	Ritchie County.
Roane County	Roane County.
Summers County	Summers County.
Taylor County	Taylor County.
Tucker County	Tucker County.
Tyler County	Tyler County.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE FROM JUNE 1, 1982, THROUGH MAY 31, 1983—Continued

Eligible labor surplus areas	Civil jurisdictions included
Balance of Wayne County	Wayne County less Huntington City-Wayne.
Webster County	Webster County.
Wetzel County	Wetzel County.
Wirt County	Wirt County.
Wood County	Wood County.
Wyoming County	Wyoming County.
Wisconsin	
Ashland County	Ashland County.
Bayfield County	Bayfield County.
Balance of Calumet County	Calumet County less Appleton City-Calumet.
Clark County	Clark County.
Door County	Door County.
Forest County	Forest County.
Iron County	Iron County.
Jackson County	Jackson County.
Janesville City	Janesville City in Rock County.
Kenosha City	Kenosha City in Kenosha County.
Lincoln County	Lincoln County.
Marquette County	Marquette County.
Menominee County	Menominee County.
Oconto County	Oconto County.
Racine City	Racine City in Racine County.
Balance of Rock County	Rock County less Janesville City.
Rusk County	Rusk County.
Sauk County	Sauk County.
Sawyer County	Sawyer County.
Taylor County	Taylor County.
Trempealeau County	Trempealeau County.
Vilas County	Vilas County.
Washburn County	Washburn County.

[FR Doc. 82-15188 Filed 6-3-82; 8:45 am]

BILLING CODE 6510-30-M

Mine Safety and Health Administration

[Docket No. M-82-48-C]

A & E Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

A & E Coal Company, Inc., R. T. 2, Box 83, Whitesburg, Kentucky 41858 has filed a petition to modify the application of 30 CFR 75.1710 (cabs or canopies) to its Mine No. 3 (I.D. No. 15-12049) located in Letcher County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The coal seam ranges in height from 48 to 55 inches, with undulating top and bottom conditions.

3. Petitioner states that application of the standard would result in a diminution of safety for the miners affected because the equipment operator's visibility is impaired, and the cramped operator compartment causes

operator fatigue, increasing the chances of an accident.

4. For these reasons petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 6, 1982. Copies of the petition are available for inspection at that address.

Dated: May 26, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-15083 Filed 6-3-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-48-C]

G.M. & W. Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

G.M. & W. Coal Company, Inc., P.O. Box 112, Jennerstown, Pennsylvania 15547 has filed a petition to modify the application of 30 CFR 75.1710 (cabs or canopies) to its Grove No. 1 Mine (I.D. No. 36-02398) located in Somerset County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The coal seam ranges in height from 42 to 48 inches with undulating top and bottom conditions.

3. Petitioner states that the installation of cabs or canopies on the mine's electric face equipment would result in a diminution of safety for the miners affected because:

a. The canopies could strike and dislodge roof supports and suspended electrical cables;

b. The canopies cause a cramped operator compartment which limits visibility and results in operator fatigue, increasing the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 6, 1982. Copies of the petition are available for inspection at that address.

Dated: May 27, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-15100 Filed 6-3-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-6-M]

Georgia-Pacific Corp.; Petition for Modification of Application of Mandatory Safety Standard

Georgia-Pacific Corporation, P.O. Box 187, Blue Rapids, Kansas 66411 has filed a petition to modify the application of 30 CFR 49.5 and 49.6 (mine rescue station; equipment and maintenance requirements) to its Blue Rapids Mine and Mill (I.D. No. 14-00309) located in Marshall County, Kansas. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the requirement that mine rescue stations provide a centralized storage location for equipment and that such stations be equipped with one oxygen pump or a cascading system.

2. Petitioner is a member of the Kansas Mine Rescue Association which is a cooperative arrangment among four companies. Each company has a mine rescue station at its mine, but petitioner proposes an alternative to the centralized location of equipment.

3. Petitioner proposes that each company keep its team's equipment at its own mine site. Petitioner will be responsible for its own equipment and its maintenance or replacement. Petitioner states that equipment assigned to individual team members normally has a better maintenance program than equipment that is shared. Advantages of this alternative are that the location of each team's equipment at its own mine site:

a. Would make it easier to inspect, test and spend the required two hours training under oxygen every two months;

b. Will keep five self-contained oxygen breathing apparatus and other rescue equipment available at each mine site at all times; and

c. Will keep the equipment available for uses other than mine rescue, such as re-entry after an electrical malfunction producing smoke, causing evacuation, or as back-up units for the local fire department during community disasters.

4. Within the Association there will be a total of twenty self-contained breathing apparatus available, as well as duplication of other mine rescue equipment.

5. Petitioner is also seeking a modification pertaining to equipment for recharging oxygen cylinders. In lieu of an oxygen pump or cascading system to recharge the breathing apparatus, petitioner states that at least two companies who supply oxygen can reach the disaster scene before the initial supply of oxygen can be exhausted. The Association will also have twenty breathing apparatus at its disposal so immediate recharging of any single unit is not extremely critical and the MSHA rescue team will have a portable oxygen pump.

6. For these reasons, petitioner requests a modification of the standards.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 6, 1982. Copies of the petition are available for inspection at that address.

Dated: May 26, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-15092 Filed 6-3-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-22M]

Homestake Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Homestake Mining Company, P.O. Box 875, Lead, South Dakota 57754 has filed a petition to modify the application of 30 CFR 57.19-56 (automatic hoists) to its Homestake Mine (I.D. No. 39-00055) located in Lawrence County, South Dakota. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a competent operator for an automatic hoist be readily available at or near the hoisting device while any person is underground.

2. The mine has seven remote-control hoists that are used to move employees

and supplies from one level to another. The hoists are controlled by the activation of a lever inside the cage or from the shaft station, with the cage control overriding the station control. The control signal is carried to the hoist by means of a trailing cable, except for the Alimak hoist which has the hoist mounted on top of the cage with a trailing cable supplying the power. From the given point, the cage may be moved by activating the control lever to the position of the direction of travel desired. The cage must be stopped at the desired location by neutralizing the position of the control lever. The hoists may be changed from remote control to manual control. This change and manual operation can only be performed in the hoist room and is usually done when shaft maintenance is being performed, and there is no need for a hoist operator at any other time. A competent operator is trained and on duty in case of a hoist malfunction. In case of a hoist malfunction when people are riding on the cage, a telephone is installed in the cage to summon help.

3. Petitioner states that the procedures and methods outlined above provide the same degree of safety for the miners affected as that afforded by the standard, and for these reasons requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 6, 1982. Copies of the petition are available for inspection at that address.

Dated: May 27, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-15080 Filed 6-3-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-42-C]

Island Creek Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Island Creek Coal Company, P.O. Box 11430, Lexington, Kentucky 40575 has filed a petition to modify the application of 30 CFR 75.507-1(a) (electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements) to its Hamilton No. 2 Mine (I.D. No. 15-02706) located in Union County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that all electric equipment, other than power-connection points, used in return air outby the last open crosscut in any coal mine, be permissible.

2. Petitioner proposes the use of a 20 h.p. 460 V Franklin Electric Model 2361156010 submergible pump to drain water from the sump beneath the No. 1 return air shaft a the mine. This pump is nonpermissible; however, petitioner knows of no submergible pump of this type which is considered permissible electric equipment.

3. Petitioner states that the operating electrical parts of this pump are at all times submerged in water in the sump. If the water level in the sump drops below one inch of the intake point of the pump, the pump ceases operating; therefore, it would be impossible for the pump to lower water in the sump to a level that would expose the electrical operating parts of the pump. The electrical power supply enters the pump at a point below the water level in the sump.

4. Petitioner states that use of this pump will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 6, 1982. Copies of the petition are available for inspection at that address.

Dated: May 28, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-15080 Filed 6-3-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-19-M]

Morton-Norwich Products, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Morton-Norwich Products, Inc., 110 North Wacker Drive, Chicago, Illinois 60606-1565 has filed a petition to modify the application of 30 CFR 57.21-46 (crosscut intervals) to its Weeks Island New Mine (I.D. No. 16-00870) located in Iberia Parish, Louisiana. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that crosscuts be made at intervals not in excess of 100 feet between entries and between rooms.

2. Liberation of methane gas takes place only when the in situ salt is disturbed by drilling, undercutting or blasting. Drilling and undercutting liberate only small amounts of methane, constituting a negligible concentration in the ventilating air stream.

3. The mine is single-level served by two 18-foot diameter shafts. Intake air is provided by a fan installation on the surface, capable of air reversal. Normal operation of the fan is blowing, rather than exhausting, so that the Service Shaft (No. 4) is downcast and the Production Shaft (No. 3) is upcast. Both shafts are vertical, concrete-lined in overburden and unlined in salt. They are circular, non-compartmented, and have fire-retardant guides and guide support timbers. Shaft stations are unlined, but are entirely in salt and free of combustible materials. Headframe sheathing, if any, is of non-combustible material (transite).

4. Petitioner states that application of the standard will result in a diminution of safety for the miners affected because said application would result in the existence of salt pillars which would be too narrow and unstable.

5. As an alternative method, petitioner seeks a modification of the standard to permit:

a. The making of crosscuts at such intervals that will result in centerline distances of approximately 190 feet for those crosscuts made between rooms, with such room widths and crosscut widths being approximately 70 feet;

b. The making of crosscuts at the earliest opportunity in accordance with the mine plan, without requiring that crosscuts hole through before advancing the room face 35 feet beyond the next crosscut centerline.

6. Petitioner states that the proposed alternative method will enhance the miner's safety by providing wider and more stable salt pillars and afford adequate ventilation.

7. In support of the proposed alternative method, petitioner states that the following safeguards will be assured:

a. Crosscut intervals will not exceed centerline distances of 380 feet;

b. If other than full dimension crosscuts are made, measures will be taken to assure adequate ventilation;

c. All face advance and bench blasting will be performed with no workers underground; and

d. A hand-held methanometer program will be established, with reasonable locations and frequency of monitoring.

8. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 6, 1982. Copies of the petition are available for inspection at that address.

Dated: May 26, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-15080 Filed 6-3-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-16-M]

Morton-Norwich Products, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Morton-Norwich Products, Inc., 110 North Wacker Drive, Chicago, Illinois 60606-1555 has filed a petition to modify the application of 30 CFR 57.21-24(a) (fan stoppage) to its Weeks Island New Mine (I.D. No. 16-00970) located in Iberia Parish, Louisiana. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that, if the main fan stops, all persons be withdrawn from the affected active workings and that power be denergized in these workings and not restored or persons permitted reentry in these workings until a competent person determines that the methane concentration is less than 1.0 percent.

2. Liberation of methane gas takes place only when the *in situ* salt is distrubed by drilling, undercutting or blasting. Drilling and undercutting liberate only small amounts of methane, constituting a negligible concentration in the ventilating air stream.

3. The mine is single-level served by two 18-foot diameter shafts. Intake air is provided by a fan installation on the surface, capable of air reversal. Normal operation of the fan is blowing, rather than exhausting, so that the Service Shaft (No. 4) is downcast and the Production Shaft (No. 3) is upcast. Both shafts are vertical, concrete-lined in overburden and unlined in salt. They are circular, non-compartmented, and have fire-retardant guides and guide support timbers. Shaft stations are unlined, but are entirely in salt and free of combustible materials. Headframes sheathing, if any, is non-combustible material (transite).

4. As an alternate method, petitioner seeks a modification of the standard to permit, in the event of main fan stoppage, persons to remain in and power to remain energized in affected active workings under prescribed conditions for a period of time not to exceed thirty (30) minutes, provided that methane concentrations measured during such period of time are less than 1.25 percent.

5. In support of this proposed alternative, petitioner states that the following safeguards will be assured in the event of a main fan stoppage:

a. No blasting, drilling or undercutting will be performed;

b. If the main fan as not been restarted within 30 minutes after stoppage, or if methane in concentrations of 1.25 percent or greater is measured at any time in any working place, all equipment will be deenergized and all persons will be withdrawn from the mine;

c. If ventilation has been interrupted for more than 15 minutes, all active workings will be examined for methane by a competent person; and

d. When all mine equipment has been deenergized and all persons have been withdrawn from the mine, no mining equipment will be reenergized and no other persons will reenter the mine until the main fan has been restarted and methane concentrations are determined to be less than 1.25 percent by a competent person.

6. Petitioner states that the proposed alternative method and safeguards outlined above will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 6, 1982. Copies of the petition are available for inspection at that address.

Dated: May 26, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-15085 Filed 6-3-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-17-M]

Morton-Norwich Products, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Morton-Norwich Products, Inc., 110 North Wacker Drive, Chicago, Illinois 60606-1555 has filed a petition to modify the application of 30 CFR 57.21-25 (failure of mine ventilation) to its Weeks Island New Mine (I.D. No. 16-00970) located in Iberia Parish, Louisiana. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that when there has been a failure of mine ventilation other than a failure of a main fan as described in 30 CFR 57.21-24, all persons be withdrawn from the affected active workings, and that power be deenergized in these workings and not restored or persons permitted reentry to the affected area until a competent person determines that the methane concentration in such active workings is less than 1.0 percent.

2. Liberation of methane gas takes place only when the *in situ* salt is disturbed by drilling, undercutting or blasting. Drilling and undercutting liberate only small amounts of methane, constituting a negligible concentration in the ventilating air stream.

3. The mine is single-level served by two 18-foot diameter shafts. Intake air is provided by a fan installation on the surface, capable of air reversal. Normal operation of the fan is blowing, rather than exhausting, so that the Service Shaft (No. 4) is downcast and the Production Shaft (No. 3) is upcast. Both shafts are vertical, concrete-lined in overburden and unlined in salt. They are circular, non-compartmented, and have fire-retardant guides and guide support timbers. Shaft stations are unlined, but are entirely in salt and free of combustible materials. Headframe sheathing, if any, is of non-combustible material (transite).

4. As an alternative method, petitioner seeks a modification of the standard to permit, in the event of a failure of ventilation other than a main fan

stoppage, persons to remain in affected active workings and power to remain energized in affected active workings for a period of time not to exceed 60 (sixty) minutes, provided that methane concentrations measured during such period of time are less than 1.25 percent.

5. In support of this proposed alternative, petitioner states that the following safeguards will be assured in the event of a failure of ventilation other than a main fan stoppage:

a. No blasting, drilling or undercutting will be performed;

b. If the ventilation failure has not been corrected within sixty minutes after stoppage, or if methane is detected in concentrations of 1.25 percent or greater at any time in any working place, all equipment will be deenergized and all persons withdrawn from the mine;

c. If ventilation has been interrupted for more than thirty minutes, all active workings will be examined for methane by a competent person; and

d. When all mine equipment has been deenergized and all persons have been withdrawn from the mine, no mining equipment will be reenergized and no other persons will reenter the mine until the failure of ventilation has been corrected and methane concentrations are determined to be less than 1.25 percent. Persons engaged in correcting the ventilation failure may remain in the mine for that purpose, as long as methane concentrations are determined to be less than 1.5 percent.

6. Petitioner states that the proposed alternative method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 6, 1982. Copies of the petition are available for inspection at that address.

Dated: May 25, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-15006 Filed 6-3-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-18-M]

Morton-Norwich Products, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Morton-Norwich Products, Inc., 110 North Wacker Drive, Chicago, Illinois 60606-1555 has filed a petition to modify the application of 30 CFR 57.21-78 (permissible equipment) to its Weeks Island New Mine (I.D. No. 16-00970) located in Iberia Parish, Louisiana. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that only permissible equipment maintained in permissible condition be used beyond the last open crosscut or in places where dangerous quantities of flammable gases are present or may enter the air current.

2. Liberation of methane gas takes place only when the in situ salt is disturbed by drilling, undercutting or blasting. Drilling and undercutting liberate only small amounts of methane, constituting a negligible concentration in the ventilating air stream.

3. The mine is single-level served by two 18-foot diameter shafts. Intake air is provided by a fan installation on the surface, capable of air reversal. Normal operation of the fan is blowing, rather than exhausting, so that the Service Shaft (No. 4) is downcast and the Production Shaft (No. 3) is upcast. Both shafts are vertical, concrete-lined in overburden and unlined in salt. They are circular, non-compartmented, and have fire-retardant guides and guide support timbers. Shaft stations are unlined, but are entirely in salt and free of combustible materials. Headframe sheathing, if any, is of non-combustible material (transite).

4. As an alternative method, petitioner seeks a modification of the standard to permit the use of non-permissible equipment at the mine under prescribed conditions.

5. In support of this proposed alternative, petitioner states that the following safeguards will be assured with the use of non-permissible equipment:

a. Since methane, in small but measurable amounts, may be liberated from in situ salt when disturbed by drilling or undercutting, non-permissible undercutting and drilling equipment will be fitted with methane monitors, which are either readily observable to the equipment operator, or have audible alarms designed to activate in the presence of methane concentrations of 1.25 percent, at which time all ignition sources will be deenergized;

b. Before any other non-permissible equipment is operated in the area of a working face, a responsible person will survey the area to assure that no measurable accumulation of methane exists;

c. All face advance and bench blasting will be performed with no workers underground;

d. A hand-held methanometer program will be established, with reasonable locations and frequency of monitoring; and

e. The mine communications system will be permissible, maintained in permissible condition and will extend to the surface.

6. Petitioner states that the proposed alternative method and safeguards outlined above will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 6, 1982. Copies of the petition are available for inspection at that address.

Dated: May 25, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-15007 Filed 6-3-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-51-C]

New River Co.; Petition for Modification of Application of Mandatory Safety Standard

The New River Company, Lock Drawer 711, Mount Hope, West Virginia 25880 has filed a petition to modify the application of 30 CFR 75.1710 (cabs or canopies) to its Skelton Mine (I.D. No. 46-01500) located in Raleigh County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The coal seam ranges in height from 36 to 72 inches with undulating top and bottom conditions.

3. Petitioner states that installation of cabs or canopies on the mine's electric face equipment would result in a diminution of safety for the miners affected because:

a. The canopies hamper the equipment operator's visibility, increasing the chances of an accident;

b. The canopies could strike and dislodge the roof support system;

c. The cramped operator compartment forces the operator's head and arms to protrude from the equipment, creating the possibility of injury.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 6, 1982. Copies of the petition are available for inspection at that address.

Dated: May 26, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-15091 Filed 6-3-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-47-C]

R. C. & R. Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

R. C. & R. Coal Company, Box 85, Tower City, Pennsylvania 17980 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its No. 7 Vein Slope (I.D. No. 36-07093) located in Schuylkill County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cages, platforms or other devices which are used to transport persons in shafts and slopes be equipped with safety catches or other approved devices that act quickly and effectively in an emergency.

2. Petitioner states that no such safety catch or device is available for steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of this anthracite mine.

3. Petitioner further believes that if a "makeshift" safety device were installed it would be activated of knuckles and curves, when no emergency existed, and cause a tumbling effect on the conveyance which would increase rather than decrease the hazard to the miners.

4. As an alternative method, petitioner proposes to operate the man cage or steel gunboat with secondary safety connection securely fastened around the gunboat and specified the hoisting rope, which have a factor of safety in excess of the design factor as determined by the formula in the American National Standard for Wire Rope for Mines.

5. Petitioner states that the proposed alternate method will at all times provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 6, 1982. Copies of the petition are available for inspection at that address.

Dated: May 26, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-15089 Filed 6-3-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-20-M]

Union Oil Company of California; Petition for Modification of Application of Mandatory Safety Standard

Union Oil Company of California, 2777 Crossroads Boulevard, Suite 100, Grand Junction, Colorado 81501 has filed a petition to modify the application of 30 CFR 57.15-31(a) (self-rescue devices) to its Parachute Creek Mine (I.D. No. 05-03143) located in Garfield County, Colorado. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that self-rescue devices meeting the requirements of 30 CFR 57.15-30 be worn or carried by all persons underground.

2. As an alternative method, petitioner seeks a modificaton to permit employees to enter and exit from the underground change rooms and office complex through a specially constructed and illuminated adit without carrying or wearing a self-rescuer. The adit, located on a bench about 1,000 feet above the valley floor, directly accesses the underground change rooms and office complex where employees pick up and wear their assigned self-rescuer and all other required personal protective equipment prior to going to work. The office and change rooms are located underground because of the limited space on the bench. The adit will be used exclusively for ingress and egress of mine personnel; equipment and utilities, except for lighting, will be excluded from this adit.

3. Ventilation into the manway will originate from the first split taken from the main air intake which removes the potential of carbon monoxide or other noxious fumes entering the manway. A man door will be located at the portal and the rate of flow through the manway will be controlled by the stopping containing the door.

4. Petitioner states that the proposed alternative method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 6, 1982. Copies of the petition are available for inspection at that address.

Dated: May 26, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR. Doc. 82-15087 Filed 6-3-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-21-M]

Union Oil Co. of California; Petition for Modification of Application of Mandatory Safety Standard

Union Oil Company of California, 2777 Crossroads Boulevard, Suite 100, Grand Junction, Colorado 81501 has filed a petition to modify the application of 30 CFR 57.17-10 (illumination) to its Parachute Creek Mine (I.D. No. 05-03143) located in Garfield County, Colorado. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that individual electric lamps be carried for illumination by all persons underground.

2. As an alternative method, petitioner seeks a modification to permit employees to enter and exit from the underground change rooms and office complex through a specially constructed and illuminated adit without individual electric lamps. The adit, located on a bench about 1,000 feet above the valley floor, directly accesses the underground change rooms and office complex where employees pick up their individual electric lamps and all other required personal protective equipment prior to going to work. The office and change rooms are located underground because of the limited space on the bench. The adit will be used exclusively for ingress and egress of mine personnel; equipment and utilities, except for lighting, will be excluded from this adit.

3. Petitioner states that the adit's illumination system is much greater than the illumination given off by the individual electric cap lamps. An emergency backup system will be installed to provide power in the event of a primary system failure; the backup system will power 25 percent of the manway lights to provide enough illumination for personnel to exit.

4. Ventilation into the manway will originate from the first split taken from the main air intake which removes the potential of carbon monoxide or other noxious fumes entering the manway. A mandoor will be located at the portal and the rate of flow through the manway will be controlled by the stopping containing the door.

5. Petitioner states that the proposed alternative method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 6, 1982. Copies of the petition are available for inspection at that address.

Dated: May 27, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-15096 Filed 6-3-82; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-82-50-C]

Youghiogheny and Ohio Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Youghiogheny and Ohio Coal Company, P.O. Box 1000, St. Clairsville, Ohio 43950 has filed a petition to modify the application of 30 CFR 75.1101-8 (water sprinkler systems; arrangement of sprinklers) to its Nelms No. 2 Mine (I.D. No. 33-00968) located in Harrison County, Ohio. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement for water sprinkler systems above belt drives, belt take-ups, electrical controls and gear reducing units.

2. As an alternative method, petitioner proposes to use a single overhead pipe system with one-half inch orifice automatic sprinklers located on the foot centers, with actuation temperatures between 200 and 230 degrees Fahrenheit, and with water pressure equal to or greater than ten pounds per square inch. Also, automatic sprinklers will be located, not over ten feet apart, so that the discharge of water will extend over the belt drive, belt take-up, electrical control, and gear reducing unit.

3. Petitioner states that the proposed alternative method will be more reliable than that required by the standard. Specifically, the second branch line required by the standard was shown to be unnecessary by research. This second branch line is vulnerable to damage from material which may fall off the belt, thereby reducing the system's reliability and operability. This modification requested reduces the amount of piping, thereby making it practical to fully fill the system with antifreeze. Such protection is critical, since winter air temperatures can fall below freezing in most underground mines. A test to insure proper operation will be conducted during the installation of each new system and during the subsequent repair or replacement of any critical part.

4. Petitioner states that the proposed alternative method will at all times provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 6, 1982. Copies of the petition are available for inspection at that address.

Dated: May 26, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-15094 Filed 6-3-82; 8:45 am]
BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Arizona; Approval of Plan Changes

Background

The State of Arizona has submitted two plan supplements describing changes in its Occupational Safety and Health plan. This document announces that the Arizona plan supplements are approved.

The Arizona Occupational Safety and Health Plan was approved under section 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(c)) (hereinafter called the Act) and 29 CFR Part 1902 on October 29, 1974 (39 FR 39037). 29 CFR Part 1953 provides procedures for the review and approval of State change supplements by the Assistant Secretary for Occupational Safety and Health (hereinafter called the Assistant Secretary).

Description of Supplements

1. A written transmittal from the State of Arizona, dated February 5, 1981, from Larry Etchechury, Director, Arizona Division of Occupational Safety and Health, states that the State has immediately adopted the Federal Occupational Safety and Health instruction CPL 2.20 on reinspection. This instruction establishes guidelines on the reinspection of an establishment where a serious citation is withdrawn due to incomplete or erroneous inspection information or because of an administrative error.

2. A written transmittal from the State of Arizona, dated February 12, 1981, from Larry Etchechury, Director, Arizona Division of Occupational Safety and Health, describes the process to be followed by that Division in the receipt and handling of discrimination complaint cases.

Location of Plan and Its Supplements for Inspection and Copying

A copy of the supplements, along with the approved plan, may be inspected

and copied during normal business hours at the following locations:

Director, Federal Compliance and State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N–3613, Washington, D.C. 20210

Regional Administrator, Occupational Safety and Health Administration, U.S. Department of Labor, 450 Golden Gate Avenue, Room 11321, San Francisco, California 94102

Division of Occupational Safety and Health, Industrial Commission of Arizona, 1601 West Jefferson Street, Phoenix, Arizona 85005

Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause consistent with applicable law. The Assistant Secretary finds that these changes are consistent with Federal requirements and with commitments in the approved plan. Good cause is therefore found for approval of the supplement without public notice and comment.

Decision

After careful consideration, the Arizona plan change supplements described above are hereby approved under Part 1953.

This decision is effective June 4, 1982.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Washington, D.C., this 27th day of May, 1982.

Thorne G. Auchter,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 82–15189 Filed 6–3–82; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL COMMISSION ON SOCIAL SECURITY REFORM

National Commission on Social Security Reform; Meeting

AGENCY: National Commission on Social Security Reform.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forth-coming meeting of the National Commission on Social Security Reform. This notice also describes the functions of the Commission. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: June 21, 1982: 2:00 p.m. to 6:00 p.m.

ADDRESS: Gold Room 2168A–B, Rayburn House Office Building, Washington, DC 20515.

FOR FURTHER INFORMATION CONTACT: Robert J. Myers, Executive Director, 736 Jackson Place, N.W., Washington, DC 20503; Telephone (202) 395–5132.

SUPPLEMENTARY INFORMATION: The National Commission on Social Security Reform is established by Executive Order No. 12335 dated December 16, 1981 to provide appropriate recommendations to the Secreatry of Health and Human Services, the President, and the Congress on long-term reforms to put Social Security back on a sound financial footing.

The meeting of the Commission is open to the public. The proposed agenda includes:

Presentation on Health and Mortality of the Aged by Dr. Robert N. Butler and Dr. Jacob Feldman

Discussion on Long-Term Financing

Such new business as the chairman or the membership may put before the Commission.

Records are kept of all Commission proceedings, and are available for public inspection at the office of the Executive Director, National Commission on Social Security Reform, 736 Jackson Place, N.W., Washington, DC 20503.

Robert J. Myers,

Executive Director.

[FR Doc. 82–15285 Filed 6–3–82; 8:45 am]

BILLING CODE 3115–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506:

Date: June 24–25, 1982
Time: 9:00 a.m. to 5:30 p.m. each day
Room: 807
Program: This meeting will review applications submitted for Program Development/Special Projects, Division of Special Programs, for projects beginning after October 1, 1982.

Date: June 28–29, 1982
Time: 9:00 a.m. to 5:30 p.m. each day
Room: 807
Program: This meeting will review applications submitted for Program Development/Special Projects, Division of Special Programs, for projects beginning after October 1, 1982.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 724–0367.

Stephen J. McCleary,

Advisory Committee.

[FR Doc. 82–15086 Filed 6–3–82; 8:45 am]

BILLING CODE 7536–01–M

Media Arts Advisory Panel (Media Art Centers); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Media Art Centers) to the National Council on the Arts will be held on June 29–30, 1982, from 9:30 a.m.–5:30 p.m. on the 12th floor screening room of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the

determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

May 27, 1982.

[FR Doc. 82-15171 Filed 6-3-82; 8:45 am]

BILLING CODE 7537-01-M

Visual Arts Advisory Panel (Challenge); Meeting

Pursuant to section 10 (a) (2) of the Federal Advisorty Committee Act (Pub L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Challenge) to the National Council on the Arts will be held on June 25, 1982, from 9:00 a.m.–5:30 p.m. in the 14th floor Law Library of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

May 27, 1982.

[FR Doc. 82-15170 Filed 6-03-82; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

NSF Task Group; Policy Toward Involvement of Commercial and Industrial Firms With Research Facilities and Equipment Supported By NSF.

AGENCY: National Science Foundation.

ACTION: Notice of meeting.

SUMMARY: The National Science Foundation has undertaken a review of its policy toward involvement of commercial and industrial firms with research facilities and equipment that the NSF supports. Last year an internal NSF task force published two interim committee reports relating to that policy for public comment. **Federal Register**, 10 June 1981 (46 FR 30739). Many comments were received, and further work has been done to accommodate them.

The NSF is now proposing to establish the following statement of principles as NSF policy. The NSF task group will hold a public meeting to hear public comment on the proposed statement.

DATE: Tuesday, June 29, 1982, 9 a.m. to 3:00 p.m.

ADDRESS: National Science Foundation, Room 540, 1800 G Street NW., Washington, D.C. 20550.

FOR FURTHER INFORMATION CONTACT: Charles H. Herz, General Counsel, Room 501, 1800 G Street NW., Washington, D.C. 20550, ((201) 357–9435/6).

COMMENTS: Address should be to the addressee listed above and should be received no later than June 29, 1982.

Charles H. Herz,

General Counsel, National Science Foundation.

Principles Related to NSF-Supported Research Instrumentation and Facilities

This statement of principles for the use and operation of NSF-supported equipment and facilities responds to issues raised by several groups:

- University scientists and engineers, asking whether instrumentation provided with National Science Foundation support may be used by or for the benefit of commercial firms, and—if such use is approved—under what terms and financial arrangements;
- Industrial scientists, with interest in using such instrumentation, particularly at major facilities, and in supporting or cooperating with university scientists doing research that uses the instrumentation;
- Commercial research and service laboratories, concerned that NSF-supported instrumentation has been used on occasion by university personnel to provide services that compete with commercial firms at rates that undercut the markets of private companies;
- Commercial research and service laboratories, with interest in being considered by the NSF as suppliers of instrumentation or services for NSF-supported research or as managers for NSF-supported user facilities.

Access to modern research equipment is essential to the health of the nation's science and engineering enterprise. NSF policies should promote this access. Modern research facilities can be supplied by a variety of mechanisms, including dedicated equipment at a research institution, common or shared in-house research facilities, or facilities provided by a second party on a lease or service basis. NSF should be open to all these mechanisms and choose the one likely to be most effective in each case.

At the same time, the high cost of modern research instruments and facilities demands that they be as fully utilized as is practical, consistent with the primary mission for which they are purchased. Therefore, NSF policies should also encourage sharing of instrumentation within the academic sector and, under appropriate conditions, among the academic, industrial, and public sectors.

The general policies stated below are intended to guide NSF in providing support for instrumentation and facilities and to guide NSF grantees in the use of such instruments and facilities.

1. NSF places major emphasis on support of research in the academic sector because such research serves the dual NSF mission of supporting fundamental research and providing educational opportunities for future scientists and engineers. This means, in many cases, that there are distinct advantages in supporting research equipment that is sited on the campuses and in encouraging sharing of such equipment among various academic research groups on the campus and with other academic institutions.

2. At the same time, there may be cases where the research and educational values of having such equipment in the academic environment are outweighed by cost savings or operating efficiencies that can be achieved by having such equipment provided or operated by commercial organizations. This may be particularly true for equipment that requires specialized management and maintenance personnel, or equipment for standardized testing and measurements that add little to the educational value of the research experience. Under these circumstances, NSF grantees are encouraged to use the services provided by commercial enterprises.

3. In other cases, equipment owned or operated by academic institutions or consortia may have the capacity to accommodate non-academic users while satisfying the original purposes from which it was provided. Here, NSF policy allows the use of NSF-supported equipment or facilities by the private sector under such conditions that it will not compete unfairly with privately owned equipment which may be capable of providing the same services. This means:

- When similar services are commercially available in the United States, charges for non-academic use of NSF-funded equipment facilities should in all cases significantly exceed the established commercial rate. This

rate would also apply to use by an employee of the university while serving as a private consultant or as an employee of a private commercial company.

• If the research facility is unique or has unique characteristics such that no comparable commercially operated capability exists within the United States, then the facility should be made available to non-academic users at the option of the facility operator at a price to be negotiated between the operator and the proposed user. Such a price could reflect the extent to which the proposed research will contribute to the fundamental knowledge base (and possible educational benefits) which is the mission of NSF. If the research is of a proprietary nature, users should pay at least a reasonable estimate of the full cost of providing the service.

• Funds generated by these charges must be used by the institution having title to the equipment to further the purposes for which NSF support was provided.

4. NSF strongly encourages collaborative research efforts between academic and industrial scientists. If such collaborative efforts are not proprietary in nature and contribute to the research or educational purposes of each institution involved, the customary academic user policies should apply to joint use of NSF provided facilities.

5. Proposals to establish and operate NSF-supported research facilities for fundamental research and educational purposes will be considered from all sources: academic institutions, not-for-profit, and for-profit organizations. However, due weight will be given to the relative advantages of the management capabilities of each sector and to the potential differences in student access and availability for educational purposeds that each sector can provide.

[FR Doc. 82-15164 Filed 6-3-82; 8:45 am]
BILLING CODE 7585-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-461]

Availability of Final Environmental Statement for Clinton Power Station, Unit 1

Notice is hereby given that the Final Environmental Statement (NUREG-0854) has been prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed operation of the Clinton Power Station, Unit 1. The station is located in DeWitt County, about 10 kilometers (6 miles) East of Clinton, Illinois, and 100 kilometers (60 miles) Northeast of Springfield, Illinois.

The Final Environmental Statement (NUREG-0854) is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and in the Vespian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

The Notice of availability of the Draft Environmental Statement for the Clinton Power Station, Unit 1, and request for comments was published in the Federal Register on January 8, 1982 (47 FR 1063). The comments received from Federal, State and local agencies and from interested members of the public have been included in the appendices to the Final Environmental Statement.

Copies of the Final Environmental Statement (NUREG-0854) may be purchased at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, and from the U.S. Nuclear Regulatory Commission, Sales Office, Washington, D.C. 20555.

Dated at Bethesda, Maryland, this 26th day of May 1982.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 82-15236 Filed 6-3-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-265]

Commonwealth Edison Co. and Iowa-Illinois Gas and Electric Co.; Issuance of Amendments to Facility Operating Licenses

The Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 78 and 72 to Facility Operating License Nos. DPR-29 and DPR-30 issued to Commonwealth Edison Company and Iowa-Illinois Gas and Electric Company, which revised the Technical Specifications for operation of the Quad Cities Nuclear Power Station, Unit Nos. 1 and 2, located in Rock Island County, Illinois. The amendments are effective as of the date of issuance.

The amendments change the Technical Specifications to extend from June 1, 1982 to July 1, 1982 the time allowed for continued operation of both units prior to completion of modifications to the RHR service water system.

The application for the amendments complies with the standards and requirements of the Atomic Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated May 20, 1982, (2) Amendment No. 78 to License No. DPR-29 and Amendment No. 72 to License No. DPR-30, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Moline Public Library, 504 17th Street, Moline, Illinois. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 27th day of May 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-15235 Filed 6-3-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-255-SP]

Consumers Power Co., (Palisades Nuclear Power Facility; Memorandum and Order Approving Joint Motion to Terminate Proceeding

May 28, 1982.

I. Jurisdiction and Procedural History

On March 9, 1981, the Director of Inspection and Enforcement issued an "Order Confirming Licensee Actions to Upgrade Facility Performance." This Order included restrictions on overtime work of licensed operators more restrictive than the Commission's general standards applicable to overtime work. On March 31, 1981, the Utility Workers Union of America, AFL-CIO and the Michigan State Utility Workers Council, (hereinafter "the Union"), filed a "Petition for Hearing." On May 29, 1981, the Commission issued an Order referring the "Petition for Hearing" to the Atomic Safety and Licensing Board Panel to decide whether the Union should be granted a hearing and, if so, to conduct the hearing. The Atomic Safety and Licensing Board

constituted to decided this matter denied the "Petition for Hearing" on July 31, 1981. On March 31, 1982, the Atomic Safety and Licensing Appeal Board reversed the Licensing Board, permitted the Union to intervene, and remanded the matter to the Licensing Board for further proceedings. Pursuant to motions by the NRC Staff and orders of the Commission, the time for filing a motion for the Commission to review the Appeal Board decision has been extended until June 9, 1982. On May 11, 1982, the Staff and Union filed a "Joint Motion to Terminate Proceeding."

II. Joint Motion to Terminate Proceeding

The Joint Motion states:

[O]n April 21, 1982, the Administrator of NRC Region III issued a 'Partial Rescission of Order' that adjusted the terms of the Director's Order of March 1981. The revised restrictions are consistent with the Commission's policy statement on *Nuclear Power Plant Staff Working Hours*, 47 FR 7352 (Feb. 18, 1982).

The "Partial Rescission of Order" revises the work hour or overtime restrictions to conform to the Commission's general policy on nuclear power plant staff working hours, 47 FR 7352. The "Partial Recission" also notes that the initial Order of March 9, 1981 was promulgated because "the Staff was concerned that operators at the plant, who already appeared to be working excessive amounts of overtime, would be required to work increased overtime. * * *" However, since the time this Order became effective, the Staff stated that Consumers Power Co., the licensee, improved its control over operation of the plant and the concern about excessive overtime hours "has been substantially ameliorated." In view of the "Partial Rescission," the Union withdrew its request for hearing and moved jointly with the Staff to terminate this proceeding. Consumers Power Company did not oppose the motion.

The Commission recognizes and encourages fair and reasonable settlement of contested issues. 10 CFR 2.759. We have considered all of the factors enumerated above. We conclude that the settlement and "Partial Rescission of Order" are fair and reasonable and should be approved.

Order

Wherefore, it is ordered this 28th day of May, 1982, at Bethesda, Maryland, that the Joint Motion to Terminate this proceeding is granted and this proceeding is hereby dismissed.

James A. Laurenson,
Chairman.

Peter A. Morris,
Administrative Judge.

Jerry R. Kline,
Administrative Judge.

[FR Doc. 82-15239 Filed 6-3-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-443 OL, 50-444 OL; (ASLBP No. 82-471-01 OL)]

Public Service Co., of New Hampshire, et al., (Seabrook Station, Units 1 and 2); Memorandum and Order Setting Second Special Prehearing Conference

May 28, 1982.

1. A Special Prehearing Conference was held on May 6 and 7, 1982 in which the intervention petitions of the Seacoast Anti-Pollution League and the State of New Hampsire as well as the positions of the Applicant and the NRC Staff on these petitions were considered. The Board will withhold ruling on the admissibility of the various contentions of these intervenors until all petitioners for intervention have been heard at the Second Special Prehearing Conference.

2. A Second Special Prehearing Conference will be held at Portsmouth District Court, 111 Parrott Avenue, Portsmouth, New Hamsphire 03801 on July 15–16, 1982, beginning at 9:30 a.m. local time. One purpose of this conference will be consideration of the contentions of the following organizations who filed intervention petitions:

Coastal Chamber of Commerce
Commonwealth of Massachusetts
New England Coalition on Nuclear Pollution
Society for the Protection of the Environment of Southeastern New Hamsphire
Sun Valley Association
Town of South Hampton

3. Supplements to Petitions to Intervene of the organizations named in paragraph 2 received by the Board no later than June 17, 1982 will be considered at this conference. Responses to Supplements to Petitions by Applicant and NRC Staff, if deemed appropriate by parties, must be received by the Board no later than July 1, 1982.

4. Participants at this conference should also be prepared to revise the previously proposed schedule for further actions in this proceeding in order that the Board issue an action schedule simultaneous with its order admitting or denying contentions of the petitioning intervenors.

5. This Special Prehearing Conference is a public conference (10 CFR 2.751). However, no public written and/or oral testimony or limited appearance will be taken at this Special Prehearing Conference.

For the Atomic Safety and Licensing Board.
Dated at Bethesda, Maryland, this 28th day of May, 1982.

Helen F. Hoyt,
Administrative Judge.

[FR Doc. 82-15240 Filed 6-3-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-244]

Rochester Gas & Electric Corp.; Availability of the Ginna Restart Safety Evaluation Report and Issuance of Amendment to Provisional Operating License

The Nuclear Regulatory Commission's staff has completed its review of the Ginna steam generator tube rupture event of January 25, 1982. This review is documented in the Ginna restart Safety Evaluation Report, NUREG-0916. In NUREG-0916, the staff has determined, based on conclusions reached in Section 10.0, that operation of the Ginna plant would be acceptable subject to the commitments contained in Section 9.0 of that report which, as summarized below, have been incorporated into the license as conditions.

The Commission has also issued Amendment No. 51 to Provisional Operating License No. DPR-18, to Rochester Gas and Electric Corporation (the licensee), which revised the license and its appended Technical Specifications for operation of the R. E. Ginna Nuclear Power Plant (facility) located in Wayne County, New York. This amendment is effective as of its date of issuance.

The amendment revises the Technical Specification requirements for reactor coolant system Iodine 131 activity, and for coolant activity sampling. The amendment also incorporates License Condition 2.C(9), imposing as license requirements commitments made by the licensee regarding additional analysis; reevaluation of aspects of operator training; new operating procedures; confirmatory testing; revision of setpoints and surveillance requirements;

modification of safety injection pump logic; and the conduct of additional inspections.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) and environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application transmitted by letter dated May 17, 1982, and supporting information transmitted by letters dated April 12 and 26, 1982, and the letters identified in section 1.0 of NUREG–0916; (2) Amendment No. 51 to License No. DPR–18; and (3) the Commission's restart Safety Evaluation Report for Ginna (NUREG–0916). All of these items are available for public inspection and copying at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Rochester Public Library, 115 South Avenue, Rochester, New York 14627.

A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Item (3), NUREG–0916 may be purchased, at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, and through the NRC GPO sales program by writing to the U.S. Nuclear Regulatory Commission, Attention Sales Manager, Washington, D.C. 20555. GPO deposit holders can call 301–492–9530.

Dated at Bethesda, Maryland this 22nd day of May, 1982.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 82–15237 Filed 6–3–82; 9:45 am]
BILLING CODE 7590–01–M

[Docket No. 50–244]

Rochester Gas & Electric Corp.; R. E. Ginna Nuclear Power Plant Issuance of Director's Decision Under 10 CFR 2.206

By petition dated March 11, 1982 (47 FR 14988, April 7, 1982) the Sierra Club requested that the Nuclear Regulatory Commission's (the Commission) Director of Nuclear Reactor Regulation order the Rochester Gas and Electric Corporation to show cause why the R. E. Ginna Nuclear Power Plant should not be suspended or, in the alternative, why permission to restart the reactor should not be withheld until such time as the license and the NRC have taken all essential actions to ensure adequate protection of public health and safety. The Ginna plant is located in Wayne County, New York. The petition has been considered under the provisions of 10 CFR 2.206 of the Commission's regulations.

The Sierra Club sets forth in its petition a number of issues which it believes should be reviewed by the NRC before the plant resumes operation. The plant was shut down in January 1982 after the rupture of a steam generator tube.

Upon review of information pertaining to the concerns at the Ginna plant and the information provided by the petitioner, the Director of Nuclear Reactor Regulation has determined that issuance of an order to show cause why the operating license should not be suspended or withholding the restart of the Ginna plant is not warranted. Accordingly, that portion of the request by the Sierra Club has been denied. However, the Director of the Nuclear Reactor Regulation has granted the petitioner's request that the review include and consider specific areas detailed in the petition prior to restart of the Ginna plant. The documentation of this review is contained in NUREG–0916.

The reasons for the denial are explained in the "Director's Decision" under 10 CFR 2.206 (DD–82–03) as supported by the safety evaluation contained in NUREG–0916, which are available for public inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Local Public Document Room at the Rochester Public Library, 115 South Avenue, Rochester, New York 14604.

A copy of the decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c). As provided in this regulation, the decision will become the final action of the Commission twenty-five (25) days after issuance unless the Commission, on its own motion, institutes review of this decision within that time.

Dated at Bethesda, Maryland, this 22nd day of May, 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82–15236 Filed 6–3–82; 8:45 am]
BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 22516; (70–6744)]

Michigan Power Co.; Proposed Issuance and Sale of Notes to Banks

June 1, 1982.

Michigan Power Company ("Michigan"), P.O. Box 413, Three Rivers, Michigan 49093, a public-utility subsidiary of American Electric Power Company, Inc., a registered holding company, has filed an application with this Commission pursuant to section 6(b) of the Public Utility Holding Company Act of 1935 ("Act").

Michigan proposes to issue and sell notes to a group of banks in an aggregate amount not to exceed $5,000,000 outstanding at any one time. The notes will be issued and sold from time to time and will be renewed from time to time prior to July 1, 1983, as funds may be required, provided that none of such notes will mature later than December 31, 1983. Each note will mature not more than 270 days after the date of issuance or renewal thereof and may be prepayable by Michigan at any time without premium or penalty. Michigan's credit arrangements with the banks generally require it to maintain compensating balances of not more than 5% of the line of credit and to pay a fee that is not more than ⅜ of 1% of the size of the line of credit. Borrowings from the banks are generally at the rate of up to 108.5% of the bank's prime commercial rate then in effect. It is stated that the effective cost to Michigan under any of the arrangements, assuming full use of the line of credit, would not exceed 125% of the prime commercial rate in effect from time to time, or not more than 20.0% on the basis of a prime commercial rate of 16.0%.

The proceeds of the notes will be added to the general funds of Michigan and used to pay its general obligations, including expenses incurred in its various construction projects and for other corporate purposes. The estimated

cost of Michigan's construction program for the year 1982 is approximately $4,500,000.

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 25, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as filed or as it may be amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-15247 Filed 6-3-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22517, (70-6051)]

Middle South Utilities, Inc.; and Middle South Energy, Inc., Proposal by Subsidiary To Issue and Sell Common Stock to Parent Holding Company

June 1, 1982.

Middle South Utilities, Inc. ("MSU"), a registered holding company, and Middle South Energy, Inc. ("MSE"), 225 Baronne Street, New Orleans, Louisiana 70112, a wholly-owned subsidiary of MSU, have filed a post-effective amendment to an application-declaration previously filed with this Commission pursuant to sections 6(a), 7, 9(a), 10 and 12(f) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 43 promulgated thereunder.

MSE is authorized by its articles of incorporation to issue up to 1,000,000 shares of common stock, no par value. As of April 28, 1982, 535,100 shares had been issued and sold to MSU for an aggregate cash consideration of $535,100,000. By a Commission order dated August 14, 1981 (HCAR No. 22161), MSE was authorized to issue and sell to MSU up to 50,000 additional shares ("1982 Common Stock") from time to time through December 31, 1982, at a price of $1,000 per share. As of April 28, 1982, 41,500 shares of the 1982 Common Stock had been sold to MSU. It now appears that MSE may be required to issue and sell up to 60,000 shares at the same price, in addition to the 1982 Common Stock, through December 31, 1983. The proceeds of such sales will be applied to costs incurred by MSE in the construction of its Grand Gulf nuclear-fired generating facility in Mississippi. Sales will be timed to coincide with MSE's cash needs with respect to the Grand Gulf project.

The application-declaration and amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 28, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-15246 Filed 6-3-82; 8:45 am]

BILLING CODE 8010-01-M

[File No.: 22-11535]

Occidental Petroleum Corp.; Application and Opportunity for Hearing

May 28, 1982.

Notice is hereby given that Occidental Petroleum Corporation (the "Applicant") has filed an application (the "Application") under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeship of Chemical Bank under an existing indenture with Hooker Chemical Corporation, a California corporation and a wholly owned subsidiary of the Applicant, with respect to which the Applicant has guaranteed the payment of principal of, premium, if any, and interest on, the debentures issuable thereunder, and under a new indenture with the Applicant, as guarantor, and Occidental International Finance N.V. ("Finance"), a Netherlands Antilles corporation and wholly owned subsidiary of the Applicant, as issuer, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Chemical Bank from acting as trustee under either indenture.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which any other securities of the same issuer are outstanding if the issuer shall have sustained the burden of proving, on application to the Securities and Exchange Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Applicant alleges that:

1. Chemical bank currently is acting as trustee under an indenture in which the Applicant is the guarantor of debentures issued by its wholly owned subsidiary Hooker Chemical Corporation. Such indenture, dated as of January 15, 1966 (the "Debenture Indenture"), involved the issuance of $25,000,000 aggregate principal amount 4¾% Sinking Fund Debentures due January 15, 1991 (the "Debentures"). The Debentures Indenture was filed as an exhibit to a registration statement filed under the Securities Act of 1933 and has been registered under the Securities Act of 1933 and have not been qualified under the Trust Indenture Act of 1939.

2. The Applicant a Hooker Chemical Corporation are not in default in any respect under the Debenture Indenture or under any other existing indenture.

3. Chemical Bank has entered into an indenture with the Applicant and Finance dated as of March 1, 1982 (the "Note Indenture"), pursuant to which there were issued $75,000,000 aggregated principal amount 16¾ per cent

Guaranteed Notes due 1987 (the "Notes"), guaranteed as to principal and interest by the Applicant. The guarantee contained in the Note Indenture, if enforced against the Applicant, would rank on a parity with the guarantee of the Debentures described in Paragraph 1, if enforced against the Applicant. The notes have not been qualified under the Trust Indenture Act of 1939 because they are being offered and sold under circumstances reasonably designed to preclude distribution or redistribution within, or to nationals of the United States.

4. The obligations of the Applicant pursuant to the guarantee described in paragraph 1 and under the Note Indenture are wholly unsecured and, aside from differences as to amounts, interest rates, maturity dates, redemption dates and redemption powers, sinking fund, certain convenants relating to United States taxation, and differences in form between the Note Indenture and the Debenture Indenture, the terms of said Indentures are substantially similar. There are no materials differences between the provisions of the Note Guarantee and the Debenture Guarantee relating to the convenants of the Applicant which apply to the future.

Such differences as exist among the Debenture Indenture and the Note Indenture and the respective guarantees by Applicant relating thereto are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Chemical Bank from acting as Trustee under either of said Indentures.

Applicant has waived (a) notice of hearing, (b) hearing on the issues raised by the Application and (c) all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said Application, which is a public document on file in the office of the Commission's Public Reference Section, 1100 L. Street, N.W., Washington, D.C.

Notice is further given that any interested person may, not later than June 23, 1982, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, that the issues of fact or law raised by said Applicant which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-15248 Filed 6-3-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TREASURY

Public Information Collection Requirements Submitted to OMB for Review

During the period May 21 through May 27, 1982, the Department of Treasury submitted the following public information collection requirements to OMB, for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collections should be adressed to the Treasury Reports Management Officer, Information Resources Management Division, Room 309, 1625 I St. N.W., Washington, D.C. 20220; and to the OMB reviewer listed at the end of each entry.

Date Submitted: May 24, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: 1545-0322.

Form Number: Letter 90C and SC.

Type of Submission: Revision.

Title: Short Period Return Received—Explanation Requested.

Purpose: This letter is used to obtain information to determine whether the taxpayer is entitled to the benefits of short period filing and therefore to complete processing the return.

OMB Reviewer: Michael Abrahams, (202) 395-6880, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

Date Submitted: May 21, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: 1545-0574.

Form Number: 500-5-477.

Type of Submission: Extension.

Title: Requesting Information from Vendors on Purchase Orders.

Purpose: Fiscal staff uses form 500-5-477 to request information from vendors. The information is used to associate vendor documents with our files in order to meet GAO requirements for supporting documentation used as a basis for disbursements from the Treasury.

OMB Reviewer: Michael Abrahams, (202) 395-6880, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

Date Submitted: May 24, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: 1545-0021.

Form Number: 709-A.

Type of Submission: Revision.

Title: United States Short Form Gift Tax Return.

Purpose: Used to report gifts that would be taxable except that they are "split" between husband and wife. The form is a simplified version of Form 709, designed to relieve these gift/taxpayers of the burden of filing Form 709. IRS uses the information to assure that "gift-splitting" was properly elected.

OMB Reviewer: Michael Abrahams, (202) 395-6880, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

Date Submitted: May 25, 1982.

Submitting Bureau: Office of the Secretary.

OMB Number: N/A (New Submission).

Form Number: TFR-625.

Type of Submission: New.

Title: Report on Tangible Property in Which Iran Has an Interest.

Purpose: Form will provide the U.S. Government information to be used in negotiations and discussions with Iran and in formulating appropriate policies with respect to Iranian tangible properties held by U.S. persons.

OMB Reviewer: Arnold Strasser, (202) 395-6880, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

Joy Tucker,

Departmental Reports Management Officer.

[FR Doc. 82-15197 Filed 6-3-82; 8:45 am]

BILLING CODE 4810-35-M

VETERANS ADMINISTRATION

Career Development Committee; Renewal

This is to give notice in accordance with the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Career Development Committee has been renewed by the Administrator of Veterans Affairs for a two year period beginning May 18, 1982 through May 18, 1984.

Dated: May 28, 1982.

By direction of the Administrator.

Charles T. Hagel,

Deputy Administrator.

[FR Doc. 82-15196 Filed 6-3-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 108
Friday, June 4, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

Notice of Addition of Items to the June 3, 1982 Meeting

TIME AND DATE: 10:00 a.m., June 3, 1982.

PLACE: Room 1027 (Open) 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

6a. Notice of Incorporation by Reference of Terms of Contracts of Carriage after Sunset of Domestic Tariffs (OGC)

12a. Docket 40225, Notice of Frontier Airlines to terminate service at Cody and Worland, Wyoming (MBA 1069–B, BDA OCCCA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, Secretary, (202) 673–5068.

[S–839–82 Filed 6–2–82; 3:40 pm]

BILLING CODE 6320–01–M

2

CIVIL AERONAUTICS BOARD

Short Notice and Closure of Items for June 3, 1982 Board Meeting

TIME AND DATE: 10:00 a.m., June 3, 1982.

PLACE: Room 1027 (Open) Room 1012 (Closed) 1825 Connecticut Avenue, NW, Washington, D.C. 20428.

SUBJECT:

17. Report on Israel. (BIA)

18. Report on Japan. (BIA)

19. Docket 40185, Application of Air Florida and Lineas Aereas Costarricenses, S.A. (LACSA) for approval of agreements and interlocking relationships, and for antitrust immunity. (OGC, BIA)

PERSON TO CONTACT: Phyllis T. Kaylor, Secretary, (202) 673–5068.

[S–838–82 Filed 6–2–82; 3:40 pm]

BILLING CODE 6320–01–M

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 AM (Eastern Time), Tuesday, June 8, 1982.

PLACE: Commission Conference Room No. 5240 on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, DC 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED: Open to the public:

1. Ratification of Notation Vote: Freedom of Information Act Appeals.

2. Freedom of Information Act Appeal No. 82–3–FOIA–13–ME, concerning a request for contents of Title VII and Equal Pay Charges.

3. Freedom of Information Act Appeal No. 82–3–FOIA–50, concerning an employee's request for access to a merit promotion folder.

4. Modification of SCIP/SCEP Procedures.

5. State and Local Programs; Recommended Mid-Year Upward and Downward Modifications to FY'82 New Charge Resolution Contracts.

6. A report on Commission Operations by the Executive Director.

Closed to the public:

Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: TREVA MCCALL, EXECUTIVE OFFICER, AT (202) 634–6748.

This Notice Issued June 1, 1982.

[S–333–82 Filed 6–1–82; 4:41 pm]

BILLING CODE 6570–06–M

4

FEDERAL ELECTION COMMISSION

Federal Register No. 832

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, June 10, 1982, at 10:00 a.m.

CHANGE IN MEETING:

The meeting will now be held on Wednesday, June 9, 1982, in view of the scheduled confirmation hearings before the Senate Rules Committee on Thursday, June 10, 1982.

The meeting will start at 10:00 a.m. on June 9, 1982.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; Telephone: 202–523–4065.

Marjorie W. Emmons,
Secretary of the Commission.

[S–836–82 Filed 6–2–82; 1:13 pm]

BILLING CODE 6715–01–M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 10:00 a.m. on Monday, June 1, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,261–L–Banco Credito y Ahorro Ponceno Ponce, Puerto Rico

Memorandum re: Banking Regulatory Reform Meetings.

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: June 1, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[S–835–82 Filed 6–2–82; 11:11 am]

BILLING CODE 6714–01–M

6

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, June 9, 1982.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: June 2, 1982.

James McAfee,

Associate Secretary of the Board.

[S-840-82 Filed 6-3-82; 3:57 pm]

BILLING CODE 6210-01-M

7

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of May 31 and June 7, 1982 (Changes).

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open/Closed.

MATTERS TO BE CONSIDERED:

Wednesday, June 2

2:30 p.m.

Briefing on Efforts to Improve IAEA Safeguards (day and time change) (Closed—Exemption 1)

Thursday, June 3

9:30 a.m.

Analysis of Licensing Board Decision on San Onofre Units 2 and 3 (Emergency Planning) (day and time change) (Closed—Exemption 10)

Monday, June 7

9:30 a.m.

Briefing on Status of Zimmer Investigation (public meeting—Portions may be closed)

Note.—Other items remain as announced.

ADDITIONAL INFORMATION: By a vote of 4–0 (Commissioner Gilinsky not present) the Commission determined that the Discussion of Enforcement Action (Subpoena authority) (Closed—Exemption 5) held on Friday, May 28, 1982 at 11:55 a.m. be held on less than one week's notice to the public.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Dated: May 28, 1982.

Walter Magee,

Office of the Secretary.

[S-837-82 Filed 6-2-82; 3:10 pm]

BILLING CODE 7590-01-M

8

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the Week of June 7, 1982, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Tuesday, June 8, 1982, at 9:00 a.m. An open meeting will be held on Thursday, June 10, 1982, at 10:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Shad and Commissioners Loomis, Evans, Thomas and Longstreth voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, June 8, 1982, at 9:00 a.m., will be:

Formal order of investigation.
Access to investigative files by Federal, State, or Self-Regulatory authorities.
Institution of injunctive actions.
Administrative proceeding of an enforcement nature.
Freedom of Information Act appeals.
Opinion.

The subject matter of the open meeting scheduled for Thursday, June 10, 1982, at 10:00 a.m., will be:

1. Consideration of whether to amend the Commission's rules concerning access to investigative files, to codify the authority of the staff to grant access to such files to receivers, special counsels, and other similar persons appointed in Commission enforcement proceedings, the Securities Investor Protection Corporation ("SIPC"), SIPC trustees, and counsel for SIPC trustees. For further information, please contact Alan Rosenblat at (202) 272–2428.

2. Consideration of whether to publish for comment a proposed amendment to Rule 13d–2(b) under the Securities Exchange Act of 1934, which would eliminate the requirement to file an annual amendment to a Schedule 13G when no changes have occurred in the information contained therein. For further information, please contact Arthur H. Miller at (202) 272–2590.

3. Consideration of whether to release a staff monitoring report on the operation of the Intermarket Trading System. For further information, please contact Terry M. Chuppe at (202) 523–5623.

At times changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Richard Starr at (202) 272–2467.

June 1, 1982.

[S-834-82 Filed 6-2-82; 8:48 am]

BILLING CODE 8010-01-M

federal register

Friday
June 4, 1982

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

California:	
CA81-5119	May 15, 1981.
CA81-5154	Sept. 25, 1981.
CA81-5132	July 7, 1981.
CA81-5129	July 7, 1981.
Iowa: IA81-4096	Nov. 27, 1981.
Idaho: ID81-5157	Oct. 9, 1981.
District of Columbia: DC81-3040	June 5, 1981.
Maryland and Virginia: DC81-3040	June 5, 1981.
Alaska: AK81-5136	July 24, 1981.
[illegible]	
MA81-3071	Oct. 16, 1981.
MA81-3050	Aug. 28, 1981.
MA81-3054	Sept. 4, 1981.
Oregon: OR82-5100	Mar. 12, 1982.
New Jersey: NJ82-3006	Feb. 26, 1982.
[illegible]	
PA81-3027	July 17, 1981.
PA81-3066	Oct. 23, 1981.
PA81-3068	Sept. 25, 1981.
PA81-3073	Oct. 2, 1981.
PA81-3076	Oct. 9, 1981.
PA81-2072	Oct. 2, 1981.
PA81-3077	Oct. 9, 1981.
PA81-3081	Oct. 23, 1981.
PA81-3058	Aug. 28, 1981.
PA82-3011	Mar. 12, 1982.
PA82-3010	Mar. 5, 1982.
PA82-3012	Mar. 5, 1982.
Rhode Island: RI81-3042	Aug. 21, 1981.
Washington: WA81-5163	Dec. 4, 1981.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed in each State. Supersedeas decision numbers are in parentheses following the numbers of the decisons being superseded.

Alabama: AL80-1066 (AL82-1029)	Aug. 1, 1980.
Delaware: DE81-3028 (DE82-3015)	May 8, 1981.
Florida: FL80-1052 (FL82-1031)	Feb. 8, 1980.
Indiana: IN77-2129 (IN82-2039)	Aug. 19, 1977.

Please note that we are changing the format for **Federal Register** wage decisions to coincide with the provisions of All Agency Memorandum No. 132 dated January 29, 1980, which provides that the Department of Labor will

discontinue identifying fringe benefits separately. Rather, they will be stated as a composite figure which is the total hourly equivalent value of fringe benefits found to be prevailing. Fringe benefits which cannot be stated in monetary terms will be shown in footnotes. This procedure will be phased in gradually.

Signed at Washington, D.C., This 28th day of May 1982.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-30-M

Modification Page 1

DECISION NO. CA81-5119 - Mod. #8
(46 FR 27017 - May 15, 1981)
Alameda, Amador, Calaveras, Contra Costa, Del Norte, El Dorado, Humboldt, Marin, Mariposa, Merced, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Tuolumne, Yolo, and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits
Change:		
Carpenters: (Area 2):		
Merced County	$11.80	$5.225
Drywall Installers:		
Merced County	13.57	5.225
Electricians: (Area 8):		
Merced County	9.25	3%+1.15

DECISION NO. CA81-5132 - Mod. #11
(46 FR 35860 - July 7, 1981)
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians:		
Area 1	$22.56	3%+ 5.298

DECISION NO. CA81-5134 - Mod. #11 - (46 FR 47384 - September 25, 1981)
Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura Counties, California

	Basic Hourly Rates	Fringe Benefits
Change:		
Refrigeration and Air Conditioning:		
Area 1	$15.30	$3.75
Area 2	17.40	6.40

DECISION NO. CA81-5129 - Mod. #9 - (46 FR 34961 - July 7, 1981)
Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispi, Santa Barbara, and Ventura Counties, California

	Basic Hourly Rates	Fringe Benefits
Change:		
Refrigeration and Air Conditioning:		
Area 1	$15.30	$3.75
Area 2	17.40	6.40

Modification Page 2

DECISION NO. IA81-4096 - MOD. #7
(46 FR 58023 - 11/27/81)
Woodbury County, Iowa

	Basic Hourly Rates	Fringe Benefits
CHANGE: Electricians	$15.06	2.40+ 3/4%
Asbestos workers	$15.70	2.15
Cement masons	15.48	

DECISION NO. ID81-5157 - Mod #10
(46 FR 50223 - Oct. 9, 1981)
Statewide Idaho

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS: (Area 1)		
Carpenters; Lathers	$15.85	$2.26
Piledrivers; Saw Filer; Stationary Power Woodworking Tool Operator	16.00	2.26
Boom Man; Carpenters working on Burned, Charred, Creosoted or similarly treated material	16.10	2.26
Piledriver (Creosoted Material)	16.25	2.26
Millwright and Machine Erector	16.35	2.26
CARPENTERS: (Area 2)		
ZONE 1:		
Carpenters; Floor Layers; Shinglers; Drywall Applicator; Acoustical Material; Lathers	13.17	4.20
Sawfiler; Stationary Machine Operator; Piledrivermen; Bridgeman and Wharf Builder, Automatic Pile Threader	13.34	4.20
Millwright and Machine Erector, Piledriverman's Boom Man	13.46	4.20
ZONE 2:		
Carpenters; Floor Layers; Shinglers; Drywall Applicator; Acoustical Material; Lathers	14.67	4.20
Sawfiler; Stationary Machine Operator; Piledrivermen; Bridgeman and Wharf Builder; Automatic Pile Threader	14.84	4.20
Millwrights and Machine Erector Piledriverman's Boom Man	14.96	4.20
ZONE 3:		
Carpenters; Floor Layers; Shinglers; Drywall Applicator; Acoustical Material; Lathers	14.92	4.20
Sawfiler; Stationary Machine Operator; Piledrivermen; Bridgeman and Wharf Builder; Automatic Pile Threader	15.09	4.20
Millwright and Machine Erector; Piledriverman's Boom Man	15.21	4.20

DECISION NO. DC81-3040
Mod. #10
(46 FR 30290 - 6/5/81)
District of Columbia, Maryland - Montgomery and Prince Georges; D.C. Training School; Virginia - Independent City of Alexandria, Arlington and Fairfax Counties

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Ironworkers:		
Reinforcing	$15.11	$2.47
Structural, Ornamental & Chain Link Fence	15.11	$2.755

DECISION NO. AK81-5136 - Mod. #4
(46 FR 38243 - July 24, 1981)
Statewide, Alaska

Omit:
Carpenters: Residential Area 3
Cement Masons: Residential (Area 3)
Electricians: Residential (Area 3)
Laborers: Residential (Area 3)
Painters: Residential (Area 3)
Sheet Metal Workers: Residential (Area 3)

Modification Page 3

Modification Page 4

DECISION NO. MA81-3071 - MOD. #3 (46 FR 51163 - October 16, 1981)	Basic Hourly Rates	Fringe Benefits
BERKSHIRE, FRANKLIN, HAMPDEN AND HAMPSHIRE COUNTIES, MASSACHUSETTS		
CHANGE:		
BOILERMAKERS	16.53	1.315+ 10%
BRICKLAYERS: CEMENT MASONS, PLASTERERS, STONE MASONS, MARBLE-TILE-TERRAZZO WORKERS, POINTERS, CLEANERS, CAULKERS: Hampden, Hampshire, Franklin Counties, Berkshire County (Twps. of Becket, Otis and Sandisfield)	13.01	2.93
CARPENTERS: SOFT FLOOR LAYERS, DRYWALL CARPENTERS: Berkshire and Franklin County (Twps. of Monroe and Monroe Bridge)	12.44	2.09
Franklin County (Remainder of County), Hampden and Hampshire Counties	13.70	2.07
ELECTRICIANS: Berkshire County, Franklin County (Twps. of Hawley, Monroe and Rowe), Hampshire County (Twps. of Middlefield, Cummington and Plainfield)	13.79	1.51+ 3%
Franklin County (Remainder of County), Hampshire County (Remainder of County), Hampden County (Twps. of Chester, Holyoke, and north portion of Chicopee)		
Electrical Contracts under $85,000.00	12.86	1.27+ 3%
Electrical Contracts over $85,000.00	14.86	"
GLAZIERS	11.67	2.27
IRONWORKERS: Hampshire, Hampden, and Franklin Counties, Berkshire County (Twps. of Becket, Washington, Lee, Sandisfield, New Marlboro, Hinsdale, Peru, Savoy, Monterey, Sheffield, Windsor, Otis and North and East Otis)	13.25	5.07
LINE CONSTRUCTION: Lineman	15.515	1.70+ 30+a
Heavy Equipment Operator	13.79	"
Equipment Operator, Tractor Trailer	13.01	"
Groundman	10.34	"
Driver Groundman	11.69	"
MARBLE, TILE AND TERRAZZO FINISHERS: Berkshire and Hampden Counties	11.45	
PAINTERS: Brush and Taper	11.96	1.99
Spray and Sandblasting	15.83	1.99
Swing Stage Under 40' Steel	12.15	1.99
Swing Stage Over 40' Steel	12.46	1.99
SIGN PAINTERS	11.30	1.84
PILEDRIVERMEN	15.40	2.00
PLUMBERS AND STEAMFITTERS: Hampden County, Berkshire County (Twps. of Otis, Becket and Sandisfield), Hampshire County (Twps. of Belcherton, Granby, Huntington, Middlefield, South Hadley and Ware)	15.12	2.86
Berkshire County (Remainder of County), Franklin County (Twps. of Monroe, Towe and western part of Charlemont)	14.40	3.70

DECISION NO. MA81-3071 - (CONT'D)	Basic Hourly Rates	Fringe Benefits
Franklin County (Orange)	13.87	1.85+ 4%
Franklin County (Remainder of County), Hampshire County (Remainder of County)	15.12	2.86
SHEET METAL WORKERS	14.06	3.20
SPRINKLER FITTERS	15.80	2.41
STEAMFITTERS: Hampden County, Berkshire County (Twps. of Otis, Becket, New Boston, Sandisfield), Hampshire County	15.12	2.86
Berkshire County (Remainder of County), Franklin County (Twps. of Monroe, Towe and western part of Charlemont)	14.40	2.70
Franklin County (Orange)	13.86	1.85+ 4%
Franklin County (Remainder of County)	15.12	2.86
LABORERS (BUILDING):		
GROUP 1	11.05	2.25
GROUP 2	11.30	2.25
GROUP 3	11.55	2.25
GROUP 4	11.80	2.25
GROUP 5	12.05	2.25
LABORERS (HEAVY & HIGHWAY): Berkshire, Hampden and Hampshire Counties, Franklin County (except Orange and Worwick)		
CLASS I	11.05	2.25
CLASS II	11.30	2.25
CLASS III	11.80	2.25
CLASS IV	12.05	2.25
Franklin County (Orange and Worwicj)		
CLASS I	111.05	2.25
CLASS II	11.30	2.25
CLASS III	11.80	2.25
CLASS IV	12.05	2.25

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION:		
CLASS I	14.63	2.30+a
CLASS II	14.43	2.30+a
CLASS III	14.23	2.30+a
CLASS IIIA	13.86	2.30+a
CLASS IV	12.39	2.30+a
CLASS V	11.71	2.30+a
CLASS VI	10.60	2.30+a
CLASS VII	15.38	2.30+a
CLASS VIII	11.78	2.30+a
CLASS IX	15.19	2.30+a
CLASS X	15.13	2.30+a
CLASS XI	15.63	2.30+a
POWER EQUIPMENT OPERATORS HEAVY AND HIGHWAY CONSTRUCTION:		
CLASS I	14.63	2.30+a
CLASS II	14.43	2.30+a
CLASS III	14.23	2.30+a
CLASS IIIA	13.86	2.30+a
CLASS IV	12.39	2.30+a
CLASS V	11.71	2.30+a
CLASS VI	10.60	2.30+a
CLASS VII	15.38	2.30+a
CLASS VIII	11.78	2.30+a
CLASS IX	15.19	2.30+a
CLASS X	15.63	2.30+a
CLASS XI	15.63	2.30+a
TRUCK DRIVERS:		
CLASS I	11.86	2.65
CLASS II	12.03	2.65
CLASS III	12.10	2.65
CLASS IV	12.22	2.65
CLASS V	12.32	2.65
CLASS VI	12.61	2.65
CLASS VII	12.90	2.65

Modification Page 5

DECISION NO. MA81-3050 - MOD. #2 (46 FR 43625 - August 28, 1981) WORCHESTER COUNTY, MASSACHUSETTS	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS	14.73	2.41
BOILERMAKERS	16.53	1.315+ 10%
BRICKLAYERS, CEMENT MASONS, PLASTERERS AND STONEMASONS:		
Warren	13.01	2.91
Hopedale, Milford and Southboro	14.15	2.84
Ashburnham, Gardner, Harvard, Hubbardston, Lancaster, Leominster, Luneburg, Petersham, Phillipston, Princeton, Royalston, Sterling, Templeton, Westminister and Winchendon	14.75	2.24
Residential and Veneer Plasterers	11.80	2.24
Remainder of County	13.60	2.50
CARPENTERS AND SOFT FLOOR LAYERS:		
Hardwick, Warren and West Brookfield	13.70	2.07
Remainder of County	14.11	2.62
GLAZIERS:		
Warren and West Warren	11.67	2.27
Remainder of County	15.45	2.14
IRONWORKERS	14.55	3.50
LABORERS (BUILDING):		
Laborers, Carpenter Tenders and Wrecking Laborers	12.20	2.35
Jackhammer Operators, Pavement Breakers, Asphalt Rakers, Carbide Core Drilling Machine, Chain Saw Operators, Pipelayers, Barco-type Jumping Tampers, Laser Beam, Concrete Pump, Masons Tenders, Mortar Mixers, Ride-on Motorized Buggies, and Fence and Beam Rail Erectors	12.45	2.35
Air Track, Block Pavers, Rammers and Curb Setters	12.95	2.35
Blasters and Powdermen	13.20	2.35
Pre-Cast Floor and Roof Plank Erectors	12.70	2.35
LINE CONSTRUCTION:		
Line	15.00	1.20+3% 3/8of1%
Equipment Operators	12.75	"
Driver Groundman	12.00	"
Groundman	9.75	"
PAINTERS:		
Warren, West Warren:		
Brush and Tapers	11.96	1.99
Spray and Sandblasting	15.83	1.99
Swing and Chair Work and Steel Riding Under 40 Feet	12.15	1.99
Swing and Chair Work and Steel Riding Over 40 Feet	12.46	1.99
Holedale, Mendon, Milford, Southboro, Upton and Westboro:		
Brush	12.30	1.68
Spray, Sandblast and Epoxy	13.30	1.68
Steel	13.55	1.68
Repaint (Brush)	11.75	1.68
Remainder of County:		
Brush	14.08	2.59
Steel	16.20	2.59
Sandblasting and Spray	15.08	2.59
Repaint	11.97	2.59
Residential	10.56	2.59
PILEDRIVERMEN	15.40	2.00
LABORERS (HEAVY AND HIGHWAY)		
CLASS I	11.05	2.25
CLASS II	11.30	2.25
CLASS III	11.80	2.25
CLASS IV	12.05	2.25

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DECISION NO. MA81-3050 - (CONT'D)	Basic Hourly Rates	Fringe Benefits
BUILDING CONSTRUCTION: Royalston, Phillipston, Athol, Petersham, Hardwick, New Braintree, Brookfield, E. Brookfield, N. Brookfield, Oakham, Barre, Templeton, Winchendon, Sturbridge, W. Brookfield and Warren		
POWER EQUIPMENT OPERATORS:		
CLASS I	14.63	2.30+a
CLASS II	14.43	2.30+a
CLASS III	14.23	2.30+a
CLASS IIIA	13.86	2.30+a
CLASS IV	12.39	2.30+a
CLASS V	11.71	2.30+a
CLASS VI	10.60	2.30+a
CLASS VII	15.38	2.30+a
CLASS VIII	11.78	2.30+a
CLASS IX	15.19	2.30+a
CLASS X	15.13	2.30+a
CLASS XI	15.63	2.30+a
HEAVY AND HIGHWAY CONSTRUCTION: Royalston, Phillipston, Athol, Petersham, Hardwick, New Braintree, Brookfield, E. Brookfield, N. Brookfield, Oakham, Barre, Templeton, Winchendon, Sturbridge, W. Brookfield and Warren		
POWER EQUIPMENT OPERATORS:		
CLASS I	14.63	2.30+a
CLASS II	14.43	2.30+a
CLASS III	14.23	2.30+a
CLASS IIIA	13.86	2.30+a
CLASS IV	12.39	2.30+a
CLASS V	11.71	2.30+a
CLASS VI	10.60	2.30+a
CLASS VII	15.38	2.30+a
CLASS VIII	11.78	2.30+a
CLASS IX	15.19	2.30+a
CLASS X	15.13	2.30+a
CLASS XI	15.63	2.30+a
BUILDING CONSTRUCTION Remainder of County		
POWER EQUIPMENT OPERATORS:		
CLASS I	17.11	2.81+a
Hourly premium for boom lengths, including jib:		
Over 150 feet + .62		
Over 185 feet + 1.11		
Over 210 feet + 1.55		
Over 250 feet + 2.35		
Over 295 feet + 3.27		
CLASS II	16.99	2.81+a
CLASS III	14.35	2.81+a
CLASS IV	15.63	2.81+a
CLASS V	12.74	2.81+a
CLASS VI	13.51	2.81+a
HEAVY AND HIGHWAY CONSTRUCTION Remainder of County		-
POWER EQUIPMENT OPERATORS		
CLASS I	17.11	2.81+a
Hourly premium for boom lengths, including jib:		
Over 150 feet + .62		
Over 185 feet + 1.11		
Over 210 feet + 1.55		
Over 250 feet + 2.35		
Over 295 feet + 3.27		
CLASS II	16.99	2.81+a
CLASS III	14.35	2.81+a
CLASS IV	15.63	2.81+a
CLASS V	12.74	2.81+a
CLASS VI	13.51	2.81+a
BUILDING, HEAVY AND HIGHWAY CONSTRUCTION		
TRUCK DRIVERS		
CLASS I	11.86	a+b
CLASS II	12.03	a+b
CLASS III	12.10	a+b
CLASS IV	12.22	a+b
CLASS V	12.32	a+b
CLASS VI	12.61	a+b
CLASS VII	12.90	a+b

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Modification Page 8

DECISION NO. MA81-3054 MOD. #3 (46 FR 44631 - September 4 1981)	Basic Hourly Rates	Fringe Benefits
BARNSTABLE, BRISTOL, DUKES ESSEX, MIDDLESEX, NANTUCKET, NORFOLK, PLYMOUTH, AND SUFFOLK COUNTIES, MASSACHUSETTS		
CHANGE:		
BOILER MAKERS	16.53	1.315+10%
BRICKLAYERS		
SUFFOLK, MIDDLESEX (Arlington, Cambridge, Everett, Malden, Melford Melrose and Somerville), NORFOLK (Brookline and Milton-except plasterers)	14.45	2.57
Residential	11.56	2.57
Veneer Plastering	11.56	2.57
NORFOLK (Avon, Holbrook, Randolph and Stoughton), PLYMOUTH (Aington, Bridgewater, Brockton, Carver, Duxbury, E. Bridgewater, Halifax, Hanover, Hanson, Kingston, Marshfield, Middleboro, Pembroke, Plymouth, Norwell (except plasterers), Rockland, W. Bridgewater and Whitman), BRISTOL (Easton and N. and S. Easton)	14.75	2.24
Residential	11.80	2.24
Veneer Plastering	11.80	2.24
DUKES, NANTUCKET, NORFOLK (Bellingham, Canton, Dedham, Foxboro, Franklin, Norfolk, Norwood, Plainville, Sharon, Walpole, Westwood and Wrentham), PLYMOUTH (Lakeville only) BRISTOL (Attleboro, N. Attleboro, Mansfield, Raynham, Barrowsville, Taunton, Berkley, North Dighton, Rehoboth, Seekonk)	14.40	2.59
Residential	11.52	2.59
Veneer Plastering	11.52	2.59
MIDDLESEX (Reading, N. Reading, Wakefield), ESSEX	14.70	2.29
Residential	11.76	2.29
Veneer Plastering	11.76	2.29
MIDDLESEX (Belmont, Burlington, Concore, Lexington, Lincoln, Stoneham, Sudbury, Waltham, Watertown, Wayland, Eaton, Winchester and Woburn)	14.75	2.24
Residential	11.80	2.24
Veneer Plastering	11.80	2.24
MIDDLESEX (Acton, Ashby, Ayer, Bedford, Billerica, Boxboro, Carlisle, Chelmsford, Dracut, Dunstable, Ft. Devens, Groton, Littleton, Lowell, North Acton, Pepperell, Shirley, South Acton, Tewksbury, Townsend, Tyngsboro, West Acton, Westford, and Wilmington	14.75	2.24
Residential	11.80	2.24
Veneer Plastering	11.80	2.24
BARNSTABLE, PLYMOUTH (Marion, Mattapoisett, Rochester and Wareham), BRISTOL (Acushnet, Dartmouth, Fairhaven, Fall River, Freetown, New Bedford, N. and S. Dartmouth, Somerset, Swansea and Westport)	14.25	2.24
Residential	11.40	2.24
Veneer Plastering	11.40	2.24
MIDDLESEX (Ashland, Farmington, Holliston, Hopkington, Hudson, Sherborn and Stow), NORFOLK (Medfield, Medway and Millis)	14.15	2.84
Residential	11.32	2.84
Veneer Plastering	11.32	2.84
MIDDLESEX (Newton only), NORFOLK (Dover, Needham and Wellesley)	14.60	2.35
NORFOLK (Braintree, Cohasset, N. Weymouth, Quincy, S. Weymouth and		

DECISION NO. MA81-3054 - (CONT'D)	Basic Hourly Rates	Fringe Benefits
Weymouth), Plymouth (Hingham, Hull, Scituate and the Island of Quincy	14.75	2.24
Residential	11.80	2.24
Veneer Plastering	11.80	2.24
CARPENTERS: SOFT FLOOR LAYERS:		
MIDDLESEX (Bedford, Burlington, Lowell, Billerica, Tyngsboro, Westford, Tewksbury, Acton, Littleton, Dracut, Wilmington, Dunstable, Chelmsford and Carlisle)	13.85	2.47
GLAZIERS:		
SUFFOLK, MIDDLESEX, NORFORK, ESSEX, PLYMOUTH (all except Carver, Lakeville, Middleboro, Marion, Mattapoisett, Rochester and Wareham), DUKES and NANTUCKET	15.45	2.14
IRONWORKERS		
SUFFOLK, NORFOLK (Remainder of County), ESSEX (Manchester, Beverly, Peabody, Salem, Lynn, Lynnfield, Saugus, Swampscott, Marbelhead and Nahant), PLYMOUTH (Remainder of County), BRISTOL (Easton and N. Easton), MIDDLESEX (Sherborn, Natick, Framingham, Weston, Newton, Arlington, Belmont, Cambridge, Somerville, Waltham, Medford, Malden, Stoneham, Woburn, Winchester, Burlington, Bedford, Lincoln, Lexington, Sudbury, Maynard, Concord and Everett	15.30	3.50
MIDDLESEX (Ashby, Shirley, Ayer, Boxboro, Stow, Hudson, Marlboro, Ashland, Hopkinton and Holliston)	15.30	3.50

	Basic Hourly Rates	Fringe Benefits
MILLWRIGHTS	15.20	2.10
LABORERS (Building)		
CLASS I	12.20	2.35
CLASS II	12.45	2.35
CLASS III	12.70	2.35
CLASS IV	12.95	2.35
CLASS V	13.20	2.35
POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION		
CLASS I	17.11	2.81
Hourly premium for boom lengths including jib:		
Over 150 ft. + .62		
Over 185 ft. + 1.11		
Over 210 ft. + 1.55		
Over 250 ft. + 2.35		
Over 295 ft. + 3.27		
CLASS II	16.99	2.81
CLASS III	14.35	2.81
CLASS IV	15.63	2.81
CLASS V	12.74	2.81
CLASS VI	13.51	2.81
POWER EQUIPMENT OPERATOR: HEAVY AND HIGHWAY CONSTRUCTION:		
CLASS I	17.11	2.81
Hourly premium for boom lengths including jib:		
Over 150 ft. + .62		
Over 185 ft. +1.11		
Over 210 feet + 1.55		
Over 250 ft. + 2.35		
Over 295 ft. + 3.27		
CLASS II	16.99	2.81
CLASS III	14.35	2.81
CLASS IV	15.63	2.81
CLASS V	12.74	2.81
CLASS VI	13.51	2.81
MARINE CONSTRUCTION POWER EQUIPMENT OPERATORS:		
CLASS I	17.11	2.81
Hourly premium for boom lengths including jib:		
Over 150 ft. + .62		
Over 185 ft. +1.11		
Over 210 feet + 1.55		
Over 250 ft. + 2.35		
Over 295 ft. + 3.27		

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DECISION NO. MA81-3054 - (CONT'D)	Basic Hourly Rates	Fringe Benefits
CLASS II	16.99	2.81
CLASS III	14.35	2.81
CLASS IV	15.63	2.81
CLASS V	12.74	2.81
CLASS VI	13.51	2.81
TRUCK DRIVERS		
CLASS I	11.86	2.65
CLASS II	12.03	2.65
CLASS III	12.10	2.65
CLASS IV	12.22	2.65
CLASS V	12.32	2.65
CLASS VI	12.61	2.65
CLASS VII	12.90	2.65

DECISION NO. OR82-5100 - Mod. #5 (47 FR 10954 - March 12, 1982) Statewide, Oregon		
Change:		
Carpenters:		
Acoustical and Drywall Applicator, Automatic Nailing Machine, Carpenters, Form Strippers, Manhole Builders	$16.19	$3.31
Floor Layers and Finishers, Stationary Power Saw Operators	16.34	3.32
Millwrights and Machine Erectors	16.44	3.32
Certified Welders	16.59	3.32
Piledrivermen; Bridge, Dock and Wharf Builders	16.29	3.32
Boom Men	16.39	3.32
Cement Masons:		
Cement Masons	15.49	4.02
Composition Workers, Power Machinery Operator	15.80	4.02
Laborers:		
Zone 1:		
Group 1	12.84	4.30
Group 2	13.19	4.30
Group 3	13.49	4.30
Group 4	13.74	4.30
Zone 2:		
Group 1	13.49	4.30
Group 2	13.84	4.30
Group 3	14.14	4.30
Group 4	14.39	4.30
Zone 3:		
Group 1	13.99	4.30
Group 2	14.34	4.30
Group 3	14.64	4.30
Group 4	14.89	4.30
Zone 4:		
Group 1	14.54	4.30
Group 2	14.89	4.30
Group 3	15.19	4.30
Group 4	15.44	4.30
Zone 5:		
Group 1	$15.59	$4.30
Group 2	15.94	4.30
Group 3	16.24	4.30
Group 4	16.49	4.30
Zone 6:		
Group 1	16.39	4.30
Group 2	16.74	4.30
Group 3	17.04	4.30
Group 4	17.29	4.30
Plumbers: (Area 4)	20.58	3.60
Soft Floor Layers: (Area 1)	13.78[b]	2.38+ b
Sprinkler Fitters	17.92	2.83

DECISION NO. NJ82-3088 - MOD. #2 (47 FR 8533 - February 26, 1982) BERGEN, ESSEX, HUDSON AND PASSAIC COUNTIES, NEW JERSEY	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS, STONE MASONS, CEMENT MASONS AND PLASTERERS:		
AREA 2	15.60	1.76
AREA 3	14.87	4.48
AREA 4		
Bricklayers & Stone Masons	13.66	1.77
CEMENT MASONS & PLASTERS		
PLASTERERS	15.35	2.15
CARPENTERS, INSULATORS & MILLWRIGHTS:		
AREA 1		
Carpenters & Insulators	16.05	15-5/10%
Millwrights	16.55	"
AREA 2		
Carpenters & Insulators	16.05	"
Millwrights	16.55	"
AREA 3	14.85	3.53
AREA 4		
Carpenters & Insulators	15.38	20-5/10%
Millwrights	15.88	20-5/10%
LABORERS, BUILDING CONSTRUCTION:		
AREA 2	10.55	2.55
AREA 3		
Group 1	11.30	2.20
Group 2	11.05	2.20
AREA 7		
Unskilled Laborers	10.30	3.05

	Basic Hourly Rates	Fringe Benefits
PAINTERS:		
Essex & Hudson (W Half of Co.) Cos.		
Painters on new construction and major alterations	13.30	1.88
Painters on repaint work	12.30	1.88
Spraying or application of hazardous or dangerous materials on repaint work	12.90	1.88
Exterior work exceeding 3 stories in height for painting of open structural steel and tanks under 3 stories in height except flat tanks on the ground and on interior work which requires painting higher than 20' above the ground or floor (this shall not be applicable to machinery or equipment located therein)	13.45	1.88
Repaint work as described above	12.45	1.88
On bridges, television and radio towers, structural steel and tanks above 3 stories in height (30' or over), smoke stacks, water towers, sandblasting, steamcleaning, spraying or application of hazardous materials	13.90	1.88

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DECISION NO. NJ82-3006 - (CONT'D)	Basic Hourly Rates	Fringe Benefits
OMIT:		
POWER EQUIPMENT OPERATORS:		
CLASS A		
CLASS B		
CLASS C		
CLASS D		
CLASS E		
CLASS F		
ADD:		
POWER EQUIPMENT OPERATORS:		
CLASS I	11.94	3.40+u
ADD:		
POWER EQUIPMENT OPERATORS DEFINITIONS:		

CLASS I - BACKHOE (All types including all combination hoe loaders); CRANES (All types); DRAGLINES (Gradalls); PILE DRIVERS (Trencher); FRONT END LOADERS ("A" Frame); FORK LIFTS (Side Booms); FRONT END LOADERS (Under 5 yds. and over, 2 yds. but less than 5 yds.); "A" FRAMES (Side Booms); FORKLIFTS; FRONT END LOADERS (Under 2 yds. and over 1 yd. and under 1 yd.); DOZERS (D5 and over and under D5); MAINTENANCE (Utility); MAINTENANCE MECHANIC; CONCRETE BREAKER; COMPRESSORS; PUMP OR PUMPS; ROLLER (Blacktop); ROLLER (Stone); WELDER & REPAIR MECHANIC; WELDING MACHINE (Single); WELDING MACHINE (2 or 3 in a Battery) and BORING-DRILLING MACHINES

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DECISION NO. PA81-3027 - MOD. #5 (46 FR 37212 - July 17, 1981) FRANKLIN COUNTY, PENNSYLVANIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS	12.97	1.73
CEMENT MASONS	13.17	2.00
PAINTERS, BRUSH:		
Metal, LetterKenny, Hamilton, Green, South Hampton, Lurgan, Fanett, Chambersburg, Shipensburg Townships and Boroughs	11.42	1.10
PLASTERERS	11.40	2.01
PLUMBERS	15.30	2.14
SPRINKLER FITTERS	16.92	2.83

DECISION NO. PA81-3066 - MOD. #3 (46 FR 52082 - October 23, 1981) DAUPHIN, CUMBERLAND, PERRY, JUNIATA, NEW CUMBERLAND DEPOT, IN YORK COUNTY, PENNSYLVANIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS & STONEMASONS	12.97	1.73
CEMENT MASONS	13.17	2.00
GLAZIERS	12.61	1.51
LABORERS:		
Group 1	9.70	1.33
Group 2	10.17	1.33
Group 3	9.10	1.33
Group 4	10.37	1.33
MARBLE SETTERS	14.60	1.72
PAINTERS		
Brush	11.42	1.10
Structural Steel	11.87	1.10
Spray	12.17	1.10
Tanks, Bridges & Stacks	12.67	1.10
PLASTERERS	11.40	2.01
PLUMBERS	15.30	2.14
POWER EQUIPMENT OPERATORS:		
Group 1	14.85	25.6%+ a
Group 2	14.56	"
Group 3	13.69	"
Group 4	12.92	"
Group 5	12.45	"
Group 6	11.54	"
Group 7	15.10	"
Group 7-A	15.35	"
Group 7-B	15.59	"
SOFT FLOOR LAYERS	11.69	1.95
SPRINKLER FITTERS	16.92	2.83
STEAMFITTERS	15.30	2.14
TERRAZZO WORKERS	13.35	1.72
TILE SETTERS	13.35	1.72

DECISION NO. PA81-3068 - MOD. #5 (46 FR 47403 - September 25, 1981) LEBANON COUNTY, PENNSYLVANIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS & STONEMASONS	12.97	1.73
GLAZIERS:		
Remainder of County	12.61	1.51
LABORERS:		
General Laborers	9.95	1.00
Operator of jackhammer, paving breaking and other pneumatic, electrical and mechanical tools, laying of all clay, terra cotta, ironstone vitrified concrete or non-metallic pipe and the making of joints for same, wagon drill operator, cofferdam (below 10') tunnel		

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DECISION NO. PA81-3068 - (CONT'D)	Basic Hourly Rates	Fringe Benefits
LABORERS (CONT'D): free air, handling and using cutting or burning torches in the wrecking of buildings blasters, plasterer tenders, mason tenders scaffold builders and removal of power buggies	10.05	1.00
PAINTERS: (West of Route 72)		
Brush	11.42	1.10
Structural Steel	11.87	1.10
Spray	12.17	1.10
PLUMBERS & STEAMFITTERS West of Route 501	15.30	2.14
POWER EQUIPMENT OPERATORS:		
Group 1	14.85	25.6%+ a
Group 2	14.56	"
Group 3	13.69	"
Group 4	12.92	"
Group 5	12.45	"
Group 6	11.54	"
Group 7	15.10	"
Group 7-A	15.35	"
Group 7-B	15.59	"
SOFT FLOOR LAYERS	11.69	1.95
SPRINKLER FITTERS	16.92	2.83

DECISION NO. PA81-3073 - MOD. #2 (46 FR 48853 - October 2, 1981) NORTHUMBERLAND COUNTY, PENNSYLVANIA		
CHANGE:		
BRICKLAYERS & STONEMASONS	13.25	1.60
CEMENT MASONS	13.20	.01
ELECTRICIANS Remainder of County	14.65	1.05+ 3%

	Basic Hourly Rates	Fringe Benefits
LABORERS: North of Susquehanna River		
Unskilled laborers, scaffold builders, wrecking, window cleaners & demolition	8.75	1.40
Mason tenders, operators of jackhammers, paving breakers, vibrators & other pneumatic & mechanical tool coming under the jurisdiction of laborers, wagon drill operators excavating for caisson, under pinning & pier holes (below 12"), non-metallic pipe layers, plasterer tenders, mortar men mixed by hand), handling & using cutting or burning torches in the wrecking of building	8.90	1.40
South of Susquehanna River		
Group 1	9.70	1.33
Group 2	10.17	1.33
Group 3	9.10	1.33
Group 4	10.37	1.33
PAINTERS:		
Brush	11.85	1.80
Tapers	12.51	1.80
Hazardous	13.51	1.80
POWER EQUIPMENT OPERATORS:		
Group 1	14.85	25.6%+ a
Group 2	14.56	"
Group 3	13.69	"

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DECISION NO. PA81-3073 - (CONT'D)	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Group 4	12.92	25.6%+ a
Group 5	12.45	"
Group 6	11.54	"
Group 7	15.10	"
Group 7-A	15.35	"
Group 7-B	15.59	"
PLUMBERS	15.30	2.14
ROOFERS:		
Composition Remainder of County	13.30	2.10
SHEET METAL WORKERS	14.62	1.85
STEAMFITTERS	15.30	2.14
SOFT FLOOR LAYERS	11.69	1.95
SPRINKLER FITTERS	16.92	2.83

DECISION NO. PA81-3076 - MOD. #3 (46 FR 50263 - October 9, 1981) SCHUYLKILL COUNTY, PENNSYLVANIA		
CHANGE:		
BRICKLAYERS & STONEMASONS	12.35	2.40
ELECTRICIANS: Remainder of County	14.65	1.05+ 3%
LABORERS:		
Unskilled laborers & window cleaners	8.60	1.00
Operator of jackhammer, paving breaking & other pneumatic, electric & mechanical tools, laying of all clay, terra cotta, ironstone, virtified concrete or non-metallic pipe & the making of joints for same, wagon drill operators, cofferdams (below 10'), tunnel free air handling & using cutting or burning torches in the wrecking of buildings, blasters, plasterer-tenders, mason tenders, scaffold builders and removal & power buggies	8.80	1.00
PAINTERS:		
Townships of North Union, East Union, Union, Mahonoy, West Mahonoy, Butler, Kline, Delano, Ryan, Rahn, West Penn., and City of Tamaqua:		
Brush	11.85	1.80
Tapers	12.51	1.80
Hazardous	13.51	1.80
POWER EQUIPMENT OPERATORS:		
Group 1	14.85	25.6%+ a
Group 2	14.56	"
Group 3	13.69	"
Group 4	12.92	"
Group 5	12.45	"
Group 6	11.54	"
Group 7	15.10	"
Group 7-A	15.35	"
Group 7-B	15.59	"
ROOFERS:		
Barry, Branch, Butler, Delano, East Brunswick, East Union, Eldred, Foster, Frily, Hegins, Hubley, Kline, New Castle, North Union, Porter, Hahn, Reilly, Rush, Fremont, Union, Upper Mahantango, West Pend.:		
Composition	13.30	2.10
SHEET METAL WORKERS	14.62	1.85
SOFT FLOOR LAYERS	11.69	1.95
SPRINKLER FITTERS	16.92	2.83
TILE SETTERS	11.35	2.40

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DECISION NO. PA81-2072 - MOD. #2 (46 FR 48853 - October 2, 1981) NORTHUMBERLAND COUNTY, PENNSYLVANIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS & STONEMASONS	13.25	1.60
CEMENT MASONS	13.20	.01
ELECTRICIANS Remainder of County	14.65	1.05+ 3%

DECISION NO. PA81-3077 - MOD. #3 (46 FR 50263 - October 9, 1981) SCHUYLKILL COUNTY, PENNSYLVANIA		
CHANGE:		
BRICKLAYERS & STONEMASONS	12.35	2.40
ELECTRICIANS: Remainder of County	14.65	1.05+ 3%
LABORERS:		
Unskilled laborers & window cleaners	8.60	1.00
Operator of jackhammer, paving breaking & other pneumatic, electric & mechanical tools, laying of all clay, terra cotta, ironstone, virtified concrete or non-metallic pipe & the making of joints for same, wagon drill operators, cofferdams (below 10'), tunnel free air handling &		

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	Basic Hourly Rates	Fringe Benefits
using cutting or burning torches in the wrecking of buildings, blasters, plasterer-tenders, mason tenders, scaffold builders and removal & power buggies	8.80	1.00
PAINTERS:		
Townships of North Union, East Union, Union, Mahonoy, West Mahonoy, Butler, Kline, Delano, Ryan, Rahn, West Penn., and City of Tamaqua:		
Brush	11.85	1.80
Tapers	12.51	1.80
Hazardous	13.51	1.80
POWER EQUIPMENT OPERATORS:		
Group 1	14.85	25.6%+ a
Group 2	14.56	"
Group 3	13.69	"
Group 4	12.92	"
Group 5	12.45	"
Group 6	11.54	"
Group 7	15.10	"
Group 7-A	15.35	"
Group 7-B	15.59	"
ROOFERS:		
Barry, Branch, Butler, Delano, East Brunswick, East Union, Eldred, Foster, Frily, Hegins, Hubley, Kline, New Castle, North Union, Porter, Hahn, Reilly, Rush, Fremont, Union, Upper Mahantango, West Pend.:		
Composition	13.30	2.10
SHEET METAL WORKERS	14.62	1.85
SOFT FLOOR LAYERS	11.69	1.95
SPRINKLER FITTERS	16.92	2.83
TILE SETTERS	11.35	2.40

DECISION NO. PA81-2072 - MOD. #3 (46 FR 48851 - October 2, 1981) ADAMS & YORK COUNTIES, PENNSYLVANIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS & STONEMASONS	12.35	1.20
CARPENTERS		
York County	12.79	1.68
CEMENT MASONS		
Adams County	13.17	2.00
York County	12.89	.93
GLAZIERS	12.61	1.51
LABORERS:		
General Laborers	9.25	1.37
Operator of jackhammer (etc.)	9.45	1.37
Wagon dill operator	9.55	1.37
Handling of all material (etc.)	9.50	1.37
Laborers assisting tile (etc.)	9.30	1.37
Handling & using dynamite	9.53	1.37
Caisson work (top men)	9.50	1.37
Caisson work (bottom men)	9.70	1.37
Mixer man	9.65	1.37
MARBLE, TILE & TERRAZZO WORKERS	10.99	1.20
PLASTERERS		
York County	12.38	.93
PLUMBERS	15.30	2.14
POWER EQUIPMENT OPERATORS:		
Group 1	14.85	25.6%+a
Group 2	14.56	"
Group 3	13.69	"
Group 4	12.92	"
Group 5	12.45	"
Group 6	11.54	"
Group 7	15.10	"
Group 7-A	15.35	"
Group 7-B	15.59	"
ROOFERS:		
Composition, damp and waterproof	11.75	1.61
Slate & Tile	12.35	1.61
SOFT FLOOR LAYERS:		
Adams County	11.69	1.95
York County	12.79	1.68
SPRINKLER FITTERS	16.92	2.83
STEAMFITTERS	15.30	2.14

DECISION NO. PA81-3077 - MOD. #3 (46 FR 50265 - October 9, 1981) LANCASTER COUNTY, PENNSYLVANIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CEMENT MASONS	12.89	.93
ELECTRICIANS:		
Remainder of County	13.35	.64+3%
GLAZIERS	12.61	1.51
LABORERS:		
Genral Laborers	9.25	1.37
Operators of Jackhammers	9.45	1.37
Wagon Drill	9.55	1.37
Handling of all materials	9.50	1.37
Laborers assisting tile	9.30	1.37
Handling & using dynamite	9.58	1.37
Caisson Work (Top Men)	9.30	1.37
Caisson Work (Bottom Men	9.70	1.37
Mixer Men	9.65	1.37
PAINTERS:		
Elizabeth & Dowetal Townships		
Brush	11.42	1.10
Steel	11.87	1.10
Spray	12.17	1.10
PLASTERERS	12.38	.93
PLUMBERS	15.30	2.14
POWER EQUIPMENT OPERATORS		
Group 1	14.85	25.6%+a
Group 2	14.56	25.6%+a
Group 3	13.69	25.6%+a
Group 4	12.92	25.6%+a
Group 5	12.45	25.6%+a
Group 6	11.54	25.6%+a
Group 7	15.10	25.6%+a
Group 7-A	15.35	25.6%+a
Group 7-B	15.59	25.6%+a
PLUMBERS	15.30	2.14
STEAMFITTERS	15.30	2.14
SOFT FLOOR LAYERS	11.69	1.95
SPRINKLER FITTERS	16.92	2.83

DECISION NO. PA81-3081 - MOD. #2 (46 FR 52080 - October 23, 1981) SULLIVAN COUNTY, PENNSYLVANIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS:		
Benton Air Force Base	13.94	1.95
CEMENT MASONS	11.50	
LABORERS:		
Unskilled & window washers	11.87	2.25
Semi-skilled: Pneumatic, electrical & mechanical tool ops., under the jurisdiction of the laborers - 2" pumps-non-metallic pipelaying & making of joints clay, terra cotta, ironstone, vitrified concrete, handling of burning torches, asphalt or other hot materials, cement finishers & blaster helpers, power buggies, walk along hoists	12.07	2.25
Plasters tenders, blasters & wagon drill operators	12.19	2.25
PAINTERS		
Brush	11.85	1.80
Tapers	12.51	1.80
Hazardous	13.51	1.80
POWER EQUIPMENT OPERATORS		
Group 1	14.85	25.6%+a
Group 2	14.56	"
Group 3	13.69	"
Group 4	12.92	"
Group 5	12.45	"
Group 6	11.54	"
Group 7	15.10	"
Group 7-A	15.35	"
Group 7-B	15.59	"
ROOFERS	13.30	2.10
SHEET METAL WORKERS	14.62	1.85
SOFT FLOOR LAYERS	11.69	1.95
SPRINKLER FITTERS	16.92	2.83
ADD:		
Laborers:		
Mason tenders incl. scaffold builders	12.27	2.25

DECISION NO. PA81-3058 - MOD. #9 (46 FR 43596 - August 28, 1981) ADAMS, BERKS, BRADFORD, CARBON, COLUMBIA, CUMBERLAND, DAUPHIN, JUNIATA, LACKAWANNA, LANCASTER, LEBANON, LEHIGH, LUZERNE, LYCOMING, MONROE, MONTOUR NORTHAMPTON, NORTHUMBERLAND, PERRY, PIKE, SCHUYLKILL, SNYDER, SULLIVAN, SUSQUEHANNA, TIOGA, UNION, WAYNE, WYOMING & YORK COUNTIES, PENNSYLVANIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
LABORERS:		
Caisson-open air-below 8 feet, cofferdam open air-below 8 feet where excavations for circular caissons and cofferdams 8 feet and below level of natural grade adjacent to starting point, form setters (road) wagon drill diamond point drill, gunite nozzle operators	10.86	1.15

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DECISION NO. PA82-3011 - MOD. #1 (47 FR 10963 - March 12, 1982) BRADFORD, TIOGA & UNION COUNTIES, PENNSYLVANIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS & STONEMASONS	12.25	2.265
CEMENT MASONS	11.50	
LABORERS:		
Unskilled laborers, scaffold builders, wrecking, window cleaners & demolition	8.75	1.40
Operators of jackhammers, paving breakers, vibrators & other pneumatic & mechanical tools coming under the jurisdiction of laborers, wagon drill operators, excavating for caisson, under pinning & pier holes (below 12') nonmetallic pipe layers, plasterers tenders, mortar men (mixed by hand), handling & using cutting or burning torches in the wrecking of buildings, masons tenders	8.90	1.40
PAINTERS:		
Brush	11.85	1.80
Tapers	12.51	1.80
Hazardous	13.51	1.80
POWER EQUIPMENT OPERATORS:		
Group 1	14.85	25.6%+ a
Group 2	14.56	"
Group 3	13.69	"
Group 4	12.92	"
Group 5	12.45	"
Group 6	11.54	"
Group 7	15.10	"
Group 7-A	15.35	"
Group 7-B	15.59	"
ROOFERS:		
Composition & Kettleman	13.30	2.10
SHEET METAL WORKERS	14.62	1.85
SOFT FLOOR LAYERS	11.69	1.95
SPRINKLER FITTERS	16.92	2.83
ELECTRICIANS:		
Townships of East Buffalo, Union & Lewisburg in in Union County	14.65	1.05+ 3%

DECISION NO. PA82-3010 MOD. #1 (47 FR 9684 - March 5, 1982) Clinton, Centre, Huntingdon, Fulton & Mifflin Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Bricklayers & Stonemasons:		
Clinton County in its entirety, and the Remainder of Centre County	12.25	2.265
Mifflin County	13.25	1.60
Plumbers & Steamfitters:		
Centre, Mifflin & Fulton Counties	15.30	2.14
Roofers:		
Clinton County:		
Composition and Kettleman	13.30	2.10
Sheet metal workers:		
Clinton County	14.62	1.85
Sprinkler Fitters	16.92	2.83

Modification Page 18

DECISION NO. PA82-3012 - MOD. #2 (47 FR 9681 - March 5, 1982) COLUMBIA, MONTOUR & SNYDER COUNTIES, PENNSYLVANIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
GLAZIERS		
Snyder County	11.61	1.51
LABORERS:		
Columbia County:		
Unskilled laborers and window washers	8.39	2.25
Mason tenders and scaffold builders	8.79	2.25
Pneumatic electrical tool op. under the jurisdiction of laborers 2' pump-non-metallic pipe laying and making joints clay terra cotta, ironstone, vitrified concrete, handling of burning torches, asphalt or other hot material; cement finishers and blasters helpers, power buggies, and walk along hoist	9.49	2.25
Plasterers tenders, blasters and wagon drill operator	9.64	2.25
Montour County:		
Unskilled laborers, scaffold builders, wrecking, window cleaners & demolition	8.75	1.40
Operators of jackhammers, paving breakers, vibrators & other pneumatic & mechanical tools coming under the jurisdiction of laborers, wagon drill operators, excavating for caisson, under pinning & pier holes (below 12') nonmetallic pipe layers, plasterers tenders, mortar men (mixed by hand), handling & using cutting or burning torches in the wrecking of buildings, masons tenders	8.90	1.40
Snyder County:		
General Laborers: Air, fuel and electric tool operators and all other pneumatic and mechanical tools, including blow pipe and vacum cleaners. Cassion workers (top men), pipelayers for all clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe & the making of joints for same. Power-buggy, precast slab placers & signal men, blaster helper, excavation of all foundation, digging of trenches, piers and manholes. Wrecking and moving of all structures. Under pinning & shoring, stripping, dismantling, oiling & moving of concrete forms, loading, and carring of reinforcing steel, handling & distribution of lumber and all other building material to stock piles, piles, unloading,carrying, distribution, and laying of precast concrete slabs and planks for flooring & roofing, general cleanup & removal of refuge, debris and all scrap material(s),		

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DECISION NO. PA82-3012 - (CONT'D)

	Basic Hourly Rates	Fringe Benefits
LABORERS (CONT'D):		
vibrator operator (concrete placing - whose power is supplied by compressed air, electric gasoline & any other means	9.70	1.33
Semi-Skilled: Cassion worker (bottom men), blasters, wagon air track and diamond point drill operators, burning torches, green cutting machine (nozzle men), and steam jenny, plaster & cement mason tenders, machine mixers, plater pump and scaffold builders (excluding masonry scaffolding sand blasting nozzle men):	10.17	1.33
Nursery Workers: Window washers, floor scrubbers, tenders of propane gas burners, salamanders, smudge pots, toolroom workers. fire watch	9.10	1.33
Mason tenders, machine mixers, motorized stockers, scaffold builders (masonry), mortar pump, conveyors mechanical cleaners, and sandblasting for masonry and masonry equipment	10.37	1.33
LATHERS	12.72	1.65
LEAD BURNERS	10.75	.66+a
PAINTERS:		
Brush	11.85	1.80
Tapers	12.51	1.80
Hazardous	13.51	1.80

	Basic Hourly Rates	Fringe Benefits
PLUMBERS	15.30	2.14
POWER EQUIPMENT OPERATORS:		
Group 1	14.85	25.6%+ a
Group 2	14.56	"
Group 3	13.69	"
Group 4	12.92	"
Group 5	12.45	"
Group 6	11.54	"
Group 7	15.10	"
Group 7-A	15.35	"
Group 7-B	15.59	"
PLUMBERS	15.30	2.14
SHEET METAL WORKERS	14.62	1.85
SOFT FLOOR LAYERS	11.69	1.95
SPRINKLER FITTERS	16.92	2.83
STEAMFITTERS	15.30	2.14
Bricklayers & Stonemasons: Montour & Snyder Counties:	13.25	1.60
Cement Masons: Montour & Snyder Counties:	13.20	.01
Electricians: Montour County in its entirety: Snyder County: That Portion North of U. S. Highway 522 and Selinsgrove Borough; Remainder of Columbia County	14.65	1.05+3%

DECISION NO. RI81-3042 - MOD. #7
(46 FR [illegible] - Aug. 21, 1981)
STATEWIDE RHODE ISLAND

CHANGE:

HEAVY & HIGHWAY CONSTR:
LABORERS - H&W Only to $0.95

BUILDING CONSTRUCTION:
LABORERS - H&W Only to $0.95

DECISION NO. WA81-5163 - Mod. #11
(46 FR 59457 - December 4, 1981)
Statewide, Washington

Change:	Basic Hourly Rates	Fringe Benefits
Bricklayers; Marble Setters:		
Area 1	$16.58	$3.20
Area 2	17.28	1.62
Carpenters: (Area 1):		
Carpenters; Lathers	15.85	3.32
Piledriver; Saw Filer; Stationary Power Woodworking Tool Operator	16.00	3.32
Boom Men; Carpenters working on burned, charred, creosoted, or other similarly treated material	16.10	3.32
Piledriver (creosoted material)	16.25	3.32
Millwrights and Machine Erectors	16.35	3.32
Carpenters: (Area 3):		
Acoustical and Drywall Applicator, Automatic Nailing Machine, Carpenters, Form Strippers, Manhole Builders	16.19	3.32
Floor Layers and Finishers, Stationary Power Saw Operators	16.34	3.32
Millwrights and Machine Erectors	16.44	3.32
Certified Welders	16.59	3.32
Piledrivermen; Bridge, Dock and Wharf Builders	16.29	3.32
Boommen	16.39	3.32
Cement Masons(Area 2):		
Cement Masons	17.86	3.55
Composition, Color, Mastic, Trowel Machine, Grinder, Power Tools, Gunnite Nozzleman	18.11	3.55
Cement Masons(Area 4):		
Cement Masons	15.49	4.02
Composition Materials and Power Machinery	15.80	4.02
PAINTERS (Area 3)		
General Painter	16.74	2.26
Drywall Taper	17.14	2.26
Industrial Painter	17.14	2.26

	Basic Hourly Rates	Fringe Benefits
Laborers: (Area 3)		
Zone 1:		
Group 1	$13.59	$3.55
Group 2	13.94	3.55
Group 3	14.24	3.55
Group 4	14.49	3.55
Zone 2:		
Group 1	14.24	3.55
Group 2	14.59	3.55
Group 3	14.89	3.55
Group 4	15.14	3.55
Zone 3:		
Group 1	14.74	3.55
Group 2	15.09	3.55
Group 3	15.39	3.55
Group 4	15.64	3.55
Zone 4:		
Group 1	15.29	3.55
Group 2	15.64	3.55
Group 3	15.94	3.55
Group 4	16.19	3.55
Zone 5:		
Group 1	16.34	3.55
Group 2	16.69	3.55
Group 3	16.99	3.55
Group 4	17.24	3.55
Zone 6:		
Group 1	17.14	3.55
Group 2	17.49	3.55
Group 3	17.79	3.55
Group 4	18.04	3.55
Painters: (Area 4):		
Striper	16.85	1.83
Plasterers: (Area 2)	17.23	3.29
Plumbers: (Area 4)	20.58	3.60
Sprinkler Fitters: (Area 2)	17.92	2.75
POWER EQUIPMENT OPERATORS		
Area 2:		
Group 1	18.73	3.66
Group 2	18.23	3.66
Group 3	17.79	3.66
Group 4	17.43	3.66
Group 5	17.13	3.66
Group 6	15.33	3.66
DREDGING (Area 2):		
Group 1	16.75	3.66
Group 2	16.85	3.66
Group 3	17.19	3.66
Group 4	17.24	3.66
Group 5	17.61	3.66

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SUPERSEDEAS DECISION

STATE: ALABAMA COUNTIES: BALDWIN, ESCAMBIA, MOBILE, & WASHINGTON

DECISION NO.: AL82-1029 DATE: DATE OF PUBLICATION

Supersedes Decision No.: AL80-1086, dated August 1, 1980 in 45 FR 51387.

DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION consisting of single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING MECHANIC	$7.50	
BRICKLAYERS	9.10	
CARPENTERS	6.28	
CEMENT MASONS	6.70	
DRYWALL FINISHERS	7.50	
DRYWALL HANGERS	5.26	
ELECTRICIANS	5.55	
INSULATORS	5.19	
LABORERS	4.98	
PAINTERS	7.00	
PLUMBERS & PIPEFITTERS	6.50	
ROOFERS	8.84	.30
SHEET METAL WORKERS	7.25	
SOFT FLOOR LAYERS	$7.29	
TILE SETTERS	8.00	
TRUCK DRIVERS	7.29	
POWER EQUIPMENT OPERATORS:		
Asphalt Paver	5.93	
Aspalt Raker	5.50	
Backhoe	7.59	
Bulldozer	7.27	
Front End Loader	7.00	
Motor Grader	6.90	
Power Box	5.55	
Roller	6.55	
WELDER - Rate for Craft		

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Delaware COUNTIES: State of Delaware

DECISION NO.: DE82-3015 DATE: Date of Publication

Supersedes Decision NO. DE81-3028 dated May 8, 1981 in 46 FR 25909.

DESCRIPTION OF WORK: Building Construction (excluding single family houses and apartments up to and including 4 stories), Heavy & Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	16.24	1.35	2.00		.03
BOILERMAKERS:					
New Castle County	16.67	1.275	1.00		.02
Kent & Sussex Counties	16.025	1.275	1.25		.04
BRICKLAYERS	15.15	1.19	1.36		
CARPENTER - BUILDING & HEAVY					
New Castle & Kent Counties	14.55	1.29	1.40		.05
Sussex County	14.42	.80	1.50		.06
CEMENT MASONS:					
Building Construction	14.60	1.60	1.15		
Heavy	14.30	1.60	1.15		
DIVERS	12.97	3.13	1.40	a	.13
ELECTRICIANS	15.31	1.17	3%+1.00		4%
ELEVATOR CONSTRUCTORS:					
Mechanics	16.72	1.345	1.085	b+c	.035
Elevator Constructors' Helpers	10.30	1.345	1.085	b+c	.035
Elevator Constructors' Helpers (Probationary)	7.36				
GLAZIERS	13.00	.95	1.80		.02
IRONWORKERS:					
Structural Ornamental, Reinforcing, Riggers & Machinery Movers	14.95	1.49	1.46		.05
LABORERS - BUILDING CONSTRUCTION:					
New Castle County					
CLASS 1	10.80	1.10	1.10		
CLASS 2	11.05	1.10	1.10		
CLASS 3	11.30	1.10	1.10		
CLASS 4	11.80	1.10	1.10		
CLASS 5	12.05	1.10	1.10		
Kent & Sussex Counties					
CLASS 1	10.75	.90	1.10		
CLASS 2	11.00	.90	1.10		
CLASS 3	11.25	.90	1.10		
CLASS 4	11.35	.90	1.10		
CLASS 5	12.00	.90	1.10		

DECISION NO. DE82-3015

LABORERS - CLASSIFICATION DEFINITIONS
BUILDING CONSTRUCTION

CLASS 1 - Laborers, general and construction, dumpmen and truck spotters

CLASS 2 - Caulkers; operators of pneumatic and electric tools; vibrating machines; concrete saws and pumps (which shall include the hook-up of hose and/or pipe); pot tenders; and sewer pipe layers; demolition (where walls are required to be ridden down by hand tools). Driller (except Core, Diamond, or Multiple Wagon); Gunite material and rebound workers; mason and plasterer tenders; and cement workers; mobile buggy operators; operators of power saws (portable) power and sewing machines; scaffold builders, shoring; hookup men; including when working with digging and grading equipment; stripping of flat arch and form work; and cleaning and oiling thereof, and tool room attendant

CLASS 3 - Burners and welders; caisson workers, top men (when excavations for caissons are dug eight feet or more below the nature grade level adjacent to the starting point of the caisson hole, the rate shall apply at the ground level); driller (core, diamond, or multiple wagon); gunite industrial fume stack, nozzle, and rod workers; sandblaster (nozzleman); tunnelling - Underpinning excavation (when an underpinning excavation is dug eight feet or more below the natural grade, or when an excavation for a pier hole of five feet square or less and eight feet or more deep is dug, the rate shall apply only when a depth of eight feet is reached); working under compressed air

CLASS 4 - Caisson workers, bottom men

CLASS 5 - Blaster; laborers engaged in unloading, placing, and assisting in the installation of well point systems or deep well systems as long as needed on the job for such work

DECISION NO. DE82-3015

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS - HEAVY CONSTRUCTION:					
New Castle County:					
General laborers, asphalt tamper, asphalt raker, concrete pitman, landscaper, planter, puddler, railroad trackman, rubber magazine tender, sweder and arboriats, and signalman	8.55	1.10	1.10		
Pipelayers	8.70	1.10	1.10		
Blasters, caissons, and cofferdams (open air below 8 feet where excavations for circular caissons and cofferdams are 8 feet or more below level of natural grade adjacent to start point), diamond point drills, form setters, gunite nozzle operators, and wagon drills	8.83	1.10	1.10		
LABORERS - HEAVY CONSTRUCTION:					
Kent & Sussex Counties:					
Common laborers, landscapers, planters, seeders, aborists, asphalt tampers, rakers, concrete pitman, puddlers, rubber magazine tenders, railroad trackmen, signal men	7.50	.90	1.10		
Pipelayers	7.65	.90	1.10		
Wagon drill, diamond point drill, gunite nozzlemen, form setters, blasters, caissons & coffer dams (open-air, below 8')	7.80	.90	1.10		

DECISION NO. DE82-3015	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	14.55	1.29	1.40		.05
LINE CONSTRUCTION:					
Linemen, cable splicers	15.72	.60+4%	3%		3/4of1%
Winch truck operators	11.00	.60+4%	3%		3/4of1%
Truck drivers	10.22	.60+4%	3		3/4of1%
Groundmen	9.43	.60+4%	3%		3/4of1%
LINE CONSTRUCTION (RAILROAD ONLY)					
Linemen	12.34	.60	3%	d	.75%
"A" Equipment Operator	12.34	.60	3%	d	.75%
"B" Equipment Operator	10.78	.60	3%	d	.75%

CLASSIFICATION DEFINITIONS FOR LINE CONSTRUCTION (RAILROAD ONLY)

"A" Equipment Operators:

1. Hoisting equipment - when erecting complete towers, erecting framed structures, erecting steel transmission poles, erecting railroad pole extensions and crossbeams and when operating personnel lift baskets.

2. Tension pulling equipment under energized conditions - parallel with other energized circuits or above energized circuits on the same structure, not to include crossovers. Bundled conductors stringing, including static conductors on bundled conductor lines.

3. Excavating augurs 36" inches in diameter or larger, 5/8 cubic yard backhoe and larger, trencher over four feet in depth, bulldozer D-6 (caterpillar) or larger, and blade on finish grade work.

"B" Equipment Operators:
Operators of all other equipment

MARBLE SETTERS	14.88	1.19	1.36		
MILLWRIGHTS:					
Kent & New Castle Counties	15.07	1.10	2.50		.02
Sussex County	14.12	.80	1.50		.06

DECISION NO. DE82-3015	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Base rate	11.62	1.00	1.00		.01
Structural steel & suspended scaffolding (swing, chair & window belts)	11.84	1.00	1.00		.01
Machine taping	12.12	1.00	1.00		.01
Bridges (if surface to be painted is 50' or more above ground or water), and/or cabled scaffolding	14.10	1.00	1.00		.01
Tanks (if exposes to the weather and is used for storage or processing purposes with a capacity of 5,000 gallons or more using exterior dimensions and/or interior work on all tanks), sandblasting, and spray	12.17	1.00	1.00		.01
Height pay - work 75' or more from surface an additional 55¢ shall be paid above the applicable rate					
PILEDRIVERMEN, WHARF & DOCK BUILDERS	12.97	3.13	1.40	e	.13
PLASTERERS	15.17	.90			.01
PLUMBERS & STEAMFITTERS:					
New Castle & Kent (north of the southern boundary of Dover City) Counties:					
Plumbers	15.89	1.35	1.50		.15
Steamfitters	14.30	1.50	1.00	f	.05
Sussex & Kent (remainder of county) Counties	14.80	1.00	1.00	g	.05

DECISION NO. DE82-3015	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Asphalt Plant Operator	12.00	1.00	1.00		.01
Backhoe, Trenching Machine	12.12	1.00	1.00		.01
Bulldozer, Scraper, Motor Patrol	12.12	1.00	1.00		.01
Concrete Pump	12.12	1.00	1.00		.01
Crane, Piledriver, Dragline, Clamshell, Shovel, Gradall	12.12	1.00	1.00		.01
Mechanic, Welder	12.12	1.00	1.00		.01
Oiler	11.84	1.00	1.00		.01
Roller	11.84	1.00	1.00		.01
ROOFERS	12.00	1.00	1.00		.01
SHEETMETAL WORKERS	14.00	1.00	1.00		.01
TERRAZZO WORKERS	14.00	1.00	1.00		.01
TILE SETTERS	14.00	1.00	1.00		.01
TRUCK DRIVERS:					
Dump Trucks, Flatbed Trucks, Pole Trailers, Transit Mix Trucks	11.84	1.00	1.00		.01
Lowboy Trucks	12.12	1.00	1.00		.01
Tractor Trailer Trucks	12.12	1.00	1.00		.01
WATERPROOFERS	12.00	1.00	1.00		.01

DECISION NO. DE82-3015	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Asphalt Plant Operator	12.00	1.00	1.00		.01
Backhoe, Trenching Machine	12.12	1.00	1.00		.01
Bulldozer, Scraper, Motor Patrol	12.12	1.00	1.00		.01
Concrete Pump	12.12	1.00	1.00		.01
Crane, Piledriver, Dragline, Clamshell, Shovel, Gradall	12.12	1.00	1.00		.01
Mechanic, Welder	12.12	1.00	1.00		.01
Oiler	11.84	1.00	1.00		.01
Roller	11.84	1.00	1.00		.01
ROOFERS	12.00	1.00	1.00		.01
SHEETMETAL WORKERS	14.00	1.00	1.00		.01
TERRAZZO WORKERS	14.00	1.00	1.00		.01
TILE SETTERS	14.00	1.00	1.00		.01
TRUCK DRIVERS:					
Dump Trucks, Flatbed Trucks, Pole Trailers, Transit Mix Trucks	11.84	1.00	1.00		.01
Lowboy Trucks	12.12	1.00	1.00		.01
Tractor Trailer Trucks	12.12	1.00	1.00		.01
WATERPROOFERS	12.00	1.00	1.00		.01

DECISION NO. DE82-3015	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS - BUILDING & HEAVY CONSTRUCTION:					
GROUP 1	14.85	13.5%	10.3%	h	1.8%
GROUP 2	14.56	13.5%	10.3%	h	1.8%
GROUP 3	13.69	13.5%	10.3%	h	1.8%
GROUP 4	12.92	13.5%	10.3%	h	1.8%
GROUP 5	12.45	13.5%	10.3%	h	1.8%
GROUP 6	11.54	13.5%	10.3%	h	1.8%
GROUP 7					
100' & over	15.10	13.5%	10.3%	h	1.8%
150' & over	15.35	13.5%	10.3%	h	1.8%
200' & over	15.59	13.5%	10.3%	h	1.8%

CLASSIFICATIONS

GROUP 1 - Machines with booms doing hook work, any machine handling machinery, cable spinning machines, helicopter and similar machines

GROUP 2 - All types of cranes, all types of backhoes, cableway, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoists with 2 towers, pavers 21E and over, all types overhead cranes, building hoists (double drum), gradalls, mucking machines, in tunnel, all front end loaders 3-½ c.y., and over, tandem scrapers, pipin type backhoes, boat captains, batch plant operators (concrete), drills, self contained rotary drill, fork lifts (20' lift & over), and similar machines

GROUP 3 - Conveyors, building hoist (single drum), scrapers, tournapulls, spreaders (asphalt), high or low pressure boilers, concrete pumps, well drillers, bulldozers, tractors, asphalt plant engineers, rollers (high grade finishing), ditch witch type trenchers, all loaders under 3¼ c.y., mechanic-welders, motorpatrols, core drill operator, forklift trucks under 20' lift, similar machines

GROUP 4 - Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power boom, seeding spreader, tireman (for power equipment), and similar machines

GROUP 5 - Fireman, grease trucks

GROUP 6 - Oilers and deck hands (personnel boats), core drill helper

GROUP 7 - All machines with booms (including jibs, masts and leads)

DECISION NO. DE82-3015	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Composition, damp and waterproofing	15.67	1.40	.95	j	
Mechanic II (Handle and transport all materials tools, and equipment; clean-up debris)	7.75	1.40	.95	j	
SHEET METAL WORKERS	16.28	1.00	1.06		.09
SOFT FLOOR LAYERS:					
New Castle & Kent Cos.	14.55	1.29	1.40		.05
Sussex Co.	14.42	.80	1.50		.06
SPRINKLER FITTERS	16.67	1.15	1.60		.08
STONE MASONS	15.15	1.19	1.36		
TERRAZZO WORKERS & TILE SETTERS	14.88	1.19	1.36		
TRUCK DRIVERS - BUILDING CONSTRUCTION:					
GROUP 1	11.285	1.0675	1.225	k	
GROUP 2	11.185	1.0675	1.225	k	
GROUP 3	11.035	1.0675	1.225	k	

CLASSIFICATION DEFINITIONS
TRUCK DRIVERS

GROUP 1 - Euclid type or similar off highway equipment (where not self loaded), off highway tandem back-dump, specialized earth moving equipment, truck mechanic (first class), twin engine equipment & double-hitched equipment (where not self-loaded).

GROUP 2 - A-frames, agitators or mixers, asphalt distributors, dispatchers, low-boys, semi-trailers, tandems, batch trucks & truck mechanics (second class).

GROUP 3 - Dumps (single axle), dumpsters, escort & pilot vehicles, flat body material trucks (straight job), greasers, material checkers & receivers, panel trucks, pick-ups rubber-tired (towing & pushing vehicles), tiremen & truck mechanic helpers, truck helpers.

DECISION NO. DE82-3015

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Heavy CONSTRUCTION:					
GROUP 1	10.435	1.0675	1.225	k	
GROUP 2	10.335	1.0675	1.225	k	
GROUP 3	10.185	1.0675	1.225	k	

CLASSIFICATION DEFINITIONS
TRUCK DRIVERS
HEAVY CONSTRUCTION

GROUP 1 - Euclid type or similar off highway equipment (where not self loaded), specialized earth moving equipment, truck mechanics (first class), twin engine equipment & double-hitched equipment (where not self-loaded.)

GROUP 2 - A-frames, agitators or mixers, asphalt distributors, dispatchers, low-boys, semi-trailers, tandems, batch trucks, truck mechanics (second class).

GROUP 3 - Dump trucks (single axle), dumpsters, escort & pilot vehicles, flat body material trucks (straight jobs), greasers, material checkers & receivers, panel trucks, pick-ups, rubber-tired (towing or pushing flat body vehicles), tiremen, truck mechanic helpers, truck helpers.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holidays: Good Friday, Memorial Day, Washington's Birthday, Labor Day, Presidential Election Day; Veteran's Day, Thanksgiving Day; Christmas Day.

b. Employer contribution of 8% of the basic hourly rate for 5 years or more of service and 5% of the basic hourly rate for 6 months to 5 years of service for Vacation Pay Credit.

c. Paid Holidays: A through F

d. Paid Holidays: New Year's Day; Declaration Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day and Good Friday.

DECISION NO. DE82-3015

FOOTNOTES: Cont'd

e. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Independence Day; Presidential Election Day; Veterans Day; and Thanksgiving Day.

f. Paid Holiday: Labor Day provided the employee is currently on the payroll and would be scheduled to work the holiday also employee must work the day prior to and after the holiday.

g. Paid Holidays: A through F; provided the employee worked the scheduled work day preceeding and following the holiday.

h. Paid Holidays: A through F; plus Election Day provided the employee works the scheduled work day before and after the holiday.

j. Paid Holiday: Election Day.

k. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day provided the employee has worked the scheduled workdays preceding and following the holiday.

Welders - Rate for craft

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))."

SUPERSEDEAS DECISION

DECISION NO. DR82-3015

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HIGHWAY CONSTRUCTION:					
BRICKLAYERS	11.40	.95	1.10		
CARPENTERS	10.95	1.40			.03
CEMENT MASONS	10.25	1.28	.82		
ELECTRICIANS	13.00	1.07	.78+3%		1/4%
IRONWORKERS	12.95	1.34	1.36		.05
LABORERS	6.69				
POWER EQUIPMENT OPERATORS:					
Asphalt Paver	11.70	7%	10.3%	a	1.8%
Asphalt Spreader	11.70	7%	10.3%	a	1.8%
Backhoes, cranes	12.57	7%	10.3%	a	1.8%
Bulldozers	11.70	7%	10.3%	a	1.8%
Gradall	12.57	7%	10.3%	a	1.8%
Loaders	11.70	7%	10.3%	a	1.8%
Motor Patrol/Grader	11.70	7%	10.3%	a	1.8%
Rollers	10.93	7%	10.3%	a	1.8%
TRUCK DRIVERS	8.11	1.0675	1.225	b	

FOOTNOTES:

a. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day plus Election Day, provided the employee works the schedule work day before and after the holiday.

b. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day provided the employee has worked the schedule work days preceding and following the holiday.

SUPERSEDEAS DECISION

STATE: FLORIDA

COUNTIES: CITRUS, HERNANDO, HILLSBOROUGH, PASCO, PINELLAS, and SUMTER

DECISION NUMBER: FL82-1031

DATE: Date of Publication

Supersedes Decision No.: FL80-1052 dated February 8, 1980 in 45 FR 8854.

DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION Projects consisting of single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING MECHANIC	$6.00	
BRICKLAYERS	9.00	
CARPENTERS	6.00	
CEMENT MASONS	7.50	
DRYWALL FINISHERS	8.96	
DRYWALL HANGERS	8.00	
ELECTRICIANS	6.75	
GLAZIERS	6.84	
INSULATION INSTALLERS	5.00	
IRONWORKERS	6.00	
LABORERS:		
Mason Tenders	5.25	
Mortar Mixers	4.25	
Pipelayers	4.75	
Plasterer Tenders	5.52	
Unskilled	4.00	
LATHERS	4.50	
PAINTERS	5.00	
PLASTERERS	7.50	
PLUMBERS & PIPEFITTERS	7.02	
ROOFERS	$6.50	
SHEET METAL WORKERS	5.50	
SOFT FLOOR LAYERS	7.52	
TILE SETTERS	8.00	
TRUCK DRIVERS	4.75	
POWER EQUIPMENT OPERATORS:		
Backhoe	5.94	
Bulldozer	6.00	
Compactor	5.25	
Dragline & Crane	10.00	
Grader	6.65	
Loader	5.58	
Pan	4.63	
Tractor	5.68	
WELDER - Rate for Craft		

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Indiana
DECISION NO. IN82-2039
Supersedes Decision No. IN77-2129, dated August 19, 1977 in 42 FR 42064
DESCRIPTION OF WORK: Residential Construction Consisting of Single Family Homes and Apartments up to and including 4 Stories

COUNTY: Wayne
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING MECHANIC	$ 7.00			
BRICKLAYERS	10.00			
CARPENTERS	6.40			
CEMENT MASONS	6.40			
DRYWALL FINISHERS/TAPERS	7.00			
DRYWALL HANGERS	7.36			
ELECTRICIANS	5.89			
HEATING MECHANICS	7.00			
LABORERS	5.53			
PAINTERS	5.97			
PLUMBERS	7.00			
ROOFERS	6.40			
SHEET METAL WORKERS	7.50			
TRUCK DRIVERS	6.40			

[FR Doc. 82-15048 Filed 6-3-82; 8:45 am]
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federal register

Friday
June 4, 1982

Part III

Environmental Protection Agency

Modification of Effluent Limitations Guidelines and Standards for pH Values for Point Sources That Continuously Monitor Effluent pH; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 401

[FRL 1930-1]

Modification of Effluent Limitations Guidelines and Standards for pH Values for Point Sources That Continuously Monitor Effluent pH

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today promulgates a regulation which modifies effluent limitations guidelines for pH for all industrial dischargers (1) to require compliance with pH limitations 99 percent of the time measured on a monthly basis for industrial dischargers who, pursuant to National Pollutant Discharge Elimination System (NPDES) permits, continuously monitor the pH of effluent discharge wastewaters and (2) to limit for such dischargers the duration of individual excursions from the required pH range to 60 minutes. This final rule is the Agency's response to a petition from a number of industrial companies. The petitioners requested changes in regulations governing pH levels in effluent discharge wastewater when continuous monitoring of pH is required by NPDES permit. The Agency agrees with the basis for the petition and is promulgating this regulation which is designed to relieve facilities that monitor pH continuously of the obligation to conform to categorical pH standards 100 percent of the time.

DATE: Effective date of the amendment is July 6, 1982. In accordance with 40 CFR 100.01, these regulations shall be deemed issued for purposes of judicial review at 1:00 p.m. Eastern Time on June 18, 1982.

FOR FURTHER INFORMATION CONTACT: Russell Roegner, Water Regulations and Standards (WH-586), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-3624.

SUPPLEMENTARY INFORMATION:

I. Background

On December 9, 1980, EPA proposed a rule that would adjust effluent limitations guidelines for pH (45 FR 81180). The final rule set forth below will adjust effluent limitations guidelines for all industrial dischargers who, pursuant to National Pollutant Discharge Elimination System (NPDES) permits continuously monitor pH in discharge wastewaters. Today's rule includes changes and clarifications which reflect comments received by the Agency on the proposed rule. The official record on which this regulation is based is available for inspection at Room M2404, U.S. EPA, 401 M St., SW., Washington, D.C. 20460 from 9:00 a.m. to 4:00 p.m. Monday–Friday excluding federal holidays.

The following documents are available for public inspection:

- "pH Control of Industrial Effluent", prepared by Centec Consultants, Inc. Reston, Virginia for Cleary, Gottlieb, Steen, and Hamilton, (June 1978). Volumes 1 and 2.
- "An Assessment of pH Control of Process Water in Selected Plants", prepared by JRB, Associates, Inc., McLean, Virginia for EPA, Contract No. 68-01-3881, (March 1979).
- "Analysis of Data Collected for EPA by JRB Associates Relating to the Establishment of National pH Limitations Guidelines", prepared by Centec Corporation, Reston, Virginia for Cleary, Gottlieb, Steen and Hamilton, (July 1979).
- "pH Control of Industrial Waste Waters in the Inorganic Chemicals Industry", prepared by Jacobs Engineering Group, Inc. Pasadena, California for EPA Contract No. 68-01-5167, (October, 1979).
- "Statistical and Documentation Support for pH Regulation Development", prepared by JRB Associates, Inc., McLean, Virginia, for EPA Contract No. 68-01-6048, (July, 1980).
- "Effluent pH Control Review Phosphate Fertilizer Industry". Submitted by JRB Associates, Inc., McLean, Virginia; prepared by CH2M Hill Southeast, Inc., Montgomery, Alabama for Environmental Protection Agency Region IV, Atlanta, Georgia, EPA Contract No. 68-01-5052.
- "Background Document for Modification of pH Effluent Limitations Guidelines and Standards for Point Sources Required by NPDES Permit to Monitor Continuously Effluent pH." EPA 440/2-80-083, (November, 1980).
- Two bound volumes of public comments received on the December 9, 1980 proposed regulation.
- "Technical, Analytical, and Statistical Support for Promulgation of Final pH Regulations," prepared by JRB Associates, Inc., McLean, Virginia, for EPA Contract No. 68-01-6048 (August, 1981).
- Summary of Public Comments and EPA's Responses for Final pH Regulation.

The final rule has evolved in response to a petition from a number of industrial companies which represent the following manufacturing point source categories: inorganic chemicals, fertilizer manufacturing, iron and steel manufacturing, non-ferrous metals manufacturing, phosphate manufacturing, and organic chemical manufacturing (see 45 FR 81180). The petitioners contend, and the Agency agrees, that inherent limitations in the treatment technology for pH control prevent compliance with the pH standard 100 percent of the time.

The pH standards were intended initially for use with grab and/or composite sampling procedures. However, with the introduction of requirements for continuous monitoring instrumentation in NPDES permits, a more thorough monitoring procedure was applied in assessing the pH of effluent wastewater. Today's adjustment to the pH limitations establishes a standard for use with continuous monitoring that well-maintained and well-operated plants realistically can achieve. *The regulation is designed to relieve facilities that monitor pH continuously of the obligation to conform to categorical pH standards 100 percent of the time.* EPA and permittee resources will be reserved for those instances where substantial pH control problems exist.

This rule and its underlying rationale relate solely to the control of pH values when wastewater is continuously monitored. The rule does not reflect any change in the Agency position with respect to unintentional violations of other effluent limitations guidelines, such as BOD. Of course, to the extent that pH violations occur despite the excursion allowance promulgated here, dischargers may continue to invoke the "upset" provision where appropriate.

II. Legal Authority

This regulation is issued under the authority of sections 301, 304, 306 and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 *et seq.*, as amended by the Clean Water Act of 1977, Pub. L. 95-217).

III. Scope of Rulemaking

This regulation applies to all dischargers who continuously monitor pH pursuant to NPDES permits issued in accordance with EPA effluent limitations guidelines. This regulation will not immediately affect existing permit limitations. In accordance with 40 CFR 122.15, affected dischargers may petition for a modification of their permits to incorporate its provisions.

IV. Summary of Data Collection and Method Used in pH Regulation Development

On August 3, 1978, a number of industrial companies, representing a variety of manufacturing point source categories, petitioned the Environmental Protection Agency seeking relief from the requirement that the pH values of their effluent, as measured on a continuous basis, always be within a specified range. (Cleary, Gottlieb, et al., Petition to EPA regarding "pH Effluent: Limitations Guidelines and Standards of Performance for Certain Manufacturing Point Source Categories," Washington, D.C. (August 1978)). The petitioners contended that inherent limitations in the treatment technology for pH control prevented compliance with this standard 100 percent of the time and that provision for unavoidable "excursions" from the prescribed range was warranted. The petition, accompanied by technical data and analysis ("pH Control of Industrial Effluent," prepared by Centec Consultants, Inc., Reston, Virginia, for Cleary, Gottlieb, Steen and Hamilton, (June, 1978)), requested that the effluent limitations guidelines be revised to allow excursions approximately one percent of the time on a monthly basis. In addition, the petitioners suggested that a reporting requirement be established for extremely acidic or basic individual excursions, i.e., below pH 3.5 or above pH 11, that were longer than 15 minutes in duration.

In response to the petition, EPA studied the control of pH in wastewaters in selected petition industrial categories. This study confirmed the principal contention of the petitioners that a plant treating highly acidic or basic waste does not achieve on a continuous basis, 100 percent of the time, pH values within the range set forth in applicable effluent guidelines. The data indicate that a well-designed, well-operated plant using continuous monitoring would record excursions outside the prescribed range approximately one percent of the time on a monthly basis ("Assessment of pH Control of Process Waters in Selected Plants," prepared for EPA by JRB Associates, Inc., McLean, Virginia, Contract No. 68–01–3881 (March, 1979)).

A critical evaluation of the JRB report was performed for the petitioners ("Analysis of Data Collection for EPA by JRB Associates Relating to the Establishment of National pH Limitations Guidelines," prepared by Centec Corporation, Reston, Virginia for Cleary, Gottlieb, Steen and Hamilton, (July 1979)). The petitioners' evaluation did not contradict the conclusions reached in the earlier Agency-supported analysis. Centec indicated that proper analysis of the data in the JRB report would determine stringent but attainable pH limitations for the majority of plants falling in the industrial categories studied. However, Centec asserted that the JRB study plants utilized highly sophisticated pH control systems and that many plants would find it impossible or too expensive to meet performance standards based on such a select group of operating systems. Following a data editing procedure which reduced the number of plants studied from six to four, Centec analyzed the data and recommended a monthly compliance requirement of 98.57% and a daily compliance requirement of 85.4%. In addition, Centec recommended that any excursion not in the pH range 3.5 to 11.0 be limited in duration to no longer than 15 minutes.

Independently of the JRB report, the Agency commissioned another study focusing on the Inorganic Chemicals Manufacturing Point Source Category ("pH Control of Industrial Waste Waters in the Inorganic Chemicals Industry," prepared for EPA by Jacobs Engineering Group, Inc., Pasadena, California, Contract No. 68–01–5167 (October, 1979)). The results of this study support the conclusions of the first Agency study.

To examine technical and statistical issues raised by petitioners, Centec, and the Agency itself, analyses of the combined data obtained in the Agency's two previous studies were undertaken ("Statistical and Documentation Support for pH Regulations Development," prepared for EPA by JRB Associates, Inc., McLean, Virginia, Contract No. 68–01–6048 (July, 1980)). The results of this study were used in formulating the proposed pH regulation and Agency support document. ("Background Document for Modification of pH Effluent Limitations Guidelines and Standards for Point Sources Required by NPDES Permit to Monitor Continuously Effluent pH," prepared by EPA, Office of Analysis and Evaluation, Washington, D.C. (November, 1980), EPA 440/2–80–083). Re-evaluation of the outstanding issues led the Agency to propose, on December 9, 1980, that noncompliance with pH values must not exceed one percent of the time on a 30-day month basis and that the duration of individual excursions from the prescribed range must not exceed 30 minutes. In addition, the proposed regulation allowed the Director to set more stringent monthly limits in order to meet water quality standards and more stringent individual excursion limits based on consideration of treatment systems, plant configurations, or other factors. Public comments on the proposed regulations were then evaluated in formulating the final regulations ("Technical, Analytical, and Statistical Support for Promulgation of Final pH Regulations," prepared by JRB Associates, Inc., McLean, Virginia, for EPA Contract 68–01–6048 (August, 1981)).

Analysis of the Agency data bases and of public comments on the proposed rule has led the Agency to the following conclusions with respect to a final rule. No plant examined in the course of this review consistently achieved 100 percent compliance with the pH limitation on a monthly basis. Plants employing continuous monitoring can expect short term excursions outside the pH permit range during a month. In this situation, sole reliance on the upset provision (40 CFR 122.60(h)) appears unwarranted, as its use would not be reserved for a limited, exceptional class of incidents. Permittees would bear a considerable burden in establishing the occurrence of an upset and there would be a drain on administrative resources. Adjustment of the standard to require compliance 99 percent of the time during continuous monitoring will establish a standard that well-operated and well-maintained plants can realistically achieve and will reserve the resources of both EPA and permittees for those instances when substantial pH control problems exist.

EPA believes that a limit on the length of an individual excursion is necessary to: (1) Promote immediate reaction to pH excursions; (2) facilitate enforcement against intentional excessive discharges; and (3) discourage the retention ("banking") of acidic or basic wastes which are discharged by the intermittent release of wastewater outside the permissible pH range for extended periods but controlled so that the total monthly excursion duration limitation is not violated. Early Agency analyses (See Background Document, Appendix, *pH Under Continuous Monitoring*) recommended a 15 minute individual excursion limitation. The petitioners objected that 15 minutes was too short for locating and diagnosing the many causes of pH excursions. In addition, they maintained that response time varied on a site specific basis. After considering various individual limits with respect to the concerns expressed by the petitioners and various Agency offices, the Agency increased the individual excursion limitation from 15 minutes to 30 minutes for the proposed

regulation. The proposal also included discretionary authority to impose a more stringent limitation in individual cases. The Agency proposal specifically requested comment on the 30 minute individual excursion limitation.

In general, public commenters considered the proposed individual excursion duration limitation of 30 minutes excessively stringent. Many public commenters favored elimination of the individual excursion duration limitation from the final regulation, contending that the monthly limitation is sufficient to force the permittee to react in a timely fashion to correct pH excursions. The Agency continues to support the inclusion of an individual excursion duration limitation in the regulation as a means of promoting immediate action to rectify excursions and of discouraging the "banking" of acidic or alkaline wastes for discharge into receiving water. In an attempt to resolve the conflict with the commenters on this issue, the Agency performed additional analyses of the data base.

The Agency traditionally has recognized that it must take variability into account in establishing effluent limitations, and in recognition that 100 percent compliance is theoretically impossible, the Agency has generally set daily effluent limitations which would be met approximately 99 percent of the time. The analyses described below utilize this one percent exceedance criterion. Two distinct statistical methodologies were applied to estimate the probability of one or more excursions on any day exceeding a specified limitation value. The estimated probability was assessed to determine whether the associated limitation value was consistent with the Agency's one percent exceedance criterion. The methodologies were applied for the proposed individual excursion limitation of 30 minutes and for a 60 minute limitation. The 60 minute limit was considered because public commenters suggesting alternative limits usually requested at least an hour.

After re-evaluating the existing data and reviewing the public comments, the Agency has concluded that a 60 minute individual excursion duration limitation probability is consistent with Agency policy requiring approximately a one percent exceedance probability when determining daily limitations. Accordingly, the final rule has been changed to limit any individual excursion to a duration of 60 minutes. While other individual excursion limitations may also be consistent with the one percent exceedance criterion, the Agency believes, in light of environmental considerations, that 60 minutes is the most appropriate individual excursion limitation. For detailed documentation on the methodologies the reader is referred to "Summary of Public Participation and Agency Response to Public Comments on *Modification of Effluent Limitations Guidelines and Standards for pH Values for Point Sources That Continuously Monitor Effluent pH*" and "Technical, Analytical, and Statistical Support for Promulgation of Final pH Regulation", prepared for EPA by JRB Associates, Inc., McLean, Virginia, for EPA contract 68-01-6048 (August 1981).

V. Summary of Proposal and Major Changes to the Proposed Rule

The proposed rule provided that dischargers, who were required by NPDES permits to continuously monitor pH discharge, would be subject to modified effluent limitations guidelines for pH. The applicable guidelines would be modified to allow excursions from the mandated pH range for periods up to 30 minutes, subject to a total excursion time of 7 hours and 12 minutes per month.

The word "excursion" was defined as an "unintentional and temporary" incident of noncompliance with the prescribed pH range. Intentional variations from that range, regardless of duration, remained subject to EPA enforcement action.

In addition, the proposed rule authorized the Director to impose more stringent requirements in order to meet water quality standards or other requirements of Federal or state law and to impose an excursion limitation time of less than 30 minutes, if a facility's treatment system, plant configuration or other factors justified the shorter limitation.

As a result of comments and evaluation of data, the following changes have been made to the proposed regulation.

(1) In § 401.17(a)(1) of the proposed rule, the Agency defined one percent of a month as 7 hours and 12 minutes. This monthly limit was based on a 30-day month and applied equally to 28-, 29-, or 31-day months. The Agency agrees with those commenters who argued that a rule based on one percent of a calendar month or a 31-day month would be more equitable than one based on a 30-day month. Accordingly, the final proposed rule is to be based on one percent of a 31-day month, or 7 hours and 26 minutes for any month.

(2) The major change to the proposed rule is the allowance of a 60-minute individual excursion instead of 30 minutes. This change is based on the one percent exceedance criteria discussed above and the large number of public comments on the issue.

(3) As several commenters noted, the Clean Water Act and § 122.62(d) of the Consolidated Permit Regulations already authorize the imposition of more stringent requirements, where necessary to meet water quality standards. Accordingly, similar language in § 401.17(b) of the proposal has been deleted.

(4) Section 401.17(b) has been changed to allow the Director to adjust the individual time in either direction to reflect technical considerations.

While the Agency believes that the vast majority of facilities will be able to limit individual pH excursions to 60 minutes, there may be some who because of plant configuration, treatment system or other technological factors, are unable to meet that limitation. Since today's rule, which relaxes currently effective pH requirements in all industrial categories regulated by effluent guidelines, does not identify a specific technology for limiting individual excursion times, the Agency recognizes that the normal variance procedure, based on the demonstration of "fundamentally different factors" from those supporting the rule (40 CFR 125.30), may not be appropriate for facilities which cannot meet the 60 minute limitation. Accordingly, today's rule will allow the Director to increase the individual excursion time in those few instances where a facility can demonstrate technological reasons which generally preclude it from limiting individual excursions to 60 minutes.

As noted above, the individual excursion limitation was included to promote immediate reaction to pH excursions, to facilitate enforcement action against intentional excessive discharges and to discourage "banking" of acidic and basic wastes for controlled extended duration release. Thus, the individual limitation is ancillary to, although more stringent than, the monthly limitation of 7 hours and 26 minutes. While discretionary adjustment is authorized for plants which cannnot meet the 60-minute limitation, the primary monthly limitation requirement will remain in effect. The Agency is aware of no technological factors which make compliance with the monthly limitation unachievable.

The Director is also authorized to impose a shorter individual excursion time if he concludes that the facility's treatment system, plant configuration, or other technological factors so warrant.

(5) The rule has also been changed to apply to the discharge of any wastewater (not only process wastewater), where an NPDES permit, issued in accordance with applicable effluent limitations guidelines requires or allows the continuous monitoring of pH. Although most effluent guidelines regulate process wastewater only, if a continuously monitoring permittee's guideline applies to process and non-process wastewater, than the regulation applies to both process and non-process wastewater.

(6) Finally, the last sentence of 40 CFR 401.10 is being modified to make it clear that this regulation modifies all specific guidelines, issued under Parts 402 through 499, which regulate the pH value of discharge wastewater.

VI. Relationship to NPDES Permits

Conditions in NPDES permits are based on effluent limitations guidelines applicable to the point source category involved and on water quality standards. Discharge of pollutants except in compliance with a permit is a violation of the Clean Water Act (section 301(a)). The modification of effluent guidelines, as by today's rule, does not and cannot modify the provisions of existing permits. However, on the basis of today's action, dischargers who pursuant to NPDES permits continuously monitor the pH values of their effluent will be able, pursuant to 40 CFR 122.15(a)(3), to seek modification of their permits to incorporate the provisions of this rule. Under that section, permittees seeking modification of their permits must do so within 90 days of today's publication. As individual permits expire, new permits will be subject to the provisions of today's rule.

Since today's rule is a modification of effluent limitations guidelines, it does not apply to permits which are not governed by effluent guidelines. However, the Agency is recommending to NPDES states and regions that the policy of granting short term excursions be considered in permit issuance for non-guideline areas.

EPA emphisizes that although the Clean Water Act is a strict liability statute, the initiation of enforcement proceedings by the Agency is discretionary. The Agency acknowledges that even a well-operated and well-maintained plant cannot realistically achieve 100 percent compliance with its pH standard when continuously monitoring pH. By setting monthly and individual excursion duration limits, the Agency concedes that plants required to monitor pH continuously will experience pH violations as rare events. With respect to pH violations, EPA will continue to exercise discretion in a manner which recognizes and promotes good faith compliance efforts, and conserves enforcement resources for those who fail to make good faith efforts to comply with the Act.

VII. Public Comments and Agency Responses

A summary of the public comments received on the December 9, 1980 proposal and the associated Agency responses is available for inspection at Room M2404, U.S. EPA 401 M St., SW., Wash., D.C. 20460 from 9:00 a.m. to 4:00 p.m. Monday–Friday excluding Federal holidays.

VIII. Economic and Regulatory Impact Analysis

Today's rule represents a relaxation of currently effective effluent guidelines with respect to facilities which continuously monitor pH. Affected industries which obtain permit modification will no longer have to comply with pH limitations 100 percent of the time. Hence this rule can only decrease the economic burden on industry as compared to that imposed by existing regulations. Some commenters agreed that the proposed rule was likely to decrease long run costs and cited it as an "excellent example of a cost-effective modification of an EPA guideline."

Executive Order 12291 requires EPA to judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. Since today's rule serves only to relax existing regulations, it is not a "major" rule. Similarly, although this rule was proposed before January 1, 1981 and is therefore not subject to the Regulatory Flexibility Act, it will only *decrease* the regulatory economic burden on industry and therefore will not have a significant impact on a substantial number of small entities. Accordingly, a Regulatory Flexibility Analysis would not be required even if the Regulatory Flexibility Act were applicable.

Some commenters have objected that today's rule will result in more frequent permit requirements for continuous monitoring of pH or more vigilant enforcement action. There is no basis to support either contention. Enforcement discretion will continue to be governed by the same policies as are currently in effect.

The regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at Room M2404, U.S. EPA, 401 M St., SW. Wash., D.C. 20460 from 9:00 a.m. to 4:00 p.m. Monday-Friday excluding Federal holidays.

List of Subjects 40 CFR Part 401

Water pollution control, Waste treatment and disposal.

Dated: May 21, 1982.

Anne M. Gorsuch,

Administrator.

Authority: Sections 301, 304, 306 and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 et. seq., as amended by the Clean Water Act of 1977, Pub. L. 95–217).

PART 401—GENERAL PROVISIONS

EPA amends Title 40 CFR Part 401 as follows:

1. The last sentence of 40 CFR 401.10 is amended to read as follows:

§ 401.10 Scope and purpose.

* * * * *

Except as provided in § 401.17, in the case of any conflict between regulations issued under this Part 401 and regulations issued under Part 402 through 499 of this subchapter, the latter more specific regulations shall apply.

2. A new § 401.17 is added as follows:

§ 401.17 pH Effluent limitations under continuous monitoring.

(a) Where a permittee continuously measures the pH of wastewater pursuant to a requirement or option in a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to section 402 of the Act, the permittee shall maintain the pH of such wastewater within the range set forth in the applicable effluent limitations guidelines, except excursions from the range are permitted subject to the following limitations:

(1) The total time during which the pH values are outside the required range of pH values shall not exceed 7 hours and 26 minutes in any calendar month; and

(2) No individual excursion from the range of pH values shall exceed 60 minutes.

(b) The Director, as defined in § 122.3 of this chapter, may adjust the requirements set forth in paragraph (a) of this section with respect to the length of individual excursions from the range of pH values, if a different period of time is appropriate based upon the treatment system, plant configuration or other technical factors.

(c) For purposes of this section, an "excursion" is an unintentional and temporary incident in which the pH value of discharge wastewater exceeds the range set forth in the applicable effluent limitations guidelines.

[FR Doc. 82-15177 Filed 6-3-82; 8:45 am]
BILLING CODE 6560-50-M

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

S. 2575 / Pub. L. 97–190 To extend the expiration date of section 252 of the Energy Policy and Conservation Act. (June 1, 1982; 96 Stat. 106) Price: $1.75.

S. 2535 / Pub. L. 97–191 To regulate the operation of foreign fish processing vessels within State waters. (June 1, 1982; 96 Stat. 107) Price: $1.75.

H.R. 4769 / Pub. L. 97–192 To recognize the organization known as the American Council of Learned Societies. (June 1, 1982; 96 Stat. 109) Price: $1.75.

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Air Pollution Control
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Aviation Safety
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Bridges
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Imports
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Farmers Home Administration

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Coast Guard

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Selective Service System

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Federal Communications Commission

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1900

Farmers Home Administration Appeal Procedure

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends an administrative provision in its appeals regulation. This action is needed to change the authority for certain appeals decisions. The intended effect is to eliminate personnel and Agency management problems.

EFFECTIVE DATE: June 7, 1982.

FOR FURTHER INFORMATION CONTACT: Carl O. Opstad, Directives Management Branch, USDA, FmHA, 14th Street and Independence Avenue, SW., Room 6346–S, Washington, DC 20250, Telephone (202) 382–9744.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1512–1 to implement Executive Order 12291, and has been determined to be exempt from those requirements because it involves only internal Agency management affecting the internal decision making and signature authority of the Agency. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since the purpose of this change involves only internal Agency management and publication for comment is unnecessary.

The FmHA programs and projects which are affected by this regulation are subject to State and local clearinghouse review in the manner delineated in Subpart H of Part 1901 of this Chapter.

The Catalog of Federal Domestic Assistance numbers and titles for this regulation are:

No, and Program Title
10.404 Emergency Loans
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Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that the action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

A proposed rule published in the **Federal Register** (46 FR 54949) on November 5, 1981, generated 31 comments which were considered by the Agency in developing its April 1, 1982, (47 FR 13758) final rule. However, an unanticipated Agency management problem has come to our attention. In footnote No. 3 to Exhibit D, Part 1900, Subpart B, the "Designee" is delegated authority to sign certain decision letters in appeal hearings. This authority causes personnel and Agency management problems in the handling of appeals when the State Director is the initial decision maker and the Administrator's designee is the hearing officer. To eliminate these problems, the Agency is amending Exhibit D to delete the signature authority for a person designated to conduct a hearing for the Administrator in certain cases. In these cases the hearing will be conducted by the designee but the decision will be made in the National Office.

List of Subjects in 7 CFR Part 1900

Appeals, Credit, Loan Programs—Agriculture, Loan programs—Housing and community development.

PART 1900—GENERAL

Accordingly, Title 7, Chapter XVIII, Part 1900, Subpart B, Exhibit D, Note 3, is revised to read as follows:

Exhibit D—Hearing/Review Officers Designation

* * * * *

3. *Designee:* A person designated by the Hearing Officer or Review Officer to conduct a hearing or review. The Designee signs the decision letter to the appellant without the concurrence of the original Hearing/Review Officer except:

a. For hearings on County Committee decisions. For these hearings the State Director or Acting State Director may designate other persons to act on his or her behalf in conducting the hearing, however, the State Director or Acting State Director must sign the hearing decision letter.

b. When the designee appointed by the Administrator to conduct a hearing is not an employee in the National Office. The designee will promptly after the hearing, send the complete case file, notes for the hearing, a tape recording of the hearing and a recommended decision to the Administrator for review and a final decision.

* * * * *

(7 U.S.C. 1989; 42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the

Under Secretary for Small Community and Rural Development, 7 CFR 2.70)

Dated: May 28, 1982.

Charles W. Shuman,

Administrator, Farmers Home Administration.

[FR Doc. 82-15337 Filed 6-4-82; 8:45 am]

BILLING CODE 3410-07-M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 82-055]

Specifically Approved States to Receive Stallions Imported From CEM-Affected Countries

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document adds the State of New York to the list of specifically approved States authorized to receive certain stallions imported into the United States from countries affected with contagious equine metritis (CEM).

This action is being taken because the Deputy Administrator of Veterinary Services, Animal and Plant Health Inspection Service, has determined that New York has laws or regulations in effect to require the additional inspection, treatment and testing of such stallions to further ensure their freedom from CEM as required by the regulations.

DATES: Effective date June 1, 1982. Comments must be received on or before August 6, 1982.

ADDRESS: Written comments to Deputy Administrator, USDA, APHIS, VS, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. M. R. Crane, USDA, APHIS, VS, Room 818, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Emergency Action

This action has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum 1512-1, and has been determined to be not a "major rule." The Department has determined that this action will not have a significant annual effect on the economy, will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have any adverse effects on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291.

Mr. W. F. Helms, Director, National Program Planning Staffs, VS, APHIS, USDA, has determined that an emergency situation exists which warrants publication without prior opportunity for a public comment period on this interim action. This amendment relieves restrictions presently imposed on stallions over 731 days of age being imported into the United States, and should be made effective immediately in order to permit affected persons to move these stallions into the United States without unnecessary restrictions.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency interim action is impracticable, unnecessary and contrary to the public interest, and good cause is found for making this emergency interim action effective less than 30 days after publication of this document in the **Federal Register.** Comments have been solicited for 60 days after publication of this document, and this emergency interim action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Certification Under The Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. It is anticipated that approximately 20 stallions imported from CEM affected countries will be consigned to the State of New York annually. This compares with 29,161 horses of all classes imported into the United States in FY 1981. Furthermore, stallions over 731 days of age from CEM affected countries can be imported and consigned to other States approved to receive such animals.

Background

Section 92.2(i)(2) of Title 9, Code of Federal Regulations (9 CFR 92.2(i)(2)), among other things, authorizes the importation of stallions over 731 days of age into the United States from countries affected with contagious equine metritis (CEM) when specific requirements to prevent their introducing CEM into the United States are met, and the animals imported are moved into specified States for further inspection, treatment and testing by the State of destination. The amendment established minimum standards which a State must meet in order to be approved to receive stallions imported from CEM-affected countries. These standards contain treatment, testing and handling procedures believed necessary to ensure that the stallions being imported into the United States are free of the contagion of CEM.

Therefore, this document adds the State of New York to the list of specifically approved States to receive such horses, on the basis of a determination of their eligibility for such approval under § 92.4(a)(6) of the Regulations.

Alternatives

The alternatives considered in making this decision were (1) not to list New York as a State approved to receive stallions over 731 days of age from CEM affected countries, and (2) to make the change set forth in this document.

Alternative No. 1 would prohibit the consignment of stallions over 731 days of age from CEM affected countries to the State of New York. This alternative was not adopted because the Deputy Administrator, Veterinary Services, has determined that New York has met the minimum standards necessary to ensure that such stallions are free of the contagion of CEM. The continued prohibition on consignment to the State of New York would, therefore, constitute an unnecessary restriction on the importation of such stallions.

Alternative No. 2 would allow for the consignment of stallions over 731 days of age from CEM affected countries to the State of New York. This alternative was adopted because the Deputy Administrator, Veterinary Services, has determined that the State of New York has met the minimum standards necessary to ensure that such stallions are free of the contagion of CEM.

List of Subjects in 9 CFR Part 92

Animal diseases, Imports, Livestock and livestock products, Quarantine, Transportation, Contagious Equine Metritis (CEM).

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, Part 92, Title 9, Code Federal Regulations, is amended by revising § 92.4(a)(5)(ii) to read as follows:

§ 92.4 Import permits for ruminants, swine, horses from countries affected with CEM, poultry, poultry semen, animal semen, birds, and for animal specimens for diagnostic purposes.

(a) * * *
(5) * * *

(ii) The following States have been approved to receive stallions over 731 days of age pursuant to § 92.2(i)(2)(iv):
The State of California
The State of Colorado
The State of Kentucky
The State of Maryland
The State of New York
The State of North Carolina
The State of Ohio
The State of South Carolina
The State of Virginia
* * * * *

(Sec. 2, 32 Stat. 792, as amend, sec. 306, 46 Stat. 689, as amended, secs. 2, 4, 11, 76 Stat. 129, 130, 132; 19 U.S.C. 1306, 21 U.S.C. 111, 134a, 134c, 134f; 37 FR 28464, 28477; 38 FR 19141).

All written submissions made pursuant to this interim rule will be made available for public inspection at the Federal Building, Room 870, Hyattsville, MD, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (9 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the Federal Register.

Done at Washington, D.C., this 1st day of June, 1982.

J. K. Atwell,
Deputy Administrator, Veterinary Services.

[FR Doc. 82-15330 Filed 6-4-82; 8:45 am]
BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION
Federal Aviation Administration
14 CFR Part 39
[Docket No. 82-ANE-09; Amdt. 39-4395]

Airworthiness Directives; Rolls-Royce RB211 Series Engines

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires incorporation of fan retention modifications on all Rolls-Royce, Ltd., RB211–22B and –524 series turbofan engines. The AD is needed to prevent possible loss of the fan module following a fan shaft location bearing failure (low pressure (LP) location bearing) which could result in significant aircraft damage. There have been two previous LP location bearing failures which have resulted in loss of the fan module.

DATES: Effective date—June 7, 1982. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service bulletins [1] may be obtained from Rolls-Royce, Ltd., P.O. Box 31, Derby, England DE2 8BJ. Copies of the service bulletins are contained in the Rules Docket, Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: John E. Tigue, Engine and Propeller Standards Staff (ANE–110), Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7330.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring incorporation of the Rolls-Royce axial fan retention modifications in RB211 series engines as specified in Rolls-Royce Service Bulletins 72–6574 and 72–6576 was published in the Federal Register on March 15, 1982, Vol. 47, No. 50, pages 11036–11037. The proposal was prompted by LP location bearing failures which have led to oil fires and fan shaft damage. In two instances, the failure resulted in loss of the fan module. The proposed amendment required incorporation of fan retention devices on center (fuselage mounted) engines on Lockheed 1011 aircraft by August 31, 1982, and on wing mounted engines on Lockheed L1011 and Boeing 747 aircraft by November 30, 1982.

[1] Filed as part of original document.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Comments received are discussed below.

Three commentators did not object to the proposed AD, although one cautioned that compliance by the proposed dates depends upon an adequate and timely supply of modification kits.

Four commentators requested two to three month extensions to the proposed compliance schedule. These commentators argued that the proposed compliance dates are based on six to nine month intervals following an expected March 1, 1982, availability of modification kits and tooling. The commentators cited logistical and technical problems which delayed the start of modification activity beyond March 1, 1982.

The FAA agrees that an extension of the proposed compliance dates is appropriate, but the cited delays do not justify an extension of two to three months. Accordingly, the proposed compliance dates are extended one month.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, and Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Rolls-Royce, Ltd. Applies to Rolls-Royce, Ltd., RB211–22B and –524 series turbofan model engines.

Compliance required as indicated unless already accomplished.

To preclude possible loss of the fan assembly, install the Rolls-Royce axial fan retention modification as specified in Rolls-Royce Service Bulletin 72–6574, Revision 2, dated March 19, 1982, or later revision approved by the FAA, applicable to RB211–22B, –524B–02, –524B–19, –524B2–39, and –524C2–19 engines and as specified in Rolls-Royce Service Bulletin 72–6576, Revision 2, dated March 19, 1982, or later revision approved by the FAA, applicable to RB211–524B3–02, –524B4–02, and –524D4–19 engines in accordance with the following schedule:

1. Center (fuselage mounted) engines on Lockheed L1011 aircraft by September 30, 1982.

2. Wing mounted engines on Lockheed L1011 and Boeing B747 by December 31, 1982.

All persons affected by this directive who have not already received the referenced service bulletins from the manufacturer may obtain copies upon request to Technical Publications Department, Rolls-Royce, Ltd., P.O. Box 31, Derby, England DE2 8BJ. This document may also be examined at Federal Aviation Administration, New England

Region, 12 New England Executive Park, Burlington, Massachusetts 01803. A historical file on this AD is maintained by the FAA at the New England Regional Office.

Upon request of the operator, and FAA Maintenance Inspector, subject to prior approval of the Chief, Aircraft Certification Division, FAA, New England Region, may adjust the compliance date(s) specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the adjustment for that operator.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is certified that the rule will not have a significant economic impact on a substantial number of small entities because the rule will affect only domestic air carriers of B747 and L1011 aircraft in which the RB211 engines are installed, none of which are believed to be small entities. A final regulatory evaluation prepared for this document is contained in the public docket, and a copy may be obtained by writing to Federal Aviation Administration, Office of the Regional Counsel, Attn: Rules Docket No. 82-ANE-06, 12 New England Executive Park, Burlington, Massachusetts.

Issued in Burlington, Massachusetts, on May 25, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82-15080 Filed 6-4-82; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 455

Trade Regulation Rule Concerning Sale of Used Motor Vehicles

AGENCY: Federal Trade Commission.

ACTION: Used car rule; consideration following disapproval of the rule by Congress.

SUMMARY: The Used Car Rule has been disapproved by the Congress. The Commission has taken the rule under consideration in accordance with section 21(c) of the FTC Improvements Act of 1980, 15 U.S.C. 57a-1(c) (Supp. IV 1980).

DATE: Date of Commission action May 27, 1982.

FOR FURTHER INFORMATION CONTACT: Susan M. Liss, Federal Trade Commission, 6th Street and Pennsylvania Ave., NW., Washington, D.C. 20580, (202) 523-1670.

SUPPLEMENTARY INFORMATION: On August 18, 1981, the Commission promulgated a final rule (16 CFR Part 455) concerning the sale of used motor vehicles. Pursuant to section 21 of the FTC Improvements Act of 1980, 15 U.S.C. 57a-1 (Supp. IV 1980), the rule would have become effective unless each House of Congress adopted a concurrent resolution disapproving the rule within the time period provided in the statute. Both Houses of Congress disapproved the rule.

Therefore, the Commission has taken the Rule under consideration in accordance with section 21(c) of the Act.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-15270 Filed 6-4-82; 8:45 am]

BILLING CODE 6750-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

706 Agencies; Handling of Employment Discrimination Charges

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations designating certain State and local fair employment practices agencies (706 Agencies) so that they may handle employment discrimination charges, within their jurisdictions, filed with the Commission. Publication of this amendment effectuates the designation of Louisville and Jefferson County (KY) Human Relations Commission as a 706 Agency.

EFFECTIVE DATE: June 7, 1982.

FOR FURTHER INFORMATION CONTACT: Franklin F. Chow, Equal Employment Opportunity Commission, Office of Field Services, State and Local Division, 2401 E. St., NW, Washington, D.C. 20506, telephone 202/634-6905.

SUPPLEMENTARY INFORMATION:

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure, Equal employment opportunity, Intergovernmental relations.

PART 1601—PROCEDURAL REGULATIONS

In Title 29, Chapter XIV of the Code of Federal Regulations, § 1601.74(a) is amended by adding in alphabetical order the following agency:

§ 1601.74 Designated and notice agencies.

(a) * * * Louisville and Jefferson County (KY) Human Relations Commission.

* * * * *

(Sec. 713(a) 78 Stat. 265 (42 U.S.C. 2000e-12(a))

Signed at Washington, D.C. this 1st day of June 1982.

For the Commission.

John E. Rayburn,

Director, State and Local Division.

[FR Doc. 82-15266 Filed 6-4-82; 8:45 am]

BILLING CODE 6570-06-M

SELECTIVE SERVICE SYSTEM

32 CFR Part 1665

Privacy Act of 1974; Selective Service Regulations

AGENCY: Selective Service System.

ACTION: Final rule.

SUMMARY: Procedures under the Privacy Act of 1974 (5 U.S.C. 552a) are revised to exempt certain information in a system of records from the disclosure requirements of that act.

EFFECTIVE DATE: The amendment will become effective June 7, 1982.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel, Selective Service System, Washington, D.C. 20435, Phone: (202) 724-1167.

SUPPLEMENTARY INFORMATION: This amendment to Selective Service Regulations was published in the **Federal Register** for April 23, 1982 (47 FR 17578) for comment pursuant to section 13(b) of the Military Selective Service Act (50 U.S.C. app. 463(b) and 5 U.S.C. 552 and 552a). No comment was received. The proposed amendment to the regulations without change will be made final by this publication.

This regulation implements 5 U.S.C. 552a.

As required by Executive Order 12291, I have determined that this proposed rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612). I have determined that these regulations do not have significant economic impact on a substantial number of small entities.

List of Subjects in 32 CFR Part 1665

Armed forces, Draft, Privacy.

Thomas K. Turnage,

Director.

June 2, 1982.

PART 1665—PRIVACY ACT PROCEDURES

The amendment is:

Part 1665—Privacy Act Procedures of 32 CFR is amended by adding § 1665.8 to read as follows:

§ 1665.8 Systems of records exempted from certain provisions of this act.

Pursuant to 5 U.S.C. 552a(k)(2), the Selective Service System will not reveal to the suspected violator the informant's name or other identifying information relating to the informant.

(5 U.S.C. 552a)

[FR Doc. 82-15291 Filed 6-4-82; 8:45 am]

BILLING CODE 8015-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7 82-01]

Drawbridge Operation Regulations; Garrison Channel, Tampa, Florida

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of Mr. Edward J. Kohrs on behalf of American Centennial Insurance Company, the Coast Guard is changing the regulations governing the bridge across Garrison Channel, mile 0.2, Tampa, Florida to require the draw to open on signal if at least 48 hours advance notice is given to the local representative. This change is being made because no requests have been made to open the draw since 1979. This action will relieve the bridge owner of the burden of having a person constantly available to open the draw and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment becomes effective on July 7, 1982.

FOR FURTHER INFORMATION CONTACT: James R. Kretschmer, Bridge Administrator, Aids to Navigation Branch, Room 1006, Federal Building, 51 Southwest First Avenue, Miami, Florida 33130, telephone (305) 350-4108.

SUPPLEMENTARY INFORMATION: On January 20, 1982, the Coast Guard published a proposed rule (47 FR 4004) concerning this amendment. The Commander, Seventh Coast Guard District, also published this proposal as a Public Notice dated February 5, 1982. Interested persons were given until March 1, 1982 to submit comments.

Drafting Information

The principal persons involved in drafting this rule are: Walter Paskowsky, Bridge Administration Specialist, Bridge Section, Aids to Navigation Branch and Lieutenant Michael T. Harris, Assistant Legal Officer, Seventh Coast Guard District Legal Office.

Discussion of Comments

The Jacksonville District, U.S. Army Corps of Engineers, provided the only comment, and stated they had no objections to the proposed revision. Access around Seddon Island is available for navigation via Seddon Channel to the west and Sparkman Channel to the east. Therefore, a final economic evaulation on the regulation has not been prepared because of minimal economic impact.

These final regulations have been reviewed under provisions of Executive Order 12291 and have been determined not to be a major rule. They are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of May 22, 1980). As explained above, an economic evaluation has not been conducted. In accordance with section 605(d) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding a new § 117.245(i)(4–a) immediately after § 117.245(i)(4) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(i) Waterways discharging into Gulf of Mexico east of Mississippi River.

* * * * *

(4–a) Garrison Channel, Tampa, Florida. The draw shall open on signal if at least 48 hours advance notice is given.

* * * * *

(33 U.S.C. 449, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(g)(3))

Dated: May 13, 1982.

B. E. Stabile,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 82-15294 Filed 6-4-82; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD5 81-10R]

Drawbridge Operation Regulations; Roanoke River, North Carolina

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the North Carolina Division of Highways, the Coast Guard is establishing new regulations governing operation of the drawbridge across the Roanoke River, mile 37.5 at Williamston, North Carolina, to limit the opening of the drawbridge. This change is being made because vessel traffic through the bridge has declined in recent years. This action will result in a substantial monetary saving to the bridge owner and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment becomes effective on July 3, 1982.

FOR FURTHER INFORMATION CONTACT: Wayne J. Creed, Bridge Administrator, Aids to Navigation Branch, Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia 23705, (804) 398-6222.

SUPPLEMENTARY INFORMATION: On February 25, 1982, the Coast Guard published a proposed rule (46 FR 49813) concerning this amendment. The Commander, Fifth Coast Guard District, also published this proposal in Public Notice (5-510) dated March 1, 1982, which was included in Local Notice to Mariners No. 9 dated March 2, 1982. Interested persons were requested to submit comments, but no comments were received.

Discussion of Rule

These regulations will require a 24-hour advance notice for all draw openings year round. The bridge is currently operated under the general regulations that are contained in Title 33, Code of Federal Regulations, § 117.240, which requires the bridge to open on signal. Therefore, draw operators are in constant attendance.

The regulations will relieve the bridge owner of the responsibility for keeping draw operators in constant attendance. The 24-hour advance notice for draw openings is established because water traffic at this location has declined in recent years.

Records of draw openings show that the bridge was opened 28 times for the passage of water traffic during 1979, and the bridge was only opened 6 times during 1980. Moreover, the prospect for any significant increase in water traffic is poor because the oil terminal upstream of the bridge has been closed and petroleum products are currently moved by pipeline and truck. Barge traffic to and from the oil terminal accounted for 95% of the draw openings. Therefore, the change in regulations is made without significantly affecting water traffic and it will relieve the bridge owner of the responsibility of providing constant operator attendance at the bridge. There are no businesses that will be impacted by the change in operating regulations.

Evaluation

This regulation has been reviewed under the provisions of Executive Order 12291 and has been determined not to be a major rule. In addition, this regulation is considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact will be minimal. In accordance with Section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is certified that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Final Regulation

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations is amended as follows:

In 33 CFR 117.245, paragraph (g) is revised by adding a new subparagraph (2–b) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(g) * * *

(2–a) * * *

(2–b) Roanoke River, N.C.; North Carolina Division of Highways bridge at Williamston. At least 24-hours advance notice required for draw openings.

* * * * *

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2), 49 CFR 1.46(c)(5), 33 CFR 1.05–1(g)(3))

Dated: May 10, 1982.

John D. Costello,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 82–15198 Filed 6–4–82; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGO 13–82–062]

Drawbridge Operation Regulations; Willamette River, Oregon

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of Multnomah County, Oregon, the Coast Guard is changing the regulations governing the Morrison and Burnside Bridges across the Willamette River at Portland, Oregon, by requiring that advance notice be given for bridge openings. This regulation change is being made because the average number of daily openings are not sufficient to require that drawtenders be kept in constant attendance. This action will relieve the owner of the bridges of the burden of having persons constantly available to open the draws while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment is effective on July 7, 1982.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, District Bridge Administrator, Aids to Navigation Branch, Room 3564, Federal Building, 915 Second Avenue, Seattle, Washington 98174, telephone (206) 442–5864.

SUPPLEMENTARY INFORMATION: Proposed rulemaking was published on pages 49910–49913 of the **Federal Register** of October 8, 1981. Interested parties were given until November 7, 1981 to submit comments. The Commander, Thirteenth Coast Guard District, also published the proposal as Public Notice 81–N–15, dated October 23, 1981. Interested parties were given until November 27, 1981 to submit comments. A total of nineteen responses were received to the published notices of proposed rule change. Review of the comments indicated that there was significant community controversy regarding the proposal. In view of the comments received, the Commandant authorized the Commander, Thirteenth Coast Guard District, to hold a public hearing to obtain additional information on the proposal. Notice of the hearing was published on page 3010 of the **Federal Register** of January 21, 1982. The Commander, Thirteenth Coast Guard District, also published notice of the hearing as Public Notice 82–N–01, dated January 13, 1982. The public hearing was held at the Bonneville Power Administration Building, 1002 N.E. Holladay Street, Portland, Oregon on February 11, 1982 in two sessions, the first commencing at 2:30 p.m., and the second at 7:00 p.m. A total of eleven persons provided comments at the two sessions. Notice was given at each of the sessions that the comment period would be kept open until February 25, 1982 to accommodate persons wishing to provide written comment. Three additional responses were received during this period. Six responses were received during a preliminary solicitation for comments prior to issuance of the public notice, and two responses were received to the notice of the public hearing.

Drafting Information

The principal persons involved in drafting this rule are: John E. Mikesell, District Bridge Administrator and Lt. James R. Woeppel of the District Legal Officers Staff.

Discussion of Rule

Multnomah County, Oregon requested the Coast Guard to amend the operating regulations for its Morrision, Burnside, and Broadway Bridges across the Willamette River at Portland, Oregon. The request was made because of limited requests for openings of the draws and in an effort to reduce operating costs of the bridges. Under the current operating regulations, the four Multnomah County drawbridges across the Willamette River at Portland are under constant attendance and open upon request for the passage of vessels except during authorized closed periods. Multnomah County requested that the operating regulations be changed to require advance notice to be given for openings of the Morrison, Burnside and Broadway Bridges, except when the water elevation reaches +12 feet and during Rose Festival Week, at which time all bridges would open on call. On weekdays, Monday through Friday, between the hours of 0800 and 1630, one hour advance notice would be required for bridge openings; at all other times two hours advance notice would be required. Advance requests openings

would be made by contacting the drawtender of the Hawthorne Bridge by marine radio, telephone, or other suitable means.

The regulation change as originally proposed would require that advance notice be given for openings of the Morrison, Burnside and Broadway Bridges, thereby eliminating the need for the bridges to have a drawtender in constant attendance. A total of forty-one persons or organizations provided comments on the proposed rule change. Some of the commentors provided comments on more than one subject. The comments that were received fell into the following general categories: (1) No objection, (2) In support of, (3) In opposition to, (4) Concerned about, (5) Offering an alternate proposal, and (6) Other. The comments are summarized as follows:

(1) No objection—Seven comments were received. Three of the comments were from federal and state agencies, and four were from commercial navigation interests. The comments of no objection received from federal and state agencies are considered to be procedural in nature and represent neither support nor opposition to the proposal. The no objection comments received from commercial navigation interests are considered to be the views of companies whose operations would not be significantly affected by the proposed change.

(2) In support of—Four comments were received. One comment from an elected public official of the county and two from private citizens addressed the cost savings which would be realized by the proposed change. One comment from a commercial navigation interest was a simple declaration of support for the proposal. Comments which support the proposal solely on the basis of cost savings to the bridge owner are not considered to be a determinant factor in this action, because the Coast Guard's primary concern is the degree to which the proposal would provide for the reasonable needs of navigation.

(3) In opposition to—Nine comments were received. Four comments were from county bridge operators or their representatives, two were from private citizens and one each was from a commercial navigation interest, a recreational navigation interest, and an elected public offical of the county. Opposition comments expressed concern about public safety and the potential for delay, inconvenience and expense to navigation on the waterway.

(4) Concerned about—Twenty-four comments were received. Four were from commercial navigation interests, and two were from recreational navigation interests. Fourteen comments were from county bridge operators or their representatives. Two comments were from private citizens and one each was from a public official and a commercial interest. The majority of the concerns addressed issues of vessels delay, operating expense, and inconvenience of scheduling and passage, which were anticipated if the proposal was approved. Additional concerns were expressed that the right of free passage on a navigable waterway would be interfered with. The potential effects that the proposed rule would have on waterway and public safety were also expressed as concerns. These concerns are considered significant, in that they express opinions on the reasonableness of the proposal in providing for the needs of navigation. Comments were also received from bridge operators and private citizens indicating concerns for highway and pedestrian safety if the proposal was approved. Problems of highway and pedestrian safety are not within the scope of Coast Guard jurisidiction in this action.

(5) Alternate proposal—Four comments were received which recommended an alternative to the proposed rule change. One proposal was made by a state agency concerned with commercial navigation, and three were made by county bridge operators. The proposed alternative would exclude the Broadway Bridge from the proposed regulation change. Reasons given for the alternative indicate that it would better serve the interests of navigation, and provide for a greater margin of waterway and public safety.

(6) Other—Six comments were placed in this category because they provided no substantive information on the issue under consideration.

Comments received from elected officials of the county indicated both support for and opposition to the proposal. These conflicting views tend to indicate a lack of unanimity on the part of the county in support of their own proposal. Comments of support or opposition were not considered to be significant factors in and of themselves in the evaluation of the proposed action. Concerns expressed on the suitability of the proposal in providing for the reasonable needs of navigation were considered significant were evaluated accordingly.

Upon consideration of all comments and concerns, and after reviewing all of the material submitted, the Coast Guard has determined that exclusion of the Broadway Bridge from the proposed regulation change would be in the best public interest. Excluding the Broadway Bridge from the proposed regulation change would more adequately provide for the reasonable needs of navigation and public safety, while allowing the county to operate the Morrison and Burnside bridges using the advance notice procedure for openings, thereby eliminating the need for drawtenders to be in constant attendance. Under this regulation, the most upstream and most downstream of the four county bridges would have drawtenders in constant attendance. The two middle bridges would require advance notice for operation.

Evaluation

These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Final Regulation

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising § 117.750 to read as follows:

§ 117.750 Willamette River at Portland, Oreg., Columbia River at Vancouver, Wash., and North Portland Harbor (Oregon Slough), Oreg., bridges (highway and railroad); signals.

(a) The draws of the Burlington Northern railroad bridges at Vancouver, Wash., and at St. Johns, Oreg., shall open on signal.

(b) The draws of the Interstate Highway Bridge at Vancouver, Wash., the Union Pacific railroad/highway bridge, Hawthorne Bridge and Broadway Bridge at Portland, Oreg., shall open on signal, except during closed periods (see paragraph (i)(1) of this section, and § 117.758a).

(c) The draws of the Burnside and Morrison Bridges at Portland, Oreg., shall:

(1) Open on signal, except during closed periods (see paragraph (i)(1) of this section), on weekdays Monday through Friday, between the hours of 0900 to 1630, if at least one hour notice is given, and at all other times if at least two hours notice is given. Notice shall be given by marine radio, telephone or other means to the drawtender of the Broadway Bridge for vessels bound upstream and the drawtender of the Hawthorne Bridge for vessels bound downstream.

(2) Open on signal for the emergency passage of harbor patrol and fireboats if notice is given to the drawtender at either the Broadway or Hawthorne Bridges. At such times the Broadway and Hawthorne Bridges may be temporarily unmanned and unable to open for the passage of vessels.

(3) Open on signal, except during closed periods (see paragraph (i)(1) of this section), without advance notice when the water elevation reaches and remains above +12 feet.

(4) Open on signal, except during closed periods (see paragraph (i)(1) of this section), without advance notice during Portland Rose Festival week.

(d) Call signals for opening of draw. These signals shall be as prescribed for each bridge in paragraph (e) of this section. It is given by vessels as notice to bridge operators to open the draw, or in case the draw is already open, that they intend to pass through. A call signal given twice in rapid succession indicates that vessel has authority to pass bridges during closed periods (see paragraph (i)(1) of this section).

(e) Answering signals. (1) Acknowledging signal. Shall be the same as the call signal for each bridge. Its purpose is to acknowledge the call signal of a vessel and to indicate that the operator intends to open the draw as soon as practicable, or that he will hold it open.

(2) Danger signal. Shall consist of a series of short blasts, at least four, given in rapid succession, and repeated if necessary. It's purpose is to answer the call signal of a vessel and to indicate that the draw cannot, or will not, be opened at once, or, when vessels are waiting in the vicinity, that the draw, if open, is about to be closed. It is also to be used in emergency to revoke an acknowledging signal.

(3) Rescinding signal. Shall be the reverse of the call signal for each bridge. It is given by a vessel to cancel a previous call signal, to indicate that the vessel does not intend to pass through and that the draw need not be opened, or may be closed.

(4) Answer to rescinding signal. (i) Answer by the bridge operator to a rescinding signal shall be the danger signal (see paragraph (e)(2) of this section).

(5) Call signals. The following call signals are prescribed for vessels wishing to have the drawspans opened or held open.

(i) Burlington Northern railroad bridge, at Vancouver, Wash., one long followed by one short blast.

(ii) Interstate Highway Bridge, at Vancouver, Wash., two long followed by one short blast.

(iii) (Reserved)

(iv) Burlington Northern railroad bridge, at St. Johns, Oreg., one long followed by one short blast.

(v) Broadway Bridge, two long followed by one short blast.

(vi) Union Pacific Railroad bridge, one long followed by one short blast.

(vii) Burnside Bridge, one long followed by two short blasts.

(viii) Morrison Bridge, one long followed by three short blasts.

(ix) Hawthorne Bridge, one long followed by four short blasts.

Call signals may be given on any form of whistle, horn, siren, or trumpet with sufficient range or volume to be heard by bridge operators.

(f) To bridge owners. All bridges to which this section applies shall be equipped with suitable air whistles of sufficient size and range that signals sounded on same shall be distinctly audible up and down stream under adverse wind and weather conditions for a distance of 2,500 feet, except for the Burlington Northern Railroad Co. bridges over the Columbia and Willamette Rivers, which shall have a range of at least 5,000 feet under the same conditions.

(g) To navigators. (1) A vessel, desiring at any time (except during closed periods, and except for bridges which require advance notice, see paragraphs (c)(1) and (i)(1) of this section) to pass through any of the above-mentioned bridges, under which it cannot pass with the draw closed, shall sound the call signal for such bridge as prescribed in paragraph (e) of this section, and shall repeat such signal at intervals until it is answered by the operator of the bridge (see paragraphs (d) and (h) of this section). In the case two vessels approaching from opposite directions would meet at or near the bridge, the vessel bound downstream shall be considered as having the right of way. When either vessel waits for passage of the other, it shall again give the call signal for the bridge and receive acknowledgement before proceeding. It is incumbent upon navigators to make sure that their signals are understood before proceeding through a drawspan, and when approaching bridges, vessels should be kept under control, with a view to stopping, if necessary, before reaching the bridge.

(2) Vessels authorized to pass through bridges during closed periods, as provided in paragraph (i)(1) of this section and in the case of the Burnside and Morrison Bridges, after contacting the drawtender at the Broadway or Hawthorne Bridges, shall sound the call signal twice in rapid succession. Signals to open shall be given by vessels at a distance of at least 1,000 feet from the bridge, except in the case of a vessel leaving a wharf or anchorage or when waiting less than 1,000 feet from the bridge. In such cases the signal shall be given early enough to allow the operator of the bridge sufficient time in which to clear and open the draw before arrival of the vessel.

(3) All vessels when passing any bridge shall be moved as expeditiously as is consistent with established rules governing speed in the harbor of Portland, and all towboats engaged in handling other craft or in towing logs through any of the bridges shall be of sufficient power to handle the tow without unduly delaying the closing of the drawspan.

(4) Vessels with hinged or adjustable masts or booms projecting above their fixed structures shall lower same and pass under the bridge, if practicable, without signaling for the draw to open.

(h) To bridge operators. (1) If the bridge can be opened, or is already open, when a call signal is given, the operator shall promptly answer the vessel calling by giving the acknowledging signal and promptly open the draw (except during closed periods, see paragraph (i)(1) of this section) or hold it open, as the case may be.

(2) In case the draw cannot be opened at once when the call signal is given, the operator shall promptly answer the vessel calling by giving the danger signal and shall repeat same, if necessary. As soon as the exigency which prevented opening has been removed the bridge operator shall promptly sound the regular acknowledging signal for that bridge to advise vessels that the draw can be opened at once, and he shall thereupon proceed to open same if there is a vessel waiting to pass through.

(3) When two vessels arrive at a bridge at or near the same time and

blow the call signal, lift spans, when opened, shall be raised high enough to clear the taller vessel. If either vessel at any drawbridge waits for passage of the other and again gives the call signal, the bridge operator shall promptly answer with the acknowledging signal and shall hold the span open. In case the intentions of a waiting vessel are not understood by a bridge operator, when the draw is open he shall sound the danger signal as a warning to vessels that he is about to close the draw.

(4) If a rescinding signal is given by a vessel to cancel a previously given call signal, and it is evident the vessel does not intend to pass through, the bridge operator shall answer with the danger signal (four or more short blasts) and may then close the draw, or need not open it.

(i) Closed periods. (1) The periods from 7 a.m. to 8:30 a.m. and 4 p.m. to 5:30 p.m. are hereby designated closed periods during which the draw spans of bridges carrying street traffic over the Willamette River at Portland need not be opened for navigation except as below provided, or when necessary to prevent accident.

(2) Closed periods above defined shall not be effective on Saturday, Sunday, New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day; or days observed in lieu of these under State law: Provided, That closed periods shall not apply against harbor patrol or fireboats answering calls. At the Broadway Bridge only, oceangoing vessels of 750 gross tons or over that are entering the harbor directly from the ocean may signal and pass through this bridge at any hour. Vessels authorized to pass through bridges during closed periods or in case of emergency when opening of the draw is necessary to prevent accident, shall sound the call signal twice in rapid succession, i.e., with an interval of not over 5 seconds between signals. The Broadway Bridge shall be opened, however, for oceangoing vessels of 750 tons or over, under the rule above, whether the vessel gives a single or double call signal.

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(g)(3))

Dated: May 7, 1982.

C. F. DeWolf,

Rear Admiral, U.S. Coast Guard, Commander, 13th Coast Guard District.

[FR Doc. 82-15101 Filed 6-4-82; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 157

[CGD 81-039b]

Disestablishment of Merchant Marine Technical Branch, Fifth Coast Guard District

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: As a result of an evaluation of its Merchant Marine Technical Branch field organization, the Coast Guard decided to disestablish the Merchant Marine Technical Branch of the Fifth Coast Guard District, Portsmouth, Virginia. As of July 1, 1981, the plan review duties for the geographical area served by the Fifth Coast Guard District were assumed by the Merchant Marine Technical Branch, Third Coast Guard District, New York, NY. Those directly affected by this action were notified directly in March 1981 by CCGD5 (mmt).

DATES: Disestablishment was effective July 1, 1981.

FOR FURTHER INFORMATION CONTACT: LCDR David B. Anderson, Merchant Marine Technical Division (G-MMT-4/13), Room 1300C, Coast Guard Headquarters Building, 2100 2nd Street, SW., Washington, D.C. 20593 (202-426-2197).

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in the drafting of this rule are LCDR David B. Anderson, Project Manager, Office of Merchant Marine Safety and Mr. Michael N. Mervin, Project Attorney, Office of the Chief Counsel.

Discussion

The Coast Guard has completed an evaluation of its Merchant Marine Technical Branch field organization, taking into account many factors including personnel considerations and system efficiency. As a result, the Commandant concluded that a consolidation of the Merchant Marine Technical Branches of the Third and Fifth Coast Guard Districts was necessary for improved overall plan review efficiency, quality and consistency. Accordingly, the workload and military personnel previously assigned to the Fifth District's Merchant Marine Technical Branch were reassigned to the Third Coast Guard District. Shipyards, designers and other businesses and persons within the geographical area of the Fifth Coast District who are directly affected by this action were informed by letter from CCGD5 (mmt) in March 1981.

Because these amendments are of an administrative nature concerning the organization of the Coast Guard, they have no economic or environmental impacts. Therefore, it is not necessary to prepare a Regulatory Impact Analysis, Environmental Assessment, Regulatory Flexibility Analysis, or final evaluation.

Since this amendment relates to departmental rules of organization, it is excepted from notice and public procedures requirements. It is made effective immediately because it is not a substantive rule.

List of Subjects in 33 CFR Part 157

Environmental protection, Oil pollution, Tank vessels, Water pollution control, Organization and functions (government agencies).

In consideration of the foregoing, Chapter I of Title 33, Code of Federal Regulations, is amended as follows:

PART 157—RULES FOR THE PROTECTION OF THE MARINE ENVIRONMENT RELATING TO TANK VESSELS CARRYING OIL IN BULK

1. In § 157.100, by removing and reserving (b)(2) and revising paragraphs (b)(1) and (b)(3) to read as follows:

§ 157.100 Plans for U.S. tank vessels: Submission.

* * * * *

(b) * * *

(1) Commander, 3rd Coast Guard District (mmt), Governors Island, New York, N.Y. 10004, if the COW system is installed in the area under the 1st, 3rd, or 5th Coast Guard Districts.

(2) [Removed and reserved].

(3) Commander, 8th Coast Guard District (mmt), 500 Camp Street, Hale Boggs Federal Building, New Orleans, Louisiana 70130, if the COW system is installed in the area under the 2nd, 7th, or 8th Coast Guard Districts.

* * * * *

2. In § 157.200, by removing and reserving paragraph (b)(2) and revising paragraphs (b)(1) and (b)(3) as follows:

§ 157.200 Plans for U.S. tank vessels: Submission.

* * * * *

(b) * * *

(1) Commander, 3rd Coast Guard District (mmt), Governors Island, New York, N.Y. 10004, if the dedicated clean ballast tank system is installed in the area under the 1st, 3rd, or 5th Coast Guard Districts.

(2) [Removed and reserved].

(3) Commander, 8th Coast Guard District (mmt), 500 Camp Street, Hale Boggs Federal Building, New Orleans, Louisiana 70130, if the dedicated clean

ballast tank system is installed in the area under the 2nd, 7th, or 8th Coast Guard Districts.

* * * * *

(46 U.S.C. 391a, 49 U.S.C. 1655(b), 49 CFR 1.46 (n)(4))

Dated: May 27, 1982.

L. N. Hain,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 82-15101 Filed 6-4-82; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 175

[CGD 81-038-A]

Visual Distress Signal Equipment Requirements

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending its regulation governing the carriage of visual distress signals in order to approve older signal launchers which project approved signals, and, also, to clarify the language concerning the carriage requirements. Comments which have been received about existing flare launchers favor the continued approval of these, contingent upon their serviceability and their design for use with approved signals. This proposal will replace the grandfather clause for existing flare launchers with a permanent exemption based on each launcher's serviceability and its use of approved signals.

DATE: This amendment will be effective on June 7, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. William B. Sobeck, Office of Boating, Public, and Consumer Affairs (G-BBS), U.S. Coast Guard Headquarters, 2100 2nd Street SW., Washington, D.C. 20593, (202) 426-4176.

SUPPLEMENTARY INFORMATION: The Coast Guard published final rules regarding the carriage of visual distress signals on boats on December 17, 1979 (44 FR 73024). The rules contained a list of accepted visual distress signaling devices that could be used to satisfy the carriage requirements. Since that date the Coast Guard has received numerous inquiries on the use of these devices. It was found that some existing flare launchers were designed to use the approved flare signals, so the Coast Guard will allow the continued use of the approved flare signals, so the Coast Guard will allow the continued use of flare launchers manufactured prior to January 1st, 1981, as long as they remain serviceable. This will mean no new costs for the boating public, and should save some consumers the expense of buying new equipment. Also, some boaters thought that they were required to carry the pyrotechnic type visual distress signals, and expressed confusion over the number required by Table 175.130. This amendment seeks to clarify the wording.

Regulatory Evaluation

Since the only substantive change made by this action would allow continued use of existing equipment, resulting in slight savings to some boaters, the impact will be minimal and an economic evaluation has not been conducted. No new costs will be imposed on the boating public or the manufacturers of flare launchers. As the changes are largely editorial in nature, the Coast Guard for good cause finds that the notice and public comment procedures of 5 U.S.C. 553 are unnecessary.

These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, they are considered to be nonsignificant in accordance with the guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of May 22, 1980). As these regulations impose no new costs, and should serve to lessen cost to the boating public, it is certified pursuant to Section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164) that these rules will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal persons involved in drafting this rule are Lieutenant (junior grade) C. M. Stratton, Project Manager, Office of Boating, Public and Consumer Affairs, and Lieutenant Michael Tagg, Project Attorney, Office of the Chief Counsel.

List of Subjects in 33 CFR Part 175

Marine safety.

Final Regulations

In consideration of the foregoing, the Coast Guard is amending Part 175 of Title 33, Code of Federal Regulations as set forth below.

PART 175—EQUIPMENT REQUIREMENTS

1. By revising § 175.130 and Table § 175.130 to read as follows:

§ 175.130 Visual distress signals accepted.

(a) Any of the following signals, when carried in the number required, can be used to meet the requirements of § 175.110:

(1) An electric distress light meeting the standards of 46 CFR 161.013. One is required to meet the night only requirement.

(2) An orange flag meeting the standards of 46 CFR 160.072. One is required to meet the day only requirement.

(3) Pyrotechnics meeting the standards noted in Table 175.130.

(b) Any combination of signal devices selected from the types noted in paragraphs (a) (1), (2) and (3) of this section, when carried in the number required, may be used to meet both day and night requirements. *Examples*—the combination of two hand held red flares (160.021), and one parachute red flare (160.024 or 160.036) meets both day and night requirements. Three hand held orange smoke (160.037) with one electric distress light (161.013) meet both day and night requirements.

TABLE 175.130.—PYROTECHNIC SIGNAL DEVICES

Approval number under 46 CFR	Device description	Meets requirement for	Number required
160.021	Hand Held Red Flare Distress Signals.[1]	Day and Night	3
160.022	Floating Orange Smoke Distress Signals.	Day Only	3
160.024	Parachute Red Flare Distress Signals.	Day and Night [1]	3
160.036	Hand-Held Rocket-Propelled Parachute Red Flare Distress Signals.	Day and Night	3
160.037	Hand-Held Orange Smoke Distress Signals.	Day Only	3
160.057	Floating Orange Smoke Distress Signals.	Day only	3
160.066	Distress Signal for Boats, Red Aerial Pyrotechnic Flare.	Day and Night [2]	3

[1] These signals require use in combination with a suitable launching device approved under 46 CFR 160.028.

[2] These devices may be either meteor or parachute assisted type. Some of these signals may require use in combination with a suitable launching device approved under 46 CFR 160.028.

[3] Must have manufacture date of 1 Oct. 1980 or later.

2. Amend § 175.135 by removing and reserving paragraph (a)(3) and adding paragraph (b) as follows:

§ 175.135 Existing equipment.

(a) * * *

(3) [Removed and reserved]

(b) Launchers manufactured before 1 January, 1981, which do not have approval numbers are acceptable for use with meteor or parachute signals listed

in Table 175.130 under § 175.130 as long as they remain in serviceable condition.

(46 U.S.C. 1454; 49 CFR 1.46 (n)(1))

Dated: April 19, 1982.

V. W. Driggers,

Captain, U.S. Coast Guard, Acting Chief, Office of Boating, Public and Consumer Affairs.

[FR Doc. 82-15179 Filed 6-4-82; 8:45 am]

BILLING CODE 4910-14-M

VETERANS ADMINISTRATION

38 CFR Part 3

Veterans Benefits; Implementing New Legislation

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans Administration has amended its adjudication regulations to implement certain provisions of a new law, the Veterans' Disability Compensation, Housing, and Memorial Benefits Amendments of 1981. The provisions that are the subject of this action are: (1) An increase in the amount of compensation payable to a veteran who has suffered loss or loss of use of two upper extremities; (2) changes in the amount payable and the effective date of a retroactive DIC (dependency and indemnity compensation) award to a child over 18; (3) an increase in the automobile allowance; (4) limitations on the pension reduction for certain hospitalized pensioners; and (5) changes in the 2-year active duty requirement.

DATES: These changes are effective October 1, 1981 with the exception of changes to 38 CFR 3.12a and 3.551 which are effective October 17, 1981 as specified in section 701 of Pub. L. 97-66.

FOR FURTHER INFORMATION CONTACT: T. H. Spindle, Jr. (202-389-3005).

SUPPLEMENTARY INFORMATION: On pages 6291-6295 of the Federal Register of February 11, 1982, the Veterans Administration published proposed amendments of 38 CFR 3.12a, 3.350, 3.551, 3.650, 3.667 and 3.808. Interested persons were given until March 15, 1982, to submit comments, suggestions, or objections to the proposed amendments. None have been received. The regulation amendments are adopted without change and are set forth below.

The Administrator hereby certifies these regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), this rule is therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that these regulations implement a legislative enactment. They will have no significant impact on small entities.

The agency has determined that these regulations are nonmajor in accordance with Executive Order 12291 because they simply implement statutory requirements and have little or no economic impact, in themselves.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

(Catalog of Federal Domestic Assistance program numbers are 64.100, 64.104, 64.109 and 64.110)

Approved: May 14, 1982.

Robert P. Nimmo,

Administrator.

PART 3—ADJUDICATION

1. Section 3.12a is revised as follows:

§ 3.12a Minimum active-duty service requirement.

(a) *Definitions.* (1) The term "minimum period of active duty" means, for the purposes of this section, the shorter of the following periods.

(i) Twenty-four months of continuous active duty. Non-duty periods that are excludable in determining the Veterans Administration benefit entitlement (e.g., see § 3.15) are not considered as a break in service for continuity purposes but are to be subtracted from total time served.

(ii) The full period for which a person was called or ordered to active duty.

(2) The term "benefit" includes a right or privilege but does not include a refund of a participant's contributions under 38 U.S.C. Ch. 32.

(b) *Effect on Veterans Administration benefits.* Except as provided in paragraph (d) of this section, a person listed in paragraph (c) of this section who does not complete a minimum period of active duty is not eligible for any benefit under title 38, United States Code or under any law administered by the Veterans Administration based on that period of active service.

(c) *Persons included.* Except as provided in paragraph (d) of this section, the provisions of paragraph (b) of this section apply to the following persons:

(1) A person who originally enlists (enlisted person only) in a regular component of the Armed Forces after September 7, 1980 (a person who signed a delayed-entry contract with one of the service branches prior to September 8, 1980, and under that contract was assigned to a reserve component until entering on active duty after September 7, 1980, shall be considered to have enlisted on the date the person entered on active duty); and

(2) Any other person (officer as well as enlisted) who enters on active duty after October 16, 1981 and who has not previously completed a continuous period of active duty of at least 24 months or been discharged or released from active duty under 10 U.S.C. 1171 (early out).

(d) *Exclusions.* The provisions of paragraph (b) of this section are not applicable to the following cases:

(1) To a person who is discharged or released under 10 U.S.C. 1171 or 1173 (early out or hardship discharge).

(2) To a person who is discharged or released from active duty for a disability adjudged service connected without presumptive provisions of law, or who at time of discharge had such a service-connected disability, shown by official service records, which in medical judgment would have justified a discharge for disability.

(3) To a person with a compensable service-connected disability.

(4) To the provision of a benefit for or in connection with a service-connected disability, condition, or death.

(5) To benefits under chapter 19 of title 38, United States Code.

(e) *Dependent or survivor benefits—*(1) *General.* If a person is, by reason of this section, barred from receiving any benefits under title 38, United States Code (or under any other law administered by the Veterans Administration) based on a period of active duty, the person's dependents or survivors are also barred from receiving benefits based on the same period of active duty.

(2) *Exceptions.* Paragraph (e)(1) of this section does not apply to benefits under chapters 19 and 37 of title 38, United States Code. (38 U.S.C. 3103A)

2. Section 3.350 is amended as follows:

(a) By removing the word "rendering" and inserting the word "making" in the first sentence and removing the word "rendered" and inserting the word "done" in the last sentence of paragraph (a)(3)(i).

(b) By removing the word "intermediate" following the word "rate" in paragraph (f)(2)(i) and (iii) and by inserting the word "other" preceding the word "eye" in paragraph (f)(2)(iii).

(c) By revising the introductory portion of paragraph (b) preceding subparagraph (1) and paragraphs (c), (d), (e) and (f)(1) as follows:

§ 3.350 Special monthly compensation ratings.

* * * * *

(b) *Ratings under 38 U.S.C. 314(l).* The special monthly compensation provided by 38 U.S.C. 314(l) is payable for anatomical loss or loss of use of both feet, one hand and one foot, blindness in both eyes with visual acuity of 5/200 or less or being permanently bedridden or so helpless as to be in need of regular aid and attendance.

* * * * *

(c) *Ratings under 38 U.S.C. 314(m).* (1) The special monthly compensation provided by 38 U.S.C. 314(m) is payable for any of the following conditions:

(i) Anatomical loss or loss of use of both hands;

(ii) Anatomical loss or loss of use of both legs at a level, or with complications, preventing natural knee action with prosthesis in place;

(iii) Anatomical loss or loss of use of one arm at a level, or with complications, preventing natural elbow action with prosthesis in place with anatomical loss or loss of use of one leg at a level, or with complications, preventing natural knee action with prosthesis in place;

(iv) Blindness in both eyes having only light perception;

(v) Blindness in both eyes leaving the veteran so helpless as to be in need of regular aid and attendance.

(2) *Natural elbow or knee action.* In determining whether there is natural elbow or knee action with prosthesis in place, consideration will be based on whether use of the proper prosthetic appliance requires natural use of the joint, or whether necessary motion is otherwise controlled, so that the muscles affecting joint motion, if not already atrophied, will become so. If there is no movement in the joint, as in ankylosis or complete paralysis, use of prosthesis is not to be expected, and the determination will be as though there were one in place.

(3) *Eyes, bilateral.* With visual acuity 5/200 or less or the vision field reduced to 5 degree concentric contraction in both eyes, entitlement on account of need for regular aid and attendance will be determined on the facts in the individual case.

(d) *Ratings under 38 U.S.C. 314(n).* The special monthly compensation provided by 38 U.S.C. 314(n) is payable for any of the conditions which follow. Amputation is a prerequisite except for loss of use of both arms. If a prosthesis cannot be worn at the present level of amputation but could be applied if there were a reamputation at a higher level, the requirements of this paragraph are not met; instead, consideration will be given to loss of natural elbow or knee action.

(1) Anatomical loss or loss of use of both arms at a level or with complications, preventing natural elbow action with prosthesis in place;

(2) Anatomical loss of both legs so near the hip as to prevent use of a prosthetic applicance;

(3) Anatomical loss of one arm so near the shoulder as to prevent use of a prosthetic applicance with anatomical loss of one leg so near the hip as to prevent use of a prosthetic appliance;

(4) Anatomical loss of both eyes.

(e) *Ratings under 38 U.S.C. 314 (o).* (1) The special monthly compensation provided by 38 U.S.C. 314(o) is payable for any of the following conditions:

(i) Anatomical loss of both arms so near the shoulder as to prevent use of a prosthetic appliance;

(ii) Conditions entitling to two or more of the rates (no condition being considered twice) provided in 38 U.S.C. 314(l) through (n);

(iii) Bilateral deafness rated at 60 percent or more disabling (and the hearing impairment in either one or both ears is service connected) in combination with service-connected blindness with bilateral visual acuity 5/200 or less.

(2) *Paraplegia.* Paralysis of both lower extremities together with loss of anal and bladder sphincter control will entitle to the maximum rate under 38 U.S.C. 314(o), through the combination of loss of use of both legs and helplessness. The requirement of loss of anal and bladder sphincter control is met even though incontinence has been overcome under a strict regimen of rehabilitation of bowel and bladder training and other auxiliary measures.

(3) *Combinations.* Determinations must be based upon separate and distinct disabilities. This requires, for example, that where a veteran who had suffered the loss or loss of use of two extremities is being considered for the maximum rate on account of helplessness requiring regular aid and attendance, the latter must be based on need resulting from pathology other than that of the extremities. If the loss or loss of use of two extremities or being permanently bedridden leaves the person helpless, increase is not in order on acount of this helplessness. Under no circumstances will the combination of "being permanently bedridden" and "being so helpless as to require regular aid and attendance" without separate and distinct anatomical loss, or loss of use, of two extremities, or blindness, be taken as entitling to the maximum benefit. The fact, however, that two separate and distinct entitling disabilities, such as anatomical loss, or loss of use of both hands and both feet, result from a common etiological agent, for example, one injury or rheumatoid arthritis, will not preclude maximum entitlement.

(4) *Helplessness.* The maximum rate, as a result of including helplessness as one of the entitling multiple disabilities, is intended to cover, in addition to obvious losses and blindness, conditions such as the loss of use of two extremities with absolute deafness and nearly total blindness or with severe multiple injuries producing total disability outside the useless extremities, these conditions being construed as loss of use of two extremities and helplessness.

(f) *Intermediate or next higher rate.* An intermediate rate authorized by this paragraph shall be established at the arithmetic mean, rounded to the nearest dollar, between the two rates concerned (38 U.S.C. 314 (p))

(1) *Extremities.* (i) Anatomical loss or loss of use of one foot with anatomical loss or loss of use of one leg at a level, or with complications preventing natural knee action with prosthesis in place, shall entitle to the rate between 38 U.S.C. 314(l) and (m).

(ii) Anatomical loss or loss of use of one foot with anatomical loss of one leg so near the hip as to prevent use of prosthetic appliance shall entitle to the rate under 38 U.S.C. 314(m).

(iii) Anatomical loss or loss of use of one foot with anatomical loss or loss of use of one arm at a level, or with complications, preventing natural elbow action with prosthesis in place, shall entitle to the rate between 38 U.S.C. 314(l) and (m).

(iv) Anatomical loss or loss of use of one foot with anatomical loss or loss of use of one arm so near the shoulder as to prevent use of a prosthetic appliance shall entitle to the rate under 38 U.S.C. 314(m).

(v) Anatomical loss or loss of use of one leg at a level, or with complications, preventing natural knee action with prosthesis in place with anatomical loss of one leg so near the hip as to prevent use of a prosthetic applicance, shall entitle to the rate between 38 U.S.C. 314(m) and (n).

(vi) Anatomical loss or loss of use of one leg at a level, or with complications, preventing natural knee action with prosthesis in place with anatomical loss or loss of use of one hand, shall entitle to the rate between 38 U.S.C. 314 (l) and (m).

(vii) Anatomical loss or loss of use of one leg at a level, or with complications,

preventing natural knee action with prosthesis in place with anatomical loss of one arm so near the shoulder as to prevent use of a prosthetic appliance, shall entitle to the rate between 38 U.S.C. 314 (m) and (n).

(viii) Anatomical loss of one leg so near the hip as to prevent use of a prosthetic appliance with anatomical loss or loss of use of one hand shall entitle to the rate under 38 U.S.C. 314(m).

(ix) Anatomical loss of one leg so near the hip as to prevent use of a prosthetic appliance with anatomical loss or loss of use of one arm at a level, or with complications, preventing natural elbow action with prosthesis in place, shall entitle to the rate between 38 U.S.C. 314 (m) and (n).

(x) Anatomical loss or loss of use of one hand with anatomical loss or loss of use of one arm at a level, or with complications, preventing natural elbow action with prosthesis in place, shall entitle to the rate between 38 U.S.C. 314 (m) and (n).

(xi) Anatomical loss or loss of use of one hand with anatomical loss of one arm so near the shoulder as to prevent use of a prosthetic applicance shall entitle to the rate under 38 U.S.C. 314(n).

(xii) Anatomical loss or loss of use of one arm at a level, or with complications, preventing natural elbow action with prosthesis in place with anatomical loss of one arm so near the shoulder as to prevent use of a prosthetic appliance, shall entitle to the rate between 38 U.S.C. 314 (n) and (o).

* * * * *

3. In § 3.551, paragraph (g) is added as follows:

§ 3.551 Reduction because of hospitalization.

* * * * *

(g) *Hospitalization for rehabilitation*—(1) *General.* The reduction required by paragraph (c)(2) or (c)(3) of this section shall not be made for up to three additional calendar months after the last day of the third month referred to in paragraph (c)(2) of this section, or after the last day of the month referred to in paragraph (c)(3) of this section, under the following conditions:

(i) The Chief Medical Director, or designee, certifies that the primary purpose for furnishing hospital or nursing home care during the additional period is to provide the veteran with a prescribed program of rehabilitation under chapter 17 of title 38, United States Code designed to restore the veteran's ability to function within the veteran's family and community; and

(ii) The veteran is admitted to a Veteran's Administration hospital or nursing home after October 16, 1981.

(2) *Continued hospitalization for rehabilitation.* The reduction required by paragraph (c)(2) or (c)(3) of this section shall not be made for periods after the expiration of the additional period provided by paragraph (g)(1) of this section under the following conditions:

(i) The veteran remains hospitalized or in a nursing home after the expiration of the additional period provided by paragraph (g)(1) of this section; and

(ii) The Chief Medical Director, or designee, certifies that the primary purpose for furnishing continued hospital or nursing home care after the additional period provided by paragraph (g)(1) of this section is to provide the veteran with a program of rehabilitation under chapter 17 of title 38, United States Code, designed to restore the veteran's ability to function within the veteran's family and community.

(3) *Termination of hospitalization for rehabilitation.* Pension in excess of $60 monthly payable to a veteran under this paragraph shall be reduced the end of the calendar month in which the primary purpose of hospitalization or nursing home care is no longer to provide the veteran with a program of rehabilitation under chapter 17 of title 38, United States Code designed to restore the veteran's ability to function within the veteran's family and community. (38 U.S.C. 3203(a).)

4. Section 3.650 is amended as follows:

(a) By removing the introductory portion preceding paragraph (a).

(b) By revising the introductory portion of paragraph (a) preceding subparagraph (1) and by adding paragraph (c) so that the added and revised material reads as follows:

§ 3.650 Rate for additional dependent.

(a) *Running awards.* Except as provided in paragraph (c) of this section where a claim is filed by an additional dependent who has apparent entitlement which, if established, would require reduction of pension, compensation or dependency and indemnity compensation being paid to another dependent, payments to the person or persons on the rolls will be reduced as follows:

* * * * *

(c) *Retroactive DIC award to a school child*—(1) *General.* If DIC (dependency and indemnity compensation) is being currently paid to a veteran's child or children under 38 U.S.C. 413(a), and DIC is retroactively awarded to an additional child of the veteran based on school attendance, the full rate payable to the additional child shall be awarded the first of the month following the month in which the award to the additional child is approved. The rate payable under the current award shall be reduced effective the date the full rate is awarded to the additional child. The rate payable to the additional child for periods prior to the date the full rate is awarded shall be the difference between the rate payable for all the children and the rate that was payable before the additional child established entitlement.

(2) *Applicability.* The provisions of paragraph (c)(1) of this section are applicable only when the following conditions are met:

(i) The additional child was receiving DIC under 38 U.S.C. 413(a) prior to attaining age 18; and

(ii) DIC for the additional child was discontinued on or after attainment of age 18; and

(iii) After DIC has been discontinued, the additional child reestablishes entitlement to DIC under 38 U.S.C. 413(a) based on attendance at an approved school and the effective date of entitlement is prior to the date the Veterans Administration receives the additional child's claim to reestablish entitlement. (38 U.S.C. 413(b)).

(3) *Effective date.* This paragraph is applicable to DIC paid after September 30, 1981. If DIC is retroactively awarded for a period prior to October 1, 1981, payment for the period prior to October 1, 1981 shall be made under paragraph (a) of this section and payment for the period after September 30, 1981, shall be made under this paragraph.

5. Section 3.653 is amended as follows:

(a) By inserting the words "or her" following the words "sent to him" in paragraph (c)(1) and (2).

(b) By revising paragraph (b) (gender changes) as follows:

§ 3.653 Foreign resident.

* * * * *

(b) *Retroactive payments.* Any amount not paid to an alien under this section, together with any amounts placed to the alien's credit in the special deposit account in the Treasury or covered into the Treasury as miscellaneous receipts under 31 U.S.C. 123–128 will be paid to him or her on the filing of a new claim. Such claim should be supported with evidence that the alien has not been guilty of mutiny, treason, sabotage or rendering assistance to an enemy, as provided in § 3.902(a). (38 U.S.C. 3109).

* * * * *

6. In § 3.667, paragraph (a)(3) is revised as follows:

§ 3.667 School attendance.

(a) *General.* * * *

(3) An initial award of DIC (dependency and indemnity compensation) to a child in the child's own right is payable from the first day of the month in which the child attains age 18 if the child was pursuing a course of instruction at an approved school on the child's 18th birthday, and if a claim for benefits is filed within 1 year from the child's 18th birthday. In the case of a child who attains age 18 after September 30, 1981, if the child was, immediately before attaining age 18, counted under 38 U.S.C. 411(b) for the purpose of determining the amount of DIC payable to the surviving spouse, the effective date of an award of DIC to the child shall be the date the child attains age 18 if a claim for DIC is filed within 1 year from that date. (38 U.S.C. 3010(e)).

* * * * *

7. In § 3.808, the introductory portion preceding paragraph (a) is revised as follows:

§ 3.808 Automobiles or other conveyances; certification.

A certification of eligibility for financial assistance in the purchase of one automobile or other conveyance in an amount not exceeding $4,400 (including all State, local and other taxes where such are applicable and included in the purchase price) and of basic entitlement to necessary adaptive equipment will be made where the claimant meets the requirements of paragraphs (a), (b), and (c) of this section.

* * * * *

[FR Doc. 82-15330 Filed 6-4-82; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-FRL 2125-5]

Approval and Promulgation of Implementation Plans; Connecticut; Alternative Emission Reductions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The purpose of this document is to approve the State Implementation Plan (SIP) revision for the Connecticut volatile organic compound (VOC) bubble regulation. This plan revision was prepared by the State to meet the requirements of Part D (Plan requirements for Non-Attainment Areas) and certain other sections of the Clean Air Act, as amended in 1977.

EFFECTIVE DATE: July 7, 1982.

FOR FURTHER INFORMATION CONTACT: Betsy Horne (617) 223-5630.

SUPPLEMENTARY INFORMATION: In a Notice of Proposed Rulemaking (NPR), published February 25, 1982 (47 FR 8212), EPA proposed approval of Regulation 19-508-20 (cc), which was submitted on December 15, 1980. During the public comment period only one letter was received and it fully supported the proposed approval.

The State's submittal and EPA's action were fully explained in the NPR and will not be restated here, except to highlight two points discussed in the NPR.

The first is the inclusion of three additional source categories (miscellaneous metal parts, manufacture of synthesized pharmaceutical products and graphic arts) eligible for bubbling. The NPR indicated that EPA was in the process of approving control limits for the three categories and proposed that they would also be eligible for inclusion under the bubble once their control limits were approved. A final rule approving control limits for these sources was published on February 17, 1982 (47 FR 6827). Therefore, consistent with the NPR, today's final action on the Connecticut bubble regulation includes these industrial sources as eligible to apply to bubble their VOC emissions.

The second concerns calculating equivalency. The NPR indicated that applicable plant owners could "propose emission limits different from those now specified in the SIP, so long as on a solids-applied basis the total allowable emissions for the plant remains the same or is reduced". Consistent with EPA policy, today's action approves in advance any bubble issued by the state which demonstrates equivalency, as described above, based on total plant-wide emissions.

Action

EPA is approving Connecticut Regulation 19-508-20 (cc) as submitted on December 15, 1980 as it applies to Regulation 19-508-20: (m), can coating; (n), coil coating; (o), fabric and vinyl coating; (p), metal furniture coating; (q), paper coating; (r), wire coating; (s), miscellaneous metal parts; (t), manufacture of synthesized pharmaceutical products and (v), graphic arts—rotogravure and flexography.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110(a) and Sec. 301(a), Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)))

Dated: May 28, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Connecticut was approved by the Director of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart H—Connecticut

Section 52.370, paragraph (c) is amended by adding subparagraph (23) as follows:

§ 52.370 Identification of plan.

* * * * *

(c) * * *

(23) Regulation 19-508-20(cc), Alternative Emission Reductions as it applies to Regulation 19-508-20: (m), can coating; (n), coil coating; (o), fabric and vinyl coating; (p), metal furniture coating; (q), paper coating; (r), wire coating; (s), miscellaneous metal parts; (t), manufacture of synthesized pharmaceutical products and (v), graphic arts—rotogravure and flexography, was submitted on December 15, 1980, and January 11, 1982, by the Commissioner of the Department of Environmental Protection.

[FR Doc. 82-15333 Filed 6-4-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 52

[A-FRL 2108-2]

Approval and Promulgation of Implementation Plans; New Hampshire Revisions—Ozone; Attainment Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The purpose of this document is to approve in part the State Implementation Plan (SIP) revisions for the State of New Hampshire involving operating permits with compliance schedules for six major sources of volatile organic compounds (VOC). These permits were submitted by the State in response to a condition for approval imposed on the ozone control portion of the SIP in the April 11, 1980 **Federal Register** (45 FR 24869). The intended effect of this action is to reduce the amount of hydrocarbons released from stationary sources, thereby decreasing the amount of ozone (a component of "smog") formed in the atmosphere.

EFFECTIVE DATE: This action will be effective August 6, 1982 unless notice is received on or before July 7, 1982, someone wishes to submit adverse or critical comments.

ADDRESSES: Comments should be sent to Harley F. Laing, Chief, Air Branch, Room 1903, JFK Federal Building, Boston, Massachusetts 02203.

Copies of the New Hampshire submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Air Branch, Room 1903, JFK Building, Boston, MA 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20400; Office of the Federal Register, 1100 L Street, NW., Washington, D.C.; and Air Resources Agency, Health and Welfare Building, Hazen Drive, Concord, New Hampshire 03301.

FOR FURTHER INFORMATION CONTACT: Alan E. Dion, (617) 223–5630.

SUPPLEMENTARY INFORMATION: In the April 11, 1980 **Federal Register** (45 FR 24869) EPA conditionally approved the Ozone Attainment Plan for the Merrimack Valley—Southern New Hampshire Interstate Air Quality Control Region. New Hampshire is a rural nonattainment state, for which EPA requires the implementation of RACT controls as expeditiously as practicable only on sources with the potential to emit more than 100 tons per year (TPY). It was EPA's view that most VOC sources were capable of achieving compliance within one to two years. The New Hampshire VOC control regulation submitted on May 29, 1979, allowed affected sources until December 31, 1982 to achieve compliance, without any requirement to justify the period of time needed or to set increments of progress toward compliance. Since this was not consistent with EPA policy, this portion of the 1979 SIP was approved on the condition that the State submit operating permits with schedules for expeditious compliance by all regulated sources. In response the State submitted permits on May 2, 1980 and May 16, 1980 for the nine major VOC sources affected by the conditional approval.

Two of these sources, Markem Corporation and Velcro USA, Inc., have permits which contain compliance schedules that limit their allowable emissions to less than 100 TPY before the end of 1982. Since EPA policy allows the use of permits to define limitations of a source's potential to emit (see August 22, 1980 Memorandum from Richard Rhoads to Tom Devine, available at the locations listed in the ADDRESSES section), and since under these permits the affected sources will emit less than 100 TPY, these compliance schedules are approvable. On January 6, 1982, the state submitted a revised permit for Velcro USA extending its compliance date to April 1, 1982. EPA finds this extension approvable.

One source, the Oak Materials Group, has converted its solvent usage to methylene chloride. Methylene chloride is a solvent which is exempt from control under the New Hampshire VOC regulations. EPA stated in the April 11, 1980 **Federal Register** (45 FR 24871) that it does not encourage the use of an exempt solvent like methylene chloride to achieve compliance, since it has been identified as mutagenic in bacterial and mammalian cell test systems and is therefore a possible carcinogen or mutagen to humans. Nonetheless, EPA also stated that it would not disapprove a SIP for allowing use of methylene chloride, and this permit is therefore approvable.

Two more sources, Mobil Oil Corporation and ATC Petroleum, Inc., have compliance schedules which call for utilizing Reasonably Available Control Technology (RACT) measures to achieve compliance by the end of 1982. These schedules are approvable.

Additionally, on November 20, 1981, the State submitted a revised permit for Nashua Corporation's Nashua facility. The state compliance schedule requires that the only regulated line emit less than 100 tons per year by the end of 1985. The line coats a pressure sensitive recorder paper which cannot be converted to low solvent. Furthermore, the product is being phased out since there is no long-term demand for it. Therefore, if the company was required to achieve the CTG limit, it would be compelled to buy and install add-on control equipment which would be used for less than three years. EPA has reviewed the compliance schedule for this facility and has determined that it represents RACT.

EPA does not have sufficient data to make a compliance determination for Ideal Tape, for Nashua Corporation's Merrimack facility or for Essex Group. Through the State Air Agency, EPA has requested additional information from these three sources to support each of their RACT demonstrations, and EPA will take no action on these permits at this time.

Since the Agency views this SIP revision as noncontroversial and routine, EPA is today approving it without prior proposal. The public should be advised that this action will be August 6, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Action

EPA is approving the operating permits with compliance schedules for ATC Petroleum, Inc., Nashua Corporation (Nashua), Markem Corporation, Mobil Oil Corporation, Oak Materials Group, and Velcro USA, Inc. EPA is taking no action on Ideal Tape, Essex Group and Nashua Corporation (Merrimack).

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a))

Dated: May 28, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of New Hampshire was approved by the Director of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart EE—New Hampshire

Section 52.1520, paragraph (c) is amended by adding subparagraph (20) as follows:

§ 52.1520 Identification of plan.

* * * * *

(c) * * *

(20) Revisions to meet the requirements of Part D for the Ozone Control Plan were submitted on May 2, 1980; May 16, 1980; November 20, 1981 and January 8, 1982. Included are operating permits with compliance schedules for: ATC Petroleum, Inc., Markem Corporation, Mobil Oil Corporation, Oak Materials Group, Velcro USA, Inc., and Nashua Corporation's Nashua facility.

[FR Doc. 82-15307 Filed 6-4-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 420

[WH-FRL 2142-3]

Iron and Steel Manufacturing Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards, Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: On May 27, 1982, EPA promulgated regulations to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works from facilities engaged in manufacturing steel. 47 FR 23258. Inadvertently, EPA announced in the "**DATE**" section of the **Federal Register** publication that the regulation "shall become effective May 27, 1982", on publication. This statement was incorrect. The "**DATE**" section should instead read as set forth below. The purpose of this notice is to inform the public of the correct effective dates of the regulation.

DATE: This regulation shall be considered issued for purposes of judicial review at 1:00 p.m. Eastern time on June 10, 1982. It shall become effective July 10, 1982. The compliance date for the BAT regulations is as soon as possible, but in any event no later than July 1, 1984. The compliance date for New Source Performance Standards (NSPS) and Pretreatment Standards for New Sources (PSNS) is the date the new source begins operations. The compliance date for Pretreatment Standards for Existing Sources (PSES) is within 3 years after this rule becomes effective.

Under Section 509(b)(1) of the Clean Water Act judicial review of this regulation can be made only by filing a petition for review in the United States Court of Appeals within 90 days after the regulation is considered issued for purposes of judicial review. Under Section 509(b)(2) of the Clean Water Act, the requirements in this regulation may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

FOR FURTHER INFORMATION CONTACT: Technical information and copies of technical documents may be obtained from Mr. Ernst P. Hall (202-426-2586), at: Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. The economic analysis may be obtained from Mr. Robert Greene, Office of Policy Analysis (PM 220), at the same address.

Dated: June 3, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-15560 Filed 6-4-82; 9:20 am]
BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 50, 71, 91, 107, 111 and 189

[CGD 81-039a]

Disestablishment of Merchant Marine Technical Branch, Fifth Coast Guard District

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: As a result of an evaluation of its Merchant Marine Technical Branch field organization, the Coast Guard decided to disestablish the Merchant Marine Technical Branch of the Fifth Coast Guard District, Portsmouth, Virginia. As of July 1, 1981, the plan review duties for the geographical area served by the Fifth Coast Guard District were assumed by the Merchant Marine Technical Branch, Third Coast Guard District, New York, NY. Those directly affected by this action were notified directly in March 1981 by CCGD5 (mmt).

DATE: Disestablishment was effective July 1, 1981.

FOR FURTHER INFORMATION CONTACT: LCDR David B. Anderson, Merchant Marine Technical Division (G-MMT-4/13), Room 1300C, Coast Guard Headquarters Building, 2100 2nd Street, SW., Washington, D.C. 20593 (202-426-2197).

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in the drafting of this rule are LCDR David B. Anderson, Project Manager, Office of Merchant Marine Safety and Mr. Michael N. Mervin, Project Attorney, Office of the Chief Counsel.

Discussion

The Coast Guard has completed an evaluation of its Merchant Marine Technical Branch field organization, taking into account many factors including personnel considerations and system efficiency. As a result, the Commandant concluded that a consolidation of the Merchant Marine Technical Branches of the Third and Fifth Coast Guard Districts was necessary for improved overall plan review efficiency, quality and consistency. Accordingly, the workload and military personnel previously assigned to the Fifth District's Merchant Marine Technical Branch were reassigned to the Third Coast Guard District.

Shipyards, designers and other businesses and persons within the geographical area of the Fifth Coast Guard District who are directly affected by this action were informed by letter from CCGD5 (mmt) in March 1981.

Because these amendments are of an administrative nature concerning the organization of the Coast Guard, they have no economic or environmental impacts. Therefore, it is not necessary to prepare a Regulatory Impact Analysis, Environmental Assessment, Regulatory Flexibility Analysis, or final evaluation.

Since this amendment relates to departmental rules of organization, it is excepted from notice and public procedures requirements. It is made effective immediately because it is not a substantive rule.

List of Subjects in 46 CFR Parts 50, 71, 91, 107, 111, and 189

Marine safety, Vessels, Organization and functions (government agencies).

In consideration of the foregoing, Chapter I of Title 46, Code of Federal Regulations, is amended as follows:

PART 50—GENERAL PROVISIONS

1. In § 50.20-5, by removing and reserving paragraph (d)(5) and revising paragraph (d)(1) to read as follows:

§ 50.20-5 Procedures for submittal of plans.

* * * * *

(d) * * *

(1) Commander, 3d Coast Guard District (mmt), Governors Island, New York, N.Y. 10004, for the geographical area covered by the 1st, 3rd, and 5th Coast Guard Districts.

* * * * *

(5) [Removed and reserved]

* * * * *

PART 71—INSPECTION AND CERTIFICATION

2. In § 71.65–15, by removing and reserving paragraph (a)(3)(v) and revising paragraph (a)(3)(i) to read as follows:

§ 71.65–15 Procedure for submittal of plans.

(a) * * *

(3) * * *

(i) Commander, 3rd Coast Guard District (mmt), Governors Island, New York, N.Y. 10004 for the geographical area covered by the 1st, 3rd and 5th Coast Guard Districts.

* * * * *

(v) [Removed and reserved]

* * * * *

PART 91—INSPECTION AND CERTIFICATION

3. In § 91.55–15, by removing and reserving paragraph (a)(3)(v) and revising paragraph (a)(3)(i) to read as follows:

§ 91.55–15 Procedure for submittal of plans.

(a) * * *

(3) * * *

(i) Commander, 3rd Coast Guard District (mmt) Governors Island, New York, N.Y. 10004, for the geographical area covered by the 1st, 3rd, and 5th Coast Guard Districts.

* * * * *

(v) [Removed and reserved]

* * * * *

PART 107—INSPECTION AND CERTIFICATION

4. In § 107.317, by removing and reserving paragraph (b)(2) and revising paragraph (b)(1) to read as follows:

§ 107.317 Addresses for submittal of plans, specifications, and calculations.

* * * * *

(b) * * *

(1) Commander (mmt), 3rd Coast Guard District, Governors Island, New York N.Y. 10004, for the geographical area covered by the 1st, 3rd, and 5th Coast Guard Districts.

* * * * *

(2) [Removed and reserved]

* * * * *

PART 189—INSPECTION AND CERTIFICATION

5. In § 189.55–15, by removing and reserving (a)(3)(v) and revising paragraph (a)(3)(i) to read as follows:

§ 189.55–15 Procedure for submittal of plans.

(a) * * *

(3) * * *

(i) Commander, 3rd Coast Guard District (mmt), Governors Island, New York, N.Y. 10004, for the geographical area covered by the 1st, 3rd, and 5th Coast Guard Districts.

* * * * *

(v) [Removed and reserved]

* * * * *

(46 U.S.C. 367, 369, 375, 391, 392, 416, 49 U.S.C. 1655(b), 49 CFR 1.49(b))

Dated: May 27, 1982.

L. N. Hein,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 82–15180 Filed 6–4–82; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL MARITIME COMMISSION

46 CFR Part 510

[General Order 4, Revised; Amdt. 1; Docket No. 81–76]

Licensing of Independent Ocean Freight Forwarders

AGENCY: Federal Maritime Commission.

ACTION: Final rules.

SUMMARY: This amends the Commission's independent ocean freight forwarder regulations to remove restrictions against affiliations between such forwarders and persons who have a beneficial interest in export shipments via oceangoing common carriers. These revisions are necessary to conform the regulations to amendments to the Shipping Act, 1916, made by the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35).

EFFECTIVE DATES: The changes contained herein will be effective June 7, 1982, except for the change to § 510.33(c) which will be effective September 7, 1982.

FOR FURTHER INFORMATION CONTACT: Jeremiah D. Hospital, Chief, Office of Freight Forwarders, Federal Maritime Commission, Room 10105, 1100 L Street, NW., Washington, D.C. 20573, (202) 523–5843.

SUPPLEMENTARY INFORMATION: The Federal Maritime Commission's rules governing the licensing and operation of independent ocean freight forwarders are contained at 46 CFR Part 510[1] and are commonly known as General Order 4, Revised. The definition of the term "independent ocean freight forwarder" and the conditions under which forwarders are licensed to operate are based on and subject to sections 1 and 44 of the Shipping Act, 1916 (the Act). As a result of amendments made by Pub. L. 97–35 to sections 1 and 44 of the Act,[2] the Commission, on December 28, 1981, proposed five revisions to its rules solely for the purpose of conforming its rules to the statutory amendments. Those five revisions are now being adopted by the Commission.

Section 1 of the Act has been amended by Pub. L. 97–35 to define a forwarder as follows:

> The term "independent ocean freight forwarder" means a person that is carrying on the business of forwarding for a consideration who is not a shipper, consignee, seller, or purchaser of shipments to foreign countries.

Previously, the definition read:

> An "independent ocean freight forwarder" is a person carrying on the business of forwarding for a consideration who is not a shipper or consignee or a seller or purchaser of shipments to foreign countries, *nor has any beneficial interest therein, nor directly or indirectly controls or is controlled by such shipper or consignee or by any person having such a beneficial interest.* (emphasis added.)

Section 44 of the Act has been amended by adding new subsection (f):

> (f) A forwarder may not receive compensation from a common carrier with respect to any shipment in which the forwarder has a beneficial interest or with respect to any shipment in which any holding company, subsidiary, affiliate, officer, director, agent, or executive of such forwarder has a beneficial interest.

The above-quoted changes to sections 1 and 44 of the Act are scheduled to remain in effect only until December 31, 1983. After that date the definition of an "independent ocean freight forwarder" will revert back to that in effect prior to August 13, 1981, the date of enactment of the amendments.

Comments on the Commission's proposed revisions to General Order 4 were received from the National Customs Brokers and Forwarders Association of America, Inc. (the Association), which represents over three hundred and fifty forwarders and/or customs brokers, and an individual

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[1] See 46 FR 24505, May 1, 1981.

[2] See section 1608 of Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981, effective August 13, 1981.

forwarder, Bee International, Inc. of Jacksonville, Florida (Bee).

The Assocation states that although the proposed rule revisions comport with the changes made by Pub. L. 97–35, additional rules are required to permit effective supervision over exporter affiliated forwarders. Otherwise, the Association states, wholesale violations of the law will result. The Association suggests that forwarders affiliated with exporters be made to identify such affiliations on their stationery and billing forms so that a prospective client-exporter may know, before hiring such forwarder, that the forwarder is affiliated with a potential competitor. The Association also suggests that affiliated forwarders be made to certify semi-annually to the Commission (1) the name of each affiliated exporter, along with the names of each affiliate's officers, directors and shareholders; (2) the number of shipments handled by the forwarder for each of its affiliates, together with a copy of each bill of lading; and (3) that no compensation was received from oceangoing common carriers on any such shipments. The Association also suggests that a forwarder who becomes affiliated with an exporter be made to advise the Commission in writing within ten days, setting forth the name of the exporter, its location, and the names of the exporter's officers, directors and shareholders.

Bee states that the proposed amendments could result in a loss of business and in illegal rebating, and sets forth examples of how illegal rebates could occur without detection by the Commission or by the ocean carriers. Bee concludes by stating that either it does not understand the new law and proposed rules, or, it it does, it does not understand why "the U.S. Government and the FMC" would allow such a situation. Whatever the merits of Bee's objections, they are clearly beyond the scope of this rulemaking proceeding.

The Association's suggestions would result in a substantial additional paperwork and reporting burden upon the ocean freight forwarder industry. In addition the Commission cannot publish as a final rule the new regulations requested by the Association. Such regulations would have to be made the subject of a new proposed rulemaking proceeding so that comments could be received from all segments of the public.

The Commission does not wish to downplay the seriousness with which it views the Association's concern that surreptitious siphoning off of business will occur. However, section 20 of the Shipping Act, 1916, already prohibits forwarders from passing on to their shipper affiliates, here or in foreign countries, the confidential, proprietary information a forwarder acquires in its position of fiduciary for U.S. exporters. The Commission would not hesitate to bring the full weight of the law to bear upon any forwarder found to violate section 20. A finding that a shipper-affiliated forwarder has abused its fiduciary responsibility by improperly disclosing to its foreign or domestic affiliates any information which may be used to the detriment of U.S. exporters would subject the forwarder to possible revocation of its license and the imposition of appropriate civil penalties.

Pursuant to 5 U.S.C. 601 *et seq.*, the Commission certifies that the rule revisions adopted herein will not have a significant economic impact on a substantial number of small entities. The proposals do not require additional reports or records, and are based entirely on changes to the underlying law. The economic impact which will occur will occur as a direct result of the changes to the law.

List of Subjects in 46 CFR Part 510

Freight forwarders.

PART 510—LICENSING OF INDEPENDENT OCEAN FREIGHT FORWARDERS

Therefore, pursuant to sections 18, 21, 43, and 44 of the Shipping Act, 1916 (46 U.S.C. 817, 820, 841a and 841b), and 5 U.S.C. 553, the following provisions of Title 46 of the Code of Federal Regulations are amended to read as follows:

§ 510.2 [Amended]

1. Section 510.2(j) is revised to read as follows:

* * * * *

(j) "Independent ocean freight forwarder" refers to a person performing freight forwarding services for a consideration, either monetary or otherwise, who is not a shipper or consignee or seller or purchaser of property in commerce from the United States.

* * * * *

§ 510.12 [Revised]

2. Section 510.12 is revised to read as follows:

No person is eligible for a license who is a shipper, consignee, seller, or purchaser of shipments in commerce from the United States.

§ 510.32 [Amended]

3. Section 510.32(a) is revised to read as follows:

(a) *Prohibition.* No licensee shall act in the capacity of a shipper, consignee, seller, or purchaser of any shipment in commerce from the United States.

* * * * *

§ 510.33 [Amended]

4. Section 510.33(c) is revised to read as follows:

* * * * *

(c) *Form of certification.* Prior to receipt of compensation, the licensee shall file with the carrier, in addition to the anti-rebate certification required by § 510.31(h), a signed certification as set forth below on one copy of the relevant ocean bill of lading which indicates performance of at least two of the listed services in addition to arranging for space:

The undersigned hereby certifies that neither it nor any holding company, subsidiary, affiliate, officer, director, agent or executive of the undersigned has a beneficial interest in this shipment; that it is the holder of valid FMC License No. —, issued by the Federal Maritime Commission and has, in addition to soliciting and securing the cargo specified herein or booking or otherwise arranging for space for such cargo, performed at least two (2) of the following services, as indicated:

(1) Coordinated the movement of the cargo to shipside.

(2) Prepared and processed the ocean bill of lading.

(3) Prepared and processed dock receipts or delivery orders.

(4) Prepared and processed consular documents or export declarations.

(5) Paid the ocean freight charges.

A copy of such certificate shall be retained by the licensee pursuant to § 510.34.

* * * * *

§ 510.33 [Amended]

5. Section 510.33 is amended by the addition of new paragraph (h):

* * * * *

(h) A freight forwarder may not receive compensation from an ocean-going common carrier with respect to any shipment in which the forwarder has a beneficial interest or with respect to any shipment in which any holding company, subsidiary, affiliate, officer, director, agent, or executive of such forwarder has a beneficial interest.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82–15227 Filed 6–4–82; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 22

[Gen. Docket No. 80-183; RM-2365; RM-2750; RM-3047; RM-3068; FCC 82-202]

Allocation of Spectrum In a Certain MHz Band and To Establish Other Rules, Policies, and Procedures for One-Way Paging Stations In the Domestic Public Land Mobile Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This First Report and Order allocates 3 MHz of spectrum for paging services in the 929–932 MHz band. Private paging services will use frequency band 929–930 MHz, common carrier services will use frequency band 931–932 MHz, with a flexible boundary between the two bands effective after five years. The 930–931 MHz band will be reserved for advanced technology paging systems. This allocation was made in response to petitions filed by the Ad Hoc Private Paging Committee and Telocator Network of America. These new paging frequencies will allow for substantial growth of the paging industry, which has been restricted by a shortage of frequencies.

EFFECTIVE DATE: July 7, 1982.

FOR FURTHER INFORMATION CONTACT: Rodney Small, (202) 653–8169; Stephen Markendorff, (202) 632–6450.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 2

Communications equipment, Radio.

47 CFR Part 22

Communications common carriers, Communications equipment, Mobile radio.

First Report and Order

Adopted: April 29, 1982.
Released: May 14, 1982.

In the matter of amendment of Parts 2 and 22 of the Commission's rules to allocate spectrum in the 928–941 MHz Band and to establish other rules, policies, and procedures for one-way paging stations in the domestic public land mobile radio service; General Docket No. 80–183, RM–2365 RM–2750 Rm–3047 RM–3068.

I. Introduction and Background

1. On April 24, 1980, the Commission adopted a *Notice of Proposed Rule Making*[1] in this proceeding which proposed that the 3 MHz of spectrum from 929 to 932 MHz be allocated for private and common carrier paging systems. This *Notice* followed the traditional administrative approach to spectrum allocation by attempting to determine the need for given types of service and then allocating separate blocks of frequencies for each. A subsequent *Supplemental Notice of Proposed Rulemaking*[2] proposed an alternative allocation plan which provided for greater flexibility. Both *Notices* proposed that 1 MHz of spectrum (forty 25 kHz frequencies) each be allocated for private and common carrier systems, with 1 MHz of spectrum in reserve. However, the *Supplemental Notice* proposed possible use of private frequencies by common carriers and vice-versa after a five year exclusive period and did not earmark frequencies for a particular type of paging use such as tone-only, tone-voice, or tone-optical readout. Also, the *Supplemental Notice* did not propose either a restriction on message length or required sharing among common carriers, as had the initial *Notice*.

2. Twenty-three sets of comments were filed in this proceeding, with an additional eleven sets of reply comments.[3] In general, the comments favored the more flexible approach set forth in the *Supplemental Notice*, and it is that approach which we have basically followed in this *Report and Order*. However, it should be noted that the initial *Notice* and the comments raised important issues not covered in the *Supplemental Notice*, and we have addressed those issues here.

II. Discussion

A. Amount of Spectrum To Be Allocated

3. Comments were unanimous in supporting an allocation of at least 3 MHz of spectrum for paging systems, with some stating that more spectrum was required. Both of the original petitioners—The Ad Hoc Private Paging Committee (AHPPC) and Telocator Network of America (Telocator)—expressed this view. AHPPC stated that at least 60 additional private paging frequencies are needed, as opposed to the 40 proposed in the two *Notices*. Telocator stated that a total of 7 MHz, not 3 MHz, of spectrum is needed to accommodate the rapid paging growth that it foresees.

4. Although both of the above projections are plausible, we conclude that the studies on which we relied in 1980 are still the best indicators of future paging demand.[4] Furthermore, we are concerned that an increased allocation could promote inefficient use of the 900 MHz band, which is also in demand by other services. Accordingly, we are retaining the proposed allocation of 1 MHz of spectrum each for common carrier and private paging systems, with an additional 1 MHz of spectrum in reserve.

B. Frequency Band To Be Used

5. *Suitability of 900 MHz band.* We received few comments on our proposal to use the 900 MHz band for this allocation. One party, however, did submit extensive comments on the suitability of this band for paging. Jan David Jubon, a consulting engineer, expressed concern about the building penetration characteristics of 900 MHz, saying that the Commission should study the characteristics of the 900 MHz band before adopting any rules. He also recommended that authorizations under Part 22 of the Commission's Rules be granted only on a developmental or an experimental basis for two years to allow the Commission to study the potential of 900 MHz paging before formulating appropriate rules.

6. We have considered these comments and concluded that, based upon our experience with private two-way systems in the 800 MHz band, the 900 MHz band is indeed suitable for paging. Since the propagation characteristics of these bands are similar, we also conclude that we have sufficient information to authorize 900 MHz paging systems on a regular, rather than a developmental, basis, particularly in view of our decision to authorize frequencies based on mileage separation only, *see* paragraphs 53–61 below. In our view, developmental authorizations could deter licensees from investing in operational systems, without serving any apparent public interest purpose.

7. *Location of band.* The National Telecommunications and Information Administration (NTIA) in its comments proposed to move the paging band from 929–932 MHz to 932–935 MHz so that a Federal Government requirement for low-capacity fixed service might be accommodated at 929–932 MHz and 932–935 MHz. This proposal drew little

[1] One-Way Signaling in the 900 MHz Band, *Docket 80–183*, FCC 80–231, Notice of Proposed Rulemaking, released May 8, 1980, 45 FR 32013 (hereafter "NPRM").

[2] One-Way Signaling in the 900 MHz Band, *Docket 80–183*, FCC 80–510, Supplemental Notice of Proposed Rulemaking, released November 4, 1980, 45 FR 73979 (hereafter "*Supplemental Notice*").

[3] A complete list of parties commenting is contained in Appendix A.

[4] Notice, *supra*, n. 1, at para 9, 45 FR at 32014.

comment. Some commenters, however, did state that no justification has been made for Government use of the 929–932 MHz band, and that in its absence the paging band should remain at 929–932 MHz.

8. The Commission and the NTIA have reached an agreement concerning other spectrum for the proposed government low-capacity fixed service. Therefore, we shall position the paging band at 929–932 MHz as we originally proposed. This allocation will not preclude the government from providing the proposed low-capacity fixed service.

9. In the *Supplemental Notice,* we positioned the private radio and common carrier bands adjacent to each other, with the reserve band at one end of the allocation. AHPPC proposed that the Commission use an assignment scheme whereby the private, common carrier and reserve frequencies all be "interleaved," rather than assigned in contiguous blocks of 40 frequencies each.[5] Specifically, AHPPC proposed that the Commission designate the first 10 frequencies in this allocation as private frequencies, followed by 10 as common carrier frequencies, 10 as reserve frequencies, and so forth, until all 120 frequencies were designated. According to AHPPC, its proposal would allow greater separation between frequencies within the same service and would allow licensees to combine transmitters on a single antenna. We have considered AHPPC's proposal for interleaving these bands and determined that the small number of situations where licensees might benefit from combining transmitters for the same service on a single antenna would not justify the administrative burden associated with assigning and keeping track of frequencies that are not contiguous. In addition, interleaving does not necessarily resolve the problem of placing adjacent frequencies on the same antenna structure. Even with interleaving there can be cases where adjacent frequencies would be assigned on the same antenna structure unless special precautions were taken. These same precautions could be taken without interleaving to assure that adjacent frequencies are not assigned on the same structure. Further, interleaving could restrict future use of the reserve pool. Instead of leaving a contiguous 1 MHz reserve band, there would be four 250 kHz bands. Thus, if transmitters with different bandwidths were developed, the lack of a large frequency band could restrict these technological benefits. We conclude that the small, if any, advantage of interleaving the frequencies is not sufficient to offset the loss of 40 contiguous frequencies in the reserve pool. Therefore, we are positioning the private and common bands as originally proposed with the reserve band in middle of the allocation. This will allow either the private or common carrier users to easily access the reserve when needed.

C. Flexible Boundary Concept

10. One of the more controversial issues in this proceeding is the proposed flexible boundary between the private and common carrier segments of the band. Under this proposed plan, either a common carrier or private licensee could be assigned a frequency from the other's allocation if its allocation in a given area were exhausted. As proposed, this boundary would not become flexible until after a five year period of exclusive use had expired. The comments on this proposal were generally favorable.

11. While we too are in favor of the flexible boundary concept, we foresee potential problems in implementing such a plan. This is because the standards used in assigning common carrier frequencies are different from those used in assigning private radio frequencies. For example, as discussed in paragraphs 53–61, the common carrier frequencies in this allocation will be assigned on the basis of fixed mileage separation criteria. On the other hand, the Commission recently proposed to have coordinators outside the Commission recommend frequency assignments in the private radio allocation.[6] In making their recommendations, these frequency coordinators will not necessarily follow the same criteria used by the Commission in assigning the common carrier frequencies, but may use any criteria they choose. In addition, different standards are presently applied in the private and common carrier services to determine when a licensee has sufficiently "loaded" a frequency to justify grant of an additional frequency. These different standards raise questions as to how the Commission should treat common carriers or private users when they apply for a frequency in the other's allocation. For this reason, while we are adopting the concept of the flexible boundary, we are not issuing rules to implement the flexible boundary plan at this time. In the meantime, we encourage licensees to inform us of any other implementation problems they foresee and any ways they propose to resolve these problems. We anticipate that such information would be provided within four years of the release date of the *Order,* in sufficient time to allow the Commission to determine what, if any, rules to adopt to implement the flexible boundaries approved herein.

12. While the PRB and the Common Carrier methods of frequency assignment do differ, these differences are the result of different regulatory schemes. The Common Carrier Bureau approach is necessary to ensure that interference-free service is provided in all cases. Common Carriers provide interference-free service for hire while the PRB licensees normally use radio in their own business enterprises and are not guaranteed this protection. Neither the Common Carrier Bureau nor the PRB approach is necessarily preferable in an absolute sense. Each Bureau has chosen the approach best suited to the type of service that is regulates. Unfortunately, this makes the flexible boundary plan more difficult to implement.

D. Restrictions on Use of Reserve Frequencies

13. In the initial *Notice,* we proposed to leave 1 MHz of this allocation in reserve to allow for potential future use by advanced technology paging systems. We said in that *Notice* that the reserve band was not meant to be a "spill-over" for tone-only or tone-voice systems which use current technology, but was rather a band for technologies which are only now being developed. We received several comments on this proposal which reflect a variety of views. AT&T and IBM, for example, commented that access to the reserve band should be restricted to advanced technology systems. On the other hand, several commenters advocated use of this band by current technology systems if the remainder of the allocation is exhausted.

14. We have considered these comments and conclude that the reserve band frequencies will be available only for advanced technology paging systems. We find this restriction is necessary to encourage development of such systems. We intend to explore potential uses of this band in another *Notice* to be issued in the near future. The 900 MHz paging band will begin at 929 MHz and terminate at 931 MHz, as follows:

929.000–930.000 (forty 25 kHz frequencies)—Public Safety, Industrial Land Transportation (Private).

[5] *Ex parte* presentation to Commission staff on July 8, 1981. As required by Commission Rules, a summary of the presentation was placed in this Docket.

[6] Further Notice of Proposed Rulemaking, Docket 80–183, released March 31, 1982.

930.000–931.000 (forty 25 kHz frequencies)—Reserve for one-way paging systems.
931.000–932.000 (forty 25 kHz frequencies)—Domestic Public (Common Carrier).

III. Private Radio Issues

15. There were other important issues addressed in both *Notices* and in the comments that pertain in general to the Private Radio Services, and in particular to the question of efficient use of private paging frequencies. Due to recent information received from AHPPC suggesting the possibility of much more efficient use of private frequencies through coordination,[7] we recently issued a further *Notice of Proposed Rule Making* concerning the private paging frequencies at 900 MHz. We therefore are deferring consideration of specific private paging rules at 900 MHz until resolution of the *Further Notice*, which was released on March 31, 1982. The remainder of this *Report and Order* therefore discusses and resolves issues relating to the common carrier allocation at 900 MHz.

IV. Common Carrier Regulatory Framework

A. Types of Signaling Permitted

16. In the initial *Notice*, we proposed setting aside two common carrier frequencies for tone-optical readout paging to encourage the use of this spectrally efficient mode of communications.[8] We also proposed to authorize the use of these frequencies on a time-shared basis, in view of the large number of subscribers that can be accommodated on a single frequency using the tone-optical readout mode.[9] In the frequencies not restricted to tone-optical readout paging, we proposed to allow any form of one-way communications consistent with our modulation and bandwidth limitations. This would permit the use of the 900 MHz paging frequencies for one-way transmission of tone-only, tone-voice, tone-optical readout and record paging signals, as well as other data communications. To promote efficient use of these frequencies, we proposed in the *Notice* to limit the duration of any single signaling communication to 15 seconds.[10] In addition, we proposed to permit signaling communications to fixed receivers on a secondary, interruptible basis.

17. In the *Supplemental Notice*, we proposed not to earmark any common carrier frequencies for tone-optical readout paging. Instead, we would allow market forces to determine how these frequencies are used. We also proposed in the *Supplemental Notice* not to impose restrictions on message length in a common carrier system. Our rationale for this proposal was that a common carrier may find that it is in its own financial self-interest to limit message length. However, it may also wish to give subscribers the option of sending a longer (or shorter) message for an additional (or lesser) charge.

18. We have carefully considered this matter and decided not to earmark common carrier frequencies for any specific use. Thus, all common carrier frequencies will be available for any type of paging use consistent with our modulation and bandwidth requirements. All parties who commented on the subject favored this approach, reasoning that it will allow market forces to determine how many frequencies will be available for various types of paging. We concur with these views. We no longer view tone-optical readout paging as a fledgling technology in need of Commission encouragement to develop, since this technology is currently in use on existing paging systems. Thus, we see little benefit to be gained from earmarking these frequencies for exclusive tone-optical readout use. On the contrary, by not earmarking these frequencies, the public should benefit by encouraging increased competition among different types of paging systems and increased consumer choices.

19. We have also decided not to impose any restrictions on the length of paging messages on the 900 MHz frequencies. This decision was solidly supported by all those who commented on this issue. Since the common carrier is providing a service to the public, we believe it can best determine whether message length limitations are desired by the public it serves. Allowing the common carrier to make this determination should encourage the most economically efficient use of these frequencies. With respect to signaling communications to fixed receivers, we have decided at this time to apply our rule for existing frequencies to the 900 MHz frequencies.[11] We shall discuss allowing signaling to fixed receivers on all paging frequencies in *CC Docket 80–57*, which concerns general revisions to Part 22 of the Commission's Rules.[12] Because *CC Docket 80–57* applies to all public mobile radio service frequencies, it is a more appropriate proceeding for the general discussion of this issue.

B. Eligibility

20. In our initial *Notice*, we proposed to allow any existing or proposed communication common carrier—either radio common carrier [13] (RCC) or wireline common carrier—to apply for the 900 MHz common carrier frequencies. Under this proposal, there would be one allocation for both RCCs and wireline carriers. We received a number of comments on this later proposal. AT&T and NTIA supported the one allocation proposal, saying that separate allocations are not necessary to promote competition and could actually retard effective competition and spectrum use. NTIA and Mobilfone of Northeastern Pennsylvania, Inc. (Mobilfone), suggested that wireline carriers be required to offer paging sevices through a separate subsidiary to remove the opportunity for cross-subsidization of paging services. In the alternative, Mobilfone asked that the Commission require wireline carriers to maintain and produce separate books for their wireline and paging operations. According to Mobilfone, this would allow the Commission to determine whether cross-subsidization and non-compensatory pricing were occuring.

21. On the other hand, GTE Service Corporation (GTE) commented that separate allocations have been successful in stimulating mobile radio offerings by both RCCs and wireline carriers. According to GTE, separate allocations would allow the development of wireline service on a competitive basis, while allowing RCCs to proceed with their systems. GTE believes that separate allocations would minimize the need for comparative hearings involving RCCs and wireline carriers and would create a more competitive environment.

22. We have carefully considered these comments and conclude that our proposed single allocation approach is

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[7] See note 5 above.

[8] See Appendix B, proposed § 22.2 of the Commission's Rules, 47 CFR 22.2, for a definition of tone-optical readout paging.

[9] The term "time-shared" means that two or more licensees would be assigned to share the same frequency on an equal basis. Ordinarily, these licensees would not use the same transmitter, so each licensee would have to monitor the frequency before transmitting to determine if it was in use.

[10] We proposed to permit data transmissions longer than 15 seconds on a secondary, interruptible basis.

[11] See Section 22.509(a)(2), 47 CFR 22.509(a)(2).

[12] CC Docket 80–57, FCC 80–69, Notice of Inquiry, released February 21, 1980, 78 FCC 2d 105, 45 FR 14707.

[13] "Radio Common Carrier" is the term generally used in the telecommunications industry to describe a "miscellaneous common carrier", as defined in 47 CFR 22.2, operating in the Public Mobile Radio Services.

more desirable than separate, exclusive allocations. In the past, the allocation scheme for paging frequencies, other than in the 150 MHz band for common carrier paging frequencies, has not included separate, exclusive allocations. The separate allocations scheme adopted in 1949 for the 150 MHz paging frequencies and the two-way frequencies was originally intended to foster "the development of competing systems, techniques and equipment." [14] It now appears, however, that while such goals remain valid and desirable, this regulatory constraint is no longer necessary for achieving our goals in a mature Domestic Public Land Mobile Radio Service industry.[15] We conclude that a single allocation approach, in combination with the availability of a relatively large number of paging frequencies, our proposed assignment policies and our loading standards, will more likely allow for a market-driven development of competing service offerings than will a rigid, separate allocation scheme. Therefore, we are adopting an allocation plan that provides for one block of 900 MHz frequencies to be made available to both wireline carriers and RCCs to apply for on an equal basis.[16]

23. We have also considered the suggestion that wireline carriers establish separate subsidiaries to offer paging service in this band, to remove the opportunity for cross-subsidization of paging servies. We conclude that such a structural separation is unnecessary for a number of reasons. Unlike our cellular radiotelephone allocation, the entry barriers for the 900 MHz paging market are quite low. For example, the costs of establishing a paging system are small in contrast to the costs of establishing a cellular radiotelephone system. In addition, with 40 frequencies available in this allocation, the potential exists for a large number of paging operators to enter the 900 MHz market. Our experience with wireline participation in one-way paging services indicates that a separate subsidiary requirement is unnecessary. For many years, RCCs have competed with wireline carriers in providing paging services. The participation of wireline carriers in providing paging services has not, in the past, demonstrated a need for imposing structural separation requirements on these carriers to insure competition.

24. Finally, the costs of this structural separation outweigh its benefits. A cost of this separation is the preclusion of some of the possible economies in jointly providing both traditional wireline service and paging service on an integrated basis. Since these services are now jointly provided by the wireline carriers, the cost-savings of such joint production may be substantial. In our view, these potential substantial costs to the wireline carriers are not offset by any real benefits to the public. Therefore, for the above reasons, we will not require wireline carriers to establish separate subsidiaries to offer paging service. Nor do we believe it is necessary to require wireline carriers to maintain and produce separate books for their paging and wireline operations. As with the requirement just discussed, this would also impose an economic burden on the wireline carriers that would not be offset by any real benefit to the public. Accordingly, we will not require wireline carriers to maintain and produce separate books for their paging and wireline operations.[17]

C. Network Paging

25. In the initial *Notice*, we proposed to allocate up to three frequencies for common carriers proposing to offer paging service on an inter-city (regional or nationwide) network basis. An inter-city network paging system would enable a subscriber to receive pages when outside its local service area. If the subscriber travels to an area that is part of an inter-city system it could be paged through the RCC or wireline carrier in that area. Those commenting on the proposal to allocate these frequencies for intercity paging were generally in favor of the proposal.

26. *Frequencies for nationwide use.* A number of commenters expressed the view that inter-city network frequencies should be reserved only for nationwide network paging and should not be available for regional network use. In support of this proposal, Mobile Communications Corporation of America (MCCA) submitted data regarding the size of the market for nationwide paging. Based on its analysis of the paging industry, MCCA believes there is substantial unsatisfied need for this type of paging service. MCCA documents this need by market surveys conducted among MCCA's paging customers in Rochester, New York, and Houston, Texas. On the basis of this survey and an industry report by Telocator, [18] MCCA estimates a nationwide need for network paging of 50,000 units. In our view, three inter-city frequencies could accommodate a large number of units. We anticipate that many potential users of an inter-city system, such as salespersons, will travel within one geographic region rather than nationwide. These users would have no need for a system with nationwide capabilities. Thus, allowing regional paging on these two frequencies will offer users a greater choice of service. Accordingly, we are reserving one frequency for nationwide network paging exclusively and allowing the remaining two frequencies to be used for either nationwide or regional network paging.

27. *Restriction on use of tone-voice paging.* Two commenters in this proceeding said the Commission should not allow tone-voice paging on the network frequencies because of the low

[14] General Mobile Radio Service, 13 FCC 1190, 1218, *recon. denied*, 13 FCC 1242 (1949).

[15] *See* One-Way Signaling in the 35 MHz and 43 MHz bands, Docket 80-189, FCC 81-296, Report and Order, released July 15, 1981, 77 FCC 2d 384, 46 FR 37855.

[16] While this single allocation approach differs from the one we recently adopted in Cellular Communications Systems, 86 FCC 2d 469, released May 4, 1981, 89 FCC 2d 58, *recon. granted in part*, FCC 82-88, released March 3, 1982, we conclude that this approach is proper for this allocation. In the cellular proceeding, we adopted a separate allocation based on the wirelines' distinctive technical capabilities to make cellular systems available to the public in the near future. We further recognized that the separate allocation would minimize delay caused by having to conduct comparative hearings since generally only one wireline carrier would be eligible per cellular market. In this paging proceeding we know of no particular wireline expertise which would speed paging service to the public, nor do we anticipate delays from comparative hearings because we are making available 40 paging frequencies.

[17] While it does not appear that the impact of wireline competition would be as severe as the commenters allege, we are concerned that problems may arise where an RCC proposes a competing service in an area already served by a wireline carrier. These problems would be particularly acute if the charges to the RCC for facilities furnished by the wireline carrier and used in connection with one-way paging are higher than the cost factors used by the wireline carrier in computing its costs for the same or similar facilities. Therefore, as we required in our Report and Order in Docket 16778, FCC 68-515, Report and Order, adopted May 8, 1968, 12 FCC 2d 841; *recon. denied*, FCC 68-863, Memorandum Opinion and Order, 14 FCC 2d 289 (August 21, 1968), *aff'd sub nom.* Radio Relay Corporation v. FCC, 409 F. 2d 322 (2nd Cir. 1969), we shall require any wireline carrier using these frequencies to fix its charges to RCCs for wireline facilities on the identical basis it uses to compute its own costs for any one-way paging service it offers. We note here that in imposing this requirement we are establishing standards to deter unfair competitive practices and to foster competitive equality between wireline carriers and RCCs. We are in no way addressing the level of the charges, prescribing any particular level or pattern of rates or otherwise participating in the ratemaking process, which is the function of authorities in the particular jurisdiction where the services are provided. Our goal is to avoid potential "price squeeze" effects, United States v. Aluminum Co. of America, 148 F. 2d 416 (1945), consistent with our mandate to consider and protect the public interest and we will so condition our licenses to wireline carriers, as we have done in the past.

[18] "Final Report of the Nationwide Paging Committee", Telocator Network of America, February 23, 1980.

number of these units a frequency can accommodate. We have carefully considered these comments and concluded that we will allow the marketplace to determine what type of paging systems are used on these network frequencies. Our rationale for not earmarking the non-network frequencies for a specific use is applicable to this conclusion, *see* paragraph 16. We note that we have reached this conclusion with some reservations in view of the small number of frequencies available for network use. While we have decided not to restrict tone-voice paging on these frequencies now, it may be necessary to do so in the future.

28. *Shared use of network frequencies.* In the initial *Notice*, we proposed to assign more than one licensee to the frequencies reserved for network paging. After much consideration we have decided to adopt this proposal and require that network licensees share these frequencies. This approach is necessary because of the small number of frequencies reserved for network use. We believe that applicants are in a better position than the Commission to determine the best methods for sharing. Applicants are better able to anticipate their own needs and to arrive at compromises among themselves. Thus, we are placing the burden of how these frequencies can be operated on the applicants. However, we are concerned that all the applicants might not come to an agreement on how to utilize these frequencies, as has been the case with the shared UHF frequencies made available in 13 major markets in *Docket No. 21039*, 77 FCC 2d 201 (1980). Therefore, if the applicants do not reach an agreement within one year from the "cut-off" date for that frequency, we shall dismiss their application, and those applicants cannot refile for one year from the date of return.[19] No applications for the nationwide or the given regional area will be granted until all the applicants reach an agreement. We believe this policy is necessary to encourage applicants to negotiate sharing arrangements on these frequencies as quickly as possible.

29. *Local paging on the network frequencies.* In our initial *Notice*, we proposed to limit "local" paging on the network frequencies to a secondary basis. Motorola commented on this proposal, saying that many carriers will need a local financial base to support a broader network. Therefore, Motorola suggested that primary local service be allowed on the network frequencies with "roamers" given priority when away from their home cities. We understand Motorola's concern; however, we conclude that local use of these frequencies, even on a secondary basis, could stifle their development for network use. We fear that licensees would concentrate on attracting local rather than network subscribers for these frequencies. In addition, the presence of local paging on these network frequencies could make sharing arrangements difficult to implement. Therefore, we have re-evaluated our original proposal with respect to secondary local use and have decided to allow only network paging on these three frequencies. We shall, however, after a three-year period, allow local paging on these frequencies in a given area if the non-network frequencies are exhausted and network frequencies are available. This would allow persons interested in establishing network systems ample opportunities to develop their systems and put these frequencies to use. This three-year period will begin with the effective date of this *Report and Order*.

30. *Establishment of a Network.* In the initial *Notice*, we invited comments on the showings which should be required of applicants for these network frequencies. We said in that *Notice* we expected an applicant would, at a minimum, have to submit either a proposal to operate in several cities through its own network, affiliate with a network operated by a different carrier, affiliate with carriers in other cities in a cooperative paging exchange network, or affiliate with a paging network operated by an entrepreneur other than a carrier. All of these methods are of the type that would establish the kind of inter-city networks we envision. We adopt these proposed required showings here. Any applicant that wishes to establish its *own* nationwide network must demonstrate that the network will be nationwide in character. Similarly, an applicant that wishes to establish a regional network must demonstrate that the network will have a regional character.

31. *Network Cut-off Procedures.* Because additional time may be needed for applicants to arrange the kinds of affiliations discussed in para. 30 above, we are adopting an extended "cut-off" period for the filing of applications on the network frequencies. Applicants for the nationwide network frequency will have at least 180 days to file an application, measured from the public notice date of the filing of the first application for the one nationwide network frequency, irrespective of the cities proposed to be served. Applicants on the remaining two regional or nationwide network frequencies will also have a 180 day cut-off period; however, there will be a separate cut-off period for each regional area involved rather than one cut-off period for the whole country.

32. *Need for network service.* In the initial *Notice*, we said that it may be necessary to require some minimum showing of public need for network service. We have reconsidered this position and now propose not to require applicants for an initial network frequency to demonstrate public need. Because of the apparent demand for network paging and the small number of frequencies we are allocating for this purpose, we believe need showings for an initial frequency would serve no useful regulatory purpose. However, we shall authorize an applicant in a given area no more than one network frequency initially. After a licensee is granted an authorization to use one network frequency, it may apply for an additional network frequency, if one is available. However, it must submit a traffic loading study, as required by 47 CFR 22.516 of the Rules, to show that its existing network facility is insufficient to meet the increased demand because of its existing loading. This one frequency limit is consistent with the policy we are applying to the non-network frequencies to assure that a licensee is using a frequency sufficiently before it is authorized an additional one.

D. Need for Service

33. In our initial *Notice*, we said that market projections indicated the existence of substantial unsatisfied need for paging service, and that this demand would continue to grow in the future. Traditionally, we have required common carrier applicants for paging frequencies to demonstrate a public need for service. We proposed in the initial *Notice* not to require an applicant to demonstrate a public need for service prior to obtaining an initial paging frequency in a given area. We also proposed to apply this policy to all paging frequencies, not only the frequencies in the 900 MHz band.[20]

[19] On the nationwide frequency, all applicants must reach an agreement with each other, irrespective of the specific areas for which they applied. On those frequencies that are available either for regional or national networks, applicants must reach an agreement with those applicants in the same areas as they are. If applicants on the nationwide network fail to agree, all the nationwide applications will be returned as defective. As to the regional or nationwide frequencies, if applicants do not agree, those specific applications where coordination is not reached will be dismissed.

[20] *Notice*, 45 FR at 52015.

To safeguard against inefficient use of this spectrum, we proposed to authorize no more than a single frequency at a time. Under this plan, after a licensee obtains an authorization for one frequency, it may apply for an additional frequency if needed. However, it will have to supply a traffic load study under § 22.516 of our rules demonstrating that its existing paging facilities in the area are insufficient to meet increased demand. As we stated in the *Notice*, this load study would have to encompass *all* one-way facilities of the applicant for an additional frequency, regardless of the frequency band. The purpose of requiring such a showing is to ensure that the spectrum is being used efficiently.

34. The need standards which have been applied to applications for an initial frequency have evolved primarily out of two cases, *Long Island Paging and New York Telephone Co.*[21] Although these cases suggest several types of evidence that might be considered persuasive in demonstrating public need for an initial frequency,[22] more recent Commission practice has been to require applicants for an initial frequency to submit a public need survey, with demographic and commercial information being accepted only to supplement the need survey. *See Edward R. Buckmaster and Burton R. Gigoux d/b/a Communications Services*, FCC 81–102, released March 19, 1981, 49 RR 2d 250, *aff'd mem. sub nom. Advanced Electronics v. FCC*, No. 81–1436 (D.C. Cir. February 24, 1982). Beyond this point, however, the need standards for an initial frequency are far from clear, for two reasons. First, although these cases address the approach to be used in measuring public need, the discussions of methodology contained in them are sufficiently vague to invite almost endless argument over the adequacy of any particular need showing. Second, and more important, the cases afford inadequate guidance regarding the minimum public need required to justify one initial frequency, *i.e.*, the minimum amount of actual demand for the service as measured by the number of persons desiring service or the number of units requested.

35. Most of those commenting on this proposal to eliminate an initial need showing supported it. However, Telocator expressed concern that the proposal might result in frequency warehousing, and GTE Service Corporation (GTE) urged caution in terms of our plan to eliminate a need demonstration. In particular, GTE argued that where a petition to deny is filed, necessitating that a finding of public interest, convenience and necessity be made, the Commission must examine the question of need.

36. We do not agree with GTE that the Commission should retain a need requirement because it must examine need where petitions to deny are filed. It has been our policy in the past to have a basic need showing requirement applicable to all applicants for an initial frequency. However, for the reasons, discussed above, we no longer find it necessary to impose such an affirmative requirement for initial frequency applications. As discussed in the *Notice* at 6 and 12–14, there is a clear public need for additional one-way paging services and facilities and for diverse sources of supply. This demand has grown at the rate of 25 percent annually and is expected to grow at an even greater rate as technology advances and costs decline. Intensive competition already exists among RCCs and between RCCs and wireline carriers.[23] In sum, the one-way paging market is demonstrably one in which individual need showings for new entry are not required to further the public interest. Accordingly, we conclude that a general policy in favor of new entry in the one-way paging industry would serve the public interest, convenience and necessity. Consistent with that finding, it will no longer be necessary for an applicant to show need in the traditional way for its initial paging channel in a community.[24]

37. In reaching this conclusion, we have given serious thought to the prospect of warehousing, which is contrary to current Commission policy. However, we have concluded that there are other safeguards present in our regulatory process to protect against frequency warehousing, which make a need showing unnecessary. First, in our view, the incentive for warehousing is closely linked to the availability of frequencies: a shortage encourages applicants to apply for frequencies they do not currently need to insure that they will have those frequencies later should they develop a need. Several actions we have taken recently to make more frequencies available should minimize these incentives for warehousing.[25] Second, we do not believe that entrepreneurs will undertake the expense of applying for and constructing a facility for one frequency unless they have assessed the potential of the market to support that operation and have found that a level of need exists which is at least equal to levels which satisfied past need showing requirements.[26] Third, we note that our decision to eliminate need showing requirements applies only to applications for one initial frequency. If this authorized frequency is put into use, even at low levels of use, the frequency is being used more efficiently than if it were left unassigned. Furthermore, if other carriers are authorized in the area, a competitive alternative is afforded for customers. Presumably, as further need for service develops, additional customers will use that frequency.[27] Finally, we observe that although our existing need standards for an initial frequency have been minimal, as noted above, we are unaware of any warehousing problem to date. Thus, we have no reason to expect that elimination of the need showing entirely would increase the likelihood of warehousing to any significant degree. Nor would the strengthening of our current need standards, rather than their

[21] Long Island Paging, 30 FCC 2d 405 (1971). *New York Telephone Co.*, 47 FCC 2d 488, *recon. denied*, 49 FCC 2d 284 (1974) *aff'd sub nom. Pocket Phone Broadcast Service, Inc. v. FCC*, 538 F. 2d 447 (D.C. Cir. 1976).

[22] New York Telephone Co., 47 FCC 2d at 494, lists four types of evidence which *Long Island Paging* considered "persuasive". These include: (1) statistics or specific facts tending to show need, such as the nature and economics of the service area; (2) demographic or statistical evidence showing the nature and number of industries, businesses, professions and trades in the service area; (3) information on the identity and occupation of persons making service inquiries together with a statement as to whether or not costs were quoted and whether definite commitments were made; and (4) evidence as to the success or failure of other carriers offering that type of service in the same market.

[23] As many as six to ten carriers offer paging service in the larger communities.

[24] In making this determination we act consistent with Commission and judicial precedent. *See* Specialized Common Carrier Services, 29 FCC 2d 870, 920 (1971), *aff'd sub nom.* Washington Utilities & Transportation Commission v. FCC, 513 F. 2d 1142 (9th Cir. 1975), *cert. denied*, 432 U.S. 838 (1975). *Accord*, American Telephone and Telegraph Co. v. FCC, 539, F. 2d 767 (D.C. Cir. 1976). *See also* Land Mobile Channels, 69 FCC 2d 1555, 1566 (1978).

[25] Docket 21039, 69 FCC 2d 1555 (1978) *recon. granted in part*, 77 FCC 2d 201 (1980) *appeal pending, sub nom.* Telocator Network of America v. FCC No. 78–2218, (D.C. Cir., filed November 20, 1978); One-Way Signaling in the 35 MHz and 43 MHz bands, Docket 80–189, FCC 81–296, Report and Order, released July 15, 1981, 46 FR 37655; and Cellular Communications Systems, *supra*.

[26] *Travel-phone Corp.*, 85 FCC 2d 517, 534 (1981) *appeal pending, sub nom.* Mobilfone Paging Radio v. FCC (D.C. Cir., 81–1369).

[27] We recognize that the Commission has a statutory mandate to assure that available frequencies are assigned so as to best serve the public interest. Our action today is in no way inconsistent with such a mandate. We believe that the public interest can be best served through a regulatory framework which leaves considerable room for independent business judgments while also containing adequate safeguards to protect against the hoarding of public resources, such as radio spectrum.

elimination, serve any useful purpose. At the same time, elimination of this requirement should reduce the administrative workload associated with these applications, freeing valuable staff resources for other more significant matters and providing more expeditious service to the public.

38. In addition to these benefits to potential paging users, there are administrative benefits from establishment of this policy as well.[28] As we stated earlier, while public need showings frequently become subjects of petitions to deny, the Commission almost invariably finds these showings adequate to demonstrate a public need for an initial frequency. In the time it takes for applicants to perfect these need showings, the public is deprived of service. In our view, our current policy contributes to the Commission's workload and delays application processing without producing any real benefit to the public. We conclude therefore that for this reason as well, the public interest will be served by eliminating the requirement of a need showing for one initial frequency. This policy will apply to all one-way paging applications for all one-way frequencies that have already been filed and to all one-way applications filed after the adopted date of this order.

39. Several parties objected to the limit of one frequency per applicant for initial authorizations. These parties suggested a limit of three frequencies, with the requirement that the licensee meet a threshold loading standard within a certain period of time. Two reply commenters opposed this suggestion, saying that it would result in warehousing of the 900 MHz frequencies. AHPPC, in its reply comments, responded that simultaneous grants of multiple frequencies without need showings would distort the flexible boundary concept. While the three frequency limit proposal has merit, it would be impractical to adopt. The enforcement burden imposed on the Commission to ensure loading would be too great for our administrative resources to handle. Therefore, we conclude that the limit of one frequency per initial authorization is desirable. We shall apply this one frequency limit even if the applicant submits a traditional need showing to support the grant of more than one frequency. To do otherwise would prompt numerous petitions to deny based on need which, as just discussed, would greatly add to the Commission's workload associated with these applications. Moreover, we conclude that one frequency will adequately enable a new entrepreneur in an area to establish a paging business. When that entrepreneur is ready to expand, he or she may then apply for an additional frequency and submit a traffic loading study to support the application.[29]

40. We also received several comments concerning our proposal to require existing one-way paging licensees to submit traffic load studies for their existing facilities in the area to show they are insufficient to meet demand. Telocator disagreed with this proposal, saying that existing carriers should have the same opportunities to enter the 900 MHz market as new carriers. Vegas Instant Page argued that this rule would not recognize the different propagation characteristics of the various frequency bands, and would prevent existing carriers from expanding their operations to quality wide-area systems. We have considered these comments and concluded that our proposal to require existing licensees to submit traffic load studies for their existing facilities was correct. To do otherwise would result in inefficient use of these new frequencies. This view is consistent with our policy of frequency assignment which is to insure that spectrum is used efficiently. The benefits of our policy to encourage new entrants, discussed in paragraph 35, does not apply to existing licensees that seek additional frequencies. As discussed above, the primary benefits of establishing such a policy for new entrants is the encouragement of additional carriers in the paging market and the creation of a wider range of user choices. Thus, we shall authorize an existing licensee for a new frequency only if its existing facility is adequately loaded. If a licensee authorized for a partially loaded frequency wishes to obtain a 900MHz frequency, the licensee may file for a 900 MHz frequency and state that it will relinquish its license for the existing frequency when and if the 900 MHz frequency is authorized. Otherwise, the licensee must show that its existing facility is insufficient to meet increased demand.

41. Several parties commenting expressed concern about the Commission's general policies with respect to the assignment of additional frequencies. These policies relate to how the Commission establishes loading standards and how the Commission defines a "new" station. We have concluded that this proceeding is not the proper forum for discussion of these concerns, since they raise issues that extend beyond the scope of this particular allocation proceeding. We contemplate addressing these issues in a future proceeding.

42. We also proposed in the *Notice* not to require the applicant to show why it could not provide desired one-way service over the facilities of its existing or proposed two-way station, as is now required by 47 CFR 22.501(d)(2).[30] This rule was designed to encourage the intermixture of one-way and two-way service, where frequencies were scarce. While this intermixture was once desirable, with the availability of a great number of new paging frequencies, we now conclude that it is no longer necessary to impose this requirement. The public should benefit from the elimination of this requirement since licensees will have greater flexibility to design their systems to meet the needs of their customers. Thus, in our view, no harm would result either to the public or to licensees from our decision to no longer require an applicant to show why it could not provide one-way service over its existing two-way facilities. Accordingly, we proposed to eliminate § 22.501(d)(2) entirely. In doing so, we said that we did not intend to prohibit licensees of two-way stations from offering paging service on a secondary basis. We received no opposition to this proposal. Therefore, for the reasons stated above, we are eliminating § 22.501(d)(2).[31] This policy will apply to all pending one-way applications and to all one-way applications filed after the adopted date of the Order.

E. Frequency Assignment Policies

43. *Time-sharing of frequencies.* In the initial *Notice*, the Commission proposed that where there were no vacant non-network frequencies [32] available in a

[28] A review by Commission staff shows that "need" was among the issues most often raised in petitions filed against paging and mobile telephone applications that were granted during the last two years.

[29] Having decided on a one-frequency limit, we have some concern that a single entity may attempt to circumvent this limit by filing under different names in the same area. Therefore, we shall require applicants to furnish certain specific information concerning their ownership and control. We shall closely scrutinize this information to determine the real parties in interest. Enforcement of this disclosure requirement in conjunction with our requirement that a licensee construct within eight months of receiving a construction permit should help prevent an applicant from filing numerous applications in the same area under different names. (*See* §§ 22.13(i) and 22.43(a)).

[30] *Cf.* Airsignal International, Inc., 46 FCC 2d 109–10 (1974).

[31] Applicants for one-way frequencies need not provide a 47 CFR 22.516 showing of the loading of their existing two-way facilities.

[32] The term "non-network" refers to the frequencies in this allocation that are not reserved for nationwide or regional network use.

particular area, an applicant would be assigned a frequency used by a station with low traffic loading on a time-shared basis. In our *Supplemental Notice*, we proposed alternatively not to require sharing among common carriers if an application is filed in an area where no vacant non-network frequencies are available.

44. No one specifically favored required sharing of the non-network frequencies and several parties opposed it. There was general agreement among these parties that required sharing was unnecessary because of the number of frequencies being allocated, and that it was impractical. There was also concern expressed that required sharing would discourage investors from committing funds to a venture that could have its market potential decreased if a subsequent application were filed.

45. We concur with the opposition to required sharing of the non-network frequencies. As we stated in the *Supplemental Notice*, "prescribed sharing among common carriers can force the marketplace into a common mold, where no carrier has the option of offering a higher quality service at a higher price or a lower quality service at a lower price." [33] We are also concerned that a carrier might be reluctant to commit capital to develop a system on a frequency that it might ultimately be required to share. Therefore, we will not require common carriers to share the non-network frequencies.

46. *Commission assignment of frequencies.* In the initial *Notice*, we proposed that an applicant for a 900 MHz unrestricted common carrier paging frequency could not apply for a specific frequency. Instead, the Commission would assign a frequency to the applicant based on fixed mileage separation criteria. Using this procedure, there would be no cases of electrical mutual exclusivity among applicants so long as there are vacant frequencies available.

47. Most parties were critical of this assignment procedure. Vegas Instant Page opposed the procedure because it would prohibit carriers from ordering base station equipment in anticipation of receiving a construction permit. Jan David Jubon and RAM Broadcasting Corporation were concerned that this assignment procedure would make it difficult for applicants to pre-plan small scale networking and intercarrier or intercity arrangments other than networking. These parties requested that the Commission make some type of arrangements to allow applicants who wish to establish a wide-area or network system to have priority for the frequency or frequencies they need. Several parties also proposed alternate assignment schemes which they claim would allow applicants to select their own frequences without unduly burdening the Commission staff.

48. We have carefully reviewed these comments and proposed assignment schemes, and have determined that our original proposal would best serve the public interest. While these proposed assignment schemes have some merit, we are convinced that our proposal will enable us to process applications for the 900 MHz frequencies more expeditiously than would any of the parties proposed methods. We anticipate that the large number of paging channels allocated in this proceeding and in the 35 and 43 MHz paging proceeding, [34] coupled with the channels recently allocated in the cellular radio service, [35] will prompt the filing of a great number of applications with the Common Carrier Bureau. Under our current processing scheme, applicants request a particular frequency and submit an engineering study to show that authorization of its requested frequency will not produce harmful electrical interference to any co-channel stations. We have concluded that using this procedure to process the anticipated volume of incoming 900 MHz applications would cause processing delays detrimental to applicants and the public.

49. In our view, the most expeditious way of processing the 900 MHz applications is to impose uniform fixed mileage separation criteria and ask Commission staff to make assignments. We believe this time saving will benefit the public. We have not used this procedure in the past because we had no established geographic criteria by which to assign frequencies. Now that we have decided to establish such criteria, we shall have a defintive means of assigning frequencies. *See* paragraphs 53–61, *infra*. Therefore, an applicant for a paging frequency will not specify a particular frequency when applying to the Commission; rather, the Commission staff will choose and assign frequencies to applicants. However, an applicant may state a preference for a particular frequency, and if that frequency is available the staff will make a reasonable effort to assign it to the applicant. To accommodate those interested in establishing wide-area systems, we shall apply a liberal assignment and transfer policy when licensees wish to trade their 900 MHz frequencies. [36]

50. *Lotteries and Auctions.* NTIA advocated that where there are competing applications, rather than assigning channels by comparative hearing or by required sharing, the Commission should choose among competing applicants by auction. According to NTIA, auctions would further the public interest by assigning spectrum to the user who values it most, and would encourage spectrum efficiency in congested areas. While NTIA strongly favors auctions, it believes either lotteries or "paper hearings" are superior to the traditional comparative hearings for choosing among competing applicants.

51. NTIA's proposal elicited several reply comments. Airsignal replied that prompt implementation of 900 MHz paging should not be delayed by the adoption of radically altered assignment procedures such as lotteries or auctions, which are of dubious legality. Airsignal argued that while comparative hearings are too lengthy and expensive, these hearings should not be necessary because of the large number of available frequencies. Airsignal maintained that, instead, the Commission should reform its present procedures to expedite hearings. The Utilities Telecommunications Council (UTC) and Telocator also cited legal problems with NTIA's auction proposal.

52. Because of the large number of frequencies being allocated in this proceeding and the procedures we are adopting to assign these frequencies, we believe we have minimized the problems of mutually exclusive applications. If mutually exclusive applications do arise, the procedures for dealing with mutually exclusive applications prevailing at that time will be followed.

F. Technical Requirements

53. *Fixed Mileage Separation Criteria.* In our initial *Notice*, we stated that our proposed rules were in large part based on the Private Radio Service Rules for 800 MHz urban/conventional systems. The concept underlying these rules is that of fixed mileage separation criteria, rather than the protected service area concept traditionally used in the Domestic Public Land Mobile Radio Service. We proposed a separation of 105 miles (169 kilometers) between co-channel stations if one or more of the stations was located at any of the following sites: Santiago Peak, Sierra

[33] Supplemental Notice at para 6, 45 FR 73980.

[34] One-way signaling in the 35 and 43 MHz bands, Docket 80-169, FCC 81-265, Report and Order, released July 15, 1981, 46 FR 37865.

[35] *See* Cellular Communications Systems, note 16 *supra*.

[36] *See* 47 CFR 22.40.

Peak, Mount Lukens, or Mount Wilson, California, the World Trade Center, New York, New York, or the Sears Tower, Chicago, Illinois.[37] In all other cases, the separation proposed between co-channel stations is 70 miles (113 kilometers). We requested comments on this departure from our traditional regulatory plan.

54. The comments we received on this issue were mixed. Jan David Jubon objected to the application of a fixed mileage separation scheme, saying that such a scheme obviates the efficient use of many frequencies in dense, widely-spread metropolitan areas. The one benefit to this scheme cited by Jubon is that it allows a licensee to propose a "full power" facility—1,000 watts effective radiated power at 1,000 feet (305 meters)—subsequent to proposing and installing a more economical low-power, start-up facility. While Jubon considers this protection beneficial in the broadcast services, he sees less benefit for paging licensees. His view is that many paging licensees will expand their existing facilities by adding locations at less than full power and height rather than by increasing the height and power at one location. While Jubon objected to the fixed mileage separation concept, he also argued that it is premature to propose specific propagation curves and field intensities for interference determination because there is insufficient information available to characterize 900 MHz services. In the interim, Jubon suggests that the Commission apply "Bullington"[38] procedures in assigning the 900 MHz frequencies.

55. GTE also opposed the concept of fixed mileage separation criteria, saying that it is a simplistic formula which fails to take into account terrain features affecting service area. According to GTE, this alleged failure increases the chances of poor technical design, overpowered transmitters and potential electrical interference. GTE claims that a specified field strength contour, based upon the specific technical paramaters of the system as installed, would best serve the public interest. Telocator disagreed in theory with the proposal to adopt a system of fixed mileage separations, but conceded that this approach was acceptable for the present since knowledge of the propagation characteristics of the 900 MHz band as applied to paging is limited.

56. AT&T supported the fixed mileage separation concept, but suggested that waivers of the rule be authorized where applicants can show that unacceptable interference will not occur. Both Airsignal and Zip-Call suggested a greater mileage separation than that proposed by the Commission. Airsignal proposed a protected area defined as a 125 mile (201 kilometers) radius from a single transmitter location. According to Airsignal, such an area would avoid inefficient frequency use caused by interference contours falling between urban centers, and would allow for system expansion. Along with this proposal, Airsignal recommended that the Commission eliminate restrictive height/power limitations and allow greater effective radiated power (ERP) and transmitter output power. If frequency availability is insufficient to meet demand in the future, Airsignal suggested that licensees have their service areas redefined to appropriate field strength measurements. Airsignal maintained that future assignments could be made by the Commission in consultation with affected licensees, and new applicants for licensed frequencies could be required to produce detailed interference studies. Zip-Call suggested that the Commission increase the minimum mileage separation by 10 miles (16 kilometers), saying that until data regarding technical characteristics of 900 MHz systems are available, it is preferable to provide extra protection than insufficient protection. In view of the large number of frequencies to be allocated, Zip-Call argues that a larger separation can be specified without a significant loss in net coverage.

57. We have carefully considered all of these comments concerning the fixed mileage separation criteria and have determined that application of the 70 mile criteria would best serve the public interest. At present, using existing engineering procedures it is often a time-consuming process to determine whether a proposed station can operate on an interference-free basis. Application of fixed mileage separation criteria will simplify this process and largely eliminate legal challenges based on interference. We have also determined that our discussion in paragraph 64 obviates the need to separate by 105 miles co-channel stations located at either of the two urban sites in Chicago and New York or at any of the four mountaintop sites in California. *See* paragraph 53, *supra*. Therefore, the separation between all 900 MHz co-channel stations nationwide is 70 miles, with no shortspacing permitted. After 900 MHz paging systems have been operating and we have gained experience in regulating them, we shall re-examine this 70 miles separation. If it proves to be either too protective or not protective enough, we shall adjust it accordingly.

58. *Definition of Reliable Service Area.* In the initial *Notice*, we requested comments on how a station's reliable service area should be defined for purposes other than interference protection, e.g., location of message center, determination of whether an application should be classified as requesting a "new" station or an additional location for an existing station and determination of whether certain amendments to applications are "minor" and therefore exempt from the public notice requirement. *See* 47 U.S.C. 309(c)(2)(A). In addition, the Commission must be able to determine whether an existing licensee is entitled to standing as a party in interest.[39] The service area contour defines the area within which we shall recognize a licensee as "aggrieved or * * * adversely affected" by a Commission action and thereby entitled to standing. Accordingly, we invited comments as to whether some definition other than the existing 43 dBu contour would be better. We suggested that one possibility would be to specify a uniform distance from the transmitter site as the service area (e.g., 20 miles or 32 kilometers); another would be to require the applicant to compute some specified field strength contour, as at present.

59. We received several comments on this subject. Zip-Call suggested that the Commission use a 25 mile (40 kilometer) radius to determine a station's reliable service area. According to Zip-Call, this approach is preferable to understating the degree of protection, which it believes Carey procedures do.[40] Zip-Call also suggests that if the Commission decides to set engineering standards to define service contours, it do so only after actual operating data become available. The service contours then prescribed, Zip-Call maintains, should include what is in fact the area of adequate reliability. For paging service, Zip-Call advocates that technical standards adopted to define service

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[37] We proposed this departure from our basic mileage separation criteria for these six locations because the very large geographical areas of urban Los Angeles, New York and Chicago and the presence of several very high antenna sites presented circumstances which were unique with respect to these locations.

[38] "Radio Propagation for Vehicular Communication," IEEE Transactions on Vehicular Technology, November 1977, (commonly known as "Bullington" procedures).

[39] *See* FCC v. Sanders Brothers Radio Station, 309 U.S. 470, 476–77 (1940).

[40] Roger B. Carey, *Technical Factors Affecting the Assignment of Facilities in the Domestic Public Land Mobile Radio Service*, FCC Report No. R-6406 (June 24, 1964).

area should be designed to project an area of at least 98% reliability.

60. Jan David Jubon suggests application of a 20 mile standardized radius, which he claims corresponds well with a 43 dBu contour for 1,000 watts ERP at 1,000 feet. However, he advocates that for determination of whether certain amendments to applications are "minor", the Commission should rely on the actual field intensity contour location and its relationship to the proposed facility.

61. We have carefully considered these comments and decided to apply a fixed mileage radius to define a station's reliable service area for purposes other than interference protection. Since 20 miles is the approximate distance a paging signal will travel from the transmitter site, we have chosen that figure for defining the reliable service area. This approach will impose less of an economic burden on applicants because they are not required to submit engineering studies and less of an administrative burden on the Commission because we are not required to review these studies. Moreover, since this fixed mileage radius is not being used to determine interference protection, the precision provided by engineering studies is not so crucial. All in all, application of a fixed mileage radius to define a station's service area should allow us to make an expeditious, yet reasonable, decision concerning a station's reliable service area.

62. *Miscellaneous Technical Issues.* The General Electric Company (GE) proposed the adoption of the digital code used by the British Post Office (POCSAG) for use on the 900 MHz frequencies. According to GE, this code is spectrally efficient and would encourage a high level of competition because it is non-proprietary. Other parties, however, contend that a standard at this time would be premature, if one is needed at all. We conclude that not enough information is available at present to mandate the imposition of any standard code on the new paging frequencies. Furthermore, since we anticipate great demand for tone-voice pagers, it would seem illogical to impose a sophisticated digital code on the frequencies to be allocated immediately. Such action would discourage economic efficiency, since it would prevent many potential users from obtaining less sophisticated, but more desired, tone-voice paging.

63. Both Telocator and GE questioned our proposal to permit up to 1,000 watts ERP at 1,000 feet, with power reductions specified for higher antenna elevations. GE claims that differences in the coverage propagation characteristics between 450 MHz and 900 MHz, and reduction of the effective sensitivity of a 900 MHz paging receiver compared to a 450 MHz receiver, can account for about 10 db more system loss at 900 MHz compared to 450 MHz. According to GE, many paging systems have their antennas at less than 500 feet above average terrain, and the proposed rules impose a disadvantage of as much as 7 db on these 900 MHz systems. Therefore, GE recommends that for systems using antennas that are less than 500 feet above average terrain, the permissible ERP should be increased to 5,000 watts.

64. We have considered these comments concerning antenna height and power and determined that we shall adhere to our proposed restrictions for the present. To account for the increased attenuation at 900 MHz, we are allowing greater height and power in this band than is currently allowed for paging systems at 35, 43, 150 and 450 MHz. Until we have more operating experience with 900 MHz systems, we shall permit licensees on these frequencies to operate their systems at up to 1,000 watts ERP at 1,000 feet above average terrain. Licensees with antennas higher than 1,000 feet above average terrain must reduce their power according to the power reduction provisions of Part 22 of the Commission's Rules. This reduction policy applies to all 900 MHz paging facilities.

65. The 25 kHz bandwidth plan which we proposed for this allocation was not specifically addressed by most parties. However, those who did comment favored it. We have concluded that a 25 kHz bandwidth—which is currently used on lower band frequencies—is desirable for 900 MHz paging. We therefore are basing this allocation on a 25 kHz bandwidth, but invite innovative proposals for the advanced technology reserve band which might be based, at least in part, on other than a 25 kHz bandwidth. This subject will also be explored in the *Notice* mentioned in paragraph 14.

66. In its comments, Telocator recommended that the paging rules and licenses issued be structured for assignment of channels by 25 kHz bands (*e.g.* 931.000–931.025 or 931.025–931.050) rather than discrete 25 kHz channels (*e.g.* 931.0125 MHz, 931.0375 MHz, etc.). According to Telocator, this will prevent FM technology from becoming embedded in the rules for this band. Telocator suggests that the Commission have applicants using FM transmissions propose a center frequency at the mid-point of the band, and then comply with the technical standards adopted with respect to that modulation scheme. Telocator then suggests that applicants using modulation techniques other than FM demonstrate on a case-by-case basis that the proposed facility would not cause interference to adjacent and co-channel stations in excess of the values prescribed for in-band and out-of-band emissions for FM transmissions. The license itself would specify the emission and center frequency the licensee is authorized to use. Airsignal concurred with Telocator's concern that emissions not be restricted to FM.

67. We believe the suggestions made by Telocator and Airsignal have merit. It would be advantageous to allow licensees flexibility in choosing the type of emission mode they use and, to the extent possible, the amount of bandwidth they occupy. Such flexibility will permit licensees to use the combination of emission mode and bandwidth (up to 25 kHz) that best fits their needs. Therefore, in regulating these channels we shall allow licensees to use any emission mode, provided that the emissions are contained within the authorized bandwidth. All licensees will be authorized a 25 kHz bandwidth. The authorizations will specify a center frequency at the mid-point of their assigned band, and licensees must comply with the technical standards required for the modulation technique that they propose. Licensees desiring to use modulation techniques other than FM must demonstrate that their facilities will not interfere with adjacent and co-channel stations in excess of the values prescribed for in-band and out-of-band emissions for FM transmissions.

68. This plan allows licensees to establish more than one channel within their authorized 25 kHz bandwidth. In addition to allowing licensees greater flexibility, we believe this approach will encourage more efficient use of spectrum. For example, a licensee desiring to provide tone-voice paging may wish to use its assigned bandwidth entirely for FM. On the other hand, a licensee desiring to provide tone-only paging might divide its assigned bandwidth into several discrete channels and use a modulation technique other than FM. Allowing licensees to establish more than one channel within their 25 kHz bandwidth should also encourage equipment manufacturers to experiment with different modulation techniques in hopes of developing less costly and/or more spectrally efficient paging systems. This, in turn, should increase competition among different types of systems resulting in a wider range of

equipment and/or service choices available to licensees.

G. Other Matters

69. *Control and Repeater Frequencies.* In the initial *Notice*, we invited comments on Telocator's proposal that frequencies allocated in this proceeding be made available for control and repeater use outside major metropolitan areas. We received several comments on this proposal. GTE disagreed with the proposal unless there was some showing of demand for this use. GTE suggested that the Commission wait before authorizing such uses to allow initial frequency demand to be monitored. If enough spectrum is then available, these uses could be authorized on a secondary basis. Jan David Jubon, Motorola and the Quintron Corporation supported Telocator's proposal. The Quintron Corporation commented that the instant proposal itself creates a need for control and repeater frequencies, since it is likely, that simulcasting in this band will require radio control links for technical reasons alone.

70. We have carefully reviewed these comments and conclude that they have not demonstrated that there is sufficient demand at present to warrant allocation of frequencies for control and repeater use outside major metropolitan areas. Moreover, the Commission recently made available frequencies in the 900 MHz band to be used for control and repeater purposes by wide area paging systems.[41] If the frequencies allocated in that proceeding do not meet the needs of the commenters, interested parties may petition for control and repeater use of the frequencies in this allocation at a later time.

71. *Federal preemption of state regulation.* In its comments, NTIA suggested that the Commission preempt state entry and exit regulation of common carrier paging operations to insure that paging services are timely made available. The National Association of Regulatory Utilities Commissioners (NARUC) was especially concerned with NTIA's proposal, saying that preemption of state entry and exit regulation would be illegal and would deprive the state regulatory commission of the task of deciding what economic structure best suits its own conditions. Without reaching any of the legal issues raised by NARUC, we agree that federal preemption here is unwarranted. We have not preempted state entry and exit regulation of paging services in the other bands, and it does not appear necessary for achievement of our policies for the 900 MHz frequencies. Moreover, the states encompass a wide variety of economic environments which may justify different entry and exit regulations. These factors, coupled with the fact that paging systems are basically local in nature, leads us to believe that the states should not be preempted from decisions concerning entry and exit of paging common carriers at this time. Accordingly, we will not preempt state entry and exit regulation of any of the 900 MHz paging frequencies.

G. Procedures

72. In Paragraph 39 of this *Order* we have stated that only a single one-way paging frequency in a community will be granted at a time. Accordingly, if an applicant files for an 900 MHz paging frequency at the same time that it has another one-way paging application pending without dismissing the previously filed one-way application, the Commission will treat the previously filed one-way application as being amended by the 900 MHz application. The amended application will then be considered newly filed and subject to the applicable cut-off procedures.[42]

73. We shall accept applications for the 900 MHz frequency for an initial period of 60 days only, beginning 90 days after this *Report and Order* is published in the **Federal Register**. We have adopted this approach to enable the staff to determine the number of applications filed and to expeditiously and efficiently assign frequencies to the pending applications. When the Common Carrier Bureau decides to reopen any remaining 900 MHz frequencies for filing after the close of the 60 day filing period it will issue a Public Notice. In addition, because these 900 MHz frequencies are newly allocated and the potential entrants have not had the opportunity to previously file applications for these frequencies, we are not going to initially allow applications to be amended pursuant to § 22.31(e)(2) of the rules.[43]

74. When the Bureau reopens the 900 MHz frequencies for filing it will then determine whether to allow applicants to amend their applications pursuant § 22.31(e)(2) of the rules.

V. Conclusion

75. **Accordingly, It is ordered, That** pursuant to the authority found in Section 4(i), 301 and 303(r) of the Communications Act of 1934, as amended, (47 U.S.C. 154(i), 303(r)), Parts 2 and 22 of the Commission's Rules and Regulations are amended as specified in Appendix B. These amendments become effective July 7, 1982.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303))

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A.—Parties Commenting in 900 MHz Paging Proceeding

Ad Hoc Private Paging Committee—composed of existing and potential private paging users, including representatives of medical, educational, business and industrial groups, as well as manufacturers and designers of paging equipment and systems.

Airsignal International, Inc.—licensee in the Domestic Public Land Mobile Radio Service

American Telephone and Telegraph Company

Association of College and University Telecommunications Administrators

Central Committee on Telecommunications of the American Petroleum Institute—composed of representatives of 45 petroleum and natural gas companies.

Contemporary Communications Corporation—contemplating entrance into the local and/or nationwide paging market.

DPRS, Inc./t.a. Zip-Call—licensee in the Domestic Public Land Mobile Radio Service

Duke University

L. M. Ericsson Telecommunications, Inc.—involved in the manufacture of pagers.

General Electric Company

GTE Service Corporation

International Business Machines Corporation

Jan David Jubon, P.E.

Manufacturers Radio Frequency Advisory Committee—representative association of, and frequency coordinator for, private licensees in the Manufacturers Radio Service.

Mobile Communications Corporation of America—licensee in the Domestic Public Land Mobile Radio Service.

National Mobile Radio Association—nationwide non-profit association of small businesses engaged in the sale and maintenance of radio equipment.

National Telecommunications and Information Administration

Quintron Corporation—designer, manufacturer and supplier of land mobile paging transmitters and mobile telephone base stations.

Special Industrial Radio Service, Inc.—non-profit organization serving as the frequency advisory committee for the Special Industrial Radio Service.

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[41] *See* Allocation of Channels in the 900 MHz Range for Multiple-Address Radio Systems, Third Notice of Proposed Rulemaking, S. S. Docket 79-18, FCC 80-751, released January 14, 1981. Regulations for Use of Radio in Public Utility Distribution Automation Systems, S. S. Docket 79-18, FCC 80-710, released January 14, 1981.

[42] 47 CFR 22.23(c)(1), 47 CFR 22.31. *See also* Charlotte Message Center, Mimeo 001482, released June 12, 1981. Under this policy any pending one-way application requesting more than one initial channel in a community will only be granted in part.

[43] 47 CFR 22.31(e)(2).

Telocator Network of America—national council of the independent, non-wireline radio common carrier industry.

Texas Tech University School of Medicine

Utilities Telecommunications Council—national representative on telecommunications matters of the nation's electric, gas, water and steam utilities, which are licensees in the Power Radio Service.

Vegas Instant Page—licensee in the Domestic Public Land Mobile Radio Service.

Replies in 900 MHz Paging Proceeding

Ad Hoc Private Paging Committee

Metro Mobile Communications, Inc.—SMRS operator licensed in the 800 MHz band.

Mobile Communications Corporation of America

Mobilfone of Northeastern Pennsylvania, Inc.—licensee in the Domestic Public Land Mobile Radio Service.

Motorola, Inc.

MX-COM, Inc.—supplier of integrated circuits for tone signaling.

National Association of Regulatory Utility Commissioners—quasi-governmental non-profit organization of state officials involved in regulating utilities and common carriers.

Ram Broadcasting Corporation—licensee in the Domestic Public Land Mobile Radio Service.

Telocator Network of America

Utilities Telecommunications Council

Vegas Instant Page

Appendix B

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

47 CFR Part 2 is revised as follows:

Section 2.106 is amended by adding the following in numerical order:

* * * * * * *

§ 2.106 Table of frequency allocations

FEDERAL COMMUNICATIONS COMMISSION

Band (MHz)	Service	Class of station	Frequency (MHz)	Nature of services of stations
7	8	9	10	11
929–930 (NG–132)	LAND MOBILE	Base		PUBLIC SAFETY INDUSTRIAL LAND TRANSPORTATION
930–931	LAND MOBILE	Base		One-Way Paging Reserve
931–932 (NG–132)	LAND MOBILE	Base		DOMESTIC PUBLIC
932–947	LAND MOBILE			RESERVE

* * * * *

A new NG Footnote is added to read as follows:

NG 132 After September 1, 1987, and subject to further order of the Commission concerning assignment procedures, stations in the Public Safety, Industrial and Land Transportation Services may be authorized the use of frequencies in the 931–932 MHz band and Domestic Public Services may be authorized to use frequencies in the 929–930 MHz band.

* * * * *

PART 22—PUBLIC MOBILE RADIO SERVICES

47 CFR Part 22 is revised as follows:

1. Section 22.2 is amended by adding the following definitions in alphabetical order:

§ 22.2 Definitions.

* * * * *

Paging service. A service provided by a communication common carrier engaged in rendering signaling communication.

Paging service, optical readout. Paging service consisting of communication of a message to a receiver which displays the message on an optical or tactile readout, whether in a permanent form (*see Record communication)* or a temporary form.

Paging service, tone-only. Paging service designed to activate an aural, visual, or tactile signaling device when received.

Paging service, tone/voice. Paging service in which a tone is transmitted to activate a signaling device and audio circuit in the addressed receiver, following which a voice-grade signal is transmitted, to be amplified by the audio circuitry.

* * * * *

Radio Common Carrier (RCC). A miscellaneous common carrier engaged in the provision of the Public Mobile Radio Services.

* * * * *

Signaling communication. One-way communications from a base station to a mobile or fixed receiver, or to multipoint mobile or fixed receivers by audible or subaudible means, for the purpose of actuating a signaling device in the receiver(s) or communicating information to the receiver(s), whether or not the information is to be retained in record form.

2. Section 22.13 is amended by revising paragraph (a)(1) as follows:

§ 22.13 General application requirements.

(a) * * *

(1) Disclose fully the real party or parties in interest, that are engaged in the Public Mobile Radio Services, including the following information:

(i) A list of its subsidiaries, if any. Subsidiary means any business five per cent or more whose stock, warrants, options or debt securities are owned by the applicant or an officer, director, stockholder or key management personnel of the applicant. This list must include a description of each subsidiary's principal business and a description of each subsidiary's relationship to the applicant.

(ii) A list of its affiliates, if any. Affiliates means any business which holds a five per cent or more interest in the applicant, or any business in which a five per cent or more interest is held by another company which holds a five per cent interest in the applicant (e.g. Company A owns 5% of Company B and 5% of Company C; Companies B and C are affiliates).

(iii) A list of the names, addresses, citizenship and principal business of any person holding five per cent or more of each class of stock, warrants, options or debt securities together with the amount and percentage held, and the name, address, citizenship and principal place of business of any person on whose account, if other than the holder, such interest is held. If any of these persons are related by blood or marriage, include such relationship in the statement.

* * * * *

3. Section 22.101, paragraph (a) is revised to read as follows:

§ 22.101 Frequency tolerance.

(a) The carrier ~~f~~requency of each transmitter authorized in these services must be maintained within the following percentage of the reference frequency except as otherwise provided in paragraph (b) of this section (unless otherwise specified in the instrument of

station authorization the reference frequency is considered to be the assigned frequency):

Frequency range (MHz)	Frequency tolerance (percent)		
	All fixed and base stations	Mobile stations over 3 watts	Mobile stations 3 watts or less [1]
25 to 50	0.002	0.002	0.005
50 to 450	.0005	.0005	.005
450 to 512	.00025	.0005	.0005
929 to 932 [2]	.00015		
2,110 to 2,220	.001		
2,220 to 12,220 [3]	.005	.005	.005
12,220 to 40,000	.03	.03	.03

[1] Below 512 MHz transmitter plate power input to the final frequency stage, as specified in the Commission's Radio Equipment List. Above 512 MHz transmitter power output as specified in the Commission's Radio Equipment List.

[2] Beginning Aug. 9, 1975, this tolerance will govern the marketing of equipment pursuant to §§ 2.803 and 2.805 of this chapter and the issuance of all authorizations for new radio equipment. Until that date new equipment may be authorized with a frequency tolerance of .03 percent in the frequency range 2,200 to 10,500 MHz and .06 percent in the range 10,500 MHz to 12,000 MHz, and equipment so authorized may continue to be used for its life provided that it does not cause interference to the operation of any other licensee. Equipment authorized in the frequency range 2,450 to 10,500 MHz prior to June 23, 1969 at a tolerance of .05 percent may continue to be used until February 1, 1975 provided it does not cause interference to the operation of any other licensee.

[3] Equipment authorized to be operated on frequencies between 890 and 940 MHz as of Oct. 15, 1956, shall be required to maintain a frequency tolerance within 0.03 percent subject to the condition that no harmful interference is caused to any other radio station.

4. In Section 22.107, paragraph (b) is revised to read as follows:

§ 22.107 Transmitter power.

* * * * *

(b) The rated power of a transmitter employed in these radio services shall not exceed the values shown in the following tabulation:

Frequency range (MHz)	Rated power output (watts)
Below 30	50
30 to 50	350
50 to 76	50
76 to 512	[1] 250
929 to 932	2,000
512 to 10,000	[2] 20
Above 10,000	[2] 10

[1] Transmitter rated power output is limited to a maximum of 25 watts on frequencies in the bands 454.6625–455.000 MHz and 459.6625–460.000 MHz.

[2] In the bands 5.925–6.425 MHz and 27.500–29.500 MHz the maximum effective isotropically radiated power of the transmitter and associated antenna of a station in the fixed service shall not exceed—55 dBW. This limitation is necessary to minimize the probability of harmful interference to reception in this band by space stations in the fixed-satellite service. In the band 2.150–2.162 MHz up to 100 watts may be authorized pursuant to § 21.904.

* * * * *

5. Section 22.501 is amended by revising paragraphs (d) and (h) and by adding paragraph (p) as follows:

§ 22.501 Frequencies.

* * * * *

(d) For assignment, to base stations of communication common carriers for use exclusively in providing a one-way signaling service.

35.22 MHz	43.22 MHz
35.58 MHz	43.58 MHz

Whenever feasible, the frequencies 35.22 MHz and 35.58 MHz shall be assigned for use in any area prior to the assignment of the frequencies 43.22 MHz and 43.58 MHz.

* * * * *

(h) For assignment to base stations for use exclusively in providing a one-way signaling service as follows:

(1) Communication common carriers engaged also in the business of affording public landline message telephone service:

152.84 MHz	158.10 MHz

(2) Communication common carriers not also engaged in the business of providing a public landline message telephone service:

152.24 MHz	158.70 MHz

* * * * *

(p)(1) For assignment to base stations of communication common carriers for use exclusively in providing a one-way signaling service. (center frequency of 25 KHz band)

931.0125 MHz	931.5125 MHz
931.0375 MHz	931.5375 MHz
931.0625 MHz	931.5625 MHz
931.0875 MHz	931.5875 MHz
931.1125 MHz	931.6125 MHz
931.1375 MHz	931.6375 MHz
931.1625 MHz	931.6625 MHz
931.1875 MHz	931.6875 MHz
931.2125 MHz	931.7125 MHz
931.2375 MHz	931.7375 MHz
931.2625 MHz	931.7625 MHz
931.2875 MHz	931.7875 MHz
931.3125 MHz	931.8125 MHz
931.3375 MHz	931.8375 MHz
931.3625 MHz	931.8625 MHz
931.3875 MHz	931.8875 MHz [1]
931.4125 MHz	931.9125 MHz [1] [2]
931.4375 MHz	931.9375 MHz [2]
931.4625 MHz	931.9625 MHz
931.4875 MHz	931.9875 MHz

[1] Reserved for stations engaged in providing nationwide network paging service.

[2] Reserved for stations engaged in providing nationwide or regional network paging service. Applicants for regional network paging service must specify one of these frequencies.

(2) Specification of frequency in application. An applicant for a new station in the band 929–932 MHz (except a station which will be engaged in providing network signaling service on the frequencies marked with footnote 1 in paragraph (p)(1)), will not specify a frequency in its application. Instead, the applicant should specify that it wishes a "900 MHz channel, unrestricted". The applicant may specify a frequency preference, but the Commission is not bound by such requests.

6. Section 22.502 is revised to read as follows:

§ 22.502 Classification of base stations.

Base stations in the Domestic Public Land Mobile Radio Service shall be classified, as set forth below, according to their transmitting antenna height above average terrain in any particular direction and according to their effective radiated power in the horizontal plane of the antenna in that direction. This classification is not applicable to base stations in the frequency bands 454.6625–455.0000 MHz, 459.6625–460.0000 MHz, and 929–932 MHz.

Antenna height above average terrain (feet)	Class of station				
400 to 500	C	B	B	A	A
300 to 400	C	C	B	B	A
200 to 300	D	C	C	B	B
100 to 200	D	D	C	C	B
0 to 100	E	D	D	C	C
	30	60	120	250	500

Effective radiated power (watts)

7. Section 22.503 is amended by adding paragraph (c) as follows:

§ 22.503 Geographical separation of co-channel stations.

* * * * *

(c) The mileage separation between base stations in the 929–932 MHz band operating simultaneously on a co-channel basis is at least 113 km. (70 miles.)

8. Section 22.504(b) is revised to read as follows:

§ 22.504 Service area of base station.

* * * * *

(b)(1) The field strength contours described in paragraph (a) of this section shall be regarded as determining the limits of the reliable service area of stations other than those in the frequency band 929–932 MHz for the purpose of providing protection to such stations from co-channel electrical harmful interference and for defining the area within which consideration will be accorded claims of economic competitive injury. The following F(50, 50) radio wave propagation charts shall be used in connection with making such determinations, and shall be used in combination with the following F(50, 10) radio wave propagation charts in the determination of areas of harmful interference between co-channel stations.

(2) The reliable service area for one-way signaling stations in the frequency band 929–932 MHz is 32 km (20 miles) from the location of the station's transmitter. The reliable service area is used to determine whether claims of economic competitive injury are considered. The reliable service area so defined is not entitled to protection from electrical interference from co-channel stations at distances greater than those listed in § 22.503(c) under any circumstances.

9. Section 22.505 is amended by designating the present text as

paragraph (a) and revising it, and by adding a new paragraph (b) as follows:

§ 22.505 Antenna height-power limit for base stations.

(a) In view of the fact that the predominant need for mobile communication service can usually be met by base stations within the classification set forth in § 22.502, and because widespread coverage is undesirable in areas where no substantial need exists for mobile communication service through a distant base station, base stations will not be authorized to employ transmitting antennas in excess of 500 feet above average terrain unless the effective radiated power of the base station is reduced below 500 watts by not less than the amount as shown in the chart below entitled "Required Reduction in Effective Radiated Power for Antenna Heights in Excess of 500 Feet Above Average Terrain". This antenna height-power limit does not apply to base stations in the frequency bands 470–512 and 929–932 MHz.

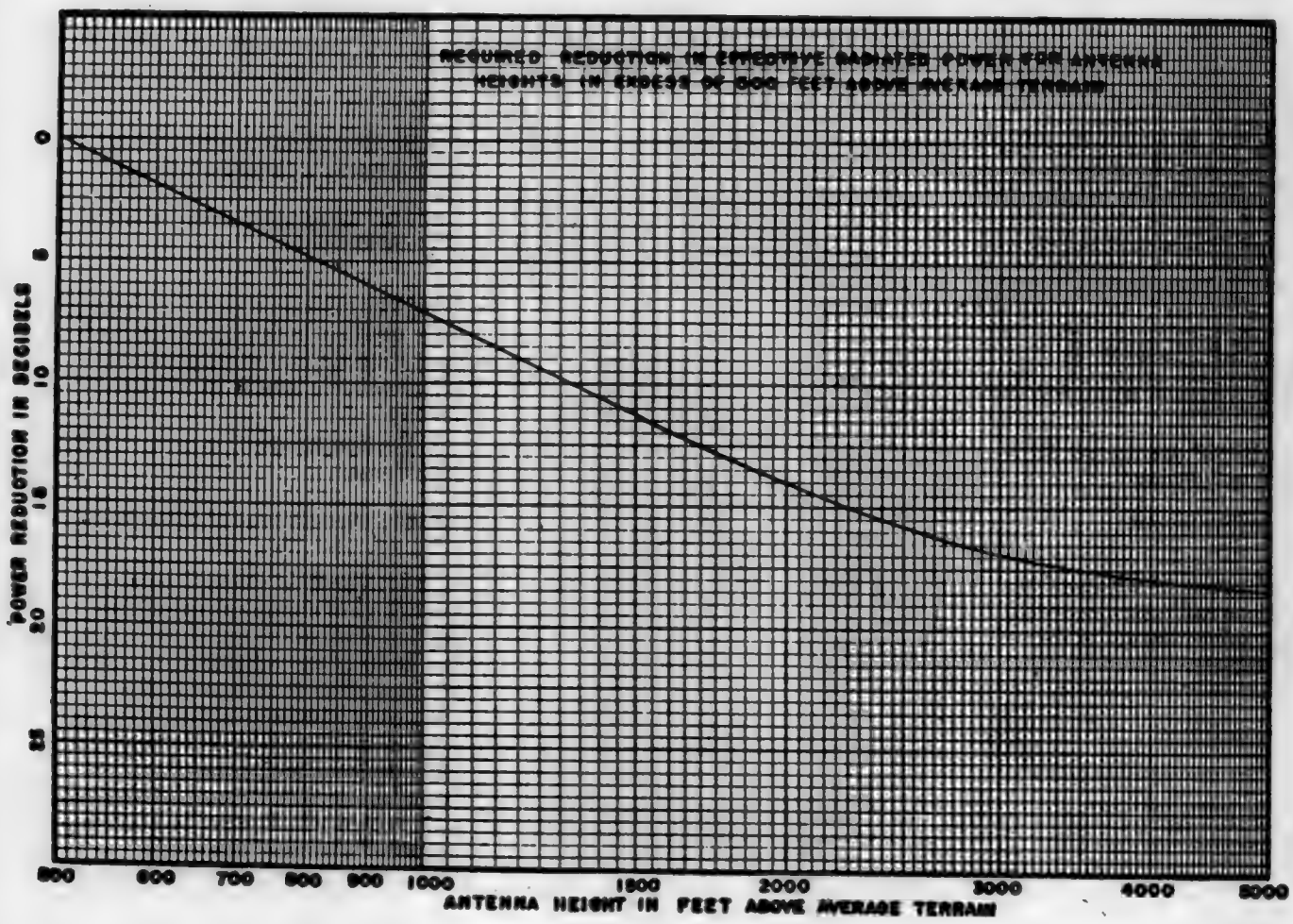

(b) The maximum effective radiated power and antenna height, respectively, for base stations providing one-way signaling service in the frequency band 929–932 MHz shall be no greater than 1 kilowatt (30 dBw) and 305 meters (1000 feet) above average terrain (AAT), or the equivalent thereof determined from the following table:

Antenna height (AAT) (feet)	Effective radiated power (ERP) (watts)
Above: 5000	65
4500	70
4000	75
3500	100
3000	140
2500	200
2000	300
1500	600
1000	1000

For AAT's between the above listed values, linear interpolation should be used.

10. Section 22.506 is amended by revising paragraph (a) and by adding new paragraphs (d) and (e) as follows:

§ 22.506 Power limitations.

(a) Stations in this service (other than base stations in the frequency bands 470–512 and 929–932 MHz) shall not be permitted to exceed 500 watts effective radiated power and shall not be authorized to use transmitters having a rated power output in excess of the limits set forth in § 22.107(b): *Provided, however,* That the effective radiated power of dispatch stations, and auxiliary test stations and base stations operating on frequencies specified in

§ 22.521 shall not exceed 100 watts: *Provided, further,* That the rated power output of transmitters used on frequencies specified in § 22.521 shall not exceed 25 watts and that the transmitter output power of airborne stations operating on such frequencies shall not be less than 4 watts. A base station standby transmitter having a rated power output in excess of that of the main transmitter of the base station with which it is associated and will not be authorized. For stations in the 470–512 MHz frequency band see section 22.501(l).

* * * * *

(d) Base stations operating on frequencies in the band 470–512 MHz shall not exceed the values of effective radiated power listed in § 22.501(l) and shall not use transmitters having a maximum output power in excess of the limits shown in § 22.107(b).

(e) Base stations operating on frequencies in the band 929–932 MHz shall not exceed the values of effective radiated power listed in § 22.505(b) and in any event no greater than 1000 watts, and shall not use transmitters having a maximum output power in excess of the limits shown in § 22.107(b).

11. Section 22.507 is amended by revising paragraph (b) and by deleting paragraph (c) as follows:

§ 22.507 Bandwidth and emission limitations.

* * * * *

(b) The maximum authorized bandwidth of emission and, for the cases of frequency or phase modulated emissions, the maximum authorized frequency deviation shall be as follows:

Type of emission	25–50 MHz		50–150 MHz		150–932 MHz	
	Authorized bandwidth (kHz)	Frequency deviation (kHz)	Authorized bandwidth (kHz)	Frequency deviation (kHz)	Authorized bandwidth (kHz)	Frequency deviation (kHz)
A1	1		1		1	
A2	3		3		3	
A3	8		8		8	
F1	3		3		3	
F2	15		15		15	
F3	20	5	[1]40	[2]15	[1]20	[2]5

[1] In the frequency band 450 to 470 MHz radio facilities using frequency modulated or phase modulated emission, authorized prior to June 1, 1968, will continue to be authorized with bandwidth of 40 kHz until Nov. 1, 1971, provided that the frequency deviation is reduced to 5 kHz by June 1, 1968.

[2] In the frequency bands 72.0–73.0 and 75.4–76.0 MHz, radio facilities using frequency modulated or phase modulated emission will be authorized with maximum bandwidth of 20 kHz and maximum frequency deviation of 5 kHz. Radio facilities which were authorized for operation on Dec. 1, 1981, in the frequency band 73.0–74.6 MHz may continue to be authorized without change and with bandwidth of 40 kHz and frequency deviation of 15 kHz. New or modified facilities in the frequency band 73.0–74.6 MHz will not be authorized.

(c) [Reserved]

* * * * *

12. Section 22.508 is amended by revising paragraphs (a) and (g) as follows:

§ 22.508 Modulation requirements.

(a) The use of modulating frequencies higher than 3000 Hertz for radiotelephone or tone signaling is not authorized for frequencies below 512 MHz or in the band 929–932 MHz.

* * * * *

(g) Each transmitter which operates on frequencies between 450 and 512 MHz or in the band 929–932 MHz and employes type A3 or F3 emission, shall be equipped with a modulation limiter in accordance with the provisions of paragraph (e) of this section and also shall be equipped with a low-pass audio filter installed between the modulation limiter and the modulated stage. At audiofrequencies between 3 kHz and 20 kHz, the filter shall have an attenuation greater than the attenuation at 1 kHz by at least:

$60 \log_{10} (f/3)$ decibels

where "f" is the audiofrequency in kilohertz. At audiofrequencies above 20 kHz, the attenuation shall be at least 50 decibels greater than the attenuation at 1 kHz: *Provided, however,* that in lieu of such filter, transmitters authorized to operate between 450 and 470 prior to June 1, 1968, may continue to operate until November 1, 1971, with a filter meeting the requirements prescribed in paragraph (f) of this section.

* * * * *

13. Section 22.516 is amended by revising the heading and the introductory language as follows:

§ 22.516 Additional showing required with application for assignment of additional frequency or frequencies, or as otherwise required by the Commission's Rules.

Traffic load studies shall be required in conjunction with an application requesting the assignment of an additional frequency for an existing one-way signaling station, in conjunction with an application requesting the assignment of one or more additional frequencies for an existing two-way station, or as the Commission may otherwise prescribe. A traffic load study shall include a showing of the following:

* * *

14. Part 22 is amended by adding new § 22.525 to read as follows:

§ 22.525 One-way signaling stations.

(a) An applicant for a new one-way signaling station may request no more than one channel. No showing of public need will be required of an applicant for an initial channel regardless of the band for which the request is made, in view of the generalized public need for one-way signaling communications.

(b) An applicant requesting a new one-way signaling station will be deemed to be requesting additional frequencies for its existing station if either (1) the transmitter location specified in the new application is within the service area of the existing station, or (2) there is an overlap of 50 percent or more between the service areas of the existing and proposed facilities.

(c) An applicant for an additional transmitter location within the service area of its existing station, and on the same frequency, will not be required to demonstrate public need for the new facility. The applicant may not reduce the distance between its own station location(s) and a co-channel station below that specified in § 22.503(c) as a result of the addition of a new transmitter location unless the frequency is time-shared to avoid interference.

(d) An applicant for an additional channel must demonstrate the need for it by submitting a traffic load study pursuant to § 22.516.

(e) an Applicant filing an application for a 900 MHz paging frequency, (1) at the same transmitter location as a pending one-way paging application, or (2) at a location which produces an overlap of 50 percent or more between the two facilities, without dismissing the previously filed pending application, will be treated as amending the previous application. The amended application will be considered newly filed and subject to the applicable cut-off procedures.

[FR Doc. 82-14290 Filed 6-4-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-883; RM-4005]

FM Broadcast Station in Palm Desert, California; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 244A to Palm Desert, California, in response to a petition filed by John R. Banoczi. The assignment could provide for a second FM service to Palm Desert.

DATE: Effective July 28, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order—Proceeding Terminated

Adopted: May 21, 1982.

Released: May 28, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. Palm Desert, California, BC Docket No. 81-883 RM-4005.

1. The Commission has under consideration the Notice of Proposed Rule Making, 46 FR 62870, published December 29, 1981, proposing the assignment of Channel 244A to Palm Desert, California, as its first FM assignment. The Notice was issued in response to a petition filed by John R. Banoczi ("petitioner"). Supporting comments were filed by the petitioner reaffirming that he or his associates will apply for the channel, if assigned. Comments were also filed by Classic Broadcasting, Inc. ("Classic"), licensee of Station KCMS(FM), Palm Desert, California. No oppositions to the proposal were received.

2. Palm Desert (population 11,801),[1] in Riverdale County (population 663,923), is located approximately 176 kilometers (110 miles) east of Los Angeles, California. It is served by daytime-only AM Station KGUY and FM Station KCMS (Channel 276A).

3. In comments to the proposal, the petitioner refers to the information in the Notice which demonstrated the need for a second FM allocation to Palm Desert. Classic comments that it has no objection to the proposed assignment, provided it does not preclude its pending application to change the city of designation from Indio to Palm Desert, California.[2] Classic adds that there is no substantial preclusion or any reason for delay in granting both requests.

4. In the Notice, we stated that as a result of the assignment of Channel 244A to Palm Desert, four communities [3] with a population greater than 1,000 would be precluded from assignment on the co-channel and adjacent Channel 245, one of which (Eagle Mountain) is without local service. However, at least six alternate channels are said to be available for assignment to the precluded communities.

5. We have concluded that the public interest would be served by assigning Channel 244A to Palm Desert, California. The petitioner has adequately demonstrated the need for a second FM station in that community. Since alternate channels are available to the precluded communities, we consider the preclusion impact insignificant. To avoid short spacing to Station KCAL (Channel 244A), Redlands, California, the transmitter site is restricted to 5.3 kilometers (3.3 miles) southeast of Palm Desert.

6. Mexican concurrence in the assignment of Channel 244A to Palm Desert, California, has been obtained.

7. Accordingly, pursuant to the authority contained in §§ 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules, it is ordered, That effective July 28, 1982, the FM Table of Assignments, § 73.202(b) of the rules is amended with regard to Palm Desert, California, as follows:

City	Channel No.
Palm Desert, Calif	244A, 276A

8. It is further ordered, That this proceeding is terminated.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

[1] Population figures are taken from the 1980 U.S. Census.

[2] Classic, operating on Channel 276A, was recently granted authority to change the community of license to specify Palm Desert pursuant to § 73.203(b) of the Commission's rules.

[3] Indio, Coachella, Twentynine Palms and Eagle Mountain.

Federal Communications Commission,
Roderick K. Porter,
Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-15336 Filed 6-4-82; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-819; RM-3839]

FM Broadcast Stations in Colorado Springs, Evergreen, Lamar, Monte Vista, and Public, Colorado; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects an error of omission made in the Report and Order issued in BC Docket 81-819 concerning the assignment of FM broadcast stations in various cities in Colorado.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast Stations (Colorado Springs, Evergreen, Lamar, Monte Vista, and Public, Colorado); BC Docket No. 81-819, RM-3839.

Released: May 27, 1982.

On May 17, 1982, the Commission, by its Broadcast Bureau, released a Report and Order in the above-captioned proceeding, (47 FR 22536; May 25, 1982). Inadvertently in paragraph 18, the deadline date for informing the Commission of consent to a certain modification was omitted. That date should read: July 19, 1982.

William J. Tricarico,
Secretary, Federal Communications Commission.

[FR Doc. 82-15333 Filed 6-4-82; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-777, RM-3858]

FM Broadcast Station in Big Pine Key, Florida; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action substitutes Class C FM Channel 284 for Channel 228A at Big Pine Key, Florida, and modifies the Class A license for Station WWUS

(FM), in response to a petition filed by Lower Keys Broadcasting Corporation. The assignment would provide Big Pine Key with its first Class C FM station.

DATE: Effective July 28, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73 affected

Radio broadcasting.

Reported and Order—Proceeding Terminated

Adopted: May 21, 1982.
Released: June 3, 1982.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Big Pine Key, Florida), BC Docket No. 81-777 RM-3850.

1. Before the Commission for consideration is the Notice of Proposed Rule Making, 46 FR 59563, published December 7, 1981, proposing the substitution of Class C FM Channel 284 for Channel 228A at Big Pine Key, Florida, and modification of the license for Channel 228A to specify operation on the Class C channel. Comments and reply comments were submitted by Lower Keys Broadcasting Corporation ("petitioner"). Opposing comments were received from: Breeze 94, Inc. ("Breeze 94"), licensee of FM Station WMUM, Marathon, Florida;[1] Phoenix Radio of Florida, Inc. ("Phoenix"), licensee of Key West FM Station WIIS; and Florida Keys Broadcasting Corporation ("Florida Keys"), licensee of co-owned Stations WKIZ and WFYN (FM), Key West. Florida Keys also filed reply comments.[2]

2. Big Pine Key (population 2,223),[3] in Monroe County (population 63,098),[4] is located approximately 48 kilometers (30 miles) northeast of Key West, Florida. It is served by FM Station WWUS (Channel 228A), licensed to the petitioner.

3. The Notice indicated that petitioner proposed a Class C station so it could serve most of the Lower Keys Division of Monroe County. While local service was the prime consideration, it also wished to serve the vast number of persons travelling through the area with a diverse broadcast voice, placing emphasis on the provision of essential weather warnings and news. Further, petitioner stated that the deletion of Channel 228A from Big Pine Key would free the channel for use at any of nine area communities, including six with no local aural service.[5]

4. In its comments, petitioner reaffirmed its intention to apply for the channel if assigned. In response to our request for information in the Notice, petitioner advised that no communities would be precluded from an alternative assignment if Channel 284 is assigned to Big Pine Key. Additionally, petitioner stated that the proposal was not designed to serve Key West since its proposed facilities (100 kW at 150 feet HAAT) would not be sufficient to provide a 60 dBu signal over Key West.

5. In opposing comments, Breeze 94 claims that petitioner has not demonstrated that Big Pine Key is underserved or that its coverage could not be improved if it operated its existing allocation with maximum facilities. Additionally, it states that a Class C assignment is not appropriate when a Class A would sufficiently serve the community of license, citing *Chubbuck, Idaho*, 49 R.R. 2d 694, 696 (1981); *Mountain Home, Arkansas*, 47 R.R. 2d 762 (1980); and *Eagle River, Alaska*, 50 R.R. 2d 215 (1981).[6] It notes that there have been instances where a Class C channel was assigned without the necessity of showing that a first or second service would be provided, based on the remoteness of the area to be served. It states that the instant proposal is not adequate since Big Pine Key and a majority of the communities adjacent thereto are served by nine other area signals, in addition to cable systems. Thus, it states that a Class C assignment at Big Pine Key will not provide additional service to a substantial population, and that instead petitioner's proposal is an attempt to reach the Marathon and Key West markets. It concludes that even though petitioner's proposal would not place a 60 dBu signal over Key West at this time, facilities could be constructed which would have a greater impact.

6. According to Florida Keys, the petitioner's proposal is inconsistent with the mandate of Section 307(b) of the Act "to provide a fair, efficient and equitable distribution of radio service * * *." It asserts that petitioner's proposal would realistically provide a fifth FM and seventh full time aural service to Key West which has a population of less than 50,000. It submits that this overabundance of service is especially unnecessary in Key West since it also is served by cable systems which, in turn, carry the signals of other Florida FM stations. Florida Keys asserts that petitioner is attempting to skirt this issue by basing its proposal on an assumed antenna height of 150 feet. It remarks that while petitioner might operate with minimum facilities initially, it is dubious that such an operation would continue on more than an interim basis, due to the attractiveness of serving the larger Key West market. Additionally, Florida Keys claims that petitioner's station presently receives a majority of its advertising support from Key West and Marathon businesses, which it claims will increase if petitioner upgrades the quality of its signal to those areas.

7. Florida Keys argues that the preclusive impact is more extensive than indicated by petitioner since the assignment of Channel 284 to Big Pine Key would affect the future allocation of Class C channels in the Upper and Middle Keys, areas which it maintains are growing most rapidly. Further, it maintains that preclusion would occur on the co-channel, as well as Channels 281 and 282 in four communities[7] which have a population in excess of 1,000 persons.

8. Phoenix also argues that petitioner's proposal is "an attempt to serve Key West in particular and the Lower Keys in general." To substantiate its claim of intent, Phoenix advises that petitioner's promotional advertisements have announced Station WWUS "is number one" in Key West. It adds that Key West no longer has a healthy economy and thus there is no need for an additional

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[1] Breeze 94 also owns 80% of the stock of Marathon Wireless Communications, Inc., licensee of AM Station WFFG in Marathon.

[2] Additionally, after the pleading cycle expired, "A Request for Permission to Submit Supplemental Filing and a Supplement to Comments" was filed by Florida Keys. However, those comments are untimely for consideration herein and, in any event because they raise issues essentially related to the sources of advertising on its station from cities other than its community of license, such matter is not appropriate for consideration at the rule making stage.

[3] Population figure supplied by petitioner, as provided by the Monroe County Planning Department.

[4] Population figure was obtained from the preliminary 1980 U.S. Census.

[5] Those communities are as follows: Stock Island (population 4,418); Boca Chica (population 948), Big Coppitt (population 1,784), Key Colony Beach (population 1,022); Layton City (population 88), and Islamorada (population 1,437) (population figures were obtained from the 1980 U.S. Census).

[6] We do not find those cases supportive since the Class C in each instance was denied, in lieu of a Class A, for one or more of the following reasons: the community was found to be in close proximity to, or a suburb of, a larger city; a mutually exclusive proposal for a larger community was preferred; or the Commission was concerned with preclusive and intermixture impact.

[7] Those communities, according to Florida Keys, consist of the following: Key West (population 27,563); Boca Chica (population 948), Marathon (population 1,251), and Key Largo (population 2,096).

broadcast outlet in the community, or the entire Lower Keys. In any event, it claims that if petitioner wishes to broaden its coverage area, it could do so by increasing the antenna height for Station WWUS to 300 feet.

9. In reply comments, Florida Keys disputes petitioner's claim that the proposal would provide a second service to Marathon, Florida. According to its engineering study, a second service could be provided to Marathon by Key West FM Station WVFK.[6] Also, it argues that if Channel 284 is assigned to Big Pine Key, Channel 228A is not the only channel that would be available to the three communities presently without local aural service, as claimed by petitioner. Florida Keys engineering study reveals that there are at least four channels which could be assigned to Key Colony, Layton and Islamorada, *i.e.*, Channels 249A, 276A, 280A and 292A. In conclusion Florida Keys asserts that Channel 228A should be retained at Big Pine Key to prevent precluding the future assignment of Class C channels in the Upper and Middle Keys.

10. In reply comments, petitioner provided information supplied by the Lower Keys Chamber of Commerce to establish that Big Pine Key and Key West are seperate communities with distinctly different needs and interests. In addition to setting forth economic information relating to Big Pine Key, the Chamber of Commerce advised that recently Looe Key Coral Reef, located six miles south of Big Pine Key, was designated as a National Marine Sanctuary. As such, Big Pine Key has become a "jumping off point for divers and tourists wishing to reach that area."

11. With respect to a possible future increase in its antenna height, petitioner asserts that Big Pine Key is located in a hurricane belt, thereby rendering totally unrealistic any such increase in its facilities. Also, in response to allegations that additional coverage could be obtained by increasing the antenna height of petitioner's existing Class A facilities to the maximum of 300 feet, petitioner states that this would increase the distance of the station's 60 dBu contour by only 2.5 miles. Further, it asserts that since Big Pine Key is practically surrounded by water, this increased radius would cover less than 7.0 square miles of land area, in the sparsely populated area of Lower Sugarloaf Key, half of which is presently covered by its 60 dBu contour. The remainder of the signal would extend over water.

[6] According to unverified information supplied by the existing Key West licensees, Station WVFK has been silent for over one year.

12. Additionally, petitioner insists that its proposal is not an attempt to seek additional advertising support from Key West and Marathon businesses by upgrading the quality of its signal. Petitioner submitted a promotional advertisement aired by Station WFYN which announced that the Key West operation is the only FM station covering the entire Lower Keys. It compares the Key West station's operating power of 26,000 watts with that of petitioner's and other area stations operating with 3,000 watts, to demonstrate that it (WFYN) seeks to serve the Lower Keys. As such, petitioner claims that Florida Keys' concern stems from a fear of economic harm to its operation.

13. Petitioner also attempts to rebut Florida Keys' engineering showing concerning preclusion. As to precluding the assignment of Channel 281 to Key Largo, petitioner states that the channel is already precluded by Station WSHE, Fort Lauderdale, Florida, operating on Channel 278. Petitioner notes that preclusion would occur on Channels 281 or 282 at Marathon only if Channel 228A is not deleted from Big Pine Key. However, if removed from Big Pine Key, Channel 228A could be assigned to Marathon as a second Class A assignment.

14. In response to Florida Keys' claim that a monitor of its station on May 1, 1981, revealed a considerable percentage of the advertisements were for Key West and Marathon businesses, petitioner advises that the day in question involved a national campaign day. Further, petitioner claims that a random review of its accounts on January 2, 1982, reveals that 61% of its advertisements were for Big Pine Key, 18% for Marathon, and 16% for Key West.

15. With respect to service to Key West, petitioner's engineering study reveals that it could provide a 60 dBu signal to Key West with a 300 foot antenna, while a 70 dBu signal would require a tower of at least 900 feet. (It presently operates with 3 kW at 190 feet.) The study also reveals that petitioner has eight years remaining on a ten year lease for its existing studio-transmitter site. Due to high winds and hurricanes that are common to the Keys, it asserts the availability of suitable land for a transmitter is scarce and expensive. It adds that because the station is located in the National Key Deer Wildlife Refuge area, an antenna exceeding 300 feet would pose an environmental impact consideration and thus not likely to obtain approval. In view of these considerations, it states that while it is theoretically possible to increase its antenna height, it would not be practical to do so since the exorbitant cost factor involved far outweighs consideration of any benefits which the increased coverage could offer.

16. As we stated in the Notice, and reaffirm here, a suburban issue is not appropriate for consideration since, based on petitioner's proposed operation, a 60 dBu signal will not be received in Key West. Even though the opposition comments maintain that petitioner intends to serve the larger communities of Key West and Marathon, we find that the showing of such intent is inadequate. The degree to which petitioner is claimed to have advertised in communities other than Big Pine Key is not of itself determinative of an intent to primarily serve those communities. As indicated earlier, such concern is inappropriate here. In any event, we have determined that since Big Pine Key is located a distance of about 30 miles from Key West, and since Marathon is an even smaller community than Big Pine Key, we do not believe petitioner's primary intention is to serve those communities.

17. The underlying common concern of the opponents to the instant proposal appears to be the fear of economic harm to their existing operations. If so, we are not convinced from the data submitted that the extent of harm warrants denial of the proposal. *See, Carroll Broadcasting Co.* v. *F.C.C.* 258 F. 2d 440 (D.C. Cir. 1958). Such injury to existing stations from another station is relevant only insofar as it affects the public interest. *See, Gainesville, Florida,* 11 R.R. 2d 1699 (1968).

18. In response to the allegations that Big Pine Key is adequately served by area facilities, it is noted that although the availability of reception services has been cited by the Commission as justification for denying a channel assignment in comparative cases, we are unaware of any case in which a channel assignment was denied to a community solely on the basis that it received service from other area stations. A channel is assigned to a specific community to broadcast programs meeting that community's needs. A station owing a primary obligation to another locality is not expected to provide the equivalence of such local service. *See, Clinton, Louisiana,* 45 R.R. 1587–89 (1979). Therefore, the signals received in Big Pine Key from area stations cannot be considered as substitutes for local service, and the reception of these

signals does not provide a basis for denying the proposal herein.

19. Although communities of Big Pine Key's size are not usually assigned Class C facilities, from the information submitted by petitioner it does appear that the proposed assignment would nevertheless provide service to persons in sparsely settled areas that are not otherwise likely to receive local service. These communities are too small to expect with any certainty that an interest in an assignment would necessarily be forthcoming. *See, Greybull, Wyoming,* 49 R.R. 2d 617 (1980). In addition, we find a need for wide area coverage directed to supplying persons travelling through the Lower Keys with a diverse source of broadcast information, especially with regard to essential weather warnings and news. As we have previously held, a transient population in a sparsely settled area also has a need for radio service though the need may be unrelated to the needs of the community of license. *See, Yermo and Mountain Pass, California,* 44 Fed. Reg. 4486 (1979).

20. Florida Keys' concern that the instant proposal will impact on the future allocation of Class C channels in the Middle and Upper Keys is not a preclusion standard. We view the preclusion impact in terms of possible assignment to communities without any local station. Such communities are generally entitled only to a Class A channel. We would not ordinarily allow a Class C channel to remain unused on the possibility of its future use elsewhere where a Class A channel could be assigned there.

21. In view of the expressed interest in the proposed channel allocation, the demonstration of need, and the fact that the preclusion impact does not appear to be significant, we find the public interest would be served by the assignment of Channel 284 to Big Pine Key. Additionally, we have authorized, *infra,* a modification of Lower Keys Broadcasting Corporation's license for Station WWUS to specify operation on Channel 284 since there has been no other expression of interest in the Class C channel. *See, Cheyenne, Wyoming,* 62 F.C.C. 2d 63 (1976).

22. Accordingly, pursuant to the authority contained in §§ 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules, it is ordered, That effective July 28, 1982, the FM Table of Assignments, § 73.202(b) of the Rules is amended with regard to Big Pine Key, Florida, as follows:

City	Channel No.
Big Pine Key, Fla	284

23. It is further ordered, That pursuant to § 316(a) of the Communications Act of 1934, as amended, the license of Lower Keys Broadcasting Corporation for FM Station WWUS, Big Pine Key, Florida, is modified effective July 28, 1982, to specify operation on Channel 284, in lieu of Channel 228A, subject to the following conditions:

(a) The licensee shall file with the Commission a minor change application for a construction permit (Form 301), specifying the new facilities.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with § 73.1620.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's Rules.

24. It is further ordered, That the Secretary shall send a copy of this Order by certified mail, return receipt requested to: Lower Keys Broadcasting Corporation, Rt. 3, Box 183E, Big Pine Key, Florida 33043.

25. It is further ordered, That this proceeding is terminated.

26. For further information concerning the above, contact Nancy V. Joyner, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82–15323 Filed 6–4–82; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 82–43; RM–3989]

TV Broadcast Station in Hays, Garden City and Randall, Kansas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein reassigns Channel *9 from Garden City, and from Randall, Kansas, to Hays, Kansas; substitutes Channel *18 at Garden City; and deletes Channel *14 from Hays, Kansas, in response to a petition filed by Smoky Hills Public Television Corp.

DATE: Effective July 28, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order—Proceeding Terminated

Adopted: May 24, 1982.

Released: May 28, 1982.

In the matter of amendment of § 73.606(b), table of assignments, television broadcast stations. (Hays, Garden City and Randall, Kansas); BC Docket No. 82–43, RM–3989.

1. The Commission herein considers the Notice of Proposed Rule Making, 47 FR 5734, published February 8, 1982, in response to a petition filed by Smoky Hills Public Television Corp. ("SHPTV") ("petitioner"). The Notice proposed substituting Channel *9 for Channel *14 at Hays, Channel *18 for Channel *9 at Garden City, and deleting Channel *9 at Randall, Kansas. Only the petitioner filed timely comments in this proceeding.[1]

2. Hays (population 16,301),[2] seat of Ellis County (population 26,099), is located 400 kilometers (250 miles) west of Kansas City, Kansas. It is served by commercial Station KAYS–TV (Channel 7). A permit has been issued for noncommercial educational Station KSMH–TV (Channel *14), held by petitioner.

3. Garden City (population 18,250), seat of Finney County (population 23,825), is located 310 kilometers (193 miles) west-northwest of Wichita, Kansas. It is served by two commercial TV stations (KGLD, Channel 11, and KUPK–TV, Channel 13). A permit has been issued for a noncommercial educational station on Channel *9 to Garden City Community Junior College for Station KSWK–TV.

4. Randall (population 154), in Jewell County (population 5,241), is located 225 kilometers (140 miles) north of Wichita. It has no TV service. Its only TV channel assignment (Channel *9) is unoccupied.[3]

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[1] After the deadline for filing comments, a letter was received from Kanza Society, Inc., Station KANZ–FM, Pierceville, Kansas, endorsing the proposal.

[2] Population figures are taken from the 1980 U.S. Census.

[3] Channel *9 at Randall has remained unoccupied since it was assigned in 1979 (BC Docket 78–321). The channel was assigned consistent with the Kansas Public TV Board's network plan for the state.

5. Petitioner's comments restated the information submitted in the petition, noting the loss of local, state and federal funds, which severely curtailed its ability to construct and operate. SHPTV referred to the Commission's *Second Report and Order* in Docket No. 21136, relating to the funding problem experienced by noncommercial broadcasters and the Commission's awareness of the problem. Petitioner adds that the proposal would provide local public television service to the unserved region of northwestern Kansas. Petitioner further states, and has attached a letter to the effect that the Southwest Kansas Public Television Board at Garden City, Kansas, has voted not to oppose the deletion of Channel *9 from Garden City and the substitution of Channel *18 therefor, since it is unlikely that their proposed facility would be activated in the near future.

6. Having considered the proposal, we find that the public interest would be served by the requested channel changes. With regard to the substitution of Channel *9 for Channel *14 at Hays, we have generally held that a licensee's interest in obtaining a lower TV channel is not in the public interest. However, where a public interest reason is found, we have no objection to the use of the lower channel. Based on the service to be provided to unserved areas and the cost savings of constructing and operating a VHF station in lieu of a UHF station by a noncommercial broadcaster, the proposal appears justified. Therefore, without an expression of interest in a channel allocation at Randall, Kansas, we shall delete Channel *9 from Randall, Kansas. (Several channels remain available should a party express an interest in operating a station there.) We shall also substitute Channel *18 for Channel *9 at Garden City, where the permittee has agreed to the deletion of its channel. In paragraph 8 we have modified the permits of Stations KSWK–TV and KSMH–TV at Garden City and Hays, respectively, to specify operation on the new channel. A site restriction of 13 miles southeast of the city must be imposed for the Channel *9 assignment at Hays.

7. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules, it is ordered, That effective July 28, 1982, the Television Table of Assignments, § 73.606(b) of the Rules, is amended with respect to the communities listed below:

City	Channel No.
Garden City, Kans.	11+, 13−, *18
Hays, Kans.	7−, *9
Randall, Kans.	

8. It is further ordered, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the outstanding permit held by Garden City Community Junior College for Station KSWK–TV (Garden City, Kansas), is modified to specify operation on Channel *18 instead of Channel *9, and the outstanding permit held by Smoky Hills Public Television Corp. for Station KSMH–TV (Hays, Kansas) is modified to specify operation on Channel *9 instead of Channel *14. Stations KSWK–TV and KSMH–TV may continue to operate on Channels *9 and *14, respectively, for one year from the effective date of this action or until it is ready to operate on Channels *18 and *9, whichever is earlier, unless the Commission sooner directs, subject to the following conditions:

(a) The licensee shall file with the Commission a minor change application for a construction permit (Form 301), specifying the new facilities.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with § 73.1620.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's rules.

9. It is further ordered, That the Secretary of the Commission shall send a copy of this *Report and Order* by certified mail, return receipt requested, to Board of Trustees, Garden City Community Junior College, P.O. Box 1016, Garden City, Kansas 67846, and to Smoky Hills Public Television Corp., c/o 1011 Fort Street, Hays, Kansas 67601.

10. It is further ordered, That this proceeding is terminated.

11. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-15339 Filed 6-4-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-147; RM-4049]

FM Broadcast Station in Nantucket, Massachusetts; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action substitutes Class B FM Channel 242 for Channel 228A at Nantucket, Massachusetts, and modifies the Class A license accordingly, in response to a petition filed by Home Service Broadcasting Corporation.

DATES: Effective July 28, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73.

Radio broadcasting.

Report and Order Proceeding Terminated

Adopted: May 25, 1982.

Released: May 27, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Nantucket, Massachusetts), BC Docket No. 82–147, RM–4049.

1. In response to a petition filed by Home Service Broadcasting Corporation ("petitioner"), the Commission adopted a Notice of Proposed Rule Making, 47 FR 13840, published April 1, 1982, proposing to substitute Class B Channel 242 for Channel 228A at Nantucket, Massachusetts. The Notice also proposed to modify the Class A license for Station WGTF(FM) to specify operation on Channel 242. Supporting comments were filed by the petitioner restating its interest in the Class C channel. No oppositions to the proposal were received.

2. Nantucket (population 5,087,[1] seat of Nantucket County (population 5,087) is located on Nantucket Island approximately 136 kilometers (85 miles) southeast of Boston, Massachusetts. It is served by FM Station WGTF (Channel 228A), licensed to the petitioner.

3. In comments petitioner incorporated by reference the information previously submitted, which demonstrated the need for a Class B assignment. In the Notice, we indicated

[1] Population figures are taken from the 1980 U.S. Census.

that preclusion resulting from a Channel 242 assignment would be minimal since almost all of the possible assignment area is already precluded by Station WSRS (Channel 241), Worcester, Massachusetts. Only the extreme portion of Massachusetts and Nantucket Island could be assigned Channel 242. This area could also receive the assignment of Channel 228A, if removed from Nantucket.

After consideration of the proposal, we believe that the public interest would be served by the proposed substitution of channels. The preclusion impact is considered to be insignificant. We have authorized in paragraph 6 a modification of petitioner's license for Station WGTF(FM) to specify operation on Channel 242, since there has been no other expression of interest in the Class B channel. See *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976).

5. In view of the foregoing and pursuant to the authority contained in Sections (i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.204(b) and 0.281 of the Commission's rules, it is ordered that effective July 28, 1982, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with respect to Nantucket, Massachusetts, as follows:

City	Channel No.
Nantucket, Massachusetts	242

6. It is further ordered, That pursuant to § 316(a) of the Communications Act of 1934, as amended, the outstanding license held by Home Service Broadcasting Corporation for Station WGTF(FM), Nantucket, Massachusetts, is modified, effective July 28, 1982, to specify operation on Channel 242 instead of Channel 228A. Station WGTF(FM) may continue to operate on Channel 228A for one year from the effective date of this action or until it is ready to operate on Channel 242, whichever is earlier, unless the Commission sooner directs, subject to the following conditions:

(a) The licensee shall file with the Commission a minor change application for a construction permit (Form 301), specifying the new facilities.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with § 73.1620.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's rules.

7. It is further ordered, That this proceeding is terminated.

8. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-15825 Filed 6-4-82; 9:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-882; RM-4004]

FM Broadcast Station in Artesia, Miss.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 261A to Artesia, Mississippi, in response to a petition filed by Colom and Associates. The assignment could provide a first FM service to Artesia.

DATE: Effective July 28, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations. (Artesia, Mississippi); BC Docket No. 81-882, RM-4004.

Report and Order (Proceeding Terminated)

Adopted: May 21, 1982.

Released: May 27, 1982.

1. The Commission has under consideration the Notice of Proposed Rule Making, 46 FR 62874, published December 29, 1981, proposing the assignment of Channel 261A to Artesia, Mississippi. The Notice was issued in response to a petition filed by Colom and Associates ("petitioner"). Supporting comments were filed by the petitioner. No oppositions to the proposal were received.

2. Artesia (population 526),[1] in Lowndes County (population 57,304), is located approximately 32 kilometers (20 miles) west of Columbia, Mississippi. It has no local aural service.

3. Petitioner incorporated by reference the reasons stated in the Notice for the proposed assignment. It adds that the assignment would be in furtherance of the Commission's touchstone principle of maximizing diversity and the national goal of increasing minority ownership. Petitioner stated its intention to apply for the channel, if assigned.

4. The Commission believes that the public interest would be served by assigning Channel 261A to Artesia, Mississippi, since it would provide that community with an opportunity for its first FM station.

5. Accordingly, pursuant to the authority contained in §§ 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules, it is ordered, That effective July 28, 1982, the FM Table of Assignments (§ 73.202(b) of the rules), is amended with respect to the following community:

City	Channel No.
Artesia, Mississippi	261A

6. It is further ordered, That this proceeding is terminated.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-15832 Filed 6-4-82; 9:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-4; RM-3974]

FM Broadcast Station in Sisseton, South Dakota; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channels 257A and 275 to Sisseton, South Dakota, in response to a petition filed by Lake Region News Corporation, and a request from Wayne D. Tisdale. The assigned channels could provide a first and second FM service to Sisseton and the surrounding area.

[1] Population figures are taken from the 1980 U.S. Census.

DATE: Effective July 28, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:
Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Sisseton, South Dakota), BC Docket No. 82-4, RM-3974.

Report and Order (Proceeding Terminated)

Adopted: May 21, 1982.
Released: May 28, 1982.

1. The Commission has under consideration the Notice of Proposed Rule Making, 47 FR 3388, published January 25, 1982, which invited comments on two alternate proposals for an FM assignment at Sisseton, North Dakota, in response to a petition filed by Lake Region News Corporation ("petitioner").

Alternate I. Assign Channel 257A to Sisseton, South Dakota, or
Alternate II. Assign Channel 275 to Sisseton, South Dakota.

Comments in support of Alternative II were filed by the petitioner stating its intention to apply for Channel 275, if assigned. Wayne D. Tisdale filed comments in support of Alternative I and expressed an interest in applying for Channel 257A, if assigned.

2. Sisseton (population 2,789),[1] seat of Roberts County (population 10,911), is located in the northeast corner of South Dakota, approximately 240 kilometers (150 miles) north of Sioux Falls. It is without local broadcast service.

3. Petitioner incorporated by reference the information in the Notice which demonstrated the need for a first FM assignment at Sisseton. Paragraph 5 of the Notice requested the petitioner to submit a *Roanoke Rapids/Anamosa* study indicating first and second service to be provided by the proposed Class C assignment. Petitioner asserts that the assignment will provide a first FM service to approximately 4,905 square kilometers (3,910 square miles) for 33,550 persons.[2] Thus it states that a Class C assignment would provide coverage to a large rural area and a much needed first service to Sisseton.

4. Tisdale comments that Sisseton is too small to warrant a Class C FM channel assignment. Instead, he states that a Class A channel would be more appropriate. He points out that there has been a decline in the population from 3,094 (1970) to 2,789 (1980), which appears to be the trend in small towns and rural areas of the Dakotas and Minnesota. It is the opinion of Tisdale that Sisseton is not earmarked for significant growth now or in the foreseeable future. Thus, in keeping with the Commission's policy of reserving Class C channels for larger urban communities, he urges the Commission to assign Channel 257A to Sisseton.

5. Petitioner contends that Tisdale's comments do not dispute the fact that the proposal meets the requirements for a Class C allocation. His statement with regard to the city not being earmarked for significant growth in the near future is described by petitioner as personal speculation. Instead, petitioner contends that the only effective way to expand services to the area is with a Class C facility. Petitioner requests the Commission to adopt its proposal as submitted.

6. In the Notice, we stated that the assignment of Channel 275 to Sisseton would cause preclusion on Channels 265A, 266, 267, 268 and 269A. We also requested the petitioner to submit a listing of precluded communities with a population greater than 1,000 and without local service. Petitioner was also asked to indicate whether alternate channels are available to those communities. Petitioner states that the assignment would not preclude any community with a population greater than 1,000.

7. While we expressed concern about assigning a Class C channel to Sisseton, we feel that the information provided by the petitioner adequately demonstrates the need for a Class C assignment. Although a community the size of Sisseton is not normally assigned a Class C channel, the proposed assignment would provide a significant amount of first and second services to the surrounding area and population even considering the reduction occasioned by the Ortonville assignment. Since the preclusion impact is not an impediment here, we believe the assignment of a Class C channel to Sisseton would be appropriate.

8. Having made that determination, we must now decide on Tisdale's request for a Class A channel assignment. Tisdale did not address the intermixture issue. Yet he appears to be determined to apply for a Class A channel. Tisdale could have objected to the intermixture result either in comments or reply comments. Having maintained his silence on this issue, while clearly expressing his interest in the Class A channel, we shall assume that he will apply for Channel 257A. We regard the intermixture result here as consistent with our policy to permit a Class A assignment where a Class C channel has already been assigned.

9. Canadian concurrence has been obtained in the assignments of Channels 257A and 275 to Sisseton, South Dakota.

10. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g), and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules, it is ordered, That effective July 28, 1982, the FM Table of Assignments, § 73.202(b) of the rules is amended with regard to Sisseton, South Dakota, as follows:

City	Channel No.
Sisseton, South Dakota	257A, 275

11. It is further ordered, That this proceeding IS TERMINATED.

12. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,
Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-15322 Filed 6-4-82; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 81-563; RM-3752]

FM Broadcast Station in Cheney, Grand Coulee and Spokane, Washington; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns FM Channel 266 to Cheney, Washington, in response to a request from Romarge-Turnbeaugh. The assignment could provide a first local service to Cheney.

DATE: Effective July 28, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

[1] Population figures are taken from the 1980 U.S. Census, Advance Report.

[2] The assignment of Channel 268 to Ortonville, Minnesota (BC Docket 81-737, RM-3682), will reduce the first FM service area by approximately 50% and the second FM service area by approximately 75%.

FOR FURTHER INFORMATION CONTACT:
Phil Cross, Broadcast Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order Proceeding Terminated

Adopted: May 21, 1982.
Released: June 3, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Cheney, Grand Coulee and Spokane, Washington), BC Docket No. 81-563 RM-3752.

1. The Commission has before it for consideration a Notice of Proposed Rule Making, 46 FR 44008, published September 2, 1981, in response to a petition filed by Romarge-Turnbeaugh ("petitioner"), proposing the reassignment of Channel 266 from Grand Coulee, Washington, where it is presently unused, to Cheney, Washington.

2. We pointed out in the Notice of Proposed Rule Making that our established policy is to reserve Class C channels for larger urban areas, a category which is descriptive of nearby Spokane, Washington, but not of Cheney, Washington. Given the proximity of Cheney to Spokane (approximately 13 miles), we questioned which city the proposed Class C facility would actually serve. Accordingly, we proposed three alternatives: the reassignment of Class C Channel 266 from Grand Coulee to Cheney; the reassignment of the channel to Spokane; and the assignment of Class A Channel 237A to Cheney which we believed to be a more appropriate assignment to this small community.

3. Petitioner filed comments in support of the assignment of Channel 266 to Cheney. However, it insisted that it would not apply for a Class A channel if assigned to Cheney since it did not believe a Class A station would be commercially feasible in Cheney. No oppositions were filed.

4. Petitioner submitted data on the economic growth and needs of Cheney, as requested. Cheney is described as a growing town of 7,610 persons,[1] an increase of approximately 20 percent over the 1970 census figures. It is the home of Eastern Washington University, which has approximately 8,000 students and faculty in addition to the town's population. Cheney is said to be oriented toward education, agriculture and recreation. Agriculture includes the raising of peas, oats, barley and wheat, as well as beef and dairy farming. As a recreational area, Cheney has 25 acres of parks; is within driving distance of four major ski resorts; and is the site of the summer training camp of the Seattle Seahawks.

5. Petitioner also submitted data on the demographics of Spokane, as requested. It is shown that Spokane is the second largest city in the State of Washington with a population of 171,300 and is situated in Spokane County with a population of 341,835. Spokane is the headquarters for large-scale agricultural operations, extensive lumbering activities, mining, and financial business in the northwest. Petitioner states that Spokane is served by a total of twenty radio stations (ten AM's and ten FM's), four television stations (two other stations have been authorized), and one cable facility.

6. Commenting on the three alternative proposals for channel assignments (par. 2, *supra*), petitioner contends that the public interest would be best served by assigning Channel 266 to Cheney, as the first local commercial service for that community. Petitioner states that it wishes to provide a service to the agricultural, recreational and educational elements of the area, and that it would not be as successful in attracting an audience and providing a public service if it were to use that format in Spokane. Furthermore, petitioner says that it has serious doubts as to whether it could put a competitive city grade signal into Spokane because the location of its transmitter site is restricted to approximately 20 air miles from Spokane. That location is said to be "down in a valley formed by the Spokane River," where the intervening terrain is hilly and mountainous.

7. Petitioner submitted a preclusion study showing alternative channels available to incorporated communities with a population over 1,000.

8. Canadian coordination has been received.

9. Grand Coulee, Washington (population 1,302), is in Grand County (population 41,881) and is located approximately 120 kilometers (75 miles) west of Spokane. Grand Coulee has two unoccupied Class C channels and would not be deprived of service if Channel 266 were assigned to Cheney or Spokane.

10. It has been our policy to reserve Class C channels for large urban areas. See Revision of FM Broadcasting Rules, 40 F.C.C. 747, 758 (1963). The higher power with which Class C stations may operate is best used, in most cases, where there is a need for coverage of unserved, or underserved, areas. We have made a number of exceptions to this policy where a showing is made that the city is relatively isolated and serves as a focal point for a large urban area. We have, in the past, been more restrictive in applying this policy where a suburban community seeks a Class C channel in order to reach and become part of the large city's market. See *Albuquerque and Alameda, New Mexico* 48 R.R. 2d 1327 (1981). Here Cheney is within 13 miles of Spokane and as such a Cheney Class C station would be expected to provide a city grade signal over Spokane. However, in analyzing the comments of petitioner, we have determined that because of the mountainous terrain, a portion of Spokane may not be able to receive the proposed Class C station. The Cheney station must be sited at least 14 miles south of Spokane to avoid short-spacing on an IF channel to Station KWAS, Spokane. At such a site, a city grade signal would not adequately reach the eastern portion of Spokane. In view of that fact, we have not raised a suburban issue concerning whether the station would in reality serve Spokane. As for the Class A option for Cheney, we have no interested party in that proposal. Thus we find that the public interest would be served by the assignment of Class C Channel 266 to Cheney, Washington.

11. Authority for the adoption of the amendment herein is contained in §§ 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules.

12. Accordingly, it is ordered, That effective July 26, 1982, § 73.202(b) of the Commission's rules, the FM Table of Assignments, is amended with regard to the following community:

City	Channel No.
Cheney, Washington	266
Grand Coulee, Washington	253

13. It is further ordered, That this proceeding is terminated.

14. For further information concerning the above, contact Phil Cross, Broadcast Bureau, (202) 632-5414.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-15334 Filed 6-4-82; 8:45 am]
BILLING CODE 6712-01-M

[1] Population figures are taken from the 1980 U.S. Census, Advance Report.

47 CFR Parts 73 and 74

Radio Broadcast Services; Experimental, Auxiliary, and Special Broadcast and Other Program Distributional Services; Editorial Amendments to the Commission's Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This order, by Chief, Broadcast Bureau, makes editorial amendments in broadcast station rules in 47 CFR Parts 73 and 74, correcting errors which exist in certain cross-references, engineering formulas, charts and tables and also printer's errors, misspellings and incorrect date and time parameters.

DATE: Effective May 3, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Steve Crane, (202) 632-5414 or John Reiser, (202) 632-9660, Broadcast Bureau.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 73

Radio broadcast.

47 CFR Part 74

Radio.

Adopted: April 12, 1982.

Released: April 19, 1982.

In the matter of editorial amendments to Parts 73 and 74, Volume III FCC Rules and Regulations; order.

1. A review of the broadcast rules in Parts 73 and 74 of Volume III reveals a number of errors in rule texts. These errors come about as a result of various reasons such as failure to redesignate cross references to rule sections which have been rewritten or renumbered; incorrect designations of rule sections referenced in new rules; printer's errors; misspellings; errors in engineering formulas, charts and tables; and incorrect dates and time parameters (*i.e.*, "no later/earlier than x days/hours * * *").

2. The editorial revisions, as shown in the attached appendix, make no substantive change in rule texts and do not change the purpose or application of the subject rules. They neither impose additional burdens nor remove any provisions relied upon by licensees or the public and these amendments serve the public interest.

3. These corrections are implemented by authority designated by the Commission to Chief, Broadcast Bureau. Prior notice of rulemaking, effective date provisions and public procedure thereon are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. (b)(3)(B), inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose.

4. Therefore, it is ordered, that pursuant to sections 4(i), 303(r) and 5(d)(1) of the Communications Act of 1934, as amended, and §§ 0.71 and 0.281 of the Commission's rules, Parts 73 and 74 of Volume III of the FCC rules and regulations are amended as set forth in the attached appendix, effective May 3, 1982.

5. For further information concerning this *Order*, contact Steve Crane, (202) 632-5414, or John Reiser, (202) 632-9660, Broadcast Bureau.

Federal Communications Commission.

Laurence E. Harris,

Chief, Broadcast Bureau.

Appendix

PART 73—RADIO BROADCAST SERVICES

§ 73.157 [Amended]

1. Section 73.157, *Special antenna test authorizations* is amended as follows:

Reference in § 73.157(c) to "§ 73.92" is revised to read "§ 73.1230."

§ 73.340 [Amended]

2. Section 73.340, *Use of automatic transmission systems (ATS),* is amended as follows:

Reference in § 73.340(c)(1) to "§ 73.1830(a)(3)" is revised to read "§ 73.1820(a)(3)."

§ 73.540 [Amended]

3. Section 73.540, *Use of automatic transmission systems (ATC),* is amended as follows:

Reference in § 73.540(c)(1) to "§ 73.1830(a)(2)" is revised to read "§ 73.1820(a)(3)."

§ 73.676 [Amended]

4. Section 73.676, *Remote control operation,* as amended as follows:

a) Reference in § 73.676(a)(2) to "§ 73.1830" is revised to read "§ 73.1820."

b) Reference in § 73.676(b) to "§ 73.661" is revised to read "§ 73.1660."

c) Reference in § 73.676(c) to "§ 73.671" is revised to read "§ 73.1820."

§ 73.1226 [Amended]

5. Section 73.1226, *Availability to FCC of station logs and records,* is amended as follows:

Reference in § 73.1226(c) to "§ 1.613" is revised to read "§ 73.3613."

§ 73.1810 [Amended]

6. Section 73.1810, *Program logs,* is amended as follows:

Reference in § 73.1810(e) to "§ 73.1810" is revised to read "§ 73.1800."

§ 73.1820 [Amended]

7. Section 73.1820, *Operating logs,* is amended as follows:

Paragraph (d) of § 73.1820 is removed.

8. In § 73.3597, paragraph (f)(2) is revised to read as follows:

§ 73.3597 Procedures on transfer and assignment applications.

* * * * *

(f)(1) * * *

(2) It is not intended to forbid the seller to retain an equity interest in an unbuilt station which he is transferring or assigning if the seller obligates himself, for the period of 1 year after commencing program tests, to provide that part of the total capital made available to the station, up to the end of that period, which is proportionate to the seller's equity share in the permittee, taking into account equity capital, loan capital, and guarantees of interest and amortization payments for loan capital provided by the seller before the transfer or assignment. This condition will be satisfied:

* * * * *

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

§ 74.402 [Amended]

9. Section 74.402, *Frequency assignment,* is amended as follows:

The frequency group in § 74.402(a)(4) shown as "Group $K_{1,9}$" is revised to read "Group K_{1}"; and the frequency group shown as "Group $K_{2,9}$" is revised to read "Group K_{2}."

§ 74.966 [Amended]

10. Section 74.966, *ITFS station operator requirements,* is amended as follows:

Reference in § 74.966(c) to "§ 74.938" is revised to read "§ 74.934."

§ 74.1251 [Amended]

11. Section 74.1251, *Modification of transmission systems,* is amended as follows:

Reference in § 74.1251(a) to "§ 2.564" is revised to read "§ 2.1001."

[FR Doc. 82-15236 Filed 6-4-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 90

[PR Docket No. 80-416; RM-3428]

Private Land Mobile Radio Services; Amendment of the Commission's Rules To Expand the Use of Digital Voice Modulation Generally to the Private Radio Services; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects the text of rule changes which extended digital voice capability generally to the Private Land Mobile Radio Services (47 FR 15337, April 9, 1982).

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Keith Plourd or Arthur King, Private Radio Bureau, Washington, D.C. 20554, (202) 632-6497.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 90

Private land mobile radio services, Industrial radio services, Public safety radio services, Land transportation radio services, Radiolocation radio service, Special emergency radio service, Administrative practice and procedure, Business and industry.

Adopted: May 20, 1982.
Released: June 1, 1982.

In the matter of an amendment of Part 90 of the Commission's Rules and Regulations to expand the use of digital voice modulation generally to the private radio services; PR Docket 80-416, RM-3428; correction.

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

The Second report and Order, FCC 82-134, in the above entitled matter, released April 1, 1982, is corrected as follows:

Appendix, page 15,340, instruction 7: Paragraph (a) of § 90.425 is corrected by adding the words, "or system," in the first sentence to read as follows:

§ 90.425 Station identification. * * *

(a) Identification procedure. Except as provided in paragraph (d) of this section, each station or system shall be identified by the transmission of the assigned call sign during each transmission or exchange of transmissions, or once each 15 minutes (30 minutes in the Public Safety and Special Emergency Radio Services) during periods of continuous operation. The call sign shall be transmitted by voice in the English language, or by International Morse Code in accordance with paragraph (b) of this section. If the station is employing either analog or digital voice scrambling, transmission of the required identification shall be in the unscrambled mode using A3 or F3 emission, with all encoding disabled. Permissible alternative identification procedures are as follows:"

* * * * *

Appendix, page 2: add new instruction 8 (previously omitted) to read as follows:

"8. Amend § 90.385 by adding a new paragraph (a)(4) and revise paragraph (c) to read as follows:

§ 90.385 Restrictions and limitations on permissible communications, on use, and on mode of operation.

(a) * * *

(4) For digital voice operations. See § 90.207(k).

* * * * *

(c) When a licensee, eligible under Subparts B, C, D or E of this part, has qualified for an exclusive channel by meeting the applicable mobile loading standards, the system may be used for any purpose or operated, in any manner consistent with the regulations governing the service in which the licensee is eligible, including the use of F2, F4, F9 and F9Y emissions.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 82-15370 Filed 6-4-82; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1-171]

Organization and Delegation of Powers and Duties; Deep Seabed Hard Mineral Resources Act

AGENCY: Transportation Department (DOT).

ACTION: Final rule.

SUMMARY: DOT delegates to the Commandant of the Coast Guard and the General Counsel of the Department functions vested in the Secretary by the Deep Seabed Hard Mineral Resources Act.

DATE: This amendment becomes effective June 7, 1982.

FOR FURTHER INFORMATION CONTACT: Robert I. Ross, Office of the General Counsel, (202) 426-4723.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than thirty days after publication in the **Federal Register.**

The Deep Seabed Hard Mineral Resources Act (June 28, 1980; Pub. L. 96-283; 94 Stat. 553) establishes for the United States an interim procedure for the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating to such development. All authority vested by the statute in the Secretary of Transportation—either as head of an agency or as head of the department in which the Coast Guard is operating—is delegated by this rule to the Commandant of the Coast Guard, except the authority in Section 118 to coordinate with certain foreign governments, which is delegated to the Department's General Counsel. Most of the responsibility being delegated to the Coast Guard relates to areas of traditional Coast Guard concern, such as safety of life at sea and the marine environment.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended as follows:

1. Section 1.46 is amended by adding at the end thereof the following new paragraph (ff), to read as follows:

§ 1.46 Delegations to Commandant of the Coast Guard.

The Commandant of the Coast Guard is delegated authority to—

* * * * *

(ff) Carry out the functions vested in the Secretary by the Deep Seabed Hard Mineral Resources Act (June 21, 1980; Pub. L. 96-283; 94 Stat. 553), except section 118.

2. In § 1.57, a new paragraph (n) is added at the end thereof to read as follows:

§ 1.57 Delegations to General Counsel.

The General Counsel is delegated authority to—

* * * * *

(n) Conduct coordination with foreign governments under section 118 of the Deep Seabed Hard Mineral Resources

Act (June 21, 1980; Pub. L. 96-283; 94 Stat. 553).

(Sec. 9(e), Department of Transportation Act, 49 U.S.C. 1657(e))

Issued in Washington, DC, on May 7, 1982.

Andrew L. Lewis, Jr.,

Secretary.

[FR Doc. 82-15203 Filed 6-4-82; 8:45 am]

BILLING CODE 4910-62-M

Research and Special Programs Administration

49 CFR Parts 171, 172, 173, 175

[Docket No HM-173; Amdt. Nos. 171-65, 172-73, 173-15, 175-22]

Requirements for Transportation of Wet Electric Storage Batteries

AGENCY: Materials Transportaiton Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment is intended to simplify, clarify and otherwise improve those requirements of the Hazardous Materials Regulations that pertain to the transportation of wet electric storage batteries ("wet cell batteries"). Specifically, it entails (1) a revision of requirements applicable to the air transport of wheelchairs equipped with wet cell batteries, in order to enhance air transport safety and facilitiate the travel of handicapped persons who use wheelchairs; (2) new test criteria which effectively define the term "nonspillable" as applied to wet cell batteries; and, (3) new shipping names to distinguish between acid and alkaline corrosive battery fluids in order to aid emergency response efforts and to make the shipping descriptions consistent with international shipping descriptions.

EFFECTIVE DATE: August 6, 1982.

FOR FURTHER INFORMATION CONTACT: Edward T. Mazzullo, Standards Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426-2075.

SUPPLEMENTARY INFORMATION: On February 28, 1980, the MTB published a notice (Docket HM-173; Notice 80-4) in the **Federal Register** (45 FR 13153) which announced two public meetings and requested public comment concerning the need for revising those Hazardous Materials Regulations (HMR) which are applicable to the transportation of wet electric storage batteries. Of particular concern was the development of standards for the safe transport on passenger-carrying aircraft of wheelchairs equipped with wet cell batteries. Based on written comments received by MTB, public input received at the two informal meetings (one on April 3, 1980, in Washington, D.C., and the other on April 16, 1980, in Denver, Colorado) in response to Notice 80-4, and on MTB's own rulemaking initiative, a notice of proposed rulemaking was published on June 4, 1981 (46 FR 29968; Notice 81-4). Interested persons should refer to Notice 81-4 for additional background information.

Twenty commenters responded to Notice 81-4. Based on the comments received the proposals contained therein are being incorporated, with certain changes, as final amendments to the HMR. The majority of comments addressed general support of the proposals, particularly those proposals related to the air transport of wheelchairs equipped with wet cell batteries. Other significant comments and the actions taken thereon are discussed by subject area in the following paragraphs.

I. Air Transport of Wheelchairs Equipped With Wet Electric Storage Batteries (§§ 173.250, 175.305)

Most commenters strongly supported the proposed provisions for handling wheelchairs equipped with wet cell batteries. Several changes were suggested by commenters. One commenter suggested that the provisions for transporting wheelchairs on passenger-carrying aircraft should be located in § 175.305 (title Self-propelled vehicles) rather than in § 175.10 (titled Exceptions). MTB agrees with this comment and the new provisions are added as paragraph (b) of § 175.305. In response to another comment, MTB has added a cross-reference to the § 172.101 Hazardous Materials Table as follows: *Wheelchair, battery-equipped. See* Battery, *electric storage,* wet, with wheelchair.

In response to several commenters' suggestions, editorial changes have been made to § 175.305(b) in order to clearly distinguish between requirements applicable to nonspillable batteries (§ 175.305(b)(1)) and those applicable to batteries "other than nonspillable" (§ 175.305(b)(2) and (3)) and to clarify that the provisions of subparagraphs (1), (2), and (3) of § 175.305(b) are mutually exclusive.

One commenter suggested that the packaging prescribed for nonspillable batteries (§ 175.305(b)(1)) be amended to require use of absorbent materials. Nonspillable batteries have been shipped safely for many years in the absence of such a requirement. Therefore, the suggestion has not been adopted in this final rule.

The Air Line Pilots Association (ALPA), representing the interests of 33,000 pilots employed by domestic air carriers, contended that the proposed amendment did not reflect the capability of newly developed nonspillable lead acid batteries which are now available from at least one manufacturer. ALPA offered an alternative amendment which would limit transport on passenger-carrying aircraft to those wheelchairs equipped with nonspillable batteries. Another commenter, a battery manufacturer, stated that there are a number of nonspillable batteries available which are capable of powering wheelchairs. MTB is aware that certain manufacturers of nonspillable batteries are now marketing, or intend to market in the near future, nonspillable batteries suitable for use in wheelchairs. A number of wheelchair users have already equipped their wheelchairs with nonspillable batteries. MTB recommends the use of nonspillable batteries in wheelchairs, were practicable. However, to date MTB has not been presented with conclusive evidence to show that nonspillable batteries are equivalent to the more commonly used "spillable" lead acid batteries in terms of initial cost, useful life, amperage or availability. Further, past shipping experience does not provide sufficient justification for requiring the use of nonspillable batteries. Such a requirement would impose a burden of inconvenience and cost upon wheelchair users who travel by air and, therefore, has not been adopted.

One commenter recommended the use of plastic caps as a solution to the problem of spillage from wet cell batteries. The subject of spill-resistant caps was briefly addressed in Notice 81-4. Such caps may be either vented or non-vented and replace the fill caps in lead acid batteries. A typical lead acid battery equipped with non-vented caps normally will not leak if tipped over. However, such caps must be removed (and replaced with vented caps) before the battery can be used. Vented replacement caps (spring or gravity-loaded) allow normal functioning of the battery in an upright position but impede the flow of battery fluid when the battery is upset. Information available to MTB indicates that vented caps are not "leakproof" in that they can leak battery fluid when subjected to pressure changes or vibrations. Further, the caps cannot be fitted to all wet cell batteries due to variations in the size of fill openings or, as with the increasingly

popular maintenance-free batteries, due to the absence of fill openings. It does not appear feasible, for the aforementioned reasons, to prescribe the use of the spill-resistant caps as a regulatory requirement. However, in those instances where they can be employed, their use is recommended.

Provisions for removing batteries from wheelchairs, as proposed in § 175.10(b)(3), were criticized by two commenters. Comments submitted by the Air Transport Association's Restricted Articles Board (ATA), a group representing U.S. air carriers, alleged that the proposal was ambiguous as to whether the passenger or air carrier was to perform the packaging. ATA indicated that air carriers do not package any hazardous materials for or on behalf of a shipper or passenger, and will not in this instance either. ATA further indicated that DOT has an obligation to ensure that full and adequate notice of applicable requirements to be given to the wheelchair user population. A second commenter alleged that a passenger will not properly package a battery and the air carrier will reluctantly accept it.

MTB's proposal (and final rule) envisions packaging by either the passenger or air carrier personnel. It is believed that some air carriers will provide a packaging service for their disabled passengers, whereas others may accept batteries removed from wheelchairs for transport only if the passenger provides a satisfactory packaging. With regard to air carriers being unwilling to package a battery on behalf of a passenger, MTB notes that a number of air carriers have developed procedures for handling wheelchairs which encompass the partial or complete packaging of batteries.

With regard to notifying the wheelchair user population, MTB notes that in addition to many individual inquiries, approximately 30 organizations representing the interests of disabled persons have contacted MTB requesting information concerning this rulemaking. MTB has maintained a mailing list during the course of this rulemaking action to inform these groups and individuals. It is anticipated that individual airlines will develop or revise their individual policies and procedures for handling battery-equipped wheelchairs and disseminate this information to their passengers. As an aid to dissemination of information concerning the new requirements, FAA is considering publication of an advisory circular for the benefit of both passengers and carriers, containing recommended procedures for achieving safe transport and compliance with requirements. As information regarding regulatory requirements and carriers' policies and procedures are made known to wheelchair users who travel by air, there is little reason to believe that inadequately packaged batteries will be tendered for transport. Considering the interests of air carriers regarding safety, there is even less reason to believe that air carriers would accept batteries which obviously do not comply with packaging requirements.

ATA criticized provisions for rendering packages containing batteries "tilt proof," alleging that neither passengers nor air carriers have the capability of palletizing batteries at airports and that to otherwise secure batteries using restraining straps, brackets or holders would require costly modifications to cargo compartments. The intent of the proposed alternatives is to ensure that batteries are secured, rather than just placed, in cargo compartments and to require an active or positive means of securement, rather than passive means such as by bracing with other freight or baggage. Where securement in the cargo compartment is not possible, palletization offers a practicable alternative. Palletization can be as simple as securing the outside container used to package a battery to a board (by means of clamps, straps, bands, etc.) of dimensions sufficiently larger than the bottom of the outside container. In order to provide for various other means of securement, the language of § 175.305(b)(3)(i) (proposed § 175.10(b)(3)(i)) is revised to require that outside containers "* * * be protected against upset by securing to pallets or by securing them in cargo compartments using appropriate means of securement (other than by bracing with other freight or baggage) such as by use of restraining straps, brackets or holders." This language will give latitude to air carriers for developing appropriate methods for blocking and bracing the outside containers.

In Notice 81–4, it was proposed that new provisions would be added in § 175.33 with regard to notifying the pilot-in-command, orally or in writing, as to the location on aircraft of any wheelchair equipped with wet cell batteries (other than nonspillable batteries). One commenter suggested that notification should be required to be in writing so that there would be no dispute over the adequacy of notification to the pilot and so as not to take away from the focus regarding compatibility in loading of hazardous materials. MTB does not believe that a requirement for written notification is necessary. Information concerning other hazardous cargo would normally be available well before flight time, giving the aircraft operator adequate time to prepare written notification. With regard to stowing a passenger's wheelchair, the aircraft operator may not have adequate time to prepare written notification in all instances. Further, wheelchairs have been transported for a number of years in the absence of a requirement for written notification without any adverse impact on transportation safety. The rule, as adopted herein, permits either oral or written notification.

Two commenters addressed issues concerning wheelchairs equipped with wet cell batteries which are outside MTB's purview. One commenter requested clarification concerning mandatory aspects of HMR provisions, in light of certain proposed rules of the Civil Aeronautics Board (CAB) which are intended to prohibit unlawful discrimination against disabled travelers and implement section 504 of the Rehabilitation Act of 1973. Another commenter requested that MTB address the subject of carrier liability for damage to, or loss of, wheelchairs. Both matters appear to fall within the purview of the CAB. Therefore, MTB suggests the commenters address their concerns to the Bureau of Consumer Protection, Civil Aeronautics Board, Washington, D.C. 20428.

II. Defining "Nonspillable" Batteries (§ 173.260(d), 175.10)

Comments addressed to the new provisions for defining "nonspillable" as that term applies to wet cell batteries were generally supportive of the proposal. Three commenters suggested changes to the proposal. One commenter stated that the language of the proposed tests did not necessarily require testing of a battery with its fill or vent openings upside down, since a battery may have openings on a different face of the battery than its terminals. MTB agrees with this comment and has revised the language of the vibration and pressure differential tests to clarify that a battery is to be tested with fill openings and vents, if any, inverted.

One commenter suggested that the pressure differential test can be circumvented unless the sequence of test positions is specified. The commenter, a battery manufacturer alleged that most nickel cadmium aircraft batteries, which would otherwise pass the test, would spill battery fluid if tested first in an inverted position and then on their side. MTB agrees that leakage is possible under the

stated conditions. However, MTB does not believe a specified sequence is necessary and it has not been adopted in the final rule because such a sequence is not likely to occur in the transportation environment and because the types of batteries addressed by the commenter have been shipped safely for a number of years.

A permanent marking requirement for nonspillable batteries was suggested by one commenter in order to facilitate identification of these batteries. The commenter suggested "Meets U.S. DOT test criteria for nonspillable" as an appropriate marking. MTB disagrees with this proposal and it has not been adopted. A permanent marking requirement would impose costs on battery manufacturers and have only limited utility. It is MTB's impression that most batteries which are intended for retail sale, are packaged (usually in fiberboard boxes) for transportation and sale. Markings on the batteries would normally not be visible to the consumer at time of purchase, nor would they be visible to a carrier if a packaged battery is offered by the consumer for transport. Further, there are other means for a manufacturer to identify his product as nonspillable such as by package markings, product brochures, advertising literature, certification, etc.

The temperature at which the pressure differential test is conducted was incorrectly stated as 78° F. in Notice 81–4, whereas it correctly appeared as 75° F. in Notice 80–4. This discrepancy has been corrected and the final rule specifies a temperature of 75° F.

It should be noted that, for transportation by vessel, the sub-committee on the Carriage of Dangerous Goods of the Inter-governmental Maritime Consultative Organization (IMCO) has recently adopted criteria for nonspillable batteries which specifies a temperature test instead of a pressure differential test. This temperature test specifies that the battery be stored for a total of 18 hours (6 hours upright, 6 hours inverted and 6 hours on its side) at 130° F. ± 10° F., without leakage in any position.

III. General Revision of Regulations Applicable to Wet Electric Storage Batteries (§§ 171.16, 172.101, 173.250)

The revised § 172.101 shipping descriptions which were proposed in Notice 81–4 have been adopted with certain changes. The word "alkaline" has been changed to read "alkali" where used in shipping descriptions for batteries and battery fluid in order to achieve consistency with those shipping descriptions which appear in the Recommendations prepared by the United Nations Committee of Experts on the Transport of Dangerous Goods (UN Recommendations). For the same reason, the term "filled with" has been added to shipping descriptions for batteries (e.g., Battery, *electric storage,* wet, acid, has been changed to Battery, *electric storage,* wet, filled with acid). For those shipping descriptions in § 172.101 which correspond to descriptions in the UN Recommendations, the "UN" prefix has been retained for identification numbers, but where no corresponding description appears, "NA" prefixes have been used. Several cross references which were proposed (e.g., Alkaline battery fluid. *See* Battery fluid, alkaline) have not been adopted because they are unnecessary. Other editorial changes were made to several shipping descriptions for clarification and simplification.

Based on commenters' suggestions, a cross reference has been added to § 172.101 (*Wheelchair, battery equipped. See* Battery, *electric storage,* wet with wheelchair) and § 171.16 has been amended to reflect the new proper shipping names for batteries (i.e., Battery, *electric storage,* wet, filled with acid or alkali).

In order to reduce the impact of this and future amendments to the Hazardous Materials Table and in response to requests from two battery manufacturers, § 172.101(j) is revised to provide up to one year following the effective date of an amendment during which stocks of preprinted package markings and shipping papers can be continued in use.

List of Subjects

49 CFR Part 171

Hazardous materials transportation, Report requirements.

49 CFR Part 172

Hazardous materials transportation, Labeling, Packaging and containers.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers.

49 CFR Part 175

Hazardous materials transportation, Air carriers.

In consideration of the foregoing, 49 CFR Parts 171 through 175 are amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. In § 171.16, paragraph (c)(2) is revised to read as follows:

§ 171.16 Detailed hazardous materials incident reports.

* * * * *

(c) * * *

(2) Battery, *electric storage,* wet, filled with acid *or* alkali.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

2. In § 172.101, paragraph (j) is revised to read as follows:

§ 172.101 Purpose and use of hazardous materials table.

* * * * *

(j) Unless specifically stated otherwise in the amendment or the "Effective date" entry in its preamble, if any entry in this Table is changed by an amendment to this subchapter—

(1) Such a change does not apply to the shipment of any package filled prior to the effective date of the amendment; and

(2) Stocks of preprinted shipping papers and package markings may be continued in use, in the manner previously authorized, until depleted or for a one year period, whichever is less.

* * * * *

3. The Hazardous Materials Table in § 172.101 is amended as follows:

§ 172.101 Hazardous Materials Table.

(1)	(2)	(3)	(3A)	(4)	(5)		(6)		(7)		
					Packaging		Maximum net quantity in one package		Water shipments		
+/E/A/W	Hazardous materials descriptions and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	Exceptions (a)	Specific requirements (b)	Passenger carrying aircraft or railcar (a)	Cargo only aircraft (b)	Cargo vessel (a)	Passenger vessel (b)	Other requirements (c)
	• • •										
	Deletions										
	• • •										
	Alkaline battery fluid	Corrosive material.	NA2797	Corrosive	173.244	173.249/ 173.257	1 quart	5 gallons	1, 2	1, 2	
	Alkaline battery fluid with empty storage battery.	Corrosive material.	NA2797	Corrosive	None	173.258	Forbidden	5 pints	1, 2	1, 2	
	Battery charger with electrolyte (acid) or alkaline battery fluid.	Corrosive material.	NA2794	Corrosive	None	173.259	Forbidden	5 pints	1, 2	1, 2	
	Battery, electric, storage, wet.	Corrosive material.	NA2794	Corrosive	173.260	173.260	Forbidden	No limit	1, 2	1, 2	
	Battery, electric, storage, wet with automobile, auto parts, engine (*or other specifically named mechanical apparatus*).	Corrosive material.	NA2794	Corrosive	173.250	173.260	No limit	No limit	1, 2	1, 2	Keep dry.
	Battery, electric storage, wet, with containers of electrolyte (acid) or alkaline battery fluid.	Corrosive material.	NA2794	Corrosive	None	173.258	Forbidden	2 gallons	1, 2	1, 2	
	Battery fluid. See Electrolyte (acid) or Alkaline battery fluid.										
	Electric storage battery, wet. *See* Battery, electric storage, wet.										
	Electrolyte (acid) or alkaline battery fluid, packed with dry-storage battery.	Corrosive material.	NA2797	Corrosive	None	173.258	Forbidden	5 pints	1, 2	1, 2	
	Electrolyte (acid) or alkaline battery fluid, packed with battery charger radio current supply device, *or* electronic equipment and actuating device.	Corrosive material.	NA2797	Corrosive	None	173.259	Forbidden	5 pints	1, 2	1, 2	
	Electrolyte (acid) battery fluid (*not over 47% acid*) *RQ-1000/454.*	Corrosive material.	UN2796	Corrosive	173.244	173.257	1 quart	5 gallons	1, 2	1, 2	Glass carboys in hampers not permitted under deck.
	• • •										
	Additions										
	• • •										
	Battery, *electric storage*, dry (containing potassium hydroxide, dry *solid, flake (pearl, or granular*).	Corrosive material.	NA1813	Corrosive	173.244	173.245b	25 pounds	100 pounds	1, 2	1, 2	Keep dry.
	Battery, *electric storage*, wet, filled with acid.	Corrosive material.	UN2794	Corrosive	173.260	173.260	Forbidden	No limit	1, 2	1, 2	
	Battery, *electric storage*, wet, *filled with acid*, with automobile (*or specifically named self-propelled vehicle or mechanical apparatus*).	Corrosive material.	NA2794	Corrosive	173.250	173.260	No limit	No limit	1, 2	1, 2	Keep dry.
	Battery, *electric storage*, wet, *filled with acid*, with automobile (*or specifically named self-propelled vehicle or mechanical apparatus*).	Corrosive	NA2797	Corrosive	173.250	173.260	No limit	No limit	1, 2	1, 2	Keep dry.

(1)	(2)	(3)	(3A)	(4)	(5)		(6)		(7)		
					Packaging		Maximum net quantity in one package		Water shipments		
+/E/A/W	Hazardous materials descriptions and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	Exceptions (a)	Specific requirements (b)	Passenger carrying aircraft or railcar (a)	Cargo only aircraft (b)	Cargo vessel (a)	Passenger vessel (b)	Other requirements (c)
	Battery, *electric storage*, wet, with wheelchair.	Corrosive material.		Corrosive	173.250	173.250 175.305	No limit	No limit	1, 2	1, 2	Keep dry.
	Battery, electric storage, wet, nonspillable. See § 173.260(d).										
	Battery, *electric storage*, wet, filled with alkali.	Corrosive material.	UN2795	Corrosive	173.260	173.260	Forbidden	No limit	1, 2	1, 2	
	Battery fluid, acid	Corrosive material.	UN2796	Corrosive	173.244	173.257	1 quart	5 gallons	1, 2	1, 2	
	Battery fluid, acid, with electronic equipment *or* actuating device.	Corrosive material.	NA2796	Corrosive	None	173.258	Forbidden	5 pints	1, 2	1, 2	
	Battery fluid, acid, with battery, *electric storage, wet, empty, or dry.*	Corrosive material.	NA2796	Corrosive	None	173.258	Forbidden	5 pints	1, 2	1, 2	
	Battery fluid, alkali	Corrosive material.	UN2797	Corrosive	173.244	173.257	1 quart	5 gallons	1, 2	1, 2	
	Battery fluid, alkali, with electronic equipment *or* actuating device.	Corrosive material.	NA2797	Corrosive	None	173.258	Forbidden	5 pints	1, 2	1, 2	
	Battery fluid, alkali, with battery, *electric storage wet, empty or dry.*	Corrosive material.	UN2797	Corrosive	None	173.258	Forbidden	5 pints	1, 2	1, 2	
	Electrolyte (acid) battery fluid (*not over 47% acid*) (RQ 1000/454). *See* Battery fluid, acid.										
	Wheelchair, battery-equipped. See Battery, *electric storage*, wet, with wheelchair.										

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

4. In § 173.250, paragraph (a) is revised, paragraph (b) is redesignated paragraph (d), and new paragraphs (b) and (c) are added, as follows:

§ 173.250 Automobiles, other self-propelled vehicles, engines or other mechanical apparatus.

(a) Except as provided in paragraph (b) of this section, automobiles and other self-propelled vehicles equipped with wet electric storage batteries are excepted from all other requirements of this subchapter when shipped as prescribed in paragraphs (a)(1) or (2) of this section, unless other hazardous materials are transported on the self-propelled vehicles, in which instance the regulations covering these other materials apply.

(1) When batteries are removed from the self-propelled vehicles and loaded in the transport vehicle therewith, the batteries must be so loaded, blocked and braced as to prevent short circuits, spillage of battery fluid or movement within the transport vehicle.

(2) When batteries are installed in self-propelled vehicles they must be completely protected against short circuits and so secured that spillage of battery fluid will not occur under conditions normal to transportation.

(b) For transportation by passenger-carrying aircraft, wheelchairs equipped with wet electric storage batteries must be shipped as prescribed in § 175.305 of this subchapter.

(c) When wet electric storage batteries or batteries packed in containers with battery fluid are shipped as part of carload or truckload shipments of automobile parts or assembly materials, they are subject to no other requirements of this subchapter when the batteries and battery fluid are boxed or crated and so loaded, blocked and braced as to prevent short circuits of the batteries, spillage of battery fluid and movement of the materials in the transport vehicle under conditions normal to transportation. When other hazardous materials are included in the shipments, the regulations covering these other materials apply.

* * * * *

5. In § 173.260, paragraph (d) is revised to read as follows:

§ 173.260 Electric storage batteries, wet.

* * * * *

(d) Nonspillable wet electric storage batteries capable of withstanding the tests prescribed in paragraphs (d) (1) and (2) of this section without leakage of battery fluid are excepted from all other requirements of this subchapter when protected against short circuits and securely packaged so as to withstand conditions normal to transportation.

(1) *Vibration test.* Battery is rigidly clamped to the platform of a vibration machine and a simple harmonic motion having an amplitude of 0.03 inches (0.06 inches maximum total excursion) is applied. The frequency is varied at the rate of one cycle per second per minute between the limits of 10 to 55 cycles per second. The entire range of frequencies and return is traversed in 95± minutes for each mounting position (direction of vibrator) of the battery. The battery must be tested in three mutually perpendicular positions (to include testing with fill openings and vents, if

any, in an inverted position) for equal time periods.

(2) *Pressure differential test.* Following the vibration test, the battery is stored for six hours at 75°F. ± 7°F. under an external partial pressure of 2 pounds per square inch absolute. The battery must be tested in three mutually perpendicular positions (to include testing with fill openings and vents, if any, in an inverted position) for at least six hours in each position.

* * * * *

PART 175—CARRIAGE BY AIRCRAFT

6. In § 175.33, paragraph (b) is added to read as follows:

§ 175.33 Notification of pilot-in-command.

* * * * *

(b) When wheelchairs equipped with wet electric storage batteries, other than nonspillable batteries, are transported under the provisions of § 175.305(b)(2) or (b)(3) of this subchapter, the pilot-in-command shall be notified orally or in writing before take off as to their location in the aircraft.

7. In § 175.78, paragraph (a) is revised to read as follows:

§ 175.78 Stowage compatibility of cargo.

(a) No person may stow a package, or a wet electric storage battery other than a nonspillable battery, containing a corrosive material on an aircraft next to or in a position that will allow contact with a package of flammable solids, oxidizing materials, or organic peroxides.

* * * * *

8. Section 175.79 is revised to read as follows:

§ 175.79 Orientation of cargo.

(a) A package, or a wet electric storage battery other than a nonspillable battery, containing hazardous materials and marked "THIS SIDE UP", "THIS END UP", or with arrows to indicate proper orientation, must be loaded and stored aboard an aircraft in accordance with such markings and secured in a manner that will prevent any movement that would change the orientation of the package or battery.

(b) A package, or a wet electric storage battery other than a nonspillable battery, containing liquid hazardous material and not marked as indicated in paragraph (a) of this section must be loaded and stored with closures up and secured as prescribed in paragraph (a) of this section.

9. In § 175.305, paragraph (b) is added to read as follows:

§ 175.305 Self-propelled vehicles.

* * * * *

(b) Wheelchairs equipped with wet electric storage batteries may be carried in cargo compartments on passenger-carrying aircraft when transported in accordance with the provisions of paragraphs (b) (1), (2) or (3) of this section. Shipments are subject to no other requirements of this subchapter except those requirements in §§ 175.33, 175.78 and 175.79 which are applicable to batteries.

(1) Wheelchairs equipped with batteries of a nonspillable type, as defined in § 173.260(d) of this subchapter, may be transported subject to no other requirements of this subchapter provided the batteries are:

(i) Protected against short circuits, and

(ii) Securely attached to the wheelchairs or removed and boxed.

(2) Wheelchairs equipped with batteries other than nonspillable batteries, when carried on aircraft in cargo compartments which can accommodate upright loading and stowage of wheelchair, must be transported as follows:

(i) Batteries must remain installed on wheelchairs, be securely attached to them, and terminals must be protected against short circuits;

(ii) Wheelchairs must be deactivated by removing connections at battery terminals or by otherwise disconnecting the power source, and

(iii) Wheelchairs must be secured upright in cargo compartments.

(3) For carriage on aircraft in cargo compartments which cannot accommodate upright loading or storage of wheelchairs, batteries other than nonspillable batteries may be removed from wheelchairs and carried in strong outside containers, as follows:

(i) Outside containers must be leaktight, impervious to battery fluid, and be protected against upset by securing to pallets or by securing them in cargo compartments using appropriate means of securement (other than by bracing with freight or baggage) such as by use of restraining straps, brackets or holders;

(ii) Batteries must be protected against short circuits, secured upright in the outside containers and surrounded by absorbent material sufficient to absorb their total liquid contents, and

(ii) Outside containers must be marked to indicate proper orientation, be marked "Battery, wet, with wheelchair", and be labeled with CORROSIVE labels (§ 172.442 of this subchapter).

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1)

Note.—The Materials Transportation Bureau has determined that this document will not result in a "major rule" under the terms of Executive Order 12291 and DOT procedures (44 FR 11034) nor require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). Based on limited information available concerning size and nature of entities likely to be affected by this amendment, I certify that this amendment will not, as promulgated, have a significant economic impact on a substantial number of small entities. A regulatory evaluation and environmental assessment are available for review in the Docket.

Issued in Washington, D.C., on June 1, 1982.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 82-15205 Filed 6-4-82; 8:45 am]

BILLING CODE 4910-60-M

National Highway Traffic Safety Administration

49 CFR Part 512

[Docket No. 78-10; Notice 8]

Confidential Business Information

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Response to petition for reconsideration, final rule.

SUMMARY: This notice responds to a petition for reconsideration of the agency's confidentiality regulation. The petition, which was submitted by the Motor Vehicle Manufacturers Association, requests the agency to amend the regulation to delete the provision for determinations of confidentiality immediately upon submission of information to the agency and to amend the requirements for substantiating confidentiality claims. The agency has deleted the immediate determination provision; but denied the request regarding the substantiation requirement.

EFFECTIVE DATE: June 1, 1982. Since the regulation was previously scheduled to become effective at this time and no additional burden is imposed by this notice, the effective date will remain the same.

FOR FURTHER INFORMATION CONTACT: Roger Tilton, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, D.C. 20590 (202-426-9511).

SUPPLEMENTARY INFORMATION: On January 8, 1981 (46 FR 2049), the NHTSA published a final rule specifying the procedures for submitting confidential information to the agency. That rule also described the procedures that the agency would employ in determining whether to grant a confidentiality

request, as well as the limited instances when confidential information might be disclosed if the public interest necessitated such a disclosure.

As issued, the regulation, in essence, required all submitters of confidential information to substantiate their confidentiality requests when they submitted the information to the agency. The agency would then make an immediate decision on the confidentiality of most information and notify the submitter of its decision. If the agency concluded that the information would not be held confidential, the submitter would be accorded a short period of time to appeal that decision.

The Motor Vehicle Manufacturers Association (MVMA) submitted a petition for reconsideration of the regulation. The agency has subsequently deferred the effective date of the regulation on several occasions in order to evaluate the MVMA petition in light of the agency's present needs for and experience with confidential information. As a result of that reevaluation, the agency has determined to grant portions of the MVMA's petition for reconsideration and is amending the final rule in accordance with those recommendations. The balance of the petition is, however, being denied.

One of the major objections made by the MVMA and by many other commenters to the original NPRM on the confidentiality regulation was that the provision for determination by the agency of the confidentiality immediately upon the submission of information to the agency was not in harmony with the practices of other government agencies and would be overly burdensome to both the government and to the submitters of information. The provision for immediate determinations necessitates requiring the submitter of information to substantiate its confidentiality requests at the same time that the confidentiality request was made. The government would then make its decision immediately on whether the information would receive confidential treatment. These steps would be followed even though the release of the information, if it were determined not to be confidential, might not be made until some distant time in the future under normal agency operations. Commenters thus recommended, and the MVMA repeated this request in its petition, that immediate determinations not be made. Instead, they recommended that the information be considered confidential until such time as the agency would normally disclose it if it were not confidential or until a Freedom of Information Act (FOIA) request was received.

The agency has reviewed its present use of confidential information. Currently, most of the confidential information received by the agency comes from investigations in defect or standards enforcement cases. The NHTSA investigative procedural regulation, 49 CFR 554.9, provides that communications submitted by a manufacturer which are the subject of an investigation will be made available to the public during the course of the investigation if they are not considered to be confidential. However, it is the agency's view that it may, consistent with this regulation, withhold such information from its public files pending a final determination of confidentiality, if it appears that the submitter's claim for confidential treatment appears to have a reasonable likelihood of success. The final confidentiality determination would then be deferred until it is required by a Freedom of Information Act request or some other event which makes the determination necessary. For example, section 152 of the National Traffic and Motor Vehicle Safety Act requires public disclosure of all nonconfidential information upon which an initial determination of defect or noncompliance is based.

Ordinarily all confidentiality claims will be determined when an investigative file is closed. However, the agency should also have discretion to continue to defer such a determination and withhold material from disclosure where confidentiality issues are unsettled or where further showing of entitlement to confidentiality by a submitter might be necessary for determination but unduly burdensome.

Therefore, the agency concludes that it would be unnecessary or inappropriate to make an immediate determination of the confidentiality of the defect and noncompliance information when it is received. Since this information constitutes the bulk of all confidential information received by the agency, NHTSA further concludes that the immediate determination process no longer fits the needs of the agency. Accordingly, the agency is amending § 512.6 to indicate that the agency will decide the confidentiality of the submitted information when all information which is not confidential, is made public at the agency's initiative. Similarly, information that has been requested by a third party through the FOIA process will have its confidentiality determined at the time that the FOIA request is received by the agency.

The MVMA also asked that the agency not require the submission of arguments to substantiate a confidentiality request until such time as the agency would make public the information pursuant to a FOIA request. Apparently the MVMA wants the NHTSA to notify the submitter and then request support of its claim at the time of the information's expected release.

The agency does not fully agree with this suggestion. NHTSA continues to believe that a request for confidential treatment of information should be thoroughly supported as soon as possible after its submission. Nearly all of the information received by this agency is made public, unless it is determined to be confidential. Therefore, the substantiation will be required at some point for almost every piece of confidential information submitted to the NHTSA. That substantiation should be made near the time of submission to reduce the time necessary for the agency to make the decision and release the information if it is not confidential. Also, it is to the advantage of the submitter to provide the necessary supporting material early in the process to ensure that it has taken every precaution to protect its information.

The agency does realize, however, that not every submitter of confidential information may have the time to substantiate its confidentiality claim immediately upon submission of the information. Since the agency will no longer make immediate determinations, an immediate substantiation is no longer necessary in most instances. Therefore, the agency is amending § 512.4(b) to state that the substantiation must be submitted at the same time as the original submission of the information or, if additional time is needed and requested, at a later date set by the Chief Counsel.

Substantive Requirements of the Regulation

The MVMA also objected to many of the substantive requirements for substantiating confidentiality requests. Many of its objections were repetitions of its earlier objections to the rule and will not be responded to in great detail here since the agency has previously responded to those objections and continues to conclude that these portions of the rule are necessary.

First, the MVMA suggests that the agency is requiring the submission of too much information to support a claim for confidential treatment of information. The agency disagrees. The information requested is simply that

required to allow the agency to make an informed decision of the confidential status of the submitted information. Accordingly, the agency will not amend this section of the regulation. However, the agency will work carefully with submitters to broaden the categories of class determinations in § 512.9. These classes consist of information that is presumed confidential. By expanding the number of these classes, it would be possible to put more submissions of information within one or more of the classes, and, therefore, to eliminate the necessity for submitting additional support data. This will reduce the burden on submitters.

As in its comments on the NPRM, the MVMA objected to several specific parts of the regulation including the required statement of measures undertaken by the submitter to ensure nondisclosure, and the "substantiation of inquiry" provisions. The agency declines to make these changes. The reasons for including these provisions were detailed in the NPRM and fully discussed in the final rule. The agency will not repeat its arguments here but will simply reiterate that it continues to find all these provisions necessary in making appropriate confidentiality determinations.

Finally, MVMA objected to the requirement to notify the agency of prior confidentiality determinations on the submitted information. It was suggested that this would be too burdensome on submitters. The agency disagrees. Certainly, a submitter will readily know whether it has submitted the same information to another agency, and whether that agency has granted or denied that request. The agency regards such factors to be relevant to the agency's own determination process. While agency discretion may differ in application among agencies, a determination of confidentiality by another agency, acting under the same or related statutory authority, would and should be entitled to weight before NHTSA. At the same time, actual final prior release of the same information by another agency would make agency protection moot. The agency therefore is retaining the requirement.

The MVMA objected to the requirement to update submissions if the confidential status of the information changes. NHTSA continues to believe that this update is necessary to ensure that material, whose confidentiality may change over time, is properly treated by the agency. The MVMA suggested that the agency has no authority to impose civil penalties for violating the updating requirement. The agency disagrees and refers the MVMA to 15 U.S.C. 1397 and 1398. Those sections allow the agency to assess civil penalties for failure to provide records and reports as required by the agency. The agency notes that imposition of such penalties would occur only in instances where a submitter is knowingly concealing information from the agency, and therefore would likely be rare.

The MVMA once again suggested that the waiver of confidential treatment of information for failure to supply the affidavit or the potential waiver for failure to provide necessary support information was unreasonable. This objection was answered in detail in the preamble to the final rule. The agency must have the necessary support information for confidentiality claims. As stated in the final rule, a technical error in the submission will not result in a release of confidential information. A submitter will be given the opportunity to correct its submission.

The MVMA also suggested that the *National Parks* test for confidentiality is not always the best and requires a geater showing of competitive harm than might otherwise be required. The agency concludes that the provisions of § 512.5 for determining confidentiality are appropriate given the range of judicial precedent in this area and the agency's statutory mandate.

MVMA objected to the notice requirement of 10-working days from denial of a confidentiality request to the placement of the information in the public docket and the 10-working day time for reconsideration of a previous determination. These provisions give submitters time to object to agency determinations and allow the agency to make an earlier release if the public interest requires. The agency previously concluded that the need to release information in many instances warranted a limited time in which a submitter would be able to petition for a reconsideration of the determination or to seek judicial resource. In FOIA cases, 10 days is absolutely necessary and mandatory. The agency concludes that 10 working days allows submitters sufficient time to take whatever steps are necessary to protect their information if they believe that the agency has made an erroneous determination. Even if the agency decides to shorten that period on occasion, a submitter would have ample notice to go to the court to attempt to restrain the agency.

Finally, the MVMA objected to the discretionary release of confidential information and the disclosure of confidential information to contractors. The agency in the final rule noted that the discretionary release provision was simply codifying in this regulation those releases that are already allowed by law. With respect to releases of information to contractors, the final rule addressed this problem. The regulation was amended to reflect the limitations on the contractor when such release occurs. The agency rarely releases confidential information to contractors. However, some releases may be required in the interests of safety and the rule is intended to ensure that the confidentiality of information will be maintained in those rare instances.

The agency has considered the economic and other impacts of this amendment and has determined that this is not a major rule within the meaning of Executive Order 12291. The agency has further determined that the rule is not significant within the meaning of the Department of Transportation's regulatory procedures and that a full regulatory evaluation is unnecessary because the economic impacts are minimal. This determination has been made because this regulation is essentially procedural and will not have appreciable impact on the cost of submitting data to the agency. Compliance with the Regulatory Flexibility Act is not required since the proposal was published (May 25, 1978) prior to implementation of that Act (January 1, 1980). Finally, the agency concludes that this procedural regulation would have no significant impact on the human environment.

In accordance with the foregoing, Part 512, *Confidential Business Information*, of Volume 49 of the Code of Federal Regulations is revised in its entirety and amended as set forth below.

The principal author of this notice is Roger Tilton of the Office of Chief Counsel.

List of Subjects in 49 CFR Part 512

Administrative Procedure and Practice, Freedom of Information, Information, Records.

Issued on May 28, 1982.

Raymond A. Peck, Jr.,

Administrator.

PART 512—CONFIDENTIAL BUSINESS INFORMATION

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512.1 Purpose and scope.
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512.6 Determination of confidential treatment.
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512.10 Disclosure of information in certain circumstances.
Appendix A—Affidavit In Support of Request for Confidentiality
Appendix B—Class Determinations
Appendix C—OMB Clearance

Authority: Sec. 9, Pub. L. 89-670, 80 Stat. 931 (49 U.S.C. 1657); sec. 112, Pub. L. 89-563, 80 Stat. 725, amended Pub. L. 91-265, 84 Stat. 262 (15 U.S.C. 1401); sec. 119, Pub. L. 89-563, 80 Stat. 728 (15 U.S.C. 1407); sec. 104, Pub. L. 92-513, 86 Stat. 950, (15 U.S.C. 1914); sec. 204, Pub. L. 92-513, 86 Stat. 957; (15 U.S.C. 1944); sec. 408. Pub. L. 92-513 as added Pub. L. 94-364, 90 Stat. 985 (15 U.S.C. 1990d), sec. 505 Pub. L. 94-163, 89 Stat. 908 (15 U.S.C. 2005), delegation of authority at 49 CFR 1.50.

§ 512.1 Purpose and scope.

The purpose of this part is to establish the procedure by which the NHTSA will consider claims that information submitted to the NHTSA, or which the NHTSA otherwise obtains, is confidential business information, as described in 5 U.S.C. 552(b)(4).

§ 512.2 Applicability.

(a) This part applies, in accordance with its terms, to all information which is submitted to the NHTSA, or which the NHTSA otherwise obtains, except as provided in paragraph (b).

(b) Information received as part of the procurement process, is subject to the Federal Procurement Regulations, 41 CFR, Chapter 1, as well as this part. In any case of conflict between the Federal Procurement Regulations and this part, the provisions of the Federal Procurement Regulations prevail.

§ 512.3 Definitions.

"NHTSA" means the National Highway Traffic Safety Administration.

"Administrator" means the Administrator of the National Highway Traffic Safety Administration.

"Chief Counsel" means the Chief Counsel of the National Highway Traffic Safety Administration.

"Confidential business information" means information described in 5 U.S.C. 552(b)(4).

§ 512.4 Asserting a claim for confidential treatment of information.

(a) Any person submitting information to the NHTSA and requesting that it be withheld from public disclosure as confidential business information shall—

(1) Stamp or mark "confidential" or some other term which clearly indicates the presence of information claimed to be confidential, on the top of each page containing information claimed to be confidential.

(2) Mark each item of information which is claimed to be confidential and which appears on a page marked in accordance with paragraph (a)(1) of this section, with brackets "[]".

(3) If an entire page is claimed to be confidential, indicate clearly that the entire page is claimed to be confidential.

(4) Submit the documents containing allegedly confidential information directly to the Office of Chief Counsel, National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street SW., Washington, D.C.

(5) In the case of a document containing information which is claimed to be confidential submitted in connection with a NHTSA activity for which there is a public file or docket, simultaneously submit to the NHTSA a copy of the document from which information claimed to be confidential is deleted, for placement in the public file or docket pending the determination of the claim for confidential treatment.

(6) Simultaneously submit to the NHTSA in writing the name, address, and telephone number of a representative for receipt of notice under this part.

(b) When submitting each item of information marked confidential in accordance with paragraph (a) of this section, the submitter shall also submit either information supporting the claim for confidential treatment to the NHTSA or, if submission of that supporting information is not possible at that time, a request for an extension of time in which to submit the information and an explanation of the length of extension needed. The submission of such a request automatically extends the deadline. The Chief Counsel determines the length of the extension. The recipient of an extension shall submit the supporting information in accordance with the extension. The supporting information must show—

(1) That the information claimed to be confidential is a trade secret, or commercial or financial information.

(2) Measures taken by the submitter of the information to ensure that the information has not been disclosed or otherwise made available to any person, company, or organization other than the submitter of the information.

(3) Insofar as is known by the submitter of the information, the extent to which the information has been disclosed, or otherwise become available, to persons other than the submitter of the information, and why such disclosure or availability does not compromise the confidential nature of the information.

(4) Insofar as is known by the submitter of the information, the extent to which the information has appeared publicly, regardless of whether the submitter has authorized that appearance or confirmed the accuracy of the information (include citations to such public appearances, and an explanation of why such appearances do not compromise the confidential nature of the information).

(5) Prior determinations of the NHTSA or other Federal agencies or Federal courts relating to the confidentiality of the submitted information, or similar information possessed by the submitter including class determinations under this part (include any written notice or decision connected with any such prior determination, or a citation to any such notice or decision, if published in the **Federal Register**).

(6) Except for information submitted to the agency in connection with the NHTSA's functions under Title V of the Motor Vehicle Information and Cost Savings Act, as amended, whether the submitter of the information asserts that disclosure would be likely to result in substantial competitive harm, what the harmful effects of disclosure would be, why the effects should be viewed as substantial, and the causal relationship between the effects and disclosure.

(7) For information submitted to the agency in connection with the NHTSA's functions under Title V of the Motor Vehicle Information and Cost Savings Act, whether the submitter of the information asserts that disclosure would result in significant competitive damage, what that damage would be, why that damage should be viewed as significant, and the causal relationship between the damage and disclosure.

(8) If information is voluntarily submitted, within the meaning of section 512.5(a)(2) of this part, why disclosure by the NHTSA would be likely to prevent the NHTSA from obtaining information in the future.

(9) The period of time for which confidentiality is claimed (permanently or until a certain date or the occurrence of a certain event) and why earlier disclosure would result in the harms set out in paragraphs (b), (6), (7), or (8) of this section as the case may be.

(c)(1) If any element of the showing to support a claim for confidentiality required under paragraph (b) of this section is presumptively established by a class determination affecting the information for which confidentiality is claimed, the submitter of information need not establish that element again under paragraph (b).

(2) If the Chief Counsel believes that information which a submitter of information asserts to be within a class of information set out in Appendix B is not within that class, the Chief Counsel—

(i) Notifies the submitter of the information that the information does not fall within the class as claimed, and briefly explains why the information does not fall within the class, and

(ii) Affords the submitter of the information a reasonable amount of time, not less than 10 working days, to comply fully with paragraph (b) of this section.

(d) Information in support of a claim for confidentiality submitted to the NHTSA under paragraph (b) of this section must consist of objective data to the maximum extent possible. To the extent that opinions are given in support of a claim for confidential treatment of information, the submitter of the information shall submit in writing to the NHTSA the basis for the opinions, and the name, title, and credentials showing the expertise of the person supplying the opinion.

(e) The submitter of information for which confidential treatment is requested shall submit to the NHTSA with the request a certification in the form set out in Appendix A from the submitter, or an agent of the submitter, that a diligent inquiry has been made to determine that the information has not been disclosed, or otherwise appeared publicly, except as indicated in accordance with paragraph (b) (3) and (4) of this section.

(f) A single showing in support for a claim that information is confidential, in accordance with paragraph (b) of this section, may be used to support a claim for confidential treatment of more than one item of information claimed to be confidential. However, general or nonspecific assertions or analyses may be insufficient to form an adequate basis for the agency to find that information may be afforded confidential treatment, under section 512.3, and may result in the denial of a claim for confidentiality.

(g) Where confidentiality is claimed for information obtained by the submitter from a third party, such as a supplier, the submitter of the information is responsible for obtaining all information or certifications from the third party necessary to comply with paragraph (b).

(h) A submitter of information shall promptly amend supporting information provided under paragraph (b) if the submitter obtains information upon the basis of which the submitter knows that the supporting information was incorrect when provided, or that the supporting information, though correct when provided, is no longer correct and the circumstances are such that a failure to amend the supporting information is in substance a knowing concealment.

(i) Noncompliance with this section may result in a waiver or denial of a claim for confidential treatment of information. However, failure to provide the certification required in paragraph (e) of this section shall result in a denial of the claim. Noncompliance with paragraph (h) of this section may subject a submitter of information to civil penalties.

(1) If the provisions of paragraph (a) of this section are not complied with at the time the information is submitted to the NHTSA so that the NHTSA is not aware of a claim for confidentiality, or the scope of a claim for confidentiality, the claim for confidentiality is waived unless the agency is notified of the claim before the information is disclosed to the public. Placing the information in a public docket or file is disclosure to the public within the meaning of this part, and any claim for confidential treatment of information so disclosed is precluded.

(2) A request that information be afforded confidential treatment may be denied if the submitter of the information does not provide all of the supporting information required in paragraph (b) of this section, and will be denied if the information provided is insufficient to establish that the information may be afforded confidential treatment under the substantive tests set out in section 512.3. The Chief Counsel may notify a submitter of information of inadequacies in the supporting information, and may allow the submitter additional time to supplement the showing, but is under no obligation to provide either notice or additional time to supplement the showing.

(j) Information received that is identified as confidential and whose claim for confidentiality is supported in accordance with this section will be kept confidential until a determination of its confidentiality is made under section 512.6 of this part. Information will not be publicly disclosed except in accordance with this part.

§ 512.5 Substantive standards for affording information confidential treatment.

(a) Information obtained by the NHTSA, except for information obtained by the NHTSA under Title V of the Motor Vehicle Information and Cost Savings Act, may be afforded confidential treatment if it is a trade secret, commercial, or financial information that is not already publicly available; and

(1) Which if disclosed, would be likely to result in substantial competitive harm to the submitter of the information, or

(2) Voluntarily submitted, and failure to afford the information confidential treatment would impair the ability of the NHTSA to obtain similar information in the future. Information whose production the NHTSA could not compel by compulsory process is voluntarily submitted information within the meaning of this part.

(b) Information obtained by the NHTSA under Title V of the Motor Vehicle Information and Cost Savings Act may be afforded confidential treatment if it is a trade secret, commercial or financial information that is not already publicly available or and which, if disclosed, would result in significant competitive damage.

§ 512.6 Determination of confidentiality.

(a) The decision of whether an item of information may be afforded confidential treatment under this part is made by the Office of Chief Counsel.

(b) The determination of confidentiality is made when disclosure of the information would be required if it were not entitled to confidentiality, pursuant to the Freedom of Information Act, or the statutes and regulations governing activities of the NHTSA or when the NHTSA finds that disclosure of such information, if not entitled to confidentiality, is in the best interest of the public, if—

(1) The information relates to a rulemaking proceeding for which a public docket has been established,

(2) The information relates to a petition before the NHTSA for which a public docket has been established,

(3) The information relates to a proceeding under Part B of Subchapter I of the National Traffic and Motor Vehicle Safety Act,

(4) The information relates to an investigation or proceedng by the NHTSA to enforce any regulation or standard, or

(5) The information is received under a reporting requirement established by the NHTSA.

(c) If information does not come under paragraph (b) of this section when received by the NHTSA, but is later determined to be information described in paragraph (b), the determination of confidentiality is made when public disclosure would otherwise be necessary.

(d) For information not described under paragraph (b) of this section, the determination of confidentiality is made

within ten working days after the NHTSA receives a request for that information under the Freedom of Information Act.

(e) The timing requirements prescribed in paragraph (d) of this section may be extended by the Chief Counsel for good cause shown on the Chief Counsel's own motion, or on request from any person, and is made only in accordance with 5 U.S.C. 552. Any extension of time is accompanied by a written statement setting out the reasons for the extension.

(f) A person submitting information to the NHTSA with a request that the information be withheld from public disclosure as confidential business information is given notice of the Chief Counsel's determination regarding the request as soon as the determination is made.

(1) If a request for confidentiality is granted, the submitter of the information is notified in writing that the information is being kept confidential and the length of time during which the information will be kept confidential.

(2) If a request for confidentiality is denied in whole or in part, the submitter of the information is notified in writing of that denial, and is informed that the information will be placed in a public docket on a specified date, which is not less than ten working days after the submitter of the information has received notice of the denial of the request for confidential treatment if practicable, or some earlier date if the Chief Counsel determines that the public interest requires that the information be placed in a public file on such earlier date. The written notification of a denial specifies the reasons for denying the request.

(g) A submitter of information whose request for confidential treatment is denied may petition for reconsideration of that denial only on the basis of information or arguments that were not available at the time the original request for confidentiality was made. The Chief Counsel may postpone placing the information in a public file in order to allow additional time to consider the petition for reconsideration. Petitions for reconsideration under this section shall be addressed to the Chief Counsel.

(h) If information which has been a subject of a confidentiality determination under this section is requested under the Freedom of Information Act, the Office of Chief Counsel advises the office processing that request whether the information has been determined to be confidential.

§ 512.7 Modification of confidentiality determinations.

(a) A determination that information is confidential business information remains in effect in accordance with its terms, unless modified by a later determination based upon—

(1) Newly discovered or changed facts.

(2) A change in the applicable law,

(3) A class determination under section 512.9 of this part, or

(4) The initial determination's being clearly erroneous.

(b) If the NHTSA believes that an earlier determination of confidentiality should be reconsidered based on one or more of the factors listed in paragraphs (a)(1)–(4) of this section, the submitter of the information is notified in writing of the NHTSA's intention to reconsider that earlier determination, and the reasons for that reconsideration, and is given an opportunity to comment which is not less than ten working days from the receipt of notice under this paragraph.

§ 512.8 Discretionary release of confidential business information.

(a) Information that has been determined or claimed to be confidential business information under § 512.6 of this part may be disclosed to the public by the Administrator notwithstanding such determination or claim if disclosure would be in the public interest as follows:

(1) Information obtained under Part A, Subchapter I of the National Traffic and Motor Vehicle Safety Act, relating to the establishment, amendment, or modification of Federal motor vehicle safety standards, may be disclosed when relevant to a proceeding under that part.

(2) Information obtained under Part B, Subchapter I of the National Traffic and Motor Vehicle Safety Act, relating to defects relating to motor vehicle safety, and failures to comply with applicable motor vehicle safety standards, may be disclosed if the Administrator determines that disclosure is necessary to carry out the purposes of that Act.

(3) Information obtained under Title I or V of the Motor Vehicle Information and Cost Savings Act may be disclosed when that information is relevant to a proceeding under the title under which the information was obtained.

(b) No information is disclosed under this section unless the submitter of the information is given written notice of the Administrator's intention to disclose information under this section. Written notice is given at least ten working days before the day of intended release, although the Administrator may provide shorter notice if the Administrator finds that such shorter notice is in the public interest. The notice under this paragraph includes a statement of the Administrator's reasons for considering the disclosure of information under this section, and affords the submitter of the information an opportunity to comment on the contemplated release of information. The Administration may also give notice of the contemplated release of information to other persons, and may allow such other persons the opportunity to comment. When a release of information is made pursuant to this section, the Administrator will consider ways to make the release with the least possible adverse effects to the submitter.

§ 512.9 Class determinations.

(a) The Chief Counsel may issue a class determination relating to confidentiality under this section if the Chief Counsel determines that one or more characteristics common to each item of information in that class will in most cases necessarily result in identical treatment of each item of information under this part, and that it is appropriate to treat all such items as a class for one or more purposes under this part. The Chief Counsel obtains the concurrence of the Office of the General Counsel, United States Department of Transportation, for any class determination that has the effect of raising the presumption that all information in that class is eligible for confidential treatment. Class determinations are published in the **Federal Register**.

(b) A class determination clearly identifies the class of information to which it pertains.

(c) A class determination may state that all of the information in the class—

(1) Is or is not governed by a particular section of this part, or by a particular set of substantive criteria under this part,

(2) Fails to satisfy one or more of the applicable substantive criteria, and is therefore ineligible for confidential treatment,

(3) Satisfies one or more of the applicable substantive criteria, or

(4) Satisfies one of the substantive criteria during a certain period, but will be ineligible for confidential treatment thereafter.

(d) Class determinations will have the effect of establishing rebuttable presumptions, and do not conclusively determine any of the factors set out in paragraph (c) of this section.

§ 512.10 Disclosure of information in certain circumstances.

(a) Notwithstanding any other provision of this part, information which has been determined to be confidential business information, or which has been claimed to be confidential business information, may be disclosed pursuant to a valid request—

(1) To Congress,

(2) Pursuant to court order,

(3) To the Office of the Secretary, United States Department of Transportation and other Executive branch offices or other Federal agencies in accordance with applicable laws,

(4) With the consent of the submitter of the information,

(5) To contractors, if necessary for the performance of a contract with the Administration. In such instances, the contract limits further release of the information to named employees of the contractor with a need to know and provides that unauthorized release constitutes a breach of the contract for which the contractor may be liable to third parties.

Appendix A

Affidavit in Support of Request for Confidentiality

I,————, being duly sworn, depose and say:

(1) That I am (official) and that I am authorized by (company) to execute documents on behalf of (company);

(2) That the information contained in *(pertinent document[s])* is confidential and proprietary data and is begin submitted with the claim that it is entitled to confidential treatment under 5 U.S.C. 552(b)(4) [as incorporated by reference in and modified by § 505(d)(1) of Title 5 of the Motor Vehicle Information and Cost Savings Act.]

(3) That I have personally inquired of the responsible (company) personnel who have authority in the normal course of business to release the information for which a claim of confidentiality has been made to ascertain whether such information has ever been released outside (*company*).

(4) That based upon such inquiries to the best of my knowledge the information for which (company) has claimed confidential treatment has never been released of become available outside the (company) except as hereinafter specified;

(5) That I make no representations beyond those contained in this affidavit and in particular I make no representations as to whether this information may become available outside (company) because of unauthorized or inadvertent disclosure except as stated in Paragraph 4; and

(6) That the information contained in the enumerated paragraphs of this affidavit is true and accurate to the best of my information, knowledge and belief.

(Official)

Appendix B—Class Determinations

The Administration has determined that the following types of information would presumptively result in significant competitive damage or would be likely to result in substantial competitive harm if disclosed to the public—

(1) Blueprints and engineering drawings containing process of production data before the public availability, or within five years of the public availability, of the subject of the blueprints or engineering drawings, where the subject could not be manufactured without the blueprints or engineering drawings except after significant reverse engineering;

(2) Future model specific product plans, projected not more than three years into the future;

(3) Model specific projections of future sales mix, projected not more than three years into the future;

Appendix C—OMB Clearance

The OMB clearance number for this regulation is 2127–0025.

[FR Doc. 82–15307 Filed 6–2–82; 10:05 am]
BILLING CODE 4910–59–M

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49 CFR Part 575

[Docket No. 81–09; Notice 2]

Consumer Information Regulations

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Final rule.

SUMMARY: This notice amends the Consumer Information Regulations by revocation of the requirement that motor vehicle manufacturers provide information on passenger car tire reserve load. The National Highway Traffic Safety Administration has concluded that this information is without value to consumers, and that deletion of the requirement will avoid unnecessary regulatory burdens on industry.

EFFECTIVE DATE: This amendment is effective June 7, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Reck, Office of Automotive Ratings, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590, 202–426–1740.

SUPPLEMENTARY INFORMATION: The Consumer Information Regulations (49 CFR Part 575) require that manufacturers of motor vehicles and tires provide consumers with information on the performace of their products under various performance criteria. In the case of motor vehicle manufacturers, information is required in the areas of passenger car and motorcyle stopping distance (49 CFR 575.101), passenger car tire reserve load (49 CFR 575.102), and truck camper loading (49 CFR 575.103). National Highway Traffic Safety Administration (NHTSA) regulations require that motor vehicle manufacturers supply the required performance information in writing to first purchasers of their motor vehicles at the time of delivery (49 CFR 575.6(a)) and that the information be made available for examination by prospective purchasers at each location where the vehicles to which it applies are sold (49 CFR 575.6(c)). The information must also be submitted in advance to NHTSA (49 CFR 575.6(d)).

On September 24, 1981, NHTSA published in the **Federal Register** a proposal to delete from the Consumer Information Regulations the requirement for provision of information on passenger car tire reserve load (46 FR 47100; Docket No. 81–09, Notice 1). Tire reserve load is the difference between a tire's stated load rating and the load imposed on the tire at maximum loaded vehicle weight. This difference is expressed as a percentage of tire load rating under the regulation.

NHTSA's proposal noted that a NHTSA analysis, "The Relationship Between Tire Reserve Load Percentage and Tire Failure" (Docket No. 81–09, Notice 1, No. 002), had concluded that no relationship exists between tire reserve load percentage and tire failure rate. This analysis was based on the results of a study prepared for NHTSA by Chi Associates, "Statistical Analysis of Tire Failure vs. Tire Reserve Load Percentage" (Docket No. 81–09, Notice 1, No. 001), using tire reserve load data obtained from eight automobile manufacturers under special order from this agency. The proposal also noted the lack of major differences among manufacturers' reported tire reserve load percentages, and the safeguards against overloading contained in Federal Motor Vehicle Safety Standard No. 110 (FMVSS No. 110), Tire Selection and Rims.

In response to its proposal to delete the requirement for tire reserve load information, NHTSA received comments from seven motor vehicle manufacturers and importers. The commenters were unanimous in their support of the agency's proposal. Comments received generally focused on the lack of benefit to consumers resulting from provision of tire reserve load information.

Several commenters noted the lack of any proven safety benefit from the tire reserve load regulation. Two commenters, Ford Motor Company and Volkswagen of America, Inc., cited the above mentioned NHTSA analysis in

support of the proposition that tire reserve load is an invalid predictor of tire failure (Docket No. 81–09, Notice 1, Nos. 004 and 006). General Motors Corporation (Docket No. 81–09, Notice 1, No. 007) and American Motors Corporation (Docket No. 81–09, Notice 1, No. 006, referencing its prior comment, Docket No. 79–02, Notice 1, No. 012) argued that FMVSS No. 110 is sufficient to protect against the installation of tires with inadequate load carrying capacity.

American Motors also pointed out that much of the information required under the tire reserve load regulation is redundant of information which must be included on glove compartment placards pursuant to FMVSS No. 110. In this regard, information on recommended tire size designation and recommended inflation pressure for maximum loaded vehicle weight, required under paragraphs (c)(2) and (3) of the tire reserve load regulation (49 CFR 575.102(c)(2) and (3)) is essentially the same as that required under paragraphs S 4.3(c) and (d) of FMVSS No. 110 (49 CFR 575.110, S 4.3(c) and (d)).

Several commenters argued that not only is tire reserve load information lacking in safety value, but it may actually pose a danger to highway safety. Renault USA, Inc., Volkswagen, General Motors and American Motors all expressed concern that provision of tire reserve load information would mislead consumers into loading their vehicles beyond gross vehicle weight ratings (Docket No. 81–09, Notice 1, Nos. 003, 006, 007, 008). Renault and American Motors also noted that the tire reserve load regulation fails to take into account the effect of inflation pressure, thus further limiting the usefulness of the regulation and creating additional potential hazards resulting from improper tire inflation.

Chrysler Corporation and General Motors emphasized the minimal consumer interest in tire reserve load information (Docket No. 81–09, Notice 1, Nos. 005 and 007). As evidence of this minimal interest, both manufacturers noted the lack of consumer requests for point of sale information currently available.

Some cost savings are likely to result to automobile manufacturers as a result of deletion of this requirement. General Motors pointed out that, even if tire reserve load is dropped from the consumer information regulations, manufacturers will still be required to print and distribute booklets containing information on vehicle stopping distance and thus cost savings will be limited (Docket No. 81–09, Notice 1, No. 007). However, Ford commented that elimination of the tire reserve load provision would result in some savings in manpower and computer time (Docket No. 81–09, Notice 1, No. 004). Similarly, Volkswagen noted that manufacturers' booklet publication costs would be reduced and reporting requirements simplified if the proposed amendment were adopted (Docket No. 81–09, Notice 1, No. 006).

In view of the lack of benefits of the tire reserve load information requirements, the potential for reduction of unnecessary regulatory burdens by deletion of these requirements, and the other considerations discussed above, NHTSA has concluded that the tire reserve load requirements of the Consumer Information Regulations should be revoked. In order to avoid continued imposition of unnecessary regulatory burdens, this amendment relieving a restriction is made effective immediately.

Several commenters also suggested rescinding the vehicle stopping distance information requirement of the regulation, thereby eliminating all requirements for vehicle specific consumer information applicable to passenger cars. While beyond the scope of this rulemaking proceeding, NHTSA is reviewing the benefits of and need for other aspects of the Consumer Information Regulations in connection with a petition for rulemaking submitted by General Motors. If this review indicates that vehicle stopping distance information is not useful, the potential deletion of this requirement will be made the subject of a future rulemaking proceeding.

NHTSA has evaluated this relieving of a restriction and found that its effect would be to provide minor cost savings for motor vehicle manufacturers. Accordingly, the agency has determined that this action is not a major rule within the meaning of Executive Order 12291 and is not significant for purposes of Department of Transportation policies and procedures for internal review of regulatory actions. The agency has further determined that the cost savings are minimal and do not warrant preparation of a regulatory evaluation under the procedures.

List of Subjects in 49 CFR Part 575

Consumer protection, Labeling, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

The agency certifies, pursuant to the Regulatory Flexibility Act, that this action will not "have a significant economic impact on a substantial number of small entities," and that a Regulatory Flexibility Analysis was therefore not required. Few, if any, motor vehicle manufacturers can be considered small entities within the meaning of the statute. Small organizations and small government jurisdictions will not be significantly affected by this action. These entities could be affected by the action as motor vehicle purchasers. However, the agency has determined that tire reserve load information is not of value to purchasers. Moreover, possible cost savings associated with the action will be minor in the case of individual purchasers. Finally, the agency has concluded that the environmental consequences of this action will be of such limited scope that they clearly will not have a significant effect on the quality of the human environment.

PART 575—CONSUMER INFORMATION REGULATIONS

In consideration of the foregoing, 49 CFR Part 575, Consumer Information Regulations, is amended as set forth below.

§ 575.102 [Reserved]

1. Part 575 is amended by removing and reserving § 575.102.

(Secs. 103, 112, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407); delegation of authority at 49 CFR 1.50)

Issued on May 28, 1982.

Raymond A. Peck, Jr.,

Administrator.

[FR Doc. 82-15000 Filed 6-4-82; 8:45 am]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1110

[Ex Parte 433]

Removal of General Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Removal of final rules.

SUMMARY: The Commission is removing rules adopted in 1967 which provided general requirements and filing information for applications and reports under 49 CFR Parts 1111 to 1119. The requirements and information under this Part are either included in the General Rules of Practice or have been incorporated in separate provisions of the regulations. Accordingly this provision is no longer needed.

EFFECTIVE DATE: July 6, 1982.

FOR FURTHER INFORMATION CONTACT: Louis B. Gitomer, 275–7245.

SUPPLEMENTARY INFORMATION: In 1967 the Commission adopted comprehensive

regulations in 49 CFR Parts 1110–1119 entitled, *Railcarriers Consolidation, Finance and Reorganization.* Part 1110 provided procedural and general requirements to be followed in filings under Parts 1111–1119. Part 1110 is no longer needed because the general and introductory information it provides is now contained in the General Rules of Practice, and because the specific rules under Parts 1111–1119 contain more detailed and at times conflicting provisions.

For example, Part 1110 prescribes the form to be used, typographical specifications, and filing information. All of this information is now included in the General Rules of Practice, as well as under the more specific rules (See §§ 1100.4, .13, .14, 1111.4, 1111.25, 1113.1–.4, 1114.1–.3, 1116.4, 1117.12). A very general definition of terms is provided in 1110.2, while the specific rules also contain the relevant definitions (See §§ 1111.3, 1115.2, 1116.1, 1117.1, .5) Similarly, the execution requirements in § 1110.6 can be found in the General Rules at § 1100.15, and under specific rules, *e.g.* § 1111.4(c)(2)(i). Likewise, general statements about additional information, incorporation by reference and waiver of rules, have been incorporated, where pertinent, into the specific rules (*e.g.* § 1111.4(c) (i), (iv), and (f)).

In conclusion Part 1110 contains information and requirements which at times conflict with specific rules. Where specific rules do not provide the information, it is available in the General Rules of Practice.

Removal of this part will have no legal effect on any person. Notice and comment, therefore, are unnecessary, and are not required under the Administrative Procedure Act. We are merely deleting a rule that has no further use or effect.

This action will have no effect on the quality of the human environment or conservation of energy resources. We are not required to make a regulatory flexibility analysis of this action since prior notice and comment are not mandated by 5 U.S.C. 553. However, this action will have no adverse effect on small entities since it merely removes a rule that has ceased to have purpose.

List of Subjects in 49 CFR Part 1110

Railroads.

PART 1110—GENERAL REQUIREMENTS [REMOVED]

Part 1110 of Title 49, Code of Federal Regulations, is removed.

(49 U.S.C. 10321, 5 U.S.C. 553)

Decided: May 28, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15330 Filed 6-4-82; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 47, No. 109
Monday, June 7, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 214 and 248

Nonimmigrant Classes; Change of Nonimmigrant Classification; Proposed Revisions in Regulations Pertaining to Nonimmigrant Students and Schools Approved for Their Attendance

Correction

In FR Doc. 82–14620, appearing at page 23463, in the issue of Friday, May 28, 1982, make the following changes:

(1) On page 23465, middle column, under List of Subjects, *"18 CFR Part 248"* should be changed to read *"8 CFR PART 248"*.

(2) On page 23465, middle column, in § 214.2 paragraph (f), second line, "seminiaries" should be changed to read "seminaries".

(3) On page 23466, first column, § 214.2, eleventh line, "lauguage" should be changed to read "language".

(4) On page 23470, first column, in § 214.2, paragraph (m)(12)(iii), sixth line, "for" should be changed to read "from".

(5) On page 23470, third column, § 214.3(g)(1), fifth line, "120M" should be changed to read "I–20M".

(6) On page 23471, middle column, second line, "248, 248.1(d)" should be changed to read "248.1(c), 248.1(d)".

(7) On page 23472, middle column, § 214.4(a), twenty-sixth line, "petition of school" should be changed to read "petition for school".

(8) On page 23472, middle column, in § 248.1(b), seventh line, "that that", should be changed to read "than that".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. 12337; Notice No. SC–82–1–CE]

Special Conditions; Beech 200, 300 and 1900 Series Airplanes

AGENCY: Federal Aviation Administration [FAA], DOT.

ACTION: Notice of Proposed Amendment to Special Conditions.

SUMMARY: This notice proposes to amend Special Conditions No. 23–47–CE–5 presently applicable to Beech 200 series airplanes, to permit them to include new Beech 300 and 1900 airplanes as well as future 300 and 1900 derivative airplanes. The amendment is necessary in view of changes to maximum weight and seating capacity which are allowed by Special Federal Aviation Regulations (SFAR) 41 and the applicant's decision to use 300 Series and 1900 Series designations for airplanes that are to be certificated under SFAR 41.

DATE: Comments must be received by July 8, 1982.

ADDRESSES: Comments on this proposal may be mailed or delivered in duplicate to: Federal Aviation Administration, Office of Regional Counsel, ACE–7, ATTN: Rules Docket Clerk, Docket No. 12337, Room 1558, Federal Office Building, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 12337. Comments may be inspected in the docket file between 7:30 a.m. and 4:00 p.m. on weekdays except Federal holidays.

FOR FURTHER INFORMATION CONTACT: William L. Olson, Aerospace Engineer, Regulations and Policy Office, Federal Aviation Administration, Room 1659B, Federal Office Building, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–6939.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in amendment of these special conditions by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received during or before the closing date for comments will be considered by the Administrator before taking action on these proposals. The proposals contained in this notice may be changed based on comments received. All comments submitted will be available both before and after the closing date in the Rules Docket for examination by interested persons.

Type Certification Basis

The certification basis for the Beech Aircraft Corporation 300 and 1900 Series airplanes is as follows: Special Federal Aviation Regulation (SFAR) 41A, effective April 14, 1980, for domestic configurations or SFAR 41B, effective December 8, 1980, for export configurations; Part 23 of the Federal Aviation Regulations (FAR), effective February 1, 1965 through Amendment 23–9, effective June 17, 1970; Amendment 23–11, effective August 11, 1971; Amendment 23–14, §§ 23.143(a), 23.145(d), 23.153, 23.161(c)(3), 23.173(a), 23.175, 23.427, 23.441 and 23.445, effective December 20, 1973; Amendment 23–15, §§ 23.951(c) and 23.997(d); Amendment 23–23, § 23.1545, effective December 1, 1978; [Amendment 23–27, § 23.1529, effective October 14, 1980]*; Special Conditions No. 23–47–CE–5 including Amendments Nos. 1 and 2; Part 25 of the FAR, § 25.929, effective February 1, 1965; Amendment 25–23, § 25.1419, effective May 8, 1970; Amendment 25–41 § 25.831(d), effective August 17, 1977; Part 36 of the FAR, effective December 1, 1969 through Amendment 36–10; SFAR 27, effective February 1, 1974 through Amendment 27–3; and any other changes to Special Conditions No. 23–47–CE–5 that may result from this proposal.

Note—The bracketed reference to § 23.1529 pertains to Instructions for Continued Airworthiness as required by § 21.50. This bracketed entry does not apply to Beech 1900 Series airplanes. This bracketed entry will not apply to Beech 300 Series airplanes if, prior to delivery of the first of these airplanes, the Administrator grants a pending General Aviation Manufacturers Association petition for exemption from § 21.50. When (as for Beech 1900 Series airplanes and, possibly, for Beech 300 Series airplanes) Instructions for Continued Airworthiness are not required, a Maintenance Manual is required by §23.1529 as established by Amendment 23–8.

Special Conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane. Special Conditions, as appropriate, are now issued after public notice in accordance with §§ 21.16 and 21.101(b)(2) and become part of the type certification basis in accordance with § 21.17(a)(2).

Background

On October 3, 1979, Beech Aircraft Corporation, P.O. Box 85, Wichita, KS 67201 submitted an application to amend Type Certificate (TC) No. A24CE to add new 1900 Series airplanes in the normal category. On August 22, 1980, Beech submitted another application to amend TC No. A24CE to add new 300 Series airplanes in the normal category. TC No. A24CE, which is applicable to Beech 200 Series airplanes was issued December 14, 1973. The Beech Series 200 are pressurized low wing twin-turbopropeller airplanes, which in the normal category, are limited to 12,500 pounds maximum gross weight and to seats for no more than 15 occupants. Beech Models 300, 300C, 300CT, 300T, 1900, and 1900C are derivative airplanes of the 200 Series. The above models have increased weight limitations and/or increased seating capacity limitations in accordance with SFAR 41. Because the original Beech Model 200 airplane design included novel and unusual features for an airplane type certificated under Part 23 of the FARs and the applicable airworthiness requirements did not contain adequate or appropriate safety standards at that time, Special Conditions No. 23–47–CE–5 were developed for the Beech 200 airplane to ensure a level of safety equivalent to that provided by Part 23 of the FAR. Special Conditions No. 23–47–CE–5, Docket No. 12337, issued October 30, 1972, as amended December 18, 1973 and January 12, 1979, for type certification of Beech 200 Series airplanes are applicable to Beech 300 and 1900 airplanes for the same novel or unusual design features for which these special conditions were developed. Accordingly, this amendment proposes to extend the applicability status of Special Conditions No. 23–47–CE–5 to Beech 300 and 1900 Series airplanes, as appropriate to Type Certificate A24CE without revising the special condition documents. This does not preclude the application of later amendments under the provisions of § 21.101(b)(1) or the issuance of special conditions that may be necessary under the provisions of § 21.101(b)(2) for future Beech 300 and 1900 Series airplanes.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, and Safety.

The Proposed Special Condition Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the FAA proposes to amend Special Conditions No. 23–47–CE–5, Docket No. 12337, issued October 30, 1972, as amended December 18, 1973, and January 12, 1979, for the type certification of the Beech 200 Series airplanes under Type Certificate No. A24CE by amending its applicability to read as follows:

"Special Conditions for the type certification of the Beech 200, 300, and 1900 Series airplanes under Type Certificate No. A24CE."

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1421, and 1423); Section 6(c), Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.28 and 11.29(b)))

Note.—This proposal will allow application of current technology to an existing type certificated airplane thereby increasing speed, gross weight or seating capacity and providing an improved airplane for use by the public. For this reason: The FAA has determined that it (1) involves a regulation which is not a major rule under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that the proposed amendment will not have a significant economic impact on a substantial number of small entities. If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket.

Issued in Kansas City, MO on May 21, 1982.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 82-15082 Filed 6-4-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 82-AAL-4]

Proposed Establishment of Area Navigation Route, J814R

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Area Navigation Route (RNAV) J814R from North Pacific Route (NOPAC) R20 to Fairbanks, AK. This direct routing would save fuel by bypassing the heavily used jet routes in the Bethel, AK, area, thereby avoiding en route air traffic control delays.

DATE: Comments must be received on or before July 6, 1982.

ADDRESS: Send comments on the proposal in triplicate to: Director, FAA Alaskan Region, Attention: Chief, Air Traffic Division, Docket No. 82–AAL–4, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, AK 99513.

This official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis Still, Airspace Regulations and Obstructions Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82–AAL–4." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed

in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 75.400 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to establish RNAV Route J814R to provide direct routing from Northern Pacific Route (NOPAC) R20 to Fairbanks, AK. The direct routing would save fuel by bypassing heavily used jet routes in the Bethel, AK, area, aid flight planning, and reduce controller workload. Section 75.400 of Part 75 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3 dated January 29, 1982

ICAO Considerations

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 75

Area high routes.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 75.400 of Part 75 of the Federal Aviation Regulation (14 CFR Part 75) as follows:

Waypoint Name; Location, and Reference Facility

J814R PANTT, AK, to Fairbanks, AK
PANTT—60°38'40" N., 168°00'00"W—Bethel, AK
FELAW—62°03'45" N., 162°58'47"W—Bethel, AK
JENSU—63°35'43" N., 156°01'27"W—McGrath, AK
Fairbanks—64°48'01.8" N., 148°00'34"W—Fairbank, AK

(Secs. 307(a), 313(a) and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on May 26, 1982.

Harold W. Becker,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82–15081 Filed 6–4–82; 8:45 am]

BILLING CODE 4910–13–M

CIVIL AERONAUTICS BOARD

14 CFR Part 399

[PSDR–74; Docket 40584]

Statement of General Policy; Correction

June 1, 1982.

AGENCY: Civil Aeronautics Board.

ACTION: Proposed rulemaking; Correction.

SUMMARY: The CAB asked for comment on three possible ways of changing the domestic passenger fare flexibility rules (47 FR 16792, April 20, 1982). In that notice, Member Dalley and Member Schaffer issued a concurring statement, but two lines explaining their opposition to a return to the former price regulation were inadvertently omitted. This notice reprints their statement.

FOR FURTHER INFORMATION CONTACT: Julien R. Schrenk, Chief, Domestic Fares and Rates Division, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5298.

SUPPLEMENTARY INFORMATION:

List of Subjects in 14 CFR Part 399

Administrative practice and procedure, Advertising, Air carriers, Antitrust, Archives and records, Consumer protection, Freight fowarders, Grant programs-transportation, Hawaii, Motor Carriers, Puerto Rico, Railroads, Reporting requirements, Travel agents, Virgin Islands.

Erratum

The concurring statement of Member Dalley and Member Schaffer on p. 6 of PSDR–74 is corrected to read:

Members Dalley and Schaffer, concurring:

We believe our fare flexibility policy has provided substantial benefit to the airline industry and traveling public. We also full support the move here to consider options for changing the price ceiling, as we near the end of domestic fare regulation.

We also have given some thought to inviting industry and public comment on the other half of the flexibility equation—the price floor. We have no thought of advocating a return to our former price regulation. What does motivate us, however, are two objectives that we believe are quite consistent with our deregulatory posture.

1. The Congress has placed before the Board not only the mandate for deregulating carrier pricing but also an oversight responsibility for that course. With present concerns in the industry directed at both prices that are possibly too low as well as too high, we see some need for closer watch of upward *and* downward movements in the remaining crucial nine months of oversight.

2. The Board has already established some policies at the lower end of the pricing scale in regard to predatory or anticompetitive discount pricing (see § 399.32 of the Board's Policy Statements). Although we have no evidence of predatory pricing practices, the Board is aware of some carrier concerns in the subject area. While we are unsure of the most appropriate forum for listening to full carrier comments, we feel the Board should take the initiative to create a valid forum for full exploration of all of the current pricing realities.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-15368 Filed 6-4-82; 8:45 am]

BILLING CODE 6320-01-M

SELECTIVE SERVICE SYSTEM

32 CFR Parts 1656 and 1660

Selective Service Regulations; Alternative Service

AGENCY: Selective Service System.

ACTION: Proposed rule.

SUMMARY: Procedures to implement the program of alternative service under section 6(j) of the Military Selective Service Act (50 U.S.C. 456(j)) are revised to assure greater fairness and efficiency in its administration.

DATES: Comment Date: Written comments received on or before July 7, 1982 will be considered. Effective date: Subject to the comments received the amendments are proposed to become effective upon publication in the **Federal Register** of a final rule not earlier than July 7, 1982.

ADDRESS: Written comment to: Selective Service System, Attn.: General Counsel, Washington, D.C. 20435.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel, Selective Service System, Washington, D.C. 20435 Phone: (202) 724-0895.

SUPPLEMENTARY INFORMATION: These amendments to Selective Service Regulations are published pursuant to section 13(b) of the Military Selective Service Act (50 U.S.C. App. 463(b)). These Regulations implement section 6(j) of the Military Selective Service Act (50 U.S.C. App. 456(j)).

Interested persons are invited to submit written comments on the proposed regulations. All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the General Counsel from 9:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

As required by Executive Order 12291, I have determined that this proposed rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612). I have determined that these regulations do not have significant economic impact on a substantial number of small entities.

List of Subjects in 32 CFR Part 1656

Armed Forces; Draft, Conscientious objection.

Dated: June 1, 1982.

Thomas K. Turnage,

Director.

PART 1660—[REMOVED]

32 CFR Part 1660, Alternative Service, is removed.

32 CFR Part 1656 is added to read as follows:

PART 1656—ALTERNATIVE SERVICE

Sec.

1656.1 Definitions.
1656.2 Responsibility for administration.
1656.3 Area office jurisdictions and responsibilities.
1656.4 Employer responsibilities.
1656.5 Employment development.
1656.6 Alternative service worker's responsibilities.
1656.7 Order to perform alternative service.
1656.8 Job placement.
1656.9 Orientation.
1656.10 Volunteer for alternative service.
1656.11 Computation of creditable time.
1656.12 Postponement—grounds and procedures.
1656.13 Suspension of order to perform alternative service because of hardship to dependents.
1656.14 Job performance standards and sanctions.
1656.15 Reassignment.
1656.16 Early release—grounds and procedures.
1656.17 Employment agreements.
1656.18 Administrative complaint process.
1656.19 Administrative review.
1656.20 Completion of alternative service.
1656.21 Expenses for emergency medical care.

Authority: 50 U.S.C. App. 456(j).

§ 1656.1 Definitions.

(a) The provisions of this part govern the Alternative Service Program for conscientious objectors.

(b) The definitions of this paragraph shall apply in the interpretation of the provisions of this part:

(1) *Alternative Service.* Civilian work performed in lieu of military service by a registrant who has been classified in Class 1-O.

(2) *Alternative Service Worker (ASW).* A registrant assigned to perform alternative service.

(3) *Civilian Work.* The type of employment approved by the Director of Selective Service under the provisions of section 6(j) of the Military Selective Service Act which contributes to the maintenance of the national health, safety or interest.

(4) *Creditable Time.* Time that is counted toward an ASW's fulfillment of his alternative service obligation.

(5) *Designated Area Office for Alternative Service (DAO).* An Area Office designated by the Director of Selective Service to administer the Alternative Service Program in a specified geographical area.

(6) *Employer.* Any person, institution, firm, agency or corporation engaged in lawful activity in the United States, its territories or possessions or the Commonwealth of Puerto Rico who has been approved by Selective Service to employ ASWs.

(7) *Guaranteed Placement.* The assignment of ASWs to employers who have agreed to employ all ASWs assigned to them up to an agreed number.

(8) *Job Bank.* A current inventory of job openings.

(9) *Job Matching.* A comparison of the ASW's work experience, education, training, special skills, and work preferences with the positions in the job bank.

(10) *Job Placement.* Assignment of the ASW to alternative service work.

(11) *MEPS.* A military installation to which registrants are ordered to report for examination and determination of their acceptability for service.

(12) *Orientation.* Instructions given by the DAO to the ASW regarding his rights and duties necessary to fulfill

satisfactorily his Alternative Service obligations.

§ 1656.2 Responsibility for administration.

(a) The Director of Selective Service in the administration of the Alternative Service Program shall establish and implement appropriate procedures to:

(1) Assure that the program complies with the Selective Service Law;

(2) Find civilian work for ASWs who are required to perform alternative service;

(3) Place ASWs in approved jobs to perform alternative service;

(4) Monitor the work performance of ASWs placed in the program;

(5) Order reassignment and authorize job separation as necessary;

(6) Issue certificates of completion;

(7) Specify the location of Designated Area Offices for Alternative Service;

(8) Specify the geographical area in which the Designated Area Office for Alternative Service shall have jurisdiction over ASWs;

(9) Refer to Department of Justice any ASW who fails to satisfactorily perform his alternative service work assignment;

(10) Perform all other functions necessary for the administration of the Alternative Service Program; and

(11) Delegate any of his authority to such office, agent or person as he may designate and provide as appropriate for the subdelegation of such authority.

(b) The Region Manager shall be responsible for the administration and operation of the Alternative Service Program in his Region as prescribed by the Director of Selective Service.

(c) The State Director shall perform duties for the administration and operation of the Alternative Service Program in his State as prescribed by the Director in accord with § 1605.12(b).

(d) The manager of the Designated Area Office for Alternative Service shall perform duties for the administration and operation of the Alternative Service Program as prescribed by the Director of Selective Service.

(1) A Designated Area Office for Alternative Service shall be an office of record that is responsible for the administration and operation of the Alternative Service Program in its assigned geographical area of jurisdiction.

(2) Subject to applicable law and within the limits of available funds, the staff of each Designated Area Office for Alternative Service shall consist of as many compensated employees as shall be authorized by the Director of Selective Service.

(e) The manager of an area office not designated for Alternative Service shall perform duties for Alternative Service as prescribed by the Director.

§ 1656.3 Area office jurisdictions and responsibilities.

(a) The area office having in its jurisdiction the local board to which the Class 1–O registrant is assigned will retain responsibility for the processing of the registrant until he has been:

(1) Determined morally, physically and mentally acceptable for service;

(2) Ordered by the local board to perform alternative service; and

(3) Ordered to report for alternative service orientation and classified 1–W.

(b) After the above actions are accomplished, the ASW will be transferred to the jurisdiction of the DAO assigned to administer the Alternative Service Program where the registrant is assigned to perform alternative service. The DAO shall:

(1) Evaluate and approve jobs and employers for Alternative Service;

(2) Issue such orders as are required to schedule the ASW for job interviews;

(3) Order the ASW to report for alternative service work;

(4) Monitor the ASW's job performance;

(5) Issue certificate of satisfactory completion of his alternative service obligation; and

(6) Return the ASW to the jurisdiction of the area office from which he was transferred.

§ 1656.4 Employer responsibilities.

Employers participating in the Alternative Service Program are responsible for:

(a) Entering into and complying with the employment agreement with Selective Service; and

(b) Providing a clear statement of duties, responsibilities, compensation and employee benefits to the ASW.

§ 1656.5 Employment development.

(a) The Director of Selective Service will determine which employment programs or activities contribute to the maintenance of the national health, safety or interest.

(b) The Director may establish priorities in the assignment of ASWs among employers and types of civilian work.

(c) Selective Service will contact organizations whose activities or programs may be appropriate for alternative service employment and will solicit their participation.

(d) An organization desiring to employ ASWs to perform Alternative Service is encouraged to submit a request in writing to Selective Service for approval.

(e) Selective Service shall negotiate employment agreements with eligible employers who will provide prospective job listings to Selective Service.

(f) Selective Service may also negotiate agreements with eligible employers wherein the employer will agree to hire a specified number of ASWs for guaranteed placement positions.

(g) An ASW voluntarily may seek his own alternative service work by identifying a job with a possible employer he believes would be eligible for Alternative Service and by having the employer advise the DAO in writing that he desires to employ the ASW. The acceptability and priority of the job so identified will be evaluated as all others considered for ASW assignment.

§ 1656.6 Alternative service worker's responsibilities.

(a) A registrant classified in Class 1–O is required to comply with all orders issued under this part.

(b) A registrant classified in Class 1–O is liable to perform 24 months of creditable time towards completion of Alternative Service.

§ 1656.7 Order to perform alternative service.

The local board of jurisdiction as prescribed in § 1633.11 of this chapter shall order any registrant who has been classified in Class 1–O, examined and found qualified, to perform alternative service at a time and place to be specified by the Director of Selective Service.

§ 1656.8 Job placement.

(a) Selective Service will maintain a job bank for the exclusive purpose of placing ASWs in alternative service jobs.

(b) Information supplied by the ASW about his skills and training may be considered for job interview referrals and potential job matching.

(c) When an ASW is hired, the DAO will issue a Job Placement Order, specifying the employer, the time, date and place to report for his alternative service work.

(d) If the ASW is not hired through the normal interview referral process within 30 days of his reporting for alternative service orientation, he may be ordered into guaranteed placement.

(e) An ASW may be ordered to guaranteed placement at any time without regard to other available employment in the job bank.

§ 1656.9 Orientation.

ASWs will be given an orientation as soon as practicable after the Order to Perform Alternative Service is issued.

§ 1656.10 Volunteer for alternative service.

No registrant shall be permitted to volunteer for Alternative Service.

§ 1656.11 Computation of creditable time.

(a) *General.* The basic unit of creditable time is the calendar month. A minimum of 35 hours a week, or an employer's full-time work week, whichever is greater, shall be used to establish the ASW's creditable time.

(b) *Award of Creditable Time.* Creditable time will be awarded for:

(1) Satisfactory work performed in an approved job after Order to Perform Alternative Service is issued;

(2) Attendance at Alternative Service Orientation;

(3) Approved travel;

(4) Leaves of absences for up to five days granted by the employer to the registrant to attend to a personal emergency; and

(5) Up to a maximum of 30 days time lost during any single unemployment period which is not the fault of the ASW.

(c) *Non-Creditable Time.* Creditable time shall not be awarded for:

(1) Time during which an ASW fails or neglects to perform satisfactorily his assigned Alternative Service;

(2) Time during which the DAO determines that work of the ASW is unsatisfactory due to his failure to comply with reasonable requirements of his employer;

(3) A period of time, not to exceed 30 days after the date the ASW reports for orientation, which may be required by Selective Service for administrative processing and job placement;

(4) Time during which the ASW is not employed in an approved job because of his own fault;

(5) Time worked prior to the issuance of his Order to Perform Alternative Service; or

(6) Time during which the ASW is in a postponement period.

§ 1656.12 Postponement—grounds and procedures.

(a) *General.* The area office of jurisdiction may grant for the reasons set forth in paragraph (d) of this section, for a specific period of time, a postponement of the date an ASW is required to report in compliance with an alternative service order.

(b) *Requests for Postponement.* A request for postponement of a reporting date specified in an order for the registrant to perform one of the reporting requirements listed below must be made in writing and filed prior to the reporting date with the area office which issued the order. Such requests must include a statement of the nature of the emergency and the expected period of its duration.

(1) Report to MEPS for examination;

(2) Report to a civilian authority for a contract examination;

(3) Report for alternative service orientation and job placement;

(4) Report for a job interview;

(5) Report to a job to commence employment.

(c) *Effect of Postponement.* A postponement of the reporting date of an alternative service order shall not render the order invalid, but shall only serve to postpone the date on which the registrant is to report. The registrant shall report at the expiration or termination of the postponement.

(d) *Grounds for Postponement.* A registrant may, upon presentation of the appropriate facts in his request, be granted a postponement based on one or more of the following conditions:

(1) The death of a member of the registrant's immediate family;

(2) An extreme emergency involving a member of the registrant's immediate family;

(3) A serious illness or injury of the registrant; or

(4) An emergency condition directly affecting the registrant which is beyond the registrant's control.

(e) *Basis for Granting Request.* The registrant's eligibility for a postponement shall be determined by the area office of jurisdiction based upon official documents and other written information contained in his file. Oral statements made by the registrant or made by another person in support of the registrant shall be reduced to writing and placed in the registrant's file.

(f) *Duration of Postponement.* The period of postponement shall not exceed 60 days from the reporting date on the order. When necessary, the Director of Selective Service may grant one further postponement, but the total postponement period shall not exceed 90 days from the reporting date on the most recently issued order.

(g) *Termination of Postponement.*

(1) A postponement authorized by this subsection may be terminated by the Director of Selective Service for cause upon no less than ten days written notice to the registrant.

(2) Any postponement shall be terminated when the basis for the postponement has ceased to exist.

(3) It is the responsibility of the ASW to notify the DAO in writing promptly whenever the basis for which his postponement was granted ceases to exist.

(h) *Religious Holidays.* The Director of Selective Service may authorize a delay of reporting under any of the orders specified in § 1656.12(b) for a registrant whose date to report conflicts with a religious holiday historically observed by a recognized church, religious sect or religious organization of which he is a member. Any registrant so delayed shall report on the next business day following the religious holiday.

§ 1656.13 Suspension of order to perform alternative service because of hardship to dependents.

(a) Whenever, after an ASW has begun work, a condition develops that results in hardship to his dependent as contemplated by § 1630.30(a) of this chapter which cannot be alleviated by his reassignment under § 1656.15(a) of this part and the local board that ordered the ASW to report for Alternative Service determines he would be entitled to classification in Class 3–A if his Order to Report for Induction had not been revoked, further compliance with his work order shall be suspended, for a period not to exceed 365 days, as the local board specifies. Extensions of not more than 365 days each of this period may be granted by the local board from time to time until the ASW's liability for training and service under the Military Selective Service Act terminates.

(b) An ASW may file a request for the suspension of his Order to Perform Alternative Service with the DAO. This request must be in writing, state as clearly as possible the basis for the request, and be signed and dated by the ASW. The ASW must continue working in his assigned job until his request for the suspension of his Order to Perform Alternative Service has been approved.

(c) Local boards shall follow the procedures in Part 1648 of this chapter to the extent they are applicable in considering a request for the suspension of an Order to Perform Alternative Service.

§ 1656.14 Job performance standards and sanctions.

(a) *Standard of Performance.* An ASW is responsible to adhere to the standards of conduct, attitude, appearance and performance demanded by the employer of his other employees in similar jobs. If there are no other employees, the standards shall conform to those that are reasonable and customary in a similar job.

(b) *Failure to Perform.* An ASW will be deemed to have failed to perform satisfactorily under the following conditions whenever:

(1) He refuses to comply with an order of the Director of Selective Service;

(2) He refuses employment by an approved employer who agrees to hire him;

(3) His employer terminates his employment because of conduct, attitude, appearance or performance which violates reasonable employer's standards; or

(4) He quits or leaves his job without reasonable justification.

(c) *Sanctions for Failure to Perform.* (1) The sanctions for failure to perform Alternative Service include but are not limited to job reassignment, loss of creditable time and referral to the Department of Justice for failure to comply with the Military Selective Service Act.

(2) Prior to invoking any of the sanctions discussed herein, the DAO will conduct a review as prescribed in § 1656.18 of all allegations that an ASW has failed to perform pursuant to any of the provisions of § 1656.14(b).

§ 1656.15 Reassignment.

(a) *Grounds for Reassignment.* Each of the following conditions may be the basis for job reassignments.

(1) An ASW experiences a change in his mental or physical condition which renders him unfit or unable to continue performing satisfactorily in his assigned job;

(2) An ASW's dependents incur a hardship which does not warrant a suspension of the Order to Perform Alternative Service under § 1656.13;

(3) The employer ceases to operate an approved program or activity;

(4) The employer fails to comply with the terms and conditions of the employment agreement;

(5) Continual and severe differences between the employer and ASW remain unresolved; or

(6) Director determines that reassignment is justified.

(b) *Who May Request Reassignment.* Any ASW may request a reassignment of his job. An employer may request job reassignment of an ASW who is in his employ.

(c) *Method for Obtaining a Reassignment.* All requests for reassignment must be in writing with the reasons specified. The request may be filed with the DAO of jurisdiction at any time during an ASW's alternative service employment. An ASW must continue in his assigned job, if available, until the request for reassignment is approved.

(d) It is the responsibility of the ASW to notify the DAO promptly in writing of any grounds which could be a reason for his reassignment.

§ 1656.16 Early release—grounds and procedures.

(a) *General Rule of Service Completion.* An ASW will not be released from alternative service prior to completion of 24 months of creditable service.

(b) *Reasons For Early Release.* The Director of Selective Service may authorize the early release of an ASW whenever the DAO determines that the ASW:

(1) Has failed to meet the performance standards of available alternative service employment due to a physical, mental or moral disability;

(2) No longer meets the physical, mental or moral standards that are required for retention in the Armed Forces based on a physical or mental examination at a MEPS or other designated location;

(3) Is planning to return to school and has been accepted by such school and scheduled to enter within 30 days prior to the completion of his alternative service obligation;

(4) Has been accepted for non-alternative service employment and that such employment will not be available if he remains in alternative service the full 24 months. Such early release shall not occur more than 30 days before the scheduled completion of his alternative service obligation; or

(5) Has enlisted in or volunteers for induction into the Armed Forces of the United States.

§ 1656.17 Employment agreements.

(a) *Nature of Agreement.* Before any ASW is placed with an employer, Selective Service and the employer shall enter into an employment agreement that specifies their respective duties and responsibilities under the Alternative Service Program.

(b) *Restrictions on Selective Service.* The Selective Service System shall not act in any controversy involving ASW's wages, hours and working conditions except to the extent any of these subjects are specifically covered in the employment agreement between Selective Service and the employer.

(c) *Investigating and Negotiating.* Whenever there is evidence that an employer is probably violating the employment agreement, Selective Service will investigate the matter. If the investigation produces substantial evidence of violations of the employment agreement, Selective Service may negotiate a resolution of the matter with the employer within the terms of the employment agreement.

(d) *Termination of Employment Agreement.* If a resolution of a dispute cannot be obtained by negotiation within a reasonable time, the Selective Service System shall terminate the employment agreement and shall reassign the ASW.

§ 1656.18 Administrative complaint process.

When the DAO becomes aware of a problem that involves an ASW's work assignment other than those covered in § 1656.17(b) or receives a complaint from an employer or an ASW, the DAO will take steps to resolve the problem. The DAO is authorized to:

(a) Interview all parties concerned to obtain information relevant to the problems or complaints; and

(b) Place a written summary of each interview in the ASW's file; and

(c) Inform the persons interviewed that they may prepare and submit to Selective Service within ten days after the interview their personal written statements concerning the problem. All such statements will be included in the ASW's file.

§ 1656.19 Administrative review.

(a) *General.* The Director of Selective Service shall establish for the Alternative Service Program a review system to resolve problems, complaints and grievances other than those identified in 1656.17(b) which occur during the period an ASW is required to perform alternative service. Problems that cannot be resolved between the ASW and the employer may be presented to the DAO by either the ASW or the employer. The DAO shall review the problem and takes steps to resolve it. The ASW may file a request for review of any reviewable decision.

(b) *The Region Office.* The Region Headquarters of jurisdiction shall review and act on any cases referred to it as prescribed by the Director of Selective Service. Any decision of the Region Headquarters may be reviewed by the Director of Selective Service.

(c) *Time To File Request.* An ASW may file with the DAO a written request for review of any reviewable decision within 15 days of the date of notice of the decision.

(d) *Non-Reviewable Decisions.* The following decisions by the DAO are final and not subject to appeal by the ASW:

(1) Job assignments;

(2) Job reassignments;

(3) Postponements.

§ 1656.20 Completion of alternative service.

Upon completion of 24 months of creditable time served in alternative service or when released early in accordance with § 1656.16(b) (3) or (4):

(a) The ASW shall be released from the Alternative Service Program; and

(b) The Director shall issue to the ASW a Certificate of Completion and the registrant shall be reclassified 4–W in accordance with § 1630.47 of this chapter.

§ 1656.21 Expenses for emergency medical care.

(a) Claims for payment of actual and reasonable expenses for emergency medical care, including hospitalization, of ASWs who suffer illness or injury, and the transportation and burial of the remains of ASWs who suffer death as a direct result of such illness or injury will be paid in accordance with the provisions of this section.

(b) The term "emergency medical care, including hospitalization", as used in this section, means such medical care or hospitalization that normally must be rendered promptly after occurrence of the illness or injury necessitating such treatment. Discharge by a physician or facility subsequent to such medical care or hospitalization shall terminate the period of emergency.

(c) Claims will be considered only for expenses that are incurred as a result of illness or injury that occurs while the ASW is engaged in travel or performing work in Alternative Service under orders issued by or under the authority of the Director of Selective Service. Claims will be considered only for expenses for which only the ASW is liable and for which there is no legal liability for his reimbursement except in accord with the provisions of this section.

(d) No claim shall be paid unless it is presented to the Director of Selective Service within one year after the date on which the expenses were incurred.

(e) No claim shall be allowed in any case in which the Director of Selective Service determines that the injury, illness, or death occurred because of the negligence or misconduct of the ASW.

(f) Cost of emergency medical care including hospitalization greater than that which would be paid by Medicare for the same treatment, including hospitalization, will *prima facie* be considered unreasonable. Payment for burial expenses shall not exceed the maximum that the Administration of Veteran's Affairs may pay under the provisions of 38 U.S.C. 902(a) in any one case.

(g) Payment of claims when allowed shall be made only directly to the ASW or his estate unless written authorization of the ASW or the personal representative of his estate has been received to pay another person.

[FR Doc. 82–15362 Filed 6–4–82; 8:45 am]
BILLING CODE 8015–01–M

VETERANS ADMINISTRATION

38 CFR Part 21

Definition of Program of Education

AGENCY: Veterans Administration.

ACTION: Proposed regulation.

SUMMARY: This proposed regulation updates the definition of "a program of education" and makes other minor, technical changes. The update makes clear that "a program of education" may consist of courses required by the Small Business Administration Administrator as a condition to obtaining financial assistance under 15 U.S.C. 636. Currently, the regulation makes an incorrect reference to a section of the United States Code. This proposal will bring the regulation into agreement with the law.

DATES: Comments must be received on or before July 6, 1982. The Veterans Administration proposes to make this regulation effective on the date of final approval.

ADDRESSES: Send written comments to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm, Monday through Friday (except holidays) until July 16, 1982. Anyone visiting the Veterans Administration Central Office in Washington, D.C. for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Visitors to VA field stations will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW, Washington, D.C. (202–389–2092).

SUPPLEMENTARY INFORMATION: Section 21.4230 is amended to provide that a program of education may consist of courses required by the Administrator of the Small Business Administration as a condition to obtaining financial assistance under 15 U.S.C. 636. Section 21.4230 is also written to make it clearer.

The Veterans Administration has determined that this proposed regulation does not contain a major rule as that term is defined by Executive Order 12291, Federal Regulation. The annual effect on the economy will be less than $100 million. The proposal will not result in any major increases in costs or prices for anyone. It will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs hereby certifies that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. This regulation is exempt under 5 U.S.C. 605(b) from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. This certification is based on the fact that this regulation will affect only individual benefit recipients. They will have no significant direct impact on small entities (i.e. small businesses, small private and nonprofit organizations, and small governmental jurisdictions.)

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grants programs—education, Loan programs—education, Reporting requirements, Schools, Veterans, Veterans Administration, Vocational education, Vocational rehabilitation.

The Catalog of Federal Domestic Assistance number for the program affected by the proposed amended regulation is 64.111.

Approved: May 20, 1982.

Robert P. Nimmo,

Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

The Veterans Administration proposes to amend 38 CFR Part 21 as follows:

Section 21.4230 is revised to read as follows:

§ 21.4230 Requirements.

(a) *Definition.* A program of education—(1) Is a combination of subjects or unit courses pursued at a school which is generally accepted as

necessary to meet requirements for a predetermined educational, professional or vocational objective;

(2) Under chapter 34 may consist of subjects or courses which fulfill requirements for more than one objective if all objectives pursued are generally recognized as being related to a single career field; or

(3) Is any unit course or subject or combination of courses or subjects, pursued by an eligible veteran at an educational institution, required by the Administrator of the Small Business Administration as a condition to obtaining financial assistance under the provisions of 15 U.S.C. 636. (38 U.S.C. 1652(b), 1670, 1691(a))

(b) *Educational.* An educational objective is one that leads to the awarding of a diploma, degree or certificate which reflects educational attainment.

(c) *Professional or vocational.* A professional or vocational objective is one that leads to an occupation. It may include educational objectives essential to prepare for the chosen occupation. When a program consists of a series of courses not leading to an educational objective, such courses must be directed toward attainment of a designated professional or vocational objective.

(d) *Selection—Chapter 34.* The Veterans Administration will approve a program of education under Chapter 34 selected by an eligible veteran or serviceperson if it meets the requirements of paragraph (a) of this section; has an objective as described in paragraph (b) or (c) of this section; the courses or subjects in the program are approved for Veterans Administration training; and the veteran or serviceperson is not already qualified for the objective of the program, except: (38 U.S.C. 1671)

(1) A course or courses at the secondary school level for persons who have previously received a secondary school diploma or an equivalency certificate and deficiency courses needed or required to qualify for an educational or training program may be authorized under the provisions of § 21.4235, and

(2) An eligible veteran may receive up to 6 months educational assistance, or the equivalent in part-time assistance, for training in a program of education in which the veteran is already qualified, provided that the program pursued is refresher training to permit the veteran to update knowledge and skills and to be instructed in the technological advances which have occurred in the veteran's field of employment during and since the veteran's period of service. The program of education must be a course to be taken after the date of the veteran's discharge or release from active duty. It may be to update skills learned either during or prior to service but not for skills first acquired after discharge from service. Educational assistance allowance paid under this paragraph (d)(2) will be charged against the veteran's basic entitlement.

(e) *Provisional—Chapter 35—child.* When the Veterans Administration approves an application for educational assistance under chapter 35, the Veterans Administration will inform the eligible child and, if a minor, the parent or guardian also of the need to develop a program of education consistent with paragraphs (a) and (b) or (c) of this section. An educational plan may be submitted and approved without counseling if it meets the requirements of paragraphs (a) and (b) or (c) of this section. (38 U.S.C. 1713, 1720)

(f) *Selection—Chapter 35—spouse or surviving spouse.* The Veterans Administration will approve a program of educational assistance selected by an eligible spouse or surviving spouse if—

(1) It meets the requirements of paragraphs (a) and (b) or (c) of this section, and

(2) The individual is not already qualified for the objective of the program of education. (38 U.S.C. 1721)

[FR Doc. 82-15303 Filed 6-4-82; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 6E1756/6E1800/8E2103/9E/2137/P219; PH-FRL 2130-1]

Methyl Parathion; Proposed Tolerances

Correction

In FR Doc. 82-13931, appearing at page 22981, in the issue of Wednesday, May 26, 1982, make the following change:

On page 22982, in the third column, paragraph (b) of § 180.121, the second line, change "diethyl-" to "dimethyl-".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 7

[CGD 81-058]

Boundary Lines

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Seagoing Barge Act has been revised by defining a seagoing barge as one that proceeds outside the Boundary Lines. The Coast Guard proposes to revise the regulations delineating Boundary Lines by establishing lines that are applicable to the Seagoing Barge Act. The proposed revision also (1) more clearly defines the existing Boundary Lines, (2) brings the Boundary Lines more in line with their application to marine safety matters based upon a "perils of the sea" criteria and (3) consolidates the Boundary Lines applicable to different marine safety statutes where feasible.

DATE: Comments should be received on or before September 7, 1982.

ADDRESSES: Comments should be mailed to Commandant (G-CMC/44), U.S. Coast Guard, Washington, D.C. 20593. Comments may be delivered to and will be available for inspection or copying between the hours of 7:00 a.m. and 5:00 p.m., Monday through Thursday, at the Marine Safety Council (G-CMC/44), Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Patrick A. Turlo, (G-MVI-1/24), Room 2415, U.S. Coast Guard Headquarters, Washington, D.C., (202) 426-1464.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Each comment should include the name and address of the person submitting the comment, reference the docket number (CGD 81-058), identify the specific section of the proposal to which each comment applies, and include sufficient detail to indicate the basis on which each comment is made. All comments received before expiration of the comment period will be considered before final action is taken on this proposal. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed. These proposed rules may be changed in light of comments received. No public hearing is planned, but one may be held if written requests are received and it is determined that the opportunity to make oral presentation will aid the rulemaking process.

Drafting Information

The principal persons involved in drafting this proposal are: Lieutenant Commander Patrick A. Turlo, Project

Manager, Office of Merchant Marine Safety, and Lieutenant Michael Tagg, Project Attorney, Office of Chief Counsel.

Discussion

As amended, the Act of February 19, 1895 (33 U.S.C. 151, The Boundary Line Statute) authorizes the Secretary of Transportation to designate and define the lines dividing the high seas from rivers, harbors and inland waters. These lines (33 CFR Part 82) were initially utilized to determine application of international and inland navigational rules of the road. Over a long period of years, six statutes were enacted that still employed the "Lines of Demarcation" to establish applicability. Regulations published in the July 11, 1977 issue of **Federal Register** (1) established "COLREGS Demarcation Lines" for navigational purposes and (2) republished the former "Lines of Demarcation" in 33 CFR Part 82 as "Boundary Lines." The Boundary Lines were transferred to 46 CFR Part 7 and continue to establish the applicability of 6 marine safety statutes. These statutes deal with vessel inspection, equipment, and manning standards as opposed to navigational rules, and are briefly described as follows:

(1) The Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1201 et seq.) requires the carriage of radiotelephones on board certain vessels inside the Boundary Lines. (The requirement is further conditioned upon the vessels being upon the navigable waters of the United States.)

(2) The Officers Competency Certificates Convention Geneva, 1936, (54 Stat. 1683) is in force and the United States is party thereto. Article 1 extends the Convention to all vessels registered in a nation party to the Convention and engaged in maritime navigation. The domestic legislation on the topic, 46 U.S.C. 224a, limits the application of the Convention, for the United States, to vessels navigating on the high seas pursuant to the understanding filed by the United States at the time of ratification ("That the United States Government understands and construes the words 'maritime navigation' appearing in this convention to mean navigation on the high seas only,") and then defines the high seas with reference to the Boundary Lines.

(3) The Coastwise Loadline Act (46 U.S.C. 88) applies to merchant vessels 150 gross tons and over engaged in coastwise voyages by sea, passing outside the Boundary Lines.

(4) 46 U.S.C. 367, relating to seagoing vessels of 300 gross tons and over propelled by internal combustion engines, defines seagoing with reference to the Boundary Lines.

(5) 46 U.S.C. 404 sets forth the requirements for the "inspection and manning of small vessels." Exemptions are granted in the statute to certain vessels under 150 gross tons that operate inside the Boundary Lines within the waters of southeastern Alaska and the State of Washington.

(6) The final statute, 33 U.S.C. 152, applies to the length of towing hawsers between towing vessels and barges when operating inside the Boundary Lines.

On August 18, 1980, Pub. L. 96–324 was signed into law. In revising 33 U.S.C. 151, the law more clearly defines the authority of the Coast Guard to establish demarcation lines not only for navigational rules but also for marine safety statutes which refer to 33 U.S.C. 151 as well. The lines for the marine safety statutes may not be located more than twelve miles seaward of the base line from which the territorial sea is measured and the lines may differ in position for the purposes of different statutes.

The Act also amended the Seagoing Barge Act, 46 U.S.C. 395, by defining a seagoing barge as one that "proceeds outside the line dividing the inland waters from the high seas, as defined in Section 2 (of the Act) (33 U.S.C. 151)."

Input was solicited in 1979 and 1980 from Coast Guard Marine Inspection and Marine Safety Offices regarding positioning for the proposed lines for the Seagoing Barge Act and the other six marine safety statutes in general. Requests for comments from the State and Justice Departments were also made as required by the President's signing statement accompanying Pub. L. 96–324. The proposed lines are revised, repositioned or, in many cases, not changed at all based on the input/recommendations received.

The establishment and placement of the lines in the proposed regulations relate solely to safety and do not concern themselves with the issue of State or Federal sovereignty or jurisdiction in the areas involved.

Under the GENERAL heading of the proposed 46 CFR Part 7, the statutues that employ the Boundary Lines for applicability are listed in § 7.1. The "General rule for establishing boundary lines," 46 CFR 7.3, is revised to eliminate the vague wording which presently exists in the regulations.

Proposed § 7.5 lists exceptions to the Boundary Lines:

(a) Lines for the Vessel Bridge-to-Bridge Radiotelephone Act are set at three miles, the extent of the navigable waters of the United States. In general, this proposed three mile limit represents an extension of the applicability of this Act from the current lines. The current lines normally provide coverage to the sea buoys only or, in some cases, not even that distance offshore. The radiotelephone requirements are therefore not applicable to traffic lanes and other relatively congested areas outside the harbors and channels covered by the current lines. The safety of vessels in these areas would be greatly enhanced by extending the line to three miles for this Act. Easy identification of the line applicable to this Act would also be a benefit derived from this proposed change in applicability.

(b) Separate lines for the Seagoing Barge Act are established for the New England areas where the current Boundary Lines are deemed not satisfactory for the purpose of application of this particular Act. Historically, barges have been required to be inspected once they proceeded past the headlands since no lines for this Act were authorized or established. Application of the line proposed for the six other statutes would allow barges built for inland waters to proceed out on the high seas without inspection. Therefore, a new line in close to the headlands has been established for application of this Act in the New England area. The present lines for the other six statutes remain basically unchanged and are deemed satisfactory due to the irregular nature of the coastline and the type of vessel traffic in the New England area.

(c) Lines for shallow water drilling barges in the Gulf of Mexico are established at 12 miles from the base line when the units are being towed. Requirements in 33 CFR Subchapter N are to be met when the units are operating/drilling. When being towed, the units will be merely transiting from one drill site to another. Once on site, the units will be subject to (a) OSHA and State requirements or (b) 33 CFR Subchapter N depending on the location of drilling operations.

(d) Application of the Seagoing Barge Act in the sheltered waters of British Columbia is waived as set forth in the United States-Canada treaty of 1933.

Proposed §§ 7.10 through 7.235 revise and redefine Boundary Lines to meet the intent of the seven marine safety statutes that currently employ the Boundary Lines statute (33 U.S.C. 151). The major proposed revisions to the lines are made to allow the dredging of channels where inland dredges normally operate. Proposed lines in the Gulf of Mexico and Alaska are revised to bring

them inside 12 miles as required by 33 U.S.C. 151 as amended. Except for the lines and exceptions in proposed § 7.5, the lines for all of the applicable statutes are consolidated into one line. New sections are added to delineate harbors and entrances not in the present regulations; however, lines for harbors and inlets still not specifically established in the proposed regulations are governed by the general rule in 46 CFR 7.3.

Regulatory Evaluation

These proposed regulations have been determined to be non-major regulations in accordance with the guidelines set out in Executive Order 12291, and are also considered to be non-significant under the "Policies and Procedures for Simplification, Analysis, and Review of Regulations" (DOT Order 2100.5 of May 22, 1980). An economic evaluation of the proposed regulations has not been conducted since their impact is expected to be minimal. Existing lines were used where possible and, in many cases, the lines were extended further to sea. The proposed regulations will create demarcation lines for different marine safety statutes that are unified where feasible.

The Regulatory Flexibility Act (94 Stat. 1164, Pub. L. 96–354) requires an analysis of the impact of proposed regulations on small businesses, organizations, and small governmental jurisdictions. The proposed regulations will have only a minor economic impact on these entities as the minor changes of the lines will not create any new economic costs.

Pursuant to section 605(b) of the Act, it is certified that the proposed regulations will not have a significant impact on a substantial number of small entities.

List of Subjects in 46 CFR Part 7

Law enforcement, Vessels.

Accordingly, Part 7 of Title 46, Code of Federal Regulations, is proposed to be amended as follows:

1. By revising 46 CFR Part 7 to read as follows:

PART 7—BOUNDARY LINES

General

Sec.

7.1 General purpose of Boundary Lines.
7.3 General rule for establishing Boundary Lines.
7.5 Exceptions.

Atlantic Coast

7.10 Eastport, ME to Cape Ann, MA.
7.15 Massachusetts Bay, MA.
7.20 Nantucket Sound, Vineyard Sound, Buzzards Bay, Narragansett Bay, MA, Block Inland Sound and easterly entrance to Long Island Sound, NY.
7.25 Montauk Point, NY to Atlantic Beach, NY.
7.30 New York Harbor, NY.
7.35 Sandy Hook, NJ to Cape May, NJ.
7.40 Delaware Bay and tributaries.
7.45 Cape Henlopen, DL to Cape Charles, VA.
7.50 Chesapeake Bay and tributaries.
7.55 Cape Henry, VA to Cape Fear, NC.
7.60 Cape Fear, NC to Sullivans Island, SC.
7.65 Charleston Harbor, SC.
7.70 Folly Island, SC to Hilton Head Island, SC.
7.75 Savannah River/Tybee Roads.
7.80 Tybee Island, GA to St. Simons Island, GA.
7.85 St. Simons Island, GA to Little Talbot Island, FL.
7.90 St. Johns River, FL.
7.95 St. John Point, FL to Miami Beach, FL.
7.100 Florida Reefs and Keys from Miami, FL to Key West, FL.

Gulf Coast

7.105 Cape Sable, FL to Sanibel Island, FL.
7.110 Pine Island Sound, FL and Charlotte Harbor, FL.
7.115 Port Boca Grande, FL to Anna Maria Key, FL.
7.120 Tampa Bay, FL and tributaries.
7.125 St. Petersburg, FL to Rock Island, FL.
7.130 Rock Island, FL to Cape San Blas, FL.
7.135 Cape San Blas, FL to Perdido Bay, FL.
7.140 Mobile Bay, AL to Mississippi Passes, LA.
7.145 Mississippi Passes, LA.
7.150 Mississippi Passes, LA to Isles Dernieres, LA.
7.155 Point Au Fer, LA to Sabine Pass, TX.
7.160 Sabine Pass, TX to Rio Grande, TX.

Hawaii

7.165 Mamala Bay, HI.

Pacific Coast

7.170 Santa Catalina Island, CA.
7.175 Mexcan/United States border to Point Fermin, CA.
7.180 Point Vincente, CA to Point Conception, CA.
7.185 Point Conception, CA to Point Sur, CA.
7.190 Point Sur, CA to Cape Blanco, OR.
7.195 Cape Blanco, OR to Cape Flattery, WA.
7.200 Strait of Juan de Fuca, Haro Strait and Strait of Georgia, WA.

Alaska

7.205 Canadian (BC) and United States borders to Cape Spencer, AK.
7.210 Cape Spencer, AK to Cape St. Elias, AK
7.215 Point Whitshed, AK to Atalik Cape, AK.
7.220 Kenai Peninsula, AK to Kodiak Island, AK.
7.225 Alaska Peninsula, AK to Aleutian Islands, AK.
7.230 Alaska Peninsula, AK to Nunivak, AK.
7.235 Kotzebue Sound, AK.

Authority: Sec. 2, 28 Stat. 672 as amended (33 U.S.C. 151); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b).

General

§ 7.1 General purpose of boundary lines.

The Lines in this part delineate the application of the following U.S. statutes relating to vessel inspection, equipment and manning requirements: 33 U.S.C. 152; 33 U.S.C. 1201 et seq.; 46 U.S.C. 88; 46 U.S.C. 224a; 46 U.S.C. 367; 46 U.S.C. 395; and 46 U.S.C. 404.

§ 7.3 General rule for establishing boundary lines.

Except as otherwise described in this part, Boundary Lines are lines drawn following the general trend of the seaward, highwater shorelines and lines continuing the general trend of the seaward, highwater shorelines across entrances to small bays, inlets and rivers.

§ 7.5 Exceptions.

(a) For application of the Vessel Bridge-to-Bridge Radiotelephone Act, 33 U.S.C. 1201 et. seq., the line is 3 miles seaward of the baseline from which the territorial sea is measured.

(b) For application of the Seagoing Barge Act, 46 U.S.C. 395, the following lines apply to all harbors on the coast of Maine, New Hampshire and Massachusetts between West Quoddy Head, Maine and Cape Cod, Massachusetts:

(1) A line drawn from the southeasternmost extremity of Western Head to the southernmost extremity of Double Shot Island; thence to Libby Island Light; thence to Moose Peak Light; thence to the eastern extremity of Little Pond Head.

(2) A line drawn from the southern extremity of Pond Point, Great Wass Island, to the southernmost point of Crumple Island; thence to the southernmost extremity of Petit Manan Point, thence to the southernmost extremity of Schoodic Island; thence to the southern point of Eastern Head, Isle Au Haut.

(3) A line drawn from Western Head, Isle Au Haut, the Marshall Point Light; thence to Pemaquid Point Light; thence to the southern point of Small Point, Cape Small; thence to Cape Elizabeth Light; thence to the easternmost extremity of Fletcher Neck.

(4) A line drawn from the easternmost extremity of Sisters Point, Gerrish Island, to the easternmost extremity of Odiornes Point.

(5) A line drawn from the southernmost extremity of Eastern Point, Cape Ann to Strawberry Point. A line drawn from the tower at Brant Rock located in approximate position latitude

42°05.5′ N. longitude 70°38.6′ W. to the westernmost extremity of Race Point.

(c) In the Gulf of Mexico, when being towed, the line which applies to shallow water drilling barges for application of 46 U.S.C. 88 and 46 U.S.C. 395 is the seaward limit of the contiguous zone as defined in 33 CFR 2.05–15.

Note.—For purposes of this part, a shallow water drilling barge is defined as a barge that is not capable of drilling in more than 30 feet of water. When operating/drilling, the requirements set forth in 33 CFR Subchapter N shall apply.

(d) Barges of 100 gross tons and over operating on the sheltered waters of British Columbia as defined in the United States-Canada treaty of 1933 are not required to be inspected as seagoing barges under the Seagoing Barge Act, 46 U.S.C. 395.

Atlantic Coast

§ 7.10 Eastport, ME to Cape Ann, MA.

(a) A line drawn from the easternmost extremity of Kendall Head to coordinate latitude 44°54′45″ N. longitude 66°58′30″ W.; thence to the range marker located in approximate position latitude 44°51′45″ N. longitude 66°59′ W.

(b) A line drawn from West Quoddy Head Light to Sail Rock Lighted Whistle Buoy "1" (latitude 44°48.5′ N. longitude 67°56.4′ W.); thence to Little River Lighted Whistle Buoy "2LR" (latitude 44°37.5′ N. longitude 67°09.8′ W.); thence to Frenchman Bay Approach Lighted Whistle Buoy "FB" (latitude 44°14.5′ N. longitude 67°57.2′ W.); thence to Mount Desert Light; thence to Matinicus Rock Light; thence to Monhegan Island Light; thence to Portland Lighted Horn Buoy "P" (latitude 43°31.6′ N. longitude 70°05.5′ W.); thence to Boon Island Light; thence to Cape Ann Lighted Whistle Buoy "2" (latitude 42°37.9′ N. longitude 70°31.2′ W.).

§ 7.15 Massachusetts Bay, MA.

A line drawn from Cape Ann Lighted Whistle Buoy "2" (latitude 42°37.9′ N. longitude 70°31.2′ W.) to Boston Lighted Horn Buoy "B" (latitude 42°22.7′ N. longitude 70°47.0′ W.); thence to Race Point Light.

§ 7.20 Nantucket Sound, Vineyard Sound, Buzzards Bay, Narragansett Bay, MA, Block Island Sound and easterly entrance to Long Island Sound, NY.

(a) A line drawn from Chatham Light to Pollack Rip Entrance Lighted Horn Buoy "PR" (latitude 41°36.1′ N. longitude 69°51.1′ W.); thence to Great Round Shoal Channel Lighted Buoy "2" (latitude 41°26.0′ N. longitude 69°46.2′ W.); thence to Sankaty Head Light.

(b) A line drawn from the westernmost extremity of Nantucket Island to the southwesternmost extremity of Wasque Point, Chappaquiddick Island.

(c) A line drawn from Gay Head Light to Block Island Southeast Light; thence to Montauk Point Light on the easterly end of Long Island.

§ 7.25 Montauk Point, NY to Atlantic Beach, NY.

(a) A line drawn from Shinnecock East Breakwater Light to Shinnecock West Breakwater Light.

(b) A line drawn from Moriches Inlet East Breakwater Light to Moriches Inlet West Breakwater Light.

(c) A line drawn from Fire Island Inlet Breakwater Light 348° true to the southernmost extremity of the spit of land at the western end of Oak Beach.

(d) A line drawn from Jones Inlet Light 322° true across the southwest tangent of the island on the north side of Jones Inlet to the shoreline.

§ 7.30 New York Harbor, NY.

A line drawn from East Rockaway Inlet Breakwater Light to Ambrose Light; thence to Highlands Light (north tower).

§ 7.35 Sandy Hook, NJ to Cape May, NJ.

(a) A line drawn from Shark River Inlet North Breakwater Light "2" to Shark River Inlet South Breakwater Light "1".

(b) A line drawn from Manasquan Inlet North Breakwater Light to Manasquan Inlet South Breakwater Light.

(c) A line drawn along the submerged Barnegat Inlet North Breakwater to Barnegat Inlet North Breakwater Light "2"; thence to Barnegat Inlet Light "5"; thence along the submerged Barnegat Inlet South Breakwater to shore.

(d) A line drawn from the seaward tangent of Long Beach Island to the seaward tangent of Pullen Island across Beach Haven and Little Egg Inlets.

(e) A line drawn from the seaward tangent of Pullen Island to the seaward tangent of Brigantine Island across Brigantine Inlet.

(f) A line drawn from the seaward extremity of Absecon Inlet North Jetty to Atlantic City Light.

(g) A line drawn from the southernmost point of Longport at latitude 39°18.2′ N. Longitude 74°32.2′ W. to the northeasternmost point of Ocean City at latitude 39°17.6′ N. longitude 74°33.1′ W. across Great Egg Harbor Inlet.

(h) A line drawn parallel with the general trend of the seaward, highwater shoreline across Corson Inlet.

(i) A line formed by the centerline of the Townsend Inlet Highway Bridge.

(j) A line formed by the shoreline of Seven Mile Beach and Hereford Inlet Light.

§ 7.40 Delaware Bay and tributaries.

A line drawn from Cape May Inlet East Jetty Light to Cape May Harbor Inlet Lighted Bell Buoy "2CM" (latitude 38°55.8′ N. longitude 74°51.4′ W.); thence to Delaware Bay Entrance Channel Lighted Buoy "8" (latitude 38°48.9′ N. longitude 75°02.3′ W.); thence to the northernmost extremity of Cape Henlopen.

§ 7.45 Cape Henlopen, DL to Cape Charles, VA.

(a) A line drawn from the easternmost extremity of Indian River Inlet North Jetty to Indian River Inlet Lighted Gong Buoy "1" (latitude 38°36.5′ N. longitude 75°02.8′ W.); thence to Indian River Inlet South Jetty Light.

(b) A line drawn from Ocean City Inlet Light "6" to Ocean City Inlet Entrance Lighted Buoy "4" (latitude 38°19.4′ N. longitude 75°05.0′ W.); thence to Ocean City Inlet Entrance Lighted Buoy "5" (latitude 38°19.3′ N. longitude 75°05.1′ W.); thence to the easternmost extremity of the south breakwater.

(c) A line drawn from Assateague Beach Tower Light to the tower charted at latitude 37°52.6′ N. longitude 75°26.7′ W.

(d) A line drawn from the southernmost extremity of Cedar Island to Wachapreague Inlet Entrance Lighted Buoy "1" (latitude 37°34.7′ N. longitude 75°36.0′ W); thence due south to shore at Parramore Beach.

(e) A line drawn from the seaward tangent of Parramore Beach to the lookout tower on the northern end of Hog Island charted in approximate position latitude 37°27.2′ N. Longitude 75°40.5′ W.

A line drawn from Cape Charles Light to North Chesapeake Entrance Lighted Gong Buoy "NCD" (latitude 36°56.8′ N. longitude 75°55.1′ W.); thence to Chesapeake Bay Entrance Lighted Bell Buoy "CBC" (latitude 36°54.8′ N. longitude 75°55.6′ W.); thence to Cape Henry Buoy "1" (latitude 36°55.0′ N. longitude 75°56.0′ W.); thence to Cape Henry Light.

§ 7.55 Cape Henry, VA to Cape Fear, NC.

(a) A line drawn from Rudee Inlet Jetty Light "2" to Rudee Inlet Jetty Light "1".

(b) A line formed by the centerline of the highway bridge across Oregon Inlet.

(c) A line drawn from Hatteras Inlet Light 255° true to the eastern end of Ocracoke Island.

(d) A line drawn from the westernmost extremity of Ocracoke Island at latitude 35°04′ N. longitude 76°00.8′ W. to the northeasternmost extremity of Portsmouth Island at latitude 35°03.7′ N. longitude 76°02.3′ W.

(e) A line drawn across Drum Inlet parallel with the general trend of the seaward, highwater shoreline.

(f) A line drawn from the southernmost extremity of Cape Lookout to Beaufort Inlet Lighted Bell Buoy "2BI" (latitude 34°38.4′ N. longtitude 76°40.6′ W.); thence to the seaward extremity of the Beaufort Inlet west jetty.

§ 7.60 Cape Fear, NC to Sullivans Island, SC.

(a) A line drawn from the southernmost extremity of Cape Fear to Cape Fear River Entrance Lighted Bell Buoy "2CF" (latitude 33°49.5′ N. longitude 78°03.7′ W.); thence to Oak Island Light.

(b) A line drawn from Georgetown Light to Winyah Bay Lighted Bell Buoy "2WB" (latitude 33°11.6′ longitude 79°05.4′ W.); thence to the southernmost extremity of Sand Island.

§ 7.65 Charleston Harbor, SC.

A line drawn from Charleston Light on Sullivans Island to Charleston Lighted Whistle Buoy "2C" (latitude 32°40.7′ N. longitude 79°42.9′ W.); thence to Folly Island Loran Tower (latitude 32°41.0′ N. longitude 79°53.2′ W.).

§ 7.70 Folly Island, SC to Hilton Head Island, SC.

(a) A line drawn from the southwesternmost extremity of Folly Island to the easternmost extremity of Kiawah Island at Sandy Point.

(b) A line drawn from the southwesternmost extremity of Seabrook Island 257° true across the North Edisto River Entrance to the shore of Botany Bay Island.

(c) A line drawn from the microwave antenna tower on Edisto Beach charted in approximate position latitude 32°29.3′ N. longitude 80°19.2′ W. across St. Helena Sound to the abandoned lighthouse tower on Hunting Island charted in approximate position latitude 32°22.5′ N. longitude 80°26.5′ W.

(d) A line formed by the centerline of the highway bridge between Hunting Island and Fripp Island.

(e) A line drawn from the westernmost extremity of Bull Point on Capers Island to Port Royal Sound Lighted Whistle Buoy "2PR" (latitude 32°04.8′ N. longitude 80°34.9′ W.); thence to the easternmost extremity of Hilton Head at latitude 32°13.2′ N. longitude 80°40.1′ W.

§ 7.75 Savannah River/Tybee Roads.

A line drawn from the southwesternmost extremity of Braddock Point to Tybee Lighted Whistle Buoy "T" (latitude 31°58.3′ N. longitude 80°44.1′ W.); thence to the southernmost point of Savannah Beach, bearing approximately 278° true.

§ 7.80 Tybee Island, GA to St. Simons Island, GA.

(a) A line drawn from the southernmost extremity of Savannah Beach on Tybee Island 255° true across Tybee Inlet to the shore of Little Tybee Island south of the entrance to Buck Hammock Creek.

(b) A line drawn from the southernmost extremity of Little Tybee Island at Beach Hammock to the easternmost extremity of Wassaw Island.

(c) A line drawn approximately parallel with the general trend of the seaward, highwater shorelines from the seaward tangent of Wassaw Island to the Seaward tangent of Bradley Point on Ossabaw Island.

(d) A north-south line (longitude 81°08.4′ W.) drawn from the southernmost extremity of Ossabaw Island to St. Catherines Island.

(e) A north-south line (longitude 81°10.6′ W.) drawn from the southernmost extremity of St. Catherines Island to Northeast Point on Blackbeard Island.

(f) A line following the general trend of the seaward, highwater shoreline across Cabretta Inlet.

(g) A north-south line (longitude 81°16.9′ W.) drawn from the southwesternmost point on Sapelo Island to Wolf Island.

(h) A north-south line (longitude 81°17.1′ W.) drawn from the southeasternmost point on Wolf Island to the northeasternmost point on Little St. Simons Island.

(i) A line drawn from the southernmost extremity of Little St. Simons Island to the easternmost extremity of Sea Island.

(j) An east-west line from the southernmost extremity of Sea Island across Goulds Inlet to St. Simons Island.

§ 7.85 St. Simons Island, GA to Little Talbot Island, FL.

(a) A line drawn from the tower located 1,700 yards bearing 060° true from St. Simons Light to St. Simons Lighted Whistle Buoy "ST S" (latitude 31°04.1′ N. longitude 81°16.7′ W.); thence to the northernmost tank on Jekyll Island charted in approximate position latitude 31°05.9′ N. longitude 81°24.5′ W.

(b) A line drawn from the southernmost tank on Jekyll Island charted in approximate position latitude 31°01.6′ N. longitude 81°25.2′ W. to St. Andrew Sound Buoy "11" (latitude 30°58.7′ N. longitude 81°22.4′ W.); thence to the abandoned lighthouse tower on the north end of Little Cumberland Island charted in approximate position latitude 30°58.5′ N. longitude 81°24.8′ W.

(c) A line drawn from the seaward end of the north St. Mary's Entrance jetty to St. Mary's Entrance Lighted Whistle Buoy "1" (latitude 30°42.7′ N. longitude 81°19.0′ W.); thence to Amelia Island Light.

(d) A line drawn from the southernmost extremity of Amelia Island to the northeasternmost extremity of Little Talbot Island.

§ 7.90 St. Johns River, FL.

A line drawn from the southeasternmost extremity of Little Talbot Island to St. Johns Lighted Whistle Buoy "2 STJ" (latitude 30°23.8′ N. longitude 81°20.3′ W.); thence to St. Johns Light.

§ 7.95 St. Johns Point, FL to Miami Beach, FL.

(a) A line drawn across the seaward extremity of the St. Augustine Inlet Jetties.

(b) A line formed by the centerline of the highway bridge over Matanzas Inlet.

(c) A line drawn across the seaward extremity of the Ponce de Leon Inlet Jetties.

(d) A line drawn from Canaveral Harbor Approach Channel Range Front Light to Canaveral Bight Wreck Lighted Buoy "WR6" (latitude 28°23.7′ N. longitude 80°32.2′ W.); thence to the radio tower on Canaveral Peninsula in approximate position latitude 28°22.9′ N. longitude 80°36.6′ W.

(e) A line drawn across the seaward extremity of the Sebastian Inlet Jetties.

(f) A line drawn from the seaward extremity of the Fort Pierce Inlet North Jetty to Fort Pierce Inlet Lighted Whistle Buoy "2" (latitude 27°28.5′ N. longitude 80°16.2′ W.); thence to the tower located in approximate position latitude 27°27.2′ N. longitude 80°17.2′ W.

(g) A north-south line (longitude 80°09.8′ W.) drawn across St. Lucie Inlet through St. Lucie Inlet Entrance Range Front Daybeacon.

(h) A line drawn from the seaward extremity of Jupiter Inlet North Jetty to the northeast extremity of the concrete apron on the south side of Jupiter Inlet.

(i) A line drawn from the seaward extremity of Lake Worth Inlet North Jetty to Lake Worth Inlet Lighted Bell Buoy "2LW" (latitude 26°46.4′ N. longitude 80°01.5′ W.); thence to Lake Worth South Light "1"; thence to the

seaward extremity of Lake Worth Inlet South Jetty.

(j) A line drawn across the seaward extremity of the South Lake Worth Inlet Jetties.

(k) A line drawn from Boca Raton Inlet North Jetty Light "2" to Boca Raton Inlet South Jetty Light "1".

(l) A line drawn from Hillsboro Inlet Light to Hillsboro Inlet Entrance Light "2"; thence to Hillsboro Inlet Entrance Light "1"; thence west to the shoreline.

(m) A line drawn from the tower located in approximate position latitude 26°06.9′ N. longitude 80°06.4′ W. to Port Everglades Lighted Whistle Buoy "1" (latitude 26°05.5′ N. longitude 80°04.8′ W.); thence to the signal tower located in approximate position latitude 26°05.5′ N. longitude 80°05.5′ W.

(n) A line formed by the centerline of the highway bridge over Bakers Haulover Inlet.

§ 7.100 Florida Reefs and Keys from Miami, FL to Key West, FL.

(a) A line drawn from the tower located in approximate position latitude 25°46.7′ N. longitude 80°08′ W. to Miami Lighted Whistle Buoy "M" (latitude 25°46.1′ N. longitude 80°05.0′ W.); thence to the abandoned lighthouse tower on Cape Florida.

(b) A line drawn from the abandoned lighthouse tower on Cape Florida to Biscayne Channel Light "8"; thence to the northernmost extremity on Soldier Key.

(c) A line drawn from the southernmost extremity on Soldier Key to the northernmost extremity of Ragged Keys.

(d) A line drawn from the Ragged Keys to the southernmost extremity of Angelfish Key following the general trend of the seaward, highwater shoreline.

(e) A line drawn on the centerline of the Overseas Highway (U.S. 1) and bridges from latitude 25°19.3′ N. longitude 80°16′ W. at Little Angelfish Creek to the radar dome charted on Long Key at approximate position latitude 24°49.3′ N. longitude 80°49.2′ W.

(f) A line drawn from the radar dome charted on Long Key at approximate position latitude 24°49.3′ N. longitude 80°49.2′ W. to Long Key Light "1"; thence to Arsenic Bank Light "1"; thence to Arsenic Bank Light "2"; thence to Sprigger Bank Light "5"; thence to Schooner Bank Light "6"; thence to Oxfoot Bank Light "10"; thence to East Cape Light "2"; thence through East Cape Daybeacon "1A" to the shoreline of East Cape.

Gulf Coast

§ 7.105 Cape Sable, FL to Sanibel Island, FL.

(a) A line drawn following the general trend of the mainland, highwater shoreline from Cape Sable at East Cape to Little Shark River Entrance Light "1"; thence to the westernmost extremity of Shark Point; thence following the general trend of the mainland, highwater shoreline crossing the entrances of Harney River, Broad Creek, Broad River, Rodgers River, First Bay, Chatham River, Huston River to the shoreline at coordinate latitude 25°43.3′ N. longitude 81°20.8′ W.; thence to the southernmost extremity of Cape Romano.

(b) A line drawn across Big Marco Pass parallel to the general trend of the seaward, highwater shoreline.

(c) Lines drawn across Capri, Hurricane and Little Marco Passes parallel to the general trend of the seaward, highwater shoreline.

(d) A straight line drawn from Gordon Pass Light "4" through Daybeacon "5" to the shore.

(e) A line drawn across the seaward extremity of Doctors Pass Jetties.

(f) Lines drawn across Wiggins, Big Hickory, New, and Big Carlos Passes parallel to the general trend of the seaward, highwater shoreline.

(g) A straight line drawn from Sanibel Island Light through Matanzas Pass Channel Light "2" to the shore of Estero Island.

§ 7.110 Pine Island Sound, FL and Charlotte Harbor, FL.

(a) Lines drawn across Redfish and Captiva Passes parallel to the general trend of the seaward, highwater shoreline.

(b) A line drawn from the northernmost extremity of Cayo Costa to Charlotte Harbor Entrance Lighted Bell Buoy "2" (latitude 26°39.6′ N. longitude 82°19.6′ W.); thence to Boca Grande Inner Channel Range Rear Light; thence to Port Boca Grande Light.

§ 7.115 Port Boca Grande, FL to Anna Maria Key, FL.

(a) Lines drawn across Gasparilla and Stump Passes parallel to the general trend of the seaward, highwater shoreline.

(b) A line drawn across the seaward extremity of Venice Inlet Jetties.

(c) A line drawn across Midnight Pass parallel to the general trend of the seaward, highwater shoreline.

(d) A line drawn from the westernmost extremity of Sarasota Point to the southernmost extremity of Lido Key.

(e) A line across New Pass parallel to the seaward, highwater shoreline of Longboat Key.

(f) A line drawn across Longboat Pass parallel to the seaward, highwater shoreline.

§ 7.120 Tampa Bay, FL and Tributaries.

A line drawn from the northernmost extremity of Anna Maria Key at Bean Point to Southwest Channel Entrance Lighted Bell Buoy "1" (latitude 27°32.5′ N. longitude 82°47.9′ W.); thence to Tampa Bay Lighted Whistle Buoy (latitude 27°35.8′ N. longitude 82°55.6′ W.); thence to the southernmost extremity of Long Key.

§ 7.125 St. Petersburg, FL to Rock Island, FL.

(a) A line drawn from the penthouse located in approximate position latitude 27°44.2′ N. longitude 82°45.2′ W. to Johns Pass Lighted Buoy "JP" (latitude 27°46.2′ N. longitude 82°47.8′ W.); thence to the tank located in approximate position latitude 27°48.1′ N. longitude 82°48′ W.

(b) A line drawn from the tank located in approximate position latitude 27°55′ N. longitude 82°50.5′ W. to Clearwater Pass Channel Lighted Bell Buoy "1" (latitude 27°58.1′ N. longitude 82°50.7′ W.); thence to the tank located in approximate position latitude 27°59.1′ N. longitude 82°49.6′ W.

(c) A line drawn across Dunedin and Hurricane Passes parallel with the general trend of the seaward, highwater shoreline.

(d) A line drawn from the northernmost extremity of Honeymoon Island to Anclote Anchorage South Entrance Light "1" (latitude 28°08.4′ N. longitude 82°52.0′ W.); thence to Anclote Keys Light.

(e) A line drawn from the northernmost extremity of Anclote Key to Anclote Anchorage North Entrance Light "4"; thence to the westernmost extremity of Bayonet Point at position latitude 28°19.5′ N. longitude 82°43.9′ W.

(f) A line drawn from the tank located in approximate position latitude 28°49.9′ N. longitude 82°40.1′ W. to Cross Florida Barge Canal Light "8"; thence to Northwest Channel Approach Light "2"; thence to Horseshoe Beach Channel Light "10"; thence to the westernmost extremity of Horseshoe Point.

(g) A line drawn from the westernmost extremity of Hardy Point to Steinhatchee River Light "1" (latitude 29°39.4′ N. longitude 83°27.4′ W.); thence to the westernmost extremity of Rock Point.

§ 7.130 Rock Island, FL to Cape San Blas, FL.

(a) A line drawn from Gamble Point Light to the southeasternmost extremity of Lighthouse Point at latitude 29°54.1′ N.

(b) A line drawn from the south shore of Southwest Cape at longitude 84°22.7′ W. to Dog Island Reef East Light "1"; thence to Turkey Point Light "2"; thence to the easternmost extremity of Dog Island.

(c) A line drawn from the westernmost extremity of Dog Island to the easternmost extremity of St. George Island.

§ 7.135 Cape San Blas, FL to Perdido Bay, FL.

(a) A line drawn from Cape St. George Light to Cape San Blas Light.

(b) A line drawn from St. Joseph Point on the northernmost extremity of St. Joseph Spit to St. Joseph Bay Lighted Whistle Buoy "SJ" (latitude 29°52.0′ N. longitude 85°29.5′ W.); thence to the radio tower on Mexico Beach located in approximate position latitude 29°56.6′ N. longitude 85°23.9′ W.

(c) A line drawn from the westernmost extremity of Crooked Island to the easternmost extremity of Shell Island.

(d) A line drawn from the seaward end of the St. Andrew Bay entrance South Jetty to St. Andrew Bay Entrance Lighted Whistle Buoy "SA" (latitude 30°05.5′ N. longitude 85°46.4′ W.); thence to the seaward end of the St. Andrew Bay entrance North Jetty.

(e) A line drawn from the radar dome located in approximate position latitude 30°23.1′ N. longitude 86°28.9′ W. to Choctawhatchee Bay Entrance Lighted Whistle Buoy "CB" (latitude 30°22.3′ N. longitude 86°30.5′ W.); thence to the tower located in approximate position latitude 30°23.5′ N. longitude 86°33.5′ W.

(f) A line drawn from the southernmost extremity of Santa Rosa Island at longitude 87°16.0′ W. to Pensacola Bay Entrance Lighted Gong Buoy "1" (latitude 30°16.3′ N. longitude 87°17.5′ W.); thence to Massachusetts Wreck Lighted Bell Buoy "WR2" (latitude 30°17.7′ N. longitude 87°18.7′ W.); thence to Fort McRee Leading Light.

(g) A line drawn between the seaward end of the Perdido Pass Jetties.

§ 7.140 Mobile Bay, AL to Mississippi Passes, LA.

(a) A line drawn from Mobile Point Light to Mobile Bar Lighted Buoy "6" (latitude 30°10.3′ N. longitude 88°02.6′ W.); thence to Mobile Bar Lighted Bell Buoy "2" (latitude 30°08.8′ N. longitude 88°03.4′ W.); thence to Mobile Entrance Lighted Whistle Buoy "1" (latitude 30°08.1′ N. longitude 88°03.9′ W.); thence to the dome located in approximate position latitude 30°15. N. longitude 88°04.7′ W.

(b) A line drawn from the westernmost extremity of Dauphin Island to the easternmost extremity of Petit Bois Island.

(c) A line drawn from the southernmost extremity of Petit Bois Island at longitude 88°27′ W. to Horn Island Pass Lighted Whistle Buoy "HI" (latitude 30°10.6′ N. longitude 88°32.6′ W.); thence to the easternmost extremity of Horn Island.

(d) An east-west line (latitude 30°14.7′ N.) drawn between the westernmost extremity of Horn Island to the easternmost extremity of Ship Island.

(e) A curved line drawn following the general trend of the seaward, highwater shoreline of Ship Island.

(f) A line drawn from Ship Island Light to Chandeleur Light; thence in a curved line following the general trend of the seaward, highwater shorelines of the Chandeleur Islands to the southern extremity of the Chandeleur Islands in approximate position latitude 29°44.1′ N. longitude 88°53.1′ W.; thence to Mississippi River-Gulf Outlet Lighted Bell Buoy "2" (latitude 29°25.5′ N. longitude 88°59.5′ W.); thence to the northernmost extremity of Main Pass outlet in position latitude 29°21.5′ N. longitude 89°11.7′ W.

§ 7.145 Mississippi Passes, LA.

(a) A line drawn from coordinate latitude 29°21.5′ N. longitude 89°11.7′ W. following the general trend of the seaward, highwater shoreline in a southeasterly direction to coordinate latitude 29°12.4′ N. longitude 89°06′ W.; thence following the general trend to the seaward, highwater shoreline in a northeasterly direction to coordinate latitude 29°13′ N. longitude 89°01.3′ W. located on the northwest bank of North Pass.

(b) A line drawn from coordinate latitude 29°13′ N. longitude 89°01.3′ W. to coordinate latitude 29°12.7′ N. longitude 89°00.9′ W.; thence to coordinate latitude 29°10.6′ N. longitude 88°59.8′ W.; thence to coordinate latitude 29°03.5′ N. longitude 89°03.7′ W.; thence to Mississippi River South Pass East Jetty Light "4"; thence to the southwestern extremity of South Pass Outlet in position latitude 28°59′ N. longitude 89°08.8′ W.

(c) A line drawn from the southwestern extremity of South Pass Outlet in position latitude 28°59′ N. longitude 89°06.8′ W. following the general trend of the seaward, highwater shoreline in a northwesterly direction to coordinate latitude 29°03.4′ N. longitude 89°13′ W.; thence west to coordinate latitude 29°03.5′. longitude 89°15.5′ W.; thence following the general trend of the seaward, highwater shoreline in a southwesterly direction to Mississippi River Southwest Pass Entrance Light.

(d) A line drawn from Mississippi River Southwest Pass Entrance Light to the seaward extremity of the Southwest Pass West Jetty located at coordinate latitude 28°54.5′ N. longitude 89°26.1′ W.

§ 7.150 Mississippi Passes, LA to Isles Dernieres, LA.

(a) A line drawn from the seaward extremity of Southwest Pass West Jetty located at coordinate latitude 28°54.5′ N. longitude 89°26.1′ W. following the general trend of the seaward, highwater jetty and shoreline in a north, northeasterly direction to Old Tower latitude 28°58.8′ N. longitude 89°23.3′ W.; thence to West Bay Light (latitude 29°02.5′ N. longitude 89°21.6′ W.); thence to coordinate latitude 29°05.2′ N. longitude 89°24.3′ W.; thence a curved line following the general trend of the highwater shoreline to the seaward extremity of Empire Waterway east jetty; thence to Empire Waterway Entrance Lighted Bell Buoy "1" (latitude 29°13.4′ N. longitude 89°36.8′ W.); thence to the seaward extremity of Empire Waterway west jetty.

(b) A curved line following the general trend of the seaward, highwater shoreline from the seaward extremity of Empire Waterway west jetty to Barataria Bay Light; thence to Barataria Lighted Whistle Buoy "BP" (latitude 29°14.3′ N. longitude 89°54.2′ W.); thence to the northeasternmost extremity of Grand Isle.

(c) A line drawn from Belle Pass East Jetty Light to Belle Pass entrance Lighted Bell Buoy "2" (latitude 29°03.9′ N. longitude 90°13.8′ W.); thence to Belle Pass West Jetty Light; thence a curved line following the general trend of the seaward, highwater shoreline from Belle Pass to the westernmost extremity of Timbalier Island.

(d) A line drawn from the westernmost extremity of Timbalier Island to Cat Island Pass Lighted Buoy "3" (latitude 29°01.9′ N. longitude 90°34.0′ W.); thence to the easternmost extremity of Isles Dernieres; thence a curved line drawn from the easternmost extremity of Isle Dernieres following the general trend of the seaward, highwater shorelines of the Isles Dernieres to Caillou Boca Light "13".

(e) A south-north line drawn from Caillou Boca Light "13" across Caillou Boca.

§ 7.155 Point Au Fer, LA to Sabine Pass, TX.

(a) A line drawn from Point Au Fer to Athcafalaya Channel Entrance Lighted Bell Buoy "A" (latitude 29°11.8′ N. longitude 91°32.2′ W.); thence to Atchafalaya Bay Pipeline Light "D" (latitude 29°25′ N. longitude 91°31.7′ W.); thence to Atchafalaya Bay Light "1" (latitude 29°25.3′ N. longitude 91°35.8′ W.); thence to South Point.

(b) A line drawn from tower located in approximate position latitude 29°34′ N. longitude 92°12.4′ W. to Freshwater Bayou Lighted Bell Buoy "FB" (latitude 29°28.9′ N. longitude 92°19.1′ W.); thence to the tower located in approximate position latitude 29°32.6′ N. longitude 92°19.1′ W.

(c) A line drawn from Mermentau River Channel Light "4" to Mermentau River Channel Entrance Lighted Bell Buoy "2" (latitude 29°42.1′ N. longitude 93°00.6′ W.); thence to Calcasieu Channel Lighted Buoy "15" (latitude 29°34.3′ N. longitude 93°16.5′ W.); thence to lighted platform in approximate position latitude 29° 38.2′ N. longitude 93°36.5′ W.; thence to Sabine Bank Channel Lighted Buoy "7" (latitude 29°30.6′ N. longitude 93°42.1′ W.); thence to lighted platform in approximate position latitude 29°32.7′ N. longitude 93°48.3′ W.; thence to the southernmost extremity of Texas Point in position latitude 29°40.4′ N. longitude 93°52.2′ W.

§ 7.160 Sabine Pass, TX to Rio Grande, TX.

(a) A line drawn from the tank on Bolivar Peninsula located in approximate position latitude 29°27.5′ N. longitude 94°38.2′ W. to Galveston Bay Entrance Channel Lighted Buoy "1" (latitude 29°18.3′ N. longitude 94°37.6′ W.); thence to Houston Ship Channel Outer Range Rear Light.

(b) A line drawn from the northernmost point of Surfside Beach at longitude 95°14.3′ W. to Freeport Entrance Lighted Gong Buoy "1" (latitude 28°54.1′ N. longitude 95°15.8′ W.); thence to the southernmost extremity of Bryan Beach at longitude 95°22.5′ W.

(c) A line drawn from the southernmost extremity of the Matagorda Ship Channel North Jetty to Matagorda Ship Channel Lighted Buoy "2" (latitude 28°23.8′ N. longitude 96°17.6′ W.); thence to Matagorda Ship Channel Entrance Lighted Whistle Buoy "MB" (latitude 28°23.0′ N. longitude 96°17.0′ W.); thence to Matagorda Light.

(d) A line drawn from Corpus Christi Bay Cut A East Range Rear Light to Aransas Pass Entrance Lighted Whistle Buoy "AP" (latitude 27°47.6′ N. longitude 96°57.4′ W.); thence to the tank at Port Aransa located in approximate position latitude 27°49.8′ N. longitude 97°03.8′ W.

(e) A line drawn from Brazos Santiago Pass Light to Brazos Santiago Pass Entrance Lighted Whistle Buoy "BS" (latitude 26°03.9′ N. longitude 97°06.6′ W.); thence to the seaward extremity of Brazos Santiago pass south jetty.

Hawaii

§ 7.165 Mamala Bay, HI.

A line drawn from Barbers Point Light to Diamond Head Light.

Pacific Coast

§ 7.170 Santa Catalina Island, CA.

(a) A line drawn from the northernmost point of Lion Head to the north tangent of Bird Rock Island; thence to the northernmost point of Blue Cavern Point.

(b) A line drawn from White Rock to the northernmost point of Abalone Point.

§ 7.175 Mexican/United States Border to Point Fermin, CA.

(a) A line drawn from the southerly tower of the Coronado Hotel in approximate position latitude 32°40.8′ N. longitude 117°10.6′ W. to San Diego Bay Channel Lighted Bell Buoy "5" (latitude 32°39.1′ N. longitude 117°13.6′ W.); thence to Point Loma Light.

(b) A line drawn from Mission Bay South Jetty Light "2" to Mission Bay North Jetty Light "1".

(c) A line drawn from Oceanside South Jetty Light "4" to Oceanside breakwater Light "3".

(d) A line drawn from Dana Point Jetty Light "6" to Dana Point Breakwater Light "5".

(e) A line drawn from Newport Bay East Jetty Light "4" to Newport Bay West Jetty Light "3".

(f) A line drawn from Anaheim Bay East Jetty Light "6" to Anaheim Bay West Jetty Light "5"; thence to Long Beach Breakwater East End Light "1". A line drawn from Long Beach Entrance Light "2" to Long Beach Light. A line drawn from Los Angeles Main Channel Entrance Light "2" to Los Angeles Light.

7.180 Point Vincente, CA to Point Conception, CA.

(a) A line drawn from Redondo Beach East Jetty Light "2" to Redondo Beach West Jetty Light "3".

(b) A line drawn from Marina Del Rey Light "4" to Marina Del Rey Breakwater South Light "1". A line drawn from Marina Del Rey Breakwater North Light "2" to Marina Del Rey Light "3".

(c) A line drawn from Port Hueneme East Jetty Light "4" to Port Hueneme West Jetty Light "3".

(d) A line drawn from Channel Islands Harbor South Jetty Light "2" to Channel Islands Harbor Breakwater South Light "1". A line drawn from Channel Islands Harbor Breakwater North Light to Channel Islands Harbor North Jetty Light "5".

(e) A line drawn from Ventura Marina South Jetty Light "6" to Ventura Marina Breakwater South Light "3". A line drawn from Ventura Marina Breakwater North Light to Ventura Marina North Jetty Light "7".

(f) A line drawn from Santa Barbara Harbor Light "4" to Santa Barbara Harbor Lighted Bell Buoy "1" (latitude 34°24,1′ N. longitude 119°40.7′ W.); thence to Santa Barbara Harbor Breakwater Light.

§ 7.185 Point Conception, CA to Point Sur, CA.

(a) A line drawn from the Southernmost extremity of Fossil Point at longitude 120°43.5′ W. to the seaward extremity of Whaler Island Breakwater.

(b) A line drawn from the outer end of Morro Bay Entrance East Breakwater to Morro Bay Entrance Lighted Bell Buoy "1" (latitude 35°21.5′ N. longitude 120°52.3′ W.); thence to Morro Bay West Breakwater Light.

§ 7.190 Point Sur, CA to Cape Blanco, OR.

(a) A line drawn from Monterey Harbor Light "6" to Monterey Harbor Anchorage Buoy "A" (latitude 36°36.5′ N. longitude 121°53,2′W.); thence to the northernmost extremity of Monterey Municipal Wharf No.2.

(b) A line drawn from the seaward extremity of the pier located 0.3 mile south of Moss Landing Harbor Entrance to the seaward extremity of the Moss Landing Harbor North Breakwater.

(c) A line drawn from Santa Cruz Light to the southernmost projection of Soquel Point.

(d) A straight line drawn from Point Bonita Light across Golden Gate through Mile Rocks Light to the shore.

(e) A line drawn from the northwestern tip of Tomales Point to Tomales Point Lighted Horn Buoy "2" (latitude 38°15.1′ N. longitude 123°00.1′ W.); thence to Bodega Harbor Approach Lighted Gong Buoy "BA" (latitude 38°17.2′ N. longitude 123°02.3′ W.); thence to the southernmost extremity of Bodega Head.

(f) A line drawn from Humboldt Bay Entrance Light "4" to Humboldt Bay Entrance Light "3".

(g) A line drawn from Crescent City Outer Breakwater Light "5" to the southeasternmost extremity of Whaler Island at longitude 124°11′ W.

§ 7.195 Cape Blanco, OR to Cape Flattery, WA.

(a) A line drawn from the seaward extremity of the Coos Bay South Jetty to Coos Bay Entrance Lighted Bell Buoy "1" (latitude 43°21.9′ N. longitude 124°21.7′ W.); thence to the seaward extremity of the Coos Bay North Jetty.

(b) A line drawn from the lookout tower located in approximate position latitude 46°13.6′ N. longitude 124°00.7′ W. to Columbia River Entrance Buoy Whistle Buoy "2" (latitude 46°12.8′ N. longitude 124°08.0′ W.); thence to Columbia River Entrance Lighted Bell Buoy "1" (latitude 46°14.5′ N. longitude 124°09.5′ W.); thence to North Head Light.

(c) A line drawn from Grays Harbor Light to Grays Harbor Entrance Lighted Whistle Buoy "2" (latitude 46°52.6′ N. longitude 124°12.6′ W.); thence to Grays Harbor Entrance Lighted Buoy "3" (latitude 46°55.0′ N. longitude 124°14.7′ W.); thence to Grays Harbor Bar Range Rear Light.

§ 7.200 Strait of Juan de Fuca, Haro Strait and Strait of Georgia, WA.

(a) A line drawn from the northernmost point of Angeles Point to Hein Bank Lighted Bell Buoy (latitude 48°21.1′ N. longitude 123°02.5′ W.); thence to Salmon Bank Lighted Gong Buoy "3" (latitude 48°25.5′ N. longitude 122°58.5′ W.); thence to Cattle Point Light on San Juan Island.

(b) A line drawn from Lime Kiln Light to Kellett Bluff Light on Henry Island; thence to Turn Point Light on Stuart Island; thence to Skipjack Island Light; thence to Clements Reef Buoy "2" (latitude 48°46.6′ N. longitude 122°53.4′ W.); thence to International Boundary Range B Front Light.

Alaska

§ 7.205 Canadian (BC) and United States (AK) Borders to Cape Spencer, AK.

(a) A line drawn from the northeasternmost extremity of Point Mansfield, Sitklan Island 040° true to the mainland.

(b) A line drawn from the southeasternmost extremity of Island Point, Sitklan Island to the southernmost extremity of Garnet Point, Kanagunut Island; thence to Lord Rock Light; thence to Barren Island Light; thence to Cape Chacon Light; thence to Cape Muzon Light.

(c) A line drawn from Point Cornwallis Light to Cape Barolome Light; thence to Cape Edgecumbe Light; thence to the westernmost extremity of Cape Cross.

(d) A line drawn from Surge Bay Entrance Light to Cape Spencer Light.

§ 7.210 Cape Spencer, AK to Cape St. Elias, Ak.

(a) A line drawn from the westernmost extremity of Harbor Point to the southernmost extremity of LaChaussee Spit at Lituye Bay.

(b) A line drawn from Ocean Cape Light to Yakutat Bay Entrance Lighted Whistle Buoy "2" (latitude 59°31.9′ N. longitude 139°57.1′ W.); thence to the southeasternmost extremity of Point Manby.

(c) A line drawn from the northernmost extremity of Point Riou to the easternmost extremity of Icy Cape.

§ 7.215 Point Whiteshed, AK to Aialik Cape, AK.

(a) A line drawn from the southernmost extremity of Point Whitshed to the easternmost extremity of Hinchinbrook Island.

(b) A line drawn from Cape Hinchinbrook Light to Schooner Rock Light "1".

(c) A line drawn from the southwesternmost extremity of Montague Island to Point Elrington Light; thence to the southernmost extremity of Cape Puget.

(d) A line drawn from the southermost extremity of Cape Resurrection to the Aialik Cape.

§ 7.220 Kenai Peninsula, AK to Kodiak Island, AK.

(a) A line drawn from the southernmost extremity of Kenai Peninsula at longitude 151°44.0′ W. to East Amatuli Island Light; thence to the northwesternmost extremity of Shuyak Island at Party Cape; thence to the easternmost extremity of Cape Douglas.

(b) A line drawn from the southernmost extremity of Pillar Cape on Afognak Island to Spruce Cape Light; thence to the easternmost extremity of Long Island; thence to the northeasternmost extremity of Cape Chiniak.

(c) A line drawn from Cape Nunilak at latitude 58°09.7′ N. to the northernmost extremity of Raspberry Island. A line drawn from the westernmost extremity of Raspberry Cape to the northernmost extremity of Miners Point.

§ 7.225 Alaska Peninsula, AK to Aleutian Islands, AK.

(a) A line drawn from the southernmost extremity of Cape Kumhun to the westernmost extremity of Nakchamik Island; thence to the eastmost extremity of Castle Cape at Chignik Bay.

(b) A line drawn from Second Priest Rock to Ulakta Head Light at Iliuliuk Bay entrance.

(c) A line drawn from Arch Rock to the northernmost extremity of Devilfish Point at Captains Bay.

(d) A line drawn from the easternmost extremity of Lagoon Point to the northwesternmost extremity of Cape Kutuzof at Port Moeller.

§ 7.230 Alaskan Peninsula, AK to Nunivak, AK.

(a) A line drawn from the northernmost extremity of Goose Point at Egegik Bay to Protection Point.

(b) A line drawn from the westernmost extremity of Kulukak Point to the northernmost extremity of Round Island; thence to the southernmost extremity of Hagemeister Island; thence to the southernmost extremity of Cape Peirce; thence to the southernmost extremity of Cape Newenman.

(c) A line drawn from the church spire located in approximate position latitude 59°45′ N. longitude 161°55′ W. at the mouth of the Kanektok River to the southernmost extremity of Cape Avinof.

§ 7.235 Kotzebue Sound, AK.

A line drawn from Cape Espenberg Light to Sheshalik Spit.

L. N. Hein,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 81-343]

Inquiry Into the Policies To Be Followed in the Authorization of Common Carrier Facilities To Meet Pacific Telecommunications Needs During the 1981-1995 Period; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of time to file comments and reply to comments.

SUMMARY: This document grants American Telephone and Telegraph Company's (AT&T) requests for extensions of time for filing comments and replies to the comments. The extensions of time will permit AT&T to submit revised circuit and facility forecasts and discuss the information with participants in the ANZCAN Cable System project.

DATES: Comments must be filed on or before June 28, 1982 and Reply Comments on or before July 28, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert Gosse, George Li, International Facilities Planning Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554 (202) 632-4047

SUPPLEMENTARY INFORMATION:

Order

Adopted: May 28, 1982.
Released: May 28, 1982.

In the Matter of Inquiry into the Policies to be Followed in the Authorization of Common Carrier Facilities to Meet Pacific Telecommunications Needs During the 1981-1995 Period, CC Docket No. 81-343, May 20, 1982, 47 FR 21868.

1. On May 7, 1982, the Commission released its Notice of Proposed Rulemaking in the above-captioned matter, FCC 82-206, —— FCC 2d —— in which it set forth tentative conclusions pertaining to Pacific region facilities requirements during the mid-1980's and requested certain information for use in its deliberations. The Commission's notice called for comments to its information request to be supplied on June 1, 1982, and replies to those submissions on June 14, 1982.

2. We have before us for consideration a request by American Telephone and Telegraph Company (AT&T) for an extension of two filing dates in this proceeding. AT&T requests extension of the June 1, 1982 filing date for comments until June 28, 1982 and the date for filing replies to those comments until July 28, 1982. In support of these requests, AT&T states that there will be a reduction in the circuit forecast for U.S. Mainland-Hawaii domestic message telephone traffic and a concomitant change in the facility plans for that cross-section. AT&T contends that these changes must be discussed with the other cable system owners on the ANZCAN Cable System project so that all parties concerned will be better able to update the record. Although these discussions have been initiated, AT&T estimates that it will not be able to finalize its revised forecast before the middle of June 1982. Further, AT&T states that it has contacted all concerned parties that it was filing this motion and that they indicated that they would not object to the request.

3. The inclusion in the record of AT&T's revised circuit and facility forecasts will benefit the rulemaking proceeding. The requested extensions are minimal and will not harm the public interest.

4. Accordingly, it is ordered, pursuant to § 0.291 of the Commission's Rules and Regulations, 47 CFR 0.291 (1979), that the responses to the Commission's Notice of Proposed Rulemaking in CC Docket No. 81-343 shall be filed in accordance with the following schedule:

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 82-15388 Filed 6-4-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-289; RM-4089]

FM Broadcast Station in Jacksonville, Texas; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of a second FM channel to Jacksonville, Texas, in response to a petition filed by George E. Gunter.

DATES: Comments must be filed on or before July 13, 1982, and reply comments on or before July 28, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcast.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Jacksonville, Texas), BC Docket No. 82-289, RM-4089.

Adopted: May 21, 1982.
Released: June 3, 1982.

1. A petition for rule making was filed on March 22, 1982, by George E. Gunter ("petitioner") proposing the assignment of Channel 272A to Jacksonville, Texas, as its second FM allocation. Petitioner stated his intention to apply for the channel, if assigned.

2. Jacksonville (population 12,264),[1] in Cherokee County (population 38,127), is located approximately 168 kilometers (105 miles) southeast of Dallas, Texas. It is served by AM Station KEBE and FM Station KOOI (Channel 293) under common ownership.

3. In support of the proposal the petitioner asserts that Jacksonville operates with a mayor-city council form of government. It has several local businesses, a daily newspaper, and community services. From the information submitted by petitioner, it appears that no community with a population greater than 1,000 will be affected by the proposed assignment.

4. The assignment of Channel 272A to Jacksonville will result in intermixing a Class A channel with a Class C channel (293). The Commission has a policy of permitting such intermixture where, as here, no other Class C channels are available for assignment and the petitioner is willing to apply for the Class A channel, despite the unfavorable competitive situation. See *Yakima, Washington*, 42 F.C.C. 2d 548, 550 (1973), and *Key West, Florida*, 45 F.C.C. 2d 142, 145 (1974). A site restriction of 2 miles west of the city must be imposed to meet spacing requirements to Station KLCR, Center, Texas.

5. In view of the foregoing information and the fact that the proposed assignment would provide the community with an opportunity to develop a second local FM broadcast station, the Commission proposes amending the FM Table of Assignments, § 73.202(b) of the rules, with regard to Jacksonville, Texas, as follows:

City	Channel No.	
	Present	Proposed
Jacksonville, Tex.	293	272A and 293

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before July 13, 1982, and reply comments on or before July 28, 1982, and are advised to read the Appendix for the proper procedures.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Montrose H.

[1] Population figures are taken from the 1980 U.S. Census.

Tyree, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 134, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. Number of Copies. In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-15329 Filed 6-4-82; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 47, No. 109
Monday, June 7, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

Edgerton Livestock Auction Market, Edgerton, Minnesota, et al.; Proposed Posting of Stockyards

The Chief, Financial Protection Branch, Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

MN–178 Edgerton Livestock Auction Market, Edgerton, Minnesota
SD–167 Tripp Livestock Market, Tripp, South Dakota
TX–326 O.K. Auction Company, Breckinridge, Texas

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), proposes to designate the stockyards named above as posted stockyards subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views or arguments concerning the proposed designation, may do so by filing them with the Chief, Financial Protection Branch, Packers and Stockyards Administration, United States Department of Agriculture, Washington, D.C. 20250, by June 22, 1982.

All written submissions made pursuant to this notice shall be made available for public inspection in the office of the Chief of the Financial Protection Branch during normal business hours.

Done at Washington, D.C., this 2nd day of June, 1982.

Jack W. Brinckmeyer,

Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 82-15385 Filed 6-4-82; 8:45 am]
BILLING CODE 3410-02-M

CIVIL AERONAUTICS BOARD

[Order 82–5–138]

Fitness Determination of Holiday Airlines, Inc.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 82–5–138, Order to Show Cause.

SUMMARY: The Board is proposing to find that Holiday Airlines, Inc., is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards. The complete text of this order is available, as noted below.

DATE: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than June 16, 1982, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESS: Responses or additional data should be filed with Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A of Order 82–5–138.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia T. Szrom, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5066.

SUPPLEMENTARY INFORMATION: The complete text of Order 82–5–138 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 82–5–138 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Bureau of Domestic Aviation, May 25, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-15387 Filed 6-4-82; 8:45 am]
BILLING CODE 6320-01-M

[Docket 40253]

Northeast Sunrise Airlines, Inc., Fitness Investigation; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held on June 11, 1982, at 10:00 a.m. (local time) in Room 1012, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., June 1, 1982.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 82-15388 Filed 6-4-82; 8:45 am]
BILLING CODE 6320-01-M

[Docket 40379]

Northeastern International Airways, Inc., Fitness Investigation; Hearing

A prehearing conference is currently scheduled to be held in this proceeding on June 9, 1982. By motion dated May 27, 1982, the Bureau of Domestic Aviation requests that the applicant submit additional data on May 28, 1982, and the hearing in this proceeding be merged with the prehearing conference on June 9. The Bureau's request for expedition is based on the applicant's continued use of dormant authority to operate scheduled passenger service. The Bureau states that the applicant has agreed to the above timetable.

Accordingly,

Notice is hereby given that a hearing in the above-entitled matter will immediately follow the prehearing conference scheduled to be held on June 9, 1982, at 10:00 a.m. (local time), in Room 1012 in the Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C.

Dated at Washington, D.C., June 1, 1982.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 82-15389 Filed 6-4-82; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Fireplace Mesh Panels From Taiwan; Antidumping Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Antidumping duty order.

SUMMARY: In separate investigations, the U.S. Department of Commerce ("the Department") and the U.S. International Trade Commission ("the ITC") have determined that fireplace mesh panels from Taiwan are being sold at less than fair value and that these sales are materially injuring a U.S. industry. Therefore, all unappraized entries, or warehouse withdrawals, for consumption of this merchandise made on and after January 22, 1982, the date on which the Department published its "Suspension of Liquidation" notice in the **Federal Register**, will be liable for the possible assessment of estimated antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, and withdrawals from warehouse, for consumption made on and after the date of publication of this antidumping duty order in the **Federal Register**.

EFFECTIVE DATE: June 7, 1982.

FOR FURTHER INFORMATION CONTACT: Steve Garment, Office of Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, Telephone: (202) 377–1757.

SUPPLEMENTARY INFORMATION: For the purpose of this notice, the term "fireplace mesh panels" is defined as pre-cut, flexible mesh panels, both finished and unfinished, which are constructed of interlocking spirals of steel wire and are of a kind used in the manufacture of safety screening by U.S. manufacturers of fireplace accessories and zero-clearance fireplaces. Fireplace mesh panels are currently classified under item numbers 642.8700 or 654.0045 of the *Tariff Schedules of the United States, Annotated,* depending on their stage of processing.

In accordance with section 733 of the Tariff Act of 1930, as amended ("the Act") (19 U.S.C. 1673b), on January 22, 1982, the Department preliminarily determined that fireplace mesh panels from Taiwan are being sold at less than fair value (47 FR 3153–55). On April 9, 1982, the Department reached the same conclusion in a final determination (47 FR 15393–15396).

On May 21, 1982, in accordance with section 735(b) of the Act (19 U.S.C. 1673(b)), the ITC determined and notified the Department that such importations are materially injuring a U.S. industry.

Therefore, in accordance with section 736 of the Act (19 U.S.C. 1673e), the Department directs U.S. Customs officers to assess antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the U.S. price for all entries of fireplace mesh panels from Taiwan. These antidumping duties will be assessed on all of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after January 22, 1982, the date on which the Department published its "Suspension of Liquidation" notice in the **Federal Register**, and all future entries of said merchandise.

On and after the date of publication of this notice, U.S. Customs officers must require, at the same time as importers deposit their estimated normal Customs duties on the merchandise, an additional deposit of estimated antidumping duties equal to the following rates:

a. Fuan Da Industrial Co., Ltd.: 0% of the f.o.b. value.

b. Yeh Sheng Wire Mesh & Screen Co., Ltd.: 6.4% of the f.o.b. value.

c. All other manufacturers: 4.7% of the f.o.b. value.

These determinations constitute an antidumping duty order with respect to fireplace mesh panels from Taiwan, pursuant to section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48). The Department intends to conduct an administrative review within the twelve month period beginning on the anniversary date of the publication of this order, as provided in section 751 of the Act (19 U.S.C. 1675).

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Department of Commerce Regulations (19 CFR 353.48).

We have deleted from the Commerce Regulations, Annex I to 19 CFR Part 353, which listed antidumping findings and orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import Administration, for copies of the updated list of orders currently in effect.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

June 1, 1982.

[FR Doc. 82-15319 Filed 6-4-82; 8:45 am]

BILLING CODE 3510-25-M

Computer Systems Technical Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on August 29, 1980 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

TIME AND PLACE: June 23, 1982, at 9:00 a.m. The meeting will take place at the Main Commerce Building, Room 5230, 14th Street and Constitution Ave., NW., Washington, D.C.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 16, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12065.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, Telephone: 202–377–4217.

FOR FURTHER INFORMATION CONTACT:
Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202–377–2583.

Dated: June 1, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82-15376 Filed 6-4-82; 8:45 am]

BILLING CODE 3510-25-M

Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on October 5, 1981 pursuant to the charter of the Committees. The Foreign Availability Subcommittee was formed to ascertain if certain kinds of equipment are available in non-COCOM and Communist countries, and if such equipment is available, then to ascertain if it is technically the same or similar to that available elsewhere.

TIME AND PLACE: June 22, 1982, at 1:30 p.m. The meeting will take place at the Main Commerce Building, Room 3708, 14th Street and Constitution Ave., NW., Washington, D.C.

AGENDA:

General Session

(1) Opening remarks by the Subcommittee Chairman.
(2) Presentation of papers or comments by the public.
(3) Review of the Foreign Availability Certification Group proposal status.
(4) Discussion of foreign availability technical data form.
(5) Discussion of world computer data bank.
(6) Discussion of subcommittee attendance.

Public Participation

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written Statements may be submitted at any time before or after the meeting.

FOR FURTHER INFORMATION CONTACT:
Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202–377–2583.

Dated: June 2, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82-15375 Filed 6-4-82; 8:45 am]

BILLING CODE 3510-25-M

Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on October 5, 1981 pursuant to the charter of the Committee. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

TIME AND PLACE: June 22, 1982, at 9:30 a.m. The meeting will take place at the Main Commerce Building, Room 1851, 14th Street and Constitution Ave., NW., Washington, D.C.

AGENDA:

General Session

1. Opening remarks by the Subcommittee Chairman.
2. Presentation of papers or comments by the public.
3. Report on review of distribution license policy.
4. Swiss Blue import certificate update.
5. Post-COCOM procedures.
6. Status of a short form 6031P—Computer Performance Parameter Sheet.
7. New business.

Public Participation

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written Statements may be submitted at any time before or after the meeting.

FOR FURTHER INFORMATION CONTACT:
Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202–377–2583.

Dated: June 2, 1981.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82-15377 Filed 6-4-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF EDUCATION

Privacy Act of 1974; Report of Altered System

AGENCY: Education Department.

ACTION: Notification of Altered System.

SUMMARY: In accordance with the Privacy Act of 1974, the Department proposes to amend the following notice of systems of records: 18–40–0033, Department of Education Financial Management Information System (EDFMIS). The amendment will permit the Department to collect receivables from individuals who owe the Department monies under loan/award agreements if the program office does not maintain a system of records adequate to monitor the receivables. This amendment is needed at this time to collect receivables under the Bilingual Education Fellowship program. Other technical changes are made to the notice to make it more descriptive of the EDFMIS.

DATE: Department of Education will consider comments about the new routine uses received on or before July 7, 1982.

ADDRESS: The public should address comments to the Privacy Officer, Department of Education, Office of Public Affairs, 400 Maryland Avenue, SW, Room 2089, Washington, D.C. 20202. Comments received will be available for inspection at this location.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert Smith, Financial Management Service, Office of the Comptroller, 400 Maryland Avenue, SW, Room 3105, Washington, D.C. 20202. Telephone: (202) 426–6050.

SUPPLEMENTARY INFORMATION: The Department of Education Financial Management Information System (EDFMIS), System Notice 18–40–0033, currently maintains files on the following types of organizations and individuals: Department of Education employees, consultants, contractors, advisory committee members, and other individuals performing personal services for the Department. The collection of this data is necessary to account properly for funds that have been

appropriated to the Department of Education by Congress from the time the funds are received by Treasury warrant and apportioned by OMB until the funds have been obligated to a recipient and expended in accordance with Departmental requirements.

With this amendment, the system will also maintain information about receivable accounts for those programs that have legislative authority to collect receivables and for which an independent system of records is not warranted. The amendment will specifically permit the collection of debts owed the Department under the Bilingual Education Fellowship program.

Effective debt management precipitates the need to have certain individual records in order to monitor properly amounts due the Department of Education under this type of program.

The routine uses of EDFMIS, System Notice 18–40–0033, are modified by this notice to accommodate the use of EDFMIS to collect receivables under loan/award programs where the programs do not maintain systems of records adequate to monitor the receivables.

(Catalog of Federal Domestic Assistance No. 84.003)

Dated: June 1, 1982.

T. H. Bell,

Secretary of Education.

18–40–0033

SYSTEM NAME:

Department of Education Financial Management Information System, ED/ODSM/FMS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Room 3105, Federal Office Building #6, 400 Maryland Avenue, SW, Washington, D.C. 20202.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Education employees, consultants, contractors, advisory committee members, other individuals performing personnel services for the Department, and individuals owing a the Department of Education monies as a result of loan/award agreements where the program office does not maintain a system of records adequate to monitor the receivables. The appendix to this notice lists the programs for which the Department currently collects receivables under the loan/award category.

CATEGORIES OF RECORDS IN THE SYSTEM:

Social security numbers or other assigned identifiers of individuals for whom a receivable has been established; name, address, and social security number of each individual and employer identification number of each company and institution if the individual, company, or institution provides services for the Department; and records indicating the cost of service(s) provided by each individual, company, or institution, and the status of these accounts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING THE CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is; (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to represent effectively such party, provided such disclosure is compatible with the purpose for which the records were collected.

In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on magnetic tape, microfilm, microfiche and stored in retrievable file system.

RETRIEVABILITY:

Records are indexed by social security number or other individual identifier, employer identification number, and award document number. The records are retrieved by a manual or computer search of the indices.

SAFEGUARDS:

Direct access restricted to authorized agency staff in performance of official duties. Specifically, records are available to employees of the Department of Education Financial Management Service, the Office of the Inspector General, to program officials, and to General Accounting Office auditors, in performance of accounting-related functions. Authorized staff are assigned passwords which must be used for access to computerized data. Also, an additional password is necessary to gain access to the system. The system-access password is changed frequently. The data is maintained in a secured-access area.

RETENTION AND DISPOSAL:

File constantly updated. Records maintained for ten years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial Management Service, U.S. Department of Education, Room 3105, FOB #6, 400 Maryland Avenue, SW, Washington, D.C. 20202.

NOTIFICATION PROCEDURE:

System Manager will respond to inquiries.

RECORD ACCESS PROCEDURES:

Same as under "Retrievability".

CONTESTING RECORD PROCEDURES:

Contact System Manager.

RECORD SOURCE CATEGORIES:

Department of Education employees, consultants, others performing personal services for the Department of Education, and Education Department programs that do not maintain a system of records adequate to monitor receivables and for which individuals owe the Department monies under a loan/award agreement.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix: Loan/award programs under which the Department collects receivables: Bilingual Education Fellowship program.

[FR Doc. 82–15393 Filed 6–4–82, 8:45 am]
BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and

Conservation Act (42 U.S.C. 6272), the following meeting notices are provided:

I. A meeting of Subcommittee A of the Industry Advisory Board of the International Energy Agency (IEA) will be held on June 15 and 16, 1982, at the Instituto Di Aggiornamento E Formazione ENI, Castelgandolfo, Italy, beginning at 9:30 a.m. on June 15. This meeting is being held in order to permit representatives of some of the members of Subcommittee A to participate in a meeting being held on June 15 and 16 of a joint government/industry Design Group for the preparation of the fourth IEA Allocation System Test.

The agenda for the meeting is as follows:

1. Preparation of the fourth test of the IEA Allocation System:
(a) Testing of pricing principles, and
(b) Other matters arising from the second meeting of the group.
2. Future meetings.

II. A meeting of Subcommittee A of the Industry Advisory Board of the IEA will be held on June 17, 1982, at the Instituto Di Aggiornamento E Formazione ENI, Castelgandolfo, Italy, beginning at 9:30 a.m.

The agenda for the meeting is as follows:

1. Opening remarks.
2. Stocks and stock policies for supply disruptions:
(a) IEA/SEQ(82)9 entitled—Stocks and Stock Policies for Supply Disruptions Covering IEA/GB (82)2;
(b) IEA/SEQ(82)16 entitled—Options for Calculating Emergency Reserve Commitment; and
(c) IEA/SEQ(82)17 entitled—Adjustment During Emergency Allocation for Pre-Emergency Stockdraw.
3. AST–4 matters including Design Group Chairman's report.
4. Quarterly Oil Forecast, second quarter 1982 through first quarter 1983—IEA/SEQ(82)15.
5. IEA Secretariat's May 1982 Assessment—IEA/SEQ(82)19.
6. Emergency Reserves—Emergency Management Manual revision—IEA/SEQ(82)14.
7. ISAG staffing.
8. Future work program and meeting schedule.

III. A meeting of Subcommittee C of the Industry Advisory Board of the IEA will be held on June 17, 1982, at the Instituto Di Aggiornamento E Formazione ENI, Castelgandolfo, Italy, beginning at 2:00 p.m.

The agenda for the meeting is as follows:

1. Opening remarks.
2. IEA Dispute Settlement Centre, including:
(a) Report of the Director;
(b) Schedule of fees and expenses; and
(c) Status of consents to arbitration.
3. Status of U.S. statutory antitrust defense, including:
(a) Legislation; and
(b) Plan of Action.
4. Status of application for legal clearance under Treaty of Rome.
5. Availability of contract breach defense, including:
(a) Status of defense in participating countries; and
(b) Effect of Choice of Law clause.
6. Future work program.

IV. A meeting of the Industry Advisory Board of the IEA will be held on June 18, 1982, at the offices of Ente Nazionale Idrocarburi (ENI), Piazzale Enrico Mattei 1, Rome, Italy, beginning at 9:30 a.m.

The agenda for the meeting is as follows:

1. Opening remarks; Adoption of the agenda of the meeting; approval of record notes of the February 17, 1982, Industry Advisory Board meeting.
2. Correspondence and communication with Reporting Companies, including distribution of documents.
3. Evaluation of the world oil balance, and short run trends of supply and demand: Report of Subcommittee A on documents:
(a) May Assessment—IEA/SEQ(82)19; and
(b) Quarterly Oil Forecast—IEA/SEQ(82)15.
4. Further evaluation of future patterns of oil supply. Discussion and report of Subcommittee A on document entitled Stock and Stock Policies for Supply Disruptions—IEA/SEQ(82)9.
5. Progress report, AST–4 Design Group.
6. Report of Subcommittee C on its June 17, 1982, meeting.
7. The staffing of committees and groups.
8. Next Industry Advisory Board meeting.

V. A meeting of the Industry Working Party (IWP) of the IEA will be held on June 23, 1982, at the offices of the IEA, 2 Rue Andre Pascal, Paris 16, France, beginning at 10:30 a.m. The purpose of this meeting is to permit attendance by representatives of the IWP at a meeting of an *Ad Hoc* Working Group of the IEA Standing Group on the Oil Market (SOM) which is being held in Paris on that date.

The agenda for the meeting is under the control of the SOM *Ad Hoc* Working Group. It is expected that the following provisional agenda will be followed:

1. Adoption of the provisional agenda.
2. Review of the Crude Oil Information Systems:
(a) Paper by the Secretariat; and
(b) Note by the IWP.
3. Other business.
4. Date of next meeting.

VI. A meeting of the Industry Advisory Board of the IEA will be held on June 23, 1982, at the offices of the IEA, 2 Rue Andre Pascal, Paris 16, France, beginning at 9:30 a.m. The purpose of this meeting is to permit attendance by representatives of members of the Industry Advisory Board at a meeting of the IEA Standing Group on Emergency Questions (SEQ) which is being held in Paris on that date.

The agenda for the meeting is under the control of the SEQ. It is expected that the following draft agenda will be followed:

1. Adoption of the Draft Agenda.
2. Record of minutes and matters arising.
3. Oil supply and demand:
(a) May Assessment;
(b) Quarterly Oil Forecast;
(c) Base Period Final Consumption; and
(d) Monthly Oil Statistics.
4. Stocks and stock policies:
(a) Adequacy of stock levels;
(b) Need to maintain stock levels despite temporary declines in oil imports for reasons other than structural change;
(c) Role and use of stocks in disruptions of less than 7%;
(d) Movement of oil into the supply system; and
(e) Implications of a reduction in countries' stocks prior to allocation.
5. AST–4 Design Group: Report by the Design Group Chairman on the April and June Meetings of the Group.
6. General matters:
(a) U.S. legislation;
(b) Summary of Demand Restraint reviews;
(c) Revision of EMM;
(d) Dispute Settlement Center—Designation of Panel Members; and
(e) 1983 SEQ/IEA Secretariat Work Program.

VII. A meeting of the Industry Working Party (IWP) of the IEA will be held on June 24 and 25, 1982, at the offices of the IEA, 2 Rue Andre Pascal, Paris 16, France, beginning at 9:30 a.m. on June 24. The purpose of this meeting is to permit attendance by representatives of members of the IWP during portions of a meeting of the IEA Standing Group on the Oil Market (SOM) which is being held in Paris on those dates.

The agenda for the meeting is under the control of the SOM. It is expected

that the following provisional agenda will be followed, and that IWP members will participate in discussion of some but not all of the items listed:

1. Adoption of the provisional agenda.
2. Approval of the Summary Record of the 40th Session.
3. Objectives, activities and information requirements of the SOM:
(a) Paper by the Secretariat;
(b) Report by the Chairman of the Ad Hoc Working Group to Review the Crude Oil Information System; and
(c) Note by the IWP.
4. Oil market developments:
(a) Current oil market and stocks situation—end May assessment;
(b) Structural changes in the world oil market, note and presentation by Mr. J. R. Roeber, of J. R. Roeber Associates, on Government Involvement in Crude Oil Purchases;
(c) Past, present, and future trends in oil reserves and OPEC production capacity;
(d) Product price controls in IEA countries (oral report by the Secretariat); and
(e) Round-table reports on notable developments in the oil sector in participating countries.
5. Consultations on oil futures markets with the New York Mercantile Exchange and the International Petroleum Exchange.
6. Analysis of the IEA Financial Information System data, note and presentation by Mr. A. Anderson.
7. Other business.
8. Date of next meeting.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, these meetings will not be open to the public.

Issued in Washington, D.C., June 1, 1982.

Craig S. Bamberger,

Assistant General Counsel, International Trade and Emergency Preparedness.

[FR Doc. 82-15418 Filed 6-4-82; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

Additional Field Hearings on Proposed 1982 Wholesale Power Rate Adjustment; Additional Field Hearings

AGENCY: Bonneville Power Administration (BPA) DOE.

ACTION: Notice of additional field hearings on proposed 1982 wholesale power rate adjustment.

SUMMARY: On March 31, 1982, BPA published in the **Federal Register** (47 FR 13710) its "Notice of Proposed Wholesale Power Rate Adjustment, Public Hearings, and Opportunities for Public Review and Comment." BPA conducted the eight field hearings as scheduled in that Notice and an additional hearing in Everett, Washington, (see 47 FR 16066, April 14, 1982) during the period April 12–23, 1982. In response to requests from the public, BPA now proposes to conduct seven additional field hearings on June 28, 1982, to offer the public an opportunity to comment on its proposed wholesale rate adjustment after the close of the formal portion of the rate hearings held in Portland. BPA Area or District staff will preside at these field hearings, and all comments will be transcribed and made part of the official record in the proceeding. Registration for the hearings will be at 7 p.m., and the hearings will begin at 7:30 p.m. Locations are: Burley, Idaho, Burley Inn, Cassia Room, 800 North Overland Avenue; Eugene, Oregon, Eugene Hilton, Wilder Room, 66 East Sixth Avenue; Missoula, Montana, Holiday Inn, Grizzly Den, Highway 10 West and East Mullen Road; Richland, Washington, Federal Building Auditorium, 825 Jadwin Avenue; Everett, Washington, Everett Pacific Hotel, Orcas Room, 3105 Pine Street; Spokane, Washington, Ramada Inn, Spokane International Airport; Vancouver, Washington, Clark County Public Utility District Operations Center, 8600 NE. 117th Avenue.

FOR FURTHER INFORMATION CONTACT:

Donna L. Geiger, Public Involvement Coordinator, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212, 503–230–3478. BPA maintains toll-free lines for the use of persons within the region. Oregon callers outside of the Portland area may use the toll-free line, 1–800–452–8429; callers in Washington, Idaho, Montana, Utah, Nevada, Wyoming, and California may use 1–800–547–6048. Additional information is also available from:

Mr. George Gwinnutt, Area Manager, Suite 288, 1500 NE. Irving Street, Portland, Oregon 97232, 503–230–4451.
Mr. Ladd Sutton, District Manager, Room 206, 211 East Seventh Street, Eugene, Oregon 97401, 503–345–0311.
Mr. Ronald H. Wilkerson, Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2518.
Mr. Gordon H. Brandenburger, District Manager, P.O. Box 758, Kalispell, Montana 59901, 406–755–6202.
Mr. Ronald K. Rodewald, District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509–662–4377, extension 379.
Mr. Richard D. Casad, Area Manager, Room 250, 415 First Avenue North, Seattle, Washington 98109, 206–442–4130.
Mr. Roy Nishi, Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509–525–5500, Extension 701.
Mr. Robert N. Laffel, District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–5706.

Issued in Portland, Oregon, May 28, 1982.

Earl E. Gjelde,

Acting Administrator.

[FR Doc. 82-15343 Filed 6-4-82; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

County Fuel Company, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to County Fuel Company, Inc., 5711 O'Donnell Street, Baltimore, Maryland 21224. This Proposed Remedial Order charges County with pricing violations in the amount of $197,305.49 exclusive of interest connected with the sale of motor gasoline during the period March 1, 1979 through March 18, 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Robert J. McKee, Jr., Director, Philadelphia Field Office, ERA, (215) 597–3870. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 "M" Street, NW, Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Philadelphia, Pennsylvania on the 24th day of May 1982.

Robert J. McKee, Jr.,

Director, Philadelphia Field Office, Economic Regulatory Administration.

[FR Doc. 82-15390 Filed 6-4-82; 8:45 am]

BILLING CODE 6455-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of April 5 Through April 9, 1982

During the week of April 5 through April 9, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Dresser Industries, Inc., 4/5/82, HFA–0045

Dresser Industries filed an Appeal from a partial denial by the Director of the DOE Office of Classification of a Request for Information which the firm had submitted

under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that certain documents which were initially withheld under Exemptions 4 and 5 should be remanded to the Director of the Office of Classification. The DOE directed him to either release those documents or issue a new determination which (i) adequately describes the subject matter of each document withheld under Exemptions 4 and 5, and (ii) adequately justifies the application of Exemption 4 to materials withheld under that exemption. The Director was further required to furnish sufficient information, including citation to an appropriate exemption, to substantiate why three other documents were withheld.

Vinson and Elkins, 4/6/82, HFA-0029

On January 15, 1982, the law firm of Vinson and Elkins filed an Appeal from a denial by the Director, Office of Oil and Gas, Energy Information Administration of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). Certain information filed by gasoline resellers on Form EIA-460 for a period prior to decontrol was initially withheld under Exemption 4. In the Appeal the DOE determined that in view of the age and the limited nature of the information, the submitters of that information would not suffer any competitive harm as a result of its release. Accordingly, the Director was ordered to release information concerning weighted average selling price for gasoline in June 1978 contained on Form EIA-460.

Requests for Exception

Mt. Lake Co-op Oil Association, 4/8/82, HEE-0006

On December 8, 1981, Mt. Lake Co-op Oil Association (Mt. Lake) filed an Application for Exception with the Office of Hearings and Appeals of the Department of Energy. In its submission, Mt. Lake requested that it be relieved of the requirement to file Form EIA-9A, No. 2 Distillate Price Monitoring Report, for the period January 1982 through March 1982. In considering Mt. Lake's request, the DOE determined that the firm should not be relieved of its filing obligation. However, the DOE also determined that Mt. Lake should be given until April 30, 1982 to file EIA-9A forms for the period January through March 1982.

Frank Rofinot, 4/8/82, HEE-0010

Frank Rofinot filed an Application for Exception from EIA reporting requirements in which the firm sought to be relieved of the requirement to file Form EIA-9A, No. 2 Distillate Price Monitoring Report. In considering the request, the DOE found that exception relief was necessary to relieve Rofinot of a disproportionate burden as compared with other firms in complying with the EIA-9A reporting requirements. This conclusion was based upon the firm's current operating posture, including a reduction in its level of sales and a lack of personnel able to complete the EIA-9A forms.

Silver Eagle Refining Company, 4/8/82, BEE-1654

Silver Eagle Refining Company filed an Application for Exception from the provisions of 10 C.F.R. § 211.67 in which the firm sought relief that would permit it to wells previously issued entitlements that it had been unable to sell to date as a result of an entitlements purchase default by Southwestern Refining Company. In considering the request, the DOE found that exception relief was not warranted because Silver Eagle had itself defaulted on an entitlements purchase obligation. Accordingly, the Application for Exception was denied.

Supplemental Order

Tony Barbaria, d.b.a. Barbaria Shell Service, 4/7/82, HRX-0018

The DOE issued a Supplemental Order to Tony Barbaria, d.b.a. Barbaria Shell Service rescinding a Remedial Order issued to the firm on March 29, 1982. The DOE pointed out that Barbaria had already entered a consent order with the DOE, which resolved all issues outstanding in the remedial order proceeding.

Special Refund Procedures

Office of Enforcement, Economic Regulatory Administration: In the Matters of:

Adams Resources and Energy, Inc., BEF-0055
Mohegan Co./James B. Kite Operating Co., BEF-0057
T-C Oil Co., BEF-0047
N. C. Ginther, BEF-0059
D. R. Cummings, BEF-0058
Summit Transportation, BEF-0053
J&C Drilling Co., BEF-0050
Marbob Energy Corp., BEF-0052
Westland Oil Development Corp., BEF-0028
Quintana Petroleum Corp., BEF-0060
Kirkpatrick Oil and Gas Co., BEF-0061
William Gruenewald & Assoc., Inc., BEF-0062
Mabee Petroleum Corp., BEF-0068
Michaelson Producing Co., BEF-0063
Rocky Petroleum Corp., BEF-0071
Rollert-Waddell Company, BEF-0064
Coastal Corporation, BEF-0005
Homestake Prouction Co., BEF-0074
Louis H. Haring, Jr., BEF-0075
Diamond Shamrock Corp., BEF-0076
Century Refining Co., BEF-0077
Alta Loma Oil Co., BEF-0080
Benson-Montin-Greer Drilling Co., BEF-0067
BTA Oil Producers, BEF-0083
Clark & Clark, BEF-0084
Connally Oil Company, BEF-0082
Liberty Oil & Gas Co., Inc., BEF-0092
M. C. Milam, Inc., BEF-0090
Partlow & Cochonour, BEF-0091
Phoenix Resources Company, BEF-0088
Milinda Oil Co., HEF-0001
Calvin Petroleum Corp., HEF-0003
An-Son Corp., HEF-0004

The Office of Enforcement of the Economic Regulatory Administration filed a Petition for the Implementation of Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, requesting that the Office of Hearings and Appeals establish procedures for the distribution of funds received by the DOE through consent orders entered into by Adams Resources and Energy, Inc. and 32 other firms. The OHA determined that it would be appropriate to pool the funds made available through these 33 consent orders with the funds received in *Office of Enforcement*, 9 DOE ¶ 82,521 (1982). The OHA also established a first-stage refund procedure and announced that it would accept Applications for Refund from all claimants who can affirmatively demonstrate that they have been injured by the violations alleged in the consent orders.

Dismissals

The following submission was dismissed without prejudice:

Name and Case No.

Office of Safeguards and Security, BER-0110

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: May 27, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 82-15389 Filed 6-4-82; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Transmittal No. 53; FCC 82-206; CC Docket No. 78-371]

American Telephone & Telegraph Co. and the Bell System Operating Companies Tariff FCC No. 8 (BSOC 8); Exchange Network Facilities for Interstate Access (ENFIA); Memorandum Opinion and Order Instituting Investigation

Adopted: April 29, 1982.

Released: April 30, 1982.

By the Commission: Commissioners Quello, Jones and Dawson concurring and issuing statements; Commissioner Fogarty concurring in part and dissenting in part and issuing a statement.

1. We now consider proposed revisions filed on April 16, 1982 by the American Telephone and Telegraph Company (AT&T) and the Bell System Operating Companies (BSOCs) to the BSOC 8 Tariff. That tariff generally governs the provision of certain local exchange access facilities to other carriers used to provide services "like" AT&T's Message Telecommunications Service (MTS) and Wide Area Telecommunications Service (WATS). The BSOC 8 tariff implements the ENFIA Interim Settlement Agreement approved by the Commission on April 16, 1979. *ENFIA*, 61 FCC 2d 440 (1979) Petitions to reject were filed by Southern Pacific Corporation (SPC), MCI Telecommunications Corporation (MCI),

United States Transmission Systems (USTS), Satellite Business Systems, (SBS), and Western Union Telegraph Company (Western Union). U.S. Telephone Communications, Inc. (U.S. Tel) filed a petition to reject or suspend. On April 19, the Chief, Common Carrier Bureau issued a Public Notice which raised the possibility of a temporary, partial rate authorization under Section 204(b) of the Act, 47 U.S.C. 204(b). AT&T by letter on April 21 opposed this approach. Comments were filed by MCI, SPC, SBS, USTS, the Organization for the Protection and Advancement of Small Telephone Companies (OPASTCO) and the National Telephone Cooperative Association (NTCA), the United States Independent Telephone Association (USITA), U.S. Tel, Teltec Savings Communications Co. (Teltec), and the Association of Long Distance Telephone Companies (ALTEL).[1] Based upon our examination of the transmittal and the petitions, it is our view that the petitions do not present grounds for rejection, but do raise substantial questions concerning the lawfulness of the revisions and their conformity with the language and intent of the ENFIA Agreement. We are therefore suspending the effectiveness of the revised material for the allowed statutory period of five months and setting the issues specified below for investigation. We also are adopting measures to assure that exchange access is provided during the suspension period in a manner which protects the rights of all parties pending the conclusion of the investigation.

I. Background

2. The ENFIA agreement approved by the Commission in 1979 establishes the methods to be used to compute charges of AT&T and GTE subsidiaries for the origination or termination of certain interstate telecommunications services provided by carriers other than telephone companies (OCCs).[2] The OCC services that are covered by the agreement are described as services that are "like" MTS and WATS or as "Execunet/SPRINT-type interstate services." Those terms describe some services that use local exchange switches at both ends. They do not include enhanced services or basic services that cannot be used for voice communications. The origination and termination or access service covered by the ENFIA agreement does not encompass every form of access service that conceivably might be provided for an Execunet/SPRINT-type service, but is limited to the access provided at the time it was signed. Such access is provided through line side terminations into a Class 5 switch and requires the use of seven digits to enable an OCC customer to reach an OCC switch.

3. The ENFIA agreement requires that charges be computed separately for three distinct elements. Element 1 consists of the line between an OCC switch and the local exhange or Class 5 switch. Charges for similar lines in other tariffs are incorporated by reference. Element 2 consists of the use of the traffic sensitive portion of that Class 5 switch and the use of other traffic sensitive switching and trunking facilities in connection with calls that are switched through more than one Class 5 switch in the local same exchange. The charge is computed to simulate the amounts that local exchange carriers receive through settlements or divisions of revenues when comparable service is provided for MTS or WATS. A discount from that simulated charge is included to compensate for local message unit charges that OCC customers pay to access an OCC switch. Element 3 consists of the use of non-traffic sensitive local exchange facilities such as terminals, inside wiring, subscriber lines, and the non-traffic sensitive portion of a Class 5 switch. That charge is also related to a simulated charge for MTS or WATS use of such facilities. The OCC charge is currently 55% of the corresponding MTS–WATS charge. The charge specified in the ENFIA agreement were implemented in the BSOC 8 tariff.

4. The ENFIA agreement is designed to provide an interim formula for the computation of such OCC access charges until this Commission or the Congress establishes a more comprehensive access compensation system. Paragraph 6 of the ENFIA agreement provides that the interim charges will be superseded by charges filed pursuant to an order of this Commission in the *MTS–WATS Market Structure Inquiry* (CC Docket No. 78–72) or charges established pursuant to new legislation relating to that subject. If neither contingency occurs before the fifth anniversary of the effective date, the agreement will expire.

5. Paragraph 11 specifies another contingency that would end the agreement. Expiration was to occur on the third anniversary of the effective date unless this Commission had determined that an extension "is reasonable and in the public interest" and determined "an appropriate level of payment" (Factor P) for Element 3.[3]

6. By order adopted and released on April 14, 1982, *ENFIA*, FCC 82–180, the Commission recently determined that it would be in the public interest to extend the ENFIA Settlement Agreement for an additional two years at the existing 55 percent level of payment factor. At the same time, the Commission declined to freeze the dollar amount of Rate Elements 2 and 3 as some OCCs had urged, and stated that it would address the disputed issue of the proper calculation of billed minutes in the context of revisions to the BSOC 8 tariff.

7. Those revisions are now before us. AT&T proposes to increase the weighted averaged billed OCC minutes per ENFIA per month in Rate Elements 2 and 3 from 3000 to 5823 minutes and the SEP Amount from $.0595 to $.0658 per minute. As a result, Element 2 would be increased from $22.55 to $44.31 per month, and Element 3 from $99.65 to $213.90.

II. The Disputed Billed Minute Counts

8. In order to understand the dispute between AT&T and the OCCs over calculation of billed minutes it is necessary to describe the mechanism provided in the ENFIA agreement and tariff for calculating minutes of use. The agreement provides that "for OCC services covered by this Agreement, the OCCs will file with the Commission in December of each year the total OCC billed minutes of use per month for the preceding August, September, and October and the number of ENFIA per month for the same period." A footnote explains that "It is understood that reported data is subject to verification

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[1] We will allow ALTEL's motion to accept the late-filed pleading.

[2] The term OCC has traditionally been used to describe a carrier that does not provide local exchange telephone service and does not participate in any joint rate offerings with carriers that do provide local exchange telephone service.

[3] Factor P represents a weighting applicable to the OCCs which approximates the cost and value differences between ENFIA connections and MTS and WATS connections. Factor P is one component of Element 3 charges, which are derived through the following formula:

Use of Jointly Used Subscriber Plant = SEP Amount × Factor P × Billed Minutes × 1.015.

The Separations Amount (SEP Amount) and Billed Minutes are to be determined according to specific procedures set forth in the tariff. The 1.015 component is a constant that provides for ENFIA-related use of Independent Telephone Company local exchange facilities involved in Bell-Independent Extended Area Service areas.

Element 2 charges for May 2, 1982 through April 15, 1983 are derived as follows:

Local switching and trunking = ($3.42 + ($.00691 × Billed Minutes)) × 1.015.

The $3.42 is a flat rate reflecting local switch termination costs. The $.00691 figure reflects local switching and trunking costs per minute less a message unit credit per minute. The 1.015 factor is the Extended Area Service component.

by the telephone companies by periodic traffic measurements." AT&T is then required to file "changes in the rate level for the following year to reflect the change in OCC average minutes of use per month per ENFIA and the change in the amount calculated under the Separations Manual for Bell's interstate, MTS and WATS minutes of use, in accordance with the formula set forth in the ENFIA tariff." Initially, the Element 2 and 3 rates were based on 3240 minutes. After negotiations with the OCCs concerning disputes as to the calculation of minutes, AT&T filed revised rates based on 3000 minutes in March 1980 for the second year of the agreement. The same figure was used after similar negotiations in the third year.

9. The OCCs did not file their 1981 reports in December as provided in the agreement. They were filed at the direction of the Chief, Common Carrier Bureau on March 19, 1982.[4] For the August–October 1981 period the major OCCs reported average billed minutes per line per month of 3276 for MCI, 1353 for SPC, and 1489 for USTS. The weighted average billed minutes based on these reports and those of other OCCs would be approximately 2417. AT&T had previously stated that its studies indicated the proper minute count to be 6950 minutes based on its measurement of average holding time.[5] In response to the OCCs' reports, AT&T contended the OCCs had seriously understated the proper minutes; it presented a number of adjustments which it claimed would correct the most obvious major flaws in the reports.[6] Based on these adjustments, AT&T reached the figure of 5823 minutes which it includes in the present tariff filing.[7] The adjustments are shown in the table below.

AT&T ADJUSTMENTS TO OCC REPORTED BILLED MINUTES OF USE PER ENFIA LINE

	USTS	MCI	SPC
3-mo average billed minutes/line as reported in Mar. 19, 1982, OCC letters	1,489	3,276	1,353
Adjustment for claimed error in number of ENFIA lines reported	1,860	3,276	1,353
Adjustment for two end ENFIA usage (interstate usage x 2)	3,760	3,276	2,706
Adjustment for failure to report off peak usage	7,094	6,181	5,106
Overall AT&T adjusted weighted average monthly billed minutes of use per ENFIA line	5,823		

[4] Initially, the OCCs argued that the reports were either moot unless the Commission extended the ENFIA Agreement or irrelevant because the Commission should, in their view, determine a fixed rate for the subsequent years of any extended agreement.

[5] Letter of James R. Billingsley to Chairman Mark S. Fowler, dated February 25, 1982.

[6] Letter of William R. Stump to Chief, Common Carrier Bureau, dated March 24, 1982.

[7] See Appendix for derivation of this figure.

A. Treatment of Nonbusiness Day and Off-Peak Minutes

1. MCI

10. MCI contends that the minutes of use contemplated in the agreement are business day minutes billed to businesses; it reports only those minutes. It argues that the purpose of the agreement was to achieve a reasonable overall rate and that the minutes of use formula was negotiated at a time when the OCCs services were expected to be business services highly concentrated during usual business hours. It claims that the parties did not expect that the number of billed minutes per ENFIA would vary greatly over time, and thus the bottom line rate would be relatively stable and affordable. MCI cites two letters written during the negotiations which it claims demonstrate an expectation that only business minutes would be counted. Since the approval of the agreement, residential service has developed into a major OCC market. This use is mainly in non-business day hours over the same ENFIA lines. MCI contends that counting these residential miutes of use would not be in accord with the intent of the parties to the ENFIA agreement and would impose rates far in excess of those contemplated when the agreement was reached. The OCCs also argue that increasing the ENFIA rates in proportion to measured use shifts the benefits of more efficient use of ENFIA to AT&T, constitutes residual cost pricing, and is inherently irrational because Element 3 facilities are non-traffic sensitive. MCI also contends, even assuming all minutes should be counted under the terms of the contract, that the contract would have to be reformed under the judicial doctrines of mistake, impracticability, and frustration. MCI cites *Aluminum Co. of America* v. *Essex Group, Inc.*, 499 F. Supp. 53 (W.D. Pa. 1980), as an analogous case where reformation of a contractual rate was allowed.

11. AT&T contends that all minutes should be counted. As an estimate of total minutes it relies on a verification study it conducted showing that approximately 47 percent of the OCCs' MTS/WATS-like traffic is off-peak. It thus assumes that MCI's reported 3276 business day minutes to businesses represent only 53 percent of the total minutes, and that total minutes would therefore be 6181, or 89 percent higher than reported. It denies that the parties had any intent to exclude off-peak minutes, pointing out that the agreement by its terms requires rate changes based on usage changes and that AT&T itself pays usage based charges to the local exchanges under separations and settlements. It further claims that the *Aluminum Co of America* case is inapposite and not factually analogous.

2. SPC

12. In its report SPC states that it excluded minutes billed to its SPRINT LTD service which is restricted to off-peak use. It contends that SPRINT LTD is not "like" MTS/WATS because it is not available to customers during the key peak load period, and that the parties to the Agreement never intended that any such minutes be included, since the service involved did not even exist at that time. Inclusion of those minutes would increase SPC's total by about 12 percent. AT&T argues that SPRINT LTD is still an MTS/WATS like service subject to the Agreement and that the Agreement was clearly intended to apply to other services and other carriers than those active at the time. AT&T assumes that SPC has excluded all off-peak minutes, both for SPC's SPRINT LTD service and for full time services. AT&T's adjustment of the SPC total minutes is thus the same as in the case of MCI, an increase of 89 percent. In response, SPC denies that it has excluded off-peak minutes for services other than SPRINT LTD, and claims that AT&T's adjustment of its minutes is based on an erroneous assumption and is therefore unwarranted, even assuming *arguendo* that SPRINT LTD minutes should be counted. According to SPC's figures, inclusion of SPRINT LTD minutes would increase its total minutes by about 12 percent.

3. USTS

13. USTS states that in arriving at its reported minutes it "transformed" off-peak minutes to be the equivalent of peak minutes. It does not state what method was used for this "transformation" or what the quantitative effect was. AT&T apparently assumes that USTS did not count off peak minutes at all; it applies the same 89 percent adjusted increase to USTS reported minutes as it does to MCI and SPC. USTS contends that this

adjustment is incorrect and double counts the off-peak minutes.

B. Two End versus One End Minute Counts

14. SPC and USTS both report their minutes on the basis of interstate conversation minutes, that is, the total minutes billed to their customers. They claim this was the commonly understood definition of minutes used by the parties in the ENFIA agreement. The agreement requires the determination of rates on the basis of "OCC billed minutes of use per ENFIA. SPC and USTS contend that an OCC billed minute is equal to one minute ene-to-end, not, as claimed by AT&T, two minutes. AT&T contends on the other hand that the minutes billed by the OCCs to their customers should be doubled because Execunet/SPRINT-type calls use the exchange network at both the originating and, terminating and of a call, and as a consequence each minute of a call generates two minutes of exchange network usage, one minute for each ENFIA used.

15. As a related matter SPC and MCI claim that AT&T has improperly calculated the SEP Amount by using Bell System SLU minutes (which count minutes at each end of the call as is done in the separations process) rather than Interstate Conversation Minutes as specified in the BSOC 8 tariff. SPC notes that in Rate Element 3, doubling of reported OCC minutes would cancel out the apparent disparity between the SEP Amount apparently specified in the tariff and that used for separations.[8] However, SPC argues that doubling the minutes as proposed by AT&T improperly doubles the Element 2 rate since the doubled minute figure (but not the SEP Amount) is used to calculate it.

C. The USTS Line Count

16. AT&T claims that its verification studies indicate that the number of ENFIA lines reported by USTS is roughly 25 to 30 percent higher than the lines actually installed. If USTS reported an inflated number of lines and a correct overall minute total, the average minutes of use per ENFIA line would be understated. AT&T adjusts the USTS minuted upward by 26 percent based upon this claimed line overcount.

III. OCC Petitions for Rejection

17. SPC, USTS, SBS, and Western Union contend the Commission is required to reject the proposed revisions because the agreement and the BSOC 8 tariff require that AT&T file charges based on the billed minutes of use reported by the OCCs. They argue that by filling new, proposed ENFIA rates based on minutes other than those reported by the OCCs, AT&T violates its inter-carrier contractual obligation. They note that AT&T may verify the OCC minutes by traffic measurements under the agreement, but deny that this authorizes AT&T to file its own calculations of minutes. SPC argues that AT&T lacks the practical ability to verify the OCCs' reports,[9] and therefore its adjustments represent an arbitrary and unreasonable unilateral modification of the agreement, based upon erroneous assumptions and artificial factors. USTS argues that the OCC reports of billed minutes would be superfluous if AT&T could unilaterally file a contravening tariff which would supersede the OCC reports. It suggests that AT&T can file a complaint before the Commission or seek relief from the courts if it disagrees with the OCC reports of billed minutes. Both contend that the Commission must reject the revisions as violative of the agreement, citing *MCI Telecommunications Corp. v. FCC*, 665 F. 2d 1300 (D.C. Cir. 1981). SBS asserts that AT&T should present a detailed showing in the nature of a prima facie case supporting its allegations, and in the meantime should incorporate the minutes reported by the OCCs.

18. USTS and MCI also argue that AT&T has never justified the SEP Amount which is therefore said to be subject to serious doubt. MCI also argues that because the SEP Amount is derived from the separations process, which MCI apparently claims is unlawful, it is inconsistent with the requirements of law.

19. In addition to the arguments discussed above, MCI has also claimed that the filing must be rejected because the ENFIA agreement upon which the filing is based could not lawfully be extended by the Commission after the February 1, 1982 deadline in the original BSOC 8 tariff, a date which was later amended; that it lacked an adequate record to make a public interest determination; and that it had not eliminated discrimination in local access charges, which MCI claims was a predicate for the compromise reached in the ENFIA agreement. In response to AT&T's April 21 letter, MCI and SPC present the additional argument that AT&T's asserted number of billed OCC minutes is inherently unbelievable because AT&T uses a 7 percent reduction of holding time to obtain OCC billed minutes, but uses a 14.6 to 20.9 percent reduction on its own MTS/WATS minutes. They argue that the OCCs would require a much larger reduction to reflect the additional digits which must be dialed, the delay for a second dial tone, and various other additional factors which cause unbilled time for the OCCs but not for AT&T. MCI also argues that an interim billing and collection rate would have no basis in law. It attempts to distinguish *Lincoln Telephone and Telegraph Company*, 72 FCC 724 (1979), *aff'd* 659 F.2d 1092 (D.C. Cir. 1981), by arguing for example that the amount in dispute in this case is much larger and that AT&T provided access on a non-discriminatory basis for years before the Execunet II decision, *MCI* v. *FCC*, 580 F.2d 590 (D.C. Cir. 1978). MCI and Teltec urge in addition that if the Commission errs in favor of the OCCs, that action can have no appreciable impact on AT&T or MTS/WATS customers. On the other hand, if the Commission errs in favor of AT&T the results could be disastrous for the competitive carriers. In the absence of a sound record and in view of the rapidly changing industry structure, MCI believes the Commission must move with caution.

20. The OCCs also mention other objections to the filing. SPC states that AT&T's failure to supply support information for the 5823 minute figure is a violation of § 61.38 of the Commission's rules. USTS suggests that the increased rates are anticompetitive and violative of the anti-trust laws, and section 314 of the Communications Act. It also asserts that the filing is discriminatory.[10]

[8] Since Element 3 is calculated by the formula:

SEP Amount × Factor P × Billed Minutes × 1.015,

halving the SEP Amount would cancel out doubling of the minutes in this Element.

[9] AT&T can measure the OCC's use of the local exchange in holding time minute, but this figure would include minutes which are not billed to OCC customers, such as the time used for dialing the longer OCC numbers, wrong numbers, no answers, and test calls.

[10] We also received petitions or comments from resale carriers U.S. Tel and Teltec and from ALTEL, a trade association which includes resale carriers. They deny that ENFIA should apply to resellers, but state that AT&T imposes ENFIA charges on them in fact. They contend that the Commission should reject the increases, which they claim could force them out of business, or not apply them to resellers. We note in this regard, however, that the Common Carrier Bureau has specifically ruled that ENFIA does nt apply to MTS/WATS at present. AT&T (ENFIA), Mimeo. No. 001153, released May 29, 1981, *recon. pending*. Moreover, although we are considering the removal of the ban against resale of AT&T's private line services if such services are used to form MTS/WATS equivalents, we have not as yet taken such action. AT&T, CC Docket No. 82-44, FCC 82-51, released February 4, 1982.

IV. Discussion

1. Rejection

21. We cannot agree with the OCCs that AT&T's filing of minutes which differ from those reported by the OCCs warrants or requires rejection of this transmittal. The procedural framework for the ENFIA agreement requires the OCCs to report each December their average monthly billed minutes of use for the prior August, September, October three month period. AT&T then has the opportunity to "verify" these minutes and to raise any disputed issues concerning the accuracy of the OCCs count or the conformity of the methodology used with the terms of the agreement. Any such disputes could then be resolved—either directly by the parties or perhaps with the intercession of the Commission—in the five months interval before AT&T would be required to file a new tariff based upon a "correct" billed minutes count in April of the following year.

22. We find little merit in the OCCs' suggestion that AT&T must fule in its April tariff the figure strictly as reported by the OCCs. This would allow the OCCs to report few or even no minutes of use with impunity and would render the agreement a nullity. Were AT&T required to file numbers it believed were legally and factually erroneous, it could be placed in the anomalous position of having to disavow or oppose its own filing, and even be subject to liability in a subsequent complaint proceeding. Moreover, as a practical matter, there was little or no possibility for AT&T to follow a different procedure here since the OCCs did not file a report of their 1981 minutes (due in December 1981) until March 19, 1982.[11] At this point, less than a month remained before a new trariff had to be filed and there was, accordingly, no realistic possibility that the disputes which had arisen could be resolved in time for "corrected" minute count to be available for a new tariff filing. Thus, even assuming, *arguendo*, that the OCC's argument here would otherwise be acceptable, their failure to file a minute count on a timely basis precluded any alternative course for AT&T. Although for reasons explained below we cannot accept AT&T's version of an appropriate minute count without further investigation, we do not believe that its actions in filing a tariff based upon an adjusted minute count were unreasonable or contrary to the agreement or that this action warrants rejection.[12]

2. The Disputed Issues

23. In our view the only reasonable interpretation of the ENFIA agreement is that it gave neither the OCCs' nor AT&T the right to unilaterally decide what the final count of billed minutes would be for tariff filing purposes. Although the OCCs' reports are not determinative, this does not mean that AT&T has an unqualified right to make any adjustments it chooses to the OCCs filed minutes. On the contrary, arbitrary or inaccurate adjustments by AT&T to the OCCs' reports would nullify the agreement in the same fashion as if the OCCs themselves filed arbitrary or inaccurate numbers.

24. In prior years, the parties negotiated this dispute and arrived at the figure of 3000 minutes which AT&T filed. The Commission is thus confronted with the minutes of use issue for the first time in this proceeding, and for the first time must approve a minutes of use figure and review the SEP Amount used in computing ENFIA rates. Any such final prescription or approval must of course be founded upon an adequate record and must conform to the language and purpose of the ENFIA agreement. From an examination of the tariff filings and the pleadings before us, however, it does not appear that we are presently in a position to make such a determination. Nor can we rely on the sharply divergent OCC or AT&T figures. The disputed issues raised in this proceeding are clearly of sufficient seriousness and complexity so that further information is required before we can make a decision as to the correct billed interstate minute count.

25. We would note that the dispute before us involves more than a disagreement over raw computations. Rather, under either AT&T's approach or the OCCs approach a determination of the correct minute count necessitates interpretation of the ENFIA agreement itself. Thus the OCC reports plainly require an interpretation of the agreement to exclude or discount off-peak minutes based not on the language of the agreement or the tariff, but on the intent of the parties. The agreement by its terms makes no apparent distinction between peak and off-peak, business and non-business minutes. We cannot conclude that such an interpretation is justified by the agreement based on the record and the legal anlyses presently before us but it does deserve careful consideration. We believe that additional responses from the parties will be enlightening. But even if we were to conclude that AT&T is correct and that all minutes should be counted equally, we do not have an adequate basis for concluding that the adjustment AT&T proposes is reasonable. The 80 percent increase in reported minutes to adjust for off-peak use is applied across the board even though each of the OCCs used different bases for their own calculations. SPC claims, for example, that its excluded off-peak minutes would amount to only an additional 12 percent rather that the 89 percent adjustment used by AT&T. In the absence of further information, we cannot conclude that either of these figures is correct. Similarly, applying this adjustment to USTS's reported minutes also is speculative in the absence of any information on the method used to "transform" off-peak minutes. The proposed downward adjustment of USTS's ENFIA lines is another factual issue which requires investigation.

26. It also appears that AT&T's position on the question of whether the minutes the OCCs bill to their customers should be doubled to reflect exchange usage at both ends of the call will likewise require interpretation, and examination of the purpose and intent of the agreement. The question turns on the meaning of the term billed minutes per ENFIA. Since the OCCs bill calls to their customers on an end-to-end basis, the use of those actual billed minutes seems reasonable under the bare language of the agreement. There is no language in the agreement itself which states that billed minutes are to be doubled, or that the method used should be equivalent to AT&T's division of revenues process. Examination of the intent of the parties in executing the interim settlement agreement may be necessary to resolve this. In addition, SPC's argument with regard to the SEP Amount and the use of doubled minutes in Element 2 suggests

[11] As noted earlier, this report was submitted at the behest of the Chief of the Common Carrier Bureau.

[12] We have also considered the further arguments for rejections raised by the OCCs and find that these issues similarly do not warrant rejection. Many of MCI's arguments are directed not to this filing, but to the question of whether the Commission had authority to extend the ENFIA agreement, and properly exercised it. Most of these arguments were considered and rejected in *ENFIA*, FCC 82–160, and insofar as they have not been explicitly rejected they can be considered should MCI seek reconsideration of that decision. USTS provides no support for its claim that the rate increase constitutes a violation of section 314 of the Act. The claim of discrimination overlooks the fact that this tariff was adopted pursuant to a negotiated settlement agreement. Support information under § 61.38 at the Rules would have been irrelevant because the rates are based on the agreement, not on costs. The agreement also provided for AT&T to file on 15 days' notice. Finally, contrary to SPC and U.S. Tel's assertions, AT&T's filed minutes are not based on holding time, but on adjustments of the OCCs' reported billed minutes.

that the BSOC 8 tariff's use of conversation minutes in the SEP Amount was inadvertent. If this is so, modification of the tariff to implement the understanding of the parties might be appropriate. At the same time, clarification of the Element 2 rate could also be required. AT&T has not addressed this issue in its filing except to claim that the ENFIA tariff should conform to the use of the SEP Amount and SLU minutes from separations. However, this begs this question of whether the agreement and the tariff so provide.

27. AT&T also has suggested that the figure of 5823 minutes is a minimum figure and that the actual minutes would more nearly approach 7000. However, the uncertainty of the legal and factual issues in this case preclude any decision that the 5823 figure is an acceptable minimum figure. Indeed, in a letter to the Chief, Common Carrier Bureau discussing a possible temporary, partial ENFIA rate increase, AT&T essentially agrees that an investigation at least of the factual issues may be necessary.[13]

V. Conclusions and Implementation

28. In view of the significant legal and factual issues which remain in dispute and must be resolved before a proper final minute of use figure can be approved or prescribed, we will set this matter for investigation. It is also apparent that if the 5823 minute figure is as substantially overstated as the OCCs claim, its use might well cause significant market disruption if it were allowed to become effective even for an interim period. If AT&T's proposed revisions took effect, the ENFIA rate would be more than doubled. Several OCCs have claimed that this level of charges would jeopardize their financial viability or their ability to offer residential service. Under these circumstances, we will suspend the effectiveness of the proposed revisions for the full statutory period.[14]

29. The determination of the proper minutes of use and SEP Amount is a vital issue which we think can and should be decided as quickly as possible in an expedited proceeding and we intend to resolve these issues within the five month suspension period. The reports of billed minutes must also be obtained in the first instance by the OCCs as required by the agreement. In order to resolve these issues we will require that the reports be complete. Specifically, we direct MCI, SPC, and USTS to report all minutes billed to all customers, business and non-business, peak and off-peak, and all ENFIA lines in August, September, and October 1981 for all services using ENFIA, without prejudice to any claims that some usage should not be counted under this agreement or should be discounted. This includes reports of all non-business minutes billed by MCI, SPRINT LTD billed minutes by SPC, and all off-peak minutes before transformation by USTS. Actual billing records and other backup material to verify these figures should be made available so that they can be submitted immediately upon Commission request. The OCCs should also separately explain and quantify all exclusions, discounts, and other adjustments used to reach what they believe are the proper figures under the agreement. USTS, for example, should specify the methodology it proposes for transforming off-peak minutes. AT&T will also be required to provide an explanation and justification for the filed SEP Amount and the billed minutes of use. In order to allow the OCCs adequate time to address the legal as well as the factual issues, we will allow 25 days for the filing. Interested persons will be allowed 15 days to comment, and the OCCs 10 days to respond. Based on these filings and the ENFIA agreement itself, the Commission will then determine the appropriate minutes of use figure.

30. We expect to conclude this investigation quickly, in no more than five months, but it is apparent that this cannot be done before the scheduled May 2 expiration date of the present rate. We believe that a situation in which no effective tariff exists covering access by AT&T's long distance competitors to Bell local distribution is not in the public interest. The continued provision of such service, at a reasonable rate, pending final determination of the minutes of use controversy, is essential to the fulfillment of the Commission's mandates under the Communications Act. In order to assure that ENFIA facilities are provided under a tariff rate pending the conclusion of this investigation, we find that the public interest requires that we invoke our authority under section 4(i) of the Communications Act, 47 USC 154(i), to specify an interim billing and collection rate during this period. *Lincoln Telephone and Telegraph Co.*, 72 FCC 2d 724 (1979), *aff'd* 659 F.2d 1092 (D.C. Cir 1981). See also *Western Union International v. FCC*. 652 F.2d 136 (D.C. Cir. 1980), which approved use of an interim prescription until adoption of a final order based on a more complete record. This arrangement will allow interconnection to continue at an interim charge. The arrangement will also be subject to adjustment on the basis of any ultimate agreement among the parties that the Commission approves or when the Commission has prescribed the minutes of use. If the interim collections are below a just and reasonable level under the agreement, we will require the OCCs to make up the difference; if the interim collections are above the just and reasonable level, we will require AT&T to refund the difference to the OCCs.

31. Any minute of use figure for the interim period must of necessity be tentative and we believe the figure should seek to protect the interests of all parties during the investigation period. The use of either the 5823 minute figure or the 2417 minute figure, would be inappropriate. We could simply continue the existing 3000 minutes rate for this period. However, the OCCs' own claim of increased average usage per line would seem to justify some increase in the proper minutes even if some adjustment for off-peak usage is made. To reflect this increased use, an increase from 3000 to 4000 minutes seems to us reasonable. Although it would increase the rates charged the OCCs by about 50 percent we do not believe it will cause disruption of the market.[15] This figure is also roughly halfway between the 2417 minutes reported by the OCCs and the figure of 5823 filed by AT&T, and might minimize any later adjustments to true-up the interim collection rate. For these reasons, and in order to protect the rights of all parties during this investigation, we direct that an interim billing and collection rate based on 4000

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[13] Letter of William R. Stump to Chief, Common Carrier Bureau, dated April 21, 1982.

[14] On April 21, 1982, AT&T filed a conditional petition for emergency action in the event the Commission does not allow AT&T's transmittal to go into immediate effect. It requests (1) that any investigation be conducted on an expedited basis so that such proceedings can be concluded within the five month suspension period; (2) that the OCCs be required to file within 15 days complete information concerning the total individual billed conversation minutes of use per month as it appears in their billing systems for August to October of 1981, with back-up material and a separate statement of the basis and amounts of any exclusions; and (3) that any interim rates ordered by the Commission be subject to later adjustment so that each OCC shall be required to pay any discrepancy between the amount it has paid during the pendency of the proceedings and the amount it would have owed under whatever rates are ultimately determined to be appropriate. SBS opposes the Conditional Petition, arguing that the Commission should examine the whole range of exchange access issues in a comprehensive proceeding without time constraints. It also opposes the request for information from the OCCs and for an order making any interim rate subject to later adjustment. Our disposition of this case moots these petitions.

[15] We believe use of this figure is also responsive to MCI's request that we move with caution.

minutes of use be utilized pending our decision in this investigation. AT&T may also use the proposed $.0658 SEP Amount, since the increase in that figure is both smaller and less controversial than the increased minutes. Moreover, SPC and MCI's objections to AT&T's methodology for deriving the SEP factor would, if accepted, double the figure filed by AT&T. In sum, utilization of 4000 minutes and a $.0658 SEP Amount will produce a reasonable collection rate.

32. Accordingly, it is ordered, pursuant to sections 4(i)–(j), 201–205, and 403 of the Communications Act, 47 U.S.C. 154(i)–(j), 201–205, and 403, that an investigation is instituted into the following issues:

(1) The proper number of weighted average bill OCC minutes per ENFIA per month in August, September, and October 1981 within the meaning and purpose of the ENFIA Interim Settlement agreement; and

(2) The correct SEP Amount factor within the measuring and purpose of that Agreement.

33. It is further ordered, that AT&T, MCI, SPC, and USTS, shall be named parties to this proceeding. Any other persons who wish to participate as parties may file a notice with the Commission within 15 days of the release of this order, or by filing comments in response to the initial filings.

34. It is further ordered, that MCI, SPC, and USTS, shall submit their initial filings within 25 days of the release of this order. Other parties may file their replies or comments within 15 days thereafter. MCI, SPC, and USTS may file their responses within an additional 10 days thereafter.

35. It is further ordered, that with their initial filings, MCI, SPC, and USTS shall report the total, unadjusted, untransformed minutes billed to their customers for all services using the ENFIA lines (including non-business and off-peak use), and the total ENFIA lines for August, September, and October 1981. They shall also list separately and quantify any exclusions, adjustments, or transformation of those minutes which they believe are warranted by the terms and purpose of the ENFIA agreement, and explain the methodology used and its justification. They also shall compile backup material including billing records to be held available if requested by the Chief, Common Carrier Bureau.

36. It is further ordered, that AT&T shall file a report explaining and justifying its filed SEP Amount and the billed minutes of use within 15 days of the release of this order. Replies and responses shall be filed at the same time as those specified in paragraph 34.

37. It is further ordered, that the Chief, Common Carrier Bureau, is delegated authority to require the submission of additional information, to make further inquiries, to modify issues, dates, and procedures, and if necessary, to provide for a fuller record and more efficient proceeding.

38. It is further ordered, that the tariff revisions proposed by AT&T and the Bell System Operating Companies in Transmittal No. 53 are suspended for a period of five months.

39. It is further ordered, that the petitions to reject filed by SPC, USTS, MCI, SBS, and Western Union are denied.

40. It is further ordered, that the petition to reject or suspend filed by U.S. Tel. is granted to the extent indicated herein, but otherwise is denied.

41. It is further ordered, that the conditional petition for emergency action filed by AT&T is dismissed as moot.

42. It is further ordered, that in the interim period, pending completion of this investigation, AT&T must bill and persons taking service under BSOC 8 must pay an interim billing and collection rate based on 4000 billed minutes of use and a $.0658 SEP Amount.

43. It is further ordered, that in the interim period pending an agreement among the parties approved by the Commission or the prescription by the Commission of a proper minutes of use figure and SEP Amount, AT&T must provide and the OCCs must take ENFIA Lines pursuant to the terms and conditions stated in the BSOC 8 tariff. Additional charges or refunds may be applied retroactively in the manner described in paragraph 30 of this order.

44. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting, or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number that proceeding to which it relates. *See generally,* Section 1.1231 of the Commission's rules, 47 CFR 1.1231.

45. It is further ordered, that this action is effective immediately.

46. It is further ordered, that the Secretary shall cause this order to be published in the **Federal Register.**

47. This order is exempt from the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* It involves a rule applicable to particular rates and to practices relating to such rates within the meaning of the exemptions contained in 5 U.S.C. 601(2).

Federal Communications Commission.[16]

William J. Tricarico,

Secretary.

APPENDIX.—AT&TD'S CALCULATION OF WEIGHTED AVERAGE MONTHLY BILLED MINUTES OF USE PER ENFIA LINE

OCC	3-mo average number of ENFIA lines (per AT&T counts)	3-mo average minutes per ENFIA line	Average monthly usage
TELTEC	178	3,614	647,085
SATELCO	86	5,098	438,258
USTS	3,696	7,094	26,219,424
MCI	30,932	6,191	191,135,060
SPC	21,330	5,106	108,910,908
Total	56,214		327,350,808

NOTE.—Overall AT&T adjusted weighted average monthly billed minutes of use per ENFIA line: 5,823.

April 29, 1982.

Concurring Statement of FCC Commissioner James H. Quello

In re: AT&T and Its Bell System Operating Companies Tariff F.C.C. No. 8 (BSOC 8), Exchange Network Facilities for Interstate Access (ENFIA), Transmittal No. 53

Again, we are asked to rule on the terms of extension of the ENFIA agreement without any real basis for coming to a decision. Having concurred with my colleagues that

[16] Statements of Commissioners Quello and Fogarty attached Statements of Commissioners Jones and Dawson to be issued at a later date.

the P Factor should remain at 55 percent, I must again concur that this interim prescription of 4000 minutes of use is within some vague "zone of reasonableness" although the record appears bereft of support for that figure.

We have no choice but to suspend and investigate the BSOC 8 tariff since the actual minutes of use question is not clearly answered on the record. It is my sincere hope that we can complete the investigation within the five month suspension period and that we can begin to make some reasoned judgments in the area of access charges. That hope, however, represents a triumph over experience since we have fallen far short of our goals in this area.

The ENFIA agreement represents the roughest of "rough justice" to set charges in the face of the Commission's inability to do so in a timely fashion. Three years of rough justice have brought us to the admission that we still cannot make reasoned decisions in this important area. Now, we are going to investigate this tariff and, in five months, bring forth an understanding which has eluded us lo these many years.

In the words of Publius Terentius Afer, a Roman playwright, in the second century B.C.: "You believe easily that which you hope for earnestly." In that spirit, I believe that we are taking a reasonable approach in trying to resolve this difficult matter.

Therefore, I concur in the result.

Statement of Commissioner Joseph R. Fogarty

Concurring in Part, Dissenting in Part

In Re: Exchange Network Facilities for Interstate Access—Transmittal No. 53

The decision to suspend AT&T's proposed BSOC 8 tariff amendments for the full statutory period and prescribe an interim collection rate based on 4,000 minutes is wrong. The public interest requires that the Commission permit the tariff amendments to take effect subject to a one-day suspension, an expedited investigation, and an accounting order.

The question of the proper number of weighted average OCC billed minutes of use (MOUs) to be used in setting Rate Elements 2 and 3 is critical because the actual dollar amount that the OCCs will pay for interconnection hinges on this figure. On the one hand, we do not want to pick an unreasonably high number for fear of unduly impairing the competitiveness of the OCCs. On the other, there's no such thing as a free lunch—the OCCs must pay their fair share. To pick an unreasonably low number would force the MTS/WATS rate-payers to pick up the tab and to continue to subsidize OCC customers at a time when we are trying to correct the MTS/WATS rate structure. This would be unfair to the vast majority of those interstate ratepayers.

After carefully weighing and balancing public policy considerations, the record before us and Commission precedent, I believe that a one-day suspension combined with an investigation and an accounting order offers the best solution. Not only is the interim prescription legally inappropriate, but from an equitable standpoint, it rewards the obstructionist tactics of the OCCs again, at the expense of most interstate ratepayers. The arguments raised by the OCC's in opposition to the BSOC 8 revisions are unpersuasive. For example, there is nothing in the ENFIA agreement which indicates that business, residential, peak or off-peak minutes should be accounted for separately. Citations to contemporaneous statements and the intent of the OCCs cannot supplant the clear terms of the ENFIA contract. *See, e.g., Williston on Contracts,* Third Edition, Sections 610, 610A. As a consequence, we have no basis on which to reject AT & T's tariff revisions. *See, e.g., Associated Press v. FCC,* 448 F. 2d 1095 (D.C. Cir. 1971).[1] Moreover, the decision to prescribe 4,000 MOUs on an interim bais is arbitrary because we have no record to justify the figure. In fact, it now appears that, contrary to the majority's conclusion, the average of the AT&T and OCC positions is not 4,000 minutes but 4,675 minutes. *See* letter from W. R. Stump to Chief, Common Carrier Bureau, dated April 21, 1982. This is neither a compromise nor rough justice.

Since the OCCs figures are admittedly jiggled and too confused to be used, AT&T's proposed 5,823 MOUs figure is the only number on which we have a record to act. The Commission's only proper course of action, therefore, would have been to permit the use of 5,823 minutes pending investigation. The OCC's would have been fully protected by an accounting order. Because it should take no more than three months to complete the investigation,[2] it is doubtful that any OCC would have suffered significantly in the event that the Commission ultimately found the 5,823 figure too high—a result which I do not foresee.

But at least in this decision the Commission finally and decisively orders the OCCs to report all billed minutes not just the minutes that the OCCs wish to report. The lack of a sufficient record upon which to base a decision has caused the delay in determining a proper ENFIA rate. This in turn was caused, in substantial part, by the OCCs failure to produce their MOUs in a forthright manner. The OCCs have delayed reporting their MOUs in an attempt, I believe, to delay an inevitable and equitable rate increase. The fact that the major OCCs failed to file reports of their billed 1981 MOUs until directed to do so by the Chief, Common Carrier Bureau disturbs me. I am even more disturbed that in the face of the Bureau Chief's order, the OCCs undertook to report only part of their overall billed minutes. If the OCCs had not used these obstructionist tactics and had instead reported their minutes when they were supposed to, a suspension and an investigation would not be necessary. With this information, we could have prescribed the proper number of minutes in this order. If the OCCs do not report their minutes as we require in this order, the Commission must take strong action.

I trust that the Commission will move forward promptly with the investigation we are initiating. I hope that the 4,000 minute figure does not become permanent because of a reluctance on the part of the Commission to act. Further, the time has come to move forward in the *Access Charge* docket. In the interim, ENFIA must not be held hostage to issues, such as the proper allocation of nontraffic-sensitive equipment, which are more appropriately considered by the Joint Board in Docket 80-286 and the Commission in Docket 78-72. To do so, would be unfair to the American ratepayer. To the extent that the Order finally requires specific performance of the ENFIA contract by the OCCs with regard to reporting their actual billed MOUs, I concur. To the extent that the Order still permits the OCCs to escape their liability under the contract, I dissent.

[FR Doc. 82-15383 Filed 6-4-82; 8:45 am]

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[1] I must note that recently in a far more eggregious tariff case, the Commission neither suspended the paticular tariff for the full statutory period nor prescribed an interim tariff. Instead, the Commision simply suspended the tariff for one day subject to an investigation and an accounting order. *See* RCA American Communications, Inc. —— FCC 2d —— (1982). What we have here is disparate treatment of two carriers.

[2] SBS argues that the Commission should focus on issues other than those related to interpretation of the ENFIA contract. I disagree. Such issues are already under consideration in Docket 78-72, the *Access Charge* proceeding. It would not be appropriate to burden this ENFIA tariff case with those issues.

[BC Docket No. 82-287, File No. BP-20, 872; BC Docket No. 82-288, File No. BP-781205 AI]

Aurio Matos and Otilio Serrano Serrano; Application for Construction Permit

In the matter of applications of Aurio Matos, Aguada, Puerto Rico, Req: 1410 kHz, 500 W, DA-1, U (BC Docket No. 82-287, File No. BP-20, 872); and Otilio Serrano Serrano, San Sebastian, Puerto Rico, Req: 1410 kHz, 1 kW, DA-1, U (BC Docket No. 82-288, File No. BP-781205AI), for construction permit; hearing designation order designating applications for consolidated hearing on stated issues.

Adopted: May 20, 1982.

Released: May 27, 1982.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications for new AM broadcast stations in communities approximately 13 miles apart.

2. *Aurio Matos.* Applicants for new broadcast stations are required by § 73.3580 of the Commission's Rules to give local notice of the filing of their applications. Since we have no evidence that Mr. Matos has done so, we will require him to correct the apparent deficiency.

3. *Otilio Serrano Serrano.* Analysis of the financial data this applicant submitted reveals that $120,608 will be required to construct the proposed

station and operate for three months. He plans to finance this with $25,000 existing capital and a $200,000 bank loan. $70,000 of the loan has not been shown to be available, because it will require a mortgage on property that does not appear on Mr. Serrano's balance sheet. However, the remaining funds have been shown to be available, and they more than adequately cover estimated costs. Accordingly, no issue is warranted.

4. *Other Matters.* The two proposals, although for different communities, would serve substantial areas in common. Consequently, in addition to determining, pursuant to section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will also be specified.

5. Both applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

6. Accordingly, it is ordered, that pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which would receive primary service from each proposal and the availability of other primary aural service to such areas and populations.

2. To determine, in light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

3. To determine, in the event it be concluded that a choice between the applications should not be based solely on considerations relating to section 307(b), which of the proposals would, on a comparative basis, better the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, that whichever application be granted, the construction permit shall contain the following condition:

Operation with the facilities specified herein is subject to modification, suspension, or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Final Acts of the ITU Administrative Conference on Medium Frequency Broadcasting in Region 2, Rio de Janeiro 1981, and to bilateral and other multilateral agreements between the United States and other countries.

8. It is further ordered, that Aurio Matos shall publish local notice of his application (if he has not already done so) and shall file a statement of publication with the presiding Administrative Law Judge on or before July 7, 1982.

9. It is further ordered, that to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's rules, the applicants shall within 20 days of the mailing of this order, in person or by attorney, file with the Commission in triplicate written appearances stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

10. It is further ordered, that pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, the applicants shall give notice of the hearing as prescribed in the rule, and shall advise the Commission of the publication of the notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division.

[FR Doc. 82-15359 Filed 6-4-82; 8:45 am]

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[BC Docket No. 82-301, File No. BPH-810122AK 4318; BC Docket No. 82-302, File No. BPH-810701AG]

Bowie County Broadcasting Co., Inc. and Freeway Broadcasting Co., Inc.; Applications for Construction Permit

In re applications of Bowie County Broadcasting Co., Inc., New Boston, Texas, Req: 95.9 MHz, Channel 240A, 3 kW, 300 feet (BC Docket No. 82-301, File No. BPH-810122AK 4318); and Freeway Broadcasting Co., Inc., Hooks, Texas, Req: 95.9 MHz, Channel 240A 3 kW 300 feet (BC Docket No. 82-302, File No. BPH-810701AG), for construction permit for a new FM station; hearing designation order designating applications for consolidated hearing on stated issues.

Adopted: May 25, 1982.

Released: June 1, 1982.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications filed by Bowie County Broadcasting Co., Inc. (Bowie) and Freeway Broadcasting Co., Inc. (Freeway).

2. *Bowie.* Freeway proposes independent programming while Bowie proposes to duplicate some of the programming of its commonly-owned station KNBO(AM). Therefore, evidence regarding program duplication will be admissible under the standard comparative issue. When duplicated programming is proposed, the showing permitted will be limited to evidence concerning the benefits to be derived from the proposed duplication which would offset its inherent inefficiency. *Jones T. Sudbury,* 8 FCC 2d 360, 10 RR 2d 114 (1967).

3. Section 73.1125 of the Commission's rules requires that the main studio of an FM station be located within the city of license, but that on a showing of good cause the main studio may be located outside that community. Bowie proposes to locate its main studio north of New Boston, but has failed to set forth circumstances showing good cause under § 73.1125. Accordingly, an issue will be specified.

4. *Freeway.* Analysis of the financial portion of Freeway's application reveals that it will require $233,280 to construct the proposed facility and operate for three months, itemized as follows:

Equipment	$157,836
Building	6,000
Miscellaneous and other costs	37,000
Operating costs (three months)	32,445
Total	233,280

Freeway plans to finance construction and operation with $1,000 cash on hand and a loan in the amount of $120,000 from the principal, William H. Freeman, Sr. Mr. Freeman's balance sheet discloses only $24,014 in net liquid assets. Although he intends to rely upon a bank loan, Mr. Freeman's letter of commitment from the Texarkana National Bank fails to comply with the requirements of paragraph 4(e) of Section III of FCC Form 301 in that it does not specify the interest rate of the loan or the terms of repayment, and also states that the bank "will be glad to consider" his request for a loan, a phrase too indefinite to be considered assurance that the bank will lend Mr. Freeman the money. Finally, although Freeway relies on leasing equipment on a deferred credit basis from an equipment supplier, the applicant has failed to provide a letter from such equipment supplier setting forth the terms and conditions of the credit plan. As a result, Freeway has shown only $25,014 available to meet a commitment of $233,280. Accordingly, a financial issue will be specified.

5. Applicants for new broadcast stations are required by § 73.3580(f) of the Commission's rules to give local notice of the filing of their applications. They must then file with the Commission the statement described in § 73.3580(h) of the Rules. We have no evidence that Freeway published the required notice. To remedy this deficiency, Freeway will be required to publish local notice of its application and to file a statement of publication with the presiding Administrative Law Judge.

6. The respective proposals, although for different communities, would serve substantial areas in common. Consequently, in addition to determining, pursuant to section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will also be specified.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

8. Accordingly, it is ordered, that, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations which would receive primary aural service from the proposals and the availability of other primary service to such areas and populations.

2. To determine, pursuant to § 73.1125, whether good cause exists for Bowie County Broadcasting Co., Inc.'s proposed location of its main studio outside the community of license.

3. To determine with respect to Freeway:

(a) The source and availability of additional funds over and above, the $25,014 indicated; and

(b) Whether in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

4. To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

5. To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to section 307(b), which of the proposals would, on a comparative basis, better serve the public interest.

6. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which, if any, of the applications should be granted.

9. It is further ordered, that, Freeway file a statement of publication of local notice of its application with the presiding Administrative Law Judge in accordance with § 73.3580(h) of the Commission's rules.

10. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

11. It is further ordered, that the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-15296 Filed 6-4-82; 8:45 am]

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[BC Docket No. 82-285, File No. BPH-801219 AC; BC Docket No. 82-286, File No. BPH-810410 AF]

M. Crawford Clark, et al.; Applications for Construction Permit

In the matter of applications of M. Crawford Clark and John Shideler, d/b/a Montgomery County Broadcasters, Coffeyville, Kansas, Req: 92.1 MHz, Channel 221A, 3.0 kW (H&V), 300 feet (H&V) (BC Docket No. 82-285, File No. BPH-801219AC); and the Midwest Broadcasting Co., Inc., Coffeyville, Kansas, Req: 92.1 MHz, Channel 221, 3.0 kW (H&V), 300 feet (H&V) (BC Docket No. 82-286, File No. BPH-810410AF), for construction permit for a new FM station; hearing designation order designating applications for consoidated hearing on stated isues.

Adopted: May 20, 1982.

Released: May 27, 1982.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by M. Crawford Clark and John Shideler, d/b/a Montgomery County Broadcasters, (Montgomery) and The Midwest Broadcasting Co., Inc. (Midwest).

2. *Montgomery.* Analysis of the financial data submitted by Montgomery reveals that $47,858 will be required to construct and operate for three months, itemized as follows:

Cash Equipment Purchase	$1,967
Equipment Down Payment	9,648
Equipment Payments (3 months)	2,870
Loan Interest (3 months)	1,200
Miscellaneous	19,000
Operating Costs (3 months)	13,175
Total	47,858

The applicant intends to rely on deferred credit from an equipment supplier. However, Montgomery has submitted two commitment letters. The December 14, 1980 letter from Continental Electronics fails to specify the cost of the equipment to be purchased on deferred credit, and is deficient. Since the July 14, 1980 letter from Rockwell International specifies the same cost figure used by the applicant in completing Paragraph 1 (c) of Section III, FCC Form 301, and appears to comply with our standards for such commitments, our analysis assumes reliance upon the Rockwell International proposal.

The partners, M. Crawford Clark and John Shideler each have agreed to loan $40,000 to the partnership.[1] Analysis of the balance sheet of Clark shows sufficient liquid assets to meet his expenditure. Analsysis of the balance sheet of Shideler shows liquid assets of $39,188.00 with liabilities of $120,497.00 of which $2,255.00 are short term and the remaining $118,239.00 is long term. However, Mr. Shideler has failed to include a payment schedule for these liabilities, as required. We are therefore unable to determine if he has sufficient liquid assets over and above his liabilities to meet his $40,000.00 commitment. Accordingly, a financial issue will be specified.

3. *Midwest.* Analysis of the financial data submitted by Midwest reveals that $127,919 will be required to construct and operate for three months, itemized as follows:

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[1] We note that the partnership agreement of the applicant requires M. Crawford Clark to provide 51% of the capital and John Shideler to provide 49%, although material submitted as financial exhibits states that they will contribute equally initially. Although Montgomery's response in column (g) of Table I, Section II, FCC Form 301, indicates that both partners each hold a 51% interest, it is assumed this is an error, and the partnership interests of Messrs. Clark and Shideler are 51% and 49%, respectfully, as reflected in their agreement.

Equipment	$67,500
Land	11,250
Buildings	2,500
Miscellaneous	19,579
Operating Costs (3 months)	27,000
Total	127,919

Midwest proposes to finance the station by existing capital, profits from existing operations and a $57,000 bank loan net from the First National Bank of Coffeyville. However, analysis of the balance sheet of the applicant shows only $5,402 in liquid assets above current liabilities. Profits from operation of Station KGGF, Coffeyville, would provide $53,000 during the period of construction and first three months operation of the FM Station. The bank letter does not show the terms of repayment of the loan and is deficient. Thus, Midwest has shown only $58,402 to be available to meet projected costs of $127,919. Accordingly, a financial issue will be specified.

4. Data submitted by the applicants indicates that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would recieve FM service of 1mV/m or greater intensity, together with the availability of other primary aural services, in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference whould accrue to either of the applicants.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, that, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specifeid in a subsequent Order, upon the following issues:

1. To determine with respect to Montgomery:

(a) The source and availability of additional funds over and above the $40,000.00 indicated; and

(b) Whether, in the light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

2. To determine with respect to Midwest:

(a) The source and availability of additional funds over and above the $58,402.41 indicated; and

(b) Whether, in the light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

8. It is further ordered, that, the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-15358 Filed 6-4-82; 8:45 am]

BILLING CODE 6712-01-M

[FCC 82-221; BC Docket No. 82-265, File No. BRH-801001 UZ; BC Docket No. 82-266, File No. BPH-801229AE]

Dena Pictures, Inc., et al.; Applications for Construction Permit

In the matter of applications of Dena Pictures, Incorporated and Alexander Broadcasting Company, a joint venture d/b/a Kaye-Smith Enterprises, Has: 99.9 MHz, Channel 260, 100kW (H&V) 1150 feet, For Renewal of License of Station KISW(FM), Seattle, Washington (BC Docket No. 82-265, File No. BRH-801001UZ); and Vincent L. Hoffart, d/b/a Hoffart Broadcasting, Seattle, Washington, Req: 99.9 MHz, Channel 260, 100 kW (H&V), 1148 feet; (BC Docket No. 82-266, File No. BPH-801229AE); for construction permit; memorandum opinion and order, designating applications for consolidated hearing on stated issues.

Adopted: May 13, 1982.

Released: June 1, 1982.

By the Commission:

1. The Commission has before it for consideration: (a) The above-captioned application of Dena Pictures, Incorporated and Alexander Broadcasting Company, a joint venture d/b/a Kaye-Smith Enterprises ("Kaye-Smith" or "licensee") for renewal of license of Station KISW(FM), Seattle, Washington; (b) the mutually exclusive application of Vincent L. Hoffart d/b/a Hoffart Broadcasting ("Hoffart") for a construction permit for a new station to operate on the KISW(FM) frequency;[1] (c) a petition to dismiss Hoffart's application filed by Kaye-Smith and Hoffart's opposition thereto; (d) a petition to deny Hoffart's application filed by Kaye-Smith;[2] (e) Hoffart's "Motion to Strike" the petition to deny; (f) Kaye-Smith's opposition; and (g) Hoffart's reply thereto. In addition, this Order will also consider Kaye-Smith's "Petition for Expedited Relief" and various pleadings associated with that petition.[3]

Kaye-Smith's Petition to Dismiss

2. On March 21, 1981, Kaye-Smith filed a petition to dismiss the Hoffart application. In the petition, Kaye-Smith claims that portions of Hoffart's application were not complete at the time of filing. As a result, Kaye-Smith asserts, Hoffart has failed to establish his ascertainment and financial qualifications or the availability of a transmitter site. For these reasons, the licensee asked that the Hoffart application be dismissed and not accepted for filing. This request, however, is based upon a misunderstanding of our requirements for acceptance for filing. It is well established that an application may be

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[1] On January 12, 1981, Kaye-Smith filed an application to assign the KISW(FM) license to Alexander Broadcasting Company. Alexander Broadcasting Company is the 20% owner of Kaye-Smith Enterprises. The joint venture partner, Dena Pictures, Inc., owns 80% of the licensee. The assignment will be from the joint venture to Alexander Broadcasting Company. For the reasons discussed in ¶19, *infra*, the assignment application will be held in abeyance pending the outcome of this proceeding.

[2] Kaye-Smith's petition is, in essence, a pre-designation petition to specify issues. Since such petitions are no longer permitted, it will be dismissed. *Processing of Contested Broadcasting Applications*, 72 FCC 2d 202 (1979) Kaye-Smith, however, will have an opportunity to raise the issues contained in the petition post designation pursuant to § 1.229.

[3] Those pleadings include: Hoffart's "Response to Kaye-Smith Filing dated 6-23-81, Opposition Thereto and Ex Parte Allegations"; his "Opposition to Petition for Expedited Relief"; a reply to Hoffart's opposition filed by Kaye-Smith; and Hoffart's "Motion to Strike" Kaye-Smith's reply.

acceptable for filing as substantially complete pursuant to § 73.3564 of the Commission's rules and yet not demonstrate the qualifications required for grant. *KALE, Inc.*, 56 FCC 2d 1033 (1975); *Central Florida Enterprises, Inc.*, 22 FCC 2d 280 (1970). The Hoffart application may be deficient in certain respects (see ¶5–¶13, *infra*), but it was substantially complete for the purpose of acceptance for filing.[4]

3. Kaye-Smith also asserts that the Hoffart application should be dismissed for failure to specify an available transmitter site. In his application, Hoffart specified the transmitter and antenna site currently occupied by Kaye-Smith. The licensee, however, has submitted letters from the lessor of its site, Ratelco, Inc., which state the site will be unavailable to Hoffart. By letter dated March 5, 1981, Ratelco stated it had received no inquiry from Hoffart regarding use of the KISW(FM) site should he prevail in a comparative hearing with Kaye-Smith. Further, Ratelco stated that as it did not have evidence of Hoffart's financial capability, it would not lease the site to him. In opposition, Hoffart noted that Ratelco's letter was based on the assumption that Hoffart was not financially qualified and that absent other reasons, Hoffart would be able to allay Ratelco's objections by establishing his financial qualifications. He further stated that no site availability issue should be specified as the Commission has established a conclusive presumption that a renewal applicant's site will be available to a competing applicant, citing *George E. Cameron Jr. Communications*, 71 FCC 2d 460 (1979).

4. It is the policy of the Commission to defer all questions of site availability until completion of the hearing process. *Cameron supra*, as clarified by *Belo Broadcasting Corporation* (WFAA), 88 FCC 2d 922 (1981). Kaye-Smith claims failure to specify a site availability issued would violate its statutory right to a full hearing. However, as we stated in *Belo*, deferral does not affect the licensee's right to a hearing on the issue. If a challenger continues to specify the site of the licensee and that challenger is found comparatively superior, "whatever evidence the incumbent wishes to present will be evaluated to the extent appropriate at the time the Commission considers any modification of the proposed transmitter sites." *Belo, supra*, at 927. The burden remains on the challenger to obtain an approved site and to construct within specified time limits. In view of the foregoing, Kaye-Smith's petition to dismiss Hoffart's application will be defined.

Hoffart's Construction Permit Application

5. *Local Public Notice.* Applicants for new broadcast stations are required by § 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. They must then file with the Commission, pursuant to § 73.3580(h), a statement describing the text of the notice, the dates on which it was published and the newspaper in which that notice appeared. Included with the original filing of Hoffart's application was the text of a public notice which Hoffart stated he would place in the Seattle Post Intelligence on certain specified dates in January 1981. This statement, however, does not comply with the requirements of § 73.3580(h) as it was submitted prior to publication of local notice. Thus, we cannot determine whether the notice was actually published.[5] Accordingly, if he has not already done so, Hoffart will be required to publish local notice of the filing of his application and to file a statement of publication with the presiding Administrative Law Judge within 40 days of the mailing of this Order.

6. *Financial.* Hoffart indicates that $250,500 will be required to construct the proposed facility and operate for three months, itemized as follows:

Equipment (4 months payments)	$12,227
Site Lease (3 months)	3,000
Building (lease, included in operating costs):	
Legal fees	5,000
Engineering Fees	1,000
Installation Costs	5,000
Miscellaneous	7,895
Operating Costs (3 months)	187,225
Contingencies	29,153
Total	250,500

7. Hoffart has stated he will lease the transmitter and antenna site presently leased by Kaye-Smith, estimating his lease payments at $1,000 per month. However, we cannot determine the basis for applicant's estimate of his site lease cost. In pleadings submitted to the Commission pertaining to the availability of the site (see paras. 3 and 4, *supra*), Hoffart admits that he never contacted Ratelco, Inc. concerning lease of the site. Hoffart also failed to submit any evidence to indicate the cost Kaye-Smith currently incurs for leasing the site. Accordingly, this matter must be explored at hearing to determine the basis and actual cost of leasing the site.

8. Hoffart has estimated his equipment lease costs will be $12,227 for the first 3 months (payments of $3056.83/month plus an amount equivalent to one month's rental as a "down payment"). Accordingly to Hoffart, the amount of the equipment lease and the terms of lease agreement were quoted over the telephone by a sales representative of McMartin Industries, an equipment manufacturer. Hoffart, however, has not submitted written documentation verifying the cost and terms of the lease. Accordingly, further inquiry is warranted.

9. To meet his expenses, Hoffart relies on anticipated station revenues of $400,000 for the first 3 months of operation.[6] This amount is equivalent to Hoffart's estimate of what Kaye-Smith earns in a three month period. Hoffart thus claims that $400,000 should be credited to offset his projected costs as he will be continuing operation of an existing station and should be able to generate income "from Day 1". Projected advertising revenues, however, may not be used to determine Hoffart's financial qualifications. The Commission has stated that in situations where a new applicant is competing against the licensee of a station with an established record of advertising revenues, the new applicant still must show that availability of sufficient funds to contruct and operate the proposed station for three months *without* revenues. *Calojay Enterprises, Inc. [WTLC(FM)]*, 33 FCC 2d 690 (1971); *Orange Nine, Inc.*, 7 FCC 2d 788 (1967). Accordingly, Hoffart may not rely on $400,000 in projected advertising revenues to establish his financial qualifications.

10. As an alternative method of financing, Hoffart relies upon $489,123 itemized as follows:

[4] As to ascertainment, we note that for commercial radio stations, the Commission has eliminated the formal ascertainment requirements outlined in the *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 21 RR 2d 1507 (1971) which was in effect at the time of filing of the Hoffart application. *In the Matter of Deregulation of Radio* ("Report and Order"), 84 FCC 2d 968 (1981), recon. denied, 87 FCC 2d 797 (1981). Issues which pertain to an application which was filed prior to the effective date of the Report and Order (April 3, 1981) and which involve questions of the sufficiency of an ascertainment or the failure of an applicant to follow the steps outlined in the *Primer* are no longer specified.

[5] In reply to a letter of inquiry from the Chief of the FM Branch of the Broadcast Bureau dated May 5, 1981, Hoffart included a statement that he had spent over $300 on publication notices alone. This would indicate that local notice was given. Hoffart, however, has not filed a statement in compliance with Commission rules. Therefore, the Commission does not have notice of actual publication.

[6] Hoffart proposed two methods of financing for his proposed station. For discussion of his alternative method of financing, see ¶10, *infra*.

Existing Capital	$27,156
Stocks	[1] 64,759
Real Estate	50,000
"Cash due"	270
Loan (net value)	336,938
Total	469,123

[1] Estimated value of $74,759 minus $10,000 for income tax and assets commissions on stocks.

Section III, Question 2(a) of FCC Form 301 requires an applicant to submit a detailed balance sheet dated within 90 days of the filing of the application and setting forth the applicant's assets and liabilities. Hoffart submitted an undated financial statement which did not indicate liabilities. Therefore, we cannot determine whether Hoffart has sufficient current and liquid assets in excess of current liabilities to meet his financial commitment. Even assuming the financial statement was dated, Hoffart has not established the marketability and liquidity of his stock and real estate interests.[7] Thus, we could not determine whether these sources of funds would be available. Further, Hoffart has not submitted independent verification that the "cash due" is collectible. Therefore, we could not determine whether the amount specified would be available to the applicant.

11. Moreover, assuming the above funds were available, Hoffart has stated that all funds specified are the joint property of applicant and his wife, Alvina C. Hoffart. While Hoffart indicates his wife has no objections to "use of the money for investment purposes", he has not submitted a statement from his wife confirming that the funds listed would be available for construction and operation of the proposed station.

12. Hoffart also intends to rely on a net loan of $336,938 ($350,000 less 3 monthly payments totaling $13,062). However, Hoffart has not submitted a letter from a financial institution or an individual indicating a willingness to make a loan in the amount and on the terms specified by Hoffart, as required by Section III, Question 4 of FCC Form 301. Accordingly, we cannot determine whether this source of funding would be available to the applicant.

13. In light of this analysis, the total costs necessary to construct and operate the proposed station and the availability of funds to meet anticipated expenses are unclear. Accordingly, a general financial issue will be specified.[8]

Other Matters

14. In its "Petition for Expedited Relief", Kaye-Smith requests the Commission to expedite action on its petition to dismiss Hoffart's application by dismissing his application or designating the KISW(FM) renewal application and Hoffart's construction permit application for comparative hearing. In addition, Kaye-Smith requests that, in the event the applications are designated for hearing, the Commission direct that the hearing proceed on an expedited basis and that "the matter * * * be resolved without any reference to the Review Board". Petition, p. 3.

15. We believe our action in this Order designating the applications for a comparative hearing moots Kaye-Smith's request for expedited action on processing of these applications. As to Kaye-Smith's request that the hearing be expedited, no justification has been set forth for the Commission to take such action. Accordingly, we will deny Kaye-Smith's request. The Commission, however, is confident that the Administrative Law Judge appointed to preside over this case will handle it in a manner which will provide an efficient and expeditious resolution of the matters under consideration.

16. In regard to Kaye-Smith's request that this matter be resolved without reference to the Review Board, we note that at the time of Kaye-Smith's request, decisions of Administrative Law Judges in matters pertaining to the renewal or revocation of broadcast licenses were referred directly to the Commission. They were not reviewed by the Review Board. However, on November 12, 1981, the Commission adopted new rules and procedures pertaining to the Review Board and its functions. *In the Matter of Amendment of Parts 0 and 1 of the Commission's Rules to revise delegation of authority to the Review Board*, FCC 81–526 (released November 20, 1981). Effective January 1, 1982, the Review Board was given authority to review decisions of Administrative Law Judges in all adjudicative proceedings (including renewal and revocation of broadcast licenses) unless at the time of designation the Commission specifies otherwise.[9] Thus, the Commission may direct that matters pertaining to certain comparative renewal proceedings not be referred to the Review Board. Kaye-Smith, however, has not presented any public interest justification as to why the Commission should take such action as regards this matter. Accordingly, Kaye-Smith's request will be denied.

17. On July 2, 1981, Hoffart filed a pleading with the Commission wherein he alleges Kaye-Smith has engaged in prohibited ex parte contacts with decision-making personnel at the Commission. Hoffart claims that as he did not receive service of a copy of the licensee's "Petition for Expedited Relief," Kaye-Smith has filed an ex parte communication with the Commission. We find however, that there is no merit to Hoffart's allegation. Section 1.1201(g) of the Commission's Rules defines a written ex parte presentation as "any written presentation, made to decision-making personnel by any other person, which is not served on the parties to the proceeding." Under the provisions of §§ 1.47(d) and 1.47(f) of the rules, documents may be served upon a party by mailing a copy to the last known address, such service being complete upon actual mailing of the document. Kaye-Smith has submitted a copy of a *Certificate of Service* dated June 19, 1981, which attests to the mailing of the "Petition for Expedited Relief" to Vincent L. Hoffart on that date.[10] Accordingly, no further consideration of this matter is required.

Conclusion

18. Examination of Kaye-Smith's renewal application indicates it is legally, technically and otherwise qualified to operate as proposed.[11] However, since the Kaye-Smith and Hoffart applications are mutually exclusive, they must be designated for comparative hearing.

19. In designating these applications for hearing, the Commission must address the effect of a pending assignment application for KISW(FM).

[7] Stocks valued at $2,360 were identified, including 36 shares of RCA Common stock ($1,000), 250 shares of Chester Mining ($360), 70 shares of American General Enterprise Mutual ($560) and 80 shares of Founders Growth Fund ($500). Only the RCA common stock could be credited as a marketable and liquid asset.

[8] As part of his financial showing, Hoffart will be required to submit information concerning his sources of funds and his contingency planning in case the licensee's site remains unavailable. See *Belo, supra* at 927, n. 27.

[9] New § 0.361(a) General Authority.

[10] We note the "Petition" was sent to the same address that Commission records show Hoffart has maintained for a number of years. Thus, it appears that a problem occurred in the delivery of the petition to Hoffart. We note, however, that on July 6, 1981, after becoming aware that Hoffart had not received a copy of the petition, Kaye-Smith mailed another copy to Hoffart which he received on July 10, 1981.

[11] Vincent Hoffart filed a petition to deny and informal objections to the 1980 license renewal applications filed by Kaye-Smith for its Washington and Oregon stations, including (KISW(FM). In a *Memorandum Opinion and Order* adopted today, the Commission concluded that Hoffart's pleadings did not raise a substantial and material question of fact as to Kaye-Smith's qualifications to remain a Commission licensee. That Order therefore denied Hoffart's petition to deny and informal objections.

On January 12, 1981, Kaye-Smith Enterprises filed an application to assign the station's license to Alexander Broadcasting Company. This followed by approximately two weeks Hoffart's filing of a competing application for the KISW(FM) frequency. A question is therefore raised as to which parties should be comparatively evaluated in the hearing proceeding—Kaye-Smith Enterprises and Hoffart or Alexander Broadcasting Company and Hoffart. The Commission's normal practice is to compare the qualifications of the licensee and the new applicant. This is consistent with the intent of section 310(d) of the Communications Act of 1934, as amended, which limits the Commission's consideration in assignment and transfer of control situations to the proposed assignee only. In several cases, however, the Commission has concluded that the public interest is better served by comparing the qualifications of the parties intending to operate the station—namely the proposed assignee and the construction permit applicant. *1400 Corp. (KBMI)*, 4 FCC 2d 715 (1966); *Northwest Broadcasters, Inc. (KBVU)*, 3 FCC 2d 571 (1966); *Arthur A. Cirilli (WIGL)*, 2 FCC 2d 692 (1966). These cases involved unique situations where the parties holding the license did not intend to continue operation of the station (i.e., license held by trustee in bankruptcy, station silent for long period of time). Additionally, in each case, the assignment application was filed at least three months prior to the filing of the competing application. The facts in the cases cited, however, are distinguishable from those in this matter. In this case, the assignment application was filed subsequent to the competing application. Further, there is no unique situation regarding the operation of the station. Kaye-Smith Enterprises presumably will continue to operate KISW(FM) until such time as a determination is made on the matters discussed herein. It would therefore appear that the hearing should involve a comparative evaluation of the qualifications of Kaye-Smith Enterprises and Hoffart Broadcasting. Accordingly, the assignment application will be held in abeyance pending the outcome of the hearing proceeding.

20. Accordingly, it is ordered, that, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications of Dena Pictures, Inc. and Alexander Broadcasting Company, a joint venture d/b/a Kaye-Smith Enterprises and Vincent L. Hoffart d/b/a Hoffart Broadcasting are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether Hoffart Broadcasting is financially qualified to construct and operate the proposed station.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

21. It is further ordered, that the petition to dismiss filed by Kaye-Smith on March 20, 1981 is denied and the petition to deny filed by Kaye-Smith on January 18, 1982, is dismissed.

22. It is further ordered, that the "Petition for Expedited Relief" filed by Kaye-Smith is dismissed in part and otherwise denied.

23. It is further ordered, that, within forty (40) days of the mailing of this Order, Vincent L. Hoffart d/b/a Hoffart Broadcasting shall publish, if he has not already done so, local notice of the filing of his application and file a statement of publication with the presiding Administrative Law Judge.

24. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within twenty (20) days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

25. It is further ordered, that the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the rules, jointly) within the time and the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

26. It is further ordered, that the Secretary shall send, by Certified Mail—Return Receipt Requested, a copy of this *Memorandum Opinion and Order* to each of the parties to this proceeding.

Federal Communications Commission.

William J. Tricarico,
Secretary.

[FR Doc. 82-15290 Filed 6-4-82; 8:45 am]
BILLING CODE 6712-01-M

[BC Docket No. 82-284, File No. BP-781130AD]

Happy Broadcasting Co., Inc.; Application for Construction Permit

In the matter of application of Happy Broadcasting Company, Inc., WPWC, Dumfries-Triangle, Virginia, Has: 1530 kHz, 250 W, D (Quantico, Virginia), Req: 1480 kHz, 500 W, DA-2, U (Dumfries-Triangle, Virginia), for Construction Permit (BC Docket No. 82-284, File No. BP-781130AD); Memorandum opinion and order designating application for hearing on stated issues.

Adopted: May 20, 1982.

Released: May 27, 1982.

By the Chief, Broadcast Bureau.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it for consideration the above-captioned application of Happy Broadcasting Company, Inc. to modify the facilities and change the city of license of its station WPWC, now licensed to Quantico, Virginia. Nationwide Communications, Inc. (licensee of station WLEE, Richmond, Virginia) and Commonwealth Communications Corporation (licensee of station WPRW, Manassas, Virginia) have filed petitions to deny the Happy application, both alleging contour overlap prohibited by § 73.37(a) of the Commission's Rules. Happy, in response, has amended its application to eliminate all overlap with the contours of station WPRW, mooting in the process the Commonwealth petition to deny.[1] The Nationwide petition remains for resolution, however.

2. Nationwide alleges, and Happy denies, that Happy's proposed daytime 0.025 mV/m contour would penetrate the measured 0.5 mV/m contour of co-channel station WLEE, and its proposed daytime 0.5 mV/m contour the measured 0.5 mV/m contour of first-adjacent-channel station WCVA, Culpeper, Virginia. Each party supports its position with measurements ostensibly taken along the same radials under conditions similar to those of its opponent. We cannot, on the basis of information before us, determine why these measurements differ to the extent that they do.[2] Neither WLEE's shifts

[1] As we no longer require a detailed showing of financial qualifications from applicants for modified facilities, *Public Notice*, FCC 80-20, 45 FR 6165 (1980), Commonwealth's challenge to this aspect of Happy's proposal is moot as well.

[2] Nor can we account for the significant discrepancy between Nationwide's calculations concerning WLEE here and those included in the station's June 1975 proof of performance.

from directional to non-directional operation nor its initial failure to file antenna resistance measurements explain the significant discrepancies in the parties' showings. Nor do seasonal temperature variations alone justify the wide variety of measurements offered on WCVA's behalf. A further record is necessary to ascertain which, if any, measurements are reliable under these circumstances. Hence, though Happy is otherwise qualified to construct and operate as proposed, we will designate its application for hearing.

3. Accordingly, it is ordered, that pursuant to section 309(e) of the Communications Act of 1934, as amended, the application of Happy Broadcasting Company, Inc., is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine whether the contours of the proposed station would overlap those of Station WLEE, Richmond, Virginia, or WCVA, Culpeper, Virginia, in violation of § 73.37(a) of the Commission's Rules.

2. To determine, in light thereof, whether the application should be granted.

4. It is further ordered, that the petition to deny filed by Commonwealth Communications Corporation is dismissed as moot, the petition to deny filed by Nationwide Communications, Inc. is granted to the extent indicated herein, and Nationwide is made a party to this proceeding.

5. It is further ordered, that in the event this application be granted, the construction permit shall contain the following condition:

Operation with the facilities specified herein is subject to modification, suspension, or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Final Acts of the ITU Administrative Conference on Medium Frequency Broadcasting in Region 2, Rio de Janeiro 1981, and to bilateral and other multilateral agreements between the United States and other countries.

6. It is further ordered, that to avail themselves of the opportunity to be heard and pursuant to § 1.221 (c) and (e) of the Commission's Rules, the parties herein shall within 20 days of the mailing of this order, in person or by attorney, file with the Commission in triplicate written appearances stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

7. It is further ordered, that pursuant to section 311(a) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, the applicant shall give notive of the hearing as prescribed in the rule, and shall advise the Commission of the publication of the notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division.

[FR Doc. 82-15357 Filed 6-4-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 82-294, File No. BPCT-791227KE, etc.]

Lakeland Telecasters, Inc., et al.; Applications for Construction Permit

In the matter of Applications of Lakeland Telecasters, Inc., Lakeland, Florida (BC Docket No. 82-294, File No. BPCT-791227KE); Plaza Broadcasting, Inc., Lakeland, Florida (BC Docket No. 82-295, File No. BPCT-800521KE); Figgie Communications, Inc., Lakeland, Florida (BC Docket No. 82-296, File No. BPCT-800521KF); Mid Florida Telecasters, Inc., Lakeland, Florida (BC Docket No. 82-297, File No. BPCT-800521KG); Public Interest Corporation, Inc., Lakeland, Florida (BC Docket No. 82-298, File No. BPCT-800521KH); Channel 32, Inc., Lakeland, Florida (BC Docket No. 82-299, File No. BPCT-800521KI); and Manning Telecasting, Inc., Lakeland, Florida (BC Docket No. 82-300, File No. BPCT-800521KJ) For a construction permit; Memorandum opinion and order designating applications for consolidated hearing of stated issues.

Adopted: May 24, 1982.

Released: June 3, 1982.

By the Chief, Broadcast Bureau.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-capitioned mutually exclusive applications of Lakeland Telecasters, Inc. (Lakeland Telecasters), Plaza Broadcasting, Inc. (Plaza), Figgie Communications, Inc. (Figgie),[1] Mid Florida Telecasters, Inc. (Mid Florida), Public Interest Corporation (PIC), Channel 32, Inc. and Manning Telecasting, Inc. (Manning)[2] for a new commercial television station to operate on Channel 32 in Lakeland, Florida. The Commission received the following objections to the construction of Mid Florida's proposed tower: a petition signed by 2,107 residents of Lake County, Florida; letters from the mayors of Clermont, Groveland and Minneola, Florida, three cities near the proposed tower; resolutions passed by the city councils of Clermont, Groveland and Minneola; a resolution passed by the South Lake Aviation Authority; a letter from the Mascotte (Florida) Chamber of Commerce; letters from twenty-six individuals and families; and an informal objection filed by Charles and Jan Sunderman, area residents. The Commission also received a response to the Sunderman objection filed March 5, 1982 by Mid Florida.

Mid Florida Telecasters, Inc.

2. *Environmental Impact.* The objections filed against Mid Florida's application question whether a grant of that application will significantly affect the quality of the human environment.[3] In accordance with the Commission's obligation under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321-4361, as implemented by Sections 1.1301-.1319 of the Commission's Rules, the staff will prepare a draft environmental impact statement (EIS). Our rules, however, do not expressly anticipate the instant situation where, regardless of the environmental impact occasioned by one competing applicant's proposal, a hearing must be held to detemine which application will be granted. *See Golden State Broadcasting Corp.*, 71 FCC 2d 229 (1979), *reconsideration denied*, 83 FCC 2d 337 (1980), *appeal dismissed mem. sub nom, United States* v. *Federal Communications Commission*, No. 80-2559 (D.C. Cir. July 2, 1981). *See also Golden State Broadcasting Corp.*, 46 RR 2d 1207 (1979) (final EIS finds no significant adverse impact). Because of the delay which will result if designation for hearing is deferred until we prepare a draft EIS, we have determined that the public interest would be best served by bifurcating the procedure in this case. *See Golden State Broadcasting Corp.*, 71 FCC 2d at 230-31. Therefore, we will waive Section 1.1317 of the

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[1] On February 22, 1982, this applicant filed an amendment which change its corporate name from A-T-O Communications, Inc. to Figgie Communications, Inc. That amendment is accepted pursuant to Section 73.3522(a)(2) of the Commission's Rules.

[2] The following amendments are accepted pursuant to Section 73.3522(a)(2) of the Commission's Rules: Plaza's amendments filed December 8, 1980, April 1, 1981 and July 16, 1981; Figgie's amendments filed July 28, 1981 and February 22, 1982; Mid Florida's amendments filed January 28, 1982 and February 16, 1982; PIC's amendment filed August 14, 1980; Channel 32, Inc.'s amendments filed September 9 and 16, 1980 and February 23, 1982. The applicants cannot derive any comparative advantage from these amendments because they were filed after the predesignation period for filing amendments as a matter of right. *See Revised Procedures for the Processing of Contested Broadcast Applications*, 72 FCC 2d 202, 210 (1979). *See also Mid Florida Television Corp.*, 76 FCC 2d 158, 163 (1980).

[3] Mid Florida's response to this objection is discussed in paragraph 6 *infra*.

Commission's Rules[4] to the extent that the comparative phase of the case will be allowed to begin before the environmental phase is completed and we will designate these applications for a comparative hearing at this time. The staff will prepare a draft and final EIS. Because the conclusion reached by such a statement is not yet known, a contingent environmental impact issue will be specified. Accordingly, while the qualifications and comparative portions of this proceeding can proceed, final action must be withheld pending disposition of the environmental questions raised by Mid Florida's application.

3. *Informal Objections.* Mid Florida proposes to construct a tower 1,845 feet above ground level (AGL) approximately three miles southwest of Clermont in Lake County, Florida. The proposed tower will be approximately thirty-three miles north of the city of license, which is in Polk County. In their informal objections, the local residents and governments state that construction of the proposed tower will destroy or significantly detract from the natural beauty of an area of lakes, rolling hills, orange groves and residences. They state that because the proposed tower will be located in a rural county with no large towns and no industrial or commercial development, it will be out of harmony with the community's natural beauty. The objectors protest the height, general appearance and obstruction lighting of the proposed tower. They are concerned that a tower of 1,845 feet (AGL), with the requisite obstruction lighting, would be visible for miles by a majority of the area's residents and would destroy the visual harmony of the rurality. They contend that the tower would be an eyesore and an offensive structure especially because the strobe lights would be totally incompatible with the surrounding area and a continuing nuisance to the community. The objectors are also concerned that the location of this tower in their community could lead to the construction of other towers in the locale. The safety of the proposed tower was also questioned by some objectors. The mayors, city councils and other objectors fear that construction of the proposed tower will hinder local development because the site is central to an area of residential growth around the lakes. They are concerned that the site is in the path of Clermont's projected growth and other land available for future growth is limited. Other objections expressed concern about the potential decrease in property values which may result from construction of the tower. Some objectors indicated that the proposed site is in an area extensively used for fishing, boating, hunting and other recreational activities. Many objections noted that the proposed location of Mid Florida's tower is in Lake County, although the facility will primarily serve Lakeland, which is in Polk County. In addition, the objectors state that the area around the proposed tower site is already well served by Tampa and Orlando television stations and by cable television service and thousands of undeveloped, uninhabited acres of land closer to the city of license may be available as a site for the applicant's tower. Many individual objections expressed concern that Mid Florida's local public notice (required by Section 73.3580 of the Commission's Rules) was published in a Lakeland newspaper but not in a Clermont area newspaper. The South Lake Aviation Authority, created by the Florida legislature to select a site for the construction of a general aviation airport in south Lake County, stated that construction of the proposed tower would be detrimental to future commercial, agricultural and general aviation in the area. It requested that the Commission deny Mid Florida's application because the proposed tower site is close to the areas currently in consideration as a site for a general aviation airport. Similar concerns about the effect of the proposed tower on aerial crop spraying and the safety of small aircraft traffic were expressed by other objectors.

4. The Sundermans' filing and other objections contained a discussion of the local zoning proceedings involving Mid Florida's site. They allege that the applicant's actions on the local level suggest deception and that the applicant's representatives made misleading statements to local officials to influence their decision to grant Mid Florida a conditional use permit. The objectors question the adequacy of Mid Florida's notice to other property owners as part of the local zoning procedures. The objectors are also concerned that local officials were not accurately informed on the size of the proposed structure. The Sudermans and others protest Mid Florida's proposal on environmental grounds, stating that the Commission is obligated under NEPA to give appropriate consideration to the effect of the proposed tower on the environment. The Sundermans state that the proposed tower is a threat to the esthetic quality of the environment. They also allege that Mid Florida failed to consider the environmental impact of its proposed facility and did not consult with appropriate local and state agencies regarding potential environmental impact. They also state that the environmental narrative statement filed as a part of Mid Florida's application was deficient. The Sundermans' objection also alleges that Mid Florida's application was defective and incomplete in four respects: the site photographs provided by the applicant are not aerial photographs and do not adequately show the low and wetland nature of surrounding terrain; the applicant failed to list all landing areas within ten miles of the site; no financial statement was submitted for Mr. Lester Cole, a stockholder; and Mr. Henry Czech, a community leader Mid Florida listed as one it interviewed for ascertainment, was not actually interviewed about community problems.

5. *Response to Informal Objections.* Mid Florida responded to the Sundermans' informal objection on March 5, 1982, stating that the objection is unfounded and involves local land use and zoning matters properly left to local authorities. Mid Florida further states that if the Commission chooses to consider environmental issues, it must do so as a part of the predesignation process. Mid Florida contends that the allegations that it engaged in deception to secure local zoning approval for its tower site are refuted by transcripts included with the Sundermans' objection. Mid Florida further argues that the Sundermans' objection itself shows that Mid Florida complied with the public notice requirements of local zoning laws, that the Sundermans, and other local area residents were notified of all proceedings before local authorities and that these individuals met with Mid Florida's local counsel before the proceedings began.

6. Mid Florida states that the environmental narrative statement filed as a part of its application is adequate and the informal objection does not raise serious environmental issues warranting Commission scrutiny. Mid Florida emphasizes that the environmental concerns raised by the informal objection were properly considered in the local zoning proceedings. It also states that if the Bureau decides to address the environmental matters raised by the objections, it must do so prior to any designation for hearing and that the Commission may designate an environmental impact issue for hearing only after following the procedures

[4] Section 1.1317 provides in part that the final EIS will be considered by the Commission in determining whether to grant the application or designate it for hearing on an environmental issue.

provided by Sections 1.1311–.1319 of the Commission's Rules.

7. Mid Florida states that its application was not defective or incomplete. The photographs submitted with its application, Mid Florida states, fully complied with Commission rule requirements and adequately depicit the surrounding terrain. Mid Florida also states that the omission of two local landing areas in its application was inadvertent and the FAA circulated notice of the proposed towers to all appropriate airport operators. No financial statement must be submitted for Mr. Cole, Mid Florida explains, because he already purchased stock and his personal resources are not relied on as a source of funds. Finally, Mid Florida states that Mr. Czech was interviewed by a Mid Florida representative during the ascertainment process and submits a copy of its interview form indicating some discussion of local broadcasting needs.

8. *Discussion.* Many of the objections to Mid Florida's tower involve issues of zoning and land use: preservation of the area's natural beauty and visual harmony, prevention of incompatible land uses, effect on area development and future growth, effect on property values and recreational land use, and the effect on the planning and future construction of a general aviation airport. These objections question the availability of Mid Florida's site based on local zoning approval. The proposed site is owned by Giddens Groves, Inc., (Giddens Groves) which will lease the land to the applicant. WKRG–TV, Inc. owns 100% of Giddens Groves and 87.5% of Mid Florida; all the voting stock of WKRG–TV, Inc. is owned by Mr. Kenneth Giddens. On May 13, 1980, the Board of County Commissioners of Lake County granted Giddens Groves a conditional use permit allowing the construction, operation and maintenance of a television tower and transmitter building on the proposed site. (Sunderman Informal Objection, exhibit D–3). In an amendment filed January 28, 1982, Mid Florida informed the Commission that two lawsuits have been filed in the Florida courts seeking a reversal of the decision of the local zoning authorities. *See* para. 9 *infra.* The Board of County Commissioners, however, has not rescinded the conditional use permit. A letter from the clerk of the Board to the Commission, filed as a part of the Sundermans' informal objection (exhibit D4–A), informs the Commission that local opposition to the proposed tower is growing but does not indicate that the Board is reconsidering the zoning approval.[6] An applicant must show "reasonable assurance" that the proposed site is available, *Radio Ridgefield, Inc.*, 47 FCC 2d 106, 109 (Rev. Bd. 1974), and "reasonable assurance" that it will obtain local zoning authorization, Grace Broadcasting Systems, Inc., 48 RR 2d 936, 940 (Adm. L. Judge 1980) (assumption approval is forthcoming). *Cf. Northbanke Corp.*, 46 RR 2d 453 (1979) (assumption rebutted); *WLCY–TV, Inc.*, 43 FCC 2d 818 (Rev. Bd. 1973) (assumption rebutted). We find that Mid Florida has shown it has reasonable assurance of site availability and reasonable assurance of local zoning approval. In determing whether to specify a site availability issue, the Commission has held that "local requirements for land use will be left to local authorities and that issues inquiring into such matters will not be specified, absent a 'reasonable showing' that the applicant will be unable to obtain approval of his plans from local authorities." *Radio Ridgefield, Inc.*, 47 FCC 2d at 109. *Accord, Gainesville Media, Inc.*, 37 RR 2d 178 (Rev. Bd. 1976). Because the objectors have not made a reasonable showing that Mid Florida's conditional use permit will be rescinded, we will not specify a site availability issue.

9. The Sundermans also allege that Mid Florida engaged in deception before the local zoning authorities, apparently requesting specification of a character qualifications issue. In its response filed March 5, 1982, Mid Florida informed the Commission that the Sundermans and another local property owner instituted actions in the Florida Courts to have the conditional use permit for the site declared null and void. *Sunderman Groves, Inc. v. Board of Lake County Commissioners and Giddens Groves, Inc.*, No. 80–1302–CA–01 and *Ruby Lee v. Board of Lake County Commissioners and Giddens Groves, Inc.*, No. 81–1937–CA–01. Becaude these lawsuits will likely resolve the allegations that local zoning approval was obtained through deception, the outcome of these cases may reflect on Mid Florida's character qualifications to be a Commission licensee. In addition, since the lawsuits seek to declare the conditional use permit null and void, the outcome may affect the availability of Mid Florida's site. Therefore, any grant of a construction permit to Mid Florida will be without prejudice to any action the Commission may deem warranted as a result of any final determination reached in these two civil actions. Mid Florida timely informed the Commission of the local controversy concerning its proposal and of the filing of the two lawsuits, in compliance with the requirements of § 1.65 of the Commission's rules. Therefore, no §1.65 issue is warranted.

10. The objections also question Mid Florida's selection of the proposed site. Some objectors were concerned that the proposed facility will serve Lakeland which is in Polk County, rather than Lake County, where the tower will be located. They state that alternative sites closer to Lakeland are available to Mid Florida which would not be objectionable to Lake County residents. Since the proposal will place an 80 dBu signal over Lakeland, the city of license, as required by § 73.685(a) of the Commission's rules, no issue is warranted regarding Mid Florida's site selection. In addition, although Mid Florida would be obligated to provide city grade service to Lakeland, it would also be obligated to provide secondary service to Clermont and Lake County. *See Sixth Report and Order in Dockets 8736, 8975, 9175 & 8976*, 41 FCC 148, 167 (1952) (television table of assignments).

11. The FAA has determined that the applicant's proposal will not be a hazard to air navigation. The FAA has also determined that obstruction lighting is necessary in the interests of air traffic safety. "The Commission has followed a policy of relying upon the expertise of the FAA in the matter of air hazard and in the absence of substantial evidence to the contrary, the Commission has not challenged the FAA's determination." *State of Florida, Department of Transportation*, 29 RR 2d 511, 512 (1974). Therefore, no air hazard issue will be specified.

12. Although Mid Florida did not publish its local public notice in Clermont, its notice complied with § 73.3580(c) of the Commission's rules which requires an applicant for a new television station to publish a local public notice of the filing of its application "in the community in which the station is * * * proposed to be located." Because Mid Florida fulfilled this requirement, no issue will be specified.

13. The site photographs submitted with Mid Florida's application were taken in eight different directions from

[6] The Commission received a copy of a letter, filed March 31, 1982, from the Department of Environmental Regulation of the State of Florida (DER) to Mid Florida's local counsel. DER indicates that although it has received no information regarding the placement of the proposed facility or the proximity of ancillary support structures, such information is necessary to determine whether state dredge and fill permits will be required prior to construction. Since DER has not determined whether permits are required and, if required, whether to grant the permits, we will not specify a site availability issue based on this letter.

an elevated position on the ground and clearly show the site area. These photographs, therefore, are acceptable in lieu of aerial photographs, in compliance with the requirements of Section V–C, page 3, item 16 of FCC Form 301. Therefore, no issue will be specified. In its response to Section V–G, item 5 of FCC Form 301, Mid Florida failed to list two landing areas within ten miles of the antenna site. This information is requested to determine whether the proposed tower would be a hazard to air navigation. Since the FAA has determined that no air hazard would exist and we defer to that determination, *see* para. 11 *supra,* no issue is warranted. Mid Florida was not required to submit a financial statement for Mr. Cole because he had already purchased stock of the applicant. *See* Section III, page 3, item 4(b) of FCC Form 301. Therefore, no issue will be specified. The Sundermans' objection to the ascertainment portion of Mid Florida's application is not properly considered at this time. Under the Commission's revised procedures, ascertainment issues will no longer be specified for determination in comparative hearings and the filing and review of ascertainment surveys will be deferred until after the grant of a construction permit. *Commission Interim Policy in Regard To Filing of the Ascertainment of Community Needs,* 49 RR 2d 1577 (Public Notice July 31, 1981). Therefore, no issue will be specified.

14. The environmental issues raised by the Sundermans' and other objections will be considered as part of the staff's preliminary review of the environmental impact of Mid Florida's application. *See* para. 2 *supra.* In addition, we find that Mid Florida's environmental impact statement complies with the requirements of Section 1.1311 of the Commission's Rules and, therefore, no issue will be specified.

15. *Conclusion.* For reasons discussed above, the informal objections filed against Mid Florida's application do not raise any issues which will be specified at this time. Therefore, the informal objections will be denied.

Lakeland Telecasters, Inc.

16. *Financial qualifications.* The applicant estimates it will require $722,175 to construct and operate for three months. To meet its costs, Lakeland Telecasters relies on a loan of $722,175 from Fred and Marilyn Button. The balance sheet submitted by the Buttons reveals they do not have sufficient net liquid assets to meet their commitment. An appropriate financial issue will be specified.

Public Interest Corporation

17. *Conditional grant.* Richard E. Adams, vice president and 20.4% owner of PIC is also vice president, director and 25% owner of Radio Station WBAR, Inc., licensee of radio station WBAR, Bartow, Florida. Section 73.636(a)(1) of the Commission's Rules sets forth our policy against granting television construction permits to applicants who directly or indirectly own, operate, or control a radio station which is completely encompassed by the predicted Grade A contour of the proposed television station. The predicted Grade A contour of the applicant's proposed television station completely encompasses the city of license of Radio Station WBAR. The applicant states, however, that Adams will dispose of his stock and resign as an officer and director of WBAR if a construction permit is granted to PIC. Accordingly, any grant of a construction permit to PIC will be appropriately conditioned.

Channel 32, Inc.

18. *Financial qualifications.* Channel 32, Inc. indicates that it will require $685,457 to construct and operate for three months. To meet these expenses, the applicant relies on stock subscriptions and loans from its principals totalling $680,000 and existing capital of $25,800. The applicant's principals have agreed to provide the following amounts: Joseph E. Steuer, $127,500; Phillip H. Derse, $42,500; Jacquie Hur, $85,000; Dr. John R. E. Lee, Jr., $127,500; and John G. Chamberlain, $42,500. Analysis of the balance sheets of Steur, Derse and Hur reveals they do not have sufficient net liquid assets to meet their respective commitments. In addition, Lee and Chamberlain have not submitted current balance sheets (dated within 90 days of the filing of the application). We therefore cannot determine their ability to meet their commitments. Channel 32, Inc.'s balance sheet shows $18,191 of prepaid expenses but it has not demonstrated that these prepaid expenses will reduce its projected costs. In addition, Channel 32, Inc.'s balance sheet shows the availability of only $7,809 of existing capital. Thus, the applicant has demonstrated the availability of funds totalling only $262,609 to construct and operate as proposed. An appropriate financial issue will be specified to detrermine whether Channel 32, Inc. has the additional $422,848 to construct and operate as proposed.

Manning Telecasting, Inc.

19. *Financial qualifications.* Manning estimates its total construction and operating costs will be $214,000. Since Manning has not provided for any legal costs, we cannot determine its actual total costs. Manning proposes to lease $2.6 million of equipment and facilities from Hadar Leasing International Company (Hadar) with monthly payments deferred until eighteen months after installation. To meet operating and miscellaneous expenses of $214,000 the applicant relies on a $225,000 loan from Hadar and supplemental financing in the form of a $250,000 loan from Chalbank, a Merchant bank based in Northern Ireland. On March 27, 1981, however, Hadar filed a debtor's voluntary petition for relief in the United States Bankruptcy Court for the Southern District of New York, seeking relief under Chapter 11 of Title 11 of the United States Code. *In re Hadar Leasing International Co.,* No. 81–B–1068–9.[6] In that petition, Hadar claims liabilities of $4,150,000 and assets of $2,600,000. Therefore, Manning cannot rely on Hadar as a source of equipment or funds and we cannot determine Manning's total costs. Hadar proposed to purchase equipment from Philips Broadcast Equipment Corporation (Philips) for lease to the applicant. This purchase would be financed through Hundred East Credit Corporation (Hundred East), a financing affiliate of Philips. On March 20, 1981, Hundred East filed a civil complaint against Hadar and several individual defendants for fraud and breach of contract. Under these circumstances, Manning cannot reasonably rely on financing from Hundred East or Hadar. In addition, Manning has not submitted any documentation of Chalbank's willingness to extend a loan. Therefore, we are unable to find that Manning will have any funds to finance this proposal. Appropriate financial issues will be specified.

20. *Other matters.* Manning proposes an aural to visual power ratio of approximately 9 percent. Section 73.682(a)(15) of the Commission's rules provides: "The effective radiated power of the aural transmitter shall not be less than 10 percent nor more than 20 percent of the peak radiated power of the visual transmiter." Since Manning's

[6] We take official notice of Hadar's bankruptcy petition which was filed with the Commission as an addition to an application for transfer of control of WDHO–TV, Toledo, Ohio (file no. BTCCT–810330KE).

proposal does not comply with this rule, an appropriate issue will be specified.

Air Hazard Issues

21. We have not received a determination from the FAA that the tower heights and locations proposed by Figgie and Manning would not constitute a hazard to air navigation. In addition, the data on file with the FAA for Plaza and PIC is inconsistent with the data filed with the Commission. Therefore, it has not been determined whether the tower structures proposed by these applicants will constitute a hazard to air navigation. Accordingly, an appropriate issue will be specified.

Conclusion and Order

22. Except for the possible addition of an environmental issue against Mid Florida Telecasters, Inc., and the issues specified below, the Commission finds the applicants legally, financially, technically and otherwise qualified. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that a grant of the applications will serve the public interest, convenience and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues set out below.

23. Accordingly, it is ordered that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, on the following issues:

1. To determine, with respect to Plaza Broadcasting, Inc., Figgie Communications, Inc., Public Interest Corporation and Manning Telecasting, Inc., whether there is a reasonable possibility that the tower height and location proposed by each would constitute a hazard to air navigation and, therefore, whether the applicants are technically qualified.

2. To determine, with respect to Lakeland Telecasters, Inc., the availability of funds to meet the applicant's costs and, therefore, whether the applicant is financially qualified.

3. To determine, with respect to Channel 32, Inc., whether the applicant has an additional $422,848 available to construct and operate as proposed and, therefore, whether the applicant is financially qualified.

4. To determine, with respect to Manning Telecasting, Inc.:

(a) The total costs to construct and operate as proposed;

(b) The availability of funds to meet those costs;

(c) Whether the applicant's technical proposal complies with the requirements of § 73.682(a)(15) of the Commission's rules regarding the effective radiated power of the aural transmitter;

(d) Whether, in light of the evidence adduced pursuant to (a) through (c) above, and issue 1, the applicant is qualified to construct and operate as proposed.

5. With respect to Mid Florida Telecasters, Inc.:

(a) If the final environmental impact statement concludes that the proposed facilities are likely to have an adverse effect on the qualify of the environment, to determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by §§ 1.1301–1.1319 of the Commission's rules.

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

6. To determine, which of the proposals would, on a comparative basis, best serve the public interest.

7. To determine, in light of the evidence adduced pursuant to the foregoing issues which application should be granted.

24. It is further ordered that § 1.1317 of the Commission's rules is waived, to the extent indicated herein.

25. It is further ordered that final acton on the applications shall be withheld pending Commission disposition of a final environmental impact statement as to the proposal of Mid Florida Telecasters, Inc.

26. It is further ordered that any action on Mid Florida Telecasters, Inc.'s application is without prejudice to whatever action, if any, the Commission deems warranted as a result of any final determination reached in the actions entitled *Sunderman Groves, Inc. v. Board of Lake County Commissioners and Giddens Groves, Inc.*, No. 80–1302–CA–01 and *Ruby Lee v. Board of Lake County Commissiohers and Giddens Groves, Inc.*, No. 81–1937–CA–01, now pending in the courts of the State of Florida.

27. It is further ordered that the informal objections filed against Mid Florida's application are denied.

28. It is further ordered that if Public Interest Corporation's application is granted, the construction permit shall be conditioned to require Richard E. Adams to certify to the Commission, prior to the commencement of operation, that he has severed all interest in or connection with the licensee of Radio Station WBAR.

29. It is further ordered that the Federal Aviation Administration is made a party to the proceeding with respect to issue 1.

30. It is further ordered that, to avail themselves of the opportunity to be heard, the applicants and party respondent herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

31. It is further ordered that the applicants herein shall pursuant to § 311(a)(2) of the Communications Act of 1934, as amended, and § 73.594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice, as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82–15296 Filed 6–4–82; 8:45 am]

BILLING CODE 6712–01–M

[BC Docket No. 82–282; File No. BRH–790601F6 et al.]

Mid-Ohio Communications, Inc. et al.; Designating Applications for Consolidated Hearing on Stated Issues

In re Applications of Mid-Ohio Communications, Inc. For Renewal of License of Station WBBY(FM), Westerville, Ohio, Has: 103.9 MHz, Channel 280 2 kW (H&V), 280 feet, (BC DOCKET NO. 82–282, File No. BRH–790601F6); Metro Broadcasting, Inc., Westerville, Ohio For Construction Permit Req: 103.9 MHz, Channel 280 2 kW (H&V), 360 feet, (BC DOCKET NO. 82–283 File No. BPH–790904AK) William R. Bates (Transferor) and QNP Corporation (Transferee) For Transfer of Control of Mid-Ohio Communications Inc., Licensee of Station WBBY(FM), Westerville, Ohio, (File No. BTCH–800314GQ) Memorandum Opinion and Order.

Adopted: May 20, 1982.

Released: June 1, 1982.

1. The Commission has before it for consideration the application of Mid-Ohio Communications, Inc. (Mid-Ohio) for renewal of license of Station WBBY(FM), Westerville, Ohio, and the application of Metro Broadcasting, Inc. (Metro) for a construction permit for the

frequency presently licensed to WBBY(FM). Since the applications are mutually exclusive, they must be designated for a comparative hearing.[1] Also before us is the above-captioned application to transfer control of Mid-Ohio from William R. Bates to QNP Corporation (QNP).

Mid-Ohio

2. Certain background information concerning Mid-Ohio and its principles requires discussion. Mid-Ohio, the licensee of Station WBBY(FM), is owned 50.1 percent by William R. Bates, 24.9 percent by Richard P. Nourse and 25 percent by QNP. In December 1977, Mid-Ohio, through the action of the majority of its Board of Directors, brought suit against William R. Bates in the Court of Common Pleas of Delaware County, Ohio. *Mid-Ohio Communications, Inc.* v. *William R. Bates,* Case No. 77–CIV–454. On December 6, 1977 and February 7, 1978, the Court of Common Pleas issued a Temporary Restraining Order and a Preliminary Injunction, respectively, with respect to Mr. Bates. These Orders restrained and enjoined Mr. Bates from, *inter alia,* entering on the premises of the radio station; interfering with its operation in any way; and calling a shareholders' meeting for the purpose of removing any directors or for any purpose affecting the licensee's business. The injunction was based upon findings that certain actions and omissions of Mr. Bates demonstrated a lack of business knowledge and judgment which jeopardized the station's license and that he had "on occasion been publicly disruptive and annoying" and had caused the loss of significant business clients. The Court characterized Mr. Bates' behavior as "bizarre" and concluded that he was "suffering from a medical condition which has severely impaired his ability to function with or on behalf of" the licensee.[2]

3. On December 18, 1978, the above-captioned transfer application was tendered for filing seeking Commission consent to the transfer of control of Mid-Ohio, from William R. Bates to QNP. The application was tendered without the signature of Mr. Bates, the licensee's controlling stockholder. In addition, in early 1978, Mr. Bates become involved in a divorce proceeding which ultimately resulted in his divorce from his wife. Pursuant to Judgment Entries of the Court of Common Pleas, Franklin County, Ohio, Division of Domestic Relations in Case No. 78 DR–02–404, Mr. Bates was ordered to convey his 50.1 percent stock interest in Mid-Ohio to an escrow account maintained by Chapman Company, Inc. until sale of the stock at the highest price received through sealed bids. By letter dated September 10, 1979, J. William Chapman stated: "This is official notice the QNP Corporation is the successful high bidder. The escrow money is being placed immediately in our escrow account awaiting final closing (confirmation) after FCC Aproval." The Court also directed Mr. Bates to sign all documents and applications necessary for consent of the Commission to a transfer. Upon failing to sign the pending transfer application, the domestic relations court directed David M. Buda, Esquire, to act on behalf of Mr. Bates and to execute the transfer application. The application was subsequently amended on March 14, 1980, pursuant to the Court's order.

4. While the transfer application for Mid-Ohio was pending, an application was filed for the assignment of license of AM Station WRFD, Columbus-Worthington, Ohio, to QNP. Both Metro Broadcasting, Inc. and Mr. Bates filed separate petitions to deny the WRFD application. In addition to raising issues against QNP regarding misrepresentations and a premature transfer of control over the operation of WRFD, Metro alluded, without specific allegations of fact, to QNP's "attempts to take control of [Mid-Ohio] without prior Commission approval." Mr. Bates' petition challenged the qualifications of QNP solely on the basis of the controversy and litigation surrounding Mid-Ohio and Mr. Bates' stock interest therein. Before these issues were addressed and resolved by the Commission, the application for assignment of the WRFD license was dismissed at the request of the assignor.

5. For the reasons set forth below in paragraphs 8–14, we find that Metro's allegations concerning QNP's misrepresentations in the WRFD transaction and its premature assumption of control of WRFD fail to present substantial and material questions of fact as to QNP's qualifications to be a Commission licensee. Before addressing these matters, however, we believe it appropriate to discuss the pending captioned application to transfer control of Mid-Ohio, the WBBY(FM) licensee, from William R. Bates to QNP.[3]

6. As stated previously, in late 1977 and early 1978, a majority of Mid-Ohio's directors removed Mr. Bates as President of the licensee corporation and obtained orders from an Ohio court restraining and enjoining him from interfering in any way with the operation of the station. Further, in early 1978, Mr. Bates became involved in divorce proceedings, which resulted in the sale of his 50.1 percent ownership interest in WBBY(FM) to QNP.[4] The money for that stock was placed in an escrow account to await final approval of a transfer application by the Commission. Thus, at this point in time there is no one with an unemcumbered legal right to vote the 50.1 percent stock interest. This situation is critical, especially in view of the fact that the licensee expects the imminent resignation of Mr. Bates' son, who has served as the general manager.

7. Considering the unique circumstances presented by the above facts, the pending transfer application will be granted. Significantly, we note that there has been no trustee or conservator appointed regarding Mr. Bates' interests in Mid-Ohio. In fact, that controlling ownership interest now resides in an escrow account, pending action by the Commission. While substantive changes in the ownership structure of a license renewal application that faces a comparative hearing are not normally allowed, unless the instant transfer application is granted at this point in time, (WBBY)(FM) will remain hamstrung, with resulting adverse effect on its ability to operate in the public interest.

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[1] Metro's mutually exclusive construction permits application was filed on September 4, 1979. On that date, William R. Bates also filed a construction permit application for WBBY(FM)'s facilities. However, by letter dated December 3, 1981, his application was dismissed for failure to prosecute pursuant to § 73.3568(b) of the Commission's Rules.

[2] On June 4, 1979, the Court issued a Permanent Injunction enjoining Mr. Bates from numerous actions concerning WBBY(FM). The Permanent Injunction was appealed by Mr. Bates and the appeal was dismissed.

[3] On December 23, 1981, an FCC Form 316 application (BTC–811223HW) was filed to transfer control WBBY(FM) to QNP. The application was precipitated by the proposed resignation of WBBY(FM)'s general manager (Mr. Bates' son) which is to take effect no later than six months from December 1981. QNP believes it must hire a general manager, infuse additional capital in the station and take other steps it claims are necessary to protect its existing stockholder interest in the licensee. It is seeking action on the Form 316 application as interim relief. Metro has opposed the application alleging, primarily, that the use of a Form 316 application is inappropriate under the Commission's rules and that the actions which QNP proposes to take at WBBY(FM) are not consistent with Ohio law. In view of our action today granting the long-form 315 application, this 316 application and the pleadings directed thereto will be dismissed as moot.

[4] Although Metro has referred to improprieties, without supporting facts, and Mr. Bates has stated his opposition to the actions of Mid-Ohio and the courts, the Commission is not the proper forum for determining whether the Ohio court's actions were proper under Ohio law. In fact, Mr. Bates' appeals of the court orders were rejected by those forums with the jurisdiction over such matters.

Also, grant of the instant transfer application is the only reasonable course of action that would ensure that a meaningful comparison will be made. Accordingly, our grant of the transfer application would best serve the public interest by ensuring continued operation of the station during the pendency of the hearing proceeding.

8. We now turn to the unresolved allegations concerning QNP and its prinicipals which were raised in the WRFD proceeding. Metro, in its petition to deny the WRFD assignment application, alleged that QNP had intentionally misrepresented the names and positions of the persons who conducted the assignee's community leader ascertainment survey. In an exhibit prepared by Donald L. Shaw, its vice president, QNP stated that the community leader interviews were conducted by WRFD's general manager, Joseph Bradshaw and by several QNP principals, namely, Messrs. Carl Nourse, Donald Shaw, and Paul Aselin. Moreover, the assignee's community leader selections were said to be "made by personal familiarity with Community and various published lists of Public and Civic Leaders." Metro maintained that those statements were false, contending that the majority of the interviews were conducted by other persons hired for that purpose and that those individuals, not QNP or the aforenoted principals, chose the leaders to be interviewed.

9. In affidavits and materials submitted with its opposition pleading and in response to a letter from the Chief of the Broadcast Bureau's Renewal and Transfer Division requesting full particulars regarding the WRFD community leader survey, Mr. Shaw denied any intent to deceive or mislead the Commission or the public.[5] He explained that Mr. Bradshaw and each of the principals personally interviewed a number of community leaders. In addition, he stated that he and Messrs. Nourse and Aselin also directed and supervised Mr. Aselin's wife and certain of their other business employees and associates, whom they had selected to assist them in surveying the remaining persons included in the community leader categories assigned to each QNP principal. Since the assignment application form did not call for a listing of each and every individual who held an interview, only the QNP principals and Mr. Bradshaw, who had directed and conducted the ascertainment interviews and who would be responsible for using the knowledge of those results, were listed. Disclaiming any attempted concealment of the other interviewers who participated in the community leader survey, Mr. Shaw pointed out that summary survey forms, which were signed by those interviewers and by the QNP principal who reviewed them, were initially included in the WRFD public inspection filed and later made available to one of Metro's principals, Mark Litton.[6]

10. It is uncontroverted that Mr. Bradshaw and Messrs. Nourse, Shaw, and Aselin conducted community leader interviews; and Mr. Shaw's statement to that effect in the WFRD assignment application was both accurate and complete. That other persons had also made community leader interviews, however, was not obvious from the face of that ascertainment exhibit; and to that extent, the description of QNP's leadership survey activities was incomplete. Metro believes that this omission was designed to mislead. However, the arguments propounded in support of Metro's view are not convincing. QNP has proferred a plausible explanation for its failure to include the other interviewers in the description of its leadership survey activities. From the materials before us, it does not appear that the information was omitted in an attempt to conceal their participation. Indeed, the placement in the station public inspection file of the community leader interview forms used by those persons, together with the WRFD assignment application and the subject ascertainment exhibits, would be incongruous with such motivation on QNP's part. Metro's contrary opinion notwithstanding, the subsequent removal of those interview forms from the WRFD file does not detract from the significance of the public availability of the information in the first instance. Under the foregoing circumstances, we do not believe that this matter which was apparently inadvertent, warrants further exploration in an evidentiary hearing.

11. Metro next alleged that Carl Nourse, one of QNP's principals, misrepresented himself to the principals of the WRFD licensee as an experienced broadcaster, specifically claiming that he exercised positive control over the licensee of WBBY(FM) and that at one time he had owned 20 percent of station WLW, Cincinnati, Ohio. Mr. Nourse, in an affidavit, stated that he never claimed he had owned 20 percent of WLW, or exercised any control over WBBY(FM); and further stated that none of QNP's principals serve as officers or directors of Mid-Ohio, the WBBY(FM) licensee. We find that Metro's unsupported allegation is adequately refuted by Mr. Nourse's sworn denial and does not present a material question of fact warranting further inquiry.

12. Metro also alleged that QNP had prematurely assumed control of Station WRFD by having the licensee hire a new general manager, John Fraim, whom QNP proposed to retain as its general manager. The hiring of Mr. Fraim was purportedly taken after consultations between WRFD and Mr. Nourse and at Mr. Nourse's direction. Metro further contended that Fraim met two or three times a week with QNP's principals and that an (unidentified) "official" of QNP met with WRFD's present employees to plan a new advertising rate card. QNP denied these allegations. Mr. Nourse, in an affidavit, stated that Mr. Fraim was hired by WRFD without any collusion with QNP, noting that the contract for the sale of WRFD provided for the termination of all existing WRFD contracts by December 31, 1979. He further stated that QNP played no role in program decisions regarding WRFD or in the revision of the rate card for WRFD.

13. The WRFD licensee submitted statements in support of QNP to the effect that: it had not relinquished any control of WRFD; its prior general manager resigned on October 11, 1979, to go into the insurance business; Carl Nourse, thereafter, discussed the availability of John Fraim, an established Columbus radio personality, with principals of WRFD; WRFD hired Fraim after warning him that his present job would end when the station was sold to QNP; and Fraim took orders only from WRFD's principals, who also were the sole determiners of WRFD's rate card. WRFD also submitted an affidavit of John Fraim asserting that he was actually hired at WRFD by its vice-president with the awareness that his job would not be secure after the station was sold; that he spoke with Mr. Nourse, but was given no assurance by

[5] Also supplied was an affidavit of QNP's president, Carl Nourse, who affirmed Mr. Shaw's statements concerning the assignee's ascertainment activities, including the avowal that QNP in conducting its community leader ascertainment survey had mistakenly followed guidelines for license renewal applicants. Only after the filing of the Metro petition to deny did QNP become aware of separate Commission Primers for license renewal applicants and for applicants filing assignment, transfer of control and construction permit applications and that it, thereupon, reconducted its defective survey in accord with the requirements for assignment applications.

[6] Metro alleged that a subsequent request to inspect those forms was denied and those forms were removed from the public file. Section 73.3526 of the Commission's Rules does not require such forms to be kept available in a station's public file in connection with an assignment application.

him that he would be hired by QNP; that he, Fraim, recommended increasing the rate card; and, that he occasionally met with Nourse to keep him apprised of station happenings, but never to receive instructions as to the operations of WRFD.

14. We reject Metro's allegation that WRFD's hiring of John Fraim raised a question of an unauthorized transfer of control. While Metro charged that QNP was surreptitiously responsible for Fraim's hiring, and that Fraim was in fact QNP's agent, no specific allegations or affidavits that would bear this out were presented. In *Radio Corpus Chrtisti, Inc.*, 70 FCC 2d 1555 (1979), we concluded that no question of an unauthorized transfer of control arose, *per se*, from an assignor hiring a former employee of the assignee. In the instant case, Fraim was not even a former employee and, under the factual situation presented, we find that Fraim's occasional consultations with the proposed future owners of WRFD did not raise substantial and material questions of fact concerning an unauthorized transfer of control. No specific information has been presented that control over the operation of WRFD was being exercised in any way by QNP.[7]

Metro

15. Corporate applicants must file with their applications one copy of their by-laws certified by an appropriate official of the corporation. (FCC Form 301, Section II, Paragraph 3) Although Metro stated that it would file its by-laws as soon as they were prepared, review of the Commission's records indicates that it has not yet filed them. Accordingly, Metro will be directed to file a certified copy of its by-laws.[8]

16. Metro's application reveals the following estimated cost for construction and three month's operation:

Equipment	$103,643
Land (included in operating costs) to be leased	
Building	4,000
Legal and Miscellaneous	11,000
Operating Costs	30,000
Total	148,643

To meet these estimated costs, Metro states it will have $176,614.16, consisting of $50.00 in existing capital, $76,614.16 in net deferred credit from its equipment supplier, and $99,950.00 in new capital from its principals. To raise its new capital, Metro states that each principal will purchase his shares by tendering to the corporation the sum of $62.50 per share in addition to signing a note for $187.50 per share, which is to be paid at the time Metro receives a construction permit. However, Metro has not provided stock purchase agreements or balance sheets indicating that each principal has the ability to comply with the terms of a stock purchase agreement. Thus, the Commission is unable to determine whether each principal will be able to meet his obligation to Metro and, therefore, whether Metro will have sufficient funds to operate as proposed. Accordingly, a financial issue will be specified.[9]

17. In view of the foregoing, we conclude that the parties to the transfer of control application are qualified to effectuate the transaction, and that the grant of the transfer application would serve the public interest, convenience and necessity. Furthermore, we also conclude that, except for the issues specified herein, Mid-Ohio and Metro are qualified to operate as proposed. However, since their applications are mutually exclusive, they must be designated for a comparative hearing.

18. Accordingly, it is ordered, that the application (BTCH–800314GQ) to transfer control of Mid-Ohio from William R. Bates to QNP Corporation is granted, and the application (BTC–811223HW) filed on Form 316 for the same purpose is dismissed as moot.

19. It is further ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the renewal application of Mid-Ohio Communications, Inc. and the construction permit application of Metro Broadcasting, Inc. are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine with respect to Metro Broadcasting, Inc:

(a) Whether it has sufficient funds to meet its proposed costs of construction and operation for three months; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

(2) To determine which of the proposals would, on a comparative basis, better serve the public interest.

(3) To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

20. It is further ordered, That Metro Broadcasting, Inc. shall file a properly certified copy of its by-laws with the presiding Administration Law Judge within 30 days of the release of this Order.

21. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in the Order within 20 days of the mailing of this Order pursuant to § 1.221(c) of the Commission's Rules

22. It is further ordered, That the applicants herein shall give notice of the hearing pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, either individually or jointly, if feasible and consistent with the Rules, within the time and in the manner prescribed in Rule 73.3594, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

23. It is further ordered, That the Secretary shall send by Certified Mail-Return Receipt Requested a copy of this Memorandum Opinion and Order to each of the parties to this proceeding.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-15279 Filed 6-4-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 82-290; File No. BPCT-800325KE et al.]

Ohio Telecasting, Inc. et al.; Designating Applications for Consolidated Hearing on Stated Issues

In re Applications of Ohio Telecasting, Inc., Akron, Ohio (BC Docket No. 82–290, File No. BPCT–800325KE); Ebony Blackstar Broadcasting Corporation, Akron, Ohio (BC Docket No. 82–291 File No. BPCT–800806KH); Rhema Television Corporation, Akron, Ohio (BC Docket

[7] Metro also contended that Nourse had attempted to hire an advertising manager for WRFD, but this allegation was devoid of specificity and was unsupported by affidavit.

[8] On March 12, 1982, Metro filed a petition for leave to amend its application pursuant to § 1.65 of the Commission's rules. The amendment provides that on February 10, 1982, Robert Casagrande was made a 16.6% shareholder and director of Metro. Metro states that it does not propose to integrate Mr. Casagrande into the management of the station and thus disclaims any comparative advantage. Accordingly, the petition for leave to amend is granted and the amendment is accepted.

[9] The financial information contained in Metro's application fails to show that Metro is financially qualified. On March 12, 1982, Metro amended its application to certify that it was financially qualified. Because the only information on file indicates that Metro is not financially qualified, and because it has not stated that its financial plan has been amended, we cannot credit its certification.

No. 82-292 File No. BPCT-800806KI); Akron Telecasting, Inc., Akron, Ohio (BC Docket No. 82-293, File No. BPCT-800806KJ].

Memorandum Opinion and Order

Adopted: May 20, 1982
Released: June 1, 1982.

1. The Commission, by the Chief, Broadcasting Bureau, has before it the above-captioned mutually exclusive applications of Ohio Telecasting, Inc. (OTI),[1] Ebony Blackstar Broadcasting Corporation (Ebony Blackstar), Rhema Television Corporation (Rhema) and Akron Telecasting, Inc. (ATI), for a new commercial television station to operate on Channel 55 in Akron, Ohio; [2] petitions to deny the applications of OTI and Rhema filed by Summit Radio Corp. (Summit) and related pleadings.

Standing

2. Summit, the licensee of television station WAKR-TV, Channel 23, Akron, Ohio, filed petitions to deny the applications of OTI and Rhema. Summit claims standing as a party in interest within the meaning of Section 309(d) of the Communications Act of 1934, as amended, on the grounds that the station proposed by each applicant would directly compete with WAKR-TV for audience and advertising revenues. We find that Summit has standing. *See Federal Communications Commission v. Sanders Brothers Radio Station*, 309 U.S. 470 (1940).

De Facto Reallocation

3. Summit contends that a grant of OTI's proposal would constitute *de facto* reallocation of Channel 55 from Akron to Cleveland. Summit presents three grounds on support of this contention: 1) OTI proposes a transmitter location 8.2 miles from Akron and 22.3 miles from Cleveland; 2) OTI proposes to directionalize its antenna to place a strong signal over Cleveland, but the proposed transmitter location will cause shadowing so that OTI will not place the requisite 80 dBu contour over the entire city of Akron; and 3) the ascertainment portion of OTI's application evinces an intent to serve Cleveland rather than Akron. OTI responds that the comparative distances between its proposed transmitter location and the two cities do not raise a *de facto* reallocation question. OTI states that it proposes a directional antenna to provide equivalent coverage to Akron at a lower cost than with a nondirectional antenna. OTI also states that any signal radiated toward Cleveland is likely to experience severe shadowing and shadowing in parts of Akron would be minimal. To correct any shadowing problems, OTI proposes to use one or more translators.

4. Summit also contends that grant of Rhema's application would constitute *de facto* reallocation of Channel 55 to Cleveland based on the following grounds: 1) Rhema proposes to sidemount its antenna on an existing tower located midway between Cleveland and Akron, which is used by two Cleveland radio stations: and 2) Rhema's proposed city grade contour will include Cleveland, but Canton, a major city southwest of Akron, will be encompassed by only a Grade B contour. In response, Rhema states: 1) its proposed transmitter location is in compliance with Commission Rules since it will place a city grade contour over the entire city of Akron; 2) its main studio will be in Akron; and 3) Summit did not present any evidence that Rhema will abandon or neglect its responsibility to serve Akron.

5. The *de facto* reallocation doctrine was defined by the Commission in *Central Alabama Broadcasters, Inc.*, 68 FCC 2d 1339, 1340 (1978): "*De facto* reallocation requires that there be an element of removal of the channel from one city and an effective use in another city; there can be no reallocation if either element is missing." In *Hall Broadcasting Co., Inc.*, 71 FCC 2d 235, 237 (1979) (footnote omitted), the Commission restated the doctrine, "*(D)e facto* reallocation involves an attempt to utilize a channel assigned to one community in order to establish a broadcast service in another community, thereby depriving the assigned community of service from that channel." The Commission continued, "so long as it appears that an applicant will provide service to the assigned community, additional service rendered by it to other communities does not result in a *de facto* reallocation." *Id.* Our analysis of the relevant cases reveals that the *de facto* reallocation doctrine is most often applied to applications for major modifications of existing facilities which propose relocation of the transmitter. *See, e.g., Communications Investment Corp. v. Federal Communications Commission*, 641 F. 2d 954 (D.C. Cir. 1981); *Louisiana Television Broadcasting Corp. v. Federal Communications Commission*, 347 F. 2d 808 (D.C. Cir. 1965) (per curiam); *Wometco Enterprises, Inc. v. Federal Communications Commission*, 314 F. 2d 266 (D.C. Cir. 1963) (per curiam); *Hall Broadcasting Co. Inc.; Central Alabama Broadcasters, Inc.*, 68 FCC 2d 1339 (1978); *Great Trails Broadcasting Corp.*, 59 FCC 2d 916 (1976). In the *Communications Investment Corp.* case, the Commission granted without a hearing the applications of two FM stations licensed to Ogden, Utah, to relocate their transmitters to a site used by Salt Lake City stations, 18 miles from Salt Lake City (population 176,000) and 41 miles from Ogden (population 72,000). The court reversed and remanded, identifying nine factors of decisional significance the Commission should consider in determining whether an applicant realistically proposes to serve another, usually larger, community rather than the city of license. These factors were gathered from cases where the court or the Commission required an evidentiary hearing on a *de facto* reallocation issue. The factors discussed in the *Communications Investment Corp.* case provide a framework for our analysis of OTI's and Rhema's proposals.

6. *Ohio Telecasting, Inc.* The factors indicating that OTI intends to serve Akron, the city of license, are: (1) the ratio of the distance between OTI's proposed site and Akron (8.2 miles) to the distance between its proposed site and Cleveland (22.3 miles) is 1:2.7; (2) proposing to operate with maximum permissible effective radiated visual power (ERP), 5,000 kW, OTI will place a 108 dBu contour over Akron, with minor shadowing in parts of the city, and an 89 dBu contour over Cleveland;[3] (3) OTI's

[1] OTI requested authorization to operate subscription television (STV) on its proposed facilities (File No. BSTV-800325KF). In the *Second Report and Order in Docket 21502*, F.C.C. Release No. 81-13 (released March 25, 1981), the Commission decided not to consolidate STV authorization request with applications designated for hearing where some propose STV operation and others propose conventional facilities. Accordingly, OTI's STV authorization request will not be consolidated for hearing in this proceeding.

[2] The following amendments are accepted pursuant to Section 73.3522(a)(2) of the Commission's Rules: OTI's amendments filed December 31, 1980, February 3, 1981, April 1, 1981 and November 24, 1981; Rhema's amendments filed January 29, 1981, June 2, 1981 and November 12, 1981; ATI's amendments filed December 16, 1980, March 3, 1981, March 17, 1981, June 2, 1981 April 17, 1981, June 15, 1981, November 19, 1981, February 4, 1982 and March 15, 1982. The applicants cannot derive any comparative advantage from these amendments because they were filed after the predesignation period for filing amendments as a matter of right. *See Revised Procedures for the Processing of Contested Broadcast Applications*, 72 F.C.C. 2d 202, 210 (1979). *See also Mid Florida Television Corp.* 76 F.C.C. 2d 158, 163 (1980).

[3] OTI will place a 100 dBu contour over the Akron city limit farthest from the proposed transmitter site and a 116 dBu contour over the Akron city limit closest to the site; the median signal strength over Akron will be 108 dBu. OTI will place an 83 dBu contour over the Cleveland city limit farthest from the site and a 95 dBu contour over the Cleveland city limit closest to the site; the median signal strength over Cleveland will be 89 dBu.

proposed site is used by two radio stations licensed to Akron; (4) OTI has not shown a prior interest in obtaining a license to operate a television station in Cleveland; and (5) OTI's studio will be located in Akron. Two factors which might suggest that OTI intends to serve Cleveland, rather than Akron: (1) the ratio of the population of Akron (275,425) to that of Cleveland (750,903) is 1:2.7; and (2) OTI has not shown any unique advantage to the proposed site. In *Communications Investment Corp.*, 641 F. 2d at 989, the court noted, "The importance of (the distance ratio) factor is obvious." Here, as in *Central Alabama Broadcasters*, 68 FCC 2d at 1340, there is no claim that OTI will not provide city grade service to the city of license; there is no claim that the transmitter will be substantially closer to Cleveland than to Akron nor that the main studio will be located in Cleveland rather than in Akron; there is no claim that Cleveland will receive a stronger signal than Akron. The only indications of OTI's alleged intent to serve Cleveland rather than Akron are the population ratio and the lack of unique advantage to the proposed site. We find both essential elements of *de facto* reallocation—removal of the channel and effective use in another city—are missing in this case. *See id.* No *de facto* reallocation issue will be specified based on the shadowing of OTI's signal in Akron because any shadowing will be minor and OTI's proposal complies with Section 73.685(a) of the Commission's Rules which requires stations operating on Channel 55 to provide at least an 80 dBu contour over the entire city of license. *See* para. 11, *infra*. In addition, because OTI has made an appropriate showing of need in support of its proposal to use a directional antenna, *see* para. 10 *infra*, the proposed use of such an antenna does not support a *de facto* reallocation issue. We do not find that OTI's application is an attempt to alter the balance of public interest considerations underlying the Table of Assignments and, therefore, no *de facto* reallocation issue will be specified against OTI.[4]

7. *Rhema Television Corp.* Four factors suggest that Rhema intends to serve Cleveland rather than Akron: 1) the ratio of the population of Akron (275,452) to Cleveland (750,903) is 1:2.7; 2) proposing to operate with less than half the maximum permissible effective radiated visual power (ERP), 2,300 kW, Rhema will place a stronger signal over Cleveland;[5] 3) Rhema's proposed site is used by two radio stations licensed to Cleveland; and 4) no unique advantage to the proposed site. The ratio of the distance between Rhema's proposed site and Akron (15 miles) to the distance between the site and Cleveland (15 miles) is 1:1. Divining intent is a difficult task, at best. Looking at the overall picture with respect to Rhema's proposal, we see a situation where a proposal which purports to be for Akron specifies a transmitter location among the transmitters of Cleveland radio stations and it is not suggested that this site has unique advantages for service to Akron. A stronger signal will be provided to Cleveland than to Akron. The proposed site is midway between Akron and Cleveland, whereas a strong signal (Grade B or better) could be provided from a site much closer to Akron. There is apparently no interest in serving the area south of Akron, with major communities such as Canton. We cannot say with confidence that Rhema intends to construct its station primarily for the purpose of serving Cleveland; we do say, however, that there is sufficient question as to its intent to warrant thorough scrutiny in the hearing which must be ordered. Because of the doubts as to Rhema's intentions, in the light of the factors which we have discussed, an appropriate issue will be specified.

Ohio Telecasting, Inc.

8. *Section 307(b).* Summit also asserts that a grant of OTI's proposal would be inconsistent with the allocation principles of Section 307(b) of the Communications Act and § 73.606 of the Commission's rules, the Table of Assignments. Summit relies on *Central Coast Television*, 14 F.C.C. 2d 985 (Rev. Bd. 1968), in which the Review Board found that, although a proposed transmitter relocation would not constitute *de facto* reallocation, it would be inconsistent with the allocation principles of the Communications Act. That case involved the degradation or deprivation of existing service to part of the community of license solely to provide additional service to already well-served areas. *Id.* at 990. Unlike the applicant in *Central Coast Television*, OTI has not shown any intent to dilute service to Akron to bring additional service to Cleveland. For reasons discussed above, we do not find that the OTI proposal will contravene or subvert the allocation principles of Section 307(b) and Rule 73.606 because OTI proposes secondary service to Cleveland, but will primarily serve Akron. Therefore, no Section 307(b) issue will be specified.

9. *Site availability.* In its petition to deny, Summit contends that OTI did not demonstrate the availability of its proposed transmitter site. On November 14, 1980, OTI amended its application to include a letter from the owner of the tower site which documents the availability of this property. Therefore, no site availability issue will be specified.

10. *Directional Antenna.* Summit also contends that OTI failed to make an appropriate showing of need in support of its proposal to use a directional antenna, as required by Section 73.685(e) of the Commission's Rules. OTI states that use of a nondirectional antenna at the proposed location, providing equivalent coverage to Akron, would involve substantially increased expenses. The Commission has stated, "[D]irectional antennas may be employed for improving service or for the purpose of using a particular site." *Sixth Report and Order in Dockets 8736, 8975, 9175 & 8976*, 41 F.C.C. at 213. If OTI operated at the same power, 5000 kW, from the same site with a nondirectional antenna, its coverage of Akron would be reduced. OTI's proposal to use a directional antenna at its proposed site will improve service to the city of license and will allow optimum use of the site. Therefore, the Commission finds that OTI has made an appropriate showing of need in support of its proposal to use a directional antenna and no such issue will be specified.

11. *Shadowing.* Summit also requests that an issue be specified concerning OTI's failure to provide an 80 dBu contour to the entire city of Akron as required by Section 73.685(a) of the Commission's Rules. The Commission finds that any shadowing which would occur in parts of Akron would be minimal and notes that OTI proposes to correct any shadowing problems with one or more translators. *See WSTE-TV, Inc. v. Federal Communications Commission*, 566 F. 2d 333 (D.C. Cir. 1977). Therefore, no shadowing issue will be specified.

12. *Financing.* Summit also challenges OTI's financial qualifications. On April

[4] The Commission recently stated that it will revisit its current *de facto* reallocation policy. The staff was directed to prepare an item for the Commission's consideration to reexamine that policy. *Son Broadcasting, Inc.*, 86 F.C.C. 2d 636 (1981). If and when the Commission's *de facto* reallocation policy is changed, the new policy will apply to all pending applications, including those in hearing.

[5] Rhema will place an 89 dBu contour over the Akron city limit farthest from the proposed transmitter site and a 100 dBu contour over the Akron city limit closest to the site; the median signal strength over Akron will be 94.5 dBu. Rhema will place a 93 dBu contour over the Cleveland city limit farthest from the site and a 107 dBu contour over the Cleveland city limit closest to the site; the median signal strength over Cleveland will be 100 dBu.

1, 1981, OTI petitioned for leave to amend its application to include a bank letter documenting the availability of funds to meet its construction and operating costs. Since this amendment eliminates the need to specify a financial issue against OTI, it has made a good cause showing in accordance with § 73.3522(a)(2) of the Commission's rules and the petition for leave to amend will be granted.

13. *Ascertainment.* Summit also raises a number of objections to OTI's ascertainment of community needs. Under the Commission's revised procedures, ascertainment issues will no longer be specified for determination in comparative hearings and the filing and review of ascertainment surveys will be deferred until after the grant of a construction permit. *Revised Procedures for the Processing of Broadcast Applications,* 49 R.R. 2d 1219 (1981). Therefore, no ascertainment issue will be specified.

14. *Air Hazard.* Since the Commission has not received a determination from the FAA that the tower height and location proposed by OTI would not constitute a hazard to air navigation, an appropriate issue will be specified.

15. We find that, except with respect to Rhema's application, Summit has raised no substantial or material questions of fact. Its petition to deny will, therefore, be granted with respect to Rhema and otherwise will be denied.

Ebony Blackstar Broadcasting Corporation

16. *Financial qualifications.* Ebony Blackstar indicates that $299,072 would be required to construct and operate its proposed facility for three months. To meet these expenses, Ebony Blackstar relies on a bank loan and stock subscriptions. Ebony Blackstar submitted a letter from the Provident Bank indicating the bank will lend $100,000 if collateral acceptable to the bank is pledged to secure the loan. Since we do not know whether Ebony Blackstar is willing to pledge such collateral, we cannot determine whether this loan is available to the applicant. The applicant also relies on $14,525 in existing capital received through stock subscriptions and $100,000 to be received under the terms of its stock subscription agreement signed by, or on behalf of, eight subscribers. Because balance sheets for subscribers Reginald J. Whitehead and James B. Marshall, Jr. show current liabilities in excess of liquid assets, the applicant cannot rely on these two individuals to provide funds according to the subscription agreement. Ebony Blackstar can rely on the commitments of the other five individual subscribers, totalling $45,000 and the $50,000 commitment of Broadcast Management Corporation. An appropriate issue will be specified to determine whether the remaining $189,547 is available to the applicant to construct and operate its proposed facility. In determining the financial qualifications of the applicant, the financial commitments made by the principals of Ebony Blackstar in connection with other pending applications will be considered.

Conclusion and Order

17. Except as indicated by the issues specified below, the Commission finds the applicants legally, technically, financially and otherwise qualified. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that a grant of the applications will serve the public interest, convenience and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues set out below.

18. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order on the following issues:

1. To determine, with respect to the application of Rhema Television Corporation, whether it is realistically a proposal to serve Cleveland, Ohio, rather that Akron, Ohio, and whether a grant of the application would constitute a *de facto* reallocation of the channel from Akron to Cleveland.

2. To determine, with respect to Ohio Telecasting, Inc., whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation and, if so, whether the applicant is qualified.

3. To determine, with respect to Ebony Blackstar Broadcasting Corporation, whether the applicant has the additional $189,547 available to meet its total cost of $299,072 for construction and three months operation and, therefore, whether the applicant is qualified.

4. To determine, on a comparative basis, which of the proposals would best serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

19. It is further ordered, that, if Ohio Telecastings, Inc.'s application is granted, the construction permit shall be subject to the following conditions:

(1) Operation with effective radiated power in excess of 1,000 kW after July 1, 1982 is subject to a further extension of consent by Canada.

(2) Prior to the construction of the TV tower authorized herein, permittee shall notify AM station WCUE so that the AM station may determine operating power by the indirect method and, if necessary, request temporary authority from the Commission in Washington to operate with parameters at variance to maintain monitoring point field strengths within authorized limits. Permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects on the radiation pattern of the AM station. Both prior to construction of the TV tower and subsequent to the installation of all appurtenances thereon, a partial proof of performance, as defined by § 73.154(a) of the Commission's rules, shall be conducted to establish that the array of the AM station has not been adversely affected. The results shall be submitted to the Commission and the AM station. Thereafter, the TV station may commence *Limited Program Tests.*

20. It is furthered ordered, That, if Ebony Blackstar Broadcasting Corporation's application is granted, the construction permit shall be subject to the condition that operation with effective radiated power in excess of 1,000 kW after December 1, 1982 is subject to a further extension of consent by Canada.

21. It is further ordered, That if Rhema Television Corporation's application is granted, the construction permit shall be subject to the following conditions:

(1) Operation with effective radiated power in excess of 1,000 kW after December 1, 1982 shall be subject to a further extension of consent by Canada.

(2) During installation of the TV antenna, AM station WWWE shall determine operating power by the indirect method. Upon completion of the installation, antenna impedance measurements of the AM antenna shall be made. The results shall be submitted to the Commission along with a tower sketch of the installation, in an application for station WWWE to return to the direct method of power determination. Thereafter, the TV station may commence *Limited Program Tests.*

(3) Prior to the construction of the TV tower authorized herein, permittee shall notify AM station WBBG so that the AM station may determine operating power by the indirect method and, if necessary,

request temporary authority from the Commission in Washington to operate with parameters at variance to maintain monitoring point field strengths within authorized limits. Permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects on the radiation pattern of the AM station. Both prior to construction of the TV tower and subsequent to the installation of all appurtenances thereon, a partial proof of performance, as defined by § 73.154(a) of the Commission's Rules, shall be conducted to establish that the array of the AM station has not been adversely affected. The results shall be submitted to the Commission and to the AM station. Thereafter, the TV station may commence *Limited Program Tests.*

22. It is further ordered, That, if Akron Telecasting, Inc.'s application is granted, the construction permit shall be subject to the condition that operation with effective radiated power in excess of 1,000 kW after December 1, 1982 is subject to a further extension of consent by Canada.

23. It is further ordered, That the petition for leave to amend filed by Ohio Telecasting, Inc., is granted.

24. It is further ordered, That the petition to deny filed herein by Summit Radio Corp. is granted to the extent indicated herein and otherwise is denied.

25. It is further ordered, That Summit Radio Corp. is made a party respondent with respect to Issue 1 and the Federal Aviation Administration is made a party respondent with respect to Issue 2.

26. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and parties respondent herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

27. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice, as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-15361 Filed 6-4-82; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 82-303; File No. 22861-CD-P(1)-81 et al.]

Ivan A. Wiley d.b.a. Lafayette Radiotelephone Co. et al., Designating Applications for Consolidated Hearing on Stated Issues

In re Applications of Ivan A. Wiley d.b.a. Lafayette Radiotelephone Co., (CC Docket No. 82-303 File No. 22861-CD-P-(1)-81) For a construction permit for an additional one-way channel for Station KKB365 to operate on frequency 158.70 MHz at Lafayette, Indiana, South Shore Radio-Telephone, Inc., (CC Docket No. 82-304 File No. 22128-CD-P-(1)-81) For a construction permit for a new one-way channel to operate on frequency 158.70 MHz at West Lafayette, Indiana

Order Designating Applications for Hearing

Adopted May 27, 1982.

Released June 1, 1982.

By the Common Carrier Bureau:

1. Presently before the Chief, Mobile Services Division, pursuant to delegated authority are the captioned applications of Ivan A. Wiley d.b.a. Lafayette Radiotelephone Company (Lafayette) and South Shore Radio-Telephone, Inc. (South Shore).[1] These applications are electrically mutually exclusive because they both request the same frequency in the same general area; therefore, a comparative hearing will be held to determine which applicant would better serve the public interest. South Shore has filed a petition to deny the application of Lafayette. Responsive pleadings have been filed.

2. South Shore in its petition claims that Lafayette has provided an insufficient need showing, that its application is defective for not complying with the interim standards of Docket 20870[2] and § 22.501(d)(2) of the Commission's Rules, and that Lafayette's application is a strike application filed for the purpose of impeding South Shore's entry into the West Lafayette market.

3. The elements to be considered in determining whether an application is a strike application were set forth by the Commission in *Grenco, Inc.*, 28 FCC 2d 66 (1971). The elements include: (1) The timing of the application; (2) the economic and competitive benefit occurring from the application; (3) the good faith of the applicant; and (4) questions concerning frequency allocation. A review of the South Shore strike allegations relative to the *Grenco* criteria shows that the allegations raise no material or substantial questions on this issue. The mere fact that Lafayette filed its application on the last day of the cut-off period established by South Shore's filing does not demonstrate that a strike application was filed. In addition, South Shore's assertion that Lafayette's application did not demonstrate sufficient need to justify the grant of the additional channel requested, and thus was filed to impede South Shore's entry into the West Lafayette market, is insufficient to raise a substantial and material issue whether Lafayette's application was filed for strike purposes. Thus, we will not designate a strike issue against Lafayette.

4. We do find, however, that Lafayette has not demonstrated sufficient need for an additional one-way channel. The amended traffic load study filed by Lafayette shows a maximum usage in any hour of its study period of only 18 minutes or .3 Erlangs. The Commission has consistently applied a policy requiring at least 50% usage (.5 Erlangs) during the bouncing busy hour[3] in order to justify the grant of an additional one-way channel. Accordingly, there exists a material and substantial question whether there is a sufficient public need for the additional one-way facility proposed by Lafayette. Thus, we will designate for hearing an issue as to whether Lafayette has adequately demonstrated a need for an additional one-way channel.

5. South Shore's argument that the Lafayette application is defective for not complying with the standards of Docket 20870 is without merit. The standards of Docket 20870 apply to applications for two-way stations only. Therefore, an application for an additional one-way frequency is not defective if it does not comply with those standards.

6. In addition, South Shore argues that the Lafayette application is defective for failing to comply with § 22.501(d)(2), which requires an applicant to show that its proposed one-way service cannot be provided on its existing two-way facilities. On May 14, 1982, the Commission released its First Report

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[1] We note that while South Shore is applying to construct new facilities, Lafayette is seeking to add an additional frequency for its existing Station KKB365. A grant of either application would preclude a grant of the order.

[2] Order FCC 81-90, released March 6, 1981.

[3] See Docket 20870 for a definition of bouncing busy hour.

and Order in Docket 80-183. In that order the Commission eliminated § 22.501(d)(2) of the rules and stated that the elimination of § 22.501(d)(2) was applicable to all pending one-way applications and applications filed after the adopted date (April 29, 1982) of the Order.[4] Therefore the Lafayette application does not require such a showing and is not defective.

7. Accordingly, it is ordered that the Petition to Deny, filed by South Shore Radio-Telephone, Inc. is granted in part and is denied in part, to the extent noted here, and the application filed by Ivan A. Wiley d.b.a. Lafayette Radiotelephone Company (File No. 22861-CD-P-(1)-81), and the application of South Shore Radio-Telephone, Inc. (File No. 22128-CD-P-(1)-81), are designated for hearing in a consolidated proceeding pursuant to Section 309 of the Communications Act of 1934, as amended, upon the following issues:

(a) To determine whether Ivan A. Wiley, d.b.a. Lafayette Radio-Telephone Company has demonstrated a need for the additional one-way paging channel it requests;[5]

(b) To determine on a comparative basis, the nature and extent of service proposed by each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations, and facilities pertaining thereto;

(c) To determine on a comparative basis, the areas and populations that each applicant will serve within the prospective interference-free area within the 43 dBu contours,[6] based upon the standards set forth in § 22.504(a) of the Commission's Rules,[7] and to determine and compare the relative demand for the proposed services in said areas; and

(d) To determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience, and necessity.

8. It is further ordered that with respect to issue (a) the burden of proof and the burden of proceeding with the introduction of evidence are placed upon Ivan A. Wiley d.b.a. Lafayette Radiotelephone Company.

9. It is further ordered that with respect to issues (b) and (c), the burden of proof and the burden of proceeding with the introduction of evidence are placed jointly on the applicants as the issues affect them, and that the ultimate burden of proof with respect to issue (d) is similarly placed on each of the applicants.

10. It is further ordered that the hearing shall be held at the Commission offices, at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

11. It is further ordered that the Chief, Common Carrier Bureau, is made a party to the proceeding.

12. It is further ordered that the applicants shall file written notices of appearance under § 1.221 of the Commission's Rules within 20 days of the release date of this Order.

13. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

William F. Adler,

Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 82-15360 Filed 6-4-82; 8:45 am]

BILLING CODE 6712-01-M

[4] General Docket 80-183, FCC 82-202, Mimeo 31355, Pages 18 & 19.

[5] If Lafayette does not demonstrate need for an additional one-way channel, it will not be necessary to decide comparative issues (b) and (c).

[6] For the purpose of this proceeding, the interference-free area is defined as the area within the 43 dBu contour as calculated from § 22.504 in which the ratio of desired-to-undesired signal is always equal to or greater than 4 in FCC Report No. R-6406, equation 8.

[7] Section 22.504(a) of the Commission's rules and regulations describes a field strength contour of 43 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaged in one-way communications service on frequencies in the 150 MHz band. Propagation data set forth in Section 22.504(b) are the proper bases for establishing the location of service contours F(50,50) for the facilities involved in this proceeding. (The applicants should consult Bureau counsel in an effort to submit joint technical exhibits.)

TIAG Definitions and Rules Subcommittee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the TIAG Definitions and Rules Subcommittee scheduled to meet on Tuesday, June 29, 1982. The meeting will be held at 9:30 a.m. in Conference Room A-B (10th Floor) of the AT&T offices located at 1120 20th Street, NW., Washington, D.C. and will be open to the public. The agenda is as follows:

I. General Administrative Matters.
II. Review of Minutes of Previous Meeting.
III. Discussion of Individual Assignments.
IV. Other Business.
V. Presentation of Oral Statements.
VI. Adjournment.

With prior approval of Subcommittee Chairman John Utzinger, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Utzinger (203/965-2830) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-15356 Filed 6-4-82; 8:45 am]

BILLING CODE 6712-01-M

TIAG Steering Committee and Definitions and Rules Subcommittee; Joint Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a TIAG Definitions and Rules Subcommittee meeting in which the Steering Committee will also participate. The meeting will be held at 9:30 a.m. on Tuesday, June 22, 1982, in Conference Room A-B (10th Floor) of AT&T's offices located at 1120 20th Street, NW., Washington, D.C., and will be open to the public. The agenda is as follows:

I. General Administrative Matters.
II. Review of Minutes of Previous Meeting.
III. Presentation of Engineering Synopses.
IV. General Discussion of Engineering Proposals.
V. Other Business.
VI. Presentation of Oral Statements.
VII. Adjournment.

With prior approval of Subcommittee Chairman John Utzinger, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Utzinger (203/965-2830) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-15354 Filed 6-4-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3,

Pub. L. 89–777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Hadag Cruise-Line GmbH & Co., Hadag Seetouristik and Fahrdienst AG. and Astor United Cruises Inc., c/o Astor United Cruises, Inc., P.O. Box 13140, Port Everglades Station, Fort Lauderdale, FL 33316.

Dated: June 1, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82–15289 Filed 6–4–82; 8:45 am]

BILLING CODE 6730–01–M

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Donald Franklin Simpson, 310 Selvidge Street, Dalton, GA 30720

John H. Duncan, d.b.a. John H. Duncan Forwarding Co., 2712 Arroyo, Apt. 107, Dallas, TX 75219

By the Federal Maritime Commission.

Dated: June 2, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82–15379 Filed 6–4–82; 8:45 am]

BILLING CODE 6730–01–M

Independent Ocean Freight Forwarder License No. 1571]

Air-Sea Brokers, Inc.; Order of Revocation

On April 19, 1982, Air-Sea Brokers, Inc. Air Cargo Terminal, Logan International Airport, East Boston, MA 02128 requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 1571.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 1571 issued to Air-Sea Brokers, Inc., be revoked effective June 1, 1982 without prejudice to reapplication for a license in the future.

It is further ordered, that Independent Ocean Freight Forwarder License No. 1571 issued to Air-Sea Brokers, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Air-Sea Brokers, Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 82–15380 Filed 6–4–82; 8:45 am]

BILLING CODE 6730–01–M

Independent Ocean Freight Forwarder License No. 223–R]

Freedman & Slater, Inc.; Order of Revocation

On May 24, 1982, Freedman & Slater, Inc., 11 Broadway, New York, NY surrendered its Independent Ocean Freight Forwarder License No. 223–R for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 223–R issued to Freedman & Slater, Inc. be revoked effective May 24, 1982 without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Freedman & Slater, Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 82–15384 Filed 6–4–82; 8:45 am]

BILLING CODE 6730–01–M

[Independent Ocean Freight Forwarder License No. 1684]

Ro-Modal International; Order of Revocation

On May 20, 1982, Ro-Modal International, P.O. Box 10280, Palo Alto, CA 94303 surrendered its Independent Ocean Freight Forwarder License No. 1684 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 1684 issued to Ro-Modal International be revoked effective May 20, 1982, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Ro-Modal International.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 82–15382 Filed 6–4–82; 8:45 am]

BILLING CODE 6730–01–M

[Independent Ocean Freight Forwarder License No. 1015]

Virginia Shipping Co.; Order of Revocation

On May 26, 1982, Virginia Shipping Company, 1230 Maritime Tower, 234 Monticello Avenue, Norfolk, VA 23510 surrendered its Independent Ocean Freight Forwarder License No. 1015 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 1015 issued to Virginia Shipping Company be revoked effective May 26, 1982, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Virginia Shipping Company.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 82–15381 Filed 6–4–82; 8:45 am]

BILLING CODE 6730–01–M

[Independent Ocean Freight Forwarder License No. 513]

Wolf & Gerber, Inc.; Order of Revocation

On May 24, 1982, Wolf & Gerber, Inc., 156 William Street, New York, NY 10038 surrendered its Independent Ocean Freight Forwarder License No. 513 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 513 issued to Wolf & Gerber, Inc. be revoked

effective May 24, 1982, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Wolf & Gerber, Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 82-15369 Filed 6-4-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Virginia Banks, Inc.*, Falls Church, Virginia; to acquire 100 percent of the voting shares of First Virginia Bank-Tazewell, Tazewell, Virginia, The successor by merger to Tazewell National Bank, Tazewell, Virginia. Comments on this application must be received not later than July 1, 1982.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Southern Bancorp, Inc.*, Waycross, Georgia; to acquire at least 55.2 percent of the voting shares or assets of The Exchange Bank, Douglas, Georgia. Comments on this application must be received not later than July 1, 1982.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Affiliated Bank Corporation of Wyoming*, Casper, Wyoming; to acquire 100 percent of the voting shares or assets of Fossil Butte National Bank, Kemmerer, Wyoming. Comments on this application must be received not later than July 1, 1982.

D. Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551:

1. *First City Bancorporation of Texas, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares or assets of First City Bank-Northchase, N.A., Houston, Texas, a proposed new bank. This application may be inspected at the Federal Reserve Bank of Dallas. Comments on this application must be received not later than July 1, 1982.

Board of Governors of the Federal Reserve System, June 1, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-15200 Filed 6-4-82; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *National Bancshares Corporation of Texas*, San Antonio, Texas; to acquire 100 percent of the voting shares or assets of Rockdale State Bank, Rockdale, Texas. Comments on this application must be received not later than June 27, 1982.

Board of Governors of the Federal Reserve System, June 1, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-15369 Filed 6-4-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Company; Proposed De Novo Nonbank Activities

The bank holding company listed in this notice has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to the application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on the application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for the application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than July 1, 1982.

A. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *BankAmerica Corporation*. San Francisco, California (industrial loan company, financing, servicing, and insurance activities; Washington): To engage, through its proposed indirect subsidiary, FinanceAmerica Industrial Loan Company, a proposed Washington Coporation, in the activities of acting as an industrial loan company under the

Washington Industrial Loan Companies Act; making or acquiring for its own account loans and other extensions of credit; servicing loans and other extensions of credit; and offering credit-related life insurance and credit-related accident and health insurance in the State of Washington. Such activities will include, but not be limited to, issuing investment certificates (pledged as security), making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses, making loans secured by real and personal property, and offering credit-related life and credit-related accident and health insurance directly related to extensions of credit made or acquired by both FinanceAmerica Industrial Loan Company and FinanceAmerica Corporation. It is further proposed that another indirect subsidiary, FinanceAmerica Corporation, a Washington corporation, will engage in the activities of making or aquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company; servicing loans and other extensions of credit; and offering credit-related life insurance and credit-related accident and health insurance. Credit-related property insurance will not be offered in the State of Washington by either corporation. The activities of both corporations will be conducted from a *de novo* office located in Bellevue, Washington, servicing the entire State of Washington.

Board of Governors of the Federal Reserve System, June 1, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-15258 Filed 6-4-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 25.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo (or continue to engage in an activity earlier commenced de novo)*, directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely realted to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than June 26, 1982.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Chase Manhattan Corporation,* New York, New York (finance, servicing, and leasing activities; Northeastern U.S.): To engage through its indirect subsidiary, Chase Commercial Corporation, in making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a commercial finance, equipment finance or factoring company, including factoring accounts receivable, making advances and over-advances on receivables and inventory and business installment lending as well as unsecured commercial loans; servicing loans and other extensions of credit; leasing personal property on a full payout basis and in accordance with the Board's Regulation Y, or acting as agent, broker or advisor in so leasing such property, including the leasing of motor vehicles. These activities would be conducted from an office in Rochester, New York serving northern New York State, and the states of Connecticut, Maine, New Hampshire, Rhode Island, Massachusetts and Vermont.

b. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Continental Illinois Corporation,* Chicago, Illinois (making or acquiring loans and other extensions of credit and servicing loans and other extensions of credit for any person; entire State of Illinois): To engage, through its existing subsidiary, Continental Illinois Commercial Corporation, in the following activities: making or acquiring, for its own account or for the account of others, secured and unsecured loans and other extensions of credit (including issuing letters of credit and accepting drafts) to or for business, governmental and other customers (excluding direct consumer lending), and servicing such loans and other extensions of credit. These activities will be conducted from an office in the City of Rolling Meadows, Illinois serving the entire State of Illinois.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *BankAmerica Corporation,* San Francisco, California (industrial loan company, financing, servicing, and insurance activities; Tennessee): To engage through its indirect subsidiary, FinanceAmerica Corporation a Tennessee corporation (whose name will be changed to FinanceAmerica Thrift Corporation), in the additional activities of acting as an industrial loan company under the Tennessee Industrial Loan and Thrift Companies Act, and to continue to engage in the activities of making or acquiring for its own account loans and other extensions of credit such as are made or acquired by a finance or industrial loan company, servicing loans and other extensions of credit, and offering credit-related life, credit-related accident and health, and credit-related property insurance in the State of Tennessee. Such activities will include, but not be limited to, issuing investment certificates (intrastate only), making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses, making loans secured by real and personal property and offering credit-related life insurance, credit-related accident and health insurance, and credit-realted property insurance in connection with extensions of credit made or acquired by FinanceAmerica Corporation. These activities will be conducted from three existing offices located in Chattanooga, Goodlettsville, and Knoxville, Tennessee, serving the State of Tennessee.

Board of Governors of the Federal Reserve System, June 1, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-15259 Filed 6-4-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that request a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Georgia Peoples Bankshares, Inc.*, Baxley, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Peoples State Bank & Trust, Baxley, Georgia. Comments on this application must be received not later than June 25, 1982.

2. *Keystone Securities, Inc.*, Keystone Heights, Florida; to become a bank holding company by acquiring at least 51 percent of the voting shares of Keystone State Bank, Keystone Heights, Florida. Comments on this application must be received not later than June 27, 1982.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Butte Bancorporation, Inc.*, Billings, Montana; to become a bank holding company by acquiring 85 percent of the voting shares of Montana Bank of Butte, N.A., Butte, Montana. Comments on this application must be received not later than June 23, 1982.

2. *First Rushmore Bancshares, Inc.*, Rushmore, Minnesota; to become a bank holding company by acquiring 80 percent of the voting shares of First State Bank of Rushmore, Rushmore, Minnesota. Comments on this application must be received not later than June 27, 1982.

3. *Roundup Bancorporation, Inc.*, Billings, Montana; to become a bank holding company by acquiring 85 percent of the voting shares of Montana Bank of Roundup, N.A., Roundup, Montana. Comments on this application must be received not later than June 23, 1982.

C. **Secretary, Board of Governors of the Federal Reserve System,** Washington, D.C. 20551:

1. *Capitol Bancorporation, Inc.*, Pierre, South Dakota; to become a bank holding company by acquiring 97 percent of the voting shares of First National Bank in Pierre, Pierre, South Dakota. This application may be inspected at the Federal Reserve Bank of Minneapolis. Comments on this application must be received not later than June 27, 1982.

Board of Governors of the Federal Reserve System, June 1, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-15201 Filed 6-4-82; 8:45 am]

BILLING CODE 6210-01-M

Maryland National Corporation; Proposed Acquisition of Central Industrial Bank

Maryland National Corporation, Baltimore, Maryland, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Central Industrial Bank, Aurora, Colorado.

Applicant states that the proposed subsidiary would engage in the activities of an industrial bank in the manner authorized by Colorado law, so long as it does not both accept demand deposits and make commercial loans, and would engage in the sale, as agent, of credit life, credit disability, credit accident and health, loan redemption and loan cancellation insurance in connection with extensions of credit by bank and nonbank subsidiaries of Maryland National Corporation. These activities would be performed from offices of Applicant's subsidiary in Aurora, Colorado, and the geographic areas to be served are the entire United States. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received no later than July 1, 1982.

Board of Governors of the Federal Reserve System, June 1, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-15202 Filed 6-4-82; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Contractor's Qualifications and Financial Information (GSA Form 527)

AGENCY: General Services Administration

ACTION: Notice of information collection; reinstatement.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration proposes to request the Office of Management and Budget to review and approve the reinstatement of an information collection requirement.

DATE: Comments on the proposed information collection must be submitted on or before June 30, 1982.

FOR FURTHER INFORMATION CONTACT: Anthony Artigliere, Acting Chief, Directives, Reports, and Publications Branch (202-566-0666).

ADDRESSES: Send comments to Franklin S. Reeder, OMB Desk Officer, Room 3208, NEOB, Washington, DC 20503, and to Anthony Artigliere, GSA Clearance Officer, General Services Administration (ORAI), Washington, DC 20405.

SUPPLEMENTARY INFORMATION: The purpose of this information collection is to provide GSA with the necessary data for the proper performance of its functions in evaluating financial capabilities of prospective construction

contractors wanting to do business with the agency. A copy of the information collection proposal may be obtained from the Directives, Reports, and Publications Branch (ORAI), Room 3011, GS Building, Washington, DC 20405, telephone 566–1164.

Dated: May 28, 1982.

William A. Clinkscales, Jr.,

Director of Oversight.

[FR Doc. 82-15339 Filed 6-4-82; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Rape Prevention and Control Advisory Committee; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix 1), announcement is made of the following national advisory body scheduled to assemble during the month of July 1982.

Rape Prevention and Control Advisory Committee

July 25–27—Open
July 25, 1:00 p.m.
Hyatt Hotel, 400 New Jersey Avenue, NW., Washington, D.C. 20001
Contact: Mary Lystad, Ph.D., Executive Secretary, 5600 Fishers Lane, Room 15–99, Rockville, Maryland 20857 (301) 443–1910

Purpose: The Rape Prevention and Control Advisory Committee advises the Secretary of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, through the National Center for the Prevention and Control of Rape (NCPCR), on matters regarding the needs and concerns pertaining to activities to be undertaken by the Department to address the problems of rape.

Agenda: The entire meeting will be open to the public. It will include reporting on the research program announcement, meeting with liaison groups, and the writing of annual reports.

Substantive program information may be obtained from the contact person listed above. A summary of the meeting and a roster of the Committee members will be furnished upon request from Ms. Helen W. Garrett, Committee Management Officer, National Institute of Mental Health, Room 17C26, Parklawn Building, Rockville, Maryland 20857, telephone (301) 443–4333.

Dated: June 1, 1982.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 82-15371 Filed 6-4-82; 8:45 am]

BILLING CODE 4160-20-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

[N 82-1130]

Urban Development Action Grants; Revised Minimum Standards for Large Cities and Urban Counties

AGENCY: Department of Housing and Urban Development.

ACTION: Notice.

SUMMARY: In accordance with 24 CFR 570.452(b)(1), the Department is providing Notice of the most current minimum standards of physical and economic distress for large cities (metropolitan cities and other cities over 50,000 population), and urban counties for the Urban Development Action Grant program.

This notice revises the Notice published April 8, 1981 (46 FR 21140) because the six minimum standards of distress have now changed generally as a result of new data from the Bureau of the Census and the Bureau of Labor Statistics.

This Notice contains three lists: The first list identifies those cities and urban counties which qualify as distressed communities based upon the new minimum standards; the second list identifies those cities and urban counties which did not qualify when the April 1981 list was published but which do qualify now; the third list identifies those cities and urban counties which were classified as distressed on the April 8, 1981 list, but which no longer qualify under the new minimum standards.

EFFECTIVE DATE: This Notice replaces the April 8, 1981 Notice which listed the large cities which passed the previous minimum standards.

FOR FURTHER INFORMATION CONTACT: Frank Ridenour, Office of Action Grants, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, D.C. 20410, Telephone: 202/755–8784.

SUPPLEMENTARY INFORMATION: A Notice published by the Department on April 8, 1981 provided the minimum standards of physical and economic distress which were applicable up to the effective date of this Notice for large cities and urban counties which met the standards published at that time.

Part I of this Notice now specifies the new minimum standards of physical and economic distress. Part II of this Notice contains a revised list of all the large cities and urban counties which meet the new standards. Part III of this Notice lists those large cities and urban counties which, based upon the new minimum standards, appear on the list in Part II but did not qualify when the April 1981 list was published. Part IV is a list of those cities which were classified as distressed on the April 1981 list but which no longer qualify under the new minimum standards. These cities listed in Part IV have a period of time, as specified in Part IV, during which they may submit Action Grant applications.

The new minimum standards are based on updated data from the Bureau of Census and Bureau of Labor Statistics for large cities as of fiscal year 1982. The updated Census data are 1980 population, 1977 per capita income and 1970 poverty and housing counts (adjusted to reflect boundary changes as of the 1980 Census). The previous Census data were 1978 population, 1977 per capita income and 1970 poverty and housing counts (adjusted for boundary changes through 1979). The Bureau of Labor Statistics data are updated from 1979 unemployment rates to 1981 unemployment rates.

This Notice is published pursuant to 24 CFR 570.452(b)(1).

I. A large city or urban county must pass three minimum standards of physical and economic distress, except, if the poverty is less than half the minimum standard, the city or urban county must pass four standards. The most current minimum standards of physical and economic distress are:

A. Age of Housing. At least 33.98 percent of the applicant's year-round housing units must have been constructed prior to 1940, based on U.S. Census data, in order to meet this minimum standard;

B. Per Capita Income. The net increase in per capita income for the period 1969–1977 must have been $2,663 or less, based on U.S. Census data, in order to met this minimum standard;

C. Population Lag/Decline. For the period 1960–1980 the percentage rate of population growth (based on corporate boundaries in 1960 and as of the 1980 Census) must have been 19.82 percent or less, based on U.S. Census data, in order to meet the minimum standard.

D. Unemployment. The average rate of unemployment for 1981 must have been 7.24 percent or greater, based on data compiled by the Bureau of Labor Statistics, in order to meet this minimum standard.

E. Job/Lag/Decline. The rate of growth in retail and manufacturing employment for the period 1972–1977 must have increased by 6.75 percent or

lesa, based on U.S. Census data, in order to meet this minimum standard. If data are not available for both retail and manufacturing employment, the percentage used will be the median for either retail employment or manufacturing employment, based upon the median for those cities on which both sets of data are available.

F. Poverty. The percentage of persons within the applicant's jurisdiction at or below the poverty level must be 10.87 percent or more, based on 1970 U.S. Census data, in order to meet this minimum standard.

II. A. The following cities meet the current minimum standards of physical and economic distress:

Anniston
Birmingham
Florence
Gadsden

Fort Smith
Little Rock

Alameda
Alhambra
Baldwin Park
Berkeley
Chico
Compton
Fresno
Long Beach
Los Angeles
Norwalk
Oakland
Ontario

Denver
Greeley

Bridgeport
Hartford
Manchester
Meriden
New Britian
New Haven

Wilmington

Washington

Bradenton
Cocoa
Jacksonville
Lakeland
Miami
Miami Beach

Albany
Atlanta
Augusta

Berwyn
Champaign
Chicago
Joliet
Kankakee
Moline
Oak Park
Peoria
Rantoul

Anderson
Bloomington
East Chicago
Elkhart
Evansville
Fort Wayne
Gary
Hammond

Cedar Rapids
Council Bluffs
Davenport
Des Moines

Kansas City

Ashland
Covington
Hopkinsville

Alexandria
Lake Charles

Auburn
Bangor

Baltimore
Cumberland

Arlington
Boston
Brockton
Brookline
Canbridge
Chicopee
Fall River
Fitchburg
Haverhill
Holyoke
Lawrence
Lowell

Battle Creek
Bay City
Benton Harbor
Dearborn
Detroit
Flint
Grand Rapids
Jackson

Duluth
Minneapolis

Biloxi
Gulfport

Joplin
Kansas City
St. Joseph

Great Falls

Alabama

Huntsville
Mobile
Montgomery
Tuscaloosa

Arkansas

Pine Bluff
Texarkana

California

Pasadena
Pico Rivera
Pomona
Porterville
Richmond
San Bernadino
San Francisco
Santa Cruz
Santa Monica
Seaside
Stockton
Tulare

Colorado

Pueblo

Connecticut

New London
Norwalk
Norwich
Waterbury
West Haven

Delaware

District of Columbia

Florida

Panama City
Pensacola
St. Petersburg
Tampa
West Palm Beach

Georgia

Columbus
Savannah

Illinois

Cicero
Decatur
East St. Louis
Rockford
Rock Island
Springfield
Urbana
Waukegan

Indiana

Indianapolis
Kokomo
Lafayette
Muncie
South Bend
Terre Haute
West Lafayette

Iowa

Dubuque
Iowa City
Sioux City
Waterloo

Kansas

Lawrence

Kentucky

Louisville
Owensboro

Louisiana

Monroe
New Orleans

Maine

Lewiston
Portland

Maryland

Hagerstown

Massachusetts

Lynn
Maldan
Medford
New Bedford
Pittsfield
Quincy
Somerville
Springfield
Waltham
Weymouth
Worcester

Michigan

Kalamazoo
Lansing
Lincoln Park
Muskegon
Muskegon Heights
Pontiac
Saginaw

Minnesota

St. Cloud
St. Paul

Mississippi

Moss Point
Pascagoula

Missouri

St. Louis
Springfield

Montana

Nebraska

Omaha

New Hampshire

Dover
Manchester
Portsmouth

New Jersey

Asbury Park
Atlantic City
Bayonne
Bloomfield
Bridgeton
Camden
East Orange
Elizabeth
Irvington
Jersey City
Long Branch
Millville
Newark
New Brunswick
Passiac
Peterson
Perth Amboy
Trenton
Union City
Vineland

New Mexico

Las Cruces

New York

Albany
Binghamton
Buffalo
Elmira
Glens Falls
Middletown
Mount Vernon
Newburgh
New Rochelle
New York
Niagara Falls
Poughkeepsie
Rochester
Rome
Schenectady
Syracuse
Troy
Union Town
Utica
Yonkers

North Carolina

Asheville
Burlington
Concord
Gastonia
Hickory
High Point
Salisbury
Wilmington
Winston
Salem

Ohio

Akron
Canton
Cincinnati
Cleveland
Cleveland Heights
Columbus
Dayton
Elyria
Hamilton City
Lima
Lorain
Mansfield
Marietta
Middletown
Newark
Springfield
Steubenville
Toledo
Warren
Youngstown

Oklahoma

Lawton

Oregon

Portland

Pennsylvania

Allentown
Altoona
Bethlehem
Bristol Township
Chester
Easton
Erie
Harrisburg
Hazelton
Johnstown
Lancaster
Lower Marion
Philadelphia
Pittsburgh
Reading
Scranton
Sharon
Upper Darby
Wilkes-Barre
Williamsport
York

Rhode Island

Cranston
East Providence
Pawtucket
Providence

South Carolina

Anderson
Charleston
Florence
Greenville
North Charleston
Rock Hill
Spartanburg

Tennessee

Bristol	Johnson City
Chattanooga	Knoxville
Clarksville	Memphis

Texas

Brownsville	McAllen
Denison	Marshall
Edinburg	Orange
El Paso	Pharr
Fort Worth	Port Arthur
Galveston	San Benito
Harlingen	Texarkana
Killeen	Waco
Laredo	

Utah

Ogden	Salt Lake City
Provo	

Vermont

Burlington

Virginia

Danville	Portmouth
Lynchburg	Richmond
Norfolk	Roanoke
Petersburg	

Washington

Bellingham	Spokane
Everett	Tacoma
Seattle	Yakima

West Virginia

Charleston	Weirton
Huntington	Wheeling
Parkersburg	

Wisconsin

Beloit	Oshkosh
Eau Claire	Racine
Kenosha	Sheboygan
La Crosse	Superior
Milwaukee	Wausau

Puerto Rico

Arecibo Municipio	Ponce Municipio
Bayamon Municipio	San Juan Municipio
Caguas Municipio	Toa Baja Municipio
Carolina Municipio	Trujillo Alto Municipio
Mayaguez Municipio	

Other Cities Over 50,000

Aguadilla Municipio, P.R. Virgin Islands
Guam

II. B. The following urban counties meet the current minimum standards of physical and economic distress:

Fresno, California	Orange, New York
Kern, California	Allegheny, Pennsylvania
Polk, Florida	Beaver, Pennsylvania
Madison, Illinois	Luzerne, Pennsylvania
St. Clair, Illinois	Washington, Pennsylvania
Essex, New Jersey	Westmoreland, Pennsylvania
Hudson, New Jersey	
Erie, New York	

III. The following large cities and urban counties which have been added to the list under Section II, above, meet the new standards of physical and economic distress:

Little Rock, Arkansas	Cedar Rapids, Iowa
Alameda, California	Davenport, Iowa
Manchester, Illinois	Waterloo, Iowa
Moline, Illinois	Lake Charles, Louisiana
Rantoul, Illinois	Weymouth, Massachusetts
St. Clair County, Illinois	
Dearborn, Michigan	Concord, North Carolina
Omaha, Nebraska	Winston Salem, North Carolina
Dover, New Hampshire	Bristol Township, Pennsylvania
Portsmouth, New Hampshire	Bellingham, Washington
Middletown, New York	Weirton, West Virginia
Orange County, New York	

IV. The following list contains the names of those large cities and urban counties which met the minimum standards of physical and economic distress but which no longer meet those standards. In accordance with § 570.452(b)(2), cities which cease to meet the minimum standards of physical and economic distress by virtue of a change in the data used by HUD will be permitted to submit an application during the two quarters following the change in data. HUD will continue to consider those applications which have been submitted and are under review prior to a change in the minimum standards which other wise make them ineligible. The final date for submission of an application by the cities listed below is October 31, 1982.

South Gate, California	Warwick, Rhode Island
Daytona Beach, Florida	Beaumont, Texas
Melbourne, Florida	San Antonio, Texas
Macon, Georgia	Charlottesville, Virginia
Nashua, New Hampshire	Newport, News, Virginia
Clifton, New Jersey	Pasco, Washington
Union County, New Jersey	

Dated: May 28, 1982.

Stephen J. Bollinger,

Assistant Secretary for Community Planning and Development.

[FR Doc. 82-15284 Filed 6-4-82; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[INT DEIS 82-20]

Draft Riley Grazing Management Environmental Impact Statement; Public Meeting and DEIS Availability

AGENCY: Bureau of Land Management, Interior.

ACTION: Public meeting on Riley grazing management DEIS.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a Draft Environmental Impact Statement for the Riley EIS area. The proposal involves implementing a livestock grazing program on public lands within the Riley EIS area of the Burns District in central Oregon.

Public reading copies will be available for review at the following locations:

Bureau of Land Management, Office of Public Affairs, 825 N.E. Multnomah Street, Portland, Oregon
Bureau of Land Management, Burns District Office, 745 Alvord St., Burns, Oregon
Library, University of Oregon, Eugene, Oregon Central Oregon Community College, College Way, Bend, Oregon
Library, Portland State University, 727 SW Harrison, Portland, Oregon
Harney County Library, 80 West D, Burns, Oregon
Library, Oregon State University, Corvallis, Oregon

A limited number of copies are available upon request to the BLM Oregon State Office or the Burns District Office.

An informal public information meeting will be held on July 14, 1982 at 7:30 p.m. in Burns, Oregon in the Club Room of The Harney County Museum.

Written comments on the draft EIS may be sent to: State Director (935), Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Comments should be postmarked on or before August 3, 1982 to be considered in preparation of the Final Riley EIS.

FOR FURTHER INFORMATION CONTACT: Gerry Fullerton, Oregon State Office, Telephone: (503) 231-6955.

Dated: May 13, 1982.

Herbert L. Haglund,

Chief, Division of Resources.

[FR Doc. 82-15293 Filed 6-4-82; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Mines

Advisory Committee on Mining and Mineral Research; Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. I) and the Office of Management and Budget Circular No. A63, Revised.

The Advisory Committee on Mining and Mineral Research will meet from 8:00 a.m. to 4:00 p.m. (or completion of business) on July 1, 1982, in room 1042, Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C. 20241.

The meeting will deal with the following subjects:

1. Review of minutes of meeting of May 27, 1982.
2. Review of recommendations for Centers of Generic Mineral Technology.
3. Current status of program.
4. New business.

The meeting of this committee is open to the public. Approximately 25 visitors

can be accommodated on a first come first served basis. Written statements concerning the subjects are welcome.

Visitors who expect to attend should make this known no later than June 28, 1982, to Dr. Ronald Munson, Acting Chief, Office of Mineral Institutes, Bureau of Mines, room 1040, Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C. 20241, phone (202) 634–1332.

James F. McAvoy,
Deputy Director.

[FR Doc. 82-15342 Filed 6-4-82; 8:45 am]
BILLING CODE 4310-53-M

Bureau of Reclamation

[INT-FES 82-19]

Anderson Ranch Powerplant Third Unit Boise Project Idaho; Availability of Final Environmental Statement/ Feasibility Report

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a combined final environmental statement and feasibility report on a proposal for the Bureau of Reclamation to increase power generation at the existing Anderson Ranch Powerplant located in Elmore County, Idaho, on the South Fork of the Boise River. Other functions included in the proposed plan are fish enhancement, outdoor recreation, and environmental quality.

Copies are available for inspection at the following loctions:

Department of the Interior, Office of Environmental Affairs, Room 7622; Bureau of Reclamation, Washington, D.C. 20240, Telephone: (202) 343–4991

Division of Management Support, Library Branch, Room 450, Building 67, Denver Federal Center, Denver, Colorado 80225, Telephone: (303) 234–3019

Regional Director, Bureau of Reclamation, Federal Building, Box 043–550 West Fort Street, Boise, Idaho 83724, Telephone: (208) 334–1209

Central Snake Projects Office, Bureau of Reclamation, 214 Broadway Avenue, Boise Idaho 83702, Telephone: (208) 334–1460

Single copies of the statement may be obtained upon request to the Office of Environmental Affairs, Bureau of Reclamation, or the Regional Director, at the above addresses. Copies will also be available for inspection in libraries in the project vicinity.

Dated: May 25, 1982.
Robert N. Broadbent,
Commissioner of Reclamation.

Approved:
Bruce Blanchard,
Director, Environmental Project Review.

[FR Doc. 82-15271 Filed 6-4-82; 8:45 am]
BILLING CODE 4310-09-M

Office of the Secretary

Privacy Act of 1974; Establishment of New System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Department of the Interior, Office of Personnel, proposes to establish a new system of records. The new records system is titled "Arbitrators Evaluation Records—Interior, Office of the Secretary—73." The records system will be used by management to facilitate the screening and selection of arbitrators for arbitration hearings. The system notice is published in its entirety below.

5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment. The Office of Management and Budget, which has oversight responsibilities under the Act, requires a 60-day period in which to review proposals to establish new records systems. Therefore, written comments on this proposal can be addressed to the Department Privacy Act Officer, Office of the Secretary (PIR), U.S. Department of the Interior, Washington, D.C. 20240. Comments received on or before August 6, 1982 will be considered. This system shall be effective as proposed without further notice unless comments are received which would result in a contrary determination.

As required by section 3 of the Privacy Act of 1974 (5 U.S.C. 552a(o)), the Director, Office of Management and Budget, the President of the Senate, and the Speaker of the House of Representatives have been notified of this action.

Dated: May 27, 1982.
Richard R. Hite,
Deputy Assistant Secretary of the Interior.

Interior/OS–73

SYSTEM NAME:

Arbitrators Evaluation Records—Interior, Office of the Secretary—73

SYSTEM LOCATION:

a. For Departmental Records: Office of the Secretary, Office of Personnel, Division of Labor Management Relations, 19th & C Streets, NW, Washington, D.C. 20240. b. For BIA: Bureau of Indian Affairs, Division of Personnel Management, 1951 Constitution Avenue., NW, Washington, D.C. 20245. c. For BBM: Bureau of Mines, Branch of Personnel, 4th Floor, Columbia Plaza, Washington, D.C. 20037. d. For BGS: Geological Survey, 215 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092. e. for FNP: National Park Service, Personnel Management Division, 19th & C Streets, NW., Washington, D.C. 20240. for FWS: U.S. Fish and Wildlife Service, Division of Personnel Management and Organization, 19th & C Streets, NW, Washington, D.C. 20240. g. For LBR: Bureau of Reclamation, Division of Personnel and Management, 19th & C Streets, NW, Washington, D.C. 20240. g. For LBR: Bureau of Reclamation, Division of Personnel and Management, 19th C Street, NW., Washington, D.C. 20240. h. For LLM: Bureau of Land Management, Division of Personnel (530), 19th & C Streets, NW, Washington, D.C. 20240. i. For SOL: Office of the Solicitor, Division of General Law, 19th & C Streets, NW, Washington, D.C. 20240. j. For ESM: Office of Surface Mining, Reclamation and Enforcement, Division of Personnel, 1951 Constitution Avenue., NW, Washington, D.C. 20245.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Arbitrators referred through the Federal Mediation and Conciliation Service (FMCS).

CATEGORIES OF RECORDS IN THE SYSTEM:

These records consist of evaluation forms submitted by field and headquarters representatives. The only personal identifier contained on the form is the arbitrator's name. The form is used to evaluate the performance of the arbitrator with respect to the conduct of the hearing and the arbitration decision.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title VII of Civil Service Reform Act of 1978.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Data are collected after each hearing and used to record an evaluation of the arbitrator and the arbitration decision. This evaluation record is then used by management as part of the basis for evaluating the arbitrator the next time his/her name appears on an FMCS list or if the parties jointly desire to consider using the same arbitrator again. After

evaluation, the arbitrators referred will be ranked in order of preference for the current hearing.

This ranking must be considered by local management prior to meeting with union representatives to select an arbitrator. Disclosure outside the Department of the Interior may be made (1) to other Government agencies requesting this information for the purpose of evaluating prospective arbitrators; (2) to the U.S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforceing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of the individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are maintained by arbitrator's name.

SAFEGUARDS:

Records are kept in locked files with access limited to employees whose official duties require access.

RETENTION AND DISPOSAL:

Destroy 5 years after final resolution of the case.

SYSTEM MANAGER(S) AND ADDRESS:

For records at location (a): Chief, Division of Labor Management Relations, Office of Personnel, Office of the Secretary, Department of the Interior, 19th & C Streets, NW, Washington, D.C. 20240. For records at location (b): Labor Relations Officer, Bureau of Indian Affairs, Division of Personnel Management, 1951 Constitution Avenue, NW, Washington, D.C. 20245. For records at location (c): Labor Relations Officer, Bureau of Mines, Division of Personnel, Branch of Compensation and Labor Relations, 5th Floor, Columbia Plaza, Washington, D.C. 20037. For records at location (d): Personnel Officer, Geological Survey, National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092. For records at location (e): Labor Relations Officer, National Park Service, Personnel Management Division, 19th & C Streets, NW, Washington, D.C. 20240. For records at location (f): Labor Relations Officer, U.S. Fish and Wildlife Service, Division of Personnel Management and Organization, 19th & C Streets, NW, Washington, D.C. 20240. For records at location (g): Labor Relations Officer, Bureau of Reclamation, Division of Personnel and Management, 19th & C Streets, NW, Washington, D.C. 20240. For records at location (h): Labor Relations Officer, Bureau of Land Management, Division of Personnel (530), 19th & C Streets, NW, Washington, D.C. 20240. For records at location (i): Office of the Solicitor, Division of General Law, 19th & C Streets, NW, Washington, D.C. 20240. For records at location (j): Labor Relations Officer, Division of Personnel, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, D.C. 20245.

NOTIFICATION PROCEDURES:

An individual may inquire whether or not the system contains a record pertaining to him/her by contacting the systems manager. He/she must also follow the Department's Privacy Act regulations regarding request for notification of existence of records (43 CFR 2.60).

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records in this system should contact the system manager and furnish the following information for their records to be located and identified: Name, including all former names. He/she must also follow the Department's Privacy Act regulations regarding verification of identity and access to records (43 CFR 2.63).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records in this system should contact the system manager and furnish their name, including all former names. They must also follow the Department's Privacy Act regulations regarding amendment of records (43 CFR 2.70).

RECORD SOURCE CATEGORIES:

The information in this system is obtained from the following sources: individuals designated to represent management by the Director of Personnel.

[FR Doc. 82-15368 Filed 6-4-82; 8:45 am]
BILLING CODE 4310-10-M

INTERSTATE COMMERCE COMMISSION

Long-and-Short-Haul Application for Relief (Formerly Fourth Section Application)

June 1, 1982.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. within 15 days from the date of publication of the notice.

No. 43698, Trans-Continental Freight Bureau, Agent (No. 566), reduced rates on wheat, threshed from stations in Montana and North Dakota to stations on the North Pacific Coast. The rates are to be published in tariff ICC TCFB 4045-0. Grounds for relief—market competition.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15281 Filed 6-4-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

The following applications were filed in Region I: Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 116661 (Sub-1–1TA), filed May 25, 1982. Applicant: BRIDAL VEIL TOURS, INC., 9470 Niagara Falls Boulevard, Niagara Falls, NY 14304. Representative: Robert D. Gunderman, Can-Am Building, 101 Niagara Street, Buffalo, NY 14202. *Passengers and their baggage, in special operations, in round-trip sightseeing tours, limited to the transportation of not more than 14 passengers in any one vehicle but not including the driver thereof and not including children under 10 years of age who do not occupy a seat or seats,* beginning and ending at Niagara Falls, NY and points in Niagara County, NY within 6 miles thereof, and extending to ports of entry on the US-CN Boundary line at Niagara Falls and Lewiston, NY. Supporting shipper: The Bel-Aire Motel, 9470 Niagra Falls Boulevard, Niagara Falls, NY.

MC 73444 (Sub-1–2TA), filed May 25, 1982. Applicant: FRANK L. CASTINE, INC., d.b.a. CASTINE MOTOR SERVICE, 1235 Chestnut Street, Athol, MA 01331. Representative: Donald R. Castine (same as applicant). *Contract carrier:* irregular routes: *Household goods and personal effects belonging to transferring personnel of General Electric Company, Plastics Operations and/or products, supplies and equipment of General Electric Company, Plastics Operations,* between all points in the U.S. under continuing contract(s) with General Electric Company, Plastics Operations, Pittsfield, MA. Supporting shipper: General Electric Company, Plastics Operations, 1 Plastic Avenue, Pittsfield, MA 01201.

MC 161929 (Sub-1–1TA), filed May 21, 1982. Applicant: CENTRAL DISTRIBUTORS, INC., 70 Commercial Street, Lewiston, ME 04240. Representative: John C. Lightbody, Esq., Murray, Plumb & Murray, 30 Exchange Street, Portland, ME 04101. *Contract Carrier;* irregular routes: *Bottled water,* from Poland Spring, ME to points in CT, MA, MD, NC, NY, NJ, OH, PA, Providence and Cumberland, RI and VA, under continuing contract(s) with Poland Spring Corporation of Poland Spring, ME. Supporting shipper: Poland Spring Corporation, Box #489, Poland Spring, ME 04274.

MC 162133 (Sub-1–1TA), filed May 21, 1982. Applicant: COMMUTER BUS LINE, INC., 1515 Jefferson Street, Hoboken, NJ 07030. Representative: Sidney J. Leshin, Esq., 3 East 54th Street, New York, NY 10022. *Contract carrier:* irregular routes: *Passengers and their baggage,* between Staten Island, NY and Manhattan, NY via New Jersey, under continuing contract(s) with South Shore Commuters Association, Staten Island, NY. Supporting shipper: South Shore Commuters Association, 134 Rye Avenue, Staten Island, NY 10312.

MC 155370 (Sub-1–2TA), filed May 24, 1982. Applicant: KEM CONTRACT CARRIERS, INC., Kirkwood Industrial Park, P.O. Box 1245, Binghamton, NY 13902–1245. Representative: Do ald C. Carmien, Esq., Suite 501 Midtown Mall, 15 Chenango Street, P.O. Box 1922, Binghamton, NY 13902–1922. *Contract carrier;* irregular routes: *Shoes, boots and related raw materials and supplies* (a) from Endicott Johnson Corp's subsidiary Nobil Shoes Warehouse, Akron, OH to the facilities of Endicott Johnson Corp. Endicott, NY (b) from ports of New York, NY, Philadelphia, PA and Baltimore, MD to Endicott, NY, having prior water movement under continuing contract(s) with Endicott Johnson Corp., Endicott, NY. Supporting shipper: Endicott Johnson Corp., 1100 East Main St., Endicott, NY 13760.

MC 35906 (Sub-1–2TA), filed May 24, 1982. Applicant: JOHN LESTICIAN TRUCKING, INC., 500 Breunig Ave., Trenton, NJ 08638. Representative: Raymond A. Thistle, Jr., Five Cottman Ct., Homestead Rd. & Cottman St., Jenkintown, PA 19046. *(1) Mattresses, box spring mattresses, sofa-beds, lounges, frames, bed-ends, and materials, supplies and accessories used in the manufacture and distribution thereof,* between Middlesex County, NJ, on the one hand, and on the other, points in CT, VA, Baltimore, MD, and DC. Supporting shipper: The Stearns & Foster Co., Wyoming Ave. & Williams St., Cincinnati, OH 45215.

MC 146596 (Sub-1–4TA), filed May 24, 1982. Applicant: FRED McCALL TRUCKING, INC., 2079 Railroad Street, P.O. Box 258, Ontario, NY 14519. Representative: James E. Brown, 36 Brunswick Road, Depew, NY 14043. *Stone products, concrete and concrete products* between points in MA and NH, on the one hand, and, on the other, points in CT, ME, MA, NH, NJ, NY, PA, RI, and VT. Supporting shipper: Landscape Products, Inc., 2450 Boston Road, Wilbraham, MA 10095, Syrstone, Inc., P.O. Box 247, N. Syracuse, NY 13212.

MC 162161 (Sub-1–1TA), filed May 24, 1982. Applicant: SHELBURNE LIMESTONE CORPORATION, P.O. Box 115, Route 7 North, Winooski, VT 05404. Representative: Robert J. Douglas (same as applicant). *Cement, in bulk,* from Glens Falls, NY to Burlington, VT. Supporting shipper: S. T. Griswold & Company, Inc., Griswold Industrial Park, Williston, VT 05495.

MC 162100 (Sub-1–1TA), filed May 24, 1982. Applicant: JOSEPH WRIGHT, d.b.a. SUCCESS DELIVERY SERVICE, 101 Keer Avenue, Newark, NJ 07112. Representative: Rick A. Rude, Esq., Suite 611, 1730 Rhode Island Avenue, NW., Washington, DC 20036. *Contract carrier:* Irregular Routes: *General Commodities, (except classes A and B explosives, Household Goods, and Commodities in Bulk,)* between points in the U.S., except AK and HI, under continuing contract(s) with Inter State Express, Inc., Brooklyn, NY. Supporting shipper: Inter State Express, Inc., 120 Apollo Street, Brooklyn, NY 11222.

MC 161952 (Sub-1–1TA), republication, filed May 12, 1982. Applicant: UTILITY PROPANE COMPANY, One Elizabethtown Plaza, Elizabeth, NJ 07207. Representative: Eric Meierhoefer, Joseph L. Steinfeld, Jr., Suite 1000, 1029 Vermont Avenue, NW., Washington, DC 20005. *Liquefied natural and petroleum gases, bulk heating oil, and diesel fuel* between points in NJ, on the one hand, and, on the other, points in MA, NH, VT, RI, CT, ME, NY, PA, and DE. Supporting shipper(s): New Jersey Natural Gas Co., 601 Bangs Avenue, Asbury Park, NJ 07712; Public Service Electric and Gas Company, 80 Park Pl., P.O. Box 570, Newark, NJ 07101; South Jersey Gas Company, Number One South Jersey Plaza, Folsom, NJ 08037. The sole purpose of this republication is to clarify the commodity description on previous publication of May 24, 1982.

MC 148893 (Sub-1–14TA), filed May 21, 1982. Applicant: WREN TRUCKING, INC., 1989 Harlem Road, Buffalo, NY 14212. Representative: James E. Brown, 36 Brunswick Road, Depew, NY 14043. *Clay in bags* from Mayfield, KY to Buffalo, NY, restricted to traffic destined to Wikel Mfg. Co. of NY, Inc. Supporting shipper: Wikel Mfg. Co. of NY, Inc., 205 Reiman Street, Buffalo, NY 14212.

MC 1250526 (Sub-1–4TA), filed May 24, 1982. Applicant: YARMOUTH LUMBER, INC., North Street, Box 46, Yarmouth, ME 04069. Representative: William H. Phipps (same as applicant). *Contract carrier;* Irregular routes:

Packaged oil and lubricants, from points in PA and NJ to points in ME, under continuing contract(s) with Maine Lubrication Services, Inc., of Portland, ME. Supporting shipper: Maine Lubrication Services, Inc., P.O. Box 732, Portland, ME 04104.

The following applications were filed in region 2. Send protests to: ICC, Fed, Res. Bank Bldg., 101 North 7th St. Rm. 620, Philadelphia, PA 19106.

MC 162238 (Sub-II–1TA), filed May 27, 1982. Applicant: BENNIE ANGERER, 5191 Marland SW, Navarre, OH 44662. Representative: Richard H. Brandon, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017. *Contract; Irregular: vegetable oil, in bulk,* from Decatur, IN, to Navarre, Martins Ferry, Lima and Fremont, OH, under continuing contract(s) with Nickles Bakery, Inc., Navarre, OH, for 270 days. Supporting shipper: Nickles Bakery, Inc., Navarre, OH 44662.

MC 112430 (Sub-II–2TA), filed May 26, 1982. Applicant: BIG BOY'S RIGGING SERVICE, INC., 4312 Pistorio Rd., Baltimore, MD 21229. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. *Machinery* from Baltimore, MD to Florence, KY. An underlying ETA seeks 120 days authority. Supporting shipper(s): Yamazaki Machinery Corp., 8025 Production Dr., Florence, KY 41042.

MC 86690 (Sub-II–6TA), filed May 25, 1982. Applicant: BOND TRANSFER CO., INC., 1301 Towson St., Baltimore, MD 21230. Representative: Leonard W. Smith, III (same address as applicant). Contract, irregular: *General commodities (except Classes A & B explosives, household goods, building materials, and commodities in bulk),* between points in MD, CT, MA, NJ, NY, PA, VA and DC, under continuing contract(s) with The Hechinger Co., Inc. Supporting shipper(s): Hechinger Co., Inc., 3500 Pennsy Dr., Landover, MD 20785.

MC 142723 (Sub-II–7TA), filed May 24, 1982. Applicant: BRISTOL CONSOLIDATORS, INC., 108 Riding Trail Lane, Pittsburgh, PA 15215. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. *Contract; irregular: Steel drums and materials, equipment and supplies used in the manufacture thereof* between McKees Rocks and Neville Island, PA, on the one hand, and, on the other, pts. in the US, under a continuing contract(s) with Calig Steel Drum Co. of McKees Rocks, PA, for 270 days. Supporting shipper: Calig Steel Drum Co., 1400 Fleming Ave., McKees Rocks, PA 15136.

MC 162185 (Sub-II–1TA), filed May 25, 1982. Applicant: BRITTAIN TRUCKING CO., P.O. Box 265, Pioneer, OH. Representative: Eugene D. Anderson, 1001 Connecticut Ave., NW., Suite 838, Washington, DC 20036. (1) *Brick,* from pts. in IN, OH and PA to Grand Rapids, Howard City, Calendonia, Holland, Lansing and Ludington, MI; and (2) *Lawn and garden products,* between pts. in MI, OH, KY, IN, IL, and NY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Belden Brick & Supply Co., Inc., 620 Leonard St., N.W., Grand Rapids, MI 49504; Valley Enterprises, 6970 Sylmar Ct., Dayton, OH 45424; Darling Builder Supply, Inc., 1600 Turner St., Lansing, MI 48906.

MC 158860 (Sub-II–2TA), filed May 25, 1982. Applicant: CAVALIER FREIGHT INC., 5741 Bayside Rd., Suite 106, Virginia Beach, VA 23455. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229. (1) *Bakery products, food products, dust, meal, peanuts and (2) materials, equipment and supplies used in the manufacture, distribution and sale of the commodities in (1) above,* between the facilities of Nabisco Brands, Inc., at or near Richmond, VA, on the one hand, and, on the other, points in CA, FL, GA, MA, OR, RI, TX and WA. An underlying ETA seeks 120 days authority. Supporting shipper: Nabisco Brands, Inc., East Hanover, NJ 07936.

MC 162225 (Sub-II–1TA), filed May 27, 1982. Applicant: DAILY JUICE PRODUCTS, INC., 1 Daily Way, Verona, PA 15147. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415. *Contract irregular:* (1) *such commodities as are dealt in by grocery and food business houses (except commodities in bulk)* between points in NJ, NY, OH and Baltimore, MD, on the one hand, and, on the other, the facilities of Fox Grocery Co., Belle Vernon, PA; and (2) *knocked down containers* from Detroit, MI, to the facilities of Packaging Specialists, Inc., at or near Pittsburgh, PA, under account in (1) with Fox Grocery Co., Belle Vernon, PA and in (2) with Packaging Specialists, Inc., Pittsburgh, PA for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Fox Grocery Co., P.O. Box 29, Belle Vernon, PA 15012; Packaging Specialists, Inc., P.O. Box 16272, Pittsburgh, PA 15242.

MC 162062 (Sub-II–1TA), filed May 27, 1982. Applicant: EAGLE EXPRESS, 1300 Brussells St., St. Marys, PA 15857. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108. *Sand, in bulk, in dump vehicles,* between St. Marys and Punxsutawney, PA, on the one hand, and, on the other, Manumuskim or Millville, NJ, for 270 days. Supporting shipper: Airco Carbon Division, 606 Liberty Ave., Pittsburgh, PA 15222.

MC 154048 (Sub-II–TA), filed May 27, 1982. Applicant: LAMAR K. HAAS, INC., R. D. 2, Box 652, Slatington, PA 18080. Representative: Lamar K. Haas (same as applicant). *Such commodities as are dealt with in food and feed business houses and materials, equipment and supplies used in the manufacture, sale and distribution,* between pts. in PA, NJ, NY, VA, MD, DE, CT, MA, VT, NH, ME, OH, IN, IL, RI, MI and DC, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Ralston Purina Co., P.O. Box 248, Camp Hill, PA 17011.

MC 98725 (Sub-II–1TA), Filed May 25, 1982. Applicant: Anthony LaFace, D.B.A. LaFACE EXPRESS, 864 River Ave., Pittsburgh, PA 15212. Representative: Raymond A. LaFace (same as applicant). *Contract; irregular; Sanitary paper products,* between Harmony, PA on the one hand and on the other, pts. in OH, WV, MD, NY, NJ, and DC, under continuing contract(s) with Weyerhaeuser Co., Harmony, PA, for 270 days. An underlying ETA seeks 120 days authority. Supporting Shipper: Weyerhaeuser Co., Zeigler St., Harmony, PA 16037.

MC 13267 (Sub-II–4TA), Filed May 25, 1982. Applicant: MOUNTAINSIDE TRANSPORT, INC., 4828 Hollins Ferry Rd., Baltimore, MD 20227. Representative: A. David Millner, 7 Becker Farm Rd., P.O. Box Y, Roseland, NJ 07068. Contract, irregular: *Such commodities as are dealt in by wholesale and chain grocery and food business houses, department stores and variety stores and materials, equipment and supplies used in the conduct of such businesses,* from points in CT, DC, DE, MD, NJ, NY, PA, VA to Landover, MD and Chester, VA, under a continuing contract(s) with Safeway Stores, Inc. An underlying ETA seeks 120 days authority.

Supporting shipper(s): Safeway Stores, Inc., Oakland, CA 94660.

MC 161924 (Sub-II–1TA), Filed May 27, 1982. Applicant: PENN MOUNTAIN TRUCKING CO., P.O. Box 258, R.D. 1, Hunlock Creek, PA 18621. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505. *Granite, lumber and pallets (except when requiring special equipment)* between points in CT, NJ, NY and PA on the one hand, and, on the other, points in NC, SC and VA, for 270 days. An underlying ETA seeks 120 days.

Supporting shipper(s): The North Carolina Granite Corp., P.O. Box 151,

Mount Airy, NC; Emerson Phares Lumber Co., Box 1696, Elkins, WV 26241.

MC 161394 (Sub-II–1TA), Filed May 25, 1982. Applicant: H. M. WHITE TRANSPORTATION CO., INC., 822 E. Washington St., Suffolk, VA 23434. Representative: Herman M. White (same address as applicant). *Passengers and their baggage, in special and charter operations,* beginning and ending in Suffolk, Portsmouth, Norfolk, Virginia Beach, Hampton, Newport News, Williamsburg, Franklin, Emporia, Petersburg, Courtland, Windsor and Isle of Wight County, VA and Elizabeth City, Sunbury, Gates and Gatesville and Pasquotank County, NC, and extending to points in the U.S. (including AK but excluding HI), for 180 days. An underlying ETA seeks 120 days authority.

Supporting shipper(s): There are eleven supporting statements attached to this application which may be examined at the Phila. Regional office.

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, NE., Atlanta, GA 30309.

MC 159141 (Sub-3–1TA), filed May 25, 1982. Applicant: RANDEL LANCE, d.b.a. M & R PRODUCE DISTRIBUTORS, #25 Garden Heights Apt. Redbud Rd., Calhoun, GA 30701. Representative: James M. Parrish, P.O. Box 1385, Marietta, GA 30061. *Contract* Carrier: Irregular: *Such commodities as are used in the manufacturing of pizzas,* from the plant site of Doskocil Sausage Co., at or near Hutchinson, KS, to Atlanta, GA, Charlotte, NC, Greenville, SC, Montgomery, AL, Orlando, FL and Raleigh, NC; and from Lakeland, FL, to Atlanta, GA, and Hutchinson, KS. Supporting shipper: Doskocil Sausage Co., 321 North Main Street, Hutchinson, KS 67505.

MC 161809 (Sub-3–1TA), filed May 24, 1982. Applicant: B & S TRANSPORTATION, INC., 915 Visco Drive, Nashville, TN 37210. Representative: Rebecca Lyford, Suite 916, J.C. Bradford Building, Nashville, TN 37219. *General commodities (except class A & B explosives, household goods and commodities in bulk)* in interstate and foreign commerce (a) between points in Williamson, Rutherford, Dickson, Davidson, Wilson, Montgomery, Cheatham, Robertson and Sumner Counties, TN, on the one hand, and on the other, points in Christian, Todd, Caldwell, Muhlenberg, Hopkins, Webster, McLean, Henderson and Davies Counties, KY, and Vandersburg County, IN; (b) between points in Williamson, Rutherford, Dickson, Davidson, Cheatham Counties, TN, on the one hand, and Montgomery County, TN on the other; and (c) between points in Christian, Todd, Caldwell, Muhlenberg, Hopkins, Webster, McLean, Henderson and Davies Counties, KY, on the one hand, and Vandersburg County, IN on the other. There are 32 supporting shippers whose statements can be examined at the ICC office in Atlanta, GA. Applicant will interline at Nashville, TN, Owensboro, KY, and Evansville, IN.

MC 2934 (Sub-3–47TA), filed May 18, 1982. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same as above). *Contract:* Irregular: *General commodities (except Class A & B explosives);* between points in the US, under continuing contracts with Control Data Corporation, 8100 34th Avenue South, Minneapolis, MN 55402, Supporting Shipper: Control Data Corporation, 8100 34th Avenue South, Minneapolis, MN 55402.

MC 139802 (Sub-3–2TA), filed May 24, 1982. Applicant: BPB TRANSPORTATION, Highway 27 N. Commercial Terminal, P.O. Box 397, Haines City, FL 33844. Representative: Ralph Reese, 2074 Thelma Drive N.W., Winter Haven, FL 33880. *Contract:* Irregular: *Imported Clay Products* between Laredo, TX on the one hand and points in CA, CO, FL, GA, and TN on the other under continuing contract(s) with AL Barrera Corporation, 1 H 35 North P.O. Box 1910, Laredo, TX 78041. Supporting shipper: AL Barrera Corporation, 1H 35 North, P.O. Box 1910, Laredo, TX 78041.

MC 142655 (Sub-3–5TA), filed May 27, 1982. Applicant: BAKER TRANSPORT, INC., P.O. Box 668, Hartselle, AL 35640. Representative: Donald B. Sweeney, Jr., P.O. Box 2366, Birmingham, AL 35201. *Paper and paper products* between the facilities of Lin-Pac Corrugated, Inc., Atlanta, GA, on the one hand, and, on the other, points in AL, GA, FL, TN, and SC. Supporting shipper: Lin-Pac Corrugated, Inc. 655–A Selige Drive, S.W., Atlanta, GA 30336.

MC 151463 (Sub-3–4TA), filed May 27, 1982. Applicant: BIGBEE TRANSPORTATION, INC., P.O. Box 32, Columbus, MS 39701. Representative: Norman J. Philion III, 1920 N Street, N.W., Washington, D.C. 20036. *Contact carrier,* irregular routes; *General commodities (except classes A and B explosives);* between points in the US, under continuing contract(s) with World-Wide Transportation Services, Inc. Supporting shipper: World-Wide Transportation Services, Inc., P.O. Box 344, Romulus, MI 48174.

MC 85530 (Sub-3–4TA), filed May 28, 1982. Applicant: BLALOCK TRUCK LINE, INC., P.O. Box 734, Charleston, SC 29402. Representative: Wilmer B. Hill, Suite 366, 1030 Fifteenth Street, N.W., Washington, D.C. 20005. *Contract* Carrier; Irregular; *General commodities (except classes A and B explosives household goods, and commodities in bulk)* between points in AL, AR, FL, GA, IL, IN, KY, LA, MD, MS, NJ, NC, OH, PA, SC , TN, TX, VA, WV, and DC under continuing contract(s) with Lowe's Companies, Inc., North Wilkesboro, NC. Supporting shipper: Lowe's Companies, Inc., P.O. Box 1111, Highway 268 East, North Wilkesboro, NC 28656.

MC 161850 (Sub-3–1TA), filed May 24, 1982. Applicant: CARSON ROBERT CURLEE, Route 7, Box 810, Salisbury, NC 28144. Representative: Carson Robert Curlee (same address as applicant). *Passengers,* between Rowan, Cabarrus, and Mecklenberg counties NC on the one hand, and, on the other, Catawba Project, York county, SC. There are five (5) supporting shippers whose statements can be examined in the regional office in Atlanta, GA.

MC 154323 (Sub-3–3TA), filed May 27, 1982. Applicant: EAGLE CARTAGE CORPORATION, Route #1 Callahan Road, Knoxville, TN 37912. Representative: Fred Bachschmidt (same address as above). *Expanded plastic materials, forms, packing material and supplies used in manufacturing distribution of plastic articles.* Between KY, IL, OH, NC, MI, FL, MN, NY, MA, MD, NJ, MO, IN, and LA. Supporting shipper: Foam Design, Inc., 44 Transport Court, P.O. Box 12178 Lexington, KY 40511.

MC 159963 (Sub-3–1TA), filed May 27, 1982. Applicant: EAST-WEST TRANSPORTATION, INC., P.O. Box 2187, Thomasville, NC 27360. Representative: Fletcher W. Miller, Rt. 3 Box 365, Trinity, NC 27370. *Contract carrier,* irregular routes; *New Furniture, Furniture Parts, Materials, and Supplies used in the manufacturing of New Furniture,* between points in Guilford County, NC, on the one hand, and on the other, points, in US. Supporting shipper: Myrtle Desk Company, P.O. Box 2490, High Point, NC 27261.

MC 161769 (Sub-3–1TA), filed May 7, 1982. Applicant: ECONO–TOURISTIC ASSOCIATES, INC., 60 Lockwood Boulevard, Charleston, SC 29401. Representative: Merrill A. Cox, 5600 Rivers Avenue, P.O. Box 10726, N. Charleston, SC 29411. *Passengers and their baggage, in the same vehicle with*

passengers, in round-trip charter operations, beginning and ending at points in NC, SC, GA, AL, TN, FL, VA, LA, MS and DC, and extending to Knoxville, TN (and its commercial zone) and Fontana Dam, NC (and its commercial zone). Supporting shippers: Charlestowne Travel, 60 Lockwood Blvd., Charleston, SC 29401 and Econo-Touristic Associates, Inc., agent for Fontana Village Resort, 60 Lockwood Blvd., Charleston, SC 29401.

MC 143364 (Sub-3–1TA), filed May 26, 1982. Applicant: ASSOCIATED CAB CO., INC., d.b.a. GRAY LINE OF ATLANTA, 3745 Zip Industrial Blvd., S.E., Atlanta, GA 30354. Representative: Bruce E. Mitchell, Esq., 3390 Peachtree Rd., N.E., Suite 520, Atlanta, GA 30326. *Passengers and their baggage, in charter and special operations* beginning and ending at Augusta, GA, and Columbia and Greenville, SC, and extending to Knoxville, TN, the site of the World's Fair. Supporting shipper: Ambassador Travel, Inc. of Georgia, d.b.a. Rich's Travel Agency, 45 Broad Street, Atlanta, GA 30302.

MC 160275 (Sub-3–4TA), filed May 27, 1982. Applicant: TOM MILLER TRUCKING COMPANY, INC., P.O. Box 99, Claremont, TN 28610. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064. *Such commodities as are dealt in by retail and wholesale home improvement centers* between the facilities of Lowe's Companies, Inc. located on and east of the Mississippi River. Supporting shipper: Lowe's Companies, Inc., Box 1111, North Wilkesboro, NC 28656.

MC 161231 (Sub-3–2TA), filed May 27, 1982. Applicant: PLATEAU EXPRESS, INC., Route 11, Box 226, McMinnville, TN 37110. Representative: Roland M. Lowell, 5th Floor, 501 Union Street, Nashville, TN 37219. *Contract,* irregular *metal articles and scrap materials,* between points in the U.S. (except AK and HI), under continuing contract with Hill's Scrap and Salvage, Inc., of McMinnville, TN. Supporting shipper: Hill's Scrap and Salvage, Inc., Route 11, Box 483, McMinnville, TN 37110.

MC 160384 (Sub-3–2TA), filed May 25, 1982. Applicant: W. L. SAVAGE, d.b.a. SAVAGE TOUR & CHARTER, Box 3367, Route #3, Clayton, GA 30525. Representative: W. L. Savage (address same as applicant). *Passengers and their baggage in special and charter operations* between Stephens and Habersham County, GA and Knox County, TN. Supporting shippers: There are 8 statements of support attached to the application which may be reviewed at the regional ICC office in Atlanta, GA.

MC 162145 (Sub-3–1TA), filed May 27, 1982. Applicant: THOMAS BROTHERS TRUCKING CO., INC., Route 2, Box 509, Hayneville, AL 36040. Representative: Robert S. Richard, 57 Adams Avenue, Montgomery, AL 36197. *Lumber and plywood* between points in AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, TX, VA, and WV. Supporting shipper: There are eight statements in support attached to this application which may be examined at the I.C.C. Regional Office in Atlanta, GA.

MC 147402 (Sub-3–5TA), filed May 21, 1982. Applicant: WACO DRIVERS SERVICE, INC., 138 Atando Avenue, Charlotte, NC 28206. Representative: Carl L. Helms (same address as applicant). *Contract carrier:* irregular: *Pulp, Paper and Related Products,* (1) between Dekalb and Fulton Counties, GA, on the one hand, and, on the other, points in AL, FL, KY, MS, NC, SC, TN, VA and WV, and (2) between Dekalb and Fulton Counties, GA, on the one hand, and, on the other, points in GA having prior or subsequent movement via rail. Supporting shipper: Paper and Pulp Exchange, Inc., 245 West Wieuca Road, Suite 200, Atlanta, GA 30342.

MC 145154 (Sub-3–18TA), filed May 28, 1982. Applicant: YOUNG'S TRANSPORTATION CO., 3401 Norman Berry Drive, Suite 246, East Point, GA 30344. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue, N.W., Washington, DC 20005. *Maintenance and sanitary chemicals and related products (except in bulk),* between Atlanta, GA, and Dallas, TX, and points in their commercial zones, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Zep Manufacturing Company, P.O. Box 2015, 1310 Seaboard Industrial Boulevard, Atlanta, GA 30301.

The following applications were filed in region 4. Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 13367 (Sub-4–1TA), filed May 21, 1982. Applicant: AG TRUCKING, INC., P.O. Box 1046, Elkhart, IN 46515. Representative: Paul D. Borghesani, Katz & Borghesani, 300 Communicana Bldg., 421 So. Second Street, Elkhart, IN 46516, Phone: (219) 293–3597. *Coke* from Indianapolis, IN to points in MI, OH, WI, IA, IL, KY, and MO. Supporting shipper: Citizens Gas & Coke Utility, 2950 Prospect St., Indianapolis, IN 46203.

MC 15735 (Sub-4–19TA), filed May 21, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract* irregular: *Household goods between points in the U.S. (except AK and HI) Under a continuing contract with Standard Oil Company of Indiana. Supporting shipper: Standard Oil Company of Indiana, Chicago, IL.*

MC (Sub-4–1TA), filed May 21, 1982. Applicant: UNITED FREIGHT DISPATCH, INC., 2220–1 Toledo Road, Elkhart, IN 46516. Representative: Paul D. Borghesani, Katz & Borghesani, 300 Communicana Bldg., 421 So. Second Street, Elkhart, IN 46516, phone: (219) 293–3597. *Contract* irregular: *Musical instruments and materials, equpment, and supplies* used in the manufacture and distribution of musical instruments from Altanta, GA, Cleveland, OH, Elkhart and Goshen, IN, Niles and Chicago, IL, Abilene, TX, Nogales, AZ, and Sparks, NV, to points in the United States (except AK and HI). Restricted to traffic moving under continuing contract with Mardan Corp., d/b/a C.G. Conn Ltd. Supporting shipper: Mardan Corp., d/b/a C.G. Conn Ltd., Elkhart, IN.

MC 138575 (Sub-4–3TA), filed May 24, 1982. Applicant: GWINNER OIL CO., INC., P.O. Box 38, Gwinner, ND 58040. Representative: James B. Hovland, 525 Lumber Exchange Bldg., Minneapolis, MN 55402. *Anhydrous ammonia,* between ports of entry on the International Boundary Line between the U.S. and Canada located in MT, on the one hand, and, on the other, points in MT. Shipper: N-Ren Corporation, P.O. Box 418, South St. Paul, MN 55075.

MC 143501 (Sub-4–4TA), filed May 21, 1982. Applicant: R.G.C. CARGO CARRIERS, INC., 16651 S. Vincennes Rd., S. Holland, IL 60473. Representative: Dean N. Wolfe, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877. *Contract;* Irregular: *Such commodities as are dealt in or used by manufacturers of mirrors and mirrored tiles,* between Chicago, IL, Atlanta, GA, and Carson, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI) under contract with Hoyne Industries, Inc. Underlying ETA seeks 120 days authority. Supporting shipper: Hoyne Industries, Inc., 5829 W. Ogden Ave., Chicago, IL 60650.

MC 143776 (Sub-4–24TA), filed May 24, 1982. Applicant: C.D.B., INCORPORATED, 155 Spaulding, S.E., Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. *Contract;* Irregular; *Food and related products* between various points in the U.S. (except AK and HI) under continuing contract(s) with Chef Pierre, Inc. An underlying ETA seeks 120-day authority. Supporting shipper: Chef Pierre, Inc., P.O. Box 1009, Traverse City, MI 49684.

MC 146758 (Sub-4-9TA), filed May 21, 1982. Applicant: LADLIE TRANSPORTATION, INC., 1701 Margaretha Street, Albert Lea, MN 56007. Representative: Phillip H. Ladlie (address same as applicant). *Charcoal briquettes* between points in Dent County, MO, on the one hand, and on the other, points in and west of WI, IN, MO, AR and LA. Supporting shipper: Floyd Charcoal, P.O. Box 549, Salem, Missouri 65560.

MC 155242 (Sub-4-3TA), filed May 21, 1982. Applicant: ADVANCE POOL DISTRIBUTION, INC., 3700 Central Avenue, Detroit, MI 48120. Representative: Alex J. Miller, 555 South Woodward Ave., Suite 512, Birmingham, MI 48011. *Such commodities as are dealt in or used by retail stores,* between Grand Rapids, MI on the one hand and on the other points in the Lower Peninsula of MI for K-Mart Corporation. Supporting shipper: K-Mart Apparel Corp., 7373 West Side Avenue, North Bergen, NJ 07047.

MC 160411 (Sub-4-2TA), filed May 24, 1982. Applicant: VIRGIL JAEGER, d.b.a 8-J'S TRUCKING, Box 3, Washburn, ND 58577. Representative: Charles R. Johnson, Box 2056, Bismarck, ND 58502. Contract, irregular (1) *Chemicals and janitorial supplies (except in bulk)* from Minneapolis, MN, and Chicago, IL, and points in their commercial zones to points in ND and (2) *soda ash* from Sweetwater County, WY, to points in ND. Underlying ETA seeks 120-day authority. Supporting shipper: Mon-Dak Chemicals, Washburn, ND 58577.

MC 162095 (Sub-4-2TA), filed May 21, 1982. Applicant: TRI-LINE TRANSPORTATION, INC., 14 East 5th Street, Ada, MN 56510. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309. *Lumber and wood products,* between points in CA, ID, MT, OR and WA, on the one hand, and, on the other, points in IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, OK, PA, SD, TX and WI. Supporting shipper: There are seven supporting shippers.

MC 162135 (Sub-4-1TA), filed May 21, 1982. Applicant: KRUEGER & STIENFEST, INC., Route 2, P.O. Box 159, Antigo, WI 54409. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Limestone and related products* from Schoolcraft County, MI, to Marathon County, WI. An underlying ETA seeks 120 days authority. Supporting shipper: Weyerhaeuser Company, Box 200, Rothschild, WI 54474.

MC 162156 (Sub-4-1TA), filed May 24, 1982. Applicant: GALE BURKHALTER, an Individual, d.b.a. BURKHALTER TRUCKING, Route 1, Kendall, WI 54638. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Contract;* irregular; *building materials and wood products* between Warren County, NY, on the one hand and, on the other hand, points in the U.S. (except AK and HI). Restriction: restricted to transportation to be performed under continuing contract(s) with Outdoorsman, Inc., David Grethen, dba Pine Ridge Distributing, and Lincoln Logs, Ltd. An underlying ETA seeks 120 days authority. Supporting shippers: Outdoorsman, Inc., Box 250, Necedah, WI 54646; David Grethen, dba Pine Ridge Distributing, Route 1, Mallard, IA 50562; and Lincoln Logs, Ltd., Box 135, Riverside Drive, Chestertown, NY 12817.

MC 162157 (Sub-4-1TA), filed May 24, 1982. Applicant: DELTA TRANSPORTATION, LTD., P.O. Box 8043, Madison, WI 53708. Representative: Stanley C. Olsen, Jr., 5200 Willson Road, Suite 307, Edina, MN 55424. *Contract;* irregular, *Food and related products,* between points in the U.S. (except AK and HI) under continuing contract(s) with Alpha Distributors, Ltd., of Madison, WI. Supporting shippers: Alpha Distributors, Ltd., P.O. Box 8043, Madison, WI 53708.

MC 6992 (Sub-4-5TA), filed May 26, 1982. Applicant: AMERICAN RED BALL TRANSIT CO., INC., 1335 Sadlier Circle, East Drive, Indianapolis, Indiana 46239. Representative: John F. Spickelmier (same as applicant). *New automotive castings* between points in St. Joseph County, IN on the one hand, and, on the other, points in Webb County, TX. Supporting shippers: Jenther Inc., Mishawaka, IN.

MC 74755 (Sub-4-4TA), filed May 26, 1982. Applicant: SUELZER MOVING & STORAGE, INC., 4325 Meyer Road, Fort Wayne, IN 46806. Representative: Richard A. Huser, One Indiana Square, Suite 2120, Indianapolis, Indiana 46204. *Contract:* Irregular; *Household goods (as defined by the Commission).* Between Fairfield and New Haven Counties, CT; Dallas, Kaufman, Rock Wall, Tarrant, Denton, Collin, Hunt, Ellis, Johnson, Parker and Wise Counties, TX; Hamilton, Marion, Boone, Madison and Hancock Counties, IN; on the one hand, and, on the other, points in the United States. Restricted to service performed under continuing contract(s) with GTE Service Corporation, Telephone Operations Headquarters Group. 1 Stanford Forum Stanford, CT.

MC 113751 (Sub-4-15TA), filed May 26, 1982. Applicant: HAROLD F. DUSHEK, INC., 10th & Columbia St., Waupaca, WI 54981. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, Wisconsin 53719. *Agricultural chemicals, pharmaceuticals, cleaning compounds, and such commodities as are dealt in or used by grocery stores, food businesses, or variety stores* between Peoria and East Peoria, IL, on the one hand and, on the other hand, points within MI, MN and WI. An underlying ETA seeks 120 days authority. Supporting shipper: Federal Warehouse Company, P.O. Box 1329, Peoria, IL 61654.

MC 123092 (Sub-4-1TA), filed May 27, 1982. Applicant: HERBERT F. JAUQUET, d.b.a. HERB JAUQUET TRUCKING, Box 175, Channing, MI 49815. Representative: John R. Wood, 127 South Cedar Street, Manistique, MI 49854. *Contract* irregular: *groundwood papers in rolls or sheets on or off skids and other property of Manistique Papers, Inc.* between Manistique, MI and points in WI and OH, under contract with Manistique Papers, Inc. of Manistique, MI. Supporting shippers: Manistique Papers, Inc., P.O. Box 111, Manistique, MI 49854.

MC 126853 (Sub-4-2), filed May 25, 1982. Applicant: PRINCL TRANSFER LINES, INC., Route 2, Mishicot, WI 54228. Representative: Frank M. Coyne, 25 West Main St., Madison, Wisconsin 53703. *Road Asphalts, Residual Fuel Oil* and *Petroleum Products,* in bulk, from Whiting, IN to points in WI. Supporting shipper: A. W. Oakes & Son, Inc., 2234 S. Green Bay Rd., Racine, WI, 53406; Ram Construction Inc., P.O. Box 88, Byron, WI 53009.

MC 127651 (Sub-4-4TA), filed May 26, 1982. Applicant: EVERETT G. ROEHL, INC., East 29th Street, Box 7, Marshfield, WI 54449. Representative: Richard A. Westley, Attorney, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705-0086, 608-238-3119. Lumber from the facilities of Taylor Lumber, Inc. at or near McDermott, OH to all points in CA. An underlying ETA seeks 120 day authority. Supporting shipper: Taylor Lumber, Inc., Route 2, Box 66, McDermott, OH 45652.

MC 128837 (Sub-4-26), filed May 26, 1982. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62626. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. *Contract,* irregular: *Alcoholic beverages,* between Elizabeth and Scobeyville, NJ on the one hand, and on the other, Chicago, IL. Restricted to traffic moving under continuing contract(s) with W. A. Taylor & Company. Supporting shipper: W. A. Taylor & Comany, 825 So. Bayshore Dr., Miami, FL 33131.

MC 145465 (Sub-4–4TA), filed May 20, 1982. Applicant: GURN ENTERPRISES, INC., Rt. 6, Box 8, Allegan, MI 49010. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Contract,* Irregular *Furniture, auditorium seats, convention hall seats and theatre furniture and seats, including equipment, materials and supplies* used in the manufacture, repair and installation thereof, between Belding, MI, including its commercial zone, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK and TX, for the account of Country Roads, Inc. An underlying ETA seeks 120 days' authority. Supporting shipper: Country Roads, Inc., 1122 S. Bridge St., Belding, MI 48809.

MC 147771 (Sub-4–5TA), filed May 25, 1982. Applicant: RALPH J. MARQUARDT & SONS, INC., P.O. Box 1040, Yankton, SD 57078. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. *Magnesium chloride, potash, salt and salt products,* from Weber county, UT, to points in ND, SD, MN, IA, MO, WI and IL. Supporting shipper: Great Salt Lake Minerals and Chemicals Corporation, P.O. Box 1190, Ogden, UT 84402.

MC 151791 (Sub-4–2TA), filed May 25, 1982. Applicant: LES LINDEMAN & SON, INC., 117 West Main Street, Morenci, MI 49256. Representative: David E. Jerome, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. *Contract* irregular: *Caustic soda beads,* from Lenawee county, MI, to Florence, KY, under a continuing contract with Vulcan Material Co. Supporting shipper: Vulcan Material Co., P.O. Box 12283, Wichita, KS 67277.

MC 152232 (Sub-4–2TA), filed May 24, 1982. Applicant: TYLER TRANSPORTATION, INC., 2020 Old State Road 31–E, Jeffersonville, IN 47130. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, Kentucky 40202. *Transporting food and related products* from Louisville, KY and its commercial zone to points in AL, GA, FL, TN, IL, and MO. Supporting Shipper: Paramount Foods, Inc., P.O. Box 32150, Louisville, KY 40232.

MC 154432 (Sub-4–5TA), filed May 25, 1982. Applicant: FORTY EIGHT TRANSPORT, INC., 17135 Westview, So. Holland, IL 60473. Representative: Philip A. Lee, 120 W. Madison St., Chicago, IL 60602. *Photochemicals* and related commodities; *Glassware; Electric wire; Transport chains, belting, agricultural-iron implement parts* and related articles; *steel* and *brass screws* and *nuts,* between Chicago, IL on the one hand, and on the other Mobile & Birmingham, AL; Phoenix, AZ; Little Rock, AR; CA; Denver, CO; Clinton & Stamford, CT; Dover & Claymont, DE; Orlando & Miami, FL; Atlanta, GA; Indianapolis, IN; IA; KS; Louisville, KY; Baton Rouge, LA; Augusta, ME; MD; MA; Detroit & Rochester, MI; MN; Cleveland, MS; MO; Helena, MT; NE; Carson City, NV; Concord, NH; NJ; NY; NC; Newburg & Bismarck, ND; OH; Oklahoma City, OK; Portland, OR; PA; Providence, RI; Sumter, SC; Rapid City & Pierre, SD; Chattanooga & Nashville, TN; TX; Salt Lake City, Ut; Burlington, VT; VA; WI; and Cheyenne, WY. Supporting shippers: Pheoll Mfg. Div. Allied Prod., Inc., 5700 W. Roosevelt Rd., Chicago, IL 60650; Rexnord, Inc., 13943 Park, Dolton, IL 60419; Owens Illinois, Inc., Kimble-Products, 12th & Arnold St., Chicago, IL 60411; Edwal Scientific Products Division, 12110 S. Peoria St., Chicago, IL 60643.

MC 156148 (Sub-4–2), filed May 27, 1982. Applicant: AMERICAN CHARTER, INC., 2907 11th Street, Rock Island, IL 61201. Representative: Abraham A. Diamond, 29 South La Salle St., Chicago, IL 60603. *Passengers and their baggage,* in the same vehicle with passengers, in round-trip, charter and special operations, beginning and ending at points in Platte, Clay and Jackson Counties, MO, and extending to points in the United States. Supporting shippers: There are eight statements of support attached.

MC 161620 (Sub-4–1TA), filed May 25, 1982. Applicant: METRO TRANSPORT, INC., 30021 Wixom Road, Wixom, MI 48096. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. *Contract* irregular: *Sulphates,* in bulk, in dump vehicles, between Wayne, Oakland and Macomb Counties, MI, and Union County, OH, on the one hand, and, on the other, Indianapolis and Lake County, IN, and Union County, OH, under continuing contract with Crown Chemical Company. Supporting shipper: Crown Chemical Co., Inc., P.O. Box 2225, Indianapolis, IN 46206.

MC 161845 (Sub-4–1), filed May 27, 1982. Applicant: OBERLANDER LITTLE ACRES INC., 605 North Burke St., Wolcott, IN 47955. Representative: Allen Oberlander, 605 North Burke St., Wolcott, IN 47955. *Contract irregular: Metal products* (no tank or bulk movements) Between Watseka, IL and points in and east of MD, SD, NE, KS, OK, TX. Restricted to traffic moving under a continuing contract with T & D Metal Products, 601 East Walnut St., Watseka, IL. Supporting shipper: T & D Metal Products, 601 East Walnut St., Watseka, IL.

MC 162177 (Sub-4–1TA), filed May 24, 1982. Applicant: SPORTS TRIPS, INC., 4081 Brindlewood Court, Elgin, IL 60120. Representative: William L. Fairbank, 2400 Finanical Center, Des Moines, IA 50309. *Passengers and their baggage, in charter operations,* beginning and ending at points in Du Page, Cook and Kane Counties, IL and extending to points in Fayette County, WV. Supporting shipper: Whitewater Adventures, Inc., 20 Allen Drive, Elgin, IL 60120.

MC 162178 (Sub-4–1TA), filed May 24, 1982. Applicant: WAYNE C. SPICHER, an individual, d.b.a. TRIPLE S TRANSPORT, 7993 First Road, Bremen, IN 46506. Representative: Paul D. Borghesani, Katz & Borghesani, 300 Communicana Bldg., 421 So. Second Street, Elkhart, IN 46516, Phone: (219) 293–3597. *Contract,* irregular: *Round and flat steel wire, conduit, strand, nylon tubing liner, wooden reels, spools, and machinery,* between South Bend, IN; Blytheville and Des Arc, AR; Milan, TN; Fairfield, IA; Adrian, MI; Sedalia and Moberly, MO; N. Haven, CT; Lodi, NJ; Monessen, Exeter, Sunbury, Wilkes-Barre, and West Pittston, PA under continuing contract(s) with Acco Industries, Inc. Supporting shipper: Acco Industries, Inc., 1217 Walnut Street, South Bend, Indiana 46619.

MC 162203 (Sub-4–1TA), filed May 26, 1982. Applicant: OLAND INC., Union Stockyards, West Fargo, ND 58078. Representative: Kent Oland (same). *Metal buildings,* in motor vehicles, from Henry County, IA, and points in IL, to points in ND. Supporting shipper: Dakota Grain Systems, Main Avenue, West Fargo, ND.

The following applications were filed in region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 96878 (Sub-5–6TA), filed May 24, 1982. Applicant: CONSOLIDATED TRANSFER AND WAREHOUSE CO., INC., 1251 Taney, North Kansas City, MO 64116. Representative: Alfred L. King (same as applicant). *Insulating materials* between Kansas City Commercial Zone (Kansas City, MO and KS) and points in KS, MO, AR, OK, TX, LA, MS, GA, AL, KY, TN, IL, IN, OH, MI, CO, WI, MN, UT, AZ, IA, NE, ND, and SD. Supporting shipper: Owens Corning Fiberglas, Sunshine and Fiberglas Rd., Kansas City, KS.

MC 147868 (Sub-5–1TA), filed May 25, 1982. Applicant: OKLAHOMA WESTERN LINES, INC., 1100 North

Broadway, Checotah, OK 74426. Representative: Thomas A. Stroud, 109 Madison Ave., Memphis, TN 38103. *Grout and thinsett, and materials and supplies used in the manufacture and distribution thereof,* between points in AL, on the one hand, and, on the other, points in AR, OK, TX, LA, MS and TN. Supporting shipper: Diversified Manufacturers, Inc., 640 First Ave., N, Birmingham, AL 35203.

ICC MC 148138 (Sub-5–1TA), filed May 24, 1982. Applicant: F & F TRANSFER, INC., 3316 Plaza Drive, Chalmette, LA 70043. Representative: Frank J. Heim Sr. (same as applicant). *General commodities* between Orleans Parish, LA on the one hand, and on the other, the states of LA, MS, AL, TX, having prior or subsequent movement by rail. Supporting shipper: Hub City of Louisiana Terminals, Inc., 1919 Veterans Boulevard, Suite 201, Kenner, LA 70062.

MC 151118 (Sub-5–17 TA), filed May 24, 1982. Applicant: MDR CARTAGE, INC., 516 West Johnson, Jonesboro, AR 72401. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. *Metal products* between points in Smith County, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Texas Imperial American, Inc., P.O. Box 878, Tyler, TX 75710.

MC 153723 (Sub-5–13 TA), filed May 24, 1982. Applicant: A & M ENTERPRISES, INC., Post Office Box 884, Springdale, AR 72764. Representative: George Spencer, 7 North Block, Fayetteville, AR 72701. *Evaporative Air Coolers and Accessories* between Pulaski County, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Essick Air Products, Inc., 313 Phillips Road, North Little Rock, AR 72114.

MC 154121 (Sub-5–12 TA), filed May 24, 1982. Applicant: TRAILINER CORP., 2169 E. Blaine, Springfield, MO 65803. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *General commodities (except classes A and B explosives, household goods, and commodities in bulk),* between the facilities used or utilized by Sterling Drug, Inc. at points in the US (except AK and HI) on the one hand, and, on the other, points in the US (except AK and HI). Supporting shipper: Sterling Drug, Inc., 90 Park Ave., New York, NY 10016.

MC 154234 (Sub-5–3 TA), filed May 24, 1982. Applicant: LAMBERT TRANSFER CO., 666 Grand Ave., Des Moines, IA 50309. Representative: Kenneth L. Kessler, P.O. Box 855, Des Moines, IA 50304. *Building materials* between points in MN, on the one hand, and, on the other, points in WY, KS, MT, ND, SD, MO, IA, WI, IL, MI, and IN. Supporting shipper: The Mac Gillis & Gibbs Co., P.O. Box 12576, New Brighton, MN 55112.

MC 154813 (Sub-5–2 TA), filed May 24, 1982. Applicant: DALLAS SERVICE CORPORATION, P.O. Box 1841, Des Moines, IA 50306. Representative: R. J. Denkhoff, 3000 Grand, Des Moines, IA 50312 *Cement,* from Des Moines, IA, to points in NE. Supporting shipper: Monarch Cement Co., Humboldt, KS 66748.

MC 156336 (Sub-5–1TA), filed May 24, 1982. Applicant: OSCEOLA WASTE MATERIALS, INC., P.O. Box 752, Industrial Drive, Osceola, AR 72370. Representative: Thomas B. Staley, 1550 Tower Building, Little Rock, AR 72201. *Beer and malt beverages* from St. Louis, MO, to West Memphis, AR. Supporting shipper: Arkansas Distributing Company, Inc., 800 East Barton Street, West Memphis, AR 72301.

MC 161635 (Sub-5–1TA), filed May 24, 1982. Applicant: ORVAL E. AND LILLIAN T. SMITH, d.b.a. SPRINGFIELD-SEDALIA EXPRESS, 2335 E. Parkwood, Springfield, MO 65803. Representative: Orval E. Smith (same address as applicant). *General commodities, (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk),* between Booneville, Cole Camp, Columbia, Cross Timbers, Fristoe, Hermitage, Knob Knoster, LaMonte, Lincoln, Louisburg, Marshall, Preston, Sedalia, Smithton, Springfield, Tipton, Urbana, Warrensburg, Warsaw, and Windsor, MO, and their commercial zones. Supporting shippers: 10.

Note.—Applicant intends to interline.

MC 162092 (Sub-5–1TA), filed May 24, 1982. Applicant: RAY'S TRUCKING COMPANY, P.O. Box 2808, Bryan, TX 77801. Representative: Nelson M. Davidson, Jr., P.O. Box 1148, Austin, TX 78767. *Mercer Commodities,* between points in CO, LA, NM, OK, WY, KS, and MS on the one hand and, on the other, points in TX. Supporting shippers: 8.

MC 162150 (Sub-5–1TA), filed May 24, 1982. Applicant: ORMSTON TRANSPORTATION, INC., 3801 Trailmobile, Houston, TX 77013. Representative: James M. Doherty, P.O. Box 1945, Austin, TX 78767. (1) *Machinery, equipment, materials, and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, (2) machinery, materials, equipment, and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, and (3) earth drilling machinery and equipment, materials, supplies, and pipe incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells between* points in AK, AZ, AR, CA, CO, ID, KS, LA, MS, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WY. Supporting shippers: 23.

MC 162151 (Sub-5–1TA), filed May 24, 1982. Applicant: NORTH SIDE PRODUCE COMPANY, 6029 North 16 Street, Omaha, NE 68101. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Contract; Irregular. *Meat and packinghouse products* from Grand Island, NE to points in IA and KS under continuing contract(s) with Nash-Finch Company of Minneapolis, MN. Supporting shipper: Nash-Finch Company, 3636 Stolley Park Road, Grand Island, NE 68801.

MC 162152 (Sub-5–1TA), filed May 24, 1982. Applicant: BILL JORDAN TRUCKING, INC., 5210 Oates Road, Houston, TX 77013. Representative: Paul S. Broussard, 501 Crawford, Suite 401, Houston, TX 77002. *Mercer commodities, construction equipment and supplies, pipe, when not used as oilfield equipment, metal and metal products, and earth drilling machinery and equipment* between points in AZ, AR, CA, CO, ID, IA, KS, LA, MN, MS, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY. Supporting shippers: 12.

MC 26825 (Sub-5–27TA), filed May 27, 1982. Applicant: ANDREWS VAN LINES, INC., P.O. Box 1609, Norfolk, NE 68701. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. *Clay products,* between points in Thomas County, GA, on the one hand, and, on the other, points in the U.S. Supporting shipper: Waverly Mineral Products Company, Quality Meigs, Thomas County, GA 31765.

MC 37640 (Sub-5–2TA), filed May 26, 1982. Applicant: TRANSPORTATION ENTERPRISES, INC., 1135 Gunter, Austin, TX 78702. Representative: Paul D. Angenend, 1606 Rio Grande, P.O. Box

2207, Austin, TX 78766. *Passengers and their baggage, in charter and special party operations* beginning at points in Bexar and Comal Counties, TX, and extending to points in the United States (except AK and HI). Supporting shippers: 17.

MC 88368 (Sub-5-15TA), filed May 27, 1982. Applicant: CARTWRIGHT VAN LINES, INC., 11901 Cartwright Avenue, Grandview, MO 64030. Representative: C. Max Stewart (same as applicant). *Fork Lift Trucks,* between Memphis, TN, on the one hand, and, on the other, Kansas City, KS and points within 200 miles of Kansas City, KS. Supporting shipper: Oram Equipment, Inc., 1034 S. 8th St., Kansas City, KS 66105.

MC 131031 (Sub-5-2TA), filed May 26, 1982. Applicant: COM-TRAN, INC., P.O. Box 12574, North Kansas City, MO 64116. Representative: James M. Hagan, 4625 Highway 80 East, Mesquite, TX 75150. *Food and Related articles,* between TX, LA and states east of ND, SD, NE, CO, NM. *Building, Roofing and Paving materiels,* between AR and TX. Supporting shippers: 5.

MC 144858 (Sub-5-15TA), filed May 28, 1982. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72219. Representative: Scott E. Daniel, P.O. Box 9799, Little Rock, AR 72219. *Teletypewriters and materials, parts and supplies used in the manufacture and distribution of teletypewriters,* between Stueben County, NY, and Pulaski County, AR. Supporting shipper: Teletype Corporation, 8000 Interstate No. 30, Little Rock, AR 72209.

MC 145970 (Sub-5-4TA), filed May 26, 1982. Applicant: SKILLETT & SONS, INC., P.O. Box 196, Rush Center, KS 67575. Representative: William B. Barker, P.O. Box 1979, Topeka, KS 66601. *Metal Products and Machinery,* Between points in KS on and West of U.S. Hwy 81, on the one hand, and on the other, points in the U.S. (except AK and HI). Supporting shippers: 6.

MC 146853 (Sub-5-8TA), filed May 28, 1982. Applicant: FRANK F. SLOAN, d.b.a. HAWKEYE WOODSHAVINGS, Route 1, Runnells, IA 50327. Representative: Richard D. Howe, Myers, Knox & Hart, 600 Hubbell Building, Des Moines, IA 50309. *(1) Wood windows, sliding glass doors, wood folding doors, partitions, and lumber, and (2) materials and supplies (except in bulk) used in the manufacture, sale, or distribution of the commodities in (1),* from Pella, IA, to points in WA, OR, and CA. Supporting shipper: Pella Rolscreen Company, Pella, IA.

MC 146853 (Sub-5-9TA), filed May 28, 1982. Applicant: FRANK F. SLOAN, d.b.a. HAWKEYE WOODSHAVINGS, Route 1, Runnells, IA 50327. Representative: Richard D. Howe, Myers, Knox & Hart, 600 Hubbell Building, Des Moines, IA 50309. *Sugar,* from Ovid, Sterling, Loveland, Ft. Morgan, and Weld County, CO; Torrington, WY; Twin Falls and Nampa, ID; Kansas City, MO; Moorhead, Crookston, Bongards, and E. Grand Forks, MN; Fredericksburg, Mason City, and Des Moines, IA; Chicago and Belividere, IL; Schofield, Wisconsin Rapids, Fond du Lac, and Owen, WI; Goodland, KS; and Billings, MT, to points in CO, IA, IL, IN, KS, MI, MN, MO, MT, NE, ND, OH, OK, PA, SD, TX, and WI. Supporting shipper: International Distributing Corp., 4240 Utah Street, St. Louis, MO 63116.

MC 147135 (Sub-5-1TA), filed May 26, 1982. Applicant: WAYNE'S DELIVERY SERVICE, INC., 2226 Bentley Manor Drive, Fenton, MO 63023. Representative: Thomas P. Rose, P.O. Box 205, Jefferson City, MO 65102. (1) *Pallets, Frames and Shipping Containers* from St. Louis, MO to points in IL, and (2) *Materials and Supplies used in the manufacture of the commodities named in (1) above* from points in IL to St. Louis, MO. Supporting shipper: Innovative Enterprises, Inc., 7208 Weil Avenue (P.O. Box 13049), St. Louis, MO 63119.

MC 147196 (Sub-5-52TA), filed May 27, 1982. Applicant: ECONOMY TRANSPORT, INC., P.O. Box 10686, Jefferson, LA 70181-0686. Representative: Martin White, P.O. Box 5387, Richardson, TX 75080. *Plastic articles* between TX and points in the U.S. Supporting shipper: Metroplex Foam, 950 S. Sixth Ave., Mansfield, TX.

MC 147196 (Sub-5-53TA), filed May 27, 1982. Applicant: ECONOMY TRANSPORT, INC., P.O. Box 10686, Jefferson, LA 70181-0686 Representative: Martin White, P.O. Box 5387, Richardson, TX 75080. *Bonded, plain, or duraflex synthetic NOI, staple or other than staple, carpet, cushions, pads or padding noi,* between TX and points in the U.S. Supporting shipper: Hobbs Bonded Fibers, P.O. Box 151, Groesbeck, TX 76642.

MC 149157 (Sub-5-6TA), filed May 28, 1982. Applicant: STYLE CRAFT TRANSPORT, INC., Highway 71 South, Milford, IA 51351. Representative: Foster L. Kent, P.O. Box 285, Council Bluffs, IA 51502. *Contract;* Irregular. *Such merchandise as is dealt in, or used by, distributors of electronic games,* from Los Angeles, Milpitas and San Diego, CA and Seattle, WA, to Omaha, NE. Supporting shipper: Central Distributing Co., 3814 Farnam, Omaha, NE 68131.

MC 156606 (Sub-5-2TA), filed May 28, 1982 Applicant: ROBERT L. LAVER AND WILMA J. LAVER, d.b.a. LAVER TRUCKING, Route 1, LaHarpe, KS 66751. Representative: Eugene W. Hiatt, Hiatt, Hiatt & Carpenter, Chartered, 207 Casson Building, 603 Topeka Boulevard, Topeka, KS 66603. *General Commodities* between TX, OK, KS, NE, AR, MO, LA, SD, CO, IA. Supporting shippers: Our Own Hardware Burnsville, MN; Ralph Cummins Truck & Equipment Sales, Gas City, KS; Humboldt Industries, Humboldt, KS; Brown-Strauss, Kansas City, KS; Our Own Hardware, Ottawa, KS.

MC 157061 (Sub-5-9TA), filed May 26, 1982 Applicant: ATLAS CARRIERS, INC., 800 S. Main St., Searcy, AR 72143. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103. (1) *Pumps and windmills, and related accessories* from facilities of Valley Pump Group, Inc. at Conway, AR, to points in the U.S., except AK and HI; and, (2) *components, materials and supplies used in the manufacture of pumps and windmills* from points in the U.S., except AK and HI, to facilities of Valley Pump Group, Inc. at Conway, AR.

MC 162006 (Sub-5-4TA), filed May 27, 1982. Applicant: T&M CONSTRUCTION CO., INC., Highway 33, Box 589, Watonga, OK 73772. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154. *Oil field commodities (except drilling rigs),* between points in AR, LA, MS, OK, TX and WY for the account of Petco Armstrong Fishing and Rental Tools. Supporting shipper: Petco Armstrong Fishing and Rental Tools, 3500 N. Cimarron Road, Oklahoma City, OK 73099.

MC 162242 (Sub-5-1TA), filed May 28, 1982 Applicant: COMMERCIAL TERMINAL SERVICE, INC., 723 South 12th Street, Omaha, NE 68102. Representative: James F. Crosby & Associates, 7363 Pacific St., Suite 210B, Omaha, NE 68114. *General commodities, (except commodities in bulk, household goods, and Classes A & B explosives).* (1) Between Boone and Des Moines, IA; Kansas City, KS; Minneapolis-St. Paul, MN; Kansas City, MO; and Fremont, Lincoln, and Omaha, NE (and points in their respective commercial zones) on the one hand, and, on the other, points in IA, KS, MN, MO, NE, ND, and SD. Restriction: Restricted to shipments having a prior or subsequent movement via rail. (2) Between points in NE on the one hand, and, on the other, points in IA, KS, MN, MO, NE, and SD. Restriction:

Restricted to shipments having a prior or subsequent movement via rail. Supporting shippers: 1. Burlington Northern, Executive Tower, 1405 Curtis St., Denver, CO 80202; 2. National Piggyback Service, Inc., 11325 Pegasus St., Suite S118, Dallas, TX 75238; 3. Kawasaki Motors Corporation, USA, 5500 NW 27th Street, Lincoln, NE 68521.

MC 162243 (Sub-5-1TA), filed May 28, 1982 Applicant: DALE H. WILLIAMS, an individual, 7309 So. 78th Street, Omaha, NE 68128. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. *Food and related products,* from Chicago and Decatur, IL; Cedar Rapids and Keokuk, IA; and Lincoln, NE (and points in their commercial zones) to Phoenix, AZ; Portland, OR; Rexburg, ID; Las Vegas, NV; Salt Lake City, UT (and points in their commercial zones) and points in Los Angeles, Riverside, Orange, Alameda, San Francisco, San Mateo, Santa Clara, Marin, Contra Costa, Tulare, and Sacramento Counties, CA. Supporting shipper: Basic Foods Company, 1211 E. OLympic Blvd., Los Angeles, CA 90021.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 151638 (Sub-6-1TA) filed May 21, 1982. Applicant: M. D. NICHOLS d.b.a. BECO-BANNER EXPRESS CO., P.O. B. 3452, Fremont, CA 94539. Representative: M. D. Nichols (same as applicant). *Contract Carrier,* Irregular routes: *Petroleum products and related products* which are the property of Western Lubricants company, between all points within CA, AR, NM, TX OK, CO, UT, and NV, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Western Lubricants, Inc., 1213 Lincoln Ave., San Jose, CA 95125.

MC 160161 (Sub-6-2-TA) filed May 21, 1982. Applicant: COASTMASTER TRANSPORT, 4904 Lacey Blvd. S.E., Lacey, WA 98503. Representative: Kenneth R. Mitchell, 2320A Milwaukee Wy, Tacoma, WA 98421. *Contract Carrier,* Irregular routes: *1) Truck brake drums and 2) Pulp and Paper Manufacturing Machine Parts,* from Washington County, OR to points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, MN, MT, NJ, NC, NY, OH, OK, PA, SC, TX, UT and WA., for 270 days. Supporting shipper: Durametal Corporation, 9560 SW Herman Rd. (P.O. B. 606) Tualatin, OR 97602.

MC 162183 (Sub-6-1TA) filed May 25, 1982. Applicant: PETER CORDOVA & WALTER MAXWELL d.b.a. LAS VEGAS CHARTER TOURS, 12708 Lorca Rd., La Mirada, CA 90638. Representative: Walter Maxwell, 433 Baskin, Valinda, CA 91744. *Passengers and their baggage* in the same vehicle in charter or special operation between Los Angeles, CA on the one hand and points in Las Vegas, NV on the other for 180 days. Supporting shippers: Compton Social Club, 1224 S. Stoneacre, Compton, CA 90221; Good Shepherd Club, Mt. Carmel Baptist Church, 11702 S. Tarbon, Hawthorne, CA 90250; All Nations Citizens Senior Club, 2317 Michigan Ave., Los Angeles, CA 90033.

MC 162166 (Sub-6-1TA), filed May 24, 1982. Applicant: O & B TRANSPORTATION, INC. 2118 S. Fern, Ontario, CA 91761. Representative: Donald R. Hedrick, POB 4334, Santa Ana, CA 92702. *Chemicals and related products,* from points in Los Angeles and Orange County, CA to points in OR, WA, MT, WY, ID, CO, UT, NM, AZ, NV and TX, for 270 days. Supporting shippers: DeSoto, Inc., 615 W. Grove, Orange, CA 92668; Borden, Inc., 14557 E. Bonelli Ave., City of Industry, CA 91745.

MC 142311 (Sub-6-5TA), filed May 24, 1982. Applicant: QUALITY STEAKS TRANSPORTATION CO., INC., 5100 Race Ct., Denver, CO 80216. Representative: Charles M. Williams, 665 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Such Commodities as are dealt in or used by manufacturers and distributors of dairy products (except in bulk),* From points in IL, MN, MO, KS, TN, OH, and WY, to the facilities of Gillette Dairy, Inc. at or near Norfolk, NE, for 270 days. Supporting shipper: Gillette Dairy, Inc., Box 19, Norfolk, NE 68701.

MC 146724 (Sub-6-4TA), filed May 21, 1982. Applicant: DEAN RAPPLEYE, INC., 7444 South 2200 West, P.O.B. 204, West Jordan, UT 84084. Representative: Daniel O. Hands, 205 West Touhy Ave., Suite 200A, Park Ridge, IL 60068. *Hydrated lime and fertilizer* (except in bulk), from the ports of entry along the U.S.-C.D. International Boundary Line at points in ID, MT and WA to points in ID, MT, OR and WA. Supporting shipper: North Pacific Lumber d.b.a. North Pacific Trading Co., 1505 S. E. Gideon, Portland, OR 97203.

MC 162182 (Sub-6-1TA), filed May 25, 1982. Applicant: DANNY F. SHUSS d.b.a. SHUSS TRUCKING, 4918 Hiwy 348, Olathe, CO 81425. Representative: Danny F. Shuss (same as applicant). *Steel and mining supplies* between points in CO on the one hand, and, on the other, TX, NM, UT, WY, AZ, OK, NE and ID for 270 days. Supporting shippers: Clearfield Mfg., Inc., 352 S. Main, Clearfield, UT 84015; H & H Bolt and Supply, Inc., 686 Industrial Blvd., Delta, CO 81416.

MC 160929 (Sub-6-3TA), filed May 24, 1982. Applicant: T-N-T SERVICES, INC., 711 N. Fairview, Santa Ana, CA 92703. Representative: Charles J. Kimbal, 1600 Sherman St., #665, Denver, CO 80203. *Contract,* irregular; *Commodities dealt in by manufacturers and distributors of fiberglass products,* between the facilities of Kimbstock, Inc., at or near Santa Ana, CA, Dallas, TX and Pasco, WA, on the one hand, and points in the U.S. in and east of U.S. Highway 85, on the other, under contract(s) with Kimstock Inc. for 270 days. Supporting shipper: Kimstock, Inc., 2200 South Yale Avenue, Santa Ana, CA 92704.

MC 162165 (Sub-6-1TA), filed May 24, 1982. Applicant: WILSON TRUCKING, Box 619, Evansville, WY 82636. Representative: Darrell Wilson (same as applicant). *Mercer authority,* machinery, material, equipment and supplies, used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by products. Between WY, MT, CO, ID, NM, AZ, UT, ND, SD, NE, WA, OR, and NV, for 270 days. Supporting shipper: There are 8 shippers. Their statements may be examined at the Regional office listed.

MC 162146 (Sub-6-1TA), filed May 24, 1982. Applicant: FRANK J. BRAZIL TRUCKING CO., 500 Richards Blvd., Sacramento, CA 95814. Representative: Frank J. Brazil (same as applicant). *General commodities,* except hazardous wastes, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between counties in California north of, and including Monterey, San Benito, Fresno, and Alpine counties, for 270 days. An underlying ETA seeks 120 days. Applicant proposes to interline at Sacramento, California. Supporting shippers: Roadway Express, Inc., Box 471, 1077 Gorge Blvd., Akron, OH 44309. Acme Fast Freight Inc., P.O.B. 1226, Sacramento, CA 95806. High Sierra Express, Inc., P.O.B. 7040, Reno, NV 89510.

MC 146076 (Sub-6-1TA), filed May 25, 1982. Applicant: L. K. FARMER, INC., 786-10th St., Meeker, CO 81614. Representative: Keith Tempel, 594 Main St., P.O.B. 839, Meeker, CO 81641. *Contract Carrier;* Irregular Routes: *Coal* from the Salt Creek Coal Mine located 17 miles north of Loma, CO to Rock Springs, WY for 270 days. Supporting

shipper: Island Creek Coal Sales, CO., 9745 E. Hampden, Suite, 300, Denver, CO 80231.

MC 162197 (Sub-6–1TA), filed May 25, 1982. Applicant: G.E.M. TRANSPORTATION, INC., P.O.B. 428, 2232 S. 7200 W., Magna, UT 84044. Representative: Macoy A. McMurray, 800 Beneficial Life Tower, 36 S. State St., Salt Lake City, UT 84111. *Contract Carrier;* Irregular Routes: *General Commodities* (except Class A & B explosives) between ID, MT, NV, UT, & WY for 270 days. Supporting shipper: Monroc, Inc., 1730 Beck St., Salt Lake City, UT 84103.

MC 136798 (Sub-6–2TA), filed May 27, 1982. Applicant: FORTUNE CORPORATION d.b.a. MAUST TRANSFER, 1762 6th Ave., Seattle, WA 98124. Representative: B. F. Brown, 561 Strander Blvd., Seattle, WA 98188. *Food and related products,* between Commercial Zone of Seattle, WA, and Whatcom, Skagit and Pierce counties, in WA, for 270 days. Supporting shippers: There are six shippers. Their statements may be examined at the Regional Office listed above.

MC 162212 (Sub-6–1TA), filed May 24, 1982. Applicant: URIAS R. MAYS d.b.a. MAYS DELIVERY SERVICE, 1617 W. 77th St., Los Angeles, CA 90047. Representative: Patricia M. Schnegg, 707 Wilshire Blvd., #1800, Los Angeles, CA 90017. *Prepared Animal Feed* from Peoria, IL to Los Angeles County, CA, for 270 days. Supporting shipper: Gardina Seed and Feeding Corp., 4800 S. Boule Ave., Vernon, CA 90058.

MC 144476 (Sub-6–1TA), filed May 26, 1982. Applicant: METZ BEVERAGE CO., INC., P.O.B. 828, Sheridan, WY 82801. Representative: Timothy R. Stivers, P.O.B. 1576, Boise, ID 83701. *(1) Malt Beverages and related advertising materials and (2) empty used beverage containers and materials and supplies used in and dealt in by breweries,* between the facilities utilized by the Adolph Coors Co. in Jefferson County, CO, on the one hand, *And,* on the other, points in WY and NE, for 270 days. Supporting shipper: Adolph Coors Co., Golden, CO 80401.

MC 162196 (Sub-6–1TA), filed May 25, 1982. Applicant: SUPERIOR INSTALLATION SERVICES, INC., 2034 S. Clayton, Denver, CO 82010. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1300, St. Louis, MO 63102. *Contract Carrier;* Irregular Routes: *Such commodities as are dealt in by retail department stores,* between the facilities of H. S. Pogue Company, in Hamilton Couty, OH, on the one hand, and, on the other, points in Franklin, Dearborn, Ripley, Ohio and Switzerland Counties, IN, and Campbell, Kenton, Boone, Bracken, Pendleton, Grant, Gallatin and Owen Counties, KY, under a continuing contract(s) with H. S. Pogue Company for 270 days. Supporting shipper: H. S. Pogue Company, Fourth & Race Sts., Cincinnati, OH 45202.

MC 161199 (Sub-6–2TA), filed May 24, 1982. Applicant: WESTERN FREIGHT LINES, INC., 300 Elliott Ave. W., Suite 220, Seattle, WA 98119. Representative: Henry C. Winters, 200 Jafco Office Bldg., 12600 S.E. 38th St., Bellevue, WA 98006. *Contract Carrier,* Irregular routes: *Food and related products* from facilities of Superior Packing Co. at Ellensburg, WA, and Dixon, CA, to points in CA, IL, MA, NJ, NY, OH, and WA, under continuing contract(s) with Superior Packing Co. for 270 days. Supporting shipper: Superior Packing Co., P.O.B. 277, Ellensburg, WA.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–15200 Filed 6–4–82; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. 263]

Motor Carriers; Permanent Authority Decisions; Restriction Removals Decision-Notice

Decided: May 28, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

CANADIAN CARRIER APPLICANTS: In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC–157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

FINDINGS:

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority, is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Ewing, and Williams.

Agatha L. Mergenovich,

Secretary.

MC 5709 (Sub-9)X, filed May 14, 1982. Applicant: PEHLER AND SONS, INC., Arcadia, WI 54612. Representative: Edward H. Instenes, P.O. Box 676, Winona, MN 55987. Lead, broaden (1) to "general commodities (except classes A and B explosives)" from general commodities with usual exceptions, "food and related products, chemicals and related products and farm products" from flour and feeds; "farm products" from apples; and "chemicals and related products and food and related products" from fertilizers, meat tankage and bone meal; (2) Arcadia and Dodge, WI to Trempealeau County; Buffalo, WI to Buffalo County; Winona, MN and points in MN within 35 miles thereof to Winona, Wabasha, Olmsted, Fillmore and Houston Counties; Winona, MN to Winona County; Ettrick, WI to Trempealeau County, North Bend, Franklin and Melrose, WI to Jackson County; Hamilton, WI to LaCrosse County; Caledonia, Gale, Preston to Trempealeau County; Galesville, WI and points within 50 miles thereof to Trempealeau, LaCrosse, Jackson, Buffalo, Monroe and Vernon Counties; Red Wing, MN to Goodhue County; Dubuque, IA to Dubuque County; Burnside, Lincoln, Pigeon, Summer, Buffalo, Cross, Dover, Glencoe, Montana and Waumandee to Trempealeau and Buffalo Counties, and (3) to radial authority.

MC 59517 (Sub-3)X, filed March 30, 1982, noticed in FR May 4, 1982, republished to notice the following omissions: Applicant: HARRY E. SHEA SONS, INC., 701 U.S. Route 130, Riverton, NJ 08077. Representative: Lester R. Gutman, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. Lead: broaden (1) agricultural commodities to "farm products, food and related products, tobacco products, and chemicals and related products," (2) lime to "chemicals

and related products, clay, concrete, glass, or stone products, and ores and minerals," (3) lumber to "building materials," and (4) Riverton, NJ, and points within 25 miles of Riverton to "points in Camden, Gloucester, Burlington, Atlantic, Ocean, Mercer, Hunterdon, and Monmouth Counties, NJ, and Philadelphia, Delaware, Chester, Montgomery, and Bucks Counties, PA."

MC 119557 (Sub-12)X, filed May 24, 1982. Applicant: KENNETH L. STUART, d.b.a. K & S TANKLINE, P.O. Drawer R, Copperhill, TN 37317. Representative: K. Edward Wolcott, 235 Peachtree St., NE., Suite 1200, Atlanta, GA 30303. Sub-8 certificate: Broaden to (1) "chemicals and related products" from sulphur dioxide, in bulk, in tank vehicles, and (2) radial authority.

MC 120171 (Sub-5)X, filed April 27, 1982, noticed in FR May 14, 1982, republished to notice the following omissions: Applicant: FAIRSIDE TRUCKING, INC., 7 Chilton Road, Brockton, MA 02401. Representative: Francis E. Barrett, Jr., Esq., 10 Industrial Park Road, Hingham, MA 02043. Sub-No. 1: broaden from "points in Vermont, New Hampshire, and Maine, south of a line extending in an easterly direction from Charlotte, VT, to Augusta, ME, and west of a line extending in a southerly direction from Augusta, ME, passing through Gardiner and Bath, ME, to the Atlantic Coast, including the points specified" to "points in Vermont in and of Chittenden, Washington, and Caldonia Counties, points in New Hampshire, and points in Maine in, south, and west of Oxford, Androscoggin, Kennebec, and Sagadahoc Counties."

MC 142040 (Sub-8)X, filed May 21, 1982. Applicant: AMBER DELIVERY SERVICE, INC., 25 Franklin St., Malden, MA 02148. Representative: Joseph T. Bambrick, Jr., P.O. Box 216, Douglassville, PA 19518. Subs 1 and 3: remove the restricted against the transportation of packages or articles weighing in the aggregate more than 500 pounds from one consignor to one consignee in/on any day.

MC 144858 (Sub-50)X, filed May 21, 1982. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72219. Representative: Scott E. Daniel, P.O. Box 9799, Little Rock, AR 72219. Sub 39F (1) broaden confectionary to "food and related products"; (2) remove the facilities limitation at Chicago, IL and (3) to radial authority.

MC 147576 (Sub-1)X, filed April 26, 1982, previously noticed in the FR of May 7, 1982, republished as corrected this issue. Applicant: AWC TRANSPORTATION INC., 2113 West 30th St., Jacksonville, FL 32209. Representative: Martin Sack, Jr., 203 Marine National Bank Bldg., 311 W. Duval St., Jacksonville, FL 32202. Lead certificate: broaden to county-wide authority: facilities-Jacksonville, to Duval, Nassau, Baker, Bradford, Clay, and St. Johns Counties, FL. The purpose of this republication is to correct the territorial scope by adding St. Johns County to those previously published.

MC 150601 (Sub-5)X, filed May 20, 1982. Applicant: MCBURNEY TRANSPORT LTD., P.O. Box 427, Hagersville, Ontario, CD NOA 1HO. Representative: William J. Hirsch, 1125 Convention Tower, 43 Court St., Buffalo, NY 14202. Sub 3 certificate: (1) broaden frozen fruits, frozen berries, and frozen vegetables to "food and related products"; (2) broaden ports of entry at or near the Detroit, Niagara, St. Clair, St. Mary's and St. Lawrence Rivers to ports of entry located in New York and Michigan; (3) remove the restriction limiting traffic to shipments moving to or from points in Canada; and (4) remove the restriction against the transportation of shipments from Detroit or Port Huron, MI, to the International Boundary on the Detroit or St. Clair Rivers.

[FR Doc. 82-15282 Filed 6-4-82; 8:45 am]
BILLING CODE 7035-01-M

[I.C.C. Order No. 83; Service Order No. 1344]

Consolidated Rail Corp., et al; Rerouting Traffic

To: Consolidated Rail Corporation; Chesapeake and Ohio Railway; Grand Trunk Western Railroad Company; Michigan Northern Railway Company, Soo Line Railroad Company.

In the opinion of J. Warren McFarland, Agent, the Detroit and Mackinac Railway Company is unable to transport promptly all traffic offered for movement via Straits Car Ferry between St. Ignace and Mackinaw City, Michigan, because the car ferry is out of service. As this matter is considered to be outside the scope of a single railroad as provided by Ex Parte No. 376, this action by the Commission is required.

It is ordered:

(a) *Rerouting traffic.* The Detroit and Mackinac Railway Company being unable to transport promptly all traffic offered for movement via Straits Car Ferry between St. Ignace and Mackinaw City, Michigan, because the car ferry is out of service, those lines named above are authorized to reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. All traffic accepted for movement via this routing must be rerouted in accordance with this order and will not be subject to diversion or other charges beyond those covered by paragraph (d) of this order. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting. This order vacates Reroute Orders DM 1-82 and MN 1-82.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided for under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective 12:00 noon, May 21, 1982.

(g) *Expiration date.* This order shall expire at 11:59 p.m., June 30, 1982, unless otherwise modified, amended or vacated.

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall

be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 21, 1982.

Interstate Commerce Commission,

J. Warren McFarland

Agent.

[FR Doc. 82-15284 Filed 6-4-82; 8:45 am]

BILLING CODE 7035-01-M

[I.C.C. Order No. 82; Service Order No. 1344]

Rerouting Traffic

To: Consolidated Rail Corporation; Michigan Interstate Railway Company; Chesapeake and Ohio Railway; Grand Trunk Western Railroad Company; Michigan Northern Railway Company; Green Bay and Western Railroad Company; Chicago and North Western Transportation Company; Soo Line Railroad Company; Norfolk and Western Railway Company, and Detroit, Toledo and Ironton Railroad Company.

In the opinion of J. Warren McFarland, Agent, the Ann Arbor Railroad System (Michigan Interstate Railway Company—Operator) is unable to transport traffic over its line north of Ann Arbor, Michigan, and to Kewaunee and Manitowoc, Wisconsin, via Frankfort, Michigan, due to the termination of its Designated operations for the State of Michigan. As this matter is considered to be outside the scope of a single railroad as provided by Ex Parte No. 376, and based on an apparent consensus of the parties involved on the need for such authority, this action by the Commission is necessary.

It is ordered:

(a) *Rerouting traffic.* The Ann Arbor Railroad System (AA) (Michigan Interstate Railway Company–Operator) being unable to transport promptly all traffic over its line north of Ann Arbor, Michigan, and to Kewaunee and Manitowoc, Wisconsin, via Frankfort, Michigan, due to the termination of its Designated operations between those points (See AA Embargo 2–82, Amendment 2, 4/23/82), that line and its connections are authorized to reroute any traffic routed via the points indicated. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. All traffic accepted for movement via this routing must be rerouted in accordance with this order and will not be subject to diversion or other charges beyond those covered by paragraph (d) of this order. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier reouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided for under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 12:00 noon, May 20, 1982.

(g) *Expiration date.* This order shall expire at 11:59 p.m., May 31, 1982, unless otherwise modified, amended or vacated.

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 20, 1982.

Interstate Commerce Commission.

J. Warren McFarland,

Agent.

[FR Doc. 82-15285 Filed 6-4-82; 8:45 am]

BILLING CODE 7035-01-M

[No. 38749]

Motor Carriers; UTF Carriers, Inc.—Petition for Exemption From Tariff Filing Requirements Under 49 U.S.C. 10761(b)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: UTF Carriers, Inc., a motor contract carrier, has requested exemption from the requirement of 49 U.S.C. 10761(a) that it may provide transportation or service only if the rate for the transportation or service is contained in a tariff on file with the Commission. The sought relief is provisionally granted.

DATES: Comments are due within 15 days from the date of publication of this notice in the **Federal Register**. The sought relief will become effective 15 days after the close of the comment period if no adverse comments are received.

ADDRESS: An original and, if possible, 15 copies of comments should be sent to: Interstate Commerce Commission, Room 5356, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7277.

SUPPLEMENTARY INFORMATION: UTF Carriers, Inc. (UTFC) is a wholly owned subsidiary of Uniroyal, Inc. It provides transportation service for Uniroyal and USCO Services, Inc. (USCO), another subsidiary of Uniroyal, under permit No. MC–151583 (Sub-No. 1), issued June 9, 1981. Additionally, UTFC provides contract service for Delta Tire Corporation under a temporary authority permit issued July 23, 1981, in Docket MC–151583 (Sub-No. 1–2TA). Delta warehouses tires for Uniroyal and other tire manufacturers at Chattanooga, TN. UTFC transports the various manufacturers' tires to Uniroyal distribution areas.

UTFC argues that, because its business is so closely related to the business of its corporate affiliates, Uniroyal and USCO, it is not practical for UTFC to publish and supplement formal tariffs containing extensive rate information. UTFC also points out that its particular method of computing rates is extremely complex and burdensome and involves the use of numerous and extensive motor carrier rate bureau tariffs.

Section 10702(b) of the Interstate Commerce Act requires contract carriers to file actual and minimum rates for the transportation they provide. Section 10761 prohibits transportation without a

tariff. Section 10762 sets forth general tariff requirements, including contract carrier authority to file only minimum rates in certain instances.[1] Each of these sections authorizes the Commission to grant relief to contract carriers when in the public interest and consistent with the transportation policy of section 10101.

UTFC's request for relief appears rasonable. We note that much of the relief could otherwise be obtained through the compensated intercorporate hauling exemption in 49 U.S.C. 10524(b). Moreover, in this case, the limited public benefit gained by having UTFC's tariffs on file would not seem to justify requiring UTFC to bear the substantial administrative burden of publishing them. It appears that the requirement that this carrier file tariffs covering its operations is not in the public interest and that relief will promote the transportation policies of 49 U.S.C. 10101.

We therefore provisionally grant the sought exemption. If we receive timely filed adverse comments, we will issue a further decision addressing them and deciding whether this tentative approval ought to be made final.

This decision would not appear to have a significant effect on either the quality of the human environment or conservation of energy resources. However, comments may be submitted on these issues.

(49 U.S.C. 10762(b), 10761(b), and 10762(f))

Decided: May 28, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons. Commissioner Simmons did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15286 Filed 6-4-82; 8:45 am]

BILLING CODE 7035-01-M

Water Carrier Temporary Authority Applications

The following was filed with the Regional Offices. Petition for Reconsideration is to be filed, within 20 days of this publication with the Regional Office noted in each caption summary. Replies to petition may be filed within 20 days of the date petition is filed. The following application was filed in region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

[1] UTFC has, apparently, concluded that the authority of Section 10762 to publish only minimum rates is not applicable.

WC 1349 filed May 26, 1982.
Applicant: INLAND RIVER TRANSPORATION CORPORATION, 10 South Brentwood Boulevard, St. Louis, MO 63105. Representative: Keith G. O'Brien, Esquire, 1729 H Street NW., Washington, D.C. 20006. Contract water *carbon (graphite) electrodes*, over all available waterways, between Pensacola, FL and Memphis, TN, under continuing contract(s) with Union Carbide Corp.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15285 Filed 6-4-82; 8:45 am]

BILLING CODE 7035-01-M

Agricultural Cooperative to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

June 2, 1982.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Fur Breeders Argicultural Cooperative
(2) P.O. Box 295, Midvale, UT 84047
(3) P.O. Box 295, 8400 S. 600 W., Midvale, UT 84047
(4) Irene Warr, Suite 280, 311 S. State, Salt Lake City, UT 84111.

(1) South Texas Farm Freight Lines, Inc.
(2) Box 678, Combes, TX 78535
(3) 3700½ N. Commerce, Harlingen, TX 78535
(4) Jim Harlin, Box 678, Combes, TX 78535

(1) Sun Valley Growers, Inc.
(2) P.O. Box 2116, Mansfield, OH 44905
(3) 457 Walfield St., Mansfield, OH 44905
(4) Donald A. Long, P.O. Box 2116, Mansfield, OH 44905

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15572 Filed 6-4-82; 8:45 am]

BILLING CODE 7035-01

[Finance Docket No. 29914]

Rail Carriers; Burlington Northern Railroad Company—Exemption—Abandonment Between Casselton and Amenia, ND

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the abandonment by the Burlington Northern Railroad Company of approximately 6.08 miles of railroad between Casselton and Amenia, ND, from the requirements of 49 U.S.C. 10903, subject to conditions for protection of employees.

DATES: The exemption is effective on July 7, 1982. Petitions for reconsideration must be filed on or before June 28, 1982, and Petitions for stay must be filed on or after June 17, 1982.

ADDRESSES: Send Pleadings to:

(1) Section of Finance, Room 5414, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, DC 20423

and (2) Petitioner's representative:

Thomas A. Ehlinger, Burlington Northern Railroad Company, 176 East Fifth Street, St. Paul, MN 55101.

Pleadings should refer to Finance Docket No. 29914.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, contact: T. S. Info Systems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, (202) 289-4357—D. C. Metropolitan Area, (800) 424-5403—Toll free for outside D.C. Area.

Decided: May 27, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre and Simmons.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15371 Filed 6-4-82; 8:45 am]

BILLING CODE 7535-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (82-31)]

American Innovation, Inc.; Intent To Grant an Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant an exclusive patent license.

SUMMARY: NASA hereby gives notice of intent to grant to American Innovation, Inc., Arlington, Virginia, a limited, exclusive, royalty-bearing, revocable license to practice the invention described in U.S. Patent No. 3,996,464 for "Mass Spectrometer with Magnetic Pole Pieces Providing the Magnetic Fields for both the Magnetic Sector and an Ion-Type Vacuum Pump" issued December 7, 1976, to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. The proposed exclusive license will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR Part 1245, Subpart 2. NASA will negotiate the final terms and conditions and grant the exclusive license unless, within 60 days of the date of this Notice, the Director of Patent Licensing receives written objections to the grant, together with supporting documentations. The Director of Patent Licensing will review all written responses to the Notice and then recommend to the Assistant General Counsel for Patent Matters whether to grant the exclusive license.

DATE: Comments to this notice must be received by August 6, 1982.

ADDRESS: National Aeronautics and Space Administration, Code GP-4, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Mr. John G. Mannix, Director of Patent Licensing, (202) 755-3954.

Dated: May 20, 1982.

S. Neil Hosenball,

General Counsel.

[FR Doc. 82-15394 Filed 6-4-82; 8:45 am]

BILLING CODE 7510-01-M

[Notice (82-32)]

Behavioral Engineering Corps.; Intent To Grant an Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant an exclusive patent license.

SUMMARY: NASA hereby gives notice of intent to grant to Behavioral Engineering Corporation, Metairie, Louisiana, a limited, exclusive, royalty-bearing, revocable license to practice the invention described in U.S. Patent No. 3,769,834 for "Whole Body Measurement Systems," issued November 6, 1973, to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. The proposed exclusive license will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR Part 1245, Subpart 2. NASA will negotiate the final terms and conditions and grant the exclusive license unless, within 60 days of the date of this Notice, the Director of Patent Licensing receives written objections to the grant, together with supporting documentations. The Director of Patent Licensing will review all written responses to the Notice and then recommend to the Assistant General Counsel for Patent Matters whether to grant the exclusive license.

DATE: Comments to this notice must be received by August 6, 1982.

ADDRESS: National Aeronautics and Space Administration, Code GP-4, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Mr. John G. Mannix, Director of Patent Licensing, (202) 755-3954.

Dated: May 20, 1982.

S. Neil Hosenball,

General Counsel.

[FR Doc. 82-15396 Filed 6-4-82; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN-50-528-OL, STN-50-529-OL, and STN-50-530-OL]

Arizona Public Service Co., et al. (Palo Verde Nuclear Generating Station, Units 1, 2 and 3 Operating License Proceeding); Resumption of Hearing

June 1, 1982.

The evidentiary hearing in the above identified proceeding will resume on June 22, 1982 at 9:30 a.m., local time, in Courtroom 4 (6th floor) of the Federal Building, 230 N. First Avenue, Phoenix, Arizona 85025.

It is so ordered.

For the Atomic Safety and Licensing Board.

Robert M. Lazo,

Chairman, Administrative Judge.

[FR Doc. 82-15304 Filed 6-4-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-293]

Boston Edison Co. (Pilgrim Station, Unit 1); Issuance of Director's Decision

On January 18, 1982, the Office of Inspection and Enforcememt (I&E) issued to the Boston Edison Company (BECo) a Notice of Violation and Proposed Imposition of Civil Penalties. A fine of $550,000 was proposed in the Notice. On March 19, 1982, BECo paid the proposed fine in full. On the same day, I&E received a letter from the General Counsel of the Executive Office of Energy Resources, Commonwealth of Massachusetts (EOER) asking that the Commission in some way arrange for the penalty money to be turned over to the EOER for use in a weatherization/conservation program. On April 26, 1982, I&E received a second letter from the General Counsel of the EOER, further urging that the BECo penalty money be turned over to the EOER.

Upon consideration of the information provided by the EOER through the two letters of its General Counsel, I have determined not to grant the request of the EOER. The reasons for this decision are set forth in a "Director's Decision Under 10 CFR 2.206", which is available for inspection in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555, and in the local public document room at the Plymouth Public Library, North Street, Plymouth, Massachusetts 02360. A copy of the decision will also be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c).

Dated at Bethesda, Maryland, this 28 day of May, 1982.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 82-15800 Filed 6-4-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-293]

Boston Edison Co.; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued

Amendment No. 61 to Facility Operating License No. DPR–35 issued to Boston Edison Company (the licensee) which revised the Technical Specifications for operation of the Pilgrim Nuclear Power Station (the facility) located near Plymouth, Massachusetts. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to clarify and modify surveillance requirements and limiting conditions for operation for degraded grid voltage protection equipment and procedures.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since it does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated February 26, 1982, (2) Amendment No. 61 to License No. DPR–35, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Plymouth Public Library on North Street in Plymouth, Massachusetts 02360. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 28th day of May 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82–15301 Filed 6–4–82; 8:45 am]

BILLING CODE 7590–01–M

Governors' Designees Receiving Advance Notification of Transportation of Nuclear Waste

On January 6, 1982, the Nuclear Regulatory Commission (NRC) published in the **Federal Register** as final, certain amendments to 10 CFR Parts 71 and 73 (effective July 6, 1982), which require advance notification to governors or their designees concerning transportation of certain shipments of nuclear waste and spent fuel. The advance notification covered in Part 73 is for spent nuclear reactor fuel shipments and the notification for Part 71 is for large quantity shipments of radioactive waste (and of spent nuclear reactor fuel not covered under the final amendment to 10 CFR Part 73.)

The following list denotes the names, addresses and telephone numbers of those individuals in each State who are responsible for receiving information on nuclear waste shipments. The list will be published annually in the **Federal Register** on or about June 30, to reflect any changes in information.

INDIVIDUALS RECEIVING ADVANCE NOTIFICATION OF NUCLEAR WASTE SHIPMENTS

States	Part 71	Part 73
Alabama	Col. Jerry Shoemaker, Director, Alabama Department of Public Safety, P.O. Box 1511, Montgomery, AL 36192–0501, (205) 832–5068.	Same.
Alaska	Ernst W. Mueller, Commissioner, Alaska Department of Environmental Conservation, Pouch O, Juneau, AK 99811, (907) 465–2600.	Same.
Arizona	Charles F. Tedford, Director, Arizona Radiation Regulatory Agency, 925 South 52nd Street, Suite 2, Tempe, AZ 85281, (602) 255–4845, After hours: (602) 998–4682.	Same.
Arkansas	E. F. Wilson, Director, Division of Environmental Health Protection, Arkansas Department of Health, 4815 West Markham Street, Little Rock, AR 72201, (501) 661–2301, After hours: (501) 661–2316.	Same.
California	E. E. Kynaston, Chief, California Highway Patrol, P.O. Box 898, Sacramento, CA 95804, (916) 445–6211.	Same.
Colorado	Duty Officer, Colorado State Patrol, Attn.: Captain John Callahan, 4201 E. Arkansas Avenue, Denver, CO 80222, (303) 757–9422.	Same.
Connecticut	The Honorable Stanley J. Pac, Commissioner, Department of Environmental Protection, State Office Building, 165 Capitol Avenue, Hartford, CT 06115, (203) 566–2110.	Same.
Delaware	William J. O'Rourke, Secretary, Department of Public Safety, Highway Administration Building, Dover, DE 19901, (302) 736–4321.	Same.
Florida	Wallace Johnson, Public Health Physicist Supervisor, Department of Health and Rehabilitative Services, Radiological Health Services, P.O. Box 15490, Orlando, FL 32858, (305) 299–0580.	Same.
Georgia	Ken M. Copeland, Director of the Office of Permits and Enforcement, Georgia Department of Transportation, 940 Virginia Avenue, Hapeville, GA 30354, (404) 656–5435.	Same.
Hawaii	George R. Ariyoshi, Governor, State of Hawaii, State Capitol, Honolulu, HI 96813, (808) 548–5420.	Same.
Idaho	Robert D. Funderburg, Manager, Radiation Control Section, Department of Health and Welfare Division of Environment, 450 W. State, 5th Floor, Statehouse, Boise, ID 83720, (208) 334–4107, After hours: (208) 362–3250.	Same.
Illinois	Dr. Philip F. Gustafson, Director, Illinois Department of Nuclear Safety, 1035 Outer Park Drive, 5th Floor, Springfield, IL 62704, (217) 546–8100.	Same.
Indiana	John T. Shettle, Superintendent, Indiana State Police, 301 State Office Building, 100 North Senate Avenue, Indianapolis, IN 46204, (317) 232–8248.	Same.
Iowa	John D. Crandall, Director, Office of Disaster Services, Hoover State Office Building, Des Moines, IA 50319, (515) 281–3231.	Same.
Kansas	Leon H. Mannell, P.E., Administrator, Radiological Systems, The Adjutant General's Department, Division of Emergency Preparedness, P.O. Box C–300, Topeka, KS 66601, (913) 233–9253, Ext. 321.	Same.

INDIVIDUALS RECEIVING ADVANCE NOTIFICATION OF NUCLEAR WASTE SHIPMENTS—Continued

States	Part 71	Part 73
Kentucky	Donald R. Hughes, Sr., Supervisor, Radiation Control, Department for Human Resources, 275 East Main Street, Frankfort, KY 40621, (502) 564–3700.	Same.
Louisiana	Col. Grover W. "Bo" Garrison, Head, Louisiana State Police, 265 South Foster Drive, P.O. Box 66614, Baton Rouge, LA 70896, (504) 925–6112.	Same.
Maine	John Brochu, Director, Bureau of Oil and Hazardous Materials, Department of Environmental Protection, Statehouse, Station #17, Augusta, ME 04333, (207) 289–2251 or 1–800–482–0777.	Same.
Maryland	Lt. Colonel J. G. Lough, Chief, Field Operations Bureau, Maryland State Police, 1201 Reisterstown Road, Pikesville, MD 21208, (301) 486–3101.	Same.
Massachusetts	Robert M. Hallisey, Director, Radiation Control Program, Massachusetts Department of Public Health, Room 770, 600 Washington Street, Boston, MA 02111, (617) 727–6214.	Same.
Michigan	Gene A. Rooker, Captain, Commanding Officer, Operations Division, Michigan Department of State Police, 714 S. Harrison Road, East Lansing, MI 48823, (517) 337–6100.	Same.
Minnesota	Deidre M. A. Krause, Operations Officer, Minnesota Division of Emergency Services, 85 State Capitol, St. Paul, MN 55155, (612) 296–0453, After hours: (612) 778–0800.	Same.
Mississippi	James E. Maher, Director, Mississippi Emergency Management Agency, P.O. Box 4501, Fondren Station, Jackson, MS 39216, (601) 364–7200.	Same.
Missouri	William Beaty, Director, Disaster Planning and Operations, 1717 Industrial Drive, P.O. Box 116, Jefferson City, MO 65102, (314) 751–2321, After hours: (314) 751–2748.	Same.
Montana	Mr. Larry Lloyd, Chief, Occupational Health Bureau, Department of Health and Environmental Sciences, Room A113, Cogswell Building, Helena, MT 59620, (406) 449–3671.	Col. Carlyn L. Gilbertson, Administrator, Disaster and Emergency Services, Department of Military Affairs, 1100 North Last Chance Gulch, Helena, MT 59620, (406) 449–3034.
Nebraska	Col. Elmer J. Kohmetscher, Superintendent, Nebraska State Patrol, 14th and Burnham Streets, P.O. Box 94907, Lincoln, NE 68509, (402) 471–2406.	Same.
Nevada	John Vaden, Supervisor, Radiological Health, Division of Health, Consumer Health Protection Services, 505 East King Street, Kinkead Building, Room 103, Carson City, NV 89710, (702) 885–4750.	Same.
New Hampshire	Diane Tefft, Radiation Control Officer, Office of Radiation Control, Division of Public Health, Health and Welfare Building, Hazen Drive, Concord, NH 03301, (603) 271–4586.	Same.
New Jersey	Frank Cosolito, Acting Bureau Chief, Bureau of Radiation Protection, 380 Scotch Road, Trenton, NJ 08625, (609) 292–8202.	Same.
New Mexico	Alphonso A. Topp, Jr., Chief, Radiation Protection Bureau, Environmental Improvement Division, Health and Environment Department, P.O. Box 968, Santa Fe, NM 87504–0968, (505) 827–5271, ext. 279, After hours: (505) 827–2275.	Same.
New York	Donald A. Devito, Director, Disaster Preparedness Program, Division of Military and Naval Affairs, Public Security Building, State Campus, Albany, NY 12226, (518) 457–2222.	Same.
North Carolina	Lt. Walter K. Chapman, Operations Officer, North Carolina Highway Patrol Headquarters, P.O. Box 27687, Raleigh, NC 27611, (919) 733–4030, After hours: (919) 733–3861.	Same.
North Dakota	Dana K. Mount, Director, Division of Environmental Engineering, North Dakota State Department of Health, 1200 Missouri Avenue, Bismarck, ND 58501, (701) 224–2348.	Same.
Ohio	James R. Williams, Nuclear Preparedness Officer, Disaster Services Agency, 2825 Granville Road, Worthington, OH 43085, (614) 889–7157.	Same.
Oklahoma	Office of the Commissioner, Oklahoma Department of Public Safety, 3600 N. Eastern Ave., Oklahoma City, OK 73111, (405) 424–4011.	Same.
Oregon	Donald W. Godard, Administrator Siting and Regulation, Oregon Department of Energy, 102 Labor and Industries Building, Salem, OR 97310, (503) 378–6469.	Same.
Pennsylvania	Kenneth R. Lamison, Director of Response and Recovery, Pennsylvania Emergency Management Agency, B–151 Transportation and Safety Building, Harrisburg, PA 17120, (717) 783–8150.	Same.
Rhode Island	William A. Maloney, Associate Administrator, Motor Carriers, Division of Public Utilities and Carriers, 100 Orange Street, Providence, RI 02903, (401) 277–2442 or (401) 277–3500.	Same.
South Carolina	Heyward G. Shealy, Chief, Bureau of Radiological Health, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201, (803) 758–7805, After hours: (803) 758–5531.	Same.
South Dakota	Robert D. Gunderson, Division Director, Emergency and Disaster Services, Capitol Building, Basement, Pierre, SD 57501, (605) 773–3231.	Same.
Tennessee	J. A. Bill Graham, Director, Division of Radiological Health, Department of Public Health, 150 Ninth Ave. N., Terra Building, Nashville, TN 37219, (615) 741–7812.	Same.

INDIVIDUALS RECEIVING ADVANCE NOTIFICATION OF NUCLEAR WASTE SHIPMENTS—Continued

States	Part 71	Part 73
Texas	Dr. Robert Bernstein, Commissioner, Texas Department of Health, 1100 West 49th Street, Austin, TX 78756, (512) 835-7000.	Col. James B. Adams, Director, Texas Department of Public Safety, P.O. Box 4087, Austin, TX 78773, (512) 465-2000.
Utah	Darrell M. Warren, Director, Bureau of Radiation Control, 150 W. North Temple, P.O. Box 2500, Salt Lake City, UT 84110, (801) 533-6734.	Same.
Vermont	Raymond McCandless, Director, Division of Occupational and Radiological Health, 10 Baldwin Street, Montpelier, VT 05602, [802] 828-2886.	Same.
Virginia	Norman McTague, Office of Emergency and Energy Services, Operations Director, 7700 Midlothian Turnpike, Richmond, VA 23235, (804) 323-2300.	Same.
Washington	Nicholas D. Lewis, Chairman, Energy Facility Site Evaluation Council, Mail Stop PY-11, Olympia, WA 98504, (206) 459-6490.	Same.
West Virginia	Cecil H. Russell, Director, West Virginia Office of Emergency Services, State Capitol Building, Room EB-80, Charleston, WV 25305, (304) 348-[illegible].	Notification not required.
Wisconsin	Joseph L. LaFleur, Administrator, Division of Emergency Government, 4802 Sheboygan Avenue, P.O. Box 7865, Madison, WI 53707, (608) 266-3232.	Same.
Wyoming	Thomas A. Schell Wyoming State Liaison Officer, Radiological Health Services (Health and Medical Services), Hathaway Building, Cheyenne, WY 82002, (307) 777-7956, After hours: (307) 638-0123.	Same.
District of Columbia	Herbert T. Wood, Ph. D., Acting Deputy Bureau Chief, BCHS, OESQA, Department of Environmental Services, 415 12th Street, N.W., Room 314, Washington, D.C. 20004, (202) 724-4358, After hours: (202) 529-3349.	Same.
Puerto Rico	Pedro A. Gelabert, Chairman, Environmental Quality Board, P.O. Box 11488, Santurce, PR 00910, (809) 725-8698 or (809) 725-8140	Same.

INDIVIDUALS RECEIVING ADVANCE NOTIFICATION OF NUCLEAR WASTE SHIPMENTS—Continued

States	Part 71	Part 73
Guam	Paul M. Calvo, Governor of Guam, Office of the Governor, P.O. Box 2950, Agana, Guam 96910, 472-8931 or 472-8939.	Same.
Trust Territory of the Pacific Islands.	Mr. Daniel J. High, Acting Deputy High Commissioner, Trust Territory of the Pacific Islands, Saipan, CM 96950, Saipan 9741.	Same.
Virgin Islands	Honorable Juan Luis, Governor, Government House, Charlotte Amalie, St. Thomas, Virgin Islands 00801, (809) 774-0001.	Same.
American Samoa.	Honorable Peter Coleman, Governor of American Samoa, Territorial Capitol, Pago Pago, American Samoa 96799, 633-4116.	Same.
Commonwealth of the Northern Mariana Islands.	Honorable Pedro P. Tenorio, Governor, Commonwealth of the Northern Mariana Islands, Saipan, Mariana Islands, 96950, Saipan 6407.	Same.

Questions regarding this matter should be directed to Mindy Landau at (301) 492-9880.

Dated at Bethesda, Maryland this 1st day of June 1982.

For the Nuclear Regulatory Commission.

G. Wayne Kerr,

Director, Office of State Programs.

[FR Doc. 82-15303 Filed 6-4-82; 8:45 am]

BILLING CODE 7590-01-M

[License No. 45-09963-01, (EA 81-51)]

Met Lab, Inc.; Order Approving Settlement

June 1, 1982.

Pursuant to 42 U.S.C. 2282 and 10 CFR 2.205 the Director of the Office of Inspection and Enforcement issued an order imposing a civil monetary penalty of $3,000 upon respondent Met Lab, Inc., 605 Rotary Street, Hampton, Va., for allegedly violating 10 CFR 20.101(b)(1) by permitting an individual to receive a radiation dose in excess of that allowed, for the calendar quarter ending March 31, 1981 and 10 CFR 34.33(d) by failing to immediately send the individual's film badge for processing after his dosimeter was charged beyond its range. Respondent licensee requested that the matter be set for hearing as provided under 10 CFR 2.205(d). Notice that the proceeding was assigned to an administrative law judge for hearing was published in the **Federal Register** on December 10, 1981.

Effective May 24, 1982 the parties entered into a stipulation for settlement of the proceeding, which was then submitted to me for approval pursuant to 10 CFR 2.203. The stipulation of settlement is attached as an appendix and is made a part hereof. It recites steps that Met Lab, Inc. has been taking to promote radiological safety and sets forth practices and procedures it follows and agrees to pursue to accomplish that end. Commission staff concur that the action the licensee has taken and obligates itself to take is corrective and will reasonably protect the public health and safety. Upon this basis the Director of Inspection and Enforcement recommends that the $3,000 penalty assessed in the matter should be remitted in its entirety.

The stipulation for settlement of the proceeding is approved. It expressly requires Met Lab, Inc. to follow delineated procedures that are designed to keep its personnel from receiving excessive doses of radiation. The imposition of a $3,000 civil penalty only would provide an indirect incentive for respondent to take unspecified steps to accomplish that purpose. The stipulation imposes a continuing obligation on the licensee to follow the procedures set forth. The monetary forfeiture constitutes a one time penalty, limited in amount, that creates no ongoing obligation to adhere to detailed methods to promote radiological safety. The terms of the settlement agreement cannot be considered any less comprehensive or demanding of the licensee than the civil monetary penalty. In effect what is proposed is the substitution of one form of sanction for another. This is found acceptable and the settlement is approved as provided for in 10 CFR 2.203.

Upon consideration of all of the foregoing it is hereby ordered that:

1. The stipulation for the settlement of the proceeding, incorporated in this order, is approved as the basis for dismissing this proceeding;

2. The civil monetary penalty of $3,000 assessed by the Director of the Office of Inspection and Enforcement is remitted; and

3. The proceeding is hereby dismissed.

Dated at Bethesda, Maryland this 1st day of June, 1982.

Morton B. Margulies,

Administrative Law Judge.

In the matter of Met Lab, Inc., 605 Rotary Street, Hampton, VA 23661, License No. 45-09963-01 (EA 81-51).

Stipulation of Settlement

Met Lab, Inc. (MLI) and the NRC Staff hereby agree to submit this Stipulation of Settlement for approval to the Administrative Law Judge assigned to preside over this proceeding; further, they agree, contingent upon such approval, contained in a decision or order which has become final, to be bound by the terms hereof.

1. MLI affirms that the occupational dose record for Mr. David Deyo for the first calendar quarter of 1981 contains the radiation doses recorded on Mr. Deyo's film badges for that period, and that said record shall constitute the permanent record of Mr. Deyo's occupational dose.

2. In making any health and safety related decision in the conduct of its business and operations for which radiation dose is a relevant consideration—such as the reporting of events to the Nuclear Regulatory Commission or the assignment of work to radiographers—MLI shall treat film badge (or other personnel radiation monitoring device) readings as the correct measurements of an employee's dose or doses. No exception to the foregoing shall be made unless the NRC Staff concurs that a reading in a particular situation is invalid. MLI reserves the right to contest the accuracy of such readings in any future adjudications before the Nuclear Regulatory Commission.

3. MLI affirms that, beginning in February, 1981, up to the present time it has taken the following actions to support radiological safety:

a. A detailed re-enactment was conducted of the January, 1981 incident in which David Deyo, a radiographer employed by MLI, improperly manipulated a guide tube containing a radiation source;

b. A check of each Utilization Log is performed by the Radiation Safety Officer (RSO) following every job (as opposed to monthly checks);

c. Radiation safety requirements for radiographic operations, including requirements for complete surveys, have been thoroughly reviewed by the RSO with all MLI radiographers;

d. Radiographers have been instructed to call the RSO immediately whenever an emergency or situation involving unusual difficulties arises on a job.

4. MLI shall continue to implement Item 3b., and it will conduct a check no more than one week following each job. MLI shall repeat Items 3c. and 3d. semi-annually with each radiographer and radiographic assistant. Whenever a new radiographer is employed, regardless of such new employee's prior experience in radiography, steps 3c. and 3d. shall be carried out with said new radiographer prior to conducting radiograph.

5. MLI agrees that, whenever the radiation exposure badge or other personnel radiation monitoring device of any employee registers a cumulative dose of 350 millirem or more in any month, MLI shall analyze the performance of the employee in order to ascertain the causes of the dose and to implement steps to reduce radiation exposure in the future.

6. MLI agrees that its RSO shall conduct a field audit of every radiographer employed by MLI, including full-time, temporary and part-time employees, at least once per calendar quarter.

7. The NRC Staff finds that the foregoing terms and conditions constitute corrective actions which reasonable protect the public health and safety.

8. The violations set forth in the Notice of Violation have been re-evaluated under the NRC Enforcement Policy, 47 FR 9987 (March 9, 1982), and the Director of Inspection and Enforcement on the basis thereof recommends that the penalty assessed in this matter be remitted in its entirety.

9. MLI on the basis of the above withdraws its request for hearing.

Dated: May 19, 1982.
For Met Labs, Inc.

O.W. Ward, III,
President.

Dated: May 24, 1982.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,
Office of Inspection and Enforcement.

[FR Doc. 82-15306 Filed 6-4-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-266 and 50-301]

Wisconsin Electric Power Co.; Issuance of Amendments to Facility Operating Licenses

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 59 to Facility Operating License No. DPR-24, and Amendment No. 64 to Facility Operating License No. DPR-27 issued to Wisconsin Electric Power Company (the licensee), which revised Technical Specifications for operation of Point Beach Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in the Town of Two Creeks, Manitowoc County, Wisconsin. The amendments are effective 120 days from the date of issuance.

The amendments upgrade the surveillance requirements for hydraulic snubbers and incorporate administrative changes to the Technical Specifications.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated September 1, 1981, as modified by letters dated January 15 and February 12, 1982, (2) Amendment Nos. 59 and 64 to License Nos. DPR-24 and DPR-27, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Joseph Mann Library, 1516 16th Street, Two Rivers, Wisconsin 54241. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 25th day of May, 1982.

For the Nuclear Regulatory Commission

Robert A. Clark,
Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-15302 Filed 6-4-82; 8:45 am]
BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 22518; (70-6669)]

The Connecticut Light & Power Co., The Hartford Electric Light Co., and The Connecticut Gas Co.; Relating to Additional Amounts Requested To Be Applied Toward Payment of Dividends

June 1, 1982.

The Connecticut Light and Power Company ("CL&P"), and The Hartford

Electric Light Company ("HELCO"), utility subsidiaries of Northeast Utilities ("NU"), a registered holding company, and The Connecticut Gas Company ("Gas Company"), Selden Street, Berlin, Connecticut 06037, a wholly-owned subsidiary of CL&P, have filed a post-effective amendment to the application-declaration in this proceeding pursuant to section 12(e) of the Public Utility Holding Company Act of 1935 ("Act").

By order dated April 23, 1982 (HCAR No. 22471), the Commission authorized the merger of HELCO into CL&P and the merger of Gas Company into CL&P. The supplemental indentures under which first mortgage bonds of CL&P and HELCO have been issued since the companies became subject to the Act contain restrictions on payment of common stock dividends. (Commission's Statement of Policy with respect to First Mortgage Bonds. 21 FR 1286 (1956)). The supplemental indentures for each series of bonds limit common dividends to earnings after the date of its issuance, plus an amount from the existing retained earnings equal to about one year's dividend requirements. Although a separate computation is required for each series of bonds of each issuer, the effective restrictions are those contained in the most recent series which restrict about $74 million for CL&P and $43.1 million for HELCO, a total of $117.1 million.

The merger of HELCO into CL&P would combine the retained earnings accounts and future income of the two consitituent companies. It is proposed that the merged CL&P be authorized to pay common dividends subject to restrictions equal to about the sum of the respective CL&P and HELCO indenture restrictions, of which the said $117.1 million combined restriction would be controlling. The application states that this is the proper way to give effect to such indenture restrictions following the merger, but also relies on an exception in the applicable indentures for dividends authorized by the Commission under the Act.

The application-declaration as amended by the post-effective amendment and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 24, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date the application-declaration, as amended by the post-effective amendment or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-15340 Filed 6-4-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12453; (812-5045)]

Continental Illinois Bank (Canada); Filing of Application

June 1, 1982.

Notice is hereby given that Continental Illinois Bank (Canada) ("Applicant") c/o Ray F. Myers, Esq., Continental Illinois National, Bank and Trust Company of Chicago, 231 South La Salle Street, Chicago, Illinois 60693, has filed an application on December 16, 1981, and amendments thereto on March 24, 1982 and April 28, 1982 for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") exempting the Applicant, any officer or director of the Applicant, and any underwriter for the Applicant from all provisions of the Act. All interested parties are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

The Applicant states that it is a wholly-owned subsidiary of Continental Illinois National Bank and Trust Company of Chicago ("CINB"), a national banking association incorporated under the National Bank Act, which in turn is a wholly-owned subsidiary, except for directors' qualifying shares, of Continental Illinois Corporation ("CICorp"), a Delaware business corporation and a bank holding company registered under the Bank Holding Company Act of 1956. The application states that the Applicant's principal office is located at First Canadian Place, Toronto, Ontario, Canada.

The Applicant states that it provides a wide range of commercial banking services to Canadian companies with emphasis on services to corporate, multinational, oil and gas and mining enterprises and leasing services. As of September 30, 1981, Applicant had total consolidated assets of approximately $416,148,279 (U.S.) of which approximately $388,870,921 (U.S.) or 93.44% consisted of loans and equipment leases. According to the Applicant, approximately 88% of its total income as of September 30, 1981 was loan related, and none of its income was derived from underwriting.

The application states that CINB operates a full-service commercial banking and trust business which serves individuals, businesses and governmental entities in the metropolitan area of Chicago, Illinois, in the Midwest, throughout the nation, and overseas. It receives deposits, makes and services secured and unsecured loans, is a primary dealer in U.S. government and federal agency securities, deals in and distributes municipal securities, and performs a wide variety of personal, corporate and pension trust, investment advisory and custodial services. The application further states that CINB has a large domestic and international network of correspondent and banking relationships in the United States and throughout the world and provides a wide variety of services for banks, including check clearing, transfer of funds, loan participations, investment advice, custody of securities and facilities for securities transactions. The application further states that CINB also offers computer-based services including payroll, accounts receivable and accounts payable accounting and correspondent bank demand deposit accounting.

The application states that in addition to the activities that CICorp engages in through CINB, it also is engaged, directly of through wholly-owned subsidiaries, in lease and debt financing, mortgage lending and banking, financing of energy development and exploration, asset-based financing, reinsurance directly related to extensions of credit by CINB, and in merchant banking overseas. The application further states the CICorp owns a small business investment company and an equity investment company.

The Applicant represents that as a Canadian bank chartered under the Bank Act of Canada ("Bank Act"), it is required to compile and publish annual consolidated statements of assets and liabilities, income, appropriations for contingencies and changes in shareholders' equity as well as quarterly consolidated income statements that are also sent to the Canadian Inspector General of Banks ("Inspector"). The

Applicant represents that the Inspector is permitted to examine the Applicant as often as it is deemed necessary or expedient, and in no event less than once a year.

The Applicant represents that the corporate powers that a Canadian chartered bank such as the Applicant may exercise are expressly set out in the Bank Act. Prohibited activities such as dealing in goods, wares and merchandise and managing or participating in the management of a mutual fund in Canada are also set out in the Bank Act, as are limitations on certain activities such as the purchase or sale of equity securities and securities underwriting. The Bank Act also governs matters such as reserve and liquidity requirements. The Applicant represents that the Bank Act does not, however, impose any specific lending limits on it.

The Applicant represents that it has structured a temporary program which involves the issuance of promissory notes in the United States with original maturities of 270 days or less and which are unconditionally guaranteed by CINB. The Applicant represents that these notes are only offered in minimum amounts of $150,000 to qualified investors and are being sold in private placements pursuant to the exemption from registration provided by section 4(2) of the Securities Act of 1933 ("1933 Act"). The Applicant states that A.G. Becker Incorporated has entered into an agreement with the Applicant wherein it will act as principal or agent in connection with the sale of the notes. The Applicant represents that in connection therewith, the Applicant has appointed an agent for service of process in New York City for any actions arising out of this promissory note program.

Once the Commission exemptive order under the Act is obtained, the Applicant states that it will most likely conduct its debt issuing activities in the United States pursuant to section 3(a)(2) of the 1933 Act which specifically exempts from registration the sale of notes "guaranteed by a bank" (e.g., CINB). The Applicant states that other possible alternatives besides a continuation of the private placement program are the issuance of commercial paper pursuant to the exemption from registration provided by section 3(a)(3) of the 1933 Act and registered public offerings of debt securities. Applicant states that any debt securities issued pursuant to an offering within the United States will rank *pari passu* among themselves, equally with all its other unsecured, unsubordinated indebtedness, including Applicants deposit liabilities, and ahead of its equity securities.

Regardless of the alternative(s) utilized, the Applicant represents that it will appoint an agent for service of process in either New York City or Chicago, Illinois for any actions arising out of the sale of its securities and instituted in any state or federal court in the State of New York or Illinois respectively, by the holder of any such security. The Applicant represents that it will expressly accept the jurisdiction of any state or federal court in the state in which it appoints an agent for service of process in respect of any such action, except to the extent that it contests the manner of service on its agent or the scope of its agent's authority to accept process under this authorization. Applicant represents that it will also be subject to suit in any other court in the United States which would have jurisdiction because of the manner of the offering of such securities or otherwise. The Applicant represents that such appointment of an authorized agent to accept service of process and such consent to jurisdiction will be irrevocable until all amounts due and to become due in respect of the securities have been paid.

The Applicant represents that any commercial paper issued pursuant to section 3(a)(3) of the 1933 Act will be sold in minimum denominations of $100,000, and that such commercial paper will not be advertised or offered for sale to the general public. The purchasers of such commercial paper will be the regular participants in the United States commercial paper market. The Applicant further represents that the commercial paper will have received prior to issuance one of the three highest investment grades from at least one nationally recognized statistical rating organization.

The Applicant undertakes to ensure that each offeree of commercial paper will receive prior to purchase a memorandum which briefly describes the Applicant's business and includes its most recent publicly available annual financial statements, which have been audited in accordance with Canadian accounting principles. The Applicant represents that such memorandum will describe any material differences between accounting principles applied in the preparation of such financial statements and "generally accepted accounting principles" employed by United States banks. The memorandum will be at least as comprehensive as those customarily used in offering commercial paper in the United States and will be updated promptly to reflect material changes in the Applicant's financial condition. Applicant further represents that in the case of any other offerings of debt securities in the United States, such offerings will be made only pursuant to a registration statement under the 1933 Act or pursuant to an applicable exemption from registration under such Act, and any such offering will be made on the basis of disclosure documents appropriate and customary for such registration or exemption and in any event at least as comprehensive as those used in offerings of similar debt securities in the United States by United States issuers. Applicant undertakes to ensure that such disclosure documents will be provided to each offeree who has indicated an interest in such securities prior to any sale of such securities to such offeree, except that in the case of an offering made pursuant to a registration statement under the 1933 Act, such disclosure documents will be provided to such persons and in such manner as may be required by the 1933 Act and the pertinent rules and regulations thereunder. Applicant consents to having any order granting the relief requested under section 6(c) expressly conditioned upon its compliance with the foregoing undertakings regarding disclosure documents.

The Applicant represents that it will not issue and sell any security pursuant to section 3(a)(2), 3(a)(3) and/or 4(2) of the 1933 Act until it has received an opinion of its United States legal counsel to the effect that, under the circumstances of the proposed offering, the security will be entitled to the exemption provided by the appropriate section of the 1933 Act. The Applicant will not request SEC review or approval of United States counsel's opinion letter regarding the availability of an exemption under the 1933 Act, and the Commission expresses no opinion as to the availability of any such exemption. The Applicant further represents that it is not subject to the reporting requirements of the 1934 Act and will not become subject to such requirements in connection with the issuance or sale of its securities.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and

consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant requests an order pursuant to section 6(c) of the Act exempting it from all provisions of the Act. Applicant states that an exemption would be consistent with the protection of investors because there already exists regulatory structures which afford protection to investors. Applicant represents that approval of this application is both necessary and appropriate in the public interest since an exemption would benefit not only it, but also institutional and other sophisticated investors in the United States. Without this type of exemption, these investors would be unable to purchase securities issued by foreign banks, which are representing an increasingly important segment of the short-term, prime quality securities market.

Notice is further given that any interested person may, not later than June 28, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on an application accompanied by a statement as to the nature of his/her interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-15349 Filed 6-4-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18780; File No. SR-DTC-82-2]

The Depository Trust Co.; Filing and Immediate Effectiveness of Proposed Rule Change

June 1, 1982.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 11, 1982, the Dispositary Trust Company ("DTC") Midwest Clearing Corporation ("MCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change revises DTC's current fees for processing erroneous instructions (rejects) and for services attendant to underwritings, reorganizations, conversions and redemptions. The proposed rule change also implements new fees for certain services performed by DTC's interface department on behalf of certain participants. The proposed fee changes include: (1) Raising the fees presently charged for services associated with corporate and municipal underwritings and conversions; (2) raising the fees presently charged for processing rejects, including deposits, withdrawals and deliveries; and (3) imposing new fees for certain clerical services (ancillary services) performed on behalf of remote participants. In its filing DTC states that these fee changes are designed to allocate the cost of services to each participant in accordance with the participant's use of such services.

The foregoing change has become effective, pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission on or before June 28, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–DTC–82–2.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-15350 Filed 6-4-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18771; (SR-OCC-80-5)]

Options Clearing Corp. ("OCC"); Order Approving Proposed Rule Change

May 28, 1982.

On June 20, 1980, OCC filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") and Rule 19b–4 thereunder, a proposed rule change amending OCC's disciplinary rules and procedures.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 16942, June 27, 1980) and by publication in the **Federal Register** (45 FR 45443, July 3, 1980). No written comments were received by the Commission. OCC modified in minor respects the proposed rule change in a letter to the file dated April 23, 1981. OCC further modified the proposal in a letter to the file dated April 26, 1982, by deleting its authority under existing rules to impose fines on associated persons of participants.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and in particular, the requirements of section 17A of the Act.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-15344 Filed 6-4-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12452; (811-2439)]

The ML Corporate Income Fund Investment Plan; Filing of Application

June 1, 1982.

Notice is hereby given that ML Corporate Income Fund Investment Plan ("Applicant"), c/o Merrill Lynch, Pierce, Fenner & Smith, Inc. 125 High Street, Boston, Massachusetts 12110, registered under the Investment Company Act of 1940 ("Act") as an open-end, non-diversified, management investment company, filed an application on May 7, 1979, pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

The application states that Applicant, a business trust organized under the laws of Massachusetts, filed its registration statement pursuant to section 8(b) of the Act on May 13, 1974. Applicant represents that it has never made and does not propose to make a public offering of its securities.

Applicant represents that it has no debts or other outstanding liabilities and is not a party to any litigation or administrative proceeding. Applicant states that within the last 18 months it has not for any reason transferred any of it assets to a separate trust. Finally, Applicant states that it is not now engaged, and does not propose to engage, in any business activity.

Section 8(f) of the Act provides, in pertient part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order, the registration of such company under the Act shall cease to be in effect.

Notice is further given that any interested person may, not later than June 28, 1982, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his or her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-15347 Filed 6-4-82; 8:45 am]

BILLING CODE 8010-01-M

Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

June 1, 1982.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Florida Progress Corporation
Common Stock, $2.50 Par Value (File No. 7-6223)

Heritage Communications Incorporated
Common Stock, $.50 Par Value (File No. 7-6224)

Integrated Energy Incorporated
Common Stock, $.10 Par Value (File No. 7-6225)

Northern California Savings, A Federal Savings & Loan Association
Common Stock, $.10 Par Value (File No. 7-6226)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 23, 1982 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-15351 Filed 6-4-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12451; (812-51470)]

MoneyMart Assets, Inc., Filing of Application

June 1, 1982.

Notice is hereby given that MoneyMart Assets, Inc. ("Applicant"), 100 Gold Street, New York, NY 10292, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on March 29, 1982, and an amendment thereto on May 14, 1982, requesting an order pursuant to section 6(c) of the Act exempting Applicant from the provisions of sections 13(a)(2), 18(f)(1), 22(f) and 22(g) of the Act in connection with a proposed Deferred Director's Fee Agreement ("Agreement") with certain of its directors, and pursuant to section 17(d) of the Act and Rule 17d-1 thereunder to permit certain joint transactions relating to the Agreement. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, Applicant is a "money market fund" whose investment objective is maximum current income consistent with stability of capital and the maintenance of liquidity through investments primarily in short-term money market instruments. Applicant states that its investment adviser is Continental Illinois Bank and Trust Company of Chicago ("Adviser"), and that Bache Halsey Stuart Shields Incorporated ("Bache") is Applicant's administrator and the distributor of its shares. Applicant further represents that

as of February 22, 1982, there were 4,010,443,695 issued and outstanding shares of its common stock and Applicant's net assets were valued at $14,010,443,695.

According to the application, Applicant's board of directors consist of 10 individuals, three of whom are affiliated persons of Bache and do not receive director's fees or any other remuneration. Applicant represents that each of its directors who is not an affiliated person of Bache currently receives $8,000 per year as a director's fee, plus expenses, and an additional $1,000 per year plus expenses for service on board committees, for a total of $9,000 in director's fees. Applicant's chairman of the board of directors receives another $1,000, for a total of $10,000. Applicant further represents that during the year 1981, it paid an aggregate of $57,050 in fees and expenses to its directors.

According to the application, the purpose of the Agreement is to permit a director of the Applicant to elect to defer receipt of his director's fees, in order to avoid diminution or loss of social security benefits to which the director may otherwise be entitled, to enable the director to defer payment of income taxes on such fees, or for other reasons. Applicant represents that participation in the deferred fee arrangement will be limited to those directors who are not "interested persons" of the Applicant within the meaning of section 2(a)(19) of the Act and to one director who may be deemed to be an "interested person" of the Applicant solely by reason of his ownership of shares of common stock of Continental Illinois Corpofation, the parent of the Adviser.

Applicant states that the Agreement will allow each eligible director to elect to defer receipt of all director's fees which otherwise would become payable to him for services as a director performed after the date of the Agreement. Applicant represents that the deferred fees will be accrued to the director's benefit on a daily basis and will accrue interest daily at a variable rate until paid. Applicant further represents that the rate of interest will be equivalent to the lower of (a) the prevailing rate applicable to 90-day United States Treasury bills at the beginning of each calendar quarter, or (b) the prevailing average net yield of the Applicant for the immediately preceding calendar quarter.

According to the application, a director's deferred fees and any interest thereon will become payable in cash upon termination of the director's service in such capacity, in a lump sum or in such number of annual installments as shall be determined by the Applicant in its sole discretion. Deferred amounts will continue to accrue interest until paid. Applicant states that in the event of a director's death, amounts payable to him under the Agreement will thereafter be payable to his designated beneficiary; in all other events, the director's right to receive payments will be nontransferable.

The Applicant states that its obligation to make payments of amounts accrued under the Agreement will be a general unsecured obligation payable solely from its general assets and property. Applicant represents that no shares of Applicant will be purchased for any director's account with those amounts, nor will any special fund or separate account be established for those amounts.

Applicant states that deferral of director's fees in accordance with the Agreement will have a negligible effect on Applicant's assets, liabilities, net assets and net income per share. Applicant further states that the Agreement will not obligate Applicant to retain a director in such capacity, nor will it obligate Applicant to pay any (or any particular level of) director's fees to any director.

Section 18(f)(1) of the Act prohibits any registered, open-end, management investment company from issuing senior securities except in connection with a bank borrowing. Since Applicant is an open-end investment company, it is prohibited by section 18(f)(1) of the Act from issuing senior securities unless authorized by the vote of a majority of its outstanding voting securities. Section 18(g) of the Act, in pertinent part, defines the term, senior security, as any bond, debenture, note, or similar obligation or instrument constituting a security and evidencing indebtedness.

Section 22(f) of the Act prohibits a registered, open-end investment company from restricting the transferability or negotiability of any security of which it is the issuer unless the restriction is disclosed in its registration statement and does not contravene rules and regulations prescribed by the Commission in the interests of the company's security holders. Section 22(g) of the Act generally prohibits a registered open-end investment company from issuing any of its securities for services or for property other than cash or securities.

Applicant states that these provisions of the Act, taken together, might be deemed to preclude the Applicant and its directors from implementing the Agreement, absent an exemptive order from the Commission.

Section 6(c) of the Act provides in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities, or transactions from any provision of the Act if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant asserts that the Agreement possesses none of the characteristics of senior securities which led Congress to the restrictions on the issuance of such securities set forth in sections 18 and 13(a)(2) of the Act. In this regard, Applicant states that it would not be "borrowing" from its directors in the sense which concerned Congress and that all liabilities created by accruals under the Agreement would be offset by essentially equal assets of the Applicant which would not otherwise exist if the director's fees were paid on a current basis. Applicant further argues that the Agreement would not induce speculative investments by Applicant or provide opportunity for manipulative allocation of Applicant's expenses and profits; that control of the Applicant would not be affected; and, given the common existence of deferred compensation agreements today, the Agreement would not confuse inveators, make it difficult for them to value the Applicant's shares or convey a false impression of safety.

With respect to the requested exemption from section 22(f) of the Act Applicant states that the restriction on transferability of a director's benefits would be clearly set forth in the Agreement, would be included primarily to benefit the director and would not adversely affect the interests of the director or of any shareholder of Applicant. Applicant further asserts that the Agreement would not have the effect of diluting the equity and voting power of its shareholders as prohibited by section 22(g) of the Act. According to the application, the Agreement would merely provide for deferral of payment of such fees and thus may be viewed as being "issued" not in return for services but in return for the Applicant not being requested to pay such fees on a current basis.

Section 17(d) of the Act and Rule 17d–1 thereunder provide that it shall be unlawful, with certain exceptions not here applicable, for an affiliated person

of a registered investment company or any affiliated person of such person, acting as principal, to participate in, or effect any transaction in connection with, any joint enterprise or arrangement in which any such registered company is a participant unless an application for an order of exemption regarding such arrangement has been granted by the Commission, and that in passing upon such an application, the Commission shall consider whether the participation of such registered investment company in such arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Applicant argues that the effect of the Agreement would merely be to defer the payment of fees which the Applicant would otherwise be obligated to pay on a current basis as services are performed by the director and therefore liabilities created by the accruals under the Agreement would be offset by essentially equal assets of the Applicant which would not otherwise exist if the director's fees were paid on a current basis. Applicant further submits that there is no expectation of profits being generated through the Applicant or other investments on behalf of the director since the Applicant would be undertaking no funding or investment commitment under the Agreement and the interest earned by the director during the deferral period would be tied to the Applicant's investment return only in the unlikely event that the prevailing interest rate applicable to 90-day Treasury bills were to exceed the Applicant's average net yield during the immediately preceding calendar quarter.

For these reasons, Applicant contends that deferral of a director's fees in accordance with the Agreement would essentially maintain the parties, viewed both separately and in their relationship to one another, in the same position as if the fees were paid on a current basis. Applicant further expresses its view that its ability to recruit and retain highly qualified directors would be enhanced if it were able to offer its directors the option of deferred payment of their director's fees.

For all the reasons stated above, the Applicant requests that the Commission enter an order pursuant to sections 6(c) and 17(d) of the Act and Rule 17(d) thereunder, permitting the Agreement and the transactions to be effected by the Applicant and certain of its directors pursuant to the Agreement.

Notice is further given that any interested person may, not later than June 28, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-15346 Filed 6-4-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18706; File No. SR–MSRB–82–4]

Municipal Securities Rulemaking Board; Filing of Proposed Rule Change

May 3, 1982.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 23, 1982, the Municipal Securities Rulemaking Board ("MSRB"), 1150 Connecticut Avenue, NW, Suite 507, Washington, D.C. 20036, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change will amend Rule A–3 to permit a public member of the MSRB to succeed himself in office if his first term of office was less than eighteen months and he is nominated and elected to a full term on the board. The rule presently provides that all members of the MSRB's Board shall be elected for a term of three years and that no member, even those serving out the unexpired portion of a predecessor's term, may succeed himself in office. The MSRB proposed the rule change because of the difficulty it has experienced in recruiting public members to fill a vacancy on its Board. Additionally, because most new public members filling vacancies on the Board often take several months to become familiar with the MSRB's regulatory process and issues, the expiration of their shortened term causes the public and MSRB to lose the expertise and services of the public member at the very time he or she is most able to represent the public's interests. The MSRB believes that by allowing a public member who completes an unexpired term of less than eighteen months to succeed to a subsequent full term, it will be able to recruit public members to serve on its Board more easily and that the public will benefit by the continued participation of such members on the Board for an additional term. New Board members are scheduled to be elected on June 21, 1982.

The MSRB has adopted the proposed rule change pursuant to section 15B(b)(2)(I) of the Act, which establishes the MSRB's authority to adopt rules providing for its operation and administration, and section 15B(b)(2)(B) of the Act, which directs the MSRB to establish fair procedures for the nomination and election of its members.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission by June 19, 1982, in order that the Commission's determination can be made before the scheduled election on June 21, 1982, of new MSRB Board members. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–MSRB–82–4.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in

accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, NW, Washington, D.C. Copies of the filing and any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-15345 Filed 6-4-82; 8:45 am]

BILLING CODE 8010-01-M

Pacific Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

June 1, 1982.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities and Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Enserch Corporation

Common Stock, $4.45 Par Value (File No. 7-0222)

This security is listed and registered on one or more other national securities exchanges and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 23, 1982 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-15352 Filed 6-4-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 795]

Intention To Cancel Registrations of Certain Investment Advisers

Correction

In FR DOC. 82-8028 appearing at page 12897 in the issue of Thursday, March 25, 1982, make the following changes:

(1) On page 12898, third column, under *Boston Regional Office,* tenth line, "Cochrane, J. Warren" should be changed to read "Cochrane, G. Warren".

(2) On page 12899, middle column, twenty-eighth line from bottom of page, "Hops Technical Letter, 108-10750", should be changed to read "Hops Technical Letter, 801-10750".

(3) On page 12900, third column, "Conservatively Aggressive Investor, 801-06985", should be inserted below, "Conn, Maurice H., 801-02378" and above "Consolidated Investment Advisors, Inc., 801-14427".

(4) On page 12901, first column, middle of page, "McDaniel, James C., 801-06971" should be changed to read, "McDaniel, James G., 801-06971".

(5) On page 12901, middle column, eighth line from bottom of page, "Zimmerman" should be changed to read, "Zimmermann".

(6) On page 12902, middle column, fourteenth line, "Homes" should be changed to read, "Holmes".

(7) On page 12902, third column, twenty-first line from bottom of page, "Morgan, Rogers & Rogers" should be changed to read, "Morgan, Rogers & Roberts".

(8) On page 12898, third column, under *Boston Regional Office* twenty-ninth line from bottom of page, "H.M.S. Research Institue" should be changed to read "H.M.S. Research Institute".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 82-062]

Rules of the Road Advisory Council; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Rules of the Road Advisory Council. The meeting will be held on Tuesday and Wednesday June 29 and 30, 1982 in Room 2230, Department of Transportation, Nassif Building, 400 Seventh Street SW, Washington, D.C. On both days the meeting is scheduled to begin at 9 a.m. and end at 4 p.m. The agenda for the meeting consists of the following items:

1. Applicability of special rules for Western Rivers to certain other waters.

2. Rule 33 requirement of all vessels over 12 meters in length to carry a whistle and bell. Will this apply to unmanned barges?

3. Use of strobe lights as an anti-collision device.

4. Rule 24:

(a) Special flashing yellow light for the forward end of vessels being towed alongside.

(b) Minor rewriting of parts of rule.

(c) Placement of navigation lights on groups of barges being pushed ahead or towed alongside.

5. Revision or deletion of 33 CFR Part 163—Towing of Barges.

Attendance is open to the public. With advanced notice, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time.

Additional information may be obtained from Captain James T. Montonye, Executive Director, Rules of the Road Advisory Council, U.S. Coast Guard (G-NSR/14), Washington, D.C. 20593, telephone number (202) 426-0900.

Dated: May 26, 1982.

Peter J. Rots,

Captain, U.S. Coast Guard, Acting Chief, Office of Navigation.

[FR Doc. 82-15199 Filed 6-4-82; 8:45 am]

BILLING CODE 4910-14-M

Federal Highway Administration

National Motor Carrier Advisory Committee; Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Public Meeting.

SUMMARY: The FHWA announces that the National Motor Carrier Advisory Committee, establishment of which was announced in the **Federal Register** on December 3, 1981 (46 FR 58772), will hold its initial organizational meeting on June 22, 1982 at 9:00 a.m., in Washington, D.C., at the Department of Transportation's Headquarters Building, 400 Seventh Street, SW., Washington, D.C. 20590, Room 2230.

While a portion of this meeting will be devoted to organizational matters, FHWA will also present information on the Department of Transportation's Cost Allocation Study and the general issue

of commercial motor vehicle size and weight for the Committee's consideration.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas P. Holian, Executive Director, National Motor Carrier Advisory Committee, Federal Highway Administration, HCC–10, Room 4223, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426–0761. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday thru Friday.

Issued on: June 2, 1982.

R. A. Barnhart,

Federal Highway Administrator.

[FR Doc. 82-15391 Filed 6-4-82; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

[FRA Waiver Petition Docket HS–82–9]

Clarendon & Pittsford Railroad Co.; Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR 211.41 and § 211.9, notice is hereby given that the Clarendon and Pittsford (C&P) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91–169, 45 U.S.C. 64a(e)). That petition requests that the C&P be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

The C&P seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number, (Docket Number HS–82–9), and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Communications received before June 30, 1982, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 7321A, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

(Sec. 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a), 1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49(d))

Issued in Washington, D.C., on May 28, 1982.

Joseph W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 82-15140 Filed 6-4-82; 8:45 am]

BILLING CODE 4910-06-M

[FRA Waiver Petition Docket HS–82–8]

Michigan Northern Railroad Co.; Petion for Exemption From the Hours of Service Act

In accordance with 49 CFR 211.41 and § 211.9, notice is hereby given that the Michigan Northern Railroad (MNR) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91–169, 45 U.S.C. 64a(e)). That petition requests that the MNR be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

The MNR seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number, Docket Number HS–82–8), and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Communications received before June 30, 1982, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 7321A, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

(Sec. 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a), 1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49(d))

Issued in Washington, D.C., on May 28, 1982.

Joseph W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 82-15139 Filed 6-4-82; 8:45 am]

BILLING CODE 4910-06-M

[FRA Waiver Petition Docket HS–82–10]

North Stratford Railroad Co.; Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR 211.41 and § 211.9, notice is hereby given that the North Stratford Railroad (NSR) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91–169, 45 U.S.C. 64a(e)). That petition requests that the NSR be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitations.

The NSR seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that

it employs no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number, Docket Number HS–82–10), and must be submitted in triplicate to the Docket Cleak, Office of the Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.
Communications received before June 30, 1982, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 7321A, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

(Sec. 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a), 1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49(d))

Issued in Washington, D.C., on May 26, 1982.

Joseph W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 82-15137 Filed 6-4-82; 8:45 am]

BILLING CODE 4910-06-M

[FRA Waiver Petition Docket HS–82–7]

Tradewater Railroad Co.; Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR 211.41 and § 211.9, notice is hereby given that the Tradewater Railroad Company has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91–169, 45 U.S.C. 64a(e)). That petition requests that the Tradewater be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the status, to seek an exemption from this twelve hour limitation.

The Tradewater seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number, Docket Number HS–82–7, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.
Communications received before June 30, 1982, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date of comments, during regular business hours in Room 7321A, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

(Sec. 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a), 1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49(d))

Issued in Washington, D.C., on May 26, 1982.

Joseph W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 82-15136 Filed 6-4-82; 8:45 am]

BILLING CODE 4910-06-M

[Docket No. RFA-305-82-1, Notice No. 3]

Consolidated Rail Corp.; Expedited Supplemental Transaction Proposals; Holyoke and Florence Secondaries

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Administrative determination regarding the transfer of the Consolidated Rail Corporation's (Conrail's) Florence and Holyoke Secondary lines in Massachusetts.

SUMMARY: FRA announces its decision to transfer two Conrail lines in Massachusetts, the Holyoke and Florence Secondaries, under a proposal that will assure continued service over those lines for a period of at least four years. FRA's plan transfers both lines to the Pinsly Railroad Company. This action is required by section 305(g) of the Regional Rail Reorganization Act of 1973 (3R Act), as added by section 1155 of the Northeast Rail Service Act of 1981 (NERSA).

DATES: This notice is effective as of the date of issuance (May 27, 1982). Conveyance of properties and transfer of service obligations will occur on or about July 1, 1982. Any petition for reconsideration of the Administrator's decision shall be submitted not later than June 7, 1982.

FOR FURTHER INFORMATION CONTACT: F. Colin Pease, Office of Federal Assistance, FRA (202) 472–0060.

SUPPLEMENTARY INFORMATION: On August 13, 1981, the President signed the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, which included NERSA. Section 1155 of NERSA added a new section 305(g) to the 3R Act that required, among other things, that the Secretary of Transportation transfer Conrail's Florence and Holyoke Secondaries, which run generally north from Westfield, Massachusetts, by December 11, 1981, provided a qualified purchaser could be found.

On December 11, 1981, the Administrator, as delegate of the Secretary, entered his decision concerning transfer of the lines, which was published in the **Federal Register** as RFA–305–81–2, Notice No. 5 on December 17, 1981 (46 FR 61603). Two firms, the Massachusetts Central Railroad Company (MC) and the New England Southern Railroad (NES), submitted proposals to acquire the Florence and Holyoke Secondaries. While the Administrator was not able to determine that either MC or NES was a "qualified purchaser" within the meaning of section 305(g) as of December 11, 1981, it appeared from available information that, given a reasonable amount of time, NES was more likely than MC to qualify as a transferee. Accordingly, the lines were transferred to NES upon the express condition that NES would fulfill certain terms and conditions by March 1, 1982.

NES did not comply with the terms and conditions by March 1, 1982. Because of the significant time and resources devoted to the project by NES, because the railroad indicated that it was continuing to attempt to comply with the terms and conditions, and because FRA wished to effect an early transfer consistent with the mandate of the section 305(g), FRA postponed reopening the transfer process for a period of time. However, by March 31, 1982 it had become clear that NES would not be able to provide assurance

that it could fulfill all of the terms and conditions by a date certain, and FRA reopened the transfer process without prejudice to the ability of NES to continue to pursue its effort to acquire the lines. The decision to reopen the transfer process, and a summary of the proceeding as it related to the Holyoke and Florence Secondaries, was published in the **Federal Register** (as RFA–305–82–1, Notice No. 1) on April 5, 1982 (47 FR 14646).[1]

Chronology of Events

On April 30, 1982 three firms submitted proposals to acquire the Holyoke and Florence Secondaries. The firms were MC, NES, and the Pinsly Railroad Company (Pinsly). An informal public meeting was held May 10, 1982 in West Springfield, Massachusetts. Each of the three firms that had submitted proposals made presentations at the meeting and responded to questions and comments from FRA and members of the audience. FRA then held negotiating sessions with Pinsly on May 13, 1982; MC on May 20, 1982; and NES on May 20 and 24, 1982. In addition, during the period between May 13 and May 25, 1982, discussions between FRA and the parties were held to clarify the positions of the parties. Final negotiating positions were provided by the parties by May 25, 1982. FRA received and considered all clarifying comments, comments on competing proposals, and expressions of support received through May 26, 1982. The substance of the negotiating sessions and discussions was reported in memoranda submitted to the public docket.

INITIAL CAPITALIZATION

	Equity	Debt
Pinsly	[1]$1,025,000	
MC	100,000	[2]$310,000
NES	[3]275,000	[4]120,000

[1] Includes contribution of 3 locomotives valued at estimated replacement cost of $275,000.
[2] Includes $200,000 10-year loan with interest floating at the national prime interest rate plus 2 percent, and a $110,000 line of credit with advances bearing interest at the national prime interest rate plus 2 percent. At the end of one year the line of credit is convertible to a 5 year loan if the bank grants its prior approval.
[3] Includes $300,000 proceeds from sale of common stock, less $25,000 committed to payment of start-up costs incurred to date.
[4] Eight-year loan with interest floating at the national prime interest rate plus 1½ percent.

SUMMARY OF PRO FORMAS (FISCAL YEARS 1983–86)[1]

	Pinsly	MC	NES
Revenues	$2,099,500	$2,395,873	$2,986,000
Expenses	1,848,000	2,006,627	2,486,000
Rev. From Rail Ops	251,500	386,246	500,000
Interest Exp	0	209,584	84,000
Taxes	74,000	40,717	43,000
Net Inc	177,500	136,645	373,000
Cash Flow From Ops	251,500	238,408	517,000

[1] Fiscal Years commence July 1. Fiscal year 1983 commences July 1, 1982. All figures are stated in fiscal year 1982 constant dollars.

SUMMARY OF CASH POSITION (FISCAL YEARS 1983–86)

	Pinsly	MC	NES
Beginning Cash	$1,025,000	$410,000	$395,000
Less Cost of Plant	230,000	230,000	230,000
Less Cost of Equip	[1]425,000	[2]0	[3]85,000
Subtotal	370,000	180,000	80,000
Add Cash From Ops	251,500	238,408	517,000
Subtotal	831,500	418,408	597,000
Less Repay of Prin	0	93,316	40,000
Less Line Rehab. [4]	270,000	370,000	200,000
Ending Cash	361,500	(44,908)	457,000

[1] Includes the contribution of two 600 h.p. switchers and one 1,500 h.p. road switcher that are currently owned by Pinsly to the subsidiary that will operate the Florence and Holyoke Secondaries, and the cost of constructing an engine house and office facility at Westfield Yard.
[2] MC plans to lease a 1,600 h.p. road switcher. The lease payment is included as a transportation expense. MC will also station a 600 h.p. locomotive now owned by the company at Westfield. It has not reflected that locomotive in its capitalization.
[3] Includes purchase of one 1,000 h.p. road switcher, a truck to be used in maintenance operations, and radio equipment.
[4] Total investment in track includes both rehabilitation expenditures, shown here, and maintenance of way expense included under operating expenses. Total proposed investment in track is as follows:

	Pinsly	MC	NES
Total Track Invest	$810,000	$915,524	$770,000

Summary of Reserves and Other Service Guarantees

Pinsly—Pinsly has guaranteed to contribute a $250,000 demand note drawn against Pinsly to the subsidiary it will establish to operate the Florence and Holyoke Secondaries, which will create an immediately accessible, interest free operating reserve for the subsidiary. Pinsly also has provided a written guarantee that the subsidiary will continue to provide service for at least four years. In addition, Pinsly states that the subsidiary will be entirely debt free and thus would be in a position to borrow funds should that become necessary.

MC—MC has provided no evidence of financial reserves available to guarantee its four-year service commitment.

NES—The minority investors in NES have agreed to purchase an additional $30,000 in common stock should that become necessary to guarantee its four-year service commitment. In addition, the majority stockholders have agreed to provide a written guarantee that NES will fulfill its service and rehabilitation obligations by injecting cash as required in the form of additional equity, debt, or both. Further, the NES guarantee was extended to five years at the very end of the negotiating process.

Analysis

At the informal public meeting held at West Springfield, Massachusetts on May 10, 1982, FRA indicated to the prospective purchasers and to the public that FRA would be guided by three principal considerations in selecting a transferee for the lines. These considerations were: (1) The expressed preference of shippers on the lines; (2) the ability of the transferee selected to commence operations on or about July 1, 1982; and (3) the credibility of the transferee's four-year service commitment in light of the marginal financial prospects of the lines discussed below. The appropriateness of these considerations has not been challenged by the prospective purchasers.[2]

[1] Following the previous determination with respect to these lines (46 FR 61603; December 17, 1981), MC contended in correspondence with DOT that the determination failed to consider MC's ability to acquire the lines by providing Conrail a short-term note for the major portion of the purchase price, pending perfection of commercial debt financing. MC apparently intended to rely upon that contention as the alleged basis for a suit to overturn FRA's designation of NES before the Special Court, Regional Rail Reorganization Act of 1973 (Civil Action No. 82–8). That suit has neither been prosecuted nor dimissed. While not relevant to these negotiations, the matter of the alleged arrangement with Conrail deserves clarification to avoid future misunderstandings. When the Administrator entered his decision under Docket No. RFA–305–81–2, there was no evidence before FRA that Conrail and MC had a binding agreement for interim financing. Indeed, on December 10, 1981, counsel for MC wrote to Conrail to "supplement" MC's previous "offer" to Conrail. While FRA was aware that Conrail was willing to accept a short term note if necessary to effect the transfer of the lines, FRA also was aware that Conrail would require collateral for the note *other than the properties to be transferred* adequate to secure the note, and that MC had insufficient unencumbered assets other than the lines to be acquired to secure the note. By December 10, MC was offering to have MC's stockholders guarantee the note on a pro rata basis. Whether the stockholders had sufficient unencumbered assets that would have been of a quality attractive to Conrail for this purpose, and whether Conrail and MC could have worked out final terms and conditions, was unknown when FRA made its decision and is wholly irrelevant to the current situation. MC now is before FRA with apparently firm financing (itself not finalized until May 21, 1982) which depends on the lines and other available MC assets, as well as the personal guarantees of the principal shareholders and other persons, as collateral.

[2] These considerations are consistent with the approach taken by FRA in prior expedited transactions under section 305, as amended by NERSA. *See* e.g. 46 FR 47165, 47168 (September 21, 1981); 46 FR 61603 (December 17, 1981). FRA finds that each of the prospective purchasers would be operationally capable of providing service. The price offer of each is fair and equitable to Conrail in view of all consideration flowing between the railroads. No significant differences exist among the

In enacting section 305(g), the Congress clearly was concerned that operation of the Florence and Holyoke Secondaries might well prove to be a financially marginal proposition. The Florence Secondary carries relatively little traffic and is in poor physical condition. It would likely fall within Conrail's criteria for line abandonments. Traffic has declined recently, and a portion of the remaining traffic is susceptible to truck or intermodal carriage. For these reasons, FRA carefully considered the ability of each of the prospective purchasers to rehabilitate the lines and maintain service for at least four years should traffic continue to decline and strong truck and intermodal competition develop.

FRA conducted a comparative analysis of the proposals submitted by the prospective purchasers. FRA assumed for purposes of the analysis that each of the prospective purchasers was a "qualified purchaser" within the meaning of section 305(g) of the 3R Act. FRA also accepted for purposes of comparative analysis the pro forma statements submitted by the prospective purchasers.

Shipper Views. The Holyoke Chamber of Commerce stated in a telegram to FRA that its survey of shippers in the Holyoke area showed a majority preference for Pinsly, with MC as second choice. The Chamber told FRA that shippers cited Pinsly's ability to purchase the line for cash and thus not encumber the operation with debt service, its pledge not to impose surcharges, its commitment of substantial locomotive power, and its proven track record as a shortline operator as the reasons for selecting Pinsly. W. R. Grace Company, a major shipper on the Florence Secondary, wrote to the docket to express a preference for Pinsly, as did Graham Baycare, a major shipper on the Holyoke Secondary. Grace stated that it has enjoyed a high quality of service by a shortline owned by Pinsly at a Grace plant in South Carolina. Both shippers also cited Pinsly's pledge not to impose surcharges and its strong cash position as reasons for preferring Pinsly.

FRA found that Pinsly's willingness to forego surcharges, and to meet the operating and rehabilitation needs of the lines not covered by revenues from its cash reserves, created a comparative advantage for Pinsly over the other prospective purchasers in that Pinsly's position enhanced shipper confidence in continued rail operations and makes the lines more competitive with other modes of transportation.

The Easthampton Chamber of Commerce indicated that three shippers in the Easthampton area favored MC on the basis that it is a local concern, but asked that FRA "throughly check all aspects of (MC's) proposal and request a performance guarantee." H. B. Smith, Inc., a major shipper in Westfield, pointed to MC's good local track record and sincerity and supported the MC proposal. Two low-volume shippers on the line also supported MC. Two shippers on the Ware River Secondary (the line presently operated by MC under contract with the Commonwealth of Massachusetts) supported the MC proposal as a means of strengthening MC and spreading its fixed costs.

A prospective shipper exploring the possibility of locating a coal transshipment facility on the Holyoke Secondary urged that NES be designated as transferee of the lines.

Ability to Purchase in a Timely Fashion. All three prospective purchasers provided evidence that they could purchase the line from Conrail and commence operations on or about July 1, 1982. MC's ability to proceed was conditioned upon receipt of a loan guarantee in the amount of $150,000 from a shipper. FRA had no reason to believe that such a guarantee would not be forthcoming.

Four Year Service Guarantee. While the transferee selected by FRA to operate the Florence and Holyoke Secondaries will be bound by convenants with the FRA to rehabilitate the lines and provide service during the four-year guarantee period, there is a practical problem enforcing such a commitment if operation of the lines is not producing cash and the transferee is without assets of its own. In evaluating the credibility of the four-year service guarantee offered by each of the prospective purchasers, therefore, FRA looked to the financial resources of the prospective purchaser available to fund rehabilitation and continued operation of the lines should the cash generated by its operation fall short of the level projected in its pro forma statement.

Pinsly's initial capitalization provides sufficient resources to carry out the firm's planned track investment and provides a reserve to cover up to a $350,000 shortfall from its projected cash flow (or an actual cash loss from operations of up to $100,000). In addition, Pinsly has agreed to provide the subsidiary it would create to operate the Florence and Holyoke Secondaries with a demand note drawn against Pinsly that would provide an additional $250,000 in equity funds to the subsidiary, giving the subsidiary the ability to meet all of its commitments despite a shortfall from projected cash flow of up to $610,000 (or an actual cash loss from operations of up to $350,000). In addition, Pinsly has provided a written guarantee that is subsidiary will meet its rehabilitation and service commitments for four years, together with evidence of substantial net worth to make good on that commitment. Finally, Pinsly's initial capitalization does not encumber any of the subsidiary's assets, giving the subsidiary the ability to offer significant collateral to secure borrowing should that become necessary.

MC's initial capitalization is $283,316 less than the sum required to meet the rehabilitation and principal repayment commitments included in its May 25, 1982 final negotiating position, and thus provides no reserve against a shortfall from the cash flow projected by the company. MC's pro forma statement for the two lines lines relies on a projected cash flow from operations of $238,408 to meet its rehabilitation and principal repayment commitments and even if this cash flow is achieved leaves a cash shortfall of approximately $45,000 during the four-year service period if MC undertakes the rehabilitation and principal repayment commitments contemplated in its May 25 proposal. Only when cash flow attributable to the subsidy currently provided by the Commonwealth of Massachusetts to support MC's operation of the Ware River Secondary is added to MC's $238,408 projected cash flow from the Florence and Holyoke lines do the MC pro forma statements on hand May 25, 1982 provide a basis for finding that MC could meet its rehabilitation and service commitments to the Florence and Holyoke Secondaries during the four-year service period. MC's contract with the Commonwealth of Massachusetts is subject to renegotiation this summer, and MC agrees that the future of its Ware River Secondary operation is by no means certain. MC also has provided no indication of additional reserves should the cash generated by operations fall short of the level projected in its pro formas. [3]

proposals with regard to quality of service or employment levels. All prospective purchasers propose reasonably stable tariffs, but none promises specific limitations on existing pricing freedoms. Surcharge policies and capital infusions are discussed elsewhere in this document.

[3] On May 25 and 28, 1982 FRA staff met with MC and discussed MC's pro forma statement for the Florence and Holyoke Secondaries. On May 28 MC provided revisions to its statement that reduced the rehabilitation and expense assumptions and committed $25,000 in cash from the Ware River Secondary operation to its proposed Florence and

Comments by Prospective Purchasers. Each prospective purchaser provided comments regarding proposals submitted by the others. FRA considered these comments. However the final judgment expressed in this document are those of FRA.

In comments filed May 26, 1982, NES stated that (1) Pinsly's initial capitalization is not necessary to satisfy the four-year service guarantee and is not superior to the NES offer backed by the guarantee of NES' majority stockholder group; (2) Pinsly failed to disclose its rehabilitation plan for the Florence Secondary; and (3) FRA should be skeptical of Pinsly's assurance that it will not sell the lines within four years.

FRA agrees that Pinsly's initial capitalization exceeds the level required to meet most likely contingencies, but notes that Pinsly's large initial capital infusion will tend to assist in realizing traffic projections by permitting Pinsly to finance rehabilitation and any operating losses out of cash and thus avoid the imposition of surcharges or costly borrowing. FRA disagrees with NES' assertion that its financial position is fully equal to Pinsly's, since Pinsly's heavy initial capitalization of the subsidiary it will create to operate the Florence and Holyoke Secondaries coupled with negative convenants binding the actions of the subsidiary over a four-year period provides more certain and readily enforceable commitments not requiring assumptions concerning the disposition of third party assets over the period. Pinsly's commitment to rehabilitate and operate the lines for four years is evidenced both by its proposed infusion of capital and by its agreement to convenants with FRA assuring performance of its principal undertaking to the shipping community on the lines.

In a letter from its counsel of May 26, 1982, MC contends that FRA should consider the comparative cost of capital to the prospective purchasers. In particular, MC contends FRA should charge Pinsly's cost of capital against its revenues in making financial comparisons. FRA's principal focus in analyzing Pinsly's proposal has been on the viability and cash position of the subsidiary that would be the transferee of the lines. The cost of capital to the subsidiary over the four-year period will be 0 percent, and FRA's review of the consolidated financial statements of the parent indicates that this investment can be sustained by the parent without seriously impairing the validity of the four-year service guarantee it will provide to secure the subsidiary's four-year service guarantee.

MC also contends Pinsly's past rail operations in Vermont reflect adversely on its likely performance on the Florence and Holyoke Secondaries. MC's submission establishes no evidence of wrongdoing by Pinsly and raises no serious question concerning Pinsly's stewardship of its present rail properties. Indeed, as noted elsewhere, a major shipper on the Florence Secondary is supporting Pinsly in part on the basis of service by another of its rail subsidiaries to one of the shipper's plants in South Carolina.

Previous comments by MC and NES also have limited relevance or persuasive effect in the context of the final offers and negotiations. NES questioned both Pinsly's revenue estimate and certain of its cost estimates as being too low. It is clear Pinsly emphasized conservative revenue estimates. Nonetheless, if NES were correct on both points, there would be no material adverse net impact of the Pinsly subsidiary's performance. Both MC and NES stressed their commitment to the local area. However, NES has not attracted support among local shippers; and MC, despite substantial subsidies and four years of commendable effort, has not yet brought its Ware River operation to a break-even point. FRA concluded that the advantages of local ownership, if any, are outweighed by other factors discussed in this notice.

Other comments by the parties were reviewed by FRA but are not relevant or material to the decision announced below.

Administrative Determination

Transfer of properties. The Florence and Holyoke Secondaries and associated rail properties other than moveables shall be transferred to a wholly owned subsidiary of Pinsly.

Pinsly has the support of active shippers on the lines and has demonstrated conclusively that it has the financial capacity to fulfill its rehabilitation and service commitments for a period of at least four years on a basis consistent with its common carrier obligations.

MC has demonstrated qualified shipper support. However, MC's initial capitalization is minimal and does not fully guarantee both rehabilitation of the lines and four-year service commitment. MC did not demonstrate an ability to inject further capital into the operations if necessary.

NES has no support among active shippers. Its initial capitalization, while superior to that offered by MC, is not fully sufficient to guarantee rehabilitation of the lines and a four-year service commitment. NES demonstrated an ability to inject further funds into the operation if required, but its offer is neither as extensive nor as well defined as that offered by Pinsly.

Price. The properties shall be transferred for a price of $230,000, on the terms agreed to between Pinsly and Contrail. The price established is determined to be fair and equitable to Conrail only in view of the other terms and conditions of the transfer, including agreed-upon divisions.

Divisions. The arrangement for the division of joint rates over through routes, or for the establishment of proportional rates, shall be those agreed to by Pinsly and Conrail.

Covenants and consents. On May 27, 1982, Pinsly and FRA discussed and conditionally agreed upon a draft of convenants and consents to be executed by Pinsly and its wholly owned subsidiary created to accept transfer of the Florence and Holyoke Secondaries. Under that document, Pinsly and the subsidiary will guarantee service for four years. In addition, Pinsly and the subsidiary will pledge to (1) provide service levels consistent with the Pinsly proposal, (2) complete the rehabilitation and maintenance plans for the lines (including significant attention to the Florence Secondary), (3) capitalize the subsidiary as described above and provide additional reserves through a demand note, (4) observe limitations designed to assure the subsidiary the benefits of the capitalization plan over the four-year period, and provide other valuable undertakings. Further, Pinsly will consent to FRA access to appropriate books and records and will provide quarterly financial reports for the subsidiary.

A copy of the draft covenants and consents, which will be executed prior to transfer of the properties, will be placed in the public docket.

Holyoke Secondary operation. The revisions remove the cash shortfall in MC's pro forma statement for the Florence and Holyoke Secondaries and produce an ending cash balance of $75,000. NES' initial capitalization is $160,000 less than the sum required to meet the rehabilitation and principal repayment commitments in its May 25 final negotiating position. NES relies upon a projected cash flow from operations to meet this shortfall. Should the cash flow fall short of the $160,000 required, NES has provided a written commitment from its minority stockholders to provide an additional $30,000 in equity and a commitment from its majority stockholders guaranteeing to provide any further funds needed to meet its rehabilitation and service commitments for five years, together with evidence of a substantial net worth on the part of those majority stockholders. The commitment of the majority stockholders does not indentify the specific assets that would be pledged or whether the additional financing would be debt or equity.

In consideration of the foregoing it is ordered that Conrail shall transfer to a wholly owned subsidiary of Pinsly to be established (Subsidiary) its Florence and Holyoke Secondaries and associated rail properties upon payment by the Subsidiary of the established purchase price and after notification to Conrail from the Office of Chief Counsel, FRA, that all requisite requirements of this order have been met.

It is further ordered that:

1. The transfer date and date for commencement of operations by the transferee shall be July 1, 1982.

2. Upon transfer of the rail properties, Subsidiary shall succeed to Conrail's common carrier service obligations on the Florence and Holyoke Secondaries.

3. Prior to transfer, Pinsly and Subsidiary shall enter into covenants and consents substantially in the form agreed between FRA and Pinsly on May 27, 1982, which covenants and consents shall be deemed incorporated into this order as mandatory requirements enforceable against Pinsley and the Subsidiary according to the terms of such covenants and consents and as if published herein.

4. The Administrator shall retain jurisdiction under section 305(g) for the purpose of entering any further orders necessary and appropriate to construe this order, effect the transfers required in this order, or assure compliance with its requirements.

5. The FRA will entertain a petition for reconsideration of this determination and order submitted by an interested party. Any such petition shall be submitted to the Docket Clerk, FRA, not later than close of business June 7, 1982 and shall state with particularity the basis upon which reconsideration is sought.

(Sec. 305(g) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745(g)), as amended by section 1155, Pub. L. No. 97–35, 95 Stat. 357, 679; and section 1.49(w) of the Regulations of the Office of the Secretary of Transportation (49 CFR 1.49(w))

Issued in Washington, D.C., on May 27, 1982.

Robert W. Blanchette,

Administrator.

[FR Doc. 82–15135 Filed 6–4–82; 8:45 am]

BILLING CODE 4910–06–M

VETERANS ADMINISTRATION

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on July 21, 1982, at 9:00 a.m., the Boise, Idaho Regional Office Station Committee on Educational Allowances shall at Room 742, Federal Building, and U.S. Courthouse, 550 West Fort Street, Boise, Idaho, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Aero Technicians, Inc., Rexburg, Idaho, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: May 28, 1982.

H. L. Kuyper,

Director, VA Regional Office, 550 West Fort Street, Boise, Idaho 83724.

[FR Doc. 82–15341 Filed 6–4–82; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 109
Monday, June 7, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

[M-355, Amdt. 3; June 2, 1982]

Additions of Item to the June 3, 1982 Meeting

TIME AND DATE: 10 a.m., June 3, 1982.

PLACE: Room 1027 (open), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 8a. Dockets 34030 and 39963, Final rule prohibiting discrimination against the handicapped. (OGC)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

[S-845-82 Filed 6-3-82; 3:21 pm]

BILLING CODE 6320-01-M

2

CIVIL AERONAUTICS BOARD

[M-355, Amdt. 4; June 2, 1982]

Addition of Items to the June 3, 1982 Meeting.

TIME AND DATE: 10 a.m., June 3, 1982.

PLACE: Room 1027 (open), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1a. Docket 40545, CAB Recommendations to the FAA concerning Slot Allocations under the Interim Operations Plan. Request for Instructions. (OGC, BDA, OEA)

1b. Docket 40176, Airport "slot" exchange agreement filed by the Air Transport Association of America. (BDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-846-82 Filed 6-3-82; 3:22 pm]

BILLING CODE 6320-01-M

3

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10 a.m., Thursday, June 10, 1982.

PLACE: Board Room, sixth floor, 1700 G Street NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6679).

MATTERS TO BE CONSIDERED:

Request for Waiver Under Section 563.43(d) of the Insurance Regulations—First Federal Savings and Loan Association, Winder, Georgia

Service Corporation Application Security Vault Facility—Constitution Federal Savings and Loan Association, Stanford, Connecticut

[No. 39, June 3, 1982]

[S-844-82 Filed 6-3-82; 9:52 am]

BILLING CODE 6720-01-M

4

INTERNATIONAL TRADE COMMISSION

[USITC SE-82-22]

TIME AND DATE: 2:30 p.m., Thursday, June 17, 1982.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: 1. Investigation 731-TA-95 [Preliminary] (Stainless Steel Sheet and Strip from France)—briefing and vote.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-842-82 Filed 6-3-82; 9:17 am]

BILLING CODE 7020-02-M

5

INTERNATIONAL TRADE COMMISSION

[USITC SE-82-21]

TIME AND DATE: 9:30 a.m., Tuesday, June 15, 1982.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigations 701-TA-170/173 [Preliminary] (Certain Steel Products from Korea)—briefing and vote.
6. Investigations 701-TA-165/169 [Preliminary] (Welded Carbon Steel Pipe and Tube from Brazil, France, Italy, South Korea, and West Germany)—briefing and vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-843-82 Filed 6-3-82; 9:18 am]

BILLING CODE 7020-02-M

6

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 23250, May 27, 1982.

STATUS: Open/closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, May 24, 1982.

CHANGES IN THE MEETING: Deletion/additional items. The following item will not be considered at an open meeting scheduled for Thursday, June 3, 1982, at 10:00 a.m.:

Consideration of whether to adopt Rule 10b-18 under the Securities Exchange Act of 1934 and to withdraw proposed Rule 13e-2 under that Act. If adopted, Rule 10b-18 would create a "safe harbor" from liability under certain antimanipulative provisions of the federal securities laws in connection with purchases by an issuer of its common stock. For further information, please contact, Mary Chamberlin at (202) 272-2880.

The following items will be considered at a closed meeting scheduled for Thursday, June 3, 1982, following the 10:00 a.m. open meeting:

Freedom of Information Act appeals.
Regulatory matter hearing enforcement implications.
Institution of injunctive actions.

Chairman Shad and Commissioners Loomis, Evans and Thomas determined by vote that Commission business required consideration of these matters and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Siegelbaum at (202) 272-2468.

June 2, 1982.

[S-841-82 Filed 6-2-82; 4:50 pm]

BILLING CODE 8010-01-M

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

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DOT/UMTA			DOT/UMTA	

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Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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V 47/109 J E 7 8 2 UMI

New Publication

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(1964 through 1972)

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federal register

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Labor Department
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Government Employees
Personnel Management Office

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Education Department

Income Taxes
Internal Revenue Service

Indemnity Payments
Agricultural Stabilization and Conservation Service

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 760

Dairy Indemnity Payment Programs

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to amend the Dairy Indemnity Payment Program Regulations to extend the time period for conducting the program through September 30, 1982, as authorized by section 105 of the Agriculture and Food Act of 1981.

EFFECTIVE DATE: June 8, 1982.

ADDRESSES: Emergency Operations and Livestock Programs Division, ASCS, USDA, Room 4095 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Gerald Schiermeyer (ASCS), telephone 202–447–7674. A Final Regulatory Impact Statement is available from the above-named individual.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as "not major." This rule has been classified as "not major" since it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal assistance program to which this rule applies are: Title—Dairy Indemnity Payments, Number—10.053 as found in the catalog of Federal Domestic Assistance Programs.

This action will not have a significant impact, specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Commodity Credit Corporation is not required to publish a notice of proposed rulemaking pursuant to 5 U.S.C. 553 or any other provision of law with respect to the subject matter of this rule.

The Food and Agriculture Act of 1981 (Pub. L. 97–98, 95 Stat. 1220, approved December 22, 1981) made no substantive changes with respect to the dairy indemnity program but merely extends the time period for conducting the program. The purpose of this rule is to make conforming changes in the regulations which are found at 7 CFR Part 760 to authorize the program to be conducted through September 30, 1982, and to make minor technical changes in the wording. In addition, section 760.32, Instructions and Forms, is being amended to indicate that certain indemnity payment forms previously listed in the regulations have been consolidated into one form.

Since this regulation makes only technical, conforming changes in the regulations, it has been determined that no further public rulemaking is required. Therefore, this regulation shall become effective upon date of publication in the **Federal Register**.

List of Subjects in 7 CFR Part 760

Bees, Dairy products, Honey, Indemnity payments, Pesticides and pests.

PART 760—INDEMNITY PAYMENT PROGRAMS

Final Rule

Accordingly, the regulations at 7 CFR Part 760 are amended as follows:

§ 760.2 [Amended]

1. In § 760.2, paragraphs (k) (1) and (2), (l), and (o) are amended by striking out "1981" and inserting in lieu thereof "1982".

§§ 760.3, 760.7, 760.20, 760.23 [Amended]

2. Sections 760.3 and 760.20 and the introductory paragraphs of §§ 760.7 and 760.23 are being amended by striking out the word "will" and inserting in lieu thereof the word "may".

§ 760.8 [Amended]

3. Section 760.8 is amended by striking out "1981" and inserting in lieu thereof "1982".

§ 760.29 [Amended]

4. Section 760.29 is amended by striking out in the first sentence the words "is entitled to" and inserting in lieu thereof the words "would otherwise receive".

§ 760.32 [Amended]

5. Section 760.32 is amended by striking out the last sentence thereof and inserting in lieu thereof the following sentence: "Form ASCS–373—Application for Indemnity Payment, is available at the county ASC office."

Note.—The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

(Secs. 1, 2, 3, Pub. L. 90–484, 82 Stat. 750, as amended (7 U.S.C. 450 j, k, l))

Signed at Washington, DC., on June 2, 1982.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 82–15448 Filed 6–7–82; 8:45 am]
BILLING CODE 3410–05–M

CIVIL AERONAUTICS BOARD

14 CFR Part 250

Oversales; Temporary Waiver of Rule

AGENCY: Civil Aeronautics Board.

ACTION: Temporary waiver of rule.

SUMMARY: The CAB is extending the waiver granted to all air carriers from complying with certain requirements of its denied boarding compensation rules to September 1, 1982. Air carriers are relieved of the duty to pay double compensation to passengers with

confirmed reservations that are denied boarding involuntarily and who cannot be accommodated on alternative transportation within 2 hours for domestic air travel, or within 4 hours for foreign air travel. This action is taken because of the continuing disruptions resulting from the air controller situation. This waiver was initially granted in August, 1981, and has been extended several times.

DATE: Adopted: May 28, 1982.

EFFECTIVE DATE: Waiver extended through September 1, 1982.

FOR FURTHER INFORMATION CONTACT:

Ava Kleinman, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW, Washington, D.C. 20428, 202–673–5345; or Joanne Petrie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW, Washington, D.C. 20428, 202–673–5442.

SUPPLEMENTARY INFORMATION:

Emergency Air Transportation Requirements; Docket 39722

Order Extending Exemption Authority

By Order 82–3–4, March 1, 1982, we extended our award of exemption authority to all U.S. and foreign air carriers from the provisions of Part 250 of our Economic Regulations to the extent that they would require more than 100 percent compensation if the airline cannot arrange "alternate transportation" as defined in that Part. Our award of this (and other) authority was intended to relieve carriers of certain regulatory requirements during the period of service cutbacks resulting from the job action by the Professional Air Traffic Controllers Organization (PATCO).[1] We extended our exemption from the denied boarding rules because of our concern "that capacity is still significantly curtailed and that neither the airlines nor the public respond as they would in an environment of complete scheduling freedom."[2] By the terms of Order 82–3–4, this exemption remains in effect through June 1, 1982.

On April 30, 1982, the Air Transport Association (ATA) filed an application for an extension of the denied boarding compensation exemption for the duration of the Federal Aviation Administration's Interim Operations Plan.[3] In support of its request, the ATA states that its member airlines continue to experience problems caused by the reduction in the number of airline movements and the limits on aircraft operations during peak periods which render historic no-show data less useful. In addition, the ATA claims that efforts to operate more efficiently, such as slot exchanges, inhibit their ability to predict no-shows. The ATA urges us not to reimpose what it regards as a punitive aspect of the double compensation rule. Finally, the ATA states that the poor financial condition of the airline industry justifies a further extension of the exemption.

On May 12, 1982, Aviation Consumer Action Project (ACAP), filed an answer in opposition to the ATA's request.[4] ACAP states that the ATA failed to support its position with evidence, and that we should require the submission of such evidence before considering the request. In addition, ACAP disputes the ATA's classification of the double-compensation aspect of the rule as a punitive element, but rather regards it as the Board's estimation of a fair level of compensation. Therefore, according to ACAP, the 200 percent compensation level should be restored to permit passengers to be fairly compensated for their inconvenience.

ACAP asks us not to consider the financial condition of the airlines as a reason for extending the denied boarding compensation exemption, since such reasoning would "place a greater value on airline profits than on the rights of passengers."

ACAP also objects to the use of our exemption authority rather than rulemaking procedures to remedy a situation which is no longer an emergency.

Finally, ACAP urges us to limit any extension of exemption authority to those routes where the airlines can prove that the accuracy of predicting no-shows has decreased since the PATCO walkout.

We received a reply to ACAP's answer from the ATA. It objects to ACAP's motion for leave to file late because there is no showing of excusable neglect. In addition, the ATA criticizes ACAP's response as "unfocused and unconvincing" and asserts its position that the relief it requests is consistent with the public interest.

The ATA also states that the proper procedure to grant the requested relief is through our exemption powers and not through rulemaking, and cites our pending rulemaking[5] on the future of the overbooking rule as the proper forum to consider long-term policy.

The ATA further argues that the suspension of operations of Braniff International and the FAA's permission to freely transfer slots "further erodes the data bases and analyses upon which [carriers] make their overbooking decisions."

Finally, the ATA urges us to reach a decision as soon as possible.

We have carefully considered the ATA's request and the subsequent pleadings, and have decided to extend our award of exemption authority for all U.S. and foreign carriers until September 1, 1982.[6] Although the air traffic control system is increasing its capacity, we remain convinced that flight reductions and limits on peak-hour operations continue to prevent the carriers from adequately assessing and controlling the problems of overbooking and no-shows. Therefore, we find that it is in the public interest to continue the limited exemption.

We do not agree with the ATA, however, that the availability of Braniff's slots, slot exchanges and other efforts to operate more efficiently should cause us to extend our exemption award. In an environment of complete scheduling flexibility, carriers must rely on their own resources to predict the no-show rate in newly-entered or expanded markets. We are not sympathetic to the ATA's plea of ignorance of market behavior,here where the carriers are afforded limited flexibility to rearrange their flight schedules.[7]

We agree with ACAP that the airlines should begin to predict with some degree of certainty the number of no-shows for each flight. We expect the ATA, in any future extension request, to support its request with evidence indicating the carriers' inability to perform an analysis of the no-show rate.

Finally, we have chosen to deal with the ATA's requests for relief from the problems created by the PATCO job action by exemption rather than by rulemaking because the situation precipitating our action is a short- rather

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[1] *See also* Order 81–11–57, November 10, 1981; 81–9–168, September 30, 1981; 81–9–20, September 3, 1981; 81–8–66, August 13, 1981; 81–8–22, August 6, 1981; 81–7–156, July 30, 1981; and 81–6–148, June 19, 1981.

[2] Order 82–3–4 at 2.

[3] 47 FR 7816 (February 16, 1982).

[4] ACAP's answer was accompanied by a motion for leave to file late.

[5] EDR–438, 46 FR 62285, December 31, 1981.

[6] We will grant ACAP's motion for leave to file late.

[7] We also disagree with the ATA's premise that we should continue the exemption authority because of the poor financial condition of the airline industry. Our award of exemption authority is based solely on the carriers' inability to predict no-shows during a period of reduced capacity. It was not intended to relieve carriers from any financial burdens, but rather to permit them to operate more efficiently. Nor was it intended to focus on or remove the "punitive" aspect of the overbooking rules.

than long-term problem. We normally do not grant emergency relief through rulemaking procedures. As the ATA points out, we have a rulemaking proceeding in progress which addresses the future of the overbooking rules,[*] and will consider the long-term solutions to the overbooking problem in the context of that proceeding.

List of Subjects in 14 CFR Part 250

Air carriers, Consumer protection, Denied boarding compensation, Reporting and recordkeeping requirements.

PART 250—OVERSALES

Accordingly,

1. We grant the request of the ATA in Docket 39722;
2. We extend our exemption award in ordering paragraph 2 of Order 81–11–57 which exempts all U.S. and foreign air carriers from the provisions of Part 250 of our Economic Regulations to the extent that they would require more than 100 percent compensation if the airline cannot arrange "alternate transportation" as defined in that Part; this authority shall remain in effect through September 1, 1982;
3. We grant the request of ACAP to file late in Docket 39722; and
4. We will serve a copy of this order on all U.S. certificated and foreign carriers, the Department of Justice, the Department of Transportation, the Federal Emergency Management Agency, the Federal Aviation Administration, the Postmaster General, the Department of Defense, Aviation Consumer Action Project, and the Air Transport Association of America.

We will publish a copy of this order in the Federal Register.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–15457 Filed 6–7–82; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 1, 3 and 375

[Docket No. RM81–40–000; Order No. 233]

Fees Relating to Freedom of Information Act Requests

Correction

In FR Doc. 82–14377 appearing at page 23148 in the issue for Thursday, May 27, 1982, please make the following correction:

On page 23149, in the middle column, under the heading "III. Effective Date", in the first line, the date "June 25, 1982" should have been "June 28, 1982".

BILLING CODE 1505–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 80

[Docket No. 81N–0355]

Color Additive Certification

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the color additive regulations by increasing the fees for certification services. The increases are needed to maintain an adequate color certification program, as required by the Federal Food, Drug, and Cosmetic Act (the act).

DATES: Effective August 9, 1982; comments by July 8, 1982.

ADDRESSES: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Dave Petak, Accounting Branch (HFA–120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1768.

SUPPLEMENTARY INFORMATION: FDA is increasing the fees for certifying color additives now provided for in the regulations. These increases are necessary because of a general increase in all costs of operating the certification program.

The current fee schedule (§ 80.10 (21 CFR 80.10)) was adopted in 1963. Because of the steady growth of the color additive market and corresponding increases in the number of batches certified, adequate revenue was generated through 1979. Throughout these years, increases in the amounts of colors certified were handled without increasing staff by utilizing improved testing methods and by a growing reliance on instrumentation for analysis. However, the volume of batches certified has leveled off, while costs have continued to increase. Although an earned surplus covered losses of $130,000 in 1980 and $165,000 in 1981, the loss projected for fiscal year 1982 will deplete the remaining surplus.

Section 706(e) of the act (21 U.S.C. 376(e)) requires that the agency establish such fees for certifying color additives as may be necessary to provide, maintain, and equip an adequate color additive certification program. As is evidenced by the deficit incurred during fiscal years 1980 and 1981, the current fee schedule is not adequate to provide, maintain, and equip an adequate certification service. Therefore, an immediate increase is necessary.

The current fee schedule for color additive certification is designed to cover all costs involved in the certification program. These costs include both the cost of specific tests required by the regulations and the general costs associated with the certification program, such as costs of accounting, reviewing data, issuing certificates, carrying out research, and conducting establishment inspections. A copy of the agency study that documents the need for increased fees and sets forth the basis on which the agency has established the new fee schedule is available for review in the Dockets Management Branch at the address and hours given at the end of this document.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742), that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required. Because this provision is issued as a final rule without being preceded by general notice of proposed rulemaking, a final regulatory analysis under section 604 of the Regulatory Flexibility Act (94 Stat. 1167) is not required. In any event, the rule will not have a significant economic impact on a substantial number of small entities. Only a small number of large companies will be affected; and the costs involved are minuscule in relation to the revenues affected. Accordingly, we certify that a regulatory flexibility analysis is not required. In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this rule, and the agency has determined that it is not a major rule as defined by that Order.

List of Subjects in 21 CFR Part 80

Color additive certification procedures; Color additives; Cosmetics; Drugs.

[*] EDR–430, 46 FR 62285, December 31, 1981.

PART 80—COLOR ADDITIVE CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 706(c) and (e), 74 Stat. 402–403 (21 U.S.C. 376(c) and (e))) and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982), Part 80 is amended in § 80.10 by revising paragraphs (a) and (b), to read as follows:

§ 80.10 Fees for certification services.

(a) *Fees for straight colors including lakes.* The fee for the services provided by the regulations in this part in the case of each request for certification submitted in accordance with § 80.21(j)(1) and (2) shall be 25 cents per pound of the batch covered by such requests, but no such fee shall be less than $160.00.

(b) *Fees for repacks of certified color additives and color additives mixtures.* The fees for the services provided under the regulations in this part in the case of each request for certification submitted in accordance with § 80.21(j)(3) and (4) shall be:

(1) *Fees for straight colors including lakes.* 25 cents per pound of the batch covered but not less than $160.

(2) *Repacks of certified color, color additives, and color additive mixtures.*
(i) 100 pounds or less—$25.

(ii) Over 100 pounds but not over 1,000 pounds—$25 plus 6 cents for each pound over 100 pounds.

(iii) Over 1,000 pounds—$79 plus 2 cents per pound for each pound in excess of 1,000 pounds.

Because reimbursement for expenses incurred by FDA in certifying batches of color additives is required by the act, and the amendment affected by this regulation simply establishes rates for these services and is based strictly on cost accounting, FDA believes that public comment would not be helpful and thus that notice and public procedure are unnecessary and may be dispensed with as authorized under 5 U.S.C. 553. However, pursuant to § 10.40(e) (21 CFR 10.40(e)), interested persons may on or before July 8, 1982 submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this regulation. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. Any changes in this regulation justified by such comments will be the subject of a further amendment.

Effective date. This amendment becomes effective August 9, 1982.

Dated: April 5, 1982.

Arthur Hull Hayes, Jr.,
Commissioner of Food and Drugs.

Dated: May 13, 1982.

Richard S. Schweiker,
Secretary of Health and Human Services.

[FR Doc. 82-15277 Filed 6-7-82; 8:45 am]
BILLING CODE 4160-01-M

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21 CFR Part 137

[Docket No. 80P–0022]

Cereal Flours and Related Products

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the standards of identity for flour and whole wheat flour to allow the optional ingredient "*alpha*-amylase obtained from *Aspergillus oryzae*" to be declared alternatively as "Fungal *alpha*-amylase" (or "Fungal α-amylase"), "Enzyme", or "Enzyme added for improved baking" in the list of ingredients. This action will promote honesty and fair dealing in the interest of consumers.

DATES: Effective July 1, 1983, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date. Voluntary compliance may begin August 9, 1982. Objections by July 8, 1982.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF–214), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202–245–1164.

SUPPLEMENTARY INFORMATION: A proposal to amend the standards of identity for flour (21 CFR 137.105) and whole wheat flour (21 CFR 137.200) to require the listing of the optional ingredient *alpha*-amylase obtained from *Aspergillus oryzae* as "Fungal *alpha*-amylase" or alternatively "Fungal α-amylase" was published in the Federal Register of December 9, 1980 (45 FR 81064). This proposal was based on a petition from the Pennwalt Corp., Pennwalt Bldg., Three Parkway, Philadelphia, PA 19102. The proposal invited interested persons to submit comments by February 9, 1981.

Comments were received from an individual, a trade association, and a milling company in response to the proposal. One comment agreed with the agency's proposal. The discussion of the remaining comments and the agency's responses follow:

One comment said it was in the public interest to simplify ingredient names wherever possible and suggested that just as it is unnecessary to refer to "*Aspergillus oryzae*" as a source, the term "fungal" is unnecessary and should not be required.

A second comment said unfairness and inconsistency existed for the ingredient labeling of enzymes used in bakery flours and for enzymes used in certain other foods, namely enriched farina, certain cheeses, and sorghum sirup. The comment suggested, in the interest of providing consumers with a simple, clear statement, the term "Enzymes" or the phrase "Enzymes for improved baking" for the ingredient labeling of fungal enzymes obtained from *Aspergillus oryzae* or cereal enzymes from malted barley flour. The comment noted that terms such as "enzyme" and "cheese culture" are approved for ingredient labeling for farina, sorghum sirup, and cheese products.

FDA agrees with the comment that the word "enzyme" or the phrase "enzyme added for improved baking" will adequately inform the consumer of the presence of added α-amylase and concludes that it is reasonable to provide for both these terms as well as the phrase "fungal α-amylase" as alternatives to declaration of the enzyme by its common or usual name. Declaration as "enzyme" would be consistent with the labeling provisions of the standards of identity for certain cheeses such as cottage cheese, cream cheese, and neufchatel cheese as noted in one comment. FDA points that, however, that the standard of identity for sorghum sirup, which provides in § 168.160(b)(4) for the optional use of unspecified enzymes, requires in § 168.160(d) that any such enzyme used must be declared by its common or usual name.

Further, the standard of identity for enriched farina requires in § 137.305(b)(1) that when papain or pepsin is used as provided for in § 137.305(a)(5)(ii), it should be declared by the common or usual name. In addition, § 137.305(b)(2)(ii) and (3) requires that the label bear the statement "Enzyme treated for quicker cooking" wherever the name of the food appears.

The current standards of identity for flour (21 CFR 137.105(a)) and whole wheat flour (21 CFR 137.200(a)) limit the use of compensating enzymes to barley malt preparations and to *alpha*-amylase obtained from *Aspergillus oryzae*. FDA is providing no change in the label declaration of the optional malt preparations as "malted barley flour" or terms of similar import according to the provisions of 21 CFR Part 101. The consumer is thus advised of the addition of the compensating enzymes.

The amendment to the standards of identity for flour and whole wheat flour will apply by cross-reference to the standards of identity for § 137.155 *Bromated flour*, § 137.160 *Enriched bromated flour*, § 137.165 *Enriched flour*, § 137.170 *Instantized flours*, § 137.175 *Phosphated flour*, § 137.180 *Self-rising flour*, § 137.185 *Enriched self-rising flour*, § 137.205 *Bromated whole wheat flour, and* § 137.225 *Whole durum flour*.

After consideration of the comments received and other relevant information, FDA concludes that it will promote honesty and fair dealing in the interest of consumers to revise the standards of identity for flour and whole wheat flour as set forth below.

List of Subjects in 21 CFR Part 137

Cereals, Flour, Food standards.

PART 137—CEREAL FLOURS AND RELATED PRODUCTS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 137 is amended as follows:

1. In §137.105, by revising paragraph (b)(2) to read as follows:

§ 137.105 Flour.

* * * * *

(b) * * *

(2) When ascorbic acid is added, the label shall bear the statement "Ascorbic acid added as a dough conditioner". When the optional ingredient "*alpha*-amylase obtained from *Aspergillus oryzae*" is used, it may alternatively be declared in the list of ingredients as "Fungal α-amylase", "Enzyme", or "Enzyme added for improved baking". When any optional bleaching ingredient is used, the label shall bear the word "Bleached". Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the word "Bleached" shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter; except that where such name is a part of a trademark or brand, other written, printed, or graphic matter, which is also a part of such trademark or brand, may so intervene if the word "Bleached" is in such juxtaposition with such trademark or brand as to be conspicuously related to such name.

* * * * *

2. In §137.200, by revising paragraph (b)(2) to read as follows:

§ 137.200 Whole wheat flour.

* * * * *

(b) * * *

(2) When ascorbic acid is added, the label shall bear the statement "Ascorbic acid added as a dough conditioner". When the optional ingredient "*alpha*-amylase obtained from *Aspergillus oryzae*" is used, it may alternatively be declared in the list of ingredients as "Fungal α-amylase", "Enzyme", or "Enzyme added for improved baking". When any optional bleaching ingredient is used, the label shall bear the word "Bleached". Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the word "Bleached" shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter; except that where such name is a part of a trademark or brand, other written, printed or graphic matter, which is also a part of such trademark or brand, may so intervene if the word "Bleached" is in such juxtaposition with such trademark or brand as to be conspicuously related to such name.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before July 8, 1982 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis of the specific factual information intended to be presented in support of the objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. Except as to any provisions that may be stayed by the filing of proper objections, compliance with this final regulation, including any required labeling changes, may begin August 9, 1982, and all affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1983, shall fully comply. Notice of the filing of objections or lack thereof will be published in the **Federal Register**.

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)))

Dated: June 1, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-15270 Filed 6-7-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 548

Certifiable Peptide Antibiotic Drugs for Animal Use; Bacitracin Zinc Soluble Powder

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by International Minerals & Chemical Corp. (IMC), providing revised labeling for a water soluble bacitracin zinc powder. This approval is in accord with the findings of the National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group.

EFFECTIVE DATE: June 8, 1982.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Bureau of Veterinary Medicine (HFV-147), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4317.

SUPPLEMENTARY INFORMATION: IMC, P.O. Box 207, Terre Haute, IN 47808, was formerly Commercial Solvents Corp. IMC's Baciferm Soluble-50 (50 grams of bacitracin zinc per pound of soluble

powder) originally became effective as a food additive before 1962. The product was subsequently converted to new animal drug status and designated as approved NADA 65–313.

Provisions for certification, testing, and use of the product are codified in § 548.114 (21 CFR 548.114). The regulation currently provides for use of the product in drinking water for: (1) Prevention and treatment of chronic respiratory disease (airsac infection) and blue comb (nonspecific infectious enteritis) in chickens; (2) prevention and treatment of infectious sinusitis and blue comb (mud fever) in turkeys; and (3) aid in prevention and treatment of bacterial swine enteritis (scours). ICM's Baciferm Soluble-50 was one of several bacitracin-containing preparations which were subject of a NAS/NRC evaluation published in the Federal Register of July 17, 1970 (35 FR 11531) and amended October 2, 1970 (35 FR 15408). In those documents, NAS/NRC concluded, and FDA concurred, that the preparations are "* * * probably not effective for the therapeutic claims * * *".

The evaluation was published to inform manufacturers of these drugs of the NAS/NRC and agency conclusions and to inform all interested persons that if these products are to be marketed they must be the subject of approved NADA's and otherwise comply with the requirements of the Federal Food, Drug, and Cosmetic Act. Manufacturers were provided 6 months from publication of the evaluation to submit adequate documentation in support of the labeling used.

IMC responded to the evaluation by submitting a supplemental NADA containing reprints of published scientific studies and well-controlled experiments demonstrating animal safety and effectiveness of Baciferm Soluble-50 for (1) prevention and control of necrotic enteritis caused by *Clostridium perfringens* susceptible to bacitracin zinc in broilers and (2) control of ulcerative enteritis caused by *C. spp.* susceptible to bacitracin zinc in growing quail.

The submitted data and information support the 2 new proprietary claims, but leave the 3 existing NAS/NRC-evaluated claims unsubstantiated and unsupported. Thus, the 3 existing claims are removed from § 548.114. IMC is the sole manufacturer of water soluble bacitracin zinc. IMC has agreed by letter (October 13, 1981) to supplement its application to provide labeling in accordance with the new claims. Accordingly, the supplemental NADA is approved and the regulation is amended to reflect the product's revised labeling.

Bacitracin zinc has been approved for use in chickens and turkeys at 100- to 1,000-milligrams-per-gallon (mg/gal) of drinking water (21 CFR 548.114). Because the new claim for use in chickens represents a restricted use of the drug within currently permitted uses, this approval poses no significant increase in the frequency of human exposure to residues of the drug. Bacitracin zinc is also approved for use in feed for growth promotion in quail (21 CFR 558.78). A tolerance for the acceptable level of residues of bacitracin zinc in quail tissue also exists (21 CFR 556.70). Because the new claim for use in quail will not result in a significantly greater number of quail to receive the drug and because the residues resulting from the new claim will be below tolerance, this approval poses no significant increase in the frequency of human exposure to the drug. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this supplemental NADA has been treated as a Category II supplement which did not require a complete reevaluation of the human safety data supporting the parent application.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in an environmental impact analysis report (pursuant to 21 CFR 25.1(j)), may be seen in the Dockets Management Branch.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 548

Animal drugs, Antibiotics, Peptides.

PART 548—CERTIFIABLE PEPTIDE ANTIBIOTIC DRUGS FOR ANIMAL USE

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512 (i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b (i) and (n))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 548 is amended in § 548.114 by revising paragraph (c)(5) (i) and (ii) to read as follows, and by removing paragraph (c)(5)(iii):

§ 548.114 Bacitracin zinc soluble powder.

* * * * *

(c) * * *

(5) * * *

(i) *Broiler chickens—(a) Amount per gallon.* 100 milligrams.

(*1*) *Indications for use.* Prevention of necrotic enteritis caused by *Clostridium perfringens* susceptible to bacitracin zinc.

(*2*) *Limitations.* Prepare a fresh solution daily.

(*b*) *Amount per gallon.* 200 to 400 milligrams.

(*1*) *Indications for use.* Control of necrotic enteritis caused by *Clostridium perfringens* susceptible to bacitracin zinc.

(*2*) *Limitations.* Prepare a fresh solution daily.

(ii) *Growing quail—(a) Amount per gallon.* 500 milligrams for 5 days followed by 165 milligrams for 10 days.

(*b*) *Indications for use.* Control of ulcerative enteritis caused by *Clostridium* spp. susceptible to bacitracin zinc.

(*c*) *Limitations.* Prepare a fresh solution daily.

Effective date. This amendment is effective June 8, 1982.

(Sec. 512 (i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b (i) and (n)))

Dated: May 28, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-15321 Filed 6-7-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Hygromycin B

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect

approval of a new animal drug application (NADA) for Custom Feed Services Corp., providing for use of a 0.6-gram-per-pound hygromycin B premix for making complete swine feeds for control of large roundworms, nodular worms, and whipworms and for making complete chicken feeds for control of large roundworms, cecal worms, and capillary worms.

EFFECTIVE DATE: June 8, 1982.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Custom Feed Services Corp., 2100 N. 13th St., Norfolk, NE 68701, is sponsor of NADA 129–158 providing for use of a 0.6-gram-per-pound hygromycin B premix for making complete swine and chicken feeds. The complete swine feed is used as an aid in the control of large roundworms, nodular worms, and whipworms. The complete chicken feed is used as an aid in the control of large roundworms, cecal worms, and capillary worms. The NADA was filed by Elanco Products Co., for the sponsor. Elanco authorized use of the safety and effectiveness data contained in their approved NADA's 10–918 and 11–948 to support approval of this application. In addition, satisfactory chemistry, manufacturing, and control information were submitted.

This approval does not change the approved use of the drug. Consequently, approval of the NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of NADA 129–158 does not require reevaluation of the safety and effectiveness data in NADA's 10–918 and 11–948. NADA 129–158 is approved and the regulations are amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514–11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.274 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 28052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.274 *Hygromycin B* by adding, in numerical sequence, drug sponsor code "017473" to paragraph (a)(4) and to the "sponsor" column in paragraph (e)(1)(i) and (ii).

Effective date. June 8, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: May 28, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-15270 Filed 6-7-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Hygromycin B

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) for Dale Alley Co. providing for use of 0.6- and 2.4-gram-per-pound hygromycin B premixes. The 0.6-gram-per-pound premix is for making complete swine feeds for control of large roundworms, nodular worms, and whipworms; and for making complete chicken feeds for control of large roundworms, cecal worms, and capillary worms. The 2.4-gram-per-pound premix is for making complete swine feeds for control of large roundworms, nodular worms, and whipworms.

EFFECTIVE DATE: June 8, 1982.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Dale Alley Co., P.O. Box 444, 222 Sylvanie St., St. Joseph, MO 64502, is the sponsor of NADA 107–003 providing for use of a 0.6-gram-per-pound hygromycin B premix for making complete swine and chicken feeds, and a 2.4-gram-per-pound premix for making complete swine feeds. The complete swine feeds are used as an aid in the control of large roundworms, nodular worms, and whipworms. The complete chicken feeds are used as an aid in the control of large roundworms, cecal worms, and capillary worms. The NADA was filed by Elanco Products Co. for the sponsor. Elanco authorized use of the safety and effectiveness data contained in their approved NADA's 10–918 and 11–948 to support this application. Additionally, satisfactory chemical, manufacturing, and control information were submitted.

Because approval of this NADA does not change the approved use of the drug, it poses no increased human risk from exposure to residues of the animal drug and does not change the conditions of safe use of the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of NADA 107–003 does not require reevaluation of the safety and effectiveness data in NADA's 10–918 and 11–948. NADA 107–003 is approved, and the regulations are amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.274 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.274 *Hygromycin B* by adding, in numerical sequence, drug sponsor code "018083" to paragraph (a)(2) and (4) and to the "sponsor" column in paragrah (e)(1) (i) and (ii).

Effective date. June 8, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: May 28, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-15270 Filed 6-7-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 610 and 630

[Docket No. 78N-0100]

Viral and Rickettsial Vaccines; Implementation of Efficacy Review

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending certain biologics regulations in response to the report of the Panel on Review of Viral Vaccines and Rickettsial Vaccines. The agency is announcing the final regulatory status of the licensed biological products reviewed and the schedule for the revision of product labeling in accordance with the Panel's recommendations.

DATES: Effective August 9, 1982, except that recommended labeling changes become effective December 8, 1984. Draft revised labeling should be submitted by December 8, 1982.

ADDRESS: Draft revised labeling should be submitted to the Licensing Branch (HFB-720), Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205.

FOR FURTHER INFORMATION CONTACT: Steven F. Falter, Bureau of Biologics (HFB-620), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205. 301-443-1306.

SUPPLEMENTARY INFORMATION: In the Federal Register of April 15, 1980 (45 FR 25652), FDA issued a proposal containing the Final Report of the Panel on Review of Viral Vaccines and Rickettsial Vaccines. The Panel evaluated the safety, effectiveness, and labeling of 72 viral and rickettsial vaccines and therapeutically related immune globulin products and recommended that (1) 45 products be placed in Category I (those biological products determined to be safe, effective, and not misbranded); (2) 6 products be placed in Category II (those biological products determined to be unsafe, ineffective, or misbranded); (3) 5 products be placed in Category IIIA (those biological products for which available data are insufficient to classify their safety and effectiveness but which may remain in interstate commerce pending completion of testing in conformance with the recommendations of the Panel); and (4) 16 products be placed in Category IIIB (those biological products for which available data are insufficient to classify their safety and effectiveness and which should not continue in interstate commerce).

FDA agreed with the Panel's recommendations concerning the classification of these products and, accordingly, announced its intention to publish a Notice of Opportunity for Hearing (NOH) to revoke the licenses for those products placed in Categories II and IIIB. At the request of the licensees, the licenses for 5 of the 6 products in Category II and 15 of the 16 products in Category IIIB were revoked before publication of the NOH. The NOH for the remaining one Category II product and one Category IIIB product was published in the Federal Register of October 3, 1980 (45 FR 65675). As announced in the Federal Register of January 30, 1981 (46 FR 10014), the licenses for these two remaining licensed products were subsequently revoked at the request of the licensees.

The April 15, 1980 proposal also contained FDA's response to other panel recommendations concerning the processing, testing, and labeling of viral and rickettsial vaccines and immunne globulins. In view of these recommendations, FDA proposed the following amendments to the biologics regulations:

1. In § 601.25(h) (21 CFR 601.25(h)), to require that the labeling for Category IIIA viral and rickettsial vaccines contain a boxed statement referencing the Panel's finding of insufficient data for the product on safety and effectiveness, and that written informed consent be obtained from participants in the additional studies performed pursuant to § 601.25(h);

2. In §§ 630.32(b) and 630.62(b) (21 CFR 630.32(b) and 630.62(b)), to require that embryonated eggs intended for the manufacture of live measles, mumps, or rubella virus vaccine be derived from flocks free of reticuloendotheliosis virus.

3. In § 630.35(a) (21 CFR 630.35(a)), to specify the incubation period and subpassage requirements for the safety test used for measles, mumps, and rubella virus vaccines.

Interested persons were given until July 14, 1980 to submit comments on the proposal. Two letters were received, each containing more than one comment. The agency is providing (1) a summary of the comments and FDA's responses; (2) the final classification of licensed viral and rickettsial vaccines and therapeutically related immune globulins; (3) a schedule for the adoption of labeling revised in accordance with the Panel's recommendations and the findings of FDA; and (4) a final rule implementing amendments to certain biologics regulations.

Summary of Comments

1. One comment on the Panel Report Recommended that FDA require that data from a field study supporting the effectiveness of a vaccine be assessed by the methodology described in several published scientific articles submitted with the comment, rather than by the methods usually used in assessing the relative reduction in a given illness due to vaccination.

The comment suggested the use of a formula for "intrinsic vaccine efficacy" to determine vaccine effectiveness. The principle underlying this approach is that if vaccine usage reduces the illness attack rate to the same degree that the illness is due to the agent being vaccinated against, then the vaccine is 100 percent effective. The validity of the principle is self-evident but application of the proposed formula to assess the results of any clinical study is often not possible. Many problems often preclude the use of this method, including difficulties in consistently isolating the infecting agent and in determining the comparability of the control group and the test group. Thus, other equally valid and more broadly applicable methods (described in the Panel Report) will continue to be acceptable for demonstrating the effectiveness of vaccines. Accordingly, the comment is rejected.

2. One comment on the Panel Report recommended that FDA require that the lowest dose of a vaccine proven to be effective be used for routine vaccination

because, in some cases, the higher the dose the higher the risk of infection by other organisms. Data were submitted with the comment.

Vaccines are formulated in dosages which have been shown to be safe and effective. Many factors enter into determining what that dosage is, including the stability of live virus vaccines during their dating periods and the degree to which cross-protection against related viruses is desirable. In most cases, regulations prescribing maximum potency values have not been necessary; the manufacturing procedures described in each product license ensure that the vaccines will not exceed the prescribed potency by more than may be occasionally expected due to biological variability. In some cases, where specific side effects are known to occur at higher doses, manufacturers have been required to formulate vaccines to a specific, effective minimal potency. For these reasons, FDA finds it unnecessary to impose by regulation maximum potency values upon most viral vaccines. Accordingly, the comment is rejected.

3. One comment on the Panel's review of Influenza Virus Vaccines (45 FR 25711–25727) noted that data subsequently made public demonstrate that subunit influenza vaccines are at least as immunogenic and effective as the whole virus influenza vaccines. Accordingly, the comment recommended that the labeling for both the subunit and whole virus influenza vaccines be revised to recommend two doses of the vaccine for persons previously unexposed to the influenza strains in vaccine. The Panel recommended such labeling only for the subunit virus influenza vaccines.

Although the National Influenza Vaccine Clinical Trials of 1976 produced results suggesting greater antigenicity of whole virus vaccines than of subunit vaccines (*Journal of Infectious Diseases*, 136:S341–746, 1977), the results of the 1978 trials (unpublished) showed no significant difference in antigenicity. The results of the 1978 trials may be more indicative of the relative effects of the different types of vaccines because they were more closely matched for potency than those used in the trials of 1976. Because of the increased risk of adverse reactions, whole virus influenza vaccines are not recommended for use in children, that part of the population which has not previously been exposed to current influenza strains. In the event that an antigenic shift were to result in circulation of a virus subtype to which adults are unprimed, the possible need for vaccination of adults with a two-dose regimen of either whole or subunit vaccine would be considered. Accordingly, the comment is rejected.

4. Parke, Davis & Co. (now Parke-Davis, Division of Warner-Lambert Co.) took exception to FDA's response to the Panel's recommended classification of Adenovirus Vaccine, and Adenovirus Vaccine and Influenza Virus Vaccine, Combined, that Parke-Davis did not respond to the NOH on the Commissioner's intent to revoke the additional standards for Adenovirus Vaccine and to revoke all product licenses remaining in effect. Parke-Davis noted that it did respond by requesting a hearing and asked that FDA's response be corrected.

The comment is correct. In response to the NOH, Parke-Davis submitted a notice of appearance and request for hearing, dated January 29, 1973, contending that the NOH was defective and that a genuine and substantial issue of fact existed on the issue of whether adenovirus vaccines can be manufactured in a manner to assure their safety, purity, and potency. Information in support of these contentions accompanied the request. In its request, Parke-Davis also expressed a willingness to discuss the data with FDA before any administrative action. In subsequent discussions between Parke-Davis and FDA, it was agreed that any further administrative actions would be held in abeyance pending review by the Panel on Review of Viral Vaccines and Rickettsial Vaccines. During that time, no lots of the Parke-Davis vaccine were released by FDA. Parke-Davis submitted data to the Panel and representatives appeared before the Panel in April 1974. The Panel's findings (45 FR 25727–25731) and subsequent FDA actions are described in the April 15, 1980 proposal and in this final rule.

Classification of Products Into Regulatory Categories

No comments were received affecting the regulatory categories recommended by the Panel and proposed by FDA. Accordingly, FDA is classifying viral and rickettsial vaccines and therapeutically related immune globulin products as set forth below.

a. *Category I. Biological products determined to be safe and effective and not misbranded and which may continue in interstate commerce.* Poliomyelitis Vaccine (Purified), Connaught Laboratories, Ltd., License No. 73; Poliovirus Vaccine, Live, Oral, Trivalent (Orimune); Poliovirus Vaccines, Live, Oral, Type 1, Type 2, and Type 3 (Monovalent) (Orimune), Lederle Laboratories Division, American Cyanamid Co., License No. 17; Smallpox Vaccine, Michigan Department of Public Health, License No. 99; Smallpox Vaccine (Dryvax), Wyeth Laboratories, Inc., License No. 3; Measles Virus Vaccine, Live, Attenuated (Attenuvax); Mumps Virus Vaccine, Live (Mumpsvax); Rubella Virus Vaccine, Live (Meruvax); Measles, Mumps, and Rubella Virus Vaccine, Live (M–M–R); Measles and Rubella Virus Vaccine, Live (M–R–Vax); Measles-Smallpox Vaccine, Live (Attenuvax-Smallpox); Rubella and Mumps Virus Vaccine, Live (Biavax), Merck Sharp & Dohme, Division of Merck & Co., Inc., License No. 2; Rubella Virus Vaccine, Live (Cendehill Strain) (Cendevax), Smith Kline-RIT S.A., License No. 430; Influenza Virus Vaccine, Bivalent (Flu-Immune), Lederle Laboratories, Division American Cyanamid Co., License No. 17; Influenza Virus Vaccine, Bivalent (Fluax), Merck Sharp & Dohme, Division of Merck & Co., Inc., License No. 2; Influenza Virus Vaccine, Bivalent (Fluogen), Parke-Davis, Division of Warner-Lambert Co., License No. 1; Influenza Virus Vaccine, Bivalent (Chromatograph and Filter Purified Subvirion Antigen), Wyeth Laboratories, Inc., License No. 3; Rabies Vaccine, (Duck Embryo) Dried Killed Virus, Eli Lilly and Co., License No. 56; Vaccinia Immune Globulin (Human), Travenol Laboratories, Inc., Hyland Therapeutics Division, License No. 140; Antirabies Serum, Istituto Sieroterapico Vaccinogeno Toscano Sclavo, License No. 238; Antirabies Serum (Equine Origin), Lederle Laboratories, Division American Cyanamid Co., License No. 17; and Immune Serum Globulin (Human) manufactured by the following licensees: Armour Pharmaceutical Co., License No. 149; Michigan Department of Public Health, License No. 99; Cutter Laboratories, Inc., License No. 8; E. R. Squibb & Sons, Inc., License No. 52; Lederle Laboratories, Division American Cyanamid Co., License No. 17; Massachusetts Public Health Biologic Laboratories, License No. 64; Merck Sharp & Dohme, Division of Merck & Co., Inc., License No. 2; Parke-Davis, Division of Warner-Lambert Co., License No. 1; Travenol Laboratories, Inc., Hyland Therapeutics Division, License No. 140; and Wyeth Laboratories, Inc., License No. 3. The licenses for these products may remain in effect. Licensees are required to revise their product's labeling according to the Panel's recommendations as set forth in this document.

Smallpox Vaccine, Influenza Virus Vaccine, and Yellow Fever Vaccine manufactured by Merrell-National Laboratories, Division of Richardson-

Merrell, Inc., were also recommended for Category I by the Panel. The manufacturing processes and facilities for manufacturing these products were transferred to Connaught Laboratories, Inc., for whom License No. 711 was issued on January 3, 1978.

Immune Serum Globulin (Human) manufactured by Abbott Laboratories was recommended for Category I by the Panel. The manufacturing processes and facilities for manufacturing this product were transferred to Alpha Therapeutic Corp., for whom License No. 744 was issued on August 15, 1978.

The product licenses for two products also proposed for Category I have been revoked at the licensee's request after the proposal was signed: Smallpox Vaccine (in three formulations; glycerinated, dried, and dried for jet injection) revoked April 1, 1980, at the request of Connaught Laboratories, Ltd., License No. 73; Measles Virus Vaccine, Live, Attenuated (M-Vac), revoked May 21, 1980, at the request of Lederle Laboratories, Division American Cyanamid Co., License No. 17.

b. *Category II. Biological products determined to be unsafe or ineffective or to be misbranded and which should not continue in interstate commerce.* As announced in the **Federal Register** notice of January 30, 1981, the product licenses for all Category II products have been revoked at the request of the licensees.

c. *Category IIIA. Biological products for which available data are insufficient to classify their safety and effectiveness but which may remain in interstate commerce pending completion of testing.* The product licenses for all Category IIIA products have been revoked at the request of the licensees. Those product licenses which have been revoked after publication of the proposal are: Typhus Vaccine, revoked November 20, 1980, at the request of Lederle Laboratories, Division American Cyanamid Co., License No. 17; Typhus Vaccine and Immune Globulin (Human), Pepsin-Modified (Gammagee-V), both products were revoked July 29, 1980, at the request of Merck Sharp & Dohme, Division of Merck & Co., Inc., License No. 2.

d. *Category IIIB. Biological products for which available data are insufficient to classify their safety and effectiveness and should not continue in interstate commerce.* As announced in the **Federal Register** notice of January 30, 1981, the product licenses for all Category IIIB products have been revoked at the request of the licensees.

Labeling

In the April 15, 1980 proposal, the Panel made a number of recommendations for changes in the content of various products' labeling. The Panel also directed several comments to the Immunization Practices Advisory Committee of the Public Health Service (formerly the Advisory Committee of Immunization Practices and still known as ACIP) concerning the recommended uses of some products under review. Since that time, many of the recommendations have been adopted by ACIP and have been incorporated into product labeling. Of particular note was the Panel's recommendation that the immunization for rubella for women of childbearing age be emphasized. In the current recommendation, with which FDA agrees, the ACIP has placed increased emphasis on the immunization of adolescent and adult females in the childbearing age group. The ACIP has stated that in view of the importance of protecting this age group, the lack of serologic test results should not act as a deterrent when evaluating the need for rubella immunization. The sole manufacturer currently distributing rubella vaccine in the U.S. has revised its circular to reflect ACIP's recommendation.

In their generic review of poliomyelitis vaccine, the Panel recommended that unimmunized parents of children undergoing oral poliomyelitis vaccine (OPV) immunization be included among adults for whom trivalent OPV (TOPV) is recommended. FDA has reconsidered its earlier endorsement of this recommendation. For unvaccinated adults at increased risk of exposure to poliomyelitis, ACIP has recommended primary immunization with inactivated poliomyelitis vaccine (IPV) whenever feasible *(Morbidity and Mortality Weekly Report,* 28:516, 1979). IPV is preferred because the risk of vaccine-associated paralysis following OPV immunization is slightly higher in adults than in children. FDA accepts the ACIP position.

FDA has reexamined the labeling for those products reviewed by the Panel. Although there are a few instances where minor labeling suggestions by the Panel have not been incorporated into the labeling, FDA finds that all labeling for the products under review are consistent with current ACIP recommendations or are in the process of final revision and that the current labeling is adequate to inform the using clinician to ensure the proper handling and administration of the products. Accordingly, FDA finds that no further labeling revisions will be necessary for the viral and rickettsial vaccine products except to conform to labeling requirements for prescription drugs.

Sections 201.56, 201.57, and 201.100(d)(3) (21 CFR 201.56, 201.57, and 201.100(d)(3)) prescribe the content and format requirements for the professional labeling of prescription drugs, including biological products such as viral and rickettsial vaccines. The effective dates are codified in § 201.59 (21 CFR 201.59). For biological products subject to Efficacy Review proceedings, the effective dates are dependent upon the date of publication of the applicable final order published in accordance with § 601.25(g). Consistent with § 201.59, manufacturers of viral and rickettsial vaccines generically reviewed by the Panel must submit for agency review appropriately revised draft labeling 180 days after date of publication of this final rule. The effective date of the labeling requirements is 24 months thereafter. The specific date for submitting draft labeling and the effective date for the labeling requirements are given at the end of this document.

Amendments to the Regulations

1. FDA proposed to amend § 601.25(h)(4) and (5) to include Category IIIA viral and rickettsial vaccine products among those requiring a boxed statement on the labeling referencing the Panel's finding of insufficient data for the product on safety and effectiveness, and written informed consent from participants in the additional studies performed under § 601.25(h). Because there are no licensed viral or rickettsial vaccine products classified in Category IIIA, these amendments are unnecessary.

2. FDA announced its intention to revoke the additional standards for Adenovirus Vaccine if the product licenses for the last remaining inactivated adenovirus vaccines, manufactured by Parke-Davis, were revoked. The product licenses for Adenovirus Vaccine, and Adenovirus Vaccine and Influenza Virus Vaccine, Combined were revoked at the request of Parke-Davis on July 29, 1980. Accordingly, FDA is revoking the additional standards for Adenovirus Vaccine under Subpart C of Part 630 (21 CFR 630.20 through 630.25). In addition, the entries for the adenovirus vaccine products are being removed from the listing of dating periods under § 610.53(a) (21 CFR 610.53(a)).

3. Several of the products reviewed by the Panel are no longer licensed. Accordingly, § 610.53(a) is being

amended by removing the entries for "Mumps Immune Globulin (Human)," "Rocky Mountain Spotted Fever Vaccine," and "Typhus Vaccine."

4. No comments were received on the proposed amendments to §§ 630.32(b), 630.35(a)(5), and 630.62(b). Because the agency is unaware of any other reason to reconsider these amendments, they are adopted in the final rule as proposed.

The economic impact of this rule has been reassessed in accordance with Executive Order 12291. The agency concludes that 16 manufacturers are affected by these requirements; however, only 1 firm will be subjected to any additional costs, estimated by FDA to be less than $2,000 per year. The anticipated costs are insufficient to warrant designation as a major rule under any of the criteria specified under section 1(b) of the Order. The assessment for making this determination is on file with the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

List of Subjects in 21 CFR Part 610

Biologics, Labeling.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371)), the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)), and the Administrative Procedure Act (secs. 4, 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 701–706)) and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982)), Parts 610 and 630 are amended as follows:

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

§ 610.53 [Amended]

1. Part 610 is amended in § 610.53 *Dating periods for specific products* in paragraph (a) by removing the listings for "Adenovirus and Influenza Virus Vaccines Combined Aluminum Hydroxide Adsorbed," "Adenovirus and Influenza Virus Vaccines Combined Aluminum Phosphate Adsorbed," "Adenovirus Vaccine," "Munps Immune Globulin (Human)," "Rocky Mountain Spotted Fever Vaccine," and "Typhus Vaccine."

PART 630—ADDITIONAL STANDARDS FOR VIRAL VACCINES

2. Part 630 is amended:

§§ 630.20, 630.21, 630.22, 630.23, 630.24, and 630.25 (Subpart C) [Removed and reserved]

a. By removing Subpart C—Adenovirus Vaccine, consisting of §§ 630.20, 630.21, 630.22, 630.23, 630.24, and 630.25, and reserving it.

b. In § 630.32 by revising paragraph (b) to read as follows:

§ 630.32 Manufacture of live, attenuated measles virus vaccine.

* * * * *

(b) *Virus propagated in chick embryo tissue cultures.* Embryonated chicken eggs used as the source of chick embryo tissue for the propagation of measles virus shall be derived from flocks certified to be free of Salmonella pullorum, avian tuberculosis, fowl pox, Rous sarcoma, avian leucosis, reticuloendotheliosis virus, and other adventitious agents pathogenic for chickens. If eggs are procured from flocks that are not so certified, tests shall be performed to demonstrate freedom of the vaccine from such agents. (See § 630.35(a)(8) for test for avian leucosis.)

* * * * *

c. In § 630.35 by revising paragraph (a)(5) to read as follows:

§ 630.35 Test for safety.

(a) * * *

(5) *Inoculation of embryonated chicken eggs.* A volume of virus suspension of each undiluted virus pool, equivalent to at least 100 doses or 10 milliliters, whichever represents a greater volume, after neutralization of the measles virus by a high titer antiserum of nonhuman, nonsimian, nonavian origin shall be tested as follows:

(i) Embryonated eggs, 10 to 11 days old, shall be inoculated by the allantoic route using 0.5 milliliter per egg. Follow incubation at 35° C for 72 hours, the allantoic fluids shall be harvested, pooled, and subpassed by the same route into fresh, embryonated eggs, 10 to 11 days old, using 0.5 milliliter per egg and incubated at 35° C for 72 hours. Both the initial pool and the subpassage harvest shall be tested for the presence of hemagglutinin. The virus pool is satisfactory if the embryos appear normal and there is no evidence of hemagglutinating agents.

(ii) Embryonated eggs, 6 to 7 days old, shall be inoculated by the yolk sac route using 0.5 milliliter per egg. Following incubation at 35° C for at least 9 days, the yolk sacs shall be harvested and pooled. A 10-percent suspension of yolk sacs shall be subpassed by the same route into fresh embryonated eggs, 6 to 7 days old, using 0.5 milliliter of inoculum per egg and incubated at 35° C for at least 9 days. The virus pool is satisfactory if the embryos in both the initial test and the subpassage appear normal.

* * * * *

d. In § 630.62 by revising paragraph (b) to read as follows:

§ 630.62 Production.

* * * * *

(b) *Virus propagated in duck embryo tissue cell cultures.* Embryonated duck eggs used as a source of duck embryo tissue for the propagation of rubella virus shall be derived from flocks certified to be free of avian tuberculosis, the avian leucosis-sarcoma group of viruses, reticuloendotheliosis virus, and other agents pathogenic for ducks. Only ducks so certified and in overt good health and which are maintained in quarantine shall be used as a source of duck embryo tissue used in the propagation of rubella virus. Ducks in the quarantined flock that die shall be necropsied and examined for evidence of significant pathologic lesions. If any such signs or pathologic lesions are observed, eggs from that flock shall not be used for the manufacture of Rubella Virus Vaccine, Live. Control vessels shall be prepared, observed, and tested as prescribed in § 630.32(f).

* * * * *

Effective date. This regulation becomes effective August 9, 1982. Labeling requirements shall become effective December 8, 1984. On or after December 8, 1984 no person may initially introduce or initially deliver for introduction into interstate commerce any licensed biological product to which the regulations apply, unless the product's labeling complies with the requirements set forth in the regulations.

(Secs. 201, 502, 505, 701, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371); sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262); and secs. 4, 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 701–706))

Dated: April 13, 1982.

Arthur Hull Hayes, Jr.,
Commissioner of Food and Drugs.

Dated: May 13, 1982.

Richard S. Schweiker,
Secretary of Health and Human Services.

[FR Doc. 82-15398 Filed 6-7-82; 8:45 am]
BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 886

[Docket No. R-82-850]

Low Income Housing; Additional Assistance Program for Projects With HUD-Insured and HUD-Held Mortgages

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: On September 8, 1980, the Department published an interim rule that related to the adjustment of Contract Rents under the Section 8 Housing Assistance Program. The interim rule expired on September 30, 1981. This final rule adopts the language of the interim rule without change, retroactive to October 1, 1981.

EFFECTIVE DATE: July 25, 1982, retroactive to October 1, 1981.

FOR FURTHER INFORMATION CONTACT: James J. Tahash, Director, Program Planning Division, Office of Multifamily Housing Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, (202) 426-8730. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: An interim rule published by HUD on September 8, 1980 (45 FR 59149), amending 24 CFR 886.112, provided for computation of Contract Rents on the basis of either the Maximum Unit Rent as modified by the Automatic Annual Adjustment Factor or, alternatively, the Rent Formula, whichever HUD determines to be appropriate. The interim rule stated that it was being made effective for a one-year period which expired September 30, 1981, unless extended by notification. HUD did not publish the required notification. This final rule now adopts the language of the interim rule without change. So that there will be no gap, this final rule is made retroactive to October 1, 1981.

Two organizations submitted written comments regarding the interim rule, and both supported the amended language. Both commenters appreciated HUD's effort to introduce more flexibility into the process of providing sufficient rent increases, to prevent deterioration and potential foreclosures, and regarded the interim rule as a step in the right direction. One comment did express concern that data supporting rent increases, submitted by managing agents, may not be given sufficient consideration in computing potential rents. We point out that, while it is not customary in most cases to consider current year increases, both methods of computing contract rents necessarily reflect full consideration of operating and maintenance costs for the preceding year. Accordingly, no change in the language of the interim rule is necessary.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations under 24 CFR Part 50 which implement section 102(2)(C) of the National Environmental Policy Act of 1969. This Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

This final rule does not constitutes a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

This rule was not listed in the Department's Semiannual Agenda of Regulations published pursuant to Executive Order 12291 and the Regulatory Flexibility Act on August 17, 1981 (46 FR 41708).

(The Catalog of Federal Domestic Assistance Programs number is 14.156)

List of Subjects in 24 CFR Part 886

Rent subsidies, Low and moderate income housing

PART 886—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SPECIAL ALLOCATIONS

Accordingly, 24 CFR 886.112 is amended by revising the introductory test and paragraphs (a) and (b) to read as follows:

§ 886.112 Rent adjustments.

This section applies to adjustments of the dollar amount stated in the Contract as the Maximum Unit Rent. It does not apply to adjustments in rents payable to Owners as required by HUD in connection with its mortgage insurance and/or lending functions.

(a) Funding of Adjustments. Housing Assistance Payments will be made in increased amounts commensurate with Contract Rent adjustments up to the maximum annual amount of housing assistance payments specified in the Contract pursuant to § 886.108(b).

(b) Annual Adjustments. The contract rents may be adjusted annually, or more frequently, at HUD's option, either (1) on the basis of a written request for a rent increase submitted by the owner and properly supported by substantiating evidence, or (2) by applying, on each anniversary date of the contract, the applicable Automatic Annual Adjustment Factor most recently published by HUD in the **Federal Register** in accordance with 24 CFR Part 888, Subpart B. Published Automatic Annual Adjustment Factors will be reduced appropriately by HUD where utilities are paid directly by Families. If HUD requires that the owner submit a written request, HUD, within a reasonable time, shall approve a rental schedule that is necessary to compensate for any increase in taxes (other than income taxes) and operating and maintenance costs over which owners have no effective control, or shall deny the increase stating the reasons therefor. Increases in taxes and maintenance and operating costs shall be measured against levels of such expenses in comparable assisted and unassisted housing in the area to ensure that adjustments in the Contract Rents shall not result in material differences between the rents charged for assisted and comparable unassisted units. Contract Rents may be adjusted upward or downward as may be appropriate; however, in no case shall the adjusted rents be less than the contract rents on the effective date of the contract.

* * * * *

(Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); Secs. 5(b) and 8 of the United States Housing Act of 1937, 42 U.S.C. 1437c(b) and 1437(b))

Dated: May 24, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 82-14707 Filed 6-4-82; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 6a

[T.D. 7819]

Modification of Regulations Relating to Mortgage Subsidy Bonds

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulation.

SUMMARY: This document contains a temporary income tax regulation relating to the tax-exempt status of interest on mortgage subsidy bonds. This regulation affects all purchasers and governmental issuers of tax-exempt housing bonds. The change made by this regulation is necessary to modify certain provisions contained in the present temporary regulations.

DATE: This temporary regulation is effective for governmental obligations issued after April 24, 1979.

FOR FURTHER INFORMATION CONTACT: Harold T. Flanagan of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3294).

SUPPLEMENTARY INFORMATION:

Background

This document contains an amendment to the temporary regulations relating to mortgage subsidy bonds under section 103A of the Internal Revenue Code of 1954. This amendment modifies Treasury Decision 7780, published in the **Federal Register** for July 1, 1981 (46 FR 34311), which provided regulations under section 103A of the Code. Section 103A was enacted by the Omnibus Reconciliation Act of 1980 (Pub. L. 96-499, 94 Stat. 2660). The temporary regulation provided by this document will remain in effect until superseded by final regulations on this subject.

Explanation of Provisions

Section 103A of the Internal Revenue Code of 1954 provides that a mortgage subsidy bond shall be treated as an obligation not described in section 103(a) (1) or (2). As such, the interest on a mortgage subsidy bond is not excludable from gross income. Under section 103A(b)(2), however, a qualified mortgage bond and a qualified veterans' mortgage bond shall not be treated as a mortgage subsidy bond, and the interest thereon is excluded from gross income.

The temporary regulations under § 6a.103A-2(g)(9) are amended by providing a method for determining the market limitation in States with one or more constitutional home rule cities. The new provision allows issuing authorities in such States to use an alternate method for determining its allocable portion of the State ceiling if it demonstrates to the satisfaction of the Commissioner that such method is reasonable. In order to use a method other than the ones provided in paragraph (g) (2), (3), and (4), however, the issuing authority must (1) apply for a ruling prior to the issuance of any obligations under section 103A in the calendar year for which such allocable portion is to be used, (2) demonstrate that the methods provided under paragraph (g) (2), (3), and (4) if used would impose a hardship on the issuer, and (3) demonstrate that the alternate method produces a reasonable estimate of the issuer's market limitation.

Evaluation of the effectiveness of this regulation will be based on comments received from offices within the Treasury and the Internal Revenue Service, other governmental agencies, and the public.

Non-Application of Executive Order 12291

The Treasury Department has determined that this temporary regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1982.

Drafting Information

The principal author of this temporary regulation is Harold T. Flanagan of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, on matters of both substance and style.

List of Subjects in 26 CFR Part 6a

Bonds, Income taxes, Mortgages, Veterans.

Adoption of Amendments to the Regulations

PART 6a—TEMPORARY REGULATIONS UNDER TITLE 11 OF THE OMNIBUS RECONCILIATON ACT OF 1980

Accordingly, 26 CFR Part 6a is amended as follows:

Section 6a.103A-2(g)(9) is amended by adding a new subdivision (v) to read as follows:

§ 6a.103A-2 Qualified mortgage bond.

* * * * *

(g) *Limitation on aggregate amount of qualified mortgage bonds issued during any calendar year.* * * *

(9) *Procedure for providing a different allocation.* * * *

(v) An issuing authority located in a State with one or more constitutional home rule cities may use an alternative method to those provided in subparagraphs (2), (3), and (4) for determining such issuing authority's market limitation if, prior to issuing any obligations for the calendar year, it demonstrates to the satisfaction of the Commissioner that—

(A) The use of the methods provided in subparagraph (2), (3), or (4) would impose an unreasonable hardship on the issuing authority, and

(B) Such alternative method is reasonable.

* * * * *

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

James I. Owens,

Acting Commissioner of Internal Revenue.

Approved: June 3, 1982.

David G. Glickman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 82-15521 Filed 6-7-82; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Wage and Hour Division

29 CFR Parts 6, 40 and 580

Reorganization of Functions Within Office of Solicitor; Amendment to Regulations

AGENCY: Office of the Secretary and Wage and Hour Division, Labor.

ACTION: Final rule.

SUMMARY: This amendment to the regulations transfers legal functions to a different Associate Solicitor within the Office of Solicitor. This amendment is necessitated by a reorganization within the Solicitor's Office which transferred jurisdiction for certain laws to the Associate Solicitor for Fair Labor Standards.

EFFECTIVE DATE: June 8, 1982.

FOR FURTHER INFORMATION CONTACT: Gregory B. Taylor, Counsel for Legal Advice, Office of Solicitor, Room N–2716, Frances Perkins Building, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Telephone 202–523–7570.

SUPPLEMENTARY INFORMATION: As a result of a reorganization within the Office of the Solicitor, U.S. Department of Labor, certain divisions have been given new functions. This document reflects that the Associate Solicitor for Fair Labor Standards has assumed jurisdiction for legal services arising during the administration of certain laws administered by the Wage and Hour Division of the Department of Labor.

This revision is technical in nature, is purely procedural, and involves no change in the substance of the rule. Accordingly, the Department finds, pursuant to 5 U.S.C. 553(b)(3) (A) and (B), that notice and public comment under the Administrative Procedure Act are unnecessary. For the same reasons, this document is effective upon publication pursuant to 5 U.S.C. 553(d)(3).

Drafting Information

This document was prepared under the direction and control of T. Timothy Ryan, Jr., Solicitor of Labor, U.S. Department of Labor, Room S–2002, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Telephone 202–523–7675.

Classification

The revision is procedural in character. Therefore, this rule is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule under 5 U.S.C. 553(b), the requirements of the Regulatory Flexibility Act, Pub. L. 96–354, 91 Stat. 1164, 5 U.S.C. 601 *et seq.*, pertaining to regulatory flexibility analyses, do not apply to this rule. See: 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 6

Administrative practice and procedure, Government contracts, Labor, Penalties, Wages.

29 CFR Part 40

Administrative practice and procedure, Agriculture, Aliens, Farmers, Health, Housing, Housing Standards, Immigration, Insurance, Investigations, Migrant labor, Motor carriers, Motor vehicle safety, Occupational safety and health, Penalties, Reporting requirements, Transportation, Wages.

29 CFR Part 580

Child labor, Penalties, Administrative practice and procedure.

Accordingly, the following parts of the Code of Federal Regulations are amended as set forth below:

(a) Part 6, Subtitle A of Title 29, Code of Federal Regulations (29 CFR Part 6);

(b) Part 40, Subtitle A of Title 29, Code of Federal Regulations (29 CFR Part 40); and

(c) Part 580, Chapter V of Title 29, Code of Federal Regulations (29 CFR Part 580).

PART 6—RULES OF PRACTICE FOR ADMINISTRATIVE PROCEEDINGS ENFORCING LABOR STANDARDS IN FEDERAL SERVICE CONTRACTS

1. The authority citation for Part 6 reads as follows:

Authority.—Secs. 4 and 5, 79 Stat. 1034, 1035, as amended by 86 Stat. 789, 790, 41 U.S.C. 353, 354; 5 U.S.C. 301.

§ 6.2 [Amended]

2. 29 CFR 6.2(f) is amended by removing the words "Associate Solicitor for General Legal Services" and inserting, in their place, the words "Associate Solicitor for Fair Labor Standards."

PART 40—FARM LABOR CONTRACTOR REGISTRATION

3. The authority citation for Part 40 reads as follows:

Authority.—Sec. 14, 78 Stat. 924 (7 U.S.C. 2050c), and sec. 17, 86 Stat. 1659 (7 U.S.C. 2053); Secretary's Order No. 10–75, 40 FR 55913; Secretary's Order No. 1–81, 46 FR 28048; and Employment Standards' Order No. 78–1, 43 FR 51469, unless otherwise noted.

§§ 40.2 and 40.210 [Amended]

4. 29 CFR Part 40 is amended by removing the words "Associate Solicitor for General Legal Services" and inserting in their place the words "Associate Solicitor for Fair Labor Standards" in the following places:

(a) 29 CFR 40.2(i)(2); and

(b) 29 CFR 40.210(a).

PART 580—CIVIL PENALTIES FOR CHILD LABOR VIOLATIONS—RULES OF PRACTICE FOR ADMINISTRATIVE PROCEEDINGS

5. The authority citation for Part 580 reads as follows:

Authority.—Secs. 3, 11, 12, 16, 52 Stat. 1060, as amended, 1066, as amended, 1067, as amended, 1069, as amended; 29 U.S.C. 203, 211, 212, 216; Reorg. Plan No. 6 of 1950, 64 Stat. 1263, 5 U.S.C. App.; secs. 25, 29, 88 Stat. 72, 76; Secretary of Labor's Order No. 13–71, 36 FR 8755; Employment Standards Order No. 1–74, 39 FR 33841; 5 U.S.C. 500, 508, 551, 559.

§ 580.10 [Amended]

6. 29 CFR 580.10 is amended by removing the words "Associate Solicitor for General Legal Services" and inserting, in their place, the words "Associate Solicitor for Fair Labor Standards."

Signed at Washington, D.C. this 3rd day of June, 1982.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 82–15486 Filed 6–7–82; 8:45 am]

BILLING CODE 4510–27–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

706 Agencies; Handling of Employment Discrimination Charges; Correction

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects authority citation for final regulation concerning handling of employment discrimination charges which was published May 21, 1982 (47 FR 22094).

FOR FURTHER INFORMATION CONTACT: Franklin F. Chow, Equal Employment Opportunity Commission, Office of Field Services, State and Local Division, 2401 E St., Washington, D.C. 20506, telephone 202/634–6905.

In FR Doc. 82–13972 appearing in the issue for Friday, May 21, 1982 make the following change:

On page 22095 the third line of column one which now reads "(Sec. 713(a) 78 Stat. 265 (42 U.S.C. 20003–12(a))", should read "(Sec. 713(a) 78 Stat. 265 (42 U.S.C. 2000e–12(a))".

Signed at Washington, D.C. this 3rd day of June 1982.

For the Commission.

John E. Rayburn,

Director, State and Local Division.

[FR Doc. 82–15522 Filed 6–7–82; 8:45 am]

BILLING CODE 6570–06–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[AD–FRL 2087–8]

National Emission Standards for Hazardous Air Pollutants; Appendix B—Test Methods; Revisions and Addition

March 10, 1982.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Revisions to Methods 101 and 102, "Determination of Particulate and Gaseous Mercury Emissions from Chlor-Alkali Plants—Air Streams," and "Determination of Particulate and Gaseous Mercury Emissions from Chlor-Alkali Plants—Hydrogen Streams," respectively, and a new Method 111, "Determination of Particulate and Gaseous Mercury Emissions from sewage Sludge Incinerators," were proposed in the **Federal Register** on October 15, 1980 (45 FR 68514). This action promulgates the revisions and the new method, redesignated as Method 101A. The intended effect is to require all chlor-alkali plants and sewage sludge treatment plants specified to conduct emissions tests under Subparts A and E of 40 CFR Part 61 to hereafter (see effective date listed below) use these new and revised methods for determining compliance. In addition, amendments to Subparts A and E are made to include new Method 101A.

EFFECTIVE DATE: June 8, 1982.

Under section 307(b)(1) of the Clean Air Act, judicial review of the revisions and addition is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Summary of Comments and Responses.* This document for the promulgated test methods may be obtained from the U.S. EPA Library (MD–35), Research Triangle Park, North Carolina 27711, telephone number (919) 541–2777. Please refer to "Revisions to Methods 101, 101A, and 102 for the Determination of Mercury Emissions (Proposed October 15, 1980, 45 FR 68514)—Summary of Comments and Responses, EPA 450/3–82–008." The document contains (1) a summary of all the public comments made on the proposed test methods with the Administrator's response to the comments, and (2) a summary of the changes made to the test methods since proposal.

Docket. A docket, number A–79–45, containing information considered by EPA in development of the promulgated test methods, is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (A–130), West Tower Lobby, Gallery 1, 401 M Street, S.W., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Roger T. Shigehara, Emission Measurement Branch, Emission Standards and Engineering Division (MD–19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–2237.

Public Participation

The test methods were proposed and published in the **Federal Register** on October 15, 1980 (45 FR 68514). To provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed test methods, a public hearing was scheduled for November 6, 1980, at the Research Triangle Park, North Carolina, but no person desired to make an oral presentation. The public comment period was from November 6, 1980, to December 15, 1980, and was extended to February 13, 1981. Five comment letters were received concerning issues relative to the proposed test methods. The comments have been carefully considered and, where determined to be appropriate by the Administrator, changes have been made in the proposed test methods.

Significant Comments and Changes to the Proposed Test Methods

Five comment letters were received on the proposed test methods. A detailed discussion of these comments and responses can be found in the background information document which is referred to in the **ADDRESSES** section of this preamble. The summary of comments and responses serves as the basis for the revisions which have been made to the test methods between proposal and promulgation. The major comments and responses are summarized in this preamble. Most of the comment letters contained multiple comments. The significant comments and subsequent method changes are listed according to the affected method.

Method 101

One commenter cited success from the extensive use of $KMnO_4$ as the mercury absorbing medium and suggested it serve as an acceptable alternative to iodine monochloride. This substitution will be allowed, as long as the entire system can meet the performance specifications that have been added to the methods.

It was pointed out that section 7.3.2 is confusing as written and seems to indicate that separate flasks should be pipetted during the dilution. This has been corrected by rewording the first two sentences to read "Pipet a 2-ml aliquot from the diluted sample from 7.3.1 into a 250-ml volumetric flask. Add 10 ml of 5 percent H_2SO_4 and adjust the volume to exactly 250 ml with deionized distilled water."

In section 9.4, the total mercury weight ($C_{Hg(Ac)}$) was originally listed as mercury concentration. This correction has been made.

Methods 101, 101A, and 102

Because of their similarities, several of the received comments pertained to all three methods. Most concerned the use of various alternative sampling and analysis equipment which are reported to give results that are as accurate and precise as the apparatus specified in the methods. An equipment performance specification has been incorporated into the methods allowing such alternative systems to be used as long as they meet these performance criteria.

The use of dried, mercury-free air will be allowed as an optional aeration gas in place of dried nitrogen. The asbestos gasket specified for the probe nozzle and the asbestos insulation tape specified for the optical cell have been replaced by fiberglass components.

Borosilicate glass containers are specified for use in preparing and storing all mercury standard solutions.

Docket

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can intelligently and effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated test methods and EPA responses to significant comments, the contents of the docket will serve as the record in case of judicial review [section 307(d)(7)(A)].

Miscellaneous

This rulemaking does not impose any additional emission measurement requirements on facilities affected by this rulemaking, nor does it change the emission standard or make it more stringent. Rather, this rulemaking revises the test methods to which the affected facilities are already subject. If future standards impose emission measurement requirements, the impacts of the revised test methods promulgated today will be evaluated during development of these standards.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a regulatory impact analysis. This regulation is not major because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices; and there will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule was submitted to the Office of Management and Budget for review under Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities.

This rulemaking is issued under the authority of sections 112, 114, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7412, 7414, and 7601(a)).

List of Subjects in 40 CFR Part 61

Air pollution control, Asbestos, Beryllium, Hazardous materials, Mercury, Vinyl chloride.

Dated: May 28, 1982.

Anne M. Gorsuch,

Administrator.

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

40 CFR Part 61 is amended as follows:

1. By revising § 61.14(a) as follows:

Subpart A—General Provisions

* * * * *

§ 61.14 Source test and analytical methods.

(a) Methods 101, 101A, 102, and 104 in Appendix B to this part shall be used for all source tests required under this part, unless an equivalent method or an alternative method has been approved by the Administrator.

* * * * *

2. By revising § 61.53(d)(2) as follows:

§ 61.53 Stack sampling

* * * * *

(d) * * *

(2) Method 101A in Appendix B to this part shall be used to test emissions as follows:

(i) The test shall be performed within 90 days of the effective date of these regulations in the case of an existing source or a new source which has an initial startup date preceding the effective date.

(ii) The test shall be performed within 90 days of startup in the case of a new source which did not have an initial startup date preceding the effective date.

* * * * *

3. By revising Methods 101 and 102 and adding Method 101A to Appendix B as follows:

Appendix B—Test Methods

Method 101—Determination of Particulate and Gaseous Mercury Emissions From Chlor-Alkali Plants—Air Streams

1. *Applicability and Principle*—1.1 *Applicability.* This method applies to the determination of particulate and gaseous mercury (Hg) emissions from chlor-alkali plants and other sources (as specified in the regulations), where the carrier-gas stream in the duct or stack is principally air.

1.2 *Principle.* Particulate and gaseous Hg emissions are withdrawn isokinetically from the source and collected in acidic iodine monochloride (ICl) solution. The Hg collected (in the mercuric form) is reduced to elemental Hg, which is then aerated from the solution into an optical cell and measured by atomic absorption spectrophotometry.

2. *Range and Sensitivity*—2.1 *Range.* After initial dilution, the range of this method is 0.5 to 120 μg Hg/ml. The upper limit can be extended by further dilution of the sample.

2.2 *Sensitivity.* The sensitivity of this method depends on the recorder/spectrophotometer combination selected.

3. *Interfering Agents*—3.1 *Sampling.* SO_2 reduces ICl and causes premature depletion of the ICl solution.

3.2 *Analysis.* ICl concentrations greater than 10^{-4} molar inhibit the reduction of the Hg (II) ion in the aeration cell. Condensation of water vapor on the optical cell windows causes a positive interference.

4. *Precision and Accuracy*—The following estimates are based on collaborative tests, wherein 13 laboratories performed duplicate analyses on two Hg-containing samples from a chlor-alkali plant and on one laboratory-prepared sample of known Hg concentration. The concentration ranged from 2 to 65 μg Hg/ml.

4.1 *Precision.* The estimated within-laboratory and between-laboratory standard deviations are 1.6 and 1.8 μg Hg/ml, respectively.

4.2 *Accuracy.* The participating laboratories that analyzed a 64.3-μg Hg/ml (in 0.1 M ICl) standard obtained a mean of 63.7 μg Hg/ml.

5. *Apparatus*—5.1 *Sampling Train.* A schematic of the sampling train is shown in Figure 101-1; it is similar to the Method 5 train (mention of Method 5 refers to Parts 60 of 40 CFR). The sampling train consists of the following components:

5.1.1 *Probe Nozzle, Pitot Tube, Differential Pressure Gauge, Metering System, Barometer, and Gas Density Determination Equipment.* Same as Method 5, Sections 2.1.1, 2.1.3, 2.1.4, 2.1.8, 2.1.9, and 2.1.10, respectively.

5.1.2 *Probe Liner.* Borosilicate or quartz glass tubing. The tester may use a heating system capable of maintaining a gas temperature of 120±14° C (248±25° F) at the probe exit during sampling to prevent water condensation.

Note.—Do not use metal probe liners.

5.1.3 *Impingers.* Four Greenburg-Smith impingers connected in series with leak-free ground glass fittings or any similar leak-free noncontaminating fittings. For the first, third, and fourth impingers, the tester may use impingers that are modified by replacing the tip with a 13-mm-ID (0.5-in.) glass tube extending to 13 mm (0.5 in.) from the bottom of the flask.

5.1.4 *Acid Trap.* Mine Safety Appliances air line filter, Catalog number 81857, with acid absorbing cartridge and suitable connections, or equivalent.

5.2 *Sample Recovery.* The following items are needed:

5.2.1 *Glass Sample Bottles.* Leakless, with Teflon-lined caps, 1000- and 100-ml.

5.2.2 *Graduated Cylinder.* 250-ml.

5.2.3 *Funnel and Rubber Policeman.* To aid in transfer of silica gel to container; not necessary if silica gel is weighed in the field.

5.2.4 *Funnel.* Glass, to aid in sample recovery.

5.3 *Sample Preparation and Analysis.* The following equipment is needed:

5.3.1 *Atomic Absorption Spectrophotometer.* Perkin-Elmer 303, or equivalent, containing a hollow-cathode mercury lamp and the optical cell described in Section 5.3.2.

5.3.2 *Optical Cell.* Cylindrical shape with quartz end windows and having the dimensions shown in Figure 101–2. Wind the cell with approximately 2 meters of 24-gauge nichrome heating wire, and wrap with fiberglass insulation tape or equivalent; do not let the wires touch each other.

5.3.3 *Aeration Cell.* Constructed according to the specifications in Figure 101–3. Do not use a glass frit as a substitute for the blown glass bubbler tip shown in Figure 101–3.

5.3.4 *Recorder.* Matched to output of the spectrophotometer described in Section 5.3.1.

5.3.5 *Variable Transformer.* To vary the voltage on the optical cell from 0 to 40 volts.

5.3.6 *Hood.* For venting optical cell exhaust.

5.3.7 *Flowmetering Valve.*

5.3.8 *Flowmeter.* Rotameter or equivalent, capable of measuring a gas flow of 1.5 liters/min.

5.3.9 *Aeration Gas Cylinder.* Nitrogen or dry, Hg-free air, equipped with a single-stage regulator.

5.3.10 *Connecting Tubing.* Use glass tubing (ungreased ball- and socket-connections are recommended) for all tubing connections between the solution cell and the optical cell; do not use Tygon tubing, other types of flexible tubing, or metal tubing as substitutes. The tester may use Teflon, steel, or copper tubing between the nitrogen tank and flowmetering valve (5.3.7), and Tygon, gum, or rubber tubing between the flowmetering valve and the aeration cell.

5.3.11 *Flow Rate Calibration Equipment.* Bubble flowmeter or wet test meter for measuring a gas flow rate of 1.5±0.1 liters/min.

5.3.12 *Volumetric Flasks.* Class A with penny head standard taper stoppers; 100-, 250-, 500- and 1000-ml.

5.3.13 *Volumetric Pipets.* Class A; 1-, 2-, 3-, 4-, and 5-ml.

5.3.14 *Graduated Cylinder.* 50-ml.

5.3.15 *Magentic Stirrer.* General-purpose laboratory type.

5.3.16 *Magnetic Stirring Bar.* Teflon-coated.

5.3.17 *Balance.* Capable of weighing to ±0.5 g.

5.4 *Alternative Analytical Apparatus.* Alternative systems are allowable as long as they meet the following criteria:

5.4.1 A linear calibration curve is generated and two consecutive samples of the same aliquot size and concentration agree within 3 percent of their average.

5.4.2 A minimum of 95 percent of the spike is recovered when an aliquot of a source sample is spiked with a known concentration of mercury (II) compound.

5.4.3 The reducing agent should be added after the aeration cell is closed.

5.4.4 The aeration bottle bubbler should not contain a frit.

5.4.5 Any Tygon used should be as short as possible and conditioned prior to use until blanks and standards yield linear and reproducible results.

5.4.6 If manual stirring is done before aeration, it should be done with the aeration cell closed.

5.4.7 A drying tube should not be used unless it is conditioned as the Tygon above.

6. *Reagents*—Use ACS reagent-grade chemicals or equivalent, unless otherwise specified.

6.1 *Sampling and Recovery.* The reagents used in sampling and recovery are as follows:

6.1.1 *Water.* Deionized distilled, meeting ASTM Specifications for Type I Reagent Water—ASTM Test Method D 1193–74. If high concentrations of organic matter are not expected to be present, the analyst may eliminate the $KMnO_4$ test for oxidizable organic matter. Use this water in all dilutions and solution preparations.

6.1.2 *Nitric Acid (HNO_3).* 50 Percent (V/V). Mix equal volumes of concentrated HNO_3 and deionized distilled water, being careful to slowly add the acid to the water.

6.1.3 *Silica Gel.* Indicating type, 6- to 16-mesh. If previously used, dry at 175° C (350° F) for 2 hours. The tester may use new silica gel as received.

6.1.4 *Potassium Iodide (KI) Solution, 25 Percent.* Dissolve 250 g of KI in deionized distilled water and dilute to 1 liter.

6.1.5 *Iodine Monochloride (ICl) Stock Solution, 1.0 M.* To 800 ml of 25 percent KI solution, add 800 ml of concentrated hydrochloric acid (HCl). Cool to room temperature. With vigorous stirring, slowly add 135 g of potassium iodate (KIO_3) and stir until all free iodine has dissolved. A clear orange-red solution occurs when all the KIO_3 has been added. Cool to room temperature and dilute to 1800 ml with deionized distilled water. Keep the solution in amber glass bottles to prevent degradation.

6.1.6 *Absorbing Solution, 0.1 M ICl.* Dilute 100 ml of the 1.0 M ICl stock solution to 1 liter with deionized distilled water. Keep the solution in amber glass bottles and in darkness to prevent degradation. This reagent is stable for at least 2 months.

6.2 *Sample Preparation and Analysis.* The reagents needed are listed below:

6.2.1 *Tin (II) Solution.* Prepare fresh daily and keep sealed when not being used. Completely dissolve 20 g of tin (II) chloride [or 25 g of tin (II) sulfate] crystals (Baker Analyzed reagent grade or any other brand that will give a clear solution) in 25 ml of concentrated HCl. Dilute to 250 ml with deionized distilled water. Do not substitute HNO_3, H_2SO_4, or other strong acids for the HCl.

6.2.2 *Mercury Stock Solution, 1 mg Hg/ml.* Prepare and store all mercury standard solutions in borosilicate glass containers. Completely dissolve 0.1354 g of mercury (II) chloride in 75 ml of deionized distilled water in a 100 ml glass volumetric flask. Add 10 ml of concentrated HNO_3, and adjust the volume to exactly 100 ml with deionized distilled water. Mix thoroughly. This solution is stable for at least 1 month.

6.2.3 *Sulfuric Acid, 5 Percent (V/V).* Dilute 25 ml of concentrated H_2SO_4 to 500 ml with deionized distilled water.

6.2.4 *Intermediate Mercury Standard Solution, 10 μg Hg/ml.* Prepare fresh weekly. Pipet 5.0 ml of the mercury stock solution (6.2.2) into a 500-ml glass volumetric flask and add 20 ml of the 5 percent H_2SO_4 solution. Dilute to exactly 500 ml with deionized distilled water. Thoroughly mix the solution.

6.2.5 *Working Mercury Standard Solution, 200 ng Hg/ml.* Prepare fresh daily. Pipet 5.0 ml from the "Intermediate Mercury Standard Solution" (6.2.4) into a 250-ml volumetric glass flask. Add 10 ml of the 5 percent H_2SO_4 and 2 ml of the 0.1 M ICl absorbing solution taken as a blank (7.2.3) and dilute to 250 ml with deionized distilled water. Mix thoroughly.

7. *Procedure*—7.1 *Sampling.* Because of the complexity of this method, testers should be trained and experienced with the test procedures to assure reliable results. Since the amount of Hg that is collected generally is small, the method must be carefully applied to prevent contamination or loss of sample.

7.1.1 *Pretest Preparation.* Follow the general procedure given in Method 5, Section 4.1.1, except omit the directions on the filter.

7.1.2 *Preliminary Determinations.* Follow the general procedure given in Method 5, Section 4.1.2, except as follows: Select a nozzle size based on the range of velocity heads to assure that it is not necessary to change the nozzle size in order to maintain isokinetic sampling rates below 28 liters/min (1.0 cfm).

Obtain samples over a period or periods that accurately determine the maximum emissions that occur in a 24-hour period. In the case of cyclic operations, run sufficient tests for the accurate determination of the emissions that occur over the duration of the cycle. A minimum sample time of 2 hours is recommended. In some instances, high Hg or high SO_2 concentrations make it impossible to sample for the desired minimum time. This is indicated by reddening (liberation of free iodine) in the first impinger. In these cases, the tester may divide the sample run into two or more subruns to insure that the absorbing solution is not depleted.

7.1.3 *Preparation of Sampling Train.* Clean all glassware [probe, impingers, and connectors] by rinsing with 50 percent HNO_3, tap water, 0.1 M ICl, tap water, and finally

deionized distilled water. Place 100 ml of 0.1 M ICl in each of the first three impingers. Take care to prevent the absorbing solution from contacting any greased surfaces. Place approximately 200 g of preweighed silica gel in the fourth impinger. The tester may use more silica gel, but should be careful to ensure that it is not entrained and carried out from the impinger during sampling. Place the silica gel container in a clean place for later use in the sample recovery. Alternatively, determine and record the weight of the silica gel plus impinger to the nearest 0.5 g.

Install the selected nozzle using a Viton A O-ring when stack temperatures are less than 200° C (500° F). Use a fiberglass string gasket if temperatures are higher. See APTD–0576 (Citation 9 in Section 10) for details. Other connecting systems using either 316 stainless steel or Teflon ferrules may be used. Mark the probe with heat-resistant tape or by some other method to denote the proper distance into the stack or duct for each sampling point. Assemble the train as shown in Figure 101–1, using (if necessary) a very light coat of silicone grease on all ground glass joints. Grease only the outer portion (see APTD–0576) to avoid possibility of contamination by the silicone grease.

Note.—An empty impinger may be inserted between the third impinger and the silica gel to remove excess moisture from the sample stream.

After the sampling train has been assembled, turn on and set the probe, if applicable, at the desired operating temperature. Allow time for the temperatures to stabilize. Place crushed ice around the impingers.

7.1.4 *Leak-Check Procedures.* Follow the leak-check procedures outlined in Method 5, Sections 4.1.4.1 (Pretest Leak Check), 4.1.4.2 (Leak Checks During Sample Run), and 4.1.4.3 (Post-Test Leak Check).

7.1.5 *Mercury Train Operation.* Follow the general procedure given in Method 5, Section 4.1.5. For each run, record the data required on a data sheet such as the one shown in Figure 101–4.

7.1.6 *Calculation of Percent Isokinetic.* Same as Method 5, Section 4.1.6.

7.2 *Sample Recovery.* Begin proper cleanup procedure as soon as the probe is removed from the stack at the end of the sampling period.

Allow the probe to cool. When it can be safely handled, wipe off any external particulate matter near the tip of the probe nozzle and place a cap over it. Do not cap off the probe tip tightly while the sampling train is cooling. Capping would create a vacuum and draw liquid out from the impingers.

Before moving the sampling train to the cleanup site, remove the probe from the train, wipe off the silicone grease, and cap the open outlet of the probe. Be careful not to lose any condensate that might be present. Wipe off the silicone grease from the impinger. Use either ground-glass stoppers, plastic caps, or serum caps to close these openings.

Transfer the probe and impinger assembly to a cleanup area that is clean, protected from the wind, and free of Hg contamination. The ambient air in laboratories located in the immediate vicinity of Hg-using facilities is not normally free of Hg contamination.

Inspect the train before and during assembly, and note any abnormal conditions. Treat the sample as follows:

7.2.1 *Container No. 1* (Impinger and Probe). Using a graduated cylinder, measure the liquid in the first three impingers to within ±1 ml. Record the volume of liquid present (e.g., see Figure 5–3 of Method 5). This information is needed to calculate the moisture content of the effluent gas. (Use only glass storage bottles and graduated cylinders that have been precleaned as in Section 7.1.3.) Place the contents of the first three impingers into a 1000-ml glass sample bottle.

Taking care that dust on the outside of the probe or other exterior surfaces does not get into the sample, quantitatively recover the Hg (and any condensate) from the probe nozzle, probe fitting, and probe liner as follows: Rinse these components with two 50-ml portions of 0.1 M IC1. Next, rinse the probe nozzle, fitting and liner, and each piece of connecting glassware between the probe liner and the back half of the third impinger with a maximum of 400 ml of deionized distilled water. Add all washings to the 1000-ml glass sample bottle containing the liquid from the first three impingers.

After all washings have been collected in the sample container, tighten the lid on the container to prevent leakage during shipment to the laboratory. Mark the height of the liquid to determine later whether leakage occurred during transport. Label the container to clearly identify its contents.

7.2.2 *Container No. 2* (Silica Gel). Note the color of the indicating silica gel to determine whether it has been completely spent and make a notation of its condition. Transfer the silica gel from its impinger to its original container and seal. The tester may use as aids a funnel to pour the silica gel and a rubber policeman to remove the silica gel from the impinger. The small amount of particles that may adhere to the impinger wall need not be removed. Since the gain in weight is to be used for moisture calculations, do not use any water or other liquids to transfer the silica gel. If a balance is available in the field, weigh the spent silica gel (or silica gel plus impinger) to the nearest 0.5 g; record this weight.

7.2.3 *Container No. 3* (Absorbing Solution Blank). For a blank, place 50 ml of the 0.1 M IC1 absorbing solution in a 100-ml sample bottle. Seal the container. Use this blank to prepare the working mercury standard solution (6.2.5).

7.3 *Sample Preparation.* Check the liquid level in each container to see whether liquid was lost during transport. If a noticeable amount of leakage occurred, either void the sample or use methods subject to the approval of the Administrator to account for the losses. Then follow the procedures below:

7.3.1 *Container No. 1* (Impinger and Probe). Carefully transfer the contents of Container No. 1 into a 1000-ml volumetric flask and adjust the volume to exactly 1000 ml with deionized distilled water.

7.3.2 *Dilutions.* Pipet a 2-ml aliquot from the diluted sample from 7.3.1 into a 250-ml volumetric flask. Add 10 ml of 5 percent H_2SO_4 and adjust the volume to exactly 250 ml with deionized distilled water. These solutions are stable for at least 72 hours.

Note.—The dilution factor will be 250/2 for this solution.

7.4 *Analysis.* Calibrate the spectrophotometer and recorder and prepare the calibration curve as described in Sections 8.1 to 8.4.

7.4.1 *Mercury Samples.* Repeat the procedure used to establish the calibration curve with appropriately sized aliquots (1 to 5 ml) of each of the diluted samples (from Section 7.3.2) until two consecutive peak heights agree within ±3 percent of their average value. The peak maximum of an aliquot (except the 5-ml aliquot) must be greater than 10 percent of the recorder full scale. If the peak maximum of a 1.0-ml aliquot is off scale on the recorder, further dilute the original source sample to bring the Hg concentration into the calibration range of the spectrophotometer.

Run a blank and standard at least after every five samples to check the spectrophotometer calibration; recalibrate as necessary.

It is also recommended that at least one sample from each stack test be checked by the method of standard additions to confirm that matrix effects have not interfered in the analysis.

7.4.2 *Container No. 2* (Silica Gel). Weigh the spent silica gel (or silica gel plus impinger) to the nearest 0.5 g using a balance. (This step may be conducted in the field.)

8. *Calibration and Standards*—Before use, clean all glassware, both new and used, as follows: brush with soap and water, liberally rinse with tap water, soak for 1 hour in 50 percent HNO_3, and then rinse with deionized distilled water.

8.1 *Flow Calibration.* Assemble the aeration system as shown in Figure 101–5. Set the outlet pressure on the aeration gas cylinder regulator to a minimum pressure of 500 mm Hg (10 psi), and use the flowmetering valve and a bubble flowmeter or wet test meter to obtain a flow rate of 1.5±0.1 liters/min through the aeration cell. After the flow calibration is complete, remove the bubble flowmeter from the system.

8.2 *Optical Cell Heating System Calibration.* Using a 50-ml graduated cylinder, add 50 ml of deionized distilled water to the bottle section of the aeration cell and attach the bottle section to the bubbler section of the cell. Attach the aeration cell to the optical cell; and while aerating at 1.5 liters/min, determine the minimum variable transformer setting necessary to prevent condensation of moisture in the optical cell and in the connecting tubing. (This setting should not exceed 20 volts.)

8.3 *Spectrophotometer and Recorder Calibration.* The mercury response may be measured by either peak height or peak area.

Note.—The temperature of the solution affects the rate at which elemental Hg is released from a solution and, consequently, it affects the shape of the absorption curve (area) and the point of maximum absorbance (peak height). Therefore, to obtain reproducible results, bring all solutions to room temperature before use.

Set the spectrophotometer wavelength at 253.7 nm, and make certain the optical cell is at the minimum temperature that will prevent

water condensation. Then set the recorder scale as follows: Using a 50-ml graduated cylinder, add 50 ml of deionized distilled water to the aeration cell bottle and pipet 5.0 ml of the working mercury standard solution into the aeration cell.

Note.—Always add the Hg-containing solution to the aeration cell after the 50 ml of deionized distilled water.

Place a Teflon-coated stirring bar in the bottle. Before attaching the bottle section to the bubbler section of the aeration cell, make certain that (1) the aeration cell exit arm stopcock (Figure 101–3) is closed (so that Hg will not prematurely enter the optical cell when the reducing agent is being added) and (2) there is no flow through the bubbler. If conditions (1) and (2) are met, attach the bottle section to the bubbler section of the aeration cell through the side arm of the cell and immediately stopper the side arm. Stir the solution for 15 sec, turn on the recorder, open the aeration cell exit arm stopcock, and then immediately initiate aeration with continued stirring. Determine the maximum absorbance of the standard and set this value to read 90 percent of the recorder full scale.

8.4 *Calibration Curve.* After setting the recorder scale, repeat the procedure in Section 8.3 using 0.0-, 1.0-, 2.0-, 3.0-, 4.0-, and 5.0-ml aliquots of the working standard solution (final amount of Hg in the aeration cell is 0, 200, 400, 600, 800, and 1000 ng, respectively). Repeat this procedure on each aliquot size until two consecutive peaks agree within 3 percent of their average value. (Note: To prevent Hg carryover from one sample to another, do not close the aeration gas tank valve and do not disconnect the aeration cell from the optical cell until the recorder pen has returned to the baseline.) It should not be necessary to disconnect the aeration gas inlet line from the aeration cell when changing samples. After separating the bottle and bubbler sections of the aeration cell, place the bubbler section into a 600-ml beaker containing approximately 400 ml of deionized distilled water. Rinse the bottle section of the aeration cell with a stream of deionized distilled water to remove all traces of the tin (II) reducing agent. Also, to prevent the loss of Hg before aeration, remove all traces of the reducing agent between samples by washing with deionized distilled water. It will be necessary, however, to wash the aeration cell parts with concentrated HCl if any of the following conditions occur: (1) A white film appears on any inside surface of the aeration cell, (2) the calibration curve changes suddenly, or (3) the replicate samples do not yield reproducible results.

Subtract the average peak height (or peak area) of the blank (0.0-ml aliquot)—which should be less than 2 percent of recorder full scale—from the averaged peak heights of the 1.0-, 2.0-, 3.0-, 4.0-, and 5.0-ml aliquot standards. If the blank absorbance is greater than 2 percent of full-scale, the probable cause is Hg contamination of a reagent or carry-over of Hg from a previous sample. Plot the corrected peak height of each standard solution versus the corresponding final total Hg weight in the aeration cell (in ng) and draw the best-fit straight line. This line should either pass through the origin or pass through a point no further from the origin than ±2 percent of the recorder full scale. If the line does not pass through or very near to the origin, check for nonlinearity of the curve and for incorrectly prepared standards.

8.5 *Sampling Train Calibration.* Calibrate the sampling train components according to the procedures outlined in the following sections of Method 5: Section 5.1 (Probe Nozzle), Section 5.2 (Pitot Tube), Section 5.3 (Metering System), Section 5.4 (Probe Heater), Section 5.5 (Temperature Gauges), Section 5.7 (Barometer). Note that the leak-check described in Section 5.6 of Method 5 applies to this method.

9. *Calculations*—9.1 *Dry Gas Volume.* Using the data from this test, calculate $V_{m(std)}$, the dry gas sample volume at standard conditions (corrected for leakage, if necessary) as outlined in Section 6.3 of Method 5.

9.2 *Volume of Water Vapor and Moisture Content.* Using the data obtained from this test, calculate the volume of water vapor $V_{w(std)}$ and the moisture content B_{ws} of the stack gas. Use Equations 5–2 and 5–3 of Method 5.

9.3 *Stack Gas Velocity.* Using the data from this test and Equation 2–9 of Method 2, calculate the average stack gas velocity v_s.

9.4 *Total Mercury.* For each source sample, correct the average maximum absorbance of the two consecutive samples whose peak heights agree within ±3 percent of their average for the contribution of the solution blank (see Section 8.4). Use the calibration curve and these corrected averages, to determine the final total weight of mercury in nanograms in the aeration cell for each source sample. Correct for any dilutions made to bring the sample in the working range of the spectrophotometer. Then calculate the Hg in μg (m_{Hg}) in the original solution as follows:

$$m_{Hg} = \frac{C_{Hg(AC)}(D.F.)\ V_f\ 10^{-3}}{S} \qquad \text{Eq. 101–1}$$

Where:

$C_{Hg(AC)}$ = Total nanograms of mercury in aliquot analyzed (reagent blank subtracted).

D.F. = Dilution factor for the Hg-containing solution (before adding to the aeration cell; e.g., D.F. = 250/2 if the source samples were diluted as described in Section 7.3.2.)

V_f = Solution volume of original sample, 1000 ml for samples diluted as described in Section 7.2.1.

10^{-3} = Conversion factor, μg/ng.

S = Aliquot volume added to aeration cell, ml.

9.5 *Mercury Emission Rate.* Calculate the Hg emission rate R in g/day for continuous operations using Equation 101–2. For cyclic operations, use only the time per day each stack is in operation. The total Hg emission rate from a source will be the summation of results from all stacks.

$$R = K\ \frac{m_{Hg}\ v_s\ A_s\ (86{,}400 \times 10^{-6})}{[V_{m(std)} + V_{w(std)}](T_s/P_s)} \qquad \text{Eq. 101–2}$$

Where:

A_s = Stack cross-sectional area, m^2 (ft^2).

86,400 = Conversion factor, sec/day.

10^{-6} = Conversion factor, g/μg.

T_s = Absolute average stack gas temperature, °K (°R).

P_s = Absolute stack gas pressure, mm Hg (in. Hg).

K = 0.3858 °K/mm Hg for metric units.
= 17.65 °R/in. Hg for English units.

9.6 *Isokinetic Variation and Acceptable Results.* Same as Method 5, Sections 6.11 and 6.12, respectively.

9.7 *Determination of Compliance.* Each performance test consists of three repetitions of the applicable test method. For the purpose of determining compliance with an applicable national emission standard, use the average of the results of all repetitions.

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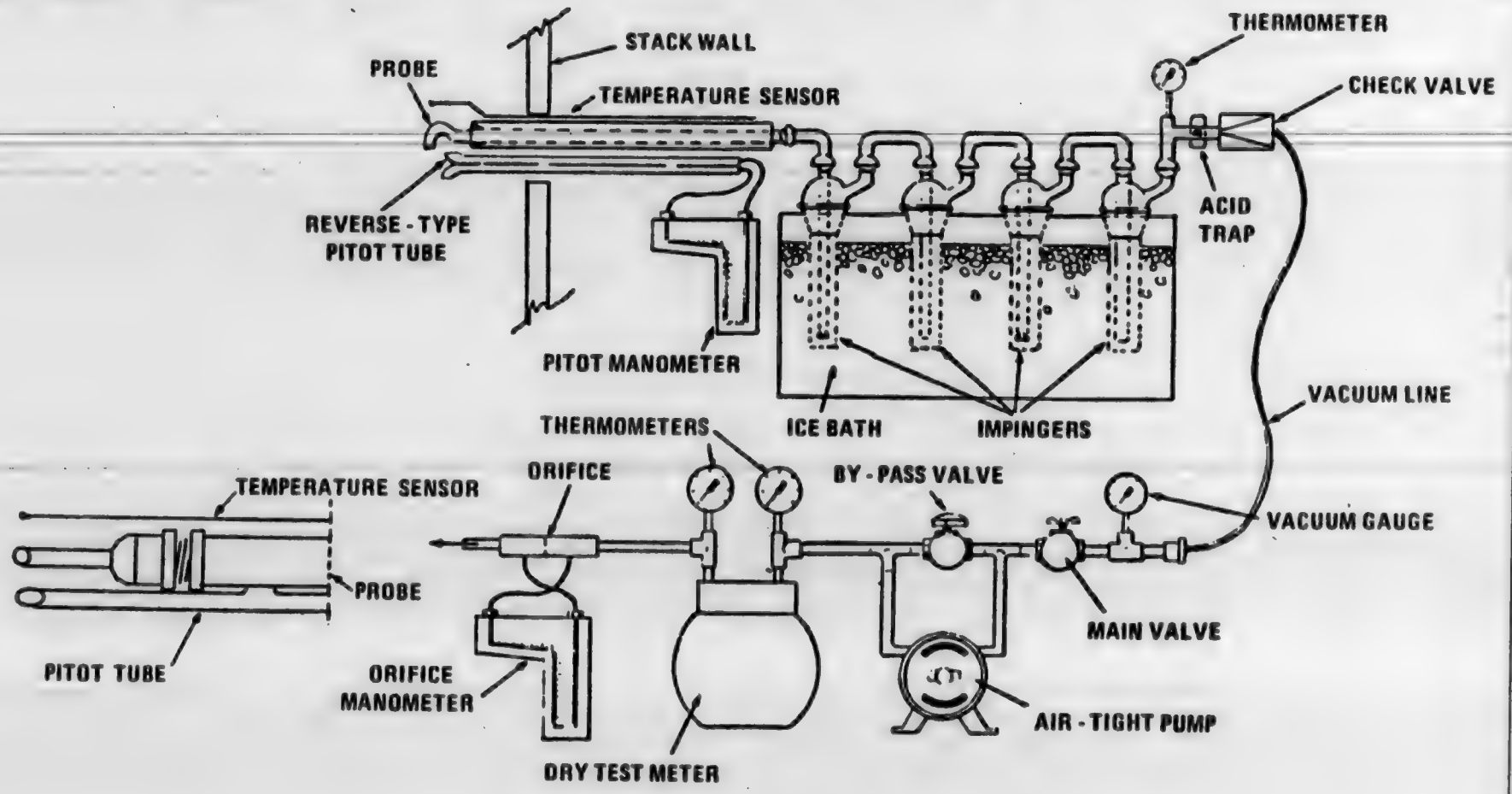

Figure 101-1 Mercury sampling train.

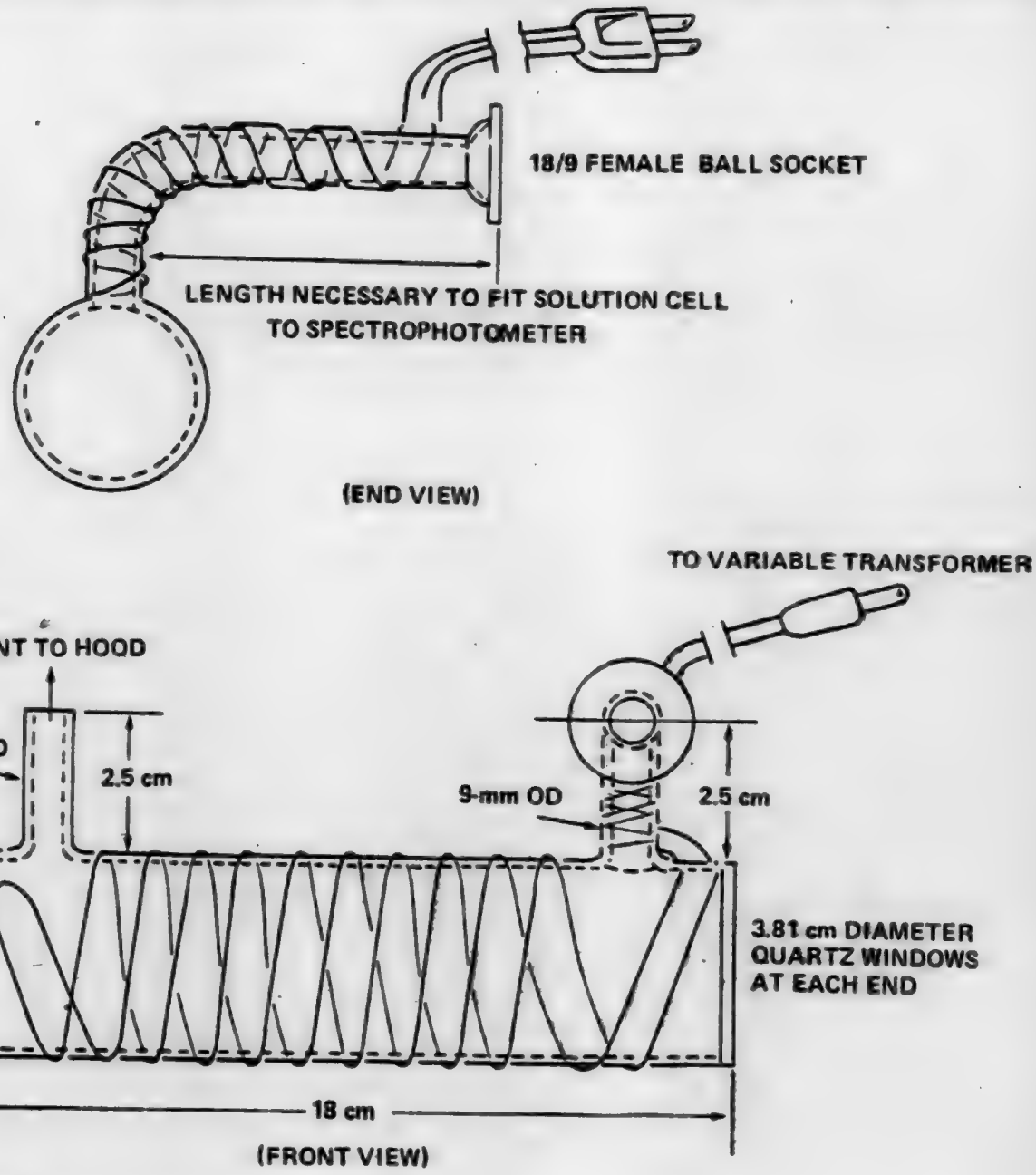

NOTES:
CELL WOUND WITH 24-GAUGE NICHROME WIRE
TOLERANCES ± 5 PERCENT

Figure 101-2. Optical cell.

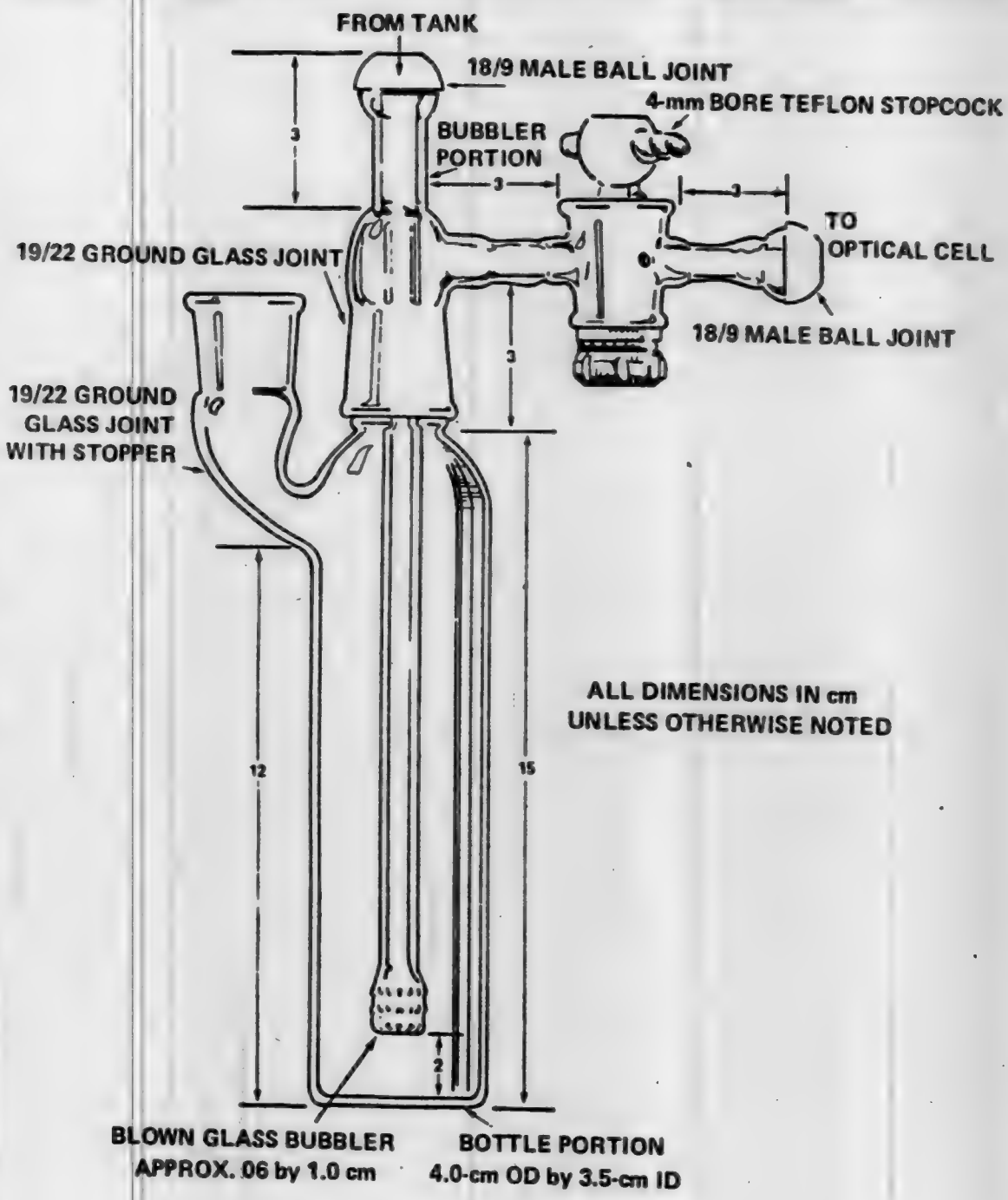

Figure 101-3. Aeration cell.

PLANT _____
LOCATION _____
OPERATOR _____
DATE _____
RUN NO. _____
SAMPLE BOX NO. _____
FILTER BOX NO. _____
METER ΔH@ _____
C FACTOR _____
PITOT TUBE COEFFICIENT, C_p _____

SCHEMATIC OF STACK CROSS SECTION

AMBIENT TEMPERATURE _____
BAROMETRIC PRESSURE _____
ASSUMED MOISTURE, % _____
PROBE LENGTH, m (ft) _____
NOZZLE IDENTIFICATION NO. _____
AVERAGE CALIBRATED NOZZLE DIAMETER, cm (in.) _____
PROBE HEATER SETTING* _____
LEAK RATE, m^3/min (cfm) _____
PROBE LINER MATERIAL _____
STATIC PRESSURE, mm Hg (in. Hg) _____
FILTER NO.* _____

TRAVERSE POINT NUMBER	SAMPLING TIME (θ), min.	VACUUM mm Hg (in. Hg)	STACK TEMPERATURE (T_s) °C (°F)	VELOCITY HEAD (ΔP_s)	PRESSURE DIFFERENTIAL ACROSS ORIFICE METER mm H_2O (in. H_2O)	GAS SAMPLE VOLUME m^3 (ft^3)	GAS SAMPLE TEMPERATURE AT DRY GAS METER		FILTER HOLDER* TEMPERATURE, °C (°F)	TEMPERATURE OF GAS LEAVING CONDENSER OR LAST IMPINGER, °C (°F)
							INLET °C (°F)	OUTLET °C (°F)		
TOTAL							Avg.	Avg.		
AVERAGE							Avg.			

*IF APPLICABLE

Fig. 101-4. Mercury field data.

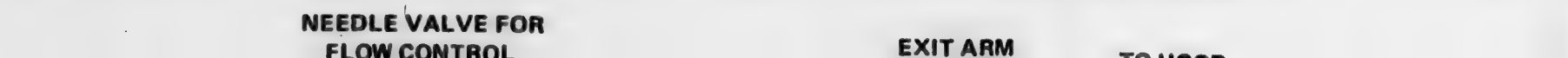

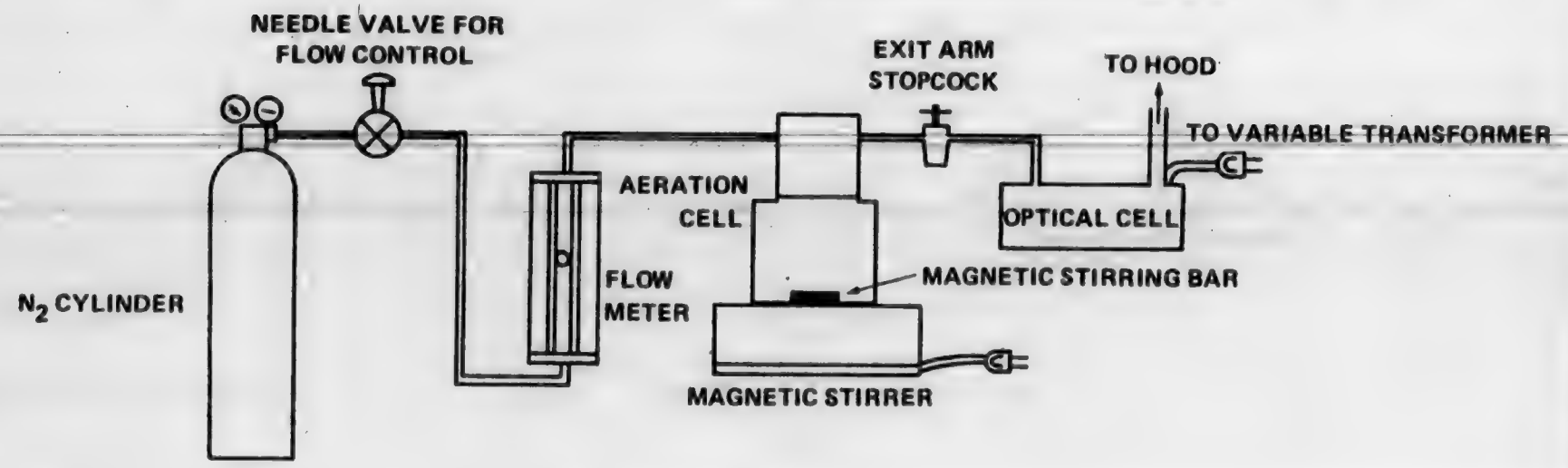

Figure 101-5. Schematic of aeration system.

BILLING CODE 6560-50-C

Method 101A. Determination of Particulate and Gaseous Mercury Emissions From Sewage Sludge Incinerators

Introduction

This method is similar to Method 101, except acidic potassium permanganate solution is used instead of acidic iodine monochloride for collection.

1. *Applicability and Principle*—1.1 *Applicability.* This method applies to the determination of particulate and gaseous mercury (Hg) emissions from sewage sludge incinerators and other sources as specified in the regulations.

1.2 *Principle.* Particulate and gaseous Hg emissions are withdrawn isokinetically from the source and collected in acidic potassium permanganate ($KMnO_4$) solution. The Hg collected (in the mercuric form) is reduced to elemental Hg, which is then aerated from the solution into an optical cell and measured by atomic absorption spectrophotometry.

2. *Range and Sensitivity*—2.1 *Range.* After initial dilution, the range of this method is 20 to 800 ng Hg/ml. The upper limit can be extended by further dilution of the sample.

2.2 *Sensitivity.* The sensitivity of the method depends on the recorder/spectrophotometer combination selected.

3. *Interfering Agents*—3.1 *Sampling.* Excessive oxidizable organic matter in the stack gas prematurely depletes the $KMnO_4$ solution and thereby prevents further collection of Hg.

3.2 *Analysis.* Condensation of water vapor on the optical cell windows causes a positive interference.

4. *Precision*—Based on eight paired-train tests, the within-laboratory standard deviation was estimated to be 4.8 μg Hg/ml in the concentration range of 50 to 130 μg Hg/m^3.

5. *Apparatus*—5.1 *Sampling Train and Sample Recovery.* Same as Method 101, Sections 5.1 and 5.2, respectively, except for the following variations:

5.1.1 *Probe Liner.* Same as Method 101, Section 5.1.2, except that if a filter is used ahead of the impingers, the tester must use the probe heating system to minimize the condensation of gaseous Hg.

5.1.2 *Filter Holder (Optional).* Borosilicate glass with a rigid stainless-steel wire-screen filter support (do not use glass frit supports) and a silicone rubber of Teflon gasket, designed to provide a positive seal against leakage from outside or around the filter. The filter holder must be equipped with a filter heating system capable of maintaining a temperature around the filter holder of 120 ± 15° C (248 ± 25° F) during sampling to minimize both water and gaseous Hg condensation. The tester may use a filter in cases where the stream contains large quantities of particulate matter.

5.2 *Analysis.* The apparatus needed for analysis is the same as Method 101, Sections 5.3 and 5.4, except as follows:

5.2.1 *Volumetric Pipets.* Class A; 1–, 2–, 3–, 4–, 5–, 10–, and 20-ml.

5.2.2 *Graduated Cylinder.* 25–ml.

5.2.3 *Steam Bath.*

6. *Reagents—Use ACS reagent-grade chemicals or equivalent, unless otherwise specified.*

6.1 *Sampling and Recovery.* The reagents used in sampling and recovery are as follows:

6.1.1 *Water.* Deionized distilled, meeting ASTM Specifications for Type I Reagent Water—ASTM Test Method D 1193–74. If high concentrations of organic matter are not expected to be present, the analyst may eliminate the $KMnO_4$ test for oxidizable organic matter. Use this water in all dilutions and solution preparations.

6.1.2 *Nitric Acid (HNO_3), 50 Percent (V/V).* Mix equal volumes of concentrated HNO_3 and deionized distilled water, being careful to slowly add the acid to the water.

6.1.3 *Silica Gel.* Indicating type, 6- to 16-mesh. If previously used, dry at 175° C (350° F) for 2 hr. The tester may use new silica gel as received.

6.1.4 *Filter (Optional).* Glass fiber filter, without organic binder, exhibiting at least 99.95 percent efficiency on 0.3 μm dioctyl phthalate smoke particles. The tester may use the filter in cases where the gas stream contains large quantities of particulate matter, but he should analyze blank filters for Hg content.

6.1.5 *Sulfuric Acid (H_2SO_4), 10 Percent (V/V).* Add and mix 100 ml of concentrated H_2SO_4 with 900 ml of deionized distilled water.

6.1.6 *Absorbing Solution, 4 Percent $KMnO_4$ (W/V).* Prepare fresh daily. Dissolve 40 g of $KMnO_4$ in sufficient 10 percent H_2SO_4 to make 1 liter. Prepare and store in glass bottles to prevent degradation.

6.2 *Analysis.* The reagents needed for analysis are listed below:

6.2.1 *Tin (II) Solution.* Prepare fresh daily and keep sealed when not being used. Competely dissolve 20 g of tin (II) chloride [or 25 g of tin (II) sulfate] crystals (Baker Analyzed reagent grade or any other brand that will give a clear solution) in 25 ml of concentrated HCl. Dilute to 250 ml with deionized distilled water. Do not substitute HNO_3, H_2SO_4, or other strong acids for the HCl.

6.2.2 *Sodium Chloride—Hydroxylamine Solution.* Dissolve 12 g of sodium chloride and 12 g of hydroxylamine sulfate (or 12 g of hydroxylamine hydrochloride) in deionized distilled water and dilute to 100 ml.

6.2.3 *Hydrochloric Acid (HCl), 6 N.* Dilute 97 ml of concentrated HNO_3 to 100 ml with deionzed distilled water (slowly add the HCl to the water).

6.2.4 *Nitric Acid, 15 Percent (V/V).* Dilute 15 ml of concentrated HNO_3 to 100 ml with deionized distilled water.

6.2.5 *Mercury Stock Solution, 1 mg Hg/ml.* Prepare and store all mercury standard solutions in borosilicate glass containers. Completely dissolve 0.1354 g of mercury (II) chloride in 75 ml of deionized distilled water. Add 100 ml of concentrated HNO_3, and adjust the volume to exactly 100 ml with deionized distilled water. Mix thoroughly. This solution is stable for at least 1 month.

6.2.6 *Intermediate Mercury Standard Solution, 10 μg Hg/ml.* Prepare fresh weekly. Pipet 5.0 ml of the mercury stock solution (Section 6.2.5) into a 500-ml volumetric flask and add 20 ml of 15 percent HNO_3 solution. Adjust the volume to exactly 500 ml with deionized distilled water. Thoroughly mix the solution.

6.2.7 *Working Mercury Standard Solution, 200 ng Hg/ml.* Prepare fresh daily. Pipet 5.0 ml from the "Intermediate Mercury Standard Solution" (Section 6.2.6) into a 250-ml volumetric flask. Add 5 ml of 4 percent $KMnO_4$ absorbing solution and 5 ml of 15 percent HNO_3. Adjust the volume to exactly 250 ml with deionized distilled water. Mix thoroughly.

6.2.8 *Potassium Permanganate, 5 Percent (W/V).* Dissolve 5 g of $KMnO_4$ in deionized distilled water and dilute to 100 ml.

6.2.9 *Filter.* Whatman No. 40 or equivalent.

7. *Procedure*—7.1 *Sampling.* The sampling procedure is the same as Method 101, except for changes due to the use of $KMnO_4$ instead of ICl absorbing solution and the possible use of a filter. These changes are as follows:

7.1.1 *Preliminary Determinations.* The preliminary determinations are the same as those given in Method 101, Section 7.1.2, except for the absorbing solution depletion sign. In this method, high oxidizable organic content may make it impossible to sample for the desired minimum time. This problem is indicated by the complete bleaching of the purple color of the $KMnO_4$ solution. In these cases, the tester may divide the sample run into two or more subruns to insure that the absorbing solution would not be depleted. In cases where an excess of water condensation is encountered, collect two runs to make one sample.

7.1.2 *Preparation of Sampling Train.* The preparation of the sampling train is the same as that given in Method 101, Section 7.1.3, except for the cleaning of the glassware [probe, filter holder (if used), impingers, and connectors] and the charging of the first three impingers. In this method, clean all the glass components by rinsing with 50 percent HNO_3, tap water, 6 N HCl, tap water, and finally deionized distilled water. Then place 50 ml of 4 percent $KMnO_4$ in the first impinger and 100 ml in each of the second and third impingers.

If a filter is used, use a pair of tweezers to place the filter in the filter holder. Be sure to center the filter and place the gasket in proper position to prevent the sample gas stream from by-passing the filter. Check the filter for tears after assembly is completed. Be sure also to set the filter heating system at the desired operating temperature after the sampling train has been assembled.

7.1.3 *Sampling Train Operation.* In addition to the procedure given in Method 101, Section 7.1.5, maintain a temperature around the filter (if applicable) of 120°±14° C (248°±25° F).

7.2 *Sample Recovery.* Begin proper cleanup procedure as soon as the probe is removed from the stack at the end of the sampling period. Allow the probe to cool. When it can be safely handled, wipe off any external particulate matter near the tip of the probe nozzle and place a cap over it. Do not cap off the probe tip tightly while the sampling train is cooling because the resultant vacuum would draw liquid out from the impingers.

Before moving the sample train to the cleanup site, remove the probe from the train, wipe off the silicone grease, and cap the open

outlet of the probe. Be careful not to lose any condensate that might be present. Wipe off the silicone grease from the impinger. Use either ground-glass stoppers, plastic caps, or serum caps to close these openings.

Transfer the probe, impinger assembly, and (if applicable) filter assembly to a cleanup area that is clean, protected from the wind, and free of Hg contamination. The ambient air in laboratories located in the immediate vicinity of Hg-using facilities is not normally free of Hg contamination.

Inspect the train before and during assembly, and note any abnormal conditions. Treat the sample as follows:

7.2.1 *Container No. 1* (Impinger, Probe, and Filter Holder). Use a graduated cylinder; measure the liquid in the first three impingers to within ±1 ml. Record the volume of liquid present (e.g., see Figure 5–3 of Method 5 in Part 60 of 40 CFR). This information is needed to calculate the moisture content of the effluent gas. (Use only graduated cylinder and glass storage bottles that have been precleaned as in Section 7.1.2.) Place the contents of the first three impingers into a 1000-ml glass sample bottle.

(Note.—If a filter is used, remove the filter from its holder, as outlined under "Container No. 3" below.)

Taking care that dust on the outside of the probe or other exterior surfaces does not get into the sample, quantitatively recover the Hg (and any condensate) from the probe nozzle, probe fitting, probe liner and front half of the filter holder (if applicable) as follows: Rinse these components with a total of 250 to 400 ml of fresh 4 percent $KMnO_4$ solution; add all washings to the 1000-ml glass sample bottle; remove any residual brown deposits on the glassware using the minimum amount of 8 N HCl required; and add this HCl rinse to this sample container.

After all washings have been collected in the sample container, tighten the lid on the container to prevent leakage during shipment to the laboratory. Mark the height of the fluid level to determine whether leakage occurs during transport. Label the container to clearly identify its contents.

7.2.2 *Container No. 2* (Silica Gel). Note the color of the indicating silica gel to determine whether it has been completely spent and make a notation of its condition. Transfer the silica gel from its impinger to its original container and seal. The tester may use as aids a funnel to pour the silica gel and a rubber policeman to remove the silica gel from the impinger. It is not necessary to remove the small amount of particles that may adhere to the impinger wall and are difficult to remove. Since the gain in weight is to be used for moisture calculations, do not use any water or other liquids to transfer the silica gel. If a balance is available in the field, weigh the spent silica gel (or silica gel plus impinger) to the nearest 0.5 g; record this weight.

7.2.3 *Container No. 3* (Filter). If a filter was used, carefully remove it from the filter holder, place it in a 100-ml glass sample bottle, and add 20 to 40 ml of 4 percent $KMnO_4$. If it is necessary to fold the filter, be sure that the particulate cake is inside the fold. Carefully transfer to the 150-ml sample bottle any particulate matter and filter fibers that adhere to the filter holder gasket by using a dry Nylon bristle brush and a sharp-edged blade. Seal the container. Label the container to clearly identify its contents. Mark the height of the fluid level to determine whether leakage occurs during transport.

7.2.4 *Container No. 4* (Filter Blank). If a filter was used, treat an unused filter from the same filter lot used for sampling in the same manner as Container No. 3.

7.2.5 *Container No. 5* (Absorbing Solution Blank). For a blank, place 500 ml of 4 percent $KMnO_4$ absorbing solution in a 1000-ml sample bottle. Seal the container.

7.3 *Sample Preparation.* Check liquid level in each container to see if liquid was lost during transport. If a noticeable amount of leakage occurred, either void the sample or use methods subject to the approval of the Administrator to account for the losses. Then follow the procedures below.

7.3.1 *Containers No. 3 and No. 4* (Filter and Filter Blank). If a filter was used, place the contents, including the filter, of Containers No. 3 and No. 4 in separate 250-ml beakers and heat the beakers on a steam bath until most of the liquid has evaporated. Do not take to dryness. Add 20 ml of concentrated HNO_3 to the beakers, cover them with a glass, and heat on a hot plate at 70° C for 2 hours. Remove from the hot plate and filter the solution through Whatman No. 40 filter paper. Save the filtrate for Hg analysis. Discard the filter.

7.3.2 *Container No. 1* (Impingers, Probe, and Filter Holder). Filter the contents of Container No. 1 through Whatman 40 filter paper to remove the brown MnO_2 precipitate. Wash the filter with 50 ml of 4 percent $KMnO_4$ absorbing solution and add this wash to the filtrate. Discard the filter. Combine the filtrates from Containers No. 1 and No. 3 (if applicable), and dilute to a known volume with deionized distilled water. Mix thoroughly.

7.3.3 *Container No. 5* (Absorbing Solution Blank). Treat this container as described in Section 7.3.2. Combine this filtrate with the filtrate with Container No. 4 and dilute to a known volume with deionized distilled water. Mix thoroughly.

7.4 *Analysis.* Calibrate the spectrophotometer and recorder and prepare the calibration curve as described in Sections 8.1 to 8.4. Then repeat the procedure used to establish the calibration curve with appropriately sized aliquots (1 to 10 ml) of the samples (from Sections 7.3.2 and 7.3.3) until two consecutive peak heights agree within ±3 percent of their average value. If the 10-ml sample is below the detectable limit, use a larger aliquot (up to 20 ml), but decrease the volume of water added to the aeration cell accordingly to prevent the solution volume from exceeding the capacity of the aeration bottle. If the peak maximum of a 1.0-ml aliquot is off scale, further dilute the original sample to bring the Hg concentration into the calibration range of the spectrophotometer. If the Hg content of the absorbing solution and filter blank is below the working range of the analytical method, use zero for the blank.

Run a blank and standard at least after every five samples to check the spectrophotometer calibration; recalibrate as necessary.

It is also recommended that at least one sample from each stack test be checked by the Method of Standard Additions to confirm that matrix effects have not interfered in the analysis.

8. *Calibration and Standards*—The calibration and standards are the same as Method 101, Section 8, except for the following variations:

8.1 *Optical Cell Heating System Calibration.* Same as method 101, Section 8.2, except use a 25-ml graduated cylinder to add 25 ml of deionized distilled water to the bottle section of the aeration cell.

8.2 *Spectrophotometer and Recorder Calibration.* The mercury response may be measured by either peak height or peak area. (Note: the temperature of the solution affects the rate at which elemental Hg is released from a solution and, consequently, it affects the shape of the absorption curve (area) and the point of maximum absorbance (peak height). To obtain reproducible results, all solutions must be brought to room temperature before use.) Set the spectrophotometer wave length at 253.7 nm and make certain the optical cell is at the minimum temperature that will prevent water condensation.

Then set the recorder scale as follows: Using a 25-ml graduated cylinder, add 25 ml of deionized distilled water to the aeration cell bottle and pipet 5.0 ml of the working mercury standard solution into the aeration cell. (Note: Always add the Hg-containing solution to the aeration cell after the 25 ml of deionized distilled water.) Place a Teflon-coated stirring bar in the bottle. Add 5 ml of the 4 percent $KMnO_4$ absorbing solution followed by 5 ml of 15 percent HNO_3 and 5 ml of 5 percent $KMnO_4$ to the aeration bottle and mix well. Now, attach the bottle section to the bubbler section of the aeration cell and make certain that (1) the aeration cell exit arm stopcock (Figure 101–3 of Method 101) is closed (so that Hg will not prematurely enter the optical cell when the reducing agent is being added) and (2) there is no flow through the bubbler. Add 5 ml of sodium chloride hydroxylamine in 1-ml increments until the solution is colorless. Now add 5 ml of tin (II) solution to the aeration bottle through the side arm. Stir the solution for 15 seconds, turn on the recorder, open the aeration cell exit arm stopcock, and immediately initiate aeration with continued stirring. Determine the maximum absorbance of the standard and set this value to read 90 percent of the recorder full scale.

9. *Calculations*—9.1 *Dry Gas Volume, Volume of Water Vapor and Moisture Content, Stack Gas Velocity, Isokinetic Variation and Acceptable Results, and Determination of Compliance.* Same as Method 101, Sections 9.1, 9.2, 9.3, 9.6, and 9.7, respectively, except use data obtained from this test.

9.2 *Total Mercury.* For each source sample, correct the average maximum absorbance of the two consecutive samples whose peak heights agreed within ±3 percent of their average for the contribution of the field blank. Then calculate the total Hg content in μg in each sample. Correct for any

dilutions made to bring the sample into the working range of the spectrophotometer.

9.3 *Mercury Emission Rate.* Calculate the Hg emission rate R in g/day for continuous operations using Equation 101A–1. For cyclic operations, use only the time per day each stack is in operation. The total Hg emission rate from a source will be the summation of results from all stacks.

$$R = \frac{K\, m_{Hg}\, v_s\, A_s\, (86{,}400 \times 10^{-6})}{[V_m(std) + V_{w(std)}]\,(T_s/P_s)} \qquad \text{Eq. 101A–1}$$

Where:

m_{Hg} = Total Hg content in each sample, μg.
v_s = Average stack gas velocity, m/sec (fps).
A_s = Stack cross-sectional area, m^2 (ft^2).
86,400 = Conversion factor, sec/day.
10^{-6} = Conversion factor, g/μg.
$V_{m(std)}$ = Dry gas sample volume at standard conditions, corrected for leakage (if any), m^3 (ft^3).
$V_{w(std)}$ = Volume of water vapor at standard conditions, m^3 (ft^3).
T_s = Absolute average stack gas temperature, °K (°R).
P_s = Absolute stack gas pressure, mm Hg (in. Hg).
K = 0.3858 °K/mm Hg for metric units.
= 17.64 °R/in. Hg for English units.

10. *Bibliography.* 1. Same as Method 101, Section 10.

2. Mitchell, W. J., M. R. Midgett, J. C. Suggs, and D. Albrinck.

Test Methods to Determine the Mercury Emissions from Sludge Incineration Plants. U.S. Environmental Protection Agency. Research Triangle Park, North Carolina. Publication No. EPA–600/4–79–058. September 1979.

Method 102. Determination of Particulate and Gaseous Mercury Emissions From Chlor-Alkali Plants—Hydrogen Streams

1. *Introduction*—Although similar to Method 101, Method 102 requires changes to accommodate the sample being extracted from a hydrogen stream. Conduct the test according to Method 101, except as shown below:

2. *Mercury Train Operation*—2.1 *Probe Heating System.* Do not use, unless otherwise specified.

2.2 *Glass Fiber Filter.* Do not use, unless otherwise specified.

2.3 *Safety Procedures.* The sampler must conduct the source test under conditions of utmost safety, because hydrogen and air mixtures are explosive. Since the sampling train essentially is leakless, attention to safe operation can be concentrated at the inlet and outlet. If a leak does occur, however, remove the meter box cover to avoid a possible explosive mixture. The following specific precautions are recommended:

2.3.1 *Operate only the vacuum pump during the test.* The other electrical equipment, e.g., heaters, fans, and timers, normally are not essential to the success of a hydogen stream test.

2.3.2 *Seal the sample port to minimize leakage of hydrogen from the stack.*

2.3.3 *Vent sampled hydrogen at least 3 m (10 feet) away from the train.* This can be accomplished by attaching a 13-mm-ID (0.50-in) Tygon tube to the exhaust from the orifice meter. (Note: A smaller ID tubing may cause the orifice meter calibration to be erroneous.) Take care to ensure that the exhaust line is not bent or pinched.

2.4 *Setting of Isokinetic Rates.*

2.4.1 If a nomograph is used, take special care in the calculation of the molecular weight of the stack gas and in the setting of the nomograph to maintain isokinetic conditions during sampling (Sections 2.4.1.1 through 2.4.1.3 below).

2.4.1.1 *Calibrate the meter box orifice.* Use the techniques described in APTD–0576 (see Citation 9 in Section 10 of Method 101). Calibration of the orifice meter at flow conditions that simulate the conditions at the source is suggested. Calibration should either be done with hydrogen or with some other gas having a similar Reynolds Number so that there is similarity between the Reynolds Numbers during calibration and during sampling.

2.4.1.2 The nomograph described in APTD–0576 cannot be used to calculate the C factor because the nomograph is designed for use when the stack gas dry molecular weight is 20±4. Instead, the following calculation should be made to determine the proper C factor:

$$C = 0.00154\, \Delta H_@\, C_p^2\, T_m (P_s/P_m) \frac{(1-B_{ws})^2}{(1-B_{ws}) + 18\, B_{ws}/M_d}$$

Where:

$\Delta H_@$ = Meter box calibration factor obtained in Section 2.4.1.1, in. H_2O.
C_p = Pitot tube calibration coefficient, dimensionless.
T_m = Absolute temperature of gas at the orifice, °R.
P_s = Absolute pressure of stack gas, in Hg.
P_m = Absolute pressure of gas at the meter, in Hg.
B_{ws} = Fraction by volume of water vapor in the stack gas.
M_d = Dry molecular weight of stack gas, lb/lb-mole.

Note. This calculation is left in English units, and is not converted to metric units because nomographs are based on English units.

2.4.1.3 Set the calculated C factor on the operating nomograph and select the proper nozzle diameter and K factor as specified in APTD–0576. If the C factor obtained in Section 2.4.1.2 exceeds the values specified on the existing operating nomograph, expand the C scale logarithmically so that the values can be properly located.

2.4.2 If a calculator is used to set isokinetic rates, it is suggested that the isokinetic equation presented in Citation 17 in the Bibliography of Method 101 be used.

2.5 Sampling in Small (<12-in.-Diameter) Stacks. When the stack diameter (or equivalent diameter) is less than 12 inches, conventional pitot tube-probe assemblies should not be used. For sampling guidelines, see Citation 18 in the Bibliography of Method 101.

* * * * *

[FR Doc. 82–15573 Filed 6–7–82; 8:45 am]
BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

45 CFR Parts 302, 303, 304, 305 and 306

State Child Support Enforcement Programs; Deletion of IV–D State Plan and Audit Requirements

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Final rule with comment period.

SUMMARY: We are making several technical changes in our regulations which will have the effect of reducing the scope of the IV–D State plan and the annual compliance audits of State Child Support Enforcement programs. We will achieve this effect by eliminating from 45 CFR Part 305, Audit and Penalty, those sections which require us to conduct compliance audits of State plan provisions that are not statutory State plan requirements. This will require deleting certain non-statutory plan requirements from 45 CFR Part 302, State Plan Requirements, as well. In addition, we are deleting from Part 302 a non-statutory State plan requirement which has not, to date, been incorporated under Part 305. We are also deleting from 45 CFR Part 302 the obsolete § 302.40, Operation of the Child Support Enforcement Program in the absence of an assignment. Finally, in 45 CFR Part 304, we are deleting § 304.28, Federal financial participation at the 50 percent rate, because it, too, is obsolete.

DATES: Effective June 8, 1982. Comment: Consideration will be given to written comments or suggestions received on or before August 9, 1982. Agencies and organizations are requested to submit their comments in duplicate.

ADDRESS: Address comments to: Director, Office of Child Support Enforcement; Department of Health and Human Services; 6110 Executive Blvd., Suite 1010; Rockville, Maryland 20852; ATTN: Policy Branch. Comments will be available for public inspection Monday through Friday, 8:30 a.m. to 5:00 p.m., in Room 1010 of the Department's offices at the address above.

FOR FURTHER INFORMATION CONTACT: Elizabeth Matheson (301) 443–5350.

SUPPLEMENTARY INFORMATION:

Background

Under section 403(h) of the Social Security Act (42 U.S.C. 603(h)), any State that "is found by the Secretary as the result of the annual (program compliance) audit to have failed to have

an effective (Child Support Enforcement) program meeting the requirements of section 402(a)(27)" in any fiscal year will be subject to a five percent reduction in its Federal AFDC (title IV–A) matching funds for that year. Section 402(a)(27), in turn, requires that the State have in effect and operate a Child Support Enforcement program under an approved title IV–D State plan. The statutory requirements of the IV–D State plan are specified at section 454 of the Act. Thus, in order to avoid the five percent penalty under section 403(h), a State must, under the statute, comply with each of the requirements under section 454.

OCSE regulations at 45 CFR Part 302 establish several State plan requirements and, in some cases, corresponding audit compliance requirements at 45 CFR Part 305 for program functions which are not statutory State plan requirements. We established these non-statutory State plan requirements under the general authority of the Secretary at section 454(13) of the Act to establish "such other requirements and standards as the Secretary determines to be necessary" for IV–D program effectiveness.

This is the first of several regulations we are publishing in which non-statutory State plan requirements will be deleted or transferred from 45 CFR Part 302 to Part 303, Standards for Program Operations. We are not making all planned changes in this regulation because of the need to coordinate with recent legislative changes.

This document deals with three regulations under which States are presently subject to OCSE compliance review at OCSE's option. These regulations are included under Part 305, Audit and Penalty. This document also covers a regulation, 45 CFR 302.72, Application to use the courts of the United States to enforce support orders, which establishes a State plan requirement at OCSE's option without a corresponding compliance review requirement under Part 305. We will refer to the group of three compliance review regulations under the heading "Deletions from Audit Requirements." The regulation on use of U.S. district courts is discussed under the heading "Deletion from Non-Statutory State Plan Requirements."

In addition to these regulations, two other regulations are being deleted by this final rule. The existing 45 CFR 302.40, Operation of the Child Support Enforcement Program in the absence of an assignment, was enacted at the beginning of the IV–D program in 1975 to permit States some flexibility in transferring what were then title IV–A child support cases into the IV–D caseload by securing the necessary assignments of support rights. The regulations allowed States to treat collections in these preexisting cases as though assignments had been made. This exception was instituted on August 1, 1975 and expired on December 31, 1975. Because it is obsolete, we are taking this opportunity to delete § 302.40. Similarly, 45 CFR 304.28, Federal financial participation at the 50 percent rate, was published to accommodate a gradual transfer of former title IV–A child support activities into the new IV–D program. It, too, is obsolete, and we are taking this opportunity to delete it from our regulations.

Deletions From Audit Requirements

This section addresses three child support related activities where, under existing Part 305 audit regulations and audit procedures, States are subject to audit review at OCSE's option rather than because the statute requires this review. Each of these areas was originally included in the audit because we regarded compliance in these areas as a necessary complement to the compliance areas required by statute under section 454. OCSE believes that the need for compliance reviews in each of these three areas has receded in importance as States have fully implemented and enhanced their IV–D programs over the past several years. We have therefore decided to concentrate our audit resources on those areas of the State plan that are required under section 454 and to delete from Part 305 all other areas presently subject to compliance review.

In one of these three areas, Safeguarding information, corresponding deletions from Part 302 and from the IV–D State plan are needed. Thus, Safeguarding information is being deleted from Parts 302 and 305 and from the State plan preprint, and is being transferred to Part 303, Standards for Program Operations. In addition, two IV–D audit regulations that are based on IV–A State plan requirements, Prompt notice and Assignment of support rights, are being deleted from Part 305. Where material has been transferred to another Part, we have also made minor editorial changes to conform to preferred Federal Register usage. The three compliance areas and their corresponding changes are discussed below under separate headings.

1. *Safeguarding information.* We are deleting 45 CFR 302.18, Safeguarding information, and 45 CFR 305.37, same title, because these provisions for safeguarding are not based on statutory IV–D State plan requirements. Instead, we are amending 45 CFR Part 303, Standards for Program Operations, by adding a new § 303.21, Safeguarding information. We believe that confidentiality of case records can be sufficiently protected in this manner. The language of the new § 303.21 is identical to that of the former § 302.18, except for minor editorial changes and the elimination of the words "The State plan shall provide that:". Transferring § 302.18 enables us to delete 45 CFR 305.37, Safeguarding information, and thereby to eliminate our existing compliance review of this area in our annual IV–D program compliance audits. A State plan amendment deleting Section 3.5, Safeguarding Information, from the IV–D State plan preprint, will be issued shortly.

While this transfer of the safeguarding provisions from Part 302, State Plan Requirements, to Part 303, Standards for Program Operations, deletes the provisions from the IV–D State plan, it does not alter the long standing Federal requirement that information be safeguarded. Any information about AFDC recipients and non-AFDC applicants for IV–D services will continue to be protected under the same standards used in the past. Federal IV–A and IV–D staff will continue to monitor State practices. However, since safeguarding information has not proved to be a significant problem area under this program, and since it is not a statutory IV–D State plan requirement, we will no longer test compliance through the formal audit mechanism.

2. *Prompt notice by the IV–A agency to the IV–D agency.* Section 402(a)(11) of the Social Security Act (42 U.S.C. 602(a)(11)) requires that the IV–A State plan must "provide for prompt notice" to the IV–D agency whenever aid is provided on behalf of "a child who has been deserted or abandoned by a parent." Although this "prompt notice" is a IV–A State plan requirement, it was particularly important to the mission of the IV–D agency in the early days of the program that this process be initiated. It was therefore included in OCSE's audit and penalty regulations at 45 CFR 305.38 to ensure that States implemented the new prompt notice requirements. Because it is not a statutory IV–O State plan requirement, however, we are eliminating this section from Part 305 and hence from the IV–D compliance audit. After several years of IV–D program operation, we believe that monitoring of this function by the Federal IV–A agency will now be sufficient to insure its continued performance.

3. *Assignment of support rights.* Another title IV–A State plan requirement that has been included in the OCSE compliance audits is the assignment of support rights required by section 402(a)(26)(A) of the Act (42 U.S.C. 602(a)(26)(A)). Like the prompt notice requirement, the IV–A responsibility for securing assignments from AFDC applicants and recipients is critical to the success of the IV–D program. It was therefore included among our audit requirements at 45 CFR 305.39. The requirement for assignment has now been in place for six years. States have not had serious problems in implementing this requirement. We believe that the smooth operation of this function therefore warrants its removal from Part 305 and from the OCSE program compliance audits. Again, we believe the monitoring of this requirement by the Federal IV–A agency will be sufficient to secure State compliance. Therefore, we are deleting 45 CFR 305.39, Assignment of rights to support. A corresponding change to Part 302 is unnecessary, since this is a IV–A State plan requirement found in AFDC regulations under 45 CFR Part 232.

Deletion From Non-Statutory State Plan Requirements

One non-statutory IV–D State plan requirement presently in Part 302 (45 CFR 302.72, Applications to use the courts of the United States to enforce court orders) does not have a corresponding audit compliance requirement under Part 305. Because its overall importance to the program has proved to be less than originally anticipated when we implemented it as a regulatory State plan requirement, we believe this regulation can be transferred from Part 302 to Part 303 with no corresponding loss of program effectiveness. The regulation involves a service provided by the Federal government to the States. We therefore believe that our review of State requests for this service and our prerogative to deny the service in the event of a faulty or inappropriate application for service acts as a sufficient check on State practices in this area. Subjecting this area to compliance audit reviews would merely duplicate an already adequate degree of Federal oversight and should therefore be avoided.

We wish to emphasize that although the deletion of this regulation from Part 302 will enable us to avoid publishing a separate corresponding regulation under Part 305, this function presently receives audit scrutiny under existing audit regulations. This review will continue under the amended audit regulations. Specifically, use of the U.S. district courts is now reviewed under our audit of the enforcement function. The effect of this deletion, then, will not be to diminish our existing audit oversight with respect to the enforcement function, but rather to avoid an unnecessary increase in our audit through the enactment of an additional, separate audit regulation.

As part of this final regulation package, therefore, we are transferring 45 CFR 302.72 to a new 45 CFR 303.73, Applications to use the courts of the United States to enforce court orders. We will shortly issue a State plan amendment to delete the corresponding Section 2.8, Applications for Use of U.S. District Courts, from the IV–D State plan preprint.

Other Conforming Changes

Several minor changes are needed to conform citations in other regulations with the amended Parts 302, 303 and 305. These changes are purely technical in nature and will ensure that the citations in our regulations are accurate.

On November 3, 1981 (46 FR 54554), we published regulations to implement the parental kidnapping provisions of Pub. L. 96–611. We are making several technical changes in this final rule to conform other regulations with the parental kidnapping amendments. Specifically, the reference to § 302.35(d) contained in § 305.33(d) is being deleted, and the references to § 304.20(b)(5)(iii) to §§ 302.35(e) and 302.70(f) are being changed to refer to the new § 303.70(e). In addition, § 305.33(h) is obsolete as a result of our removal of the safeguarding information requirements from the State plan, so it too is being deleted.

To conform with separately published regulations on IRS collection of support, the citation contained in § 304.20(b)(6) is being changed from § 302.71 to § 303.71.

All of the remaining references to the former 45 CFR 302.18, Safeguarding information, are being deleted or changed to reflect the transfer of this regulation to Part 303. These references occur at 45 CFR 303.70(d)(2), Requests by the State parent locator service for information on the Federal Parent Locator Service (PLS), 305.20, Audit criteria, and 306.11(c), the medical support enforcement regulation.

Finally, there are two references to the deleted 45 CFR 302.72, Applications to use the courts of the United States to enforce court orders, which are being changed to reflect the transfer of this regulation to Part 303. These occur at 45 CFR 303.6(e) and 304.20(b)(7).

Rulemaking

These changes to the regulations are being published in final form. The Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that if the Department for good cause finds that a notice of proposed rulemaking is unnecessary, impracticable or contrary to the public interest, it may dispense with such notice.

The Department finds that a notice of proposed rulemaking in this instance is unnecessary. The changes being made are of a technical nature and will have no substantive effect on service delivery. These changes will, moreover, reduce Federal requirements under title IV–D to the minimum required by statute, thus easing the burden on the States of complying with title IV–D without reducing the effectiveness of the program.

Inasmuch as these changes have a favorable impact on the States and no effect on the substantive rights of individuals, we perceive no basis for adverse comments. Meanwhile, it is in the interest of the States to have these changes effectuated at the earliest possible date. For these reasons, then, we believe it is unnecessary to publish proposed rules, and instead are promulgating these regulations as a final rule, with comment period. We encourage public comment and will, if necessary, make changes in the regulations in response to the comments received.

These regulations are being made effective upon publication because, in removing those IV–D State plan and audit requirements that are not required by statute, the regulations reduce the overall burden of complying with IV–D program requirements without jeopardizing OCSE's continued commitment to the overall effectiveness of the Child Support Enforcement program. Although these regulations have immediate effect, OCSE will give consideration to public comments received within 60 days of publication.

Paperwork Reduction Act

These regulations contain no recordkeeping or reporting requirements needing clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (Pub. L. 96–511). The application process described in § 303.73 is not subject to OMB clearance because based on past experience fewer than ten applications to use the United States district courts to enforce support orders are expected in the foreseeable future.

List of Subjects

45 CFR Parts 302 through 304

Child welfare, Grant programs/social programs.

45 CFR Part 305

Child welfare, Grant programs/social programs, Accounting.

45 CFR Part 306

Child welfare, Grant programs/social programs, Medicaid.

For the reasons discussed in the preamble, 45 CFR Parts 302, 303, 304, 305 and 306 are amended to read as follows:

PART 302—STATE PLAN REQUIREMENTS

§ 302.40 [Removed and reserved]

1. In 45 CFR Part 302, § 302.40 is removed and reserved.

PART 303—STANDARDS FOR PROGRAM OPERATION

§ 303.6 [Amended]

2. In 45 CFR Part 303, the citation contained in § 303.6(e) is changed from "§ 302.72 of this chapter" to read: "§ 303.73 of this chapter."

§ 303.70 [Amended]

2a. In 45 CFR Part 303, the citation contained in § 303.70(d)(2) is changed from "§ 302.18 of this chapter" to read: "§ 303.21 of this chapter."

3. 45 CFR § 302.18 is redesignated as a new § 303.21, and revised to read as follows:

§ 302.18 [Redesignated as § 303.21 and revised]

§ 303.21 Safeguarding information.

(a) Under State statute which imposes legal sanctions, the use or disclosure of information concerning applicants or recipients of support enforcement services is limited to purposes directly connected with:

(1) The administration of the plan or program approved under parts A, B, C or D of title IV or under titles II, X, XIV, XVI, XIX or XX or the supplemental security income program established under title XVI;

(2) Any investigations, prosecution or criminal or civil proceeding conducted in connection with the administration of any such plan or program; and

(3) The administration of any other Federal or Federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need.

(b) These safeguards shall also prohibit disclosure to any committee or legislative body (Federal, State, or local) of any information that identifies by name or address any such applicant or recipient.

(40 FR 52377, Nov. 10, 1975)

§ 302.72 [Redesignated as § 303.73 and revised]

4. 45 CFR 302.72 is redesignated as a new § 303.73 and revised to read as follows:

§ 303.73 Applications to use the courts of the United States to enforce court orders.

(a) The IV–D agency may apply to the Secretary for permission to use a United States district court to enforce a support order of a court of competent jurisdiction against an absent parent who is present in another State if the IV–D agency can furnish evidence to demonstrate that:

(1) The State in which the absent parent is present has not undertaken to enforce the order against the parent within 60 days of the receipt of a request by the originating State under uniform reciprocal enforcement of support procedures or other legal processes required by § 303.7(a)(3); and

(2) Use of the United States district court is the only reasonable method of enforcing the order.

(b) The applications shall be submitted to the Regional Office, using the forms prescribed, signed by the head of the IV–D agency or his designee, attesting to the following:

(1) The requesting IV–D agency has undertaken to obtain the assistance of the other State to enforce the order;

(2) The other State has failed to secure compliance with the order;

(3) The requesting IV–D agency has provided notice to the State-level central office of the IV–D agency of the other State 60 days or more after requesting the other State's assistance that it would request the Secretary to certify the case for use of a United States district court if the other State did not respond to the request for assistance within 30 days of the notice, and that an unsatisfactory response would not preclude a request to the Secretary. Copies of the original request, the notice, and any response thereto shall be furnished with the application.

(c) The Regional Office will review each application to determine if it meets the requirements of paragraphs (a) and (b) of this section. If a request meets these requirements, the case will promptly be certified for enforcement in the United States district court. If the request fails to meet these requirements, the application shall be denied and returned to the IV–D agency with an explanation of the refusal to certify.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302))

(The application process described in § 303.73 is not subject to OMB clearance because based on past experience fewer than ten applications to use the United States district courts to enforce support orders are expected in the foreseeable future.)

PART 304—FEDERAL FINANCIAL PARTICIPATION

§ 304.20 [Amended]

5. In 45 CFR 304.20, three citations are changed as follows:

(1) At § 304.20(b)(5)(iii), the reference to "§§ 302.35(e) and 302.70(f) of this chapter" is changed to read: "§ 303.70(e) of this chapter."

(2) At § 304.20(b)(6), the reference to "§ 302.71 of this chapter" is revised to read: "§ 303.71 of this chapter."

(3) At § 304.20(b)(7), the reference to "§ 302.72 of this chapter" is changed to read: "§ 303.73 of this chapter."

§ 304.28 [Removed]

6. In 45 CFR Part 304, § 304.28 is removed.

PART 305—AUDIT AND PENALTY

§ 305.20 [Amended]

7. In 45 CFR 305.20, the list of State plan requirements is amended by removing from the list the following item: "Safeguarding information. (45 CFR 302.18)"

§ 305.33 [Amended]

8. In 45 CFR 305.33, two changes are made as follows:

(1) At § 305.33(d), the reference to paragraph "(d)" of § 302.35 is removed. The reference to "§ 302.35(a)(2)" is retained.

(2) The existing § 305.33(h) is removed, and § 305.33(i) is redesignated as a new § 305.33(h).

§ 305.37 [Removed and reserved]

9. In 45 CFR Part 305, § 305.37 is removed and reserved.

§ 305.38 [Removed and reserved]

10. In 45 CFR Part 305, § 305.38 is removed and reserved.

§ 305.39 [Removed and reserved]

11. In 45 CFR Part 305, § 305.39 is removed and reserved.

PART 306—MEDICAL SUPPORT ENFORCEMENT

§ 306.11 [Amended]

12. In 45 CFR Part 306, the citation contained in § 306.11(c), *Safeguarding information* is changed from "§ 302.18 of this chapter" to read: "§ 303.21 of this chapter."

(Sec. 1102 of the Social Security Act, 49 Stat. 647 (42 U.S.C. 1302)

(Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement Program)

The Secretary has determined that this document is not a major rule as described by Executive Order 12291, because it does not meet any of the criteria set forth in Section 1 of the Executive Order. The Secretary certifies that because these regulations apply to States and will not have a significant economic impact on a substantial number of small entities, they do not require a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act of 1980.

Dated: April 5, 1982.

John A. Svahn,

Director, Office of Child Support Enforcement.

Approved: May 13, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-15416 Filed 6-7-82; 8:45 am]

BILLING CODE 4190-11-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 67

[CC Docket No. 80-286; FCC 82-242]

Amendment of the Commission's Rules and Establishment of a Joint Board

AGENCY: Federal Communications Commission.

ACTION: Decision and order amending separations manual.

SUMMARY: The Commission is adopting the Joint Board's recommendation with minor changes in order to allow interested states to proceed with plans for the sale of customer-premises equipment (CPE) prior to the previously adopted cap date of January 1, 1983. This will facilitate the Commission goal of a competitive market for CPE set out in the *Second Computer Inquiry.*

EFFECTIVE DATE: This Decision and Order shall be effective June 8, 1982.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Aileen Amarandos, Policy and Program Planning Division, Common Carrier Bureau, at (202) 632–6342.

SUPPLEMENTARY INFORMATION:

Decision and Order

Adopted: May 24, 1982.

Released: May 28, 1982.

By the Commission.

I. Background

1. The Federal-State Joint Board, established in this proceeding pursuant to section 410(c) of the Communications Act, 47 U.S.C. 410(c), was directed to prepare recommended changes in the Separations Manual. *Amendment of Part 67* (Notice of Proposed Rulemaking and Order Establishing a Joint Board), 78 FCC 2d 837 (1980). On November 18, 1981, in partial fulfillment of its task, the Joint Board formally recommended to the Commission a plan for phasing customer premises equipment (CPE) out of the jurisdictional separations process. *Amendment of Part 67* (Recommended Decision and Order), FCC 81–566 (released December 14, 1981). The Commission adopted this plan, with minor modifications, on February 24, 1982. *Amendment of Part 67* (Decision and Order), 89 FCC 2d 1 (1982). Subsequently, the Joint Board recommended an amendment to this plan which would allow individual states to approve or mandate an early freeze date for the identification of the CPE base amount by carriers under their jurisdiction to facilitate the initiation of CPE sales to subscribers prior to January 1, 1983.[1]

2. We recognized that the amendment could prove beneficial to the public interest if it facilitated the implementation of our detariffing objectives by removing disincentives to the timely initiation of CPE sale programs. We also noted that the amendment might ease the administrative burdens on state commissions by allowing them a certain flexibility in choosing the proceedings within which sale programs for particular carriers could be developed. However, we were also concerned that the introduction of a degree of state discretion into the otherwise uniform separations procedures might be ill-advised. Therefore, we invited comments from interested parties concerning the general value of such an amendment as well as the effect its adoption might have on states or carriers which did not choose to advance the CPE freeze date and on the integrity of the separations process itself. *Amendment of Part 67* (Second Further Notice of Proposed Rulemaking), FCC 82–143 (released March 30, 1982). Comments were filed on April 9, 1982 and replies on April 20, 1982, by a total of seven parties.[2]

3. We have now reviewed these pleadings and find that the amendment could benefit customers of many carriers that are anxious to sell CPE prior to January 1, 1983, while the detriments, if any, in terms of added administrative costs, inequities among customers of various carriers in different states, or threats to the essential uniformity of the separations process, will be slight. Therefore, we hereby adopt the Joint Board's recommendation, with minor modifications, to be effective upon publication in the **Federal Register.**

II. Comments and Discussion

4. AT&T recognizes that this amendment would not cause major problems, but argues against its adoption on the ground that the potential benefits are so minor that they do not outweigh even such modest drawbacks. All of the other commenting parties see a potential for significant benefits from the amendment, and urge its adoption. Centel, Continental and UTS indicate that their local telephone companies either have already developed CPE sale programs or are very interested in initiating such programs before the detariffing date of January 1, 1983. Similarly, USITA states that there is significant and widespread interest among independent telephone companies in CPE sales programs. ARINC, a major user of interstate telecommunications services, views the amendment as a means to accelerate the detariffing of non-traffic sensitive CPE and advance the movement toward cost-based interstate rates.[3] GTE says that,

[1] This is the date that has been set by the Commission for the detariffing of new CPE. *See* Second Computer Inquiry, 77 FCC 2d 384 (1980), *modified on reconsideration,* 84 FCC 2d 50 (1980), *further reconsideration,* 88 FCC 2d 512 (1981), *appeal pending sub nom.* CCIA v. FCC, Case No. 80-1471 (D.C. Cir. 1980).

[2] Pleadings were filed by Aeronautical Radio, Inc. (ARINC), American Telephone and Telegraph Company and the Associated Bell System Companies (Bell System), GTE Service Corporation and its affiliated domestic telephone companies (GTE), Central Telephone and Utilities Corporation (Centel), Continental Telephone Corporation (Continental), United States Independent Telephone Association (USITA), and United Telephone System, Inc. (UTS).

[3] ARINC also requests that the Commission require AT&T to submit a detailed plan showing how it proposes to reduce interstate rates commensurate with the decrease in the amount of separations costs that interstate services will have to bear as a result of the removal of CPE from separations. This request, which pertains to interstate rate levels, is not properly presented in this proceeding, which is intended to focus solely on certain aspects of jurisdictional cost separations procedures. Therefore, we will not address ARINC's rate reduction comments here.

inasmuch as the Commission has decided to deviate from actual book costs in its plan for removing CPE from separations, the amendment is an appropriate extension of that plan. GTE agrees with Centel and Continental that adoption of the amendment would facilitate the achievement of the Commission's detariffing objectives by enhancing the availability of terminal equipment for sale before January 1, 1983. These parties also agree that the Amendment would ease the administrative burdens that state commissions will face by giving them greater flexibility in choosing the most practical and efficient schedules for addressing the CPE sales plan proposals of various carriers.

5. AT&T maintains that it has a policy of not selling the majority of its terminal equipment to customers. Without more, this is certainly not a reason to unnecessarily retard the achievement of our detariffing objectives when it appears that there is substantial interest among independent telephone companies in beginning sale programs in advance of January 1, 1983. Although the time period for advancing the CPE freeze date is less than a year, it would be counterproductive to maintain disincentives to the initiation of sale programs that are ready to be implemented. We are also convinced that the amendment will be advantageous to state commissions in allowing them to conserve resources and conduct necessary investigations in the context of ongoing proceedings rather than requiring them to wait until after January 1, 1983 to review sale program proposals.

6. In response to specific questions that we posed in the Second Further Notice, each party has assessed the potential significance of various problems that might be occasioned by our adoption of the amendment. In particular, we were concerned that a modification of the Separations Manual to allow individual states to choose different early freeze dates for CPE base amounts might impair the general uniformity of separations procedures. AT&T cautions that deviations from uniformity could cause inadequate or excessive recovery from either the state or federal jurisdiction, and says that the introduction of any element of state discretion can create the risk of inconsistent allocations. For this reason, AT&T believes that the Joint Board's recommendation should not be adopted. However, AT&T also admits that inconsistent recovery need not result, as long as both jurisdictions involved recognize the resulting allocations. AT&T also indicates that no real long-term harm to the principle of uniformity would ensue if we clearly reaffirm our commitment to it. GTE, Centel, Continental, UTS and USITA believe that the amendment would not have any significant impact on uniformity, especially since, if the amendment has only prospective effect, the time frame within which deviations could occur is significantly less than a year. After January 1, 1983, uniform procedures would again apply.[4]

7. We are persuaded that the actual impact of this amendment on basic uniformity will be minimal. AT&T, Centel, USITA and UTS have specifically requested that the amendment be made effective prospectively only. There is no reasonable basis to do otherwise. Since we intend to make the amendment effective only on a prospective basis, the option for deviation from a uniform date will terminate within a few months of its availability, and, after January 1, 1983, all carriers will again be subject to uniform procedures. Also, we do not anticipate any difficulty in coordinating recognition of the resulting allocations with state authorities. However, we stress that we adopt the amendment as no more than a temporary, transitional measure which appears to be appropriate under unique circumstances. As we stated in our Decision and Order approving the CPE plan, in order to assure the orderly and equitable removal of CPE from separations, certain adjustments to conventional separations procedures must be tolerated for an interim period. Therefore, our adoption of a transitional plan does not indicate a general contravention of basic separations principles. As part of this transition mechanism, the option allowing an early freeze date is not intended to reflect a departure from the essential uniformity of separations procedures. We emphasize that long term, more permanent changes to separations procedures must conform to the principle of uniformity. Our approval of this amendment is not to be interpreted as a willingness to introduce further elements of state choice.

8. AT&T has also contended that the amendment would not confer the presumed benefits of state sale programs evenhandedly on all ratepayers. This would result from the different legal and practical problems regarding sale programs that exist in each individual state. However, as AT&T admits, such a lack of evenhandedness might occur even without the amendment. We agree with GTE that evenhandedness is not the proper measure of the public interest in this matter, and that the public would best be served by the earliest possible removal of barriers to sale programs, even if not all members of the public are given the opportunity to purchase terminal equipment at precisely the same time.

9. Most of the parties cite no substantial adverse effects of early freeze dates on non-opting carriers and non-opting states. Continental observes that the use of early freeze dates will have some impact on the level of toll revenue requirements on January 1, 1983, but UTS points out that, as long as all carriers are subject to the January 1, 1983 freeze date, the overall impact on the toll revenue pool will be *de minimis*.

10. The remaining issue is whether each state should be restricted to one early freeze date for all carriers under its jurisdiction or whether separate dates may be chosen for different carriers. GTE, USITA and Centel argue that, due to the unique circumstances of each carrier, each state should be permitted to set separate early freeze dates for individual companies. They see no particular implementation problems with this approach. Centel and GTE further argue that an early freeze date should be used only with the concurrence of the affected carrier. USITA and GTE have proposed modifications to the wording of the amendment to accomplish this result.[5] While UTS agrees that individual carriers should be allowed to initiate a request for an early freeze date, it recommends that each state be permitted to adopt only one date for all carriers under its jurisdiction to prevent unnecessary operational problems for affiliated companies with consolidated accounting and data processing resources. Continental also believes that all carriers within a single jurisdiction should be treated alike.

11. The primary objective of the amendment would be to facilitate the efficient implementation of sale programs. This objective would be

[4] In the context of the issue of uniformity, UTS has requested clarification of the matter of depreciation and expense levels for carriers subject to an early freeze date. The amendment, as recommended by the Joint Board, specifies that "expenses and reserves shall be frozen as of the plant freeze date in a manner consistent with the addendum." This will best preserve the uniform application of the plan and protect the interests of non-opting carriers.

[5] USITA proposes the deletion of the words "so directed or" at the beginning of the first sentence of the amendment. GTE advocates the addition of the words "with the concurrence of such company" at the end of that same sentence.

frustrated if the state commissions were prevented from choosing an early freeze date, in the context of an on-going proceeding involving a particular carrier, until all relevant issues regarding sale programs for the other carriers in the state had been resolved. This is especially true given the short time available for setting early freeze dates. It appears that the major objection to separate early dates relates to the particular needs of affiliated carriers with shared resources. We believe that the problems faced by such carriers can be alleviated if the concurrence of the carrier is required before an early date is set. If certain affiliated carriers encounter substantial administrative difficulties in implementing separate freeze dates, the requirement of their concurrence would allow them time to develop and present to their state commissions a coordinated sale program. Similarly, the requirement for carrier concurrence would assist affiliated carriers in different states in coordinating programs and avoiding burdensome operational tangles. Therefore, we will permit each state to set different dates for different carriers, but will specify that the state commission must have the concurrence of the affected company to set any date. Adding this provision will not substantially change the Joint Board's proposal since the Board's recommended language requires that the state commission order directing or authorizing a CPE sale program be administratively and judicially final before the freeze date can be advanced. This language would make it impossible to advance the freeze date if the carrier involved appealed the state commission order because final resolution of the appeal would probably not be possible before the presently established freeze date of January 1, 1983. Toward this end, we will adopt GTE's proposed changes, since they interfere the least with the sense of the Joint Board's original recommendation. These changes are set forth in Appendix A to this Order.

12. AT&T has also raised the issue of the additional costs that it will have to bear, as a result of the amendment, in its role as the administrator of the separations and settlements process. As GTE notes, AT&T does admit that it is unable to quantify these additional costs and that they are not likely to be substantial. We have determined that the benefits of the amendment are potentially significant, and, in the absence of a more strenuous and better supported objection by AT&T regarding the added expense of implementing early freeze dates, we conclude that the benefits will outweigh the costs and that the amendment should be adopted.

13. As previously mentioned, this amendment to the Separations Manual will be effective June 8, 1982. Section 553(d) of the Administrative Procedure Act (APA), 5 U.S.C. 553(d), requires that substantive rules be published in the **Federal Register** or served at least 30 days before their effective date. The APA provides that substantive rules granting or recognizing an exemption or relieving a restriction are exempt from the requirement of publication 30 days prior to their effective date. 5 U.S.C. 553(d)(1). The present changes in the Separations Manual qualify for this exemption. Without these changes the CPE accounts of all telephone companies would be frozen for separations purposes as of January 1, 1983. The modifications we are now adopting lift this requirement allowing states the option of advancing the freeze date with the consent of the carriers involved.

14. These modifications to the Separations Manual also qualify for the good cause exemption from the 30 day notice requirement set out in section 553(d)(3) of the APA.[6] The basic purpose of the requirement for a delayed effective date is to allow affected parties time to prepare for compliance with the new rule. *American Federation of Government Employees v. Block*, 665 F.2d 1153 (D.C. Cir. 1981); *Rowell v. Andrus*, 631 F.2d 699 (10th Cir. 1980). This amendment does not impose any new requirements. It merely provides the states and the telephone companies they regulate with some degree of flexibility. The amendment specifically requires consent by the telephone companies involved before a state can advance the CPE account freeze date. Thus, little purpose is served in this case by delaying the effective date since the states and the local telephone companies are merely being given an option which they may exercise or not as they see fit. While delaying the effective date of this amendment would provide no additional protection to the states and telephone companies they regulate, it would effectively prevent interested states and telephone companies from going forward with programs for the sale of CPE during the initial 30 days following publication in the **Federal Register**. As discussed above, such programs for the sale of CPE will further the development of a fully competitive market for CPE, and we believe that allowing interested states and telephone companies to go forward with such programs immediately is in the public interest.

III. Ordering Clauses

15. Accordingly, pursuant to sections 4(i), 205(a), 221(c), 403 and 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 205(a), 221(c), 403 and 410(c), as amended, it is ordered, That the recommendation of the Federal-State Joint Board for an amendment to Part 67 of the Commission's Rules, as modified herein and set forth in Appendix A of this Decision and Order is adopted, effective upon publication of this Decision and Order in the **Federal Register**.

16. It is further ordered, that the Secretary shall cause this Decision and Order to be published in the **Federal Register**, and that this proceeding remain subject to further order by the Commission.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Note.—Incorporation by Reference provisions were approved by the Director of the Federal Register on October 1, 1981.

Note.—The Separations Manual is Incorporated by Reference and the Commission is adopting an amendment to the Separations Manual as set forth below.

Appendix A

Amendment to the Addendum to the Separations Manual[1]

Immediately preceding the last sentence of the paragraph entitled "GENERAL," insert the following:

If so directed or authorized by an administratively and judicially final order or action issued or taken by the State Commission having jurisdiction in any state, a freeze date earlier than December 31, 1982 may be adopted for any company operating within the state *with the concurrence of such company*. The amount of investment recorded for separations purposes as of the freeze date shall be deemed to be the amount of investment to be used for separations until January 1, 1983. Thereafter, the provision of this Manual addendum shall apply as set forth hereafter. Expenses, taxes and reserves shall be frozen as of the plant freeze date in a manner consistent with the addendum.

[FR Doc. 82-15299 Filed 6-7-82; 8:45 am]

BILLING CODE 6712-01-M

[6] The standard for determining good cause for failure to provide 30 days notice before the effective date of a rule is different from the standard for determining when good cause exists to forgo the initial notice and opportunity for comment. *American Federation of Government Employees v. Block*, 665 F.2d 1153 (D.C. Cir. 1981).

[1] Modifications to the Joint Board's original recommendation are underscored.

47 CFR Part 74

[Gen. Docket No. 81-272; RM-2667]

Experimental, Auxiliary, and Special Broadcast and Other Program Distributional Services; Amendment of the Commission's Rules To Make a Certain MHz Band Available for Television Pickup on a Secondary Basis to the Local Television Transmission Service; Correction

Released: June 1, 1982.

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule which appeared at page 955 in the **Federal Register** of Friday, January 8, 1982, (47 FR 953) which contained amendments to certain MHz bands available for television pickup on a secondary basis to the local TV transmission service. This action is necessary to reinstate two frequency bands which were inadvertently omitted from the list in § 74.602.

FOR FURTHER INFORMATION CONTACT: Maureen Cesaitis, Spectrum Utilization Branch, Spectrum Management Division, Office of Science and Technology, (202) 653–8164.

SUPPLEMENTARY INFORMATION: In the Matter of Amendment of Part 2 of the Commission's Rules governing Frequency Allocations, Part 21 of the Commission's Rules governing Domestic Public Fixed Radio Service, and Part 74 of the Commission's Rules governing Experimental, Auxiliary, and Special Broadcast Services to make the 6425–6526 MHz band available for Television Pickup on a secondary basis to the Local Television Transmission Service.

1. On January 8, 1982, the Commission released a Report and Order in the aforementioned proceeding. Two frequency bands were accidently omitted from paragraph C of Appendix B.

2. Accordingly, the Federal Communications Commission is correcting 47 CFR 74.602(a) to read as follows:

§ 74.602 Frequency assignment.

(a) * * *

Band B	
MHz	
6425–6450[1]	6950–6975
6450–6475[1]	6975–7000
6475–6500[1]	7000–7025
6500–6525[1]	7025–7050
6875–6900	7050–7075
6900–6925	7075–7100
6925–6950	7100–7125

* * * * *

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-15541 Filed 6-7-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 371

Fraser River Sockeye and Pink Salmon Regulations

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of final rule.

SUMMARY: NOAA issues this notice of final rule to reprint in the **Federal Register** the International Pacific Salmon Fisheries Commission's 1982 regulations, which implement the Convention for Protection, Preservation, and Extension of the Sockeye Salmon and Pink Salmon Fisheries of the Fraser River System between the United States and Canada (Convention). This notice and reprinting discharges a foreign affairs obligation of the United States. These regulations are necessary to achieve the objectives of the Convention in 1982. The intended effect of the regulations is to ensure adequate escapement of each spawning unit and the equitable division of catch between U.S. and Canadian fishermen. These rules do not apply to Treaty Indians exercising treaty-secured fishing rights at the tribes' usual and accustomed fishing places, who will be fishing under regulations promulgated by the Department of the Interior.

EFFECTIVE DATE: 12:01 a.m. on June 20, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. H. A. Larkins, Regional Director, 7600 Sand Point Way NE, BIN C15700, Seattle, Washington 98115; telephone: 206–527–6150.

SUPPLEMENTARY INFORMATION: On February 25, 1982, the International Pacific Salmon Fisheries Commission (the Commission) forwarded proposed regulations for the 1982 commercial fishing season for sockeye in Convention Waters to the Government of the United States for approval, as required by Article VI of the Convention for Protection, Preservation, and Extension of the Sockeye Salmon and Pink Salmon Fisheries of the Fraser River System (the Convention) between the United States and Canada. The United States has provisionally approved those regulations, with the exception that the regulations would not apply to Treaty Indians exercising treaty-secured fishing rights at the tribes' usual and accustomed fishing places. Treaty Indian fisheries are regulated by 25 CFR Part 256, published by the Department of Interior.

Regulations for 1982 are similar to regulations adopted by the Commission in previous years to implement the Convention. The regulations for 1981 were published at 46 FR 32866 on June 25, 1981. The 1982 regulations amend the 1981 schedules of fishing by gillnets, purse seines and reef nets to 1982 calendar dates.

The 1982 regulations for sockeye salmon fishing provide for a 7-week season with one day of fishing per week for the all citizen, or non-Indian, fishery. This preseason schedule will undoubtedly be adjusted during the season by the Commission to meet the following paramount objectives of the Convention with Canada: (1) conservation, i.e., escapement through all fisheries of adequate numbers of the various races of salmon for spawning purposes, and (2) equal division of Convention Waters catches between fishermen of the two nations. Such changes in the fishing schedule often occur as the season progresses because preseason estimates of fish abundance (run size), catches, racial compositions of the salmon runs, migration routes, and projected timing of the runs may vary substantially from actual observations during the season.

These regulations for the all-citizen fisheries will be effective in High Seas Convention Waters and in Convention Waters inside the Bonilla Point-Tatoosh Island line. These regulations are necessary to achieve the objectives of the Convention and provide for a rational fishery by U.S. fishermen.

50 CFR Part 371 gives notice of the effectiveness and content of regulations adopted by an international commission and in force for the United States through the operation of the Convention. Reprinting the Commission's regulations in the **Federal Register** helps fulfill the United States treaty obligation to make the Commission's regulations effective and, as such, involves a foreign affairs function not subject to the requirements of E.O. 12291 or the Regulatory Flexibility Act.

List of Subjects in 50 CFR Part 371

Fish, Fishing, Fisheries, International organizations, Reporting requirements.

Dated: June 2, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

PART 371—FRASER RIVER SOCKEYE AND PINK SALMON REGULATIONS

50 CFR Part 371 is amended as follows:

1. The authority citation for Part 371 reads as follows:

Authority: Sockeye Salmon or Pink Salmon Fishing Act of 1947, 16 U.S.C. 776–776f.

2. Section 371.9 and Appendix A are revised to read as follows:

§ 371.9 Commission regulations.

Appendix A sets forth regulations of the Commission for the 1982 fishing season. These regulations, as may be modified from time to time by emergency orders of the Commission and disseminated under § 371.6 of this part, are the "Regulations of the Commission," violation of which is unlawful under the Act.

Appendix A—International Pacific Salmon Fisheries Commission Regulations

1. No person shall fish for sockeye or pink salmon with nets from the 20th day of June, 1982 to the 24th day of July, 1982, both dates inclusive.

2. (1) No person shall fish for sockeye or pink salmon with purse seines in Puget Sound Salmon Management and Catch Reporting Areas 4B, 5, 6, 6A, 6C, 7, 7A, 7B and 7D:

(a) From the 25th day of July, 1982 to the 14th day of August, 1982, both dates inclusive, except from five o'clock in the forenoon to half past nine o'clock in the afternoon of Monday of each week; and

(b) From the 15th day of August, 1982 to the 11th day of September, 1982, both dates inclusive, except from five o'clock in the forenoon to nine o'clock in the afternoon of Monday of each week.

(2) No person shall fish for sockeye or pink salmon with reef nets in the waters described in subsection (1) of this section:

(a) From the 25th day of July, 1982 to the 31st day of July, 1982, and from the 8th day of August, 1982 to the 14th day of August, 1982, all dates inclusive, except from seven o'clock in the forenoon to half past nine o'clock in the afternoon of Sunday of each week; and

(b) From the 1st day of August, 1982 to the 7th day of August, 1982, both dates inclusive, except from seven o'clock in the forenoon to eight o'clock in the afternoon of Sunday; and

(c) From the 15th day of August, 1982 to the 21st day of August, 1982, and from the 29th day of August, 1982 to the 4th day of September, 1982, all dates inclusive, except from six o'clock in the forenoon to half past seven o'clock in the afternoon of Sunday of each week; and

(d) From the 22nd day of August, 1982 to the 28th day of August, 1982, and from the 5th day of September, 1982 to the 11th day of September, 1982, all dates inclusive, except from seven o'clock in the forenoon to nine o'clock in the afternoon of Sunday of each week.

(3) No person shall fish for sockeye or pink salmon with gill nets in the waters described in subsection (1) of this section:

(a) From the 25th day of July, 1982 to the 31st day of July, 1982, and from the 8th day of August, 1982 to the 14th day of August 1982, all dates inclusive, except from seven o'clock in the afternoon of Monday to half past nine o'clock in the forenoon of Tuesday of each week; and

(b) From the 1st day of August, 1982 to the 7th day of August, 1982, both dates inclusive, except from seven o'clock in the afternoon of Sunday to half past nine o'clock in the forenoon of Monday; and

(c) From the 15th day of August, 1982 to the 21st day of August, 1982, and from the 29th day of August, 1982 to the 4th day of September, 1982, all dates inclusive, except from six o'clock in the afternoon of Sunday to nine o'clock in the forenoon of Monday of each week; and

(d) From the 22nd day of August, 1982 to the 28th day of August, 1982, and from the 5th day of September, 1982 to the 11th day of September, 1982, all dates inclusive, except from six o'clock in the afternoon of Monday to nine o'clock in the forenoon of Tuesday of each week.

3. No person shall fish for sockeye or pink salmon with commercial trolling gear in the waters of Puget Sound Salmon Management and Catch Reporting Areas 4B, 5 and 6C from the 25th day of July, 1982 to the 11th day of September, 1982, both dates inclusive, except from Monday through Friday of each week on those days when purse seine fishing is permitted within that area.

4. No person shall fish for sockeye or pink salmon with nets in that portion of Puget Sound Salmon Management and Catch Reporting Area 7B easterly of a line drawn from the southern tip of Lummi Peninsula, thence to the northwestern tip of Portage Island, thence following the westerly shoreline of Portage Island to the highest promontory of Point Frances, thence in a straight line to the red buoy at the northern end of Eliza Island, thence in a straight line to the northern tip of Eliza Island, thence along the eastern shoreline of Eliza Island to Eliza Rock Light, thence in a straight line to the northern tip of Vendovi Island, thence following the established boundary of Area 7B to March Point on Fidalgo Island, except for those sockeye or pink salmon taken in gill nets having mesh of not less than 7¾ inches as authorized for the taking of chinook salmon by the Director of Fisheries of the State of Washington, from the 25th day of July, 1982 to the 4th day of September, 1982, both dates inclusive.

5. (1) No person shall fish for sockeye or pink salmon with nets in that portion of the waters described in subsection (1) of section 2 lying northerly and westerly of a straight line drawn from Iwersen's Dock on Point Roberts in the State of Washington to Georgina Point Light at the entrance to Active Pass in the Province of British Columbia from the 29th day of August, 1982 to the 4th day of September, 1982, and from the 3rd day of October, 1982 to the 9th day of October, 1982, all dates inclusive.

(2) No person shall fish for sockeye or pink salmon with nets in that portion of the waters described in subsection (1) of section 2 lying westerly of a straight line drawn from the low water range marker in Boundary Bay on the International Boundary through the east tip of Point Roberts in the State of Washington to the East Point Light on Saturna Island in the Province of British Columbia from the 5th day of September, 1982 to the 2nd day of October, 1982, both dates inclusive.

6. The foregoing recommended regulations shall not apply to the following waters:

(1) Puget Sound Salmon Management and Catch Reporting Areas 6B, 6D and 7C.

(2) Preserves previously established by the Director of Fisheries of the State of Washington for the protection of other species of food fish.

7. All times hereinbefore mentioned shall be Pacific Daylight Savings Time.

[FR Doc. 82-15480 Filed 6-7-82; 4:33 pm]

BILLING CODE 3510-22-M

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50 CFR Part 674

High Seas Salmon Fishery Off Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce issues this notice of closure of the Southeast Alaska commercial salmon fishery in the fishery conservation zone for ten days, beginning at 12:01 a.m. June 7 local time and continuing through 11:59 p.m., June 16, 1982. The closure is necessary to conserve chinook salmon stocks that contribute to the Alaska, Oregon, and Washington salmon fisheries. This closure complements an identical closure in Alaska territorial waters, and coordinates with a similar closure in the Canadian fishery zone.

DATE: This notice is effective from 12:01 a.m., Pacific Daylight Time (P.d.t.), June 7, 1982, until 11:59 p.m., (P.d.t.), June 16, 1982.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey, 907–586–7221.

SUPPLEMENTARY INFORMATION: Salmon fishing in the fishery conservation zone (FCZ) off Alaska is managed under the Fishery Management Plan for the High Seas Salmon Fishery off the Coast of Alaska East of 175° East Longitude (FMP), developed by the North Pacific Fishery Management Council (Council) and implemented by NOAA through regulations appearing at 50 CFR Part 674 (46 FR 33041, June 26, 1981; 46 FR 57299, November 23, 1981). Section 674.23 describes procedures to adjust seasons and areas through field orders. The Council and Alaska State Board of Fisheries (Board) have jointly

recommended to the Secretary of Commerce (Secretary) that the 1982 harvest guideline for the southeast Alaska chinook salmon commercial fisheries be 255,500 fish, and that any inseason closure necessary to achieve that goal be coordinated with an expected closure of the Canadian ocean troll salmon fishery. The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), concurred with the Council and Board and announced his intent to manage the 1982 southeast Alaska salmon fishery in the FCZ by means of inseason adjustments to achieve a total chinook salmon harvest of 255,500 fish. The rationale for the Council and Board's recommendation and the Assistant Administrator's concurrence was published by notice in the **Federal Register** on May 14, 1982 (47 FR 20830).

The same notice also announced and invited comments on the Secretary's decision to close the southeast Alaska ocean salmon commercial fishery in the FCZ for ten days from June 7 through June 16. This closure is necessary to achieve the harvest guideline level of 255,500 chinook salmon. It complements an identical closure within Alaska territorial waters and coordinates with a closure during June 10 through June 23 of the Northern British Columbia troll fishery. No comments concerning the proposed closure were received. In taking this action, the Secretary finds, according to the criteria in 50 CFR 674.23(a)(1), that the condition of the chinook salmon resource is worse than anticipated when the FMP was implemented, and that this condition requires this closure.

This closure will only be effective after filing this notice for publication with the Office of the Federal Register and after publicizing the closure for 48 hours through Alaska Department of Fish and Game procedures, under 50 CFR 674.23(b)(2).

The chinook salmon resource will be subject to damage by overfishing unless this order takes effect promptly. The Assistant Administrator for Fisheries finds for good cause that there should be no delay in its effective date, and therefore waives the 30-day delayed effectiveness period under the Administrative Procedure Act.

This action is taken under the authority of regulations specified at 50 CFR 674.23, and is taken in compliance with Executive Order 12291. The action is covered by the Regulatory Flexibility Analysis prepared for the authorizing regulations.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 674

Administrative practice and procedure, Fish, Fisheries, Fishing, Reporting requirements.

Dated: June 3, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-15409 Filed 6-3-82; 4:50 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 47, No. 110
Tuesday, June 8, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 340

Seasonal, On-Call and Intermittent Employment

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management proposes to add a new subpart to its regulations to address employment on other than a full-time basis, i.e. seasonal, on-call and intermittent. Part-time employment is already covered in the regulations. This addition will authorize agencies to use seasonal, on-call and intermittent employment in accordance with the terms and conditions to be set out in the Federal Personnel Manual, Chapter 340.

DATE: Comments must be received on or before August 9, 1982.

ADDRESS: Send or deliver written comments to: Office of Policy Analysis and Development, Staffing Group, Office of Personnel Management, 1900 E Street NW., Room 6526, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT:
Ellen Russell, (202) 632–6817.

SUPPLEMENTARY INFORMATION:
Agencies use seasonal, on-call and intermittent employment in order to match staffing and workload levels. Seasonal employment enables agencies to develop an experienced cadre of career employees to perform work characterized by seasonal fluctuations, for example, in parks and forests, tax and passport offices. On-call employment enables agencies to staff up readily in rapdily order to meet unpredictable workload increases, for example, in aircraft and ship repair facilities. Intermittent employment enables agencies to accomplish work which, by its nature, cannot be scheduled in advance.

E.O. 12291 Federal Regulation

OPM has determined that this is not a major rule for the purposes of E.O. 12291, Federal Regulation, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation applies only to Federal agencies.

List of Subjects in 5 CFR Part 340

Government employees.

Office of Personnel Management.
Donald J. Devine,
Director.

Accordingly, the Office of Personnel Management proposes to amend Title 5, Code of Federal Regulations, as follows:

(1) The title of Part 340 is revised to read as follows:

PART 340—OTHER THAN FULL-TIME CAREER EMPLOYMENT (PART-TIME, SEASONAL, ON-CALL AND INTERMITTENT)

(2) The heading of Subpart A is revised to read as follows:

Subpart A—Principal Statutory Requirements—Part-Time Employment

(3) The heading of Subpart B is revised to read as follows:

Subpart B—Regulatory Requirements—Part-Time Employment

(4) A new subpart C is added to read as follows:

Subpart C—Regulatory Requirements—Seasonal, On-Call and Intermittent Employment

Sec.
340.301 Definitions.
340.302 Appropriate use.

Authority: 5 U.S.C. 3301, 3302.

§ 340.301 Definitions.

(a) Seasonal employment means any annually recurring period of employment of less than 2080 hours per year in which employees are placed in a nonpay status during the year in accordance with conditions established at the time of appointment.

(b) On-call employment means employment on a work-as-needed basis of less than 2080 hours per year in which employees are placed in a nonpay status in accordance with conditions established at the time of appointment.

(b) On-call employment means employment on a work-as-needed basis of less than 2080 hours per year in which employees are placed in a nonpay status in accordance with conditions established at the time of appointment. These conditions of employment include eventual conversion to full-time employment.

(c) Intermittent employment means employment without a scheduled tour of duty.

§ 340.302 Appropriate use.

Agencies are authorized to employ seasonal, on-call and intermittent personnel serving under career or career-conditional appointments, in accordance with procedures published in Chapter 340 of the Federal Personnel Manual. That chapter is titled, "Other Than Full-Time Career Employment (Part Time, Seasonal, On-Call and Intermittent)."

[FR Doc. 82-15836 Filed 6-7-82; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 1, 274, 284, 375 and 381

[Docket No. RM82-30-000]

Fees Applicable to the Natural Gas Policy Act

Issued: June 2, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations to establish fees for services and benefits

provided by the Commission under its jurisdictional statutes. The Commission is authorized by the Independent Office Appropriations Act of 1952 (IOAA) to establish fees for services and benefits it provides. The fees are being proposed in a series of proposed rules, each rule relating to a different type of regulated entity or jurisdictional subject area.

This proposed rule would establish fees for services and benefits provided under the Natural Gas Policy Act (NGPA) in Part 381 of the Commission's regulations. The rule would require the payment of a fee upon the filing of (1) an application for adjustment under section 502(c) of the NGPA, (2) an application for a well-category determination by a jurisdictional agency, (3) an initial report for transactions authorized under Title III of the NGPA, (4) an extension report for transactions authorized under Title III of the NGPA, and (5) a request for interpretation of the NGPA rendered by the Office of the General Counsel.

DATES: Comments must be submitted to the Secretary of the Commission by July 19, 1982.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary, Room 9310, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8400.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations to establish fees for services and benefits provided by the Commission under its jurisdictional statutes. The fees are being proposed in a series of proposed rules, each rule relating to a different regulated entity, or jurisdictional subject area. By proposing fees in a series of individual rulemakings, the Commission intends to identify clearly each category of fees and to focus public comments. Nevertheless, the proposals are the product of a comprehensive examination of potential fees associated with all the different functions and services performed by the Commission. The Commission will consider issuing a consolidated final rule establishing fees for all services and benefits.

This proposed rule would establish fees for services and benefits provided under the Natural Gas Policy Act of 1978 (NGPA)[1] in Part 381 of the Commission's regulations. The rule would require the payment of a fee upon the filing of (1) an application for adjustment under section 502(c) of the NGPA, (2) an application for a well-category determination by jurisdictional agencies, (3) an initial report for transactions authorized under Title III of the NGPA, (4) an extension report for transactions authorized under Title III of the NGPA, and (5) a request for interpretation of the NGPA rendered by the Office of the General Counsel under 502(c).

The Commission is authorized by the Independent Offices Appropriations Act of 1952 (IOAA)[2] to establish fees for services and benefits it provides. The IOAA provides in pertinent part:

> [A]ny work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility performed, furnished, provided, granted, prepared, or issued by any Federal agency * * * to or for any person * * * shall be self-sustaining to the full extent possible, and the head of each Federal agency is authorized by regulation * * * to prescribe therefore such fee, charge, or price, if any, which he shall determine, in case none exists, or redetermine, in case of an existing one, to be fair and equitable taking into consideration the direct and indirect costs to the Government, value to the recipient, pubic policy or interest served, and other pertinent facts, and any amounts so determined or redetermined shall be collected and paid into the Treasury as miscellaneous receipts * * *

The principal agency interpretation of the IOAA is Bureau of the Budget Circular A.25[3] which states that a fee should be assessed against each identifiable recipient of a measurable unit or amount of Government service or property from which such recipient derives a special benefit.[4]

In accordance with the IOAA and authoritative interpretations of that statute, the Commmission, in establishing any fee, must:[5]

A. Identify the service for which the fee is to be assessed;

B. Explain why that particular service benefits an identifiable recipient more than it benefits the general public;

C. Base the fee on as a small a category of service as practical; and

D. Demonstrate what direct and indirect costs are incurred by the Commission in rendering the service, and show that those costs are incurred in connection with the service rendered the beneficiary.

II. Discussion

The Commission believes that the fees set forth in this proposed rule would meet the four requirements outlined above.

A. Identification of Services

The categories of service and benefits under the NGPA for which the Commission would propose a fee are the following:

1. Adjustments requested under section 502(c) of the NGPA, including exemptions from incremental pricing, filed in accordance with § 1.41;

2. Review of jurisdictional agency well-category determinations under section 503 of the NGPA filed in accordance with § 274.104;

3. Review of initial reports under Title III of the NGPA filed in accordance with §§ 284.106, 284.126, 184.148 and 284.163;

4. Review of extension reports under Title III of the NGPA filed in accordance with §§ 284.106, 284.126, and 284.148; and

5. Interpretations of the NGPA rendered by the Office of the General Counsel, requested in accordance with § 1.42.

In this rulemaking, the Commission is not proposing to charge fees for other actions it takes to implement its responsibilities under the NGPA. These actions are discussed in Subsection B of this discussion.

B. Special Benefits to Indentifiable Recipients

In delineating the services or benefit for which agencies are permitted to charge under the terms of the IOAA, Budget Circular A-25 states that a fee may be charged to an identifiable recipient who derives a special benefit from a Government service.[6] In addition,

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[1] 15 U.S.C. 3301-3432.

[2] 31 U.S.C. 483a.

[3] Bureau of the Budget Circular A-25 (September 23, 1959). This intrepretation has been quoted by the U.S. Supreme Court as "the proper construction of the act," in FPC v. New England Power Co., 415 U.S. 345, 351 (1974).

[4] Budget Circular A-25 at 1-2: *General Policy.* A reasonable charge * * * should be made to each identifiable recipient for a measurable unit or amount of Government service or property from which he derives a special benefit * * * For example, a special benefit will be considered to accure and a charge should be imposed when a Government-rendered service: (a) Enables the beneficiary to obtain more immediate or substantial gains or values (which may or may not be measurable in monetary terms) than those which accrue to the general public (*e.g.*, receiving a patent, crop insurance, or a license to carry on a specific business); or (b) Provides business stability or assures public confidence in the business activity of the beneficiary (*e.g.*, certificates of necessary and convenience for airline routes, or safety inspections of craft) * * *

[5] See, National Cable Television Association, Inc. v. United States, 415 U.S. 336 (1974); FPC v. New England Power Co., 415 U.S. 345 (1974); Mississippi Power & Light v. NRC, *cert. denied*, 444 U.S. 1102 (1980); National Cable Television Association Inc. v. FCC, 554 F.2d 1094 (D.C. Cir. 1976); Electronic Industries Association v. FCC, 544 F. 2d 1109 (D.C. Cir. 1976); National Association of Broadcasters v. FCC, 554 F. 2d 1118 (D.C. Cir. 1976); Capital Cities Communications, Inc. v. FCC, 554 F. 2d 1135 (D.C. Cir. 1976).

[6] Budget Circular A-25 at 1-2.

the circular indicates that a "special benefit" has accrued if the recipient obtains "more immediate or substantial gains or values * * * than those which accrue to the general public." [7] Any fee charged under the IOAA is not rendered invalid because the public may also enjoy incidental benefits which flow from the service provided the recipient by the agency.[8] However, an agency may not charge for its services "when the identification of the ultimate beneficiary is obscure and the service can be considered as benefitting broadly the general public."[9]

The proposed rule complies with these requirements because the services for which fees would be charged under this rule provide special benefits to the applicants who invoke the Commission's procedures. An adjustment under section 502(c) of the NGPA affords the applicant relief from otherwise applicable rules or orders. This category of adjustments includes exemptions from incremental pricing which afford the applicant relief from the economic burden of paying surcharges.

Well-category determinations authorized under section 503 determine the maximum lawful price applicable to the sale of natural gas and permit the seller to sell the gas at that price. If producers wish to sell the gas at the prices authorized by sections 102, 103, 107 or 108 of the NGPA, they must submit an application for a determination.

The Commission, under Title III of the NGPA, authorizes interstate pipelines to transport gas, and intrastate pipelines to sell or transport gas, for a period up to two years on a self-implementing basis, without subjecting such transactions to the Commission's jurisdiction under the Natural Gas Act. Interstate pipelines benefit from this program by being able to carry on the designated transactions without the need for prior Commission approval. However, the pipelines which utilize the program and engage in these specific transactions are required to submit reports as specified in Part 284 of the Commission's regulations describing with transactions they had undertaken under the program. These reports are subsequently reviewed by the Commission. Since the pipelines filing reports are the ones which have utilized the program, they are the recipients of the benefits. Fees are proposed to be collected with these reports. Fees for other NGPA Title III transactions which require prior Commission approval will be proposed in a subsequent rulemaking.

The Commission also proposes a fee to be collected with reports requesting extensions of any self-implementing Title III authorizations. These fees will be assessed in the same manner as for initial authorizations.

The Commission's Office of the General Counsel provides, at the request of any person, interpretations of the NGPA and staff analyses of how the statute or the underlying rules apply to a particular set of circumstances or facts. The information and analysis provide a benefit to the requester since they furnish guidance which may be used by the recipient to assist its decision-making and planning of transactions or activities affected by the NGPA.

In these cases, the Commission believes that each identifiable applicant for these kinds of Commission services derive more substantial benefits than those benefits accruing to the general public. They are, therefore, the recipients of special benefits from the Commission. The Commission proposes to assess against any individual or entity seeking these services or authorizations, a fee designed to recover the costs associated with providing that service.

As mentioned above, the Commission is not proposing in this rulemaking to charge fees for other actions it takes relating to the NGPA. These actions include preliminary and formal enforcement investigations, settlement and administrative litigation, news releases, and litigation in the courts. Generally, the recipients of these services are not readily identifiable. In addition, the Commission does not propose, as a general rule, to recover costs associated with rulemakings. However, in some circumstances, fees may be appropriate for rulemakings. In this proposed rule, for example, the Commission includes a fee which covers the costs of rulemakings incurred in connection with well-category determinations for certain gas qualifying under section 107 of the NGPA.

C. Smallest Practical Unit

In designing a fee schedule, the IOAA requires the Commission to base fees on the smallest unit of category of service or benefit practical. In remanding fees established by the Federal Communications Commission, the Court of Appeals for the D.C. Circuit set forth the general rule:

> [W]e interpret the statute and the Supreme Court decisions to require reasonable particularization of the basis for the fees, accomplished by an allocation of costs to the smallest unit that is *practical*. In most cases, we expect this unit will be classes of carriers or applicants or grantees or services which the Commission has already singled out for separate treatment in its 1975 fee schedule. Classification is always a difficult problem, involving as it does the drawing of lines; but the solution is not to group dissimilar entities together. The Commission must examine its expenses and set forth the maximum particularization of costs which it conveniently can make, so that the correctness of its actions can be reviewed. * * *
>
> Many of the expenses will no doubt separate naturally among classes of carriers and services * * *" (italics added).[10]

The Commission recognizes that there may be significant differences in the costs incurred for individual filings or applications which are submitted for approval or review. Some filings are more complex or controversial than others or may require more time to process. The Commission is proposing to establish fees based on the narrowest categories of activities sharing common characteristics. Fee categories are generally delineated according to the nature of the service or benefit provided. For example, separate fees are established for applications for adjustments and requests for NGPA interpretations, even though these services are requested by a similar class of applicants. If it is practical to identify specific units within a general category of service as a basis for allocating the costs incurred by the Commission, a fee applicable to that unit is set forth. For example, the proposed rule would establish fees for review of specific Title III transactions and extensions of authorization for those transactions.

A fundamental consideration in developing a fee structure under the IOAA is the administrative practicality of establishing fees which relate, not just to categories of services, but also to subcategories of services or even individual agency services. This problem relates to the accessibility of cost data and the expense incurred in collecting the data. The Commission believes it has the authority to establish separate fees for any filing that initiates a proceeding and any filing that requires the Commission to undertake additional steps in that proceeding, such as requests for rehearing, intervention, or appeals. However, because the time spent in subsequent stages of a proceeding is not separately recorded by

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[7] *Id.* at 2.

[8] *See*, Mississippi Power & Light v. NRC, 601 F.2d 223, 227–28 (5th Cir. 1979) *cert. denied*, 444 U.S. 1102 (1980); Electronic Industries Association v. FCC, 554 F.2d 1109, 1115 (D.C. Cir. 1976).

[9] Budget Circular A–25 at 2; quoted with approval in FPC v. New England Power Co., 415 U.S. 345, 350 (1974).

[10] Electronic Industries Association v. FCC, 554 F.2d 1109, 1116–17 (D.C. Cir. 1976).

the Commission, the Commission does not have data at this time which is detailed enough to permit it to establish a separate fee for each stage of a proceeding. As a result, the Commission is proposing to establish only one fee for any proceeding or application process because the Commission believes that the entire process is the smallest unit practical on which to base a fee. It nevertheless requests comments on whether fee categories should be established for smaller classes of applicants, or separate stages of a proceeding.

D. Basis of Cost Recovery

1. *Direct and indirect costs included.* The fee schedule proposed by the Commission is designed to account for all types of recoverable costs associated with the processing of the specified applications and filings under the NGPA. The costs attributable to a particular Commission service are not merely the salaries of the employees who review the applications or filings. As the Fifth Circuit observed, in *Mississippi Power & Light* v. *NRC*, employees "must be supplied with working space, heating, lighting, telephone service and secretarial support. Arrangements must be made so that (they are) hired, paid on a regular basis and provided specialized training courses. Those and other costs such as depreciation and interest on plant and capital equipment are all necessarily incurred in the process of reviewing an application."[11] The following descriptions indicate what actual costs are incurred when the Commission supplies the identified services and benefits under the NGPA.

An adjustment application is evaluated by the Office of Pipeline and Producer Regulation (OPPR). After staff receives the application, the application is reviewed for sufficiency. If the application is sufficient, OPPR prepares a notice for publication in the **Federal Register**. Both OPPR and the Office of General Counsel (OGC) further evaluate the application and, if necessary, develop adequate application records through correspondence and conferences. After the search and analysis is complete, staff prepares a draft of a final order which is issued by the Director of OPPR. If the party seeking the adjustment files a petition for review of the order, the petition for review is considered by the Office of Opinions and Review (OOR). OOR reviews that petition for sufficiency and publishes another notice in the **Federal Register**. OOR then conducts a proceeding to review and analyze arguments pertaining to the proposed adjustment, frequently including discovery, evidentiary hearings, or oral argument. After all evidence and arguments are presented and considered, OOR prepares and issues a proposed order for comment. If the applicant seeks Commission review of that order, OOR analyzes comments received on the proposed order, and prepares a final order for Commission consideration at a Commission meeting.

A well-category determination made by a jurisdictional agency is also evaluated by OPPR. Upon receipt, the determination is entered into a computer tracking system and published in the **Federal Register**. Staff then reviews, analyzes, and sometimes audits the determinations. If necessary, staff gathers additional information through correspondence and conferences. If there are any interveners in the proceeding, staff also considers any information submitted by the interveners.

In conjunction with review of well-category determinations, the Commission also accepts and reviews recommendations by jurisdictional agencies to designate certain gas formations as tight formations under section 107 of the NGPA. These recommendations are noticed as proposed rules in order to permit public comment on the state recommendations prior to acceptance or rejection of the recommendation. OPPR and OGC evaluate the recommendation and any comments received. After all comments have been filed, staff prepares a draft final rule. The rule is then considered by the Commission at a Commission meeting. After a recommendation to designate a tight formation is reviewed and approved, producers may file applications for well-category determinations to qualify for a special incentive maximum lawful price under section 107 of the NGPA.

Both OGC and OPPR actively participate in the processing of the filings for transportation, sale, or assignment transactions, and extensions to those transactions, authorized under Title III of the NGPA without prior Commission approval. This processing includes review of each transaction to insure compliance with all applicable regulations, and a staff determination whether the rates charged satisfy statutory requirements. If necessary, informal proceedings are conducted before staff panels to resolve any issues of material fact.

Upon formal request of any person, OGC prepares and issues formal interpretations of the NGPA pursuant to § 1.42 of the Commission's regulations.[12] These letters of interpretation require research as well as informal conferences and correspondence with the applicant. A draft letter is prepared and submitted to other Commission offices, as well as the Commission itself, for concurrence. Each letter is checked prior to issuance to assure that it is consistent with present Commission policy as well as past orders and opinion letters.

2. *Methodology.* The Commission's calculation of the costs incurred to provide each of the services represented by a fee category is directly related to the amount of time the Commission spends providing each of these services. The proposed rule relies on information obtained through the Commission's management information system (MIS), which provides the amount of time spent on all the Commission functions. This data is recorded on a periodic basis. The functions are grouped into categories which represent the Commission's various programs, including gas wellhead pricing, gas pipeline rates, gas pipeline certificates, gas producer certificates, oil pipeline regulation, hydropower regulation, and electric power regulation.

The supervisor in each organizational unit reports to the MIS the amount of time spent by staff on each function, in terms of "work-months." A "work-month" is the unit of work represented by one employee's devotion of 100% of his or her time for one month. With respect to each function, the supervisor records the number of projects initiated (receipts) and completed (completions) in a particular time period, insofar as the nature of the function involves the initiation and completion of projects. Most Commission functions can be measured in terms of the number of projects initiated and completed. In accordance with Commission practice, most of these projects are generally assigned docket numbers and, for purposes of this discussion, will be referred to as "docketed activities."

Other "support" functions regularly undertaken, with respect to any program, may not be measured in term of receipts and completions and are not docketed. The nature of these functions makes impractical any measurement in terms of receipts and completions, but staff time is nevertheless spent performing these functions. This time is

[11] 601 F.2d at 232.

[12] This section is redesignated as § 385.1001 under the revision of the Commission's General Rules of Practice and Procedure (Docket No. RM79-22), issued April 28, 1982, 47 FR 1914 (May 3, 1982).

also allotted and reported by unit supervisors.

These support functions will be referred to as "support activities" and can be divided into three categories. First, there are activities that involve general supervision, personnel management, and routine administrative functions such as maintenance of time and leave records, the handling of property and supplies, staff meetings, and the planning and organizing of leave.

Second, support staff responds to requests for information that does not contribute directly to the completion of a docketed activity. Examples inlcude requests for information from the public, from the Congress, from the General Accounting Office, and from other governmental agencies.

Third, support staff establishes or reviews certain Commission operations and procedures. These activities include work on the FERC budget, management information systems, and program development functions such as special studies or briefings not indentified with a docketed activity.

The Commission uses the following method to determine the cost of providing any service or benefit. First, the work-months (WM's) reported for a specific "docketed" activity are added to a pro-rata share of the work-months reported for the relevant "support" activities.[13] This figure, representing the total number of work-months dedicated to a given function for a year, is divided by the number of completions for that year for the given activity. The resulting quotient represents the average number of work-months required to complete each activity.

Second, the Commission used the following figures provided by the Office of Program Management to derive the average cost of a work-month, based on the Commission's FY 1982 budget.

Average annual salaries and fringe benefits (including the overhead for retirement and benefit insurance)	$37,518
Administrative overhead for one year per employee (including printing, communication, office space, rent, etc.)	8,468
Contracts for overhead services for one year per employee (microfilm, etc.)	2,406
Estimated average cost per employee for FY 1982	48,392

The total is divided by 12 to yield an average work-month cost of $4,032.67.

Third, in order to determine the cost of the activity, the Commission multiplies the average cost per work-month by the average number of work-months required to complete the activity.

The Commission proposes to update the fees each year so that the computations reflect Commission costs. An updated fee schedule would be published in the **Federal Register** each year. The updated fee would be the product derived by multiplying each fee that is effective for the current fiscal year by the ratio of the average budgeted costs per employee for the next fiscal year to the average budgeted costs per employee for the current fiscal year. An applicant would be obliged to pay either the updated fee or, if the updated fee is not yet effective, the fee that is currently effective at the time of filing.

E. Exceptions to Full-Cost-Recovery

As a general policy, the Commission intends to establish fees which include all the recoverable costs associated with a particular benefit or service provided by the Commission. The Commission recognizes, however, that there may be instances in which a fee has an undesired effect on an applicant or other person requesting a service or benefit or otherwise proves infeasible. In such cases, the Commission may exercise discretion to reduce the fee for a category of service. Generally speaking, the Commission does not expect this issue to arise with regard to any service that is necessary for participation in a regulated business and continues to consider the possibility of full-cost recovery for each category of service for which it proposes fees. The Commission specifically requests comments on this fundamental approach.

The primary concern presented by the establishment of fees is to ensure that the benefits and services provided by the Commission under its jurisdictional statutes remain reasonably available to interested persons. Any consideration of whether to establish a less than full-cost-recovery fee under new Part 381 for a category of service would initially depend on a threshold determination that a full-cost-recovery fee may discourage use of the service for which the fee is assessed. If it appears to the Commission that a full-cost-recovery fee would discourage filings or use of Commission services, it would then consider a reduction in the relevant fee. The determination of how far to reduce a fee will depend on four specific factors.

1. *Disproportionate economic burden.* The Commission may reduce the fee by a factor of forty to sixty-five percent, if it is shown that the individuals or entities the Commission expects to predominate in the potential class of payers are of the type on which the full-cost-recovery fee could be expected to impose a disproportionate economic burden. If the Commission service does not pertain to small entities, or involve any particular economic hardship, but would, nevertheless, impose a full-cost-recovery fee that would discourage use of that service, the Commission would be inclined to reduce the fee by a smaller amount, not to exceed fifty percent of the full cost of the service depending upon other considerations which may arise.

2. *Encouraging use of a service.* The Commission may reduce the fee by twenty percent, if the service or procedure involved is of a type that the Commission wishes to encourage or if the Commission prefers that service or procedure to be used more often than others which would provide essentially the same benefit.

3. *Use of Commission time.* Related to the consideration of encouraging one service over another is a consideration of whose time and effort is required to provide the particular service. Commission time is more valuable and limited than staff time. A reduction of five percent may be made if a service requires only staff time in the normal course of processing, not including appeals to the Commission.

4. *Reduction of processing time.* There may be some services the Commission provides with which the Commission has had little experience. Therefore, its data may not be as indicative of the average costs of providing that service over a longer period of time as its data for the costs of services it has been providing for many years. As the Commission gets more familiar with the processing or review of such an application or filing, processing or otherwise providing the service it may become more efficient, thereby reducing the amount of time required to provide the service. To reflect this possibility, the Commission may reduce the fee by five percent if the service requested is one with which the Commission has had little experience.

III. NGPA Fees Proposed

The following table summarizes the average number of work-months (WMs) and average costs incurred in rendering the services for which the Commission proposes fees in this rulemaking: [14]

[13] The Commission has excluded from its costs calculation the work-months associated with the second category of support activities because those functions do not constitute part of the cost of providing a special benefit.

[14] The Commission is placing in the public file for this docket more detailed information relating to the costs incurred by the Commission which form the basis of the proposed fees.

Service	Total WMs	Total completions	Average number WMs per completion	Average cost per completion
Adjustments under NGPA § 502(c) including exemptions from incremental pricing under NGPA § 206(d)	298.5	63	3.906	$15,797.00
Jurisdictional Agency Determination Reviews	950.5	52,303	.0163	[1] 70.54
Initial Title III Findings	177	469	0.38	1,522.94
Extension Filings under Title III	19	100	0.19	761.47
Interpretation of the NGPA	122.77	63	1.79	7,233.00

[1] The average cost per completion for review of jurisdictional agency determinations also includes computer costs incurred by the Energy Information Administration and reimbursed by the Commission, equivalent to approximately $4.81 per determination.

The Commission believes that the costs associated with adjustments and NGPA interpretations are such that to fully recover them through fees would substantially discourage the use of these services. Therefore, it has reduced the fee for adjustments from costs by approximately sixty-five percent, and has reduced the fee for NGPA interpretations from costs by approximately sixty percent.

The following fees are therefore proposed: [18]

Service	Fee
Adjustments under NGPA § 502(c)	$5,000
Jurisdictional agency determination reviews	70
Initial Title III filing	1,500
Extension filings under Title III	700
Interpretations of the NGPA	3,000

Interpretations may be requested by a broad spectrum of entities subject to the NGPA, a large number of which are small gas producers which would bear a disproportionate economic burden. That factor would reduce the fee by fifty-five percent. In addition a five percent reduction is factored in because the application does not require action by the Commission. The total reduction for interpretations is, therefore, approximately sixty percent.

The fee for adjustments is reduced sixty percent from full cost, both because the class of applicants tends to include smaller businesses and because the nature of the application requires the regulated entities seeking the adjustment to show that they are experiencing some special hardship, inequity, or an unfair distribution of burdens as a result of applicable regulations. An additional five percent reduction is factored in because the application does not require Commission action. The total reduction for adjustments is, therefore, approximately sixty-five percent.

In addition, the Commission is proposing procedures whereby the Commission may waive or reduce the fees prescribed by this proposal, except those assessed for Commission review of a well-category determination by a jurisdictional agency. These procedures would give the Commission the discretion to waive or reduce the fees in order to avoid imposing an undue economic burden. The Commission has excluded the fee category of jurisdictional agency well-category determination reviews from this procedure for the following reasons. Since the waiver request would not be considered until the jurisdictional agency had made the determination, timely consideration of the request would not be administratively feasible. In addition, the fee proposal is minimal.

[18] Fees are established by taking actual costs and rounding *down* to: (1) The nearest $5 increment, if the total cost is $100 or less; and (2) The nearest $100 increment, if the total cost is more than $100.

IV. Procedures for Paying NGPA Fees

In order to be consistent with the assessment of fees relating to the NGPA, the Commission proposes to amend its current regulations regarding the procedures applicable to each of the filings and applications covered by the proposed fee schedule. The amended procedures would require that a certified check for the appropriate amount, made payable to the United States Treasury, be included with each filing and application.

In addition, the proposal provides that any application or petition which is not accompanied by the appropriate fee would be considered deficient and would not be processed by the Commission.

In the case of reviews of jurisdictional agency well-category determinations, the Commission proposes that each producer seeking a determination send its check along with its application to the jurisdictional agency, who in turn would send the check to the Commission along with determination.

Furthermore, in the areas where the Commission presently charges fees, it follows a policy of no refunds, with minor exceptions. The Commission expects to apply this no refund policy to all fees proposed under the IOAA, in this series of rulemakings, as well.

V. Direct Billing Alternative

As discussed above, the methodology that would be used to establish the proposed fees is based on the average cost of processing the average filing. The Commission occasionally receives filings which are not representative of these average filings. These filings may be so extensive in scope and present issues of such complexity or difficulty that the Commission must devote an extraordinary amount of time and staff resources processing them. The standard fees would bear no reasonable relationship to the actual cost of processing these extraordinary filings. Moreover, if the costs of processing these extraordinary filings were included in the average costs associated with average filings, persons submitting average filings would be subsidizing those submitting the extraordinary filings. Therefore, the Commission is proposing that in the case of an extraordinary filing, it would order a direct billing procedure.

Under this direct billing procedure, the Commission would periodically bill the person who submitted the filing for all the direct and indirect costs incurred by the Commission in processing the filing. The filing would then be processed like other filings, but the manpower devoted to processing the filing would be separately recorded and would not be averaged with the time devoted to processing the average filing.

VI. Summary of Proposed Rule

This proposed rule establishes fees for services and benefits provided by the Commission under the NGPA in proposed Part 381 of Chapter 1 of Title 18 of the Code of Federal Regulations.

Proposed § 381.103 provides that each filing must be accompanied by the proper fee or the filing will be considered deficient, which could result in rejection of the filing. Section 381.103 also provides that if a filing for one service or benefit may be considered as falling within two or more fee categories, the higher or highest of the applicable fees must be paid.

Proposed § 381.104 requires the Commission to publish a revised fee schedule each year to reflect an increase or decrease in costs.

Proposed § 381.106 provides that the Commission may waive or reduce fees if to do so is necessary to prevent undue economic burden.

Proposed § 381.107 provides that the Commission may order any filing, the processing of which requires an extraordinary amount of time and staff resources, to be assessed fees under a

direct billing procedure. Any fees paid under Part 381 upon submission of the filing would be credited against the direct bill.

Proposed § 381.301 establishes a $5,000 fee payable upon the submission of an application for an adjustment under section 502(c) of the NGPA. This includes a request for an individual exemption from incremental pricing.

Proposed § 381.302 establishes a $70 fee payable upon submission of a request for a well-category determination under section 503 of the NGPA.

Proposed § 381.303 establishes a $1,500 fee payable upon the filing of an initial report of a transaction under Title III of the NGPA.

Proposed § 381.304 establishes a $700 fee payable upon the filing of an extension report to a transaction under Title III of the NGPA.

Proposed § 381.305 establishes a $3,000 fee payable upon submission of a request for an interpretation of the NGPA by the Office of the General Counsel.

In addition, this proposed rule amends the following regulations contained in Chapter 1 of Title 18 of the CFR.

—Section 1.41(d) of Part 1 to add the requirement that the applicant send to the Commission, along with the application for an adjustment, the fee prescribed in Part 381.

—Section 1.42(d) of Part 1 to add the requirement that the requester send to the Commission, along with the request for an interpretation, the fee prescribed in Part 381.

—Subparts A and B of Part 274 to add the requirement that those producers seeking a well-category determination by a jurisdictional agency send to that agency the fee prescribed in Part 381, and to include the requirement that such fee subsequently be sent to the Commission when the agency sends its well-category determination to the Commission for review.

—Part 284 to add the requirement that the pipeline filing with the Commission send with its filing the fee prescribed in Part 381.

—Section 282.206(b) of Part 286 to add the requirement that the petitioner send with the petition seeking an exemption from incremental pricing the fee prescribed in Part 381.

VII. Initial Regulatory Flexibility Analysis

Whenever the Commission is required by section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553) to publish a general notice of proposed rulemaking, it is also required by section 603 of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) to prepare and make available for public comment an initial regulatory flexibility analysis. The analysis must describe the impact the proposed rule will have on small entities. The broad purpose of the RFA is to ensure more careful and informed agency consideration of rules that may significantly affect small business and small government entities and to encourage cost-benefit analyses of these rules as well as the agency's consideration of alternative approaches that may better resolve any unnecessarily costly or adverse effects on these small entities.

In this preamble the Commission presents its reasons for this agency action, its objective and the legal basis for this rulemaking. As discussed, the proposed rule would establish a schedule of fees to be paid the Commission for certain benefits it provides. The proposed rule would not impose any reporting, recordkeeping or compliance requirements.

This rule would affect natural gas producers, natural gas pipelines and industrial end-users of natural gas subject to incremental pricing. There are approximately 10,000 natural gas producers, 300 pipelines, and 1,500 industrial end-users subject to incremental pricing in the United States.

Application for well-category determination are received almost entirely from producers. Of the 10,000 producers in the United States a substantial majority will eventually require a well-category determination.

During the course of implementing the section 502(c) adjustment procedures, the Commission has received approximately 300 applications. Slightly more than 50 percent of those requests come from producers. Approximately a third are received from pipelines seeking either an adjustment from the Title III regulations or an adjustment from curtailment priority regulations. Less than 15 percent come from incrementally priced end-users.[16]

Approximately 400 applications for interpretations have been received. Most of those requests have been received from producers and pipelines seeking interpretations of Title I of the NGPA.

Initial and extension fillings for Title III transactions are filed by pipelines. Approximately 100 pipelines have participated in Title III transactions.

The Small Business Administration's (SBA) regulations do not establish size standards for gas pipelines or producers. (*See* 13 CFR Part 121). Most pipelines, especially interstate pipelines, are large businesses and few of the pipelines subject to Title IV curtailment priorities or engaging in Title III transactions would be small. However, while the SBA has not established size standards for producers, a significant proportion would probably be classified as small businesses. Therefore, this rule may have a significant economic impact on a number of small producers.

The industrial end-users subject to incremental pricing are large users of natural gas. A few of these large users may qualify as small businesses; however, the Commission does not believe they would represent a substantial number.

Where a proposal may have significant economic impact on a substantial number of small entities, section 603(c) of the Regulatory Flexibility Act requires the Commission to discuss significant alternatives to the proposal. The Commission has already attempted to minimize any disproportionate burden the proposal would have on small businesses. The fees imposed for well category determinations are so minimal ($70 per application) that the Commission does not believe they will impose a significant economic burden. The fees proposed for the categories that will have the most significant economic impact on producers (adjustments and interpretations) recover only a small proportion of the provision for waiver or reduction of those fees to protect further any individuals subject to the fees from economic hardship. The Commission could, of course, consider reducing the fees costs incurred by the Commission. The proposal also contains further, or even eliminating the fees with respect to small businesses. However, in proposing the fees the Commission is also attempting to satisfy the statutory directive of the IOAA to be "self-sustaining to the full extent possible." The Commission believes the rule, as proposed, represents a fair balance which will satisfy the purposes of both the IOAA and the Regulatory Flexibility Act.

VIII. Written Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, not later than July 19, 1982. Each person submitting a comment should indicate that the comments are being

[16] The number of industrial end-users subject to incremental pricing may be significantly increased by a recent decision of the Court of Appeals for the D.C. Circuit in Consumer Energy Council of America v. FERC, Slip Op. No. 80-2184. (D.C. Cir. Jan. 29, 1982).

submitted in Docket No. RM82-30-000, and should give reasons, including any supporting data, for any recommendations. Comments should also indicate the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies of each comment should be filed with the Commission. All comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

(Department of Energy Organization Act, 42 U.S.C. 7101; E.O. 12009, 3 CFR 142 (1979); Independent Offices Appropriations Act, 31 U.S.C. 483a)

List of Subjects

18 CFR Part 1

General definitions, Rules of construction.

Part 274

Natural gas, Wage and price controls.

18 CFR Part 284

Continental shelf, Natural gas, Reporting requirements

18 CFR Part 286

Administrative practice and procedure, Natural gas, Wage and price controls.

18 CFR Part 375

Authority delegations, Seals and insignia, Sunshine Act

18 CFR Part 381

General fees.

In consideration of the foregoing, the Commission proposes to amend Chapter I, Title 18 Code of Federal Regulations as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

1. Chapter 1 is amended in its table of contents by adding in the appropriate numerical order, a new part and heading, to read as follows:

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION

* * * * *

SUBCHAPTER W—REVISED GENERAL RULES

Part

* * * * *

381 Fees.

* * * * *

PART 1—RULES OF GENERAL APPLICABILITY

2. Section 1.41 is amended by adding a new paragraph (d)(3) to read as follows:

§ 1.41 Requests for adjustments under the NGPA.

* * * * *

(d) *Initial application.* * * *

(3) *Filing fees.* Each application for adjustment must be accompanied by the fee prescribed in § 381.301 of this chapter.

* * * * *

3. Section 1.42 is amended by adding a new paragraph (d)(6), to read as follows:

§ 1.42 Interpretation and interpretative rules under the NGPA.

* * * * *

(d) *Content of request.* * * *

(6) *Filing fees.* Each request for interpretation must be accompanied by the fee prescribed in § 381.305 of this chapter.

* * * * *

PART 274—DETERMINATIONS BY JURISDICTIONAL AGENCIES

4. Section 274.104 is amended by adding a new paragraph (c) at the end thereof, to read as follows:

§ 274.104 Notice to the Commission.

* * * * *

(c) *Forwarding of fees.* All notices given to the Commission in accordance with paragraphs (a) and (b) of this section, must include the fee required to be filed by the applicant under § 274.201 of this Part.

5. Section 274.201 is amended by adding a new paragraph (e) at the end thereof, to read as follows:

§ 274.201 General Requirements.

* * * * *

(e) *Filing fees.* Each application for a determination filed pursuant to this subpart must be accompanied by the fee prescribed in § 381.302 of this chapter.

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

6. Section 284.206 is amended by adding a new paragraph (e) at the end thereof, to read as follows:

§ 284.106 Reporting requirements.

* * * * *

(e) *Filing fees.* Each initial full report required by paragraph (a) of this section and each extension report required by paragraph (c) of this section must be accompanied by the appropriate fee prescribed in §§ 381.303 and 381.304 of this chapter.

7. Section 284.126 is amended by adding a new paragraph (e) at the end thereof, to read as follows:

§ 284.126 Reporting requirements.

* * * * *

(e) *Filing fees.* Each initial full report required by paragraph (a) of this section and each extension report required by paragraph (c) of this section must be accompanied by the appropriate fee prescribed in §§ 381.303 and 381.304 of this chapter.

8. Section 284.148 is amended by adding a new paragraph (e) at the end thereof, to read as follows:

§ 284.148 Reporting requirements.

* * * * *

(e) *Filing fees.* Each initial report required by paragraph (a) of this section and each extension report required by paragraph (c) of this section must be accompanied by the appropriate fee prescribed in §§ 381.303 and 381.304 of this chapter.

9. Section 284.163 is amended by revising paragraph (c), to read as follows:

§ 284.163 Special rule.

* * * * *

(c) *Reports.* The reports required under §§ 284.4(b) and 284.165(d) are timely filed, and the initial full report required by § 284.165(d) is accompanied by the fee prescribed in § 381.303 of this chapter.

10. Subchapter W is amended by adding a new Part 381 to read as follows:

SUBCHAPTER W—REVISED GENERAL RULES

* * * * *

PART 381—FEES

Subpart A—General Provisions

Sec.

381.101 Purpose.
381.102 Definitions.
381.103 Filings.
381.104 Annual adjustment of fees.
381.105 Method of payment.
381.106 Reductions and waivers.
381.107 Direct billing.

Subpart B—Fees Applicable to General Functions

381.201 Declaratory orders. [Reserved]
381.202 Interpretations by the Office of the Chief Accountant. [Reserved]
381.203 Review of DOE denials of adjustment. [Reserved]
381.204 Review of DOE remedial orders. [Reserved]

Subpart C—Fees Applicable to the Natural Gas Policy Act of 1978

Sec.
381.301 Adjustments.
381.302 Well-category determinations.
381.303 Initial reports for Title III transactions.
381.304 Extension reports for Title III transactions.
381.305 Interpretations by the Office of the General Counsel.

Subpart D—Fees Applicable to the Natural Gas Act and Related Authorities [Reserved]

Subpart E—Fees Applicable to the Federal Power Act [Reserved]

Subpart F—Fees Applicable to the Public Utility Regulatory Policies Act of 1978 [Reserved]

Subpart G—Fees Applicable to the Interstate Commerce Act and Related Authorities [Reserved]

Authority: Department of Energy Organization Act (42 U.S.C. 7101–7352); E.O. 12009, 3 CFR Part 442 (1978); Independent Offices Appropriations Act (31 U.S.C. 483a).

Subpart A—General Provisions

§ 381.101 Purpose.

The purpose of this Part is to set forth the fees charged by the Commission for services and benefits provided by the Commission.

§ 381.102 Definitions.

For purposes of this part, the following definitions apply.

(a) "Person" as used in this Part means any person, group, association, organization, partnership, corporation, or business, except those engaged in the transaction of official business of the Government.

(b) "Work year cost" means the ratio of the Commission's budgeted expenses during any given fiscal year to the authorized staff level for that fiscal year.

(c) "Filing" means any application, petition, request, or motion submitted to the Commission in connection with any of the services or benefits for which a fee is established in this part.

§ 381.103 Filings.

(a) *Submittal of fees.* Except as provided in § 381.106, a fee in the amount set forth in this part must accompany each filing for which a fee has been established.

(b) *Deficiencies.* (1) Any filing that is not accompanied by either the fee established for that filing or a request for reduction or waiver in accordance with §381.106 is deficient.

(2) The Secretary will inform any person who submits a deficient filing that:

(i) Such filing will be rejected, unless the appropriate fee is submitted within a specified time;

(ii) The Commission will not process any filing that is deficient under this paragraph; and

(iii) The date of filing will be deemed the date on which the Commission receives the appropriate fee.

(3) This provision does not preclude a determination that a filing is deficient for any other reason.

(c) *Choice of two fees.* If a filing for one service or benefit may be considered as falling within two or more categories of service for which a fee is established, that filing must be accompanied by the higher or highest of the applicable fees.

§ 381.104 Annual adjustment of fees.

(a) *Update and publication.* Beginning in fiscal year 1983, fees established in this part are updated annually, in accordance with this section. Updated fees are published in the **Federal Register** and as an appendix to this part.

(b) *Payment of updated fees.* Any person who, after fiscal year 1982, submits a filing for which a fee is established in this part must pay the updated fee under this section or, if the fee has not been updated at the time of the filing, the currently effective fee.

(c) *Formula.* The fee applicable to a fee category in each fiscal year is the fee for the previous fiscal year for that category, multiplied by the ratio of the work year cost for the fiscal year for which the fee is determined to the work year cost for the previous fiscal year. The fee is rounded down to the nearest five dollar increment.

(d) *Effective date of fee.* Any fee updated under this section becomes effective on the thirtieth day after publication in the **Federal Register** of the revised appendices to this part, or the first day of the fiscal year for which the fee is updated, whichever is later.

§ 381.105 Method of payment.

Fee payments must be made by certified check or money order payable to the Treasurer of the United States.

§ 381.106 Reductions and waivers.

(a) *When to request.* At the time that a filing is submitted to the Commission the applicant may request a waiver or reduction of the fee prescribed in this part.

(b) *Basis.* The applicant must show that waiver or reduction of the fee is necessary to prevent undue economic burden on the applicant.

(c) *Commission action.* The Commission or its delegatee will notify the applicant within 21 days of the decision to grant or deny the request for waiver or reduction. The filing will not be processed until disposition of the waiver request.

§ 381.107 Direct billing.

(a) *Applicability.* If a filing presents issues of fact or law, procedural difficulty, or technical complexity, which require an extraordinary amount of Commission time and effort to be devoted to processing that filing, the Commission will institute a direct billing procedure for that filing. Fees assessed by a direct billing procedure in accordance with this section will supersede the fees established in this part for the appropriate category of service.

(b) *Procedures.* (1) If the Commission determines that a filing meets the standards prescribed in paragraph (a), the Commission may order that the full cost of processing the filing be recovered under a direct billing procedure. The Commission will make a direct billing determination under this paragraph not later than one year after the filing is accepted for filing by the Commission.

(2) Direct billing will not be instituted with respect to any filing until the person who submitted the filing is notified that direct billing will be applied to the filing in lieu of the fees established under this part.

(3) Any fee submitted with the filing will be applied, as a credit, to the amount billed directly for processing costs. The Secretary will thereafter periodically bill the person who submitted the filing for the actual direct and indirect costs which are incured in processing the filing after the Commission orders the direct billing procedure instituted.

Subpart B—Fees Applicable to General Functions

§ 381.201 Declaratory orders. [Reserved]

§ 381.202 Interpretations by the Office of the Chief Accountant [Reserved]

§ 381.203 Review of DOE denials of adjustment [Reserved.]

§ 381.204 Review of DOE remedial orders [Reserved]

Subpart C—Fees Applicable to the Natural Gas Policy Act of 1978

§ 381.301 Adjustments.

The fee established for an application for adjustment under section 502(c) of the NGPA is $5,000.00 for fiscal year 1982 and, for subsequent fiscal years, is the fee established by § 381.104. Such fee must be submitted in accordance with Subpart A of this part and § 1.41.

§ 381.302 Well-category determinations.

The fee established for an application for a well-category determination is $70.00 for fiscal year 1982 and, for subsequent years, is the fee established by § 381.104. Such fee must be submitted in accordance with Subpart A of this part and §§ 274.201 through 274.206.

§ 381.303 Initial reports for Title III transactions.

The fee established for an initial report is $1,500.00 for fiscal year 1982 and, for subsequent fiscal years, is the fee established by § 381.104. Such fee must be submitted in accordance with Subpart A of this part and §§ 284.106(a), 284.126(a), 284.146(a) and 284.165(d).

§ 381.304 Extension reports for Title III transactions.

The fee established for an extension report is $700.00 for fiscal year 1982 and, for subsequent fiscal years, is the fee established by § 381.104. Such fee must be submitted in accordance with Subpart A of this part and §§ 284.106(c), 284.126(c), and 284.146(c).

§ 381.305 Interpretations by the Office of the General Counsel.

The fee established for a request for interpretation of the NGPA is $3,000.00 for fiscal year 1982 and, for subsequent fiscal years, is the fee established by § 381.104. Such fee must be submitted in accordance with Subpart A of this part and § 1.42.

Subpart D—Fees Applicable to the Natural Gas Act and Related Authorities [Reserved]

Subpart E—Fees Applicable to the Federal Power Act [Reserved]

Subpart F—Fees Applicable to the Public Utility Regulatory policies Act of 1978 [Reserved]

Subpart G—Fees Applicable to the Interstate Commerce Act and Related Authorities [Reserved]

PART 375—THE COMMISSION

11. Part 375 is amended in the table of contents by adding, in the appropriate numerical order, a new section number and heading, to read as follows:

Sec.

Subpart C—Delegations

* * * * *

375.313 Delegation to the General Counsel.

12. Section 375.307 is amended by adding a new paragraph (t) at the end thereof, to read as follows:

§ 375.307 Delegations to the Director of the Office of Pipeline and Producer Regulation.

* * * * *

(t) Waive or reduce the fees prescribed in §§ 381.301, 381.303 and 381.304 of this chapter in accordance with § 381.106 of this chapter.

13. Part 375 is amended in Subpart C by adding a new § 375.313, to read as follows:

§ 375.313 Delegations to the General Counsel.

The Commission authorizes the General Counsel to waive or reduce the fees prescribed by § 381.305 of this chapter in accordance with § 381.106 of this chapter.

[FR Doc. 82-15823 Filed 6-7-82; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 201

[Docket No. 80P-0437]

Requirements for Designating a Manufacturer's Name on a Drug Product Label

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the regulation setting forth requirements for designating a manufacturer's name on a drug product label to permit a firm to claim to have made a product actually made by a corporately related firm under common ownership and control. The action responds to a petition pointing out various marketing and labeling problems that the current regulation poses for certain diversified corporate structures. The proposed regulation would permit any member of a diversified corporate "family" to claim to have made a product made within the "family".

Note.—In the **Federal Register** of January 13, 1981 (46 FR 2977), FDA announced a stay of those parts of the final rule that would prevent a firm from claiming to have made a product actually made by a corporately related firm. That stay will remain in effect pending resolution of this rulemaking.

DATES: Comments by August 9, 1982; proposed effective date of the final rule based on this proposal is 60 days after date of publication of the final rule in the **Federal Register**.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Steven Unger, Bureau of Drugs (HFD-30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5220.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 15, 1980 (45 FR 25790), FDA issued a final regulation, § 201.1 (21 CFR 201.1), amending the requirements for designating the manufacturer's name on drug product labels. The regulation specifies the conditions under which a person may be identified on the label of a drug product as its manufacturer. The regulation, which became effective April 10, 1981, contains several provisions that govern the kind of manufacturing claim that can be made on a drug product label when two or more corporately related drug firms are involved in the manufacture or marketing of a product. Section 201.1(g) provides, among other things, that the name of the manufacturer, packer, or distributor shall be deemed to be satisfied, in the case of a corporation, only by the actual corporate name, which may be preceded or followed by the name of a particular division. The section also states that a separately incorporated subsidiary shall use its actual corporate name and not the name of its parent company. Section 201.1(f) provides that the name of the person represented as manufacturer must be the same as the name of the establishment under which that person is registered at the time the label product is produced. Thus, under the regulation, if two or more divisions of a parent company make a product, the product, by whatever division it is made, can be labeled as manufactured by the parent company. However, if separately incorporated subsidiaries of the parent company manufacture the product, different labels would be required for each subsidiary.

After publication of the final rule, but before the regulation became effective, the agency received a number of complaints about those provisions of the final rule that would prevent a parent company from claiming to be a drug product's manufacturer when a product was actually made by a separately incorporated subsidiary of the parent company. These complaints came from a number of individual drug corporations as well as from the Pharmaceutical Manufacturers Association (PMA). On October 10, 1980, PMA petitioned the agency to amend the regulation to

permit anyone within a corporate family to claim to have made a product made within that family. Specifically, the petition urged that § 201.1(g) be amended to read as follows:

> The requirement for declaration of the name of the manufacturer, packer, or distributor shall be deemed to be satisfied, in the case of a corporation, only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. The actual corporate name may be either the name of the parent, subsidiary and/or affiliate company where there exists an ownership and control relationship between the companies and the parent, subsidiary and/or affiliate company either individually or jointly qualified as a manufacturer. Abbreviations for "company", "incorporated", may be used and "The" may be omitted. In the case of an individual partnership, or association, the name under which the business is conducted shall be used.

The petition argued that economic, legal, and tax considerations may encourage an enterprise to structure its organization so that one or more incorporated subsidiaries manufacture a drug product for a common parent company. The petition conceded that, technically speaking, a subsidiary is a separate entity, but contended that it is owned and controlled by another corporation that ultimately is responsible for its activities. The petition argued further that the relationship between the parent and subsidiary is similar to the one existing between a corporate parent and division or other operating unit within a corporation. The petition concluded that no regulatory problem or consumer confusion could be attributed to a provision that would permit a parent company or any other company in a corporate family to claim to have made products made by any other member of the corporate family and argued, to the contrary, that the use of an unknown or lesser-known subsidiary could well be less informative due to lack of recognition than would be the use of the parent name or the name of the more well-known subsidiary.

The agency also received several letters from individual drug firms pointing out various labeling and marketing difficulties posed for them by the final regulation. For example, the Proctor and Gamble Co., in a letter to FDA dated August 27, 1980, asked that it be permitted to continue to use the abbreviated name "Proctor and Gamble" for products either made or distributed by companies that use Proctor and Gamble in the corporate name, i.e., the Procter and Gamble Co., the Proctor and Gamble Manufacturing Co., and the Proctor and Gamble Distributing Co. The letter stated that "[L]iteral compliance with section 201.1(f) and (g) would Produce trivial, insignificant changes of absolutely no benefit whatsoever to anybody and would present an unreasonable logistical and very expensive burden * * *." To help the agency consider the issues identified in the petition submitted by the PMA and in the letters of individual manufacturers, FDA published a notice in the **Federal Register** of January 13, 1981 (46 FR 2977), asking for comment on these issues from interested persons. Specifically, the agency sought comments on the following issues:

(1) The benefits, if any, of retaining the current regulatory distinction between the parent corporation and the separately incorporated subsidiary?

(2) The benefits and costs of permitting a drug company to claim to have made products actually made by a corporately related firm?

(3) If the agency decided that the petition was meritorious, should it amend the regulation to permit a corporately related firm to be identified as the manufacturer in place of the actual manufacturer, or retain the present regulation and permit individual drug firms to request waivers on a case-by-case basis? And if the agency decided to review waiver requests on an individual basis, what principles should it consult in assessing the merits of an individual request?

FDA received seven comments on the proposals. Five comments in general favored adopting the PMA petition, while two urged rejection of the proposed change.

The comments in favor argued that there was no benefit in retaining the distinction on product labels between parent and separately incorporated subsidiaries. Further, these comments contended that there would be considerable benefit to adopting the PMA proposal. One comment succinctly made the case for adopting the petition as follows: "All interested parties will benefit by clearly identifying the one corporation within a corporate family which is responsible for the product. The regulation as proposed by PMA will prevent the presentation of a confusing array of corporate names on a product's label * * *" These comments generally opposed a waiver system, suggesting that a revision to the regulation would more efficiently accomplish the goal of the petition.

The two comments critical of the petition argued that its adoption would result in consumer deception and confusion. One comment suggested that under PMA's proposed change a "* * * company manufacturing under contract to its parent and a third party would have to have its status disclosed in one case but not another." The comment deplored the result. The comment noted that "General Motors, a unitary corporation, even discloses that cars made by one of its divisions may have engines furnished by another * * *" and urged that this principle of disclosure was as applicable to drugs as to automobiles.

FDA has carefully considered the PMA petition and the comments received on it and has tentatively concluded that, for products made by a member of a group of related companies under common ownership and control, any member of the group should be permitted to identify itself as the product's manufacturer, packer, or distributor. Therefore, the agency is proposing to amend § 201.1 to state that "person," when it identifies a corporation, includes the parent, subsidiary, or affiliate company where the related companies are under common ownership and control. The agency concedes that such revision may in some cases increase confusion about who actually made, packed, or distributed a product; furthermore, the agency recognizes that in general disclosure of the particular subsidiary or division responsible for making a product is to be preferred. Nevertheless, FDA concludes that the potential costs of such revision are outweighed by the benefits to be gained by according labelers greater flexibility in making the statutorily required disclose of the name and place of business of the manufacturer, packer, or distributor.

In the **Federal Register** of January 13, 1981 (46 FR 2977), FDA stayed those provisions of amended § 201.1 that affected which company within a corporate family of companies may identify itself as the manufacturer, packer, or distributor of a labeled drug product. That stay will remain in effect pending the resolution of this rulemaking.

The agency has determined pursuant to 21 CFR 25.24(d)(13) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an enviromental impact statement is required.

In accordance with Executive Order 12291, the economic effects of this

proposal have been carefully analyzed, and it has been determined that the proposed rule is not a major rule as defined by that Order. For drug products manufactured by one of several firms within a corporate network of firms, the rulemaking removes an exiting mandatory requirement that the label of such products bear the actual corporate name and place of business of the manufacturer, packer, or distributor. Instead, the proposed amendment would allow the label to bear the name of any corporate entity related to the actual manufacturer, packer, or distributor and under common ownership and control. As this change would grant manufacturers significant flexibility in choosing what information to include in product labels, it should not increase and may decrease labeling costs.

In accordance with the Regulatory Flexibility Act (Pub. L. 96-345), the agency has considered the effect that this proposed rule would have on small entities. As the effects of the proposed rule would be to permit considerable flexibility in identifying on the label the statutorily required name of the manufacturer, packer, or distributor, it should not increase and may decrease labeling costs for labelers, including small businesses. Therefore, the agency certifies that this rulemaking, if promulgated, will not have a significant economic impact on a substantial number of small entities, including small businesses.

List of Subjects in 21 CFR Part 201

Drugs, Labeling.

PART 201—LABELING

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 701(a), 52 Stat. 1050–1051 as amended, 1055 (21 U.S.C. 352, 371(a))) and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982), it is proposed that Part 201 be amended in § 201.1 by revising paragraphs (c)(4), (e)(3), (f), and (g) to read as follows:

§ 201.1 Drugs; name and place of business of manufacturer, packer, or distributor.

* * * * *

(c) * * *

(4) If the person performs all applicable operations listed in paragraph (b) of this section except for those operations listed in paragraph (d) of this section. For purposes of this paragraph, person, when it identifies a corporation, includes a parent, subsidiary, or affiliate company where the related companies are under common ownership and control.

* * * * *

(e) * * *

(3) On equipment that is continuously owned or leased by the person. As used in this paragraph, person, when it identifies a corporation, includes a parent, subsidiary, or affiliate company where the related companies are under common ownership and control.

(f) The name of the person represented as manufacturer under paragraph (b) or (c) of this section must be the same as either (1) the name of the establishment (as defined in § 207.3(b) of this chapter) under which that person is registered at the time the labeled product is produced or (2) the registered establishment name of a parent, subsidiary, or affiliate company where the related companies are under common ownership and control. In addition, the name shall meet the requirements of paragraph (g) of this section.

(g) The requirement for declaration of the name of the manufacturer, packer, or distributor shall be deemed to be satisfied, in the case of a corporate person, only by the actual corporate name, except that the corporate name may be the name of a parent, subsidiary, or affiliate company where the related companies are under common ownership and control. The corporate name may be preceded or followed by the name of the particular division of the corporation. "Company," "Incorporated," etc., may be abbreviated or omitted and "The" may be omitted. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used.

* * * * *

Interested persons may, on or before August 9, 1982, submit to the Dockets Management Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 5, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Dated: May 13, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82-15413 Filed 6-7-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-18-82]

Filing of Life-Nonlife Consolidated Returns

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the filing of a consolidated return by an affiliated group of corporations composed of at least one life or mutual insurance company and one or more different companies. The Tax Reform Act of 1976 provided new rules permitting this type of a consolidated return. The regulations would provide guidance to the public and Internal Revenue Service personnel.

DATES: The regulations are proposed to be effective for taxable years for which the due date (without extensions) for filing returns is after [the filing date of the Treasury Decision]. Written comments and requests for a public hearing must be delivered or mailed by August 2, 1982.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-18-82), 1111 Constitution Ave., NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Donald K. Duffy of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T (202-566-4336, not a toll free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed regulations relating to the filing of a consolidated return by an affiliated group which has as members at least one mutual or life insurance company and one other corporation. Section 1507 of the Tax Reform Act of 1976 (90 Stat. 1739) added section 1504(c)(2) to the Internal Revenue Code of 1954 to permit such a filing at the election of the group. In the event of such an election, the Tax Reform Act also added section 1503(c) to the Code to provide certain limitations on usual consolidated return principles in the regulations under section 1502.

General Explanation

Section 1501 gives an affiliated group of corporations the privilege of making a consolidated return, in lieu of separate returns, to determine the income tax imposed by chapter 1 of the Internal Revenue Code of 1954. Section 1502 delegates authority to the Secretary of the Treasury to prescribe regulations that clearly reflect the income tax liability of an affiliated group of corporations making a consolidated return and of each corporation in that group both during and after the period of affiliation. The existence of an affiliated group and the identification of its members are therefore important.

Section 1504 establishes the existence of an affiliated group and the composition of its membership. An affiliated group is one or more chains of "includible" corporations connected with each other and with a common parent corporation through a certain percentage of stock ownership. The common parent is the includible corporation that owns the requisite stock percentage of at least one of the other includible corporations but whose stock is not owned in the requisite percentage by another includible corporation.

Not every corporation is an "includible corporation". Insurance companies subject to taxation under section 802 (referred to as life companies) or under section 821 (referred to as mutual companies) are not, as a general rule, includible corporations under section 1504(b)(2). Prior to the Tax Reform Act of 1976 (the Act), these companies were prohibited from filing a consolidated return with other corporations, even if the requisite stock ownership existed. Historic reasons motivated this prohibition because life and mutual insurance companies determined their taxable incomes under statutory schemes that were quite different from the rules that applied to other corporations. See, *S. Rep. No. 94–938*, 94th Cong. 2d Sess. 454 (1976).

Section 1507 of the Act removes this prohibition by adding section 1504(c)(2) to the Code, which permits the treatment of life or mutual insurance companies as includible corporations. At the same time, the Act added section 1503(c) to the Code, which limits the use of nonlife company losses against life company income. These limitations indicate that Congress was unwilling to allow life insurance companies and other types of corporations to file consolidated returns on a traditional basis.

Life Insurance Company Taxation

The term "life insurance company taxable income" will be referred to in this document as LICTI. The proposed regulations also employ other abbreviations which are commonly used by practitioners who deal with life insurance company taxation.

Section 802(b) defines LICTI. The principal components of a life company's LICTI are its taxable investment income and its gain from operations. These two components overlap.

Taxable investment income consists in part of a company's share of investment yield, *i.e.*, income that is not considered to be set aside to meet the company's reserve liabilities to its policyholders.

Gain from operations consists of the company's total income. Since, in general, gain from operations includes both the life company's share of net investment income and underwriting gain or loss, gain from operations exceeds taxable investment income when a life company has underwriting gain. Conversely, gain from operations is less than taxable investment income when the life company has underwriting loss and an overall loss from operations indicates underwriting loss that exceeds the company's share of its net investment income.

With these two components of a life insurance company's income in mind, section 802(b) defines LICTI as the sum of three amounts.

The first amount is taxable investment income or, if smaller, gain from operations.

The second amount is, if gain from operations exceeds taxable investment income (excess gain from operations), an amount equal to 50 percent of this excess gain from operations.

For a stock life company, the untaxed 50 percent of excess gain from operations, together with certain special deductions described below, is placed in what is referred to as a policyholders' suprlus account. The amounts placed in the account are included in LICTI as the third item of income when the company is deemed to have withdrawn amounts from this surplus account.

Two aspects of this statutory scheme are important in deciding on a method for determining a group's consolidated taxable income when two or more of its members are life companies. First, an underwriting loss is fully deductible against taxable investment income since the first amount of LICTI is the lower of taxable investment income or gain from operations. In contrast, only 50 percent of underwriting gain is included in the current tax base since the second amount of LICTI is 50 percent of excess gain from operations.

Secondly, life companies are allowed certain special deductions under section 809(d) (3), (5), and (6). However, these deductions generally may be applied only against underwriting gain since they are allowed under section 809(f)(1) only to the extent of $250,000, plus the company's excess gain from operations (before the allowance of the special deductions).

Sections 1504(c)(2) and 1503(c)

Section 1504(c)(2) permits the common parent of an affiliated group to elect to treat life and mutual insurance companies as includible corporations notwithstanding the exclusion in section 1504(b)(2). The common parent of an affiliated group is identified by treating all life and mutual insurance companies as includible corporations. Only the common parent may make the election.

There is one limitation on includibility. A particular life or mutual insurance company will not be treated as an includible corporation, or member, of the group under section 1504(c)(2) if the company has not otherwise been a member of the group for the five taxable years preceding the first taxable year for which the election is made and the consolidated return is filed.

If the election is made, then under section 1503(c)(1), a "consolidated net operating loss" of nonlife members that cannot be absorbed in the applicable carryback periods of the nonlife members against nonlife taxable income may be used in part against the taxable income of the life members as generally computed under sections 801–82). The part of the nonlife loss (whether arising in the current year or as part of a carryover) that may be used in any one year is limited to a certain percentage of the lesser of the nonlife losses not previously used or the taxable income of the life members. Nonlife losses may not be carried back against life company income.

There is one additional limitation in section 1503(c)(2). The net operating losses of a nonlife member may not reduce a life member's taxable income if the loss arose before the nonlife member has been a member of the same affiliated group as the life member for five taxable years. For this purpose, an affiliated group is defined without regard to sections 1504 (b)(2) and (c)(20). The five-year rule in section 1504(c)(2) complements the five-year rule in section 1503(c)(2).

The regulations propose to answer the two major questions presented by the

statutory scheme discussed above. The first question involves the five-year rules. The second question relates to the method of consolidation for the life-nonlife group and the extent to which the usual principles of consolidation apply.

Two Five-Year Rules

The five-year rules in sections 1504(c)(2) and 1503(c)(2) appear to be intended to discourage acquisitions from outside the group (intergroup acquisitions). See 122 Cong. Rec. S. 24680–89 (July 30, 1976). Furthermore, section 1503(c)(1) limits the use of nonlife losses against life income because Congress recognized that life companies are taxed quite differently than other companies and it wanted them to pay taxes on amounts approximating taxable investment income. *See S. Rep. No. 94–938, supra.* For these reasons, the regulations propose to construe the five-year rules strictly.

The proposed regulations use the term "eligible corporation" in § 1.1502–47(d)(12) to identify a corporation that has been a member of the group (without section 1504 (b)(2) and (c)(2)) for five taxable years. If a life or mutual insurance company is ineligible, it is not an includible corporation, and thus is not a member of the group. However, an ineligible nonlife company is an includible corporation but under section 1503(c)(2) its losses may not reduce the income of eligible life members. The five taxable years refer to the taxable years of the common parent of the group because the consolidated return is filed on that basis. As a general rule, a corporation, whether life or nonlife, must be in existence and a member of the group (without section 1504 (b)(2) and (c)(2)) for five taxable years of the common parent to constitute an eligible corporation. There are three exceptions or qualifications to this rule.

First, a corporation will not be treated as an ineligible corporation merely because it undergoes a reorganization described in section 368(a)(1)(F). Second, a corporation will not be treated as in existence for any period during which it does not conduct substantial business activities. Third, a corporation will be treated as a new member of the group (without section 1504 (b)(2) and (c)(2)) for any period after it substantially increases the size or changes the character of its trade or business and the increase or change is attributable to an acquisition of assets from outside the group. (See § 1.1502–75(d)(3) for similar rules that apply to determine whether a group that in form continues in existence will be treated as continuing or terminating.) These three rules apply a substance over form analysis and they are consistent with the purposes of sections 1504(c)(2) and 1503(c).

The Treasury Department recognizes that the proposed regulations rely on form over substance in the case of some transfers and reorganizations that may occur between eligible corporations (referred to as intragroup transactions) which result in the creation of what is in form a corporation that has not been in existence for five years. On the other hand, the Treasury felt that the statute permits this formalistic treatment and that for two reasons it would be impractical at this time to propose rules permitting a new corporation arising in an intragroup transaction to be treated as if it had the five-year age of its transferor.

Treasury is primarily concerned that a rule that did not require five years of formal existence would enable taxpayers to avoid the five-year rules in the case of intergroup acquisitions.

For example, assume that L, an eligible corporation, is a large life company that purchases for cash the assets of L_1, a smaller life company, from outside the group. L is still an eligible corporation. If instead, L purchases for cash the stock of L_1, L_1 as a separate company is ineligible. Although sections 1504(c)(2) and 1503(c)(2) do not always taint asset acquisitions if business reasons permit them, it would defeat the purpose of those sections to equate all acquisitions with asset acquisitions. It is this concern, coupled with limitations on the rules noted above for change in a company's size or character in the many conceivable patterns that could arise, which motivates the rule in the proposed regulations. For example, if L, above, rather than purchasing L_1's stock, creates a new subsidiary by transferring cash and perhaps other property to a new subsidiary, L_2, and shortly thereafter L_2 purchases the assets of L_1, L_2 should be ineligible. L_2 would not be ineligible if it constitutes an eligible corporation after its creation by L and if, after the acquisition of the assets of L_1, L_2 satisfied the change in size and character rules. The Treasury Department is also concerned about the ability of a member to split-up (through a section 351 or section 355 transaction or otherwise) into a life company and a casualty (or noninsurance) company. See section 844 (which requires a recomputation of a single company's losses if it is subject to tax under one part of subchapter L of the Code in the year a loss arises and another part in the year to which a loss may be carried), section 1503(c), and *S. Rep. No. 94–938, supra.*

The Treasury invites public comments on intragroup transactions to provide certain, workable rules that would assure not only the integrity of the prohibition on intergroup acquisitions but also that the privilege, or a change in the manner, of using nonlife losses against life company income (as computed under the special provisions of sections 801–820) is not a reason in whole or in part for an intragroup shuffling.

Method of Consolidation

Section 1503(c)(1), which limits the use of nonlife losses against life company income, strongly suggests a method of consolidation that differs from the usual method in the regulations under section 1502.

Normally, the members of a group are treated as one entity in computing the group's taxable income and tax liability. See §§ 1.1502–2 and 1.1502–11. The technique for computing the group's taxable income is a combination of an aggregation of a part of each member's separate taxable income and a consolidation of the remaining income and deduction items not taken into account in the aggregation of separate taxable incomes. If the group has a net operating loss, no tax is imposed under section 11. The loss can be carried back and then carried over to serve as a net operating loss deduction under section 172 for the group. However, section 1503(c)(1) creates a completely different pattern.

In order to reflect the provisions of section 1503(c)(1), the regulations propose to adopt a subgroup method for computing a life-nonlife group's consolidated taxable income. To a large extent, the nonlife members and the life members are treated as if they were two separate groups.

Initially, the nonlife subgroup computes nonlife consolidated taxable income and the life subgroup computes consolidated partial life insurance company taxable income (defined below). Losses may be generated by either subgroup. One subgroup's loss may in effect reduce the income of the second subgroup by way of a set-off at the bottom line in determining the entire group's consolidated taxable income.

There are limitations on the use of a subgroup's loss in determinng the group's consolidated taxable income. A loss of one subgroup must first be carried back against its own income before the loss may reduce any income of the second subgroup in the year the

loss arose. This carryback of the first subgroup's loss may result in a "bump" of a previously used loss of the second subgroup that reduced income of the first subgroup. If the second subgroup's loss is bumped, it still may be carried over to others years. This method gives the entire group the benefit of any tax saving from the use of a subgroup's loss but it assures that insofar as possible life deductions will be matched against life income and nonlife deductions will be matched against nonlife income. Finally, one subgroup's loss may be carried over to a succeeding year, but it must be carried first against its own income before it may be used in that year as a bottomline setoff to income of the other subgroup.

The regulations propose to adopt this subgroup method for two reasons. The first reason is that subgroup treatment is required to comply with three provisions in section 1503(c)(1). The first provision is that the nonlife consolidated net operating loss (*i.e.*, the loss that may reduce life income) is itself computed on a subgroup basis. The second provision is that the only portion of the nonlife loss that may reduce life income is the amount that cannot be carried back against nonlife income and, furthermore, the nonlife loss can never be carried back against life company income. The third provision is that only a portion of the nonlife loss can be used against life income in any one year and thus, for example, if life taxable income is lower than the nonlife loss, the entire group has consolidated taxable income even though the group's losses exceed its income. This third provision requires a major departure from the usual method of consolidation under section 1502.

The second reason is that the subgroup treatment reflects the unique natures of life insurance business and life insurance taxation as compared to other insurance companies and noninsurance companies. Before the Act, a casualty insurance company taxable under section 831(a) would be as includible corporation along with noninsurance companies in a group in contrast to a life insurance company. See section 1504(b)(2). Moreover, there were no restrictions in the Code on a casualty insurance company using losses of noninsurance company members, or vice versa. Under section 1504(c)(2) as added by the Act, the same results are possible for a mutual insurance company taxable under section 821(a).

A life insurance company taxed under section 802, on the other hand, conducts a business that differs substantially from the mutual and stock casualty companies and sections 801–820 recognize this difference, as does section 1503(c)(1). A life company has an "operations loss deduction" (determined under section 812) which it deducts from gain from operations under section 809(d)(4), not from life insurance company taxable income. (As indicated earlier in this document, gain from operations is included in LICTI only to the extent of 50 percent of the excess of that gain over taxable investment income.)

Section 1503(c)(1) allows, subject to a percentage limitation, a nonlife loss to reduce life insurance company taxable income rather than gain from operations. Thus, nonlife losses will not affect a life company's special deductions that may only reduce underwriting gain under section 809(f)(1) or the amount of its excess gain from operations that is taxed curretnly at half the statutory tax rate, *i.e.*, 46 percent nonlife losses reduce 46 percent life income. On the other hand, section 1503(c)(1) (or any other Code provision) does not necessarily permit a life company operations loss, which reduces gain from operations, to reduce nonlife company taxable income. Compare section 809(d)(4) with sections 172(b), 832(c)(10), 821(b)(2)(C), and 844. To allow life operating losses to reduce nonlife taxable income on a consolidated return may result in allowing the life loss, that would otherwise reduce life income taxed currently at a 23 percent rate (excess gain from operations), to reduce nonlife income taxed at a 46 percent rate.

Nevertheless, the regulations propose to permit life losses to be used against nonlife income but only in a way that reflects the fact that life companies conduct a business that differs substantially from other companies and are taxed differently in recognition of this fact. That way is the subgroup method which matches life deductions against life income whenever possible. Furthermore, the Treasury Department may propose rules in the near future to require life companies to recompute special deductions and excess gain from operations in a later year to reflect the use of a life operating loss against nonlife taxable income in an earlier year.

Finally, Congress limited the use of nonlife losses against life company income to preserve the notion that life companies pay a tax on some portion of an amount represented by taxable investment income. See *S. Rep. No. 94–938, supra.* The subgroup method is designed to achieve this purpose.

Consolidated Partial LICTI

If a group includes more than one life insurance company, the proposed regulations create a life subgroup and require a determination of the life subgroup's consolidated partial LICTI (as defined in paragraph (j)) as if the life subgroup filed a consolidated return under section 1504(c)(1). There are no consolidated return regulations under section 1502 for a life group as defined in section 1504(c)(1). These proposed regulations will only apply to a group making the election under section 1504(c)(2). Proposed regulations under section 1502 for life groups under section 1504(c)(1) will be published shortly and will provide more detailed rules in computing LICTI when two or more life companies join in the filing of a consolidated return.

There are two principal issues in selecting the method of determining consolidated partial LICTI. First, should an underwriting loss of one member of the life subgroup first offset its own share of investment income or should it be applied first against underwriting gains of other members of the life subgroup? Second, a derivative of the first issue, should the special deductions of a particular life member be applied separately against its own underwriting gain or should those deductions be consolidated and applied against consolidated underwriting gain of the life subgroup? These issues are discussed below.

The regulations propose to adopt a modified phase-by-phase method of consolidation. Under this method, consolidated taxable investment income and consolidated gain (or loss) from operations are each determined by aggregating each member's separate taxable investment income and separate gain (or loss) from operations. The proposed regulations generally follow the principles of § 1.1502–12 which provides rules relating to the determination of separate taxable income. Accordingly, separate taxable investment income and separate gain (or loss) from operations are first determined without items that are subject to consolidated treatment. Consolidated partial LICTI is then the sum of two items:

I. Consolidated taxable investment income (or, if smaller, consolidated gain from operations); and

II. Fifty percent of the amount (if any) by which consolidated gain from operations exceeds consolidated taxable investment income.

The sum of the amounts subtracted under section 815 from the

policyholders' surplus accounts of each life company in the group is a separate element of consolidated taxable income under proposed paragraph (g)(3).

Methods of consolidation for the life subgroup other than a modified phase-by-phase method were considered but were rejected because they were inconsistent with the provisions of sections 801–820 and the overall approach adopted in existing consolidated return regulations. There are two other principal methods of consolidation—single-entity and bottom-line.

The single-entity, or item-by-item, method would essentially treat the members of the group as one taxable entity. This method of consolidation was rejected for two reasons. First, it is inconsistent with the approach adopted in existing consolidated return regulations. Secondly, the single-entity method is inconsistent with at least one aspect of life insurance company taxation—section 818(f), which is a codification of *Jefferson Standard Life Ins. Co. v. U.S.*, 408 F.2d 842 (4th Cir. 1969), *cert. denied*, 396 U.S. 828 (1969).

The bottom-line method of consolidation for the life subgroup would require each life member to compute separately its taxable investment income and gain from operations without items traditionally computed on a consolidated basis (such as the charitable contributions deductions) and without the special deductions and the 50 percent exclusion of excess gain from operations. Consolidated items would be allocated back to the life members. Then, each member would compute its separate LICTI reflecting its own special deductions, limitation on these deductions, and the 50 percent excess gain exclusion. Results would then be consolidated at the bottom line. If one life had a loss from operations (i.e., its underwriting loss exceeded its taxable investment income), the loss could be offset against LICTI of other life members. However if one life member's gain from operations was less than its share of taxable investment income (*i.e.*, its underwriting loss did not exceed its taxable investment income), its underwriting loss could be offset against its own otherwise fully taxed investment income. Similarly, if one life member had underwriting gain (*i.e.*, its gain from operations exceeded its taxable investment income) while another member had an underwriting loss, the gain company could reduce its underwriting gain (excess gain from operations) by its special deductions and by 50 percent of any remaining excess gain from operations, without first consolidating that gain with the other member's underwriting loss.

These two alternative methods were rejected. The consolidated return regulations primarily use a classification approach to determine items required to be consolidated. This approach is particularly true when an item of income is preferentially treated or a deduction is limited to an amount or percentage of taxable income. For example, §§ 1.1502–41 and 23 require net capital gain and section 1231 net gain or loss, respectively, to be computed on a consolidated basis. Underwriting experience, which if negative may fully offset investment income but if positive is taxed currently at half the statutory rate, is essentially a class of preferentially treated income. Consistency with other aspects of the consolidated return regulations suggests using the modified phase-by-phase method of consolidation.

The consolidated return regulations also apply some form of consolidated limitation whenever a deduction is limited by an amount or percentage of taxable income. The special deductions for life insurance companies are limited to the amount of excess gain from operations. The deduction (or, in the case of a stock life insurance company the deferral) of a portion of tax base composed of 50 percent of excess gain from operations (after the allowance of special deductions) is an amount measured by a percentage of income. General principles suggest that these limitations should be consolidated limitations. Application of these principles is accomplished through the modified phase-by-phase method. The method consolidate underwriting gains and losses before ascertaining the extent to which special deductions and the deferral of 50 percent of excess gain from operations would be allowed.

Moreover, the bottom-line method is inconsistent with the general treatment of losses experienced by a group filing consolidated returns. A net operating loss is required to be computed on a consolidated basis. (But see, section 1503(c)(1), discussed above.) A life member's current losses may also offset another member's gains. In these respects, losses of the life members are treated as if they are sustained by a single entity. However, the bottom-line method would provide more favorable treatment to the losses of members of the life subgroup than section 809 allows to the losses of an individual life insurance company. For example, the bottom-line method would allow the loss from operations experienced by one member to offset the LICTI of another member after the latter had taken its special deductions and excluded 50 percent of its excess gain from operations. If, instead, the loss member filed a separate return, its loss would be required to reduce gain from operations in a later year as a loss carryover under section 809(d)(4) before its special deductions or deferral of 50 percent of its excess gain from operations. Indeed, special deductions and the exclusion of 50 percent of excess gain from operations under the bottom-line method can operate to create or increase an operational loss for the group (in excess of the $250,000 amount permitted under section 809(f)(1)) and this effect is inconsistent with the principle that operating losses are computed on a consolidated basis.

The proposed regulations follow the current consolidated return principles for treatment of consolidated items. For reasons noted above, the proposed amendments also provide for a consolidated special deduction under section 809(d) (3), (5), and (6), as limited by section 809(f).

Special problems arise in the case of capital gains in the life subgroup. Section 818(f) provides that the computation of each life member's policyholders' share of investment yield is made as if the member were not filing a consolidated return. At the same time, section 818(e) provides that nothing in sections 801 through 820 permits the same item to be deducted more than once in computing taxable investment income and once in computing gain or loss from operations.

In the usual consolidation of nonlife companies, § 1.1502–22 requires the nonlife group's capital gain net income to be determined on an aggregate basis. Also, see similar rules in § 1.1502–23 (relating to section 1231 net gain or loss) and § 1.1502–41 (relating to consolidated net capital gain and consolidated net short-term capital loss). Under this usual aggregate approach, a member's net short-term capital gain is not netted against its net long-term capital loss. Instead, they are aggregated or matched against those gains and losses of the other members. Further, a member's capital losses may reduce another member's capital gains, rather than serving as a capital loss carryback or carryover which would be treated as a short-term capital loss had the member filed a separate return. Since a life member's excess of net short-term capital gain over its net long-term capital loss is included in gross investment income under section 804(b)(2), section 818 (e) and (f)

precludes a straight-forward application of the usual consolidated return principles of §§ 1.1502–22, 23, and 41.

Accordingly, the regulations propose to alter the approach of §§ 1.1502–22, 23, and 41 in the following ways. The life subgroup's section 1231 net gain or net loss is not determined on a consolidated basis. Furthermore, in determining consolidated capital gain net income, each life member computes its net capital loss or capital gain net income on a separate company basis and these amounts are later netted. Capital gain net income for a life member includes net short-term capital gain only to the extent of its share of the excess of net short-term capital gain over net long-term capital loss. A life member's separate net capital loss must be carried back on a separate return basis if it has net short-term capital gain in a prior year before that loss is netted in computing the life subgroup's consolidated capital gain net income. Finally, if a life member's net capital loss reduces the life subgroup's consolidated capital gain net income in a year, and the member has net short-term capital gain in a later year that would be reduced by the net capital loss carryover if the member filed a separate return, the regulations merely cite the requirements of section 818(f) and provide that the net capital loss may not be deducted more than once.

Future Publication of Complete Regulations

These proposed regulations are only intended to resolve certain major issues relating to the election under section 1504(c)(2) by an affiliated group and the determination of its consolidated tax liability. A notice of proposed rulemaking covering other issues will be published in the future. Some of these other issues relate to the computation of consolidated partial LICTI and the maintenance of the surplus accounts under section 815.

The Treasury Department invites public comment on these issues and others that may be raised by groups that may make an election under section 1504(c)(2).

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Furthermore, the Secretary of the Treasury has certified that this rule, if issued, will not have a significant economic impact on a sustantial number of small entities. The rule would affect primarily large affiliated groups of corporations and would not significantly alter the recordkeeping duties of small entities. A Regulatory Flexibility Analysis is therefore not required under the Regulatory Flexibility Act (5 U.S.C. 605(b)).

Comments and Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of this proposed regulation is Donald K. Duffy of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects in 26 CFR 1.1501–1—1.1564–1

Income taxes, Controlled group of corporations, Consolidated returns.

Proposed Amendments to the Regulations

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Accordingly, the following amendments are proposed to be made to Part 1 of Title 26.

A new § 1.1502–47 is added in the appropriate place to read as set forth below:

§ 1.1502–47 Consolidated returns by life-nonlife groups.

(a) *Scope.*—(1) *In general.* Under section 1504(b)(2), insurance companies that are taxed under section 802 or 821 (relating respectively to life insurance companies and to certain mutual insurance companies) are not treated as includible corporations for purposes of determining under section 1504(a) the existence of an affiliated group and the composition of its membership. Section 1504(c)(2) provides an election whereby certain life insurance companies and mutual insurance companies may be treated as includible corporations, and thus members, of a group composed of other includible corporations. This section provides regulations for the making of this election and for the determination of an electing group's composition and its consolidated tax liability.

(2) *General method of consolidation.*—(i) *Subgroup method.* The regulations adopt a subgroup method to determine consolidated taxable income. One subgroup is the group's nonlife companies (including those taxable under section 821). The other subgroup is the group's life insurance companies. Initially, the nonlife subgroup computes nonlife consolidated taxable income and the life subgroup computes consolidated partial life insurance company taxable income. A subgroup's income may in effect be reduced by a loss of the other subgroup. The life subgroup losses consist of consolidated loss from operations and life consolidated net capital loss. The nonlife subgroup losses consist of nonlife consolidated net operating loss and nonlife consolidated net capital loss. Consolidated taxable income is therefore defined in pertinent part as the sum of nonlife consolidated taxable income and consolidated partial life insurance company taxable income reduced by life subgroup losses or nonlife subgroup losses.

(ii) *Subgroup loss.* A subgroup loss does not actually affect the computation of nonlife consolidated taxable income or consolidated partial life insurance company taxable income. It merely constitutes a bottom-line adjustment in reaching consolidated taxable income. Furthermore, one subgroup's loss must first be carried back against income of the same subgroup before it may be used as a setoff against the second subgroup income in the taxable year the loss arose. (See section 1503(c)(1)). The carryback of the losses from one subgroup may not be used to offset income of the other subgroup in the year to which the loss is to be carried. This carryback of the first subgroup's loss may "bump" the second subgroup's loss that in effect previously reduced the income of the first subgroup. The second subgroup's loss that is bumped in appropriate cases may in effect reduce a succeeding year's income of the second or first subgroup. This approach gives the group the tax savings of the use of losses but the bumping rule assures that insofar as possible life deductions will be matched against life income and nonlife deductions against nonlife income.

(iii) *Carryover of subgroup loss.* A subgroup's loss may be used in a succeeding year, but in any particular succeeding year the loss must be used to reduce the income of the same subgroup before it may be used as a setoff against the other subgroup's income.

(3) *Authority.* This section is prescribed under the authority of sections 1502, 1503(c), 1504(c)(2), and 7805(b).

(4) *Other provisions.* The provisions of §§ 1.1502–1 through 1.1502–80 apply unless this section provides otherwise. Further, unless otherwise indicated in this section, a term used in this section has the same meaning as in sections 801–844.

(b) *Effective date.* This section is effective for taxable years for which the due date (without extensions) for filing returns is after [The Filing Date of the Treasury Decision].

(c) *Cross references.* The following table provides cross references for some of the definitions and operating rules that are relevant in making the election and determining the group's composition and its tax liability:

Item and Paragraph	
—General definitions	(d)
—Eligible corporation (Five-year rules)	(d)(12)
—Election	(e)
—Consolidated taxable income	(g)
—Nonlife consolidated taxable income	(h)
—Consolidated partial life insurance company taxable income	(j)
—Nonlife subgroup losses	(m)
—Life subgroup losses	(n)
—Alternative tax	(o)

(d) *Definitions.* For purposes of this section—

(1) *Life insurance company.* The term "life company" means a life insurance company as defined in section 801. Section 801 applies to each company separately.

(2) *Mutual insurance company.* The term "mutual company" means a mutual insurance company taxable under section 821(a)(1).

(3) *Life insurance company taxable income.* The term "Life insurance company taxable income" is referred to as LICTI.

(4) *Group.* The term "group" means an affiliated group of corporations (as defined in section 1504(a)) which has as a member at least one life company and at least one corporation other than a life company or one mutual company and at least one corporation other than a mutual company. Unless otherwise indicated in this section, a group's composition is determined without section 1504(b)(2).

(5) *Member.* The term "member" means a corporation (including the common parent) that is an includible corporation in the group. A life company or mutual company is treated as a member for any taxable year for purposes of determining if it is an eligible corporation under paragraph (d)(12) of this section and therefore if it is an includible corporation under section 1504(c)(2).

(6) *Life member.* A life member is a member of the group that is a life company.

(7) *Nonlife member.* A nonlife member is a member of the group that is not a life company.

(8) *Life subgroup.* A life subgroup is composed of those members that are life members. If the group has only one life member, it constitutes a life subgroup.

(9) *Nonlife subgroup.* A nonlife subgroup is composed of those members that are nonlife members. If the group has only one nonlife member, it constitutes a nonlife subgroup.

(10) *Separate return year.* The term "separate return year" means a taxable year of a corporation for which it files a separate return or for which it joins in the filing of a consolidated return by another group. For purposes of this subparagraph (10), the term "group" is defined with regard to section 1504(b)(2) for years in which an election under section 1504(c)(2) is not in effect. Thus, a separate return year includes a taxable year for which that election is not in effect.

(11) *Separate return limitation year.* Section 1.1502–1(f)(2) provides exceptions to the definition of the term "separate return limitation year". For purposes of applying those exceptions to this section, for taxable years beginning after December 31, 1980, the term "group" is defined without regard to section 1504(b)(2) and the definition in this subparagraph (11) applies separately to the nonlife subgroup in determining nonlife consolidated taxable income under paragraph (h) of this section and to the life subgroup in determining consolidated partial LICTI under paragraph (j) of this section.

(12) *Eligible corporations*—(i) *In general.* A corporation is an eligible corporation for a taxable year of a group only if throughout every day of the base period the corporation—

(A) Was in existence (see paragraph (d)(12)(iii) of this section),

(B) Was a member of the group determined without section 1504(b)(2) (see paragraph (d)(12)(iv) of this section),

(C) Conducted substantial business activities, and

(D) Did not experience a substantial increase in its size or change in character (see paragraph (d)(12)(v) of this section).

(ii) *Base period.* The base period consists of the common parent's five taxable years immediately preceding the group's consolidated return for which the determination of eligibility is made. Eligibility is determined for each consolidated return year beginning with the first year for which the election under paragraph (e) of this section is effective.

(iii) *New corporation.* A corporation organized after the base period begins is not eligible, even if it was a member of the group immediately after its organization. For purposes of this subdivision (iii), a corporation that was a party to a reorganization described in section 368(a)(1)(F) shall be treated as the same entity both before and after the reorganization.

(iv) *Membership period.* To be eligible, a corporation must have been a member of the group throughout the base period. For example, an ineligible corporation includes one whose stock was acquired from outside the group at any time during the base period or one which was a member of a different group (whether by application of reverse acquisition rules in § 1.1502–75(d)(3) or otherwise) at any time during the base period. For purposes of this subdivision (iv), the common parent of a group is treated as constituting a group during any period when both (A) less than 80 percent of its stock was held by any other includible corporations or corporation and (B) it held less than 80 percent of the stock of any other includible corporation.

(v) *Substantial change.* To be eligible, a corporation must not have undergone during the base period a substantial increase in the size or change in the character of its trade or business, attributable to an acquisition of assets (or insurance business) from outside the group in transactions not conducted in the ordinary course of its trade or business. Whether an acquisition results in a substantial increase or change depends on all of the facts and circumstances including the following factors:

(A) Whether the acquiring company is a noninsurance company, a nonlife insurance company, or a life company before the acquisition and a different type of company after the acquisition.

(B) The amount of any insurance reserves (defined in section 801(c)) of the acquiring company before and after the acquisition.

(C) The fair market value of the assets of the acquiring company before and after the acquisition.

(D) In general, a substantial increase in size occurs if the acquiring company more than doubles its size.

(13) *Ineligible corporation.* A corporation that is not an eligible corporation is ineligible. If a life company or mutual company is ineligible, it is not treated under section 1504(c)(2) as an includible corporation and its income and deductions are not included in the consolidated return filed under this section. Losses of a nonlife member arising in years when it is ineligible may not be used under section 1504(c)(2) and paragraph (m) of this section to set off the income of a life member.

(14) *Illustrations.* The following examples illustrate this paragraph (d). In each example, L indicates a life company, another letter indicates a nonlife company, and each corporation uses the calendar year as its taxable year.

Example (1). P has owned all of the stock of S since 1913. On January 1, 1980, P purchased all of the stock of L_1 which owns all of the stock of L_2 and S_2. L_1 and L_2 are treated as members for purposes of determining if they are eligible for 1982. However, for 1982, L_1, L_2, and S_2 are ineligible because none of them has been a member of the group for P's five taxable years preceding 1982. For 1982, L_1 and L_2 may elect to file a consolidated return because they constitute an affiliated group under section 1504(c)(1), and P and S may file a consolidated return.

Example (2). Since 1974, P has been a mutual insurance company owning all the stock of L_1. In 1980, P transfers some of its assets to S_1, a new nonlife company. For 1982, only P and L_1 are eligible corporations.

(3) The facts are the same as in example (2) except L owns all the stock of L_1. For 1982, only L and L_1 are eligible corporations.

Example (4). P has owned all of the stock of S_1, a company subject to tax under section 831(a), and L_1 for ten years. S_1 conducts some life insurance business and on January 1, 1982, it transfers this business to a new subsidiary, L_2, in exchange for all of L_2's stock. For 1982, L_2 is not an eligible corporation.

Example (5). P owns all of the stock of L and S. L is a large life member and on January 1, 1982, it acquires all of the stock of L_1 for stock of P in a reorganization described in section 368(a)(1)(B) which is not a reverse acquisition under § 1.1502–75(d)(3). For 1982, L_1 is an ineligible corporation.

Example (6). The facts are the same as in example (5) except L transfers cash and assets to L_1, a new company and L_1 immediately purchases substantially all of the assets of another life company. For 1982, L_1 is an ineligible corporation.

Example (7). The facts are the same as in example (6) except that L acquires all of the insurance business of L_2. Assume that L's insurance reserves after the acquisition are less than twice its insurance reserves before the acquisition. For 1982, L is an eligible corporation.

Example (8). The facts are the same as in example (7) except that on January 1, 1982, L transfers the acquired assets to L_1, a new company, in exchanges for L_1's stock. For 1982, L_1 is not an eligible corporation.

(e) *Election*—(1) *In general.* The election under section 1504(c)(2) is made by the group's common parent in the same manner (and it has the same effect) as the election to file a consolidated return is made under § 1.1502–75 (a) and (b) for a group which did not file a consolidated return for the immediately preceding taxable year. Thus, the procedure for making the election under section 1504(c)(2) is the same whether or not a consolidated return was filed by the life members or nonlife members for the immediately preceding taxable year. The election under section 1504(c)(2) may not be made if the group's common parent is an ineligible life company or an ineligible mutual company. Except as provided in § 1.1502–75(c), the election is irrevocable.

(2) *Cross reference.* If an election is made under section 1504(c)(2), see § 1.1502–75 (e) and (f) for rules that apply for not including (or including) a member or a nonmember in the consolidated return.

(f) *Effect of election.* If the common parent makes the election under section 1504(c)(2), the following rules apply:

(1) *Termination of group.* A mere election under section 1504(c)(2) will not cause the creation of a new group or the termination of an affiliated group that files a consolidated return in the immediately preceding taxable year. However, if any member of an affiliated group (as defined in section 1504(c)(1)) of life companies is ineligible for the taxable year for which that election is effective, that year is a separate return year for the member.

(2) *Inclusion of life company.* If a life company is ineligible in the consolidated return year for which the election is effective, it will be treated as an includible corporation for the common parent's first taxable year in which the company is eligible.

(3) *Dividends received deduction.* Section 243(b)(5) defines the term affiliated group for purposes of the election to deduct 100 percent of the qualifying dividends received by a member from another member of the group. Section 246(b)(6) limits certain multiple tax benefits and the deduction itself. Section 243(b) (5) and (6) do not apply to the mutual companies and life companies that are eligible corporations. See section 1504(c)(2)(B)(i). Thus, the common parent of the group may elect to deduct 100 percent of the qualifying dividends received from an ineligible life company.

(4) *Controlled group.* Sections 1563 (a)(4), (b)(2)(D), and (b)(3)(C) (insofar as it applies to corporations described in section 1563(b)(2)(D)) do not apply to any eligible or ineligible life company that is a member of the group for a taxable year during which the election is effective. See paragraph (d)(4) of this section for the definition of group.

(5) *Consolidated tax.* The tax liability of a group for a consolidated return year (before application of credits against that tax) is computed on a consolidated basis by adding together the following taxes:

(i) The tax imposed under section 11 on consolidated taxable income (as determined under paragraph (g) of this section). The taxes imposed under sections 802(a), 821(a), and 831(a) will each be treated as a tax imposed under section 11.

(ii) The tax imposed by section 1201 on consolidated net capital gain (as determined under paragraph (o) of this section) in lieu of the tax imposed under paragraph (f)(5)(i) of this section on that gain.

(iii) Any taxes described in § 1.1502–2 (other than by paragraphs (a), (f), and (h) thereof).

(g) *Consolidated taxable income.* The consolidated taxable income is the sum of the following three amounts:

(1) *Nonlife consolidated taxable income.* The nonlife consolidated taxable income (as defined in paragraph (h) of this section) of the nonlife subgroup, as set off by the life subgroup losses as provided in paragraph (n) of this section. The amount in this paragraph (g)(1) may not be less than zero.

(2) *Consolidated partial LICTI.* The consolidated partial LICTI (as defined in paragraph (j) of this section) of the life subgroup, as set off by the nonlife subgroup losses as provided in paragraph (m) of this section. The amount in this paragraph (g)(2) may not be less than zero.

(3) *Surplus accounts.* The sum of the amounts subtracted under section 815 from the policyholders' surplus accounts of the life members.

(h) *Nonlife consolidated taxable income.*—(1) *In general.* Nonlife consolidated taxable income is the consolidated taxable income of the nonlife subgroup, computed under § 1.1502–11 as modified by this paragraph (h). For this purpose, separate taxable income of a member includes separate mutual insurance company

taxable income (as defined in section 821(b)) and insurance company taxable income (as defined in section 832).

(2) *Nonlife consolidated net operating loss deduction.*—(i) *In general.* In applying § 1.1502–21, the rules in this subparagraph (2) apply in determining for the nonlife subgroup the nonlife net operating loss and the portion of the nonlife net operating loss carryovers and carrybacks to the taxable year.

(ii) *Nonlife CNOL.* The nonlife consolidated net operating loss is determined under § 1.1502–21(f) by treating the nonlife subgroup as the group.

(iii) *Carryback.* The nonlife consolidated net operating loss for the nonlife subgroup is carried back under § 1.1502–21 to the appropriate years (whether consolidated or separate) before the loss may be used as a nonlife subgroup loss under paragraphs (g)(2) and (m) of this section to set off consolidated partial LICTI in the year the loss arose.

(iv) *Subgroup rule.* In determining the portion of the nonlife consolidated net operating loss that is absorbed when the loss is carried back to a consolidated return year beginning after December 31, 1980, § 1.1502–21 is applied by treating the nonlife subgroup as the group. Therefore, the absorption is determined without taking into account any life subgroup losses that were previously reported on a consolidated return as setting off nonlife consolidated taxable income for the year to which the nonlife loss is carried back.

(v) *Carryover.* The portion of the nonlife consolidated net operating loss that is not absorbed in a prior year as a carryback, or as a nonlife subgroup loss that set off consolidated partial LICTI for the year the loss arose, constitutes a nonlife carryover under this subparagraph (2) to reduce nonlife consolidated taxable income before that portion may constitute a nonlife subgroup loss that sets off consolidated partial LICTI for a particular year.

(vi) *Transitional rules.* The nonlife consolidated net operating loss deduction is subject to a transitional rule limitation in paragraph (h)(3) of this section.

(vii) *Example.* The following example illustrates this paragraph (h)(2). In the example, L indicates a life company, another letter indicates a nonlife company, and each corporation uses the calendar year as its taxable year.

Example. P owns all of the stock of S and L_4. L_4 owns all of the stock of L_5. For 1982, the group first files a consolidated return for which the election under section 1504 (c)(2) is effective. P and S filed consolidated returns for 1979 through 1981. In 1982, The P–S group sustains a nonlife consolidated net operating loss. The loss is carried back to the consolidated return years 1979, 1980, and 1981 of P and S by using the principles of §§ 1.1502–21 and 1.1502.79 and, because the election in 1982 under section 1504(c)(2) does not result under paragraph (f)(1) of this section in the creation of a new group or the termination of the P–S nonlife group, the loss is absorbed on the consolidated return in those years without regard to whether the loss in 1982 is attributable to P or S and without regard to their contribution to consolidated taxable income in 1979, 1980, or 1981. The portion of the loss not absorbed in 1979, 1980, and 1981 may serve as a nonlife subgroup loss in 1982 that may set off the consolidated partial LICTI of L_3 and L_5 under paragraph (g)(2) and (m) of this section.

(3) *Transitional rule.*—(i) *In general.* The portion of the nonlife consolidated net operating loss deduction in a consolidated return year beginning after December 31, 1980 (referred to as "post-1980 year") attributable to net operating losses sustained in separate return years beginning before January 1, 1981 (referred to as "pre-1981 year"), is subject to the rules and limitations in this paragraph (3).

(ii) *Separate nonlife groups.* To determine the limitation, first, identify for the post-1980 year one or more separate affiliated groups of nonlife companies (as defined in section 1504 without section 1504(c)(2)). For this purpose, a single nonlife company may constitute a separate affiliated group if (A) is is not otherwise a member of a separate group or (B) it has a net operating loss sustained in the pre-1981 year that may be carried over and that year is a separate return limitation year (determined under § 1.1502–1(f) without paragraph (d)(11) of this section).

(iii) *Carryover.* Second, identify the pre-1981 year net operating losses that may be carried over and that are attributable to each separate affiliated group of nonlife companies. The separate return limitation year rules in § 1.1502–21(c) do not apply to any of these carryovers.

(iv) *Limitation.* Third, treat the last taxable year beginning before January 1, 1981, as if in that year there was a consolidated return change of ownership of each such separate affiliated group of nonlife companies and apply the consolidated return change of ownership limitation in § 1.1502–21(d) to the losses of each group by treating the members of each separate group as old members.

(v) *Examples.* The following examples illustrate this paragraph (h)(3). In the examples L indicates a life company, another letter indicates a nonlife company, and each corporation uses the calendar year as its taxable year.

Example (1). Throughout all of 1982, P owns all of the stock of S and L_1, and L_1 owns all of the stock of L_2 which in turn owns all of the stock of S_1. Thus, for 1982, there are two nonlife subgroups under this subparagraph (3), P–S and S_1. For 1981, P and S did not file a consolidated return and for 1980 P has a net operating loss of $200,000. Assume that P had no income in 1981. For 1982, the group makes an election under section 1504(c)(2) to file a consolidated return and all corporations are eligible corporations. The consolidated taxable income for the nonlife subgroup for 1982 (determined without the consolidated net operating loss deduction) recomputed by including only items of income and deduction of P and S is $120,000. If $120,000 is the § 1.1502–21(d)(2) amount for P and S, then the amount of P's net operating loss for 1981 that may be carried over to P and S for 1982 cannot exceed $120,000.

Example (2). (a) P owns all of the stock of S_1. On January 1, 1979, P purchased all of the stock of L_1, which own all of the stock of L_6 and S_2. Prior to 1984, all of the corporations filed separate returns. For 1984, the group makes an election under section 1504(c)(2) to file a consolidated return.

(b) 1981, 1982, and 1983 are not treated under paragraph (d)(11) of this section as separate return limitation years of the P, S_2, and S_1 nonlife subgroup. However, P and S_1 will be treated as old members under paragraph (h)(3)(iv) of this section and under § 1.1502–21(d) with respect to their losses in 1979 and 1980 (whether a consolidated return was filed or separate returns were filed) so that the portion of nonlife consolidated taxable income attributable to S_1 may not absorb the losses of P or S_1. The rules that apply to the P—S_1 nonlife subgroup for 1979 and 1980 apply in an identical way to S_1 by treating S_1 as a subgroup separate from the nonlife subgroup. See section 1507(c)(2)(A) of the Tax Reform Act of 1976.

(c) Similarly, L_1 and L_2 are treated as old members under paragraph (l)(3) of this section for losses arising in 1979 and 1980. However, since the L_1—L_2 subgroup is also the life subgroup under paragraph (d)(8) of this section, this treatment does not affect the computation of consolidated partial LICTI for the life subgroup.

(4) *Nonlife consolidated capital gain net income or loss.*—(i) *In general.* In applying § 1.1502–22, the rules in this subparagraph (4) apply in determining for the nonlife subgroup the nonlife consolidated capital gain net income or loss and the portion of the nonlife net capital loss carryovers and carrybacks to the taxable year. In particular, the nonlife consolidated capital gain net income and nonlife consolidated net capital loss are determined under the principles of § 1.1502–22(a) by treating the nonlife subgroup as the group.

(ii) *Additional principles.* In applying § 1.1502–22 to nonlife consolidated net capital loss carryovers and carrybacks, the principles set forth in paragraph (h)(2) (iii) through (v) for applying

§ 1.1502–21 to nonlife consolidated net operating loss carryovers and carrybacks shall also apply. Further, the portion of nonlife consolidated net capital loss carryovers attributable to losses sustained in taxable years beginning before January 1, 1981, is subject to the limitations in paragraph (h)(3) of this section applied by substituting "net capital loss" for the term "net operating loss" and "§ 1.1502–22(d)" for "§ 1.1502–21(d)".

(iii) *Special rules.* The nonlife consolidated net capital loss is reduced, for purposes of determining the carryovers and carrybacks under § 1.1502–22(b)(1) by the lesser of—

(A) The aggregate of the additional capital loss deductions allowed under section 822(c)(6) or section 832(c)(5), or

(B) The nonlife consolidated taxable income computed without capital gains and losses.

(i) [Reserved]

(j) *Consolidated partial LICTI.* Consolidated partial LICTI is determined for the life subgroup. It equals the sum of the following amounts:

(1) Consolidated TII (determined under paragraph (k) of this section) or, if smaller, consolidated GO (determined under paragraph (l) of this section); and

(2) If consolidated GO exceeds consolidated TII, 50 percent of the amount of the excess.

(k) *Consolidated TII.*—(1) *General rule.* The term "taxable investment income" is defined under section 804 and is referred to as TII. Consolidated TII is an amount (not less than zero) equal to the excess of—

(i) The sum of—

(A) The aggregate separate TII of each member and

(B) Life consolidated capital gain net income (see paragraph (k)(4) of this section), over

(ii) The sum of—

(A) The life consolidated dividends received deduction (see paragraph (k)(7) of this section) and

(B) The life consolidated small business deduction (see paragraph (k)(8) of this section).

(2) *Separate TII.*—(i) *In general.* A life member's "separate TII" is its company share of each and every item of investment yield (see paragraph (k)(3) of this section) reduced by the sum of its company share of the following amounts:

(A) The excess of its net short-term capital gain over its net long-term capital loss;

(B) Intercompany dividends described in § 1.1502–14(a)(1); and

(C) Interest which is excluded from gross income under section 103.

(ii) *Less than zero.* A life member's separate TII may be less than zero.

(3) *Company share of investment yield.*—(i) *Investment yield.* A life member's investment yield is computed under section 804.

(ii) *Company share.* A life member's company share of each and every item of investment yield is computed under sections 804 through 806.

(iii) *Computation on separate return basis.* The computations of investment yield and a life member's company share of that yield are made as if the member filed a separate return. See section 818(f).

(4) *Life consolidated capital gain net income.*—(i) *General rule.* In determining life consolidated capital gain net income or capital loss, the principles of § 1.1502–22 apply to the life subgroup as modified by this subparagraph (4). The following items are taken into account:

(A) Except as otherwise provided in this subparagraph (4), the net capital losses and capital gain net income of each life member (determined without paragraph (k)(4)(i)(B) of this section). Section 1231 is applied separately to each life member and not on a consolidated subgroup basis.

(B) The life consolidated net capital loss carryovers and carrybacks to the year under paragraph (k)(5) of this section.

(ii) *Operating rules.* The following rules apply for purposes of this subparagraph (4):

(A) A life member's net short-term capital gain is included in its capital gain net income only to the extent of its company share of the excess (if any) of its net short-term capital gain over its net long-term capital loss.

(B) A life member's net capital loss is first carried back against its net short-term capital gain and to the extent so carried back is not included in computing life consolidated capital gain net income or net capital loss. See section 818(f).

(5) *Life consolidated net capital loss carryovers and carrybacks.* The life consolidated net capital loss carryovers and carrybacks for the life subgroup are determined by applying the principles of § 1.1502–22 and paragraph (k)(4) of this section as modified by the following rules in this subparagraph (5):

(i) Life consolidated net capital loss is first carried back (or apportioned to the life members for separate return years) to be absorbed by life consolidated capital gain net income without regard to any nonlife subgroup capital losses and before the life consolidated net capital loss may serve as life a subgroup capital loss that sets off nonlife consolidated capital gain net income in the year the life consolidated net capital loss arose.

(ii) If a life consolidated net capital loss is not carried back or is not a life subgroup loss that sets off nonlife consolidated capital gain net income in the year the life consolidated net capital loss arose, then it is carried over to the particular year under this paragraph (k)(5) first against life consolidated capital gain net income before it may serve as a life subgroup capital loss that sets off nonlife consolidated capital gain net income in that particular year.

(iii) *Section 818(f).* Capital losses may not be deducted more than once and capital gain will not be included more than once. See section 818(e) and also section 818(f).

(iv) Capital loss carryovers are subject to the transitional rule in paragraph (K)(6) of this section.

(6) *Transitional rule.* The portion of the life consolidated capital loss carryovers attributable to the net capital losses of the life members sustained in separate return years beginning before January 1, 1981, is subject to the same limitations as the capital losses of nonlife members in paragraph (h)(4)(iii) of this section by applying the principles of paragraph (h)(3) of this section to each separate affiliated group of life companies.

(7) *Life consolidated dividends received deduction.* The life consolidated dividends received deduction is the aggregate deductions of the life members allowable under section 804(a)(2)(A)(ii). In making this computation, a life member's company share of the dividends received from another member is eliminated. However, the life consolidated dividends received deduction allowed by sections 243(a)(1), 244(a), and 245 may not exceed 85 percent of consolidated TII computed without this deduction.

(8) *Small business deduction.* The life consolidated small business deduction is the lesser of $25,000 or 10 percent of the sum of each life member's investment yield. See also, section 1561(a)(3) which may reduce this $25,000.

(l) *Consolidated GO or LO.*—(1) *General rule.* The terms "gain from operations" or "loss from operations" are defined under section 809 and are referred to respectively as GO or LO. Consolidated GO or LO is determined by taking into account the following items:

(i) The separate GO or LO (see paragraph (l)(2) of this section) of each member;

(ii) The consolidated operations loss deduction (see paragraph (l)(3) of this section);

(iii) The consolidated capital gain net income (see paragraph (l)(4) of this section);

(iv) The consolidated charitable contributions deduction (see paragraph (l)(6) of this section);

(v) The consolidated dividends received deduction (see paragraph (l)(7) of this section);

(vi) The consolidated small business deduction (see paragraph (l)(8) of this section); and

(vii) The consolidated special deduction (see paragraph (l)(9) of this section).

(2) *Separate GO.*—(i) *In general.* A life member's separate GO equals its gross items minus its deductions (as specified in paragraph (l)(2)(ii) and (iii) of this section, respectively). The separate GO of a member is computed under the principles of § 1.1502–12 to the extent not inconsistent with this paragraph (l), with sections 818 (e) and (f), and with paragraph (k) of this section.

(ii) *Gross items.* A life member's gross items are the sum of the items in section 809(c) and its company share of each and every item of investment yield (determined under paragraph (k)(3) of this section). The member's company share is determined under section 809(a) and (b)(3) for purposes of this paragraph (l). The sum is reduced by the life member's company share of the following amounts:

(A) The excess of its net short-term capital gain over its net long-term capital loss. The excess is determined under paragraph (k)(4) of this section.

(B) Intercompany dividends described in § 1.1502–14(a)(1).

(iii) *Deductions.* A life member's deductions (or exclusions) are those described in section 809(d) other than—

(A) The operations loss deduction in section 809(d)(4);

(B) The deduction for dividends received in section 809(d)(8)(A)(ii);

(C) The small business deduction in section 809(d)(10);

(D) The deduction for charitable contributions allowed by section 809(d)(11) and (e)(3);

(E) The special deductions in section 809 (d)(3), (5) and (6); and

(F) Capital losses (unless taken into account in computing investment yield under paragraph (k) of this section).

(3) *Consolidated operations loss deduction.*—(i) *General rule.* The consolidated operations loss deduction is an amount equal to the consolidated operations loss carryovers and carrybacks to the taxable year. The provisions of § 1.1502–21 and section 812 apply to the extent not inconsistent with this paragraph (l)(3).

(ii) *Consolidated offset.* For purposes of applying section 812 (b) and (d), the term "consolidated offset" means the increase in the consolidated operations loss deduction which reduces consolidated partial LICTI to zero. See § 1.812–5. For setoff of consolidated LO against nonlife consolidated taxable income, see paragraph (n)(2) of this section.

(iii) *Carrybacks.* A consolidated LO is first carried back to be absorbed by consolidated GO under section 809(d)(4) for prior consolidated return years (or apportioned to the life members for prior separate return years) without regard to any nonlife subgroup losses that were set off against consolidated partial LICTI and before the consolidated LO may serve as a life subgroup loss to be set off against nonlife consolidated taxable income in the year the consolidated LO arose.

(iv) *Carryovers.* If a consolidated LO is not carried back or is not applied as a life subgroup loss that set off nonlife consolidated taxable income in the year the consolidated LO arose, then it is carried over to a particular year under this paragraph (l)(3) first against consolidated GO before it may serve as a life subgroup loss that may be set off against nonlife consolidated taxable income for that particular year.

(v) *Transitional rule.* The portion of a consolidated operations loss deduction that is attributable to LOs sustained in separate return years beginning before January 1, 1982, is subject to the same rules and limitations that the nonlife consolidated net operating loss deduction is subject to in paragraph (h)(3) of this section as applied by identifying separate affiliated groups of life companies.

(4) *Life consolidated capital gain net income or loss.* Life consolidated capital gain net income or loss is determined in the same manner as under paragraph (K)(4) of this section. However, a life member's company share is determined under paragraph (l)(2)(ii) of this section.

(5) *Section 1231 net loss.* Section 1231 net loss is determined separately for each life member.

(6) *Life consolidated charitable contributions deduction*—(i) *Amount.* The life consolidated charitable contribution deduction under section 170 is the lesser of—

(A) The sum of the deductions of the life members allowable under section 170 (without application of sections 170(b)(2) and 809(e)(3)(A)), and any life consolidated charitable contributions carryovers to that year, or

(B) Five percent of the adjusted consolidated GO as determined under subdivision (iii) of this paragraph (l)(6).

(ii) *Carryover of excess contributions.* The consolidated charitable contributions carryovers to any consolidated return year are determined under the principles of section 809(e)(3)(B) and § 1.809–6(c)(2). These carryovers do not include any excess charitable contributions apportioned to a corporation under § 1.1502–79(e) for a separate return year.

(iii) *Adjusted consolidated gain from operations.* For purposes of this paragraph (c)(6), adjusted consolidated GO for a consolidated return year is the consolidated GO computed without—

(A) The life consolidated charitable contributions deduction;

(B) The life consolidated dividends received deduction described in paragraph (l)(7)(iii) of this section;

(C) The sum of each life member's company share of the interest which is excluded from each member's separate GO under sections 809(d)(8)(A)(i) and 103;

(D) The consolidated special deduction described in paragraph (l)(9) of this section; and

(E) Any consolidated operations loss carryback (determined under paragraph (l)(3) of this section) to the taxable year.

(7) *Life consolidated dividends received deduction.*—(i) *Company share.* The life consolidated dividends received deduction is determined only for each life member's company share of dividends received.

(ii) *Intercompany dividends.* A life member's company share of the dividends received from another member is eliminated from its separate GO under § 1.1502–14(a)(1) before computing the consolidated dividends received deduction.

(iii) *Amount of deduction.* The life consolidated dividends received deduction is the deductions of the life members allowable under section 809(d)(8)(A)(ii). However, the portion of this consolidated deduction allowable by sections 243(a)(1), 244(a), and 245 may not exceed 85 percent of consolidated GO computed without (A) those deductions, (B) the consolidated special deduction under paragraph (l)(9) of this section, and (C) the consolidated operations loss deductions under paragraph (l)(3) of this section. This limitation does not apply in any consolidated return year in which there is a consolidated LO (determined without this limitation). See § 1.809–5(a)(8).

(8) *Consolidated small business deduction.* The consolidated small

business deduction is the amount determined under paragraph (k)(6) of this section.

(9) *Consolidated special deduction.*—(i) *General rule.* The consolidated special deduction is the lesser of—

(A) The sum of the deductions of the life members allowable under section 809(d)(3), (5), and (6) for the year (determined without the consolidated section 809(f) limitation), or

(B) The consolidated section 809(f) limitation.

(ii) *Limitation.* The consolidated section 809(f) limitation is $250,000 plus the excess of consolidated GO (computed without special deductions) for the year over consolidated TII for the year.

(iii) *Effect of operations loss deduction.* A consolidated operations loss carryback may reduce the amount of the consolidated special deduction for the year to which the loss is carried. See § 1.812–5(b)(2) and paragraph (l)(3) of this section.

(10) *Illustration.* (i) The following example illustrates this paragraph (l). L_1 and L_2 are life members of a group that files a consolidated return in 1982. In the example below, disregard the $250,000 amount in section 809(f)(1) and "Con." refers to consolidated amounts. The facts are set out below in the following chart:

(Dollars omitted)

	1982				1983		
	L_1	L_2	Con.		L_1	L_2	Con.
1. TII	200	100	300		150	50	200
2. GO	400	50	450		250	(200)	(50)
3. Special deductions	200	30	230		100	45	145
4. Loss carryover			0				0
5. Loss carryback (1982)			(50)				

(ii) The conclusions are set forth in the following chart:

		1982 continued	1983 continued
6.	TII	300	200
7.	GO (before specials):		
	a. Before carryback	450	0
	b. After carryback	400	0
8.	§ 809(f)(1) limit (line 7 minus line 6):		
	a. Before carryback	150	0
	b. After carryback	100	0
9.	Special deduction (lower of line 3 or line 8):		
	a. Before carryback	150	0
	b. After carryback	100	0
10.	GO:		
	a. Before carryback	300	0
	b. After carryback	300	0
11.	LO	0	(50)
12.	Partial LICTI:		
	a. Before carryback	300	0
	b. After carryback	300	0

(m) *Consolidated partial LICTI setoff by nonlife subgroup losses.*—(1) *In general.* The nonlife subgroup losses consist of the nonlife consolidated net operating loss and the nonlife consolidated net capital loss. Under paragraph (g) (2) of this section, consolidated partial LICTI is set off by the amounts of these two consolidated losses specified in paragraph (m) (2) of this section. The setoff is subject to the rules and limitations in paragraph (m) (3) of this section.

(2) *Amount of setoff.*—(i) *Current year.* Consolidated partial LICTI for the current taxable year is set off by the portion of the nonlife consolidated net operating loss and nonlife consolidated net capital loss arising in that year that cannot be carried back under paragraph (h) of this section to prior taxable years (whether consolidated or separate return years) of the nonlife subgroup.

(ii) *Carryovers.* The portion of the offsettable nonlife consolidated net operating loss or nonlife consolidated net capital loss that has not been used as a nonlife subgroup loss setoff against consolidated partial LICTI in the year it arose may be carried over to succeeding taxable years under the principles of §§ 1.1502–21 (relating to net operating loss deduction) or § 1.1502–22 (relating to net capital loss carryovers). However, in any particular succeeding year, the losses will be used under paragraph (h) of this section in computing nonlife consolidated taxable income before being used in that year as a nonlife subgroup loss that sets off consolidated partial LICTI.

(3) *Nonlife subgroup loss rules and limitations.* The nonlife subgroup losses are subject to the following operating rules and limitations:

(i) *Separate return years.* The carryovers in paragraph (m) (2) (ii) of this section may include net operating losses and net capital losses of the nonlife members arising in separate return years beginning after December 31, 1980, that may be carried over to a succeeding year under the principles (including limitations) of §§ 1.1502–21 and 1.1502–22. But see subdivision (viii) of this paragraph (m) (3).

(ii) *Capital loss.* Nonlife consolidated net capital loss sets off consolidated partial LICTI only to the extent of life consolidated capital gain net income and this setoff applies before any nonlife consolidated net operating loss sets off consolidated partial LICTI.

(iii) *Capital gain.* Life consolidated capital gain net income is zero in any taxable year in which the life subgroup has a consolidated LO and, in any taxable year, it may not exceed consolidated partial LICTI.

(iv) *Ordering rule.* Consolidated partial LICTI for a consolidated return year is set off by nonlife subgroup losses for that year before being set off (under paragraph (m) (2) (ii) of this section) by a carryover of a nonlife subgroup loss to that year.

(v) *Setoff at bottom line.* The setoff of nonlife subgroup losses against consolidated partical LICTI does not affect life member deductions that depend in whole or in part on GO or TII. Thus, the setoff does not affect the amount of consolidated partial LICTI (as determined under paragraph (j) of this section) for any year but it merely constitutes an adjustment in arriving at the group's consolidated taxable income under paragraph (g) of this section.

(vi) *Ineligible nonlife member.* (A) The offsetable nonlife consolidated net operating loss that arises in any consolidated return year (that may be set off against consolidated partial LICTI in the current taxable year or in a succeeding taxable year) is the amount computed under paragraph (h) (2) (ii) of this section reduced by the amount of the separate net operating loss (determined under § 1.1502–79 (a) (3)) of any nonlife member that is ineligible in that year. (B) The carryovers of nonlife net operating losses under paragraph (m) (2) (ii) of this section do not include the losses attributable to an ineligible nonlife member arising in a separate return year. (C) Losses of ineligible members that may be carried back or over to consolidated return years under paragraph (h) (2) of this section are considered to be used for purposes of this paragraph (m) only after the losses of eligible nonlife members that may be so carried. See section 1503 (c (2). For definitions of "eligible" and "ineligible" nonlife members see paragraph (d) (12) and (13) of this section.

(vii) *Election to relinquish carryback.* The offsetable nonlife consolidated net operating loss does not include the amount that could be carried back under paragraph (h) (2) of this section but for the common parent's election under section 172 (b) (3) (c) to relinquish the carryback. See section 1503 (c) (1).

(viii) *Separate return limitation year.* The offsetable nonlife consolidated net operating and capital loss carryovers do not include any losses attributable to a nonlife member that were sustained (A) in a separate return limitation year of that member, or (B) in a separate return year beginning after December 31, 1980, in which an election was not in effect under section 243 (b) (2) and section 1504 (c) (2). For purposes of this paragraph (m), a separate return limitation year includes a taxable year beginning before January 1, 1981. See section 1507 (c) (2) (A) of the Tax Reform Act of 1976 and § 1.1502–15.

(ix) *Percentage limitation.* The offsetable nonlife consolidated net operating losses that may be set off against consolidated partial LICTI in a particular year may not exceed a percentage limitation. This limitation is the applicable percentage in section 1503(c)(1) of the lesser of two amounts. The first amount is the sum of the offsetable nonlife consolidated net operating losses under paragraph (m)(2) of this section that may serve in the particular year (determined without this limitation) as a setoff against consolidated partial LICTI. The second amount is consolidated partial LICTI (as defined in paragraph (j) of this section) in the particular year reduced by any nonlife consolidated net capital loss that sets off consolidated partial LICTI in that year.

(x) *Further limitation.* Any offsetable nonlife consolidated net operating loss remaining after applying the percentage limitation that is carried over to a succeeding taxable year may not be set off against the consolidated partial LICTI attributable to a life member that was not an eligible life member in the year the loss arose. See section 1503(c)(2).

(xi) *Restoration rule.* The carryback of a consolidated LO or life consolidated net capital loss under paragraph (l) of this section that reduces consolidated partial LICTI (or life consolidated capital gain net income) for a prior year may reduce the amount of nonlife subgroup losses that would offset consolidated partial LICTI in that prior year. Thus, that amount may be carried over under paragraph (h) (2) or (4) of this section from that prior year in determining nonlife consolidated taxable income in a succeeding year or serve as offsetable nonlife subgroup losses in a succeeding year.

(4) *Illustrations.* The following examples illustrate this paragraph (m). In the examples, L indicates a life company, another letter indicates a nonlife company, and each corporation uses the calendar year as its taxable year.

Example (1). P owns all of the stock of L and S. S owns all of the stock of I, a nonlife member that is an ineligible corporation for 1982 under paragraph (d)(13) of this section. For 1982, the group elects under section 1504(c)(2) to file a consolidated return. For 1982, assume that any nonlife consolidated net operating loss may not be carried back to a prior taxable year. Other facts are summarized in the following table.

	Separate taxable income (loss)
P	$100
S	(100)
I	(100)
Nonlife consolidated net operating loss	100

Under paragraph (m)(3)(vi) of this section, P's separate income is considered to absorb the loss of S, an eligible member, first and the offsetable nonlife consolidated net operating loss is zero, *i.e.*, the consolidated net operating loss ($100) reduced by I's loss ($100). The consolidated net operating loss ($100) may be carried over, but since it is entirely attributable to I (an ineligible member) its use is subject to the restrictions in paragraph (m)(3)(vi) of this section.

Example (2). The facts are the same as in example (1) except that for 1982 S's separate net operating loss is $200. Assume further that L's consolidated partial LICTI is $200. Under paragraph (m)(3)(vi) of this section, the offsetable nonlife consolidated net operating loss is $100, *i.e.*, the nonlife consolidated net operating loss computed under paragraph (h)(2)(ii) of this section ($200), reduced by the separate net operating loss of I ($100). The offsetable nonlife consolidated net operating loss that may be set off against consolidated partial LICTI in 1982 is $30, *i.e.*, 30 percent of the lesser of the offsetable $100 or consolidated partial LICTI of $200. See paragraph (m)(3)(ix) of this section. The nonlife subgroup may carry $170 to 1983 under paragraph (h)(2) of this section against nonlife consolidated taxable income, *i.e.*, consolidated net operating loss ($200) less amount used in 1982 ($30). Under paragraph (m)(2)(ii) of this section, the offsetable nonlife consolidated net operating loss that may be carried to 1983 is $70, *i.e.*, $100 minus $30. The facts and results are summarized in the table below.

	(Dollars omitted)			
	Facts	Offsetable	Limit	Unused loss
	(a)	(b)	(c)	(d)
1. P	100			
2. S	(200)	(100)		(70)
3. I	(100)			(100)
4. Nonlife subgroup	(200)	(100)	(100)	170
5. L	200		200	
6. 30% of lower of line 4(c) or 5(c)			30	
7. Unused offsetable loss				75

Accordingly, under paragraph (g) of this section (assuming no amount is withdrawn from L's surplus accounts), consolidated taxable income is $170, *i.e.*, line 5 (a) minus line 6(c)).

Example (3). The facts are the same as in example (2) with the following additions for 1983. The nonlife subgroup has nonlife consolidated taxable income of $50 (all of which is attributable to I) before the nonlife consolidated net operating loss deduction under paragraph (h)(2) of this section. Consolidated partial LICTI is $100. Under paragraph (h)(2) of this section, $50 of the consolidated net operating loss carryover ($170) is used in 1983 and, under paragraph (m)(3)(vi) of this section, the portion used in 1982 is attributable to S, the eligible nonlife member. Accordingly, the remaining offsetable nonlife consolidated net operating loss from 1982 under paragraph (m)(3)(ii) of this section is $20, *i.e.*, the unused loss from 1981 ($70), minus the amount used under paragraph (h)(2) of this section in 1983 against nonlife consolidated taxable income ($50). The offsetable nonlife consolidated net operating loss in 1983 is $7, *i.e.*, 35 percent of the lesser of the offsetable $20 or consolidated partial LICTI of $100. The facts and results are summarized in the table below:

	(Dollars omitted)				
	1983 facts	1982 carryover	Amount in (b) absorbed by nonlife subgroup	Limit	Unused loss
	(a)	(b)	(c)	(d)	(e)
1. P					
2. S		(70)	50	(20)	(13)
3. I	50	(100)			(100)
4. Nonlife subgroup	50	(170)	(50)	(20)	(113)
5. L	100			100	
6. 35% of lower of line 4(c) or 5(d)				7	
7. Unused offsetable loss					(13)

Accordingly, under paragraph (g) of this section (assuming no amount is withdrawn from L's surplus accounts), consolidated taxable income is $93, *i.e.*, line 5(a) minus line 6(d).

Example (4). P owns all of the stock of S and L. For 1982, all corporations are eligible corporations, and the group elects under section 1504(c)(2) to file a consolidated return, the nonlife consolidated net operating loss is $100, and the nonlife consolidated net capital loss is $50. Assume that the losses may not be carried back and the capital losses are not attributable to built-in deductions under paragraph (m)(3)(viii) of this section or under § 1.502–15(c). Other facts and the results are set forth in the following table:

	P–S	L
1. Nonlife consolidated net operating loss	($100)	
2. Nonlife consolidated capital loss	(50)	
3. Consolidated partial LICTI		$100
4. Life consolidated capital gain net income included in line 3		50
5. Offsetable:		
(a) 30% of lower of line (1) or line (3)–(4)	(15)	
(b) Line 2	(50)	
(c) Total	(65)	
6. Unused losses available to be carried out:		
(a) From line 1 (line 1 minus line 5 (a))	(85)	
(b) From line 2 (line 2 minus line 5 (b))	0	

Accordingly, under paragraph (g) of this section consolidated taxable income is $35, *i.e.*, line 3 minus line 5(c).

Example (5). The facts are the same as in example (4). Assume further that for 1983 L has an LO that is carried back to 1982 against consolidated GO and the LO is large enough to reduce consolidated partial LICTI for 1982 to zero as determined before any setoff for nonlife losses. Under paragraph (m)(3)(xi) of this section, the nonlife consolidated net operating loss of $15 and the nonlife consolidated net capital loss of $50 that were set off in 1982 respectively against consolidated partial LICTI and life consolidated capital gain net income are restored. These restored amounts may consititute part of the nonlife consolidated net operating loss carryover to 1983 under paragraph (h)(2) of this section or part of the nonlife net capital loss carryover to 1983 under paragraph (h)(4) of this section.

Example (6). The facts are the same as in example (5) except that L's LO for 1983 as carried back against consolidated GO reduces consolidated partial LICTI in 1982 from $100 to $25. Since consolidated partial LICTI of $100 in 1982 (before the carryback) included life consolidated capital gain net income of $50, under paragraph (m)(3)(iii) of this section, the life consolidated capital gain net income is $25, *i.e.*, $50 but not more than $25. Therefore, under paragraph (m)(3)(ii) of this section, the offsetable nonlife capital loss in 1982 is $25 and, under paragraph (m) (3)(xi) of this section, $25 of the $50 nonlife consolidated net capital loss in 1982 may be carried under paragraph (h)(4) of this section to 1983. No nonlife consolidated net operating loss is used as a setoff against consolidated partial LICTI in 1982 under paragraph (m)(3)(xi) of this section by reason of the carryback of the consolidated LO from 1983 to 1982.

(n) *Nonlife consolidated taxable income set off by life subgroup losses.*— (1) In *general.* The life subgroup losses consist of the consolidated LO and the life consolidated net capital loss. Under paragraph (g)(1) of this section, nonlife consolidated taxable income is set off by the amounts of these two consolidated losses specified in paragraph (n)(2) of this section.

(2) *Amount of setoff.* The portion of the consolidated LO or life consolidated net capital loss that may be set off against nonlife consolidated taxable income (determined under paragraph (h) of this section) is determined by applying the rules prescribed in paragraph (m) (2) and (3) of this section in the following manner:

(i) Substitute the term "life" for "nonlife", and vice versa.

(ii) Substitute the term "nonlife consolidated taxable income" for "consolidated partial LICTI", and vice versa.

(iii) Substitute the term "consolidated LO" for "non-life consolidated net operating loss", "paragraph (l)" or "paragraph (j)" for "paragraph (h)", and "section 812(b)(3)" for "section 172(b)(3)(C)".

(iv) Paragraph (m)(3)(vi), (ix), and (x) of this section do not apply to a consolidated LO.

(v) Capital losses may not be deducted more than once. See section 818(e) and also the requirements in section 818(f).

(vi) The setoff of life subgroup losses against nonlife consolidated taxable income does not affect nonlife member deductions that depend in whole or in part on taxable income.

(3) *Illustrations.* The following examples illustrate this paragraph (n). In the examples, L indicates a life company, another letter indicates a nonlife company, and each corporation uses the calendar year as its taxable year.

Example (1). P, S, L_a and L_b constitute a group that elects under section 1504 (c)(2) to file a consolidated return for 1982. In 1982, the nonlife subgroup consolidated taxable income is $100 and there is $20 on nonlife consolidated net capital loss that cannot be carried back under paragraph (h) of this section to taxable years (whether consolidated or separate) preceding 1982. The nonlife subgroup has no carryover from years prior to 1982. Consolidated LO is $150 which under paragraph (l) of this section includes life consolidated capital gain net income of $25. The $150 LO is carried back under paragraph (l)(3) of this section to taxable years (whether consolidated or separate) preceding 1982 before it may offset in 1982 nonlife consolidated taxable income. Since life consolidated capital gain net income is zero for 1982, the nonlife capital loss offset is zero.

Example (2). The facts are the same as in example (1). Assume further that no part of the $150 consolidated LO for 1982 can be used by L and L_a in years prior to 1982. For 1982, $100 of consolidated LO sets off the $100 nonlife consolidated taxable income. The life subgroup carries under paragraph (l)(3) of this section to 1983 $50 of the consolidated LO ($150 minus $100). See paragraph (l)(3)(ii) of this section. The $50 carryover will be used in 1983 against consolidated GO before it may be used in 1983 to setoff nonlife consolidated taxable income.

Example (3). (a) The facts are the same as in example (1), except that for 1982 the nonlife consolidated taxable income is $150 and includes nonlife consolidated capital gain net income of $50, consolidated partial LICTI is $200, and a life consolidated net capital loss if $50. Assume that the $50 nonlife consolidated net capital loss sets off the $50 nonlife consolidated capital gain net income. Consolidated taxable income under paragraph (g) of this section is $30, *i.e.*, nonlife consolidated taxable income ($150) minus the setoff of the life consolidated net capital loss ($50), plus consolidated partial LICTI ($200).

(b) Assume that for 1983 the nonlife consolidated net operating loss is $150. Under paragraph (h) (2) of this section, the loss may carried back to 1982 against nonlife consolidated taxable income. If P, the common parent, does not elect to relinquish the carryback under section 172 (b) (3) (C), the entire $150 must be carried back reducing 1982 nonlife consolidated taxable income to zero and nonlife consolidated capital gain next income to zero. Under paragraph (m) (3) (i) and (xi) of this section, the setoff in 1982 of the nonlife consolidated capital gain net income ($50) by the life consolidated net capital loss ($50) is restored. Accordingly, the 1982 life consolidated net capital loss may be carried over by the life subgroup to 1983 under paragraphs (k) (5) and (l) (4) of this section. Under paragraph (g) of this section, after the carryback consolidated taxable income for 1982 is $200, *i.e.*, nonlife consolidated taxable income ($0) plus consolidated partial LICTI ($200).

Example (4). The facts are the same as in example (3), except that P elects under section 172 (b) (3) (C) to relinquish the carryback of $150 arising in 1983. The setoff in part (a) of example (3) is not restored. However, the offsetable nonlife consolidated net operating loss for 1983 (or that may be carried forward from 1983) is zero. See paragraph (m) (3) (vii) of this section. Nevertheless, the $150 nonlife consolidated net operating loss may be carried forward to be used by the nonlife group.

Example (5). P owns all of the stock of S_1 and of L_1. On January 1, 1978, L_1 purchases all of the stock of L_2. For 1982, the group elects under section 1504(c)(2) to file a consolidated return. For 1982, L_1 is an eligible corporation under paragraph (d) (12) of this section but L_2 is ineligible. Thus, L_1 but not L_2 is a member

for 1982. For 1982, L_e sustains an LO that cannot be carried back. For 1982, L_e is treated under paragraph (f) (4) of this section as a member of a controlled group of corporations under section 1563 with P, S, and L_1. For 1983, L_e is eligible and is included on the group's consolidated return. L_e's LO for 1982 that may be carried to 1983 is not treated under paragraph (d)(11) of this section as having been sustained in a separate return limitation year for purposes of computing consolidated partial LICTI of the L_1–L_e life subgroup for 1983. Furthermore, the portion of L_e's LO not used under paragraph (l) (3) of this section against consolidated GO in 1983 may be included in offsetable consolidated operations loss under paragraph (n)(2) and (m) (3)(i) of this section that reduces in 1983 no life consolidated taxable income because L_e's loss in 1982 was not sustained in a separate return limitation year under paragraph (n)(2) and (m)(3) (viii) of this section.

(o) *Alternative tax.*—(1) *In general.* For purposes of the alternative tax under paragraph (f)(5)(ii) of this section, consolidated net capital gain is the sum of the following two amounts:

(i) The nonlife consolidated net capital gain reduced by any setoff of a life consolidated net capital loss.

(ii) The life consolidated net capital gain reduced by any setoff of a nonlife consolidated net capital loss.

(2) *Net capital gain.* For purposes of this paragraph (o)—

(i) Nonlife consolidated net capital gain is computed under § 1.1502–41 except that it may not exceed nonlife consolidated taxable income (computed under paragraph (h) of this section).

(ii) Life consolidated net capital gain is computed under § 1.1502–41, applied in a manner consistent with paragraph (l)(4) of this section, except that it may not exceed consolidated partial LICTI (as determined under paragraph (j) of this section).

(iii) *Setoffs.* Setoffs are determined under paragraphs (m) or (n) of this section (as the case may be).

(p) *Transitional rule for credit carryovers.* For limitations on credits arising in taxable years beginning before January 1, 1981, that may be carried over to taxable years beginning after that date, section 1507(c)(2)(A) of the Tax Reform Act of 1976 and the principles in paragraph (h)(3) of this section (relating to limitations on loss carryovers) apply.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 82-15439 Filed 6-3-82; 12:02 pm]

BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S–600]

Proposed Revocation of Advisory and Repetitive Standards

Corrections

In FR Doc. 82–14289 appearing on page 23477 in the issue for Friday, May 28, 1982, please make the following changes:

(1) On page 23480, first column, the amendment numbered 47, second line, "paragraph (g)(3)(ii)(a)" should read "paragraph (g)(3)(ii)(*a*)"; in the amendment numbered 54, second line, insert a comma after "heading".

(2) On page 23481, first column, the amendment numbered 113, "paragraph (1)(2)" should read "paragraph (l)(2)"; second column, in the amendment numbered 128, second line, "paragraph (a)(3)(iv)" should read "paragraph (a)(3)(v)"; in the amendment numbered 134, "paragraph (1)(1)(iii)" should read "paragraph (l)(1)(iii)", and in the amendment numbered 135, "paragraph (1)(3)" should read "paragraph (l)(3)".

(3) On page 23482, first column, in the amendment numbered 188, second line, "paragraph (1)(9)(i)" should read "paragraph (l)(9)(i)".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Geological Survey

30 CFR Part 250

Proposed Notice to Lessees and Operators (NTL) of Federal Oil and Gas Leases in the Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of a proposed NTL.

SUMMARY: The Minerals Management Service (MMS) proposes a notice to lessees and operators of Federal oil and gas leases in the Outer Continental Shelf (NTL) concerning minimum requirements which establishes minimum requirements for shallow hazards surveys and analyses conducted prior to OCS exploratory drilling.

DATE: Written comments on the proposed NTL must be received on or before August 9, 1982.

ADDRESS: Comments to: Bruce Weetman, Chief, Branch of Offshore Resource Evaluation, Minerals Management Service, 12203 Sunrise Valley Drive, MS–640, Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT: Hans Waetjen or David Zinzer, Branch of Offshore Resource Evaluation, Minerals Management Service, 12203 Sunrise Valley Drive, MS–640, Reston, Virginia 22091, (703) 860–7571 or FTS 928–7571.

SUPPLEMENTARY INFORMATION: This proposed NTL will supersede those portions of all current shallow hazards NTL's dealing with exploratory drilling (NTL 75–8 and 80–5, Gulf of Mexico OCS; NTL 80–2, Atlantic OCS; NTL 80–3, Alaska OCS; and NTL 81–2, Pacific OCS). Procedures for hazards surveys conducted in support of development or production operations or emplacement of pipelines are not covered by this NTL.

BACKGROUND: The Department of the Interior (Department) is initiating a new streamlined OCS leasing program whereby substantially larger sale areas will be offered at an accelerated pace. This streamlining process will make it impractical to continue the Department's current hazards analysis program, and thus, a new program is being implemented. Under this new program, no sale areawide, prelease, tract-specific hazards data acquisition program will be initiated by the Department. Should industry choose to conduct prelease hazards surveys, resulting data will be available to the Department under terms of permits and regulations. Emphasis under the new hazards analysis program shifts the Department's detailed hazards analysis function to the postsale phase and places the major portion of the responsibility for the site-specific hazards data collection on the lessees. The intent of this NTL is to standardize procedures in conformance with the new hazards analysis program.

REQUEST FOR COMMENTS: Interested parties are requested to submit comments on the proposed NTL. Comments will be accepted through August 9, 1982. Comments should be submitted to Bruce Weetman, Chief, Branch of Offshore Resource Evaluation, at the address indicated under "ADDRESS."

DRAFTING INFORMATION: The primary author of the proposed NTL is David Zinzer, address and telephone number above.

Dated: May 27, 1982.

Gerald D. Rhodes,

Acting Chief, Offshore Minerals Management Division.

Proposed Notice to Lessees and Operators of Federal Oil and Gas Leases in the Outer Continental Shelf

Minimum Requirements for Shallow Hazards Surveys and Analyses Conducted Prior to Outer Continental Shelf Exploratory Drilling

For the reasons set out above, the NTL is proposed as follows:

I. Site-Specific Hazards Survey

As required by regulation 30 CFR 250.34–3 and as further specified in OCS Order No. 2, a site-specific survey shall be conducted by the lessee over all lease blocks considered for exploratory drilling. Exploratory drilling will not be allowed within a lease block unless or until the lessee has demonstrated to the satisfaction of the appropriate Deputy Minerals Manager, or his/her designee, hereafter known as the DMM, that hazardous (geologic or manmade) conditions are not present at any site proposed for exploratory drilling operations or, if present, that drilling operations can be safely designed and utilized to eliminate or minimize risk of damage to the human, marine, and coastal environments. This usually necessitates detailed surveys using high resolution geophysical instrumentation and analysis of resulting data. In some cases, coring, in situ and laboratory geotechnical analyses, and other studies may be necessary. In support of a determination of approval relating to geologic and manmade hazards, the lessee shall submit, as requested by the DMM, geophysical data, processed and reprocessed geophysical information, interpreted geophysical information, geologic data, analyzed geologic information, interpreted geologic information, or such other data and information as the DMM requests. If survey data of adequate quality and coverage are in possession of or available to the MMS, the DMM may waive or modify the site-specific survey.

The lessee shall submit a proposed survey strategy, based on this NTL, for review and approval by the DMM at least 10 working days prior to planned commencement of any survey. The DMM may request to have an MMS observer on board during the survey. The DMM may specify additional or alternative survey procedures and/or instrumentation when deemed necessary.

Any departure by the permittee from the guidelines established in this notice or from any additional guidelines specified by the DMM must be approved by the DMM. Strict adherence to the provided guidelines does not necessarily assure approval of the hazards survey. Analysis of the data and information collected according to the specifications may lead to the discovery of conditions which would require additional data collection or result in relocation of the proposed activities or cancellation of the lease.

II. Other Surveys

If, in the area of the proposed drilling activity, the MMS is not in possession of adequate data coverage which properly identifies potential hazards located exterior to the lease blocks, additional data coverage may be requested by the DMM in the form of an extended survey. The survey configuration shall be discussed with the DMM.

Tie lines between the survey grid and a regional grid which is in possession of the MMS may be requested by the DMM.

In areas where it is not possible to conduct hazards surveys by utilizing geophysical instrumentation, other procedures may be substituted by the DMM on a case-by-case basis.

In addition to the hazards survey, other surveys may have to be conducted. Specific surveys may be requested to identify ordnance, cultural, or biological resources, foundation engineering properties, or location of existing pipeline routes. Detailed procedures for other surveys shall be discussed with the DMM. In most cases, such surveys may be conducted concurrently with the hazards survey.

III. Site-Specific Survey Grid

The site-specific survey shall generally be conducted on a rectangular grid centered on the proposed activity with minimum outside dimensions of 5,400 meters by 5,400 meters, and with parallel dip lines running roughly normal to local bathymetric trends and strike lines perpendicular to and crossing the dip lines. The grid shall contain a high-density inner grid with dip lines spaced a maximum of 300 meters apart, strike lines spaced a maximum of 900 meters apart, and an outer grid with dip and strike lines spaced a maximum of 900 meters apart. See Figure 1. The overall size of the grid and other details shall be determined by the DMM.

IV. Geophysical Data Acquisition Instrumentation

Geophysical instrumentation shall be deployed and operated in a manner which minimizes undesirable signals from being cross recorded on other systems. An event mark, common to all geophysical data acquisition recorders, keyed to the navigation system, and corrected for layback, shall be employed to annotate navigation fixes on field records.

The following instrumentation shall generally be utilized in conducting site-specific surveys (the DMM may substitute or request additional instrumentation according to survey conditions):

V. Depth Sounder

Continuous water-depth measurements shall be made using a high-frequency narrow-beam depth sounder (10° or less). Data shall be recorded with a recording sweep appropriate to topography and water depth.

VI. Side-Scan Sonar

A dual-channel system shall be used to record continuous planimetric images of the seafloor. When employed, the system shall be operated in a mode capable of obtaining at least 100 percent coverage of the seafloor while achieving a range resolution consistent with the type of target or geologic feature to be delineated. Line spacing may differ from the prescribed survey grid and shall be determined by the DMM and will depend on water depth and the side-scan sonar system utilized.

VII. Subbottom Reflection Profilers

Subbottom reflection profilers shall be acquired in a manner that will allow optimum detection and resolution of subsurface anomalies and structural information. Normally, this will be achieved with shallow and deep penetration subbottom profilers. The system used shall be capable of providing at least 300 meters of penetration (¼ second two-way travel time) into the subbottom. Data and information deeper than 300 meters may be requested by the DMM in areas where unconsolidated sediments exist and/or where the DMM may determine that more data and information are necessary to further define potentially hazardous conditions.

VIII. Deliverables

Geophysical data and information, data records and logs, maps, summary report, microfilm and microfiche, digital navigation tapes, velocity analyses, geologic cross-sections, geotechnical soil borings, and additional data and information resulting from the survey(s) shall be submitted in a manner and format as determined by the DMM.

IX. Survey Specifications

Survey specifications shall be determined by the DMM such that sufficient data and information are made available in a format acceptable to the DMM.

X. Release of Submitted Data to the Public

Pursuant to the Department's regulation 30 CFR 250.3(c), "Geophysical data, processed geophysical information, and interpreted geophysical information collected on a lease with high-resolution systems (including, but not limited to, bathmetry, side-scan sonar, subbottom profiler, and magnetometer) in compliance with stipulations or orders concerning protection of environmental aspects of the lease may be made available to the public 60 days after submittal to the Deputy Minerals Manager (DMM). However, unless the lessee can demonstrate to the satisfaction of the DMM that release of the information or data would unduly damage the lessee's competitive position, the DMM may release the information and data at an earlier time if the DMM determines it is needed by affected States to make determinations under § 250.34," (relating to plans of development and production].

BILLING CODE 4310-MR-M

FIGURE 1

Site-Specific OCS Hazards Survey

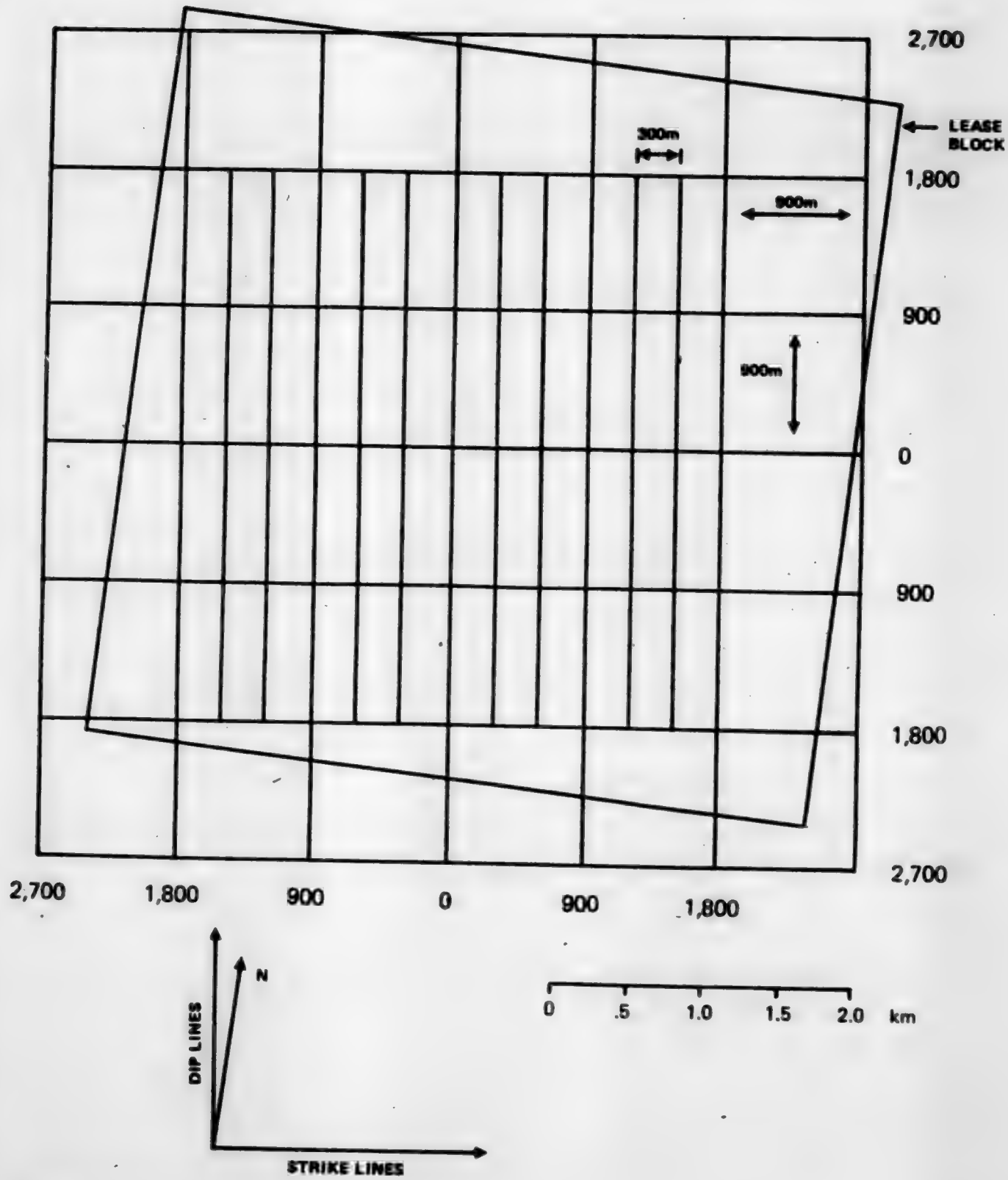

[FR Doc. 82-15172 Filed 6-7-82; 8:45 am]
BILLING CODE 4310-MR-C

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 4

[AAA-FRL 2141-2]

Real Property Acquisition and Relocation Assistance; Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction to proposed rule.

SUMMARY: The proposed rule, Real Property Acquisition and Relocation Assistance, as published in 46 FR 22010, provided for the comment period to extend to July 6, 1982. This is an error. The end of the comment period is June 21, 1982.

DATE: Comments must be received on or before June 21, 1982.

FOR FURTHER INFORMATION CONTACT: Marshall Schy, Grants Administration Division (PM-216), Environmental Protection Agency, Washington, D.C. 20460. (202) 755-2830.

Dated: June 1, 1982.

John Horton,

Assistant Administrator for Administration.

[FR Doc. 82-15442 Filed 6-7-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-FRL 2138-8]

Approval and Promulgation of State Implementation Plan; Idaho; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction.

SUMMARY: On May 17, 1982, EPA proposed to approve the revised Idaho SIP and make certain changes to nonattainment designations (47 FR 21097). Several errors were noted in the table entitled "Content of the Idaho SIP." These included inadvertent omissions or inclusions and incorrect citations of state rules which were proposed for approval in the subject rulemaking. EPA is today publishing corrections to the table in order to make it consistent with the rules proposed for approval.

FOR FURTHER INFORMATION CONTACT: Lori Kraul (206) 399-1089.

SUPPLEMENTARY INFORMATION: The following changes are being made to the table entitled "Content of the Idaho SIP" contained in the May 17, 1982 Federal Register (47 FR 21101):

1. For the "Old designation" entry identified as "Chapters VI, VIII, and XIII", the corresponding "New designation" entry is corrected from "Chapter II" to Chapter II and Appendix A.2."

2. For the "Old designation" entry identified as "Regulation A, Section 2, Z.Z," the corresponding "New designation" entry is corrected from "1002.75 to 1002.77."

3. For the "Old designation" entry identified as "Regulation B," the corresponding "New designation" entry is changed from "1-1052 through 1-1055" to "1-1051 through 1-1055."

4. For the "Old designation" entry identified as "Regulation C," the corresponding "New designation" entry is changed from "1-1101 through —" to "1-1101 through 1112."

5. For the "Old designation" entry identified as "Regulation I," the corresponding "New designation" entry is changed from "1-1351 through 1-1353" to "1-1351 through 1-1355."

6. For the "Old designation" entry identified as "Regulation L," the corresponding "New designation" entry is changed from "1-1501 through 1-1503" to "1-1501 through 1-1504."

7. An addition entry is added to the "New designation" column after the "1-1651 through 1-1662" entry. The new entry is "1-1801 through 1-1804." The corresponding entry in the "Subject" column is "Rules for SOx emissions from sulfuric acid plants." The entry in the "Substantive change" column is "New regulation." No entry is made in the "Old designation" column.

8. For the "Old designation" entry identified as "Regulation T," the corresponding "New designation" entry is changed from "1-1900 through 1-1906" to "1-1900 through 1-1903, 1-1905, and 1-1906." The "Subject" entry is also changed from "Source operating permits" to "New source and operating permits."

9. For the "Old designation" entry identified as "Regulation U," the corresponding "New designation" entry is changed from "1-1955 through 1-1968" to "1-1951 through 1-1968."

Dated: May 28, 1982.

Robert S. Burd,

Regional Administrator.

[FR Doc. 82-15440 Filed 6-7-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 81

[A-1-FRL-2133-1]

Designations of Areas for Air Quality Planning Purposes; Attainment Status Redesignation: Waterbury and Greenwich, Conn.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On April 8, 1982, the Connecticut Department of Environmental Protection (DEP) submitted a request to redesignate the cities of Waterbury and Greenwich as attainment for the primary total suspended particulate (TSP) National Ambient Air Quality Standards (NAAQS). Based on the monitoring data and the information submitted, EPA proposes to approve the redesignation of these two area from non-attainment of the primary TSP NAAQS to attainment.

DATE: Comments must be received on or before July 8, 1982.

ADDRESSES: Copies of Connecticut's submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 1903, J.F.K. Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and the Connecticut Department of Environmental Protection, Air Compliance Unit, 165 Capitol Avenue, Hartford, Connecticut 06115.

FOR FURTHER INFORMATION CONTACT:
Sarah Simon, Air Management Division, EPA Region I, Room 1903, J.F.K. Federal Building, Boston, Massachussetts 02203, (617–223–4448).

Comments should be sent to her at the same address.

SUPPLEMENTARY INFORMATION: On December 23, 1980, EPA published final rulemaking approving primary TSP non-attainment designations for Waterbury and Greenwich, Connecticut, and a secondary TSP non-attainment designation for the entire state of Connecticut (45 FR 84780). That rulemaking notice also contained a conditional approval of the state's plan to attain primary TSP standards in the two cities designated non-attainment and an approved extension of the date for submitting an attainment plan to meet the secondary TSP NAAQS, as required by Part D of the Clean Air Act Amendments (Plan Requirements for Non-attainment Areas, 42 U.S.C. 7401 et seq., amended 1977).

The 1980 attainment designations were based on monitoring data collected prior to the state's 1979 attainment plan submittals. The April 8, 1982 request included a summary and statistical analysis of the past three years' monitoring record, demonstrating that no violations have occurred and that none were predicted for the unmonitored days. Also, the past three years of representative data for Waterbury and the past two years for Greenwich show that both areas now meet the annual and 24-hour primary NAAQS for TSP. Thus, Greenwich and Waterbury can now be designated attainment for the primary TSP NAAQS under section 107 of the Clean Air Act, and the state has met the primary attainment date specified in their SIP approved by EPA on December 23, 1980 (45 FR 84780). The entire state remains designated non-attainment for the secondary TSP NAAQS.

Based on information submitted by the DEP and our review, EPA proposes to redesignate the cities of Greenwich and Waterbury as being in attainment of the primary TSP NAAQS.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107 of the Clean Air Act as amended)

Dated: May 18, 1982.

Lester A. Sutton,

Regional Administrator.

[FR Doc. 82-15441 Filed 6-7-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 141

[WH-FRL 2143-1]

National Revised Primary Drinking Water Regulations; Volatile Synthetic Organic Chemicals in Drinking Water

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: The public comment period is extended until September 30, 1982, on the Advance Notice of Proposed Rulemaking on Volatile Synthetic Organic Chemicals (VOCs) in Drinking Water (47 FR 9350) published on March 4, 1982.

DATES: Please submit written public comments to the address listed below on or before September 30, 1982.

ADDRESSES: Send written comments to Comment Clerk, Criteria and Standards Division, Office of Drinking Water (WH–550), Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460. A copy of all comments will be available for review during normal business hours at the EPA, Criteria and Standards Division, Room EB–49 East Tower, 401 M Street S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:
Joseph A. Cotruvo, Ph. D., Director, Criteria and Standards Division, Office of Drinking Water (WH–550), Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460, telephone: 202/472–5016.

SUPPLEMENTARY INFORMATION: The comment period is being extended to provide for official inclusion in the rulemaking docket of comments/data/reports received as the result of the technical workshops on VOCs in drinking water. The workshops will be conducted at the following locations:

June 8–9 Chicago, Illinois
June 28–29 Reno, Nevada
July 20–21 Philadelphia, Pennsylvania
August 18–19 Biloxi, Mississippi

The workshops are open to the public; additional information can be obtained from the American Water Works Association Research Foundation, 6666 Quincy Avenue, Denver, Colorado 80235 (303/794–7711), which is the grantee administering the workshops for EPA. Pre-registration is requested.

Several participants at the public meeting held on April 28 requested an extension of the comment period for 30 to 60 days beyond the date of the last workshop. They suggested that this would allow sufficient time for becoming familiar with the VOC issues through participation in the workshops and would allow time to provide the Agency with well-informed comments. The Agency has also received other written requests for extension of the comment period. Two commenters made statements in the public meeting that an extension of the comment period would not be appropriate because of the time delays in what they cited were needed regulatory actions.

The Agency has determined that it is appropriate to extend the comment period because the extension will provide (1) the opportunity to incorporate into the rule-making docket any comments/data/reports resulting from the workshops and (2) an opportunity for comment on new information which is being made available today on the occurrence of VOCs in drinking water. This new information includes the draft report, Ground Water Supply Survey, May 1982, which is available from the address listed at the beginning of this notice.

The Agency recognizes the concern over a delay in any needed regulatory

action and emphasizes that this action will not result in a significant delay in the overall effort. The Agency already anticipated that the workshop results would be evaluated as part of the efforts to develop any proposed rules. However, the public is encouraged to provide comment to the Agency as soon as possible without waiting until the end of the comment period. Participation in the workshops along with careful review and comment on the above draft report is encouraged.

Dated: June 4, 1982.

Frederic A. Eidness, Jr.,

Assistant Administrator for Water.

[FR Doc. 82-15560 Filed 6-7-82; 8:45 am]

BILLING CODE 6560-50-M

Notices

Federal Register
Vol. 47, No. 110
Tuesday, June 8, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Advisory Council on Maternal, Infant and Fetal Nutrition; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Council meeting:

Name: National Advisory Council on Maternal, Infant and Fetal Nutrition
Date and time: July 19–21, 1982; 9:00 a.m.
Place: Hospitality House Motor Inn, 2000 Jefferson Davis Highway (U.S. 1), Arlington, Virginia 22202.

Purpose of meeting: The Council will continue its study of the Special Supplemental Food Program for Women, Infants and Children (WIC) and the Commodity Supplemental Food Program (CSFP). The Council will discuss a wide range of matters concerning the operations of these two programs.

Proposed agenda: The agenda items will include the following issues: formulation of recommendations for the Council's 1982 Report, and general program operations.

This meeting will be open to the public. As time permits, members of the public may participate in the meeting.

Person wishing additional information about this meeting should contact Elaine Lynn, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Alexandria, Virginia 22302. Telephone: (703) 756–3730.

Dated: May 28, 1982.

Samuel J. Cornelius,

Administrator, Food and Nutrition Service.

[FR Doc. 82–15459 Filed 6–7–82; 8:45 am]

BILLING CODE 3410–30–M

Rural Electrification Administration

Wolverine Electric Cooperative, Inc., Big Rapids, Mich.; Proposed Loan Guarantee

Under the authority of Pub. L. 93–32 (87 Stat. 65), and in conformance with the applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $95,000,000 to Wolverine Electric Cooperative, Inc., (Wolverine) of Big Rapids, Michigan. This loan guarantee will provide supplemental funds needed to complete the financing of Wolverine's 8.78 percent undivided ownership interest in the Detroit Edison Company's Enrico Fermi No. 2 nuclear-powered 1100 MW generation unit.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed program, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Norman Newby, General Manager, Wolverine Electric Cooperative, Inc., P.O. Box 1133, Big Rapids, Michigan 49307.

In order to be considered, proposals must be submitted on or before August 9, 1982 to Mr. Newby. The right is reserved to give such consideration and to make such evaluation or other disposition of all proposals received as Wolverine and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Public Information Office, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 1st day of June 1982.

Harold V. Hunter,

Administrator, Rural Electrification Administration.

[FR Doc. 82–15364 Filed 6–7–82; 8:45 am]

BILLING CODE 3410–15–M

Soil Conservation Service

Blind Brook Watershed, New York

AGENCY: SOIL CONVERSATION SERVICE.

ACTION: Notice of availability of a record of decision.

SUMMARY: Paul A. Dodd, responsible Federal official for projects administered under the provisions of Pub. L. 83–566, 16 U.S.C. 1001–1008, in the State of New York, is hereby providing notification that a record of decision to proceed with the installation of the Blind Brook Watershed project is available. Single copies of this record of decision may be obtained from Paul A. Dodd at the address shown below.

FOR FURTHER INFORMATION CONTACT: Paul A. Dodd, State Conservationist, Soil Conservation Service, James M. Hanley Federal Building, 100 S. Clinton Street, Room 771, Syracuse, New York 13260, telephone (315) 423–5521.

(Catalog of Federal Domestic Assistance program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Paul A. Dodd,

State Conservationist.

May 28, 1982.

[FR Doc 82–15470 Filed 6–7–82; 8:45 am]

BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations; Week Ended May 28, 1982

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
May 24, 1982	40728	Island Airlines Hawaii Inc., c/o Robert W. Hall, 361 Aotawe Place, Honolulu, Hawaii 96819. Application of Island Airlines Hawaii Inc., pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests a certificate authorizing it to engage in the transportation of property and mail between the terminal point Honolulu, the intermediate points Kona, Maui (Kahului), Lanai, Lihue, Molokai, Kamuela, and Upolu and the terminal point Hilo. Conforming Applications, motions to modify scope, and Answers may be filed by June 18, 1982.
May 26, 1982	40735	Pan American World Airways, Inc., Pan Am Building, 200 Park Ave. New York, New York 10017. Application of Pan American World Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, applies to amend its certificate of public convenience and necessity for Route 132 to authorize it to engage in foreign air transportation of persons, property and mail between the Dallas/Ft. Worth and London by adding the point Dallas/Ft. Worth to Segment 4. Conforming Applications, motions to modify scope, and Answers may be filed by June 22, 1982.
May 27, 1982	40736	Transamerica Airlines, Inc., c/o Jeffrey A. Manley, Burwell, Hansen, Manley & Peters, 1700 New Hampshire Avenue, N.W., Washington, D.C. 20009. Conforming Application of Transamerica Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests an amendment of its certificate of public convenience and necessity for Route 194 authorizing it to engage in foreign air transportation of passengers, property and mail over a route segment to read as follows: "Between the coterminal points New York, NY.-Newark, N.J., San Francisco-Oakland and Los Angeles, California, and Honolulu, Hawaii, on the one hand, the intermediate point Tokyo, Japan (or another intermediate point in Japan) and the coterminal points Shanghai and Peking, People's Republic of China." Answers may be filed by June 10, 1982.
May 28, 1982	40738	United Air Lines, Inc., P.O. Box 66100, Chicago, Illinois 60666. Application of United Air Lines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests an amendment to its certificate of public convenience and necessity for Route 57 to add a new segment or for a new certificate or certificates so as to authorize it to perform foreign air transportation of persons, property, and mail between: the coterminal points New York, Chicago, Los Angeles, San Francisco, Seattle, and Honolulu; the intermediate point Tokyo and/or another intermediate point in Japan; and the coterminal points Beijing, Shanghai, and Guangzhou. Conforming Applications, motions to modify scope, and Answers may be filed by June 25, 1982.
May 28, 1982	40739	Western Air Lines, Inc., P.O. Box 92005, World Way Postal Center, Los Angeles, California 90009. Application of Western Air Lines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, applies for a new certificate of public convenience and necessity or for an amendment to its certificate for Route 152 permanently or temporarily authorizing Western to engage in the scheduled air transportation of persons, property, and mail on an unrestricted basis on the following route: Between the coterminal points Houston and Dallas/Fort Worth, Texas and New Orleans, Louisiana and the coterminal points Caracas and Maracaibo, Venezuela. Conforming Applications, motions to modify scope, and Answers may be filed by June 25, 1982.

Phyllis T. Kaylor,
Secretary.
[FR Doc. 82-15466 Filed 6-7-82; 8:45 am]
BILLING CODE 6320-01-M

[Docket 40599]

KLM Royal Dutch Airlines Enforcement Proceeding; Assignment of Proceeding

This proceeding has been assigned to Chief Administrative Law Judge Elias C. Rodriguez. Future communications should be addressed to him.

Dated at Washington, D.C., June 2, 1982.

Elias C. Rodriguez,
Chief Administrative Law Judge.
[FR Doc. 82-15462 Filed 6-7-82; 8:45 am]
BILLING CODE 6320-01-M

Application of Jeffrey D. Haddock and Ronald A. Watson, d/b/a Valdez Airlines for Certificate Authority Under Subpart Q

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause (82-6-21).

SUMMARY: The Board is proposing to find Valdez fit, willing and able and to authorize it to provide interstate and overseas transportation of persons and property and to provide all-cargo service between and among the points listed in its application.

DATES: Objections: All interested persons having objections to the Board issuing the proposed certificate shall file, and serve upon all persons listed below no later than June 30, 1982 a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 40625, and should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served upon Valdez Airlines; the mayors and airport managers of each city to which the pleading refers; the Alaska Transportation Commission; the Governor of Alaska; the Federal Aviation Administration; and the American Association of Airport Executives.

FOR FURTHER INFORMATION CONTACT: Carol Szekely, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5328.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-6-21 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82-6-21 to that address.

By the Civil Aeronautics Board, June 3, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-15489 Filed 6-7-82; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Massachusetts Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Massachusetts Advisory Committee to the Commission will convene at 4:00p and will end at 6:00p, on June 28, 1982, at the New England Regional Office, 55 Summer Street, 8th Floor, Conference Room, Boston, Massachusetts, 02110. The purpose of this meeting will be to review the progress and continue planning for successful affirmative action efforts in the State of Massachusetts.

Persons desiring additional information should contact the Chairperson, Dr. Bradford E. Brown, 17 Roberta Jean Circle, Post Office Box 95, East Falmouth, Massachusetts, 02536, (617) 548-5123 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts, 02110, (617) 223-4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., June 3, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-15531 Filed 6-7-82; 8:45 am]

BILLING CODE 6335-01-M

Wisconsin Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Wisconsin Advisory Committee to the Commission will convene at 6:00p and will end at 9:00p, on June 23, 1982, at the Holiday Inn, 4402 East Washington, Madison, Wisconsin. The purpose of this meeting is to report on the meeting with State Superintendent of Public Instruction and the draft of a report on Business Incentives and Equal Opportunity in Wisconsin.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Herbert M. Hill, 2127 Van Hise Avenue, Madison, Wisconsin 57305, (608) 263-1642 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago IL 60604 (312) 353-7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. June 3, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-15530 Filed 6-7-82; 8:45 am]

BILLING CODE 6335-01-M

Wisconsin Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Wisconsin Advisory Committee to the Commission will convene at 10:00a and will end at 11:00a, on June 24, 1982, at the State Capital, Parlor Room of the Senate, Madison, Wisconsin. The purpose of this meeting is to conduct a press conference to release the Bilingual Monograph on Hispanic education in Wisconsin.

Persons desiring additional information, should contact the Chairperson, Herbert M. Hill, 2127 Van Hise Avenue, Madison, Wisconsin, 53705, (608) 263-1642 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois, 60604, (312) 353-7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., June 2, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-15529 Filed 6-7-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 192]

Resolution and Order Approving the Application of the City of Tampa, Florida, for a Foreign-Trade Zone in Tampa

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the City of Tampa, Florida, filed with the Foreign-Trade Zones Board (the Board) on January 7, 1982, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Tampa, within the Tampa Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to §400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant to establish, operate, and maintain a foreign-trade zone in Tampa, Florida

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the City of Tampa, Florida (the Grantee) has made application (filed January 7, 1982) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a foreign-trade zone in Tampa, within the Tampa Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 CFR Part 400) are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 79 at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone site in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C. this 29th day of May 1982, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Malcolm Baldrige,

Chairman and Executive Officer.

John J. Da Ponte, Jr.,

Attest:

Executive Secretary.

[FR Doc. 82-15688 Filed 6-7-82; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Canned Bartlett Pears From Australia; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce had conducted an administrative review of the antidumping finding on canned Bartlett pears from Australia. The review covers the four known exporters of this merchandise to the United States and the period March 1, 1981 through February 28, 1982. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

As a result of the review, the Department has preliminarily decided to waive the requirement of a cash deposit of estimated antidumping duties. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: June 8, 1982.

FOR FURTHER INFORMATION CONTACT: Patricia H. McClenahan or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-5255).

SUPPLEMENTARY INFORMATION:

Background

On March 26, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 13020) the final results of its administrative review of the antidumping finding on canned Bartlett pears from Australia (38 FR 7586, March 23, 1973) and announced its intent to conduct the next administrative review by the end of March, 1983. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are canned Bartlett pears, currently classifiable under item 148.8600 of the Tariff Schedules of the United States Annotated (TSUSA). The review covers the four known exporters of the merchandise to the United States and the period March 1, 1981 through February 28, 1982. There were no shipments to the United States during this period and there are no known unliquidated entries.

Preliminary Results of the Review

Since there were no shipments during this period and there have been no shipments since September, 1973, the Department shall waive requirement of a cash deposit, as provided for in § 353.48(b) of the Commerce Regulations, on any shipments of Australian canned Bartlett pears entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results.

The Department received information from two of the Australian firms, Henry Jones Ltd. and the Kyabram Preserving Co., that they are no longer involved in the processing or marketing of canned Bartlett pears. The Department preliminarily had decided not to include these two companies in future section 751 reviews until they again ship canned Bartlett pears from Australia to the U.S.

Interested parties may submit written comments on these preliminary results on or before July 8, 1982 and may request disclosure and/or a hearing on or before June 18, 1982. Any hearing, if requested will be held July 8, 1982. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

June 1, 1982.

[FR Doc. 82-15634 Filed 6-7-82; 8:45 am]

BILLING CODE 3510-25-M

Diamond Tips for Phonograph Needles From the United Kingdom; Preliminary Results of Administrative Review of Antidumping Finding and Tentative Determination to Revoke In Part

AGENCY: International Trade Administration; Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding and tentative determination to revoke in part.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on diamond tips for phonograph needles from the United Kingdom. The review covers the three known exporters of this merchandise to the United States. For Bauden Precision Diamonds Ltd. and Diamond Stylus Company Ltd., the review covers the

period April 1, 1980 through March 31, 1981. For Fidelitone International Ltd., the review covers the period June 1, 1975 through May 25, 1976, the date of the Treasury Department's tentative determination to revoke with respect to that firm.

As a result of this review the Department has preliminarily determined to assess dumping duties for one exporter equal to the calculated differences between United States price and foreign market value on each of its shipments during the period of review.

The Department has also tentatively determined to revoke the finding with respect to Fidelitone International Ltd. All imports to the U.S. of diamond tips for phonograph needles from the United Kingdom, produced and sold by Fidelitone International Ltd., have been made at not less than fair value from January 1, 1974 through May 25, 1976, and there is no evidence of any sales at less than fair value since that time. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: June 8, 1982.

FOR FURTHER INFORMATION CONTACT: Philip Gallas or Jonathan Seiger, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washigton, D.C. 20230 (202–377–4023/2704).

SUPPLEMENTARY INFORMATION:

Background

On April 1, 1972, a dumping finding with respect to diamond tips for phonograph needles from the United Kingdom was published in the Federal Register as Treasury Decision 72–91 (37 FR 6665). A notice of "Tentative Determination to Modify or Revoke Dumping Finding" with respect to merchandise sold by Fidelitone International Ltd. was published by the Department of the Treasury in the Federal Register on May 25, 1976 (41 FR 21384). Reasons for the tentative determination was given in the notice and interested parties were given an opportunity to present written or oral views. Treasury received no written submissions or requests for a hearing. However, Treasury took no final action on the proposed revocation.

On April 28, 1981, the Department of Commerce ("the Department") published in the Federal Register the final results of its first administrative review of the antidumping finding (46 FR 17821). For Bauden Precision Diamonds Ltd., the review covered the period July 1, 1976 through March 31, 1980. For Diamond Stylus Company Ltd., the review covered the period July 1, 1978 through March 31, 1980. Review for the third known exporter, Fidelitione International Ltd., had not been completed at the time of publication. In the final results, the Department announced its intent to conduct the next administrative review by the end of April 1982 (46 FR 23781). As required by section 751 of the Tariff Act of 1930 ("the Tariff Act") the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are diamond tips for phonograph needles, consisting individually of an almost microscopic chip of diamond bonded to steel and shaped to fit into the grooves of a phonograph record. Diamond tips for phonograph needles are currently classifiable under item 685.3400 on the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of a total of three exporters to the United States of diamond tips for phonograph needles from the United Kingdom. For Bauden Precision Diamonds Ltd. ("Bauden") and Diamond Stylus Company Ltd. ("Diamond Stylus"), the review covers the period April 1, 1980 through March 31, 1981. For Fidelitone International Ltd. ("Fidelitone"), the review covers the period June 1, 1975 through May 25, 1976, the date of the Treasury Department's tentative determination to revoke with respect to that firm. Treasury reviewed all prior periods for Fidelitone, finding that all sales by Fidelitone were made at not less than fair value from January 1, 1974 through May 31, 1975. The issue of the Department's obligation to conduct administrative review of entries, unliquidated as of January 1, 1980 and covered by prior master lists, is under review. Liquidation has been suspended pending disposition of the issue.

Bauden Precision Diamonds Ltd. did not export to the U.S. during the period April 1, 1980 through March 31, 1981. The estimated duty deposit rate for Bauden will be the most recent margin calculated for that firm, which is 0%.

United States Price

In calculating United States price the Department used purchase price or exporter's sales price, as defined in section 772 of the Tariff Act or sections 203 and 204 of the Antidumping Act of 1921 ("the 1921 Act"). For Fidelitone, exporter's sales price was based on the C&F, duty-paid, packed, delivered price from the related U.S. party, Fidelitone, Inc., to unrelated U.S. purchasers. We deducted air freight, customs duty, and brokerage charges from the price. In the case of Diamond Stylus, we used exporter's sales price when sales were made to a related U.S. purchaser, Phono Stylus Corporation. Exporter's sales prices were based on the C&F, duty-paid, packed, delivered price from Phono Stylus to unrelated U.S. purchasers, with deductions for air freight and customs duty. Where sales were made from Diamond Stylus directly to unrelated purchasers, the Department used purchase price. Purchase prices in this case were ex-factory, packed prices. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act or section 205 of the 1921 Act, since sufficient quantities of such or similar merchandise (at least 19.68 percent of total sales, and at least 21.88 percent of sales for export to countries other than the U.S.) were sold in the home market to provide a basis for comparison. Home market prices here were ex-factory, packed prices. No adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Bauden Precision Diamonds Ltd.	04/01/80–03/31/81	(1)
Diamond Stylus Company Ltd.	04/01/80–03/31/81	0
Diamond Stylus/Phono Stylus	04/01/80–03/31/81	8.37
Fidelitone International Ltd.	06/01/75–05/25/76	0

[1] No shipment during period.

In addition to the Department's conclusion that, for the review period, all sales by Fidelitone were made at not less than fair value, prior Treasury review found that all Fidelitone sales were made at not less than fair value from January 1, 1974 through May 31, 1975. There is no indication of any sales at less than fair value by this company since May 25, 1976. As provided for in section 353.54(e) of the Commerce Regulations, Fidelitone has agreed in writing to an immediate suspension of liquidation and reinstatement of the finding if circumstances develop which indicate that diamond tips for phonograph needles produced by Fidelitone and thereafter imported into the United States are being sold by Fidelitone at less than fair value.

Tentative Determination

As a result of our review we tentatively determine to revoke the finding on diamond tips for phonograph needles from the United Kingdom with respect to Fidelitone. If the finding is revoked with respect to Fidelitone it shall apply to unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after May 25, 1976.

Interested parties may submit written comments on these preliminary results on or before July 8, 1982 and may request disclosure and/or a hearing on or before June 18, 1982. Any hearing, if requested, will be held July 8, 1982. Any request for an administrative protective order must be made on or before June 14, 1982. The Department will publish the final results of this administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries made with purchase or export dates during the time periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided by § 353.48(b) of the Commerce Regulations, a cash deposit based upon the margins above shall be required on all shipments of diamond tips for phonograph needles entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review, tentative determination to revoke in part, and notice are in accordance with sections 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

June 1, 1982.

[FR Doc. 82-1-5535 Filed 6-7-82; 8:45am]
BILLING CODE 3510-25-M

Numerically Controlled Machine Tool Technical Advisory Committee; Partially Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Numerically Controlled Machine Tool Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981, in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to numerically controlled machine tool or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

Time and Place

June 30, 1982, at 10:00 a.m. The meeting will take place at the Main Commerce Building, Room 6802, 14th Street and Constitution Ave., N.W., Washington, D.C.

Agenda

General Session

(1) Opening remarks by the Chairman.
(2) Presentation of papers or comments by the public.
(3) Video tape presentation on robots by the Robot Institute of America.
(4) New Business.

Executive Session

(5) Discussion of matters properly classified under Executive Order 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Public Participation

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to section 10(d) of the Federal Advisory Committee Act, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552(c)(1) and are properly classified under Executive Order 12065. A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, Telephone: 202-377-4217.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT:
Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202-377-2583.

Dated: June 2, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82-15595 Filed 6-7-82; 8:45 am]
BILLING CODE 3510-25-M

Semiconductor Manufacturing Materials and Equipment Subcommittee of the Semiconductor Technical Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Semiconductor Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on September 19, 1980 pursuant to the charter of the Committee.

The Semiconductor Manufacturing Materials and Equipment Subcommittee was formed to study the technical and strategic value of semiconductor device production equipment and materials for the purpose of maintaining a continuous review of the export control technical parameters, and to formulate recommendations to the Commerce Department for parameter updating as appropriate for reasons of national security.

Time and Place

June 29, 1982, at 9:30 a.m. The meeting will take place at the Main Commerce Building, Room 7808, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

The Subcommittee will meet only in Executive Session to discuss matters properly classified under Executive Order 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230. Telephone: 202–377–2583.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 16, 1980, pursuant to section 10(d) of the Federal Advisory Committee Act, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12065. A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, Telephone: 202–377–4217.

Dated: June 2, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82-15536 Filed 6-7-82; 8:45 am]

BILLING CODE 3510-25-M

Semiconductor Technical Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Semiconductor Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to semiconductors, or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States established or in which it participates including proposed revisions of any such controls.

Time and Place

June 28, 1982, at 9:30 a.m. The meeting will take place at the Main Commerce Building, Room B841, 14th Street and Constitution Ave., N.W., Washington, D.C.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12065, dealing with the U.S. COCOM control program and strategic criteria related thereto.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, witht he concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the meeting should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 U.S.C. 552(b)(1) and are properly classified under Executive Order 12065. A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, telephone: 202–377–4217.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret Cornejo, Office of the Director of Licensing, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202–377–2583.

Dated: June 2, 1982.

Vicant F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82-15537 Filed 6-7-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Antidumping Investigation; Certain Stainless Steel Sheet and Strip Products From France

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of antidumping investigation.

SUMMARY: On the basis of a petition filed in proper form with the Department of Commerce, we are initiating an antidumping investigation to determine whether certain stainless steel sheet and strip products from France are being, or are likely to be, sold in the United States at less than fair value. We are notifying the International Trade Commission ("ITC") of this action so that it may determine whether imports of certain stainles steel sheet and strip products are materially injuring, or are threatening to materially injure, a U.S. industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before June 24,1982, and we will make ours on or before October 18, 1982.

EFFECTIVE DATE: June 8, 1982.

FOR FURTHER INFORMATION CONTACT: Leon McNeill, Office of Investigations, Import Administration, International Trade Administation, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 377–1273.

SUPPLEMENTARY INFORMATION:

Petition

On May 10, 1982, we received a petition filed by counsel on behalf of eleven U.S. specialty steel producers and on behalf of the United Steelworkers of America. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports from France of certain stainless steel sheet and strip products are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tarriff Act of 1930, as amended (19 U.S.C. 1673) (the "Act") and that these imports are materially injuring, or are threatening to materially injure, a U.S. industry. The petition further alleges that these products are being sold in France at less than the cost of production in the home market. An amendment to the petition was filed on May 24, 1982, which provided price data on hot-rolled stainless steel strip coil. Further amendments to the petition were filed on May 28, 1982, which provided additional information relative to the allegation that stainless steel sheet and strip products are being sold in France at less than the cost of production.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets

forth the allegations necessary for initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on certain stainless steel sheet and strip products and have found that it meets these requirements. However, we have dismissed the sales below cost of production allegation on the basis that the petition failed to provide adequate documentation and analysis to support such allegation. If the petitioners make a timely submission of the required information, we will initiate an investigation to determine if stainless steel sheet and strip products are being sold in France at less than the cost of production.

Therefore, in accordance with section 732 of the Act, we are initiating an antidumping investigation to determine whether certain stainless steel sheet and strip products from France are being, or are likely to be, sold in the U.S. at less than fair value. If the investigation proceeds normally, we will make our preliminary determination by October 18, 1982.

Scope of the Investigation

The products covered by this investigation are certain stainless steel sheet and strip products. For a further description of these products see the appendix appearing with this notice.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided that the ITC confirms it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by June 24, 1982, whether there is a reasonable indication that imports of certain stainless steel sheet and strip products from France are materially injuring, or are threatening to materially injure, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, the investigation will proceed according to statutory procedures.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

June 1, 1982.

Appendix—Product Description: Certain Stainless Steel Sheet and Strip Products

For the purpose of this investigation, the term "certain stainless steel sheet and strip products" covers hot or cold-rolled stainless steel sheet or strip, excluding hot or cold-rolled stainless steel strip not over 0.01 inch in thickness, as currently provided for in items 607.7610, 607.9010, 607.9020, 608.4300, and 608.5700 of the *Tariff Schedules of the United States Annotated.*

Hot-rolled stainless steel sheet covers hot-rolled stainless steel sheet products whether or not corrugated or crimped and whether or not pickled; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; and under 0.1875 inch in thickness and over 12 inches in width.

Hot-rolled stainless steel strip is a flat-rolled stainless steel product whether or not corrugated or crimped and whether or not pickled; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; and under 0.1875 inch in thickness and not over 12 inches in width. Hot-rolled stainless steel strip, including razor blade strip, not over 0.01 inch in thickness is not included.

Cold-rolled stainless steel sheet covers cold-rolled stainless steel sheet products whether or not corrugated or crimped and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; and under 0.1875 inch in thickness and over 12 inches in width.

Cold-rolled stainless steel is a flat-rolled stainless steel product whether or not corrugated or crimped and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; under 0.1875 inch in thickness and over 0.50 inch in width but not over 12 inches in width. Cold-rolled stainless steel strip, including razor blade strip, not over 0.01 inch in thickness is not included in this investigation.

[FR Doc. 82-15526 Filed 6-7-82; 8:45 am]

BILLING CODE 3510-25-M

Piher Semiconductores, S.A., Avda San Julian, s/n, Apartado Correos 177, Granollers (Barcelona), Spain; Order Amending Temporary Denial of Export Privileges

By Order of April 9, 1982, 47 FR 16619 (April 20, 1982), the Order of February 25, 1982, 47 FR 9044 (March 3, 1982) Temporarily Denying Export Privileges was amended so as to authorize certain exports by Piher International Corp. The Order of April 9, 1982 further provided that Piher International Corp. could apply for an extension of such authorization to export if serious economic hardship would be caused by a failure of such extension coupled with a continuing consideration of a motion filed by Piher International Corp. that requested exception from the provisions of Paragraph III of the Order of February 25, 1982.

Consideration of this motion is still continuing and Piher International Corp. has now applied for an extension of its authorization to make certain exports, asserting that failure to obtain the extension will entail serious economic hardship.

Based on the representation made by Piher International Corp., I find that its application for an extension of its authorization to make certain exports is justified, and that granting this extension will not jeopardize the purpose of the Order of February 25, 1982.

Accordingly, it is hereby ordered that the Order of February 25, 1982 is further amended by excepting, from its denial of export privileges, Piher International Corp., with addresses at 585 W. Golf Road, Arlington Heights, Illinois 60005 and at Post Office Box 91980, Chicago, Illinois 60680, insofar as Piher International Corp. exports variable resistors and potentiometers to its customers in Canada and Singapore in fulfillment of shipments scheduled through July 1982 in the shipment release documents filed by Piher International Corp. as Exhibit 4 in support of its aforesaid motion for exception from Paragraph III, provided all such exports are G-DEST under the Export Administration Regulations (15 CFR Part 368 *et seq.* (1981). Piher International Corp. may apply for an extension of this Amendment to shipments scheduled after July 1982 in such shipment release documents should a continuing consideration of its aforesaid motion entail serious economic hardship if such an extension is not issued.

This Amendment of the Order is effective immediately.

Dated: June 2, 1982.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 82-15527 Filed 6-7-82; 8:45 am]

BILLING CODE 3510-25-M

Importers and Retailers' and Management-Labor Textile Advisory Committees Public Meetings

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Importers and Retailers' Textile Advisory Committee was established by the Secretary of Commerce on August 13, 1963 to advise

U.S. Government officials of the effects on imports markets of cotton, wool, and man-made fiber textile agreements.

The Management-Labor Textile Advisory Committee was established by the Secretary of Commerce on October 18, 1961 to advise U.S. Government officials on problems and conditions in the textile and apparel industry and furnish information on world trade in textiles and apparel.

TIME AND PLACE: June 23, 1982 at 10:30 a.m. for the Importers and Retailers and 1:00 p.m. for the Management-Labor Textile Advisory Committee. The meeting will take place at the Main Commerce Building, Room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. (Public entrance to the building is on 14th Street between Constitution Avenue and E Streets, NW.)

AGENDA: (1) Review of imports trends, (2) Implementation of textile agreements, (3) Reports on conditions in the domestic market, and (4) Other business.

PUBLIC PARTICIPATION: The meetings will be open to public participation to the extent time is available. The public may file written statements with the Committees before or after the meetings. Approximately 30 seats will be available for the public on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, Office of the Deputy Assistant Secretary for Textiles and Apparel, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202/377–3737.

Dated: June 7, 1982.

Arthur Garel,

Acting Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 82–15636 Filed 6–7–82; 10:23 am]

BILLING CODE 3510–25–M

National Oceanic and Atmospheric Administration

Approval of the New Hampshire Coastal Management Program (Segment)

Pursuant to the authority contained in Section 306(h) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1445(a)), notice is hereby given that the Assistant Administrator for Coastal Zone Management (on behalf of the Secretary of Commerce) on May 27, 1982 approved the New Hampshire Coastal Management Program, Ocean and Harbor Segment. The area comprised by this segment extends from the Portsmouth-Newington Town line to the border with the Commonwealth of Massachusetts. A program for the remaining portions of the State coastal zone, including Great Bay, is under development.

Approval activates Federal agency responsibility for being consistent with the Ocean and Harbor Segment pursuant to the Federal consistency provisions of the Coastal Zone Management Act as of the date of approval. Further information on the responsibilities of affected Federal agencies in this regard may be found in 15 CFR Part 930, published in the **Federal Register**, at page 37142 on June 25, 1979.

A copy of the findings made by the Assistant Administrator in determining that this program segment meets the requirements of the Coastal Zone Management Act may be obtained upon request from the Office of Coastal Zone Management. Inquiries regarding the New Hampshire Program should be addressed to: Kathryn Cousins, North Atlantic Regional Manager, Office of Coastal Zone Management, Page Building #1, Room 362, 3300 Whitehaven Street NW., Washington, D.C. 20235, (202) 634–4126.

(Federal Domestic Assistance Catalog No. 11.419, Coastal Zone Management Program Administration)

Dated: June 1, 1982.

William Matuszeski,

Acting Assistant Administrator for Coastal Zone Management.

[FR Doc. 82–15456 Filed 6–7–82; 8:45 am]

BILLING CODE 3510–08–M

THE COMMISSION OF FINE ARTS

Meeting

The Commission of Fine Arts will next meet in open session on Tuesday, July 13, 1982 at 10:00 a.m. in the Commission's offices at 708 Jackson Place NW., Washington, D.C. 20006 to discuss various projects affecting the appearance of Washington, D.C.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

Dated in Washington, D.C. June 1, 1982.

Charles H. Atherton,

Secretary.

[FR Doc. 82–15463 Filed 6–7–82; 8:45 am]

BILLING CODE 6320–01–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Soliciting Public Comment on Bilateral Textile Consultations With the Government of the Republic of Indonesia To Include a Review of Trade in Categories 340 (Woven Cotton Shirts) and 347/348 (Cotton Trousers)

June 1, 1982.

On May 28, 1982, the United States Government, pursuant to Article 3 of the Arrangement Regarding International Trade in Textiles, the MFA, requested the Government of the Republic of Indonesia to enter into consultations concerning exports to the United States of woven cotton shirts in Category 340 and cotton trousers in Category 347/348, produced or manufactured in Indonesia. A complete description of these categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 533506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926) and May 13, 1982 (47 FR 20654).

The purpose of this notice is to advise that, if no solution is agreed upon between the two governments within sixty days of the date of delivery of the aforementioned note, entry and withdrawal from warehouse for consumption of cotton textile products in Categories 340 and 347/348, produced or manufactured in Indonesia and exported to the United States during the twelve-month period beginning on May 28, 1982, may be restrained at respective levels of 235,256 dozen and 537,661 dozen.

Anyone wishing to comment or provide data or information regarding the treatment of Categories 340 and 347/348 is invited to submit such comments or information in ten copies to Mr. Paul T. O'Day, Chairman, Committee for the Implementation of Textile Agreements and Deputy Assistant Secretary of Commerce for Textiles and Apparel, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, it is requested that comments be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce,

14th and Constitution Avenue, N.W., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-15378 Filed 6-7-82; 8:45 am]

BILLING CODE 3510-25-M

COPYRIGHT ROYALTY TRIBUNAL

[Docket No. CRT 79-1]

1978 National Public Radio Cable Royalty Claim

AGENCY: Copyright Royalty Tribunal.

ACTION: Notice of final determination.

SUMMARY: The Copyright Royalty Tribunal (Tribunal) announces the adoption of its final determination denying an award of 1978 cable royalty fees to National Public Radio (NPR) and affirming an allocation of 0.25 of the royalty fees to the Public Broadcasting Service (PBS).

FOR FURTHER INFORMATION CONTACT: Frances Garcia, Chairman, Copyright Royalty Tribunal, 1111 20th St., N.W., Rm. 450, Washington, D.C. 20036, 202-653-5175.

(17 USC 111(d) and 803(b))

BACKGROUND AND CHRONOLOGY: The Tribunal published its final determination in the 1978 cable royalty proceeding on September 23, 1980.[1] A number of claimants, including NPR, sought judicial review of the Tribunal's decision in the Court of Appeals for the District of Columbia Circuit. These appeals were consolidated. The Court in its opinion of April 9, 1982, affirmed all the Tribunal's royalty allocations, except for the Tribunal's disposition of a tentative award of 0.25 of the royalty fees to NPR. The Court remanded that issue to the Tribunal for further proceedings.

The Tribunal conducts its cable distribution proceedings in two parts. During Phase I the Tribunal determines what percentage of the royalty fund shall be allocated to general categories of claimants. During Phase II the Tribunal resolves any disputes as to the division of a category's share among the component members of the category. No determination of a royalty allocation is final until, as required by 17 USC 803(b), the Tribunal's allocation and "the specific reasons for its determination" are adopted and published in the **Federal Register.**

At the conclusion of Phase I of the 1978 cable royalty distribution proceeding, the Tribunal included in its proposed allocations an award of 0.25% to NPR. Prior to the adoption of its final determination, without reopening the record, the Tribunal reconsidered the award to NPR, determined that it was not supported by the record evidence, and upon further review of its Phase I allocations, added the 0.25% to the award of PBS.

Upon the remand, the Tribunal determined "that further proceedings on the National Public Radio claim directed by the Court of Appeals shall be conducted exclusively on the substance of the National Public Radio Claim."[2] The Tribunal provided a period for briefs and reply briefs, as well as oral argument on May 26th on the following question:

> Does the record of the 1978 distribution proceeding support an award of 0.25% to National Public Radio, or shall no award be made to National Public Radio and the 0.25% be allocated as provided in the Tribunal's final order?[3]

After debate, at a public meeting on May 26, the Tribunal by a vote of three ayes (Commissioners Garcia, Brennan and Burg) one nay (Commissioner Ray) and one voting "present" (Commissioner Coulter) adopted the following motion "that no award be made to National Public Radio for the year 1978, and that the .25 percent allocation provided in the Tribunal's final order of September 23, 1980 be allocated as it was."

Findings:

The Tribunal in our 1978 distribution opinion described and reviewed the evidence presented in justification of the NPR claim.[4] In our findings concerning all 1978 radio claimants, we stated:

> The Tribunal finds that the record of this proceeding provides no basis for any award of cable royalty fees for the distant carriage of radio signals. The record is inadequate to establish the extent of cable carriage of radio programming.[5]

Reviewing our action on the substantive aspects of the NPR claim, and our denial of any award to NPR, the Court of Appeals said "we find no error in the Tribunal's action." The Court further noted:

> Several times during the Phase I proceeding, NPR candidly admitted its difficulty in demonstrating that its member stations were the subject of any significant distant carriage by cable systems . . . . In short, the Tribunal's assessment of theevidence in the record put forward to support . . . NPR claims was not unreasonable."[6]

We reaffirm all our previous findings concerning the NPR claim. We find that the record does not provide an adequate basis for establishing the extent of cable systems distant carriage of NPR station signals. The record is particularly deficient on matters relating to the carriage by cable systems of distant NPR signals. As the Court of Appeals stated "the Tribunal had no way of knowing how many NPR stations are carried on how many cable systems."[7]

Having determined to make no award to NPR, we have resolved that the 0.25 percent of the royalty fund included in the remand be allocated to PBS, as provided in our final determination of September 23, 1980. Our findings and justification for a total award of 5.25 percent of the royalty fund to PBS is set forth on our 1980 determination.[8] We adopt and reaffirm this justification.

It is therefore ordered that the 0.25 percent of the royalty fund covered by the remand be awarded to PBS.

Note.—Commissioners Garcia, Brennan and Burg concur in this opinion; Commissioner Ray dissents; and Commissioner Coulter is recorded as voting "present".

Frances Garcia,

Chairman.

[FR Doc. 82-15377 Filed 6-7-82; 8:45 am]

BILLING CODE 1410-09-M

[CRT Docket No. 80-4]

1979 Cable Royalty Fees, Not Subject to Appeal; Order Denying Partial Stay

By Order adopted May 26, 1982 and published June 3, 1982 (47 FR 24175), the Copyright Royalty Tribunal (Tribunal) ruled that 50% of the 1979 cable royalty fund should be distributed, effective July 2, 1982, to the claimant categories in the same proportionate shares as the categories were allocated in the Final

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[1] 45 FR 63026-44.

[2] 47 FR 18020.

[3] Ibid.

[4] 45 FR 63031.

[5] Ibid, p. 63040.

[6] Slip Opinion, pp. 31-32, National Public Radio v. Copyright Royalty Tribunal, No. 80-2281, U.S. Court of Appeals for the District of Columbia Circuit.

[7] Ibid, p. 32.

[8] 45 FR 63038-40.

Notice (47 FR 9879). This action was done pursuant to 17 U.S.C. 809 which permits distribution of the fund to the extent it is not subject to an appeal. Old-Time Gospel Hour (OTGH) and the PTL Television Network (PTL) filed a motion on June 2, 1982, in which it requested that the Tribunal "stay its decision to partially award the 1979 cable television royalty fund insofar as that decision would allow distributions to the Motion Picture Association of America, Inc. or the National Association of Broadcasters (in the program syndicators category) . . . pending review on the merits by the Court". OTGH and PTL stated they have "no objection to a partial distribution to any other claimants (including NAB in its role as agent for broadcasters)."

On June 3, 1982 the Motion Picture Association of America, its members, and other program producers and syndicators filed their opposition to the OTGH and PTL motion.

The Tribunal denies the Motion for Partial Stay.

Frances Garcia, *Chairman*

June 3, 1982.

[FR Doc. 82-15525 Filed 6-7-82; 8:45 am]

BILLING CODE 1410-01-M

[Docket No. CRT 81-1]

1980 Cable Royalty Distribution Procedures

AGENCY: Copyright Royalty Tribunal.

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Frances Garcia, Chairman, Copyright Royalty Tribunal, 1111 20th Street, N.W., Rm. 450, Washington, D.C. 20036, 202-653-5175.

SUPPLEMENTARY INFORMATION: 17 USC 111(d)(4) authorizes the Copyright Royalty Tribunal (Tribunal) to distribute royalty fees paid by cable systems to certain copyright owners who have filed claims with the Tribunal. The procedures for distribution of the cable royalty fees are set forth at 17 USC 111(d)(5). On March 2, 1982 the Tribunal pursuant to 17 USC 111(d)(5)(B) declared the existence of a controversy concerning the distribution of the 1980 royalties (47 FR 8808).

The 1980 distribution proceeding, as those relating to 1978 and 1979 royalty fees, will be conducted to two phases. Phase I will be devoted to determining the percentages, if any, of 1980 royalty fund which shall be awarded to general categories of claimants. Phase II shall resolve disputes, if any, among claimants within each of these categories. Participation in Phase I is not a prerequisite to participation in Phase II.

The Tribunal approves the request of Superstation, Inc. to participate for all purposes in Phase I.

The Tribunal has determined to alter the 1979 Phase I categories as listed in our final determination of March 8, 1982 (47 FR 9897) by establishing a new and separate category for Devotional Claimants. This category will include such claimants as Christian Broadcasting Network, PTL Television Network and Old Time Gospel Hour.

The Tribunal approves the utilization of the record of the 1978 and 1979 distribution proceeding in both phases of the 1980 proceeding. The Tribunal will accord the same weight to evidence submitted in a prior proceeding that it will to evidence first presented in this proceeding. The Tribunal has determined that the orderly conduct of the proceeding is served by requiring parties to designate those portions of the 1978 and 1979 records which they wish to incorporate in the 1980 record. The Tribunal directs that parties shall, not later than July 15, 1982, designate those portions of the record they wish to incorporate for Phase I purposes.

The Tribunal has determined that it shall not adopt any restrictions on the introduction of new evidence, or require any preliminary showing that the proferred evidence reflects a significant change in material facts from prior proceedings. All relevant evidence will be received.

The Tribunal directs that not later than August 16, 1982 each Phase I party shall submit any prehearing statements, witness lists, concise summary of each witness's testimony, and copies of all documentary evidence. Exhibits will be identified according to the Tribunal's Order of May 1, 1981 (46 FR 24619). The Chairman shall provide exhibit identification procedures for Phase I categories not covered by that order.

The Tribunal has further determined that it will commence the hearings on the substantive aspects of this proceeding on September 14, 1982, at a location to be announced, and the hearings will continue on such subsequent days as are necessary. The Tribunal has determined that the order of presentation shall be as follows:

1. Motion Picture and Syndicated Program Suppliers.
2. Joint Sports.
3. Public Television.
4. Commercial Television and Radio; Superstation.
5. Music.
6. Canadian Claimants.
7. Public Radio.
8. Devotional Claimants.

The Tribunal later will announce the schedule for the rebuttal period.

The Tribunal reminds parties that issues that may require consideration of the Tribunal during the proceeding shall be presented by written motion.

The Tribunal has determined not to make a partial distribution of the 1980 royalty fees at this time.

Frances Garcia,

Chairman.

June 3, 1982

[FR Doc. 82-15525 Filed 6-7-82; 8:45 am]

BILLING CODE 1410-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Coal Terminal in Portsmouth, Virginia on the Elizabeth River

JOINT LEAD AGENCIES: 1. U.S. Army Corps of Engineers, DOD. 2. Virginia Council on the Environment.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. *Proposed Action:* The Virginia Port Authority proposes to construct a coal terminal in Portsmouth, Virginia on the Elizabeth River. The facility will be built in two phases, the first which will have an annual shipping capacity of 18 million tons of coal and the second of which will expand that capacity to 25 million tons per year. In the first phase, approximately three million cubic yards of material will be dredged to create a 1,200 foot wide approach channel at a depth of 45 feet at mean low water from the Craney Island Reach of the Elizabeth River to the project site and a ship loading area on the north side of a proposed pier. In the second phase, and additional two million cubic yards of material will be dredged to create a loading area on the south side of the pier. An open-pile trestle and loading pier will be used to convey the coal from land to the colliers. The maximum encroachment of the pier complex into the water body will be approximately 1,860 feet.

2. *Alternatives:* Alternatives which will be investigated include, but will not be limited to: different coal terminal sites in the Hamption Roads area, different dredged material disposal sites, and different land facilities configurations to minimize wetlands impacts.

3. *Scoping Process:* An informal pre-application scoping meeting was held on

17 September 1981 with representatives of 15 Federal and State agencies. A public notice requesting written scoping comments from the general public will be published so as to roughly coincide with the appearance of this Notice of Intent in the **Federal Register.** Significant issues which have already been identified and which will be discussed in depth in the DEIS include: air quality impacts, wetland impacts, impacts to roads and traffic patterns, noise impacts, water quality, and navigation. Measures to lessen or mitigate these impacts will also be discussed. The Virginia Council on the Environment and the Corps will be joint lead agencies for the preparation of the EIS. This is because the action falls within both Federal and Virginia environmental impact statement requirements. One document will be written to serve both State and Federal review processes.

4. *Public Meetings:* No public scoping meetings are anticipated at this time. However, a public hearing will be held after publication of the DEIS as a part of its public review.

5. *DEIS Availability:* It is estimated that the DEIS will be available to the public for review and comments by November, 1982.

ADDRESS: Questions about the proposed action and DEIS can be answered by:

Bob Hume, U.S. Army Engineer District, Norfolk, 803 Front Street, Norfolk, Virginia 23510, (804) 441–3657, or

Larry Minock, Virginia Council on the Environment, 903 9th Street Office Building, Richmond, Virginia 23219, (804) 786–4500

Dated: May 20, 1982.

Ronald E. Hudson,

Colonel, Corps of Engineers District Engineer.

[FR Doc. 82-15490 Filed 6-7-82; 8:45 am]

BILLING CODE 3710-EN-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Date of Meeting: Wednesday, 23 June 1982.

Time: 0830–1700 hours, 23 June 1982 (Closed).

Place: National Science Foundation, Washington, D.C.

Agenda: The Army Science Board Ad Hoc Subgroup on Robotics/Artificial Intelligence working group on Automated Plant Environment will meet for briefings and discussions on National Science Foundation programs. The subject matter being addressed at this meeting is of a classified nature. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695–3039 or 697–9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82-15575 Filed 6-7-82; 8:45 am]

BILLING CODE 3710-08-M

Office of the Secretary

Per Diem, Travel and Transportation Allowance Committee; Changes in per Diem Rates

AGENCY: DOD.

ACTION: Publication of changes in per diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 112. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico and possessions of the United States. Bulletin Number 112 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: June 2, 1982.

SUPPLEMENTARY INFORMATION: This document gives notice of changes in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. Distribution of Civilian Per Diem Bulletins by mail was discontinued effective June 1, 1979. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of changes in per diem rates to agencies and establishments outside the Department of Defense.

The text of the Bulletin follows:

Civilian Personnel Per Diem Bulletin Number 112 to the Heads of Executive Departments and Establishments

Subject: Table of Maximum Per Diem Rates in Lieu of Subsistence for United States Government Civilian Officers and Employees for Official Travel in Alaska, Hawaii, the Commonwealth of Puerto Rico and Possessions of the United States

1. The bulletin is issued in accordance with Memorandum for Heads of Executive Departments and Establishments from the Deputy Secretary of Defense August 17, 1966, "Executive order 11294, August 4, 1966 Delegating Certain Authority of the President to Establish Maximum Per Diem Rates for Government Civilian Personnel in Travel Status," in which this Committee is directed to exercise the authority of the President (5 U.S.C. 5702(a)(2)) delegated to the Secretary of Defense for Alaska, Hawaii, the Commonwealth of Puerto Rico, the Canal Zone and possessions of the United States. When appropriate and in accordance with regulations issued by competent authority, lesser rates may be prescribed.

2. The maximum per diem rates shown in the following table are continued from the preceding Bulletin Number 111 except in the cases identified by an asterisk which rates are effective on the date of this Bulletin.

3. Each Department or Establishment subject to these rates shall take appropriate action to disseminate the contents of this Bulletin to the appropriate headquarters and field agencies affected thereby.

4. The maximum per diem rates referred to in this Bulletin are:

Locality	Maximum rate
Alaska:	
Adak [1]	$12.60
Anaktuvuk Pass	140.00
Anchorage	86.00
Barrow	166.00
Bethel	114.00
College	97.00
Cordova	86.00
*Deadhorse	142.00
Dillingham	103.00
Dutch Harbor	82.00
Elelson AFB	97.00
Elmendorf	86.00
Fairbanks	97.00
Ft. Richardson	86.00
Ft. Wainwright	97.00
Juneau	97.00
Ketchikan	86.00
Kodiak	103.00
Kotzebue	109.00
Murphy Dome	97.00
Nostak	109.00
Nome	110.00
Noorvik	109.00
Petersburg	86.00
Point Hope	100.00
*Prudhoe Bay	142.00
Shemya AFB [1]	11.00
Stungnak	109.00
Sitka-Mt. Edgecombe	96.00
Skagway	86.00
Spruce Cape	103.00
Tanana	110.00
Valdez	93.00
Wainwright	79.00
Wrangell	96.00
All other Localities	83.00
American Samoa	65.00
Guam M.I.	74.00
Hawaii:	
Oahu	91.00
All Other Localities	67.00
Johnston Atoll [1]	16.75
Midway Islands [1]	12.60
Puerto Rico:	
Bayamon:	
12-16—5-15	119.00
5-16—12-15	99.00
Caroline:	
12-16—5-15	119.00
5-16—12-15	99.00
Fajardo (including Luquillo):	
12-16—5-15	119.00
5-16—12-15	99.00
Ft. Buchanan (Incl. GSA Service Center, Guaynabo):	
12-16—5-15	119.00
5-16—12-15	99.00

Locality	Maximum rate
Ponce (incl. Ft. Allen NCS)	70.00
Roosevelt Roads:	
12-16—5-15	119.00
5-16—12-15	86.00
Sabana Seca:	
12-16—5-15	119.00
5-16—12-15	86.00
San Juan (incl. San Juan Coast Guard Units):	
12-16—5-15	119.00
5-16—12-15	86.00
All Other Localities	77.00
Virgin Islands of U.S.:	
12-1—4-30	102.00
5-1—11-30	82.00
Wake Island [1]	15.00
All Other Localities	80.00

[1] Commercial facilities are not available. This per diem rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveler.

[2] Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meals and incidental expenses.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

June 3, 1982.

[FR Doc. 82-15461 Filed 6-7-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Assessment Policy Committee, National Assessment of Educational Progress (NAEP); Meeting

AGENCY: Education Department.

ACTION: Notice of meeting.

SUMMARY: The Secretary announces a meeting of the Assessment Policy Committee for the National Assessment of Educational Progress (NAEP). The purpose of the meeting is to provide policy guidance and direction to the NAEP project which is supported by the National Institute of Education. The entire meeting will be open to the public and interested persons are invited to attend.

DATE: June 11, 1982, 9:00 a.m. to 5:00 p.m.; June 12, 9:00 a.m. to conclusion of the agenda.

LOCATION: Holiday Inn-Downtown, Silver Heels Room, 15th and Glenarm Place, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Mr. Dunlap Scott, Jr., Director, Liaison and Field Operations, National Assessment of Educational Progress, 1860 Lincoln Street, Room 700, Denver, Colorado 80295 (303/830-3721).

SUPPLEMENTARY INFORMATION: NAEP has as a primary purpose the assessment of the performance of children and young adults in the basic skills of reading, mathematics, and communications. The Assessment Policy Committee is established under section 405(k)(2)(A) of the General Education Provisions Act, as amended by section 1242 of the Education Admendments of 1978. The Assessment Policy Committee is responsible for the design of NAEP, including the selection of learning areas to be assessed, the development and selection of goal statements and assessment items, the assessment methodology, the form and content of the reporting and dissemination of results, and studies to evaluate and improve the form and utilization of NAEP.

The proposed agenda for the meeting includes:

- Action on previous minutes
- Director's report
- Continuation of review of the Wirtz and Lapointe report, "Measuring the Quality of Education", an independent report on NAEP
- NAEP's assessment item release policy
- Public comments
- Miscellaneous housekeeping items

In order to assure adequate seating arrangements and to obtain an advance copy of the final agenda, persons may contact Mr. Dunlap Scott, Jr.

(Catalog of Federal Domestic Assistance 84.117, Education Research and Development)

Dated: June 3, 1982.

Donald J. Senese,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 82-15449 Filed 6-7-82; 8:45 am]

BILLING CODE 4000-01-M

National Advisory Council on Continuing Education; Meeting

AGENCY: National Advisory Council on Continuing Edcucation.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the National Advisory Council on Continuing Education. It also describes the functions of the Council. Notice of meetings is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: June 23, 24 and 25, 1982.

ADDRESS: The Shoreham Hotel, 2500 Calvert Street, N.W., Washington, D.C. 20008.

FOR FURTHER INFORMATION CONTACT: Dr. William G. Shannon, Executive Director, National Advisory Council on Continuing Edcuation, 425 Thirteenth Street, N.W.; Suite 529, Washington, D.C. 20004, Telephone: (202) 376-8888.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Continuing Education is established under Section 117 of the Higher Education Act (20 U.S.C. 1009), as amended. The Council is established to advise the President, the Congress, and the Secretary of the Department of Education on the following subjects:

(a) An examination of all federally supported continuing education and training programs, and recommendations to eliminate duplication and encourage coordination among these programs;

(b) the preparation of general regulations and the development of policies and procedures related to the administration of Title I of the Higher Education Act; and

(c) activities that will lead to changes in the legislative provisions of this title and other federal laws affecting ferderal continuing education and training programs.

The meetings of the Council are open to the public. However, because of limited space, those interested in attending are asked to call the Council's office beforehand.

The Council meeting will be held from 2:00 p.m. until 6:30 p.m. on June 23; from 9:00 a.m. until 5:00 p.m. and from 7:00 p.m. until 9:00 p.m. on June 25, 1982.

The proposed agenda includes:

1. Installation Ceremonies

The Honorable Warren E. Burger, Chief Justice of the United States. (The Castle, Smithsonian Institution)

2. Orientation of Council Members

Council's Congressional mandate and purposes

3. Views on Federal Education Policies and Aims

Representatives from:
—Congressional Commmittees
—Office of Management and Budget
—Congressional Budget Office
—Higher Education Community
—Federal Departments

4. Planning Future Council Activities

Records are kept of all Council proceedings and are available for public inspection at the office of the National Advisory Council on Continuing Education, 425 Thirteenth Street, NW., Room 529, Washington, D.C.

Signed at Washington, D.C. on June 3, 1982.

William G. Shannon,

Executive Director.

[FR Doc. 82-15464 Filed 6-7-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Natural Gas Companies; Cities Service Company, et al. Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

[Docket Nos. G-4579-016, et al.]

June 2, 1982.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 18, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken,but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commision on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft.[2]	Pressure base
G-4579-016, D, May 17, 1982	Cities Service Company, P.O. Box 300, Tulsa, Oklahoma 74102.	Northern Natural Gas Company, Section 10-23S-35W, Kearny County, Kansas.	(3)	
G-4579-017, D, May 17, 1982	do	Northern Natural Gas Company, Section 15-20S-33W, Finney County, Kansas.	(3)	
G-7648-001, D, May 17, 1982	Mobil Producing Texas & New Mexico Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	United Gas Pipe Line Company, White Point, Sauet, et al. Fields, Nueces and San Patricio Counties, Texas.	(3)	
C164-1115-000, D, May 10, 1982	do	Northern Natural Gas Company, Hansford and North Follett Field, Hutchinson and Lipscomb Counties, Texas.	(3)	
C169-168-000, May 10, 1982	Cities Service Company, P.O. Box 300, Tulsa, Oklahoma 74102.	Montana-Dakota Utilities Company, Recluse Gas Plant, Campbell County, Wyoming.	(3)	14.73
C177-328-000, D, May 14, 1982	Mobil Producing Texas & New Mexico Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Tennessee Gas Pipeline Company, S.W. Pheasant Field, Matagorda County, Texas.	(3)	
C181-7-001, May 10, 1982	ARCO Oil & Gas Company, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas, Texas 75221.	Tennessee Gas Pipeline Company, Vermilion Block 104, Offshore Louisiana.	(3)	15.025
C182-248-000, B, May 6, 1982	Bill J. Graham, 301 West Building, Post Office Box 5321, Midland, Texas 79701.	El Paso Natural Gas Company, Cindy Field, Delaware County, Texas.	(3)	
C182-250-000 (C157-115), B, May 5, 1982.	Grace Petroleum Corporation, Broadway Executive Park, 6501 North Broadway, Oklahoma City, Oklahoma 73116.	Lone Star Gas Company, W. Velma Field, Stephens County, Oklahoma.	(3)	
C182-251-000, B, May 7, 1982	Devon Energy Corporation, 1500 Mid-America Tower, Oklahoma City, Oklahoma 73102.	Columbia Gas Transmission Corporation, Dingess Rum No. 25 Well, Logan County, West Virginia.	(3)	
C182-252-000, B, May 7, 1982	do	Columbia Gas Transmission Corporation, Dolly Jordan No. 780 Well, Kanawha County, West Virginia.	(3)	
C182-253-000, B, May 7, 1982	do	Cities Service Oil Company, E. E. Walker No. 0-20 Well, Kanawha County, West Virginia.	(3)	
C177-46-002, C, May 21, 1982	Exxon Corporation, P.O. Box 2180, Houston, Texas 77001.	Trunkline Gas Company, Eugene Island Block 332, Offshore Louisiana.	(3)	14.73
C177-47-003, C, May 21, 1982	do	Northern Natural Gas Company, Eugene Island Block 332, Offshore Louisiana.	(3)	14.73
C177-48-002, C, May 21, 1982	do	Natural Gas Pipeline Company of America, Eugene Island Block 332, Offshore Louisiana.	(3)	14.73
C177-122-003, C, May 21, 1982	do	Columbia Gas Transmission Corporation, Eugene Island Block 332, Offshore Louisiana.	(3)	14.73
C182-254-000 (C80-456), B, Mar. 9, 1982.	ARCO Oil & Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Tennessee Gas Pipeline Company, Lundquist Gas Unit, Colorado County, Texas.	(3)	
C182-255-000, A, May 10, 1982	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001.	Texas Gas Transmission Corporation, Parker-Tomlinson Leases, Sligo Field, Bossier Parish, Louisiana.	(3)	15.025
C182-256-000, B, May 11, 1982	The Dow Chemical Company and the Anschutz Corporation, P.O. Box 3387, Houston, Texas 77042.	United Gas Pipe Line Company, Rooke Ranch Field, Refugio County, Texas.	(3)	
C182-263-000 (C73-251), B, Feb. 22, 1982.	Energy Reserves Group Inc., P.O. Box 1201, 217 North Water Street, Wichita, Kansas 67201.	West Lake Natural Gasoline Company—Atlantic Richfield Company, South Lake Trammel Unit, Nolan County, Texas.	(3)	14.73
C182-258-000, A, May 17, 1982	Mobil Oil Exploration & Producing Southeast, Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	El Paso Natural Gas Company, East Cameron Block 297, S.A., Federal Offshore, Louisiana.	(3)	14.73
C182-259-000, A, May 19, 1982	Union Oil Company of California, P.O. Box 7600, Los Angeles, California 90051.	Texas Gas Transmission Corporation, Block 299, Eugene Island Area, Offshore Louisiana.	(3)	15.025

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft ³	Pressure base
CI82-260-000, A, May 19, 1982	Penzoil Oil & Gas Inc., P.O. Box 2967, Houston, Texas 77001.	United Gas Pipe Line Company, High Island Block A-563 and A-564, South Addition, Offshore Texas.	([16])	14.73
CI82-261-000, A, May 19, 1982	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	United Gas Pipe Line Company, High Island Block A-281, Offshore Texas.	([20])	14.73
CI82-262-000, A, May 19, 1982	ARCO Oil & Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Transco Gas Supply Company, High Island Area, Block A-466 and A-467, Offshore Texas.	([21])	14.73

[1] Royalty owner in the Miller "K" No. 1 Well has requested that Applicant furnish natural gas for the purpose of fueling water pumping engine in order to irrigate agricultural crops growing on lands encompassed in the Miller "K" No. 1 Well proration unit. Gas purchaser has agreed to release gas for this high priority purpose subject to Commission approval.
[2] Royalty owners in the Brinkman "B" No. 1 Well have requested that applicant furnish natural gas for the purposes of fueling water pumping engine in order to irrigate agricultural crops growing on lands encompassed in the Brinkman "B" No. 1 Well proration unit. Gas purchaser has agreed to release gas for this high priority purpose subject to Commission approval.
[3] Non-producing acreage.
[4] Applicant is filing under Gas Purchase Agreement dated July 16, 1968, amended by Letter Agreement dated March 17, 1982, requesting to change delivery point from outlet of Recluse Gas Plant to the outlet of Atlantic Richfield Company's Gillette Plant.
[5] Gas reserves depleted.
[6] Applicant is filing under Gas Purchase and Sales Agreement dated September 3, 1980, amended by Amendment dated April 14, 1982, requesting to change delivery point.
[7] Well no longer capable of producing gas. Will be plugged and abandoned.
[8] Angle 3-28, located Section 28-15-5W, Stephens County, Oklahoma, last production in November 1977. Well was drilled as dry hole in 1957 and is now plugged and abandoned.
[9] Production from the Dingess Rum No. 25 Well (Devon's Energy's Well No. 32) under this sale has ceased.
[10] Production from the Dolly Jordan No. 790 well under this sale ceased. Devon Energy has received a plugging permit and expects to plug this well within the next 30 days.
[11] Production from the E. E. Walker No. 0-20 Well under this sale ceased in December 1977. Devon Energy has received a plugging permit and expects to plug this well within the next 30 days. This is the last producing well under contract dated November 9, 1963, therefore, Devon Energy will not make any more sales under this contract.
[12] Applicant agrees to accept a permanent Certificate of Public Convenience and Necessity covering the subject sale conditioned in accordance with the Natural Gas Policy Act of 1978 and the Commission's Regulations Under said Act.
[13] Land no longer productive of gas and ARCO plans no further development.
[14] Applicant is filing under Gas Purchase Contract date April 24, 1982.
[15] The F. B. Rooke & Sons No. 1 Well, the only well usbject to this contract, ceased production and was plugged and abandoned on June 19, 1981.
[16] Acreage assigned to Arden Oil Corporation as of Assignment dated January 12, 1982.
[17] Applicant agrees to accept an initial rate determined in accordance with the Natural Gas Policy Act of 1978, Part 271, Subpart B, Section 102(d).
[18] Applicant is filing under Gas Purchase Contract dated May 12, 1982.
[19] Applicant is willing to accept a certificate of public convenience and necesslty conditioned in price to the applicable ceiling rates as established by the Natural Gas Policy Act of 1978.
[20] Applicant is filing under Gas Purchase and Sales Agreement dated May 3, 1982.
[21] Applicant is filing under Gas Purchase Agreement dated May 14, 1982.
Filing Code A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delege acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 82-15496 Filed 6-7-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-546-000]

Central Power and Light Co., and West Texas Utilities Co.; Filing

June 2, 1982.

The filing Company submits the following:

Take notice that Central Power and Light Company ("CPL") and West Texas Utilities Company ("WTU") on May 25, 1982, jointly tendered for filing a proposed transmission service tariff. The tariff provides for transmission service within the Electric Reliability Council of Texas ("ERCOT") load control area for those utilities operating in ERCOT with less than 1500 MW load.

The Companies request that the tariff become effective July 24, 1982. A copy of the filing has been sent to the Public Utility Commission of Texas.

Any person desiring to be heard or protest the application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before June 16, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-15495 Filed 6-7-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-316-000]

Cities Service Gas Co.; Application

June 2, 1982.

Take notice that on May 6, 1982, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP82-316-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of up to 5,000 Mcf of natural gas per day with Northwest Pipeline Corporation (Northwest) in the Creston III Unit Area of Carbon County, Wyoming, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a gas exchange agreement with Northwest dated February 5, 1982, Applicant proposes to exchange gas between wells to which each party is singly connected in the Creston III Unit. It is asserted that one additional balancing point to be located in Carbon County is also proposed with additional delivery points and balancing points to be added upon mutual agreement. Applicant states that each party would reimburse the other for the gathering of the gas and no transportation fee would be charged.

Any facilities necessary to effectuate the exchange would be installed pursuant to budget-type authorization for gas supply facilities. Subject to amendment, the maximum exchange volume would be 5,000 Mcf per day.

Applicant also requests authority to make an annual filing of tariff revisions by January 31 of each year which would reflect any changes, additions or deletions in delivery points between the parties.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 21, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by

Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15609 Filed 6-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP 82-319-000]

Cities Service Gas Co.; Application

June 2, 1982.

Take notice that on May 10, 1982, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP82-319-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to Kansas Power and Light Company (KP&L) in Reno County, Kansas, for resale, and the construction and/or operation of facilities necessary therefor, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposed herein to sell up to 8,000 Mcf of natural gas annually to KP&L in Reno County for resale for its system supply and storage requirements. Applicant further seeks authorization of facilities previously installed at this location to make emergency sales to KP&L and proposes further to modify said facilities to accommodate the proposed sale. It is asserted that the facilities previously constructed cost $186,822 and the proposed facililties are estimated to cost $29,150 which costs would be financed from cash on hand.

Applicant asserts that the sale to KP&L would initially be made at a commodity rate equal to Applicant's Rate Schedule F-1 excess rate.

Any person desiring to be heard to make any protest with reference to said application should on or before June 21, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction, conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules and Practice and Procedure a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearings is required, further notice of such hearings will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15607 Filed 6-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP76-37]

El Paso Natural Gas Co.; Tariff Filing

June 1, 1982.

Take notice that on May 21, 1982, El Paso Natural Gas Company ("El Paso"), pursuant to Part 154 of the Federal Energy Regulatory Commission ("Commission") Regulations Under the Natural Gas Act, tendered for filing and acceptance Second Revised Sheet Nos. 667 and 676 through 680 and Original Sheet No. 680-A to special Rate Schedule T-4 contained in its FERC Gas Tariff, Third Revised Volume No. 2.

El Paso states that special Rate Schedule T-4 is comprised of a Gas Transportation Agreement ("Transportation Agreement") dated May 9, 1975, as amended, between El Paso and Southwest Gas Corporation ("Southwest") providing for the transportation of a "Contract Quantity" of 20,000 Mcf of natural gas per day and the best efforts transportation of natural gas in excess of the "Contract Quantity" up to a maximum of 70,000 Mcf per day by El Paso for the account of Southwest from a receipt point located near Ignacio, Colorado, to delivery points located in the State of Arizona and on the boundary between the States of Arizona and Nevada. Such transportation arrangement was authorized by Federal Power Commission order issued December 3, 1975, as amended, at Docket No. CP76-37, *et al.*

El Paso further states that by an Amendatory Agreement dated January 25, 1982, El Paso and Southwest agreed to revise the Rates and Charges provision of the Transportation Agreement so as to provide that payment applicable to gas transported by El Paso on a best efforts basis in excess of Southwest's "Contract Quantity" will include the "San Juan Triangle Facilities Commodity Charge" and the "San Juan Mainline Facilities Commodity Charge." Presently, only the Mainline Transmission Charges apply to the best efforts service. The tendered tariff sheets, when accepted for filing and permitted to become effective, will (i) revise the Transporatation Agreement, in accordance with the aforementioned Amendatory Agreement between the parties, to include the payment by Southwest to El Paso of the "San Juan Triangle Facilities Commodity Charge" and the "San Juan Mainline Facilities Commodity Charge" applied to 95 percent of the volumes of natural gas in excess of Southwest's "Contract Quantity" of 20,000 Mcf per day accepted and transported by El Paso on a best efforts basis and (ii) update the title page to reflect the Amendatory Agreement dated January 25, 1982.

El Paso requests that the tendered tariff sheets be permitted to become effective thirty (30) days following the date of filing.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before June 9, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make any protestants

parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15510 Filed 6-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-308-000]

Florida Gas Transmission Co.; Application

June 2, 1982.

Take notice that on April 30, 1982, Florida Gas Transmission Company (Applicant), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP82-308-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain pipeline and meter stations in the Miami, Florida, area, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

It is stated that Applicant delivers natural gas to Peoples Gas System, Inc. (PGS) and to Florida Power & Light Company (FP&L) at three separate locations, PGS at Applicant's Meter Station Nos. 3052 and 3048, and FP&L at Applicant's Meter Station No. 9054. It is further stated that the Metropolitan Dade County Transit Authority has acquired land adjacent to Applicant's Meter Station No. 9054 and land on which Applicant's Meter Station No. 3052 is located for the purpose of constructing a rapid transit system. Applicant states that it is, therefore, required to abandon Meter Station Nos. 3052 and 9054 and approximately 220 feet of 6-inch pipeline and to lease approximately 1.5 miles of 6-inch pipeline to PGS.

Applicant maintains that after making minor modifications to the piping at Meter Station No. 3048 deliveries to PGS formerly made at Meter Station No. 3052 would be switched to Meter Station No. 3048. It is further stated that a letter agreement between Applicant and PGS dated September 9, 1981, provides that Applicant would lease the approximately 1.5 miles of pipeline to PGS for $50,000 per year and that PGS would operate and maintain the pipeline but upon request would return the pipeline to Applicant at PGS' cost and expense.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 21, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearings will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15499 Filed 6-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-548-000]

Florida Power & Light Co.; Filing

June 2, 1982.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FPL) on May 25, 1982, tendered for filing revised Cost Support Schedules C, F, and G which support the revised daily capacity charge for services under Service B of FPL's interchange contracts with Florida Power Corportion, the City of Gainesville, Florida, Jacksonville Electric Authority, Tampa Electric Company, the Orlando Utilities Commission, City of Kissimmee, Florida, City of Lakeland, Florida, City of St. Cloud, Florida, Sebring Utilities Commission, and City of Vero Beach, Florida, and which provide for a revised rate of return on common equity to be used in FPL's Interconnection Agreement with Seminole Electric Cooperative, Inc., FPL states that the revised capacity charge has been calculated in accordance with the provisions of Service Schedule B and represents an updating of the currently effective capacity charge to reflect more current costs.

FPL requests an effective date of May 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 16, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15500 Filed 6-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-313-000]

Natural Gas Pipeline Company of America; Application

June 2, 1982.

Take notice that on May 6, 1982, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP82-313-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain gas purchase facilities located in the S.E. Mutual Field, Woodward County, Oklahoma, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant proposes to abandon a 3-inch measuring facility and related appurtenant facilities which were installed to receive gas purchased from Ashland Oil & Refining Company and

Continental Oil Company. In addition, Applicant proposes to abandon a 3-inch measuring facility, 5,256 feet of 6-inch lateral and related appurtenant facilities which were installed to receive gas purchased from OFT Exploration, Inc. It is asserted that all facilities are located in the S.E. Mutual Field, Woodward County, Oklahoma. Applicant states that there are no remaining salable, recoverable reserves that can be produced from the wells which were connected to such facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 21, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15801 Filed 6-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-410-000]

New York State Electric & Gas Corp.; Order Accepting for Filing and Suspending Revised Rates, Waiving Certain Filing Requirements, Denying Summary Disposition, Granting Intervention, and Establishing Hearing Procedures

June 4, 1982.

On March 30, 1982, New York State Electric and Gas Corporation (NYSEG) tendered for filing a transmission rate agreement, dated February 3, 1982, with the Power Authority of the State of New York (PASNY).[1] Under the agreement, NYSEG will provide firm transmission service until January 1, 1990, from PASNY's St. Lawrence, Niagara, and Fitzpatrick Projects to the PASNY municipal and cooperative customers.[2] In addition, the agreement requires NYSEG to construct transmission facilities to meet the ongoing future requirements of PASNY's customers. The revised wheeling rate proposes an increase of approximately $2.2 million based on a twelve-month period ending October 31, 1982. NYSEG requests an effective date of July 1, 1982, and indicates that PASNY concurs in the proposed rate.

Notice of the filing was issued on April 7, 1982, with responses due on or before April 21, 1982. PASNY filed a timely petition to intervene stating that it supports NYSEG's request that the filing be accepted and that the revised rates be allowed to become effective as provided in the agreement between NYSEG and PASNY.

On April 21, 1982, and April 22, 1982, the Municipal Electric Utilities Association of New York (MEUA) and New York State Rural Electric Cooperative Association (NYSRECA), respectively, filed protests and petitions to intervene. NYSRECA also filed a motion for permission to intervene one day out of time, stating that its members have a direct interest in this proceeding which cannot be adequately represented by any other party, that its intervention will not delay the proceeding and that the one day delay was caused by an unanticipated delay in obtaining technical advise from outside consultants.

MEUA and NYSRECA request that the Commission reject the filing contending that NYSEG has (1) failed to file cost of service Statements AA, BB, and BL for Period II; (2) omitted production plant related data from Statements AD, AE, AG, and AH; (3) filed an incomplete Statement AV for Period I; and (4) included a provision which violates the filed rate doctrine and advance notice provisions of the Federal Power Act because it requires that customers make appropriate capital contributions in the event of sudden or temporary load increases without the opportunity for Commission review and approval of the additional charges. In addition, NYSRECA states that the amendments to the NS-11 contract must be rejected because the parties have violated a New York Public Authorities Law which requires PASNY to hold public hearings and to receive approval from the Governor of New York State before a new modified NS-11 agreement can be executed.

Also, MEUA and NYSRECA seek summary disposition of the following: (1) NYSEG's use of a working cash allowance of ⅛ of its operation and maintenance expenses; (2) the failure to synchronize interest expense for tax purposes; (3) the functionalization of general and common plant on other than wage ratios; and (4) NYSEG's contract provision which provides for facilities contribution without timely filing with the Commission. Finally, if the filing is not rejected, MEUA and NYSRECA seek a maximum suspension. In support of the contention that NYSEG's revised rate should be suspended for five months, the petitioners cite various cost of service issues including transmission plant allocation, rate of return, terms and conditions of service, and improper treatment of revenue credits.

Subsequently, on May 6, 1982, NYSEG filed answers which challenge the specific allegations raised by the municipal and cooperative customers. On May 7, 1982, PASNY filed an answer which primarily denies the merits of the customers' contention that gubernatorial approval is required before PASNY enters any new contract for transmission service.

Discussion

Initially, we find that participation in this proceeding by each of the petitioners is in the public interest. Given the interest of NYSRECA's members, the fact that its petition was only one day out of time, and the early stages of this proceeding, we further find

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[1] NYSEG's and PASNY's present transmission agreements dated July 8, 1957, and February 10, 1961, known as Contracts S-7 and NS-11, are on file with the Commission as NYSEG Rate Schedule FERC Nos. 80 and 70. In addition, NYSEG and PASNY are parties to an agreement dated July 28, 1975, known as Contract UD-4 which is NYSEG Rate Schedule FERC No. 67. These agreements provide for the wheeling of PASNY customer loads on a non-firm basis to the extent that NYSEG has capacity available above its native requirements.

[2] See Attachment A for rate schedule designations.

that good cause exists to permit the untimely intervention. Therefore, we shall grant both petitions to intervene.

We decline to grant the motions for rejection of the rate filing. NYSEG has filed Statement AA for Period I (1980) and for the twelve months ending September 30, 1981. In addition, NYSEG has requested a waiver of the requirement to file Statement AA for Period II stating that it does not forecast certain account balances on a basis which permits the proper forecasting of a Period II balance sheet. We deem the request for waiver to be reasonable, and therefore, we shall grant the company's request. With respect to Statement BB for Period II, NYSEG has specifically adopted the Period I demand data as representative of Period II. We find that this election satisfies the filing requirements. In addition, NYSEG has provided sufficient data in its supporting statements, testimony, and workpapers to satisfy the Statement BL requirements. The Statement AV data for Period I is readily available in NYSEG's Form No. I for 1980 and the omitted product plant data (Statements AD, AE, AG, and AH) are inapplicable to the transmission service at issue. As a whole, we find that NYSEG's filing substantially satisfies our filing requirements.[3]

In its petition, NYSRECA states that the Commission should reject NYSEG's filing based on the doctrine enunciated in the *Sierra-Mobile* cases[4] inasmuch as the instant submittal is inconsistent with the rate change provisions of the NS–11 contract between NYSEG and PASNY. NYSRECA asserts that the NS–11 contract provides that wheeling charges may only be reviewed at fixed time intervals and that the instant filing arises at a time other than the designated five year rate review interval. While acknowledging that NYSEG and PASNY could mutually amend their contract, NYSRECA contends that state law would require that an entirely new agreement between them could not be affectuated without public hearings and gubernatorial approval.

PASNY has responded to NYSRECA's contentions, arguing that the rate change fully conforms to the NS–11 requirements, that the *Sierra-Mobile* doctrine is inapplicable, and that, even if construed as a new contract, state law does not require advance gubernatorial approval since the agreement relates exclusively to transmission service. We are persuaded after review of all the pleadings, that PASNY is not precluded, under the NS–11 contract from entering into the February 3, 1982 letter agreement. Insofar as NYSRECA raises issues of state law, however, its appropriate avenue of relief is in a court of competent jurisdiction.

We shall also deny the requests for summary disposition with respect to the issues raised by petitioners because these matters present questions of fact which should be addressed at hearing. However, we take this opportunity to advise NYSEG that (1) assessment of facilities contributions charges will require timely notice and filing with the Commission pursuant to section 205 of the Federal Power Act and § 35.13 of the Commission's regulations, and (2) the company will bear the burden of demonstrating that functionalization of general and common plant on the basis of labor ratios is unreasonable.[5]

Finally, we note that NYSEG's filing does not comply with section 35.25 of the Commission's regulations and Order No. 144–A in that NYSEG has failed to normalize all timing differences required therein. Therefore, we shall require NYSEG to file revised rates and cost of service statements which reflect tax normalization procedures consistent with Order No. 144–A and section 35.25 of the regulations.[6] Inasmuch as NYSEG's rates to PASNY have not been revised in over twenty years, NYSEG will require a rate order to the extent it wishes to qualify for ACRS deductions; therefore, the revised cost data should clearly indicate how and to what extent the company has reflected ACRS tax depreciation deductions and related normalization in its cost of service.

Our preliminary review of NYSEG's filing and the intervenor's pleadings indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept NYSEG's rates for filing and suspend them as ordered below.

We recently addressed the Commission's suspension policy in *West Texas Utilities Company*, Docket No. ER82–23–000 (February 26, 1982). In that order, we stated that where our preliminary examination indicates that revised rates may be unjust and unreasonable, but may not be substantially excessive as described in *West Texas*, we shall suspend the rates for one day. In the case of NYSEG's rates, preliminary review suggests that the proposed rates may not produce excess revenues. Therefore, we shall suspend NYSEG's proposed rates for one day from the proposed effective date to become effective subject to refund, on July 2, 1982.

The Commission orders:

(A) The motions for rejection and summary disposition are denied.

(B) NYSEG's request for waiver of the outstanding filing requirements of section 35.13 of the regulations is hereby granted.

(C) NYSEG shall submit, within thirty (30) days of the date of this order, revised rates and cost statements which reflect tax normalization procedures consistent with Order No. 144–A and section 35.25 of the regulations.

(D) NYSEG's proposed rates, as modified to comply with Order No. 144–A, are hereby accepted for filing and suspended for one day from the proposed effective date, to become effective on July 2, 1982, subject to refund.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act [18 CFR, Chapter I], a public hearing shall be held concerning the justness and reasonableness of NYSEG's rates.

(F) The petitions to intervene filed by MEUA and NYSRECA are hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Fedral Power Act; *provided, however;* that participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; and *provided, further,* that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order or orders entered by the Commission in this proceeding.

(G) The Commission staff shall file top sheets in this proceeding within ten (10) days of the date of this order.

(H) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding

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[3] *See Municipal Light Boards of Reading and Wakefield, Mass.* v. *FPC*, 450 F.2d 1341 (D.C. Cir. 1971).

[4] *See Federal Power Commission* v. *Sierra Pacific*, 350 U.S. 348 (1956); *United States Pipeline Company* v. *The Mobile Gas Service Corporation*, 350 U.S. 332 (1956) and *Richmond Power and Light Co.* v. *Federal Power Commission*, 481 F.2d 490 (D.C. Cir. 1973) *cert denied* 414 U.S. 1068 (1973).

[5] *See Minnesota Power & Light Company*, Opinion No. 20, Docket Nos. E–9499, *et al.* (August 3, 1978).

[6] *See Wisconsin Electric Power Company*, Docket No. ER82–347–000 (April 13, 1982).

to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Wahington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(I) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A.—New York State Electric & Gas Corp. Rate Schedule Designations

[Docket No. ER82-410-000]

Filed: March 30, 1982.

Other Party: Power Authority of the State of New York.

Designation	Description
Supplement No. 1	Letter Agreement dated Feb. 3, 1982.
Supplement No. 2	Exhibit I.

The above supplements apply to the following Rate Schedules:

FPC No. 67
FERC No. 70
FERC No. 80

[FR Doc. 82-15520 Filed 6-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-550-000]

Northern States Power Co., Filing

June 2, 1982.

The filing Company submits the following:

Take notice that on May 28, 1982, Northern States Power Company, (NSP) tendered for filing the Sherco 3 Outlet Transmission Agreement with Southern Minnesota Municipal Power Agency.

The Agreement, dated April 27, 1982, provides for the delivery of Southern Minnesota power and energy from Sherco 3 to Southern Minnesota members on Dairyland Power Cooperative and Interstate Power systems.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 17, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15511 Filed 6-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-322-000]

Northwest Pipeline Corp., Application

June 3, 1982.

Take notice that on May 12, 1982, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP82-322-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the account of J. R. Simplot Company (Simplot), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a transportation agreement dated March 17, 1982, as amended April 22, 1982, Applicant proposes to transport up to 10,000 Mcf of natural gas per day on a best-efforts basis for Simplot, plus, at Applicant's sole discretion, quantities in excess of 10,000 Mcf per day. It is asserted that Simplot would purchase supplies of natural gas from Southern Union Gathering Company (Southern Union) at the Kutz delivery point in San Juan County, New Mexico, and/or at the intersection of Southern Union's facilities with those of El Paso Natural Gas Company (El Paso) at the Chaco delivery point in San Juan County.

Applicant asserts that the supplies purchased by Simplot at the Kutz delivery point would be delivered to Gas Company of New Mexico (GCNM) for Applicant's account. From the Kutz delivery point GCNM would transport the subject gas through its facilities to a point of interconnection with the gathering facilities of Applicant at the Huerfano delivery point in San Juan County, it is asserted. From the Huerfano delivery point, Applicant proposes to transport the natural gas through its San Juan Gathering System to its mainline transmission system at the Ignacio delivery point in La Plata County, Colorado.

It is asserted that the supplies of natural gas purchased by Simplot at the Chaco delivery point would be transported by El Paso, for Simplot's account, to the Ignacio delivery point where El Paso's facilities would interconnect with Applicant's mainline.

Applicant further asserts that from the Ignacio delivery point it would transport Simplot's gas through its mainline for redelivery for Simplot's account at Applicant's existing Pocatello-Simplot delivery point to Intermountain Gas Company (Intermountain) in Power County, Idaho. Applicant states that Intermountain would then redeliver the subject gas to Simplot's plant at Pocatello, Idaho.

It is asserted that fuel gas reimbursements to be provided in kind by Simplot would include any fuel or losses associated with the use of GCNM's facilities to transport Simplot's natural gas from the Kutz delivery point to the Huerfano delivery point, Applicant's San Juan gathering fuel for all volumes received at the Huerfano delivery point and Applicant's mainline fuel for all volumes to be transported from the Ignacio delivery point. It is also asserted that for all volumes of gas transported and redelivered to Simplot by Applicant, Simplot would pay Applicant the then effective mainline transportation rate set forth on Sheet No. 2 of Applicant's FERC Gas Tariff, Original Volume No. 2. Applicant states that the currently applicable rate is 1.34 cents per million Btu per hundred miles transported and that the mainline transportation from Ignacio to the Pocatello-Simplot delivery point uses 6 one-hundred mile billing units for a total mainline rate of 8.04 cents per million Btu.

Applicant states that for each million Btu of natural gas received at the Huerfano delivery point for Simplot's account Applicant would charge Simplot at Applicant's gathering rate for the San Juan area, which is currently 33.34 cents per million Btu. Applicant further asserts that, in addition to the gathering and transportation charges, Simplot would pay GCNM directly for the costs incurred under the GCNM agreement for GCNM's transportation of Simplot's gas on behalf of Applicant. It is stated that GCNM's current charge is $260.00 per month service charge plus a basic cost-of-service rate of 36.6 cents per million Btu.

It is asserted that the proposed service would provide Simplot with a means of acquiring additional economically priced supplies of natural gas in order to keep its plant operating.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 24,

1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15512 Filed 6-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-549-000]

Pacific Power & Light Co.; Filing

June 2, 1982.

The filing Company submits the following:

Take notice that Pacific Power & Light Company (Pacific on May 18, 1982, tendered for filing, in accordance with Section 35.13a(d) Part IV of the Commission's Interim Rule (Docket No. RM81-41), Pacific's Revised Appendix 1 for the state of Oregon dated November 8, 1981. The revised Appendix 1 calculates an average system cost for the state of Oregon applicable to the exchange of power between Bonneville and Pacific.

Pacific requests waiver of the Commission notice requirements to permit this rate schedule to become effective November 8, 1981, which it claims is the date of commencement of service.

Copies of the filing were served upon Bonneville and the Oregon Public Utility Commissioner.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 17, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15513 Filed 6-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-545-000]

Public Service Co. of Oklahoma and Southwestern Electric Power Co.; Filing

June 2, 1982.

The filing Company submits the following:

Take notice that Public Service Company of Oklahoma ("PSO") and Southwestern Electric Power Company ("SWEPCO") on May 25, 1982, jointly tendered for filing a proposed transmission service tariff. The tariff provides for transmission service within the Southwest Power Pool load control area for those utilities operating in the Southwest Power Pool with less than 1500 MW load.

The Companies request that the tariff become effective July 24, 1982. Copies of the filing have been sent to the Arkansas Public Service Commission, the Louisiana Public Service Commission, the Oklahoma Corporation Commission and the Public Utility Commission of Texas.

Any person desiring to be heard or protest the application should file a petition ot intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 16, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15502 Filed 6-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP81-73 and RP82-32]

Sea Robin Pipe Line Co.; Settlement Conference

June 2, 1982.

Take notice that on June 17, 1982, at 9:00 a.m., a settlement conference of all interested parties will be convened concerning the above-captioned matter. The conference will be held at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend the informal conference, but if such persons have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention.

All parties will be expected to appear fully prepared to discuss any procedural matters and explore to make commitments with respect to any or all of the issues discussed at the conference.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15503 Filed 6-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-317-000]

Sea Robin Pipeline Co.; Application

June 3, 1982.

Take notice that on May 6, 1982, Sea Robin Pipeline Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP82-317-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the conversion of a portion of the interruptible transportation service rendered for Natural Gas Pipeline Company of America (Natural) to a firm service from Block 331, Eugene Island area, offshore Louisiana, all as more fully set forth in the application

which is on file with the Commission and open to public inspection.

Applicant requests authority to convert a portion of the interruptible transportation service being rendered for Natural under its Rate Schedule X–10 to a firm service. Applicant states it would deliver up to 25,000 Mcf per day on a firm basis and 40,000 Mcf per day on a interruptible basis. Applicant states that the transportation service authorized by order issued on April 14, 1978, in Docket No. CP77–239, included Applicant's right to convert service to a firm service (contract demand quantity). Applicant states it has given notice to Natural in accordance with the provisions of its Rate Schedule X–10 and proposes to implement the contract demand service with Natural. Applicant submits that existing facilities are capable of accommodating this proposed service.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 24, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction, conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules and Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–15514 Filed 6–7–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER82–544–000]

Southern Company Services, Inc.; Filing

June 2, 1982.

The filing Company submits the following:

Take notice that Southern Company Services, Inc. (SCS) on May 24, 1982, tendered for filing on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company and Mississippi Power Company (Southern Companies) two separate amended and restated unit power sales agreements between Southern Companies and Florida Power & Light Company (FPL) and Jacksonville Electric Authority (JEA), respectively. The amended and restated unit power sales agreements between Southern Companies and FPL and Southern Companies and JEA provide for increase in the unit power sales from Southern Companies to FPL and JEA during the period January 1, 1983 through May 31, 1995.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 16, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–15504 Filed 6–7–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP81–86]

Southern Natural Gas Co.; Settlement Conference

June 1, 1982.

Take notice that on June 8, 1982, at 9:00 a.m., a settlement conference of all interested parties will be convened concerning the above-captioned matter. The conference will be held at the office of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend the informal conference, but if such persons have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention.

All parties will be expected to appear fully prepared to discuss any procedural matters and explore or make commitments with respect to any or all of the issues discussed at the conference.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–15515 Filed 6–7–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP81–3–006, et al.; Filing of Pipeline Refund Reports and Refund Plans]

Southwest Gas Corp., et al.

June 2, 1982.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before June 18, 1982. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing date	Company	Docket No.	Type Filing
May 20, 1982	Southwest Gas Corporation	RP81-3-008	SRO report.
Do	Michigan Wisconsin Pipe Line Company	RP79-36-001	Report.
May 21, 1982	Alabama-Tennessee Natural Gas Company	RP81-128-008	LFUT report.
Do	North Penn Gas Company	RP79-88-007	Report.
Do	Unitd Gas Pipe Line Company	RP80-121-008	Report.
May 24, 1982	Distrigas of Massachusetts Corporation	TA82-1-12-003	Report.
Do	Florida Gas Transmission Company	RP81-7-006	Report.
Do	Michigan Wisconsin Pipe Line Company	RP81-1-003	Report.
Do	Michigan Wisconsin Pipe Line Company	RP80-100-005	Report.

[FR Doc. 82-15505 Filed 6-7-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. QF82-147-000]

Sunlaw Energy Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

June 2, 1982.

On May 19, 1982, Sunlaw Energy Corporation, 14651 Ventura Boulevard, Sherman Oaks, California 91403, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying facility pursuant to §292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located in Vernon, California. The primary energy source will be natural gas. The capacity of the facility will be 21,803 kilowatts. Installation of the facility is scheduled to begin in October 1982. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825, North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before July 9, 1982, and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15516 Filed 6-7-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-309-000]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc., Application

June 3, 1982.

Take notice that on April 30, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP82-309-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a 4,000 horsepower compressor unit and related facilities at Station 307 on its system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the design of its existing transmission system provides capacity for fixed demand customers from the gas supply area to point of delivery to enable Applicant to deliver at a load factor of 100 percent. It is stated, however, that in the case of requirements-type customers capacity was provided for only that daily quantity needed to serve the annual average day quantities and to transport to storage the difference between such average day quantity and the actual summer day demand of these customers located west of storage. Applicant states that this turnover gas is then injected into storage and held for withdrawal during colder months when those requirements customers are receiving from the pipeline a quantity of gas in excess of their annual average day requirements. Applicant maintains that its capacity is barely adequate under normal operating conditions during summer periods to transport volumes east of Station 219 in sufficient quantities to serve its customers' authorized requirements and to fill its northern storage fields.

In order to permit the movement of an additional 50,000 Mcf to storage, Applicant proposes the construction and operation of a 4,000 horsepower compressor unit at Station 307, located near Pigeon, Forest County, Pennsylvania. Applicant states that such horsepower would enhance its ability to fill its storage fields and provide flexibility to offset temporary reductions in capacity resulting from facility outages or from short-term supply losses while simultaneously continuing to serve the authorized requirements of its customers located east of this location.

The proposed facilities would cost an estimated $8,910,000 to be financed initially from internally generated funds and/or borrowings under revolving credit agreements.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 24, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be cosidered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecesary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15617 Filed 6-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-311-000]

Texas Eastern Transmission Corp.; Application

June 2, 1982.

Take notice that on May 3, 1982, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP82-311-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Central Hudson Gas & Electric Company (Central Hudson), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Central Hudson has purchased quantities of natural gas from Columbia Gas Transmission Corporation (Columbia Gas). Applicant proposes to receive, by displacement, up to 30,000 dekatherms (dt) equivalent of natural gas per day from Columbia Gas at an existing point of interconnection located at Applicant's meter station 011 in Chester County, Pennsylvania. Applicant further proposes to transport and redeliver equal quantities, less quantities retained for applicable shrinkage, to Algonquin Gas Transmission Company (Algonquin), for the account of Central Hudson, at two existing points of interconnection located at Applicant's meter station 1078 in Morris County, New Jersey, and at Applicant's meter station 087 in Hunterdon County, New Jersey. It is stated that Algonquin would then transport the natural gas to Central Hudson pursuant to a gas transportation agreement entered in to by the two companies.

Applicant proposes to charge Central Hudson 9.13 cents per dt equivalent under Applicant's Rate Schedule TS-1 for the proposed transportation service provided; however, for quantities transported and delivered by Applicant which, when added to the quantities delivered to Central Hudson under Applicant's Rate Schedules TS-1 and SS-II and other transportation agreements, exceed the combined total curtailment of natural gas sales to Central Hudson under all of Applicant's firm sales rate schedules, Applicant would charge Central Hudson its Rate Schedule TS-1 excess rate of 10.56 cents per dt equivalent. It is stated that Applicant would retain 2.0 percent of the gas transported for shrinkage from April 16 through November 15 of each year and 8.0 percent of all gas received for transportation from November 16 through April 15 of each year. Applicant further states that it would retain all revenues derived from the proposed service.

Applicant further requests that the authorization granted herein be limited to a term commencing either upon date of initial delivery or 60 days after receipt of certificate authorization whichever occurs earlier and terminating on and including November 15, 1982.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 21, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this applicant if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15808 Filed 6-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-326-000]

Texas Eastern Transmission Corp.; Application

June 2, 1982.

Take notice that on May 14, 1982, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP82-326-000 an application pursuant to Section 3 of the Natural Gas Act for authorization to import natural gas from Canada, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to import from Canada 100,000 Mcf of natural gas per day and volumes in excess thereof on a best-endeavors basis in accordance with the october 29, 1981, purchase agreement between Applicant and ProGas Limited (ProGas).

On November 1, 1982, or as soon thereafter as feasible, and continuing for a twenty year period, Applicant proposes to purchase said gas from ProGas and take delivery at a point of interconnection between the facilities of ProGas' transporter and the facilities of Applicant's transporter on the international border near Niagara Falls, Ontario, or near Emerson, Manitoba. It is stated Applicant is in the process of arranging for the Niagara, Ontario, delivery point gas to be transported to its pipeline system in Pennsyvlania.

Applicant notes that the price of the imported gas would be prescribed by the Canadian government and further notes that the current border price is equal to $4.94 (U.S.) per million Btu.

Applicant also requests authorization to track, on a current basis, the purchase cost of the subject gas and the cost of transporting such gas from the import point to Applicant's pipeline system.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 21, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a

petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15507 Filed 6-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP81-81-000, RP82-15-000 and RP82-57-000]

United Gas Pipe Line Co.; Settlement Conference

June 1, 1982.

Take notice that on June 9, 1982, at 9:30 a.m., there will be a settlement conference in this proceeding. On the day of the conference, the conference room number will be posted by 9:00 a.m. on the second floor bulletin board of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The conference is tentatively scheduled to be held in the ninth floor Commission Meeting Room.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene in this matter by order of the Commission, attendance will not be deemed to authorize intervention as a party in these proceedings.

All parties will be expected to come fully prepared to discuss the merits of the issues arising in these proceedings and to make commitments with respect to such issues and to any offers of settlement or stipulation discussed at the conference.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15518 Filed 6-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-312-000]

United Gas Pipe Line Co.; Application

June 2, 1982.

Take notice that on May 3, 1982, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in docket No. CP82-312-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of two additional delivery points to provide service to an existing customer, The Utilities Board of the Town of Citronelle, Alabama (Utilities Board), and the continued sale of natural gas to the Utilities Board, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a letter dated January 11, 1982, Applicant proposes to construct and operate two additional delivery points to the Utilities Board to afford the Utilities Board the flexibility required in the present operation of its system. Applicant states that it would install a one-inch tap on its 20-inch Baxterville to Mobile Main line at Station No. 1519+00 and would activate an existing one-inch tap on its 12-inch Lirette to Mobile line at Station 5582+11 both in Mobile County, Alabama. Applicant estimates the cost of the proposed construction to be $1,780 which would be reimbursed by the Utilities Board. Applicant asserts that there would be no increase in the maximum daily quantity of gas sold to the Utilities Board.

Applicant further requests authorization to continue the sale of natural gas to the Utilities Board. Applicant asserts that it sold gas to the Mobile County Gas District which was acquired by the Utilities Board on June 14, 1979, but that Applicant never applied for authorization to sell gas to the Utilities Board. Applicant states that it believed then and still believes that further authorization was not necessary. Applicant, however, seeks authorization herein to continue the sale of gas to the Utilities Board pursuant to a service agreement dated August 27, 1979.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 21, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, of if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15508 Filed 6-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP80-543-005]

United Gas Pipe Line Co. et al.; Petition To Amend

June 2, 1982.

Take notice that on May 12, 1982, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, Columbia Gas Transmission Corporation (Columbia Gas), P.O. Box 1273, Charleston, West Virginia 25325, anc Columbia Gulf Transmission Company (Columbia Gulf, P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP80-543-005 a joint petition to amend the order issued February 23, 1981, as amended, in Docket No. CP80-543 pursuant to Section 7(c) of the Natural Gas Act so as to authorize the exchange of additional reserves of natural gas among Petitioners, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that Petitioners are presently authorized to exchange up to 10,000 Mcf of natural gas per day pursuant to a gas exchange agreement dated April 15, 1980, as amended. It is stated that pursuant to the gas exchange agreement natural gas is delivered to Columbia Gulf by or for United's account at a subsea tap located in Vermilion area Block 245, offshore Louisiana, and redelivered to United at the outlet side of Sea Robin Pipeline Company's (Sea Robin) measuring station near Erath, Louisiana. It is further asserted that gas is delivered to United by or for Columbia Gas' account at the producer's platform in Eugene Island Block No. 43, offshore Louisiana, and at an existing station near Lake Hatch Field, Terrebonne Parish, Louisiana, and redelivered to Columbia Gas at the outlet side of Sea Robin's measuring station at or near Erath, Louisiana.

It is further stated United obtained the rights to purchase additional reserves of up to 300 Mcf of natural gas per day in

the vicinity of East Cameron area Block 237, offshore Louisiana, from Pogo Producing Company.

Petitioners propose to include said natural gas reserves in the exchange. It is further stated that when combined with the natural gas presently being exchanged the additional reserves would not exceed the maximum exchange of 10,000 Mcf of gas per day.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 21, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15609 Filed 6-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP77-24-012]

United Gas Pipe Line Co. and Arkansas Louisiana Gas Co.; Petition To Amend

June 3, 1982.

Take notice that on May 12, 1982, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, and Arkansas Louisiana Gas Company, a division of Arkla, Inc. (Arkla), P.O. Box 21738, Shreveport, Louisiana 71151, filed in Docket No. CP77-24-012 a petition to amend the order issued January 13, 1977,[1] as amended, in Docket No. CP77-24 pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation of natural gas from an additional delivery point, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

It is stated that Petitioners are presently authorized to exchange up to 1,185 Mcf of natural gas per day persuant to a gas exchange agreement dated March 14, 1976, as amended. It is stated that pursuant to the gas exchange agreement, as amended, natural gas has been exchanged at specified delivery points in Louisiana and Texas.

Petitioners hereby request authorization to establish an additional delivery point in Jackson Parish, Louisiana, pursuant to an amendatory letter dated July 6, 1981. It is asserted that Arkla would make deliveries to United attributable to Arkla Exploration Company's interest in the Triton Sisemore No. 1-32 well at a mutually agreeable point in Jackson Parish. It is further asserted that the additional delivery point would utilize existing facilities and would not require any new construction.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 24, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15610 Filed 6-7-82; 8:45 am]

BILLING CODE 6717-01-M

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket No. ER82-538-000]

Boston Edison Co.; Filing

June 1, 1982.

The Filing Company submits the following:

Take notice that Boston Edison Company of Boston, Massachusetts ("Edison") on May 20, 1982, tendered for filing an agreement for the exchange of power between itself and the operating companies of the Northeast Utility system, Connecticut Light and Power Company, The Hartford Electric Company and Western Massachusetts Electric Company.

Under the agreement, the parties could negotiate weekly power exchanges involving Edison fossil fired units and Northeast Utilities' peaking facilities and the Northfield Project. The parties state that the purpose of the power exchange is to attain greater efficiencies of operation.

Copies of the filing have been served upon Northeast Utilities and on the Department of Public Utilities of the Commonwealth of Massachusetts.

Any person wishing to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 15, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc 82-15611 Filed 6-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-543-000]

CP National Corp.; Filing

June 1, 1982.

The Filing Company submits the following:

Take notice that on May 24, 1982, CP National Corporation (CPN) tendered for filing related to a Residential Purchase and Sale Agreement (Agreement between CPN and the Bonneville Power Administration (BPA):

1. Bonneville Power Administration's written report on Appendix 1 and Average Stystem Cost submitted January 5, 1982.

2. The Average System Cost as determined by Bonneville of 23.07 miles per kilowatt hour.

3. A revised Appendix 1 of CP National wherein the Average System Cost is 23.07 miles per kilowatt-hour.

CPN states that this filing is pursuant to section 205(c) of the Federal Power Act. The Agreement provides for the exchange of electric power between CPN and BPA for the benefit of CPN's residential and farm customers.

A copy of the filing was served upon BPA and Industrial Customers of BPA.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests

should be filed on or before June 15, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc 82-15305 Filed 6-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-537-000]

Delmarva Power & Light Co.; Filing

June 1, 1982.

The filing Company submits the following:

Take notice that Delmarva Power & Light Company (Delmarva) on May 19, 1982, tendered for filing Amendment No. 2 to a Service Agreement dated May 27, 1980 with the City of Seaford, Delaware. The Service Agreement provides for generation by Seaford of part of its electric servcie requirements. Amendment No. 2 would increase the amount that Seaford may generate and the months during which Seaford may operate its generation facilities.

Delmarva requests an effective date of May 27, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served on the City of Seaford, the Delaware Public Service Commission, and each of Delmarva's other resale customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 15, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15306 Filed 6-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-536-000]

Montana Power Co.; Filing

June 1, 1982.

The filing Company submits the following:

Take notice that on May 18, 1982, the Montana Power Company (Montana) tendered for filing in accordance with Section 35 of the Commission's Regulations revisions to its FERC Electric Tariff M-1, which provides for the sale of nonfirm energy to other utilities for resale. Montana states that the revisions have been designed to permit greater flexibility in the establishment of charges for particular transactions while incorporating maximum charges which assure that no charge will be excessive.

Montana proposes to make the changes effective July 26, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 15, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc 82-15307 Filed 6-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-539-000]

Portland General Electric Co.; Filing

June 1, 1982.

The filing Company submits the following:

Take notice that on May 21, 1982, Portland General Electric Company (PGE) tendered for filing the written report regarding Average System Cost (ASC) prepared by the Bonneville Power Administration (BPA), the BPA's Average System Cost determination and PGE's Appendix 1, Schedule 5. In accordance with the provisions of 18 CFR 35.13a(d)(5)(i), these documents are required to be filed with FERC within 15 working days of BPA's ASC determination. This determination was made on April 30, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 16, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15308 Filed 6-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-535-000]

Public Service Company of Colorado; Filing

June 1, 1982.

The filing Company submits the following:

Take notice that on May 18, 1982, Public Service Company of Colorado (PSCo) tendered for filing changes in order to add additional participants to the Western Systems Coordinating Council (WSCC) Broker Identified Energy Agreement and the WSCC FERC Rate Schedule Nos. 1 and 2. Said Rate Schedules correspond to PSCo's FERC Rate Schedule Nos. 35 and 36 respectively.

PSCo states that the Agreements provide, inter alia, for sales and transmission of Broker identified economy energy between the electric systems of PSCo and other participating WSCC members either directly or through the systems of other parties. The Agreements provide terms and conditions of WSCC Broker arranged economy energy sales. PSCo states that the Agreements tendered in the instant filing will replace an existing Public Service WSCC Economy Energy Broker Letter Agreement.

PSCo states that copies of the filing were served upon all parties and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8,

1.10). All such petitions or protests should be filed on or before June 16, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15399 Filed 6-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-540-000]

Tucson Electric Power Co.; Cancellation

June 1, 1982.

The filing Company submits the following:

Take notice that on May 21, 1982, Tucson Electric Power Company ("Tucson") tendered for filing a Notice of Cancellation of Rate Schedule FERC No. 30, which became effective on November 1, 1979.

Tucson states that the aforementioned Rate Schedule is identified as the "Tucson-Los Angeles 1979 Nonfirm Energy Agreement" between the Los Angeles Department of Water and Power and Tucson. Tucson requests an effective date of May 31, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before June 16, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15400 Filed 6-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-541-000]

Tucson Electric Power Co.; Cancellation

June 1, 1982.

The filing Company submits the following:

Take notice that on May 21, 1982, Tucson Electric Power Company (Tucson) tendered for filing a Notice of Cancellation of Rate Schedule FERC No. 32, which became effective on January 1, 1980.

Tucson states that the aforementioned Rate Schedule is identified as the "Tucson-Edison 1980 Nonfirm Energy Agreement" between Southern California Edison Company and Tucson. Tucson requests an effective date of May 31, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before June 16, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15401 Filed 6-7-82; 8:45 am]

BILLING CODE 6717-01-M

UMI 28 8 EC 0 1 1 7 4 V

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
NEBRASKA OIL & GAS CONSERVATION COMMISSION									
-MARATHON OIL COMPANY			RECEIVED:	04/29/82		JA: NB			
8231111		2603322103	103			CRUISE "A" #10	HUNTSMAN	8.0	KANSAS NEBRASKA M
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-AMERICAN PENN ENERGY INC			RECEIVED:	05/06/82		JA: NY			
8231143	2905	3102916970	103			GREENE UNIT #2 (1524)	EVANS	18.0	NATIONAL FUEL GAS
8231144	2907	3102917088	103			GRUPP #3 (1528)	EVANS	10.0	NATIONAL FUEL GAS
-BANKS BROTHERS ENERGY CORP			RECEIVED:	05/06/82		JA: NY			
8231136	3130	3101314824	103			RICHTER #1 3170	LAKESHORE	0.0	NATIONAL FUEL GAS
8231135	3132	3101314857	103			RICHTER #2 3171	LAKESHORE	0.0	NATIONAL FUEL GAS
-BEREA OIL AND GAS CORPORATION			RECEIVED:	05/06/82		JA: NY			
8231118	2657	3101316787	103			L FORBES UNIT #1	GERRY	1.0	COLUMBIA GAS TRAN
8231117	2589	3101316788	103			L FORBES UNIT #2	GERRY	21.0	COLUMBIA GAS TRAN
8231119	2700	3101316869	103			M BURNSIDE UNIT #2	GERRY	14.4	COLUMBIA GAS TRAN
-CHAUTAUQUA ENERGY INC			RECEIVED:	05/06/82		JA: NY			
8231141	2886	3101316982	103			STOUT #1	WESTFIELD	12.0	COLUMBIA GAS TRAN
-CHAUTAUQUA NATURAL GAS CO INC			RECEIVED:	05/06/82		JA: NY			
8231126	2822	3101315457	103			COLGROVE WARNER #1-A	LAKESHORE	20.0	COLUMBIA GAS TRAN
-CUMBERLAND OIL CORP			RECEIVED:	05/06/82		JA: NY			
8231121	2816	3101316836	103			LYLE SAGER #2	LAKESHORE	20.0	NATIONAL FUEL GAS
8231122	2796	3101316939	103			RICHTER #6	LAKESHORE	28.0	NATIONAL FUEL GAS
-DESERT GAS EXPLORATION CO INC			RECEIVED:	05/06/82		JA: NY			
8231146	1336	3101313641	103			VANSCOTER #1	LAKESHORE	15.0	NATIONAL FUEL GAS
-ECLIPSE MANAGEMENT ASSOCIATES INC			RECEIVED:	05/06/82		JA: NY			
8231148	1775	3101314604	108			BROWN #1 #3158	LAKE SHORE	8.0	NATIONAL FUEL GAS
8231142	3059	3101314823	103			ROCKY #3160	LAKE SHORE	0.0	COLUMBIA GAS TRAN
-ENERGY OIL INC			RECEIVED:	05/06/82		JA: NY			
8231125	2773	3102916678	103			FOSS #1	BUFFALO CREEK	24.0	TENNESSEE GAS PIP
8231147	2696	3102915912	103			GERHARDT #1	BUFFALO CREEK	20.0	TENNECO OIL CO
8231116	2561	3103716152	103			KERN #1	ALDEN-LANCASTER	0.0	
8231113	2429	3102915911	103			MARTENET #1	BUFFALO CREEK	25.0	TENNECO OIL CO
8231112	2351	3102916097	103			NICOLOFF #1	ORCHARD PARK	73.0	NATIONAL FUEL GAS
-ENVIROGAS INC			RECEIVED:	05/06/82		JA: NY			
8231161	2027	3101315564	102-2			A KOPTA #2	CHAUTAUQUA	18.0	COLUMBIA GAS TRAN
8231153	2009	3101315565	102-2			A KOPTA #3	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8231163	2207	3101315929	102-2			C LATTA #2	CHAUTAUQUA	18.0	COLUMBIA GAS TRAN
8231157	2021	3101315891	102-2			C LEGTERS #1	CLYMER	18.0	COLUMBIA GAS TRAN
8231149	2201	3101315951	102-2			D AND B #1	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8231154	2013	3101315814	102-2			D BREADS #1	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8231167	2215	3101315815	102-2			D BREADS #2	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8231114	2391	3101315204		103		D MITTL #2	LAKESHORE	18.0	NATIONAL FUEL GAS
8231168	2217	3101315856		102-2		D LINDQUIST #1	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8231151	1848	3101315510		102-2		E GODARD #2	CHAUTAUQUA	18.0	COLUMBIA GAS TRAN
8231159	2025	3101315905		102-2		E MARTT #2	FRENCH CREEK	18.0	COLUMBIA GAS TRAN
8231160	2021	3101314775		102-2		H COLEMAN #1	CHAUTAUQUA	18.0	COLUMBIA GAS TRAN
8231165	2211	3101314779		102-2		H COLEMAN #3	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8231132	2858	3101315459		103		J BOVEN #1	LAKESHORE	18.0	COLUMBIA GAS TRAN
8231131	2860	3101316621		103		J NORDLAND #3	WILDCAT	18.0	NATURAL FUEL GAS
8231162	2205	3101315855		102-2		J PATTERSON #1	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8231152	2203	3101315780		102-2		LEGTERS BROS #6	CLYMER	18.0	COLUMBIA GAS TRAN
8231150	1846	3101315587		102-2		N REED #1	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8231166	2213	3101316354		102-2		N REED #3	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8231130	2862	3101316712		103		N Y S REF AREA #5/#22	LAKESHORE	18.0	COLUMBIA GAS TRAN
8231129	2864	3101316713		103		N Y S REF AREA #5/#23	LAKESHORE	18.0	COLUMBIA GAS TRAN
8231156	2015	3101315936		102-2		NYS REFORESTATION AREA #3 - #4	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8231155	2011	3101315937		102-2		NYS REFORESTATION AREA #3 - #5	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8231120	2751	3101316059		103		O BROEMC #1	WILDCAT	18.0	COLUMBIA GAS TRAN
8231164	2209	3101315181		102-2		R GEER #1	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8231115	2454	3101316572		103		S KURGAN #1	LAKESHORE	18.0	NATIONAL FUEL GAS
8231158	2017	3101315694		102-2		W PINL #1	CHAUTAUQUA	18.0	COLUMBIA GAS TRAN
-J B C CORP				RECEIVED:	05/06/82	JA: NY			
8231126	2793	3101316429		103		SELLSTROM & BARGAR #2	LAKESHORE	12.0	NATIONAL FUEL GAS
8231127	2856	3101316430		103		SELLSTROM & BARGAR #3	LAKESHORE	12.0	NATIONAL FUEL GAS
-UNIVERSAL RESOURCES HOLDINGS INC				RECEIVED:	05/06/82	JA: NY			
8231145	2909	3101314825		103		D BARMORE #1	GERRY	20.0	COLUMBIA GAS TRAN
8231124	2787	3101316897		103		OPTIMIST CLUB #1	GERRY	20.0	COLUMBIA GAS TRAN
8231123	2791	3101316896		103		R WILCOX #1	GERRY	20.0	COLUMBIA GAS TRAN
-US ENERGY DEVELOPMENT CORP				RECEIVED:	05/06/82	JA: NY			
8231134	3090	3101315411		103		BUTCHER #1	GERRY	20.0	COLUMBIA GAS TRAN
8231138	2922	3101315417		103		BUTCHER #2	GERRY	20.0	COLUMBIA GAS TRAN
8231139	2936	3101315412		103		E OLMSTEAD #1	GERRY	20.0	COLUMBIA GAS TRAN
8231140	2934	3101315663		103		EDWARD TERRY #2	GERRY	20.0	COLUMBIA GAS TRAN
8231137	2938	3101316593		103		KASHUBA #1	GERRY	20.0	COLUMBIA GAS TRAN
8231133	3089	3101315409		103		W CHURCH #1	GERRY	20.0	COLUMBIA GAS TRAN
OKLAHOMA CORPORATION COMMISSION									
-BARBOUR ENERGY CORP				RECEIVED:	05/06/82	JA: OK			
8231358	15310	3508321384		102-4		FRUENDT #1-31	WILDCAT	0.0	NATURAL GAS ENTER
-COTTON PETROLEUM CORPORATION				RECEIVED:	05/06/82	JA: OK			
8231351	18213	3505121172		107-DP		LOVELESS #1-4	SOUTH VERDEN	0.0	UNITED GAS PIPE L
-JOHN T RIETZ & CO INC				RECEIVED:	05/06/82	JA: OK			
8231344	9181	3508320405		102-4		IRENE #1	EVANSVILLE	730.0	WILSON GAS PROCES
-LIBBEY-OWENS-FORD CO				RECEIVED:	05/06/82	JA: OK			
8231346	16975	3515120889		102-4		HELKE HOUTS #1	FRITZLEN	1.0	
8231348	16973	3515120499		102-4		LOF RHODES #1	FRITZLEN	365.0	
8231347	16974	3515120627		102-4		LOF RITTER #1	FRITZLEN	104.0	
8231348	16976	3515120576		102-4		LOF SCHIERLON #1	FRITZLEN	365.0	
-ROYAL OIL & GAS CORPORATION				RECEIVED:	05/06/82	JA: OK			
8231349	16384	3511921510		102-4		STATE OF OKLAHOMA (105) #1	EAST MARKHAM	60.0	PARKS ENERGY INVE
WEST VIRGINIA DEPARTMENT OF MINES									
-ALLEGHENY & WESTERN ENERGY CORP				RECEIVED:	05/06/82	JA: WV			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8231259		4708703475		103		D S PAINTER #2	WALTON DISTRICT	0.0	COLUMBIA GAS TRAN
8231264		4708703475		107-DV		D S PAINTER #2	WALTON DISTRICT	0.0	COLUMBIA GAS TRAN
-ALLEGHENY LAND & MINERAL COMPANY		RECEIVED: 05/06/82 JA: WV							
8231230		4703301058		108		A - 659	EAGLE DISTRICT	0.0	CONSOLIDATED GAS
8231229		4703302050		108		A - 785	TEN MILE DISTRICT	0.0	CONSOLIDATED GAS
-BRAXTON OIL AND GAS CORP		RECEIVED: 05/06/82 JA: WV							
8231245		4708701679		103		FRANK #1	BURNSVILLE 7.5	40.0	CONSOLIDATED GAS
8231238		4708701680		103		FREDA WELL #1	BURNSVILLE 7.5	40.0	CONSOLIDATED GAS
-CITIES SERVICE COMPANY		RECEIVED: 05/06/82 JA: WV							
8231262		4704700853		103		CHEMICAL BANK & TRUST "A" #3	BRADSHAW	67.0	COLUMBIA GAS TRAN
8231261		4704700854		103		CHEMICAL BANK & TRUST "A" #4	BRADSHAW	26.0	COLUMBIA GAS TRAN
8231265		4703500490		108		COLE "A" #1	RAVENSWOOD	16.0	GAS TRANSPORT INC
8231263		4703500505		108		FINCH "A" #1	RAVENSWOOD	11.0	GAS TRANSPORT INC
8231236		4703500506		108		HUSSELL #1	RAVENSWOOD	12.0	GAS TRANSPORT INC
8231266		4703500260		108		JOHNSON "A" #1	RAVENSWOOD	10.0	GAS TRANSPORT INC
8231260		4701702968		103		MAXWELL "A" #71	SMITHBURG	43.0	CONSOLIDATED GAS
8231267		4703500116		108		SWEEZY "A" #1	RAVENSWOOD	13.0	GAS TRANSPORT INC
-CUMBERLAND GAS COMPANY		RECEIVED: 05/06/82 JA: WV							
8231235		4703901013		108		DAVISON FUEL & DOCK #CKP-1	UNION	11.6	CABOT CORP
8231233		4703902306		108		DAVISON FUEL & DOCK #CKP-16	UNION	4.6	CABOT CORP
8231268		4703902319		108		DAVISON FUEL & DOCK #CKP-17	UNION	15.4	CABOT CORP
8231234		4703901168		108		DAVISON FUEL & DOCK #CKP-7	UNION	15.9	CABOT CORP
-FOX DRILLING CO INC		RECEIVED: 05/06/82 JA: WV							
8231171		4700101568		103		BIG OAK #1	BELINGTON	10.0	COLUMBIA GAS TRAN
8231172		4700101568		107-DV		BIG OAK #1	BELINGTON	10.0	COLUMBIA GAS TRAN
8231175		4700101574		103		BIG OAK #3	BELINGTON	10.0	COLUMBIA GAS TRAN
8231173		4708101572		103		BIG OAK #4	BELINGTON	10.0	COLUMBIA GAS TRAN
8231174		4708101572		107-DV		BIG OAK #4	BELINGTON	10.0	COLUMBIA GAS TRAN
8231176		4700101573		103		BIG OAK #5	BELINGTON FIELD	10.0	COLUMBIA GAS TRAN
8231192		4700101573		107-DV		BIG OAK #5	BELINGTON	10.0	COLUMBIA GAS TRAN
8231187		4700101547		103		G MILLER #1	BELINGTON	10.0	COLUMBIA GAS TRAN
8231188		4700101547		107-DV		G MILLER #1	BELINGTON	10.0	COLUMBIA GAS TRAN
8231178		4708101548		103		G MILLER #2	BELINGTON	10.0	COLUMBIA GAS TRAN
8231189		4700101536		107-DV		HYMES HEIRS #1	BELINGTON	10.0	COLUMBIA GAS TRAN
8231190		4700101550		107-DV		MORRIS #1	BELINGTON	10.0	COLUMBIA GAS TRAN
8231191		4700101550		103		MORRIS #1	BELINGTON	10.0	COLUMBIA GAS TRAN
8231181		4700101551		107-DV		MORRIS #2	BELINGTON	10.0	COLUMBIA GAS TRAN
8231182		4708101551		103		MORRIS #2	BELINGTON FIELD	10.0	COLUMBIA GAS TRAN
8231183		4700101537		107-DV		SHOCKEY #1	BELINGTON	10.0	COLUMBIA GAS TRAN
8231184		4700101537		103		SHOCKEY #1	BELINGTON	10.0	COLUMBIA GAS TRAN
8231169		4700101538		107-DV		SHOCKEY #2	BELINGTON	10.0	COLUMBIA GAS TRAN
8231185		4700101539		103		SHOCKEY #3	BELINGTON	10.0	COLUMBIA GAS TRAN
8231186		4708101539		107-DV		SHOCKEY #3	BELINGTON	10.0	COLUMBIA GAS TRAN
-FRANKLIN ADKINS		RECEIVED: 05/06/82 JA: WV							
8231199		4709921716		103		COPLEY #1	LINCOLN	460.0	COLUMBIA GAS TRAN
8231197		4709921710		103		FERGUSON #1	LINCOLN	365.0	COLUMBIA GAS TRAN
8231195		4709921712		103		MAYNARD #1	LINCOLN DISTRICT	430.0	COLUMBIA GAS TRAN
8231196		4709921711		103		SMITH #1	LINCOLN DISTRICT	150.0	COLUMBIA GAS TRAN
8231193		4709921717		103		STAMPER #1	LINCOLN DISTRICT	260.0	COLUMBIA GAS TRAN
8231198		4709921698		103		WATTS #1	LINCOLN DISTRICT	150.0	COLUMBIA GAS TRAN
-GEORGE JACKSON		RECEIVED: 05/06/82 JA: WV							
8231240		4703302650		103		JACKSON L ANDERSON #1	CLAY DISTRICT	17.0	CONSOLIDATED GAS
-GLENN L HAUGHT & SONS		RECEIVED: 05/06/82 JA: WV							

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8231180		4707301144		107-DV		DORIS TAYLOR H-1240	MCKIM DISTRICT	15.0	COLUMBIA GAS TRAN
8231179		4707301145		107-DV		DORIS TAYLOR H-1241	MCKIM DISTRICT	15.0	COLUMBIA GAS TRAN
8231209		4708504485		108		EDNA FOSTER H-870	GRANT DISTRICT	5.5	CONSOLIDATED GAS
8231210		4708504496		108		EDNA FOSTER H-871	GRANT DISTRICT	5.5	CONSOLIDATED GAS
8231212		4708504497		108		EDNA FOSTER H-872	GRANT DISTRICT	5.5	CONSOLIDATED GAS
8231225		4708504498		108		EDNA FOSTER H-873	GRANT DISTRICT	5.5	CONSOLIDATED GAS
8231211		4708504499		108		EDNA FOSTER H-874	GRANT DISTRICT	5.5	CONSOLIDATED GAS
-GULF OIL CORPORATION				RECEIVED:	05/06/82	JA: WV			
8231208		4702102038		108		DAVIS "C" #1	GLENVILLE WEST	9.0	CONSOLIDATED GAS
8231220		4704122541		108		FAHEY #6	VADIS	6.0	EQUITABLE GAS CO
8231252		4702102827		108		FARNSWORTH /A/82	VADIS	7.0	COLUMBIA GAS TRAN
-HYDROCARBON ENERGIES INC				RECEIVED:	05/06/82	JA: WV			
8231241		4703302673		103		RUPERT WINTER #1 (HE-1)	SIMPSON DISTRICT	0.0	CONSOLIDATED GAS
-J & J ENTERPRISES INC				RECEIVED:	05/06/82	JA: WV			
8231178		4703322546		103		J-366	UNION	0.0	CONSOLIDATED GAS
-JAMES F SCOTT				RECEIVED:	05/06/82	JA: WV			
8231177		4700101557		103		OLEN NUTTER S-373	ELK	53.0	CONSOLIDATED GAS
-OCTAGON PETROLEUM CORP				RECEIVED:	05/06/82	JA: WV			
8231254		4709508897		103		G ESLACK SH-1192		36.0	INDUSTRIAL ENERGY
-R & B PETROLEUM INC				RECEIVED:	05/06/82	JA: WV			
8231218		4700101111		108		HYMES #1	VALLEY	6.4	PARTNERSHIP PROPE
8231221		4700100933		108		REGESTER #1	VALLEY	18.4	PARTNERSHIP PROPE
8231222		4700110580		108		REGESTER #4	VALLEY	8.7	PARTNERSHIP PROPE
8231216		4700101112		108		RICOTTILLI #1	VALLEY	7.0	PARTNERSHIP PROPE
8231217		4700101146		108		RICOTTILLI #2	VALLEY	7.0	PARTNERSHIP PROPE
-RARE EARTH ENERGY INC				RECEIVED:	05/06/82	JA: WV			
8231247		4707301084		107-DV		PETER #1	WASHINGTON DISTRICT	0.0	COLUMBIA GAS TRAN
-RESERVE EXPLORATION CO				RECEIVED:	05/06/82	JA: WV			
8231239		4708504280		108		NULL #3		0.0	CONSOLIDATED GAS
-RUSSELL V JOHNSON JR				RECEIVED:	05/06/82	JA: WV			
8231244		4702103847		103		DAVIDSON #1	BIG RUN OF LEADING CR	13.1	COLUMBIA GAS TRAN
-SENECA-UPSHUR PETROLEUM CO				RECEIVED:	05/06/82	JA: WV			
8231213		4708300198		108		J M HUBER #40	MIDDLE FORK	35.0	EQUITABLE GAS CO
8231207		4708300199		108		J M HUBER #42	MIDDLE FORK	35.0	EQUITABLE GAS CO
8231223		4708300200		108		J M HUBER #46	MIDDLE FORK	35.0	EQUITABLE GAS CO
8231203		4708320201		108		J M HUBER #47	MIDDLE FORK	35.0	EQUITABLE GAS CO
8231224		4708300202		108		J M HUBER #48	MIDDLE FORK	35.0	EQUITABLE GAS CO
8231206		4708300203		108		J M HUBER #49	MIDDLE FORK	35.0	EQUITABLE GAS CO
8231205		4708300218		108		J M HUBER #50	MIDDLE FORK	24.0	EQUITABLE GAS CO
8231204		4708300219		108		J M HUBER #51	MIDDLE FORK	24.0	EQUITABLE GAS CO
8231219		4708300481		102-A		MONTI #1-B	MIDDLE FORK	28.0	COLUMBIA GAS TRAN
-STERLING DRILLING & PROD CO INC				RECEIVED:	05/06/82	JA: WV			
8231194		4703501423		108		SCHEER #1 SDP #26	RIPLEY DISTRICT	12.4	COLUMBIA GAS TRAN
-SWIFT ENERGY CO				RECEIVED:	05/06/82	JA: WV			
8231200		4702103804		103		CLARK #2	GLENVILLE NORTH	50.0	
8231202		4708101485		107-DV		ROSS #1	PHILIPPI	50.0	
8231201		4708101486		107-DV		ROSS #2	PHILIPPI	50.0	
8231215		4708101488		107-DV		ROSS #4	PHILIPPI	50.0	
8231214		4702103805		103		WELCH #3	GLENVILLE NORTH	50.0	
-TEXAS INTERNATIONAL PET CORP				RECEIVED:	05/06/82	JA: WV			
8231253		4706700575		103		FEDERAL COAL #19	TWENTY MILE CREEK	7.0	CABOT CORP
-TRIO PETROLEUM CORP				RECEIVED:	05/06/82	JA: WV			
8231258		4700701713		103		CAMPER "C" #2	CHAPEL GERMAN	20.0	COLUMBIA GAS TRAN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8231257		4708701714		103		LIPPS #2	CHAPEL GERMAN	20.0	COLUMBIA GAS TRAN
8231242		4708701715		103		SHAVER #3	CHAPEL GERMAN	20.0	COLUMBIA GAS TRAN
8231243		4708701716		103		SHAVER #4	CHAPEL GERMAN	20.0	COLUMBIA GAS TRAN
8231246		4708701717		103		SINGLETON "A" #2	CHAPEL GERMAN	20.0	COLUMBIA GAS TRAN
8231237		4708701718		103		SINGLETON "A" #3	CHAPEL GERMAN	20.0	COLUMBIA GAS TRAN
-UNION DRILLING INC				RECEIVED:	05/06/82	JA: WV			
8231248		4708300271		108		FRANK LOGAN #1 1469	ROARING CREEK DISTRIC	12.0	COLUMBIA GAS TRAN
8231251		4709702069		108		GASTON GROCERY #1 1543	WASHINGTON DISTRICT	18.0	COLUMBIA GAS TRAN
8231250		4709702011		108		HARVEY GOLDEN #1 1541	MEADE DISTRICT	9.0	COLUMBIA GAS TRAN
8231228		4709702196		103		MYRON B MYNES #1 1656	BANKS DISTRICT	8.0	COLUMBIA GAS TRAN
8231232		4708101167		108		ROBERT R MORRIS #2 1514	VALLEY DISTRICT	13.0	COLUMBIA GAS TRAN
8231249		4709701667		108		RUTH Y HALL #2 1381	MEADE DISTRICT	17.0	COLUMBIA GAS TRAN
8231231		4708101064		108		UDI-MIKE ROSS #1 1457	VALLEY DISTRICT	10.0	COLUMBIA GAS TRAN
-UNION OIL COMPANY OF CALIF				RECEIVED:	05/06/82	JA: WV			
8231256		4703903742		103		WILLIAMS COAL CO #379	CHARLESTON	48.0	CONSOLIDATED GAS
-W C HURTT DRILLING CO				RECEIVED:	05/06/82	JA: WV			
8231227		4704302501		107-DV		R B DAVIDSON #4	FALLS CREEK - BRANCHL	5.5	COLUMBIA GAS TRAN
8231226		4704302502		107-DV		R B DAVIDSON #5	FALLS CREEK - BRANCHL	5.5	COLUMBIA GAS TRAN
-WILLIAM B MEETER III				RECEIVED:	05/06/82	JA: WV			
8231255		4701303324		103		JOHN R KNOTTS #3		12.0	CONSOLIDATED GAS
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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, ALBUQUERQUE,NM									
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-AMOCO PRODUCTION CO				RECEIVED:	05/06/82	JA: NM 4			
8231342	NM 0275-82	3004524733		103		ABRAMS GAS COM "E" #1E	BASIN DAKOTA	12.0	EL PASO NATURAL G
8231327	NM-0139-82	3004509195		108		E E ELLIOTT "B" #5	BLANCO-PICTURED CLIFF	28.0	EL PASO NATURAL G
8231343	NM 0274-82	3004524864		103		GALLEGOS CANYON UNIT #182E	BASIN DAKOTA	31.0	EL PASO NATURAL G
8231305	NM-1997-81	3003906166		108		JICARILLA CONTRACT 146 #5 (2ND)	SOUTH BLANCO - PICTUR	17.0	NORTHWEST PIPELIN
8231322	NM-0096-82	3003905977		108		JICARILLA CONTRACT 148 #5 (4TH)	SOUTH BLANCO - PICTUR	19.0	NORTHWEST PIPE LI
8231341	NM 0272-82	3004524956		103		JONES GAS COM "C" #1E	BASIN DAKOTA	19.0	EL PASO NATURAL G
8231323	NM-0098-82	3004508926		108		PAN AM FEDERAL GAS COM "B" #1	BASIN DAKOTA	19.0	EL PASO NATURAL G
8231315	NM-0073-82	3002527359		107-DP		PERRO GRANDE UNIT #1	WILDCAT MORROW	1468.0	EL PASO NATURAL G
8231340	NM 0271-82	3004524877		103		R P HARGRAVE "L" #1E	BASIN DAKOTA	0.0	SOUTHERN UNION GA
-APOLLO OIL COMPANY				RECEIVED:	05/06/82	JA: NM 4			
8231269	NM 0028-81ER	3002500000		108-ER		FEDERAL "A" #1	LANGLIE MATTIX	20.0	EL PASO NATURAL G
8231270	NM 0029-81ER	3002500000		108-ER		FEDERAL "A" #2	LANGLIE MATTIX	18.0	EL PASO NATURAL G
8231271	NM 0030-81ER	3002511588		108-ER		FEDERAL "B" #2	LANGLIE MATTIX	40.0	EL PASO NATURAL G
-ARCO OIL AND GAS COMPANY				RECEIVED:	05/06/82	JA: NM 4			
8231324	NM-0103-82	3002502445		108		BALLARD DE FEDERAL #5	LYNCH (YATES-SEVEN RI	1.5	PHILLIPS PETROLEU
-CURTIS J LITTLE				RECEIVED:	05/06/82	JA: NM 4			
8231328	NM 0244-82-A	3003922861		103		SALAZAR #3	OTERO CHACRA EXT	25.0	EL PASO NATURAL G
8231329	NM 0244-82-B	3003922861		103		SALAZAR #3	SO BLANCO PC	25.0	EL PASO NATURAL G
-DUGAN PRODUCTION CORP				RECEIVED:	05/06/82	JA: NM 4			
8231305	NM-0031-82	3004525051		107-TF		JULY JUBILEE #1	BASIN DAKOTA/UNDESIGN	35.0	EL PASO NATURAL G
8231306	NM-0032-82	3004523893		107-TF		JUNE JOY #2	BASIN DAKOTA/UNDESIGN	73.0	EL PASO NATURAL G
8231307	NM-0033-82	3004524421		107-TF		MERRY MAY #1	BASIN DAKOTA/UNDESIGN	350.0	EL PASO NATURAL G
8231308	NM-0034-82	3004524636		107-TF		MF #1	BASIN DAKOTA	35.0	EL PASO NATURAL G
8231309	NM-0035-82	3004524995		107-TF		MF #2	BASIN DAKOTA	150.0	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY				RECEIVED:	05/06/82	JA: NM 4			
8231319	NM-0080-82	3004509855		108		ATLANTIC B #4	BLANCO - MESA VERDE	16.0	EL PASO NATURAL G
8231293	NM-1451-81	3003920261		108		CANYON LARGO UNIT #148	OTERO CHACRA	23.0	EL PASO NATURAL G
8231316	NM-0074-82	3003920309		108		CANYON LARGO UNIT #163	OTERO - CHACRA	17.0	EL PASO NATURAL G
8231313	NM-0049-82	3004520906		108		DAY A #15	BLANCO PICTURED CLIFF	21.0	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8231298	NM-1798-81	3004521512		108		DAY A #17	BLANCO - PICTURED CLI	22.0	EL PASO NATURAL G
8231320	NM-0081-82	3004500000		108		FLORANCE C #9	BASIN - DAKOTA	19.0	EL PASO NATURAL G
8231312	NM-0048-82	3004520883		108		HUBBELL #9	BLOOMFIELD CHACRA	19.0	EL PASO NATURAL G
8231336	NM 0262-82	3004524646		103		HUERFANO UNIT #144E	BASIN DAKOTA	50.0	EL PASO NATURAL G
8231321	NM-0087-82	3004507288		108		LACKEY B #7	AZTEC - PICTURED CLIF	18.0	EL PASO NATURAL G
8231299	NM-1824-81	3003906985		108		RINCON UNIT #113	BLANCO - MESAVERDE	20.0	EL PASO NATURAL G
8231290	NM-1341-81	3003920713		108		RINCON UNIT #195	SOUTH BLANCO - PICTUR	22.0	EL PASO NATURAL G
8231295	NM-1675-81	3003906973		108		RINCON UNIT #22	SOUTH BLANCO - PICTUR	23.0	EL PASO NATURAL G
8231278	NM 0009-82PB	3003907059		108-PB		SAN JUAN 27-4 UNIT #22	BLANCO-MESAVERDE GAS	13.0	EL PASO NATURAL G
8231273	NM 0003-82PB	3003920142		108-PB		SAN JUAN 27-4 UNIT #40	BASIN/DAKOTA	24.0	EL PASO NATURAL G
8231272	NM0002-82-PB	3003920733		108-PB		SAN JUAN 27-4 UNIT #61	TAPACITO-PICTURED CLI	14.2	EL PASO NATURAL G
8231285	NM 0016-82PB	3003920688		108-PB		SAN JUAN 27-4 UNIT #65	TAPACITO-PICTURED CLI	16.0	EL PASO NATURAL G
8231286	NM 0017-82PB	3003920719		108-PB		SAN JUAN 27-4 UNIT #70	BASIN-DAKOTA GAS	21.0	EL PASO NATURAL G
8231289	NM 0026-82PB	3003920825		108-PB		SAN JUAN 27-4 UNIT #84	TAPACITO-PICTURED CLI	18.0	EL PASO NATURAL G
8231288	NM 0019-82PB	3003920955		108-PB		SAN JUAN 27-4 UNIT #90	TAPACITO PICTURED CLI	20.0	EL PASO NATURAL G
8231277	NM 0008-82PB	3003960085		108-PB		SAN JUAN 27-5 UNIT #12	BLANCO-MESAVERDE GAS	16.0	EL PASO NATURAL G
8231282	NM 0013-82PB	3003920812		108-PB		SAN JUAN 27-5 UNIT #176	TAPACITO-PICTURED CLI	20.0	EL PASO NATURAL G
8231296	NM-1663-81	3003907442		108		SAN JUAN 28-5 UNIT #27	BLANCO - MESAVERDE	22.0	EL PASO NATURAL G
8231318	NM-0079-82	3003907416		108		SAN JUAN 28-5 UNIT #6	BLANCO - MESA VERDE	17.0	EL PASO NATURAL G
8231275	NM 0006-82PB	3003920187		108-PB		SAN JUAN 28-5 UNIT #81	BASIN - DAKOTA GAS	20.0	EL PASO NATURAL G
8231308	NM-1826-81	3003907118		108		SAN JUAN 28-6 UNIT #53	BLANCO - MESAVERDE	22.0	EL PASO NATURAL G
8231317	NM-0078-82	3003907351		108		SAN JUAN 28-7 UNIT #26	BLANCO - MESA VERDE	17.0	EL PASO NATURAL G
8231288	NM 0011-82PB	3003907793		108-PB		SAN JUAN 30-6 UNIT #11	BLANCO - MESAVERDE	16.0	EL PASO NATURAL G
8231279	NM 0010-82PB	3003907886		108-PB		SAN JUAN 30-6 UNIT #36	BLANCO-MESAVERDE	17.0	EL PASO NATURAL G
8231284	NM 0015-82PB	3003907858		108-PB		SAN JUAN 30-6 UNIT #39	BLANCO-MESAVERDE GAS	9.5	EL PASO NATURAL G
8231276	NM 0007-82PB	3003907876		108-PB		SAN JUAN 30-6 UNIT #40X	BLANCO-MESAVERDE GAS	16.0	EL PASO NATURAL G
8231281	NM 0012-82PB	3003907012		108-PB		SJ 27-5 UNIT #10	BLANCO-MESAVERDE GAS	15.0	EL PASO NATURAL G
8231283	NM 0014-82PB	3003907262		108-PB		SJ 28-6 UNIT #33	BLANCO-MESAVERDE GAS	8.0	EL PASO NATURAL G
8231274	NM 0005-82PB	3003907828		108-PB		SJ 30-4 UNIT NP #9	BLANCO EAST-PICTURED	20.0	EL PASO NATURAL G
8231287	NM 0018-82PB	3003907828		108-PB		SJ 30-4 UNIT NP #9	BLANCO EAST-PICTURED	20.0	EL PASO NATURAL G
-ENERGY RESERVES GROUP INC				RECEIVED:	05/06/82	JA: NM 4			
8231314	NM-0065-82	3004500000		108		GALLEGOS CANYON UNIT P C #17	KUTZ WEST PICTURED CL	17.2	EL PASO NATURAL G
-GENERAL AMERICAN OIL COMPANY OF TEX				RECEIVED:	05/06/82	JA: NM 4			
8231301	NM-1829-81	3015023754		102-4		GREEN "B" #11	SOUTH EMPIRE MORROW	1200.0	
-GETTY OIL COMPANY				RECEIVED:	05/06/82	JA: NM 4			
8231330	NM 0249-82-A	3003922733		103		LYDIA RENTZ #7	OJITO GALLUP-DAKOTA	150.0	EL PASO NATURAL G
8231331	NM 0249-82-B	3003922733		103		LYDIA RENTZ #7	BLANCO MESAVERDE	300.0	EL PASO NATURAL G
8231297	NM-1787-81	3002527373		102-4		NORTH BILBREY "18" FEDERAL #1	UNDESIGNATED MORROW	657.0	EL PASO NATURAL G
-KENAI OIL AND GAS INC				RECEIVED:	05/06/82	JA: NM 4			
8231310	NM-0042-82	3004525244		102-2		DOME FEDERAL 824-21	UNDESIGNATED	0.0	MESA PETROLEUM CO
8231311	NM-0043-82	3003922792		103		FEDERAL 86-43	LYBROOK-GALLUP EXT	21.9	MESA PETROLEUM CO
-MARATHON OIL CO				RECEIVED:	05/06/82	JA: NM 4			
8231334	NM 0260-82-A	3004922588		103		JICARILLA APACHE 88-E	JICARILLA APACHE-BLAN	55.0	NORTHWEST PIPELIN
-MARATHON OIL COMPANY				RECEIVED:	05/06/82	JA: NM 4			
8231335	NM 0260-82-B	3004922588		103		JICARILLA APACHE 88-E	JICARILLA APACHE (GRA	232.0	NORTHWEST PIPELIN
-MERRION OIL & GAS CORP				RECEIVED:	05/06/82	JA: NM 4			
8231339	NM 0278-82	3003922887		103		CANYON LARGO UNIT #311	DEVILS FORK GALLUP	128.0	EL PASO NATURAL G
-MESA PETROLEUM CO				RECEIVED:	05/06/82	JA: NM 4			
8231326	NM-011382107	3000561136		102-2	107-TF	COTTONWOOD FEDERAL #2	UNDESIGNATED ABO	400.0	TRANSWESTERN PIPE
-NORMAN L GILBREATH				RECEIVED:	05/06/82	JA: NM 4			
8231304	NM-2020-81	3004500000		108		LESLIE K #1 90-178-01	SAN JUAN-KUTZ	12.0	EL PASO NATURAL G
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	05/06/82	JA: NM 4			
8231302	NM-1995-81	3003915417		108		FEDERAL #1	SOUTH BLANCO PICTURED	0.0	NORTHWEST PIPELIN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8231325	NM-8118-82	3003920019		108		JICARILLA 92 #3	TAPACITO PICTURED CLI	12.7	NORTHWEST PIPELIN
8231292	NM-1432-81	3003921131		108		JICARILLA 92 #6	TAPACITO PICTURED CLI	21.5	NORTHWEST PIPELIN
8231291	NM-1428-81	3003907891		108		SAN JUAN 30-5 #23	BLANCO MESAVERDE	21.5	NORTHWEST PIPELIN
8231337	NM 8266-82	3003922192		103		SAN JUAN 30-5 UNIT 14A	BLANCO MESAVERDE	118.9	NORTHWEST PIPELIN
8231294	NM-1575-81	3003907841		108		SAN JUAN 30-5 UNIT 28X	BLANCO MESAVERDE	21.5	NORTHWEST PIPELIN
8231338	NM 8267-82	3004524580		103		SAN JUAN 32-7 UNIT 72	SO LOS PINOS PICTURED	458.7	NORTHWEST PIPELIN
-SUPRON ENERGY CORPORATION				RECEIVED:	05/06/82	JA: NM 4			
8231333	NM 8257-82	3004524535		103		ZACHRY 23	BLOOMFIELD CHACRA EXT	4.4	SOUTHERN UNION GA
-YATES PETROLEUM CORPORATION				RECEIVED:	05/06/82	JA: NM 4			
8231332	NM 0253-82	3001522390		103		FEDERAL "AD" COM #4	WILDCAT STRAWN	0.0	EL PASO NATURAL G

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 273.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before June 23, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–15402 Filed 6–7–82; 8:45 am]
BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: May 28, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME.	FIELD NAME	PROD	PURCHASER
KENTUCKY DEPARTMENT OF MINES & MINERALS									
-ASHLAND EXPLORATION INC				RECEIVED:	05/10/82	JA: KY			
8231529	502048	1619503875	108	-SA		COLONY COAL & COKE #33 - 010560	EASTERN KENTUCKY GAS	18.0	COLUMBIA GAS TRAN
8231528	500586	1619500853	108	-SA		WELLS W S #1 - 008658	EASTERN KENTUCKY GAS	13.3	COLUMBIA GAS TRAN
LOUISIANA OFFICE OF CONSERVATION									
-AMINOIL OF LOUISIANA INC				RECEIVED:	05/10/82	JA: LA			
8231459	81-1989	1707522453	102	-4		S/L 2028 #13	LAKE WASHINGTON	40.0	SOUTHERN NATURAL
-AMOCO PRODUCTION CO				RECEIVED:	05/07/82	JA: LA			
8231499	82-1025	1707720252	107	-DP		VUA RAVENSWOOD CO INC #2	SCHWAB	3650.0	COLUMBIA GAS TRAN
NORTH DAKOTA INDUSTRIAL COMMISSION									
-ADOBE OIL & GAS CORPORATION				RECEIVED:	05/10/82	JA: ND			
8231608	502	3300700778	102	-3		PEOELISKI #12-14	WHISKEY JOE	0.0	NORTHERN GAS PROD
-BURLINGTON NORTHERN INC				RECEIVED:	05/10/82	JA: ND			
8231603	505	3300700682	102	-2		BN 23-15	WHISKEY JOE	15.0	WESTERN GAS PROCE
-EXETER EXPLORATION COMPANY				RECEIVED:	05/10/82	JA: ND			
8231602	504	3305301366	102	-2		HYSTAD #11-31	POE	1000.0	
-GETTY OIL COMPANY				RECEIVED:	05/10/82	JA: ND			
8231609	511	3310500937	102	-2		OWEN #19-13	RAY	150.0	
8231610	512	3310500900	102	-2		TEMPLE #30-16	UNNAMED	175.0	
-MESA PETROLEUM CO				RECEIVED:	05/10/82	JA: ND			
8231605	507	3302500241	102	-4		KADRMAS #1-25	WILDCAT	19.0	
-SOUTHLAND ROYALTY CO				RECEIVED:	05/10/82	JA: ND			
8231607	509	3302300189	102	-2		GERALD RAAUM #1-22	FORTUNA	18.0	PHILLIPS PETROLEU
-TENNECO OIL COMPANY				RECEIVED:	05/10/82	JA: ND			
8231608	510	3300700613	102	-2		OYHUS 2-2	TR	38.0	WESTERN GAS PROCE
-TEXACO INC				RECEIVED:	05/10/82	JA: ND			
8231601	503	3305301430	102	-3		R L OLSON #9	BLUE BUTTES	436.0	MONTANA DAKOTA UT
-WILLIAM HERBERT HUNT TRUST ESTATE				RECEIVED:	05/10/82	JA: ND			
8231606	508	3300700642	102	-2		HLEBECHUK #1	WILDCAT	49.0	KOCH HYDROCARBON
8231604	506	3300700754	102	-2		T FEDORA #1	WILDCAT	74.0	KOCH HYDROCARBON
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-AMOCO PRODUCTION CO				RECEIVED:	05/10/82	JA: NM			
8231451		3004520953	108			CANEPLE GAS COM "B" #1 (3RD)	BLANCO - PICTURED CLI	18.0	EL PASO NATURAL G
8231450		3004508387	108			STATE GAS COM "BF" #1 (2ND)	BASIN - DAKOTA	20.0	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY				RECEIVED:	05/10/82	JA: NM			
8231456		3003920024	108			SAN JUAN 27-5 UNIT #107	BASIN - DAKOTA	18.0	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-EXXON CORPORATION				RECEIVED:	05/10/82	JA: NM			
8231455		3003920024	108			SAN JUAN 27-5 UNIT #107	BASIN - DAKOTA	18.0	EL PASO NATURAL G
-MERRION & BAYLESS				RECEIVED:	05/10/82	JA: NM			
8231454		3004520953	108			CANEPLE GAS COM "B" #1 (3RD)	BLANCO - PICTURED CLI	18.0	EL PASO NATURAL G
8231453		3004508387	108			STATE GAS COM "BF" #1 (2ND)	BASIN - DAKOTA	20.0	EL PASO NATURAL G
-MESA PETROLEUM CO				RECEIVED:	05/10/82	JA: NM			
8231452		3004520953	108			CANEPLE GAS COM "B" #1 (3RD)	BLANCO - PICTURED CLI	18.0	EL PASO NATURAL G
OKLAHOMA CORPORATION COMMISSION									
-ARCO OIL & GAS CO				RECEIVED:	05/10/82	JA: OK			
8231611	82-1-1	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231612	82-1-2	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231613	82-1-3	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231614	82-1-4	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231615	82-1-5	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231616	82-1-6	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231617	82-1-7	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231618	82-1-8	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231619	82-1-9	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231620	82-1-10	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231621	82-1-11	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231622	82-1-12	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231623	82-1-13	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231624	82-1-14	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231625	82-1-15	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231626	82-1-16	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231627	82-1-17	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231628	82-1-18	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231629	82-1-19	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231630	82-1-20	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231631	82-1-21	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231632	82-1-22	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231633	82-1-23	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231634	82-1-24	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231635	82-1-25	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231636	82-1-26	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231637	82-1-27	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231638	82-1-28	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231639	82-1-29	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231640	82-1-30	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231641	82-1-31	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231642	82-1-32	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231643	82-1-33	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231644	82-1-34	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231645	82-1-35	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231646	82-1-36	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231647	82-1-37	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231648	82-1-38	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231649	82-1-39	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231650	82-1-40	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231651	82-1-41	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231652	82-1-42	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231653	82-1-43	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231654	82-1-44	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231655	82-1-45	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231656	82-1-46	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231657	82-1-47	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231658	82-1-48	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231659	82-1-49	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231660	82-1-50	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231661	82-1-51	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231662	82-1-52	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231663	82-1-53	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231664	82-1-54	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231665	82-1-55	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231666	82-1-56	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231667	82-1-57	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231668	82-1-58	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231669	82-1-59	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231670	82-1-60	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231671	82-1-61	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231672	82-1-62	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231673	82-1-63	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231674	82-1-64	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231675	82-1-65	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231676	82-1-66	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231677	82-1-67	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231678	82-1-68	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231679	82-1-69	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231680	82-1-70	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231681	82-1-71	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231682	82-1-72	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231683	82-1-73	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231684	82-1-74	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231685	82-1-75	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231686	82-1-76	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231687	82-1-77	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231688	82-1-78	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231689	82-1-79	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231690	82-1-80	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231691	82-1-81	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231692	82-1-82	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231693	82-1-83	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231694	82-1-84	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231695	82-1-85	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231696	82-1-86	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231697	82-1-87	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231698	82-1-88	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231699	82-1-89	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231700	82-1-90	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231701	82-1-91	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231702	82-1-92	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231703	82-1-93	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231704	82-1-94	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231705	82-1-95	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231706	82-1-96	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231707	82-1-97	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231708	82-1-98	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231709	82-1-99	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/10/82	JA: OK			
8231710	82-1-100	3500322000	108	-SA		MCCLAIN #1	WILDCAT	0.0	ARKANSAS LOUISIAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-GULF OIL CORPORATION				RECEIVED: 05/10/82		JA: NM			
8231458		3002527551		103		ARNOTT RAMSAY (NCT-B) #12	LANGLIE MATTIX	0.0	EL PASO NATURAL G
8231457		3002527517		103		ARNOTT RAMSAY (NCT-E) #12	LANGLIE MATTIX	0.0	EL PASO NATURAL G
-MESA PETROLEUM CO				RECEIVED: 05/10/82		JA: NM			
8231449		3000561230		102-2	107-TF	BURTIS COM #2	UNDESIGNATED ABO	188.0	TRANSWESTERN PIPE
8231448		3000561248		102-2	107-TF	HORSE CREEK COM #1	UNDESIGNATED ABO	388.0	UNDETERMINED
-PHILLIPS PETROLEUM COMPANY				RECEIVED: 05/10/82		JA: NM			
8231454		3002502849		108		E VACUUM GB/SA TR 2175 #002	VACUUM GB/SA	2.0	EL PASO NATURAL G
8231452		3002524061		108		LEA #25	VACUUM NORTH ABO	1.0	EL PASO NATURAL G
8231453		3002524062		108		LEA #26	VACUUM NORTH ABO	1.0	EL PASO NATURAL G
-TEXACO INC				RECEIVED: 05/10/82		JA: NM			
8231455		3002500000		108		L R KERSHAW #9	SKAGGS DRINKARD & MON	7.3	WARREN PETROLEUM
**********									
OKLAHOMA CORPORATION COMMISSION									
**********									
-ANADARKO PRODUCTION COMPANY				RECEIVED: 05/07/82		JA: OK			
8231512	13919	3500320981		103		BROWN A-2	S E LAMBERT	110.0	PIONEER GAS PRODU
8231500	13920	3500320982		103		MCCRADY A-2	S E LAMBERT	91.0	PIONEER GAS PRODU
-ANDOVER OIL COMPANY				RECEIVED: 05/10/82		JA: OK			
8231544	16981	3501121612		102-2		SCHEFFLER #25-1		0.0	OKLAHOMA GAS PIPE
-ARCO OIL AND GAS COMPANY				RECEIVED: 05/07/82		JA: OK			
8231522	13943	3504321267		103		PEARL KUNC UNIT "A" #1	PUTNAM	182.5	MOBIL OIL CORP
-ARCO OIL AND GAS COMPANY				RECEIVED: 05/10/82		JA: OK			
8231541	14023	4204721878		108		CURTIS MILL #1	SOONER TREND	8.7	PANHANDLE EASTERN
8231539	14021	3501900000		108		J J WALK #1	HEALDTON	11.0	LONE STAR GAS CO
8231540	14022	3513700000		108		NORMAN OAKMAN UNIT #1	DOYLE EAST	14.6	LONE STAR GAS CO
-CHAMPLIN PETROLEUM COMPANY				RECEIVED: 05/07/82		JA: OK			
8231526	15121	3512920631		102-2	103	BLACKKETTER UNIT #1	S W LEEDY	474.0	
-CITIES SERVICE COMPANY				RECEIVED: 05/07/82		JA: OK			
8231511	13895	3513921485		103		HARTMAN A-4	POSTLE KEYES	49.5	NORTHERN NATURAL
-CLARK EXPLORATION				RECEIVED: 05/10/82		JA: OK			
8231553	18293	3515100000		108		JOHNSON #1	NE WINCHESTER	14.4	CITIES SERVICE GA
-DRUMRIGHT WELL SERVICE INC				RECEIVED: 05/07/82		JA: OK			
8231583	12967	3511700008		103		ELLIS 1-A		0.4	PHILLIPS PETROLEU
8231582	12966	3511700080		103		ELLIS 2-A		20.8	PHILLIPS PETROLEU
-DYCO PETROLEUM CORPORATION				RECEIVED: 05/10/82		JA: OK			
8231554	13911	3503920397		103		RICHMOND #1-7	KIOWA CREEK	200.0	NORTHERN NATURAL
-ESTORIL PRODUCING CORP				RECEIVED: 05/07/82		JA: OK			
8231508	13703	3512521204		103		GUNTER "A" #2	NE TECUMSEH (RED FORK	36.5	TRANSOK PIPELINE
8231506	13706	3512521184		103		PARSONS #1	NE TECUMSEH	31.0	TRANSOK PIPELINE
8231509	13702	3512521055		103		STATE "16" FARRIS #1	NE TECUMSEH (RED FORK	72.0	TRANSOK PIPELINE
8231507	13704	3512521227		103		YEISLEY #1	NE TECUMSEH (RED FORK	36.5	TRANSOK PIPELINE
-F C D OIL CORP				RECEIVED: 05/07/82		JA: OK			
8231523	13944	3509322240		103		GRAY 2-23	RINGWOOD	89.0	CHAMPLIN PETROLEU
-F C D OIL CORP				RECEIVED: 05/10/82		JA: OK			
8231533	13945	3509322281		103		RING 3-6	E CLEO SPRINGS	172.0	PIONEER GAS PRODU
-GETTY OIL COMPANY				RECEIVED: 05/07/82		JA: OK			
*8231518	13933	3513722738		103		SELBY #59 (HUNTON)	SHO-VEL-TUM	488.0	OKLAHOMA NATURAL
*8231519	13934	3513722738		103		SELBY #59 (SYCAMORE)	SHO-VEL-TUM	200.0	OKLAHOMA NATURAL
-HADSON PETROLEUM CORP				RECEIVED: 05/10/82		JA: OK			
8231552	18248	3505121070		107-DP		LANE #1-24		730.0	MICHIGAN WISCONSI
-HPC INC				RECEIVED: 05/07/82		JA: OK			
8231501	12009	3501521004		103		EPPERLY #1	SOUTH WEST BRIDGEPORT	274.0	OKLAHOMA GAS & EL

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-INEXCO OIL COMPANY				RECEIVED:	05/10/82	JA: OK
8231548	16984	4212920648		102-2		FARNI #1-7
8231549	16985	3503920581		102-2		FLICK #1-19
8231547	16983	3503920479		102-2		SMALLWOOD #1-15
-INTERNORTH INC				RECEIVED:	05/10/82	JA: OK
8231534	13991	3504520920		103		STATE "A" #1-33
-J T HOKE JR				RECEIVED:	05/07/82	JA: OK
8231515	13984	3508320684		103		MORRIS #6
-JERRY CHAMBERS EXPLORATION CO				RECEIVED:	05/10/82	JA: OK
8231551	17044	3501520666		102-2		R F ROSS #2-6
-JOHN T RIETZ & CO INC				RECEIVED:	05/07/82	JA: OK
8231527	13226	3508300000		102-4		MARY #1
-L & T OIL & GAS INC				RECEIVED:	05/07/82	JA: OK
8231505	13338	3510321453		103		HAUNSCHILD #1
-L R FRENCH JR				RECEIVED:	05/10/82	JA: OK
8231535	13995	3509322322		103		EDWARD #2
8231536	13995	3504722725		103		MITCHELL #2
-LOBAR OIL CO INC				RECEIVED:	05/10/82	JA: OK
8231537	14009	3508321800		103		NELLIE BLY #2
-MARTIN OIL COMPANY				RECEIVED:	05/07/82	JA: OK
8231504	13286	3507323078		103		YORK 24-2
-OIL EXPLORATION OF AMERICA INC				RECEIVED:	05/07/82	JA: OK
8231520	13936	3514321173		103		OVERHOLT #1
8231521	13937	3514321177		103		OVERHOLT #2
-P-T LTD 81				RECEIVED:	05/10/82	JA: OK
8231538	14010	3504722664		103		ROGERS 1-1
-PHILLIPS OIL OPERATING CO				RECEIVED:	05/07/82	JA: OK
8231517	13989	3508321288		103		HAGAR #3
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	05/10/82	JA: OK
8231532	12890	3500721937		103		HAM A #2
8231555	13693	3501722044		103		MANSFIELD "A" #1
-R L BURNS CORP				RECEIVED:	05/10/82	JA: OK
8231542	14097	3509322208		103		B M CLARK "32" #1
-RACK OIL INC				RECEIVED:	05/07/82	JA: OK
8231518	13726	3503723070		103		HAYES #1
-SALT FORK PRODUCERS INC				RECEIVED:	05/07/82	JA: OK
8231513	13929	3513120974		103		FUGATE #3
8231514	13930	3513120973		103		FUGATE #5
-SAMSON RESOURCES COMPANY				RECEIVED:	05/10/82	JA: OK
8231530	13382	3505121141		102-4	103	SWOPE #1-6
-SOUTHPORT EXPLORATION INC				RECEIVED:	05/10/82	JA: OK
8231545	16824	3504321205		102-4		JOHNSON #34-1
-SUNDANCE ENERGY CORP				RECEIVED:	05/07/82	JA: OK
8231516	13986	3500320835		103		MCNICKLE #1
-SUNRISE EXPLORATION INC				RECEIVED:	05/10/82	JA: OK
8231550	16988	3503920632		102-2		WAGNER #1-19
-TENNECO OIL COMPANY				RECEIVED:	05/07/82	JA: OK
8231524	13965	3511131573		103		AIRPORT #1-29
8231525	13966	3511131573		103		AIRPORT 1-29
-TENNECO OIL COMPANY				RECEIVED:	05/10/82	JA: OK
8231543	16776	3501722122		102-2		KRIVANEK #1-13
8231544	16777	3501722122		102-2		KRIVANEK #1-13
-TONNER PETROLEUM CO				RECEIVED:	05/10/82	JA: OK

FIELD NAME	PROD	PURCHASER
UNDESIGNATED	300.0	PRODUCER'S GAS CO
UNDESIGNATED	365.0	TRANSWESTERN PIPE
UNDESIGNATED	200.0	TRANSWESTERN PIPE
MOCANE LAVERNE	484.0	INTERNORTH INC
SOONER TREND	75.0	EASON OIL CO
LIBBIE	0.0	RIMROCK GAS CO
EVANSVILLE	0.0	WILSON GAS PROCES
POLO	0.0	AMINOIL USA INC
CHEYENNE VALLEY	0.0	DELHI GAS PIPELIN
SOONER TREND	182.0	UNION TEXAS PETRO
CRESCENT-LOVELL	0.0	EASON OIL CO
SOONER TREND	600.0	PHILLIPS PETROLEU
NORTHWEST SAPULPA	107.7	COLORADO GAS COMP
NORTH WEST SAPULPA	71.2	COLORADO GAS COMP
SOONER TREND	35.0	WELLHEAD ENTERPRI
SOUTHWEST PRAIRIE GEM	1.1	SUN GAS CO
	0.0	TRANSWESTERN GAS
W OKARCHE	0.0	ONG WESTERN INC
WEST CHEYENNE VALLEY	250.0	TENNESSEE GAS PIP
CUSHING	36.5	COLORADO GAS COMP
WEST COLOGAH	18.0	DIAMOND "S" GAS S
WEST COLOGAH	15.0	DIAMOND "S" GAS S
NORTHWEST CHICKASHA	547.5	ARKANSAS LOUISIAN
	0.0	EL PASO NATURAL G
RINGWOOD	60.0	AMINOIL USA INC
E CLINTON	1500.0	
HAMILTON SWITCH	48.0	
HAMILTON SW/TCH	42.0	
WILDCAT	57.0	
WILDCAT	117.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8231531	15975	3507121961		102-4		BORNEMANN #1-1	WATONGA-CHICKASHA	0.0	PHILLIPS PETROLEU

PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES

-ASHTOLA PRODUCTION CO			RECEIVED: 05/07/82 JA: PA						
8231353	11303	3712921751		102-2		CHARLES LAUFFER #1	HUNKERS	44.0	
8231355	11301	3712921885		103		CHARLES LAUFFER #2	HUNKERS	8.0	
8231356	11302	3712921873		103		CHARLES LAUFFER #3	HUNKERS	17.0	
8231354	11304	3712921752		102-2		MABLE COLE #1	HUNKERS	35.0	
8231352	11300	3712921900		102-2		MABLE COLE #2	HUNKERS	43.0	
-C & C TROYER BROTHERS			RECEIVED: 05/07/82 JA: PA						
8231416	11298	3704921563		102-2		A MISCICHOWSKI (#51)	EDINBORO	30.0	NATIONAL FUEL GAS
8231426	11297	3704921563		107-TF		A MISCICHOWSKI #1 (51)	EDINBORO	30.0	NATIONAL FUEL GAS
8231418	10899	3704921426		107-TF		CHARLES B AUSTIN #2 (#42)	EDINBORO	25.0	NATIONAL FUEL GAS
8231425	11296	3704921520		107-TF		D BLILEY #1 (49)	WATERFORD	30.0	NATIONAL FUEL GAS
8231415	11295	3704921520		102-2		D BLILEY #1 #49	WATERFORD	30.0	NATIONAL FUEL GAS
8231419	10902	3704921420		107-TF		D LAIRD - H PECK #1 (#41)	EDINBORO	12.0	NATIONAL FUEL GAS
8231422	11101	3704920993		107-TF		DONNELL #1 (#23)	WATERFORD	15.0	NATIONAL FUEL GAS
8231423	11222	3704921425		107-TF		E STAFFORD #1 (#43)	EDINBORO	18.0	NATIONAL FUEL GAS
8231420	10904	3704921308		107-TF		H ADAMS #2 (#35)	EDINBORO	15.0	NATIONAL FUEL GAS
8231421	11004	3704921490		107-TF		L KRZYWICKI #1 (#47)	EDINBORO	30.0	NATIONAL FUEL GAS
8231424	11234	3704921458		107-TF		R WALKER #1 (45)	EDINBORO	0.0	NATIONAL FUEL GAS
8231417	10636	3704920889		107-TF		TROYER PROFIT SHARING #1 (#14)	BEAVERDAM	12.0	NATIONAL FUEL GAS
-CABOT OIL & GAS CORP			RECEIVED: 05/07/82 JA: PA						
8231360	11381	3703921494		102-2		ELIZABETH PIECHOTA #1	FAIRFIELD	50.0	TENNESSEE GAS PIP
8231367	11380	3703921494		107-TF		ELIZABETH PIECHOTA #1	FAIRFIELD	50.0	TENNESSEE GAS PIP
8231361	11385	3703921441		102-2		GEORGE SIMONETTA #1	GREENWOOD	50.0	TENNESSEE GAS PIP
8231368	11384	3703921441		107-TF		GEORGE SIMONETTA #1	GREENWOOD	50.0	TENNESSEE GAS PIP
8231358	11377	3708520318		102-2		HARRY CRAWFORD #1	FRENCH CREEK	50.0	TENNESSEE GAS PIP
8231365	11376	3708520318		107-TF		HARRY CRAWFORD #1	FRENCH CREEK	50.0	TENNESSEE GAS PIP
8231357	11375	3708520337		102-2		HARRY CRAWFORD #2	FRENCH CREEK	50.0	TENNESSEE GAS PIP
8231371	11392	3708520337		107-TF		HARRY CRAWFORD #2	FRENCH CREEK	50.0	TENNESSEE GAS PIP
8231364	11391	3703921424		102-2		JOHN ALLISON #1	GREENWOOD	50.0	TENNESSEE GAS PIP
8231370	11390	3703921424		107-TF		JOHN ALLISON #1	GREENWOOD	50.0	TENNESSEE GAS PIP
8231362	11387	3708520336		102-2		JOHN BOYD #1	DEER CREEK	50.0	TENNESSEE GAS PIP
8231398	11386	3708520336		107-TF		JOHN BOYD #1	DEER CREEK	50.0	TENNESSEE GAS PIP
8231363	11389	3708520319		102-2		JOHN MALOKIS #1	FRENCH CREEK	50.0	TENNESSEE GAS PIP
8231369	11388	3708520319		107-TF		JOHN MALOKIS #1	FRENCH CREEK	50.0	TENNESSEE GAS PIP
8231359	11379	3708520296		102-2		JOHN TRZESNIOWSKI #1	FRENCH CREEK	50.0	TENNESSEE GAS PIP
8231366	11378	3708520296		107-TF		JOHN TRZESNIOWSKI #1	FRENCH CREEK	50.0	TENNESSEE GAS PIP
-CARDINAL OIL CO			RECEIVED: 05/07/82 JA: PA						
8231373	11150	3704921518		107-TF		HARNED-ALLEN #1 PA PER ERI-21518	CONNEAUT	0.0	COLUMBIA GAS TRAN
8231372	11149	3704921562		107-TF		HARNED-ALLEN #2 PA PER ERI-21562	CONNEAUT	6.0	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION			RECEIVED: 05/07/82 JA: PA						
8231379	11364	3706521043		108		A LEROY KEATON WN-1334	BELL TOWNSHIP	0.6	GENERAL SYSTEM PU
8231378	11363	3706522969		108		CLEARFIELD BITUMINOUS COAL WN-1429	PINE TOWNSHIP	0.4	GENERAL SYSTEM PU
8231376	11361	3710520127		108		COMMONWEALTH OF PA #81 WN-1589	STEWARDSON TOWNSHIP	8.6	GENERAL SYSTEM PU
8231374	11367	3706326576		103		H C BONNER WN-1875	BANKS TOWNSHIP	43.0	GENERAL SYSTEM PU
8231381	11366	3706521007		108		JOHN V ROBERTSON WN-1273	WINSLOW	0.7	GENERAL SYSTEM PU
8231380	11365	3706322027		108		LINDSEY COAL COMPANY #2 WN-1278	CANOE TOWNSHIP	0.7	GENERAL SYSTEM PU
8231375	11377	3703321168		103		MELVIN E KING WN-1855	BURNSIDE TOWNSHIP	4.0	GENERAL SYSTEM PU
8231384	11398	3706323551		108		R WADE ECELBARGER ET AL WN-1577	CANOE TOWNSHIP	8.6	GENERAL SYSTEM PU
8231382	11396	3706323552		108		R WADE ECELBARGER WN-1576	CANOE TOWNSHIP	0.6	GENERAL SYSTEM PU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8231383	11397	3706323579		108		R WADE ECELBARGER WN-1578	CANOE TOWNSHIP	0.6	GENERAL SYSTEM PU
8231377	11362	3703320606		108		ROBERT SPENCER WN-1538	FERGUSON TOWNSHIP	0.6	GENERAL SYSTEM PU
-DOC-NCC SERVICE CO				RECEIVED:	05/07/82	JA: PA			
8231385	11394	3712921911		103		CLAY & STROHM 1209-3		30.0	TEXAS EASTERN TRA
-GOE PRO INC				RECEIVED:	05/07/82	JA: PA			
8231386	11437	3704921650		103		BARB HYDE #1	ALBION WEST	0.0	NATIONAL FUEL GAS
8231391		3704951650		107-TF		BARB HYDE #1	ALBION WEST	0.0	NATIONAL FUEL GAS
8231387	11439	3704921447		103		CONNEAUT VALLEY FARMS #2		0.0	NATIONAL FUEL GAS
8231392	11438	3704921447		107-TF		CONNEAUT VALLEY FARMS #2		0.0	NATIONAL FUEL GAS
8231390	11445	3704921477		103		DORRANCE HOOK #1	LUNDYS LANE	0.0	COLUMBIA GAS TRAN
8231395	11444	3704921477		107-TF		DORRANCE HOOK #1	LUNDY'S LANE	0.0	COLUMBIA GAS TRAN
8231388	11441	3704921569		103		W P CHAPMAN #1	ALBION WEST	0.0	NATIONAL FUEL GAS
8231393	11443	3704921569		107-TF		W P CHAPMAN #1	ALBION WEST	0.0	NATIONAL FUEL GAS
8231389	11442	3704921525		103		WILLIAM A KAUFMAN	LUNDY'S LANE	0.0	COLUMBIA GAS TRAN
8231394	11443	3704921525		107-TF		WILLIAM A KAUFMAN	LUNDY'S LANE	0.0	COLUMBIA GAS TRAN
-KEPCO INC				RECEIVED:	05/07/82	JA: PA			
8231396	9638	3705921571		102-4		E V BUNNER #2 (PK-2)	GARARDS FORT	28.0	NEW JERSEY NATURA
8231397	09639	3705921571		103		E V BUNNER #2 (PK-2)	GARARDS FORT	28.0	NEW JERSEY NATURA
-LAKE ERIE #1				RECEIVED:	05/07/82	JA: PA			
8231408	11143	3704921511		107-TF		ARTHUR FOY #1 PA PER ERI-21511	CONNEAUT	0.0	COLUMBIA GAS TRAN
8231399	11140	3704921515		107-TF		RUDOLPH VANCO #1 PA PER ERI-21515	CONNEAUT	0.0	COLUMBIA GAS TRAN
-MITCHELL ENERGY CORPORATION				RECEIVED:	05/07/82	JA: PA			
8231401	10720	3703900000		103		BIERNACKI #1-98	MOSIERTOWN FIELD (MED	41.0	COLUMBIA GAS TRAN
8231402	10721	3703900000		107-TF		BIERNACKI #1-98	MOSIERTOWN FIELD (MED	41.0	COLUMBIA GAS TRAN
-PERCO GAS INC				RECEIVED:	05/07/82	JA: PA			
8231405	11320	3700500000		108		A F MAURER - 8716	W PA UPPER DEVONIAN S	4.5	APOLLO GAS CO
8231404	11319	3700500000		108		D W SNYDER HEIRS - 8767	W PA UPPER DEVONIAN S	4.5	APOLLO GAS CO
8231412	11327	3700500000		108		DROHN HEIRS - 8685	W PA UPPER DEVONIAN S	4.5	APOLLO GAS CO
8231411	11326	3700700000		108		DROHN HEIRS - NO 728	W PA UPPER DEVONIAN S	4.5	APOLLO GAS CO
8231407	11322	3700500000		108		G C STOCKDALE - 8194	W PA UPPER DEVONIAN S	4.5	APOLLO GAS CO
8231406	11321	3700500000		108		G C STOCKDALE - 8698	W PA UPPER DEVONIAN S	4.5	APOLLO GAS CO
8231409	11324	3700500000		108		J D RUPP - NO 695	W PA UPPER DEVONIAN S	4.5	APOLLO GAS CO
8231403	11318	3700500000		108		KELLY ALCORN #1 (WAYNE TWP) (725)	W PA UPPER DEVONIAN S	4.5	APOLLO GAS CO
8231408	11323	3700500000		108		NORA C RUPP - 8704	W PA UPPER DEVONIAN S	4.5	APOLLO GAS CO
8231410	11325	3700500000		108		RALPH HOLLENBAUGH #1 (WELL 711)	W PA UPPER DEVONIAN S	4.5	APOLLO GAS CO
-PENNZOIL COMPANY				RECEIVED:	05/07/82	JA: PA			
8231413	11373	3708520311		103		RAY F BOUGHNER #1	KANTZ CORNERS	0.0	
8231414	11374	3708520311		107-TF		RAY F BOUGHNER #1	KANTZ CORNERS	0.0	
-VINEYARD OIL & GAS CO				RECEIVED:	05/07/82	JA: PA			
8231428	11217	3704921476		107-TF		MOUNTAIN #1	NORTH EAST	18.0	NATIONAL FUEL GAS
8231427	11216	3704921476		102-2		MOUNTAIN #1 E-1178	NORTH EAST	18.0	NATIONAL FUEL GAS
-WATSON & SWANSON INC				RECEIVED:	05/07/82	JA: PA			
8231429	11044	3703321178		103		J O CLARK ET-AL #1 BLOCK #2	BURNSIDE	0.0	COLUMBIA GAS TRAN

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WEST VIRGINIA DEPARTMENT OF MINES

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-ALLEGHENY LAND & MINERAL COMPANY				RECEIVED:	05/10/82	JA: WV			
8231463		4704103074		103		A-1023	FREEMANS CREEK DISTRI	0.0	CONSOLIDATED GAS
8231466		4704103096		103		A-1041	FREEMANS CREEK DISTRI	0.0	CONSOLIDATED GAS
8231462		4704103097		103		A-1047	COURT HOUSE DISTRICT	0.0	CONSOLIDATED GAS
8231461		4708504075		103		A-887	MURPHY DISTRICT	0.0	CONSOLIDATED GAS
8231587		4704900678		102-2		A-911	WINFIELD DISTRICT	0.0	CONSOLIDATED GAS
8231468		4704900694		103		A-913	WINFIELD DISTRICT	0.0	CONSOLIDATED GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8231471		4708505187		103		A-941	MURPHY DISTRICT	0.0	CONSOLIDATED GAS
8231478		4708701676		103		A-951	SALT LICK	0.0	CONSOLIDATED GAS
8231465		4703302556		103		A-953	CLAY DISTRICT	0.0	CONSOLIDATED GAS
8231468		4708505188		103		A-966	MURPHY	0.0	CONSOLIDATED GAS
8231467		4702103756		103		A-978	GLENVILLE DISTRICT	0.0	CONSOLIDATED GAS
8231469		4708505211		103		A-980	MURPHY DISTRICT	0.0	CONSOLIDATED GAS
-ARAX PETROLEUM CORPORATION				RECEIVED:	05/10/82	JA: WV			
8231575		4708300356		103		PARKS #1	ROARING CREEK	180.0	
8231574		4708300357		103		PARKS #2	ROARING CREEK	180.0	
8231573		4708300358		103		PARKS #3	ROARING CREEK	180.0	
8231579		4708300360		103		TOWERS #2	ROARING CREEK	180.0	
-ASHLAND EXPLORATION INC				RECEIVED:	05/10/82	JA: WV			
8231586		4703903785		103		EASTERN GAS & FUEL #73 - 891221	PAINT CREEK	48.0	COLUMBIA GAS TRAN
8231571		4703902027		108		R G QUARRIER #6 155730	TASA-LENS CREEK	21.0	INDUSTRIAL GAS CO
-BOX ENERGY ASSOCIATES LTD				RECEIVED:	05/10/82	JA: WV			
8231487		4708504357		108		KINCAID H-786	UNION DIST	4.2	CONSOLIDATED GAS
-BRAXTON OIL AND GAS CORP				RECEIVED:	05/10/82	JA: WV			
8231582		4708300429		103		GILLOOLY #1	ELLAMORE	40.0	COLUMBIA GAS TRAN
8231580		4700701673		103		HUFFMAN #2	BURNSVILLE	40.0	CONSOLIDATED GAS
8231581		4708300498		103		TENNEY #2	ELLAMORE	40.0	COLUMBIA GAS TRAN
-CABOT OIL & GAS CORP				RECEIVED:	05/10/82	JA: WV			
8231482		4703903752		103		GATES & TAYLOR #1	WASHINGTON	38.0	TENNESSEE GAS PIP
8231497		4703903752		107-DV		GATES & TAYLOR #1	WASHINGTON	30.0	TENNESSEE GAS PIP
8231486		4707901022		103		J L MCLEAN A-91	UNION	20.0	TENNESSEE GAS PIP
8231498		4707901022		107-DV		J L MCLEAN A-91	UNION	20.0	TENNESSEE GAS PIP
8231496		4703903575		107-DV		JOHN KOSOY #1	JEFFERSON	29.0	TENNESSEE GAS PIP
8231484		4700501338		103		LITTLE COAL C-4	WASHINGTON	11.0	TENNESSEE GAS PIP
8231483		4700501342		103		LITTLE COAL LAND CO C-10	WASHINGTON	29.0	TENNESSEE GAS PIP
8231485		4710900847		103		POCAHONTAS LAND CORP I-22	BARKERS RIDGE	50.0	CONSOLIDATED GAS
-CITIES SERVICE COMPANY				RECEIVED:	05/10/82	JA: WV			
8231494		4704700842		103		LOPIN "A" #2	BRADSHAW	26.0	CONSOLIDATED GAS
8231493		4701702837		103		MAXWELL "A" #67-A	SMITHBURG	104.0	CONSOLIDATED GAS
8231488		4701702894		103		MAXWELL "B" #31	SMITHBURG	70.0	CONSOLIDATED GAS
8231495		4708100540		103		ROWLAND LAND COMPANY "A" #36	CLEARFORK	162.0	COLUMBIA GAS TRAN
8231490		4708100552		103		ROWLAND LAND COMPANY "A" #41	CLEARFORK	14.4	
8231489		4708100553		103		ROWLAND LAND COMPANY "A" #42	CLEARFORK	57.6	UNCOMMITTED
8231492		4700501329		103		ROWLAND LAND COMPANY "A" #43	CLEARFORK	442.8	
8231491		4700501330		103		ROWLAND LAND COMPANY "A" #44	CLEARFORK	349.2	
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	05/10/82	JA: WV			
8231481		4709702267		103		MELVIN A PRINGLE WN-12694	WASHINGTON	11.6	GENERAL SYSTEM PU
8231478		4703302627		103		OPAL COURTNEY WN-12718	UNION	5.0	GENERAL SYSTEM PU
8231480		4709702273		103		W H O'DELL WN-12689	WASHINGTON	7.6	GENERAL SYSTEM PU
8231479		4710900848		102-2		WN-12695	BARKES RIDGE	7.6	GENERAL SYSTEM PU
-DEVON CORPORATION				RECEIVED:	05/10/82	JA: WV			
8231588		4704500962		108		DINGESS RUN COAL CO #863	STOLLINGS	5.5	COLUMBIA GAS TRAN
-EASTERN AMERICAN ENERGY CORPORATION				RECEIVED:	05/10/82	JA: WV			
8231598		4700701243		108		G B HOWELL #2	LOWER SLEITH	0.8	EQUITABLE GAS CO
8231572		4704103046		107-DV		TANEY #1	COURTHOUSE	20.8	
8231578		4704103046		103		TANEY #1	COURTHOUSE	20.8	
8231589		4702103570		108		WARDEN #1	GLENVILLE	5.8	CONSOLIDATED GAS
-ELAMS GAS CO				RECEIVED:	05/10/82	JA: WV			
8231593		4709901699		108		GLENHAYES #1	LINCOLN DISTRICT	6.1	COLUMBIA GAS TRAN
8231592		4709901695		108		JARRELL VINSON #1	LINCOLN DISTRICT	9.4	COLUMBIA GAS TRAN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8231591		4709901693		108		MYRTLE VINSON #1	LINCOLN DISTRICT	4.2	COLUMBIA GAS TRAN
-JAMES F SCOTT				RECEIVED:	05/10/82	JA: WV			
8231564		4704103026		103		CLARICE WARFIELD S-340	HACKERS CREEK	46.0	CONSOLIDATED GAS
8231561		4703302655		103		VELMA ARTERS #2 S-377	UNION	47.0	CONSOLIDATED GAS
-L & M PETROLEUM INC				RECEIVED:	05/10/82	JA: WV			
8231472		4709520845		107-DV		A B LOWTHER #1	LAFAYETTE	12.0	COLUMBIA GAS TRAN
8231475		4707320827		107-DV		OPAL LOCKE #1	LAFAYETTE	12.0	COLUMBIA GAS TRAN
8231473		4709520898		103		RALPH WESTFALL #2	LAFAYETTE	12.0	COLUMBIA GAS TRAN
8231474		4709520783		107-DV		TERRILL STARKEY #1	LAFAYETTE	10.0	COLUMBIA GAS TRAN
-MRM PETROLEUM CORPORATION				RECEIVED:	05/10/82	JA: WV			
8231560		4709702001		103		MANIFAN #2	TALLMANSVILLE	8.0	COLUMBIA GAS TRAN
8231562		4709701976		103		HARMAN #1	TALLMANSVILLE	0.0	COLUMBIA GAS TRAN
8231563		4709701969		103		HARMAN A #1	TALLMANSVILLE	0.0	COLUMBIA GAS TRAN
-ROYAL OIL & GAS CORPORATION				RECEIVED:	05/10/82	JA: WV			
8231464		4700701670		103		KENNETH GERVIS #3	OTTER DISTRICT	13.0	COLUMBIA GAS TRAN
-SWIFT ENERGY CO				RECEIVED:	05/10/82	JA: WV			
8231477		4702103772		107-DV		ALLEN #2-A	GLENVILLE NORTH	50.0	
8231476		4702103773		107-DV		ALLEN #3-A	GLENVILLE NORTH	50.0	
8231596		4704103073		107-DV		BARTON #1	FINSTER-ASPINALL	50.0	
8231597		4704103082		107-DV		HODGES "A" #1	FINSTER-ASPINALL	50.0	
8231595		4702103774		107-DV		LYNCH #1	GLENVILLE NORTH	50.0	
8231599		4702103808		103		WELCH #1	GLENVILLE NORTH	50.0	
8231598		4702103810		103		WELCH #5	GLENVILLE NORTH	50.0	
8231556		4700701707		103		WELCH #6	GLENVILLE NORTH	50.0	
-TEXAS INTERNATIONAL PET CORP				RECEIVED:	05/10/82	JA: WV			
8231576		4706700558		103		FEDERAL COAL #37	TWENTY MILE CREEK	12.0	CABOT CORP
-TRIO PETROLEUM CORP				RECEIVED:	05/10/82	JA: WV			
8231565		4702103576		108		BENNETT #1	GLENVILLE NORTH	4.0	CONSOLIDATED GAS
8231570		4702102873		108		HEATER #1	ASPINALL-FINSTER	3.5	CONSOLIDATED GAS
8231569		4702102874		108		HEATER #2	ASPINALL-FINSTER	3.5	CONSOLIDATED GAS
8231566		4702102890		108		MCPHERSON #1	ASPINALL-FINSTER	7.0	CONSOLIDATED GAS
8231568		4702102876		108		MCPHERSON B #1	ASPINALL-FINSTER	7.0	CONSOLIDATED GAS
8231567		4702102877		108		MCPHERSON B #2	ASPINALL-FINSTER	7.0	CONSOLIDATED GAS
8231577		4702103555		107-DV		MESSENGER #1	GLENVILLE NORTH	20.0	COLUMBIA GAS TRAN
-UNION DRILLING INC				RECEIVED:	05/10/82	JA: WV			
8231557		4760101492		103		BUEHL-GOLDEN #2 1627	ELK DISTRICT	0.0	CONSOLIDATED GAS
8231558		4708101508		103		CLAY STOUT #1 -1633	UNION DISTRICT	0.0	CONSOLIDATED GAS
8231583		4708101483		103		HOLLIE T STEWART #1 - 1506	PLEASANT DISTRICT	0.0	CONSOLIDATED GAS
8231559		4708101534		103		MYRTLE V RADCLIFFE #1 1642	PLEASANT DISTRICT	0.0	CONSOLIDATED GAS
8231584		4708101481		103		PHILLIP MAYLE #2-1630	PLEASANT DISTRICT	0.0	CONSOLIDATED GAS
8231594		4709702147		103		ROBERT XANDER 1-1615	WARREN DISTRICT	0.0	CONSOLIDATED GAS
-WARREN R HAUGHT AGENT				RECEIVED:	05/10/82	JA: WV			
8231585		4707301196		103		BEN CUNNINGHAM H-1218	MCKIM DISTRICT	22.0	CONSOLIDATED GAS

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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, DENVER,CO

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-ARCO OIL AND GAS COMPANY				RECEIVED:	05/07/82	JA: CO 1			
8231443	CD 0151-82	0506706386		103		SOUTHERN UTE #14-2 32-10 (DK)	IGNACIO BLANCO	38.0	NORTHWEST PIPELIN
8231438	CD 0118-82	0506706234		103		SOUTHERN UTE 10-1 32-10 (DK)	IGNACIO BLANCO	29.0	WESTERN SLOPE GAS
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	05/07/82	JA: CO 1			
8231431	CD 0089-82	0511306033		102		HAHN CANYON 14-26 #1	HAHN CANYON	347.0	NORTHWEST PIPELIN
-COSEKA RESOURCES (USA) LIMITED				RECEIVED:	05/07/82	JA: CO 1			
8231437	CD 0068-82	0510300637		102-2		FEDERAL #11-23-1N-103	TAIGA MOUNTAIN	431.9	NATURAL GAS CORP

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-CSG EXPLORATION COMPANY				RECEIVED:	05/07/82	JA: CO 1			
8231433	CD 0033-82	0510308528		107-RT		GOVERNMENT 397-8-4	WILDCAT	244.0	CITIES SERVICE GA
-MESA PETROLEUM CO				RECEIVED:	05/07/82	JA: CO 1			
8231438	CD0094-82GR	0506700000		108-ER		VTE INDIAN #11	IGNACIO BLANCO	0.0	EL PASO NATURAL G
-NORTHWEST EXPLORATION COMPANY				RECEIVED:	05/07/82	JA: CO 1			
8231446	CD0253-81	0510308076		108		PHILADELPHIA CREEK #19	CATHERDRAL	5.0	NORTHWEST PIPELIN
8231441	CD 0254-81	0510307824		108		PHILADELPHIA CREEK #9	CATHERDRAL MANCOS B	3.0	NORTHWEST PIPELIN
8231440	CD 0373-81	0504506243		108		RULISON 121	RULISON WASATCH	54.0	NORTHWEST PIPELIN
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	05/07/82	JA: CO 1			
8231445	CD 0095-82PB	0506700000		108-PB		IGNACIO 33-812	IGNACIO BLANCO	0.0	NORTHWEST PIPELIN
-SOHIO PETROLEUM CO				RECEIVED:	05/07/82	JA: CO 1			
8231435	CD 0092-82PB	0506705077		108-PB		SOUTHERN UTE #6	IGNACIO BLANCO	17.0	EL PASO NATURAL G
-TETON ENERGY CO INC				RECEIVED:	05/07/82	JA: CO 1			
8231432	CD 0155-82	0510308702		103		GOVERNMENT 7-4	SOUTH DOUGLAS CREEK	57.0	NORTHWEST PIPELIN
-TWIN ARROW INC				RECEIVED:	05/07/82	JA: CO 1			
8231442	CD 0186-81	0510308578		103		CONTINENTAL 3-16	CATHEDRAL	0.0	NORTHWEST PIPELIN
8231447	CD 0184-81	0510308540		103		CONTINENTAL 6-22	CATHEDRAL	0.0	NORTHWEST PIPELIN
-BELCO PETROLEUM CORPORATION				RECEIVED:	05/07/82	JA: UT 1			
8231439	UD 0375-81	4304730655		107-TF		DUCK CREEK 18-16	DUCK CREEK	0.0	NORTHWEST PIPELIN
8231444	UD 0376-81	4304730604		107-TF		STAGECOACH 15-27	STAGECOACH	0.0	NORTHWEST PIPELIN
-COASTAL OIL & GAS CORP				RECEIVED:	05/07/82	JA: UT 1			
8231434	UC 565-D	4304730296		102-4		NBU 15-29B 30296	NATURAL BUTTES UNIT	90.0	COLORADO INTERSTA
-TEXACO INC				RECEIVED:	05/07/82	JA: UT 1			
8231436	UD 0153-82	4303730716		103		ANETH UNIT #E-236	ANETH	25.0	EL PASO NATURAL G

OTHER PURCHASERS VOLUME NO :658

8231518 LONE STAR GAS CO
8231519 LONE STAR GAS CO

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 273.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before June 23, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonia shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–15403 Filed 6–7–82; 8:45 am]

BILLING CODE 6717–01–M

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[Volume 659]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: May 28, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
OHIO DEPARTMENT OF NATURAL RESOURCES									
-ALTHEIRS OIL INC			RECEIVED: 05/11/82 JA: OH						
8231646		3408720305	103		107-DV	MARTIN #1	SYMMES TOWNSHIP	15.0	
-BANDS COMPANY INC			RECEIVED: 05/11/82 JA: OH						
8231647		3407523715	103			MERVIN UNIT #1	GLENMONT	1.5	COLUMBIA GAS TRAN
-BASIN PRODUCING CO			RECEIVED: 05/11/82 JA: OH						
8231648		3411122735	107-DV			LANDEFELD #1	MALAGA	20.0	TEXAS EASTERN TRA
-BECK OIL & GAS CO			RECEIVED: 05/11/82 JA: OH						
8231649		3413322542	103		107-TF	STERLING-O'BRIEN #1	CHARLESTOWN	20.0	COLUMBIA GAS OF O
8231650		3413322543	103		107-TF	STERLING-O'BRIEN #2	CHARLESTOWN	20.0	COLUMBIA GAS OF O
-BERMAN J SHAFER			RECEIVED: 05/11/82 JA: OH						
8231825		3410322849	103			GREGOIRE #1	WESTFIELD	75.0	COLUMBIA GAS TRAN
-BERRESFORD ENTERPRISES INC			RECEIVED: 05/11/82 JA: OH						
8231651		3411322656	103			RICHARD MINICH #1	ROKEBY LOCK	8.0	
-BLAUSER WELL SERVICE INC			RECEIVED: 05/11/82 JA: OH						
8231652		3410322165	107-DV			FRANCIS M ANDREWS #1	OLIVE	21.0	COLUMBIA GAS TRAN
8231653		3410322172	107-DV			HAROLD BREWER #1	OLIVE	15.0	COLUMBIA GAS TRAN
8231654		3410322173	107-DV			PAUL ANDREWS #1	OLIVE	13.0	COLUMBIA GAS TRAN
-BRIDGE OIL DEV (O'LD) PTY LTD			RECEIVED: 05/11/82 JA: OH						
8231659		3416923248	103			L MARTY #3	RITTMAN	27.0	COLUMBIA GAS TRAN
-BROWN PETROLEUM CORP			RECEIVED: 05/11/82 JA: OH						
8231660		3407523618	103			ARNOLD #1	KILLBUCK	15.0	COLUMBIA GAS TRAN
8231661		3407523665	103			ARNOLD #2	KILLBUCK	15.0	COLUMBIA GAS TRAN
-CENTRAL ENERGY CO INC			RECEIVED: 05/11/82 JA: OH						
8231662		3411926098	103			HENDERSHOT #1	PERRYTON	20.0	NATIONAL GAS & OI
-CLARENCE SHERMAN			RECEIVED: 05/11/82 JA: OH						
8231826		3415722227	103		107-RT	MULLET #3	SUGARCREEK	18.0	EAST OHIO GAS CO
8231827		3415723701	103		107-TF	NELSON MILLER #1	SUGARCREEK	30.0	EAST OHIO GAS CO
-COLUMBIA GAS TRANSMISSION CORP			RECEIVED: 05/11/82 JA: OH						
8231682		3408900003	107-DV			AL SALOME 708360	SOUTHERN DIST STE OF	0.4	COLUMBIA GAS TRAN
8231697		3410521307	107-DV			BERNARD CARTER AGT 710160	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8231667		3408700116	107-DV			CARRIE LANG 706595	SOUTHERN DIST STE OF	0.0	COLUMBIA GAS TRAN
8231695		3410521293	107-DV			CLEORA SHUMWAY 710073	SOUTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8231696		3410521304	107-DV			DELMAR PULLINS ETAL 710139	SOUTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8231681		3408900002	107-DV			DONALD D HILL 708417	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8231685		3408920707	107-DV			EARL O HANKINSON 708268	SOUTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8231700		3410521335	107-DV			EDNA M SUMMERFIELD 710229	SOUTHERN DIST STE OF	4.0	COLUMBIA GAS TRAN
8231666		3408700115	107-DV			EGERTON LAND COMPANY 705731	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8231669		3408700118	107-DV			EMOGENE STAPLETON 706689	SOUTHERN DIST STE OF	0.0	COLUMBIA GAS TRAN
8231694		3410521288	107-DV			ERMA JOHNSTON 710056	SOUTHERN DIST STE OF	5.0	COLUMBIA GAS TRAN
8231693		3410521259	107-DV			ESTA WHITE ETAL 709974	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8231692		3410521253	107-DV			EVERETT L CROW JR 709927	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8231698		3410521219		107-DV		FLOYD STOUT ETAL 709843	SOUTHERN DIST STE OF	4.0	COLUMBIA GAS TRAN
8231678		3408700127		107-DV		FORREST WELLS ETAL 706914	SOUTHERN DIST STE OF	8.0	COLUMBIA GAS TRAN
8231671		3408700120		107-DV		FRANK BLISS ENSLOW 706760	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8231688		3410520691		107-DV		H W RITCHIE ESTATE 708342	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8231668		3408700117		107-DV		HENRY V SUITER ETAL 706621	SOUTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8231674		3408700123		107-DV		JAMES T SMITH 706869	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8231675		3408700124		107-DV		JAMES T SMITH 706900	SOUTHERN DIST STE OF	5.0	COLUMBIA GAS TRAN
8231680		3408700129		107-DV		JAY E SCHNEIDER 707863	SOUTHERN DIST	2.0	COLUMBIA GAS TRAN
8231685		3408923195		107-DV		JOHN CLAYPOOL 708465	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8231676		3408700125		107-DV		JOSEPH V FERGUSON 707026	SOUTHERN DIST STE OF	0.1	COLUMBIA GAS TRAN
8231684		3408920712		107-DV		LOUIS J RAUCH 708277	SOUTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8231663		3408708112		107-DV		MAXELL G MCNEELY 705187	SOUTHERN DIST STE OF	4.0	COLUMBIA GAS TRAN
8231665		3408700114		107-DV		MYLO CO 705714	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8231677		3408700126		107-DV		MYRTLE M ASH 705481	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8231670		3408700119		107-DV		ORVILLE CARRICO 706724	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8231701		3410521343		107-DV		OSCAR WEBER ETAL 710279	SOUTHERN DIST STE OF	4.0	COLUMBIA GAS TRAN
8231699		3410521332		107-DV		PEARL F EDWARDS 710223	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8231702		3410521352		107-DV		PEARL F EDWARDS 710338	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8231673		3408700122		107-DV		R A GRAY 706868	SOUTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8231691		3410521226		107-DV		RAYMOND E MAYSON 709854	SOUTHERN DIST STE OF	5.0	COLUMBIA GAS TRAN
8231664		3408700113		107-DV		ROBERT NICOL 705671	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8231672		3408700121		107-DV		RUSSELL SCHNEIDER 706827	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8231686		3410500147		107-DV		SYLVIA POOL 708367	SOUTHERN DIST STE OF	0.0	COLUMBIA GAS TRAN
8231687		3410500442		107-DV		VICTOR WOLFE ETAL 705910	SOUTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8231679		3408700128		107-DV		VIRGIL CAIN ETAL 706925	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8231698		3410521314		107-DV		WALLACE DAMEWOOD 710177	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8231689		3410521191		107-DV		WAYNE E RITCHIE 709553	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
-DERBY OIL & GAS CORP				RECEIVED: 05/11/82 JA: OH					
8231704		3407523686		103	107-TF	RABER ETAL	CLARK	12.0	COLUMBIA GAS TRAN
-EARTH RESOURCES EXPL DEV CORP				RECEIVED: 05/11/82 JA: OH					
8231709		3416923101		103	107-TF	CROSS #3	CRESTON	5.0	
8231710		3416923169		103	107-TF	CROSS #4	CRESTON	5.0	
8231706		3416922555		103	107-TF	KOHLER/HODOVAN #1	CRESTON	10.0	
8231708		3416922872		103	107-TF	SMITH #1	CRESTON	5.0	
8231711		3416923170		103	107-TF	UPP #3	CRESTON	10.0	
8231705		3400721916		103	107-TF	WATTS UNIT #1	ORWELL	15.0	
8231707		3416922633		103	107-TF	WOOD UNIT #1	CANAAN	5.0	
8231713		3416923219		103	107-TF	WYCKOFF #3	CRESTON	5.0	
8231712		3416923187		103	107-TF	WYCKOFF #4	CRESTON	0.0	
-EMRON ENERGY CORP				RECEIVED: 05/11/82 JA: OH					
8231736		3416723404	D	103		CHARLES RHODES #1	ADAMS	28.0	COLUMBIA GAS TRAN
-ENERGY UNLIMITED INC				RECEIVED: 05/11/82 JA: OH					
8231724		3412122263		107-DV		BAKER/MURREY #1	ELK TOWNSHIP	0.0	COLUMBIA GAS TRAN
8231725		3412122276		107-DV		BOGER #1	ELK TOWNSHIP	0.0	COLUMBIA GAS TRAN
8231730		3416725282		107-DV		BOSTAPH #1	LUDLOW TOWNSHIP	0.0	COLUMBIA GAS TRAN
8231719		3412122235		107-DV		BUTCHER #1	ELK TOWNSHIP	0.0	COLUMBIA GAS TRAN
8231721		3412122246		107-DV		BUTCHER #3	ELK TOWNSHIP	0.0	COLUMBIA GAS TRAN
8231726		3412122296		107-DV		C J BAKER #1	ELK TOWNSHIP	0.0	COLUMBIA GAS TRAN
8231716		3400922514		107-DV		COFFEY #1	CARTHAGE TOWNSHIP	0.0	COLUMBIA GAS TRAN
8231717		3400922514		103		COFFEY #1	CARTHAGE TOWNSHIP	0.0	COLUMBIA GAS TRAN
8231727		3416725366		107-DV		GRAHAM #1	LUDLOW TOWNSHIP	0.0	COLUMBIA GAS TRAN
8231723		3412122261		107-DV		KEHL #1	ELK TOWNSHIP	0.0	COLUMBIA GAS TRAN
8231714		3400922509		107-DV		KING BROTHERS #1	LODI TOWNSHIP	0.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8231715		3400922511		107-DV		KING BROTHERS #2	LODI TOWNSHIP	0.0	COLUMBIA GAS TRAN
8231722		3412122262		107-DV		KOHL #1	ELK TOWNSHIP	0.0	COLUMBIA GAS TRAN
8231729		3416725367		107-DV		LEWIS #1	LUDLOW TOWNSHIP	0.0	COLUMBIA GAS TRAN
8231720		3412122236		107-DV		MCCLAIN #1	ELK TOWNSHIP	0.0	COLUMBIA GAS TRAN
8231728		3416725365		107-DV		MCCLAIN #2	LUDLOW TOWNSHIP	0.0	COLUMBIA GAS TRAN
8231718		3400922515		107-DV		MCCLAIN #3	CARTHAGE TOWNSHIP	0.0	COLUMBIA GAS TRAN
8231731		3416725283		107-DV		MCCLAIN #4	LUDLOW TOWNSHIP	0.0	COLUMBIA GAS TRAN
8231732		3416725284		107-DV		MCCLAIN #5	LUDLOW TOWNSHIP	0.0	COLUMBIA GAS TRAN
8231733		3416725285		107-DV		MCCLAIN #6	LUDLOW TOWNSHIP	0.0	COLUMBIA GAS TRAN
8231734		3416725286		107-DV		MCCLAIN #7	LUDLOW TOWNSHIP	0.0	COLUMBIA GAS TRAN
8231735		3416725287		107-DV		MCCLAIN #8	LUDLOW TOWNSHIP	0.0	COLUMBIA GAS TRAN
-ENERGY RESOURCES INC				RECEIVED: 05/11/82 JA: OH					
8231737		3400721917		103		BOWMAN #1	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231738		3400721918		103		BOWMAN #2	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231739		3400721919		103		BOWMAN #3	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231740		3400721920		103		BOWMAN #4	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231741		3400721921		103		BOWMAN #5	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231742		3400721922		103		BOWMAN #6	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231743		3400721923		103		BOWMAN #7	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231744		3400721924		103		BOWMAN #8	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231745		3400721925		103		BOWMAN #9	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231746		3400721926		103		BOWMAN #10	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231747		3400721927		103		BOWMAN #11	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231748		3400721928		103		BOWMAN #12	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231749		3400721929		103		BOWMAN #13	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231750		3400721930		103		BOWMAN #14	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231751		3400721931		103		BOWMAN #15	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231752		3400721932		103		BOWMAN #16	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231753		3400721933		103		BOWMAN #17	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231754		3400721934		103		BOWMAN #18	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231755		3400721935		103		BOWMAN #19	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231756		3400721936		103		BOWMAN #20	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231757		3400721937		103		BOWMAN #21	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231758		3400721938		103		BOWMAN #22	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231759		3400721939		103		BOWMAN #23	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231760		3400721940		103		BOWMAN #24	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231761		3400721941		103		BOWMAN #25	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231762		3400721942		103		BOWMAN #26	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231763		3400721943		103		BOWMAN #27	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231764		3400721944		103		BOWMAN #28	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231765		3400721945		103		BOWMAN #29	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231766		3400721946		103		BOWMAN #30	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231767		3400721947		103		BOWMAN #31	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231768		3400721948		103		BOWMAN #32	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231769		3400721949		103		BOWMAN #33	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231770		3400721950		103		BOWMAN #34	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231771		3400721951		103		BOWMAN #35	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231772		3400721952		103		BOWMAN #36	ORWELL	15.0	
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8231773		3400721953		103		BOWMAN #37	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231774		3400721954		103		BOWMAN #38	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231775		3400721955		103		BOWMAN #39	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231776		3400721956		103		BOWMAN #40	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231777		3400721957		103		BOWMAN #41	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231778		3400721958		103		BOWMAN #42	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231779		3400721959		103		BOWMAN #43	ORWELL	15.0	
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8231780		3400721960		103		BOWMAN #44	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231781		3400721961		103		BOWMAN #45	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231782		3400721962		103		BOWMAN #46	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231783		3400721963		103		BOWMAN #47	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231784		3400721964		103		BOWMAN #48	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231785		3400721965		103		BOWMAN #49	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231786		3400721966		103		BOWMAN #50	ORWELL	15.0	
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8231787		3400721967		103		BOWMAN #51	ORWELL	15.0	
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8231789		3400721969		103		BOWMAN #53	ORWELL	15.0	
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8231792		3400721972		103		BOWMAN #56	ORWELL	15.0	
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8231794		3400721974		103		BOWMAN #58	ORWELL	15.0	
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8231795		3400721975		103		BOWMAN #59	ORWELL	15.0	
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8231797		3400721977		103		BOWMAN #61	ORWELL	15.0	
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8231798		3400721978		103		BOWMAN #62	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231799		3400721979		103		BOWMAN #63	ORWELL	15.0	
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8231800		3400721980		103		BOWMAN #64	ORWELL	15.0	
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8231801		3400721981		103		BOWMAN #65	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231802		3400721982		103		BOWMAN #66	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231803		3400721983		103		BOWMAN #67	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231804		3400721984		103		BOWMAN #68	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231805		3400721985		103		BOWMAN #69	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231806		3400721986		103		BOWMAN #70	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231807		3400721987		103		BOWMAN #71	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231808		3400721988		103		BOWMAN #72	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231809		3400721989		103		BOWMAN #73	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231810		3400721990		103		BOWMAN #74	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231811		3400721991		103		BOWMAN #75	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231812		3400721992		103		BOWMAN #76	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231813		3400721993		103		BOWMAN #77	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231814		3400721994		103		BOWMAN #78	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231815		3400721995		103		BOWMAN #79	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231816		3400721996		103		BOWMAN #80	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231817		3400721997		103		BOWMAN #81	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231818		3400721998		103		BOWMAN #82	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231819		3400721999		103		BOWMAN #83	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231820		3400722000		103		BOWMAN #84	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231821		3400722001		103		BOWMAN #85	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231822		3400722002		103		BOWMAN #86	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231823		3400722003		103		BOWMAN #87	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231824		3400722004		103		BOWMAN #88	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231825		3400722005		103		BOWMAN #89	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231826		3400722006		103		BOWMAN #90	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231827		3400722007		103		BOWMAN #91	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231828		3400722008		103		BOWMAN #92	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231829		3400722009		103		BOWMAN #93	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231830		3400722010		103		BOWMAN #94	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231831		3400722011		103		BOWMAN #95	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231832		3400722012		103		BOWMAN #96	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231833		3400722013		103		BOWMAN #97	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231834		3400722014		103		BOWMAN #98	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231835		3400722015		103		BOWMAN #99	ORWELL	15.0	
-ENERGY SEARCH INC				RECEIVED: 05/11/82 JA: OH					
8231836		3400722016		103		BOWMAN #100	ORWELL	15.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8231715		3400922589		103		KING BROTHERS #1	LODI TOWNSHIP	0.0	COLUMBIA GAS TRAN
8231728		3416725367		107-DV		LISK #1	LUDLOW TOWNSHIP	0.0	COLUMBIA GAS TRAN
8231729		3416725368		107-DV		PRYOR #1	LUDLOW TOWNSHIP	0.0	COLUMBIA GAS TRAN
8231722		3412122257		107-DV		ROGERS #1	ELK TOWNSHIP	0.0	COLUMBIA GAS TRAN
8231720		3412122238		107-DV		THOMPSON #1	ELK TOWNSHIP	0.0	COLUMBIA GAS TRAN
8231718		3411122336		107-DV		WILLIAMS #1	WASHINGTON TOWNSHIP	0.0	COLUMBIA GAS TRAN
-ENTERPRISE ENERGY CORP				RECEIVED:	05/11/82	JA: OH			
8231731		3400922523		103	107-TF	DRYDOCK COAL #5Y	YORK	18.2	COLUMBIA GAS TRAN
8231732		3400922526		103	107-TF	DRYDOCK COAL #9 TR	TRIMBLE	18.2	COLUMBIA GAS TRAN
8231733		3401921529		107-TF		KLOTZ #1	BROWN	18.2	M B OPERATING CO
8231734		3405923118		107-TF		MID-OHIO COAL #12	JACKSON	18.2	COLUMBIA GAS TRAN
8231735		3405923119		107-TF		VINCENT #1	JACKSON	36.5	COLUMBIA GAS TRAN
-FRANK A CSAPO JR				RECEIVED:	05/11/82	JA: OH			
8231703		3410322699		103	107-TF	CHARLES & OPAL GEORGE #1	WESTFIELD	15.0	COLUMBIA GAS TRAN
-FREDERICK PETROLEUM CORP				RECEIVED:	05/11/82	JA: OH			
8231741		3412122756		103		BIG "C" RANCH #4 121 2 2756	DEXTER CITY ENOCH TWP	50.0	
8231742		3412122756		107-DV		BIG "C" RANCH #4 121 2 2756	DEXTER CITY ENOCH TWP	0.0	
8231740		3412122754		107-DV		E F LEE #1 A	HARRIETTSVILLE ELK TW	60.0	COLUMBIA GAS TRAN
8231835		3412122754		103		E F LEE #1 A	HARRIETTSVILLE ELK TW	60.0	COLUMBIA GAS TRAN
8231739		3412122725		107-DV		E F LEE #2 121 2 2725	HARRIETTSVILLE SOUTH	60.0	COLUMBIA GAS TRAN
8231836		3412122725		103		E F LEE #2 121 2 2725	HARRIETTSVILLE SOUTH	60.0	COLUMBIA GAS TRAN
8231738		3411122723		107-DV		FREDERICK PETROLEUM #2 111 2723	MARR WEST BETHEL TWP	60.0	COLUMBIA GAS TRAN
8231834		3411122723		103		FREDERICK PETROLEUM #2 111 2723	MARR WEST BETHEL TWP	60.0	COLUMBIA GAS TRAN
8231737		3411122767		107-DV		FREDERICK PETROLEUM #9 111 2767	BETHEL TWP	60.0	COLUMBIA GAS TRAN
8231745		3411122767		103		FREDERICK PETROLEUM #9 111 2767	FREDERICK WELL #9 BET	60.0	COLUMBIA GAS TRAN
8231743		3412122771		103		ORANGE COAL #6 121 2 2771	DEXTER CITY ENOCH TWP	50.0	
8231744		3412122771		107-DV		ORANGE COAL #6 121 2 2771	DEXTER CITY ENOCH TWP	50.0	
-GNC ENERGY CORP				RECEIVED:	05/11/82	JA: OH			
8231746		3411522546		103		GREUEY WILLIAM & BARBARA #1	PENN	8.0	COLUMBIA GAS TRAN
-HERALD OIL & GAS CO				RECEIVED:	05/11/82	JA: OH			
8231747		3405320445		108		CROW & MORGAN #2		0.0	COLUMBIA GAS TRAN
8231748		3405320446		108		CROW & MORGAN #3		0.0	COLUMBIA GAS TRAN
8231749		3410521811		108		HENRY WELLS #1		0.0	COLUMBIA GAS TRAN
8231752		3410521896		108		JAMES DREHEL #9		0.0	COLUMBIA GAS TRAN
8231750		3410521841		108		TIM WOODYARD #3		0.0	COLUMBIA GAS TRAN
8231751		3410521866		108		TIM WOODYARD #5		0.0	COLUMBIA GAS TRAN
-HOPEWELL OIL AND GAS DEVELOPMENT CO				RECEIVED:	05/11/82	JA: OH			
8231763		3412724591		107-TF		A CANNON #1	HARRISON	15.0	COLUMBIA GAS TRAN
8231760		3411925584		103	107-TF	BEULAH HARLAN #1	NEWTON	13.0	COLUMBIA GAS TRAN
8231754		3411121946		107-DV		EILEEN CECIL #1	GRAYSVILLE	7.0	COLUMBIA GAS TRAN
8231753		3403124052		103	107-TF	G BRILLHART #1	WASHINGTON	3.0	COLUMBIA GAS TRAN
8231755		3411121966		107-DV		GERALD GREEN #1	WAYNE	25.0	COLUMBIA GAS TRAN
8231764		3412724835		107-TF		HENNING #1	HARRISON	3.6	COLUMBIA GAS TRAN
8231758		3411925114		107-TF		J SHAW #1	CASS	14.0	COLUMBIA GAS TRAN
8231759		3411925144	D	107-TF		M HOLSKEY #1	BRUSH CREEK	12.0	COLUMBIA GAS TRAN
8231762		3412724576		107-TF		R FISHER #1	HARRISON	5.6	COLUMBIA GAS TRAN
8231756		3411122130		107-DV		ROBERT CECIL #1	GRAYSVILLE	4.0	COLUMBIA GAS TRAN
8231761		3412724556		103	107-TF	RUFF #1	HARRISON	7.0	COLUMBIA GAS TRAN
8231757		3411522036		107-TF		WEAVER #1	MALTA	2.6	COLUMBIA GAS TRAN
-IRVIN PRODUCING COMPANY				RECEIVED:	05/11/82	JA: OH			
8231765		3411926000		103	107-TF	CHRIS MADINGER #1	GRATIOT	18.0	COLUMBIA GAS TRAN
-LAKE REGION OIL INC				RECEIVED:	05/11/82	JA: OH			
8231767		3403124701		103	107-TF	CHRIST E RABER #1-A	CRAWFORD	15.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8231771		3407523395		103	107-TF	ELIAS M RABER #1	MECHANIC	10.8	COLUMBIA GAS TRAN
8231766		3403124547		103	107-TF	JOHN CONKLE #1	MILL CREEK	10.0	COLUMBIA GAS TRAN
8231768		3407523201		103	107-TF	JOHN MILLER #1	MECHANIC	5.0	COLUMBIA GAS TRAN
8231773		3407523662		103	107-TF	NOAH J RABER #1	NEW BEDFORD	5.0	COLUMBIA GAS TRAN
8231772		3407523488		103	107-TF	ORRIE OSWALD #1	BERLIN	5.0	COLUMBIA GAS TRAN
8231770		3407523219		103	107-TF	RALPH MILLER #1	MECHANIC	5.0	COLUMBIA GAS TRAN
8231769		3407523202		103	107-TF	WAYNE MILLER #1	MECHANIC	10.0	COLUMBIA GAS TRAN
-M B OPERATING CO INC		RECEIVED: 05/11/82 JA: OH							
8231775		3401921478		103	107-TF	BECK #1	BROWN	9.1	REPUBLIC STEEL CO
8231798		3415723605		103	107-TF	BODIN #1	WAYNE	51.0	REPUBLIC STEEL CO
8231776		3401921475		103		BRAY UNIT #1	MONROE	11.0	
8231779		3415123544		103	107-TF	BUCHER UNIT #1-B	LAWRENCE	20.1	REPUBLIC STEEL CO
8231783		3415123619		103		CANTON LOCAL BRD OF EDUC #1	CANTON	32.9	
8231787		3415123667		103		DANAHER EQUIPMENT CORP #1	CANTON EAST	18.3	
8231786		3415123654		103		DECKERD #3	CANTON EAST	7.3	
8231791		3415723621		103	107-TF	EBERHART COAL INC #4	LAWRENCE	91.3	REPUBLIC STEEL CO
8231782		3415123617		103		HARTER #1	NIMISHILLEN	9.1	
8231789		3415723601		103	107-TF	HEISER #1	LAWRENCE	34.7	REPUBLIC STEEL CO
8231788		3415723590		103	107-TF	HUTH UNIT #1	LAWRENCE	27.4	REPUBLIC STEEL CO
8231777		3415123488		103		JOHNS UNIT #1	BETHLEHEM	36.5	
8231781		3415123597		103	107-TF	LEMMON #1	PLAIN	45.6	REPUBLIC STEEL CO
8231784		3415123620		103		M W C D #7	PIKE	48.2	
8231774		3401921444		103	107-TF	PEARCE UNIT #1	BROWN	12.8	REPUBLIC STEEL CO
8231778		3415123562		103	107-TF	SCHOTT #1	BETHLEHEM	45.8	REPUBLIC STEEL CO
8231780		3415123554		103	107-TF	STARK TRUSS #1	BETHLEHEM	5.5	REPUBLIC STEEL CO
8231785		3415123628		103		VICK #1	LIMAVILLE	14.6	
-MITCHELL ENERGY CORPORATION		RECEIVED: 05/11/82 JA: OH							
8231796		3408720263		102-2		BOWEN #1	UNNAMED FIELD	27.0	
8231797		3408720266		102-2		CLAY UNIT #1	UNNAMED FIELD	22.0	
-NATIONAL PRODUCTION CORPORATION		RECEIVED: 05/11/82 JA: OH							
8231798		3411926188		103		SMITH-JOHNSON-LONG #1	CROOKSVILLE	15.0	NATIONAL GAS & OI
-NEIHART EXPLORATION & DEVELOPMENT C		RECEIVED: 05/11/82 JA: OH							
8231799		3412122592		107-DV		MARK & BARBRA WILLIAMS #1	ELK	50.0	
-OXFORD OIL CO		RECEIVED: 05/11/82 JA: OH							
8231801		3411926089		103		FRED SWINGLE #1	BRUSH CREEK	10.0	
8231806		3411522767		103		PERLEY CLAWSON #1	ROKEBY LOCK	8.0	
8231833		3407522256	D	108		WILMER FORTUNE #1		5.0	COLUMBIA GAS TRAN
-PDI ENERGY INC		RECEIVED: 05/11/82 JA: OH							
8231803		3413322731		103	107-TF	BAIRD-STEFFNER #2	STREETSBORO	30.0	
8231806		3415320539		108		BOSTON COUNTRY CLUB #1		7.9	
8231802		3413320858		108		GEORGE #1		4.7	
8231807		3415320548		108		JOHNSON #1		19.1	
8231804		3413322763		103	107-TF	JURATOVAC #1	STREETSBORO	30.0	
8231805		3413322764		103	107-TF	JURATOVAC #2	STREETSBORO	35.0	
8231808		3415320551		108		MINNICH #1		9.8	
-PREMIER ENERGY CORP		RECEIVED: 05/11/82 JA: OH							
8231809A		3411122160		103		CLAYTON CRUM #1	MALAGA	0.0	COLUMBIA GAS TRAN
8231809B		3411122160	D	107-TF		CLAYTON CRUM #1	MALAGA	0.0	COLUMBIA GAS TRAN
8231810A		3411122131		103		HOMER STILLION #1	MALAGA	0.0	COLUMBIA GAS TRAN
8231810B		3411122131	D	107-TF		HOMER STILLION #1	MALAGA	0.0	COLUMBIA GAS TRAN
-R GENE BRASEL DBA BRASEL & BRASEL		RECEIVED: 05/11/82 JA: OH							
8231657		3405320660		103		ARTHUR JOHNSON #1	ADDISON	0.0	COLUMBIA GAS TRAN
8231658		3405320661		103		ARTHUR JOHNSON #2	ADDISON	0.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-PETROLEUM DEVELOPMENT CORP		RECEIVED: 05/11/82 JA: OH							
8231810		3415123626		103		BOWMAN #1	BETHLEHEM	0.0	COLUMBIA GAS TRAN
8231811		3415123627		103		BOWMAN #2	BETHLEHEM	0.0	COLUMBIA GAS TRAN
8231812		3415123629		103		BOWMAN #3	BETHLEHEM	0.0	COLUMBIA GAS TRAN
8231813		3415123630		103		BOWMAN #4	BETHLEHEM	0.0	COLUMBIA GAS TRAN
8231814		3415123631		103		BOWMAN #5	BETHLEHEM	0.0	COLUMBIA GAS TRAN
8231815		3415123632		103		BOWMAN #6	BETHLEHEM	0.0	COLUMBIA GAS TRAN
8231816		3415123633		103		BOWMAN #7	BETHLEHEM	0.0	COLUMBIA GAS TRAN
8231817		3415123634		103		BOWMAN #8	BETHLEHEM	0.0	COLUMBIA GAS TRAN
8231818		3415123635		103		BOWMAN #9	BETHLEHEM	0.0	COLUMBIA GAS TRAN
8231819		3415123636		103		BOWMAN #10	BETHLEHEM	0.0	COLUMBIA GAS TRAN
8231820		3415123637		103		BOWMAN #11	BETHLEHEM	0.0	COLUMBIA GAS TRAN
8231821		3415123638		103		BOWMAN #12	BETHLEHEM	0.0	COLUMBIA GAS TRAN
8231822		3415123639		103		BOWMAN #13	BETHLEHEM	0.0	COLUMBIA GAS TRAN
8231823		3415123640		103		BOWMAN #14	BETHLEHEM	0.0	COLUMBIA GAS TRAN
8231824		3415123641		103		BOWMAN #15	BETHLEHEM	0.0	COLUMBIA GAS TRAN
8231825		3415123642		103		BOWMAN #16	BETHLEHEM	0.0	COLUMBIA GAS TRAN
8231826		3415123643		103		BOWMAN #17	BETHLEHEM	0.0	COLUMBIA GAS TRAN
8231827		3415123644		103		BOWMAN #18	BETHLEHEM	0.0	COLUMBIA GAS TRAN
8231828		3415123645		103		BOWMAN #19	BETHLEHEM	0.0	COLUMBIA GAS TRAN
8231829		3415123646		103		BOWMAN #20	BETHLEHEM	0.0	COLUMBIA GAS TRAN
8231830		3415123647		103		BOWMAN #21	BETHLEHEM	0.0	COLUMBIA GAS TRAN
8231831		3415123648		103		BOWMAN #22	BETHLEHEM	0.0	COLUMBIA GAS TRAN
8231832		3415123649		103		BOWMAN #23	BETHLEHEM	0.0	COLUMBIA GAS TRAN
-PETROLEUM DEVELOPMENT CORP		RECEIVED: 05/11/82 JA: OH							
8231834		3415123650		103		BOWMAN #24	BETHLEHEM	0.0	COLUMBIA GAS TRAN
8231835		3415123651		103		BOWMAN #25	BETHLEHEM	0.0	COLUMBIA GAS TRAN
8231836		3415123652		103		BOWMAN #26	BETHLEHEM	0.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8231655		3405320634		103		WENDELL BRADBURY #1	CHESHIRE	0.0	COLUMBIA GAS TRAN
8231656		3405320636		103		WENDELL BRADBURY #4	CHESHIRE	0.0	COLUMBIA GAS TRAN
-RINCO OPERATING INC				RECEIVED: 05/11/82 JA: OH					
8231816		3416923217		103	107-TF	B DAVIS #1	CHESTER	12.0	COLUMBIA GAS TRAN
-RMR PETROLEUM CORP				RECEIVED: 05/11/82 JA: OH					
8231813		3416726633		107-DV		BLANEY LUMBER CO #8-2	LIBERTY	57.0	
-ROBERT SCRIMGEOUR				RECEIVED: 05/11/82 JA: OH					
8231824		3412122704		107-DV		FLOYD HENDERSON #1	ELK	15.5	
-RPJ ENERGY FUND MANAGEMENT INC				RECEIVED: 05/11/82 JA: OH					
8231814		3408322990		103		BUNNELL #1	MOUNT VERNON	25.0	
8231815		3411925407		107-TF		REVENNAUGH #2	CHANDLERSVILLE	50.0	
-SANDHILL ENERGY INC (OH)				RECEIVED: 05/11/82 JA: OH					
8231819		3416727128		107-DV		BARBER RIGGS #3A	RAVEN ROCK	36.5	
8231820		3416727128		103		BARBER RIGGS #3A	RAVEN ROCK	36.5	
8231817		3416727124		107-DV		BARBER RIGGS #4	RAVEN ROCK	73.0	
8231818		3416727124		103		BARBER RIGGS #4	RAVEN ROCK	73.0	
-SANTA FE DRILLING CO INC				RECEIVED: 05/11/82 JA: OH					
8231823		3416724400		103		DAVID AND BARBARA ERB #1	SALEM	50.0	
8231822		3416724208		103		H E BYERS/GLADYS WAGNER #1	SALEM	50.0	
8231821		3416724014		103		MICHAEL AND DARLENE LEONHART #1	FEARING	50.0	
-UNITED PETROLEUM CORP				RECEIVED: 05/11/82 JA: OH					
8231829		3409921050		107-RT		BEUHLER UNIT #1	GOSHEN	330.0	COLUMBIA GAS TRAN
8231828		3409921812		107-RT		BUEHLER #1	GOSHEN	280.0	COLUMBIA GAS TRAN
-VICTOR MCKENZIE				RECEIVED: 05/11/82 JA: OH					
8231793		3412725391		103	107-TF	BURLEY #1	CROOKSVILLE	8.0	COLUMBIA GAS TRAN
8231795		3412725495		107-TF		CLIFFORD SAXTON #1	FULTONHAM	10.0	NATIONAL GAS & OI
8231792		3404520757		103		FORNAKER UNIT #1	BREMEN	5.0	NATIONAL GAS & OI
8231794		3412725456		107-TF		WATTS UNIT #1	CROOKSVILLE	7.0	COLUMBIA GAS TRAN
-VIKING RESOURCES CORP				RECEIVED: 05/11/82 JA: OH					
8231831		3413322609		103	107-TF	MIX UNIT #4	DEERFIELD	30.0	
8231830		3418322971		103	107-TF	SWITTER #5	SHARON	30.0	
-WILLIAM H PUTNAM				RECEIVED: 05/11/82 JA: OH					
8231812		3416726515		103		GRANT EDWARDS & GEORGE DELPH #2	INDEPENDENCE	11.0	COLUMBIA GAS TRAN
8231811		3416725165		103		K & R WHITING #1	NEWPORT	11.0	RIVER GAS CO
-WITCO CHEMICAL CORP				RECEIVED: 05/11/82 JA: OH					
8231832		3408924315		103		L & B MORAN #3-B	PERRYTON	5.0	NATIONAL GAS & OI

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OKLAHOMA CORPORATION COMMISSION

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-B R POLK INC				RECEIVED: 05/10/82 JA: OK					
8231643	14153	3508321803		103		DEAN #2	S MARSHALL	50.0	EASON OIL CO
8231644	14154	3508321008		103		GRIFFEY YORK #1	S MARSHALL	50.0	EASON OIL CO
-CLARK RESOURCES INC				RECEIVED: 05/10/82 JA: OK					
8231612	14091	3504722782		103		MOYERS 3-1	SOONER TREND	200.0	CITIES SERVICE GA
-CLEMENTS ENERGY INC				RECEIVED: 05/10/82 JA: OK					
8231637	14080	3508320987		103		KELLEY #1	N E RUSSELL	40.2	EASON OIL CO
-DLB ENERGY CORP				RECEIVED: 05/10/82 JA: OK					
8231638	14084	3507323246		103		MEMEW #1	SOONER TREND	182.0	PHILLIPS PETROLEU
-EARTH ENERGY RESOURCES INC				RECEIVED: 05/10/82 JA: OK					
8231615	16909	3511921613		102-4		C E HALL #1	VINCO	188.0	
8231624	16908	3511921751		102-4		COE-BAILEY #1	VINCO	10.0	
-EXXON CORPORATION				RECEIVED: 05/10/82 JA: OK					
8231618	14133	3501121594		103		SANTFORD COFFEY #1	SW CANTON (MORROW)	584.0	OKLAHOMA GAS & EL

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JD NO	DA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME		FIELD NAME	PROD	PURCHASER
-FUHR EXPLORATION INC				RECEIVED:	05/10/82		JA: OK			
8231635	14071	3507323232		103		KOLLER #2		SOONER TREND	0.0	CONOCO INC
-HILLIARD OIL & GAS INC				RECEIVED:	05/10/82		JA: OK			
8231642	14191	3504921386		102-4		BULLOCK #1		EAST LINDSAY	252.0	LONE STAR GAS CO
-HOLDEN ENERGY CORP				RECEIVED:	05/10/82		JA: OK			
8231645	16601	3501922424		102-4		BIRD 18-1		HEWITT	50.0	AMINOIL USA INC
-J L THOMAS ENGINEERING INC				RECEIVED:	05/10/82		JA: OK			
8231631	16132	3504722720		103		PERRY #1		SOONER TREND	160.0	EXXON USA
-J WALTER DUNCAN JR				RECEIVED:	05/10/82		JA: OK			
8231613	13309	3515320534		108		BARKHART #1		WILDCAT (SE ALABASTER	19.0	DELHI GAS PIPELIN
-L & T OIL & GAS INC				RECEIVED:	05/10/82		JA: OK			
8231641	14124	3507323288		103		PURSELL #1		WEST CASHION	91.0	
-L M C & CO				RECEIVED:	05/10/82		JA: OK			
8231624	14165	3515321260		103		DAUPHIN #1-35			365.0	WESTERN FARMER EL
-L R FRENCH JR				RECEIVED:	05/10/82		JA: OK			
8231628	14149	3509322353		103		SUTTER #2		CHEYENNE VALLEY	324.0	DELHI GAS PIPELIN
-NOBLE OPERATING INC				RECEIVED:	05/10/82		JA: OK			
8231638	14134	3509322211		103		PARKER #2		NW OKEENE	0.0	DELHI GAS PIPELIN
-PCH CORP				RECEIVED:	05/10/82		JA: OK			
8231627	14166	3510920406		103		AMERICAN FIRST TITLE AND TRUST #1		WILDCAT	180.0	MUSTANG FUEL CORP
-PETROMARK EXPLORATION INC				RECEIVED:	05/10/82		JA: OK			
8231636	14079	3507323082		103		STITT 32-1		SOONER TREND	100.0	CITIES SERVICE GA
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	05/10/82		JA: OK			
8231623	13367	3513921491		102-4		GAYLE #3			0.0	
8231622	14060	3509920974		108		SMITH "OD" #1		N E FORT SUFFLY	0.0	DELHI GAS PIPELIN
-REGENCY EXPLORATION INC				RECEIVED:	05/10/82		JA: OK			
8231621	14102	3505921020		103		WOOLFOLK #1-8		NW LOVEDALE	0.0	
-RICHARD WHEELER JR				RECEIVED:	05/10/82		JA: OK			
8231617	14148	3508321042		103		TURNER #2		W HULBALL	0.0	EASON OIL CO
-SHAR-ALAN OIL CO				RECEIVED:	05/10/82		JA: OK			
8231640	14094	3507323230		103		BETTY CAMERON #1		WEST CASHION	0.0	CONOCO INC
8231639	14092	3507322786		103		IRMGARD SEEFELDT #1		NORTH LOYAL	0.0	PHILLIPS PETROLEU
-SINCOE OIL CO				RECEIVED:	05/10/82		JA: OK			
8231633	14083	3507323085		103		MORROW		SOONER TREND	24.0	EASON OIL CO
-SOHIO PETROLEUM CO				RECEIVED:	05/10/82		JA: OK			
8231614	12280	3504921934		103		FRANKLIN "B" #3		EOLA	360.0	SOHIO PETROLEUM C
-SOUTHLAND ENERGY CORP				RECEIVED:	05/10/82		JAI OK			
8231629	14150	3512521110		103		ROSENGRANT #1		WANETTE	189.5	ARCO OIL & GAS CO
-SUNDANCE ENERGY CORP				RECEIVED:	05/10/82		JA: OK			
8231634	14070	3509321791		103		ALICE #12-1		RINGWOOD	91.0	PANHANDLE EASTERN
-UNIVERSAL RESOURCES CORPORATION				RECEIVED:	05/10/82		JA: OK			
8231620	14121	3507323020		103		FLEETA 1-10			0.0	CITIES SERVICE GA
8231611	14120	3507323042		103		JESS #1-22			0.0	PHILLIPS PETROLEU
8231619	14123	3507323067		103		K G 1-15			0.0	CITIES SERVICE GA
8231632	14122	3509322236		103		MERLAND 1-20			0.0	DELHI GAS PIPELIN
-WALTER A KELLY JR				RECEIVED:	05/10/82		JA: OK			
8231625	16911	3511921729		102-4		C E WALL #5		VINCO	182.0	
8231616	16912	3511921884		102-4		C E WALL #5		WEST VINCO	0.0	

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15404 Filed 6-7-82; 8:45 am]

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[Volume 660]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: May 28, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
COLORADO OIL & GAS CONMISSION									
-ANADARKO PRODUCTION COMPANY			RECEIVED:	05/12/82		JAI CO			
8232191	81-318	0512309965	102-4			RICE "A" #1	WILDCAT	134.0	CITIES SERVICE CO
-CALVIN PETROLEUM CORPORATION			RECEIVED:	05/12/82		JAI CO			
8232171	81-273	0501306036	107-TF			TANAKA #1	WATTENBERG SELY	36.5	PANHANDLE EASTERN
-CARL A HOUY			RECEIVED:	05/12/82		JAI CO			
8232178	81-298	0500107731	102-4			ABBOTT 12-14	KRAUTHEAD FIELD	19.0	CRYSTAL OIL CO
8232168	81-285	0500107765	102-4			MAY 44-6	BASELINE	19.0	CRYSTAL OIL CO
8232175	81-284	0500107801	102-4			SHIVELY 21-12	BASELINE	73.0	CRYSTAL OIL CO
8232176	81-287	0500107764	102-4			SHIVELY 22-12	BASELINE	15.0	CRYSTAL OIL CO
8232179	81-291	0500107775	102-4			UPRR 11-11	KRAUTHEAD	75.0	CRYSTAL OIL CO
8232177	81-288	0500107792	102-4			WARREN 22-10	KRAUTHEAD	73.0	CRYSTAL OIL CO
-CHAMPLIN PETROLEUM COMPANY			RECEIVED:	05/12/82		JAI CO			
8232129	81-317	0500506426	103			CHAS HUEGGE 32-11	FAIRWAY	24.0	AMOCO PRODUCTION
8232174	81-316	0500506426	102-2			CHAS HUEGGE 32-11	FAIRWAY	24.0	AMOCO PRODUCTION
8232128	81-271	0500506424	103			VANNOY 41-17 #1	POLLEN	3.0	AMOCO PRODUCTION
8232115	81-327	0503906358	103			WHITEHEAD 31-7 #1	COMANCHE CREEK	8.0	
-CITIES SERVICE COMPANY			RECEIVED:	05/12/82		JAI CO			
8232126	81-315	0512109587	102-2			MATHES "A" #1	COPE	8.0	NATURAL GAS PIPEL
-COORS ENERGY CO			RECEIVED:	05/12/82		JAI CO			
8232121	81-267	0507708331	103			NICHOLS 2-5	PLATEAU FIELD SEC 5 T	28.1	NORTHERN NATURAL
-COTTON PETROLEUM CORPORATION			RECEIVED:	05/12/82		JAI CO			
8232138	81-372	0512310075	103			CLC GAS UNIT #2	WATTENBURG	158.0	COLORADO INTERSTA
8232151	81-329	0512310117	103			DAVIS GAS UNIT #2	WATTENBURG	76.0	COLORADO INTERSTA
8232141	81-255	0512310109	103			IONE #10	WATTENBERG	0.0	WESTERN SLOPE GAS
8232133	81-378	0512310079	103			IONE #11	WATTENBERG	153.0	WESTERN SLOPE GAS
8232136	81-373	0512310056	103			IONE #13	WATTENBERG	112.0	WESTERN SLOPE GAS
8232139	81-355	0512310057	103			IONE UNIT #12	WATTENBURG	124.0	WESTERN SLOPE GAS
8232137	81-374	0512310118	103			KELLY GAS UNIT #2	WATTENBERG	163.0	COLORADO INTERSTA
8232142	81-330	0512310076	103			MASON #3	WATTENBURG	96.0	WESTERN SLOPE GAS
-DONALD S WALKER			RECEIVED:	05/12/82		JAI CO			
8232162	81-305	0512506370	107-TF			MILDRED ACKER 1-9	VERNON	88.0	
-DONZOIL INC			RECEIVED:	05/12/82		JAI CO			
8232133	81-275	0512506467	107-TF			WARREN #1	SHOUT	36.5	CITIES SERVICE GA
-DUGAN PRODUCTION CORP			RECEIVED:	05/12/82		JAI CO			
8232114	81-324	0506706484	103			MCELVAIN #4	IGNACIO BLANCO	45.0	EL PASO NATURAL G
-GARY SANDLIN			RECEIVED:	05/12/82		JAI CO			
8232126	81-268	0500107618	103			FLANDERS #1	CHIEFTAN	27.4	PANHANDLE EASTERN
-GRIFFIN PETROLEUM CORP			RECEIVED:	05/12/82		JAI CO			
8232160	81-314	0512310079	102-2			JOHNNY STATE #1	HORSE CREEK	7.3	CRYSTAL GAS RESOU
8232159	81-320	0500107811	102-2			MAGGIE #1	BASE LINE	273.0	CRYSTAL GAS RESOU
-HOMESTEAD OIL INCORPORATED			RECEIVED:	05/12/82		JAI CO			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8232192	81-219	0512310188		103		MARGUERITE H STATLER #1
-J-W OPERATING COMPANY				RECEIVED:	05/12/82	JA: CO
8232184	81-304	0512506404		107-TF		G BRETHAUER #1
8232187	81-303	0512506326		107-TF		O LUEKING #7
8232186	81-302	0512506405		107-TF		W BRETHAUER #1
-JOSEPH B GOULD				RECEIVED:	05/12/82	JA: CO
8232167	82-164	0500106295		108		PILAND 1-6
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	05/12/82	JA: CO
8232111	81-269	0512506262		103		VINCENT 1-8
-MACEY & MERSHON OIL INC				RECEIVED:	05/12/82	JA: CO
8232148	81-306	0512310094		103		ELMQUIST #1
8232152	81-307	0512301007		103		TOWNSEND #1
-MARTIN EXPLORATION MGMT CORP				RECEIVED:	05/12/82	JA: CO
8232125	81-319	0512310132		103		FUNAKOSHI #2
8232172	81-301	0501306048		107-TF		KANE #20-10
8232173	81-300	0501306033		107-TF		THRONDSON #2
-MGF OIL CORP				RECEIVED:	05/12/82	JA: CO
8232161	81-299	0512310153		102-2		MORRIS 13-23
8232169	81-323	0512310171		107-TF		MOSER 22-28
8232157	81-322	0512310154		102-2		PACKARD 21-22
-MIDLANDS GAS CORPORATION				RECEIVED:	05/12/82	JA: CO
8232181	81-325	0512506381		107-TF		PARISET 1-12
8232188	81-326	0512506401		107-TF		V PARISET 1-11
-MORMAC OIL & GAS CO				RECEIVED:	05/12/82	JA: CO
8232183	81-294	0512506443		107-TF		HELM 1-23
8232189	81-295	0512506442		107-TF		KIRCHENSCHLAGER 1-23
8232130	81-296	0512506532		107-TF		KIRCHENSCHLAGER 1-24
8232190	81-688	0512506386		107-TF		MC CASLAND 1-11
8232132	81-298	0512506374		107-TF		MC CASLAND 1-2
8232131	81-297	0512506407		107-TF		MC CASLAND 2-11
8232185	81-293	0512506375		107-TF		MITCHELL 1-29
-NATOMAS NORTH AMERICA INC				RECEIVED:	05/12/82	JA: CO
8232150	81-331	0506706464		107-TF		BURKETT 1-3
-NIELSON ENTERPRISES INC				RECEIVED:	05/12/82	JA: CO
8232134	81-321	0512310124		103		EICHTHALER #2
8232165	82-87	0512309857		108		HOMESTEAD #1
8232160	82-120	0512308643		108		MUSE #1
-NORTHWEST EXPLORATION COMPANY				RECEIVED:	05/12/82	JA: CO
8232119	81-279	0504506298		102-2		CLOUGH 139
8232127	81-2798	0504506298		103		CLOUGH 139
8232164	81-446	0504506224		108		RULISON #122 (FORMERLY #2)
-PANHANDLE WESTERN GAS CO				RECEIVED:	05/12/82	JA: CO
8232178	81-546-B	0512308492		108-ER		FOX #1
-READ & STEVENS INC				RECEIVED:	05/12/82	JA: CO
8232143	81-256	0511306013		102-4		SLICK ROCK #1
-SAMUEL GARY OIL PRODUCER				RECEIVED:	05/12/82	JA: CO
8232113	81-311	0500107668		103		36-13 STATE
8232112	81-310	0500107747		103		8-16 TRUPP
-SANDLIN OIL CORP				RECEIVED:	05/12/82	JA: CO
8232163	81-1008	0508107443		108		FRED MEYER #1
-SHEPLER & THOMAS INC				RECEIVED:	05/12/82	JA: CO
8232110	81-278	0512109542		102-4		WARREN #1
-STREAM INC				RECEIVED:	05/12/82	JA: CO

FIELD NAME	PROD	PURCHASER
HAMBERT	8.8	PANHANDLE EASTERN
ROCK CREEK	15.0	CITIES SERVICE GA
ROCK CREEK	21.0	CITIES SERVICE GA
ROCK CREEK	28.0	CITIES SERVICE GA
GUIDON	9.0	
WHISPER	22.0	
WATTENBERG "J"	122.0	COLORADO INTERSTA
WATTENBERG "J"	122.0	COLORADO INTERSTA
SPINDLE	45.0	PANHANDLE EASTERN
WILDCAT	73.0	PANHANDLE EASTERN
WATTENBERG	73.0	PANHANDLE EASTERN
NORTHEAST RIVERSIDE I	295.2	CRYSTAL OIL CO
WATTENBERG	631.8	PANHANDLE EASTERN
NE RIVERSIDE II	149.4	CRYSTAL OIL CO
WILDCAT	407.0	KANSAS-NEBRASKA N
WILDCAT	19.0	KANSAS-NEBRASKA N
ROCK CREEK	36.0	CITIES SERVICE GA
SHOUT	36.0	CITIES SERVICE GA
SHOUT	18.0	CITIES SERVICE GA
SHOUT	36.0	CITIES SERVICE GA
SHOUT	36.0	CITIES SERVICE GA
SHOUT	36.0	CITIES SERVICE GA
ROCK CREEK	36.0	CITIES SERVICE GA
IGNACIO	741.0	NORTHWEST PIPELIN
WATTENBERG	48.0	PANHANDLE EASTERN
SPINDLE	9.4	PANHANDLE EASTERN
WATTENBERG	21.0	PANHANDLE EASTERN
RULISON WASATCH	160.0	NORTHWEST PIPELIN
RULISON WASATCH	160.0	NORTHWEST PIPELIN
RULISON	20.0	NORTHWEST PIPELIN
SPINDLE	8.0	PANHANDLE EASTERN
LOWER ISMAY	182.5	TRANS-COLORADO PI
WILDCAT	21.9	PANHANDLE EASTERN
WILDCAT	274.0	PANHANDLE EASTERN
QUAIL	10.0	PANHANDLE EASTERN
OTIS	188.0	KANSAS NEBRASKA N

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8232166	82-148	0512309278		108		MCENDAFFER ESTATE 1-A	WILDCAT	16.0	KANSAS NEBRASKA N
-TETON ENERGY CO INC				RECEIVED:	05/12/82	JA: CO			
8232146	81-236	0507708219		107-TF		ANDERSON RANCHES #7-3	PLATEAU	33.0	NORTHWEST PIPELIN
8232155	81-235	0507708219		102-2		ANDERSON RANCHES #7-3	PLATEAU	33.0	NORTHWEST PIPELIN
8232123	81-229	0507708290		103		BIG CREEK LD & CATTLE #16-1	PLATEAU	102.0	NORTHWEST PIPELIN
8232162	81-228	0507708290		107-TF		BIG CREEK LD & CATTLE #16-1	PLATEAU	102.0	NORTHWEST PIPELIN
8232122	81-224	0507708111		103		KATHLYN YOUNG #4-15	PLATEAU	230.0	NORTHWEST PIPELIN
8232144	81-225	0507708111		107-TF		KATHLYN YOUNG #4-15	PLATEAU	230.0	NORTHWEST PIPELIN
8232158	81-230	0504506127		102-2		RIFLE-BOULTON #1	DIVIDE CREEK	18.0	NORTHWEST PIPELIN
8232148	81-231	0507508243		107-TF		SPARKS #36-4	PLATEAU	73.0	NORTHWEST PIPELIN
8232153	81-232	0507508243		102-2		SPARKS #36-4	PLATEAU	73.0	NORTHWEST PIPELIN
8232124	81-223	0507708260		103		WALCK #14-3	PLATEAU	91.0	NORTHWEST PIPELIN
8232149	81-222	0507708260		107-TF		WALCK #14-3	PLATEAU	91.0	NORTHWEST PIPELIN
8232147	81-221	0507708259		107-TF		WALCK #23-2	PLATEAU	91.0	NORTHWEST PIPELIN
8232154	81-220	0507708259		102-2		WALCK #23-2	PLATEAU	91.0	NORTHWEST PIPELIN
8232145	81-234	0507708218		107-TF		WILLIAMS #18-3	PLATEAU	91.0	NORTHWEST PIPELIN
8232156	81-233	0507708218		102-2		WILLIAMS #18-3	PLATEAU	91.0	NORTHWEST PIPELIN
-TEXAS OIL & GAS CORP				RECEIVED:	05/12/82	JA: CO			
8232117	81-309	0509906138		102-2		ELLENBERGER #1	WILDCAT	68.4	
8232116	81-308	0509906289		102-2		MYERS "C" #1	WALSH	18.0	NUECES CO

OKLAHOMA CORPORATION COMMISSION

-AMOCO PRODUCTION CO				RECEIVED:	05/10/82	JA: OK			
8231898	18446	3501521315		107-DP		SYLVESTER UNIT #1	WILDCAT (SPRINGER)	1000.0	SOUTHERN NATURAL
-ANADARKO PRODUCTION COMPANY				RECEIVED:	05/10/82	JA: OK			
8231884	13918	3500320893		103		LOOKABAUGH A-2	S E LAMBERT	110.0	PIONEER GAS PRODU
-ANDOVER OIL COMPANY				RECEIVED:	05/10/82	JA: OK			
8231909	16768	3514920149		102-2		DYCK #9-1		50.0	EL PASO NATURAL G
8231910	16604	3501721926		102-2		MILLER #16-1		45.0	PHILLIPS PETROLEU
8231885	16351	3501521105		107-DP		SWEN #14-1		0.0	EL PASO NATURAL G
8231874	14096	3501722009		103		WITTROCK #1-2		180.0	DELMI GAS PIPELIN
8231873	14017	3501722008		103		WITTROCK #1-4		180.0	DELMI GAS PIPELIN
-ARKLA EXPLORATION COMPANY				RECEIVED:	05/10/82	JA: OK			
8231911	17028	3503920419		102-2		ESSARY-HUSEBY #1	INDIANAPOLIS	550.0	ARKANSAS LOUISIAN
-BEARD OIL COMPANY				RECEIVED:	05/10/82	JA: OK			
8231888	14876	3510920475		103		BARTON #1	CHOCTAW	148.0	OKLAHOMA NATURAL
-CHAMPLIN EXPLORATION INC				RECEIVED:	05/10/82	JA: OK			
8231877	14024	3509300888		103		NOBLE #1-26	NE CHEYENNE VALLEY	98.0	PHILLIPS PETROLEU
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	05/10/82	JA: OK			
8231842	14032	3508300080		103		R B BECK #7	CASHION	7.0	CITIES SERVICE GA
-CHEYENNE EXPLORATION INC				RECEIVED:	05/10/82	JA: OK			
8231845	14037	3504722731		103		REUSSNER #2	HUNTER (SOUTH & WEST)	46.0	ARCO OIL & GAS CO
-CHINOOK RESOURCES INC				RECEIVED:	05/10/82	JA: OK			
8231915	14173	3501721589		103		MILTON SHEDECK #2	WEST YUKON	328.0	PHILLIPS PETROLEU
-CLASSEN OIL AND GAS COMPANY				RECEIVED:	05/10/82	JA: OK			
8231902	14111	3508321702		103		MN RIGHTLINGER 883-70603	SOONER TREND	0.0	CONOCO OIL CO
-COQUINA OIL CORPORATION				RECEIVED:	05/10/82	JA: OK			
8231906	14074	3510321425		103		BRIGGS #1	UNDESIGNATED	237.0	ARCO OIL & GAS CO
-COTTON PETROLEUM CORPORATION				RECEIVED:	05/10/82	JA: OK			
8231883	16332	3501521262		107-DP		SCHLITT #1	VERDEN N W	0.0	UNITED GAS PIPE L
-DARLING DRILLING CO				RECEIVED:	05/10/82	JA: OK			
8231900	14118	3508121137		103		GOODBERRY #1-31 SEC 31-16N-3E	WEST CARNEY SEC 31-16	0.0	SUN GAS A DIVISIO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	
-DAVSON OPERATING CO INC							
8231862	12106	3513908880		RECEIVED:	05/10/82	JA: OK	
				108		LEGGETT #1	
-DERINEX US OIL COMPANY				RECEIVED:	05/10/82	JA: OK	
8231860	11457	3504921368		102-4		GREEN #2	
-DOUBLE DIAMOND INC				RECEIVED:	05/10/82	JA: OK	
8231861	11595	3510920242		102-4		MIGILL #1	
-EARTH ENERGY RESOURCES INC				RECEIVED:	05/10/82	JA: OK	
8231918	16907	3511921808		102-4		JORDAN #1	
-EL PASO NATURAL GAS COMPANY				RECEIVED:	05/10/82	JA: OK	
8231857	16994	3512920713		102-2		BAILEY #1	
8231886	13993	3500935580		108		WALLACE A #1	
-ESTATE OF H L HUNT				RECEIVED:	05/10/82	JA: OK	
8231895	14051	3515300000		108		ARLENE SHUCK #1	
-FLINT & ASSOCIATES				RECEIVED:	05/10/82	JA: OK	
8231837	14000	3510720635		103		CRAWLEY #1	
8231838	14001	3510720635		103		CRAWLEY #1	
8231840	14003	3510720680		103		T C #1	
8231839	14002	3510720679		103		VELTON #1	
-GEORGE ROOMAN INC				RECEIVED:	05/10/82	JA: OK	
8231889	14086	3508720609		103		BENNINGFIELD #1-23	
-GETTY OIL COMPANY				RECEIVED:	05/10/82	JA: OK	
*8231881	14139	3513722812		103		DOAK UNIT #6 (HUNTON)	
*8231904	14089	3513722715		103		KUENKEL-STEPHENS NO 1	
-HENRY H GUNGOLL ASSOCIATES				RECEIVED:	05/10/82	JA: OK	
8231844	14036	3504722749		103		F W 2-15	
-HPC INC				RECEIVED:	05/10/82	JA: OK	
8231896	14073	3501721967		103		AIRPORT TRUST #10	
-INTERNORTH INC				RECEIVED:	05/10/82	JA: OK	
8231907	14062	3513921496		103		IRELAND 12-1	
-JA-LARK OIL CO				RECEIVED:	05/10/82	JA: OK	
8231879	14029	3508321799		103		MCCURDY #1	
-JACK BOWLES				RECEIVED:	05/10/82	JA: OK	
8231850	14046	3505320404		103		BRECKENRIDGE #1	
8231851	14047	3505320429		103		MARKWELL #1	
8231854	14056	3505320463		103		MONROE #1	
8231852	14048	3504721372		103		THOMPSON #1	
8231853	14055	3504721475		103		THORNE #1	
-JIMMY W GRAY				RECEIVED:	05/10/82	JA: OK	
8231988	16725	3504924390		103		DIXIE #1	
-JOE L THOMPSON INC				RECEIVED:	05/10/82	JA: OK	
8231914	14167	3508321681		103		PETREE #1	
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	05/10/82	JA: OK	
8231855	14028	3504700000		108		M BRENKENDORF	
-L O WARD				RECEIVED:	05/10/82	JA: OK	
8231878	14026	3502700000		103		INDIAN HILLS #1	
8231905	14077	3502720540		103		OKLAHOMA C-16 #4	
-LEAR PETROLEUM EXPLORATION INC				RECEIVED:	05/10/82	JA: OK	
8231897	16487	3514920258		107-OP		HECK #1-12	
8231916	16547	3504321395		103		LIEBERT #1-11	
-LOBAR OIL CO INC				RECEIVED:	05/10/82	JA: OK	
8231847	14041	3508320989		103		MILLICAN #1	
-MAJOR OIL CORP				RECEIVED:	05/10/82	JA: OK	
8231843	14033	3509322196		103		RATZLAFF #17-2 LTD	

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FIELD NAME	PROD	PURCHASER
CAMRICK	16.5	PHILLIPS PETROLEU
PAOLI S W "A"	274.0	WARREN PETROLEUM
NW PRAIRIE BELL	180.0	PHILLIPS PETROLEU
WEST VINCO	12.0	
UNDESIGNATED CHEROKEE	75.0	EL PASO NATURAL G
ERICK SOUTH - BROWN D	19.0	EL PASO NATURAL G
WEST CHESTER	0.0	MICHIGAN WISCONSI
GREGORY	36.5	PUBLIC SERVICE CO
GREGORY	189.5	PUBLIC SERVICE CO
GREGORY	189.5	PUBLIC SERVICE CO
GREGORY	91.3	PUBLIC SERVICE CO
PAYNE	81.0	SUN GAS CO
SHO-VEL-TUM	380.0	OKLAHOMA NATURAL
SHO-VEL-TUM	250.0	OKLAHOMA NATURAL
SOONER TREND	90.0	
UNNAMED	0.0	PHILLIPS PETROLEU
E TYRONE	488.0	INTERNORTH INC
	0.0	EASON OIL CO
KREMLIN	120.0	CRA INC
KREMLIN	0.0	CRA INC
KREMLIN	0.0	CRA INC
KREMLIN	0.0	CRA INC
KREMLIN	0.0	CRA INC
ANTIOC	365.0	WARREN PETROLEUM
	14.0	
BRECKENRIDGE	16.0	CHAMPLIN PETROLEU
SOUTH MORRE	73.0	SUN GAS CO
	125.0	SUN GAS CO
SOUTH HYDRO	3934.0	EL PASO NATURAL G
WEST SEILING	365.0	PRODUCER'S GAS CO
CRESCENT-LOVELL	0.0	EASON OIL CO
RINGWOOD	75.0	PIONEER GAS PRODU

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-MOBIL OIL CORP				RECEIVED:	05/10/82	JA: OK
8231887	14049	3509500888		108		WARD-RAINES UNIT #1
-MONSANTO COMPANY				RECEIVED:	05/10/82	JA: OK
8231917	16848	3502720680		102-4		GOLDMAN #1-6
-NOVA ENERGY CORPORATION				RECEIVED:	05/10/82	JA: OK
8231849	14045	3507323296		103		AHLDEN #2-34
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	05/10/82	JA: OK
8231865	13949	3501521167		103		EAST BINGER UNIT #37-2
8231867	13953	3505120842		103		NORVILL "B" #1
8231868	14059	3501700000		103		SAHARA "A" #1
8231866	13952	3504520983		103		STAHLMAN "A" #1
8231864	13948	3501720691		103		WHITE FARMS "A" #1
-PREMIER RESOURCES LTD				RECEIVED:	05/10/82	JA: OK
8231901	14113	3504722705		103		IVEN #1 A092-01
8231902	14112	3504722734		103		IVEN #2 A092-02
8231903	14115	3504722778		103		IVEN #3 A092-03
-RAINBOW OIL & GAS EXPLORATION				RECEIVED:	05/10/82	JA: OK
8231894	16322	3511700000		103		BILLY #1-12
-RICKS EXPLORATION CO				RECEIVED:	05/10/82	JA: OK
8231848	16768	3501521178		102-4	103	DAILY B-ELLIOTT #1-24
-SAMSON RESOURCES COMPANY				RECEIVED:	05/10/82	JA: OK
8231863	13818	3515300000		108		EVELYN DAY #1
8231841	13819	3500720287		108		SOUTHERLAND #1
-SOUTHLAND ROYALTY CO				RECEIVED:	05/10/82	JA: OK
8231856	14006	3509322169		103		WOODRING #4-31
-STAR RESOURCES INC				RECEIVED:	05/10/82	JA: OK
8231891	14106	3506321134		103		RAINBOLT 1-3
-SULLIVAN AND CO				RECEIVED:	05/10/82	JA: OK
8231903	14104	3508121460		103		COLONIAL ROYALTY #1
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	05/10/82	JA: OK
8231876	14019	3501121586		103		GLADYS BEDWELL #2
8231875	14018	3504520938		103		O W BOWMAN #1
-TAYLOR INTERNATIONAL INC				RECEIVED:	05/10/82	JA: OK
8231898	14103	3511921559		103		B LEITH #2
-TENNECO OIL COMPANY				RECEIVED:	05/10/82	JA: OK
8231912	17032	3512920718		102-2		ALLEN UNIT #1-17
8231913	17033	3507323357		102-2		BOLLMAN #1-30
8231858	17034	3507720245		102-2		CECIL #1-19
-THE WIL-RC OIL CORP				RECEIVED:	05/10/82	JA: OK
8231882	16993	3513721942		102-4		OLIVER #1 (61-3)
-TRANS-WORLD EXPLORATION CO				RECEIVED:	05/10/82	JA: OK
8231846	14038	3507122403		103		ASBURY #2
-UNIVERSAL RESOURCES CORPORATION				RECEIVED:	05/10/82	JA: OK
8231859	17041	3500920339		102-2		MARRIOTT 1-36
-WALTER A KELLY JR				RECEIVED:	05/10/82	JA: OK
8231899	16913	3511921803		102-4		C E WALL #4
8231919	16910	3511921809		102-4		SASSER-BAILEY #1
-WILLIS EXPLORATION INC				RECEIVED:	05/10/82	JA: OK
8231888	14035	3501722060		103		HOLE-N #1
-WOODS PETROLEUM CORPORATION				RECEIVED:	05/10/82	JA: OK
8231920	17062	3504321367		102-4		HARRIET BARNES #30-1
8231921	17063	3504321304		102-4		STATE OF OK #1-A
-WORLD OIL INC				RECEIVED:	05/10/82	JA: OK

FIELD NAME	PROD	PURCHASER
AYLESWORTH	2.1	PIONEER GAS PRODU
WHEATLAND SE	8.0	SUN GAS CO
NE OKARCHE	8.0	
EAST BINGER	8.0	OKLAHOMA NATURAL
BRADLEY GOLDEN TREND	165.0	TRANSOK PIPELINE
	8.0	ONG WESTERN INC
NORTH ARNETT	0.0	PANHANDLE EASTERN
UNION CITY	385.0	TRANSOK PIPELINE
EAST KREMLIN	90.0	CRA INC
EAST KREMLIN	78.0	CRA INC
EAST KREMLIN	93.0	CRA INC
	8.0	MID-AMERICA GAS L
N SICKLES	1590.0	ARKANSAS LOUISIAN
NORTH WEST WOODWARD	13.3	NORTHERN NATURAL
MOCANE LAVERNE	12.2	PANHANDLE EASTERN
ORION	58.0	PHILLIPS PETROLEU
VELEETKA	8.0	PUBLIC SERVICE CO
W RED ROUND	66.0	SUN OIL CO
OKEENE NW	53.7	OKLAHOMA NATURAL
W VICI	97.0	PANHANDLE EASTERN
N SCHELGEL	14.0	PARKS ENERGY INVE
HAMMON SW	813.0	
OKANCHE W	153.0	
BUZZARD	762.0	
COMANCHE	297.0	
DILWORTH	21.6	NEWKIRK GAS TRANS
	0.0	EL PASO NATURAL G
WEST VINCO	12.5	
WEST VINCO	10.0	
NORTHEAST MUSTANG	54.0	CONOCO INC
PUTNAM	183.0	MICHIGAN WISCONSI
PUTNAM	118.0	MICHIGAN WISCONSI

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8231871	14014	3508321780		103		AMY #3	SW ORLANDO	0.0	
8231869	14012	3508321582		103		DORUS #1	N W RUSSELL	1.0	EASON OIL CO
8231870	14013	3508321663		103		PATTY #1	NE HULL	15.0	EASON OIL CO
8231872	14015	3508321574		103		SUSAN #1	SE ELK HORN	37.0	AMINOIL USA INC

TENNESSEE OIL & GAS BOARD

-B & W OIL CO			RECEIVED:	05/12/82	JA: TN				
8232049	A-903	4112920962	102-2			STRAND-KECK- & CORBITT #1	GLADES EAST	12.0	EAST TENNESSEE NA
-B-J INC			RECEIVED:	05/12/82	JA: TN				
8232038	A 929	4104920729	102-2			CARSON HULL CA 1981-1 #1	RUGBY	12.4	INTRASTATE ENERGY
8232029	A 928	4104920999	102-2			CARSON HULL CA-1 #2	RUGBY	161.3	INTRASTATE ENERGY
8232023	A 930	4113910999	102-2			G C PEMBERTON-COAKLEY UNIT #1	RUGBY	77.0	INTRASTATE ENERGY
8232041	A 1054	4115120941	102-2			PEMBERTON-BAKER PFG-V #1	GUM BRANCH	127.7	INTRASTATE ENERGY
8232070	A 1006	4115120925	102-2			RUGBY LAND COMPANY JDE-1 #1	UNKNOWN	657.0	INTRASTATE ENERGY
8232040	A-1053	4115120943	102-2			RUGBY LAND COMPANY MC 1981-2 #1	UNKNOWN	373.3	INTRASTATE ENERGY
-BILL RAY			RECEIVED:	05/12/82	JA: TN				
8232056	A 889	4115120505	102-2			JAMES YANCEY #1	JOHN HALL FLATS	20.0	INTRASTATE ENERGY
8232051	A 890	4115120543	102-2			YANCEY YORK #2	JOHN HALL FLATS	5.0	INTRASTATE ENERGY
8232055	A 888	4115120516	102-2			YANCEY-YORK UNIT #1	JOHN HALL FLATS	24.0	INTRASTATE ENERGY
-BLACK GOLD DISCOVERY INC			RECEIVED:	05/12/82	JA: TN				
8231946	A-922	4113320274	102-2			R HUFFINE-C DUKE #1	NEW FIELD - WILDCAT	15.0	RURAL GAS GATHERI
-BLENDA MILLER & B*JEWCO DRILLING CO			RECEIVED:	05/12/82	JA: TN				
8232024	A 926	4104920163	102-2			EDWARD TOMPKINS #1	UNKNOWN	21.9	INTRASTATE ENERGY
8232028	A 927	4115120298	102-2			MAURICE KANE #1	SHUG MOUNTAIN	15.3	INTRASTATE ENERGY
-CATOOSA EXPLORATION CORP			RECEIVED:	05/12/82	JA: TN				
8232097	A-1073	4104920240	102-2			ARNOLD COLDITZ ETAL #3		3.5	FENTRESS GAS TRAN
8232095	A-1072	4104920241	102-2			ARNOLD COLDITZ ETAL #4		3.5	FENTRESS GAS TRAN
8232045	A 1071	4104920546	102-2			E H HALL #1		2.0	FENTRESS GAS TRAN
8232043	A 1075	4104920547	102-2			E H HALL #2		2.0	FENTRESS GAS TRAN
8232093	A-1069	4104920305	102-2			GORDON KOGER-COLDITZ BROS UNIT #1		2.0	FENTRESS GAS TRAN
8232096	A-1076	4104920148	102-2			GUY WILLIAMS #B-1		2.0	FENTRESS GAS TRAN
8232094	A-1070	4104920149	102-2			GUY WILLIAMS #C-1		2.0	FENTRESS GAS TRAN
8232047	A 1067	4104920488	102-2			R G BURNETT #1		3.2	FENTRESS GAS TRAN
8232046	A-1066	4104920489	102-2			ROBERT T BEATY #1		1.0	FENTRESS GAS TRAN
8232092	A-1068	4104920385	102-2			WALTER GERNT #1		2.2	FENTRESS GAS TRAN
8232048	A 1065	4104920173	102-2			WILLIAM C JOHNSON #1		2.0	FENTRESS GAS TRAN
8232044	A-1074	4104920251	102-2			WILLIAM C JOHNSON #2		3.0	FENTRESS GAS TRAN
-CLYDE FULLER			RECEIVED:	05/12/82	JA: TN				
8231963	A-1081	4112920778	102-4			BOBBY YORK #CH-4	NONE	40.0	INTRASTATE ENERGY
8231923	A-1007	4112920750	102-2			BOBBY YORK #PR-2		100.0	INTERSTATE ENERGY
-COMMERCE OIL CO			RECEIVED:	05/12/82	JA: TN				
8232068	A 909	4112920797	102-2			B & L LAND CO PLATEAU PROP U A #2	STOWERS NW	21.9	GAS LINES OF TN
8232067	A 910	4112920799	102-2			B & L LAND CO #5	B & L LAND CO #5	21.9	GAS LINES OF TENN
8231970	A-894	4112920667	102-2			B & L LAND CO BEARDEN #1	STOWERS NW	21.9	GAS LINES OF TENN
8231953	A-898	4112920798	102-2			B & L LAND CO PLATEAU PROP U A #1	STOWERS NW	21.9	GAS LINES OF TENN
8232025	A 891	4112920011	102-4			B & L LAND COMPANY #1	STOWERS NW	21.9	GAS LINES OF TENN
8232063	A-908	4112920167	102-4			B & L LAND COMPANY #2	STOWERS NW	21.9	GAS LINES OF TENN
8231971	A-895	4112920617	102-2			B & L LAND COMPANY #3	STOWERS NW	21.9	GAS LINES OF TENN
8232050	A-892	4112920646	102-2			B & L LAND COMPANY #4	STOWERS NW	21.9	GAS LINES OF TENN
8232065	A-915	4112920833	102-2			B & L LAND COMPANY #6	STOWERS NW	21.9	GAS LINES OF TENN
8231969	A-893	4112920678	102-2			B & L LAND-LAYNE UNIT #1	STOWERS NW	21.9	GAS LINES OF TENN
8231973	A-897	4112920676	102-2			B & L LAND-TINCH UNIT #1	STOWERS NW	21.9	GAS LINES OF TENN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8232052	A 912	4112920996		102-2		ORA AUSTIN #1	STOWERS NW	21.9	GAS LINES OF TENN
8232064	A 914	4112921000		102-2		PLATEAU PROPERTIES #1	STOWERS NW	21.9	GAS LINES OF TENN
8232066	A-911	4112921003		102-2		PLATEAU PROPERTIES #2	STOWERS NW	21.9	GAS LINES OF TENN
8231972	A-896	4112920801		102-2		TINCH #1	STOWERS NW	21.9	GAS LINES OF TENN
-CUMBERLAND OIL PRODUCING CO INC				RECEIVED:	05/12/82	JA: TN			
8232062	A-907	4112920508		108		ROBBINS #1	DOUGLAS BRANCH	0.0	EAST TN NATURAL G
8232071	A-915	4112920438		108		S LUCHIN ET AL UNIT #1	DOUGLAS BRANCH	0.0	EAST TENNESSEE NA
-DELOY MILLER				RECEIVED:	05/12/82	JA: TN			
8232027	A 935	4112921029		102-2		ELSIE GERHART UNIT #1		620.0	INTRASTATE ENERGY
8231925	A-1049	4112921066		102-2		HOWARD DORTCH UNIT #1	DAN BRANCH	455.0	GAS LINES OF TENN
8231926	A-1048	4112921057		102-2		L FRANKS CAMPBELL UNIT #1	DAN BRANCH	50.0	GAS LINES OF TENN
8231924	A-1050	4112920823		102-2		STAPLES UNIT #1	DAN BRANCH	0.0	GAS LINES OF TENN
8231927	A-1047	4112920788		102-2		STAPLES UNIT #2	DAN BRANCH	0.0	GAS LINES OF TENN
8231943	A-1083	4104920584		102-2		WHITEHEAD #4E	STOCKTON	380.0	INTRASTATE ENERGY
8232060	A 1084	4104920583		102-2		WHITEHEAD #5E	STOCKTON	1.5	INTRASTATE ENERGY
8231929	A-1044	4115121501		102-2		WOODRUM ESTATE #1	STANLEY JUNCTION	36.9	INTRASTATE ENERGY
8231928	A-1045	4115120521		102-2		WOODRUM ESTATES #2	STANLEY JUNCTION	2.0	INTRASTATE ENERGY
-DIXIE-SHAMROCK OIL & GAS INC				RECEIVED:	05/12/82	JA: TN			
8231961	A-963	4115120865		102-2		BRIMSTONE #15	BRIMSTONE CREEK	2.3	
8231985	A-964	4115120883		102-2		BRIMSTONE #20	BRIMSTONE CREEK	1.4	
8231962	A-962	4115110855		102-2		BRIMSTONE-ROBBINS #1	BRIMSTONE CREEK	2.3	
8231960	A-961	4115120864		102-2		BRIMSTONE-ROBBINS #2	BRIMSTONE CREEK	1.4	
8231959	A-960	4115120882		102-2		BRIMSTONE-ROBBINS #3	BRIMSTONE CREEK	1.8	
8232012	A-936	4104920575		102-2		BRUNO GERNT ESTATES #24	STOCKTON SW	0.5	
8232014	A 938	4104920521		102-2		BRUNO GERNT ESTATES INC #12	STOCKTON SW	0.9	
8232015	A-939	4104920644		102-2		EST OF BRUNO GERNT #22	STOCKTON SW	0.6	
8232016	A-940	4104920785		102-2		EST OF BRUNO GERNT #30	STOCKTON SW	0.8	
8232017	A-941	4104920624		102-2		EST OF BRUNO GERNT #32	STOCKTON SW	0.5	
8232018	A-942	4104920643		102-2		EST OF BRUNO GERNT #35	STOCKTON SW	1.3	
8232019	A-943	4104920681		102-2		EST OF BRUNO GERNT #36	STOCKTON SW	0.9	
8232020	A-944	4104920702		102-2		EST OF BRUNO GERNT #38	STOCKTON SW	1.3	
8232013	A-937	4104920752		102-2		EST OF BRUNO GERNT #8	STOCKTON SW	1.1	
8232101	A-1058	4104920528		102-2		ESTATE OF BRUNO GERNT #15	STOCKTON SW	0.2	
8232042	A 1055	4104920668		102-2		ESTATE OF BRUNO GERNT #37	STOCKTON SW	0.5	
8232100	A-1059	4104920689		102-2		ESTATE OF BRUNO GERNT #39	STOCKTON SW	0.2	
8232021	A-945	4104920735		102-2		GERNT BROTHERS #1	STOCKTON SW	0.5	
8232022	A 946	4104920739		102-2		GERNT BROTHERS #2	STOCKTON SW	0.5	
8232009	A-947	4104920763		102-2		GERNT ET AL #2	STOCKTON SW	0.5	
8232010	A-948	4104920637		102-2		GERNT-GERNT #1	STOCKTON SW	0.6	
8232011	A-949	4104920723		102-2		GERNT-GERNT #4	STOCKTON SW	0.5	
8232085	A-998	4112920978		102-2		HUGH D FAUST #10	PILOT MOUNTAIN	0.2	
8232084	A-999	4112920994		102-2		HUGH D FAUST #12	PILOT MOUNTAIN	0.9	
8232090	A-993	4112920836		102-2		HUGH D FAUST #2	PILOT MOUNTAIN	0.2	
8232089	A-994	4112920853		102-2		HUGH D FAUST #3	PILOT MOUNTAIN	0.4	
8232088	A 995	4112920878		102-2		HUGH D FAUST #6	PILOT MOUNTAIN	0.6	
8232087	A-996	4112920947		102-2		HUGH D FAUST #7	PILOT MOUNTAIN	0.9	
8232086	A 997	4112920954		102-2		HUGH D FAUST #9	PILOT MOUNTAIN	0.9	
8231955	A-956	4104920699		102-2		MERCHANT #1	STOCKTON SW	91.3	
8232082	A 1081	4112920911		102-2		PEMBERTON ET AL #1	PILOT MOUNTAIN	2.1	
8232103	A-1062	4112920731		102-2		PEMBERTON-POTTER #1	WILDCAT	0.6	
8231956	A-957	4104920676		102-2		PLATEAU PROPERTIES INC #1	STOCKTON SW	4.6	
8231958	A-959	4104926450		102-2		PLATEAU PROPERTIES-CROUCH #1	STOCKTON SW	0.5	
8232081	A 1002	4112920886		102-2		RICH ET AL #1	PILOT MOUNTAIN	9.1	

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8232102	A-1061	4112920890		102-2		ROSS WILLIAMS #2	UNNAMED	0.2	
8232104	A-1063	4112920918		102-2		SCOTT ET AL #1	UNNAMED	0.2	
8232083	A 1000	4112920914		102-2		SEXTON ET AL #1	PILOT MOUNTAIN	2.9	
8231957	A-958	4104920649		102-2		STOCKTON ET AL #1	STOCKTON SW	2.7	
8232099	A-1057	4115120886		102-2		THE BRIMSTONE COMPANY #23	BRIMSTONE CREEK	0.9	
8232098	A-1056	4115120886		102-2		THE BRIMSTONE COMPANY #24	BRIMSTONE CREEK	0.9	
-FARMSTEAD CORP				RECEIVED:	05/12/82	JA: TN			
8232105	A-1023	4115120872		102-2		WILLIE DAVIS ET AL #1	NONE	21.9	INTRASTATE ENERGY
-GLEN A WRIGHT				RECEIVED:	05/12/82	JA: TN			
8231987	A-1082	4112920336		102-2		GOLDMAN YORK #2		50.0	INTERSTATE ENERGY
8231990	A-1080	4112920326		102-2		YORK-SELINSKE #1		30.0	INTERSTATE ENERGY
-HICKORY CREEK DEVELOPMENT CORP				RECEIVED:	05/12/82	JA: TN			
8231968	A-887	4103120067		102-2		DAVID KEELE UNIT #1	HICKORY CREEK	75.0	
8231967	A-886	4103120065		102-2		ELMER CROUCH UNIT #1	HICKORY CREEK	75.0	
8231965	A-884	4103120064		102-2		LLOYD BOWDEN UNIT #1	HICKORY CREEK	75.0	
8231966	A-885	4103120066		102-2		W D LANSFORD UNIT #1	HICKORY CREEK	75.0	
-HITT CONTRACT DRILLING CO				RECEIVED:	05/12/82	JA: TN			
8231964	A-928	4104920719		102-2		GARY ROGERS #1		13.0	FENTRESS GAS TRAN
8231949	A-919	4104920779		102-2		GARY ROGERS #2		5.0	FENTRESS GAS TRAN
8231950	A-916	4104920787		102-2		GARY ROGERS #3		7.5	FENTRESS GAS TRAN
8231951	A-917	4104920788		102-2		GARY ROGERS #4		5.0	FENTRESS GAS TRAN
8231952	A-918	4104920789		102-2		GARY ROGERS #5		7.5	FENTRESS GAS TRAN
-HOMESTEAD ENERGY CORP.				RECEIVED:	05/12/82	JA: TN			
8231988	A-1089	4112930869		102-2		LEE BRANSTETTER #1A	BUCKLICK FIELD	5.1	CUMBERLAND NATURA
8232091	A-1077	4115120932		102-4		MARCUM-TERRY UNIT #1	NEW HAVEN (ABD)	0.5	CUMBERLAND NATURA
8232082	A-1088	4112920983		102-4		MILLER BRANSTETTER #1A	DOUGLAS BRANCH	7.7	CUMBERLAND NATURA
8232081	A-1087	4115120835		102-4		T PHILLIPS/O PHILLIPS/O'PHILLIPS 1A	NIGGS CREEK	4.0	CUMBERLAND NATURA
-HUDSON RESOURCES				RECEIVED:	05/12/82	JA: TN			
8231954	A-874	4112920597		102-2		HORACE WEAVER #1	MONTEAGLE	82.9	INTRASTATE ENERGY
-IDEAL DRILLING CO				RECEIVED:	05/12/82	JA: TN			
8231932	A-1046	4115110139		102-4		M J KEETON #1	NIGGS CREEK	0.0	INTRASTATE ENERGY
-KIMBERLY OIL & GAS INC				RECEIVED:	05/12/82	JA: TN			
8231989	A-1060	4112920948		102-2		CONWAY-JOHNSON #1		162.8	GAS LINES OF TENN
-LELAND PETROLEUM PRODUCTION INC				RECEIVED:	05/12/82	JA: TN			
8232058	A 1086	4112920861		103		ELIZABETH DEAN #1	WILDCAT	6.1	INTRASTATE ENERGY
8232059	A 1085	4112920862		103		JAMES E DEAN #1	WILDCAT	9.7	INTRASTATE ENERGY
-MICHAEL HAL ANDERSON				RECEIVED:	05/12/82	JA: TN			
8232026	A 924	4115120871		102-2		MCCANN-KEETON #1	NONE	36.5	INTRASTATE ENERGY
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	05/12/82	JA: TN			
8231947	A-921	4112920354		108		BRANSTETTER-BRANSTETTER UNIT #1	DOUGLAS BRANCH	22.2	CUMBERLAND OIL PR
-RANDY HUDSON				RECEIVED:	05/12/82	JA: TN			
8232057	A 876	4115120703		102-2		BILLY BURTON #1	NONE	36.5	INTRASTATE ENERGY
-RATLIFF FARMS INC				RECEIVED:	05/12/82	JA: TN			
8232053	A 902	4112920381		102-2		R K SUOMINEN #1 PERMIT 1835	INDIAN CREEK	25.5	INTRASTATE ENERGY
-RONALD L WINNINGHAM				RECEIVED:	05/12/82	JA: TN			
8232004	A-976	4112921060		102-4		G C PEMBERTON BJI-1981-1-#1	UNKNOWN	90.5	INTRASTATE ENERGY
8232003	A-978	4112921052		102-4		PEMBERTON-BAKER BJI-1980-1 #1	UNKNOWN	132.1	INTRASTATE ENERGY
8232005	A-977	4112920926		102-2		RUGBY LAND COMPANY BJI-1981-1 #1	UNKNOWN	74.8	INTRASTATE ENERGY
-SAINT JOSEPH PETROLEUM INC				RECEIVED:	05/12/82	JA: TN			
8232069	A 1022	4104920595		102-2		CROOKS ET AL #1	STOCKTON	36.8	
-SONIC PETROLEUM INC				RECEIVED:	05/12/82	JA: TN			
8231922	A-1051	4112921022		102-4		BOB ANDERSON S-1		100.0	INTERSTATE ENERGY
-SRI DRILLING CO				RECEIVED:	05/12/82	JA: TN			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8231941	A-1024	4112920975		102-4		G C PEMBERTON #1	PLEASANT RIDGE	13.0	EAST TENNESSEE NA
8232038	A 1033	4112921035		102-4		G C PEMBERTON #10 A	PLEASANT RIDGE	7.2	EAST TENNESSEE GA
8232039	A 1034	4112921036		102-4		G C PEMBERTON #11-A	PLEASANT RIDGE	7.2	EAST TENNESSEE OI
8231942	A-1025	4112920991		102-4		G C PEMBERTON #2-A	PLEASANT RIDGE	11.0	EAST TENNESSEE NA
8232031	A 1026	4112920997		102-4		G C PEMBERTON #3-A	PLEASANT RIDGE	16.0	EAST TENNESSEE NA
8232032	A 1027	4112920998		102-4		G C PEMBERTON #4-A	PLEASANT RIDGE	30.0	EAST TENNESSEE NA
8232034	A 1029	4112921008		102-4		G C PEMBERTON #6-A	PLEASANT RIDGE	3.8	EAST TENNESSEE NA
8232035	A 1030	4112921015		102-4		G C PEMBERTON #7-A	PLEASANT RIDGE	15.0	EAST TENNESSEE NA
8232036	A 1031	4112921019		102-4		G C PEMBERTON #8-A	PLEASANT RIDGE	7.2	EAST TENNESSEE NA
8232037	A 1032	4112921024		102-4		G C PEMBERTON #9-A	PLEASANT RIDGE	0.8	EAST TENNESSEE NA
8232033	A 1028	4112921002		102-4		G C PEMBERTON 5-A	PLEASANT RIDGE	3.7	EAST TENNESSEE NA
8231937	A-1039	4112920717		102-4		G C PEMBERTON-R PEMBERTON #2	PLEASANT RIDGE	11.0	EAST TENNESSEE NA
8231938	A-1038	4112930709		102-4		G C PEMBERTON-RALPH PEMBERTON #1	PLEASANT RIDGE	14.8	EAST TENNESSEE NA
8231934	A-1042	4112920976		102-4		G C PEMBERTON-RALPH PEMBERTON #3	PLEASANT RIDGE	10.0	EAST TENNESSEE NA
8231936	A-1040	4112920760		102-4		NORTHRUP-PEMBERTON #2	PLEASANT RIDGE	12.0	EAST TENNESSEE NA
8231940	A-1036	4112920659		102-4		PEMBERTON-NORTHRUP #1	PLEASANT RIDGE	11.0	EAST TENNESSEE NA
8231939	A-1037	4112920688		102-4		RALPH PEMBERTON #1	PLEASANT RIDGE	14.4	EAST TENNESSEE NA
8231933	A-1043	4112920658		102-4		RALPH PEMBERTON-G C PEMBERTON #1	PLEASANT RIDGE	15.0	EAST TENNESSEE NA
8231935	A-1041	4112920761		102-4		RALPH PEMBERTON-G C PEMBERTON #2	PLEASANT RIDGE	16.4	EAST TENNESSEE NA
-TARTAN OIL COMPANY				RECEIVED:	05/12/82	JA: TN			
8231992	A-1052	4112920199		102-4		CONWAY JOHNSON #2 (PERMIT #945)	UNNAMED	17.5	
8231993	A-969	4115120387		102-2		G C PEMBERTON #1 (PERMIT #1950)	GUM BRANCH	5.0	
8231999	A-975	4115120554		102-2		G C PEMBERTON #3 (PERMIT #3026)	GUM BRANCH	50.0	
8231998	A-974	4115120441		102-2		PEMBERTON-HICKS-FOX 1 (PER 2191)	GUM BRANCH	30.0	
8231997	A-973	4115120463		102-2		RAY SHOEMAKER ETAL 1 (PER #2371)	GUM BRANCH	30.0	
8231995	A-971	4115120456		102-2		RAY-PEMBERTON UNIT #2 (PER #2308)	GUM BRANCH	30.0	
8231996	A-972	4115120468		102-2		RAY-PEMBERTON UNIT #3 (PER #2341)	GUM BRANCH	30.0	
8231994	A-970	4115120443		102-2		RAY-PEMBERTON UNIT 1 (PER 2221)	GUM BRANCH	10.0	
8232088	A-1064	4112920487		108		ROBERT D PARTEN #1 (PERMIT #2396)	SUNBRIGHT	4.8	INTRASTATE ENERGY
-TENNESSEE EXPLORATION GAS & OIL				RECEIVED:	05/12/82	JA: TN			
8231944	A-787	4112920474		103		MCCARTY ETAL #3		8.0	
8231945	A-786	4112920469		103		MCCARTY ETAL UNIT #2		8.0	
-TENNESSEE LAND & EXPLORATION CO				RECEIVED:	05/12/82	JA: TN			
8232087	A 979	4112920941		102-2		GRIFFITH ET AL #1 PER #4330	UNNAMED	9.8	INTRASTATE ENERGY
8232086	A-980	4112920882		102-2		PLATEAU PROPERTIES #8-1 PER #4067	PILOT MOUNTAIN	18.0	
8232088	A-981	4115120843		102-2		TENNESSEE RAILWAY CO #2 PER #4616	WINONA	365.0	
-TEXILL ENERGY CORP				RECEIVED:	05/12/82	JA: TN			
8232088	A 1005	4112900000		103		CASSELL HULING #1	UNKNOWN	45.0	INTRASTATE ENERGY
-TOWNER PETROLEUM CO				RECEIVED:	05/12/82	JA: TN			
8231977	A-1012	4115120438		103		BILL RAY #2		7.8	
8231981	A-1016	4115120817		103		JEFFERS-JEFFERS #1	WILDCAT	3.0	
8231986	A-1008	4115120533		103		KANE #24		4.0	
8231979	A-1014	4113320105		103		MITCHELL #1	WILD CAT	13.0	
8231980	A-1015	4113320146		103		MITCHELL #5	WILD CAT	6.0	
8231975	A-1010	4115120631		103		PEMBERTON #22		0.0	
8231976	A-1011	4112920738		103		PEMBERTON F-19	BOONE CAMP	13.8	
8232079	A 985	4112920742		103		PEMBERTON F-23	BOONE CAMP EXPLORATIO	2.0	
8232078	A 986	4112920781		103		PEMBERTON F-26	BOONE CAMP EXPLORATIO	1.0	
8232077	A 987	4112920787		103		PEMBERTON F-29	BOONE CAMP EXPLORATIO	2.8	
8232076	A-988	4112920792		103		PEMBERTON F-31	BOONE CAMP EXPLORATIO	29.0	
8232075	A 989	4112920881		103		PEMBERTON F-35	BOONE CAMP EXPLORATIO	33.8	
8232073	A 991	4112920874		103		PEMBERTON F-36	BOONE CAMP EXPLORATIO	20.0	
8232074	A 990	4112920155		103		PEMBERTON F-42	BOONE CAMP EXPLORATIO	22.8	

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8232072	A-992	4112924281		103		PEMBERTON F-45	BOONE CAMP EXPLORATIO	18.0	
8231974	A-1009	4112920662		103		PEMBERTON F-8	BOONE CAMP	39.0	
8231931	A-1019	4115120788		102-2		RUGBY LAND CO #5	RUGBY EAST EXPLORATIO	4.0	
8231984	A-1019	4115120788		103		RUGBY LAND CO #5		4.0	
8231948	A-1020	4115120789		102-2		RUGBY LAND CO #7		35.0	
8231982	A-1017	4115120789		103		RUGBY LAND CO #7		35.0	
8231930	A-1021	4115120788		102-2		RUGBY LAND CO #9	RUGBY EAST EXPLORATIO	35.0	
8231983	A-1018	4115120788		103		RUGBY LAND CO #9		35.0	
8231978	A-1013	4112920441		103		WENDELL-BYRD #1	WILD CAT	5.0	
-TRANS-TENNESSEE ENERGY CORP				RECEIVED:	05/12/82	JA: TN			
8231991	A-1078	4115173005		102-2		DONALD FROGGE #1		3.0	INTRASTATE ENERGY
-VOLUNTEER DRILLING CO INC				RECEIVED:	05/12/82	JA: TN			
8232054	A 900	4115120794		103		ONEIDA FARMS #2-A	ONEIDA SOUTH	365.0	INTRASTATE ENERGY
8232061	A-899	4115120845		103		SCOTT CO AIRPORT UNIT #1	ONEIDA SOUTH	365.0	INTRASTATE ENERGY
**********									
VIRGINIA DEPARTMENT OF LABOR & INDUSTRY									
**********									
-ASHLAND EXPLORATION INC				RECEIVED:	05/12/82	JA: VA			
8232109		4502720446		103		CLINCHFIELD-LITZ #1 - 092821	VIRGINIA GAS FIELD	67.0	CONSOLIDATED GAS
-CITIES SERVICE COMPANY				RECEIVED:	05/12/82	JA: VA			
8232110		4502720424		107-DV		GEORGIA - PACIFIC "A" #1	BRADSHAW	25.0	
-COLUMBIA GAS TRANSMISSION CORP				RECEIVED:	05/12/82	JA: VA			
8232107		4502700433		107-DV		NEW ERA COAL CORP 820719	VIRGINIA FIELD AREA	30.0	
8232108		4502700433		102-2		NEW ERA COAL CORP 820719	VIRGINIA FIELD AREA	12.7	
-PHILADELPHIA OIL COMPANY				RECEIVED:	05/12/82	JA: VA			
8232106		4505120429		107-TF		SAMUEL E ROSE - #P-109	NORA	150.7	KENTUCKY WEST VIR

OTHER PURCHASERS VOLUME NO 7660

8231881 LONE STAR GAS CO
8231904 LONE STAR GAS CO

BILLING CODE 6717-01-C

ENVIRONMENTAL PROTECTION AGENCY

[WH-FRL 2188-8]

Organic Chemicals Manufacturing Plastics and Synthetic Resins Category; Control Technology Center; Control Technology Center Workshop

AGENCY: Environmental Protection Agency.

ACTION: Notice of workshop to be conducted by the Control Technology Center.

SUMMARY: The Environmental Protection Agency (EPA) is announcing a workshop to be conducted by the Control Technology Center (CTC). The CTC was established by Section 304(b) of the Clean Water Act. EPA is providing technical assistance to permit writers and other regulatory personnel in the application of technology-based effluent limitations for the Organic Chemicals Manufacturing Plastics and Synthetic Resins Category. The workshop will be held in Cincinnati, Ohio, on June 29 and 30, 1982.

DATES: The workshop will be held on June 29 and 30, 1982, beginning at 8:30 a.m. each day.

ADDRESSES: The workshop will be held at the Cincinnati Marriott Inn, 11320 Chester Road, Cincinnati, Ohio 45246.

FOR FURTHER INFORMATION CONTACT: Mr. Ernst P. Hall, Control Technology Center (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-9060.

SUPPLEMENTARY INFORMATION: The workshop will be conducted by the Control Technology Center (CTC). The CTC was established by Section 304(b) of the Clean Water Act. EPA is providing technical assistance to permit writers and other regulatory personnel in the application of technology-based effluent limitations for the Organic Chemicals Manufacturing Plastics and Synthetic Resins Category. The workshop will be held in Cincinnati, Ohio, on June 29 and 30, 1982.

The workshop will begin at 8:30 a.m. each day. Registration will be held on June 28, 1982, from 4:00 p.m. to 8:00 p.m. at the Cincinnati Marriott Inn, 11320 Chester Road, Cincinnati, Ohio 45246. Registration will also be held on June 29, 1982, from 7:30 a.m. to 8:30 a.m. at the workshop site.

The workshop will provide technical assistance to permit writers and other regulatory personnel in the application of technology-based effluent limitations for the Organic Chemicals Manufacturing Plastics and Synthetic Resins Category. The workshop will be held in Cincinnati, Ohio, on June 29 and 30, 1982.

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The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before June 23, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-15405 Filed 6-7-82; 8:45 am]
BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[WH-FRL 2140-8]

Organic Chemicals Manufacturing and Plastics and Synthetics Point Source Categories; Intent to Transfer Confidential Information to a Contractor

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to transfer confidential information to a contractor.

SUMMARY: The Environmental Protection Agency (EPA) intends to transfer confidential information collected under Section 308 of the Clean Water Act to an EPA contractor. This information will assist the contractor in analyzing, revising, and reviewing the technical data base which supports effluent limitations and standards established under the Clean Water Act.

dates: Comments on the notice of transfer are due June 18, 1982.

FOR FURTHER INFORMATION CONTACT: Elwood H. Forsht, Organic Chemicals Branch, Effluent Guidelines Division (WH–552), Office of Water Regulations and Standards, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 426–2497.

SUPPLEMENTARY INFORMATION: The Clean Water Act of 1977 requires the Environmental Protection Agency to develop, revise, and review effluent limitations and standards for industrial point sources. The Office of Water Regulations and Standards is responsible for the plastics and synthetic fibers and organic chemicals industrial point source categories. EPA has awarded contracts to JRB Associates of McLean, Virginia (Contract Nos. 68–01–6347 and 68–01–6348) to provide statistical analyses and other contract support to the Office of Water Regulations and Standards.

One of the sources of information which EPA will use to assess effluent limitations and standards is the data collected from questionnaires sent to various industries under authority of Section 308 of the Clean Water Act. Many of the responses to these questionnaires contain fundamental information about plant size and location, wastewater composition, wastewater treatment systems, wastewater volume, production processes, and solid waste disposal practices. The specific survey responses which EPA will use in the course of its assessment relate to the 1976 (BPT) and 1977 (BAT) questionnaires including follow-up communications and submissions for the following Standard Industrial Classifications (SIC):

SIC code	Industry
2821	Plastic materials, synthetic resins and nonvulcanizable elastomers.
2823	Cellulosic man-made fibers.
2824	Synthetic organic fibers, except cellulosic.
2869	Industrial organic chemicals, NEC.
2865	Cyclic (coal tar) crudes and cyclic intermediates, dyes, and organic pigments (lakes and toners).

Many of these responses contain information which has been designated as confidential by the responding company.

The Agency has also used the authority of Section 308 to conduct numerous conventional, non-conventional and toxic pollutant parameter field sampling and analysis surveys of in-plant and end-of-pipe wastewater sources within these industries. Portions of this data also have been declared confidential by the sampled facilities.

EPA has determined that it is necessary to transfer this information to JRB Associates in order that they may carry out the work required by their contract. The contracts contain all confidentiality provisions required by EPA confidentiality regulation (40 CFR 2.302(h) (2–3)). In accordance with those regulations, sampled facilities and questionnaire respondents who have submitted confidential information have ten days from the date of this notice to comment on EPA's proposed transfer of this information to this contractor for the purposes outlined above (40 CFR 2.302(h)(2–3)).

Dated: May 28, 1982.

Frederic A. Eidsness, Jr.,
Assistant Administrator for Water.

[FR Doc. 82-15444 Filed 6-7-82; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Seminar on Implementing the 1990 Prevention Objectives; Open Meeting—Change in Date of Seminar

Notice of the open meeting of a seminar to review the 1990 objectives for the Nation and identify innovative ways the Centers for Disease Control can enhance its contribution to the accomplishment of the objectives for both urban and rural areas was published in the Federal Register (47 FR 23208) on Thursday, May 27, 1982.

The date of the meeting has been changed from June 17–18, 1982, *to September 23–24, 1982.* All other information concerning this seminar, as published on May 27, 1982, is unchanged.

Dated: June 1, 1982.

William H. Foege,
Director, Centers for Disease Control.

[FR Doc. 82-15340 Filed 6-7-82; 8:45 am]
BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 81N-0305]

Newport Pharmaceuticals International, Inc.; Isoprinosine; Revocation of Notice of Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is revoking a notice of hearing concerning a proposal to refuse to approve, and is refusing to approve, new drug application (NDA) 18–575 for Isoprinosine because the applicant, Newport Pharmaceuticals International, Inc., has withdrawn its request for a hearing.

FOR FURTHER INFORMATION CONTACT: Robert J. Rice, Jr., Regulations Policy Staff (HFC–10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3480.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 23, 1982 (47 FR 7878), the Commissioner of Food and Drugs announced the granting of a hearing to Newport Pharmaceuticals International, Inc., concerning the proposal to refuse to approve NDA 18–575 for the preparation Isoprinosine for the treatment of subacute sclerosing panencephalitis. By letter of March 11, 1982, Newport Pharmaceuticals International, Inc., withdrew its previously submitted request for a hearing concerning this new drug application. Accordingly, the notice of hearing is revoked and, under 21 U.S.C. 355(c)(2), FDA is refusing to approve the NDA, but without prejudice to further consideration of the issues presented.

Dated: May 28, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 82-15272 Filed 6-7-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82N–0150]

Antibiotic Drugs and Antibiotic Susceptibility Medical Devices; Interim Certification Procedures

Correction

On page 22224 in the issue for Friday, May 21, 1982, in the middle column, there is a correction with the heading as set forth above. The document corrected FR Doc. 82–12885 (see 47 FR 20186, May 11, 1982). Unfortunately, the correction contained an error. On page 22224 (May 21, 1982), in the third column, in the third line from the top of the column, the word "bathces" should have been "batches".

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

[N 82–1131]

Urban Development Action Grants; Revised Minimum Standards for Small Cities

AGENCY: Office of Assistant Secretary for Community Planning and Development (CDP), HUD.

ACTION: Notice.

SUMMARY: In accordance with 24 CFR 570.452(b)(1), the Department is providing Notice of the most current minimum standards of physical and economic distress for small cities for the Urban Development Action Grant program.

This notice revises the Notice published April 9, 1981 (46 FR 21312) because the five minimum standards of distress have now changed generally as a result of new data from the Bureau of the Census.

This Notice contains four lists: the first list identifies those cities which qualify as distressed communities based upon the new minimum standards; the second list identifies those cities which did not qualify when the April 1981 list was published but which do qualify now; the third list identifies those cities which were classified as distressed on the April 9, 1981 list, but which no longer qualify under the new minimum standards. The fourth list identifies those towns and townships which qualify as distressed communities based upon the new minimum standards.

EFFECTIVE DATE: This Notice replaces the April 9, 1981 Notice which listed the small cities which passed the previous minimum standards.

FOR FURTHER INFORMATION CONTACT: Frank Ridenour, Office of Action Grants, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, Telephone: 202/755–6784.

SUPPLEMENTARY INFORMATION: A Notice published by the Department on April 9, 1981 provided the minimum standards of physical and economic distress which were applicable up to the effective date of this Notice for small cities which met the standards published at that time.

Part I of this Notice now specifies the new minimum standards of physical and economic distress. Part II of this Notice contains a revised list of all the small cities which meet the new standards. Part III of this Notice lists those small cities which, based upon the new minimum standards, appear on the list in Part II but did not qualify when the April 1981 list was published. Part IV is a list of those cities which were classified as distressed on the April 1981 list but which no longer qualify under the new minimum standards. These cities listed in Part IV have a period of time, as specified in Part IV, during which they may submit Action Grant applications.

The new minimum standards are based on updated data from the Bureau of Census for small cities as of fiscal year 1982. The updated Census data are 1980 population, 1977 per capita income and 1970 poverty and housing counts (adjusted to reflect boundary changes as of the 1980 Census). The previous Census data were 1978 population, 1977 per capita income and 1970 poverty and housing counts (adjusted for boundary changes through 1979).

This Notice is published pursuant to 24 CFR 570.452(b)(1).

I. A small city must pass three minimum standards of physical and economic distress, except if the poverty is less than half the minimum standard, the city must pass four standards.

The most current minimum standards of physical and economic distress are:

A. *Age of Housing.* At least 33.98 percent of the applicant's year-round housing units must have been constructed prior to 1940, based on U.S. Census data, in order to meet this minimum standard;

B. *Per Capita Income.* The net increase in per capita income for the period 1969–1977 must have been $2,683 or less, based on U.S. Census data, in order to meet this minimum standard;

C. *Population Lag/Decline.* For the period 1970–1980 the percentage rate of population growth (based on corporate boundaries in 1978 and as of the 1980 Census) must have been 1.04 percent or less, based on U.S. Census data, in order to meet the minimum standard.

D. *Job/Lag/Decline.* The rate of growth in retail and manufacturing employment for the period 1972–1977 must have increased by 6.75 percent or less, based on U.S. Census data, in order to meet this minimum standard. If data are not available for both retail and manufacturing employment, the percentage used will be the median for either retail employment or manufacturing employment, based upon the median for those cities on which both sets of data are available. If neither data source is available, this standard will not be considered.

E. *Poverty.* The percentage of persons within the applicant's jurisdiction at or below the poverty level must be 10.87 percent or more, based on 1970 U.S.

Census data, in order to meet this minimum standard.

II. The following small cities meet the current minimum standards of physical and economic distress appropriate to their class

Alabama

Abbeville
Adamsville
Akron
Alicevile
Altoona
Andalusia
Anderson
Ariton
Ashford
Ashland
Ashville
Atmore
Attalla
Autaugaville
Avon
Baileyton
Banks
Bayou La Batre
Beatrice
Beaverton
Benton
Berry
Bessemer
Billingsley
Black
Blue Mountain
Blue Springs
Boligee
Branchville
Brantley
Brent
Brewton
Bridgeport
Brilliant
Brookside
Brundidge
Camp Hill
Carbon Hill
Carrollton
Carrville
Castleberry
Cedar Bluff
Centre
Centreville
Chatom
Clanton
Clayhatchee
Clayton
Clio
Coffeeville
Collinsville
Columbia
Cordova
Cottonwood
County line (Blount and Jefferson Counties)
Courtland
Cowarts
Cuba
Dadeville
Daleville
Dayton
Demopolis
Detroit
Dora
Douglas
Dozier
Dutton
Eclectic
Edwardsville
Elba
Eldridge
Epes
Ethelsville
Eufaula
Eutaw
Eva
Evergreen
Fairfield
Fairview
Faunsdale
Five Points
Flomaton
Florala
Forkland
Fort Deposit
Fort Payne
Franklin
Frisco City
Fruithurst
Fulton
Gainesville
Ganti
Garden City
Gaylesville
Geiger
Georgiana
Gilbertown
Glen Allen
Glenwood
Goldville
Goodwater
Gordo
Gordon
Graysville
Greensboro
Greenville
Grimes
Grove Hill
Guntersville
Guwin
Hackleburg
Haleburg
Haleyville
Hammondville
Harpersville
Hartford
Hayneville
Headland
Heflin
Hillsboro
Hobson City
Hodges
Hurtsboro
Kennedy
Kinston
Lafayette
Lanett
Langston
Leesburg
Leighton
Libertyville
Linden
Lineville
Lipscomb
Lisman
Livingston
Loachapoka
Lockhart
Louisville
Lowndesboro
Loxley
Luverne
Lynn
Madrid
Malvern
Maplesville
Margaret
Marion
Maytown
McKenzie
McMullen
Memphis
Menlone
Midland City
Midway
Millport
Millry
Monroeville
Mooresville
Moores
Moundville
Mount Vernon
Mountainboro
Mulga
Myrtlewood
Napier Field
Nauvoo
New Brockton
New Site
Newbern
Newton
Newville
North Johns
Notasulga
Oak Hill
Oakman
Opp
Orrville
Owens Cross Roads
Ozark
Paint Rock
Parrish
Petrey
Phenix City
Phil Campbell
Pickensville
Piedmont
Pinckard
Pine Apple
Pine Hill
Powells Crossroads
Prichard
Red Bay
Red Level
Reform
Repton
Ridgeville
River Falls
Roanoke
Rockford
Roosevelt City
Rose
Russellville
Rutledge
Samson
Sanford
Section
Selma
Sheffield
Shilo
Silas
Sipsey
Slocomb
Somerville
Steele
Stevenson
Sulligent
Sumiton
Summerdale
Sylacauga
Talladega
Talladega Springs
Tallassee
Tarrant City
Thomaston
Thomasville
Town Creek
Toxey
Trafford
Triana
Troy
Tuscumbia
Tuskegee
Union
Union Springs
Uniontown
Valley City
Valley Head
Vina
Vincent
Vredenburgh
Wadley
Waterloo
Waverly
Wedowee
West Blocton
Wetumpka
Whitehall
Whites Chapel
Wilmer
Wilton
Woodland
York

Alaska

Akhiok
Akiachak
Akiak
Akolmiut
Alakanuk
Aleknagik
Allakaket
Ambler
Anaktuvuk Pass
Angoon
Aniak
Anvik
Brevig Mission
Chefornak
Chevak
Chuathbaluk
Deering
Eek
Ekwok
Elim
Emmonak
Fort Yukon
Fortuna Ledge
Gambell
Golovin
Goodnews Bay
Grayling
Holy Cross
Hoonah
Hooper Bay
Hydaburg
Kake
Kaltag
Kiana
Kivalina
Klawock
Kobuk
Kotlik
Kwethluk
Lower Kalskag
Mekoryuk
Mountain Village
Napakiak
New Stuyahok
Newtok
Nightmute
Nikolai
Nome
Nondalton
Noorvik
Old Harbor
Ouzinkie
Pelican
Pilot Station
Platinum
Port Heiden
Quinhagak
Ruby
Savoonga
Scammon Bay
Selawik
Shageluk
Shaktoolik
Sheldon Point
Shishmaref
St. Mary's
St. Michael
Stebbins
Teller
Tenakee Springs
Togiak
Toksook Bay
Tuluksak
Tununak
Upper Kalskag
Wainwright
Wales
White Mountain

Arizona

Avondale
Bisbee
Clarkdale
Cottonwood
Douglas
Duncan
El Mirage
Eloy
Fredonia
Gila Bend
Globe
Guadalupe
Hayden
Jerome
Miami
Nogales
Patagonia
Pima
Prescott
South Tucson
Superior
Surprise
Thatcher
Tolleson
Tombstone
Wellton
Williams
Winslow

Arkansas

Adona
Alexander
Alicia
Allport
Alma
Alpena
Altheimer
Altus
Amagon
Amity
Antoine
Arkadelphia
Arkansas City
Ash Flat
Atkins
Aubrey
Augusta
Austin
Banks
Bassett
Bearden
Beaver
Beebe
Beedeville
Bellefonte
Belleville
Bergman
Bethel Heights
Big Flat
Biggers
Biscoe Town
Black Oak
Black Rock
Blevins
Blue Eye
Blue Mountain
Bluff
Blytheville
Bodcaw
Bonanza
Bono
Booneville
Bradford
Bradley
Branch
Brinkley
Buckner
Burdette
Caldwell
Cale
Calico Rock
Calion
Camden
Caraway
Carthage
Casa
Caulksville
Cave City
Cave Springs
Centerton
Central City
Charleston
Cherry Valley
Chester
Chidester
Clarendon
Clarksville
Clinton
Coal Hill
College City
Corning
Cotter
Cotton Plant
Cove
Coy
Crawfordsville
Cushman
Damascus
Dardanelle
Datto
De Queen
De Valls Bluff
De Witt
Decatur
Delight
Dell

Denning
Dermott
Des Arc
Dierks
Dover
Dumas
Dyer
Dyess
Earle
Edmondson
El Dorado
Elaine
Emerson
Emmet
England
Enola
Eudora
Eureka Springs
Evening Shade
Everium
Fifty Six
Fisher
Flippin
Fordyce
Foreman
Forrest City
Fouke
Fountain Hill
Fulton
Garfield
Garland
Garner
Gateway
Gentry
Gilbert
Gillett
Gilmore
Glenwood
Gould
Grady
Gravette
Green Forest
Greenland
Greenway
Griffithville
Guion
Gum Springs
Gurdon
Guy
Hackett
Hamburg
Hardy
Harrell
Harrisburg
Harrison
Hartford
Hartman
Hatfield
Havana
Haynes
Hazen
Heber Springs
Hector
Helena
Hermitage
Hickory Ridge
Higden
Higginson
Highfill
Holly Grove
Hope
Horatio
Hot Springs
Houston
Hoxie
Hughes
Humnoke
Humphrey
Hunter
Huntington
Huntsville
Huttig
Imboden
Jacksonport
Jasper
Jerome
Joiner
Junction City
Kensett
Keo
Kibler
Kingsland
Knobel
Lafe
Lake City
Lake View
Lake Village
Lakeview
Lamar
Leachville
Leola
Leslie
Letona
Lewisville
Lincoln
Little Flock
Lockesburg
London
Louann
Lowell
Luxora
Lynn
Madison
Magazine
Magness
Malvern
Mammoth Spring
Manila
Mansfield
Marianna
Marked Tree
Marshall
Marvell
Maynard
McCaskill
McDougal
McGehee
McNeil
McRae
Mena
Menifee
Midland
Mineral Springs
Mitchellville
Monette
Monticello
Montrose
Moro
Morrilton
Morrison Bluff
Mount Vernon
Mountain Pine
Mountainburg
Mountainview
Nashville
Newark
Nimmons
Norfolk
Norman
Oak Grove
Oden
Oil Trough
Okolona
Ola
Omaha
Osceola
Ozan
O'Kean
Palestine
Pangburn
Paragould
Paris
Parkdale
Parkin
Patmos
Patterson
Peach Orchard
Perla
Perry
Perryville
Piggott
Plainview
Pleasant Plains
Pollard
Portia
Portland
Pottsville
Powhatan
Prairie Grove
Prescott
Pyatt
Quitman
Ravenden
Reader
Rector
Reed
Reyno
Rison
Roe
Rondo
Rose Bud
Rosston
Russell
Salem
Scranton
Sedgwick
Sherrill
Shirley
Sidney
Siloam Springs
Smithville
South Lead Hill
Sparkman
St Charles
St Francis
St Paul
Stamps
Stephens
Strong
Stuttgart
Subiaco
Success
Sulphur Rock
Sulphur Springs
Sunset
Swifton
Tillar
Tinsman
Tontitown
Trumann
Tuckerman
Tupelo
Turrell
Valley Springs
Van Buren
Vandervoort
Victoria
Vilonia
Viola
Wabbaseka
Waldenburg
Waldo
Waldron
Ward
Warren
Washington
Watson
Weiner
Weldon
West Fork
West Helena
West Memphis
West Point
Wheatley
Whelen Springs
Wickes
Widener
Wiederkehr
Williford
Willisville
Wilmar
Wilmot
Wilson
Wilton
Winslow
Winthrop
Wooster
Yellville

California

Adelanto
Amador
Artesia
Avenal
Bell
Bell Gardens
Blythe
Calexico
Calipatria
Calistoga
Coachella
Colfax
Commerce
Dinuba
Dorris
Dunsmuir
Etna
Eureka
Exeter
Farmersville
Ferndale
Fort Bragg
Fowler
Gardena
Gonzales
Grass Valley
Gridley
Healdsburg
Huntington Park
Industry
Ione
Isleton
King City
La Puente
Lake Elsinore
Lawndale
Lindsay
Loyalton
Maricopa
Monrovia
Nevada City
Newman
Orange Cove
Oroville
Pacific Grove
Paramount
Parlier
Point Arena
Portola
Rio Dell
San Fernando
San Joaquin
Sand City
Santa Paula
Selma
Soledad
Susanville
Tehama
Tulelake
Weed
Westmorland
Wheatland
Woodlake

Colorado

Aguilar
Akron
Alamosa
Alma
Antonito
Arriba
Ault
Bennett
Black Hawk
Blanca
Bonne
Branson
Brush
Campo
Canon City
Center
Central City
Cheyenne Wells
Coal Creek
Cokedale
Commerce City
Crawford
Creede
Cripple Creek
Crook
Crowley
De Beque
Deer Trail
Del Norte
Delta
Dolores
Durango
Eads
Eagle
Eaton
Eckley
Elizabeth
Erie
Fairplay
Flagler
Fleming
Florence
Fort Lupton
Fort Morgan
Fowler
Fraser
Fruita
Garden City
Genda
Granada
Grand Junction
Gunnison
Hartman
Haxtun
Hillrose
Holly
Holyoke
Hooper
Hotchkiss
Hugo
Ignacio
Jamestown
Julesburg
Kim
Kit Carson
La Jara
La Junta
La Veta
Lamar
Las Animas
Leadville
Limon
Lyons
Manassa
Mancos
Manitou Springs
Manzanola
Merino
Moffat
Monte Vista
Montrose
Naturita
New Castle
Norwood
Nucla
Nunn
Oak Creek
Olney Springs
Ordway
Otis
Ouray
Ovid
Pagosa Springs
Paoli
Paonia
Pierce
Pitkin
Pritchett
Prospect Heights
Ramah
Rico
Ridgway
Rockvale
Rocky Ford
Romeo
Rosedale
Rye
Saguache
Salida
San Luis
Sanford
Sedgwick
Seibert
Severance
Silver Plume
Silverton
Simla
Springfield
Starkville
Stratton
Sugar City
Trinidad
Victor
Vona
Walsenburg
Walsh
Wiggins
Williamsburg
Wray
Yuma

Connecticut

Ansonia
Bantam
Danielson
Derby
Jewett City
Middletown
Putnam
Stonington
Torrington
Willimantic

Delaware

Bethel
Bowers
Bridgeville
Cheswold
Dagsboro
Delaware City
Delmar
Ellendale

Felton
Frankford
Frederica
Georgetown
Greenwood
Harrington
Laurel
Leipsic
Lewes
Little Creek
Magnolia
Middletown
Milford
Milton
Newport
Ocean View
Seaford
Selbyville
Smyrna
Viola
Wyoming

Florida

Alachua
Alford
Altha
Apalachicola
Arcadia
Archer
Avon Park
Bell
Belle Glade
Blountstown
Bonifay
Bowling Green
Branford
Bronson
Bunnell
Bushnell
Campbellton
Carrabelle
Caryville
Cedar Key
Chattahoochee
Chiefland
Chipley
Cottondale
Crescent City
Crestview
Cross City
Dade City
Davenport
De Funiak Springs
De Land
Dunnellon
Eatonville
Esto
Everglades
Fellsmere
Florida City
Fort Meade
Fort Pierce
Fort White
Frostproof
Graceville
Grand Ridge
Green Cove Springs
Greensboro
Greenville
Greenwood
Gretna
Groveland
Haines City
Hampton
Havana
Hawthorne
High Springs
Horseshoe Beach
Inverness
Jasper
Jay
Jennings
Key West
La Crosse
Lake Butler
Lake City
Lake Helen
Lake Wales
Laurel Hill
Lawtey
Lee
Live Oak
Madison
Malone
Marianna
Mascotte
Mayo
McIntosh
Micanopy
Minneola
Monticello
Mulberry
Newberry
Noma
Lakland
Ocean Breeze Park
Otter Creek
Oviedo
Pahokee
Palatka
Palm Shores
Penney farms
Perry
Pierson
Pomona Park
Ponce de Leon
Port St Joe
Quincy
Raiford
Reddick
Sanford
Sebring
Shalimar
Sneads
Sopchoppy
South Bay
South Flomaton
South Miami
St Augustine
St Cloud
St Leo
St Lucie
St Marks
Starke
Trenton
Umatilla
Vernon
Waldo
Wasau
Wauchula
Webster
Weeki Wachee Springs
Welaka
Westville
Wewahitchka
White Springs
Williston
Worthington Springs
Zolfo Springs

Abbeville
Adairsville
Adel
Adrian
Ailey
Alamo
Alapaha
Alilera
Alma
Alston
Ambrose
Americus
Andersonville
Arabi
Aragon
Arcade
Argyle
Arlington
Arnoldsville
Ashburn
Attapulgus
Auburn
Avalon
Avera
Bainbridge
Ball ground
Barnesville
Bartow
Barwick
Baxley
Bellville
Berlin
Bethlehem
Bibb City
Bishop
Blairsville
Blakely
Blue Ridge
Bluffton
Blythe
Bogart
Boston
Bostwick
Bowdon
Bowman
Braselton
Bronwood
Brooks
Broxton
Brunswick
Buckhead
Buena Vista
Buford
Butler
Byromville
Caldwell
Cairo
Calhoun
Camak
Camilla
Canon
Canton
Carlton
Carnesville
Carrollton
Cartersville
Cave Spring
Cedartown
Chatsworth
Chauncey
Chester
Chickamauga
Claxton
Clayton
Clermont
Cleveland
Cobbtown
Cochran
Cohutta
Colbert
Coleman
Collins
Colquitt

Georgia

Comer
Commerce
Concord
Coolidge
Cordele
Corinth
Covington
Crawford
Crawfordville
Culloden
Cusseta
Cuthbert
Daisy
Dallas
Damascus
Danielsville
Danville
Darien
Davisboro
Dawson
De Soto
Decatur
Demorest
Denins
Dexter
Dillard
Doerun
Donalsonville
Douglas
Du Pont
Dublin
East Ellijay
Eastman
Eatonton
Edge Hill
Edison
Elberton
Ellaville
Ellenton
Enigma
Ephesus
Fitzgerald
Flemington
Flovilla
Flowery Branch
Folkston
Forsyth
Fort Gaines
Fort Valley
Franklin
Funston
Gainesville
Garden City
Gay
Geneva
Georgetown
Gibson
Gillsville
Girard
Glennville
Glenwood
Good Hope
Gordon
Grantville
Gray
Greensboro
Greenville
Griffin
Guyton
Hagan
Hahira
Hampton
Hapeville
Haralson
Harlem
Harrison
Hartwell
Hawkinsville
Helena
Hiawassee
Higgston
Hoboken
Hogansville
Homer
Homerville
Hoschton
Ideal
Ila
Irwinton
Jackson
Jacksonville
Jakin
Jefferson
Jeffersonville
Jersey
Jesup
Junction City
Kingston
Kite
La Fayette
La Grange
Lake Park
Lakeland
Lavonia
Leary
Leesburg
Lenox
Leslie
Lexington
Lilly
Lincolnton
Linwood
Lithonia
Locust Grove
Loganville
Lone Oak
Louisville
Lovejoy
Ludowici
Lumber City
Lumpkin
Luthersville
Lyons
Madison
Manassas
Manchester
Mansfield
Marshallville
Martin
Maxeys
Maysville
McCaysville
McDonough
McIntyre
Meansville
Meigs
Menlo
Metter
Midville
Milan
Milledgeville
Millen
Milner
Mitchell
Molena
Monroe
Montezuma
Monticello
Montrose
Moreland
Morgan
Morganton
Morven
Moultrie
Mount Airy
Mount Vernon
Mount Zion
Mountain City
Nahunta
Naylor
Nelson
Newborn
Newington
Newnam
Newton
Nicholls
Nicholson
Norman Park
Norwood
Nunez
Oak Park
Ochlocknee
Ocilla
Odum
Oglethorpe
Oliver
Omaha
Omega
Orchard Hill
Parrott
Patterson
Pavo
Payne
Pearson
Pelham
Pembroke
Pendergrass
Pine Mountain
Pinehurst
Pineview
Pitts
Plains
Portal
Porterdale
Poulan
Pulaski
Quitman
Ranger
Ray City
Rayle
Rebecca
Reidsville
Remerton
Rentz
Reynolds
Rhine
Riceboro
Richland
Ridgeville
Ringgold
Roberta
Rochelle
Rockmart
Rocky Ford
Rome
Roopville
Rossville
Royston
Sale City
Sandersville
Sardis
Sasser
Scotland
Screven
Senoia
Shady Dale
Sharon
Sharpsburg
Shellman
Shiloh
Siloam
Smithville
Social Circle
Soperton
Sparks
Sparta
Stapleton
Statesboro
Stillmore
Summertown
Summerville
Sumner
Surrency
Swainsboro
Sycamore
Sylvania
Sylvester
Talbotton
Talking Rock
Tallapoosa
Tallulah Falls
Tarrytown
Taylorsville

Tennille
The Rock
Thomaston
Thomasville
Thomson
Thunderbolt
Tiger
Tignall
Toomsboro
Trenton
Trion
Tunnel Hill
Turin
Twin City
Ty Ty
Unadilla
Union Point
Uvalda
Valdosta
Van Wert
Varnell
Vidalia
Vienna
Villa Rica
Wadley
Waleska
Walthourville
Warm Springs
Warrenton
Warwick
Washington
Watkinsville
Waverly Hall
Waycross
Waynesboro
West Point
Whigham
White
White Plains
Willacoochee
Williamson
Winder
Woodbine
Woodbury
Woodland
Woodville
Wrens
Wrightsville
Yatesville
Young Harris
Zebulon

Idaho

Aberdeen
Acequia
Arimo
Ashton
Basalt
Blackfoot
Bloomington
Bonners Ferry
Buhl
Burley
Cambridge
Castleford
Challis
Clark Fork
Cottonwood
Council
Culdesac
Dayton
Deitrich
Driggs
Emmett
Ferdinand
Filer
Franklin
Georgetown
Glenns Ferry
Gooding
Grand View
Hagerman
Hamer
Harrison
Hazelton
Idaho City
Juliaetta
Kellogg
Kendrick
Kimberly
Kootenai
Lava Hot Springs
Mackay
Malad City
Malta
McCammon
Menan
Middleton
Midvale
Minidoka
Moscow
Mullan
Murtaugh
Nampa
New Meadows
New Plymouth
Notus
Oxford
Paris
Parker
Parma
Paul
Payette
Peck
Ponderay
Priest River
Richfield
Riggins
Ririe
Roberts
Rockland
Rupert
Salmon
Sandpoint
Shoshone
Smelterville
Spirit Lake
St Charles
State Line
Stites
Swan Valley
Teton
Tetonia
Weiser
Weston
White Bird
Wilder
Winchester
Worley

Addieville
Adeline
Albion
Allenville
Alma
Alorton
Altamont
Alto Pass
Alton
Amboy
Anchor
Anna
Apple River
Arenzville
Arlington
Aroma Park
Arthur
Ashley
Ashmore
Assumption
Astoria
Athens
Atkinson
Augusta
Ava
Banner
Barry
Basco
Batchtown
Baylis
Beardstown
Beaverville
Beckemeyer
Beecher City
Belgium
Belknap
Belle Rive
Bellmont
Benld
Bently
Benton
Biggsville
Bingham
Birds
Bishop Hill
Bluffs
Bone Gap
Bowen
Bradford
Bridgeport
Bruceton
Brooklyn
Brookport
Broughton
Browing
Browns
Brussels
Bryant
Buckley
Buckner
Buda
Buncombe
Bureau Junction
Brunt Pairie
Bush
Butler
Cabery
Cairo
Camden
Campbell Hill
Canton
Cantrall
Carbondale
Carlinville
Carriers Mills
Carrollton
Carterville
Carthage
Casey
Cave-In-Rock
Central City
Centralia
Centreville

Illinois

Chandlerville
Chapin
Charleston
Cebanse
Cherry
Chesterfield
Chicago Heights
Christopher
Cissna Park
Claremont
Clay City
Clayton
Coal City
Coalton
Cobden
Colchester
Colp
Columbus
Compton
Coulterville
Cowden
Crainville
Creal Springs
Creston
Cullom
Cutler
Cypress
Dahlgren
Dallas City
Danville
De Kalb
De Land
De Witt
Depue
Detroit
Divernon
Dixon
Dongola
Donovan
Du Bois
Du Quoin
Dunfermline
Earlville
East Cape Girardeau
East Chicago Heights
East Dubuque
East Gillespie
Edgewood
Eldorado
Eldred
Elizabeth
Elk Hart City
Elkville
Ellis Grove
Ellisville
Ellsworth
Elvaston
Emden
Enfield
Equality
Erie
Evansville
Exeter
Fairfield
Fairmont City
Farina
Farmersville
Ferris
Fidelity
Fieldon
Fillmore
Findlay
Fithian
Flanagan
Flat Rock
Flora
Florence
Foosland
Forest City
Franklin Grove
Freeman Spur
Freeport
Pults
Galatia
Galena
Garrett
Gays
Georgetown
Gillespie
Gladstone
Golconda
Golden
Golden Gate
Good Hope
Goreville
Gorham
Grafton
Grand Tower
Granite City
Grantfork
Grayville
Greenfield
Greenup
Greenview
Greenville
Griggsville
Hamburg
Hamletsburg
Hammond
Hanaford
Hanover
Hardin
Harrisburg
Hartford
Harvel
Harvey
Havana
Herrick
Herrin
Hettick
Hidalgo
Hillsboro
Hillview
Hindsboro
Hollowayville
Hoopeston
Hopedale
Hull
Hume
Hurst
Hutsonville
Illiopolis
Ina
Indianola
Industry
Iola
Ipava
Iroquois
Irving
Iuka
Ivesdale
Jacksonville
Jeiseyville
Jerseyville
Jewett
Johnsonville
Johnston City
Jonesboro
Joppa
Joy
Junction
Junction City
Kampsville
Kane
Kangley
Kansas
Karnak
Kaskaskia
Keenes
Keithsburg
Kempton
Kenney
Kewanee
Keyesport
Kilbourne
Kincaid
Kinderhook
Kinmundy
Kinsman
Kirkwood
La Fayette
La Harpe
La Prairie
La Salle
Lakemoor
Lanark
Lawrenceville
Leaf River
Lebanon
Lensburg
Lewistown
Lima
Lincoln
Lisbon
Litchfield
Little York
Livingston
Lockport
Lomax
London Mills
Longview
Loraine
Lostant
Louisville
Lyndon
Macedonia
Mammb
Madison
Maeystown
Magnolia
Malta
Manchester
Marietta
Marshall
Martinsville
Martinton
Mascoutah
Mason City
Mattoon
Maunie
Maywood
McCook
Medora
Mendon
Metcalf
Metropolis
Middletown
Milford
Mill Creek
Mill Shoals
Milledgeville
Milton
Monmouth
Morrisonville
Mound
Mound City
Mound Station
Mount Auburn
Mount Carroll
Mount Clare
Mount Erie
Mount Pulaski
Mount Sterling
Mount Vernon
Muddy
Mulberry Grove
Muncie
Murphysboro
Naplate
Naples
National City
Nebo
Neoga
Neponset
New Athens
New Baden
New Bedford
New Berlin
New Boston
New Burnside
New Canton
New Douglas
New Grand Chain

New Haven
New Minden
New Salem
Newman
Newton
Nilwood
Noble
Nokomis
Nora
Norris
Norris City
North City
North Henderson
Oakford
Oakland
Oblong
Odell
Odin
Ogden
Oglesby
Ohlman
Old Mill Creek
Old Ripley
Old Shawneetown
Olmstead
Olney
Omaha
Onarga
Oquawka
Oregon
Orient
Palestine
Palmyra
Pana
Papineau
Paris
Parkersburg
Patoka
Paxton
Pearl
Pearl City
Pecatonica
Perry
Peru
Petersburg
Phoenix
Pierron
Pinckneyville
Pingree Grove
Pittsburg
Pittsfield
Plainville
Pleasant Hill
Plymouth
Pocahontas
Pontoosuc
Potomac
Prairie Du Rocher
Pulaski
Quincy
Radom
Raleigh
Ramsey
Rankin
Raritan
Raymond
Redmon
Richmond
Richview
Ridge Farm
Ridott
Ripley
Robbins
Rock Falls
Rockdale
Rockwood
Roodhouse
Rose Hill
Roseville
Rosiclare
Rossville
Royal Lakes
Royalton
Rushville
Russellville
Sailor Springs
Salem
Sandoval
Saunemin
Savanna
Scales Mound
Schram City
Sciota
Scottville
Sesser
Shawneetown
Shelbyville
Sheldon
Sheridan
Shumway
Sidell
Simpson
Sims
Smithfield
Sorento
South Beloit
Sparland
Spillertown
Spring Bay
Springerton
St. David
St. Elmo
St. Francisville
St. Jacob
St. Johns
St. Peter
Standard City
Staunton
Ste. Marie
Sterling
Stewardson
Stockton
Stonefort
Stonington
Strasburg
Streator
Sublette
Summerfield
Summit
Sumner
Symerton
Table Grove
Tamaroa
Tamms
Taylor Springs
Taylorville
Tennessee
Thawville
Thebes
Thompsonville
Thomson
Tilden
Tilton
Toledo
Tonica
Tovey
Tower Hill
Ullin
Union Hill
Urbain
Valier
Valley City
Vandalia
Venedy
Venice
Vergennes
Vermilion
Vermont
Vernon
Versailles
Victoria
Vienna
Viola
Virginia
Walnut Hill
Walshville
Waltonville
Wamac
Washburn
Washington Park
Waterman
Waverly
Wayne City
Weldon
Wellington
West City
West Frankfort
West Point
Westfield
Westville
Wheeler
White City
White Hall
Williamson
Williasville
Willow Hill
Wilsonville
Winchester
Windsor
Winslow
Witt
Wood River
Woodhull
Woodland
Woodlawn
Worden
Xenia
Yale
Zeigler

Indiana

Advance
Akron
Alamo
Alton
Altona
Ambia
Amboy
Argos
Attica
Aurora
Austin
Bainbridge
Battle Ground
Bedford
Bethany
Bicknell
Bloomfield
Bloomingdale
Blountsville
Bunnville
Boswell
Brazil
Brook
Brooksburg
Brookville
Bunker Hill
Burnettsville
Burns Harbor
Cadiz
Cambridge City
Campbellsburg
Cannelburg
Carbon
Carlisle
Carthage
Cayuga
Cedar Grove
Centerville
Charlestown
Chrisney
Clay City
Claypool
Clayton
Clinton
Connersville
Corydon
Crandall
Crawfordsville
Cromwell
Culver
Dana
Dayton
Decker
Dillsboro
Dublin
Dugger
Dunkirk
Dunreith
Dupont
Earl Park
East Germantown
Eaton
Economy
Edinburg
Edwardsport
Elberfield
Elizabeth
Elnora
Elwood
English
Fairmount
Farmersburg
Farmland
Ffort Branch
Fountain City
Francisco
Franklin
Fredericksburg
Fremont
French Lick
Glenwood
Gosport
Grandview
Greencastle
Greensboro
Greensburg
Greensfork
Griffin
Hagerstown
Hamlet
Harmony
Hartford City
Hartsville
Hazleton
Holton
Hudson
Huntington
Hymera
Ingalls
Jamestown
Jasonville
Jonesboro
Kempton
Kewanna
Kingman
Kingsbury
Knightstown
Knightsville
Knox
La Paz
Laconia
Lagro
Lakeville
Lanesville
Larwill
Laurel
Lawrenceburg
Leavenworth
Leesburg
Liberty
Linton
Little York
Livonia
Logansport
Lynn
Lyons
Mackey
Macy
Madison
Marengo
Marion
Markleville
Marshall
Mauckport
Mecca
Medaryville
Medora
Mellott
Mentone
Michigan City
Milford
Millhousen
Mitchell
Monon
Monroe City
Monterey
Montezuma
Montgomery
Montpelier
Mooreland
Moores Hill
Mooresville
Morgantown
Mount Ayr
Mount Carmel
Mount Summit
Mount Vernon
New Albany
New Amsterdam
New Castle
New Harmony
New Middletown
New Pekin
New Providence
Newberry
Newpoint
Newport
Newtown
North Grove
North Judson
North Salem
North Webster
Oakland City
Oaktown
Oldenburg
Orland
Osgood
Owensville
Oxford
Palmyra
Paoli
Patoka
Patriot
Pennville
Perrysville
Peru
Petersburg
Pierceton
Pine Village
Plainville
Plymouth
Possin
Portland
Poseyville
Princeton
Redkey
Reynolds
Richmond
Ridgeville
Rising Sun
Roachdale
Rochester
Rockport
Rockville
Rome City
Rosedale
Royal Center
Rushville
Russellville
Salem
Saltillo
Sandborn
Shamrock Lakes
Shelburn
Shelbyville
Shirley
Shoals
Sidney
Silver Lake
Somerville
Spencer
Spurgeon
St. Joe
St. Paul
Staunton
Stilesville
Stinesville
Straughn
Sullivan
Sulphur Springs
Sunman
Tell City
Tennyson
Thorntown
Tipton
Trafalgar
Troy
Union City
Universal
Utica
Veedersburg
Vera Cruz
Vernon
Vevay
Vincennes
Wabash
Wallace
Washington
Waveland
West Baden
West College Corner
West Harrison
West Lebanon
West Terre Haute
Westport
Wheatland
Williamsport
Winamac
Windfall City
Wingate
Winona Lake
Winslow
Wolcottville
Worthington

Iowa

Ackworth
Adair
Afton
Akron
Albia
Albion
Alexander
Algona
Allerton
Alta
Alta Vista
Alton

Alvord
Andover
Anita
Anthon
Aplington
Archer
Aredale
Arion
Arispe
Arlington
Armstrong
Arnolds Park
Arthur
Ashton
Aspinwall
Athelstan
Auburn
Audubon
Aurora
Avoca
Bagley
Bancroft
Barnes City
Bassett
Batavia
Battle Creek
Beacon
Beaconsfield
Beaman
Beaver
Bedford
Belle Plaine
Bennett
Benton
Bertram
Bevington
Birmingham
Blairsburg
Blakesburg
Blanchard
Blockton
Bloomfield
Bonaparte
Bouton
Braddyville
Brandon
Brayton
Breda
Bridgewater
Brighton
Bristow
Bronson
Buffalo
Burlington
Bussey
Calmar
Calumet
Cantril
Carbon
Carpenter
Carson
Cascade
Casey
Castalia
Castana
Center Junction
Centerville
Chariton
Charles City
Charlotte
Charter Oak
Chatsworth
Chelsea
Chemhee
Chester
Churdan
Cincinnati
Clare
Clarinda
Clarion
Clarksville
Clayton
Clearfield
Clemons
Clermont
Clinton
Clio
Clutier
Coggon
Colesburg
Colfax
Collins
Conway
Coon Rapids
Coppock
Corning
Correctionville
Corydon
Coulter
Crawfordsville
Cresco
Creston
Cromwell
Cumberland
Curlew
Cushing
Dallas
Dana
Danbury
Davis City
Dawson
Decatur City
Ddham
Deep River
Defiance
Delaware
Delhi
Delmar
Deloit
Delta
Derby
Dexter
Diagonal
Dolliver
Doon
Dougherty
Dow City
Dows
Dumont
Duncee
Dunkerton
Dunlap
Eagle Grove
Earling
Early
East Peru
Eddyville
Edgewood
Elberon
Eldon
Eldora
Elgin
Elk Horn
Elkader
Elkport
Elliston
Emerson
Essex
Estherville
Extra
Exline
Fairfield
Farley
Farmersburg
Farmington
Fayette
Fertile
Floris
Floyd
Fonda
Fort Dodge
Fremont
Galt
Garber
Garden Grove
Garnavillo
Garrison
Garwin
Gibson
Gilmore City
Gladden
Goose Lake
Gowrie
Graettinger
Grafton
Grand Junction
Grand Mound
Grand River
Grant
Granville
Gravity
Gray
Greeley
Green Island
Greenfield
Greenville
Griswold
Guernsey
Guthrie Center
Guttenberg
Hamburg
Hamilton
Hancock
Hansell
Harcourt
Hardy
Harper
Harpers Ferry
Hartley
Hartwick
Harvey
Hastings
Hawarden
Hawkeye
Hazleton
Hedrick
Henderson
Hepburn
Hillsboro
Holland
Holy Cross
Hopkinton
Hornick
Hospers
Hubbard
Humboldt
Humeston
Hurstville
Iimogene
Ionia
Iowa Falls
Ireton
Irwin
Jackson Junction
Jamaica
Jewell Junction
Jolley
Kamrar
Kanawha
Kellerton
Kensett
Kent
Keokuk
Keosauqua
Keota
Keswick
Kimballton
Kingsley
Kinross
Kirkman
Kirkville
Knierim
Lacona
Ladora
Lake City
Lake View
Lakota
Lanesboro
Lansing
Larrabee
Latimer
Laurens
Lawler
Le Roy
Ledyard
Lehigh
Leighton
Lenox
Leon
Lester
Lewis
Libertyville
Lidderdale
Lime Springs
Linden
Lineville
Linn Grove
Liscomb
Little Rock
Little Sioux
Littleport
Livermore
Lockridge
Logan
Lohrville
Lorimor
Lovilia
Lowden
Lu Verne
Luana
Lucas
Luther
Lynnville
Lytton
Macedonia
Macksburg
Magnolia
Malcom
Mallard
Maloy
Malvern
Manchester
Manilla
Manly
Manning
Manson
Mapleton
Marathon
Marble Rock
Marcus
Marengo
Marne
Martinsburg
Marysville
Mason
Massena
Matlock
Maynard
McGregor
McIntire
Melcher
Melvin
Meriden
Merrill
Meservey
Miles
Milford
Millersburg
Millerton
Millville
Milton
Minburn
Minden
Mingo
Missouri Valley
Mitchell
Moneta
Monmouth
Monticello
Montour
Moorhead
Moorland
Moravia
Morley
Moulton
Mount Auburn
Mount Ayr
Mount Sterling
Murray
Mystic
Nashua
New Albin
New Hampton
New Hartford
New Vienna
Newell
Newton
Nichols
Nodaway
Nora Springs
North Buena Vista
North English
Northboro
Oakland
Oakville
Odebolt
Oelwein
Ogden
Olds
Olin
Ollie
Onawa
Onslda
Onslow
Orchard
Osage
Osceola
Oskaloosa
Osterdock
Ote
Ottosen
Ottumwa
Owasa
Oxford
Oxford Junction
Packwood
Palmer
Panora
Parkersburg
Paton
Patterson
Paullina
Peterson
Pierson
Pisgah
Plano
Pleasanton
Pleasantville
Plover
Plymouth
Pocahontas
Pomeroy
Popejoy
Portsmouth
Postville
Prescott
Preston
Primghar
Promise City
Protivin
Pulaski
Quasqueton
Radcliffe
Rake
Ralston
Randalia
Randall
Randolph
Rathbun
Red Oak
Redding
Redfield
Remsen
Renwick
Riceville
Richland
Richardsville
Ricketts
Ridgeway
Rippey
Riverton
Rock Valley
Rockwell
Rockwell City
Rodman
Roland
Rolfe
Rome
Rose Hill
Rossie
Rowan
Royal
Russell
Ruthven
Rutland
Sabula
Sac
Salix
Sanborn
Sandyville
Schaller
Schleswig
Scranton
Seymour
Shambaugh
Shannon City
Sharpsburg
Sheffield
Shelby
Shenandoah
Sherrill
Sibley
Sigourney
Silver City
Sioux Rapids
Smithland
Soldier
South English
Spillville
Spring Hill
Springbrook
St. Anthony
St. Charles
St. Lucas
St. Marys
St. Olaf
Stacyville
Stanley
Stanton
Steamboat Rock
Stockport
Stratford
Stuart
Sully
Sumner
Superior
Swaledale
Swea City
Tabor
Tama
Templeton
Terril
Thayer
Thor
Thornton
Thurman
Tingley
Titonka
Toledo
Toronto
Truesdale
Truro
Turin
Udell
Union
Unionville
University Park
Ute
Vail
Van Horne
Van Wert
Varina
Villisca
Vinton
Volga
Wadena
Walker
Wall Lake
Wallingford
Walnut

Wapello
Waterville
Waucoma
Webb
Webster City
Weldon
Welton
West Bend
Westgate
Westside
What Cheer
Whittemore
Whitten
Willey
Williams
Williamson
Winfield
Winterset
Woodbine
Woodburn
Woolstock
Worthington
Wyoming
Yale
Yetter
Yorktown
Zearing
Zwingle

Kansas

Abilene
Admire
Agenda
Agra
Alden
Alexander
Alma
Almena
Alta Vista
Altamont
Alton
Altoona
Anthony
Arcadia
Arkansas City
Arlington
Arma
Ashland
Atchison
Athol
Atlanta
Attica
Axtell
Barnes
Baxter Springs
Bazine
Beattie
Belle Plaine
Belleville
Belpre
Belvue
Benedict
Benton
Bern
Beverly
Bird City
Bison
Blue Mound
Blue Rapids
Bluff City
Bogue
Bronson
Brownell
Buffalo
Bunker Hill
Burden
Burdett
Burlingame
Burlington
Burns
Burr Oak
Burton
Bushton
Caldwell
Cambridge
Caney
Canton
Cassoday
Cawker City
Cedar
Cedar Vale
Centralia
Chanute
Chapman
Chase
Chautauqua
Cherokee
Cherryvale
Chetopa
Cimarron
Circleville
Claflin
Clay Center
Clayton
Clifton
Climax
Clyde
Coats
Coffeyville
Coldwater
Collyer
Colony
Columbus
Concordia
Conway Springs
Coolidge
Corning
Cottonwood Falls
Council Grove
Courtland
Coyville
Cuba
Cullison
Cunningham
Damar
Danville
Deerfield
Delia
Delphos
Denison
Dexter
Douglass
Downs
Dresden
Dunlap
Durham
Dwight
Earlton
Edmond
Edna
Effingham
El Dorado
Elgin
Elk City
Elk Falls
Ellis
Ellsworth
Elsmore
Elwood
Emmett
Englewood
Ensign
Enterprise
Erie
Esbon
Eskridge
Eureka
Fairview
Fall River
Florence
Fontana
Formoso
Fort Scott
Fowler
Frankfort
Fredonia
Frontenac
Fulton
Galatia
Galena
Garden Plain
Garfield
Garnett
Gas
Gaylord
Gem
Geneseo
Girard
Glade
Glasco
Glen Elder
Goessel
Goff
Gove City
Grainfield
Greeley
Green
Greenleaf
Greensburg
Grenola
Grinnell
Gypsum
Haddam
Hamlin
Hanover
Hanston
Hardtner
Harris
Hartford
Harveyville
Havana
Havensville
Hepler
Herington
Herndon
Hiawatha
Highland
Hillsboro
Hollenberg
Holton
Holyrood
Hope
Horton
Howard
Hunnewell
Hunter
Huron
Hutchinson
Independence
Iola
Jamestown
Jennings
Jetmore
Jewell
Johnson City
Junction City
Kanopolis
Kanorado
Kensington
Kincaid
Kingman
Kiowa
Kirwin
La Cygne
La Harpe
Labette
Lancaster
Lane
Langdon
Latham
Le Roy
Leavenworth
Lebanon
Lebo
Lecompton
Lenora
Leon
Leonardville
Leoti
Liberty
Liebenthal
Lincoln Center
Lindsborg
Linwood
Little River
Logan
Lone Elm
Long Island
Longton
Lost Springs
Louisville
Lucas
Luray
Madison
Mahaska
Manhattan
Manter
Mapleton
Marion
Marquette
Matfield Green
Mayetta
McCracken
McCune
McDonald
McFarland
Meade
Menlo
Milan
Miltonvale
Moline
Moran
Morland
Morrill
Morrowville
Mound Valley
Mount Hope
Mulberry
Mullinville
Munden
Narka
Nashville
Natoma
Neodesha
Neosho Falls
Neosho Rapids
Ness City
Netawaka
New Albany
New Cambria
Norton
Nortonville
Oakley
Offerle
Ogden
Oketo
Olivet
Olmitz
Olsburg
Onaga
Oneida
Osage
Osawatomie
Oskaloosa
Oswego
Ottawa
Overbrook
Oxford
Palco
Palmer
Paradise
Park
Parker
Parsons
Partridge
Paxico
Peru
Phillipsburg
Pittsburg
Plainville
Pleasanton
Plevna
Pomona
Portis
Potwin
Powhattan
Prairie View
Prescott
Preston
Pretty Prairie
Quenemo
Quinter
Ramona
Randall
Ransom
Rantoul
Raymond
Reading
Redfield
Republic
Reserve
Rexford
Riley
Rolla
Ruzel
Rush Center
Russell Springs
Sabetha
Satanta
Savonburg
Scammon
Scandia
Schoenchen
Scranton
Sedan
Selden
Seneca
Severy
Seward
Sharon Springs
Simpson
Smith Center
Smolan
Soldier
Solomon
Spearville
Speed
St. Francis
St. George
St. Marys
St. Paul
Stark
Sterling
Stockton
Strong City
Summerfield
Sun City
Susank
Sylvan Grove
Sylvia
Syracuse
Tampa
Tescott
Thayer
Timken
Tipton
Toronto
Treece
Tribune
Troy
Tyro
Uniontown
Utica
Vermillion
Victoria
Viola
Virgil
Wakeeney
Walnut
Washington
Waterville
Waverly
Webber
Weir
West Mineral
Westphalia
Wetmore
Wheaton
White City
White Cloud
Whiting
Williamsburg
Willis
Wilmore
Wilson
Winfield
Winona
Woodbine
Woodston
Yates Center
Zurich

Kentucky

Adairville
Albany
Allen
Allensville
Arlington
Auburn
Augusta
Barbourville
Bardwell
Beattyville
Bedford
Bellevue
Benham
Berry
Blaine
Bloomfield
Bonnieville
Booneville
Bowling Green
Bradfordsville
Brenan
Brodhead
Bromley
Brooksville
Brownsville
Burgin
Burkesville
Burnside
Butler
Cadiz
California
Campbellsburg
Campton
Caneyville
Carlisle
Carrsville
Caseyville
Catlettsburg
Cave City
Centertown
Central
Clarkson
Clay
Clinton
Colverport
Columbia

Columbus
Concord
Corinth
Corydon
Crab Orchard
Crofton
Cumberland
Cynthiana
Dawson Springs
Dayton
Dixon
Dover
Drakesboro
Dycusburg
Earlington
Eddyville
Ekron
Elkhorn City
Elkton
Eminence
Evarts
Ewing
Fairfield
Fairview
Falmouth
Flemingsburg
Fleming-Neon
Fordsville
Fountain Run
Franklin
Frenchburg
Fulton
Georgetown
Germantown
Ghent
Glasgow
Glencoe
Grayson
Guthrie
Hanson
Hardin
Hardinsburg
Harlan
Harrodsburg
Hawesville
Hazard
Hazel
Hickman
Hodgenville
Hollyvilla
Horse Cave
Hustonville
Hyden
Inez
Irvine
Irvington
Island
Jackson
Jamestown
Jenkins
Junction City
Kenton Vale
La Center
La Fayette
Lancaster
Latonia Lakes
Lebanon
Lebanon Junction
Leitchfield
Lewisburg
Livermore
Livingston
Lockport
London
Loretto
Louisa
Loyall
Ludlow
Mackville
Marion
Martin
Mayfield
Maysville
McHenry
Mentor
Middlesborough
Midway
Millersburg
Milton
Monterey
Monticello
Morehead
Morganfield
Mortons Gap
Mount Olivet
Mount Sterling
Mount Vernon
Muldraugh
Munfordville
Murray
Nebo
New Castle
New Haven
Newport
Owenton
Owingsville
Paducah
Paintsville
Paris
Pembroke
Perryville
Pikeville
Pineville
Pleasureville
Powderly
Prestonville
Princeton
Providence
Ravenna
Richmond
Rochester
Rockport
Russell Springs
Russellville
Sacramento
Sadieville
Salt Lick
Salyersville
Sanders
Sandy Hook
Science Hill
Scottsville
Sebree
Sharpsburg
Shelbyville
Silver Grove
Slaughterville
Smithland
Smiths Grove
Somerset
Sonora
South Carrollton
South Shore
Sparta
Springfield
St. Charles
Stanford
Strathmoor Manor
Strathmoor Village
Sturgis
Taylorsville
Tollesboro
Tompkinsville
Trenton
Uniontown
Upton
Vanceburg
Vicco
Visalia
Wallins Creek
Walton
Warsaw
Washington
Water Valley
Waverly
West Point
Wheatcroft
Wheelwright
White Plains
Whitesburg
Whitesville
Wickliffe
Williamsburg
Williamstown
Willisburg
Wilmore
Winchester
Wingo
Worthville

Louisiana

Abbeville
Abita Springs
Addis
Amite City
Anacoco
Angie
Arcadia
Arnaudville
Athens
Atlanta
Basile
Baskin
Bastrop
Belcher
Benton
Bernice
Bienville
Bogalusa
Bonita
Boyce
Breaux Bridge
Brusly Landing
Bunkie
Calvin
Campti
Cankton
Carencro
Castor
Chataignier
Chatham
Cheneyville
Choudrant
Church Point
Clarence
Clarks
Clayton
Clinton
Colfax
Collinston
Columbia
Converse
Cotton Valley
Cottonport
Coushatta
Covington
Crowley
Cullen
De Quincy
De Ridder
Delcambre
Delhi
Dixie Inn
Dodson
Donaldsonville
Downsville
Dubach
Duson
East Hodge
Elizabeth
Elton
Epps
Erath
Erus
Estherwood
Eunice
Evergreen
Farmerville
Fenton
Ferriday
Fisher
Folsom
Forest
Forest Hill
Franklin
Franklinton
French Settlement
Georgetown
Gibsland
Gilbert
Gilliam
Glenmora
Grambling
Grand Cane
Grand Coteau
Grand Isle
Grayson
Greensburg
Grosse Tete
Gueydan
Hall Summit
Hammond
Harrisonburg
Haynesville
Heflin
Henderson
Hessmer
Hodge
Homer
Hornbeck
Houston
Ida
Independence
Iota
Jamestown
Jeanerette
Jennings
Jonesboro
Jonesville
Junction City
Kaplan
Keatchie
Kentwood
Kilbourne
Killian
Krotz Springs
Lake Arthur
Lake Providence
Lecompte
Leonville
Lillie
Lisbon
Livingston
Logansport
Longstreet
Lucky
Madisonville
Mamou
Mangham
Mansfield
Mansura
Many
Maringouin
Marion
Markaville
Maurice
McNary
Melville
Mer Rouge
Mermentau
Merryville
Minden
Montgomery
Montpelier
Mooringsport
Moreauville
Morganza
Morse
Mound
Napoleonville
Natchez
Natchitoches
New Roads
Newellton
Noble
North Hodge
Norwood
Oak Grove
Oak Ridge
Oakdale
Oberlin
Oil City
Opelousas
Palmetto
Parks
Pioneer
Plain Dealing
Plaquemine
Plaucheville
Pleasant Hill
Pollock
Ponchatoula
Port Allen
Port Barre
Powhatan
Provencal
Rayne
Rayville
Richwood
Ringgold
Rodeline
Rodessa
Rosedale
Roseland
Saline
Sarepta
Sicily Island
Sikes
Simmesport
Sorrento
Spearsville
Springfield
Springhill
St. Francisville
St. Joseph
St. Martinville
Stanley
Sun
Sunset
Tallulah
Tangipahoa
Tickfaw
Urania
Varnado
Ville Platte
Vinton
Vivian
Washington
Waterproof
Welsh
West Monroe
White Castle
Wilson
Winnfield
Winnsboro
Winnsor
Woodworth
Youngsville
Zwolle

Maine

Augusta
Bath
Belfast
Biddeford
Brewer
Calais
Caribou
Eastport
Ellsworth
Gardiner
Hallowell
Old Town
Presque Isle
Rockland
Saco
South Portland
Waterville

Maryland

Aberdeen
Accident
Barclay
Barton
Berlin
Brentwood
Burkittsville
Cambridge
Capitol Heights
Cecilton
Centerville
Charlestown
Chesapeake Beach
Chesapeake City
Chestertown
Church Creek
Church Hill
Clear Spring
Colmar Manor
Crisfield
Deer Park
Delmar
Denton
Eldorado
Elkton
Emmitsburg
Fairmount Heights
Federalsburg
Friendsville
Frostburg
Fruitland
Galestown
Glen Echo
Goldsboro
Grantsville
Greensboro
Hancock
Havre de Grace
Hebron
Henderson
Hillsboro
Keedysville
Kitzmillerville
Loch Lynn Heights
Lonaconing
Lusby
Mardela Springs
Marydel
Midland
Millington
Mount Rainier
Myersville
New Market
North East

Oakland
Oxford
Perryville
Pittsville
Pocomoke City
Port Deposit
Preston
Princess Anne
Queen Anne
Ridgely
Rock Hall
Salisbury
Seat Pleasant
Secretary
Sharpsburg
Sharptown
Snow Hill
St. Michaels
Templeville
Union Bridge
Vienna
Westerport
Woodsboro

Massachusetts

Attleboro
Beverly
Chelsea
Everett
Gardner
Melrose
Newburyport
North Adams
Northampton
Peabody
Revere
Salem

Michigan

Ahmeek
Akron
Albion
Allegan
Allen
Alma
Alpena
Alpha
Applegate
Ashley
Augusta
Bad Axe
Baldwin
Bangor
Baraga
Barryton
Bear Lake
Bellavue
Berrien Springs
Bessemer
Beulah
Boyne City
Bronson
Brooklyn
Brown City
Burlington
Burr Oak
Byron
Cadillac
Calumet
Carney
Caro
Carson City
Carsonville
Casnovia
Caspian
Cassopolis
Charlevoix
Charlotte
Chatham
Cheboygan
Chesaning
Clarksville
Clayton
Clifford
Coldwater
Coleman
Concord
Constantine
Copemish
Copper City
Corunna
Crystal Falls
Daggett
Dansville
De Tour Village
Decatur
Deckerville
Dowagiac
Dryden
East Tawas
Eau Claire
Ecorse
Edmore
Elkton
Empire
Escanaba
Evart
Farwell
Ferndale
Fife Lake
Frankfort
Free Soil
Freeport
Fremont
Gaastra
Gagetown
Galien
Garden
Gaylord
Gladstone
Grand Haven
Grant
Grayling
Hamtramck
Hancock
Harbor Beach
Harbor Springs
Harrietta
Harrison
Harrisville
Hart
Hartford
Hastings
Hazel Park
Hesperia
Highland Park
Hillman
Hillsdale
Holland
Honor
Houghton
Howard City
Hudson
Inkster
Ionia
Iron Mountain
Iron River
Ironwood
Ishpeming
Kaleva
Kalkaska
Kent City
Kinde
Kingsford
Kingston
Lainsburg
Lake Angelus
Lake Ann
Lake City
Lake Linden
Lanse
Lapeer
Laurium
Lexington
Lincoln
Litchfield
Ludington
Luna Pier
Luther
Lyons
Mackinac Island
Mancelona
Manistee
Manistique
Manton
Maple Rapids
Marcellus
Marine City
Marion
Marlette
Maybee
Mayville
McBain
McBride
Mecosta
Mendon
Menominee
Merrill
Mesick
Middleville
Millington
Minden City
Montgomery
Morenci
Morrice
Mount Pleasant
Munising
Nashville
Negaunee
New Buffalo
New Haven
Newaygo
Newberry
Niles
North Adams
North Branch
Northport
Norway
Oakley
Olivet
Onaway
Onekama
Ontonagon
Otsego
Owosso
Paw Paw
Peck
Pellston
Pentwater
Petersburg
Petoskey
Pierson
Pigeon
Port Austin
Port Hope
Port Huron
Posen
Prescott
Ravenna
Reading
Reed City
Richland
River Rouge
Rogers City
Rose City
Rosebush
Sault Sainte Marie
Scottville
Sebewaing
Shelby
Sheridan
Sherwood
South Haven
South Range
South Rockwood
Springport
St. Ignace
St. Louis
Stambaugh
Stanton
Stanwood
Sterling
Tawas City
Tekonsha
Thompsonville
Three Rivers
Traverse
Turner
Tustin
Twining
Ubly
Union City
Unionville
Vandalia
Vanderbilt
Vermontville
Wakefield
Waldron
Walkerville
Watervliet
Wayland
West Branch
White Cloud
Whitehall
Whittemore
Wolverine
Woodland
Yale
Ypsilanti
Zeeland

Minnesota

Ada
Adams
Adrian
Aitkin
Akeley
Albany
Albert Lea
Alberta
Alden
Alexandria
Alpha
Altura
Alvarado
Appleton
Argyle
Adhby
Askov
Atwater
Audubon
Austin
Avoca
Backus
Badger
Bagley
Balaton
Barnesville
Barrett
Battle Lake
Baudette
Beaver Bay
Beaver Creek
Bejou
Bellchester
Bellingham
Beltrami
Bemidji
Bena
Benson
Bertha
Big Falls
Bingham Lake
Bird Island
Biwabik
Blackduck
Blomkest
Blooming Prairie
Bovey
Bowlus
Boyd
Brainerd
Breckenridge
Brewster
Brook Park
Brooks
Brookston
Brooten
Browerville
Browns Valley
Brownsville
Brownton
Bruno
Buckman
Buffalo Lake
Buhl
Bertrum
Butterfield
Caledonia
Callaway
Calumet
Campbell
Canby
Canton
Carlton
Cass Lake
Cedar Mills
Chisholm
Clarkie
Clarissa
Clarkfield
Clear Lake
Clearbrook
Clearwater
Clements
Clitherall
Clontarf
Cloquet
Cobden
Cokato
Comfrey
Comstock
Cook
Crosby
Currie
Cyrus
Dakota
Dalton
Darwin
Dassel
Dawson
De Graff
Deer River
Delavan
Delhi
Denham
Dennison
Dent
Detroit Lakes
Dexter
Dilworth
Donaldson
Donnelly
Doran
Dover
Dovray
Dundee
Eagle Bend
East Gull Lake
Easton
Echo
Eden Valley
Edgerton
Effie
Eitzen
Elba
Elbow Lake
Elgin
Elizabeth
Ellsworth
Elmdale
Elmore
Elysian
Emmons
Erhard
Evan
Fairfax
Faribault
Farwell
Felton
Fergus Falls
Fertile
Flensburg
Floodwood
Florence
Foreston
Foston
Fountain
Foxhome
Franklin
Frazee
Freeborn
Freeport
Frost
Garrison
Garvin
Gary
Geneva
Ghent
Gibbon
Glenville
Glyndon
Gonvick
Good Thunder
Goodridge
Graceville
Granada
Grand Marais
Granite Falls
Green Isle
Greenbush
Greenwald
Grey Eagle
Grygla
Gully
Hallock
Halstad
Hampton
Hancock
Hanska
Harding
Hardwick
Harmony
Hartland
Hatfield
Henderson
Hendricks
Hendrum
Henning
Herman
Heron Lake
Hewitt
Hillman
Hitterdal

Hoffman
Hokah
Holdingford
Holland
Holloway
Holt
Houston
International Falls
Iona
Ironton
Isle
Ivanhoe
Jasper
Jeffers
Kasota
Kelliher
Kellogg
Kensington
Kent
Kenyon
Kettle River
Kiester
Kilkenny
Kinbrae
Kingston
Kinney
La Porte
La Salle
Lafayette
Lake Benton
Lake Brownson
Lake Henry
Lake Park
Lake Shore
Lamberton
Lancaster
Lanesboro
Lastrup
Le Sueur
Lengby
Leonard
Leonidas
Lester Prairie
Lewisville
Lindstrom
Lismore
Little Falls
Long Prairie
Louisburg
Lowry
Lucan
Lyle
Mabel
Madelia
Madison
Magnolia
Mahnomen
Manchester
Mankato
Mantorville
Mapleview
Marietta
Maynard
Mazeppa
McGregor
McIntosh
Medicine Lake
Meire Grove
Melrose
Menahga
Mentor
Middle River
Miesville
Milaca
Milan
Millerville
Millville
Milroy
Miltona
Minnesota City
Mizpah
Montgomery
Monticello
Moose Lake
Morgan
Morris
Morristown
Morton
Motley
Myrtle
Nashua
Nassau
Nelson
Nevis
New Auburn
New Market
New Munich
New Trier
New York Mills
Newfolden
Nielsville
Norcross
North Redwood
Northome
Odessa
Ogema
Oklee
Onamia
Ormsby
Orr
Ortonville
Oslo
Ottertail
Palisade
Park Rapids
Parkers Prairie
Paynesville
Pease
Pelican Rapids
Pennock
Perham
Peterson
Pierz
Pillager
Pine City
Pine Island
Pine River
Pipestone
Plummer
Porter
Preston
Princeton
Quamba
Randall
Red Lake Falls
Regal
Remer
Renville
Revere
Richmond
Richville
Rock Creek
Roosevelt
Roscoe
Roseau
Round Lake
Rush City
Rushmore
Russell
Ruthton
Sacred Heart
Sandstone
Sauk Centre
Seaforth
Sebeka
Shelly
Shevlin
Silver Lake
Sleepy Eye
Sobieski
Solway
South Haven
South International Falls
Spring Grove
Spring Hill
Spring Valley
Springfield
Squaw Lake
St. Anthony
St. Charles
St. Joseph
St. Martin
St. Rosa
Staples
Starbuck
Steen
Stephen
Storden
Strandquist
Sturgeon Lake
Sunburg
Swanville
Taconite
Tamarack
Taunton
Taylors Falls
Tenstrike
Thomson
Tintah
Tower
Tracy
Trail
Trosky
Twin Valley
Two Harbors
Ulen
Underwood
Upsala
Urbank
Utica
Vergas
Verndale
Vesta
Viking
Villard
Vining
Virginia
Wabasha
Wabasso
Wahkon
Waldorf
Walker
Walnut Grove
Walters
Waltham
Wanda
Warroad
Watkins
Watson
Waverly
Welcome
Wells
Wendell
West Union
Westbrook
Westport
Wheation
Wilder
Willernie
Williams
Willow River
Wilmont
Winger
Winnebago
Winona
Winthrop
Winton
Wolf Lake
Wolverton
Wood Lake
Woodstock
Wright

Mississippi

Abbeville
Aberdeen
Ackerman
Alligator
Amory
Anguilla
Arcola
Artesia
Ashland
Bassfield
Bay Springs
Beaumont
Beauregard
Belzoni
Benoit
Bentonia
Beulah
Big Creek
Blue Mountain
Blue Springs
Bolton
Booneville
Boyle
Braxton
Brookhaven
Brooksville
Bruce
Bude
Burnsville
Calhoun City
Canton
Cary
Centreville
Charleston
Chunky
Clarksdale
Cleveland
Coffeeville
Coldwater
Columbia
Columbus
Como
Courtland
Crawford
Crenshaw
Crosby
Crowder
Cruger
Crystal Springs
De Kalb
Decatur
Doddsville
Drew
Duck Hill
Duncan
Durant
D'lo
Eden
Edwards
Ellisville
Enterprise
Ethel
Eupora
Falcon
Fayette
Flora
Friars Point
Gattman
Georgetown
Glendora
Gloster
Golden
Goodman
Greenville
Greenwood
Grenada
Gunnison
Guntown
Hattiesburg
Hazlehurst
Heidelberg
Hickory
Hickory Flat
Hollandale
Holly Springs
Houston
Indianola
Inverness
Isola
Itta Bena
Iuka
Jonestown
Jumpertown
Kilmichael
Kosciusko
Kossuth
Lake
Lambert
Laurel
Leakesville
Learned
Leland
Lena
Lexington
Liberty
Louin
Louise
Louisville
Lula
Lumberton
Lyon
Maben
Macon
Magnolia
Marks
Mathiston
Mayersville
McComb
McCool
McLain
Meadville
Memphis
Meridian
Merigold
Metcalfe
Mize
Montrose
Moorhead
Morgan City
Morton
Mound Bayou
Mount Olive
Myrtle
Natchez
New Albany
New Augusta
New Houlka
Newhebron
Newport
Newton
North Carrollton
Noxapater
Oakland
Okolona
Osyka
Oxford
Pace
Pachuta
Paden
Picayune
Pickens
Pittsboro
Plantersville
Polkville
Pope
Poplarville
Port Gibson
Prentiss
Puckett
Quitman
Raleigh
Richton
Rienzi
Ripley
Rolling Fork
Rosedale
Roxie
Rulesville
Sallis
Sardis
Satartia
Schlater
Scooba
Sebastopol
Seminary
Shannon
Shaw
Shelby
Sherman
Shubuta
Shuqualak
Sidon
Silver City
Silver Creek
Slate Spring
Sledge
Starkville
State Line
Stonewall
Sturgis
Summit
Sumner
Sumrall
Sunflower
Sylarena
Tchula
Terry
Tillatoba
Tishomingo
Toccopola
Tremont
Tunica
Tutwiler
Tylertown
Union
Utica
Vaiden
Vardaman
Vicksburg
Walnut
Walnut Grove
Walthall
Water Valley
Waynesboro
Webb
Weir
West
West Point
Winona
Winstonville
Woodland
Woodville
Yazoo City

Missouri

Advance
Albany
Aldrich
Alexandria
Allendale
Alma
Altamont
Alton
Amazonia
Amity
Amoret
Amsterdam

Anderson
Annada
Annapolis
Anniston
Appleton City
Arbela
Arbyrd
Arcadia
Argyle
Armstrong
Asbury
Ash Grove
Altanta
Augusta
Aullville
Aurora
Auxvasse
Ava
Aville
Baker
Bakersfield
Baldwin Park
Baring
Barnard
Barnett
Bates City
Bell City
Bellflower
Berger
Bernie
Bertrand
Bethany
Bethel
Beverly Hills
Bevier
Bigelow
Billings
Birch Tree
Birmingham
Bismarck
Blackburn
Blackwater
Blairstown
Bland
Blodgett
Bloomsdale
Blue Eye
Blythedale
Bogard
Bolckow
Bolivar
Bonne Terre
Boonville
Bosworth
Bowling Green
Bragg City
Brandsville
Braymer
Breckenridge
Brimson
Bronaugh
Brookfield
Brookline
Brooklyn Heights
Browning
Brownington
Brunswick
Bucklin
Buffalo
Bunceton
Bunker
Burlington Junction
Butler
Cabool
Cainsville
Cairo
Caledonia
Calhoun
California
Callad
Camden
Cameron
Campbell
Canalou
Canton
Cape Girardeau
Cardwell
Carrollton
Carterville
Carthage
Caruthersville
Cassville
Catron
Cedar
Center
Centerview
Centerville
Centralia
Chaffee
Chamois
Charlack
Charleston
Chillicothe
Chula
Clarence
Clarksburg
Clarksdale
Clarksville
Clarkton
Clearmont
Clever
Clifton Hill
Climax Springs
Clinton
Clyde
Cobalt City
Coffey
Cole Camp
Collins
Commerce
Concordia
Conway
Cooter
Corder
Corning
Cottleville
Cowgill
Craig
Crane
Creighton
Crocker
Cross Timbers
Crystal City
Curryville
Dalton
Darlington
De Kalb
De Soto
De Witt
Dearborn
Deepwater
Deerfield
Delta
Dennis Acres
Denver
Des Arc
Desloge
Diamond
Diehlstadt
Diggins
Dixon
Doniphan
Downing
Drexel
Dudley
Eagleville
East Prairie
Edgar Springs
Edina
El Dorado Springs
Eldon
Ellington
Ellsinore
Elmer
Elmira
Elmo
Elsberry
Elvins
Eminence
Eolia
Essex
Esther
Ethel
Eugene
Everton
Ewing
Excelsior Springs
Exeter
Fair Play
Fairfax
Fairview
Farmington
Fayette
Festus
Fillmore
Fisk
Flat River
Fleming
Flemington
Flinthill
Foley
Ford City
Fordland
Forest City
Foster
Frankford
Franklin
Fredericktown
Freeburg
Freeman
Freistatt
Fulton
Gainesville
Galena
Gallatin
Galt
Garden City
Gentry
Gerald
Gerster
Gibbs
Gideon
Gilliam
Gilman City
Glasgow
Glenallen
Glenwood
Golden City
Goodman
Graham
Granby
Grand Pass
Grandin
Granger
Grant City
Green City
Green Ridge
Greencastle
Greenfield
Guilford
Gunn City
Hale
Halfway
Hallsville
Halltown
Hamilton
Hannibal
Hardin
Harris
Hartsburg
Hartville
Hartwell
Harwood
Hawk Point
Hayti
Hayti Heights
Hayward
Haywood City
Henrietta
Herculaneum
Hermann
Hermitage
Higbee
High Hill
Hilladale
Hoberg
Holcomb
Holden
Holland
Holliday
Hollister
Holt
Homestown
Hopkins
Hornersville
Houston
Houstonia
Howardville
Humansville
Hume
Humphreys
Hunnewell
Huntsville
Hurdland
Hurley
Iatan
Iberia
Ionia
Irondale
Ironton
Jacksonville
Jameson
Jamesport
Jamestown
Jasper
Jerico Springs
Kahoka
Kennett
Keytesville
Kidder
Kimmswick
King City
Kingston
Kinloch
Kirksville
Knob Noster
Knox City
Koshkonong
La Belle
La Grange
La Monte
Laclede
Laddonia
Lamar
Lamar Heights
Lanagan
Lancaster
Laredo
Latour
Leadington
Leadwood
Lebanon
Leeton
Leonard
Levasy
Lewistown
Lexington
Liberal
Licking
Lilbourn
Lincoln
Linn
Linn Creek
Linneus
Lithium
Livonia
Lock Spring
Lockwood
Longtown
Louisburg
Louisiana
Lowry City
Lucerne
Ludlow
Lupus
Lutesville
Mackenzie
Macks Creek
Macon
Madison
Maitland
Malden
Malta Bend
Mansfield
Maplewood
Marble Hill
Marceline
Marionville
Marquand
Marshall
Marshfield
Marston
Martinsburg
Maryville
Maysville
Mayview
McFall
Meadville
Memphis
Meridon
Mercer
Merwin
Meta
Metz
Mexico
Miami
Middletown
Milan
Mill Spring
Millard
Miller
Milo
Mindenmines
Mineral Point
Missouri City
Moberly
Mokane
Monett
Monroe City
Montgomery City
Monticello
Montrose
Mooresville
Morehouse
Morley
Morrison
Morrisville
Mosby
Moscow Mills
Mound City
Moundville
Mount Leonard
Mount Moriah
Mount Vernon
Mountain Grove
Mountain View
Napoleon
Naylor
Neelyville
Nelson
Neosho
Nevada
New Cambria
New Florence
New Franklin
New Hampton
New London
New Madrid
New Melle
Newark
Newburg
Newtonia
Newtown
Niangua
Noel
Norborne
North Lilbourn
Northwye
Norwood
Novelty
Novinger
Oak Ridge
Oakland Park
Olean
Oran
Oregon
Orongo
Orrick
Osborn
Osceola
Osgood
Otterville
Owensville
Pagedale
Paris
Parksdale
Parkville
Parma
Parnell
Pascola
Passaic
Pattonsburg
Penermon
Perry
Perryville
Phelps City
Phillipsburg
Pickering
Piedmont
Pierce City
Pilot Grove
Pilot Knob
Pineville
Pleasant Hill
Pleasant Hope
Pocahontas
Pollock
Polo
Poplar Bluff
Portage des Sioux
Portageville
Potosi
Powersville
Prairie Home
Prathersville
Preston
Princeton
Purcell
Purdin
Purdy
Puxico
Queen City
Quitman
Qulin
Raymondville
Rayville
Rea
Reeds
Reeds Spring
Renick
Rhineland
Rich Hill
Richards
Richland
Richmond
Ridgeway
Risco
Rivermines
Rocheport
Rock Port
Rockville
Rogersville
Rolla
Roscoe
Rosebud
Rosendale
Rothville
Rush Hill
Rushville
Russellville
Rutledge
Salem
Salisbury
Sarcoxie
Savannah
Schell City
Scott City
Sedalia
Sedgewickville
Seligman

Senath
Seneca
Seymour
Shelbina
Shelbyville
Sheldon
Sheridan
Silex
Skidmore
Slater
South Gifford
South Gorin
South Greenfield
South Lineville
South West City
Sparta
Spickardsville
Spring Valley
St. Clair
St. Cloud
St. Elizabeth
St. James
St. Marys
Stanberry
Stark City
Ste. Genevieve
Steele
Steelville
Stella
Stockton
Stotts City
Stoutland
Stoutsville
Stover
Strasburg
Sturgeon
Sullivan
Summersville
Sumner
Sunrise Beach
Sweet Springs
Syracuse
Tallapoosa
Taneyville
Taos
Tarkio
Tarsney Lakes
Thayer
Theodosia
Theodosia Hills
Tina
Tindall
Tipton
Tracy
Trenton
Triplett
Troy
Truesdail
Turney
Tuscumbia
Union
Union Star
Unionville
Unity Village
University City
Urbana
Urich
Valley Park
Vandalia
Vanduser
Velda Village
Verona
Versailles
Vienna
Vinita Park
Vista
Walker
Walnut Grove
Wardell
Warrensburg
Warsaw
Washburn
Watson
Waverly
Wayland
Waynesville
Weatherby
Weaubleau
Webb City
Wellington
Wellston
Wellsville
Wentworth
West Line
West Plains
Westboro
Weston
Westphalia
Wheatland
Wheaton
Wheeling
Whiteside
Whitewater
Williamsville
Willow Springs
Wilson City
Windsor
Winfield
Winona
Winston
Wittenberg
Wooldridge
Worth
Wyaconda
Wyatt
Zalma

Montana

Anaconda-Deer Lodge
Belt
Big Timber
Boulder
Bridger
Broadus
Brockton
Browning
Butte-Silver Bow
Chinook
Circle
Clyde Park
Conrad
Culbertson
Cut Bank
Dillon
Dodson
Ekalaka
Eureka
Fairfield
Fairview
Flaxville
Fort Benton
Froid
Fromberg
Geraldine
Glasgow
Grass Range
Hamilton
Harlem
Harlowton
Hot Springs
Ismay
Joliet
Jordan
Kalispell
Kevin
Lewistown
Libby
Lima
Livinston
Lodge grass
Malta
Moore
Nashua
Neihart
Opheim
Outlook
Philipsburg
Plains
Plevna
Polson
Poplar
Red Lodge
Richey
Ronan
Roundup
Saco
Scobey
Shelby
Sheridan
St. Ignatius
Stevensville
Terry
Three Forks
Troy
Twin Bridges
Valier
Virginia City
Walkerville
Westby
White Sulphur Sprgs
Whitehall
Wibaux
Winifred
Winnett
Wolf Point

Nebraska

Abie
Adams
Ainsworth
Albion
Alexandria
Allen
Alma
Amherst
Anselmo
Arapahoe
Arcadia
Arnold
Arthur
Ashton
Atkinson
Atlanta
Auburn
Avoca
Axtell
Ayr
Bancroft
Barada
Barneston
Bartley
Bassett
Battle Creek
Bayard
Beaver City
Beaver Crossing
Bee
Beemer
Belden
Belgrade
Bellwood
Belvidere
Benkelman
Bennet
Berwyn
Bloomfield
Bloomington
Blue Hill
Blue Springs
Brady
Brainard
Bridgport
Bristow
Broadwater
Brock
Broken Bow
Bruning
Bruno
Brunswick
Burchard
Burr
Burwell
Butte
Byron
Cairo
Callaway
Cambridge
Cambell
Carleton
Carroll
Cedar Rapids
Center
Chadron
Chambers
Chapman
Chester
Clarks
Clarkson
Clatonia
Cody
Coleridge
Colon
Comstock
Concord
Cook
Cordova
Cotesfield
Cowles
Crawford
Creighton
Creston
Crofton
Crookston
Culbertson
Curtis
Dalton
Danbury
Dannebrog
Davenport
David City
Dawson
Daykin
De Witt
Decatur
Deshler
Deweese
Diller
Dixon
Dodge
Douglas
Du Bois
Dunber
Duncan
Dunning
Dwight
Eddyville
Edgar
Edison
Elba
Elgin
Elk Creek
Elm Creek
Elmwook
Elyria
Emerson
Endicott
Ewing
Exeter
Fairbury
Fairfield
Fairmont
Falls City
Farnam
Farwell
Fordyce
Fort Calhoun
Foster
Franklin
Fullerton
Genda
Gibbon
Gilead
Giltner
Gordon
Gothenburg
Greeley Center
Gresham
Gross
Guide Rock
Gurley
Hadar
Haigler
Hamlet
Hampton
Harrison
Hartington
Harvard
Hay Springs
Hayes Center
Heartwell
Hemingford
Hendley
Henry
Herman
Holbrook
Holstein
Hoskins
Howells
Hubbard
Hubbell
Humboldt
Hyannis
Indianola
Inglewood
Inman
Jansen
Johnson
Johnstown
Julian
Kearney
Kenesaw
Kennard
Kilgore
Laurel
Lawrence
Lebanon
Leigh
Lewellen
Liberty
Lindsay
Linwood
Litchfield
Lodgepole
Long Pine
Loomis
Loup City
Lyman
Lynch
Lyons
Magnet
Malmo
Manley
Marquette
Maskell
Mason City
Maxwell
Maywood
McGrew
McLean
Meadow Grove
Merna
Merriman
Milford
Miller
Milligan
Minatare
Mitchell
Monroe
Moorefield
Morse Bluff
Murdock
Murray
Naper
Naponee
Nebraska City
Nehawka
Neligh
Nelson
Nemaha
Newcastle
Newman Grove
Newport
Niobrara
Nora
North Bend
North Loup
Oak
Oakdale
Oakland
Obert
Oconto
Odell
Ohiowa
Ong
Orchard
Ord
Orleans
Oshkosh
Osmond
Oxford
O'Neill
Page
Pawnee City
Peru
Petersburg
Pickrell
Pierce
Pilger
Plainview
Plattsmouth
Pleasant Dale
Pleasanton
Polk
Prague
Primrose
Prosser
Randolph
Ravenna
Raymond
Red Cloud
Republican City
Reynolds
Richland
Riverton
Roca
Rockville
Rogers
Rulo
Rushville
Ruskin
Salem
Santee
Sargent
Saronville
Scotia
Scotts Bluff
Scribner
Seneca
Shelby
Shelton
Shickley
Sholes
Shubert

Sidney
Silver Creek
Smithfield
Snyder
South Bend
Spalding
Spencer
Springview
St. Edward
St. Helena
St. Paul
Stamford
Stanton
Steele City
Steinauer
Stella
Sterling
Stratton
Stromsburg
Stuart
Superior
Surprise
Sutherland
Sutton
Swanson
Table Rock
Talmage
Tamora
Tarnov
Taylor
Tecumseh
Tekamah
Terrytown
Thayer
Tilden
Trenton
Trumbull
Uehling
Ulysses
Union
Upland
Utica
Valparaiso
Verdel
Verdigre
Verdon
Virginia
Wahoo
Wallace
Walthill
Waterbury
Wausa
Wayne
Weeping Water
Wellfleet
West Point
Western
Weston
Wilber
Wilcox
Wilsonville
Winnebago
Winnetoon
Winside
Winslow
Wisner
Wolbach
Wood Lake
Wymore
Wynot

Nevada

Gabbs
Lovelock
Yerington

New Hampshire

Berlin

New Jersey

Alpha
Belleville
Beverly
Bradley Beach
Branchville
Burlington
Carteret
Clayton
Collingswood
Corbin City
East Newark
East Rutherford
Elmer
Englishtown
Fairview
Farmingdale
Freehold
Garfield
Gloucester City
Hackensack
Haledon
Hoboken
Keansburg
Kearny
Lambertville
Lawnside
Linden
Mount Ephraim
Orange
Paulsboro
Pemberton
Penns Grove
Phillipsburg
Plainfield
Pleasantville
Princeton
Prospect Park
Red Bank
Rockleigh
Roosevelt
Salem
South Amboy
South Belmar
South River
Swedesboro
Union Beach
West Cape May
West New York
West Wildwood
Wildwood
Woodbine
Woodlynne

New Mexico

Artesia
Belen
Bernalillo
Carrizozo
Causey
Central
Cimarron
Clayton
Columbus
Corona
Cuba
Des Moines
Dexter
Dora
Encino
Espanola
Estancia
Floyd
Folsom
Fort Sumner
Hagerman
Hope
House
Jemez Springs
Lake Arthur
Las Vegas
Logan
Lordsburg
Loving
Magdalena
Maxwell
Melrose
Mesilla
Moriarty
Mosquero
Mountainair
Pecos
Portales
Raton
Reserve
Roy
San Ysidro
Santa Rosa
Silver City
Springer
Tans
Tatum
Texico
Truth or Consequences
Tucumcari
Tularosa
Vaughn
Wagon Mound
Willard
Williamsburg

New York

Adams
Addison
Afton
Albion
Aldan
Alexandria Bay
Almond
Altmar
Amsterdam
Andover
Angola
Antwerp
Argyle
Arkport
Athens
Attica
Auburn
Aurora
Avoca
Avon
Bainbridge
Ballston Spa
Batavia
Beacon
Belmont
Bemus Point
Blasdell
Bloomingdale
Bolivar
Boonville
Brewster
Broadalbin
Brocton
Brownville
Brushton
Burdett
Burke
Caledonia
Cambridge
Camden
Camillus
Canajoharie
Canandaigua
Canaseraga
Canastota
Candor
Canisteo
Cape Vincent
Carthage
Cassadaga
Castile
Castleton-on-Hudson
Cato
Catskill
Cattaraugus
Cayuga
Cazenovia
Celoron
Champlain
Chateaugay
Chatham
Clayton
Clayville
Clifton Springs
Clinton
Clyde
Cohocton
Cohoes
Cold Brook
Constableville
Cooperstown
Copenhagen
Corfu
Corinth
Corning
Cortland
Croghan
Cuba
Dansville
De Ruyter
Deferiet
Delanson
Delevan
Deposit
Dering Harbor
Dexter
Dolgeville
Dresden
Dryden
Dunkirk
Earlville
East Bloomfield
East Syracuse
Edwards
Elba
Ellenville
Ellicottville
Ellisburg
Elmira Heights
Elmsford
Endicott
Esperance
Evans Mills
Fabius
Fair Haven
Falconer
Farmingdale
Farnham
Fleischmanns
Fonda
Forestville
Fort Ann
Fort Johnson
Fort Plain
Frankfort
Franklin
Franklinville
Fredonia
Freeport
Freeville
Fulton
Fultonville
Galway
Geneva
Gilbertsville
Glen Park
Gloversville
Gouverneur
Gowanda
Grand View-on-Hudson
Granville
Green Island
Greene
Greenport
Greenwich
Hagaman
Hamilton
Hammond
Hammondsport
Hancock
Hannibal
Harriman
Hempstead
Herkimer
Hermon
Heuvelton
Highland Falls
Hillburn
Hobart
Holland Patent
Homer
Hoosick Falls
Hornell
Hudson
Hudson Falls
Ilion
Island Park
Ithaca
Jamestown
Jeffersonville
Johnson City
Johnstown
Jordan
Keeseville
Kenmore
Kingston
Lackawanna
Lake George
Lake Placid
Laurens
Le Roy
Liberty
Limestone
Lisle
Little Falls
Liverpool
Livonia
Lockport
Lodi
Long Beach
Lowville
Lynbrook
Lyons
Lyons Falls
Madison
Malone
Mannsville
Margaretville
Massena
Mayfield
Mayville
McGraw
Mechanicville
Medina
Mexico
Middleburgh
Middleport
Middleville
Milford
Millbrook
Millerton
Millport
Mohawk
Montour Falls
Moravia
Morris
Morristown
Mount Kisco
Mount Morris
Munnsville
Naples
Nelliston
Nelsonville
New Berlin
New Paltz
New Square
New York Mills
Newark
Newark Valley
Newport
Nichols
North Collins
North Tonawanda
Northville
Norwich
Norwood
Nunda
Nyack
Oakfield
Ogdensburg
Olean
Oneida
Oneida Castle
Oneonta
Oriskany Falls
Oswego
Otego
Ovid
Owego
Oxford
Palmyra
Patchogue
Peekskill
Penn Yan
Perry
Phelps
Philadelphia
Philmont
Phoenix
Pike
Pine Hill
Plattsburgh
Poland
Port Chester
Port Dickinson
Port Henry
Port Jervis
Port Leyden
Portville
Potsdam
Prospect
Pulaski
Randolph
Red Hook
Rensselaer
Rensselaer Falls
Richmondville
Richville
Riverside
Round Lake
Rouses Point
Sag Harbor
Salamanca
Salem
Sandy Creek
Saranac Lake
Saugerties
Schaghticoke

Schenevus
Schoharie
Schuylerville
Scotia
Seneca Falls
Sherburne
Sherman
Sherrill
Sidney
Silver Creek
Sinclairville
Sloan
Sloatsburg
Smyrna
Sodus
Solvay
South Corning
South Dayton
South Glens Falls
Speculator
Spencer
Springville
St. Johnsville
Stamford
Theresa
Ticonderoga
Tivoli
Tonawanda
Tuckahoe
Tupper Lake
Turin
Unadilla
Union Springs
Unionville
Valley Falls
Van Etten
Waddington
Walton
Wappingers Falls
Warsaw
Waterford
Waterloo
Watertown
Watervliet
Watkins Glen
Waverly
Wayland
Wellsburg
Wellsville
West Carthage
Westfield
Westhampton Beach
Westport
Whitehall
Wolcott
Woodhull
Woodridge
Yorkville

North Carolina

Ahoskie
Alamance
Albemarle
Alexander Mills
Alliance
Arapahoe
Atkinson
Aulander
Aurora
Autryville
Ayden
Bailey
Bath
Bayboro
Beargrass
Beaufort
Belhaven
Belmont
Belwood
Benson
Bessemer city
Bethel
Beulaville
Bladenboro
Bolivia
Bolton
Brevard
Bridgeton
Brookford
Bryson City
Bunn
Burgaw
Burnsville
Calabash
Calypso
Cameron
Canton
Carthage
Castalia
Catawba
Cerro Gordo
Chadbourn
Cherryville
Clarkton
Clayton
Cleveland
Clinton
Cofield
Colerain
Columbia
Columbus
Como
Conetoe
Conway
Cove City
Cramerton
Creedmoor
Creswell
Crossnore
Dallas
Denton
Dillsboro
Dortches
Drexel
Dunn
Earl
East Arcadia
East Bend
East Laurinburg
East Spencer
Eden
Edenton
Elizabeth City
Elk Park
Ellenboro
Ellerbe
Elm City
Enfield
Erwin
Everetts
Fair Bluff
Fairmont
Faison
Falcon
Farmville
Fountain
Four Oaks
Franklin
Franklinton
Fremont
Fuquay-Varina
Garland
Gaston
Gibson
Glen Alpine
Goldsboro
Goldston
Granite Quarry
Greenevers
Grifton
Grimesland
Halifax
Hamilton
Hamlet
Harmony
Harrells
Harrellsville
Hassell
Haw River
Hayesville
Hazelwood
Henderson
Hendersonville
Hertford
Highlands
Hobgood
Hoffman
Holly Ridge
Holly Springs
Honkertim
Hot Springs
Huntersville
Indian Beach
Jackson
Jamesville
Jonesville
Kelford
Kenly
Kings Mountain
Kinston
Kittrell
La Grange
Lake Lure
Lansing
Lasker
Lattimore
Laurinburg
Lawndale
Leggett
Lenoir
Lewiston
Lexington
Liberty
Lilesville
Lincolnton
Linden
Littleton
Louisburg
Lowell
MacClesfield
Macon
Madison
Maggie Valley
Magnolia
Marion
Marshall
Maxton
Mayodan
Maysville
McDonald
McFarlan
Mebane
Mesic
Middleburg
Middlesex
Milton
Monroe
Mooresboro
Mooresville
Morehead City
Morganton
Marven
Mount Airy
Mount Gilead
Mount Holly
Mount Olive
Mount Pleasent
Murfreesboro
Murphy
Navasea
New Bern
Newton Grove
Norlina
Norman
North Wilkesboro
Norwood
Oak City
Oakboro
Oriental
Orrum
Oxford
Pantego
Parkton
Parmele
Peachland
Pilot Mountain
Pine Level
Pinesbluff
Pinetops
Prineville
Pink Hill
Pittsboro
Plymouth
Polkton
Pollocksville
Powellsville
Princeton
Pinceville
Proctorville
Ramseur
Randleman
Ranlo
Raynham
Red Oak
Red Springs
Reidsville
Rennert
Rhodhiss
Rich Square
Richlands
Roanoke Rapids
Robbins
Robersonville
Rockingham
Rolesville
Ronda
Roper
Rose Hill
Roseboro
Rosman
Rowland
Roxboro
Roxobel
Ruth
Rutherfordton
Saratoga
Scotland Neck
Seaboard
Seagrove
Selma
Seven Springs
Severn
Shelby
Siler City
Simpson
Sims
Smithfield
Southern Pines
Southport
Speed
Spindale
Spring Hope
Spring Lake
Spruce Pine
St. Pauls
Stanley
Stantonsburg
Star
Statesville
Stem
Stovall
Swansboro
Sylva
Tabor City
Tarboro
Taylorsville
Teachey
Thomasville
Trenton
Troy
Tryon
Turkey
Vanceboro
Vandemere
Vass
Wadesboro
Wagram
Wake Forest
Wallace
Walnut Cove
Walstonburg
Warrenton
Warsaw
Washington
Waxhaw
Webster
Weldon
West Jefferson
Whitakers
Wilkesboro
Williamston
Wilson
Windsor
Winfall
Winton
Woodland
Yadkinville
Youngsville

North Dakota

Abercrombie
Adams
Alice
Alsen
Ambrose
Amenia
Anamoose
Aneta
Antler
Ardoch
Arnegard
Ashley
Ayr
Balfour
Balta
Bantry
Bathgate
Beach
Belfield City
Benedict
Berlin
Berwick
Binford
Bisbee
Bowbells
Braddock
Brinsmade
Brocket
Bucyrus
Butte
Calio
Calvin
Cando
Canton City
Carrington
Carson
Cathay
Cayuga
Christine
Cleveland
Clifford
Cogswell
Coleharbor
Columbus
Conway
Cooperstown
Courtenay
Crosby
Crystal
Davenport
Deering
Devils Lake
Dickey City
Dodge City
Donnybrook
Douglas
Drake
Dunn Center City
Dunseith
Dwight
Edgeley
Edinburg
Edmore
Egeland
Elgin
Elliott
Enderlin
Epping
Esmond
Fairmount
Fessenden
Fingal
Flasher
Flaxton
Forbes
Fordville
Fort Ransom
Fort Yates
Fortuna
Fredonia
Fullerton
Gackle
Galesburg
Gardena
Gardner
Glen Ullin
Golden Valley City
Golva
Goodrich
Grafton
Granville
Great Bend
Hague
Halliday City
Hamilton
Hankinson
Hannaford
Hannah
Hansboro
Hatton
Havana
Hazelton
Hebron
Hope
Hove Mobile Park
Hurdafield
Jamestown
Jud
Karlsruhe
Kathryn
Kenmare
Kensal
Kief
Killdeer City
Knox
Kramer
Kulm
La Moure
Lakota
Lankin
Lansford
Larson
Lawton
Leal

Lehr
Leith
Lidgerwood
Lignite
Linton
Lisbon
Litchville
Laverne
Maddock
Mapleton
Marion
Marmarth
Martin
Max
Maxbass
Mayville
McClusky
McVille
Medina
Mercer
Merricourt
Milnor
Milton
Minnewaukan
Monango
Mott
Mountain
Mylo
Napoleon
Nekoma
New England
New Leipzig
New Rockford
New Salem
Newburg
Niagara
Nome
Noonan
Northwood
Oberon
Osnabrock
Page
Palermo
Parshall
Pekin
Petersburg
Pettibone
Pillsbury
Pingree
Pisek
Plaza
Portal
Powers Lake
Ray
Reeder
Regan
Regent
Rhame
Richardson City
Robinson
Rocklake
Rolla
Ross
Rugby
Ryder
Sanborn
Sarles
Sawyer
Selfridge
Sentinel Butte
Sharon
Sheldon
Sherwood
Sheyenne
Solen
South Heart City
St. John
Stanley
Strasburg
Streeter
Sykeston
Tappen
Tolley
Tolna
Tower City
Towner
Tuttle
Upham
Valley City
Valley Township
Velva
Ventura
Verona
Walcott
Wales
Walhalla
Warwick
White Earth
Wildrose
Willow City
Wilton
Wimbledon
Wing
Wolford
Woodworth
Wyndmere
York
Zap City
Zeeland

Ohio

Aberdeen
Ada
Adamsville
Addyston
Adelphi
Adena
Albany
Alexandria
Alger
Alliance
Amanda
Amsterdam
Andover
Antioch
Apple Creek
Aquilla
Arcanum
Arlington
Arlington Heights
Ashtabula
Athens
Attica
Bainbridge
Baltic
Barberton
Barnesville
Barnhill
Batavia
Batesville
Beallsville
Beaver
Beaverdam
Bellaire
Belle Center
Belle Valley
Bellevue
Bellville
Belmont
Belmore
Benton Ridge
Bethel
Betteville
Blanchester
Bloomingburg
Bloomingdale
Bolivar
Bowerston
Bowersville
Bowling Green
Bradford
Bradner
Bremen
Brice
Bridgeport
Brilliant
Brookville
Buchtel
Buckeye
Buckland
Burkettsville
Butler
Butlerville
Byesville
Cadiz
Caledonia
Cambridge
Campbell
Cardington
Carroll
Casstown
Castalia
Catawba
Cecil
Centerville
Chatfield
Chauncey
Chesapeake
Cheshire
Chesterhill
Chesterville
Chillicothe
Chilo
Chippewa-on-the-Lake
Christiansburg
Circleville
Clarksburg
Clarksville
Clay Center
Clayton
Clifton
Clinton
Cloverdale
Clyde
Coal Grove
Coalton
College Corner
Columbus Grove
Commercial Point
Connesville
Conneaut
Convoy
Corning
Corwin
Coshocton
Covington
Crestline
Crooksville
Crown City
Cumberland
Custar
Cygnet
Danville
Darbyville
De Graff
Deer Park
Dellroy
Delphos
Dennison
Deshler
Dexter City
Dillonvale
Donnelsville
Dresden
Dunkirk
East Cleveland
East Liverpool
East Palestine
East Sparta
Edgerton
Edison
Elgin
Elmwood Place
Empire
Fairfax
Fairview
Fayetteville
Fletcher
Flushing
Fort Jennings
Fort Recovery
Frazeysburg
Fredericksburg
Freeport
Fremont
Fulton
Fultonham
Galena
Galion
Gallipolis
Gann
Gilboa
Glenford
Glenmont
Glouster
Gnadenhutten
Gordon
Grand Rapids
Grand River
Granville
Gratiot
Gratis
Green Camp
Greenfield
Greenwich
Grover Hill
Hamden
Hanging Rock
Harpster
Harrisville
Hartford
Harveysburg
Hemlock
Higginsport
Highland
Hillsboro
Holgate
Holland
Hollansburg
Holloway
Hopedale
Houtzville
Huntsville
Irondale
Ironton
Ithaca
Jackson
Jacksonburg
Jacksonville
Jamestown
Jeffersonville
Jenera
Jeromesville
Jerusalem
Johnston
Kent
Kenton
Kettlersville
Killbuck
Kimbolton
Kingston
Kirby
Kirkersville
La Rue
Lafayette
Lakeview
Lancaster
Laurelville
Leesburg
Leesville
Leetonia
Lewisburg
Lewisville
Lincoln Heights
Lindsey
Lisbon
Lithopolis
Lockland
Logan
London
Lore City
Lowell
Lower Salem
Lucas
Ludlow Falls
Lynchburg
Lyons
Macksburg
Magnetic Spring
Malinta
Malta
Malvern
Manchester
Marblehead
Marion
Martins Ferry
Martinsburg
Martinsville
Massillon
Matamora
McConnelsville
Melrose
Metamora
Middleport
Midland
Milvale
Milledgeville
Miller City
Millersport
Milton Center
Miltonsburg
Mineral City
Minerva
Monroeville
Montezuma
Montpelier
Morral
Morristown
Morrow
Moscow
Mount Blanchard
Mount Cory
Mount Gilead
Mount Pleasant
Mount Vernon
Mount Victory
Mowrystown
Murray City
Mutual
Navarre
Nellie
Nelsonville
New Albany
New Alexandria
New Athens
New Bavaria
New Bloomington
New Boston
New Concord
New Holland
New Knoxville
New Lexington
New London
New Miami
New Paris
New Richmond
New Riegel
New Rome
New Straitsville
New Vienna
New Washington
New Weston
Newburgh Heights
Newcomerstown
Newton Falls
Newtonsville
Ney
North Baltimore
North Bend
North Hampton
Norwich
Norwood
Oak Hill
Oberlin
Octa
Old Washington
Orient
Ostrander
Ottoville
Otway
Painesville
Palestine
Parral
Patterson
Paulding
Peebles
Philo
Pikeion
Piqua
Plain City
Pleasant City
Pleasantville
Polk
Pomeroy
Port Clinton
Port Washington
Port William
Portage
Portsmouth
Powhatan Point
Proctorville
Prospect
Quaker City
Quincy
Racine
Rarden
Rawson
Rayland
Readville
Richwood
Rio Grande
Ripley
Rising Sun
Rittman
Rock Creek
Rogers
Rome
Roseville
Roswell
Rushsylvania
Rushville
Russells Point
Rutland
Salem
Salesville
Salineville
Sandusky
Sarahsville
Sardinia
Savannah
Scio
Seaman
Senecaville
Shawnee
Sherrodsville
Shiloh
Sinking Spring
Somerset
Somerville
South Bloomfield
South Charleston
South Lebanon
South Salem
South Solon
South Webster
South Zanesville
Spencer
Spencerville
St. Louisville
St. Martin
St. Paris
Stafford
Stockport
Stoutsville
Strutton

Struthers
Summerfield
Summitville
Syracuse
Tarlton
Thurston
Tiffin
Tremont City
Trimble
Uhrichsville
Union City
Urbana
Urbancrest
Van Wert
Vanlue
Venedocia
Versailles
Vinton
Warsaw
Washington
Washingtonville
Wauseon
Waynesburg
Waynesfield
Wellington
Wellston
Wellsville
West Alexandria
West Elkton
West Leipsic
West Manchester
West Mansfield
West Rushville
West Union
Wilkesville
Williamsburg
Williamsport
Willshire
Wilmington
Wilmot
Winchester
Woodlawn
Woodsfield
Wren
Xenia
Yellow Springs
Yorkville
Zaleski
Zanesfield
Zanesville

Oklahoma

Achille
Addington
Afton
Albion
Alex
Aline
Allen
Altus
Alva
Ames
Amorita
Anadarko
Antlers
Apache
Ardmore
Arkoma
Arnett
Asher
Ashland
Atoka
Avant
Barnsdall
Beggs
Bennington
Bernice
Bessie
Big Cabin
Binger
Blackburn
Blackwell
Blair
Blanchard
Bluejacket
Boise City
Bokchito
Boknahe
Boley
Boswell
Bowlegs
Boynton
Braggs
Braman
Bray
Bridgeport
Bristow
Broken Bow
Bromide
Brooksville
Bryant
Buffalo
Burbank
Butler
Byars
Byron
Caddo
Cache
Calumet
Calvin
Camargo
Canadian
Caney
Canton
Canute
Carmen
Carnegie
Carrier
Carter
Castle
Cement
Centrahoma
Chandler
Checotah
Chelsea
Cherokee
Chickasha
Claremore
Clayton
Cleo
Cleveland
Coalgate
Colbert
Colcord
Collinsville
Colony
Comanche
Commerce
Cooperton
Cornish
Council Hill
Covington
Coweta
Cowlington
Coyle
Crescent
Cromwell
Crowder
Cushing
Custer City
Cyril
Dacoma
Davenport
Davidson
Davis
Deer Creek
Delaware
Depew
Devol
Dewar
Dewey
Dibble
Dickson
Disney
Dougherty
Dover
Drumright
Durant
Dustin
Eakly
Earlsboro
East Duke
El Reno
Eldorado
Elk City
Elmer
Elmore City
Erick
Eufaula
Fairfax
Fairland
Fallis
Fanshawe
Faxon
Fletcher
Foraker
Fort Cobb
Fort Gibson
Fort Towson
Foyil
Francis
Frederick
Gage
Gans
Garber
Garvin
Gate
Geary
Gene Autry
Gerty
Glencoe
Goltry
Goodwell
Gore
Gotebo
Gould
Gracemont
Grandfield
Granite
Grayson
Greenfield
Guthrie
Haileyville
Hallett
Hammon
Hanna
Harris
Hartshorne
Haskell
Hastings
Haworth
Headrick
Healdton
Heavener
Helena
Hendrix
Henryetta
Hickory
Hinton
Hitchcock
Hitchita
Hobart
Hoffman
Holdenville
Hollis
Hominy
Howe
Hugo
Hulbert
Hunter
Hydro
Idabel
Indiahoma
Indianola
Jay
Jennings
Jones
Kaw
Kendrick
Kenefic
Keota
Ketchum
Kiefer
Kinta
Kiowa
Knowles
Konawa
Krebs
Lamar
Lamont
Langley
Langston
Le Flore
Leedey
Lehigh
Lenapah
Leon
Lexington
Lima
Lindsay
Loco
Locust Grove
Lone Wolf
Longdale
Lookeba
Loveland
Loyal
Luther
Madill
Mangum
Manitou
Mannsville
Maramec
Marble City
Marietta
Marland
Marlow
Marshall
Martha
Maud
May
Maysville
McAlester
McCurtain
Medford
Medicine Park
Meridian
Miami
Milburn
Millerton
Moffett
Morris
Mounds
Mountain Park
Mountain View
Mulhall
Muskogee
Mutual
Nardin
Nash
New Alluwe
Newkirk
Norge
North Miami
Nowata
Oakland
Oaks
Oakwood
Oilton
Okarche
Okay
Okemah
Okmulgee
Olustee
Orlando
Osage
Paden
Panama
Paoli
Pauls Valley
Pawhuska
Pawnee
Peoria
Perkins
Phillips
Picher
Pittsburg
Pond Creek
Porter
Porum
Poteau
Prague
Putnam
Quapaw
Quinlan
Quinton
Ralston
Ramona
Randlett
Ravia
Red Oak
Red Rock
Redbird
Renfrow
Rentiesville
Reydon
Ringling
Ringwood
Rocky
Roff
Roland
Roosevelt
Rosedale
Rush Springs
Ryan
Salina
Sapulpa
Sasakwa
Savanna
Sayre
Seiling
Seminole
Sentinel
Shady Grove
Shady Point
Shamrock
Shawnee
Shidler
Silo Town
Skedee
Slick
Smithville
Snyder
Soper
South Coffeyville
Sparks
Spavinaw
Spiro
Sterling
Stigler
Stilwell
Stonewall
Strang
Stratford
Strong City
Stroud
Stuart
Sulphur
Taft
Tallihina
Tamaha
Tatums
Tecumseh
Temple
Terlton
Terral
Texhoma
Texola
Thomas
Tipton
Tishomingo
Tonkawa
Tribbey
Tryon
Tullahassee
Tupelo
Tushka
Valley Brook
Valliant
Vera
Verden
Vian
Vici
Vinita
Wagoner
Wakita
Walters
Wanette
Wann
Wapanucka
Warner
Warwick
Watonga
Watts
Wayne
Waynoka
Webb City
Webers Falls
Welch
Weleetka
West Sildam Springs
Westport
Westville
Wetumka
Wewoka
Whitefield
Wilburton
Willow
Wilson
Wister
Woodville
Wright City
Wyandotte
Wynnewood
Wynona
Yale
Yeager

Oregon

Adrian
Amity
Antelope
Ashland
Astoria
Athena
Baker
Banks
Barlow
Bonanza
Chiloquin
City of the Dalles
Coburg
Condon
Coquille
Cottage Grove
Dayton
Dayville
Dunald
Elkton
Falls City
Garibaldi

Gervais
Glendale
Gold Hill
Grass Valley
Haines
Halfway
Hood River
Hubbard
Huntington
Independence
Ione
Jefferson
Joseph
Long Creek
Lostine
Malin
Manzanita
Merrill
Milton Freewater
Mitchell
Monroe
Monument
Mount Angel
North Power
Nyssa
Oakland
Ontario
Paisley
Powers
Prairie City
Rainier
Richland
Rockaway
Scio
Scotts Mills
Seneca
Shaniko
Silverton
Sisters
Sodaville
Spray
Summerville
Sumpter
Vale
Vernonia
Wallowa
Waterloo
Weston
Willamina
Yachats
Yamhill
Yoncalla

Pennsylvania

Adamsburg
Adamstown
Addison
Alexandria
Aliquippa
Ambridge
Apollo
Applewold
Arnold
Arona
Ashland
Ashley
Ashville
Athens
Austin
Avalon
Avis
Avoca
Avondale
Bangor
Barkeyville
Barnesboro
Bear Lake
Beaver Falls
Beaver Meadows
Beavertown
Bedford
Belle Vernon
Bellefonte
Bellwood
Bendersville
Bentleyville
Benton
Berlin
Berrysburg
Berwick
Bessemer
Big Run
Biglerville
Birmingham
Blain
Blairsville
Blawnox
Bloomsburg
Blossburg
Boswell
Brackenridge
Braddock
Braddock Hills
Bradford
Bridgeport
Bridgewater
Brisbin
Bristol
Broad Top City
Brockway
Brownsville
Bruin
Burlington
Burnham
Butler
California
Callensburg
Callery
Cambridge Springs
Canonsburg
Canton
Carbondale
Carmichaels
Carrolltown
Cassandra
Cassville
Catawissa
Centerville
Central City
Centralia
Centre Hall
Centreville
Chalfant
Chambersburg
Charleroi
Cherry Tree
Cherry Valley
Clairton
Clarion
Clarksville
Claysville
Clearfield
Clintonville
Clymer
Coal Center
Coaldale
Coalmont
Coalport
Coatesville
Cokeburg
Collegeville
Collingdale
Columbia
Colwyn
Confluence
Conneautville
Connellsville
Connoquenessing
Conshohocken
Conway
Coraopolis
Corry
Corsica
Coudersport
Courtdale
Crafton
Creekside
Cresson
Cressona
Curwensville
Dale
Dallas
Danville
Darby
Darlington
Dawson
Dayton
Derry
Dickson City
Donegal
Donora
Dormont
Dravosburg
Driftwood
Du Bois
Dudley
Dunbar
Duncannon
Duncansville
Dunlay
Dunmore
Dupont
Duquesne
Duryea
Dushore
Eagles Mere
East Berlin
East Brady
East Conemaugh
East Lansdowne
East McKeesport
East Pittsburgh
East Side
East Vandergrift
Eastvale
Eau Claire
Eddystone
Edwardsville
Elderton
Eldred
Elgin
Elizabeth
Elizabethville
Elkland
Ellport
Ellwood City
Emporium
Enon Valley
Ernest
Etna
Evans City
Everett
Everson
Export
Factoryville
Fairchance
Fairview
Falls Creek
Fallston
Farrell
Fayette City
Ford City
Forest City
Forksville
Forty Fort
Foxburg
Frackville
Frankfort Springs
Franklin
Franklin City
Franklintown
Freeland
Freeport
Galeton
Gallitzin
Garrett
Gettysburg
Gilberton
Girardville
Glasgow
Glassport
Glen Campbell
Glen Hope
Glenfield
Glenolden
Goldsboro
Gratz
Great Bend
Green Lane
Greensboro
Greenville
Grove City
Halifax
Hallam
Hallstead
Harleton
Hastings
Hawley
Hawthorne
Haysville
Homer City
Homestead
Homewood
Honesdale
Hooversville
Hop Bottom
Hopewell
Houston
Houtzdale
Hunker
Huntingdon
Hyde Park
Hyndman
Indiana
Irvona
Jackson Center
Jacksonville
Jamestown
Jeannette
Jeddo
Jefferson
Jermyn
Jersey Shore
Jessup
Jim Thorpe
Johnsonburg
Jonestown
Juniata Terrace
Kane
Karns City
Kenhorst
Kingston
Kistler
Kittanning
Knoxville
Kulpmont
Kutztown
Landisburg
Lanesboro
Lansford
LaPorte
Larksville
Lawrenceville
Le Raysville
Lebanon
Lehighton
Lewisberry
Lewisburg
Lewistown
Liberty
Lincoln
Linesville
Little Meadows
Littlestown
Liverpool
Lock Haven
Loretto
Luzerne
Lykens
Mahaffey
Mahanoy City
Manns Choice
Manor
Manorville
Mansfield
Mapleton
Marcus Hook
Marianna
Marietta
Marion Heights
Marklesburg
Markleysburg
Masontown
Matamoras
Mayfield
McAdoo
McClure
McConnellsburg
McDonald
McEwensville
McKean
McKees Rocks
McKeesport
McSherrystown
McVeytown
Meadville
Mechanicsville
Mercer
Mercerburg
Meyersdale
Middleburg
Middleport
Midland
Midway
Mifflintown
Mill Creek
Mill Hall
Millersburg
Millheim
Millvale
Milton
Minersville
Modena
Monessen
Monongahela
Monroe
Montgomery
Montrose
Mount Carmel
Mount Jewett
Mount Oliver
Mount Penn
Mount Pleasant
Mount Union
Muncy
Myerstown
Nanticoke
Nanty Glo
Nescopeck
Nesquehoning
New Baltimore
New Berlin
New Brighton
New Castle
New Centerville
New Eagle
New Florence
New Kensington
New Lebanon
New Milford
New Paris
New Phila
New Ringgold
New Washington
Newburg
Newell
Newport
Newry
Newton Hamilton
Newville
Norristown
North Apollo
North Belle Vernon
North Braddock
North Charleroi
North East
North Irwin
North York
Northumberland
Norwood
Oakland
Ohiopyle
Oil City
Oklahoma
Old Forge
Olyphant
Orbisonia
Orrstown
Osceola Mills
Oswayo
Oxford
Paint
Palmerton
Palto Alto
Parker
Parkesburg
Patton
Pen Argyl
Penn
Pennsburg
Perkasie
Petersburg
Petrolia
Philipsburg
Pine Grove
Pitcairn
Pittston
Pleasantville
Plumville
Plymouth
Point Marion
Port Allegany
Port Carbon
Port Matilda
Portage
Pottstown
Pottsville
Punxsutawney
Railroad
Rainsburg
Rankin
Renovo
Reynoldsville
Ridgway
Rimersburg
Ringtown
Rochester
Rockhill Furnace
Rockwood
Roma
Rossiter
Rouseville
Royalton
Royersford
Saegertown
Salisbury
Salladasburg
Saltsburg
Sandy Lake
Sankertown
Saxton
Sayre
Scalp Level
Schellsburg
Schuylkill Haven
Scottdale
Seven Valleys
Seward
Sewickley
Shade Gap
Shamokin
Sharon Hill
Sharpsburg
Sharpsville
Sheakleyville
Shenandoah
Shickshinny
Shinglehouse
Rainsburg

Shippensburg
Shippenville
Shippingport
Shirleyburg
Sliverdale
Sligo
Slippery Rock
Smethport
Smicksburg
Smithfield
Smithton
Snow Shoe
Snydertown
South Bethlehem
South Coatsville
South Connellsville
South Fork
South Greensburg
South New Castle
South Philipsburg
South Renovo
South Waverly
South Williamsport
Southwest Greensburg
Spangler
Spartansburg
Springboro
Springdale
St. Clair
St. Clairsville
St. Marys
St. Petersburg
Starrucca
Steelton
Stillwater
Strattanville
Strausstown
Stroudsburg
Sugar Grove
Sugar Notch
Sugarcreek
Summerhill
Summerville
Summit Hill
Sunbury
Susquehanna Depot
Swissvale
Swoyersville
Tamaqua
Tarentum
Thompson
Three Springs
Throop
Tidioute
Timblin
Tioga
Tionesta
Titusville
Towanda
Tower City
Townville
Trafford
Trainer
Tremont
Troy
Trumbauersville
Tunkhannock
Tunnelhill
Turtle Creek
Tyrone
Union City
Union Dale
Uniontown
Unionville
Upland
Ursina
Utica
Vanderbilt
Vandergrift
Vandling
Verona
Versailles
Wallaceton
Wampum
Warren
Warrior Run
Washington
Waterford
Watsontown
Waymart
Waynesboro
Waynesburg
Weissport
Wellsboro
Wellsville
West Alexander
West Brownsville
West Chester
West Easton
West Elizabeth
West Grove
West Hazleton
West Mayfield
West Middlesex
West Reading
West Sunbury
West Wyoming
West York
Westfield
Westover
Wheatland
Whitaker
Wilkinsburg
Williamburg
Williamstown
Wilmerding
Wilmore
Wilson
Windber
Windsor
Woodbury
Worthington
Worthville
Wrightsville
Wyalusing
Wyoming
Yorkana
Zelienople

Rhode Island

Central Falls
Newport
Woonsocket

South Carolina

Abbeville
Allendale
Andrews
Atlantic Beach
Bamberg
Batesburg
Beaufort
Belton
Bennettsville
Bethune
Bishopville
Blacksburg
Blackville
Blenheim
Bluffton
Bonneau
Bowman
Branchville
Brunson
Burnettown
Calhoun Falls
Camden
Cameron
Campobello
Carlisle
Central Pacolet
Chapin
Cheraw
Chesnee
Chester
Chesterfield
City View
Clinton
Clio
Clover
Conway
Cope
Cordova
Cottageville
Coward
Cowpens
Cross Hill
Darlington
Denmark
Dillon
Donalds
Due West
Duncan
Easley
Eastover
Edgefield
Ehrhardt
Elko
Elloree
Estill
Eutawville
Fort Lawn
Fort Mill
Fountain Inn
Furman
Gaffney
Georgetown
Gifford
Gilbert
Great Falls
Greeleyville
Greenwood
Greer
Harleyville
Hartsville
Heath Springs
Hemingway
Hodges
Honea Path
Inman
Iva
Jamestown
Jefferson
Jonesville
Kingstree
Kline
Lake city
Lake View
Lamar
Lancaster
Landrum
Lane
Latta
Laurens
Leesville
Livingston
Lockhart
Lodge
Loris
Lowndesville
Lowrys
Lyman
Lynchburg
Manning
Marion
Mayesville
McColl
McConnells
McCormick
Megget
Monetta
Mount Carmel
Mullins
Neeses
Newberry
Nichols
North
Norway
Olanta
Olar
Orangeburg
Pacolet
Pacolet Mills
Pageland
Parksville
Patrick
Paxville
Pickens
Pinewood
Plum Branch
Pomaria
Prosperity
Ravenel
Reevesville
Richburg
Ridge Spring
Ridgeland
Ridgeville
Ridgeway
Rowesville
Salem
Salley
Saluda
Santee
Scotia
Sellers
Smyrna
Snelling
Society Hill
Springfield
St. George
St. Matthews
St. Stephen
Stuckey
Summerton
Summit
Sumter
Swansea
Sycamore
Tatum
Timmonsville
Trenton
Troy
Ulmer
Union
Vance
Varnville
Walhalla
Walterboro
Ward
Ware Shoals
Waterloo
West Columbia
West Union
Westminster
Whitmire
Williams
Windsor
Winnsboro
Woodford
Woodruff
Yemassee
York

South Dakota

Aberdeen
Agar
Alexandria
Alpena
Andover
Arlington
Armour
Artas
Artesian
Ashton
Astoria
Aurora
Avon
Bancroft
Batesland
Belvidere
Beresford
Big Stone City
Bison
Blunt
Bonesteel
Bowdle
Bradley
Brandt
Brentford
Bridgewater
Bristol
Britton
Brookings
Bruce
Bryant
Buffalo
Buffalo Gap
Burke
Bushnell
Camp Crook
Canistota
Canova
Carthage
Cavour
Centerville
Central City
Chamberlain
Chancellor
Claire City
Claremont
Clark
Colman
Colome
Colton
Columbia
Conde
Corona
Corsica
Cottonwood
Cresbard
Custer
Dallas
Dante
Davis
De Smet
Deadwood
Dell Rapids
Delmont
Dimock
Doland
Dolton
Draper
Dupree
Eagle Butte
Eden
Egan
Elk Point
Elkton
Emery
Erwin
Estelline
Eureka
Fairfax
Fairview
Faith
Farmer
Faulkton
Flandreau
Florence
Frankfort
Frederick
Garden City
Gary
Gayville
Geddes
Gettysburg
Goodwin
Gregory
Grenville
Hartford
Hecla
Henry
Hermosa
Herreid
Herrick
Hetland
Highmore
Hill City
Hitchcock
Hosmer
Hot Springs
Hoven
Howard
Hudson
Humboldt
Hurley
Huron
Ipswich
Irene
Isabell
Java
Kadoka
Kennebec
Kimball
La Bolt
Lake Andes
Lake Norden
Lake Preston
Lane
Langford
Lead
Lebanon
Lemmon
Lennox
Leola
Lesterville
Lily
Long Lake
Loyalton
Madison
Marion
Martin
Marvin
McIntosh
McLaughlin
Mellette
Memo
Midland
Milbank
Miller
Mission
Mitchell
Mobridge
Monroe
Montrose
Morristown
Mound City
Mount Vernon
Murdo
New Underwood
Newell
Northville
Nunda
Olivet
Onaka
Onida
Orient
Ortley
Parker
Parkston

Peever
Pierpont
Platte
Pollock
Presho
Pringle
Pukwana
Quinn
Ramona
Ravinia
Ree Heights
Revillo
Rockham
Roscoe
Rushmit
Roswell
Salem
Scotland
Selby
Seneca
Sherman
Sinai
Siesseton
South Shore
Spearfish
Spencer
Springfield
St. Francis
St. Lawrence
Stickney
Stockholm
Stratford
Summit
Timber Lake
Tolstoy
Toronto
Tripp
Tulare
Turton
Twin Brooks
Tyndall
Veblen
Vermillion
Viborg
Vienna
Vilas
Virgil
Volga
Volin
Wagner
Wallace
Ward
Wasta
Waubay
Wessington
Wessington Springs
Westport
White
White Lake
White River
White Rock
Willow Lake
Wilmot
Winfred
Winner
Wolsey
Wood
Woonsocket
Worthing
Yankton

Tennessee

Adams
Adamsville
Alamo
Alcoa
Alexandria
Allardt
Altamont
Arlington
Athens
Auburntown
Baileyton
Baxter
Beersheba Springs
Bells
Bethel Springs
Big Sandy
Blaine
Bluff City
Bolivar
Braden
Brighton
Brownsville
Burlison
Caryville
Cedar Hill
Celina
Centertown
Centerville
Charleston
Cleveland
Clifton
Coalmont
Copperhill
Cornersville
Cottage Grove
Covington
Cown
Crossville
Cumberland City
Dayton
Decherd
Denmark
Dickson
Dover
Dowelltown
Doyle
Dresden
Ducktown
Dyer
Dyersburg
Elizabethton
Elkton
Englewood
Enville
Erin
Erwin
Ethridge
Etowah
Fayetteville
Finger
Franklin
Friendsville
Gadsden
Gainesboro
Gates
Gibson
Gilt Edge
Gleason
Graysville
Greenback
Greenfield
Halls
Harriman
Henderson
Henning
Henry
Hickory Valley
Hollow Rock
Hornbeak
Hornsby
Huntland
Huntsville
Iron City
Jacksboro
Jackson
Jamestown
Jefferson City
Jellico
Kenton
La Follette
La Grange
Lake City
Lakeland
Lebanon
Lenoir City
Lewisburg
Lexington
Liberty
Linden
Livingston
Loudon
Luttrell
Lynchburg
Lynnville
Madisonville
Martin
Mason
Maury City
Maynardville
McKenzie
McLemoresville
McMinnville
Medina
Medon
Michie
Middleton
Milledgeville
Mitchellville
Monterey
Morrison
Morristown
Mosheim
Mount Pleasant
Mountain City
New Market
New Tazewell
Newbern
Newport
Niota
Normandy
Oakdale
Oakland
Obion
Oliver Springs
Oneida
Orlinda
Palmer
Paris
Petersburg
Philadelphia
Pikeville
Piperton
Pittman Center
Pleasant Hill
Powells Crossroads
Pulaski
Puryear
Rumer
Red Boiling Springs
Ridgely
Ripley
Rives
Rockford
Rockwood
Roseville
Rutherford
Rutledge
Saltillo
Samburg
Sardis
Saulsbury
Savannah
Selmer
Sevierville
Sharon
Slayden
Soddy-Daisy
Somerville
South Carthage
South Fulton
South Pittsburg
Sparta
Spencer
Spring City
Spring Hill
Springfield
Stanton
Stantonville
Surgoinsville
Sweetwater
Tazewell
Tellico Plains
Tiptonville
Townsend
Tracy City
Trenton
Trimble
Troy
Union
Viola
Vonore
Wartrace
Watertown
Whiteville
Whitwell
Williston
Woodland Mills
Yorkville

Texas

Abbott
Ackerly
Alamo
Alba
Alice
Alpine
Alto
Alvarado
Alvord
Amea
Amherst
Anahuac
Annona
Anthony
Anton
Aquilla
Arp
Asherton
Athens
Austwell
Avery
Avinger
Bailey
Baird
Ballinger
Balmorhea
Bandera
Bangs
Bardwell
Barry
Barstow
Bartlett
Bastrop
Bayside
Baview
Beeville
Bellevue
Bellmead
Bells
Benavides
Benjamin
Bertram
Big Sandy
Big Wells
Blackwell
Blanco
Blanket
Bloomburg
Blooming Grove
Blue Ridge
Blum
Boerne
Bonham
Bonney
Bowie
Boyd
Brackettville
Brady
Breckenridge
Bremond
Brenham
Broaddus
Bronson
Bronte
Brookshire
Brownfield
Brownsboro
Brownswood
Bryson
Buckholts
Buda
Buffalo Gap
Burton
Byers
Bynum
Caddo Mills
Cameron Calvert
Camp Wood
Campbell
Carbon
Carmine
Carrizo Springs
Castroville
Celeste
Center
Centerville
Chandler
Channing
Charlotte
Chester
Chico
Chillicothe
China
Chireno
Christine
Cibolo
Cisco
Clarendon
Clarksville
Clarksville City
Cleveland
Clint
Coahoma
Cockrell Hill
Coffee City
Coldspring
Coleman
Collinsville
Colmesneil
Colorado City
Comanche
Combes
Commerce
Coolidge
Cooper
Corrigan
Corsicana
Cotulla
Covington
Crandall
Cransfills Gap
Crawford
Crockett
Crosbyton
Cross Plains
Crowell
Crystal city
Cuero
Cumby
Dawson
De Kalb
De Leon
Decatur
Del Rio
Dell City
Deport
Detroit
Devine
Dilley
Dodd City
Dodson
Domino
Donna
Dorchester
Douglassville
Driscoll
Dublin
Eagle Lake
Eagle Pass
Eastland
Easton
Ector
Edcouch
Eden
Edna
Edom
Eldorado
Electra
Elkhart
Elmendorf
Elsa
Emhouse
Emory
Encinal
Ennis
Estelline
Eustace
Falfurrias
Farmersville
Fate
Fayetteville
Ferris
Flatonia
Florence
Floresville
Floydada
Follett
Forsan
Franklin
Frankston
Frisco
Frost
Gallatin
Garrett
Garrison
Gary
Gatesville
George West
Gholson
Giddings
Gilmer
Godley
Goldthwaite
Goliad
Golinda
Gonzales
Goodlow
Goodrich
Gordon
Goree
Gorman
Graford
Grand Saline
Grandfalls
Grandview
Granger
Grapeland
Grayburg
Greenville
Gregory
Groesbeck
Groom

Groveton
Gunter
Gustine
Hale Center
Hallettsville
Hallsburg
Hamilton
Hamlin
Hart
Haslet
Hearne
Hedley
Hemphill
Henrietta
Hico
Hidalgo
Hillsboro
Holland
Hondo
Honey Grove
Hubbard
Huntington
Hutto
Iredell
Italy
Itasca
Jacksonville
Jasper
Jayton
Jefferson
Jewett
Joaquin
Johnson City
Joshua
Jourdanton
Junction
Karnes City
Kaufman
Kemp
Kendleton
Kenedy
Kennard
Kerens
Kingsville
Kirbyville
Knox City
Kosse
Krebs
Krum
Kyle
La Coste
La Feria
La Grange
La Grulla
La Joya
La Villa
La Ward
Ladonia
Lake Worth
Lakeview
Lamesa
Lampasas
Latexo
Lavon
Lawn
Leakey
Leary
Leonard
Lincoln Park
Linden
Lipan
Livingston
Llano
Lockhart
Lockney
Lometa
Lone Oak
Loraine
Lorena
Lorenzo
Los Fresnos
Lott
Lovelady
Lowery Crossing
Lueders
Luling
Lyford
Malakoff
Malone
Manor
Marfa
Marietta
Marion
Marlin
Marquez
Mart
Mason
Matador
Mathis
Maud
McCamey
McKinney
McLean
Meadow
Melvin
Memphis
Menard
Mercedes
Meridian
Merkel
Mexia
Milano
Miles
Milford
Millsap
Mineral Wells
Mingus
Mission
Montgomery
Moody
Moran
Morgan
Morton
Moulton
Mount Calm
Mount Enterprise
Mount Vernon
Mullin
Munday
Mustang
Naples
Natalie
Navasota
Nazareth
New Deal
New Summerfield
New Waverly
Newcastle
Neylandville
Nixon
Nocona
Nome
Nordheim
Normangee
Novice
Oakhurst
Oakwood
Odem
Oglesby
Olton
Onalaska
Orange Grove
O'Brien
O'Donnell
Paducah
Paint Rock
Paris
Pattison
Pearsall
Pecan Gap
Pecos
Penelope
Petersburg
Pilot Point
Pineland
Pittsburg
Pleasanton
Plum Grove
Point
Point Blank
Ponder
Port Isabel
Post
Poteet
Poth
Pottsboro
Poynor
Premont
Primera
Putnam
Quanah
Quinlan
Quintana
Quitaque
Rails
Ranger
Raymondville
Refugio
Rice
Richland
Richland Springs
Riesel
Rio Hondo
Rio Vista
Rising Star
Riverside
Roaring Springs
Robstown
Roby
Rochester
Rockport
Rocksprings
Rocky Mound
Rogers
Roma
Ropesville
Rosanky
Rose City
Rosebud
Rotan
Roxton
Royse City
Rule
Runge
Rusk
Sabinal
Sadler
San Augustine
San Diego
San Felipe
San Juan
San Patricio
San Perlita
San Saba
Sansom Park Village
Santa Anna
Santa Rosa
Savoy
Schulenburg
Scottsville
Seagraves
Sealy
Seven Oaks
Seymour
Shepherd
Shiner
Silverton
Sinton
Slaton
Smiley
Smithville
Somerset
Somerville
Spofford
Springlake
Spur
St. Jo
Stamford
Stockdale
Stratford
Strawn
Streetman
Sudan
Surfside Beach
Sweetwater
Taft
Tahoka
Talco
Tatum
Taylor
Tehuacana
Tenaha
Terrell
Thornton
Thrall
Three Rivers
Timpson
Tioga
Tom Bean
Toyah
Trent
Trenton
Trinidad
Trinity
Troup
Tulia
Turkey
Uvalde
Valentine
Van Alstyne
Van Horn
Venus
Vernon
Waelder
Wallis
Walnut Springs
Waxahachie
Weatherford
Weimar
Weinert
Wellington
Wells
Weslaco
West
Westbrook
Westminster
Wharton
Whitewright
Willis
Wills Point
Wilson
Windom
Winfield
Winnsboro
Winters
Wolfe City
Woodsboro
Woodson
Woodville
Wortham
Yoakum
Yorktown
Zavalla

Utah

Altamont
Amalga
Antimony
Bear River City
Beaver
Boulder
Cannonville
Centerfield
Circleville
Clarkston
Cleveland
Delta
Deweyville
Enterprise
Ephraim
Eureka
Fairview
Fayette
Fillmore
Fountain Green
Garland
Gunnison
Helper
Henefer
Henrieville
Hinckley
Holden
Honeyville
Joseph
Junction
Kamas
Kanosh
Leamington
Levan
Lewiston
Lindon
Loa
Logan
Lynndyl
Manila
Manti
Marysvale
Mayfield
Meadow
Milford
Millville
Moroni
Mount Pleasant
Myton
Nephi
Newton
Ophir
Orderville
Paragonah
Perry
Plymouth
Portage
Redmond
Richfield
South Salt Lake
Spring City
Springdale
Stockton
Toquerville
Trenton
Virgin
Wales
Yost

Vermont

Albany
Alburg
Barre
Barton
Bellows Falls
Cambridge
Derby Center
Derby Line
Enosburg Falls
Hardwick
Hyde Park
Jeffersonville
Ludlow
Lyndonville
Marshfield
Montpelier
Morrisville
Newbury
Newfane
Newport
North Troy
Northfield
Orleans
Pittsford
Poultney
Proctorsville
Readsboro
Richford
Rutland
Saxtons River
St. Albans
Swanton
Waterbury
Wells River
West Burke
Westminster
Winooski

Virginia

Abingdon
Accomac
Alberta
Appalachia
Bedford City
Bella Haven
Berryville
Big Stone Gap
Blackstone
Bloxom
Boyce
Boydton
Bristol City
Bruinax
Buchanan
Burkeville
Cape Charles
Charlotte Court House
Chase City
Chatham
Cheriton
Chilhowie
Chincoteague
Claremont
Clarksville
Cleveland
Clifton Forge City
Clinchport
Clintwood
Clover
Coeburn
Colonial Beach
Columbia
Covington City
Craigsville
Damascus
Dillwyn
Drakes Branch
Dungannon
Eastville
Edinburg
Elkton
Emporia City
Exmore
Fincastle
Floyd
Galax City
Gate City

Glade Spring
Glen Lyn
Gordonsville
Grundy
Hallwood
Haysi
Hillsboro
Honaker
Iron Gate
Keller
La Crosse
Lawrenceville
Lexington City
Luray
Madison
Marion
Martinsville City
McKenney
Mella
Middleburg
Mineral
Mount Crawford
Narrows
Nassawadox
New Market
Newsoms
Nickelville
Occoquan
Onancock
Orange
Painter
Pamplin City
Parksley
Pembroke
Pennington Gap
Phenix
Pocahontas
Pulaski
Purcellville
Quantico
Rich Creek
Round Hill
Rural Retreat
Saltville
Saxis
Scottsburg
Scottsville
South Boston City
St. Charles
St. Paul
Stanley
Staunton City
Stephens City
Stony Creek
Strasburg
Stuart
Suffolk City
Surry
Tangier
The Plains
Toms Brook
Troutville
Victoria
Virgilina
Wachapreague
Wakefield
Warrenton
Washington
Woodstock
Waitsburg
Wapato
Washtucna
Waterville
Wilbur
Wilkeson

Washington

Aberdeen
Almira
Asotin
Bingen
Black Diamond
Buckley
Carbonado
Cathlamet
Chewelah
Clarkston
Cle Elum
Conconully
Concrete
Coulee City
Cusick
Darrington
Dayton
Deer Park
Eatonville
Ellensburg
Endicott
Everson
Grand Coulee
Granger
Granite Falls
Harrah
Hartline
Hoquiam
Index
Ione
Kahlotus
Kelso
Kittitas
Krupp
La Conner
La Crosse
Lamont
Langley
Latah
Leavenworth
Lyman
Mabton
Malden
Marcus
Metaline
Millwood
Morton
Mossyrock
Moxee City
Naches
Nespelem
Newport
North Bonneville
Northport
Oakesdale
Okanogan
Omak
Oroville
Orting
Pe Ell
Pomeroy
Prescott
Raymond
Ridgefield
Ritzville
Riverside
Rosalia
Roslyn
Ruston
Skykomish
Snoqualmie
Soap Lake
South Bend
Sprague
Springdale
St. John
Starbuck
Sultan
Tekoa
Tenino
Toledo
Tonasket
Toppenish
Twisp
Uniontown
Vader

West Virginia

Addison
Albright
Alderson
Anawalt
Anmoore
Ansted
Auburn
Bath
Bayard
Belington
Belle
Benwood
Beverly
Bluefield
Bolivar
Bradshaw
Bramwell
Bruceton Mills
Buckhannon
Buffalo
Burnsville
Camden-on-Gauley
Cameron
Capon Bridge
Cass
Cedar Grove
Chapmanville
Charles Town
Chesapeake
Clarksburg
Clay
Clendenin
Davis
Davy
Delbarton
Durbin
Eleanor
Elizabeth
Elk Garden
Elkins
Ellenboro
Fairmont
Falling Springs
Farmington
Fayetteville
Flatwoods
Flemington
Follansbee
Fort Gay
Gary
Gassaway
Gilbert
Glenville
Grafton
Granville
Hambleton
Hamblin
Harpers Ferry
Hartford City
Hedgesville
Henderson
Hendricks
Hillsboro
Hinton
Hundred
Iaeger
Jane Lew
Junior
Kenova
Kermit
Keyser
Keystone
Kimball
Layopolis
Leon
Lester
Littleton
Logan
Lost Creek
Lumberport
Man
Mannington
Marlinton
Marmet
Martinsburg
Mason
Masontown
Matewan
Matoaka
McMechen
Meadow Bridge
Middlebourne
Mill Creek
Monongah
Montgomery
Montrose
Moorefield
Morgantown
Moundsville
Mount Hope
Mullens
New Cumberland
Newburg
Nitro
Northfork
Nutter Fort
Oak Hill
Oakvale
Osage
Paden City
Parsons
Paw Paw
Pax
Pennsboro
Petersburg
Peterstown
Philippi
Piedmont
Pineville
Point Pleasant
Princeton
Pullman
Quinwood
Rainelle
Reedy
Rhodell
Richwood
Ridgeley
Rivesville
Romney
Ronceverte
Rowlesburg
Salem
Shepherdstown
Sisterville
Smithers
Smithfield
Sophia
St. Marys
Stonewood
Sutton
Terra Alta
Thomas
Thurmond
Wilson Creek
Winlock
Winthrop
Yelm
Zillah
Tunnelton
Union
Valley Grove
War
Wardensville
Wayne
Welch
Wellsburg
West Hamlin
West Logan
West Milford
West Union
Weston
Westover
White Sulphur Springs
Whitesville
Williamson
Winfield
Womelsdorff
Worthington

Wisconsin

Adams
Algoma
Alma
Alma Center
Almond
Amherst Junction
Aniwa
Antigo
Arcadia
Arena
Argyle
Arpin
Ashland
Auburndale
Augusta
Avoca
Bagley
Barron
Bayfield
Bear Creek
Beaver Dam
Benton
Big Falls
Birnamwood
Black Earth
Blair
Blanchardville
Bloomer
Blue River
Boscobel
Bowler
Boyd
Brandon
Bruce
Buffalo
Butternut
Cable
Cadott
Cambria
Camp Douglas
Campbellsport
Cashton
Cassville
Catawba
Cazenovia
Cecil
Centuria
Chaseburg
Chetek
Chilton
Chippewa Falls
Clear Lake
Clintonville
Clyman
Cobb
Coleman
Colfax
Conrath
Cornell
Couderay
Crandon
Curtiss
Dane
Darlington
Dorchester
Doylestown
Dresser
Durand
Eagle River
Eden
Egg Harbor
Eland
Elderon
Eleva
Elk Mound
Elmwood
Elroy
Ettrick
Fairchild
Fairwater
Fennimore
Ferryville
Fond du Lac
Fontana-on-Geneva Lake
Forestville
Fountain City
Friendship
Friesland
Gays Mills
Genoa
Gillett
Gilman
Glen Flora
Glenbeulah
Glenwood City
Gratiot
Greenwood
Hatley
Hayward
Highland
Hillsboro
Hixton
Hurley
Hustisford
Hustler
Ingram
Iola
Johnson Creek
Juneau
Kaukauna
Kekoskee
Kendall
Kennan
Knapp
La Farge
La Valle
Ladysmith
Lake Nebagamon
Linden
Lakeville
Lone Rock
Loyal
Lublin
Lyndon Station
Lynxville
Maiden Rock
Marinette
Marion
Mauston
Mazomanie
Mellen
Melrose
Menasha
Menomonie
Merrill
Merrillan

Milladore
Milltown
Mineral Point
Minong
Mondovi
Montfort
Mount Calvary
Mount Hope
Mount Sterling
Muscoda
Necedah
Neillsville
New Auborn
New Lisbon
Niagara
Norwalk
Oconomowoc Lake
Oconto
Oconto Falls
Oliver
Ontario
Osseo
Owen
Oxford
Park Falls
Pepin Peshtigo
Phillips
Pigeon Falls
Pittsville
Plainfield
Platteville
Plum City
Popular
Port Washington
Portage
Pound
Prairie du Chien
Prairie Farm
Prentice
Pulaski
Rudisson
Readstown
Redgranite
Rewey
Rhinelander
Rib Lake
Rice Lake
Richland Center
Rio
Ripon
Rock Springs
Rockdale
Rosholt
Rudolph
Scandinavia
Sheldon
Shell Lake
Shiocton
Shullsburg
Siren
Sister Bay
Soldiers Grove
Solon Springs
South Wayne
Spooner
Spring Valley
St. Naziaz
Stanley
Stetsonville
Steuben
Stevens Point
Stockbridge
Sullivan
Superior
Taylor
Tigerton
Turtle Lake
Two Rivers
Union center
Unity
Vesper
Viola
Viroqua
Waldo
Waupaca
Wausaukee
Wautoma
Wauzeka
Webster
Westby
Westfield
Weyauwega
Weyerhaeuser
White Lake
Whitehall
Whitewater
Williams Bay
Wilton
Winter
Withee
Wonewoc
Woodville
Wrightstown
Wyeville
Wyocena
Yuba

Wyoming

Albin
Byron
Cokeville
Cowley
Dixon
East Thermopolis
Fort Laramie
Granger
Hulett
Kaycee
La Barge
La Grange
Meriaine
Midwest
Riverside
Sundance
Yoder

III. The following list contains the names of those small cities which meet the minimum standards of physical and economic distress but which did not meet the standards as of the April 9, 1981 Notice.

Alabama

Adamsville
Anderson
Avon
Blue Mountain
Brewton
Carrville
Chatom
Coffeeville
County line (Blount and Jefferson Counties)
Dutton
Langston
Lowndesboro
Loxely
Maytown
Mount Vernon
Napier Field
New Site
Newton
Ozark

Hoonah
Nome

Bisbee
Gila Bend
Jerome

Alexander
Beaver
Bethel Heights
Blue Eye
College City
Coy

Boll
Blythe
Eureka

Coal Creek
Eaton
Elizabeth
Erie
Fairplay
Merino
Naturita

Bantam

Delaware City
Georgtown

Everglades
Gretna
Mascotte
Mulberry

Adairsville
Alamo
Aldora
Arcade
Avalon
Bibb City
Braselton
Brooks
Buford
Cadwell
Cave Spring
Chatsworth
Cohutta
Colbert
Crawford
Franklin
Gainesville
Garden City
Gray
Hapeville

Acequia
Aston
Cambridge
Castleford
Ferdinand
Red Level
Steele
Sumiton
Valley City
Wetumpka
Whitehall
Whites Chapel

Alaska

Platinum

Arizona

Superior
Wellton

Arkansas

Higden
Lockesburg
Midland
Sherrill
Truman

California

Fort Bragg
Rio Dell
Susanville

Colorado

Pagosa Springs
Rico
Silver Plume
Silverton
Stratton
Vona
Williamsburg

Connecticut

Jewett City

Delaware

Greenwood
Magnolia

Florida

Ocean Breeze Park
Shalimar
Weeki Wachee Springs
Welaka

Georgia

Haralson
Harlem
Lithonia
Lovejoy
Menlo
Milner
Nahunta
Odum
Ramarium
Stillmore
Talking Rock
Thunderbolt
Tunnel Hill
Uvalda
Van Wert
Varnell
Waleska
Williamson
Yatesville

Idaho

Harrison
Parker
Peck
Riggins
Rupert
Batchtown
Beaverville
Belgium
Bureau Junction
Chebanse
Coal City
East Dubuque
Ellis Grove
Goreville
Hidalgo
Hollowayville
Hopedale
Iroquois
Ivesdale
Jeiseyville
Kinsman
Lakemoor
Lenzburg
Lisbon
Lockport
Macomb
Mascoutah

Altona
Bainbridge
Battle Ground
Burns Harbor
Charlestown
Clayton
Corydon
Crawfordsville
Edinburg
Elberfeld
Elizabeth
Fairmount
Fort Branch
Franklin
Fremont
Glenwood
Greensfork
Harmony
Jonesboro

Albion
Algona
Archer
Boaman
Coggon
Coppock
Coulter
Crawfordsville
Elliston
Gibson
Green Island
Hillsboro
Lanesboro

Cassoday
Earlton
Enterprise
Grinnell
Huron
Hutchinson
La Cygne
Langdon
Leoti
Latham
Marion
Menlo
Mound Valley

Allen
Benham
Carrsville
Central
Concord
Eddyville
Ewing

Illinois

Middletown
Mount Erie
Muddy
Naplate
New Athens
New Salem
Old Mill Creek
Rankin
Rockdale
Scales Mound
Sheridan
Sterling
Symerton
Taylorville
Thebes
Urbain
Walshville
Weldon
Wellington
Westville
Willisville
Woodland

Indiana

Lanesville
Little York
Markleville
Medaryville
Millhousen
Mooreland
Moores Hill
Mooresville
Mount Summit
Newpoint
Pennville
Plymouth
Rising Sun
Rome City
Stilesville
Straughn
Vernon
Wolcottville

Iowa

Latimer
Linden
Linn Grove
Lytton
Minden
Moorland
Oakland
Osterdock
Ottosen
Randall
Sabula
Thor
Zwingle

Kansas

Mount Hope
Oakley
Olmitz
Partridge
Panico
Republic
Russell Springs
Satanta
Syracuse
Utica
Viola
Woodbine
Zurich

Kentucky

Fairview
Hollyvilla
Inez
Kenton Vale
Latonia Lakes
London
Milton

Paintsville
Pikeville
Strathmoor Manor
Strathmoor Village
Tollesboro
Visalia

Louisiana

Delcambre
Dixie Inn
Grambling
Hodge
Krotz Springs
Sarepta
West Monroe

Maine

Gardiner

Maryland

Aberdeen
Capitol Heights
Clear Spring
Havre De Grace
Myersville
North East
Seat Pleasant
Union Bridge
Woodsboro

Massachusetts

Newburyport

Michigan

Allegan
Allen
Alma
Alpena
Alpha
Applegate
Bear Lake
Bellevue
Beulah
Burr Oak
Byron
Cadillac
Carney
Caro
Carson City
Charlevoix
Charlotte
Chesaning
Coleman
Crystal Falls
East Tawas
Fremont
Gaylord
Grand Haven
Grant
Harbor Springs
Harrison
Hastings
Hillsdale
Honor
Hudson
Ionia
Ishpeming
Kingsford
Lake Angelus
Lincoln
Ludington
Middle City
Middleville
Millington
Morenci
Morrice
Nashville
New Haven
Newberry
North Adams
Oakley
Olivet
Owosso
Petersburg
Ravenna
Rogers City
Shelby
Sherwood
South Rockwood
Springport
Vermontville
Wayland
West Branch
Whitehall
Woodland
Zeeland

Minnesota

Alden
Alpha
Brownsville
Buhl
Carlton
Clear Lake
Cobden
Comstock
Dakota
Dilworth
Farwell
Fountain
Foxhome
Grand Marais
International Falls
Lake Brownson
Lake Shore
Le Sueur
Lester Prairie
Lismore
Miesville
Minnesota City
Moose Lake
New Trier
Ormsby
Oslo
Peterson
Pine Island
Roosevelt
South International Fall
Spring Hill
St. Joseph
Tower
Trail
Two Harbors
Waisasha
Waltham
Westbrook
Williams
Winton

Mississippi

Ellisville
Meadville
Puckett
Quitman
Releigh

Missouri

Bates City
Beverly Hills
Bigelow
Birmingham
Bloomsdale
Bragg City
Brookline
Charlack
Commerce
Cottleville
Curryville
Festus
Flinthill
Foley
Gainesville
Grand Pass
Halfway
Hallsville
Hartwell
Herculaneum
Hermann
Holt
Kingston
Linn
Mackenzie
Montgomery City
Morrison
Moundville
Northwye
Parkedale
Phelps City
Rayville
Rolla
Rothville
Scott City
Union
Unity Village
Velda Village
Warrensburg
Warsaw
Wellington
West Line

Montana

Bridger
Conrad
Jordan
Kalispell
Nashua
Plains
Scobey
Twin Bridges
Whitehall
Wolf Point

Nebraska

Arapahoe
Fort Calhoun
Hayes Center
Horse Bluff
Kennard
Merriman
Nehawka
Plattsmouth
Pleasant Dale
Richland
Rock
Rogers
Saronville
Terrytown
Ulysses
Winnetoon

New Jersey

Belleville
Branchville
East Rutherford
Farmingdale
Freehold
Hackensack
Lawnside
Pemberton
Swedesboro

New Mexico

Artesia
Espanola
Melrose
Tatum
Tularosa
Williamsburg

New York

Adams
Afton
Albion
Alden
Andover
Angola
Argyle
Arkport
Athens
Attica
Avon
Ballston Spa
Blasdell
Boonville
Broadalbin
Brownville
Burdett
Burke
Caledonoia
Camden
Camillus
Canandaigua
Cassadaga
Catskill
Cattaraugus
Cazenovia
Champlain
Clayton
Cohocton
Copenhagen
Corfu
Dexter
Dresden
Elba
Evans Mills
Farnham
Fonda
Fort Ann
Fort Johnson
Freeville
Galway
Greene
Hagaman
Hancock
Hannibal
Harriman
Homer
Jordan
Kenmore
Le Roy
Liverpool
Livonia
Lynbrook
Mayfield
Middleburgh
Millbrook
Morris
Mount Kisco
Nelsonville
Nunda
Oakfield
Oriskany Falls
Ovid
Patchogue
Peekskill
Phoenix
Pine Hill
Prospect
Randolph
Red Hook
Riverside
Rouses Point
Saugerties
Schaghticoke
Schoharie
Silver Creek
Sloatsburg
Smyrna
South Corning
Springville
Stamford
Valley Falls
Wappingers Falls
Warsaw
Waterloo
Westhampton Beach

North Carolina

Alamance
Beulaville
Brevard
Burgaw
Carthage
Catawba
Cleveland
Columbus
Coway
Denton
Dillsboro
Drexel
Franklinton
Gaston
Goldston
Harrellsville
Haw River
Hendersonville
Huntersville
Indian Beach
Jackson
Liberty
Lincolnton
Macon
Magnolia
Marion
McFarlan
Pine Level
Pineville
Ranlo
Richlands
Rolesville
Siler City
Spring Lake
Staley
Sweansboro
Taylorsville
Wallace
Walstonburg
Warrenton
Windor
Yardkinville
Youngsville

North Dakota

Bathgate
Dickey City
Fort Yates
Fortuna
Hansboro
Hove Mobile Park
Lansford
Monango
Nekoma
Niagara
Osnabrock
Rolla
Sentinel Butte
Towner
Verona
York

Ohio

Addyston
Albany
Amsterdam
Andover
Aquilla
Bellevue
Bettsville
Blanchester
Bolivar
Bradford
Bremen
Brookville
Buckeye
Buckland
Caledonia
Cardington
Castalia
Cecil
Chippewa-on-the-Lake
Clinton
Clyde
Columbus Grove
Conesville
Conneaut
Deshler
East Palestine
East Sparta
Edison
Fletcher
Fulton
Galiton
Grand Rapids
Granville
Gratiot
Greenwich
Hartford
Harveysburg
Holland
Hollansburg
Huntsville
Irondale
Jacksonburg
Johnstown
Kimbolton
Leetonia
Lewisburg
Lewisville
Lindsey
Lisbon
Lithopolis
Lowell
Lynchburg
Magnetic Serings
Marblehead
Millersport
Minerva
Morral
Moscow
Mount Gilead
Mount Vernon
Mutual
New Athens
New Holland
Newton Falls
Ney
North Bend
Otway
Painesville
Parral
Plain City
Port Clinton
Portage
Powhatan Point
Rendville
Rio Grande
Rising Sun
Rittman
Rock Creek
Rogers
Rushville
Salem
Sherrodsville
Somerville
Spencer
St. Paris
Urbana
Versailles
Wayne
West Alexandria
Williamsburg
Wilmot
Woodlawn

Oklahoma

Altus
Ardmore
Arnett
Cherokee
Cooperton
Cure
Helena
Knowles
Lamont
Shady Grove
Shidler
Skedee
Tupelo
Valley Brook
Vera
Warner

Oregon

Asturia
Barlow
City of The Dalles
Coburg
Coquille
Elkton
Falls City
Hood River
Independence
Monroe
Oakland
Rainier
Sisters
Vale
Yachats

Pennsylvania

Adamstown
Addison
Arona
Avis
Bellwood
Berrysburg
Bessemer
Blain
Blawnox
Boswell
Carrolltown
Cassville
Clarion
Coatesville
Colwyn
Connoquenessing
Conway
Corsica
Creekside
Cressona
Derry
Donegal
Duncansville
East Berlin
Enon Valley
Export
Factoryville
Franklin
Freeport
Glasgow
Goldsboro
Green Lane
Halifax
Jamestown
Jermyn
Jonestown
Kenhorst
Lewisberry
Marklesburg
McKean
Mechanicsville
Middleburg
Mill Hall
Munroe
Mount Penn
Muncy
Nescopeck
Nesquehoning
New Berlin
New Brighton
New Eagle
New Florence
Newry
North East
Northumberland
Oklahoma
Old Forge
Pen Argyl
Perkasie
Port Matilda
Royalton
Royersford
Saegertown
Saltsburg
Scalp Level
Seven Valleys
Seward
Sewickley
Shippensburg
Shippenville
Slippery Rock
Spartansburg
Springboro
Sugar Creek
Tionesta
Trafford
Trainer
Tunkhannock
Union City
Utica
Vandling
Wampum
Watsontown
West Easton
West Elizabeth
West Grove
West Mayfield
West Middlesex
Windber
Windsor

South Carolina

Beaufort
Clover
Cordova
Coward
Cowpens
Fort Mill
Lyman
Pacolet
Reevesville
Ridgeland
Salem
Snelling
West Columbia

South Dakota

Blunt
Faith
Lemmon
Stratford
Turton
Vilas

Tennessee

Lebanon
Morristown
Normandy
Oliver Springs
Selmer
Spencer

Texas

Anahuac
Avinger
Bellmead
Benjamin
Bonney
Buffalo Gap
Centerville
Cockrell Hill
Edna
Eustace
Grayburg
Lake Worth
Lampasas
Lavon
Leary
Lincoln Park
Maud
Millsap
Oakhurst
Pleasanton
Rockport
Rose City
Sansom Park Village
Surfside Beach
Trent
Trinidad
Weinert
Woodson

Utah

Altamont
Eureka
Meadow
Ophir
South Salt Lake

Vermont

Derby Line
Hardwick
Hyde Park
Marshfield
Northfield
West Burke

Virginia

Big Stone Gap
Colonial Beach
Grundy
Haysi
Madison
McKenney
Middleburg
Occoquan
Purcellville
Quantico
Troutville
Warrenton

Washington

Clarkston
Grand Coulee
Index
Kelso
Lyman
Ritzville
Rushton
Skykomish
Soap Lake
South Bend

West Virginia

Bolivar
Bradshaw
Chapmanville
Chesapeake
Elizabeth
Granville
Nitro
Northfork
Nutter Fort
Pineville
Princeton
Sophia
Wellsburg
West Logan
Winfield

Wisconsin

Alma Center
Beaver Dam
Cassville
Cobb
Couderay
Dana
Eagle River
Elmwood
Fountain City
Hatley
Juneau
Kaukauna
Menasha
Mineral Point
Oconto Falls
Peshtigo
Rio
Rudolph
Scandinavia
Shiocton
Spring Valley
St. Nazianz
Sullivan
Westfield

Wyoming

Granger
Kaycee
Riverside
Sundance

IV. The following list contains the names of those small cities which met the minimum standards of physical and economic distress as of the Notice but which do not meet the current minimum standards. **The final date for submission**

of an application by the cities listed below is November 30, 1982.

Alabama

Armore
Babbie
Bear Creek
Brighton
Carlf
Cardiff
Carolina
Coffee Springs
Coosada
County Line (Covington County)
Daphne
Elkmont
Eunola
Fayette
Geneva
Gurley
Hayden
Ider
Kansas
Kinsey
Lester
Lincoln
Obatchee
Pell City
Pollard
Providence
Rainsville
Riverside
Riverview
Union Grove
Walnut Grove
West Point
Winfield

Alaska

Buckland
Larsen Bay
Manokotak

Arizona

Buckeye
Florence
Marana
Somerton

Arkansas

Ashdown
Bald Knob
Bigelow
Carlisle
Cash
Colt
Daisy
Felsenthal
Friendship
Grannis
Judsonia
Magnolia
Marie
Melbourne
Moorefield
Newport
Oak Grove Heights
Pocahontas
Poyen
Redfield
Tyronza
Western Grove

California

Azusa
Colton
Cudahy
Emeryville
Guadalupe
Imperial Beach
Irwindale
Live Oak
Lynwood
Maywood
Merced
Pittsburg
Rosemead
San Juan Bautista
South El Monte
Watsonville

Colorado

Burlington
Cheraw
Iliff
Mead
Minturn
Olathe
Palisade
Swink

Delaware

Blades
Henlopen Acres
Kenton

Florida

Bristol
Hastings
Plant City

Georgia

Allenhurst
Alto
Baconton
Bowersville
Euharlee
Fairmount
Hiltonia
Hiram
Industrial City
Moran
Nashville
Plainville
Sunny Side
Walnut Grove

Idaho

Caldwell
Chatcolet
Downey
Hansen
Jerome
Lewiston
Plummer
Rathdrum
Reubens
Wendell

Aledo
Alsey
Arcola
Ashland
Bement
Brimfield
Broadnell
Brownstown
Bulpitt
Bushnell
Carbon Cliff
Carmi
Chester
Chrisman
Clare
Coatsburg
Coffeen
Crossville
Cuba
Danforth
Dunnellon
Dowell
Dwight
Eagarville
Eddyville
Edinburg
Fairbury
Farmington
Fayetteville
Forrest
Forreston
Galesburg
Gibson
Gilberts
Gilman
Glasgow
Grainville
Hamel
Hartsburg
Highwood
Hoyleton
Kappa

Illinois

La Moille
Lemont
Mansfield
Manteno
Mark
McLean
McLeansboro
Mendota
Modesto
Momence
Morrison
Mount Morris
Mount Olive
Nauvoo
Oconee
Ohio
Orangeville
Pembroke
Piper City
Ridgway
Ruma
Rutland
Seatonville
Sheffield
Sibley
Spring Valley
St. Anne
Strawn
Stronghurst
Sullivan
Thayer
Tiskilwa
Toluca
Toulon
Warren
Warsaw
Watseka
Watson
West Salem
Williamsfield
Wyanet
Wyoming

Indiana

Alfordsville
Angola
Birdseye
Bruceville
Butler
Channelton
Carefree
Colfax
Crothersville
Cynthiana
Decatur
Frankfort
Geneva
Hardinsburg
Haubstadt
Holland
Judson
Kendallville
Kennard
Ladoga
Lagrange
Lake Hart
Ligonier
Lodgootee
Losantville
Matthews
Merom
Milan
Milton
Mount Auburn
Mulberry
North Manchester
Odon
Otterbein
Riley
Seelyville
Sheridan
Syracuse
Walkerton
Warren
Waterloo
Winchester

Iowa

Ackley
Agency
Alden
Alleman
Arcadia
Aurelia
Bellevue
Bode
Britt
Buck Grove
Buffalo Center
Burt
Central City
Chillicothe
Columbus Junction
Corwith
Craig
Dakota City
Dallas Center
Decorah
Dickens
Drakesville
Earlville
Elma
Farnhamville
Fruitland
Galva
Geneva
Harris
Havelock
Holstein
Hull
Jefferson
Keystone
Klemme
Knoxville
La Porte City
Lake Park
Lamoni
Lament
Le Mars
Luxemburg
Maquoketa
Masonville
Melrose
Montrose
Mount Pleasant
New Market
New Sharon
Numa
Ocheyedan
Orient
Perry
Prairieburg
Quimby
Ringsted
Rock Rapids
Rudd
Salem
Scarville
Sidney
Sioux Center
Somers
Stanhope
Stanwood
Strawberry Point
Sutherland
Thornburg
Ventura
Waukon
Wayland
West Burlington
Westphalia
Winthrop

Kansas

Baldwin City
Bucklin
Bushong
Carbondale
Edwardsville
Elmdale
Haviland
La Crosse
Lehigh
Lewis
Lyndon
Marysville
Mayfield
Mclouth
Mildred
Minneola
Moscotah
Olpe
Otis
Protection
Richmond
Sawyer
Sharon
South Haven
St. John
Turon
Valley Falls
Wamego
Wathena
Wellington

Kentucky

Benton
Calhoun
Campbellsville
Carrollton
Cedarville
Edmonton
Elsmere
Ferguson
Fredonia
Gamaliel
Greensburg
Greenup
Hartford
Jeffersonville
Kevil
Kuttawa
Lakeview Heights
Liberty
Manchester
Mckee
Morgantown
North Middletown
Nortonville
Oakland
Olive Hill
Phelps
Pleasant Valley
Southgate
Stamping Ground
Stanton

Louisiana

Blanchard
Dry Prong
Flotien
Fordoche
Golden Meadow
Goldonna
Haughton
Jackson
Kinder
Lutcher
Martin
Mount Lebanon
Richmond
Ruston
South Mansfield
Stonewall
Turkey Creek
Vienna
Walker

Maine

Westbrook

Maryland

Eagle Harbor
Hurlock
Sudlersville
Upper Marlboro

Massachusetts

Taunton

Michigan

Adrian
Bloomingdale
Central Lake
Douglas
Edwardsburg

Lake Odessa
Memphis
Stephenson
Sturgis

Minnesota

Amboy
Blue Earth
Cambridge
Clinton
Corcoran
Cromwell
Crookston
Delano
Evansville
Ereleth
Foley
Glencoe
Glenwood
Grove City
Hadley
Halma
Hector
Heidelberg
Hinckley
Hollandale
Jackson
Kennedy

Lonsdale
Mapleton
Minnesota Lake
Minnetonka Beach
Montevideo
Mountain Lake
Nashwauk
New Germany
Olivia
Osakis
Plainview
Royalton
Rushford
Slayton
St. James
St. Peter
Tyler
Warren
Whalan
Young America
Zumbrota

Mississippi

Batesville
Caledonia
Carthage
Corinth
Derma
Dumas
Ecru
Falkner
Flowood
Forest

Magee
Marietta
Philadelphia
Renova
Smithville
Soso
Taylor
Thaxton
Wiggins

Missouri

Agency
Archie
Bloomfield
Burgess
Centertown
Circle City
Conception Junction
Country Life Acres
Duquesne
Edgerton
Frohna
Gasconade
Harrisburg
Homestead
Jonesburg

La Plata
Leasburg
Leawood
Lone Jack
Matthews
Milford
New Bloomfield
North Wardell
Palmyra
Pine Lawn
Plattsburg
Ravenwood
Ritchey
Saginaw
Strafford

Montana

Bainville
Ennis

Hobson

Nebraska

Ansley
Beatrice
Benedict
Bertrand
Bradshaw
Brownville
Central City
Clearwater
Crand
Garrison
Hastings
Hooper
Howard City
Madison

Martinsburg
Octavia
Osceola
Palmer
Palmyra
Paxton
Plymouth
Rosalie
Schuyler
Staplehurst
Stockham
Tobias
Valentine
Wausaa

New Hampshire

Claremont

Concord

New Jersey

Fieldsboro
Harrison
Keyport

North Wildwood
South Toms River
Wrightstown

New Mexico

San Jon

New York

Alexander
Ames
Bellerose
Cherry Valley
Fishkill

Richburg
Richfield Springs
Savannah
Wurtsboro

North Carolina

Andrews
Ansonville
Boiling Springs Lakes
Centerville
Chocowinity
Coats
Dublin
Elkin
Faith
Garysburg
Granite Falls
Havelock
Kure Beach
Lumberton

Mocksville
Nashville
New London
Newland
Pikeville
Rocky Mount
Southern Shores
Valdese
Waco
Waynesville
Whiteville
Wingate
Woodville

North Dakota

Barney
Bottineau
Colfax
Dawson
Gilby
Glenburn
Grand
Harvey
Hunter
Leonard

Ludden
Makoti
Manvel
Mooreton
Russell
Starkweather
Taylor City
Turtle Lake
Wishek

Ohio

Antwerp
Bellefontaine
Bloomville
Bluffton
Brady Lake
Bryan
Cridersville
Defiance
Dover
Edon
Georgetown
Gettysburg
Green Springs
Hicksville
Jewett
Lakemore
Leipsic

Meyers Lake
Midway
Millersburg
New Madison
Port Jefferson
Roaming Rock
Sabina
Scott
Sebring
Sparta
Stryker
Sugarcreek
Tuscarawas
Upper Sandusky
Wharton
Willard

Oklahoma

Ada
Alderson
Bradley
Cameron
Clinton
Dill City
Fargo
Fort Supply
Foss
Freedom
Kemp
Lahoma
Liberty
Moorland

Ochelata
Okeene
Oktaha
Rattan
Shattuck
Sperry
Springer
Stringtown
Tahlequah
Taloga
Thackerville
Union City
Wellston

Oregon

Durham
Echo

Mora
Phoenix

Pennsylvania

Albion
Brookville
Chester Hill
Christiana
Clarendon
Doematon
Deer Lake
Fawn Grove
Freeburg
Freemansburg
Harrisville
Hydetown
Laceyville
Laurel Run
Mars
Meshoppen
Milesburg
Millbourne

Mohnton
Mont Alto
New Oxford
New Salem
Pleasantville
Pringle
Prospect Park
Ramey
Roaring Spring
Selinsgrove
Shamokin Dam
Somerset
Speers
Sykesville
Wesleyville
West Middletown
White Haven
Youngwood

South Carolina

Cayce
Central
Fairfax
Hollywood
Johnston
Kershaw
Luray

McCellanville
New Ellenton
Ninety Six
Pamplico
Starr
Wellford
Williamston

South Dakota

Alcester
Freeman
Fulton
Groton
Harrold
Letcher
Philip

Plankinton
Redfield
Roslyn
Tabor
Trent
Wakonda
Webster

Tennessee

Adair
Algood
Ardmore
Benton
Byrdstown
Camden
Collinwood
Cross Plains
Decaturville
Eastview
Friendship
Gallaway
Hartsville
Jonesboro

Lakesite
Lobelville
Milan
Minor Hill
Parsons
Shelbyville
Smithville
Sneedville
Tennessee Ridge
Trezevant
Tullahoma
Waynesboro
West Moreland
Winchester

Texas

Agua Dulce
Alma
Alton
Anna
Anson
Appleby
Abpernoot
Aubrey
Beckville
Bishop
Bogata
Celina
Cleburne
Cozo
Darrowsett
Dickens
Earth
East Tawakoni
Edgewood
Edmonson
Elgin
Fairview
Furit Vale
Gainesville

Haskell
Idalou
Josephine
Kermit
Kirvin
La Vernia
Leona
Leroy
Lexington
Hertens
Hartzon
Mobeetie
Monticello
Moore Station
Muleshoe
New Boston
Oak Grove
Overton
Palmhurst
Palmview
Plains
Pleasant Valley
Prairie View
Pyote

Reklaw
San Marcos
Seadrift
Seguin
Seminole
Shamrock
Sterling City
Sulphur Springs
Sunnyvale

Ballard
Cedar Fort
Cornish
Elmo
Mantua
Oak City
Oakley

Plainfield
Randolph

Boykins
Brookneal
Dayton
Grottoes
Independence
Irvington
Louisa

Algona
Colfax
College Place
Elma

Cowen
Dunbar
Handley

Baraboo
Berlin
Colby
De Soto
Deer Park
Eastman
Endeavor
Frederic
Granton
Ironton
Livingston

Chugwater
Munderson

Teague
Thorndale
Tom
Valley Mills
Wellman
West Tawakoni
Weston
Whitesboro

Utah

Santa Clara
Santaquin
Scipio
Sterling
Washington
Woodruff

Vermont

Vergennes

Virginia

Lovettsville
Norton City
Port Royal
Smithfield
Tootsdale
Waverly

Washington

Farmington
Pacific
Palouse
Snohomish

West Virginia

Harrisville
Shinnston
Triadelphia

Wisconsin

Marquette
Montreal
Nelsonville
North Freedom
Princeton
Reedsville
Stoddard
Waupun
West Baraboo
Wisconsin Dells
Woodman

Wyoming

South Superior

V. The following list contains the name of towns and townships which meet the minimum standards for physical and economic distress and which are in States where towns and townships may have powers comparable to the powers of municipalities. Each town and township is not listed with places in Section II because their eligibility as cities has not been determined under the criterion of 24 CFR 570.3(e), which requires that they (1) have powers and perform functions comparable to municipalities, (2) are closely settled and (3) have corporation agreements with all incorporated places within their boundaries. Requests for waivers of the closely settled requirement from towns and townships which meet all other requirements may be waived by the Secretary on a case by case basis.

Connecticut

Inc. Putnam Town, Windham County
Sterling Town, Windham County
Thomaston Town, Litchfield County
Winchester Town, Litchfield County

Maine

Abbot Town, Piscataquis County
Addison Town, Washington County
Alexander Town, Washington County
Allagash Town, Aroostook County
Alton Town, Penobscot County
Amity Town, Aroostook County
Andover Town, Oxford County
Anson Town, Somerset County
Appleton Town, Knox County
Arrowsic Town, Sagadahoc County
Ashland Town, Aroostook County
Athens Town, Somerset County
Atkinson Town, Piscataquis County
Avon Town, Franklin County
Baldwin Town, Cumberland County
Bar Harbor Town, Hancock County
Baring Plantation, Washington County
Barnard Plantation, Piscataquis County
Beals Town, Washington County
Beddington Town, Washington County
Belgrade Town, Kennebec County
Belmont Town, Waldo County
Benedicta Town, Aroostook County
Benton Town, Kennebec County
Bingham Town, Somerset County
Blaine Town, Aroostook County
Blue Hill Town, Hancock County
Boothbay Harbor Town, Lincoln County
Boothbay Town, Lincoln County
Bowerbank Town, Piscataquis County
Bradford Town, Penobscot County
Bremen Town, Lincoln County
Bridgewater Town, Aroostook County
Bridgton Town, Cumberland County
Bristol Town, Lincoln County
Brooklin Town, Hancock County
Brooks Town, Waldo County
Brooksville Town, Hancock County
Brownfield Town, Oxford County
Brownville Town, Piscataquis County
Buckfield Town, Oxford County
Bucksport Town, Hancock County
Burlington Town, Penobscot County
Cambridge Town, Somerset County
Camden Town, Knox County
Canaan Town, Somerset County
Caratunk Plantation, Somerset County
Carroll Plantation, Penobscot County
Castine Town, Hancock County
Castle Hill Town, Aroostook County
Caswell Plantation, Aroostook County
Chapman Town, Aroostook County
Cherryfield Town, Washington County
Chesterville Town, Franklin County
Clinton Town, Kennebec County
Codyville Plantation, Washington County
Columbia Falls Town, Washington County
Corinth Town, Penobscot County
Cyr Plantation, Aroostook County
Dallas Plantation, Franklin County
Damariscotta Town, Lincoln County
Danforth Town, Washington County
Dedham Town, Hancock County
Deer Isle Town, Hancock County
Dennysville Town, Washington County
Detroit Town, Somerset County
Dixfield Town, Oxford County
Dixmont Town, Penobscot County
Dover Foxcroft Town, Piscataquis County
Dresden Town, Lincoln County
Eagle Lake Town, Aroostook County
East Machias Town, Washington County
East Millinocket Town, Penobscot County
Easton Town, Aroostook County
Elliottsville Plantation, Piscataquis County
Etna Town, Penobscot County
Eustis Town, Franklin County
Exeter Town, Penobscot County
Fairfield Town, Somerset County
Fort Fairfield Town, Aroostook County
Fort Kent Town, Aroostook County
Frankfort Town, Waldo County
Franklin Town, Hancock County
Freedom Town, Waldo County
Frenchville Town, Aroostook County
Friendship Town, Knox County
Garland Town, Penobscot County
Georgetown Town, Sagadahoc County
Gilead Town, Oxford County
Glenwood Plantation, Aroostook County
Gouldsboro Town, Hancock County
Grand Isle Town, Aroostook County
Grand Lake Stream Plantation, Washington County
Greenbush Town, Penobscot County
Greene Town, Androscoggin County
Greenfield Town, Penobscot County
Hamlin Town, Aroostook County
Hancock Town, Hancock County
Hanover Town, Oxford County
Harmony Town, Somerset County
Harrington Town, Washington County
Hartland Town, Somerset County
Hebron Town, Oxford County
Hersey Town, Aroostook County
Highland Plantation, Somerset County
Hodgdon Town, Aroostook County
Houlton Town, Aroostook County
Howland Town, Penobscot County
Hudson Town, Penobscot County
Island Falls Town, Aroostook County
Jackman Town, Somerset County
Jefferson Town, Lincoln County
Jonesboro Town, Washington County
Jonesport Town, Washington County
Kenduskeag Town, Penobscot County
Kingfield Town, Franklin County
Kittery Town, York County
Knox Town, Waldo County
Lagrange Town, Penobscot County
Leeds Town, Androscoggin County
Liberty Town, Waldo County
Limerick Town, York County
Limestone Town, Aroostook County
Lincoln Town, Penobscot County
Littleton Town, Aroostook County
Livermore Falls Town, Androscoggin County
Lovell Town, Oxford County
Lowell Town, Penobscot County
Lubec Town, Washington County
Machias Town, Washington County
Machiasport Town, Washington County
Macwahoc Plantation, Aroostook County
Madawaska Town, Aroostook County
Madison Town, Somerset County
Madrid Town, Franklin County

Mars Hill Town, Aroostook County
Masardis Town, Aroostook County
Mattawamkeag Town, Penobscot County
Mechanic Falls Town, Androscoggin County
Meddybemps Town, Washington County
Merrill Town, Aroostook County
Mexico Town, Oxford County
Milo Town, Piscataquis County
Monroe Town, Waldo County
Monson Town, Piscataquis County
Monticello Town, Aroostook County
Montville Town, Waldo County
Moose River Town, Somerset County
Moscow Town, Somerset County
Mount Chase Plantation, Penobscot County
Mount Vernon Town, Kennebec County
New Canada Plantation, Aroostook County
New Gloucester Town, Cumberland County
New Limerick Town, Aroostook County
New Portland Town, Somerset County
New Sweden Town, Aroostook County
New Vineyard Town, Franklin County
Newport Town, Penobscot County
Newry Town, Oxford County
North Haven Town, Knox County
Northfield Town, Washington County
Norway Town, Oxford County
Oakfield Town, Aroostook County
Oakland Town, Kennebec County
Orient Town, Aroostook County
Osborn Plantation, Hancock County
Oxbow Plantation, Aroostook County
Paris Town, Oxford County
Parsonsfield Town, York County
Patten Town, Penobscot County
Pembroke Town, Washington County
Penobscot Town, Hancock County
Perham Town, Aroostook County
Perry Town, Washington County
Phillips Town, Franklin County
Phippsburg Town, Sagadahoc County
Pittsfield Town, Somerset County
Plantation No. 21, Washington County
Pleasant Ridge Plantation, Somerset County
Plymouth Town, Penobscot County
Portage Lake Town, Aroostook County
Porter Town, Oxford County
Pownal Town, Cumberland County
Prentiss Plantation, Penobscot County
Princeton Town, Washington County
Rangeley Town, Franklin County
Reed Plantation Town, Aroostook County
Richmond Town, Sagadahoc County
Ripley Town, Somerset County
Robbinston Town, Washington County
Rockport Town, Knox County
Roque Bluffs Town, Washington County
Roxbury Town, Oxford County
Rumford Town, Oxford County
Sangerville Town, Piscataquis County
Searsmont Town, Waldo County
Spearsport Town, Waldo County
Sedgwick Town, Hancock County
Sherman Town, Aroostook County
Shirley Town, Piscataquis County
Skowhegan Town, Somerset County
Smyrna Town, Aroostook County
Sorrento Town, Hancock County
South Bristol Town, Lincoln County
Southport Town, Lincoln County
St. Agatha Town, Aroostook County
St. Albans Town, Somerset County
St. Francis Town, Aroostook County
St. George Town, Knox County
St. John Plantation Town, Aroostook County
Stacyville Town, Penobscot County
Starks Town, Somerset County
Stetson Town, Penobscot County
Steuben Town, Washington County
Stockholm Town, Aroostook County
Stockton Springs Town, Waldo County
Stoneham Town, Oxford County
Stonington Town, Hancock County
Sullivan Town, Hancock County
Swanville Town, Waldo County
Talmadge Town, Washington County
Thorndike Town, Waldo County
Topsfield Town, Washington County
Turner Town, Androscoggin County
Unity Town, Waldo County
Van Buren Town, Aroostook County
Vienna Town, Kennebec County
Vinalhaven Town, Knox County
Wade Town, Aroostook County
Waldo Town, Waldo County
Waldoboro Town, Lincoln County
Wales Town, Androscoggin County
Wallagrass Plantation, Aroostook County
Waltham Town, Hancock County
Warren Town, Knox County
Washington Town, Knox County
Wayne Town, Kennebec County
Weld Town, Franklin County
Wesley Town, Washington County
West Forks Plantation, Somerset County
Westfield Town, Aroostook County
Whitefield Town, Lincoln County
Whiting Town, Washington County
Winn Town, Penobscot County
Winter Harbor Town, Hancock County
Winterport Town, Waldo County
Woodland Town, Aroostook County
Woodstock Town, Oxford County
Woolwich Town, Sagadahoc County

Massachusetts

Adams Town, Berkshire County
Amherst Town, Hampshire County
Athol Town, Worcester County
Ayer Town, Middlesex County
Blackstone Town, Worcester County
Buckland Town, Franklin County
Clarksburg Town, Berkshire County
Clinton Town, Worcester County
Dalton Town, Berkshire County
Fairhaven Town, Bristol County
Great Barrington Town, Berkshire County
Hancock Town, Berkshire County
Hardwick Town, Worcester County
Hawley Town, Franklin County
Heath Town, Franklin County
Hopedale Town, Worcester County
Hull Town, Plymouth County
Huntington Town, Hampshire County
Lee Town, Berkshire County
Leyden Town, Franklin County
Millbury Town, Worcester County
Millville Town, Worcester County
Montague Town, Franklin County
New Marborough Town, Berkshire County
Palmer Town, Hampden County
Petersham Town, Worcester County
Plainfield Town, Hampshire County
Provincetown Town, Barnstable County
Rowe Town, Franklin County
Royalston Town, Worcester County
Salisbury Town, Essex County
Sandisfield Town, Berkshire County
South Hadley Town, Hampshire County
Southbridge Town, Worcester County
Webster Town, Worcester County
West Bridgewater Town, Plymouth County
West Springfield Town, Hampden County
Williamsburg Town, Hampshire County
Winchendon Town, Worcester County
Winthrop Town, Suffolk County
Worthington Town, Hampshire County

Michigan

Adams Township, Arenac County
Inc. Adams Township, Houghton County
Aetna Township, Missaukee County
Inc. Akron Township, Tuscola County
Albion Township, Calhoun County
Allis Township, Presque Isle County
Inc. Allouez Township, Keweenaw County
Amboy Township, Hillsdale County
Antioch Township, Wexford County
Argyle Township, Sanilac County
Au Gres Township, Arenac County
Austin Township, Sanilac County
Baldwin Township, Delta County
Baltimore Township, Barry County
Bangor Township, Van Buren County
Inc. Baraga Township, Baraga County
Bark River Township, Delta County
Barton Township, Newaygo County
Batavia Township, Branch County
Bates Township, Iron County
Bay De Noc Township, Delta County
Bay Mills Township, Chippewa County
Beaver Township, Newaygo County
Belknap Township, Presque Isle County
Inc. Bellevue Township, Eaton County
Benona Township, Oceana County
Benton Township, Berrien County
Bergland Township, Ontonagon County
Berlin Township, St. Clair County
Bessemer Township, Gogebic County
Bethany Township, Gratiot County
Inc. Bingham Township, Huron County
Bismarck Township, Presque Isle County
Blaine Township, Benzie County
Bloomfield Township, Huron County
Inc. Boon Township, Wexford County
Brampton Township, Delta County
Breen Township, Dickinson County
Brevort Township, Mackinac County
Inc. Bridgehampton Township, Sanilac County
Bridgeton Township, Newaygo County
Brockway Township, St. Clair County
Bronson Township, Branch County
Inc. Brookfield Township, Huron County
Brown Township, Manistee County
Buckeye Township, Gladwin County
Buel Township, Sanilac County
Inc. Burdell Township, Osceola County
Burleigh Township, Iosco County
Burnside Township, Lapeer County
Inc. Burr Oak Township, St. Joseph County
Burt Township, Alger County
Burt Township, Cheboygan County
Inc. Bushnell Township, Montcalm County
Butterfield Township, Missaukee County
Caldwell Township, Missaukee County
California Township, Branch County
Inc. Calumet Township, Houghton County
Calvin Township, Cass County
Inc. Camden Township, Hillsdale County
Inc. Carlton Township, Barry County
Carp Lake Township, Emmet County
Cedar Creek Township, Wexford County
Center Township, Emmet County
Centerville Township, Leelanau County
Champion Township, Marquette County
Chandler Township, Huron County

Chapin Township, Saginaw County
Chase Township, Lake County
Cherry Valley Township, Lake County
Inc. Chesaning Township, Saginaw County
Cheshire Township, Allegan County
Chippewa Township, Chippewa County
Churchill Township, Ogemaw County
Clam Union Township, Missaukee County
Clark Township, Mackinac County
Claybanks Township, Oceana County
Clayton Township, Arenac County
Inc. Cleon Township, Manistee County
Clinton Township, Oscoda County
Coldwater Township, Isabella County
Colfax Township, Huron County
Colfax Township, Mecosta County
Colfax Township, Wexford County
Inc. Columbia Township, Van Buren County
Columbus Township, Luce County
Inc. Concord Township, Jackson County
Cornell Township, Delta County
Covert Township, Van Buren County
Covington Township, Baraga County
Cross Village Township, Emmet County
Crystal Township, Montcalm County
Crystal Township, Oceana County
Cumming Township, Ogemaw County
Dafter Township, Chippewa County
Inc. Daggett Township, Menominee County
Inc. Dalton Township, Muskegon County
Inc. Day Township, Montcalm County
Inc. Decatur Township, Van Buren County
Inc. Deerfield Township, Mecosta County
Inc. Delaware Township, Sanilac County
Inc. Denver Township, Newaygo County
Dover Township, Lake County
Dover Township, Otsego County
Doyle Township, Schoolcraft County
Duncan Township, Houghton County
Inc. Duplain Township, Clinton County
Inc. Dwight Township, Huron County
Eagle Harbor Township, Keweenaw County
Echo Township, Antrim County
Eckford Township, Calhoun County
Inc. Elba Township, Gratiot County
Elbridge Township, Oceana County
Inc. Elkland Township, Tuscola County
Ellis Township, Cheboygan County
Inc. Ellsworth Township, Lake County
Elm River Township, Houghton County
Elmer Township, Sanilac County
Inc. Elmswood Township, Tuscola County
Emerson Township, Gratiot County
Inc. Empire Township, Leelanau County
Ensley Township, Newaygo County
Enterprise Township, Missaukee County
Erwin Township, Gogebic County
Evangeline Township, Charlevoix County
Everett Township, Newaygo County
Evergreen Township, Sanilac County
Ewing Township, Marquette County
Fairbanks Township, Delta County
Fairfield Township, Lenawee County
Fairfield Township, Shiawassee County
Fairhaven Township, Huron County
Ferris Township, Montcalm County
Ferry Township, Oceana County
Fillmore Township, Allegan County
Flynn Township, Sanilac County
Forest Township, Missaukee County
Inc. Fork Township, Mecosta County
Franklin Township, Houghton County
Inc. Free Soil Township, Mason County
Fremont Township, Isabella County
Fremont Township, Saginaw County
Inc. Fremont Township, Tuscola County
Friendship Township, Emmet County
Inc. Fulton Township, Gratiot County
Inc. Galien Township, Berrien County
Ganges Township, Allegan County
Inc. Garden Township, Delta County
Garfield Township, Kalkaska County
Garfield Township, Mackinac County
Geneva Township, Van Buren County
Germfask Township, Schoolcraft County
Gilford Township, Tuscola County
Goodwell Township, Newaygo County
Grant Township, Huron County
Grant Township, Newaygo County
Grant Township, St. Clair County
Greenbush Township, Clinton County
Greendale Township, Midland County
Greenland Township, Ontonagon County
Greenwood Township, Oceana County
Greenwood Township, St. Clair County
Inc. Gustin Township, Alcona County
Haight Township, Ontonagon County
Hamilton Township, Gratiot County
Hamilton Township, Van Buren County
Hancock Township, Houghton County
Harris Township, Menominee County
Hart Township, Oceana County
Hartwick Township, Osceola County
Haynes Township, Alcona County
Hematite Township, Iron County
Hendricks Township, Mackinac County
Hinton Township, Mecosta County
Holland Township, Missaukee County
Holmes Township, Menominee County
Inc. Home Township, Montcalm County
Home Township, Newaygo County
Inc. Homestead Township, Benzie County
Inc. Hopkins Township, Allegan County
Inc. Hudson Township, Lenawee County
Hulbert Township, Chippewa County
Imlay Township, Lapeer County
Inc. Indianfields Township, Tuscola County
Ingallston Township, Menominee County
Interior Township, Ontonagon County
Inwood Township, Schoolcraft County
Inc. Iron River Township, Iron County
Inc. Irving Township, Barry County
Jefferson Township, Cass County
Inc. Jonesfield Township, Saginaw County
Jordan Township, Antrim County
Keeler Township, Van Buren Cnty
Kinderhook Township, Branch County
Inc. Kingstown Township, Tuscola County
Kinross Township, Chippewa County
Klacking Township, Ogemaw County
Inc. La Grange Township, Cass County
Lafayette Township, Gratiot County
Laird Township, Houghton County
Lake Township, Huron County
Lakefield Township, Luce County
Lamotte Township, Santlac County
Inc. Lanse Township, Baraga County
Inc. Leavitt Township, Oceana County
Lee Township, Allegan County
Inc. Leelanau Township, Leelanau County
Inc. Lenox Township, Macomb County
Leonidas Township, St. Joseph County
Inc. Lexington Township, Sanilac County
Lincoln Township, Arenac County
Inc. Lincoln Township, Huron County
Lincoln Township, Osceola County
Long Rapids Township, Alpena County
Loud Township, Montmorency County
Inc. Lyons Township, Ionia County
Inc. Mackinaw Township, Cheboygan County
Madison Township, Lenawee County
Manistique Township, Schoolcraft County
Maple Forest Township, Crawford County
Inc. Maple Grove Township, Manistee County
Maple Ridge Township, Delta County
Inc. Maple River Township, Emmet County
Marengo Township, Calhoun County
Marilla Township, Manistee County
Inc. Marion Township, Osceola County
Marion Township, Saginaw County
Inc. Marion Township, Sanilac County
Marquette Township, Mackinac County
Inc. Martin Township, Allegan County
Mayfield Township, Grand Traverse County
Inc. McKinley Township, Emmet County
Inc. McMillan Township, Luce County
McMillan Township, Ontonagon County
Inc. Meade Township, Huron County
Medina Township, Lenawee County
Inc. Mendon Township, St. Joseph County
Mentor Township, Oscoda County
Meyer Township, Menominee County
Michigamme Township, Marquette County
Middle Branch Township, Osceola County
Middlebury Township, Shiawassee County
Millbrook Township Mecosta County
Inc. Minden Township, Sanilac County
Moffatt Township, Arenac County
Moltke Township, Presque Isle County
Monterey Township, Allegan County
Montmorency Township, Montmorency County
Moore Township, Sanilac County
Moran Township, Mackinac County
Inc. Morton Township, Mecosta County
Mueller Township, Schoolcraft County
Mullet Township, Cheboygan County
Munro Township, Cheboygan County
Inc. Mussey Township, St. Clair County
Inc. Nadeau Township, Menominee County
Nahma Township, Delta County
New Haven Township, Gratiot County
Newark Township, Gratiot County
Newberg Township, Cass County
Newton Township, Mackinac County
Noble Township, Branch County
North Allis Township, Presque Isle County
Inc. North Branch Township, Lapeer County
Inc. North Plains Township, Ionia County
North Shade Township, Gratiot County
North Star Township, Gratiot County
Norwich Township, Missaukee County
Norwood Township, Charlevoix County
Inc. Nunda Township, Cheboygan County
Inc. Odessa Township, Ionia County
Ogden Township, Lenawee County
Inc. Oliver Township, Huron County
Oliver Township, Kalkaska County
Inc. Onekama Township, Manistee County
Inc. Ontonagon Township, Ontonagon County
Osceola Township, Houghton County
Osceola Township, Osceola County
Oscoda Township, Iosco County
Ossineke Township, Alpena County
Otto Township, Oceana County
Paris Township, Huron County
Inc. Parma Township, Jackson County
Inc. Penn Township, Cass County
Inc. Pentwater Township, Oceana County
Pickford Township, Chippewa County
Pioneer Township, Missaukee County
Inc. Pipestone Township, Berrien County
Pittsford Township, Hillsdale County
Platte Township, Benzie County

Inc. Pleasant Plains Township, Leelanau County
Pokagon Township, Cass County
Inc. Port Austin Township, Huron County
Portage Township, Houghton County
Portage Township, Mackinac County
Porter Township, Midland County
Inc. Posen Township, Presque Isle County
Quincy Township, Houghton County
Reno Township, Idsco County
Republic Township, Marquette County
Inc. Reynolds Township, Montcalm County
Richland Township, Missaukee County
Inc. Richland Township, Ogemaw County
Richmond Township, Marquette County
Richmond Township, Osceola County
Riverton Township, Mason County
Inc. Rock River Township, Alger County
Roger Township, Presque Isle County
Rolland Township, Isabella County
Inc. Roxand Township, Eaton County
Rudyard Township, Chippewa County
Rush Township, Shiawassee County
Rust Township, Montmorency County
Sand Beach Township, Huron County
Inc. Sanilac Township, Sanilac County
Inc. Schoolcraft Township, Houghton County
Scipio Township, Hillsdale County
Sebewa Township, Ionia County
Inc. Sebewaing Township, Huron County
Sheridan Township, Calhoun County
Sheridan Township, Clare County
Sheridan Township, Huron County
Sheridan Township, Mecosta County
Sherman Township, Huron County
Sherman Township, Idsco County
Sherman Township, Keweenaw County
Inc. Sidney Township, Montcalm County
Sigel Township, Huron County
Skandia Township, Marquette County
Sodus Township, Berrien County
South Branch Township, Wexford County
Inc. Spalding Township, Menominee County
Inc. Speaker Township, Sanilac County
Springfield Township, Kalkaska County
Inc. Springville Township, Wexford County
Stambaugh Township, Iron County
Stannard Township, Ontonagon County
Stanton Township, Houghton County
Summerfield Township, Clare County
Superior Township, Chippewa County
Sweetwater Township, Lake County
Sylvan Township, Osceola County
Inc. Tekonsha Township, Calhoun County
Torch Lake Township, Houghton County
Trout Lake Township, Chippewa County
Inc. Turner Township, Arenac County
Inc. Tyrone Township, Kent County
Inc. Union Township, Branch County
Vernon Township, Isabella County
Verona Township, Huron County
Volinia Township, Cass County
Wakefield Township, Gogebic County
Warner Township, Antrim County
Watersmeet Township, Gogebic County
Watertown Township, Tuscola County
Waucedah Township, Dickinson County
Waverly Township, Cheboygan County
Inc. Wawatam Township, Emmet County
Wayne Township, Cass County
Weare Township, Oceana County
Inc. Webber Township, Lake County
Weesaw Township, Berrien County
Inc. Weldon Township, Benzie County
Wellington Township, Alpena County
West Branch Township, Dickinson County
West Branch Township, Missaukee County
West Branch Township, Ogemaw County
Wheatland Township, Hillsdale County
Wheatland Township, Mecosta County
Wheatland Township, Sanilac County
White Oak Township, Ingham County
White River Township, Muskegon County
Wilson Township, Charlevoix County
Inc. Winsor Township, Huron County
Winterfield Township, Clare County
Inc. Wright Township, Hillsdale County
Yates Township, Lake County
Zilwaukee Township, Saginaw County

New Hampshire

Acworth Town, Sullivan County
Albany Town, Carroll County
Ashland Town, Grafton County
Bennington Town, Hillsborough County
Benton Town, Grafton County
Boscawen Town, Merrimack County
Bristol Town, Grafton County
Brookfield Town, Carroll County
Canaan Town, Grafton County
Clarksville Town, Coos County
Colesbrook Town, Coos County
Dalton Town, Coos County
Easton Town, Grafton County
Freedom Town, Carroll County
Goshen Town, Sullivan County
Grafton Town, Grafton County
Greenfield Town, Hillsborough County
Haverhill Town, Grafton County
Henniker Town, Merrimack County
Lancaster Town, Coos County
Landaff Town, Grafton County
Lisbon Town, Grafton County
Lyman Town, Grafton County
Middleton Town, Strafford County
Newington Town, Rockingham County
Newport Town, Sullivan County
Northumberland Town, Coos County
Piermont Town, Grafton County
Rindge Town, Cheshire County
Roxbury Town, Cheshire County
Shelburne Town, Coos County
Stark Town, Coos County
Stewartstown Town, Coos County
Stratford Town, Coos County
Sullivan Town, Cheshire County
Thornton Town, Grafton County
Troy Town, Cheshire County

New Jersey

Commercial Township, Cumberland County
Cranbury Township, Middlesex County
Downe Township, Cumberland County
Eagleswood Township, Ocean County
Fairfield Township, Cumberland County
Frelinghuysen Township, Warren County
Greenwich Township, Cumberland County
Hillside Township, Union County
Lafayette Township, Sussex County
Lawrence Township, Cumberland County
Lower Alloways Creek Township, Salem County
Mannington Township, Salem County
Mansfield Township, Burlington County
Montclair Township, Essex County
Mount Holly Township, Burlington County
Mullica Township, Atlantic County
Neptune Township, Monmouth County
North Bergen Township, Hudson County
North Hanover Township, Burlington County
Oldmans Township, Salem County
Oxford Township, Warren County
Pahaquarry Township, Warren County
Pennsauken Township, Camden County
Plumsted Township, Ocean County
Riverside Township, Burlington County
Shrewsbury Township, Monmouth County
South Harrison Township, Gloucester County
Upper Pittsgrove Township, Salem County
Walpack Township, Sussex County
Washington Township, Burlington County
Weehawken Township, Hudson County
Weymouth Township, Atlantic County
Woolwich Township, Gloucester County

New York

Inc. Adams Town, Jefferson County
Inc. Addison Town, Steuben County
Inc. Albion Town, Orleans County
Inc. Albion Town, Oswego County
Inc. Alexander Town, Genesee County
Inc. Alexandria Town, Jefferson County
Alma Town, Allegany County
Inc. Almond Town, Allegany County
Inc. Altamont Town, Franklin County
Altona Town, Clinton County
Amenia Town, Dutchess County
Inc. Amsterdam Town, Montgomery County
Inc. Andover Town, Allegany County
Inc. Antwerp Town, Jefferson County
Inc. Arcadia Town, Wayne County
Ashford Town, Cattaraugus County
Inc. Ashland Town, Chemung County
Ashland Town, Greene County
Inc. Athens Town, Greene County
Inc. Au Sable, Clinton County
Austerlitz Town, Columbia County
Inc. Avoca Town, Steuben County
Inc. Bainbridge Town, Chenango County
Baldwin Town, Chemung County
Bango Town, Franklin County
Barrington Town, Yates County
Inc. Barton Town, Tioga County
Inc. Bath Town, Steuben County
Belfast Town, Allegany County
Bellmont Town, Franklin County
Inc. Benton Town, Yates County
Bethany Town, Genesee County
Black Brook Town, Clinton County
Blenheim Town, Schoharie County
Bolton Town, Warren County
Bombay Town, Franklin County
Boylston Town, Oswego County
Bradford Town, Steuben County
Brandon Town, Franklin County
Inc. Brant Town, Erie County
Brasher Town, St. Lawrence County
Brookfield Town, Madison County
Brunswick Town, Rensselaer County
Inc. Burke Town, Franklin County
Inc. Burns Town, Allegany County
Inc. Butler Town, Wayne County
Inc. Butternuts Town, Otsego County
Inc. Callicoon Town, Sullivan County
Inc. Camden Town, Oneida County
Inc. Cana Joharie Town, Montgomery County
Inc. Candor Town, Tioga County
Canaadea Town, Allegany County
Inc. Cape Vincent Town, Jefferson County
Inc. Carrollton Town, Cattaraugus County
Inc. Castile Town, Wyoming County
Inc. Cato Town, Cayuga County
Caton Town, Steuben County
Inc. Cazenovia Town, Madison County
Inc. Champion Town, Jefferson County
Inc. Champlain Town, Clinton County
Charleston Town, Montgomery County

Inc. Charlotte Town, Chautauqua County
Inc. Chateaugay Town, Franklin County
Inc. Chatham Town, Columbia County
Chazy Town, Clinton County
Inc. Cherry Creek Town, Chautauqua County
Chester Town, Warren County
Inc. Chesterfield Town, Essex County
Clare Town, St. Lawrence County
Clarksville Town, Allegany County
Inc. Clayton Town, Jefferson County
Clermont Town, Columbia County
Clifton Town, St. Lawrence County
Clinton Town, Clinton County
Cochecton Town, Sullivan County
Colchester Town, Delaware County
Coldspring Town, Cattaraugus County
Colesville Town, Broome County
Inc. Collins Town, Erie County
Colton Town, St. Lawrence County
Conesville Town, Schoharie County
Inc. Conewango Town, Cattaraugus County
Conquest Town, Cayuga County
Constable Town, Franklin County
Inc. Corinth Town, Saratoga County
Inc. Corning Town, Steuben County
Coventry Town, Chenango County
Inc. Croghan Town, Lewis County
Crown Point Town, Essex County
Cuyler Town, Cortland County
Dansville Town, Steuben County
Danube Town, Herkimer County
Day Town, Saratoga County
Inc. Dayton Town, Cattaraugus County
Inc. De Kalb Town, St. Lawrence County
Inc. De Ruyter Town, Madison County
Decatur Town, Otsego County
Inc. Denmark Town, Lewis County
Denning Town, Ulster County
Inc. Deposit Town, Delaware County
Dickinson Town, Franklin County
Inc. Dix Town, Schuyler County
Dover Town, Dutchess County
Duane Town, Franklin County
Dunkirk Town, Chautauqua County
Durham Town, Greene County
East Otto Town, Cattaraugus County
Inc. Easton Town, Washington County
Inc. Edwards Town, St. Lawrence County
Elizabeth Town Town, Essex County
Ellenburg Town, Clinton County
Inc. Ellery Town, Chautauqua County
Inc. Ellicott Town, Chautauqua County
Inc. Ellicottville Town, Cattaraugus County
Ellington Town, Chautauqua County
Inc. Ellisburg Town, Jefferson County
Esopus Town, Ulster County
Essex Town, Essex County
Exeter Town, Otsego County
Inc. Fairfield Town, Herkimer County
Inc. Fallsburg Town, Sullivan County
Farmersville Town, Cattaraugus County
Inc. Fayette Town, Seneca County
Fine Town, St. Lawrence County
Florence Town, Oneida County
Forestport Town, Oneida County
Fort Covington Town, Franklin County
Inc. Fort Edward Town, Washington County
Fowler Town, St. Lawrence County
Inc. Frankfort Town, Herkimer County
Inc. Franklin Town, Delaware County
Freedom Town, Cattaraugus County
Freetown Town, Cortland County
Fremont Town, Steuben County
French Creek Town, Chautauqua County
Friendship Town, Allegany County
Inc. Gainesville Town, Wyoming County
Inc. Galen Town, Wayne County
Inc. Geddes Town, Onondaga County
Georgetown Town, Madison County
Inc. German Flats Town, Herkimer County
Germantown Town, Columbia County
Gilboa Town, Schoharie County
Inc. Glen Town, Montgomery County
Inc. Lake George Town, Warren County
Lake Luzerne Town, Warren County
Inc. Lancaster Town, Erie County
Lapeer Town, Cortland County
Lawrence Town, St. Lawrence County
Inc. Le Ray Town, Jefferson County
Inc. Ledyard Town, Cayuga County
Inc. Leicester Town, Livingston County
Inc. Lenox Town, Madison County
Leon Town, Cattaraugus County
Lewis Town, Lewis County
Lexington Town, Green County
Inc. Leyden Town, Lewis County
Inc. Liberty Town, Sullivan County
Lincklaen Town, Chenango County
Lisbon Town, St. Lawrence County
Inc. Lisle Town, Broome County
Litchfield Town, Herkimer County
Little Falls Town, Herkimer County
Inc. Lodi Town, Seneca County
Long Lake Town, Hamilton County
Inc. Lowville Town, Lewis County
Lyndon Town, Cattaraugus County
Inc. Lyons Town, Wayne County
Machias Town, Cattaraugus County
Macomb Town, St. Lawrence County
Madrid Town, St. Lawrence County
Inc. Malone Town, Franklin County
Inc. Manheim Town, Herkimer County
Martinsburg Town, Lewis County
Inc. Maryland Town, Otsego County
Masonville Town, Delaware County
Inc. Massena Town, St. Lawrence County
McDonough Town, Chenango County
Inc. Mexico Town, Oswego County
Inc. Middlebury Town, Wyoming County
Inc. Middlefield Town, Otsego County
Inc. Middletown Town, Delaware County
Milan Town, Dutchess County
Inc. Milford Town, Otsego County
Inc. Mild Town, Yates County
Minerva Town, Essex County
Inc. Moira Town, Franklin County
Inc. Montour Town, Schuyler County
Inc. Mooers Town, Clinton County
Inc. Moravia Town, Cayuga County
Inc. Moriah Town, Essex County
Inc. Morris Town, Otsego County
Inc. Morristown Town, St. Lawrence County
Inc. Mount Hope Town, Orange County
Inc. Mount Kisco Town, Westchester County
Inc. Mount Morris Town, Livingston County
Inc. Naples Town, Ontario County
Napoli Town, Cattaraugus County
Nelson town, Madison County
Inc. New Albion Town, Cataraugus County
Inc. New Brehem Town, Lewis County
New Hudson Town, Allegany County
New Lebanon Town, Columbia County
New Lisbon Town, Otsego County
Inc. New Paltz Town, Ulster County
Newcomb Town, Essex County
Newfane Town, Niagra County
Inc. Newport Town, Herkimer County
Inc. Norfolk Town, St. Lawrence County
Inc. North Collins Town, Erie County
Inc. North Dansville Town, Livingston County
Inc. North Elba Town, Essex County
North Harmony Town, Chautauqua County
North Hudson Town, Essex County
Inc. Northampton Town, Fulton County
Inc. Nunda Town, Livingston County
Inc. Oakfield Town, Genesee County
Ohio Town, Herkimer County
Olean Town, Cattaraugus County
Oneonta Town, Otsego County
Inc. Oppenheim Town, Fulton County
Orleans Town, Jefferson County
Inc. Oswegatchie Town, St. Lawrence County
Inc. Otsego Town, Otsego County
Otselic Town, Chenango County
Inc. Ovid Town, Seneca County
Inc. Owego Town, Tioga County
Inc. Oxford Town, Chenango County
Inc. Paris Town, Oneida County
Pavilion Town, Genesee County
Inc. Perry Town, Wyoming County
Inc. Persia Town, Cattaraugus County
Peru Town, Clinton County
Petersburg Town, Rensselaer County
Inc. Philadelphia Town, Jefferson County
Pierrepont Town, St. Lawrence County
Inc. Pike Town, Wyoming County
Pinckney Town, Lewis County
Pitcairn Town, St. Lawrence County
Pittsfield Town, Otsego County
Inc. Pittstown Town, Rensselaer County
Plainfield Town, Otsego County
Inc. Pomfret Town, Chautauqua County
Pompey Town, Onondaga County
Portage Town, Livingston County
Inc. Portland Town, Chautauqua County
Inc. Potsdam Town, St. Lawrence County
Prattsburg Town, Steuben County
Prattsville Town, Greene County
Preston Town, Chenango County
Pulteney Town, Steuben County
Putnam Town, Washington County
Inc. Randolph Town, Cattaraugus County
Rathbone Town, Steuben County
Rensselaerville Town, Albany County
Inc. Richfield Town, Otsego County
Richford Town, Tioga County
Inc. Richland Town, Oswego County
Inc. Ridgeway Town, Orleans County
Ripley Town, Chautauqua County
Rockland Town, Sullivan County
Rodman Town, Jefferson County
Inc. Romulus Town, Seneca County
Rose Town, Wayne County
Rosendale Town, Ulster County
Rossie Town, St. Lawrence County
Roxbury Town, Delaware County
Russell Town, St. Lawrence County
Inc. Rutland Town, Jefferson County
Inc. Rye Town, Westchester County
Inc. Salem Town, Washington County
Salisbury Town, Herkimer County
Inc. Sandy Creek Town, Oswego County
Inc. Sanford Town, Broome County
Inc. Sangerfield Town, Oneida County
Inc. Saranac Town, Clinton County
Savannah Town, Wayne County
Inc. Schoharie Town, Schoharie County
Scio Town, Allegany County
Scipio Town, Cayuga County
Sempronius Town, Cayuga County
Inc. Seneca Falls Town, Seneca County
Seneca Town, Ontario County
Seward Town, Schoharie County
Inc. Shandaken Town, Ulster County
Inc. Shelby Town, Orleans County
Inc. Sherburne Town, Chenango County
Inc. Sherman Town, Chautauqua County

Inc. Sidney Town, Delaware County
Smithfield Town, Madison County
Inc. Smyrna Town, Chenango County
Solon Town, Cortland County
Inc. Somerset Town, Niagara County
Southport Town, Chemung County
Spafford Town, Onondaga County
Inc. Spencer Town, Tioga County
Springfield Town, Otsego County
St. Johnsville Town, Montgomery County
Inc. Stamford Town, Delaware County
Stanford Town, Dutchess County
Inc. Sterling Town, Cayuga County
Steuben Town, Oneida County
Inc. Stockbridge Town, Madison County
Stockholm Town, St. Lawrence County
Inc. Stockton Town, Chautauqua County
Stony Creek Town, Warren County
Stratford Town, Fulton County
Summerhill Town, Cayuga County
Summit Town, Schoharie County
Taghkanic Town, Columbia County
Taylor Town, Cortland County
Inc. Theresa Town, Jefferson County
Thurman Town, Warren County
Inc. Ticonderoga Town, Essex County
Tompkins Town, Delaware County
Inc. Trenton Town, Oneida County
Inc. Triangle Town, Broome County
Troupsburg Town, Steuben County
Inc. Turin Town, Lewis County
Tuscarora Town, Steuben County
Inc. Unadilla Town, Otsego County
Inc. Van Etten Town, Chemung County
Venice Town, Cayuga County
Inc. Verona Town, Oneida County
Inc. Veteran Town, Chemung County
Victory Town, Cayuga County
Villenova Town, Chautauqua County
Inc. Waddington Town, St. Lawrence County
Inc. Walton Town, Delaware County
Ward Town, Allegany County
Warren Town, Herkimer County
Warrensburg Town, Warren County
Inc. Washington Town, Dutchess County
Inc. Waterford Town, Saratoga County
Inc. Waterloo Town, Seneca County
Watson Town, Lewis County
Waverly Town, Franklin County
Inc. Wawarsing Town, Ulster County
Wayne Town, Steuben County
Wells Town, Hamilton County
Inc. Wellsville Town, Allegany County
West Almond Town, Allegany County
West Sparta Town, Livingston County
Inc. West Turin Town, Lewis County
West Union Town, Steuben County
Western Town, Oneida County
Inc. Westfield Town, Chautauqua County
Inc. Westport Town, Essex County
Westville Town, Franklin County
Wethersfield Town, Wyoming County
Wheeler Town, Steuben County
Inc. White Creek Town, Washington County
Inc. Whitehall Town, Washington County
Inc. Whitestown Town, Oneida County
Williamson Town, Wayne County
Willsboro Town, Essex County
Wilmington Town, Essex County
Inc. Wilna Town, Jefferson County
Inc. Wolcott Town, Wayne County
Inc. Woodhull Town, Steuben County
Worcester Town, Otsego County
Inc. Yorkshire Town, Cattaraugus County

Pennsylvania

Abbott Township, Potter County
Adams Township, Snyder County
Aleppo Township, Greene County
Allegheny Township, Butler County
Allegheny Township, Cambria County
Amity Township, Erie County
Amwell Township, Washington County
Annin Township, McKean County
Anthony Township, Lycoming County
Anthony Township, Montour County
Apolacon Township, Susquehanna County
Armagh Township, Mifflin County
Ashland Township, Clarion County
Asylum Township, Bradford County
Athens Township, Crawford County
Ayr Township, Fulton County
Banks Township, Carbon County
Banks Township, Indiana County
Barr Township, Cambria County
Bart Township, Lancaster County
Beaver Township, Columbia County
Beaver Township, Jefferson County
Beaver Township, Snyder County
Beccaria Township, Clearfield County
Bedford Township, Bedford County
Belfast Township, Fulton County
Bell Township, Clearfield County
Benezette Township, Elk County
Benton Township, Lackawanna County
Berlin Township, Wayne County
Bethel Township, Armstrong County
Bethel Township, Fulton County
Bigler Township, Clearfield County
Bingham Township, Potter County
Black Creek Township, Luzerne County
Bloomfield Township, Bedford County
Bloomfield Township, Crawford County
Blythe Township, Schuylkill County
Bogga Township, Armstrong County
Bogga Township, Clearfield County
Bradford Township, Clearfield County
Brady Township, Clarion County
Brady Township, Clearfield County
Brady Township, Huntingdon County
Braintrim Township, Wyoming County
Brecknock Township, Lancaster County
Broad Top Township, Bedford County
Brookfield Township, Tioga County
Brothersvalley Township, Somerset County
Brown Township, Lycoming County
Brown Township, Mifflin County
Brownsville Township, Fayette County
Burlington Township, Bradford County
Burnside Township, Clearfield County
Burrell Township, Indiana County
Butler Township, Luzerne County
Butler Township, Schuylkill County
Cadogan Township, Armstrong County
Caernarvon Township, Lancaster County
Cambridge Township, Crawford County
Canaan Township, Wayne County
Canal Township, Venango County
Canoe Township, Indiana County
Canton Township, Bradford County
Canton Township, Washington County
Carbon Township, Huntingdon County
Cass Township, Schuylkill County
Center Township, Greene County
Center Township, Indiana County
Chapman Township, Clinton County
Chapman Township, Snyder County
Charleston Township, Tioga County
Chatham Township, Tioga County
Cherry Township, Butler County
Cherry Township, Sullivan County
Cherryhill Township, Indiana County
Cherrytree Township, Venango County
Chest Township, Clearfield County
Chester Township, Delaware County
Clara Township, Potter County
Clarion Township, Clarion County
Clearfield Township, Cambria County
Cleveland Township, Columbia County
Clifford Township, Susquehanna County
Clinton Township, Venango County
Coal Township, Northumberland County
Cogan House Township, Lycoming County
Colerain Township, Bedford County
Colerain Township, Lancaster County
Colley Township, Sullivan County
Columbia Township, Bradford County
Columbia Township, Warren County
Conemaugh Township, Indiana County
Conewago Township, Adams County
Conneaut Township, Crawford County
Connellsville Township, Fayette County
Conyngham Township, Columbia County
Conyngham Township, Luzerne County
Cooper Township, Clearfield County
Cornplanter Township, Venango County
Cowanshannock Township, Armstrong County
Crescent Township, Allegheny County
Cresson Township, Cambria County
Cromwell Township, Huntingdon County
Cross Creek Township, Washington County
Cumberland Township, Greene County
Cummings Township, Lycoming County
Curtin Township, Centre County
Cussewago Township, Crawford County
Damascus Township, Wayne County
Davidson Township, Sullivan County
Dean Township, Cambria County
Decatur Township, Clearfield County
Decatur Township, Mifflin County
Deerfield Township, Tioga County
Delano Township, Schkuylkill County
Dimock Township, Susquehanna County
Donegal Township, Washington County
Dorrance Township, Luzerne County
Drumore Township, Lancaster County
Dublin Township, Fulton County
Dunbar Township, Fayette County
Duncan Township, Tioga County
Dunkard Township, Greene County
Dyberry Township, Wayne County
East Bethlehem Township, Washington County
East Cameron Township, Northumberland County
East Deer Township, Allegheny County
East Earl Township, Lancaster County
East Finley Township, Washington County
East Mahoning Township, Indiana County
East Norwegian Township, Schuylkill County
East Nottingham Township, Chester County
East Taylor Township, Cambria County
East Union Township, Schuylkill County
Eden Township, Lancaster County
Elder Township, Cambria County
Eldred Township, Jefferson County
Eldred Township, Warren County
Elk Lick Township, Somerset County
Elk Township, Warren County
Elkland Township, Sullivan County
Eulalia Township, Potter County
Fairfield Township, Crawford County
Fairfield Township, Westmoreland County
Fairhope Township, Somerset County
Fallowfield Township, Washington County
Fannett Township, Franklin County
Farmington Township, Clarion County

Farmington Township, Tioga County
Farmington Township, Warren County
Fawn Township, York County
Fell Township, Lackawanna County
Fermanagh Township, Juniata County
Forks Township, Sullivan County
Forkston Township, Wyoming County
Forward Township, Allegheny County
Foster Township, Luzerne County
Foster Township, McKean County
Foster Township, Schuylkill County
Fox Township, Elk County
Fox Township, Sullivan County
Frailey Township, Schuylkill County
Franklin Township, Carbon County
Franklin Township, Greene County
Freeport Township, Greene County
French Creek Township, Mercer County
Fulton Township, Lancaster County
Gaines Township, Tioga County
Gallitzin Township, Cambria County
Gaskill Township, Jefferson County
Georges Township, Fayette County
German Township, Fayette County
Gibson Township, Susquehanna County
Gilmore Township, Greene County
Glade Township, Warren County
Goshen Township, Clearfield County
Graham Township, Clearfield County
Grant Township, Indiana County
Granville Township, Bradford County
Granville Township, Mifflin County
Gray Township, Greene County
Green Township, Indiana County
Greene Township, Clinton County
Greenfield Township, Blair County
Greenfield Township, Lackawanna County
Greenville Township, Somerset County
Greenwood Township, Crawford County
Greenwood Township, Juniata County
Greenwood Township, Perry County
Gregg Township, Centre County
Grove Township, Cameron County
Gulich Township, Clearfield County
Haines Township, Centre County
Halfmoon Township, Centre County
Hamilton Township, McKean County
Hamlin Township, McKean County
Hanover Township, Luzerne County
Harford Township, Susquehanna County
Harmar Township, Allegheny County
Harmony Township, Forest County
Harmony Township, Susquehanna County
Harrison Township, Bedford County
Harrison Township, Potter County
Hartley Township, Union County
Hector Township, Potter County
Hemlock Township, Columbia County
Henderson Township, Jefferson County
Henry Clay Township, Fayette County
Herrick Township, Bradford County
Hickory Township, Lawrence County
Highland Township, Clarion County
Honey Brook Township, Chester County
Hopewell Township, Huntingdon County
Horton Township, Elk County
Hovey Township, Armstrong County
Huntington Township, Adams County
Huston Township, Blair County
Huston Township, Centre County
Huston Township, Clearfield County
Independence Township, Washington County
Jackson Township, Columbia County
Jackson Township, Greene County
Jackson Township, Lycoming County
Jackson Township, Northumberland County
Jackson Township, Perry County
Jackson Township, Snyder County
Jackson Township, Susquehanna County
Jefferson Township, Fayette County
Jefferson Township, Greene County
Jenks Township, Forest County
Jenner Township, Somerset County
Jessup Township, Susquehanna County
Jordan Township, Clearfield County
Jordan Township, Lycoming County
Juniata Township, Perry County
Karthaus Township, Clearfield County
Keating Township, McKean County
Kelly Township, Union County
Kimmel Township, Bedford County
King Township, Bedford County
Kingsley Township, Forest County
Kittanning Township, Armstrong County
Kline Township, Schuylkill County
Knox Township, Clarion County
Knox Township, Clearfield County
Knox Township, Jefferson County
Lack Township, Juniata County
Lake Township, Mercer County
Lake Township, Wayne County
Larimer Township, Somerset County
Lawrence Township, Tioga County
Leacock Township, Lancaster County
Lebanon Township, Wayne County
Lehigh Township, Carbon County
Leidy Township, Clinton County
Lemon Township, Wyoming County
Lenox Township, Susquehanna County
Leroy Township, Bradford County
Lewis Township, Lycoming County
Lewis Township, Union County
Liberty Township, Bedford County
Liberty Township, Centre County
Liberty Township, McKean County
Liberty Township, Montour County
Licking Creek Township, Fulton County
Limestone Township, Clarion County
Limestone Township, Union County
Lincoln Township, Bedford County
Lincoln Township, Huntingdon County
Little Britain Township, Lancaster County
Little Mahanoy Township, Northumberland County
Liverpool Township, Perry County
Logan Township, Huntingdon County
Londonderry Township, Bedford County
Lower Chanceford Township, York County
Lower Chichester Township, Delaware County
Lower Mount Bethel Township, Northampton County
Lower Turkeyfoot Township, Somerset County
Lower Tyrone Township, Fayette County
Lower Yoder Township, Cambria County
Lumber Township, Cameron County
Lurgan Township, Franklin County
Luzerne Township, Fayette County
Lykens Township, Dauphin County
Madison Township, Armstrong County
Madison Township, Clarion County
Mahanoy Township, Schuylkill County
Mahoning Township, Armstrong County
Mahoning Township, Montour County
Maidencreek Township, Berks County
Mann Township, Bedford County
Manor Township, Armstrong County
Marion Township, Butler County
Marion Township, Centre County
Mayberry Township, Montour County
McCalmont Township, Jefferson County
McIntyre Township, Lycoming County
McNett Township, Lycoming County
Mead Township, Warren County
Mehoopany Township, Wyoming County
Menallen Township, Fayette County
Menno Township, Mifflin County
Mercer Township, Butler County
Metal Township, Franklin County
Middlebury Township, Tioga County
Miles Township, Centre County
Milford Township, Juniata County
Mill Creek Township, Mercer County
Monongahela Township, Greene County
Monroe Township, Bedford County
Monroe Township, Bradford County
Monroe Township, Clarion County
Montgomery Township, Franklin County
Montgomery Township, Indiana County
Moreland Township, Lycoming County
Morris Township, Clearfield County
Morris Township, Greene County
Morris Township, Tioga County
Mount Carmel Township, Northumberland County.
Mount Pleasant Township, Wayne County
Napier Township, Bedford County
Nelson Township, Tioga County
Nescopeck Township, Luzerne County
New Castle Township, Schuylkill County
New Milford Township, Susquehanna County
New Vernon Township, Mercer County
Newlin Township, Chester County
Newport Township, Luzerne County
Nicholson Township, Fayette County
Nicholson Township, Wyoming County
North Annville Township, Lebanon County
North Bethlehem Township, Washington County
North Mahoning Township, Indiana County
North Shenango Township, Crawford County
North Union Township, Fayette County
North Union Township, Schuylkill County
North Woodbury Township, Blair County
Northeast Madison Township, Perry County
Northmoreland Township, Wyoming County
Norwich Township, McKean County
Noxen Township, Wyoming County
Noyes Township, Clinton County
Oakland Township, Butler County
Oakland Township, Susquehanna County
Ogle Township, Somerset County
Oil Creek Township, Crawford County
Ontelaunee Township, Berks County
Orwell Township, Bradford County
Osceola Township, Tioga County
Oswayo Township, Potter County
Otto Township, McKean County
Overton Township, Bradford County
Paradise Township, Lancaster County
Parker Township, Butler County
Parks Township, Armstrong County
Penn Township, Centre County
Penn Township, Clearfield County
Penn Township, Huntingdon County
Penn Township, Perry County
Penn Township, Snyder County
Perry Township, Clarion County
Perry Township, Fayette County
Perry Township, Greene County
Perry Township, Jefferson County
Perry Township, Lawrence County
Perry Township, Snyder County
Peters Township, Franklin County
Piatt Township, Lycoming County
Pike Township, Potter County

Pine Creek Township, Jefferson County
Pine Township, Armstrong County
Pine Township, Columbia County
Pine Township, Indiana County
Pine Township, Lycoming County
Pinegrove Township, Venango County
Piney Township, Clarion County
Plain Grove Township, Lawrence County
Plains Township, Luzerne County
Pleasant Valley Township, Potter County
Plum Township, Venango County
Plumcreek Township, Armstrong County
Plymouth Township, Luzerne County
Portage Township, Cambria County
Portage Township, Potter County
Porter Township, Clarion County
President Township, Venango County
Preston Township, Wayne County
Pulaski Township, Beaver County
Putnam Township, Tioga County
Quincy Township, Franklin County
Randolph Township, Crawford County
Rayburn Township, Armstrong County
Redbank Township, Armstrong County
Redbank Township, Clarion County
Redstone Township, Fayette County
Reed Township, Dauphin County
Reilly Township, Schuylkill County
Richhill Township, Greene County
Richland Township, Clarion County
Richland Township, Venango County
Richmond Township, Crawford County
Richmond Township, Tioga County
Ringgold Township, Jefferson County
Rochester Township, Beaver County
Rockland Township, Venango County
Rome Township, Bradford County
Rome Township, Crawford County
Roulette Township, Potter County
Rush Township, Centre County
Rush Township, Schuylkill County
Rush Township, Susquehanna County
Rutland Township, Tioga County
Ryan Township, Schuylkill County
Sadsbury Township, Lancaster County
Salem Township, Clarion County
Salem Township, Mercer County
Salem Township, Wayne County
Saltlick Township, Fayette County
Sandy Creek Township, Mercer County
Schuylkill Township, Schuylkill County
Scott Township, Lackawanna County
Scott Township, Wayne County
Scrubgrass Township, Venango County
Sergeant Township, McKean County
Shade Township, Somerset County
Sharon Township, Potter County
Sheffield Township, Warren County
Sheshequin Township, Bradford County
Shippen Township, Tioga County
Shirley Township, Huntingdon County
Shrewsbury Township, Lycoming County
Shrewsbury Township, Sullivan County
Smith Township, Washington County
Smithfield Township, Bradford County
Smithfield Township, Huntingdon County
Snake Spring Township, Bedford County
Snow Shoe Township, Centre County
Snyder Township, Blair County
South Landonderry Township, Lebanon County
South Union Township, Fayette County
South Versailles Township, Allegheny County
South Woodbury Township, Bedford County
Southampton Township, Bedford County
Southampton Township, Somerset County
Sparta Township, Crawford County
Spring Township, Crawford County
Springfield Township, Bradford County
Springfield Township, Fayette County
Springfield Township, Mercer County
Springhill Township, Fayette County
Springhill Township, Greene County
Spruce Creek Township, Huntingdon County
Spruce Hill Township, Juniata County
St. Clair Township, Westmoreland County
Standing Stone Township, Bradford County
Steuben Township, Crawford County
Stevens Township, Bradford County
Stewardson Township, Potter County
Stewart Township, Fayette County
Stowe Township, Allegheny County
Strasburg Township, Lancaster County
Sugar Grove Township, Warren County
Sugarcreek Township, Armstrong County
Sugarloaf Township, Columbia County
Sullivan Township, Tioga County
Summerhill Township, Cambria County
Summit Township, Somerset County
Sweden Township, Potter County
Tell Township, Huntingdon County
Terry Township, Bradford County
Thompson Township, Fulton County
Thompson Township, Susquehanna County
Tioga Township, Tioga County
Toboyne Township, Perry County
Toby Township, Clarion County
Todd Township, Fulton County
Towanda Township, Bradford County
Triumph Township, Warren County
Tuscarora Township, Juniata County
Tyrone Township, Adams County
Ulster Township, Bradford County
Union Township, Bedford County
Union Township, Centre County
Union Township, Huntingdon County
Union Township, Jefferson County
Union Township, Lawrence County
Union Township, Mifflin County
Union Township, Schuylkill County
Union Township, Snyder County
Union Township, Tioga County
Upper Mahantonga Township, Schuylkill County
Upper Mifflin Township, Cumberland County
Upper Oxford Township, Chester County
Upper Turkeyfoot Township, Somerset County
Upper Tyrone Township, Fayette County
Valley Township, Chester County
Walker Township, Juniata County
Warren Township, Bradford County
Warren Township, Franklin County
Warsaw Township, Jefferson County
Washington Township, Armstrong County
Washington Township, Cambria County
Washington Township, Fayette County
Washington Township, Indiana County
Washington Township, Snyder County
Washington Township, Wyoming County
Wayne Township, Armstrong County
Wayne Township, Greene County
Wayne Township, Mifflin County
Wells Township, Bradford County
West Abington Township, Lackawanna County
West Bethlehem Township, Washington County
West Branch Township, Potter County
West Burlington Township, Bradford County
West Carroll Township, Cambria County
West Fallowfield Township, Chester County
West Fallowfield Township, Crawford County
West Finley Township, Washington County
West Franklin Township, Armstrong County
West Mahanoy Township, Schuylkill County
West Mahoning Township, Indiana County
West Pike Run Township, Washington County
West St. Clair Township, Beford County
West Taylor Township, Cambria County
West Township, Huntingdon County
West Wheatfield Township, Indiana County
Westfield Township, Tioga County
Wharton Township, Fayette County
Wharton Township, Potter County
White Township, Beaver County
White Township, Cambria County
Whiteley Township, Greene County
Wilkes-Barre Township, Luzerne County
Wilmington Township, Lawrence County
Wilmot Township, Bradford County
Windham Township, Bradford County
Windham Township, Wyoming County
Winslow Township, Jefferson County
Wolf Creek Township, Mercer County
Wood Township, Huntingdon County
Woodbury Township, Bedford County
Woodward Township, Clearfield County
Worth Township, Mercer County
Wouthwest Madison Township, Perry County
Wysox Township, Bradford County
Young Township, Indiana County
Young Township, Jefferson County
Zerbe Township, Northumberland County

Rhode Island

New Shoreham Town, Washington County
South Kingstown Town, Washington County
West Warwick Town, Kent County

Vermont

Addison Town, Addison County
Inc. Albany Town, Orleans County
Inc. Alburg Town, Grand Isle County
Arlington Town, Bennington County
Athens Town, Windham County
Bakersfield Town, Franklin County
Barnard Town, Windsor County
Barnet Town, Caledonia County
Inc. Barton Town, Orleans County
Belvidere Town, Lamoille County
Inc. Bennington Town, Bennington County
Berkshire Town, Franklin County
Bethel Town, Windsor County
Bloomfield Town, Essex County
Braintree Town, Orange County
Brattleboro Town, Windham County
Brighton Town, Essex County
Brookfield Town, Orange County
Brownington Town, Orleans County
Inc. Burke Town, Caledonia County
Inc. Cabot Town, Washington County
Inc. Cambridge Town, Lamoille County
Canaan Town, Essex County
Chelsea Town, Orange County
Chester Town, Windsor County
Chittenden Town, Rutland County
Concord Town, Essex County
Corinth Town, Orange County
Cornwell Town, Addison County
Craftsbury Town, Orleans County
Danby Town, Rutland County
Inc. Derby Town, Orleans County
Dorset Town, Bennington County
Dummerston Town, Windham County

Inc. Enosburg Town, Franklin County
Fair Haven Town, Rutland County
Fairfield Town, Franklin County
Ferrisburg Town, Addison County
Franklin Town, Franklin County
Glover Town, Orleans County
Grafton Town, Windham County
Greensboro Town, Orleans County
Groton Town, Caledonia County
Inc. Hardwick Town, Caledonia County
Highgate Town, Franklin County
Inc. Hyde Park Town, Lamoille County
Irasburg Town, Orleans County
Isle La Motta Town, Grand Isle County
Lemington Town, Essex County
Lincoln Town, Addison County
Londonderry Town, Windham County
Lowell Town, Orleans County
Inc. Ludlow Town, Windsor County
Lunenburg Town, Essex County
Inc. Manchester Town, Bennington County
Middletown Springs Town, Rutland County
Monkton Town, Addison County
Montgomery Town, Franklin County
Newark Town, Caledonia County
Inc. Newbury Town, Orange County
Inc. Newfane Town, Windham County
Newport Town, Orleans County
Norton Town, Essex County
Orwell Town, Addison County
Pawlet Town, Rutland County
Pittsfield Town, Rutland County
Inc. Plainfield Town, Washington County
Plymouth Town, Windsor County
Inc. Poultney Town, Rutland County
Proctor Town, Rutland County
Putney Town, Windham County
Inc. Readsboro Town, Bennington County
Inc. Richford Town, Franklin County
Inc. Rockingham Town, Windham County
Royalton Town, Windsor County
Rupert Town, Bennington County
Ryegate Town, Caledonia County
Sheffield Town, Calldonia County
Sheldon Town, Franklin County
Shoreham Town, Addison County
St. Johnsbury Town, Caledonia County
Stockbridge Town, Windsor County
Sudbury Town, Rutland County
Sutton Town, Caledonia County
Inc. Swanton Town, Franklin County
Tinmouth Town, Rutland County
Topsham Town, Orange County
Inc. Troy Town, Orleans County
Tunbridge Town, Orange County
Vershire Town, Orange County
Victory Town, Essex County
Waitsfield Town, Washington County
Walden Town, Caledonia County
Wallingford Town, Rutland County
Inc. Waterbury Town, Washington County
Waterford Town, Caledonia County
Waterville Town, Lamoille County
West Fairlee Town, Orange County
West Haven Town, Rutland County
West Rutland Town, Rutland County
West Windsor Town, Windsor County
Westfield Town, Orleans County
Weston Town, Windsor County
Whiting Town, Addison County
Windsor Town, Windsor County
Wolcott Town, Lamoille County
Woodbury Town, Washington County

Puerto Rico

Adjuntas Municipio
Aguada Municipio
Aguadilla Municipio
Aguas Buenas Municipio
Aibonito Municipio
Anasco Municipio
Arroyo Municipio
Barceloneta Municipio
Barranquitas Municipio
Cabo Rojo Municipio
Camuy Municipio
Catano Municipio
Cayey Municipio
Ceiba Municipio
Ciales Municipio
Cidra Municipio
Cuama Municipio
Comerio Municipio
Corozal Municipio
Culebra Municipio
Dorado Municipio
Fajardo Municipio
Guanica Municipio
Guayama Municipio
Guayanilla Municipio
Gurabo Municipio
Hatillo Municipio
Hormigueros Municipio
Humacao Municipio
Isabela Municipio
Jayuya Municipio
Juana Diaz Municipio
Juncos Municipio
Lajas Municipio
Lares Municipio
Las Marias Municipio
Las Piedras Municipio
Loiza Municipio
Luquillo Municipio
Manati Municipio
Maricao Municipio
Maunabo Municipio
Moca Municipio
Morovis Municipio
Naguabo Municipio
Naranjito Municipio
Orocovis Municipio
Patillas Municipio
Penuelas Municipio
Quebradillas Municipio
Rincon Municipio
Rio Grande Municipio
Sabana Granda Municipio
Salinas Municipio
San German Municipio
San Lorenzo Municipio
San Sebastian Municipio
Santa Isabel Municipio
Toa Alta Municipio
Utuado Municipio
Vega Alta Municipio
Vega Baja Municipio
Vieques Municipio
Villalba Municipio
Yabucoa Municipio
Yauco Municipio

Dated: May 28, 1982.

Stephen J. Bollinger,

Assistant Secretary for Community Planning and Development.

[FR Doc. 82-15286 Filed 6-7-82; 8:45 am]

BILLING CODE 4710-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

California Desert District

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of a public hearing to explain a proposal for the future management of the Western San Diego County Wilderness Study Areas (WSAs) and to obtain information and advice from the public on these areas.

SUMMARY: The areas concerned lie outside the California Desert Conservation Area and are in the special Escondido Project Area. They include the Western Otay Mountain, Southern Otay Mountain, Beauty Mountain, Hauser Mountain, and Agua Tibia Wilderness Study Areas (WSAs).

DATE: The meeting will be held on Wednesday, July 7, 1982, from 2:00 to 5:00 and 7:00 to 10:00 p.m. in the Escondido High School cafeteria, 1525 N. Broadway, Escondido, California. This meeting replaces the previously announced June 21 meeting, scheduled at the high school.

FOR FURTHER INFORMATION CONTACT: Russell Kaldenberg, Desert District Office, 1695 Spruce Street, Riverside, California 92507, or call (714) 351-6379.

SUPPLEMENTARY INFORMATION: The proposal for the WSAs is included in the Draft Environmental Impact Statement for the Western Counties Wilderness Study Project. This document will be sent to those requesting additional information. Written comments by those wishing to have their viewpoints included in the official record of the meeting must be received by August 9, 1982.

Dated: June 1, 1982.

Wesley Chambers,

Acting District Manager.

[FR Doc. 82-15460 Filed 6-7-82; 8:45 am]

BILLING CODE 4310-84-M

Review of the California Desert Plan; Record of Decision for 1981 Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice is hereby given that the Record of Decision for the first amendment (1981) to the California Desert Conservation Area Plan has been prepared.

FOR FURTHER INFORMATION CONTACT: Gerald Hillier, District Manager, California Desert District, 1695 Spruce Street, Riverside, California 92507.

SUPPLEMENTARY INFORMATION: The Record of Decision (ROD) describes each proposed amendment, indicates whether it was accepted or rejected, and presents the rationale for the decision. Final decisions were made by the District Manager and concurred in by the State Director. Decisions were based on the findings of an Environmental Assessment prepared for the amendments, public review, and input from the California Desert District Multiple Use Advisory Council. Members of the public wanting a summary of the ROD may obtain one by writing to the address given above. The complete ROD is available for public inspection, also at the above address. The protest period extends to July 6, 1982.

Dated: June 1, 1982.

Gerald E. Hillier,

District Manager.

[FR Doc. 82-15436 Filed 6-7-82; 8:45 am]

BILLING CODE 4310-84-M

Wisconsin; Availability of Bureau of Land Management Maps

AGENCY: Bureau of Land Management, Interior.

ACTION: Availability of Bureau of Land Management Maps (Wisconsin).

Notice is hereby given that five (5) new Bureau of Land Management (BLM) maps showing the location of public lands and Federal mineral rights in areas of northwestern Wisconsin are now available to the public. The Bloomer, Spooner, Park Falls, Medford (all Wisconsin) and Ironwood (Michigan-Wisconsin) quadrangles were prepared as part in of the Bureau-wide Federal Minerals Management Mapping Program (FMMMP) covering areas of mineral exploration interest where they coincide with significant acreages of federally-owned mineral rights. The scale of the map is 1:000,000 (one centimeter represents one kilometer) in a format of 60' longitude by 30' latitude (approximately 34x49 miles). The maps sell for $2.00 each.

Other BLM maps covering northern Minnesota, northeastern Wisconsin and western Upper Michigan have already been printed and made available to the public. Additional maps covering Lower Michigan and eastern Upper Michigan will be publised in the future.

For further information and/or a BLM map index, contact the Bureau of Land Management, Duluth Field Offices, 125 Federal Building, Duluth, Minnesota 55802, (218) 727-6692, extension 378 or Bureau of Land Management, Eastern States Office, 350 South Pickett, Street, Alexandria, Virginia 22304, telephone (703) 235-2840.

G. Curtis Jones, Jr.,

Eastern States Director.

[FR Doc. 82-15435 Filed 6-7-82; 8:45 am]

BILLING CODE 4310-84-M

Realty Action: Exchange—Public Lands in Jerome County for Private Land in Elmore County, Idaho; Public Land Exchange

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Realty Action: Exchange—Public Lands in Jerome County for Private Land in Elmore County, Idaho.

SUMMARY: Notice of Realty Action published April 26, 1982 in the **Federal Register** is hereby vacated in its entirety. This notice supersedes any previously published Notice of Realty Action.

The following described lands have been determined to be suitable for disposal through exchange under Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

Jerome East

T. 6S., R. 18 East, Boise Meridian

Section 30:	
Lot 1	36.81
Lot	36.82
NE4NW4	40.00
	113.6.

In exchange for these lands the Federal government will acquire one parcel of non-Federal land in Elmore County from Joseph Davidson of Jerome, Idaho, described as follows:

The S2SE4, Section 2, T. 5 S., R. 11 E., Boise Meridian, containing 80 acres, and a parcel of land in Sections 1, 11, and 12, T. 5 S., R. 11 E., B.M., all in Elmore County, Idaho, more specifically described as follows:

Commencing at the south quarter corner of Section 11, T. 5 S., R. 11 E., B.M., thence N. 26°14'14.8" W., 2989.89 feet to the REAL POINT OF BEGINNING: Said REAL POINT OF BEGINNING also bears N. 26°12'58.7" E., 2977.38 feet from the southwest corner of said Section 11;

Thence from this real point of beginning northerly 2595.00 feet more or less along the westerly boundary of the E2NW4, Section 11 to the boundary common to Sections 2 and 11.

Thence easterly along the boundary common to said Sections 2 and 11 to the section corner common to Sections 1, 2, 11 and 12;

Thence from said Section corner northerly to the northwest corner of the S2SW4, Section 1;

Thence easterly 927.44 feet more or less along the north boundary of the S2SW4, Section 1;

Thence S. 0°26'00" W., 3034.70 feet more or less to a point on the approximate southerly rim of Clover Creek Canyon; Said point bears N. 44°26'59" E., 1353.50 feet from the Quarter Corner common to Sections 11 and 12, T. 5 S., R. 11 E., B.M.; Said point also bears N. 25°39'27" W., 3987.55 feet from the south quarter corner of said Section 12;

Thence along the approximate southerly rim of Clover Creek Canyon the following courses and distances:

N. 84°19'55" W., 572.91 feet;
S. 86°57'45" W., 428.24 feet;
N. 1°58'14" W., 294.21 feet;
S. 88°49'30" W., 975.39 feet;
S. 64°32'58" W., 635.11 feet;
S. 15°44'19" E., 230.42 feet;
S. 74°05'50" W., 2,482.06 feet to the real point of beginning, containing 239.5 acres more or less.

The total area contained in the two parcels described above is 319.5 acres more or less. Subject to and together with the following reservations:

Grantors reserve unto themselves, their heirs and assigns, all of their right, title and interest in and to an easement from existing springs in S2N2 of Section 11, T. 5 S., R. 11 E., B.M., Elmore County, Idaho, for the purpose of constructing, operating and maintaining an existing water delivery system consisting of a ditch and springs, over and across a portion of the S2N2 of Section 11, T. 5 S., R. 11 E., B.M., Elmore County, Idaho; said easement being for the benefit of and appurtenant to the W2NW4 of Section 11, T. 5 S., R. 11 E., B.M., and shall inure to the benefit of and may be used by all persons who may hereafter become owners of said appurtenant property or any parts or portions thereof.

Grantors also reserve unto themselves, their heirs and assigns, all their right, title and interest in and to all water rights, and right-of-way to springs in and on the canyon described in the S2N2 of Section 11, T. 5 S., R. 11 E., B.M., Elmore County, Idaho, Claim No. 37-1469, filed with the State of Idaho Department of Water Resources, April 14, 1961, and all existing Clover Creek water rights and rights-of-way also described in the S2N2 of Section 11, T. 5 S., R. 11 E., B.M., Elmore County, Idaho, including rights of ingress and egress for maintaining said rights-of-way and water rights described above.

DATES: For a period of 45 days interested parties may submit comments to the Shoshone District Manager, Bureau of Land Management, P.O. Box 2B, Shoshone, Idaho 83352. All comments will be taken into consideration

FOR FURTHER INFORMATION CONTACT: Jack Durham, Bennett Hills Area Manager, Bureau of Land Management, P.O. Box 2B, Shoshone, Idaho 83352, telephone (208) 886-2206.

SUPPLEMENTARY INFORMATION: The purpose of the exchange is to acquire scenic lands that exhibit a high potential for multiple uses. The value of the lands to be exchanged is approximately equal and the acreage will be adjusted or money will be used to equalize the values upon completion of the final appraisal of the lands.

The terms and conditions applicable to the exchange are:

1. The Reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All valid existing rights shown on the Master Title Plat on the date this Notice of Realty action becomes final.

3. Mineral estates will be transferred with the surface on both the non-Federal and Federal land.

4. There will be an easement reservation on a portion of the acquired non-Federal lands as described above.

Detailed information concerning the exchange, including the Environmental Assessment and any record of public comment, is available for review at the Shoshone District Office, Bureau of Land Management, P.O. Box 2B, Shoshone, Idaho 83352.

Dated: May 20, 1982.

Terrance M. Costello,

Acting District Manager.

[FR Doc. 82-15457 Filed 6-7-82; 8:45 am]

BILLING CODE 4310-84-M

Bureau Forms Submitted for Review

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of forms submitted for review.

SUMMARY: The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below.

Title: 43 CFR 4120.6-3, Range Improvement Permit.
Bureau Form Number: 4120-7.
Frequency: Intermittent.
Description of Respondents: Permittees or lessees authorized to graze livestock on the public lands.
Annual Responses: 60.
Annual Burden Hours: 30.

ADDRESS: Comments and suggestions should be sent to:

Linda Gibbs (Bureau Clearance Officer (Alternate)), Bureau of Land Management (871), 1800 C Street, N.W., Washington, D.C. 20240
William T. Adams, Office of Management and Budget, Washington, D.C. 20503.

Delmar D. Vail,

Deputy Director.

[FR Doc. 82-15458 Filed 6-7-82; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, U.S. Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Mesa Petroleum Co. has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS-G 3329 and 3142, Blocks 392 and 407, Vermilion Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 28, 1982.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-15461 Filed 6-7-82; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Reclamation

[INT-FES 82-20]

Minidoka Powerplant Rehabilitation and Enlargement, Minidoka Project, Idaho-Wyoming; Availability of Final Environmental Statement/Feasibility Report

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a combined final environmental statement and feasibility report on a proposal for the Bureau of Reclamation to construct a new 30-megawatt powerplant and continue operation of existing 5-megawatt unit 7, at the site of the existing Minidoka Powerplant on the Snake River in South central Idaho. Other functions included in the proposed plan are fish and wildlife enhancement, outdoor recreation, preservation of the existing powerplant as a public museum, and preservation of environmental quality.

Copies are available for inspection at the following locations:

Department of the Interior, Office of Environmental Affairs, Room 7622, Bureau of Reclamation, Washington, D.C. 20240, Telephone: (202) 343-4991
Division of Management Support, Library Branch, Room 450, Building 67, Denver Federal Center, Denver, Colorado 80225, Telephone: (303) 234-3019
Regional Director, Bureau of Reclamation, Federal Building, Box 043-550 West Fort Street, Boise, Idaho 83724, Telephone: (208) 334-1926
Minidoka Project Office, Bureau of Reclamation, 1359 Hansen Ave., Burley, Idaho 83318, Telephone: (208) 678-0461

Single copies of the statement may be obtained upon request to the Office of Environmental Affairs, Bureau of Reclamation, or the Regional Director, at the above addresses. Copies will also be available for inspection in libraries in the project vicinity.

Dated: June 1, 1982.

Robert N. Broadbent,

Commissioner of Reclamation.

Approved:

Bruce Blanchard,

Director, Environmental Project Review.

[FR Doc. 82-15417 Filed 6-7-82; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 387 (Sub-145)]

Burlington Northern Railroad Company Exemption for Contract Tariff ICC–BN–C–0071

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7277.

SUPPLEMENTARY INFORMATION: The Burlington Northern Railroad Company (BN) filed a petition on May 20, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC–BN–C–0071 filed on May 20, 1982, to become effective on one day's notice. The contract involves the movement of bentonite clay.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. The shipper had been moving traffic under a contract with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (Trustee); however, freight service was terminated on or about April 1, 1982. The BN started providing service on April 20, 1982 and has negotiated modifications to this shipper's outstanding contract. To aid in the transfer of service and to allow maximum use of the subject rail line, the effective date of the contract should be moved forward. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Petitioner's contract ICC–BN–C–0071 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission's permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30–day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the **Federal Register**.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10505.

Dated: June 1, 1982.

By the Commission, Division 1, Commissioners Sterrett, Gilliam, and Andre. Commissioner Gilliam was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–15429 Filed 6–7–82; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 387 (Sub-No. 142)]

SCL Exemption for Contract Tariff ICC–SCL–C–0027

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: John J. Sado, (202) 275–7277.

SUPPLEMENTARY INFORMATION: Seaboard Coast Line Railroad Company (SCL) filed a petition on May 19, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC–SCL–C–0027 to become effective on one day's notice. The contract was filed to become effective on June 13, 1982 and involves storage of newsprint.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. Sales of newsprint have fallen to a level which has forced the shipper to temporarily store that commodity. No additional warehouse space is available in the vicinity of the shipper's plant but SCL currently has excess cars that could be used for this purpose. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

SCL's contract may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the **Federal Register**.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10505.

Dated: June 1, 1982.

By the Commission, Division 2, Gresham, Taylor, and Simmons. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–15427 Filed 6–7–82; 8:45 am]

BILLING CODE 7035–01–M

[Amdt. No. 1 to I.C.C. Order No. 82 under Service Order No. 1344]

Rerouting Traffic

To: Consolidated Rail Corporation; Michigan Interstate Railway Company; Chesapeake and Ohio Railway; Grand Trunk Western Railroad Company; Michigan Northern Railway Company; Green Bay and Western Railroad Company; Chicago and North Western Transportation Company; Soo Line Railroad Company; Norfolk and Western Railway Company, and Detroit, Toledo and Ironton Railroad Company.

Upon further consideration of I.C.C. Order No. 82 and good cause appearing therefor:

It is ordered,

I.C.C. Order No. 82 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* The order shall expire at 11:59 p.m., June 30, 1982, unless otherwise modified, amended or vacated.

Effective date. This order shall become effective at 11:59 p.m., May 31, 1982.

This amendment shall be served upon the Association of American Railroads, Transportation Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 31, 1982.

Interstate Commerce Commission.

Bernard Gaillard,

Agent.

[FR Doc. 82-15424 Filed 6-7-82; 8:45 am]

BILLING CODE 7035-01-M

[Amendment No. 1 to Fourth Revised I.C.C. Order No. 80 Under Service Order No. 1344]

Rerouting Traffic

To: St. Louis Southwestern Railway Company; Cadillac & Lake City Railway Company; Chicago and North Western Transportation Company, and Iowa Railroad Company.

Upon further consideration of Fourth Revised I.C.C. Order No. 80 and good cause appearing therefor:

It is ordered,

I.C.C. Order No. 80 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* The order shall expire at 11:59 p.m., June 30, 1982, unless otherwise modified, amended or vacated.

Effective date. This order shall become effective at 11:59 p.m., May 31, 1982.

This amendment shall be served upon the Association of American Railroads, Transportation Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 28, 1982.

Interstate Commerce Commission.

Bernard Gaillard,

Agent.

[FR Doc. 82-15425 Filed 6-7-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-No. 143)]

Union Pacific Railroad Co., Exemption for Contract Tariff ICC-UP-C-0037

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: John J. Sado, (202) 275-7277.

SUPPLEMENTARY INFORMATION: Union Pacific Railroad Co. (UP) filed a petition on May 20, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It request that we permit its contract ICC-UP-C-0037 to become effective on one day's notice. The contract was filed to become effective on 30 days' notice and involves frozen foodstuffs.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. Cf. 49 U.S.C. 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. Due to unforeseen delays in negotiations the parties were unable to finalize the contract until May 14, 1982. Granting short notice will allow the contract to coincide as closely as possible with the shipper's 1982-83 fiscal year. Without relief, the shipper will be potentially hampered in its ability to meet the minimum volume requirement in the contract since that requirement was established on the basis of the shipper's traffic projection for its 1982-83 fiscal year. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

UP's contract may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the Federal Register.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10505.

Dated: June 1, 1982.

By the Commission, Division 1, Sterrett, Gilliam, and Andre. Commissioner was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15430 Filed 6-7-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29924]

Union Pacific Railroad Co. and Oregon Short Line Railroad Co.—Abandonment and Discontinuance at Malad, ID—Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the requirement of prior approval under 49 U.S.C. 10903 the abandonment by the Oregon Short Line Railroad Company of 0.06 miles of track at Malad, Onieda County, ID, between Milepost 52.10 and Milepost 52.16, and the discontinuance of service by the Union Pacific Railroad Company over such line subject to the standard labor protection.

DATES: This exemption will be effective on July 8, 1982. Petitions to stay the effectiveness of this decision must be filed by June 18, 1982. Petitions for reconsideration must be filed by June 28, 1982.

ADDRESSES: Send Pleadings to:

(1) Section of Finance, Room 5414, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioners' representative, Joseph D. Anthofer, 1416 Dodge Street, Omaha, NE 68179.

Pleadings should refer to Finance Docket No. 29924.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, contact: TS Infosystems, Inc., Room 2227, 12th &

Constitution Ave., N.W., Washington, D.C. 20423, or call toll free (202) 289–4357 in the D.C. Metropolitan Area, or (800) 424–5403 outside the D.C. area.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–15429 Filed 6–7–82; 8:45 am]

BILLING CODE 7035–01–M

Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carrier pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: May 28, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

MC–F–14857, filed May 14, 1982. VIKING FREIGHT SYSTEM, INC. (Viking) (3405 Victor Street, Santa Clara, CA 95050)—PURCHASE—DeANZA DELIVERY SYSTEM, INC. (DeAnza) (3765 Yale Way, P.O. Box 1840, Fremont, CA 94538). Representatives: Thomas M. Loughran, 100 Bush Street, 21st Floor, San Francisco, CA 94104; and Robert E. Phelan, 235 Montgomery St., San Francisco, CA 94104.

Viking, a publicly held corporation, seeks authority to purchase the interstate operating rights and property of DeAnza. The authority to be purchased is contained in Certificate Nos. MC–144344 and Sub-Nos. 3, 4, 5, and 6, which authorize the transportation of *such commodites* as are dealt in or used by department stores and mail order houses, between points in CA, NV, and AZ; and *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in CA.

Notes.—(1) TA has been filed. (2) Viking holds authority in Certificate of Registration No. MC–121835. As a directly related matter, Viking has filed an application seeking to convert its Certificate of Registration into a Certificate of Public Convience and Necessity. That application is docketed No. MC–121835 (Sub-No. 2) and is published in this same **Federal Register** issue.

MC–F–14850, filed April 29, 1982. BLUEBONNET EXPRESS, INC. (Bluebonnet) (7800 Littel York Road, Houston, TX 77016)—PURCHASE—TEXAS MOTOR LINES (TML) (361 West Tyler Avenue, Longview, TX 75601). Representatives: Joe G. Gender, 9601 Katy Freeway, Suite 320, Houston, TX 77024.

Bluebonnet Express, Inc. seeks authority to purchase certain property including all of the operating rights of Texas Motor Lines (Carl M. Bowen, Kirk Yocum and Travis Coving dba) by transfer of Certificate No. 153284. Express Investment, Inc. and all of its stockholders, Doyle L. Horne, W. E. Price and Gilbert Turner seeks authority to control the properties through the transaction. Certificate MC–153284 authorizes the transportation of general commodities, between points in Bowie, Titus, Morris, Camp, Upshur, Franklin, Hopkins, Wood, Smith, Rusk, Panola, Greeg, Harrison, Marion, Cass, Tarrant and Dallas Counties, TX, and Texarkana, AR. Bluebonnet Express holds Certificate MC–85451 Sub. No 22X authorizing the transportation of general commodities except Class A and B explosives over various regular and irregular routes between points in Texas.

Condition: Although the application and related papers indicate that the three stockholders of Express Investment, Inc., Doyle L. Horne (35 percent), W. E. Price (15 percent), and Gilbert Turner (50 percent), also seek to control the operating rights to be purchased, through the transaction, these individuals have not signed the application. Our approval is conditioned upon these three individual specifically joining the application, through a letter so stating.

MC–F–14854, filed May 6, 1982. Authority under 49 U.S.C. 11343, 11344 to acquire control by Schiavone Carrier Corp., 254 College Street, New Haven, CT 06510 of Gray Line New York Tours Corp., 254 West 54th Street, New York NY 10019 and Walters Transit Corp., 525 11th Avenue, New York, NY 10018 and for acquisition of control by the Schiavone Corporation and Joel Schiavone, through the acquisition by Schiavone Carrier Corp. of control of Gray Line New York Tours Corp. and Walters Transit Corp.

Applicant's Attorney: Palmer S. McGee, Jr., One Constitution Plaza, Hartford, CT 06103.

Operating rights sought to be controlled: Authority of Gray Line New York Tours Corp. as described in certificate No. MC–109897 to include transportation of passengers and their baggage in the same vehicle with passengers (1) in special operations, in one-way and round-trip sightseeing or pleasure tours, between New York, NY and West Point, NY; (2) in charter operations between New York, NY to points in the U.S. (except AK and HI); and (3) in one-way and round-trip charter operations beginning or ending at points in Nassau and Suffolk Counties, NY and extending to points in the U.S. (except AK and HI); and the authority of Walters Transit Corp. as described in Certificate No. MC–46879 and Nos. MC–46879 Subs 7, 9, and 12, to transport passengers and their baggage in the same vehicle with passengers (1) over regular routes between New York, NY and Canaan, CT, serving all intermediate points, and from numerous specific points in NY to other specific points in NY, serving all intermediate points; (2) alternate routes between New York, NY and Junction Interstate Highway 287 and New York Highway 9A; (3) in special operations between New York, NY and the Bridgeport Jai-Alai Fronton, at Bridgeport, CT; and (4) in special operations beginning and ending at the Borough of Queens, NY and extending to the New Jersey Sports and Exposition Facilities, East Rutherford, NJ.

Schiavone Carrier Corp. holds no authority from the I.C.C. but is owned by the Schiavone Corporation which owns Schiavone Transportation Corp., a non-carrier, which in turn owns (1) Connecticut Limousine Service, Inc., which, pursuant to No. MC–123748 and various sub numbers thereunder, conducts bus and Limousine operations between points in CT, on the one hand, and, on the other, the John F. Kennedy International Airport and LaGuardia Airport in New York, NY and Newark Memorial Airport, Newark, NJ, and (2) Valley Transportation, Inc., which under No. MC–109865 and various sub numbers thereunder performs regular route, charter and special operations between various points in CT and various points in NY and other states. No application has been filed for temporary authority.

Note.—Schiavone Carrier Corp. shall be considered a carrier, pursuant to 49 U.S.C. 11348, for the purposes stated therein.

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 252 of the Commission's General Rules of Practice (49 CFR 1100.252):

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved proceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements as to the finance application *or* to the following operating rights applications directly related thereto filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice by effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Dated: May 28, 1982.

By the Commission, Review Board Number 5, Members Krock, Taylor, and Williams.

MC 121835 (Sub-2), filed May 14, 1982. Applicant: VIKING FREIGHT SYSTEM, INC.—conversion, 3405 Victor Street, Santa Clara, CA 95050. Representative: Thomas M. Loughran, 100 Bush Street, 21st Floor, San Francisco, CA 94104. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except classes A & B explosives, household goods and commodities in bulk), (1) Between Colfax, CA and Oakland, CA, over Interstate Hwy 80; (2) Between Junction Interstate Hwy 80 and CA Hwy 4 near Pinole and Stockton, CA, over CA Hwy 4; (3) Between Willits, CA and San Diego, CA, from San Diego, over Interstate Hwy 5 to junction U.S. Hwy 101, then over U.S. Hwy 101 to Willits, and return over the same route; (4) Between Montalvo, CA and San Juan Capistrano, CA, over CA Hwy 1; (5) Between junction CA Hwys 118 and 26 near Ventura and Chatsworth, over CA Hwy 118; (6) Between Red Bluff, CA and San Fernando, CA, from Red Bluff over CA Hwy 99 to Wheeler Ridge, then over Interstate Hwy 5 to San Fernando, and return over the same route; (7) Between Banta, CA and Mettler, CA, from Banta, over CA Hwy 33 to Maricopa, then over CA Hwy 166 to Mettler, and return over the same route; (8) Between Temecula, CA and San Dieto, CA, over Interstate Hwy 15; (9) Between Los Angeles, CA and Blythe, CA, from Los Angeles, over CA Hwy 60 to Beaumont, then over Interstate Hwy 10 to Blythe, and return over the same route; (10) Between Redlands, CA and Calexico, CA, from Redlands, over Interstate Hwy 10 to Indio, then over CA Hwy 86 to Calexico, and return over the same route; (11) Between Bostonia, CA and Winterhaven, CA over Interstate Hwy 8; (12) Between Barstow, CA and Needles, CA, over Interstate Hwy 40; (13) Between Ludlow, CA and Fenner, CA, over San Bernardino County Road designated "National Trails Highway"; (14) Between Independence, CA and junction U.S. Hwy 395 and CA Hwy 14 north of Inyokern, over U.S. Hwy 395; (15) Between Ventura, CA and

Greenfield, CA, from Ventura, over CA Hwy 33 to its junction with CA Hwy 119, then over CA Hwy 119 to Greenfield, and return over the same route; (16) Between Merced, CA and Mariposa, CA over CA Hwy 140; (17) Between Mariposa, CA and Grass Valley, CA, over CA Hwy 49; (18) Between Grass Valley, CA and Yuba City, CA, over CA Hwy 20; (19) Between Vallejo, CA and Upper Lake, CA, over CA Hwy 29; (20) Between junction CA Hwy 20 and Interstate Hwy 5 near Williams, CA and junction CA Hwy 20 and U.S. Hwy 101 near Calpella, CA, over CA Hwy 20; (21) Between Sacramento, CA and Project City, CA, over Interstate Hwy 5; serving all intermediate points on routes (1) through (21) above and serving all points in Alameda, Amador, Butte, Calaveras, Colusa, Contra Costa, El Dorado, Fresno, Glenn, Imperial, Kern, Kings, Lake, Los Angeles, Medera, Marin, Mariposa, Mendocino, Merced, Monterey, Napa, Nevada, Orange, Placer, Plumas, Riverside, Sacramento, San Benito, San Bernardino, San Diego, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Sierra, Solano, Sonoma, Stanislaus, Sutter, Tehama, Tulare, Tuolumne, Ventura, Yolo and Yuba Counties, CA as off-route points.

Note.—The purpose of this application is to convert Certificate of Registration No. MC-121835 into a Certificate of Public Convenience and Necessity. This application is directly related to MC-F-14857, *Viking Freight System, Inc.—Purchase—De Anza Delivery System, Inc.*, published in the same Federal Register issue.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15423 Filed 6-7-82; 8:45 am]
BILLING CODE 7035-01-M

Finance Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931, and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC-FC-79707. By decision of 5/25/82, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to RELIABLE CARRIERS, INC., of Memphis, TN, of Certificate No. MC-120693 (Sub-No. 6), Issued to JEWELL PACE, of Waverly, TN, which authorizes the transportation of *general commodities* (with exceptions), over regular routes, (A) (1) between Nashville and Camden, TN, over U.S. Hwy 70, serving all intermediate points between Dickson, TN (not including Dickson) and Camden, TN, and serving all other points in Benton and Humphreys Counties, TN, as off-route points; (2) between Waverly and Buffalo, TN, over TN Hwy 13, serving all intermediate points; (3) between Camden and Memphis, TN, over U.S. Hwy 70, serving the intermediate point of Jackson, TN; routes (1), (2), and (3) and with respect to service at Memphis, Camden, and Jackson restricted to defined operations, and (B) (1) between Nashville and Buffalo, TN, as an alternate route for operating convenience only, in connection with carrier's regular route operations, over Interstate Hwy 40; and (2) between Buffalo and Memphis, TN, as an alternate route for operating convenience only, in connection with carrier's regular route operations, over Interstate Hwy 40; and (3) above. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004.

Note.—Transferee is not a carrier, but is affiliated with Direct Motor Express, Inc., a common carrier under MC-151522.

MC-FC-79805. By decision of May 20, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to CORONET TRUCK LINES, INC., of Des Moines, IA, of Certificate No. MC-107496 (Sub-No. 1279), Issued to RUAN TRANSPORT CORPORATION, of Des Moines, IA, authorizing: Commodities in bulk, between points in AL, AR, CO, IL, IN, IA, KS, TN, KY, LA, MI, MN, MS, MO, MT, NE, ND, OH, OK, SD, TX, UT, WI, and WY, on the one hand, and, on the other, points in the United States. Representative: Kenneth L. Kessler, P.O. Box 855, Des Moines, IA 50304. TA lease is not sought. Transferee is not a carrier.

MC 79806. By decision of May 20, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to NEWTON TRUCKING, INC. of Certificate No. MC-02410 issued to MALBA TRUCKING, INC. authorizing the transportation of (1) *new store fixtures, office equipment and building supplies uncrated, from points in the New York, NY Commercial Zone, as defined by the Commission in 1 M.M.C. 665, to points in NY, NJ, and CT, (2) New uncrated store fixtures, office equipment and building supplies* from the above specified destination points to the described origin points, (3) *groceries* during the season extending from June 1 to September 15, inclusive, from New York, NY to Highland Mills and Newburgh, NY, and (4) *building and construction equipment and materials* (including those requiring special equipment, when transported to or from construction sites, or between such sites, on the one hand, and, on the other, building or yards used for the storage of construction equipment), (a) between points in Bronx, Kings, Nassau, New York, Queens, Richmond, Suffolk, and Westchester Counties, NY, on the one hand, and, on the other points in Bergen, Essex, Hudson, Middlesex, Monmouth, Morris, Passaic, Somerset, Union, Atlantic, Ocean, and Warren Counties, NJ and (b) between points in the NY and NJ Counties specified immediately above, on the one hand, and, on the

other, points in that part of NY on, south and east of NY Hwy 7 (except those in the NY Counties specified immediately above, and those in CT and MA. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528.

Note.—Transferee is a noncarrier.

MC–FC–79807. By decision of May 25, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to BRADCO TRUCKING SERVICE, INC., of Middleton, OH of Certificate No. MC–119508 issued to HARVEY TRANSFER COMPANY, a CORPORATION of Middletown, OH authorizing: over (1) regular routes, *paper, paper products, fiber boxes,* and *materials* used in the manufacture thereof, between Dayton, OH and Newport, KY, and (2) irregular routes, *paper, paper products, fiber boxes,* and *materials* used in the manufacture thereof, between Middletown, Lockland, Franklin, and Excello, OH, on the one hand, and, on the other, points in OH, IN, and KY and *composition or prepared roofing,* in rolls or shingles, and materials used in the installation thereof, from Franklin, OH to points in IN and KY. Representative: Richard H. Brandon, 220 West Bridge St., P.O. Box 97, Dublin, OH 43017. TA lease is not sought. Transferee is a carrier.

MC–FC–79810. By decision of May 25, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to COMMON CARRIERS, INC., of Ellensburg, WA of Certificate No. MC–138468 Sub-Nos. 1, 3, and 5 issued to BI COUNTY TRUCKING, INC., of Warden, WA authorizing the transportation of *livestock feed, feed ingredients, liquid and dry fertililzers, liquid feed supplement* and *cements* between named points in WA, OR, ID, and MT. Representative: Boyd Hartman, P.S., P.O. Box 3641, Bellevue, WA 98009. TA lease is sought. Transferee is not a carrier.

MC–FC–79811. By decision of May 28, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to TITAN TRANSPORTATION, INC. of Findlay, OH of Certificate No. MC–120378 (Sub-No. 8) issued to FINDLAY TRUCK LINE, INC. of Findlay, OH authorizing: *general commodities,* with usual exception, between Chicago, IL, Louisville, KY, points in Lauderdale County, TN, Broome County, NY, Alamance an Orange Counties, NC, Crisp County, GA, Union and Fayette Counties, IA, Lavaca and De Witt Counties, TX, Stanislaus County, CA, Thurston County, WA, Fayette County, IL, Fayette County, KY, Logan, Kit Carson, Morgan, Phillips, Yuma, and Gunnison Counties, CO, and points in OH, MI, IN, on the one hand, and, on the other, points in the United States (except AK and HI). Representative: Philip B. Cochran, 50 West Broad St., Columbus, OH 43215. TA lease is not sought. Transferee is not a carrier.

MC–FC–79830. By decision of May 21, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to GARY LEE NELSON, of Ontario, CA, of Certificate No. MC–156699 issued to GENE OWENS, d.b.a. O & B TRANSPORTATION CO., of Santa Ana, CA, authorizing (1) *lumber and wood products,* between points in OR, WA, and ID, on the one hand, and, on the other, points in CA; (2) *foodstuffs,* between points in Orange County, CA, on the one hand, and, on the other, points in NV, WA, and OR; and (3) *furniture and fixtures,* between points in Orange County, CA, on the one hand, and, on the other, points in NV, AZ, OR and WA. Representative: Donald R. Hednick, P.O. Box 4334, Santa Ana, CA 92702. TA lease is sought. Transferee is not a carrier.

MC–FC–79827. By decision of May 21, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to HORTON INDUSTRIES, INC., of Washington Courthouse, OH, of Certificate Nos. MC–139083 (Sub-Nos. 11X, 12, 13 and the Sub 14X which was issued June 10, 1981), issued to BUILDING SYSTEMS TRANSPORTATION, INC., also of Washington Courthouse, OH, which authorize the transportation, as summarized, of *rubber and plastic products, pulp, paper and paper products, lumber and wood products, metal products,* and *clay, concrete, glass or stone products,* throughout specified points in the U.S. Representative: Marshall Kragen, 1919 Pennsylvania Ave. NW., Suite 300, Washington, DC 20006.

Notes.—Transferee is not a carrier but is affiliated with the transferor. Transferor is retaining Certificate No. MC–139083 (Sub 14X), issued December 4, 1981.

MC–FC–79646. By decision of May 20, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Shippers Transportation, Inc., of Eden Prairie, MN, of Certificate No. MC–96877 (Sub-No. 5) issued to Yuma County Transportation Co., of Grand Island, NE., authorizing general commodities, between points on the pipeline of National Gas Pipeline Company of America, at points in Morgan and Washington Counties, CO, on the one hand, and, on the other, Denver, Akron, and Yuma, CO; also the transfer to Shippers Transportation of certain authority held by Grand Island Moving & Storage Co., Inc. of Grand Island, NE, in MC–135283 (Sub-No. 67) authorizing general commodities (with exceptions) between Grand Island, NE, and Beatrice, NE, serving intermediate and off-route points; and irregular route authority between described territories within Nebraska. Representative: Charles J. Kimball, 665 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. TA lease is not sought. Transferee is not a carrier.

MC–FC–79814. By decision of May 20, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to EAST SIDE DISTRIBUTOR'S INC. of Certificate No. MC–157620 issued to BARRY TOTH, authorizing the transportation of *such commodities* as are dealt in or used by retail ice cream and confectionery stores, between points in Westchester County, NY, Bergen County, NJ, and Hampden and Suffolk Counties, MA, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). Transferee is a noncarrier. Representative: Joseph A. Keating, Jr., 121 South Main Street, Taylor, PA 18517.

MC–FC–79815. By decision of May 20, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to QUALITY MOVING & STORAGE, INC. of Kenner, LA, of Certificate No. MC–8768 (Sub-Nos. 1, 20, 29, 30 and 36G) issued to SECURITY VAN LINES, INC. of Kenner, LA authorizing: *household goods* between specified points in the United States including Hawaii; *Household goods, new and used furniture,* and *office equipment,* between points in Louisiana, on the one hand, and, on the other, points in Mississippi, Tennessee, Arkansas, Georgia, Florida, Missouri, Illinois, Alabama, and Texas; and *General commodities,* between points in an area comprising New Orleans, LA, and points within 15 miles of New Orleans. Representative: Marshall Kragen, 1919 Pennsylvania Ave., NW., Suite 300, Washington, DC 20006. TA lease is not sought. Transferee is not a carrier.

MC–FC–79819. By decision of May 25, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to WESTLAND FREIGHT

LINES, INC. of Vernon, CA of Certificate No. MC–39085 and Sub-Nos. 6 and 7 thereunder issued to CUSTOM CARTAGE COMPANY of New York, NY authorizing: *general commodities,* with usual exceptions, over regular and irregular routes, between, (1) specified points in NY, NJ, CT, PA, OH, KY, and IN, (2) the terminal facilities of Universal Carloading & Distributing Co., Inc., located in Broward, Dade and Palm Beach Counties, FL, on the one hand, and, on the other, points in Broward, Dade and Palm Beach Counties, FL, (3) the terminal facilities of Universal Carloading & Distributing Co., Inc., located in Hillsborough County, FL, on the one hand, and, on the other, points in Charlotte, Hillsborough, Lee, Manatee, Pasco, Pinellas, Polk and Sarasota Counties, FL, restricted in (2) and (3) to shipments moving on bills of lading issued by the above named freight forwarder, and (4) points in the United States, restricted to traffic moving on the bills of lading of freight forwarders. Representative: S. S. Eisen, 370 Lexington Ave., New York, NY 10017. TA lease is not sought. Transferee is not a carrier.

MC–FC–79835. By decision of May 25, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to LARRY REVENAUGH, d.b.a. HANSEN TRANSFER, of Certificate No. MC–34697 and MC–34697 (Sub-No. 2), issued to MERVIN HANSEN, d.b.a. HANSEN TRANSFER, also of Logan, IA, which authorize the transportation of (1) *general commodities,* (with exceptions), (a) over irregular routes, between Logan, IA, and points within 10 miles of Logan, on the one hand, and, on the other, points within 25 miles of Logan, and (b) over regular routes, between Woodbine, IA and Omaha, NE, from Woodbine over US Hwy 30 to Missouri Valley, IA, then over US Hwy 75 to Council Bluffs, IA, and then across the Missouri River to Omaha, and return over the same route, serving the intermediate and off-route points of Logan, Missouri Valley, Loveland, Beebeetown, and Reeder Mills, IA; (2) *Livestock, feed, and agricultural implements,* between Logan, IA, and points within ten miles of Logan, on the one hand, and, on the other, Omaha, NE; and (3) feed, agricultural implements, and building materials, between Logan, IA, and points within 15 miles of Logan, on the one hand, and, on the other, Omaha, NE. Representative: James E. Lang, 11306 Davenport Street, Omaha, NE 68154.

Note.—Transferee is not a carrier.

MC–FC–79820. By decision of May 20, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Kalfur Bros., Inc., Floral Park, NY, of Certificate No. MC–41669 (Sub-No. 1) issued to George M. Wood and Eugene W. Hoerig, a partnership doing business as Kalfur Bros., authorizing the transportation of household goods between New York, NY, on the one hand, and, on the other, points in CT, MA, NJ, PA, and NY. Representative: James G. Zaffiro, 12 Tulip Avenue, Floral Park, NY 11001.

Note.—Transferee is not a carrier.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15422 Filed 6-7-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP 3–084

Decided: May 26, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 162015, filed May 17, 1982. Applicant: NORMAN TRUCKING, INC., P.O. Box 145, Rayland, OH 43943. Representative: Ronald E. Antill, 409 Walnut St., Martins Ferry OH 43935, (614) 633–5551. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162074, filed May 17, 1982. Applicant: U.S. FREIGHT SERVICE, INC., P.O. Box 1390, Kent, WA 98031. Representative: Keith M. Dickenson (same address as applicant), (206) 251–6145. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 162075, filed May 17, 1982. Applicant: H. E. MYERS, Rt. 2, Box 12P, Marion, TX 78124. Representative: Harry F. Horak, 5001 Brentwood Stair Rd., Suite 115, Fort Worth, TX 76112, (817)

457–0804. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162085, filed May 19, 1982. Applicant: FRANK B. KOPP and SUSAN D. KOPP, d.b.a. IRON HORSE TRUCKING, 34204 Seavey Loop, Eugene, OR 97405. Representative: Frank B. Kopp (same address as applicant), (503) 726–8836. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 162115, filed May 20, 1982. Applicant: WEST COAST TRAFFIC SERVICES, INC., 1165 San Antonio Dr., Ste. C, Long Beach, CA 90807. Representative: Milton W. Flack, 8484 Wilshire Blvd., #840, Beverly Hills, CA 90211, (213) 655–3573. As a broker of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162125, filed May 20, 1982. Applicant: RICHARD B. BROWN, d.b.a. MAPLE LEAF TRANSPORT, 313 Hearthwood Blvd., Vancouver, WA 98664. Representative: Richard B. Brown (same address as applicant), (206) 892–7604. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except HI).

MC 162154, filed May 24, 1982. Applicant: BERT R. BLOOD, 3104 South 1810 East, Salt Lake City, UT 84106. Representative: (same as above). Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle, in such vehicle, between points in the U.S. (except AK and HI).

MC 162155, filed May 24, 1982. Applicant: EXPRESS WORLD, INCORPORATED, 14415 N. 73rd Street, Suite 107, Scottsdale, AZ 85260. Representative: Eric B. Fable (same address as applicant), (602) 948–2101. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 162164, filed May 24, 1982. Applicant: MONDI, INC., 7388 Woodcroft, Cincinnati, OH 45230. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, D.C. 20005, (202) 296–3555. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OP4–191

Decided: June 2, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 162106, filed May 20, 1982. Applicant: EXPEDITED TRANSPORTATION SERVICES, INC., One West Court Square, Suite 465, Decatur, GA 30030. Representative: Robert L. Cope, Suite 501, 1730 M St., NW., Washington, D.C. 20036, (202) 296–2900. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162176, filed May 24, 1982. Applicant: SIS TRANSPORTATION, 9725 S. 2733 East, Sandy, UT 84092. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110, (801) 531–1777. As *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162186, filed May 14, 1982. Applicant: ALMAR INTERNATIONAL CORP., 9545 N.W. 13th St., Miami, FL 33172. Representative: Alberto J. Marino (same address as applicant), (305) 591–7450. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP4–197

Decided: June 2, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 161587 (Sub-1), filed May 24, 1982. Applicant: GERALD C. BURTON, d.b.a. BURTON FARMS, Route #1, Clarksdale, MO 64430. Representative: Gerald C. Burton (same address as applicant), (816) 393–5425. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in MO, IA, NE, KS, OK, TX, NM, CO, and AR.

MC 162077, filed May 17, 1982. Applicant: FREIGHTWAYS OF NORTH CAROLINA, INC., P.O. Box 5204, Charlotte, NC 28225. Representative: W. T. Trowbridge (same address as applicant), (704) 372–1610. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162187, filed May 24, 1982. Applicant: RODNEY L. RESH, Box 33, 509 A St., Shelton, NE 68876. Representative: Rodney L. Resh (same address as applicant), (308) 647–6544. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP5–123

Decided: May 26, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 161999, filed May 14, 1982. Applicant: PARRIS TRANSPORT, INC., 6214 J St., Omaha, NE 68117. Representative: Clayton H. Shrout, 1030 First National Bank Bldg., 402–342–8015. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-15421 Filed 6-7-82; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. OP1–79]

Motor Carriers; Permanent Authority Decisions; Corrected Decision-Notice

Decided: April 30, 1982.

A notice of correction of volume OP1–79 was published in the **Federal Register** issue of May 26, 1982 indicating that certain applications were incorrectly published under the non-fitness guidelines.

Anyone wishing to file opposition to the following applications has 45 days from the date of publication to file. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

The purpose of this republication is to indicate that the following application is the only proceeding governed under the fitness criteria as published in the **Federal Register** issue of May 26, 1982.

MC 36400 (Sub-9), filed April 23, 1982. Applicant: HITCHCOCK BROS., INC., Box 212, Canaan, CT 06018.

Representative: C. Frank Hitchcock (same address as applicant).

The remainder of the proceedings published in the FR issue of May 28, 1982 (appearing at 47 FR 23033–34) beginning with docket number MC–87231 Sub. 30, through MC–161690, are governed under the non-fitness guidelines as published in the **Federal Register** of May 7, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–15426 Filed 6–7–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 82–13908, published at page 22235, on Friday, May 21, 1982, on page 22236, in the first column in the first paragraph, in the first line "MC 16513 (Sub-30)" Should be corrected to read "MC 16513 (Sub-35)".

BILLING CODE 1505–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 82–13369, appearing at page 21310, in the issue of Tuesday, May 18, 1982, on page 21312, in the middle column, under MC 128333 (Sub-10), the last paragraph and last line in the column, correct "NY" to read "NV".

BILLING CODE 1505–01–M

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 82–14395 appearing at page 23220 in the issue for Thursday, May 27, 1982, please make the following correction:

On page 23224, in the first column, the paragraph beginning "MC 143720 (Sub-20)" filed for "All Freight Systems, Inc.", should have begun "MC 143702 (Sub-20)".

BILLING CODE 1505–01–M

Motor Carriers; Permanent Authority Decision; Decision-Notice

Correction

In FR Doc 82–12304 appearing on Page 19591 of the issue for Thursday, May 6, 1982, make the following change:

On Page 19596, First complete paragraph, line ten, the initials "NT" should be corrected to read "MT".

BILLING CODE 1505–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemd to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP3–063

Decided: May 28, 1982.

By the Commission, Review Board No. 2, members Carleton, Fisher, and Williams.

MC 1515 (Sub-309), filed May 24, 1982. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: R. L. Wilson, (same address as applicant), (602) 248–5016. Over regular routes, transporting *passengers and their baggage and express and newspapers*, in the same vehicle with passengers, between Rome, GA and Calhoun, GA, over GA Hwy 53, serving all intermediate points.

Note.—Applicant intends to tack this authority with its existing authority.

MC 67234 (Sub-53), filed May 24, 1982. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. (including AK and HI), under continuing contract(s) with Intel Corporation, of Santa Clara, CA.

MC 74755 (Sub-7), filed May 20, 1982. Applicant: SUELZER MOVING & STORAGE, INC., 4325 Meyer Rd., Fort Wayne, IN 46806. Representative: Richard A. Huser, One Indiana Square, Suite 2120, Indianapolis, IN 46204, (317) 639–5534. Transporting *household goods*, between points in the U.S., under continuing contract(s) with General

Electric Motor Business Group, of Fort Wayne, IN.

MC 117954 (Sub-34), filed May 20, 1982. Applicant: H. L. HERRIN, JR., P.O. Box 1108, Metairie, LA 70004. Representative: Lester C. Arvin, 614 Century Plaza Bldg., Wichita, KS 67202, (316) 265–2634. Transporting *food and related products*, between points in WI, on the one hand, and, on the other, points in AL, AR, LA, MS, MO, OK, TN and TX.

MC 120114 (Sub-3), filed May 21, 1982. Applicant: COLDIRON LINES, INC., 5325 So. Madera, Oklahoma City, OK 73129. Representative: Brent Coldiron, Suite 724, First Continental Bank Tower, Del City, OK 73115, (405) 677–3301. Transporting *pulp paper and related products, lumber and wood products, chemicals and related products, metal products, rubber and plastic products and petroleum and coal products*, between points in OK, AR and TX, on the one hand, and, on the other, points in OK, AR, TX, LA, KS, CO, UT and WY.

MC 124545 (Sub-1), filed May 21, 1982. Applicant: DAVID NOAKE, INC., Rockingham Rd., Bellows Falls, VT 05101. Representative: Brian S. Stern 5411–D Backlick Rd., Springfield, VA 22151, (703) 941–8200. Transporting *such commodities* as are dealt in or used by (1) grocery and food business houses, and (2) manufacturers and distributors of lumber and wood products, forest products, pulp, paper, and related products, and printed matter, between those points in the U.S. in and east of WI, IL, KY, TN, MS, and LA.

MC 141985 (Sub-2), filed May 19, 1982. Applicant: TAB TRANSPORTATION, INC., 8457 Eastern Ave., Bell Gardens, CA 90201. Representative: Fred H. Mackensen, 2029 Century Park East, Suite 4150, Los Angeles, CA 90067, (213) 879–5955. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura Counties, CA.

MC 145625 (Sub-8), filed May 20, 1982. Applicant: DUTCHLAND TRUCKING, INC., 1051 Center Ave., Oostburg, WI 53070. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5066, Madison, WI 53705–0066, (608) 238–3119. Transporting *food and related products* (1) between points in WI, on the one hand, and, on the other, points in IL, IA, and MN, and (2) between points in IL, IA, MN, and WI, on the one hand, and, on the other, points in AR, KS, LA, MO, NE, OK, and TX.

MC 145765 (Sub-16), filed May 19, 1982. Applicant: WIEST TRUCKLINE, INC., R.R. 2, I–94, West Exit 57, Jamestown, ND 58401. Representative: Charles E. Johnson, P.O. Box 2056, Bismarck, ND 58502, (701) 223–5300. Transporting (1) *such commodities* as are dealt in by agricultural dealers and manufacturers, and (2) *attachments* for the commodities named in (1) above, between points in the U.S. (except AK and HI).

MC 149504 (Sub-2), filed May 21, 1982. Applicant: WADDELL TRANSFER, INC., P.O. Box 168, Atkins, VA 24311. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210, (703) 525–4050. Transporting (1) *lumber and wood products*, between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, (2) *metal articles*, between points in Washington County, VA, on the one hand, and, on the other, points in NC, SC, KY, TN, GA, FL, AL, MS, LA, TX, WV, MD, DE, PA, NJ, NY, CT, and MA, (3) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Smyth County, VA, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, and (4) *building materials*, between points in Woodbury and Dallas Counties, IA, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 149604 (Sub-3), filed May 3, 1982. Applicant: ACTION TRANSIT COMPANY, Rt. 21 South, P.O. Box 884, Mooresville, NC 28115. Representative: M. Diane Neal, 2230 Shepler Church Ave., SW., P.O. Box 6270, Canton, OH 44706, (216) 456–4571. Transporting *general commodities* (except household goods and classes A and B explosives), between points in IL, IN, NJ, NY, OH, PA, and SC, on the one hand, and, on the other, points in AZ, AR, CA, CO, IA, KS, LA, MA, MI, MN, MS, MO, MT, NE, NH, NM, ND, OK, RI, SD, TX, WA, WI, UT, and VT.

MC 151685 (Sub-2), filed May 20, 1982. Applicant: MAGNUM, LTD., P.O. Box 775, Hillsboro, ND 58045. Representative: Richard P. Anderson, P.O. Box 2561, Fargo, ND 58108, (701) 236–3300. Transporting *general commodites* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Sprenger Midwest, Inc., of Sioux Falls, SD.

MC 156354 (Sub-3), filed May 20, 1982. Applicant: FICHL SALES, INC., 4078 Big Tree Road, Hamburg, NY 14075. Representative: Michael A. Wargula, 128 Sherburn Drive, Hamburg, NY 14075, (716) 845–6066. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Midland Rochester Corporation, and Xerox Corporation, both of Rochester, NY.

MC 156834 (Sub-1), filed May 20, 1982. Applicant: NEBRASKALAND TRUCKING, INC. Route 3, Box 63, Blair, NE 68008. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Rd., Omaha, NE 68106, (402) 392–1220. Transporting *building materials and supplies*, between points in CA, on the one hand, and, on the other, those points in the U.S. in and west of OH, IN, IL, MO, AR, and TX.

MC 161885 (Sub-1), filed May 20, 1982. Applicant: ROBERT L. NEWSOM, d.b.a. NEWSOM TRANSPORTATION, 1005 Jewell Ave., Salt Lake City, UT 84104. Representative: Irene Warr, Suite 280, 311 S. State St., Salt Lake City, UT 84111, (801) 531–1300. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Bar-S-Foods, Inc., of Phoenix, AZ.

MC 162065 filed May 17, 1982. Applicant: GOLD EQUIPMENT RENTALS, INC., d.b.a. GOLD FREIGHT LINES 13900 Schroeder Rd., Houston, TX 77070. Representative: George Spencer, 7 North Block, Fayetteville, AR 72701, (501) 442–0585. Transporting *general commodities* (except commodities in bulk, household goods, and classes A and B explosives), between points in the U.S. (except AK and HI), under continuing contract(s) with Charles McAlpin Brokerage Company, of Decatur, AL.

MC 162084, filed May 19, 1982. Applicant: RICHARD A. RAMEY, d.b.a. RICHARD A. RAMEY TRUCKING, Route 1, Box 125, Middletown, VA 22645. Representative: Dixie C. Newhouse, 1329 Pennsylvania Avenue., P.O. Box 1417, Hagerstown, MD 21740, (301) 797–6060. Transporting (1) *food and related products*, and (2) *metal and metal containers, and machinery*, between those points in the U.S. in and east of MN, IA, MO, KS, OK, and TX.

MC 162104, filed May 20, 1982. Applicant: PETERSON EXPRESS, INC., P.O. Box 41770, Indianapolis, IN 46241. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in

the U.S. (except AK and HI), under continuing contract(s) with Schering Plough, Inc., and its wholly-owned subsidiaries, Maybelline Company, Scholl, Inc., and Dap, Inc., of Memphis, TN.

MC 162105, filed May 20, 1982. Applicant: DAVID W. McQUEEN, d.b.a. McQUEEN TRUCKING, Route 3, Collins, MS 39428. Representative: John A. Crawford, 17th Fl. Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205, (601) 948–5711. Transporting (1) *forest products,* and (2) *lumber and wood products,* between points in AL, AR, FL, GA, LA, MS, TN, and TX.

MC 162124, filed May 20, 1982. Applicant: DANA YOUNG'S ENTERPRISES, 6343 Millcreek Rd., Turner, OR 97392. Representative: Dana D. Young (same address as applicant), (503) 743–2205. Transporting *such commodities* as are dealt in or distributed by manufacturers of building materials, metal products, farm machinery, and farm and ranch supplies, between points in AZ, CA, CO, ID, KS, MT, NM, NV, OK, OR, TX, UT, WA, and WY.

MC 162144, filed May 21, 1982. Applicant: MARY JO RICHARDS TOURS, INC., 852 Verdun St., Clarksburg, WV 26301. Representative: Mary Jo Richards (same address as applicant), (304) 624–4185. As a *broker,* at Clarksburg, WV, in arranging for the transportation by motor vehicle, of *passengers and their baggage,* beginning at Clarksburg, WV and extending to points in WV, PA, OH, MD, VA, KY, NY, NJ, SC, NC, TN and DC.

MC 162145, filed May 21, 1982. Applicant: THOMAS BROTHERS TRUCKING COMPANY, Inc., Route 2, Box 509, Hayneville, AL 36040. Representative: Robert S. Richard, 57 Adams Ave., Montgomery, AL 36197, (205) 262–1671. Transporting *lumber and plywood,* between points in AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, TX, VA, and WV.

Volume No. OP4–192

Decided: May 28, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 117836 (Sub-16), filed May 24, 1982. Applicant: EDWARD J. STINSON, d.b.a. STINSON MOTOR LINES, Rt. #1, Box 256, Glen Rose, TX 76043. Representative: Wade H. Brown, P.O. Box 217, Bessemer, AL 35021–0217. Transporting *food and related products,* between points in Lamar County TX, on the one hand, and, on the other, points in AL, AZ, AR, CO, FL, GA, IL, IN, IA, KS, KY, LA, MS, MO, MI, NE, NM, ND, OK, OH, SD, TN, UT, and WI.

MC 124896 (Sub-107), filed May 24, 1982. Applicant: WILLIAMSON TRUCK LINES, INC., Corner Thorne and Ralston Sts., P.O. Box 3485, Wilson, NC 27893. Representative: Norman J. Philion III, 1920 N St., N.W., Suite 700, Washington, DC 20036, (202) 331–8800. Transporting *food and related products,* between points in AL, AR, CA, DE, IA, IL, IN, KS, KY, LA, MA, MI, MN, MO, MS, NE, NY, OH, PA, OK, TN, TX, WI, and WV, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 134676 (Sub-6), filed May 24, 1982. Applicant: H. H. MOORE JR. TRUCKING CO., INC., P.O. Box 477, Appomattox, VA 24522. Representative: Paul D. Collins, 7761 Lakeforest Dr., Richmond, VA 23235, (804) 745–0446. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S. in and east of MT, WY, CO and NM.

MC 151556 (Sub-4), filed May 17, 1982. Applicant: ALLSTATE TRANSPORTATION COMPANY, 2000 W. 96th St., Bloomington, MN 55431. Representative: Marvin M. Mueller (same address as applicant), (612) 881–3378. Transporting (1) *containers,* (2) *plastic products,* and (3) *such commodities* as are dealt in by office furniture and supply houses, between points in the U.S., under continuing contract(s) with Liberty Diversified Industries and/or L. D. I. Transport, Inc., of New Hope, MN.

MC 155796 (Sub–7), filed May 20, 1982 Applicant: TRANSPORTATION SPECIALISTS, LTD., 440 Commerical Federal Tower, 2120 S. 72nd St., Omaha, NE 68124. Representative: Arthur J. Cerra, 2100 CharterBank Center, P.O. Box 19251, Kansas City, MO 64141, (816) 842–8600. Transporting *food and related products,* between points in the U.S. (except AK and HI).

MC 162036, filed May 17, 1982 Applicant: MR. FRANK INC., 201 West 155th St., South Holland, IL 60473. Representative: Edward G. Bazelon, 29 South LaSalle St., Chicago, IL 60603. Transporting *hazardous materials* and *waste or scrap materials not identified by industry producing,* between points in the U.S. (except AK and HI), under continuing contract(s) with American Chemical Service, Inc., of Griffith, IN, American Recovery Company, of East Chicago, IN, Andrew Corporation, of Orland Park, IL, Bliss & Laughlin Steel Co., of Harvey, IL, KNS Companies, Inc., of Carol Stream, IL, Stepan Chemical, of Elwood, IL, SCA Chemical Services, Inc., of Chicago, IL, Illinois Central and Gulf Railroad, of Chicago, IL.

MC 162086, filed May 19, 1982 Applicant: BERNICE BRITTON, d.b.a. BRITTON TRAVEL, 4324 Parkside Dr., Baltimore, MD 21206. Representative: Bernice Britton (same address as applicant), (301) 485–1155. To operate as a *broker,* at Baltimore, MD, in arranging for the transportation of *passengers and their baggage,* in charter operations, between points in MD, DE, NJ, NY, CT, RI, NH, MA, VT, ME, VA, WV, VA, NC, SC, GA, FL, TN, and PA.

Volume No. OP–193

Decided: June 2, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 115676 (Sub–6), filed May 25, 1982 Applicant: CONWAY'S BUS SERVICE, INC., 3220 Mendon Rd., Cumberland, RI 02864. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103, (413) 781–8205. Transporting *passengers and their baggage,* in special and charter operations, beginning and ending at points in CT, MA and RI, and extending to points in the U.S. (except AK and HI).

MC 149406 (Sub–14), filed May 20, 1982 Applicant: E. W. WYLIE CORPORATION, P.O. Box 1188, Fargo, ND 58107. Representative: Robert D. Gisvold, 1600 TCF Tower, 121 S 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of brick, tile, and other clay products, between points in the U.S. (except AK and HI), under continuing contract(s) with Sioux City Brick & Title Company, of Sioux City, IA, United Brick & Tile Co. of Iowa, of Adel, IA and Ballou Brick Company of Sergeant Bluff, IA.

MC 149536 (Sub-6), filed May 24, 1982. Applicant: RODCO LEASING, INC., 380 Union St., West Springfield, MA 01089. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103, (413) 781–8205. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Friendly Ice Cream Corporation, of Wilbraham, MA.

MC 150606 (Sub-9), filed May 20, 1982 Applicant: WECO, INC., P.O. Box 5128, Kansas City, KS 66119. Representative: Erle W. Francis, 719 Capitol Federal Bldg., Topeka, KS 66603, (913) 232–0601. Transporting *food and related products,* between points in Shawnee County, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152908 (Sub-2), filed May 20, 1982. Applicant: BILLIG TRUCKING SERVICE, INC., R.D. No. 8, Box 136, Allentown, PA 18104. Representative: Robert J. Brooks, 1828 L St. NW., Suite 1111, Washington, DC 20036, (202) 466–3692. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), on the one hand, and, on the other, points in CT, MA, NY, NJ, PA, DE, MD, DC, VA, WV, OH, IN, IL, MI, KY, TN, NC, and SC.

MC 153376, filed May 21, 1982 Applicant: THOMAS W. HEADRICK, d.b.a. HEADRICK TRUCKING, Route 1, Box 258–B, Crandall, GA 30711. Representative: Clayton R. Byrd, 2870 Briarglen Dr., Doraville, GA 30340, (404) 491–1696. Transporting *crushed limestone rock*, between points in the U.S. (except AK and HI), under continuing contract(s) with Georgia Talc Company, of Chatsworth, GA, and H & S Industries, Inc., of Dalton, GA.

MC 158286 (Sub-11), filed May 24, 1982 Applicant: M. T. TRUCK LINE, INC., 4947 W. 173rd St., County Club Hills, IL 60477. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602, (312) 236–5944. Transporting *such commodities* as are dealt in and used by manufacturers and distributors of plastic and cast iron products, between points in the U.S. (except AK and HI).

MC 158848, filed May 20, 1982. Applicant: MONARCH MARKET STREET CORP., 505 Long Beach Blvd., Long Beach, NY 11561. Representative: William J. Augello, 120 Main St., Huntington, NY 11743, (516) 427–0100. Transporting *trade show exhibits and displays*, between points in the U.S. (except AK and HI).

MC 162076, filed May 17, 1982. Applicant: DANIEL'S MOVING & STORAGE, INC., 324 Lafayette St., Utica, NY 13502. Representative: Roy D. Pinsky, State Tower Bldg., Suite 1020, Syracuse, NY 13202, (315) 422–2384. Transporting *household goods*, between points in NY, on the one hand, and, on the other, points in CT, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, VA and DC.

MC 162128, filed May 25, 1982. Applicant: ON THE ROAD TRANSPORTATION, INC., P.O. Box 183, 5713 Middaugh, Downers Grove, IL 60516. Representative: Stepehn C. Herman, 20 No. Wacker Dr., Suite 1760, Chicago, IL 60606, (312) 236–0204. Transportating *passengers and their baggage*, in charter operations, between points in the U.S., under continuing contract(s) with On The Road Tours, Inc., of Downers Grove, IL.

MC 162146, filed May 21, 1982. Applicant: FRANK J. BRAZIL TRUCKING CO., 500 Richards Blvd., Sacramento, CA 95814. Representative: Frank J. Brazil, (same address as applicant), (916) 447–2580. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between point in CA in and north of Monterey, San Benito, Fresno and Alpine Counties.

Volume No. OP4–194

Decided: May 28, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 68717 (Sub–2), filed May 17, 1982. Applicant: W. N. DAUL TRANSFER LINES, INC., 1521 Ellis St., Kewaunee, WI 54216. Representative: John L. Bruemmer, P.O. Box 927, Madison, WI 53701, (608) 257–0521. Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk): (1) between Algoma and Green Bay, WI, serving all intermediate points, and the off-route point of New Franken, WI, over WI Hwy 54; (2) between Manitowoc and Green Bay, WI serving all intermediate points and the off-route point of Denmark, WI, over U.S. Hwy 141; and (3) between the junction of WI Hwys 29 and 163, at or near Pilsen, WI, and the junction of WI Hwy 96 and U.S. Hwy 141, at or near Denmark, WI: from the junction of WI Hwys 29 and 163, over WI Hwy 163 to junction WI Hwy 96, then over WI Hwy 96 to junction U.S. Hwy 141.

Note.—Applicant intends to tack this authority with its presently authorized operating rights.

MC 98017 (Sub-6), filed May 17, 1982. Applicant: SHAY'S SERVICE, INC., N. Main St., Dansville, NY 14437. Representative: Warren A. Goff, 109 Madison Ave., Memphis, TN 38103, (901) 525–2900. Transporting *general commodities* (except A and B explosives, household goods, and commodities in bulk), between points in Allegheny, Broome, Cattaraugus, Chautaugua, Chemung, Erie, Genessee, Livingston, Monroe, Niagara, Ontario, Orleans, Schuyler, Stubin, Tioga, Wayne, Wyoming, and Yates Counties, NY, and Potter County, PA. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation, at applicant's written request, of Certificate of Registration No. MC–98017.

MC 120847 (Sub-2), filed May 19, 1982. Applicant: FOURWAYS EXPRESS, INC., 112 Will Dr., Canton, MA 02021. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108, (617) 742–3530. Transporting (1) *general commodities*, between points in MA, and (2) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, ME, MA, NH, NJ, NY, PA, RI, and VT. Conditions: Issuance of a certificate in this proceeding is subject to the prior or coincidental cancellation of carrier's Certificate of Registration in No. MC–120847 (Sub-No. 1), and to the extent the certificate granted in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issue.

MC 124167 (Sub-2), filed May 21, 1982. Applicant: READY BUS LINE CO., INC., P.O. Box 100, County Highway 6, La Crescent, MN 55947. Representative: Harold O. Orlofske, P.O. Box 368, Neenah, WI 54956, (414) 722–2848. Transporting *passengers and their baggage*, in special and charter operations, beginning and ending at Minneapolis, MN, and points in Allamakee, Dubuque, Howard, and Winneskiek Counties, IA, Dodge, Fillmore, Goodhue, Lake, Mower, Olmstead, St. Louis, Wabasha, and Winona Counties, MN, and WI, and extending to points in the U.S. (except HI).

MC 142847 (Sub-4), filed May 21, 1982. Applicant: LESLIE OAKLEY AND BARRY D. OAKLEY, d.b.a. OAKLEY BROTHERS TRUCKING, P.O. Box 338, Fairfield, MT 59436. Representative: William E. Seliski, 2 Commerce St., P.O. Box 8255, Missoula, MT 59807, (406) 543–8369. Transporting *such commodities* as are dealt in or used by lumber yards and farm supply stores, between points in MT, on the one hand, and, on the other, points in ID, OR, and WA.

MC 144927 (Sub-43), filed May 20, 1982. Applicant: REMINGTON FREIGHT LINES, INC., Box 315, U.S. 24 West, Remington, IN 47977. Representative: Jack Luck (same address as applicant), (219) 261–3461. Transporting *drugs*, between Atlanta, GA, Chicago, IL, Dallas, TX, Denver, CO, Kansas City and St. Louis, MO, Minneapolis, MN, Portland, OR, San Francisco and Los Angeles, CA, and points in Montgomery County, PA and Shelby County, TN.

MC 145457 Sub 13, filed May 17, 1982. Applicant: B & M EXPRESS, INC., 1800 S. Portland, P.O. Box 82506, Oklahoma City, OK 73108. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154, (405) 424–3301. Transporting *general commodities* (except classes A and B explosives,

commodities in bulk, and household goods), between points in AR, CO, KS, LA, MO, OK, and TX.

MC 162116, filed May 20, 1982. Applicant: SURE TRANSPORATION & SERVICES, INC., 1617 Marguerite, Park Ridge, IL 60068. Representative: Irwin D. Rozner, 134 N. LaSalle St., Chicago, IL 60602, (312) 782–6937. As a broker of *general commodities* (except household goods) between points in the U.S. (except HI).

MC 162137, filed May 21, 1982. Applicant: R & R CARTAGE, INC., 1257 E. Reno, Oklahoma City, OK 73117. Representative: Wilburn L. Williamson, Suite 107, 50 Classen Center, 5101 N. Classen Blvd., Oklahoma City, OK 73118, (405) 848–7946. Transporting *general commodities* (except classes A and B explosives), between points in OK.

MC 162147, filed May 21, 1982. Applicant: CALABRIA LEASING, INC., 12071 Larkins Rd., Brighton, MI 48116. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49684, (616) 941–5313. Transporting *metal and metal products,* between points in Crawford and Sebastian Counties, AR, Contra Costa County, CA, Washoe County, NV, Essex and Middlesex Counties, NJ, and points in IN, MI, OH, PA, and TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152337 (Sub-5), filed May 20, 1982. Applicant: CENTRAL STATES TRUCKING CO., 5101 S. Lawndale Ave., P.O. Box 450, Summit, IL 60501. Representative: Edward G. Bazelon, 29 S. La Salle St., Chicago, IL 60603, (313) 236–9375. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Pacific Northwest Perishable Shippers Association, Washington, Oregon Shippers Cooperative Association, Inc., Northwest Perishable Shippers Cooperative Association, Inc., Pacific Northwest Shippers Cooperative Association, Inc., and Trailer Express, Inc., all of Seattle, WA.

Volume No. OP4–195

Decided: June 2, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 102616 (Sub-1036), filed April 29, 1982, previously noticed in the Federal Register issue of May 12, 1982, and republished this issue. Applicant: COASTAL TANK LINES, INC., 250 Cleveland Massillon Rd., Akron, OH 44319. Representative: Fred H. Daly, 2550 M St., NW., Suite 475, Washington, DC 20037, (202) 293–3204. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK), under continuing contract(s) with Standard Oil Company (Ohio), B P Oil, Inc., Vistron Corporation, Mountaineer Carbon Company, The Sohio Petroleum Company, and The Old Ben Coal Company, all of Cleveland, OH.

Note:—The purpose of this republication is to include the additional constracting shippers.

MC 143776 (Sub-52), filed May 20, 1982. Applicant: C.D.B., INCORPORATED, 155 Spaulding Ave., S.E., Grand Rapids, MI 49506. Representative: C. Michael Tubbs (same address as applicant), (800) 253–9527. Transporting *food and related products,* between points in Cook and Lake Counties, IL, and Chickasaw County, IA, and points in the U.S. (except AK and HI).

MC 144986 (Sub-5), filed May 24, 1982. Applicant: STAHLER TRUCKING & LEASING, INC., 208 E. Harrison St., Wapakoneta, OH 45895. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212, (614) 481–8821. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Auglaize, Shelby, Allen, and Van Wert Counties, OH, on the one hand, and, on the other points in the U.S. (except AK and HI).

MC 149616 (Sub-6), filed May 17, 1982. Applicant: R.C.R., INC., Box 157, Yutan, NE 68073. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106, (402) 392–1220. Transporting *food and related products,* between Omaha, NE, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 157596 (Sub-1), filed May 24, 1982. Applicant: VANGUARD CONTRACT CARRIER, INC., 25 N. Via Monte, P.O. Box 9285, Walnut Creek, CA 94598. Representative: Alfred G. Krebs (same address as applicant), (415) 944–7374. Transporting, for or on behalf of the United States Government, *general commodities,* except used household goods, hazardous or secret materials, and sensitive weapons and munitions, between points in the U.S. (except AK and HI). CONDITION: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to Team Four, Room 2410.

Volume No. OP4–196

Decided: June 2, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 124887 (Sub-138), filed May 24, 1982. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202, (904) 632–2300. Transporting *machinery,* between points in the U.S. (except AK and HI).

MC 126717 (Sub-17), filed May 18, 1982. Applicant: WALT'S DRIVE-A-WAY SERVICE, INC., 1103 E. Franklin St., Evansville, IN 47711. Representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., Indianapolis, IN 46204, (317) 639–4511. Transporting (1) *truck-mounted cranes, mine, well and quarry-drilling machinery, equipment, and A-frames, self-propelled drilling equipment, self-propelled cranes, and self-propelled machinery, equipment, and accessories,* and (2) *trucks,* between points in the U.S. (except AK and HI).

MC 143267 (Sub-120), filed May 25, 1982. Applicant: CARLTON ENTERPRISES, INC., P.O. Box 520, Mantua, OH 44255. Representative: Neal A. Jackson, 1156 15th St., NW., Washington, DC 20005, (202) 223–6680. Transporting (1) *chemicals and related products,* and (2) *ores and minerals,* between those points in the U.S. in and east of MT, WY, CO, and NM.

MC 148237 (Sub-1), filed May 18, 1982. Applicant: JESS A. MAY, d.b.a. MAY TRUCKING CO., 540 Sonoma Ave., Livermore, CA 94550. Representative: Richard E. Macey, 2111 W March La., A–3, Stockton, CA 95207, (209) 951–8227. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Komatsu America Corp., of Hayward, CA.

MC 161387 (Sub-2), filed May 24, 1982. Applicant: DOUGLAS C. ROYCRAFT, d.b.a. ROYCRAFT TRANSIT & STORAGE, 1800 Vernon St., Eau Claire, WI 54701. Representative: Robert S. Lee, 1600 TCF Tower, Minneapolis, MN 55402, (612) 333–1341. Transporting *computers and related equipment,* between points in the U.S. (except AK and HI), under continuing contract(s) with Cray Research, Inc., of Chippewa Falls, WI.

MC 162107, filed May 20, 1982 Applicant: DORIS DRAKE

ENTERPRISES, INC., 7110 SW 5th St., Pembroke Pines, FL 33023. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 NW 53d St., Miami, FL 33166, (305) 592–0036. Transporting *theatrical equipment*, between points in the U.S. (except AK and HI).

Volume No. OP5–122

Decided: May 28, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 84739 (Sub–31), filed January 22, previously published (republication) in the Federal Register on February 17, 1982. Applicant: SEVERSON TRANSPORT, INC., 624 Albion Road, Edgarton, WI 53534. Representative: Ronald J. Mastej, 900 Guardian Bldg., Detroit, MI 48226, (313) 963–3750. Transporting (1) *metal products* and (2) *such commodities* as are dealt in or used by a manufacturer of truck trailers, between points in WI, on the one hand, and, on the other, points in KY, MI, OH, PA, and WV.

Note.—Purpose of republication is to show correct territorial description.

MC 145748 (Sub–5), filed May 17, 1982 Applicant: MEYERS TRANSFER, INC., Route 64, East, Mt. Morris, IL 61054. Representative: Abraham A. Diamond, 29 South LaSalle St., Chicago, IL 60603, (312) 236–0548. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Dixon Publishing Co., of Dixon, IL, E. D. Etnyre Co., of Oregon, IL, Henry Pratt Company, a division of Armsted Industries, Inc., of Aurora, IL, Kable Printing Company, of Mt. Morris, IL, Roscoe Mfg. Co., and Flaherty Mfg., both of Arlington, MN, Woods Bros., a division of Hesston Corp., of Oregon, IL, Northwestern Steel & Wire Co., of Sterling, IL, and L.R.B. Distributors, Inc., of Dixon, IL.

MC 145850 (Sub–7), filed May 20, 1982. Applicant: B & G SUPPLY COMPANY, INC., P.O. Box 748, Albertville, AL 35950. Representative: John R. Frawley, Jr., Suite 200, 120 Summit Pkwy, Birmingham, AL 35209–4786, 205–942–9116. Transporting *food and related products*, between points in Portage and Summit Counties, OH, and Allegan, Kent, and Ottowa Counties, MI, on the one hand, and, on the other, points in the U.S. in and east of TX, OK, KS, NE, SD, and ND.

MC 151419 (Sub–4), filed April 20, 1982. Initially published in the Federal Register on May 12, 1982. Applicant: GORDON JOHNSON, P.O. Box 252; Route #2, Fredericktown, OH 43019. Representative: Lewis S. Witherspoon, 2455 North Star Rd., Columbus, OH 43221, 614–486–0446. Transporting (1) *games, toys, and athletic equipment*, between points in Ashland County, OH, on the one hand, and, on the other, points in CT, MA, NJ, NY, PA, and RI, (2) *lawn and garden tools, and farm implements*, between points in Herkimer County, NY, on the one hand, and, on the other, points in IN and IL, (3) *containers, container closures and components, glassware, packaging products and scrap materials*, between points in Gloucester and Cumberland Counties, NJ, on the one hand, and, on the other, points in OH, IN, and MI, and (4) *gas and electrical appliances*, (a) between points in Marion County, OH, on the one hand, and, on the other, points in MA, and (b) between points in Hancock County, OH, on the one hand, and, on the other, points MA, NJ, and NY.

Note.—This application is republished to correct inadvertent omission.

MC 153539 (Sub-3), filed May 13, 1982. Applicant: JET LINE SERVICE, INC., 460 Riverside Industrial Parkway, Portland, ME 04103. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in ME, NH, VT, RI, CT, MA, NY, NJ, and PA.

MC 154469 (Sub-2), filed April 16, 1982. Originally published in the Federal Register on May 4, 1982. Applicant: WARREN L. ADAMS, d.b.a. WARREN TRANSPORTATION, 2667 English St., Maplewood, MN 55109. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402, 612–333–1341. Transporting *malt beverages*, between points in Shelby County, TN, on the one hand, and, on the other, points in Pierce, Dunn, Polk, and Burnett Counties, WI, Wright, Anoka, Hennepin, Ramsey Sherburne, Benton, and Stearns Counties, MN, and ND.

Note.—This application is republished to include North Dakota, inadvertently omitted in the initial publication.

MC 161529, filed April 16, 1982. Applicant: DOCKSIDE, INC., 3350 S. Fletcher Ave., Suite 7, Fernandina Beach, FL 32034. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202, (904) 632–2300. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Railside, Inc., of Folkston, GA.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-15632 Filed 6-7-82; 8:45 am]
BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2), Pub. L. 92–463, Federal Advisory Committee Act, notice is hereby given of the Fiftieth meeting of the Board for International Food and Agricultural Development (BIFAD) on June 24, 1982.

The purposes of the meeting are to approve the BIFAD Charter revision; to discuss recommendations on the future of A.I.D. university Strengthening Programs, Title XII policy guidelines to implement General Accounting Office report recommendations, and a draft Memorandum of Understanding (if ready) between A.I.D. and universities; and to receive the report of the Presidential mission on agricultural development in Egypt, and final reports of the Joint Committee on Agricultural Development (JCAD) and the Joint Research Committee (JRC). The Board will also meet with the BIFAD Support Staff to discuss staff actions and operational procedures.

The meeting will begin at 9:00 a.m. and adjourn at 12:15 p.m., and will be held in Room 540, National Science Foundation, 1800 G Street NW., Washington, D.C. The meeting with the BIFAD Support Staff will begin at 1:30 p.m. and adjourn at 3:00 p.m. This meeting will be held in Room 6439, New State Department Building, 22nd and C Streets NW., Washington, D.C. The meetings are open to the public. Any interested person may attend, may file written statements with the Board before or after the meetings, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meetings permit.

Dr. Erven J. Long, Coordinator, Title XII Strengthening Grants and University Relations, Bureau for Science and Technology, Agency for International Development, is designated as A.I.D. Advisory Committee Representative at this meeting. It is suggested that those desiring further information write to him in care of the Agency for International

Development, International Development Cooperation Agency, Washington, D.C. 20523, or telephone him at (703) 235–8929.

Dated: June 1, 1982.

Erven J. Long,

A.I.D. Advisory Committee Representative, Board for International Food and Agricultural Development.

[FR Doc. 82-15604 Filed 6-7-82; 8:45 am]

BILLING CODE 8116-01-M

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

National Advisory Committee for Juvenile Justice and Delinquency Prevention; Meeting

The first quarterly meeting of the newly-appointed National Advisory Committee for Juvenile Justice and Delinquency Prevention will be held in Washington, D.C. on June 28 and 29, 1982. The meeting will take place in the Andretta Room of the U.S. Department of Justice building and will run from 9:00 a.m. to 5:00 p.m. on Monday the 28th and from 9:00 a.m. to noon on the 29th.

Agenda items will include an overview of OJJDP activities and plans, Committee priorities, and discussions of filling remaining Committee positions. Members of the public are welcome to attend.

Further information regarding this meeting may be obtained by contacting: Nancy L. Kujawski, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW, Washington, D.C. 20531. (202) 724–7751.

Dated: June 3, 1982.

Approved:

Charles A. Lauer,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 82-15609 Filed 6-7-82; 8:45 am]

BILLING CODE 4410-18-M

Bureau of Prisons

National Institute of Corrections Advisory Board; Meeting

Notice is hereby given that the National Institute of Corrections Advisory Board in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770) will meet on Friday, June 25, 1982, starting at 8:30 a.m., at the Seeley Conference Center, Menninger Foundation, West Campus, 5800 West 6th Street, Topeka, Kansas, 66606.

At this meeting (one of the regularly scheduled triannual meetings of the Advisory Board), the Board will receive its subcommittees' reports and recommendations as to future thrusts of the Institute.

Allen F. Breed,

Director.

[FR Doc. 82-15602 Filed 6-7-82; 8:45 am]

BILLING CODE 4410-05-M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period May 24, 1982–May 28, 1982.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–12,461; Fiesta, Fashions, Inc., Hoboken, NJ

TA–W–12,530; Warner & Swasey Corp., Cleveland, OH

TA–W–12,437; Avante Fashions, Inc., Hoboken, NJ

TA–W–12,751; Apeco Corp., Des Plaines, IL

TA–W–12,752; Apeco Corp., Elk Grove Village, IL

TA–W–12,739; The General Tire & Rubber Co., Newcomerstown, OH

TA–W–12,542; R. Jackson Manufacturing Corp., New York, NY

TA–W–12,188; A. P. Parts Co., Pinola, IN

TA–W–12,113; Gracinda Fashions, Inc., Newark, NJ

TA–W–12,250; Brunswick Corp., Fond Du Lac, WI

TA–W–12,710; Scovill, Inc., Markel-Nutone Div., Buffalo, NY

TA–W–12,308; Brave-Moc, Inc., Lynn, MA

TA–W–12,656; Fabrics America Group, Toweling Div., Enterprise, AL

TA–W–12,589; Arvin Outerwear, Inc., Jersey City, NJ

TA–W–12,740; J. C. Sportswear Co., Inc., New York, NJ

TA–W–12,455; Five Sons, Jersey City, NJ

TA–W–12,331; The Basic Aluminum Casting Co., Cleveland, OH

TA–W–12,597; Penry Manufacturing Co., Saltville, VA

The following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–12,524; Rockwell International Corp., Automotive Operations Headquarters, Troy, MI

TA–W–12,136; Two-B-Wear, Pennsauken, NJ

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–12,348; Gold-EE Fashions, Inc., New York, NY

The investigation revealed that criterion (3) has not been met. Imports did not increase as required for certification.

TA–W–12,128; F/V Cape Windy-Santa Rosa, CA

The investigation revealed that criterion (3) has not been met. Imports did not increase as required for certification.

TA–W–12,134; F/V Northern Lights-Santa Rosa, CA

The investigation revealed that criterion (3) has not been met. Imports did not increase as required for certification.

TA–W–12,135; F/V Seal-Bodego Bay, CA

The investigation revealed that criterion (3) has not been met. Imports did not increase as required for certification.

TA–W–12,498; Hunter Offshore Enterprises-Fields Landing, CA

The investigation revealed that criterion (3) has not been met. Imports did not increase as required for certification.

TA–W–12,200; International Hat Co., Oran, MO

The investigation revealed that criterion (3) has not been met. Imports did not increase as required for certification.

Affirmative Determinations

TA-W-12,497; Fairy Tale Children's Wear, New York, NY

A certification was issued in response to a petition received on March 16, 1981 covering all workers separated on or after January 1, 1981.

TA-W-12,449; Gay Coat Co., Inc., Union City, NJ

A certification was issued in response to a petition received on March 9, 1981 covering all workers separated on or after May 14, 1981.

TA-W-12,794; Fiat Allis North American Operations, Inc., Deerfield, IL

A certification was issued in response to a petition received on June 17, 1981 covering all workers engaged in the production of hydraulic cylinders separated on or after October 1, 1981 and before March 1, 1982.

TA-W-12,431; MCM Coat Co., Inc., Hoboken, NJ

A certification was issued in response to a petition received on March 9, 1981 covering all workers separated on or after October 17, 1980.

TA-W-12,015; Star Coat Manufacturing Co., Inc., Hoboken, NJ

A certification was issued in response to a petition received on December 22, 1980 covering all workers separated on or after October 12, 1980.

I hereby certify that the aforementioned determinations were issued during the period May 24, 1982—May 28, 1982. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW, Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: June 1, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-15486 Filed 6-7-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-11,862]

Imperial Glass Corp.; Amended Determination on Reconsideration

On February 12, 1982, the Department issued an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of the Imperial Glass Corporation's plant in Bellaire, Ohio. This determination was published in the **Federal Register** on February 23, 1982, (47 FR 7896).

The union claims that the Department's certification fails to cover many stemware workers at the Bellaire plant who were laid off in 1980, several months before the December 1, 1980 impact date set in the Department's certification, TA-W-11,892. The union also makes a claim concerning the adequacy of the Department's customer survey.

On reconsideration, the Department conducted a survey of the company's stemware customers for 1979, 1980 and 1981. Stemware customers were not included in the Department's initial customer survey. The survey showed an increased import reliance by the company's stemware customers in 1980 compared to 1979 and in 1981 compared to 1980. It was also found that there were significant layoffs in 1980 compared to 1979. Production in quantity decreased in the 10-month period in 1980, minus the September-October strike affected interval, compared to the same period in 1979. U.S. imports of machine-made and hand-made glassware increased absolutely in 1980 compared to 1979 and in the first half of 1981 compared to the same period in 1980.

Conclusion

After careful review of the facts obtained on reconsideration, it is concluded that increased imports of glassware contributed importantly to the total or partial separations of workers and former workers at the Bellaire, Ohio plant of the Imperial Glass Company. In accordance with the provision of the Trade Act of 1974, I make the following amended determination:

All workers of Imperial Glass Corporation, Bellaire, Ohio who became totally or partially separated from employment on or after February 1, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 21st day of May 1982.

Robert A. Scheerli,

Director, Office of Program Management Unemployment Insurance Service.

[FR Doc. 82-15485 Filed 6-7-82; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

Federal Advisory Council on Occupational Safety and Health; Meeting

Notice is hereby given that the Federal Advisory Council on Occupational Safety and Health, established under Section 1-5 of Executive Order 12196 of February 26, 1980, published in the **Federal Register** February 27, 1980 (45 FR 12769), will meet on June 30, 1982 starting at 10:00 AM in Rooms N3437 A, B, C, of the Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. The meeting will be open to the public. (This meeting was previously scheduled for May 20, 1982.)

The agenda provides for:

I. Call to Order.

II. Presentation of FACOSH Appointees.

III. Approval of Minutes of October 7, 1981 Meeting.

IV. Election—Managment Representative as Vice Chairman.

V. New OSHA Initiatives on Federal Safety and Health.

VI. Proposed Hazardous Labeling Standard.

VII. Report of Standing Committee on Field Federal Safety and Health Councils.

VIII. New Business.

IX. Adjournment.

The Council welcomes written data, views or comments concerning safety and health programs for Federal employees, including comments on the agenda items. All such submissions received by close of business June 25, 1982, will be provided to the members of the Council and included in the record of the meeting.

The Council will consider oral presentations relating to agenda items. Persons wishing to orally address the Council at the meeting should submit a written request to be heard by close of business June 25, 1982. The request must include the name and address of the person wishing to appear, the capacity in which appearance will be made, a short summary of the intended presentation and an estimate of the amount of time needed.

All comunications regarding this Advisory Council should be addressed to John E. Plummer, Director, Office of Federal Agency Programs, Department of Labor, OSHA, Bicentennial Building, 600 E Street, NW., Suite 500, Washington, D.C. 20210, telephone (202) 376-3005.

Signed at Washington, D.C. this 2nd day of June, 1982.

Thorne G. Auchter,

Assistant Secretary.

[FR Doc. 82-15487 Filed 6-7-82; 8:45 am]

BILLING CODE 4510-26-M

[V-02-4]

Grant of Variance; Oil and Gas Wells

I. Background

For a number of years, the oil and gas well industry has alleged difficulty in attempting to comply with lthe requirements of 29 CFR 1910.212(a)(1) and (a)(2), as they relate to the guarding of rotating kelly bushings and exposed portions of rotary tables on oil and gas well drilling rigs. According to industry figures, there are approximately 4,500 active rotary rigs drilling for oil and gas in the United States, each of which is an individually unique piece of equipment.

The Occupational Safety and Health Administration has been aware, for some time, of alleged problems associated with the use of the several types of available kelly bushing/rotary table guards. As a result, a meeting was held in Dallas, Texas on March 18, 1982 between representatives of OSHA and a number of oil and gas industry drilling contractors and their legal representative to determine whether alternative methods could be devised which would provide equivalent or greater protection for employees who could be exposed to these rotating parts, in lieu of the physical guarding required by 29 CFR 1910.212(a)(1) and (a)(2).

The result of this effort was the development of a proposed alternative method incorporating modifications to some equipment on the rig as well as work practices reinforced by appropriate training procedures. Because of the degree of potential hazard presented by the rotating equipment on the drill rig, the decision was made to recommend to the Secretary that this proposed alternative method be tested initially under limited and controlled conditions to assure that it adequately met the intent of the aforementioned standard. To this end, the Secretary is exercising his authority under Section 6(b)(6)(C) of the Act to grant, for a ninety day period, an experimental variance to examine an alternative method of preventing employee injury from contact with rotary kelly bushings and exposed portions of rotary tables on oil and gas well drilling rigs to those required by 29 CFR 1910.212(a)(1) and (a)(2).

Section 6(b)(6)(C) of the OSHA Act states:

> The Secretary is authorized to grant a variance from any standard or portion thereof whenever he determines, or the Secretary of Health, Education, and Welfare certifies, that such variance is necessary to permit an employer to participate in an experiment approved by him or the Secretary of Health, Education, and Welfare designed to demonstrate or validate new and improved techniques to safeguard the health or safety of workers.

The names and addresses of the companies participating in this experimental variance are:

Robinson Brothers Drilling, 1123 Main Street, Woodward, OK 73801
Questor Drilling, Inc., 1213 Mockingbird Lane, Victoria, TX 77904
Sonat Southland Drilling Company, 14811 St. Mary's Suite 270, Houston, TX 77079
Houteck Energy, Inc., 8700 Commerce Park Drive, Houston, TX 77036
Harkins & Company, P.O. Box 1940, Alice, TX 78332
MGF Drilling, P.O. Box 360, Midland, TX 79702
Wheless Drilling Company, 920 Commercial National Bank, Shreveport, LA 71101
Richards Drilling, P.O. Box 1149, Bay City, TX 77414
Search Drilling, 5815 Oklahoma Ave., P.O. Box 487, Woodward, OK 73802
Butler-Johnson Drilling Co. Inc., 600 Travis Place, Shreveport, LA 71101
Glasscock Drilling, Building 11, Heyman Blvd., P.O. Box 51716, Lafayette, LA 70505
Saw Drilling Incorporated, P.O. Box 4630, Victoria, TX 77901
Nortion Drilling Co., 606 Lubbock National Bank Bldg., Lubbock, TX 79401

ADDRESSES: Send comments to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Room N-3662, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Mr. Hershal Hensley, Office of Field Coordination, Occupational Safety and Health Administration, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Room N-3603, Washington, D.C. 20210.

All interested persons, including employers and employees who believe they would be affected by this experimental variance, are invited to submit written data, views, and arguments to the Office of Variance Determination.

The participants certify that employees who would be affected by the variance have been notified by giving a copy of it to their authorized employees' representative and/or by posting a copy at all places where notices to employees are normally posted.

II. Facts

A variance would permit the use of modified equipment, and work practices, reinforced by appropriate training procedures, to be utilized in lieu of the guarding required by 29 CFR 1910.212(a)(1) and (a)(2) for the exposed portions of the kelly bushing and rotary table on oil and gas well drilling rigs.

The following is a description of the rotating equipment found on an oil and gas well drilling rig:

The rotating equipment consists of a swivel, a short piece of pipe called a kelly, kelly bushing, rotary table, the drill string, and the bit. The assembly of members between the swivel and bit including the kelly, drill pipe, and drill collars, is termed the drill stem.

The swivel is hung from the hook on the travelling block to suspend and permit free rotation of the drill stem. It also provides a connection for the rotary hose (sometimes called the kelly hose), pressure-tight seal, and passageway for the flow of mud (drilling fluid) into the drill stem. The swivel sustains the weight of the drill string, which may be in the hundreds of tons and rotate 200 or more revolutions per minute (rpm). The swivel supports substantially the same load while it rotates. It also provides a fluid passage that may be under pressure greater than 3,000 pounds per square inch (psi).

The Kelly, which is a square or hexagonal piece of pipe, is attached immediately below the swivel. Most kellys are about 40 feet long. The kelly, like the swivel, is also a unit through which drilling mud is pumped on its way to the bottom of the hole. The reason the kelly is four or six sided is because it serves as a way of transferring the rotating motion of the rotary table to the drill string.

The kelly sits inside a corresponding square or hexagonal opening in a device called a kelly bushing which, when inserted, is a part of the rotary table. The kelly bushing, in turn, fits into another part of the rotary table called the master bushing.

Thus, as the master bushing rotates, the kelly bushing also rotates. Since the kelly mates with the kelly bushing, the kelly rotates. And, finally, since the drill pipe is connected to the bottom of the kelly, the pipe rotates when the kelly rotates. The bit also rotates because it is attached to the drill string.

The drill string consists of the drill pipe and drill collars. Both are steel tubes through which mud (drilling fluid) can be pumped. A section of drill pipe is about 30 feet long. The drill collar is a heavy, thick wall tube used between the

drill pipe and the bit (the tool that actually makes the hole), in order to add weight to the bit and to improve its performance.

Rotary drilling gets its name from the rotary table. The rotary, which has a beveled gear arrangement, may be powered either off the compound or by its own electric motor.

Kelly bushing guards have been developed and are being used on a number of drilling rigs. Nevertheless, they have also been a controversial subject for some time. While there is little dispute that kelly bushings having projections of the j-bolt type must continue to be guarded by a substantial kelly bushing/rotary table guard, some have suggested that alternative preocedures, which would include work practices reenforced by appropriate training procedures, could be utilized on rigs where the kelly bushings are of the so-called "smooth" type. It is argued that these procedures could provide protection at least equivalent to that provided by the standard for employees who could be exposed to these rotating parts. Indeed, it is argued further that the alternative procedures could be more protective of employees because of certain problems claimed to exist with the kelly bushing/rotary table guards.

The experiment, which has been developed to validate the effectiveness of the new techniques, is limited to rigs utilizing kelly bushings that are "smooth", i.e., having no projections of the j-bolt type. It requires that all employees be trained in safe operating procedures, and that the employer designate the person who will be the equipment operator and assure that this person is trained and competent, since the equipment operator will control the activity and access of personnel on the drilling floor while the equipment is rotating.

All materials and equipment which may become entangled in the rotating eqipment shall be kept at a safe distance, and wash down hose shall be prevented, by length or location, from coming into contact with rotating equipment.

Further, if it is necessary that an employee handle materials which can become entangled in any of the rotating equipment while in motion, someone capable of stopping this equipment shall be stationed at the controls.

Any injuries related to the condition of the experiment shall be recorded and details of the occurrence shall be immediately reported to OSHA by telephone.

OSHA personnel shall also visit worksites to observe the experiment, examine records, and discuss with employees their acceptance of the alternative method of protecting them.

III. Decision

Section 6(b)(6)(C) of the Act authorizes the granting of an experimental variance in situations where the Secretary of Labor or of Health, Education, and Welfare (now Health and Human Services) determines that it is necessary in order to allow an employer to participate in an experiment designed to demonstrate or validate new and improved techniques to safeguard the health and safety of workers.

Therefore, before a variance can be granted under this section of the Act, the following determinations must be made:

1. There is an experiment designed to demonstrate or validate a new and improved technique to safeguard the health and safety of workers;

2. That such experiment has been or should be approved by either the Secretary of Labor or the Secretary of Health and Human Services; and,

3. That, in order to carry out the experiment, the Secretary of Labor has determined, or the Secretary of Health and Human Services has certified, that it is necessary for the employer to deviate from compliance with the standard or portion thereof.

The Secretary of Labor hereby determines that the conditions described in this notice meet the criteria of the Act for granting an experimental variance as follows:

1. There is an experiment designed to demonstrate or validate a new and improved technique to safeguard the health or safety of workers.

29 CFR 1910.212 is concerned with general requirements for all machines as they relate to machine guarding, and anchoring fixed machinery, respectively. Paragraphs (a)(1) and (a)(2) deal with types of machine guarding and general requirements for machine guards.

29 CFR 1910.212(a)(1) states that "One or more methods of machine guarding shall be provided to protect the operator and other employees in the machine area from hazards such as those created by point of operation, ingoing nip points, rotating parts, flying chips, and sparks. Examples of guarding methods are—barrier guards, two-hand tripping devices, electronic safety devices, etc."

29 CFR 1910.212(a)(2) states that "Guards shall be affixed to the machine where possible and secured elsewhere if for any reason attachment to the machine is not possible. The guard shall be such that it does not offer an accident hazard in itself."

This experiment, which will be carefully controlled and monitored, should determine whether the combination of modifications and equipment, (e.g., "smooth" kelly bushings, length or location of wash down hoses), and closely supervised work practices reenforced by appropriate training procedures, will provide protection equivalent to that provided by the use of guards.

2. That such experiment has been or should be approved by either the Secretary of Labor or the Secretary of Health and Human Services.

The desired objective of the experimental variance is the valuation of the safety of utilizing the alternative procedure and the determination of whether this alternative procedure provides protection equivalent to 29 CFR 1910.212.

It is determined that the experiment as described is a valid means for OSHA to evaluate the effectiveness of the procedure.

A 90 day time period has been selected as an appropriate length for this experiment. This will allow the accumulation of an adequate amount of data and observation of the procedure to determine whether it is adequate as devised or whether some modification is necessary.

3. That, in order to carry out the experiment, the Secretary of Labor has determined, or the Secretary of Health and Human Services has certified, that it is necessary for the employer to deviate from compliance with the standard in whole or in part.

Although the proposed procedure appears to be as least as protective of employees as rigid adherence to the standard, without the experiment, as devised, this determination cannot be fully made. Thus, it is necessary for the participating employers to engage in a procedure which deviates from the standard in order to carry out the experiment as described.

For the reasons detailed above, it is determined that this proposed experiment meets the criteria for an experimental variance under section 6(b)(6)(C) of the Act and it is hereby approved.

IV. Order

Pursuant to the authority in Section 6(b)(6)(C) of the Occupational Safety and Health Act of 1970, and in Secretary of Labor's Order No. 8–76 (41 FR 25059), it is ordered that the companies and sites previously listed be, and are hereby, authorized to conduct an experiment involving an alternative method of preventing worker contact with rotating kelly bushings and exposed portions of rotary tables on oil and gas well drilling rigs in lieu of

complying with the physical guarding requirements of 29 CFR 1910.212(a)(1) and (a)(2). The experiment shall be subject to the following conditions and requirements.:

1. This experiment is limited to those rigs utilizing kelly bushings that are classed as "smooth", i.e., having no projections of the J-bolt type. All kelly bushings other than the "smooth"type shall have a substantially constructed kelly bushing/rotary table guard in place.

2. The participants shall comply with all other requirements of 29 CFR 1910.212 as applicable, as well as with all other applicable OSHA regulations.

3. All participating employees shall be trained in safe operating procedures.

4. The employer shall designate the person who will be the equipment operator and shall assure that he is trained and competent.

5. The designated equipment operator shall control the access and activity of personnel on the drilling floor while equipment is rotating, or shall stop such equipment from rotating until there is no danger to personnel from that equipment.

6. The equipment operator shall never engage the rotary clutch without first assuring that no employees are on, or in proximity to, the rotary table in such manner that they could be endangered.

7. At any time an employee's work activities require the handling of materials which can become entangled in the rotary table, the kelly bushing, or kelly while such equipment is in motion, a person capable of stopping the rotating equipment shall be at the controls.

8. No materials which may become entangled in the rotary table and kelly bushing shall be allowed within 6 inches of this equipment when it is to be operated.

9. Wash down hoses shall be of such length, or located in such manner, that they cannot be brought within 6 inches of the kelly bushing.

10. Spinning chain shall not be wrapped around the joint of the pipe in the mousehole, nor handled on the drilling floor within 2 feet of the exposed rotating portions of the rotary table, kelly bushing, or kelly.

11. Any injury occurring during the operation, and related to the conditions of this experimental variance, shall be immediately reported to the Office of Variance Determination by telephone: (202) 523–7183. A written report shall also be made describing the incident and all other pertinent information concerning the incident.

12. Representatives of the Occupational Safety and Health Administration may visit the worksites to observe the experiment in operation, to examine records, and to obtain information concerning employee acceptance of the method.

13. A record shall be made of the number of rigs involved in the experiment at each site and shall include for each rig: the total number of personnel participating in the experiment; the number of shifts per 24 hour period and the number of participating employees on each shift; and the number of hours the rig was operated during each shift.

14. Reports and records required by this order shall be available for inspection at each rig site and shall be submitted at the completion of the experiment to the Office of Variance Determination of the Occupational Safety and Health Administration.

15. This variance shall continue in effect for a period of 90 days unless revoked.

16. The Assistant Secretary for Occupational Safety and Health reserves the right to revoke or modify this variance for reasons of injury to employees, failure to comply with the terms of this order, a previously unanticipated hazard being caused by the experiment, or for other good cause. Such revocation or modification shall be effective upon receipt of notice thereof.

As soon as possible, all participating employers shall give notice to affected employees of the terms of this order by giving a copy of it to their authorized employee representative and/or by posting a copy at all places where notices to employees are normally posted.

Effective date: This order shall become effective on June 8, 1982, and shall remain in effect until September 7, 1982 unless revoked.

Signed at Washington, D.C., this 3rd of June 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82–15538 Filed 6–3–82; 8:45 am]

BILLING CODE 4510–26–M

Office of Pension and Welfare Benefit Programs

[Application No. D–3294]

Proposed Exemption for Certain Transactions Involving the Retirement Plan for Employees of the Arizona Bank Located in Phoenix, Ariz.

AGENCY: Office of Pension and Welfare Benefits Programs, Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale on December 31, 1979 of a repurchase agreement (the Agreement) to the Retirement Plan for Employees of the Arizona Bank (the Plan) by the Arizona Bank (the Bank), the Plan sponsor. The proposed exemption, if granted, would affect the Bank and the Plan and its participants and beneficiaries.

DATES: Written comments and requests for a public hearing must be received by the Department on or before July 23, 1982.

EFFECTIVE DATE: The exemption, if granted, will be effective as of December 31, 1979.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–3294. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Department, telephone (202) 523–8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b) (1) and (2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this

notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a defined benefit plan with approximately 1,457 participants as of December 29, 1981 and net assets of approximately $6.85 million at the time of the sale of the Agreement. The Bank is an Arizona corporation engaged in the general banking business. The Bank's Trust Department was responsible for investment decisions for the Plan at the time of the subject transaction.

2. The Employer's 1979 Plan contribution in the amount of $1,434,101 was transmitted to the Trust Department on the afternoon of Monday, December 31, 1979. The Trust Department sought to identify the best temporary investment available under the circumstances until such time as the funds could be permanently invested. As a matter of policy, the Trust Department does not hold or invest Plan assets with the Bank, unless necessary to pay benefits to participants or to hold funds prior to investment outside the Bank. However, because the national money markets were closed for the day, and because the next business day was January 2, 1980, the Trust Department entered into the Agreement on December 31, 1979.

3. Through the Agreement, the Bank obtained the use of the Plan's funds for seven days, in return for which the Plan was credited with U.S. Treasury Bills with a maturity date of June 5, 1980, equal in face amount to the amount of the Plan contribution. On January 7, 1980, the Bank repurchased the government securities from the Plan, and the Plan's funds were then reinvested through normal channels outside of the Bank.

4. The terms and conditions of the Agreement were the same as those the Bank used in dealing with unrelated parties. The interest rate under the Agreement was 11%, which was the interest rate available for repurchase agreements for that day. The seven-day return to the Plan was $3,025 whereas, if the Plan contribution had been invested in a Bank savings account at 5.25%, the Plan would have earned $1,444. Therefore, of the two viable investment choices available, the Agreement was substantially more advantageous to the Plan.

5. In summary, the applicant represents that the transaction satisfies the statutory criteria of section 408(a) of the Act due to the following:

a. the Bank represents that under the circumstances described above, and with the limited choice of short-term investment vehicles then available, the purchase of the Agreement was in the interest of the Plan and provided the greatest return to the Plan of the available short-term investment choices;

b. the interest rate and terms of the Agreement were the same as the Bank used in arm's-length transactions with unrelated parties; and

c. pursuant to the Agreement, the Plan received U.S. Government securities equal to 100% of the amount invested in the Agreement, providing adequate security in the event of the Bank's default on the Agreement.

Notice to Interested Persons

Notice of the proposed exemption will be given to all Plan participants and beneficiaries within 15 days of its publication in the **Federal Register**. Participants who are current Bank employees will be notified by posting on the Bank's employee bulletin boards. Participants who are not current Bank employees and beneficiaries will be notified by first class mail. The notice will contain a copy of the proposed exemption as published in the **Federal Register** and will inform each recipient of his right to comment on or request a hearing regarding the proposed exemption.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirements of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b) (1) and (2) of the Act and the sactions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the Agreement entered into between the Bank and the Plan, provided that the terms and conditions of the Agreement were at least as favorable to the Plan as those it could have obtained from an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes

all material terms of the transaction that is the subject of the exemption.

Signed at Washington, D.C., this 1st day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-15316 Filed 6-7-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. L-3181]

Proposed Exemption for Certain Transactions Involving the Chase Bank Special Growth Fund and the Chase Bank Inter-Mediate Capitalization Fund of the Chase Manhattan Bank, N.A. Located in New York City, N.Y.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act). The proposed exemption would exempt certain past interaccount sales of publicly traded common stock (the Securities) between the Chase Bank Inter-Mediate Capitalization Fund (the Capitalization Fund) and the Chase Bank Special Growth Fund (the Growth Fund), (together, the Funds), which are collective investment funds managed by the Chase Manhattan Bank, N.A. (Chase). The proposed exemption, if granted, would affect Chase, participants and beneficiaries of the Funds and other persons participating in the transactions.

EFFECTIVE DATE: The effective date of this exemption is January 29, 1982.

DATES: Written comments and requests for a public hearing must be received by the Department on or before July 19, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. L-3181. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Department, telephone (202) 523-8881. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendence before the Department of an application for exemption from the restrictions of section 406(b)(2) of the Act. The proposed exemption was requested in an application filed by Chase, pursuant to section 408(a) of the Act, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. Chase is a New York State banking corporation which manages in excess of $3 billion in assets of employee benefit plans subject to Title I of the Act. In 1957, Chase established collective investment funds in response to the desires of its retirement plan customers (the Plans) to participate in diversified portfolios of publicly traded common stocks. To participate, a Plan must be qualified under section 401(a) of the Code and the trusts thereunder must be exempt from taxation under section 501(a) of the Internal Revenue Code of 1954. Chase currently manages 10 such collective investment funds, two of which are the Capitalization Fund and the Growth Fund.

2. As of December 31, 1981, 56 Plans with total assets of $198,342,902.03 were participating in the Growth Fund. As of December 31, 1981, 54 Plans with total assets of $154,524,129.18 were participating in the Capitalization Fund. With two exceptions, each Plan that is participating in the Funds has approximately the same percentage of Plan assets invested in both the Growth Fund and the Capitalization Fund. Two Plans participate only in the Growth Fund. In addition, the Chase Bank Equity Fund (the Chase Fund), in which 96 other Plans are invested, participates in the Funds.

3. The investment emphasis in both the Growth Fund and the Capitalization Fund is capital appreciation. The Growth Fund has concentrated its investments on companies with market capitalizations of between $25 million and $250 million, while the Capitalization Fund has focused its investments on companies with market capitalizations of between $250 million and $500 million. Although the foregoing guidelines have established the basic investment emphasis of the Funds, investments are not limited to such securities, and securities have been held in each Fund which fall outside the above-mentioned market capitalization ranges. In addition, there have been instances where the same security has been held in each Fund. All of the securities now held in the Funds are traded either on a national securities exchange or on the over the counter market. None of the Securities held are subject to restrictions on transfer under the Securities Act of 1933.

4. Chase's Institutional Investment Committee determined that the Funds would be most effectively managed and the interests of participating plans best served if the investment emphasis of the Growth Fund were broadened to include a number of securities of the type now held in the Capitalization Fund, and for the Capitalization Fund to acquire a broader spectrum of securities, in terms of market capitalization size, than heretofore held. The decision to modify the composition of each of the two Funds was made after due consideration of the investment portfolios of each Fund and with regard to the interests of the participants in each of the Funds. The shift in investment emphasis of the two Funds will result in a restructured Growth Fund portfolio which will hold a number of securities presently held in the Capitalization Fund. Chase identified certain Securities which were held in the Capitalization Fund, having a current market value of approximately $85 million and which were appropriate for inclusion in the portfolio of the Growth Fund.

5. The applicant is requesting an exemption that will exempt the past sale of the Securities by the Capitalization Fund to the Growth Fund. The applicant represents that although the sales and purchases of the Securities could have been effectuated in the open-market, transfers effectuated in this manner would have entailed brokerage commissions of approximately $450,000. In addition, the applicant represents that the transactions would have had an unfavorable market impact on both the sales and purchases of the shares of common stock in question, many of which have a relatively low daily trading volume. In light of market conditions Chase determined to conduct the sale of the Securities in two parts. On January 29, 1982, certain of the Securities comprising 60% of the total value of the Securities were sold by the

Capitalization Fund to the Growth Fund. On March 18, 1982, the remaining 40% of the Securities were sold by the Capitalization Fund to the Growth Fund.

6. For Securities listed on a national sales exchange, the price at which the Securities were sold was the closing market price of the Security on the date of sale and for over-the-counter issues, the mean between the bid and asked prices at the market close on the date of sale. Chase represents that such pricing procedure assured that each Fund received fair market value in the sales and that neither Fund obtained an advantage by virtue of a sale. The sales did not in and of themselves, have any impact on the respective values of the accounts involved as of the time of sale. Chase did not receive any commissions, special fees or increases in its regular investment management fees for effecting these sales. The sales were made for the sole purpose of benefiting the interests of Plans who participate in the Funds.

7. The need for an exemption arises because the interaccount sales described above might constitute a violation of section 406(b)(2) of the Act, which generally prohibits a plan fiduciary from acting on behalf of or representing, an adverse party in a transaction with a plan. No request for an exemption from any other provision of the Act has been made by Chase.

8. The applicant represents that the sales of the Securities satisfy the criteria of section 408(a) of the Act as follows: (1) Chase did not receive any commissions, special fees or increases in its regular investment management fees for effecting these sales; (2) the sales were made for the sole purpose of benefiting the interests of Plans that participate in the common stock accounts of Chase; (3) the sales saved the Funds from having to pay brokerage commissions of approximately $450,000; and (4) each Fund received fair market value in each sale and neither Fund obtained an advantage by virtue of a sale.

Notice to Interested Persons

Within ten days of its publication in the **Federal Register** a copy of the notice of pendency and a statement advising interested persons of their right to comment or request a hearing, will be mailed by Chase to the sponsor, or to another appropriate Plan fiduciary of all involved Plans.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act does not relieve a fiduciary or other party in interest from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(a), 406(b)(1) and 406(b)(3) of the Act.

(3) Before an exemption may be granted under section 408(a) of the Act, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted will be supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(b)(2) of the Act shall not apply to certain past inter-account sales of the Securities by Chase as described herein.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all materials terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 1st day of June, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82–15314 Filed 6–7–82; 8:45 am]

BILLING CODE 4510–29–M

[Application No. 3147]

Proposed Exemption for Certain Transactions Involving the Greater Cleveland Hospital Association Retirement Plan Located in Cleveland, Ohio

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the loan of $1,200,000 by the Greater Cleveland Hospital Association Retirement Plan (the Plan) to 1226 Huron Road Co., Ltd. (HRC), an unrelated party. HRC will use the proceeds of the loan to make improvements to real property which it will lease to the Greater Cleveland Hospital Association (GCHA) and its affiliates, which are parties in interest with respect to the Plan. The proposed exemption, if granted, would affect GCHA, its affiliates, participants and beneficiaries of the Plan, and others participating in the transactions.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before July 19, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No.

D–3147. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of GCHA and the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan is a form of master plan that has been adopted by GCHA for its employees. GCHA is a not-for-profit corporation in which hospitals and health care institutions are invited to become members. Approximately 31 such institutions have adopted the Plan by joinder agreement. The Plan is a tax-qualified plan with respect to each employer subscribing to it. For purposes of the Act and the Code, the Plan is treated as a separate plan with respect to each adopting employer. As of July 1, 1981, the market value of the Plan's assets equaled $89,050,495. The Plan had approximately 17,000 participants as of that date.

2. The Plan proposes to loan $1,200,000 to HRC, an Ohio limited partnership. HRC is the owner of land and a multi-story office building in downtown Cleveland, which GCHA and its affiliates will occupy under a lease now being negotiated. There will be no tenants other than GCHA and its affiliates. The proceeds of the loan from the Plan will be used by HRC to improve the real estate which will be leased. HRC is not related to GCHA, any other participating employer, or any other party in interest.

3. Interest for the first five years of the loan will be at 12 percent. Interest for the next 15 years will be not less than 1% over the prime rate charged at the beginning of each fifth year of the loan by Citibank Corporation of New York, but will be not less than 12% per year nor more than 15% per year. Principal and interest will be repaid under a 30 year amortization schedule. There will be a balloon payment at the end of the 20th year in the amount of the entire unpaid balance of the principal and interest then due.

4. Should the property be sold by HRC at any time prior to the end of the 20th year, the difference between the sale price and the initial value of the property will be shared by the Plan and HRC. The Plan will receive 9% of this difference if the property is sold before the 10th anniversary of the loan, and 10% of this difference if the sale occurs after the 10th anniversary of the loan but before the 20th anniversary. In the event the property is not sold during the 20 year period of the loan, the difference between the appraised value at the end of the 20th year and ther initial value of the real estate at the inception of the loan will be the subject of a payment to the Plan equal to 10% of the difference between the two values. The initial value for purposes of these calculations has been set at $1,800,000, though the property has been appraised at $1,900,000 (see 7. below).

5. GCHA has named Mr. Raymond E. Rossman, President and Chairman of the Board of the Midwest Bank and Trust Co. (the Bank), as an independent fiduciary. It is intended that the Bank will be named as a second trustee for the Plan (under a separate trust document) to hold the subject promissory note and mortgage and to administer it and remit the repayment proceeds to the Plan. The trust document will name Mr. Rossman as trust advisor to the trustee and as independent fiduciary for the Plan, and will direct the trustee to take whatever actions Mr. Rossman directs in the course of his duties as independent fiduciary to enforce the loan on behalf of the Plan and its participants. Mr. Rossman is not an officer or director of GCHA, nor of any of the employers maintaining any plan administered by GCHA. Mr. Rossman represents that he has been selected in the past as an independent fiduciary in connection with other similar transactions of this kind.

6. Mr. Rossman has made a determination that the proposed loan would be appropriate for the Plan for the following reasons: (1) the loan terms include a reasonable equity participation, and along with it reasonable minimum and maximum interest rates; (2) the loan has excellent collateral in the form of a first mortgage on the real estate in a good and developing section of downtown Cleveland; and (3) the property will be leased by HRC to a good, stable tenant. Mr. Rossman represents that in today's economy, real estate loans are not generally made unless there is a degree of equity participation by the lender in the transaction. Where a real estate loan does involve participation by the lender in the appreciation of the mortgaged property, the borrower will be reluctant to the point of refusal to pay interest rates at today's prevailing high rates. If the loan is to be made with the lender participating in the appreciation, the borrower will normally refuse to agree to interest that will float with the prime rate. Instead, the parties will normally negotiate a reasonable ceiling on the interest. Historically, a 15% rate has been very attractive, and thus, notwithstanding the current bulge in interest rates, the 15% ceiling in the proposed transaction is attractive, considering the equity participation and the quality of the tenant. The minimum interest rate of 12% is an appropriate protection for the lender in the event interest rates should fall during the 20 year term of the loan.

7. The loan is to be secured by a first mortgate on the subject property. The property has been appraised by Mr. John A. Davis, MAI, an independent appraiser in Cleveland, Ohio. Mr. Davis determined that the property will have a fair market value of $1,900,000 after completion of the scheduled renovations. Thus, the collateral/loan ratio would be approximately 158%. As stated in 4. above, for the purposes of computing the Plan's equity participation in the property's appreciation, however, the parties have agreed to set the initial value of the property at $1,800,000.

8. In summary, the applicants represent that the proposed transaction meets the statutory criteria for an exemption under section 408(a) of the Act because: (1) the loan only involves approximately 1.3% of the Plan's assets; (2) the loan is secured by real property with an appraised value that is more than 1½ times the amount of the loan; (3)

the Plan will participate in the appreciation of the property; (4) the loan will be administered by an independent fiduciary who will take whatever actions are necessary to enforce the Plan's rights; and (5) the independent fiduciary has determined that the transaction is appropriate for the Plan and is in the best interests of its participants and beneficiaries.

Notice to Interested Persons

Within 10 days after the publication of this proposed exemption in the **Federal Register**, the applicants will notify all Plan participants by posting a notice on the appropriate bulletin boards of the respective employers. Such notice will contain a copy of the proposed exemption as it appears in the **Federal Register**, and will notify interested persons of their right to comment and request a hearing.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to a loan of $1,200,000 by the Plan to HRC, under the terms and conditions set forth above, provided that the terms of the transaction are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party at the time of the consummation of the transaction.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 1st day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-15313 Filed 6-7-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-92; Exemption Application No. D-2905]

Exemption From the Prohibitions for Certain Transactions Involving the Profit-Sharing Plan for Employees of Gibraltar Savings Association Located in Houston, Tex

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption will exempt the sale by the Profit-Sharing Plan for Employees of Gibraltar Savings Association (the Plan) of all of its non-cash assets to Gibraltar Savings Association (the Employer), the Plan sponsor.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On April 2, 1982, notice was published in the **Federal Register** (47 FR 14252) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above-described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice has been provided to interested persons in compliance with the provisions of the notice of proposed exemption. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102

of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interest of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale by the Plan of all of its non-cash assets to the Employer for $1,275,061, provided that the sales price of each asset is not less than its fair market value as of the date of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 1st day of June, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration. U.S. Department of Labor.

[FR Doc. 82-15310 Filed 6-7-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D–3287]

Proposed Exemption for Certain Transactions Involving the Hammer, Siler, George Associates Retirement Plan Located in Silver Spring, Maryland

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed loan of $145,000 (the Loan) by the Hammer, Siler, George Associates Retirement Plan (the Plan) to 1111 Bonifant Associates (the Partnership), a party in interest with respect to the Plan; and other transactions, as described herein, to be executed in accordance with the terms of the Loan. The proposed exemption, if granted, would affect the Plan and its participants and beneficiaries, the Partnership, and any other persons participating in the proposed transactions.

DATES: Written comments and requests for a public hearing must be received by the Department on or before July 20, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–3287. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Partnership, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a defined benefit pension plan with, as of December 31, 1981, 38 participants and total assets of approximately $723,000. Messrs. Robert W. Siler, Vernon George and David C. Slater are the trustees of the Plan (the Trustees) and exercise investment discretion with respect to Plan assets.

2. Hammer, Siler, George Associates, Inc. (the Employer) is the sponsor of the Plan. The Employer is engaged in the business of urban economic development consulting. The Partnership is a Maryland general

partnership consisting of nine partners (the Partners), each of whom is an officer and employee of the Employer. An interest of approximately 84% of the Partnership is owned by the Trustees.

3. The applicant seeks an exemption to allow the Plan to engage in the Loan with the Partnership. The Loan amount of $145,000 will represent approximately 20% of the Plan's total assets. The Loan will be for a term of 10 years with monthly payments of principal and interest amortized upon a twenty year schedule. For the first five years of the Loan's term the interest rate will be the greater of 15% per annum or the prevailing rate for similar loans in the Washington, D.C. metropolitan area at the time the Loan is entered into. At the beginning of the sixth and each succeeding year of the term of the Loan the interest rate will be adjusted to the greater of 15% or the then-prevailing rate for comparable loans in Washington, D.C.

4. The Loan will be secured by a duly recorded second mortgage on an improved parcel of real property located at 1111 Bonifant Street, Silver Spring, Maryland (the Property). Mr. Donald C. McCandless, MAI, CRE, made a complete appraisal of the Property and determined that, as of April 1, 1982, its fair market value was $705,000. Mr. McCandless is a lessee in the Property. The Partnership expects to lease part of the Property to the Employer.

5. The Property is subject to an existing purchase money first deed of trust dated January 11, 1982, in the amount of $325,000 (the Mortgage). Pursuant to the terms of the Mortgage, its entire principal balance is due and payable by the Partnership at the end of the fifth year from its date of execution. The initial outstanding balance of the Loan and the principal amount due under the Mortgage will collectively represent approximately 65% of the appraised value of the Property. The Partnership represents that it will ensure that throughout the term of the Loan the value of the collateral securing the Loan has a value at least 150% of the sum of the total outstanding balance of the Mortgage and the Loan. Should the value of the Property fall below this amount, additional collateral will be provided. Throughout the term of the Loan the Property will be insured against fire and other hazards in an amount equal to or exceeding the sum of the total outstanding balance of the Mortgage and the Loan. The Plan will be named as loss-payee on the insurance policy to the extent of its interest in the Property subject only to the rights of the mortgagee with respect to the Mortgage.

6. A full recourse note rendering each Partner personally liable to the Plan in the event of default will be executed by the Partnership. The aggregate net worth of the Partners exceeds $2,500,000. Additionally, the Partnership will assign to the Plan rents due under the lease to be entered into with the Employer (and any and all other leases entered into during the term of the Loan) in order to permit the Plan to collect lease payments directly in the event of default. The Employer will execute a written commitment to purchase the note securing the Loan from the Plan for an amount equal to its outstanding principal balance plus accrued interest in the event of any default which is not cured within 90 days. As of October 31, 1981, the Employer had a net worth exceeding $425,000.

7. Mr. Eugene Mattison (Mr. Mattison), an attorney and C.P.A. located in Upper Marlboro, Maryland, will serve as the independent fiduciary for the Plan with respect to the proposed Loan. Mr. Mattison has no business relationships with any of the parties involved in the proposed transaction and is qualified in both employee benefit plan and real estate matters. Mr. Mattison has examined the terms of the proposed Loan and has determined that they are fair and reasonable. Mr. Mattison has determined that the proposed Loan is an appropriate and suitable investment for the Plan and is in the best interests of the Plan. Mr. Mattison has determined that Mr. McCandless is sufficiently independent of the parties and that he is satisfied with the appraisal report prepared by Mr. McCandless. Mr. Mattison also has determined that the second deed of trust is adequate security for the Loan. Mr. Mattison will again make these determinations immediately prior to the consummation of the Loan. Mr. Mattison will enforce the terms of the Loan and the second trust deed and will be empowered to make demand upon the Partnership for timely payment; bring suit or other appropriate process against the Partnership in the event of default; report at least annually to the Plan on the performance of the Loan; determine that the initial interest rate to be charged is appropriate, and determine the interest rate that the Loan will bear after the initial five years of the Loan's term; and ensure that throughout the term of the Loan the Property, and other collateral, will have a value not less than 150% of the sum of the total outstanding balance of the Mortgage and the Loan.

8. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria of section 408(a) of the Act because (a) the Loan will enable the Plan to realize a high rate of return which will not be less than 15% per annum; (b) the Loan will be secured by a duly recorded second deed of trust on the Property which has been appraised as having a value and equal to 150% of the total outstanding liens on the Property; (c) an independent, qualified party, Mr. Mattison, has determined that the terms of the Loan are fair and reasonable, the security is adequate and protective of the interests of the Plan, and the Loan is an appropriate and suitable investment for the Plan; and (d) Mr. Mattison will be empowered to completely monitor and enforce the terms of the Loan.

Notice of Interested Persons

Within 10 days after publication in the **Federal Register** notice will be provided to all participants in the Plan by mail. Notice will include a copy of this Notice of Proposed Exemption as published in the **Federal Register** together with a statement informing such interested persons of their right to comment and/or request a hearing with regard to the proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible,

in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to (1) the Loan of $145,000 by the Plan to the Partnership; and (2) other transactions to be executed in accordance with the terms of the Loan, including the commitment by the Employer to purchase the note securing the Loan from the Plan for an amount equal to its outstanding principal balance plus accrued interest in the event of any default by the Partnership which is not cured within 90 days; provided that the Loan and other transactions to be consummated pursuant to the terms of the Loan are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated third party at the time of the consummation of the transaction.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 1st day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-15317 Filed 6-7-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-93; Exemption Application No. D-3006]

Exemption From the Prohibitions for Certain Transactions Involving the Carl J. Johnson, D.D.S., Split Funded Defined Benefit Pension Plan and Trust Located in San Francisco, California

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the sale by the Carl J. Johnson, D.D.S., Split Funded Defined Benefit Pension Plan (the Plan) of a limited partnership interest to Carl and Emma Johnson (the Plan Trustees), parties in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8884. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On April 9, 1982, notice was published in the **Federal Register** (47 FR 15438) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for a transaction described in an application filed by legal counsel for the Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of the notification to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or

statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale of a limited partnership interest in La Mariposa III by the Plan to the Plan Trustees for $11,000, provided that this amount is not less than the fair market value at the time of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 1st day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-15811 Filed 6-7-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-97; Exemption Application No. D-3169]

Exemption From the Prohibitions for a Certain Transaction Involving the Michael Whittle, M.D., P.C. Money Purchase Pension Plan Trust Located in Albany, Georgia

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption exempts the sale of stock to the Michael Whittle, M.D., P.C. Money Purchase Pension Plan Trust (the Plan) by Dr. Michael Whittle (Dr. Whittle), a disqualified person with respect to the Plan. Since Dr. Whittle is the sole stockholder of Michael Whittle, M.D., P.C. (the Employer), and the only participant in the Plan, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Internal Revenue Code of 1954 (the Code).

TAX CONSEQUENCES OF TRANSACTION: The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Code, including sections 401(a)(4), 404 and 415.

EFFECTIVE DATES: This exemption is effective October 12, 1981.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523–881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On April 20, 1982, notice was published in the **Federal Register** (47 FR 16912) of the pendency before the Department of Labor (the Department) of a proposal to grant and exemption from the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (E) of the Code, for a transaction described in an application filed on behalf of Dr. Whittle. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code does not relieve a fiduciary or other disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 4975(c)(2) of the Code and the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722, and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the October 12, 1981 sale of 500 shares of Class A Special Stock of Pathologists' Service Professional Associates, Inc. (the Stock) by Dr. Whittle to the Plan for $1,400, provided that this amount was not higher than the fair market value of the Stock on the date of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application

accurately describes all material terms of the transaction which is the subject of this exemption.

Signed at Washington, D.C., this 1st day of June, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-15306 Filed 6-7-82; 8:45 am]
BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-91; Exemption Application No. D-2641]

Exemption From the Prohibitions for Certain Transactions Involving the Mittleman, Smith, Wynn Money Purchase Pension Plan Located in Los Angeles, Calif.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits the sale of certain real property (the Property) by the Mittleman, Smith, Wynn Money Purchase Pension Plan (the Plan) to a partnership (the Partnership) which is a party in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Louis Campagna of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On April 2, 1982, notice was published in the **Federal Register** (47 FR 14253) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for a transaction described in an application filed by Mittleman, Smith, Wynn, Inc., the sponsor of the Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of notice to interested persons as stated in the notice of pendency. No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 406(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of the Property by the Plan to the Partnership for the cash sum of $350,000, provided that this amount is at least the fair market value of the Property at the time of the sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describe all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 1st day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards.

[FR Doc. 82-15312 Filed 6-7-82; 8:45 am]
BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-95; Exemption Application No. D-3075]

Exemption From the Prohibitions for Certain Transactions Involving the Nielsen Lithographing Company Employees Profit Sharing Retirement Plan Located in Cincinnati, Ohio

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption will exempt the proposed loan of funds (the Loan) by the Nielsen Lithographing Company Employees' Profit Sharing Retirement Plan (the Plan) to Nielsen Lithographing Company (the Employer), a party in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200

Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On April 9, 1982, notice was published in the **Federal Register** (47 FR 15446) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above-described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice has been provided to interested persons in compliance with the provisions of the notice of proposed exemption. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not believe a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transactional rule is not dispositive of whether the transaction is, in fact, a prohibition transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406 (b)(1), and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the Loan by the Plan to the Employer, provided that the terms and conditions of the Loan are not less favorable to the Plan than those obtainable in a similar transaction with an unrelated party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the appplication are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 1st day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards.

[FR Doc. 82-15308 Filed 6-7-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D–3096]

Proposed Exemption for Certain Transactions Involving Employee Benefit Plans Investing in Property Investment Separate Account Maintained by Prudential Life Insurance Company of America Located in Newark, N.J.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the past and prospective leasing (the Leases) of office space by Property Investment Separate Account (PRISA), a separate account in which employee benefit plans (the Plans) invest, which is maintained by the Prudential Insurance Company of America (Prudential), to Bache, Halsey, Stuart, Shields, Inc. (Bache), a subsidiary of Prudential. The proposed exemption, if granted, would affect PRISA, Prudential, Bache, the Plans and their participants and beneficiaries.

DATES: Written comments must be received by the Department on or before July 19, 1982.

EFFECTIVE DATE: The proposed exemption, if granted, will be effective as of March 18, 1981.

ADDRESS: All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, Attention: Application No. D–3096. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Department,

telephone (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code. The proposed exemption was requested in an application filed by Prudential, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. Prudential is a mutual life insurance company with total assets of more than $59 billion as of December 31, 1980. Prudential provides funding, asset management and other services for thousands of employee benefit plans. Prudential also maintains a number of pooled separate accounts, including PRISA, in which employee benefit plans invest. PRISA is a real estate pooled separate account established by Prudential in 1970 to invest in income-producing properties such as office buildings and shipping centers. PRISA currently holds equity or mortgage interests in more than 365 properties. As of June 30, 1981, PRISA had total assets of more than $2.9 billion. Approximately 357 Plans are currently invested in PRISA with accounts ranging from less than $1 million to more than $100 million.

2. Bache is a securities brokerage firm with 184 offices located throughout the Unites States. As of January 31, 1981, Bache had total assets of almost $3.4 billion. On June 11, 1981, Bache shareholders approved the merger of Bache into a Prudential subsidiary, Pru Holdings Inc. Bache is currently 100% owned by Prudential.

3. Prior to its acquisition by Prudential, Bache leased space in four office buildings (the Buildings) owned by PRISA. The Buildings are located in San Francisco, Boston, Tulsa, Oklahoma and Jacksonville, Florida. Each of the Buildings is 99 to 100 percent leased and each Building has appreciated in value since it was purchased by PRISA. The percentage of the rentable space that Bache or a Bache affiliate leases in each Building is as follows: San Francisco—12 percent; Boston—less than 1 percent; Tulsa—3 percent; and Jacksonville—4 percent. The total amount of space leased to Bache in the Building constitutes substantially less than 1 percent of the rentable space in PRISA properties and the rental received represents less the ¼ of 1 percent of PRISA's total income for the year ended June 30, 1981.

4. The applicant requests an exemption for these leases effective as of March 18, 1981, which was the date that the Prudential Board of Directors approved the making of a tender offer for Bache. The applicant emphasizes that it filed an application for exemption regarding the Leases shortly after Prudential acquired Bache.

5. The applicant represents that each lease was negotiated on an arm's-length basis and executed prior to Prudential's acquisition of Bache. Moreover, the leases of the San Francisco, Boston and Tulsa Buildings were executed prior to their acquisition by PRISA. Also, the terms and conditions of the leases are essentially identical to leases with other, unrelated tenants in each of the Buildings.

6. The applicant represents that Prudential retains independent property management firms (Management Firms) for each of the Buildings. The Management Firms manage the Buildings and are also responsible for negotiating extensions, waivers, renewals or options with respect to the Leases, within guidelines established by the Prudential Real Estate Investment Department.

7. However, Prudential, on behalf of PRISA, has agreed not to permit any transaction to take place that would involve any expansion of space, extension, renewal, waiver, exercise of option or any other modification to the existing Leases, or to lease any additional space to Bache in the four Buildings. In addition, the applicant has represented that since the date that the tender offer for Bache was made, no modifications of the Leases have been made. Therefore, the Leases will terminate, respectively, on the following dates: (a) San Francisco—November 15, 1986; (b) Boston—April 30, 1982; (c) Tulsa—September 30, 1985; and (d) Jacksonville—May 31, 1984.

8. In summary, the applicant represents that the transactions satisfy the statutory criteria of section 408(a) due to the following:

(a) Prudential represents that the continuation of the Leases is in the Plans' interests as they were negotiated at arm's-length prior to Prudential's acquisition of Bache;

(b) No modifications of any kind have been or would be made to the Leases; and

(c) The applicant requested an exemption for the Leases shortly after Prudential acquired Bache.

Notice to Interested Persons

Notice of the proposed exemption will be mailed to the appropriate Plan fiduciary for each Plan participating in PRISA within 15 days of its publication in the **Federal Register**. The notice will include a copy of the proposed exemption as proposed in the **Federal Register** and will inform each recipient of his right to comment on the proposed exemption.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1) (E) and (F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its

participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the Leases between PRISA and Bache, provided that the terms and conditions of the Leases are at least as favorable to PRISA as those it could obtain from an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions that are the subject of this exemption.

Signed at Washington, D.C., this 1st day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards.

[FR Doc. 82-15816 Filed 6-7-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-66; Exemption Application No. D-3125]

Exemption From the Prohibitions for Certain Transactions Involving Seafirst Corporation Retirement Plan Located in Seattle, Washington (Exemption Application No. D-3125)

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits the lease (the Lease) of real property by the Seafirst Corporation Retirement Plan (the Plan) to Seattle-First National Bank (the Employer), the Plan sponsor.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8195. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: On March 5, 1982, notice was published in the **Federal Register** (47 FR 9613) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b) (1) and (2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above-described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice was distributed in accordance with the requirements set forth in the proposed exemption. No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(a)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a), 406(b) (1) and (2) of the Act and the sanctions resulting from the

application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the Lease between the Plan and the Employer, provided that the terms and conditions of the Lease are and remain at least as favorable to the Plan as those it could obtain from an unrelated party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 1st day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards.

[FR Doc. 82-15307 Filed 6-7-82; 8:45 am]
BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-94; Exemption Application No. D-3039]

Exemption From the Prohibitions for a Certain Transaction Involving the Ro-Mac Lumber and Supply, Inc., Profit Sharing Plan, Located in Tavares, Florida (Exemption Application No. D-3039)

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits the loan of $175,000 by the Ro-Mac Lumber and Supply, Inc. Profit Sharing Plan (the Plan) to Ro-Mac Lumber and Supply, Inc. (the Employer) and the guarantee of this loan by the principal shareholders of the Employer.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Hamilton of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On April 2, 1982, notice was published in the **Federal Register** (47 FR 14255) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the above-described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has satisfied the notification requirements as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the loan of an amount, not to exceed $175,000 by the Plan to the Employer and the guarantee of the Loan by the principal shareholders of the Employer, provided the terms of the Loan are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 1st day of June, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards.

[FR Doc 82-15309 Filed 6-7-82; 8:45 am]
BILLING CODE 4510-29-M

[Application No. D-2678]

Proposed Exemption for Certain Transactions Involving the West Coast Bank Bankers' Participation Acceptances Loan Participation Program Located in Encino, California

AGENCY: Office of Pension and Welfare Benefit Program, Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department)

of a proposed exemption form certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the International Revenue Code of 1954 (the Code). The proposed exemption would exempt, subject to certain conditions, transactions to be effected by the West Coast Bank (the Bank) in connection with the maintenance, operations and servicing of the West Coast Bank Bankers' Participation Acceptances Loan Participation Program (the Program) and the investment by certain employee benefit plans in the Program when the Bank is a party in interest with respect to an investing plan. The proposed exemption, if granted, would affect the Bank, the Program, participating plans in the Program, and any other parties participating in the proposed transactions.

DATES: Written comments and requests for a public hearing must be received by the Department on or before July 9, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-2678. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf the Bank, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Bank, formerly First State Bank of Encino, is a commercial bank incorporated under the laws of the State of California. The Bank conducts a general banking business, is licensed by the California Superintendent of Banks and its deposits are insured by the Federal Deposit Insurance Corporation (FDIC). The Bank is subject to regulation, supervision and regular examination by the State Banking Department and the FDIC. The regulations of these agencies affect most aspects of the Bank's business and prescribe the permissible types of loans and investments, the amount of required reserves, the permissible scope of the Bank's activities and various other requirements. The Bank is also subject to certain reporting requirements of the State Banking Department and the FDIC. The Bank employs the national accounting firm of Peat Marwick, Mitchell & Co. which provides auditing services to the Bank, including certified audits. As of June 30, 1981, the Bank had a total shareholders equity of approximately $5,600,000, total assets of approximately $82,000,000 and total deposits of approximately $75,000,000.

2. The Program was started in April 1980, and presently provides for the Bank to issue up to $30,000,000 of 180-day participations (the Loan Participations) in loans (the Loans) evidenced by promissory notes secured by gold or silver bullion coins (the Collateral) physically held by the Bank, or by designated depositories of the Bank. The Loans are transferred to a pool (the loan Pool) in which the Loan Participations are sold. The Loan Participations are not subject to regulation by state or federal banking authorities and are not insured by the FDIC or any other agency. The underlying Loans in the Loan Pool, however, are subject to regulation by state and federal banking authorities. The Loan Participations, which are sold exclusively to State of California residents, are not registered with the Securities and Exchange Commission under the Securities Act of 1933, as amended. The offering of the Loan Participations pursuant to offering circulars (Offering Circulars) published by the Bank is authorized by a permit granted by the Commissioner of Corporations of the State of California. The Offering Circulars are updated at least annually pursuant to requirements of the Commissioner of Banks in the State of California. Loan Participations are not readily transferable and no trading market for them exists.

3. The Loans are from the Bank's regular inventory of gold or silver bullion coin loans. The Loans are evidenced by notes payable on demand or, if no demand is made, within 180 days. The notes require variable interest payments to be made monthly based on the variable interest rate negotiated at loan origination. All Loans are secured by the Collateral and at the time of origination must have a collateral-to-loan ratio of at least 125%. It is the policy of the Bank that if the collateral-to-loan falls to 110%, the Loan is called and, if payment is not made, the Collateral sold. Current maket quotations for the Collateral are reviewed daily by the Bank. Because international precious metals markets are open 24 hours a day, five days a week, the Bank believes that it has the ability to liquidate any quantity of Collateral to major international banks, dealers and refineries with cash settlement within 24 hours.

4. Each Loan Participation is represented by a certificate evidencing an undivided dollar interest in the principal balance of the Loan Pool. Participants receive monthly payments based on a pass-through of variable interest at the Bank's daily prime rate on the amount of each Loan Participation and a return of their investment at the end of the 180 day participation period. The Bank will retain a minimum undivided interest of at least 5% of the principal balance of the Loan Pool with a minimum of $1,000,000 and will share pro rata in the payment of interest and principal from the Loan Pool on the same basis as any other participant (a Participant). The Bank may, in addition, receive additional revenues from (a) the interest differential between the Bank's daily prime rate passed through to Participants and the actual amount of interest received on Loans in the Loan Pool; (b) origination fees charged in connection with Loans sold to the Loan Pool (as of December 30, 1981, the Bank charged an origination fee of 3% of the Loan amount); or (c) any payments received for inspections, credit reports and associated charges and costs in connection with the sponsoring of the Loan Pool. The Loan origination fees are charged to a borrower at the inception of a Loan. No portion of any Participant's investment in the Program

is deducted for commissions or expenses of any nature whatsoever.

5. The applicant represents that since March 1, 1979, the Bank has made over $30,000,000 of loans secured by gold or silver bullion coins. Since the inception of the Program Participants have purchased over $8,400,000 of Loan Participations in such Loans under the Program and no Participant has ever lost any principal or interest under the Program. The Bank has a reserve of only $2,000 for potential interest loss on its $30,000,000 of Loans written. The Bank represents there are no assurances that future delinquencies or losses will not occur. The Program provides that if losses occur to principal or interest in the Loan Pool, the loss will be first charged to that day's interest differential earned by the Bank and then to Participants at the time of the loss in proportion to the Loan Participations held, including the Bank as a Participant.

6. The Bank represents that the payment of Loan Participations when due will be funded in the normal course of business by Loan payoffs and renewals. In the event of a short term need the Bank will repurchase Loans from the Loan Pool up to $500,000 in amount, in order to provide liquidity for orderly repayment of Participations. If, for any reason, these funds are insufficient for payment of Loan Participations on maturity the Bank can either call the underlying Loans or advance additional funds. The Bank reserves the right at any time and in its sole discretion to repurchase any or all of the outstanding Loan Participations for a cash payment to the Participant of an amount equal to the Participant's adjusted principal balance and accrued interest when either the individual Participant consents to the repurchase, or there is an inadequate amount of Loans available for the Program to match the amount of Loan Participations.

7. The applicant requests an exemption to allow employee benefit plans (the Plans) which meet the applicable residency requirements, i.e. that the participants of such plan are all residents of the State of California, to invest a portion of their assets in Loan participations in the Program. A participating Plan would invest in the Program under the same terms and conditions as any other Participant and a Plan would be offered Loan Participations pursuant to the Offering Circular. The Bank is not presently engaged as a trustee on behalf of any qualified employee benefit plan and the only involvement it may have is that it may serve as a depository for funds of employee benefit plans. The applicant represents that the Bank's involvement as the sponsor of the Program may cause it to be a fiduciary, as defined in the Act, with respect to Plans which invest in Loan Participations. Thus, the Bank may engage in certain prohibited transactions as described in section 406 of the Act with respect to the Program. The applicant represents that these prohibited transactions result from the normal operation of the Program and are necessary for the Bank to effectively operate the Program.[1]

8. The applicant represents that the decision to invest in Loan Participations by a Plan will be solely made by independent Plan fiduciaries. Such fiduciaries will be unrelated to the Bank and will make an independent decision whether to invest portions of their respective Plan's assets in Loan Participations. The Bank represents that it will not pay a fee to any person to solicit employee benefit plans to invest in the Program. The Bank represents that at least 50% of all Loan Participations will be held at all times by investors other than the Plans.

9. In order to afford additional protection for investing Plans, the Bank will issue letters of credit to serve as a form of insurance for Loan Participations purchased by Plans. Pursuant to such letters of credit the Bank will be obligated to add assets to the Loan Pool up to a maximum of 5% of the total principal dollar amount invested by Plans to cover losses of principal by such Plans which may result from default by a borrower after exhaustion of the Collateral. Letters of credit issued by the Bank will be adjusted quarterly to ensure that the amount of security will not be less than 5% of the total principal dollar amount invested by Plans. This insurance program is not unlike the insurance programs described in Prohibited Transaction Exemption 81–7 (PTE 81–7, 46 FR 7520) involving transactions between plans and parties in interest pertaining to investment in mortgage pool investment trusts.

10. In summary, the applicant represents that the proposed transactions satisfy the criteria of section 408(a) of the Act because (1) the decision to invest employee benefit plan assets in the program will be made solely by unrelated, independent Plan fiduciaries; (2) the Bank offers the Loan Participations pursuant to an annually updated and detailed Offering Circular published by the Bank; (3) the Bank maintains a minimum undivided interest in the Program; and (5) at least 50% of all Loan Participations will be held at all times on identical terms by investors other than employee benefit plans.

[1] No exemption from section 406(a) of the Act for the provision of services is being proposed for the transactions discussed in this exemption beyond that which is provided by section 408(b)(2) of the Act.

Notice to Interested Persons

Because no employee benefit plans presently participate in the Program, publication of this notice in the **Federal Register** will be deemed adequate notice to interested persons.

General Information

The attention of interested person is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

I. If the exemption is granted the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the sale, exchange, or transfer by the Plans of Loan Participations in the Program and the holding of such Loan Participations by the Plans provided that:

A. Such sale, exchange, or transfer is expressly approved by a fiduciary independent of the Bank who has authority to manage or control those Plan assets being invested in the Loan Participations;

B. A Plan pays no more for the Loan Participation than would be paid in an arm's-length transaction with an unrelated party;

C. No sales commission or similar compensation is paid to the Bank with regard to such investment by a Plan;

D. At least 50% of all Loan Participations are held by investors other than the Plans; and

E. The following record-keeping requirements are satisfied:

1. The Bank shall maintain for six years from the date any Loan Participation is sold to a Plan pursuant to this exemption, records necessary to enable the persons described in paragraph (2) of this section to determine whether the conditions of this exemption have been met, except that:

a. A prohibited transaction will not be deemed to have occurred, if, due to circumstances beyond the control of the Bank, records are lost or destroyed prior to the end of the six year period.

b. No party in interest shall be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained or are not available for examination as required by paragraph (2) below; and

2. Notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (1) of this section must be unconditionally available at their customary location for examination, for purposes reasonably related to protecting rights under the Plans, during normal business hours by: any trustee, investment manager, employer of Plan participants, employee organization whose members are covered by a Plan, participant or beneficiary of a Plan, or any duly authorized employee or representative of such person or of the Department or the Internal Revenue Service.

II. If the exemption is granted, the restrictions of section 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) and (E) of the Code shall not apply to the transactions to be effected by the Bank with respect to the maintenance, operation and servicing of the Program, provided that (A) such transactions are effected in accordance with the terms of the Offering Circular; and (B) the Offering Circular is made available to Plan fiduciaries before they invest in Loan Participations in the Program; and (C) the sum of all payments made to, retained by, or inuring to the benefit of the Bank as a result of the administration of the Program represent not more than adequate consideration for its services with respect to the Program.

III. If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) and (D) of the Code shall not apply to any transactions to which such restrictions or taxes would otherwise apply merely because a person is deemed to a party in interest (including a fiduciary) with respect to a Plan by virtue of providing services to the Plan (or who has a relationship to such service provider described in section 3(14) (F), (G), (H), or (I) of the Act, solely because of the ownership of a Loan Participation by such Plan.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemptions.

Signed at Washington, D.C., this 1st day of May 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards.

[FR Doc. 82–15315 Filed 6–7–82; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL SCIENCE FOUNDATION

Subpanel on Measurement Methods and Data Resources; Meeting

In accordance with the Federal Advisory Committee Act, as amended, the National Science Foundation announces the following meeting:

Name: Subpanel on Measurement Methods and Data Resources of the Advisory Panel for Social and Economic Science

Date and time: June 25, 1982: 9:00 AM to 6:00 PM

Place: Room 523, National Science Foundation, 1800 G Street, NW., Washington, DC 20550

Type of meeting: Closed—June 25, 1982: 9:00 AM to 6:00 PM

Contact person: Dr. Murray Aborn, Program Director, Measurement Methods and Data Resources, Room 312, National Science Foundation, Washington, DC 20550, Telephone (202) 357–7913.

Summary of minutes: May be obtained from the contact person Dr. Murray Aborn at the above address.

Purpose of subpanel: To provide advice and recommendations concerning support for research and research-related projects in Measurement Methods and Data Resources.

Agenda: Review and evaluation of research and research-related proposals as part of the award selection process.

Reason for closing: The proposals being reviewed include information of proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

June 3, 1982.

[FR Doc. 82–15466 Filed 6–7–82; 8:45 am]

BILLING CODE 7555–01–M

Subcommittee on Chemical and Process Engineering; Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92–463 as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Chemical and Procress Engineering of the Advisory Committee for Engineering
Type of meeting: June 24—9:00 a.m. to 12:00 noon Open; June 24—1:30 p.m. to 5:00 p.m. Closed June 25—9:00 a.m. to 4:00 p.m. Open
Date: June 24 and 25, 1982
Place: Room 642, 1800 G Street, NW., Washington, D.C. 20550
Contact Person: Dr. Marshall M. Lih, Division Director, Chemical and Process Engineering, Room 1126, National Science Foundation, Washington, D.C. 20550. Telephone (202) 357–9606
Summary Minutes: May be obtained from Dr. Marshall M. Lih, Director, Division of Chemical and Process Engineering, Room 1126, National Science Foundation, Washington, D.C. 20550. Telephone (202) 357–9606
Purpose of Subcommittee: To provide directions to Chemical and Process Enginering research.
Agenda:

Thursday, June 24—Open—9:00 a.m. to 12:00 Noon

9:00 a.m.—Introduction by Division Director and Status Report
10:00 a.m.—Questions and Answers
10:15 a.m.—Briefing by Division Programs
11:45 a.m.—Questions and Answers
12:00 p.m.—Recess

Thursday, June 24—Closed—1:30 p.m. to 5:00 p.m.

1:30 p.m.—Review and comparison of declined proposals (and supporting documentation) with successful awards under the Chemical and Process Engineering Division, including review of peer review materials and other privileged materials.

Friday, June 25—Open—9:00 a.m. to 4:00 p.m.

9:00 a.m.—Oral Reports from the Subcommittee
9:30 a.m.—Program Coordination
11:00 a.m.—Discussion of issues
11:45 a.m.—Recess
1:15 p.m.—Continued discussion of issues
4:00 p.m.—Adjourn

Reason for Closing: The meeting will deal with a review of grants and declinations in which the Subcommittee will review materials containing the names of applicant institutions and principal investigators and privileged information from the files pertaining to the proposals. The meeting will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act
Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,
Committee Management Coordinator.
June 3, 1982.
[FR Doc. 82–15462 Filed 6–7–82; 8:45 am]
BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Clinch River Breeder Reactor and Site Suitability; Meeting

The Combined ACRS Subcommittees on Clinch River Breeder Reactor (CRBR) and Site Suitability will hold a meeting on June 24 and 25, 1982, Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittees will discuss the site suitability for the CRBR.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Cognizant Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary and Industrial Security information. One or more closed sessions may be necessary to discuss such information. (SUNSHINE ACT EXEMPTION 4). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows: Thursday, June 24, 1982—8:30 a.m. until the conclusion of business Friday, June 25, 1982—8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommitee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommitee will then hear presentations by and hold discussions with representatives of the Department of Energy, NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Paul Poehnert (telephone 292/634–3267) between 8:15 a.m. and 5:00 p.m., EDT.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary and Industrial Security information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: June 3, 1982.

John C. Hoyle,
Advisory Committee Management Officer.
[FR Doc. 82–15493 Filed 6–7–82; 8:45 am]
BILLING CODE 7590–01–M

[Docket Nos. 50–317 and 318]

Baltimore Gas & Electric Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 70 and 53 to Facility Operating Licenses Nos. DPR–53 and DPR–69, issued to Baltimore Gas and Electric Company, which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Units Nos. 1 and 2. The amendments are effective as of the date of issuance.

The amendments revise the Appendix B Environmental Technical Specifications to delete non-radiological water quality requirements and to incorporate an Environmental Protection Plan into the Appendix B Technical Specifications as Part II.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant

environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendment dated April 8, 1982, as supplemented April 16, 1982, (2) Amendment Nos. 70 and 53 to License Nos. DPR–53 and DPR–69, and (3) the Commission's letter dated May 26, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 26th day of May, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 82-15491 Filed 6-7-82; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50–269, 50–270 and 50–287]

Duke Power Co., Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 112, 112, and 109 to Facility Operating Licenses Nos. DPR–38, DPR–47 and DPR–55, respectively, issued to Duke Power Company (the licensee), which revised the Technical Specifications (TSs) for operation of the Oconee Nuclear Stations, Units Nos. 1, 2 and 3, located in Oconee County, South Carolina. The amendments are effective as of the date of issuance.

These amendments delete the requirements relating to aquatic ecology from the appendix B TS, since these requirements are within the jurisdiction of the State of South Carolina.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments is a ministerial action required as a matter of law and that therefore, no environmental impact statement or negative declaration and environmental impact appraisal need be prepared in connection with the issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated February 1, 1982, (2) Amendments Nos. 112, 112, and 109 to Licenses Nos. DPR–38, DPR–47 and DPR–55, respectively, and (3) the Commission's related letter to the licensee dated May 27, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 27th day of May 1982.

For the Nuclear Regulatory Commission,

John F. Stolz,

Chief, Operating Reactors Branch #4 Division of Licensing.

[FR Doc. 82-15492 Filed 6-7-82; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 22519; 70–6545]

Louisiana Power & Light Co.; Proposed Amendment Increasing Commitment Under Lease and Credit Agreement

June 2, 1982.

In the matter of Louisiana Power & Light Company, 142 Delaronde Street, New Orleans, Louisiana 70174 (70–6545).

Louisiana Power & Light Company ("Louisiana"), a wholly-owned subsidiary of Middle South Utilities, Inc., a registered holding company, has filed with this Commission a post-effective amendment to its application previously filed and amended pursuant to Sections 9(a) and 10 of the Public Utility Holding Company Act of 1935 ("Act").

Louisiana was authorized by an order of this Commission dated May 31, 1978 (HCAR No. 20564), to enter into a lease ("Lease") with Bayou Fuel Company ("Bayou"), dated June 1, 1978. Under the Lease, Louisiana leases from Bayou the nuclear fuel, including facilities incident to its use, to be used as fuel in Louisiana's Waterford No. 3 nuclear generating unit. Bayou makes payments to suppliers, authorized processors and manufacturers, as well as future nuclear fuel suppliers, necessary to carry out the terms of Louisiana's nuclear fuel contracts for Waterford No. 3. Louisiana can also make such payments and be reimbursed by Bayou. The authorized maximum obligation of Bayou to make payments for nuclear fuel was $59,000,000 at any one time outstanding. Bayou has financed these obligations under a Credit Agreement ("Credit Agreement"), dated as of June 1, 1978, between Bayou and Security Pacific National Bank ("Bank"). By subsequent order dated March 3, 1981 (HCAR No. 21946), the Commission authorized amendments to the lease and to the Credit, Security and Depositary Agreements. One amendment to the credit agreement, consented to by Louisiana, increased the Bank's commitment under the Credit Agreement from $60,000,000 to $105,000,000 and increased Bayou's maximum obligations to make payments for nuclear fuel to $104,000,000 at any one time outstanding.

By post-effective amendment, Louisiana proposes to amend the Credit Agreement to increase the Bank's maximum commitment under the credit agreement from $105,000,000 to $130,000,000 and to increase Bayou's maximum obligation to make payments for nuclear fuel to $129,000,000 at any one time outstanding. As required by the Lease, Louisiana would consent to the amendment to the Credit Agreement. Except for certain conforming changes in certain agreements, the terms and conditions of the previously authorized financial arrangement will not be changed.

The application as amended by the post-effective amendment and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 25, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so

requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as amended by the post-effective amendment or as it may be further amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-15471 Filed 6-7-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22515, 70-6739]

Middle South Utilities, Inc. et al.; Proposal To Form System Money Pool and To Sell Notes to Banks and Commercial Paper

May 28, 1982.

In the matter of Middle South Utilities, Inc., Middle South Services, Inc., 225 Baronne Street, New Orleans, Louisiana 70112; Arkansas Power & Light Company, First National Building, Little Rock, Arkansas 72203; Louisiana Power & Light Company, 142 Delaronde Street, New Orleans, Louisiana 70174; Mississippi Power & Light Company, Electric Building, Jackson, Mississippi 39201; New Orleans Public Service Inc., 317 Baronne Street, New Orleans, Louisiana 70112 (70-6739).

Middle South Utilities, Inc. ("Middle South"), a registered holding company, its service company subsidiary, Middle South Services, Inc. ("Services"), and its principal operating subsidiaries, Arkansas Power & Light Company ("Arkansas"), Louisiana Power & Light Company ("Louisiana"), Mississippi Power & Light Company ("Mississippi") and New Orleans Public Service Inc. ("New Orleans"), have filed an application-declaration with this Commission, pursuant to Sections 6(a), 7, 9(a), 10, 12(b) and 12(f) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 43 and 50(a)(2), 50(a)(3) and 50(a)(5) thereunder.

The principal operating subsidiaries ("Operating Companies") are currently authorized to issue and sell from time to time through June 30, 1982 unsecured short-term promissory notes including commercial paper to various commercial banks and/or dealers in commercial paper (HCAR No. 21811). In addition to continuing such short-term financing from time to time through December 31, 1983, the Operating Companies propose together with Middle South and Services to establish a Middle South Utilities System Money Pool ("Money Pool") to be composed of available funds loaned by the participating companies and borrowed by all the participating companies except Middle South to meet their respective interim capital needs.

Arkansas, Louisiana, Mississippi and New Orleans each proposes to effect short-term borrowings through the Money Pool and to issue and sell unsecured short-term promissory notes including commercial paper to various commercial banks and/or a dealer in commercial paper in aggregate amounts outstanding at any one time not to exceed the lesser, from time to time, of (i) $200,000,000, $225,000,000, $63,000,000 and $22,000,000, respectively, or (ii) 10 percent of the sum of (a) the total principal amount of all bonds or other securities representing secured indebtedness issued or assumed by the Operating Company and then outstanding and (b) the capital and surplus of the Operating Company as then stated on its books of account (which 10 percent is the maximum principal amount of unsecured short-term borrowings permissible under the provisions of the respective charters of the Operating Companies without the appropriate consent of their respective preferred stockholders). On the basis of the foregoing 10 percent restriction, Arkansas, Louisiana, Mississippi and New Orleans would have been permitted, as of February 28, 1982, to effect borrowings through the Money Pool and to issue and sell short-term promissory notes including commercial paper in aggregate amounts of up to $191,000,000, $183,000,000, $47,000,000 and $23,000,000, respectively.

The Operating Companies, Middle South and Services ("Participant(s)") propose to establish a Money Pool to be administered on behalf of the Participants by Services. The Money Pool will consist solely of available funds in the treasuries of the Operating Companies, Middle South and Services which will be loaned on a short-term basis (conceivably as short as one day) to the Participants in the Money Pool, other than Middle South, or otherwise invested. The determination of whether a Participant has at any time funds to make available to the Pool will be made by, or under the direction of, its respective treasurer, financial officer or other designee. No Participant will effect external borrowings for the purpose of providing funds to the Money Pool or of making loans to other Participants in the Money Pool.

The operation of the Money Pool will be designed to match, on a daily basis, the available cash and short-term borrowing requirements of the Participants, thereby minimizing the need for short-term borrowings to be made by the Participants from external sources. To this end, it is anticipated that the short-term borrowing requirements of the Participants will be met, in the first instance, with the proceeds of borrowings through the Money Pool, and thereafter, to the extent necessary, with the proceeds of external borrowings. Arkansas, Louisiana, Mississippi and New Orleans will have priority as borrowers from the Money Pool. Services will be permitted to effect borrowings through the Money Pool only if, on any given day, there are available funds in the Money Pool after the needs of the Operating Companies have been satisfied, provided that the total borrowings by Services through the Money Pool will not exceed at any one time outstanding an amount equal to the aggregate unused portion of the line(s) of credit then available to Services pursuant to the Letter Agreement, dated as of July 8, 1981, between Services and First National Bank of Commerce of $50,000,000 as authorized by this Commission by order dated July 7, 1982 (HCAR No. 22123) and/or other borrowing arrangements hereafter entered into by Services upon approval of the Commission. Middle South will be a Participant in the Money Pool insofar as it has funds available for lending through the Money Pool, but under no circumstances will Middle South be permitted to borrow funds held in the Money Pool. In the event that at any time there are funds remaining in the Money Pool after satisfaction of the borrowing needs, of the Participants, Services, as administrator of the Money Pool, will invest these funds and allocate the earnings on any such investments between or among those Participants providing such excess funds.

Subject to their borrowing limitations, the Participants making borrowings through the Money Pool will be entitled to borrow, on any given day, an amount of the total funds then available for lending to the Participants determined on the basis of an equal allocation of such funds among all such borrowing Participants, except that where such an allocation would provide one or more borrowing Participants with funds in excess of its or their borrowing requirements, such excess will then be available for loans equally allocated among the remaining borrowing Participants. Each borrowing Participant will borrow pro rata from each lending Participant in the proportion which the total amount being loaned through the Money Pool by such lending participant bears to the total amount then being

loaned by all Participants through the Money Pool.

All borrowings from and contributions to the Money Pool will be adequately documented and will be evidenced on the books of each Participant who is borrowing or contributing surplus funds through the Money Pool. All loans will be payable on demand, may be prepaid by a borrowing Participant at any time without premium or penalty and will bear interest, payable monthly, at a rate of interest, calculated on a daily basis, equal to the daily Federal Funds Effective Rate as quoted by the Federal Reserve Bank of New York. The Participants believe that the cost of the proposed borrowings through the Money Pool will generally be more favorable to the borrowing Participants than the comparable cost of external borrowings through bank loans and the sale of commercial paper, and that the yield to Participants contributing available funds to the Money Pool will generally be higher than the typical yield on short-term investments.

In the event that, on any given day, the available funds in the Money Pool are insufficient to satisfy the short-term borrowing requirements of one or more of the Operating Companies, such Operating Companies will effect short-term borrowings through bank loans and/or the sale of commercial paper.

Arkansas, Louisiana, Mississippi and New Orleans each proposes to make short-term borrowings from various commercial banks which are located in each of their general service areas ("Territorial Banks") up to the maximum aggregate principal amount of $61,000,000, $28,935,000, $20,600,000 and $22,000,000 respectively. In addition, each of the Operating Companies will continue to make short-term borrowings under consolidated "either/or" lines of credit established with various commercial banks located outside the general service areas of the Operating Companies ("Non-territorial Banks") up to a maximum aggregate amount of $200,000,000.

Under the proposed "either/or" borrowing arrangements, each of the Non-territorial Banks will provide a single line of credit which will be available to any and all of the Operating Companies. It is stated that the continuation of consolidated credit lines with Non-territorial Banks will allow for the maintenance of lines of credit for the Operating Companies, on an aggregate basis, at the minimum levels necessary to provide adequate amounts of capital as required from time to time, will minimize the Operating Companies' related costs of borrowing, including commitment fees and/or compensating balance requirements, and will afford the Middle South Utilities System continued control over the cost of short-term funds.

The notes proposed to be issued and sold by each respective Operating Company to the Territorial Banks and the Non-territorial Banks will be in the form of unsecured promissory notes, will be payable not more than 270 days from the date of issuance with the right of renewal, will bear interest at a rate per annum no greater than the prime commercial bank rate in effect at the lending bank on the date of issuance or renewal or from time to time depending upon the arrangements with the lending bank, and will, at the option of such Operating Company, or, under certain circumstances, with the consent of the lending bank, be prepayable, in whole or in part, at any time without premium or penalty.

Each of the Operating Companies maintains accounts with its Territorial Banks, and although balances in these accounts may be deemed to be compensating balances, these accounts are working accounts, and fluctuations in their balances do not reflect or depend upon fluctuations in the amounts of bank loans outstanding. Assuming that a 7% compensating balance is maintained and assuming a 16.5% per annum prime commercial bank rate, the effective interest cost for borrowings from Territorial Banks would be 17.7% per annum.

With respect to borrowings from the Non-territorial Banks, it is anticipated that the Non-territorial Banks will require the maintenance of compensating balances or the payment of commitment fees with respect to the amount of loan commitments, but in no case will the total of such compensating balances exceed 5%. Assuming that 5% compensating balance is maintained and assuming a 16.5% per annum prime commercial bank rate, the effective interest cost for borrowings from Non-territorial Banks would be 17.4% per annum.

The proposed commercial paper will be in the form of unsecured promissory notes with varying maturities not to exceed 270 days, the actual maturities to be determined by market conditions, effective cost of money to the respective Operating Company, and such Operating Company's anticipated cash requirements at the time of issuance. In accordance with the established custom and practice in the market, the proposed commercial paper will not be payable prior to maturity. Each Operating Company proposes to issue, reissue and sell the commercial paper directly to a dealer in commercial paper ("Dealer") at a discount which will not be excess of the maximum discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality of that particular maturity sold by public utility issuers to commercial paper dealers. No commission or fee will be payable by the Operating Companies in connection with the issuance and sale of commercial paper. Each Dealer, as principal, will reoffer and sell the commercial paper at the customary discount rate for commercial paper in such a manner as not to constitute a public offering. Each Dealer in reoffering the commercial paper will limit the reoffer and sale to a non-public customer list for each Operating Company containing not more than 200 buyers of commercial paper consisting of commercial banks, insurance companies, corporate pension funds, investment trusts, foundations, colleges and university funds, municipal and state funds and other financial and non-financial corporations which normally invest funds in commercial paper. It is anticipated that the commercial paper will be held by the buyers to maturity. However, each Dealer may, if desired by a buyer, repurchase the commercial paper for resale to others on the list of customers.

As of January 31, 1982, the construction programs of the Operating Companies in 1982 and 1983 were estimated to result in the following expenditures:

	Arkansas	Louisiana	Mississippi	New Orleans
1982	$241,800,000	$413,600,000	$116,400,000	$22,500,000
1983	241,900,000	270,900,000	76,400,000	32,200,000

The net proceeds to be received by the Operating Companies from borrowings through the Money Pool and through the issuance and sale of promissory notes to banks and commercial paper, together with other funds available, from time to time, to the Operating Companies from their operations, from the sale and leaseback or repurchase of property, from the issuance and sale of long-term debt and/or equity securities and from other financing transactions, will be applied to the Operating Companies' construction programs, for the funding of maturing long-term debt and preferred stock

sinking fund requirements, for the repayment of short-term debt and for other lawful corporate purposes. The proceeds of any borrowings by Services through the Money Pool will be used by Services for the repayment of bank borrowings and for any lawful purposes in connection with the performance by Services of its various functions as a subsidiary service company under the Act.

The Operating Companies request an exception from the competitive bidding requirements of Rule 50 pursuant to Paragraph (a)(5) with respect to the sale of commercial paper because such commercial paper will have a maturity not in excess of 270 days, current rates for commercial paper for such borrowers are published daily in financial publications, and it is not practical to invite bids for commercial paper.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 21, 1982. to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-15477 Filed 6-7-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12455; 812-5166]

T. Rowe Price U.S. Treasury Money Fund, Inc.; Filing of Application

June 2, 1982.

In the matter of T. Rowe Price U.S. Treasury Money Fund, Inc., 100 East Pratt Street, Baltimore, Maryland 21202 (812-5166).

Notice is hereby given that T. Rowe Price U.S. Treasury Money Fund, Inc. ("Applicant"), and open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), has filed an application on April 15, 1982, for an order of the Commission pursuant to Section 6(c) of the Act exempting it from the provisions of Rules 2a-4 and 22c-1 under the Act to the extent necessary to permit Applicant to compute its price per share for the purposes of sales and redemptions of its shares to the nearest one cent on a share value of one dollar. In all other respects, portfolio securities held by Applicant will be valued in accordance with the views set forth in Investment Company Act Release No. 9786 (May 31, 1977) ("IC-9786"). All interested persons are referred to the Application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Applicant is a corporation organized under the laws of the State of Maryland. Applicant has filed a registration statement on Form N-1 under the Securities Act of 1933 for the purposes of registering shares of its capital stock. Applicant is one of eight funds, including the Applicant, which is managed by T. Rowe Price Associates, Inc.

Applicant states that it is a "money market" fund whose investment objective is seeking maximum current income consistent with low capital risk and maintenance of liquidity. The Applicant represents that it will invest only in United States Government and Agency obligations, securities guaranteed by the United States Government and repurchase agreements maturing in one year or less. Applicant states that it will maintain a dollar-weighted average portfolio maturity of 120 days or less.

Applicant represents that its board of directors has adopted a policy, subject to securing the exemption requested, whereby it will attempt to maintain a net asset value of one dollar per share by rounding its net asset value per share to the nearest one cent. This method of valuation is commonly referred to as "penny rounding". Under this policy, should Applicant incur or anticipate any unusual expense, loss, depreciation, gain, or appreciation which would affect its net asset value per share or income for a particular period, the board of directors of the Applicant, in an effort to maintain a stable net asset value per share, might temporarily reduce or suspend the payment of dividends (if the net asset value per share should decline) or might supplement such dividends with other distributions (if the net asset value per share should rise).

Rule 22c-1 under the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption and repurchase shall be determined with reference to (1) current market value for portfolio securities with respect to which market quotations are readily available and (2) for other securities and assets fair value as determined in good faith by the board of directors of the registered company. In Release No. IC-9786 the Commission issued an interpretation of Rule 2a-4 expressing its view that it was inconsistent with Rule 2a-4 for certain money market funds to "round off" calculations of their net asset value per share to the nearest one cent on a share value of one dollar, because such a calculation might have the effect of masking the impact of changing values of portfolio securities and therefore might not "reflect" its portfolio valuation as required by Rule 2a-4.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order, upon application, may conditionally or unconditionally exempt any person or transaction from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that the issuance of the requested order is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant represents that in the view of its management, a stable one dollar net asset value would benefit the Applicant and its shareholders.

Release No. 9786 stated, *inter alia*, the Commission' view that it is inconsistent with the provisions of Rule 2a-4 for money market funds using a "floating" net asset value to "round off" calculations of their net asset values on share values of one dollar. The board of

directors of the Applicant submits that computing the net asst value per share to the nearest one cent on a share value of one dollar as described above will allow Applicant to maintain a constant net asset value per share under most circumstances and, thereby, permit it to serve the interests and requirements of its shareholders notwithstanding its use of pricing methods other than amortized cost for valuing its porfolio instruments having remaining maturities in excess of 60 days. The application further represents that the board of directors of the Applicant has determined in good faith that this method of calculating the net asset value share of the Applicant under such circumstances, is appropriate.

Applicant further represents that the following conditions may be imposed in any order granting the exemptions it has requested:I111. The Applicant's board of directors in supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, undertakes—as a particular responsibility within its overall duty of care owed to Applicant's shareholders—to assure to the extent reasonably practicable, taking into account current market conditions affecting Applicant's investment objectives, that Applicant's price per share as computed for the purposes of distribution, redemption and repurchase, rounded to the nearest one cent, will not deviate from one dollar.

2. Applicant will seek to maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share. Applicant will not purchase a portfolio security unless it matures in twelve months or less than the date of purchase, or is subject to a repurchase agreement so maturing or has been called for redemption within twelve months; nor will it maintain a dollar-weighted average portfolio maturity in excess of 120 days.

3. Applicant's purchase of portfolio instruments, including repurchase agreements and securities called for redemption, will be limited to those instruments which are denominated in United States dollars and which the directors of Applicant determine present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the board.

Notice is further given that any interested person may, not later than June 28, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reason for such request, and the issues, if any, of fact or law proposed to controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-15678 Filed 6-7-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18777; SR-Amex-82-7]

American Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

May 28, 1982.

In the matter of American Stock Exchange, Inc., 86 Trinity Place, New York, NY 10006 (SR–Amex–82–7).

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s (b)(1), notice is hereby given that on May 14, 1982, the American Stock Exchange, Inc. ("Amex") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would amend Amex Rule 471 to: (i) reduce by two percent the early warning levels prescribed in Rule 471 under which member organizations are required to cease to expand or reduce their business and limit or reduce unsecured loans and advances; (ii) reduce by two percent the level for required notification to the Exchange by members and member organizations whose net capital as computed under the alternative method falls below the prescribed level in Rule 471; and (iii) add provisions to Rule 471 relating to the percentage of funds required to be segregated pursuant to the Commodity Exchange Act and regulations thereunder where a broker-dealer is registered as a Futures Commission Merchant. In its filing, Amex has indicated that the purpose of the proposed rule change is to modify its rules governing capital requirements for Amex member organizations in view of the recent amendments to the Uniform Net Capital Rule (Rule 15c3–1 of the Act) which became effective on May 1, 1982,[1] and that the statutory basis of the proposed rule change is Section 6(b) of the Act in general, and Sections 6(b)(1) and 6(b)(5) of the Act, in particular.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change by June 29, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–Amex–82–7.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communciations relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. §552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. Accelerated approval of the subject rule change is necessary to permit Amex

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[1] Securities Exchange Act Release No. 18417, January 13, 1982, 47 FR 3512, January 25, 1982.

member organizations to avail themselves of the recent amendments to the Commission's Uniform Net Capital Rule which became effective on May 1, 1982.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-15478 Filed 6-7-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18776, SR-NYSE-82-7]

New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

May 28, 1982.

In the matter of New York Stock Exchange, Inc., Eleven Wall Street, New York, NY 10005 (SR-NYSE-82-7).

The New York Stock Exchange, Inc. ("NYSE") submitted on April 12, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend various NYSE rules relating to exchange members and statements of accounts to customers. The proposed rule changes would remove the provisions in Rule 314 related to guarantees of loss of sole exchange members and limited partners, and minimum salary/participation requirements for members and allied members; rescind the requirements specifically related to insurance sales activities (Rule 318); require written requests by member organization personnel to engage in outside financially related employment/activities (Rule 346); clarify a reference to "stockholder" (Rule 409); and amend Rule 411 to permit member organizations to record transactions as of settlement date, require settlement dates to appear on confirmations of transactions sent to customers, and reposition the Supplementary Material into other rules (Rules 36 and 409).

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 18644, April 14, 1982) and by publication in the **Federal Register** (47 FR 17702, April 23, 1982). No comments were received with respect to the proposed rule filing.

With respect to that portion of the proposed rule change relating to rescission of requirements specifically related to insurance sales activities by member organizations (Rule 318.13), the NYSE has consented to an extension of thirty days from the date of this order for Commission action pursuant to Section 19(b)(2) of the Act. The Commission, therefore, takes no action in this order with respect to that portion of the proposed rule change relating to Rule 318.13.

The Commission finds that the proposed rule change, subject to the exception described above, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 15475 Filed 6-7-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18775; File No. SR-OCC-82-5]

Filing of Proposed Rule Change by the Options Clearing Corporation

May 28, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 24, 1982, the Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would permit OCC to release on the exercise settlement date margin deposited with OCC by its members in respect of assigned short positions or exercised long positions in equity options in cases where settlement will be effected through the facilities of a correspondent clearing corporation. At present, such margin is not released until the business day following the exercise settlement date. In addition, the proposed rule change would provide for the release of margin deposited in respect of debt securities options in cases where exercise settlement is effected through the netting of a clearing member's delivery and receipt obligation by OCC. In those circumstances, the proposed rule change would permit the release of margin on the date of which settlement is deemed to have been made.

OCC's present rules regarding the release of margin in respect of assigned short positions or exercised long positions were adopted at a time when OCC guaranteed the performance of its clearing members with respect to exercise settlement accounts with the various correspondent clearing corporations. To ensure that OCC could honor this guarantee to the correspondent clearing corporations without loss to OCC, and to protect itself against the risk that a clearing member might fail to meet its initial market-to-market obligations at the correspondent clearing corporation on the exercise settlement date, OCC retained participants' margin until the day after exercise settlement date. Subsequently, however, OCC entered into new Option Exercise Settlement Agreements with each correspondent clearing corporation. Those agreements altered OCC's obligation with respect to its guarantee of the performance of its clearing members. Under the present agreement, each correspondent clearing corporation is unconditionally obligated to effect settlement in respect of any exercise transaction reported to it by OCC unless the correspondent clearing corporation rejects the transaction prior to 8:00 a.m. CST on the business day before the exercise settlement date. The correspondent clearing corporation is also obligated to effect settlement in respect of any transaction rejected before that deadline if it fails to notify OCC of the rejection prior to noon CST on the business day before the exercise settlement date. As a result, when exercises are settled through a correspondent clearing corporation, OCC because its guarantee terminates at the opening of business on the business day prior to the exercise settlement date, has no need to retain margin beyond noon on the business day before the exercise settlement date. The proposed rule change would permit OCC to enter a margin release instruction into its system the evening before exercise settlement date, so that the release would be reflected in a clearing member's Daily Margin Report the morning of exercise settlement date rather than one day later, as is currently the case. OCC believes the proposed rule change would substantially mitigate, if not eliminate, the burden to clearing members of being required to leave margin on deposit with OCC in respect of positions that they must also mark-to-the-market at the correspondent clearing corporation.

In its filing, OCC stated that it believes that the proposed rule change is consistent with the requirements of Section 17A of the Securities Exchange Act of 1934 and the rules and regulations thereunder because it facilitates the efficient clearance and settlement of options exercise transactions by releasing margin at the earliest possible time, as well as removing impediments to a national clearance and settlement system by eliminating unnecessary duplication of payments to clearing agencies. Further, OCC stated that the proposed rule change would not adversely affect OCC's system of safeguards because no margin will be released until the obligations that it secures have been fully discharged.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission by June 29, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–OCC–82–5.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W. Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A Fitzsimmons,

Secretary.

[FR Doc. 82–15472 Filed 6–7–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 18776; SR–PSE–82–7]

Pacific Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

May 28, 1982.

Release No. 18776, May 26, 1982.

In the matter of Pacific Stock Exchange, Inc., 618 South Spring Street, Los Angeles, CA 90014 (SR–PSE–82–7).

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 26, 1982, the Pacific Stock Exchange, Inc. ("PSE") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The PSE proposes to extend for ninety days, until August 24, 1982, its pilot program relating to the appointment and evaluation of PSE specialists and the creation of new PSE specialist posts.[1] In connection with the Commission's initial approval of the one-year pilot program, the PSE agreed to consider the possibility of expanding the use made of specialists' performance evaluations in the context of cancellation of a specialist's registration in selected stocks where his performance has been found to be substandard and to continue to study existing methods and new methods of evaluating specialist performance. The PSE has indicated that its Joint Equity Allocation Committee has reviewed statistical information relating to the pilot program, and has recommended several amendments to the pilot which have been reviewed and approved by the PSE's Board of Governors. The purpose of the proposed rule change is to extend the pilot program to allow the PSE to file such amendments with the Commission. The PSE has stated that the statutory basis of the proposed rule change is Section 6(b) of the Act, in general, and Sections 6(b)(5) and 6(b)(7), in particular.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change by June 29, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–PSE–82–7.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the initial pilot program terminated on May 26, 1982 and an extension is necessary to allow the PSE an opportunity to file amendments to the pilot program under rule 19b–4. The Commission believes it is appropriate to extend the pilot program pending submission by the PSE of such amendments.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–15474 Filed 6–7–82; 8:45 am]

BILLING CODE 8010–01–M

[1] On May 27, 1981, the Commission approved a one-year PSE pilot program with respect to the appointment and evaluation of specialists and the creation of new specialist posts. (Securities Exchange Act Release No. 17818, May 27, 1981, 46 FR 30016, June 4, 1981.)

[Release No. 18774; File No. SR–PHILADEP–82–5]

Filing and Immediate Effectiveness of Proposed Rule Change by Philadelphia Depository Trust Company

May 28, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 4, 1982, the Philadelphia Depository Trust Company ("PHILADEP") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to

solicit comments on the proposed rule change from interested persons.

The rule change allows PHILADEP, on the 15th of each month, to collect monthly service fees toghether with the daily setlement monies due PHILADEP. Previously, service fees and settlement monies were collected separately. Under the rule change, Stock Clearing Corporation of Philadelphia ("SCCP"), PHILADEP's sister clearing agency, will act as billing agent for PHILADEP in the collection of the monthly service fees in accordance with current SCCP and PHILADEP rules. SCCP will mail bills to participants during the first week of each month. PHILADEP believes that the rule change is consistent with Section 17A(b)(3)(D) of the Act in that it provides for the equitable allocation of dues, fees and other charges among its participants.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission by June 29, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–PHILADEP–82–5.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–15473 Filed 6–7–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 18773; File No. SR–SCCP–82–5]

Filing and Immediate Effectiveness of Proposed Rule Change by Stock Clearing Corporation of Philadelphia

May 28, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 4, 1982, the Stock Clearing Corporation of Philadelphia ("SCCP") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The rule change allows SCCP, acting for itself and as billing agent for the Philadelphia Depository Trust Company ("PHILADEP"), SCCP's sister clearing agency, to collect from their respective participants, on the fifteenth day of each month, monthly service fees due SCCP and PHILADEP together with daily settlement monies sue SCCP/PHILADEP. SCCP will continue to act as PHILADEP's billing agent in accordance with current SCCP and PHILADEP rules and, in that capacity, will mail to participants bills for service fees on the first day of each month. Previously, service fees were collected separate from daily settlement obligations and were due upon presentation. SCCP believes that the rule change is consistent with Section 17A(b)(3)(D) of the act in that it provides for the equitable allocation of dues, fees and other charges among its participants.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in futherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission by June 29, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–SCCP–82–5.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to the delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–15474 Filed 6–7–82; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 04/05–0023]

First American Investment Corp.; Filing of Application for Transfer of Control and Ownership of Licensed Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to Section 107.701 of the Regulations governing small business investment companies (13 CFR Section 107.701 (1982)) for the transfer of control and ownership of First American Investment Corporation, 300 Interstate North, Suite 400, Atlanta, Georgia 30339.

First American was licensed on February 21, 1961. Its present combined paid-in capital and paid-in surplus (private capital) is $3,710,132. The proposed transfer of control and ownership is subject to and contingent upon approval by SBA.

The licensee is a wholly-owned subsidiary of Cousins Properties Incorporated, which is located at the same address as First American. The name of the licensee will remain the same. First American will be moved to Florida and be located at 2701 South Bayshore Drive, Coconut Grove, Florida 33133.

The proposed officers, directors and stockholders are:

David V. Harkins, 75 Federal Street, Boston, MA 02110; President, Director
Maurice Wiener, 2701 S. Bayshore Drive, Coconut Grove, FL 33133; Treasurer, Secretary, Director
Lee Gray, One West Avenue, Larchmont, NY 10538; Vice President, Director
HMG Property Investors, Inc., 2701 S. Bayshore Drive, Coconut Grove, FL 33133; 90 percent
MICI Properties, Inc., 75 Federal Street, Boston, MA 02110; 10 percent

HGM and MICI are real estate holding companies. Mr. Harkins owns 95 percent of the voting stock of MICI. HMG owns all the nonvoting stock of MICI.

Matters involved in SBA's consideration of the application include the general business reputation and character of the new owner and the probability of successful operation of First American under the new control and ownership arrangement (including adequate profitability and financial soundness) in accordance with the Act and Regulations.

Notice is hereby given that any interested persons may, not later than June 23, 1982, submit to SBA, in writing, any relevant comments on the transfer of control and ownership. Any such comments should be addressed to the Acting Deputy Associate Administrator for Investment, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this Notice shall be published by the transferee in newspapers of general circulation in Atlanta, Georgia, Boston, Massachusetts, and Coconut Grove, Florida.

(Catalog of Federal Domestic Assistance Program No. Small Business Investment Companies.)

Dated: June 2, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-15412 Filed 6-7-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0184]

Grocers Capital Co., Inc.; Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Grocers Capital Company (Grocers) 2801 S. Eastern Avenue, Los Angeles, California 90040, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application with the Small Business Administration pursuant to Section 107.1004 of the Regulations governing small business investment companies (13 CFR 107.1004 (1981)) for approval of a conflict of interest transaction.

Grocers proposes to loan $200,000 to Preston's Market, 3525 Victory Boulevard, Burbank, California 91505. The proceeds of the loan will be used to purchase equipment or inventory from Grocers Equipment Company (G.E.C.) and/or Certified Grocers of California, Ltd. (Certified), Associates of the Licensee.

All of Grocers' stock is owned by subsidiaries of Certified, a retailer owned grocery cooperative. G.E.C., a subsidiary of Certified, is a 41 percent shareholder of Grocers and is defined as an Associate by Section 107.3 of the SBA Rules and Regulations.

As a result, Grocers' financing to Preston's Market fall within the purview of Sections 107.3 and 107.1004(b)(5) of the Regulations. Grocers' loan to Preston's Market requires prior written approval of SBA.

Notice is hereby given that any person may not later than 10 days from the date of publication of this Notice, submit written comments to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A similar Notice shall be published in a newspaper of general circulation in the Burbank, California area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 1, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-15414 Filed 6-7-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-5258]

Sun Capital Corporation

Notice is hereby given that Sun Capital Corporation (Sun), 1789 Monticello Road, San Mateo, California 94402, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Sun was licensed by the Small Business Administration on June 6, 1980.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender of the license was accepted on December 14, 1981, and accordingly, all rights, privileges and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 1, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-15413 Filed 6-7-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Joint Working Party of the National Organizations of the International Radio Consultative Committee and the International Telegraph and Telephone Consultative Committee; Meeting

The Department of State announces that the Joint Working Party of the U.S. Organizations for the International Radio Consultative Committee (CCIR) and the International Telegraph and Telephone Consultative Committee (CCITT), in preparation for the Plenipotentiary Conference of the International Telecommunication Union, September 28–November 5, 1982, Nairobi, Kenya, will meet on June 23 at 9:30 a.m. in Room 2722A, Department of State, 21st and Virginia Avenue, N.W., Washington, D.C.

The main purposes of the meeting will be:

1. To assist the Government in analyzing proposals submitted to the Plenipotentiary Conference by foreign administrations;

2. To assist the Government in rationalizing the ITU's technical cooperation role and the nature and objectives of our interests in this area of the Union's activities;

3. To backstop, generally, the further development of U.S. positions for the Plenipotentiary Conference;

4. Any other business.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the building is controlled; all persons wishing to attend the meeting must inform their names to Mr. Arthur L. Freeman, Department of State; telephone 202 632-3405. Attendees must use the entrance at 21st and Virginia Avenue, N.W.

Dated: May 24, 1982.

Arthur L. Freeman,

Director, Office of International Communications Policy.

[FR Doc. 82-15453 Filed 6-7-82; 8:45 am]

BILLING CODE 4710-07-M

Shipping Coordinating Committee Subcommittee on Safety of Life at Sea; Meeting

The Working Group on Radiocommunications of the Subcommittee on Safety of Life at Sea will conduct an open meeting on July 14, 1982, at 9:30 a.m., in Room 8334–8336 of the Department of Transportation, 400 Seventh Street, SW., Washington, D.C.

The purpose of the meeting is to prepare position documents for the Twenty-fifth Session of the Subcommittee on Radiocommunications of the Intergovernmental Maritime Consultative Organization (IMCO) to be held in London on December 13, 1982. In particular, the working group will discuss the following topics:

—Performance standards for shipboard radio equipment
—Maritime distress system
—Digital selective calling
—Matters related to the ITU WARC for Mobile Telecommunications
—Matters related to CCIR Study Group 8
—Satellite WPIRB's
—Narrow Band Direct Printing

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. R. L. Swanson, U.S. Coast Guard (G–TPP–3/63), Washington, D.C. 20593. Telephone (202) 426–1231.

Dated: May 21, 1982.

John Todd Stewart,

Chairman, Shipping Coordinating Committee.

[FR Doc. 82–15454 Filed 6–7–82; 8:45 am]

BILLING CODE 4701–07–M

Study Group 7 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 7 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on July 7, 1982 at the U.S. Naval Observatory, Room 300, Building 52, 34th and Massachusetts Avenue, N.W., Washington, D.C. The meeting will begin at 9:30 a.m.

Study Group 7 deals with time-signal services by means of radiocommunications. The purpose of the meeting is to establish a program of work for U.S. Study Group 7 in preparation for the international Study Group 7 meeting to be held in November 1983.

Members of the general public may attend the meeting and join in the discussions subject to the instruction of the Chairman. Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520 (telephone (202) 632–2592).

Dated: May 28, 1982.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

[FR Doc. 82–15455 Filed 6–7–82; 8:45 am]

BILLING CODE 4710–07–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 110
Tuesday, June 8, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

COMMISSION ON CIVIL RIGHTS

PLACE: Room 512, 1121 Vermont Avenue, NW., Washington, D.C.

DATE AND TIME: Tuesday, June 8, 1982, 11 a.m.–12 Noon; 1:30–4 p.m.

STATUS OF MEETING: Open to the public.

MATTERS TO BE CONSIDERED:

I. Approval of Agenda
II. Approval of Minutes of Last Meeting
III. Review of Draft Comments on the Civil Rights Act of 1982
IV. Review of a Proposed Consultation on the Media
V. Review of Proposed Project on the Rural South
VI. Review of the Report: *Unemployment and Underemployment Among Minorities and Women*
VII. Review of Project Design on *Discrimination Against Handicapped Persons*
VIII. Action re: Wyoming Advisory Committee Report Entitled *Workplace Conditions in Wyoming: Women and Minorities in the Mineral Extraction Industries*
IX. Office of Regional Programs Bigotry and Violence Project
A. Michigan Advisory Committee Report Entitled *Hate Groups in Michigan: A Sham or a Shame*
B. West Virginia Advisory Committee Report Entitled *Violence and Bigotry in West Virginia*
X. Civil Rights Developments in the Eastern Region
XI. Staff Director's Report
A. Status of Funds
B. Personnel Report
C. Office Directors' Reports

PERSON TO CONTACT FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications Division (202) 254–0697.

[S-848-82 Filed 6-4-82; 1:01 p.m.]

BILLING CODE 6335-01-M

2

FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission will hold a Closed Meeting on the subjects listed below on Thursday, June 10, 1982, following the Open Meeting which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

Hearing—1—Two Applications for Review Board Decision[1] in the Birmingham, Alabama educational FM proceeding (BC Docket Nos. 78–61 and 78–62).
Hearing—2—Exceptions and related pleadings with respect to the Initial Decision of ALJ John C. Conlin, denying the applications of Friendly Broadcasting Company for renewal of its licenses for AM broadcast station WJMO and FM station WLYT, Cleveland Heights, Ohio (Docket No. 19412).

The folowing persons are expected to attend:

Commissioners and their Assistants.
General Counsel and members of his staff.
Managing Director and members of his staff.
Chief, Office of Public Affairs and members of his staff.

Action by the Commission:

Hearing Item 1, May 12, 1982.
Commissioners Fowler, Chairman; Quello, Washburn, Fogarty, Jones, Dawson and Rivera voting to consider this item in Closed Session.
Hearing Item 2, May 28, 1982.
Commissioners Fowler, Chairman; Quello, Washburn, Fogarty, Jones, Dawson and Rivera voting to consider this item in Closed Session.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: June 3, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-849-82 6-4-82; 1:58 p.m.]

BILLING CODE 6712-01-M

[1] These items are closed to the public because they concern adjudicatory matters (See 47 CFR 0.603(j)).

3

FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, June 10, 1982 which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

General—1—*Title:* Notice of Proposed Rulemaking to expand the frequencies available for use by Aural broadcast STL and Intercity relay stations. *Summary:* The Commission will consider the merits of RM–2897, filed by the National Association of Broadcasters (NAB), to reallocate the 942–947 MHz band back to the Broadcast Auxiliary Service and RM–3246, filed by Moseley Associates, Inc., to use unassigned UHF–TV channels for Broadcast Auxiliary Service. Additionally, the Commission will consider the merits of sharing the 2130–2150 MHz and 2160–2200 MHz bands, presently allocated to the Private Operational-Fixed Microwave Service, with the Broadcast Auxiliary Service.
Private Radio—2—*Title:* Amendment of the Amateur Radio Service Rules (Part 97) regarding effective radiated power (ERP) limitations on stations in repeater operation. *Summary:* The Commission will consider whether to adopt an Order amending Part 97 of the Rules to relax limitations on effective radiated power (ERP) for amateur radio stations in repeater operation on frequencies between 52 and 54 MHz. The limitations would also be extended to repeater operations between 29.5 and 29.7 MHz.
Private Radio—3—*Title:* Notice of Proposed Rule Making proposing to eliminate unnecessary reporting and record keeping requirements in the Aviation Services. *Summary:* The FCC will consider whether to propose amending Part 87 (Aviation Services) to remove certain reporting and record keeping requirements which appear to impose unnecessary burdens on the aviation public.
Common Carrier—1—*Title:* In the Matter of the American Telephone and Telegraph Company request for approval to capitalize a separate subsidiary to provide enhanced services pursuant to Section 64.702(d)(4) of the Commission's Rules. *Summary:* The Commission will consider AT&T's request to capitalize an enhanced service subsidiary. Issues include impact on ratepayers, outside equity, accounting of preoperational spending, and compliance with Second Computer Inquiry separation conditions.
Common Carrier—2—*Title:* Motion of the Southern New England Telephone Company for Declaratory Ruling to Remove

Uncertainty of its Status Under the Commission's Decisions in the Second Computer Inquiry (Docket 20828). *Summary:* Commission will consider whether to adopt the staff proposal concerning Southern New England Telephone Company's request for stay of (1) the Commission's Computer II structural separation requirements, (2) a Commission ruling on the pending reconsideration order in this proceeding, and (3) the filing of certain Computer II-related plans and reports.

Common Carrier—3—*Title:* Interconnection Arrangements Between and Among the Domestic and International Record Carriers, CC Docket No. 82-122. *Summary:* The Commission will consider proposed tariff provisions filed by record carriers pursuant to the *Interim Order* issued in this proceeding, FCC 82-158, released April 8, 1982, and petitions for rejection and suspension of the proposed revisions.

Common Carrier—4—*Title:* In the matter of the American Telephone and Telegraph Company. Request by AT&T for approval to provide certain services to a subsidiary it is forming to provide enhanced services. The Commission will consider the request by AT&T to provide certain services to the subsidiary. Issue include whether AT&T's accounting is adequate.

Renewal—1—*Title:* Competing applications of Faith Center, Inc. for renewal of its license for Station KVOF-TV, San Francisco, California, and of LDA Communications, Inc., West Coast United Broadcasting Company, and Together Media Ministries for construction permits on KVOF-TV's frequency. *Subject:* The Commission considers designating these applications for comparative hearing with appropriate issues.

Renewal—2—*Title:* Renewal application of United Broadcasting Company of New York, Inc. for AM Station WBNX, New York, New York, and mutually exclusive application by Osborne Communications Corporation for a construction permit. *Summary:* The Commission considers designating these applications for comparative hearing.

Renewal—3—*Title:* License renewal application of American Broadcasting Companies, Inc. for Station KGO-TV, San Francisco, California. *Summary:* Synanon Church and Synanon Committee for Responsible American Media filed a petition for reconsideration of a Commission Memorandum Opinion and Order, 86 FCC 2d 3 (1981), denying their petition to deny. The Commission considers petitioners' arguments.

Broadcast—1—*Title:* Amendment of Part 73 of the Commission's Rules with respect to daytime-only Class II AM stations on the U.S. Class I-A clear channels. *Summary:* The Commission considers whether to amend its Rules to provide for new and improved daytime-only stations on the 25 U.S. Class I-A clear channels.

Broadcast—2—*Title:* Notice of Proposed Rulemaking to eliminate the suburban community policy, the *Berwick* doctrine, and the *de facto* reallocation policy. *Summary:* The Commission will consider whether to adopt the proposal seeking comment on the elimination of three policies in all Commission proceedings.

Complaints and Compliance—1—Title: Application for Review of the Environmental Defense Fund (EDF). *Summary:* EDF seeks Commission review of an April 17, 1981, Broadcast Bureau ruling, in which the Bureau found that EDF had failed to furnish sufficient information to demonstrate that any of eight California television stations had violated the Fairness Doctrine.

Complaints and Compliance—2—*Title:* Petition for reconsideration of Commission action taken on November 26, 1981 (released December 17, 1981) denying a request of Vincent L. Hoffart. *Summary:* The Commission considers a petition for reconsideration of its November 26, 1981 action (released December 17, 1981) denying Mr. Hoffart's request for an order that operating and maintenance logs be available in a broadcast station's public inspection file.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: June 3, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-850-82 Filed 6-4-82; 1:58 pm]

BILLING CODE 6712-01

4

LEGAL SERVICES CORPORATION

Presidential Search Committee

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 23844, June 1, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2 p.m.-5 p.m., Tuesday, June 15, 1982. (Continuation of the meeting is planned for June 16, 1982, as time permits.)

CHANGE IN THE MEETING: Rescheduled for 9 a.m.-12 noon, Tuesday, June 15, 1982.

PLACE: Legal Services Corporation, 733 15th Street, N.W., Eighth Floor Conference Room 2, Washington, D.C.

STATUS OF MEETING: Open (portion of the meeting will be closed to discuss a personnel matter under 45 CFR 1622.5(a) and 1622.5(e)).

MATTERS TO BE CONSIDERED:

1. Status of Presidential Search.
2. Procedures for Final Selection.
3. Personnel Matters (Closed).

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Bernstein, Office of the President, (202) 272-4040.

Dated: June 4, 1982.

Gerald M. Caplan,

Acting President.

[S-851-82 Filed 6-4-82; 2:27 pm]

BILLING CODE 6820-35-M

5

LEGAL SERVICES CORPORATION

Provision of Legal Services Committee

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 23844, June 1, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m.-12:30 p.m., Tuesday, June 15, 1982.

CHANGE IN THE MEETING: Cancelled. To be rescheduled for July.

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Bernstein, Office of the President (202) 272-4040.

Dated: June 4, 1982.

Gerald M. Caplan,

Acting President.

[S-852-82 Filed 6-4-82; 2:27 pm]

BILLING CODE 6820-35-M

6

SYNTHETIC FUELS CORPORATION

Meeting of the Board of Directors

ACTION: Notice of Meeting.

SUMMARY: Interested members of the public are advised that a meeting of the Board of Directors of the United States Synthetic Fuels Corporation will be held on the date and at the time and place specified below by telephone conference call. This public announcement is made pursuant to the open meeting requirements of Section 116(f)(1) of the Energy Security Act (9 Stat. 611, 637; 42 U.S.C. 8701 8712(f)(1)) and Section 4 of the Corporation's Statement of Policy on Public Access to Board Meetings. During the meeting, the Board of Directors may consider a resolution to close the meeting pursuant to Article II Section 4 of the Corporation's By-laws, Section 116(f) of the said Act and sections 4 and 5 of the said policy.

Meeting Agenda: Consideration of matters relating to the Tosco loan guarantee.

DATE AND TIME: 10:30 a.m., June 14, 1982.

PLACE: Room 403, 2121 K Street NW., Washington, D.C. 20586.

PERSON TO CONTACT FOR MORE INFORMATION: If you have any questions regarding this meeting, please contact Mr. Owen J. Malone, Office of General Counsel, (202) 822-6336.

June 3, 1982.

United States Synthetic Fuels Corporation.

Edward E. Noble,

Chairman of the Board.

[S-847-82 Filed 6-4-82; 11:25am]

BILLING CODE 6008-00

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federal register

Tuesday
June 8, 1982

Part II

Environmental Protection Agency

Modification of Secondary Treatment Requirements for Discharges Into Marine Waters

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122 and 125

[WH FRL-2034-2(a)]

Modification of Secondary Treatment Requirements for Discharges into Marine Waters

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is today promulgating immediately effective final amendments to regulations implementing section 301(h) of the Clean Water Act which relate to modifications of secondary treatment requirements for discharges into marine waters and to 40 CFR Part 122. These changes are necessary to respond to recent statutory amendments to section 301(h) and a U.S. Court of Appeals decision overturning certain provisions of the existing regulations. In a separate section of today's **Federal Register**, EPA is publishing proposed amendments to the section 301(h) regulations and to portions of 40 CFR Part 124 that deal with section 301(h).

EFFECTIVE DATE: June 8, 1982.

FOR FURTHER INFORMATION CONTACT: Robert W. Zeller, PhD, Policy Advisor, Office of Marine Discharge Evaluation, WH-546, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 755-9231.

SUPPLEMENTARY INFORMATION:

I. Background

In 1972, the Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*) was amended to establish two phases of effluent limitations applicable to all publicly owned treatment works (POTWs). Under section 301(b)(1)(B), 33 U.S.C. 1311(b)(1)(B), POTWs were required to achieve secondary treatment by July 1, 1977. Section 301(b)(2)(B), 33 U.S.C. 1311(b)(2)(B), further required that POTWs achieve "best practicable waste treatment technology" by July 1, 1983.

Congress amended the Act in 1977 to add section 301(h) which provides that the Administrator, upon application of a POTW and with the concurrence of the State, may issue a National Pollutant Discharge Elimination System (NPDES) permit which modifies the secondary treatment requirements of section 301(b)(1)(B) if the applicant: (1) Discharges into certain ocean and estuarine waters, and (2) demonstrates compliance with the 301(h) criteria. Section 301(h) provided that applicants for a 301(h) modification had to have an existing discharge to marine waters as of the date of enactment of section 301(h) (December 27, 1977). Additionally, under section 301(j)(1)(A), applications for section 301(h) modifications had to be submitted by a specific date.

EPA promulgated final regulations implementing section 301(h) on June 15, 1979 (44 FR 34784, 40 CFR Part 125, Subpart G). The regulations were challenged in the United States Court of Appeals for the District of Columbia Circuit by the Natural Resources Defense Council, Inc. (NRDC), the Pacific Legal Foundation, Inc. (PLF), the municipalities of Skagway, Wrangell, and Anchorage, Alaska, and the Marina County Water District, California. On May 7, 1981, the court struck down the provisions of EPA's regulations which prohibited issuance of section 301(h) modified permits:

(1) For a discharge receiving less than primary treatment (40 CFR 125.59(b)(4));

(2) For the discharge of sewage sludge (40 CFR 125.59(b)(5)); and

(3) Where the applicant is currently meeting effluent limitations based on secondary treatment (40 CFR 125.59(b)(9)).

Natural Resources Defense Council, Inc. v. EPA, 656 F.2d 768 (D.C. Cir., 1981). The court upheld the regulations in all other respects.

Subsequently, in December 1981, Congress passed the Municipal Wastewater Treatment Construction Grant Amendments of 1981 (MWTCGA) which amended section 301(h) in several important respects. Pub. L. 97-117, 95 Stat. 1623. Section 22 of the MWTCGA resulted in the following changes:

(1) Any POTW which proposes to discharge into marine waters is eligible to apply for a section 301(h) modified permit. Previously, only POTWs actually discharging into such waters as of December 27, 1977, were eligible.

(2) The deadline for submission of applications in section 301(j)(1)(A) of the Act was extended until December 29, 1982.

(3) POTWs achieving secondary treatment can apply to discharge pollutants at less than secondary treatment levels.

(4) EPA is prohibited from granting section 301(h) modified permits for the discharge of sewage sludge.

(5) Section 301(h)(8), which stated that construction grant funds available to section 301(h) waiver recipients had to be used to carry out best practicable wastewater treatment technology or the requirements of section 301(h), was repealed.

(6) With the exception of Avalon, California, applicants applying after December 29, 1981, cannot receive a section 301(h) modified permit until after December 29, 1982.

Section 21 of the MWTCGA also repealed the requirement in section 301(b)(2)(B) of the Act that all POTWs achieve best practicable waste treatment technology (BPWTT) by July 1, 1983.

II. Response to the Statutory Amendments and Court Decision

EPA is today amending 40 CFR 125.57 to reflect the statutory language contained in section 22 of the MWTCGA. Pursuant to the MWTCGA and the court's decision, EPA is also repealing the provisions contained in 40 CFR 125.59(b)(3) (requirement for existing marine discharge) and 125.59(b)(9) (prohibition against section 301(h) modifications for communities achieving secondary treatment). Because the amendments to section 301(h) forbid waivers for the discharge of sewage sludge, EPA is retaining the prohibition against waivers for the discharge of sewage sludge in 40 CFR 125.59(b)(5). However, the MWTCGA do not forbid section 301(h) waivers authorizing the discharge of effluent receiving less-than-primary treatment. Accordingly, in response to the decision in NRDC v. EPA, EPA is deleting the prohibition in 40 CFR 125.59(b)(4).

Since Congress has amended section 301(j)(1)(A) to allow the submission of new applications until December 29, 1982, EPA is amending 40 CFR 125.59(d)(2) and 122.53(j)(1) to reflect this new deadline for submission of applications. EPA is also amending 40 CFR 125.58(d), 125.58(e), and 125.59(b)(6) in order to bring them into conformity with the new deadline for applications.

Because final regulations were not promulgated within the time frame for submitting applications under the original provisions of section 301(j)(1)(A), the Agency's 301(h) regulations had required both preliminary and final applications. *See*, 44 FR 34790-34791. Since the MWTCGA have reopened the application process, and regulations implementing section 301(h) already exist, there is no longer a need to require preliminary applications from POTWs now wishing to apply. Accordingly, EPA is deleting 40 CFR 125.58(l) and 125.59(b), and the reference to preliminary applications contained in 40 CFR 125.59(b)(8). EPA has amended the definition of final application in 40 CFR 125.58(e) to reflect the new statutory date for applications and to emphasize, as explained in Part III of this preamble, that preliminary applications are not final applications.

In response to the repeal of section 301(h)(8) of the Act regarding use of Title II funds, EPA is also deleting 40 CFR 125.66 which served to implement section 301(h)(8). The relationship of section 301(h) applications to Title II construction grant requirements will be addressed when additional proposed amendments to the construction grant regulations, 40 CFR Part 35, are published. Consistent with the deletion of 40 CFR 125.66, EPA is also amending 40 CFR 125.59(e)(1)(ii) and 125.67(b)(3) to eliminate cross-references to section 125.66.

Finally, because section 21 of the MWTCCA repealed the effluent limitation in section 301(b)(2)(B) of the Act which required POTWs to achieve BPWTT by July 1, 1983, EPA is amending 40 CFR 125.61(e)(2) to delete the reference to the July 1, 1983 date. However, POTWs seeking a section 301(h) modification and also applying for construction grant funds under Title II of the Act should be aware that they remain subject to the grant related provisions of BPWTT as set forth in section 201(g)(2)(A). Under proposed amendments to the construction grant regulations (40 CFR 35.2005(c), 46 FR 55222, November 6, 1981), section 301(h) proposals may qualify as BPWTT.

III. New Applications

As a result of the MWTCCA, POTWs which did not submit a final application under the June 15, 1979 section 301(h) regulations may now do so. POTWs which have already filed final applications under the section 301(h) regulations remain eligible for consideration for a section 301(h) modification. Under the June 15, 1979 section 301(h) regulations, POTWs filing preliminary applications, which were not required to contain supporting data, were not considered final applicants. Therefore, POTWs which have filed only a preliminary application under the regulations must now file a final application.

While POTWs may elect to file an application under the regulations as amended today, it will be beneficial for POTWs to defer filing applications until the proposed regulatory changes are promulgated. In light of the experience gained from review of the existing applications, EPA believes that application data requirements can be reduced substantially for small applicants and made more flexible for all applicants. EPA today is publishing elsewhere in the **Federal Register** a variety of proposed amendments to the section 301(h) regulations that reflect this experience and include proposed simplified requirements for applications.

If a POTW chooses to submit an application before the proposed regulations are finalized, it does not need to follow the existing application format. EPA believes the questionnaires proposed today in connection with the proposed amendments more accurately reflect EPA's minimum information needs. The Agency therefore encourages POTWs applying during this interim period to provide at least the information in the proposed questionnaires. That information will be used to enable EPA to make the statutory finding that the applicant has demonstrated to the satisfaction of the Administrator that it is entitled to a waiver. If the applicant's submission does not contain sufficient information to satisfy that need, EPA may require the submission of further information under 40 CFR 124.65 and proposed section 125.59(f).

Regardless of whether applications are filed before or after the proposed amendments become final, applicants must meet the December 29, 1982 statutory deadline.

In order to obtain a profile of potentially affected POTWs, the agency encourages interested POTWs to submit letters of intent to submit applications during the public comment period on the proposed amendments. Although EPA is not making such letters of intent mandatory, the agency is encouraging such submissions so that EPA can anticipate the probable number and geographic distribution of new applications and develop a cost-effective strategy for evaluating applications.

IV. Compliance With Executive Order 12291 and Paperwork Reduction Act

Under Executive Order 12291, EPA must judge whether a regulation is major and therefore subject to the requirements of a Regulatory Impact Analysis. This final regulation does not constitute a "major" regulation since it does not have a major financial or adverse impact on POTWs. EPA has submitted this final regulation to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any response to these comments from EPA are available as part of the public record. In accordance with the Paperwork Reduction Act (Pub. L. 96–511), the reporting and recordkeeping provisions that are contained in the proposed section 301(h) regulations have been submitted for approval to OMB. Information collection requirements contained in the proposed section 301(h) regulations have been approved by OMB under the provisions of the Paperwork Reduction Act and have been assigned OMB control number 2000–0427.

V. Immediately Effective Final Amendments

EPA is making these final amendments effective immediately and without a comment period. EPA believes a public comment period is unnecessary since the changes are mandated by the court decision and statutory amendments. Further, since there is no need to evaluate public comments and no additional burden is placed on POTWs, EPA concludes that there is good cause to make these regulation amendments effective today.

List of Subjects

40 CFR Part 122

Administrative practice and procedure, Air pollution control, Hazardous materials, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Confidential business information.

40 CFR Part 125

Water pollution control, Waste treatment and disposal.

Dated: May 26, 1982.

John W. Hernandez, Jr.,

Acting Administrator.

For the reasons set out in the preamble, Part 125, Subpart G and Part 122, Subpart D of Title 40 of the Code of Federal Regulations is amended as follows:

PART 125—CRITERIA AND STANDARDS FOR THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

1. The authority citation for 40 CFR Part 125, Subpart G is revised to read as follows:

Authority: (Clean Water Act, Secs. 301, 304, 501, Pub. L. 92–500, 86 Stat. 816, *as amended by*, Pub. L. 95–217, 91 Stat. 1566, *as amended by*, Pub. L. 97–117, 95 Stat. 1623 (33 U.S.C. 1311, 1314, 1361).

2. 40 CFR 125.57 is revised to read as follows:

§ 125.57 Law governing issuance of a section 301(h) modified permit.

(a) Section 301(h) of the Clean Water Act provides that:

The Administrator, with the concurrence of the State, may issue a permit under section 402 which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of any pollutant from a publicly owned treatment works into

marine waters, if the applicant demonstrates to the satisfaction of the Administrator that—

(1) There is an applicable water quality standard specific to the pollutant for which the modification is requested, which has been identified under section 304(a)(6) of this Act;

(2) Such modified requirements will not interfere with the attainment or maintenance of that water quality which assures protection of public water supplies and the protection and propagation of a balanced, indigenous population of shellfish, fish and wildlife, and allows recreational activities, in and on the water;

(3) The applicant has established a system for monitoring the impact of such discharge on a representative sample of aquatic biota, to the extent practicable;

(4) Such modified requirements will not result in any additional requirements on any other point or nonpoint source;

(5) All applicable pretreatment requirements for sources introducing waste into such treatment works will be enforced;

(6) To the extent practicable, the applicant has established a schedule of activities designed to eliminate the entrance of toxic pollutants from nonindustrial sources into such treatment works;

(7) There will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit.

For the purposes of this subsection the phrase "the discharge of any pollutant into marine waters" refers to a discharge into deep waters of the territorial sea or the waters of the contiguous zone, or into saline estuarine waters where there is strong tidal movement and other hydrological and geological characteristics which the Administrator determines necessary to allow compliance with paragraph (2) of this subsection, and section 101(a)(2) of this Act. A municipality which applies secondary treatment shall be eligible to receive a permit pursuant to this subsection which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of any pollutant from any treatment works owned by such municipality into marine waters. No permit issued under this subsection shall authorize the discharge of sewage sludge into marine waters.

(b) Section 301(j)(1) of the Clean Water Act provides that:

Any application filed under this section for a modification of the provisions of—(A) Subsection (b)(1)(B) under subsection (h) of this section shall be filed not later than the 365th day which begins after the date of enactment of the Municipal Wastewater Treatment Construction Grant Amendments of 1981;

(c) Section 22(e) of the Municipal Wastewater Treatment Construction Grant Amendments of 1981, Pub. L. 97-117, provides that:

The amendments made by this section shall take effect on the date of enactment of this Act, except that no applicant, other than the city of Avalon, California, who applies after the date of enactment of this Act for a permit pursuant to subsection (h) of section 301 of the Federal Water Pollution Control Act which modifies the requirements of subsection (b)(1)(B) of section 301 of such Act shall receive such permit during the one-year period which begins on the date of enactment of this Act.

3. In 40 CFR 125.58, paragraph (d) and the introductory text of paragraph (e) are revised to read as follows, paragraph (l) is removed, and paragraphs (m)–(x) are redesignated as (l)–(w) respectively:

§ 125.58 Definitions.

* * * * *

(d) "Current discharge" means the volume, composition, and location of an applicant's discharge as of any time between December 27, 1977 and December 29, 1982, as designated by the applicant.

(e) "Final application" means a final application previously submitted in accordance with the June 15, 1979 section 301(h) regulations (44 FR 34784) or an application submitted between December 29, 1981 and December 29, 1982. It does not include preliminary applications submitted in accordance with the June 15, 1979 section 301(h) regulations. The final application shall contain:

* * * * *

4. In 40 CFR 125.59 paragraphs (b)(3), (b)(4), (b)(9) and (c) are removed and paragraphs (b)(5), (b)(6), (b)(7), (b)(8), (d), and (e) are redesignated as (b)(3), (b)(4), (b)(5), (b)(6), (c), and (d) respectively. Redesignated paragraphs (b)(4), (b)(6), the introductory text of (c)(2), and (d)(1)(ii) are revised to read as follows:

§ 125.59 General.

* * * * *

(b) * * *

(4) For any discharge for which there is an applicable State or local law, regulation, or ordinance requiring secondary treatment of municipal wastewater, unless it can be shown that such law, regulation or ordinance is less stringent than secondary treatment, as defined in 40 CFR 133.102.

* * * * *

(6) Where the applicant submits a final application which, on its face, does not demonstrate to the satisfaction of the Administrator that the applicant's modified discharge meets or will meet all the requirements of this Subpart.

* * * * *

(c) * * *

(2) *Deadline and distribution.* The original and two copies of the final application must be submitted to the following no later than December 29, 1982:

* * * * *

(d) * * *

(1) * * *

(ii) Based on the applicant's demonstration that it has met all the criteria set forth in sections 125.59–65.

* * * * *

5. In 40 CFR 125.61, paragraph (e)(2) is revised to read as follows:

§ 125.61 Attainment or maintenance of water quality which assures protection of public water supplies, the protection of a balanced indigenous population of shellfish, fish, and wildlife, and allows recreational activities.

* * * * *

(e) * * *

(2) Computer modeling or other detailed analyses projecting changes in flow rates, flow patterns, composition, volume or other parameters or characteristics of the applicant's current discharge which are expected to result from such improvements at several milestone dates reflecting conditions of severe waste loadings;

* * * * *

§ 125.66 [Removed and reserved]

6. 40 CFR 125.66 is removed and reserved.

§ 125.67 [Amended]

7. In 40 CFR 125.67, paragraph (b)(3) is removed and paragraph (b)(4) is redesignated as (b)(3).

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM; THE HAZARDOUS WASTE PERMIT PROGRAM; AND THE UNDERGROUND INJECTION CONTROL PROGRAM

8. The authority citation for Part 122 reads as follows:

Authority: Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*; Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*; and Clean Water Act, 33 U.S.C. 1251 *et seq.*

9. In 40 CFR 122.53, paragraph (j)(1) is revised to read as follows:

§ 122.53 Application for a permit.

* * * * *

(j) * * *

(1) *Discharges into marine waters.* A request for a modification under CWA section 301(h) of requirements of CWA section 301(b)(1)(B) for discharges into marine waters must be filed in accordance with the requirements of 40 CFR Part 125, Subpart G.

* * * * *

[FR Doc. 82-15433 Filed 6-7-82; 8:45 am]
BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 124 and 125

[WH-FRL-2034-2(b)]

Modification of Secondary Treatment Requirements for Discharges Into Marine Waters

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is proposing amendments to the regulations implementing section 301(h) of the Clean Water Act which relate to modifications of secondary treatment requirements for discharges into marine waters and to 40 CFR Part 124. These amendments are necessary to clarify and simplify the section 301(h) regulations. The proposed amendments also supplement immediately effective amendments promulgated by EPA today in a separate **Federal Register** notice. The Final Amendments respond to a May 7, 1981, U.S. Court of Appeals decision overturning certain portions of the existing section 301(h) regulations and to relevant provisions of the Municipal Wastewater Treatment Construction Grant Amendments (MWTCGA) of 1981 amending section 301(h). Public meetings on this proposal will be held in EPA Regional offices. Details of the public meetings will be published in a separate **Federal Register** notice.

DATES: Comments on these proposed amendments, the Application Questionnaires, and the draft Technical Suppport Document must be submitted on or before August 9, 1982.

ADDRESS: Comments and requests for the draft revised section 301(h) Technical Support Document, the Pacific Legal Foundation rulemaking petition, and EPA's proposed response thereto should be addressed to: Robert W. Zeller, PhD, Policy Advisor, Office of Marine Discharge Evaluation, WH-546, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 755-9231. The official record for this rulemaking is available for viewing in Room 2417 at the address above from 9:00 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Robert W. Zeller, Ph. D., Policy Advisor, Office of Marine Discharge Evaluation, WH-546, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 755-9231.

SUPPLEMENTARY INFORMATION:

I. Background

On June 15, 1979, EPA promulgated regulations implementing section 301(h) of the Clean Water Act (33 U.S.C. 1311(h)). 40 CFR Part 125, Subpart G, 44 FR 34784. Following an appeal of these regulations, the U.S. Court of Appeals for the District of Columbia Circuit invalidated three provisions of the regulations. Natural Resources Defense Council, Inc. v. EPA, 656 F.2d 768 (D.C. Cir., 1981). Subsequently, the Municipal Wastewater Treatment Construction Grant Amendments of 1981 (MWTCGA) amended section 301(h). Pub. L. 97-117, 95 Stat. 1623.

Pursuant to the Court's decision and the MWTCGA, EPA today is promulgating in a separate **Federal Register** notice final amendments to the section 301(h) regulations. That notice explains the court decision and the effect of the MWTCGA in further detail.

This notice proposes further changes to the regulations. In keeping with the President's directive to reduce the burden of government regulations and as a result of EPA's experience in implementing the section 301(h) program, EPA has undertaken a comprehensive review of the section 301(h) regulations. As a result, EPA now believes the regulations can be made simpler, clearer, and more flexible.

Finally, on September 11, 1981, EPA received a petition for rulemaking from the Pacific Legal Foundation (PLF) to amend the section 301(h) regulations. The petition covered the following areas: (1) The need for and modifications to the regulations; (2) enforcement policy; (3) priority for construction grant funds; and (4) the role of the States in implementing section 301(h). EPA has fully considered PLF's petition and many of the changes proposed today are consistent with PLF's comments. A separate letter sent to PLF contains EPA's tentative response to all of the issues PLF raised. Both the petition and letter are part of the rulemaking record and comments on them may be submitted during the public comment period on this notice. Copies of both may be obtained by contacting EPA's Office of Marine Discharge Evaluation at the address given above.

EPA anticipates receiving several hundred applications just prior to the statutory deadline for new applications of December 29, 1982. It will not be possible for EPA to review all new and revised applications concurrently. EPA, therefore, will prioritize the review as was done with the 70 existing applications; the largest applications will be reviewed first. EPA also anticipates, however, that the proposed, simplified application requirements will facilitate quicker review of new and revised applications.

II. Major Changes and Issues

This proposal discusses the major changes and issues that currently pertain to section 301(h). The June 15, 1979, preamble (44 FR 34784) contains a full discussion of the existing regulations and should be referred to for background information to understand the context of the proposed changes. References in this proposed rulemaking package to 40 CFR Part 125 are to the June 15, 1979 regulations; not to the regulations as amended today.

(A) *Revisions to Applications.* As a result of the decision in NRDC v. EPA, EPA proposes to allow publicly owned treatment works (POTWs) which have submitted final applications for the discharge of primary effluent or effluent characteristics at the time of application to revise their applications to propose the discharge of less-than-primary treated effluent (proposed § 125.59(d)(1)). These revisions would have to be submitted within one year of EPA's tentative decisions on their original applications (proposed § 125.59(e)(2)(ii)). EPA does not intend to accept revisions until the tentative decision is made in order that applicants will have the benefit of that decision before determining whether or not to submit a revision. For example, applicants would not be expected to submit a revision for less-than-primary treatment if EPA's tentative decision is to reject the original application for primary treatment.

EPA will not accept revisions to discharge at lower treatment levels from applicants who proposed advanced primary treatment (i.e., enhanced removals of biochemical oxygen demand and/or suspended solids beyond primary treatment levels) unless the proposed treatment levels were characteristic of applicants' POTW discharges at the time of application. Such applicants could have proposed primary treatment in their original applications but chose not to do so for reasons not related to the then existing prohibition (40 CFR 125.59(b)(4)) against the discharge of less-than-primary effluent. EPA, therefore, sees no reason to allow them to change their minds now and propose lower treatment levels.

Under proposed § 125.59(d)(2), all applicants will be permitted one

opportunity to proposed upgrading their treatment levels and to improve their outfall/diffuser location or design if EPA's tentative decision is to deny their application.

POTWs revising their applications do not have to submit a completely new application. Rather, proposed § 125.59(d)(3) would require POTWs to revise their original application to the extent needed to assure that it remains complete and correct, to provide additional analyses necessary to support the revision, and to comply with proposed §§ 125.59(c)(3), 125.60(b)(2), and 125.63(b). Finally, proposed § 125.59(e)(2)(i) provides that applicants wishing to revise their applications must submit a letter of intent to do so within 45 days of the date of EPA's tentative decision on their original application. Those applicants who have already received a notice of a tentative decision must submit a letter of intent within 45 days after these proposed amendments are promulgated in final form. Following receipt of such letters, EPA will stay further administrative proceedings under 40 CFR Part 124. All revisions must be submitted within one year of the tentative decision, except for POTWs in the latter group who have one year from the date of final promulgation of these proposed regulations.

(B) *State determination requirements.* Section 301(h) requires the Administrator to obtain State concurrence prior to issuing a section 301(h) modified permit. As part of this process, the Agency proposes that the applicant provide EPA with a determination from the State on two issues before EPA will evaluate their section 301(h) application (proposed §§ 125.59(e)(3), 125.60(b)(2), 125.63(b)). The State must determine whether an applicant's modified discharge will violate State laws, including water quality standards, and/or lead to the imposition of additional treatment or control requirements on other pollutant sources. This requirement will assure earlier State involvement on matters within State expertise, expedite EPA's evaluation of the applications, and enable nonmeritorious applications to be screened out quickly.

Under the existing regulations, letters from State agencies on these issues were to be provided in the application (40 CFR 125.63(b); Application Format, Part A, Section 9, 44 FR 34824). In many instances, the States did not furnish such letters, in part because they did not perform an advance review of the final application. This deprived EPA of the States' viewpoint early in the process. The proposed amendments seek to eliminate this problem by requiring the applicants to obtain the State determinations prior to EPA's evaluation of the applications (proposed § 125.59(e)(3)). The State's determination must be provided within 90 days after an application or revision is submitted. EPA's review of the application or revision will not start until the State determination is received by EPA. Existing applicants who have not already obtained letters from the State called for under the existing regulations are encouraged to obtain the necessary letters as quickly as possible.

A favorable State determination at this early stage will not preclude later exercise by the State of concurrence rights under sections 301(h) and 401 of the Act and submittal of certification as required by 40 CFR 124.54. EPA understands that State review of an application for concurrence on a 301(h) variance will be easier to conduct after EPA issues its tentative decision. EPA does not intend to foreclose this additional review. However, the State should not alter its determination once EPA has relied on the State findings to grant or deny an application unless public comments or EPA's analysis disclose new facts not previously available to the State at the time it made its determination.

Where a State makes a negative determination under proposed § 125.60(b)(2) or 125.63(b), EPA will deny the variance request immediately and conduct no further review of the application or revision.

(C) *Burden on smaller dischargers.* When EPA promulgated the existing regulations, some commenters requested that EPA develop different data requirements for small dischargers. EPA stated that the statute did not authorize EPA to exempt dischargers categorically from any statutory requirements on the basis of size or volume. EPA also stated that the regulations inherently required less data from small dischargers. 44 FR 34791, June 15, 1979. EPA has now completed technical review of most of the existing applications from the largest POTWs plus some of the smaller applications. Based on the experience and knowledge gained from this review, EPA now concludes that application data requirements for small applicants can be simplified substantially both in the regulations and the application questionnaire.

The proposed amendments classify applicants as either large or small depending on the population contributing to their POTWs and the design flow of the discharge for which a variance is requested (proposed § 125.58(c)). Large applicants are defined as having contributing populations of 50,000 or more or total discharge design flows equal to or greater than 5.0 million gallons per day (mgd). Small applicants have contributing populations of less than 50,000 and total discharge design flows less than 5.0 mgd. This classification is consistent with categorizations in EPA's Construction Grant Costs Needs Survey (USEPA 1980 Needs Survey, FRD–19, p. 9), and the Regulatory Flexibility Act definition of small governmental entities (5 U.S.C. 601). Also, under EPA's pretreatment regulations (40 CFR Part 403), pretreatment programs are required for POTWs larger than 5.0 mgd if they have industrial inflows subject to EPA's pretreatment standards. POTWs of 5.0 mgd or less are exempt from the uniform requirement to have a POTW pretreatment program * * * "unless the Regional Administrator of the Director * * * determines that a program is necessary due to the significance of the character or volume of industrial wastes introduced into the POTW" (40 CFR 403.8).

Most small applicants will be able to respond to the proposed application data requirements with readily available information on their POTWs, oceanographic conditions, and water quality and biological conditions. Normally, only those small POTWs with low initial dilution discharging into waters with poor dispersion and transport characteristics, near distinctive and susceptible biological habitats, or with substantial quantities of toxics will need to provide additional field studies. A small discharger to a saline estuary, for example, may need to provide additional field data and analyses to demonstrate compliance with section 301(h) criteria because of potentially inadequate dilution, dispersion, and transport characteristics.

The Agency also proposes to relieve most small applicants from certain of

the toxic control program requirements and to provide more flexibility in the design of monitoring programs (see Part II, Sections D and E).

(D) *Monitoring.* EPA's experience in evaluating existing larger applications has verified the importance of carefully designed monitoring programs. However, EPA has concluded that the level of detail in the existing regulations is unnecessary and that general monitoring program requirements augmented by an advisory Technical Support Document would be more beneficial. Thus, while the monitoring program objectives remain the same, many of the detailed requirements in 40 CFR 125.62 have been deleted so that each applicant will have the flexibility to design a more cost-effective monitoring program to meet its individual circumstances. To assure the validity of monitoring data obtained, EPA will continue to specify the general objectives to be met (proposed § 125.62(a)(1)). All monitoring programs must be designed to assess the impact of less-than-secondary discharges on receiving water quality and biological habitats, to measure toxic substances in the POTW effluent, and to assess continued compliance with section 301(h) criteria. As before, EPA will review proposed monitoring programs for adequacy and may require any necessary changes (proposed § 125.62(a)(2)).

40 CFR 125.62 has also been changed to explicitly add the statutory criterion that monitoring programs be practicable (proposed § 125.62 (b)(1), (c), and (d)). For instance, it would not be practicable to do *in situ* bioassays under circumstances where human life could be endangered or to conduct quarterly seasonal surveys in areas that do not have four distinct seasons.

Most of the proposed amendments appear in the biological monitoring provisions. Although the benthos is a good indicator of discharge related effects, EPA has concluded that other biological populations most likely to be affected by the discharge should be surveyed rather than singling out the benthos (proposed § 125.62(b)(1)(i)). This will enable a more complete assessment of the impact of the modified discharge. Presumably, most monitoring programs will still include the benthos. Further, EPA does not believe it is necessary to uniformly require that *in situ* bioassays be performed within and immediately beyond the zone of initial dilution (ZID) (40 CFR 125.62(b)(1)(iv)(A), proposed § 125.62(b)(1)(ii)). Similarly, EPA plans to replace the uniform requirement in 40 CFR 125.62(b)(1)(iv)(B) that sampling of sediments take place immediately beyond the ZID with a requirement that sampling take place in areas of likely or suspected solids deposition in the vicinity of the ZID (proposed § 125.62(b)(1)(iii)). This change reflects the difficulties applicants have had in locating ZID boundaries during field surveys and the potential that solids in some cases may not settle within or immediately outside of the ZID.

Under proposed § 125.62(b)(2) small applicants would be relieved from certain biological monitoring provisions of proposed § 125.62(b)(1)(ii)–(1)(iv) if they discharge at depths greater than ten meters and can demonstrate through a suspended solids deposition analysis that there is or will be negligible sediment accumulation on the seabeds. Satisfying the first condition demonstrates that there is likely to be adequate initial dilution and that wastes would not be expected to appear in the vicinity of surf zones, swimming beaches, and the like. The absence of seabed accumulation demonstrates that there is good dispersion of the diluted wastefield and a much smaller risk of bioaccumulation in the benthos and demersal fish.

EPA proposes to delete 40 CFR 125.62(c)(1)(ii)(A)–(C) as redundant since water quality standards themselves include requirements about compliance in and around mixing zones. Proposed § 125.62(c)(2) has been added to emphasize that the water quality monitoring program is designed in large part to measure toxic pollutants in the receiving waters that are identified or reasonably expected to be present in the discharge.

Finally, the toxics control monitoring program in 40 CFR 125.62(d) is renamed the effluent monitoring program to emphasize not only the presence of toxic pollutants in the discharge but the effectiveness of toxics control programs.

(E) *Toxics Control Programs.* EPA is retaining the basic structure of the toxics control program but proposes to simplify the regulation and to reduce application requirements for small applicants.

EPA proposes to relieve small applicants from chemical analysis requirements if such applicants certify that there are no known or suspected sources of toxic pollutants or pesticides (proposed § 125.64(a)(2)). EPA has concluded that the risk of toxic pollutants and pesticides creating problems in such cases is small. Accordingly, EPA believes the current provision is not practicable.

EPA proposes to delete the 18-month deadlines for developing and implementing pretreatment programs in 40 CFR 125.64(c)(1)(i). This requirement is no longer meaningful in view of the pretreatment program regulation requirement (40 CFR 403.8(d)) that all pretreatment programs be approved by July 1, 1983. Instead, section 301(h) permittees will be required to develop a pretreatment program by July 1, 1983 or the date established in their NPDES permit, whichever is earlier.

EPA also proposes to relieve small applicants from the burden of developing and implementing substantial nonindustrial toxics source control programs if such applicants certify that there are no known or suspected water quality, sediment accumulation, or biological problems associated with toxic pollutants or pesticides (proposed § 125.64(d)(2)). The cost and time to develop nonindustrial toxic control programs can be substantial and these smaller POTWs with relatively small financial resources present a relatively low risk to the environment from nonindustrial toxic pollutant and pesticides. Thus, EPA concludes that it is impracticable to require small applicants that meet the proposed criteria to develop and implement substantial nonindustrial toxic control programs. However, both small and large applicants must implement a public education program for minimizing the entrance of nonindustrial toxic pollutants and pesticides into their POTWs (proposed § 125.64(d)(1)).

EPA proposes to delete the 18-month deadline in 40 CFR 125.649d)(1)(i) for implementing the schedule of activities to control nonindustrial sources. Instead, applicants subject to the requirements of proposed § 125.64(d)(2) and (3) must develop and implement such programs on the earliest possible schedule (proposed § 125.64(d)(2)). EPA feels that it is more practical to commit section 301(h) permittees to individual schedules for nonindustrial toxics source control program development and implementation than to impose a uniform schedule for all applicants. Finally, proposed § 125.64(d)(3) prescribes only general requirements for development and implementation of nonindustrial toxic source control programs since EPA believes POTWs should have more flexibility in this area. Additional guidance is provided in the revised section 301(h) Technical Support Document. As before, EPA will review toxics control programs for adequacy and may require any necessary changes (proposed §§ 125.64(c)(3) and (d)(4)).

III. Other Changes

In addition to the changes discussed below and in Part II of this preamble, EPA is proposing many editorial changes to the regulations to make them easier to understand and to eliminate verbose and redundant language. As part of this effort, EPA is planning to drop the present distinction between "criteria" and "application requirements." In general, the application requirements will now appear only in the Application Questionnaire itself. Because of the number and minor nature of other editorial changes, they generally are not discussed in this notice.

(A) *Section 125.58 Definitions.* Consistent with the changes discussed in Part II and the final amendments promulgated today, EPA is adding a definition of "application," deleting the definition of "final application," and revising the definition of "applicant." EPA also proposes to add a definition for "altered discharge" to categorize applicants that are proposing a treatment level less than that currently achieved (proposed § 125.58(b)). Thus, section 301(h) modified discharges may be based on current discharges, improved discharges, or altered discharges (see proposed § 125.59(a)). Additional regulations applicable to altered discharges appear in proposed § 125.61(e).

EPA is also proposing in § 125.58(w) to change 40 CFR 125.58(w) by deleting "State" from the term "State water quality standard". EPA explained in the June 15, 1979, section 301(h) regulations that "water quality standard" is a term of art in the Act referring only to a State water quality standard adopted or promulgated under section 303. 44 FR 34798–9. It is still EPA's position that the term "water quality standards" applies only to section 303 standards. However, since section 303 authorizes both the States and EPA to promulgate water quality standards, EPA believes it is appropriate to remove any ambiguity in the regulation by deleting the reference to "State". Consistent with these changes, EPA is proposing to amend other provisions in the regulations that refer to state water quality standards.

The definition of "zone of initial dilution" in 40 CFR 125.58(x) has been changed (proposed § 125.58(x)). The applicant is no longer required to calculate the zone of initial dilution by one prescribed EPA method. The Section 301(h) Technical Support Document describes several methods that may be used.

EPA is also deleting the definition of "traditional pollutant" (40 CFR 125.58(v) as no longer necessary. Finally, minor editorial changes have been made to other definitions.

(B) *Section 125.59 General Requirements.* 40 CFR 125.59(a)(2)(i) has been moved to proposed § 125.61(e)(1). 40 CFR 125.59(a)(2)(ii) and (iii) have been deleted since these provisions concern construction grants and general enforcement issues and do not properly belong in this subpart.

In addition to changes already made in today's final amendments, the Agency is proposing further changes to the prohibitions in 40 CFR 125.59(b) by combining 40 CFR 125.59(b)(1) and (2) into proposed section 125.59(b)(1). 40 CFR 125.59(b)(6) has also been combined with 40 CFR 125.59(b)(7) into proposed section 125.59(b)(3) since the concern is the same in both provisions, i.e., whether the discharge complies with applicable laws. In doing so, 40 CFR 125.59(b)(7) is streamlined. None of these changes are intended to be substantive.

Finally, EPA proposes to delete 40 CFR 125.59(b)(8) which provides that an application must demonstrate compliance with all requirements of this subpart "on its face." While EPA expects all applicants to respond diligently to the application questionnaire and to submit all available information, time may not permit all applicants to respond to the questionnaire fully and to satisfy the requirements of this subpart by the application deadline. In such cases, EPA may require or authorize the submission of additional information following receipt of an incomplete application (proposed § 125.59(f)(1)). EPA believes this approach is preferable to rejecting an application as deficient "on its face" where the applicant has made a diligent, good faith effort to complete the application.

Proposed § 125.59(f) further provides that where the missing information concerns discharge characteristics, water quality, biological conditions, or oceanographic characteristics, EPA will require the applicant to submit a plan of study for the collection and submission of the data with its application. EPA will then review the plan pursuant to proposed § 125.59(f)(2).

EPA believes that the plan of study approach will benefit applicants by assuring that available time and resources are used in the most cost-effective way. EPA therefore encourages applicants to submit plans of study or otherwise consult with EPA prior to data collection and submission of their application. Plans of study are required, however, only when the applicant seeks authorization to submit data after it has submitted its application.

(C) *Section 125.61 Attainment or Maintenance of Water Quality.* EPA is planning to make several changes to § 125.61(a). First, the requirement in 40 CFR 125.61(a)(1)(i) that the outfall be "well-designed" would be deleted. The requirement is vague and is irrelevant as long as adequate initial dilutions are actually achieved. Second, based on EPA's experience in evaluating larger section 301(h) applications, EPA proposes in § 125.61(a)(1) to change 40 CFR 125.61(a)(1)(ii) to require applicants to calculate critical initial dilutions only for the period(s) of maximum stratification unless available information indicates other situations may be more critical for the modified discharge. Of the several situations listed in Part B, section 1–3 of the existing application format, 44 FR 34825, the period(s) of maximum stratification has been selected consistently as the most critical for assessing compliance with applicable water quality standards.

EPA also proposes to delete the requirement of 40 CFR 125.61(a)(1)(iii) that applicants calculate wastewater flow times initial dilution for demonstrating adequacy of available dilution water. This calculation is not needed when there is unobstructed flow of dilution water to the zone of initial dilution which is the case for most marine discharges.

40 CFR 125.61(b)(1)(iii), (c)(1)(iv) and (d)(1)(ii) would be amended. Since proposed §§ 125.59(b)(3) and 125.60 already require compliance with state and local laws including water quality standards, EPA believes the above provisions in § 125.61 are redundant. Proposed § 125.61(b)(1), (c)(1), and (d)(1) have been added to provide that the modified discharge must allow for the attainment or maintenance of water quality which assures protection of public water supplies, a balanced indigenous population of shellfish, fish, and wildlife, and recreational activities.

40 CFR 125.61(e) has been amended to include altered discharges (proposed § 125.61(e)). In addition, EPA proposes to delete the requirement in 40 CFR 125.61(e)(1) that final plans for improving treatment systems be submitted. EPA does not need actual engineering plans for decision-making on the applications; accordingly, EPA proposes to require only that the applicant demonstrate that the improved or altered discharge has been thoroughly planned and studied and can be implemented expeditiously (proposed § 125.61(e)(1)). 40 CFR 125.61(e)(2) would also be amended to delete the

requirement for submission of analyses at "several milestone dates * * * including * * * July 1, 1983 * * *" since it would be redundant with proposed § 125.65(c) (proposed § 125.61(e)(2)). Finally, the first part of 40 CFR 125.61(e)(5) has been deleted; if the applicant demonstrates compliance with 40 CFR 125.61(a)–(d), he should have alleviated any adverse impacts identified under those provisions.

(D) *Section 125.63 Effect of Discharge on Other Sources.* EPA proposes to delete the requirement in 40 CFR 125.63(b) that applicants obtain letters regarding compliance with section 301(h)(4) from each State agency involved in wasteload allocations. EPA believes that one letter from the State or interstate agency having the actual responsibility for establishing wasteload allocations is satisfactory evidence that the State has considered whether a modified discharge would result in additional requirements on any other point or nonpoint source. In addition, because the State's opinion on impacts on other point and nonpoint sources is being required before a new application or revision to an application will be evaluated by EPA, elimination of the requirement for multiple letters will help to expedite the State's review process (proposed § 125.63(b)).

(E) *Section 125.65 Increase in Effluent Volume or Mass Emissions.* EPA believes that this section can be simplified by deleting 40 CFR 125.65(a) (1) and (2) which prohibit increases in effluent volume and mass emissions beyond the applicant's five year projections. The section 301(h) modified NPDES permit will specify effluent concentrations and mass emissions. Accordingly, the Agency believes that these provisions are unnecessary. However, to assure a clear understanding of the requested effluent limits in the context of planned or projected POTW discharge increases, EPA proposes to require applicants to submit data on projected effluent volumes and mass loadings in five year increments over the design life of the facility (proposed § 125.65(c)).

(F) *Section 125.67—Special permit conditions.* Section 125.67(a) has been modified to include "mass loadings" as well as effluent limitations. The failure to include "mass loadings" in the 1979 regulations was an oversight. The detailed pretreatment program reporting requirements of 40 CFR 125.67(d) have been deleted as redundant with 40 CFR Parts 122 and 403.

(G) *Application Questionnaires and Technical Support Document.* Proposed Small Applicant and Large Applicant Questionnaires for Modification of Secondary Treatment Requirements are published as Appendix A and B, respectively, to this proposed regulation and are also provided in the draft revised section 301(h) Technical Support Document. EPA has developed a separate, simplified questionnaire for small applicants consistent with proposed amendments pertaining to small applicants. However, the Large Applicant Questionnaire is also briefer and simpler than the existing application format. In both cases, most changes from the existing application format generally correlate with proposed regulatory amendments. The remaining changes reflect EPA's determination that the existing application format is too detailed. EPA believes the proposed questionnaires will still provide the necessary information. As before, completion of the questionnaires is necessary for EPA to determine whether the requirements of section 301(h) and this subpart have been met. However, while applicants must adhere to the Application Questionnaires, the guidance provided by the section 301(h) Technical Support Document is advisory only. Applicants are encouraged to use the Technical Support Document guidance in the preparation of their applications.

The draft revised section 301(h) Technical Support Document is available for review and comment by writing to the Office of Marine Discharge Evalution (address given above).

(H) *Amendments to 40 CFR Part 124 of the Consolidated Permit Regulations:* Agency regulations dealing with the procedural aspects of section 301(h) decision-making are located in both Part 124 and Part 125. In order to centralize relevant regulations as much as possible and to clarify the relationship of Part 124 to section 301(h) decisions, EPA proposes to remove 40 CFR 124.65 and relocate its contents in proposed § 125.59(f) and (g). EPA is not transferring 40 CFR 124.54; while it deals with section 301(h), it is more closely tied to 40 CFR 124.53.

As part of this change, EPA proposes to make 40 CFR 124.65(b) more flexible by extending the maximum time period for submitting supplemental information, as requested or authorized, from nine months to one year (proposed § 125.59(f)). The requirements of 40 CFR 124.65(b) would also be deleted. EPA believes that they are unnecessarily detailed. 40 CFR 124.65(a) would be deleted for the same reason given for deleting 40 CFR 125.59(b)(8). (See discussion of Plan of Study in Part III, Section B.)

EPA also proposes to amend 40 CFR 125.59(e)(4) to provide that appeals from section 301(h) decisions may be conducted under either evidentiary or non-adversary procedures (proposed § 125.59(g)(5)). This change is necessary to conform the regulation to 40 CFR 124.64(b) and 124.111(a).

Finally, EPA proposes to amend 40 CFR 124.65(c) which provides that for purposes of Part 124 the term "administrator or person designated by the Regional Administrator" shall be substituted for the term "Director". Because section 301(h) decisions are made by the Administrator or person designated by the Administrator, 40 CFR 124.65(c) has been changed to delete the reference to "a person designated by the Regional Administrator" (proposed § 125.59(g)(4)(i)). This change parallels 40 CFR 124.111(a)(1)(iii).

(I) *Delegation of Authority.* Consistent with these provisions the Administrator plans to delegate decision-making authority for all new applications and revised applications to the Regional Administrators; also, for the 40 existing smaller applications. Decision-making authority for the 30 existing larger applications will be retained in headquarters. Accordingly, a new definition of the term "Administrator" has been added to proposed § 125.58(a). Following is the list of existing larger applications with an asterisk marking those applications on which tentative decisions have already been made:

Boston, MA
Lynn, MA
New Bedford, MA
South Essex, MA
Mamaroneck, NY
Newtown Creek, NY
Arecibo, PR
Bayamon, PR
Carolina, PR
Guayama, PR
*Chesapeake-Elizabeth, VA
Lambert's Point, VA
*Los Angeles (Hyperion), CA
*Los Angeles County, CA
Monterey, CA
*Orange County, CA
*Oxnard (Venture), CA
*Goleta, CA
San Francisco, CA
*San Diego (Point Loma), CA
Santa Cruz, CA
*Honouliuli, HI
*Sand Island, HI
*Anchorage, AK
*Seattle (Duwamish), WA
*Seattle (West Point), WA
*Seattle (Richmond), WA
Tacoma (Central), WA
Tacoma (Western Slope), WA
Tacoma (North End), WA

IV. Compliance With Executive Order 12291, Regulatory Flexibility Act, and Paperwork Reduction Act

Under Executive Order 12291, EPA must judge whether a regulation is major and, therefore, subject to the requirements of a Regulatory Impact Analysis. EPA's proposed amendments do not constitute a "major" regulation since they do not have a major financial or adverse impact on POTWs.

The following discussion of regulatory costs and savings is based on EPA's Request for OMB Review (SF 83) and the Supporting Statement for that request. Application costs are estimated to be about $12,000 for a typical small applicant since no field studies will be required in most cases. This cost would increase to about $30,000 when a field study is required. Annual monitoring and nonindustrial toxic control program costs to typical small section 301(h) permittees will be about $25,000 initially. However, the proposed regulations provide flexibility so that, once a predictable relationship is established between discharge characteristics and receiving water quality, this cost should diminish to about $15,000 for most small permittees. In fact, after the first year or so of implementation, the ongoing costs to the smallest permittees (i.e., less than 1,000 population) should be very small.

Application costs for a typical large applicant are estimated to be $36,000 including the cost of limited field work, if necessary. The estimated cost could reach $100,000 if a substantial field survey is necessary (i.e., a combined water quality, biological, and oceanographic field survey). Application costs, however, should not exceed $100,000 to comply with the proposed simplified requirements except for very large applicants. Annual monitoring and nonindustrial toxic control program costs for a typical large permittee are estimated at $250,000 to $300,000 for the first year of program implementation. Subsequently, the costs will diminish to a level of about $150,000.

Although EPA does not have the data to quantify the reduction in costs from the increased flexibilty in application requirements, the proposed, simplified regulations have the potential for saving substantial funds annually for both small and large applicants. Such savings will accrue at little or no risk to the environment since the proposed regulations will assure continued compliance with section 301(h) criteria and objectives.

EPA has estimated annual savings to section 301(h) permittees (assumed here to be the difference in total annual costs between primary treatment and secondary treatment plants) of $5,400 for the smallest permittees with service area populations of 1,000 or less; $43,000. for permittees with service area populations of 10,000; $195,000 for service area populations of 50,000; $280,000 for service areas of 100,000 population; and $540,000 for service area populations of 200,000. These savings, of course, would be even larger for applicants receiving variances for less-than-primary discharges.

Based on the above estimated costs and savings for typical small and large applicants, the total estimated net savings for GAO's estimated 845 potential applicants (GAO Report to Congress, 5/22/81, CED–81–68, p. 10) would be at least $30 million annually.

EPA has submitted these amendments to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any response to those comments from EPA are available as part of the public record.

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA must prepare a regulatory flexibility analysis for all regulations that may have a significant impact on a substantial number of small entities. Small entities include "small governmental jurisdictions," which are generally defined as jurisdictions of less than 50,000 people. As discussed above, the proposed regulations have been drafted to simplify data requirements and reduce the cost burden for small applicants. Therefore, EPA concludes that this proposed rule will not have a significant economic impact on a substantial number of small entities. Consequently, EPA has not prepared a Regulatory Flexibility Act analysis.

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, the reporting and recordkeeping provisions that are included in this proposed rule have been submitted for approval to OMB under section 3504(h) of the Act. Burden hour estimates in EPA's request to OMB are based on the Agency's experience in evaluating existing section 301(h) applications. Information collection requirements contained in the proposed 301(h) regulations have been approved by OMB under the provisions of the Paperwork Reduction Act and have been assigned OMB control number 2000–0427.

List of Subjects

40 CFR Part 124

Administrative practice and procedure, Air pollution control, Hazardous materials, Waste treatment and disposal, Water pollution control, Water supply, Indians-lands.

40 CFR Part 125

Water pollution control, Waste treatment and disposal.

Dated: May 28, 1982.

John W. Hernandez, Jr,

Acting Administrator.

For the reasons set out in the preamble, Parts 124 and 125 of Title 40 of the Code of Federal Regulations are proposed to be amended as set forth below.

PART 125—CRITERIA AND STANDARDS FOR THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

40 CFR Part 125 is amended as follows:

1. The authority citation for Part 125 reads as follows:

Authority: Clean Water Act, sections 301, 304, 501, Pub. L. 92–500, 86 Stat. 816, *as amended by* Pub. L. 95–217, 91 Stat. 1566, *as amended by* Pub. L. 97–117, 95 Stat. 1623 (33 U.S.C. 1311, 1314, 1316).

2. 40 CFR Part 125, Subpart G is revised to read as follows:

Subpart G—Criteria for Modifying the Secondary Treatment Requirements Under Section 301(h) of the Clean Water Act

Sec.

125.56 Scope and purpose.
125.57 Law governing issuance of a section 301(h) modified permit.
125.58 Definitions.
125.59 General.
125.60 Existence and compliance with applicable water quality standards.
125.61 Attainment or maintenance of water quality which assures protection of public water supplies, the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife, and allows recreational activities.
125.62 Establishment of a monitoring system.
125.63 Effect of discharge on other point and nonpoint sources.
125.64 Toxics control program.
125.65 Increase in effluent volume or amount of pollutants discharged.
125.66 [Reserved]
125.67 Special permit conditions.
Appendix A—Small Applicant Questionnaire for Modification of Secondary Treatment Requirements
Appendix B—Large Applicant Questionnaire for Modification of secondary Treatment Requirements

Subpart G—Criteria for Modifying the Secondary Treatment Requirements Under Section 301(h) of the Clean Water Act

§ 125.56 Scope and purpose.

This subpart establishes the criteria to be applied by EPA in acting on section 301(h) requests for modifications to the secondary treatment requirements. It also establishes special permit conditions which must be included in any permit incorporating a section 301(h) modification of the secondary treatment requirements. ("Section 301(h) modified permit").

§ 125.57 Law governing issuance of a section 301(h) modified permit.

(a) Section 301(h) of the Clean Water Act provides that:

The Administrator, with the concurrence of the State, may issue a permit under section 402 which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of any pollutant from a publicly owned treatment works into marine waters, if the applicant demonstrates to the satisfaction of the Administrator that—

(1) There is an applicable water quality standard specific to the pollutant for which the modification is requested, which has been identified under section 304(a)(6) of this Act;

(2) Such modified requirements will not interfere with the attainment or maintenance of that water quality which assures protection of public water supplies and the protection and propagation of a balanced, indigenous population of shellfish, fish and wildlife, and allows recreational activities, in and on the water;

(3) The applicant has established a system for monitoring the impact of such discharge on a representative sample of aquatic biota, to the extent practicable;

(4) Such modified requirements will not result in any additional requirements on any other point or nonpoint source;

(5) All applicable pretreatment requirements for sources introducing waste into such treatment works will be enforced;

(6) To the extent practicable, the applicant has established a schedule of activities designed to eliminate the entrance of toxic pollutants from nonindustrial sources into such treatment works;

(7) There will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit.

For the purposes of this subsection the phrase "the discharge of any pollutant into marine waters" refers to a discharge into deep waters of the territorial sea or the waters of the contiguous zone, or into saline estuarine waters where there is strong tidal movement and other hydrological and geological characteristics which the Administrator determines necessary to allow compliance with paragraph (2) of this subsection, and section 101(a)(2) of this Act. A municipality which applies secondary treatment shall be eligible to receive a permit pursuant to this subsection which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of any pollutant from any treatment works owned by such municipality into marine waters. No permit issued under this subsection shall authorize the discharge of sewage sludge into marine waters.

(b) Section 301(j)(1) of the Clean Water Act provides that:

Any application filed under this section for a modification of the provisions of—(A) Subsection (b)(1)(B) under subsection (h) of this section shall be filed not later than the 365th day which begins after the date of enactment of the Municipal Wastewater Treatment Construction Grant Amendments of 1981;

(c) Section 22(e) of the Municipal Wastewater Treatment Construction Grant Amendments of 1981 Pub. L. 97–117, provides that:

The amendments made by this section shall take effect on the date of enactment of this Act, except that no applicant, other than the city of Avalon, California, who applies after the date of enactment of this Act for a permit pursuant to subsection (h) of section 301 of the Federal Water Pollution Control Act which modifies the requirements of subsection (b)(1)(B) of section 301 of such Act shall receive such permit during the one-year period which begins on the date of enactment of this Act.

§ 125.58 Definitions.

For the purpose of this subpart:

(a) "Administrator" means the EPA Administrator or a person designated by the EPA Administrator.

(b) "Altered discharage" means any discharge other than a current discharge or improved discharge, as defined in this regulation.

(c) "Applicant" means an applicant for a section 301(h) modified permit. Large applicants have populations contributing to their POTWs equal to or ore than 50,000 or total discharge design flows of 5.0 mgd or more; small applicants have contributing populations of less than 50,000 and total discharge design flows of less than 5.0 mgd.

(d) "Application" means a final application previously submitted in accordance with the June 15, 1979, section 301(h) regulations (44 FR 34784) or an application submitted between December 29, 1981 and December 29, 1982. It does not include a preliminary application submitted in accordance with the June 15, 1979, section 301(h) regulations.

(e) "Application questionnaire" means EPA's "Application Questionnaire for Modification of the Requirements of Secondary Treatment". Individual questionnaires for small applicants and for large applicants are published as Appendix A and Appendix B to this subpart, respectively.

(f) "Balanced, indigenous populations" means an ecological community which:

(1) Exhibits characteristics similar to those of nearby, healthy communities existing under comparable but unpolluted environmental conditions; or

(2) May reasonably be expected to become re-established in the polluted water body segment from adjacent waters if sources of pollution were removed.

(g) "Current discharge" means the volume, composition, and location of an applicant's discharge as of anytime between December 27, 1977, and December 29, 1982, as designated by the applicant.

(h) "Improved discharge" means the volume, composition and location of an applicant's discharge following:

(1) Construction of planned outfall improvements, including, without limitation, outfall relocation, outfall repair, or diffuser modification; or

(2) Construction of planned treatment system improvements to treatment levels or discharge characteristics; or

(3) Implementation of a planned program to improve operation and maintenance of an existing treatment system or to eliminate or control the introduction of pollutants into the applicant's treatment works.

(i) "Industrial source" means any source of nondomestic pollutants regulated under section 307 (b) or (c) of the Clean Water Act which discharges into a POTW.

(j) "Modified discharge" means the volume, composition and location of the discharge proposed by the applicant for which a modification under section 301(h) of the Act is requested. A modified discharge may be a current discharge, improved discharge, or altered discharge.

(k) "Nonindustrial source" means any source of pollutants which is not an industrial source.

(l) "Ocean waters" means those coastal waters landward of the baseline of the territorial seas, the deep waters of the territorial seas, or the waters of the contiguous zone.

(m) "Pesticides" means demeton, guthion, malathion, mirex, methoxychlor and parathion.

(n) "Primary treatment" means the first stage in wastewater treatment where substantially all floating and settleable solids are removed.

(o) "Public water supplies" means water distributed from a public water system.

(p) "Public water system" means a system for the provision to the public of

piped water for human consumption, if such system has at least fifteen service connections or regularly serves at least twenty-five (25) individuals. This term includes (1) any collection, treatment, storage and distribution facilities under the control of the operator of the system and used primarily in connection with the system, and (2) any collection or pretreatment storage facilities not under the control of the operator of the system which are used primarily in connection with the system.

(q) "Publicly owned treatment works" (POTW) means a treatment works, as defined in section 212(2) of the Act, which is owned by a State, municipality or intermunicipal or interstate agency.

(r) "Saline estuarine waters" means those semi-enclosed coastal waters which have a free connection to the territorial sea, undergo net seaward exchange with ocean waters, and have salinities comparable to those of the ocean. Generally, these waters are near the mouth of estuaries and have cross-sectional annual mean salinities greater than twenty-five (25) parts per thousand.

(s) "Secondary treatment" means the term as defined in 40 CFR Part 133.

(t) "Shellfish, fish and wildlife" means any biological population or community that might be adversely affected by the applicant's modified discharge.

(u) "Stressed waters" means those receiving environments in which an applicant can demonstrate to the satisfaction of the Administrator, that the absence of a balanced, indigenous population is caused solely by human perturbations other than the applicant's modified discharge.

(v) "Toxic pollutants" means those substances listed in 40 CFR 401.15.

(w) "Water quality standards" means applicable water quality standards which have been approved, left in effect, or promulgated under section 303 of the Clean Water Act.

(x) "Zone of initial dilution" (ZID) means the region of initial mixing surrounding or adjacent to the end of the outfall pipe or diffuser ports provided that the ZID may not be larger than allowed by mixing zone restrictions in applicable water quality standards.

§ 125.59 General.

(a) *Basis for application.* An application under this Subpart shall be based on a current, improved, or altered discharge into ocean waters or saline estuarine waters. (b) *Prohibitions:* No section 301(h) modified permit shall be issued:

(1) Where such issuance would not assure compliance with all applicable requirements of this Subpart and Part 122;

(2) For the discharge of sewage sludge; and

(3) Where such issuance would coflict with applicable provisions of State, local, or other Federal laws or Executive Orders. This includes compliance with the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 *et seq.;* the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.;* and Title III of the Marine Protection, Research and Sanctuaries Act, as amended, 16 U.S.C. 1431 *et seq.*

(c) *Applications.* Each applicant for a modified permit under this subpart shall submit an application to EPA signed in compliance with § 122.6(a)(3) which shall contain:

(1) A signed, completed NPDES Application Standard Form A, Parts I, II, III:

(2) A completed Application Questionnaire;

(3) The following certification:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in the attached document(s) and, based on my inquiry of those individuals immediately responsible for obtaining the information, I am convinced that the information is true, accurate and correct. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

(d) *Revisions to applications.* (1) POTWs which submitted applications in accordance with the June 15, 1979 regulations (44 FR 34784) and whose applications were based on primary treatment levels or discharge characteristics at the time of application may revise their applications once to propose less-than-primary treatment levels.

(2) Applicants whose section 301(h) applications have been tentatively denied may revise their applications once to propose upgrading their proposed treatment levels and/or improving their outfall and diffuser location and design.

(3) POTWs which revise their applications must:

(i) Modify their NPDES form and Application Questionnaire as needed to assure that the information filed with their application is correct and complete;

(ii) Provide additional analysis and data as needed to demonstrate compliance with this subpart;

(iii) Obtain the State determinations required by §§ 125.60(b)(2) and 125.63(b); and

(iv) Provide the certification described in paragraph (c)(3) of this section.

(e) *Deadlines and distribution.* (1) Applications. (i) The original and one copy of an application must be submitted to the Office of Marine Discharge Evaluation, WH–546, U.S. Environmental Protection Agency, 401 M St. S.W., Washington, D.C., 20460 and to the appropriate EPA Regional Administrator no later than December 29, 1982.

(ii) A copy of the application must be provided to the State and interstate agency(s) authorized to provide certification/concurrence under §§ 124.53–124.55 on or before the date the application is submitted to EPA.

(2) Revisions to applications. Applicants desiring to revise their proposed treatment levels under paragraph (d) of this section must:

(i) Submit to the Office of Marine Discharge Evaluation a letter of intent to revise their application: (A) Within 45 days of the date of EPA's tentative decision on their original applications, or (B) within 45 days of promulgation of this provision if the comment period on a tentative decision has already closed. Following receipt by EPA of a letter of intent, further EPA proceedings on the tentative decision under 40 CFR 124 will be stayed.

(ii) Submit the revised application as described for new applications in paragraph (e)(1) of this section within one year of the date of EPA's tentative decision on their application.

(3) State determination deadline. State determinations, as required by § 125.60(b)(2) and § 125.63(b) shall be filed by the applicant with the Office of Marine Discharge Evaluation, WH–546, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, no later than 90 days after submission of the application or revision to EPA. Extensions to this deadline may be provided by EPA upon request. However, EPA will not begin review of the application or revision until a favorable State determination is received by EPA.

(f)(1) The Administrator may authorize or request an applicant to submit additional information by a specified date not to exceed one year from the date of authorization or request.

(2) Applicants seeking authorization to submit additional information on current/modified discharge characteristics, water quality, biological conditions or oceanographic characteristics must:

(i) Demonstrate that they made a diligent effort to provide such information with their application and were unable to do so, and

(ii) Submit a plan of study, including a schedule, for data collection and submittal of the additional information. EPA will review the plan of study and may require revisions prior to authorizing submission of the additional information under paragraph (f)(1) of this section.

(g) *Decisions on section 301(h) modifications.* (1) The decision to grant or deny a section 301(h) modification shall be made by the Administrator and shall be based on the applicant's demonstration that it has met all the requirements of §§ 125.59 through 125.65.

(2) No section 301(h) modified permit shall be issued until the appropriate State certification/concurrence is granted or waived pursuant to § 124.54 or, if the State denies certification/concurrence, pursuant to § 124.54.

(3) In the case of a modification issued to an applicant in a State administering an approved permit program under Part 123, the State Director may:

(i) Revoke an existing permit as of the effective date of the EPA issued section 301(h) modified permit; and

(ii) Cosign the section 301(h) modified permit, if the Director has indicated an intent to do so in the written concurrence.

(4) Any section 301(h) modified permit shall:

(i) Be issued in accordance with the procedures set forth in Part 124, except that, because section 301(h) permits may only be issued by EPA, the terms "Administrator or a person designated by the Administrator" shall be substituted for the term "Director" as appropriate; and

(ii) Contain all applicable terms and conditions set forth in Part 122 and § 125.67.

(5) Appeals of section 301(h) determinations shall be governed by the procedures in 40 CFR Part 124.

(6) At the expiration of the section 301(h) modified permit, the POTW should be prepared to support the continuation of the modification based on studies and monitoring performed during the life of the permit. Upon a demonstration meeting the statutory criteria and requirements of this subpart, the permit may be renewed under the applicable procedures of 40 CFR Part 124.

§ 125.60 Existence of and compliance with applicable water quality standards.

(a) There must exist a water quality standard of standards applicable to the pollutant(s) for which a section 301(h) modified permit is requested, including:

(1) Water quality standards for biochemical oxygen demand or dissolved oxygen;

(2) Water quality standards for suspended solids, turbidity, light transmission, light scattering or maintenance of the euphotic-zone; and

(3) Water quality standards for pH.

(b) The applicant must:

(1) Demonstrate that the modified discharge will comply with the above water quality standard(s); and

(2) Provide a determination signed by the State or interstate agency(s) authorized to provide certification under §§ 124.53 and 124.54 that the proposed modified discharge will comply with applicable provisions of State law including applicable water quality standards. This determination shall include a discussion of the basis for the conclusion reached.

§ 125.61 Attainment or maintenance of water quality which assures protection of public water supplies, the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife, and allows recreational activities.

(a) *Physical characteristics of discharge.* (1) The applicant's outfall and diffuser must be located and designed to provide adequate initial dilution, dispersion and transport of wastewater to meet all applicable water quality standards at and beyond the boundary of the zone of initial dilution:

(i) During periods of maximum stratification and

(ii) During other periods when discharge characteristics, water quality, biological seasons, or oceanographic conditions indicate more critical situations may exist.

(2) Following initial dilution, the partially diluted wastewater and particulates must be transported and dispersed so as not to affect water use areas adversely (including recreational and fishing areas) and areas of biological sensitivity.

(b) *Impact of discharge on public water supplies.* (1) The applicant's modified discharge must allow for the attainment or maintenance of water quality which assures protection of public water supplies.

(2) The applicant's modified discharge must not:

(i) Prevent a planned or existing public water supply from being used, or from continuing to be used, as a public water supply; or

(ii) Have the effect of requiring treatment over and above that which would be necessary in the absence of such discharge in order to comply with local, State, and EPA drinking water standards.

(c) *Biological impact of discharge.* (1) The applicant's modified discharge must allow for the attainment or maintenance of water quality which assures protection and propagation of a balanced indigenous population of shellfish, fish, and wildlife.

(2) A balanced, indigenous population of shellfish, fish and wildlife must exist:

(i) Immediately beyond the zone of initial dilution of the applicant's modified discharge and;

(ii) In all other areas beyond the zone of initial dilution where marine life is actually or potentially affected by the applicant's modified discharge.

(3) Conditions within the zone of initial dilution must not contribute to extreme adverse biological impacts, including, but not limited to, the destruction of distinctive habitats of limited distribution, the presence of disease epicenters, or the stimulation of phytoplankton blooms which have adverse effects beyond the zone of initial dilution.

(4) In addition, for modified discharges into saline estuarine waters:

(i) Benthic populations within the zone of initial dilution must not differ substantially from the balanced, indigenous populations which exist immediately beyond the boundary of the zone of initial dilution;

(ii) The discharge must not interfere with estuarine migratory pathways within the zone of initial dilution; and

(iii) The discharge must not result in the accumulation of toxic pollutants or pesticides at levels which exert adverse effects on the biota within the zone of initial dilution.

(d) *Impact of discharge on recreational activities.* (1) The applicant's modified discharge must allow for the attainment or maintenance of water quality which allows for recreational activities beyond the zone of initial dilution, including, without limitation, swimming, diving, boating, fishing, and picnicking and sports activities along shorelines and beaches.

(2) There must be no Federal, State, or local restrictions on recreational activities within the vicinity of the applicant's modified outfall unless such restrictions are routinely imposed around sewage outfalls. This exception shall not apply where the restriction would be lifted or modified, in whole or in part, if the applicant were discharging a secondary treatment effluent.

(e) *Additional requirements for applications based on improved or altered discharges.* An application for a section 301(h) modified permit on the basis of an improved or altered discharge must include:

(1) A demonstration that such improvements or alterations have been thoroughly planned and studied and can be completed or implemented expeditiously;

(2) Detailed analyses projecting changes in average and maximum monthly flow rates and composition of the applicant's discharge which are expected to result from proposed improvements or alterations.

(3) The assessments required by paragraphs (a) through (d) of this section based on its current discharge;

(4) A detailed analysis of how the applicant's planned improvements or alterations will comply with the requirements of paragraphs (a) through (d) of this section.

(f) *Stressed waters.* If an applicant believes that its failure to meet the requirements of paragraphs (a) through (e) of this section is attributable to conditions resulting from human perturbations other than its modified discharge (including, without limitation, other municipal or industrial discharges, nonpoint source runoff and the applicant's previous discharges), the applicant must demonstrate, to the satisfaction of the Administrator, that its modified discharge does not or will not:

(1) Contribute to, increase, or perpetuate such stressed conditions;

(2) Contribute to further degradation of the biota or water quality if the level of human perturbation from other sources increases; and

(3) Retard the recovery of the biota or water quality if the level of human perturbation form other sources decreases.

§ 125.62 Establishment of a monitoring program.

(a) *General requirements.* (1) The applicant must:

(i) Have a monitoring program designed to provide data to evaluate the impact of the modified discharge on the marine biota, demonstrate compliance with applicable water quality standards, and measure toxic substances in the discharge;

(ii) Describe the sampling techniques, schedules and locations (including appropriate control sites), analytical techniques, quality control and verification procedures to be used in the monitoring program;

(iii) Demonstrate that it has the resources necessary to implement the program upon issuance of the modified permit and to carry it out for the life of the modified permit, and

(iv) Determine the frequency and extent of the monitoring program taking into consideration the applicant's rate of discharge, quantities of toxic pollutants discharged, and potentially significant impacts on receiving water quality, marine biota, and designated water uses.

(2) The Administrator may require revision of the proposed monitoring program before issuing a modified permit and during the term of any modified permit.

(b) *Biological monitoring program.* The biological monitoring program for both small and large applicants shall provide data adequate to evaluate the impact of the modified discharge on the marine biota.

(1) Biological monitoring shall include to the extent practicable:

(i) Periodic surveys of the biological communities and populations which are most likely affected by the discharge to enable comparisons with baseline conditions described in the application;

(ii) Periodic determinations of the accumulation of toxic pollutants and pesticides in organisms and examination of adverse effects, such as disease, growth abnormalities, physiological stress, or death;

(iii) Sampling of sediments in areas of solids deposition in the vicinity of the ZID, in other areas of expected impact, and at appropriate reference sites to support the water quality and biological surveys and to measure the accumulation of toxic pollutants and pesticides; and

(iv) Where the discharge would affect commercial or recreational fisheries, periodic assessments of the conditions and productivity of fisheries.

(2) Small applicants are not subject to the requirements of paragraphs (1)(ii) through (1)(iv) of this section if they discharge at depths greater than 10 meters and can demonstrate through a suspended solids deposition analysis that there will be negligible seabed accumulation in the vicinity of the modified discharge.

(3) For applicants seeking a section 301(h) modified permit based on:

(i) A current discharge, biological monitoring shall be designed to demonstrate ongoing compliance with the requirements of § 125.61(c);

(ii) An improved discharge or altered discharge other than outfall relocation, biological monitoring shall provide baseline data on the current impact of the discharge and data which demonstrate, upon completion of improvements or alterations, that the requirements of § 125.61(c), are met; or

(iii) An improved or altered discharge involving outfall relocation, the biological monitoring shall:

(A) Include the current discharge site until such discharge ceases; and

(B) Provide baseline data at the relocation site to demonstrate the impact of the discharge and to provide the basis for demonstrating that requirements of § 125.61(c)(1) will be met.

(c) *Water quality monitoring program.* The water quality monitoring program shall to the extent practicable:

(1) Provide adequate data for evaluating compliance with applicable water quality standards;

(2) Measure the presence of toxic pollutants which have been identified or reasonably may be expected to be present in the discharge.

(d) *Effluent monitoring program.* In addition to the requirements of 40 CFR, Part 122, to the extent practicable, monitoring of the POTW effluent shall provide quantitative and qualitative data which will measure toxic substances and pesticides in the effluent and the effectiveness of the toxics control program.

§ 125.63 Effect of discharge on other point and nonpoint sources.

(a) No modified discharge may result in any additional pollution control requirements on any other point or nonpoint source.

(b) The applicant shall obtain a determination from the State or interstate agency(s) having authority to establish wasteload allocations indicating whether the applicant's discharge will result in an additional treatment, pollution control, or other requirement on any other point or nonpoint sources. The State determination shall include a discussion of the basis for its conclusion.

§ 125.64 Toxics control program.

(a) *Chemical analysis.* (1) The applicant shall submit at the time of application a chemical analysis of its current discharge for all toxic pollutants and pesticides as defined in § 125.58 (v) and (m). The analysis shall be performed on two 24 hour composite samples (one dry weather and one wet weather). Applicants may supplement or substitute chemical analyses if composition of the supplemental or substitute samples typifies that which occurs during dry and wet weather conditions.

(2) Unless required by the State, this requirement shall not apply to any small section 301(h) applicant which certifies that there are no known or suspected sources of toxic pollutants or pesticides.

(b) *Identification of sources.* The applicant shall submit at the time of application an analysis of the known or suspected sources of toxic pollutants or

pesticides identified in § 125.64(a). The applicant shall to the extent practicable categorize the sources according to industrial and nonindustrial types.

(c) *Industrial pretreatment requirements.* (1) An applicant which has known or suspected industrial sources of toxic pollutants shall have an approved pretreatment program, or shall develop a pretreatment program by July 1, 1983 or the date established in their NPDES permit, whichever is earlier.

(2) This requirement shall not apply to any applicant which has no known or suspected industrial sources of toxic pollutants or pesticides and so certifies to the Administrator.

(3) The pretreatment program or proposed compliance schedule submitted by the applicant under this section shall be subject to revision as required by the Administrator prior to issuing any section 301(h) modified permit and during the term of any such permit.

(4) Implementation of all existing pretreatment requirements and authorities must be maintained through the period of development of any additional pretreatment requirements that may be necessary to comply with the requirements of this subpart.

(d) *Nonindustrial source control program.* (1) The applicant shall submit a proposed public education program designed to minimize the entrance of nonindustrial toxic pollutants and pesticides into their POTW(s).

(2) In addition, the applicant shall also develop and implement a nonindustrial source control program on the earliest possible schedule. This requirement shall not apply to a small applicant which certifies that there are no known or suspected water quality, sediment accumulation, or biological problems related to toxic pollutants or pesticides in its discharge.

(3) The applicant's nonindustrial source control program under paragraph (d)(2) of this section shall include the following:

(i) A schedule of activities for identifying nonindustrial sources of toxic pollutants and pesticides; and

(ii) A schedule for the development and implementation of control programs, to the extent practicable, for nonindustrial sources of toxic pollutants and pesticides.

(4) Each proposed nonindustrial source control program submitted by the applicant under this section shall be subject to revision as determined by the Administrator prior to issuing any section 301(h) modified permit and during the term of any such permit.

§ 125.65 Increase in effluent volume or amount of pollutants discharged.

(a) No modified discharge may result in any new or substantially increased discharges of the pollutant to which the modification applies above the discharge specified in the section 301(h) modified permit.

(b) Where pollutant discharges are attributable in part to combined sewer overflows, the applicant shall minimize existing overflows and prevent increases in the amount of pollutants discharged;

(c) The applicant shall provide projections of effluent volume and mass loadings for any pollutants to which the modification applies in 5 year increments for the design life of its facility.

§ 125.66 [Reserved]

§ 125.67 Special conditions for section 301(h) modified permits.

Each section 301(h) modified permit issued shall contain, in addition to all applicable terms and conditions required by 40 CFR Part 122, the following:

(a) Effluent limitations and mass loadings which will assure compliance with the requirements of this Subpart;

(b) A schedule or schedules of compliance for:

(1) Pretreatment program development required by § 125.64(c);

(2) Nonindustrial toxics control program required by § 125.64(d); and

(3) Control of combined sewer overflows required by § 125.65.

(c) Monitoring program requirements that include:

(1) Biomonitoring requirements of § 125.62(b);

(2) Water quality requirements of § 125.62(c);

(3) Effluent monitoring requirements of § 125.62(d).

(d) Reporting requirements that include the results of the monitoring programs required by paragraph (c) at such frequency as prescribed in the approved monitoring program.

Appendix A—Small Applicant Questionnaire for Modification of Secondary Treatment Requirements

I. Introduction

This questionnaire is to be used by small applicants for modification of secondary treatment requirements under section 301(h) of the Clean Water Act (CWA). A small applicant has a contributing population to its wastewater treatment facility of less than 50,000 and a total discharge design flow of less than 5.0 million gallons per day (MGD, 0.22 m3/sec). The questionnaire is in two sections, a general information and basic requirements section and a technical evaluation section. Satisfactory completion of this questionnaire is necessary to enable EPA to determine whether the applicant's modified discharge meets the criteria of section 301(h) and EPA regulations (40 CFR, Part 125, Subpart G).

Guidance for responding to this questionnaire is provided by the Revised section 301(h) Technical Support Document. Where available information is incomplete and the applicant needs to collect additional data during the period it is preparing the application, EPA encourages the applicant to consult with EPA prior to data collection and submission of its application. Such consultation, particularly if the applicant provides a plan of study, will help assure that the proper data are gathered in the most efficient manner.

Where applicants diligently try but are unable to collect and submit all the information at the time of application, EPA requires that a plan of study for gathering and submitting the data be provided with the application. 40 CFR 125.59(f) states the procedures governing such post-application data collection activities.

Most small applicants should be able to complete the questionnaire using available information. However, small POTWs with low initial dilution that discharge to shallow waters or waters with poor, dispersion and transport characteristics; near distinctive and susceptible biological habitats; or with substantial quantities of toxics should anticipate the need to collect additional information and/or conduct additional analyses to demonstrate compliance with section 301(h) criteria.

II. General Information and Basic Data Requirements

Where your response to a question is "yes" or "no", explain the basis for the response. Where your answer indicates that you cannot meet a regulatory or statutory criteria, discuss why you believe you qualify for a section 301(h) variance.

A. Treatment System Description

1. Are you applying for a modification based on a current discharge, improved discharge, or altered discharge as defined in 40 CFR 125.58? (40 CFR 125.59(a))

2. Description of the Treatment/Outfall System (40 CFR 125.61(a) and 125.61(e))

a. Provide detailed descriptions and diagrams of the treatment system and outfall configuration which you propose to satisfy the requirements of section 301(h) and 40 CFR Part 125, Subpart G; What is the total discharge design flow upon which this application is based?

b. Provide a map showing the geographic location of the proposed outfall(s) (i.e., discharge). What is the latitude and longitude of the proposed outfall(s)?

c. For a modification based on an improved or altered discharge, provide a description and diagram of your current treatment system and outfall configuration; also, the outfall latitude and longitude, if different from the proposed outfall.

3. Effluent Limitations and Characteristics (40 CFR 125.60(b) and 125.61(e)(2))

a. Identify the final effluent limitations for five-day biochemical oxygen demand (BOD_5)

suspended solids, and pH upon which your application for a modification is based:

BOD_5 —— mg/1
Suspended solids —— mg/1
pH —— (range)

b. Provide available data on the following effluent characteristics for your current discharge; also, for the modified discharge if different from the current discharge:

—Flow (m3/sec) * * * minimum average dry weather, average wet weather, annual average, maximum;

—BOD_5 (mg/1): For minimum, average dry weather, average wet weather, maximum, and annual average plant flows;

—Suspended solids (mg/1): For minimum, average dry weather, average wet weather, maximum, and annual average plant flows;

—Toxic pollutants and pesticides (ug/1): List each identified toxic pollutant and pesticide;

—pH: minimum and maximum;

—Dissolved oxygen (mg/1, prior to chlorination): For minimum, average dry weather, average wet weather, maximum and annual average plant flows; and

—Immediate dissolved oxygen demand (mg/1).

4. Effluent Volume and Mass Emissions (40 CFR 125.61(e)(2) and 125.65(b))

Provide analyses showing projections of effluent volume (annual average, m3/sec) and mass loadings (mt/year) of BOD_5 and suspended solids for the design life of your treatment facility in five-year increments. If the application is based upon an improved or altered discharge, the projections must be provided with and without the proposed improvements or alterations.

5. Average Daily Industrial Flow (m3/sec) (40 CFR 125.64(a))

Provide or estimate the average daily industrial inflow to your treatment facility for the same time increments as in question II. A. 4 above.

6. Combined Sewer Overflows (40 CFR 125.65)

a. Does (will) your collection and treatment system include combined sewer overflows?

b. If yes, provide a description of your plan for minimizing combined sewer overflows to the receiving water.

7. Outfall/Diffuser Design. Provide available data on the following for your current discharge and for the modified discharge, if different; (40 CFR 125.61(a)(1))

—Diameter and length of the outfall(s), meters

—Diameter and length of the diffuser(s), meters

—Angle(s) of port orientations from horizontal, in degrees

—Port diameter(s) in meters and the orifice contraction coefficient(s), if known

—Vertical distance in meters between mean lower low water (or mean low water) surface and outfall port(s) centerline, meters

—Number of ports,

—Port spacing, meters

—Design flow rate for each port, if multiple ports are used (m3/sec)

B. Receiving Water Description

1. Are you applying for a modification based on a discharge to the ocean or to a saline estuary (40 CFR 125.58(r))? (40 CFR 125.59(a))

2. Is your current discharge or modified discharge to stressed waters? If yes, what are the pollution sources contributing to the stress? (40 CFR 125.61(f))

3. Provide a description and available data on the seasonal circulation patterns in the vicinity of your current and modified discharge(s). (40 CFR 125.61(a)(1) and (a)(2))

4. Ambient Water Quality Conditions During the Period(s) of Maximum Stratification.

a. Provide available data on the following in the vicinity of the current discharge and for the modified discharge if different: (40 CFR 125.60(b)(1))

—Dissolved oxygen (mg/l)
—Suspended solids (mg/l)
—pH
—Temperature (oC)
—Salinity (o/oo)
—Transparency (turbidity, percent light transmittance)
—Other significant variables (eg, nutrients, toxic pollutants and pesticides)

b. Are there other periods when receiving water quality conditions may be more critical than the period(s) of maximum stratification? If so, describe these other critical periods and provide the data requested in 4.a. for the other critical periods. (40 CFR 125.61(a)(1))

C. Biological Conditions

1. a. Are distinctive habitats of limited distribution (such as kelp beds or coral reefs) located in areas potentially affected by the modified discharge? (40 CFR 125.61(c)(1) and (c)(3))

b. If yes, provide available information on types, extent, and location of habitats.

2. a. Are commercial or recreational fisheries located in areas potentially affected by the modified discharge? (40 CFR 125.61(c)(1) and (c)(4))

b. If yes, provide available information on types, location and value of fisheries.

D. State and Federal Laws (40 CFR 125.60)

1. Are there water quality standards applicable to the following pollutants for which a modification is requested:

—Biochemical oxygen demand or dissolved oxygen?

—Suspended solids, turbidity, light transmission, light scattering, or maintenance of the euphotic zone?

—pH of the receiving water?

2. If yes, what is the water use classification for your discharge area? What are the applicable, numerical standards for your discharge area for each of the parameters for which a modification is requested? Provide a copy of the applicable standards or a cite where they can be found.

3. Will your modified discharge comply with applicable provisions of the Coastal Zone Management Act, Marine Protection, Research and Sanctuaries Act, and the Endangered Species Act? If yes, provide the required certifications of compliance. (40 CFR 125.59(b)(3))

4. Are you aware of any State or Federal Law or regulations (other than the Clean Water Act or the three statutes identified in item 3 above) or an Executive Order which is applicable to your discharge? If yes, provide sufficient information to demonstrate that your modified discharge will comply with such law(s) or order(s). (40 CFR 125.50(b)(3))

III. Technical Evaluation

Answers to the following questions will be used to assess the effects of the modified discharge. The responses will be used by the State agency(s) in their determination (as required by 40 CFR 125.60(b)(2) and 125.63(b)) and by EPA in preparing its decision on the applicant's request for a section 301(h) variance.

Your answers to the following questions must be supported by data and responses from Section II of this questionnaire and the analyses and calculations required below show the input data for all calculations. Where your answer to a question is "yes" or "no", explain the basis for your response. Where your answer indicates that you cannot meet a regulatory or statutory criteria, discuss why you believe you qualify for a variance.

If EPA decides to check calculations in an application, the formulas and methods provided in the Technical Support Document may be used for that purpose. If applicants use methods other than those provided in the Technical Support Document, such methods must be described by the applicant.

A. Physical Characteristics of Discharge (40 CFR 125.61(a))

1. What is the lowest initial dilution for your current and modified discharge(s) during the period(s) of maximum stratification? (and any other critical period(s) of discharge volume/composition, water quality, biological seasons, or oceanographic conditions?)

2. What are the dimensions of the zone of initial dilution for your modified discharge?

3. Will there be significant sedimentation of suspended solids in the vicinity of the modified discharge?

B. Compliance With Applicable Water Quality Standards (40 CFR 125.60(b))

1. What is the concentration of dissolved oxygen immediately following initial dilution for the period(s) of maximum stratification and any other critical period(s) of discharge volume/composition, water quality, biological seasons, or oceanographic conditions?

2. What is the farfield dissolved oxygen depression and resulting concentration due to BOD exertion of the wastefield during the period(s) of maximum stratification and any other critical period(s)?

3. What is the increase in receiving water suspended solids concentration immediately following initial dilution of the modified discharge(s)?

4. Does (will) the modified discharge comply with applicable water quality standards for:

—Dissolved oxygen?

—Suspended solids or surrogate standards?

—pH?

5. Provide the determination required by 40 CFR 125.60(b)(2) or a copy of a letter to the appropriate agency(s) requesting the required determination.

C. Impact on Public Water Supplies (40 CFR 125.61(b))

1. Is there a planned or existing public water supply (desalinization facility) intake in the vicinity of the current or modified discharge?

2. If yes,

a. what is the location of the intake(s) (latitude and longitude)?

b. will the modified discharge(s) prevent use of the intake(s) for public water supply?

c. will the modified discharge cause increased treatment requirements for the public water supply(s) to meet local, State, and EPA drinking water standards?

D. Biological Impact of Discharge (40 CFR 125.61(c))

1. Does (will) a balanced indigenous population of shellfish, fish, and wildlife exist:

(a) Immediately beyond the ZID of the current and modified discharge(s)?

(b) In all other areas beyond the ZID where marine life is actually or potentially affected by the current and modified discharge(s)?

2. Have distinctive habitats of limited distribution been impacted adversely by the current discharge and will such habitats be impacted adversely by the modified discharge?

3. Have commercial or recreational fisheries been impacted adversely (e.g., warnings, restrictions, closures, or mass mortalities) by the current discharge and will they be impacted adversely by the modified discharge?

4. For discharges into saline estuarine waters: (40 CFR 125.61(c)(4))

(a) Does or will the current or modified discharge cause substantial differences in the benthic population within the ZID and beyond the ZID?

(b) Does or will the current or modified discharge interfere with migratory pathways within the ZID?

(c) Does or will the current or modified discharge result in bioaccumulation of toxic pollutants or pesticides at levels which exert adverse effects on the biota within the ZID?

5. For improved discharges, will the proposed improvements alleviate adverse ecological impacts attributable to applicant's current discharge(s)? (40 CFR 125.61(f))

6. For altered discharge(s), will the altered discharge(s) comply with the 40 CFR 125.61(a) through 125.61(d)? (40 CFR 125.61(f))

7. If your current discharge is to stressed waters, does or will your current or modified discharge: (40 CFR 125.61(f))

(a) Contribute to, increase, or perpetuate such stressed condition?

(b) Contribute to further degradation of the biota or water quality if the level of human perturbation from other sources increases?

(c) Retard the recovery of the biota or water quality if human perturbation from other sources decreases?

E. Impacts of Discharge on Recreational Activities (40 CFR 125.61(d))

1. Describe the existing or potential recreational activities likely to be affected by the modified discharge(s) beyond the zone of initial dilution?

2. What are the existing and potential impacts of the modified dishcarge(s) on recreational activities?

3. Are there any Federal, State or local restrictions on recreational activities in the vicinity of the modified discharge(s)? If yes, describe the restrictions and cite available references.

4. If recreational restrictions exist, would such restrictions be lifted or modified if you were discharging a secondary treatment effluent?

F. Establishment of a Monitoring Program (40 CFR 125.62)

(1) Describe the biological, water quality, and effluent monitoring programs, which you propose to meet the criteria of 40 CFR 125.62?

(2) Describe the sampling techniques, schedules, and locations, analytical techniques, quality control and verification procedures to be used.

(3) Describe the personnel and financial resources available to implement the monitoring programs upon issuance of a modified permit and to carry it out for the life of the modified permit.

G. Effect of Discharge on Other Point and Non-point Sources (40 CFR 125.63)

1. Does (will) your modified discharge(s) cause additional treatment or control requirements for any other point or non-point pollution source(s)?

2. Provide the determination required by 40 CFR 125.63(b) or a copy of a letter to the appropriate agency(s) requesting the required determination.

H. Toxics Control Program (40 CFR 125.64)

1. a. Do you have any known or suspected industrial sources of toxic pollutants and pesticides?

b. If no, provide the certification required by (40 CFR 125.64(a)(2))

c. If yes, provide the results of wet and dry weather effluent analyses for toxic pollutants and pesticides.

d. Provide an analysis of known or suspected industrial sources of toxic pollutants and pesticides identified in (1)(c) above.

2. Do you have an approved industrial pretreatment program?

a. If yes, provide the date of EPA approval.

b. If no, and if required by 40 CFR Part 403 to have an industrial pretreatment program, provide a proposed schedule for development and implementation of your industrial pretreatment program to meet the requirements of 40 CFR Part 403.

3. Describe the public education program you propose to minimize the entrance of nonindustrial toxic pollutants and pesticides into your treatment system?

4. a. Are there any known or suspected water quality or biological problems related to toxic pollutants or pesticides from your modified discharge(s)?

b. If no, provide the certification required by 40 CFR 125.64(c)(2)?

c. If yes, provide a schedule for development and implementation of a nonindustrial toxics control program to meet the requirements of 40 CFR 125.64(d)(3).

Appendix B—Large Applicant Questionnaire for Modification of Secondary Treatment Requirements

I. Introduction

This questionnaire is to be used by large applicants for modification of secondary treatment requirements under section 301(h) of the Clean Water Act (CWA). A large applicant has a population contributing to its wastewater treatment facility of at least 50,000 or a total design flow of its discharge of at least 5.0 million gallons per day (MGD, 0.22 m3/sec). The questionnaire is in two sections, a general information and basic requirements section and a technical evaluation section. Satisfactory completion of this questionnaire is intended to enable EPA to determine whether the applicant's modified discharge meets the criteria of section 301(h) and EPA regulations (40 CFR, Part 125, Subpart G).

Guidance for responding to the questions is provided by the Revised section 301(h) Technical Support Document. Where available information is incomplete and the applicant needs to collect additional data during the period it is preparing the application, EPA encourages the applicant to consult with EPA prior to data collection and submission of its application. Such consultation, particularly if the applicant provides a plan of study, will help assure that the proper data are gathered in the most efficient manner.

Where applicants diligently try but are unable to collect and submit all the information at the time of application, EPA requires that a plan of study for gathering and submitting the data be provided with the application. 40 CFR 125.59(f) states the procedures governing such post-application data collection activities.

II. General Information and Basic Data Requirements

Where the response to a question is "yes" or "no", explain the basis for your conclusion. Where your answer indicates that you cannot meet a regulatory or statutory criteria, discuss why you believe you qualify for a section 301(h) variance.

A. Treatment System Description

1. Are you applying for a modification based on a current discharge, improved discharge, or altered discharge as defined in 40 CFR 125.58? (40 CFR 125.59(a))

2. Description of the Treatment/Outfall System (40 CFR 125.61(a) and 125.61(e))

a. Provide detailed descriptions and diagrams of the treatment system and outfall configuration which you propose to satisfy the requirements of section 301(h) and 40 CFR Part 125, Subpart G. What is the total discharge design flow upon which this application is based?

b. Provide a map showing the geographic location of the proposed outfall(s) (i.e., discharge). What is the latitude and longitude of the proposed outfall(s)?

c. For a modification based on an improved or altered discharge, provide a description and diagram of your current treatment system and outfall configuration; also, the outfall

latitude and longitude, if different from the proposed outfall.

3. Effluent Limitations and Characteristics (40 CFR 125.60(b) and 125.61(e)(2)))

a. Identify the final effluent limitations for Five-day biochemical oxygen demand (BOD_5), suspended solids, and pH upon which your application for a modification is based:

—BOD_5——mg/1
—Suspended solids——mg/1
—pH——(range)

b. Provide data on the following effluent characteristics for your current discharge; also, for the modified discharge if different from the current discharge:

—Flow (m3/sec): Minimum, average dry weather, average wet weather, annual average, maximum;

—BOD_5 (mg;1): For minimum, average dry weather, average wet weather, maximum, and annual average plant flows;

—Suspended solids (mg/1): For minimum, average dry weather, average wet weather, maximum, and annual average plant flows;

—Toxic pollutants and pesticides (ug/1): List each identified pollutant and pesticide;

—pH: Minimum and maximum;

—Dissolved oxygen (mg/1, prior to chlorination): For minimum, average dry weather, average wet weather, maximum, and annual average plant flows; and

—Immediate dissolved oxygen demand (mg/1)

4. Effluent Volume and Mass Emissions (40 CFR 125.61(e)(2) and 125.65(b))

Provide detailed analyses showing projections of effluent volume (annual average, m3/sec) and mass loadings (mt/year) of BOD_5 and suspended solids for the design life of your treatment facility in five-year increments. If the application is based upon an improved or altered discharge, the projections must be provided with and without the proposed improvements or alterations.

5. Average Daily Industrial Flow (m3/sec) (40 CFR 125.64(a))

Provide or estimate the average daily industrial inflow to your treatment facility for the same time increments as in question II. A. 4 above.

6. Combined Sewer Overflows (40 CFR 125.65)

a. Does (will) your collection and treatment system include combined sewer overflow?

b. If yes, provide a description of your plan for minimizing combined sewer overflows to the receiving water.

7. Outfall/Diffuser Design. Provide the following data for your current discharge; also, for the modified discharge, if different: (40 CFR 125.61(a)(1))

—Diameter and length of the outfall(s), meters

—Diameter and length of the diffuser(s), meters

—Angle(s) of port orientations from horizontal, in degrees

—Port diameter(s) in meters and the orifice contraction coefficient(s), if known

—Vertical distance in meters between mean lower low water (or mean low water) surface and outfall port(s) centerline, meters

—Number of ports,

—Port spacing, meters

—Design flow rate for each port, if multiple ports are used (m3/sec)

B. Receiving Water Description

1. Are you applying for a modification based on a discharge to the ocean or to a saline estuary (40 CFR 125.58(r))? (40 CFR 125.59(a))

2. Is your current discharge or modified discharge to stressed waters? If yes, what are the pollution sources contributing to the stress? (40 CFR 125.61(f))

3. Provide a description and data on the seasonal circulation pattern in the vicinity of your current and modified discharge(s). (40 CFR 125.61a))

4. Oceanographic Conditions in the Vicinity of the Current and Proposed Modified Discharge(s). Provide data on the following: (40 CFR 125.61(a)(3))

—Lowest ten percentile current speed (m/sec)

—Predominant current speed (m/sec) and direction (compass) during the four seasons

—Period(s) of maximum stratification (months)

—Period(s) of natural upwelling events (duration and frequency, months)

—Density profiles during period(s) of maximum stratification

5. Ambient Water Quality Conditions During the Period(s) of Maximum Stratification: At the zone of initial dilution (ZID) boundary, at other areas of potential impact, and at control stations: (40 CFR 125.61(a)(2)

a. Provide profiles (with depth) on the following for the current discharge and for the modified discharge, if different:

—BOD_5 (mg/1)
—Dissolved oxygen (mg/1)
—Suspended solids (mg/1)
—ph
—Temperature (oC)
—Salinity (o/oo)
—Transparency (turbidity, percent light transmittance)
—Other significant parameters (eg, nutrients, toxic pollutants and pesticides)

b. Are there other periods when receiving water quality conditions may be more critical than the period(s) of maximum stratification? If so, describe these other critical periods and provide the data requested in 5.a. for the other critical period(s). (40 CFR 125.61(a)(1))

6. Provide data on steady state sediment dissolved oxygen demand and dissolved oxygen demand due to resuspension of sediments in the vicinity of your current and modified discharge(s) (mg/1/day).

C. Biological Conditions

1. Provide a detailed description of representative biological communities (eg, plankton, macrobenthos, demersal fish, etc.) in the vicinity of your current and modified discharge(s) * * * within the ZID, at the ZID boundary, at other areas of potential, discharge-related impact, and at reference (control) sites. Community characteristics to be described shall include (but not be limited to) species composition; abundance; dominance and diversity; spatial/temporal distribution; growth and reproduction; disease frequency; trophic structure and productivity patterns; presence of opportunistics species; bioaccumulation of toxic materials; and the occurrence of mass mortalities.

2. a. Are distinctive habitats of limited distribution (such as kelp beds or coral reefs) located in areas potentially affected by the modified discharge? (40 CFR 125.61(c)(1) and (c)(J))

b. If yes, provide information on type, extent, and location of habitats.

3. a. Are commercial or recreational fisheries located in areas potentially affected by the discharge? (40 CFR 125.61(c)(1) and (c)(4))

b. If yes, provide information on types, location, and value of fisheries.

D. State and Federal Laws (40 CFR 125.60)

1. Are there water quality standards applicable to the following pollutants for which a modification is requested:

—Biochemical oxygen demand or dissolved oxygen?

—Suspended solids, turbidity, light transmission, light scattering, or maintenance of the euphotic zone?

—pH of the receiving water?

2. If yes, what is the water use classification for your discharge area? What are the applicable, numerical standards for your discharge area for each of the parameters for which a modification is requested? Provide a copy of the applicable standards or a cite where they can be found.

3. Will the modified discharge comply with applicable provisions of the Coastal Zone Management Act, Marine protection, Research and Sanctuaries Act, and the Endangered Species Act? If yes, provide the required certifications of compliance. (40 CFR 125.59(b)(3))

4. Are you aware of any State or Federal Laws or regulations (other than the Clean Water Act or the three statutes identified in item 3 above) or an Executive Order which is applicable to your discharge? If yes, provide sufficient information to demonstrate that your modified discharge will comply with such law(s) or order(s). (40 CFR 125.60(b)(3))

III. Technical Evaluation

Answers to the following questions will be used to assess the effects of the modified discharge. The responses will be used by the State agency(s) in their determination (as required by 40 CFR 125.60(b)(2) and 125.63(b)), and by EPA in preparing its decision on the applicant's request for a section 301(h) variance.

Your answers to the following questions must be supported by data and responses from Section II of this questionnaire and the analyses and calculations required below. Show the input data for all calculations. Where your answer to a question is "yes" or "no", explain the basis for your response. Where your answer indicates that you cannot meet a regulatory or statutory criteria, discuss why you believe you qualify for a variance.

If EPA decides to check calculations in an application, the formulas and methods provided in the Technical Support Document may be used for that purpose. If applicants use methods other than those provided in the

Technical Support Document, such methods must be described by the applicant.

A. Physical Characteristics of Discharge (40 CFR 125.61(a))

1. What is the critical initial dilution for your current and modified discharge(s) during the period(s) of maximum stratification? (and any other critical period(s) of discharge volume/composition, water quality, biological seasons, or oceanographic conditions?)

2. Is there sufficient dilution water available to provide the calculated initial dilutions?

3. What are the dimensions of the zone of initial dilution for your modified discharge(s)?

4. What are the effects of ambient currents and stratification on dispersion and transport of the discharge plume/wastefield?

5. Sedimentation of suspended solids

a. What fraction of the modified discharge suspended solids will accumulate within the vicinity of the modified discharge?

b. What are the calculated area(s) and rate(s) of sediment accumulation within the vicinity of the modified discharge(s) (g/m2/yr)?

c. What is the fate of settleable solids transported beyond the calculated sediment accumulation area?

B. Compliance with Applicable Water Quality Standards (40 CFR 125.60(b))

1. What is the concentration of dissolved oxygen immediately following initial dilution for the period(s) of maximum stratification and any other critical period(s) of discharge volume/composition, water quality, biological seasons, or oceanographic conditions?

2. What is the farfield dissolved oxygen depression and resulting concentration due to BOD exertion of the wastefield during the period(s) of maximum stratification and any other critical period(s)?

3. What are the dissolved oxygen depressions and concentrations due to steady state sediment demand and resuspension of sediments?

4. What is the increase in receiving water suspended solids concentration immediately following initial dilution of the modified discharge(s)?

5. What is the change in receiving water pH immediately following initial dilution of the modified discharge(s)?

6. Does (will) the modified discharge comply with applicable water quality standards for:

—Dissolved oxygen?

—Suspended solids or surrogate standards?

—pH?

7. Provide the determination required by 40 CFR 125.60(b)(2) or a copy of a letter to the appropriate agency(s) requesting the required determination.

C. Impact on Public Water Supplies (40 CFR 125.61(b))

1. Is there a planned or existing public water supply (desalinization facility) intake in the vicinity of the current or modified discharge?

2. If yes,

a. What are the latitude and longitude of the intake(s)?

b. Will the modified discharge(s) prevent use of the intake(s) for public water supply?

c. Will the modified discharge cause increased treatment requirements for the public water supply(s) to meet local, State, and EPA drinking water standards?

D. Biological Impact of Discharge (40 CFR 125.61(c))

1. Does (will) a balanced indigenous population of shellfish, fish, and wildlife exist:

a. Immediately beyond the ZID of the current and modified discharge(s)?

b. In all other areas beyond the ZID where marine life is actually or potentially affected by the current and modified discharge(s)?

2. Have distinctive habitats of limited distribution been impacted adversely by the current discharge and will such habitats be impacted adversely by the modified discharge?

3. Have commercial or recreational fisheries been impacted adversely by the current discharge (e.g., warnings, restrictions, closures, or mass mortalities) or will they be impacted adversely by the modified discharge?

4. Does the current or modified discharge cause the following within or beyond the ZID: (40 CFR 125.61(c)(3))

a. Mass mortality of fishes or invertebrates due to oxygen depletion, high concentrations of toxics or other conditions?

b. An increased incidence of disease in marine organisms?

c. An abnormal body buden of any toxic material in marine organisms?

d. Any other extreme, adverse biological impact?

5. For discharges into saline estuarine waters: (40 CFR 125.61(c)(4))

a. Does or will the current or modified discharge cause substantial differences in the benthic population within the ZID and beyond the ZID?

b. Does or will the current or modified discharge interfere with migratory pathways within the ZID?

c. Does or will the current or modified discharge result in bioaccumulation of toxic pollutants or pesticides at levels which exert adverse effects on the biota within the ZID?

6. For improved discharges, will the proposed improvements alleviate adverse ecological impacts attributable to your current discharge(s)? (40 CFR 125.61(e)).

7. For altered discharge(s), will the altered discharge(s) comply with the 40 CFR 125.61(a) through 125.61(d)?

8. If your current discharge is to stressed waters, does or will your current or modified discharges:

a. Contribute to, increase, or perpetuate such stressed condition?

b. Contribute to further degradation of the biota or water quality if the level of human perturbation from other sources increases?

c. Retard the recovery of the biota or water quality if human perturbation from other sources decreases?

E. Impacts of Discharge on Recreational Activities (40 CFR 125.61(d))

1. Describe the existing or potential recreational activities likely to be affected by the modified discharge(s) beyond the zone of initial dilution.

2. What are the existing and potential impacts of the modified discharge(s) on recreational activities?

3. Are there any Federal, State or local restrictions on recreational activities in the vicinity of the modified discharge(s)? If yes, describe the restrictions and cite available references.

4. If recreational restrictions exist, would such restrictions be lifted or modified if you were discharging a secondary treatment effluent?

F. Establishment of a Monitoring Program (40 CFR 125.62)

1. Describe the biological, water quality, and effluent monitoring programs which you propose to meet the criteria of 40 CFR 125.62.

2. Describe the sampling techniques, schedules, and locations, analytical techniques, quality control and verification procedures to be used.

3. Describe the personnel and financial resources available to implement the monitoring programs upon issuance of a modified permit and to carry it out for the life of the modified permit.

G. Effect of Discharge on Other Point and Non-point Sources (40 CFR 125.63)

1. Does (will) your modified discharge(s) cause additional treatment or control requirements for any other point or non-point pollution source(s)?

2. Provide the determination required by 40 CFR 125.63(b) or a copy of a letter to the appropriate agency(s) requesting the required determination.

H. Toxics Control Program (40 CFR 125.64)

1. a. Do you have any known or suspected industrial sources of toxic pollutants or pesticides? b. If no, provide the certification required by 40 CFR 125.64(c)(2).

2. Provide the results of wet and dry weather effluent analyses for toxic pollutants and pesticides as required by 40 CFR 125.64(a)(1).

3. Provide an analysis of known or suspected industrial sources of toxic pollutants and pesticides identified in 2. above.

4. Do you have an approved industrial pretreatment program?

a. If yes, provide the date of EPA approval.

b. If no, and if required by 40 CFR Part 403 to have an industrial pretreatment program, (40 CFR 125.64(c)(2)) provide a proposed schedule for development and implementation of your industrial pretreatment program to meet the requirements of 40 CFR Part 403.

5. Describe the public education program you propose to minimize the entrance of nonindustrial toxic pollutants and pesticides into your treatment system.

6. Provide a schedule for development and implementation of a nonindustrial toxics

control program to meet the requirements of 40 CFR 125.64(d)(3).

PART 124—PROCEDURES FOR DECISIONMAKING

3. The authority citation for Part 124 reads as follows:

Authority: Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*; Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*; and Clean Water Act, 42 U.S.C. 300f *et seq.*; and

§ 124.65 [Removed and reserved]

4. 40 CFR Part 124 is amended by removing and reserving section 124.65.

[FR Doc. 82-15414 Filed 6-7-82; 8:45 am]
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June 8, 1982

Part III

Department of Education

Special Programs for Students From Disadvantaged Backgrounds; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 642, 643, 644, 645, and 646

Special Programs for Students From Disadvantaged Backgrounds

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary is issuing final regulations for the consideration of the prior experience of applicants applying for new awards under the Special Programs for Students from Disadvantaged Backgrounds (Upward Bound, Talent Search, Special Services for Disadvantaged Students, Educational Opportunity Centers, and Training) if the applicant previously received a grant under the same program for which it is currently applying. The regulations are necessary to implement a provision added to the Special Programs legislation by the Education Amendments of 1980.

EFFECTIVE DATE: Unless Congress takes certain adjournments, these regulations will take effect 45 days after publication in the **Federal Register**. If you want to know the effective date of these regulations, call or write the Department of Education contact person. At a future date the Secretary will publish a notice in the **Federal Register** stating the effective date of these regulations.

FOR FURTHER INFORMATION CONTACT: Mary Kathleen Smith, (Room 3514, ROB–3) Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone (202) 245–2511.

SUPPLEMENTARY INFORMATION: The Education Amendments of 1980 changed the Special Programs for Students from Disadvantaged Backgrounds in many respects. Final regulations that reflected most of these changes have been published in the **Federal Register**.

One of the changes requires the Secretary to consider the prior experience of an applicant for a grant under the Special Programs if the applicant is applying for a new grant under the same program. For example, if an applicant for a new Upward Bound grant has previously been awarded a grant to carry out an Upward Bound project, the Secretary must take into account, when evaluating the applicant for a new grant, the applicant's experience under the grant.

Summary of Comments, Responses, and Changes

In the notice of proposed rulemaking published in the **Federal Register** on December 14, 1981 (45 FR 81060–81064), the Secretary invited comments on the proposed regulations for the evaluation of past performance of Special Programs applicants.

The following includes a summary of the substantive public comments received and the Secretary's response to those comments, including any changes. The comments and responses are organized in the same order as the referenced sections are organized in these final regulations. Section headings in parentheses are the headings that appeared in the notice of proposed rulemaking but that have been retitled in these final regulations. In addition, some technical and editorial revisions have been made in the language of the regulations.

General Comments, Responses, and Changes Applicable to All Special Programs.

Comment. Several commenters took exception to the substitution of "evaluation of past performance" in place of "consideration of prior experience." The commenters noted that the authorizing legislation stated that the Secretary should "consider the prior experience of service delivery under the particular programs for which funds are sought by each applicant." The commenters interpreted this to mean that the Congress intended that a priority ranking be given to established projects being considered for funding, and that the Congress was primarily concerned with the continuity of delivery of services to project participants at existing project sites. The commenters noted further that the proposed regulations rather than providing a presumption of continuity for those projects which deliver effective services are given the added burden of establishing why they should not be discontinued.

Response. A change has been made. The Secretary has deleted the phrase "past performance" and has substituted "prior experience." However, the Secretary intends to evaluate each project's "prior experience of service delivery" to determine if the project has been effective. While the Secretary concurs that continuity of services to project participants is an important consideration, consideration must also be given to the quality and effectiveness of those services. It would be unlikely that Congress intended for ineffective projects to receive the same "consideration" as effective projects. Therefore, the Secretary will consider the prior experience on the basis of the criteria in paragraph (c) of each section.

The Secretary does not believe that those criteria place an added burden on projects. It should be noted that these regulations will not increase the costs of recordkeeping, project evaluation, and reporting for grantees. The Secretary, using information and reports otherwise required, determines the applicant's success in meeting previously agreed upon administrative requirements and programmatic objectives.

Comment. Several commenters expressed concern over the lack of reference in the proposed regulations to the procedure for evaluation. The commenters questioned who would be responsible for evaluating the prior experience of the applicant—proposal readers or Department of Education personnel.

Response. No change has been made. The Secretary intends for proposal readers to evaluate the application on the basis of the selection criteria and for personnel in the Department to review and evaluate the prior experience of service delivery for those applicants that have been previously funded on the basis of criteria in paragraph (c) of these sections. The procedure is consistent with 34 CFR 75.217 of EDGAR which details how the Department selects applications for new grants. Paragraphs (d) and (e) of § 75.217 detail the procedures to be used for priority considerations in ranking applications.

At the time the rank order listing is signed by the responsible official a notification will be mailed immediately to all current projects that have not ranked high enough for continued funding. This notification will inform the applicant of the reasons for the score (see § 75.218).

If a project believes that the application was not selected for funding because it was mishandled by the Department, action may be initiated in accordance with § 75.222.

Comment. Several commenters requested that the Secretary include in the final regulations an appeals process. The commenters were concerned that a process is needed for those instances in which a report that had been submitted cannot be located by the Department, where negotiated changes in the program plan were not recorded or attached to the original application, and for any other reasons in which the Department is liable for the lack of information. The commenters recommended that a section be added under each part that gives reference to EDGAR §§ 75.218, 75.219, and 75.222 since these sections specify the conditions under which an application may be reviewed for mishandling on the part of the Department.

Response. No change has been made. The Secretary has decided that to

specifically reference those parts of EDGAR in each regulation would be repetitive since Parts 75 and 77 of EDGAR are incorporated by reference into each program regulations (§ 642.4; § 643.5; § 644.5; § 645.5; and § 646.5).

Comment. One commenter suggested that if a project is to be penalized for failure to meet administrative or programmatic objectives, it should be notified in advance by the Department. The commenter suggested that the regulations include provisions for a project to receive written notification of areas in which it is failing so that corrective action can be taken.

Response. No change has been made. The Secretary believes the regulation is unnecessary. The Department routinely informs grantees if their reports have not been received—first by letter then followed up by telephone. The Department sends all grantees that have had a site visit a report of the Department's findings. Also, for any audits that are conducted, audit reports are shared with the grantee. Finally, the grantee can determine for itself at any point in its grant whether it is meeting its programmatic objectives since these objectives have been previously agreed upon as a condition of the grant award. No applicants will be "penalized for failure to meet objectives" but rather they will fail to earn as great a priority advantage as a result of their established prior experience. This distinction is important to make in an application process that is to be equitable to all applicants.

Comment. Two commenters expressed concern over the fact that no allowance was made for a start up period. The commenters stated that it takes a while for a project to show results. The commenters suggested that some consideration should be given to the length of time the project has been in operation and the progress the project is making toward accomplishing its objectives.

Response. No change has been made. The Secretary has provided all applicants with prior experience the opportunity to furnish information in their application which supplements data previously furnished. The Secretary, however, does recognize that project results in the initial months of a new project are minimal and will take that into account when evaluating prior experience.

Comment. One commenter expressed concern that asking for three years prior experience would penalize applicants that might have lost funding after many years of successful experience (Paragraph (a) of the proposed regulations). The commenter recommended that there be some way for evaluators to take into account the depth of experience beyond the arbitrary three-year cut off.

Response. No change has been made. The Secretary has determined that a three-year period is most feasible: project records are available on location, and grant records are readily available in the Department.

Comment. Numerous commenters took exception to deducting points from the score obtained on the application (§§ 642.32(b)(1); 643.32(b)(1); 644.32(b)(1); 645.32(b)(1); and 646.32(b)(1) of the proposed regulations). The commenters noted that the legislation did not require deducting points nor did the committee report imply the use of negative weighting. In addition, the commenters pointed out that the use of a negative points system in the evaluation of applications for funding of discretionary programs in the Department of Education is unprecedented.

Response. A change has been made. The Secretary has revised the regulations and has deleted the use of negative points. The Secretary agrees with the commenters that consideration of prior experience was intended to provide a degree of advantage to those applicants that had successfully fulfilled their obligations under previous grants. The Secretary believes that those applicants that had no prior experience and those whose experience has been less than successful should compete on an equal footing. That is, their applications would be scored solely on the basis of the selection criteria for the program. To penalize some applicants based on their poor prior experience would have the effect of automatically negating the evaluation of the application based on the selection criteria.

Comment. Numerous commenters expressed concern over the Secretary's decision to award a maximum of 20 points to previously funded applicants (§§ 642.32(b) (2) and (3); 643.32(b) (2) and (3); 644.32(b) (2) and (3); 645.32(b) (2) and (3); and 646.32(b) (2) and (3)).

These commenters pointed out that the Senate report stated that the committee expected that the Secretary would provide sufficient weight to the past experience criteria and as a guideline urged the Secretary to provide at least a 30 percent weighting factor for past experience. The commenters went on to urge the Secretary to provide 30 points for prior experience.

Response. A change has been made in Parts 643, 644, 645, and 646. The Secretary, in analyzing the effect of a 30 point weighting factor on the FY 1980 funding slates (the most recent year in which funds were awarded in their entirety on the basis of a new competition), discovered that an applicant could have ranked in the lowest decile and, had it been awarded 30 points for prior experience, would have jumped over a substantial number of higher ranking applications to be funded. The Senate report suggested 30 percent as a guideline not as an absolute requirement. Given the quality of applications that fall in the bottom quartile, much less those in the bottom decile, the Secretary believes that a weighting factor of up to 30 points is too great. Instead, a weighting factor of up to 15 points for successful prior experience will assure high quality projects and still recognize the importance of continuity of services to participants.

A change has been made to § 642.32. The Secretary has decided to award up to 8 priority points when considering the prior experience of applicants for the Training Program. The Training Program does not provide services directly to disadvantaged participants in specific locations. Rather the Training Program provides training for project staff and the kinds of training (internships, workshops, conferences, seminars), the training content, and the participants may vary from year-to-year. Since continuity of services to participants over an extended period of time is not a major consideration of this program, the number of priority points has been reduced.

Comment. Several commenters noted that paragraphs (b)(1) to (b)(3) of the proposed regulations were cumbersome and did not provide for those circumstances in which some program objectives and administrative requirements were not met, some were met, and some were exceeded. They pointed out that failure to meet one objective or administrative requirement would preclude the possibility of receiving any positive points, regardless of the extent to which all other objectives were met or exceeded.

Response. A change has been made. Paragraph (b) of each prior experience section has been revised. The Secretary has assigned a maximum number of points for each criterion. Therefore, it is possible for an applicant to fail to meet one of the criteria and still score points for the remaining criteria.

The Secretary uses the following as a guideline to determine the points to award for each criterion:

- Failed to meet the criterion—zero points awarded

• Marginally met the criterion—one-half of the maximum possible points for the criterion awarded

• Fully met the criterion—maximum possible points for the criterion awarded.

Comment. Several commenters expressed concern over the informational sources that would be used to assess prior experience (§§ 642.32(c); 643.32(c); 644.32(c); 645.32(c); and 646.32(c) of the proposed regulations). They pointed out that referring only to the funded application does not acknowledge the possibility of changes in project scope made from the original application at the time of award or throughout the project's grant period. The commenters suggested that "negotiated program plan(s)" and "project evaluation reports" become part of the possible sources of information upon which determinations are made.

Response. A change has been made. The Secretary has added "negotiated program plan(s)" and "project evaluation reports" to paragraph (c) of these final regulations as additional information sources that will be used in considering the prior experience of service delivery of each applicant.

Comment. One commenter expressed concern over the variety of sources from which the Secretary will obtain information regarding projects. Some projects may not have had site visits; some projects provide more information than others in the narrative section of their performance reports. The commenter suggested that specific criteria for the evaluation of project experience be stated so that the information required to document the criteria can be gathered in a timely, uniform, and accurate manner.

Response. No change has been made. The Secretary will use all available information to determine the point score to be awarded. All projects cannot be audited or visited. These processes, however, are used to validate information already submitted. These regulations state the specific criteria that will be used to evaluate prior experience of service delivery and if a project wishes to submit more information than has already been submitted, the project may include this documentation with their new application.

Comment. Several commenters urged the Secretary to not use the criteria in paragraph (c) of each section because the projects did not know at the outset of their current grants the basis upon which the Secretary would assess the applicant's prior experience.

Response. No change has been made. The criteria in paragraph (c) for determining the prior experience of service delivery relate to the legislated goals of the programs, to project management, to common Department requirements, and to commitments made by applicants at the time of their previous grant award. Care was taken when developing these regulations, not to base experience factors on new requirements; all requirements are provisions that funded projects are currently required to meet as conditions of their grant awards.

Comment. One commenter urged the Secretary to make some provisions for extenuating circumstances when evaluating the extent to which a project has served the number of participants it was funded to serve (paragraph (c)(1) of the regulations). The commenter noted that it would be unfair to lose points because of a problem over which it had no control.

Response. No change has been made. The Secretary believes no change is needed. A project may, at any time throughout their grant, negotiate changes in their program plan. These changes would then become a source document for evaluating the number served; not the originally funded application.

Comment. One commenter noted that the proposed regulations read: "The extent to which the applicant has met all administrative requirements * * * " (§§ 642.32(c)(4); 643.32(c)(5); 644.32(c)(5); 645.32(c)(5); and 646.32(c)(6) of the proposed regulations). The commenter pointed out that the phrase "extent to which" implies a continuum of accomplishment. The commenter recommended that, for clarity, "all" be deleted.

Response. A change has been made. The Secretary has adopted the suggestion and has deleted the word "all" from these final regulations.

Comment. Several commenters urged the Secretary to provide credit for applicant support of the program. One commenter requested that credit be given for efforts of an organization to sustain a program after losing funding. Another commenter requested that credit be given for efforts of an institution to provide additional support mechanisms for the project.

Response. No change has been made. The applicant is given credit for institutional support and commitment under the selection criteria for each program.

Program Specific Comments

Part 642—Training Program for Special Programs Staff and Leadership Personnel

§ 642.32 Prior experience. (Past performance.)

Comment. Several commenters expressed their concern regarding § 642.32(c)(2) of the proposed regulations. They stated that the proposed rule would be difficult to evaluate because no definition exists as to what skills are required to meet the needs of disadvantaged students. The commenters stated that such a short training time is inadequate to develop these skills and knowledge. The commenters suggested that the paragraph be revised to read: "The extent to which the institution or organization provided training * * * which was designed to improve the operation of Special Programs projects in accordance with its negotiated program plan." The commenters noted that this revision is in accordance with the legislative language and would compare the completed program against its previously approved program plan.

Response. No change has been made. All training projects contain desired participant outcomes. Training projects are required to utilize evaluation procedures that enable them to determine the effectiveness of the training provided (see 34 CFR 75.205 and 75.590.) The criterion, as written, requires—for maximum priority advantage to be awarded—that evidence exists documenting benefits received from the previously conducted training.

Part 643—Talent Search Program

§ 643.32 Prior experience. (Past performance.)

Comment. Numerous commenters expressed confusion over the requirements of § 643.32(c)(2) of the proposed regulations concerning the extent to which the high school graduation rate of project participants is higher than the graduation rates in the target schools before the Talent Search Program began. Several commenters pointed out that it would seem more logical and appropriate for evaluation to focus on dropouts and others served and the extent to which those served returned to high school or completed the GED.

Other commenters noted that Talent Search projects often recruit participants from the community as well as from the high schools. Some of these participants, they stated, may not return

to high school, but may elect to complete the GED. The commenters questioned how these participants would figure into the graduation rate.

Other commenters questioned whether the comparison was between the graduation rates of the participants and the rates of those at the target school of like socio-economic backgrounds or the rates of the student body as a whole at the target schools. Comparisons with the student body as a whole, the commenters noted, would be unreasonable because many projects serve students from target schools that have the majority of the student body from higher socio-economic backgrounds and, therefore, the target schools' graduation rates are high.

Still other commenters objected to the proposed regulation because the regulation required a comparison of project accomplishments of the prior three years with the status quo prior to the beginning of the project. They noted that if the project has been in operation for only three years, there may not be a problem; if, however, the project has been funded for more than three years, there is a problem. Those problems, they stated, include lack of available data and irrelevant data in the case of shifts in demographic distribution and general economic change.

Other commenters expressed concern over the lack of a common definition of "graduation rate." They questioned whether the rate is computed by comparing the number of ninth graders in the Fall of 1976 with the number of students receiving diplomas in 1980 or whether the rate is computed by comparing the number of seniors in the Fall of 1979 with the number receiving diplomas in the Spring of 1980.

Finally, other commenters noted that the regulation limits project achievement to the work done with high school seniors and does not take into account that many projects focus on working with high school dropouts or students below the twelfth grade.

Response. A change has been made. The Secretary has revised § 643.32(c)(2) to read as follows: "The extent to which the project was successful in encouraging project participants to complete high school." This revision should answer all of the concerns expressed by the commenters since projects may address how they have served dropouts, twelfth graders, and those below the twelfth grade. Projects may provide supporting documentation that shows the impact of the project on the target area and in the target schools. The Secretary has decided to allow this flexibility in responding to this criterion.

Comment. Numerous commenters expressed concerns about the requirements of § 643.32(c)(3) of the proposed regulations concerning the extent to which postsecondary placement of project participants is higher than the placement rates of the target schools before the Talent Search project began. The commenters stated the same arguments supporting those concerns as they expressed in their comments on § 643.32(c)(2) in this preamble.

Other commenters suggested it would be appropriate to focus on the actual number of participants who enrolled in postsecondary institutions.

In addition, other commenters indicated that valid data about postsecondary placement rates for the target high schools are not available in many areas.

Response. A change has been made. The Secretary has revised § 643.32(c)(3) to read as follows: "The extent to which the project was successful in encouraging project participants to undertake a program of postsecondary education." This revision answers the concerns of the readers and follows the language of the authorizing legislation: "to encourage such youth * * * to undertake a program of postsecondary education."

Part 644—Educational Opportunity Centers Program

§ 644.32 Prior experience. (Past performance.)

(No program specific comments were received on this program.)

Part 645—Upward Bound Program

§ 645.32 Prior experience. (Past performance.)

Comment. Numerous commenters expressed concerns regarding the requirements of § 645.32(c)(2)(i) of the proposed regulations regarding the extent to which the high school graduation rate of the participants is greater than the high school graduation rates of the target schools. Many of the commenters stated the same arguments supporting those concerns as were expressed in the comments on § 643.32(c)(2) in this preamble.

In addition to those comments, other commenters questioned what a project should do if it is working with several target schools: should the target schools' graduation rates be considered individually; should the rate of the Upward Bound students from a particular high school be compared with their particular high school's graduation rate, or, should the various target schools' rates be averaged?

Response. A change has been made. The Secretary has revised § 645.32(c)(2) to read as follows: "The extent to which the project has generated the skills and motivation in project participants that are necessary for admission to an educational program beyond high school." This would allow Upward Bound projects to use available documentation and evidence of improved academic performance, increased high school retention, completion of requirements for GED or high school diploma and so forth.

Comment. Several commenters noted that § 645.32(c)(2)(ii) of the proposed regulations was unclear. The commenters questioned whether a project must provide all of the services listed for Veterans.

Response. A change has been made. The Secretary has deleted § 645.34(c)(2)(ii) from these final regulations. Projects that serve veterans will be evaluated using the same criteria as is used for Upward Bound projects that serve high school youth. Therefore, the Secretary has also deleted paragraph (c)(3)(ii) of the proposed regulations from these final regulations.

Comment. Numerous commenters expressed concerns about the requirements of § 645.32(c)(3)(i) of the proposed regulations regarding the extent to which the postsecondary enrollment rate of the project participants is greater than the postsecondary enrollment rates of the target schools. Many of the commenters stated the same arguments supporting those concerns as were expressed in the comments on § 643.32(c)(2) and § 645.32(c)(2)(i) in this preamble.

Other commenters noted that a substantial number of rural or small high schools do not maintain records relating to postsecondary placement.

Some commenters pointed out that many high schools have data only on the intentions of seniors to pursue a postsecondary program, not follow-up data on those who actually enrolled.

Several commenters suggested that the paragraph be revised to read as follows: "The extent to which the postsecondary enrollment rate of project participants meets the rate proposed in the negotiated program plan."

Response. A change has been made. The Secretary has revised the paragraph to read: "The extent to which project participants, upon completion of project services, undertake a program of postsecondary education." The suggested wording of the commenters was not taken because many funded Upward Bound projects do not have as part of their negotiated program plan a

proposed placement rate. This criterion as now written provides an opportunity for an applicant to report its success in aiding its participants to continue their education in postsecondary schools.

Part 646—Special Services for Disadvantaged Students Program

§ 646.32 Prior experience. (Past performance.)

Comment. Many commenters expressed concern over the provisions of § 646.32(c)(2) of the proposed regulations regarding the extent to which project participants received sufficient financial assistance.

Several commenters questioned whether there was a standard definition for "sufficient financial assistance."

Other commenters noted that the project has no control over this criterion. The commenters stated that the level of financial assistance awarded to participants depends on the personal circumstances of the applicant, the diligence of the applicant in submitting the necessary documents, and the availability of funds in the various student aid programs. These commenters also stated that although students can be encouraged to apply for aid, the Special Services project has no influence on the decision to award funds and on the amount given.

Other commenters pointed out that since Special Services projects are prohibited from recruiting participants, this prevents early identification of potential participants and any efforts to assist them in the timely completion and submission of financial aid applications in the Spring before the Fall session.

Another commenter noted that sometimes students will refuse financial assistance because of the composition of the financial aid package. Therefore, the commenter recommended, the requirement should be revised to read: "financial aid awarded" instead of "financial aid received."

Response. A change has been made. The Secretary has revised paragraph (c)(2) of this section to read: "The extent to which project participants were awarded sufficient financial assistance—grants-in-aid, tuition waivers, and other forms of financial assistance—to meet the participant's full financial need for attendance at the grantee institution."

Although the project does not decide on the awarding of funds and the amount of the awards, every institution of higher education receiving a Special Services grant had to assure that each participant enrolled in the project will receive sufficient financial assistance to meet that participant's full financial need. It is incumbent upon the project to work with the participants and the institution to see that this assurance is met. The project should see that the financial aids office develops for each participant an individualized financial aid package indicating the funds, from all sources, available to meet the full cost-of-attendance at the institution. These sources may include grants, tuition waivers, work-study, parental contribution and so forth.

While it is true that Special Services projects may not recruit students to the institution, once an individual has been accepted for enrollment at the institution the project may select the individual as a participant. In this way, the project may assist individuals in obtaining financial aid prior to their actual enrollment at the institution.

Comment. Several commenters questioned the requirements of § 646.32(c)(3) of the proposed regulations regarding the extent to which the retention rate of project participants met the rate proposed in the previously funded application. Some of the commenters noted that further clarification was needed to distinguish between retention within the program and retention within the institution. In addition, the commenters pointed out that this criterion would be hard to evaluate if the originally funded application did not specify a retention rate.

Other commenters suggested that the regulation be revised to read: "The extent to which the retention rate of project participants is greater than the retention rate for other Special Services-type students at the host institution."

Response. A change has been made. The Secretary has revised the paragraph to read: "The extent to which project participants persisted toward completion of the academic programs in which they are enrolled." The Secretary did not use the language recommended by commenters because many institutions do not have the capability of gathering information on a control group (Special Services-type students) in order to make the comparison.

This criterion takes into account those students whose postsecondary education program may not lead to an associate's or a bachelor's degree. Projects may use a variety of data as documentation for this criterion, including retention in the institution, retention in the Special Services project, and degrees and certificates conferred.

Comment. Several commenters questioned the requirements of § 646.32(c)(4) of the proposed regulations regarding the extent to which the graduation rate of project participants meets the rate proposed in the previoulsy funded application. Some of the commenters noted that further clarification was needed concerning a definition of graduation rate. Specifically, the commenters asked if the "graduation rate" applied to those participants who entered as freshmen but who are not longer with the program.

Other commenters pointed out that this criterion would be hard to evaluate if the originally funded application did not specify a graduation rate.

Another commenter noted that accurate information concerning graduation of participants and former participants may be difficult to obtain. The commenter supported this statement by pointing out that since project funds cannot be used for research, projects have had to rely on the cooperation and limited resources of their sponsoring institution to conduct attrition studies.

Several other commenters recommended that paragraphs (c)(3) and (c)(4) of the proposed regulations concerning retention and graduation rates be combined into one criterion. Commenters noted that since most Special Services projects primarily serve students enrolled in the first two years of college, there is some concern that by requesting information regarding graduation, the Department has an expectation of long-term followup of former participants, an activity that generally is not funded.

These same commenters also expressed concern for those projects at community colleges that offer a vocational as well as an academic program in which students seek skills development rather than a two or four-year degree. In those cases, the commenters noted, the retention of students to the point of completion of their training goals would be more relevant than the actual graduation rate of students.

Other commenters suggested that the regulation be revised to read: "The extent to which the graduation rate of participants is greater than the graduation rate for other Special Services-type students at the host institution."

Response. A change has been made. The Secretary has revised this paragraph to read: "The extent to which project participants met institutional academic performance levels required to stay in good standing at the grantee institution." Again, the suggested wording of the commenters was not taken because many institutions do not have the capability of gathering

information on a control group (Special Services-type students) in order to make the comparison.

This revised criterion allows projects to use a variety of data as documentation including improved academic performance and credit hours completed. The graduation rate has been combined with the criterion in paragraph (c)(3) and is no longer a separate criterion.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are classified as non-major because they do not meet the criteria for major regulations established in the order.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is already being gathered by or is available from any other agency or authority of the United States.

Based on the absence of any comments on this matter and the Department's own review, it has been determined that the regulations in this document do not require information that is already being gathered by or is available from any other agency or authority of the United States.

Federal Register Thesaurus Subjects

List of Subjects in 34 CFR Parts 642, 643, 644, 645, and 646

Bilingual education, Education, Education of disadvantaged, Education of handicapped, Government contracts, Grant programs—education, Student aid.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

Dated: June 1, 1982.

T. H. Bell,

Secretary of Education.

(Catalog of Federal Domestic Assistance Numbers: 84.103, Training Program for Special Programs Staff and Leadership Personnel; 84.044, Talent Search Program; 84.066, Educational Opportunity Centers Program; 84.047, Upward Bound Program; 84.042, Special Services for Disadvantaged Students Program)

PART 642—TRAINING PROGRAM FOR SPECIAL PROGRAMS STAFF AND LEADERSHIP PERSONNEL

The Secretary amends Part 642 of Title 34 of the Code of Federal Regulations by adding a new § 642.32 to read as follows:

§ 642.32 Prior experience.

(a)(1) The Secretary gives priority to each applicant that has conducted a Training Program project under Title IV–A–4 of the Higher Education Act within the three fiscal years prior to the fiscal year for which the applicant is applying.

(2) To determine the number of priority points to be awarded each eligible applicant, the Secretary considers the applicant's prior experience of service delivery in accordance with paragraphs (b) and (c) of this section.

(b)(1) The Secretary may add from one to eight points to the point score obtained on the basis of the selection criteria in § 642.31, based on the applicant's success in meeting the administrative requirements and programmatic objectives of paragraph (c) of this section.

(2) The maximum possible score for each criterion is indicated in the parentheses preceding the criterion.

(c) The Secretary—based on information contained in one or more of the following: Performance reports, audit reports, training site visit reports, evaluations by participants, project evaluation reports, the previously funded application, the negotiated program plan(s), and the application under consideration—looks for information that shows—

(1) (2 points) The extent to which the project has served the number and kinds of training participants it was funded to serve;

(2) (2 points) The extent to which participants benefited from training in areas such as—

(i) Increased qualifications and skills in meeting the needs of disadvantaged students; and

(ii) Increased knowledge and understanding of the Special Programs;

(3) (2 points) The extent to which the applicant has achieved other goals and objectives as stated in the previously funded application or negotiated program plan; and

(4) (2 points) The extent to which the applicant has met the administrative requirements—including recordkeeping, reporting, and financial accountability—under the terms of the previously funded award.

(20 U.S.C. 1070d, 1070d–1d; Senate Report 96–733, 96 Cong. 1st Sess. p. 28)

PART 643—TALENT SEARCH PROGRAM

The Secretary amends Part 643 of Title 34 of the Code of Federal Regulations by adding a new § 643.32 to read as follows:

§ 643.32 Prior experience.

(a)(1) The Secretary gives priority to each applicant that has conducted a Talent Search project within the three fiscal years prior to the fiscal year for which the applicant is applying.

(2) To determine the number of priority points to be awarded each eligible applicant, the Secretary considers the applicant's prior experience of service delivery in accordance with paragraphs (b) and (c) of this section.

(b)(1) The Secretary may add from one to fifteen points to the point score obtained on the basis of the selection criteria in § 643.31, based on the applicant's success in meeting the administrative requirements and programmatic objectives of paragraph (c) of this section.

(2) The maximum possible score for each criterion is indictated in the parentheses preceding the criterion.

(c) The Secretary—based on information contained in one or more of the following: Performance reports, audit reports, site visit reports, project evaluation reports, the previously funded application, the negotiated program plan(s), and the application under consideration—looks for information that shows—

(1) (3 points) The extent to which the project has served the number of participants it was funded to serve;

(2) (3 points) The extent to which the project was successful in encouraging project participants to complete high school;

(3) (3 points) The extent to which the project was successful in encouraging project participants to undertake a program of postsecondary education;

(4) (3 points) The extent to which the applicant has achieved other goals and objectives as stated in the previously funded application or negotiated program plan; and

(5) (3 points) The extent to which the applicant has met administrative requirements—including recordkeeping, reporting, and financial accountability—under the terms of the previously funded award.

(20 U.S.C. 1070d, 1070d–1; Senate Report 96–733, 96 Cong. 1st Sess. p. 28)

PART 644—EDUCATIONAL OPPORTUNITY CENTERS PROGRAM

The Secretary amends Part 644 of Title 34 of the Code of Federal Regulations by adding a new § 644.32 to read as follows:

§ 644.32 Prior experience.

(a)(1) The Secretary gives priority to each applicant that has conducted an Educational Opportunity Centers project within the three fiscal years prior to the fiscal year for which the applicant is applying.

(2) To determine the number of priority points to be awarded each eligible applicant, the Secretary considers the applicant's prior experience of service delivery in accordance with paragraphs (b) and (c) of this section.

(b)(1) The Secretary may add from one to fifteen points to the point score obtained on the basis of the selection criteria in § 644.31, based on the applicant's success in meeting the administrative requirements and programmatic objectives of paragraph (c) of this section.

(2) The maximum possible score for each criterion is indicated in the parentheses preceding the criterion.

(c) The Secretary, based on information contained in one or more of the following: Performance reports, audit reports, site visit reports, project evaluation reports, the previously funded application, the negotiated program plan(s), and the application under consideration—looks for information that shows—

(1) (3 points) The extent to which the project has served the number of participants it was funded to serve;

(2) (3 points) The extent to which the center has disseminated, in accordance with its negotiated program plan, information concerning financial and academic assistance available for individuals desiring to pursue a program of postsecondary education;

(3) (3 points) The extent to which the center has specifically assisted participants in applying for admission to postsecondary educational programs, including assisting participants in preparing necessary applications for use by admissions and financial aid officers;

(4) (3 points) The extent to which the applicant has achieved other goals and objectives as stated in the previously funded application or negotiated program plan; and

(5) (3 points) The extent to which the applicant has met the administrative requirements—including recordkeeping, reporting, matching funds, and financial accountability—under the terms of the previously funded award.

(20 U.S.C. 1070d, 1070d–1c; Senate Report 96–733, 96 Cong. 1st Sess. p. 28)

PART 645—UPWARD BOUND PROGRAM

The Secretary amends Part 645 of Title 34 of the Code of Federal Regulations by adding a new § 645.32 to read as follows:

§ 645.32 Prior experience.

(a)(1) The Secretary gives priority to each applicant that has conducted an Upward Bound project within the three fiscal years prior to the fiscal year for which the applicant is applying.

(2) To determine the number of priority points to be awarded each eligible applicant, the Secretary considers the applicant's prior experience of service delivery in accordance with paragraphs (b) and (c) of this section.

(b)(1) The Secretary may add from one to fifteen points to the point score obtained on the basis of the selection criteria in § 645.31, based on the applicant's success in meeting the administrative requirements and programmatic objectives of paragraph (c) of this section.

(2) The maximum possible score for each criterion is indicated in the parentheses preceding the criterion.

(c) The Secretary—based on information contained in one or more of the following: Performance reports, audit reports, site visit reports, project evaluation reports, the previously funded application, the negotiated program plan(s), and the application under consideration—looks for information that shows—

(1) (3 points) The extent to which the project has served the number of participants it was funded to serve;

(2) (3 points) The extent to which the project has generated the skills and motivation in project participants that are necessary for admission to an educational program beyond high school;

(3) (3 points) The extent to which the project participants, upon completion of project services, undertake a program of postsecondary education;

(4) (3 points) The extent to which the applicant has achieved other goals and objectives as stated in the previously funded application or negotiated program plan; and

(5) (3 points) The extent to which the applicant has met the administrative requirements—including recordkeeping, reporting, and financial accountability—under the terms of the previously funded award.

(20 U.S.C. 1070d, 1070d–1a; Senate Report 96–733, 96 Cong. 1st Sess. p. 28)

PART 646—SPECIAL SERVICES FOR DISADVANTAGED STUDENTS PROGRAM

The Secretary amends Part 646 of Title 34 of the Code of Federal Regulations by adding a new § 646.32 to read as follows:

§ 646.32 Prior experience.

(a)(1) The Secretary gives priority to each applicant that has conducted a Special Services project within the three fiscal years prior to the fiscal year for which the applicant is applying.

(2) To determine the number of priority points to be awarded each eligible applicant, the Secretary considers the applicant's prior experience of service delivery in accordance with paragraphs (b) and (c) of this section.

(b)(1) The Secretary may add from one to fifteen points to the point score obtained on the basis of the selection criteria in § 646.31, based on the applicant's success in meeting the administrative requirements and programmatic objectives of paragraph (c) of this section.

(2) The maximum possible score for each criterion is indicated in the parentheses preceding the criterion.

(c) The Secretary—based on information contained in one or more of the following: Performance reports, audit reports, site visit reports, project evaluation reports, the previously funded application, the negotiated program plan(s), and the application under consideration—looks for information that shows—

(1) (2 points) The extent to which the project has served the number of participants it was funded to serve;

(2) (1 point) The extent to which project participants were awarded sufficient financial assistance—grants-in-aid, tuition waivers, and other forms of financial assistance—to meet the participants' full financial need for attendance requirements at the grantee institution;

(3) (3 points) The extent to which project participants persisted toward completion of the academic programs in which they are enrolled;

(4) (3 points) The extent to which project participants met institutional academic performance levels required to stay in good standing at the grantee institution;

(5) (3 points) The extent to which the applicant has achieved other goals and objectives as stated in the previously funded application or negotiated program plan;

(6) (3 points) The extent to which the applicant has met the administrative requirements—including recordkeeping, reporting, and financial accountability—under the terms of the previously funded award.

(20 U.S.C. 1070d, 1070d–1b; Senate Report 96–733, 96 Cong. 1st Sess. p. 28)

[FR Doc. 82–15378 Filed 6–7–82; 8:45 am]
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Tuesday
June 8, 1982

Part IV

Department of Commerce

National Oceanic and Atmospheric Administration

Deep Seabed Mining Regulations for Exploration Licenses; Procedures for Pre-Enactment Explorer Applications and New Entrant Applications; Final Rules

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 970

Deep Seabed Mining Regulations for Exploration Licenses; Procedures for Pre-Enactment Explorer Applications and New Entrant Applications

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final rules.

SUMMARY: Following consultations between the United States and other seabed mining countries, the National Oceanic and Atmospheric Administration (NOAA) has decided to initiate the formal processing of U.S. deep seabed mining exploration license applications. To do so, NOAA revokes the existing suspension of various sections of 15 CFR Part 970, which contain procedures for per-enactment explorer applications and new entrant applications. Pursuant to these procedures, NOAA will open the coordinates of proposed exploration license areas covered by pre-enactment explorer applications on June 21, 1982, and then will begin the formal processing of all applications for exploration licenses based on pre-enactment exploration (exploration prior to the enactment of the Deep Seabed Hard Mineral Resources Act (Pub. L. 96–283, "the Act")). Subsequently, NOAA will start to accept license applications from new entrants on January 3, 1983. Consistent with these actions, NOAA is changing many of the dates found in Subpart C of 15 CFR Part 970, in order to reflect the 17-week suspension of the date for the opening of coordinates and the concurrent delay which occurred in the processing of pre-enactment explorer and new entrant applications. The Subpart C regulations are designed to comport with the schedules and procedures negotiated in a proposed agreement with prospective reciprocating states.

DATE: This action is effective on June 21, 1982.

FOR FURTHER INFORMATION CONTACT: Inquiries should be directed to: James P. Lawless, Acting Director, Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Page Building 1, Suite 410, 2001 Wisconsin Avenue, N.W., Washington, D.C. 20235, Telephone: (202) 653–7695.

SUPPLEMENTARY INFORMATION: 15 CFR Part 970, Subpart C, issued by NOAA on February 9, 1982 (47 FR 5966), set forth the dates on which applications for deep seabed mining exploration licenses would be accepted and established certain procedures unique to applications filed by U.S. citizens who were pre-enactment explorers and procedures for resolving conflicts resulting from multiple applications for the same area of the deep seabed. However, because of the incomplete status of the negotiations between the United States and prospective reciprocating states, NOAA, on March 17, 1982, at 47 FR 11512, temporarily suspended, until further notice, the date for the opening of coordinates of areas contained in pre-enactment explorer applications and processing of new entrant applications. Since the U.S. now anticipates that a number of seabed mining countries are in a position to initiate their domestic licensing processes, NOAA has decided to revoke the suspension mentioned above and to begin formal processing of its domestic license applications upon the opening of the exploration license area coordinates on June 21, 1982.

NOAA processing will follow the procedures established in 15 CFR Part 970. However, in order that the processing dates for exploration license applications comport with the new date for the opening of coordinates, each date relating to an application-processing event appearing in the previous publication of 15 CFR 970.300(b)(5), 970.302(b)-(m) and 970.303, has been delayed by seventeen weeks, except as reflected below.

NOAA statements with respect to the following regulatory and environmental matters appear at 47 FR 5967 (February 9, 1982) and are hereby incorporated and made a part of the preamble:

1. Classification under Executive Order 12291 (including discussion of the Regulatory Flexibility Act);
2. Paperwork Reduction Act; and
3. National Environmental Policy Act.

Effective Date. In view of the fact that the deep seabed mining exploration license applications already have been filed with NOAA, and because this rulemaking makes no substantive changes in the February 9, 1982, text of the 15 CFR Part 970, and for other foreign policy reasons, NOAA finds, under 5 U.S.C. 553(b), that notice and public procedures on this revocation of suspension and amendment action are inpracticable and unnecessary. For the same reasons, NOAA finds, under 5 U.S.C. 553(d), that good cause exists to make the action effective on June 21, 1982.

Accordingly, the prior suspension of several sections of Title 15, Part 970, Subpart C, of the Code of Federal Regulations, is revoked and several sections of Subpart C are amended to include new dates. For the sake of clarity, Title 15, Part 970, Subpart C is reprinted in its entirety below, incorporating all of the changes which have been made herein.

List of Subjects in 15 CFR Part 970

Research, Marine research, Seabed mining.

(Pub. L. 96–283; 94 Stat. 553; 30 U.S.C. 1401, *et seq.*)

Dated: June 2, 1982.

John V. Byrne,

Administrator.

PART 970—DEEP SEABED MINING REGULATIONS FOR EXPLORATION LICENSES

§§ 970.300; 970.302; 970.303 [Revocation of suspension].

1. The suspension of the following paragraph and sections of 15 CFR Part 970, Subpart C, which was published in the **Federal Register** on March 17, 1982 (47 FR 11513), is hereby revoked: §§ 970.300(b)(5); 970.302 and 970.303.

§§ 970.300, 970.301, 970.302, and 970.303 [Amended]

2. Each processing date in Subpart C is amended by revising the previous publication of 15 CFR 970.300–970.304 so that each date, except as reflected below, is delayed by seventeen weeks. As revised Subpart C reads as follows:

Subpart C—Procedures for Applications Based on Exploration Commenced Before June 28, 1980; Resolution of Conflicts Among Overlapping Applications; Applications by New Entrants

Sec.

970.300 Purposes and definitions.
970.301 Requirements for applications based on pre-enactment exploration.
970.302 Procedures and criteria for resolving conflicts.
970.303 Procedures for new entrants.
970.304 Action on portions of applications or amendments not in conflict.

§ 970.300 Purposes and definitions.

(a) This subpart sets forth the procedures which the Administrator will apply to applications filed with NOAA covering areas of the deep seabed where the applicants have engaged in exploration prior to June 28, 1980, and to the resolution of conflicts arising out of such applications. This subpart also establishes the date on which NOAA will begin to accept applications or amendments filed by new entrants, and certain other procedures for new entrants.

(b) For the purposes of this subpart the term:

(1) "Amendment" means an amendment to an application which changes the area applied for;

(2) "Application" means an application for an exploration license which is filed pursuant to the Act and this subpart;

(3) "Conflict" means the existence of more than one application or amendment with the same priority of right;

(i) Which are filed with the Administrator or with the Administrator and a reciprocating state; and

(ii) In which the deep seabed areas applied for overlap in whole or part, to the extent of the overlap;

(4) "Original conflict" means a conflict solely between or among applications;

(5) "New conflict" means a conflict between or among amendments filed after July 22, 1982, and on or before October 15, 1982;

(6) "Domestic conflict" means a conflict solely between or among applications or amendments which have been filed with the Administrator.

(7) "International conflict" means a conflict arising between or among applications or amendments filed with the Administrator and a reciprocating state.

§ 970.301 Requirements for applications based on pre-enactment exploration.

(a) Pursuant to section 101(b) of the Act, any United States citizen who was engaged in exploration before the effective date of the Act (June 28, 1980) qualifies as a pre-enactment explorer and may continue to engage in such exploration without a license:

(1) If such citizen applies under this part for a license with respect to such exploration within the time period specified in paragraph (b) of this section; and

(2) Until such license is issued to such citizen or a final administrative or judicial determination is made affirming the denial of certification of the application for, or issuance of, such license.

(b) Any application for a license based upon pre-enactment exploration must be filed, at the address specified in § 970.200(b), no later than 5:00 p.m. EST on March 12, 1982 (or such later date and time as the Administrator may announce by regulation). All such applications filed at or before that time will be deemed to be filed on such closing date.

(c) Applications not filed in accordance with this section will not be considered to be based on pre-enactment exploration, and may be filed only as new entrant applications under § 970.303.

(d) To receive a pre-enactment explore priority of right for issuance of a license, and application must be, when filed, in substantial compliance with requirements described in § 970.209(b). An application which is in substantial but not full compliance will not lose its priority of right if it is brought into full compliance according to § 970.210.

(e) Any application based on pre-enactment exploration must be for a reasonably compact area with respect to which the applicant is a pre-enactment explorer, and, notwithstanding any part of § 970.601 which indicates otherwise, such area must be bounded by a single continuous boundary.

(f) The coordinates and any chart of the logical mining unit applied for in an application based on a pre-enactment exploration must be submitted in a separate, sealed envelope.

(g) On or before March 12, 1982, the applicants must indicate to the Administrator, other than in the sealed portion of the application: (1) The size of the area applied for; (2) Whether the applicant or any person on the applicant's behalf has applied, or intends to apply, for the same area or substantially the same area to one or more nations, and the number of such other applications; and (3) Whether the other applicant is pursuing the "banking" option under § 970.601(d), and the number of applications filed, or to be filed, in pursuit of the "banking" option.

§ 970.302 Procedures and criteria for resolving conflicts.

(a) *General.* This section governs the resolution of all conflicts between or among applications or amendments having pre-enactment explorer priority of right.

(b) *Identification of applicants.* On June 21, 1982, the Administrator will meet with representatives of reciprocating states to identify their respective pre-enactment explorer applicants, and will identify the coordinates of the application areas applied for by such applicants.

(c) *Initial processing.* On or before July 13, 1982, the Administrator will determine whether each domestic application is entitled to a priority of right based on pre-enactment exploration in accordance with § 970.301.

(d) *Identification of conflicts.* On July 14, 1982, the Administrator will meet with representatives of reciprocating states to exchange lists of applications accorded pre-enactment explorer priorities of right, and will identify any conflicts existing among such applications.

(e) *Notification to applicants of conflicts.* If the Administrator identifies a conflict, he will send, no later than July 22, 1982, written notice of the conflict to each domestic applicant involved in the conflict. The notive will:

(1) Identify each applicant involved in the conflict in question:

(2) Identify the coordinates of the portions of the application areas which are in conflict;

(3) Indicate that the applicant may request from the Administrator the coordinates of the application areas from any other applications filed with the Administrator or with a reciprocating state (such coordinates will be provided subject to appropriate confidentiality arrangements);

(4) State whether;

(i) Each domestic application involved in the conflict is in substantial or, if known, full compliance with the requirements described in § 970.209(b); and

(ii) Each foreign application involved in the conflict meets, if known, the legal requirements of the reciprocating state in which it is filed;

(5) Notify each domestic applicant involved in a conflict that he may, after July 22, 1982, and on or before November 16, 1982, resolve the conflict voluntarily according to paragraph (f) of this section, and that on or after November 17, 1982, any unresolved conflict shall be resolved in accordance with paragraph (j) or (k) of this section, as applicable; and

(6) In the case of an international conflict, include a copy of any applicable conflict resolution procedures in force between the United States and its reciprocating states pursuant to section 118 of the Act.

(f) *Voluntary resolution of conflicts.* Each U.S. applicant involved in a conflict may resolve the conflict after July 22, 1982, and on or before November 16, 1982, by:

(1) Unilaterally, or by agreement with each other applicant involved in the conflict, filing an amendment to the application eliminating the conflict; or

(2) Agreeing in writing with the other applicant(s) involved in the conflict to submit it to an agreed binding conflict resolution procedure.

(g) *Amendments*—(1) Amendments must be filed in accordance with the requirements for applications described in § 970.200.

(2) The Administrator will:

(i) Accept no amendment prior to July 23, 1982;

(ii) Accord pre-enactment explorer priority of right only to amendments which:

(A) Pertain to areas with respect to which the applicant has engaged in pre-enactment exploration;

(B) Resolve an existing conflict with respect to that application;

(C) Do not apply for an area included in an application filed pursuant to § 970.301 which is accorded pre-enactment explorer priority of right or an application identified pursuant to § 970.302(b) which has been filed with a reciprocating state; and

(D) Are filed on or before October 15, 1982; and

(iii) Accord amendments which meet the requirements of this paragraph (g) the same priority of right as the applications to which they pertain.

(3) The area applied for in an amendment need not be adjacent to the area applied for in the original application.

(4) Amendments not accorded pre-enactment explorer priority of right may be filed as new entrant amendments under § 970.303.

(h) *Notification of amendments and new conflicts.* The Administrator will:

(1) No later than October 25, 1982, notify each reciprocating state of any amendment accorded pre-enactment explorer priority of right pursuant to paragraph (g) of this section and, in cooperation with such states, identify any new conflicts;

(2) No later than October 27, 1982, notify each domestic applicant who is involved in a new conflict. The notice will:

(i) Identify each applicant with whom each new conflict has arisen;

(ii) Identify the coordinates of each area in which the applicant is involved in a new conflict;

(iii) Indicate that the applicant may request from the Administrator the coordinates of each area included in an amendment accorded pre-enactment explorer priority of right pursuant to paragraph (g) of this section, or for which notice has been received from a reciprocating state (such coordinates will be provided subject to appropriate confidentiality arrangements);

(iv) Notify the applicant that he may, on or before November 16, 1982, resolve the conflict voluntarily according to paragraph (f) of this section, and that on or after November 17, 1982, any unresolved conflict shall be resolved in accordance with paragraph (j) or (k) of this section, as applicable; and

(v) In the case of an international conflict, include a copy of any applicable conflict resolution procedures in force between the United States and its reciprocating states pursuant to section 118 of the Act.

(i) *Government assistance in resolving international conflicts.* If, by October 26 1982, the applicants have not resolved, or agreed in writing to a specified binding procedure to resolve, an original international conflict, or new international conflict, the Administrator, the Secretary of State of the United States, and appropriate officials of the government of the reciprocating state to which the other applicant involved in the conflict applied will use their good offices to assist the applicants to resolve the conflict. After November 16, 1982, any unresolved international conflicts will be resolved in accordance with paragraph (k) of this section.

(j) *Unresolved domestic conflict*—(1) *Procedure.* (i) In the case of an original domestic conflict or a new domestic conflict, the applicants will be allowed until April 15, 1983, to resolve the conflict or agree in writing to submit the conflict to a specified binding conflict resolution procedure. If, by April 15, 1983, all applicants involved in an original or new domestic conflict have not resolved that conflict, or agreed in writing to submit the conflict to a specified binding conflict resolution procedure, the conflict will be resolved in a formal hearing held in accordance with Subpart J of this part, except that:

(A) The General Counsel of NOAA will not, as a matter of right, be a party to the hearing; however, the General Counsel may be admitted to the hearing by the administrative law judge as a party or as an interested person pursuant to § 970.1001(f)(2) or (f)((3); and

(B) The administrative law judge will take such actions as he deems necessary and appropriate to conclude the hearing and transmit a recommended decision to the Administrator in an expeditious manner.

(ii) Notwithstanding the above, at any time on or after November 17, 1982, and on or before April 14, 1983, the applicants involved in the conflict may, by agreement, request the Administrator to resolve the conflict in a formal hearing as described above.

(2) *Decision principles for NOAA formal conflict resolution.*

(i) The Administrator shall determine which applicant involved in a conflict between or among pre-enactment explorer applications or amendments shall be awarded all or part of each area in conflict.

(ii) The determination of the Administrator shall be based on the application of principles of equity which take into consideration, with respect to each applicant involved in the conflict, the following factors:

(A) The continuity and extent of activities relevant to each area in conflict and the application area of which it is a part;

(B) The date on which each applicant involved in the conflict, or predecessor in interest or component organization thereof, commenced activities at sea in the application area;

(C) The financial cost of activities relevant to each area in conflict and to the application area of which it is a part, measured in constant dollars;

(D) The time when the activities were carried out, and the quality of the activities; and

(E) Such additional factors as the Administrator determines to be relevant, but excluding consideration of the future work plans of the applicants involved in any conflict.

(iii) For the purposes of this paragraph (j), the word "activities" means the undertakings, commitments of resources investigations, findings, research, engineering development and other activities relevant to the identification, discovery, and systematic analysis and evaluation of hard mineral resources and to the determination of the technical and economic feasibility of commercial recovery.

(iv) When considering the factors specified in paragraph (j)(2)(ii), the Administrator shall hear, and shall (except for purposes of apportionment pursuant to paragraph (j)(2)(v) of this section) limit his consideration to, all evidence based on the activities specified in paragraph (j)(2)(ii) which were conducted on or before January 1, 1982, provided however that an applicant must prove at-sea activities in the area in conflict prior to June 28, 1980, as a pre-condition to presentation of further evidence to the Administrator regarding activities in the area in conflict.

(v) In making his determination, the Administrator may award the entire area in conflict to one applicant involved in the conflict, or he may apportion the area among any or all of the applicants involved in the conflict. If, after applying the principles of equity, the Administrator determines that the area in conflict should be apportioned, the Administrator shall (to the maximum extent practicable consistent with the Administrator's application of the principles of equity) apportion the area in a manner designed to satisfy the plan of work set forth in the application of each applicant which is awarded part of the area.

(vi) Each applicant involved in the conflict must file an amendment to its application if necessary to implement

the determination made by the Administrator.

(k) *Unresolved international conflicts*—(1) If, by November 17, 1982, all applicants involved in an original or new international conflict have not resolved that conflict, or agreed in writing to submit the conflict to a specified binding conflict resolution procedure, the applicants shall proceed in accordance with the conflict resolution procedures agreed to between the United States and its reciprocating states pursuant to section 118 of the Act.

(2) Each applicant whose application is involved in an international conflict shall be responsible for actions required in the conduct of the conflict resolution procedures, including bearing a proportional cost of implementing the procedures, representing himself in any proceedings, and assisting in the selection of arbitrators if necessary.

(l) *Continued opportunity for voluntary resolutions.* Each applicant may resolve any conflict by voluntary procedures at any time while that conflict persists.

(m) *Effect on priorities of new entrants*—(1) A pre-enactment explorer is entitled to a priority of right over a new entrant for any area in which the pre-enactment explorer has engaged in exploration prior to June 28, 1980 if, with respect to that area, the pre-enactment explorer files an application in accordance with this part on or after January 25, 1982 and on or before the closing date for pre-enactment explorer applications established under § 970.301(b).

(2) Any amendment which is filed by a pre-enactment explorer on or before October 15, 1982, relates back to the date of filing of the original application and shall give the pre-enactment explorer priority of right over all new entrants if the amendment is accorded a pre-enactment explorer priority of right under paragraph (g) of this section.

§ 970.303 Procedures for new entrants.

(a) *Filing of new entrant applications or amendments; priority of right.* New entrant applications or amendments must be filed in accordance with § 970.200. A new entrant may file an application or amendment only at or after 1500 hours G.m.t. (11:00 a.m. EDT) January 3, 1983. All applications or amendments filed at that time shall be deemed to be filed simultaneously, and, if in accordance with § 970.209, shall have priority of right over any application or amendment filed subsequently. Priority of right for any application or amendment filed after that time will be established as described in § 970.209.

(b) *Conflicts*—(1) If a domestic conflict exists between or among new entrant applications or amendments, the applicants involved in the conflict shall resolve it.

(2) If an international conflict exists between or among new entrant applications or amendments, the conflict shall be resolved in accordance with applicable conflict resolution procedures agreed to between the United States and its reciprocating States pursuant to section 118 of the Act. The Administrator will provide each domestic applicant involved in an international conflict a copy of any such procedures in force when the Administrator issues notice to the applicant that an international conflict exists. Each applicant whose application is involved in an international conflict shall be responsible for actions required in the conduct of the conflict resolution procedures, including bearing a proportional cost of implementing the procedures, representing himself in any proceedings, and assisting in the selection of arbitrators if necessary.

§ 970.304 Action on portion of applications or amendments not in conflict.

If an applicant so requests, the Administrator will proceed in accordance with this part to review that portion of an area included in an application or amendment that is not involved in a conflict. However, the Administrator will proceed with such review only if the applicant advises the Administrator in writing that the applicant will continue to seek a license for the proposed exploration activities in the portion of the application area that is not in conflict. To the extent practicable, the deadlines for certification of an application or amendment and issuance of a license provided in § 970.400 and § 970.500, respectively, will run from the date of filing of the original application."

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Tuesday
June 8, 1982

Part V

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Excess Spoil Fills; Proposed Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701, 816, and 817

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Excess Spoil Fills

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is proposing a revision to the rules dealing with the requirements for disposal of excess spoil from surface and underground mining activities. The proposed rules would combine the requirements for head-of-hollow, valley and durable rock fills into one section and eliminate the information that is presently duplicated in each section. Also, the proposed rules include the provisions for gravity transport of excess spoil and the procedure for disposal of excess spoil on preexisting benches. The changes would make the rules easier to follow by removing certain design criteria and by deleting information that is repeated in the various sections. OSM believes these changes would allow more flexibility in the design of excess spoil fills and would remove those provisions that are excessive, unnecessary and burdensome.

DATES: *Written comments:* Accepted until further notice.

Public hearings: Held on request only, on July 14, 1982, at 9:00 a.m. (local).

Public meetings: Scheduled on request only.

ADDRESSES: *Written comments: Hand-deliver* to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (TSR 14.08), Room 5315, 1100 L Street, NW., Washington, D.C.; or *mail* to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (TSR 14.08), Room 5315L, 1951 Constitution Avenue, NW., Washington, DC 20240.

Public hearings Washington, D.C.—Department of the Interior Auditorium, 18th and C Streets NW.; Pittsburgh, Pa.—William S. Moorehead Federal Building, Room 2212, 1000 Liberty Avenue; and Denver, Colo.—Brooks Tower, 2d Floor Conference Room, 1020 15th Street.

Public meetings: OSM offices in Washington, D.C.; Charleston, W. Va.; Knoxville, Tenn.; Indianapolis, Ind.; Pittsburgh, Pa.; and Denver, Colo.

FOR FURTHER INFORMATION CONTACT:

Public hearings and information: Robert A. Wiles, Division of Engineering Analysis, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; 202–343–7881.

Public meetings: Jose del Rio, 202–343–4022.

SUPPLEMENTARY INFORMATION:

I. Public Commenting Procedures.
II. Background.
III. Discussion of Proposed Rules.
IV. Procedural Matters.

I. Public Commenting Procedures

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Commenters are requested to submit five copies of their comments (see "Addresses"). Comments received at locations other than Washington, D.C., will not necessarily be considered or be included in the Administrative Record for the final rulemaking. The comment period will remain open until the close of the comment period on the draft environmental impact statement that will consider this proposed rule.

Public Hearings

Persons wishing to comment at the public hearings should contact the person listed under "For Further Information Contact" by the close of business *three working days* before the date of the hearing. If no one requests to comment at a public hearing at a particular location by that date, the hearing will not be held. If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions.

Public hearing will continue on the specified date until all persons scehduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment, and persons present in the audience who wish to comment, have been heard.

Public Meetings

Persons wishing to meet with OSM representatives to discuss these proposed rules may request a meeting at any of the OSM offices listed in "Addresses" by contacting the person listed under "For Further Information Contact."

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record room (1100 L St.). A written summary of each public meeting will be made a part of the Administrative Record.

II. Background

Spoil disposal practices in surface mining over the years have had a major impact on the environment and represented a significant hazard to life and property. Prior to the passage of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* (the Act), mine operators in steep slope areas often disposed of overburden material by pushing it downslope of the bench. The practice destroyed vegetation and caused erosion, slides and increased sedimentation of streams. To rectify this problem, Section 515(b)(22) of the Act required the controlled placement of all excess spoil material from surface coal mining operations utilizing sound engineering practices to ensure the long term stability of the fill.

Rules concerning the disposal of excess spoil were proposed on September 13, 1978 (43 FR 41890–41892 and 41910–41912) and promulgated as final on March 13, 1979 (44 FR 15406–15408 and 15432–15434). These existing rules include general requirements on the disposal of excess spoil in 30 CFR 816.71 and 817.71, and more specific requirements for valley fills, head-of-hollow fills and durable rock fills, respectively, in §§ 816.72 and 817.72, 816.73 and 817.73, and 816.74 and 817.74.

Since the publication of the permanent program rules on excess spoil material in 1979, there have been two additions to the rules. First, §§ 816.71(o) and 817.71(o) were added as a final rule on July 17, 1981 (46 FR 37231–37235) to allow the controlled gravity transport of excess sopil from an actively mind upper bench to an existing lower bench. Second, §§ 816.75 and 817.75, which allow the disposal of excess spoil on preexisting benches, were proposed on July 20, 1981, (46 FR 37286) and promulgated as final on April 29, 1982 (47 FR 18553–18555).

Existing §§ 816.71–816.75 and §§ 817.71–817.71–817.75 read essentially

the same except that the sections from Part 816 refer to surface mining and the sections from Part 817 refer to underground mining. Under this proposal the sections of Part 816 and 817 would continue to read essentially the same.

To simplify this preamble OSM will discuss changes to §§ 816.71–816.75 with the understanding that the discussion will also apply to proposed §§ 817.71–817.75. Where proposed changes to sections of Part 816 are not the same as those proposed for sections of Part 817, differences will be noted.

All existing rules on excess spoil have now been reviewed and proposed for revision in accordance with the guidance of the Secretary of the Interior to remove burdensome and excessive requirements. Material that is duplicated in the different sections is proposed to be combined into one section and clarified. In this proposal OSM would eliminate most of the specific design criteria in the present rules to allow greater flexibility and more innovative designs by the professional engineering community. All engineering designs, however, would still have to meet the requirements of the Act, these rules and be approved by the appropriate regulatory authority.

This preamble will also discuss OSM's interpretation of the terms overburden and spoil and add a definition of excess spoil. The definitions of head-of-hollow fill, valley fill and underground development waste would also be revised.

In addition, the preamble includes a discussion of controlled dumping of excess spoil. This discussion is not a proposed rule, but is included merely to gather preliminary information on this activity.

Existing §§ 816.71–816.75, along with the definitions of head-of-hollow fill and valley fill in § 701.5 of 30 CFR Chapter VII, regulate the disposal of excess spoil. Section 816.71 lists general requirements that apply to all fills. These requirements are basically safety and environmental protection standards which the engineer designing the fill must satisfy. Under the existing rules, if the spoil disposal fill falls within the definition of valley fill, then, in addition to the general requirements of existing § 816.71, the valley fill must also meet the requirements of existing § 816.72. If the fill falls within the definition of head-of-hollow fill, then, in addition to the more general requirements of existing §§ 816.71 and 816.72, the fill must also comply with existing § 816.73. Existing § 816.74 provides an alternate method for disposal of durable rock spoil. Existing § 816.75 governs disposal of excess spoil on preexisting benches.

Definitions

Before beginning a dicussion of the proposed rules, a clarification of the definitions for the terms overburden, spoil, excess spoil, head-of-hollow fill, valley fill and underground development waste needs to be made.

OSM interprets the definition of overburden in § 701.5 to be that material, other than topsoil, overlying a coal deposit prior to any disturbance by coal mining activities as distinguished from spoil which is material displaced from its original location. Overburden becomes spoil when it is disturbed or displaced by either past or current surface or underground mining activities.

In existing § 701.5 the term spoil is defined as "overburden that has been removed during surface coal mining operations." OSM believes this definition includes not only overburden removed during surface mining activities but also that removed during surface preparation for underground mining, including face-up material and construction of support facilities. The phrase "surface coal mining operations," defined in existing § 700.5, includes both surface mining and surface impacts of underground mining.

The term "excess spoil" is proposed to be added to the definitions in § 701.5 and would mean "spoil material disposed of in a location other than the mined out area, except that material used to blend spoil from the mined out area with the surrounding terrain after achieving the approximate original contour in nonsteep slope areas." Before spoil can be moved from the mined out area to an excess spoil fill, the operator must meet the approximate original contour (AOC) and highwall elimination requirements, or variances thereto, in Sections 515 and 516 of the Act. This excess spoil would be subject to the requirements of Section 515(b)(22) of the Act and the provisions of proposed § 816.71.

Spoil from box cuts or first cuts in nonsteep slope areas would not be excess spoil when it is used to achieve approximate original contour; i.e., to blend the mined out area into the surrounding terrain according to § 816.102—Backfilling and grading. Even though the spoil in these cases is disposed of in a location other than the mined out area, specifically around the box cut or first cut to blend it into the terrain, and technically could be considered excess spoil, the rules for excess spoil would not be applicable. Rather, under the proposed rule the spoil material could be blended into the surrounding terrain, provided it is used to achieve the approximate original contour and is disposed of in accordance with the standards for backfilling and grading. If, however, the spoil from a box cut or a first cut is deposited on slopes with angles as steep as those in the definitions for head-of-hollow and valley fills, the box cut or first cut spoil must be handled as excess spoil in accordance with proposed § 816.71.

Comments are specifically requested as to whether it would be preferable to define excess spoil as spoil not required to return the mined-out area to AOC, except where a variance is applicable, *e.g.* mountain top removal. Such a definition would not reflect "where" the spoil is to be deposited as would the proposed definition.

The existing definitions in § 701.5 for head-of-hollow and valley fills would be revised in this rulemaking to remove the restrictions on placing coal processing waste and underground development waste in these type of fills. The wastes in the fill would, however, still have to meet the standards in §§ 816.81–816.88. Additional discussions on this issue follow later in the preamble.

The existing definitions for head-of-hollow and valley fills explain the location of the fill and its general configuration. OSM is proposing to delete the exception for fills less than 250,000 cubic yards which allows the operator to make the top of the fill reach only the elevation of the coal seam rather than the adjacent ridge line. OSM believes this exception is not necessary since, wherever the location, all fills must meet the performance standards in proposed § 816.71.

The definition for underground development waste in § 701.5 would be revised to include only rock mixtures that come from the underground excavations for underground mining activities. The existing definition refers to "underground mining activities" which includes the surface excavations. By deleting this reference, the definition would refer to waste from "underground operations," so that the definition includes only waste coming from actual underground operations, such as shaft, adit, and entry construction.

This change in definition for underground development waste reflects the addition of the new term "coal mine waste" which refers to underground development waste and coal processing waste. The "coal mine waste" definition will be discussed and added in a separate rulemaking.

III. Discussion of Proposed Rules

OSM is proposing to revise and redesignate all existing rules for disposal of excess spoil from both surface and underground mining. Provisions on the gravity transport of excess spoil to preexisting benches in existing § 816.71(o), and those governing placement of excess spoil on preexisting benches in existing § 817.75, both of which were recently published, would be redesignated and revised.

Aside from the consolidation of existing §§ 816.71–816.74 (44 FR 15406–15408) into a new § 816.71, the most significant feature of the proposed rules is the greater latitude afforded State regulatory authorities for approving excess spoil fill construction designs which meet the goals and performance standards of the Act. Rather than mandating design criteria for all fills, the proposed rules would allow competent professional engineers to design fills based on the requirements and topography of specific sites. OSM believes that such added flexibility will spur design innovation and creativity on the part of the mining community so that more efficient, cost-effective and environmentally sound construction designs are developed.

The design criteria that would be removed are, however, thought to be useful for consideration in a majority of excess spoil situations. Accordingly, OSM is in the process of developing a technical handbook on excess spoil disposal. The handbook will contain much of the detail necessary for consideration when designing and constructing an excess spoil fill. It will provide state-of-the-art knowledge on the subject of excess spoil and will be updated as new information becomes available through research, experience and experimental practices. The handbook will be placed in the technical reference file of the Administrative Record.

The proposed excess spoil disposal rules would group the existing rules into four major paragraphs under proposed § 816.71. The performance standards applicable to all types of fills that are included in existing rules for valley fills (§ 816.72), head-of-hollow fills (§ 816.73), durable rock fills (§ 816.74) and fills on preexisting benches (§ 816.75), would be removed from those sections and listed together with those already contained in existing § 816.71, as one set in proposed § 816.71(a)—*General Requirements.*

Those portions of the existing rules that refer only to valley fills and head-of-hollow fills would be combined in proposed § 816.71(b) along with specific rules on durable rock fills. The recently finalized rule on gravity transport (existing § 816.71(o)) would be redesignated proposed § 816.71(c) and existing § 816.75 would be included in proposed § 816.71 as Paragraph (d).

To assist the reader in understanding the changes in the proposed rules, the following Derivation Table shows the relationship between the paragraphs in the existing sections and the proposed section. The same changes apply for Part 817—Underground mining.

Derivation Table

Proposed Section 816.71—Existing Sections

(a)(1) 816.71(a), (a)(1), (a)(3) and part of (f); 816.72(a) and 816.74(a)
(a)(2) 816.71(f), 816.71(b), and (m)
(a)(3) 816.71(f), 816.72(c), and 816.74(a)(1)
(a)(4) 816.71(j)
(a)(5) 816.71(c)
(a)(6) 816.71(d), 816.72(d), 816.73(c), and 816.74(d)
(a)(7) 816.71(l)
(a)(8) 816.71(h)
(a)(9) 816.71(k)
(a)(10) 816.74(intro) and (a)(2)
(a)(11) 816.71(n)
(b)(1) 816.71(l) and 816.74(c)(1)
(b)(2) 816.72(f) and 816.74(e)
(b)(3) 816.71(e)
(b)(4) 816.71(i)
(b)(5) 816.71(g)
(b)(6) 816.74(g)
(c) 816.71(o)
(d) 816.75

In this proposal all of the requirements of existing § 816.71 have been incorporated into proposed § 816.71 (a) or (b). Those portions of existing §§ 816.72, 816.73, and 816.74 that have not been included in proposed § 816.71 (a) or (b) would be deleted. These deleted portions are site specific design requirements which OSM feels are better set by the engineer in accordance with the performance standards. These design requirements which would be deleted are in existing §§ 816.72(b) (1) and (3), 816.73 (a) and (b) and part of the introduction to § 816.74.

A. General Requirements

The beginning of the proposed rule contains the only difference between proposed § 816.71 and proposed § 817.71.

The proposed § 817.71(a)(1) for underground mining would provide special provisions for placement of spoil from a face-up operation at drift entries. This material may be placed at a drift entry as part of a cut and fill structure if the structure is to be less than 400 feet in horizontal length and designed according to the rest of the standards of proposed § 817.71(a). By using some of the spoil at the drift entry, a smaller excavation in the hillside is needed to prepare the working area for the mine.

This portion of proposed § 817.71(a)(1) would be the only difference from proposed § 816.71(a)(1). The rest of proposed § 817.71 would read the same as proposed § 816.71.

Proposed § 816.71(a)(1) would include revisions of existing paragraphs (a), (a)(1), (a)(3), and a provision of existing paragraph (f) of § 816.71, and existing paragraph (a) of both §§ 816.72 and 816.74. This is more specifically explained below.

The requirement of existing § 816.71(a) that excess spoil be placed only in permitted excess disposal areas would be retained in proposed paragraph (a)(1). The language "hauled or conveyed" in existing paragraph (a) would be deleted, and all reference to spoil placement procedures would be discussed later in proposed paragraph (a)(3).

The language, "will not degrade surface or ground waters," in existing § 816.71(a)(1) would be replaced with the words "are minimized," which refers to the effect of the fill on surface and ground water. This would make the rule consistent with the language in Section 515(b)(10) of the Act. With this change existing paragraph (a)(1) would be redesignated (a)(1)(i).

In addition, rather than merely stating the condition that the fill must be stable as in existing §§ 816.71(a)(2) and 816.74(a), the 1.5 long-term static safety factor in existing § 816.71(f) would be substituted and redesignated (a)(1)(ii).

Existing (a)(3) would be redesignated (a)(1)(iii) and require that the reclamation of the disposal area be compatible with both the natural surroundings and the approved postmining land use.

Proposed § 816.71(a)(2) would retain the requirements of existing § 816.71 (b) and (m). Sufficient foundation investigation and laboratory testing for design data would be required with special attention to underground mine workings.

Proposed paragraph (a)(2) would emphasize the importance of professional certification, use of professional standards, and design approval by the regulatory authority in order to insure proper design and construction procedures. The foundation and abutments would be required to be stable under all conditions of construction and operation. In addition, a requirement that the responsible registered professional engineer be experienced in the construction of earth and rockfill embankments would be added. Some practicing engineers may

not have the experience necessary to properly design, build and certify all phases of excess spoil disposal (Tipton, 1981). (Complete citations to reference materials are provided later in this preamble.) Since the regulatory authority has no other way of determining the experience of a particular engineer or other qualified specialist, proposed paragraph (a)(2) would require that the engineer and other specialists submit their experience in writing to the regulatory authority.

The language covering the placement of the excess spoil would be condensed in proposed § 816.71(a)(3) from existing §§ 816.71(f), 816.72(c) and 816.74(a)(1). Also, the requirement to place excess spoil material in lifts not exceeding 4 feet in thickness from existing § 816.72(c) would be retained. The regulatory authority would have the right to accept a design which incorporates lift thickness in excess of the 4 foot maximum when it is demonstrated by the operator and certified by a qualified registered professional engineer that the design will ensure long-term stability and the other related environmental performance standards. This change would provide greater flexibility and latitude to the mining community to design fills based on specific site requirements. Requirements for lift thickness in earth fill construction (see 44 FR 15205) vary with the method of placement and the type of embankment, construction equipment used and gradation of the fill material. The boundary conditions, such as phreatic surfaces within the fill and adjacent areas, will vary from site-to-site and must be determined from onsite investigations. OSM believes that larger lift thicknesses can be consistent with stable fills in some areas (Loy and others 1978, pp. 148).

Proposed § 816.71(a)(4) would retain the inspection procedure in existing § 816.71(j) with only minor revisions for clarity. As in the design of the fill, those engineers or specialists inspecting the fill must document their qualifications in writing to the regulatory authority. A new provision requiring photographs of the drain and filter system before it is covered with excess spoil would be added to ensure proper certification of the underdrain system and protective filters. Photographs would provide a valuable visual record of the construction history, since the drain system, once covered, can never be visually examined again. Photographic documentation is currently used on most large construction projects and should not present special problems in the mining industry.

The vegetation and topsoil requirements of proposed § 816.71(a)(5) would be the same as existing § 816.71(c) except for using the word "redistributed" instead of "replaced." This change would be made because the word "replaced" conveyed the mistaken idea that the topsoil could not be used at another location on the coal mining operation. This change would still be consistent with the requirements in § 816.24.

Proposed § 816.71(a)(6) would include the slope protection requirements of existing § 816.71(d) plus the performance requirements for the diversion channels carrying runoff from the fill and adjacent area which are rewritten from existing §§ 816.72(d), 816.73(c) and 816.74(d). The channel capacities would have to contain the runoff from a 100-year, 6-hour precipitation event. This would represent a slight change from the 100-year, 24-hour precipitation event requirement in the existing rules.

This change in storm design criteria would follow the recommendation of the Mine Safety and Health Administration (MSHA) in the publication "Design Guidelines for Coal Refuse Piles and Water, Sediment, or Slurry Impoundments and Impounding Structures" (IR1109). OSM recognizes the 24-hour duration storm generally results in a runoff volume and peak somewhat higher than the 6-hour storm for the same area (See 44 FR 15207). However, OSM believes structures built to accommodate the 100-year, 6-hour design storm provides adequate protection for the excess spoil fills following the guidelines of MSHA.

Proposed § 816.71(a)(7) would be a general requirement for controlling runoff or underground water in the area of all fills. This paragraph would retain the requirement of existing § 816.71(1) for underdrain systems if the disposal area contains springs, etc. and add the option of diverting the water-course around the fill. Another addition requires that the underdrain system be designed according to proposed § 816.71(b)(1). The drainage plan for the disposal area would also have to be approved by the regulatory authority.

Proposed § 816.71(a)(8) would include the same provisions for terraces as the existing § 816.71(h). However, instead of referring to § 816.102(b) as in the existing rule, the phrase "if compatible with approved postmining land use" would be substituted.

OSM would allow the disposal of coal mine waste in head-of-hollow and valley fills in proposed § 816.71(a)(9) instead of the present restrictions in existing § 816.71(k). OSM believes that even with the many variable physical characteristics found in coal mine waste, it would still be possible, with proper engineering design and construction control, to place coal mine waste in head-of-hollow and valley fills without endangering the long-term integrity of the fill. Fills that meet the definition of head-of-hollow or valley fills generally do pose more stability problems than fills in flatter areas. However, many of these fills are very large and remain under construction for long periods of time. Careful stability analysis and construction control by a qualified registered professional engineer would allow coal mine waste to be placed in head-of-hollow or valley fills. For certain Appalachian areas, in fact, because of topographic restrictions, it is frequently impracticable to place coal mine waste in other than head-of-hollow and valley fills. The proposed rule would allow such disposal only if approved by the regulatory authority, and if the material is placed in accordance with § 816.85, is non-toxic and non-acid forming and is consistent with the design stability of the fill. Existing § 816.71(k) would be redesignated § 816.71(a)(9) and revised to reflect the statements above.

Proposed § 816.71(a)(10) would retain the provisions from existing § 816.74 that allow the regulatory authority to approve alternate methods for disposal of durable rock. The approved alternate method would have to meet four conditions. The fill structure would have to be designed and constructed according to the general requirements for disposal of excess spoil. It would have to be demonstrated by the operator and certified by a qualified registered professional engineer that the fill placement would meet the design, long-term stability, and other environmental performance standards in proposed § 816.71. The durable rock would have to consist of at least 80 percent durable and nondegradable rock. And lastly, when the remaining volume of spoil consists of noncemented clay shale, clay spoil or other material it must be evenly distributed throughout the fill to retain design stability and maintain the function of the underdrain. The language for the final two conditions would be rewritten from the introductory paragraph of existing § 816.74 and paragraph (a)(2) of that section.

Existing § 816.71(n) would be unchanged and redesignated as proposed § 816.71(a)(11) requiring that excess spoil be returned to underground

mine workings only in accordance with an approved disposal plan.

B. Valley fill/head-of-hollow fill: Special requirements

The requirements for valley and head-of-hollow fills would be combined into one paragraph because the design and construction requirements are similar and it would be less confusing to have one set of criteria rather than the two sets that are contained in existing §§ 816.71 and 816.72.

The procedure for handling springs, natural or manmade water courses or wet-weather seeps in the existing requirements in §§ 816.71(1) and 816.74(c)(1) would be revised and included in proposed § 816.71(b)(1). The type of rock used in the underdrain system would be taken from existing §§ 816.72(b)(4) and 816.74(c)(2) and added to proposed Paragraph (b)(1). The specific design considerations concerning the dimensions and rock sizes in the underdrain system would be deleted to allow site specific design by the engineer. With this approach, industry should be able to take advantage of specific or unique site conditions to produce an operating plan and design that may reduce the cost of construction on many excess spoil fills. OSM recognizes that many of the necessary details and specific design criteria would be site specific and best left to the responsible professional engineer in charge of design and construction.

Proposed Paragraph (b)(1) would also allow pipe to be used in the underdrain system instead of durable rock. The type of pipe and its size would be selected by the engineer during the design phase of the project. The installation of drain pipe or perforated pipe to control seepage water in an embankment or to intercept ground water underneath an embankment is a technique common to the construction of dams (U.S. Bureau of Reclamation, 1973, pp. 235–237) and waste embankments (Canada Department of Energy, Mines, and Resources, 1977, pp. 51–58). The use of pipe may be cost effective in certain situations as determined by the design engineer, although more care would be required in the installation of the pipe and filter system. The use of pipe for drainage control in excess spoil fills is not a common occurrence; however, perforated pipe has been discussed as an acceptable alternative for some site specific conditions (Loy and others, 1978, pp. 26–27).

In propsed § 816.71(b)(2) the grading procedure for the top of the fill and the ban on surface runoff flowing over the outslope would be similar to existing §§ 816.74(e) and 816.72(f). The specific grades for the slopes, however, would be removed because such requirements are believed to be site specific and best left to the judgement of the qualified registered professional engineer.

Existing § 816.71(e), which refers to the stability of the disposal area, would be redesignated as § 816.71(b)(3) and remain essentially unchanged.

Existing § 816.71(i), which covers keyway cuts or rock toe buttresses when the downslope is in excess of 36 percent, would be redesignated as proposed § 816.71(b)(4). The provision requiring stability analyses would be covered in proposed § 816.71(a)(2).

Proposed § 816.71(b)(5) would be taken from existing § 816.71(g) and would require the final configuration of the fill to be suitable for postmining land use.

The terrace requirements for proposed § 816.71(b)(6) would be taken from existing § 816.74(g) and are unchanged except for removing the specific slope requirements of the terrace benches. This change would be made because OSM believes that such determinations are best made on a site specific basis by a qualified registered professional engineer. The specified grade of the outslope between the terrace benches would still be retained at 50 percent. In place of the specific 5 percent grade of the terrace ditch, this proposal would require the bottom of each terrace ditch to be sloped to control the erosive velocities of the runoff.

C. Gravity transport of spoil to preexisting benches

The proposed rules would include the provisions allowing the controlled gravity transport of excess spoil from an actively mined upper bench to an existing lower bench. Proposed § 816.71(c) would repeat the final rules published July 17, 1981, (46 FR 37231–37235) as § 816.71(o). There would also be some minor editorial changes made to improve the clarity of the requirements.

The rules would require the operator to receive prior written approval of the regulatory authority to move spoil by this method. All the excess spoil would be placed on the solid portion of the lower bench and the highwall from the lower bench would have to intersect the actively mined upper bench. The gravity transported excess spoil would be rehandled on the lower bench to meet performance standards specified in the proposed rule.

The proposed rule would not require the current mining operator to rehandle the existing spoil on the bench except where necessary to ensure the stability of the fill. OSM made this clarification for the July 17, 1981, rule in response to a commenter who wanted to know if the operator would be required to rehandle existing spoil on the lower bench. OSM agreed that existing spoil on the lower bench does not have to be rehandled in all instances. The proposed rule follows the existing rule which requires the rehandling of the existing spoil only to ensure stability of the fill.

Other spoil from a previous mining operation may be in the vicinity (*e.g.* on the downslope) of the preexisting bench and available for use by the operator. The physical characteristics of the existing spoil vary from site-to-site and may range from meeting the performance standards of the Act to causing environmental harm. Since it would be difficult for a rule to cover all possibilities on the use of this spoil, OSM believes that each individual situation should be decided on a case-by-case basis during review and approval of the permit and reclamation plan.

D. Disposal of excess spoil: Preexisting benches

OSM proposed § 816.75 on July 20, 1981, (46 FR 37286) and issued it as a final rule on April 29, 1982 (47 FR 18553–18555) allowing the disposal of excess spoil by placement on preexisting benches. The preexisting benches are from previous mining operations and do not meet the environmental protection performance standards of section 515 of the Act. They are suitable for the disposal of excess spoil in certain situations and the operator would have the option to use them instead of other excess spoil fill structures.

The rules relating to disposal of excess spoil on preexisting benches in existing § 816.75 would be revised and redesignated to reflect the new format for proposed § 816.71. Existing § 816.75 would be redesignated as proposed § 816.71(d).

Proposed § 816.71(d)(1) would allow the regulatory authority to approve the disposal of excess spoil on preexisting benches provided the standards of §§ 816.71(a)(1)(i), (a)(1)(iii)(a)(2) and (a)(4) through (a)(9) are met. The reference to these standards of proposed § 816.71(a) differ from those initially specified in existing § 817.75 (46 FR 37286) which called for adherence to existing § 816.71(a)–(e) and (g)–(n).

In proposed § 816.71(d)(1) reference to the requirements of existing § 816.71(e), (g), (i) and (n) would be deleted. Reference to the requirements of existing § 816.71(a), (b), (c), (d), (h), (j), (k), and (m) would be retained but

redesignated as (a)(1)(i), (a)(1)(ii), (a)(2) and (a)(4) through (a)(9) to reflect the new format of the proposed rule.

In proposed § 816.71(d)(1), the reference to the requirements of existing Paragraph (e) would not be included because the provision to place the fill in the most moderately sloping and naturally stable area available is not appropriate when considering preexisting benches.

The reference in existing § 816.75 to the requirements of existing § 816.71(g), that the final configuration of the fill be suitable for postmining land use, would be incorporated in proposed § 816.71(a)(1)(iii). Proposed Paragraph (a)(1)(iii) would require that excess spoil be placed in such a manner to ensure that the disposal area would be suitable for reclamation compatible with the approved postmining land use. In addition, the instability problems normally associated with depressions and impoundments on excess spoil fills would not exist when the excess spoil is placed on a preexisting bench. For this reason, the restriction in existing Paragraph (g) relating to depressions and impoundments would be removed as a standard in proposed § 816.71(d)(1).

The reference to existing Paragraph (i) would be deleted from proposed § 817.71(d)(1) because this requirement for toe support is not needed since the fill is on a preexisting bench.

The reference to existing paragraph (n) would be deleted because it refers to disposal of excess spoil in underground mine workings.

The reiminder of proposed § 816.71(d) would require that excess spoil be placed only on the solid portion of the preexisting bench, that the fill attain a long-term static safety factor of 1.3, and that the bench be backfilled and graded to achieve the most moderate slope possible and to eliminate the highwall to the extent practicable.

The proposed rule provides that the existing highwall need not be completely eliminated when excess spoil is placed on a preexisting bench. The provision which would allow the operator to dispose of excess spoil on preexisting benches without completely eliminating the highwall has two justifications: (1) In developing the highwall elimination requirement of the Act, Congress was considering newly mined areas and not abandoned areas,[1] and (2) the disposal of spoil on preexisting benches will not result in an "adverse physical impact"[2] on the preexisting highwall, which would require the imposition of the highwall elimination requirement even if the disposal area were not on abandoned mine lands.

OSM prefers the phrase, "eliminating the highwall to the extent practicable" instead of the phrase "to the maximum extent possible." OSM believes that a phrase such as "to the maximum extent possible" in the rule might be interpreted to require complete highwall elimination on preexisting benches when it is technologically feasible, notwithstanding extraordinarily high costs. Also, it would tend to discourage the disposal of excess spoil on preexisting benches. It is OSM's intent to require the operator to eliminate only that portion of the highwall that is both technologically and economically feasible to eliminate using available excess spoil.

There are physical site conditions in the field that are different for each preexisting bench. Because each site condition is different, it is difficult to propose a rule that would precisely define the limits of the phrase "eliminate the highwall to the extent practicable." Since the primary purpose of the rule is to provide an option to constructing new excess spoil fills in undisturbed areas, OSM believes that flexibility is needed in determining the amount of highwall to be eliminated. The result of the rule would be a reduction in the number of excess spoil fills which would benefit the area in two ways: (1) No new excess spoil fills would be constructed in undisturbed areas, and (2) the condition of the preexisting bench would be improved. Therefore, there is an environmental gain with partial elimination of the highwall on the preexisting bench.

Because of the unique situation with each preexisting bench, OSM believes the regulatory authority should determine compliance with § 816.71(d) based on the reclamation plan submitted in accordance with Part 780. With a given amount of excess spoil, the operator may choose, for technological, economic or other reasons, to eliminate a higher portion of the highwall over a shorter horizontal distance rather than a longer section of the highwall at a lower height. It will be left to the judgment of the regulatory authority in the determination of practicability whether to approve or disapprove the plan.

If there is other spoil on the preexisting bench, it would not be necessary to rehandle the spoil in all instances. Such spoil would be treated in the same manner as discussed previously under gravity transport.

E. Additional Discussions on Dumped Placement

OSM is considering controlled dumping as a future option for the placement of excess spoil material. The discussions on controlled dumping are not a part of this rulemaking procedure, and any subsequent requirements would be proposed as a new rulemaking document. OSM, based upon field observations and professional opinions, believes that fills placed by controlled dumping could achieve and maintain long-term stability requirements through proper site selection, drainage, design and construction control. The following criteria are thought to include many of the factors necessary for properly selecting a site and constructing a dumped fill.

Criteria for dumped placement. A fill could be placed by controlled dumping procedures if the material to be dumped and the site are determined to be suitable by a qualified registered professional engineer, a site specific design is followed and if the following criteria are met for the end dumped fill:

(1) The toe of the fill rests on a natural slope that is not to be steeper than 10 degrees.

(2) Excess spoil is not to be placed in lifts greater than 50 vertical feet after final consolidation.

(3) The top of each lift is to be graded to insure positive drainage to the outside perimeter of the fill and to the surface water diversion channels that are to be constructed for all excess spoil fills.

(4) The subsurface drainage system and protective filters are to be completely constructed for each completed lift and certified by a qualified registered professional engineer prior to the placement of the next lift of excess spoil.

(5) Sufficient testing is to be conducted during construction to assure that strength parameters used during design (density, angle of internal friction and cohesion) are actually attained in the full such that a minimum 1.5 safety factor is maintained. Results of these tests are to be sent to the regulatory

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[1] The legislative history indicates that Congress did not consider the application of the highwall-elimination requirement to previously mined areas. Thus, the general standard was based on Congress' understanding the "[i]n virtually all cases of contour mountain mining, sufficient spoil by volume is created to return the minesite to approximate original contour * * *. The swell property of the materials removed (overburden) assures this condition with present stripping ratios." House Report 95–218, 95th Congress, 1st Session, at pp. 96–97 (1977).

[2] In order for OSM to require an operator to eliminate all or part of a preexisting highwall, the operator's activities must in some way have had an adverse physical impact on that portion of the highwall. *Cedar Coal Co.*, v. *Office of Surface Mining*, 1 IBSMA 145 (April 20, 1979); *Miami Springs Properties* v. *Office of Surface Mining*, 2 IBSMA 399 (December 23, 1980).

authority and a copy maintained at the minesite.

(6) Terraces are to be constructed on the outslope of the fill to control runoff and erosion.

OSM is soliciting specific comments and information on the merits of the method and the criteria for controlled dumping of excess spoil. Those comments which are supported by technical documentation will be of much greater value to the OSM in its analysis.

Since these thoughts on controlled dumping are included only to gather technical information, responses to the comments from earlier drafts were not prepared for publication but will be considered with the responses gathered if a proposed rule is published in the future on this subject.

F. Public Comments

OSM has sought to provide early and meaningful public participation during its regulatory review and has solicited comments on the earlier drafts of these rules. The responses to these comments by OSM are keyed to the four paragraph divisions of the proposed rules and not to the earlier draft. Comments accepted by OSM have been incorporated into the proposed rules which follow. Editorial changes suggested by commenters have also been incorporated and the former are specifically addressed herein.

One commenter would prefer that the words of limitation in proposed § 816.71(a)(1)(i) be * * * "*adversely affect the hydrologic balance*," in order to be consistent with the Act. Section 515(b)(10) of the Act requires the operation to "minimize the disturbance to the prevailing hydrologic balance" and therefore the language "are minimized" would be used.

One commenter believes photographs are unnecessary when the drainage and filter structure are constructed and installed according to the plans and specifications required by proposed § 816.71(a)(4). The importance of photographs is discussed earlier in the preamble and is not restated here. Based on this discussion OSM has retained this language in the proposed rules.

Another commenter requested clarification on very thin or nonexisting topsoil that may be encountered when following the requirements of proposed § 816.71(a)(5). The measures to be taken under these conditions are stated in §§ 816.21–816.25 covering topsoil removal and redistribution.

One commenter requested that pipe underdrain systems be allowed under certain conditions when they are the best engineering alternative available. OSM accepts this suggestion and the draft rules have been changed to reflect this alternative in proposed § 816.71(b)(1). For further information, see the preceding discussion for this paragraph.

A commenter was concerned that the draft rules preclude shale from the underdrain system. OSM takes the position that since shale disintegrates when exposed to air and water, its use as a construction material for underdrain systems might jeopardize the long-term stability of the fill. Therefore, to ensure the integrity of the fill, the proposed rules would preclude the use of shale as a construction material.

One commenter was concerned with the 100-year, 24-hour precipitation event used in the design of the capacity for the diversion channels. This comment is accepted and in § 816.71(a)(6) OSM proposes to use the 100-year, 6-hour design storm following the guidelines of MSHA. For further discussions on this subject, the reader is referred to the preamble discussion for proposed § 816.71(a)(6).

One commenter was concerned that the proposed rules in proposed § 816.71(b)(3) specified the location of the disposal area instead of leaving the selection to the design engineer. OSM's response is that the rules would not specify the area but rather would provide requirements for the design engineer to follow in the selection process for the most suitable location for the disposal site.

One commenter requested clarification of the word "downslope" with respect to keyway cuts and rock buttresses in proposed § 816.71(b)(4). The requirement for keyway cuts or rock toe buttresses has been rewritten to clarify when these construction techniques would be required to stabilize the fill with respect to "downslope."

One commenter requested that proposed § 816.71(b)(5) allow depressions or impoundments on completed valley/head-of-hollow fills under certain conditions specified by the engineer. OSM believes, however, that depressions or impoundments should not be allowed on these type of fills in order to ensure their long-term stability. See 44 FR 15203 (March 13, 1979) for further discussions on this topic.

One commenter believed the requirements for placing coal processing waste in fills according to proposed § 816.71(a)(9) is too restrictive and they should allow the placement of some toxic and acid forming coal waste. The rational for the proposed rules on coal processing waste is discussed earlier in the preamble for proposed § 816.71(a)(9) and no changes are needed.

Another commenter stated that coal processing wastes should not be disposed of in excess spoil fills because of stability problems and the inability to reprocess the waste. OSM's response is that the stability of the site would be achieved through proper design and that the reprocessing problem should not be used to ban coal processing wastes from excess spoil fills. See discussions on proposed § 816.71(a)(9) for further information.

Reference Materials

Reference materials used to develop these proposed rules are as follows:

Canada Department of Energy, Mines, and Resources, 1977. Waste embankments, Chapter 9 in the pit slope manual. Mining Research Laboratories. CANMET Report 77–1. 137pp.

Loy, L.D., Jr; Ettinger, C.E.; Frakes, M.R.; and Kremer, D.J., 1978. Development of new design concepts for construction of valley fills. (Prepared by Skelly and Loy, Harrisburg, Pa., for U.S. Bureau of Mines) Contract No. J0177063 final report; 182 pp.

U.S. Bureau of Reclamation, 1973. Design of small dams, A water resources technical publication. 2d edition. U.S. Government Printing Office, Washington, D.C. 816 pp.

U.S. Mine Safety and Health Administration, 1979. Design Guidelines for Coal Refuse Piles and Water, Sediment or Slurry Impoundments and Impounding Structures, IR1108, pp. 29.

Tipton, 1981, Comments before the Kentucky Society of Professional Engineers, Louisville, Kentucky.

IV. Procedural Matters

Executive Order 12291

The Department of the Interior (DOI) has examined these proposed rules according to the criteria of Executive Order 12291 (February 17, 1981). OSM has determined that these are not major rules and do not require a regulatory impact analysis because they will impose only minor costs on the coal industry and coal consumers. In addition, the proposed rules emphasize the use of performance standards instead of design criteria, which will allow operators to utilize the most cost-effective means of achieving the performance standards.

Paperwork Reduction Act

The information collection requirements in existing 30 CFR Parts 816 and 817 were approved by the Office of Management and Budget (OMB)

under 44 U.S.C. 3507 and assigned new clearance numbers 1029–0047 and 1029–0048 on April 1, 1981. This approval was identified in notes at the introduction to 30 CFR Parts 816 and 817 under the old number RO 618 and RO 619 (all under No. 8–190462). OSM would delete those notes and codify the OMB approvals under the new §§ 816.10 and 817.10. The information required by 30 CFR Parts 816 and 817 would be used by the regulatory authoriy in monitoring and inspecting surface and underground mining activities to ensure that they are conducted in a manner which preserves and enhances environmental and other values of the Act. This information required by 30 CFR Parts 816 and 817 is mandatory. In addition, OSM will be filing for OMB approval of several new information gathering requirements specified in proposed §§ 816.71(a)(2 and 4) and 817.71(a)(2 and 4). OSM is requesting specific comments on the necessity of those requirements.

Regulatory Flexibility Act

The DOI has also determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that these rules will not have a significant economic impact on a substantial number of small entities. The proposed rules will allow small coal operators increased flexibility in meeting performance standards and should especially ease the regulatory burden on small coal operators in Appalachia.

National Environmental Policy Act

OSM has prepared an Environmental Assessment (EA) of the cumulative impacts on the human environment of this rulemaking and related rulemakings under the Act. This cumulative EA is on file in the OSM Administrative Record office at the address listed in the "Addresses" section of this preamble. OSM is also preparing a Supplemental Environmental Impact Statement that will consider this proposed rule. (See 47 FR 18920, May 3, 1982.)

List of Subjects

Part 701

Coal mining, Law enforcement, Surface mining, and Underground mining.

Part 816

Coal mining, Environmental protection, Reporting requirements, and Surface mining.

Part 817

Coal mining, Environmental protection, Reporting requirements and Underground mining.

Accordingly, 30 CFR Parts 701, 816 and 817 are proposed to be amended as set forth herein.

Dated: May 17, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

PART 701—PERMANENT REGULATORY PROGRAM

1. In § 701.5 the definition of *Excess spoil* is added and the definitions of *Head-of-hollow fill, Underground development waste,* and *Valley fill* are revised to read as follows:

§ 701.5 Definitions.

* * * * *

Excess spoil means spoil material disposed of in a location other than the mined out area, except material used to blend spoil from the mined out area with the surrounding terrain after achieving the approximate original contour in nonsteep slope areas.

* * * * *

Head-of-hollow fill means a fill structure consisting of any material, other than organic material, placed in the uppermost reaches of a hollow where side slopes of the existing hollow measured at the steepest point are greater than 20 degrees or the average slope of the profile of the hollow from the toe of the fill to the top of the fill is greater than 10 degrees. In head-of-hollow fills the top surface of the fill, when completed, is at approximately the same elevation as the adjacent ridge line, and no significant area of natural drainage occurs above the fill draining into the fill area.

* * * * *

Underground development waste means waste rock mixtures of coal, shale, claystone, siltstone, limestone, or related materials that are excavated, moved and disposed of in connection with underground operations.

* * * * *

Valley fill means a fill structure consisting of any material, other then organic material, that is placed in a valley where side slopes of the existing valley measured at the steepest point are greater than 20 degrees or the average slope of the profile of the valley from the toe of the fill to the top of the fill is greater than 10 degrees.

* * * * *

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

2. Section 816.71 is revised to read as follows:

§ 816.71 Disposal of excess spoil.

(a) *General requirements.* (1) Excess spoil shall be placed only in permitted excess spoil disposal areas, in a controlled manner to ensure—

(i) That the effects of leachate and surface water runoff from the fill on surface and ground waters are minimized;

(ii) That a minimum long-term static safety factor of 1.5 is attained;

(iii) That the land mass designated as the disposal area is suitable for reclamation and revegetation compatible with the natural surroundings and approved postmining land use.

(2) The fill and appurtenant structures shall be designed using recognized professional standards and must meet any design criteria established by the regulatory authority. Sufficient foundation investigations and laboratory testing of foundation material shall be performed in order to determine the design requirements for foundation stability. The analyses of foundation conditions shall take into consideration the effect of underground mine workings, if any, upon the stability of the structure. A qualified registered professional engineer experienced in the design of earth and rockfill embankments, which is documented in writing to the regulatory authority, shall certify the design of the fill and appurtenant structures in the disposal area. The regulatory authority shall approve the design prior to construction. The foundation and abutments of the fill must be stable under all conditions of construction and operation.

(3) The excess spoil shall be transported and placed in horizontal lifts not exceeding 4 feet in thickness in a controlled manner, currently compacted as necessary to ensure mass stability and to prevent mass movement, covered with topsoil or equivalent material, and graded so that surface and subsurface drainage is compatible with the natural surroundings. The regulatory authority may accept a design which incorporates horizontal lifts in excess of 4 feet when it is demonstrated by the operator and certified by a qualified registered professional engineer that the design will ensure long-term stability and the other related environmental performance standards in this section.

(4) A qualified registered professional engineer or other qualified professional specialist shall inspect the fill for stability during construction. Both shall be experienced in the construction of earth and rockfill embankments, and this experience must be documented in writing to the regulatory authority.

Inspections must be made at least quarterly throughout construction and during the following critical construction periods: (i) Removal of all organic material and topsoil, (ii) placement of underdrains and protective filter systems, (iii) installation of surface drainage systems, (iv) placement and compaction of fill materials, and (v) revegetation. The qualified registered professional engineer shall provide to the regulatory authority a certified report within two weeks after each inspection that the fill has been constructed as specified in the design approved by the regulatory authority. The certified report on the drainage system and protective filters shall include color photographs taken during and after construction, but before the drain system is covered with spoil. If the underdrain system is constructed in phases, each phase is to be certified separately. The photographs accompanying each certified report are to be taken in adequate size and number with enough terrain or other physical features of the site shown to provide a relative scale to the photographs and to specifically identify the site. A copy of each inspection report is to be retained at the minesite.

(5) All vegetative and organic materials shall be removed from the disposal area and the topsoil shall be removed, segregated and stored or redistributed under §§ 816.21–816.25. If approved by the regulatory authority, organic material may be used as mulch or may be included in the topsoil to control erosion, promote growth of vegetation or increase the moisture retention of the soil.

(6) Slope protection shall be provided to minimize surface erosion from the disposal site. If required by the regulatory authority to ensure stability and in all head-of-hollow and valley fills, runoff from areas adjacent to and above the fill and runoff from the surface of the fill shall be diverted into stabilized channels designed to safely pass the runoff from a 100-year, 6-hour precipitation event. The requirements of § 816.43 apply to the design of diversion ditches. All disturbed areas, including diversion ditches that are not riprapped or otherwise protected, are to be vegetated upon completion of construction.

(7) If the disposal area contains springs, natural or manmade water courses, or wet weather seeps, the engineer shall design a system to divert the water course around the fill or design an underdrain system. The regulatory authority shall approve the drainage plan for the disposal area. The underdrain system, if used, shall be designed according to the requirements of § 816.71(b)(1).

(8) Terraces may be utilized to control erosion and enhance stability if compatible with the approved postmining land use.

(9) Coal mine wastes may be disposed of in excess spoil fills if approved by the regulatory authority and, if such waste is—

(i) Placed in accordance with § 816.85;

(ii) Non-toxic and non-acid forming; and

(iii) Consistent with the design stability of the fill.

(10) The regulatory authority may approve alternate methods for disposal of durable rock spoil, such as placing the excess spoil on a slop in single or multiple lifts rather than the horizontal lifts required in § 816.71(a)(3), on a site specific basis under the following conditions:

(i) The fill structure is to be designed and constructed according to the general requirements for disposal of excess spoil and, if applicable, the special requirements for valley/head-of-hollow fills;

(ii) It must be demonstrated by the operator and certified by a qualified registered professional engineer that fill placements would meet the design, long-term stability, and other environmental performance standards in § 816.71;

(iii) The durable rock spoil consists of at least 80 percent by volume durable and nondegradable rock such as sandstone, limestone or other rocks that do not slake in water; and

(iv) When noncemented clay shale, clay spoil or other materials comprise the remaining volume of the fill, it shall be adequately mixed with the excess durable rock spoil to retain the design stability of the structure and the proper functioning of the underdrain system.

(11) Excess spoil may be returned to underground mine workings, but only in accordance with a disposal program approved by the regulatory authority and MSHA upon the basis of a plan submitted under § 784.25 of this chapter.

(b) *Valley fill/head-of-hollow fill: Special requirements.* In addition to all of the requirements of § 816.71(a), the following special requirements apply to valley fills and head-of-hollow fills.

(1) If the disposal area contains springs, natural or manmade water courses, or wet weather seeps, an underdrain system consisting of durable rock of pipe shall be constructed for the wet areas in a manner that prevents infiltration of the water into the excess spoil. The underdrain system shall be protected from piping and contamination by an adequate filter that is designed and constructed using standard geotechnical engineering methods meeting any design requirements established by the regulatory authority. Durable rock underdrains and protective filters shall be constructed of nondegradable, non-acid or non-toxic forming rock (i.e., natural sand and gravel, sandstone, limestone, or other durable rock) that will not slake in water and will be free of coal, clay and shale. The underdrain system shall be designed according to standard engineering procedures to carry the anticipated flow from infiltration into the spoil pile and from seepage and springs in the foundation area.

(2) The top surface of the completed fill shall be graded such that the final slope after settlement will be toward properly designed drainage channels. Surface runoff from the fill may not flow uncontrolled over the outslope of the fill.

(3) The disposal area shall be located on the most moderately sloping and naturally stable areas available as approved by the regulatory authority and shall be placed, where possible, upon, or above, a natural terrace, bench, or berm, if such placement provides additional stability and prevents mass movement.

(4) Where the toe of the spoil rests on a downslope in excess of 2.8h:1v (36 percent) or such lesser slope as may be designated by the regulatory authority based on local conditions, keyway cuts (excavations to stable bedrock) or rock toe buttresses are to be constructed to insure stability of the fill.

(5) The final configuration of the fill must be suitable for postmining land uses approved in accordance with § 816.133, except that no depressions or impoundments are allowed on the completed fill.

(6) Terraces may be constructed on the outslope if required for stability, control of erosion, or for roads included in the approved postmining land use plan. The terraces shall be designed to meet the following requirements:

(i) The grade of the outslope between terrace benches shall not be steeper than 2h:1v (50 percent).

(ii) Each terrace bench shall be graded to slope toward the embankment to control surface runoff. Runoff shall be collected by a ditch along the intersection of each terrace bench and the outslope.

(iii) Each terrace ditch shall be graded to slope toward the channels specified in paragraph (a)(6) of this section. The bottom of each terrace ditch shall be

sloped to control erosive velocities of the runoff water in the ditch.

(c) *Gravity transport of spoil to preexisting benches.* Disposal of excess spoil from an upper actively mined bench to a lower preexisting bench by means of gravity transport is permitted provided that—

(1) The operator receives the prior written approval of the regulatory authority upon demonstration by the operator that the excess spoil to be disposed of by gravity transport is not necessary for elimination of the active mine highwall and return of the upper bench to approximate original contour.

(2) The following conditions and performance standards in addition to the environmental performance standards of this part are met:

(i) The highwall of the lower bench intersects (meets) the upper actively mined bench with no natural slope between them;

(ii) The gravity transport points are determined on a site specific basis by the operator and approved by the regulatory authority to minimize hazards to health and safety and to ensure that damage will be minimized should excess spoil accidentally move downslope of the lower bench;

(iii) The excess spoil is placed only on solid portions of the lower preexisting bench;

(iv) All excess spoil on the lower solid bench, including that excess spoil immediately below the gravity transport points, is rehandled and placed in a controlled manner to eliminate as much of the lower highwall as practicable. Rehandling and placing the excess spoil in horizontal lifts in a controlled manner, concurrently compacted as necessary to ensure mass stability and to prevent mass movement, and graded to allow surface and subsurface drainage to be compatible with the natural surroundings to ensure a minimum long-term static safety factor of 1.3. Spoil on the bench prior to the current mining operation need not be rehandled except where necessary to ensure stability of the fill;

(v) A safety berm is constructed on the solid portion of the lower bench prior to gravity transport of the excess spoil. Where there is insufficient material on the lower bench to construct a safety berm, only that amount of excess spoil necessary for the construction of the berm may be gravity transported to the lower bench prior to construction of the berm. The operator shall remove the safety berm during final grading operations; and

(vi) The area of the lower bench used for the disposal of excess spoil in considered an affected area within the permit area.

3. Section 816.75 is redesignated as § 816.71(d) and is revised to read as follows:

§ 816.71 Disposal of ~~excess~~ spoil: General requirements.

* * * * *

(d) *Disposal of excess spoil: Preexisting benches.* (1) The regulatory authority may approve the disposal of excess spoil through placement on preexisting benches, provided that all the standards set forth in §§ 816.71(a)(1)(i), (1)(iii), (a)(2) and (a)(4) through (a)(9) and the requirements of this paragraph are met.

(2) Excess spoil shall be placed only on the solid portion of the preexisting bench.

(3) The fill shall be designed, using standard geotechnical analysis, to attain a long-term static safety factor of 1.3 for all portions of the fill.

(4) The preexisting bench shall be backfilled and graded to—

(i) Achieve the most moderate slope possible which does not exceed the angle of repose, and

(ii) Eliminate the highwall to the extent practicable.

§§ 816.72, 816.73, and 816.74 [Removed]

4. Sections 816.72, 816.73 and 816.74 are removed.

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

5. Section 817.71 is revised to read as follows:

§ 817.71 Disposal of excess spoil.

(a) *General requirements.* (1) Spoil resulting from face-up operations for underground coal mine development may be placed at drift entries as part of a cut and fill structure if the structure is less than 400 feet in horizontal length and if it is designed in accordance with § 817.71(a). Excess spoil shall be placed only in permitted excess spoil disposal areas, in a controlled manner to ensure—

(i) That the effects of leachate and surface water runoff from the fill on surface and ground waters are minimized;

(ii) That a minimum long-term static safety factor of 1.5 is attained;

(iii) That the land mass designated as the disposal area is suitable for reclamation and revegetation compatible with the natural surroundings and approved postmining land use.

(2) The fill and appurtenant structures shall be designed using recognized professional standards and must meet any design criteria established by the regulatory authority. Sufficient foundation investigations and laboratory testing of foundation material shall be performed in order to determine the design requirements for foundation stability. The analyses of foundation conditions shall take into consideration the effect of underground mine workings, if any, upon the stability of the structure. A qualified registered professional engineer experienced in the design of earth and rockfill embankments, which is documented in writing to the regulatory authority, shall certify the design of the fill and appurtenant structures in the disposal area. The regulatory authority shall approve the design prior to construction. The foundation and abutments of the fill must be stable under all conditions of construction and operation.

(3) The excess spoil shall be transported and placed in horizontal lifts not exceeding 4 feet in thickness in a controlled manner, currently compacted as necessary to ensure mass stability and to prevent mass movement, covered with topsoil or equivalent material, and graded so that surface and subsurface drainage is compatible with the natural surroundings. The regulatory authority may accept a design which incorporates horizontal lifts in excess of 4 feet when it is demonstrated by the operator and certified by a qualified registered professional engineer that the design will ensure long-term stability and the other related environmental performance standards in this section.

(4) A qualified registered professional engineer or other qualified professional specialist shall inspect the fill for stability during construction. Both shall be experienced in the construction of earth and rockfill embankments, and this experience must be documented in writing to the regulatory authority. Inspections must be made at least quarterly throughout construction and during the following critical construction periods: (i) Removal of all organic material and topsoil, (ii) placement of underdrains and protective filter systems, (iii) installation of surface drainage systems, (iv) placement and compaction of fill materials, and (v) revegetation. The qualified registered professional engineer shall provide to the regulatory authority a certified report within two weeks after each inspection that the fill has been constructed as specified in the design approved by the regulatory authority. The certified report on the drainage system and protective filters shall include color photographs taken during

and after construction, but before the drain system is covered with spoil. If the underdrain system is constructed in phases, each phase is to be certified separately. The photographs accompanying each certified report are to be taken in adequate size and number with enough terrain or other physical features of the site shown to provide a relative scale to the photographs and to specifically identify the site. A copy of each inspection report is to be retained at the minesite.

(5) All vegetative and organic materials shall be removed from the disposal area and the topsoil shall be removed, segregated and stored or redistributed under §§ 817.21–817.25. If approved by the regulatory authority, organic material may be used as mulch or may be included in the topsoil to control erosion, promote growth of vegetation or increase the moisture retention of the soil.

(6) Slope protection shall be provided to minimize surface erosion from the disposal site. If required by the regulatory authority to ensure stability and in all head-of-hollow and valley fills, runoff from areas adjacent to and above the fill and runoff from the surface of the fill shall be diverted into stabilized channels designed to safely pass the runoff from a 100-year, 6-hour precipitation event. The requirements of § 817.43 apply to the design of diversion ditches. All disturbed areas, including diversion ditches that are not riprapped or otherwise protected, are to be vegetated upon completion of construction.

(7) If the disposal area contains springs, natural or manmade water courses, or wet weather seeps, the engineer shall design a system to divert the water course around the fill or design an underdrain system. The regulatory authority shall approve the drainage plan for the disposal area. The underdrain system, if used, shall be designed according to the requirements of § 817.71(b)(1).

(8) Terraces may be utilized to control erosion and enhance stability if compatible with the approved postmining land use.

(9) Coal mine wastes may be disposed of in excess spoil fills if approved by the regulatory authority and, if such waste is—

(i) Placed in accordance with § 817.85;

(ii) Non-toxic and non-acid forming; and

(iii) Consistent with the design stability of the fill.

(10) The regulatory authority may approve alternate methods for disposal of durable rock spoil, such as placing the excess spoil on a slope in single or multiple lifts rather than the horizontal lifts required in § 817.71(a)(3), on a site specific basis under the following conditions:

(i) The fill structure is to be designed and constructed according to the general requirements for disposal of excess spoil and, if applicable, the special requirements for valley/head-of-hollow fills;

(ii) It must be demonstrated by the operator and certified by a qualified registered professional engineer that fill placements would meet the design, long-term stability, and other environmental performance standards in § 817.71;

(iii) The durable rock spoil consists of at least 80 percent by volume durable and nondegradable rock such as sandstone, limestone or other rocks that do not slake in water; and

(iv) When noncemented clay shale, clay spoil or other materials comprise the remaining volume of the fill, it shall be adequately mixed with the excess durable rock spoil to retain the design stability of the structure and the proper functioning of the underdrain system.

(11) Excess spoil may be returned to underground mine workings, but only in accordance with a disposal program approved by the regulatory authority and MSHA upon the basis of a plan submitted under § 784.25 of this chapter.

(b) *Valley fill/head-of-hollow fill: Special requirements.* In addition to all of the requirements of § 817.71(a), the following special requirements apply to valley fills and head-of-hollow fills.

(1) If the disposal area contains springs, natural or manmade water courses or wet weather seeps, an underdrain system consisting of durable rock or pipe shall be constructed for the wet areas in a manner that prevents infiltration of the water into the excess spoil. The underdrain system shall be protected from piping and contamination by an adequate filter that is designed and constructed using standard geotechnical engineering methods meeting any design requirements established by the regulatory authority. Durable rock underdrains and protective filters shall be constructed of nondegradable, non-acid or non-toxic forming rock (i.e., natural sand and gravel, sandstone, limestone, or other durable rock) that will not slake in water and will be free of coal, clay and shale. The underdrain system shall be designed according to standard engineering procedures to carry the anticipated flow from infiltration into the spoil pile and from seepage and springs in the foundation area.

(2) The top surface of the completed fill shall be graded such that the final slope after settlement will be toward properly designed drainage channels. Surface runoff from the fill may not flow uncontrolled over the outslope of the fill.

(3) The disposal area shall be located on the most moderately sloping and naturally stable areas available as approved by the regulatory authority and shall be placed, where possible, upon, or above, a natural terrace, bench, or berm, if such placement provides additional stability and prevents mass movement.

(4) Where the toe of the spoil rests on a downslope in excess of 2.8h:1v (36 percent) or such lesser slope as may be designated by the regulatory authority based on local conditions, keyway cuts (excavations to stable bedrock) or rock toe buttresses are to be constructed to insure stability of the fill.

(5) The final configuration of the fill must be suitable for postmining land uses approved in accordance with § 816.133, except that no depressions or impoundments are allowed on the completed fill.

(6) Terraces may be constructed on the outslope if required for stability, control of erosion, or for roads included in the approved postmining land use plan. The terraces shall be designed to meet the following requirements:

(i) The grade of the outslope between terrace benches shall not be steeper than 2h:1v (50 percent).

(ii) Each terrace bench shall be graded to slope toward the embankment to control surface runoff. Runoff shall be collected by a ditch along the intersection of each terrace bench and the outslope.

(iii) Each terrace ditch shall be graded to slope toward the channels specified in Paragraph (a)(6). The bottom of each terrace ditch shall be sloped to control erosive velocities of the runoff water in the ditch.

(c) *Gravity transport of spoil to preexisting benches.* Disposal of excess spoil from an upper actively mined bench to a lower preexisting bench by means of gravity transport is permitted provided that—

(1) The operator receives the prior written approval of the regulatory authority upon demonstration by the operator that the excess spoil to be disposed of by gravity transport is not necessary for elimination of the active mine highwall and return of the upper bench to approximate original contour.

(2) The following conditions and performance standards in addition to the environmental performance standards of this part are met:

(i) The highwall of the lower bench intersects (meets) the upper actively

mined bench with no natural slope between them;

(ii) The gravity transport points are determined on a site specific basis by the operator and approved by the regulatory authority to minimize hazards to health and safety and to ensure that damage will be minimized should excess spoil accidentally move downslope of the lower bench;

(iii) The excess spoil is placed only on solid portions of the lower prexisting bench;

(iv) All excess spoil on the lower solid bench, including that excess spoil immediately below the gravity transport points, is rehandled and placed in a controlled manner to eliminate as much of the lower highwall as practicable. Rehandling and placing the excess spoil on the lower solid bench consists of placing the excess spoil in horizontal lifts in a controlled manner, concurrently compacted as necessary to ensure mass stability and to prevent mass movement, and graded to allow surface and subsurface drainage to be compatible with the natural surroundings to ensure a minimum long-term static safety factor of 1.3. Spoil on the bench prior to the current mining operation need not be rehandled except where necessary to ensure stability of the fill;

(v) A safety berm is constructed on the solid portion of the lower bench prior to gravity transport of the excess spoil. Where there is insufficient material on the lower bench to construct a safety berm, only that amount of excess spoil necessary for the construction of the berm may be gravity transported to the lower bench prior to construction of the berm. The operator shall remove the safety berm during final grading operations; and

(vi) The area of the lower bench used for the disposal of excess spoil is considered an affected area within the permit area.

6. Section 817.75 is redesignated as § 817.71(d) and is revised to read as follows:

§ 817.71 Disposal of underground development waste and excess spoil: General requirements.

* * * * * *

(d) *Disposal of excess spoil: Preexisting benches.* (1) The regulatory authority may approve the disposal of excess spoil through placement on preexisting benches, provided that all the standards set forth in § 816.71(a)(1)(i), (1)(iii), (a)(2) and (a)(4) through (a)(9) and the requirements of this paragraph are met.

(2) Excess spoil shall be placed only on the solid portion of the preexisting bench.

(3) The fill shall be designed, using standard geotechnical analysis, to attain a long-term static safety factor of 1.3 for all portions of the fill.

(4) The preexisting bench shall be backfilled and graded to—

(i) Achieve the most moderate slope possible which does not exceed the angle of repose, and

(ii) Eliminate the highwall to the extent practicable.

§§ 817.72, 817.73, and 817.74 [Removed]

7. Sections 817.72, 817.73 and 817.74 are removed.

(Pub. L. 95–87, 30 U.S.C. 1201 et seq.)

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June 8, 1982

Part VI

Department of Agriculture

Food and Nutrition Service

Optional Workfare Program

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 273

[Amdt. No. 217]

Optional Workfare Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Stamp and Commodity Distribution Amendments of 1981 (Pub. L. 97–98), enacted on December 22, 1981, provide the option for any political subdivision, in any State, to establish a workfare program as a component of the Food Stamp Program. The objective of this proposed rule is to permit those State agencies or political subdivisions choosing to establish a workfare program to institute a workfare requirement for eligible food stamp recipients. Workfare-eligible recipients would be assigned to public service work in return for the household's food stamp allotment. The work would be valued at a rate equivalent to the greater of the Federal or State minimum wage.

DATES: Comments must be received on or before July 23, 1982, to be assured of consideration.

ADDRESS: Comments should be submitted to Thomas O'Connor, Supervisor, Policy and Regulations Section, Programs Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia, 22302. All written comments will be open to public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday), at 3101 Park Center Drive, Alexandria, Virginia, Room 708.

FOR FURTHER INFORMATION CONTACT: Questions regarding this proposed rulemaking should be directed to Mr. O'Connor at the above address or by telephone at (703) 756–3429.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting and recordkeeping provisions that are included in this proposed rule will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained.

Classification

Executive Order

This proposed rule has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512–1, and has been classified "not major." The proposed rule would not have an annual effect on the economy of $100 million or more, nor would it likely result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions. Because this proposed rule would not affect the business community, it would not result in significant adverse effects on competition, employment, investment, productivity, or innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

This proposed rule has also been reviewed with regard to the requirements of Pub. L. 96–354. The Administrator of the Food and Nutrition Service has certified that the proposal would not have a significant economic impact on a substantial number of small entities. The rule would implement those provisions of Section 1333 of Pub. L. 97–98, the Food Stamp and Commodity Distribution Amendments of 1981, which require the establishment of an optional workfare program. State and local welfare agencies would be affected to the extent that they are involved in administering the workfare program. Political subdivisions would also be affected if they choose to administer a workfare program. Those most affected would be individuals participating in the Food Stamp Program who live in an area operating a workfare program and meet the eligibility requirements for participating in such a program.

Comment Period

Since legislative history indicates Congress' desire for the Secretary of Agriculture to issue regulations as soon as possible (S. Rep. 97–290, 97th Cong., 1st Sess., p. 228 (1981)), the Department has decided to provide a 45-day comment period.

Background

Program/Legislative History

The Food Stamp and Commodity Distribution Amendments of 1981 (Pub. L. 97–98, section 1333, 95 Stat. 1291), enacted December 22, 1981, provide for the establishment of workfare programs at the option of political subdivisions. For the most part, the legislation is similar to that governing the Food Stamp Program Workfare Demonstration Projects which have been in operation since July 1979. There are, however, changes in eligibility requirements, sanctions, and other areas. In developing this rule, the Department has drawn on its experience with the demonstration projects. The workfare concept has also been adopted into law for the Aid to Families with Dependent Children Program (AFDC) (Pub. L. 97–35). The Department of Health and Human Services issued regulations for the Community Work Experience Program (CWEP) on February 5, 1982 (45 CFR Part 238). This program is optional for State agencies and permits the establishment of a workfare requirement for eligible AFDC recipients.

State Agencies, Political Subdivisions, and the Operating Agency

Under this proposed rule, any State agency or other political subdivision may sponsor a workfare program by submitting and obtaining approval from FNS of a workfare plan. "State agency" refers to the agency of State government, including its local offices or the counterpart local agency when a decentrailzed administration is in effect, which is responsible for administering the Food Stamp Program. "Political subdivision" refers to any local government which includes, but is not limited to, any county, city, town or parish.

As used in these proposed rules, the term "operating agency" refers to any public or private, nonprofit organization designated by the State agency or political subdivision submitting a workfare plan to be responsible for administering the workfare program. The operating agency may be the entity submitting the workfare plan itself, an unrelated agency co-located with the State agency, or an unrelated agency located apart from the State agency. The entity submitting the workfare plan to FNS is responsible for assuring that the operating agency complies with the plan.

The State agency, through its local offices, would be responsible for referring all workfare-eligible recipients to the operating agency, determining cause for noncompliance, and processing sanctions for households found to be noncompliant without good cause. The State agency, acting on behalf of the Department, would also be responsible for disbursing Federal funds used for the workfare program through their Letter of Credit and for monitoring and enforcing by fund withdrawal compliance by all parties involved with this rule. The operating agency's

responsibilities, as the arm of the State agency or political subdivision which submitted the plan, include establishing and monitoring job sites, interviewing and assessing eligible food stamp recipients for placement, and assigning those eligible recipients to the appropriate job sites. The Department could withdraw approval and funding for a workfare program from the State agency or political subdivision which submitted the workfare plan if it determines that the operating agency has failed to comply with the provisions of this rule or of the plan.

Eligibility

All food stamp recipients not exempted by the statute would be eligible for workfare. The workfare exemptions would be the same as those provided by statute for the work registration/job search requirements except that AFDC work registrants not involved at least 20 hours a week in a work training program under Title IV of the Social Security Act, such as the Work Incentive Program (WIN) or CWEP, and unemployment compensation recipients are eligible for workfare. The statutory exemptions include certain caretakers of children or incapacitated people, certain students, and those who work a minimum of 30 hours per week.

The workfare obligation for a household would be determined by dividing the household's food stamp allotment by the higher of the Federal or State minimum wage. Every workfare-eligible household member may be required to contribute toward working off the household's monthly food stamp allotment. However, the value of the hours worked in the aggregate may not exceed that months's allotment. In addition, since the workfare obligation is a household obligation, the household could avoid or terminate a sanction by having any workfare-eligible recipient in the household complete the outstanding hours of obligation of another household member.

Conditions of Employment

Workfare participants could be required to work up to 20 hours a week in workfare. If the participant has part-time employment, including involvement in other workfare-type programs, the employment plus the food stamp workfare assignment may not exceed 30 hours per week. This provision leaves sufficient time for job search activities, either done with State Employment Security Agencies or done independently. Therefore, these rules would require that any job search activities otherwise required would continue to apply to workfare participants. The Department realizes the restriction on the number of hours a household may be required to work in a week could create scheduling difficulties for both the operating agency and the participant. Consequently, the Department proposes that, with the participant's concurrence, scheduling may be made in such a manner that the required weekly average for hours worked by any participant in any given month may not exceed 20 hours a week (30 hours for part-time employees). The Department has also stipulated that no participant shall be required to work more than eight hours in any given day unless the participant concurs with such scheduling.

The proposed rule would establish conditions of employment which workfare job offers must meet. Examples of these conditions include a stipulation that participants shall not be required to join, refrain from joining, or resign from a labor organization; a requirement that the job site not be unreasonably distant from the participant's home; and a provision probibiting the imposition of work requirements that conflict with the participant's religion. In addition, the regulations require that minimum health and safety conditions be met and that workfare positions not displace regular employees.

These conditions reflect the principles and conditions of public sector employment and are consistent with current work registration/job search rules (7 CFR 273.7). The conditions are designed to protect existing jobs and to protect participants from unreasonable demands, and at the same time to ensure compliance by those who are able to work.

The benefits required for participants under the Act are those which are normally offered to employees similarly employed by the particular employer. The operating agency should identify the class or group of employees described in the employer's current personnel regulations or policy guidelines which is most similar to workfare participants and then assure that all persons employed in workfare jobs receive the same job related benefits received by those in that similar group. Elective benefits, requiring a cash contribution by the participant, shall be at the participant's option.

While workers' compensation is not required by these regulations, it is suggested that State agencies or political subdivisions investigate the need for this coverage or some comparable protection. Since it is not the employer, the Federal government will not be liable for injury incurred in workfare.

Working conditions for workfare participants should also be the same as for those similarly employed. This includes but is not limited to personal equipment such as gloves or hard hats which are required to perform a particular job and are supplied by the employer, access to facilities at the worksite, and time provided for breaks.

Under the Act, participants are to be reimbursed for transportation and other costs reasonably necessary for participation in workfare up to $25 for each participant per month. These other costs may include any personal equipment necessary to meet the required working conditions if this equipment is also purchased by regular employees. This is a Federally matchable administrative cost.

Priority Placements

The Department recognizes that there may be times when an approved operating agency would have more eligible participants than workfare positions at job sites. This may occur for a number of reasons, such as a funding curtailment or an unexpected increase in the number of participants. In these situations, the operating agency would have to determine which eligible participants would be placed and which would not be placed in workfare positions. The proposed rule would allow the operating agency to establish its own system for addressing such situations. However, operating agencies should be aware that an impartial system for placements, such as random selection, would prove more satisfactory than one which might be subject to criticism for being biased. The proposed rule would require that operating agencies describe in their plans how they will determine the priority for placement in these situations.

Job Search Period

Under the Act, the operating agency may establish a job search period for potential workfare participants of up to 30 days following certification, prior to making a workfare assignment. This interval of time is to be used by the potential participant to find a job. The recipient would, if eligible, be subject to regular work registration/job search requirements during this time.

Types of Jobs

Workfare jobs may be with any public agency or private, nonprofit organization. Private, for-profit organizations may not be used as job sites. Under this proposal, contractual

agreements must be made between the operating agency and the organizations providing positions, stating the positions available, their requirements, and who will be responsible for providing required job-related benefits such as workers' compensation.

Sanctions and Hearings

Under the Act, should a person with a workfare obligation fail without good cause to complete the obligation and should that obligation not be completed by another workfare-eligible household member, the household would be removed from the Food Stamp Program for two months. This disqualification is required by the statute and is consistent with the penalty for failure to comply with the work registration/job search requirements. Until the disqualification is actually invoked, the household, if otherwise eligible, will continue to have a workfare obligation. The household may be reinstated prior to the end of the two-month period by completing all outstanding workfare obligations which led to the sanction. Completing the outstanding workfare obligation would only entitle a household to be reinstated earlier, not to receive any back benefits lost due to the sanction. Regular food stamp hearing procedures shall be used.

Coordination with Job Search Requirements

By setting a maximum of 20 hours per week for workfare obligations (30 hours when combined with other part time employment), the Act leaves time available for job search activities. Consequently, the Department proposes that involvement in workfare not exempt an individual from job search requirements of the Act.

Administration and Funding

The Act permits any political subdivision to establish a workfare program. It is clear that Congress' intention is that State agencies may not deny or impede local jurisdictions from establishing these programs (H.R. Rep. No. 97–106, 97th Cong., 1st Sess., 168 (1981)). However, FNS has not previously had a direct relationship with local jurisdictions in administering the Food Stamp Program. While the Department is concerned about preserving the Federal-State-local relationship, it also must preserve the intent of the legislation.

The alternative of establishing and maintaining direct relationships between FNS and the local jurisdictions is undesirable because bypassing the State government is unprecedented in the Food Stamp Program and because such a relationship could place a large administrative burden on FNS. Furthermore, the State agency is necessarily involved in the workfare program because of its responsibility to identify and refer workfare-eligible recipients, and process sanctions for those determined to be non-compliant. Consequently, the Department proposed that State agencies act as the authorized agents to the Department and assume the responsibility for facilitating administration of local programs, including the dispensing of Federal funds and monitoring and enforcing compliance by political subdivisions and operating agencies. The Department would be interested in any comments on this issue, especially from State and local governments.

Under the proposed rules, State agencies would submit their workfare plans to FNS and, upon obtaining approval, make them parts of their State Plans of Operations. Political subdivisions would be asked to submit their workfare plans through State food stamp agencies, though this would not be a requirement. It would be a requirement, however, that political subdivisions submit copies of the workfare plans to the State agencies concurrent with their submission to FNS. Upon approval of a plan by FNS, the workfare plan would become a part of the State Plan of Operations. All funding would go through the State agency Letter of Credit. Consequently, State agencies must establish a funding mechanism with political subdivisions which will operate workfare programs, if a mechanism does not already exist. In order to monitor workfare programs and ensure compliance with these rules and the approved workfare plan, the State agency would act as an authorized agent for FNS. As such an agent, the State agency could withhold funding in instances where it establishes noncompliance by the operating agency or the political subdivision which submitted the plan. Under this proposal, FNS would be notified by the State agency, prior to the withholding of funds, of the circumstances leading to that action.

Federal Funding.

Under the Act, FNS will provide 50% funding for costs incurred in administering a workfare program. These costs may not include the cost of the equipment and materials used at job sites nor may they include the cost of supervision for workfare participants at the job sites. The cost of participant transportation and personal equipment not provided by the employer yet necessary to meet the required working conditions, such as gloves and hard hats, will be reimbursed to the participant up to a total of $25 per month and is a matchable administrative cost. State agencies and political subdivisions submitting plans shall indicate in the plan the method and source by which their portion of the funding will be provided.

Coordination With Other Workfare-Type Programs

The Department and Congress realize that State agencies or political subdivisions may wish to operate workfare programs jointly with other workfare-type programs such as AFDC's, CWEP or other local general assistance (GA) workfare programs (S. REP. No. 97–290, p. 220). Toward this end, the regulations have been designed to be as flexible as possible within the framework of the statute. Waivers of regulatory provisions may be requested from FNS to help conform this workfare program with either CWEP programs of GA workfare programs. However, statutory waivers cannot be granted.

If the State or political subdivision decides to establish food stamp workfare along with CWEP or general assistance workfare, the Department encourages the programs to be alike whenever possible. Such similarity will reduce administrative costs and simplify the program for recipients.

Implementation

Any State agency or political subdivision which wishes to operate a workfare program should submit a plan to its FNS regional office for approval. Under this proposal, at a minimum, the plan should describe how the provisions of these regulations will be met, the proposed schedule for implementation, workload projections, and staffing plans. Approved plans would be incorporated into the respective State Plan of Operations. Changes to workfare plans would be submitted to FNS for approval.

A proposed operating budget covering the period from the initiation of the implementation schedule to the close of the Federal fiscal year would accompany the submitted plan. For subsequent fiscal years, workfare program budgets would be worked into the State agency budget submission. In addition to the submitted budget, and estimate of the cost of full operations for a period of one year would also be submitted with the workfare plan.

It is possible that in some instances a political subdivision will submit a workfare plan for an area where another political subdivision has already been approved to operate a workfare

program. For example, a city within a county may wish to operate a workfare program even though the county has already been approved to operate a workfare program. In such cases, the political subdivision which submits its workfare plan later must establish in its plan how it will ensure that food stamp recipients will not be subject to more than one food stamp workfare program. The purpose of this provision is to ensure that food stamp recipients would be subject to only one food stamp workfare program. The Department hopes that such instances of conflicting programs would be resolved at the local level.

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant program—social programs, Reporting and recordkeeping requirements.

7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Food stamps, Fraud, Grant programs—social programs, Penalties, Reporting and recordkeeping requirements, Social security, Students.

Accordingly, it is proposed that 7 CFR Parts 272 and 273 be amended as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

1. A new paragraph (g)(42) is added to § 272.1 as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(42) *Amendment 217.* The regulations concerning the optional workfare program contained in Amendment 217 shall be in effect July 8, 1982.

2. In § 272.2, a new sentence is added to the end of paragraph (a)(2) to read as follows:

§ 272.2 Plan of operation.

(a) *General Purpose and Content.*

* * *

(2) *Content.* * * * The Workfare Plan is also considered part of the State Plan of Operation, but is submitted separately as prescribed under § 272.22.

* * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

3. A new § 273.22 is added to read as follows:

§ 273.22 Optional Workfare Program.

(a) *General.* This section contains rules which are to be followed in operating a Food Stamp Workfare Program. Under this program, nonexempt food stamp recipients would be required to perform work in a public service capacity as a condition of eligibility to receive the coupon allotment to which their household is normally entitled.

(b) *Program administration.* (1) Any State food stamp agency or other political subdivision in any State choosing to establish and operate a workfare program must submit for FNS approval a workfare plan in accordance with the requirements of this section. For the purpose of this section, a political subdivision is any local government, which includes, but is not limited to, any county, city, town or parish. A State agency may implement a workfare program statewide or in only some areas of the State. The areas of operation must be identified in the State workfare plan.

(2) Political subdivisions are asked to submit their plans to FNS through their respective State agencies. Otherwise, plans shall be submitted to the State agencies concurrent with their submission to FNS. Workfare plans and subsequent amendments shall not be implemented prior to their approval by FNS.

(3) When a State agency chooses to sponsor a workfare program by submitting a plan to FNS, it shall incorporate the approved plan into its State Plan of Operations. When a political subdivision chooses to sponsor a workfare program by submitting a plan to FNS, the State agency shall be responsible as a facilitator in the administration of the program by disbursing Federal funding and meeting the requirements identified in paragraph (d) below. Upon notification that FNS has approved a workfare plan submitted by a political subdivision in its State, the State agency shall incorporate that political subdivision's workfare plan into its own State Plan of Operations.

(4) The operating agency is that administrative organization which has been identified in the workfare plan as being responsible for establishing job sites, assigning eligible recipients to the job sites, and meeting the requirements of this section. The operating agency may be any public or private, nonprofit organization. The State agency or political subdivision which submitted the workfare plan shall be responsible for monitoring the operating agency's compliance with the requirements of this section or of the workfare plan. The Secretary may suspend or terminate some or all workfare program funding, or withdraw approval of the workfare program from the State agency or political subdivision which submitted the workfare plan upon finding that that State agency or political subdivision, or their respective operating agency has failed to comply with the requirements of this section or of the workfare plan.

(5) State agencies or other political subdivisions shall describe in detail in the plan how the political subdivision, working with the State agency and any other cooperating agencies that may be involved in the program, shall fulfill the provisions of this section. The plan shall include workload projections, staffing plans, inter-agency communication plans, and specific operational agreements developed by the agencies involved. The plan shall be a one-time submittal, with amendments submitted as needed to cover any changes in the workfare program as they occur.

(6) State agencies or political subdivisions submitting a workfare plan shall submit with the plan an operating budget covering the period from the initiation of the workfare program's implementation schedule to the close of the Federal fiscal year. In addition, an estimate of the cost for one full year of operations shall be submitted together with the workfare plan. For subsequent fiscal years, the workfare program budget shall be included in the State agency's budget.

(7) If workfare plans are submitted by more than one political subdivision, each representing the same population (such as a city within a county), the Department shall determine which political subdivision will have its plan approved. Under no circumstances shall a food stamp recipient be subject to more than one food stamp workfare program. If a political subdivision chooses to operate a workfare program and represents a population which is already, at least in part, subject to a food stamp workfare program administered by another political subdivision, it must establish in its workfare plan how food stamp recipients will not be subject to more than one food stamp workfare program.

(c) *Operating agency responsibilities.* (1) The operating agency, as designated by the State agency or other political subdivision which submits a plan, shall be responsible for establishing and monitoring job sites, interviewing and assessing eligible recipients, assigning eligible recipients to the appropriate job sites, making initial determinations of good cause for household noncompliance, and otherwise meeting the requirements of this section.

(2) *Establishment of job sites.* Workfare job slots may only be located in public or private, nonprofit agencies. Contractual agreements must be established between the operating agency and organizations providing jobs which include but are not limited to designation of the slots available and designation of responsibility for provision of benefits, if any are required, to the workfare participant.

(3) *Notifying State agency of noncompliance.* The operating agency shall notify the State agency of noncompliance by a household with a workfare obligation when it has determined that the household did not have good cause for the noncompliance. This notification shall occur within five days of such determination so that the State agency may make a final determination as provided in paragraph (d)(4) of this section.

(4) *Notifications.* Notices shall be established to be used as follows:

(i) For the State agency to notify the operating agency or workfare-eligible households. Included in this notice shall be the case name, case number, workfare-eligible household members, certification period, and monthly allotment.

(ii) For operating agencies to notify the workfare participant of where and when the participant is to report, to whom the participant is to report, a brief description of duties for the particular placement, and the number of hours to be worked.

(iii) For operating agencies to notify the State agency of failure by a household to meet its workfare obligation.

(5) *Recordkeeping requirements.* (i) Files must be maintained which record activity by workfare participants. At a minimum, these records must contain job sites and hours assigned, hours completed, and communications with the State agency and job sites.

(ii) Program records shall be maintained in an orderly fasion, for audit and review purposes, for a period of 3 years from the month of origin of each record. Fiscal records and accountable documents shall be retained for 3 years from the date of fiscal or administrative closure of the workfare program. Fiscal closure, as used in this paragraph, means that workfare program obligations for or against the Federal government have been liquidated. Administrative closure, as used in this paragraph, means that the operating agency or Federal government has determined and documented that no further action to liquidate the workfare program obligation is appropriate. Fiscal records and accountable records shall be kept in a manner which will permit verification of direct monthly reimbursements to recipients, in accordance with paragraph (f)(4) of this section.

(6) *Reporting requirements.* The operating agency shall be responsible for providing information needed by the State agency to fulfill the reporting requirements stated in paragraph (d)(6) of this section.

(d) *State agency responsibilities.* (1) If a political subdivision chooses to operate a workfare program, the State agency shall cooperate with the political subdivision in development a plan. This includes providing caseload and cost estiamtes, as well as being available for consultation on the design of the administrative structure and interagency communications for the program.

(2) The State agency shall determine at certification or recertification which household members are eligible for the workfare program and inform the household representative of the nature of the program. If the State agency is not the operating agency, each member of a household who is subject to workfare under paragraph (e)(1) of this section shall be referred to the organization which is the operating agency. The information identified in paragraph (c)(4)(i) of this section shall be forwarded to the operating agency within 5 days after the date of household certification. Computation of hours to be worked may be delegated to the operating agency.

(3) The State agency shall inform the household and the operating agency of the effect of any changes in a household's circumstances on the household's workfare obligation. This includes changes in benefit levels or workfare eligibility.

(4) Upon notification by the operating agency that a participant has filed to comply with the workfare requirement without good cause, the State agency shall make a final determination as to whether or not such failure occurred and whether there was good cause for any such failure. If the State agency determines that the participant did not have good cause for noncompliance, a sanction shall be processed as provided in paragraph (f)(6) of this section. The State agency shall immediately inform the operating agency of the months during which the saction shall apply.

(5) *Recordkeeping requirements.* The State agency shall maintain in each household's casefile all workfare-related forms used by the State agency in meeting the requirements of this section.

(6) *Reporting requirements.* The State agency shall submit quarterly reports to FNS within 45 days of the end of each quarter identifying for that quarter for that State:

(i) The number of households referred to the operating agency as containing workfare-eligible recipients. A household shall be counted as referred each time it it referred to the operating agency.

(ii) The number of households assigned to jobs each month by the operating agency.

(iii) The number of individuals assigned to jobs each month by the operating agency.

(iv) The total number of hours worked by participants.

(v) The number of households against with a sanction was applied. A household being sanctioned over two quarters should only be reported as sanctioned for the earlier quarter.

(7) *State agency monitoring.* The State agency shall be responsible for monitoring all workfare programs in its State to assure that there is compliance with this section and with the plan submitted and approved by FNS. The State agency shall also assure that records are being maintained which support the financial claims being made to FNS. For purposes of monitoring and ensuring compliance, the State agency shall act as agent for FNS which is ultimately responsible for ensuring such compliance. Should the State agency determine that noncompliance exists, it may withhold funding until compliance is achieved or FNS directs otherwise. FNS shall be notified prior to the withholding of funds of the circumstances leading to that action. At a minimum, the State agency shall perform onsite reviews of each workfare program once within six months of the program's implementation and then in accordance with the Management Evaluation review schedule for that program area.

(e) *Household responsibilities.* (1) *Persons subject to workfare.* Household members subject to the work registration requirements as provided in §273.7(a) shall also be subject to the workfare requirements. In addition:

(i) Those recipients subject to and currently involved less than 20 hours a week in a work training program under a work registration requirement pursuant to Title IV of the Social Security Act, such as the Work Incentive Program (WIN) and Community Work Experience Program (CWEP), shall be subject to workfare; and

(ii) Those recipients exempt from work registration requirements due to the receipt of unemployment

compensation shall be subject to workfare requirements.

(2) *Household obligation.* The maximum total number of hours of work required of a household each month shall be determined by dividing the household's coupon allotment by the Federal or State minimum wage, whichever is higher. The household's hours of obligation for any given month may not be carried over into another month except when the household wishes to end a disqualification due to noncompliance with workfare in accordance with paragrph (f)(8) of this section.

(f) *Other program requirements.* (1) *Priority placements.* The State agency or political subdivision submitting the plan shall indicate in the plan how it will determine priority for placement at job sites when the number of eligible participants is greater than the number of available positions at job sites or when funding limitations require curtailment of operations.

(2) *Conditioins of employment.* (i) Recipients may be required to work up to, but not to exceed, 20 hours per week. However, the total number of hours worked by a recipient under workfare together with any other hours worked in any other compensated capacity by such recipient on a regular or predictable part-time basis, shall not exceed thirty hours a week. With the recipient's consent, the hours to be worked may be scheduled in such a manner that more than twenty hours (thirty hours for part-time workers) are worked in one week, as long as the total for that month does not exceed the weekly average of twenty hours a week (thirty hours for part-time workers).

(ii) No participant shall be required to work more than eight hours on any given day, except that with the recipient's consent, more than eight hours may be scheduled.

(iii) No participant shall be required to accept an offer of workfare employment if such employment fails to meet the criteria established in § 273.7 (i)(1) (iii) and (iv); and § 273.7(i)(2), (i), (ii), (iv), and (v).

(iv) If the workfare participant is unable to report for job scheduling to appear for scheduled workfare employment, or to complete the entire workfare obligation due to compliance with the additional work requirements established in § 273.7(e), (1), (2), (3), or (4), or the job search requirements established in § 273.7(f), such inability shall not be considered a refusal to accept workfare employment. If the workfare participant informs the operating agency of the time conflict, the operating agency shall, if possible, reschedule the missed activity. If such rescheduling cannot be completed before the end of the month, this shall not be cause for disqualification.

(v) The operating agency shall assure that all persons employed in workfare jobs receive job-related benefits at the same levels and to the same extent as similar non-workfare employees. Any elective benefit which requires a cash contribution by the participant shall be optional at the discretion of the participant.

(vi) All persons employed in workfare jobs shall be assured by the operating agency of working conditions provided other employees similarly employed.

(vii) The provisions of section 2(a)(3) of the Service Contract Act of 1965 (Pub. L. 89–286), relating to health and safety conditions, shall apply to the workfare program.

(viii) Operating agencies shall not provide work to a workfare participant which has the effect of replacing or preventing the employment of an individual not participating in the workfare program. Vacancies, due to hiring freezes, terminations, or lay-offs, shall not be filled by a workfare participant unless it can be demonstrated that such vacancies are a result of insufficient funds to sustain former staff levels.

(ix) The workfare jobs shall in no way infringe upon the promotional opportunities which would otherwise be available to regular employees.

(x) Workfare jobs shall not be related in any way to political or partisan activities.

(xi) Workfare assignments should to the extent possible take into consideration previous training, experience, and skills of a participant.

(xii) The cost of workers' compensation or comparable protection provided to workfare participants by the State agency, political subdivision, or operating agency is a matchable cost under paragraph (g) of this section. Whether or not this coverage is provided, in no case is the Federal government the employer in these workfare programs, and therefore, USDA does not assume liability for any injury to or death of a workfare participant while on the job.

(3) *Job search period.* The operating agency may establish a job search period of up to 30 days following certification prior to making a workfare assignment during which the potential participant is expected to look for a job. This period may only be established at household certification, not at recertification. The potential participant would not be subject to any job search requirements beyond those required under § 273.7 during this time.

(4) *Participant reimbursement.* Participants shall be reimbursed by the operating agency for transportation and other costs that are reasonably necessary and directly related to participation in the program. These other costs may include personal safety items or equipment required for performance of work if these items are also purchased by regular employees. These other costs shall not include the cost of meals away from home. No participant cost which has been reimbursed under a workfare program operated under Title IV of the Social Security Act or any other workfare program shall be reimbursed under the food stamp workfare program. Reimbursement of participant costs may be up to but not exceed $25 per month for any participant.

(5) *Good cause.* For the purpose of this section, good cause shall include:

(i) Circumstances beyond a household member's control, such as, but not limited to: illness; the illness or incapacitation of another household member requiring the presence of the workfare participant; a household emergency; or the lack of transportation when transportation is not provided by the operating agency;

(ii) Necessity for a parent or other responsible household member to care for a child between the age of six and 12 because child care is not otherwise available;

(iii) Becoming exempt from the workfare eligibility requirements under the terms established in paragraph (e)(1) of this section.

(iv) Moving out of the area of the workfare project.

(6) *Failure to comply.* Where a workfare participant has been determined by the State agency to have failed or refused without good cause to comply with the requirements of this section, the entire household shall be ineligible to participate. Such ineligibility shall continue until either the household meets the provisions of paragraph (f)(8) of this section or for 2 consecutive months, whichever occurs earlier. Within 10 days after receiving notification of the household's failure to comply with the requirements of this section, the State agency shall, if it determines that there is not good cause for the noncompliance, provide the household with a notice of adverse action, as specified in § 273.13. Such notification shall contain the proposed period of disqualification and shall specify the terms and conditions on which disqualification can be ended.

Information shall also be included with the notification on the procedures and requirements contained in paragraph (f)(8) of this section. The disqualification period shall begin with the first month following the expiration of the adverse notice period, or following a fair hearing decision if a fair hearing is requested. A household member shall not be required to perform work at a job site when the household is no longer receiving benefits unless the household has chosen to meet the conditions for ending disqualification specified in paragraph (f)(8) of this section. Until the disqualification is actually invoked, the household, if otherwise eligible, will continue to have a workfare obligation.

(7) *Fair hearing.* Each household has a right to a fair hearing to appeal a denial or termination of benefits due to a State agency determination of failure to comply with the requirements of this section. The fair hearing requirements provided in §273.15 shall apply. If a fair hearing is scheduled, the operating agency shall be available to participate in the hearing. The State agency shall provide the operating agency sufficient advance notice to permit the attendance of an operating agency representative.

(8) *Ending disqualification.* Following the end of the 2-month disqualification period for noncompliance with the workfare provisions of this section, a household may resume participation in the program if it applies again and is determined eligible. Eligibility may be re-established during a disqualification period and the household shall (if it makes application and is determined otherwise eligible) be permitted to resume participation if the member who failed to comply or any other workfare-eligible member of the household satisfies all outstanding workfare obligations.

(g) *Federal financial participation.* (1) Fifty percent of all administrative costs incurred by State agencies or political subdivisions in operating a workfare program shall be funded by the Federal government. Such costs include those related to recipient participation in workfare as indicated in paragraph (f)(4) of this section. Such costs shall not include the costs of equipment, capital expenditures, tools or materials used in connection with the work performed by workfare participants, the costs of supervising workfare participants, or the costs of reimbursing participants for meals away from home.

(2) *Funding mechanism.* The State agencies shall have responsibility for disbursing Federal funds used for the workfare program through the State agencies' Letters of Credit. This will be for all programs, regardless of who submits the plan. Mechanisms for funding local political subdivisions which have submitted plans must be established by the State agencies.

(3) *Fiscal recordkeeping and reporting requirements.* Workfare-related costs shall be identified by the State agency on the Financial Status Report (Form SF–269) as a separate column. All financial records, supporting documents, statistical records, negotiated contracts, and all other records pertinent to workfare program funds shall be maintained in accordance with §277.12.

(h) *Coordination with other workfare-type programs.* State agencies and political subdivisions may operate workfare programs as provided in this section jointly with a workfare program operated under Title IV of the Social Security Act or other workfare programs operated by the subdivision to the extent that the provisions and protections of this section are maintained. When a household receives benefits from more than one program with a workfare requirement and the household is determined to have a food stamp workfare obligation, the food stamp obligation may be combined with the obligation from the other program to the extent that eligible food stamp workfare participants are not required to work more than 30 hours a week (no more than 20 hours of which may be food stamp workfare) in accordance with paragraph (f)(2)(i) of this section. Waivers of provisions in this section, for the purpose of operating joint programs referred to in this paragraph, may be requested and provided in accordance with §272.3(c). Statutory provisions, including paragraphs (e)(1) and (f)(2)(i), shall not be waived. Any intent to coordinate programs should be described in the plan.

Authority: 91 Stat. 958 (7 U.S.C. 2100–2127), and Sec. 1, Pub. L. 97–98; 95 Stat. 1282 (7 U.S.C. 2012).

(Catalog of Federal Domestic Assistance Program No. 10.551, Food Stamps)

Dated: June 4, 1982.

Mary C. Jarratt,

Assistant Secretary for Food and Consumer Services.

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Part VII

Environmental Protection Agency

Polychlorinated Biphenyls (PCBs); Manufacture, Processing, Distribution, and Use in Closed and Controlled Waste Manufacturing Processes; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 761]

[OPTS 62017A; TSH FRL 2103-7]

Polychlorinated Biphenyls (PCBs); Manufacture, Processing, Distribution, and Use in Closed and Controlled Waste Manufacturing Processes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On April 13, 1981, the U.S. Court of Appeals for the District of Columbia Circuit issued an order requiring the Environmental Protection Agency (EPA) to undertake a rulemaking for certain chemical manufacturing processes that generate PCBs in low concentrations. In response to the court's order, EPA is proposing to exclude the production of PCBs in closed and controlled waste manufacturing processes from the provisions of section 6(e) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2605(e). Section 6(e) prohibits the manufacture, processing, distribution in commerce, and use of polychlorinated biphenyls (PCBs).

DATES: An informal hearing, if requested, will be held on August 6, 1982, in Washington, D.C. The exact time and location of the hearing will be available through the Industry Assistance Office; which can be reached by calling toll free 800-424-9065 or, in Washington, D.C., by calling 554-1404. Comments on this proposed rule and requests to participate in the informal hearing must be submitted by July 23, 1982.

ADDRESSES: Comments should be submitted to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm E-509, 401 M St., SW., Washington, D.C. 20460; Toll Free: (800-424-9056); In Washington, D.C.: (554-1404); Outside the USA: (Operator 202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Recodification of 40 CFR Part 761

Notice of the recodification of 40 CFR Part 761 appears in the Federal Register of May 6, 1982 (47 FR 19527). This proposed rule contains the new designations:

New designation	Former designation
Subpart B	Subpart D.
Section 761.185	Section 761.45.
Section 761.3	Section 761.2.
Section 761.65	Section 761.42.
Section 761.70	Section 761.40.
Section 761.75	Section 761.41.

II. Background

Section 6(e) of the Toxic Substances Control Act (TSCA) prohibits the manufacture, processing, distribution in commerce, and use of polychlorinated biphenyls (PCBs). However, the statute enables EPA to promulgate regulations to reduce the impact of the ban. EPA promulgated regulations, published in the Federal Register of May 31, 1979 (44 FR 31514), to implement section 6(e) of TSCA. The regulations, among other things, generally excluded from the ban materials containing PCBs in concentrations less than 50 parts per million.

The Environmental Defense Fund (EDF) obtained judicial review of the regulations in the U.S. Court of Appeals for the District of Columbia Circuit. EDF challenged the provisions described above, among others. On October 30, 1980, the court invalidated the regulatory exclusion for concentrations below 50 ppm *Environmental Defense Fund v. EPA*, 636 F. 2d 1267. The court remanded the rule to EPA for further action consistent with the opinion. The court's decision placed industries that had relied upon the PCB Ban Regulations in a difficult position. Issuance of the court's mandate would have activated section 6(e)'s broad prohibitions on the manufacture, processing, distribution in commerce, and use of PCBs. The result would be that many activities in industries throughout the United States would be banned.

Accordingly, the parties to the lawsuit filed a joint motion (on February 20, 1981) to seek a stay of the court's mandate. The joint motion proposed that during the period encompassed by the stay: (1) EPA would conduct new rulemaking with respect to PCBs; and (2) industry groups would initiate studies to provide information for the new rulemaking.

During discussions which led up to this joint motion, representatives of some affected industries stated that some of the processes which produce PCBs are designed and operated so that no releases of PCBs occur or that the PCBs formed in the processes are disposed of appropriately. Consequently, virtually no risk to humans or the environment is associated with such processes because the likelihood of exposure is so low. Therefore, the joint motion proposed that EPA would publish an Advance Notice of Proposed Rulemaking (ANPR) requesting comments on the possible exclusion of the production of PCBs in these processes from the provisions of section 6(e).

EPA attempted to identify and define specifically these processes where there are negligible public health and environmental benefits to be derived from regulation because the processes present such low risks. Two process categories were identified. These are "closed manufacturing processes" and "controlled waste manufacturing processes."

"Closed manufacturing processes" were defined as those in which PCBs are generated but from which no PCBs are released. These processes generate PCBs within closed reaction equipment and the chemical reactions within the processes continuously destroy the PCBs as they are produced.

"Controlled waste manufacturing processes" were defined as processes in which PCBs are generated but from which PCBs are released only as constituents of wastes that are either incinerated, disposed of in EPA-approved landfills, or stored for later incineration or landfilling.

In addition to dealing with closed and controlled waste processes, the February 20 joint motion also proposed to publish an ANPR requesting information on all other manufacture, processing, distribution in commerce, and use of PCBs in low concentrations. PCBs generated in and released from other than closed or controlled waste processes are referred to as "uncontrolled PCBs."

On April 13, 1981, the court entered an order in *EDF v EPA*, in response to the February 20 joint motion. The text of the court's order is set forth in the Federal Register of May 20, 1981 (46 FR 27615). The April 13 order stayed issuance of the court's mandate with respect to activities relating to PCBs in concentrations below 50 ppm. Thus, the 50 ppm regulatory cutoff remains in effect for the duration of the stay, and persons who manufacture, process, distribute in commerce, and use PCBs in concentrations less than 50 ppm may continue these activities during the stay. The order also adopted a plan for further actions by EPA and industry groups leading toward new EPA rulemaking on the regulation of PCBs in concentrations below 50 ppm. The April 13 order required EPA: (1) To publish two ANPRs on developing rules to cover PCBs in concentrations below 50 ppm;

(2) to promulgate a final rule, within eighteen months from the date of the order (i.e., October 13, 1982), with respect to exclusion of the generation of PCBs in closed and controlled waste manufacturing processes from the prohibitions of section 6(e)(3), or to explain the reasons for not proceeding with such a rule; and (3) to advise the court, within eleven months after the date of the order (i.e., March 13, 1982), of EPA's plans and schedule for further action on PCBs in concentrations below 50 ppm generated as uncontrolled PCBs.

On May 20, 1981, EPA published two ANPRs on the 50 ppm regulatory cutoff (46 FR 27617 and 46 FR 27619). The ANPRs established bifurcated rulemaking proceedings with respect to PCBs in concentrations below 50 ppm. The first ANPR announced activities that EPA believed may lead to rulemaking on PCBs generated in closed and controlled waste manufacturing processes. The second ANPR announced the framework for the Agency's exploration of the scope of the problem presented by PCBs in concentrations below 50 ppm in other than closed or controlled waste processes. In the ANPRs, EPA stated that it needed to develop a substantial factual basis to support rulemaking on these PCBs.

The comment period for both ANPRs expired on November 16 1981. Approximately 50 public comments were submitted. The most significant submission was filed by the Chemical Manufacturers Association ("CMA"), a trade association whose membership includes many of the nation's principal manufacturers of primary chemicals. As explained further below, EPA has relied on CMA's submission to a significant extent because CMA has collected the most comprehensive set of data on the generation of PCBs in concentrations below 50 ppm.

On March 11, 1982, EPA submitted, in accordance with the April 13, 1981 court order, a report to the court that contained its plans for further regulatory action on uncontrolled PCBs. In its report to the court, EPA stated that it could not adequately define its plans for regulatory action for uncontrolled PCBs until it had a reasonable estimate of the number of processes that would be subject to the rulemaking. That number cannot be determined until EPA has defined closed and controlled waste processes and determined the number of processes excluded from the provisions of section 6(e) by the closed and controlled waste process rulemaking. Therefore, EPA requested that the court allow EPA to report on its further plans for regulatory action on uncontrolled PCBs following the completion of the rulemaking on closed and controlled waste processes. EPA also requested that the court extend its stay of mandate until December 1, 1982, to allow EPA time to develop sufficiently detailed plans for regulatory action on uncontrolled PCBs after issues in this rulemaking on closed systems and controlled waste processes are resolved. On April 9, 1982, the court granted EPA's request.

III. Summary of the Available Data on Manufacture of PCBs in Low Concentrations

A. Information Provided by CMA

EPA received about 50 submissions and comments in response to the ANPR. The Chemical Manufacturers Association (CMA) submitted the most comprehensive information to EPA regarding closed and controlled waste manufacturing processes. CMA is a trade association whose membership consists of nearly 200 companies, including some of the nation's largest chemical manufacturers. CMA distributed detailed questionnaires to its membership which were designed to elicit information on the nature and extent of PCBs produced in chemical manufacturing processes in concentrations under 50 ppm. After analyzing the data supplied by its members, CMA submitted its final report, "A Report of a Survey on the Incidental Manufacturing, Processing, Distribution, and Use of Polychlorinated Biphenyls at Concentrations Below 50 PPM" to EPA. This survey represents a major portion of the data base for this rulemaking; therefore, EPA requests comments concerning the data contained in the survey.

Copies of the CMA survey are available for review in the public rulemaking record from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays, in Room E–109, EPA, 401 M St. S.W., Washington, D.C. Copies of the CMA survey, are also available for a fee, by contacting the Industry Assistance Office at (800–424–9065), in Washington, D.C. (544–1404).

CMA found that PCBs are formed in a wide variety of industrial chemical processes. The CMA survey suggests that PCBs can be generated from virtually any starting hydrocarbon structure. Indeed, PCB formation appears to be possible whenever chlorine and carbon are present in a reaction vessel at elevated temperatures. These PCBs are formed as impurities and byproducts in manufacturing processes and constitute only a very small percentage of process components.

Of 85 respondents to the CMA survey, 26 chemical firms believe that they produce 13,768 pounds of PCBs per year. These PCBs appear as impurities or byproducts in 135 chemical manufacturing processes at concentrations under 50 ppm. The respondents to the CMA survey reported that 9,086 pounds of these PCBs are incinerated, 1,789 pounds are disposed of in surface waters, 1,376 pounds are disposed of in landfills, 550 pounds are disposed of by ground injection and 275 pounds are disposed of in EPA-approved landfills. The respondents also reported that approximately 700 pounds of PCBs are contained in the products of the manufacturing processes.

CMA believes that in this country a large number of processes, perhaps as many as several thousand, may generate PCBs in concentrations under 50 ppm as impurities and byproducts in industrial chemical manufacturing processes. However, they believe that most of the pounds of PCBs produced in these low concentrations in all chemical manufacturing processes throughout the United States have been accounted for by respondents to the CMA survey. This is because CMA believes that respondents to the survey represents a very high percentage of principle chemical producers.

The respondents identified four processes in which they believe PCBs are generated and continuously destroyed in closed reaction equipment. They indicated that about 0.7 pound of PCBs are found at any one time in these four processes. The respondents also identified forty processes in which PCBs are produced and are released only as constituents of wastes which are incinerated or disposed of in an EPA-approved landfill. Approximately 6,900 pounds of PBCs are reportedly generated in these forty processes. Incineration was defined in the survey questionnaires as incineration in compliance with "applicable" regulations. This definition includes municipal incineration in compliance with local and regional regulations but not necessarily incineration in accordance with EPA's rules for disposal of materials containing PCBs at concentrations greater than 50 ppm (43 FR 7150).

B. EPA Estimates of PCB Generation in Low Concentrations

Since the 85 chemical firms who responded to the survey represents 37.0 percent of industrial chemical sales, EPA has multiplied the amount of PCBs

reported in the CMA survey (13,768 pounds) by 2.6 to obtain an estimate of the total amount of PCBs produced in concentrations under 50 ppm in all processes in the United States (i.e., 35,800 pounds). This figure is considered an upper limit because, as CMA commented, not all chemical firms manufacture chemicals from reactions; many firms conduct formulation only.

Assuming the CMA data are accurate and, as reported by CMA, 50 percent of PCBs produced in concentrations under 50 ppm are produced in processes which meet EPA's initial definitions of closed and controlled waste processes (as they appeared in the May 20, 1981 ANPR), then up to 18,000 pounds of PCBs per year could be produced in the United States in these processes.

C. Additional Data

While section 6(e) of TSCA generally bans the manufacture of PCBs, it also establishes a mechanism for permitting continued manufacture of PCBs in certain situations. This mechanism is the exemption process, whereby persons may petition the Agency for relief from the PCB ban. Approximately forty petitions for exemption from the section 6(e) ban on the manufacture of PCBs were received by EPA following the publication of the May 31, 1979 rule. Data provided in these petitions indicate that about 75,000 pounds of PCBs per year currently are generated in processes in which PCB concentrations at the point of manufacture exceed 50 ppm. In the same way that CMA classified the processes from respondents to its survey, some of these processes can be classified as processes which do not release PCBs or as processes which release PCBs only as constituents of wastes which are either incinerated or disposed of in EPA-approved landfills. By extrapolating from the CMA data covering processes with PCBs below 50 ppm to these cases (i.e. above 50 ppm), EPA estimates that as much as an additional 38,000 pounds of PCBs per year could be generated in processes where the process in considered a closed process or a controlled waste process. EPA does not believe that the percentage of closed and controlled waste processes producing over 50 ppm PCBs will be significantly different from the percentage producing below 50 ppm.

IV. Discussion of the Proposed Rule

A. Overview of the Rule

Federal courts have recognized the "de minimis" exception to legislative mandates. Although the court in *EDF v EPA* overturned portions of the Agency's PCB regulations, it nevertheless noted that administrative agencies have the power "inherent in most statutory schemes, to overlook circumstances that in context may fairly be considered de minimis." 636 F.2d 1283. Courts and agencies should be reluctant to apply a statute literally in pointless expenditure of effort, where regulation would yield a gain of trivial or no value.

In this rule, EPA is proposing to exclude from the requirements of section 6(e) the manufacture, processing, distribution in commerce, and use of PCBs created in closed manufacturing processes and controlled waste manufacturing processes, as they are defined by EPA in this proposed rule. The basis of this proposed action is that EPA has determined that these processes present de minimis risk to humans and the environment. The proposed rule also requires that the persons who qualify for this exclusion and wish to take advantage of it certify that they qualify and maintain records of the basis for their determination.

This proposal does not mean that the Agency believes that closed and controlled waste processes are necessarily the only situations which present de minimis risks. In future rulemakings, EPA will consider other types of processes which may also present de minimis risks. As discussed in "Background", EPA is developing a plan for rulemaking activities on other than closed and controlled waste processes. EPA intends to consider these other process situations and make a determination on the most appropriate regulatory approach. Regulatory options for other than closed or controlled waste processes will include excluding other de minimis risk situations identified at that time. EPA intends to submit the plan for dealing with other than closed and controlled waste processes to the court on November 1, 1982.

During the course of discussions among EPA, EDF, and industry immediately after the court's decision, closed manufacturing processes and controlled waste manufacturing processes were identified as probably presenting negligible risks. From the definitions of these process types, it logically follows that if no PCBs are released from a process or if PCBs are released only to wastes that are destroyed or otherwise properly disposed of, then the exposure and risk to humans and the environment from these processes must be extremely small and unmeasurable. There would be no benefit from regulating the processes under section 6(e) since there could be no means of determining whether any regulatory actions could actually reduce human or environmental exposure.

The practical application of this concept requires an understanding of the way chemical processes work. Chemical manufacturing processes are generally made up of a series of unit operations. Each unit operation causes chemical and/or physical changes in the material passing through the process. These changes are brought about by the chemical reactions or various types of physical manipulations that are never one hundred percent effective or complete.

In some processes which manufacture PCBs in low concentrations, virtually all the PCBs are destroyed in the process or are drawn off in a waste stream. However, there inevitably will be at least a few molecules of PCBs in every product or effluent that exits the process. Therefore, PCBs will be present in very low concentrations in products of these manufacturing processes. Since PCBs will be present in products (at very low concentrations), EPA must also address the processing, distribution in commerce, and use of these PCBs in this rulemaking.

To establish a workable definition of processes subject to this exclusion, it is necessary for EPA to define, in a practical sense, the absence of PCBs in releases to the environment from these processes. Specifically, EPA has to establish how the absence of PCBs will be defined in air emissions, water effluents, products, and wastes from closed processes; and how the absence of PCBs will be defined in air emissions, water effluents, and products from controlled waste processes. Further, it is necessary for EPA to determine appropriate methods for disposal of process wastes from controlled waste processes to insure that PCBs will not be released to the environment from disposal operations.

Therefore, after evaluating ways for determining the absence of PCBs in various releases, EPA proposes to apply this exclusion to: (1) PCBs generated in processes which have no quantifiable releases of PCBs (if EPA's specified analytical technique were used) to products, air emissions, water effluents, or process wastes (closed processes); and, (2) PCBs generated in processes which have no quantifiable releases of PCBs (if EPA's specified analytical technique were used) to products, air emissions, or water effluents, and all other PCBs are disposed of in an EPA-approved incinerator, or in an EPA-approved landfill or stored for such disposal in accordance with certain

specified criteria (controlled waste processes).

Based on the CMA data, EPA estimates that up to 56,000 pounds of PCBs per year could be exempted from the provisions and prohibitions of section 6(e) by this exclusion, and that on the order of several thousand individual processes could be permitted to operate unregulated by section 6(e). These estimates are derived from the available data on processes which meet the definitions of closed and controlled waste processes as they appeared in the May 20, 1981 ANPR. The estimates are expected to be upper limits, because this proposed rule defines closed manufacturing processes and controlled waste manufacturing processes in a more precise manner than they were defined in the May 20, 1981 ANPR (these definitions are discussed under IV.B. of this preamble). EPA is proposing to revise its definitions from those used in the ANPR because comments indicate that the previous definitions of closed and controlled waste processes were too vague and open to differing interpretations. Thus, some processes categorized by CMA as closed and controlled waste processes may not meet the definition of a closed or controlled waste process as proposed in this rule.

This exclusion would permit the future generation of larger quantities of PCBs as impurities and byproducts in closed and controlled waste processes than are currently produced. However, EPA does not believe that the promulgation of this rule will result in a dramatic increase in the production of PCBs in closed and controlled waste processes because there is no known incentive for such an increase, as PCBs are formed as impurities and byproducts in very low concentrations and are not produced as commercial products.

EPA is developing an enforcement strategy and compliance monitoring program to help to insure that only processes which qualify for this exclusion actually operate unregulated under section 6(e). In addition, EPA intends to conduct periodic audits to monitor the effectiveness of this rule. The purpose of conducting a regulatory evaluation (or audit) is to determine if the rule is accomplishing its objectives. EPA invites comments on the need for such a program.

Operators of PCB-generating processes who have determined that their processes are closed or controlled waste processes, as defined by EPA in this proposed rule, and who want to take advantage of this exclusion are also required to certify that they meet the exclusion, keep a record of the basis for the determination, and make records and data available for review by EPA upon request. EPA is not proposing in this rule to specifically require monitoring of PCB levels in releases from these processes or the submittal to EPA of data on PCB levels in releases as conditions for qualifying for the exclusion (see discussion under IV.G. of this preamble). Manufacturers have the option of conducting theoretical assessments or of actually monitoring PCB levels in releases to determine if processes qualify for exclusion. In order to qualify, manufacturers must demonstrate that PCBs would not be quantifiable in releases to other than controlled wastes if the analytical technique specified in § 761.82 were used. This technique is capillary gas chromatography coupled to an electron impact mass spectrometer (CGC/EIMS).

EPA is developing guidelines to assist manufacturers in making their determinations of whether processes are closed or controlled waste processes. The guidelines developed by EPA will address how to conduct a theoretical analysis and the needed sampling frequency and the need for representative sampling of process streams if actual monitoring of PCB levels is undertaken. In addition, these guidelines will identify the type of quality assurance and quality control procedures which should be developed as an integral part of any program which involves actual monitoring of PCB levels. EPA will follow the guidelines when enforcing this rule. EPA expects that these guidelines will be available during the public comment period for this rule, and their availability will be announced in a separate Federal Register notice.

In judging whether the proposed definitions of closed manufacturing processes and controlled waste manufacturing processes qualified as de minimis situations, EPA considered three factors: (1) The quantity of PCBs that is likely to be released to the environment from these processes; (2) the potential magnitude of exposure and the frequency of exposure to PCBs from these processes; and (3) the benefits from regulating these processes, i.e., the likely reductions in exposure to PCBs that might result if these processes were regulated under section 6(e). EPA also considered whether the exclusion of these processes presented an unreasonable risk.

The evaluation of the issues and factors described above, the basis for EPA's findings, discussions of other options considered by EPA, and EPA's formal conclusion that these processes, as defined by EPA, pose de minimis risks to public health and the environment follow.

B. Closed and Controlled Waste Processes—Definitional Issues

1. *Defining the absence of PCBs in products, wastes, emissions and effluents.* There are two general approaches the Agency could take to specify how the absence of PCBs is to be determined in air emissions, water effluents, products, and wastes.

First, EPA could select a regulatory cutoff for air emissions, water effluents, products, and wastes at a level where it believes PCBs cannot be practically detected at any lower concentrations. Under this approach, industry would be responsible for selecting analytical methods capable of detecting PCBs at the Agency's selected cutoffs. EPA might give some guidance to industry regarding analytical procedures.

Second, EPA could specify the analytical methods and procedures to be used to determine the absence of PCBs. If PCBs were absent from all releases to air, water, and products (and wastes for closed processes), using EPA's methods and procedures, the process would be eligible for exclusion. Under this approach, EPA could give some general guidance concerning the PCB concentrations it expects its procedures to be capable of detecting.

EPA is proposing the second approach, that of establishing an analytical technique. EPA chose this approach for several reasons. The Agency believes that the choice of analytical methods is one of the major sources of variability when attempting to detect PCBs. During the fall of 1981, CMA conducted a round robin experiment in which five different samples of material from processes which manufacture PCBs as a byproduct were analyzed by eight different laboratories using a total of ten different analytical methods. The round robin experiment shows considerable variability in the results obtained by the ten different methods. EPA believes that specifying the analytical technique will eliminate one of the sources of this variability.

EPA also believes that specifying a method is preferable to specifying a cutoff because the difficulty of analyzing products and wastes will vary considerably among processes. If EPA specified a numerical cutoff, some companies would be able to easily detect PCBs in their process streams below the cutoff, and other companies might have extreme difficulty detecting PCBs at the cutoff. In this regard, a numerical cutoff could be considered

arbitrary. Specifying an analytical procedure mitigates this problem.

The analytical system most often used to monitor PCBs includes a gas chromatograph with a suitable detector. The detector response is converted to an electrical signal which is recorded on a strip chart, and the quantity of material present can be determined by measuring the area under the curve on the strip chart. When only the carrier gas is passing the detector, the detector generates a small, slightly variable, electrical signal, referred to as "background" or "noise." Detecting and confirming the presence of PCBs depends on the analyst's ability to measure an increase in the recorded electrical signal above this noise.

The lowest concentration of a substance that an analytical process can detect is referred to as the limit of detection (LOD). A commonly used standard is that an LOD should be based on a ratio of at least three between the average magnitude of the electrical signal from the sample and the standard deviation of the electrical signal from the background. This is called the signal-to-noise ratio.

The lowest concentration of a substance that an analytical process can reproducibly quantify with a calculated level of precision is referred to as the limit of quantification (LOQ). A commonly used standard is that an LOQ should be based on a signal-to-noise ratio of at least ten.

At concentrations near the LOD, it is possible to detect that some chemical compound that might be a PCB is present, but it may be impossible to confirm its identity. False negatives and false positives are common. A PCB concentration at or near the LOQ may be needed to confirm the identity of the chlorinated biphenyl. For this reason, EPA proposes that the absence of PCBs be defined as a concentration of PCBs less than the LOQ for the proposed analytical methods. This establishes an easily enforceable condition for judging eligibility as a closed or controlled waste process.

EPA is faced with the problem of deciding the level of sophistication that should be used an analytical techniques. As more sophistication is required for measuring PCBs in very low concentrations, the cost of analysis increases and the availability of facilities and equipment to conduct analyses decreases. Because determining the absence of PCBs in products, air releases, and water releases is critical under this exclusion, the analytical methods selected and referenced by EPA for quantifying PCBs in these media need to be readily available, have a cost that is reasonable relative to the environmental risks of PCB exposures, result in sufficiently reproducible data, and have adequate sensitivity.

EPA considered a number of techniques for extraction, cleanup, and determination of PCBs in samples. The analysis is extensive and is therefore not reproduced here. It is contained in the support document, "Methods of Analysis for Incidentally Generated PCBs-Literature Review and Preliminary Recommendations," which is available for review and comment.

The proposed method, outlined in § 761.82 and described in "Methods of Analysis for Incidentally Generated PCBs-Literature Review and Preliminary Recommendations," does not use specific extraction protocols or cleanup techniques, but rather, allows the individual laboratory to develop the necessary procedures. This is because these procedures are media dependent. EPA is, however, specifying the method of analysis it will use in enforcing this exclusion. The method specified by EPA is capillary gas chromatography coupled to an electron impact mass spectrometer (CGC/EIMS). CGC/EIMS systems are readily available. CGC/EIMS is cost-effective for multimedia analysis since separation and cleanup procedures for each media will ultimately provide an extract compatible with CGC/EIMS systems. While the reproducibility of the specified method remains to be documented for PCBs, available data from the analysis of other compounds suggests that this method does provide reproducible data. Further, CGC/EIMS does provide confirmatory evidence for PCBs, if present, at a moderate cost, and at an acceptable level of sensitivity (see below). EPA expects the method to supply reliable data of known quality if users implement an appropriate and documented quality assurance program.

The sensitivity of the EPA specified method has been estimated by EPA and is discussed below. The class of PCBs is made up of 209 individual chemical compounds, individually referred to as chlorinated biphenyls. Using EPA's referenced method, each separate resolvable peak or a gas chromatograph may represent a single chlorinated biphenyl, or it may represent all of a group of chlorinated biphenyls.

CGC/EIMS is capable of quantifying PCBs at the level of ten nanograms per resolvable gas chromatographic peak (see support document, "Rationale for Estimate of Level of Quantitation for GC/MS" for discussion). Per peak, this level roughly corresponds to an average of 1–10 micrograms per cubic meter for ten cubic meters of stack gas, 10–100 micrograms per liter for one liter of waste water, and 10–100 micrograms per 100 grams (0.1–1 ppm) in a 100 gram organic process or product stream.

The total amount of unquantified PCBs which could be released from a process will vary, depending on the number of specific isomers present in a particular sample. For example, if a product contains ten different isomers, present at concentrations slightly below 1 ppm, up to 10 ppm PCBs could be released in this product, and yet be unquantifiable by EPA's specified method. Similarly, if a product contains 70 isomers at concentrations slightly below 1 ppm, up to 70 ppm PCBs could be released in this product. EPA does not anticipate that samples will frequently contain greater than 70 isomers. Rather, EPA expects that in most cases samples will contain considerably less than 70 isomers.

EPA has considered other detection systems such as electron capture detectors (ECD) and negative ion chemical ionization mass spectrometry (NICIMS). ECD was found to be very sensitive, readily available and of moderate cost. It is, however, inappropriate because it does not provide confirmatory evidence that the residues detected are PCBs, and not other halogenated organics that are likely to be present in many samples. NICIMS was found to provide confirmatory evidence, but it is inappropriate due to high cost and limited availability.

EPA believes that its approach to analyzing for PCBs satisfies all the requirements of an acceptable method. EPA requests comments on this proposed approach, especially in the areas of confirmability, sensitivity, cost, and availability.

2. *Other options considered by EPA for defining the absence of PCBs in emissions, effluents, products and wastes.* (i) "No quantifiable" PCBs. EPA also considered defining the absence of PCBs as no quantifiable PCBs in air releases, water releases, products, or wastes using any available analytical technique. This option was not selected principally because of the uncertainty it would cause in the regulated community and problems in assuring compliance. In the absence of specified analytical procedures or specific numerical limits, a requirement for "no quantifiable PCBs" in air releases, water releases, products, and wastes would result in the use of many different procedures with vastly different quantification limits. This is particularly true for products and waste streams where the difficulty of analysis varies more than in the case for

air or water. In addition, state-of-the-art limits of quantification for PCBs will change over time with technological innovation; thus, a floating limit would occur. All of these factors would hinder uniform implementation and enforcement of the rule.

(ii) Not specifically excluding closed manufacturing processes. EPA considered excluding closed processes only if all process wastes were incinerated, disposed of in an EPA-approved landfill, or stored for later incineration or landfilling. The reason EPA considered this alternative is that it has been suggested that it may be particularly difficult to identify universally applicable analytical methods for waste streams.

The CMA survey indicates that only about 3 percent of the processes identified by its members were closed processes. Consequently, EPA believes that if this approach were taken, no more than a few hundred individual processes would be affected nationwide.

This option was not selected because EPA concluded that reasonable analytical procedures for detecting PCBs in waste streams could be established and that manufacturers utilizing closed processes should be able to benefit from the exclusion without having to incinerate or landfill wastes possibly containing no PCBs.

EPA requests comments on the alternatives presented in this section and any other alternatives that may be appropriate. EPA specifically invites comments and data on the extent to which this proposal will affect persons involved in the manufacture, processing, distribution in commerce, and use of PCBs. EPA is particularly interested in receiving comments on the approach selected, i.e., to specify analytical techniques for quantifying PCBs in process streams.

3. *Determining appropriate methods for disposal.* The May 20, 1981 ANPR defines acceptable methods of handling wastes from controlled waste processes as incineration, disposal in EPA-approved chemical waste landfills, and storage for such incineration or landfilling. An EPA-approved chemical waste landfill is a facility approved under § 761.75. However, EPA did not specifically define "incineration" or "storage for incineration or landfilling." After further consideration, EPA believes that additional clarification of the acceptable methods of disposal is needed under the definition of a controlled waste manufacturing process.

Certain methods that may meet the general definitions of "incineration" and "storage for incineration or landfilling" could result in releases of PCBs to the environment. Since EPA is proposing to exclude controlled waste manufacturing processes from the provisions of section 6(e) based on the de minimis risk principle, EPA must be reasonably confident that the wastes from controlled waste processes are disposed of in a manner which will result in negligible environmental contamination. Therefore, EPA is proposing to specify acceptable methods of disposal for wastes from controlled waste processes.

EPA is proposing that eligibility for exclusion as a controlled waste process requires incineration by a facility approved under § 761.70, landfilling in a landfill approved under § 761.75, or storage for incineration or landfilling in compliance with the criteria specified in § 761.65(b)(1).

The criteria specified in § 761.70 require that the incinerator used for destruction of PCBs be approved by the EPA Regional Administrator and that it meet certain standards related to efficient combustion. Incineration in compliance with these standards has been shown by extremely sensitive tests to result in essentially no release of PCBs to the atmosphere.

The criteria specified in § 761.65(b)(1) for the storage of PCBs require that storage facilities meet standards including adequate flooring with continuous curbing, no drain valves or floor openings, and construction of floors and curbing with impervious materials.

EPA already has in effect a Disposal and Marking Rule (43 FR 7150), which requires PCBs in concentrations over 50 ppm to be disposed of in accordance with the criteria prescribed under §§ 761.70, 761.75, and 761.65. These are the same disposal criteria being proposed for controlled waste processes. Consequently, this proposal of requiring stricter criteria for disposal of wastes than was implied in the definition of controlled waste process in the ANPR will effect only persons using processes which release PCBs to waste streams at concentrations between the limit of quantification and 50 ppm.

EPA invites comments and data on the extent to which this proposal or alternate requirements for incineration, landfilling, and storage will affect persons involved in the manufacture, processing, distribution in commerce and use of PCBs.

C. The Likely Magnitude of Releases of PCBS and Exposure To PCBs From Closed and Controlled Waste Processes

1. *Routine operations.* As discussed earlier, CMA speculates that many processes may meet the definitions of closed and controlled waste processes as they appeared in the May 20, 1981 ANPR. An upper estimate from CMA data and CMA and EPA assumptions about the data (see unit III) suggests that up to 56,000 pounds of PCBs per year could be generated in these processes.

In this rule, EPA is proposing to define closed and controlled waste processes by specifying the absence of PCBs in releases and specifying appropriate methods of disposal. Therefore, EPA anticipates that fewer processes may actually qualify for exclusion than was suggested by EPA calculations based on the CMA data and extrapolations from those data to the entire chemical industry. EPA anticipates that, based on current production, less than 56,000 pounds of PCBs per year would actually be excluded from the provisions of section 6(e) under this proposed exclusion.

It is theoretically impossible to preclude the release of some PCBs from manufacturing processes in which PCBs are generated. Therefore, extremely small quanitites of PCBs will be released from closed and controlled waste processes to the environment, as free PCBs, contained in air emissions, water effluents, wastes, and products. Actual environmental releases from products are expected to be even less, since the PCBs in many products are bound in solid matrices (i.e., paints and polymers). Although wastes from controlled waste processes will contain higher levels of PCBs, the proposed requirements for handling these wastes will prevent significant releases to the environment.

Workers may be exposed to PCBs that are produced in closed and controlled waste manufacturing processes through a variety of activities involving manufacture, processing, distribution in commerce, and use. Exposures may occur through: (1) Direct handling of products, wastes, or other materials containing low level PCBs, (2) handling of containers for these materials, (3) maintenance of equipment, and (4) handling of laboratory samples containing PCBs.

EPA evaluated occupational exposure to PCBs by first identifying six generic activities which are likely to occur during routine operations in chemical manufacturing plants, and then calculating the anticipated exposure to PCBs from these activities. These activities are: (1) The sampling of process streams, (2) the cleaning of reactors, (3) removing spent filters, (4) repairing equipment, (5) removing still bottoms, and (6) handling, storage and loading of products. EPA anticipates that the handling, storage and loading of

products in a continuous operation will result in the lowest levels of exposure, while cleaning reactors in a batch operation will result in the highest levels of exposure (see support document entitled "Occupational Exposure to Inadvertently Produced PCBs" for more details).

Industry representatives have commented that the chemical industry employs proper protective clothing and good management practices to protect workers from exposure to process components. Safety glasses, gloves, and long-sleeved shirts were reported as being generally used when contact with a toxic or corrosive chemical may occur. In addition, comments were received that indicated that additional protection, including splash goggles, shields, gloves, and protective outer clothing is usually required during waste handling operations. EPA has concluded that exposure levels during routine operations are not expected to result in significant exposure because of measures already instituted in the industry to reduce exposures.

EPA specifically requests additional comments on exposure to PCBs, particularly the degree of absorption of PCBs that might occur during routine operations in chemical manufacturing plants.

2. *Accidental and unplanned releases.* Accidental releases may occur when pipes, lines, or hoses rupture. Unintentional spills can occur during the transfer and transport of products and wastes. These unplanned events may expose unprotected workers, the general public, and fish and wildlife to higher PCB levels than routinely occur during normal plant operations. EPA has little information from industry indicating the frequency of unplanned events, and the likely releases during these events. However, industry representatives have contended that scheduled maintenance activities and process engineering and design considerations minimize the potential for accidental releases. Comments indicated that it is in the best interest of companies to work to minimize the loss of process components from accidental releases, because large or frequent accidental releases would seriously harm production and profitability. EPA's independent exposure assessment confirms this, as major accidents (resulting in large releases or process componets) are expected to be rare (on the order of once every sixty years per facility).

EPA requests comments and data on: (1) The types of accidental releases that might occur and their frequency, (2) the likelihood of releases of PCBs to the environment from such accidents, and (3) measures being taken by industry to prevent accidents or to control releases and exposures when accidents do occur.

D. Conclusion: Processes Covered by This Rule Present de Minimis Risks

TSCA section 6(e) specifically bans the manufacture, processing, distribution in commerce, and use of PCBs in other than a totally enclosed manner. The adverse effects of PCBs were described in considerable detail in various documents which were part of the rulemaking record for the May 31, 1979 rule. While substantial comments have been submitted to EPA rebutting the conclusions made with respect to the toxicity of PCBs, the Agency does not agree that this information proves that PCBs do not pose any serious risks to human health or the environment. EPA believes however, that the risks posed from exposure to PCBs are reduced as exposure to PCBs is reduced; and, that an unmeasurable level of exposure to PCBs can be considered to pose de minimis risks to public health and the environment.

To be eligible for exclusion from the provisions of section 6(e), processes must meet EPA's definitions of closed or controlled waste manufacturing processes. This means that releases of PCBs in products, air emissions, and water emissions are not quantifiable if EPA's specified analytical technique were used. For closed manufacturing processes, releases of PCBs in wastes also must not be quantifiable by EPA's specified analytical technique. EPA also is proposing to require wastes from controlled waste processes to be disposed of by incineration in a facility approved under § 761.70; landfilling in a landfill approved under § 761.75; or stored for incineration or landfilling in compliance with the standards and requirements prescribed in § 761.65(b)(1).

Precluding releases of PCBs above the limits of quantification will insure that only negligible releases of PCBs occur. Further, disposal of wastes in compliance with the above standards will prevent the release of PCBs in anything but negligible quantities. EPA does not believe that any significant harm will result from releases of PCBs to the environment or exposure to humans at unmeasurable levels. Since the releases are not measurable by reasonably available methods, it would be impossible to determine whether regulation had any effect on reducing the releases. Also, EPA does not know of any reasonable way to regulate releases of PCBs below measurable levels in order to reduce the releases further. Consequently, there would be no gain in protecting the environment or public health by attempting to regulate unmeasurable levels. Finally, EPA's upper estimate of the amount of PCBs which currently would be excluded from the prohibitions and requirements of section 6(e) by this exclusion is 56,000 pounds of PCBs per year. Of the tiny fraction of these PCBs that are not destroyed in the process or handled as a controlled waste, some will be bound in products, further limiting the actual quantity of free PCBS that are likely to enter the environment. Although this proposed rule would not prevent these amounts from increasing, EPA is not aware of any reason why these quantities should increase significantly. It is possible that some companies may institute engineering modifications to their processes to qualify for the exclusion. This would, however, benefit public health by reducing overall releases of PCBs to the environment. The amount of PCBs expected to be released annually from these excluded processes is only a tiny fraction of the extimated 150,000,000 pounds of PCBs that currently exist in the environment as free PCBs.

Therefore, EPA finds that if releases of PCBs from closed and controlled wastes processes (excluding controlled wastes) are unquantifiable by EPA's specified analytical techniques, and controlled wastes are disposed of as specified by EPA, then these processes represent de minimis risk situations and should not be subject to the prohibitions and other provisions of section 6(e).

E. Determination of No Unreasonable Risk

EPA has concluded that there would be no measurable benefits to public health or the environment by regulating closed and controlled waste processes (as defined in this rule) under section 6(e) of TSCA. Therefore, as previously noted, these processes are eligible for exclusion under the de minimis principle. Nonetheless, the Agency has also considered whether closed and controlled waste processes present an unreasonable risk to human health or the environment. To determine whether a risk is unreasonable, EPA balances the probability that harm will occur from the activity against the adverse effect on society from regulation. In making a determination of whether an unreasonable risk is present from these processes, EPA considered the following factors:

1. The effects of PCBs on human health and the environment.

2. The magnitude of PCB exposure to humans and the environment.

3. The benefits from products containing PCBs, the availability of substitutes, and the ability to prevent the formation of PCBs.

4. The economic impact resulting from the rule upon the national economy, small business, technological innovation, the environment, and public health.

After considering all available information, within the context of the factors listed above, EPA finds that excluding closed and controlled waste processes presents no unreasonable risk to human health or the environment. This finding is based on the reasons discussed below.

1. *Health and environmental effects and exposure to PCBs.* EPA has determined that exposure to PCBs from closed and controlled waste processes is so low as to be reasonably unquantifiable. Since the risks posed from exposure to PCBs decrease as levels of exposure decrease, EPA believes that exposure to PCBs at nonquantifiable levels from closed and controlled waste processes poses de minimis risks to public health and the environment.

2. *Benefits of products generated in closed and controlled waste processes, the availability of substitutes, and economic impacts.* If the ban on all manufacturing, processing, distribution in commerce, and use of PCBs was made effective for all closed and controlled waste processes, there could be a major disruption of the chemical industry and several other industries in the United States. Since there could be a large number of controlled waste processes, an immediate ban could cost billions of dollars. An immediate ban could disrupt the manufacture of a wide variety of products including paints, varnishes, enamels, agricultural chemicals, adhesives and sealants, printing ink, plastic materials, drugs, and soaps and cosmetics. Such products have great societal value, and a ban of this nature would create great hardship for the public and industry due to the unavailability of these products and would have a severe economic impact. Should such processes by subject to the section 6(e) ban, all manufacturers utilizing closed and controlled waste manufacturing processes which generate PCBs as byproducts would be required to conform with the prohibitions and requirements of section 6(e). Industry has commented that, in general, substitutes are not available for products contaminated with low level PCBs at the same or equivalent costs as PCB contaminated products, and that processes cannot be modified to prevent the formation of any PCBs. CMA has commented that research programs to study ways to reduce incidental PCB formation are very costly and have met with limited success. CMA provided an example of a process adjusted to reduce formation of PCBs to below 50 ppm, and estimated that the cost of this project was on the order of $800,000.

Although TSCA does provide a mechanism for obtaining relief from the total ban of PCBs, industry has commented that the statutory process for obtaining an exemption is unworkable for the many operations that manufacture, process, or distribute in commerce PCBs in low concentrations. Since TSCA requires a company to obtain an annual exemption, industry representatives indicated that the uncertainty associated with knowing whether they would be able to continue operations and the large cost of submitting petitions each year would be a burden. A quick survey of companies which filed exemptions with EPA in the past showed that the annual costs of developing the information required by an exemption petition plus the cost of filing the petition may cost between $16,000 and $126,000 per process. Although EPA does not know precisely how many processes meet the definition of closed and controlled waste processes, if 500 processes were eligible, the avoided cost of submitting petitions for exemption could range from $8 million to $63 million per year. These estimates will vary depending upon the actual number of processes eligible for the exclusion. Administering exemption petitions for closed and controlled waste processes could require extensive EPA resources.

This rule has no significant negative economic impact since it imposes no additional burdens but rather, avoids some of the burdens imposed on industry by the prohibitions of section 6(e). As discussed earlier, EPA is proposing in this rule to require manufacturers who operate closed and controlled waste manufacturing processes and who desire exclusion to certify that their processes are closed or controlled waste processes. EPA is proposing to give manufacturers the option of conducting a theoretical analysis to demonstrate that PCBs would not be quantifiable by EPA's specified technique in releases other than to controlled wastes, or of actually monitoring releases for PCB levels. EPA estimates the cost of certification without actual monitoring of PCB levels in releases to be on the order of $84.00 per process per year. EPA estimates the cost of conducting a theoretical analysis to be on the order of $800 per process. If actual monitoring of PCB levels is undertaken, using the EPA-specified method, EPA estimates the costs of monitoring to range between $200 and $2,000 per sample. Total costs per process range from $1,200 to $72,000, depending on the frequency of sampling and the actual costs of testing (see support document entitled "Cost Analysis for the Proposal to Exclude Closed and Controlled Waste Processes from the PCB Ban" for details). This exclusion substantially reduces the cost to industry associated with the expense and problems of annually developing, analyzing, and preparing petitions for exemption from the section 6(c) ban and the cost of EPA of processing these petitions.

F. Relationship of the Proposed Rule To Other PCB Rules

1. *Disposal and marking rule.* The Disposal and Marking Rule, published in the **Federal Register** of February 17, 1978 (43 FR 7150), as Part 761 of Title 40 of the Code of Federal Regulations, requires that when PCBs and PCB Items are removed from service, disposal be in accordance with specific criteria. Briefly, PCBs in concentrations below 50 ppm are not required to be disposed of in any special manner; liquid PCBs in concentrations between 50 ppm and 500 ppm are required to be disposed of in an incinerator which complies with certain standards, or in a chemical waste landfill or in a high efficiency boiler; non-liquid PCBs are required to be disposed of in an incinerator which complies with certain standards or in a chemical waste landfill; and liquid PCBs in concentrations at or above 500 ppm are required to be disposed of in an incinerator which complies with certain standards.

This proposed rule has no effect on the existing marking and disposal regulations. It simply excludes PCBs generated in controlled waste manufacturing processes from the section 6(e) ban when all PCBs generated are handled in ways prescribed under the existing disposal rule.

2. *Regulatory exclusion at 50 ppm.* The PCB Manufacturing, Processing, Distribution in Commerce, and Use Prohibition rule, published in the **Federal Register** of May 31, 1979, (44 FR 31514), as Part 761 of Title 40 of the Code of Federal Regulations basically prohibited the manufacture, processing, distribution in commerce and use of PCBs in concentrations above 50 ppm in other than a totally enclosed manner. As discussed under the Background unit in this preamble, this exclusion of PCBs in

concentrations below 50 ppm was successfully challenged by the Environmental Defense Fund. The court granted a stay of mandate with respect to the 50 ppm cutoff, and persons manufacturing, processing, distributing in commerce and using PCBs in concentrations below 50 ppm were permitted to continue these activities. The initial stay of mandate was scheduled to expire on October 13, 1982. However, in its report to the court on uncontrolled PCBs, EPA requested an extension of this stay of mandate until December 1, 1982. Prior to that time, EPA intends to submit a plan to the court for rulemaking on uncontrolled PCBs. EPA anticipates that its plan will include a schedule for rulemaking for uncontrolled PCBs and a request for an additional extension of the stay of mandate until the rulmaking is completed.

G. Determining Eligibility for Exclusion

Persons producing PCBs as impurities or byproducts in manufacturing processes need a means of determining whether they are eligible for this exclusion. Further, EPA is naturally concerned that only processes which meet the proposed definitions of closed or controlled waste processes are permitted to operate unregulated under section 6(e).

To accomplish these objectives EPA is proposing an amendment to Subpart J which would require that persons who produce PCBs and who consider themselves eligible for the exclusion certify that their processes meet EPA's definition of a closed or controlled waste process, i.e., PCBs are not quantifiable in releases from these processes (in other than controlled wastes) by the EPA-specified analytical technique. They would be required to develop and maintain records on the basis for their certification. Manufacturers are given the option of developing a theoretical assessment which demonstrates this, or of actually monitoring PCB levels to support certification. If actual monitoring is undertaken, those persons are required to maintain a record of any analytical data that they obtain on PCB levels in the processes or in releases from their processes. If monitoring is elected, this proposed rule does not require that the EPA-specified method be used. Any technique can be used, but the standard that must be met is still that PCBs are not quantifiable in releases (except in controlled wastes) if the EPA-specified technique were used. This section specifies the format for such a self-certification and the recordkeeping necessary to support this certification. The primary purposes of this self-certification program are (1) for persons to determine if the rule is applicable to them and (2) to aid EPA in monitoring compliance. This approach would provide reasonable assurance that only processes which actually meet the definitions for exclusion operate unregulated under section 6(e). By being able to self-certify, industry avoids the costs of petitioning for exemptions under section 6(e).

The self-certification process begins with compiling data to show that a process meets EPA's definition for exclusion. This may include actual monitoring of PCB levels in releases, or it may consist solely of preparing information for use in a theoretical assessment. EPA considered establishing rigid requirements for the type of data needed to support a manufacturer's determination that a process is closed or controlled waste manufacturing process. EPA considered requiring monitoring of releases from processes to air, water, products, and wastes (of closed processes). EPA evaluated the feasibility of specifying the frequency of sampling and places for sampling in manufacturing facilities.

EPA determined that it was not feasible to develop and propose a detailed monitoring program of broad applicability because of the extreme variability among processes and manufacturing facilities. Rather, EPA is proposing to allow manufacturers to select either theoretical assessments or actual monitoring of PCB levels to support certification. EPA intends to develop guidelines to assist persons in the evaluation of manufacturing processes for eligibility under the closed and controlled waste process exclusion. These guidelines will identify processes likely to produce PCBs and specify the types and nature of data that would be considered acceptable to support a determination that a process is closed or controlled waste process. These guidelines will address how to prepare a theoretical assessment, as well as how to conduct actual monitoring of PCB levels in releases. In addition, these guidelines will describe the type of quality assurance and quality control procedures which should be developed as an integral part of any program which involves actual monitoring of PCB levels.

A determination that PCBs are absent by actual monitoring of PCB levels must take into account that statistical variability in analytical results which will always occur. Recognizing that there will be variation results of a series of samples taken from a particular stream, EPA will attempt to develop a sampling procedure that uses a sequential sampling scheme.

This approach should result in a considerable savings over standard statistical sampling methods without adding to the risks of making incorrect decisions. Sequential sampling is a procedure where, unlike other statistical methods, the sample size is not fixed in advance. The sequential sampling procedure indicates, after every sample or group of samples is analyzed, whether sufficient samples have been gathered to make a decision or whether additional samples are needed. On the average, fewer samples are required for this procedure than with other methods. The sequential sampling scheme used by EPA will insure that the decision that the level of PCB concentration exceeds a quantifiable level will be incorrect for approximately 5 percent of the streams sampled (95 percent confidence level). EPA believes that a high level of confidence is desirable to insure that incorrect decisions that a process should be excluded from the ban will occur infrequently. EPA specifically requests comments on the appropriateness of a 95 percent confidence level for this decision.

The guidelines developed by EPA can be used as reference tools by manufacturers when they evaluate their processes to determine if they are eligible for exclusion. They will be used by EPA in monitoring compliance with this rule. EPA expects that the guidelines will be available during the public comment period to this rule. EPA intends to announce their availability through a **Federal Register** notice.

EPA considered requiring reporting data to the Agency on a semi-annual or an annual basis. EPA also considered requiring reporting one time with re-certification being required upon significant process changes. EPA is proposing that no reporting be required. With no requirement to report to EPA that certain processes qualify for exclusion, some processes may be mislabeled as qualifying for the exclusion when in reality the manufacturer should be petitioning for an exemption. To help reduce the likelihood of this occuring, EPA is developing an enforcement strategy. EPA's enforcement strategy will include identifying processes which are likely to generate PCBs as impurities and byproducts. EPA intends to use the petitions for exemption, among other sources of information, to identify generic processes which are likely to generate PCBs. This information would accompany the analytical guidance to

be distributed for this rule. After developing the enforcement strategy, EPA will then determine if companies manufacturing similar products have petitioned for exemptions. If petitions have not been submitted by particular manufacturers, EPA will examine company records of persons who claim their processes are closed or controlled waste processes. Through these means, EPA believes it can effectively assure that the exclusion is not being abused.

With the proposed approach, manufacturers would identify processes which they believe generate PCBs as impurities or byproducts, determine if the processes are closed processes or controlled waste processes, and place data and records of their determinations in records at the facility. Should manufacturers periodically undertake monitoring of PCB levels in processes or in releases from the processes, these data would also be retained. EPA is proposing to require that such records be maintained for seven years, or for at least three years after the particular process being used at the facility ceases operations, whichever is shorter. Further, EPA is proposing to require that processes be reevaluated and that a new certification be filed upon significant process changes that invalidate the previous certification. A significant process change is one which is likely to change the concentration of PCBs in releases from the processes (except in controlled wastes).

In addition, EPA intends to develop and conduct an audit program to monitor the effectiveness of this rule. The purpose of this program is to determine if the rule has accomplished its objectives, and to identify potential areas where revisions or modifications are needed.

Other alternatives that EPA considered but rejected are discussed below.

1. *Certification by EPA.* Under this alternative, every company desiring to classify a process as a closed or controlled waste process would be required to submit theoretical or analytical data to EPA with a request for certification as a closed or controlled waste process. After EPA reviewed the submitted data and the request, it would send the company a determination of eligibility for exclusion from the requirements of section 6(e) under the closed and controlled waste process exclusion. This approach would be very costly and burdensome to industry and EPA. It would require the development of data and submittal of data to EPA from everyone in the chemical industry and other industries who generate PCBs to prove that they are closed or controlled waste processes (or petition for exemption). It would require EPA to expend substantial resources reviewing the applications for exclusion. By setting up such an annual certification procedure, in effect industry and EPA would be subject to monitoring, reporting, and reviewing requirements similar to those incurred under the regular exemption process. One of the main reasons for this rule is to relieve manufacturers and processors of the burdens imposed by an exemption process when the potential exposure to PCBs from their processes is very low. However, this approach would probably provide the greatest assurance that only companies that are truly eligible for the exclusion operate unregulated under section 6(e).

2. *No documentation.* EPA also considered not requiring recordkeeping by manufacturers utilizing what they consider to be closed or controlled waste manufacturing processes. Under this alternative, manufacturers would not be required to maintain any records of their determinations that processes operating at their facilities were closed or controlled waste manufacturing processes. This alternative eliminates the costs and burdens associated with documenting determinations that processes are closed or controlled waste processes.

Clearly, with no requirement to document determinations that certain processes qualify for exclusion, many processes may be automatically labeled as closed or controlled waste processes and operate unregulated under section 6(e). Further, a large amount of resources would have to be expended by EPA to verify manufacturers claims that processes generating PCBs without specific exemptions are closed or controlled waste processes. This is because in many cases EPA would have to develop a verification strategy tailored to individual processes, and there would be no records for EPA to review to determine how the company concluded that it was eligible for the exclusion. It would be extremely difficult for EPA to identify anyone but the most flagrant violators. It is very likely that companies would not spend much effort to ensure that they actually met the criteria for exclusion since the likelihood of being identified as not complying with the rule would be very small.

H. Discussion of Analytical Method For Detecting PCBs

Section 761.82 designates capillary gas chromatography coupled to an electron impact mass spectrometer (CGC/EIMS) as the EPA specified analytical technique for quantifying PCBs in air emissions, water effluents and product/process streams. CGC/EIMS is the analytical technique specified under the definitions of closed manufacturing process and controlled waste manufacturing process. To qualify for the closed and controlled waste process exclusion, PCBs must not be quantifiable by this technique in releases to air, water, and products (and wastes from closed processes). Although actual monitoring of releases is not required as a condition for exclusion (theoretical analyses are acceptable), and this method is not required if monitoring is elected, if actual monitoring is undertaken, manufacturers may wish to use the method specified in § 761.82 to insure that they are in compliance with the rule. EPA will use this technique in conjunction with the yet to be published guidelines to determine whether processes are closed or controlled waste processes.

1. *Chemical analytical methodology.* True confirmation of chlorinated biphenyls (PCBs) in specimens which may contain other chlorinated aromatic compounds can reliably be accomplished by capillary gas chromatography (CGC) coupled to mass spectrometry (MS). In order to obtain the selectivity to use this analytical technique, specific separation, extraction, and cleanup steps are a necessary part of the chemical analysis process. There are many analytical procedures for separation, extraction, cleanup, and detection which can successfully be used to indicate the presence of PCBs. These methods are useful in identifying the presence of materials which may require the confirmatory analysis outlined in § 761.82. For enforcement purposes EPA will use the analytical approach described in § 761.82.

2. *Quality assurance plan for measurement of incidentally generated chlorinated biphenyls (PCBs).* An integral part of CGC/EIMS analysis is the quality assurance program (QAP). QAPs insure the integrity of the data produced.

A QAP includes the following: (1) History and disposition of samples, (2) sampling and sample collection procedures and (3) extraction and instrumental analysis procedures. A QAP documents how a laboratory intends to demonstrate its capability to produce data of acceptable quality. A QAP is essential for establishing the validity of the analytical data generated. For enforcement purposes EPA will use CGC/EIMS in conjunction with a QAP

to verify the accuracy of the data generated.

3. *Guidelines.* The guidelines EPA is developing will include guidance on: (1) Sample collection and homogenization of the sample, (2) addition of surrogate compounds to the sample, (3) extraction and cleanup, (4) concentration or dilution of the extract, (5) analysis of the final extract, (6) reporting the results of the chemical analysis as specific PCB isomers or total PCBs, and (7) developing a QAP. Sample collection should be representative of the process to be characterized. Increased variation in the components of the process will increase the necessity to sample more frequently or to composite samples taken concurrently from several locations. The samples will then pass through a decision tree where pertinent procedures in the analytical method will be selected, based on the nature of a specific sample. As an example, for the homogenization step, aqueous samples free of suspended or settled solids would pass on to the extraction step. Aqueous samples with suspended matter would be stirred during subsampling and extraction. Aqueous samples with settled material, which could not be stirred into a suspension, would require pulverization of the solids and then could be treated as the aqueous sample which contained suspended matter. In the guidelines, other portions of the decision tree will be described for non-aqueous samples and for the other steps in analyzing for PCBs.

V. Summary of Issues

EPA specifically requests comments, data, and information relevant to:

1. The data presented in the CMA survey.

2. The appropriateness of excluding closed and controlled waste processes from the section 6(e) ban including EPA's rationale that closed and controlled waste processes pose de minimis risks to public health and the environment; and that the benefits of allowing these processes to be excluded outweigh the de minimis risks posed.

3. The need to specify criteria for determining the absence of PCBs in products, air emissions, water discharges, and wastes to define adequately processes subject to the exclusion; the desirability of one criterion for all releases or separate criteria for air, water releases, products, and wastes of closed processes; the suitability of the proposed analytical method for purposes of judging whether a process should be eligible for the exclusion. In particular, EPA seeks information relating to the effect that the proposed method would have on persons involved in the manufacture, processing, distribution in commerce and use of PCBs.

4. The appropriateness of using limits of quantification versus limits of detection for defining the absence of PCBs in releases from processes.

5. The appropriateness of requiring controlled wastes to be sent to facilities in compliance with standards in §§ 761.70, 761.75, and 761.65. In particular, EPA seeks information relating to the effect that this requirement would have on persons disposing of waste from controlled waste processes, and on the environmental/health risks of not disposing of PCBs in this manner.

6. The need for a program whereby manufacturers demonstrate that their processes do qualify for exclusion; the desirability of a self-certification program versus one where the manufacturers report to EPA and the Agency determines whether they qualify. In particular, EPA seeks information relating to the effect that self-certification or other programs would have on persons who inadvertently manufacture PCBs, and on the problems or risks associated with not requiring certification and recordkeeping.

7. The suitability of allowing manufacturers to use best theoretical analyses in lieu of actual monitoring of PCB levels. In particular, EPA seeks information relating to the effect that requiring monitoring data or theoretical analyses would have on persons inadvertently manufacturing PCBs.

8. The retention time for records (7 years or 3 years after a process ceases operation, whichever is shorter).

9. The cost and economic impact of this exclusion policy. Specifically:

a. The costs of EPA's recommended analytical technique for determining the absence of PCBs, including sampling and storage costs.

b. The costs of recordkeeping and reporting which might be required for eligibility for the exclusion.

c. The availability of testing equipment to perform testing in-house and/or the availability of outside laboratories to perform tests.

d. The costs to manufacturers of performing "best theoretical analyses" in lieu of actual monitoring of PCB levels.

e. The costs of incinerating wastes in EPA-approved incinerators, landfilling in EPA-approved landfills, and storage for incineration or landfilling under this exclusion.

f. The costs of filling for an exemption petition, including the costs of making and documenting a "good faith effort to develop substitutes for PCBs" and the cost of determining and documenting that "no unreasonable risk" exists.

VI. Authority

Section 6(e) of TSCA [15 U.S.C. 2605]. The Administrator of EPA has delegated authority to amend or modify the PCB Manufacturing, Processing, Distribution in Commerce and Use Prohibition Rule (40 CFR Part 761), published in the **Federal Register** (44 FR 31514, May 31, 1979), to the Assistant Administrator for Pesticides and Toxic Substances.

VII. Executive Order 12291

Under Executive Order 12291, issued February 17, 1981, EPA must judge whether a rule is a "major rule" and, therefore, subject to the requirement that a Regulatory Impact Analysis be prepared. EPA has determined that this proposed rule is not a major rule as the term is defined in section 1(b) of the Executive Order. Therefore, EPA has not prepared a Regulatory Impact Analysis for this proposed rule.

EPA has concluded that this proposed rule is not "major" under the criteria of section 1(b) because the annual effect of the rule on the economy will be less than $100 million; it will not cause a major increase in costs or prices for any sector of the economy or for any geographic region; and it will not result in any significant adverse effects on competition, employment, investment, productivity, or innovation or on the ability of United States enterprises to compete with foreign enterprises in domestic or foreign markets. In fact, this proposed rule excludes certain uses of PCBs that would otherwise be prohibited by section 6(e) of TSCA and, therefore, reduces the overall costs and economic effect of section 6(e).

The proposed rule was submitted to the Office of Management and Budget (OMB) prior to publication, as required by the Executive Order. Any comments from OMB to EPA and any response by EPA to those comments are available for public inspection as part of the public record of this rulemaking.

VIII. Regulatory Flexibility Act

Under section 605(b) of the Regulatory Flexibility Act, the Administrator may certify that a rule will not, if promulgated, have a significant impact on a substantial number of small entities, and therefore does not require a regulatory flexibility analysis.

The proposed amendment to the PCB rule excludes persons who manufacture PCBs in closed and controlled waste manufacturing processes from the ban

on manufacture of PCBs. For those persons who qualify for the exclusion, the effect of this rule is to avoid the economic impact associated with the ban. Since no negative economic effect is expected upon any business entity from the promulgation of this proposed rule, I certify that this rule will not, if promulgated, have a significant economic impact on small entities.

IX. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq* (the Act), authorized the Director of the OMB to review certain information collection requests by Federal agencies. EPA has determined that the recordkeeping and reporting requirements of this proposed rule constitute a "collection of information," as defined in 44 U.S.C. 3502(4). In accordance with the Act, the recordkeeping and reporting requirements of this proposed rule (if adopted in the final rule) will be submitted to OMB under section 3504(b) of the Act.

X. Official Rulemaking Record

Proposed PCB Regulations for Closed and Controlled Waste Manufacturing Processes

In accordance with the requirements of section 19(a)(3)(E) of TSCA, EPA is publishing the following list of documents constituting the record of this proposed rulemaking. A supplementary list or lists may be published at any time on or before the data the final rule is issued. However, no such list will include public comments, the transcript of the rulemaking hearing, or submissions made at the rulemaking hearing or in connection with it. These documents are exempt from Federal Register listing under section 19(a)(3). A full list of these materials will be available on request from the Document Control Officer listed under "ADDRESSES."

A. *Previous Rulemaking Records*

1. Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce and Use Prohibitions Rule" 44 FR 31514, May 31, 1979.
2. Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs) Disposal and Marking Final Regulation" 43 FR 7150, February 17, 1978.

B. Federal Register *Notices*

1. 46 FR 27617, May 20, 1981, USEPA "Polychlorinated Biphenyls (PCBs); Manufacture of PCBs in Concentrations Below 50 Parts Per Million; Possible Exclusion From Manufacturing Prohibition; Advance notice of proposed rulemaking".
2. 46 FR 27615, May 20, 1981, USEPA "Polychlorinated Biphenyls (PCBs); Court Order Regarding PCBs in Concentrations Below 50 Parts Per Million."

C. *Support Documents*

1. USEPA, OTS, "Summary of ANPR Comments."
2. USEPA, OTS, "Occupational Exposure to Inadvertently Produced PCBs."
3. USEPA, OTS, "Methods of Analysis for Incidentally Generated PCBs Literature Review and Preliminary Recommendations."
4. USEPA, OTS, "Cost Analysis for the Proposal to Exclude Closed and Controlled Waste Processes from the PCB Ban."
5. USEPA, OTS, "Internal Memorandum of EPA Review of CMA Submitted Toxicity Data."
6. USEPA, OTS, "Quality Assurance Guidelines."
7. USEPA, OTS, "Rationale for Estimating Level of Quantification for CGC/EMIS."
8. USEPA, OTS, "Estimation of Releases from Spills of Inadvertently Produced PCBs."

D. *Reports*

1. Chemical Manufacturers Association, "A Report of a Survey on the Incidental Manufacture, Processing, Distribution, and Use of Polychlorinated Biphenyls at Concentrations Below 50 ppm."
2. Chemical Manufacturers Association, "The Analysis of Chlorinated Biphenyls."
3. Ecology and Environment, Incorporated, "Summary of the Health Effects of PCBs."

EPA will identify the complete rulemaking record on or before the data of promulgation of the final rule, as prescribed by section 19(3) of TSCA. EPA will consider for inclusion in the record additional material submitted at any time between the publication of this notice and the date the Agency identifies the final record. The final rule will also permit persons to point out any omissions or errors in the record.

XI. Additional Information

The comment period for this rule is limited to thirty days because EPA is under court order to promulgate a final rule by October 13, 1982.

EPA requests that comments be submitted in triplicate. Comments should include the docket number, OPTS 62017A. Comments on this proposed rule will be available for review from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays, in Rm. E-107 Environmental Protection Agency, 401 M St., SW., Washington, D.C.

Requests to participate in the informal hearing should be made in writing to the Industry Assistance Office at the address given above. All requests for participation must include, at least, a detailed outline of the topics to be addressed in the opening statement, the amount of time requested for the statement, and the names of the participants. Statements should not repeat information already presented in written comments but should address additional information or issues. All hearings will be conducted in accordance with EPA's "Procedures for Rulemaking Under Section 6 of the Toxic Substances Control Act" (40 CFR, Part 750).

List of Subjects in 40 CFR Part 761

Hazardous materials, Labeling, Polychlorinated biphenyls, Recordkeeping and reporting requirements, Environmental protection.

Dated: June 2, 1982.

Anne M. Gorsuch,
Administrator.

Therefore, it is proposed that 40 CFR Part 761 be amended to read as follows:

PART 761—POLYCHLORINATED BIPHENYLS (PCBs) MANUFACTURING, PROCESSING, DISTRIBUTION IN COMMERCE, AND USE PROHIBITIONS

1. Paragraph (f) is added to § 761.1, to read as follows:

§ 761.1 Applicability

* * * * *

(f) Persons who manufacture, process, distribute in commerce, or use PCBs generated as byproducts, impurities or intermediates in closed and controlled waste manufacturing processes (as defined in § 761.3 (jj) and § 761.3 (kk)) are exempt from the requirements of Subpart B. To qualify for this exclusion, such processes must also fully comply with § 761.185.

* * * * *

2. Paragraphs (jj) and (kk) are added to § 761.3, to read as follows:

§ 761.3 Definitions.

* * * * *

(jj) "Closed manufacturing process" means a chemical manufacturing process in which PCBs are generated but from which no quantifiable PCBs are released to air, water, products, or in process wastes if the analytical method specified in § 761.82 were used.

(kk) "Controlled waste manufacturing process" means a chemical manufacturing process in which PCBs are generated but from which no quantifiable PCBs are released to air, water, or products if the analytical methods specified in § 761.82 were used, and the remainder of PCBs generated are incinerated in an incinerator approved under the provisions of § 761.70, landfilled in a landfill approved under the provisions of § 761.75, or stored for such incineration or landfilling in accordance with the requirements of § 761.65(b)(1).

3. A new Subpart E, consisting at this time of § 761.82, is added to read as follows:

SUBPART E—METHOD OF ANALYSIS

§ 761.82 Analytical method and quality assurance plan for quantifying PCBs in air, water, products, and closed process waste streams.

(a) *Analytical approach.* This section is the Agency's designated analytical approach for non-Aroclor PCB analysis. This technique is the method specified under the definitions of closed manufacturing process and controlled waste manufacturing process. The approach includes a description of the analytical technique and a description of the necessary quality assurance program (QAP). This is the analytical technique and QAP which EPA will use in determining whether a process falls within the closed and controlled waste manufacturing process exclusion (see § 761.1(f)).

(b) *Analytical technique.* (1) A specified number of samples is taken according to a suggested procedure. Each sample, if too large to go directly to extraction, would be thoroughly homogenized and a representative subsample would be removed.

(2) Each sample (or subsample from paragraph (b)(1) of this section) then has surrogate compounds, e.g., several ^{13}C PCB isomers, incorporated into it. These surrogates are used in quantitation and to document recovery rates.

(3) Each sample is then subjected to an extraction and/or cleanup procedure. Through this procedure, the original sample would have any contaminants and interfering compounds removed from it, and ideally an extract with only PCBs would remain. The extraction procedure would vary for different media (air, water, solid) and matrix (chlorinated, non-chlorinated, etc.).

(4) Each sample extract would be concentrated or diluted to a known volume. This known volume is used in the quantitation procedure.

(5) A known amount of the prepared extract is then removed and introduced into a capillary gas chromatograph (CGC) coupled to an electron impact mass spectrometer (EMIS).

(6) The instrumental response is then integrated so that the levels are described by PCB homolog (mono-, di-, and trichlorobiphenyls, etc.) and each PCB homolog is quantitated based on the known responses of the ^{13}C surrogates (see paragraph (b)(2) of this section).

(7) All 10 homolog concentrations are then summed to obtain a "total PCB" value.

(c) *Quality assurance program.* A quality assurance program includes:

(1) An accurate trace or history of the life of a sample (to be chemically analyzed for PCBs) including a description of the scheme for sample collection including a written description of what happens to the sample, schedules and timetables, disposition and handling.

(2) Details of the sample collection procedure including:

(i) Reasons for using a particular sample selection process and reasons for not using other processes.

(ii) Estimates of how well the selected samples represent the medium to be characterized.

(3) A full, detailed description of the extraction and chemical analysis procedures.

(4) The results of laboratory participation in round robin analytical programs, the results of performance audits, the results of systems audits, and analytical results of performance audit specimens.

4. Section 761.185 is added to read as follows:

§ 761.185 Self-certification program and retention of special records by persons incidentally generating PCBs in closed manufacturing processes and controlled waste manufacturing processes.

(a) In addition to meeting the basic requirements of § 761.1(f), PCB-generating chemical manufacturing processes shall be considered "closed manufacturing processess" or "controlled waste manufacturing processes" (and thus, be excluded from the TSCA section 6(e) ban on manufacture), only if the owner/operator of the facility: (1) Collects data on the process and performs either a theoretical analysis of PCB levels in releases or conducts actual sampling of PCB levels in releases.

(2) Maintains (for a period of 7 years or for 3 years after a process ceases operations, whichever is shorter) the following information on the processes:

(i) *Theoretical analysis.* (A) The reaction or reactions believed to be producing the PCBs and levels of PCBs generated.

(B) The basis for all estimations of PCB concentrations.

(C) The name and qualifications of the person or persons performing the theoretical analysis.

(D) Any additional information relevant to the analysis of the process for PCBs.

(ii) *Actual monitoring.* (A) The method of analysis.

(B) The results of the analysis, including data from the QAP.

(C) The name of the analyst or analysts.

(D) The date and time of the analysis.

(E) Any additional information relevant to the analysis of the process for PCBs.

(b) The data collected, and the analysis performed under paragraph (a) of this section must support the following certification if the processes are to be excluded under the closed manufacturing process and controlled waste manufacturing process exclusion. Persons desiring exclusion of a PCB-generating process under the closed and controlled waste process exclusion shall certify that:

(1) An analysis of the manufacturing process for PCB levels and releases (either theoretical or through actual monitoring for PCBs) has been completed.

(2) The analysis of the manufacturing process is on record at the facility.

(3) If the analytical method specified in § 761.82 were used, PCBs could not be quantified in air releases and water releases from the manufacturing process, or in products of the manufacturing process.

(4)(i) If the analytical method specified in § 761.82 were used, PCBs would be below the limits of quantification in process wastes.

(ii) All process wastes are either incinerated in accordance with § 761.70, landfilled in a landfill approved under § 761.75, or stored for such incineration or landfilling in accordance with the requirements of § 761.65(b)(1).

(c) The certification must include the name and location of the disposal facilities (if the process is a controlled waste process). The certification must be signed by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation.

(ii) The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25,000,000 (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. This certification process must be repeated whenever process conditions are significantly modified to make the previous certification no longer valid. This certification must be filed at each facility in which a closed or controlled

waste process is operating for a period of seven years or for three years after a process ceases operation, whichever is shorter, and must be made available to EPA upon request.

(d) Any person signing a document under paragraph (b) (1) through (4) of this section shall also make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate information. Based on my inquiry of the person or persons who manage the system, or those person directly responsible for gathering information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for falsifying information, including the possibility of fines and imprisonment for knowing violations.

Dated:_____

Signature _____

[FR Doc. 82-15580 Filed 6-7-82; 8:45 am]

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federal register

Tuesday
June 8, 1982

Part VIII

Office of Management and Budget

Budget Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Budget Deferrals

To the Congress of the United States:

In accordance with the Inpoundment Control Act of 1974, I herewith report seven new deferrals totaling $14.5 million and revisions to two deferrals previously reported increasing the amount deferred by $140.5 million.

The deferrals affect programs in the Departments of Agriculture, Commerce, Interior and Labor as well as the Board for International Broadcasting, the International Communication Agency, the Railroad Retirement Board and the Small Business Administration.

The details of each deferral are contained in the attached reports.

THE WHITE HOUSE, June 2, 1982.

Ronald Reagan

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SUMMARY OF SPECIAL MESSAGES
FOR FY 1982

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral #	Item	Budget Authority
	Department of Agriculture	
	Soil Conservation Service	
D82-244	Watershed and flood prevention operations....	8,822
	Department of Commerce	
	Economic Development Administration	
D82-245	Economic development assistance programs.....	2,800
	Department of the Interior	
	United States Fish and Wildlife Service	
D82-246	Construction and anadromous fish.....	600
D82-247	Land acquisition.....	400
	Department of Labor	
	Employment and Training Administration	
D82-279A	Employment and training assistance.....	229,087
	Other Independent Agencies	
	Board for International Broadcasting	
D82-248	Grants and expenses.....	915
	International Communication Agency	
D82-249	Salaries and expenses (special foreign currency program).....	700
	Railroad Retirement Board	
D82-250	Milwaukee railroad restructuring, administration.....	240
	Small Business Administration	
D82-234A	Surety bond guarantees revolving fund.....	3,000
	Total Deferrals.....	246,564

SUMMARY OF SPECIAL MESSAGES
FOR FY 1982
(in thousands of dollars)

	Rescissions	Deferrals	
Thirteenth special message			
New items.....	---	14,477	
Change to amounts previously submitted.....	---	140,544	
Effect of thirteenth special message.....	---	155,021	
Previous special messages.....	7,576,998	7,980,270	
Total amount proposed in special messages.....	7,576,998	8,135,291	1/

1/ This amount represents budget authority except for $20,922 thousand in one general revenue sharing deferral of outlays only (D82-23A).

Deferral No: D82-244

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Agriculture	New budget authority (P.L. 97-101): $193,048,000
Bureau: Soil Conservation Service	Other budgetary resources: 48,418,200
Appropriation title & symbol: Watershed and Flood Prevention Operations 12X1072 1/	Total budgetary resources: 240,463,200
	Amount to be deferred: Part of year: 9,822,000
	Entire year:
OMB identification code: 12-1072-0-1-301	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: These funds were appropriated in a $20,000,000 supplemental in P.L. 96-304, dated July 8, 1980, for emergency measures related to the Mount St. Helen's volcano eruptions. The nature and magnitude of damages from the initial eruptions and the uncertainty concerning further volcanic activity did not permit precise estimates of funding needs to be developed at that time. It has been determined that $8,822,000 in unobligated balances is excess of current needs. These amounts are, therefore, deferred pending enactment of supplemental appropriation language transferring them to other accounts of the agency to be used to meet increased pay costs.

Estimated Effects: Since the Mount St. Helen's situation is unique in that the volcano is subject to eruption at any time, the emergency situation continues to exist, and unlike one-time storms, funds may be needed in the future. However, considering the nature of the volcanic activity during the past eighteen months, the $3.1 million of the supplemental that remains available will be sufficient for contingencies. The deferral will have no programmatic effect since there were no plans to obligate these funds.

Outlay Effect: This deferral will have no effect on outlays.

1/ This account was the subject of a FY 1981 deferral (D81-108) and a FY 1982 deferral (D82-89).

Deferral No: D82-245

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Commerce	New budget authority (P.L. 97-101): $198,500,000
Bureau: Economic Development Administration	Other budgetary resources: -0-
Appropriation title & symbol: Economic Development Assistance Programs 1322050 1/	Total budgetary resources: 198,500,000
	Amount to be deferred: Part of year: 2,500,000
	Entire year:
OMB identification code: 13-2050-0-1-452	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The economic development assistance programs provide grants and loans to develop and/or improve public works facilities and to construct new or to improve existing industrial/commercial facilities. The programs also provide technical assistance grants to areas with little development skills or experience and planning grants to states and other qualified applicants for comprehensive program development.

In accordance with the 1983 Budget request that terminates the economic development assistance programs research and evaluation funds for these programs are not needed in FY 1982. Also, planning grants and technical assistance grants can be provided with slightly less funding. These excess funds are deferred pending congressional action on the supplemental request to transfer them to the Salaries and expenses account to meet increased pay costs.

Estimated Effects: Planning grants will be available for all existing and some new participants. There will be a slight reduction in the technical assistance program; however, all projects identified to date will be funded.

Outlay Effect: By using these funds for salaries and expenses rather than for program activities there will be an increase to 1982 outlays of $1.8 million with a corresponding decrease of $1.8 million to 1983 outlays.

1/ This account was the subject of another FY 1982 deferral (D82-98).

Deferral No: D82-246

Deferral No: D82-247

Deferral No: D82-246

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Interior	New budget authority (P.L. 97-100): $ 6,583,000
Bureau: U.S. Fish and Wildlife Service	Other budgetary resources: 26,851,267
Appropriation title & symbol: Construction and Anadromous Fish 14X1612 1/	Total budgetary resources: 33,434,267
	Amount to be deferred: Part of year: $ 508,800
	Entire year:
OMB identification code: 14-1612-0-1-303	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: This appropriation finances the construction, rehabilitation and acquisition of buildings and other facilities required in the conservation and utilization of sport fishery and wildlife resources as well as administrative functions to carry out these activities. The amount deferred is achieved by delaying the lower priority portions of three construction projects and is proposed for transfer to the Resource Management appropriation as part of its revised supplemental request to cover FY 1982 civilian pay increases. These funds are deferred pending enactment of the supplemental appropriation authorizing the transfer.

Estimated Effects: This deferral will preserve these funds pending congressional action on the transfer request. The impact on the program will be to defer construction of new facilities at Cibola Refuge in Arizona, Brigantine Refuge in New Jersey and Lower Klamath Falls Refuge in California.

Outlay Effect: This deferral action will have no effect on outlays.

1/ This account was the subject of another FY 1982 deferral (D82-50).

Deferral No: D82-247

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Interior	New budget authority (P.L. 97-100): $16,491,000
Bureau: U.S. Fish and Wildlife Service	Other budgetary resources:
Appropriation title & symbol: Land Acquisition 14X5020	Total budgetary resources: 16,491,000
	Amount to be deferred: Part of year: $ 400,000
	Entire year:
OMB identification code: 14-5020-0-2-303	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: This appropriation finances expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Fish and Wildlife Service. The amount deferred is achieved by savings in administrative expenses from more efficient operations and by a slight reduction in a land acquisition project. The deferred funds are proposed for transfer to the Resource Management appropriation as part of its revised supplemental request to cover FY 1982 civilian pay increases. These funds are deferred pending enactment of the supplemental appropriation authorizing the transfer.

Estimated Effects: This deferral will preserve these funds pending congressional action on the transfer request. The impact on the program will be to defer 6% of the current land acquisition program for the Bon Secour National Wildlife Refuge in Alabama.

Outlay Effect: This deferral action will have no effect on outlays.

D82-229A

SUPPLEMENTARY REPORT
Report Pursuant to Section 1014(e) of
Public Law 93-344

This report updates Deferral No. D82-229, transmitted to the Congress on February 8, 1982.

This revision to a deferral of employment and training funds increases the amount deferred from $88,543,309 to $229,087,309. This increase of $140,544,000 reflects a temporary withholding of Job Corps resources pending receipt by OMB of the Department of Labor's fourth quarter operational plans for the Job Corps. In addition, this revision modifies the budgetary resources section of the deferral to include the resources made available by PL 97-161.

Deferral No: D82-229A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Labor	New budget authority (P.L. 97-161) $3,023,201,000*
Bureau Employment and Training Administration	Other budgetary resources 848,883,309
Appropriation title & symbol: Employment and Training Assistance 1/ 161/20174 1620174	Total budgetary resources 3,872,084,309*
	Amount to be deferred: Part of year $ 229,087,309*
	Entire year
OMB identification code: 16-0174-0-1-504	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program ☒ Yes ☐ No	☐ Other
Type of account or fund: ☒ Annual ☒ Multiple-year September 30, 1982 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

*Justification: This appropriation provides for a system of Federal, State and local programs of training and other services for economically disadvantaged unemployed, and underemployed persons intended to lead to permanent gains in employment and increased self-sufficiency. Two amounts are included in the deferral. The first amount ($88,543,309) reflects unanticipated unobligated balances ($85,004,824) and unanticipated recoveries of prior year obligations ($3,538,485). Some of the funds covered by this deferral are proposed for transfer to other Department of Labor agencies to meet operational needs, and some have been proposed for transfer to defray the cost of the October civilian and executive pay increases. The disposition of the balance is under review. Should program developments indicate that there is not a compelling operational or programmatic need for the amounts, they will be proposed for rescission. The second amount included in the deferral is $140,544,000 in Job Corps resources being withheld pending receipt from the Department of Labor of fourth quarter operational plans for the Job Corps.

*Estimated Effects: This deferral action is not anticipated to have any programmatic or budgetary effect. The balances were unanticipated and no plans for their use had been developed when 1982 program levels were determined. Amounts for the Job Corps are expected to be made available when the Department completes its FY 1982 operational plan.

*Outlay Effect: This deferral is not anticipated to have any effect on FY 1982 outlays.

* Revised from previous report.

1/ This account was the subject of a deferral in FY 1981 (D81-36 with two revisions, D82-36A and D82-36B) and two other deferrals in FY 1982 (D82-18 and D82-194).

D82-248

Deferral No: _____

D82-248

D82-248

Deferral No: D82-248

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Board for International Broadcasting	New budget authority (P.L. 97-161) $ 86,519,000
Bureau:	Other budgetary resources —
Appropriation title & symbol: Grants and Expenses 9521145 1/	Total budgetary resources 86,519,000 2/
	Amount to be deferred: Part of year $ 914,751
	Entire year —
OMB identification code: 95-1145-0-1-154	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other 22 U.S.C. 2871-2877
Type of account or fund: [X] Annual	Type of budget authority: [X] Appropriation
[ ] Multiple-year _____ (expiration date)	[ ] Contract authority
[ ] No-year	[ ] Other _____

Justification: The Board for International Broadcasting is authorized by the Board for International Broadcasting Act of 1973 (22 U.S.C. 2871-2877) to provide assistance to Radio Free Europe/Radio Liberty, Inc. (RFE/RL), a private nonprofit radio broadcasting organization. Section 8(b) of the Act states "The Director of the Office of Management and Budget shall place in reserve and inform the Congress of any amount appropriated under this section which, because of upward fluctuations in foreign currency exchange rates, is in excess of the amount necessary to maintain the budgeted level of operation for RFE/RL, Incorporated."

The Board, in accordance with regulations established jointly by the Board and the Office of Management and Budget, reported that as of the end of the second quarter of 1982 the net currency exchange gains totaled $914,751. Therefore, funds totaling $914,751 are deferred. These funds will be used to offset any currency exchange losses occurring later in the year. If no losses are experienced, the funds will be proposed for rescission.

This deferral action is taken in accordance with the International Broadcasting Act of 1973, and the Antideficiency Act (31 U.S.C. 665).

Estimated Effects: No programmatic effect results from this deferral since program levels of Radio Free Europe/Radio Liberty will be maintained in 1982.

D82-248

Outlay Effect: If there are no exchange rate losses in the remainder of 1982, the reported exchange rate gains and resulting deferral will reduce outlays by $914,751 while maintaining current program. These outlay savings will be offset by the amount of any exchange rate losses.

1/ This account was the subject of a similar deferral in FY 1981 (D81-106) and another deferral in FY 1982 (D82-64).
2/ In addition, $3,394,674 is not available pursuant to P.L. 94-350.

Deferral No: D82-249

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: International Communication Agency	New budget authority (P.L. 97-161): $ 9,800,000
Bureau:	Other budgetary resources: 2,043,970
Appropriation title & symbol: 67X0205 Salaries and Expenses, Special Foreign Currency Program	Total budgetary resources: 11,843,970
	Amount to be deferred: Part of year: $; Entire year: 700,000
OMB identification code: 67-0205-0-1-154	Legal authority (in addition to sec. 1013): [X] Antideficiency Act; [ ] Other
Grant program: [ ] Yes [X] No	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other
Type of account or fund: [ ] Annual; [ ] Multiple-year (expiration date); [X] No-year	

Justification: The United States International Communication Agency (ICA) is authorized to carry out international communication, cultural and education exchange programs. The "Salaries and Expenses (Special Foreign Currency Program)" account is used to pay ICA local program expenses in U.S.-owned foreign currencies in those countries where the Department of Treasury determines that the supply of local currency is in excess of the normal requirement of the U.S. Government. In fiscal year 1982, the "excess currency" countries are Burma, Guinea, India, and Pakistan.

The amounts available under this appropriation exceed 1982 program requirements due to a higher unobligated balance carryover than originally estimated. The higher carryover balance was caused by exchange rate gains, recoveries of prior year obligations, unexpected delays in planned renovation projects, and other program savings. The excess funds are being reserved for contingencies under provisions of the Antideficiency Act (31 U.S.C. 665) and will be used for program needs in succeeding years.

Estimated Effects: None. The amount deferred could not be obligated before fiscal year 1983.

Outlay Effect: There is no outlay effect of this deferral, because the funds would not be obligated if made available.

Deferral No: D82-250

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Railroad Retirement Board	New budget authority (P.L. 97-161): $240,000
Bureau:	Other budgetary resources: 218,673
Appropriation title & symbol: Milwaukee Railroad Restructuring, 1/ Administration 60X0108	Total budgetary resources: 458,673
	Amount to be deferred: Part of year: $ 0; Entire year: 240,000
OMB identification code: 60-0108-0-1-603	Legal authority (in addition to sec. 1013): [X] Antideficiency Act; [ ] Other
Grant program: [ ] Yes [X] No	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other
Type of account or fund: [ ] Annual; [ ] Multiple-year (expiration date); [X] No-year	

Justification: This account funds administrative expenses incurred by the Board in disbursing benefit payments under the Milwaukee Railroad Restructuring Act and the Rock Island Railroad transition and Employee Assistance Act. The Board estimates that only $218,673 in administrative expenses will be charged to this account in fiscal year 1982, and that $240,000 will be carried forward into fiscal year 1983. This deferral, therefore, represents amounts not required for obligation in fiscal year 1982. The amount deferred is being reserved for contingencies under the provisions of the Antideficiency Act (31 U.S.C. 665).

Estimated Effect: There will be no effect upon the operation of the programs, as the funds are not needed in this fiscal year.

Outlay Effect: There will be no outlay effect resulting from this deferral.

1/ This account was the subject of a similar deferral in FY 1981 (D81-128).

D82-234A

Deferral No: D82-234A

D82-234A

SUPPLEMENTARY REPORT
Report Pursuant to Section 1014(c) of
Public Law 93-344

This report updates Deferral No. D82-234, transmitted to the Congress on February 8, 1982.

This revision to a deferral for the Surety bond guarantees revolving fund in the Small Business Administration increases the budgetary resources previously reported in this account from $38,773,963 to $46,883,963, an increase of $8,110,000. The increase is the result of the following actions: (1) the Fourth Continuing Resolution making further appropriations for Fiscal Year 1982 (P.L. 97-161) made available an additional $9,310,000 and (2) a net decrease of $1,200,000 in the amount available resulted from changes to other budgetary resources. The additional resources do not affect the amount deferred, which remains $3,000,000.

Deferral No: D82-234A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Small Business Administration	New budget authority (P.L. 97-161): $19,000,000*
Bureau:	Other budgetary resources: 27,883,963*
Appropriation title & symbol: Surety Bond Guarantees Revolving Fund 1/ 73X4156	Total budgetary resources: 46,883,963*
	Amount to be deferred: Part of year: $ *
	Entire year: 3,000,000 *
CMB identification code: 73-4156-0-3-376	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

*Justification: Under this program, the Small Business Administration (SBA) guarantees a portion of the losses sustained by a surety company as a result of the issuance of a bid, payment, and/or performance bond to a small business concern on a contract. The Continuing Resolution (P.L. 97-161) provided $19 million in budget authority to enable the SBA to guarantee surety bonds at an annual rate that would insure up to $1.2 billion in contracts. Limiting the availability of guarantees should serve as an additional incentive to SBA to improve the operations of this program to preclude continuation of the high loss rates which have occurred in recent years.

This deferral action is an integral component of President Reagan's comprehensive economic plan for spending reductions, tax reductions and actions to remove unnecessary regulatory burdens.

*Estimated Effects: The SBA will still be able to provide bond guarantees at an annual rate that will cover contracts totaling $1.2 billion. By targeting its assistance more effectively, this reduction will have a minimal effect on SBA's ability to assist those clients who are most deserving.

*Outlay Effects: This deferral will have the effect of shifting $3,000,000 in FY 1982 outlays into FY 1983.

1/ This account was the subject of a deferral in FY 1981 (D81-102) and was the subject of another deferral in FY 1982 (D82-154).

* Revised from previous report.

[FR Doc. 82-15577 Filed 6-7-82; 8:45 am]
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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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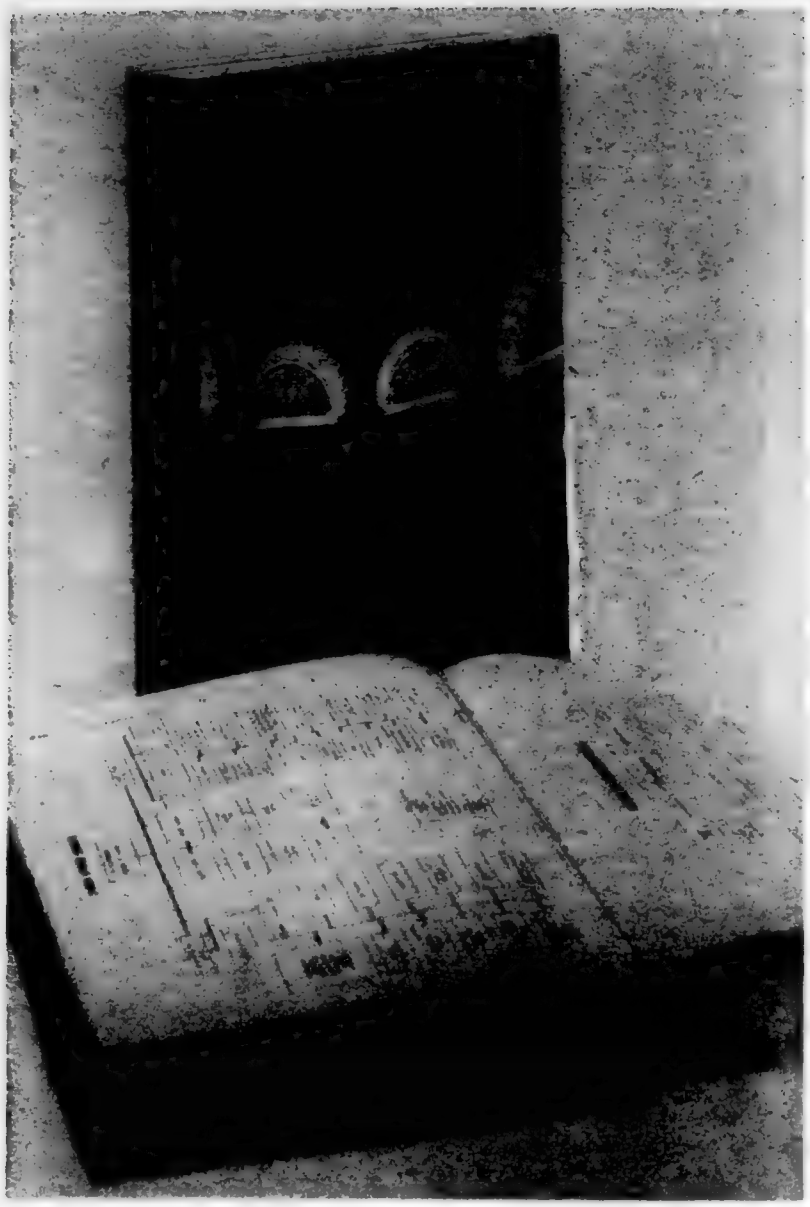

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Rules and Regulations

Federal Register
Vol. 47, No. 111
Wednesday, June 9, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 371

Organization, Functions and Delegations of Authority

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document revises the statement of organization, functions and delegations of the Animal and Plant Health Inspection Service as it relates to the Deputy Administrator, Plant Protection and Quarantine, to specifically assign certain functional responsibilities under the Lacey Act Amendments of 1981 which pertains to the importation and exportation of certain plants.

EFFECTIVE DATE: June 9, 1982.

FOR FURTHER INFORMATION CONTACT: Jonn C. Frey, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, MD 20782 (301) 436–5591.

SUPPLEMENTARY INFORMATION: The statement of organization, functions, and delegations of authority of the Animal and Plant Health Inspection Service, is being amended to delegate to the Deputy Administrator, Plant Protection and Quarantine, the responsibility for administering the provisions of the Lacey Act Amendments of 1981 (16 U.S.C. 3401–3408) which pertain to the importation and exportation of certain plants. Plants protected by the Lacey Act Amendments of 1981 are any wild plants which are indigenous to any States which are either listed on (a) an appendix to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, or (b) listed pursuant to any State Law that provides for the conservation of plants threatened with extinction. The Secretary has delegated this responsibility for administration of the Lacey Act Amendments of 1981 to the Assistant Secretary for Marketing and Inspection Services, who in turn has delegated such authority to the Administrator, Animal and Plant Health Inspection Service (47 FR 22935).

This rule relates to internal agency management and, therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect thereto are impractical and contrary to public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register.** Further, since this rule relates to internal agency management, it is exempt from the provision of Executive Order 12291. Finally, this action is not a rule as defined by Public Law 96–354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR 371

Organization and functions (Government agencies).

PART 371—ORGANIZATION, FUNCTIONS AND DELEGATIONS OF AUTHORITY

Accordingly, 7 CFR Part 371 is amended as follows:

1. The authority citation for Part 371 reads as follows:

Authority: 5 U.S.C. 301.

2. Section 371.2 is amended by adding a new paragraph (c)(2)(xii) to read as follows:

§ 371.2 The Office of the Administrator.

* * * * *

(c) * * *

(2) * * *

(xii) Lacey Act Amendments of 1981 (16 U.S.C. 3401–3408).

* * * * *

Issued at Washington, D.C., this 2nd day of June, 1982.

James O. Lee, Jr.,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 82–15605 Filed 6–8–82; 8:45 am]
BILLING CODE 3410–34–M

Agricultural Marketing Service

7 CFR Part 981

Handling of Almonds Grown in California; Administrative Rules and Regulations Governing Creditable Advertising and Almond Butter

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule changes the creditable advertising and almond butter provisions of the administrative rules and regulations established under the Federal marketing order for California almonds to: (1) Extend the time allotted to handlers of California almonds for submitting final claims and appropriate documentation in order to obtain credit for their advertising expenditures, and (2) revise the definition of "almond butter" as it applies to the disposition of reserve almonds.

EFFECTIVE DATE: June 9, 1982.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 202–447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified a "non-major" rule under criteria contained therein.

William T. Manley, Acting Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the regulated 26 handlers.

It is found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register.** This action relaxes restrictions on handlers, and handlers should have the opportunity to utilize that increased flexibility as soon as possible.

Notice of this action was published in the April 22, 1982, issue of the **Federal Register** (47 FR 17299), and interested persons were afforded an opportunity to submit written comments. No comments were received.

This final rule revises §§ 981.441(g) and 981.466 of Subpart—Administrative Rules and Regulations (7 CFR 981.401–981.474; 46 FR 51602; 54921). This subpart is issued under the marketing agreement and Order No. 981 (7 CFR 981), both as amended, regulating the handling of almonds grown in California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based on a unanimous recommendation of the Almond Board of California, hereinafter referred to as the "Board" or "ABC", which works with USDA in administering the order.

Section 981.441(g) currently requires handlers to file claims and appropriate supporting documentation with the Board in order to obtain credit against their assessment obligations for advertising expenditures. Except as provided in § 981.441(b), each advertisement must be published, broadcast, or displayed during the crop year for which credit is requested, and claims must be filed no later than July 15 of the succeeding crop year. Each claim must be submitted on ABC Form 31 and accompanied by appropriate proof of performance by that date.

This final rule revises § 981.441(g) to allow handlers additional time to submit the appropriate documentation required to substantiate their advertising claims. The Board believes that the current July 15 deadline is unrealistic as handlers are often not able to obtain the necessary documentation by that time. The Board believes that changing the deadline for submitting proof of performance to October 15 will rectify this problem.

Under this revision, handlers are required to file preliminary claims on ABC Form 31 no later than July 15, stating that documentation will be submitted as expeditiously as possible, but no later than October 15. Handlers have until October 15 to file final claims on ABC Form 31 with the appropriate proof of performance.

Section 981.466 stipulates the specifications for almond butter as used in § 981.66(c) as an outlet for the disposition of reserve almonds. Section 981.466 currently defines "almond butter" as a "comminuted food product prepared by grinding roasted shelled almonds into a homogeneous plastic or semiplastic mass or liquid having practically no particles larger than 1/16 inch in any dimension".

This final rule revises this definition in two ways. First, the word "roasted" is deleted to allow for a "natural" almond butter made from unroasted almonds. Secondly, the words "practically no particles larger than 1/16 inch" are changed to "very few particles larger than 1/16 inch". This allows for a "chunky style" almond butter.

The Board believes that these changes will give handlers more flexibility to develop new uses and markets for almond butter and, thereby, help handlers to dispose of reserve almonds.

Information collection requirements contained in this regulation (§ 981.441(g)) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB No. 0581–0071.

List of Subjects in 7 CFR Part 981

Marketing agreements and Orders; Almonds; and California.

After consideration of all relevant matter presented, including that in the notice, the Board's recommendation, and other available information, it is further found that to amend §§ 981.441(g) and 981.466 will tend to effectuate the declared policy of the act.

Therefore, §§ 981.441(g) and 981.466 of Subpart—Administrative Rules and regulations are revised as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. Section 981.441(g) is revised to read as follows:

§ 981.441 Crediting for paid advertising.

* * * * *

(g) A handler must file a claim with the Board to obtain credit for an advertising expenditure. Except as provided in § 981.441(b), no credit shall be granted unless a preliminary claim is filed on or before July 15 of the succeeding crop year and a final claim is filed before October 15 of the succeeding crop year. Each preliminary claim must be filed on an ABC Form 31 (claim for advertising credit), stating that documentation will be submitted as expeditiously as possible, but no later than October 15. If this preliminary claim is not filed on or before July 15, there will be no consideration of the claim under any circumstances. Each final claim must be submitted on ABC Form 31 and accompanied by appropriate proof of performance as follows:

* * * * *

2. Section 981.466 is revised to read as follows:

§ 981.466 Almond butter

Almond butter as used in § 981.66(c) is hereby defined as a comminuted food product prepared by grinding shelled almonds into a homogeneous plastic or semiplastic mass or liquid having very few particles larger than 1/16 inch in any dimension.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: June 3, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 82-15616 Filed 6-8-82; 8:45 am]
BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 100

Statement of Organization; Field Service; Revised District Office Jurisdiction; Dallas, Tex.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule realigns the jurisdiction of the INS Dallas, Texas district office to include certain nearby counties in the State of Texas. The realignment benefits the Service by formally clarifying jurisdiction, and benefits the affected public by providing greater convenience in dealing with the Service.

EFFECTIVE DATE: June 9, 1982.

FOR FURTHER INFORMATION CONTACT:
For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street, N.W., Washington, D.C. 20536, Telephone: (202) 633–3048;
For Specific Information: Anthony F. Lascaris, Program Analyst, Immigration and Naturalization Service, 425 I Street, N.W., Washington, D.C. 20536, Telephone: (202) 633–5014.

SUPPLEMENTARY INFORMATION: This amendment to the Immigration and Naturalization Service, Statement of Organization, expands the jurisdiction of the Dallas, Texas district office to include certain counties in Texas and to delete the same counties from the jurisdiction of San Antonio, Texas district office. As revised, the jurisdiction of the Dallas, Texas district office now includes the following counties in north Texas: Callahan, Jones and Taylor. The same counties are removed from the jurisdiction of San Antonio, Texas district office. Taylor County contains the city of Abilene, which has a metropolitan population of

approximately 140,000 people. Persons residing in that city and the surrounding three counties in question must apply for naturalization through an examiner on detail to Abilene from San Antonio. They do not have the option of speeding the process by filing in San Antonio, since San Antonio is part of the Western District of Texas. In addition, aliens residing in the remaining ten counties, all of which lie within the Dallas area of jurisdiction, are required to file their petitions in Abilene with the San Antonio examiner. The change would not only result in a greater convenience to the public but would also allow easier access to the Abilene area and allow the Dallas district to handle the filing process by detail of an examiner rather than by call-in. Abilene is 186 miles from Dallas via Interstate Highway and 247 miles from San Antonio.

Aside from naturalization, other Service activities would benefit from the realignment. Abilene is located on Interstate Highway 20, which is used by Dallas investigations and detention personnel as the route to the Big Spring and Lubbock areas. By including these three counties within the Dallas jurisdiction area, economies in travel expenses would be gained through coverage of multiple population centers in one trip. There is no reason for San Antonio officers to travel in that direction other than to service the Abilene area.

Thorough examination of the former alignment reveals no sound political, logistical, or jurisdictional reason for its organization. It is estimated that the change would result in monetary savings in per diem and vehicle expenses in addition to the significant savings in the productivity of all affected branches.

Compliance with 5 U.S.C. 533 as to proposed rulemaking and delayed effective date is not required because the rule deals with Service organization and procedure and will be of benefit to the public.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule will not have a significant economic impact on a substantial number of small entities because it deals solely with jurisdiction of Service offices and has no adverse impact on the public.

This rule is exempt from the requirement of E.O. 12291 as provided for by section 1(a)(3) of the Executive Order because it relates to agency organization.

List of Subjects in 8 CFR Part 100

Administrative practice and procedure, Aliens, Authority delegation, Organization and functions.

Accordingly, Chapter 1 of Title 8 of the Code of the Federal Regulations is amended as follows:

PART 100—STATEMENT OF ORGANIZATION

In § 100.4, paragraphs (b) 14. and 20., are revised to read as follows:

§ 100.4 Field Service.

* * * * *

(b) * * *

14. *San Antonio, Texas.* The district office in San Antonio, Texas has jurisdiction over the following counties in the State of Texas: Aransas, Atascosa, Bandera, Bastrop, Bee, Bexar, Blanco, Brazos, Brown, Burleson, Burnet, Caldwell, Calhoun, Coke, Coleman, Comal, Concho, Coryell, Crockett, De Witt, Dimmitt, Duval, Edwards, Falls, Fayette, Frio, Gillespie, Glasscock, Goliad, Gonzales, Guadalupe, Hays, Irion, Jackson, Jim Hogg, Jim Wells, Karnes, Kendall, Kerr, Kimble, Kinney, Lampasas, La Salle, Lavaca, Lee, Live Oak, Llano, McCulloch, McLennan, McMullen, Mason, Maverick, Medina, Menard, Milam, Mills, Nueces, Reagan, Real, Refugio, Robertson, Runnels, San Patricio, San Saba, Schleicher, Sterling, Sutton, Tom Green, Travis, Uvalde, Val Verde, Victoria, Webb, Williamson, Wilson, Zapata, Zavala.

* * * * *

20. *Dallas, Texas.* The district office in Dallas, Texas, has jurisdiction over the State of Oklahoma, and the following counties in the State of Texas: Anderson, Andrews, Archer, Armstrong, Bailey, Baylor, Borden, Bosque, Bowie, Briscoe, Callahan, Camp, Carson, Cass, Castro, Cherokee, Childress, Clay, Cochran, Collingsworth, Comanche, Cooke, Cottle, Crosby, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, Dickens, Donley, Eastland, Ellis, Erath, Fannin, Fisher, Floyd, Foard, Franklin, Freestone, Gaines, Garza, Gray, Grayson, Gregg, Hale, Hall, Hamilton, Hansford, Hardeman, Harison, Hartley, Haskell, Hemphill, Henderson, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hunt, Hutchinson, Jack, Johnson, Jones, Kaufman, Kent, King, Knox, Lamar, Lamb, Leon, Limestone, Lipscomb, Lubbock, Lynn, Marion, Martin, Mitchell, Montague, Moore, Morris, Motley, Navarro, Nolan, Ochiltree, Oldham, Palo Pinto, Panola, Parker, Parmer, Potter, Rains, Randall, Red River, Roberts, Rockwall, Rusk, Scurry, Shackelford, Sherman, Smith, Somervell, Stephens, Stonewall, Swisher, Tarrant, Taylor, Terry, Throckmorton, Titus, Upshur, Van Zandt, Wheeler, Wichita, Willbarger, Wise, Wood, Yoakum, and Young.

* * * * *

(Sec. 103,66 Stat. 173 (8 U.S.C. 1103)

Dated: June 3, 1982.

Perry A. Rivkind,

Acting Associate Commissioner, Management, Immigration and Naturalization Service.

[FR Doc. 82-15804 Filed 6-8-82; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 18 and 240

[T.D. ATF-104; Notice No. 384]

Reduction of the Regulatory Requirements on Producers of Volatile Fruit-Flavor Concentrate

Correction

In FR Doc. 82-14814 appearing on page 23920 in the issue of Wednesday, June 2, 1982, make the following correction:

On page 23920, in the **SUMMARY**, seventh line, "petition of abuse" should have read "pattern of abuse".

BILLING CODE 1505-01-M

Office of Foreign Assets Control

31 CFR Part 535

Iranian Assets Control Regulations: Notice Concerning Form TFR-625

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Rule related notice.

SUMMARY: This notice informs affected parties that Form TFR-625, "Report on Tangible Property in Which Iran Has an Interest," requirements for which were published as § 535.625 of the Iranian Assets Control Regulations at 47 FR 22361 (May 24, 1982), has been approved by the Office of Management and Budget. This notice also contains additional information clarifying the term "tangible property" for purposes of reporting on Form TFR-625.

EFFECTIVE DATE: June 7, 1982.

FOR FURTHER INFORMATION CONTACT: Loren Dohm, Chief, Census Unit, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, Tel. (202) 376-0968.

Section 535.625 of the Iranian Assets Control Regulations, published on May 24, 1982, establishes the requirement that Form TFR-625, "Report on Tangible Property in Which Iran Has an Interest," be submitted to the Office of Foreign Assets Control by persons required to

report. In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3507, as noted when § 535.625 was published, the information collection requirements of Form TFR–625 are not effective until approval by the Office of Management and Budget (OMB) has been obtained. OMB has approved Form TFR–625, assigning it OMB number 1505–0056, and it is now effective. The expiration date is August 31, 1982.

Reports on Form TFR–625 are to be returned in duplicate to Unit 625, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, by July 1, 1982.

For purposes of reporting on Form TFR–625, the category of tangible property is not coterminous with the term "properties" as used in § 535.215 but is a narrower category. The term "tangible property" means personal property and realty. Examples of tangible property of which the Office is aware include aircraft, road building equipment, spare parts, housing units, and engines. Tangible property does not include certain other property or property interests such as bank deposits, commercial obligations, advance payments received, performance bonds or standby letters of credit and related § 535.568 accounts in favor of Iran.

In this regard, the requirement in the instruction for Form TFR–625 that all persons who reported property on Form TFR–615 report on Form TFR–625 applies only to persons who reported *real estate* on line 8, or *personal property* on line 9.a or 9.b of Part B of Form TFR–615. Such persons must report such property on Form TFR–625 and account for its disposition even if they no longer hold the property. Certain financial obligations are to be reported and described in Part B, Item 3.c, of Form TFR–625 only if tangible property has been reported in Part B, Items 3.a or b. Such items should be reported regardless of whether there exists a specific relationship between such obligations and the tangible assets reported in order to provide a comprehensive picture of the reporter's position with respect to Iran.

Dated: June 7, 1982.

Dennis M. O'Connell,

Director.

[FR Doc. 82-15723 Filed 6-7-82; 4:22 pm]

BILLING CODE 4810-25-M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket RM 82-2]

Recordation and Certification of Coin-Operated Phonorecord Players

AGENCY: Copyright Office, Library of Congress.

ACTION: Final regulations.

SUMMARY: This notice is issued to advise the public that the Copyright Office of the Library of Congress is adopting amendments to § 201.16 of its regulations to reflect the new fees for recordation and certification of coin-operated phonorecord players in accordance with the final ruling of the Copyright Royalty Tribunal, January 5, 1981, is upheld by the U.S. Court of Appeals for the Seventh Circuit on April 16, 1982.

DATE: June 9, 1982.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, U.S. Copyright Office, Washington, D.C. 20559, Telephone (202) 287–8380.

SUPPLEMENTARY INFORMATION: Section 116 of title 17 of the United States Code (the Copyright Act) establishes conditions under which operators of coin-operated phonorecord players—commonly called "jukeboxes"—may obtain a compulsory license for the performance of nondramatic musical works.

A compulsory license permits the use of a copyrighted work without the consent of the copyrighted owner, if certain conditions are met and royalties are paid.

Section 116(b)(1)(A) of title 17 U.S.C. initially established the statutory royalty rate of $8 per jukebox per year (or $4 for each box on which performances were first made available after July 1). Section 804(a)(1) of the Copyright Act required the Copyright Royalty Tribunal to review the reasonableness of those rates during 1980, and to make adjustments as necessary to achieve the statutory objectives included in section 801(b)(1).

The Copyright Royalty Tribunal conducted rate adjustment proceedings involving all interested parties during 1980, and announced its final ruling on January 5, 1981. Copyright Royalty Tribunal 1980 Adjustment of the Royalty Rate for Coin-Operated Phonorecord Players, 46 FR 884 (1981). After full consideration of the issues and positions of the interested parties, the Tribunal determined that the royalty payable by jukebox operators to owners of copyrighted music should be $50 per jukebox per year, with the new fee schedule to be adopted in two stages, as follows;

$25 per jukebox per year in 1982 and 1983;

$50 per jukebox per year thereafter, with the fees subject to a cost of living adjustment on January 1, 1987.

The per box rate for jukeboxes that first perform works after July 1 of any year is one-half the applicable annual rate for that year.

This determination was appealed to the Seventh Circuit Court of Appeals, which recently upheld the Tribunal's adjusted rate schedule, effective January 1, 1982. *Amusement and Music Operators Ass'n. v. Copyright Royalty Tribunal*, No. 80–2837 (7th Cir. Apr. 16, 1982).

Section 116 of title 17 requires the Register of Copyrights to prescribe regulations governing compulsory license applications and the certificates to be affixed to licensed jukeboxes. Pending the ruling of the Seventh Circuit, the Copyright Office has accepted applications from, and issued jukebox certificates to, jukebox operators at the original $8 statutory rate. Some jukebox operators tendered payment at the $25 rate set by the Copyright Royalty Tribunal, and the Copyright Office accepted that fee.

Under the decision of the Seventh Circuit, jukebox operators must pay the $25 fee for 1982, if the yearly rate applies, or $12.50 if the half-year rate applies. Consequently, the Copyright Office is amending § 201.16 of its regulations [1] to reflect the new royalty fees, and to provide that on or before July 15, 1982, all jukebox operators who obtained certificates for jukeboxes in calendar year 1982 at the old rate of $8 must apply for supplemental certificates and pay the additional $17 fee for certification in 1982. Those operators who have already paid the $25 fee for 1982 should contact the Copyright Office and request a supplemental certificate at no cost. The Office will attempt to notify all operators of the need to pay the additional fee and/or obtain a supplemental certificate, as appropriate, but any operators who do not receive actual notice are not relieved of the

[1] Final regulations governing recordation of jukeboxes were first issued with an effective date of January 1, 1978 (42 FR 63779) following publication of a proposed regulation (42 FR 54840); a public hearing was held on October 25, 1977. (The Office adopted interim amendments to the regulations on August 23, 1978 (43 FR 37451) and final amendments on October 31, 1978 (43 FR 50678) and on December 20, 1978 (43 FR 59378).

obligation to obtain supplemental certificates. Supplemental certificates must be affixed to each jukebox within ten calendar days after the certificate is issued. Although the Office will accept late filings for supplemental certificates if a proper fee is paid, the Office takes no position on what effect a court may accord to such filings.

After the date of publication of this notice, the Copyright Office will not issue any more certificates for jukeboxes at the old royalty rates.

All of the amendments to the regulation are interpretive and are intended to reflect the final ruling of the Copyright Royalty Tribunal concerning the royalty rates for jukeboxes under the compulsory license of section 116 of the Copyright Act, as upheld by the Seventh Circuit Court of Appeals. The new royalty rates are effective January 1, 1982. Accordingly, the notice requirements of 5 U.S.C. 553 do not apply; the regulation is not subject to the Regulatory Flexibility Act, 5 U.S.C. 601–612. The amendments are issued as final rules effective immediately and without a period for public comment. However, jukebox operators will have at least 30 days from the date of this notice to pay the additional royalty fee and obtain a supplemental certificate of recordation of a player.

List of Subjects in 37 CFR Part 201

Copyright; jukeboxes.

For the reasons set out in the preamble, Part 201 of Chapter II of Title 37 of the Code of Federal Regulations is amended as set forth below.

Final Amendments

Part 201 of 37 CFR, Chapter II, is amended:

§ 201.16 [Amended]

1. By revising § 201.16(b)(3) and (b)(4) (as adopted on January 1, 1978) and (b)(6)(i) (as adopted on December 20, 1978) to read as follows:

(b) * * *

(3) Each application shall be accompanied by a fee in the form of a certified check, cashier's check, or money order, in the following amount:

(i) $25 per player per year in 1982 and 1983;

(ii) $50 per player per year in 1984, 1985, and 1986;

(iii) $50 per player per year in 1987 and each year thereafter, subject to a cost of living adjustment as determined by the Copyright Royalty Tribunal;

(iv) One-half the applicable annual rate for each player on which performances of nondramatic musical works were made available for the first time after July 1 of any year.

(4) A single application may be submitted for multiple players owned or controlled by a particular operator if all the identifying information is given for each player and the proper aggregate fee is submitted for all players covered by the application. However, separate applications must be filed for players covered by the full-year fee and players covered by the half-year fee.

(5) * * *

(6)(i) Where an operator has recorded one or more players in the Copyright Office during a particular year, the Copyright Office will, during the month of December of that year, send to the operator, at the operator's last address shown in the records of the Licensing Division, a "Renewal Application for Recordation of Coin-Operated Phonorecord Players (Form JB/R)". The renewal application will be accompanied by a list of the players recorded by the operator in the Copyright Office earlier during that year; such list will contain the information provided by the operator in its earlier application or applications, and will be based on the assumption that such players were properly identified in the earlier application or applications. The renewal application may be used during the month of January of the immediately succeeding year, in lieu of an application on Form JB, to apply for a compulsory license to cover: (A) Players recorded during the previous year, and (B) any other players operated by the applicant. A renewal application on Form JB/R shall comply with paragraphs (b)(1) through (b)(4) of this section and the instructions accompanying the form; however, a renewal application on Form JB/R may not be used for players coverd by a half-year fee.

* * * * *

2. By revising § 201.16(c)(1) (as amended on January 1, 1978) to read as follows:

(c) *Certificate.* (1) After receipt of the prescribed form and fee, the Copyright Office will issue a certificate containing the information set forth in paragraphs (b)(1)(i) through (iv) and (b)(2) of this section, together with the date of issuance of the certificate and the date of expiration of the license. The date of expiration of the license will be December 31st of the year in which the certificate is issued. Certificates issued upon payment of a half-year fee will be valid only after July 1 of the year in which they are issued and will be so identified.

* * * * *

3. By revising § 201.16(f)(2) and (3) (as adopted on October 31, 1978) to read as follows:

(f) * * *

(2) In the case of an application that is received in the Copyright Office before June 1 of a particular year, and that is accompanied by a half-year fee for each player identified in the application, the Copyright Office will not issue certificates unless the application is accompanied or supplemented by a statement that performances will not be made available on such players until after July 1 of that year. The statement shall be in the form of a letter addressed to the Licensing Division of the Copyright Office, and shall be signed by the operator named in the application or the duly authorized agent of that operator. If a business entity is the operator, the signature or name shall be that of an officer if the entity is a corporation, or a partner if the entity is a partnership, and shall be accompanied by the organizational title of that person. The statement shall, for all purposes including section 116(b)(1)(B) of Title 17 of the United States Code, be considered a part of the application. The statement described in this paragraph shall not be required in the case of applications covering a particular year received in the Copyright Office after June 1 of that year. In any case, if performances are actually made available for the first time on any players covered by half-year fees on or before July 1 of that year, the Office's acceptance of the application and issuance of a certificate is not to be considered as relieving the operator from any legal consequences arising from the failure to pay the correct fee, and shall have only such effect as may be attributed to it by a court of competent jurisdiction.

(3) If an application received in the Copyright Office after July 1 of any year is accompanied by the prescribed full-year royalty fee for each player identified, the Copyright Office will assume without further inquiry that the application pertains to players on which performances were made available for the first time on or before July 1 of that year.

4. By revising § 201.16(g)(1)(iv) and (g)(3)(D) (as adopted on October 31, 1978) to read as follows:

(g) * * *

(1) * * *

(iv) Where an application was accompanied by payment of the prescribed yearly fee for each phonorecord player listed but, with respect to one or more such players, performances were actually made available for the first time after July 1 of

the year in which the application was filed. In this case the operator named in the application shall be entitled to a refund of any excess fee paid and the Copyright Office will issue a new certificate for each player subject to the half-year fee.

(2) * * *
(3) * * *
(i) * * *
(ii) * * *
(iii) * * *
(iv) * * *

(D) In the case of overpayment within the meaning of paragraph (g)(1)(iv) of this section, the request must be accompanied by an affidavit under the official seal of any officer authorized to administer oaths within the United States, or a statement in accordance with section 1746 of Title 28 of the United States Code, made and signed by the operator named in the application or the duly authorized agent of that operator in accordance with paragraph (b)(1)(vi) of this section. The affidavit or statement shall: aver that performances of nondramatic musical works were actually made available on the particular phonorecord player(s) for the first time after July 1 of the year covered by the application; give the exact date, including month, day, and year on which such performances were first made available and the location where that event took place; specifically identify the particular phonorecord player(s) involved by the same identifying information as given in the application; and include a brief explanation of the reason for the original submission of a full-year fee for those players.

* * * * *

5. By adding a new paragraph (h) to § 201.16 to read as follows:

(h) *Supplemental Certificates for 1982.* (1) In all cases, new supplemental certificates for 1982 must replace those issued prior to June 15, 1982. The Copyright Office will attempt to notify all jukebox operators who recorded a player in 1982 of the need to obtain supplemental certificates. Jukebox operators who for any reason are not notified are not relieved of their obligation to obtain supplemental certificates.

(i) Jukebox operators who were previously issued certificates for 1982 at the $8 rate must apply for supplemental certificates on a form prescribed by the Copyright Office and pay an additional $17 per player on or before July 15, 1982. The form shall be signed in the manner designated in paragraph (b)(vi) of this § 201.16 for original certificates. Copies of the form are free upon request to the Licensing Division, United States Copyright Office, Library of Congress, Washington, D.C. 20557.

(ii) Jukebox operators who have already submitted $25 fee should notify the Copyright Office to provide them with a supplemental certificate at no additional cost.

(2) Supplemental certificates must be affixed to each player within 10 days after the certificate is issued.

(3) Acceptance by the Copyright Office of applications for supplemental certificates after July 15, 1982, and issuance of corresponding certificates, is not to be considered as relieving the operator from any legal consequences arising from the late filing, and shall have only such effect as may be attributed to it by a court of competent jurisdiction.

(17 U.S.C. 116, 702)

Dated: May 28, 1982.

David Ladd,

Register of Copyrights.

Approved:

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 82-15572 Filed 6-8-82; 8:45 am]
BILLING CODE 1410-03-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 1

[A-3-FRL-2135-1]

Air Programs; Availability of Fluid Modeling Demonstration and Opportunity for Public Hearing

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability and opportunity for public hearing.

SUMMARY: This notice announces the availability of a fluid modeling demonstration which would determine the stack height credit needed to avoid excess concentrations of sulfur dioxide due to downwash from terrain obstacles around the Albright Power Plant in Preston County, West Virginia. No change in the State Implementation Plan or applicable emission limits is contemplated as a result of this notice.

DATE: Interested persons may request a public hearing on the fluid modeling demonstration, provided that such request must be received on or before July 9, 1982.

ADDRESSES: Copies of the fluid modeling study reports are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, 6th and Walnut Streets, Philadelphia, PA 19106, ATTN: William Belanger;

West Virginia Air Pollution Control Commission, 1558 E. Washington Street, Charleston, WV 25311, ATTN: Carl Beard

Any request for public hearing should be addressed to: W. Ray Cunningham (3AW10), Chief, Air Programs & Energy Branch, U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, PA 19106.

FOR FURTHER INFORMATION CONTACT: William Belanger, (3AW14), Technical Support and Radiation Section, U.S. Environmental Protection Agency, Region III, 6th and Walnut Streets, Philadelphia, PA 19106, telephone: (215) 597-8188.

SUPPLEMENTARY INFORMATION: Section 123 of the Clean Air Act requires EPA to promulgate regulations to assure the degree of emission limitation required for control of any pollutant under an applicable State Implementation Plan is not affected by any portion of the stack height which exceeds good engineering practice. Credit is also allowed to avoid excess concentrations due to atmospheric downwash wakes and eddies created by nearby terrain obstacles. If credit is to exceed two and one-half times the height of the source, a demonstration must be made by the company to the satisfaction of the Administrator that such greater height is necessary and an opportunity for public hearing must be provided. Regulations implementing the section were promulgated on February 8, 1982 (47 FR 5864.).

The Monongahela Power Company has submitted a fluid modeling demonstration for their Albright Power Plant in West Virginia. The demonstration is titled "Monongahela Power Company, Albright Power Station, Good Engineering Practice Stack Physical Modeling Study" and is dated September 1980. The study was conducted in the fluid modeling facility (wind tunnel) at Colorado State University. The conclusion of the study is that a stack height credit of 253 meters may be allowed at the Albright Station. The 253 meter stack would replace the existing short stacks (50 meters and 72 meters) with no change in the allowable emissions. The effect of this change would be to eliminate possible violations of the air quality standard for sulfur dioxide which could occur under the present stack height due to the effect of nearby terrain.

EPA has carefully evaluated the technical study submitted by Monongahela Power. The study has tentatively (pending public comment) been found to be a satisfactory demonstration of the need for a 253 meter stack under the current regulation and in accordance with EPA's "Guideline for Fluid Modeling of Atmospheric Diffusion" (EPA–600/8–81–009) and "Guideline for Determination of Good Engineering Practice Stack Height (Technical Support Document for the Stack Height Regulations)" (EPA–450/4–80–023). The former (highly technical) reference may be obtained from EPA's Environmental Sciences Research Laboratory and the latter general guideline from the Office of Air Quality Planning and Standards, both in Research Triangle Park, N.C. 27711.

Interested persons are invited to request a public hearing at which they will be afforded an opportunity to submit evidence on the technical adequacy of the fluid modeling demonstration. Because there is no proposed change in the emission limitation, there will be no testimony on that subject. If a hearing is held, it will be limited to the technical adequacy of the fluid modeling demonstration. The availability of the study and procedure for requesting a public hearing are given at the beginning of this notice.

Dated: May 19, 1982

Peter N. Bibko,

Regional Administrator.

[FR Doc. 82–15637 Filed 6–8–82; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[A–1–FRL–2127–8]

Approval and Promulgation of Implementation Plans; Mount Tom Power Plant, Holyoke, Mass.; Revision to Particulate Emission Limit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a revision to the Massachusetts State Implementation Plan (SIP) which was submitted on January 22, 1982 by the Commissioner of the Massachusetts Department of Environmental Quality Engineering. The revision being approved today revises the allowable emission rate of particulate matter at the Mount Tom Power Plant, Holyoke, Massachusetts, from 0.12 pounds to 0.08 pounds of particulate matter per million Btu heat input. The effect of this revision is to allow the Mount Tom Power Plant to burn coal without jeopardizing the attainment or maintenance of air quality standards.

DATES: This action will be effective August 9, 1982, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments should be addressed to Linda Murphy, Acting Chief, State Programs Branch, EPA Region I (see address below). Copies of the Massachusetts submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Air Branch, Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460; Office of the Federal Register, 1100 L Street, N.W. Room 8401, Washington, D.C., and Department of Environmental Quality Engineering, Division of Air Quality Control, 1 Winter Street, Boston, Massachusetts 02108.

FOR FURTHER INFORMATION CONTACT: Margaret McDonough, Air Branch, EPA Region I, Room 1903, JFK Federal Building, Boston, Massachusetts, 02203, (617) 223–4448.

SUPPLEMENTARY INFORMATION: On January 22, 1982 the Commissioner of the Massachusetts Department of Environmental Quality Engineering (the Massachusetts Department) submitted a request for approval of a revision to Regulation 7.17 "Conversions to Coal" which specifies conditions under which Holyoke Water Power Company's Mount Tom Power Plant is allowed to burn coal. This revision which EPA is today approving, specifies that upon conversion to coal, the Mount Tom Plant must (1) comply with the requirements of Regulation 7.05(1) "Sulfur Content of Fuels and Control Thereof" and (2) comply with a particulate emission limit of 0.08 pounds per million Btu heat input. Regulation 7.05 limits the sulfur-in-fuel content at Mount Tom to 1.21 pounds per million Btu heat release potential; no change is being made to this regulation. The particulate emission limitation is being decreased from 0.12 pounds to 0.08 pounds of particulate per million Btu heat input. Compliance with the new particulate emission limit will be determined through stack testing.

Since the only effect of this revision is to make the particulate emission limit more stringent, there is no adverse effect on air quality.

On November 24, 1981 (45 FR 57491) EPA issued a Delayed Compliance Order (DCO) for the Mount Tom plant which allows noncompliance with the Massachusetts SIP particulate emission regulation from November 24, 1981 to no later than February 5, 1984. Therefore, the revision to the particulate emission limit being approved today will not be enforced while the DCO is in effect.

Since this SIP revision changes the allowable particulate emission rate at the Mount Tom Power Plant to a more stringent limit, this rulemaking is considered noncontroversial, and no adverse or critical comments are expected. Therefore, this SIP revision is being published as a final rulemaking without going through proposed rulemaking. EPA believes that publishing a proposed rulemaking is unnecessary.

However, if notice is received within 30 days of the date of publication of this **Federal Register** notice that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action establishing a comment period. If no such comments are received, the public is advised that this action will be effective August 9, 1982.

Pursuant to the provisions of 5 U.S.C. Section 605(b) the Administrator has certified that SIP approvals under Section 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. 46 FR 8709 (January 27, 1981). The attached rule constitutes a SIP revision approval under the January 27, 1981 certification. This action approves only state actions. It imposes no new requirements. In addition, this action only applies to one facility.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307 (b)(1) of the Clean Air Act judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 9, 1982. This action may not be challenged later in proceedings to enforce its requirements. (See Sec. 307(b)(2).)

After evaluation of the State's submittal, the Administrator has determined that the Massachusetts revision meets the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, this revision is approved as a revision to the Massachusetts State Implementation Plan.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110(a) and Sec. 301(a), Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601 (a)))

Note.—Incorporation by reference of the State Implementation Plan for the State of Massachusetts was approved by the Director of the Federal Register on July 1, 1981.

Dated: June 2, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Subchapter W—Massachusetts

Section 52.1120 is amended by adding paragraph (c)(49) as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(49) A revision to Regulation 7.17 "Conversions to Coal" submitted by the Commissioner of the Massachusetts Department of Environmental Quality Engineering on January 22, 1982 specifying the conditions under which coal may be burned at the Holyoke Water Power Company, Mount Tom Plant, Holyoke, Massachusetts.

[FR Doc. 82-15600 Filed 6-8-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-5-FRL 2114-8]

Approval and Promulgation of State Implementation Plans; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On June 29, 1981 (46 FR 33334), the Environmental Protection Agency (EPA) proposed to approve a revision to the Illinois State Implementation Plan (SIP) for total suspended particulate (TSP) for the Caterpillar Tractor Company (Caterpillar). This revision grants nine Caterpillar boilers variance from Illinois Pollution Control Board (IPCB) Rules 203(g)(1)(A), Rule 203(g)(1)(C)(i), and/or Rule 203(g)(1)(D) which regulate particulate emissions from new and existing sources. In the June 29, 1981, Notice of Proposed Rulemaking, interested persons were given until July 29, 1981, to comment. On July 30, 1981, public comment period was extended to August 28, 1981, (46 FR 38937). The purpose of this notice is to discuss the public comment received and to announce EPA's final rulemaking action approving this proposed revision to the Illinois SIP.

EFFECTIVE DATE: This final rulemaking becomes effective July 9, 1982.

ADDRESS: Copies of the proposed SIP revision, the public comments received on the Notice of Proposed Rulemaking (45 FR 59597), and response to the comments are available at the following addresses:

U.S. Environmental Protection Agency, Air Programs Branch, Region V, 230 Dearborn Street, Chicago, Illinois 60604

The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6035.

SUPPLEMENTARY INFORMATION: On November 29, 1979, Caterpillar obtained a variance from IPCB Rule 203(g)(1) for particulate emissions for thirteen coal-fired industrial boilers equipped with flue gas desulfurization systems, (FGD) at its East Peoria, Joliet, Mossville, and Mapleton, Illinois plants. The variance, in the form of a final order (Order) was amended on January 24, 1980 and on February 7, 1980. On April 4, 1980, the State of Illinois submitted the Order to EPA as a revision to the Illinois SIP. On June 29, 1981, EPA proposed rulemaking action on the submittal. The purpose of this notice is to discuss the public comments received and to announce EPA's Final Rulemaking action on approving this revision to the Illinois SIP.

On September 5, 1979, Caterpillar filed four Petitions for Variance from Rule 203(g)(1) for particulate emissions from thirteen boilers at its East Peoria, Joliet, Mapleton and Mossville, Illinois plants. These petitions were filed while the IPCB was considering a broader Caterpillar regulatory petition, R79-11 which sought the adoption of a particulate emission limitation of .025 lbs/MMBTU for all coal-fired industrial boilers equipped with FGD systems. On November 29, 1979, as amended on January 24, 1980 and February 7, 1980, the IPCB granted Caterpillar a variance from Rule 203(g)(1) until December 31, 1982, or until final rulemaking is completed on regulatory proceeding R79-11 for the sources listed in the accompanying table:

Facility	County	Attainment status	Boiler	Present regulation	Present emission limit in lbs/MMBTU	Proposed variance in lbs/MBTU
East Peoria	Tazewell	Primary nonattainment	19	Rule 203(g)(1)(C)(i)	0.1556	.25
			20	Rule 203(g)(1)(C)(i)	0.1556	.25
			21	Rule 203(g)(1)(D)	0.1	.32
			22	Rule 203(g)(1)(D)	0.1	.32
Joliet	Will	Primary nonattainment	7	Rule 203(g)(1)(A)	0.1	.25
Mossville	Peoria	Secondary nonattainment	3	Rule 203(g)(1)(A)	0.1	.28
			4	Rule 203(g)(1)(D)	0.1	.25
Mapleton	Peoria	Secondary nonattainment	5		0.1	.27
			1	Rule 203(g)(1)(D)	0.1	.25

The present emission limits and proposed variances in the above table were not similarly listed in the table contained in the Notice of Proposed Rulemaking. In that notice, both the present limit and the proposed variance were listed under the heading "Present Emission Limit" instead of being listed in two columns. Since all the information needed to interpret the table was presented, EPA is announcing its final rulemaking today without reproposal.

This variance covering the boilers at four Caterpillar Tractor Company

facilities expired on October 8, 1981, when the IPCB issued a final order in regulatory proceeding R79–11. This final order was submitted to EPA as a proposed revision to the Illinois SIP on December 7, 1981. EPA expects to publish a proposed rule on this submission shortly.

The IPCB also granted Caterpillar a variance for Mapleton Boilers # 2, 3, 4, and 5 and Illinois also submitted a SIP revision request for these four boilers.

However, EPA has determined that these boilers are subject to Section III of the Clean Air Act (Act) as amended, as defined in 40 CFR Part 60—Standards of Performance for New Stationary Sources (NSPS) for Fossil-Fuel Fired Steam Generators and, as such, are not eligible for SIP relaxations under Section 110 of the Act. Such alterations of the regulations for sources subject to NSPS must be handled through the provisions of Section 111. Accordingly, Mapleton boilers, # 2, 3, 4 and 5 are not covered by this final action.

Pursuant to Part D of the Act, as amended, each State is required to revise its SIP in nonattainment areas to demonstrate attainment of the TSP National Ambient Air Quality Standards by December 31, 1982. Absent a rigorous attainment demonstration, an acceptable alternative SIP for nonattainment areas must include provisions for applying reasonably available control technology (RACT) to stationary sources and studying the nature and extent of nontraditional particulate sources in the area. Since the four facilities are located in nonattainment areas for TSP, these requirements would apply to the Caterpillar SIP revision. While the State of Illinois has not submitted a rigorous attainment demonstration for this SIP revision, EPA has reviewed the proposed SIP revision and finds the SIP revision for the East Peoria Boilers # 19, 20, 21 and 22, Joliet Boilers # 2 and 3, Mossville Boilers # 4 and 5, and Mapleton, Boiler # 1 is approvable for the following reasons:

(1) The regenerative double alkali scrubber system, which Caterpillar installed on its boilers to control SO_2 and particulates, satisfies the technical and economic feasibility requirements of RACT, and (2) Illinois has initiated an acceptable study of nontraditional sources of fugitive dust in nonattainment areas.

EPA received public comments on the June 29, 1981 Notice of Proposed Rulemaking from Caterpillar's legal representative. These comments are discussed below:

Public Comment: Rule 203(g)(1) is not a valid part of the Illinois SIP. Rule 203(g)(1) is invalid for State purposes and accordingly does not exist as a part of the Illinois SIP.

EPA Response: The EPA position on the validity of Illinois Rule 203(g)(1) is that adopted by the Court in People of the State of Illinois v Commonwealth Edison, 490 F Supp. 1145 (N.D. Ill. 1980), namely, invalidation by a state court of a regulation approved as part of that state's implementation plan does not invalidate federal enforcement of the regulation.

Public Comment: Caterpillar objects to the determination that its Mapleton boilers 2–5 are subject to section 111 of the Clean Air Act, as amended. While Caterpillar received a Notice or Violation from EPA on August 20, 1980, with respect to the alleged failure to comply with § 111 of the Clean Air Act and 40 CFR Part 60, Standards of Performance for new Stationary Sources for Fossil-Fuel-Fired Steam Generators, the application of such provisions remains unresolved at the present time.

EPA Response: As stated on page 33335 of the June 29, 1981, Notice of Proposed Rulemaking, Mapleton Boilers # 2–5 are not covered by this rulemaking action in that the applicability of the NSPS to Mapleton Boilers # 2–5 is to be made under Section 111 of the Act.

Public Comment: Caterpillar objects to the requirement that any permit that contains conditions that exempt the boilers from the emissions limits must be submitted to EPA for approval. This requirement is burdensome and unwarranted.

EPA Response: A SIP revision is necessary because the variance contains an open ended exception to emission limits in the federally approved SIP. Condition A requires Caterpillar to operate its scrubbers at all times during boiler use except when applicable permit conditions allow otherwise. Thus permits which change emission limitations in the federally approved SIP must be technically supported and submitted to EPA as a proposed SIP revision.

Since no substantive adverse public comments were received, EPA approves the variance granted Caterpillar from IPCB Rules 203(g)(1)(A), Rule 203(g)(1)(C)(1), and Rule 203(g)(1)(D) for 9 Caterpillar boilers as part of the Illinois SIP.

Under Executive Order 12291, today's action is not "major". It was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comment from OMB to EPA and any response to these comments are available for public inspection at the EPA Region V Office listed above.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 9, 1982. This action may not be challenged later in proceedings to enforce its requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Note.—Incorporation by reference of the State Implementation Plan for the State of Illinois was approved by the director of the **Federal Register** on July 1, 1981.

Dated: June 1, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, Chapter I, Part 52, is amended by adding paragraph (C)(31) to § 52.720, as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(31) On April 4, 1980, the State submitted a November 29, 1979, Opinion and Order of the Illinois Pollution Control Board (IPCB) and Supplementary IPCB Orders dated January 24, 1980, and February 7, 1980. These Orders grant 13 Caterpillar Tractor Company boilers a variance from the requirements of IPCB (A), Rule 203(g)(1)(C)(i) and/or Rule 203(g)(1)(D) which regulate particulate emissions from new and existing sources. No action is taken at this time on variance provisions for Mapleton facility boilers #2, 3, 4, and 5. This variance expired on October 8, 1981.

[FR Doc. 82–15571 Filed 6–8–82; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[A–3–2126–4]

Approval of Revision of the Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On May 20, 1980, EPA published a **Federal Register** notice taking final action on Pennsylvania's

1979 State Implementation Plan (SIP) revision (45 FR 33607) under the Clean Air Act. In that notice, EPA conditionally approved two regulations that applied to Allegheny County, Pa. On February 23, 1982, Pennsylvania submitted amendments to correct these two conditionally-approved Volatile Organic Compound (VOC) regulations. EPA is approving these amendments in this notice.

DATE: Effective July 9, 1982.

ADDRESSES: Copies of this SIP revision and the accompanying support documents are available for inspection during normal business hours at the following locations:

Environmental Protection Agency, Air Programs and Energy Branch, 6th and Walnut Streets, Philadelphia, PA 19106, Attn: Gregory Ham (3AW11)
Allegheny County Bureau of Air Pollution Control, 301 Thirty-Ninth Street, Pittsburgh, PA 15201, Attn: Ron Chleboski, Deputy Director
Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA 17120
Public Information Reference Unit, Room 2922, EPA Library, Environmental Protection Agency, 401 M Street SW., (Waterside Mall), Washington, D.C. 20460
Office of the Federal Register, 1100 L Street SW. Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Ham, Environmental Protection Agency, Region III, Air Programs and Energy Branch, Curtis Building, 6th & Walnut Streets, 10th Floor, Philadelphia, PA 19106, (215) 597-2745.

SUPPLEMENTARY INFORMATION: On May 20, 1980, EPA published a **Federal Register** notice taking final action on Pennsylvania's 1979 SIP revision (45 FR 33607). In that notice EPA conditionally approved two VOC regulations pertaining to cutback and emulsified asphalts. The County has submitted a justification for one of the regulations and changed the other to satisfy the conditions on these regulations.

The justification involved the exemption allowing the use of cutback asphalt as a tack coat (Section 510 of Article XX). Pennsylvania has demonstrated that this exemption is insignificant, resulting in an increase of less than 2.2% in VOC emissions from asphalt paving statewide (including Allegheny County). Therefore, this exemption does not need to be removed.

The regulation change involved the solvent content allowed in emulsified asphalt (also section 510 of Article XX). The previous regulation exempted emulsified asphalts with solvent content less than 12% from control under cutback asphalt regulations. The revised regulation sets maximum solvent contents for various grades of emulsified asphalts at levels recommended by EPA as Reasonably Available Control Technology for Round I VOC regulations.

In the May 20, 1980 **Federal Register** notice (45 FR 33623) which conditionally approved Pennsylvania's plan, EPA stated that RACT for asphalt could be determined on a case-by-case basis to reflect the varying local conditions which may require different solvent content for asphalts. Pennsylvania has indicated that the use of cutback asphalt as a tack coat is necessary because they feel that the water-based asphalt alternative lacks the waterproofing characteristics and adhesive properties needed for durable pavement. However, as mentioned above they have demonstrated that tack coat use results in an insignificant increase (less than 2.2%) of the VOC emissions statewide. Pennsylvania has also revised their definition of cutback asphalt stipulating maximum allowable solvent contents for specific grades of emulsified asphalts in accordance with conditional approval Option A (45 FR 33618).

Since Pennsylvania has adopted the specific EPA conditional approval Option A and has demonstrated the insignificance of the tack coat exemption, EPA is approving these items and changing the conditional approval to full approval for these items.

EPA did not publish a separate proposal of this SIP revision because the conditions and actions requiring these revisions were discussed in detail in the **Federal Register** notice of May 20, 1980 (45 FR 33607).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit court by August 9, 1982. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxides, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(42 U.S.C. 7401-7642)

Dated: June 1, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by Reference of the State Implementation Plan for the State of Pennsylvania was approved by the Director of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 Part 52 of the Code of Federal Regulations is amended as follows:

Subpart NN—Pennsylvania

1. In § 52.2020, (c)(43) is added to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) The plan revision listed below was submitted on the date specified. * * *

(43) Revisions submitted to the Commonwealth of Pennsylvania on February 23, 1982 to correct the conditionally-approved portions of the 1979 State Implementation Plan, specifically the two asphalt regulations in Allegheny County, Pa.

* * * * *

§ 52.2037 [Amended]

2. Section 52.2037 is amended by removing paragraph (a)(2).

[FR Doc. 82-15607 Filed 6-8-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 52

[A-4-FRL 2121-7]

Approval and Promulgation of Implementation Plans; Tennessee: Approval of Alternative VOC Compliance Schedule; Kentucky: Approval of Jefferson County Set II VOC Regulations for New/Existing Affected Facilities

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Nashville-Davidson County, Tennessee, Metropolitan Board of Health on August 12, 1981, adopted an alternative schedule of compliance for Regulation No. 7 "Regulation for Control of Volatile Organic Compounds" for rotogravure and flexographic printing operations of Werthan Industries, Inc. EPA today is approving this revision in the Tennessee plan.

EPA is also announcing full approval of State Implementation Plan (SIP) regulations for the control of new/existing affected facilities of volatile

organic compound (VOC) for Set II, which Kentucky submitted for Jefferson County (Louisville) pursuant to requirements of Part D, Title I of the Clean Air Act (CAA) and in conformity with EPA's New Source Performance Standards (NSPS).

EFFECTIVE DATE: This action will be effective on August 9, 1982, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: The submittals may be examined during normal business hours at the following offices:

State of Tennessee, Department of Public Health, Division of Air Pollution Control, Terra Building 6th Floor, 150 9th Avenue North, Nashville, Tennessee 37203

Kentucky Department for Natural Resources and Environmental Protection, Division of Air Pollution Control, 18 Reilly Road, Building 2, Frankfort, Kentucky 40601

Library, Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20005

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Air Programs Branch, Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Waymond A. Blackmon, EPA Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365, 404/881-2864 (FTS 257-2864).

SUPPLEMENTARY INFORMATION:

The Tennessee Revision

After public hearing in conformity with 40 CFR 51.4, the Metropolitan Board of Health of Nashville-Davidson County, Tennessee on August 12, 1981, adopted a regulation which sets forth an alternative compliance schedule under which Werthan Industries, Incorporated's rotogravure and flexographic printing operation, a source of volatile organic compound (VOC) emissions, is given until September 1, 1987, to achieve final compliance. This extension will not interfere with reasonable further progress in attaining the National Ambient Air Quality Standards for ozone in the Nashville area.

Accordingly, EPA is today approving the alternative compliance schedule for Werthan Industries, Inc., submitted as an implementation plan revision by the State of Tennessee.

The Kentucky Revision

After public hearing, the Jefferson County Air Pollution Control Board adopted regulations for new and existing sources of volatile organic compound (VOC). On October 20, 1981, Kentucky submitted Jefferson County's VOC regulations (Regulation No. 6 and 7 "New/Existing Affected Facilities") for approval as a plan revision. EPA's review of these regulations indicates they are consistent with the Set II VOC control techniques guidelines (CTGs) issued by the Agency as well as the Standard of Performance for New Stationary Sources (40 CFR Part 60).

Therefore, EPA is today approving the Jefferson County Air Pollution Control Board's Set II VOC regulations:

6.13 Standard of Performance for Existing Storage Vessels for Volatile Organic Compounds.
6.23 Standard of Performance for Existing Dry Cleaning Facilities.
6.29 Standard of Performance for Existing Graphic Arts Facilities Using Rotogravure and Flexography.
6.30 Standard of Performance for Existing Factory Surface Coating Operations of Flat Wood Paneling.
6.31 Standard of Performance for Existing Miscellaneous Metal Parts and Products Surface Coating Operations.
6.32 Standard of Performance for Leaks From Existing Petroleum Refinery Equipment.
6.33 Standard of Performance for Existing Synthesized Pharmaceutical Product Manufacturing Operations.
6.34 Standard of Performance for Existing Pneumatic Rubber Tire Manufacturing Plants.
6.36 Standard of Performance for Existing Metal Parts and Products Surface Coating Operations at Auto and Truck Manufacturing Plants.

New Source Performance Standards (NSPS) regulations:

7.12 Standards of Performance for New Storage Vessels for Volatile Organic Compounds.
7.23 Standards of Performance for New Perchloroethylene Dry Cleaning Systems.
7.56 Standards of Performance for Leaks from New Petroleum Refinery Equipment.
7.57 Standards of Performance for New Graphic Arts Facilities Using Rotogravure and Flexography.
7.58 Standards of Performance for New Factory Surface Coating Operations of Flat Wood.
7.59 Standards of Performance for New Miscellaneous Metal Parts and Products Surface Coating.
7.60 Standards of Performance for New Synthesized Pharmaceutical Product Manufacturing Operations.
7.61 Standards of Performance for New Pneumatic Rubber Tire Manufacturing Plants.
7.62 Standards of Performance for Stationary Gas Turbines.
7.63 Standards of Performance for New Electric Utility Steam Generating Units.
7.64 Standards of Performance for New Ammonium Sulfate Manufacturing Units.

EPA does not have Federal NSPS for regulation numbers 7.23, 7.56, 7.57, 7.58, 7.59, 7.60, and 7.61. However, when EPA promulgates NSPS for these categories, we will enforce the EPA promulgated regulations if the local's version is less stringent.

The public should be advised that these actions will be effective August 9, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, these actions will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of these actions and establishing a comment period.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the States Court of Appeals for the appropriate circuit by August 9, 1982. This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2)).

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709)

The Office of Management and Budget has exempted this regulation from the requirements of section 3 of Executive Order 12291.

Incorporation by reference of the State Implementation Plans for Kentucky and Tennessee was approved by the Director of the Federal Register on July 1, 1981.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110 and 172 of the Clean Air Act as Amended (42 U.S.C. 7410 and 7502))

Dated: June 1, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart S—Kentucky

1. Section 52.920 is amended by adding paragraph (c)(30) as follows:

§ 52.920 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(30) Jefferson County Set II VOC regulations for new/existing affected facilities, submitted on October 20, 1981, by the Kentucky Department for Natural Resources and Environmental Protection.

Subpart RR—Tennessee

2. Section 52.2220 is amended by adding paragraph (c)(42) as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(42) Alternative VOC compliance schedule for Werthan Industries, Inc., Nashville, submitted on October 9, 1981, by the Tennessee Department of Public Health.

[FR Doc. 82-15506 Filed 6-8-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 52

[LA-6-2128-7]

Approval and Promulgation of Revisions to Louisiana State Implementation Plan

AGENCY: Environmental Protection Agency (EPA)

ACTION: Final rulemaking.

SUMMARY: The purpose of this rule is to approve revised sections of the State Implementation Plan (SIP) and Air Quality Regulations for Louisiana which were submitted to EPA by the Governor in four separate submittals dated January 12, 1981, March 25, 1981, February 15, 1982 and March 10, 1982. The revised Sections of the Air Quality Regulations concern: (1) Administrative or rewarding changes which do not alter the intent of the revised Sections, (2) a revision which requires that updates on emission data and compliance of sources be submitted annually to the State, (3) a revision which requires an opacity limitation for emissions from Kraft recovery furnaces in pulp manufacturing plants, and (4) a revision which requires source testing for compliance with applicable emission rates for Kraft recovery furnaces in pulp manufacturing plants. The revised sections were submitted by the State for the purpose of meeting the requirements of Part D of the Clean Air Act (CAA), and to assist the State in the continued maintenance of the National Ambient Air Quality Standards throughout Louisiana. This notice also amends 40 CFR 52.970.

EFFECTIVE DATE: This rulemaking will be effective on August 9, 1982, unless notice is received by 30 days from date of publication that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the materials submitted by Louisiana, and EPA's Evaluation Report may be examined during normal business hours at the following locations: EPA, Region 6, Air Branch, 1201 Elm Street, Dallas, Texas 75270; EPA, Public Information Reference Unit, Library Systems Branch, 401 M Street, S.W., Washington, D.C. 20460; The Office of the Federal Register, Room 8401, 1100 L Street, N.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: J. Ken Greer, Jr., State Implementation Plan Section, Air & Waste Management Division, EPA, Region VI, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2742, FTS 729-2742.

SUPPLEMENTARY INFORMATION:

I. Background

The Governor of Louisiana submitted to EPA revisions to the State's SIP for air pollution control on January 12, 1981, March 25, 1981, February 15, 1982 and March 10, 1982. The submittals revised sections 4.14, 4.36, 4.102, 4.110, 6.6, 17.13, 22.3.1.1, 22.3.1.2, 22.20.2, 22.21.2(D) and added new sections 23.4.1.1, 23.4.4 and 1077 of the SIP and the State's Air Quality Regulations. The revisions submitted include: (1) Administrative or rewording changes which do not alter the intent of the revised Sections, (2) a revision which requires that updates on emision data and compliance of sources be submitted annually to the State, (3) a revision which requires an opacity limitation for emissions from Kraft recovery furnaces in pulp manufacturing plants and (4) a revision which requires source testing for compliance with applicable emision rates for Kraft recovery furnaces in pulp manufacturing plants. Public hearings were held and the revised Sections were adopted by the Louisiana Environmental Control Commission on December 11, 1980 for sections 4.102, 4.110, 22.22.2 and 22.21.2(D), on February 26, 1981 for sections 4.14, 4.36, 6.6, 22.3.1.1 and 22.3.1.2, and on January 28, 1982 for sections 17.13, 23.4.1.1 and 23.4.4. No public hearing was held concerning the revised Section 1077 of the Environmental Affairs Act, which was an administrative change adopted by the Louisiana Legislature, effective January 1, 1980. Brief descriptions of the revised Sections and EPA's actions are outlined below.

II. Description of the Revised Sections

A revision to section 4.14 of the Definitions Section of the Air Quality Regulations revises the name of the Louisiana Air Control Commission to the name of The Environmental Control Commission of the State of Louisiana. The revised Section was submitted to EPA on March 25, 1981.

A revision to section 4.36 of the Definitions Section defines an installation as an identifiable piece of processing equipment, manufacturing equipment, fuel burning equipment, incinerator, or other equipment on construction capable of creating or causing emissions. The revised section was submitted to EPA on March 25, 1981.

A revision to section 4.102 deletes the definition for vapor-tight since the definition is included in section 22 of the Louisiana Regulations. EPA approved Louisiana's section 22 in an October 29, 1981 Federal Register notice (46 FR 53412). The revision was submitted to EPA on January 12, 1981.

A revision to section 4.110 defines transfer efficiency as the portion of coating solids which is not lost or wasted during the application process expressed as percent of total volume of coating solids delivered by the applicator. The revised section was submitted to EPA on January 12, 1981.

A revision to section 6.6, Public Comment Section, adds a requirement that a copy of public notices announcing availability of information concerning new source permits will be sent to EPA via the Region 6 Office. The revised section was sent to EPA on March 25, 1981.

A revision to section 17.13 requires that annual reports (as required by other Sections of the Regulations), must be submitted to the Louisiana Department of Natural Resources (DNR) by March 1st of each year for the previous year's activities. The report should include all data applicable to the emission source or sources as required by the State's regulations concerning emission inventories, emergency notification, and compliance with the Air Quality Regulations. The revised section was submitted to EPA on February 15, 1982.

A wording change to the first part of both sections 22.3.1.1 and 22.3.1.2 concerns adding a descriptive term for floating roofs used in control of storage

tank emissions. The floating roof description is revised to read, "consisting of a pontoon type roof, double deck type roof or internal (or external) floating cover which will rest * * *" The revision to both sections was submitted to EPA on March 25, 1981.

A revision to section 22.20.2, exemptions for rotogravure or flexographic printing facilities, was revised to include the clarifying words, "calculated from historical records of actual consumption of ink . . ." The revised section was submitted to EPA on January 12, 1981.

Section 22.21.1 (D) was revised to require monitoring "immediately" when liquids are observed dripping from pump seals. The revised section was submitted to EPA on January 12, 1981.

A new section 23.4.1.1, Compliance, was added by Louisiana to the State's regulation for control of emissions from pulp manufacturing plants. The new Section requires that owners or operators of sources shall conduct source tests of recovery furnaces pursuant to the provisions in Table 4 of the Louisiana Regulations. The source test results should be submitted to the State and are necessary because each source covered by section 23 must prove to the State that it is in compliance with the particulate emission rates listed in Section 23 for recovery furnaces. The new section was submitted to EPA on February 15, 1982.

A new section 23.4.4, Opacity Limitation, was also added by the State to section 23. The new Section requires that the emission of smoke from recovery furnaces shall be controlled so the emissions are not darker than 40% average opacity as measured by a method listed in Table 4 of the Louisiana Regulations. An exceedance to the 40% opacity limitation may be allowed only during one six-minute period in any sixty consecutive minute period. The new Section was submitted to EPA on February 15, 1982.

In addition, an administrative change has been made to Section 2210, Confidential Information, of the Louisiana Air Control Law. Effective January 1, 1980, the Section was renumbered as Section 1077, to coincide with revisions made previously by the Louisiana Legislature to the Environmental Affairs Act. The renumbering does not alter the intent of the Section. The revision was submitted to EPA on March 10, 1982.

The above described revised and new Sections have been reviewed by EPA and found to agree with EPA guidance as fully explained in the Evaluation Report which is available for public review at the places listed in the **ADDRESSES** section of this notice. The revised Sections will allow DNR to continue to attain and maintain the National Ambient Air Quality Standards throughout the State of Louisiana.

EPA's Actions

EPA approves the SIP revisions as submitted by Louisiana which revise sections 4.14, 4.36, 4.102, 4.110, 6.6, 17.13, 22.3.1.1, 22.3.1.2, 22.20.2, 22.21.2(D), 23.4.1.1, 23.4.4 and 1077 of the Louisiana SIP and Air Quality Regulations.

The public should be advised that this action will be effective on July 9, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and a subsequent notice published before the effective date. The subsequent notice will withdraw the final action and will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit within 60 days of the date of publication. This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2).)

Under 5 U.S.C. 605(b), I have certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Incorporation by reference of the SIP for the State of Louisiana was approved by the Director of the Office of the Federal Register on July 1, 1981.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur dioxides, Nitrogen dioxide, Lead, Particulate matter, Carbon dioxide and hydrocarbons.

(Sec. 110(a) of the Clean Air Act, as amended 42 U.S.C. 7410(a))

Dated: June 1, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart T—Louisiana

1. Section 52.970 is amended by adding new paragraphs (c) (34), (36), (37), and (38) as follows:

§ 52.970 Identification of plan.

* * * * *

(c) * * *

(34) Revisions to the Air Control Regulations 4.102, 4.110, 22.20.2 and 22.21.2(D), as adopted by the Louisiana Environmental Control Commission on December 11, 1980, were submitted by the Governor on January 12, 1981.

* * * * *

(36) Revisions to the Air Control Regulations 4.14, 4.36, 6.6, 22.3.1.1, and 22.3.1.2, as adopted by the Louisiana Environmental Control Commission on February 26, 1981, were submitted by the Governor on March 25, 1981.

(37) Revisions to the Air Control Regulations 17.13, 23.4.1.1 and 23.4.4, as adopted by the Louisiana Environmental Control Commission on January 28, 1982, were submitted by the Governor on February 15, 1982.

(38) A revision to section 2210 of the Louisiana Air Control Law was submitted to EPA on March 10, 1982. The Section was renamed Section 1077 of the Environmental Affairs Act, by the Louisiana Legislature, and was effective January 1, 1980.

[FR Doc. 82-15369 Filed 6-8-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 52

[A-9-FRL-2048-8]

Approval and Promulgation of Implementation Plans; Southeast Desert Air Basin, California, Nonattainment Area Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: On June 8, 1981, EPA proposed to approve with conditions the Southeast Desert Air Basin (SEDAB) Nonattainment Area Plan (NAP) for ozone. The SEDAB NAP is intended to provide for attainment of the ozone National Ambient Air Quality Standards (NAAQS) in the SEDAB of Los Angeles, Riverside and San Bernadino Counties. Today's notice takes final action to approve with conditions the SEDAB with respect to part D of the Clean Air Act, "Plan Requirements for Nonattainment Areas."

DATE: This action is effective June 9, 1982.

ADDRESS: A copy of the SEDAB NAP for ozone is located at: The Office of the Federal Register, 1100 "L" Street, N.W., Room 8401, Washington, D.C. 20408, Public Information Reference Unit, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: David P. Howekamp, Acting Director, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, Attn: Douglas Grano, (415) 974–8222.

SUPPLEMENTARY INFORMATION:

Background

On February 15 and September 5, 1980, the California Air Resources Board (ARB) submitted revisions to the California State Implementation Plan (SIP) consisting of a control strategy and regulations for the Southeast Desert Air Basin. These revisions, which comprise the Southeast Desert Air Basin NAP, are intended to provide for attainment of the ozone National Ambient Air Quality Standards (NAAQS) in the SEDAB portions of Los Angeles, Riverside, and San Bernardino Counties.

On June 8, 1981 (46 FR 30355), EPA published a notice of proposed rulemaking concerning the SEDAB NAP for ozone. The notice provided a description of the NAP, summarized the applicable Clean Air Act requirements into 14 criteria, compared the NAP to those criteria, and proposed to approve, conditionally approve, and disapprove portions of the NAP. The June 8th notice should be used as a reference in reviewing today's actions.

Public Comments

During the public comment period, EPA received comments from the ARB and the San Bernardino County Air Pollution Control District. These comments are specifically identified and responded to in EPA's Public Comment Technical Support Document (contained in Document File NAP–CA–10 at the EPA Library in Washington, D.C. and at the Region 9 office).

EPA Actions

EPA's final actions on the Los Angeles, Riverside, and San Bernardino County portions of the SEDAB NAP for ozone are described below. These actions are based on the proposed rulemaking notice and the public comments received by EPA.

Approved Portions of the NAP

The following portions of the NAP are approved because they satisfy the requirements of Part D: Emission inventory, modeling, emission reduction estimates, attainment provision, reasonable further progress, legally adopted measures (except Los Angeles portion), emissions growth, annual reporting, resources, public and government involvement, and public hearing requirements. The San Bernardino County rules listed below are approved because they fully satisfy the Part D requirements for reasonably available control technology (RACT): Rule 442, 461, 462, 463, and 1113.

EPA is also approving a revision to the SIP which adds the SEDAB portion of Riverside County into the South Coast Air Quality Management District (SCAQMD). The effect of this revision is to make all the SCAQMD rules applicable throughout Riverside County.

The State's request for an extension of the ozone attainment date to December 31, 1987 is approved.

Conditionally Approved Portions of the NAP

In the June 8, 1981 notice, EPA proposed to disapprove five segments of the NSR rules for Los Angeles and Riverside Counties and four for San Bernardino County. In each case four of the segments contained identical language stipulating use of the highest three out of five years emissions in calculating applicability and offset baselines. That would normally lead to an unrepresentatively high baseline emissions level. The other item EPA proposed to disapprove was a provision in the Riverside and Los Angeles County rules which provided that some sources could exclude up to 100 pounds per day of emissions in determining whether they were subject to the rules and how much offsetting would be required. EPA has decided not to disapprove these five rule segments. However, EPA is conditioning approval of the SEDAB NAP on correction of these and other NSR problems. The condition is that the rules be amended to be consistent with EPA's regulations. Further information on problems with these rules is provided in EPA's Evaluation Report Addendum (Document File NAP–CA–10) at the EPA Library in Washington, D.C., and the Regional Office in San Francisco. Each District has committed to prepare revisions to their rules which will make them consistent with EPA's current regulations, including the amendments of August 7, 1980 and October 14, 1981.

With regard to the exclusion of up to 100 pounds per day in calculating emissions, it expired on October 8, 1981, and is therefore considered to be moot in this rulemaking. With regard to the emissions baseline calculations (highest 3 of 5 years), EPA finds that though the provision is inconsistent with EPA's criteria (CAA Section 173(1), 40 CFR 51.18(j)(1) (vii) and (xv), August 7, 1980), it is not serious enough to require disapproval.

The SEDAB highest 3 of 5 years baseline provision, which affects determinations of applicability and of offset requirements, is only a minor deficiency under EPA's regulations for the following reasons. First, SEDAB is a rural nonattainment area for ozone, and EPA's current policy does not require offsets for VOC sources locating in rural nonattainment areas. Second, although this provision will reduce the number of modifications which will be subject to NSR requirements, no modifications that would be regulated under EPA's regulations would currently avoid review under the SEDAB rules. This is because EPA regulations cover only modifications to major existing sources and there are currently no major VOC sources (as defined by 40 CFR 51.18) in SEDAB.

The legally adopted measures (Los Angeles portion only) and permit program portions of the NAP contain minor deficiencies. Since the State and the Districts have committed to submit the material necessary to correct the minor deficiencies, EPA is now taking final action to approve these portions of the NAP with the following conditions:

1. By August 9, 1982, the State must provide adopted regulations for degreasing operations in the Los Angeles County portion of the SEDAB which represent RACT (as required by Section 172(b)), and

2. By August 9, 1982, the New Source Review rules for the Riverside, Los Angeles, and San Bernardino portions of the SEDAB must be revised to meet the requirements in EPA's amended regulations under Section 173 (May 13, 1980, (45 FR 31307), August 7, 1980, (45 FR 52676) and October 14, 1981, (46 FR 50766)).

Final Action on the Overall NAP

Since the SEDAB NAP for ozone in Los Angeles, Riverside, and San Bernardino Counties contains only minor deficiencies, and since the State has provided assurances to correct these deficiencies, EPA is taking final action to conditionally approve the overall NAP with respect to Part D. As a result, the current prohibition on construction of major new or modified sources of volatile organic compounds is no longer in effect in these portions of the SEDAB.

Regulatory Process

In those areas for which the State of California has submitted approvable or conditionally approvable NAPs in

accordance with the requirements of Part D, EPA has responsibility to take a final action as soon as possible in order to lift the construction prohibition. Since the State has submitted a conditionally approvable NAP for the Counties discussed in this notice, EPA finds that good cause exists for making this action immediately effective.

As a result of the approval of certain portions of the NAP, EPA is taking final action to rescind the analogous portions of § 52.233, Review of new sources and modifications. In addition, EPA is approving the rescission of San Bernardino County's *Rule 67,* Fuel Burning Equipment, as applied to new sources.

Under Executive Order 12291, EPA must judge whether a rulemaking action is "major," Further, under the Regulatory Flexibility Act, EPA must assess the effect of the rulemaking action on "small entities." This action is not "major" because it approves state and local actions and imposes no new requirements. I hereby certify that the action will not have a significant economic impact on a substantial number of small entities. This revision to the California SIP was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1981.

List of Subjects in 40 CFR Part 52

Air Pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110, 129, 171–178, and 301(a), Clean Air Act, as amended [42 U.S.C. 7410, 7429, 7501 to 7508, and 7601(a)])

Dated: May 19, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart F of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. In § 52.220 paragraphs (c)(51)(xii)(B), (c)(85)(v), (c)(87) (iv) and (v), (c) (106), (107), and (108) are added as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(51) * * *

(xii) * * *

(B) New or amended Rules 442, 463, and 1113.

* * * * *

(85) * * *

(v) San Bernardino County APCD, Southeast Desert Air Basin portion.

(A) New or amended Rules 461 and 462.

* * * * *

(87) * * *

(iv) San Bernardino County APCD, Southeast Desert Air Basin portion.

(A) New or amended Rules 1301, 1302, 1303, 1304, 1305, 1306, 1307, 1308, 1310, 1311, and 1313.

(v) Los Angeles County APCD, Southeast Desert Air Basin portion.

(A) New or amended Rules 1301, 1302, 1303, 1304, 1305, 1306, 1307, 1308, 1310, 1311, and 1313.

* * * * *

(106) The *Southeast Desert Air Basin Control Strategy* for ozone (Chapter 19 of the Comprehensive Revisions to the State of California Implementation Plan for the Attainment and Maintenance of the Ambient Air Quality Standards) was submitted by the Governor's designee on February 15, 1980. The portions of the *Southeast Desert Air Basin Control Strategy* identified in Table 19–1 (Summary of Plan Compliance with Clean Air Act Requirements), except those which pertain to Imperial County, comprise the plan. The remaining portions are for informational purposes only.

(107) On August 11, 1980, the Governor's designee submitted a revision to the State Implementation Plan which adds the Southeast Desert Air Basin portion of Riverside County into the South Coast Air Quality Management District.

(108) On November 28, 1980, the Governor's designee submitted a revision to the State Implementation Plan which deletes Rule 67, for the San Bernardino County APCD as applied to new sources.

* * * * *

2. Section 52.222 is amended by adding paragraph (d)(6) as follows:

§ 52.222 Extensions.

* * * * *

(d) * * *

(6) Southeast Desert Air Basin.

(i) Riverside County for Ozone.

(ii) Los Angeles County for Ozone.

(iii) San Bernardino County for Ozone.

* * * * *

3. Section 52.223 is amended by adding paragraph (b)(8) as follows:

§ 52.223 Approval status.

* * * * *

(b) * * *

(8) Southeast Desert Air Basin.

(i) Los Angeles County for Ozone.

(ii) San Bernardino County for Ozone.

(iii) Riverside County for Ozone.

* * * * *

4. Section 52.232 is amended by adding paragraph (a)(13) as follows:

§ 52.232 Part D conditional approval.

(a) * * *

(13) Los Angeles, San Bernardino, and Riverside portions of the Southeast Desert Air Basin.

(i) For Ozone:

(A) By August 9, 1982, the new source review rules for the three county areas must be revised to meet the requirements in EPA's amended regulations under Section 173 (May 13, 1980, (45 FR 31307), August 7, 1980, (45 FR 52676), and October 14, 1981, (46 FR 50766)).

(B) By August 9, 1982, the State must provide adopted regulations for degreasing operations in the Los Angeles County portion of the SEDAB which represent RACT.

* * * * *

5. In § 52.238, the entries for the Southeast Desert Intrastate are revised to read as follows:

§ 52.238 Attainment dates for the national standards.

* * * * *

Air quality control region	Pollutants						
	TSP		SO_2		NO_2	CO	O_3
	Primary	Secondary	Primary	Secondary			
* * *	*	*	*	*	*		*
Southeast Desert Intrastate:							
a. Imperial County portion	a	a	a	a	a	a	b.
b. San Bernardino County portion	a	a	a	a	a	May 31, 1977.	b.
c. Riverside County portion	a	a	a	a	a	May 31, 1977.	b.

Air quality control region	Pollutants						
	TSP		SO_2		NO_2	CO	O_3
	Primary	Secondary	Primary	Secondary			
d. Los Angeles County portion	a	a	e	e	e	May 31, 1977.	i.
e. Remainder of AQCR	a	a	e	e	e	May 31, 1977.	May 31, 1977.
* *	*	*	*	*	*	*	*

* * * * * * *

6. Section 52.280 is amended by adding paragraph (b)(1)(ii) as follows:

§ 52.280 Fuel burning equipment.

* * * * *

(b) * * *

(1) * * *

(ii) San Bernardino County

(A) Rule 67, Fuel Burning Equipment as applied to new sources. The emission limit of Rule 67 is retained and is applicable only to existing sources already granted a permit.

* * * * *

[FR Doc. 82-15468 Filed 6-8-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 81

[A-5-FRL 2133-8]

Designations of Areas for Air Quality Planning Process; Attainment Status Designations; Ohio

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: This rulemaking revises the total suspended particulate (TSP) designation for all or portions of 15 counties in Ohio. EPA is redesignating Ashtabula County, Clinton County, Lucas County (in part), and Meigs County from primary nonattainment to attainment and Carroll County, Champaign County, Darke County, Geauga County, Greene County, Hancock County, Lucas County (in part), Portage County, Seneca County (in part), Shelby County, Wayne County and Wood County from secondary nonattainment to attainment for TSP. This revision is based on a request from the State of Ohio and on the supporting data the State submitted. Under the Clean Air Act ("the Act"), designations can be changed if sufficient data are available to warrant such change.

DATES: This action will be effective August 9, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the redesignation request supporting air quality data are available at the following addresses:

Environmental Protection Agency, Region V, Air Programs Branch, 230 S. Dearborn Street, Chicago, Illinois 60604;

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20480;

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216.

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio, (312) 886-6088.

SUPPLEMENTARY INFORMATION: Under Section 107(d) of the Act the Administrator of EPA has promulgated the National Ambient Air Quality Standards (NAAQS) attainment status for each area of every state. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). These area designations may be revised whenever the data warrants.

EPA's criteria for redesignating an area are summarized in the June 12, 1979 memo, "Section 107 Redesignation Criteria", by Richard G. Rhoads, Director of EPA's Control Program Development Division. In general, a change from a primary nonattainment designation to either secondary nonattainment or attainment must be supported by either:

(1) The most recent eight consecutive quarters of quality assured, representative data on ambient air quality which show no violations of the appropriate NAAQS, or

(2) The most recent four consecutive quarters of quality assured, representative data on ambient air quality which show both (a) no violation of the appropriate NAAQS and (b) air quality improvement that results from legally enforceable emission reductions.

The primary TSP NAAQS is violated when, in a year, either: (1) The geometric mean value of monitored TSP concentrations exceeds 75 micrograms per cubic meter of air (75 $\mu g/m^3$) (the annual primary standard), or (2) the maximum 24-hour concentration of TSP exceeds 260 $\mu g/m^3$ more than once (the 24-hour standard). The secondary TSP NAAQS is violated when, in a year, the maximum 24-hour concentration exceeds 150 $\mu g/m^3$ more than once.

On January 12, 1982, the Ohio EPA submitted a request to USEPA to revise the § 107 attainment status designations for the fifteen counties mentioned above. The State submitted TSP ambient air quality data from all available sites in these counties for the years 1979 and 1980. EPA also reviewed the TSP monitor data for 1981 to assess whether the most recent data available are consistent with Ohio's proposed redesignations. Additionally, EPA reviewed the emissions inventory and air quality modeling information, which had been submitted in 1980 by Ohio to support their Part D TSP plan to assess whether the available monitors are located in areas representative of the true air quality in each county. A review of this data indicates that the ambient TSP data submitted by Ohio are representative of the air quality in each of the fifteen counties.

EPA's review of the monitor data indicates that there are at least eight consecutive quarters of recent representative, quality assured data which show no violation of the TSP NAAQS, for each of the fifteen counties. Therefore, the available data support Ohio's request. Further discussion of this monitored data is contained in the technical support document which is available for review at Region V.

Therefore, EPA is today approving Ohio's request to redesignate Ashtabula County, Clinton County, Lucas County (in part) and Meigs County from primary nonattainment to attainment and Carroll County, Champaign County, Darke County, Geauga County, Greene County, Hancock County, Lcuas County (in part), Portage County, Seneca County (in part), Shelby County, Wayne County and Wood County from secondary nonattainment to attainment for TSP. Therefore, EPA today approves these changes to the § 107 attainment status designations.

We are approving this action today without prior proposal. The action will become effective on August 9, 1982. If, however we receive notice by July 9, 1982 that someone wishes to submit critical comments, then EPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. Section 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 9, 1982. This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2).)

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107(d) of the Act, as amended (42 U.S.C. 7407).

Dated: June 1, 1982.

Anne M. Gorsuch,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Subpart C of Part 81 of Chapter 1, Title 40, Code of Federal Regulations is amended as follows:

Section 81.336 is amended by removing reference to the following counties for TSP: Ashtabula, Clinton, Meigs, Carroll, Champaign, Darke, Geauga, Greene, Hancock, Portage, Shelby, Wayne and Wood and revising the reference to Lucas and Seneca Counties as follows:

§ 81.336 Ohio.

OHIO—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
• • •	•	•	•	•
Lucas:				
City of Toledo, east of the Maumee River	×			
The remainder of Lucas County				×
• • •	•	•	•	•
Seneca:				
City of Bettsville and Liberty Township north of the Penn Central Railroad		×		
The remainder of Seneca County				×
• • •	•	•	•	•

[FR Doc. 82-15602 Filed 6-8-82; 8:45 am]

BILLING CODE 6560-50-M

[PP 0E2424/R432; PH-FRL-2138-4]

40 CFR Part 180

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Propargite

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the miticide propargite in or on the raw agricultural commodity fresh corn, including sweet corn (kernels plus cob with husks removed (K + CWHR)). This regulation to establish a maximum level for residues of the miticide on the commodity was requested by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on June 9, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-7700).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking in the **Federal Register** of March 31, 1982 (47 FR 13536) that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition number 0E2424 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of California.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the pesticide propargite [2-(*p-tert*-butylphenoxy) cyclohexyl 2-propynyl sulfite] in or on the raw agricultural commodity fresh corn including sweet corn (K + CWHR) at 0.1 part per million (ppm).

No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The data submitted in the petition and all other relevant material have been evaluated and discussed in the notice of published rulemaking (47 FR 13536, March 31, 1982). The pesticide is considered useful for the purpose for which the tolerance is sought and it is concluded that establishment of the tolerance will protect the public health. Therefore, the regulation is established as set forth below.

Any person adversely affected by this regulation may, on or before July 9, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Effective on June 9, 1982.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: May 25, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.259 is amended by adding and alphabetically inserting the commodity fresh corn, including sweet corn (kernels + cob with husks removed), to read as follows:

§ 180.259 Propargite; tolerances for residues.

Commodities	Parts per million
• • • • •	
Corn, fresh (including sweet K + CWHR)	0.1
• • • • •	

[FR Doc. 82-15647 Filed 6-8-82; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 1

[FPR Temp. Reg. 48, Supp. 2]

New Data Requirements

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This supplement extends to May 19, 1984, the expiration dates of FPR Temporary Regulation 48 and Supplement 1. This extension is necessary to continue the current requirement for contract data reporting pending development of revised requirements and forms.

DATES: Effective date: May 19, 1982; expiration date: May 19, 1984.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy (202–523–4755).

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

In 41 CFR Chapter 1, this temporary regulation is listed in the appendix at the end of the chapter.

May 24, 1982.

[Federal Procurement Regs., Temporary Reg. 48, Supplement 2]

New Data Requirements

1. *Purpose.* This supplement extends the expiration date of FPR Temporary Regulation 48.

2. *Effective date.* This supplement is effective May 19, 1982.

3. *Expiration date.* This supplement expires on May 19, 1984.

4. *Explanation of changes.* The expiration dates in paragraph 3 of FPR Temporary Regulation 48 and Supplement 1 are revised to May 19, 1984.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82-15681 Filed 6-8-82; 8:45 am]

BILLING CODE 6820-61-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6325]

Suspension of Community Eligibility Under the National Flood Insurance Program

Correction

In FR Doc. 82–14402 appearing at page 23168 in the issue for Thursday, May 27, 1982, make the following correction:

On page 23170, in the table, for Pennsylvania, Beaver County, Pulaski township, the dates in the column "Effective dates of authorization/ cancellation of sale of flood insurance in community" should have read as follows: "Dec. 31, 1975, emergency; June 1, 1982, regular; June 1, 1982, suspended."

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Foreign Fishing; Correction

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; correction.

SUMMARY: This document corrects the domestic annual harvest (DAH) amount for *Illex* squid contained in Appendix I to 50 CFR 611.20, which was amended at 47 FR 20776 on May 14, 1982. The DAH for *Illex* should read 5000 metric tons, not 7000 metric tons.

FOR FURTHER INFORMATION CONTACT: Salvatore Testaverde, Gloucester, MA, 617–281–3273.

Dated: June 3, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

NOAA corrects FR Doc. 82–13246 appearing on 20776 in the issue of May 14, 1982 as follows:

§ 611.20 [Corrected]

In § 611.20, Appendix I, the entry under DAH for Squid, *Illex* is corrected to read "5000".

(16 U.S.C. 1801 *et seq.*)

[FR Doc. 82-15603 Filed 6-8-82; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 47, No. 111
Wednesday, June 9, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL RESERVE SYSTEM

12 CFR Part 202

[Reg. B; Docket No. R-0203]

Equal Credit Opportunity; Proposed Board Interpretations; Consideration of Income and Disclosure of Reasons for Adverse Action

Correction

In FR Doc. 82-14708 appearing on page 23738 in the issue of Tuesday, June 1, 1982, make the following corrections to § 202.901:

(1) On page 23740, third column, in paragraph (a) of § 202.901, the footnote at the bottom of the column was incorrectly printed. The text in small type beginning "Any notification * * *" and running through the top 18 lines of the next column should come after "* * * states in relevant part:".

(2) On page 23741, first column, the paragraphs now designated (e), (f), and (g) should be redesignated (d), (e), and (f).

BILLING CODE 1505-01-M

CIVIL AERONAUTICS BOARD

14 CFR Parts 202, 203, 204, 208, 211, 212, 213, 215, 294 and 298

[EDR-443; Economic Regulation Docket 40734]

U.S and Foreign Air Carriers; Waiver of Warsaw Convention Liability Limits and Defenses

Dated May 26, 1982.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB is proposing to require U.S. and foreign air carriers to waive the Warsaw Convention provisions that place a low limit on carriers' liability to passenger for death or injuries. Under the proposal, they would have to become a party to the Montreal Agreement, which increases the Warsaw Convention liability limit to $75,000 and explicitly waives the carriers' defense that they were not negligent as is permitted under the Convention (in effect creating strict liability). Carriers issued license authority by the Board or operating in air transportation would be deemed to have accepted the provisions of the Montreal Agreement. Carriers would be required to make the terms of the Montreal Agreement part of the transportation contract with the passenger. The Board is taking this action on its own initiative to fill a possible gap in adherence to the Montreal Agreement caused by deregulation.

DATES: Comments by: August 9, 1982. Reply comments by: August 24, 1982.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable.

Requests to be put on the Service List by: June 24, 1982.

The Docket Section prepares the Service List and sends it to each person listed, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 40734, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Peter B. Schwarzkopf, Assistant General Counsel, International Affairs, (202-673-5928), Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION:

Background

In 1934, the United States became a party to an international treaty generally known as the Warsaw Convention (49 Stat. 3000). Among other things, the Warsaw Convention provided a limit on the liability of air carriers with respect to the death or injury of a passenger in international travel of approximately $10,000 (based on the 1974 official value of gold). The limit applies also to domestic segments of an international journey when the passenger holds a ticket providing an interline connection to a foreign point.

In 1965 the United States filed a notice of denunciation of the Warsaw Convention because of its dissatisfaction with the passenger liability limit. The United States withdrew its notice of denuniciation just prior to its effective date because all carriers (U.S. and foreign) serving the United States at that time (including U.S. domestic carriers) entered into the so-called Montreal Interim Agreement (CAB Agreement 18900, approved by Board Order E-23680, May 13, 1966). That Agreement increases the passenger liability limit under the Warsaw Convention to $75,000, in accordance with the provisions of Article 22(1) of the Convention permitting such increase by special contract. The Montreal Agreement further waives the provision allowing the carrier to prove absence of negligence on its part as a defense under Article 20(1) of the Convention, in effect creating strict liability for passenger deaths or injuries. It applies to international transportation to, from, or with an agreed stopping place in, the United States where the Warsaw Convention would be applicable.

Since the effective date of the Montreal Agreement, the Board has included a condition in foreign air carrier permits requiring that such carriers become and remain parties to the Agreement. The Board's rules for U.S. air taxi operators (14 CFR 298.3(a)(5), 298.70) also require adherence to the Montreal Agreement by commuter and certain other air taxi operators. The Board had not imposed a similar requirement for certificated U.S. air carriers, since few new U.S. carriers were being licensed, and all had voluntarily participated in the Agreement.

With the recent increase in the number of new U.S. carriers following the Airline Deregulation Act of 1978 (Pub. L. 95-504), it has become apparent that the previous *ad hoc* procedures for requesting voluntary adherence to the Montreal Agreement leave open the possibility that some U.S. carriers might not adhere to that Agreement. In such a case, it may be possible that passengers traveling on those carriers could be subjected to the very low liability limit provided for in the Convention. Therefore, in adopting its recent rules setting forth requirements for aircraft

accident liability insurance (ER–1253, 46 FR 52572, October 27, 1981), the Board announced its intention to issue a proposed rulemaking to require all U.S. carriers to become signatories to the 1966 Montreal Agreement. The effect of these proposed rules will be to apply to certificated U.S. carriers the same requirements of adherence to the Montreal Agreement as are currently applied to foreign air carriers, commuters, and some other air taxi operators.

The continued adherence of the United States to the Warsaw Convention, including the passenger liability limitations, is based on the participation by all U.S. and foreign air carriers (with the exception of certain domestic on-demand air taxi operators that do not interline or engage in foreign air transportation) in the Montreal Agreement, so as to permit passenger liability recoveries up to $75,000, and to require a waiver of the Convention's carrier defenses. It would be contrary to the public interest to leave open the possibility that passengers traveling to and from the United States could be subject to the very low limitation specified in the Convention rather than the $75,000 limit under the Montreal Agreement.

Acceptance of Montreal Agreement

The proposed rule in new Part 203 requires that all U.S. and foreign direct air carriers file a signed counterpart of the Montreal Agreement (CAB Agreement 18900) or any amendment to that Agreement approved by the Board. The counterpart to the Agreement is now published by the Board as CAB Form 263. That form would continue to be used. Commuter air carriers and other U.S. air taxi operators could alternatively use the proposed revised CAB registration form (CAB Form 298–A), as explained below. In addition, there should be no possibility that a passenger could be subject to the very low passenger liability limit of the Convention simply because a carrier, contrary to the provisions of the proposed rule, and (for a foreign air carrier) in violation of the express condition contained in its permit, had neglected to file a signed counterpart of the Montreal Agreement with the Board. Accordingly, the proposed rule provides that, notwithstanding the failure to file a counterpart of the Agreement as required by the proposed rule, any air carrier or foreign air carrier to which the regulation is applicable shall, by virtue of its acceptance of operating authority (including that by exemption) from the Board or its operations in air transportation, be deemed to have accepted the provisions of CAB Agreement 18900 as fully as if it had in fact filed a properly executed counterpart to the Montreal Agreement.

Special Passenger Contract

The Warsaw Convention requires that in order for a carrier to avail itself of the limits of liability provided in the Convention, a ticket must be delivered to the passenger that includes a notice of the liability limitations. The Montreal Agreement in turn provides that its waiver of the Warsaw Convention's passenger liability limit and carrier defense must be included in the carrier's conditions of carriage, "including tariffs embodying conditions of carriage filed by it with any government." The purpose of that provision of the Montreal Ageement is to ensure that there would be no question that a special agreement exists between the carrier and its passengers, within the meaning of Article 22(l) of the Convention. That Article provides for the applicability of higher limits by special agreement between the carrier and its passengers. Therefore, in 14 CFR 298.70 we required a special one-page tariff to be filed by U.S. air taxi operators, even though those air taxi operators generally do not otherwise file tariffs. Other U.S. and foreign air carriers, unless exempted from tariff filing, are required by 14 CFR 221.38(j) and the Agreement to put the Montreal Agreement's terms in their required tariffs.

With deregulation, there are more carriers that are not required to file any tariffs. For example, charter carriers are currently exempted from filing tariffs (14 CFR 221.3(d)). Further, under the Airline Deregulation Act all domestic tariff filings will end on January 1, 1983. Under these circumstances, the requirement of a special tariff merely to avoid any question as to the existence of an agreement between the airline and its passengers under Article 22(l) of the Convention appears to be needlessly awkward and administratively burdensome. As is true of any tariff, it is also not an effective means of telling passengers of its terms. Therefore, we will not require carriers not otherwise generally required to file a tariff to file a special tariff for Montreal Agreement purposes.

The proposed rule assures the existence of the special agreement contemplated by the Convention and the Montreal Agreement in two ways. It would specify that, in accordance with the Montreal Agreement, a carrier must give a notice as provided in that Agreement, in accordance with the requirements of 14 CFR 221.75, along with the ticket. That ticket and notice would constitute an explicit special agreement with the passenger implementing the terms of the Montreal Agreement. In addition, the proposed rule states that the required participation in the Montreal Agreement, whether by signing a counterpart or by operation of law under the rule, shall constitute an agreement between the carrier and its passengers as a condition of carriage that for death or injury a liability limit of not less than $75,000 shall apply under Article 22(l) of the Warsaw Convention. It shall further constitute a waiver of the carrier's defense of non-negligence allowed under Article 20(l) of the Convention. Of course, in accordance with the provisions of the Montreal Agreement and 14 CFR 221.38(j), carriers otherwise generally required to file tariffs would have to incorporate the provisions of the Montreal Agreement in their tariffs. All carriers must thus include that Agreement in their conditions of carriage, regardless of the form those conditions may take.

U.S. Air Taxi Operators

Instead of requiring the carrier's signature separately on the U.S. air taxi registration form (CAB Form 298–A) and the counterpart to the Montreal Agreement (CAB Form 263), the proposed rule would incorporate the Montreal Agreement (CAB Agreement 18900) by reference in the air taxi registration form. The effect of this change would be that the U.S. air taxi operator's signature on the registration form would constitute signing a counterpart to the Montreal Agreement for air taxi operators then or later operating in air transportation to which the Agreement applies. The full text of the Agreement would be distributed to air taxi operators in their registration packets. In addition, CAB Form 263 would be made an appendix to Part 203. It is attached as Attachnment I to this notice of proposed rulemaking. The proposed revised CAB Form 298–A is attached as Attachment II to this notice of proposed rulemaking. The previous one-page tariff form (CAB Form 298–B) would be eliminated.

Air taxi operators that have already filed CAB Form 263 and CAB Form 298–B would not need to re-file.

Miscellaneous

Sections 204.5, 204.6, and 204.7 would be amended to include a signed counterpart to CAB Agreement 18900 (CAB Form 263 or alternatively the revised CAB Form 298–A for air taxi operators) among data to be filed for

fitness determinations. A similar revision would be made to the Appendix to Part 211, with respect to data filed by applicants for foreign air carrier permits. Amendments would also be made to Parts 202, 208, 212, 213, 294 and 298, providing that adherence to the requirements of this rule, filing of a counterpart to the Agreement and filing of a tariff (for those carriers otherwise generally required to file tariffs) shall be an express condition to the certificates, permits, or exemptions to which those regulations are respectively applicable. Part 215 would be amended to require filing of a new counterpart to the Agreement when a carrier applies for a change in name. The filing would not be required for use of a trade name.

The Board recently issued a notice of proposed rulemaking in Docket 40336 (EDR-439/SPDR-86, 47 FR 7443, February 19, 1982), that proposes to replace Parts 207, 208, and 212, concerning charter operations by U.S. and foreign air carriers, with a new Part 212. This notice of proposed rulemaking also proposes to amend Parts 208 and 212. If the rule proposed in D. 40336 is adopted, conforming changes will be made in new Part 212 in accordance with this notice.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96-354, the Board certifies that none of these proposed changes will, if adopted, have a significant economic impact on a substantial number of small entities. Commuters and some other air taxi operators are already required to become parties to the Montreal Agreement, as are foreign air carriers. Although there may be among the newer certificated U.S. air carriers some small businesses that are not currently parties to the Montreal Agreement, there number is small. Moreover, the economic impact of party status would be negligible, since higher liability insurance coverage is already required by the Board's rules.

List of Subjects

14 CFR Parts 202, 204, 208, 211, 212, 213, 215, 294 and 298

Air carriers, Air taxis, Air transportation-foreign, Aircraft, Airports, Alaska, Antitrust, Canada, Charter flights, Consumer protection, Essential air service, Insurance, Reporting requirements, Surety bonds, Trade names, Travel agents.

14 CFR Part 203

Air carriers, Air transportation, Foreign relations, Intergovernmental relations.

Proposed Rule

The Civil Aeronautics Board proposes to amend 14 CFR Chapter II as follows:

PART 202—CERTIFICATES AUTHORIZING SCHEDULED ROUTE SERVICE: TERMS, CONDITIONS, AND LIMITATIONS

1. In Part 202, a new § 202.12 would be added to read:

§ 202.12 Filing requirements for adherence to Montreal Agreement.

It shall be a condition upon the holding of a certificate that the holder have and maintain in effect and on file with the Board a signed counterpart of CAB Agreement 18900 (CAB Form 263), and a tariff (for those carriers otherwise generally required to file tariffs) that includes its terms, and that the holder comply with all other other requirements of Part 203. CAB Form 263 may be obtained from the Publications Services Division, Civil Aeronautics Board, Washington, D.C. 20428.

2. A new Part 203 would be added to read:

PART 203—WAIVER OF WARSAW CONVENTION LIABILITY LIMITS AND DEFENSES

Sec.
203.1 Scope.
203.2 Applicability.
203.3 Filing requirements for adherence to Montreal Agreement.
203.4 Montreal Agreement as part of airline-passenger contract and conditions of carriage.
203.5 Compliance as condition on operations in air transporation.

Authority: Secs. 101, 204, 401, 402, 408, 404, 407, 411, 416, 417, 418, 419; 72 Stat. 737, 743, 754, 757, 758, 760, 766, 769, 771; 76 Stat. 145; 91 Stat. 1284; 92 Stat. 1732; 49 U.S.C. 1301, 1324, 1371, 1372, 1373, 1374, 1377, 1378, 1387, 1388, 1389.

§ 203.1 Scope.

This part requires that certain U.S. and foreign direct air carriers waive the passenger liability limits and certain carrier defenses in the Warsaw Convention in accordance with the provisions of CAB Agreement 18900, dated May 13, 1966, and provides that acceptance of authority for, or operations by the carrier in, air transportation shall be considered to act as such a waiver by that carrier.

§ 203.2 Applicability.

This part applies to all U.S. and foerign direct air carriers, except for air taxi operators as defined in Part 298 of this chapter that neither (a) are commuter air carriers, (b) participate in interline agreements, nor (c) engage in foreign air transportation.

§ 203.3 Filing requirements for adherence to Montreal Agreement.

All U.S. and foreign direct air carriers shall have and maintain in effect and on file in the Board's Docket Section (Docket 17325) on CAB Form 263 a signed counterpart to CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and Hague Protocol approved by the Board Order E-23680, dated May 13, 1966, and a signed counterpart of any amendment or amendments to such Agreement that may be approved by the Board and to which the air carrier or foreign air carrier becomes a party. U.S. air taxi operators may comply with this requirement by signing and filing CAB Form 298-A with the Board's Special Authorities Division. Canadian charter air taxi operators registering under Part 294 of this chapter may comply by filing CAB Form 263 with their registration application with the Regulatory Affairs Division, Bureau of International Aviation. CAB Form 263 is set forth as Appendix A to this part. CAB Forms 263 and 298-A can be obtained from the Publications Services Division, Civil Aeronautics Board, Washington, D.C. 20428.

§ 203.4 Montreal Agreement as part of airline-passenger contract and conditions carriage.

(a) As required by the Montreal Agreement, carriers that are otherwise generally required to file tariffs shall file with the Board's Tariff Division a tariff that includes the provisions of the counterpart to CAB Agreement 18900.

(b) As further required by that Agreement, each participating carrier shall include the Agreement's terms as part of its conditions of carriage. The participating carrier shall give each of its passengers the notice required by the Montreal Agreement in the manner specified by § 221.175 of this chapter.

(c) Participation in the Montreal Agreement, whether by signing the Agreement, filing a signed counterpart to it under § 203.3, or by operation of law under § 203.5, shall constitute a special agreement between the carrier and its passengers as a condition of carriage that a liability limit of not less than $75,000 (U.S.) shall apply under Article 22(1) of this Warsaw Convention

for passenger injury and death. Such participation also constitutes a waiver to the defense under Article 20(1) of the Convention that the carrier was not negligent.

§ 203.5 Compliance as condition on operations in air transportation.

It shall be a condition on the authority of all U.S. and foreign direct air carriers to operate in air transportation that they have and maintain in effect and on file with the Board a signed counterpart of CAB Agreement 18900, and a tariff (for those carriers otherwise generally required to file tariffs) that includes its provisions, as required by this subpart. Notwithstanding any failure to file that counterpart and such tariff, any such air carrier or foreign air carrier issued license authority (including exemptions) by the Board or operating in air transportation shall be deemed to have agreed to the provisions of CAB Agreement 18900 as fully as if the air carrier or foreign air carrier had in fact filed a properly executed counterpart to that Agreement and tariff.

Appendix A

(See Attachment I to this notice of proposed rulemaking.)

PART 204—DATA TO SUPPORT FITNESS DETERMINATIONS

3. A. In Part 204, a new paragraph (v) would be added to § 204.5 to read:

§ 204.5 Applicants for certificate authority not currently certificated.

* * * * *

(v) A signed counterpart of CAB Agreement 18900 (CAB Form 263) as required by Part 203 of this chapter. That form can be obtained from the Publications Services Division, Civil Aeronautics Board, Washington, D.C. 20428.

B. In Part 204, a new paragraph (a)(22) would be added to § 204.6 to read:

§ 204.6 Carriers providing or proposing to provide essential air transportation.

(a) * * *

(22) A signed counterpart of CAB Agreement 18900 (CAB Form 263 or CAB Form 298–A for air taxi operators), as required by Part 203 of this chapter. Those forms can be obtained from the Publications Services Division, Civil Aeronautics Board, Washington, D.C. 20428.

C. In Part 204, a new paragraph (r) would be added to § 204.7 to read:

§ 204.7 Commuter carriers serving an eligible point but not providing essential air service or applying for certificate authority.

* * * * *

(r) A signed counterpart of CAB Agreement 18900 (CAB Form 263 or CAB Form 298–A), as required by Part 203 of this chapter. Those forms can be obtained from the Publications Services Division, Civil Aeronautics Board, Washington, D.C. 20428.

PART 208—TERMS, CONDITIONS, AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN CHARTER AIR TRANSPORTATION

4. In Part 208, the subheading, *Liability Insurance Requirements,* under Subpart A, *General Provisions,* would be revised and a new § 208.11 would be added to read:

Subpart A—General Provisions

* * * * *

Liability Insurance Requirements, Waiver of Warsaw Convention Liability Limits

* * * * *

§ 208.11 Filing requirements for adherence to Montreal Agreement.

It shall be a condition upon the holding of a certificate or other authority authorizing air transportation that the holder have and maintain in effect and on file with the Board a signed counterpart of CAB Agreement 18900, (CAB Form 263), and comply with all other requirements of Part 203 of this chapter. That form can be obtained from the Publications Services Division, Civil Aeronautics Board, Washington, D.C. 20428.

PART 211—APPLICATIONS FOR PERMITS TO FOREIGN AIR CARRIERS

5. In Part 211, a new paragraph i. would be added to paragraph 10 of the Appendix, *Request for Evidence,* to read:

i. Submit three copies of CAB Agreement 18900 (CAB Form 263), as required by Part 203 of this chapter. CAB Form 263 can be obtained from the Publications Services Division, Civil Aeronautics Board, Washington, D.C. 20428.

PART 212—CHARTER TRIPS BY FOREIGN AIR CARRIERS

7. In Part 212, a new § 212.11 would be added to read:

§ 212.11 Filing requirements for adherence to Montreal Agreement.

It shall be a condition upon the holding of a foreign air carrier permit or other authority authorizing direct foreign charter air transportation that the holder have and maintain in effect and on file with the Board a signed counterpart of CAB Agreement 18900 (CAB Form 263) and comply with all other requirements of Part 203 of this chapter. That form can be obtained from the Publications Services Division, Civil Aeronautics Board, Washington, D.C. 20428.

PART 213—TERMS, CONDITIONS AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS

7. In part 213, a new § 213.7 would be added to read:

§ 213.7 Filing requirements for adherence to Montreal Agreement.

It shall be a condition upon the holding of a foreign air carrier permit or other authority authorizing direct foreign scheduled air transportation that the holder have and maintain in effect and on file with the Board a signed counterpart of CAB Agreement 18900 (CAB Form 263) and a tariff (for those carriers otherwise generally required to file tariffs) that includes its provisions, and comply with all other requirements of Part 203 of this chapter. That form can be obtained from the Publications Services Division, Civil Aeronautics Board, Washington, D.C. 20428.

PART 215—NAMES OF AIR CARRIERS AND FOREIGN AIR CARRIERS

8. In Part 215, a new paragraph (c) would be added to § 215.3 to read:

§ 215.3 Change of name or use of trade name.

* * * * *

(c) *Montreal Agreement.* Each application for a change in name under this section shall be accompanied by 3 copies of a counterpart to the Montreal Agreement (CAB 18900) (CAB Form 263 or in the alternative CAB Form 298–A for U.S. air taxi operators) signed by the carrier using the proposed name change.

PART 294—CANADIAN CHARTER AIR TAXI OPERATORS

9. In Part 294, § 294.3(d) would be revised to read:

§ 294.3 General requirements for Canadian charter air taxi operators.

* * * * *

(d) Has and maintains in effect and on file with the Board a signed counterpart of CAB Agreement 18900 (CAB Form 263) and complies with all other requirements of Part 203 of this chapter.

PART 298—EXEMPTIONS FOR AIR TAXI OPERATIONS

10. A. In part 298, § 298.3(a)(5) would be revised to read:

§ 298.3 Classification.

(a) * * *

(5) If operating as a consumer air carrier or in foreign air transportation, or participating in an interline agreement, have and maintain in effect and on file with the Board a signed counterpart of CAB Agreement 18900 [CAB Form 263 or CAB Form 298–A (Revised)] and comply with all other requirements of Part 203 of this chapter.

B. In part 298, a new paragraph (c)(4) would be added to § 298.21 to read:

§ 298.21 Filing for registration by air taxi operators.

* * * * *

(c) * * *

(4) For air taxi operators that (i) are commuter air carriers, (ii) engage in foreign air transportation, or (iii) participate in an interline agreement, a signed counterpart of CAB Agreement 18900 (CAB Form 263), which may be the revised registration form (CAB Form 298–A), as required by Part 203 of this chapter. These forms can be obtained from the Publications Services Division, Civil Aeronautics Board, Washington, D.C. 20428.

Subpart G—§ 298.70 [Reserved]

C. Subpart G—*Waiver of Liability Limits Under the Warsaw Convention* would be removed and reserved.

11. The Tables of Contents of Parts 202, 208, 212, 213, and 298 would be amended accordingly.

12. The proposed revision to CAB Form 298–A is attached as Attachment II.

Attachment I

Proposed Appendix A to Part 203

CAB Form 263 (5–70)—Docket 17325

Agreement

The undersigned carriers (hereinafter referred to as "the Carriers") hereby agree as follows:

1. Each of the Carriers shall, effective May 16, 1966, include the following in its conditions of carriage, including tariffs embodying conditions of carriage filed by it with any government:

"The Carrier shall avail itself of the limitation of liability provided in the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Warsaw October 12th, 1929, or provided in the said Convention as amended by the Protocol signed at The Hague September 28th, 1955. However, in accordance with Article 22(l) of said Convention, or said Convention as amended by said Protocol, the Carrier agrees that, as to all international transportation by the Carrier as defined in the said Convention or said United States of America as a point of origin, point of destination, or agreed stopping place.

(1) The limit of liability for each passenger for death, wounding, or other bodily injury shall be the sum of U.S. $75,000 inclusive of legal fees and costs, except that, in case of a claim brought in a State where provision is made for separate award of legal fees and costs, the limit shall be the sum of U.S. $58,000 exclusive of legal fees and costs.

(2) The Carrier shall not, with respect to any claim arising out of the death, wounding, or other bodily injury of a passenger, avail itself of any defense under Article 20(1) of said Convention or said Convention as amended by said Protocol.

Nothing herein shall be deemed to affect the rights and liabilities of the Carrier with regard to any claim brought by, on behalf of, or in respect of any person who has wilfully caused damage which resulted in death, wounding, or other bodily injury of a passenger."

2. Each Carrier shall, at the time of delivery of the ticket, furnish to each passenger whose transportation is governed by the Convention, or the Convention as amended by the Hague Protocol, and by the special contract described in paragraph 1, the following notice, which shall be printed in type at least as large as 10 point modern type and in ink contrasting with the stock on (i) each ticket; (ii) a piece of paper either placed in the ticket envelope with the ticket or attached to the ticket; or (iii) on the ticket envelope:

Advice to International Passenger on Limitation of Liability

Passengers on a journey involving an ultimate destination or a stop in a country other than the country of origin are advised that the provisions of a treaty known as the Warsaw Convention may be applicable to the entire journey, including any portion entirely within the country of origin or destination. For such passengers on a journey to, from or with an agreed stopping place in the United States of America, the Convention and special contracts of carriage embodied in applicable tariffs provide that the liability of [certain]* [(name of carrier) and certain other] carriers parties to such special contracts for death of or personal injury to passengers is limited in most cases to proven damages not to exceed U.S. $75,000 per passenger, and that this liability up to such limit shall not depend on negligence on the part of the carrier. For such passengers travelling by a carrier not a party to such special contracts or on a journey not to, from, or having an agreed stopping place in the United States of America, liability of the carrier for death or personal injury to passengers is limited in most cases to approximately U.S. $8,290 or U.S. $16,580.

The names of Carriers parties to such special contracts are available at all ticket offices of such carriers and may be examined on request.

Additional protection can usually be obtained by purchasing insurance from a private company. Such insurance is not affected by any limitation of the carrier's liability under the Warsaw Convention or such special contracts of carriage. For further information please consult your airline or insurance company representative."

3. This Agreement shall be filed with the Civil Aeronautics Board of the United States for approval pursuant to Section 412 of the Federal Aviation Act of 1958, as amended, and filed with other governments as required. The Agreement shall become effective upon approval by said Board pursuant to said Section 412.

4. This Agreement may be signed in any number of counterparts, all of which shall constitute one Agreement. Any Carrier may become a party to this Agreement by signing a counterpart hereof and depositing it with said Civil Aeronautics Board.

5. Any Carrier party hereto may withdraw from this Agreement by giving twelve (12) months' written notice of withdrawal to said Civil Aeronautics Board and the other Carriers parties to the Agreement.

Date _____

(Name of Carrier) _____

by (Signature and Title of Carrier Official) _____

(Address) _____

BILLING CODE 6320-01-M

*Either alternative may be used.

ATTACHMENT II

CAB Form 298–A
(Proposed Revision)

AIR TAXI OPERATOR AND COMMUTER AIR CARRIER REGISTRATION AND AMENDMENTS UNDER PART 298 OF THE ECONOMIC REGULATIONS OF THE CIVIL AERONAUTICS BOARD

FOR USE BY CAB ONLY

INSTRUCTIONS: Please submit this form in duplicate to Special Authorities Division, Civil Aeronautics Board, Washington, D.C. 20428. If this is an initial registration, enclose a $15 fee (check, draft, or postal money order) payable to the Civil Aeronautics Board. There is no filing fee for amendments to information previously filed.

Effective date of registration/amendments

1. Name and Mailing Address of the Registering Carrier:

2. Address of principal place of business (if different from above), and the carrier's Area Code and Telephone Number:

3. Federal Aviation Administration certificate number (if any), and address and telephone number of local FAA office:

4. Is this filing the carrier's:

☐ Initial ☐ Amendment to reflect changes since previous filing

If initial registration, give proposed date of commencement of operations _____.

5. Check type or types of service the carrier intends to perform upon commencement of operations, or, for amendments, service the carrier is currently performing:

☐ *scheduled passenger ☐ on-demand passenger

☐ scheduled cargo ☐ on-demand cargo

☐ mail under a U. S. Postal Service contract ☐ **other

*Check only if service is of at least five (5) round trips per week on at least one route between two or more points and is operated pursuant to published flight schedules which specify the times, days of the week, and places between which such flights are performed. If not already submitted, a copy of such schedules, or proposed schedules, should be enclosed with this registration.

**For example, if the carrier performs air ambulance operations, or fire fighting operations for the U.S. Forest Service, or if the operations are seasonal, it should be indicated here.

6. Aircraft which the carrier proposes to operate in air taxi or commuter service or, for amendments, aircraft currently operated:

	Aircraft Type/Make	FAA Registration Number	Passenger Seats Installed*
1.			
2.			
3.			
4.			
5.			

(Add additional sheets if necessary)

*This does not include seats occupied by the pilot or co-pilot unless the latter is available for passenger use.

7. Is the registering carrier a U.S. citizen? NOTE: Under the Federal Aviation Act a corporation is a U.S. citizen only if the president and two-thirds or more of the officers and directors are U.S. citizens and 75 percent of the voting interest is owned or controlled by U.S. citizens.

☐ YES ☐ NO

8. If this is an amendment, state whether the carrier has carried passengers in foreign air transportation, that is, between any point in the United States and any point outside thereof, during the past 12 months:

☐ YES ☐ NO

9. (For use in reporting any changes or amendments to information previously filed).

a. Change in carrier's name and/or address:

b. Description of any other changes or amendments:

10. Certification

I certify that the information contained in this application is complete and accurate to the best of my knowledge. If operating as a commuter air carrier or in foreign air transportation or participating in an interline agreement, the carrier subscribes to CAB Agreement 18900 (included as Appendix A to 14 CFR Part 208 of the Board's regulations), and in accordance with that Agreement agrees that a liability limit of not less than $75,000 shall apply under Article 22(1) of the Warsaw Convention for passenger injury or death in international transportation as defined in the Convention.

Signature: _____
(see note)

Date: _____

Name: _____
(Please type)

Place: _____
(City and State)

Title: _____

NOTE: This registration must be signed by a responsible officer, such as the President, Vice President, Secretary or Treasurer, or partner or owner of the carrier.

BILLING CODE 4910-01-C

(Sec. 101, 204, 401, 402, 403, 404, 407, 411, 416, 417, 418, 419; 72 Stat. 737, 743, 754, 757, 758, 760, 766, 769, 771; 76 Stat. 145; 91 Stat. 1284; 92 Stat. 1732; 49 U.S.C. 1301, 1324, 1371, 1372, 1373, 1374, 1377, 1378, 1387, 1388, 1389)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-15635 Filed 6-8-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-17-82]

Deep Discount Industrial Development Bonds; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the determination of the amount of proceeds of issues of industrial development bonds sold by the issuer at a substantial discount. This amount is used in determining whether "substantially all" of the bond proceeds are used for an "exempt purpose", i.e. those described in section 103(b) (4), (5), (6), or (7) of the Internal Revenue Code, and for purposes of the "major portion" test in section 103(b)(2). The regulations would affect issuers, holders, and recipients of the proceeds of industrial development bonds of the type described above.

DATES: Written comments and requests for a public hearing must be delivered or mailed by August 9, 1982. If adopted the amendments will apply to obligations sold after June 4, 1982.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Diane L. Kroupa of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3459).

SUPPLEMENTARY INFORMATION:

Background

The Treasury Department and Internal Revenue Service have learned that prospective issues of industrial development bonds are being structured so that either interest does not become payable at least annually or the coupon interest rates are significantly lower than the bonds' yield. These bonds are to be sold at a large discount from their face amount. Structuring issues in this manner departs from traditional practice and, in certain circumstances, would significantly increase the amount of tax-exempt indebtedness outstanding over the term of the issue when compared to an issue sold at par for the same amount as the discount bonds, with interest payable at least annually. The increased tax-exempt indebtedness outstanding under the discount issue would be attributable, in effect, to a borrowing of working capital in a manner that may violate the "substantially all" requirements of section 103(b). The amount of working capital in any year effectively borrowed by this means would be an amount of interest that would have been payable in that year if the bonds had been sold at par with equal annual interest payments, less the amount actually payable during the year.

Section 107 of the Revenue and Expenditure Control Act of 1968 (Pub. L. 90-364; 82 Stat. 266) amended Code section 103 to provide that interest on industrial development bonds generally is includable in the recipient's gross income. Paragraphs (4), (5), (6), and (7) of section 103(b) contain exceptions to the general rule. However, these exceptions apply only if "substantially all of the proceeds" of the issue are used to provide certain types of facilities or are used for an advance refunding of obligations that were used to provide qualified public facilities. Under § 1.103-8(a) of the Income Tax Regulations (26 CFR Part 1), the "substantially all" requirement is satisfied if 90 percent of the proceeds are so used.

This document proposes amendments to the regulations to make it clear that included in the proceeds of an issue is an additional amount equal to interest the payment of which is deferred because the issue does not provide for annual payments equal to the interest on outstanding bonds, accruing at a rate equal to the yield of such bonds, *e.g.*, a term issue of obligations sold by the issuer for less than its face amount. These retained amounts, which effectively are reinvested under the same terms as the original borrowing, are treated as part of the proceeds of the issue.

These amendments are proposed to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Explanation of Provisions

Under the proposed rule, if the amount that becomes payable in any bond year with respect to an issue of industrial development bonds (whether in the form of interest payments or principal repayments) is less than the amount of interest accruing in that bond year on obligations that are part of the issue, the excess becomes imputed proceeds of the issue. For this purpose, interest accrues on an obligation at a rate equal to the yield of the obligation, based on annual compounding. The excess is treated as paid out and borrowed back, under the same terms as the original borrowing. Hence, the total amount that would be deemed paid out and borrowed back over the term of the issue is included as part of the proceeds of the issue and must be taken into account to determine whether the "substantially all" requirements of section 103(b) (4), (5), (6) or (7) and the "major portion" test of section 103(b)(2) are met.

Yield is computed in the same manner as required by the arbitrage regulations. Thus, the yield of an obligation would be its yield to maturity.

The proposed rule would not apply to obligations sold by an issuer at a nominal discount provided, in addition, that interest not attributable to the discount becomes payable in the year that it accrues. Nominal discount for this purpose would be no more than five percent of the face amount of the obligation.

This proposed rule would apply only to issues sold after June 4, 1982. Thus, it would not affect issues sold on or before June 4, 1982. The status of an industrial development bond refunding issue sold after this date will be determined without applying the proposed rule to the refunded issue if it was sold on or before the date.

The Treasury Department does not intend that the proposed rule would apply to qualified mortgage bonds (as defined in § 6a.103A-2) or qualified veterans' mortgage bonds (as defined in § 6a.103A-3).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Regulatory Flexibility Act

Although this is a notice of proposed rulemaking which solicits public comments, the Internal Revenue Service has concluded that the regulations proposed are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Nonapplication of Executive Order 12291

The Treasury Department has determined that this proposed regulation is not subject to review under Executive Order 12291 or the Treasury or OMB implementation of the Order Dated April 28, 1982.

Drafting Information

The principal author of these proposed regulations is Diane L. Kroupa of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects in 26 CFR 1.01-1—1.281-4

Income taxes, Taxable income, Deductions, Exemptions, Industrial development bonds.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. Section 1.103–7(b)(1) is amended by adding a sentence at the end thereof to read as follows:

§ 1.103–7 Industrial development bonds.

* * * * *

(b) *Industrial development bonds*—(1) *Definition.* * * * See § 1.103–8(a)(6) to determine the amount of proceeds of an issue for which the amount payable during each annual period over the term of the issue is less than the amount of interest accruing thereon in such period, *e.g.*, in the case of an issue sold by the issuer for less than its face amount.

* * * * *

Par. 2. Section 1.103–8(a) is amended by striking "(G)" where it appears in the first sentence of subparagraph (1)(i) and in the first sentence of subparagraph (4) and inserting in lieu thereof "(I)", by adding a new sentence at the end of subparagraph (1)(i), by revising subparagraph (6), and by adding new subparagraphs (7) and (8). These revised and added provisions read as follows:

§ 1.103–8 Interest on bonds to finance certain exempt facilities.

(a) In general—(1) *General rule.* * * * In the event the amount payable with respect to an issue during each annual period over its term is less than the amount of interest accruing thereon in such period, *e.g.*, in the case of an issue sold by the issuer for less than its face amount, see paragraph (a)(6) of this section to determine the amount of proceeds of the issue.

* * * * *

(6) *Deep discount obligations.* (i) Except as otherwise provided in paragraph (a)(7) of this section, the proceeds of any issue of obligations sold by the issuer after June 4, 1982 shall include any imputed proceeds of the issue. The imputed proceeds of an issue equal the sum of the amounts of imputed proceeds for each annual period (hereinafter, bond year) over the term of the issue.

(ii) The amount of imputed proceeds for a bond year equals—

(*a*) The sum of the amounts of interest that will accrue with respect to each obligation that is part of the issue in such year, reduced (but not below zero) by

(*b*) The sum of the amounts of principal and interest that become payable with respect to the issue in that bond year.

(iii) Interest will be deemed to accrue with respect to an obligation that is part of the issue on an amount that, as of the commencement of that year, is equal to the sum of—

(*a*) The purchase price (as defined in § 1.103–13(d)(2)) allocable to the obligation and

(*b*) The aggregate of the amounts of interest accruing in each prior bond year with respect to the obligation,

reduced by all amounts that became payable with respect to the obligation in prior bond years. Any amount that becomes payable during the 30 day period following any bond year will be deemed to have become payable in such bond year. Thus, to the extent interest on an obligation accruing during a bond year does not become payable within 30 days from the end of such year, it is treated as reinvested under the same terms as the obligation. For purposes of this subparagraph, the rate at which such interest accrues is equal to the yield of the obligation. Yield is computed in the same manner as set forth in § 1.103–13(c)(1)(ii) for computing yield on governmental obligations (assuming annual compounding of interest). Such computations shall be made without regard to optional call dates.

(7) *Deep discount obligations; special rules.*

(i) There are no imputed proceeds with respect to an obligation if—

(*a*) The obligation does not have a stated interest rate (determinable at the date of issue) that increases over the term of the obligation, and

(*b*) The purchase price of the obligation is at least 95 percent of its face amount.

At the option of the issuer, any obligation described in the preceding sentence may be disregarded in computing the imputed proceeds of the issue. If each obligation which is part of an issue is described in this subdivision (i), there are no imputed proceeds with respect to the issue.

(ii) If the actual rate at which interest it to accrue over the term of an obligation is indeterminable at the date of issue then, in computing the yield of the obligation for purposes of this paragraph, such rate shall be determined as if the conditions as of the date of issue will not change over the term of the obligation. Thus, for example, if interest on an obligation is to be paid semiannually at a rate equal to 80 percent of the yield on six month Treasury bills at the most recent public sale immediately prior to the corresponding interest payment date and the yield on six month Treasury bills sold immediately preceding the issue date is 10 percent, then the six month Treasury bill rate is deemed to be a constant 10 percent for purposes of determining the amount of imputed proceeds of the issue. Therefore, all interest payments on the obligation would be deemed to be made at a rate of 8 percent.

(8) *Examples.* The principles of this paragraph may be illustrated by the following examples:

Example (1). State A issues its bonds and plans to use substantially all of the proceeds from such bond issue to purchase land and build a facility which will be used for one of the purposes described in section 103(b)(4) and this section. The arrangement provides that (1) A will issue bonds with a face amount of $21 million and with all accrued interest payable annually, the proceeds of which (after deducting bond election costs, costs of publishing notices, attorneys' fees, printing costs, trustees' fees for fiscal agents, and similar expenses) will be $20 million; (2) $18 million of the proceeds of the bond issue will be used to purchase land and to construct such facility; (3) $2 million of the proceeds will be used for an unrelated

facility which will be used by X, a nonexempt person, in a separate trade or business and for a purpose not described in section 103(b)(4) or (5); (4) X will rent both facilities for 20 years at an annual rental equal to the amount necessary to amortize the principal and pay the interest annually on the outstanding bonds; and (5) such payments by X and the facilities will be the security for the bonds. On these facts, substantially all of the proceeds will be used in connection with an exempt facility described in section 103(b)(4) and this section. Accordingly, section 103(b)(1) does not apply to the bonds unless such bonds are thereafter held by a person who is a substantial user of the facilities or a related person within the meaning of section 103(b)(10) and § 1.103–11.

Example (2). On July 1, 1982, State B sells an issue of its obligations to an underwriter in anticipation of a public offering. The initial offering price is $18,627,639.69 of which $17,000,000 is to be used to construct a pollution control facility described in section 103(b)(4)(F). X Corporation, a nonexempt person, is to use the facility and, in exchange, is obligated to pay an amount equal to the face amount of the issue when it becomes due. The obligations are issued on August 1, 1982. The face amount of the issue is $30,000,000. The issue is a term issue with all obligations maturing on August 1, 1987. The issue bears no stated rate of interest; there are no interest coupons on the obligations. The bonds are industrial development bonds with a yield (based upon annual compounding) of ten percent. Based on these facts, the amount of imputed proceeds with respect to the issue is determined as follows:

Date	Purchase price plus accumulated interest	Interest	Imputed proceeds
Aug. 1, 1983	$18,627,639.69	$1,862,763.97	$1,862,763.97
Aug. 1, 1984	20,490,403.66	2,049,040.37	2,049,040.37
Aug. 1, 1985	22,539,444.03	2,253,944.40	2,253,944.40
Aug. 1, 1986	24,793,388.43	2,479,338.84	2,479,338.84
Aug. 1, 1987	27,272,727.27	2,727,272.73	0
Total imputed proceeds			8,645,087.58

Therefore, proceeds of the issue equal $27,272,727.27 less issuance costs. Substantially all of the bond proceeds are not used to provide an exempt facility, and section 103(b)(1) applies to the issue.

Example (3). The facts are the same as example (2) except that the issue has a face amount and purchase price of $18,500,000. The issue also provides for one payment in addition to the redemption payment, in the amount of $10,267,668 payable on or after August 1, 1986, one year before maturity. Section 103(b)(1) applies to the issue.

Example (4). On July 1, 1982, City E sells an issue of industrial development bonds to provide for a convention facility, as described in section 103(b)(4)(C). Assume that the bonds are issued on that date as well. The issue has a face amount of $15,240,000 and a purchase price of $11,929,382.53. The estimated cost of the facility is $11,000,000. The bonds are "zero coupon" bonds, *i.e.*, there are no interest coupons. Each series is initially offered for less than 95 percent of its face amount. The issue matures serially over a five year period, with each series being allocated a part of the purchase price of the issue. The following chart indicates the purchase price and yield for each series and debt service for the issue:

[Amount allocable to each series]

Date	1983 series at 8 percent	1984 series at 8.5 percent	1985 series at 8.75 percent	1986 series at 9.25 percent	1987 series at 9.75 percent	Interest accruing on issue*	Amount due	Imputed proceeds
July 1, 1983	2,939,814.82	2,697,020.54	2,466,829.60	2,228,732.51	1,595,185.06			0
	235,185.18	229,246.75	216,005.09	206,157.76	155,530.54	1,042,125.32	3,175,000	
July 1, 1984		2,926,267.29	2,684,834.69	2,434,890.27	1,750,715.60			0
		248,732.71	234,905.54	225,227.35	170,694.77	879,560.37	3,175,000	
July 1, 1985			2,919,540.23	2,660,117.62	1,921,410.37			0
			255,459.77	246,060.88	187,337.51	688,858.16	3,175,000	
July 1, 1986				2,906,178.50	2,108,747.88			0
				268,821.50	205,902.92	474,424.42	3,175,000	
July 1, 1987					2,314,350.80			0
					225,649.20	225,649.20	2,540,000	
Total							15,240,000	

*This column (Interest Accruing on the Issue) contains the sums of the interest that accrues on each series in each bond year. The amount of interest accruing on the issue is computed by adding the amount of interest accruing on each series outstanding for that bond year (the bottom number in the line for each bond year). The amount of interest annually accruing on each series also is added to the purchase price of the series to determine the amount of interest accruing in subsequent years, inasmuch as there are no payments with respect to the outstanding series prior to maturity. Thus, the "principal" amount, of the top of the two numbers given in such line for each bond year, is the purchase price allocable to that series plus the amount of interest that accrued on that series in prior years.

There are no imputed proceeds because the amount payable on the issue in each bond year exceeds the total amount of interest accruing on the issue during such bond year. Section 103(b)(1) does not apply to the bonds unless such bonds are held by a person who is a substantial user of the facility or a related person within the meaning of section 103(b)(10) and § 1.103–11.

Example (5). On July 1, 1982, City C issues industrial development bonds in the face amount of $30 million to construct a sports facility described in section 103(b)(4)(B) to be leased to D, a nonexempt person, with payments on the bonds secured by the lease. C receives $30 million in exchange for the bonds which will be used to provide the facility. The bonds mature on July 1, 2002. Each bond provides for an annual interest payment equal to ten percent of the face amount of the bond, with the last payment thereon (on July 1, 2002) including a return of the principal amount of the bond. The proceeds of the issue are $30 million. Section 103(b)(1) does not apply to the bonds unless such bonds are held by a person who is a substantial user of the facility or a related person within the meaning of section 103(b)(10) and § 1.103–11.

Example (6). On July 1, 1982, City F sells an issue of industrial development bonds in the face amount of $20 million to acquire a parking facility as described in section 103(b)(4)(D). The estimated cost of the facility is $17,800,000. The issue is issued on the same date and will mature serially over the following ten years. Each bond that is part of the issue bears annual interest coupons, each of which is in an amount equal to ten percent of the face amount of the bond. Each maturity has a face amount of $2,000,000. The issue is initially offered to the public for $19,700,000, allocable to each maturity as follows:

Maturity	Purchase price
July 1, 1983	$1,990,000
July 1, 1984	$1,980,000
July 1, 1985	$1,980,000
July 1, 1986	$1,970,000
July 1, 1987	$1,970,000
July 1, 1988	$1,970,000
July 1, 1989	$1,960,000
July 1, 1990	$1,960,000
July 1, 1991	$1,960,000
July 1, 1992	$1,960,000

Based on the foregoing, issue proceeds equal $19,700,000 less issuance costs. There are no imputed proceeds with respect to this issue inasmuch as each bond pays interest at a constant rate in each bond year and the purchase price of each bond is at least 95 percent of its face amount. Substantially all of the proceeds are to be used to provide the exempt facility. Accordingly, section 103(b)(1) does not apply to the bonds unless such bonds are thereafter held by a person who is a substantial user of the facility or a related person within the meaning of section 103(b)(10) and § 1.103–11.

* * * * *

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 82–15590 Filed 6–4–82; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR 951

Abandoned Mine Land Reclamation Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; correction.

SUMMARY: The Crow Tribe submitted to OSM its proposed Abandoned Mine Land Reclamation Plan (Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Notice of proposed rule was published May 18, 1982 (47 FR 21274). OSM is seeking public comment on the adequacy of the Tribe's Plan. This notice corrects the mailing address and telephone number of OSM's State Office.

DATES: Written comments on the Plan will be accepted until further notice.

ADDRESSES: Copies of the full text of the proposed Plan are available for review during regular business hours at the following locations:

State Office, Office of Surface Mining, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644.

Office of Surface Mining, Administrative Record, Room 5315, 1100 "L" St., NW., Washington, D.C. 20236.

The correct address for submitting written comments is: William Thomas, State Director, Office of Surface Mining, P.O. Box 1420, Mills, Wyoming 82644.

The Administrative Record will be available for public review at the State Office, Freden Building, 935 Pendell Boulevard, Mills, Wyoming, during regular business hours.

FOR FURTHER INFORMATION CONTACT: William Thomas, State Director, Office of Surface Mining, P.O. Box 1420, Mills, Wyoming 82644. The correct telephone number is 307/261–5777.

Dated: June 3, 1982.

W. Schmidt,

Assistant Director, Program Operations and Inspection.

[FR Doc. 82–15573 Filed 6–8–82; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE TREASURY

Office of Revenue Sharing

31 CFR Part 51

Definition of Indian Tribe Population

AGENCY: Office of Revenue Sharing, Treasury.

ACTION: Proposed rule.

SUMMARY: This rule proposes to amend § 51.32 of the revenue sharing regulations (46 FR 48034) entitled "Population" to conform the definition of the population of Indian tribes with past practice by eliminating the provision that Indians living in cities and towns on reservations or tribal trust lands are not counted towards the population of the tribe. The amendment does not apply to Indian tribes within the Oklahoma historic areas.

DATE: Written comments must be received on or before July 9, 1982.

ADDRESS: Send Comments To: Chief Counsel for Revenue Sharing; Office of Revenue Sharing, Treasury Department, Washington, DC 20226.

FOR FURTHER INFORMATION CONTACT: Richard S. Isen, Chief Counsel, or Jacqueline L. Jackson, Attorney, Office of Chief Counsel for Revenue Sharing, Washington D.C. 20226, Telephone (202) 634–5182.

SUPPLEMENTARY INFORMATION:

Background

On September 30, 1981, the Office of Revenue Sharing (ORS) issued regulations (46 FR 48034) which contained a new § 51.32 "Population." Subsection (d) of this section defines Indian tribe population, in pertinent part, as follows:

"(d) *Population of Indian tribes and Alaskan native villages.* (1) The population of an Indian tribe or Alaskan native village is the resident population as of April, 1980, defined as—

(i) For Indian tribes, American Indians living on a reservation *minus those in cities and towns,* plus the number of American Indians living in Census Enumeration Districts (ED's) containing adjacent tribally owned trust lands of that tribe. Resident non-Indian members of families with an American Indian householder or spouse are also included in the population data (Emphasis added)."

The Bureau of Indian Affairs provided the ORS with population data for Indian tribes for Entitlement Periods 1 through 11 (January 1, 1972—September 30, 1980). The practice of the Bureau was to count all Indians living within the geographic boundaries of the reservation. Beginning with the final allocation for Entitlement Period 12, the Bureau of the Census began providing population data to the ORS. At that time, the ORS assumed that all Indians living in cities and towns, whether on the reservation or not, had previously been and were counted towards the population of the city or town only. The Bureau of the Census was instructed to count Indians in that manner. The regulation was intended to reflect preexisting policy based upon the assumption that a city or town within a reservation was independent of the tribal government of the reservation with respect to Indians living within the local government's boundary.

The ORS has subsequently determined that except in the State of Oklahoma, there is little, if any, distinction between an Indian tribe's legal relationship to its members living in cities on the reservation and those living elsewhere on the reservation. Generally, the tribes continue to provide services to the members within the reservation boundaries regardless of where they reside. Accordingly, the practice of the Bureau of Indian Affairs was correct in counting Indians living in cities and towns located on reservations towards the population of the tribe.

The proposed regulation would reestablish the policy of including Indians living in cities and towns on reservations in the population of those tribes, as well as in the population of the cities or towns of those reservations. This rule does not apply to Indian tribes located within the historic areas of the State of Oklahoma, with the exception of the Osage Tribal Council, because those tribes do not provide a substantial amount of governmental services to Indians in cities within the boundaries of historic reservation areas in Oklahoma.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354, hereinafter referred to as the RFA) requires that regulations with significant economic impact on a substantial number of "small entities" should undergo regulatory flexibility

analyses. With respect to the General Revenue Sharing Program, small entities are defined as recipient governments with a population below 50,000.

The proposed regulation makes a technical change to the existing regulations which affects only a small number of recipients of revenue sharing funds. Further, the proposed regulation imposes no additional paperwork, reporting or compliance burden on recipients. The proposed rule is primarily interpretative, providing needed guidance to revenue sharing recipients. The proposed regulations are therefore not expected to have a significant economic impact on small governmental units. Accordingly, the provision of the RFA are not applicable to this regulatory project, and an initial regulatory flexibility analysis is not required.

Executive Order 12291—"Federal Regulation"

The proposed regulations do not constitute a "major rule" within the meaning of Section 1(b) of Executive Order 12291, entitled "Federal Regulation." A regulatory analysis is therefore not required.

List of Subjects in 31 CFR Part 51

Accounting, Administrative practice and procedure, Civil rights, Handicapped, Aged, Indians, Revenue sharing, Reporting and record keeping requirements.

Authority

This proposed rule is issued under the authority of the State and Local Fiscal Assistance Act of 1972 (Pub. L. 92–512) as amended by the State and Local Fiscal Assistance Amendments of 1976 (Pub. L. 94–488), and the State and Local Fiscal Assistance Act Amendments of 1980 (Pub. L. 96–604) and Treasury Department Order No. 244, dated January 26, 1973 (38 FR 3342) as amended by Treasury Department Order No. 242 (Revision No. 1) dated May 17, 1977.

Dated: April 30 1982.

Michael F. Hill,

Director, Office of Revenue Sharing.

31 CFR Part 51, § 51.32(d)(1) (i) is therefore proposed to be revised to read as follows:

§ 51.32 Population.

* * * * *

(d) *Population of Indian tribes and Alaskan native villages.* (1) the population of an Indian tribe or Alaskan native village is the resident population as of April 1, 1980, defined as—

(i) For indian tribes, American Indians living on a reservation plus the number of American Indians living in adjacent tribally owned trust lands of the tribe. The adjacent tribal trust lands may not conform exactly to their actual boundaries, since the boundaries used extend to the nearest physical or natural feature bordering the trust lands. Resident non-Indian members of families with an American Indian householder or spouse are also included in the population data.

* * * * *

[FR Doc. 82–15601 Filed 6–8–82; 8:45 am]

BILLING CODE 4810–25–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 162

[OPP–250034; PH–FRL 2142–5]

Regulations for the Enforcement of the Federal Insecticide, Fungicide, and Rodenticide Act; Notification to the Secretary of Agriculture of Proposed Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule related notice.

SUMMARY: Notice is given that the Administrator of EPA has forwarded to the Secretary of the U.S. Department of Agriculture a proposed regulation on registration procedures to eliminate the requirement for Agency approval of certain types of actions, to waive the requirement for submission of efficacy data for additional products, and to incorporate improvements in its child-resistant packaging requirement. This action is required by section 25(a)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended.

FOR FURTHER INFORMATION CONTACT: Jean M. Frane, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 1114C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–0592).

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (Pub. L. 92–516, 86 Stat. 973; Pub. L. 94–140, 89 Stat. 752; 7 U.S.C. 136 et seq.) provides that the Administrator shall provide the Secretary of Agriculture with a copy of any proposed regulation at least 60 days prior to signing it for publication in the **Federal Register.** If the Secretary comments in writing regarding the regulation within 30 days after receiving it, the Administrator shall issue in the **Federal Register,** with the proposed regulation, the comments of the Secretary and the response of the Administrator. If the Secretary does not comment in writing within 30 days after receiving the proposed regulation, the Administrator may sign the regulation for publication in the **Federal Register** anytime after the 30-day period.

Under FIFRA section 25(a)(3), a copy of this regulation has been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. This regulation was also submitted to the FIFRA Scientific Advisory Panel as required by section 25(d) of FIFRA. The Scientific Advisory Panel waived review.

(Sec. 25, (Pub. L. 92–515, 86 Stat. 973; Pub. L. 94–140, 89 Stat. 753; (7 U.S.C. 136 et seq.)))

List of Subjects in 40 CFR Part 162

Intergovernmental relations, Labeling, Packaging and containers, Pesticides and pests, Administrative practice and procedure.

Dated: May 19, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 82–15570 Filed 6–8–82; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 162

[OPP–250031A; PH–FRL 2136–7]

Regulations for the Enforcement of the Federal Insecticide, Fungicide, and Rodenticide Act; Notification to the Secretary of Agriculture of Proposed Exemption for Certain Products Containing Pheromone Attractants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule related notice.

SUMMARY: Notice is given that the Administator of EPA has forwarded to the Secretary of the U.S. Department of Agriculture a proposed regulation to exempt from regulation under the Federal Insecticide, Fungicide, and Rodenticide Act all pheromones and identical chemicals intended for use in pheromone traps and pheromone baits in which those chemicals are the sole active pesticide ingredient. This action is required by section 25(a)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended.

FOR FURTHER INFORMATION CONTACT: Robert Forrest or David Alexander, Registration Division (TS–767C), Office of Pesticide Programs, Environmental

Protection Agency, Rm. 1114, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–0592)

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (Pub. L. 92–516, 86 Stat. 973; Pub. L. 94–140, 89 Stat. 752; 7 U.S.C. 136 et seq.) provides that the Administrator shall provide the Secretary of Agriculture with a copy of any proposed regulation at least 60 days prior to signing it for publication in the **Federal Register**. If the Secretary comments in writing regarding the regulation within 30 days after receiving it, the Administrator shall issue in the **Federal Register**, with the proposed regulation, the comments of the Secretary and the response of the Administrator. If the Secretary does not comment in writing within 30 days after receiving the proposed regulation, the Administrator may sign the regulation for publication in the **Federal Register** anytime after the 30-day period.

Under FIFRA section 25(a)(3), a copy of this regulation has been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. This regulation was also submitted to the FIFRA Scientific Advisory Panel as required by section 25(d) of FIFRA. The Scientific Advisory Panel waived review.

(Sec. 25, (Pub. L. 92–515, 86 Stat. (973; Pub. L. 94–140, 89 Stat. 753; (7 U.S.C. 136 et seq.)))

List of Subjects in 40 CFR Part 162

Intergovernmental relations, Labeling, Packaging and containers, Pesticides and pests, Administrative practice and procedure.

Dated: May 19, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 82–15438 Filed 6–8–82; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 180

[OPP–300062; PH–FRL 2138–6]

Poly(Oxy-1,2-Ethanediyl), Alpha-(Carboxymethyl)-Omega-(Nonylphenoxy); Proposed Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that poly(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(nonylphenoxy) be exempted from the requirement of a tolerance when used as an inert ingredient in pesticide formulations. This exemption was requested by Sandoz, Colors and Chemicals, Inc.

DATE: Written comments must be received on or before July 9, 1982.

ADDRESS: Written comments to: Peter Gray, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Peter Gray (703–557–7700).

SUPPLEMENTARY INFORMATION: At the request of Sandoz, Colors and Chemicals, the Administrator proposes to amend 40 CFR 180.1001(c) by establishing an exemption from the requirement of a tolerance for poly(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(nonylphenoxy produced by the condensation of 1 mole of nonylphenol (nonyl group is a propylene trimer isomer) with an average of 4–14 or 30–90 moles of ethylene oxide.

Inert ingredients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term inert is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and the toxicological and other scientific basis used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient. Poly(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(nonylphenoxy) produced by the condensation of 1 mile of nonylphenol (nonyl group is a propylene trimer isomer) with an average of 4–14 or 30–90 moles of ethylene oxide.

Name and address of requestor. Sandoz, Colors and Chemical, East Hanover, NJ 07936.

The basis for approval is:

1. The proposal would permit pre- and post-harvest use of the acetate of a surfactant, "alpha-(*p*-Nonylphenyl)-omega-hydroxypoly-(oxyethylene) produced by the condensation of 1 mole of nonylphenol (nonyl group is a propylene trimer isomer), with an average of 4–14 or 30–90 moles of ethylene oxide * * * "which is presently cleared in 40 CFR 180.1001(c).

2. The slight modification of the polymeric portion of the molecule by acetylation is not expected to significantly alter the mammalian toxicity, if any, of the parent moiety.

Based on the above information, and review of its use, it has been found that, when used in accordance with good agricultural practices, this ingredient is useful and does not pose a hazard to the environment. It is concluded, therefore, that the proposed amendment to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before July 9, 1982, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition and document control number "[OPP–300062]". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection to the Process Coordination Branch (TS–767C), Room 716D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514; (21 U.S.C. 346a(e))).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: May 27, 1982.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR 180.1001(c) be amended by adding and alphabetically inserting the inert ingredient poly (oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(nonylphenoxy) produced by the condensation of 1 mole of nonylphenol (nonyl group is a propylene trimer isomer) with an average of 4–14 or 30–90 moles of ethylene oxide to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * * * *		
Poly(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(nonylphenoxy) produced by the condensation of 1 mole of nonylphenol (nonyl group is a propylene trimer isomer) with an average of 4–14 or 30–90 moles of ethylene oxide. The Molecular weight ranges are 454–894 and 1595–4238.	.....	Surfactant.
* * * * *		

[FR Doc. 82-15439 Filed 6-8-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300061; PH-FRL 2138-5]

Alkyl (C_8-C_{18}) Sulfate; Proposed Exemptions From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes to broaden the present exemption from the requirement of a tolerance listed in 40 CFR 180.1001(c) for alkyl (C_8-C_{18}) sulfate and its ammonium, calcium, magnesium, potassium, sodium, and zinc salts to include isopropylamine salt. This action was requested by Alcolac, Inc.

DATE: Written comments must be received on or before July 9, 1982.

ADDRESS: Written comments to: Peter Gray, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Peter Gray (703-557-7700).

SUPPLEMENTARY INFORMATION: At the request of Alcolac, Inc., the Administrator proposes to amend 40 CFR 180.1001(c) by broadening the exemption from the requirement of a tolerance for alkyl (C_8-C_{18}) sulfate and its ammonium, calcium, magnesium, potassium, sodium, and zinc salts to include the isopropylamine salt.

Inert ingredients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as water; baits such as sugar, starches, and meat scrape; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term inert is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific basis used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient: Isopropylamine salt of alkyl (C_8-C_{18}) sulfate.

Name and address of requestor: Alcolac, Inc., 3440 Fairchild Rd., Baltimore, MD 21226.

Basis for approval:

1. This surfactant is a primary amine and, therefore, does not require analysis for *N*-nitroso contaminants.

2. Similar materials have been cleared under 40 CFR 180.1001 (c), (d), and (e).

Based on the above information, and review of its use, it has been found that, when used in accordance with good agricultural practices, this ingredient is useful and does not pose a hazard to humans or the environment. It is concluded, therefore, that the proposed amendment to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains this inert ingredient, may request on or before July 9, 1982, that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number, "[OPP-300061]". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Process Coordination Branch (TS-767C), Room 716, CM#2, 1921 Jefferson Davis Highway, Arlington, VA from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agricultural commodities, Pesticides and pests.

Dated: May 27, 1982.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR 180.1001(c) be amended by revising the entry for alkyl (C_8-C_{18}) sulfate and its ammonium, calcium, magnesium, potassium, sodium, and zinc salts to read as follows:

§ 180.1001 Exemption from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
• •	• •	•
Alkyl ((C_8-C_{18}) sulfate and its ammonium, calcium, isopropylamine, magnesium, potassium, sodium, and zinc salts.	.....	Surfactants. ....
• •	• •	•

[FR Doc. 82-15440 Filed 6-8-82; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[Gen. Docket No. 81-413]

Authorization of Spread Spectrum and Other Wide Band Emissions Not Presently Provided for in the Rules and Regulations; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry; extension of reply comment period.

SUMMARY: The Office of Science and Technology has extended the period for reply comments in Docket 81-413, "Authorization of spread spectrum and other wideband emissions not presently provided for in the FCC Rules and Regulations," as petitioned by Hewlett-Packard Company and the Institute of Electrical and Electronic Engineers.

DATE: Reply comments must be submitted on or before September 30, 1982.

ADDRESS: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Michael Kennedy, Office of Science and Technology, 2025 M Street, N.W., Room 7334, Washington, D.C. 20554, (202) 632-7073.

SUPPLEMENTARY INFORMATION: In the matter of authorization of spread spectrum and other wide-band emissions not presently provided for in the FCC Rules and Regulations, Gen. Docket No. 81-413; (46 FR 51259; 10-19-81).

Order Extending Time for Filing Reply Comments

Adopted: May 28, 1982.
Released: June 3, 1982.

1. On May 7, 1982, the Hewlett-Packard Company, pursuant to § 1.46 of the Commission's Rules and Regulations, 47 CFR 1.46, filed a motion to extend the time for filing reply comments to September 30, 1982, in the above-captioned matter.

2. The petitioner indicates that "[t]he technical nature of this proceeding means that the Commission needs the best possible information about a variety of quantitative issues, such as interference standards and measurement procedures. By giving the parties an additional three months in which to evaluate each others' comments, the Commission will be ensuring itself a complete and comprehensive record on which to base its final decision, a decision with important implications for future commercial and industrial communications systems."

3. The Institute of Electrical and Electronic Engineers also requests an extension, indicating that additional time will be required for the civil communications community to develop the necessary concepts, understanding, and techniques for the uses of spread spectrum.

4. It is not the policy of the commission routinely to grant extensions of time. However, we believe that the complexity and the far-reaching consequences of this matter require full and complete comments to guide the Commission in its decision.

5. Accordingly, it is ordered, pursuant to § 0.241(d) of the Commission's Rules and Regulations, That the date for filing reply comments to this proceeding be extended to September 30, 1982.

Federal Communications Commission.

S. J. Lukasik,

Chief Scientist.

[FR Doc. 82-15585 Filed 6-8-82; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Parts 2, 21, 74 and 94

[Gen. Docket Nos. 80-112 and 80-113]

Amendment of the Commission's Rules in Regard to Frequency Allocation to Specific Services and to Technical Requirements Applicable to Those Services, Order Extending Time for Filing Comments

AGENCY: Federal Communications Commission.

ACTION: Order accepting additional comments on proposed rule; Extension of time.

SUMMARY: This Order extends the time for filing comments on the Microband Corporation of America Urbanet proposal in order to allow the Commission to make a complete record of the proceedings.

This action will give interested parties an additional 30 days to comment on the Microband proposal.

DATE: Comments must be submitted on or before July 2, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kevin J. Kelley, Common Carrier Bureau, (202) 634-1779.

SUPPLEMENTARY INFORMATION: In the matter of amendment of Parts 2, 21, 74 and 94 of the Commission rules and regulations in regard to frequency allocation to the Instructional Television Fixed Service, the Multipoint Distribution Service, and the Private Operational Fixed Microwave Service, Gen. Docket No. 80-112, and amendment of Parts 21, 74 and 94 of the Commission rules and regulations with regard to technical requirements applicable to the Multipoint Distribution Service, the Instructional Television Fixed Service and the Private Operational Fixed Microwave Service (OFS), Gen. Docket No. 80-113.

Order

Adopted: May 27, 1982.
Released: May 28, 1982.

1. On April 26, 1982, an "Order Accepting Additional Comments" was issued in the above-captioned proceedings.[1] This order was issued in response to a motion filed by Microband Corporation of America requesting that a 3 volume proposal it had submitted to the Commission be accepted as additional comments in these proceedings. The Order noted that all entities that filed comments in either of the proceedings had been served a copy of the proposal in February of 1982. It also noted that a copy of the proposal had been available in our public reference room since February 10, 1982. Public Notice of the receipt of the Microband proposal was issued on February 16, 1982 (FCC Public Notice No. 2227). On the basis of these considerations, we concluded that a 30 day comment period period commencing with the publication of the order in the **Federal Register** would afford interested parties adequate time to prepare and submit comments on the Microband proposal. The order appeared in the **Federal Register** on May 3, 1982, thus requiring that comments be submitted on or before June 2, 1982.

2. On May 12, 1982, a number of parties jointly submitted a "Request for Extension of Time to File Additional

[1] 47 FR 18932 (1982).

Comments" purusant to § 1.46 of the rules, 47 CFR 1.46, asking that the period for filing comments on the Microband proposal be extended until October 4, 1982.[2]

3. In their request the petitioners claim that since most of the Instructional Television Fixed Service (ITFS) licensees are educational institutions that are busiest at this time as the academic year ends, they have neither the time nor the resources necessary to prepare comments on the Microband proposal within 30 days. They further claim that resources necessary to prepare comments will be unavailable during the summer months. Finally they claim that since Microband had almost two years in which to develop its three volume proposal it would be unfair to require ITFS licensees to respond in 30 days.

4. Although requiring comments on the Microband proposal within 30 days of receipt might be unreasonable, that is not the situation before us. The Microband proposal has been available for study since February 10, 1982, almost 4 full months prior to the time for filing comments in this proceeding.[3] Furthermore, most of the issues raised by the Microband proposal are identical to the issues presented in the original notices in these proceedings. For example, petitioners state that the Microband proposals that the ITFS licensees vacate the channels they now use and that Multipoint Distribution Service licensees be authorized to operate their stations with 10 times the power authorized for ITFS stations demonstrate that responding will require "considerable engineering and other analysis." These issues were the subject of considerable comment in the original phase of these proceedings. Thus, it is not clear that additional comments on these points will be other than cumulative. We believe that adequate time has been available for parties to analyze the factual data submitted by Microband and to submit comment on them and on the few new issues raised by the proposal.

5. Finally, we note that § 1.46(a) of the rules, 47 CFR 1.46(a), states: "It is the policy of the Commission that extensions of time shall not routinely be granted." In adding this language to the rules the Commission stated "We are concerned that the practice of requesting and granting requests for extension of time on a regular, routine basis has grown to the point of abuse, and has contributed materially to the delay of proceedings. In amending § 1.46, our intention is to adjure parties and staff officials to tighten up the process." [4]

6. We are aware that some interested parties may have delayed preparation of their comments on the Microband proposal pending our response to the instant request for extension of time. We are also aware that notice of our response may not be received by all interested parties prior to the June 2, 1982 deadline. Finally, we wish to offer all interested parties an equal opportunity to file timely comments in this proceeding. For these reasons we are extending the period for filing comments on the Microband proposal for 30 days.

7. Accordingly the subject "Request for Extension of Time to File Comments" is denied.

8. It is further ordered, that the date for filing comments on the Microband proposal is extended to and including July 2, 1982.

9. This order is issued pursuant to §§ 0.91, 0.291 and 1.46 of the Commission's rules, 47 CFR 0.91, 0.291, 1.46.

10. The Secretary shall cause this order to be published in the **Federal Register.**

Gary M. Epstein,

Chief, Common Carrer Bureau.

[FR Doc. 82-15586 Filed 6-8-82; 8:45 am]

BILLING CODE 6712-01-M

[2] The original request was filed by the Association for Higher Education of North Texas, the Catholic Television Network, the Center for Excellence, Inc., the Illinois Institute of Technology, the National Telecommunications Council, Inc., and The Leland Stanford Junior University. On May 18, 1982 Microband Corporation of America filed an "Opposition of Microband Corporation of America to Request for Extension of Time". On the same day Dr. Gerald Rosander, County Superintendent of Schools for San Diego County, California filed a "Request for Extension of Time to file Comments." On May 19, 1982 Microband filed an opposition to Dr. Rosander's request.

[3] We note that counsel for petitioners was served with the proposal in February of this year as was Dr. Rosander.

[4] Adjudicatory Re-regulation Proposal, 50 FCC 2d 865, 877 (1976).

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

48 CFR Part 19

Small Business and Small Disadvantaged Business Concerns

AGENCY: Office of Federal Procurement Policy, OMB.

ACTION: Notice of availability and request for comment on draft Federal Acquisition Regulations.

SUMMARY: The Office of Federal Procurement Policy is making available for public and Government agency review and comment a segment of the draft Federal Acquisition Regulation (FAR) on contracting with small business and small disadvantaged business concerns.[1] Availability of additional segments for comment will be announced on later dates. The FAR is being developed to replace the current system of procurement regulations.

DATE: Comments must be received on or before July 21, 1982.

ADDRESS: Obtain copies of the draft regulation from and submit comments to William Maraist, Assistant Administrator for Regulations, Office of Federal Procurement Policy, 726 Jackson Place, NW, Room 9025, Washington, D.C. 20503. Federal agency requests must be directed to the FAR Agency Contact Point (see **Federal Register**, Vol. 46, No. 50, March 16, 1981, p. 16818 for list).

FOR FURTHER INFORMATION CONTACT: William Maraist, (202) 395-3300.

SUPPLEMENTARY INFORMATION: The fundamental purposes of the FAR are to reduce proliferation of regulations; to eliminate conflicts and redundancies; and to provide an acquision regulation that is simple, clear and understandable. The intent is not to create new policy. However, because new policies may arise concurrently with the FAR project, the notice of availability of draft regulations will summarize the section or part available for review and describe any new policies therein.

List of Subjects in 48 CFR Parts 19

Government procurement.

The following part of the draft Federal Acquisition Regulation is available upon request for public and Government agency review and comment.

PART 19—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

This part implements the Small Business Act (15 U.S.C. 631 et seq.) and prescribes policies and procedures governing: (1) the determination that a concern is a small business or a small disadvantaged business for the purpose of participating in programs designed to foster the establishment and viability of such businesses; (2) the respective roles of Federal agencies and the Small Business Administration (SBA) in implementing the programs; (3) setting acquisitions aside for exclusive participation by small business

[1] Filed as part of the original document.

concerns; (4) the certificate of competency program; (5) the subcontracting assistance program; (6) the SBA's Procurement Automated Source System (PASS); (7) the "8(a)" program, under which Federal agencies contract with the SBA for goods or services to be furnished under a subcontract by a small disadvantaged business concern; and (8) the use of womenowned business concerns.

The FAR coverage represents a substantial reorganization and rewriting of the DAR and FPR material. In cases in which the DAR and FPR differ or are silent, the FAR is based on SBA regulations in 13 CFR.

Dated: June 3, 1982.

LeRoy J. Haugh,

Associate Administrator for Procurement System Impelementation.

[FR Doc. 82-15576 Filed 6-8-82; 8:45 am]

BILLING CODE 2110-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1102

[Ex Parte No. 290 (Sub-No. 2)]

Railroad Cost Recovery Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of extension for filing comments.

SUMMARY: At 47 FR 18012, April 27, 1982, the Commission reopened this proceeding to seek comments on new all-inclusive cost recovery index filed by the Association of American Railroads, and on other indexing and related issues. The deadline for filing comments is being extended until July 9, 1982. This action will enable the Commission to avoid potential inconvenience to the parties while it considers a petition to broaden the Ex Parte No. 290 (Sub-No. 2) proceeding filed on May 5, 1982, by the Western Coal Traffic League.

DATES: Comments are due on or before July 9, 1982.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon (202) 275-7277 or Douglas Galloway (202) 275-7278.

Dated: June 3, 1982.

By the Commission, Reese H. Taylor, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15586 Filed 6-8-82; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 47, No. 111
Wednesday, June 9, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 82-312]

Golden Nematode; Program Notice

Currently, the Animal and Plant Health Inspection Service (APHIS) is involved in programs concerning the golden nematode, a highly destructive pest of potatoes and other solanaceous plants, which occurs in the State of New York. Under provisions of the Plant Quarantine Act (7 U.S.C. 151 *et seq.*) and the Federal Plant Pest Act (7 U.S.C. 150aa *et seq.*), APHIS established the federal golden nematode quarantine and regulations (7 CFR 301.85 through 301.85–10) which impose restrictions on the interstate movement of certain articles from the State of New York to prevent the articifical spread of golden nematode. Also, under provisions of the Organic Act of 1944 (7 U.S.C. 147a), APHIS cooperates with the State of New York in a golden nematode management control program.

The budget proposed for fiscal year 1983 would not provide funds for continuation of federal involvement in these golden nematode programs. This document advises the States and other interested parties that if APHIS funds for these programs are eliminated or reduced, federal involvement in the golden nematode programs could be terminated or curtailed. Accordingly, APHIS is issuing this notice to permit the State of New York and other interested parties, including other States, to consider what actions they may wish to undertake regarding golden nematode. For example, New York may wish to consider what type of control program it would maintain if federal cooperation is reduced or eliminated. APHIS will be available to work with all interested parties in designing appropriate non-federal measures and establishing plans for implementing such measures if federal involvement in these programs is reduced or eliminated. APHIS is providing this notice, in advance of fiscal year 1983, to permit New York and other interested parties sufficient time to develop their alternatives to the federal program so that a smooth transition to non-federal action will occur if federal involvement is reduced or eliminated and the interested entities choose to take action.

Done at Washington, D.C., this 4th day of June 1982.

H. L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 82-15620 Filed 6-8-82; 8:45 am]

BILLING CODE 3410-34-M

[Docket No. 82-309]

Gypsy Moth; Program Notice

Currently, the Animal and Plant Health Inspection Service (APHIS) is involved in programs concerning the gypsy moth, a highly destructive pest of forest trees. Under provisions of the Plant Quarantine Act (7 U.S.C. 151 *et seq.*) and the Federal Plant Pest Act (7 U.S.C. 150aa *et seq.*), ASPHIS established the federal gypsy moth quarantine and regulations (7 CFR 301.45 through 301.45–10 and an appendix) which impose restrictions on the interstate movement of certain articles from 23 quarantined States to prevent the artifical spread of the gypsy moth. The quarantined States are Arkansas, California, Connecticut, Delaware, Illinois, Maine, Maryland, Massachusetts, Michigan, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, Washington, West Virginia, and Wisconsin. Also, under provisions of the Organic Act of 1944 (7 U.S.C. 147a), APHIS cooperates with these States in gypsy moth survey and eradication programs.

The budget proposed for fiscal year 1983 would provide funds only for continuation of activities for the development of control technology for utilization in State programs. This document advises the States and other interested parties that if funds are only provided for such developmental activities, federal involvement in the gypsy moth programs, except for such developmental activities, could be terminated or curtailed. Accordingly, APHIS is issuing this notice to permit the quarantined States and other interested parties, including other States, to consider what action they may wish to undertake regarding gypsy moth. For example, the quarantined States may wish to consider what type of survey and eradication programs they would maintain if federal cooperation is reduced or eliminated. APHIS will be available to work with all interested parties in designing appropriate non-federal measures and establishing plans for implementing such measures if funding is not provided for federal involvement other than for developmental activities. APHIS is providing this notice, in advance of fiscal year 1983, to permit the quarantined States and other interested parties sufficient time to develop their alternatives to the federal program so that a smooth transition to non-federal action will occur if federal funding is reduced and the interested entities choose to take action.

Done at Washington, D.C., this 4th day of June 1982.

H. L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 82-15617 Filed 6-8-82; 8:45 am]

BILLING CODE 3410-34-M

[Docket No. 82-311]

Witchweed; Program Notice

Currently, the Animal and Plant Health Inspection Service (APHIS) is involved in programs concerning witchweed, a parasitic plant that causes the degeneration of corn; sorghum, and other grassy crops. Witchweed occurs in the United States only in North Carolina and South Carolina. Under provisions of the Plant Quarantine Act (7 U.S.C. 151 *et seq.*) and the Federal Plant Pest Act (7 U.S.C. 150aa *et seq.*), APHIS established the federal witchweed quarantine and regulations (7 CFR 301.80 through 301.80–10) which impose restrictions on the interstate movement of certain articles from North Carolina and South Carolina for the purpose of preventing the artificial spread of witchweed. Also, under provisions of the Organic Act of

1944 (U.S.C. 147a), APHIS cooperates with North Carolina and South Carolina in witchweed survey and control programs.

The budget proposed for fiscal year 1983 would not provide funds for continuation of federal involvement in these witchweed programs. This document advises the States and other interested parties that if the funds for these programs are eliminated or reduced, federal involvement in the witchweed programs could be terminated or curtailed. Accordingly, APHIS is issuing this notice to permit the States of North Carolina and South Carolina and other interested parties, including other States, to consider what actions they may wish to undertake regarding witchweed. For example, North Carolina and South Carolina may wish to consider what type of survey and control programs they would maintain if federal cooperation is reduced or eliminated. APHIS will be available to work with all interested parties in designing appropriate non-federal measures and establishing plans for implementing such measures if federal involvement in these programs is reduced or eliminated. APHIS is providing this notice, in advance of fiscal year 1983, to permit North Carolina and South Carolina and other interested parties sufficient time to develop their alternatives to the federal programs so that a smooth transition to non-federal action will occur if federal involvement is reduced or eliminated and the interested entities choose to take action.

Done at Washington, D.C., this 4th day of June 1982.

H. L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 82-15618 Filed 6-8-82; 8:45 am]

BILLING CODE 3410-34-M

[Docket No. 82-310]

Pink Bollworm; Program Notice

Currently, the Animal and Plant Health Inspection Service (APHIS) is involved in programs concerning the pink bollworm, a destructive insect pest of cotton which occurs in most cotton producing States west of the Mississippi River. Under provisions of the Plant Quarantine Act (7 U.S.C. 151 *et seq.*) and the Federal Plant Pest Act (7 U.S.C. 150aa *et seq.*), APHIS established the federal pink bollworm quarantine and regulations (7 CFR 301.52 through 301.52-10) which impose restrictions on the interstate movement of certain articles from eight quarantined States to prevent the artificial spread of the pink bollworm. The quarantined States are Arizona, Arkansas, California, Louisiana, New Mexico, Nevada, Oklahoma, and Texas. Also, under provisions of the Organic Act of 1944 (7 U.S.C. 147a), APHIS cooperates with these States in pink bollworm survey and control programs.

The budget proposed for fiscal year 1983 would provide funds only for continuation of sterile moth egg production at the pink bollworm rearing facility in Phoenix, Arizona. This document advises the States and other interested parties that if funds are provided only for the continuation of sterile moth egg poduction, federal involvement in the the pink bollworm programs could be terminated or cutrailed. Accordingly, APHIS is issuing this notice to permit the quarantined States and other interested parties, including other States, to consider what actions they may wish to undertake regarding pink bollworm. For example, the quarantined States may wish to consider what type of survey and control programs they would maintain if federal cooperation is reduced or eliminated. APHIS will be available to work with all interested parties in designing appropriate non-federal measures and establishing plans for implementing such measures if federal involvement in these programs is reduced or eliminated. APHIS is providing this notice, in advance of fiscal year 1983, to permit the quarantined States and other interested parties sufficient time to develop their alternatives to the federal program so that a smooth transition to non-federal action will occur if federal funds are reduced and the interested entities choose to take action.

Done at Washington, D.C. this 4th day of June 1982.

H. L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 82-15619 Filed 6-8-82; 8:45 am]

BILLING CODE 3410-34-M

Farmers Home Administration

Pilot Test for Prototype Funds Receipt and Disbursement System (FRADS) for Disbursing Loan and Grant Funds

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice.

SUMMARY: Effective June 14, ,1982, a pilot implementation of the prototype Funds Receipt and Disbursement System (FRADS) will begin in the State of Florida in the counties of Brevard, Citrus, Hernando, Hillsborough, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, and Sumter. For the length of the pilot, all Farmers Home Administration (FmHA) loan/grant disbursements from these counties will be handled by this system rather than under the corresponding provisions of 7 CFR part 1902 Subpart A. FRADS involves only the method by which funds are disbursed from the U.S. Treasury to FmHA field offices and will not directly affect FmHA borrowers. The FRADS pilot will continue until adequate information for evaluation has been accumulated. This action is needed to examine the effectiveness of the prototype system in reducing FmHA's and the Government's interest expense for financing FmHA programs. The catalog of Federal Domestic Assistance numbers and titles are:

10.404 Emergency Loans
10.405 Farm Labor Housing Loans and Grants
10.406 Farm Operating Loans
10.407 Farm Ownership Loans
10.408 Grazing Association Loans
10.409 Irrigation, Drainage, and Other Soil and Water Conservation Loans
10.410 Low to Moderate Income Housing Loans (Rural Housing Loans-Section 502-Insured)
10.411 Rural Housing Site Loans (Section 523 and 524 Site Loans)
10.413 Recreation Facility Loans
10.414 Resource Conservation and Development Loans
10.415 Rural Rental Housing Loans
10.416 Soil and Water Loans (SW Loans)
10.417 Very Low-Income Housing Repair Loans and Grants
10.418 Water and Waste Disposal Systems for Rural Communities
10.419 Watershed Protection and Flood Prevention Loans
10.420 Rural Self-Help Housing Technical Assistance (Section 523 Technical Assistance)
10.421 Indian Tribes and Tribal Corporation Loans
10.422 Business and Industrial Loans
10.423 Community Facility Loans
10.424 Industrial Development Grants
10.425 Emergency Livestock Loans
10.426 Area Development Assistance Planning Grants (Section 111)
10.427 Rural Rental Assistance Payments
10.428 Economic Emergency Loans
10.429 Above Moderate Income Housing Loans (Guaranteed Rural Housing Loans)
10.430 Energy Impacted Area Development Assistance Program
10.431 Technical and Supervisory Assistance Grants
10.432 Biomass Energy and Alcohol Fuels Loans and Loan Guarantees

This notice does not directly affect any FmHA progrtams or projects which are subject to A-95 clearinghouse review.

EFFECTIVE DATE: Effective June 14, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Lynn Furman, Director, Accounting Systems Design and Development Division, (202) 447-2845.

Dated: April 14, 1982.

Charles W. Shuman,

Administrator, Farmers Home Administration.

[FR Doc. 82-15604 Filed 6-8-82; 8:45 am]

BILLING CODE 3410-07-M

Office of the Secretary

Forms Under Review by Office of Management and Budget

June 4, 1982.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of P.L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commenting on a form but find that preparation time will prevent you from submitting comments promptly, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Richard J. Schrimper, Statistical Clearance Officer, (202) 447-6201.

Revised

• Soil Conservation Service
Agriculture and Urban Damage Surveys
ECN-1 through 6
On occasion
Individuals, State or local governments, farms, businesses: 2,600 responses; 1,300 hours; not applicable under 3504(h)
Roy M. Gray (202) 447-2307

Extension

• Agricultural Marketing Service
Wheat and Wheat Food Research
Quarterly
Businesses or other institutions: 2,500 responses; 217 hours; not applicable under 3504(h)
Lowry Mann (202) 447-2650

Reinstatement

• Agricultural Stabilization and Conservation Service
Estimate of Tobacco Production
MQ 92
On occasion
Farms: 750 responses; 417 hours; not applicable under 3504(h)
Thomas R. Burgess (202) 447-2715

• Agricultural Stabilization and Conservation Service
Forms ASCS-574, Application for Disaster Credit and ASCS-574-1, Prevented Planting Claim
ASCS 574, 574-1
Annually
Farms: 180,000 responses; 30,000 hours; not applicable under 3504(h)
Bill Harshaw (202) 447-7634

Richard J. Schrimper

Statistical Clearance Officer.

[FR Doc. 82-15643 Filed 6-8-82; 8:45 am]

BILLING CODE 3410-01-M

CIVIL AERONAUTICS BOARD

[Docket 40630; Order 82-6-32]

Application of Arrow Airways, Inc.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause.

SUMMARY: The Board proposes to issue a certificate to Arrow Airways, Inc., to provide scheduled interstate and overseas air transportation of persons, property, and mail between all points in the United States, its territories and possessions.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions, as described in the order cited above, shall, no later than June 22, file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Docket 40630, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to all the persons listed in paragraph 6 of Order 82-6-32.

A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Board will issue an order which will make final the Board's tentative findings and conclusions and issue the proposed certificate. To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5432. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Thomas Chew, (202) 673-5340, Bureau of Domestic Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: June 3, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-15621 Filed 6-8-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40731; Order 82-6-7]

U.S.-France Nonaffinity Group Fares Proposed by Compagnie Nationale Air France; Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 25th day of May, 1982.

By tariff revisions filed May 12, 1982, Compagnie Nationale Air France (Air France) has proposed new nonaffinity group fares for travel from New York to Nice, effective June 11, 1982.[1]

We have decided to suspend Air France's proposal. The French aviation authorities have repeatedly denied U.S. carrier attempts to introduce new fares in the U.S.-France market, have disapproved the fare proposals of U.S. carriers seeking entry into the market whenever the proposals undercut the prevailing fares of Air France, and have even refused U.S. carriers the right to match Air France's fares at the latter's U.S. gateways if the former did not provide single plane service. Thus, the Government of France continues its policy of denying U.S. carrier fare initiatives in order to protect Air France to the detriment of the traveling public. Such circumstances compel us to continue to review Air France's proposals with greater scrutiny than we would otherwise prefer.

Therefore, we have decided to investigate Air France's proposed tariffs, and we find that it is in the public interest to suspend the tariffs pending investigation.

Accordingly, pursuant to sections 102, 204(a), 403, 801 and 1002(j) of the Federal Aviation Act of 1958, as amended:

1. We shall institute an investigation to determine whether the fares and

[1] The fares, at round-trip levels of $750 peak and $699 basic, would apply only on certain flights.

provisions set forth in the attached Appendix, and rules and regulations or practices affecting such fares and provisions, are or will be unjust or unreasonable, unjustly discriminatory, unduly prejudicial or otherwise unlawful or contrary to the public interest; and if we find them to be unlawful or contrary to the public interest, to act appropriately to prevent the use of such fares, provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, we suspend and defer the use of the tariff provisions in the attached Appendix A from June 11, 1982, to and including June 10, 1983, unless otherwise ordered by the Board, and shall permit no changes to be made during the period of suspension except by order or special permission of the Board;

3. We shall submit this order to the President [2] and, unless disapproved by the President within ten days, it shall become effective June 11, 1982; and

4. We shall file copies of this order in the aforesaid tariff and serve them on Compagnie Nationale Air France and the Ambassador of France in Washington, D.C.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-15622 Filed 6-8-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

1980 Census Neighborhood Statistics Program (NSP)

The Director of the Bureau of the Census has issued the revised final guidelines for participation in the NSP. A notification of these guidelines has been sent to the highest elected officials of all municipalities with 10,000 or more population; to the officials in the appropriate towns, townships, and counties to which the Program has now been extended; and to those persons that have contacted the Bureau in the past concerning the NSP.

The NSP is totally voluntary. Neighborhood data will not be tabulated for any locality unless the Bureau receives a request for participation from the local government by July 2, 1982. Such requests should be sent to the Director, Bureau of the Census, Washington, D.C. 20233, Attention: Neighborhood Statistics Program, Decennial Census Division.

[2] We submitted this order to the President on May 25, 1982.

Changes to the NSP

The Bureau originally announced the guidelines for the NSP on November 21, 1979 (44 FR 66862). Since that time, there have been a number of major Program changes that have necessitated the reissuance of the NSP guidelines.

First, during the past year, the Bureau had indicated that because of budgetary uncertainties the NSP would be administered on a cost-reimbursable basis. As a result of several successful cost-saving measures, however, the Bureau is now able to offer this service without charging participants. The work and expense of completing the neighborhood block equivalency listing—a method of defining neighborhoods in terms of census geographic areas—remain the responsibility of each participating locality. The equivalency listing and appropriate instructions will be provided by the Bureau later this year. Participants will be required to purchase a set of 1980 census maps for use in the coding process. These maps will remain the property of the locality after coding is completed.

Second, the format of data that will be available for neighborhoods has been revised. The new format will continue to provide considerable sample data covering such topics as income, employment, poverty, and shelter costs. In addition to statistical tables, the NSP data product has been expanded to include narrative profiles that describe the characteristics of the population and housing units within each neighborhoos.

Third, based on input from potential data users, the Bureau has decided to relax somewhat the previously published criterion 3 which provided that neighborhoods must have some type of citizen participation mechanism. The primary purpose of the NSP is still to provide statistics for neighborhoods with citizen participation mechanisms; however, data can now be requested for other traditionally recognized neighborhoods in those areas of the locality where no formal citizen participation system exists as long as all other Program requirements are met. These neighborhoods may participate in the NSP even if they coincide with planning areas, wards, or other areas previously ineligible for participation in the NSP.

Fourth, although the NSP was originally developed to assist municipalities, the Bureau has extended the Program to areas covered by census blocks outside of municipalities. Specifically, these non-municipal areas will include the unincorporated parts of counties as well as towns and townships in the 11 states (Connecticut, Maine, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Wisconsin) where these jurisdictions are general-purpose governments. Further information concerning participation of such areas is provided in Item (a) of the revised guidelines.

Revised Guidelines for Participation in the NSP

The NSP has been developed to assist localities requesting statistics for recognized subareas, generally called "neighborhoods." These statistics are needed to determine the socioeconomic characteristics of the population residing in each area, to gauge the possible qualification of the area for participation in federal and other programs, and to formulate programs needed by neighborhood residents. The NSP will provide, by these locally defined areas, considerable demographic, social, and economic data that generally cannot be obtained from other census data products (unless a neighborhood's boundaries coincide with such geographic levels as census tracts or block groups). Many of these data, including such subjects as income, education, employment, poverty, and certain housing characteristics, were collected from only a sample of the population and not released at the block level; therefore, data for neighborhoods on these sample subjects cannot be aggregated from summary data at the block level.

These revised guidelines are provided to assist those localities requesting participation in the NSP. Participation should be initiated by a written request from either the chief elected official of the local government or an appropriate officer of a central neighborhood council or coalition, if one exists, that represents all neighborhoods for which the locality is requesting data. This expression of interest in the Program should be made to the Director, Bureau of the Census, by July 2, 1982. If after notification, a locality no longer wishes to participate, it may withdraw. Any late request will be handled as a special tabulation which will involve a charge to the participant.

It should be emphasized that the Bureau will supply statistics for only one system of nonoverlapping neighborhoods in each locality; therefore, a single request, incorporating all neighborhoods, is needed from each jurisdiction wishing to participate in the

Program. Questions arising as to who should initiate the request (the local government or a neighborhood coalition) or disagreements concerning the specific location of each neighborhood must be resolved locally.

We are requesting that any locality which has previously contacted the Bureau about the NSP reconfirm its interest in the Program; however, there is no need for those localities to again provide the details requested later in these guidelines unless the information submitted previously is no longer current.

The cost of the work performed by the Bureau in connection with this program will be borne by the Bureau with no charge to the participants. The locality will be responsible for the work and the expense of making the written request, completion of the neighborhood block equivalency list, and reconciliation of any discrepancies resulting from the coding process. In addition, participants will be required to purchase a set of 1980 census maps for use in the coding process; these maps will remain the property of the locality.

The following are the criteria for participation in the NSP. After each criterion, we have indicated the information that must be supplied to the Bureau before a locality's eligibility can be determined.

1. Official recognition of the locality's neighborhoods. The highest elected official of the locality (or, where applicable, an appropriate representative of a central neighborhood council or coalition) must either include a statement of recognition in his or her letter to the Director or to provide a copy of a municipal law or similar legal or administrative action, if one exists, that recognizes the neighborhoods.

2. A single set of neighborhoods with nonoverlapping boundaries. All the area within any given neighborhood must be considered part of that neighborhood only; no portion of the locality may be included in more than one neighborhood. The locality must provide the number of neighborhoods for which data will be requested, a statement as to whether these neighborhoods cover the entire locality, and a map indicating the preliminary, nonoverlapping neighborhood boundaries. This map does not have to be technical (for example, a local street map is satisfactory); however, it should indicate clearly the streets, railroad tracks, natural features, and so forth, which the neighborhood boundaries follow. Please note the following two considerations when defining neighborhoods:

- A locality's final neighborhood boundaries, those that will be submitted with the neighborhood block equivalency listing, must be consistent with census blocks. Census blocks cannot be split when defining neighborhoods for the NSP (except in the case where a block is already cut by a corporate limit). Since a census block is usually an enclosed area bound on all sides by visible features such as streets, railroad tracks, bodies of water, and so forth, preliminary neighborhood boundaries should also follow visible features. In this way, there will be minimal need for the locality to adjust neighborhood boundaries when completing its neighborhood block equivalent listing using final 1980 census maps. Property lines, which do not coincide with visible features, are almost never block boundaries and, therefore, should not be used as neighborhood boundaries.
- Census geography is based on political boundaries as of January 1, 1980. If a locality's neighborhood boundaries extend past its political boundaries as of January 1, 1980, the Bureau must be advised so that we can provide the appropriate census geography on the neighborhood block equivalency list and maps.

3. Citizen participation mechanism. If applicable, please indicate when a mechanism exists whereby concerned residents within a neighborhood are assured the opportunity to present their views on municipal matters to city officials. Examples of such mechanisms are: elected or appointed neighborhood representatives, neighborhood councils, citizens associations, and neighborhood liaisons to city hall.

4. Local contact person. The locality must supply the name, title, address, and telephone number of a contact person who will coordinate NSP-related activities of the locality with the Bureau.

We will review the information provided by each locality requesting participation to determine its compliance with the preceding criteria. If any discrepancies are found during this review process, the Bureau will advise the locality. Subsequent to this review, each locality will be advised as to its eligibility to participate in the NSP. At that time, we will not be able to supply neighborhood data to those localities that still cannot comply with the criteria (such as those with overlapping neighborhood boundaries or neighborhoods that do not follow census block boundaries).

Listed below are several items to be considered when submitting requests for NSP participation:

(a) Because the Bureau can produce only one set of data for any geographic area, it is important that requests from two different jurisdictions for the same geographic area be avoided. If a county (or town or township, where applicable) wants data for neighborhoods within a smaller general-purpose government, the formal request should be made by the smaller jurisdiction. In situations where the smaller government is not interested in the Program or would prefer to have the county do the work, the county should supply us with a letter from the local highest elected official naming the county as the contact. Many cities have chosen to defer this responsibility to a member of the county or regional planning department. It should be noted that officials can only request participation for neighborhoods in areas over which they have political jurisdiction. For instance, a mayor of a city cannot request data for neighborhoods located outside of the city limits unless the highest elected official of that jurisdiction names the mayor as the contact person.

(b) Generally, an entire place or census designated place (CDP) will not be considered a neighborhood since the intent of the NSP is to assist submunicipal areas for which data are not easily accessible. Data for places and CDP's will be available from the regular census publications and the summary tapes.

(c) Although the Bureau does not have a stated population minimum for neighborhoods, we recommend that neighborhoods have at least 1,000 population in order to minimize suppression of the data and to maintain reasonable statistical reliability.

(d) The 1980 Census maps used during the coding process will remain the property of each participating locality. Other maps showing neighborhood boundaries will not be available from the Bureau. Any map preparation or dissemination in relation to this Program will be a local responsibility.

Data for a second set of neighborhoods can only be provided as a special tabulation which will be done at a later time and will involve a charge to the requester.

As currently scheduled, a neighborhood block equivalency listing and a complete set of instructions will be mailed on a flow basis to each local contact person beginning in the fall 1982. The neighborhood block equivalency list is a listing of 1980 census geographic units which will be assigned to appropriate neighborhoods during the coding process that will be completed by each locality. The contact person will indicate the final boundaries of the neighborhoods on appropriate 1980 census maps (purchased by the

participating locality) and insert the appropriate neighborhood codes on the equivalency list according to the instructions. Because all census geographic units included on the listing must be identified, the coder will be instructed to assign a code for "balance of locality" to any unit that is not part of a recognized neighborhood. The locality will be responsible for the accuracy of the equivalency listing, for the resolution of any omissions or duplications that the listing may contain, and for any statistical inaccuracies that may result from undiscovered errors.

Release of the final neighborhood data is scheduled to begin in early 1983. A participating locality will receive narrative profiles, each of which describes the characteristics of the population and housing units within one neighborhood, and the accompanying statistical tables, which contain data on all neighborhoods (and a balance of locality, where applicable). Sufficient copies of the narratives and tables will be provided so that the local contact may keep one set of each and may distribute to each neighborhood its narrative profile and a set of the tables. Additional copies of any locality's neighborhood data can be purchased from the bureau at the end of the tabulation process.

Requests for participation and other communications regarding the NSP should be sent to the Director, Bureau of the Census, Washington, D.C. 20233, Attention: Neighborhood Statistics Program, Decennial Census Division. If you have specific questions regarding this Program and you prefer to call, Ms. JoAnne T. Ritzen is available on 301/763–1818.

Dated: June 4, 1982.

Bruce Chapman,

Director, Bureau of the Census.

[FR Doc. 82–15568 Filed 6–8–82; 8:45 am]

BILLING CODE 3510-07-M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; Correction of a Notice for System of Records

AGENCY: Defense Logistics Agency (DLA), DOD.

ACTION: Correction of a notice for a system of records.

SUMMARY: This notice corrects an entry in a notice for a system of records subject to the Privacy Act of 1974 that appeared earlier. Specifically three system managers who were inadvertently omitted from the proposed amended system notice.

DATES: This correction will be effective June 9, 1982 the effective date of the proposed amended system notice.

FOR FURTHER INFORMATION CONTACT: Mr. Preston B. Speed, DLA–XAM, HQ DLA, Cameron Station, Alexandria, VA 22314, telephone: 202/274–6234.

SUPPLEMENTARY INFORMATION: An amended system notice for Defense Logistics Agency system of records, S434.15 DLA–KP, entitled: "Automated Payroll Cost and Personnel System (APCAPS) Personnel Subsystem" was published in the **Federal Register** at 47 FR 20016 (FR Doc. 82–12583) May 10, 1982. Three system managers were inadvertently omitted from the "Systen Manager(s) and Address" Caption. These three are: "DCASR Cleveland, DCASR Dallas, and DCASR Philadelphia."

M. D. Healy

OSD Federal Register Liaison Officer, Department of Defense.

June 3, 1982.

[FR Doc. 82–15587 Filed 6–8–82; 8:45 am]

BILLING CODE 3620–01–M

Department of the Navy

Privacy Act of 1974; Deletion of Systems of Records

AGENCY: Department of the Navy (DON).

ACTION: Deletion of two systems of records notices.

SUMMARY: The Department of the Navy proposes to delete the notices for two systems or records in its inventory of systems of records subjects to the Privacy Act of 1974.

DATE: The proposed actions will be effective without further notice on July 9, 1982, unless comments are received which would result in a contrary determination.

ADDRESSES: Any comments, to include written data, views or arguments concerning the actions proposed should be addressed to the systems managers identified in the systems notices.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP–09B1P), Department of the Navy, the Pentagon, Washington, D.C. 20350. Telephone: 202/694–2004.

SUPPLEMENTARY INFORMATION: The Department of the Navy inventory of systems of records notices as prescribed by the Privacy Act of 1974, Title 5 United States Code, Section 552a (Pub. Law 93–579; 44 Stat. 1896, *et seq.)* have been published in the **Federal Register** at:

FR Doc. 81–674 (47 FR 2574) January 16, 1982
FR Doc. 81–9204 (47 FR 14944) April 7, 1982
FR Doc. 82–9844 (47 FR 15636) April 12, 1982.
FR Doc. 82–12593 (47 FR 20018) May 10, 1982.

M. S. Healy.

OSD Federal Register Liaison Officer, Department of Defense.

June 3, 1982.

DELETIONS

N05300–3

System name: VGA Personnel and Manpower Information System (PERMIS) (47 FR 2679) January 18, 1982

Reason: This system has been incorporated into system notice #N12950–5, "Navy Automated Civilian Manpower Information System (NACMIS)"

N12950–2

System name: Professional Qualifications Records (PQR's) (47 FR 2738) January 18, 1982

Reason: This system has been discontinued.

[FR Doc. 82–15586 Filed 6–8–82; 8:45 am]

BILLING CODE 3810–71–M

Privacy Act of 1974; Amendment of Systems of Records

AGENCY: Department of the Navy (DON).

ACTION: Amendment of three systems of records notices.

SUMMARY: The Department of the Navy proposes to amend the notices for three systems of records in its inventory of systems of records subject to the Privacy Act of 1974. The proposed amendments followed by the amended system notices are set forth below.

DATES: The proposed actions will be effective without further notice on July 9, 1982, unless comments are received which would result in a contrary determination.

ADDRESS: Any comments should be addressed to the systems managers identified in the systems notices.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP–09B1P), Department of the Navy, The Pentagon, Washington, D.C. 20350. Telephone: 202/694–2004.

SUPPLEMENTARY INFORMATION: The Department of the Navy inventory of systems of records notices as prescribed by the Privacy Act of 1974, Title 5, United States Code, section 552a (Pub. Law 93–579; 44 Stat. 1896, *et seq.*) have

been published in the Federal Register at:

FR Doc. 81-674 (47 FR 2574) January 18, 1982
FR Doc. 81-9204 (47 FR 14944) April 7, 1982
FR Doc. 82-9844 (47 FR 15636) April 12, 1982
FR Doc. 82-12593 (47 FR 20018) May 10, 1982

None of these changes require an altered system report under the provisions of 5 U.S.C. 552a(o).

M.S. Healy,
OSD Federal Register Liaison Officer, Department of Defense.
June 3, 1982.

N05810-1

System Name:

Article 138 Complaint of Wrongs, (47 FR 2695) January 18, 1982.

Changes:

System location:

In line two, delete the phrase "* * * (Code 20) * * *" and substitute with: "* * * (Code 13) * * *".

Notification procedure:

In line four, delete the phrase: "* * * (Military Justice) * * *" and substitute with: "* * * (Administrative Law) * * *" In line 14, delete the phrase "* * * Military Justice * * *" and substitute with: "* * * Administrative Law * * *" In line 16, delete the number "* * * 9S09 * * *" and substitute with: "* * * 9N03 * * *".

N07401-1

System name:

Slot Machine/Bingo Winners (47 FR 15638) April 12, 1982.

Changes:

System name:

Delete the phrase: "Slot Machine".

System location:

Delete the entire entry and substitute with: "Decentralized, maintained at Navy and Marine Corps statewise and overseas bases, where bingo is authorized and played. Inquiries should be addressed to the local activity or to the Chief of Naval Personnel (Pers-7), Bureau of Naval Personnel, Washington, DC 20370 (for naval activities); and the Commandant of the Marine Corps (MSMS), Washington, DC 20380 (for Marine Corps activities).

Categories of individuals covered by the system:

Delete the phrase: "* * * paid monies for winnings associated with slot machine jackpots or * * * " in the second line, and add the word "* * * one-time * * *" before the word "* * * winnings * * *" in the third line.

Categories of records in the system:

Delete the words: "Jackpot and * * *" in the first and fourth lines. Delete the phrase "* * * are maintained at each location." at the end of the entry.

Authority for maintenance of the system:

Delete the entire entry and substitute with: "10 U.S.C. 5031; Section 6041, Internal Revenue Code; BUPERSINST 1710 series; Manual for Messes Ashore, NAVPERS 15951; MCO P-1746.15 series; and NAVSO P-3520."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire first paragraph and substitute with: "To account for and control monies and items of merchandise paid of individual winners of bingo games and as a basis for IRS Forms W-2G and 5754, reporting on individuals whose one-time winnings are $1,200 or more."

User:

Delete the words: "* * * slot machine * * *" in line two and substitute with the word: "* * * bingos * * *" In line three, delete the word: "* * * approved * * *" and substitute with the word: "* * * authorized * * *".

Usus:

Delete the word: "* * * shore * * *" in the first line and substitute with the phrase: "* * * stateside and overseas * *" Delete the words: "* * * slot machine jackpot and * * *" in line five.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Retrievability:

Delete: "* * * Form 1099 * * *" and substitute with: "* * * Form W-2G * * *" in line two.

System manager(s) and address:

Delete the first sentence and substitute with: "Overall policy and procedures for bingo operations are contained in NAVSO P-3520, BUPERSINST 1710 series, and MCO P-1746.15 series."

Notification procedures:

Delete the first sentence and substitute: "Individuals are notified via IRS Form W-2G if their one-time winnings are $1,200 or more." Delete the words: "* * * jackpot and * * *" in line six.

Record access procedures:

Delete the words: "* * * jackpot and * * *" in line three; and "* * * jackpot and * * *" in line six.

Record source categories:

Delete the words: "Daily jackpot payout sheets and * * *" in line one.

N12930-1

System name:

Industrial Relations Personnel Records (47 FR 2737) January 18, 1982.

Changes:

System location:

Delete the entire entry and substitute with the following: "Commander, Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York 10305 (Central Office for all Navy exchanges). Personnel records of employees of the central office are located in the Industrial Relations Division's files at the central office and in Navy Resale System activities employing civilians paid from non-appropriated funds."

Categories of individuals covered by the system:

At the end of the entry, add the following sentence: "Employee categories paid from non-appropriated funds are: regular full-time, regular part-time, temporary full-time, temporary part-time and intermittent."

Categories of records in the system:

In the first line after the word "* * * including * * *" add the phrase: "* * * but not limited to:" In the sixth line after the word "benefit", delete the rest of the entry and substitute with the following: "* * * leave records; report of accident; notice of excessive absence and tardiness and warnings; disciplinary actions; certified record of court attendance; certified copy of completed military orders for any annual duty tours with recognized reserve organizations; employee job description; tuition assistance records; examination papers and tests, if any; evidence of date of birth, where required; official letters of commendation; cash register overage/shortage records; report of hearings and recommendations relative to employee grievances; official work performance rating; designation of beneficiary for unpaid compensation; reference check records; applicant files; employee profiles; personnel security information

(including copies of NAS and NIS reports); travel requests, travel allowance and claims record; transportation agreements; employee affidavit; privilege card application, work assignment, work performance capability, counseling records, work-related records, training records including courses, type and completion dates; and related data.

Labor and Employee Relations Records include: Notices of excessive absence, tardiness and warnings; disciplinary actions; unsatisfactory work performance evaluations; grievances, appeals, complaint and appeal records; reports of potential grievances and appeals; congressional correspondence; investigative reports and summaries of personnel administrative actions; data relating to Quality Salary Increase, Superior Accomplishment Recognition Awards, Beneficial Suggestions and similar awards; and personnel listings of the aforementioned services."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following: "To provide a basis by which an employee or an applicant may be determined to be suitable for employment, transfer, promotion or retention in employment; for verification of employment; to provide a record of travel performed and verification that the employees receive proper renumeration for the travel performed; to insure employees received timely consideration in the processing of work/apprisals and salary increases; for recognition of accomplishments and contributions by employees, and in the processing, administration, and adjudication of discipline, grievances, complaints, appeals, litigation, and program evaluation. Also used by representatives of the United States Office of Personnel Management (OPM) on personnel matters under the jurisdiction of OPM; used by appeals officers and complaints examiners of the Equal Employment Opportunity Commission for the purpose of conducting hearings in connection with employees' appeals from adverse actions and formal discrimination complaints; used by the Comptroller General or any of his authorized representatives in the course of performance of duties of the General Accounting Office relating to the Navy's civilian manpower management programs; used by the Attorney General of the United States or his authorized representatives in connection with litigation, law enforcement, or other matters under the direct jurisdiction of the Department of Justice or carried out as the legal representative of the Executive Branch agencies.

The records may be used to disclose information to any source from which additional information is requested in the course of processing a grievance to the extent necessary to identify the individual, inform the source of the purpose of the request and identify the type of information requested. The records may also be used to disclose information to a Federal agency in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary. The records may be used by the National Archives and Records Service (GSA) in records management inspection conducted under authority of 44 U.S.C. 2904 and 2906. The records may be used to disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding. The records may also be used to provide information to officials of labor organizations recognized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices and matters affecting working conditions."

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

At the end of line two, add the word "* * * disks,".

Retrievability:

In line two, delete the phrase: "* * * employee job number * * *".

Safeguards:

Delete the entire entry and substitute with the following: "Locked desks in supervisor's office and also locked cabinets in locked offices supervised by appropriate personnel; supervised computer tape library which is accessible only through the Computer Center (entry to computer center is controlled by a combination lock known by authorized personnel only); security guards."

Retention and disposal:

At the end of the entry, delete the phrase "* * * except that applications from those over 40 years old are retained for two years." Add the following at the end of the entry: "Navy exchange records retention standards are contained in the Disposal of Navy and Marine Corps Records, Part II, chapters 3 and 5, in the Navy Exchange Manual."

System manager(s) and address:

In the second and sixth lines, delete the phrase: "* * * 3rd Avenue and 29th Street, Brooklyn, New York 11232." and substitute with the following: "* * * Fort Wadsworth, Staten Island, New York 10305." Also, delete the last paragraph in its entinety.

Notification procedure:

In the fourth and fifth lines, delete the phrase: "* * * 3rd Avenue and 29th Street, Brooklyn, New York 11232." and substitute with "* * * Fort Wadsworth, Staten Island, New York 10305."

Record source categories:

Delete the entire entry and substitute with the following: The individual to whom the record pertains; current and previous supervisors/employers; other records of the activity concerned; counseling records and comparable papers; educational institutions; applicant's previous employers; current and previous associates of the employee named by the employee as references; other records of activity investigators; witnesses; correspondents; investigation results and information provided by appropriate investigative agencies of the Federal Government."

N05810-1

SYSTEM NAME:

Article 138 Complaint of Wrongs.

SYSTEM LOCATION:

Office of the Judge Advocate General (Code 13), Department of the Navy, 200 Stovall Street, Alexandria, Virginia 22332. Complaints, three years old or older, are stored at the Federal Records Center, Suitland, Maryland 20409.

* * * * *

NOTIFICATION PROCEDURE:

Information may be obtained from the Deputy Assistant Judge Advocate General (Administrative Law), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, Virginia 22332. Information may be obtained by written request to the Judge Advocate General

stating full name and the approximate date the complaint was submitted submitted for review if known. Written requests must be signed by the requesting individual. Personal visits may be made to the Administrative Law Division, Office of the Judge Advocate General, Room 9N03, Hoffman Building No. 2, 200 Stovall Street, Alexandria, Virginia 22322. Individuals making such visits should be able to provide some acceptable identification, e.g. armed forces identification card, driver's license, etc.

* * * * *

N07401-1

SYSTEM NAME:

Bingo Winners.

SYSTEM LOCATION:

Decentralized, maintained at Navy and Marine Corps stateside and overseas bases, where bingo is authorized and played. Inquiries should be addressed to the local activity or to the Chief of Naval Personnel (Pers-7), Bureau of Naval Personnel, Washington, DC 20370 (for naval activities); and the Commandant of the Marine Corps, (MSMS), Washington, DC 20380 (for Marine Corps activities).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual U.S. citizens 18 years of age and older who are paid monies/prizes of $1,200 or more for one-time winnings associated with bingo.I95Categories of records in the system:

Bingo payout control sheet indicating individual's name, grade, SSAN, duty station, dates and amounts of bingo monies paid.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10. U.S.C. 5031; Section 6041, Internal Revenue Code; BUPERSINST 1710 series; Manual for Messes Ashore, NAVPERS 15951; MCO P-1746 series; and NAVSO P-3520."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To account for and control monies and items of merchandise paid of individual winners of bingo games and as a basis for IRS Forms W-2G and 5754, reporting on individuals whose one-time winnings are $1,200 or more.

USER:

Navy and Marine Corps shore activities where bingo games have been authorized by the Chief of Naval Personnel or the Commandant of the Marine Corps.

USES:

Provides a means of paying, recording, accounting for, reporting, and controlling expenditures and merchandise inventories associated with bingo games.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

* * * * *

RETRIEVABILITY:

Individual control sheets. Individual IRS Form W-2G by name and SSAN.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Overall policy and procedures for bingo operations are contained in NAVSO P-3520, BUPERSINST 1710 series, and MCO 1746.15 series. A list of systems managers by activity is available from the Chief of Naval Personnel (Pers-7) for Navy managers and the Commandant of the Marine Corps (MSMS) for Marine Corps managers.

NOTIFICATION PROCEDURES:

Individuals are notified via IRS Form W-2G if their one-time bingo winnings are $1,200 or more. An individual can contact the applicable systems manager on matters concerning their bingo winnings.

RECORD ACCESS PROCEDURES:

Individuals have access to information applicable to their individual bingo winnings. Officials such as the IRS have access to information applicable to all bingo winners. Access is through the systems manager.

* * * * *

RECORD SOURCE CATEGORIES:

Bingo payout control sheets.

N12930-1

SYSTEM NAME:

Industrial Relations Personnel Records.

SYSTEM LOCATION:

Commander, Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York 10305 (Central Office for all Navy exchanges). Personnel records of employees of the central office are located in the Industrial Relations Division's files at the central office and in Navy Resale System activities employing civilians paid from non-appropriated funds.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees, former civilian employees and applicants for employment with the Navy Resale and Services Support Office and Navy Exchanges located worldwide. Employee categories paid from non-appropriated funds are: regular full-time, regular part-time, temporary full-time, temporary part-time and intermittent.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel jackets, including but not limited to: Personnel Information Questionnaire, Personnel Action; Certificate of Medical Examination; Indoctrination Checklist; Designation of beneficiary; death benefit; leave records report of accident; notice of excessive absence and tardiness and warnings; disciplinary actions; certified record of court attendance; certified copy of completed military orders for any annual duty tours with recognized reserve organizations; employee job description; tuition assistance records; examination papers and tests, if any; evidence of date of birth, where required; official letters of commendation; cash register overage/shortage records; report of hearings and recommendations relative to employee grievances; official work performance rating; designation of beneficiary for unpaid compensation; reference check records; applicant files; employee profiles; personnel security information (including copies of NSA and NIS reports); travel requests, travel allowance and claims record; transportation agreements; employee affidavit; privilege card application, work assignments, work performance capability, counseling records, work-related records, training records including courses, type and completion dates; and related data.

Labor and Employee Relations Records include: Notices of excessive absence, tardiness and warnings; disciplinary actions; unsatisfactory work performance evaluations; grievances, appeals, complaint and appeal records; reports of potential grievances and appeals; congressional correspondence; investigative reports and summaries of personnel administrative actions; data relating to Quality Salary Increase, Superior Accomplishment Recognition Awards, Beneficial Suggestions and similar awards; and personnel listings of the aforementioned services.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide a basis by which an employee or an applicant may be determined to be suitable for employment, transfer, promotion or retention in employment; for verification of employment; to provide a record of travel performed and verfication that the employees receive proper remuneration for the travel performed; to insure employees received timely consideration in the processing of work/appraisals and salary increases; for recognition of accomplishments and contributions by employees, and in the processing, administration, and adjudication of discipline, grievances, complaints, appeals, litigation, and program evaluation. Also used by representatives of the United States Office of Personnel Management (OPM) on personnel matters under the jurisdiction of OPM; used by appeals officers and complaints examiners of the Equal Employment Opportunity Commission for the purpose of conducting hearings in connection with employees' appeals from adverse actions and formal discrimination complaints; used by the Comptroller General or any of his authorized representatives in the course of performance of duties of the General Accounting Office relating to the Navy's civilian manpower management programs; used by the Attorney General of the United States or his authorized representatives in connection with litigation, law enforcement, or other matters under the direct jurisdiction of the Department of Justice or carried out as the legal representative of the Executive Branch agencies.

The records may be used to disclose information to any source from which additional information is requested in the course of processing a grievance to the extent necessary to identify the individual, inform the source of the purpose of the request and identify the type of information requested. The records may also be used to disclose information to a federal agency in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary. The records may be used by the National Archives and Records Service (GSA) in records management inspection conducted under authority of 44 U.S.C. 2904 and 2906. The records may be used to disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding. The records may also be used to provide information to officials of labor organizations recognized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices and matters affecting working conditions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The media in which these records are maintained vary, but include: file folders; magnetic tapes; disks; punch cards; rolodex files; cardex files; ledgers; and printed reports.

RETRIEVABILITY:

Name and/or social security number; employee payroll number.

SAFEGUARDS:

Locked desks in supervisor's office and also locked cabinets in locked offices supervised by appropriate personnel; supervised computer tape library which is accessible only through the Computer Center (entry to computer center is controlled by a combination lock known by authorized personnel only); security guards.

RETENTION AND DISPOSAL:

Current employee records remain on file at the appropriate personnel offices; records on former employees are retained for one year and then forwarded to the Federal Records Center, St. Louis, Missouri for retention of permanent papers and destruction of temporary papers. Applicant files are retained for one year. Navy exchange records retention standards are contained in the Disposal of Navy and Marine Corps Records, Part II, chapters 3 and 5, in the Navy Exchange Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official: Commander, Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York 10305. Record Holder: Manager, Recruitment and Employment (IRD3), Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, New York 10305.

NOTIFICATION PROCEDURE:

Written contact may be made by addressing inquiries to: Commander, Navy Resale and Services Support Office, Fort Wadworth, Staten Island, New York 10305. In the initial inquiry, the requester must provide full name, social security number, activity where last employed or where last application for employment was filed. A list of other offices the requester may visit will be provided after initial contact is made at the office listed above. At the time of a personal visit, requester must provide proof of identity containing the requester's signature.

* * * * *

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains; current and previous supervisors/employers; other records of the activity concerned; counseling records and comparable papers; educational institutions; applicants; applicant's previous employers; current and previous associates of the employee named by the employee as references; other records of activity investigators; witnesses; correspondents; investigation results and information provided by appropriate investigative agencies of the Federal Government.

[FR Doc. 82-15896 Filed 6-8-82; 8:45 am]
BILLING CODE 3810-71-M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Law-Related Education Program; Applications for Fiscal Year 1982

AGENCY: Office of Elementary and Secondary Education, Education.

ACTION: Application Notice for Fiscal Year 1982.

SUPPLEMENTARY INFORMATION: Applications are invited for new and non-competing continuation awards under the Law-Related Education Program.

Authority for these awards is contained in Title III, Part G of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561.

This program issues awards to State educational agencies, local educational agencies, and other public and nonprofit private agencies, organizations, and institutions.

The purpose of the awards is to assist these recipients in implementing programs and in helping others develop programs in law-related education.

Closing date for transmittal of applications: Applications for new and non-competing continuation awards

must be mailed or hand-delivered to the U.S. Department of Education by July 30, 1982.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.123, Law-Related Education Program, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(a) A legibly-dated U.S. Postal Service postmark.

(b) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(c) A dated shipping label, invoice, or receipt from a commercial carrier.

(d) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(a) A private metered postmark.

(b) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant for a new project will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily except Saturdays, Sundays, and Federal holidays. An application for a new project that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

If a non-competing application is late, the Department of Education may lack sufficient time to review it with other non-competing continuation applications and may decline to accept it.

Available funds; program information: It is expected that approximately $960,000 will be available for the Law-Related Education Program. This amount will be divided between—

(1) Non-competing awards to continue, for an additional period of up to 12 months, projects that were funded competitively as new projects in Fiscal Year 1981. These projects are eligible for non-competing continuation awards if their initial applications for Fiscal Year 1981 proposed two-year projects. The non-competing continuation award will be to carry out the second year of the project as proposed in the approved, initial application. It is estimated that up to 8 awards will be made requiring a cumulative amount of less than $300,000;

(2) Contract activities requiring a cumulative amount of less than $100,000. These activities will be awarded pursuant to appropriate contracting procedures and are not subject to this notice; and

(3) Competitive, new grants for one-year projects to provide technical assistance at the elementary and secondary school levels from established law-related education programs to other organizations in one or more States.

Section 757.10(b) of Title 34 of the Code of Federal Regulations provides that the Secretary annually may reserve funds for some, all, or a combination of specific types of law-related education projects described in that section. One type of project described is a project that supports elementary and secondary school programs through the provision of technical assistance from established law-related education programs to other organizations in one or more States.

The Secretary has decided to limit support for new projects to these technical assistance projects for two reasons that relate to the fact that this is the last year of the Federal program—

(a) There are highly regarded law-related education programs in many States and school districts throughout the Nation, including programs that have been funded under the Law-Related Education Act and by other sources. However, many school districts do not have effective programs, or any programs at all. It is appropriate in the last year of the program to build on the successes of existing programs and strengthen their capacity to serve as resources that will help address these unmet needs. The Secretary believes that this is a more effective way to phase out the Law-Related Education Program than to support additional program initiation or development at particular sites.

(b) For the most part, future Department financial support for particular law-related education programs will depend on decisions by State educational agencies and local educational agencies as to how to spend funds they administer under programs supported by the Department, particularly Chapter 2 of the ECIA. Technical assistance activities in this, the last year of the Law-Related Education Program can contribute to more effective use of State and locally-administered Federal funds for law-related education. To the extent that they include awareness activities, the projects can address the problem that many State and local educators are not aware of the potential value of law-related education and how it can be integrated into the curriculum. Therefore, the technical assistance projects can promote informed choices by cognizant State and local officials—under the block grant program and other programs—of whether and how best to support law-related education activities.

The U.S. Department of Education is interested in receiving applications for projects that would provide technical assistance to elementary and secondary educational organizations in a number of contiguous States, or in regional areas of the country. Under 34 CFR 75.127, eligible entities may apply as a group for a grant—for example, by establishing a consortium or by simply submitting a joint application. The Department particularly would welcome applications from consortia of experienced State, local, and/or national law-related education programs to provide technical assistance within particular regions. These projects would establish a network of law-related education resources that would work with State and local educational agencies and other organizations within the region to initiate and strengthen law-related education programs. Programs within a consortium might focus on technical assistance within their own States, but the consortium also could organize regional activities and coordinate a variety of resources and approaches to respond most effectively to the needs of particular States or localities within the region.

The U.S. Department of Education is not establishing any limits on particular regions or dollar amounts for these projects. However, for purposes of example, it is estimated that a regional technical assistance consortium project serving 5 to 10 States would require $100,000–$150,000. If all successful applications proposed these projects, 4 to 6 projects could be funded.

As indicated above, the U.S. Department of Education will limit consideration of new applications to technical assistance projects as provided in 34 CFR 757.10(b)(1)(iii). While the Department particularly encourages projects on a regional level from consortia of experienced law-

related education organizations, it does not propose to exclude other meritorious technical assistance projects. All proposed technical assistance projects that meet the requirements in 34 CFR 757.10(b)(1)(iii) and 757.12 will be considered under the evaluation criteria in 34 CFR 757.31.

Application forms: Application forms and program information packages will be ready for mailing on June 10, 1982. The information packages may be obtained by writing to the Division of Educational Support, Law-Related Education Program, U.S. Department of Education, 400 Maryland Avenue, S.W., (Room 1725, Donohoe Building), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with regulations, instructions, and forms included in the program information package. The Secretary strongly urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Law-Related Education Program, 34 CFR Part 757. These regulations will continue to apply throughout the grant period, even though they have been repealed effective October 1, 1982; and

(b) Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 75 and 77.

Further information: For further information, contact Howard Essl, Program Officer, Law-Related Education Program, Division of Educational Support, U.S. Department of Education, 400 Maryland Avenue, S.W., (Room 1725, Donohoe Building), Washington, D.C. 20202. Telephone: (202) 245-2284.

[20 U.S.C. 3001]

(Catalog of Federal Domestic Assistance No. 84.123, (Law-Related Education Program))

Dated: June 3, 1982.

D. Jean Benish,

Acting Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 82-15595 Filed 6-8-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs

International Atomic Energy Agreement; Proposed Subsequent Arrangements; Spain and Switzerland

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Agreements for Cooperation between the Government of the United States of America and the Governments of Spain and Switzerland Concerning Civil Uses of Atomic Energy, as amended, and as authorized by the Taiwan Relations Act of 1979 (Pub. L. 96-8).

The subsequent arrangements to be carried out under the above mentioned agreements and authority involve contractural arrangements under which DOE will consent, if requested, to the assignment of portions of various uranium enrichment services contracts held by U.S. and foreign utilities to the Taiwan Power Company, as shown below:

Separative Work Units and Fiscal Year

100,000—1984
185,000—1987
395,000—1988

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than June 23, 1982.

For the Department of Energy.

Dated: June 4, 1982.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82-15596 Filed 6-8-82; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Subsequent Arrangements; Japan et al.

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Agreements for Cooperation Between the Government of the United States of America and the Governments of Japan, Spain, and Switzerland Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreements involve contractual arrangements under which DOE will consent, if requested, to the assignment of portions of various uranium enrichment services contracts held by U.S. and foreign utilities as shown below:

Assignee	Separative work units	Fiscal year
Chugoku Electric Power Co.	75,000	1986
Chugoku Electric Power Co.	80,000	1987
Chugoku Electric Power Co.	75,000	1989
Hokkaido Electric Power Co.	24,000	1987
Tokyo Electric Power Co.	820,000	1988

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than June 24, 1982.

Dated: June 4, 1982.

For the Department of Energy.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82-15597 Filed 6-8-82; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 82-CERT-010]

Public Service Electric and Gas Co.; Application for Recertification of the Use of Natural Gas to Displace Fuel Oil

On June 24, 1981, Public Service Electric and Gas Company (Public Service), 80 Park Plaza, Newark, New Jersey 07101, was granted a certificate of an eligible use of natural gas to displace fuel oil by the Administrator of the Economic Regulatory Administration (ERA) (Docket No. 81-CERT-009). The certification was made effective June 25, 1981, and involved the purchase of natural gas from East Tennessee Natural Gas Company for use by Public Service at its electric generating facilities in New Jersey. These purchases are being delivered pursuant to the ERA certification in Docket No. 81-CERT-009. The ERA certificate expires on June 24, 1982.

On May 17, 1982, Public Service filed an application for recertification for one year of an eligible use of natural gas to displace fuel oil at its electric generating stations located in New Jersey: Bergen in Ridgefield; Essex in Newark; Hudson in Jersey City; Kearny in Kearny; Linden in Linden; Sewaren in Sewaren; Edison in Edison; and Mercer in Trenton, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA, Natural Gas Branch Docket Room, Room 6144,

RG–631, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Public Service states that the volume of natural gas for which it requests recertification is up to 7.5 billion cubic feet per year. This volume is estimated to displace the use approximately 1,158,000 barrels of No. 6 fuel oil (0.3 percent sulfur) and approximately 42,000 barrels of No. 2 fuel oil (0.2 percent sulfur) or kerosene (0.1 percent sulfur) per year.

The quantities at each location are subject to considerable variation with changes in demand and availability of the various generating units, but estimated gas usage and resulting oil displacement volumes are listed below:

Location	Estimated volume (BCF)	Estimated oil displacement (in thousands of barrels)	
		0.3 percent sulfur No. 6 oil	0.2 percent sulfur No. 2 oil or 0.1 percent sulfur kerosene
1. Bergen Generating Station, Ridgefield, New Jersey	3.2	516	
2. Essex Generating Station, Newark, New Jersey	0.1		21
3. Hudson Generating Station, Jersey City, New Jersey	2.9	457	
4. Kearny Generating Station, Kearny, New Jersey			
5. Linden Generating Station, Linden, New Jersey			
6. Sewaren Generating Station, Sewaren, New Jersey	1.2	185	
7. Edison Generating Station, Edison, New Jersey	0.1		21
8. Mercer Generating Station, Trenton, New Jersey			
Totals	7.5	1,158	42

The eligible seller is East Tennessee Natural Gas Company, P.O. Box 10245, Knoxville, Tennessee 37919. The gas will be transported by Texas Eastern Transmission Corporation, P.O. Box 2521, Houston, Texas 77001; Tennessee Gas Pipeline Company, P.O. Box 2511, Houston, Texas 77001; and Transcontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77001, all of which are interstate natural gas pipelines.

Public Service has in effect certifications by the ERA which authorize purchases of natural gas from various eligible sellers for use at the electric generating stations named in this certification as follows:

ERA Docket No.	Amount (Bcf per year)	Remarks
81–CERT–008	7.3	Effective June 24, 1981.
81–CERT–009	10.7	Effective June 24, 1981.
81–CERT–013	8.0	Effective July 21, 1981.
81–CERT–015	7.0	Effective July 25, 1982.
81–CERT–008	3.0	Effective May 24, 1982.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 6144, RG–631, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, Attention: Paula A. Daigneault, on or before June 21, 1982.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Public Service and any persons filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., June 2, 1982.

F. Scott Bush,

Director, Oil and Gas Imports Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82–15466 Filed 6–8–82; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 82–CERT–009]

Public Service Electric and Gas Co.; Application for Recertification of the Use of Natural Gas To Displace Fuel Oil

On June 24, 1981, Public Service Electric and Gas Company (Public Service), 80 Park Plaza, Newark, New Jersey 07101, was granted a certificate of an eligible use of natural gas to displace fuel oil by the Administrator of the Economic Regulatory Administration (ERA) (Docket No. 81–CERT–008). The certificate was made effective on June 25, 1981, and involved the purchase of natural gas from National Gas and Oil Corporation for use by Public Service at its electric generating facilities in New Jersey. These purchases are being delivered pursuant to the ERA certification in Docket No. 81–CERT–008. The EPA certificate expires on June 24, 1982.

On May 17, 1982, Public Service filed an application for recertification for one year of an eligible use of natural gas to displace fuel oil at its electric generating stations located in New Jersey: Bergen in Ridgefield; Essex in Newark; Hudson in Jersey City; Kearny in Kearny; Linden in Linden; Sewaren in Sewaren; Edison in Edison; and Mercer in Trenton, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA, Natural Gas Branch Docket Room, Room 6144, RG–631, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, from 8:00 a.m. to 4:30 p.m., Monday through Friday, Except Federal holidays.

In its application, Public Service states that the volume of natural gas for which it requests recertification is up to 7.3 billion cubic feet per year. This volume is estimated to displace the use of approximately 1,102,000 barrels of No. 6 fuel oil (0.2 percent sulfur) and approximately 30,000 barrels of No. 2 fuel oil (0.1 percent sulfur) or kerosene (0.1 percent sulfur) per year.

The quantities at each location are subject to considerable variation with changes in demand and availability of the various generating units, but estimated gas usage and resulting oil displacement volumes are listed below:

Location	Estimated volume (Bcf)	Estimated oil displacement (in thousands of barrels)	
		0.3 percent sulfur No. 6 oil	0.2 percent sulfur No. 2 oil or 0.1 percent sulfur kerosene
1. Bergen Generating Station, Ridgefield, New Jersey	3.2	492	
2. Essex Generating Station, Newark, New Jersey	0.1		14
3. Hudson Generating Station, Jersey City, New Jersey	2.8	435	
4. Kearny Generating Station, Kearny, New Jersey			
5. Linden Generating Station, Linden, New Jersey			
6. Sewaren Generating Station, Sewaren, New Jersey	1.1	175	
7. Edison Generating Station, Edison, New Jersey	0.1		15
8. Mercer Generating Station, Trenton, New Jersey			

Location	Estimated volume (Bcf)	Estimated oil displacement (in thousands of barrels)	
		0.3 percent sulfur No. 6 oil	0.2 percent sulfur No. 2 oil or 0.1 percent sulfur kerosene
Totals	7.3	1,102	30

The eligible seller is National Gas and Oil Corporation, 1500 Granville Road, Newark, Ohio 43055. The gas will be transported by Texas Eastern Transmission Corporation, P.O. Box 2521, Houston, Texas 77001; Tennessee Gas Pipeline Company, P.O. Box 2511, Houston, Texas 77001; and Transcontinental Gas Pipe line Corporation, P.O. Box 1396, Houston, Texas 77001, all of which are interstate natural gas pipelines.

Public Service has in effect certifications by the ERA which authorize purchases of natural gas from various eligible sellers for use at the electric generating stations named in this certification as follows:

ERA Docket No.	Amount (Bcf per year)	Remarks
81-CERT-008	7.3	Effective June 24, 1981.
81-CERT-009	10.7	Effective June 24, 1981.
81-CERT-013	5.0	Effective July 21, 1981.
81-CERT-015	7.0	Effective July 25, 1982.
81-CERT-008	3.0	Effective May 24, 1982.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 6144, RG–631, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, Attention: Paula A. Daigneault, on or before June 21, 1982.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should inlcude a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Public Service and any persons filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., June 2, 1982.

F. Scott Bush,

Director, Oil and Gas Imports Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82–15467 Filed 6–8–82; 8:45 am]

BILLING CODE 6450–01–M

J.D. Streett Company, Inc.; Porposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration hereby gives notice of a Proposed Remedial Order which was issued to J.D. Streett Company, Inc. of Hazelwood, Missouri.

This Proposed Remedial Order charged J.D. Streett Company, Inc. with pricing violations in the amount of $2,948,350.46, plus accrued interest in sales of motor gasoline during the time period of January 1, 1978 through November 30, 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, 324 East 11th Street, Kansas City, Missouri 64106–2466. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objections with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Kansas City, Missouri on the 18th day of May, 1982.

David H. Jackson,

Director, Kansas City Office, Economic Regulatory Administration.

Jeanmarie Homan,

Office of General Counsel.

[FR Doc. 82–15559 Filed 6–8–82; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[PF–278; PH–FRL 2141–1]

Certain Companies; Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide petitions amending tolerances for residues of certain pesticide chemicals in or on certain raw commodities

ADDRESS: Written comments to: Henry Jacoby, Product Manager (PM) 21, Registration Division, Office of Pesticide Programs (TS–767C), Environmental Protection Agency, 401 M St. SW., Washington, DC 20464.

Written comments may be submitted while the petitions are pending before the Agency. The comments are to be identified by the document control number "[PF–278]" and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Henry Jacoby, PM–21, (703–557–1900).

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following petitions amending tolerances for residues of certain pesticide chemicals in or on certain raw commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

PP 2F2602. In the **Federal Register** of January 13, 1982 (47 FR 1408), EPA announced that Diamond Shamrock Corp., Agricultural Chemical Div., 1100 Superior Ave., Cleveland, OH 44114, had submitted pesticide petition (PP) 2F2602 proposing to amend 40 CFR 180.275 by establishing tolerances for residues of the fungicide chlorothalonil (tetrachloroisophthalonitrile) and its metabolite (4-hydroxy-2,5,6-trichloroisophthalonitrile in or on the raw agricultural commodities stone fruits (apricots, cherries (sweet and sour)), damsons, nectarines, pawpaws, peaches, plums, and prunes at 0.2 ppm. Diamond Shamrock has amended this petition by proposing to establish tolerances on individual commodities as follows vice the collective commodity term "stone fruits,": apricots, cherries (sweet and sour), nectarines and peaches at 0.5 part per million (ppm); and plums and prunes at 0.2 ppm. The proposed analytical method for determining residues is gas chromatography by electron capture.

FAP 1H5313. In the **Federal Register** of October 27, 1981 (46 FR 52419), EPA announced that Merck & Co., Inc. P.O. Box 2000, Rahway, NJ 07065, had submitted a feed addititve petition (FAP) 1H5313 proposing to amend 21 CFR 561.380(a) by establishing a regulation permitting residues of the fungicide thiabendazole [2-(4-thiazolyl)-benzimidazole] in or on the agricultural commodity wet grape pomace at 50.0

ppm. The company has amended the petition by increasing the tolerance to 150.0 ppm and adding dry grape pomace at 150.0 ppm.

(Sec. 408(d)(1), 68 Stat. 512 (7 U.S.C. 136); 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348))

Dated: May 28, 1982.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-15443 Filed 6-16-82; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50576; PH-FRL 2136-4]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each experimental use permit at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

275-EUP-28. Issuance. Abbott Laboratories, 14th and Sheridan Rd., North Chicago, IL 60064. This experimental use permit allows the use of 5,470 BIUs of the insecticide *Bacillus thuringiensis*, serotype H-14 on estuarine areas, intermittently flooded pastures, irrigation ditches, natural marshes, rice paddies, roadside ditches, and sewage lagoons to evaluate the control of blackfly and mosquito larvae. A total of 3,000 acres are involved. The experimental use permit is effective from March 26, 1982 to March 26, 1984. (Franklin Gee, PM 17, Rm. 207, CM#2, (703-557-2690))

275-EUP-29. Issuance. Abbott Laboratories, 14th and Sheridan Rd., North Chicago, IL 60064. This experimental use permit allows the use of 3,650 BIUs of the insecticide *Bacillus thuringiensis*, serotype H-14 on estuarine areas, intermittently flooded pastures, irrigation ditches, rice paddies, roadside ditches, natural marshes, and sewage lagoons to evaluate the control of blackfly and mosquito larvae. A total of 2,000 acres are involved. The experimental use permit is effective from May 1, 1982 to May 1, 1983. (Franklin Gee, PM 17, Rm. 207, CM#2, (703-557-2690))

275-EUP-30. Issuance. Abbott Laboratories, 14th and Sheridan Rd., North Chicago, IL 60064. This experimental use permit allows the use of 816.3 BIUs of the insecticide *Bacillus thuringiensis*, serotype H-14 on estuarine areas, intermittently flooded pastures, irrigation ditches, natural marshes, rice paddies, roadside ditches, and sewage lagoons to evaluate the control of blackfly and mosquito larvae. A total of 500 acres are involved. This program and the two above are authorized in all 50 States. This experimental use permit is effective from May 1, 1982 to May 1, 1983. The permits will use the same active ingredient but will use different formulations. (Franklin Gee, PM 17, Rm. 207, CM#2, (703-557-2690))

241-EUP-99. Issuance. American Cyanamid Company, P.O. Box 400, Princeton, NJ 08540. This experimental use permit allows the use of 660 pounds of the insecticide (±)cyano(3-phenoxyphenyl)-methyl (+)-4-(difluoromethoxy)-alpha-(1-methylethyl)benzeneacetate on apples to evaluate the control of various insects. A total of 660 acres are involved. The program is authorized only in the States of California, Maryland, Michigan, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Virginia, Washington, and West Virginia. The experimental use permit is effective from April 1, 1982 to April 1, 1983. A temporary tolerance for residues of the active ingredient in or on apples has been established. (Franklin Gee, PM 17, Rm. 207, CM#2, (703-557-2690))

241-EUP-100. Issuance. American Cyanamid Company, P.O. Box 400, Princeton, NJ 08540. This experimental use permit allows the use of 16 pounds of the insecticide (±)cyano(3-phenoxyphenyl)-methyl (+)-4-(difluoromethoxy)-alpha-(1-methylethyl)benzeneacetate on pears to evaluate the control of pear psylla. A total of 160 acres are involved only in the States of California, New York, Oregon, and Washington. The experimental use permit is effective from March 22, 1982 to March 22, 1983. A temporary tolerance for residues of the active ingredient in or on pears has been established. (Franklin Gee, PM 17, Rm. 207, CM#2, (703-557-2690))

43142-EUP-1. Extension. BFC Chemicals, Inc., 4311 Lancaster Pike, P.O. Box 2867, Wilmington, DE 19805. This experimental use permit allows the use of 9,750 pounds of the insecticide amitraz on citrus to evaluate the control of various citrus insects. A total of 4,850 acres are involved only in the States of Arizona, California, Florida, and Texas. The experimental use permit is effective from March 17, 1982 to March 17, 1983. Temporary tolerances for residues of the active ingredient in or on citrus; milk; fat, meat and meat byproducts of cattle, goats, hogs, horses, and sheep have been established. A feed additive regulation for residues of the active ingredient in or on citrus pulp has been established (21 CFR 561.195). Jay Ellenberger, PM 12, Rm. 202 CM#2, (703-557-2386))

45639-EUP-1. Extension. BFC Chemicals, Inc., 4311 Lancaster Pike, P.O. Box 2267, Wilmington, DE 19805. This experimental use permit allows the use of 180 pounds of the insecticide bendiocarb in residential areas to evaluate the control of adult mosquitoes. A total of 19,218 acres are involved. The program is authorized only in the States of Arkansas, California, Florida, Georgia, Illinois, Louisiana, Mississippi, New Jersey, New York, and Texas. The experimental use permit is effective from April 1, 1982 to April 1, 1983. (Jay Ellenberger, PM 12, Rm. 202, CM#2, (703-557-2386))

45639-EUP-4. Issuance. BFC Chemicals, Inc., 4311 Lancaster Pike, P.O. Box 2867, Wilmington, DE 19805. This experimental use permit allows the use of six pounds of the insecticide amitraz on approximately 30 cattle to evaluate the control of ticks. The program is authorized only in the States of California, Oklahoma, and Texas. The experimental use permit is effective from March 17, 1982 to March 17, 1983. A temporary tolerance for residues of the active ingredient in or on fat, meat and meat byproducts of cattle has been established. (Jay Ellenberger, PM 12, Rm. 202, CM#, (703-557-2386))

45639-EUP-5. Issuance. BFC Chemicals, Inc., 4311 Lancaster Pike, P.O. Box 2867, Wilmington, DE 19805. This experimental use permit allows the use of 500 pounds of the insecticide bendiocarb in populated and rural areas to evaluate the control of adult mosquitoes. A total of 10,000 acres are involved only in the States of California, Florida, Georgia, Illinois, and Texas. The experimental use permit is effective from March 10, 1982 to March 10, 1984.) Jay Ellenberger, PM 12, Rm. 202, CM#2, (703-557-2386))

464-EIP-56. Extension. Dow Chemical U.S.A., P.O. Box 1706, Midland, MI 48640. This experimental use permit allows the use of 48,000 pounds of the insecticide chlorpyrifos on lemons and oranges to evaluate the control of

weevils. A total of 1,600 acres are involved only in the States of California, Florida, and Texas. The experimental use permit is effective from March 9, 1982 to June 30, 1983. Temporary tolerances for residues of the active ingredient in or on lemons and oranges have been established. A feed additive regulation for residues of the active ingredient in or on dried citrus pulp has been established (21 CFR 561.98). (Jay Ellenberger, PM 12, Rm. 202, CM#2, (703–557–2386))

464–EUP–68. Extension. Dow Chemical U.S.A., P.O. Box 1706, Midland, MI 48640. This experimental use permit allows the use of 3,000 pounds of the insecticide chlorpyrifos on lemons and oranges to evaluate the control of weevils. A total of 200 acres are involved only in the State of Florida. The experimental use permit is effective from March 9, 1982 to June 30, 1983. Temporary tolerances for residues of the active ingredient in or on oranges and lemons have been established. A feed additive regulation for residues of the active ingredient in or on dried citrus pulp has been established (21 CFR 561.98). (Jay Ellenberger, PM 12, Rm. 202, CM#2, (703–557–2386))

464–EUP–72. Issuance. Dow Chemical U.S.A., P.O. Box 1706, Midland, MI 48640. This experimental use permit allows the use of 264.6 pounds of the fungicide 2-chlora-6-(2-furanylmethoxy)-4-(trichloromethyl)pyridine on succulent beans and peas to evaluate the control of root rot diseases caused by *Aphanomyces, Pythium,* and *Rizoctonia* spp. A total of 1,220 acres are involved. The program is authorized only in the States of Idaho, Illinois, Minnesota, New York, Washington, and Wisconsin. The experimental use permit is effective from March 18, 1982 to January 15, 1983. Temporary tolerances for residues of the active ingredient in or on succulent beans and peas have been established. (Henry Jacoby, PM 21, Rm. 229, CM#2, (703–557–1900))

279–EUP–89. Issuance. FMC Corporation, 2000 Market St., Philadelphia, PA 19103. This experimental use permit allows the use of 1,440 pounds of the insecticide carbosulfan on apples to evaluate the control of various apple insects. A total of 90 acres are involved. The program is authorized only in the States of California, Georgia, Idaho, Maine, Maryland, Michigan, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Virginia, Washington, and West Virginia. The experimental use permit is effective from March 10, 1982 to March 10, 1983. This permit is being issued with the limitation that all crops are destroyed or used for research purposes only. (Jay Ellenberger, PM 12, Rm. 202, CM#2, (703–557–2386))

278–EUP–90. Issuance. FMC Corporation, 2000 Market St., Philadelphia, PA 19103. This experimental use permit allows the use of 4,300 pounds of the insecticide carbosulfan on soybeans to evaluate the control of soybean cyst nematodes. A total of 2,150 acres are involved. The program is authorized only in the States of Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Missouri, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, and Virginia. The expermental use permit is effective from March 23, 1982 to March 23, 1983. This permit is being issued with the limitation that all crops are destroyed or used for research purposes only. (Jay Ellenberger, PM 12, RM. 202, CM#2, (703–557–2386))

10182–EUP–19. Amendment and Extension. ICI Americas Inc., Concord Pike and New Murphy Rd., Wilmington, DE 19897. Notice published in the **Federal Register** of February 17, 1982 (47 FR 6992) pertaining to the extension of an experimental use permit, No. 10182–EUP–19, to ICI Americas Inc. At the request of the company, the permit has been amended to allow 5,550 additional acres and 11,100 pounds of the active ingredient. This experimental use permit now allows the use of 12,000 pounds of the insecticide (±)alpha-cyano-(3-phenoxphenyl)methyl(±)-*cis, trans*-3-(2,2,-dichlorethenyl)-2,2-dimethylcyclopropanecarboxylate on cotton to evaluate the control of various insects. A total of 6,000 acres are involved. The program is authorized only in the States of Alabama, Arizona, Arkansas, California, Florida, Georgia, Kansas, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas. The experimental use permit is effective from March 5, 1982 to March 5, 1984. A temporary tolerance for residues of the active ingredient in or on cottonseed; milk; fat, meat and meat byproducts of cattle, goats, hogs, horses, and sheep has been established. A food additive regulation for residues of the active ingredient in or on cottonseed oil has been established (21 CFR 193.87). (Franklin Gee, PM 17, Rm. 207, CM#2, (703–557–2690))

10182–EUP–25. Issuance. ICI Americas Inc., Concord Pike and New Murphy Rd., Wilmington, DE 19897. This experimental use permit allows the use of 9,875 pounds of the insecticide(±)alpha-cyano-(3-Phenoxyphenyl)methyl (±)-*cis,-trans*-3-(2,2-dichlorethenyl)-2,2-Dimethlycyclopropranecarboxylate on cotton as a ULV application in oil to evaluate the control of various insects. A total of 6,912 acres are involved. The program is authorized only in the States of Alabama, Arizona, Arkansas, California, Florida, Georgia, Kansas, Louisiana, Mississippi, Missouri, Nebrasaka, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas. The experimental use permit is effective from March 10, 1982 to March 10, 1983. A temporary tolerance for residues of the active ingredient in or on cottonseed; milk; fat, meat and meat byproducts of cattle, goats, hogs, horses, and sheep has been established. A food additive regulation for residues of the active ingredient in or on cottonseed oil has been established (21 CFR 193.87). (Franklin Gee, PM 17, Rm. 207, CM#2, (703–557–2690))

524–EUP–59. Issuance. Monsanto Company, 1101 17th St. NW., Washington, DC 20036. This experimental use permit allows the use of 10,000 pounds of the herbicides alachlor and atrazine on corn to evaluate the control of weeds. A total of 2,595 acres are involved. The program is authorized in the States of Alabama, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, and Wisconsin. The experimental use permit is effective from March 19, 1982 to March 19, 1984. Permanenet tolerances for residues of the active ingredients in or on corn have been established (40 CFR 180.220 and 180.249). (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

11273–EUP–29. Issuance. Sandoz, Inc., 480 Camino Del Rio South, Suite 204, San Diego, CA 92108. This experimental use permit allows the use of 22.8 pounds of the insecticide *Bacillus thuringiensis, Berliner on forest to evaluate the control of gypsy moths. A total of 300 acres are involved in the State of Pennsylvania. The experimental use permit is effective from March 26, 1982 to March 26, 1983. This permit is being issued with the limitation that none of*

the material will enter the food chain. (Franklin Gee, PM 17, Rm. 207, CM#2, (703–557–2690))

27586–EUP–25. Renewal. USDA Forest Service, P.O. Box 2417, Washington, DC 20013. This experimental use permit allows the use of 0.00028 pound of the polyhedral inclusion bodies of *N. Sertifer* nucleopolyhedrosis virus on forest to evaluate the control of the European pine sawfly. A total of 500 acres are involved. The program is authorized only in the States of Connecticut, Missouri, New Jersey, Pennsylvania, Vermont, and Wisconsin. The permit was previously effective from July 9, 1980 to July 9, 1981. It is now effective from April 1, 1982 to April 1, 1983. (Franklin Gee, PM 17, Rm. 207, CM#2, (703–557–2690))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 92 Stat. 819, as amended (7 U.S.C. 136))

Dated: May 20, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82–14696 Filed 6–8 82; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee for the 1985 ITU World Administrative Radio Conference; Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It

Task Group A–2 of Working Group A: Facilities and Technology.

Chairman: Jeffrey Binckes, (202) 863–5854.

Date: Tuesday, June 22, 1982.

Time: 9:15 A.M.–2:00 P.M.

Location: Communications Satellite Corporation, 950 L'Enfant Plaza, SW., Room 5130, Washington, D.C.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82–15633 Filed 6–8–82; 8:45 am]

BILLING CODE 6712–01–M

[FCC 82–251]

Closed Circuit Test of the Emergency Broadcast System; Week of June 21, 1982

June 3, 1982.

A test of the Emergency Broadcast System (EBS) has been scheduled during the week of June 21, 1982. Only ABC, MBS, NPR, AP Radio, CBS, IMN, NBC and UPI Audio Radio network affiliates and the Public Broadcast Service (PBS) Television network affiliates will receive the Test Program for the Closed Circuit Test. AP and UPI wire service clients will receive activation and termination messages of the Closed Circuit Test. The ABC, CBS and NBC television networks are not participating in the Test.

Network and press wire service affiliates will be notified of the test procedures via their network approximately 30 to 45 minutes prior to the test.

Final evaluation of the test is scheduled to be made about one month after the Test.

This is a closed circuit test and will not be Broadcast over the air.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82–15634 Filed 6–8–82; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Consolidated Reports of Condition and Consolidated Reports of Income; Commercial Banks; Forms Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of forms submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

TITLE OF INFORMATION COLLECTION: Consolidated Reports of Condition and Consolidated Reports of Income—Commercial Banks.

BACKGROUND: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a form SF–83, "Request for OMB Review," for the information collection system identified above.

ADDRESS: Written comments may be sent to Mr. Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550–17th Street, N.W., Washington, D.C. 20429 and to Mr. Richard Sheppard, Reports Management Branch, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503. Comments should be received on or before August 9, 1982.

FOR FURTHER INFORMATION CONTACT: For a complete copy of the "Request for OMB Review" or related information, contact Dr. Panos Konstas, Information Clearance Officer, FDIC, telephone (202) 389–4351.

Summary: The proposed information collection involves two groups of changes in the quarterly report of condition for commercial banks. One group, which affects the reports of the 9,268 state banks that are not members of the Federal Reserve System, includes: (a) The addition of an item for reporting the total amount of deposits in Individual Retirement Accounts (IRA) and Keogh Plan accounts and (b) provisions for the reporting of the 91-day maturity money market time deposits and 3½-year maturity time certificates of deposit as authorized recently by the Depository Institutions Deregulation Committee. This information will be used primarily for the monetary policy functions of the Federal Reserve System.

The second group of changes involves the collection of three items through the June 1982 Report of Condition of each FDIC-insured commercial bank. The three items to be collected include total outstanding balances in deposit accounts of $100,000 or less, those more than $100,000, and the total *number* of accounts with balances greater than $100,000. This information will be used mainly by FDIC in connection with its program of assessments to banks for Federal deposit insurance.

It is estimated that the collection identified in the two groups above will create a reporting burden to respondents of 5,425 hours.

Dated: June 4, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 82–15692 Filed 6–8–82; 8:45 am]

BILLING CODE 6714–01–M

Consolidated Reports of Condition and Consolidated Reports of Income; Mutual Savings Banks; Forms Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of forms submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

TITLE OF INFORMATION COLLECTION: Consolidated Reports of Condition and Consolidated Reports of Income—Mutual Savings Banks.

BACKGROUND: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a form SF–83, "Request for OMB Review," for the information collection system identified above.

ADDRESS: Written comments may be sent to Mr. Hoyle, L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550–17th Street, N.W., Washington, D.C. 20429 and to Mr. Richard Sheppard, Reports Management Branch, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503. Comments should be received on or before August 9, 1982.

FOR FURTHER INFORMATION CONTACT: For a complete copy of the "Request for OMB Review" or related information, contact Dr. Panos Konstas, Information Clearance Officer, FDIC, telephone (202) 389–4351.

SUMMARY: The proposed information collection involves two groups of changes in the quarterly report of condition for 330 mutual savings banks insured by FDIC. One group includes: (a) The addition of an item for reporting the total amount of deposits in Individual Retirement Accounts (IRA) and Keogh Plan accounts and (b) provisions for the reporting of the 91-day maturity money market time deposits and 3½-year maturity time certificates of deposits as authorized recently by the Depository Institutions Deregulation Committee. This information will be used primarily for the monetary policy functions of the Federal Reserve System.

The second group of changes involves the collection of three items through the June 1982 Report of Condition of each FDIC-insured mutual savings bank. The three items to be collected include total outstanding balances in deposit accounts of $100,000 or less, those more than $100,000, and the total *number* of accounts with balances greater than $100,000. This information will be used mainly by FDIC in connection with its program of assessments to banks for Federal deposit insurance.

It is estimated that the collection identified in the two groups above will create a reporting burden to respondents of 121 hours.

Dated: June 4, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 82–15503 Filed 6–8–82; 8:45 am]

BILLING CODE 6714–01–M

Summary of Accounts and Deposits; Forms Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of forms submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

TITLE OF INFORMATION COLLECTION: Summary of Accounts and Deposits.

BACKGROUND: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a form SF–83, "Request for OMB Review," for the information collection system identified above.

ADDRESS: Written comments may be sent to Mr. Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550–17th Street, NW., Washington, D.C. 20429 and to Mr. Richard Sheppard, Reports Management Branch, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503. Comments should be received on or before August 9, 1982.

FOR FURTHER INFORMATION CONTACT: For a complete copy of the "Request for OMB Review" or related information, contact Dr. Panos Konstas, Information Clearance Officer, FDIC, telephone (202) 389–4351.

SUMMARY: This information collection obtains account balances on a "bank office" basis by type of deposit account at commercial and mutual savings banks. All banks that have branches in the U.S. are surveyed. Four types of accounts are specified: Demand, savings, and time deposits for individuals, partnerships and corporations; and accounts for public funds. The data, which provide a basis for measuring the competitive impact of bank mergers, will be reported as of June 30, 1982. All of this information will be made available to the public after it has been processed and edited for errors, which should occur toward the end of 1982.

The amount of information asked for in this year's collection, as well as the ensuring reporting burdens to respondents, has been reduced quite substantially from the 1981 levels of this survey. We estimate that the required reporting time expended by the respondent institutions will be shortened from 275,000 hours last year to about 54,000 hours this year, or a reduction of 80 percent.

Dated: June 4, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 82–15501 Filed 6–8–82; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–659–DR]

Major Disaster and Related Determinations; Texas

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Texas (FEMA–659–DR), dated May 25, 1982, and related determinations.

DATED: May 25, 1982.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0501.

SUPPLEMENTARY INFORMATION: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148, effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of May 25, 1982, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Texas resulting from severe storms and flooding beginning on or about May 12, 1982, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93–288. I therefore declare that such a major disaster exists in the State of Texas.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the affected areas. You are also authorized to provide Public Assistance in the affected areas if justified by an additional request from the Governor accompanied by an appropriate commitment. Consistent with

the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93–288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area except for technical assistance which will be funded at 100 percent.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under the Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Alton S. Ray of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Texas to have been affected adversely by this declared major disaster:

Wichita County for Individual Assistance only.

Lee M. Thomas,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

(Catalog of Federal Domestic Assistance No. 83–300, Disaster Assistance. Billing Code 6718–02)

[FR Doc. 82–15551 Filed 6–8–82; 8:45 am]

BILLING CODE 6718–01–M

[Docket: FEMA–REP–4SC–3]

South Carolina Radiological Emergency Response Plan for Plant Oconee

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of receipt plan.

SUMMARY: For continued operation of nuclear power plants, the Nuclear Regulatory Commission requires approved licensee and State and local governments' radiological emergency response plans. Since FEMA has a responsibility for reviewing the State and local government plans, the State of South Carolina has submitted its radiological emergency plan to the FEMA Regional office. These plans support nuclear power plants which impact on South Carolina and include those of local governments near the Duke Power Company's Oconee Nuclear Station located in Oconee County, South Carolina.

DATE: Plans Received: May 7, 1982

FOR FURTHER INFORMATION CONTACT: Mr. Major P. May, Regional Director, FEMA Region IV, 1375 Peachtree Street, N.E., Atlanta, Georgia 30309, (404) 881–2400.

SUPPLEMENTARY INFORMATION: In support of the Federal requirement for emergency response plans, FEMA has proposed a Rule describing its procedures for review and approval of State and local government's radiological emergency response plans. Pursuant to this proposed FEMA Rule (44 CFR Part 350.8), "Review and Approval of State Radiological Emergency Plans and Preparedness," 45 FR 42341, the State Radiological Emergency Response Plan for the State of South Carolina was received by the Federal Emergency Management Agency Region IV Office.

Include are plans for local governments which are wholly or partially within the plume exposure pathway emergency planning zones of the nuclear plants. For the Oconee Nuclear Station, plans are included for Oconee and Pickens Counties.

Copies of the Plan are available for review at the FEMA Region IV Office, or they will be made available upon request in accordance with the fee schedule for FEMA Freedom of Information Act Requests, as set out in subpart C of 44 CFR Part 5. There are 1,460 pages in the document; reproduction fees are $1.10 a page payable with the request for copy.

Comments on the Plan may be submitted in writing to Mr. Major P. May, Regional Director, at the above address within thirty days of this **Federal Register** notice.

FEMA proposed Rule 44 CFR 350.10 also calls for a public meeting prior to approval of the plans. Details of this meeting were announced in the Pickens Sentinel at least two week prior to the scheduled meeting. Local radio and television stations were requested to announce the meeting. This required public meeting was held at Seneca, South Carolina on March 9, 1982.

Major P. May,

Regional Director.

[FR Doc. 82–15552 Filed 6–8–82; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than July 1, 1982.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York 10045:

1. *The Chase Manhattan Corporation,* New York, New York (finance, servicing, and leasing activities; Southeastern U.S.): To engage through its indirect subsidiary, Chase Commercial Corporation, in making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a commercial finance, equipment finance or factoring company, including factoring accounts receivable, making advances and over-advances or receivables and inventory and business installment lending as well as unsecured commerical loans; servicing loans and other extensions or credit; leasing personal property on a full payout basis and in accordance with the Board's Regulation Y, on acting as agent, broker or advisor in so leasing such property, including the leasing of motor vehicles. These activities would be conducted from an office in Plantation, Florida serving the states of Alabama, Florida, Georgia, Kentucky, Mississippi, North

Carolina, South Carolina, Tennessee, and Virginia.

2. *The Hongkong and Shanghai Banking Corporation,* Hong Kong, B.C.C. (lending, financing, servicing, leasing, and representational services activities; southern United States): To engage, through its subsidiary, Hongkong Bancorp Inc., in making or acquiring loans and other extensions of credit, secured or unsecured (other than consumer loans): commercial financing, including revolving credit secured by inventory, accounts receivable or other assets; conditional sales financing; lease financing and making lease of personal property in accordance with the Board's Regulation Y; issuing letters of credit; accepting drafts; servicing loans for its own account and the account of other; purchasing loan and lease portfolios; purchasing and selling loan participations; and providing reprersentation services for its banking affiliates. Activities will be conducted from an office in Houston, Texas, serving the States of Arkansas, Colorado, Louisiana, New Mexico, Oklahoma, and Texas.

Correction

3. *Ramapo Financial Corporation,* Wayne, New Jersey. This notice corrects a previous **Federal Register** document (FR Doc. 82–14259) published at page 23023 of the issue for Wednesday, May 26, 1982. The first four lines of the document should be corrected to read as follows: Ramapo Financial Corporation, Wayne, New Jersey (loan servicing and data processing activities; New York and New Jersey).

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Citizens and Southern Georgia Corporation,* Atlanta, Georgia (mortgage banking and insurance activities; Georgia): To engage, through its subsidiary, Citizens and Southern Mortgage Company, in mortgage lending and mortgage banking activities, including the extension of direct loans to consumers, the purchase and discount of real estate loans and other extensions of credit, making, acquiring, servicing or soliciting, for its own account or for the account of others, loans and other extensions of credit; and acting as agent for the sale of life, accidents and health, and physical damage insurance directly related to its extensions of credit. These activities would be conducted from offices in Athens, College Park, Macon, Roswell, Savannah, and Tucker, Georgia, serving the SMSA in which each is located, and Valdosta, Georgia, serving Lowndes County, Georgia.

Board of Governors of the Federal Reserve System, June 2, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82–15589 Filed 6–8–82; 8:45 am]

BILLING CODE 6210–01–M

Citizens and Southern Georgia Corp.; Proposed Acquisition of Oglethorpe Loan Co.

Citizens and Southern Georgia Corporation, Altanta, Georgia, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Oglethorpe Loan Co., Savannah, Georgia, through a merger with Applicant's subsidiary, Family Credit Services, Inc., Tucker, Georgia.

Applicant states that the subject subsidiary would perform the following activities as a result of the proposed acquisition: consumer finance activities under the Georgia Industrial Loan Act; other consumer and commercial finance activities; and acting as agent for sale of life, accident and health, and physical damage insurance directly related to extentions of credit. These activities would be performed from offices of Applicant's subsidiary in Savannah, Georgia, and the geographic area to be served in the Savannah SMSA. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrived by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received no later than July 3, 1982.

Board of Governors of the Federal Reserve System, June 2, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82–15592 Filed 6–8–82; 8:45 am]

BILLING CODE 6210–01–M

FM Co.; Proposed Acquisition of Barnard Agency

FM Company, Milligan, Nebraska, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Barnard Agency, Milligan, Nebraska.

Applicant states that the proposed subsidiary would engage in the sale of insurance in a community that has a population of less than 5,000. These activities would be performed from offices of Applicant's subsidiary in Milligan, Nebraska, and the geographic area to be served is Milligan, Nebraska. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received no later than July 3, 1982.

Board of Governors of the Federal Reserve System, June 2, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-15563 Filed 6-8-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. Interested persons may express their views in writing to the address indicated for the application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *CNB Bancorporation, Inc.*, Seiling, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of Community National Bank, Seiling, Oklahoma. Comments on this application must be received not later than July 2, 1982.

Board of Governors of the Federal Reserve System, June 2, 1981.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-15561 Filed 6-8-82; 8:45 am]

BILLING CODE 6210-01-M

Rhode Island Hospital Trust National Bank; Establishment of U.S. Branch of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"), to be known as Hospital Trust International Banking Corporation, Miami, Florida. Hospital Trust International Banking Corporation would operate as a subsidiary of Rhode Island Hospital Trust National Bank, Providence, Rhode Island. The factors that are considered in acting on the applications are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the applications should submit views in writing to the Secretary, Board of Governors of th Federal Reserve System, Washington, D.C. 20551, to be received no later than July 3, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 2, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 81-15564 Filed 6-8-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

National Professional Standards Review Council; Request for Nomination of Members

The terms of four members of the National Professional Standards Review Council will expire as of June 30, 1982. The purpose of this notice is to solicit suggestions for qualified physicians to fill the impending vacancies.

The National Professional Standards Review Council was established under Section 1163 of the Social Security Act (42 U.S.C. 1320c–12) and is composed of eleven physicians, one doctor of dental surgery or of dental medicine, one registered professional nurse, and one other nonphysician health professional.

For this solicitation notice, only the terms of four physician members are expiring and the Department is solely requesting physician nominees. The physician must be of recognized standing and distinction in the appraisal of medical practice. A majority of the Council's physician members must be recommended by national organizations recognized by the Secretary as representing practicing physicians. The membership of the Council must include physicians recommended by consumer groups and other health care interests. Members are appointed for 3 years and are eligible for reappointment. All members of the Council may not otherwise be in the employ of the United States.

In order to achieve a balance of expertise of the Council, we are particularly interested in nominees experienced in the areas of health care financing, specialized medical review methodologies such as ancillary services review, preventive health and data analysis.

Send nominations and curriculum vitae by July 9, 1982 to: Nora McGlaughlin, Staff Director, National Professional Standards Review Council, Dogwood East Building, 1849 Gwynn Oak Avenue, Baltimore, Maryland 21207, Telephone: (301) 594–9207.

Nominations must state that the nominee is aware of the nomination and is willing to serve as a member of the Council.

Thank you for your assistance and prompt attention.

Dated: May 28, 1982.

Carolyne K. Davis,

Administrator.

[FR Doc. 82-15612 Filed 6-8-82; 8:45 am]

BILLING CODE 4120-03-M

Health Services Administration

Health Education Assistance Loan Program; Maximum Interest Rates for Quarter Ending June 30, 1982

Section 727 of the Public Health Service Act (42 CFR Part 60, previously 45 CFR Part 126) authorizes the Secretary of Health and Human Services to establish a Federal program of student loan insurance for graduate students in health professions schools. Section 60.13(a) (4) of the program's implementing regulations provides that the Secretary will announce the interest rate in effect on a quarterly basis.

The Secretary announces that for the period ending June 30, 1982, two interest rates are in effect for loans executed through the Health Education Assistance Loan (HEAL) Program.

1. For loans made before January 27, 1981, the variable interest rate is 13¼ percent. Using the regulatory formula (45 CFR 126.13(a) (2) (3)), in effect prior to January 27, 1981, the Secretary would normally compute the variable rate for this quarter by finding the sum of the fixed annual rate (7 percent) and a variable component calcuated by subtracting 3.50 percent from the average bond equivalent rate of 91-day U.S. Treasury Bills for the preceding calendar quarter (13.55 percent), and rounding the result (10.05 percent) upward to the nearest ⅛ percent (10⅛ percent). Thus, the variable rate for this

3-month period would normally be at the annual rate of 17⅛ percent (10⅛ percent plus 7 percent). However, the regulatory formula also provides that the annual rate of the variable interest rate for a 3-month period shall be reduced to the highest one-eight of 1 percent which would result in an average annual rate not in excess of 12 percent for the 12-month period concluded by those 3 months. For the previous 3 quarters the variable interest at the annual rate was as follows: 11 percent for the quarter ending September 30, 1981; 11⅛ percent for the quarter ending December 31, 1981; and 12⅝ percent for the quarter ending March 31, 1982. Therefore, in order to maintain an average annual rate of 12 percent for the 12-month period ending June 30, 1982, the variable interest rate for the quarter ending June 30, 1982, would be at an annual rate of 13⅛ percent.

2. For fixed rate loans executed during the period of April 1 through June 30, 1982, and for variable rate loans executed after January 27, 1981, the interest rate is 17⅛ percent. Using the regulatory formula (42 CFR 60,13(a)(3), in effect since January 27, 1981, the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury Bills during the preceding quarter (13.56 percent); adding 3.50 percent (17.06 percent); and rounding that figure to the next higher one-eighth of 1 percent (17⅛ percent).

(Catalog of Federal Domestic Assistance No. 13.108, Health Education Assistance Loans)

Dated: May 28, 1982.

John H. Kelso,

Acting Administrator.

[FR Doc. 82-15627 Filed 6-8-82 8:45 am]

BILLING CODE 4160-15-M

Social Security Administration

Federal Supplemental Security Income for the Aged, Blind and Disabled; Final Version of Revised Reconsideration and Supplemental Security Income Notification Forms

AGENCY: Social Security Administration, HHS.

ACTION: Notice of changes in reconsideration and supplemental security income notification forms.

SUMMARY: We have revised the Social Security Administration Request for Reconsideration (SSA–561) and Supplemental Security Income Notice of Planned Action (SSA–L8155). The changes affect only supplemental security income (SSI) applicants and recipients. We have done this to explain in simpler language the types of appeal available at the reconsideration level, after an initial determination adverse to the applicant or recipient.

Copies of the revised forms are being published in the **Federal Register** with this notice. A discussion of the reconsideration process, explanation of the proposed changes and copies of the current and proposed forms were published for public comment in the Notices Section of the **Federal Register** Vol. 46. No. 161, Thursday, August 20, 1981, pp. 42337–42348.

Response to Comments on Federal Register Notice

Public comments were received from seven respondents. All respondents approved of the simplification of the language used to explain the reconsideration step of the appeals process. The Social Security Administration (SSA) has reviewed all comments in light of the purpose for revising the language currently used and has evaluated the comments, as follows:

1. Two respondents requested that more information be provided the individual receiving the SSA–L8155, Supplemental Security Income Notice of Planned Action, namely that it include:

a. The name of the agency performing the specific type of review;

b. The types of evidence which may be submitted for the consideration step;

c. The specific individuals who have the right to the reconsideration step of the appeal process;

d. Advice on which form of appeal is more advantageous based on the issue in question.

While these are good comments, we believe the addition of more specific information obviates the purpose of revising the language—that is, to state as clearly and as simply as possible the rights of the individual receiving this notice. Pamphlets are available at the local social security office which explain in greater detail the steps of appeal, as well as where and how they are conducted. In addition, we believe the more specific information included, over and above what is necessary to explain which form the reconsideration step may take, could confuse an individual. Further, the addition of who will conduct the case review, informal or formal conference should not sway the individual in his or her decision to request reconsideration. Adding this information would require several more paragraphs to explain something which should not be pertinent to the individual exercising the right of appeal. Finally, the individual's freedom of choice could be jeopardized by a statement which advises him or her to choose a certain form of appeal.

2. Two respondents requested that SSA change certain words and phrases used on the form SSA–561, Request for Reconsideration. We accepted the change of wording from "You can give us more facts about your case," to "You can give us more facts to add to your file." This change makes the language consistent in both forms SSA–561 and SSA–L8155. In addition, we accepted the request to change the heading on the face side of the proposed SSA–561, "Supplemental Security Income Reconsideration Only (see reverse)," to "Supplemental Security Income Reconsideration Only (see the back of this form)." Although this adds more words to the form, the change in wording is in agreement with the intent of the changes—to simplify the language.

3. Two respondents requested that SSA retitle the three ways to appeal. We did not accept the suggestions to change the titles of the three ways to appeal. The explanation of the three ways to appeal, as proposed, states in simple language what these three ways mean. Retitling the three ways to appeal would require a change in regulations as well as instructions and other forms used by SSA. In addition, we see no purpose served by changing "determination" to "decision," or reinstituting "subpoena" instead of the proposed phrase which explains that we can make people come to a formal conference and bring papers important to their case. In the first instance, a change in regulations would be required; in the second, we would be using a word which is inappropriate for the SSI population.

4. One respondent recommended revising the SSA–L8155 to show the 10-day appeal period before the 60-day appeal. We believe the paragraphs explaining the different time periods are logically placed, since the 60-day period is the general rule, and the individual should be informed, early in the explanation, of the maximum time limit available.

5. One respondent asked whether a toll free number could be included in the notice. We believe that most individuals have had sufficient contact with the local social security office to be able to call a number previously provided or to use the telephone book which lists the local office numbers. The local social security office would be the appropriate number to call, since that office could answer specific questions.

Conclusion

The adoption of these revised forms should be a major step forward in effective communication with SSI recipients. These forms will be used as the stock of current forms is depleted, but no later than September 30, 1982.

Dated: June 3, 1982.

Louis D. Enoff,

Deputy to the Deputy Commissioner, Programs.

BILLING CODE 4190-11-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES
SOCIAL SECURITY ADMINISTRATION

TOE 716 Form Approved OMB No. 0960-0062

REQUEST FOR RECONSIDERATION

The information on this form is authorized by law (20 CFR 404.907 – 404.921 and 416.1407 – 416.1421). While your responses to these questions is voluntary, the Social Security Administration cannot reconsider the decision on this claim unless the information is furnished.

(Do not write in this space)

NAME OF CLAIMANT	NAME OF WAGE EARNER OR SELF-EMPLOYED PERSON *(If different from claimant.)*
SOCIAL SECURITY CLAIM NUMBER	SUPPLEMENTAL SECURITY INCOME CLAIM NUMBER
SPOUSE'S NAME AND SOCIAL SECURITY NUMBER *(Complete ONLY in Supplemental Security Income Case)*	
CLAIM FOR *(Specify type, e.g., retirement, disability, hospital insurance, supplemental security income, etc.)*	

I do not agree with the determination made on the above claim and request reconsideration. My reasons are:

NOTE: If the notice of the determination on your claim is dated more than 65 days ago, include your reason for not making this request earlier. Include the date on which you received the notice of the determination.

I am submitting the following additional evidence *(If none, write "None,")*:

SUPPLEMENTAL SECURITY INCOME RECONSIDERATION ONLY *(see back of this form)*

"I want to appeal your decision about my claim for supplemental security income. I've read the back of this form about the three ways to appeal. I've checked the box below."

☐ Case Review ☐ Informal Conference ☐ Formal Conference

Signature *(First name, middle initial, last name) (Write in ink)* SIGN HERE ➧	Date *(Month, day, year)*
	Telephone Number

Mailing Address *(Number and street, Apt. No., P.O. Box, or Rural Route)*

City and State	ZIP Code	Enter Name of County (if any) in which you now live

Witnesses are required ONLY if this request has been signed by mark (X) above. If signed by mark (X), two witnesses to the signing who know the person requesting reconsideration must sign below, giving their full addresses.

1. Signature of Witness	2. Signature of Witness
Address *(Number and street, City, State, ZIP Code)*	Address *(Number and street, City, State, ZIP Code)*

FOR SOCIAL SECURITY OFFICE USE ONLY

SOCIAL SECURITY OFFICE ADDRESS

ROUTING INSTRUCTIONS *(Check one)*

☐ State Agency *(Route with disability folder)*
☐ Program Service Center
☐ ODO, Balto.
☐ District Office Reconsideration
☐ Division of International Operations, Balto.
☐ OCRO, Balto.

Form SSA-561-U2 (2-82)

NOTE: Take or mail completed copies to your Social Security Office.

DEPARTMENT OF HEALTH AND HUMAN SERVICES
SOCIAL SECURITY ADMINISTRATION

TOE 710

Form Approved
OMB No. 0960-0063

REQUEST FOR RECONSIDERATION

The information on this form is authorized by law (20 CFR 404.907 – 404.921 and 416.1407 – 416.1421). While your responses to these questions is voluntary, the Social Security Administration cannot reconsider the decision on this claim unless the information is furnished.

(Do not write in this space)

NAME OF CLAIMANT	NAME OF WAGE EARNER OR SELF-EMPLOYED PERSON *(If different from claimant.)*
SOCIAL SECURITY CLAIM NUMBER	SUPPLEMENTAL SECURITY INCOME CLAIM NUMBER
SPOUSE'S NAME AND SOCIAL SECURITY NUMBER *(Complete ONLY in Supplemental Security Income Case)*	
CLAIM FOR *(Specify type, e.g., retirement, disability, hospital insurance, supplemental security income, etc.)*	

I do not agree with the determination made on the above claim and request reconsideration. My reasons are:

NOTE: If the notice of the determination on your claim is dated more than 65 days ago, include your reason for not making this request earlier. Include the date on which you received the notice of the determination.

I am submitting the following additional evidence *(If none, write "None,")*:

SUPPLEMENTAL SECURITY INCOME RECONSIDERATION ONLY *(see back of this form)*

"I want to appeal your decision about my claim for supplemental security income. I've read the back of this form about the three ways to appeal. I've checked the box below."

☐ Case Review ☐ Informal Conference ☐ Formal Conference

Signature *(First name, middle initial, last name) (Write in ink)*	Date *(Month, day, year)*
SIGN HERE ➧	Telephone Number

Mailing Address *(Number and street, Apt. No., P.O. Box, or Rural Route)*

City and State	ZIP Code	Enter Name of County (if any) in which you now live

Witnesses are required ONLY if this request has been signed by mark (X) above. If signed by mark (X), two witnesses to the signing who know the person requesting reconsideration must sign below, giving their full addresses.

1. Signature of Witness	2. Signature of Witness
Address *(Number and street, City, State, ZIP Code)*	Address *(Number and street, City, State, ZIP Code)*

FOR SOCIAL SECURITY OFFICE USE ONLY

SOCIAL SECURITY OFFICE ADDRESS

Form SSA-561-U2 (2-82)

CLAIMANT'S COPY

HOW TO APPEAL YOUR SUPPLEMENTAL SECURITY INCOME (SSI) DECISION

There are three different ways to appeal. You can pick the appeal that fits your case. The person who gave you this form can tell how these appeals work. You can have a lawyer, friend, or someone else help you with your appeal.

Here are the three ways to appeal:

1. **CASE REVIEW:**

   You can give us more facts to add to your file. Then we'll decide your case again. You don't meet with the person who decides your case.

   You can pick this kind of appeal in all cases.

2. **INFORMAL CONFERENCE:**

   You'll meet with the person who will decide your case. You can tell that person why you think you're right. You can give us more facts to help prove you're right. You can bring other people to help explain your case.

   You can pick this kind of appeal in all cases *except* two. You can't have it if we turned down your application for medical reasons or because you're not blind. Also you can't have it if we're giving you SSI but you disagree with the date we said you became blind or disabled.

3. **FORMAL CONFERENCE:**

   This is a meeting like an informal conference. Plus, we can make people come to help prove you're right. We can do this even if they don't want to help you. You can question these people at your meeting.

   You can pick this kind of appeal only if we're stopping or lowering your SSI check. You can't get it in any other case.

Now you know the three kinds of appeals. You can pick the one that fits your case. Then fill out the front of this form. We'll help you fill it out.

There are groups that can help you with your appeal. Some can give you a free lawyer. We can give you the names of these groups.

NOTE: DON'T FILL OUT THIS FORM IF WE SAID WE'LL STOP YOUR SSI DISABILITY CHECK FOR MEDICAL REASONS OR BECAUSE YOU'RE NO LONGER BLIND. WE'LL GIVE YOU THE RIGHT FORM (HA-501-U5) FOR YOUR APPEAL.

Supplemental Security Income
Notice of Planned Action

From: Department of Health and Human Services
Social Security Administration

Date:

•

Social Security Number:

Your payments (or those of the individual named above) will be changed as follows:

We won't change your check if you *appeal within 10 days* after getting this notice.

TURN THIS OVER if you think we're wrong ▶

Form SSA-L8155 (2-82)

YOUR RIGHT TO APPEAL

Do you think we're wrong? If so, you have the right to appeal. If you appeal, we'll review our decision. We'll change mistakes. Do you have other questions? If so, get in touch with us. Please bring this notice with you if you come to a social security office.

You have **60 DAYS TO APPEAL** after you get this notice. If you wait more than 60 days, you must have a good excuse.

APPEAL IN 10 DAYS TO KEEP GETTING YOUR SAME CHECK

We won't change your check if you appeal **within 10 days** after getting this notice. You'll keep getting your same check until we decide your appeal. If you lose your appeal, you *might* have to pay some or all of this money back.

HOW TO APPEAL

There are three different ways to appeal. You can pick the one you want. The people in our offices can explain how these appeals work. You can have a lawyer, friend, or someone else help you with your appeal.

Here are the three ways to appeal:

1. **CASE REVIEW:**

   You can give us more facts to add to your file. Then we'll decide your case again. You don't meet with the person who decides your case.

2. **INFORMAL CONFERENCE:**

   You'll meet with the person who will decide your case. You can tell that person why you think you're right. You can give us more facts to help prove you're right. You can bring other people to help explain your case.

3. **FORMAL CONFERENCE:**

   This is a meeting like an informal conference. Plus, we can make people come to help prove you're right. We can make them bring important papers about your case. We can do this even if they don't want to help you. You can question these people at your meeting.

To appeal, you must fill out a form at one of our offices. It is called a Request for Reconsideration, SSA-561. On the form, **YOU PICK THE KIND OF APPEAL YOU WANT.** We'll help you fill it out.

There are groups that can help you with your appeal. Some can give you a free lawyer. We can give you names of these groups.

[FR Doc. 82-15580 Filed 6-8-82; 8:45 am]
BILLING CODE 4190-11-C

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Issuance of a Recreation and Public Purposes Lease in a Floodplain

AGENCY: Bureau of Land Management, Interior.

ACTION: Issuance of a Recreation and Public Purposes Lease for a Sewage Treatment Facility in the Lower Colorado River Floodplain.

SUMMARY: Notice is hereby given pursuant to the requirements of Floodplain Management Policy and Protection Procedures, 4310–84–M, **Federal Register**, Vol. 44, March 15, 1979, implementing E.O. 11988. The Bureau of Land Management will issue a recreation and public purposes lease to the Town of San Luis, Arizona for a sewage treatment facility. The facility site is located in the floodplain of the Lower Colorado River in Sections 2 and 11, T. 11 S., R. 25 W., G&SRM. It lies approximately 1 mile west of the San Luis township.

EFFECTIVE DATE: June 25, 1982.

FOR FURTHER INFORMATION CONTACT: Allan J. Belt, Bureau of Land Management, Yuma District Office, P.O. Box 5680, Yuma, Arizona 85364, 602–726–6300.

SUPPLEMENTARY INFORMATION: In accordance with the National Environmental Policy Act and Executive Order 11988, the Bureau of Land Management prepared an environmental assessment of alternatives for the sewage treatment facility. Draft copies of the assessment were distributed for agency and public review. The site originally under application by the Town of San Luis, located outside of the floodplain, was rejected in the assessment primarily because airborne contaminants from the site would have been carried over nearby populated areas and its development would have removed agricultural land from production. An alternative site, located outside of the floodplain on a mesa east of the townsite was rejected primarily because airborne contaminants would have affected proposed residential developments in the area and the costs of pumping sewage of the mesa level from the townsite would have been prohibitive. The no action alternative was rejected because the potential for groundwater contamination from continued use of spetic tanks would have hindered the future growth of the community and adjacent areas. Consequently, on the basis of the assessment, location of the sewage treatment facility at an alternative site within the floodplain appeared to be the only practiable alternative.

The facility site is situated at the edge of the "floodway fringe" area of the floodplain. It is completely surrounded by the Yuma Valley Levee and its extensions. Floodproofing would be accomplished by raising the existing levees above the 100-year flood level. Such an action would, in effect, exclude the site from the "floodway fringe" area. No significant adverse impacts to natural and beneficial floodplain values are anticipated from the development of a sewage treatment facility at the site.

The facility will comply with all applicable Federal, State and local laws, regulations and standards concerning protection and enhancement of environmental quality and pollution control and abatement.

Development of a sewage treatment facility at the site is consistent with the Yuma County Floodplain Management Plan. The action has been approved by Yuma County.

Since the site is presently located on Federal land, National Flood Insurance (NFI) programs are not applicable. Should a patent for the site be issued to the Town of San Luis following completion of the sewage treatment facility, however, the applicability of the NFI programs would have to be reevaluated.

Persons, agencies and organizations involved in the project include:

Town of San Luis
Moore, Knickerbocker, Jones and Associates, Inc.
International Boundary and Water Commission
U.S. Bureau of Reclamation
Yuma County Health Department
National Council of La Raza
Yuma County Water User's Association
Arizona Office of Economic Planning and Development
Department of Energy, Western Area Power Administration
District #4, Council of Governments
Yuma County Board of Supervisors
Yuma County Planning and Zoning Department
Arizona Game and Fish Department
Arizona State Land Department
Arizona Department of Health Services
Laguna Natural Resource Conservation District
General Services Administration

Gary A. McVicker,
District Manager.

[FR Doc. 82–15144 Filed 6–8–82; 8:45 am]
BILLING CODE 4310–84–M

Canon City District Grazing Advisory Board; Meeting

Notice is hereby given under Pub. L. 92–463 that a meeting of the Canon City District Grazing Advisory Board will be held at 10:00 a.m., Monday, July 12, 1982, at the Chaffee County Bank, 146 G Street, Salida, Colorado.

The purpose of the meeting is to review allotment management plan implementation and to initiate, conduct and settle business pertaining to expenditure of Range Betterment and Improvement Funds.

The meeting will be open to the public. However, facilities and space to accommodate members of the public are limited and persons will be accommodated on a first come, first serve basis. Any person may file with the Board a written statement concerning matters to be discussed.

Persons wishing further information concerning this meeting may contact Melvin D. Clausen, District Manager, Bureau of Land Management, 3080 East Main Street, Canon City, Colorado 81212, at (303) 275–0631.

Minutes of the meeting will be made available for public inspection 30 days after the meeting.

Dated: May 28, 1982.
Melvin D. Clausen,
District Manager.

[FR Doc. 82–15099 Filed 6–8–82; 8:45 am]
BILLING CODE 4310–84–M

Casper District; Off-Road Vehicle Designation Decisions

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of off-road vehicle designation decisions.

SUMMARY: The Casper District, Bureau of Land Management has completed decisions to designate 512,051 acres of public land in Johnson County, Wyoming as open, limited, or closed to off-road vehicle use. Designations are a result of land use planning decisions made in the 1979 Buffalo Management Framework Plan. During planning, comments were received on various areas proposed for designation. In addition, information letters inviting comments were sent to over 300 interested individuals and organizations.

The effect of the designations is to limit off-road vehicle use on most public lands to existing roads and vehicle routes. However, most public lands are open to oversnow vehicle use. Use on a few areas is limited to designated roads

and vehicle routes and three areas are closed to all motorized vehicles.

DATES: The decisions will become final July 9, 1982.

FOR FURTHER INFORMATION CONTACT: Forest Littrell, Area Manager, Buffalo Resource Area, P.O. Area 670, Buffalo, Wyoming 82834, (307) 684–5586. Paul Arrasmith, District Manager, Casper District Office, 951 Rancho Road, Casper, Wyoming 82601, (307) 261–5101.

SUPPLEMENTARY INFORMATION: The authority for this decision is derived from Executive Orders 11644 and 11989 and regulations contained in 43 CFR 8340.

Specific area designations are as follows:

I. *Open Designation:* Vehicle travel is permitted in the area (both on and off roads) if the vehicle is operated responsibly in a manner not causing, or unlikely to cause significant, undue damage to, or disturbance of, the soil, wildlife, wildlife habitat, improvements, cultural, or vegetative resources or other authorized uses on 20,386 acres of the following described public lands.

1. The majority of stock driveway and rests located throughout Johnson County (16,746 acres).

2. An area of land located near the Powder River and south of I–90 (3,640 acres).

II. *Limited Designation:*

A. Use is limited to existing roads and vehicle routes on 326,187 acres. Use is limited to those roads and vehicle routes in existence as of the date of this publication. Temporary excursions leaving existing vehicluar routes are permitted only to accomplish *necessary tasks* and only if such travel does not result in resource damage such as erosion, water pollution, ruts or other long-term signs of vehicle use. Necessary tasks are work requiring the use of a motor vehicle.

Random or unnecessary travel from existing vehcile routes is not allowed. Creation of new routes, or extension or widening of existing routes, is not allowed without prior written approval by the district manager.

B. Vehicle use is limited to designated roads and vehicle routes within the following areas:

1. The North Fork of the Powder River Area located 10 miles northwest of Mayoworth, Wyoming (16,432).

2. The Gardner Mountain Area located 10 miles north of Barnum, Wyoming (28,832 acres).

3. A narrow strip of land containing a geologic formation called the "Red Wall" which traverses from near Barnum to the county line in southern Johnson County (5,442 acres).

4. The Middle Fork Management Area located 12 miles southwest of Barnum, Wyoming (30,640 acres).

5. The Petrified Forest located nine miles east of Buffalo, Wyoming (427 acres).

6. The Fortification Creek Area located in the northeast corner of Johnson County (22,337).

7. The Powder River Breaks located 26 miles east of Buffalo, Wyoming on the north and south side of I–90 (19,427 acres).

8. Sections of the Bozeman Trail located in central and southern Johnson County (645 acres).

Vehicle travel will be permitted on roads and vehicle routes designated by BLM. Until maps are issued and signs posted, vehicular travel is limited to existing roads and vehicle routes.

C. Vehicle travel is limited to time or season-of-use. Approximately 37,646 acres will be seasonally closed to all motor vehicles including snowmobiles from December 1 to April 15 each year to protect critical big game winter habitat. The following areas will be effected:

1. The North Fork of the Powder River Area located 10 miles northwest of Mayoworth, Wyoming (16,432 acres).

2. A 2,800-acre parcel of land located on Barnum Mountain, six miles west of Barnum, Wyoming.

3. A portion of the Middle Fork Management Area, located 12 miles southwest of Barnum, Wyoming containing 6,800 acres.

4. A 11,614-acre parcel of land in the Fortification Creek Area, located in northeastern Johnson County.

III. *Closed Designation:* Vehicle travel is prohibited (including snowmobiles) on 3,650 acres of public land in the following areas:

1. The Middle Fork Canyon located six miles southwest of Barnum, Wyoming and containing 3,038 acres.

2. Cantonment Reno, which is located 20 miles northeast of Kaycee, contains 572 acres.

3. The Dry Creek Petrified Tree Environmental Education Area is located nine miles east of Buffalo, Wyoming and contains 40 acres.

The Bureau of Land Management recognizes the differences between off-road vehicles and over-snow vehicles in terms of use and impact. Therefore, travel by over-snow vehicles will be permitted off existing routes and in all open or limited areas (unless otherwise specifically limited or closed to oversnow vehicles) if they are operated in a responsible manner without damaging the vegetation or harming wildlife.

Any person(s) having special access needs may apply to the authorized officer for a permit to enter the area. Any constructed access will require a right-of-way under 43 CFR Part 2800.

An environmental assessment describing the impact of these designations was completed and a finding of no significant environmental impact was determined. This document is available for inspection at the offices listed above.

Les Olver,

Acting District Manager.

[FR Doc. 82–15629 Filed 6–8–82; 8:45 am]

BILLING CODE 4310–84–M

[C–16210, C–18254]

Colorado; Cancellation of Forest Service Withdrawal Applications and Opening of Lands

Correction

In FR Doc. 82–14459 appearing at page 23214 in the issue for Thursday, May 27, 1982, make the following corrections:

On page 23215, first column, under the land description headed "Sixth Principal Meridian Arapaho National Forest", the fifth line, the first "SE¼" should be changed to read "SW¼". In the sixth line the second "SW¼" should be changed to read "SE¼".

BILLING CODE 1505–01–M

[I–014751 et al]

Idaho; Classification Revoked

1. Pursuant to authority delegated to me by Bureau Order No. 701, dated July 23, 1964 (29 FR 10526), I hereby revoke the classifications initiated for exchange under the authority of Section 8 of the Taylor Grazing Act of June 28, 1934, Public Sales under Revised Statute 2455, Homesteads under Revised Statute 2289, Public Sales under Unintentional Trespass Act of September 26, 1968, and Recreation and Public Purpose Act of June 14, 1926, for the following described lands:

Boise Meridian, Idaho

Public Sale Classification (RS 2455)

(I–014751)

T. 6 S., R. 12 E.,
Sec. 19, SW¼NE¼.

(I–017182)

T. 5 S., R. 1 E.,
Sec. 9, SW¼SE¼.

(I–1277)

T. 6 S., R. 11 E.,
Sec. 24, NW¼SW¼.

(I–3745)

T. 11 N., R. 7 W.,
Sec. 20, NE¼NE¼;
Sec. 21, N½, NE¼SW¼, N½SE¼, SE¼SE¼;
Sec. 27, NW¼NW¼.

(I–4071)

T. 6 S., R. 13 E.,
Sec. 33, W½SE¼.
T. 7 S., R. 13 E.,
Sec. 3, lots 3, 4, W½SW¼;
Sec. 10, W½NW¼.

(I–4398)

T. 7 S., R. 12 E.,
Sec. 23, SE¼NW¼, E½SW¼;
Sec. 26, E½W½;
Sec. 35, NW¼NE¼, SE¼SE¼.

(I–4911)

T. 6 S., R. 12 E.,
Sec. 29, SE¼SW¼.

(I–5778)

T. 6 S., R. 12 E.,
Sec. 25, SE¼SE¼.
T. 6 S., R. 13 E.,
Sec. 31, lots 2, 3, 4, SE¼SW¼.

(I–5880)

T. 6 S., R. 13 E.,
Sec. 32, NW¼NE¼.

(I–5959)

T. 7 S., R. 12 E.,
Sec. 24, NW¼SW¼.

(I–6138)

T. 7 S., R. 12 E.,
Sec. 26, NE¼SE¼.

(I–6414)

T. 7 S., R. 12 E.,
Sec. 25, SW¼NW¼.

(I–6902)

T. 7 S., R. 12 E.,
Sec. 14, N½SE¼, SE¼SE¼;
Sec. 23, E½NE¼;
Sec. 24, W½NW¼.

(I–8713)

T. 5 S., R. 7 E.,
Sec. 32, N½SW¼SW¼, SW¼SW¼SW¼, W½SE¼SW¼SW¼.

(I–8738)

T. 8 S., R. 12 E.,
Sec. 1, lots 1, 2, SE¼NE¼, NE¼SE¼.

(I–8300)

T. 6 N., R. 5 W.,
Sec. 28, S½NE¼.

(I–014696)

T. 1 N., R. 3 W.,
Sec. 29, SW¼NE¼, N½NW¼, SE¼NW¼.

(I–015367)

T. 7 N., R. 1 E.,
Sec. 28, SW¼;
Sec. 32, NE¼NE¼;
Sec. 33, N½NW¼, SE¼NW¼, N½SW¼.

(I–015394)

T. 6 N., R. 2 E.,
Sec. 1, S½;
Sec. 2, N½SE¼;
Sec. 12, N½NE¼.
T. 6 N., R. 3 E.,
Sec. 6, lot 7;
Sec. 7, lot 1.

(I–015484)

T. 7 N., R. 1 E.,
Sec. 28, SW¼;
Sec. 29, ¼SE¼NE¼, N½SE¼;
Sec. 32, NE¼NE¼;
Sec. 33, N½NW¼, SE¼NW¼, N½SW¼.

(I–015588)

T. 2 N., R. 3 E.,
Sec. 11, NW¼SW¼, SE¼SW¼;
Sec. 14, S½NW¼, NE¼SW¼.

(I–016196)

T. 7 N., R. 1 W.,
Sec. 15, SW¼SW¼;
Sec. 21, SE¼NE¼, E½SE¼;
Sec. 22, W½W½.

(I–017402)

T. 6 S., R. 9 E.,
Sec. 2, NE¼SW¼.

(I–017403)

T. 5 S., R. 9 E.,
Sec. 34, SW¼SE¼.
T. 6 S., R. 9 E.,
Sec. 2, SW¼NW¼.

(I–1993)

T. 2 N., R. 4 W.)
Sec. 35, lot 1.

(I–2133)

T. 4 S., R. 8 E.,
Sec. 15, W½;
Sec. 22, W½, W½SE¼;
Sec. 27, W½;
Sec. 34, NW¼.

(I–2403)

T. 6 N., R. 3 W.,
Sec. 14, lot 5.

(I–2422)

T. 5 N., R. 1 E.,
Sec. 21, S½SE¼;
Sec. 22, S½S½;
Sec. 27, SW¼SW¼;
Sec. 28, SE¼NW¼;
Sec. 33, NW¼NE¼.

(I–2573)

T. 9 S., R. 13 E.,
Sec. 2, SE¼SW¼, SW¼SE¼;
Sec. 11, NE¼NW¼.

(I–2847)

T. 5 N., R. 1 W.,
Sec. 31, N½SE¼.

(I–3210)

T. 5 S., R. 6 E.,
Sec. 31, lot 10.

(I–5825)

T. 1 N., R. 4 W.,
Sec. 11, NE¼NE¼.

Public Sales Classification Unintentional Trespass

(I–3186)

T. 12 N., R. 7 W.,
Sec. 6, lot 1.

(I–4067)

T. 7 N., R. 2 W.,
Sec. 2, S½SE¼ of lot 4.
T. 8 N., R. 2 W.,
Sec. 25, E½NE¼NE¼NE¼, W½SE¼NE¼NE¼, W½NE¼SE¼NE¼NE¼, SW¼NE¼SE¼SW¼, N½SE¼NE¼SE¼SW¼, NE¼SW¼SW¼SE¼SW¼, W½SE¼SW¼SE¼SW¼;
Sec. 35, SW¼SE¼NE¼NE¼, N½SE¼SE¼NE¼NE¼, NW¼SE¼SW¼NE¼, NW¼NE¼SE¼SW¼, W½SW¼NE¼SE¼SW¼, NE¼SW¼SE¼SW¼, W½NE¼NW¼NW¼SE¼, W½NW¼NW¼SE¼, W½NW¼SW¼NW¼SE¼.

(I–4489)

T. 4 S., R. 1 W.,
Sec. 34, SW¼NE¼SW¼, N½SE¼NE¼SW¼, SW¼SE¼NE¼SW¼, N½SE¼SE¼NE¼SW¼.

(I–4556)

T. 6 N., R. 5 W.,
Sec. 24, E½NW¼SW¼.

(I–4590)

T. 2 N., R. 10 E.,
Sec. 18, lot 8.

(I–4618)

T. 3 S., R. 4 W.,
Sec. 12, W½NW¼SE¼.

Exchange Classification

(I–015050)

T. 6 N., R. 4 W.,
Sec. 25, S½NW¼NW¼.

(I–2102)

T. 7 S., R. 2 W.,
Sec. 31, S½NE¼, N½SE¼;
Sec. 32, SW¼NE¼, SE¼NW¼, N½SE¼, SE¼SE¼.

(I–3428)

T. 4 N., R. 2 E.,
Sec. 1, lots 3, 4, SW¼NW¼, W½SE¼NW¼;
Sec. 2, lot 2, S½NE¼, SE¼SW¼, W½SE¼;
Sec. 14, NW¼.
T. 5., R. 2 E.,
Sec. 34, SE¼SE¼.

(I–10291)

T. 1 S., R. 2 W.,
Sec. 4, lot 4, SW¼NW¼.

Homestead Classification

(I–016271)

T. 4 S., R. 1 E.,
Sec. 22, SW¼.

Recreation and Public Purpose Classification

(I–2820)

T. 3 N., R. 3 W.,
Sec. 15, lots 2, 3.

(I–3146)

T. 2 N., R. 2 E.,
Sec. 13, SE¼.
T. 2 N., R. 3 E.,
Sec. 18, lots 3, 4, SE¼SW¼, SW¼SE¼.

(I–3215)

T. 4 N., R. 2 E.,
Sec. 7, NE¼NW¼.

(I–3732)

T. 2 N., R. 4 W.,
Sec. 21, SE¼NE¼, NE¼SE¼.

(I–8974)

T. 7 N., R. 2 E.,
Sec. 11, lot 4;
Sec. 14, lot 1.

The areas described contain 8,737.24 acres.

2. The above described classifications have been reviewed and found to serve no useful purpose. The laws relating to these classifications have been repealed by Pub. L. 94–579 of October 21, 1976.

Dated: June 2, 1982.

Clair M. Whitlock,

State Director.

[FR Doc. 82–15628 Filed 6–8–82; 8:45 am]

BILLING CODE 4310–84–M

[UT–910]

Utah; Grazing Management Program for Ashley Creek Planning Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of draft environmental impact statement and public hearing.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 and a 1975 Federal Court Order, the Bureau of Land Management (BLM) has prepared a draft grazing environmental impact statement (EIS) for the Ashley Creek rangeland management program in Duchesne, Uintah, and a small portion of Carbon Counties.

The draft EIS examines five alternative management programs: (1) Proposed Action—Multiple Use Recommendation, (2) Livestock Forage Recommendation—(3) No Action—Active Preference—(4) No Change—Average Use—and (5) Wildlife Habitat Recommendation. The objective of the alternatives is to provide land use management on the basis of multiple use and long-term sustained yield of the natural resources on 527,974 acres of public land.

The alternatives examine proposed levels of grazing use ranging from 20,684 to 39,306 animal unit months (AUM's) for livestock and from 10,454 AUM's short-term use to 20,767 AUM's long-term use for big game. Varying levels of vegetation modification and management would accompany the proposed levels of forage allocation.

Copies of the draft EIS are available from the Vernal District BLM Office at 170 South 500 East, Vernal, Utah 84078, or the Richfield District BLM Office, 150 East 900 North, Richfield, Utah 84701. Public reading copies of the draft EIS will be available for review at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets N.W., Washington, D.C. 20240

Utah State Office, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111

Written comments on the draft EIS should be submitted to the Vernal District Manager by August 11, 1982.

Notice is hereby given that oral and/or written comments will be received at a public hearing held at the following location:

July 15

7:00 p.m.—Uintah County Courthouse, Vernal, Utah

Requests to testify at the public hearings should be submitted to the District Manager, Bureau of Land Management, 170 South 500 East, Vernal, Utah 84078, (801) 789–1362. Others attending the hearing will also be provided an opportunity to testify.

Written and oral comments concerning adequacy of the draft EIS will receive consideration in preparation of the final Grazing Management EIS for the Ashley Creek Planning Area.

Dated: June 1, 1982.

Roland G. Robison,

State Director.

[FR Doc. 82–15629 Filed 6–8–82; 8:45 am]

BILLING CODE 4310–84–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 28, 1982. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by June 24, 1982.

Carol D. Shull,

Acting Keeper of the National Register.

ALASKA

Anchorage Division

Eklutna, *The Mike Alex Cabin (AHRS Site No. ANC–111)*, Off AK 1

Cordova-McCarthy Division

Cordova, *Red Dragon Historic District (AHRS #COR–170)*, Lake Ave.

Ketchikan Division

Ketchikan, *Walker-Broderick, House, (AHRS Site No. KET–138)*, 541 Pine St.

CALIFORNIA

Alameda County,

Alameda, *Alameda Free Library*, 2264 Santa Clara Ave.

Berkeley, *Berkeley Public Library*, 2090 Kittredge St.

Humboldt County,

Eureka, *Humboldt Bay Wollen Mill (Eureka Wollen Mills)*, 1400 Broadway

Los Angeles County

Los Angeles, *Garfield Building*, 403 W. 8th St.

Sacramento County

Sacramento, *Kuchler Row*, 608—614 10th St.

Santa Clara

Santa Clara, *Santa Clara Verein*, 1082 Alviso St.

Ventura County

Ventura, *Franz, Emmanuel, House*, 31 N. Oak St.

CONNECTICUT

Fairfield County

Bridgeport, *Bishop, William D., Cottage Development Historic District*, Cottage Pl., and Atlantic, Broad, Main and Whiting Sts.

Bridgeport, *Seaside Park*, Long Island Sound

Stamford, *Marion Castle, Terre Bonne*, 1 Rogers Rd.

Hartford County

Hartford, *Northam Memorial Chapel and Gallup Memorial Gateway*, 453 Fairfield Ave.

Newington, *Kelsey, Enoch, House*, 1702 Main St.

Litchfield County

Canaan, *Holabird House*, Kellog Rd., corner of Rte. 128

Litchfield County

New Milford, *Schoverling, Carl F., Tobacco Warehouse*, 1 Wellsville Ave.

Middlesex County

Middletown, *Highland Historic District*, Atkins St. and Country Club Rd.

New Haven County

Madison, *Madison Green Historic District*, 446—589 Boston Post Rd. and structures surrounding the green

New London County

Groton, *Branford House*, Shennecosset and Eastern Point Rds.

Tolland County

Hebron, *Post, Augustus, House*, 4 Main St.

Windham County

Williamantic, *Main Street Historic District*, 21—65 Church St.; 667—1009 Main St.; 24—28 N. St.; and 20—22 Walnut St.

DELAWARE

Sussex County

Milton, *Milton Historic District*, DE 5

GEORGIA

Bibb County

Macon, *Cherokee Heights District*, Pio Nono, Napier, Inverness, and Suwanee Aves.

Brantley County

Waynesville vicinity, *Mumford, Sylvester, House*, Off U.S. 84

DeKalb County

Atlanta, *Smith-Benning, House*, 520 Oakdale Rd., NE

Evans County

Hagan, *DeLoach, George W., House*, S. Railroad Ave., and Strickland St.

Meriwether County

Hogansville vicinity, *Phillips, William D., Log Cabin*, GA 54
Warms Spring vicinity, *Oakland*, GA 41

Stewart County

Lumpkin, *Armstrong House (Lumpkin, Georgia MRA)*, Broad St.
Lumpkin, *Bush-Usher House (Lumpkin, Georgia MRA)*, E. Main St.
Lumpkin, *Dr. Miller's Office (Lumpkin Georgia MRA)*, E. Main St.
Lumpkin, *East Main Street Residential Historic District (Lumpkin, Georgia MRA)*, E. Main St.
Lumpkin, *Grier, Dr. R. L., House (Lumpkin, Georgia MRA)*, Broad St.
Lumpkin, *Harrell, George Y., House (Lumpkin, Georgia MRA)*, Broad St.
Lumpkin, *Irwin, Jared, House (Lumpkin, Georgia MRA)*, E. Main St.
Lumpkin, *Lumpkin Commercial Historic District (Lumpkin, Georgia MRA)*, Main, Broad, Cotton, and Mulberry Sts.
Lumpkin, *Mathis House (Lumpkin, Georgia MRA)*, E. Main St.
Lumpkin, *Pigtail Alley Historic District (Lumpkin, Georgia MRA)*, Old Chestnut Rd.
Lumpkin, *Rockwell, Stoddard House (Lumpkin, Georgia MRA)*, Rockwell St.
Lumpkin, *Second Methodist Church (Lumpkin, Georgia MRA)*, Mulberry St.
Lumpkin, *Tucker, John A., (Lumpkin, Georgia MRA)*, Florence St.
Lumpkin, *Uptown Residential Historic District (Lumpkin, Georgia MRA)*, Broad and Main Sts.
Lumpkin, *Usher House (Lumpkin, Georgia MRA)*, Florence St.

Troup County

Mountville vicinity, *Mays-Boddie, House*, GA 109

IDAHO

Canyon County

Caldwell, *Caldwell Historic District*, Roughly bounded by Railroad and Arthur Sts., 7th and 9th Aves.

ILLINOIS

Sangamon County

Springfield, *Bressmer-Baker, House*, 913 6th St.

INDIANA

Decatur County

Westport vicinity, *Westport Covered Bridge*, E. of Westport

Marion County

Indianapolis, *Marott Hotel*, 2625 N. Meridian St.

KANSAS

Comanche County

Archeological Site Number 14CM305 (Big Gyp Cave) (Kansas Rock Art TR)

Ellsworth County

Archeological Site Number 14EW14 (Elm Creek) (Kansas Rock Art TR)
Archeological Site Number 14EW303 (Haystack Mound) (Kansas Rock Art TR)
Archeological Site Number 14EW33 (Cave Hollow) (Kansas Rock Art TR)
Archeological Site Number 14EW401 (Katzenmeier) (Kansas Rock Art TR)
Archeological Site Number 14EW403 (Owl's Nest) (Kansas Rock Art TR)
Archeological Site Number 14EW404 (Kansas Rock Art TR)
Archeological Site Number 14EW405 (Kansas Rock Art TR)
Archeological Site Number 14EW406 (Kansas Rock Art TR)
Archeological Site Number 14EW17 (Ward) (Kansas Rock Art TR)
Archeological Site Number 14EW1 (Kansas Rock Art TR)

Greenwood County

Archeological Site Number 14GR320 (Indian Spring) (Kansas Rock Art TR)

Kiowa County

Archeological Site Number 14KW302 (Roth) (Kansas Rock Art TR)
Archeological Site Number 14KW301 (Star) (Kansas Rock Art TR)

Lincoln County

Archeological Site Number 14LC306 (Hildebrandt) (Kansas Rock Art TR)

Montgomery County

Archeological Site Number 14MY1320 (Kansas Rock Art TR)
Archeological Site Number 14MY1385 (Lookout Station) (Kansas Rock Art TR)
Archeological Site Number 14MY365 (Kansas Rock Art TR)
Archeological Site Number 14MY1 (Treaty Rocks) (Kansas Rock Art TR)

Ottawa County

Archeological Site Number 140T4 (Kansas Rock Art TR)

Rice County

Archeological Site Number 14RC10 (Peverley) (Kansas Rock Art TR)
Archeological Site Number 14RC11 (Kansas Rock Art TR)

Russell County

Archeological Site Number 14RU10 (Circle Rock) (Kansas Rock Art TR)
Archeological Site Number 14RU313 (Russell) (Kansas Rock Art TR)
Archeological Site Number 14RU314 (Haberer) (Kansas Rock Art TR)
Archeological Site Number 14RU315 (Hampl) (Kansas Rock Art TR)
Archeological Site Number 14RU316 (Purma) (Kansas Rock Art TR)
Archeological Site Number 14RU324 (S & S Ranch) (Kansas Rock Art TR)
Archeological Site Number 14RU5 (Paradise Creek) (Kansas Rock Art TR)

KENTUCKY

Fayette County

Lexington, *Kinkead House*, 362 Walnut St.
Lexington, *Watkins, Thomas B., House*, 1008 S. Broadway

LOUISIANA

Claiborne Parish

Summerfield vicinity, *Wasson, Alberry, Homeplace*, 1½ mi. S. of Summerfield

Franklin Parish

Winnsboro, *Winnsboro Commercial Historic District*, Prairie St.

Lafayette Parish

Lafayette, *Gordon Hotel*, 108–110 E. Vermilion St.

Lincoln Parish

Ruston, *Townsend House*, 410 N. Bonner St.

Orleans Parish

New Orleans, *Lowe-Forman House*, 5301 Camp St.

Rapides Parish

Lecompte vicinity, *St. John Baptist Church*, off LA 456

Tangipahoa Parish

Amite, *Blythewood*, 205 Elm St.

MARYLAND

Kent County

Still Pond, *Harper, George, Store*, MD 292 and Main St.

MICHIGAN

Saginaw County

Saginaw, *Bearinger Building*, 124 N. Franklin
Saginaw, *Brockway, Abel, House*, 1631 Brockway
Saginaw, *Carriage, Davis, House*, 519 N. Fayette
Saginaw, *Central Warehouse*, 1800 N. Michigan
Saginaw, *Cushway, Benjamin, House*, 1404 S. Fayette
Saginaw, *East Genesee Historic Business District (Center Saginaw MRA)*, Bounded by Federal, Weadock, 2nd and Jones Sts.
Saginaw, *East Saginaw Historic Business District (Center Saginaw MRA)*, Roughly bounded by Federal, N. Water, N. Washington and N. Franklin Sts.

Saginaw, *Grove, The (Center Saginaw MRA)*, S. Washington
Saginaw, *House*, 1514 N. Michigan
Saginaw, *Michigan Bell Building*, 309 S. Washington
Saginaw, *North Jefferson Avenue Historic District (Center Saginaw MRA)*, Carroll and Jefferson Aves.
Saginaw, *North Michigan Avenue Historic District (Center Saginaw MRA)*, Roughly bounded by Monroe, Fayette, N. Hamilton and W. Remington Sts.
Saginaw, *Peters, Charles, Sr., House*, 130 N. 6th
Saginaw, *Sacket, Russell, House*, 6104 Ct.
Saginaw, *Saginaw District City Expansion (Center Saginaw MRA)*, Off MI 13
Saginaw, *Saginaw Central City Historic Business District (Center Saginaw MRA)*, Roughly bounded by Saginaw River, S. Michigan, Cleveland and Van Buren Aves.
Saginaw, *South Jefferson Avenue Historic District (Center Saginaw MRA)*, Off MI 13
Saginaw, *South Michigan Avenue Historic District (Center Saginaw MRA)*, Roughly bounded by Fayette, Lyon, Lee and S. Hamiltin Sts.
Saginaw, *St. John's Episcopal Church*, 509 Hancock
Saginaw, *Wenzel House*, 1203 S. Fayette
Saginaw, *West Side Historic Residential District (Center Saginaw MRA)*, Roughly bounded by Mason, Madison, Harrison and Lyon Sts.
Saginaw, *Wright, Ammi and William, House*, 207 Garden Lane

MISSISSIPPI

Madison County

Canton, *Canton Courthouse Square Historic District*, Center, Liberty, Peace and Union Sts.

MISSOURI

Cooper County

Boonville vicinity, *Boonville Wine Company (Central Brewery) (Boonville, Missouri MRA)*, W of Boonville
Boonville vicinity, *Harley Park Wine Cellar (Boonville, Missouri MRA)*, Harley Park
Boonville, *Beckett House (Boonville, Missouri MRA)*, 821 3rd St.
Boonville, *Blakey House (Boonville, Missouri MRA)*, 226 W. Spring Carpenter House (Boonville, Missouri MRA), 901 Main St.
Boonville, *Cobblestone Street (Wharf Hill) (Bonnville, Missouri MRA), Main St.*
Boonville, *Cooper County Home (Boonville, Missouri MRA)*, 1121 11th St.
Boonville, *Creative Ceramics (Boonville, Missouri MRA)*, 1022 7th St.
Boonville, *Dauwalter House and Tanyard (Boonville, Missouri MRA)*, 817 7th St.
Boonville, *Diggs Family House (Boonville, Missouri MRA)*, 1217 Rual St.
Boonville, *Doehne House (Boonville, Missouri MRA)*, 500 W. Spring
Boonville, *Esser House (Boonville, Missouri MRA)*, 615 Main St.
Boonville, *Farris House (Boonville, Missouri MRA)*, 502 10th St.
Boonville, *First Baptist Church of Jesus Christ in Boonville (Boonville, Missouri MRA)*, 625 Main
Boonville, *Forest Hill (Boller House) (Steinmetz House) (Boonville, Missouri MRA)*, 700 10th St.
Boonville, *Gantner-Roberts-Chrane-Kramer House (Boonville, Missouri MRA)*, 1308 6th St.
Boonville, *Gibson House (Boonville, Missouri MRA)*, 733 Main St.
Boonville, *Hamilton-Brown Shoe Factory (Selwyn Shoe Corporation) (Boonville, Missouri MRA)*, 1st St.
Boonville, *Huber House (Boonville, Missouri MRA)*, 414 6th St.
Boonville, *Johnmeyer House (Boonville, Missouri MRA)*, 521 1st St.
Boonville, *Johnston, W. F., House (Boonville, Missouri MRA)*, 600 3rd
Boonville, *Katy Depot (Boonville, Missouri MRA)*, 320 1st St.
Boonville, *Kelley, O. F., House (Boonville, Missouri MRA)*, 923 Main St.
Boonville, *Lauer House (Boonville, Missouri MRA)*, 825 E. High
Boonville, *Mayginnes House (Boonville, Missouri MRA)*, 230 Pawnee St.
Boonville, *McClary House (Boonville, Missouri MRA)*, 1000 11th St.
Boonville, *Meierhoffer House (Boonville, Missouri MRA)*, 120 E. High
Boonville, *Meierhoffer Sand Company (Boonville, Missouri MRA)*, 201 2nd St.
Boonville, *Oswald Farm (Boonville, Missouri MRA)*, 515 W. Spring
Boonville, *Plantation House (Boonville, Missouri MRA)*, 1136 7th St.
Boonville, *Rorah House (Boonville, Missouri MRA)*, 749 Main
Boonville, *Rosalyn Heights (Boonville, Missouri MRA)*, 821 Main St.
Boonville, *Scrivner Residence (Boonville, Missouri MRA)*, 407 West St.
Boonville, *Shamrock Dairy Farm (Shamrock Heights) (Boonville, Missouri MRA)*, W. Walnut
Boonville, *Simmons House (Boonville, Missouri MRA)*, 119 W. Spring
Boonville, *Smith, Ben Sr., House (Boonville, Missouri MRA)*, 825 4th St.
Boonville, *St. Joseph Hospital (Boonville, Missouri MRA)*, E. Morgan
Boonville, *St. Matthew's A.M.E. Church (Boonville, Missouri MRA)*, 309 Spruce St.
Boonville, *Stammerjohn-Abele-Wagner House (Boonville, Missouri MRA)*, 122 W. Morgan
Boonville, *Stretz House (Boonville, Missouri MRA)*, 1215 E. Morgan
Boonville, *Summer Public School (Boonville, Missouri MRA)*, 321 Spruce
Boonville, *Swan House and Cellar (Pulliam House) (Boonville, Missouri MRA)*, 1027 3rd St.
Boonville, *Trigg House (Boonville, Missouri MRA)*, 1314 Main St.
Boonville, *Twin Houses (Boonville, Missouri MRA)*, 1307 6th St.
Boonville, *Twin Houses (Old Johnson House) (Judge Rutherford House) (Boonville, Missouri MRA)*, 1314 Main St.
Boonville, *Vests Home (Boonville, Missouri MRA)*, 745 Main
Boonville, *Vollrath Place (Boonville, Missouri MRA)*, 809 Locust

St. Louis (Independent City)

S. S. Cyril and Methodius Historic District, I-70

MONTANA

Valley County

Nashua, *Sargent, Charles C., House*, 615 Front St.

NEBRASKA

Burt County

Lyons vicinity, *Deutsche Ev. Luth. St. Johannes Kirche (BT00-9)*

Butler County

David City, *Taylor Chauncey S., House*, 715 4th St.

Douglas County

Omaha, *First National Bank Building*, 300-312 16th St., and 1601-1605 Farnam St.

Hall County

Grand Island, *Roeser, Oscar, House*, 721 W. Koenig St.

Jefferson County

Diller, *Colman House (JF02-4)*, 501 Lavelle St.

Kearney County

Axtell vicinity, *Salem Swedish Methodist Episcopal Church (KN00-2)*, SW of Axtell

Knox County

Verdigre vicinity, *Rod Sladkovsky (C.S.P.S. Cis. 68; Z.C.B.J. Cis 8) (KX09-1)*

Lancaster County

Lincoln, *Temple of Congregation B'nai Jeshurun (LC13:D6-4)*, 20th and S. Sts.

Platte County

Columbus, *Gottschalk, Frederick L. and L. Frederick, Houses*, 2022 17th St.
Columbus, *Segelke, C., Building*, 1065 17th Ave.

Seward County

Staplehurst vicinity, *Deutsche Evangelisch Lutherische Zion Kirche*, SW of Staplehurst

Washington County

Blair, *Castetter, Abraham, House*, 1815 Grant St.
Blair, *Crowell, C. C., Jr., House, 2138 Washington St.*

NEVADA

Washoe County

Reno, *Riverside Mill Company Flourmill*, 345 E. 2nd St.

NEW JERSEY

Bergen County

Edgewater, *Ferryboat Binghamton*, 725 River Rd.

NEW MEXICO

Socorro County

Lemitar, *Sagrada Familia de Lemitar Church, Los Dulces Nombres*, Off I-25

NEW YORK

New York County

New York, *Former New York Life Insurance Company Building*, 346 Broadway

Queens County

Queens, *Marine Air Terminal*, La Guardia Airport

OKLAHOMA

Canadian County

Yukon, *Mulvey Mercantile*, 425 W. Main

Hughes County

Holdenville, *Turner, John E., House*, 401 E. 10th

Kay County

Ponca City, *Masonic Building*, 222 E. Grand Ave.

Wagoner County

Wagoner, *Gibson, John W., House (Territorial Homes of Wagoner, Oklahoma TR)*, 402 S. McQuarrie
Wagoner, *McAnally, William, House (Territoral Homes of Wagoner, Oklahoma TR)*, 702 S.E. 7th St.
Wagoner, *McKinney, Collin, House (Territorial Homes of Wagoner, Oklahoma TR)*, 1106 S.E. 7th St.
Wagoner, *Parkinson, Amos, House (Territorial Homes of Wagoner, Oklahoma TR)*, 601 N. Parkinson
Wagoner, *Parkinson, Frederick, House (Territorial Homes of Wagoner, Oklahoma TR)*, 407 N.E. 3rd St.
Wagoner, *Way House (Territorial Homes of Wagoner, Oklahoma TR)*, 411 N.E. 2nd St.

SOUTH CAROLINA

Anderson County

Anderson vicinity, *McFall House*, SR 247

Charleston County

Charleston vicinity, Morris Island Lighthouse, 6 mi. SE of Charleston
Charleston, *Aiken, William, House and Associated Railroad Structures*, 456 King St.

Florence County

Johnsonville vicinity, *Browntown*, SC 341

Greenville County

Greenville, *American Cigar Factory (Greenville MRA)*, E. Ct. St.
Greenville, *Chamber of Commerce Building (Greenville MRA)*, 130 S. Main St.
Greenville, *Davenport Apartments (Greenville MRA), 400–402 E. Washington St.*
Greenville, *Earle, Col. Elias, Historic District (Greenville MRA)*, Earle, James, N. Main, and Rutherford Sts.
Greenville, *Greenville Gas and Electric Light Company (Greenville MRA)*, 211 E. Broad St.
Greenville, Hampton-Pinckney Historic Distric Extension (Greenville MRA), Hampton, Lloyd, Hudson Sts., Butler and Asbury Aves.
Greenville, *Isoqueena (Greenville MRA)*, 106 DuPont Dr.
Greenville, *Lanneau-Norwood House (Greenville MRA)*, 417 Belmont Ave.
Greenville, *Mills Mill (Greenville MRA)*, Mills and Guess Sts.
Greenville, *Pettigru Street Historic District (Greenville MRA)*, Pettigru, Whitsett, Williams, Manly, E. Washington, Broadus, Toy, and Boyce Sts.
Greenville, *Poinsett Hotel (Greenville MRA)*, 120 S. Main St.
Greenville, *Williams-Earle, House, (Greenville MRA)*, 319 Grove Rd.
Greenville, *Working Benevolent Temple and Professional Building (Greenville MRA)*, Broad and Fall Sts.

Lancaster County

Kershaw vicinity, *Cauthen, Dr. William Columbus, House*, SR 75

Lexington County

Batesburg, *Batesburg Commercial Historic District (Batesburg-Leesville MRA)*, Granite, Oak, Pine, Church Sts., Rutland and N. Railroad Aves.
Batesburg, *Bouknight, Simon, House (Batesburg-Leesville MRA)*, Saluda Ave.
Batesburg, *Edwards, Broadus, House (Batesburg-Leesville MRA)*, 12 Peachtree St.
Batesburg, *Historic Cartledge House (Batesburg-Leesville MRA)*, 305 Saluda Ave.
Batesburg, *Jones, A. C., House (Batesburg-Leesville MRA)*, 104 Fair Ave.
Batesburg, *McKendree, Mitchell, House (Batesburg-Leesville MRA)*, 310 Saluda Ave.
Batesburg, *Rawl, John Jacob, House (Batesburg-Leesville MRA)*, Line St.
Batesburg, *Rawl-Couch House (Batesburg-Leesville MRA)*, 22 Short St.
Batesburg, *Southern Railway Depot (Batesburg-Leesville MRA)*, S. E. corner of Perry and Wilson Sts.
Leesville, *Church Street Historic District (Batesburg-Leesville MRA)*, Church St.
Leesville, *Hampton Hendrix Office (Batesburg-Leesville MRA)*, Leesville Ave.
Leesville, *Hendrix, Henry Franklin, House (Batesburg-Leesville MRA)*, Hendrix Heights Plantation
Leesville, *Herbert, Rev. Walter I., House (Batesburg-Leesville MRA)*, 506 Trotter St.
Leesville, *Holman, J. B., House (Batesburg-Leesville MRA)*, N. Peachtree St.
Leesville, *Leesville College Historic District (Batesburg-Leesville MRA)*, Railroad Ave., College, Peachtree, King, and Lee Sts.
Leesville, *Mitchell, Crowell, House (Batesburg-Leesville MRA)*, Church St.
Leesville, *Mitchell-Shealy House (Batesburg-Leesville MRA)*, 419 W. Church St.
Leesville, *Old Batesburg-Leesville High School (Batesburg-Leesville MRA)*, Summerland Ave.
Leesville, *Yarborough, Rev. Frank, House (Batesburg-Leesville MRA)*, 810 Bernard St.

Marlboro County

Bennettsville vicinity, *Appin*, U.S. 15

Richland County

Columbia *Columbia Historic District II*, (boundary increase) Blanding, Laurel, Richland, Calhoun, Marion, Bull, Pickens, Henderson, and Barnwell Sts.
Columbia, *Taylor House (Columbia MRA)*, 1505 Senate St.

Williamsburg County

Kingstree, *Kingstree Historic District (Kingstree MRA)*, Main, Hampton and Academy Sts.
Kingstree, *Scott House (Kingstree MRA)*, 506 Live Oak St.
Indiantown vicinity, *Wilson, John Calvin, House*, Off SC 512

York County

McConnells vicinity, *Hightower Hall*, York County Rd 165

SOUTH DAKOTA

Beadle County

Carpenter vicinity, *Milford Hutterite Colony (Historic Hutterite Colonies TR)*
Huron vicinity, *Old Riverside Hutterite Colony (Historic Hutterite Colonies TR)*

Bon Homme County

Tabor vicinity, *Bon Homme Hutterite Colony (Historic Hutterite Colonies TR)*

Hanson County

Alexandria vicinity, *Old Rockport Hutterite Colony (Historic Hutterite Colonies TR)*

Hutchison County

Ethan vicinity, *New Elmspring Colony (Historic Hutterite Colonies TR)*
Milltown vicinity, *Milltown Hutterite Colony (Historic Hutterite Colonies TR)*
Parkston vicinity, *Old Elmspring Hutterite Colony (Historic Hutterite Colonies TR)*
Scotland vicinity, *Old Maxwell Hutterite Colony (Historic Hutterite Colonies TR)*

Spink County

Frankfort vicinity, *Old Spink Colony (Historic Hutterite Colonies TR)*

Yankton County

Utica vicinity, *Old Jamesville Hutterite Colony (Historic Hutterite Colonies TR)*

TENNESSEE

Meigs County

Big Spring, *Cowan, James, House (Meigs County, Tennessee MRA)*, Old Bunker Hill Rd.
Decatur, *Big Sewee Creek Bridge (Meigs County, Tennessee MRA)*, TN 58 and Center Point Rd.
Decatur, *Buchanan House (Meigs County, Tennessee MRA)*, Vernon St.
Decatur, *Decatur Methodist Church (Meigs County, Tennessee MRA)*, Vernon St.
Decatur, *Eaves, S. S., House (Meigs County, Tennessee MRA)*, Eaves Ferry Rd.
Decatur, *Godsey, Jim, House (Meigs County, Tennessee MRA)*, TN 30
Decatur, *Grubb, Jacob L., Store (Meigs County, Tennessee MRA)*, TN 58
Decatur, *Kings Mill Bridge (Meigs County, Tennessee MRA)*, Big Sewee Rd.
Decatur, *Locke House (Meigs County, Tennessee MRA)*, Concord Rd.
Decatur, *Meigs County Bank (Meigs County, Tennessee MRA)*, Court Sq.
Decatur, *Meigs County Courthouse (Meigs County, Tennessee MRA)*, Court Sq.
Decatur, *Meigs County High School Gymnasium (Meigs County, Tennessee MRA)*, Brown St.

Decatur, *Mount Zion Church (Meigs County, Tennessee MRA)*, Mt. Zion Hollow
Decatur, *Rice-Morler House (Meigs County, Tennessee MRA)*, Goodfield Valley Rd.
Decatur, *Smith, Robert H., Law Office (Meigs County, Tennessee MRA)*, TN 58
Decatur, *Stewart, John, House (Meigs County, Tennessee MRA)*, TN 58
Georgetown, *Hooper, Scott, Garage (Meigs County, Tennessee MRA)*, SR 1
Georgetown, *McKenzie Windmill (Meigs County, Tennessee MRA)*, TN 58
Georgetown, *Rymer, Bradford, Barn (Meigs County, Tennessee MRA)*, SR 1
Georgetown, *Shiflett, G. W. Barn (Meigs County, Tennessee MRA)*, SR 1
Georgetown, *Shiflett, H.C., Barn (Meigs County, Tennessee MRA)*, SR 1
Georgetown, *Wood, Andy, Log House and Wood, Willie, Blacksmith Shop*, SR 1
Ten Mile vicinity, *Oak Grove Methodist Church (Meigs County, Tennessee MRA)*, Pinhook Ferroy Rd.
Ten Mile, *Black, John M., Cabin (Meigs County, Tennessee MRA)*, Big Sewee Creek Rd.
Ten Mile, *Calvahouse House (Meigs County, Tennessee MRA)*, River Rd.
Ten Mile, *Ewing House (Meigs County, Tennessee MRA)*, River Rd.
Ten Mile, *Feazell Barn (Meigs County, Tennessee MRA)*, TN 58
Ten Mile, *Gettys, James R., House (Meigs County, Tennessee MRA)*, N. No Pone Valley Rd.
Ten Mile, *Gettys, James R., Mill (Meigs County, Tennessee MRA)*, N. No Pone Valley Rd.
Ten Mile, *Griffith, James Turk, House (Meigs County, Tennessee MRA)*, TN 58
Ten Mile, *Holloway, Dr. D. W., House (Meigs County, Tennessee MRA)*, River Rd.
Ten Mile, *Hutsell Truss Bridge (Meigs County, Tennessee MRA)*, Old Ten Mile Rd.
Ten Mile, *Hutsell, Sam, House (Meigs County, Tennessee MRA)*, Old Ten Mile Rd.
Ten Mile, *Johnson, R. H., Stable (Meigs County, Tennessee MRA)*, TN 58
Ten Mile, *MacPherson House (Meigs County, Tennessee MRA)*, off Hurricane Valley Rd.
Ten Mile, *Patterson, Alexander, House (Meigs County, Tennessee MRA)*, Wood Lane
Ten Mile, *Sharp, Elisha, House (Meigs County, Tennessee MRA)*, Old Ten Mile Rd.
Ten Mile, *Surprise Truss Bridge (Meigs County, Tennessee MRA)*, Sewee Creek Rd.

UTAH

Utah County

Pleasant Grove vicinity, *Timpanogos Cave Historic District*, UT 80

VIRGINIA

Accomack County

Craddockville vicinity, *Bayly, Edmund, House*, VA 615

Northampton County

Eastville vicinity, *Westover*, VA 630

Tazewell County

Tazewell vicinity, *Thompson, George Oscar, House*, U.S. 604

WISCONSIN

Burnett County

Yellow Lake vicinity, *Ebert Mound Group (47Bt28)*

Chippewa County

Chippewa Falls, *Marsh Rainbow Arch Bridge*, Spring St.

Walworth County

Delavan, *Johnson, A. P., House*, 3455 S. Shore Dr.

Winnebago

Neenah, *Smith, Henry Spencer, House*, 706 E. Forest Ave.

WYOMING

Part County

Mammoth vicinity, *Obsidian Cliff Kiosk (Yellowstone national part MRA)*

Teton County

Madison Junction, *Madison Museum (Yellowstone National Part MRA)*, Yellowstone National Park.

[FR Doc. 82-15604 Filed 6-8-82; 8:45 am]
BILLING CODE 4310-70-M

Bureau of Reclamation

Front Range Unit, Longs Peak Division, Pick-Sloan Missouri Basin Program, Intent To Prepare An Environmental Statement: Withdrawal

On April 13, 1979, the Bureau of Reclamation published a "Notice of Intent" to prepare an Environmental Impact Statement for the Front Range Unit, Longs Peak Division, Pick-Sloan Missouri Basin Program. That notice was published on page 22202, Vol. 44, No. 73 of the **Federal Register** dated April 13, 1979.

The subject Notice of Intent is hereby withdrawn. This withdrawal is based upon the determination that the communities to be served find the project to be financially unacceptable and that local support is thereby lacking for project authorization.

Dated: June 3, 1982.

R. N. Broadbent,
Commissioner.

[FR Doc. 82-15563 Filed 6-8-82; 8:45 am]
BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 29916]

CSX Corp.; Control Exemption—Carolina, Clinchfield, and Ohio Railway

AGENCY: Interstate Commerce Commission.

ACTION: Notice of correction to exemption.

SUMMARY: At 47 FR 23819, June 1, 1982, the Commission exempted from prior approval under 49 U.S.C. 11343, the proposed acquisition by CSX Corporation of control of the Carolina, Clinchfield and Ohio Railway. This notice corrects the date that exemption was effective.

DATES: The exemption will be effective on June 1, 1982. Petitions to reopen this action must be filed on or before June 21, 1982.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-15553 Filed 6-8-82; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. MC-43]

Lease and Interchange of Vehicles by Motor Carriers

Decided: June 2, 1982.

Allied Van Lines, Inc. (No. MC-15735) and Eleveld Chicago Furniture, Inc. (No. MC-87966) have filed a petition for waiver of paragraph (d) of § 1057.12 of the *Lease and Interchange of Vehicle Regulations* (49 CFR Part 1057).

Findings

1. Petitioner Allied is a household goods carrier whereas Petitioner Eleveld is authorized to transport new furniture, store and bar furniture, fixtures and equipment.

2. Petitioners are commonly controlled and Petitioner Eleveld is an agent of Petitioner Allied.

3. Petitioners will jointly control equipment in transporting commodities both are authorized to transport.

4. Petitioners have acceptable fitness records.

5. Petitioners will advertise commodity authorization of both, so as to advise public as to who bears responsibility of a given service.

6. Greater efficiency and economy would result if waiver is granted.

It is ordered: The petition filed by Allied Van Lines, Inc., and Eleveld Chicago Furniture, Inc., for waiver of

paragraph (d) of § 1057.12 is granted, provided Petitioners exercise joint responsibility for the possession, control, and use of motor vehicle equipment owned by Eleveld and leased to Allied in the transportation of combined shipments of household goods and new furniture, store and bar furniture, fixtures and equipment, and provided Eleveld is responsible to assure equipment safety is maintained, or use of motor vehicle equipment owned by Allied and leased to Eleveld in the transportation of combined shipments of household goods and new furniture, store and bar furniture, fixtures and equipment, and provided Allies is responsible to assure equipment safety is maintained.

By the Motor Carrier Leasing Board, Board Members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15558 Filed 6-8-82; 8:45 am]
BILLING CODE 7035-01-M

[No. AB-2 (Sub-38)]

Louisville & Nashville Railroad Co.; Abandonment in Fannin County, GA and Cherokee County, NC; Findings

May 28, 1982.

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided May 28, 1982, a finding, which is administratively final, was made by the Administrative Law Judge stating that the present or future public convenience and necessity do not require or permit the abandonment by the Louisville and Nashville Railroad Company of its line of railroad extending from railroad milepost KG-393.5 at Murphy Junction, GA to milepost KG-416.8 at Murphy, NC, a distance of 23.3 miles, traversing Fannin County in Georgia and Cherokee County in North Carolina. Pursuant to the Judge's decision, accordingly, the application for abandonment stands denied, effective 30 days from the date of service of said decision, which is June 9, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15554 Filed 6-8-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision-Notice

The following applications filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed by Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of efffectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: June 4, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

Agatha L. Mergenovich,

Secretary.

MC-F-14803, filed May 10, 1982. MERIDIAN EXPRESS COMPANY, INC. [MEC], (4835 LBJ Freeway, Dallas, TX 75234)—CONTROL—McLEAN TRUCKING COMPANY, [MTC] and PRIDE CARGO CARRIERS, INC. [PCC], (both of 1920 West First Street, Winston-Salem, NC, 27154), and SALEM CONTRACT CARRIER, INC [SCC], (P.O. Box 26945, Charlotte, NC 28213). Representatives: Jack R. Turney, Jr., 2001 Massachusetts Avenue, N.W., Washington, DC 20036; and Francis W. McInerny, 1000 16th Street, N.W., Washington, DC 20036. MEC, a non-carrier, except for special reports under 49 U.S.C. 11145, seeks authority to acquire control of the carrier operating rights and properties of MTC, and thereby also of MTC's carrier subsidiaries, SCC and PCC.

In the proposed plan of acquisition, Meridian Acquisition Subsidary [MAS] (of 4835 LBJ Freeway, Dallas, TX 75234), a non-carrier subsidiary of MEC formed for the transaction, would be merged into MTC, and all oustanding shares of the capital stock of MTC would be converted into the right to receive $18 per share in cash, to be paid by MEC. To replace said converted shares, 10 shares of substitute $100 par common stock would be issued by MTC, the surviving corporation, to MEC.

The operating rights of MTC to be controlled are contained in Certificates Nos. MC-31389. These authorities authorize the transportation of general commodities, with the usual exceptions, in AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MS, MO, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, TN, TX, VA, WA, WV, WI, and WY. The operating rights of SCC to be controlled

are contained in Contract Carrier Permits Nos. MC–147888, authorizing the transportation of such commodities as are dealt in or used by chain department and food stores between points in the U.S. (except HI and AK), under continuing contracts with K-Mart Corporation. The operating rights of PCC, under Certificate No. 151873, authorize the transportation of general commodities between points in the United States.

MEC does not hold authority from this Commission. However, through non-carrier subsidiaries, MEC controls (a) Merchants Fast Motor Lines, Inc. (of East Highway 80, Abilene, TX 79604), holder of Certificates Nos. MC 2228, authorizing the transportation of general commodities, with the usual exceptions, in TX, NM, CO and AZ; (b) Oil Transport Company (of the same address), holder of Certificates Nos. MC–111740, authorizing the transportation of petroleum, various petroleum compound products, and sulphur, in bulk, in tank vehicles, in TX, OK, AR, CO, KS, MO, NM, AZ; (c) Gypsum Transport, Inc. (of the same address), holder of Certificates Nos. MC–126421, authorizing the transportation of gypsum, gypsum products, and materials and supplies and related building products between U.S. Gypsum plantsites in 48 States; (d) Delta Lines, Inc., a common carrier of general commodities, under Certificates Nos. MC–56640, between points in CA, AZ, OR, NV, NM, CO, WY, WA, ID, MT; (e) Thunderbird Freight Lines, Inc., a common carrier of general commodities, under Certificates Nos. MC–69512, between points in CA and AZ; (f) Distribution concepts, Inc., a contract carrier of general commodities, under Permits Nos. MC–153418, between points in the U.S., under contracts with K-Mart Corporation, and of business forms between points in the U.S. under contracts with Moore Business Forms; (g) Wycoff Company, Incorporated (under temporary management control in No. MC–F–14746), a common carrier of general commodities, under Certificate Nos. MC–89684, in CA, OR, NV, ID, WY, CO and UT; and (h) Nevada-California Express, Inc. [FF–130], a freight forwarder of general commodities between points in CA, UT, OR, WA, ID and MT. To avoid conflict with 49 U.S.C. 11323, Nevada-California Express, Inc. is to be transferred to MTC immediately prior to consummation.

MAS joins in the application as the directly participating non-carrier applicant. MTC likewise joins in the application. Non-carrier private investment entities WEDGE Transportation, Inc. (of 4835 LBJ Freeway, Dallas, TX 75234); Minefa Group Incorporated (of the same address); Minefa Holdings B.V. (of Uilenstede 473, 1180 AE Amstelveen, The Netherlands); Issam Investments N.V. (of Willemstad, Curacao, Dutch Antilles); together with Issam M. Fares (a non-carrier individual, c/o WEDGE International Holdings B.V., 20 Place Vendome, 750001 Paris, France), seek authority to control MTC, SCC, and PCC through the acquisition of control by MEC.

Notes

(1) This notice does not purport to be a complete description of the operating rights of the carriers involved.

(2) A directly related application under 49 U.S.C. 11301 and 11302 has been filed in F.D.–*29932, McLean Trucking Company—Stock.* MTC seeks authority to issue to MEC, as part of the non-carrier merger, 10 shares of $100 par common stock, to serve as MTC's only outstanding capital stock, upon conversion of all MTC's presently outstanding shares into rights to receive $18 per share in the transaction.

(3) By decisions dated March 5, 1982, and April 8, 1982, respectively, applicants' petitions for waiver of certain of the Commission's procedural regulations at 49 CFR 1100.240, and Instruction 3 governing Application Form OP–F–45, were granted.

(4) Meridian, a non-carrier, presently controls 7 motor carriers and 1 freight forwarder. It contends that the transaction would be consistent with the public interest because it would: (1) Prevent takeover of McLean by speculators; (2) preserve and improve existing carrier service; (3) enlarge McLean's resources; (4) build investor confidence in the motor carrier industry; (5) enhance the financial strength of all the involved carriers; (6) preserve important regional, interregional, and transcontinental system services; and (7) promote healthy competition.

To support its contention that competition would be enhanced and not reduced, Meridian states that approval of this transaction would assure continuation of McLean's transcontinental services and restoration of McLean's former competitive strength. Approval of this transaction would also add a Meridian subsidiary, Delta Lines, to transcontinental market competition.

This transaction, according to Meridian, would not materially affect the concentration of revenue ranking or the market share, either in total revenues or in the transcontinental market as between the top transcontinental general commodities carriers. Upon consummation of the transaction, the Meridian group of carriers would still rank 5th in total revenues, with a market share of only 4 percent of the Nation's 100 largest motor carriers of property. This is the position McLean has continuously held for the last 10 years. The combined revenues of the Meridian carriers would represent 10.8 percent of the market share of the revenues of the carrier systems competing in the transcontinental market. The combined revenues of the 4 carrier systems ranked above the Meridian carriers represent 52.3 percent of the revenues of the entire transcontinental systems.

To further show that the transaction would not be anti-competitive, applicants submitted detailed studies identifying the multitude of LTL carriers operating in competition with the Meridian carriers. Since there is an abundance of competition, the transaction appears not to involve any monopoly element, and its approval at this stage would not appear to result in material anti-competitive effects.

[FR Doc. 82–15650 Filed 6–8–82; 8:45 am]
BILLING CODE 7035–01–M

[Volume No. 264]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: June 3, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian Carrier Applicants

In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC–157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Ewing, and Williams.

Agatha L. Mergenovich,

Secretary.

MC 82109 (Sub-6)X, filed May 13, 1982. Applicant: LOUIS P. COTE, INC., 317 Blucher Street, Manchester, NH 03105. Representative: James M. Burns, Suite 413, 1383 Main Street, Springfield, MA 01103. Subs 1 and 5F certificates: broaden (1) in Sub 1, to "electrical supplies and rubber and plastic products," from batteries and tires: "building materials," from hardware: "machinery," from rigging equipment and machinery, and from textile machinery: and "chemicals and related products" from phosphate; and Subs 1 and 5, to machinery, metal products, and those commodities which because of their size or weight require the use of special handling or equipment," from stacks, boilers, generators, fabricated iron and steel plates, and articles requiring specialized handling or rigging because of size or weight; (2) to radial authority; and (3) to county-wide authority: Sub 1, Suffolk, Norfolk, Plymouth, Middlesex and Essex Counties, MA (Boston): Rockingham County, NH (Portsmouth): Cumberland County, ME (Portland): Essex and Suffolk Counties, MA (Lynn and Salem): Suffolk, Middlesex, Essex, Worcester, Bristol, Plymouth and Norfolk Counties, MA (Boston and points in MA within 45 miles thereof): Windsor County, VT (Springfield): Merrimack County, NH (Concord): Hartford County, CT (Hartford): and Worcester County, MA (Sterling and Shrewsbury).

MC 103490 (Sub-89)X, filed May 19, 1982. Applicant: PROVAN TRANSPORT COPR., 210 Mill Street, Newburgh, NY 12550. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Sub 86F certificate, broaden the commodity description to "petroleum, natuarl gas and their products, and chemicals and related products," from petroleum products and chemicals, in bulk.

MC 109028 (Sub-18)X, filed May 24, 1982. Applicant: S & W TRANSFER, INC., 312 E. Wisconsin Ave., Milwaukee, WI 53202. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Lead permit: Applicant hold authority to transport "such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and, in connection therewith, equipment, materials, and supplies used in the conduct of such business", restricted to service to be performed under special and individual contracts or agreements with persons (as defined in Section 203(a) of the Act) who operate retail stores, the business of which is the sale of food, for the transportation of the commodities indicated and in the manner specified. Applicant seeks clarification of the restriction to conform to the basic grant of the authority to read "restricted to service to be performed under special and individual contracts or agreements with persons (as defined by Section 203(a) of the Act), who operate wholesale, retail and chain grocery and food business houses, and in connection therewith, persons who provide equipment, materials and supplies in the conduct of such business, for the transportation of the commodities indicated and in the manner specified."

MC 110686 (Sub-70)X, filed May 3, 1982. Applicant: McCORMICK DRAY LINE, INC., Avis, PA 17721. Representative: David A. Sutherland, Suite 400, 1150 Connecticut Ave., NW., Washington, DC 20036. Lead and Subs 5, 7, 8, 9, 10, 12, 13, 15, 16, 17, 19, 21, 22, 24, 25, 26, 28, 30, 32, 34, 35, 36, 39, 41, 42, 44, 47, 48, 49, 51F, 52, 54, 55F, 56F, 63F, 64F, 65F, 67F, and 69 certificates: (A) Broaden commodity descriptions as follows: lead certificate, to "metal products, and materials, equipment and supplies used in the manufacture and distribution of metal products," from iron and steel articles, returned, damaged or rejected shipments and equipment, supplies and materials used in their production, steel, copper bars, rods and wire, copper wire and cable, and wire rope: "food and related products and materials, equipment and supplies used in the manufacture and distribution thereof," from malt beverages and empty malt beverage containers, canned goods, sugar, feed, and flour: "farm products," from seeds: "petroleum or coal products, in containers," from lubricating oil in containers: "chemicals and related products and materials, equipment, and supplies used in the manufacture and distribution thereof," from liquid acids, empty containers, chemicals in drums and cylinders, empty drums and cylinders, and salt: "electrical machinery and parts and materials, equipment and supplies used in the manufacture and distribution thereof," from automobile batteries: "building and roofing materials," from roofing materials: "clay, concrete, glass or stone products," from bricks, fire brick, fire clay and fire brick tile: "pulp, paper and related products," from paper: "reels," from empty reels; Subs 5, 19, 21, 22, 24, 25, 26, 28, 32, 41, 42, 48, and 51 to "metal products, and equipment, materials and supplies used in the manufacture of metal products," from iron and steel articles, from metal angles, from used railroad rails, from ifon and steel flats and angles and reject billets, from iron and steel forgings, from patterns, molds and scrap attrition plates, and from wire and chain; Sub 7 to "metal products," from wire rope: "chemicals and related products and materials, equipment, and supplies used in the manufacture and distribution thereof," from fillers and pigments: "furniture and fixtures, and materials, equipment and supplies used in the manufacture and distribution thereof," from new furniture, skeleton crated and uncrated, and materials and supplies used in their manufacturing: "Petroleum or coal products, in containers," from oil and grease in containers, and empty oil and grease containers: and "boilers, heating and cooling equipment, water heaters, storage tanks, solar equipment, and materials, equipment and supplies used in the manufacture, distribution and installation thereof," from boilers, heaters and castings, and damaged or rejected shipments; Subs 8, 15, and 17 to "clay, concrete, glass or stone products, non-metallic minerals, and equipment, materials, and supplies used in the manufacture and distribution thereof," from fire brick, fire clay, fire brick tile, clay and clay products, furnace or kiln lining cements, high termperature bonding mortars, and empty pallets; Sub 9 "transportation equipment and materials, equipment and supplies used in the manufacture and distribution thereof," from trailers in truckaway service, truck and trailer bodies, and trucks in driveaway service, Sub 12 to "reels, reel parts, and equipment, materials and supplies used in the manufacture and distribution thereof," from reels, reel parts, and such iron and steel articles as are used in the manufacture of reels; Subs 13 and 30 to "metal products, and boilers, heating and cooling equipment,

water heaters, storage tanks, solar equipment, and materials, equipment and supplies used in the manufacture, distribution, and installation thereof," from high pressure boilers, knocked down, and component parts when moving with shipments thereof, and from furnaces, boilers, burners, radiators, air conditioners, parts and accessories, and housing and enclosures; Subs 34 and 35 to "transportation equipment and materials, equipment and supplies used in the manufacture and distribution thereof," from trailers (except those designed to be drawn by passenger automobiles) in truckaway service, and truck and trailer bodies, and from bulk freight trailers in truckaway service moving on demonstration tours; Subs 36, 49, 55, 56, 67, and 69 to "buildings, building parts and roofing materials, and materials, equipment, and supplies used in the manufacture, distribution, construction, and installation thereof," from buildings, complete, knocked down, or in sections, building parts, materials, supplies, fixtures and accessories, from metal roofing and siding and fabricated metal building products, from metal buildings and metal building parts, and from grass stop in rolls, metal shove shoulds, metal roofing and siding, and fabricated building products; Sub 47 to "furniture and fixtures and materials, equipment and supplies used in the manufacture and distribution thereof," from beds, cots, and parts; Sub 52 to "transportation equipment and materials, equipment and supplies used in the manufacture and distribution thereof, "from aircraft and internal combustion engines and parts, and materials, supplies and equipment; Sub 54 to "metal products, and materials, equipment and supplies used in their manufacture and distribution" from valves, hydrants, pipe fittings, connectors and hangers, indicator posts, castings, parts materials, and supplies; Subs 63 and 64 to "boilers, heating and cooling equipment, water heaters, storage tanks, solar equipment, parts and materials, equipment and supplies used in the manufacture, distribution, and installation thereof," from water heaters, hot water storage tanks, household heating boilers, solar collector equipment, and materials, equipment and supplies; and Sub 65 to "transportation equipment and materials, equipment and supplies used in the manufacture and distribution thereof," from boat keels, and materials and supplies; (B) broaden cities and plantsites as follows: Lead certificate, Lycoming County, PA (Williamsport, Jersey Shore, and Muncy): Wayne County, NY (Ontario): Allegany County, MD (Frostburg and Cumberland): Schuylkill County, PA (Pottsville): Dauphin County, PA (Harrisburg): Ontario County, NY (Hall): Northumberland County, PA (Mt. Carmel, Shamokin, and Sunbury), Clinton County, PA (Lock Haven, Woolrich, and Beech Creek), and Union County, PA (Milton): Yates County, NY (Bellona Station): Erie and Niagara Counties, NY (Buffalo): Clearfield County, PA (Clearfield, Morrisdale, and Houtzdale): Centre County, PA (Spring Mills and Orviston): Middlesex and Hudson Counties, NY (Sewaren and Bayonne): Camden and Gloucester Counties, NY and Philadelphia County, PA (Camden, NJ): Putnam and Kanawha Counties, WV (South Charleston and Nitro): Cayuga County, NY (Cayuga): Chemung County, NY (Elmira): Erie County, NY (Tonawanda): Stark County, OH (Canton): Schuyler County, NY (Watkins Glen): Garrett County, MD (Mt. Lake Park): York County, PA (York): and Monroe County, NY (Rochester); Sub 7, Lycoming County, PA (Muncy, Hughesville, and Williamsport): Sullivan, Columbia, Montour, Northumberland and Union Counties, PA (points within 15 miles of Muncy): Hudson County, NJ (Bayonne): And Lycoming, Union and Columbia Counties, PA (Montoursville, Lewisburg, and Bloomsburg); Subs 9, 10, 13, 16, 19, 25, 30, 32, 34, 35, 42, 48, and 52, Lycoming County, PA (Muncy, Williamsport, and Jersey Shore); Sub 12, Sullivan County, PA (Muncy Valley) Subs 8 and 15, Centre County, PA (Orviston); Sub 17, Trumbull County, OH (plantsite in Champion Township, near Warren) Subs 21, 22, 24, and 26, Clinton County, PA (plantsites near Avis and South Avis); Sub 47, Cook County, IL (Harvey), and Lancaster County, PA (Columbia); Sub 51, Lycoming and Luzerne Counties, PA (plantsite at Muncy and points in Luzerne County); Sub 55, Lebanon County, PA (facilities near Annville); Subs 56 and 69, New Castle County, DE, Burlington, Gloucester, Monmouth and Salem Counties, NJ, and Bucks, Chester, Delaware, Montgomery and Philadelphia Counties, PA (Philadelphia, PA); Sub 63, Kankakee County, IL (Kankakee); and Sub 64, Chesterfield County, SC (McBee); (C) remove restrictions: (a) against "size and weight" commodities in Subs 16, 22, 25, 28, 30, 39, 44, and 52; (b) against "commodities in bulk" in Subs 52, 54, and 55; (c) against "room air conditioners and fans, heating and air conditioning units, and parts and attachments" in Sub 44; (d) against various kinds of pipe, pipe fittings, manhole covers and gratings, in Sub 44; (e) against "those [buildings] designed to be drawn by automobiles and mounted on wheeled undercarriages, and those requiring the use of special vehicular equipment" in Sub 36; (f) against service at "Philadelphia, PA" in Sub 17; and (g) limiting service from and to the named "origin and destination" points in Subs 32, 39, 44, 52, 55, 56, and 69; and (D) change one-way service to radial authority.

MC 119752 (Sub-13) X, filed May 20, 1982. Applicant: G & G HAULAGE CO., INC., 215 Henderson Street, Jersey City, NJ 07302. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Lead and Subs-1, 4, 5, 9, and 10: (1) Broaden (a) general commodities, with exceptions, to "general commodities (except Classes A and B explosives and household goods)" in Sub-1; (b) steel products to "metal products" in Sub-4; (c) siding to "lumber and wood products, metal products, rubber and plasctic products, and clay, concrete, glass or stone products" in Sub 5; and (d) roofing felt to "building materials", and cement to "clay, concrete, glass or stone products" in Sub-10; (2) remove the facilities limitation and the originating at and destined restriction; (3) change one-way to radial authority; (4) expand Newark, NJ to Essex, Union, Hudson, Middlesex, Bergen and Passaic Counties, NJ, and Kings, Queens, Bronx, New York and Richmond Counties, NY, in the lead and Sub-4 and 10; Englewood, NJ to Bergen County, NJ and New York and Bronx Counties, NY, New Brunswick to Middlesex, Union and Somerset Counties, NJ in Sub-1; Jersey City, NJ to Hudson, Essex, Union and Bergen Counties, NJ, and New York, Queens, Kings, Richmond, and Bronx Counties, NY, in Sub 5; and Stratford to Fairfield County, CT, Phillipsdale to Providence County, RI, Finksburg to Baltimore County, MD, York to York County, PA, Howes Cave to Schorharie County, NY, and Glens Falls to Warren, Washington, and Saratoga Counties, NY, and Philadelphia to Montogomery, Chester, Delaware and Bucks Counties, PA, Hunterdon, Mercer, Monmouth, Burlington, Camden, Gloucester and Salem Counties, NJ, and New Castle County, DE, in Sub 10; and (5) eliminate restrictions in bags, commodities in bulk, liquid commodities in bulk, and except lumber.

MC 124535 (Sub-4) X, filed May 24, 1982. Applicant: SWANSON BOAT TRANSPORT CORP., 5 Trails End, Rye, NY 10580. Representative: Edward L.

Nehez, P.O. Box Y, 7 Becker Farm Rd., Roseland, NJ 07068. Lead certificate: broaden from (a) boats and boat accessories to "transportation equipment, metal products, machinery, textile mill products, lumber and wood products" and (b) boats to "transportation equipment".

MC 136481 (Sub-4) X, filed May 20, 1982. Applicant: McKIMM MILK TRANSIT, INC., Highway 22 South, Hutchinson, MN 55350. Representative: Val M. Higgins, 1600 TCF Tower, 121 South 8th Street, Minneapolis, MN 55402. Lead and Sub-No. 2 certificates, broaden (1) to "food and related products," from cheese and cheese products; (2) to countywide authority: lead certificate, McLeod County, MN (Hutchinson), and Langlade, Marathon and Brown Counties, WI (Antigo, Wausau, Mosinee, and Green Bay); and Sub 2, Brown, Nicollet and McLeod Counties, MN (New Ulm and Hutchinson); (3) to radial authority; and (4) remove the "originating at and destined to" restriction in the load certificate.

MC 146232 (Sub-1) X, filed May 20, 1982. Applicant: NOLL TRANSPORTATION, INC., 4259 East 49th Street, Cleveland, OH 44125. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Lead permit: (1) Remove all restrictions in the general commodities authority "except classes A and B explosives, commodities in bulk, and household goods"; (2) broaden the territorial description to "between points in the United States (except AK and HI)"; and (3) remove the facilities restriction.

MC 149310 (Sub-2) X, filed May 21, 1982. Applicant: JERRY NEWMAN & SON, LTD., R.R. 1, Cottom, Ontario, Canada NOR 1BO. Representative: Harold G. Hernly, Jr., P.O. Box 1281, Old Town Station, Alexandria, VA 22313. Lead and Sub 1: (1) Broaden (a) food and vegetable wastes, soybean meal, dried distiller's grain and apple and tomato pumice to "food and related products, waste or scrap material, not otherwsie identified by the manufacturer, and farm products" in the lead; and (b) general commodities, with exceptions to "general commodities (except classes A and B explosives), and dry bulk commodities in dump vehicles to "commodities in bulk" in Sub 1; (2) change one-way to radial authority in the lead; (3) remove specific port of entry at Detroit, MI to include ports of entry in MI in the lead and Sub 1; (4) expand Detroit, MI, commerical zone to Monroe, Washtenaw, Livingston, Genessee, Oakland, Lapeer, St. Clair, Macomb, and Wayne Counties, MI in Sub 1; and (5) eliminate the plant site limitation, and remove the restrictions against originating at or destined to points in CN, and in foreign commerce only in Sub 1.

[FR Doc. 82-15559 Filed 6-8-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority; Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register**.

An original and one copy of petitions for leave to intervene must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such pleadings shall comply with 49 CFR 1100.252 addressing specifically the issue(s) indicated as the purpose for republication.

Agatha L. Mergenovich,
Secretary.

Volume No. OP1-80

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 158300, (Republication), filed January 28, 1982, published in the **Federal Register** of February 16, 1982, and republished this issue. Applicant: GERALD COSSETT, d.b.a. GERALD COSSETT TRUCKING, 2205 5th Ave. North, Fargo, ND 58102. Representative: Charles E. Johnson, P.O. Box 2056, Bismarck, ND 58502-2056. A decision by the Commission, Review Board No. 1, decided April 30, 1982 served May 10, 1982, finds that applicant is authorized to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *general commodities* (except commodities in bulk), between points in Cass County, ND, on the one hand, and, on the other points in the United States (except Alaska and Hawaii), (2) *foodstuffs* between points in Hubbard County, MN, Clark County, SD, and Adams County, WA, on the one hand, and, on the other points in the United States (except Alaska and Hawaii), (3) *lumber* between points in Wisconsin, Minnesota, Iowa, South Dakota, North Dakota, Michigan, and Illinois, and (4) *railroad ties* and *railroad rails* between points in the United States (except Alaska and Hawaii). Applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to relect the points where the shipper has identified its facility locations, to add Illinois and to add railroad rails to part (4). Lastly, we are excluding Alaska and Hawaii from the nationwide authorities granted since it is clear that service from or to those States is not required.

Volume No. OP1-81

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 113460 (Sub-13), filed October 19, 1982, published in the **Federal Register** of November 9, 1982, and republished this issue. Applicant: BLACKHAWK TRANSPORTATION, INC., Box 3000, Des Moines, IA 50316. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309, (515) 245-4300. A decision by the Commission, Review Board No. 3, decided April 2, 1982, served April 12, 1982, finds that applicant is authorized to operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodites* (except household goods, commodities in bulk, and classes A and B explosives), between points in the United States under continuing contracts with Swift Independent Packing Company, of Chicago, IL, and Wilson Foods Corporation, of Oklahoma City, OK, and its subsidiaries Briggs and Co., and Fischer Packing Company. Applicant is fit, willing, and able to properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to include the Wilson Foods subsidiaries which were omitted in the first publication.

[FR Doc. 82-15557 Filed 6-8-82; 8:45 am]
BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-123; Order No. 1]

Certain CT Scanner and Gamma Camera Medical Diagnostic Imaging Apparatus

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register**.

Issued: June 3, 1982.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 82-15615 Filed 6-8-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-174 and 175 (Preliminary)]

Certain Commuter Airplanes From France and Italy

AGENCY: International Trade Commission.

ACTION: Institution of preliminary countervailing duty investigations and scheduling of a conference to be held in connection with the investigations.

SUMMARY: The U.S. International Trade Commission hereby gives notice of the institution of investigations Nos. 701-TA-174 and 175 (Preliminary) to determine, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. Part 1673b(a)), whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from France and Italy of certain commuter airplanes, provided for in item 694.41 of the Tariff Schedules of the United States, upon which subsidies are alleged to be paid. For purposes of this investigation, "commuter airplanes" are airplanes having a seating capacity of less than 60 seats.

EFFECTIVE DATE: May 27, 1982.

FOR FURTHER INFORMATION CONTACT: Woodley Timberlake, Office of Investigations, U.S. International Trade Commission; telephone 202-523-4618.

SUPPLEMENTARY INFORMATION:

Background.—On May 27, 1982, a petition was filed with the Department of Commerce by counsel for Commuter Aircraft Corporation alleging that producers, manufacturers, or exporters in France and Italy of certain commuter airplanes receive, directly or indirectly, bounties or grants within the meaning of section 701 of the Tariff Act of 1930 (the Act).

The Commission must make its determination in the investigations within 45 days after the date on which the Commission and the Department of Commerce receive a petition filed under section 702(b) of the Act, or by July 12, 1982 (19 C.F.R. 207.17 (1981)). The investigation will be subject to the provisions of part 207 of the Commission's Rules of Practice and Procedure (19 C.F.R. 207.17 (1981), as amended by 47 FR 6190 (Feb. 10, 1982)), and particularly subpart B thereof.

Written submissions.—Any person may submit to the Commission on or before June 28, 1982, a written statement of information pertinent to the subject matter of these investigations. A signed original and fourteen copies of such statement must be submitted. In the event that confidential treatment of the document is requested under § 201.6, at least one additional copy shall be filed in which the confidential business information shall have been deleted and which shall have been marked "nonconfidential" or "public inspection".

Any business information which a submitter desires the Commission to treat as confidential shall be submitted in conformance with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 C.F.R. 201.6 (1981)). Each sheet of information for which confidential treatment is desired must be clearly marked at the top "Confidential Business Data".

All written submissions, except for confidential business data, will be available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 10:00 a.m., e.d.t., on June 23, 1982, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the Supervisory investigator for the investigations, Mr. John MacHatton, telephone 202-523-0439, not later than June 18, 1982, to arrange for their appearance. Parties in support of the imposition of countervailing duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

For further information concerning the conduct of the investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 C.F.R. 207 (1981), as amended by 47 FR 6190 (Feb. 10, 1982), and part 201, subparts A through E (19 C.F.R. 201 (1981)), as amended by 47 FR 6190 (Feb. 10, 1982)). Further information concerning the conduct of the conference will be provided by Mr. MacHatton.

This notice is published pursuant to § 207.12 of the Commission's Rules of Practice and Procedure (19 C.F.R. 207.12 (1981)).

Issued: June 4, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-15614 Filed 6-8-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-154 (Preliminary)]

Hot-Rolled Stainless Steel Bar, Cold-Formed Stainless Steel Bar, and Stainless Steel Wire Rod From Spain

AGENCY: International Trade Commission.

ACTION: The Commission hereby gives notice that it has changed the numerical identification of the subject investigation. Investigation No. 701-TA-154 (Preliminary), Hot-Rolled Stainless Steel Bar, Cold-Formed Stainless Steel Bar, and Stainless Steel Wire Rod from Spain, is replaced by investigations Nos. 701-TA-176 (Preliminary), Hot-Rolled Stainless Steel Bar from Spain, 701-TA-177, Cold-Formed Stainless Steel Bar from Spain, and 701-TA-178 (Preliminary), Stainless Steel Wire Rod from Spain.

EFFECTIVE DATE: June 2, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Lynn Featherstone, Office of Investigations, U.S. International Trade Commission; telephone 202-523-0242.

Issued: June 4, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-15613 Filed 6-8-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-105]

Certain Coin-Operated Audiovisual Games and Components Thereof (Viz. RALLY-X and PAC-MAN); Request for Comment on Proposed Modification of Temporary Relief

AGENCY: International Trade Commission.

ACTION: Request for comment on proposed replacement of temporary cease and desist orders with a temporary exclusion order.

SUMMARY: A motion (Motion No. 105-41c) has been filed with Commission to vacate 18 temporary cease and desist orders previously issued in this investigation and replace them with an order excluding from entry into the United States all audiovisual games and components thereof which infringe complainant Midway Manufacturing

Co.'s PAC-MAN copyright or trademark during the pendency of this investigation. The articles in question may enter the United States under bond in the amount of 54 percent of the entered value during the period of temporary relief.

In conformity with § 211.57 of the Commission's Rules of Practice and Procedure (46 FR 17533, Mar. 18, 1981), the motion and this notice will be served on each party to the investigation. Within 7 days of such service, any party served may file an answer to the motion. Within 7 days of the appearance of this notice in the **Federal Register**, interested members of the public may file written comments regarding the proposed modification of temporary relief.

DATES: Answers to the motion will be considered if received within 7 days of service upon the party. Comments from the public will be considered if received within 7 days of the publication of this notice in the **Federal Register**. Answers and comments should conform with § 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8), and should be addressed to Kenneth R. Mason, Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION: This investigation is being conducted under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and concerns alleged unfair trade practices in the importation into and sale in the United States of certain audiovisual games and components thereof which allegedly infringe certain of complainant's copyrights and trademarks. On January 15, 1982, the Commission issued temporary cease and desist orders prohibiting further importation or sale by 18 respondents. Complainant has since filed a motion requesting that the temporary cease and desist orders be replaced with a temporary exclusion order. Complainant states that a temporary exclusion order is necessary to protect the domestic industry during the pendency of this investigation and that the U.S. Customs Service would be able to enforce such an order.

Copies of the motion in question and all other non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Scott M. Daniels, Esq., Office of the General Counsel, telephone 202–523–0074.

By order of the Commission.

Issued: June 7, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-15778 Filed 6-8-82; 9:34 am]

BILLING CODE 7020-02-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the Provision of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506:

1. Date: June 16, 1982.
Time: 9 a.m. to 5:30 p.m
Room: 1023
Program: This meeting will review the application submitted for the Planning and Assessment Studies Program, Office of Planning and Policy Assessment, for renewal of funding for the Higher Education Panel of the American Council of Education. This meeting is jointly funded by several Federal agencies. Because of difficulties in arranging details of this program, information on the meeting was not available in sufficient time to meet the 15 day requirement.
2. Date: June 18, 1982.
Time: 9 a.m. to 5:30 p.m.
Room: 1023
Program: This meeting will review the application submitted for the Planning and Assessment Studies Program, Office of Planning and Policy Assessment, for renewal of funding for the Doctorate Record File of the National Academy of Science. This meeting is jointly funded by several Federal agencies. Because of difficulties in arranging details of this program, information on the meeting was not available in sufficient time to meet the 15 day requirement.
3. Date: June 28 and 29, 1982.
Time: 9 a.m. to 5:30 p.m.
Room: 1130.
Program: This meeting will review application submitted for the Special Program Soliciation "Conditions in the Humanities: Further analysis of Existing Data Resources," of the Planning and Assessment Studies Program, Office of Planning and Policy Assessment, for projects beginning after January 1, 1983.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on the applications for financial assitance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial and financial information obtianed form a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate the implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to close Advisory Committeee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained form Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call 202–724–0367.

Stephen J. McCleary,

Advisory Committee, Management Officer.

[FR Doc. 82-15804 Filed 6-8-82; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a proposed revision to a guide in its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft, temporarily identified by its task number, OP 618–4 (which should be mentioned in all correspondence concerning this draft guide), is the second proposed Revision 4 to

Regulatory Guide 8.8 and is entitled "Information Relevant to Ensuring that Occupational Radiation Exposures at Nuclear Power Sattions Will Be As Low As Is Reasonably Achievable (ALARA)." The guide is being developed to provide information relevant to attaining goals and objectives for planning, designing, constructing, operating, and decommissioning a nuclear power station to meet the criterion that exposures of station personnel to radiation during routine operation of the station will be "as low as is resonably achievable" (ALARA).

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by August 10, 1982.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information amd Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 2nd day of June 1982.

For the Nuclear Regulatory Commission.

Karl R. Goller,

Director, Division of Facility Operations, Office of Nuclear Regulatory Research.

[FR Doc. 82-15606 Filed 6-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-244]

Rochester Gas and Electric Corp., Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 52 to Provisional Operating License No. DSPR-18, to Rochester Gas and Electric Corporation (the licensee), which revised the license for operation of the R. E. Ginna Nuclear Power Plant (facility) located in Wayne County, New York. This amendment is effective as of its date of issuance.

The amendment incorporates Item 20 of License Condition 2.C(9) which is one of the commitments discussed in NUREG-0916 (pages 4-12 and 4-13). This commitment was inadvertently omitted from Section 9.0 of NUREG-0916 when distributed initially in xerox form, and was, therefore, inadvertently omitted as a License Condition. The commitment relates to criteria which should be provided in the procedures for steam generator tube rupture events.

The license amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the License Amendment No. 51 dated May 22, 1982 and NUREG-0916,[1] (2) Amendment No. 52 to License No. DPR-18, and (3) the Commission's related letter of transmittal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Rochester Public Library, 115 South Avenue, Rochester, New York 14627. A copy of License Amendment No. 51 and Items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

[1] Procedures to be followed for obtaining this document is stated in the **Federal Register** notice for License Amendment No. 51 dated May 22, 1982.

Dated at Bethesda, Maryland, this 2nd day of June, 1982.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 82-15608 Filed 6-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-244]

Rochester Gas and Electric Corp.; Systematic Evaluation Program; Availability of Draft Integrated Plant Safety Assessment Report for the R. E. Ginna Nuclear Power Plant

The Nuclear Regulatory Commission (NRC) Office of Nuclear Regulatory (NRR) has published its Draft Integrated Plant Safety Assessment Report related to Rochester Gas and Electric Corporation's R. E. Ginna Nuclear Power Plant in Wayne County, New York.

The report documents the review completed under the Systematic Evaluation Program (SEP). The SEP was initiated by the NRC to review the design of older operating nuclear reactor plants to reconfirm and document their safety. The review has provided for (1) an assessment of the significance of differences between current technical positions on safety issues and those that existed when the Ginna Plant was licensed, (2) a basis for deciding on how these differences should be resolved in an integrated plant review, and (3) a documented evaluation of plant safety. Equipment and procedural changes have been identified as a result of the review. It is expected that this report will be one of the bases in considering the conversion of the provisional operating license to a full-term operating license.

The report is being referred to the Advisory Committee on Reactor Safeguards and is being made available at the NRC's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Rochest Public Library, 115 South Avenue, Rochester, New York 14604 for inspection and copying. Single copies of this report (Document No. NUREG-0821) may be requested from the U.S. Nuclear Regulatory Commission, Director, Division of

Technical Information and Document Control, Washington, D.C. 20555, Attention: Publications Unit.

Dated at Bethesda, Maryland, this 27th day of May 1982.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 82-15607 Filed 6-8-82; 8:45 am]

BILLING CODE 7590-01-M

Ad Hoc Committee for Review of Nuclear Reactor Licensing Reform Proposals; Changed Meeting

This is to announce a change in starting time for the next meeting of NRC's Ad Hoc Committee for Review of Nuclear Reactor Licensing Reform Proposals to be held on June 10, 1982. The starting time will be 9:30 a.m. instead of 10:00 a.m. as previously announced in the **Federal Register** (47 FR 21168). All other information regarding the June 10 meeting remains unchanged.

Subsequent meetings of this Ad Hoc Committee are now scheduled for June 28 and July 12, 1982. The meetings will be open for public observation and will begin at 9:30 a.m. on both days at the offices of Shaw, Pittman, Potts and Trowbridge, South Building, 9th Floor Lobby, 1800 M St., N.W., Washington, D.C.

At these meetings, the Committee will continue its review of proposals for reforming the NRC's licensing process for nuclear plants. Transcripts of the meetings will be made available for public inspection and copying at NRC's Public Document Room, 1717 H St., N.W., Washington, D.C.

Further information on the meetings may be obtained from Mr. Rothschild, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (Tel. 202/634-1465).

Dated at Washington, D.C., this 3rd day of June 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-15610 Filed 6-8-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Systematic Evaluation Program; Meeting

The ACRS Subcommittee on the Systematic Evaluation Program will hold a meeting on June 30, 1982 in Room 1046, 1717 H Street, NW., Washington, DC. The Subcommittee will review the Integrated Plant Safety Assessment, Systematic Evaluation Program review of the R. E. Ginna Nuclear Power Plant.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary information. (SUNSHINE ACT EXEMPTION 4). One or more closed sessions may be necessary to discuss such information. To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows: *Wednesday, June 30, 1982—8:30 a.m. until the conclusion of business.*

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Rochester Gas and Electric Corporation, the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Richard Major (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m. e.d.t.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to public attendance to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: June 4, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-15611 Filed 6-8-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

White House Science Council Panel on Future Military Technologies; Meeting

Notice is hereby given that the panel named above will meet at 8:30 a.m. on June 22, and June 23, 1982, at Science Applications Inc., La Jolla, California.

The panel will discuss research and development of future military programs.

The meeting will be closed to the public pursuant to 5 U.S.C. 552b(c)(1): All material under discussion is classified defense information. Authority for closing: Director, Office of Science and Technology Policy.

Contact: Dr. Alf L. Andreassen, Office of Science and Technology Policy, 726 Jackson Place, N.W., Washington, D.C. 20500, Phone: (202)395-5684.

Robert D. Linder,

Executive Director, Office of Science and Technology Policy.

June 4, 1982.

[FR Doc. 82-15542 Filed 6-4-82; 10:37 am]

BILLING CODE 3170-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 22521; (70-6558)]

American Electric Power Co., Inc.; Proposal To Issue and Sell Additional Common Stock to Trustee of Employees' Thrift Plan

June 3, 1982.

American Electric Power Company, Inc. (the "Company"), 2 Broadway, New York, New York 10004, a registered holding company, has filed a post-effective amendment to its declaration in this proceeding and an amendment thereto with this Commission pursuant to Sections 6(a), 7 and 12(e) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 50(a)(5), 62 and 65 thereunder.

By order dated April 24, 1981 (HCAR No. 22025) the Company was authorized to issue and sell, from time to time through June 30, 1982 up to 200,000 shares of authorized unissued common stock $6.50 par value to the Huntington National Bank ("Trustee"), as trustee of the Columbus and Southern Ohio

Electric Company Employees' Thrift Plan ("Thrift Plan").

The Company proposes to issue and sell, from time to time through June 30, 1985 to the Thrift Plan up to an additional 100,000 shares of its authorized unissued Common Stock, $6.50 par value (the "Additional Common Stock") plus the unsold balance of the shares of Common Stock authorized by the Commission by the April 24, 1981 order. The price to the Trustee of such shares on any date of sale will be the average of the high and low sales price of the Company's Common Stock on the New York Stock Exchange on such date (determined after the close of trading for the day), but in no event less than the par value thereof.

Through May 15, 1982, a total of 70,532 of the previously authorized shares had been sold to the Trustee for a total price of $1,176,185.34, leaving a balance of 129,468 shares available for issuance and sale. During 1981, the number of shares sold to the Trustee averaged about 6,500 shares each month. At this rate, approximately 234,000 shares would be required for issuance and sale during the 3-year period from the date of this amendment through the end of June 1985. The Company believes that it would be prudent to have a sufficient balance of authorized shares, in excess of the requirements indicated by the present rate of sales, to allow for contingencies such as decreases in the market price of the Common Stock or significant increases in the rate of contributions to the Parent Company Stock Fund by participants in the Thrift Plan.

The amended declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 28, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-15549 Filed 6-8-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 12457; File No. 812-5202]

Guy O. Dove, III; Filing of Application Pursuant to Section 9(c) of the Investment Company Act of 1940 and Order of Temporary Exemption Pending Determination of the Application

June 3, 1982.

I

Notice is hereby given that Guy O. Dove, III, referred to herein as Applicant, has filed an application pursuant to Section 9(c) of the Investment Company Act of 1940, 15 U.S.C. 80a-1 *et. seq.*, as amended (the "Act"), for an order granting him an exemption from the provisions of Section 9(a) of the Act and a temporary exemption from Section 9(a) pending the Commission's determination of the application for a permanent exemption.

All interested persons may review the application on file with the Commission for a statement of the representations therein, pertinent parts of which are summarized below.

In June 1982, the Applicant was named as the defendant in *Securities and Exchange Commission* v. *Guy O. Dove, III,* which was filed by the Commission in the United States District Court for the District of Columbia ("civil action"). The Commission's complaint alleges that the Applicant violated Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. § 78j(b), and Rule 10b-5, 17 CFR 240.10b-5, promulgated thereunder, in connection with short sales of the common stock of Advent Corporation ("Advent") for the accounts of the Applicant, a member of the Applicant's family and a family-owned business. Simultaneously with the filing of the Commission's Complaint, the Applicant, without admitting or denying the allegations in the Commission's Complaint, consented to the entry of a Final Judgement of Permanent Injunction and for Other Equitable Relief ("Final Judgment") against him, and the Court entered the Final Judgment, which enjoined the Applicant from engaging in transactions, acts, practices or courses of business which constitute or would constitute violations of the provisions cited above. The Final Judgment provides other remedial relief requested by the Commission, including disgorgement of profits realized from the short sales of Advent common stock set forth in the Complaint.

Section 9(a) of the Act, insofar as it is pertinent here, disqualifies any person, or any company with which such person is affiliated, from serving or acting in the capacity of employee, officer, director, member of an advisory board, investment adviser, or depositor of any registered investment company, or principal underwriter for any registered open-end company, registered unit investment trust, or registered face-amount certificate company if such person is by reason of any misconduct enjoined by order, judgment or decree by any court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security.

Section 9(c) of the Act provides that upon application the Commission shall by order grant an exemption from the provisions of Section 9(a) of the Act, either inconditionally or on an appropriate temporary or conditional basis, if it is established that the prohibitions of Section 9(a), as applicable to applicant, are unduly or disproportionately severe or that the conduct of the applicant has been such as not to make it against the public interest or protection of investors to grant such application.

The Applicant has submitted an application pursuant to Section 9(c) of the Act stating, *inter aila,* that:

1. The prohibitions of Sections 9(a) of the Act would be unduly and disproportionately severe as applied to him and his conduct has not been such as to make it against the public interest or protection of investors to grant the requested exemption from Section 9(a) of the Act.

2. Prior to the Final Judgment referred to above, no findings or judgments related to violations of any federal or judgments related to violations of any federal or state securities laws have even been entered by any court of administrative body against the Applicant.

3. Although the Applicant was employed an an officer of an investment adviser at the time of his transactions in Advent common stock, his alleged violative conduct, as set forth in the Commission's Complaint, was unrelated to any of the activities of the Applicant undertaken in connection with his relationship with his employer.

4. In consenting to a settlement of the Commission's action, the Applicant has agreed to disgorge all of the profits realized as a result of the transactions,

acts, practices and courses of business alleged in the Commission's Complaint.

5. The Applicant has never before applied for an exemption from provisions of section 9(c) of the Act.

6. The prohibitions of Section 9(a) would be unduly severe in that the Applicant would be deprived of his ability to act as an employee or officer of any investment adviser (in which area of employment the Applicant has served for the past three years) or of any other class of entities identified in Section 9(a) of the Act.

7. In consenting to a settlement of the Commission's civil action, the Applicant has relied on an agreement by the staff of the Commission not to oppose an application for permanent exemption from the provisions of Section 9(a) of the Act, based solely on the Final Judgement or the allegations on the Commission's Complaint, and on the Commission's agreement to issue immediately an order or temporary exemption from the provisions of Section 9(a) of the Act.

II

The Commission, having considered the matter, the Applicant's application for an exemption from the prohibitions of Section 9(a) of the Act and the relief granted by the court in the civil action described above, finds that the prohibitions of Section 9(a) of the Act may be unduly or disproportionately severe as applied to the applicant.

III

Accordingly, it is hereby ordered that, pursuant to Section 9(c) of the Act, the Applicant and his employer, as of the date of this Order, be and hereby are granted a temporary exemption from the prohibitions of Section 9(a) of the Act, pending final determination by the Commission of the application for an Order granting an exemption from such prohibitions.

IV

Notice is further given that any interested person may, not later than July 2, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed to: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Harvey Clapp, Esq., Venable, Baetjer and Howard, 1800 Mercantile Building, 2 Hopkins Plaza, Baltimore, Maryland 21201. Proof of such service (by affidavit, or in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the Commission's Rules and Regulations, the application herein will be issued as a matter of course following said date, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notices and orders issued in this matter, including the date of the hearing (if ordered), and any postponements thereof.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-15560 Filed 6-8-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 806; 803-20]

Pacific Asset Management and Pacific Management, Ltd.; Filing of Application

June 2, 1982.

Notice is hereby given that Pacific Management ("PAM") an investment adviser registered under the Investment Advisers Act of 1940 ("Act") and Pacific Asset Management, Ltd. (the "General Partner", collectively, "Applicants") 601 Montgomery Street, San Francisco, CA 94111 which intends to register as an investment adviser under the Act, filed an application on June 29, 1981, and amendments thereto on February 22, 1982, May 3, 1982, and May 20, 1982, requesting an order of the Commission pursuant to Section 206A of the Act (1) exempting Applicants' advisory fee arrangements with certain limited partnerships to be established by Applicants from the prohibitions of Section 205 (1) of the Act, and (2) exempting the General Partner from the recordkeeping requirements of Rule 204-2 (b) and (c) under the Act to the extent those provisions require separate records to be maintained for each limited partner in the partnerships. Applicants further request an order of the Commission pursuant to Section 210(a) of the Act granting confidential treatment to the Limited Partnership Agreement (the "Partnership Agreement") attached as Exhibit A to the application. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, the General Partner will be formed as a limited partnership under California law by Robert M. Sutton and Anthony S. Hooker (three of the five beneficial owners of Asset Advisers, the beneficial owner of PAM. PAM is an asset management and financial planning firm. These three individuals will serve as general partners, with PAM as the sole limited partner. Applicants represent that, if the application is granted, the General Partner will register under the Act.

Applicants state that the General Partner proposes to form and become the General Partner of one or more new limited partnerships (the "Partnership(s)") each of which will consist of not more than 35 sophisticated individuals or entities as limited partners. The Partnerships will invest principally in securities of small and medium sized developing companies (both public and private) with high growth potential and in other relatively small public companies whose securities are not actively traded and offer significant potential for appreciation. The Partnerships will also seek out other special situations involving high appreciation potential. Applicants represent that the Partnerships will be exempt from registration as investment companies under the Investment Company Act of 1940, by reason of Section 3(c)(1) thereof. Applicants also represent that the limited partnership interests will be sold in private offerings exempt from registration under the Securities Act of 1933 pursuant to Section 4(2) thereof.

Accordingly to the application, each of the limited partners of each Partnership will be required to make a minimum investment of $250,000. With the General Partners' consent, such contributions may be made in securities rather than in cash. No limited partner of any of the Partnerships will be permitted to contribute more than 10% of that Partner's total capital, if such investment would cause that Partnership to be required to register under the Investment Company Act of 1940. Limited partners will be required to have a net worth of not less than $1 million. In addition, a limited partner's investment in any or all of the Partnerships must represent no more than 15% of the gross value of the assets in which he has a beneficial interest. A limited partner will be permitted to transfer his interest only with the General Partner's consent.

Applicants represent that the partnership agreement for each Partnership will require that the General Partner contribute to the Partnership's capital an amount at least equal to the greater of 1% of the aggregate capital contributions by all partners (including any additional capital contributed in cash or kind to the Partnership by any limited partner or received by the Partnership upon the sale of additional partnership interests) or $150,000. The partnership agreement of the General Partner will require its partners to make contributions to the General Partner sufficient to permit the General Partner to make at least its required contribution to each Partnership. None of the partners of the General Partner will be permitted to withdraw any of their contributions or receive any distribution from the General Partner, except that the General Partner will be permitted to distribute to its partners amounts withdrawn or distributions received from the Partnerships.

The General Partner will be solely responsible for the management and administration of the Partnerships' business, including the making of all investment decisions on behalf of the Partnerships. The concurrence of a majority in interest of the general partners of the General Partner will be required for the purchase or sale of any securities by any of the Partnerships. As a limited partner of the General Partner, PAM will not participate in the management of the General Partner. Applicants expect, however, that the General Partner will contract with PAM for office space and administrative services to be provided to the Partnerships.

The General Partner will be responsible for all operating expenses of each Partnership, including salaries, rent and administrative support services. To cover the estimated amount of such expenses, each Partnership will pay the General Partner a quarterly management fee based on a percentage of the net value of that Partnership's assets. If the General Partner contracts will PAM for office space and administrative services, the General Partner will pay all or a substantial portion of this management fee to PAM. Each Partnership will pay its own expenses related to its securities portfolio (e.g., interest, brokerage fees, registration expenses) and any cost of professional services rendered to the Partnership.

The General Partner will maintain financial records for each Partnership, and will provide quarterly reports to the limited partners on the affairs of the Partnership. Each Partnership will be audited annually by an independent certified public accountant selected by the General Partner. The General Partner will provide to the limited partners an annual report of the Partnership accompanied by the independent accountant's report. According to the Partnership Agreement, the limited partners of each Partnership (excluding interests held by the General Partner) must approve any action to be taken with respect to the following matters: extensions or early termination of the Partnership, admission of additional limited partners or general partners, transfer of the general partnership interest, expulsion of limited partners, removal of the General Partner, independent valuation of securities, certain distributions in kind and dissolution of the partnership upon the occurrence of cetain events.

According to the application, in addition to the management fee, the General Partner will be allocated a 20% share of all net operating income and realized and unrealized capital gains and, subject to the limits described below, of all net operating and realized and unrealized capital losses of each Partnership. Each partner (limited and general) will be allocated a share of the remaining 80% of the profits and losses of the Partnership, based on the proportion which has partnership capital account bears to the capital accounts of all of that Partnership's partners.

The General Partner will value the marketable securities held by each Partnership quarterly. The General Partner will value securities that are not publicly traded (or are infrequently traded) only annually, unless facts come to the General Partner's attention that would cause it to believe that the value of such a security has materially changed. The limited partners of each Partnership shall have the right to demand an independent review of any quarterly valuation of the Partnership's assets upon the request of thirty percent in interest of the limited partners or of four or more limited partners holding at least twenty percent in interest of the Partnership. Upon each valuation, the capital account of each partner will be adjusted to reflect his allocable share of Partnership income, gains and losses. However, the General Partner's capital account in each Partnership shall not be reduced below zero. Losses that would reduce the General Partner's capital account below zero shall be allocated to the limited partners as contingent losses. Such contingent losses shall be restored to the limited partners out of the first subsequent gains that would have been allocated to the General Partner's capital account.

The Partnership Agreement requires that 25% of each Partnership's net income for each year be distributed annually to its partners in cash or in kind, in proportion to the amounts of such income credited to their respective capital accounts. In addition, in the General Partner's discretion, additional net realized profits may be distributed to the partners in cash or in kind as long as: (1) there are no unrestored contingent losses allocated to the limited partners; (2) after giving effect to the distribution, the net value of the remaining assets of the Partnership equals or exceeds the amount of capital contributed to the Partnership, plus 120% of the Partnership's unrealized capital losses, less the amount of the original capital which has been withdrawn from the Partnership; and (3) after giving effect to the distribution, the net value of the remaining assets of the Partnership is not less than $5 million. All such discretionary distributions of realized profits to the partners shall be in proportion to their respective capital accounts.

The General Partner may also distribute securities in kind to the partners ratably in proportion to their profits interests. Before receiving such a distribution, the General Partner must restore the cost of its 20% share of such securities by paying such amount in cash concurrently with the distribution. All distributions in kind will require the consent of a majority in interest of the limited partners unless the securities are publicly traded or expected to become registered within three months of the distribution.

For three years after the formation of each Partnership, the limited partners may not, without the consent of the General Partner, and the General Partner may not, withdraw any amount from their capital accounts. After those three years, any limited partner may withdraw any portion of his capital account in a Partnership. Withdrawals by and distributions of profits in cash or in kind to the General Partner, however, may not reduce the General Partner's capital account below either (1) the greater of $150,000 or 1% of the aggregate of all partners' capital contributions, or (2) the difference between the net realized profits previously allocated to the General Partner and 20% of the Partnership's unrealized losses on the date of the distribution or withdrawal. All withdrawals will be based on year-end values. Each withdrawing partner shall

pay the expenses of the Partnership resulting from the withdrawal, as reasonably estimated by the General Partner. The withdrawal shall be paid to the partner in cash, or by distribution of a pro rata portion of each of the Partnership's securities or, with the consent of a withdrawing limited partner, by a non-pro rata distribution of securities. The General Partner will not be permitted to borrow funds from a Partnership.

Section 205(1) of the Act provides that no investment adviser, unless exempt from registration pursuant to Section 203(b) of the Act, shall enter into or perform any investment adivsory contract which provides for compensation to the investment adviser on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client. Section 208(d) of the Act provides that a registered adviser shall not do indirectly what it is prohibited from doing directly. Because PAM is a registered adviser and the General Partner intends to register as an adviser under the Act, Applicants request an exemption from Section 205(1) to the extent necessary to permit the General Partner to receive its proposed share of the profits of the Partnerships and to permit PAM to receive distributions and other payments on account of its interest in the General Partner.

Applicants assert that the purpose of the prohibition against an adviser receiving a share of the capital gains on its client's funds is to prevent an adviser from being encouraged to take undue risks with those funds because the adviser shares in the gains but does not share in the risk of losses. Applicants argue that because (1) the General Partner will have substantial funds invested in the Partnerships; (2) the General Partner's share of gains will be reduced by an equal share of the Partnerships' losses; and (3) the amount and timing of distributions to and withdrawals by the General Partner are significantly restricted; the General Partner will not be encouraged to take undue risks with Partnership funds.

Applicants further argue that because the General Partner is credited only with its percentage of the excess of aggregate net realized capital gains over net unrealized capital losses, the General Partner will have no incentive selectively to realize gains and avoid realizing losses. Applicants further state that the limited partners will be sophisticated and well able to understand the impact of the General Partner's being allocated a share of the Partnerships' profits.

Applicants also claim that the creation of funds like the Partnerships will promote the public interest by encouranging investment in emerging and smaller public companies. Applicants argue that the importance of emerging companies to the economy has been recognized by Congress and steps have been taken to encourage investments in such companies. Applicants further agrue that information about smaller public companies is relatively poorly dispersed in the securities markets, and the market for the securities of such companies is therefore relatively restricted. An increase in the number of persons analyzing such companies and interested in their securities, Applicants claim, will improve that market and aid those companies.

Applicants assert that funds like the Partnerships are the only non-speculative way investors can invest in relatively speculative investments such as the securities of emerging companies. Because each Partnership will hold the securities of a number of companies and because an investment in only a few successful companies will counter-balance a Partnership's investment in other companies which may not perform as well, investment through entities like the Partnerships, Applicants argue, significantly reduces the speculative nature of investing in emerging companis.

Finally, Applicants assert that the proposed arrangement for sharing profits and losses is both competitive and fair. Applicants state that because of the nature of the market, the General Partner intends to spend a substantial amount of time doing independent investigation of companies in which the Partnerships might wish to invest. In addition, the General Partner will monitor portfolio companies on an ongoing basis and, if approrpiate, serve on their boards or offer them managerial advisory services. Applicants believe that a substantial fee is required to reward these extensive efforts adequately. Without significant success, however, Applicants argue that such a fee would probably be unmarketable and would be unfair to the limited partners. Accordingly to Applicants, a profit-sharing system permits an adequate level of reward, but only if a Partnership is successful. Applicants state that profit-sharing arrangements are traditional in the venture capital field.

The General Partner also requests exemption from Section 204 of the Act and paragraphs (b) and (c) of Rule 204–2 thereunder, which require a registered investment adviser having custody or possession of a client's securities of funds of rendering investment supervisory or managerial services to a client to maintain designated books and records with respect to each such client. The General Partner proposes to maintain the designated books and records for each Partnership rather than for each limited partner. The General Partner considers it impractical and unduly burdensome to prepare and maintain all of the designated books and records for each limited partner individually. The General Partner will, however, maintain capital accounts for each limited partner reflecting his contribution, allocations, distributions and withdrawals.

The General Partner therefore requests an order exempting it from the provisions of Section 204 of the Act and of Rule 204–2(b) and (c) to the extent that such provisions might otherwise require it to maintain the designated books and records with respect to each limited partner. The General Partner represents that it will comply with all other applicable provisions of Rule 204–2.

The Commission is empowered under Section 206A of the Act of exempt any person from the provisons of the Act and the rules and regulations thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Section 210 of the Act as pertinent herein, provided that information contained in any application filed with the Commission pursuant to any provision of the Act shall be made available to the public, unless the Commission by order upon application finds that public disclosure is neither necessary nor appropriate in the public interest of for the protection of investor. The General Partner requests and order of the Commission for confidential treatment of the form of partnership agreement designated as Exhibit A to the application. In support of this request the General Partner states that the essential terms of the Partnership Agreement have been disclosed in this application; the Partnership Agreement itself constituties trade secret or commercial or financial information that is privileged and confidential; there will be no public offering of the partnership interests and prospective investors will be provided with a copy of the Partnership Agreement. Thus, public disclosure of the Partnership Agreement is neither necessary nor appropriate in

the public interest or for the protection of investors.

Notice is further given that any interested person may, not later than June 28, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on an application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personnaly or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, and order disposing of the application will be issued as of course following said date unless the Commission thereafter order a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–15547 Filed 6–8 82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 18600; (SR–PSE–82–2)]

Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

March 26, 1982.

The Pacific Stock Exchange, Incorporated ("PSE") 301 Pine Street, San Francisco, CA 94104, submitted on February 8, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, to clarify the priority of certain types of orders on the options trading floor and provide for the handling of cancellations of certain orders held by the Order Book Official.

Notice of the proposed rule change together with terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 18496, February 18, 1982) and by publication in the Federal Register (47 FR 8112, February 24, 1982). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–15548 Filed 6–8–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–18772; File No. SR–OCC–82–11]

Self-Regulatory Organizations; Proposed Rule Change; the Options Clearing Corp.

Relating to the acceptance of underlying stocks as an additional form of margin which could be used by clearing members to satisfy their margin obligations.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on May 20, 1982, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Proposed Rule Change

Forms of Margin

Rule 604. Required margin may be deposited with the Corporation in one or more of the following forms:

(a) [No change]

(b) [No change]

(c) [No change]

(d) *Underlying Common Stocks. (1) Clearing Members may deposit, as hereinafter provided, common stocks which are underlying securities for classes of option contracts outstanding at the time of the deposit. Each such deposit shall be made with respect to a designated account of the Clearing Member. Such stocks shall be valued on a daily basis at the then maximum loan value of such stocks pursuant to the provisions of Regulation U of the Board of Governors of the Federal Reserve System or such lower value as the Margin Committee of the Corporation may prescribe from time to time with respect to such stocks, or any of them: provided, however, that in no event shall any stock be valued in excess of 70% of its current market value. In determining the maximum loan value of any stock, its current market value shall be deemed to be its "daily underlying securities marking price" as defined in Rule 602. Stocks of any one issuer shall not be valued at an amount in excess of 10% of the margin requirement in the account for which such stocks are deposited. Stocks deposited pursuant to Rule 610 shall have no value as margin for the purposes of this Rule 604(d).*

(2) No stock held for the account of a customer (other than a Market-Maker or specialist) may be deposited hereunder in respect of any account other than the customers' account. No stock held for the account of any Market-Maker or specialist shall be deposited in respect of any account other than such Market-Maker's or specialist's account or a combined Market-Makers' or specialists' account in which such Market-Maker or specialist is a participant. No stock carried for the account of any customer that is either a "fully paid security" or an "excess margin security" within the meaning of SEC Rule 15c3–3 shall be deposited with respect to any account hereunder.

(3) Deposits may be made hereunder by depositing stock with a bank or trust company or other depositee approved by the Corporation under irrevocable arrangements (i) permitting the stock to be promptly sold by or on the order of the Corporation for the account of the Clearing Member without notice and (ii) requiring the Clearing Member to pay all fees and expenses incident to the ownership or sale of the stock or the arrangement with the depository. The stock shall be deemed to have been deposited with the Corporation at the time the Corporation receives confirmation of such deposit from the depository. All dividends or gain received or accrued on such stock, prior to any sale or negotiations thereof, shall belong to the depositing Clearing Member.

(e) [No change]

Withdrawals of Margin

Rule 608. In the event that the amount of a Clearing Member's margin on deposit exceeds the amount required on

a particular day, as shown by the Daily Margin Report for such day, the Corporation shall authorize the withdrawal of the amount of the excess upon the submission to the Corporation by the Clearing Member between 10:00 A.M. and 1:00 P.M. Central Time (11:00 A.M. and 2:00 P.M. Eastern Time) of such day of a withdrawal request in such form as the Corporation shall prescribe. *Notwithstanding the foregoing, a Clearing Member may not withdraw margin in any form in an amount in excess of the amount of margin of that form deposited in the account from which the withdrawal is made.*

Variation Margin

Rule 609. The Chairman or President of the Corporation shall be authorized to require the deposit of additional margin by an Clearing Member in any account at any time during any business day which the Chairman or President may deem advisable to reflect changes in (*i*) the market price during such day of any series of options held in a short position in such account or of any underlying security held in an exercised position in such account, [or changes in] (*ii*) the sizes of such Clearing Member's positions [or changes in], *(iii) the value of securities deposited by the Clearing Member as margin pursuant to Rule 604, or (iv)* the financial position of the Clearing Member[s], or *otherwise* to protect the Corporation, the other Clearing Members or the general public. Such margin, which shall be known as variation margin, shall be deposited by the Clearing Member within such time as may be prescribed by the Chairman or President. Credit shall be given for all such variation margin deposits in the Daily Margin Report for such account on the following business day.

II. Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified below. OCC has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Purpose of, and Statutory Basis for, the Proposed Rule Change

Under OCC's present rules, a clearing member may meet its margin obligations with respect to uncovered short options positions by depositing cash, Government securities or bank letters of credit. The purpose of this proposed rule change is to add a fourth permissible form of margin—underlying stocks which are not being used to cover options positions pursuant to Rule 610. Substantial cost savings can be achieved by permitting clearing members to deposit underlying stocks in satisfaction of their OCC margin obligations.

The proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934, as amended (the "Act"), in that it reduces the costs imposed on the securities industry without jeopardizing the purposes of the Act applicable to OCC. Indeed, the reducton of unnecessary costs in the clearance and settlement of securities transactions is a statutory objective under Section 17A of the Act.

The proposed rule change is entirely consistent with OCC's statutory responsibility to maintain adequate financial safeguards to protect itself, its clearing members and the public. The proposed rule change would, for margin purposes, value underlying stocks very conservatively. Such stocks would be valued at the then maximum loan value of such stocks pursuant to Regulation U (which presently is set at 50% of current market value). In no event, however, could any stock be valued in excess of 70% of its current market value. Thus, at all times there would be at least 30% deduction from the market value of the underlying stock—the same deduction which is prescribed in the Commission's basic net capital rule and a substantially larger deduction than that prescribed in the alternative net capital rule. As an additional safeguard, OCC would not permit the stocks of any one issuer to be used to cover more than 10% of the total margin requirment for the account in which such stocks are deposited.

(B) Burden on Competition

OCC does not believe that the proposed rule change would have any material impact on competition.

(C) Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were not and are not intended to be solicited by OCC with respect to the proposed rule change, and no written comments have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before July 14, 1982 of or within such longer period (i) as the Commission may designate up to 90 days if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before June 30, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 28, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-15546 Filed 6-8-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 06/06-0252]

Richardson Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102), under the name of Richardson Capital Corporation, 558 S. Central Expressway, Richardson, Texas 75080, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as

amended (the Act), (15 U.S.C. 661 et seq.), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and shareholders of the applicant are as follows:

Clifton W. Cassidy, 4229 Arcady, Dallas, Texas 75205—Chairman, Director

Curtis T. Miller, 9515 Trailhill, Dallas, Texas 75205—President, Treasurer & Director

Edward L. Teer, 715 Headlee, Denton, Texas 76201—Executive Vice President

Herschel M. Hearne, Jr., 15327 Cypress Hills, Dallas, Texas 75248—Vice President, General Counsel and Director

Lyndabel E. Martin, 717 Williams Way, Richardson, Texas 75080—Secretary

Richardson Savings and Loan Association—100 percent Shareholder.

The Applicant, a Texas Corporation, will begin operations with $1,000,000 paid-in capital and paid-in surplus. The Applicant will conduct its activities principally in the State of Texas.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operations of the new company in accordance with the Act and Regulations.

Notice is hereby given that any person may not later than 15 days from the date of publication of this Notice, submit written comments to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Dallas, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 3, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-15623 Filed 6-8-82; 8:45 am]

BILLING CODE 8025-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 111
Wednesday, June 9, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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CIVIL AERONAUTICS BOARD

Notice of Deletion of Item From the June 3, 1982 Meeting

TIME AND DATE: 10:00 a.m., June 3, 1982.

PLACE: Room 1027 (open), 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT: 15. Docket 40294, Final order in the *United States-Latin America All-Cargo Show Cause Proceeding* (Memos 960–A and 960–B, BIA).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673–5068.

[S–863–82 Filed 6–4–82; 4:16 pm]

BILLING CODE 6320–01–M

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FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:55 p.m. on Thursday, June 3, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider a recommendation regarding the liquidation of assets acquired by the Corporation from International City Bank and Trust Company, New Orleans, Louisiana.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting pursuant to subsections (c)(6), (c)(9)(B), and and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(9)(B), and (c)(10)).

Dated: June 4, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson

Executive Secretary.

[S–857–82 Filed 6–7–82; 11:10 am]

BILLING CODE 6714–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, June 14, 1982, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Reports of committees and officers:

Minutes of the actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Director, Office of Corporate Audits:

Audit Report re: Corporation Security Portfolio, dated April 27, 1982.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: June 7, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–861–82 Filed 6–7–82; 3:38 pm]

BILLING CODE 6714–01–M

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FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, June 14, 1982, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii), of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 522b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases,

reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: June 7, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–862–82 Filed 6–7–82; 3:40pm]

BILLING CODE 6714–01–M

5

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

June 3, 1982.

TIME AND DATE: 0:00 a.m., Wednesday, June 9, 1982.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STSTUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Mathies Coal Company, Docket Nos. PENN 80–260–R and PENN 81–35. (Issues include whether the judge properly concluded that the operator violated 30 CFR § 75.1722(a), which deals with the safeguarding of machine parts that may cause injury to persons.)

It was determined by a unanimous vote of Commissioners that Commission business required that a meeting be held on this item and that no earlier announcement of the meeting was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653–5632.

[S–860–82 Filed 6–7–82; 2:12 pm]

BILLING CODE 6735–01–M

6

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 10:00 a.m., Monday, June 14, 1982.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: June 4, 1982.

James McAfee,

Associate Secretary of the Board.

[S–855–82 Filed 6–4–82; 4:33 pm]

BILLING CODE 6210–01–M

7

FEDERAL TRADE COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, June 8, 1982.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

STATUS: Open.

MATTER TO BE CONSIDERED: Presentation to the Commission by American Association of Advertising Agencies on "Test Marketing."

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information: (202) 523–1892; Recorded Message: (202) 523–3806.

[S–856–82 Filed 6–7–82; 10:45 am]

BILLING CODE 6750–01–M

8

NATIONAL SCIENCE BOARD

DATES AND TIME:

June 16, 1982 3:00 p.m.—Open Session.
June 17, 1982 8:00 a.m.—Open Session.
June 18, 1982 9:00 a.m.—Closed Session.
June 18, 1982 9:30 a.m.—Open Session.

PLACE: University of California, San Diego, La Jolla, California.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED AT THE OPEN SESSIONS:

Wednesday, June 16, 3:00 p.m.

1. Science in the International Setting.

Thursday, June 17, 8:00 a.m.

2. Chairman's Report on Role of NSB/NSF.
1. Science in the International Setting (continued).
2. Role of NSB/NSF (continued).

Friday, June 18, 9:30 a.m.

5. Minutes—Open Session—May 1982 Meeting.
6. Chairman's Items.
7. Director's Report.
8. Other Business.
1. Science in the International Setting (continued).
1&2 Adoption of Final Resolutions.

MATTERS TO BE CONSIDERED AT THE CLOSED SESSION:

Friday, June 18, 9:00 a.m.

3. Minutes—Closed Session—May 1982 Meeting.
4. NSB and NSF Staff Nominees.

CONTACT PERSON FOR MORE INFORMATION: Ms. Margaret L. Windus, Executive Officer, NSB, 202/357–9582.

[S–850–82 Filed 6–7–82; 12:04 pm]

BILLING CODE 7555–01–M

9

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–82–15]

TIME AND DATE: 9 a.m., Thursday, June 17, 1982.

PLACE: NTSB Board Room, 800 Independence Avenue, S.W., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Railroad Accident Report:* Rear-end Collision of Louisville and Nashville Railroad Company Trains No. 586 and Extra 8072 North, New Johnsonville, Tennessee, December 28, 1981.

2. *Marine Accident Report:* Collision of the U.S. Towboat M/V BRUCE BROWN and Tow with the U.S. Towboat FORT DEARBORN and Tow, Mile 667.6, Ohio River, December 9, 1981.

3. *Highway Accident Report:* Pacific Intermountain Express Tractor Cargo Tank Semitrailer/Eagle F.B. Truck Lines, Inc., Lowboy Semitrailer Collision and Fire, U.S. Route 50, near Canon City, Colorado, November 14, 1981.

4. *Marine Summary Reports.*

5. *Marine Summary Reports.*

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202–382–6525.

June 7, 1982.

[S–858–82 Filed 6–7–82; 11:58 a.m.]

BILLING CODE 6910–58–M

10

NUCLEAR REGULATORY COMMISSION

DATE: Week of June 7, 1982.

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE DISCUSSED:

Thursday, June 10:

2:00 p.m.: Briefing on Reactor Operator Qualifications (Public Meeting)
a. Briefing by industry
b. Briefing by Staff on Task Analysis Work and Plans

4:00 p.m.:
Affirmating/Discussion Session (Public Meeting)
Affirmation and/or Discussion and Vote:
a. Final Amendment to 10 CFR 50 and to Appendix E: Modification to Emergency Preparedness Regulations Relating to Low Power Operation (Postponed from 6/3/82)

Friday June 11:

10:00 a.m.

Discussion of Status of Shift Manning Requirements (Open—Portions may be closed) (Tentative)

2:00 p.m.
Discussion and Possible Vote on Requirements for Emergency Response Capability (Public meeting) (Tentative)

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634–1410.

June 3, 1982.

Walter Magee,
Office of the Secretary.

[S–854–82 Filed 6–4–82; 4:18 p.m.]

BILLING CODE 7590–01–M

federal register

Wednesday
June 9, 1982

Part II

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Federal Lands Program

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 700, 701, 740, 741, 742, 743, 744, 745 and 746

Federal Lands Program; Surface Coal Mining and Reclamation

April 30, 1982.

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining (OSM) is proposing to amend rules governing the Federal Lands Program which set forth the requirements for surface coal mining and reclamation operations on Federal lands. The proposed rule would more clearly delineate the roles of the Federal government and the States in the regulation of surface coal mining and reclamation operations on Federal lands. Under the proposed rule, States would be able to assume greater responsibility for administering the requirements of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201, *et seq.*) while new provisions would be added to set the requirements for review and approval of mining plans by the Secretary.

DATES:

Written comments: Accepted until 5:00 p.m. (eastern time) on July 9, 1982.

Public hearings: Held on request only, in Denver, CO., on July 1, 1982, 9:00 a.m., and in Washington, D.C., on July 2, 1982, 9:00 a.m.

Public meetings: Scheduled on request only.

ADDRESSES:

Written Comments: Hand-deliver to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (R&I–04), Room 5315, 1100 L Street, N.W., Washington, D.C.; or *mail* to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (R&I–04), Room 5315L, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

Public hearings: Washington, D.C.—Office of Surface Mining, Room 220, 1951 Constitution Avenue, N.W., and Denver, Colorado—Brooks Tower, 2d Floor Conference Room, 1020 15th Street.

Public meetings: Office of Surface Mining Offices in Washington, D.C. and Denver, Colorado.

FOR FURTHER INFORMATION CONTACT:

Public hearings and information: H. Leonard Richeson, Federal Lands Specialist, Branch of Regulatory Programs, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20240. Telephone: (202) 343–5866.

Public meetings: H. Leonard Richeson, (202) 343–5866.

SUPPLEMENTARY INFORMATION:

I. Public Commenting Procedures.

OSM cannot ensure that comments received after the time specified above under **"DATES"** or delivered during the comment period to locations other than those specified above under **"ADDRESSES"** will be considered and included in the administrative record for the final rulemaking.

If no person indicates an intention to testify at either public hearing location listed above under **"ADDRESSES"** by 5 days before the appropriate hearing date, that hearing will be cancelled.

Individual testimony will be limited to 15 minutes. The hearings will be transcribed. Filing of a written statement prior to or at the time of giving oral testimony would be helpful to the hearing panel and would facilitate the job of the court reporter. After all persons scheduled to speak at the hearing have been heard, persons in the audience who have not been scheduled to speak, but who wish to do so, will be heard. The hearing will end after all persons scheduled to speak and all persons in the audience wishing to speak have been heard. Persons not scheduled to testify, but wishing to do so, assume the risk of having the public hearing adjourned unless they are present in the audience at the time all scheduled speakers have been heard.

II. Background

Section 523(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), 30 U.S.C. 1201, *et seq.*, requires the Secretary to promulgate and implement a Federal lands program applicable to all surface coal mining and reclamation operations taking place pursuant to Federal law on Federal lands. Section 523(a) also provides that the Federal lands program must (1) incorporate all of the requirements of the Act, (2) incorporate, at a minimum, the requirements of a State program in a State with a State program approved pursuant to section 503 of the Act, and (3) consider the diverse physical, climatological and other unique characteristics of the Federal lands in question. Under section 523(c) of the Act, a State with an approved State program may enter into a cooperative agreement with the Secretary under which the State would assume responsibility for regulation of surface coal mining and reclamation operations on Federal lands within the State. Sections 523(a) and 523(c) of the Act provide, however, that the Secretary may not delegate to the State, among other things, his responsibilities to approve mining plans on Federal lands and to designate Federal lands unsuitable for surface coal mining pursuant to section 522 of the Act.

The Secretary implemented the initial phase of the Federal lands program on August 22, 1978, by promulgating amendments to 30 CFR Part 211 to incorporate the requirements of Section 523 of the Act. 43 FR 37181. These regulations made applicable to operations on Federal lands performance standards virtually identical to those in OMS's initial program regulations promulgated December 13, 1977. 42 FR 62639. On March 13, 1979, the Secretary promulgated the permanent phase of the Federal lands program, 30 CFR Chapter VII, Subchapter D. 44 FR 15332–15341. On December 31, 1979, in response to a petition by the State of Montana, OSM postponed the effective date of operator compliance with the permanent phase of the Federal lands program until the date of approval of a State program or implementation of a Federal program for a State. 44 FR 77440.

III. Discussion of Proposed Rules.

A. Overview.

The proposed revisions are designed to foster a closer Federal-State partnership in the regulation of surface coal mining on Federal lands and to recognize more fully the proper role of the States as having the primary responsibility for regulation of surface coal mining operations subject to the Act. This is consistent with the intent of Congress that "the primary governmental responsibility for [regulating] surface mining and reclamation operations subject to this Act should rest with the States." SMCRA Section 101(f). The proposed revisions are also designed to streamlined the regulations, to remove burdensome or counter-productive requirements, and to provide editorial clarity.

Two major changes are embodied in the proposed regulations. First, they would provide that upon either approval of a State program or implementation of a Federal program for a State, certain requirements of that program would become applicable to mining on Federal lands within that State. Second, the Secretary's responsibility for approval of mining plans and the permitting process for surface coal mining and reclamation operations on Federal lands

would be revised to allow States greater authority in review and approval of permit applications filed under the Act. States with cooperative agreements approved pursuant to section 523(c) of the Act would be allowed to issue SMCRA permits. These major changes are discussed immediately below. Other changes in the proposed rule are discussed as they apply to specific sections.

1. *Applicability of State and Federal Programs on Federal Lands.* Proposed § 740.11(a) would provide that upon approval of a State program or implementation of a Federal program for a State, that program and Subchapter D would become applicable to coal exploration operations on lands not subject to 30 CFR Part 211 and to surface coal mining and reclamation operations on Federal lands within the State except as specified in Subchapter D. The Federal lands program currently requires operators to comply with the requirements of 30 CFR Chapter VII, rather than with the applicable State or Federal program. Section 523(a) of the Act requires that "[w]here Federal lands in a State with an approved State program are involved, the Federal lands program shall, at a minimum, include the requirements of the approved State program * * *." Section 523(a) also provides that the Federal lands program "shall take into consideration the diverse physical climatological, and other unique characteristics of the Federal lands in question." Congress intended that the Federal lands program would not be uniform for all Federal lands, but would instead be tailored to the specific conditions on different Federal lands. The proposed revisions would accomplish this by incorporating requirements of State programs approved by the Secretary into the Federal lands program for each State since State programs take regional and local conditions into account.

Besides ensuring that the Federal lands program is suited to regional and local conditions, the proposed regulations would foster uniform regulation of mining on Federal lands within a State. Under the proposed regulations, the same performance standards and essentially the same permitting requirements would apply on both Federal and private lands within a State. This should simplify regulatory and compliance problems associated with miles on mixed Federal and private lands.

An approved State program would be applicable, as specified in proposed Subchapter D, to Federal lands within a State whether or not a section 523(c) cooperative agreement is in place. Prior to approval of a cooperative agreement, OSM would act as the regulatory authority and implement applicable portions of the State program on Federal lands. Following approval of a cooperative agreement, the State would act as the regulatory authority.

2. *Permit Application and Mining Plan Review and Approval.* The proposed regulations would revise the process of review and approval of mining plans and permit applications for mining on Federal lands to reflect properly the requirements of section 523(c) of the Act and the Mineral Leasing Act of 1920, as amended, 30 U.S.C. 181, *et seq.* (Mineral Leasing Act). Current 30 CFR 740.5 defines "mining plan" to include, among other things, both the mining and reclamation plan required under the Mineral Leasing Act and the permit application required under the Act. *See also* 30 CFR 741.12. Since section 523(c) of the Act prohibits the Secretary from delegating his reponsibility to approve mining plans, and since mining plans currently are defined to include permit applications, the Secretary is prevented from delegating to States with cooperative agreements the responsibility for approving permit applications under SMCRA. This has resulted in duplicative actions by the State regulatory authority and OSM.

The principal change that would be accomplished by the revised regulations is that States with section 523(c) cooperative agreements could assume a largely independent role in the review and approval of permit applications filed under sections 506, 507 and 508 of the Act. States would be authorized under cooperative agreements to assume the responsibility for issuing permits under the Act. *See* proposed § 740.4(c)(1).

The proposed regulations would define a new term, "permit application package," that describes the materials that an operator seeking to conduct surface coal mining and reclamation operations on Federal land must file. As defined in proposed § 740.5, the permit application package would include all information required to be filed by SMCRA (including the SMCRA permit application), Subchapter D, the applicable State or Federal program, any applicable cooperative agreement, and all other applicable laws and regulations, including, with respect to leased Federal coal, the Mineral Leasing Act and its implementing regulations.

Where there is leased Federal coal, the operator would be required to file a resource recovery and protection plan within three years of leasing, even if the operator is not yet prepared to file a complete permit application package. *See* discussion of "Resource Recovery and Protection Plans" in the proposed revisions to 30 CFR Part 211. 46 FR 61424–61425 (December 16, 1981). As noted in the discussion of that proposed rule, where the operator is prepared to submit the complete permit application package (including the resource recovery and protection plan) by the three-year deadline, the permit application package would be submitted to the regulatory authority. Otherwise, a resource recovery and protection plan prepared only to meet the three-year deadline would be submitted to the U.S. Minerals Management Service, while the complete permit application package, including any necessary supplements to the resource recovery and protection plan, would be filed with the regulatory authority when ready.

Prior to approval of a cooperative agreement, the permit application package would be submitted to OSM, since OSM would be the regulatory authority. OSM would have lead responsibility for reviewing the package, consulting with other Federal agencies with respect to their responsibilities and ensuring compliance with NEPA and other applicable Federal laws, regulations and orders. The Minerals Management Service would review the resource recovery and protection plan and provide OSM with its recommendation to the Secretary to approve, conditionally approve or disapprove the resource recovery and protection plan. OSM would then prepare a decision document for the Secretary that recommends approval, conditional approval or disapproval of the mining plan.

Where a cooperative agreement is in place, the permit application package would be submitted to OSM and the State. The State would then assume the lead role in the review of the package, which (at the State's option) may or may not include ensuring consultation with involved Federal agencies, including OSM. In particular, the State would be responsible for review and approval of the SMCRA permit application. OSM would continue to be responsible for ensuring compliance with NEPA and other applicable Federal laws, regulations and orders. Following review of the permit application package and receipt of, among other things, the findings and recommendations of the State on the permit application and of the Minerals Management Service on the resource recovery and protection plan, OSM would prepare a decision document to

assist the Secretary in approving the mining plan. The State could issue the SMCRA permit following completion of its review of the permit application, although actual commencement of mining would have to await Secretarial approval of the mining plan.

Where there is no leased Federal coal, the operator would still submit a permit application package. The package would not, however, include a resource recovery and protection plan, because the Mineral Leasing Act would not apply in the absence of leased Federal coal. OSM would still have the lead responsibility for review where there is no cooperative agreement, while the State could assume this role following approval of a cooperative agreement. Where there is no leased Federal coal, Secretarial approval of a mining plan would not be involved. Mining could commence once consultation had been completed with the Federal land management agency and the permit application had been reviewed and approved by the regulatory authority.

B. Specific Revisions

All references in the current rules to the terms "Regional Director" and "Regional Office" have been replaced in the proposed rules with references to the "Office," to conform to the September 13, 1981, reorganization of OSM which abolished OSM's previous regional structure. All references to "Director" used to describe the heads of OSM and to other Federal agencies have been replaced with references to the "Office" or the specific name of the Federal agency, as appropriate, for simplicity.

OSM solicits public comments on all proposed revisions to these regulations.

Part 700—General

Part 700 of Subchapter A would be revised to conform to proposed revisions to Subchapter D as follows:

Section 700.1 Scope.

Existing § 700.1(d) provides a general description of the applicability of Subchapter D to Federal lands and states that Subchapter D incorporates by reference various other subchapters of Chapter VII including the permit requirements of Subchapter G, the performance bond and insurance requirements of Subchapter J, the performance standards of Subchapter K, the inspection and enforcement requirements of Subchapter L and the blaster certification requirements of Subchapter M. With the exception of Subchapter L, reference to other subchapters that would be incorporated by reference into Subchapter D would be removed and replaced with the phrase "applicable regulatory program." As discussed above under "Applicability of State and Federal Programs on Federal Lands," the proposed rule would incorporate the requirements of a State program or Federal program implemented for a State on lands subject to the requirements of Subchapter D. Proposed § 700.1 would continue to state that Subchapter D incorporates the requirements of Subchapter L, because the inspection, enforcement and civil penalties requirements of Subchapter L would continue to apply where OSM is the regulatory authority for the regulation of surface coal mining and reclamation operations on Federal lands that are subject to the requirements of Subchapter D. Where the State is the regulatory authority under a cooperative agreement, the State would apply its State program requirements to inspection, enforcement and civil penalties on lands subject to the requirements of Subchapter D, while OSM would apply the requirements of Subchapter L in an oversight capacity. This is further discussed below under "Inspection, enforcement and civil penalties."

Section 700.11 Applicability.

Existing § 700.11(g) limits the applicability of Chapter VII to the regulation of coal exploration on Federal lands outside a permit area. This provision would be revised by replacing the phrase "Federal lands outside a permit area" with the phrase "lands not subject to the requirements of 30 CFR Part 211." This change is consistent with the proposed revisions to Subchapter D to apply the coal exploration requirements of Subchapter D to lands not subject to the requirements of 30 CFR Part 211. These lands include lands owned by the Tennessee Valley Authority and lands where the surface is owned by the United States and the coal is owned privately or by a State. Limiting the applicability of Chapter VII to coal exploration operations on lands not subject to 30 CFR Part 211 would eliminate overlap and duplication between the requirements of OSM in Subchapter D and the Minerals Management Service in 30 CFR Part 211. The relationship between the proposed rule and the regulations at 30 CFR Part 211 concerning exploration is discussed under the proposed revisions to Subchapter D.

Part 701—Permanent Regulatory Program

Part 701 of Subchapter A would be revised to conform to proposed revisions to Subchapter D as follows:

Section 701.5 Definitions.

The second sentence of the definition of the term "permit" provides that, for purposes of the Federal lands program, permit means the document issued authorizing surface coal mining and reclamation operations on Federal lands after approval of a mining plan by the Secretary and, where a cooperative agreement has been approved, by the State regulatory authority. This sentence would be revised to conform to the revisions proposed to Subchapter D as follows: "For purposes of the Federal lands program, permit means a permit issued by the State regulatory authority under a cooperative agreement or OSM where there is no cooperative agreement." *See* the discussion of "Permit Application and Mining Plan Review and Approval" above and the discussion of the proposed revised definition of mining plan under 30 CFR 740.5.

Section 701.11 Applicability.

The citation in existing § 701.11(b) to 30 CFR 740.13(a)(3) with respect to conditions which enable operations on Federal lands to continue past eight months from the date of approval of a State program or implementation of a Federal program would be changed to 30 CFR 740.13(a)(3) to reflect the corresponding revisions in proposed Subchapter D.

Part 740—General Requirements for Surface Coal Mining and Reclamation Operations on Federal Lands

Subchapter D would be restructured as follows: (a) Proposed Part 740 would contain the permitting, bonding, inspection, enforcement, civil penalties and performance standards provisions of existing Parts 741, 742, 743 and 744, respectively. Proposed Part 740 would incorporate and supplement the permitting, bonding, inspection, enforcement, civil penalties and performance standards requirements of the applicable State or Federal program. The inspection, enforcement and civil penalties provisions in proposed Part 740 would apply the requirements of 30 CFR Parts 842, 843 and 845 to inspection, enforcement, civil penalties and related activities that are conducted by OSM and the Department with respect to mining on Federal lands; (b) proposed part 745 would provide for State-Federal cooperative agreements under which a

State could assume responsibility for regulation of surface coal mining and reclamation operations on all Federal lands within the State; and (c) a proposed new Part 746 would set forth the requirements for review and approval of mining plans for surface coal mining and reclamation operations on lands with leased Federal coal.

Proposed revised Subchapter D is being published in its entirety for continuity and the convenience of the reader.

Section 740.1 Scope and purpose.

Existing § 740.1 would be revised to eliminate the unnecessary listing in current 30 CFR 740.1 of the areas covered by Subchapter D and to instead provide a more general introductory statement specifying that Subchapter D governs surface coal mining and reclamation operations on Federal lands.

Existing § 740.2 would be removed as unnecessary.

Section 740.4 Responsibilities.

Existing § 740.4 is proposed to be revised and restructured to describe the responsibilities of the Secretary, various Federal agencies and the States for regulating surface coal mining and reclamation operations on Federal lands under SMCRA, the Mineral Leasing Act and other applicable Federal laws, regulations and executive orders. Proposed § 740.4 would describe in particular those responsibilities that may be delegated to a State under a cooperative agreement and those responsibilities that may not be so delegated.

Proposed § 740.4(a) incorporates with some revision the requirements of current 30 CFR 740.4 (a) through (c). The only significant change proposed is incorporated in proposed § 740.4(a)(1). It corresponds to current 30 CFR 740.4(a) and would require Secretarial approval of mining plans only for leased Federal coal. Proposed § 740.5 would define mining plan accordingly. These depart from the current regulations, which require Secretarial approval of mining plans on Federal lands without regard to whether or not the lands contain leased Federal coal. *See* existing 30 CFR 740.4(a) and 745.13(i). OSM believes this proposed revision is consistent with the requirements of both the Act and the Mineral Leasing Act.

Section 523(c) of the Act provides that "[n]othing in this subsection shall be construed as authorizing the Secretary to delegate to the States his duty to approve mining plans on Federal lands * * *." The context in which this provision was drafted and its relevant history indicate that this is a reference to the requirements of the Mineral Leasing Act, which, with respect to coal minerals, applies only to Federally-owned coal. *See* discussion of proposed revised definition of "mining plan" in 30 CFR 740.5 below. Thus, Secretarial action is required only in circumstances involving the production of Federal coal.

Where there is no leased Federal coal, Secretarial action would not be required. The Secretary would retain, however, certain other non-delegable responsibilities with respect to mining on Federal lands with or without Federally-owned coal. For instance, the Secretary would retain his responsibility to designate or to terminate designations of Federal lands both with and without Federal coal as unsuitable for mining. Federal lands without leased Federal coal include National Forests (primarily in the eastern United States) and lands owned by the United States and entrusted to or managed by the Tennessee Valley Authority (TVA). TVA lands are subject to all but two of the Federal lands requirements in SMCRA. *See* section 701(4) of SMCRA. Development of coal on TVA lands does not, however, involve the leasing and mining plan requirements of the Mineral Leasing Act.

Proposed § 740.4(a)(1) would also make clear that mining plan modifications must be approved by the Secretary. These changes are discussed further under the definition of "mining plan" in proposed § 740.5 below.

Proposed § 740.4(b) would specify those responsibilities that must remain with OSM even under a cooperative agreement. Proposed § 740.4(b)(1), which has no counterpart in the current regulations, would reserve to OSM responsibility for preparing and submitting to the Secretary a decision document that recommends approval, conditional approval or disapproval of all mining plans or mining plan modifications. OSM would be responsible for this function even in States with cooperative agreements. Proposed § 740.4(b)(2) would require OSM to ensure compliance with applicable Federal laws, regulations and orders other than SMCRA and the Mineral Leasing Act. Proposed § 740.4(b)(3) would continue the requirement of current 30 CFR 740.4(e) that OSM be responsible for approving experimental practices on Federal lands.

Proposed § 740.4(b)(4), which corresponds to existing § 740.4(g), would reserve to OSM responsibility for overseeing State regulatory authority inspection, enforcement and civil penalty activities with respect to surface coal mining and reclamation operations on Federal lands. Proposed § 740.4(c)(5), on the other hand, would allow the State regulatory authority to assume responsibility for inspection, enforcement and civil penalty activities that would be the responsibility of OSM in the absence of a cooperative agreement. Thus, after a cooperative agreement is approved, the State would enforce its State program (including its own inspection, enforcement and penalty provisions) on Federal lands, while OSM would conduct necessary oversight inspection, enforcement and civil penalty activities pursuant to 30 CFR Parts 842, 843 and 845.

Under proposed § 740.4(b)(5), citizen requests for Federal inspections on Federal lands would be processed in accordance with 30 CFR Parts 842, 843 and 845, which include provisions for citizen involvement in the inspection, enforcement and civil penalty process. *See*, e.g., 30 CFR 842.12 and 842.15. This revision would make clear the process of citizen participation in Federal inspection, enforcement and civil penalty activities on Federal lands.

Proposed § 740.4(b)(6) would require OSM to oversee at State's administration and enforcement of the terms of a cooperative agreement.

Proposed § 740.4(c) would set forth those OSM responsibilities that may be delegated to a State regulatory authority under the terms of a cooperative agreement. Proposed § 740.4(c)(1) would, as discussed above, allow a State with a cooperative agreement to review permit applications and issue permits for surface coal mining and reclamation operations on Federal lands. States could assume similar authority with respect to revisions and renewals of permits and applications for transfer, sale or assignment of permits. The current regulations place all these responsibilities with OSM. *See* existing 30 CFR 740.4(d).

Proposed §§ 740.4(c)(2) and 740.4(c)(3) correspond to the other requirements of current 30 CFR 740.4(d). Proposed § 740.4(c)(2) would continue the requirement of the second sentence of existing 30 CFR 740.4(d) for consultation with Federal land management agencies with respect to special requirements for protection of non-coal resources in areas affected by surface coal mining and assurance of operator compliance with such requirements. Proposed § 740.4(c)(3) would continue the requirement of the last sentence of existing § 740.4(d) that the U.S. Minerals Management Service (formerly the Geological Survey) by consulted concerning the development, production and recovery of coal resources.

Under proposed § 740.4(c)(4), the State regulatory authority could assume the performance bond, Federal lessee protection bond and liability insurance responsibilities currently found in 30 CFR 740.4(f). Proposed § 740.4(c)(4) would provide that, with respect to the Federal lessee protection bond, approval would require the concurrence of the Federal land management agency. Existing 30 CFR 740.4(f) inappropriately provides that, in addition to the Federal lessee protection bond, the Federal land management agency must concur in approval of the performance bond and liability insurance.

Proposed § 740.4(c)(5) would allow the State regulatory authority to be responsible for inspection, enforcement and civil penalties that would otherwise be performed by OSM as the regulatory authority. Where a State assumes this responsibility under a cooperative agreement, OSM would assume an oversight role, as provided in § 740.4(b)(4) of the proposed regulations.

Proposed § 740.4(c)(6) would allow the State regulatory authority to assume the responsibility for review and approval of exploration plans for coal on lands owned by the Tennessee Valley Authority and on Federal lands with underlying private coal. This is because exploration on these lands is not subject to the requirements of 30 CFR Part 211, which govern exploration operations with respect to Federally-owned coal.

Proposed § 740.4(c)(7) would allow the State regulatory authority to assume some responsibility for preparation of documentation in compliance with the National Environmental Policy Act (NEPA). The proposed rule recognizes that where the State prepares NEPA documentation, OSM or the Federal land management agency must (1) furnish guidance and participate in the preparation of NEPA documents and (2) independently evaluate NEPA documents prior to approval or adoption in order to make the ultimate decision on Federal action to be taken on alternatives presented. Under the proposed rule, the State regulatory authority would be authorized, with the assistance of OSM or the Federal land management agency, to prepare NEPA compliance documents (environmental assessments (EA) or (environmental impact statements (EIS)), provided OSM or the Federal land management agency: (1) Determines the scope, content, format and objectivity of NEPA compliance documents; (2) makes the determination whether or not the preparation of an EIS is required; (3) notifies and solicits views of other State and Federal agencies, as appropriate, on the environmental effects of the proposed action; (4) publishes and distributes draft and final NEPA compliance documents; (5) makes policy responses to comments on draft NEPA compliance documents; (6) independently evaluates NEPA compliance documents and (7) adopts NEPA compliance documents and determines Federal actions to be taken on the alternatives presented in NEPA compliance documents.

Proposed § 740.4(d) would identify the responsibilities assigned to the Minerals Management Service. Proposed § 740.4(d)(1) through 740.4(d)(6) would continue the requirements of existing § 740.4(h) and 740.4(i) with minor exceptions, including the replacement of the Geological Survey as the name of the responsible agency, with the Minerals Management Service, to reflect the Secretary of the Interior's Order No. 3071 that established the Minerals Management Service. In addition, proposed § 740.4(d)(2) would refer to coal exploration licenses issued pursuant to 43 CFR Part 3400 (instead of 43 CFR Part 3507) to conform to revisions in those regulations. Proposed §§ 740.4(d)(1) and 740.4(d)(5) would delete references to the permit area, to reflect changes being proposed in 30 CFR Part 211 that would alter responsibilities for exploration on Federal lands. *See* 46 FR 61426 (December 16, 1981). Under proposed § 740.4(d)(4), the Minerals Management Service would be responsible for reviewing the resource recovery and protection plan portion of the permit application package and for recommending to the Secretary approval, conditional approval or disapproval of the resource recovery and protection plan as outlined earlier in this notice. Proposed § 740.4(d)(6) would indicate that the Minerals Management Service is responsible for protecting mineral resources not under lease.

Proposed § 740.4(e) would list the responsibilities of the Bureau of Land Management, which include the issuance of exploration licenses for Federally owned coal (proposed § 740.4(e)(1)); the issuance of leases and licenses to mine pursuant to 43 CFR Part 3400 (proposed § 740.4(e)(2)); and the issuance, readjustment, modification, termination, cancellation, and/or approval of transfers of Federal coal leases required by the Mineral Leasing Act and the Mineral Leasing Act For Acquired Lands (30 U.S.C. 351, *et seq.*) (proposed § 740.4(e)(3)).

Proposed § 740.4(f) would identify specific responsibilities of Federal land management agencies. This would acknowledge the responsibility of Federal land management agencies to make certain decisions regarding surface coal mining and reclamation operations on Federal lands within their jurisdiction. Federal land management agencies would be responsible, under proposed § 740.4(f), for determining post-mining land uses (proposed § 740.4(f)(1)), ensuring protection of other resources not leased (proposed § 740.4(f)(2)), and imposing appropriate conditions on surface coal mining and reclamation operations on lands under their jurisdiction (proposed § 740.4(f)(3)).

Section 740.5 Definitions.

Proposed § 740.5 would delete several terms currently defined in 30 CFR 740.5. Definition of the term "authorized State regulatory authority," which currently refers to a State regulatory authority acting under a cooperative agreement, is proposed for deletion as unnecessary because the term "regulatory authority" would be redefined to mean both OSM acting prior to approval of a cooperative agreement and the State regulatory authority acting afterwards. Definition of the term "mining supervisor" would be deleted because the term is not used in proposed Subchapter D.

"Authorized officer" would be redefined to refer to any person authorized to take official action on behalf of a Federal agency having responsibility relating to Federal lands or minerals. "Cooperative agreement" would be defined as a cooperative agreement approved in accordance with section 523(c) of the Act and 30 CFR Part 745.

The term "surface managing agency" would be replaced in the revised regulations by the term "Federal land management agency." In addition, the definition would be revised to clarify that "Federal land management agency" applies specifically to the agency having jurisdiction over the surface of the Federal lands in question. "Leased Federal coal" would be defined as coal leased pursuant to 43 CFR Part 3400, except for mineral interests in coal on Indian lands. Definition of this term is necessary because the responsibilities of different Federal agencies and the applicability of such laws as the Mineral Leasing Act vary depending upon whether or not leased Federal coal is involved.

Consistent with the proposed revised structure of Subchapter D, the definitions of "Federal lease bond" and "Federal lessee protection bond" would be moved from existing § 742.5 to proposed § 740.5. Thus, all definitions

for Subchapter D would appear in proposed § 740.5. The definition of "Federal lease bond" would be revised consistent with regulations promulgated by the U.S. Bureau of Land Management at 43 CFR 3400 (44 FR 42584 (July 19, 1979)). These regulations replace 43 CFR 3504, which is referenced in existing § 742.5, with 43 CFR 3400.

The definition of "mining plan" would be revised to mean the plan for mining leased Federal coal required by the Mineral Leasing Act. As discussed previously, section 523(c) of SMCRA, which allows a State with an approved State program to enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands within the State, prohibits the Secretary from delegating to a State the duty to approve mining plans on Federal lands. The term "mining plan" is not defined in SMCRA, but does appear in the Mineral Leasing Act, which provides that:

> After the Secretary has approved the establishment of a logical mining unit, any *mining plan* approved for that unit must require such diligent development, operation, and production that the reserves of the entire unit will be mined within a period established by the Secretary which shall not be more than forty years. 30 U.S.C. 202a(2) (emphasis added).

This provision does not clearly state whether a mining plan may address more than "diligent development, operation and production" of the mineral resource. Section 3 of the Mineral Leasing Act, 30 U.S.C. 203, refers, however, to the "production or mining plan requirements of sections 2(a)(2) and 7(c) of this Act [30 U.S.C. 202a(2) and 207(c)]". Section 2(a)(2) of the Mineral Leasing Act, as quoted above, refers to a plan for mineral development, operation and production, while section 7(c) requires Federal coal lessees to "submit for the Secretary's approval an operation and reclamation plan."

These three sections of the Mineral Leasing Act, together with section 523(c) of SMCRA, make clear that the Secretary must, at a minimum, approve a "mining plan" that is composed of an "operation and reclamation plan" and, where a logical mining unit is established, a plan for diligent development, operation, and production of the reserves. Still, some confusion in the application of the terms is understandable, because of the ambiguous legislative histories of the 1976 amendments to the Mineral Leasing Act and of SMCRA. In addition, the terms "mining plan" and "mine plan" have been used historically by coal companies to refer to planning documents covering a range of activities, such as resource recovery, overburden handling and mine safety.

It was not until 1976 that the Geological Survey established a definition of "mining plan" under the Mineral Leasing Act. Under their regulations a "mining plan" was defined as:

> A detailed plan for the development of the coal resource submitted to the Mining Supervisor for approval prior to commencement of any mining operation, showing the proposed location, method, and extent of mining and all related activities necessary and incidental to such operation, including steps to be taken to reclaim disturbed areas to mitigate adverse impacts and to otherwise meet the performance standards and requirements set forth in [30 CFR Part 211]. 30 CFR 211.2.

OSM's permanent program regulations, published on March 13, 1979, integrated the Mineral Leasing Act "mining plan" requirements with the SMCRA permit application requirements by defining "mining plan" as follows:

> Mining Plan means a complete mining and reclamation operations plan that complies with the requirements of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181, *et seq.*), the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201, *et seq.*), regulations promulgated under those Acts, and all other applicable laws and regulations. At a minimum, the mining plan includes the mining and operations plan required under the Mineral Leasing Act of 1920, as amended, and the matter required under Subchapter D of this Chapter for a permit for surface coal mining and reclamation operations. 30 CFR 740.5.

OSM is now in the process of negotiating cooperative agreements with State regulatory authorities for the regulation of mining on Federal lands and has determined that the existing definition of "mining plan" is inconsistent with Congress' intention, as expressed in sections 101(f) and 523(c) of SMCRA, that the State be the governmental entity primarily responsible for regulating surface mining and reclamation operations subject to SMCRA.

The proposed revised definition of "mining plan" would provide that the mining plan required to be approved by the Secretary is the mining plan required by the Mineral Leasing Act and is distinct from the permit application required by SMCRA. The review, approval or disapproval of permit applications and issuance of surface oral mining and reclamation permits under SMCRA would be delegable to States under section 523(c) of the Act. Under the proposed regulations, the Secretary would carry out the operations aspect of his mining plan approval responsibility through review of the resource recovery and protection plan. The Secretary would fulfill the reclamation portion of his mining plan approval responsibility by the Minerals Management Service's review of the reclamation schedule required as part of the resource recovery and protection plan and through OSM's oversight of State programs and cooperative agreements under SMCRA; through NEPA compliance activities; and through a review to verify that the mining plan is in compliance with any lease terms and conditions. The State regulatory authority would be required to prepare and provide the written findings required by section 510 of the Act and to approve the permit application prior to the Secretary's approval of the plan.

Thus, the proposed rule would reflect the relationship between section 523(c) of the Act and the Mineral Leasing Act. (Section 523(a) of the Act indicates that the Secretary must retain certain other duties under the Mineral Leasing Act, as well as the responsibility for designating Federal lands as unsuitable for mining). By allowing States with approved cooperative agreements to review and approve permit applications submitted pursuant to SMCRA, duplicative responsibilities of the State and OSM would be minimized while providing the Secretary the necessary information for the Federal action of approval of "mining plans" on Federal lands.

The definition of "performance bond" would be added to proposed § 740.5. "Performance bond" would mean the bond for performance defined in the applicable regulatory program.

The proposed new term "permit application package" is treated above in the discussion of "Permit Application and Mining Plan Review and Approval." It refers to the application materials submitted by a person desiring to mine on Federal lands and includes, among other things, the permit application required under SMCRA and, where Federal coal is under lease, the resource recovery and protection plan required under the Mineral Leasing Act.

"Regulatory authority" would be defined as OSM when OSM is administering Subchapter D (as would be the case where there is no cooperative agreement) and the State regulatory authority when the State is administering the requirements of its program on Federal lands under a cooperative agreement. Thus, permits on lands that are subject to the requirements of Subchapter D would be issued by OSM prior to approval of a

cooperative agreement and by the State thereafter.

"TVA-owned land" would be defined as land owned by the United States and entrusted to or managed by the Tennessee Valley Authority.

Other terms used in the proposed rule would have meanings as set forth in 30 CFR Part 211. These include "exploration," "exploration plan," "maximum economic recovery," "method of operation," "mine" and "resource recovery and protection plan."

Section 740.10 Information collection.

Proposed § 740.10 corresponds to the "Note" at the beginning of existing 30 CFR Part 741 only with respect to permits and the "Note" at the beginning of 30 CFR Part 742 with respect to bonds and identifies the OMB approval numbers for the relevant information collection requirements of those Parts. OSM proposes to delete these notes and to codify OMB's new approval of the relevant information collection requirements of existing parts 741 and 742 in proposed § 740.10.

Section 740.11 Applicability.

Proposed § 740.11 would describe when Subchapter D or a regulatory program would be applicable to surface coal mining and reclamation operations on Federal lands within a State.

Proposed § 740.11(a) would provide that upon approval of a regulatory program for a State, Subchapter D and parts of that program would become applicable to (1) coal exploration operations on Federal lands not subject to the requirements of 30 CFR Part 211; and (2) surface coal mining and reclamation operations on lands where either the surface or mineral interests owned by the United States will be directly affected by such operations. This proposal would clarify an ambiguity in the existing regulations pertaining to the location of surface facilities on private or State owned surface that may incidentally overlie Federal minerals, but where no Federal interest will be directly affected by the operation. OSM believes that, because of the State primacy provision under section 503 of the Act, the definition of Federal lands in section 701(4) of the Act should be interpreted as excluding State or privately owned surface overlying federally owned coal where the proposed operation will not directly affect that coal. Thus, where State or private surface would be affected and there would be no direct effect on the Federal coal resource, the regulatory authority would be the State and operations on the affected surface would be subject to the requirements of only the State program. OSM solicits comments as to whether the Federal Lands program should apply to lands containing leased Federal coal whether or not the coal would be affected by the proposed mining operation. Proposed § 740.11(b) would provide that where OSM is administering Subchapter D and applying a State program prior to approval of a cooperative agreement for the State, references in the State program to the State or to officials of the State (with respect to functions of the State regulatory authority) would be construed as references to OSM in order that OSM can effectively administer State program requirements.

Proposed § 740.11(c) would provide that where the Secretary and the State have entered into a cooperative agreement, the cooperative agreement will delineate the responsibilities of the Secretary and the State with respect to administration of the regulatory program and Subchapter D. For example, where te Secretary has entered into a cooperative agreement with a State, the State regulatory authority would assume the primary role for the review and processing of permit applications on Federal lands, subject to the terms of the cooperative agreement. The cooperative agreement, in addition to providing for state processing of permit applications on Federal lands, would specify how the responsibility for administration of the additional requirements of this Subchapter for a permit would be divided between OSM and the State regulatory authority. Although some of the additional requirements are nondelegable, it is possible for the State to perform much of the basic research and analysis required for the Department to determine compliance with such requirements.

Proposed § 740.11(d) would reserve to the Secretary and other Federal agencies the right to condition actions affecting Federal lands within their jurisdiction in accordance with section 702(b) of SMCRA. For example, a decision regarding surface coal mining and reclamation operations may be subject to: (1) Conditions on mining that may have resulted from the review of Federal areas for unsuitability for mining under Subchapter F of this Chapter; (2) terms and conditions or special stipulations of a lease issued pursuant to the Mineral Leasing Act; and (3) any land use plans developed by the Federal land management agency.

Proposed § 740.11(e) would provide that Subchapter D does not apply to surface coal mining and reclamation operations within a state prior to approval of a regulatory program for that State. Prior to such approval, the SMCRA requirements incorporated in 30 CFR Part 211 would apply to surface coal mining and reclamation operations on Federal lands within the State. The Minerals Management Service is promulgating regulations to delete these requirements from 30 CFR Part 211, but only after final promulgation and implementation of revised Subchapter D. *See* 46 FR 61424 (December 16, 1981). OSM will coordinate with the Minerals Management Service on this issue to ensure that no lapse occurs between the deletion of these requirements from 30 CFR Part 211 and the effective date of revised Subchapter D in any State (i.e., the date of approval of a regulatory program for the State).

Section 740.13 Permits.

Proposed § 740.13 would retain and consolidate those requirements of existing Part 741 that are unique to Federal lands and would not be included in a regulatory program. Those portions of existing Part 741 that would have counterparts in a regulatory program would not be repeated in Subchapter D. Persons concerned with the requirements for a permit to conduct surface coal mining and reclamation operations on Federal lands would consult first the applicable regulatory program and then the additional requirements of proposed § 740.13.

Existing §§ 741.1, "Scope," and 741.2, "Objectives," would be removed as unnecessary. Existing § 741.4, "Responsibilities," would be removed because its subject matter is addressed adequately in proposed § 740.4.

Section 740.13(a) General requirements.

Existing § 741.11, "General obligations" corresponds to proposed § 740.13(a), "General requirements."

Existing § 741.11(a), which provides that permit applications be submitted within two months of the effective date of the applicable regulatory program, would be deleted. Because proposed § 740.11(a) would make the requirements of the regulatory program applicable to Federal lands, and because each regulatory program will implement the requirement of section 502(d) of the Act that permanent program permit applications be filed within two months of program approval, this provision would be superfluous.

OSM proposes to delete existing § 741.11(b), which requires that surface coal mining and reclamation operations on intermingled Federal and non-Federal lands be conducted in a manner which would not preclude operator compliance with the performance

standards of 30 CFR Chapter VII, Subchapter K. The intent of this requirement is to protect Federal lands from surface coal mining activities on private lands where an operation involves both Federal and private ownerships. The proposed rule would ensure this protection by applying the performance standards of the same regulatory program to both Federal and non-Federal lands.

Proposed § 740.13(a)(1) would provide that no person shall conduct surface coal mining and reclamation operations on Federal lands unless that person has first obtained a permit issued pursuant to the regulatory program; thus, operators proposing to conduct surface coal mining and reclamation operations on Federal lands would comply with the permitting requirements of both the applicable regulatory program and proposed Part 740. The requirements of proposed Part 740 would supplement the regulatory program by specifying those additional requirements that are unique to Federal lands and outside of the scope of the regulatory program.

Proposed § 740.13(a)(2) would retain with minor revisions the requirements of existing § 741.11(d) which provides that the permittee shall conduct operations in accordance with all requirements of the permit and lease or license, Subchapter D and all other applicable State and Federal laws.

Existing § 741.11(c) provides for surface coal mining and reclamation operations on Federal lands to continue past the eight-month period established by existing § 741.11(a) where the operations are being conducted under a mining plan approved by the Secretary in accordance with the Act and 30 CFR Part 211. With revisions, this section would be retained as proposed § 740.13(a)(3), although the cross-reference to existing § 741.11(a) would be changed to "the applicable regulatory program." The permitting requirements of the applicable regulatory program would implement the requirement of section 506(a) of the Act that unpermitted surface coal mining operations not continue beyond eight months after the approval of a State or Federal program.

Existing § 741.12, "Relation of permit to mining plan," would be removed because it is inconsistent with the proposed revisions. *See* the discussion of "Permit and Mining Plan Review and Approval" above. The Secretary intends to delegate to States with cooperative agreements full authority for review and issuance of permit required under the Act, as the Congress intended. The Secretary would retain, however, responsibility to decide independently whether surface coal mining and reclamation operations can occur on Federal lands in accordance with applicable Federal laws.

Section 740.13(b) Permit application package.

Existing § 741.13 would be renumbered as proposed § 740.13(b) and revised by adding the word "package" to the title in order to clarify that the material submitted by an operator proposing to conduct surface coal mining and reclamation operations on Federal lands would include in addition to the documentation required for a SMCRA permit submitted pursuant to the applicable regulatory program, the documentation and information necessary to determine compliance with all requirements for mining on Federal lands. The material submitted by an operator for a permit to conduct surface coal mining and reclamation operations on Federal land is commonly called a "mining plan" by industry and governmental officials. The term "permit application package" as proposed in this rule would refer to the same material, but would more precisely describe what the operator must actually submit to the regulatory authority.

Existing § 741.13(a) would be redesignated as proposed § 740.13(b)(1) and revised to provide that permit fees on Federal lands shall be determined in accordance with the permit fee criteria of the applicable regulatory program, consistent with the overall changes proposed for this Subchapter. Section 507(a) of the Act requires that an application for a permit be accompanied by a fee as determined by the regulatory authority, but which shall not exceed the actual or anticipated cost of reviewing, administering, and enforcing the permit. Existing § 741.13(a) requires the Director of OSM to establish a fee schedule for permit applications on Federal lands. After considering several alternatives for establishing the fee schedule, OSM proposes that the fee for permit applications on Federal lands correspond with the fees established by the applicable regulatory program. This would provide uniformity in the fees required on Federal and non-Federal lands in the State.

Proposed § 740.13(b)(2) would incorporate and continue the requirement of existing § 741.13(b) that the applicant file at least seven copies of the complete permit application with the regulatory authority. The word "package" would be added to the term "permit application."

Proposed § 740.13(b)(3) (i) and (ii) would require that the permit application package include (1) the information required for a permit application under the applicable regulatory program, and (2) the resource recovery and protection plan required under 30 CFR Part 211, unless previously submitted to the Minerals Management Service. In addition, proposed § 740.13(b)(3)(iii) would require that the permit application package contain supplementary information as required under proposed § 746.12 that will assist in determining compliance with Federal laws other than SMCRA, regulations and executive orders as they relate to surface coal mining and reclamation operations on lands subject to proposed Part 740.

Providing that the permit application package include the permit application required by the applicable regulatory program is consistent with the intent of this proposed rule to apply the substantive and procedural requirements of the applicable regulatory program on Federal lands.

The resource recovery and protection plan would be included in the permit application package for reasons discussed earlier under "Permit Application and Mining Plan Review and Approval."

Although much of the information necessary to determine compliance with Federal laws and regulations (other than SMCRA) may be gleaned from the permit application, proposed § 740.13(b)(3)(iii) would require information that is not otherwise available. This section would clarify that there are other requirements for mining on Federal lands that must be complied with before surface coal mining and reclamation operations may be conducted on Federal lands.

Existing § 741.13(c) (1) and (2), which describe the required contents of a permit application, would be deleted, since equivalent provisions would be contained in the applicable regulatory program.

Existing § 741.13(c)(3), concerning Federal lessee protection, would be redesignated as proposed § 740.13(b)(4) and rephrased to eliminate language that appears elsewhere in Subchapter D. No change in effect is intended, other than to clarify that, as discussed earlier, this section does not apply to TVA-owned lands. *See* section 701(4) of the Act.

Existing § 741.14, which addresses the permitting requirements for special operations, would be removed because similar requirements would be included in each regulatory program.

Existing §§ 741.15(a), (b)(1), (b)(3) and (b)(4) under "Permit terms" would be removed because similar requirements

would be included in each regulatory program.

Section 740.13(c) Permit review and processing.

Proposed § 740.13(c) would provide that the permit processing requirements of the applicable regulatory program would be used to process permits on Federal lands subject to the additional requirements as specified under proposed § 740.13(c)(1) through 740.13(c)(10).

Proposed § 740.13(c)(1), "Permit terms and conditions," would provide that any requirements of other Federal laws and regulations, including the Mineral Leasing Act, must be reflected in the terms and conditions for permits. Thus, this section would continue the requirement of existing § 741.15(b)(2) that no extension of a permit term may be granted if the effect of that extension would be to extend the term of a Federal coal lease beyond the period allowed for diligent development under that lease and Section 7 of the Mineral Leasing Act.

Existing § 741.16, which requires permits to reflect local and regional conditions, would be removed. This purpose would be accomplished by incorporation of State or Federal programs into the Federal lands program. Each State or Federal program is mandated by the Act to take regional and local conditions into account.

Proposed § 740.13(c)(2), "Criteria for permit approval or denial," corresponds with existing § 741.17. The introductory paragraph of existing § 741.17, which requires that the Director make the written findings required by 30 CFR Part 786 regarding permit applications, would be removed, as would existing § 741.17(b), which requires that the applicant satisfy all applicable requirements for approval of permits under 30 CFR Part 786. In each case, similar provisions would be included in the applicable regulatory program. Existing § 741.17(a) would be removed because the proposed rule would not require that the Secretary approve the mining plan prior to approval of the permit application. *See* above discussion of "Permit Application and Mining Plan Review and Approval." Commencement of actual mining on Federal lands would not be allowed, however, until the Secretary has approved the mining plan.

Existing § 741.17(c), which requires the Director and the State regulatory authority to concur in permit approval where there is a State-Federal cooperative agreement, would be removed as superfluous. The cooperative agreement would contain specific terms for any consultation on permit application packages between the State regulatory authority and the Office. Existing § 741.17(d), which requires that prior to permit approval the applicant comply with all applicable Federal laws, including but not limited to, the Mineral Leasing Act, the Federal Land Policy and Management Act and regulations adopted under those Acts, would be revised under proposed § 740.13(c)(2) to read: "The regulatory authority shall not approve an application for a permit, revision or renewal thereof for surface coal mining and reclamation operations on lands subject to this Part unless the application is in accordance with the requirements of the applicable regulatory program and this Part." The effect of the proposed provision would be to ensure that all Federal laws and regulations applicable to permit approval have been complied with and to allow the processing of permits as an action that is separate from the approval of mining plans by the Secretary. Under existing § 741.17(b), a prerequisite for permit approval is compliance with the Mineral Leasing Act, which requires, among other things, approval of the mining plan by the Secretary.

Proposed § 740.13(c)(3), "Public participation in permit review process," would preserve and revise existing § 741.18 with respect to requirements concerning matters covered in hearings held pursuant to the MLA. Proposed § 740.13(c)(3) would provide that the matters covered by such hearings need not be readdressed and may be made a part of the record of hearings held on the permit application. The reference to the public participation provisions in 30 CFR 786.11 through 786.15 would be removed because corresponding and adequate provisions for public participation would be contained in the applicable regulatory program as mandated by the Act.

Proposed § 740.13(c)(4), "Availability of information," would retain the requirements of existing § 741.19(a)(2) that information exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552(b)) shall be held in confidence by the Office in accordance with 43 CFR Part 2. The remainder of existing § 741.19 would be removed since similar requirements would be included in the applicable regulatory program.

Proposed § 740.13(c)(5), "Permit review processing for operations on National Forest System lands," would retain, with minor revisions, the requirements of existing § 741.20. No change in effect is intended.

Proposed § 740.13(c)(6), "Consultation with other Federal agencies," would retain, with minor editorial revision, the requirement of existing § 741.21(a)(1) that any decisions on permits issued for operations on Federal lands be made after consultation with the Federal land management agency or the Minerals Management Service, as applicable. The remainder of existing § 741.21(a) (1) and (2), which concern the review of permit applications, would be removed because similar requirements would be included in the applicable regulatory program.

Proposed § 740.13(c)(7), "Permit processing schedule," would revise existing § 741.21(a)(3) by adopting the time schedule for processing permit applications which is included in the applicable regulatory program. Proposed § 740.13(c)(7) would recognize, however, that with respect to permit applications for mining on Federal lands, it may not always be possible to meet the specific time schedules of those programs due to the numerous other Federal laws and regulations with which the Department must comply. Thus, this provision would allow, where necessary, a reasonable extension of the schedule.

Existing § 741.21(a)(4), "Issuance of decision," would be deleted because similar requirements would be included in the regulatory program.

Proposed § 740.13(c)(8), "Determination of operator compliance with the Act," would retain the requirement of existing § 741.21(b) that OSM determine whether the operator is in violation of laws and regulations pertaining to air or water environmental protection prior to issuance of a permit. While OSM realizes that equivalent provisions are contained in the regulatory program as mandated by the Act, OSM is proposing to retain this specific requirement primarily to make clear that, where OSM is the regulatory authority, OSM determinations made pursuant to this provision are subject to Federal rather than State administrative appeals.

For reasons similar to those noted in the discussion of proposed § 740.13(c)(8) above, proposed § 740.13(c)(9), "Administrative review of decisions on permit applications," would be retained from existing § 741.21(a)(5) as a requirement of this Part for permit decisions by OSM on Federal lands.

Proposed § 740.13(c)(10), "Bonds and insurance required for issuance of permits," would continue, with minor revisions, the requirements of existing § 741.22 that a performance bond, proof of liability insurance and, where required, a Federal lessee protection bond must be filed with the Office.

Existing § 741.23, "Renewal of permits," provides for successive renewal of permits for areas within the boundaries of an existing permit, provided such renewals do not extend beyond the period allowed for diligent development under the Mineral Leasing Act. OSM proposes to revove this section because provisions for renewal of permits would be included in the applicable regulatory program, while compliance with all of the requirements of the Mineral Leasing Act would be ensured elsewhere in this proposed rule. *See* proposed § 740.13(c)(1).

Existing § 741.21 (a) through (c), which concern the review of approved permits and of permit revisions, would be removed because counterpart provisions would be found in each regulatory program.

Section 740.13(d) Review of permit revisions.

Proposed § 740.13(d), "Review of permit revisions," would revise existing § 741.24(d) to provide that, where the State is the regulatory authority, it shall inform OSM of each request for a permit revision. OSM would review any permit revision in consultation with the Minerals Management Service and the Federal land management agency, as appropriate, to determine whether, under the criteria in proposed § 746.18, the revision constitutes a "mining plan modification" requiring Secretarial approval.

Section 740.13(e) Transfer, assignment or sale of rights.

Existing § 741.25(a) would be deleted because a counterpart provision would be found in each regulatory program. Also deleted would be existing § 741.25(d), which requires that the Director shall authorize the Regional Director to grant the application if he or she approves the transfer, sale or assignment. This provision is inconsistent with OSM's reorganization, as discussed earlier in this notice. Proposed § 740.13(e), "Transfer, assignment or sale of rights," would continue, with minor editorial revisions, the requirements of (1) existing § 741.25(c) for consultation with other Federal agencies concerning actions on permit applications, and (2) existing § 741.25(e) that approval of a transfer, assignment or sale of rights granted under a permit shall not be construed to constitute a transfer or assignment of leasehold interests.

Section 740.13(f) Suspension or revocation of permits.

Proposed § 740.13(f), "Suspension or revocation of permits," would continue, with minor editorial revisions, the requirements of existing § 741.26 with regard to the suspension or revocation of permits. The word "suspension" would be added to the title to more precisely reflect its subject.

Section 740.15 Bonds on Federal lands.

Those portions of existing Part 742 that would be included in any regulatory program would be removed. Retained from existing Part 742 and incorporated under proposed § 740.15 would be those requirements of existing Part 742 that are unique to Federal lands. Persons concerned with the requirements for bonding on Federal lands would consult first the applicable regulatory program, and then the additional requirements of proposed § 740.15.

Existing Part 742 would be renumbered as proposed § 740.15 and the term "liability insurance" would be deleted from the existing title. Requirements for liability insurance would be included in the regulatory program.

Existing § 742.1 would be removed as unnecessary.

Existing § 742.4 would be removed as superfluous. The Office clearly is responsible for carrying out the requirements of proposed § 740.15 unless otherwise specified in the cooperative agreement.

The definitions of "Federal lease bond" and "Federal lessee protection bond" would be moved to proposed § 740.5.

Section 740.15(a) Federal lease bonds.

OSM would delete the first sentence of existing § 742.11(a), which states that "[A]ll operators on any Federal lease shall have a Federal lease bond." This is already a requirement of 43 CFR Part 3474, and OSM proposes not to duplicate that requirement in these regulations. In addition, the reference to 43 CFR Part 3504 in existing § 742.11(a) would be changed in proposed § 740.15(a) to 43 CFR Part 3474 to reflect the current regulations governing lease bonds for Federally leased coal. With minor editorial revisions, the remainder of existing § 742.11(a) and all of existing § 742.11(b) would be retained under proposed § 740.15(a). Existing § 742.11(c) would be removed because the Bureau of Land Management, in promulgating its regulations at 43 CFR Part 3400 (44 FR 42609, July 19, 1979), removed the requirement of 43 CFR Part 3500 that a lease bond include a performance bond.

Section 740.15(b) Performance bonds.

Existing § 742.12(a), which provides that persons conducting surface coal mining and reclamation operations on Federal lands shall comply with the performance bond requirements of 30 CFR Parts 800–808, would be removed because the regulatory program would contain a similar requirement.

Existing § 742.12(b) would be renumbered as proposed § 740.15(b) and revised to provide that the performance bond required for operations on Federal lands shall be payable to the United States and, where a cooperative agreement is in force, the State. Thus, in the absence of a cooperative agreement, the performance bond would be payable only to the United States, but, where the Department and the State have entered into a cooperative agreement, the performance bond would be payable to both the United States and the State. The Office considered proposing that the performance bond be payable only to the State where the State is the regulatory authority under a cooperative agreement, but rejected this option because of the need to ensure that Federal lands are protected should the cooperative agreement be terminated.

Section 740.15(c) Federal lessee protection bonds.

Proposed § 740.15(c) would continue the provisions of existing § 742.13; no change in effect is intended.

Existing §§ 742.14, 742.15, 742.16, 742.17, and 742.19 would be removed since similar requirements would be included in the applicable regulatory program.

Section 740.15(d) Release of bonds.

Proposed § 740.15(d) (1), (2) and (3) would retain the provisions of existing § 742.18 (a), (c), and (d). Section 742.18(b) would be removed because similar requirements would be included in each regulatory program.

Section 740.17 Inspection, enforcement and civil penalties.

The requirements of existing Part 743 with respect to inspection, enforcement and civil penalties on Federal land would be revised and incorporated under proposed §740.17.

Existing §§ 743.1, "Scope," and 743.2, "Objective," would be removed as unnecessary. Existing § 743.4, "Responsibilities," also would be removed as unnecessary because responsibilities for inspection, enforcement and civil penalties on Federal lands would be adequately described under proposed § 740.4.

Section 740.18(a) General requirements.

Existing § 748.11 would be retitled "General requirements" and

renumbered as proposed § 740.17(a). Proposed § 740.17(a)(1) would provide that, where OSM is the regulatory authority, 30 CFR Parts 840, 842, 843 and 845 shall govern inspection, enforcement and civil penalties activities with respect to surface coal mining and reclamation operations on lands subject to Subchapter D, rather than the requirements of the applicable regulatory program. This is a departure from the overall thrust of the revisions proposed to Subchapter D, which is to apply uniform substantive and procedural requirements on both Federal and non-Federal lands. OSM believes that utilization of its own inspection, enforcement and civil penalties provisions, which are familiar to its inspection and enforcement staff, is more appropriate than using different State inspection, enforcement and civil penalties provisions in each State.

Proposed § 740.17(a)(2) would provide that, where the State is the regulatory authority under a cooperative agreement, the State program shall govern inspection, enforcement and civil penalties by the regulatory authority with respect to surface coal mining and reclamation operations on lands subject to Subchapter D, while OSM would utilize the requirements of 30 CFR Parts 840, 842, 843 and 845 in its oversight role.

Proposed § 740.17(a)(3) would limit OSM's inspection, enforcement and civil penalty authority with respect to exploration on Federal lands to lands not covered by 30 CFR Part 211. These lands include lands with underlying non-leased Federal coal and lands owned by the Tennessee Valley Authority. This would eliminate overlap and duplication between the requirements of OSM in 30 CFR Part 740 and the requirements of the Minerals Management Service in 30 CFR Part 211. Revision being proposed to 30 CFR Part 211 would contain specific requirements for the conduct of inspection, enforcement and civil penalty activities with respect to exploration on Federal lands and would encompass the requirements of both the Mineral Leasing Act and SMCRA. The Office proposes, therefore, not to assert overlaping authority of its own in this area. The requirements of proposed § 740.17 would, however, be fully applicable to exploration operations on lands where only the surface is Federally owned and to lands owned by the Tennessee Valley Authority.

Section 740.17(b) Right of entry.

Existing §§ 743.11 (a), (b) and (c), with minor revisions, would be continued under proposed § 740.17(b), entitled "Right of entry," and renumbered as proposed § 740.17(b) (1), (2) and (3).

Section 740.17(c) Inspections.

The first sentence of existing § 743.12(a), which requires that inspections be conducted under 30 CFR Parts 840 and 842 would be deleted because this provision is provided for under proposed § 740.17(a). With revisions, the remaining portion of existing § 743.12(a) would be incorporated into proposed § 740.17(c). Proposed § 740.17(c) would also incorporate the requirements of the first sentence of existing § 743.12(b)(1) with respect to coordination by the Office on inspections by Federal agencies. The remaining portion of existing § 743.12(b)(1) would be deleted as unnecessary.

Existing § 743.12(b)(2) would be deleted because similar requirements would be included in 30 CFR Part 840 with respect to inspections by the Office and the State regulatory program with respect to inspections by the State regulatory authority under a cooperative agreement.

Existing § 743.13 would be removed because the requirements of this section are provided for under proposed § 740.17(a).

Section 740.19 Performance standards.

Those portions of existing Part 744 that would be included in any regulatory program would be removed. Proposed § 740.19, entitled "Performance standards," would retain those requirements of existing Part 744 that are unique to Federal lands. Persons concerned with performance standards for surface coal mining and reclamation operations on Federal land should consult first the applicable regulatory program, and then the additional requirements of proposed § 740.19.

Existing § 744.1, "Scope," would be removed as unnecessary.

Existing § 744.11, which concerns performance standards for exploration, would be removed because the Department's regulations at 30 CFR Part 211 would provide performance standards for exploration on Federal lands subject to the requirements of the Mineral Leasing Act and performance standards for exploration on other Federal lands would be included in the applicable regulatory program.

Section 740.19(a) Operations and reclamations.

Proposed § 740.19(a)(1) would require surface coal mining and reclamation operations on Federal lands to comply with the performance standards of the applicable regulatory program, rather than with the performance standards of 30 CFR Chapter VII, Subchapter K, as is required by existing § 744.12(a). Thus, a single set of performance standards would be applicable both on and off Federal lands, and operators of mines containing mixed Federal and non-Federal lands would no longer be required to comply with two different sets of performance standards.

Proposed § 740.19(a)(2) would require, as does existing § 744.12(a), compliance with the terms, conditions and stipulations of the lease and approved mining plan.

Existing § 744.12(b) would be removed as unnecessary.

Existing § 744.13(a), which concerns temporary abandonment of operations, would be removed because similar provisions would be included in each regulatory program.

Section 740.19(b) Completion of operations and abandonment.

Existing § 744.13(b), which describes the requirements for permanent abandonment of coal exploration and surface coal mining and reclamation operations, would also be removed. The Department's regulations at 30 CFR Part 211 cover abandonment of exploration activities on Federal lands containing leased Federal coal. Abandonment of exploration activities on other Federal lands would be subject to the requirements of the applicable regulatory program.

Proposed § 740.19(b)(1) would provide that upon completion of surface coal mining and reclamation operations, bonds shall be released in accordance with 30 CFR 740.15(d).

With minor editorial revisions, existing § 744.13(c)(2), which concerns the notice of abandonment, would be renumbered as proposed § 740.19(b)(2) and revised to apply only to the release of a Federal lease bond.

Existing § 744.13(d) would be removed because the requirements of this section would be provided under proposed § 740.15(d).

Existing § 744.13(e) would be deleted because each regulatory program would contain a counterpart requirement.

Part 745—State-Federal Cooperative Agreements

Section 745.1 Scope.

Existing § 745.1 would be retained with minor revisions for clarity.

Existing §§ 745.2, "Objectives," and 745.4, "Responsibilities," would be removed as unnecessary.

Section 745.10 Information collection.

Proposed § 745.10, corresponds with the "Note" at the beginning of existing Part 745, which identifies the OMB approval number for the information collection requirements of this Part. OSM proposes to delete this "Note" and codify OMB's approval of the information collection requirements of proposed Part 745 in proposed § 745.10.

Section 745.11 Application and agreement.

Proposed § 745.11(a) would replace the phrase "which are being conducted under the terms of a Federal lease" in existing § 745.11(a) with the phrase "on Federal lands." This change is proposed to make clear that cooperative agreements apply to all Federal lands, not just lands with leased Federal coal.

OSM proposes to remove existing § 745.11(b)(1) through (6), which concern specific information that must be submitted in a State's request for a cooperative agreement, and replace them with proposed § 745.11(b)(1). These subsections would be deleted because the same information can usually be obtained from the State program submitted to the Office by the State for approval of its State program or from information available elsewhere in the Department. Moreover, proposed § 745.11(b)(1) would provide a direct correlation between information needed to support an application for a cooperative agreement and the findings required under proposed § 745.11(f) through cross-referencing that section. With minor revisions for clarity, existing § 745.11(b)(7) and (8) would be redesignated as proposed § 745.11(b)(2) and (3); no change in effect is intended.

Existing § 745.11(c) would be revised to eliminate the requirement that the text of each proposed cooperative agreement be published in the exact terms submitted by the State as a proposed rule in the **Federal Register.** Proposed § 745.11(c) would allow publication of either the text as submitted by the State or of a subsequent version resulting from discussions between OSM and the State. The requirement that a notice of the request and a summary of the terms of the proposed agreement be published in newspapers in the State would be continued.

Existing § 741.11(c)(1), which requires that the date, time and place of the public hearing be included in the proposed rule, would be moved to the end of proposed § 745.11(d) and revised to require this information to be published not later than 15 days prior to the date of the hearing. The reason for the proposed revision is the difficulty of establishing a precise date and location for the hearing at the time the proposed rule is developed. Existing § 745.11(c)(2) would be redesignated as proposed § 745.11(c)(1); no change in effect is intended. Existing § 745.11(c)(3) would be redesignated as proposed § 745.11(c)(2) and revised to reduce the period for the public to submit written comments on the State's request for a cooperative agreement from 60 to 30 days following its publication in the **Federal Register** as a proposed rule. This would greatly expedite the rulemaking process for adoption of cooperative agreements. OSM believes this will still provide an adequate opportunity for public comment, especially because OSM has received few comments on past proposed cooperative agreements. Existing § 745.11(d) would be revised to eliminate the requirement that public hearings on the State's request for a cooperative agreement be held not less than 30 days after publication of the proposed rule announcing such request. Instead, proposed § 745.11(d) would require that a public hearing be held within the comment period and that notice of such hearing be published in the **Federal Register** not less than 15 days prior to the date of the hearing. Such notice would, therefore, be required at least 15 days prior to the close of the comment period.

Existing § 745.11 (e) through (g) would be retained with minor editorial revisions.

Section 745.12 Terms.

The proposed rule would revise existing § 745.12(a) by deleting the phrase "and describing each applicable provision of the State's applicable statutes, regulations and policies" because in practice it has been found cumbersome and unproductive to describe these provisions in detail. An assessment of these provisions is required as part of OSM's State program approval process and need not be repeated in the cooperative agreement. However, any part of the State program not applicable on Federal lands would be identified in the cooperative agreement. Existing § 745.12(b) is proposed to be revised by inserting the phrase "but not limited to" after the word "including" in order to clarify that the description of the powers and authority reserved by the Secretary under 30 CFR 745.13 is not exhaustive.

OSM proposes to redesignate existing § 745.12(c) as proposed § 745.12(d) with minor editorial revisions. Proposed § 745.12(c) would require that the cooperative agreement specify how the requiremets of Subchapter D would be applied to surface coal mining and reclamation operations on Federal lands to minimize overlap and duplication. Under proposed § 745.12(c), the cooperative agreement would specify which requirements in Subchapter D may be assumed by the State, which are reserved to the Department and which may be administered jointly. The Secretary intends to allow States to assume full administrative responsibility for delegable requirements. Further, the Secretary believes that States can and should be relied upon to assist in carrying out non-delegable responsibilities. For example, States cannot assume responsibility for ensuring compliance with the National Environmental Policy Act, but the supporting environmental documents and analyses may be prepared jointly. *See* 40 CFR 1506.2. The Secretary believes that certain other non-delegable requirements of this Subchapter may be complied with through joint participation by the State and the Department.

Existing § 745.12(d) and (e) would be redesignated as proposed § 745.12(e) and (f), respectively; no changes in their effects are intended.

Existing § 745.12(f), which provides that the cooperative agreement establish the amount of and collection procedures for permit application fees on Federal lands, would be removed. This provision would be superfluous, since the permit fee requirements of the State regulatory program would be applicable on Federal lands under proposed § 740.15.

Proposed § 745.12(g)(1) would require that under the cooperative agreement the State regulatory authority must make available to the Office informaiton on any action taken regarding a permit application for surface coal mining and reclamation operations on Federal lands. Access to any documentation and information concerning the permit application will enable the Office to ensure compliance with all legal and procedural requirements. Proposed § 745.12(g)(2) would require that each cooperative agreement obligate the State regulatory authority to prvoide to the Office, at a minimum, a written finding indicating that a permit application is in compliance with the terms of the State program and a technical analysis of the permit applciation that will assist the Office in meeting its responsibilities under the National Environmental Policy Act and other applicable Federal laws and regulations. OSM would prescribe the content and format for the information needed to satisfy the requirements of proposed section 745(g)(2) in order to

establish a degree of uniformity among the various States with cooperative agreements. The addition of proposed § 745.12(g)(2) would formalize a provision which has been included in the terms of all cooperative agreements either already approved or currently being negotiated pursuant to the permanent program regulations. These agreements now require that the State regulatory authority, upon completion of its review of a permit application, provide OSM with documentation to assist OSM in meeting its non-delegation responsibilites under NEPA and other Federal laws and regulations.

Section 745.13 Authority reserved to the Secretary.

The listing of requirements that are specifically reserved to the Secretary under existing § 745.13 would be revised and expanded. New requirements include (1) evaluating the State's administration and enforcement of the State program and implementation of the cooperative agreement on Federal lands; (2) insuring compliance with the National Historic Preservation Act; and (3) complying with the inspection, enforcement and civil penalty requirements of 30 CFR Parts 842 and 843 except as provided under proposed § 740.4(c)(5) of this Subchapter.

Sections 745.14, 745.15 and 745.16.

With minor editorial revisions, existing §§ 745.14, 745.15 and 745.16 would be retained.

Part 746—Review and Approval of Mining Plans

Proposed Part 746, which has no counterpart in existing regulations, would set forth the requirements for review and approval of mining plans.

Section 746.1 Scope.

Proposed § 746.1 would describe the coverage of these regulations and describe the requirements for review and approval, disapproval or conditional approval of mining plans on Federal lands containing leased Federal coal.

Section 746.10 Information collection.

Proposed § 746.10 corresponds to the "Note" at the beginning of existing 30 CFR Part 741 only with respect to mining plans and identifies the OMB approval number for the relevant information collection requirements of that Part. OSM proposes to delete the "Note" and to codify OMB's new approval of the information collection requirements of existing Part 741 as it relates to mining plans in proposed § 746.10.

Section 746.11 General requirements.

Proposed § 746.11(a) would provide that surface coal mining and reclamation operations on Federal lands containing leased Federal coal would require approval of a mining plan by the Secretary. While the processing of a permit may be undertaken as a separate action by the regulatory authority, the Secretary must decide whether surface coal mining can occur on Federal lands before mining may commence.

Proposed § 746.11(b) would require that mining on Federal lands containing leased Federal coal be conducted under an approved permit that is issued in accordance with Subchapter D and that is consistent with an approved mining plan. Where there is a cooperative agreement, the State regulatory authority could fully process a permit application in accordance with its program and, if it approves the application, issue the permit. Issuance of the permit in this circumstance would be based on the requirements of the State program and any requirements of this Subchapter that have been delegated to the State. Thus, permit issuance would be separate from approval of the mining plan by the Secretary. It is possible, though unlikely, that although the State regulatory authority has concluded that mining could be conducted within the requirements of its regulatory program, the Secretary could determine that mining cannot occur because of applicable Federal laws and regulations other than SMCRA (e.g., the National Environmental Policy Act or the Mineral Leasing Act) and therefore disapprove the mining plan. However, because of the close coordination and continuous communication that is necessary to properly implement the terms of a cooperative agreement, OSM would expect few instances of disagreement on decisions regarding mining proposals.

Section 746.12 Supplementary information.

Proposed § 746.12(a) would describe the supplementary information that would be required to be included in a permit application package in order that the Secretary can ensure compliance with Federal laws, regulations and orders other than SMCRA as they relate to surface coal mining and reclamation operations on lands that are subject to the requirements of proposed Part 746. While OSM expects that most of the information needed to determine compliance with Federal laws, regulations and orders other than the Act can be gleaned from the permit application, the information that would be required under proposed § 746.12 would usually not be included. Requiring this information will expedite action on the mining plan.

Section 746.12(b) would provide that the State regulatory authority consult with OSM to determine the level of detail required for the requirements of proposed § 746.12(a).

Section 746.13 Decision document and recommendation on mining plan.

Proposed § 746.13 would provide for the preparation of a decision document by the Office to be submitted to the Secretary recommending approval, disapproval or conditional approval of the mining plan. Proposed § 746.13 would set forth the elements on which the decision document would be based, including, but not limited to, the permit application package, which includes the resource recovery and protection plan required by 30 CFR Part 211; information prepared in compliance with the National Environmental Policy Act; documentation assuring compliance with Federal laws, regulations and executive orders other than SMCRA; comments and recommendations or concurrences of other Federal agencies; comments of the public; the findings and recommendations of the Minerals Management Service regarding compliance with the resource recovery and protection plan and other requirements of the Mineral Leasing Act and the lease; the findings and recommendations of the regulatory authority with respect to the permit application and the operator's compliance with the Act and the State program; and the findings and recommendation of the Office with respect to the additonal requirements of this Subchapter.

Section 746.14 Approval of mining plan.

Proposed § 746.14 would require the Secretary to approve, disapprove, or conditionally approve the mining plan.

Section 746.17 Terms of approval.

Proposed § 746.17(a) would specify that each mining plan approval shall cover the operations for which a complete permit application package was submitted, unless otherwise indicated in the approval.

Proposed § 746.17(b) would specify that modification, cancellation or withdrawal of a mining plan could render it ineffective. Proposed § 746.17(b) would also specify that the approved mining plan would be binding on any person conducting mining and reclamation operations under its provisions.

Section 746.18 Mining plan modification.

Proposed § 746.18 would require that modifications to mining plans be approved by the Secretary and that such modifications be processed in accordance with proposed Part 746.

Proposed § 746.18(c) would provide that permit revisions that meet any of the criteria listed constitute a "mining plan modification" that requires Secretarial approval. The permit and related analyses are utilized to support the Secretary's decision to approve a mining plan and thus a revision to a permit might alter the basis for the Secretary's mining plan approval. Certain revisions to SMCRA permits might not, however, alter the basis for mining plan approval. Proposed § 746.18(c) is intended to make clear that it is only where a permit revision affects the basis for mining plan approval that Secretarial approval of the revision would be required.

IV. Procedural Matters

National Environmental Policy Act. Pursuant to section 702(d) of the Act, 30 U.S.C. 1292(d), this rule is part of the Secretary's implementation of the Federal lands program and, therefore OSM is not required to prepare a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

Federal Paperwork reduction Act. The information collection requirements in existing 30 CFR Parts 741, 742 and 745 were approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and assigned clearance numbers 1029–0026, 1029–0027 and 1029–0028. This approval was identified in "notes" at the introduction to 30 CFR Parts 741, 742 and 745. OSM would delete those "notes" and codify the OMB approvals under proposed §§ 740.10, 745.10 and 746.10. OSM is requesting OMB approval of the information collection requirements being proposed for the following sections and will codify the OMB approvals when the final rules are promulgated: 30 CFR 740.13(b), 740.13(c)(8), 740.13(e), 740.15(a), 740.15(c)(1), 740.15(d)(2), 740.15(d)(3) and 746.12.

The information required by 30 CFR Parts 740, 745 and 746 will be used by the Office in the implementation of the Federal lands program required under section 523(a) of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1273(a). The information required by proposed 30 CFR Parts 740, 745 and 746 is mandatory.

Executive Order 12291 and Regulatory Flexibility Act. The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act

List of Subjects

30 CFR Part 700

Administration practice and procedure, Coal mining, Surface mining, Underground mining, Reporting requirements.

30 CFR Part 701

Coal mining, Law enforcement, Surface mining, Underground mining.

30 CFR Part 740

Coal mining, Public lands, Mineral resources, Reporting requirements, Surface mining.

30 CFR Part 745

Coal mining, Intergovernmental relations, Public lands, Mineral resources, Reporting requirements, Surface mining, Underground mining.

30 CFR Part 746

Coal mining, Mining plan, Public lands, Mineral resources, Reporting requirements, Surface mining, Underground mining.

Accordingly, 30 CFR Parts 700, 701, 740, 741, 742, 744 and 745 are proposed to be amended and a new Part 746 added as follows:

Dated: May 13, 1982.

Daniel N. Miller, Jr.

Assistant Secretary, Energy and Minerals.

PART 700—GENERAL

1. Section 700.1(d) is revised to read as follows:

§ 700.1 Scope.

* * * * *

(d) Subchapter D identifies the procedures that apply to surface coal mining and reclamation operations conducted on Federal lands rather than State or private lands and incorporates by reference the applicable regulatory program and the inspection and enforcement requirements of Subchapter L.

* * * * *

2. Section 700.11(g) is revised to read as follows:

§ 700.11 Applicability.

* * * * *

(g) Coal exploration on lands subject to the requirements of 30 CFR Part 211.

PART 701—PERMANENT REGULATORY PROGRAM

3. In § 701.5, the definition for "Permit" is revised to read as follows:

§ 701.5 Definitions.

* * * * *

Permit means a permit to conduct surface coal mining and reclamation operations issued by the State regulatory authority pursuant to a State program or by the Secretary pursuant to a Federal program. For purposes of the Federal lands program, permit means a permit issued by the State regulatory authority under a cooperative agreement or the Office where there is no cooperative agreement."

* * * * *

4. Section 701.11(b) is revised to read as follows:

§ 701.11 Applicability.

* * * * *

(b) Any person who conducts surface coal mining and reclamation operations on Federal lands on and after 8 months from the date of approval of a State program or implementation of a Federal program for the State in which the Federal lands are located shall have a permit issued pursuant to 30 CFR Part 740. However, under conditions specified in § 740.13(a)(3), a person may continue such operations under a mining plan previously approved pursuant to 30 CFR Part 211 after 8 months after the date of approval of a State program or implementation of a Federal program.

* * * * *

5. Part 740 is revised to read as follows:

PART 740—GENERAL REQUIREMENTS FOR SURFACE COAL MINING AND RECLAMATION OPERATIONS ON FEDERAL LANDS

Sec.

740.1 Scope and purpose.
740.4 Responsibilities.
740.5 Definitions.
740.10 Information collection.
740.11 Applicability.
740.13 Permits.
740.15 Bonds on Federal lands.
740.17 Inspection, enforcement and civil penalties.
740.19 Performance standards.

Authority: 30 U.S.C. 1201 *et seq.* and 30 U.S.C. 181 *et seq.*

§ 740.1 Scope and purpose.

This Subchapter provides for the regulation of surface coal mining and reclamation operations on Federal lands.

§ 740.4 Responsibilities.

(a) The Secretary is responsible for:

(1) Approval, disapproval or conditional approval of mining plans with respect to leased Federal coal and of modifications thereto, in accordance with the Mineral Leasing Act of 1920, as amended, 30 U.S.C. 181 *et seq.;*

(2) Execution, modification or termination of State-Federal cooperative agreements in accordance with 30 CFR 745; and

(3) Designation of areas of Federal lands as unsuitable for all or certain types of surface coal mining and reclamation operations, or termination of such designations, in accordance with 30 CFR Part 769.

(b) The Office is responsible for:

(1) Providing a decision document recommending to the Secretary approval, disapproval or conditional approval of mining plans and of modifications thereto;

(2) Compliance with applicable Federal laws, regulations and orders other than the Act, including the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, with respect to surface coal mining and reclamation operations on Federal lands containing leased Federal coal and on Federal lands where there is no cooperative agreement;

(3) Approval of experimental practices on Federal lands;

(4) Inspection, enforcement and civil penalties with respect to surface coal mining and reclamation operations on Federal lands except as provided in § 740.4(c)(5);

(5) Processing citizen complaints on Federal lands in accordance with 30 CFR Parts 842, 843 and 845; and

(6) Overseeing the State regulatory authority's administration and enforcement of the State program on Federal lands pursuant to the terms of any cooperative agreement.

(c) The following responsibilities of the Office may be delegated to a State regulatory authority under a cooperative agreement:

(1) Review and approval, conditional approval or disapproval of permit applications for surface coal mining and reclamation operations on Federal lands, revisions or renewals thereof, and applications for the transfer, sale or assignment of such permits;

(2) Consultation with and obtaining the consent of the Federal land management agency with respect to special requirements designed to protect non-coal resources of the areas affected by surface coal mining and reclamation operations and to assure operator compliance with such special requirements;

(3) Consultation with and obtaining the consent of the Minerals Management Service with respect to requirements relating to the development, production and recovery of mineral resources on lands affected by surface coal mining and reclamation operations involving leased Federal coal pursuant to 43 CFR Part 3400;

(4) Approval of performance bonds, liability insurance and, as applicable, Federal lessee protection bonds required for surface coal mining and reclamation operations on Federal lands. Approval of Federal lessee protection bonds requires the concurrence of the authorized representative of the Federal land management agency;

(5) Inspection, enforcement and civil penalties for which the Office is responsible when it is the regulatory authority with respect to (i) exploration on lands not subject to 30 CFR 211 and (ii) surface coal mining and reclamation operations on Federal lands;

(6) Review and approval of exploration operations for coal on TVA-owned lands and on Federal lands with underlying private coal; and

(7) Preparation of documentation to comply with the requirements of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), provided that the Office or the Federal land management agency:

(i) Determines the scope, content and format and ensures objectivity of NEPA compliance documents;

(ii) Makes the determination of whether or not the preparation of an environmental impact statement is required;

(iii) Notifies and solicits views of other State and Federal agencies, as appropriate, on the environmental effects of the proposal action;

(iv) Publishes and distributes draft and final NEPA compliance documents;

(v) Makes policy responses to comments on draft NEPA compliance documents;

(iv) Independently evaluates NEPA compliance documents; and

(vii) Adopts NEPA compliance documents and determines Federal actions to be taken on alternatives presented in such documents.

(d) The Minerals Management Service is responsible for:

(1) Receiving and approving exploration plans pursuant to 30 CFR Part 211;

(2) Inspection, enforcement and civil penalties with respect to the terms and conditions of coal exploration licenses issued pursuant to 43 CFR Part 3400;

(3) Inspection, enforcement and civil penalties with respect to the terms and conditions of exploration plans approved pursuant to 30 CFR Part 211;

(4) Reviewing the resource recovery and protection plan and modifications thereto, as required by 30 CFR Part 211 and recommending to the Secretary approval, disapproval or conditional approval of the resource recovery and protection plan;

(5) Inspection, enforcement and civil penalties with respect to the recovery and protection of the coal resource as required by 30 CFR Part 211; and

(6) Protecting mineral resources not included in the coal lease.

(e) The Bureau of Land Management is responsible for:

(1) Issuance of exploration licenses for unleased Federal coal subject to the requirements of 43 CFR Part 3400;

(2) Issuance of leases and licenses to mine Federal coal subject to the requirements of 43 CFR Part 3400; and

(3) Issuance, readjustment, modification, termination, cancellation, and/or approval of transfers of Federal coal leases pursuant to the Mineral Leasing Act and the Mineral Leasing Act for Acquired Lands, as amended, 30 U.S.C. 351 *et seq.*

(f) The Federal land management agency is responsible for:

(1) Determining and recommending to the Secretary post-mining land uses;

(2) Protection of non-mineral resources; and

(3) Requiring such conditions as may be appropriate to regulate surface coal mining and reclamation operations on lands under its jurisdiction in accordance with other provisions of law applicable to such lands.

§ 740.5 Definitions.

(a) As used in this Subchapter, the term:

Authorized officer means any person authorized to take official action on behalf of a Federal agency that has administrative jurisdiction over Federal lands.

Coal lease means a Federal coal lease or license issued by the Bureau of Land Management pursuant to the Mineral Leasing Act and the Federal Acquired Lands Leasing Act (30 U.S.C. 351 *et seq.).*

Cooperative agreement means a cooperative agreement entered into in accordance with section 523(c) of the Act and 30 CFR Part 745.

Federal land management agency means a Federal agency having administrative jurisdiction over the surface of Federal lands that are affected by these regulations.

Federal lease bond means the bond or equivalent security required by 43 CFR

Part 3474 to assure compliance with the terms and conditions of a Federal coal lease.

Federal lessee protection bond means a bond payable to the United States for use and benefit of a permittee of lessee which is authorized under Federal laws other than SMCRA to secure payment of any damages to crops or tangible improvements of Federal lands, pursuant to section 715 of the Act.

Lease terms, conditions and stipulations means all of the standard provisions of a Federal coal lease, including provisions relating to leasee duration, fees, rentals, royalties, lease bond, production and recordkeeping requirements, and lessee rights of assignment, extension, renewal, termination and expiration; and site-specific requirements included in Federal coal leases in addition to other terms and conditions which relate to protection of the environment and of human, natural and mineral resources.

Leased Federal coal means coal leased by the United States pursuant to 43 CFR Part 3400, except mineral interests in coal on Indian lands.

Mineral Leasing Act or *MLA* means the Mineral Leasing Act of 1920, as amended, 30 U.S.C. 181, *et seq.*

Mining plan means the plan for mining leased Federal coal required by the Mineral Leasing Act.

Performance bond means the bond for performance defined in the applicable regulatory program.

Permit application package means a proposal to conduct surface coal mining and reclamation operations on Federal lands, including an application for a permit, permit revision or permit renewal, all the information required by the Act, this Subchapter, the applicable State program, any applicable cooperative agreement and all other applicable laws and regulations including, with respect to leased Federal coal, the Mineral Leasing Act and its implementing regulations.

Regulatory authority means the State regulatory authority pursuant to a cooperative agreement approved under 30 CFR Part 745 or, in the absence of a cooperative agreement, the Office.

TVA-owned lands means land owned by the United States and entrusted to or managed by the Tennessee Valley Authority.

(b) The following terms shall have meanings as set forth in 30 CFR Part 211: exploration; exploration plan; maximum economic recovery; method of operation; mine; and resource recovery and protection plan.

§ 740.10 Information collection.

The information collection requirements contained in this Part have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1029–0026 and 1029–0027. The information is being collected to determine compliance with sections 506, 507, 509, 510, 515 and 523 of the Act (30 U.S.C. 1256, 1257, 1259, 1260, 1265 and 1273) and this Part. The obligation to respond to the information collection requirements of this Part is mandatory.

§ 740.11 Applicability.

(a) Upon approval or promulgation of a regulatory program for a State, that program and this Subchapter shall apply to coal exploration operations on lands not subject to the requirements of 30 CFR Part 211 and to surface coal mining and reclamation operations on lands where either the surface or mineral interests owned by the United States will be directly affected by such operations except as specified in this Subchapter.

(b) Where the Office is the regulatory authority, references in the State program to the State or an agency or official of the State (with respect to functions of the State acting as regulatory authority) shall be construed as referring to the Office.

(c) Where the Secretary and a State have entered into a cooperative agreement, the cooperative agreement shall delineate the responsibilities of the Secretary and the State with respect to the administration of the provisions of this Subchapter.

(d) Nothing in this Subchater shall affect in any way the authority of the Secretary or any Federal land management agency to include in any lease, license, permit, contract, or other instrument such conditions as may be appropriate to regulate surface coal mining and reclamation operations under provisions of law other than SMCRA on land under their jurisdiction.

(e) This Subchapter shall not apply to surface coal mining and reclamation operations within a State prior to approval or promulgation of a regulatory program for the State.

§ 740.13 Permits.

(a) *General requirements.* (1) No person shall conduct surface coal mining and reclamation operations on lands subject to this Part unless that person has first obtained a permit issued pursuant to the regulatory program and this Part.

(2) Every person conducting surface coal mining and reclamation operations on lands subject to this Part shall comply with the terms and conditions of the permit and the lease or license, the Act, this Subchapter, the regulatory program and all other applicable State and Federal laws and regulations.

(3) Surface coal mining and reclamation operations approved under the interim program by the Secretary in accordance with the Act and 30 CFR Part 211 may be conducted beyond the eight-month period prescribed in the applicable regulatory program if all of the following conditions are present:

(i) A timely and administratively complete application for a permit to conduct those operations under this Part has been made to the regulatory authority in accordance with the provisions of the Act, this Part and the applicable regulatory program;

(ii) The regulatory authority has not yet rendered a final decision with respect to the permit application; and

(iii) Those operations are conducted in compliance with all terms and conditions of the Secretary's approval and the requirements of the Act, 30 CFR Part 211, State law and regulations applicable through an approved cooperative agreement, and the requirements of the applicable lease or license.

(b) *Permit application package.* (1) Each application for a permit or revision or renewal thereof to conduct surface coal mining and reclamation operations on lands subject to this Part shall be accompanied by a fee made payable to the regulatory authority. The amount of the fee shall be determined in accordance with the permit fee criteria of the applicable regulatory program.

(2) Seven copies of the complete permit application package shall be filed with the regulatory authority.

(3) Each permit application package shall include:

(i) The information required for a permit application or an application for revision or renewal of a permit under the applicable regulatory program;

(ii) The resource recovery and protection plan required by 30 CFR Part 211, unless previously submitted to the Minerals Management Service; and

(iii) Supplementary information as required under 30 CFR Part 746.12.

(4) Where the surface of the Federal lands is subject to a lease or permit issued by the Federal Government to a person other than the application, the permit application package shall contain information sufficient to demonstrate compliance with the requirements of 30 CFR 740.15(c)(1). This requirement shall not apply to TVA-owned lands.

(c) *Permit review and processing.* Applications for permits, permit

revisions of renewals thereof to conduct surface coal mining and reclamation operations on lands subject to this Part shall be reviewed and processed in accordance with the requirements of the applicable regulatory program, subject to the following additional requirements:

(1) *Permit terms and conditions.* Permits shall inlcude, as applicable, terms and conditions required by the lease issued pursuant to the Mineral Leasing Act and by other applicable Federal laws and regulations.

(2) *Criteria for permit approval or denial.* The regulatory authority shall not approve an application for a permit, revision or renewal thereof for surface coal mining and reclamation operations on lands subject to this Part unless the application is in accordance with the requirements of the applicable regulatory program and this Part.

(3) *Public participation in permit review process.* Where public hearings were held and determinations made under section 2(a)(3) (A), (B) and (C) of the Mineral Leasing Act (30 U.S.C. 201(a)(3) (A), (B) and (C)), such hearings may be made a part of the record of each public hearing on a permit application held pursuant to the requirements of the applicable regulatory program and this Part. Matters covered at such hearings and determinations made at such hearings need not be readdressed.

(4) *Availability of information.* Information in a permit application package that is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552(b)) shall be held in confidence by the Office in accordance with 43 Part CFR 2.

(5) *Permit review processing for operations on National Forest System lands.* Upon receipt of a permit application package or a proposed revision or renewal of an approved permit that involves surface coal mining and reclamation operations within lands administered by the National Forest Service, the regulatory authority shall transmit a copy of the complete permit application package, or proposed revision or renewal thereof, to the National Forest Service, with a request for review.

(6) *Consultation with other Federal agencies.* Prior to approving or disapproving a permit, revision or renewal thereof, the regulatory authority shall consult with the authorized officer of the Federal land management agency and the Minerals Management Service, as appropriate.

(7) *Permit processing schedule.* The regulatory authority shall process the permit application package within the time schedule established by the applicable regulatory program, except that the schedule may be extended if necessary to ensure compliance with other Federal laws and regulations other than the Act.

(8) *Determination of operator compliance with the Act.* (i) Where the Office is the regulatory authority and it determines from the permit application package or from other available information that any surface coal mining and reclamation operation owned or controlled by the applicant is currently in violation of any air or water environmental law or regulation of the United States, or of any air or water environmental State law or regulation enacted pursuant to Federal laws or regulations, the Office will require the applicant, before the issuance of the permit, to either—

(A) Submit proof to the Office, department, or agency which has jurisdiction over such violation, that the violation has been corrected or is in the process of being corrected; or

(B) Establish to the satisfaction of the Office that the applicant has filed and is presently pursuing, in good faith, an administrative or judicial appeal to contest the validity of that violation.

(ii) If the administrative or judicial hearing authority either denies a stay applied for in the appeal pursuant to paragraph (c)(8)(i)(B) of this section or affirms the violation, then any surface coal mining operations being conducted under a permit issued according to this section shall be immediately terminated, unless and until the provisions of paragraph (c)(8)(i)(A) of this section are satisfied.

(iii) If, where the Office is the regulatory authority, the Office determines that the applicant, or the operator specified in the application, controls or has controlled mining operations with a demonstrated pattern of willful violation of the Act of such nature and duration and with such resulting irreparable damage to the environment as to indicate an intent not to comply with the provisions of the Act, the Office shall not issue a permit to the applicant. Prior to making a final determination the Office shall afford the applicant or operator an opportunity for an adjudicatory hearing on the determination as provided for in 43 CFR Part 4.

(9) *Administrative review of decisions on permit applications.* Where the Office is the regulatory authority, the final decision on a permit application is subject to an appeal to the Department's Office of Hearings and Appeals as provided in 30 CFR Part 787.

(10) *Bond and insurance required for issuance of permits.* After the approval of an application for a new or revised permit or for renewal of an existing permit, but prior to issuance of such permit, the applicant/permittee shall file with the regulatory authority: (i) A performance bond which meets the requirements of the applicable regulatory program; (ii) proof of liability insurance in accordance with the applicable regulatory program; and (iii) where required, evidence of the execution of a Federal lessee protection bond. Bonds required to be filed with the Office shall be in a form required by the Office and made payable to the United States.

(d) *Review of permit revisions.* (1) Where the State is the regulatory authority for surface coal mining and reclamation operations on lands subject to this Part, it shall inform the Office of each request for a permit revision.

(2) The Office shall review each permit revision in consultation with the Minerals Management Service and the appropriate Federal land management agency to determine whether the permit revision constitutes a mining plan modification requiring the Secretary's approval under 30 CFR 746.18.

(e) *Transfer, assignment or sale of rights.* (1) The regulatory authority, before approving or disapproving an application for transfer, assignment or sale of rights granted under a permit issued pursuant to this Subchapter, shall obtain the written concurrence of the Federal land management agency and the Minerals Management Service, as applicable.

(2) Approval of a transfer, assignment or sale of rights granted under a permit issued pursuant to this Subchapter shall not be construed to constitute a transfer or assigment of leasehold interests. Leasehold interests may be transferred or assigned only in accordance with 43 CFR Part 3506.

(f) *Suspension or revocation of permits.* (1) A permit to conduct surface coal mining and reclamation operations on Federal lands may be suspended or revoked by the regulatory authority in accordance with 30 CFR Part 843 or the regulatory program.

(2) If a permit to conduct surface coal mining and reclamation operations on Federal lands is suspended or revoked, the regulatory authority shall notify the U.S. Bureau of Land Management so that the Bureau of Land Management can determine whether action should be taken to cancel the Federal lease.

§ 740.15 Bonds on Federal lands.

(a) *Federal lease bonds.* (1) Each holder of a Federal coal lease that is covered by a Federal lease bond

required under 43 CFR Part 3474 may apply to the authorized officer for release of liability for that portion of the Federal lease bond that covers reclamation requirements.

(2) The authorized officer may release the liability for that portion of the Federal lease bond that covers reclamation requirements if:

(i) The lessee has secured a suitable performance bond covering the permit area under this Part;

(ii) There are no pending actions or unresolved claims against existing bonds; and

(iii) The authorized officer has received concurrence from the Office and the Minerals Management Service.

(b) *Performance bonds.* Performance bonds required for operations on Federal lands shall be made payable to the United States and, where a cooperative agreement is in force, the State.

(c) *Federal lessee protection bonds.* (1) Where leased Federal coal is to be mined and the surface of the land is subject to a lease or permit issued by the United States for purposes other than surface coal mining, the applicant for a mining permit, if unable to obtain the written consent of the permittee or lessee of the surface to enter and commence surface coal mining operations, shall submit to the regulatory authority with his application evidence of execution of a bond or undertaking which meets the requirements of this section. The Federal lessee protection bond is in addition to the performance bond required by a regulatory program.

(2) The bond shall be payable to the United States and, as applicable, the State for the use and benefit of the permittee or lessee of the surface lands involved.

(3) The bond shall secure payment to the surface estate for any damage which the surface coal mining and reclamation operation causes to the crops or tangible improvements of the permittee or lessee of the surface lands.

(4) The amount of the bond shall be determined either by the applicant and the Federal lessee or permittee or as determined in an action brought against the person conducting surface coal mining and reclamation operations in a court of competent jurisdiction.

(d) *Release of bonds.* (1) A Federal lease bond may be released by the authorized officer upon satisfactory reclamation of a mine and after the release is concurred in by the Office and the Minerals Management Service.

(2) When the surface of the lands in a lease, permit or license is not owned by the United States, the regulatory authority shall notify the surface owner and take into account the surface owner's comments before releasing the performance bond.

(3) A Federal lessee protection bond shall be released upon the written consent of the permittee or lessee.

§ 740.17 Inspection, enforcement and civil penalties.

(a) *General requirements.* (1) Where OSM is the regulatory authority, 30 CFR Parts 840, 842, 843 and 845 shall govern its inspection, enforcement and civil penalities activities with respect to surface coal mining and reclamation operations on Federal lands.

(2) Where the State is the regulatory authority under a cooperative agreement, the State program shall govern inspection, enforcement and civil penalties activities by the regulatory authority with respect to surface coal mining and reclamation operations on Federal lands, while the requirements of 30 CFR Parts 842, 843 and 845 shall govern OSM inspection, enforcement and civil penalties activities conducted in oversight of the State program.

(3) The requirements of this section shall not apply to coal exploration on Federal lands subject to the requirements of 30 CFR Part 211.

(b) *Right of entry.* (1) Persons engaging in coal exploration or surface coal mining an reclamation operations on Federal lands shall provide access for any authorized officer of the regulatory authority, and as applicable, the Minerals Mangement Service or the Federal land management agency to inspect the operations, without advance notice or a search warrant and upon presentation of appropriate credentials, to determine whether the operations are in compliance with all applicable laws, regulations, notices and orders, and terms and conditions of the permit.

(2) Any authorized representative of the State regulatory authority and, as applicable, the Minerals Management Service may, at reasonable times and without delay, have access to and copy any records and inspect any monitoring equipment or method of operation required under the Act, this Subchapter and the permit, lease, license or mining plan in accordance with paragraph (a) of this section.

(3) No search warrant shall be required with respect to any activity under paragraph (a) or (b) of this section, except entry into a building without consent of the person in control of the building.

(c) *Inspections.* Inspections shall, to the extent practical, be conducted jointly if more than one government agency is involved. The regulatory authority shall coordinate inspections by Federal agencies and may request the participation of representatives from other Federal agencies when necessary to ensure compliance with this Subchapter and other applicable Federal laws, regulations and orders.

§ 740.19 Performance standards.

(a) *Operations and reclamation.* (1) Surface coal mining and reclamation operations on lands subject to this Part shall be conducted in accordance with the performance standards of the applicable regulatory program.

(2) Surface coal mining and reclamation operations on lands containing leased Federal coal shall be conducted in accordance with the requirements of the terms, conditions and stipulations of the lease issued under the Mineral Leasing Act, as applicable, and the mining plan.

(b) *Completion of operations and abandonment.* (1) Upon completion of operations, bonds shall be released in accordance with 3 CFR 740.15(d).

(2) Where there is a Federal lease bond:

(i) Not less than 30 days prior to permanent cessation or abandonment of surface coal mining and reclamation operations, the person conducting those operations shall submit to the Office, in duplicate, a notice of intention to cease or abandon those operations, with a statement of the number of acres affected by the operations, the extent and kind of reclamation accomplished and the structures and other facilities that are to be removed from or remain on the permit area.

(ii) Upon receipt of this notice, the Office, the Minerals Management Service and the Federal Land Management Agency shall promptly make joint inspections to determine whether all operations have been completed in accordance with the requirements of this Subchapter, the permit, the lease or licenses and the mining plan. Where all of these requirements have been complied with, the liability under the lease bond of the person conducting surface coal mining and reclamation operations shall be terminated.

6. Part 745 is revised to read as follows:

PART 745—STATE-FEDERAL COOPERATIVE AGREEMENTS

Sec.

745.1 Scope.
745.10 Information collection.
745.11 Application and agreement.
745.12 Terms.
745.13 Authority reserved by the Secretary.

Sec.

745.14 Amendments.
745.15 Termination.
745.16 Reinstatement.

Authority: 30 U.S.C. 1201 *et seq.* and 30 U.S.C. 181 *et seq.*

§ 745.1 Scope.

This Part sets forth requirements for the development, approval and administration of cooperative agreements under section 523(c) of the Act.

§ 745.10 Information collection.

The information collection requirements contained in this Part have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0028. The information is being collected pursuant to section 523(c) of the Act (30 U.S.C. 1273(c)) and will be used to support a State's request for a State-Federal cooperative agreement or an amendment, termination or reinstatement thereto. The obligation to respond to the information collection requirements of this Part is mandatory.

§745.11 Application and agreement.

(a) The Governor of any State may request that the Secretary enter into a cooperative agreement with the State, provided the State has an approved State program or has submitted a program for approval under 30 CFR Part 731, and has or will have within the State surface coal mining and reclamation operations on Federal Lands.

(b) A request for a cooperative agreement shall be submitted in writing and, except to the extent previously submitted in the State program, shall include the following information:

(1) Information sufficient for the Office to make findings in accordance with 30 CFR 745.11(f);

(2) A proposed agreement consistent with the requirements of this Part; and

(3) A certification by the Attorney General or the chief legal officer of the State regulatory authority that no State statutory, regulatory or legal constraint exists which would preclude the State regulatory authority from fully carrying out the proposed cooperative agreement.

(c) The Office shall publish a notice of the request and the full text of the terms of the proposed cooperative agreement as submitted or subsequently modified by the Office and the State in the **Federal Register** as a proposed rule. A notice of the request and a summary of the terms of the proposed agreement shall also be published in a newspaper(s) of general circulation throughout the State. Both notices shall include:

(1) The location at which a copy of the request submitted by the State may be obtained; and

(2) A date, not less than 30 days after publication of the notices, within which members of the public may submit written comments on the request and the person to who comments should be addressed.

(d) A public hearing shall be held within the comment period in a suitable location in the State requesting the cooperative agreement. This hearing may be combined with public hearings required under 30 CFR Part 732 for the Secretary's consideration of approval of a State program submission, if appropriate. The date, time and place of the public hearing(s) on the request will be published in the **Federal Register** not less than 15 days prior to the date of the hearing.

(e) Before the expiration of the comment period, the Office shall consult with the Minerals Management Service, Fish and Wildlife Service and Federal land management agencies, as appropriate, with respect to the proposed cooperative agreement.

(f) The Office shall recommend to the Secretary that a cooperative agreement be entered into with a State, if the Office finds that:

(1) The State has an approved State program:

(2) The State regulatory authority has sufficient budget, equipment and personnel to enforce fully its regulatory program on lands subject to this Part in the State; and

(3) The State has the legal authority to enter into the cooperative agreement.

(g) The Secretary shall publish in the **Federal Register** his decision with respect to a request by a State to enter into a cooperative agreement and the reasons therefor and the full text of the cooperative agreement.

§ 745.12 Terms.

Each cooperative agreement shall include:

(a) Terms obligating the State regulatory authority to inspect all surface coal mining and reclamation operations on Federal lands in accordance with the State regulatory program and to enforce the State program on Federal lands;

(b) A description of the powers and authority reserved by the Secretary, including, but not limited to, those specified under 30 CFR 745.13;

(c) Provisions for the administration and enforcement by the Office or the State of this Subchapter so as to minimize overlap and duplication;

(d) Provisions for regular reports by the State regulatory authority to the Office on the results of the State's implementation and administration of the cooperative agreement;

(e) Terms requiring the State regulatory authority to maintain sufficient personnel and facilities to comply with the terms of the cooperative agreement, and to notify the Office of any substantial change in State statutes, regulations, funding, staff, or other changes which would affect the State's ability to carry out the terms of the cooperative agreement;

(f) Terms for coordination among the State regulatory authority, the Federal land management agency, the Minerals Management Service and the Office.;

(g) Terms obligating the State regulatory authority to—

(1) Make available to the Office information on any action taken regarding any permit application for surface coal mining and reclamation operations on Federal lands; and

(2) Provide the Office, in the form specified by the Office, with written findings indicating that each permit application is in compliance with the terms of the regulatory program and a technical analysis of each permit application to assist the Office in meeting its responsibilities under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.*, and other applicable Federal laws and regulations.

§ 745.13 Authority reserved by the Secretary.

The Secretary shall not delegate to any State, nor shall any cooperative agreement under this Part be construed to delegate to any State, authority to—

(a) Designate Federal lands as unsuitable for surface coal mining under Subchapter F of this Chapter or terminate such designations;

(b) Comply with the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.;*

(c) Develop land use management plans for Federal lands;

(d) Regulate non-coal mining activities on Federal lands;

(e) Determine when, where, and how to lease Federal coal and how much to lease;

(f) Develop terms for Federal coal leases, including special terms relating to mining and reclamation procedures;

(g) Evaluate Federal coal resources;

(h) Establish royalties, rents, and bonuses charged in connection with Federal coal leases:

(i) Approve mining plan or modifications thereto;

(j) Enforce Federal lease terms, including diligent development and

maximum economic recovery requirements;

(k) Approve or determine post-mining land uses for Federal lands;

(l) Release Federal lease bonds;

(m) Ensure compliance with the consultation requirements of section 7(a) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1536).

(n) Evaluate the State's administration and enforcement of the approved State program and implementation of the cooperative agreement on Federal lands;

(o) Ensure compliance with the section 106 requiremetns of the National Historic Preservation Act of 1966, U.S.C. 470 *et seq.*

(p) Comply with the inspection, enforcement and civil penalties requirements of 30 CFR Part 842 and 843 except as provided under § 740.4(c)(5) of this Subchapter.

§ 745.14 Amendments.

A cooperative agreement which has been approved pursuant to 30 CFR 745.11 may be amended by mutual agreement of the Secretary and the Governor of a State. Amendments shall be adopted by Federal rulemaking, in accordance with 30 CFR 745.11.

§ 745.15 Termination.

(a) A cooperative agreement may be terminated by the State upon written notice to the Secretary, specifying the date upon which the cooperative agreement shall be terminated. The date of termination shall not be less than 90 days from the date of the notice.

(b) A cooperative agreement may be terminated by the Secretary after giving notice to the State regulatory authority and affording the State regulatory authority and the public an opportunity for a public hearing and comment period, in accordance with the cooperative agreement, if the Secretary finds that:

(1) The State regulatory authority has substantially failed to comply with the requirements of this Subchapter, the State program, or the cooperative agreement; or

(2) The State regulatory authority has failed to comply with any undertaking by the State in the cooperative agreement upon which approval of the State program, cooperative agreement, or grant by the Office for administration or enforcement of the State program or cooperative agreement was based.

(c) A cooperative agreement shall terminate—

(1) When no longer authorized by Federal law or the applicable State laws and regulations; or

(2) Upon termination or withdrawal of the Secretary's approval of the applicable State program.

§ 745.16 Reinstatement.

(a) A State may apply for reinstatement of the cooperative agreement by providing written evidence to the Office that the State has remedied all defects for which the agreement was terminated and is fully capable of carrying out the cooperative agreement. Any reinstatement shall be by Federal rulemaking in accordance with 30 CFR 745.11.

(b) The Office may recommend approval of the reinstatement to the Secretary if it finds that the State meets the requirements for the initial approval of a cooperative agreement under this Subchapter.

(c) The Secretary may approve reinstatement of a cooperative agreement if the Secretary concurs in findings of the Office which recommended that approval.

7. Part 746 is added to Subchapter D to read as follows:

PART 746—REVIEW AND APPROVAL OF MINING PLANS

Sec.

746.1 Scope.
746.10 Information collection.
746.11 General requirements.
746.12 Supplemental information.
746.13 Decision document and recommendation of mining plan.
746.14 Approval of mining plan.
746.17 Term of approval.
746.18 Modification of approved mining plans.

Authority: 30 U.S.C. 1201 *et seq.* and 30 U.S.C. 181 *et seq.*

§ 746.1 Scope.

This Part provides the process and requirements for the review and approval, disapproval or conditional approval of mining plans on lands containing leased Federal coal.

§ 746.10 Information collection.

The information collection requirements contained in this section have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0026. The information is being collected to determine compliance with Section 523 of the Act (30 U.S.C. 1273) and this Part. The obligation to respond to the information collection requirements of this Part is mandatory.

§ 746.11 General requirements.

(a) No person shall conduct surface coal mining and reclamation operations on lands containing leased Federal coal until the Secretary has approved the mining plan.

(b) No person shall conduct surface coal mining and reclamation operations on lands containing leased Federal coal except in accordance with a permit issued in accordance with this Subchapter and consistent with the approved mining plan.

§ 746.12 Supplementary information.

(a) The following supplementary information shall be included in permit application packages to facilitate compliance with Federal laws, regulations and orders other than the Act, as they relate to surface coal mining and reclamation operations on lands that are subject to the requirements of this Part:

(1) Data that can be used in conjunction with the information contained in the permit application to assist in preparation of documentation in compliance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*, including:

(i) Data that will assist in assessing the probable socio-economic impacts on the area affected by the proposed surface coal mining and reclamation operation; and

(ii) Data that will assist in assessing the scenic and aesthetic impacts on the area affected by the proposed surface coal mining and reclamation operations;

(2) Data concerning cultural and historical resources within the area affected by the proposed surface coal mining and reclamation operation that will assist in complying with the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 460, *et seq.;*

(3) Data concerning archaeological resources within the area affected by the proposed surface coal mining and reclamation operation that will assist in complying with the Archaeological Resources Protection Act of 1979, 16 U.S.C. 470, *et seq.;*

(4) Data concerning fish and wildlife and their habitats located within the area affected by the proposed surface coal mining reclamation operations to assist in complying with the Fish and Wildlife Act of 1958, 16 U.S.C. 661, *et seq.;*

(5) Data concerning the air quality standards of the area affected by the proposed surface coal mining and reclamation operation, current air quality levels and the control technology to be used to mitigate any adverse impacts on the air quality resulting from the proposed surface coal mining and reclamation operation to determine compliance with the Clean Air Act, 42 U.S.C. 7401, *et seq.;* and

(6) Data concerning the existing quality of surface and ground water regimes and applicable State standards and control measures, to determine the probable cumulative hydrological impacts of all mining in the area affected by the proposed surface coal mining and reclamation operation in accordance with the Federal Water Pollution Control Act, 33 U.S.C. 1251, *et seq.*

(b) Where the State is the regulatory authority, it shall consult with the Office to determine the level of detail required to satisfy the requirements under 30 CFR 746.12(a).

§ 746.13 Decision document and recommendation on mining plan.

The Office shall prepare and submit to the Secretary a decision document recommending approval, disapproval or conditional approval of the mining plan to the Secretary. The recommendation shall be based, at a minimum, upon:

(a) The permit application package, including the resource recovery and protection plan;

(b) Information prepared in compliance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*;

(c) Documentation assuring compliance with the applicable requirements of other Federal laws, regulations and executive orders other than the Act;

(d) Comments and recommendations or concurrence of other Federal agencies, as applicable, and the public;

(e) The findings and recommendations of the Minerals Management Service with respect to the resource recovery and protection plan and other requirements of the lease and the Mineral Leasing Act;

(f) The findings and recommendations of the regulatory authority with respect to the permit application and the State program; and

(g) The findings and recommendations of the Office with respect to the additional requirements of this Subchapter.

§ 746.14 Approval of mining plan.

The Secretary shall approve, disapprove or conditionally approve the mining plan in accordance with this Part.

§ 746.17 Term of approval.

(a) Each mining plan approval shall cover the operations for which a complete permit application package was submitted, unless otherwise indicated in the approval.

(b) An approved mining plan shall remain in effect until modified, cancelled or withdrawn and shall be binding on any person conducting mining under the approved mining plan.

§ 746.18 Modification of Approved Mining Plans.

(a) Mining plan modifications shall be approved by the Secretary.

(b) The approval of mining plan modifications shall be in accordance with the procedures of this Part for mining plan approval.

(c) Surface coal mining and reclamation operations on Federal lands pursuant to a permit revision issued by the regulatory authority shall not commence until—

(1) The Office determines that the permit revision does not constitute a mining plan modification under this section, or

(2) If the permit revision constitutes a mining plan modification under this section, such modification has been approved by the Secrerary.

(d) Permit revisions constituting mining plan modifications if they meet any of the following criteria:

(1) Any change in a permit term which was included pursuant to Federal law other than SMCRA;

(2) Any change which would adversely affect the level of protection afforded any land, facility or place designated unsuitable for mining, alluvial valley floors, or prime farmlands;

(3) Any change in the location or amount of coal to be mined, except where such change is the result of:

(i) A minor change in the amount of coal actually available for mining from the amount estimated; or

(ii) An insignificant boundary change;

(4) Any change which would extend coal mining and reclamation operations onto leased Federal coal lands for the first time;

(5) Any change which requires the preparation of an environmental impact statement under the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*;

(6) Any change in the design specifications for the construction, modification or removal of structures which adversely affects the level of environmental protection or safety of the structure;

(7) Any change which results in a transfer, sale or assignment of rights granted under permits.

PARTS 741, 742, 743 AND 744 [REMOVED]

8. Parts 741, 742, 743 and 744 are removed.

[FR Doc. 82-15574 Filed 6-8-82; 8:45 am]
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S. 2575 / Pub. L. 97-190 To extend the expiration date of section 252 of the Energy Policy and Conservation Act. (June 1, 1982; 96 Stat. 106) Price: $1.75.

S. 2535 / Pub. L. 97-191 To regulate the operation of foreign fish processing vessels within State waters. (June 1, 1982; 96 Stat. 107) Price: $1.75.

H.R. 4769 / Pub. L. 97-192 To recognize the organization known as the American Council of Learned Societies. (June 1, 1982; 96 Stat. 109) Price: $1.75.

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Rules and Regulations

Federal Register
Vol. 47, No. 112
Thursday, June 10, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 694]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period June 11–June 17, 1982. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: June 11, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. This regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1981–82 which was recommended by the committee following discussion at a public meeting on February 5, 1982. The committee met again publicly on June 8, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencias deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges is light.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared policy of the act to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

List of Subjects in 7 CFR Part 908

Marketing agreements and orders, California, Arizona, Oranges (Valencia).

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

1. Section 908.994 is added as follows:

§ 908.994 Valencia Orange Regulation 694.

The quantities of Valencia oranges grown in Arizona and California which may be handled during the period June 11, 1982, through June 17, 1982, are established as follows:

(a) District 1: 282,000 cartons;

(b) District 2: 318,000 cartons;

(c) District 3: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: June 9, 1982.

D. S. Kuryloski,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-15698 Filed 6-9-82; 11:27 am]

BILLING CODE 3410-02-M

7 CFR Part 1032

[Milk Order No. 32]

Milk in the Southern Illinois Marketing Area Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This action suspends certain provisions relating to how much milk not needed for fluid (bottling) use may be moved directly from farms to nonpool plants and still be priced under the order. The suspension removes the limits on such movements of milk during the months of June through August 1982. The action was requested by a cooperative association to assure the efficient disposition of milk not needed for fluid use and still maintain producer status under the order for dairy farmers regularly associated with the market. The closing of a fluid milk plant supplied by the cooperative association prompted the request.

EFFECTIVE DATE: June 10, 1982.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–4824.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Proposed Suspension: Issued May 14, 1982; published May 20, 1982 (47 FR 21846).

It has been determined that this action is not a major rule under the criteria set forth in Executive Order 12291.

It has also been determined that any need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the issuance of the suspension on a timely enough basis since it is necessary that it be effective for the month of June 1982. In this instance, the initial request for this action was received on May 11, 1982. A notice of proposed suspension was issued on May 14, 1982, inviting interested parties to submit comments

on the proposed action on or before May 27, 1982.

It has also been determined that this action would not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and would tend to insure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Southern Illinois marketing area. Notice of proposed rulemaking was published in the **Federal Register** (47 FR 21846) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that for the months of June through August 1982 the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In § 1032.13(b)(2), the language "during the months of May, June, and July, during the months of August and December for not more than 12 days of production of producer milk by such producer, and in any other month for not more than 8 days of production of producer milk by such producer".

2. In § 1032.13(b)(3), the language "for not more days of production of producer milk, by such producer than is received at a pool plant(s) pursuant to paragraph (a) of this section".

Statement of Consideration

This action removes the limits on the amount of milk that may be diverted from pool plants to nonpool plants during the months of June through August 1982. The order now provides that during the months of January through April and September through November not more than 8 days' production of a producer may be diverted to nonpool plants that are not other order plants. Such diversions are limited to not more than 12 days' production of a producer during August and December. Diversions to nonpool plants that are also other order plants are limited each month of the year to not more than the number of days of production of a producer that is received at pool plants.

The suspension was requested by a cooperative association that supplies milk to handlers regulated under the order. The closing of a pool distributing plant on May 29 that was supplied by the cooperative association prompted the request. The cooperative stated that other pool distributing plants have supply arrangements that run through August but that tentative arrangements have been made to place the plant's milk supply in such other pool distributing plants beginning in September. As a result, milk of the cooperative's members will be temporarily in excess of fluid milk needs and will have to be moved to nonpool plants for surplus disposal during June through August.

Outlets for the displaced milk include unregulated manufacturing plants located in the production area and distributing plants in the St. Louis area that are regulated under the adjacent St. Louis-Ozarks order. Without the suspension, some of the displaced milk would become pooled under the St. Louis-Ozarks order, thereby lowering returns to producers supplying that market, while other costly and inefficient movements of milk would be made to continue to pool the milk of dairy farmers under the Southern Illinois order. Suspension of the diversion limitations will permit the displaced milk to be moved to available outlets for surplus use in the most efficient manner and will assure its continued pooling in the market with which it has regularly been associated.

Interested parties were given an opportunity to submit written data, views, or arguments concerning the suspension. No views in opposition to the suspension were received.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that it will permit the most efficient movements of temporarily displaced milk to available outlets for surplus use and assure the continued pooling of such milk in the market with which it has been regularly associated;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension.

Therefore, good cause exists for making this order effective June 10, 1982.

List of Subjects in 7 CFR Part 1032

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the months of June through August 1982.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: June 10, 1982.

Signed at Washington, D.C., on June 7, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-15654 Filed 6-9-82; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-CEF-2-AD; Amdt. 39-4399]

Airworthiness Directives; Government Aircraft Factories (GAF) Nomad Models N22B and N24A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) applicable to Government Aircraft Factories (GAF) Nomad Models N22B and N24A airplanes. This AD requires inspection and replacement (if required) of the rudder control lever shafts. This action is necessary because a separation of an arm from this shaft has occurred. A loss of airplane rudder control may result from this failure.

EFFECTIVE DATE: June 17, 1982.

COMPLIANCE: As prescribed in the body of the AD.

ADDRESSES: GAF Alert Service Bulletin ANMD 27–23, dated February 17, 1982, and Revision 1 dated February 19, 1982, applicable to this AD may be obtained from Government Aircraft Factories, 226 Lorimer Street, Port Melbourne, 3207 Victoria, Australia. This service bulletin

and revision may be examined at the Northwest Mountain Region, Honolulu Aircraft Certification Field Office, Room 7108, Prince Kuhio Federal Building, 300 Ala Moana Boulevard, Honolulu, Hawaii 96850. Copies of them are also contained in the Rules Docket, Office of the Regional Counsel, FAA, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT:

Gary K. Nakagawa, Chief, Aircraft Certification Field Office, ANM–170H, Federal Aviation Administration, P.O. Box 50246, Honolulu, Hawaii 96850; Telephone (808) 546–8650.

SUPPLEMENTARY INFORMATION: During ground operation, a rudder control level shaft failed on an Australian registered GAF Nomad N24A model airplane. Subsequent investigation attributed the failure to cracking in the area of the welded joint between the lever and the tubular shaft. The level shafts are part of the rudder control torque shaft assemblies located at the pilot and co-pilot stations. They coordinate pilot and co-pilot rudder pedal motion and transmit rudder pedal movements to the rudder control cables. Cracking and failure of the welds attaching the levers to the shafts could result in loss of rudder control and cause an accident. To ensure continued airworthiness, the manufacturer incorporated Modification No. 567 on production airplanes and issued Alert Service Bulletin ANMD 27–23 dated February 17, 1982, and Revision 1 dated February 19, 1982. They recommend therein inspection and, when necessary, replacement of rudder control lever shafts, Parts Nos. 1/N–45–1102, 1/N–45–1103 and 1/N–45–1104 (ref. items 6, 10 and 11 of Illustrated Parts Catalogue (IPC) 27–20–02, Figure 4) on certain inservice GAF Nomad N22B and N24A model airplanes. They also prescribed checks and instructions to assure that the installation of rod ends in these levers is done in a manner that does not impose excessive stress in the welded joint between the lever and tubular shaft. Accordingly, since the condition described herein is likely to exist or develop in other airplanes of the same type design, an AD is being issued which requires mandatory compliance with GAF Alert Service Bulletin ANMD 27–23 dated February 17, 1982, and Revision 1 dated February 19, 1982.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure thereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

Government Aircraft Factories (GAF): Applies to Nomad Models N22B and N24A (Serial Nos. N22B/N24A–5 through 111, 114, 115, 117, 119 and 120) airplanes, certificated in any category which do not incorporate GAF Modification No. 567.

Compliance: Required as indicated unless previously accomplished.

To preclude failure of the rudder control system, accomplish the following:

(A) Within the next 25 hours time-in-service after the effective date of this AD, and thereafter at intervals not to exceed 100 hours time-in-service from the last inspection:

(1) Visually inspect, using at least a 5 power magnifier and supplemental lighting as necessary, all rudder control lever shafts, Part Nos. 1/N–45–1102, 1/N–45–1103, and 1/N–45–1104 (ref. items 6, 10, and 11, respectively GAF Illustrated Parts Catelogue (IPC) 27–20–02, Figure 4) for cracking in the area of the welded joints between the levers and the tubular shaft. Pay particular attention to the ends of the welds at the lever flanges. (To gain access to the rudder control lever shafts, remove rudder pedal and control column guards in the flight compartment.)

Caution: Do not operate flight controls with components disconnected or when personnel are working in the area concerned. Injury to personnel or damage to components and structure could occur.

(2) If cracks are found, before further flight, replace with new or serviceable rudder control shafts verified to be free from cracks and installed in accordance with paragraph (C) of this AD.

(B) Within the next 100 hours time-in-service after the effective date of this AD, check the axial fit of all rod end bearings in lever shafts Parts Nos. 1/N–45–1102, 1/N–45–1103 and 1/N–45–1104. The maximum allowable clearance between rod end bearing and lever before tightening bearing bolt is .010 inch (.25 mm). Add shims or washers and change bolt length in accordance with GAF Alert Service Bulletin ANMD 27–23 dated February 17, 1982, and Revision 1 dated February 19, 1982, to achieve this.

(C) Discontinue the inspection per paragraph A when lever shafts Part Nos. 1/N–45–1102, 1/N–45–1103 and 1/N–45–1104 are removed from aircraft and verified that they are free from cracks by magnetic particle inspection or dye penetrant methods. Serviceable removed or new parts should be installed in accordance with the instructions contained in Part B of GAF Alert Service Bulletin ANMD 27–23 dated February 17, 1982, and Revision 1 dated February 19, 1982.

(D) A special flight permit may be issued in accordance with FAR 21.197 to allow flight of the airplane to a location where this AD may be accomplished.

(E) The intervals between repetitive inspections required by this AD may be adjusted up to plus or minus 10 percent of the specified intervals to allow accomplishing these inspections during an established inspection.

(F) An alternate means of compliance with this AD may be used when approved by the Chief, Honolulu Aircraft Certification Field Office, Northwest Mountain Region, Federal Aviation Administration, 300 Ala Moana Boulevard, Honolulu, Hawaii.

This amendment becomes effective on June 17, 1982.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and Sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this regulation involves an emergency regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and certifies that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since it involves inspection and parts replacement on only a few aircraft owned by small entities. If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket; otherwise, an evaluation is not required. A copy, when filed, may be obtained by contacting the Rules Docket at the location identified under the caption "**ADDRESSES.**"

This is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the Courts of Appeals of the United States or the United States Court of Appeals for the District of Columbia.

Issued in Kansas City, Missouri, on June 2, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-15636 Filed 6-9-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Airworthiness Docket No. 82-ASW-9; Amdt. 39-4397]

Airworthiness Directives; Societe Nationale Industrielle Aerospatiale (SNIAS) Model SA330 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: A new airworthiness directive (AD) is adopted to require an inspection of the three tail rotor transmission attachment bolts for proper

installation, possible cracks, or surface damage on Aerospatiale Model SA330 series helicopters. The AD is needed to detect and correct any improper bolt and chamfered washer installation that may result in fatigue cracks and failure of the bolt. Loss of one bolt may cause loss of the tail rotor transmission and tail rotor.

DATES: Effective July 8, 1982. Compliance required within 100 hours' time in service after the effective date of this AD.

ADDRESSES: The applicable service information may be obtained from Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75051, Attention: Customer Support. A copy of the service information is also contained in the Rules Docket in Room 916, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC, and in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Chris Christie, Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium, or James H. Major, Helicopter Policy and Procedures Staff, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone (817) 624-4911, extension 503.

SUPPLEMENTARY INFORMATION: A proposal was published in 47 FR 10591 to amend Part 39 of the Federal Aviation Regulations to include an AD that would require removal and inspection of the three tail rotor transmission attachment bolts on Aerospatiale Model SA330 series helicopters. By compliance with this AD, bolts found with dents under the head, or scoring or fretting corrosion on the stem or shank, or bolts with cracks would be removed before further flight. The proposal was prompted by several reports of improper installations of the tail rotor transmission attachment bolts on Aerospatiale SA330 series helicopters. The chamfered washers were not fitted properly under the heads of the bolts. The washers reportedly marked or dented the radius under the bolt heads. These marks may result in possible cracks and failure of the bolts. Failure of a bolt may cause loss of the transmission and tail rotor.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No comments were received. Accordingly, the proposal is adopted without change.

The FAA has determined that 20 helicopters could be affected by the AD. It is anticipated that the total expense of complying with the AD could be $62,750.

List of Subjects in 14 CFR Part 39

Air Transportation, Aircraft, Aviation Safety, and Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Societe Nationale Industrielle Aerospatiale (SNIAS). Applies to all Model SA330 series helicopters certificated in all categories (Airworthiness Docket No. 82-ASW-9).

Compliance is required within 100 hours' time in service after the effective date of this AD unless already accomplished.

To detect damaged or cracked tail rotor transmission attachment bolts and to assure proper matching of the bolts and chamfered washers, accomplish the following:

a. Remove the tail rotor transmission assembly and remove the three transmission-to-pylon attachment bolts.

b. Inspect the bolts visually for dents under the heads, and for scores or fretting corrosion on the bolt stem or shank. Inspect the bolts for cracks using a magnetic particle or equivalent inspection method.

c. Remove from further service bolts having dents under the head or scoring or fretting on the stem or shank, or bolts having a crack.

d. Install bolts and washers and tail rotor transmission assembly in accordance with SA330 Puma Service Bulletin No. 01.34, dated October 19, 1981, subparagrah C(4)(b), or FAA approved equivalent.

e. Equivalent means of complying with this AD must be approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium. Compliance with Puma Service Bulletin No. 01.34, dated October 19, 1981, satisfies this AD.

This amendment becomes effective on July 8, 1982.

(Secs. 313(a), 601, and 603, Federal Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(d)), 14 CFR 11.89)

Note.—The FAA has determined that this regulation is not considered major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and certifies that it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since 20 helicopters will be affected by the rule for an anticipated total expense of $62,750. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "For Further Information Contact."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, Texas, on May 21, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-15639 Filed 6-9-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 91

[Docket No. 22530; Amendment No. 91-179]

One-Engine Inoperative Ferry Flight Authorization

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the regulations to allow certificate holders under Part 125 to conduct ferry flights with one engine inoperative without a special flight authorization. This change is necessary to preclude discontinuing this authorization for commercial operators, when Part 125 becomes applicable to them on January 1, 1983, since Part 125 does not contain such authorization. This amendment responds to requests from commercial operators who have become certificated under Part 125 and provides relief for these operators. This amendment is consistent with Executive Order 12291 and the Regulatory Flexibility Act.

EFFECTIVE DATE: July 12, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. C. W. Schaffer, General Aviation and Commercial Branch (AWS-340), Aircraft Maintenance Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Ave. SW., Washington, D.C. 20591; Telephone: (202) 426-8205.

SUPPLEMENTARY INFORMATION: This amendment is based on Notice of Proposed Rulemaking No. 81-17 published in the **Federal Register** January 7, 1982 (47 FR 818). All interested persons were given an opportunity to participate in making the amendment and due consideration was given to all matters presented. The amendment and reasons for adoption are the same as contained in Notice No. 81-17.

Description of Notice

Notice 81-17 proposed to allow certificate holders under Part 125 to conduct ferry flights with one engine inoperative without a special flight authorization. This change was deemed

necessary to preclude discontinuing this authorization for commercial operators, when Part 125 becomes applicable to them on January 1, 1983, since Part 125 does not contain such an authority. The rule was proposed to be changed by amending § 91.45(a) by deleting the phrase "an air carrier or commercial operator of large aircraft" and substituting the phrase "the holder of an air carrier operating certificate, an operating certificate issued under Part 125, or until January 1, 1983, an operating certificate issued under Part 121." This would enable commercial operators, now operating under Part 121, who later operate under Part 125 to receive the same authorization for a one-engine inoperative ferry flight as they now receive under Part 121.

Background

Part 125 became effective February 3, 1981. Section 125.1(d) provides that an operator who, on the effective date of Part 125, holds a certificate as a commercial operator under Part 121 may continue under those rules until the expiration of that certificate, but no later than January 1, 1983. Thus, a commercial operator operating aircraft to which Part 125 applies must, by that date, hold an air carrier operating certificate, hold an operating certificate under Part 125, or cease to operate for compensation or hire. Some operators have elected to become certificated as air carriers under Part 121, but the majority have or will become operating certificate holders under Part 125.

Commercial operators under Part 121 are authorized, by § 91.45, to conduct ferry flights of four-engine airplanes or turbine-engine-powered airplanes equipped with three engines, with one engine inoperative. Section 91.45 does not make such a provision for operating certificate holders under Part 125.

Therefore, at the present time, certificate holders operating under Part 125 are required to make application for, and be issued, a special flight authorization (ferry permit) when they desire to conduct one-engine inoperative ferry flights. When the need for a ferry permit occurs in a remote area or during other than normal business hours, the application and issuance process can result in costly delays in returning the aircraft to productive service. Further, an unnecessary administrative burden is placed on the operator and the Federal Aviation Administration.

Section 125.1(d) imposes the same limitations on certificate holders under Part 123 since it also brings them under Part 125 on January 1, 1983. These persons and others who become certificated under Part 125 would be subject to the same application and issuance procedure and limitations imposed on the commercial operators. However, it should be noted that persons issued deviation authority under § 125.3 to operate under Subpart D of Part 91 are not authorized to use § 91.45 as amended since only those persons who receive an operating certificate issued under Part 125 will be so authorized.

Discussion of Comments

Four comments were received. Three of the four commenters support the proposal and suggest it be broadened beyond what was proposed. These suggestions are appreciated by the FAA but because they are beyond the scope of the proposals in the notice they cannot be acted upon without further notice and public consideration.

One commenter opposes the proposal on the basis that FAA has not made a study to determine the risk level of a second engine failure, and that Part 25 engine-out climb gradients were established to ensure not only the safety of crewmembers and passengers but also persons on the ground. This commenter also points out that Part 125 does not require a certificate holder to have a well developed maintenance organization as required by Part 121.

The FAA has considered the points raised by this commenter and concludes they are without merit. Section 91.45 limits occupancy of the airplane to required flight crewmembers, prohibits takeoff over thickly populated areas, requires flight tests to confirm one-engine inoperative operational data contained in the Airplane Flight Manual, and requires the airplane to be safely controllable with two engines inoperative in the event of a second engine failure while operating with one engine inoperative. These requirements provide adequate protection for required crewmembers and persons on the ground.

As far as the comment regarding maintenance organizations is concerned, the FAA finds that while Part 125 does not require specific maintenance and management organizations or position titles as does Part 121, it does, in § 125.25, require "enough management personnel, including at least a director of operations, to assure that its operations are conducted in accordance with the requirements of Part 125." Further, although Part 125 certificate holders are not authorized to perform maintenance, § 125.245 requires them to ensure that persons with whom arrangements are made for maintenance have an organization adequate to perform that maintenance. Therefore, the FAA concludes that an adequate level of safety is provided by § 91.45 for one-engine inoperative ferry flights of Part 125 airplanes.

Impact Assessment

This regulatory action is relieving in nature. No formal cost-benefit analysis was completed with respect to the change. However, through a preliminary assessment of costs and economic impact, the FAA has determined that there are no costs associated with this change, and that by eliminating the delays caused by operators having to secure a special flight authorization (ferry permit) when they desire to conduct one-engine inoperative ferry flights, there will be a positive economic impact.

Index

List of Subjects in 14 CFR Part 91

Air carriers, Aviation safety, Safety, Aircraft, Pilots.

Adoption of Amendment

Accordingly, Part 91 of the Federal Aviation Regulations (14 CFR Part 91) is amended as follows, effective July 12, 1982.

PART 91—GENERAL OPERATING AND FLIGHT RULES

Amend § 91.45 by revising the section heading, the introductory text to paragraph (a), and paragraphs (a) (5) and (6), to read as follows:

§ 91.45 Authorization for ferry flights with one engine inoperative.

(a) General. The holder of an air carrier operating certificate, an operating certificate issued under Part 125, or until January 1, 1983, an operating certificate issued under Part 121, may conduct a ferry flight of a four-engine airplane or a turbine-engine-powered airplane equipped with three engines, with one engine inoperative, to a base for the purpose of repairing that engine subject to the following:

* * * * *

(5) Persons other than required flight crewmembers shall not be carried during the flight.

(6) No person may use a flight crewmember for flight under this section unless that crewmember is thoroughly familiar with the operating procedures for one-engine inoperative ferry flight contained in the certificate holder's manual, and the limitations and performance information in the Airplane Flight Manual.

* * * * *

(Secs. 313, 314, and 601 through 610, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1355, and 1421 through 1430); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—This amendment will eliminate delays caused by operators having to secure a special flight authorization (ferry permit) when they desire to conduct one-engine inoperative ferry flights by eliminating the need for such authorizations. This will reduce costs and paperwork to affected Part 125 operators. The expected impact of this regulatory action is minimal, involves no costs, will have only positive economic impact by eliminating the need for special flight authorizations, and does not warrant preparation of a regulatory evaluation. Therefore, the FAA has determined that this action is not a major rule under Executive Order 12291 or a significant regulation under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; Feburary 26, 1979). In addition, for the reasons discussed above I certify that, under the criteria of the Regulatory Flexibility Act, this regulatory action will not have a significant economic impact on a substantial number of small entities.

Issued in Washington, D.C. on May 10, 1982.

J. Lynn Helms,

Administrator.

[FR Doc. 82-15406 Filed 6-9-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 376

Special Commodity Policies and Provisions; Correction

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: A document published in the **Federal Register** of December 29, 1981 (46 FR 62837) removed and reserved § 376.2 of the Export Administration Regulations. In the **Federal Register** for February 4, 1982 (47 FR 5209) it was announced that § 376.2 was to be amended. Since § 376.2 had previously been removed, this rule rescinds the notice on February 4, 1982, and § 376.2 remains removed and reserved.

DATE: This rule was effective December 29, 1981.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377-4811).

Rulemaking Requirements:

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Under Section 13(a) of the Export Administration Act of 1979 (Pub. L. 96-72, 50 U.S.C. app. 2401 et. seq.) ("the Act") this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act. This rule does not impose new controls on exports, and is therefore exempt from Section 13(b) of the Act, which expresses the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form.

2. This rule does not impose a new reporting burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. The changes announced in this rule amend the Export Administration Regulations to conform them with the rule change announced by the **Federal Register** of December 29, 1981 (46 FR 62837).

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et. seq.

4. This rule is not a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

List of Subjects in 15 CFR Part 376

Export licenses, Exports, Reexports.

PART 376—SPECIAL COMMODITY POLICIES AND PROVISIONS

Accordingly, Part 376 of the Export Administration Regulations (15 CFR Parts 368-399) is amended as follows:

In FR Doc. 82-2862, published at 47 FR 5206-5211, remove amendment number "10", (§ 376.2 amended), from page 5209.

Authority: (Sections 13 and 15, Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.*; Executive Order No. 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10-3 (45 FR 6141, January 25, 1980); International Trade Organization and Function Orders 41-1 (45 FR 11862, February 22, 1980) and 41-4 (45 FR 65003, October 1, 1980).)

Dated: June 2, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82-15399 Filed 6-9-82; 8:45 am]

BILLING CODE 3510-25-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 9064]

The American Medical Association, et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: The FTC, in accordance with a decision and judgment rendered by the Court of Appeals for the Second Circuit on October 7, 1980, has modified its Final Order In the Matter of The American Medical Association issued on October 12, 1979 (44 FR 64803, 94 F.T.C. 701). The modified order, effective May 19, 1982, narrows the scope of the order so as not to encroach upon the valid activities of the AMA.

DATES: Final order issued Oct. 12, 1979. Modifying order issued May 19, 1982.

FOR FURTHER INFORMATION CONTACT: FTC/CS-8, L. Barry Costilo, Washington, D.C. 20580. (202) 724-1213.

SUPPLEMENTARY INFORMATION: In the Matter of The American Medical Association, a corporation, The Connecticut State Medical Society, a corporation, and The New Haven County Medical Association, Inc. Codification appearing at 44 FR 64803 remains unchanged.

List of Subjects in 16 CFR Part 13

Advertising, Doctors, Medical facilities.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

The Modified Order To Cease and Desist, including further order requiring report of compliance therewith, is as follows:

Modified Order To Cease and Desist

In the matter of The American Medical Association, a corporation, The Connecticut State Medical Society, a corporation, The New Haven County Medical Association, Inc.

Respondents having filed in the United States Court of Appeals for the Second Circuit a petition for review of the Commission's cease-and-desist order issued herein on October 12, 1979; and the Court having rendered its decision and judgment on October 7, 1980, affirming and enforcing the Commission's order with modification of Parts I and II; and the Supreme Court of the United States having affirmed by an equally divided court the judgment of the court of appeals on March 23, 1982,

and having denied a petition for rehearing on May 3, 1982:

Now, therefore, it is hereby ordered, that the aforesaid order to cease and desist be, and it hereby is, modified in accordance with the decision and judgment of the Court of Appeals to read as follows:

Order

I.

It is ordered that respondent American Medical Association, and its delegates, trustees, councils, committees, officers, representatives, agents, employees, successors and assigns, directly or indirectly, or through any corporate or other device, in or in connection with respondent's activities as a professional association in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Restricting, regulating, impeding, declaring unethical, interfering with, or advising against the advertising or publishing by any person of the prices, terms or conditions of sale of physicians' services, or of information about physicians' services, facilities or equipment which are offered for sale or made available by physicians or by any organization with which physicians are affiliated;

B. Restricting, regulating, impeding, declaring unethical, interfering with, or advising against the solicitation, through advertising or by any other means, including but not limited to bidding practices, of patients, patronage, or contracts to supply physicians' services, by any physician or by any organization with which physicians are affiliated; and

C. Inducing, urging, encouraging, or assisting any physician, or any medical association, group of physicians, hospital, insurance carrier or any other non-governmental organization to take any of the actions prohibited by this Part.

Nothing contained in this Part shall prohibit respondent from formulating, adopting, disseminating to its constituent and component medical organizations and to its members, and enforcing reasonable ethical guidelines governing the conduct of its members with respect to representations, including unsubstantiated representations, that respondent reasonably believes would be false or deceptive within the meaning of Section 5 of the Federal Trade Commission Act, or with respect to uninvited, in-person solicitation of actual or potential patients, who, because of their particular circumstances, are vulnerable to undue influence.

II.

It is further ordered that respondent American Medical Association, and its delegates, trustees, councils, committees, officers, representatives, agents, employees, successors and assigns, directly or indirectly, or through any corporate or other device, in or in connection with respondent's activities as a professional association in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Restricting, regulating, impeding, advising on the ethical propriety of, or interfering with the consideration offered or provided to any physician in any contract with any entity that offers physicians' services to the public, in return for the sale, purchase or distribution of his or her professional services, except for professional peer review of fee practices of physicians;

B. Restricting, interfering with, or impeding the growth, development or operations of any entity that offers physicians' services to the public, by means of any statement or other representation concerning the ethical propriety of medical service arrangements that limit the patient's choice of a physician;

C. Restricting, interfering with, or impeding the growth, development or operations of any entity that offers physicians' services to the public, by means of any statement or other representation concerning the ethical propriety of participation by non-physicians in the ownership or management of said organization; and

D. Inducing, urging, encouraging, or assisting any physician, or any medical association, group of physicians, hospital, insurance carrier or any other non-governmental organization to take any of the actions prohibited by this Part.

III.

It is further ordered that respondent American Medical Association cease and desist from taking any formal action against a person alleged to have violated any ethical standard promulgated in conformity with this Order without first providing such person with:

A. Reasonable written notice of the allegations against him or her;

B. A hearing wherein such person or a person retained by him or her may seek to rebut such allegations; and

C. The written findings or conclusions of respondent with respect to such allegations.

IV.

It is further ordered that respondent American Medical Association:

A. Send by first class mail a copy of a letter in the form shown in Appendix A to this Order to each of its present members and to each constituent and component organization of respondent, within sixty (60) days after this Order becomes final.

B. For a peroid of ten years, provide each new member of respondent and each constituent and component organization of respondent with a copy of this Order at the time the member is accepted into membership.

C. Within ninety (90) days after this Order becomes final, remove from respondent American Medical Association's *Principles of Medical Ethics* and the Judicial Council's *Opinions and Reports*, and from the constitution and bylaws and any other existing policy statement or guideline of respondent, any provision, interpretation or policy statement which is inconsistent with the provisions of Parts I and II of this Order and, within one hundred and twenty (120) days after this Order becomes final, publish in the *Journal of the American Medical Association* and in *American Medical News* the revised versions of such documents, statements, or guidelines.

D. Require as a condition of affiliation with respondent that any constituent or component organization agree by action taken by the constituent or component organization's governing body to adhere to the provisions of Parts I, II, and III of this Order.

E. Terminate for a period of one year their affiliation with any constituent or component organization within one hundred and twenty (120) days after learning or having reason to believe that said constituent or component organization has engaged, after the date this Order becomes final, in any act or practice that if committed by respondent would be prohibited by Part I, II, or III of this Order.

V.

It is further ordered that respondent American Medical Association:

A. Within sixty (60) days after the Order becomes final publish a copy of this Order with such prominence as feature articles are regularly published in the *Journal of the American Medical Association* and in *American Medical News* or in any successor publications.

B. Within one hundred and twenty (120) days after this Order becomes final, file a written report with the Federal Trade Commission setting forth in detail the manner and form in which it has complied with this Order.

C. For a period of five (5) years after this Order becomes final, maintain and make available to the Commission staff for inspection and copying upon reasonable notice, records adequate to describe in detail any action taken in connection with the activities covered by Parts I and II of this Order, including but not limited to any advice or interpretations rendered with respect to advertising, solicitation, or contract practice involving any of its members.

D. Within one year after this Order becomes final, and annually thereafter, for a period of five (5) years, file a written report with the Federal Trade Commission setting forth in detail any action taken in connection with the activities covered by Parts I and II of this Order, including but not limited to any advice or interpretations rendered with respect to advertising, solicitation or contract practice involving any of its members.

VI.

It is further ordered that respondent American Medical Association shall notify the Commission at least thirty (30) days prior to any proposed change in the respondent, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation or association, or any other change in the corporation or association which may affect compliance obligations arising out of this Order.

By the Commission.

Appendix A

Dear Doctor: As you know, the Federal Trade Commission issued a complaint against the AMA on December 19, 1975, challenging the AMA's ethical restrictions on the advertising, solicitation, and contractual practices of its members. The complaint also named the Connecticut State Medical Society and the New Haven County Medical Association, Inc., as respondents.

In an opinion issued on [insert issue date], the FTC held that the AMA, the two Connecticut medical societies, and other state and local medical associations have unlawfully restricted the advertising, solicitation, and contractual practices of their members in violation of Section 5 of the Federal Trade Commission Act.

In conjunction with that opinion, the Commission issued an order which has now become final. This order is printed in the [insert issue date] issue of the *Journal of the American Medical Association*, the [insert issue date] issue of *American Medical News* and may be obtained from the AMA headquarters of from your state or local medical society.

Among other things, the order forbids any action by AMA that would:

—Restrict its menbers' solicitation of patients by advertising, submission of bids, or other means.

—Interfere with either the amount or the form of compensation provided a member in exchange for his or her professional services, in contracts with entities offering physician services to the public.

—Characterize as unethical the use of closed panel or other health care delivery plans that limit the patient's choice of a physician.

—Characterize as unethical the participation of non-pysicians in the ownership or management of health care organizations that provide physician services to the public.

However, the order does not prohibit the AMA from formulating and enforcing reasonable ethical guidelines governing deceptive advertising and solicitation (including unsubstantiated representations). The AMA may also issue guidelines concerning uninvited, in-person solicitation of patients who, because of their particular circumstances, are vulnerable to undue influence.

Finally, the order requires the AMA to amend the *Principles of Medical Ethics* and the Judicial Council's *Opinions and Reports* and to sever all ties for one year with any state or local medical society that engages in conduct of the type prohibited under the order.

Thank you for your cooperation.

Sincerely,

President.

Carol M. Thomas,

Secretary.

[FR Doc. 82-15679 Filed 6-9-82; 9:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210, 231, and 249

[Release Nos. 33-6405 and 34-18767; File No. S7-909]

Publication of Revisions to the Division of Corporation Finance's Guide 5 and Amendment of Related Disclosure Provisions

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Revisions to Guide and Related Rulemaking.

SUMMARY: The Commission today approved the publication of revisions to Guide 5, "Preparation of Registration Statements Relating to Interests in Real Estate Limited Partnerships," of the Securities Act Industry Guides and the adoption of coordinating amendments to Regulation S-X and Form 8-K concerning disclosure by public real estate programs in registration statements and periodic reports. The revisions simplify and standardize disclosure concerning the prior performance of the general partner and affiliates and reduce the requirement for financial statements of significant properties acquired by a real estate program from three years to one year if certain conditions are met by the registrant. The revisions are the result of a cooperative effort with a subcommittee of the North American Securities Administrators Association.

EFFECTIVE DATE: The revisions to Guide 5 are effective for registration statements filed on or after September 1, 1982. However, registrants may elect to use revised Guide 5 after July 12, 1982. The amendments to Rule 3-14 of Regulation S-X (17 CFR 210.3-14) and Form 8-K (17 CFR 249.308) adopted herein are effective July 12, 1982.

FOR FURTHER INFORMATION CONTACT: William L. Larsen, (202) 272-2604, Office of Disclosure Policy, Division of Corporation Finance.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today approved the publication of revisions to Guide 5, "Preparation of Registration Statements Relating to Interests in Real Estate Limited Partnerships," of the Securities Act Industry Guides[1] and the adoption of related amendments. The publication of the Guide revisions and related rulemaking culminates a major cooperative effort with the Subcommittee on Financial Statement and Track Record Disclosure of the North American Securities Administrators Association ("NASAA").[2] The changes in Guide 5 comprehensively revise current disclosure requirements concerning the prior performance ("track record") of the general partner and its affiliates ("sponsor"). Item 8 of Guide 5 has been revised to standardize and simplify the track record disclosure that now appears in registration statements of real estate limited partnerships. In conjunction with the revision of track

[1] Guide 5 was formerly Guide 60 of the Guides for the Preparation and Filing of Registration Statements and Reports under the Securities Act of 1933 ("Securities Act"). However, in Release No. 33-6384 (March 3, 1982) (47 FR 11476), the Commission authorized the Division of Corporation Finance to rescind all Guides except those setting forth disclosure guidelines applicable to specific industries. Guide 60 was retained, but was redesignated as Industry Guide 5.

[2] NASAA is a voluntary organization composed of the securities regulatory agencies of 49 states, the Commonwealth of Puerto Rico, Guam and 13 provinces and states of Canada and Mexico.

record disclosure standards, Rule 3–14 of Regulation S–X, "Special instructions for real estate operations to be acquired," has been amended to allow, under certain circumstances, presentation of one year of audited financial statements for individual properties acquired by the partnership, instead of three years, as was formerly required. To coordinate with the change in Rule 3–14 of Regulation S–X, Undertaking D in Item 21 of Guide 5 has been revised and a new Instruction 2(e) has been added to Item 7 of Form 8–K.

The Commission approved the publication of Guide 60 in March 1976.[3] The Guide was designed to reflect the experience of the Division of Corporation Finance in processing registration statements filed by real estate limited partnerships. It was published to minimize delay in the review of registration statements relating to real estate limited partnerships and to assist registrants, accountants, attorneys and others in the preparation of such filings. Securities issued by public real estate limited partnerships are registered pursuant to the Securities Act primarily on Form S–11 (17 CFR 239.18), which is specifically designed for such registrants.

The publication of revisions to Guide 5 and the amendment of related provisions is predicated on proposals published for comment in October 1981.[4] The Commission received twelve letters of comment on the Guide 60 release,[5] which generally were supportive of the proposed revisions. Accordingly, the Commission has determined to approve the publication of the Guide 5 revisions and to adopt the other rulemaking proposals substantially as proposed, except as described below. The Guide 60 Release contains extensive discussion of the issues involved in streamlining track record disclosure, as well as of the procedural mechanics of the new approach to track record disclosure under the revised Guide, which is not repeated herein. This release focuses on changes that have been made in the Guide 60 revisions as proposed. Attention is directed to the text of the Guide and rules for a more complete understanding.

[3] *See* Release Nos. 33–5465 (March 1, 1974) (39 FR 10276), 33–5892 (March 17, 1978) (41 FR 17374) and 33–5745 (September 27, 1976) (41 FR 43398). Guide 5 currently contains 21 items, each addressing a separate aspect of disclosure for real estate offerings. These items include use of proceeds (Item 3 and Table I), risk factors (Item 7) and Federal taxes (Item 12).

[4] Release No. 33–6384 (October 7, 1981) (46 FR 50553) (the "Guide 60 Release").

[5] The letters are available for public inspection and copying at the Commission's Public Reference Room. (*See* File No. S7–808.)

I. Time Periods Covered by the Prior Performance Tables [6]

The Guide 60 Release proposed to limit coverage of the prior performance tables to the most recent three years of a prior program with similar investment objectives sponsored by the general partner and affiliates rather than to the five years previously required. Several commentators urged the Commission to expand the amount of track record disclosure from the proposed three year standard in order to permit presentation of a more complete picture of prior program operating cycles. The commentators varied in their emphasis on the importance of specific tables and in their recommendations as to the number of years that the tables should cover. A number of commentators suggested that the success or failure of a program cannot be meaningfully measured in a three year period and suggested that Table III require disclosure for the most recently completed five year period. In addition, another commentator proposed that Table IV be expanded so that there generally would be at least several completed programs in Table IV for comparative purposes. Other commentators recommended that sponsors be permitted to include more prior program data in all of the tables—up to fifteen years in some cases—where necessary to present a complete description of prior program operating cycles.

In response to these comments, the proposed instructions to Table III (Operating Results of Prior Programs) have been changed to include programs closed [7] in the most recent five (rather than three) years. In addition, the proposed instructions to Table IV (Results of Completed Programs) have been changed to include programs completed [8] in the most recent five (rather than three) years. Retaining the five year coverage of these tables provides investors with a more complete picture of the financial operations of partnerships with the same sponsor over the existence of the programs. Moreover, it will permit sponsors to include information on a greater number of comparable prior programs without adding significant length to prospectuses. Tables I, II, V and VI retain the proposed three year coverage requirement.

[6] The Prior Performance Tables include: (I) Experience in Raising and Investing Funds; (II) Compensation to Sponsor; (III) Operating Results of Prior Programs; (IV) Results of Completed Programs; (V) Sales or Disposals of Properties; and (VI) Acquisitions of Properties by Programs. Tables I, II, V and VI have been adopted substantially as proposed.

[7] A program is "closed" after the partnership interests are sold to the public.

[8] Depending on the investment objective of the program, a program is "completed" when the partnership assets are liquidated and the partnership is wound down.

II. Changes in Guide 5 Items and Prior Performance Tables

A. Terms Used in Guide

The introduction to Guide 5 is being changed to note that, in the Guide, the term general partner and its affiliates is used interchangeably with the term sponsor. Both terms are intended to include references to the general partner(s), promoters of the partnership and all persons that, directly or indirectly, through one or more intermediaries, control or are controlled by, or are under common control with, such general partner(s) or promoters.

B. Table III

In response to comment, Table III is being changed to provide a more useful breakdown of "Taxable Income." That item is being supplemented by two subheadings—"from operations" and "from gain on sale."

III. Updating Requirements

The Commission recently adopted Rule 415 (17 CFR 230.415), which governs the delayed or continuous offering and sale of securities.[9] Since the offering of real estate limited partnership interests usually is done on a continuous basis, Rule 415 generally would apply to such offerings. Rule 415 requires registrants to undertake to follow the updating requirements of Item 512(a) of Regulation S–K (17 CFR 229.512(a)), which differ from those contained in Undertaking D of Item 21 of Guide 5.[10] Specifically, Item 512(a)(1)(ii) requires the filing of a post-effective amendment to the registration statement to reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental

[9] *See* Release No. 33–6383 (March 3, 1982) (47 FR 11380, 11394).

[10] Understanding D of Item 21 of Guide 5 requires sponsors to file a prospectus supplement pursuant to Rule 424(c) (17 CFR 230.424(c)) during the distribution period describing each property that is acquired by the sponsor but that was not named in the prospectus. Sponsors must file a post-effective amendment consolidating the stickers at least once every three months. After the end of the distribution period, sponsors are required to file a current report on Form 8–K (17 CFR 249.308) to reflect each commitment made to purchase property involving the use of ten percent or more (on a cumulative basis) of the net proceeds of the offering and to provide that information to limited partners at least once each quarter.

change in the information set forth in the registration statement. The Commission indicated in Release No. 33–6383 that "major changes in the issuer's operations, such as significant acquisitions or dispositions" could be construed as fundamental changes requiring the filing of a post-effective amendment.

The question of what facts or events constitute a fundamental change must, of course, remain a factual question, dependent on the circumstances of individual registrants. In the context of the typical real estate limited partnership, in which the ordinary course of business involves the acquisition of properties by the partnership, the Commission would not expect that an individual property acquisition in the ordinary course of business would be deemed a fundamental change necessitating the immediate filing of a post-effective amendment pursuant to Rule 415 if offers or sales are being made. On the other hand, the Commission believes that acquisition of one or more properties over time should be reflected on at least a quarterly basis in a post-effective amendment to the prospectus.[11] This interpretation is in accord with Undertaking D of Item 21 of Guide 5, which takes a similar approach to updating for property acquisitions. Therefore, by complying with Undertaking D, sponsors will satisfy the fundamental change post-effective amendment requirement of Item 512(a)(1)(ii).

Notwithstanding the above, sponsors are required to include all of the Item 512(a) undertakings in their registration statements, and must update their prospectuses in the event of other fundamental changes in accordance with Rule 415. As noted above, Undertaking D of Item 21 of Guide 5 contains additional updating requirements concerning property acquisitions with which registrants are expected to comply.

Statutory Authority. The Commission hereby authorizes the publication of the Guide 5 revisions and adopts the rulemaking actions set forth below pursuant to Sections 7, 10 and 19(a) of the Securities Act and Sections 13, 15(d) and 23(a) of the Securities Exchange Act of 1934 ("Exchange Act").

As required by Section 23(a) of the Exchange Act, the commission has specifically considered the impact that the rulemaking actions revising 17 CFR Parts 210 and 249, taken pursuant to the various provisions of the Exchange Act, would have on competition and has concluded that they would impose no significant burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

Availability of Final Regulatory Flexibility Analysis. In accordance with 5 U.S.C. 604, the Commission has prepared a Final Regulatory Flexibility Analysis of the revisions to Guide 5 and amendments to related disclosure provisions. The corresponding Initial Regulatory Flexibility Analysis was included in the Guide 60 Release at 46 FR 50562. Members of the public who wish to obtain copies of the Final Regulatory Flexibility Analysis of the Guide 5 revisions and related amendments should contact William L. Larsen, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202–272–2604).

List of Subjects in 17 CFR Parts 210, 231 and 249

Reporting requirements, Securities.

Text of Amendments

In accordance with the foregoing, Title 17, Chapter II, of the Code of Federal Regulations is amended as follows:

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

1. By revising paragraph (a)(1) of § 210.3–14 to read as follows:

§ 210.3–14 Special instructions for real estate operations to be acquired.

(a) * * *

(1) Audited income statements (not including earnings per unit) for the three most recent fiscal years, which shall exclude items not comparable to the proposed future operations of the property such as mortgage interest, leasehold rental, depreciation, corporate expenses and Federal and state income taxes: *Provided, however,* That such audited statements need be presented for only the most recent fiscal year if (i) the property is not acquired from a related party; (ii) material factors considered by the registrant in assessing the property are described with specificity in the filing with regard to the property, including sources of revenue (including, but not limited to, competition in the rental market, comparative rents, occupancy rates) and expense (including, but not limited to, utility rates, ad valorem tax rates, maintenance expenses, capital improvements anticipated); and (iii) the registrant indicates in the appropriate filing that, after reasonable inquiry, the registrant is not aware of any material factors relating to that specific property other than those discussed in response to paragraph (a)(1)(ii) of this section that would cause the reported financial information not to be necessarily indicative of future operating results.

Note.—The discussion of material factors considered should be combined with that required by Item 15 of Form S–11.

* * * * *

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

2. By revising Items 1, 3B, 8, 9, 13 and 21D; by redesignating Table I as Appendix I; and by removing Table II and adding Appendix II to Guide 5 of the Securities Act of 1933 Industry Guides to read as follows:

Guide 5—Preparation of Registration Statements Relating to Interests in Real Estate Limited Partnerships.

References to the General Partner and its affiliates, also referred to as sponsors, are intended to include references to the General Partner(s), promoters of the partnership, and all persons that, directly or indirectly, through one or more intermediaries, control or are controlled by, or are under common control with, such General Partner(s) or promoters.

* * * * *

1. Cover Page

* * * * *

D. The cover page also should contain brief identification of the material risks involved in the purchase of the securities with cross-reference to further discussion in the prospectus. The most significant risk factors should be identified where applicable, for example:

* * * * *

3. Summary of the Partnership and Use of Proceeds

* * * * *

B. *Use of Proceeds.* The use of proceeds tabular summary will vary according to the partnership but should include, where appropriate, estimates of the public offering expenses (both organizational and sales), the amount available for investment, nonrecurring initial investment fees, prepaid items and financing fees, cash down payments, reserves, and acquisition fees including those paid by the seller. Estimated amounts to be paid to the General Partner and its affiliates should be identified. The

[11] *See* Release No. 33–6383, *supra*, at Note 79, wherein the Commission states that "numerous small changes to information in the registration statement can become cumulatively fundamental."

summary should include both dollar amounts and percentages of the maximum and minimum proceeds of the offering. Inclusion of percentages of the estimated maximum and minimum total assets is optional. An example of a summary of Use of Proceeds is attached as Appendix I, but the summary will vary according to the circumstances.

* * * * *

8. Prior Performance of the General Partner and Affiliates

A narrative summary of the "track record" or prior performance of programs sponsored by the General Partner and its affiliates containing the information set forth below should be included in the text of the prospectus. Tables following the format of those in Appendix II, relating to historical use of proceeds of prior programs, compensation to the sponsors, operations of prior programs, and acquisitions and sales of properties by prior programs, should be included at the back of the prospectus or in Part II of the registration statement as specified in paragraph B "Prior Performance Tables" hereunder.

Sponsors are urged not to include in the prospectus information about prior performance beyond that required by this Guide except for such further material information as may be necessary to make the required statements, in light of the circumstances under which they are made, not misleading.

Terms used in the Guide. "Public" programs include all offerings registered under the Securities Act of 1933, all programs required to report under Section 15(d) of the Securities Exchange Act of 1934 ("Exchange Act"), all programs with a class of equity securities registered pursuant to Section 12 of the Exchange Act, and all other programs with at least 300 security holders of record that initially raised at least $1 million.

Programs with "similar investment objectives" are those with similar objectives as set forth in the prospectus. Generally, the sponsor has the responsibility to determine which previous programs had "similar investment objectives," taking into consideration the materiality of information about the prior programs in analyzing the registrant's proposed activities.

A sponsor would be considered to have a "public track record" if it has sponsored at least three programs with investment objectives similar to those of the registrant that file reports under Section 13(a) or Section 15(d) of the Exchange Act and at least two public programs with investment objectives similar to those of the registrant that had three years of operations after investment of 90% of the amount available for investment. In addition, at least two of the public offerings for programs with investment objectives similar to those of the registrant must have closed in the previous three years.

A. *Narrative Summary.* 1. The narrative summary in the text of the prospectus should include a description of the sponsor's experience in the last ten years with all other programs, both public and nonpublic, that have invested primarily in real estate, regardless of the investment objectives of the programs. This summary should include at least (a) the number of programs sponsored, (b) the total amount of money raised from investors, (c) the total number of investors, (d) the number of properties purchased and location by region, (e) the aggregate dollar amount of property purchased, (f) the percentage (based on purchase prices rather than on number) of properties that are commercial (broken out by shopping centers, office buildings and others) and residential, (g) the percentage (based on purchase prices) of new, used or construction properties, and (h) the number of properties sold. Aggregate figures should be presented separately for public and nonpublic programs. In addition, the narrative should indicate the approximate percentage of the overall data that represents activities of programs with investment objectives similar to those of the registrant. The summary also should cross-reference the prior performance tables.

2. The narrative summary should include a discussion of those major adverse business developments or conditions experienced by any prior program, either public or nonpublic, that would be material to investors in this program. The narrative summary also should include a cross-reference to further information that may be found in Appendix II as part of Table III.

3. The narrative summary should include a list of all prior public programs sponsored by the General Partner and its affiliates and an undertaking to provide upon request, for no fee, the most recent Form 10–K Annual Report filed with the Commission by any prior public program that has reported to the Commission within the last twenty-four months and to provide, for a reasonable fee, the exhibits to each such Form 10–K.

4. The narrative summary should include a summary of acquisitions of properties by programs in the most recent three years as set forth in Table VI of Appendix II. The summary should include the number of properties purchased, the type, location and method of financing. Reference should be made to the more detailed description of these acquisitions in Part II of the registration statement, and the registrant should undertake to provide the more detailed description from Part II without fee upon request.

B. *Prior Performance Tables.* The information required by the tables set forth in Appendix II should be included in the format shown. Tables should appear at the back of the prospectus except for Table VI, which should appear only in Part II of the registration statement. The instructions to the tables specify the programs and time periods about which information is required.

9. Management

* * * * *

D. The amount of, and reason for, any contingent liabilities of the General Partner and its affiliates with regard to prior programs now in existence should be disclosed. If this information appears in the financial statements it may be incorporated hereunder by reference.

* * * * *

13. Glossary

If terms are used in the prospectus that are technical in nature or are susceptible to varying methods of computation, e.g., acquisition fees, book value, capital contribution, cash flow, cash available for distribution, construction fees, cost of property, development fee, net worth, organization and offering expenses, profit, partnership management fee and property management fee, definitions should be provided. For purposes of uniformity, it is suggested that these definitions conform to those that appear in the Statement of Policy Regarding Real Estate Programs of the North American Securities Administrators Association, or that any variations, and the economic effect thereof, be disclosed.

* * * * *

21. Undertakings

* * * * *

D. The following undertakings relating to investment of the proceeds of an offering in which a material portion of the maximum net proceeds (allowing for reasonable reserves) is not committed (i.e., subject to a binding purchase agreement) to specific properties should be included in the registration statement:

The registrant undertakes to file a sticker supplement pursuant to Rule 424(c) under the Act during the distribution period describing each property not identified in the prospectus at such time as there arises a reasonable probability that such property will be acquired and to consolidate all such stickers into a post-effective amendment filed at least once every three months, with the information contained in such amendment provided simultaneously to the existing Limited Partners. Each sticker supplement should disclose all compensation and fees received by the General Partner(s) and its affiliates in connection with any such acquisition. The post-effective amendment shall include audited financial statements meeting the requirements of Rule 3–14 of Regulation S–X only for properties acquired during the distribution period.

The registrant also undertakes to file, after the end of the distribution period, a current report on Form 8–K containing the financial statements and any additional information required by Rule 3–14 of Regulation S–X, to reflect each commitment (i.e., the signing of a binding purchase agreement) made after the end of the distribution period involving the use of 10 percent or more (on a cumulative basis) of the net proceeds of the offering and to provide the information contained in such report to the Limited Partners at least once each quarter after the distribution period of the offering has ended.

Note—Offers and sales of the interests may continue after the filing of a post-effective amendment containing information previously disclosed in sticker supplements to the prospectus, as long as the information disclosed in a current sticker supplement accompanying the prospectus is as complete as the information contained in the most recently filed post-effective amendment.

* * * * *

APPENDIX I—Example of Summary of the Use of Proceeds Section

* * * * *

APPENDIX II—Prior Performance Tables

Instructions to Appendix II

1. The prior performance tables should be preceded by a narrative introduction that cross-references the narrative summary in the text, explains the significance of the track record and the tables, explains where additional information (Part II of the registration statement or Form 10–K Annual Reports for prior programs) can be obtained on request and includes a glossary of terms used in the tables.

This introduction also should include a discussion of the factors the sponsor considered in determining which previous programs had "similar investment objectives" to those of the registrant.

2. Each of the tables should be introduced by a brief narrative explaining the objective of the table and what it covers so that the investor will be able to understand the significance of the information presented. There also should be set forth with or in each table any further material information that may be necessary to make the required tabular data, in light of the circumstances under which it is presented, not misleading.

Table I. Experience in Raising and Investing Funds (on a percentage basis)

Instructions: 1. Include information only for programs the offering of which closed in the most recent three years.

2. Sponsors with a "public track record" should include information relating only to public programs with investment objectives similar to those of the registrant.

3. If the sponsor does not have a "public track record," information must be given for each prior program, public or nonpublic, with investment objectives similar to those of the registrant. If the sponsor has not sponsored at least five such programs, then information must be given for each prior program, public or nonpublic, even if the investment objectives for those programs are not similar to those of the registrant. In that case, nonpublic programs with investment objectives that are not similar to those of the registrant should be grouped together according to investment objectives and information about those programs presented on an aggregate basis by year. If so presented, the number of programs that have been aggregated should be disclosed. The sponsor also should indicate by note if the investment objectives of any program are not similar to those of the registrant and should briefly describe those investment objectives.

	Program X	Program Y
Dollar amount offered		
Dollar amount raised (100%)		
Less offering expenses:		
Selling commissions and discounts		
Retained by affiliates		
Organizational expenses		
Other (explain)		
Reserves		
Percent available for investment		
Acquisition costs:		
Prepaid items and fees related to purchase of property		
Cash down payment		
Acquisition fees		
Other (explain)		
Total acquisition cost		
Percent leverage (mortgage financing divided by total acquisition costs)		
Date offering began		
Length of offering (in months)		
Months to invest 90% of amount available for investment (measured from beginning of offering)		

Table II. Compensation to Sponsor

Instructions: 1. Include in a separate column for each program aggregate payments made to the sponsor only by real estate programs the offering of which closed in the most recent three years. Include in another separate column aggregate payments to the sponsor in the most recent three years from all other programs and indicate the number of programs involved.

2. Sponsors with a "public track record" should include information relating only to public programs with investment objectives similar to those of the registrant.

3. If the sponsor does not have a "public track record," information must be given for each prior program, public or nonpublic, with investment objectives similar to those of the registrant. If the sponsor has not sponsored at least five such programs, then information must be given for each prior program, public or nonpublic, even if the investment objectives for those programs are not similar to those of the registrant. In that case, nonpublic programs with investment objectives that are not similar to those of the registrant should be grouped together according to investment objective and information about those programs presented on an aggregate basis by year. If so presented, the number of programs that have been aggregated should be disclosed. The sponsor also should indicate by note if the investment objectives of any program are not similar to those of the registrant and should briefly describe those investment objectives.

4. The table should include any real estate commissions and other fees paid to the sponsor in connection with the acquisition or disposition of any properties by the program by entities other than the program itself.

Type of compensation	Program X	Program X	Other programs
Date offering commenced			
Dollar amount raised			
Amount paid to sponsor from proceeds of offering:			
Underwriting fees			
Acquisition fees			
—real estate commissions			
—advisory fees			
—other (identify and quantify)			
Other			
Dollar amount of cash generated from operations before deducting payments to sponsor			
Amount paid to sponsor from operations:			
Property management fees			
Partnership management fees			
Reimbursements			
Leasing commissions			
Other (identify and quantity)			
Dollar amount of property sales and refinancing before deducting payments to sponsor:			
—cash			
—notes			
Amount paid to sponsor from property sales and refinancing:			
Real estate commissions			
Incentive fees[1]			
Other (identify and quantity)			

[1] Explain subordinated commissions in a note.

Table III. Operating Results of Prior Programs

Instructions: 1. Include information only for programs the offerings of which closed in the most recent five years. Financial data for each progrm should be presentd separately for each year.

2. Sponsors with a "public track record" should include information relating only to public programs with investment objectives similar to those of the registrant.

3. If the sponsor does not have a "public track record," information must be given for each program, public or nonpublic, with investment objectives similar to those of the registrant. If the sponsor has not sponsored at least five such programs, the information must be given for each prior program, public or nonpublic, even if the investment objectives for these programs are not similar to those of the registrant. In that case, nonpublic programs with investment objectives that are not similar to those of the registrant should be grouped together according to investment objective and information about those programs presented on an aggregate basis by year. If so presented, the number of programs that have been aggregated should be disclosed. The sponsor also should indicate by note if the investment objectives of any program are not similar to those of the registrant and should briefly describe those investment objectives.

4. Information should be presented on the basis of generally accepted accounting principles ("GAAP") where indicated. However, where information about nonpublic programs is required to be included, such information may be presented on a tax basis if the program's books have not been kept on a GAAP basis. If there are any significant differences in operating results between accounting on a tax and GAAP basis, they should be explained. This explanation should provide the reader with any additional information about the particular programs presented that may be necessary to make the information contained in the Table not materially misleading in light of the

circumstances under which the information is given.

	Program X		
	Year 1	Year 2	Year 3
Gross Revenues			
Profit on sale of properties			
Less:			
Operating expenses			
Interest expenses			
Depreciation			
Net Income—GAAP Basis			
Taxable income:			
—from operations			
—from gain on sale			
Cash generated from operations [1]			
Cash generated from sales			
Cash generated from refinancing			
Cash generated from operations, sales and refinancing			
Less: Cash distribution to investors:			
—from operating cash flow			
—from sales and refinancing			
—from other			
Cash generated (deficiency) after cash distributions			
Less: Special items (not including sales and refinancing) (identify and quantify)			
Cash generated (deficiency) after cash distributions and special items			
Tax and Distribution Data Per $1000 Invested			
Federal Income Tax Results:			
Ordinary income (loss)			
—from operations			
—from recapture			
Capital gain (loss)			
Cash Distributions to Investors:			
Source (on GAAP basis):			
—Investment income			
—Return of capital			
Source (on cash basis):			
—Sales			
—Refinancing			
—Operations			
—Other			
Amount (in percentage terms) remaining invested in program properties at the end of the last year reported in the Table (original total acquisition cost of properties retained divided by original total acquisition cost of all properties in program)			

[1] Indicate in a note what amount is from sources other than operations, such as guaranteed rents or interest.

Table IV. Results of Completed Programs

Instructions: 1. Include programs that have completed operations (no longer hold properties) in the most recent five years, even if they still hold notes.

2. Sponsors with a "public track record" should include information relating only to public programs with investment objectives similar to those of the registrant.

3. If the sponsor does not have a "public track record," information must be given for each prior program, public or nonpublic, with investment objectives similar to those of the registrant. If the sponsor has not sponsored at least five such programs, then information must be given for each prior program, public or nonpublic, even if the investment objectives for those programs are not similar to those of the registrant. In that case, nonpublic programs with investment objectives that are not similar to those of the registrant should be grouped together according to investment objective and information about those programs presented on an aggregate basis by year. If so presented, the number of programs that have been aggregated should be disclosed. The sponsor also should indicate by note if the investment objectives of any program are not similar to those of the registrant and should briefly describe those investment objectives.

Program Name
Dollar Amount Raised
Number of Properties Purchased
Date of Closing of Offering
Date of First Sale of Property
Date of Final Sale of Property
Tax and Distribution Data Per $1000 Investment Through . . .
Federal Income Tax Results:
Ordinary income (loss)
—from operations
—from recapture
Capital Gain (loss)[1]
Deferred Gain[2]
Capital
Ordinary
Cash Distributions to Investors
Source (on GAAP basis)
—Investment income
—Return of capital
Source (on cash basis)
—Sales
—Refinancing
—Operations
—Other
Receivable on Net Purchase Money Financing [3]

[1] Note 60 percent capital gain exclusion.
[2] Explain in a note deferred capital gain.
[3] Explain in a note the terms of notes taken back and annual payments, and the fact that the amounts presented are face amounts and do not represent discounted current value.

Table V. Sales or Disposals of Properties

Instructions: 1. Include all sales or disposals of property by programs with similar investment objectives within the most recent three years.

2. Sponsors with a "public track record" should only include information relating to public programs. If the sponsor does not have a "public track record," then information should be given about sales or disposals of properties by public and nonpublic programs. Where properties held by nonpublic programs are included, information should be on a GAAP basis where feasible without undue effort or expense.

Property	Date acquired	Date of sale [1]	Selling price, net of closing costs and GAAP adjustments					Cost of properties including closing and soft costs			Excess (deficiency) of property operating [4] cash receipts over cash expenditures [5]
			Cash received net of closing costs	Mortgage balance at time of sale	Purchase money mortgage taken back by program [2]	Adjustments resulting from application of GAAP [3]	Total [4]	Original mortgage financing	Total acquisition cost, capital improvement, closing and soft costs [5]	Total	

[1] Note if sales of properties are to related parties.
[2] Indicate in a note that the amounts shown are face amounts and do not represent discounted current value. In addition, describe the terms of purchase money mortgages taken back by the partnership, including the interest rate, any balloon payment requirements and other special provisions. Also, describe those sales made with a leaseback or any other guarantees which require continued seller involvement.
[3] Include an explanation of any GAAP adjustments.
[4] Note the allocation of the taxable gain between ordinary and capital, and identify those sales that are being reported for tax purposes on the installment basis.
[5] Identify real estate commissions earned but not taken. Indicate that the amounts shown do not include pro rata share of original offering costs.
[6] Do not include amounts otherwise included under "Selling Price, Net of Closing Costs and GAAP Adjustments" or "Cost of Properties Including Closing and Soft Costs". Costs incurred in the administration of the partnership not related to the operation of properties need not be included if so indicated in a note to the Table.

Table VI. Acquisitions of Properties by Programs

Instructions: 1. Include the following table only in Part II of the registration statement.

2. Include all properties acquired by any prior programs with similar investment objectives in the most recent three years.

3. Sponsors with a "public track record" should only include information relating to public programs. If the sponsor does not have a "public track record," then information should be given about properties acquired by public and nonpublic programs.

Program X

Name, location, type of property
Gross leasable space (sq. ft.) or number of units and total square feet of units
Date of purchase
Mortgage financing at date of purchase
Cash down payment
Contract purchase price plus acquisition fee
Other cash expenditures expensed

Other cash expenditures capitalized
Total acquisition cost

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

3. By adding Instruction 2(e) to Item 7 of § 249.308 to read as follows:

§ 249.308 Form 8–K, for current reports.

* * * * *

Item 7. Financial Statements and Exhibits.

List below the financial statements and exhibits, if any, filed as part of this report.

(a) * * *

Instructions.

* * * * *

2. * * *

(e) With regard to the acquisition of one or more real estate properties, the financial statements and any additional information specified by Rule 3–14 of Regulation S–X shall be filed.

* * * * *

(Secs. 7, 10, 19(a), 48 Stat. 78, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 8, 68 Stat. 685; sec. 308(a)(2), 90 Stat. 57; secs. 13, 15(d), 23(a), 48 Stat 894, 895, 901; sec. 203(a), 49 Stat. 704; secs. 3, 8, 49 Stat. 1377, 1379; secs. 4, 6, 78 Stat. 570–574; sec. 2, 82 Stat. 454; secs. 1, 2, 84 Stat. 1497; secs. 10, 18, 89 Stat. 119, 155; sec. 308(b), 90 Stat. 57; secs. 202–204, 91 Stat. 1494, 1498–1500; 15 U.S.C. 77g, 77j, 77s(a), 78m, 78o(d), 78w(a))

By the Commission.

George A. Fitzsimmons,

Secretary.

June 3, 1982.

[FR Doc. 82-15747 Filed 6-9-82; 8:45 am]

BILLING CODE 8010-01-M

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17 CFR Parts 229 and 239

[Release No. 33–6406]

Revisions to the Optional Form for the Registration of Securities To Be Sold to the Public by the Issuer for an Aggregate Cash Price Not To Exceed $5,000,000

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission announces the adoption of amendments to Form S–18, a simplified registration form under the Securities Act of 1933, which expand the Form's availability to non-corporate registrants and registrants engaged, or to be engaged, in oil and gas related operations; amend several disclosure items to conform with the adoption of the integrated disclosure system; and modify the financial statement requirements to reflect recent revisions to the financial information requirements in Commission filings.

EFFECTIVE DATE: July 8, 1982. Registrants are permitted to comply voluntarily with the revised Form S–18 requirements June 10, 1982.

FOR FURTHER INFORMATION CONTACT: Suzanne S. Brannan, (202) 272–2644, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On March 8, 1982, the Commission published for comment proposed amendments to Form S–18 (17 CFR 230.28), a simplified registration form under the Securities Act of 1933 (15 U.S.C. 77a, *et seq.*) (the "Securities Act"), to expand the availability of the Form to non-corporate registrants, and registrants engaged, or to be engaged, in oil or gas related operations.[1] In addition, in view of the adoption of the integrated disclosure system[2] which eliminates the Securities Act Registration Guides for the Preparation and Filing of Registration Statements and Reports ("Guides"), other than certain Industry Guides, and revises Regulation S–K (17 CFR 229.1) and Regulation C (17 CFR 230.400 *et seq.*), the Commission proposed numerous conforming amendments to the Form. Specifically, several disclosure items of the Form would be amended to reference items in Regulation S–K, the repository of uniform content requirements for filings under both the Securities Act, and the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (the "Exchange Act").[3] Finally, the proposals would revise the financial statement requirements of Form S–18 to reflect recent modifications to the financial information requirements in Commission filings.

Pursuant to the Commission's request for comment, six letters were received.[4] All of the commentators favored expansion of the availability of the Form to additional types of registrants; however, five of the commentators offered suggestions as to changes in the proposed revisions. Based upon the comments received, and its own experience, the Commission has determined to adopt the proposals substantially as published for comment. A description of the changes from the proposed revisions follows.

[1] Release No. 33–6388 (March 8, 1982) (47 FR 11288).

[2] Release Nos. 33–6383 to 33–6386 (March 3, 1982) (47 FR 11380).

[3] Release No. 33–6386 contains a detailed chart reflecting where the disclosure requirements of Form S–18 are being relocated in Regulation S–K.

[4] The letters are available for public inspection and copying at the Commission's Public Reference Room. (*See* File No. S7–924).

I. General Instructions

A. Paragraph A. of General Instruction I has been revised to provide that payment methods involving installments, assessments and assumptions by partners of partnership debt, which are commonly utilized in limited partnership offerings, will be permitted under the Form.[5]

B. The Commission has deleted the language in General Instruction I.E. which provided that Form S–18 could be used for the registration of securities to be offered on a delayed or continuous basis only where the registration statement related to the specifically prescribed securities enumerated in the referenced paragraphs of Rule 415. The Commission will consider whether any limitation is necessary in light of experience with the revised Form S–18.[6]

C. The Commission has added language to General Instruction III., Application of General Rules and Regulations, directing the attention of registrants engaged in real estate operations to relevant disclosure items in Form S–11, the special form for registration of interests in certain real estate companies. Several of the items, such as Item 9 (Investment Policies of Entities Acquiring Specified or Unspecified Properties), Item 10 (Description of Real Estate Acquired by Entities Acquiring Specified Properties) and Item 11 (Operating Data of Entities Acquiring Specified Properties), provide for specific disclosures tailored to the real estate industry. To the extent that these items offer enhanced guidelines for disclosure concerning real estate enterprises, registrants may wish to

[5] Consistent with present staff policy, assessments are to be counted as part of the aggregate offering price, despite payment at a later time, in computing the $5 million offering ceiling limitation.

[6] Item 26 of revised Form S–18, as well as Rule 415(a)(2), reference Item 512 of Regulation S–K (17 GFR 229.512), paragraph (a)(1)(ii) of which requires the filing of a post-effective amendment to the registration statement to reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. The Commission directs the attention of registrants engaged in real estate operations to the discussion of updating requirements contained in Release No. 33–6405, Publication of Revisions to the Division of Corporation Finance's Guide 5 and Amendments of Related Disclosure Provisions, adopted in conjunction with this release (June 3, 1982) (appearing in this issue of the Federal Register). The Commission has concluded that compliance with the specific provisions of Undertaking D of Guide 5 by sponsors of real estate limited partnership offerings will satisfy the fundamental change post-effective amendment requirements of Item 512(a)(1)(ii).

consider these items for use in a Form S–18 offering.

II. Part I—Narrative Information Required in Prospectus, Part II—Information Not Required in Prospectus, and Undertakings

A. In view of the adoption of Item 19 (Market Information) and Item 25 (Exhibits), both of which cross-reference corresponding items in Regulation S–K, Item 201(a)(2) (Market Price of and Dividends on the Registrant's Common Equity and Related Stockholder Matters) of Regulation S–K has been amended to reference Form S–18 registration statements, and a Form S–18 column has been added to the Item 601 (Exhibits) table of Regulation S–K to designate the exhibits required to be filed with the Form.

B. Item 20 (Remuneration of Directors and Officers) has been amended to clarify that the period of time for which the $50,000 remuneration figure in subparagraph (a) is to be measured is the registrant's most recent fiscal year.

III. Part I—Financial Information Required in Prospectus.

A. The Commission has adopted a change in Item 21(b)(1) permitting registrants which have been in existence for less than one fiscal year to file an audited balance sheet within 135 days, rather than 90 days, of filing its registration statement.

B. Items 21(b), (c) and (f) have been revised to add language indicating that interim financials may be presented in condensed form.

C. Items 21(d) and (e), as proposed, tracked proposed revisions to Rules 3–07 and 3–08 of Regulation S–X, with certain modifications.[7] Since these proposals have not yet been adopted, the Commission has decided to retain the language contained in Items 15(c) and (d) in new Items 21(d) and (e). If the revisions to Regulation S–X are adopted, the Commission will consider amendments to Form S–18 to conform it to the Regulation S–X language.

D. The Commission has clarified Item 21(h)(4) to indicate that the "net worth" of an individual general partner shall be based on the estimated fair market value of the assets and liabilities of such general partner.

IV. Statutory Authority and Findings

The Commission hereby adopts the rulemaking actions set forth below pursuant to the following statutory authority. The actions revising 17 CFR Parts 229 and 239 are adopted pursuant to the authority in Sections 6, 7, 8, 10 and 19(a) of the Securities Act of 1933.

(Secs. 6, 7, 8, 10 and 19(a), 48 Stat. 78, 79, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 301, 54 Stat. 857; sec. 8, 68 Stat. 685; sec. 1, 79 Stat. 1051; sec. 308(a)(2), 90 Stat. 57; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a))

V. Availability of Final Regulatory Flexibility Analysis With Regard to Form S–18

In accordance with 5 U.S.C. 604, the Commission has prepared a final Regulatory Flexibility Analysis with regard to Form S–18. A summary of the corresponding Initial Regulatory Flexibility Analysis was included in the release proposing revisions to Form S–18 at 47 FR 11291. Members of the public who wish to obtain copies of the Final Regulatory Flexibility Analysis of the Form S–18 revisions should contact Suzanne S. Brannan, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549 (202/272–2644).

List of Subjects in 17 CFR Parts 229 and 239

Reporting requirements, Securities.

Text of Forms and Regulations

In accordance with the foregiong, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

[7] Release No. 6350 (September 24, 1981) (46 FR 48943).

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934—REGULATION S–K

Revision 1

Revise § 229.201(a)(2) to read as follows:

§ 229.201 (Item 201) Market price of and dividends on the registrant's common equity and related stockholder matters.

(a) * * *

(2) If the information called for by this paragraph (a) is being presented in a registration statement on Form S–1 (§ 239.11 of this chapter) or Form S–18 (§ 239.28 of this chapter) under the Securities Act or on Form 10 (§ 249.210 of this chapter) under the Exchange Act relating to a class of common equity for which at the time of filing there is no established United States public trading market, indicate the amount(s) of common equity (i) that is subject to outstanding options or warrants to purchase, or securities convertible into, common equity of the registrant; (ii) that could be sold pursuant to Rule 144 under the Securities Act [§ 230.144 of this chapter] or that the registrant has agreed to register under the Securities Act for sale by security holders; or (iii) that is being, or has been publicly proposed to be, publicly offered by the registrant (unless such common equity is being offered pursuant to an employee benefit plan or dividend reinvestment plan), the offering of which could have a material effect on the market price of the registrant's common equity.

* * * * *

Revision 2

Revise § 229.601(a) to read as follows:

§ 229.601 (Item 601) Exhibits.

(a) * * *

EXHIBIT TABLE

	Securities Act forms								Exchange Act forms			
	S–1	S–2	S–3	S–4	S–11	S–14	S–15	S–18	10	8–K	10–Q	10–K
(1) Underwriting agreement	X	X	X		X	X		X		X		
(2) Plan of acquisition, reorganization, arrangement, liquidation or succession	X	X	X		X	X	X		X	X	X	
(3) Articles of incorporation and by-laws	X				X	X		X	X			X
(4) Instruments defining the rights of security holders, including indentures	X	X	X	X	X	X	X	X	X	X	X	X
(5) Opinion re legality	X	X	X	X	X	X	X	X				
(6) Opinion re discount on capital shares	X	X			X	X		X	X			
(7) Opinion re liquidation preference	X	X			X	X		X	X			
(8) Opinion re tax matters	X	X	X		X	X	X	X				
(9) Voting trust agreement	X				X	X		X	X			X
(10) Material Contracts	X	X			X	X	X	X	X			X

EXHIBIT TABLE—Continued

	Securities Act forms								Exchange Act forms			
	S-1	S-2	S-3	S-8	S-11	S-14	S-15	S-18	10	8-K	10-Q	10-K
(11) Statement re computation of per share earnings	X	X			X	X			X		X	X
(12) Statements re computation of ratios	X	X	X		X	X	X		X			X
(13) Annual report to security holders, Form 10-Q or quarterly report to security holders [1].		X					X					X
(14) Material foreign patents	X					X		X	X			
(15) Letter re unaudited interim financial information	X	X	X	X	X	X	X	X			X	
(16) Letter re change in certifying accountant										X		
(17) Letter re director resignation										X		
(18) Letter re change in accounting principles											X	X
(19) Previously unfiled documents											X	X
(20) Report furnished to security holders											X	
(21) Other documents or statements to security holders										X		
(22) Subsidiaries of the registrant	X				X				X			X
(23) Published report regarding matters submitted to vote of security holders.											X	X
(24) Consents of experts and counsel	X	X	X	X	X	X	X	X		X [2]	X [2]	X [2]
(25) Power of attorney	X	X	X	X	X	X	X	X	X	X	X	X
(26) Statement of eligibility of trustee	X	X	X		X	X	X	X				
(27) Invitations for competitive bids	X	X	X					X				
(28) Additional exhibits	X	X	X	X	X	X	X	X	X	X	X	X

[1] Where incorporated by reference into the text of the prospectus as permitted by the registration statement.
[2] Where incorporated by reference into a previously filed Securities Act registration statement.

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

By amending the registration statement on Form S–18 as set forth below:

§ 239.28 Form S–18, optional form for the registration of securities to be sold to the public by the issuer for an aggregate cash price not to exceed $5,000,000.

Revision 3

The Cover Page of, and General Instructions to, Form S–18 are revised to read as follows:

SECURITIES AND EXCHANGE COMMISSION

Form S–18

Registration Statement Under the Securities Act of 1933

(Exact name of registrant as specified in its charter)

(State or other jurisdiction of incorporation or organization)

(Primary Standard Industrial Classification Code Number)

(I.R.S. Employer Identification No.)

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

(Address of principal place of business or intended principal place of business)

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Approximate date of commencement of proposed sale to the public———

CALCULATION OF REGISTRATION FEE

Title of each class securities to be registered	Amount to be registered	Proposed maximum offering price per unit	Proposed maximum aggregate offering price	Amount of registration fee

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the registration statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.*

GENERAL INSTRUCTIONS

I. Rule as to Use of Form S–18

A. This form is to be used for the registration of securities not to exceed an aggregate offering price of $5 million which are to be sold for cash, installments for cash and/or cash assessments and assumptions by partners of partnership debt, by the registrant, or for the account of security holders in accordance with paragraph B, provided such registrant:

(1) Is organized under the laws of the United States or Canada or any State or Province thereof, and has or proposes to have its principal business operations in the United States, if a domestic issuer, or Canada or the United States if a Canadian issuer;

(2) Is not subject to the reporting provisions of the Securities Exchange Act of 1934 pursuant to Sections 12 or 15(d) of that Act;

(4) Is not an insurance company which is exempt from the provisions of Section 12 of the Securities Exchange Act of 1934 in reliance upon Section 12(g)(2)(G) thereof; and

(5) Is not a majority owned subsidiary of a registrant which does not meet the qualifications for use of the form, as specified herein.

B. This form may be used for the registration of securities to be sold for the account of any person other than the registrant, *Provided:* (i) The aggregate offering price of such securities does not exceed $1.5 million and (ii) the aggregate offering price of such securities together with the aggregate offering price of any securities to be sold by the registrant does not exceed $5 million.

C. For purposes of computing the $5 million ceiling specified above, there shall be included in the aggregate offering price of the securities registered herein, the aggregate offering price of all securities sold: (i) By the registrant within one year prior to the commencement of the proposed offering in violation of Section 5(a) of the Securities Act; (ii) by the registrant within one year prior to the commencement of the proposed offering pursuant to a registration statement filed on Form S–18; and (iii) which would be deemed integrated with the proposed offering. (*See;* Securities Act Release No. 4552 (November 6, 1962) (27 FR 11316).) In computing the $5 million ceiling, the aggregate price of all securities sold which fall in more than one of the above described categories need be counted only once.

D. Notwithstanding the provisions of paragraph (A)(2), a registrant which has had a prior offering on Form S–18 may, during the remainder of the fiscal year in which the prior registration statement was made effective, use the form to register additional securities until the offering limit as computed in paragraph C has been met.

II. Place of Filing

A. At the election of the registrant, all registration statements on Form S–18 and related papers filed with the Commission shall be filed either at its principal office in

*Inclusion of this paragraph is optional. See Rule 473. (Each page of this document, including exhibits and attachments, shall be numbered sequentially from this page, as page 1, through the last page of the document.)

Washington, D.C. or in the Regional Office for the region in which the registrant's principal business operations are conducted, or are proposed to be conducted. The registration statement of any registrant having or proposing to have its principal business operations in Canada may be filed with the Regional Office nearest the place where the registrant's principal business operations are conducted, or are proposed to be conducted; *Provided, however,* That if the offering is to be made through a principal underwriter located in the United States, the offering statement may be filed with the Regional Office for the region in which such underwriter has it principal office. Such material may be filed by delivery to Commission through the mails or otherwise. Questions concerning the appropriate place of filing may be directed to the Commission's Regional Offices.

B. The Commission will endeavor to process Form S–18 registration statements at the place of filing. However, due to workload or other special consideration, the Commission may refer processing to a different Commission office.

C. All post-effective amendments to the Form S–18 registration statement shall be filed in the office where the corresponding Form S–18 registration statement was declared effective.

III. Application of General Rules and Regulations

A. Attention is directed to the General Rules and Regulations under the Act, particularly those comprising Regulation C (17 CFR 230.400 to 230.494), which contains general requirements regarding the preparation and filing of a registration statement.

B. Attention is directed to Rule 463 (17 CFR 230.463) and Form SR (17 CFR 239.61) which is required to be filed by first-time registrants under the Securities Act showing sales of registered securities and the use of proceeds therefrom. Form SR shall be filed at the same office where the registration statement was declared effective.

C. Attention is directed to Regulation S–K (17 CFR 229.001–229.800) for the requirements relating to registration statement content. Where this form specifically references an item within that Regulation, the information need only be furnished to the extent appropriate. Special attention also is directed to paragraphs (c) and (d) of § 229.001 of Regulation S–K which outline the Commission's policies on projections and securities ratings, respectively.

D. Attention is directed to disclosure provisions set forth in the Industry Guides which are listed in § 229.800 of Regulation S–K (17 CFR 229.800). These Industry Guides represent Division practices with respect to the disclosure to be provided by the affected industries in registration statements.

E. Attention is directed to Rule 15c2–8 [17 CFR 240.15c2–8] regarding prior delivery of preliminary prospectuses by registrants not subject to the reporting requirements of the Exchange Act.

F. Attention is directed to Form S–11, particularly Items 9, 10, and 11 contained therein, which require specific narratives tailored for the real estate industry. To the extent that these items offer enhanced guidelines for disclosure on real estate entities, registrants may wish to consider these items for use in a Form S–18 offering.

Revision 4

Part I of Form S–18 is amended by removing existing Item 1 (Distribution Spread), Item 2 (Plan of Distribution), Item 3 (Use of Proceeds to Registrant), Item 5 (Capital Structure), Item 8 (Legal Proceedings), Item 9 (Directors and Officers), Item 12 (Security Ownership of Certain Beneficial Owners and Management) and Item 14 (Securities Being Registered) and by replacing such items with the following disclosure requirements:

PART I—INFORMATION REQUIRED IN PROSPECTUS

Item 1. Forepart of the Registration Statement and Outside Front Cover Page of Prospectus. Set forth in the forepart of the registration statement and on the outside front cover page of the prospectus the information required by Item 501 of Regulation S–K (17 CFR 229.501).

Item 2. Inside Front and Outside Back Cover Pages of Prospectus. Set forth in the inside front cover page of this prospectus or, where permitted, on the outside back cover page, the information required by Item 502 of Regulation S–K (17 CFR 229.502).

Item 3. Summary Information and Risk Factors. Furnish the information required by Item 503(a), (b), and (c) of Regulation S–K (17 CFR 229.503(a), (b) and (c)).

Item 4. Use of Proceeds. Furnish the information required by Item 504 of Regulation S–K (17 CFR 229.504).

Item 5. Determination of Offering Price. Furnish the information required by Item 505 of Regulation S–K (17 CFR 229.505).

Item 6. Dilution. Furnish the information required by Item 506 of Regulation S–K (17 CFR 229.506).

Item 7. Selling Security Holders. Furnish the information required by Item 507 of Regulation S–K (17 CFR 229.507).

Item 8. Plan of Distribution. Furnish the information required by Item 508 of Regulation S–K (17 CFR 229.508), except the information specified in Item 508(c)(1), (3), and (d).

Item 9. Legal Proceedings. Furnish the information required by Item 103 of Regulation S–K (17 CFR 229.103).

Item 10. Directors and Executive Officers. Furnish the information required by Item 401 of Regulation S–K (17 CFR 229.401).

Item 11. Security Ownership of Certain Beneficial Owners and Management. Furnish the information required by Item 403 of Regulation S–K (17 CFR 229.403).

Item 12. Description of the Securities To Be Registered. Furnish the information required by Item 202 of Regulation S–K (17 CFR 229.202).

Revision 5

Part I of Form S–18 is amended by adding new disclosure Items 13 and 14, as follows:

Item 13. Interest of Named Experts and Counsel. Furnish the information required by Item 509 of Regulation S–K (17 CFR 229.509).

Item 14. Statement as to Indemnification. Furnish the information required by Item 510 of Regulation S–K (17 CFR 229.510).

Revision 6

Part I of Form S–18 is amended by redesignating existing Item 4 (Organization Within 5 Years), Item 6 (Description of Business), Item 7 (Description of Property), and Item 13 (Interest of Management and Others in Certain Transactions) as Items 15, 16, 17, and 18, respectively, with no textual changes.

Revision 7

Part I to Form S–18 is amended by redesignating existing Item 7A (Description of Property-Issuers Engaged or to be Engaged in Significant Mining Operations) as Item 17A and by modifying current Instruction (3) to Item 7A(b) to read as follows.

Item 17A (Description of Property-Registrants Engaged or To Be Engaged in Significant Mining Operations)

* * * * *

(b) * * *.

Instructions * * *.

(3) Estimates other than proved (measured) or probable (indicated) reserves, and any estimated values of such reserves shall not be disclosed unless such information is required to be disclosed by foreign or state law; provided, however, that where such estimates previously have been provided to a person (or any of its affiliates) that is offering to acquire, merge, or consolidate with, the registrant or otherwise to acquire the registrant's securities, such estimates may be included.

Revision 8

Part I of Form S–18 is amended by deleting existing Item 11 (Options to Purchase Securities), and by adding the following disclosure item:

Item 19. Certain Market Information. Furnish the information required by Item 201(a)(2) of Regulation S–K (17 CFR 229.201(a)(2)).

Revision 9

Part I of Form S–18 is amended by redesignating existing Item 10 (Remuneration of Directors and Officers) as Item 20 and by redesignating the introductory paragraph as (a) and former paragraphs (a) and (b) as (i) and (ii) and by adding paragraph (b), as follows:

Item 20. Remuneration of Directors and Officers. (a) Furnish the information required in the table below in substantially the tabular form specified, concerning all remuneration paid or distributed through the latest practicable date to, or accrued through such

date for the account of, the following persons for services in all capacities to the registrant and its subsidiaries during the registrant's last fiscal year.

(i) each of the five highest paid persons who are officers or directors of the registrant whose aggregate remuneration exceeded $50,000 naming each such person.

(ii) all directors and officers of the registrant as a group, without naming them.

* * * * *

(b) Furnish the following information as to options to purchase securities from the registrant or any of its subsidiaries which are outstanding as of a specified date not more than 30 days prior to the date of filing of the registration statement held by (1) each director and executive officer named in answer to paragraph (a), above, naming each such person, and (2) all directors and officers as a group without naming them:

(i) The title and amount of the securities called for by such options;

(ii) The purchase price of the securities called for and the expiration dates of such options; and

(iii) The market value of the securities called for by such options as of the latest practicable date.

Instructions. 1. The term "options" as used in this item includes all options, warrants and rights other than those issued to security holders on a pro rata basis.

2. The extension of options shall be deemed the granting of options within the meaning of this item.

3. Where the total market value of securities called for by all outstanding options as of the specified date referred to in this item does not exceed $10,000 for any director or executive officer named in answer to paragraph (a), above, or $50,000 for all officers and directors as a group this item need not be answered with respect to options held by such person or group.

4. In case a number of options are outstanding having different prices and expiration dates, the options may be grouped by prices and date. If this produces more than five separate groups, then there may be shown only the range of the expiration dates and the average purchase prices, i.e., the aggregate purchase price of all securities of the same class called for by all outstanding options to purchase securities of that class divided by the number of securities of such class so called for.

Revision 10

Part I of Form S–18 is amended by deleting existing Item 15 (Financial Statements and Instructions) and by replacing such item with the following disclosure requirements:

Item 21. Financial Statements.

(a) General.

(1) The financial statements of the registrant, or the registrant and its predecessors or any businesses to which the registrant is a successor, which are to be filed as part of the registration statement shall be prepared in accordance with generally accepted accounting principles (GAAP) in the United States or in the case of a Canadian registrant, a reconciliation to such U.S. GAAP shall be included in a note or schedule to the financial statements.

(2) Regulation S–X (17 CFR 210.1–210.12), Form and Content of and Requirements for Financial Statements, shall not apply to the preparation of such financial statements, except that the report and qualifications of the independent accountant shall comply with the requirements of Article 2 of Regulation S–X, and registrants engaged in oil and gas producing activities shall follow the financial accounting and reporting standards specified in Article 4–10 of Regulation S–X with respect to such activities.

(3) The Commission may, upon the informal written request of the registrant, and where consistent with the protection of investors, permit the omission of one or more of the financial statements herein required or the filing in substitution therefore of appropriate statements of comparable character. The Commission may also by informal written notice require the filing of other financial statements in addition to, or in substitution for, the statements herein required in any case where such statements are necessary or appropriate for an adequate presentation of the financial condition of any person whose financial statements are required, or whose statements are otherwise necessary for the protection of investors.

(b) Consolidated balance sheets.

(1) The registrant and its subsidiaries consolidated shall file an audited balance sheet as of the end of the most recent fiscal year, or as of a date within 135 days of the date of filing the registration statement if the registrant (including predecessors) existed for a period less than one fiscal year.

(2) When the filing date of the registration statement falls after 134 days subsequent to the end of the registrant's most recent fiscal year a balance sheet as of an interim date within 135 days of the filing date also shall be included in the registration statement. Such balance sheet need not be audited and may be in condensed form.

(c) Consolidated statements of income, changes in financial condition and stockholder's equity.

(1) There shall be filed for the registrant and its subsidiaries consolidated statements of income, changes in financial position and stockholders equity for each of the two fiscal years preceding the date of the most recent audited balance sheet being filed (or for such shorter period as the registrant has been in business), and for the interim period, if any, between the end of the most recent fiscal year and the date of the most recent balance sheet being filed. These statements should be audited to the date of the most recent audited balance sheet being filed. Any interim financial statements may be in condensed form.

(2) If an income statement is filed for an interim period there shall also be filed, except for registrants in the development stage as defined by GAAP, an income statement for a comparable period of the prior year.

(3) In connection with any unaudited statement for an interim period a statement shall be made that all adjustments necessary to a fair statement of the results for such period have been included. If all such adjustments are of a normal recurring nature, a statement to that effect shall be made; otherwise, there shall be furnished information describing in appropriate detail the nature and amount of any adjustments other than normal recurring adjustments entering into the determination of the results shown.

(d) Past Successions to Other Businesses.

(1) If, during the period for which its income statements are required, the registrant has by purchase or by pooling of interests succeeded to one or more businesses which in the aggregate are significant, the additions, eliminations and other changes effected in the succession shall be appropriately set forth in a note or supporting schedule to the balance sheets being filed, and, if a purchase has been effected during the most recent fiscal year or in a subsequent period, pro forma statements of income reflecting the combined operations of the entities shall be furnished in columnar form for the latest fiscal year and any interim periods. In addition, furnish audited income statements, separate or combined as appropriate, for such business or businesses for such period prior to the purchase as may be necessary when added to the time, if any, for which income statements after the purchase are filed to cover the same period for which income statements of the registrant are required in Item (c) above. The test of significance shall be based on the tests used in the term "significant subsidiaries" in Rule 405 of Regulation C.

(2) This instruction shall not apply with respect to the registrant's succession to the business of any totally held subsidiary or to the succession of one or more businesses, considered in the aggregate, would not meet the test of a significant subsidiary.

(e) Future Successions to Other Businesses.

(1) If, after the date of the most recent balance sheet filed pursuant to paragraph (b) above, the registrant by purchase or by pooling of interests succeeded or is about to succeed to one or more businesses or acquired or is about to acquire an investment in a business the investment in which is required to be accounted for by the equity method, there shall be filed for such businesses financial statements, combined if appropriate, which would be required if they were registering securities on Form S–18 under the Act. In addition, to reflect the succession to any businesses, there shall be filed in columnar form (i) a balance sheet of the registrant, (ii) the balance sheet of the constituent businesses, (iii) the changes to be effected in the succession, and (iv) the pro forma balance sheet of the registrant giving effect to the plan of succession. There shall also be filed pro forma statements of income in columnar form for the periods for which the results of operations of the acquired business would have been included in the registrant's income statement for a pooling of interests or would have been presented on a pro forma basis for a purchase had the succession occurred on the date of the latest balance sheet filed. By a note to the financial statements or otherwise, a brief explanation of the changes shall be given.

(2) The acquisition of securities shall be deemed to be the acquisition of a business if such securities give control of the business or combined with securities already held give such control.

(3) No financial statements need be filed, however, for any business acquired or to be acquired, or for any business in which an investment acquired or to be acquired is required to be accounted for by the equity method, from a totally held subsidiary. In addition, the statements of any one or more such businesses may be omitted if the businesses, considered in the aggregate, would not meet the test of a significant subsidiary as defined in Rule 405, of Regulation C.

(f) Age of financial statements at effective date of registration statement.

(1) If the financial statements are as of a date 135 days or more prior to the date the registration statement is expected to become effective the financial statements shall be updated with a balance sheet as of an interim date within 135 days and with statements of income and changes in financial position for the interim period between the end of the most recent fiscal year and the date of the interim balance sheet. There shall also be filed, except for registrants in the development stage, an income statement for a corresponding period of the preceding fiscal year. Such interim financial statements need not be audited and may be in condensed form.

(2) When the anticipated effective date of the registration statement falls within 45 days subsequent to the end of the fiscal year, the registration statement need not include financial statements more current than as of the end of the third fiscal quarter of the most recently completed fiscal year. *Provided, however,* That if the audited financial statements for such fiscal year are available they must be included in the registration statement. If the anticipated effective date falls after 45 days subsequent to the end of the fiscal year the registration statement must include audited financial statements for the most recently completed fiscal year.

(3) When the filing date of the registration is near the end of a fiscal year and the audited financial statements for that fiscal year are not included in the registration statement, the registration statement shall be updated with such financial statements if they become available prior to anticipated effective date.

(g) Special instructions for real estate operations to be acquired.

If, during the period for which income statements are required, the registrant (a) has acquired one or more properties which in the aggregate are significant, or (b) since the date of the latest balance sheet required, has acquired or proposes to acquire one or more properties which in the aggregate are significant, the following shall be furnished with respect to such properties.

(1) Audited income statements (not including earnings per unit) for the two most recent fiscal years, which shall exclude items not comparable to the proposed future operations of the property such as mortgage interest, leasehold rental, depreciation, corporate expenses and Federal and state income taxes: *Provided, however,* That such audited statements need be presented for only the most recent fiscal year if (i) the property is not acquired from a related party; (ii) material factors considered by the registrant in assessing the property are described with specificity in the prospectus with regard to the property, including sources of revenue (including, but not limited to, competition in the rental market, comparative rents, occupancy rates) and expense (including, but not limited to, utility rates, *ad valorem* tax rates, maintenance expenses, capital improvements anticipated); and (iii) the registrant indicates in the prospectus that, after reasonable inquiry, the registrant is not aware of any material factors relating to that specific property other than those discussed in response to paragraph (1)(ii) of this section that would cause the reported financial information not to be necessarily indicative of future operating results.

(2) If the property is to be operated by the registrant there shall be furnished a statement showing the estimated taxable operating results of the registrant based on the most recent twelve month period including such adjustments as can be factually supported. If the property is to be acquired subject to a net lease the estimated taxable operating results shall be based on the rent to be paid for the first year of the lease. In either case, the estimated amount of cash to be made available by operations shall be shown. There shall be stated in an introductory paragraph the principal assumptions which have been made in preparing the statements of estimated taxable operating results and cash to be made available by operations.

(3) If appropriate under the circumstances, there shall be given in tabular form for a limited number of years the estimated cash distribution per unit showing the portion thereof reportable as taxable income and the portion representing a return of capital together with an explanation of annual variations, if any. If taxable net income per unit will become greater than the cash available for distribution per unit, that fact and approximate year of occurrence shall be stated, if significant.

(h) Special instructions for limited partnerships.

(1) In addition to the financial reporting requirements in paragraphs (a) through (g), registrants which are limited partnerships are required also to file the balance sheets of the general partners as described in subparagraphs (2) through (4), below.

(2) Where a general partner of the limited partnership is a corporation there shall be filed an audited balance sheet of such corporation as of the end of its most recently completed fiscal year. Receivables from the parent or affiliate of the general partner (including notes receivable, but excluding trade receivables), should be presented as deductions from the shareholders' equity of the general partner. Where a parent or affiliate of the general partner has committed itself to increase or maintain the general partner's capital then there shall also be filed an audited balance sheet of such parent or affiliate as of the end of its most recently completed fiscal year.

(3) Where a general partner of the limited partnership is a partnership there shall be filed an audited balance sheet of such partnership as of the end of its most recently completed fiscal year.

(4) Where a general partner of the limited partnership is a natural person there shall be filed, as supplemental information, a balance sheet of such natural person as of a recent date. Such balance sheet need not be audited. The assets and liabilities on such balance sheet should be carried at estimated fair market value, with provisions for estimated income taxes on unrealized gains. The net worth of such general partner(s), based on the estimated fair market value of their assets and liabilities, singly or in the aggregate, shall be disclosed in the text of the prospectus.

(i) Special instructions for registrants engaged in mining operations.

With respect to companies engaged or to be engaged in the mining business, attention is directed to the instruction to Item 17A concerning the appropriate classification of issuers engaged in the exploratory, development and production stage of mining.

Revision 11

Part II of Form S–18 is amended by deleting existing Item 16 (Marketing Arrangements), Item 17 (Other Expenses of Issuance and Distribution), Item 18 (Relationship with Registrant of Experts Named in Registration Statement), Item 19 (Recent Sales of Unregistered Securities) and Item 20 (Exhibits), and by adding the following disclosure requirements:

Part II.—Information Not Required in Prospectus

Item 22. Indemnification of Directors and Officers. Furnish the information called for by Item 702 of Regulation S–K (17 CFR 229.702).

Item 23. Other Expenses of Issuance and Distribution. Furnish the information called for by Item 511 of Regulation S–K (17 CFR 229.511).

Item 24. Recent Sales of Unregistered Securities. Furnish the information called for by Item 701 of Regulation S–K (17 CFR 229.701).

Item 25. Exhibits. Furnish the exhibits as required by Item 601 of Regulation S–K (17 CFR 229.601).

Revision 12

Part II of Form S–18 is amended by removing the existing undertaking requirements and replacing them with the following:

Item 26. Undertakings. Furnish the undertakings required by Items 512 of Regulations S–K (17 CFR 229.512).

Revision 13

The signature requirements of Form S–18 are amended to read as follows:

Signatures

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies

that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S–18 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of ———, State of ———, on ———, 19—.

(Registrant) ———

By (Signature and Title) ———

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

(Signature) ———

(Title) ———

(Date) ———

Instructions 1. The registration statement shall be signed by the registrant, its principal executive officer or officers, its principal financial officer, its controller or principal accounting officer and by at least a majority of the board of directors or persons performing similar functions. If the registrant is a Canadian person, the registration statement shall also be signed by its authorized representative in the United States. Where the registrant is a limited partnership, the registration statement shall be signed by a majority of the board of directors of any corporate general partner signing the registration statement.

2. The name of each person who signs the registration statement shall be typed or printed beneath his signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he signs the registration statement. Attention is directed to Rule 402 concerning manual signatures and to the exhibit requirements concerning signatures pursuant to powers of attorney.

Revision 14

Part II to Form S–18 is amended by removing existing Instructions as to Exhibits.

Revision 15

Part II to Form S–18 is amended by removing the existing Appendix to the Form.

By the Commission.

George A. Fitzsimmons,

Secretary.

June 4, 1982.

[FR Doc. 82-15746 Filed 6-9-82; 8:45 am]

BILLING CODE 6010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79–76–000 (Colorado—24); Order No. 236]

Colorado; High-Cost Gas Produced From Tight Formations

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This final order adopts the recommendation of the Colorado Oil and Gas Conservation Commission that the Mesaverde and Mancos Formations be designated as tight formations under § 271.703(d).

EFFECTIVE DATE: This rule is effective June 4, 1982.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511 or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION:

Issued: June 4, 1982.

The Commission hereby amends § 271.703(d) of its regulations to include the Mesaverde and Mancos Formations in Rio Blanco County, Colorado as designated tight formations eligible for incentive pricing under § 271.703. This amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation (OPPR) issued March 4, 1982 (47 FR 10239, March 10, 1982)[1] based on a recommendation by the Colorado Oil and Gas Conservation Commission (Colorado) in accordance with § 271.703(c) that the Mesaverde and Mancos Formations be designated as tight formations.

The Commission finds that the evidence submitted by Colorado supports the assertion that the Mesaverde and Mancos Formations meet the guidelines contained in § 271.703(c)(2). The Commission adopts the Colorado recommendation.

This amendment shall become effective immediately. The Commission finds that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices immediately available establishes good cause to waive the thirty-day publication period.

[1] Comments were invited on the proposed rule and none were received. No party requested a public hearing and no hearing was held.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.;* Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective immediately.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

Section 271.703(d) is revised by adding new subparagraphs (86) and (87) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(86) *Mesaverde Formation in Colorado.* RM79–76 (Colorado—24).

(i) *Delineation of formation.* The Mesaverde Formation is found in the southwestern portion of Rio Blanco County, Colorado, about 70 miles northwest of the town of Grand Junction. The Mesaverde Formation is located in Township 1 South, Ranges 98 and 99 West, 6th P.M., all; Township 1 South, Range 100 West, 6th P.M. Sections 1 through 3, 10 through 15, 22 through 27, and 34 through 36; Township 2 Range 98 West, 6th P.M., Sections 4 through 8; Township 2 South, Range 99 West, 6th P.M., Sections 1 through 12, 15 through 22, and 27 through 34; and Township 2 South, Range 100 West, 6th P.M., Sections 1 through 3, 10 through 15, 22 through 27, and 34 through 36.

(ii) *Depth.* The Mesaverde Formation varies in thickness from 2,900 to 3,600 feet. The average depth to the top of the Mesaverde Formation is 6,693 feet.

(87) *Mancos Formation in Colorado.* RM79–76 (Colorado—24).

(i) *Delineation of formation.* The Mancos Formation is found in the southwestern portion of Rio Blanco County, Colorado, about 70 miles northwest of the town of Grand Junction. The Mesaverde Formation is located in Township 1 South, Ranges 98 and 99 West, 6th P.M., all; Township 1 South, Range 100 West, 6th P.M., Sections 1 through 3, 10 through 15, 22 through 27, and 34 through 36; Township 2 Range 98 West, 6th P.M., Sections 4 through 8; Township 2 South, Range 99 West, 6th P.M., Sections 1 through 12, 15 through 22, and 27 through 34; and

Township 2 South, Range 100 West, 6th P.M., Sections 1 through 3, 10 through 15, 22 through 27, and 34 through 36.

(ii) *Depth.* The Mancos Formation is approximately 5,000 feet thick. The average depth to the top of the Mancos Formation is 9,495 feet.

[FR Doc. 82-15757 Filed 6-9-82; 8:45 am]
BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76-000 (New Mexico—8); Order No. 235]

New Mexico; High-Cost Gas Produced From Tight Formations

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the State of New Mexico Energy and Minerals Department, Oil Conservation Division that the Dakota Formation be designated as a tight formation under § 271.703.

EFFECTIVE DATE: This rule is effective June 4, 1982.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511 or Victor Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION:

Issued: June 4, 1982.

The Commission hereby amends § 271.703(d) of its regulations to include the Dakota Formation in San Juan and Rio Arriba Counties, New Mexico, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation (OPPR), issued February 23, 1982 (46 FR 8377, February 26, 1982).[1]

[1] No party requested a public hearing and no hearing was held.

based on a recommendation by the State of New Mexico Energy and Minerals Department, Oil Conservation Division (New Mexico) in accordance with § 271.703(c) that the Dakota Formation be designated as a tight formation.

The Commission received five comments in response to the Notice of Proposed Rulemaking in this docket. Three commenters, Husky Oil Company, Mitchell Energy Corporation, and Champlin Petroleum Company, supported New Mexico's recommendation. Two commenters, Pacific Gas and Electric Company (PG&E) and Southern California Gas Company and its affiliate, Pacific Lighting Gas Supply Company, (SoCal), filed comments opposing New Mexico's recommendation.

SoCal urges the Commission to exclude from tight formation designation portions of the recommended Dakota Formation on the ground that infill drilling of these portions has been authorized. PG&E requests that the Commission carefully consider the need to designate the formation as a tight formation in light of the existence of the prior infill drilling order. Section 271.703(c)(2)(i)(D) provides that:

> If the formation or any portion thereof was authorized to be developed by infill drilling prior to the date of recommendation and the jurisdictional agency has information which in its judgment indicates that such formation or portion subject to infill drilling can be developed absent the incentive price established in paragraph (a) of this section then the jurisdictional agency shall not include such formation or portion thereof in its recommendation.

Section 271.703(b)(6) defines infill drilling as any drilling in a substantially developed formation or portion thereof subject to well spacing or proration unit requirements which were amended by the jurisdictional agency after the formation or portion thereof was substantially developed, and which were adopted for the purpose of more effective and efficient drainage of the reservoirs in such formation.

New Mexico, in Order Nos. R-1670 and R-1670-C, established 320-acre proration units for gas production from the Basin-Dakota Gas Pool, which includes the recommended area. On May 22, 1979, New Mexico issued Order No. R-1670-V, which permitted the drilling of an additional well in each 320-acre unit in the Basin-Dakota Gas Pool. Under §§ 271.703(c)(2)(i)(D) and 271.703(b)(6), if the recommended portion of the Dakota Formation subject to the infill drilling order, Order No. R-1670-V, was substantially developed at the time the order was issued, then such areas should be excluded from the tight formation designation.[2]

Of the 846 drilling units available in the recommended area at the time the Infill Order No. R-1670-V was issued, 34 units were developed, that is, each of the 34 units had the allowable one well per unit. This represents 4.0% of the number of units in the entire field at that time. The Commission finds that this degree of development does not constitute substantial development at the time the infill order was issued. Accordingly, the Commission will not exclude any areas in New Mexico's recommendation from tight formation designation under § 271.703(c)(2)(i)(D).

PG&E argues that El Paso Natural Gas Company (El Paso), which produces natural gas from the recommended formation, prices its gas on a cost-of-service basis. The use of cost-of-service, PG&E argues, guarantees El Paso full recovery of its costs and expenses, plus a reasonable rate of return, and so El Paso has no need to receive the tight formation incentive price. The Commission has previously stated that the question of whether the incentive price is necessary to provide reasonable incentives for particular gas supplies is beyond the scope of these rulemakings. *See,* Order No. 226, Docket No. RM79-76 (Ohio—2), issued May 7, 1982.[3] The issue in this docket is whether the Dakota Formation meets the standards prescribed in § 271.703(c). Moreover, there are or can be gas producers in the recommended formation other than El Paso which do not receive cost-of-service pricing for gas produced therefrom. Finally, the tight formation incentive price is a *ceiling* price and as such there is no guarantee that a producer (including a pipeline) will be able to charge and collect that price. There must exist proper authorization, either contractual or otherwise, in order for the ceiling price to be collected. See, for example, §§ 271.702(a) (1) and (2) and 271.703(a).

SoCal also argued in its comments that the production data submitted by New Mexico showed that the average pre-stimulation production exceeds the production limits prescribed by § 271.703(c)(2)(i)(B). The figures cited by SoCal to support this assertion were post-stimulation production rates, and

[2] See Order No. 230, Docket No. RM79-76 (Colorado-18) issued April 2, 1982.

[3] The Commission will only look to the issue of whether the incentive price is necessary in the situation where, as noted, the recommended formation had been substantially developed prior to the issuance of an infill drilling order or under § 271.703(c)(2)(ii), where the formation does not meet the permeability guideline in § 271.703(c)(2)(i)(A).

not pre-stimulation initial potential rates. The pre-stimulation production rates from the Dakota Formation as recommended, based on production data from 22 wells in the formation, is expected to be 312 Mcf/day, which is less than the maximum allowable 336 Mcf/day permitted under § 271.703(c)(2)(i)(B).

Evidence submitted by New Mexico therefore supports the assertion that the Dakota Formation meets the guidelines contained in § 271.703(c)(2). The Commission adopts the New Mexico recommendation.

This amendment shall become effective immediately. The Commission has found that public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices immediately available establishes good cause to waive the thirty-day publication period.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective immediately.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

Section 271.703(d) is revised by adding new subparagraph (88) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations*

* * * * *

(88) *Dakota Formation in New Mexico* RM79–76 (New Mexico—8).

(i) *Delineation of formation.* The Dakota Formation is found in Townships 30 and 31 North, Ranges 2 through 7, in San Juan and Rio Arriba Counties, New Mexico. The formation is within the Basin-Dakota Gas Pool, in the Rosa Area of the San Juan Basin.

(ii) *Depth.* The Dakota Formation is below the Graneros Shale Formation and above the Morrison Formation. The average depth to the top of the Dakota Formation is 7,950 feet. The formation is approximately 250 feet in thickness.

[FR Doc. 82–15758 Filed 6–9–82; 8:45 am]
BILLING CODE 6717–01–M

INTERNATIONAL TRADE COMMISSION

19 CFR Part 210

Procedures for Initial Determination and Discretionary Review—Investigations of Unfair Practices in Import Trade

AGENCY: International Trade Commission.

ACTION: Final rules.

SUMMARY: These rules amend Part 210 of the Commission's *Rules of Practice and Procedure* governing investigations under section 337 of the Tariff Act of 1930 which covers investigations of unfair practices in import trade (19 U.S.C. 1337). The effect of the amended rules is to provide procedures in section 337 investigations for an initial determination by the presiding officer regarding violation of section 337 and discretionary review of the initial determination by the Commission. This alters existing Commission practice, which requires the presiding officer to file a recommended determination that is reviewed by the Commission before it issues a final determination. These final rules reflect public comment on proposed rules published on December 23, 1981 (46 FR 62292).

EFFECTIVE DATE: June 10, 1982. The procedures established by these final rules will be applicable only to section 337 investigations instituted subsequent to the effective date. The superseded rules provisions will continue in effect for all previously instituted investigations.

FOR FURTHER INFORMATION CONTACT: Michael P. Mabile, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C., telephone 202–523–0189.

SUPPLEMENTARY INFORMATION: Authority for adoption of these rules is contained in 19 U.S.C. 1335, which authorizes the Commission to adopt such reasonable procedures and rules and regulations as it deems necessary to carry out its functions and duties, including those exercised under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Authority is also derived from the Administrative Procedure Act (5 U.S.C. 551, et seq.), which authorizes the adoption of certain procedures in an adjudicative proceeding when an agency does not preside over the hearing at which the evidence is received. Under 5 U.S.C. 557, the agency may require the presiding officer to make an initial decision that becomes the decision of the agency without further proceedings unless the decision is appealed to, or reviewed by, the agency. Alternatively, the agency may require that the entire record be certified to it for decision with a recommended decision by the presiding officer.

The purpose of these amendments to the Commission's rules is to adopt an initial determination procedure, with discretionary Commission review, in section 337 investigations. Commission practice heretofore has called for the presiding officer to issue a recommended determination that is subject to full Commission review with regard to every issue arising in the investigation, regardless of its significance or potential impact upon Commission policies. The change in the rules will permit the Commission to make better use of its time and resources by allowing it to focus its attention on the most substantial issues coming before it in unfair import trade practice investigations and will also diminish the amount of time required for adjudication of less complex investigations.

In accordance with the Regulatory Flexibility Act, it is hereby certified that these final rules will not have a significant economic impact on a substantial number of small entities. Adoption of these rules is anticipated to make it less costly and time-consuming for all private parties, including small entities, to participate in Commission section 337 proceedings.

Analysis of Public Comments on Proposed Rules

Comments on the Commission's proposed rules, published on December 23, 1981 (46 FR 62292), were received from the United States Department of Justice and from three firms that represent parties before the Commission in investigations under section 337 of the Tariff Act of 1930. The following is a summary and analysis of the comments, with an explanation of why comments were accepted or rejected.

The Department of Justice noted that the proposed rules were in accord with the Administrative Procedure Act and supported the Commission's efforts to allocate its time and resources more efficiently. The Department was concerned, however, that the proposed procedures might be inconsistent with the Commission's obligation under 19 U.S.C. 1337(b)(2) and 19 CFR 210.14(a)(2)

to consult with, and seek advice and information from, the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and such other departments and agencies as the Commission considers appropriate. The Department suggested that the final amendments be clarified to provide a specific opportunity for the consulting federal agencies to comment on the presiding officer's initial determination before the Commission decides whether to review it.

The Commission agrees with the Department of Justice that, in order to make the consultative role of the other federal agencies fully effective, the rules should provide for notice to the other federal agencies of the issuance of an initial determination. Therefore, as suggested by the Department, a new paragraph (e) has been added to § 210.53 to provide that the appropriate agencies will be served with a copy of the initial determination and that the Commission will consider comments submitted by those agencies when deciding whether to review the initial determination. The subsection also establishes time limits for the submission of agency comments. Proposed paragraphs (e) through (h) of § 210.53 are redesignated as paragraphs (f) through (i). Additionally, §§ 210.54(b) and 210.55 have been revised to provide notice to the appropriate agencies that the Commission has granted review of an initial determination.

The recommendations of the Department of Justice have been rejected only insofar as they suggest that the commenting agencies be given the full period provided for the Commission's decision whether to review an initial determination in which to submit comments and that the Commission be allowed to extend the period if extra time is needed in order to consider their comments. The Commission has chosen instead a shorter period for the submission of comments (20 days when the initial determination concerns issues regarding permanent relief; 10 days when the initial determination involves an interlocutory motion or motion for temporary relief). Section 337 charts for the Commission a very strict timetable for its investigations. The Commission does not believe it is either feasible or advisable to allow any additional time for consideration of comments. Although the shorter timetable will require agencies to respond promptly, it is not anticipated that this will result in any undue difficulty.

The first firm that submitted comments suggested two changes to the proposed rules. First, it urged that the language of § 210.54(a) be amended so that a defaulting respondent is not accorded an unqualified right to petition the Commission for review of an unfavorable initial determination. As drafted, § 210.54(a) grants "(a)ny party to an investigation" standing to seek review. The Commission's explanatory comments, 46 FR 62293, noted that this provision "does not exclude parties who are in default or otherwise did not participate in the evidentiary hearing. This extensive grant of authority to request review may be limited in the rule concerning default * * *, in which default is deemed to constitute a waiver of a party's right to appear." The firm recommended that the section be altered to make its provisions available only to non-defaulting parties.

The Commission agrees that the broad wording of proposed § 210.54(a), coupled with the ambiguous explanatory comments, creates an uncertainty as to whether a defaulting party may petition for review of an initial determination. Moreover, it is believed that restricting the right to seek review to non-defaulting parties would be consistent with, and would further strengthen, the Commission's default rule, 19 CFR 210.21(d). Section 210.54(a) has accordingly been revised to limit review to parties who are not in default and similarly revised to limit the right to oppose a petition for review to parties who are not in default. As now drafted, this section also recognizes that a party may elect to be in default as to certain issues in an investigation while preserving its right to contest other issues, as was done in the recent case, *Certain Molded-In Sandwich Panel Inserts*, Inv. No. 337–TA–99, in which respondents chose to contest only the issues of res judicata and jurisdiction. In such a case the defaulting party will be prevented only from seeking or contesting review of matters as to which it is in default.

The same firm urged that the Commission amend § 210.14(b) to permit the presiding officer to take evidence and hear arguments relevant to the Commission's remedy, bonding and public interest determinations. That section specifically prohibits the presiding officer from taking evidence on these issues unless directed to do so by the Commission. This suggestion is outside the scope of the rules changes sought in the present amendments, and consideration of such a change must await future revisions of section 337.

A second firm made two recommendations for changes to the proposed rules. First, it suggested that a new subsection be added to § 210.56 to provide a 60-day time limit on Commission review of an initial determination concerning temporary relief. The Commission has adopted this suggested amendment. Because they are of an emergency nature, motions for temporary relief are ordinarily expedited. While the firm has pointed to no specific past difficulties in obtaining timely disposition of motions for temporary relief, the Commission nevertheless considers the revision advisable because it will insure the confidence of the parties and the public that these motions will be handled expeditiously. Moreover, the 60-day limit is short enough to guarantee timeliness but long enough to insure against overly hasty decisionmaking.

The firm's second recommendation related to the issues of relief, bonding, and the public interest, provided for in § 210.14. The firm expressed the belief that the amendments did not unambiguously provide a procedure for bringing those issues before the Commission and suggested that an additional subsection be added to § 210.56 explicitly providing for Commission consideration of these issues in any case reviewed by the Commission or in which an initial determination granting relief is not reviewed by the Commission.

The Commission does not believe it is necessary to further amend its rules to provide for explicit consideration of relief, bonding, and the public interest. These matters are already covered by § 210.14, which is unaffected by these amendments. That section provides that these issues will be considered by the Commission "(d)uring the course of each proceeding under" section 337, and that "(t)he Commission will consider motions for oral argument or, when necessary, for a hearing with respect to" relief, bonding, and the public interest. Thus, under the amended rules, as under the prior rules, the Commission will consider the issues set forth in § 210.14 in every section 337 case in which relief is or may be granted, even when the Commission elects not to review an initial determination granting relief. The procedures will be identical to those pertaining prior to promulgation of these final rules.

The third firm submitted a number of suggestions for changes to the proposed rules. Two of those suggestions, relating to relief, bonding, and public interest and ability of a defaulting party to petition for review, were also made by

other commenting firms and are discussed above.

The firm suggested that the initial determination procedures be made applicable to motions under § 211.57 for modification or dissolution of final Commission actions. While the Commission may wish to revise or broaden its procedures under § 211.57 after it gains further experience with motions for modification or dissolution of final actions, such changes would be premature at present and in any event are beyond the intended scope of the present amendments. For similar reasons, the Commission does not consider it appropriate at present to make a second revision recommended by the firm that the waiver provision of § 210.54(a)(2) be specifically applied to modification proceedings and that standards should be established for determining when such a waiver may be excused in a modification proceeding.

Another comment submitted by the firm questioned proposed § 210.53(c), which provides with respect to a motion for summary determination, termination, finding of default, or amendment to complaint or notice of investigation that the presiding officer shall grant the motion by filing an initial determination or shall deny the motion by issuing an order directing denial. The firm noted that this provision represents a change with regard to motions for amendment of complaint or notice of investigation, which, under existing § 210.22, are to be certified by the presiding officer to the Commission in every instance, and contended that the change is inappropriate because it will disadvantage complainants. It is recommended at the very least that the Commission explain its reason for providing review only of a presiding officer's determination to grant a motion for amendment of the complaint or notice of investigation.

The Commission included this revision in the proposed rules—and is retaining it in the final rules—for two reasons. First, it harmonizes procedures for review of motions for amendment of the complaint and notice of investigation with those for review of motions for summary determination, termination, and finding of default. Second, the Commission believes it appropriate under the revised rules to limit its review only to those situations in which the presiding officer's order results in a change of the scope of the investigation established by the Commission at the time of institution.

The firm further recommended that the Commission clarify the rules by deleting proposed §§ 210.53(g)(1)(i) and 210.53(g)(2)(i) and by moving the specification of filing deadlines for review petitions to § 210.54. The Commission agrees that the two subsections [now redesignated as §§ 210.53(h)(1)(i) and 210.53(h)(2)(i) because of adoption of a new § 210.53(c) on the suggestion of the Department of Justice] may be confusing, because, as drafted in the proposed rules, they could imply that the mere filing of a petition for review, rather than a Commission determination to undertake review, would be sufficient to prevent an initial determination from becoming the determination of the Commission. The Commission, therefore, has revised § 210.53 by deleting the subsections and has added to § 210.54 the deadlines for seeking review that were previously set out in the two deleted subsections.

The Commission does not find it necessary to make the additional change to § 210.53 suggested by the firm, namely that the rule specify that it may be appropriate in certain circumstances for the presiding officer to file an initial determination under § 210.53(c), dealing with certain interlocutory motions, before filing an initial determination under § 210.53(a), dealing with issues concerning permanent relief. The interlocutory motions covered by § 210.53(c) are ordinarily handled prior to a determination on permanent relief, and this sequence of events need not be spelled out in the rules.

The third firm's final suggestion is that, if proposed § 210.54(a)(2) is intended to establish standards for granting a petition for review, as stated in the Commission's explanatory comments to the proposed rules, this should be set forth explicitly in the rules. The Commission agrees with this suggestion, and sentences have been added to §§ 210.54(b) and 210.55 to make explicit the correspondence between the kinds of issues to be raised by a party seeking review and the standards to be used by the Commission in granting review. In addition, the standards set out in § 210.54(a)(2) have been redrafted in the interest of clarity.

List of Subjects in 19 CFR Part 210

Administrative practice and procedure, Customs duties and inspection, Imports, Investigations.

19 CFR Part 210 is amended as set forth below.

PART 210—ADJUDICATIVE PROCEDURES

1. In § 210.21, paragraph (d) is revised to read as follows:

§ 210.21 The response.

* * * * *

(d) *Default.* Failure of a respondent to file a response within the time provided for in paragraph (a) of this section may be deemed to constitute a waiver of its right to appear and contest the allegations of the complaint and of the notice of investigation, and to authorize the presiding officer, without further notice to that respondent, to find the facts to be as alleged in the complaint and notice of investigation and to enter an initial determination (or a determination if the Commission is the presiding officer) containing such findings.

2. In § 210.22, paragraph (a) is revised to read as follows:

§ 210.22 Amendments to pleadings and notice of investigation.

(a) *By leave.* If and whenever disposition of the issues in an investigation on the merits will be facilitated, the presiding officer, upon such conditions as are necessary to avoid prejudicing the public interest and the rights of the parties to an investigation, may allow appropriate amendments to pleadings: Provided, however, that a motion for amendment of a complaint after the institution of an investigation shall be made to the presiding officer, who shall grant the motion by filing with the Commission an initial determination, or shall deny the motion by issuing an order directing denial; the motion shall be decided according to the standards of § 210.20(d) of this part. A motion for amendment of a notice of investigation shall be dealt with as provided for with respect to motions for amendment of a complaint.

* * * * *

3. In § 210.36, paragraph (b)(5) is revised to read as follows:

§ 210.36 Failure to make discovery; sanctions.

* * * * *

(b) * * *

(5) Rule that a motion or other submission by the party concerning the order or subpoena issued be stricken or rule (by initial determination where the presiding officer is not the Commission) that a determination in the investigation be rendered against the party, or both. Any such action may be taken by written or oral order issued in the course of the investigation or by inclusion in the initial determination of the presiding officer when the presiding officer is not the Commission. It shall be the duty of the parties to seek, and that of the presiding officer to grant, such of the foregoing means of relief or other appropriate relief as may be sufficient to compensate for the lack of withheld

testimony, documents, or other evidence. If in the presiding officer's opinion such relief would not be sufficient, the presiding officer shall certify to the Commission a request that court enforcement of the subpoena or other discovery order be sought.

4. In § 210.43, paragraph (c) is revised to read as follows:

§ 210.43 Record.

* * * * *

(c) *Certification of record.* The record shall be certified to the Commission by the presiding officer upon his filing of an initial determination or at such earlier time as the Commission may order.

5. In § 210.50, paragraph (f) is revised to read as follows:

§ 210.50 Summary determinations.

* * * * *

(f) *Order of summary determination.* An order of summary determination shall constitute a determination of the Commission under § 210.56(c) of this part when the Commission is the presiding officer. An order of summary determination shall constitute an initial determination of the presiding officer under § 210.53 when the presiding officer is not the Commission.

6. In § 210.51, paragraphs (c)(2), (d), and (e) are revised to read as follows:

§ 210.51 Termination of investigation.

* * * * *

(c) * * *

(2) The motion, licensing or other agreement and any agreements supplemental thereto, and affidavit shall be certified by the presiding officer to the Commission with a recommendation. The Commission shall promptly publish notice of such motion along with a nonconfidential summary of the licensing or other agreement in the **Federal Register** and, unless otherwise ordered, for a period of thirty (30) days thereafter receive and consider any comments that may be filed by interested persons concerning the agreement. An order of termination based upon such licensing or other agreement shall not constitute a determination of the Commission under § 210.56(c).

(d) *Consent order settlement.* An investigation before the Commission may be terminated as provided in paragraph (a) of this section on the basis of a consent order settlement under § 211.20(b). An order of termination based upon such a settlement shall not constitute a determination of the Commission under § 210.56(c).

(e) *Effect of termination.* Except as provided in paragraphs (c) and (d) of this section, an order of termination issued by the Commission shall constitute a determination of the Commission under § 210.56(c), and an order of termination issued by the presiding officer (when not the Commission) shall constitute an initial determination of the presiding officer under § 210.53.

7. Sections 210.53, 210.54, and 210.55 are revised to read as follows:

§ 210.53 Initial determination.

(a) *On issues concerning permanent relief.* Following a hearing for the taking of evidence and hearing of arguments and within nine months, or within fourteen months in a more complicated case, of the date of publication in the **Federal Register** of the notice instituting the investigation, the presiding officer shall certify the record to the Commission and shall file with the Commission an initial determination as to whether there is a violation of section 337 of the Tariff Act of 1930.

(b) *On issues concerning temporary relief.* Following a hearing for the taking of evidence and hearing of arguments and within four months of the date of publication in the **Federal Register** of the notice instituting the investigation, the presiding officer shall certify the record to the Commission and shall file with the Commission an initial determination as to whether there is reason to believe there is a violation of section 337 of the Tariff Act of 1930.

(c) *On motions for summary determination, termination, finding of default, or amendment to complaint or notice.* Following the filing of a motion for summary determination pursuant to § 210.50, motion for termination pursuant to § 210.51, motion for a finding of default pursuant to §§ 210.21(d) and 210.51(b), or motion to amend the complaint or notice of investigation pursuant to § 210.22(a), the presiding officer shall grant such motions by filing with the Commission an initial determination, or shall deny such motions by issuing an order directing denial.

(d) *Contents.* The initial determination shall include: an opinion stating findings (with specific page references to principal supporting items of evidence in the record) and conclusions and the reasons or bases therefor necessary for the disposition of all material issues of fact, law or discretion presented in the record; and a statement that pursuant to § 210.53(h) of these rules the initial determination shall become the determination of the Commission unless a party files a petition for review of the initial determination pursuant to § 210.54 of these rules, or the Commission pursuant to § 210.55 of these rules orders on its own motion a review of the initial determination or certain issues therein.

(e) *Notice to and advice from departments and agencies.* The Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and such other departments and agencies as the Commission deems appropriate shall be served with a copy of the initial determination. The Commission shall consider comments, limited to issues raised by the record, the initial determination, and the petitions for review, received from such agencies when deciding whether to initiate review or the scope of review. The Commission shall allow such agencies 20 days after the service of an initial determination filed pursuant to § 210.53(a) or 10 days after the service of an initial determination filed pursuant to § 210.53 (b) or (c) to submit their comments.

(f) *Initial determination made by the presiding officer.* The initial determination shall be made and filed by the presiding officer who presided over the investigation, except when that person is unavailable to the Commission.

(g) *Reopening of proceedings by the presiding officer.* At any time prior to the filing of the initial determination, the presiding officer may reopen the proceedings for the reception of additional evidence.

(h) *Effect.* (1) Unless otherwise ordered by the Commission, an initial determination filed pursuant to § 210.53(a) shall become the determination of the Commission thirty (30) days after the service thereof, except when the Commission, within thirty (30) days after the date of filing of the initial determination, shall have ordered review of the initial determination or certain issues therein pursuant to § 210.54(b) or § 210.55.

(2) Unless otherwise ordered by the Commission, an initial determination filed pursuant to § 210.53 (b) or (c) shall become the determination of the Commission fifteen (15) days after the service thereof, except when the Commission, within fifteen (15) days after the date of filing of the initial determination, shall have ordered review of the initial determination or certain issues therein pursuant to § 210.54(b) or § 210.55.

(i) *Notice of determination.* In the event an initial determination becomes the determination of the Commission, the parties shall be notified thereof by the Secretary. The notice shall also state that the time for filing a petition for

review of the initial determination has expired and that the Commission has decided not to review the initial determination on its own motion.

§ 210.54 Petition for review.

(a) *The petition and responses.* (1) Any party to an investigation may request a review by the Commission of an initial determination by filing with the Secretary a petition for review, except that a party who has defaulted may not petition for review of any issue regarding which the party is in default. A petition for review of an initial determination filed pursuant to § 210.53(a) shall be filed within ten (10) days after the service of the initial determination. A petition for review of an initial determination filed pursuant to § 210.53 (b) or (c) shall be filed within five (5) days after the service of the initial determination. A petition for review shall:

(i) Identify the party seeking review;

(ii) Specify the issues upon which review of the initial determination is sought—

(A) a finding or conclusion of material fact is clearly erroneous;

(B) a legal conclusion is erroneous, without governing precedent, rule or law, or constitutes an abuse of discretion; or

(C) the determination is one affecting Commission policy.

(iii) Set forth a concise statement of the facts material to the consideration of the stated issues; and

(iv) Present a concise argument setting forth the reasons why review by the Commission is necessary or appropriate to resolve an important issue of fact, law or policy.

(2) Any issue not raised in the petition for review filed pursuant to this rule will be deemed to have been abandoned and may be disregarded by the Commission in reviewing an initial determination.

(3) Any party may file a response to the petition for review within five (5) days after service of the petition, except that a party who has defaulted may not file a response to any issue regarding which the party is in default.

(b) *Grant or denial of review.* (1) The Commission shall decide whether to grant, in whole or in part, a petition for review filed pursuant to § 210.53(h)(1) within thirty (30) days of the filing of the initial determination, or a petition for review filed pursuant to § 210.53(h)(2) within fifteen (15) days of the filing of the initial determination, or by such other time as the Commission may order.

(2) The Commission shall decide whether to grant a petition for review, based upon the petition and response thereto, without oral argument or further written submissions unless the Commission shall order otherwise. The standards for granting review of an initial determination are set forth in section 210.54(a)(2).

(3) The Commission shall grant a petition for review and order review of an initial determination or certain issues therein when at least one of the participating Commissioners votes for ordering review. In its order, the Commission shall establish the scope of the review and the issues that will be considered and make provisions for filing of briefs and oral argument if deemed appropriate by the Commission. The order and notice that the Commission has granted the petition for review shall be served by the Secretary on all parties, the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and such other departments and agencies as the Commission deems appropriate.

§ 210.55 Commission review on its own motion.

Within the time provided in § 210.53(h)(1) or § 210.53(h)(2), the Commission on its own initiative may order review of an initial determination or certain issues therein when at least one of the participating Commissioners votes for ordering review. The standards for granting review of an initial determination are set forth in section 210.54(a)(2). In its order, the Commission shall establish the scope of the review and the issues that will be considered and make provisions for filing of briefs and oral argument if deemed appropriate by the Commission. The order and notice that the Commission has directed review on its own initiative shall be served by the Secretary on all parties, the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and such other departments and agencies as the Commission deems appropriate.

§§ 210.56, 210.57 and 210.58 Redesignated as §§ 210.57, 210.58 and 210.59.

8. Present §§ 210.56, 210.57, and 210.58 are redesignated §§ 210.57, 210.58, and 210.59, respectively.

9. A new § 210.56 is added to read as follows:

§ 210.56 Review by Commission.

(a) *Briefs and Oral Argument.* In the event the Commission orders review of an initial determination the parties may file review briefs concerning the issues on review at a time, and of a size and nature set forth in the order granting the petition for review. The parties within the time provided for filing the review briefs may submit a written request for a hearing to present oral argument before the Commission, which the Commission in its discretion may grant or deny. The Commission shall grant the request when at least one of the participating Commissioners votes in favor of the request.

(b) *Scope of review.* Only the issues set forth in the order granting review, and all subsidiary issues therein, will be considered by the Commission.

(c) *Determination on review.* On review the Commission may affirm, reverse, modify, set aside or remand for further proceedings, in whole or in part, the initial determination of the administrative law judge and make any findings or conclusions which in its judgment are proper based on the record in the proceeding.

(d) *Time limit for review of initial determinations concerning temporary relief.* In the event the Commission orders review of an initial determination concerning temporary relief filed pursuant to § 210.53(b), such review shall be completed within sixty (60) days from the date review is ordered, unless the Commission orders otherwise.

§ 210.57 [Amended]

10. In § 210.57, as redesignated, paragraph (a) is revised to read as follows:

(a) *Service of Commission determination upon the parties.* A Commission determination pursuant to § 210.56(c) or a termination on the basis of a licensing or other agreement or consent settlement pursuant to §§ 210.51 (c) and (d), respectively, shall be served upon each party to the investigation.

* * * * *

§ 210.60 [Amended]

11. The first sentence of § 210.60 is revised to read as follows:

§ 210.60 Interlocutory appeals.

Rulings by the presiding officer on motions may not be appealed to the Commission prior to the presiding officer's issuance of his initial determination except in the following circumstances:

* * * * *

By order of the Commission.

Issued: June 4, 1982.

Kenneth R. Mason,
Secretary.

[FR Doc. 82-15049 Filed 6-9-82; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7820]

Income Tax; Taxable Years Beginning After December 31, 1953; Partnerships and Investment Credit for Used Property

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulation amendments relating to partnerships and investment credit for certain used property. The amendments are necessary to make the regulations consistent with recent court cases.

DATES: The amendments are effective June 10, 1982 for taxable years ending after December 31, 1961.

FOR FURTHER INFORMATION CONTACT: Carolyn Swift of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, D.C. 20224 (Attention: C:LR:T) (202–566–3458) (not a toll-free call).

SUPPLEMENTARY INFORMATION: On November 28, 1980, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 48(c) of the Internal Revenue Code relating to investment credit for used section 38 property (45 FR 79094). The amendments concern the definition of used section 38 property as it relates to partners and partnerships and are designed to make the regulations consistent with recent court cases. No comments from the public were received.

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Because the notice of proposed rulemaking for this regulation was filed with the **Federal Register** on November 26, 1980, no regulatory flexibility analysis is required.

Drafting Information

The principal author of these regulations is Carolyn Swift of the Legislation and Regulations Division of the Office of the Chief Counsel, Internal Revenue Service. However, personnel from other Offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects in 26 CFR 1.01–1—1.58–8

Income taxes, Tax liability, Tax rates, Credits.

Adoption of Amendments to the Regulations

Accordingly, the proposed amendments to the Income Tax Regulations (26 CFR Part 1) as published in the **Federal Register** on November 28, 1980 (45 FR 79094), are adopted without change, as set forth below. The regulations are adopted under the authority contained in sections 38(b) and 7805 of the Internal Revenue Code of 1954 (76 Stat. 962, U.S.C. 38(b); 68A Stat. 917, 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: March 18, 1982.

John E. Chapoton,

Assistant Secretary of the Treasury.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

§ 1.48–3 [Amended]

In § 1.48–3, paragraph (a)(2)(ii) is amended by removing following language: "(*a*) property used by a partnership shall be considered as used by each partner, and (*b*)" and paragraph (a)(3) is amended by removing Example 5.

[FR Doc. 82–15849 Filed 6–9–82; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 09–82–13]

Bay City Outboard Association 1982 Regional Championship, Special Local Regulation

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard will establish a regulated area in the Saginaw River on 26 and 27 June 1982. This action is required to permit the conducting of an approved marine event. It is intended to restrict vessel navigation in the Saginaw River area for the safety of the spectators and participants in the event.

EFFECTIVE DATE: This amendment will be effective only on 26 and 27 June 1982.

FOR FURTHER INFORMATION CONTACT: MSTC Bruce Graham, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522–4420.

SUPPLEMENTARY INFORMATION: Since there is insufficient time to publish a proposed rule before the date of the event this regulation is published as a final rule and will become effective in less than 30 days.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are MSTC Bruce Graham, Project Officer, Office of Search and Rescue, and LCDR Michael Gentile, Project Attorney, Legal Office, Ninth Coast Guard District.

Discussion of Comments

None was received due to the previously mentioned lack of time for a proposed rule.

Summary of Final Evaluation

The Bay City Outboard Association Regional Championship will be conducted on the Saginaw River on 26 and 27 June 1982. This event will have an estimated 100 Stock Outboards which could pose hazards to navigation in the area. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (Officer-in-Charge, U.S. Coast Guard Station, Saginaw, MI).

These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the regulated area can be opened periodically to allow for the passage of commercial vessels and that the duration of the regulated area is short. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities. This rule is necessary to insure the protection of life and property in the area during the event.

List of Subjects in 33 CFR Part 100

Marine safety, navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Final Regulations

In consideration of the foregoing, Part 100 of Title 33 Code of Federal Regulations, is amended by adding the following section:

§ 100.35–0913 Saginaw River-Bay City, MI.

(a) The following area will be closed to navigation or anchorage for vessels less than 65 feet from 10:00 A.M. (local time) until 6:00 P.M. on 26 and 27 June 1982.

(1) That portion of the Saginaw River from the Bascule Bridge to the Veterans Memorial Bridge.

(b) Vessels desiring to transit the restricted area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants in the event or vessels of the patrol, in the performance of their assigned duties.

(c) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signaled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(d) This § 100.35–0913 will become effective at 10:00 A.M. (local time) on 26 June 1982 and will no longer be effective after 6:00 P.M. on 27 June 1982.

(Sec. 1, 35 Stat. 69 as amended, Sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 454; 49 U.S.C. 1655(b)(1); 33 CFR 100.35; 49 CFR 1.46(b))

Dated: May 25, 1982.

J. R. Kirkland,

Captain, U.S. Coast Guard, Commander, Ninth Coast Guard District, Acting.

[FR Doc. 82–15703 Filed 6–9–82; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD 09–82–15]

Duluth Harbor Fireworks, Special Local Regulation

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard will establish a regulated area in Duluth Harbor, Lake Superior on 4 July 1982. This action is required to permit the conducting of an approved marine event. It is intended to restrict vessel navigation in the Duluth Harbor area for the safety of the spectators and participants in the event.

EFFECTIVE DATE: This amendment will be effective only on July 4, 1982.

FOR FURTHER INFORMATION CONTACT: MSTC Bruce Graham, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522–4420.

SUPPLEMENTARY INFORMATION: On 29 April 1982, the Coast Guard published a notice of proposed rulemaking in the **Federal Register** for these regulations (47 FR 18370). Interested persons were requested to submit comments and no comments were received.

Drafting Information

The principal persons involved in drafting this rule are MSTC Bruce Graham, Project Officer, Office of Search and Rescue, and LCDR Michael Gentile, Project Attorney, Legal Office, Ninth Coast Guard District.

Discussion of Comments

None was received and no significant differences exist between the proposed and final rule.

Summary of Final Evaluation

The Duluth fireworks display will be conducted in Duluth Harbor on 4 July 1982. This event will have falling ash and debris and an unusually large concentration of spectator boats which could pose hazards to navigation in the area. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (U.S. Coast Guard Station Duluth, MN).

These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the duration of the regulated area is short. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities. This rule is necessary to insure the protection of life and property in the area during the event.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Final Regulations

In consideration of the foregoing, Part 100 of Title 33 Code of Federal Regulations, is amended by adding the following section:

§ 100.35–0915 Lake Superior/Duluth Harbor Basin Northern Section.

(a) The following portions of Duluth Harbor, Lake Superior will be closed to commercial vessel navigation or anchorage from 7:30 p.m. (local time) until 11:00 p.m. on 4 July 1982.

(1) That portion of Duluth Harbor Basin Northern Section bounded on the south by a line drawn on a bearing of 087 degrees true from the Cargill Pier through Duluth Basin Lighted Buoy 5 (LLNR 1813) to the opposite shore and on the north by the Duluth Aerial Bridge.

(b) The following portions of Duluth Harbor Basin Northern Section will be closed to all traffic from 7:30 p.m. until 11:00 p.m. on 4 July 1982.

(1) Within 300 yards of position 46 degrees 46 minutes 43 seconds North and 092 degrees 06 minutes 03 seconds West.

(c) Vessels desiring to transit the restricted area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants in the event or vessels of the patrol, in the performance of their assigned duties.

(d) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Partrol Commander shall serve as a signal to stop. Vessels signaled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(e) This § 100.35–0915 will become effective at 7:30 p.m. (local time) on 4 July 1982 and will no longer be effective after 11:30 p.m. on 4 July 1982.

(Sec. 1, 35 Stat. 69 as amended, Sec. 6(b)(1), 80 Stat. 937; 46 USC 454; 49 USC 1655(b)(1); 33 CFR 100.35; 49 CFR 1.46(b))

Dated: June 1, 1982.

J. R. Kirkland,

Captain, U.S. Coast Guard, Commander, Ninth Coast Guard District, Acting.

[FR Doc. 82-15707 Filed 6-9-82; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 100

[CGD 09-82-12]

Stroh Gold Cup Regatta, Special Local Regulations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard will establish a regulated area in the Detroit River on 23, 24, 25, and 27 June 1982. This action is required to permit the conducting of an approved marine event. It is intended to restrict recreational vessel navigation in the Detroit River area for the safety of the spectators and participants in the event.

EFFECTIVE DATE: This amendment will be effective only on 23–25, and 27 June 1982.

FOR FURTHER INFORMATION CONTACT: MSTC Bruce Graham, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522–4420.

SUPPLEMENTARY INFORMATION: Since there is insufficient time to publish a proposed rule before the date of the event this regulation is published as a final rule and will become effective in less than 30 days.

Drafting Information

The principal persons involved in drafting this rule are MSTC Bruce Graham, Project Officer, Office of Search and Rescue, and LCDR Michael Gentile, Project Attorney, Legal Office, Ninth Coast Guard District.

Discussion of Comments

None was received due to the previously mentioned lack of time for a proposed rule.

Summary of Final Evaluation

The Stroh Gold Cup Regatta will be conducted on the Detroit River on the 23–25, and 27 June 1982. This event will have an estimated 25 Hydroplanes which could pose hazards to navigation in the area. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (U.S. Coast Guard Group Detroit, MI).

These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the regulated area can be opened periodically to allow for the passage of commercial vessels and that the duration of the regulated area is short. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities. This rule is necessary to insure the protection of life and property in the area during the event.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Final Regulations

In consideration of the foregoing, Part 100 of Title 33 Code of Federal Regulations, is amended by adding the following section:

§ 100.35–0912 Detroit River—Belle Isle.

(a) The following area will be closed to navigation or anchorage from 9:00 A.M. (local time) until 12:00 A.M. and from 1:00 P.M. until 5:00 P.M. on 23, 24, 25, and 27 June 1982.

(1) That portion of the Detroit River lying between Belle Isle and the U.S. shoreline, bound by the Belle Isle Bridge and a north-south line drawn through the Waterworks Intake Crib Light (LL 1022).

(b) In addition, two safety zones for race craft will be established. The first will be from the Waterworks Intake Crib Light (LL 1022) eastward to the Detroit Edison Lighted Buoy 1A (LL 1023) then north to the Edison Boat Club. The second safety zone will be within an area bound by a perpendicular line drawn from the center span of the Belle Isle Bridge to the stacks at the Uniroyal Plant, north to the U.S. shore.

(c) An escape zone for recreational craft will also be established from the Rooster Tail Marina out to Lake St. Clair.

(d) Special care shall be exercised by the Master or operator of every vessel proceeding up or down the main channel of the Detroit River between Belle Isle and Windmill Point.

(e) Vessels desiring to transit the restricted area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants in the event or vessels of the patrol, in the performance of their assigned duties.

(f) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signaled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(g) This § 100.35–0912 will become effective at 9:00 A.M. (local time) on 23 June 1982 and will no longer be effective after 5:00 P.M. on 27 June 1982.

(Sec. 1, 35 Stat. 69 as amended, Sec. 6(b)(1), 80 Stat. 937; 46 USC 454; 49 USC 1655(b)(1); 33 CFR 100.35; 49 CFR 1.46(b))

Dated: May 25, 1982.

J. R. Kirkland,

Captain, U.S. Coast Guard, Commander, Ninth Coast Guard District, Acting.

[FR Doc. 82-15701 Filed 6-9-82; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 100

[CGD 09-82-11]

International Freedom Festival Air and Water Show, Special Local Regulations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard will establish a regulated area in the Detroit River on 25 and 26 June 1982. This action is required to permit the conducting of an approved marine event. It is intended to restrict vessel navigation in the Detroit River area for the safety of the spectators and participants in the event.

EFFECTIVE DATE: This amendment will be effective only on 25 and 26 June 1982.

FOR FURTHER INFORMATION CONTACT: MSTC Bruce Graham, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522–4420.

SUPPLEMENTARY INFORMATION: Since there is insufficient time to publish a proposed rule before the date of the event this regulation is published as a final rule and will become effective in less than 30 days.

Drafting Information

The principal persons involved in drafting this rule are MSTC Bruce Graham, Project Officer, Office of Search and Rescue, and LCDR Michael Gentile, Project Attorney, Legal Office, Ninth Coast Guard District.

Discussion of Comments

None was received due to the previously mentioned lack of time for a proposed rule.

Summary of Final Evaluation

The International Freedom Festival Air and Water Show will be conducted on the Detroit River on 25 and 26 June 1982. This event will have a variety of water activities and air events which could pose hazards to navigation in the area. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (U.S. Coast Guard Group Detroit, MI).

These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the regulated area can be opened periodically to allow for the passage of commercial vessels and that the duration of the regulated area is short. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplificiation, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities. This rule is necessary to insure the protection of life and property in the area during the event.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Final Regulations:

In consideration of the foregoing, Part 100 of Title 33 Code of Federal Regulations, is amended by adding the following section:

§ 100.35–0911 Detroit River—International Freedom Festival.

(a) The following area will be closed to navigation or anchorage by vessels less than 65 feet in length from 5:30 P.M. (local time) until 8:30 P.M. on 25 and 26 June 1982.

(1) That portion of the Detroit River which lies between 083 degrees 01.9 minutes West, and 083 degrees 03 minutes West, from the international boundary to the U.S. shoreline.

(b) No vessel shall anchor in or around the main shipping channel of the Detroit River within U.S. waters nor shall any spectator craft impair the free passage of any commercial vessel in the main fairways of the Detroit River.

(c) Vessels desiring to transit the restricted area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants in the event or vessels of the patrol, in the performance of their assigned duties.

(d) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signaled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(e) This section 100.35–0911 will become effective at 5:30 P.M. (local time) on 25 June 1982 and will no longer be effective after 8:30 P.M. on 26 June 1982.

(Sec. 1, 35 Stat. 69 as amended, Sec. 6(b)(1), 80 Stat. 937; 46 USC 454; 49 USC 1655(b)(1); 33 CFR 100.35; 49 CFR 1.46(b))

Dated: May, 26, 1982.

J. R. Kirkland,

Captain, U.S. Coast Guard, Commander, Ninth Coast Guard District, Acting.

[FR Doc. 82–15704 Filed 6–9–82; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD 09–82–16]

Wishing Well Classic, Special Local Regulations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard will establish a regulated area in Lake St. Clair on 12 June 1982. This action is required to permit the conducting of an approved marine event. It is intended to restrict vessel navigation in the area for the safety of the spectators and participants in the event.

EFFECTIVE DATE: This amendment will be effective only on 12 June 1982.

FOR FURTHER INFORMATION CONTACT:

MSTC Bruce Graham, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199. (216) 522–4420.

SUPPLEMENTARY INFORMATION: Since there is insufficient time to publish a proposed rule before the date of the event this regulation is published as a final rule and will become effective in less than 30 days after publishing.

Drafting Information

The principal persons involved in drafting this rule are MSTC Bruce Graham, Project Officer, Office of Search and Rescue, and LCDR Michael Gentile, Project Attorney, Legal Office, Ninth Coast Guard District.

Discussion of Comments

None was received due to the previously mentioned lack of time for a proposed rule.

Summary of Final Evaluation

The Wishing Well Classic Regatta will be conducted in Lake St. Clair on 12 June 1982. This event will have an estimated 30 ocean racers which could pose hazards to navigation in the area. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (Officer-in-Charge, U.S. Coast Guard Station, St. Clair Shores, MI). These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the regulated area can be opened periodically to allow for the passage of commercial vessels and that the duration of the regulated area is small. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), it is also certified that these rules will not have a significant economic impact on a substantial

number of small entities. This rule is necessary to insure the protection of life and property in the area during the event.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Final Regulations

In consideration of the foregoing, Part 100 of Title 33 Code of Federal Regulations, is amended by adding the following section:

§ 100.35–0911 Lake St. Clair/Michigan.

(a) The following area will be closed to vessel navigation or anchorage from 1000 (local time) until 1330 on 12 June 1982.

(1) That portion of Lake St. Clair from the shore at 42 degrees 25 minutes North to 42 degrees 25 minutes North 082 degrees 50 minutes West to 42 degrees 31 minutes North 082 degrees 50 minutes West to shore at 42 degrees 31 minutes North.

(b) Vessels desiring to transit the restricted area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants in the event or vessels of the patrol, in the performance of their assigned duties.

(c) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U. S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signaled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(d) This § 100.35–0911 will become effective at 1000 (local time) on 12 June 1982 and will no longer be effective after 1330 on 12 June 1982.

(Sec. 1, 35 Stat. 69 as amended, Sec. 6(b)(1), 80 Stat. 937; 46 USC 454; 49 USC 1655(b)(1); 33 CFR 100.35; 49 CFR 1.46(b))

Dated: May 24, 1982.

Henry H. Bell,

Rear Admiral, U. S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 82-15705 Filed 6-9-82; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-7-FRL-2116-1]

Approval and Promulgation of Implementation Plans: State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: In order to satisfy the requirements of Part D of the Clean Air Act, as amended, the State of Missouri revised its State Implementation Plan (SIP) in 1980 to include additional control of volatile organic compounds (VOC) in the St. Louis ozone nonattainment area. On April 3, 1981, EPA conditionally approved one of Missouri's regulations pertaining to rotogravure and flexographic printing facilities. On April 15, 1982, the state submitted a revision to the regulation for the purpose of fulfilling this condition. The purpose of this notice is to advise the public that EPA is taking final action to approve the state's submission and remove the condition on the SIP.

EFFECTIVE DATE: This promulgation is effective July 12, 1982.

ADDRESSES: Copies of the state submission and EPA's technical evaluation are available for inspection during normal business hours at the following locations:

Environmental Protection Agency, Air Branch, 324 East 11th Street, Kansas City, Missouri 64106

Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Room 2922, Washington, D.C. 20460

Missouri Department of Natural Resources, 1101 Rear Southwest Boulevard, Jefferson City, Missouri 65102

A copy of the state's submission is also available at the Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Wayne G. Leidwanger at (816) 374–3791 (FTS) 758–3791.

SUPPLEMENTARY INFORMATION: On April 3, 1981, EPA conditionally approved certain elements of Missouri's SIP with regard to the requirements of section 172(b) (2) and (3) of the Clean Air Act, as amended (46 FR 20172). Section 172(b)(2) requires implementation of all reasonably available control measures as expeditiously as practicable as part of a control strategy to attain a National Ambient Air Quality Standard (NAAQS). Section 172(b)(3) requires reasonable further progress toward attainment of the NAAQS (in this case, the ozone standard) including such reduction in emissions from existing sources in nonattainment areas as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT). Missouri Rule 10 CSR 10–5.340, Control of Emissions from Rotogravure and Flexographic Printing Facilities, applicable in the St. Louis area, contained minor deficiencies resulting in EPA's conditional approval on April 3, 1981. The condition required the state to amend the regulation to require compliance by 1982 for those sources relying on add-on control equipment and to specify an extended compliance schedule for using low solvent inks. The state agreed to correct these deficiencies and the changes were to be submitted by January 1, 1982. For a complete discussion of this issue, the reader should consult the April 3, 1981, rulemaking.

On December 1, 1981, the state published in the *Missouri Register* a proposed change to Rule 10 CSR 10–5.340 for the purpose of fulfilling this condition. On February 17, 1982, EPA published a notice of receipt of this proposed change and continued the conditional approval of the SIP (47 FR 6809). The final revisions adopted and submitted by the state are the same as the changes proposed last December. These revisions amend the final compliance date from 1985 to 1982 for add-on controls and specify a compliance schedule for low solvent ink programs.

Based on its review of the submitted revisions, EPA finds that the condition on its approval has been fully met. EPA finds that further notice and comment on this issue are unnecessary. The corrective action was clearly identified in EPA's promulgation and the state's submittal clearly addresses the specified criteria for approval. Therefore, EPA is incorporating the regulatory changes into the SIP and is removing the applicable condition.

EPA is also taking this opportunity to clarify language in 40 CFR Part 52 regarding the conditions which were previously promulgated in regard to Missouri's regulations. Sections 52.1320(c)(16) and (18) are being amended to show that the approved regulations are those which were amended in subsequent submittals from the state to satisfy conditions on EPA's approval.

The Office of Management and Budget has exempted this rule from the

requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 9, 1982. This action may not be challenged later in proceedings to enforce its requirements (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sections 110 and 172 of the Clean Air Act, as amended)

Dated: May 28, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by Reference of the State Implementation Plan for the State of Missouri was approved by the Director of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart AA—Missouri

40 CFR Part 52 is amended as follows:

1. Section 52.1320 is amended as follows:

A. The last sentence of the introductory text of (c)(16) is revised.

B. The last sentence of (c)(18) is revised.

C. The last sentence of the introductory text of (c)(25) is revised.

D. Paragraph (c)(25)(vii) is revised.

E. Paragraph (c)(36) is added.

§ 52.1320 Identification of Plan.

* * * * *

(c) * * *

(16) * * * Included in the plan are the following approved regulations as amended, in part, in subsequent submittals: * * *

(18) * * * Included in the plan are Missouri regulations 10 CSR 10–6.020, Definitions, and 10 CFR 10–6.060, Permits Required, as amended, in part, in subsequent submittals, which are approved as meeting the requirements of sections 172(b)(6), 172(b)(11)(A) and 173. * * *

(25) * * * Included in the plan revision are the following approved regulations as amended, in part, in subsequent submittals: * * *

(vii) Rule 10 CSR 10–5.340, Control of Emissions from Rotogravure and Flexographic Printing Facilities is approved as RACT. * * *

(36) Revisions to Rule 10 CSR 10–5.340, Control of Emissions from Rotogravure and Flexographic Printing Facilities, submitted on April 15, 1982, are approved as RACT.

§ 52.1324 [Amended]

2. Section 52.1324 is amended by removing paragraph (c).

[FR Doc. 82-15334 Filed 6-9-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-5-2128-5]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The EPA announces approval on revisions to the Ohio State Implementation Plan (SIP) for Chapter 3745–35 of the Ohio Administrative Code. These rules set forth requirements for air permits to operate and variances. EPA's action is based on its review of the State's revision request and supporting data. This action approves revisions to the Ohio regulations for application and approval of air permits to operate and variances.

EFFECTIVE DATE: This final rulemaking becomes effective on July 12, 1982.

ADDRESSES: Copies of this revision to the Ohio SIP are available for inspection at: The Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C.

Copies of the SIP revision and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Debra Marcantonio at (312) 886–6088 before visiting the Region V Office).

Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio, Air Programs Branch, Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886–6088.

SUPPLEMENTARY INFORMATION: EPA is today approving the Ohio Environmental Protection Agency adopted Rules 3745–35–01 through 3745–35–04 of the Ohio Administrative Code (OAC). The adopted rules set forth requirements for air permits to operate and variances. These rules were adopted on September 28, 1979 and became effective in the State of Ohio on November 7, 1979. The State of Ohio submitted these rules to EPA on February 25, 1980.

Rule 3745–35–01 sets forth the definitions to be used in rules 3745–35–02 through 04. Rule 3745–35–02 establishes the procedures and requirements which all new and existing sources must comply with in order to obtain a permit to operate. Rule 3745–35–03 establishes the procedures and requirements which an existing source must comply with in order to obtain a variance. Rule 3745–35–04 states the general policy for reviewing permits to operate and variances for the Ohio EPA. Further dicussion of OAC Rules 3745–35–01 through 3745–35–04 is contained in the notice of proposed rulemaking which was published in the Federal Register on March 5, 1982 (47 FR 9478).

During the 30 day public comment period EPA received no comments. Therefore, EPA is today approving OAC Rules 3745–35–01 through 3745–35–04 as part of the Ohio SIP.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 9, 1982. This action may not be challenged later in proceedings to enforce its requirements. (See Sec. 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Note.—Incorporation by reference of the State Implementation Plan for the State of Ohio was approved by the Director of the Federal Register on July 1, 1981.

(Sec. 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502))

Dated: June 1, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations Chapter I, Part 52 is amended as follows:

Subpart KK—Ohio

Section 52.1870(c) is amended by adding paragraph (42) as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(42) On February 25, 1980, the State of Ohio submitted the revised Ohio Administrative Code (OAC) Rules 3745–35–01 through 3745–35–04 which set forth requirements for air permits to operate and variances. These rules were adopted on September 28, 1979 and became effective in Ohio on November 7, 1979.

[FR Doc. 82–15699 Filed 6–9–82; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 763

[OPTS 61004 B; TSH–FRL 2064–3]

Asbestos; Friable Asbestos-Containing Materials in Schools; Identification and Notification

Correction

In FR Doc. 82–14477, at page 23360 in the issue of Thursday, May 27, 1982, under the preamble designation "DATES" correct "May 27, 1983" to read "June 28, 1983."

BILLING CODE 1505–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6334]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP) and eligible for second layer insurance coverage. These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the regular program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of Eligible Communities

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area	Hazard area identified
California:				
Humboldt County	Fortuna, city of	060060	800103, emergency; 820502, regular	770718
Do	Rio Dell, city of	060064	750625, emergency; 820503, regular	740524
Georgia: Brooks County	Brooks County	130281	820501, emergency; 820503, regular	780609
Hawaii: Hawaii County	Hawaii County*	155166	700625, emergency; 820503, regular	740601
Iowa:				
Lee County	Fort Madison, city of	190164	740411, emergency; 820503, regular	740601
Polk County	Johnston, city of	190746	770603, emergency; 820503, regular	770401
Illinois:				
Sangamon County	Pawnee, village of	170602	750710, emergency; 820503, regular	740617
Do	Thayer, village of	170604	751125, emergency; 820503, regular	740602
Indiana:				
Boone County	Lebanon, city of	180018	750625, emergency; 820503, regular	740603
Madison County	Pendleton, town of	180156	741226, emergency; 820503, regular	781217
Louisiana:				
St. Martin Parish	Henderson, town of	220189	730430, emergency; 820503, regular	740607

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area	Hazard area identified
St. Landry Parish	St. Landry Parish*	220166	730515, emergency; 820608, regular	771206
St. Martin Parish	St. Martin Parish*	220178	730426, emergency; 820503, regular	741227
Maine: Cumberland County	Bridgton, town of	230041	751120, emergency; 820503, regular	741122
Michigan: Calhoun County	Homer, village of	260331	751205, emergency; 820503, regular	780426
Minnesota:				
Faribault County	Blue Earth, city of	270116	750422, emergency; 820503, regular	740109
Freeborn County	Emmons, city of	270657	770325, emergency; 820503, regular	741227
Do	Freeborn County*	270134	740416, emergency; 820503, regular	780324
Do	Glenville, city of	270137	740502, emergency; 820503, regular	740308
Watonwan County	St. James, city of	270518	740702, emergency; 820503, regular	780730
Freeborn County	Twin Lakes, city of	270139	770922, emergency; 820503, regular	740802
New Hampshire:				
Cheshire County	Marlborough, town of	330024	750915, emergency; 820503, regular	740625
Grafton County	Plymouth, town of	330072	750827, emergency; 820503, regular	740503
New York:				
Onondaga County	Syracuse, city of	360595	740802, emergency; 820503, regular	740412
Broome County	Windsor, town of	360059	750724, emergency; 820503, regular	740628
Ohio: Ottawa County	Genoa, village of	390612	780321, emergency; 820503, regular	750718
Oregon: Jackson County	Phoenix, city of	410097	750611, emergency; 820503, regular	740621
Pennsylvania:				
Erie County	Le Boeuf, township of	422415	751015, emergency; 820503, regular	750110
Northampton County	Northampton, borough of	420726	740201, emergency; 820503, regular	740405
Delaware County	Norwood, borough of	420425	720515, emergency; 820503, regular	760730
Allegheny County	Scott, township of	421100	741009, emergency; 820503, regular	740915
Chester County	South Coatesville, borough of	420288	751210, emergency; 820503, regular	740531
Lawrence County	Wayne, township of	422469	750827, emergency; 820503, regular	750117
South Carolina: York County	York, city of	450197	750820, emergency; 820503, regular	740517
Vermont: Washington County	Middlesex, town of	500114	740513, emergency; 820503, regular	740628
Washington: Yakima County	Selah, town of	530226	740718, emergency; 820503, regular	740116
Wisconsin:				
Washington County	Germantown, village of	550472	750715, emergency; 820503, regular	740628
Monroe County	Monroe County*	550571	760218, emergency; 820503, regular	780707
Arkansas: Johnson County	Coal Hill, city of	050315	750806, emergency; 820504, regular	750110
Louisiana: Grant Parish	Montgomery, town of	220256	790306, emergency; 820504, regular	750919
Oklahoma: Creek County	Briston, city of	400051	800709, emergency; 820504, regular	740628
Texas:				
Johnson County	Alvarado, city of	480367	780126, emergency; 820504, regular	740809
Llano County	Llano, city of	480451	760826, emergency; 820504, regular	731228
Collin County	Prosper, town of	480141	801202, emergency; 820504, regular	740621
Carson County	Panhandle, town of	480727	790327, emergency; 820511, regular	760625
Denton County	Shady Shores, city of	481135	790416, emergency; 820511, regular	770916

*Unincorporated Areas.
Key for reading 5th column (effective date): First two digits designate the year; Middle two digits designate the month; Last two digits designate the day.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: May 25, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-15545 Filed 6-9-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 64

[Docket No. FEMA 6336]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended effective the dates listed within this rule because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATE: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date flood insurance is no longer available in the community.

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to

which a year has elapsed since identification of the community as having flood prone areas, as shown on the Federal Emergency Management Agency's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100

"Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provision of 5 U.S.C. 605(b), the Associated Director of State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any ecomonic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in non-compliance of the Federal standards required for community participation.

In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date certain Federal assistance no longer available in special flood hazard area
Alaska: Wrangell-Petersburg Division.	Wrangell, city of	020098B	June 23, 1975, emergency; June 15, 1982, regular; June 15, 1982, suspended.	June 28, 1974, Feb. 4, 1977	June 15, 1982.
Connecticut:					
New London	Colchester, town of	0900958	May 21, 1975, emergency; June 15, 1982, regular; June 15, 1982, suspended.	Aug. 2, 1974, Jan. 30, 1976	Do
New London	Colchester, borough of	0901628	May 21, 1975, emergency; June 15, 1982, regular; June 15, 1982, suspended.	June 28, 1974, May 14, 1976	Do
Litchfield	Litchfield, town of	0900478	June 6, 1975, emergency; June 15, 1982, regular; June 15, 1982, suspended.	June 21, 1974, Dec. 17, 1976	Do
Florida: Pinellas	Pinellas Park, city of	120251C	Oct. 8, 1971, emergency; Aug. 15, 1977, regular; June 15, 1982, suspended.	June 7, 1974, Mar. 28, 1975, Aug. 15, 1977.	Do
Illinois:					
McHenry	Crystal Lake, city of	1704788	Oct. 21, 1974, regular, June 15, 1982, regular; June 15, 1982, suspended.	Mar. 22, 1974, July 9, 1976	Do
Sangamon	Rochester, village of	170840A	Mar. 2, 1976, emergency; June 15, 1982, regular; June 15, 1982, suspended.	Mar. 21, 1975	Do
Kane	Sleepy Hollow, village of	170331B	Feb. 18, 1976, emergency; June 15, 1982, regular; June 15, 1982, suspended.	Apr. 12, 1974, Apr. 8, 1976	Do
Massachusetts:					
Worcester	Barre, town of	2502838	Aug. 12, 1975, emergency; June 15, 1982, regular; June 15, 1982, suspended.	May 17, 1974, Dec. 27, 1977	Do
Berkshire	Egremont, town of	2500228	July 3, 1975, emergency; June 15, 1982, regular; June 15, 1982, suspended.	June 28, 1974, Oct. 29, 1976	Do
Do	Lanesborough, town of	2500278	Nov. 18, 1974, emergency; June 15, 1982, regular; June 15, 1982, suspended.	Mar. 29, 1974, Dec.10, 1976	Do
Worcester	Lunenburg, town of	2503158	Sept. 4, 1975, emergency; June 15, 1982, regular; June 15, 1982, suspended.	Sept. 6, 1974, Dec. 10, 1976	Do
Do	Sterling, town of	2503368	July 9, 1975, emergency; June 15, 1982, regular; June 15, 1982, suspended.	July 19, 1974, Dec. 17, 1976	Do
Do	Winchendon, town of	2503488	Aug. 6, 1975, emergency; June 15, 1982, regular; June 15, 1982, suspended.	Aug. 3, 1974, Sept. 10, 1976	Do
Plymouth	West Bridgewater, town of	2502648	July 24, 1975, emergency; June 15, 1982, regular; June 15, 1982, suspended.	Aug. 9, 1974, July 30, 1976	Do
Michigan:					
Calhoun	Albion, city of	2600508	July 1, 1975, emergency; June 15, 1982, regular; June 15, 1982, suspended.	June 28, 1974, July 11, 1975	Do
Washtenaw	Ann Arbor, city of	2602138	Apr. 18, 1973, emergency; June 15, 1982, regular; June 15, 1982, suspended.	June 28, 1974, Sept. 26, 1975	Do
Do	Manchester, village of	2603168	Aug. 26, 1975, emergency; June 15, 1982, regular; June 15, 1982, suspended.	Feb. 22, 1974, Apr. 11, 1975	Do
Minnesota:					
Winona	Dakota, city of	270528C	Aug. 21, 1974, emergency; June 15, 1982, regular; June 15, 1982, suspended.	Aug. 2, 1974, July 25, 1975, Feb. 25, 1979.	Do
Do	Goodview, city of	2705288	June 23, 1975, emergency; June 15, 1982, regular; June 15, 1982, suspended.	Mar. 19, 1976, Mar. 16, 1979	Do
Missouri: St. Louis	Valley Park, city of	2903918	June 23, 1975, emergency; June 15, 1982, regular; June 15, 1982, suspended.	Dec. 17, 1973, June 18, 1976	Do
New Hampshire: Coos.	Berlin, city of	3300298	May 8, 1975, emergency; June 15, 1982, regular; June 15, 1982, suspended.	Aug. 27, 1976	Do
New Jersey:					
Passaic	Clifton, city of	3403968	Feb. 19, 1975, emergency; June 15, 1982, regular; June 15, 1982, suspended.	May 31, 1974, July 2, 1976	Do
Mercer	Hamilton, township of	3402468	Dec. 3, 1971, emergency; June 15, 1982, regular; June 15, 1982, suspended.	Nov. 4, 1977, Feb. 24, 1978	Do
Cumberland	Millville, city of	3401738	May 2, 1975, emergency; June 15, 1982, regular; June 15, 1982, suspended.	Jan 14, 1977	Do
New York: Tioga	Barton, town of	3608328	Sept. 2, 1975, emergency; June 15, 1982, regular; June 15, 1982, suspended.	June 21, 1974, Oct. 31, 1978	Do

State and County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date certain Federal assistance no longer available in special flood hazard area
North Carolina: Lincoln.	Kinston, city of	370145C	Nov. 7, 1974, emergency; June 15, 1982, regular; June 15, 1982, suspended.	Mar. 15, 1974, Apr. 30, 1976, July 25, 1980.	Do
Oregon: Lane	Junction City, city of	410124B	May 2, 1975, emergency; June 15, 1982, regular; June 15, 1982, suspended.	May 10, 1974, Aug. 6, 1976	Do
Yamhill	Lafayette, city of	410254B	May 20, 1975, emergency; June 15, 1982, regular; June 15, 1982, suspended.	Nov. 30, 1973, June 18, 1976	Do
Multnomah	Unincorporated areas	410179A	Feb. 4, 1972, emergency; June 15, 1982, regular; June 15, 1982, suspended.		Do
Benton	Philomath, city of	410011B	June 6, 1975, emergency; June 15, 1982, regular; June 15, 1982, suspended.	Feb. 22, 1974, Feb. 7, 1975	Do
Utah: Weber	Harrisville, city of	490208A	Sept. 29, 1975, emergency; June 15, 1982, regular; June 15, 1982, suspended.	Aug. 8, 1975	Do
West Virginia: Kanawha	St. Albans, city of	540083B	July 16, 1975, emergency; June 15, 1982, regular; June 15, 1982, suspended.	Mar. 8, 1974, Oct. 3, 1975	Do
Do	South Charleston, city of	540223A	June 5, 1974, emergency; June 15, 1982, regular; June 15, 1982, suspended.	Apr. 9, 1976	Do
Wisconsin: Waukesha	Pewaukee, village of	550489A	Mar. 24, 1975, emergency; June 15, 1982, regular; June 15, 1982, suspended.	Mar. 3, 1976	Do

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: May 27, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-15544 Filed 6-9-82; 8:45 am]

BILLING CODE 6718-03-M

LEGAL SERVICES CORPORATION

45 CFR Part 1611

Eligibility; Income Levels for Individuals Eligible for Assistance

AGENCY: Legal Services Corporation.

ACTION: Final rule; Revised Appendix.

SUMMARY: The Legal Services Corporation is required by law to establish maximum income levels for individuals eligible for legal assistance. This document revises specified income levels to reflect amendments to the Official Poverty Threshold as defined by the Office of Management and Budget and published by the Department of Health and Human Services.

EFFECTIVE DATE: July 12, 1982.

FOR FURTHER INFORMATION CONTACT: Linda Perle, Legal Services Corporation, 733 Fifteenth Street, NW., Suite 700, Washington, D.C. 20005, (202) 272–4010.

SUPPLEMENTARY INFORMATION: Section 1007(a)(2) of the Legal Services Corporation Act, 42 U.S.C. 2996f(a)(2), requires the Corporation to establish maximum income levels for individuals eligible for legal assistance, and the Act provides that income shall be taken into account along with other specified factors. Section 1611.3(b) of the Corporation's Regulations establishes a maximum income level equivalent to one-hundred and twenty-five percent (125%) of the Official Poverty Threshold as defined by the Office of Management and Budget. Because responsibility for revision of the Official Poverty Threshold was shifted in 1982 from the Office of Management and Budget to the U.S. Department of Health and Human Services, the Corporation was not notified of the new figures until late May, 1982, thus delaying the publication of the Corporation's 1982 Poverty Guidelines. The revised figures equivalent to 125% of the Official Poverty Threshold are set forth below:

List of Subjects in 45 CFR Part 1611

Legal Services.

PART 1611—ELIGIBILITY

Appendix A of Part 1611 is revised to read as follows:

LEGAL SERVICES CORPORATION POVERTY GUIDELINES, APPENDIX A OF PART 1611

[For all States Except Alaska and Hawaii]

	Maximum income
Size of family unit: [1]	
1	$5,850
2	7,775
3	9,700
4	11,625
5	13,550
6	15,475
For Alaska: [2]	
1	7,338
2	9,738
3	12,138
4	14,538
5	16,938
6	19,338

LEGAL SERVICES CORPORATION POVERTY GUIDELINES, APPENDIX A OF PART 1611—Continued

[For all States Except Alaska and Hawaii]

	Maximum income
For Hawaii: [3]	
1	6,706
2	8,950
3	11,193
4	13,375
5	15,588
6	17,800

[1] For family units with more than six members, add $1,925 for each additional member in a family.

[2] For family units with more than six members, add $2,400 for each additional member in a family.

[3] For family units with more than six members, add $2,213 for each additional member in a family.

Dated: June 2, 1982.

Mary Wieseman,

Acting General Counsel, Legal Services Corporation.

[FR Doc. 82-15650 Filed 6-9-82; 8:45 am]

BILLING CODE 6820-35-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 42

[CGD 80-143]

Load Line Assignment and Surveys; Fees and Other Expenses

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is removing the regulations for load line survey fees

to allow the assigning authorities to keep pace with the rate of inflation. It has been reported that escalating expenses and inflation have almost doubled survey costs since they were last increased. The fees charged for services should reflect this if the same level of service is to be maintained. This action allows the American Bureau of Shipping (ABS), or any other Coast Guard approved load line assigning authority, to set its own fees to reflect the cost of the work performed. While the Coast Guard will no longer publish the survey fee schedule as part of the load line regulations, the fees charged by organizations desiring to perform load line surveys will be continued to be monitored.

EFFECTIVE DATE: This regulation is effective on July 12, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Willian A. Cleary, Ship Characteristics Branch (G–MMT–5/13), Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, (202) 426–2187. Working hours are from 8:00 a.m. to 4:00 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the **Federal Register** on November 6, 1981 (46 FR 55278). Interested persons were invited to participate in this rulemaking by submitting written views, data, or arguments. Two letters were received in response to the notice.

Only two commenters expressed a preference for continued publication of a load line fee schedule so that they could use this information for estimating and budgeting purposes. Information regarding the fees is obtainable as readily from the American Bureau of Shipping as it is from the Code of Federal Regulations. In addition, the load line survey fee which has been published in the Code of Federal Regulations is today only a minor factor in the total cost of having a load line survey performed because the vessel owner or operator has to defray the cost of most of the expenses incurred by the qualified marine surveyor. The Coast Guard believes that continued publication of a fee schedule in the regulations is unnecessary. The ABS is a not-for-profit corporation and its directors are members of the shipping community who have an interest in ensuring that excessive fees are not charged.

Drafting Information

The principal persons involved in drafting this final rule are: Mr. Frank K. Thompson, Office of Merchant Marine Safety, Project Manager, and LCDR William B. Short, Office of the Chief Counsel, Project Counsel.

Regulatory Evaluation

The Coast Guard has evaluated this action under Executive Order 12291 and the Department of Transportation "Policies and Procedures for Simplification, Analysis and Review of Regulations" (DOT Order 2100.5 dated 22 May 1980) and, in view of the above, has determined that it is neither a major nor a significant rulemaking. This action eliminates the need for the publishing of load line survey fees and keeping those fees current through the regulatory process. The Coast Guard will continue to monitor the fees charged by the approved assigning authority.

Regulatory Flexibility Analysis

The Coast Guard has evaluated this final rule under the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1168) and certifies, for the following reasons, that it does not have a significant economic impact on a substantial number of small entities.

The load line assignment fees in removed 46 CFR Subpart 42.35, which was last updated in December, 1975, ranged from 35 dollars for classed vessels under 200 gross tons to 1020 dollars for classed vessels of 15,000 gross tons and above. As of January, 1981, the ABS had increased this fee range to 100 dollars to 2020 dollars, respectively. The ABS also charges additional fees proportional to the work involved if it is requested to perform plan review and strength or stability calculations. The minimum fee for performing strength or stability calculations had been 125 dollars in the removed subpart; it is now 250 dollars. These fee increases are not out of line with the current inflationary economic trend. In addition, the owner or operator of a surveyed vessel must defray the surveyor's traveling expenses which may range from automobile mileage and parking to airline fares and hotel accomodations. Relative to the multi-million dollar cost of a new vessel over 15,000 gross tons, these survey fee increases are not a significant economic factor.

The Load Line Certificate must be renewed annually. For reissuing the certificate the ABS now charges a flat fee of 30 dollars, up from 25 dollars in the removed subpart. The ABS also charges 150 dollars per visit for the required annual load line inspection, and 75 per cent of the initial load line assignment fee for each required 5-year survey. The increases in the ABS's annual charges represent less than one-tenth of one per cent of a vessel's annual operating and maintenance costs; again not a significant economic factor. An owner or operator of a classed vessel may even escape these charges if the inspection or survey is carried out in conjunction with certain other ABS surveys such as a survey for continuation of classification status with the classification society.

List of Subjects in 46 CFR Part 42

Vessels, Marine safety, Navigation (water).

In consideration for the foregoing, Part 42 of Title 46, Code of Federal Regulations is amended as follows:

PART 42—DOMESTIC AND FOREIGN VOYAGES BY SEA

1. The authority citation for Part 42 reads as follows:

Authority: Sec. 2, 87, Stat. 418, (46 U.S.C. 86); sec. 2, 49 Stat. 888 as amended, (Sec. 2, 76 Stat 415, 46 U.S.C. 88a); 49 CFR 1.46(b).

§ 42.07–35 [Amended]

2. Paragraph (i) of § 42.07–35 is removed.

§ 42.09–40 [Amended]

3. Paragraph (d) of § 42.09–40 is removed.

§§ 42.35–1, 42.35–5, 42.35–10, and 42.35–15 (Subpart 42.35) [Removed]

4. Subpart 42.35 is removed.

Dated: June 2, 1982.

Clyde T. Lusk, Jr.

Read Admiral, U.S. Coast Guard Chief, Office of Mercant Marine Safety.

[FR Doc. 82–15700 Filed 6–9–82; 8:45 am]
BILLING CODE 4910–14–M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 81–17; Notice 2]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This notice amends Safety Standard No. 108 to delete the dimensional requirements for all headlamp retaining rings. It implements the grant of a petition for modification of Dimension "K", specified in SAE Standard J571d for retaining rings of headlamps. The primary purpose of this amendment is to remove a design restriction and associated

administrative and compliance burdens upon the automotive industry. The amendment was proposed on October 13, 1981 (46 FR 50394).

DATE: Effective date: June 10, 1982.

FOR FURTHER INFORMATION CONTACT: Marx Elliott, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-1714).

SUPPLEMENTARY INFORMATION: Safety Standard No. 108, *Lamps, Reflective Devices and Associated Equipment* (49 CFR 571.108), incorporates by reference SAE Standard J571d "Dimensional Specifications for Sealed Beam Headlamp Units," June 1976. Toyota Motor Sales, USA, Inc. informed NHTSA that it had developed a new retaining ring for a four lamp rectangular headlamp system which combined the function of the previously separate headlamp door (mounting ring) and the retaining ring. The new ring is lighter in weight by 0.2 kg than the old ring and its use makes it easier to replace a headlamp. But in order to allow it, Toyota argued that Dimension "K" as specified in Figure 8(A) of SAE J571d should not be limited to a maximum of 1.52 mm, and it petitioned the agency for rulemaking to eliminate Dimension K. Having been assured that the new design does not interfere with use of a mechanical aimer, NHTSA granted the petition.

Upon its review of Standard No. 108 the agency concluded that it should go beyond the scope of the petition and that deletion of all retaining ring design requirements would not compromise motor vehicle safety. This appeared to be one of those Federal regulations that can be rescinded, thereby relieving a burden, if only a small one, on vehicle manufacturers. The necessary compliance and associated administrative tasks will be removed and therefore implementation of the proposal should have a positive economic impact. Retaining ring dimensions specified in SAE Recommended Practice J1132, applicable to two-lamp rectangular headlamp systems, are also eliminated.

In response to the notice of proposed rulemaking published on October 13, 1981, the agency received six comments, five of which endorsed the agency's planned action. The sixth comment, from Hopkins Manufacturing Corporation, a producer of mechanical aiming devices for headlamps, expressed concern that without a limitation on Dimension "K", there could be interference between the retaining ring and the aiming head, thus preventing the use of a mechanical aimer. However, the agency has concluded, as did several of the commenters, that certain performance requirements specified in SAE J580b "Sealed Beam Headlamp Assembly," February 1974, adequately guarantee compatibility between the retaining ring and the headlamp. Specifically, paragraph S5.1 requires that "Headlamps shall be designed so that they may be inspected and aimed by mechanical aimers * * * without removal of any ornamental trim rings or other parts." This means simply that the headlamps, when installed on the motor vehicle, must be mechanically aimable.

The agency has considered this rulemaking action and determined that it is not a major regulation under Executive Order 12291 "Federal Regulation," or a significant regulation under the departmental regulatory policies and procedures, and that neither a regulatory impact analysis nor a full regulatory evaluation is required. Amendment of the standard will impose no additional requirements but will allow manufacturers flexibility to adopt retaining ring designs with dimensional specifications that may now be precluded by strict adherence to the SAE requirements incorporated in Standard No. 108. The cost effects of utilizing the new retaining rings would be minimal.

The agency has also considered the impacts of this rule in relation to the Regulatory Flexibility Act. NHTSA certifies that amending Standard No. 108 to eliminate dimensional requirements for retaining rings will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory flexibility analysis has been prepared. Based on available information, the agency believes that few, if any, of the retaining ring manufacturers are small businesses as that term is defined for purposes of the Flexibility Act. Businesses which make or install the new retaining rings and small organizations and government jurisdictions which purchase fleets of motor vehicles will not be significantly affected. Retaining rings will continue to be required and provided, in most instances probably unchanged from current ones. The difference in cost of vehicles equipped with current retaining rings and those of a different design will be insubstantial at most.

NHTSA has analyzed this rule for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the human environment.

Because this amendment relieves a restriction and creates no additional burden, it is hereby found for good cause shown that an effective date earlier than 180 days after issuance is in the public interest. Accordingly the amendment is effective upon publication in the **Federal Register.**

The engineer and attorney primarily responsible for this proposal are Marx Elliott and Taylor Vinson, respectively.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, is amended by adding new paragraph S4.1.1.25 to read as follows:

§ 571.108 Standard No. 108, Lamps, reflective devices, and associated equipment.

* * * * *

S4.1.1.25 The dimensional specifications for headlamp unit retaining rings of Figures 2(B), 5(B), and 8(B) of SAE Standard J571d "Dimensional Specifications for Sealed Beam Headlamp Units," June 1976, and of Figure 2(B), SAE Recommended Practice J1132 "142 mm x 200 mm Sealed Beam Headlamp Unit," January 1976, do not apply.

* * * * *

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on June 4, 1982.

Raymond A. Peck, Jr.,

Administrator.

[FR Doc. 82-15670 Filed 6-9-82; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 26

Public Entry and Use; National Wildlife Refuges in Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule reissuing special regulations.

SUMMARY: It has been determined that opening the refuges in Alaska to public entry and use is compatible with the purposes for which these areas were established and will provide additional

recreational opportunity to the public. This document extends the duration of the regulations governing such access, which were promulgated on May 7, 1980, from May 31, 1982, until revised rules are issued so that orderly management of the refuges will not be compromised.

DATES: This rule is effective June 10, 1982.

FOR FURTHER INFORMATION CONTACT: The Refuge Operations Supervisor or the respective Refuge Manager at the address or telephone number listed below:

Don Fedfearn, Supervisor, Refuge Operations, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503, Telephone: (907) 276–3800

Russell Robbins, Refuge Manager, Arctic National Wildlife Refuge, Federal Building and Courthouse, 101 12th Avenue, P.O. Box 20, Fairbanks, Alaska 99701, Telephone: (907) 456–0250

Bob Delaney, Refuge Manager, Kenai National Wildlife Refuge, P.O. Box 2139, Soldotna, Alaska 99669, Telephone: (907) 262–7021

Barry Reiswig, Acting Refuge Manager, Yukon Delta National Wildlife Refuge, Box 346, Bethel, Alaska 99559, Telephone (907) 543–3151

John Martin, Refuge Manager, Alaska Maritime National Wildlife Refuge, P.O. Box 3069, Homer, Alaska 99603, Telephone: (907) 235–6546

John Sarvis, Refuge Manager, Izembek National Wildlife Refuge, Pouch 2, Cold Bay, Alaska 99571, Telephone: (907) 532–2455

Charles Strickland, Refuge Manager, Kodiak National Wildlife Refuge, Box 825, Kodiak, Alaska 99615, Telephone: (907) 487–2600

SUPPLEMENTARY INFORMATION: The primary author of this rule is William Knauer, U.S. Fish and Wildlife Service, Regional Office, Anchorage, Alaska 99503, Telephone: (907) 276–3800.

General

On May 7, 1980, public entry and use regulations for National Wildlife Refuges in Alaska were published in the **Federal Register** (45 FR 30077). With the passage of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA) (16 U.S.C. 3101 et. seq.) refuges in Alaska were enlarged, renamed, and additional refuges were established.

The Fish and Wildlife Service clarified its regulations by publishing as proposed and final rules (46 FR 5668, 46 FR 31818, and 46 FR 40192) Interim Management Regulations for the Alaska National Wildlife Refuges at 50 CFR Part 36. These modify or supplement existing regulations which remain in effect providing they are not in conflict with or superseded by ANILCA or the Interim Management Regulations. Therefore the regulations published on May 7, 1980, to the extent that they were not in conflict or superseded remained in effect until May 31, 1982. A continuation of these rules is necessary until new regulations can be drafted and subjected to public comment. This effort is currently underway and is expected to be completed by the Fall of 1982. In the interim, this rule would extend the effectiveness of the regulations until the publication of the new rules.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer refuge areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation. The recreational use continued by this extension will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, Final Environmental Statement-Proposed Alaska Coastal National Wildlife Refuge (October 1974), Final Environmental Statement-Proposed Arctic National Wildlife Refuge (October 1974), Final Environmental Statement-Proposed Yukon Delta National Wildlife Refuge (October 1974), the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976 and Final Environmental Statement-Alternative Administrative Actions Alaska National Interest Lands (1978). Funds are available for the administration of the recreational activities permitted by these regulations.

NEPA Consideration

The "Final Environmental Statement for the Operation of the National Wildlife Refuge System" (FES 76–59) was filed with the Council on Environmental Quality on November 12, 1976, and notice of availability was published in the **Federal Register** on November 19, 1976, (41 FR 51131). In addition, an "Environmental Assessment of Proposed Interim Rules for Alaska National Wildlife Refuges" was approved on May 13, 1981. In accordance with Appendix 1 of Section 516 of the Departmental Manual, these special regulations which do not involve a significant change in the level of use previously permitted are categorically excluded from further compliance and documentation required by the Environmental Quality Improvement Act of 1970 as amended (42 U.S.C. 4371 et seq.).

Because of the fact that the current special regulations expired on May 31, 1982, and the rapid approach of the period of high public use, and in view of the fact that these regulations relieve restrictions which would otherwise be in effect, the U.S. Department of the Interior has concluded that "good cause" exists within the meaning of 5 U.S.C. 553(b) to dispense with public comment on the extension of these rules. However, the Service will provide for public participation in the development of the rules that will replace these rules. For the same reasons as stated above, the Department has also concluded that good cause exists within the meaning of 5 U.S.C. 553(d)(3) for making these rules effective immediately upon publication. Therefore the effective date is June 10, 1982.

The Department of the Interior has determined that this document is not a "major rule" within the meaning of Executive Order 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

List of Subjects in 50 CFR Part 26

National Wildlife Refuge System, Recreation, Wildlife refuges.

PART 26—PUBLIC ENTRY AND USE

Accordingly, the special regulations for public entry and use published at 50 CFR 26.34 (May 7, 1980; 45 FR 30077) for the following National Wildlife Refuges remain in effect.

§ 26.34 Special regulations concerning public access, use, and recreation for individual national wildlife refuges.

Alaska

Alaska Maritime National Wildlife Refuge
Arctic National Wildlife Refuge
Izembek National Wildlife Refuge
Kenai National Wildlife Refuge
Kodiak National Wildlife Refuge
Yukon Delta National Wildlife Refuge

Information collection. The information collection requirements contained in § 26.34 of these regulations

have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1018–0035. The information is being collected to solicit information necessary for the Refuge Manager to issue permits and other benefits. The information will be used to grant statutory benefits. The obligation to respond is required to obtain a benefit.

(16 U.S.C. 460k, 668dd; Alaska National Interest Lands Conservation Act, Pub. L. 96–487 (16 U.S.C. 3101 et seq.) (December 2, 1980))

Dated: June 2, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82–15759 Filed 6–9–82; 8:45 am]

BILLING CODE 4310–55–M

Proposed Rules

Federal Register
Vol. 47, No. 112
Thursday, June 10, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 501

[Docket No. ERA-R-82-02]

Powerplant and Industrial Fuel Use Act of 1978; Proposed Revisions of Final Rules for Existing Facilities; Correction

AGENCY: Economic Regulatory Administration (DOE).

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a proposed rule applicable to existing facilities under the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA) that appeared at page 47 FR 22365 in the **Federal Register** of Monday, May 24, 1982. This action is necessary to correct the omission of 10 CFR Part 501, Subpart F and certain sections thereof.

DATE: Written comments on the proposed rule must be received on or before July 26, 1982.

ADDRESS: All comments should be addressed to Office of Hearings Management of the Economic Regulatory Administration, Department of Energy, Room 7146, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, Attention: Powerplant and Industrial Fuel Use Act Docket No. ERA-R-82-02.

FOR FURTHER INFORMATION CONTACT:
Constance L. Buckley, Fuels Conversion Division—Fuels Programs, Economic Regulatory Administration, Forrestal Building, 1000 Independence Avenue SW., Room GA-093, RG-62, Washington, D.C. 20585, (202) 252-1774
Henry K. Garson (Office of the General Counsel), Department of Energy, Room 6B-178, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-2967

SUPPLEMENTARY INFORMATION:

On May 13, 1982, DOE issued a notice of proposed rulemaking (47 FR 22365, May 24, 1982) to revise its final rules implementing Title III of FUA to conform them to current DOE policy regarding the issuance of prohibition orders to existing major fuel burning installations (MFBIs) and to delete generally the regulations implementing the exemptions to prohibition orders for both MFBI's and certain existing electric powerplants. Inadvertently, it was proposed to reserve 10 CFR Part 501, Subpart F instead of revising Subpart F to eliminate all references to existing facilities while retaining all references to new facilities. This notice corrects this deficiency so as to revise Subpart F to conform to the intention of the amendments contained in the notice of proposed rulemaking.

List of Subjects in 10 CFR Part 501

Administrative practice and procedure, Business and industry, Electric powerplants, Energy conservation, Natural gas, Petroleum.

(Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620, 92 Stat. 3289 (42 U.S.C. 8301 *et seq.*); Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35; Executive Order No. 12009 (42 FR 46267 (September 15, 1977)))

Issued in Washington, D.C. on June 1, 1982.

Rayburn Hanzlik,
Administrator, Economic Regulatory Administration.

The following corrections are made in Docket No. ERA-R-82-02 in the issue of May 24, 1982, appearing on page 22365:

PART 501—ADMINISTRATIVE PROCEDURES AND SANCTIONS

(1) On page 22366, paragraph 1 is corrected to read as follows:

1. By amending the table of content as follows:

* * * * *

Subpart E—Prohibition Rules and Orders

Sec.

* * * * *

501.51 Prohibitions by order—Existing Electing Powerplants.

* * * * *

Subpart F—Exemptions

(2) Beginning on page 22367, paragraph 4 is corrected to read as follows:

4. By revising Subpart F to read as follows:

Subpart F—Exemptions

§ 501.60 Purpose and scope.

(a)(1) If the petitioner plans to construct a new powerplant or new MFBI consisting of a boiler, or owns, operates, or controls such a new unit, and the unit is subject to one or more of the FUA prohibitions, this subpart establishes the procedures for filing a petition requesting a temporary or permanent exemption under, respectively, sections 211 and 212 of FUA.

(2) If the petitioner plans to construct or owns, operates, or controls a new MFBI other than a boiler and such unit is subject to a prohibition by order or rule, this subpart establishes the procedures for filing a petition requesting a temporary or permanent exemption under, respectively, sections 211 and 212 of FUA.

(3) If the petitioner owns, operates or controls a new powerplant or MFBI, this subpart provides the procedures for filing a petition requesting extension of a temporary exemption granted under section 211 of FUA.

(b) If the petition is for an extension of a temporary exemption, the petitioner must apply for this extension at least (90) day prior to the expiration of the temporary exemption.

§ 501.61 [Reserved]

§ 501.62 Petition contents.

(a) A petition for exemption should include the following information:

(1) The name of the petitioner;

(2) The name and location of the unit for which an exemption is being requested;

(3) The specific exemption(s) being requested; and

(4) The name, address, and telephone number of the person who can supply further information.

* * * * *

(b) Table of Contents. Include only those sections contained in the petition.

(c) Introduction. Include the following:

(1) Description of the facility under consideration;

(2) Description of the unit and fuel the petitioner proposes to burn in that unit, including the purpose of and need for the unit; and

(3) Description of the operational requirements for the unit, including size (capacity, input and output in millions of

Btu's per hour), output in terms of product or service to be supplied, fuel capability, and operating mode, including capacity factor, utilization factor, and fluctuations in the load.

(d) General requirements. The evidence required under Part 503 Subpart B for each exemption(s) for which the petitioner is applying:

(1) No alternate power supply (§ 503.8)

(2) Use of mixtures (§ 503.9);

(3) Alternative site (§ 503.11);

(4) Compliance Plan (§ 503.12);

(5) Environmental impact analysis (§ 503.13);

(6) Fuels search (§ 503.14).

(e) Specific evidence. Evidence required for each exemption, segregated by exemption (Part 503 Subparts C and D).

(f) References. (1) Specify the reports, documents, experts, and other sources consulted in compiling the petition. Cite these sources in accordance with acceptable documentation standards and indicate the part of the petition to which they apply. If the source is unusual or little known, briefly describe its contents.

(2) Identify at the end of each section of the petition any information or any statement based, in whole or in part, on information or principles which, to petitioner's knowledge, represent significant innovations to or departures from generally accepted facts or principles.

(g) Appendices. Include in the appendices material which the petitioner believes substantiates any analyses fundamental to the petition, materials prepared in connection with it, and any other documents, studies, or analyses which are believed to be relevant to the decision to be made. Also, include in the appendices copies of any forms submitted as part of the petition.

(h) List of preparers. List the names with the qualifications and professional credentials of the principal contributors to the preparation of the petition. Indicate the sections or subject matters for which each principal contributor was responsible.

(i) Incorporation by reference. Pertinent information may be incorporated into the petition by reference when this can be done without impeding agency and public review. Referenced materials must be specifically identified and their contents briefly described in the petition. To incorporate by reference, the material must be submitted with the petition, or if previously submitted, the office to which it was submitted must be identified in the petition. The petitioner cannot incorporate by reference material based on proprietary data not available to ERA for review.

§ 501.63 Notice of the commencement of an administrative proceeding on an exemption petition.

(a)(1) When a petition is accepted, ERA will publish in the **Federal Register** a Notice of Acceptance, or, in the case of a certification exemption, a Notice of Acceptance and Availability of Certification, signifying that an exemption proceeding has commenced. The notice will include a summary of the exemption petition, and publication will commence a public comment period of no less than forty-five (45) days during which interested parties may file written comments concerning the petition. In the case of a certification exemption, interested persons may request a public hearing during this period, pursuant to § 501.33.

(2) ERA also will notify the appropriate State agency having apparent primary authority to permit or regulate the construction or operation of a powerplant, or any State agency with similar authority over an MFBI, that an exemption proceeding has commenced and will consult with these agencies to the maximum extent practicable. Copies of all accepted petitions will be forwarded to the Administrator of the EPA, and, if the unit involved is an MFBI, to the Federal Trade Commission.

(b) In processing an exemption petition, ERA shall comply with the requirements of the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality's implementing regulations, and the DOE guidelines implementing those regulations (45 FR 20694 (March 28, 1980)). Compliance with NEPA may involve the preparation of (1) an environmental impact statement (EIS) evaluating the grant or denial of an exemption petition, (2) an environmental assessment (EA), or (3) a memorandum to the file finding that the grant of the requested petition would not be considered a major federal action significantly affecting the quality of the human environment. If an EIS is required, ERA will publish in the **Federal Register** a Notice of Intent (NOI) to prepare an EIS as soon as practicable after commencement of the proceeding. A public meeting may be held pursuant to 40 CFR 1501.7 to solicit comments or suggestions on the structure and content of the EIS.

§ 501.64 Publication of notice of availability of tentative staff analysis.

ERA will publish in the **Federal Register** a Notice of the Availability of Tentative Staff Analysis for the noncertification temporary public interest exemption, for noncertification environmental exemptions, and for a cogeneration exemption based on the public interest. ERA will provide a public comment period of at least fourteen (14) days from the date of publication during which interested persons may make written comments and request a public hearing.

§ 501.65 Publication of notice of availability of draft EIS.

Issuance of a draft EIS, EA, or preparation of a memorandum to the file will occur simultaneously with publication of a Notice of Availability of Tentative Staff Analysis. A Notice of Availability of any draft EIS will be published in the **Federal Register** and comments thereon will also be solicited. Interested persons may request a hearing on any draft EIS. Such hearing must be requested within thirty (30) days of publication of the Notice of Availability of the draft EIS.

§ 501.66 ERA evaluation of the record, decision and order.

(a) The administrative record in a proceeding under this Part will consist of the proposed prohibition order and/or petition and related documents, all relevant evidence presented at the public hearing, all written comments, and any other information in the possession of ERA and made a part of the public record of the proceeding. ERA will base its determination to issue a rule or order on consideration of the whole record, or those parts thereof cited by a party and supported by reliable, probative, and substantial evidence.

(b) ERA may investigate and corroborate any statement in any petition, document, or public comments submitted to it. ERA also may use any relevant facts it possesses in its evaluation and may request submissions from third persons relevant to the petition or other documents. ERA also may request additional information, data or analyses following a public hearing, if any, if this information is necessary to resolve disputed issues in the record. Any relevant information received by ERA following the hearing that is not declared to be confidential under § 501.7(a)(11) shall be made part of the public record with opportunity provided for rebuttal.

(c) ERA will notify all participants if, after the close of any public hearing or comment period, it receives or obtains any relevant information or evidence. Participants may respond to such

information or evidence in writing within fourteen (14) days of such notification. If ERA finds that the additional information or evidence relates to material issues of disputed fact and may significantly influence the outcome of the proceeding, ERA shall reopen the hearing on the issue or issues to which the additional information or evidence relates.

§ 501.67 Petition redesignations.

ERA, with the petitioner's approval, will redesignate an exemption petition if the petitioner qualifies for an exemption other than the one originally requested, even though he may not qualify for the specific exemption originally requested, or be entitled to the full exemption period provided by the requested exemption. ERA shall give public notice of any redesignation of an exemption petition, and where a public hearing has been requested notice shall be given at least thirty (30) days prior to such hearing.

§ 501.68 Decision and order.

(a)(1) ERA shall issue an order either granting or denying the petition for an exemption or permit within six (6) months after the end of the period for public comment and hearing applicable to any petition.

(2) ERA may extend the six (6) month period for decision to a date certain by publishing notice in the **Federal Register** and stating the reasons for such extention.

(3) ERA will publish a final EIS at least thirty (30) days prior to the date of issuance of the final order in all cases where an EIS is required.

(b)(1) ERA shall serve a copy of the order granting or denying a petition for exemption to the petitioner and all persons on the service list in cases involving a public hearing.

(2) ERA shall publish any order granting or denying a petition under this subpart in the **Federal Register** together with a statement of the reasons for the grant or denial.

(c)(1) Any order granting or denying a petition for exemption shall be based upon consideration of the whole record or those parts thereof cited by a party and supported by, and in accordance with, reliable, probative and substantive evidence.

(2) The denial of a petition for exemption shall be without prejudice to the petitioner's right to submit an amended petition. ERA may, however, reject the amended petition if it is not materially different from the denied petition.

(d) ERA may design any terms and conditions included in any temporary exemption issued or extended under Section 211 of FUA, to ensure, among other things, that upon expiration of the exemption the persons and powerplant or installation covered by the exemption will comply with the applicable prohibitions under FUA. For purposes of this provision, the subsequent grant of a permanent exemption to the subject unit shall be deemed compliance with applicable prohibitions.

§ 501.69 Judical review.

Any person aggrieved by any order issued by ERA under this subpart, must file, within sixty (60) days of publication of the final order in the **Federal Register**, a petition for judicial review in the United States Court of Appeals for the Circuit wherein he resides, or has his principal place of business. Exhaustion of administrative remedies for purposes of judicial review does not require filing a petition pursuant to Subpart G for modification or rescission of the order to be reviewed.

[FR Doc. 82-15708 Filed 6-9-82; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 82-AWP-8]

Proposed Establishment of Transition Area, Columbia, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a 700 foot transition area at Columbia, California, in order to provide controlled airspace for aircraft executing a new instrument approach procedure to the Columbia Airport, Columbia, California, utilizing the Columbia, California, Nondirectional Radio Beacon (NDB).

DATES: Comments must be received on or before July 6, 1982.

ADDRESSES: Send comments on the proposal in triplicate to Director, Federal Aviation Administration, Attn: Chief, Airspace and Procedures Branch, AWP-530, 15000 Aviation Boulevard, Lawndale, California 90261. A public docket will be available for examination in the Office of the Regional Counsel, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone: (213) 536-0270.

FOR FURTHER INFORMATION CONTACT: Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; Telephone (213) 536-6182.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the Airspace Docket Number and be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. All communications received on or before July 6, 1982, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested parties.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Chief, Airspace and Procedures Branch, AWP-530, 15000 Aviation Boulevard, Lawndale, California 90261, or by calling (213) 536-6180. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a 700 foot transition area for Columbia, California. This action will provide controlled airspace for aircraft utilizing IFR procedures to and from Columbia Airport.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Subpart G, § 71.181 of Part 71 of the Federal Aviation Administration (14 CFR Part 71) as republished in (46 FR 540) as follows:

Columbia, California

That airspace extending upward 700 feet above the surface within a 5-mile radius of the Columbia Airport (latitude 30°01'45" N., longitude 120°24'45" W.) and within three miles each side of the 211° T (195° M) bearings from the Columbia Nondirectional Radio Beacon (NDB) (latitude 38°01'52" N., longitude 120°24'40" W.) extending from the 5-mile radius area to 12 miles south of the NDB.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Los Angeles, Calif., on May 24, 1982.

H. C. McClure,
Director, Western-Pacific Region.

[FR Doc. 82-15407 Filed 6-9-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASW-29]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Proposed Designation of Transition Area; Kirbyville, Tex.

AGENCY: Federal Aviation Agency (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes designation of a transition area at Kirbyville, TX. The intended effect of the proposed action is to provide controlled airspace for aircraft executing a new instrument approach procedure to the Kirbyville Airport. This action is necessary since there is a proposed establishment of a standard instrument approach procedure (SIAP) to the Kirbyville Airport using a new non-Federal nondirectional radio beacon (NDB). Coincident with this action, the airport is changed from visual flight rules (VFR) to instrument flight rules (IFR).

DATES: Comments must be received on or before July 12, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G, § 71.181 as republished in Advisory Circular AC 70-3 dated January 29, 1982, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Designation of the transition area at Kirbyville, TX, will necessitate an amendment to this subpart. This amendment will be required at Kirbyville, TX, since there is a proposed change in IFR procedures to the Kirbyville Airport.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-ASW-29." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Control zones and/or transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Kirbyville, TX, New

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the airport (latitude 30°38'50" N., longitude 93°54'54" W.) and within 3 miles each side of the 310° bearing of the NDB (latitude 30°39'44" N., longitude 93°56'05" W.), extending from the 5-mile radius area to 8.5 miles northwest of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is

certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, Tex., on May 26, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-15408 Filed 6-9-82; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 9139]

Texas Dental Association; Proposed Consent Agreement with Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement accepted subject to final Commission approval, would require a Texas dental association, among other things, to cease inhibiting competition by inducing its members to withhold x-rays and other diagnostic information from third-party payers and independent dental consultants for use in reviewing claims and establishing cost containment programs. The association would be barred from coercing independent dental consultants and third-party payers into altering the terms and conditions of any dental health care plan, and from compelling third-party payers to select a particular independent dental consultant. Further, previous agreements entered into by the association and dental insurers which do not conform to the terms of the order would not be binding upon the signatories. The association would also be required to mail a copy of the order together with a letter explaining its provisions to all its members and to any person who joins the association within the next four years.

DATE: Comments must be received on or before August 9, 1982.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pa. Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Gary D. Kennedy, Acting Director, 5R, Dallas Regional Office, Federal Trade Commission, 2001 Bryan St., Suite 2665, Dallas, TX 75201. (214) 767-0032.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rule of practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Dental health, Dentists, Health care.

Agreement Containing Consent Order to Cease and Desist

In the matter of Texas Dental Association, a corporation.

The agreement herein, by and between the Texas Dental Association (TDA), a corporation, by its duly authorized officer and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rules governing consent order procedures. In accordance therewith the parties hereby agree that:

1. TDA is a Texas corporation with its principal office at 1946 South Interregional Highway, Austin, Texas 78704.

2. TDA has been served with a copy of the complaint issued by the Federal Trade Commission charging it with violation of Section 5 of the Federal Trade Commission Act and has filed its answer to said complaint denying said charge.

3. Only for the purpose of this proceeding, and for compliance and enforcement proceedings under the order contemplated hereby, TDA admits all the jurisdictional allegations set forth in the complaint here attached.

4. TDA waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access To Justice Act.

5. This agreement shall not become a part of the official record of this proceeding unless and until it is accepted by the Commission. The Commission may accept the agreement or take such other action as it may deem appropriate. If this agreement is accepted, the Commission will place said agreement on the public record, and at the same time will make available an explanation of the provisions of the order and the relief to be obtained thereby and any other information which it deems helpful in assisting interested persons to understand the terms of the order. For a period of sixty (60) days after placement of the order on the public record and issuance of the statement, the Commission will receive and consider any comments or views concerning the order that may be filed by any interested persons. Thereafter, if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper or inadequate, the Commission may withdraw its acceptance of this agreement and so notify TDA, in which event the Commission will take such other action as it may consider appropriate in disposition of the proceedings.

6. This agreement is for settlement purposes only and does not constitute an admission by TDA that the law has been violated as alleged in the complaint here attached.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to TDA, issue its decision containing the following order to cease and desist in disposition of the proceeding, and make information public in respect thereto. When so issued, the order to cease and desist shall have the same force and effect as, and may be altered, modified, or set aside in the same manner and within the same time as provided by statute for other orders. The order shall become final upon service. Mailing of the decision containing the agreed-to order to TDA at the address stated in this agreement shall constitute service. TDA waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation or interpretation not contained in the order or this agreement may be used to vary or contradict the terms of the order.

8. TDA has read the proposed order contemplated hereby, and understands that once the order has been issued, TDA will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for a civil penalty in the amount provided by then existing law

for each violation of the order after it becomes final.

9. Nothing in this agreement shall affect the complaint which the Commission has issued with respect to TDA, nor shall anything in this agreement affect the answer filed by TDA, if this agreement is not accepted by the Commission.

Order

I

It is ordered that for the purposes of this order the following definitions shall apply:

A. "TDA" means Texas Dental Association, its House of Delegates, councils, committees, officers, representatives, agents, employees, successors and assigns.

B. "Third-party payer" or "payer" means any person, corporation or other entity who or which administers or provides a risk-sharing reimbursement plan or a program or reimbursement, directly or indirectly, for all or part of any expense for dental health care services incurred by any person.

C. "Independent dental consultant" means a dentist who, acting either in an individual or corporate capacity, is employed by or contracts with a third-party payer to:

(1) Furnish evaluative services from a review of diagnostic information or dental claims forms; or

(2) Advise or deal with other dentists or third-party payers regarding courses of dental treatment, appropriate fee reimbursements, or benefit determinations under any dental reimbursement plan or program.

D. "Evaluative services" means the review or rendering of opinions or determinations from diagnostic information or reports of attending dentists or from other sources, regarding courses of treatment, appropriate manner of reimbursement, or extent of benefit coverage, under any dental reimbursement plan or program.

II

It is further ordered that TDA, directly or through any subsidiary, division or other devices, shall not engage in any act or practice which has the purpose or effect of:

A. Requiring, advocating, advising, requesting, or suggesting that any of its members: (1) submit or refuse to submit radiographs or other diagnostic information or other materials to any third-party payer or to any independent dental consultant designated by such third-party payers; or (2) refuse to deal with any third-party payer or independent dental consultant except on certain terms or under certain conditions;

B. Compelling, threatening, or coercing any third-party payer or independent dental consultant to alter any provision of, or means of administering, any dental health care coverage plan;

C. Compelling, threatening, or coercing any third-party payer or independent dental consultant to enter into agreements with TDA or others regarding the terms of any dental health care coverage plan or the methods by which any third-party payer or independent dental consultant makes determinations about dental insurance claims; or

D. Compelling, threatening, or coercing any third-party payer to select a particular independent dental consultant.

Provided, however, that nothing contained herein shall be deemed to prohibit individual members of TDA, acting individually, from dealing with third-party payers in such manner as they determine is in the best interest of their patients.

III

It is further ordered that any "Memorandum of Understanding" or agreement between TDA or its members and any third-party payer providing for the circumstances under which radiographs or other diagnostic information is to be furnished to third-party payers or independent dental consultants or providing in any manner for the way in which determinations about dental insurance claims are to be made in non-binding on TDA, its members and third-party payers.

IV

It is further ordered that within thirty (30) days after this order becomes final, TDA shall mail to each of its members a copy of the Commission's complaint and order in this matter, as well as a letter in the form shown as "Attachment A" to this order. In addition to the foregoing, TDA shall mail a copy of the aforementioned complaint, order, and letter to every person who joins TDA within four (4) years of the date of service of this order. Such mailing shall occur within thirty (30) days after a person becomes a member of TDA.

V

It is further ordered that within sixty (60) days after service of this order and again one (1) year thereafter, TDA shall file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied and intends to comply with this order.

VI

It is further ordered that TDA shall notify the Commission at least thirty (30) days prior to any proposed change in it, such as dissolution, assignment or sale resulting in the emergence of a successor association or corporation, or any other change in the association or corporation which may affect compliance obligations arising out of this order.

Attachment A

(Respondent's Letterhead)

Dear Doctor: As you may be aware, the Federal Trade Commission (FTC) has issued a complaint against the Texas Dental Association (TDA). TDA has denied the allegations of the complaint and continues to deny that it has engaged in any unlawful conduct. Nevertheless, TDA has voluntarily entered into an agreement with the FTC which has resulted in the entry of a consent order on which requires, in essence, that TDA not engage in certain activities that are concerned with dental health care benefits programs. This order also requires that you be sent a copy of the complaint and order and this letter.

In accordance with the terms of the FTC's order, you are hereby notified that TDA shall not engage in any act or practice which has the purpose or effect of: (1) Requiring, advocating, advising, requesting, or suggesting that any of its members submit or refuse to submit radiographic or other diagnostic information or other materials to any third-party payer or independent dental consultant or refuse to deal with any third-party payer or independent dental consultant except on certain terms or under certain conditions; (2) compelling, threatening, or coercing any third-party payer or independent dental consultant to alter any provision of, or means of administering, any dental health care coverage plan; (3) compelling, threatening, or coercing any third-party payer or independent dental consultant to enter into agreements with TDA or others regarding the terms of any dental health care coverage plan or the methods by which any third-party payer or independent dental consultant makes determinations about dental insurance claims; or (4) compelling, threatening, or coercing any third-party payer to select a particular dental consultant.

Additionally, the order also provides that Memoranda of Understanding or other agreements between TDA or its members and any third-party payer providing for the circumstances under which radiographic or other diagnostic information is to be furnished to third-party payers or providing in any manner for the way in which determinations about dental insurance claims are to be made are non-binding on TDA, its members and third-party payers. The order does not prohibit the use of the guidelines contained in such Memoranda of Understanding for the resolution of a dispute concerning dental insurance claims if the

individual parties to a dispute in the future voluntarily wish to use them.

TDA adheres to the view that the primary goal of its members is to render to the public the best dental service of which they are capable. Nothing in this order changes or affects that goal. You remain free to deal individually with third-party payers and programs in such manner as you decide individually is best for your patients.

Copies of the FTC's complaint and order are enclosed. This letter has attempted to summarize the important parts of the order but you should read it carefully in its entirety.

Very truly yours,

Enclosures

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Texas Dental Association ("TDA").

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint, which was issued on June 17, 1980, alleges that TDA, through its members, combined, conspired and engaged in acts and practices which eliminated, prevented or hindered competition among dentists and insurance companies with respect to: furnishing X-rays to third-party payers and independent dental consultants; participating in alternate course of treatment and pretreatment determination programs; and cooperating with third-party payers and independent dental consultants in claims review and cost containment programs.

It is further alleged that TDA encouraged and induced its members to refuse to submit X-rays and other diagnostic information to third-party payers and independent dental consultants; conducted meetings and pledge card campaigns and published statements of policies and practices regarding the terms and conditions upon which members were encouraged to deal with third-party payers and independent dental consultants; and insisted that third-party payers execute Memoranda of Understanding imposing particular procedures by which TDA members deal with third-party payers.

Paragraph I of the proposed order contains definitions of terms used throughout the agreement.

Paragraph II of the proposed order prohibits TDA, directly or indirectly, from engaging in any act or practice which has the purpose or effect of: (1) Requiring, advocating, advising, requesting or suggesting that any of its members submit or refuse to submit X-rays or other diagnostic information or other materials to any third-party payer or independent dental consultant except on certain terms or under certain conditions; (2) compelling, threatening or coercing any third-party payer or independent dental consultant to alter any provision of, or means of administering, any dental health care coverage plan; (3) compelling, threatening, or coercing any third-party payer or independent dental consultant to enter into agreements with TDA or others regarding the terms of any dental health care coverage plan or the methods by which any third-party payer or independent dental consultant makes determinations about dental insurance claims; or (4) compelling, threatening, or coercing any third-party payer to select a particular dental consultant. Provision is made to protect each dentist's right to deal individually with third-party payers in a manner which he or she determines is in the best interests of his or her patients.

Paragraph III of the proposed order provides that TDA, its members and third-party payers are not bound by the terms of any agreements already reached by TDA and dental insurers. This paragraph addresses those agreements which concern the terms of dental insurance coverage or the circumstances under which diagnostic information is to be disclosed or the manner in which determinations about dental insurance claims are to be made.

The proposed order also requires that TDA provide each of its members with a copy of the complaint and order and a letter explaining the settlement. In addition, any new members of TDA who join within four (4) years of the acceptance of this order shall also be required to be given such materials.

The proposed order provides that TDA report twice on how it has complied and intends to comply with the order. The first report shall be submitted within sixty (60) days after this order becomes final; the second, one year thereafter.

TDA shall be required to notify the Commission at least thirty (30) days prior to any proposed change in its structure or organization.

The order shall become effective on service of the order, and shall continue to be effective thereafter.

This order is part of a continuing effort by the Commission to promote the provision of health care services to the public at a fair and reasonable cost.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify its terms in any way.

Carol M. Thomas,

Secretary.

[FR Doc. 82-15660 Filed 6-9-82; 8:45 am]

BILLING CODE 6750-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1632

Standard for the Flammability of Mattresses (and Mattress Pads); Advance Notice of Proposed Rulemaking

AGENCY: Consumer Product Safety Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Commission is considering amendment of the flammability standard for mattresses and implementing regulations to eliminate requirements for production testing, and to improve the clarity or precision of other provisions. This notice discusses the risk of injury addressed by the standard, the products which are subject to its requirements, and the changes to the standard which the Commission is considering. The Commission solicits comments on the risk of injury, the regulatory alternatives under consideration, other provisions of the standard and regulations, which might be subject to revision, and means other than amendment of the standard and regulations to reduce costs of compliance with the standard and to improve its clarity and precision.

DATE: Comments and submissions are due not later than August 9, 1982.

ADDRESS: Comments and submissions should be sent, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: James Sharman, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6554.

SUPPLEMENTARY INFORMATION: The Consumer Product Safety Commission (Commission) has authority under the Flammable Fabrics Act (FFA, 15 U.S.C. 1191 *et seq.*) to issue and amend flammability standards for articles of

interior furnishing to reduce or eliminate unreasonable risks of fire leading to death, personal injury, or significant property damage.

Background

In 1972, the Department of Commerce (which had authority to issue standards under the FFA at that time) issued the Standard for the Flammability of Mattresses (and Mattress Pads). That standard was published in the **Federal Register** of June 7, 1972 (37 FR 11362), and became effective on June 23, 1973. It is now codified at 16 CFR Part 1632. In 1973, the authority to issue and amend standards under the FFA was transferred to the Commission by section 30(b) of the Consumer Product Safety Act (CPSA, 15 U.S.C. 2079(b)).

The mattress standard was issued to protect the public against risks of fires which have resulted from ignition of mattresses by cigarettes. Such incidents have led to smoldering fires with the production of lethal concentrations of toxic fumes in the bedroom, and often throughout an entire apartment or house. (1, 2)[1]

To comply with the standard, manufacturers of mattresses must perform prototype tests on each type of mattress which they produce. A prototype test involves the testing of a mattress design prior to production. Such testing must be repeated if any of the materials which influence resistance to ignition are changed. This is basically a one-time test which is performed prior to production to demonstrate that the materials and method of construction will resist cigarette ignition.

After successful completion of requirements for prototype testing, the standard requires manufacturers to group the mattresses which they manufacture into "production units," and to sample and test mattresses from each production unit. The standard requires manufacturers to perform production testing at specified intervals as long as a particular mattress type is manufactured. (1, 4)

The standard prescribes procedures for both prototype and production testing. Both prototype and production tests involve placement of lighted cigarettes at specified locations on the surface of a mattress. The standard sets forth pass/fail criteria for both types of tests.

[1] Numbers in parentheses identify reference documents listed in Bibliography at the end of this notice. Requests for inspection of any of these documents should be made at the Commission's public reading room, 1111 18th Street, NW., eighth floor, Washington, D.C. or by calling the Office of the Secretary at (301) 492-6800.

Regulations implementing the standard require manufacturers to maintain records demonstrating compliance with the requirements for testing imposed by the standard. These records include written test results of both prototype and production tests, plus photographic evidence of each test result. (1, 4)

Statutory Provisions

In 1978, Congress enacted legislation (Pub. L. 97-631, 92 Stat. 3742, 15 U.S.C. 2076(m)) requiring the Commission to review existing standards and rules with a view toward elimination or modification of requirements in appropriate cases. In 1979, the Commission voted to include the mattress standard among the first three rules to be reviewed. (3)

After the Commission staff completed its review of the mattress standard, the Commission voted in 1980 to direct the staff to prepare appropriate documents to amend the standard and implementing regulations to reduce or simplify the requirements of the standard for sampling and testing; to reduce the recordkeeping requirements; to simplify the language used in the standard; and to make technical changes needed to improve the clarity and precision of the standard. (1)

Thereafter, Congress enacted the Consumer Product Safety Amendments of 1981 (Pub. L. 97-35, 95 Stat. 703, 752). This legislation amends section 4 of the FFA to provide that any proceeding for the issuance or amendment of a flammability standard shall be initiated by the publication of an advance notice of proposed rulemaking which must include information about the product, the risk of injury, and regulatory alternatives under consideration. These requirements now appear at section 4(g) of the FFA (15 U.S.C. 1193(g)).

Depending upon comments and other submissions received in response to the advance notice of proposed rulemaking and the Commission's analysis of those materials, the Commission may decide to terminate this proceeding, or it may elect to continue it by publication of a subsequent notice in the **Federal Register** proposing amendment of the standard and soliciting written comments and oral presentations at a public hearing on the proposal.

If the Commission decides to issue final amendments to the standard after considering all written comments and oral presentations on the proposed amendments and other relevant information, publication of a third notice in the **Federal Register** is now required by section 4 of the FFA.

Proceeding To Amend Standard

By publication of this notice, the Commission is beginning a proceeding which may result in the amendment of the mattress flammability standard. The following information is furnished in accordance with the provisions of section 4(g) of the FFA.

1. *The products.* The products which are subject to the standard are mattresses and mattress pads. The term "mattress" is defined in the standard at § 1632.1(a) as "a ticking filled with resilient material used alone or in combination with other products and intended or promoted for sleeping upon." That section then lists examples of several articles which are and are not mattresses subject to the standard.

Provisions of section 1632(c) of the standard contains an exemption for some mattresses which are subject to Motor Vehicle Safety Standard No. 302, "Flammability of Interior Materials—Passenger Cars, Multipurpose Passenger Vehicles, Trucks, and Buses," issued by the National Highway Traffic Safety Administration (49 CFR 571.302).

Provisions of § 1632.2(d) of the standard and section 1632.31(i) of the implementing regulations exempt one of a kind mattresses which are manufactured in accordance with a physician's prescription for treatment or management of a specific person's illness or injury.

The term "mattress pad" is defined at § 1632.6(p) of the standard to mean "a thin, flat mat or cushion for use on top of a mattress."

Section 1632.1(a) states that the following types of pads are not subject to the standard: car bed pads, infant carrier and lounge pads, dressing table pads, stroller pads, crib bumpers, and play pen pads. Each of these excluded products is defined in § 1632.6 of the standard.

The Commission has information which indicates that there are over 800 companies that manufacture mattresses. These firms comprise about 960 establishments, of which about 60 percent are small, based on employment.

Information available to the Commission indicates that approximately 14,600,000 mattresses were manufactured during 1980 (8).

2. *The risk of injury.* As stated above, the risk of injury which the standard is intended to reduce or eliminate is that of ignition from a lighted cigarette, resulting in a smoldering fire and the generation of a toxic atmosphere. The standard does not address the hazard of

ignition of mattresses from openflame sources.

From data obtained from the United States Fire Administration and the National Fire Protection Association, the Commission estimates that 70,600 fires involving mattresses or bedding occurred in 1979, and that 1,000 deaths resulted. (1, 6) The Commission estimates further that the products involved in these incidents and the sources of ignition were as follows:

FIRE INCIDENTS

Ignition source	Mattresses or pillows	Percent	Other bedding	Percent
Cigarettes	23,200	50	7,600	31
Open flame	14,500	32	8,100	34
Other	8,300	35	8,600	35
Totals	46,300	100	24,300	100

DEATHS

Ignition source	Mattresses or pillows	Percent	Other bedding	Percent
Cigarettes	300	73	560	63
Open flame	40	12	140	23
Other	60	15	50	14
Totals	400	100	600	100

When the mattress standard became effective in 1973, data were not available from which to make national estimates of the numbers of fire incidents involving mattresses, or the numbers of deaths and injuries resulting from such fires. For this reason, it is not possible to estimate the absolute effectiveness of the standard in reducing deaths and injuries resulting from ignition of mattresses by smoldering cigarettes.

Indirect evidence, however, does suggest that the standard has been effective in reducing deaths and injuries and that further reductions can be expected as more cigarette ignition resistant mattresses replace older more combustible mattresses.

While these data appear encouraging, the Commission emphasizes that any correlation of this experience with the mattress standard is tenuous, and that no direct conclusions can be made. (3)

3. *Regulatory alternatives.* Having completed its review of the mattress standard and implementing regulations, the Commission is now considering amendment of the standard and regulations to eliminate some requirements which may impose costs on mattress manufacturers but which may not be needed to protect the public from unreasonable risks of fire from ignition of mattresses by smoldering cigarettes. The Commission is also considering revision of other provisions to improve their clarity or precision. (1) The provisions which the Commission is now considering for elimination or revision include the following:

(a) Remove specific requirements for sampling and testing. In its present form the standard contains a "basic sampling plan" in § 1632.4(b). This basic sampling plan is intended for use by all mattress manufacturers. As noted above, it contains requirements for both prototype testing and production testing.

The Commission's review of the mattress standard indicates that while compliance with the requirements for sampling and testing contained in the basic sampling plan will provide a high degree of assurance that mattresses distributed in commerce will resist ignition from smoldering cigarettes, the standard in its present form may require some manufacturers to perform more testing than is needed to achieve that goal.

The Commission is considering the possibility that the standard could be amended to remove all specific requirements for sampling and testing from § 1632.4, and to substitute provisions to the effect that each manufacturer shall devise and implement a program of "reasonable and representative tests" to assure that mattresses distributed in commerce will resist ignition from smoldering cigarettes.

If the Commission took this approach, manufacturers would be expected to perform tests to ensure that new materials and construction techniques will yield passing results if tested in accordance with the procedure in the standard. Manufacturers would also be expected to perform enough testing to assure themselves that mattresses from current production will pass that test. However, the design and frequency of testing would be left to the individual manufacturer.

This approach is expected to result in some reduction of the testing burden now imposed on manufacturers by the standard. It would also afford mattress manufacturers more flexibility to tailor testing programs to their individual needs, as is the case with testing to support certificates of compliance with products subject to consumer product safety standards issued under the Consumer Product Safety Act.

However, the Commission notes that this approach would require each mattress manufacturer to design and implement its own program of reasonable and representative tests to be used in place of the schedule of testing now set forth in § 1632.4(b) of the standard. This could be difficult for some manufacturers, particularly smaller firms.

Another disadvantage of this approach is that it could be expected to provide less reduction in testing burden than the alternatives immediately following in paragraphs (b) and (c).

(b) Eliminate requirements for production testing. As noted above, the basic sampling plan in the standard requires both prototype and production testing. The review of the standard which led the Commission to conclude that the standard may require more testing than is necessary to assure that mattresses will resist ignition from smoldering cigarettes indicates that once a mattress design has been accepted by prototype testing, the likelihood is small that mattresses manufactured with the same materials and methods of construction will fail to meet the acceptance criteria of the standard during production testing. For this reason, the Commission is considering elimination of all requirements for production testing from the standard. (1)

Removing the requirements for production testing from the standard would not only eliminate costs associated with performing those tests, but would also reduce the number of records required to be maintained by § 1632.31(c) of the implementing regulations. The Commission estimates that the testing and recordkeeping burden which the standard imposes on manufacturers would be reduced approximately 80 percent.

Unlike the approach listed above in paragraph (a), elimination of requirements for production testing would not impose any new obligation on manufacturers to devise a substitute for the schedule for production testing in § 1632.4(b). As indicated above, elimination of all requirements for production testing could be expected to result in a greater reduction of burden on the industry than replacing existing requirements of the basic sampling plan in the standard with provisions that each manufacturer shall devise its own program of reasonable and representative tests.

(c) Eliminate alternate sampling plans. In addition to the basic sampling plan, described above, the standard also provides at § 1632.4(b)(1) that the Commission may approve "alternate sampling plans." To date the Commission has approved four alternate sampling plans which may be used in place of the schedule for sampling and testing mattresses from production contained in the basic sampling plan.

These alternate sampling plans were developed by the mattress industry to deal with particular problems not addressed by the basic sampling plan in the standard. These alternate sampling plans are designated Alternate Sampling Plan Nos. 1, 2, 5, and 6, and are published at 16 CFR 1632.11, 1632.12, 1632.14, and 1632.15.

As stated above, the Commission is considering elimination of all requirements for production testing from the basic sampling plan in the standard. Since these alternate sampling plans are concerned solely with selection of samples for production testing, the Commission is also considering elimination of their provisions. (1)

(d) Reduce the frequency of production testing. Another alternative under consideration is that of retaining requirements for both prototype and production testing, but reducing the amount of production testing from that now required by the basic sampling plan. Currently, § 1632.4(b) requires a manufacturer to perform a minimum of four production tests each year. Large volume manufacturers are required to perform more production testing, depending upon the number of mattresses produced.

If § 1632.4(b) were amended to require only one production test each year, the Commission estimates that the testing and recordkeeping burden which the standard imposes on manufacturers would be reduced approximately 60 percent. This approach would also eliminate any requirement for manufacturers to design their own reasonable testing programs.

Obviously, reduction of the amount of production testing would result in less reduction of burden to mattress manufacturers than elimination of all requirements for production testing, as outlined in paragraphs (b) and (c), above.

(e) Substitution of ticking materials. The standard requires that whenever a manufacturer changes the ticking (outermost layer of fabric) or any other material which influences ignition resistance of a mattress design, the manufacturer must perform new prototype qualification tests, unless the firm can demonstrate that the change will not reduce the ignition resistance of the mattress prototype. This provision of the standard has the effect of requiring a mattress manufacturer to perform new prototype tests every time the ticking fabric used for production of mattresses is changed.

To avoid the necessity of performing new prototype tests every time a manufacturer changes the ticking used for production of mattresses, Alternate Sampling Plan No. 4 (16 CFR 1632.13) was developed and approved. This alternate sampling plan was intended to provide a method of classifying ticking fabrics into categories which exhibit similar resistance to cigarette ignition. The purpose of this alternate sampling plan is to allow the substitution of ticking materials within the same category without the necessity for additional prototype testing.

Alternate Sampling Plan No. 4 defines a ticking category as "a group of ticking types similar in method of manufacture (wovens, vinyls, backcoated wovens, etc.) and if composed in whole or in part of non-fiber layers or coatings, identical in composition and nominal weight per unit of non-fiber components."

Two problems have been observed with the provision of this alternate sampling plan. The first is that ticking fabrics having the same "method of manufacture" does not necessarily have the same performance characteristics when subjected to the test in the standard. The second problem is that in order to determine whether two ticking fabrics belong to the same "ticking category," as that term is defined in the alternate sampling plan, the mattress manufacturer must have information about coating compositions and other characteristics of the ticking materials. Producers of ticking fabrics frequently consider this information to be a trade secret, and for that reason, will not make it available. Unless a mattress manufacturer can establish that two or more ticking materials belong to the same "ticking category," the materials cannot be used interchangeably in accordance with Alternate Sampling Plan No. 4.

The Commission is aware that the National Association of Bedding Manufacturers (NABM) has been concerned about the inadequacies of Alternate Sampling Plan No. 4, and has been working, with the assistance of the National Bureau of Standards and Commission staff, to develop a different procedure to allow one ticking material to be substituted for another without the necessity of additional prototype testing. (1)

The Commission solicits suggestions or proposals from NABM and all other interested parties for provisions to allow substitution of ticking materials without new prototype tests. The Commission will evaluate all suggestions or proposals received to determine if provisions of Alternate Sampling Plan No. 4 should be revised or replaced.

(f) Substitution of binding tape. Among the component materials which affect the ability of a mattress to resist cigarette ignition is the binding tape used at the edges of the mattress. Provisions of 16 CFR 1632.61 set forth a procedure to demonstrate that the substitution of one binding tape for another will not adversely influence ignition resistance. This procedure requires the construction of one prototype mattress using the substitute binding tape.

Provisions to allow substitution of one binding tape for another without additional prototype testing are a matter of concern to producers of binding tape who sell their products to mattress manufacturers. However, most producers of binding tape are not equipped to manufacture prototype mattresses needed for the testing prescribed by § 1632.61.

NABM, with the assistance of the National Bureau of Standards and Commission staff, has also been working to develop an alternate procedure to allow substitution of binding tapes without additional prototype testing. (1) The Commission solicits suggestions or proposals from NABM and all other interested parties for provisions to modify or replace those of § 1632.61 regarding substitution of binding tape. The Commission will evaluate all suggestions or proposals received to determine if a new procedure is feasible to specify the conditions under which one binding tape can be substituted for another without additional prototype testing.

(g) Mattress pad support. Section 1632.4(a)(1) of the standard provides that a support system, such as a platform or a bench, shall be used to hold the mattress in a horizontal position for testing. That section provides further that when testing thin, flexible mattresses and mattress pads, the top surface of the support system shall be nonmetallic. Testing experience indicates that the results obtained from testing thin, flexible mattresses and mattress pads can be significantly influenced by the particular type of nonmetallic surface used. (1,7)

The National Bureau of Standards investigated this problem, and recommends that the standard should prescribe the use of a specific surface: a glass fiberboard substrate with a specified thermal conductivity. (7) In view of this recommendation, the Commission is considering revision of § 1632.4(a)(1) to specify, with greater particularity, the type of nonmetallic surface to be used when testing thin, flexible mattresses and mattress pads.

(h) Decubitus and absorbent mattress pads. Decubitus pads are used for the prevention and healing of bed sores. Absorbent pads are designed for use by

people suffering from urinary incontinence.

In the **Federal Register** of July 27, 1979 (44 FR 44175), the Commission proposed to exempt decubitus and absorbent mattress pads from all requirements for testing under the mattress standard. That proposal observed that consumers could be exposed to some risk from untested pads, and for that reason, also specified a labeling requirement to warn the user that the pads may be ignited by cigarettes.

As stated above, the Commission is considering elimination of all requirements for production testing from the standard. Prototype testing of decubitus and absorbent mattress pads is not expected to be burdensome to manufacturers because the design of such pads is rarely changed. (1)

For these reasons, the Commission is considering withdrawal of the proposed exemption of decubitus and absorbent mattress pads. The Commission is also considering amendment of the definition of the products which are subject to the standard to specifically include decubitus and absorbent mattress pads.

(i) Mattress definition. The standard's existing definition of the term mattress in § 1632.1(a) contains language which excludes "liquid and gaseous filled tickings such as water beds" from the coverage of the standard. During the past few years, a new type of mattress combining the traditional mattress with a water bed has been marketed. The Commission staff believes that these mattresses are within the scope of the standard. (1, 7) For this reason, the Commission is considering revision of the definition of the term "mattress" to state expressly that this new type of mattress is subject to the standard.

(j) Mattresses subject to motor vehicle standard. Section 1632.2(c) of the standard states that mattresses which are subject to Motor Vehicle Safety Standard No. 302 are exempt from the requirements of the standard, unless they are also intended and promoted for uses included in § 1632.1(a), which defines the term "mattress." Standard No. 302 was issued by the National Highway Traffic Safety Administration (NHTSA) and is codified at 49 CFR 571.302. Paragraph S4.1 of that Standard No. 302 contains a list of the products subject to the standard, which includes "mattress covers," but not mattresses. After consulting with the staff of NHTSA, the Commission's staff has concluded that no "mattress," as that term is defined in the Commission's standard, is subject to the provisions of Motor Vehicle Safety Standard No. 302. For this reason, the Commission is considering elimination of the exemption in § 1632.2(c). (1, 7)

(k) One of a kind mattresses. In its present form, § 1632.2(d) states: "One of a kind mattresses, such as nonstandard sizes or shapes, may be excluded from testing under this standard pursuant to rules and regulations established by the Consumer Product Safety Commission."

Other provisions of the standard relating to prototype testing state that results of prototype testing are applicable to all mattresses made from the same materials and with the same methods of construction as the prototype tested, notwithstanding any differences of size that may exist among those mattresses. See §§ 1632.1(h) and 1632.4(b)(2)(A).

For this reason, the Commission believes that the language of § 1632.2(d) suggesting that a mattress of a nonstandard size or shape may be exempted from requirements for testing is inconsistent with the provisions of the standard related to prototype testing. (1, 7) The Commission is considering eliminating the phrase "such as nonstandard sizes or shapes" from § 1632.2(d).

(l) Char length measurement. Section 1632.3(b) of the standard states that "individual cigarette test locations pass the test if the char length *on the mattress surface* is not more than 5.1 cm (2 in.) in any direction from the nearest point of the cigarette." (Emphasis added.)

The Commission believes that the drafters of the standard intended that char length should be measured in any direction from the nearest point of the cigarette, including downward into the mattress in the case of burns which penetrate through the surface. (1, 7) To express this intent more clearly, the Commission is considering revision of § 1632.3(b) to delete the phrase "on the mattress surface."

(m) Testing conditions. Section 1632.4(d)(1) of the standard specifies that if a mattress is not tested in a conditioning room, testing of the mattress must be completed within one hour after removal of the mattress from the conditioning room. The Commission believes that this statement was included to allow testing outside of the conditioning room, but to require that in such cases, the test should start promptly after the mattress is removed from the conditioning room. (1, 7) Although the test may be initiated promptly after the mattress is removed from the conditioning room, in some cases the test cannot be completed in one hour. The Commission believes that the original intent could be expressed more clearly, and at the same time, resolve the problem that in some cases, the test cannot be completed in one hour. For these reasons, the Commission is considering revision of § 1632.4(d)(1) to state that testing must be initiated within 10 minutes after the mattress is removed from the conditioning room, and completed within a reasonable period of time, such as two hours.

(n) Retesting. Occasionally cigarettes will pop out of position during tests of mattresses with corded tufts. The Commission staff believes that in such an event, the test at that cigarette location is incomplete, and should be repeated with a freshly lit cigarette. (1, 7) In its present form, the standard makes no specific provision to address this problem. For this reason, the Commission is considering the addition of language to the test procedure in § 1632.4(d)(1) to provide for retesting at any location where a cigarette does not remain on the mattress until it has burned its entire length.

4. *Relevant standards.* The only standard known to the Commission to be relevant to this proceeding is the Standard for the Flammability of Mattresses (and Mattress Pads), 16 CFR Part 1632. The Commission believes that while this standard adequately addresses risks of fire which may result from cigarette ignition of mattresses, the possibility exists that the provisions requiring production testing could be eliminated without significantly reducing the level of protection afforded to the public. The Commission also believes that revision of the provisions of the standard to state more clearly the conditions under which ticking materials and binding tape could be substituted without the necessity for new prototype testing could further reduce the cost of compliance for mattress manufacturers with no detriment to the public safety. The Commission also believes that the other revisions under consideration, discussed above, might improve the clarity and precision of the standard.

5. *Voluntary standards.* As noted above, the Consumer Product Safety Amendments of 1981 added provisions of section 4(g) to the FFA. Those provisions state that a proceeding for the issuance or amendment of a flammability standard shall be initiated by publication of an advance notice of proposed rulemaking, and require that the advance notice of proposed rulemaking shall include, among other things:

(a) a summary of each of the regulatory alternatives under consideration by the Commission, including voluntary standards;

(b) an invitation to all interested parties to submit an existing standard, or portion of a standard, as a proposed regulation; and

(c) an invitation to all interested parties to submit a statement of intention to modify or develop a voluntary standard to address the risk or injury under consideration.

In order to comply fully with all requirements of section 4(g) of the FFA, the Commission is also considering the alternative of revoking the mattress standard and replacing it with a voluntary standard if it receives one or more voluntary standards, or portions of a voluntary standard, or statements of intention to modify or develop a voluntary standard, which would be adequate to reduce or eliminate the risks of injury addressed by the standard and to achieve the same objectives as the contemplated modifications of the standard described above.

6. *Solicitation of public input.* This advance notice of proposed rulemaking is the first stage in a three-stage rulemaking process which may result in amendment of the mattress standard. As discussed above, the Commission may decide to terminate the proceeding and pursue other alternatives for addressing the areas of concern about the provisions of the standard identified in paragraph 3, above. Before making any decision, the Commission wants to be as informed as possible about each alternative. Therefore, the Commission is specifically soliciting from all members of the public:

a. Comments on the risks of injury from fires resulting from cigarette ignition of mattresses.

b. Comments about those provisions of the standard which the Commission has identified as possible subjects for elimination or revision.

c. Comments on alternatives for addressing the risk of injuries from fires resulting from cigarette ignition of mattresses, including both voluntary and mandatory standards.

d. Suggestions about any other alternative not discussed in this notice that the Commission might consider to address risks of injuries from fires resulting from cigarette ignition of mattresses.

e. Submission of any existing standard or portion of a standard that addresses risks of injuries from fires resulting from cigarette ignition of mattresses.

f. Submission of any statements of intention to develop or modify a voluntary standard to address risks of injuries from fires resulting from cigarette ignition of mattresses, together with a plan to develop or modify such a standard. Any plan submitted with a statement of intention to develop or modify a voluntary standard should include, to the extent possible, a description of how interested groups and persons will be incorporated into the project; a detailed discussion of how the project will proceed; a realistic estimate of the length of time that the project will take; a detailed schedule for various stages of the project; a list of the people expected to participate in the project, along with some description of their backgrounds and experience; and a description of any facilities or equipment that will be used during the project.

g. Information relevant to the following areas of concern and inquiry:

(i) What reduction in the costs of testing and recordkeeping would result from (1) the elimination of requirements for production testing; (2) a reduction in the requirements for production testing; or (3) the substitution of provisions requiring each manufacturer to establish its own reasonable testing program?

Estimates of the anticipated reduction expressed in terms of frequency of testing, volume of records, and dollar and hourly expenditures for such testing and recordkeeping are requested.

(ii) What costs to mattress manufacturers might be expected to result from the use of a glass fiberboard substrate when testing thin, flexible mattresses and mattress pads?

(iii) Would any of the proposed revisions of the mattress standard discussed in this notice affect costs of mattress production other than those associated with testing and recordkeeping? If so, information about the nature and amount of those costs is requested.

(iv) What is the anticipated effect, if any, of the proposed revisions discussed in this notice on the price of mattresses and mattress pads? Information is requested about changes in the price of mattresses to wholesalers, retailers, and consumers which may result from the proposed revisions.

(v) Would any or all of the proposed revisions affect all mattress manufacturers alike; or would some firms be affected differently than others by reason of their size, the type of mattresses they manufacture, or for some other reason. Information about any unusual affect on any particular type of mattress manufacturer is requested.

All comments and submissions should be sent to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207 and should be received not later than August 9, 1982.

List of Subjects in 16 CFR Part 1632

Consumer protection, Flammable materials, Labeling, Mattresses and mattress pads, Records, Textiles, Warranties.

Authority: 15 U.S.C. 1193(g).

Dated: June 4, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Bibliography

1. Briefing paper concerning amendments to the mattress flammability standard; 9 pages; February 25, 1982.

2. Rule Review Report, TAB 3—Mattress Flammability Standard, by J. F. Hoebel; 23 pages; February 14, 1980.

3. Report of Consumer Products Safety Commission to Congress concerning review of Commission rules; 44 pages; May 1980.

4. Memorandum from Liz Jones, CARM, to James F. Hoebel, OPM, concerning amendment of mattress standard; 9 pages; April 24, 1981.

5. Evaluation of the impact of the mattress and carpet and rug flammability standards upon industry, by Technology and Economics, Inc.; 107 pages; February 2, 1981.

6. Memorandum from Bea Harwood, HIEI, to Jim Hoebel, OPM, concerning injury findings to support amendment of mattress standard; 3 pages; September 8, 1981.

7. Memorandum from Patricia Fairall, ESMT, to Harleigh Ewell, OGC, concerning amendment of the mattress flammability standard, with attachments; 64 pages; April 24, 1981.

8. Current Industrial Reports, Mattresses, Foundations, and Sleep Furniture, Summary for 1980, issued by the U.S. Department of Commerce; 6 pages; August 1981.

[FR Doc. 82-15669 Filed 6-9-82; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

Abandoned Mine Land Reclamation Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Receipt of the Abandoned Mine Land Reclamation (AMLR) grant application from the State of Illinois.

SUMMARY: On February 10, 1982, the State of Illinois submitted to OSM its proposed Abandoned Mine Land Reclamation (CAMLR) grant application under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). OSM is seeking public comment on the adequacy of the State grant application.

DATES: Written comments on the application must be received on or before 5:00 p.m., June 25, 1982.

ADDRESSES: Copies of the full text of the proposed Illinois grant application are available for review during regular business hours at the following locations:

U.S. Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Court House, 46 East Ohio Street, Room 520, Indianapolis, Indiana 46204
and
Illinois State Office, Number 4, Old State Capital Plaza North, Springfield, Illinois 62701

Written comments should be sent to: Edgar Imhoff, Regional Director, Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Court House, 46 East Ohio Street, Room 524, Indianapolis, Indiana 46204.

FOR FURTHER INFORMATION CONTACT: Rayford Cole, Chief, AML Program, (317) 269–2687.

SUPPLEMENTARY INFORMATION: Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Public Law 95–87, 30 U.S.C. 1201 *et seq.*, establishes an AMLR program for the purposes of reclaiming and restoring land and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation under the program are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for whch there is no continuing reclamation responsibility under State and Federal law.

Each State having within its borders coal mined lands eligible for reclamation under Title IV of SMCRA may submit to the Secretary a State reclamation grant application to implement the provisions of the approved State Reclamation Plan.

However, grants for mine reclamation may be issued only to States with an approved Title V Regulatory Program and an approved State Reclamation Plan.

A State Reclamation Plan for Illinois was submitted to the Secretary on July 22, 1980, approved on May 17, 1982 and will become effective on June 1, 1982. This Plan demonstrated the capability of the State to administer an AMLR program in accordance with Title IV of SMCRA. In approving the State Plan, the Secretary determined that the State had the necessary State legislation to implement the provisions of the Plan.

This notice describes the nature of the proposed projects and sets forth information concerning public participation in the Director's determination of whether or not the submitted application should be approved.

The receipt of the application will result in the implementation of approved projects for the reclamation of abandoned mine lands in Illinois.

All written comments must be mailed or hand carried to the Regional Director's Office above.

The comment period will close at 5:00 p.m. on June 25, 1982. Comments received after that time may not necessarily be considered. During the comment period representatives of the Regional Director's office will be available to meet between 8:00 a.m. and 4:00 p.m. at the request of members of the public to receive their advice and recommendations concerning the proposed State AMLR application.

Persons wishing to meet with representatives of the Regional Director's office during this time period may place such requests with Rayford Cole, Chief, AML Program, telephone (317) 269–2687 at the Regional Director's office above.

Meetings may be scheduled at the Regional Director's office between 9 a.m. and noon and 1 p.m. and 4 p.m. Monday through Friday excluding holidays.

OSM intend to continue to discuss the State's application with representatives of the State throughout the review process.

In order to comply with the requirements of the National Environmental Policy Act, OSM will assess the environmental effects of all State reclamation projects. The primary basis for this assessment will be the environmental information provided in the project grant application.

The Illinois AMLR grant application can be approved if:

1. The Director finds that the public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies.
2. Views of other Federal agencies have been solicited and considered.
3. The application meets all the requirements of the OSM, AMLR program provisions and the required Federal circulars.
4. The State has an approved regulatory program and an approved State reclamation plan.

The following constitutes a summary of the contents of the submission:

1. Designation of authorized State Agency to administer the program,
2. Objectives and need for the assistance,
3. Project ranking and selection,
4. Coordination with other reclamation programs,
5. Results and benefits expected,
6. Plan of action pertaining to the scope,
7. Monthly or quarterly projections of accomplishments to be achieved,
8. Kinds of data to be collected and maintained,
9. Criteria used to evaluate the results and success of the projects,
10. Key individuals to be employed,
11. Precise location of the project and area to be served,
12. Budgetary calculations for each project,
13. Description of the public's participation in planning and preparation of the grant application,
14. A complete environmental assessment for each project.

Reclamation projects included in application, location and description:

1. Little John Mine #5—Phase II, Knox County, Exposed coal refuse producing toxic surface runoff,
2. Alden #6 Mine, Fulton County, Waterfilled air shaft, junk filled main shaft, and refuse,
3. E. B. Catton Mine, Stark County, Coal refuse and acid drainage,
4. Clyde Mine, Macoupin County, Waterfilled air shaft and 6 acres of mine refuse affected area,
5. Coal Valley Group, Rock Island and Henry Counties, Four abandoned mine openings,
6. Coulterville mine, Perry County, Settled air shaft with water at bottom, numerous concrete piers and footings,
7. Littleton Mine, Schuyler County, Refuse and an open waterfilled shaft,
8. Contract with Illinois State Geologist Survey to map known underground mines in Illinois,
9. Contract with Southwestern Illinois Metropolitan Regional Planning Commission and Illinois Department of Commerce and Community Affairs to prepare and inform Illinois units of government regarding subsidence,
10. Funds to contract for four (4) Feasibility/Environmental studies,
11. Funds to contract for four (4) Engineering/Design projects.

List of Subjects in 30 CFR Part 913

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: June 4, 1982.

J. S. Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 82–15780 Filed 6–9–82; 8:45 am]
BILLING CODE 4310–05–M

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30 CFR Part 942

Public Disclosure of Comments Received From Federal Agencies on the Tennessee Proposed Program

AGENCY: Surface Mining Reclamation and Enforcement Office (OSM), Interior.

ACTION: Disclosure of comments on the Tennessee proposed program from Federal agencies.

SUMMARY: Before the Director, OSM, may approve state regulatory programs submitted under Section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain Federal agencies must be solicited and disclosed. The Director has solicited comments from these agencies, and is today announcing their public disclosure on the Tennessee Proposed Program.

ADDRESSES: Copies of the comments received are available for public review during business hours at:

Office of Surface Mining, Reclamation and Enforcement, 530 Gay Street, S.W., Suite 500, Knoxville, Tennessee 37902, Telephone: (615) 971–5104

Office of Surface Mining, Reclamation and Enforcement, Room 5315, 1100 L Street, NW, Washington, D.C. 20240, Telephone: (202) 343–7896

Tennessee Division of Surface Mining, 701 Broadway, Nashville, Tennessee 37203

FOR FURTHER INFORMATION CONTACT: John T. Davis, Assistant Regional Director, Regional II, Office of Surface Mining, Reclamation and Enforcement, 500 Gay Street, SW, Suite 500, Knoxville, Tennessee 37902, Telephone: (615) 971–5103

SUPPLEMENTARY INFORMATION:

The Director, OSM, is evaluating the proposed regulatory program resubmitted by Tennessee for his review on February 3, 1982. See the February 10, 1982, Federal Register (47 FR 6031–6032). In accordance with Section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1), Tennessee's program may not be approved until the Director has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise relevant to the program amendment as proposed. In this regard, the following Federal Agencies were invited to comment on the Tennessee program:

Department of Agriculture:
  Soil Conservation Service
  Forest Service
Advisory Council on Historic Preservation
Department of Labor:
  Mine Safety and Health Administration
Environmental Protection Agency
Water Resources Council
Department of Energy
Department of the Interior:
  Bureau of Indian Affairs
  Bureau of Land Management
  Bureau of Mines
  Fish and Wildlife Service
  Minerals Management Service
  National Park Service
  Geological Survey
U.S. Army Corps of Engineers
Tennessee Valley Authority
Appalachian Regional Commission

Of those agencies invited to comment, OSM received comments from the following offices:

Environmental Protection Agency
Department of the Interior:
  Fish and Wildlife Service
  Minerals Management Service
  Bureau of Mines
Advisory Council on Historic Preservation
Department of Labor:
  Mine Safety and Health Administration
Tennessee Valley Authority
U.S. Army Corps of Engineers
Department of Agriculture:
  Forest Service

These comments are available for review and copying during business hours, at the locations listed above under "Addresses."

Dated: June 3, 1982.

W. B. Schmidt,

Assistant Director, Program Operations and Inspection, Office of Surface Mining, Reclamation and Enforcement.

[FR Doc. 82-15799 Filed 6-9-82; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 25, 26, and 162

[CGD 74-284]

Fixed Fire Extinguishing Systems for Uninspected Vessels

AGENCY: Coast Guard, DOT.

ACTION: Extension of comment period on proposed rules.

SUMMARY: In the Federal Register of April 19, 1982 (46 FR 16648) the Coast Guard proposed standards for fixed fire extinguishing systems on uninspected vessels. The closing date for receiving comments was June 3, 1982. This notice extends the comment period to August 2, 1982.

DATE: Comments are due on or before August 2, 1982.

ADDRESSES: (a) Comments should be mailed to Commandant (G–CMC/24, CGD 74–284) U.S. Coast Guard, Washington, D.C. 20593. The comments will be available for examination and copying between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays, at the Marine Safety Council (G–CMC/24), Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. Klaus Wahle, Office of Merchant Marine Safety (G–MVI–3/12), Room 1210, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, D.C. 20593 (202–426–1444).

Discussion

The action is taken in response to requests for additional time to prepare detailed comments on the technical requirements of the proposal.

(46 U.S.C. 526p and 1454; 49 U.S.C. 1655(b); and 49 CFR 1.45)

Dated: June 2, 1982.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 82-15797 Filed 6-9-82; 8:45 am]

BILLING CODE 4910-14-M

46 CFR Parts 35, 58, 78, 97, 111, 112, and 196

[CGD 75-001]

Elevators and Dumbwaiters

AGENCY: Coast Guard, DOT.

ACTION: Termination of rulemaking.

SUMMARY: In the Federal Register of April 5, 1976, the Coast Guard proposed design and construction requirements for elevators and dumbwaiters on merchant vessels. A determination has been made not to finalize the proposed rules, and accordingly, the rulemaking is terminated. Voluntary industry standards have been developed and are being followed by elevator manufacturers in designing shipboard installations. These standards, coupled with periodic follow-up safety inspections by the Coast Guard alleviate the need for additional regulations.

ADDRESSES: *ANSI A17.1—Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks,* which is referenced below, can be obtained from the American Society of Mechanical Engineers, 345 East 47th Street, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: LTJG William R. Cairns, Office of Merchant Marine Safety (G–MTH–2/12), U.S. Coast Guard Headquarters, 2100

Second Street, SW., Washington, D.C.20593 (202/426–2206).

SUPPLEMENTARY INFORMATION: ANSI A17.1 is a final standard and it is currently being revised to include provisions for rack and pinion elevators. The American Society for Testing and Materials (ASTM) is also preparing elevator standards but they are not yet available in final form. In addition to these standards, the Electrical Engineering Regulations in Subpart 111.91 and § 112.15–5(b) of Title 46 Code of Federal Regulations, contain requirements for elevator control and interlock circuits, control switches, and elevator power sources.

(46 U.S.C. 375, 391a, 416, and 481; 49 U.S.C. 1655(b); 49 CFR 1.46)

Dated: June 4, 1982.

Clyde T. Lusk, Jr.,

Real Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 82-15700 Filed 6-9-82; 8:45 am]

BILLING CODE 4910-14-M

Research and Special Programs Administration

49 CFR Parts 173 and 178

[Docket No. HM–182, Advance Notice]

Specifications for and Use of Specification 17E Steel Drums

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: This ANPRM provides information and the opportunity to comment on the merits of amending the specification requirements for the 17E steel drum to allow certain reductions in head and body thickness provided the drum is manufactured with triple-seamed chimes. Minimum thicknesses under consideration would be either head sheets of 18 gauge steel and body sheets of 20 gauge steel or both head sheets and body sheets of 20 gauge steel depending on the degree of hazard of the material to be transported in the drum.

DATE: Comments must be received on or before September 2, 1982.

ADDRESS COMMENTS TO: Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590 (202)–426–3148. Comments should identify the docket and be submitted, if possible, in five copies. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are 8:30 a.m. to 5:00, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Thomas J. Charlton, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–2075).

SUPPLEMENTARY INFORMATION: On April 19, 1979, PPG Industries, Incorporated, filed an application for an exemption from 49 CFR 173.119(a)(3) to allow the shipment of certain flammable liquids having a flashpoint of 20°F or less in 55 gallon DOT 17E steel drums with a triple-seamed chime construction and having a body thickness of 20 gauge in place of the minimum body thickness of 18 gauge required by the regulations. PPG supported this request by citing test results which, the applicant held, proved that the drum could pass all current DOT test requirements for an all 18 gauge DOT 17E steel drum. The request was assigned application number 8187–N and published for comment in the Federal Register on May 21, 1979 (44 FR 29551).

After a thorough study of the application and the supporting information provided, as well as consideration of all public comments submitted relative to the application, the Associate Director for Hazardous Materials Regulation advised PPG Industries that the request was denied. An appeal of this denial was filed in accordance with 49 CFR 107.121 and was subsequently denied by the Director, Materials Transportation Bureau. The basis for denial of the appeal as well as the original request, was *inter alia,* that the subject raised in the application was of such general applicability and future effect that it could not appropriately be considered as an exemption and could only be adequately evaluated through a rulemaking proceeding (49 CFR 107.109(e)).

On January 1982, a petition for rulemaking was filed by Inland Steel Container Company (Inland) which requested amendment of the DOT Hazardous Materials Regulations to allow the use of a triple-seamed steel drum meeting all requirements of DOT Specification 17E except that the minimum thickness of body and head sheets would be reduced from that currently prescribed. The Inland petition is similar in many respects to the PPG petition; however, it is much broader in scope in that it applies to all hazardous materials for which a Specification 17E drum is currently authorized. The Inland petition is supported by a number of letters submitted by major shippers of hazardous materials.

Because of the increasing general interest on the part of shippers and steel drum manufacturers in the use of triple-seamed drums complying with DOT Specification 17E with the exception of reduced body and/or head thicknesses, MTB believes it is now appropriate to solicit views on this subject from all segments of the public, looking towards a possible amendment of the Hazardous Materials Regulations authorizing the use of such drums. In order to afford the public ample opportunity to consider the merits of such action, MTB is providing in this publication a reproduction of the salient points of the Inland petition. The Inland petition proposes specific amendments and provides supporting information as follows:

Substance of the Petition

It is proposed that existing regulations be revised to authorize the shipment of certain commodities in steel drums which conform in all respects except steel thickness to Specification 17E (§ 178.116), and which are manufactured with triple-seamed chimes. Specifically it is proposed that:

(1) Commodities that are presently authorized in Part 173 to be shipped in drums of 55 gallon capacity or less, constructed with head sheets of 18 gage steel and body sheets of 20 gage steel, be authorized in triple seamed drums constructed of 20 gage steel throughout, and

(2) Commodities that are presently authorized through § 173.119(a) to be shipped in drums of 55 gallon capacity or less constructed of 18 gage steel throughout, be authorized in triple-seamed drums constructed with head sheets of 18 gauge steel and body sheets of 20 gauge steel.

To accomplish this purpose, the following revisions are proposed:

§ 178.116–6

This paragraph to be modified by appending footnote 3 to the 18 gauge minimum shown in the "Head sheet" column of the table for 55 gallons maximum capacity drums. The footnote to read as follows: "20 gage authorized, provided heads are seamed to bodies by a process which results in chimes with seven overlapping layers formed from the parent and body steel."

§ 173.119(a)(3)

This paragraph to be modified by revising the third sentence to read as follows: "Drums with a marked capacity in excess of 30 gallons must be constructed of 18 gage body and head sheets, except that 20 gage is authorized for the body sheets if heads are seamed to bodies by a process which results in chimes with seven overlapping layers

formed from the parent head and body steel."

Background of the Proposal

The Specification 17E drum in the 55 gallon size, which is the subject of this petition is well-known as the most widely used packaging for hazardous liquid substances, where the degree of hazard falls within a range from relatively low to moderately severe. Because it has become highly standardized in dimension and construction, it is also the accepted packaging for non-hazardous liquids. It is, in fact, a world standard packaging for the transport of a vast variety of liquid substances in industrial and commercial trade.

U.S. production of new drums that conform to the requirements of this specification was approximately 22.5 million units in 1980. Of these, 9.0 million were 18 gage throughout and 11.5 million were made with 20 gage bodies and 18 gage heads (20/18). In addition, approximately 2.0 million drums of the same type of construction, but made of 20 gage steel throughout were produced.

Because of the considerable market for this type of packaging, the design of the drum and the processes for its manufacture have become highly developed. Drums are produced today on automated lines operating under controlled conditions at rates up to 900 drums per hour. Product uniformity and quality is not only a requirement for shipper satisfaction, it is essential to the efficient operation of these facilities.

From a product design standpoint, there have been two significant developments in recent years that have led to the improved drum performance. The first of these, the drop panel bottom, significantly reduced the incidence of vibration induced botton failures. The second, and the one which is the basis for this petition, is the triple seam.

Initial development of what has come to be known as triple seam chime construction, was done in Europe in the late 1960's in response to a perceived need to improve drum performance under the conditions which are simulated in a drop test. Several designs were produced and in fact still available, but all designs have tended to approach a standard in which a tight chime with seven overlapping layers is produced. This construction is attainable uniformly under well-controlled, high speed production conditions.

Triple seamed drums were introduced in the U.S. in 1978 by means of license agreements with European manufacturers. Since that time, the drum, in a wide variety of gage combinations, has become standard in Europe, and is being produced broadly in the U.S. by some 14 manufacturers.

In Europe, triple seam chime construction has resulted in a dramatic shift in the mix of drum types. Prior to 1970, the standard drum was 1.25mm, with some production of 1.0mm drums and .625mm chime reinforced Monostress. Since that time, the 1.0mm drum, along with a .9/1.0 version, has become the most common. Additionally, drums are being produced in greater quantity in .825mm and .75mm versions, and a triple seamed Monostress drum is being used in a combination .6/.825mm version.

In the U.S. triple seamed drums are being produced in 18, 20/18 and 20 gage versions in quantity, and in 16 gage on a more limited basis.

It should be noted that while steel is purchased in the U.S. to a given decimal with no negative tolerance, the practice in Europe is different. Steel is purchased there with both plus and minus tolerances. Therefore, steel stated as 1.0mm can be expected to vary both above and below that thickness by 2 to 4%; whereas, steel purchased in the U.S. to a .0324" minimum decimal (20 gage) can be expectd to average from 2 to 4% heavier. Appendix I illustrates the relationship between European metric steel thicknesses and U.S. gages.

In summary, triple seam chime construction is now a highly developed production technique; it is the accepted method for a very significant segment of word drum production; and it has enabled manufacturers to produce lighter, less costly drums. The reasons for this transition are presented in the following section on performance.

Performance Capability of Triple Seamed Drums

Triple seaming is a process by which a drum head is joined to drum body by mechanically rolling up circumferential flanges on the two pieces into seven layer chime. This construction contrasts with previous double seaming practice which results in a five layer chime. Appendix II pictorially compares the two types of chimes in cross-section.

A triple seamed chime as a result of the additional thickness and interlocking of the layers has superior performance characteristics when compared to a double seamed chime. It is more resistant to denting and other concentrated impact damage; it performs in vastly superior manner when subjected to the more dispersed crushing force of a fall from a height; it has better resistance to the unrolling force exerted by severe internal pressure; and its tight construction is inherently more leakproof.

As a result of this performance capability, drums manufactured with triple seamed chimes in a given steel gage meet and exceed the performance standards set for heavier gage drums. This is clearly demonstrated in the tests conducted for Inland by Gaynes Laboratories.

In the tests three drum styles were subjected to the series stipulated in the *United Nations Recommendations on the Transportation of Dangerous Goods* for packagings suitable for the carriage of Packing Group I substances with a specific gravity 1.2 or less. This level exceeds in severity that specified in DOT specification 17E and includes all of the tests required for that specification.

The three styles tested were 55 gallon 18 gage, 55 gallon 20/18 gage and 55 gallon gage. The drums were manufactured with triple seamed chimes, and except for the nonspecification gage of the 20 gage drums, were made in accordance with the construction requirements in DOT specification 17E.

The U.N. tests conducted were the 1.8 meter (6') diagonal and flat drop tests, 250 kpa (36.2 psi) internal hydrostatic pressure test, 8 meter (26') stacking test and 30 kpa (4.3 psi) air pressure leak test. Supplemental tests included the DOT specified 7 psi air pressure leak test, a 40 psi internal hydrostatic pressure test and a one hour, 285 rpm vibration test on a table having a 1" displacement. There were no failures in any of the tests conducted.

Copies of the test reports prepared by Gaynes Laboratories are included in Appendices III, IV and V.

Statement of Shipper Interest

Accompanying this petition are several letters from shippers, addressed to the Office of Hazardous Materials, which set forth an interest in the adoption of our proposed regulation change. The interest stated is based on the following reasons:

1. Shippers have had successful experience with the use of 20 gage and 20/18 gage triple seamed drums for several years and in numerous shipments. Some of this experience is described in the shippers' letters.

2. Triple seamed drums in test experience perform in superior fashion when compared with double seamed drums.

3. The ability to use lighter weight drums in transport offers an opportunity to reduce costs. The following weight* comparisons are noted:

55 gallon 18 gage—43.5#
55 gallon 20/18 page—36#
55 gallon 20 gage—33#

*Based on theoretical weight at DOT minimum decimal. Actual weights will be somewhat higher.

4. The use of triple seamed drums is an enhancement to transportation safety. This construction method offers the opportunity for steel thickness reduction without compromising safety in transport.

Conclusion

Inland Steel Container believes that for the reasons which have been discussed in the body of this petition, a regulatory change is warranted. Further, it is believed that this is consistent with the position that DOT has supported in international discussions promoting performance oriented specifications for packagings.

Approval of the change would provide benefits to U.S. business in cost reduction and in improved competitive position in world trade.

APPENDIX I.—COMPARISON OF U.S. AND EUROPEAN STEEL THICKNESSES FOR STEEL DRUMS

[DOT thicknesses]

U.S. gage	DOT nominal		DOT minimum	
	Inches	Millimeters	Inches	Millimeters
24	0.0239	0.607	0.0209	0.531
22	.0299	.759	.0269	.683
20	.0359	.912	.0324	.823
19	.0418	1.062	.0378	.960
18	.0478	1.214	.0428	1.087
16	.0598	1.519	.0533	1.354

[European Ordering Thicknesses]

Nominal		U.S. Manufacturers gage range
Inches	Millimeters	
0.0246	0.625	24
.0295	.75	22
.0354	.90	20
.0394	1.00	19
.0492	1.25	18
.0591	1.50	16

For the sake of brevity, Appendix II of the Inland petition, which presents a cross-sectional diagram of both a triple-seamed chime and a standard double-seamed chime, has not been reproduced in this ANPRM. In addition, since the tests and test results presented in Appendices III, IV and V of the Inland petition were summarized in the body of the petition, they have not been reproduced in this ANPRM. Copies of each of these appendices are available for review in the docket file.

The statement of shipper interest referred to in the Inland petition were filed by the following shippers of hazardous materials: Monsanto Company, PPG Industries, Inc., Economics Laboratory, Inc., Nalco Chemical Company.

Copies of these statments are available for review in the docket file.

In connection with this ANPRM and the Inland petition for rulemaking, it should be noted that applications for exemptions, again concerning the minimum thickness of DOT 17E drums, have been received for consideration under 49 CFR 107.103. These applications request authorizations to manufacture, mark and sell a steel drum with head sheets of a thickness below the minimum thickness prescribed but are otherwise in full compliance with Specification 17E. The following applications are being reviewed:

1. *Mauser-Werke G. m.b.H., West Germany.* Top and bottom heads will be made of 1mm (0.0366 inch minimum) steel in place of 18 gauge (0.0428 inch minimum) steel presently required. For materials authorized to be packaged in DOT–17E, 20/18 gauge drums.

2. *G. Schonung & Co., West Germany.* Top and bottom heads will be 1 mm (0.0366 inch minimum) steel in place of 18 gauge (0.0428 inch minimum) steel presently required. For materials authorized to be packaged in DOT–17E drums.

3. *Natico, Inc., USA.* Top and bottom heads would be 20 gauge (0.0324 inch minimum) steel in place of 18 gauge (0.0428 inch minimum) steel presently required. For materials authorized to be packaged in DOT–17E drums.

Comments are solicited on the amendments requested in the Inland petition and on the following questions:

1. What has been the transportation experience in the use of both all 20 gage triple-seamed drums and 20/18 gage triple-seamed drums for hazardous (when authorized) and nonhazardous materials;

2. What would be the safety implications, if any, particularly with respect to resistance to puncture, if the reduced body and head thicknesses were authorized under the conditions proposed by Inland; and,

3. What would be the economic benefits and consequences associated with adoption of the Inland petition with regard to the purchase of new and used drums.

List of Subjects in 49 CFR

Part 173

Hazardous materials transportation, Packaging and containers.

Part 178

Hazardous materials transportation, Packaging and containers.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1 and paragraph (a)(4) of App. A to Part 106)

Note.—The Materials Transportation Bureau has determined, on the basis of limited information currently available, that adoption of the petition presented in this advance notice would not result in a "major rule" under the terms of Executive Order 12291 and DOT procedure (44 FR 11034) nor require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, et seq.) I certify that the petition presented in this advance notice would not, if adopted, have a significant economic impact on a substantial number of small entities that purchase drums.

Issued in Washington, D.C., on June 2, 1982.

Joseph T. Horning,

Acting Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-15524 Filed 6-9-82; 8:45 am]

BILLING CODE 4910-60-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 82-12; Notice 1]

Federal Motor Vehicle Safety Standards; Standard No. 201, Occupant Protection in Interior Impact

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: Standard No. 201, *Occupant Protection in Interior Impact*, sets requirements for instrument panels, interior compartment doors, seat backs, sun visors, and arm rests to lessen injuries to persons thrown against them in crashes. As of September 1, 1981, the standard applies to trucks, buses and multipurpose passenger vehicles. Blue Bird Body Co. has requested the agency to exclude school buses from the standard arguing that school buses have to meet the requirements of Standard No. 222, *School Bus Passenger Seating and Occupant Protection*. The agency agrees that the seat back requirements of the two standards overlap and therefore this notice proposes to exempt school buses from the seat back requirements of Standard No. 201. The other requirements of Standard No. 201 do not overlap with Standard No. 222 and therefore Blue Bird's requests to exempt school buses from those requirements is denied.

DATE: Comments are due by July 26, 1982. The proposed amendment would be effective 30 days after publication of the final rule in the **Federal Register.**

ADDRESS: Comments should refer to the docket number and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Docket hours are 8 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: William Smith, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202–426–2242).

SUPPLEMENTARY INFORMATION: On November 29, 1979 (44 FR 68470), the agency amended Standard No. 201, *Occupant Protection in Interior Impact,* to make it applicable to trucks, buses and multipurpose passenger vehicles with a gross vehicle weight rating of 10,000 pounds or less. The amendment went into effect on September 1, 1981. The purpose of the standard is to reduce driver and passenger injuries by specifying requirements for instrument panels, seat backs, sun visors, interior compartment doors and arm rests to lessen the injuries incurred by people thrown against them in a crash.

Blue Bird Body Co., a manufacturer of school buses, has requested the agency to exempt school buses from Standard No. 201. Blue Bird said that school buses also have to comply with Standard No. 222, *School Bus Occupant Seating and Crash Protection,* whose requirements cover the same aspects of performance. Because Standard No. 222 was specifically developed for school buses, Blue Bird said that school buses should be exempt from the overlapping requirements of Standard No. 201.

As explained below, the agency agrees that the seat back requirements of Standard No. 201 and 222 overlap and therefore the agency proposes to grant school buses an exemption from Standard No. 201. The other requirements of Standard No. 201 do not overlap with Standard No. 222 and thus the agency denies Blue Bird's request to exempt school buses from those requirements.

Seat Backs

One of the purposes of Standard No. 201 is to prevent or reduce injuries to rear seat passengers thrown against the backs of front seats in a crash. The standard requires the portions of the seat back that are within a specified head impact area to be struck by a head form at a speed of 15 miles per hour. During that impact, the deceleration of the head form cannot exceed 80g continuously for more than 3 milliseconds.

Standard No. 222 also is designed to prevent or reduce injuries to passengers thrown against seat backs in a crash. The standard uses a 15 mile per hour impact test. The head form used in Standard No. 222, however, has an additional small hemisphere, not found on the Standard No. 201 head form.

The performance requirements of Standard No. 222 are substantially different from the performance requirements of Standard No. 201. Standard No. 222 specifies that during the impact test, the accleration measured by the head form cannot exceed a head injury criterion of 1,000. (The head injury criterion is a measure of potential injury to the head based on the magnitude and duration of the force of an impact.) The standard also sets energy absorption and force distribution requirements that are not specified in Standard No. 201.

Because the performance requirements of the two standards are different, it is not possible to make a direct comparison of the relative severity of the two sets of performance requirements. The requirements of Standard No. 222 are more comprehensive than Standard No. 201 since they include energy absorption and force distribution specifications. Because the seat back requirements of Standard No. 222 were developed specifically for school buses and are more comprehensive than the requirements of Standard No. 201, the agency has tentatively decided that it is appropriate to exempt school buses from the seat back requirements of Standard No. 201.

Additional Requirements

In addition to the requirements for seat backs, Standard No. 201 sets performance requirements for instrument panels, interior compartment doors, sun visors and arm rests to prevent or reduce injuries to persons thrown against them in crashes. Since Standard No. 222 does not contain any performance requirements for those specific items, it is not appropriate to grant Blue Bird's request that school buses complyintg with Standard No. 222 be exempted from those requirements of Standard No. 201.

The agency has considered the economic and other effects of this proposal and has determined that the proposed rule is not a major rule within the meaning of Executive Order No. 12291. The agency has further determined that the proposal is not significant within the meaning of the Department of Transportation's regulatory procedures. The basis for those determinations is that the proposed exemption does not impose any new restrictions; it merely eliminates redundant requirements for seat backs. The expected impacts are so minimal that the proposal does not warrant a full Regulatory Evaluation.

The agency has also considered the effect of this proposal in relation to the Regulatory Flexibility Act and certifies that the proposal would not have a significant economic impact on a substantial number of small entities. As explained previously, the effect of the proposal is to exempt school bus manufacturers from having to comply with the overlapping requirements. The exemption should reduce, although not by a substantial amount, the testing and design costs for school bus manufacturers.

The proposal will not have a significant effect on a substantial number of small government jurisdictions and small organizations. Those entities are affected because they are purchasers of school buses. The cost impact of the proposed exemption is minimal. Accordingly, no initial regulatory flexibility analysis has been prepared.

Finally, the agency has analyzed this proposal for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action would not have any significant effect on the human environment.

The rule would become effective 30 days after publication in the **Federal Register.**

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. 552(b)(4), and that disclosure of the

information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, National Highway Traffic Safety Administration, Rubber and rubber products, Tires.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

For the reasons set out in the preamble, the following amendment is proposed in § 571.201, *Occupant Protection in Interior Impact*, of Title 49, Chapter V of the Code of Federal Regulations.

1. S3.2.1 would be amended by revising it to read as follows:

§ 571.201 [Amended]

* * * * *

S3.2.1 The requirements of S3.2 do not apply to school bus seats that comply with the requirements of Standard No. 222, *School Bus Passenger Seating and Occupant Protection* (49 CFR 571.222) or to rearmost, side-facing, back-to-back, folding auxiliary jump, and temporary seats.

* * * * *

(Secs. 103 and 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392 and 1407); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on June 4, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82-15773 Filed 6-9-82; 8:45 am]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 47, No. 112
Thursday, June 10, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

New Mexico; Advisory Council on Historic Preservation Programmatic Agreement Regarding Ongoing Activities

AGENCY: Advisory Council on Historic Preservation, Land Management Bureau, Interior.

ACTION: Notice.

SUMMARY: The Advisory Council on Historic Preservation proposes to execute a Programmatic Memorandum of Agreement pursuant to Sec. 800.8 of the regulations for the "Protection of Historic and Cultural Properties" (36 CFR Part 800) with the U.S. Department of the Interior, Bureau of Land Management, and the New Mexico State Historic Preservation Officer. This Agreement will establish a standard process for consultation between the Bureau and the State Historic Preservation Officer to identify and avoid or mitigate adverse effects on historic properties that would otherwise result from the Bureau's ongoing activities in the State of New Mexico.

DATE: Comments due: July 12, 1982.

ADDRESS: Comments should be addressed to Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas F. King, Director, Office of Cultural Resource Preservation, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, D.C. 20005 (202–254–3974).

SUPPLEMENTARY INFORMATION: This notice of the proposed agreement invites comments from interested parties. Copies of the proposed agreement are available from the Council.

Dated: June 7, 1982.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 82–15694 Filed 6–9–82; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Forest Service

Medicine Bow National Forest Grazing Advisory Board Meeting

The Medicine Bow National Forest Grazing Advisory Board will meet July 8, 1982, at 9:00 a.m. at Lawrence Prager's Ranch on the Laramie Peak District. The Board, Forest Service personnel and interested public will then proceed to look at range improvements, range condition and allotment management on the Laramie Peak District.

The Board will make recommendations concerning the development of Allotment Management Plans and utilization of Range Betterment Funds.

The meeting will be open to the public. Persons who wish to attend and participate should notify Don Schmidtlein, Medicine Bow National Forest (307–745–8971) prior to the meeting date. Public members may participate in discussions during the tour at any time or may file a written statement following the meeting.

Dated: June 4, 1982.

Donald L. Rollens,

Forest Supervisor.

[FR Doc. 82–15771 Filed 6–9–82; 8:45 am]

BILLING CODE 3410–11–M

Modoc National Forest Grazing Advisory Board; Meeting

The Modoc Grazing Advisory Board will hold a meeting July 15, 1982.

The Board will field review the Owl Creek Cottonwood Allotment Plan.

Board members will provide their own horses and will assemble at Pepperdine Camp on the Warner Mountain Ranger District at 10:00 a.m. For further information, contact William E. Britton at 916–233–5811.

June 2, 1982.

Glenn Bradley,

Forest Supervisor.

[FR Doc. 82–15697 Filed 6–10–82; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Assistant Secretary for Economic Affairs

Memorandum of Understanding With the Federal Laboratory Consortium for Assistance in Technology Transfer to State and Local Governments

AGENCY: Office of the Assistant Secretary for Economic Affairs, Commerce.

ACTION: Notice.

SUMMARY: The Office of the Assistant Secretary for Economic Affairs announces that it has entered into a Memorandum of Understanding with the Federal Laboratory Consortium for Technology Transfer (FLC) to provide major assistance to the Department of Commerce in carrying out the cordination functions called for by Sections 11(d) (3) and (4) of the Stevenson-Wydler Technology Innovation Act of 1980 (P.L. 96–480) in dealing with State and local governments. These functions involve the utilization of the expertise and services of the FLC in dealing with State and local governments and the referral of requests for technical assistance to the appropriate Federal laboratory or laboratories.

FOR FURTHER INFORMATION CONTACT:

Mr. Egils Milbergs, Director, Office of Productivity, Technology and Innovation, U.S. Department of Commerce, Washington, D.C. 20230, (202) 377–1581

Dr. Eugene Stark, Chairman, Federal Laboratory Consortium, Los Alamos National Laboratory, Los Alamos, New Mexico 87545, (505) 667–1230

SUPPLEMENTARY INFORMATION: The Department of Commerce is authorized by Section 11(d)(4) of the Stevenson-Wydler Act to "receive requests for technical assistance from State and local governments and refer these requests to the appropriate Federal laboratories." Because the FLC represents most of the nation's largest Federally sponsored laboratories and

has an active program of coordination, the Department of Commerce and the FLC have agreed to cooperate in carrying out the above-cited responsibility. By this Memorandum of Understanding, the FLC agrees to process requests for technical assistance by identifying the Federal laboratory or laboratories which appear to have the particular expertise relevant to the request. Requests for assistance should be directed to the following Regional Coordinators of the FLC:

Far West Region, Lawrence Livermore National Laboratory, Mr. Gerald Richards, L–404, P.O. Box 808, Livermore, CA. 94550, 415–422–6416

Mid Continent Region, Los Alamos National Laboratory, Dr. Eugene Stark, MS 352, Los Alamos, N.M. 87545, 505–667–1230

Midwest Region, Air Force Wright Aeronautical, Laboratories, Mr. James G. Johnson, Wright Patterson AFB, OH. 45433, 513–255–5804

Northeast Region, Naval Air Engineering Center, Mr. Michael Palamar, Code 9011, Lakehurst, N.J. 08733, 215–323–2391

Mid Atlantic Region, Naval Air Development Center, Mr. Jerome Bortman, Warminster, PA. 18974, 215–441–3100

Southeast Region, Air Force Engineering and Service Center, Mr. Robert E. Brandon, Tyndall AFB, FL. 32403, 904–283–6309

The Memorandum states that the FLC will not knowingly provide a service to any requestor that is available privately at reasonable cost and timeliness. The FLC will report annually to the Department on the number and nature of requests processed by the FLC during the preceding fiscal year. The Department of Commerce will undertake to make the potential user community aware of the FLC role, and make available to the FLC the data base of Federal laboratory technical activities and contact points.

The Memorandum is reproduced verbatum below.

Dated: June 3, 1982.

Robert G. Dederick,

Assistant Secretary for Economic Affairs.

Memorandum of Understanding Between the Department of Commerce and the Federal Laboratory Consortium for Technology Transfer

I. Purpose

The purpose of this memorandum is to arrange for the Federal Laboratory Consortium for Technology Transfer (FLC) to provide major assistance to the Department of Commerce (DoC) in carrying out the brokerage functions mandated by sections 11(d) (3) and (4) of the Stevenson-Wydler Technology Innovation Act of 1980 (Pub. L. 96–480).

II. Areas of Technical Expertise of FLC Members

The members of the FLC represent the nation's largest Federal laboratories. These laboratories, both civilian and military, are generally multidisciplinary in composition, and contain many unique research and development activities ranging from the basic sciences to prototype development. Areas of expertise include, for example, civil engineering; computer design and application; chemistry; geology; energy production, conversion, transmission, use, and conservation; environmental pollution and control; forest products; industrial and mechanical engineering; materials sciences; mathematical sciences; medicine and biology; transportation; photography and recording devices; physics; marine sciences; information sciences; building industry technology; and administration and management; physics; and forestry sciences.

III. The Form of FLC Technology Transfer

Within the Federal Laboratory Consortium, technology transfer is accomplished in a variety of ways. In one approach, one of the Defense Department laboratories may perform civilian oriented R&D work with funding provided by such requesting institutions as federal, state, or local government agencies. These R&D projects are applied to civilian problems, but the solutions are based upon earlier research performed for mission-oriented purposes. Other members of the Consortium are specifically chartered and funded to work in the civilian area. Therefore, they are directing their technology transfer efforts toward the increased use of their research results by decision makers and operational agencies in the public and private sector. In addition to performing R&D activities and striving for greater use of their R&D products, the Consortium members transfer their technology in others ways. Consortium representatives assist state and local government agencies in a variety of nonrefundable ways, such as serving on scientific advisory boards, acting as technical advisors to specialized groups (e.g., law enforcement, pollution control agencies, or fire prevention committees), identifying sources of surplus government equipment, and arranging for personnel exchanges under the Intergovernmental Personnel Act.

One major service provided by the Consortium is in the area of brokerage. Because of the nature of their activities, Consortium representatives are frequently exposed to new technologies developed by private enterprise, by state or local governments, or by another federal laboratory. Therefore, these technology transfer coordinators can serve as "technology brokers" by bringing together the individual or agency that has a problem or need with agencies which have already solved it or who are working in the area.

IV. Terms by Which Technical Assistance is Provided

Under the mandate of the Technology Innovation Act of 1980, the laboratories provide technical assistance to state and local governments, where appropriate, utilizing existing laboratory resources without charge to the users to the extent possible. Internal laboratory and agency policies vary greatly with respect to reimbursement for services rendered. Determinations of the level of effort required, available facilities and personnel, relation of the proposed effort to laboratory missions, and unique statutory or policy requirements must be made on a case-by-case basis.

V. Responsibilities of the FLC

The FLC, which is sponsored in part by the National Science Foundation (NSF), will act as a non-exclusive broker between the various Federal laboratories and industry and State and local governments. Requests for technical assistance from industry and government may be made in writing to the FLC, and shall include the common-interest groups (e.g., trade associations, State and local government associations, etc.) to which the requestor belongs, state other sources to whom the request has been sent, and note the requestor's involvement in any Federal programs relevant to the request. The FLC agrees to forward these requests to appropriate Federal laboratories, but will not be responsible for the responsiveness of individual laboratories. The FLC will report annually to the DoC on the number and nature of requests processed by the FLC during the preceding fiscal year. The reports shall be received by the DoC no later than December 31 of each year.

VI. Responsibilities of the DoC

DoC will undertake to make industry and State and local government aware of the FLC brokerage role through press releases, **Federal Register** notices, and so on. In addition, DoC will make available to the FLC a data base of

Federal laboratory technical activities and contact points, which will be constructed from the "application assessments" submitted to DoC pursuant to section 11 of Pub. L. 96–480.

VII. Competition with the Private Sector

The FLC will not knowingly provide a service to any requestor that is available privately at reasonable cost and timeliness. Nor does this memorandum in any way restrict contacts between business and governments with Federal laboratories.

VIII. Termination

This agreement may be terminated by either party upon 90-day written notice to the other party.

IX. Authorized Signatures

This agreement is executed by the authorized parties whose signatures are affixed below.

Dated: May 27, 1982.

For the Federal Laboratory Consortium.

Dr. Eugene Stark, Jr.,

Chairman, Federal Laboratory Consortium for Technology Transfer.

Dated: May 27, 1982.

For the Department of Commerce.

Dr. Robert G. Dederick,

Assistant Secretary for Economic Affairs.

[FR Doc. 82-15762 Filed 6-9-82; 8:45 am]

BILLING CODE 3510-18-M

International Trade Administration

Discrete Semiconductor Device Subcommittee of the Semiconductor Technical Advisory Committee; Partially Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Semiconductor Technical Advisory Committee was initially established on January 3, 1973, and rechartered on August 29, 1980 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on September 19, 1980 pursuant to the charter of the Committee.

The Discrete Semiconductor Device Subcommittee was formed to study transistor, diode, photoconductive, and thyristor semiconductor devices with the goal of making recommendations to the Department of Commerce relating to the appropriate parameters for controlling exports for reasons of national security.

TIME AND PLACE: June 29, 1982, at 9:30 a.m. The meeting will take place at the Main Commerce Building, Conference Room A, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

The Subcommittee will meet only in Executive Session to discuss matters properly classified under Executive Order 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to section 10(d) of the Federal Advisory Committee Act, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12065. A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, Telephone: 202–377–4217.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT: Mrs. Margaret A. Cornejo, Office of the Director of Licensing, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202–377–2583.

Dated: June 4, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82-15765 Filed 6-9-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigation; Deformed Steel Bars for Concrete Reinforcement From South Africa

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in South Africa of deformed steel bars for concrete reinforcement receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If our investigation proceeds normally, we will make our preliminary determintion on or before August 11, 1982.

EFFECTIVE DATE: June 10, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph A. Black, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230 (202) 377–1774.

SUPPLEMENTARY INFORMATION:

Petition

On May 18, 1982, we received a petition from counsel for Industrial Siderurgica, Inc., on behalf of the U.S. industry producing deformed steel bars for concrete reinforcement ("rebars"). In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that producers, manufacturers, or exporters in South Africa of rebars receive, directly or indirectly, bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the "Act").

Section 303 of the Act applies to this investigation because South Africa is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and the product covered by this investigation is a dutiable product. Therefore, the International Trade Commission is not required to make an injury determination.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on rebars, and we have found that the petition meets these requirements.

Therefore, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in South Africa of rebars as listed in the "Scope of the Investigation" section of this notice receive bounties or grants. If our investigation proceeds normally, we will make our preliminary determination by August 11, 1982.

Scope of the Investigation

For the purpose of this investigation, the term *"deformed steel bars for concrete reinforcement"* covers hot-rolled steel bars, of solid cross section, having deformations of various patterns on their surfaces, as currently provided

for in items 606.79 and 606.81 of the *Tariff Schedules of the United States.*

The petitioner also filed against plain billet bars, but amended the petition on May 28, 1982, to remove this product from the investigation.

Allegations of Bounties or Grants

The petition alleges that manufacturers, producers, or exporters of rebars in South Africa receive the following benefits that constitute bounties or grants: Reduced transportation rates; refunds of shipping costs; export credit insurance; preferential pre- and post-shipment financing for exports; preferential development loans, direct grants, and preferential loans given to a government-owned steel producer; tax deductions and investment allowances for certain export development expenses, employee training programs, doing business in certain development areas, and beneficiation of base minerals; the steel export incentive scheme; and other export incentives.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

June 7, 1982.

[FR Doc. 82-15763 Filed 6-9-82; 8:45 am]

BILLING CODE 3510-25-M

Microcircuit Subcommittee of the Semiconductor Technical Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Semiconductor Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on October 6, 1981 pursuant to the charter of the Committee.

The Microcircuit Subcommittee was formed to study microcircuit and acoustic wave devices with the goal of making recommendations to the Department of Commerce relating to the appropriate parameters for controlling exports for reasons of national security.

TIME AND PLACE: June 29, 1982, at 9:30 a.m. The meeting will take place at the Main Commerce Building, Room 6802, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

The Subcommittee will meet only in Executive Session to discuss matters properly classified under Executive Order 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230. Telephone: 202-377-2583.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to section 10(d) of the Federal Advisory Committee Act, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12065. A copy of the Notice of Determination to closed meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, Telephone: 202-377-4217.

Dated: June 4, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82-15760 Filed 6-9-82; 8:45 am]

BILLING CODE 3510-25-M

Telecommunications Equipment Technical Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Telecommunications Equipment Technical Advisory Committee was initially established on October 23, 1973, and rechartered on September 18, 1981, in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to telecommunications equipment or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

TIME AND PLACE: July 13, 1982, at 10:00 a.m. The meeting will take place at the Main Commerce Building, Room 3104, 14th Street and Constitution Avenue, NW, Washington, D.C. The committee will meet only in executive session to discuss matters properly classified under Executive Order 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sushine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12065.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, telephone: 202-377-4217.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-2583.

Dated: June 4, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82-15784 Filed 6-9-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; Amendment of a System Notice

AGENCY: Defense Logistics Agency (DLA), DOD.

ACTION: Amendment of a system notice.

SUMMARY: The Defense Logistics Agency (DLA) proposes to amend a notice for a system of records by

changing the system location and announcing automation of the system. The proposed amendments and the system notice as amended are set forth below.

DATE: This notice shall be amended as indicated on July 12, 1982 unless public comments are received which result in a contrary determination.

ADDRESS: Any comments, to Office of Installation Services and Environmental Protection, DLA–WH, HQ, DLA, Cameron Station, Alexandria, VA 22314, telephone 202/274–6027.

FOR FURTHER INFORMATION CONTACT: Mr. Preston B. Speed, DLA-XAM, HQ DLA, Cameron Station, Alexandria, VA 22314, telephone 202/274–6234.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency system of records subject to the Privacy Act of 1974, Title 5 U.S.C. 552a (Pub. L. 93–579, 44 Stat. 1896, *et seq.)*, were published at FR Doc. 82–674 (47 FR 2544) January 18, 1982.

An altered system report as required by 5 U.S.C. 552a(o) was submitted on May 19, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

June 4, 1982.

Amendment

S370.20 DLA–WH

System name:

S370.20 DLA–WH Individual Accident Case Files.

Changes:

System identification:

The system identification is changed from "S370.20 DLA–KH" to "S370.20 DLA–WH."

System location:

The primary location of the records is changed from "Safety and Health Division, Staff Director, Office of Personnel" to "Office of Installation Services and Environmental Protection, Headquarters, Defense Logistics Agency (HQ. DLA)."

Storage:

After the word "files" and "and automated record files."

System manager(s) and address:

Change the System Manager from "Staff Director, Office of Personnel, DLA;" to "Staff Director, Office of Installation Services and Environmental Protection DLA;".

S370.20 DLA–WH

SYSTEM NAME:

Individual Accident Case Files.

SYSTEM LOCATION:

Primary System—Case files on disabling work (lost time) injuries, property damage accidents (100 dollars or more), and motor vehicle accidents with a disabling work injury or property damage exceeding 100 dollars: Office of Installation Services and Environmental Protection, Headquarters, Defense Logistics Agency (HQ DLA). Decentralized segments—Above files plus all other injuries and accidents: HQ DLA principal staff elements, DLA Primary Level Field Activities (PLFAs), secondary and third level field activities, where incidents occurred.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian and military personnel, contractor employees, and other personnel who are injured on the premises of DLA or performing assignment incident to DLA operations. Also may include individuals involved in accidental damage to vehicles, equipment, and property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports, statements of witnesses, photographs and related papers, including summarized information maintained for the purpose of identifying accident repeaters and safety award recipients, regarding accidents incident to DLA operations, pertaining to injuries to individuals or accidents involving motor vehicles and other equipment or structural property damage.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 651, *et seq.* "The Occupational Safety and Health Act of 1970 (OSHA);" Executive Order 12196, "Occupational Safety and Helath Programs for Federal employees."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information is maintained to identify cause of accidents, to formulate accident prevention programs, to identify individual involved in repeated accidents, to present safety awards to individuals and to prepare statistical reports as required.

Information is used by: Agency supervisors and managers—to determine actions required to correct the causes of the accidents.

Safety offices—to insure actions proposed by supervisors and managers are adequate to prevent future accidents, to identify accident repeaters and safety award recipients, to provide verification that accidents have occurred when processing workmen's compensation cases, to prepare statistical reports, accident summaries, and accident prevention information for inclusion in Agency internal publications.

Security personnel—to determine accident causes, and to formulate possible changes in activity rules of conduct.

Government and non-Government medical personnel—to make medical determinations about individuals involved in accidents.

Facilities engineers and maintenance personnel—top formulate future installation faciltiies and equipment plans and budgets and to change operating procedures.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in file folders and card index files and automated record files.

RETRIEVABILITY:

Filed by organizational activity and/or alphabetically by last name of injured person of principal person involved in accident, when known.

SAFEGUARDS:

Records are maintained in areas accessible only to DLA safety and health personnel.

RETENTION AND DISPOSAL:

Records are destroyed ten years after the case is closed. They are retained in active file until end of calendar year in which case is closed, held one to three additional years in inactive file and subsequently retired to Federal Records Center, held for the remaining years and destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Staff Director, Office of Installation Services and Environmental Protection, DLA; Safety Officers, DLA Primary Level Field Activities.

NOTIFICATION PROCEDURE:

Written or personal requests for information may be directed to the

System Manager. Individual must provide full name and name of DLA activity at which incident occurred; or if individual is or was a DLA employee, name of employing activity is also required.

RECORD ACCESS PROCEDURES:

Official mailing addresses of the System Manager are in the DoD Directory in the appendix to the DLA systems notice. Written requests for information should contain the full name, current address and telephone numbers of the individual and a signed statement asserting his or her identity and stipulating that the individual understands that knowingly or willfully seeking or obtaining access to records about another individual under false pretenses is punishable by a fine of up to $5,000. For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employment identification card, and give some verbal information that could be verified from the case folder.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Employee's supervisors, medical units, DLA protective service, civilian police, fire department, investigating officer, or witness to accident.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 82-15774 Filed 6-9-82; 8:45 am]
BILLING CODE 3620-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Allied Materials and Excel Corp.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE

ACTION: Notice of action taken on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has adopted a Consent Order with Allied Materials and Excel Corporation as a final order of the Department.

EFFECTIVE DATE: June 10, 1982.

FOR FURTHER INFORMATION CONTACT: John W. Sturges, Director, Tulsa Office, Economic Regulatory Administration, U.S. DEPARTMENT OF ENERGY, 440 South Houston, Room 306, Tulsa, Oklahoma 74127. Phone: (918) 581-7781.

SUPPLEMENTARY INFORMATION: On March 15, 1982, Vol. 47, FR 11057, the ERA published a notice in the **Federal Register** that it had executed a proposed Consent Order with Allied Materials and Excel Corporation on January 25, 1982, which would not become effective sooner than 30 days after publication of that notice. Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order.

The Consent Order requires the total payment of $1,500,000.00 for the period September 1, 1973 through January 27, 1981, of which $651,767.54 will be paid to identified customers and $848,232.46 will be paid to the DOE for ultimate disposition. The Consent Order resolves certain potential civil liability arising out of the Mandatory Petroleum Allocation and Price Regulations and other regulations involving transactions of covered products.

One comment was received on April 14, 1982. The Comment proposed a distribution scheme whereby refunds collected by this Consent Order and other Consent Orders should be distributed to the states on pro-rata basis to be spent by the states. The aforementioned refunds should, the comment suggests, be deposited in dedicated revenue funds established by state legislatures and spent on accepted projects or programs related to energy which would include highway and bridge maintenance, public transportation, grant programs for weatherization, and energy conservation and airport maintenance or improvements..

The proposed Consent Order is finalized without modification. The proposed Consent Order was not modified as suggested by the comment because the comment did not contest the validity of the Consent Order but addressed only the question of the ultimate disposition of those funds not paid to identifiable end-user customers. The ultimate disposition of these funds will depend on several factors, such as the type of alleged violations underlying the Consent Order and the ability of the ERA to identify any non-end-user customers who may be entitled to share in the disposition of the funds. The commenter's suggestion regarding distribution of refunds will be considered in determining the appropriate ultimate distribution.

The proposed Consent Order, therefore was made final and effective on June 10, 1982

Dated: May 25, 1982.

John W. Sturges,

Director, Tulsa Office Economic Regulatory Administration.

[FR Doc. 82-15852 Filed 6-9-82; 8:45 am]
BILLING CODE 6450-01-M

[ERA Docket No. 82-04-LNG]

Phillips Petroleum Co. and Marathon Oil Co.; Application To Amend Authorization To Export Liquefied Natural Gas to Japan

AGENCY: Department of Energy Economic Regulatory Administration.

ACTION: Notice of Application to Amend Authorization to Export Liquefied Natural Gas (LNG) to Japan.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on May 10, 1982, of the joint application of Phillips Petroleum Company (Phillips) and Marathon Oil Company (Marathon) to amend their existing authorization to export liquefied natural gas (LNG) to Japan. Currently, Phillips and Marathon are authorized to export 50.57 trillion Btu of LNG per year to Japan. They seek and extension and amendment of this authority for five years beyond the scheduled expiration date of May 31, 1984. Also requested is authorization to export limited additional volumes to make up for underdeliveries of authorized volumes which either have or may occur.

The application is filed with ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-54. Protests or petitions to intervene are invited.

DATES: Protests or petitions to intervene are to be filed no later than 4:30 p.m. July 12, 1982.

FOR FURTHER INFORMATION CONTACT:

R. T. Gehring (Natural Gas Branch, Oil and Gas Imports Division), Economic Regulatory Administration, 12th & Pennsylvania Avenue NW., Room 6144, RG-631, Washington, D.C. 20461, (202) 633-9296

Merrill F. Hathaway (Office of General Counsel, Natural Gas and Mineral Leasing), 1000 Independence Avenue SW., Forrestal Building, Room 6E-042, Washington, D.C. 20585, (202) 252-4467.

SUPPLEMENTARY INFORMATION: In a Federal Power Commission (FPC) order issued on April 19, 1967, in FPC Docket Nos. CI67-1226 and CI67-1227, 37 FPC

777 (1967), Phillips and Marathon were authorized to export LNG from Alaska to Japan for sale to Tokyo Electric Power Company, Inc., and Tokyo Gas Company Limited under a sales agreement dated March 6, 1967, as amended. The firms were authorized to sell a total of up to 35.295 trillion Btu of LNG from March 1, 1969, to May 31, 1970, and 50.57 trillion Btu of LNG annually from June 1, 1970, to May 31, 1984.

The initial term of the March 6, 1967, sales agreement expires on May 31, 1984, with an option to renew the arrangement by mutual agreement between June 1, 1981, and June 1, 1982.

Pursuant to this option, the parties have entered into an Amendatory Extension Agreement dated April 15, 1982, which would continue the export for five additional years, through May 31, 1989. The quantities of LNG to be exported during the extended term will remain the same, 50.57 trillion Btu annually. The parties seek approval of their export of LNG during this extended term. The parties also seek approval of certain make-up deliveries, so that any annual volumes of LNG not delivered under either the 1967 sales agreement or the Amendatory Extension Agreement in a given year due to unforeseen circumstances or to a reduction in the amount taken by buyers may be delivered as soon as possible thereafter in subsequent contract years or during a maximum seven-month period beginning June 1, 1989.

The currently effective price of the LNG exports is determined by a base price of 592.8 U.S. cents per MMBtu indexed in accordance with a formula based upon changes in the weighted average of the official Japanese Government Selling Prices of the top twenty crude oils imported by Japan. That formula produced a delivered price of approximately $5.76 per MMBtu for April 1982.

Phillips and Marathon state that the extension of this export project is not inconsistent with the public interest for the following reasons: (1) Given national and international developments, including the return in many cases to free market pricing for natural gas, there is no basis for a conclusion that there would be a national need for the LNG proposed to be shipped to Japan in the 1984–89 period; (2) there is no regional need for the gas because all of Alaska's natural gas needs are presently being supplied and any foreseeable future needs can easily be supplied from proven reserves in the Cook Inlet area; (3) it will continue to improve the economy of Alaska by providing jobs and royalty revenues; (4) it will continue to affect favorably the balance of payments position of the United States by providing annual revenues approaching $300 million per year for additional five years; and (5) it will continue to benefit U.S. relations with Japan by providing a reliable source of LNG for Japan for an additional five years.

No alterations or additions to existing transportation and storage facilities are anticipated during the period of the extension.

OTHER INFORMATION: Any person wishing to become a party to the proceeding, and thus to participate in any conference or hearing which might be convened, must file a petition to intervene. Any person may file a protest with respect to this application. The filing of a protest will not serve to make the protestant a party to the proceeding. Protests will be considered in determining the appropriate action to be taken on the application.

All protests and petitions to intervene must meet the requirements specified in 18 CFR 1.8 and 1.10. They should be filed with the Natural Gas Branch, Economic Regulatory Administration, Room 6144, RG–631, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461. All protests and petitions to intervene must be filed no later than 4:30 p.m., July 12, 1982.

A hearing will not be held unless a motion for a hearing is made by a party or person seeking intervention and granted by ERA, or if ERA on its own motion believes that a hearing is necessary or required. A person filing a motion for hearing must demonstrate how a hearing will advance the proceedings. If a hearing is scheduled, ERA will provide notice to all parties and persons whose petitions to intervene are pending.

A copy of Phillips' and Marathon's application is available for inspection and copying in the Natural Gas Branch Docket Room, located in Room 6144, 12th & Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C. on June 3, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82–15653 Filed 6–9–82; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Agency Forms Submitted to the Office

(OMB). Following this notice is a list of DOE proposals sent to OMB for approval between May 20, 1982, and

DATE: Last Notice published Friday, May 21, 1982 (47 FR 22143).

SUPPLEMENTARY INFORMATION: Copies of proposed collection and supporting

Energy Information Administration

Agency Forms Submitted to the Office of Management and Budget for Review

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget

SUMMARY: Under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), Department of Energy (DOE) notices of proposed collections under review will be published in the **Federal Register** on the Thursday of the week following their submission to the Office of Management and Budget (OMB). Following this notice is a list of DOE proposals sent to OMB for approval between May 20, 1982, and May 27, 1982.

Each entry contains the following information and is listed by the DOE sponsoring office: (1) The form number; (2) Form title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (6) Type of respondent; (7) An estimate of the number of respondents; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to fill out the forms; and (9) A brief abstract describing the proposed collection.

DATE: Last Notice published Friday, May 21, 1982 (47 FR 22143).

FOR FURTHER INFORMATION CONTACT:
John Gross, Director, Forms Clearance and Burden Control Division, Energy Information Administration, M.S. 7413 Federal Building, 12th & Pennsylvania Avenue NW., Washington, DC 20461, (202) 633–9464
Jefferson B. Hill, Department of Energy Desk Officer, Officer of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7340
Vartkes Broussalian, Federal Energy Regulatory Commission Desk Officer, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395–3087.

SUPPLEMENTARY INFORMATION: Copies of proposed collection and supporting documents may be obtained from Mr. Gross. Comments and questions about the items on this list should be directed to the OMB reviewer; comments should also be provided Mr. Gross. If you anticipate commenting on a form, but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer of your intent as early as possible.

Issued in Washington, D.C. May 23, 1982.

Yvonne M. Bishop,
Director Statistical Standards Energy Information Administration.

DOE FORMS UNDER REVIEW BY OMB

Form No.	Form title	Type of request	Response frequency	Response obligation	Respondent description	Estimated number of respondents	Annual respondent burden	Abstract
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
FERC–73	Service life data	Extension—no change	On occasion	Mandatory	Oil pipeline companies within FERC jurisdiction.	21	4,620	Data are used to perform service life analyses for oil pipeline properties. These data are necessary to determine book depreciation rates.
FERC–537	Gas pipeline certificate construction and operation/transportation/exchange/storage and abandonment.	Extension—no change	On occasion	Mandatory	Natural gas pipelines	50	148,320	Information is required to obtain Comission certification of interstate pipelines engaged in the transportation and sale of natural gas and the construction and operation of facilities to be used in these activities, as well as authorization for abandonment of facilities and service.

[FR Doc. 82–15651 Filed 6–9–82; 8:45 am]
BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. CP82-314-000]

Alabama-Tennessee Natural Gas Co.; Application

June 4, 1982.

Take notice that on May 8, 1982, Alabama-Tennessee Natural Gas Company (Applicant), P.O. Box 918, Florence, Alabama 35631, filed in Docket No. CP82-314-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of gas by displacement necessary for the sale of natural gas to Public Service Electric and Gas Company (Public Service), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell on an interruptible basis to Public Service up to 20,000 Mcf of natural gas per day. Applicant states that it has executed an agreement with Public Service and North Alabama Gas District (North Alabama) whereby Public Service desires to purchase, Applicant desires to sell, and North Alabama desires to transport such gas on a best-effort basis during the summer months of May through October 1982.

It is stated that Applicant purchases natural gas from Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), pursuant to the terms of Tennessee's Rate Schedule CD-1 which contains a minimum bill provision requiring that Applicant pay an amount of 66⅔ percent of its contract demand irrespective of whether it takes such volume of gas each month. It is further stated that during the months of May through October Applicant may be unable to sell these minimum volumes of gas to its existing customers and that the amount of money that Applicant might be obligated to pay for gas which it cannot sell on system is estimated at $1,000,000 per month. Applicant maintains that the sales herein proposed would obviate the need for such payments and would therefore substantially benefit its customers.

It is stated that Texas Eastern Transmission Corporation (Texas Eastern) sells and delivers natural gas to North Alabama which sells and delivers such gas to USS Agri-Chemicals, Inc. (USS Ag), located in Colbert County, Alabama, and that Applicant also provides service to USS Ag. It is further stated that under the proposed sales agreement Applicant, when it has gas available during the months of May through October 1982, which is not required by its on-system customers, would sell up to 20,000 Mcf of gas per day to Public Service. It is asserted that this sale would be accomplished by deliveries of equivalent volumes by Applicant to USS Ag and that such deliveries would displace Texas Eastern's deliveries to North Alabama for USS Ag making that gas available for transportation and delivery to Public Service, less agreed upon volumes for fuel and shrinkage. Applicant states that the volumes thus made available to Public Service would constitute a direct sale of natural gas. It is stated that Public Service would use the natural gas to displace middle-distillate oil and low-sulphur residual oil in the generation of electricity.

Applicant maintains that these deliveries of gas by Texas Eastern on a displacement basis would be on an interruptible basis when Texas Eastern has capacity available.

It is asserted that Applicant would charge Public Service a commodity rate of $3.29 per Mcf which includes a transportation charge to North Alabama of 2.0 cents per Mcf, an incremental cost of gas from Applicant's Mississippi supplemental supply of 18.66 cents per Mcf and Applicant's transportation charge of 7.0 cents per Mcf. It is stated that Applicant proposes to credit Account 191 with the proportionate amount of the revenue derived from the incremental cost of the Mississippi gas that is applicable to Applicant's regulated business.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 25, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropirate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-15726 Filed 6-9-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6163-000]

Allegheny County, Pennsylvania; Application for Preliminary Permit

June 8, 1982.

Take notice that Allegheny County, Pennsylvania (Applicant) filed on April 2, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for Project No. 6163 to be known as the Monongahela Lock and Dam No. 2 Project located on the Monongahela River in Allegheny County, Pennsylvania. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. James W. Knox, Allegheny County Department of Planning, 429 Forbes Avenue, Room 1300, Pittsburgh, Pennsylvania 15219.

Project Description—The proposed project would utilize the existing Corps of Engineers' Monongahela River Lock and Dam No. 2 and would consist of: (1) A new powerhouse containing one or more generating units having a total rated capacity of 6.7 MW; (2) one-half-mile-long transmission line; and (3) appurtenant facilities. The Applicant

estimates that the average annual energy output would be 35.3 kWh. The most likely market for energy derived at the proposed project is the Duquesne Light Company.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $50,000.

Competing Applications—This application was filed as a competing application to ENERGENICS SYSTEMS, INC.'s application for Project No. 6160 filed on April 2, 1982. Anyone desiring to file an additional competing application for preliminary permit must submit to the Commission, on or before July 8, 1982 the competing application itself [see: 18 CFR § 4.30 et. seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before July 8, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR § 4.30 et seq. or § 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 8, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15709 Filed 6-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-137-000]

American Energy Projects; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

June 7, 1982.

On May 5, 1982, American Energy Projects, 2800 South Court, Palo Alto, California 94306, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The small power production facility will be located in Alameda County, California. Fifty 100 kilowatt wind turbine generators will make up a total maximum electric power production capacity of 5 megawatts. The Applicant owns no other wind facilities that are located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before July 12, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15710 Filed 6-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2888-002]

City of Redding, California; Application for License (5 MW or Less)

June 7, 1982.

Take notice that the City of Redding (Applicant) filed on Feburary 19, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for construction and operation of a water power project to be known as the Wiskeytown Dam Power Plant Project No. 2888. The project would be located on Clear Creek in the Wiskeytown-Shasta-Trinity National Recreation Area in Shasta County near the City of Redding, California. Correspondence with the Applicant should be directed to: Mr. William Brickwood, City Manager, City of Redding, 760 Parkview, Redding, California 96001.

Project Description—The proposed project would consist of a powerhouse connected to the existing outlet structure for the Bureau of Reclamation's Whiskeytown Dam. The powerhouse would contain a single 3.24–MW generating unit and would have an average annual output of 8,200 MWh. A switchyard adjacent to the powerhouse would be connected to a nearby Pacific Gas and Electric Company 12.5–kV transmission line. Applicant estimates that construction of the project would cost $3,964,000 in 1984 dollars.

Purpose of Project—Project energy would be distributed in the City of Redding's municipal electric system.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provided comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic

Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statues. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before August 3, 1982, either the competing application itself [See 18 CFR § 4.33(a) and (d)] or a notice of intent [See 18 CFR § 4.33(b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 (et seq. 1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 13, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–15711 Filed 6–9–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 4310–001]

Frank T. Clark; Surrender of Preliminary Permit

June 8, 1982.

Take notice that Frank T. Clark, Permittee for the proposed Kingsbury Branch Project No. 4310, has requested that his preliminary permit be terminated. The permit was issued on September 21, 1981, and would have expired on March 1, 1983. The project would have been located on the Winooski River in Washington County, Vermont. Mr. Clark states that the necessary capital cannot be raised and that the project will not support financing.

Mr. Clark filed his request on April 27, 1982, and the surrender of his permit for Project No. 4310 is deemed effective as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–15730 Filed 6–9–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP82–331–000]

Columbia Gulf Transmission Co; Application

June 4, 1982.

Take notice that on May 17, 1982, Columbia Gulf Transmission Company (Applicant), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP82–331–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition by purchase from Union Texas Petroleum Corporation (Union Texas) of an undivided fractional interest in the ownership of existing offshore compression facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to purchase from Union Texas an undivided fractional interest in the compression facilities on Eugene Island Block 384 "A" separation platform, offshore Louisiana, at a cost of $563,600 which would be financed with general corporate funds. The proposed acquisition being made pursuant to a purchase contract between Applicant and Union Texas dated March 8, 1979, is consideration given by Applicant for capacity entitlement in facilities required by Applicant to purchase and receive gas supplies committed to Columbia Gas Transmission Corporation in the Eugene Island Block 385 field, offshore Louisiana.

It is asserted that such compression is required in order that gas reserves delivered from the referenced area can be delivered into the gas pipeline against the operation pressure of such connecting lines. It is submitted that Applicant would acquire a 30.7 percent interest in two dual train 900 horsepower skid mounted compressor units which would be maintained and operated by Union Texas.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 25, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–15728 Filed 6–9–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RA82-19-000]

Commonwealth Oil Refining Co., Inc.; Filing of Petition for Review Under 42 U.S.C. 7194

June 4, 1982.

Take notice that Commonwealth Oil Refining Co., Inc. on April 20, 1982, filed a Petition for Review under 42 U.S.C. 7194(b) (1977) (Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before June 18, 1982, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before June 18, 1982, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.W., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15729 Filed 6-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6268-000]

Energenics Systems Inc.; Application for Preliminary Permit

June 7, 1982.

Take notice that Energenics Systems Inc. (Applicant) filed on April 28, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 6268 to be known as the Vega Dam Project located on Plateau Creek in Mesa County, Colorado. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Granville J. Smith, II, Energenics Systems Inc., 1717 K Street, NW., Suite 706, Washington, D.C. 20006.

Project Description—The proposed project would utilize the existing U.S. Bureau of Reclamation's Vega Dam and Reservoir, and would consist of: (1) a proposed 150-foot long, 56-inch diameter steel penstock; (2) a proposed powerhouse containing one Francis turbine-generator unit with a capacity of 1160-kW; (3) a proposed 75-foot long tailrace; (4) a proposed 10-mile long, 115-kV transmission line; and (5) appurtenant facilities. Applicant estimates that average annual energy output would be 2300 MWh and plans to sell the power to either the Public Service Company of Colorado or Colorado-Ute Electricity.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $30,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 13, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before October 13, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 13, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specificed in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15712 Filed 6-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-325-000]

Gas Company of New Mexico; Application

June 4, 1982.

Take notice that on May 1, 1982, Gas Company of New Mexico (Applicant), 1800 First International Building, Dallas, Texas 75270, filed in Docket No. CP82-325-000 an application pursuant to Part 284 of the Commission's Regulations and section 7(c) of the Natural Gas Act for authorization to transport gas for Northwest Pipeline Corporation (Northwest), all as more fully set forth in

the application which is on file with the Commission and open to the public inspection.

Applicant states that it is Hinshaw company and holds a blanket certificate under § 284.222 of the Commission's Regulations and section 7(c) of the Natural Gas Act to engage in transportation and sales transactions to the same extent and in the same manner as an intrastate pipeline under sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA). Applicant proposes herein to transport up to 15 billion Btu of gas per day to effectuate the March 17, 1982, agreement between Southern Union Gathering Company (Gathering Company) and J. R. Simplot Company (Simplot). Applicant maintains that the gas to be delivered to Simplot would be used as feedback in the manufacture of fertilizer, an "essential agricultural use."

Applicant states that the gas would be made available to Simplot at the tailgate of Kutz Gasoline Plants in San Juan County, New Mexico. It is asserted that the gas would then be delivered by Gathering Company into Applicant's pipelilne system which under an agreement among Applicant, Simplot, and Northwest dated March 30, 1982, would receive said gas on behalf of Northwest and transport and redeliver said gas to Northwest at an interconnection between the facilities of Applicant and Northwest in San Juan County, New Mexico. Northwest, it is stated, would then transport the gas to a point of interconnection with Intermountain Gas Company (Intermountain) near Soda Springs, Idaho. Intermountain would then transport the gas to Simplot, it is explained.

Applicant states service would commence when authorization was obtained and would continue for six months or possibly for a longer period not to exceed two years.

Applicant elects to base its rates upon its Rate Schedule 61 on file with the New Mexico Public Service Commission.

Applicant further states that although the blanket certificate issued to it under § 284.222 of the regulations permits it to engage in section 311(a)(2)-type transportation arrangements under the NGPA on a self-executing basis the instant transportation may not qualify as a self-executing transaction by virtue of the fact that the gas to be transported by Applicant would not be for Northwest's system supply. Applicant requests that the subject service be specifically authorized by the Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 25, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15731 Filed 6-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3287-002]

Britt R. Gilbert, Thomas G. Scully, and John S. Scully III; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

June 8, 1982.

Take notice that on May 4, 1982, Britt R. Gilbert, Thomas G. Scully, and John S. Scully III (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. §§ 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 3287) would be located on the North Fork, Shenandoah River in Shenandoah County, Virginia. Correspondence with the Applicant should be directed to: Thomas F. Nolan IV, 401 C Street, N.E., Washington, D.C. 20002.

Project Description—The proposed project would consist of: (1) the existing concrete Burnshire Dam, 280 feet long and 14 feet high; (2) an existing reservoir with a 200 acre-feet storage capacity and surface elevation of 670 feet m.s.l.; (3) an existing three-penstock powerhouse with an installed capacity of 232 kW fed by a 150-foot log forebay; (4) a new 200 kW unit to be placed on an existing power house foundation; and (5) other appurtenances. All existing facilities are owned by Thomas G. Scully and John S. Scully III. Applicant estimates an average annual generation of 1,400,000 kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Commission of Game and Inland Fisheries of Virginia are requested, for the purposes set forth in Section 408 of the Act, to submit 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 16, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows and interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications from preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR § 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR § 4.33(a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to

intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 16, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. 825 North Capitol Street, NE., A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15713 Filed 6-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6320-000]

James W. Guercio; Application for Preliminary Permit

June 7, 1982.

Take notice that James W. Guercio (Applicant) filed on May 12, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6320 to be known as the Caribou Ranch Project located on North Boulder Creek in Boulder County, Colorado. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. James W. Guercio, Caribou Ranch, P.O. Box 310, Nederland, Colorado 80466.

Project Description—The proposed project would consist of: (1) a proposed 25-foot long, 10-foot wide, and 6-foot high reinforced concrete intake structure; (2) a proposed impoundment with a surface area of 0.1 acre at an elevation of 9750 M.S.L.; (3) a proposed 19,000-foot long, 24-inch diameter penstock; (4) a proposed 600 square-foot powerhouse containing one turbine-generator unit with a 1.5 MW rating; (5) a proposed 50-foot long tailrace (6) a proposed 400-foot long transmission line; and (7) appurtenant facilities. The average annual energy generated is estimated to be 13,000 kWh and would be sold to and/or exchanged with Public Service Company of Colorado.

Purposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimatee the cost of the studies under the permit would be $60,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 13, 1982, the competing application itself, or a notice of intent to file such an application [see 18 CFR § 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 3, 1982, and should specify the type of application forthcoming. Any applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR § 4.30 et seq. or § 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than October 12, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 13, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15714 Filed 6-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3312-001]

City of Laconia, N.H.; Surrender of Preliminary Permit

June 8, 1982.

Take notice that the City of Laconia, New Hampshire, Permittee for the proposed Lakeport Dam Project No. 3312, requested by letter dated May 4, 1982, that its preliminary permit be terminated. The preliminary permit was issued on January 16, 1981, and would have expired on July 1, 1982. The project would have been located at the Lakeport Dam on the Winnipesaukee River in Belknap County, New Hampshire. The City of Laconia no longer considers development of the site to be feasible.

The surrender of the preliminary permit for Project No. 3312 is accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15727 Filed 6-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RI82-3-000]

Liberty Oil & Gas Corp.; Petition for Special Relief

June 7, 1982.

Take notice that on May 24, 1982, Liberty Oil and Gas Corporation, 234 Loyola Building, Suite 412, New Orleans, Louisiana 70112 (Liberty) filed a petition for special relief in Docket No. RI82-3-000 pursuant to Section 2.76 of the Commission's Statements of General Policy and Interpretations and Section 271.402(c)(5) of the regulations under the Natural Gas Policy Act of 1978.

Liberty seeks permission to charge a base rate of $2.99 per Mcf plus severance tax for natural gas produced from its Netherlands No. 1 Well, Sabine Production Lease, Bayou Couba Field, St. Charles Parish, Louisiana. The buyer is Transcontinental Gas Pipe Line Corporation. Liberty proposes to perform a workover operation on the well and estimates remaining reserves of 90,000 Mcf.

Any persons desiring to be heard or to protest this petition should file a petition to intervene or a protest with the Federal Energy Regulation Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1982. All protests filed with the Commission will be considered, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15715 Filed 6-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6171-000]

Lawrence J. McMurtrey; Application for Preliminary Permit

June 7, 1982.

Take notice that Lawrence J. McMurtrey (Applicant) filed on April 6, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 6171 to be known as the San Juan Creek Project located on San Juan Creek in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Lawrence J. McMurtrey, 12122 196th N.E., Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) multiple diversion structures on San Juan Creek; (2) a 7,000-foot-long, 16-inch-diameter diversion conduit; (3) a powerhouse with a total installed capacity of 2.24 MW: and (4) a 12-mile-long, 115-kV transmission line from the powerhouse to an existing 115-kV transmission line. The Applicant estimate that the average annual energy production would be 9.8 GWh. The project is located entirely on U.S. Forest lands owned by Snoqualmie—Mt. Baker National Forest.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months, during which it would conduct technical, environmental and economic studies, and also prepare an FERC license application. The Applicant estimates that the cost of undertaking these studies would be $40,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 13, 1982, the competing application itself or a notice of intent to file such an application (see 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981).

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 13, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than October 12, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 13, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15716 Filed 6-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6170-000]

Lawrence J. McMurtrey; Application for Preliminary Permit

June 7, 1982.

Take notice that Lawrence J. McMurtrey (Applicant) filed on April 6, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 6170 to be known as the Lowe Creek Project located on Lowe Creek in King County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Lawrence J. McMurtrey, 12122—196th N.E., Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) multiple diversion structures on Lowe Creek; (2) a 6,000-foot-long, 18-inch-diameter diversion conduit; (3) a power house

with a total installed capacity of 1.72MW; and (4) a 1.0-mile-long, 115-kV transmission line from the powerhouse to an existing transmission line. The Applicant estimates that the average annual energy production would be 7.57 GWh. The proposed project is located entirely on U.S. Forest lands owned by Snoqualmie—Mt. Baker National Forest.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which it would conduct technical, environmental and economic studies, and also prepare an FERC license application. The Applicant estimates that the cost of undertaking these studies would be $40,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 13, 1982, the competing application itself, or a notice of intent to file such an application [see 18 CFR 4.30 et seq. (1981); and Docket No. Rm 81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 13, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than October 12, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 13, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION" "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–16717 Filed 6–0–82; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. CP81–302–001]

Natural Gas Pipeline Co. of America; Petition to Amend

June 4, 1982.

Take notice that on May 28, 1982, Natural Gas Pipeline Company of America (Petitioner), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP81–302–001 a petition to amend the order issued August 12, 1981, in Docket No. CP81–302–000, pursuant to section 7(c) of the Natural Gas Act so as to authorize an extension of the period of transportation for a direct sale of natural gas to Dow Chemical Company (Dow) and the delivery of up to 30,000,000 Mcf of natural gas to Dow for the term of the extension, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is submitted that by order issued April 12, 1981, in Docket No. CP81–302–000, Petitioner was authorized to deliver on a best efforts basis up to 15,000,000 Mcf of natural gas to Dow for a term expiring July 31, 1982. It is further submitted that on March 12, 1982, Petitioner and Dow executed Amendment No. 1 to their gas sales agreement so as to extend the term of the sale in order to sell an additional 30,000,000 Mcf of gas for the period of the extension, as well as add a transportation arrangement.

Pursuant to such amendment, Petitioner proposes to amend the order of August 12, 1981, so as to extend the period of transportation for a direct sale to Dow for an additional term of 363 days commencing upon the earlier in time of August 1, 1982, or the date upon which Petitioner has sold 15,000,000 Mcf to Dow for the period of extension.

Petitioner states that for the period of the extension, it would continue to deliver gas to Dow at the interconnection of the facilities of Dow and Dow Interstate Gas Company (DIG) at Dow's Plaquemine Plant near Plaquemine, Iberville Parish, Louisiana, as previously authorized.

Petitioner asserts that in order to deliver the gas to such authorized delivery point during the term of extension, it has made an additional transportation agreement to the one authorized in the order issued August 12, 1981. Petitioner states that as previously authorized, it would continue to deliver gas to Texas Gas Transmission Corporation (TGT) at the outlet of the Texaco Henry Plant, Vermillion Parish, Louisiana, for transportation by TGT and redelivery by DIG at the delivery point. Petitioner states that the transportation charge under this previously authorized arrangement currently consists of the sum of (1) for the gas transported by TGT, 6.92 cents per Mcf of gas or such other applicable rate specified in TGT's FERC Schedule T/SL, (2) for gas transported by DIG, 15.0 cents per Mcf of gas, and (3) the value of fuel gas consumed by TGT and DIG.

It is submitted that pursuant to the March 23, 1982, amendment to its transportation agreement with DIG, Petitioner has made an additional transportation arrangement to deliver the gas to Dow, Petitioner proposes to deliver gas to DIG at a proposed mutually agreeable point of interconnection between the pipeline facilities of Petitioner and DIG in or near section 45, T13S, R4E, Vermilion Parish, Louisiana, for redelivery to Dow at the aforementioned authorized delivery point. For such transportation service Petitioner states that it would pay DIG a rate of 15.0 cents per Mcf of gas plus the value of fuel gas consumed.

It is further submitted that under both transportation agreements, Dow would pay Petitioner a transportation charge to reflect all the current and future costs

that DIG and TGT charge Petitioner for their services.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 25, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15732 Filed 6-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6289-000]

Nevada Irrigation District; Application for Preliminary Permit

June 7, 1982.

Take notice that the Nevada Irrigation District (Applicant) filed on May 3, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for Project No. 6289 to be known as the D–S Wolf Creek Power Project located on the D–S Canal Extension near Wolf Creek in Nevada County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Fred Bandy, General Manager, Nevada Irrigation District, P.O. Box 1019, Grass Valley, California 95945.

Project Description—The proposed project would consist of: (1) a weir or check structure 7 feet high at elevation 2861 feet on the D–S Canal Extension; (2) a 36-inch-diameter penstock, 2,000 feet long, (3) a powerplant at elevation 2640 feet containing a turbine generator with 825 kW capacity and 2.9 GWh annual energy output and (4) a transmission line either 2,000 or 4,000 feet long, depending on the intertie location. The potential market for project output includes the Pacific Gas and Electric Company.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a perliminary permit for a term of 24 months, during which engineering, economic and environmental studies will be conducted to ascertain project feasibility and to support application for a license to construct and operate the project. The estimated cost of permit activities is $30,000.

Competing Applications—Anyone desiring to file a competing applcation for preliminary permit must submit to the Commission, on or before August 13, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 13, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than October 12, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980), In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 13, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15718 Filed 6-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5970-000]

Northern Colorado Water Conservancy District; Application for Preliminary Permit

June 8, 1982.

Take notice that Northern Colorado Water Conservancy District (Applicant) filed on February 10, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5970 to be known as the Granby Dam Project located on the Colorado River in Grand County, Colorado. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Larry D. Simpson, Northern Colorado Water Conservancy District, P.O. Box 679, Loveland, Colorado 80539.

Project Description—The proposed project would utilize the existing Bureau of Reclamation's Granby Dam and would consist of (1) a new powerhouse containing two generating units with a total rated capacity of 1.47 MW; (2) a new transmission line; and (3) appurtenant facilities. The Applicant estimates that the average annual energy output would be 4.7 GWh. The most likely markets for the energy derived at the proposed project are Tri-State Generation and Transmission Association and The Western Area Power Administration.

Purposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 18 months. The work proposed under the preliminary permit would include

economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $40,000.

Competing Applications—This application was filed as a competing application to Energenics Systems, Inc.'s application for Project No. 5574 filed on October 28, 1981. Public notices of the filing of the initial application, which has already been given, established the due date for filing competing applications or notice of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 12, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15710 Filed 6-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-320-000]

Northwest Pipeline Corp.; Application

June 4, 1982.

Take notice that on May 11, 1982, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP82-320-000 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas to Rocky Mountain Natural Gas Company (Rocky Mountain) for resale within the Town of Naturita, Colorado (Naturita) and for permission and approval to abandon the sale and delivery of natural gas service to Naturita and environs, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon the sale and delivery of natural gas to Naturita and transfer such sales to Rocky Mountain. In accordance with the purchase agreement between Naturita and Rocky Mountain dated February 8, 1982, Applicant asserts that the distribution properties of Naturita would be transferred to Rocky Mountain.

Applicant further states that it would cancel its Rate Schedule DS-1 service agreement with Naturita and revise its Rate Schedule DS-1 service agreement with Rocky Mountain to provide for the addition of the Towns of Naturita, Nucla and environs as an additional delivery point for Rocky Mountain. Applicant explains it would sell the 3,525 therms of gas presently sold to Naturita to Rocky Mountain for resale.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 25, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15733 Filed 6-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-92-000]

Northwest Pipeline Corp.; Tariff Change

June 3, 1982.

Take notice that on May 14, 1982, Northwest Pipeline Corporation ("Northwest") tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets:

First Revised Sheet No. 64
Original Sheet No. 64-A
First Revised Sheet No. 65
First Revised Sheet No. 66
Original Sheet No. 66-A

The tariff sheets will, when accepted: (1) Revise section 3(a) of Rate Schedule T-1 for the purpose of clarifying the conversion from Mcf's to therms for billing purposes under the facility charge, (2) revise Section 4 to expand

the Minimum Monthly Bill provision to include (a) a minimum annual commodity charge computed by multiplying the effective commodity rate at September 30 each year by the deficient volume of gas, and (b) an underrun payment equal to a quantity obtained as the amount by which the deficient volume for the year is greater than 10 percent of Shipper's minimum annual quantity multiplied by $.50 per therm. The deficient volume of gas is equal to the difference between (i) the minimum annual quantity (Daily Contract Demand times 365 times 80 percent) and (ii) the volume of gas tendered for transportation each year; and (3) revise Section / to provide for a new scheduling procedure that requires Shipper to notify Northwest three days prior to the beginning of each week (beginning on Monday) of the volumes of natural gas to be tendered for transportation each day during that week. The modification requires that the tendered volumes be not less than Shipper's minimum daily purchase obligation from Northwest Alaskan Pipeline Company. Partial waiver of this scheduling procedure will be allowed to the extent that insufficient capacity exists in connecting pipelines to Northwest's system.

Northwest is requesting waiver under § 154.51 of the Commission's regulations in order to permit an effective date of May 14, 1982.

A copy of this filing is being served on Pacific Interstate Transmission Company, all of Northwest's jurisdictional customers, and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 16, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15734 Filed 6-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-141-000]

Vaylord Reick; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

June 4, 1982.

On May 10, 1982, Vaylord Reick, RR, Sumner, Iowa, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility is a wind electric system located in Sumner, Iowa. The electric power production capacity of the facility is 10 kilowatts. The Applicant owns no other small power production facilities located within one mile of the facility which use wind as the primary energy source. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15735 Filed 6-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-135-000]

Jim Richter; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

June 4, 1982.

On May 3, 1982, Jim Richter, RR, Earlville, Iowa filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The wind electric system located is in Earlville, Iowa. The electric power production capacity of the facility is 10 kilowatts. No other small power production facilities are located at the same site which are owned by the Applicant and use wind as the primary energy source. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15736 Filed 6-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 1389-001]

Southern California Edison Co.; Application for New License (Over 5 MW)

June 8, 1982.

Take notice that Southern California Edison Company (Applicant) filed on December 1, 1981, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for continued operation of a water power project known as the Rush Creek Project No. 1389. The project is located on Rush Creek in the Inyo National Forest in Inyo and Mono Counties near the Town of June Lake, California. Correspondence with that Applicant should be directed to: Mr. John R. Bury, General Counsel, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770.

Project Description—The proposed project would consist of: (1) Rush Meadows Reservoir with a surface area of 185 acres and a usable storage capacity of 5,277 acre-feet at maximum reservoir elevation 9,416 feet formed by; (2) a 463-foot-long, 50-foot-high, concrete, arch dam on Rush Creek having an overflow side channel spillway; (3) Gem Lake Reservoir with a

surface area of 282 acres and a usable capacity of 17,228 acre-feet at maximum reservoir elevation 9,052 feet formed by; (4) a 688-foot-long, 80-foot-high, multiple arch, concrete dam on Rush Creek having an overflow spillway; (5) Agnew Lake Reservoir with a surface area of 40 acres and a usable storage capacity of 810 acre-feet at maximum reservoir elevation 8,496 feet formed by; (6) a 278-foot-long, 30-foot-high multiple arch, concrete dam on Rush Creek having an overflow spillway; (7) a 48-inch diameter, 4,584-foot-long steel pipe from Gem Dam to a valve house below Agnew Dam; (8) a 30-inch-diameter, 575-foot-long steel pipe from Agnew Dam to the valve house; (9) two 4,280-foot-long steel penstocks, varying in diameter from 30 inches to 28 inches from the value house to: (10) the Rush Creek Powerhouse, located at elevation 7,249 feet, containing two generating units with a total capacity of 8,400 kW; (11) a switchyard adjacent to the powerhouse; and (12) a 49.6-mile-long, 115-kV transmission line, supported on wood-pole, H-frame structures, extending to the Control Substation.

Purpose of Project—The project has an average annual energy output of approximately 49,000 MWh. Project energy is used to meet the demands of Applicant's customers in central and southern California.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before August 16, 1982, either the competing application itself (See 18 CFR 4.33 (a) and (d)) or a notice of intent (See 18 CFR 4.33 (b) and (c) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 16, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15720 Filed 6-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-351-000]

Southern Natural Gas Co.; Application

June 3, 1982.

Take notice that on May 27, 1982, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP82-351-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for emergency sale directly to an end user, Southern Energy Company (Southern Energy), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is submitted that Southern Energy is a wholly-owned subsidiary of Applicant engaged in the importation, storage, regasification, and sale and delivery of liquefied natural gas (LNG) in liquefied and regasified form to Applicant. It is further submitted that Southern Energy's natural gas requirements have previously been satisfied out of Southern Energy's LNG storage inventory, and that such inventory was recently depleted. It is asserted that without LNG, Southern Energy has a critical need for small quantities of natural gas in order to protect its LNG storage tanks, its LNG terminal and the health of its employees, at Elba Island, Georgia.

Applicant states that Southern Energy has requested to purchase natural gas from Applicant for use at its LNG terminal at Elba Island, Georgia. Applicant also states that it is in the process of finalizing an emergency gas sales agreement with Southern Energy, pursuant to which any day Southern Energy has an emergency need for natural gas at its LNG terminal, Applicant would make available to Southern Energy sufficient quantities of natural gas to meet its emergency requirements, estimated to be approximately 50 Mcf of gas per day. It is further stated that Applicant would deliver all gas purchased by Southern Energy through existing facilities at the interconnection of Applicant's and Southern Energy's facilities on Elba Island.

It is stated that Southern Energy would pay Applicant an initial price of $3.49 per Mcf of gas, the current rate for gas service under Applicant's Rate Schedule AO-3. Applicant asserts that this price would be adjusted to reflect any changes in said rate schedule.

Applicant asserts that the small quantity of natural gas to be sold to Southern Energy on any day would not effect the level of service to Applicant's customers even during periods of curtailment.

Applicant proposes to make the subject sale pursuant to Section 9.5 of the General Terms and Conditions of its FERC Gas Tariff, and accordingly, requests such waiver of its FERC Gas Tariff as may be necessary to effectuate such sale. However, if the Commission determines that the proposed sale is not exempt from the curtailment procedures set out in Section 9 of the General Terms and Conditions of Applicant's FERC Gas Tariff, Applicant requests, in the alternative, authorization to include Southern Energy's emergency requirements in Priority 2.2 of the Index of Requirements in Applicant's FERC Gas Tariff.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 18, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules

Take further notice that, pursuant to the authority contained in and subject to

jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15737 Filed 6-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-25-001]

Stone Container Corp.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

June 4, 1982.

On May 20, 1982, Stone Container Corp., 360 N. Michigan Avenue, Chicago, Illinois 60601, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules. The Commission granted certification of qualifying status as a cogeneration facility for this facility on February 11, 1982.

The facility is located in Coshocton, Illinois. The primary energy source of the facility is biomass in the form of wood waste. Natural gas or petroleum will provide approximately 20 percent of the fuel input to the facility on an average annual bases. The electric power production capacity of the facility will be 16.5 megawatts. Stone Container Corporation does not own or operate any other small power production facilities located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15738 Filed 6-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP78-491-002]

Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; Petition To Amend

June 4, 1982.

Take notice that on May 14, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP78-491-002 pursuant to Section 7(c) of the Natural Gas Act requesting that the petition to amend filed on April 26, 1982, in the instant docket, be considered a request to amend the order issued November 20, 1978, so as to allow a reduction in the maximum daily volume of natural gas authorized therein for transportation by Applicant from 25,000 Mcf of gas per day to 13,000 Mcf of gas per day, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner submits that on August 21, 1978, it filed an application requesting authorization to transport volumes of natural gas for Alablama-Tennessee Natural Gas Company (Alabama-Tennessee). It is further submitted that by order issued November 20, 1978, Applicant was authorized to transport up to 25,000 Mcf of gas per day which Alabama-Tennessee agreed to purchase from Sunmark Exploration Company. Applicant states that the maximum daily volume was subsequently reduced from 25,000 Mcf of gas per day to 19,835 Mcf of gas per day, effective November 1, 1980, pursuant to the terms of that order and the transportation agreement between Applicant and Alabama-Tennessee.

Petitioner asserts that on April 26, 1982, it filed a petition to amend the order issued November 20, 1978, so as to reduce the maximum daily volume from 19,835 Mcf of gas per day to 13,000 Mcf of gas per day, effective January 1, 1981, pursuant to an amendment to the transportation agreement between Petitioner and Alabama-Tennessee.

Petitioner further asserts that the Commission reviewed such petition to amend and determined that Petitioner should more appropriately request a reduction in the maximum daily volume. Petitioner, therefore, now requests that the petition to amend filed April 26, 1982, in the instant docket, be considered a request by Petitioner to amend the order issued November 20, 1978, so as to allow a reduction in the maximum daily volume of natural gas authorized for transportation by Petitioner from 25,000 Mcf of gas per day to 13,000 Mcf of gas per day.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 25, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15739 Filed 6-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST80-176-002]

Tennessee Gas Pipeline Co.; Extension Reports

June 2, 1982.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The Commission's regulations provide that the transportation or sales may continue

for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146.

Any person desiring to be heard or to make any protest with reference to said extension report should on or before June 9, 1982 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No. and Transporter/seller		Recipient	Date filed	Part 284 subpart	Effective date
ST80-176-001	Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77001	National Fuel Gas Distribution Corp	5/03/82	B	7/01/82
ST80-206-001	Louisiana Intrastate Gas Corp., P.O. Box 1352, Alexandria, LA 71301	Mid Louisiana Gas Co	5/06/82	C	5/15/82
ST80-262-001	Colorado Interstate Gas Co., P.O. Box 1087, Colorado Springs, CO 80944	Columbia Gas Transmission Corpr	5/10/82	G	6/20/82
ST80-281-001	Northwest Pipeline Corp., P.O. Box 1526, Salt Lake City, UT 84110	Northern Natural Gas Co	5/06/82	G	8/07/82
ST80-287-001	El Paso Natural Gas Co., P.O. Box 1492, El Paso, TX 79978	Northern Natural Gas Co	5/05/82	G	8/07/82
ST80-209-001	Sugar Bowl Gas Corp., 1200 Milam, Houston, TX 77001	Cajun Natural Gas Co	5/14/82	C	8/15/82
ST80-349-001	Alamo Transmission Co., P.O. Box 500, San Antonio, TX 78292	Transwestern Pipeline Co	5/10/82	C	9/05/82
ST80-412-001	Pantera Energy Corp.,[1] 4501 Wadsworth Boulevard, Denver, CO 80033	Colorado Interstate Gas Co	5/12/82	D	8/15/82

[1] Formerly Industrial Gas Services, Inc.

[FR Doc. 82-15742 Filed 6-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP81-130-000]

Transwestern Pipeline Co.; Settlement Conference

June 4, 1982.

Take notice that on June 17, 1982, at 10:00 a.m., a settlement conference of all interested parties will be convened concerning the above-captioned matter. The conference will be held at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend the conference, but if such persons have not previously been permitted to intervene in this matter by order of the Commission, attendance will not be deemed to authorize intervention as a party in these proceedings.

All parties will be expected to appear fully prepared to discuss any procedural matters and explore or make commitments with respect to any or all of the issues discussed at the conference.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15740 Filed 6-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-11-000]

United Gas Pipe Line Co.; Filing of Revised Tariff Sheets

June 4, 1982.

Take notice that on June 1, 1982, United Gas Pipe Line Company (United) tendered for filing Fifty-Eighth Revised Sheet No. 4, Fifth Revised Sheet Nos. 4-A and 4-B, and Seventh Revised Sheet No. 4-C to its FERC Gas Tariff, First Revised Volume No. 1. These tariff sheets and supporting information are being filed pursuant to the Purchased Gas Cost Adjustment provisions set out in Sections 19, 22, and 23 of United's Tariff.

United states that the Current Adjustment reflects rates payable to United's suppliers for the six (6) months commencing July 1, 1982.

Fifth Revised Sheet Nos. 4-A and 4-B are being filed to reflect the estimated incremental pricing surcharges as required by Commission Order No. 49 issued September 28, 1979.

Seventh Revised Sheet No. 4-C is being filed in compliance with the letter order issued by the Office of Pipeline and Producer Regulation dated January 27, 1982, and refects FERC approved changes to the transportation rate schedules.

Copies of the proposed tariff sheets and supporting data are being mailed to United's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15721 Filed 6-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5037-001]

Utah Power & Light Co.; Application for License (Over 5 MW)

June 7, 1982.

Take notice that Utah Power & Light Company (Applicant) filed on January 19, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for construction and operation of a water power project to be known as the Long Park Project No. 5037. The project would be located on Sheep Creek in Daggett County, Utah. Correspondence with the Applicant should be directed to: Ms. Jody Williams, 1407 West North Temple, P.O. Box 899, Salt Lake City, Utah 84110.

Project Description—The proposed project would include two connected developments, the Upper Long Park Development to consist of: (1) the existing Long Park Dam, 102.5 feet high and 1,860 feet long; (2) the existing reservoir covering 340 acres with a gross storage capacity of 13,700 acre-feet at elevation 8645.5 feet msl; (3) a new penstock, 10,670 feet long and 42 inches in diameter; (4) a new 37- by 46-foot powerhouse containing one new 7.0-MW turbine/generator unit operating under a head of 1125.5 feet; (5) a 69-kV transmission line three miles long; and (6) appurtenant facilities; and the Lower Long Park Development to consist of: (1) a new diversion dam, 5 feet high and 24 feet long; (2) a new intake structure 6 by 23 feet; (3) a new trapezoidal canal 6,000 feet long; (4) a new concrete forebay 16 by 25 feet; (5) a new 42-inch diameter penstock 1,340 feet long; (6) a new 32- by 43-foot powerhouse containing one 1.4-MW turbine/generator unit operating under a head of 145 feet; and (7) appurtenant facilities.

Purpose of Project—The average annual generation of 23.46 million kWh would be used by the Applicant in its utility system.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before August 13, 1982, either the competing application itself [see 18 CFR 4.33(a) and (d)] or a notice of intent [see 18 CFR 4.33 (b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions to Intervene—This application was filed as a competing application to the Utah Board of Water Resources' application for Project No. 4856 filed on June 11, 1981. Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or § 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 13, 1982.

Filing and Service of Responsive Documents.—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15722 Filed 6-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST82-241; Docket No. RM79-34]

Valero Transmission Co., et al., Transportation of Certificates for Natural Gas Displacement of Fuel Oil; Self-Implementing Transactions

June 4, 1982.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations and Sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA). The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline pursuant to § 284.102 of the Commission's Regulations.

A "C" indicates transportation by an intrastate pipeline pursuant to § 284.122 of the Commission's Regulations. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and expiration date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline pursuant to § 284.142 of the Commission's Regulations and Section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

A "E" indicates an assignment by an intrastate pipeline pursuant to § 284.163 of the Commission's Regulations and § 312 of the NGPA.

An "F" indicates a fuel oil displacement transaction implemented pursuant to § 284.202 of the Commission's Regulations. Any interested persons may file a complaint concerning such transaction pursuant to § 284.205(d) of the Commission's Regulations.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G (HT)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Kenneth F. Plumb,

Secretary.

Docket No. and transporter/seller	Recipient	Date filed	Part 284 subpart	Expiration date [1]	Transportation rate (cents/MMBTU)
ST82-241 Valero Transmission Co	El Paso Natural Gas Co	4/01/82	C		
ST82-242 United Texas Transmission Co	El Paso Natural Gas Co	4/01/82	C		
ST82-243 Gas Co. of New Mexico Co	Northwest Pipeline Corp	4/02/82	G(HT)		
ST82-244 Delhi Gas Pipeline Corp	Transcontinental Gas Pipe Line Corp	4/05/82	C		
ST82-245 Northern Natural Gas Co	Coronado Transmission Co	4/05/82	B		
ST82-246 Gas Gathering Corp	Transcontinental Gas Pipe Line Corp	4/05/82	G		
ST82-247 Mountain Fuel Supply Co	Utah Gas Service Co	4/05/82	B		
ST82-248 Natural Gas Pipeline Co. of America	Channel Industries Gas Co	4/06/82	B		
ST82-249 Sugar Bowl Gas Corp	Columbia Gas Transmission Corp	4/06/82	C	9/02/82	18.50
ST82-250 United Gas Pipe Line Co	Northern Natural Gas Co	4/06/82	G		
ST82-251 Northwest Pipeline Corp	Colorado Interstate Gas Co	4/07/82	G		
ST82-252 Panhandle Eastern Pipe Line Co	Peoples Natural Gas Co	4/08/82	B		
ST82-253 Columbia Gulf Transmission Co	Southern Natural Gas Co	4/05/82	G		

	Docket No. and transporter/seller	Recipient	Date filed	Part 284 subpart	Expiration date [1]	Transportation rate (cents/MMBTU)
ST82-254	Southern Natural Gas Co	United Gas Pipe Line Co	4/06/82	G		
ST82-255	Dow Pipeline Co	Natural Gas Pipeline Co. of America	4/06/82	C		
ST82-256	Reel Gas Co	Transwestern Pipeline Co	4/12/82	C	9/09/82	25.00
ST82-257	Producer's Gas Co	Transcontinental Gas Pipe Line Corp	4/12/82	C	9/09/82	30.00
ST82-258	Northern Natural Gas Co	United Gas Pipe Line Co	4/12/82	G		
ST82-259	Northern Natural Gas Co	Columbia Gas Transmission Corp	4/12/82	G		
ST82-260	Northwest Pipeline Corp	Cities Service Gas Co	4/12/82	G		
ST82-261	Arkansas Oklahoma Gas Corp	Tennessee Gas Pipeline Co	4/13/82	G		
ST82-262	Tennessee Gas Pipeline Co	Northern Natural Gas Co	4/14/82	G		
ST82-263	Trunkline Gas Co	Panhandle Eastern Pipe Line Co	4/15/82	G		
ST82-264	Texas Eastern Transmission Corp	United Gas Pipe Line Co	4/15/82	G		
ST82-265	Texas Gas Transmission Corp	Arkansas Louisiana Gas Co	4/16/82	G		
ST82-266	Louisiana Gas Intrastate, Inc	Texas Eastern Transmission Corp	4/16/82	D	9/13/82	25.75
ST82-267	Louisian Resources Co	Transcontinental Gas Pipe Line Corp	4/16/82	C	9/16/82	22.25
ST82-268	Florida Gas Transmission Co	Valero Transmission Co	4/19/82	B		
ST82-269	Delhi Gas Pipeline Corp	Arkansas Louisiana Gas Co	4/20/82	D	9/17/82	37.00
ST82-270	Mountain Fuel Supply Co	Northwest Pipeline Corp	4/20/82	G		
ST82-271	Mountain Fuel Supply Co	Northwest Pipeline Corp	4/20/82	G-HT		
ST82-272	Tennessee Gas Pipeline Co	Consolidated Edison Co. of New York	4/21/82	F		
ST82-273	Consolidated Gas Supply Corp	Columbia Gas Transmission Corp	4/23/82	G		
ST82-274	Texas Eastern Transmission Corp	Monterey Pipeline Co	4/23/82	B		
ST82-275	Transcontinental Gas Pipe Line Corp	Richie Gas System, Inc	4/23/82	B		
ST82-276	Transcontinental Gas Pipe Line Corp	Philadelphia Electric Co	4/23/82	B		
ST82-277	Houston Pipe Line Co	Transcontinental Gas Pipe Line Corp	4/23/82	C		
ST82-278	Delhi Gas Pipeline Corp	Utah Gas Service Co	4/23/82	C	9/20/82	37.00
ST82-279	United Gas Pipe Line Co	Tenngasco Gas Gathering Co	4/26/82	B		
ST82-280	Oklahoma Natural Gas Co	Transwestern Pipeline Co	4/26/82	C		
ST82-281	Natural Gas Pipeline Co. of America Co	El Paso Natural Gas Co	4/28/82	G		
ST82-282	Tennessee Gas Pipeline Co	Louisiana Intrastate Gas Corp	4/28/82	B		
ST82-283	Southern Natural Gas Co	Michigan Wisconsin Pipe Line Co	4/29/82	G		
ST82-284	Southern Natural Gas Co	Florida Gas Transmission Co	4/29/82	G		
ST82-285	Southern Natural Gas Co	Transcontinental Gas Pipe Line Corp	4/29/82	G		
ST82-286	Southern Natural Gas Co	Northern Natural Gas Co	4/29/82	G		
ST82-287	Mississippi Fuel Co	Tennessee Gas Pipeline Co	4/30/82	C		
ST82-288	Tennessee Gas Pipeline Co	Arkansas Louisiana Gas Co	4/30/82	C		
ST82-289	Transcontinental Gas Pipe Line Corp	Tennessee Gas Pipeline Co	4/30/82	G		

[1] The intrastate pipeline has sought Commission approval of its transportation rate pursuant to section 284.123(b)(2) of the Commission's regulations (18 CFR 284.123(b)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 82-15748 Filed 6-9-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6284-000]

Washington Electric Cooperative; Application for Preliminary Permit

June 7, 1982.

Take notice that the Washington Electric Cooperative (Applicant) filed on May 3, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6284 to be known as the Peak Shaver #1 Project located on the Winooski River near the Town of East Montpelier in Washington County, Vermont. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Gordon Booth, President, Washington Electric Cooperative, P.O. Box E, East Montpelier, Vermont 05651.

Project Description—The proposed project would consist of: (1) a new earth-fill and reinforced concrete dam, 9 feet high, topped by 3-foot flashboards, and 410 feet long including a 150-foot long concrete overflow section; (2) a new reservoir covering 80.6 acres with a storage of 320 acre-feet at an elevation of 662 feet NGVD; (3) a new powerhouse to be built on the south bank of the river and to contain one new 233-kW turbine-generator unit; (4) a new tailrace to be excavated from the powerhouse to a point 200 feet downstream from the dam centerline; (5) a new three-phase 12.47-kV transmission line 1000 feet long; and (6) appurtenant facilities.

The average annual generation of one million kWh would be sold to the Applicant's members.

Purposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 3 years, during which time it would perform surveys and geological investigations, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimate the cost of studies under the permit would be $30,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 13, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981].

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 13, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than October 12, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the

requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 13, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15723 Filed 6-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3009-001]

Westerman Realty Co.; Surrender of Preliminary Permit

June 8, 1982.

Take notice that Westerman Realty Company, Permittee for the proposed Upper and Lower Crompton Project No. 3009, has requested that its preliminary permit be terminated. The preliminary permit was issued on June 25, 1980, and would have expired on May 31, 1982. The project would have been located on the South Branch-Pawtuxet River in Kent County, Rhode Island. Westerman Realty Company states that based on current projections, the project is not economically feasible.

Westerman Realty Company filed its request on May 17, 1982, and the surrender of its permit for Project No. 3009 is deemed effective as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15741 Filed 6-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5338-001]

Western Power Inc.; Application for Exemption For Small Hydroelectric Power Project Under 5 MW Capacity

June 8, 1982.

Take notice that on April 15, 1982, Western Power Incorporated (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 5338) would be located on West Cady Creek, near the City of Index, Snohomish County, Washington. Correspondence with the Applicant should be directed to: Mr. Thomas R. Childs, Western Power Inc., P.O. Box 5663, Bellingham, Washington 98227.

Project Description—The proposed project would consist of: (1) a proposed 6-foot high, 35-foot long timber crib diversion structure on West Cady Creek; (2) a proposed 5,200-foot long, 54-inch diameter steel penstock; (3) a proposed powerhouse with two generating units having an estimated total installed capacity of 5.0 MW and producing an average annual energy output of 18.87 GWh; (4) a proposed 10-foot deep, 20-foot wide, 40-foot long concrete tailrace; (5) a proposed switchyard containing a 4.16 kV to 69 kV 3 phase transformer; (6) a proposed 4,600-foot long 69 kV primary transmission line to interconnect to the proposed Storm Ridge project line; and, (7) appurtenant facilities. The project is proposed as a run-of-river operation on lands of the Mount Baker-Snoqualmie National Forest.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, the Washington State Department of Game, and the Washington State Department of fisheries, are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before July 23, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 23, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE

COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15734 Filed 6-9-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59067A; TSH-FRL 2137-2]

Cationic Substituted Acid Amide; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM-82-15) under section 5 of the Toxic Substances Control Act (TSCA) on April 26, 1982. Notice of receipt of the application was published in the **Federal Register** of May 7, 1982 (47 FR 19781). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective on June 3, 1982.

FOR FURTHER INFORMATION CONTACT: Anna Coutlakis, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-221, 401 M St., SW., Washington, DC, 20460, (202-382-3742).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(b)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the **Federal Register.** If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On April 26, 1982, EPA received an application for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM-82-15. Celanese claimed the specific chemical identity, the specific use and production volume of the new substance as confidential business information. The generic name of the new substance is cationic substituted acid amide, and it will be used as an intermediate. The test marketing period is not to exceed 6 months. During manufacture 12 workers will be dermally exposed over a 24 hour period. A notice published in the **Federal Register** of May 7, 1982 (47 FR 19781) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency has not received any comments concerning the application.

EPA has established that the test marketing of the substance described in TM-82-15, under the conditions set out in the application will not present any unreasonable risk of injury to health or the environment. Although there are health and environmental concerns for the TME substance, exposure to workers during manufacture is expected to be minimal and releases to the environment are expected to be low.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. Each bill of lading that accompanies a shipment of the substance during the test marketing period must state that the use of the substance is restricted to that described to EPA in the test marketing exemption application.

3. The production volume of the new substance may not exceed that described in the test marketing exemption application.

4. The test marketing activity approved in this notice is limited to a period of 6 months commencing on the date of signature of this notice by the Administrator.

5. The number of workers exposed to the new chemical should not exceed that specified in the application, and the duration of exposure should not exceed that specified.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: June 3, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-15665 Filed 6-9-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59067B; TSH-FRL 2137-3]

Cationic Substituted Acid Amide Polymer; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM-82-16) under section 5 of the Toxic Substances Control Act (TSCA) on April 26, 1982. Notice of receipt of the application was published in the **Federal Register** of May 7, 1982 (47 FR 19781). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective on June 3, 1982.

FOR FURTHER INFORMATION CONTACT: Anna Coutlakis, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-221, 401 M St., SW., Washington, DC 20460, (202-382-3742).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the

United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the **Federal Register**. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On April 26, 1982, EPA received an application for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM–82–16. Celanese claimed the specific chemical identity, the specific use and production volume of the new substance as confidential business information. The generic name of the new substance is cationic substituted acid amide polymer, and it will be used as an additive. The test marketing period is not to exceed 1 year. During manufacture 12 workers will be dermally exposed over a 24 hour period. A notice published in the **Federal Register** of May 7, 1982 (47 FR 19781) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency has not received any comments concerning the application.

EPA has established that the test marketing of the substance described in TM–82–16, under the conditions set out in the application, will not present any unreasonable risk of injury to health or the environment. Some toxicity concerns exist for the TME substance if released into an aquatic environment. These concerns are mitigated, during manufacture, by proper waste treatment that will result in little or no release of the TME substance. During use the TME substance is expected to be contained, presenting minimal risk of injury to the aquatic environment.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. Each bill of lading that accompanies a shipment of the substance during the test marketing period must state that the use of the substance is restricted to that described to EPA in the test marketing exemption application.

3. The production volume of the new substance may not exceed that described in the test marketing exemption application.

4. The test marketing activity approved in this notice is limited to a period of 1 year commencing on the date of signature of this notice by the Administrator.

5. The number of workers exposed to the new chemical should not exceed that specified in the application, and the duration of exposure should not exceed that specified.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: June 3, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82–15668 Filed 6–9–82; 8:45 am]

BILLING CODE 6560–50–M

[OPTS 81009; TSH–FRL–2131–8]

TSCA Chemical Substances Inventory; Proposed Actions on Synthetic Fuels and Related Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA has completed a review of twenty synthetic fuels and related substances currently listed on the TSCA Chemical Substances Inventory. Two problems were identified. First, EPA believes that twelve substances had not left the research and development stage during the Inventory reporting period and were, therefore, ineligible for inclusion on the Inventory. EPA proposes to remove these ineligible substances from the Inventory. Second, four of the twenty substances, though eligible for the Inventory, were erroneously incorporated under the names of petroleum derived substances. EPA will establish a new Inventory entry for each of these four substances. The remaining four substances were found to be both properly reported and correctly identified on the Inventory; no action will be taken on these four substances. The Agency solicits public comments on its intent to remove the twelve ineligible substances.

DATE: Comments should be received by August 9, 1982.

ADDRESSES: Three copies of the written comments should be addressed to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–401, 401 M St. SW., Washington, D.C. 20460.

Comments should bear the identifying notation OPTS 81009. The administrative record supporting this action is available for public inspection in the OPTS Reading Room E–107, at the above address, from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS–799), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–511, 401 M St. SW., Washington, D.C. 20460, Toll free: (800–424–9056), In Washington, D.C.: (554–1404), Outside the U.S.A.: (Operator–202–554–1404).

SUPPLEMENTARY INFORMATION:

EPA's Review of Synthetic Fuels on the TSCA Inventory

Twenty shale oil and solvent-refined coal (SRC) products were reported for and are now listed on the Toxic Substances Control Act (TSCA) Chemical Substances Inventory. In response to industry inquiries about the applicability of TSCA to synthetic fuels (synfuels) and as part of an overall Agency review of existing regulations and authorities as they apply to synfuels, EPA has examined the appropriateness of the listing of these substances on the Inventory. In particular, the Agency was concerned that these substances were in research

and development (R&D) rather than non-R&D commercial production at the time the Inventory was compiled and therefore were ineligible for listing. Industry statements during the Inventory reporting period indicated that coal conversion and shale oil materials were in various stages of R&D and therefore were not likely to be eligible for the Inventory. In addition, industry representatives on several occasions have maintained that synfuel products of pilot and demonstration facilities are produced for R&D purposes and are therefore not subject to TSCA premanufacture notification (PMN) requirements. By the same logic, such products would not have been eligible for the Inventory.

As a result of these concerns, EPA requested the five manufacturers who reported the twenty substances in question to provide information documenting whether these substances had gone beyond the R&D phase of their commercialization during the Inventory reporting period. Based on the information provided by the submitters, EPA believes that twelve of the twenty substances were only in research and development when they were reported for the Inventory. These substances were, therefore, ineligible for inclusion on the Inventory. This conclusion was reached by applying the definitions of research and development discussed later in this notice. In addition, EPA found that four of the shale oil substances that were eligible for the Inventory (i.e., they had gone beyond the R&D stage when they were reported for the Inventory) were inadvertently incorporated under the names of similar petroleum derived products, rather than under a separate shale oil listing.

This notice discusses EPA's review of the twenty synfuels and related substances in question, and announces the Agency's proposed actions on how these two problems will be corrected. The proposed actions will not affect in any manner the continued listing of petroleum derived products on the Inventory.

B. Purpose of the Inventory

Section 8(b) of the Toxic Substances Control Act, Public Law 94–469, requires the Administrator of the EPA to identify, compile, and keep current a list of chemical substances which are manufactured, imported, or processed for commercial purposes in the United States. To meet this requirement, EPA promulgated the Inventory Reporting Regulations (40 CFR Part 710), which appeared in the **Federal Register** of December 23, 1977 (42 FR 64572). These Regulations provided the basis for the initial compilation of the TSCA Chemical Substances Inventory, which identifies the chemical substances in U.S. commerce since January 1, 1975.

The Inventory performs two functions under TSCA. First, it informs the public which chemical substances are being manufactured, imported or processed in the United States for commercial purposes. Second, it defines what is a "new" chemical substance for purposes of section 5(a)(1)(A) of TSCA. If a chemical substance is not included on the Inventory, it is considered a "new" substance, and a premanufacture notification is required at least 90 days before the manufacture or import of such a substance.

C. Corrections of Erroneous Inventory Listings

In order to perform its statutory functions, the Inventory has to be accurately maintained and continuously updated. Since the publication of the Initial Inventory in June 1979, and the Revised Inventory in July 1980, the Agency has recognized the need for correcting erroneous Inventory reports. In using the Inventory, industry sometimes discovered that certain previously reported substances were incorrect, and requested that these misreports be corrected. Similarly, in reviewing the Inventory, EPA has found that some substances were erroneously listed. EPA announced, on July 29, 1980, in the **Federal Register** (45 FR 50544) that it would accept certain types of corrections related to substances listed on the Inventory.

The Agency subsequently developed procedures for removal from the Inventory of substances which were incorrectly listed, and published the procedures in the **Federal Register** (46 FR 11356) when it announced its intent to remove from the Inventory the chemical substance known as 2-naphthalenamine, Chemical Abstracts Service (CAS) Registry Number 91–59–8. To date, 2–napthalenamine, which was found to be erroneously listed, is the only substance removed from the Inventory (46 FR 30563). The Agency has recently issued a separate notice in **Federal Register** (47 FR 23205) announcing its intent to remove from the Inventory 27 substances which were identified by their submitters as erroneously listed.

Generally speaking, there are two types of errors related to the listing of chemical substances on the Inventory. First, a substance which clearly belongs on the Inventory is incorrectly identified. Second, a substance is ineligible for inclusion on the Inventory although it is correctly identified. This notice discusses both types of errors and appropriate actions for correcting them with respect to the twenty synfuels and related substances.

D. Renaming Incorrectly Listed Synfuel Products

The first problem is related to incorrect classification of some of the synfuel substances on the Inventory. Nine synfuel substances derived from shale oil were inadvertently incorporated into the listings of similar petroleum derived substances, and are currently listed on the Inventory under the CAS Registry Numbers assigned to the petroleum derived substances. Most of the synfuel and petroleum derived substances do not have specific molecular formula representations and are therefore classified on the Inventory under the so-called UVCB category, i.e., *U*nkown or *V*ariable composition, *C*omplex reaction products, and *B*iological materials. Definitions were generally developed for UVCB substances, based on source material, composition, and process description information provided by the submitter.

In developing nomenclature systems for listing substances on the Inventory, EPA distinguished between synfuel substances and petroleum derived substances because the source material differed. With the assistance of the American Petroleum Institute (API), the Agency developed an addendum to the *Toxic Substances Control Act Candidate List of Chemical Substances* which provided guidance for the reporting of petroleum derived products for the Inventory. The Agency, however, did not develop a comparable list for coal or shale oil based synthetic fuels because industry statements indicated that most synfuel substances were still at research and development stages and were not expected to be in non-R&D commercial production in time for Inventory reporting. EPA decided that in the event any synfuel substances should enter into non-R&D commercial production before Inventory reporting closed, such substances could be reported. Subsequently, when the shale oil derived substances were reported, they were mistakenly listed under similar petroleum derived UVCB categories. After the publication of the Initial Inventory in June 1979, the submitter of these substances notified EPA of this error. Early in 1980, the Agency indicated that it would examine the matter and take appropriate corrective measures. With this notice, EPA announces that it will take the corrective measures by renaming the shale oil products that were eligible for

the Inventory and listing them separately under these names.

E. Removing Improperly Reported Synfuels From the Inventory

The Inventory Reporting Regulations govern reporting of certain substances for inclusion on the Inventory. Each substance reported for the Inventory must satisfy the following three criteria:

1. It must be a "chemical substance" as defined by § 3(2) of TSCA and § 710.2(h) of the Regulations;

2. It must have been manufactured, imported, or processed for commercial purposes in the United States since January 1, 1975; and

3. It must not be excluded from the Inventory by any provision of § 710.4 of the Regulations.

A "reportable chemical substance" is therefore one which satifies *all* of the above criteria; a substance which fails to meet these criteria was not eligible for the Inventory.

Substances which are manufactured in small quantities solely for research and development purposes are not eligible for the Inventory. Section 8(b) of TSCA specifically excluded from the Inventory "any chemical substance which is manufactured or processed only in small quantities (as defined by the Administrator by rule) solely for purposes of scientific experimentation or analysis or chemical research on, or analysis of, such substance or another substance, including such research or analysis for the development of a product." The Inventory Reporting Regulations implemented this requirement by specifying, under § 710.4(c)(3), that "any chemical substance which is manufactured, imported, or processed solely in small quantities for research and development as defined in § 710.2(y) . . ." would not be reportable for the Inventory.

The EPA review of whether or not a synfuel substance should have been reported for the Inventory addressed the primary question: Was that substance produced for purposes other than R&D, as defined in the Inventory Reporting Regulations. The Agency believes that the inclusion of the synfuels on the Inventory must be consistent with the intent of the Act and the general principles for defining research and development.

The specific elements of R&D within the context of synfuel production are discussed below.

1. *Small quantities.* As defined in § 710.2(y) of the Inventory Reporting Regulations, "small quantities for purposes of scientific experimentation or analysis or chemical research on, or analysis of, such substance or another substance, including such research or analysis for the development of a product . . . (hereinafter sometimes shortened to "small quantities for research and development") means quantities of a chemical substance manufactured, imported, or processed or proposed to be manufactured, imported, or processed that (1) are no greater than reasonably necessary for such purposes . . .". The Agency had considered establishing upper limits for small quantities for purposes of defining R&D substances for the TSCA Inventory, but found that different values would have to be assigned to various groups of substances depending upon their physical/chemical characteristics and intended uses.

It might appear that the synfuel products reported for the Inventory were produced in greater than small quantities. (For example, in one project approximately 88,000 barrels of crude shale oil were refined to produce diesel and jet fuel). However, the Inventory Reporting Regulations specify that "small quantities" for R&D is a relative concept, depending on the kind of use for which a substance is being developed. In the case of fuels, "small quantities" for research and development may be very large, compared to what is common for most industrial and consumer chemicals. The critical question the synfuel substances reported for the Inventory is not whether a large quantity was produced for each substance, but rather whether the manufacturer or refiner produced only what was reasonably necessary to carry out the R&D purpose of evaluating the substance's physical, chemical, production, or performance characteristics. In the case of the products in question, EPA believes that no more material was made than was reasonably necessary for purposes of R&D.

2. *Conditions of use.* The most important factor in determining whether a substance is produced for R&D purposes is the way in which it is used. In developing the Inventory Reporting Regulations, EPA made it clear that R&D activities include the evaluation of the physical, chemical, production, and performance characteristics of a substance. Substances produced solely for use in these types of tests are considered R&D and were, therefore, not eligible for reporting for the Inventory.

Accordingly, if a manufacturer or industrial customer burned fuels under carefully monitored conditions to determine performance and emission levels in existing facilities, he would most likely be engaged in an R&D activity. However, if a manufacturer sold a synfuel to consumers for unmonitored use as a fuel or if he mixed a synfuel in significant amounts into petroleum refinery streams, he would probably have gone beyond R&D.

3. *Sale for commercial purposes.* Sale of an R&D substance for commercial purposes does not, by itself, mean that such a substance is no longer R&D. Support documents including the preamble to the Inventory Reporting Regulations specified that the sale of R&D substances to industrial users and other customers for R&D purposes (a commercial purpose under TSCA) does not necessarily signal the end of the development period. The important question is how the purchaser uses the substance. If the purchaser is solely evaluating the physical, chemical, production, and performance characteristics of the substances, his activities are still classified as R&D.

4. *Test marketing.* Substances produced for test marketing purposes are not considered to be R&D and therefore were eligible for the Inventory. As defined in § 710.2(bb) of the Inventory Reporting Regulations, test marketing is mainly concerned with exploring the market capability of a substance in a competitive situation. Therefore, R&D focuses on performance (among other characteristics), while test marketing focuses on customer acceptance or market demand in a competitive situation.

By applying the R&D principles listed above, EPA believes that twelve of the twenty substances in question were at various stages of research and development when they were reported, and therefore were not eligible for the Inventory. EPA proposes that these substances be removed from the Inventory.

The proposed EPA actions are summarized as follows:

1. One shale oil and three SRC substances were properly reported and correctly identified. These substances will remain on the Inventory.

2. Four shale oil substances were found to have been properly reported but incorrectly identified on the Inventory. Each of the four shale oil substances was erroneously incorporated into the Inventory listings of similar petroleum derived substances. EPA will retain the four shale oil substances on the Inventory by creating a new, separate entry for each substance. Accordingly, each of these shale oil substances will be assigned a new CAS Registry Number, a new CA Preferred Name, and a new UVCB definition. The petroleum derived substances will remain on the Inventory,

but will no longer include the shale oil substances.

3. One shale oil and six SRC substances were improperly reported because they were R&D, but they were correctly identified on the Inventory. EPA proposes to remove from the Inventory the CAS Registry Number, CA Preferred Name, UVCB definition, and any other chemical identity data, including synonyms, of each of these substances. Effective with the official removal date to be announced in the final notice of disposition, these substances will be removed from the Inventory—the continued presence of their CAS Registry Numbers and other data in previously published versions of the Inventory notwithstanding.

4. Five shale oil substances were found to have been improperly reported and incorrectly identified. These substances were R&D at the time when they were reported, and were erroneously incorporated into the Inventory listings of similar petroleum derived substances on the Inventory. EPA proposes to "remove" these five shale oil substances from the Inventory. Accordingly, EPA will not create a new entry for each of these five substances. Effective with the publication of the final notice of disposition, EPA will no longer consider that these five shale oil substances are included in the similar petroleum derived substance entries. EPA will not assign a new CAS Registry Number or develop a new UVCB definition for any of these five shale oil substances until such time as a PMN is submitted. The petroleum derived substance entries will be retained on the Inventory and will represent only the petroleum products.

An overview of the twenty synfuels and related substances and the proposed EPA actions on each of these substances are presented in Table I. The Table consists of three columns. In the first column, the substances are grouped into the shale oil and the SRC categories. For each of the substances, the manufacturer-supplied substance name is given. For the shale oil substances which were erroneously listed under similar petroleum derived substance entries, the synfuel manufacturer-supplied definition is listed. (These definitions, because of the erroneous listing, have not been published on the Inventory). The second column of Table I lists the CAS Registry Numbers and CA Preferred Names as appeared on the Inventory. (Note that some of the CA Preferred Names refer to petroleum derived substances). The definitions corresponding to these Inventory entries can be found in Appendix A of the Inventory. In column three, the proposed EPA action for each substance is summarized.

TABLE I.—OVERVIEW OF CURRENTLY LISTED SYNTHETIC FUELS AND RELATED SUBSTANCES AND EPA'S PROPOSED ACTIONS

Synfuel synonym and definition	CAS registry No. and CA preferred name on inventory	Proposed EPA action
Shale oil and Shale oil Chemicals		
Shale oils	68308-34-9, Shale oils	Leave on Inventory.
Light hydrocracked naphtha (shale oil). A complex combination of hydrocarbons from distillation of the product from a hydrocracking process for which the feed is shale oil. It consists predominantly of saturated hydrocarbons having carbon numbers in the range of C_5 through C_{11}, and boiling in the range of approximately 25°C to 160°C (77° to 320°F).	64741-68-1, Naphtha (petroleum), light hydrocracked.	Leave on Inventory (EPA will create a separate entry with new CAS Registry Number and a new definition).
Hydrocracked residuum (shale oil). A complex combination of hydrocarbons produced as the residual fraction from distillation of the products of a hydrocracking process for which the feed is shale oil. It consists of hydrocarbons having carbon numbers predominantly greater than C_{25}, and boiling above 360°C (680°F).	64741-75-8, Residues (petroleum), hydrocracked.	Do.
Light hydrocracked distillate (shale oil). A complex combination of hydrocarbons from distillation of the product from a hydrocracking process for which the feed is shale oil. It consists predominantly of saturated hydrocarbons having carbon numbers predominantly in the range of C_{15} through C_{25}, and boiling in the range of approximately 200°C to 315°C (390° to 600°F).	64741-77-1, Distillates (petroleum), light hydrocracked.	Do.
Acid sludge (shale oil). A complex combination of sulfuric and sulfonic acids, water, esters, and high molecular weight organic compounds formed during the treating of shale oil fractions with sulfuric acid. The hydrocarbon portion of the sludge may be predominantly aromatic, with an H/C atom ratio in the order of 1.0 and an H/C atom ratio in the order of 0.1, together with heteroatom compounds containing oxygen and sulfur.	64742-24-1, Sludges (petroleum), acid	Do.
Heavy hydrocracked distillate (shale oil). A complex combination of hydrocarbons from distillation of the product from a hydrocracking process for which the feed is shale oil. It consists predominantly of saturated hydrocarbons having carbon numbers predominantly in the range of C_{20} through C_{36}, and boiling in the range of 290°C to 480°C (550° to 750°F).	64741-76-9, Distillates (petroleum), heavy hydrocracked.	Remove from Inventory (EPA will not create any CAS Registry Number or definition for the removed shale oil substances & will discontinue to associate these substances under the petroleum derived substances.)
Acid-treated light hydrocracked distillate (shale oil). A complex combination of hydrocarbons obtained as the raffinate from a sulfuric acid treating process for which the feed is a light hydrocracked distillate derived from shale oil. It consists predominantly of saturated hydrocarbons having carbon numbers predominantly in the range of C_{15} through C_{25}, and boiling in the range of approximately 200°C to 315°C (390° to 600°F).	64742-13-8, Distillates (petroleum), acid-treated middle.	Do.
Acid-treated heavy hydrocracked naphtha (shale oil). A complex combination of hydrocarbons obtained as the raffinate from a sulfuric acid treating process for which the feed is a heavy hydrocracked naphtha derived from shale oil. It consists predominantly of saturated hydrocarbons having carbon numbers predominantly in the range of C_6 through C_{11}, and boiling in the range of approximately 150°C to 260°C (300° to 500°F).	64742-14-9, Distillates (petroleum), acid-treated light.	Do.
Clay-treated heavy hydrocracked naphtha (shale oil). A complex combination of hydrocarbons resulting from treatment of a heavy hydrocracked naphtha derived from shale oil with natural or modified clay, usually in a percolation process, to remove trace amounts of polar compounds and impurities present. It consists predominantly of saturated hydrocarbons having carbon numbers predominantly in the range of C_6 through C_{11}, and boiling in the range of approximately 150°C to 260°C (300° to 500°F).	64742-38-7, Distillates (petroleum), clay-treated.	Do.
Clay-treated light hydrocracked distillate (shale oil). A complex combination of hydrocarbons resulting from treatment of a light hydrocracked distillate derived from shale oil with natural or modified clay, usually in a percolation process, to remove trace amounts of polar compounds and impurities present. It consists predominantly of saturated hydrocarbons having carbon numbers predominantly in the range of C_{15} through C_{25}, and boiling in the range of approximately 200°C to 315°C (390° to 600°F).	64742-39-7, Distillates (petroleum), clay-treated.	Do.

TABLE I.—OVERVIEW OF CURRENTLY LISTED SYNTHETIC FUELS AND RELATED SUBSTANCES AND EPA'S PROPOSED ACTIONS—Continued

Synfuel synonym and definition	CAS registry No. and CA preferred name on inventory	Proposed EPA action
Heavy hydrocracked naptha (shale oil)	71060-56-5, Naphtha (shale oil), heavy hydrocracked.	Do.
Solvent Refined Coal Liquids		
SRC wash solvent	68410-09-3, Distillates (coal), solvent-refining (SRC), wash.	Leave on Inventory.
SRC mineral residue	68410-72-0, Residues (coal), solvent-refining (SRC), filtration.	Do.
SRC naphtha	68476-79-9, Naphtha (coal), solvent refining.	Do.
SRC solvent refined coal	68409-94-9, Residues (coal), solvent-refining (SRC), vacuum distn.	Remove from Inventory.
SRC II heavy distillate	68410-07-1, Distillates (coal), solvent-refining (SRC), heavy.	Do.
SRC recycle solvent	68410-08-2, Distillates (coal), solvent-refining (SRC), recycle.	Do.
SRC gas	68476-35-7, Gases (coal), solvent-refining (SRC).	Do.
SRC II vacuum bottoms	68910-58-7, Residues (coal), solvent-refining vacuum.	Do.
SRC II middle distillate	68911-57-9, Distillates (coal), solvent-refining (SRC), middle.	Do.

The paragraphs immediately following Table I discuss in detail EPA's review of the twenty substances in question and the proposed actions for these substances. For purposes of this discussion, the substances are divided into two major categories, i.e., those that will be retained on the Inventory and those that will be removed. Within each major category, substances are identified by the CAS Registry Number as it appeared on the Inventory, and the synfuel manufacturer-supplied substance name. EPA's conclusion and proposed action immediately follow the CAS Registry Number and substance name.

Products Proposed To Be Retained on Inventory:

68308-34-9 *Shale oils*

Three companies reported crude shale oils for the Inventory; these products were listed under *one* Inventory entry. One of these crude shale oils was refined into significant quantities of non-R&D products (see below). For this reason, EPA determined that crude shal oils were properly reported for the Inventory.

64741-69-1 *Light hydrocracked naphtha (shale oil)*
64741-75-9 *Hydrocracked residuum (shale oil)*
64742-24-1 *Acid sludge (shale oil)*
64741-77-1 *Light hydrocracked distillate (shale oil)*

These products were admixed in significant amounts into commercial refinery streams, and were therefore eligible for the Inventory.

68410-09-3 *SRC wash solvent*
68410-72-0 *SRC residue mineral*
68476-79-9 *SRC naphtha*

These products were sold for processing into commercial products (they were used in creosote, as paving material, for phenol extraction and boiler fuel), and were, therefore, considered commercial and were properly listed on the Inventory.

Products Proposed to Be Removed From Inventory

64741-76-0 *Heavy hydrocracked distillate (shale oil)*
64742-14-9 *Acid treated heavy hydrocracked naphtha (shale oil)*
64742-38-7 *Clay treated light hydrocracked distillate (shale oil)*
64742-38-7 *Clay treated heavy hydrocracked naphtha (shale oil)*
64742-13-8 *Acid treated light hydrocracked distillate (shale oil)*
71060-56-5 *Heavy hydrocracked naphtha (shale oil)*

These substances, which were produced during 1978 and 1979, were blended to produce jet fuel, diesel fuel, and heavy fuel, and were shipped to various locations for testing. The fuels underwent extensive engine testing and evaluation by the Navy, the Air Force, General Motors, and EPA. Health effects studies were also conducted by Department of Defense and Department of Energy. EPA believes that this type of testing does constitute R&D rather than test marketing evaluation, as claimed by the manufacturer, since the testing was apparently confined to such activities as analytical assessment of basic fuel properties, fuel system simulation, component testing, and full-scale engine testing.

68409-94-9 *SRC solvent refined coal*

This substance was shipped to various locations for testing, e.g., coking studies, commercial scale combustion tests of fuel efficiency, emissions, and similar characteristics. These types of tests fall within the general category of production and performance tests, which are R&D activities.

68911-57-9 *SRC II middle distillate*
68410-07-1 *SRC II heavy distillate*

These products were mixed to form SRC II fuel oil, which was used for tests of combustion and emission characteristics, and for test burns, which involved side-by-side comparison of SRC fuel oil and petroleum residual fuel. These tests appear to have been carefully monitored tests of production and performance characteristics, rather than non-R&D commercial activities. Therefore, these two products appear to fall into the R&D category.

68410-08-2 *SRC recycle solvent*

This substance appears to have been a process stream in the production of the SRC solid product, which was used in R&D activities. Therefore, the process solvent also falls into the R&D category.

68476-35-7 *SRC gas*
68910-58-7 *SRC II vacuum bottoms*

These chemicals were apparently flared of disposed of. This would not be a non-R&D commercial use.

F. Impacts on PMN Requirements

Under Section 5(h)(3) of TSCA, R&D substances are exempt from PMN requirements. If R&D were defined more narrowly for Inventory purposes, this would narrow the scope of the R&D exemption for current and future synfuel producers. Because of the size and nature of R&D in synfuel technology, this could have the effect of limiting the flexibility of such activities by imposing a PMN requirement before these processes were truly commercial and at a time when only limited data would be available. However, when the general principles for R&D as described in this notice are applied to future synfuel products, industry will have greater flexibility in conducting research an development activities for synfuels, under the supervision of technically

qualified persons, without any unnecessary PMN reporting burden when such reporting is not required.

G. Requests For Comment

EPA solicits public comments on the proposed removal of the twelve synfuels and related substances from the Inventory.

With respect to the proposed removal action, EPA is specifically interested in knowing whether any of the twelve chemical substances listed in Table I proposed for removal from the Inventory have been manufactured, imported or processed for non-R7D commercial purposes by anyone during the period Janaury 1, 1975 through the publication date of this notice. The Agency will take particular cognizance of any such claims, if adequately supported by appropriate documentation. The Agency is interested to know whether any person can show that any of the twelve chemical substances listed in Table I could have been properly reported for either the Initial or the Revised Inventory. EPA solicits comments from anyone who believes that any of the chemical substances listed in Table I and proposed for deletion from the Inventory should not be removed by the Agency for any reason. All such comments must be submitted to EPA in writing within the 60-day comment period, as discussed elsewhere in this notice.

EPA will review all comments received, make a final determination regarding the eventual status of each of the twelve chemical substances proposed for removal, and announce its decision in a final notice of disposition in the **Federal Register**. If the Agency determined that any of the twelve substances listed should not be removed from the Inventory, that substance would remain on the Inventory. (However, some of the Inventory entries may be changed). On the other hand, if the Agency concludes that a substance is not eligible for the Inventory, effective with the publication of the final notice of disposition, the substance will be considered removed from the Inventory—the presence of its name in any previously published version of the Inventory notwithstanding. In that event, the premanufacture notification requirements of section 5(a) of TSCA would apply to any non-R&D commercial manufacture or importation of the substance from the date of removal on.

With the publication of this notice, any on-going manufacture, importation, or processing of any of the twelve substances begun prior to the publication date of this notice may continue until publication of the final notice of disposition. EPA will not, however, consider any request to retain on the Inventory any of the twelve substances proposed for removal based solely on manufacture, importation, or processing of that substance which begins after the first publication date of this notice.

Dated: May 12, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82-15779 Filed 6-9-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Fremont Bancshares, Inc.*, Lincoln, Nebraska; to acquire 100 percent of the Class B nonvoting shares of Citizens State Banco, Lincoln, Nebraska. Comments on this application must be received not later than July 3, 1982.

B. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Cullen/Frost Bankers, Inc.*, San Antonio, Texas; to acquire 100 percent of the voting shares or assets of Union National Bank of Laredo, Laredo, Texas. Comments on this application must be received not later than July 3, 1982.

Board of Governors of the Federal Reserve System, June 3, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-15647 Filed 6-9-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than July 3, 1982.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Fidelcor, Inc.*, Philadelphia, Pennsylvania, (real estate appraisal activities; Pennsylvania and New Jersey): To engage through a subsidiary known as Latimer & Buck, Inc., in performing appraisals of real estate. These activities will be conducted at offices in Philadelphia, Pennsylvania,

serving the States of Pennyslvania and New Jersey.

B. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Security Pacific Corporation,* Los Angeles, California (industrial loan, financing and credit-related insurance activities; California): To engage in financing and industrial loan corporation activities through its subsidiary Security Pacific Finance Money Center, Inc., including making, acquiring and servicing loans and other extensions of credit; selling and issuing investment certificates; and acting as agent for the sale of credit-related life, credit-related accident and health and credit-related property insurance, all as authorized by California law. These activities would be conducted from offices of Security Pacific Finance Money Center Inc. in the cities of San Jose, Simi Valley and West Covina, California, serving the State of California.

Board of Governors of the Federal Reserve System, June 3, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-15844 Filed 6-9-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the office of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Boston (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *First Vermont Financial Corporation,* Brattleboro, Vermont; to become a bank holding company by acquiring at least 80 percent of the voting shares of First Vermont Bank and Trust Company, Brattleboro, Vermont. Comments on this application must be received not later than July 3, 1982.

B. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *St. Joseph Bancshares, Inc.,* St. Joseph, Minnesota; to become a bank holding company by acquiring at least 93 percent of the voting shares of the First State Bank of St. Joseph, St. Joseph, Minnesota. Comments on this application must be received not later than July 3, 1982.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Citizens Commerce Corporation,* Ardmore, Oklahoma; to become a bank holding company by acquiring 96.6 percent of the voting shares of Citizens National Bank of Ardmore, Ardmore, Oklahoma. Comments on this application must be received not later than July 3, 1982.

Board of Governors of the Federal Reserve System, June 3, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-15845 Filed 6-9-82; 8:45 am]

BILLING CODE 6210-01-M

Old Colony Co-Operative Bank; Proposed Retention of Existing Branch Office Located at 1675 Diamond Hill Road, Woonsocket, Rhode Island

Old Colony Co-Operative Bank, Providence, Rhode Island, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain an existing branch office at 1675 Diamond Hill Road, Woonsocket, Rhode Island.

Applicant states that the existing subsidiary would continue to engage in the activities of a mutual building-loan association. These activities would be performed from offices of Applicant's subsidiary in Woonsocket, Rhode Island, and the geographic areas to be served are East Woonsocket-Cumberland area. Because such activities have not been added to the list of permissible activities specified by the Board in section 225.4(a) of Regulation Y for bank holding companies, applications to engage in the proposed activity must be reviewed by the Board on a case-by-case basis.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than July 3, 1982.

Board of Governors of the Federal Reserve System, June 3, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-15846 Filed 6-9-82; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Transportation and Public Utilities Service

[E-82-17]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Alabama Public Service Commission involving intrastate electric service rates, Docket No. 18416.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in the Administrator of General Services by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal

Government in proceedings before the Alabama Public Service Commission involving the application of the Alabama Power Company for an increase in its intrastate electric service rates, Docket No. 18416.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration (GSA), and shall exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add GSA to its service list in this case so that GSA will receive copies of testimony, briefs, and other Department of Defense filings.

Dated: May 28, 1982.

Allan W. Beres,

Commissioner, Transportation and Public Utilities Service.

[FR Doc. 82-15670 Filed 6-9-82; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Medicaid Program; Notice of Hearing; Reconsideration of Disapproval of Wisconsin State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on August 3, 1982 in Chicago, Illinois to reconsider our decision to disapprove portions of Wisconsin State plan amendment 81-0068.

CLOSING DATE: Request to participate in the hearing as a party must be received by June 25, 1982.

FOR FURTHER INFORMATION CONTACT: Sharyn Smith, Docket Clerk, Bureau of Program Policy, C-20 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 594-8261.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to deny portions of a Wisconsin State plan amendment.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a denial of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer on or before June 25, 1982, in accordance with additional requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins, in accordance with additional requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter relates to the imposition of a copayment on certain services furnished to Medicaid recipients but would exclude from the copayment requirement recipients who are institutionalized, those who are dually eligible for both Medicaid and Medicare, and recipients who are enrolled in Health Maintenance Organizations. Also, the amendment proposed a $.50 copayment on medical day treatment provided as an outpatient hospital service. The Health Care Financing Administration contends that these provisions of the proposed amendment would violate existing statutory and regulatory requirements under the Medicaid program.

The notice to Wisconsin announcing an adminstrative hearing to reconsider our denial of its State plan amendment reads as follows:

June 7, 1982.

Mr. Kenneth Rentmeester, Administrator, Department of Health and Social Services, Division of Health, 1 West Wilson Street, P.O. Box 309, Madison, Wisconsin 53701.

Dear Mr. Rentmeester: This is to advise you that your request for reconsideration of the decision to disapprove portions of Wisconsin State Plan Amendment 81-0068 was received on May 11, 1982. The provisions of this amendment which were disapproved are those which exclude from cost-sharing charges institutionalized recipients, recipients dually eligible for both Medicare and Medicaid and recipients enrolled in Health Maintenance Organizations and the provision which would impose a $.50 copayment charge on medical day treatment services offered as an outpatient hospital service. You have requested a reconsideration of whether these provisions of the subject plan amendment conform to the Social Security Act and pertinent regulations.

I am scheduling a hearing on your request to be held on August 3, 1982, at 10:00 a.m. in the 8th floor Conference Room, 175 West Jackson Boulevard, Chicago, Illinois. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Albert Miller as the presiding official. If these arrangements present any problems, please contact Mrs. Sharyn Smith, Docket Clerk, Mrs. Smith can be reached on (301) 594-8261.

Sincerely yours,

Carolyne K. Davis,

Ph. D.

(Sec. 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: June 7, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 82-15776 Filed 6-9-82; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A 17094 WR, A 17095 WR, A 17096 WR, and A 13392 WR]

Arizona; Proposed Continuation of Withdrawals and Opportunity for Public Hearing

The Bureau of Land Management, Department of the Interior, proposes to continue the existing withdrawals of the following public lands for a 30-year period pursuant to section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751; 43 U.S.C. 1714:

1. Public Water Reserve No. 8, Interpretation No. 50 (A 17094) designated by Secretary's Order of January 9, 1928:

Antelope Springs

T. 41 N., R. 9 W., GSR Mer., Arizona,
Sec. 23, SW¼NW¼.

The area described contains 40 acres in Mohave County.

2. Public Water Reserve No. 8, Interpretation designated by Secretary's Order of June 13, 1921 (A 17095):

Point of Rock Lake

T. 40 N., R. 6 W., GSR Mer., Arizona,
Sec. 5, SW¼SW¼;
Sec. 6, SE¼SE¼.

The area described contains 80 acres in Mohave County.

3. Public Water Reserve Nos. 8 and 24, Interpretation No. 195, designated by Secretary's Order of December 20, 1933 (A 17096):

Bull Rush Springs

T. 39 N., R. 4 W., GSR Mer., Arizona,
Sec. 14, W½NW¼.

The area described contains 80 acres in Mohave County.

4. Public Water Reserve No. 107, Interpretation No. 208 (A 13382) designated by Secretary's Order of August 22, 1934:

T. 13 N., R. 1 E., GSR Mer., Arizona,
Sec. 29, lot 1, SW¼NE¼.

The area described contains 59.01 acres in Yavapai County.

These withdrawals presently segregate the lands from settlement, non-metalliferous mineral location, sale, or entry. The modification of these withdrawals will remove the segregative effect against non-metalliferous mineral location, but will retain the segregative effect against settlement, sale, location, and entry under the surface land laws only. The term of these withdrawals will be 30 years.

On or before September 8, 1982, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuations may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for public hearing is afforded in connection with the proposed withdrawal continuations. All interested persons who desire to be heard on the proposed continuations must submit a written request for a hearing to the undersigned officer. If the State Director, in his discretion, determines that a public hearing is justified, a notice will be published in the Federal Register giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual 2351.16B.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the land and its resources. He will review the withdrawals rejustifications to insure that continuation would be consistent with the statutory objectives of the programs for which the lands are being dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent utilization of the land is provided for; and an agreement is reached on the concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be continued and if so, for how long. The final determination on the continuation of the withdrawals will be published in the Federal Register. The existing withdrawals will continue until such final determination is made.

All communications in connection with the withdrawals continuations should be addressed to the undersigned, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Dated: June 2, 1982.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-15871 Filed 6-9-82; 8:45 am]

BILLING CODE 4310-84-M

[F-14929-A]

Alaska Native Claims Selection

On November 20, 1974, Askinuk Corporation, for the Native village of Scammon Bay, filed election application F-14929-A under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976) (ANCSA), as amended, for the surface estate of certain lands in the vicinity of Scammon Bay, including lands within the Clarence Rhode National Wildlife Range (Public Land Order 4584) (34 FR 1143).

On December 2, 1980, Sec. 303(7) of Pub. L. 96-487, Alaska National Interest Lands Conservation Act, established the Yukon Delta National Wildlife Refuge consisting of the Clarence Rhode National Wildlife Range (PLO 4584) and additions thereto.

As to the lands described below, selection application F-14929-A is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 82,824 acres, is considered proper for acquisition by Askinuk Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA.

Lands Outside Public Land Order 4584 (Clarence Rhode National Wildlife Range) Now Known as the Yukon Delta National Wildlife Refuge

Seward Meridian, Alaska (Unsurveyed)

T. 20 N., R. 88 W.,
Secs. 5 and 6;
Secs. 7 and 8, excluding Native allotment F-19234;
Sec. 18, excluding Native allotment F-19228 Parcel A;
Secs. 19, 20, 26, and 27;
Secs. 28 and 29, excluding Native allotment F-15947;
Secs. 30 and 35.
Containing approximately 6,825 acres.

T. 21 N., R. 88 W.
Secs. 9 to 16, inclusive;
Secs. 21 to 31, inclusive;
Sec. 32, excluding Native allotment F-19043 Parcel B;
Sec. 33, excluding Native alltoment F-19229 Parcel A;
Sec. 34, excluding Native allotment F-18977 Parcel B;
Secs. 35 and 36.
Containing approximately 14,771 acres.

T. 20 N., R. 89 W.
Secs. 1 to 6 inclusive;
Secs. 7 and 8, excluding Native allotment F-19233;
Sec. 9;
Sec. 10, excluding Native allotment F-19045;
Secs. 11 to 16, inclusive;
Secs. 17 and 18, excluding Native allotment F-19233;
Sec. 19;
Sec. 20, excluding Native allotment F-19231 Parcel B;
Sec. 21;
Sec. 22, excluding Native allotment F-19043 Parcel A;
Sec. 23, excluding Native allotment F-19241;
Secs. 24 to 28, inclusive;
Sec. 29, excluding Native allotment F-19231 Parcel B;
Secs. 30, 31, and 32.
Containing approximately 17,450 acres.

T. 21 N., R. 89 W.,
Secs. 5 to 10, inclusive;
Secs. 15 to 18, inclusive;
Sec. 19 (fractional);
Secs. 20 to 23, inclusive;
Secs. 25 to 28, inclusive;
Secs. 29 and 30 (fractional);
Secs. 32 and 33 (fractional);
Secs. 34, 35, and 36.
Containing approximately 15,266 acres.

T. 20 N., R. 90 W.,
Secs. 1 and 2;
Sec. 3, excluding townsite petition application F-391;
Sec. 4 (fractional), excluding townsite petition application F-391;
Secs. 7 and 8 (fractional);
Sec. 9 (fractional), excluding townsite petition application F-391;
Secs. 12 to 30, inclusive;
Sec. 31 excluding Native allotment F-14759 Parcel C;
Secs. 32 to 36, inclusive.
Containing approximately 18,807 acres.

T. 20 N., R. 91 W.,
Sec. 11 (fractional), excluding Native allotment F-19041;
Sec. 12 (fractional);
Sec. 13;

Sec. 14, excluding Native allotment F–19223 Parcel B;
Sec. 15 (fractional);
Sec. 16 (fractional), excluding Native allotment F–19039 Parcel B;
Secs. 17 and 18 (fractional);
Secs. 19 and 20;
Sec. 21 (fractional), excluding Native allotment F–15023 Parcel A and F–19224;
Sec. 22 (fractional), excluding Native allotment F–19224.

Containing approximately 4,573 acres.

T. 20 N., R. 92 W.,
Sec. 13 (fractional), excluding Native allotments F–19033 Parcel A and F–19044 Parcel B;
Sec. 14 (fractional), excluding Native allotments F–19039 Parcel A, F–19056 Parcel A, and F–19221 Parcel B;
Secs. 23 and 24.

Containing approximately 1,390 acres.

Aggregating approximately 72,172 acres outside *PLO* 4584.

Lands Within Public Land Order 4584 (Clarence Rhode National Wildlife Range) now Known as the Yukon Delta National Wildlife Refuge

Seward Meridian, Alaska (Unsurveyed)

T. 19 N., R. 88 W.,
Sec. 5;
Sec. 6, excluding Native allotments F–14756 Parcel C and F–14985 Parcel B;
Secs. 7, 8, and 18.

Containing approximately 3,032 acres.

T. 19 N., R. 90 W.,
Sec. 13, excluding Native allotments F–14673 Parcel C, F–14706 Parcel C, F–14755 Parcel D, F–14756 Parcel B, F–14758 Parcel C, F–14965 Parcel A, F–15021 Parcel D, F–16566 Parcel A, and F–19120 Parcel B;
Sec. 14, excluding Native allotments F–14559 Parcel B, F–14661 Parcel D, F–14666 Parcel A, F–14707 Parcel B, F–14759 Parcel B, F–14965 Parcel A, and F–19112 Parcel C.

Containing approximately 620 acres.

Aggregating approximately 3,652 acres within PLO 4584.

Total aggregated acreage approximately 82,824 acres.

Excluded from the above-described lands herein conveyed are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F–14929–EE.

Also excluded from the above-described lands herein conveyed are lands covered by tidal waters up to the line of mean high tide. The actual limits of tidal influence for those water bodies, if any, will be determined at the time of survey.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded because the lands are under applications pending further adjudication. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–14929–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

One Acre Site—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 3 D1) An easement for a proposed access trail twenty-five (25) feet in width from Scammon Bay in Sec. 10, T. 20 N., R. 90 W., Seward Meridian, southeasterly to isolated public lands in Tps. 19 and 20 N., R. 88 W., Seward Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

b. (EIN 3a C5) An easement for a proposed access trail twenty-five (25) feet in width from EIN 3 D1, in Sec. 32, T. 20 N., R. 89 W., Seward Meridian, southwesterly to isolated public lands in T. 19 N., R. 90 W., Seward Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

c. (EIN 9 C5) An easement for a proposed access trail twenty-five (25) feet in width beginning on the west shore of Kongishluk Bay in Sec. 16, T. 20 N., R. 91 W., Seward Meridian, southerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

d. (EIN 9a C5) A one (1) acre site easement upland of the mean high tide line in Sec. 16, T. 20 N., R. 91 W., Seward Meridian, on the west shore of Kongishluk Bay. The uses allowed are those listed above for a one (1) acre site easement.

e. (EIN 10 C5) An easement for a proposed access trail twenty-five (25) feet in width from the village of Scammon Bay westerly to site easement EIN 9a C5 located in Sec. 16, T. 20 N., R. 91 W., Seward Meridian, thence southerly via EIN 9 C5 to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Airport lease F–12001, located in Sec. 3, T. 20 N., R. 90 W., Seward Meridian, issued to the State of Alaska, Department of Public Works under the provisions of the act of May 24, 1928 (49 U.S.C. 211–214);

4. Requirements of Sec. 22(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1621(g)), that (a) the above described lands which were, on December 18, 1971, within the boundaries of the Clarence Rhode National Wildlife Range

(PLO 4584) (now known as the Yukon Delta National Wildlife Refuge (Pub. L. 96–487)), remain subject to the laws and regulations governing use and development of such refuge, and that (b) the right of first refusal, if said land or any part thereof is ever sold by the above-named corporation, is reserved to the United States; and

5. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Askinuk Corporation is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 82,824 acres. The remaining entitlement of approximately 9,336 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above, excluding those lands which, on December 18, 1971, were withdrawn by PLO 4584, and which were reserved thereby as a national wildlife refuge, shall be issued to Calista Corporation, when the surface estate is conveyed to Askinuk Corporation, and shall be subject to the same conditions as the surface conveyance. This conveyance to Calista Corporation will include the subsurface estate of those lands outside of PLO 4584, which were withdrawn, subject to valid existing rights, as the Yukon Delta National Wildlife Refuge by Pub. L. 96–487, on December 2, 1980. Section 12(a)(1) of ANCSA provides that when a village corporation selects the surface estate of lands within the National Wildlife Refuge System the regional corporation may make selections of the subsurface estate, in an equal acreage, from other lands withdrawn by Sec. 11(a) within the region. The total amount of wildlife refuge system lands withdrawn prior to December 18, 1971, which have been approved for conveyance to Askinuk Corporation is approximately 3,652 acres, which is less than the 69,120 acres permitted by Sec. 12(a)(1) of ANCSA.

In accordance with Departmental regulation 43 CFR 2650.7(d) notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in *The Tundra Drums.*

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board before June 30, 1982, or to the Interior Board of Land Appeals after June 30, 1982; provided, however, pursuant to Public Law 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken *before June 30, 1982,* the notice of appeal must be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

If an appeal is taken *after June 30, 1982,* the notice of appeals must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), address given above. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, address given above.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until July 12, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board or the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Askinuk Corporation, Scammon Bay, Alaska 99662

Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-15686 Filed 6-9-82; 8:45 am]

BILLING CODE 4310-84-M

[AA-40704]

Alaska Native Claims Section

The document entitled Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area was ratified by Pub. L. (Pub. L.) 94–204 (89 Stat. 1145, 1151) on January 2, 1976, and clarified on August 31, 1976. Section II of the Terms and Conditions authorized reconveyance by the United States to Cook Inlet Region, Inc., of lands conveyed by the State of Alaska to the United States. On November 15, 1977, Sec. 3(a) of Pub. L. 95–178 (91 Stat. 1369), authorized the Secretary of the Interior to identify and reserve within 2 years after initial conveyance of such lands to Cook Inlet Region, Inc., any easement he could have lawfully reserved prior to conveyance and to issue immediately thereafter a revised conveyance reflecting such reservation.

On August 18, 1980, Interim Conveyance No. 362 was issued to Cook Inlet Region, Inc., for approximately 21,630.00 acres of the surface and subsurface estates of lands conveyed to the United States by the State of Alaska. The land was conveyed pursuant to Secs. 14(e) and 22(j) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(e), 1621(j)) (ANCSA), and Sec. 12(c) of Pub. L. 94–204 (89 Stat. 1145, 1152), as amended by Sec. 3(a) of Pub. L. 95–178 (91 Stat. 1369), and are described as follows:

Interim Conveyance No. 362 of August 18, 1980, Seward Meridian, Alaska (Surveyed)

T. 14 N., R. 15 W.,

That portion of Tract A previously described as protracted:

Secs. 31 to 36, inclusive, all.

Containing approximately 3,829.00 acres.

T. 16 N., R. 14 W.,

That portion of the surveyed township previously described as protracted:

Secs. 1 to 18, inclusive, all;
Secs. 21 to 27, inclusive, all;
Secs. 34, 35, and 36, all.

Containing approximately 17, 801.00 acres.

Aggregating approximately 21,630.00 acres.

There are no easements to be reserved pursuant to Sec. 17(b) of ANCSA. When this decision becomes final, a revised conveyance document will be issued to Cook Inlet Region, Inc. for the above-described lands with no

Sec. 17(b) easements reserved. The revised conveyance document will remain subject to all other rights, terms, conditions, and covenants contained in Interim Conveyance No. 362.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four(4) consecutive weeks, in the *Anchorage Times.*

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board before June 30, 1982, or to the Interior Board of Land Appeals after June 30, 1982.

If an appeal is taken *before June 30, 1982,* the notice of appeal must be filed with Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

If an appeal is taken *after June 30, 1982,* the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Divsion of ANCSA and State Conveyances (960), address given above. Do not send the appeal directly to Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, address given above.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until July 12, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board or the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509.

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-15666 Filed 6-9-82; 8:45 am]

BILLING CODE 4310-84-M

[AA-40705]

Alaska Native Claims Selection

The document entitled Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area was ratified by Pub. L. (Pub. L.) 94–204 (89 Stat. 1145, 1151) on January 2, 1976, and clarified on August 31, 1976. Section II of the Terms and Conditions authorized reconveyance by the United States to Cook Inlet Region, Inc., of lands conveyed by the State of Alaska to the United States. On November 15, 1977, Sec. 3(a) of Pub. L. 95–178 (91 Stat. 1369), authorized the Secretary of the Interior to identify and reserve within 2 years after initial conveyance of such lands to Cook Inlet Region, Inc., any easement he could have lawfully reserved prior to conveyance and to issue immediately thereafter a revised conveyance reflecting such reservation.

On August 18, 1980, Interim Conveyance No. 363 was issued to Cook Inlet Region, Inc., for approximately 1,920.00 acres of the surface estate of lands conveyed to the United States by the State of Alaska. The land was conveyed pursuant to Secs. 14(e) and 22(j) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(e), 1621(j)) (ANCSA), and Sec. 12(c) of Pub. L. 94–204 (89 Stat. 1145, 1152), as amended by Sec. 3(a) of Pub. L. 95–178 (91 Stat. 1369), and are described as follows:

Interim Conveyance No. 363 of August 18, 1980

Seward Meridian, Alaska (Surveyed)

T. 14 N., R. 15 W.,

That portion of Tract A previously described as protracted:

Secs. 25, 26, and 27, all.

Containing approximately 1,920.00 acres.

There are no easements to be reserved pursuant to Sec. 17(b) of ANCSA. When this decision becomes final, a revised conveyance document will be issued to Cook Inlet Region, Inc., for the above-described lands with no Sec. 17(b) easements reserved. The revised conveyance document will remain subject to all other rights, terms, conditions, and covenants contained in Interim Conveyance No. 363.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the *Anchorage Daily News.*

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board before June 30, 1982, or to the Interior Board of Land Appeals after June 30, 1982.

If an appeal is taken *before June 30, 1982,* the notice of appeal must be filed with Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

If an appeal is taken *after June 30, 1982,* the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), address given above. Do not send the appeal directly to Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, address given above.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until July 12, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board or the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of

appeal is: Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509.

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–15889 Filed 6–9–82; 8:45 am]

BILLING CODE 4310–84–M

[AA–6698–B]

Alaska Native Claims Selection

On December 17, 1974, Salamatof Native Association, Inc., for the Native village of Salamatof, filed selection application AA–6698–B under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of Kenai and Soldotna, Alaska.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 3,664.84 acres, is considered proper for acquisition by Salamatof Native Association, Inc., and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

Seward Meridian, Alaska

T. 4 N., R. 11 W.,
Sec. 6, lots 1 and 2, E½SW¼;
Sec. 22, N½SW¼;
Sec. 27, SE¼NW¼.

Those portions of Tract A more particularly described as (protracted):
Sec. 4, W½, SW¼SE¼;
Sec. 5;
Sec. 6, E½, NW¼;
Secs. 7, 8, and 9.

Containing approximately 3,624.84 acres.

T. 4 N., R. 12 W.,
Sec. 1, SE¼NE¼.

Containing 40.00 acres.

Aggregating approximately 3,664.84 acres.

There are no inland water bodies considered to be navigable within the above-described lands.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f));

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file AA–6698–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsleds, animals, snowmobiles, two- and three-wheel vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

a. (EIN 5 C5) An easement sixty (60) feet in width for an existing road located in the SE¼ of Sec. 9, T. 4 N., R. 11 W., Seward Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

b. (EIN 35 L) An easement twenty (20) feet in width for an overhead electric distribution line which traverses the NE¼ of Sec. 5, T. 4 N., R. 11 W., Seward Meridan. This easement shall allow for the operation and maintenance of the existing powerline facilities. No other uses shall be allowed.

c. (EIN 36 L) An easement twenty (20) feet in width for an existing overhead electric distribution line which traverses the SW¼ Sec. 6, N½ Sec. 7, and SE¼ Sec. 7, T. 4 N., R. 11 W., Seward Meridian. This easement shall provide for the maintenance and operation of the existing powerline facilities. No other uses shall be allowed.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therin, if any, including but not limited to those created by any lease (including a lease issued under Sec 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Futher, pursuant to Sec. 17(b)(2) of the Alaka Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as in now provided for under existing law;

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section;

4. A right-of-way, A–051647, for an oil and gas pipeline, located in Sec. 6, T. 4 N., R. 11 W., Seward Meridian, granted to the Alaska Pipeline Company, under the act of February 25, 1920 (30 U.S.C. 185); and

5. The following oil and gas leases: A–028047 located in Tract A, protracted Secs. 4 and 9, T. 4 N., R. 11 W., Seward Meridian, Alaska; A–028142 located in Tract A, protracted Secs. 5 to 8, incusive, T. 4 N., R. 11 W., Seward Meridian, Alaska; and A–028143 located in Sec. 1, T. 4 N., R. 12 W., Seward Meridian, Alaska.

Salamatof Native Association, Inc., is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of ANCSA. This entitlement is subject to reduction incurred by relinquishments made by Salamatof in the Lake Clark area as required by Sec. 12(a) of Public Law (Pub. L.) 94–204 (89 Stat. 1151), and also to reduction for exchanges pursuant to Sec. 7 of the agreement of August 17, 1979 as directed by Sec. 1432 of Pub. L. 96–487 (94 Stat. 2543).

Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 3,664.84 acres. The remaining entitlement will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issued to Cook Inlet Region, Inc., when the surface estate is conveyed to Salamatof Native Association, Inc., and shall be subject to the same conditions as the surface conveyance.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the *Anchorage Daily News*.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board before June 30, 1982, or to the Interior Board of Land Appeals after June 30, 1982; provided, however, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land

Management concerning navigability of water bodies.

If an appeal is taken *before June 30, 1982,* the notice of appeal must be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

If an appeal is taken after June 30, 1982, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), address given above. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, address given above.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until July 12, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board or the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Salamatof Native Association, Inc., P.O. Box 2682, Kenai, Alaska 99611

State of Alaska, Department of Natural Resources, Division of Technical Services, Pouch 7–005, Anchorage, Alaska 99510

Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–15687 Filed 6–9–82; 8:45 am]

BILLING CODE 4310–84–M

[F–14908–A]

Alaska Native Claims Selection

On June 17, 1974, Sitnasuak Native Corporation, for the Native village of Nome, filed selection application F–14908–A under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611) (1976) (ANCSA), for the surface estate of certain lands in the vicinity of Nome.

On March 4, 1976, the General Services Administration (GSA) referred a certain tract of acquired lands (3.25-acre Nome Army Site) to the Bureau of Land Management for a determination of availability for Native selection. On May 21, 1976, GSA was informed that this property was not available for selection under ANCSA. The property was offered for sale and a legal action was filed on behalf of Sitnasuak Native Corporation to acquire the property under ANCSA (CA–N77–1). As a result of this legal action, an agreement was reached between the United States and Sitnasuak Native Corporation whereby GSA would offer a portion of the property for sale and the remainder of the property would be made available for conveyance to Sitnasuak Native Corporation under Sec. 14(a) of ANCSA as set forth in the court approved Stipulation for Settlement and Dismissal dated August 21, 1979.

As to the lands described below, the application submitted by Sitnasuak Native Corporation, as amended, is properly filed, and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a), aggregating approximately 1.45 acres, is considered proper for acquisition by Sitnasuak Native Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of the Alaska Native Claims Settlement Act:

Official Plat of the Townsite of Nome, Alaska, (within the exterior boundary of U.S. Survey No. 451), lots 11, 12, 13, 14, and 15 of Block 67, and that portion of the alley in Block 67 lying southerly of said lots, and that portion of 5th Avenue lying northerly of said lots; and that portion of East E. Street lying between Lot 12 of Block 88 and Lot 7 of Block 89; all within the Townsite of Nome, Cape Nome Recording District, State of Alaska.

The above tract of land being more particularly described as follows:

Parcel #1—Lots 11 thru 15 per the 1905 Official Plat of the Townsite of Nome.

Parcel #2—That portion of the allley in Block 67 lying southerly of Lots 11, 12, 13, 14, and 15 of Block 67 being further described to wit (Per the unrecorded plat of the 1958 Dependent Resurvey of the Boundaries and Subdivision of U.S. Survey No. 451):

Commencing at the northeast corner of Lot 16, Block 67; thence N. 25°19′ E., a distance of 20 feet, along the westerly boundary of East "F" Street to the southeast corner of Lot 15, Block 67; thence N. 64°41′ W., a distance of 250 feet, along the northerly boundary of the alley in Block 67 to the southwest corner of Lot 11, Block 67; thence S. 25°19′ W., a distance of 20 feet, to a point on the southerly boundary of the alley in Block 67 and on the north boundary of Lot 20, Block 67; thence S. 64°41′ E., a distance of 250 feet, along the southerly boundary of the alley in Block 67 to the northeast corner of Lot 16, Block 67, the point of beginning. The whole thereof containing 0.1148 acres, more or less.

Parcel #3—That portion of East 5th Avenue lying northerly of Lots 11, 12, 13, 14, and 15 of Block 67 being further described to wit (Per the unrecoded plat of the 1958 Dependent Resurvey of the Boundaries and Subdivisions of U.S. Survey No. 451):

Commencing at the northeast corner of Lot 15, Block 67 which is monumented with a 2 inch aluminum cap set on a 3 foot rod; thence proceed along the west boundary of East "F" Street, N. 25°19′ E., a distance of 60 feet, to the southeast corner of Lot 7, Block 88; thence proceed along the southerly boundary of Block 88, N. 64°41′ W., a distance of 250 feet, to the southwest corner of Lot 11, Block 88; thence proceed S. 25°19′ W., a distance of 60 feet, to the northwest corner of Lot 11, Block 67; thence proceed along the northerly boundary of Block 67, S. 64°41′ E., a distance of 250 feet, to the northeast corner of Lot 15, Block 67, the point of beginning. The whole thereof containing 0.3444 acres, more or less.

Parcel #4—That portion of East "E" Street lying between Lot 12 of Block 88, and Lot 7 of Block 89, being further described to wit (Per the unrecorded plat of the 1958 Dependent Resurvey of the Boundaries and Subdivisions of U.S. Survey No. 451):

Commencing at the southwest corner of Lot 12, Block 88, which is monumented with a 2 inch aluminum cap set on a 3 foot rod; thence proceed along the northerly boundary of East 5th Ave., No. 64°41′ W., a distance of 60 feet, to the southeast corner of Lot 7, Block 89; thence proceed along the easterly boundary of Block 89, N. 25°19′ E., a distance of 140 feet, to the northeast corner of Lot 7, Block 89; thence proceed S. 64°41′ E., a distance of 60 feet, to the northwest corner of Lot 12, Block 88; thence proceed along the westerly boundary of Block 88, S. 25°19′ W., a distance of 140 feet, to the southwest corner of Lot 12, Block 88, the point of beginning. The whole thereof containing 0.1928 acres, more or less.

Aggregating approximately 1.45 acres.

There are no water bodies within the area considered.

The conveyance issued for the surface estate of the lands described above

shall contain the following reservation to the United States:

The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)).

There are no easements to be reserved to the United States pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Sitnasuak Native Corporation is entitled to conveyance of 161,280 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved the total acreage conveyed or approved for conveyance is approximately 1 acre. The remaining entitlement of approximately 161,279 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate or the lands described above shall be issued to Bering Straits Native Corporation when the surface estate is conveyed to Sitnasuak Native Corporation, and shall be subject to the same conditions as the surface conveyance.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the *Nome Nugget*.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board before June 30, 1982, or to the Interior Board of Land Appeals after June 30, 1982; provided, however, pursuant to Public Law 96-487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appal is taken *before June 30, 1982*, the notice of appeal must be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

If an appeal is taken *after June 30, 1982*, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), address given above. Do not send the appeal directly to Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, address given above.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until July 12, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board or the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Sitnasuak Native Corporation, P.O. Box 905, Nome, Alaska 99762

Bering Straits Native Corporation, P.O. Box 1008, Nome, Alaska 99762.

B. Lavelle Black,

Acting Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-15690 Filed 6-9-82; 8:45 am]

BILLING CODE 4310-84-M

Idaho; Boise District Office

ACTION: Boise District, Idaho, Grazing Advisory Board Meeting.

SUMMARY: In accordance with Pub. L. 92-463 the Federal Advisory Committee Act, and Pub. L. 94-579, the Federal Land Policy and Management Act, notice is hereby given that the Boise District Grazing Advisory Board will meet on July 22 and 23, 1982.

SUPPLEMENTARY INFORMATION: The meeting will begin on July 22 with a tour of grazing projects to discuss existing and new projects proposed and needed to implement Allotment Management Plans in the Owyhee Resource Area. The tour will depart at 8:00 a.m. from the Lions Club Hall on Highway 95 in Jordan Valley, Oregon.

The meeting on July 23 will begin at 8:00 a.m. at the Lions Club Hall in Jordan Valley, Oregon. The agenda includes discussion of the tour, range improvement maintenance, and use of 8100 funds. A public comment period is scheduled for 1:00 to 2:00 p.m. on the 23rd.

The public may attend the tour and meeting, but must supply their own transportation, lodging, and food.

Further information is available from the Boise District, Bureau of Land Management, 3948 Development Avenue, Boise, Idaho 83705, phone (208) 334-1582. Minutes of the meeting will be available for public inspection at the District Office.

Dated: June 2, 1982.

J. David Brunner,

Associate District Manager.

[FR Doc. 82-15685 Filed 6-9-82; 8:45 am]

BILLING CODE 4310-84-M

[M 55168]

Montana; Proposed Withdrawal and Reservation of Lands

June 1, 1982.

The Department of the Army, Corps of Engineers, on May 13, 1982, filed application, Serial No. M-55168 for the withdrawal of the following described lands from settlement, sale, location, or entry under all the general land laws,

including the mining laws, subject to valid existing rights:

Principal Meridian, Montana

T. 30 N., R. 29 W.,
Sec. 9, Unsurveyed island in the Kootenai River at River Mile 216 adjacent to Lots 3, 4, 5, and 6.

The area described contains 19.48 acres in Lincoln County, Montana.

The applicant desires the withdrawal for the Libby Dam and Lake Koocanusa project on the Kootenai River. The Corps intends to use the area for wildlife mitigation purposes.

On or before September 20, 1982, all persons who wish to make comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for public hearing in connection with the withdrawal is afforded. All interested person who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, at the address shown below by September 20, 1982. Upon determination by the State Director that a public hearing will be held, the time and place will be announced.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are neccessary to: (1) Determine the existing and potential demands for the lands and their resources; (2) insure that the area to be withdrawn is the minimum essential to meet the desired needs; and (3) provide for the maximum utilization of the lands.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested. The determination of the Secretary on the application will be published in the **Federal Register**. A separate notice will be sent to each interested party of record.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated from location and entry as specified above unless the application is rejected or the withdrawal is approved prior to that date.

All communications in connection with this withdrawal should be addressed to the Bureau of Land Management, Department of the Interior, Montana State Office, P.O. Box 30157, Billings, Montana 59107.

Roland F. Lee,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-15686 Filed 6-9-82; 8:45 am]
BILLING CODE 4310-84-M

[N-3772, N-10656, N-13239, N-36586]

Nevada; Order Providing for Opening of Land

June 3, 1982.

The following described land was reconveyed to the United States under four exchange actions (Nev-051094, N-1099, N-7634, N-13104) and titles were accepted on August 1, 1958; March 31, 1969; October 2, 1973; and August 13, 1976, respectively.

Mount Diablo Meridian, Nevada

T. 14 N., R. 18 E.,
Sec. 2, S½SW¼SW¼(wn), NW¼SW¼, SW¼SW¼(wn).
T. 12 N., R. 19 E.,
Sec. 16, N½NE¼, SE¼NE¼, NE¼NW¼.
T. 16 N., R. 19 E.,
Sec. 16, W½NW¼, SE¼NW¼, NW¼SW¼.

The areas described comprise approximately 396 acres. The land lies in Douglas and Washoe Counties (236 acres in Douglas County; 160 acres in Washoe County) within the boundaries of the Toiyabe National Forest.

All minerals were reconveyed to the United States.

On the 30th day, commencing with the date of this publication, the land within the forest shall be open to such forms of disposition as may by law be made of national forest land.

Inquiries concerning the forest land should be addressed to Forest Supervisor, Toiyabe National Forest, 111 N. Virginia Street, Reno, Nevada 89501.

Wm. J. Maloncik,
Chief, Division of Operations.

[FR Doc. 82-15772 Filed 6-9-82; 8:45 am]
BILLING CODE 4310-84-M

[OR 5757]

Oregon; Termination of Classification for Multiple Use Management

1. By order of the Oregon State Director, Bureau of Land Management, which was published in the **Federal Register** on June 18, 1970 (35 FR 10043), approximately 17,827 acres of public lands under the jurisdication of the Bureau of Land Management were classified for multiple use management pursuant to the Classification and Multiple Use Act of September 19, 1964 (43 U.S.C. 1411-18) and the regulations in 43 CFR 2460. The lands are located in Douglas County, Oregon.

2. Pursuant to 43 CFR 2461.3(c)(2), the classification is terminated in its entirety upon publication of this notice in the **Federal Register.**

3. The public lands involved remain withdrawn for multiple use managment purposes by Public Land Order No. 5490 of February 12, 1975, and will therefore not be open to appropriation under the agricultural lands laws (43 U.S.C. Ch. 9, 25 U.S.C. 334). Subject to the provisions of other existing withdrawals and classifications, the lands have been and continue to be open to all other forms of appropriation, including the United States mining laws and mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: June 3, 1982.

Frank A. Edwards,
Acting State Director.

[FR Doc. 82-15781 Filed 6-9-82; 8:45 am]
BILLING CODE 4310-84-M

[W-15857]

Wyoming; Proposed Continuation of Withdrawal

The Bureau of Land Management, Department of the Interior proposes to continue the existing withdrawal of the following public lands made by Public Land Order 4915, of October 5, 1970, for a 20 year period pursuant to section 204 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2751; 43 U.S.C. 1714):

Sixth Principal Meridian, Wyoming

T. 29 N., R. 87 W.,
Sec. 25, S½S½;
Sec. 26, SE¼;
Sec. 35, N½NE¼.
T. 29 N., R. 89 W.,
Sec. 13, SW¼, S½N½;
Sec. 18, lots 6, 7, E½SW¼, SE¼;
Sec. 19, lots 1, 2, 3, 5, 6, 7, 8, and NE¼SW¼.
T. 28 N., R. 97 W.,
Sec. 5.
T. 29 N., R. 97 W.,
Sec. 22, SW¼SW¼;
Sec. 27, NW¼, SW¼NE¼;
Sec. 28, N½;
Sec. 34, SE¼, E½SW¼, SW¼SW¼.
T. 27 N., R. 101 W.,
Sec. 4, SW¼, S½NW¼;
Sec. 5, SE¼, S½NE¼.

The area described contains 3,326 acres in Fremont and Natrona Counties, Wyoming.

The purpose of the withdrawal is for the protection of National Historic sites (segments of the historic Oregon Trail Corridor and Associated Historical

Landmarks). The withdrawal closed the described lands to all forms of appropriation under the Public Land Laws, including the Mining Laws (30 U.S.C., Ch. 2), but not from leasing under the Mineral Leasing laws. No change in the segregative effect or use of the land is proposed by this action.

Comments, suggestions, or objections to this proposed withdrawal continuation must be submitted in writing to the undersigned authorized officer of the Bureau of Land Management, on or before September 8, 1982.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a meeting to the undersigned before September 8, 1982. Upon determination by the State Director, Bureau of Land Management, that a public meeting will be held, a notice will be published in the **Federal Register** giving the time and place of such meeting. Public meetings are scheduled and conducted in accordance with BLM Manual, Section 2351.16B.

The authorized officer of the Bureau of Land Management will make necessary investigations to determine the existing and potential demands for the land and its resources and review the withdrawal rejustification to insure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated. He will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and, if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

All communications in connection with this proposed withdrawal continuation should be sent to the undersigned officer, Bureau of Land Management, P.O. Box 1828, 2515 Warren Avenue, Cheyenne, Wyoming 82001.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-15770 Filed 6-9-82; 8:45 am]

BILLING CODE 4310-84-M

[W-23824]

Wyoming; Revocation of Section 24 Restriction on Portions of Power Site Reserves No. 115 and No. 647

June 4, 1982.

1. By order dated June 29, 1972, the Federal Power Commission (now Federal Energy Regulatory Commission), in DA-168, Wyoming, vacated the land withdrawn in part for Power Site Reserves Nos. 115 and 647 as to the following described lands:

T. 55 N., R. 94 W.,
Sec. 4, lot 7;
Sec. 8, NE¼NE¼;
Sec. 9, lots 2 and 3.
T. 57 N., R. 94 W.,
Sec. 27, NE¼SW¼.

The area described contains 211.62 acres in Big Horn County, Wyoming.

2. By virtue of the authority contained in section 24 of the Federal Power Act of June 10, 1920, as amended, 16 U.S.C. 818 (1970), and in accordance with the authority delegated by the Bureau of Land Management Order No. 701, dated July 23, 1964, (29 FR 10526), as amended, it is ordered that at 10:00 a.m. on July 27, 1982, the lands described above will be relieved of the restrictions imposed by the provisions of section 24 of the Federal Power Act, supra, and the Act of August 11, 1955, (69 Stat. 681; 30 U.S.C. 621).

3. The above described lands were previously revoked and restored, subject to section 24 of the Federal Power Act, by **Federal Register** publications dated June 7, 1934, and March 30, 1954. The lands in sections 4 and 9 were subsequently withdrawn for the Bighorn Canyon National Recreation Area and the Missouri River Basin Reclamation Project. The lands in section 27 were also withdrawn for the Missouri River Basin Reclamation Project. The lands described in sections 8 and 27 have been and will continue to be open to applications and offers under the mineral leasing laws, and the lands in section 8 to location under the United States mining laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-15769 Filed 6-9-82; 8:45 am]

BILLING CODE 4310-84-M

[W-74453]

Wyoming; Realty Action—Exchange of Public Lands for Private Lands in Natrona and Converse Counties

June 2, 1982.

The surface estate of the following described public lands has been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716):

Sixth Principal Meridian, Wyoming

T. 32 N., R. 77 W.,
Sec. 7, lots 5, 6, 7, 9, 10, 11 and 16.
T. 33 N., R. 77 W.,
Sec. 10, SE¼SE¼;
Sec. 11, W½SW¼;
Sec. 28, SE¼SW¼;
Sec. 29, NE¼SE¼.
T. 31 N., R. 78 W.,
Sec. 21, NE¼SE¼ and S½SE¼;
Sec. 28, N½, NE¼SW¼, SW¼SW¼ and NW¼SE¼;
Sec. 29, SE¼.
T. 34 N., R. 78 W.,
Sec. 6, N½SE¼.

Containing 1,191.14 acres in Natrona and Converse Counties.

In exchange for the above lands, the United States will acquire the surface estate of the following lands from the B. B. Brooks Co., Casper, Wyoming:

Sixth Principal Meridian, Wyoming

T. 31 N., R. 78 W.,
Sec. 7, lot 4 and SE¼SW¼;
Sec. 18, lot 1 and NW¼NE¼.

Containing 150.66 acres in Natrona County.

The lands proposed for acquisition would become an addition to the Bureau of Land Management's Environmental Education Area on Muddy Mountain, a natural area managed for public environmental education and outdoor recreational activities.

This action is consistent with the provisions of section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716). The public interest will be well served by completing the exchange.

The exchange will be made subject to:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States in accordance with 43 U.S.C. 945, for the lands being transferred out of Federal ownership;

2. Reservation to the United States of all minerals in the lands being transferred out of Federal ownership;

3. All valid existing rights (e.g. rights-of-way, easements, and leases of record);

4. Value equalization by cash payment or acreage adjustment;

5. The requirements of 43 CFR 4110.4–2(b).

Publication of this notice in the **Federal Register** shall segregate the above public lands and the reserved Federal mineral estate in the above private lands from appropriation under the United States mining laws as provided by 43 CFR 2201.1(b).

Detailed information concerning the exchange including the planning documents and environmental assessment, is available for review at the Casper District Office, Bureau of Land Management, 951 Rancho Road, Casper, Wyoming 82601.

Until July 19, 1982 interested parties may submit comments to the State Director, Bureau of Land Management (910), P.O. Box 1828, Cheyenne, Wyoming 82001. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this Notice of Realty Action will become the final determination of the Department of the Interior.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-15709 Filed 6-9-82; 8:45 am]

BILLING CODE 4310-84-M

[NM 42308]

Realty Action; Noncompetitive Sale of Public Land in Grant County, New Mexico

May 24, 1982.

The following described land has been examined and indentified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713), at the appraised fair market value shown:

Legal Description, Acreage, and Value, New Mexico Principal Meridan, New Mexico

T. 17 S., R. 12 W., NMPM.
Sec. 25, Lots 6 and 7, containing 20.71 acres; $18,600.00.

The above described land is being offered as a direct, non-competitive sale to Chino Mines Company (formerly Kennecott Corporation). Chino Mines Company has mining operations adjacent to these tracts, controls all adjacent lands, and needs the land for millsite operations associated with leaching of mine waste, overburden storage, support facilities and for safety purposes in connection with general mining operations. The sale is consistent with the Bureau's land use planning. The public interest will be best served by making the land available for industrial use. The land does not have public values or public access and the proposed use is the highest and best use for it. The land will not be offered for sale for least 60 days after the date of this notice.

Patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, pursuant to the Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All minerals rights in the land to be patented will be reserved to the United States pursuant to the Act of October 21, 1976 90 Stat. 2751, 43 U.S.C. 1713.

3. A reservation to the United States of all the geothermal steam and associated geothermal resources in the land, and to it, or persons authorized upon compliance with the conditions and subject to the provisions and limitations of the Act of December 23, 1970 (84 Stat. 1566).

Detailed information concerning the sale is available for review at the BLM Las Cruces District Office, 317 North Main Street, Las Cruces, New Mexico.

For a period of 45 days, interested parties may submit comments to the District Manager of the Las Cruces District. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

The required payment, at fair market value, shall then be requested of Chino Mines Company. The payment, in full, is in accordance with 43 CFR 1822.1–2.

Donnie R. Sparks,

Associate District Manager.

[FR Doc. 82-15675 Filed 6-9-82; 8:45 am]

BILLING CODE 4310-84-M

[ORE-016753]

Oregon; Modification of Proposed Withdrawal and Reservation of Lands

Notice of Corps of Engineers, U.S. Department of the Army, application ORE 016753 for withdrawal and reservation of lands was published as FR Doc. 65-9868 on page 11926 of the issue of September 17, 1965, and republished as FR Doc. 79-1782 on page 3788 of the issue of January 18, 1979. The purpose of the proposed withdrawal is to protect the Elk Creek Reservoir Project. The following described lands are currently included in the application:

Willamette Meridian

T. 33 S., R. 1 E.,
Sec. 30, E½E½ and NW¼NE¼.

Revested Oregon and California Railroad Grant Lands

T. 32 S., R. 1 E.,
Sec. 33, NE¼NE¼NW¼, S½NE¼NW¼, and SE¼NW¼.
T. 33 S., R. 1 E.,
Sec. 5, NE¼SW¼SE¼ and S½SW¼SE¼;
Sec. 9, W½NE¼NW¼;
Sec. 17, Lots 5 and 6;
Sec. 19, E½W½NE¼, NE¼SE¼, E½NW¼SE¼, S½SW¼NW¼SE¼, and SW¼SE¼;
Sec. 21, S½NW¼SW¼NW¼ and SW¼SW¼NW¼;
Sec. 29, NW¼, N½SW¼, and SW¼SW¼.

The areas described aggregate 840.69 acres in Jackson County, Oregon.

The proposed withdrawal is hereby modified to provide that pursuant to the regulations contained in 43 CFR 2310.2–1(c), the above-described lands will be open to applications and offers under the mineral leasing laws at 9:30 a.m., on July 16, 1982. The lands remain segregated from operation of the public land laws, including the mining laws (30 U.S.C. Ch. 2).

Dated: June 1, 1982.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-15685 Filed 6-9-82; 8:45 am]

BILLING CODE 4310-84-M

Oregon; Receipt of Exchange Proposal of Public Lands in Deschutes County North of the City of Bend for County Land Situated Near Sisters, Tumalo and the High Desert Areas of Deschutes County

May 28, 1982.

Notice is hereby given that a proposal was received from the Deschutes County Board of Commissioners, to exchange the following described County lands, for the described parcel of public land, pursuant to sections 205 and 206 of the Federal Land Policy and Management Act of 1976.

County Lands

Willamette Meridian, Oregon

T. 14 S., R. 11 E.

Sec. 6: E½NE¼, SE¼;
Sec. 7: SE¼SW¼, W½SE¼, SE¼SE¼.

T. 15 S., R. 12 E.

Sec. 32: N½NE¼.

T. 16 S., R. 11 E.

Sec. 1: SW¼ (irregular section);
Sec. 2: SW¼ (irregular section);
Sec. 5: SE¼SE¼;
Sec. 6: That portion of SW¼SW¼ lying west of the road;

Sec. 7: NW¼, W½SW¼, SE¼SW¼, W½SE¼, SE¼SE¼;
Sec. 8: NE¼NE¼, S½NE¼, SE¼NW¼, SW¼SW¼, E½SW¼, SE¼;
Sec. 9: W½W½;
Sec. 11: NE¼NE¼, NW¼;
Sec. 16: SW¼NW¼, W½SW¼, SE¼SW¼;
Sec. 17: NE¼NE¼, S½NE¼, NW¼, S½;
Sec. 18: NE¼, W½NW¼, SE¼NW¼, S½;
Sec. 19: S½NE¼, W½NE¼NW¼, W½NW¼, SE¼NW¼, E½SW¼, SW½SW¼, SE¼;
Sec. 20: N½NE¼, SW¼NE¼, NE¼NW¼, E½NW¼NW¼, S½NW¼, N½SW¼, SW¼SW¼;
Sec. 30: N½NE¼.

T. 17 S., R. 14 E.

Sec. 33: S½NE¼, SE¼NW¼.

T. 22 S., R. 19 E.

Sec. 36: E½SE¼.

T. 22 S., R. 21 E.

Sec. 17: W½E½SW¼.
Total acreage of county land—4,451 acres.

Public Land

T. 16 S., R. 12 E.

Sec. 34: SE¼NE¼, SW¼SE¼, E½SE¼;
Sec. 35: N½NW¼, SW¼NW¼.

T. 17 S., R. 12 E.

Sec. 2: N½NW¼, SW¼NW¼, W½SW¼;
Sec. 3: E½;
Sec. 10: All;
Sec. 11: W½W½.
Total acreage public lands—1,600 acres.

The purpose of this notice is to inform the public of the exchange proposal which would provide the County with lands needed for planned Community expansion. Interested parties desiring to express their comments or opinions may do so in writing, within 45 days from the date of this notice. Comments should be sent to the Prineville District Manager, Bureau of Land Management, P.O. Box 550, Prineville, Oregon 97754.

Lyle D. Johnston,
Acting District Manager.

[FR Doc. 82-15073 Filed 6-9-82; 8:45 am]
BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Chevron U.S.A. Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Chevron U.S.A. Inc. has submitted a Supplemental Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3148, Block 52, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: June 3, 1982.

John L. Rankin,
Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-15097 Filed 6-9-82; 8:45 am]
BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Gulf Oil Exploration and Production Co.

AGENCY: Minerals Management Service, U.S. Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Gulf Oil Exploration and Production Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3540, Block 330, East Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: June 3, 1982.

John L. Rankin,
Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-15093 Filed 6-9-82; 8:45 am]
BILLING CODE 4310-31-M

Office of Surface Mining Reclamation and Enforcement

Abandoned Mine Lands Reclamation Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of availability of Findings of No Significant Impact (FONSI) addressing Environmental Assessments (EAs) for development of seven abandoned mine land projects under the State of Illinois Reclamation Plan.

SUMMARY: OSM has prepared EAs on projects submitted in the Federal Grant Application from the State of Illinois to the Office of Surface Mining.

A FONSI has been made on the seven reclamation projects indicated below and included in the grant application developed under Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1231–1234.

ADDRESS: Copies of the EAs and FONSI are available for inspection or may be obtained at the following location between the hours of 8:00 a.m. and 4:00 p.m.:

U.S. Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 520, Indianapolis, Indiana 46204, and
Illinois State Office, Number 4, Old State Capital Plaza North, Springfield, Illinois 62701

FOR FURTHER INFORMATION CONTACT: Rayford Cole, Chief, AML Program, 317/269–2687.

Reclamation Projects included in FONSI, location and description:

1. Little John Mine #5 Reclamation Project—Phase II, Knox County, Illinois, Coal refuse, acid drainage.
2. Alden Mine #6 Reclamation Project, Fulton County, Illinois, Refuse, mine shafts, abandoned structures.
3. E. B. Catton Mine Reclamation Project, Stark County, Illinois, Coal refuse, acid drainage.
4. Clyde Mine Reclamation Project, Macoupin County, Illinois, Air shaft, mine refuse.
5. Coal Valley Group, Rock Island and Henry Counties, Illinois; Adits, shafts, mine refuse.
6. Coulterville Mine Reclamation Project, Perry County, Illinois, Open shafts, mining debris.
7. Littleton Mine Reclamation Project, Schuyler County, Illinois, Toxic refuse, acid drainage, open shaft.

Dated: June 4, 1982.

J. S. Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 82-15777 Filed 6-9-82; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will be consummated or than an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered: The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–79809. By decision of May 20, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to LOUIS J. ALI, d.b.a. D. ALI TRUCKING of Certificate No. MC–119999 issued to JOSEPH ALI, JAMES DOMINICK ALI, LOUIS J. ALI, AND JOSEPHINE ALI, a partnership, d.b.a. ALI TRUCKING authorizing the transportation of *concrete pipe, plain and reinforced, concrete manholes, concrete pipe-making equipment, vitrified clay pipe and fittings, vitrified clay liner plates, cast iron manholes steps, and tops, and seiver pipe joint compounds and supplies* used in the manufacture and processing of concrete and vetrified clay pipe (except such of these commodities as may, because of their size or weight, require the use of special equipment for their transportation) (A) from the facilities of the United States Concrete Pipe Company at Oakdale, PA, to points in that part of OH on and east of U.S. Hwy 21, points in that part of WV on and north of U.S. Hwy 60, points in that part of VA on and north of U.S. Hwy 50, and points in that part of MD on and west of a line beginning at DC, and extending along U.S. Hwy 1 to Baltimore, MD, and then over U.S. Hwy 111 to the MD–PA state line, and (B) from Uhricksville and Palmyra, OH, and Relay, MD, to the facilities of the United States Concrete Pipe Company at Oakdale, PA. Representative: Robert D. Barozzini, 707 Grant Building, Pittsburgh, PA 15219.

Notes.—Transferee presently holds no authority from the Commission.

MC–FC–79817. By decision of May 21, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to SAVAGE AND SON TRUCKING, a partnership, of West Sacramento, CA, of Certificate No. MC–151318 issued to CALIFORNIA CONTRACT CARRIERS, of West Sacramento, CA, authorizing the transportation of *printing paper* between the facility used by Simpson Paper Company in San Joaquin County, CA, on the one hand, and, on the other, points in AZ. Representative: Handler, Baker, Greene, and Taylor, Attorneys at Law, Suite 2550, 100 Pine Street, San Francisco, CA 94111.

Note.—Transferee is not an ICC motor carrier.

MC–FC–79828. By decision of May 21, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to WILLIAM B. JANSEN, d.b.a. BLACK LINE TRUCKING of Permit No. MC–145352 and Certificate No. MC–149482 issued to R. W. McDANIEL TRANSPORTATION CORPORATION authorizing the transportation of (1) *carbonated soft drinks, beverage compounds,* and *containers,* between points in MD, PA, VA, NY, OH, IL, DE, WV, MI, IN, WI, and NJ, under continuing contract(s) with Faygo Beverages, Inc. of Detroit, MI, and (2) *automotive parts,* between pints in MI, IN, OH, KY, MD, DE, VA, KS, MO, TN, SC, WI, IL, PA, NY, NJ, WV, OK, IA, MN, NC, and AR. Representative: Reginald Lyng, 122 Broadway, Suite 2, Kissimmee, FL 32741.

Note.—Transferee is a non-carrier.

MC–FC–79829. By decision of May 25, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to McELROY TRUCKING, INC. of Yakima, WA of Certificate No. MC–144676 and (Subs 1 through 9X) and Permit No. MC–143616 and (Subs 7, 10, 15, 16, 20, and 21) issued to M & S TRANSPORT LINES, INC. of Sultana, CA, authorizing. Representative: Jack R. Davis, 1100 IBM Bldg., Seattle, WA 98101.

MC–FC–79821. By decision of May 24, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to BACHINI MOVING CO., INC., of Certificate No. MC–2018 issued December 23, 1965 to COUTU BROS. MOVERS, INC. authorizing the transportation of household as defined by the Commission, between points in RI, on the one hand, and, on the other, points in MA, NY, NH, and CT. Representative: Mr. Ezio J. Bachini, 388 Walcott Street, Pawtucket, RI 02860.

MC–FC–79824. By decision of May 26, 1982, issued under 49 U.S.C. 10926 and

the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to BIG T. & D. TRUCKING CO., INC., d.b.a. BIG T. & D., of Medford, MA of Certificate of Registration No. MC-97417 (Sub-No. 1) issued June 16, 1964, to ARLEX TRANSPORTATION, INC., of Lexington, MA, authorizing the transportation of general commodities between points in MA. Representative: Norman Novinsky, 41 Arlington Street, Brockton, MA 02401.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-15660 Filed 6-9-82; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. OP-3-085-A]

Motor Carriers; Permanent Authority Decision

Decided: May 28, 1982.

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 252 of the Commission's General Rules of Practice (49 CFR 1100.252).

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved proceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements as to the finance application *or* to the following operating rights applications directly related thereto filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 2, Members Carleton, Fisher and Williams.

Agatha L. Mergenovich,
Secretary.

MC 161864 filed May 6, 1982.
Applicant: NATIONWIDE EXPRESS SERVICE, INC., 1500 Walnut St., 19th Fl. S., Philadelphia, PA 19102.
Representative: John C. Bradley, 1600 Wilson Blvd., Suite 1301, Arlington, VA 22209, (703) 522-0900, and H. Beatty Chadwick, 1500 Walnut St., 19th Fl. N., Philadelphia, PA 19102, (215) 985-6831.
Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

Note.—This application is directly related to MC-F-14655, published in this same Federal Register issue.

[FR Doc. 82-15659 Filed 6-9-82; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. OP-3-085]

Motor Carriers; Permanent Authority Decision

Decided: May 28, 1982.

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of an application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendents to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2, Members Carleton, Fisher and Williams.

Agatha L. Mergenovich,

Secretary.

MC–F–14855, filed May 6, 1982. EXPRESSWAY TRANSPORTATION SYSTEM, INC. (EXPRESSWAY) (100 West Tenth Street, Wilmington, DE 19801)—CONTINUANCE IN CONTROL—NATIONWIDE EXPRESS SERVICE, INC. (NATIONWIDE) (1105 N. Market Street, Wilmington, DE 19801). Representative: John C. Bradley, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209, (703) 522–0900 and H. Beatty Chadwick, 1500 Walnut Street, 18th Fl., N., Philadelphia, PA 19102, (215) 985–6831. Expressway Transportation Systems, Inc. seeks authority to continue in control of Nationwide Express Services, Inc., in interstate or foreign commerce, as a motor common carrier. Nationwide Express Service, Inc. is a newly formed corporation and holds no interstate operating authority. IU International Corporation is a publicly held non-carrier corporation that controls Expressway Transportation Systems, Inc. and IU Transportation Services, Inc., a holding company controlling Ryder Truck Lines, Inc., Pacific Intermountain Express Co., Gemini Trucking, Inc., Pioneer Trucking, Inc., Customized Transportation, Inc., Vanguard Contract Carriers, Inc. Ryder also controls Ryder Truck Lines, Ltd., Ryder Forwarding, Inc. and RTL Holdings.

[FR Doc. 82–15058 Filed 6–9–82; 8:45 am]
BILLING CODE 7035–01–M

[Volume No. 265]

Motor Carriers; Permanent Authority Decisions; Restriction Removals

Decided: June 3, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian carrier applicants: In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC–157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shafer, Ewing, and Williams.

Agatha L. Mergenovich,

Secretary.

MC 116561 (Sub-6)X, filed May 27, 1982. Applicant: KELLER-WEBER TRUCKING, INC., 2231 Edgewood Terr., Scotch Plains, NJ 07076. Representative: Larry R. McDowell, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. Sub 5 permit: broaden to "between points in the U.S. (except AK and HI)," under continuing contract(s) with a named shipper.

MC 128034 (Sub-6)X, filed April 28, 1982. Applicant: McHUGH BROTHERS HEAVY HAULING, INC., P.O. Box 196, Penndel, PA 19047. Representative: E. Stephen Heisley, 1919 Penn. Ave., N.W., Suite 500 Washington, D.C. 20006. Sub-No. 7 broaden to "transportation equipment and machinery" from self-propelled articles, each weighing 15,000 pounds of more; "clay, concrete, glass or stone products, chemicals and related products, metal products, lumber and wood products, and rubber plastic products" from lime and fence materials; "machinery, metal products, and waste or scrap materials" from such machinery (including pumps, condensers, dynamos, motors and parts) as would be embraced within lime, fence materials, and building materials, from such machinery (including pumps, condensers, dynamoc, motors, and parts) as would be embraced within machinery and boilers, and factory equipment, together with stocks and supplies when part of the movement of factory, from such machinery (including pumps, condensers, dynamos, motors, and parts (as would be embraced within construction machinery and equipment) in (5); from such machinery (including pumps, condensers, dynamos, motors, and parts) as would be embraced within construction machinery and equipment; from such machinery and boilers, and factory equipment, together with stocks and supplies when part of the movement of a factory as would be embraced within machinery (including pumps, condensers, dynamos, motors and parts); from such machinery and boilers, and factory equipment, together with stocks and supplies when part of a movement of a factory as would be embraced within lime, fence materials, and building materials; from such machinery and boilers, and factory equipment, together with stocks and supplies when part of a movement of a factory as would be embraced within construction machinery and equipment; from such machinery and equipment as would be embraced within machinery (including pumps, condensers, dynamos, motors and parts); from such construction machinery and equipment as would be embraced within machinery and boilers, and factory equipment, together with stocks and supplies when part of the movement of a factory; to "clay, concrete, glass or stone products, chemicals and related products, metal products, lumber and wood products and rubber and plastic products" from such lime, fence materials and building materials as would be embraced within machinery (including pumps, condensers, dynamos, motors and

parts); from such lime, fence materials and building materials, as would be embraced within construction machinery; from such lime, fence materials and building materials as would be embraced within construction machinery and equipment, as would also be machinery and boilers, and factory equipment, together with stocks and supplies when part of the movement of a factory; from such lime, fence materials, and building materials, as would be embraced within machinery and boilers, and factory equipment together with stocks and supplies when part of the movement of a factory and machinery further embraced within (including pumps, condensers, dynamos, motors, and parts), construction machinery; from such lime, fence materials, and building materials, as would be embraced within machinery and boilers and factory equipment, together with stocks and supplies when part of the movement of a factory, and as further embraced within construction machinery and equipment; from such lime, fence materials, and building materials, as would be embraced within machinery, including pumps, condensers, dynamos, motors, and parts and further embraced within construction machinery and equipment; from such lime, fence materials, and building materials as would be embraced within machinery and boilers, and factory equipment, together with stocks and supplies when part of the movement of a factory and further embraced within construction machinery and equipment; from such lime, fence materials, and building materials as would be embraced within machinery (including pumps, condensers, dynamos, motors, and parts), and further embraced within construction machinery; from such lime, fence materials, and building materials as would be embraced within machinery (including pumps, condensers, dynamos, motors, and parts) as further embraced within machinery and boilers, and factory equipment, together with stocks and supplies, when part of the movement of a factory; (2) (a) to Bucks, Chester, Delaware, Montgomery and Philadelphia Counties, PA, Burlington, Camden, Gloucester, Hunterdon, Mercer, Monmouth, and Salem Counties, NJ, and New Castle County, DE, from Philadelphia, PA; (b) to New Castle County, DE, Gloucester and Salem Counties, NJ, and Chester and Delaware Counties, PA, from Wilmington, DE; (c) to Bradford County, PA, and Chemung and Tioga Counties, NY, from Sayre, PA; (d) to Erie County, PA, from Erie, PA; (e) to Cecil and Harford Counties, MD from Aberdeen, MD; (f) to Berkeley and Jefferson Counties, WV, from Martinsburg, WV; (g) to points in Atlantic, Burlington, Camden, Cumberland, Gloucester, Hunterdon, Mercer, Middlesex, Monmouth, Ocean, Salem, Somerset and Warren Counties, NJ, Berks, Bucks, Chester, Delaware, Lancaster, Lehigh, Montgomery, Northampton and Philadelphia Counties, PA, and Kent and New Castle Counties, DE, from points in PA and NJ and DE within 40 miles of Philadelphia, PA, including Philadelphia; (h) to Bucks County, PA, from points in Bucks County, PA, other than incorporated municipalities; (i) to points in Atlantic, Burlington, Camden Gloucester, Hunterdon, Mercer, Middlesex, Monmouth, Ocean Somerset, and Warren Counties, NJ, from points in New Jersey that are within 40 miles of Philadelphia and on and north of a line beginning at the Delaware River on Mantua Creek near Woodbury, NJ, extending along Mantua Creek to junction NJ Hwy 47, then along NJ Hwy 47 to junction U.S. Hwy 322, then along U.S. Hwy 322 to Weymouth; (j) to points in Bucks, Berks, Chester, Lancaster, Lehigh, Montgomery, and Northampton Counties, PA, from points in PA that are within 40 miles of Philadelphia and on and north of a line beginning at the Delaware River on U.S. Hwy 202, then west on U.S. Hwy 202 to PA Hwy 309, then north on PA Hwy 309 to PA Hwy 113, then south of PA Hwy 113 to PA Hwy 73, then west on PA Hwy 73 to PA Hwy 100, then south of PA Hwy 100 to PA Hwy 23, then west of PA Hwy 23 to the end of the 40 mile radius; (k) to points in Hunterdon, Mercer, Middlesex, Monmouth, Ocean, Somerset and Warren Counties, NJ, and Bucks, Berks, Lehigh, Montgomery, and Northampton Counties, PA, from points in PA and NJ which are within 40 miles of Philadelphia PA, and are also on and north of a line beginning at Lakewood, NJ, and extending along named highways to the junction of PA Hwy 422 with PA Hwy 61 near Reading, PA; (l) to points in Bucks County, PA, from unincorporated points in Bucks County, PA, within 40 miles of Philadelphia, PA; (m) to points in Berks, Bucks, Chester, Delaware, Lehigh, Montgomery, Northampton and Philadelphia Counties, PA, from points in PA that are within 40 miles of Philadelphia and are on and east of a line extending along PA Hwy 100 to its junction with U.S. Hwy 202, then south of U.S. Hwy 202 to the Delaware line; (n) to points in Bucks, Delaware, Montgomery, and Philadelphia Counties, PA, and Kent and New Castle Counties, DE, from points in PA and DE within 40 miles of Philadelphia and also on and east of a line beginning at St. Georges, DE, and extending north along named U.S. and PA highways to the intersection of U.S. Hwy 202 with the Delaware River in New Hope, PA; (o) to points in Bucks, Chester, Delaware, Lehigh, Montgomery, Northhampton and Philadelphia Counties, PA, from points in PA that are within a 40 miles radius of Philadelphia and are on and east of a line beginning on PA Hwy 309 near Allentown, PA, and extending generally south and west of the intersection of U.S. Hwy 202 to the DE–PA State line; (p) to points in Berks, Bucks, Chester, Lancaster, Lehigh, Montgomery, and Northhampton Counties, PA, from points in Pennsylvania that are within a 40 mile radius of Philadelphia, and are on and north of a line beginning at the Delaware River on Interstate Hwy 276, then west on Interstate Hwy 276 to the western edge of the 40 mile radius of PA; (q) to points in Chester, Delaware, Lancaster, Montgomery and Philadelphia Counties, PA, from points in PA within 40 miles of Philadelphia and are also on and south of a line beginning at the Delaware River near Philadelphia and extending west along U.S. Hwy 30 to its junction with PA Hwy 10 near Parkersburg, PA; (r) to points in Atlantic, Burlington, Camden, Gloucester, Hunterdon, Mercer, Middlesex, Monmouth, Ocean, Somerset and Warren Counties, NJ, and Berks, Bucks, Lehigh, Montgomery, and Northampton Counties, PA, from points in New Jersey that are within a 40 miles radius of Philadelphia and are on and north of a line beginning at the Delaware River near Woodbury, NJ, then east of NJ 534 to its junction with the Atlantic City Expressway, then on the Atlantic City Expressway to the limits of the 40 mile radius, and points in Pennsylvania within 40 miles of Philadelphia and are on and north of a line beginning at the Delaware River on the PA Turnpike, then east of the PA Turnpike to its junction with PA Hwy 422, then north and west of PA Hwy 422 to the limits of the 40 mile radius; (s) to points in Atlantic, Burlington, Camden, Gloucester, Hunterdon, Mercer, Middlesex, Monmouth, Ocean, Somerset, and Warren Counties, NJ, from points in New Jersey that are within a 40 mile radius of Philadelphia and are on and north of a line beginning at the Delaware River near Woodbury, NJ, on an unmarked highway, then east to NJ Hwy 534, to its junction with the Atlantic City Expressway, then east to the eastern edge of the 40 mile radius; (t) to points in Burlington, Hunterdon,

Mercer, Middlex, Monmouth, Ocean, Somerset and Warren Counties, NJ, and Bucks and Montgomery Counties, PA, from points in PA and NJ that are within a 40 mile radius of Philadelphia and on and north of a line beginning near Lakehurst, NJ, on NJ Hwy 571 and extending north of NJ Hwy 711 to its junction with Interstate Hwy 195, then extending west on Interstate Hwy 195 to its junction with U.S. Hwy 206, then extending north on U.S. Hwy 206 to its junction with U.S. Hwy 1, then south of U.S. Hwy 1 to its junction with the PA Turnpike, then west on the PA Turnpike to its intersection with PA Hwy 309, then north of PA Hwy 209 to its junction with PA Hwy 113, then northeast along PA Hwy 113 to its junction with PA Hwy 611, then north to its junction with PA Hwy 32 at the Delaware River; (u) to points in Hunterdon, Mercer, Middlesex, Monmouth, Ocean, Somerset, and Warren Counties, NJ, and Bucks and Montgomery Counties, PA, from points in PA and NJ within 40 miles of Philadelphia and are on and north of a line beginning near Lakehurst, NJ, over named highways to the junction of the PA Hwy 32 at the Delaware River; (v) to points in Burlington, Hunterdon, Mercer, Middlesex, Monmouth, Ocean, Somerset, and Warren Counties, NJ, and Bucks County, PA, from points in PA and NJ that are within a 40 mile radius of PA and on and north of a line beginning near Toms River extending along NJ Hwy 530 over various other named NJ and PA highways to the junction of PA Hwy 32 at the Delaware River; (w) to points in Hunterdon, Mercer, Middlesex, Monmouth, Ocean, Somerset and Warren Counties, NJ, and Bucks County, PA, from points in PA and NJ that are within a 40 mile radius of Philadelphia and on and north of a line beginning near Lakewood, NJ, extending along NJ Hwy 526 and other NJ and PA highways to junction PA Hwy 32 at the Delaware River; (x) to points in Atlantic, Burlington, Camden, Cumberland, Gloucester, Hunterdon, Mercer, Middlesex, Monmouth, Ocean, Somerset, and Warren Counties, NJ, and Bucks, Montgomery, and Philadelphia Counties, PA, from points in PA and NJ within a 40 mile radius of Philadelphia and north of a line beginning near Millville, NJ, and extending along named NJ and PA highways to the junction of PA Hwy 611 to junction PA Hwy 32 at the Delaware River; (y) to points in Hunterdon, Mercer, Middlesex, Monmouth, Ocean, Somerset and Warren Counties, NJ, and Bucks and Montgomery Counties, PA, from points in PA and NJ that are within a 40 mile radius of Philadelphia and are on and north of a line beginning near Lakewood, NJ, and extending over named NJ and PA highways to the junction of PA Hwy 611 to junction PA Hwy 32 at the Delaware River; (z) to points in Atlantic, Burlington, Camden, Cumberland, Gloucester, Hunterdon, Mercer, Middlesex, Monmouth, Ocean, Somerset, and Warren Counties, NJ, and Bucks, Montgomery and Philadelphia Counties, PA, from points in NJ and PA within a 40 mile radius of Philadelphia and are on and north of a line beginning at Millville, NJ, and extending along named highways to the junction of PA Hwy 611 and PA Hwy 32 to the Delaware River; and (3) to radical authority.

MC 139973 (Sub-101)X, filed May 17, 1982. Applicant: J. H. WARE TRUCKING, INC., 909 Brown St., P.O. Box 398, Fulton, MO 65251. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Subs 2, 5, 6, 9, 18, 21, 22, 24, 26, 31F, 35, 39F, 48F, 61F, 62F, 77F, and 78F. Remove except hides, commodities in bulk and tank vehicles restrictions in all but Subs 31 and 77; remove originating at/destined to named facilities/points restrictions in all Sub 78; broaden: to radial authority in all but Sub 77; to "food and related products" from lime juice, bloody mary mixes and grenadine syrups" (Sub 2); meat, meat products, meat by-products, and articles distributed by meat packinghouses (Subs 5, 6, 9, 18, 21, 22, 26, 48F, 61F, 62F, and 78F); prepared animal and poultry feed (Sub 24); prepared frozen foods (Sub 31F); foodstuffs (Subs 35 and 39F); and frozen foodstuffs (Sub 77F); Kent and Providence Counties, RI, for Warwick, RI (Sub 2); Seward County, KS and Beaver and Texas Counties, OK, for Liberal, KS facilities (Sub 5); Curry County, NM, for Clovis, (Sub 6); Saline and Lancaster Counties, NE, for Crete facilities (Subs 9, 26, and 78F); Crawford County, IA, for Denison facilities (Subs 9, 26, and 78F); Carroll County, IA, for Carroll facilities and Hardin County, IA, for Iowa Falls facilities (Subs 2, 26, and 78F); Logan County, CO, for Sterling and Arapahoe, Adams, Jefferson, and Douglas Counties, CO, for Denver (Sub 18); Bates County, MO, for Rockville, (Sub-21); Morgan County, CO, for Fort Morgan and Weld County, CO, for Greeley (Sub 22); Muscatine County, IA and Rock Island County, IL for Muscatine, IA facilities (Sub 24) Carroll County, MO, for Carrollton, Macon County, MO, for Macon; Saline County, MO, for Marshall; and Randolf County, MO, for Moberly (Sub 31); Saline County, MO for Marshall (Sub 62); Morgan County, IL, for Jacksonville (Sub 35); Platte, Jackson, Clay, and Cass Counties, MO, and Wyandotte, Leavenworth, and Johnson Counties, KS, for Kansas City, MO, (Sub 39F); Henry County, IL, for Geneseo, and Rock Island County, IL, for Joslin (Sub 61F); Marion, Hancock, Hamilton, Boone, Hendricks, Morgan, Johnson, and Shelby Counties, IN, for Indianapolis (Sub 77F); Lancaster County, NE, for Lincoln (Sub 78F); Sarpy, Douglas, and Washington Counties, NE and Mills and Pottawattamie Counties, IA, for Omaha, NE facilities; Polk, Warren, and Dallas Counties, IA, for Des Moines facilities; Webster County, IA, for Fort Dodge facilities and Woodbury and Plymouth Counties, IA, Dakota County, NE, and Union County, SD, for Sioux City, IA (Sub 78F).

MC 142369 (Sub-1)X, filed May 17, 1982. Applicant: CLARENCE CORNISH AUTOMOTIVE SERVICE, INC., d.b.a. CLARENCE CORNISH WRECKER SERVICE, 2557 S. Riverside Drive, Fort Worth, TX 76104. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49684. Lead, broaden wrecked, disabled, repossessed and replacement vehicles and trailers by wrecker equipment, to "transportation equipment".

[FR Doc. 82-15657 Filed 6-9-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29772]

Rail Carriers; Guilford Transportation Industries, Inc.—Control—Delaware and Hudson Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Oral Argument.

SUMMARY: Guilford Transportation Industries, Inc. filed an application on January 29, 1982, for the purchase of Delaware and Hudson Railway Co. Notice of intent to file was published at 46 FR 58784, and notice of the filing of the application and establishment of a procedural schedule in the proceeding was published at 47 FR 5484, February 5, 1982. This notice names the date and location for the oral argument to be held in this proceeding.

DATE: June 29, 1982, 9:30 a.m.

ADDRESS: Headquarters Building, Interstate Commerce Commission, Washington, DC, in Hearing Room A.

FOR FURTHER INFORMATION CONTACT: Louis Mackall, (202) 275-3002.

SUPPLEMENTAL INFORMATION: For additional information concerning the schedule of arguments and the specific issues to be addressed, *see* the

Commission decision served June 8, 1982.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-15650 Filed 6-9-82; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket 29877]

Amherst Industries, Inc.—Exemption—Construction and Operation of a Switching Track at or Near Landisville, in Lancaster County, Pa.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: On the basis of supplementary information furnished in a petition to reopen this proceeding, the Commission exempts from the requirement of prior approval under 49 U.S.C. 10901, the proposed construction and operation over an 800-foot switching track connecting a line to be acquired by petitioner from the Consolidated Rail Corporation (Conrail) under the Northeast Rail Service Act of 1981 and a line of the National Railroad Passenger Corporation over which Conrail will continue to operate.

DATES: This exemption will be effective on June 10, 1982. Petitions to reopen must be filed by June 30, 1982.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room 5414, Interstate Commerce Commission, Washington, DC 20423, and

(2) William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210

Pleadings should refer to Finance Docket No. 29877.

FOR FURTHER INFORMATION CONTACT:
Louis E. Gitomer, 202-275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision in Finance Docket No. 29877. To purchase a copy of this decision write to TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, DC, 20423, or call locally at 289-4357 or toll free 800-424-5403.

Dated: June 2, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-15609 Filed 6-9-82; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

[Civil Action No. 80-92-H]

United States v. Montana Nursing Home Association, Inc.

Pursuant to 15 U.S.C. 16(d), the Department of Justice publishes below a comment it received on the proposed Final Judgment in *United States* v. *Montana Nursing Home Association, Inc.*, Civil No. 80-92-H, together with its response thereto.

Joseph H. Widmar,
Director of Operations, Antitrust Division.

U.S. District Court, District of Montana

United States of America, Plaintiff, v. *Montana Nursing Home Association, Inc.*, Defendant.

Judge James F. Battin, Civil Action No. 80-92-H (D. Montana, Helena Division).

Plaintiff's Response to Comments Regarding the Proposed Final Judgment

The plaintiff has received one comment regarding the proposed Final Judgment. A copy of this comment is attached. The letter of comment and this response will be promptly published in the **Federal Register** as required by 15 U.S.C. Sec. 16(d).

By a letter dated May 6, 1982, John Bierma, M.A., indicated that he believed the proposed Final Judgment is inadequate because it does not require an admission of "wrongdoing" by the defendant. Mr. Bierma also states that it is wrong to allow representatives of nursing home associations to participate in the process of formulating rules governing their facilities. Finally, Mr. Bierma states that reimbursement for nursing homes should be established through a process of direct negotiations between a nursing home and the consumer-patient or his/her guardian.

Requiring the defendant to make an admission of wrongdoing in the decree would not affect the relief which the decree provides. And, unless accompanied by explicit admissions of facts alleged by the plaintiff, a general admission by the defendant that it had done wrong would not be of use to persons who might consider bringing suit for treble damages under the antitrust laws. Insisting on inclusion of such admissions would, of course, make defendants less willing to enter into consent decrees and thus tend to frustrate the basic purpose of such decrees—to obtain relief adequate to vindicate the public interest while avoiding the delays, expense and uncertainties of litigation.

The second matter raised by Mr. Bierma, regarding collective nursing home participation in rule formulation, does not take into consideration the fact that state agencies administering state Medicaid programs have indicated that in many instances nursing home operators can play a constructive and important informational and advisory role with respect to various aspects of a state's Medicaid program. Their suggestions are frequently solicited by state agencies seeking realistic solutions to an array of difficult problems. It is the Government's position that nursing homes and their associations can offer informative comments to state Medicaid agencies without crossing over the line and engaging in illegal conduct by such tactics as threatening to boycott.

Mr. Bierma's final point, involving the nursing home rate-setting process, concerns a matter which would have to be addressed by Congress. Under current federal law, Montana and other States are required to establish reasonable reimbursement for nursing homes participating in the Medicaid program. Under this system, Medicaid patients or "consumers" do not have a direct role in setting appropriate reimbursement levels.

Conclusion

This letter of comment does not alter the Government's belief that the proposed Final Judgment is in the public interest.

Dated: May 28, 1982.
Respectfully submitted,

Charles R. Schwidde,
Elizabeth M. O'Neill,
Attorneys, Department of Justice Antitrust Division, 10th & Constitution Avenue, N.W., Washington, D.C. 20530, Telephone: (202) 633-4479.

Certificate of Service

I, Charles R. Schwidde, Jr., attorney for Plaintiff the United States of America, hereby certify that a copy of the attached Plaintiff's Response To Comments Regarding The Proposed Final Judgment has been served this 28th day of May, 1982 by first class mail, postage prepaid, upon James Douglas Welch, Esquire, attorney for the Defendant, Popham, Haik, Schnobrich, Kaufman & Doty, Ltd., 2000 L Street, N.W., Suite 802, Washington, D.C. 20036.

Charles R. Schwidde,
Attorney, U.S. Department of Justice, 10th & Constitution Avenue, NW., Washington, D.C. 20530, Telephone: (202) 633-4479.
May 6, 1982.

John W. Poole, Jr.,
Chief, Special Litigation Section, Room 7218, Antitrust Division, Department of Justice, Washington, D.C.

Dear Mr. Poole: I think your proposal concerning the Montana Nursing Home Association and Medicaid falls short by allowing the Association to not admit wrongdoing.

State departments in Michigan routinely *invite* representatives from both the non-profit association and proprietary association to be on committees writing rules governing their operation as facilities. I believe that it is wrong to recognize them collectively or allow anyone to represent them. For by doing so, you institutionalize antitrust violations.

The nursing homes should be forced to go to their marketplace consumers to argue for higher reimbursement rates, thus incorporating consumer accountability and education into the process.

Currently, the nursing homes view the elderly as their adversaries. They attempt to by pass them and deal with their insurance

company or government directly on issues that should be decided by consumers. If the health care marketplace were truely competitive, the consumer or his/her guardian would negotiate for service, but as it stands, they have little say in the process as it operates today.

Thank you for receiving comments on this issue.

Sincerely,

John Bierma, M.A.

[FR Doc. 82-15696 Filed 6-9-82; 8:45 am]
BILLING CODE 4410-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Arts, Theater Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel to the National Council on the Arts will be held on June 28-29, 1982 from 9:00 a.m.-5:30 p.m. in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506.

A portion of this meeting will be open to the public on June 29, 1982 from 11:30 a.m. -5:30 p.m. to discuss policy and guidelines.

The remaining sessions of this meeting on June 28, from 9:00 a.m.-5:30 p.m. and on June 29, 9:00 a.m.-11:30 a.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

June 3, 1982.

[FR Doc. 82-15676 Filed 6-9-82; 8:45 am]
BILLING CODE 7537-01-M

National Council on the Arts; Visual Arts Advisory Panel (Crafts Fellowships); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Crafts Fellowships) to the National Council on the Arts will be held on June 28-July 2, 1982, from 9:00 a.m.-5:30 p.m. in the Consul Building (West Lobby) of the Columbia Plaza, 2400 Virginia Avenue, N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

June 3, 1982.

[FR Doc. 82-15677 Filed 6-9-82; 8:45 am]
BILLING CODE 7537-01-M

RAILROAD, RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) Collection title: Debtor's Financial Statement.

(2) Form(s) submitted: G-423.

(3) Type of request: Extension.

(4) Frequency of use: On occasion.

(5) Respondents: 1,550.

(6) Annual responses: 1,550.

(7) Annual reporting hours: 1,550.

(8) Collection description: Under Section 10(a) of the Railroad Retirement Act, the Board has the authority to secure from a debtor a statement of that individual's assets and liabilities. The information will be used for determining means for recovery of overpayment of benefits.

(1) Collection title: Supplemental Information on Accident and Insurance.

(2) Form(s) submitted: SI-1c.

(3) Type of request: Extension.

(4) Frequency of use: On occasion.

(5) Respondents: 20,000.

(6) Annual responses: 20,000.

(7) Annual reporting hours: 1,667.

(8) Collection description: The RUIA provides for reimbursement of sickness benefits paid if the employee receives a settlement for the same injury for which benefits were paid. The collection obtains identifying information about the person or company responsible for such payments and for sending notices of lien by the Board.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312-751-4692.) Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Milo Sunderhaus (202-395-6880), Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

William A. Oczkowski,

Director of Planning and Information Management.

[FR Doc. 82-15702 Filed 6-9-82 8:45 am]
BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12462; 812-5185]

Allied Capital Corp. and Allied Investment Corp.; Application for an Order Exempting Proposed Transaction

June 4, 1982.

Notice is hereby given that Allied Capital Corporation ("ACC"), 1625 I Street, N.W., Washington, D.C. 20006, a closed end, managment investment company registered under the Investment Company Act of 1940 ("Act"), and its whollly-owned subsidiary, Allied Investment Corporation ("AIC"), a closed-end, management investment company registered under the Act, and licensed as small business investment company under the Small Business Investment

Company Act of 1958, filed an application on May 6, 1982, requesting an order of the Commission pursuant to Section 17(b) of the Act exempting the proposed transaction from Section 17(a) of the Act; and pursuant to Section 17(d) of the Act and Rule 17d–1 thereunder to permit AIC to participate to the extent of $400,000 in a $6,000,000 senior and junior subordinated notes financing to a partnership ("Buyco") formed by Louis Marks & Co., Inc., a Delaware corporation (LM), and Lesfay Corp., a newly organized Delaware corporation ("Lesfay"), and in that connection to purchase 2,073 shares of Lesfay common stock for $10,365. The Buyco senior and junior subordinated notes and the Lesfay shares have been purchased by five other institutional investors, one of which, Teribe, S.A. ("Teribe"), a Panamanian corporation, is the parent of Alcap, Limited ("Alcap"), the holder of 18.7% of ACC's outstanding capital stock; hence Teribe may be deemed an affiliate or an affiliate of an affiliate of ACC pursuant to Section 2(a)(3) of the Act.

Applicant states that of ACC's outstanding capital stock, 250,000 shares (18.9%) are held by Alcap limited, ("Alcap"), a British Virgin Islands corporation. Alcap is a wholly owned subsidiary of Teribe, a second-tier subsidiary of Enterprises Quilmes, S.A. ("EQ"), a Luxembourg holding company listed on the Paris and Luxembourg Stock Exchange. Mr. Willem F.P. de Voget, a Vice President of Three Cities Research, Inc. ("Three Cities"), a New York corporation affiliated with EQ, is a member of ACC's and AIC's boards of directors. Under an agreement dated October 30, 1980, pursuant to which Alcap acquired its investment in ACC, Alcap has the right to nominate two persons for election to ACC's board of directors, but to date has chosen to nominate only one person, Mr. de Vogel. As a matter of practice, ACC elects all members of its own board of directors to the board of directors of AIC.

Buyco was organized by LM and Lesfay to effect the "leveraged buyout" of the business and substantially all of the assets, subject to substantially all of the liabilities, of Leslie Fay Inc. (the "Seller"). That transaction was approved by the Seller's stockholders at a meeting held on April 30, 1982 pursuant to a proxy statement, filed with the Commission, dated April 8, 1982.

Under a Chapter 11 Plan of Reorganization, 52.5% of the stock of LM was acquired by certain of its former creditors and 47.5% of the stock of LM was acquired by Mr. Wilmer J. Thomas, Jr. ("Thomas") for $275,000 cash. In addition, LM borrowed $600,000 from Manufacturers Hanover Trust Company ("MHT").

Lesfay was capitalized with $2,000 of 6% cumulative non-voting non-convertible preferred stock and $500,000 of common stock. The preferred stock was purchased by Thomas and Mr. Ira J. Hechler ("Hechler"). The common stock was purchased, to the extent of $249,500 (49.9%), by three persons who were members of the Seller's management (The "Management Group"); to the extent of $108,670 (21.734%), by Mrs. Hechler and Mr. Harold S. Geneen ("Geneen"); and, to the extent of $141,830 (28.366%), by the senior and junior subordinated debt investors. In addition, Lesfay borrowed $10,250,000 from MHT, Chemical Bank (which was a creditor and has become a shareholder of LM) and Bankers Trust Company ("BT").

In forming Buyco, LM contributed $500,000, and Lesfay contributed $10,500,000 to its capital. The junior subordinated debt investors as such lent to Buyco an aggregate of $1,700,000 for $2,300,000 principal amount of junior subordinated notes bearing interest on their principal amount at the per annum rate of the greater of 14.8% or the product of .7391 times 3% over prime; and the subordinated debt investors as such lent to Buyco $4,300,000 at 19% (or 2% over prime, if higher) per annum interest. The senior subordinated notes will mature on April 30, 1988, subject to payment in whole or in part at any time. The junior subordinated notes also mature on Aril 30, 1988, but subject to the payment in full of the senior subordinated notes, may be prepaid in whole or in part at anytime after November 30, 1985. The junior subordinated notes may be paid with an aggregate of $1,700,000 plus accrued interest if paid in full before January 1986.

The lenders who participated in the senior subordinated dept financing to Buyco include, in addition to Teribe and AIC, BT's holding company and the small business investment company affiliates of BT, of MHT and of another U.S. commercial bank ("SBIC C"). All of the foregoing other than the BT affiliates also participated in the junior subordinated debt financing. The following table shows, assuming AIC's participation, the participations of each of the foregoing in the senior and junior subordinated debt financing, as well as the number of Lesfay's 100,000 common shares to be purchased by them at $5 per share:

	Senior subordinated notes ($1,000)	Junior subordinated notes (at cost) ($1,000)	Lesfay shares in respect of A	Lesfay shares in respect of B	Total Lesfay shares
	(a)	(b)	(c)	(d)	(e)
Holding BT	$1,450		$4,999		$4,999
SBIC BT	1,000		4,972		4,972
Teribe [1]	957	$793	3,488	$6,069	9,557
SBIC MHT	470	430	1,913	2,748	4,661
SBIC C	315	235	1,282	1,822	3,104
AIC	208	182	846	1,227	2,073
Total	4,300	1,700	17,500	10,866	28,366

[1] As to the Buyco loans, per its affiliate in the Netherlands Antilles.

The common shares of Lesfay are entitled to cumulative voting and accordingly all the subordinated note investors in the aggregate will be entitled to representation on the seven member board of Lesfay by at least one and possibly two directors, who may be executives of Three Cities, including possibly Mr. de Vogel.

In connection with the senior and junior subordinated debt financings, Buyco paid financing fees aggregating $150,000. These were allocated among the participants as a function of the contribution which they are considered to have made to the structuring and negotiation of the transaction. Of the total, $32,500 is proposed to be paid to Three Cities, the U.S. affiliate of Teribe of which Mr. de Vogel, a director of ACC and AIC, is an officer, and $5,000 to AIC. Applicant states that in the opinion of the Boards of Directors of ACC and AIC, such fees, including specifically the $32,500 fee to be paid to Three Cities, represent fair and reasonable compensation to the parties to which they are payable for services rendered by them in structuring and negotiating the transaction. Applicant submits that the payment of financing fees as a function of services rendered by them in negotiating the transaction rather than in proportion to their investment should not be considered as differentiating the basis of Applicants participation from that of the other investors in contravention of Rule 17d–1.

Section 17(a) of the Act, in relevant part, provides, in substance, that it is unlawful for an affiliated person or an affiliated person of an affiliated person of a registered investment company, acting as principal, knowingly to sell any security or other property to such registered investment company or to any company controlled by such registered company. The Commission may, pursuant to Section 17(b) of the Act, exempt a transaction from Section 17(a) if it finds that: (1) the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; (2) the proposed transaction is consistent with the policy of each registered investment company concerned; and (3) the proposed transaction is consistent withthe general purposes of the Act.

Section 17(d) of the Act and Rule 17d–1 thereunder make it unlawful for an affiliated person, or an affiliated person of such affiliated person, of a registered investment company, acting as principal, to effect any transaction in which such registered investment company or a company controlled by such registered investment company, is a joint or a joint and several participant with such person, unless an application regarding such joint enterprise has been filed with the Commission and granted by an order entered prior to the submission of such plan to security holders for approval, or prior to adoption, if not submitted to the security holders for approval. In granting such application consideration is given to whether the participation in such joint enterprise is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Applicants submit that participation by AIC in a transaction in which Teribe also participates might be considered a participation by AIC and Teribe in a joint enterprise in contravention of Section 17(d) of the Act and Rule 17d–1 thereunder unless authorized by order of the Commission. Applicants further submit that the terms of the transaction required the other parties to the transaction to proceed to a closing thereof on April 30, 1982, the last day of the Seller's fiscal year. Applicant states that it was impractical to obtain the required Commission order prior to that date, and thus Teribe bought for its own account the participation proposed for AIC and has offered, upon issuance of the requested order within a reasonable time, to resell it to AIC at cost plus accrued interest. Such resale would, however, contravene Section 17(a)(1) of the Act unless exempted therefrom by order of the Commission pursuant to Section 17(b).

Applicants submit that the proposed transaction meets the standards for exemption of both Section 17(b) and Rule 17d–1 and that an order of the Commission should therefore be issued authorizing the proposed transaction.

Applicants represent that the boards of directors of ACC and AIC unanimously approved the proposed transaction and that the boards of directors include one representative of Alcap, one representative of another institutional investor not involved in the proposed transaction, and nine others. The ten directors unaffiliated with and not interested in Alcap personally own, in the aggregate, a number of ACC's outstanding voting shares greater than the number ownd by Alcap.

Applicants further represent that the terms of the proposed transaction are fair and reasonable because they have been negotiated at armslength by parties all of whom are or are advised by sophisticated investment professionals, and all of whom are represented by independent and competent legal counsel. According to Applicants, none of the parties has the economic power or influence to overreach any of the other parties.

Applicants submit that the terms of AIC's participation in the Buyco senior and junior subordinated notes financing and in the common stock of Lesfay are identical to the terms of participation by the other investors in both senior and junior subordinated notes. The sole difference is in the allocation of the financing fees paid to the participants for services rendered in structuring and negotiating the transaction, rather than in proportion to their investment. As noted above, Applicants submit that their boards of directors consider the fees fair and reasonable under the circumstances and that this pay structure should not be considered as differentiating the basis of their participation from that of other parties to the transaction.

Applicants submit that the proposed investment is consistent with the fundamental investment policies of AIC and, hence, of ACC, and that the proposed transaction is consistent with the general purposes of that Act.

Notice is further given that any interested person may, not later than June 29, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-15753 Filed 6-9-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12460; 812–5143]

Canadian Imperial Bank of Commerce; Filing of Application Exempting Applicant From All Provisions of the Act

June 4, 1982.

Notice is hereby given that Canadian Imperial Bank of Commerce ("Applicant") c/o Peter V. Darrow, Esq., Shearman & Sterling, 53 Wall Street, New York, New York 10005, filed an application on March 22, 1982, and an amendment thereto on April 27, 1982, for a order of the Commission pursuant to S tion 6(c) of the Investment Company Act of 1940 ("Act") exempting the Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that Applicant is the second largest commercial bank in Canada in terms of total assets and that it developed from the amalgamation in June 1961 of The Canadian Bank of Commerce and Imperial Bank of Canada. Applicant provides traditional

banking services, such as deposit accounts, savings accounts, mortgage loans and personal installment loans, and also offers additional services including automated banking services, factoring, lease financing, currency exchange, and acceptance credit facilities. The application states that Applicant and three other Canadian banks and four other financial institutions comprise the Visa card system in Canada under the registered name "Chargex." The application further states that Applicant does not carry on any trust, fiduciary, or insurance business in Canada.

The application states that Applicant is engaged in international banking activities through 116 offices in 24 countries. The application states that, in the United States, Applicant has wholly-owned subsidiaries in California and New York; it maintains agencies in Atlanta, New York, and San Francisco; and it has branches in Portland and Beaverton, Oregon, and Seattle, Washington. It also has representative offices in Chicago, Dallas, Houston, and Denver, and limited state branches in Chicago and Pittsburgh. In connection with its ownership of California Canadian Bank and Canadian Imperial Bank of Commerce Trust Company, New York, both wholly-owned subsidiaries, the application states that Applicant registered with the Board of Governors of the Federal Reserve System under the U.S. Bank Holding Company Act of 1956, as amended (the "Bank Holding Company Act").

The application states that at October 31, 1981, Applicant had total assets of approximately $66.8 billion,[1] of which approximately 65.6% constituted loans extended by Applicant. The application further states that at October 31, 1981, Applicant had total liabilities (including capital) of approximately $66.8 billion, of which deposits (including demand, time, and savings deposits) constituted approximately 85.6% and debentures outstanding constituted approximately 0.9% of such liabilities. For the year ended October 31, 1981, the application states that Applicant's total revenues were $8,984,053,000. Of this amount, $6,981,491,000, or 77.7%, represented revenues from loans.

Applicant represents that it is subject to extensive regulation pursuant to the Bank Act of Canada (the "Bank Act"). The Bank Act contains provisions pertaining to the business of banking and the organization of banks in Canada, including the business and powers of chartered banks, their shareholders and directors, their capital stock and debentures, the maintenance of primary and secondary reserves, liquidity requirements, auditing requirements, financial disclosure, and regular inspection by the Insepector General of Banks to ensure compliance with the Bank Act. It is further asserted that Canadian chartered banks do not participate in any material way in the Canadian securities business.

The application states that Applicant is subject to extensive United States federal regulation pursuant to the Bank Holding Company Act. In addition, it is represented that pursuant to the International Banking Act of 1978, each of its United States branches and agencies is subject to direct examination by the Federal Reserve Board. It is also stated that Applicant's activities through its agencies and branches are subject to extensive regulation and examination under the laws of the state in which they are located.

Applicant proposes to unconditionally guarantee short-term commercial paper notes (the "notes") denominated in United States dollars to be issued in the United States by Canadian Imperial Holdings, Inc. ("CIHI"), a proposed bank holding company organized under the laws of the State of Delaware. CIHI was established as a bank holding company pursuant to a plan of corporate reorganization, under which Canadian Imperial Holding Corporation ("CIHC"), a Delaware corporation, will become a wholly-owned subsidiary of CIHI. As part of the reorganization, California Canadian Bank and Canadian Imperial Bank of Commerce Trust Company are, with the exception of directors' qualifying shares, to become wholly-owned subsidiaries of CIHC. The application states that the proceeds from the sale of the notes will be deposited with Applicant in a non-interest bearing account for use in its lending operations.

The application states that under current Canadian law, if Applicant were to issue commercial paper notes directly, it is possible that Canadian withholding tax could be imposed on payments constituting interest on the notes paid to non-Canadian persons. Accordingly, the application states that Applicant has arranged to use CIHI as a vehicle for issuing commercial paper notes in the United States. In the event of a change in Canadian law regarding the imposition of withholding tax or the receipt of a favorable tax ruling by Applicant from the appropriate tax authorities, Applicant states that it may also issue the notes directly.

Applicant states that the notes will be in denominations of 100,000 United States dollars or more, will mature not more than nine months from the date of issuance, and will not be payable on demand or include any provision for extension, renewal or automatic "roll-over" at the option of either the holders or CIHI. The notes are intended to be of prime quality and of a type eligible for discounting by a Federal Reserve bank.

The application states that the notes will be sold through one or more United States commercial paper dealers to institutional and other investors who normally purchase commercial paper, and Applicant undertakes to cause CIHI to ensure that the notes will not be advertised or otherwise offered for sale to the general public. Applicant represents that the aggregate principal amount of the notes to be outstanding at any time is not expected to exceed one billion United States dollars. The application states that the notes will rank *pari passu* among themselves and equally with all other unsecured and unsubordinated indebtedness of CIHI, and ahead of its share capital. Applicant's guarantee will rank *pari passu* with all of Applicant's other unsecured and unsubordinated indebtedness, except for indebtedness of Applicant which is given a statutory preference under the Bank Act or other statute.

Applicant and CIHI plan to sell the notes without registration under the Securities Act of 1933 (the "1933 Act"), in reliance on the written opinion of Applicant's legal counsel in the United States to the effect that the notes will qualify for the exemption from the registration requirements of the 1933 Act provided by Section 3(a)(3) thereof. The application states that the notes will not be issued until Applicant has received such an opinion. Applicant does not request Commission review or approval of such opinion, and the Commission expresses no opinion as to the availability of any such exemption. Applicant states that the presently proposed issue of commercial paper notes and any future issue of debt securities offered for sale in the United States by CIHI and similarly guaranteed by Applicant, or issued directly by Applicant, will be conditioned upon the receipt, prior to issuance, of one of the three highest investment grade ratings from at least one of the nationally recognized statistical rating organizations, and Applicant's United States counsel will have certified that such a rating has been received.

[1] All dollar amounts referred to are Canadian dollars unless specified otherwise. On October 31, 1981, the Canadian dollar exchnge rate for United States dollars was US $1 = $.8334.

Applicant undertakes to cause CIHI to ensure that each offeree who has indicated an interest in the notes will receive, prior to sale, a memorandum that describes the businesses of Applicant and CIHI and contains Applicant's and, to the extent available, CIHI's most recent publicly available annual financial statements, including a balance sheet and profit and loss statement, audited in accordance with Canadian and American accounting principles, respectively, and the most recent publicly available unaudited interim financial statements of Applicant and, to the extent available, of CIHI. Applicant represents that such memorandum will state the material differences between Canadian accounting principles applicable to Canadian banks and generally accepted accounting principles applicable to United States commercial banks. Applicant states that the memorandum will be at least as comprehensive as those customarily used in offering commercial paper in the United States, and will be updated promptly to reflect material changes in the business and financial condition of Applicant and CIHI.

Applicant further undertakes that any future offering of other debt securities in the United States by Applicant or guaranteed by Applicant and issued through CIHI will be made only pursuant to a registration statement under the 1933 Act or pursuant to an applicable exemption from registration under the 1933 Act. Applicant further undertakes that any such offering will be made on the basis of disclosure documents at least as comprehensive in their description of the Applicant and CIHI and their respective businesses and financial statements as the memorandum described above, and in any event, as comprehensive as those disclosure documents customarily used in offerings of similar debt securities in the United States. Applicant undertakes to update promptly, and to cause CIHI to update promptly, any such documents to reflect material changes in their financial conditions, and to ensure that such a disclosure document will be provided to each offeree who has indicated an interest in such securities prior to any sale of such securities to such offeree. Applicant consents to having any order granting the relief requested under Section 6(c) expressly conditioned upon its compliance with the foregoing undertakings regarding disclosure documents.

Applicant represents that Irving Trust Company will be appointed to issue the notes from time to time. The application states that Applicant and CIHI will expressly accept the jurisdiction of any state or federal court in the Borough of Manhattan in the City and State of New York in respect of any action based on the notes or arising out of the offering and sale of the notes, or any action based on or arising out of the guarantee of Applicant instituted by the holder of any note. In that connection, the application states that the Applicant and CIHI will appoint Canadian Imperial Bank of Commerce Trust Company or a corporate entity that normally acts in such capacity as agent to accept any process which may be served in any such action. Such appointment of an authorized agent to accept service of process and such consent of jurisdiction will be irrevocable until all amounts due and to become due with respect to the notes have been paid. The application states that Applicant and CIHI will also be subject to suit in any other court in the United States that will have jurisdiction because of the manner of the offering of the notes or otherwise, and that the right of any holder of a note to bring suit in any court that shall have jurisdiction over Applicant or CIHI by virtue of the offer and sale of the notes, Applicant's guarantee, or otherwise, shall not be affected by the foregoing submission to jurisdiction or appointment of an agent for service of process.

Applicant similarly undertakes, in connection with any future offering of debt securities in the United States issued by CIHI and guaranteed by the Applicant, or issued by the Applicant directly, to appoint, and to cause CIHI to appoint, an agent to accept any process which may be served in any action based on such securities or such guarantee and instituted by any holder of any security so guaranteed. The Applicant further undertakes that it will expressly accept, and will cause CIHI to accept, the jurisdiction of any state or federal court in the Borough of Manhattan in the City and State of New York in respect of any such action. Such appointment of an agent to accept service of process and such consent to jurisdiction will be irrevocable so long as securities so guaranteed or issued remain outstanding and until all amounts due and to become due in respect of such securities have been paid. The application states that the Applicant will also be subject to suit in any other court in the United States which would have jurisdiction because of the manner of the offering of such securities or otherwise.

Section 3(a)(3) of the Act defines investment company to mean "any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis." Applicant states that there is uncertainty as to whether or not a foreign commercial bank would be considered an investment company as defined by the Act.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant requests an order pursuant to Section 6(c) of the Act exempting it from all provisions of the Act. Applicant submits that it is not the type of institution intended to be regulated by the Act. Applicant also submits that its compliance with a number of substantive provisions of the Act would, as a practical matter, conflict with its operation as a bank and would effectively preclude Applicant from selling securities in the United States. Applicant further submits that an exemptive order pursuant to Section 6(c) of the Act would benefit institutional and other sophisticated investors in the United States because they would otherwise be precluded from purchasing commercial paper notes guaranteed by Applicant. Moreover, the application contends that because of the development of the large Eurodollar market, the major foreign banks that deal in the market need a source of United States dollars in case of a disruption of the market. Applicant concludes that granting an order or exemption pursuant to Section 6(c) of the Act would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than June 28, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his

interest, the reason for such request, and the issues if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–15755 Filed 6–9–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 22522; 70–6725]

Central and South West Services, Inc., et al.; Proposed Extension of System Money Pool; Issuance of Notes to Banks and Commercial Paper to Dealers; Exception From Competitive Bidding

In the matter of Central and South West Services, Inc., Central and South West Corporation, 2700 One Main Place, Dallas, Texas 75250; Central Power & Light Company, P.O. Box 2121, Corpus Christi, Texas 78403; Southwestern Electric Power Company, P.O. Box 21106, Shreveport, Louisiana 71156; Public Service Company of Oklahoma, P.O. Box 201, Tulsa, Oklahoma 74102; West Texas Utilities Company, P.O. Box 841, Abilene, Texas 79604; Transok Pipe Line Company, 600 South Main Street, Tulsa, Oklahoma 74101.

Central and South West Corporation ("CSW"), a registered holding company, and six of its subsidiaries (collectively, the "Subsidiaries"), Central Power and Light Company ("CPL"), Public Service Company of Oklahoma ("PSO"), Southwestern Electric Power Company ("SWEP"), West Texas Utilities Company ("WTU") and Central and South West Services, Inc. ("CSWS"), and PSO's subsidiary Transok Pipe Line Company ("Transok"), have filed an application-declaration and an amendment thereto with this Commission pursuant to Section 6, 7, 9(a), 10, 12(b) and 12(f) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 43, 45, 50(a)(2), 50(a)(3) and 50(a)(5) promulgated thereunder.

The applicant-declarants seek authorization to make short-term borrowings in an aggregate principal amount outstanding not to exceed $300,000,000 through December 31, 1983. The aggregate borrowings for all of the applicant-declarants together will not exceed the $300,000,000 limit for CSW. Provided that the companies aggregate borrowings do not exceed the $300,000,000 limit, each company may individually borrow up to the following maximum amounts:

CSW	$300,000,000
CPL	110,000,000
PSO	110,000,000
SWEP	100,000,000
WTU	35,000,000
CSWS	10,000,000
Transok	20,000,000

In no case will borrowings exceed 10% (or, in the case of PSO and WTU, 20%) of the aggregate of the borrower's secured debt, capital stock and premiums thereon, and surplus (consolidated, in the case of CSW and PSO) at the time of borrowing.

Short-term money operations for the CSW System are coordinated through use of a "money pool" concept. Under the money pool concept, short-term funds are available for use within the CSW System from time to time from the following sources:

(1) Surplus funds in the treasuries of the operating companies.

(2) Surplus funds in the treasury of CSW.

(3) External borrowings by CSW from the sale of commercial paper notes and/or bank borrowings.

Loans are made to the subsidiaries from these fund sources in the stated order of priority. In other words, if any of the operating companies has surplus funds available (subject to exceptions described below), these will be used to satisfy borrowing needs of other subsidiaries before funds of CSW are used, and CSW will not borrow externally if sufficient surplus funds are available from subsidiaries.

Each borrowing subsidiary will borrow pro rata from each lending subsidiary and CSW in the proportion which the total amount being loaned by that lending company through the money pool bears to the total amount being loaned through the money pool. No loan will be made by CSW or a subsidiary if the borrowing subsidiary could borrow more cheaply directly from banks or through the sale of its own commercial paper, if authorized by the Commission. The chief financial officer or treasurer, or their designee, will determine if surplus funds are available to lend and will authorize any loan. No subsidiary may make a loan to CSW. Operation of the System money pool as a whole, including record keeping and coordination of loans, is handled by CSWS under the authority of the chief financial officer of CSW and CSWS.

Loans to the subsidiaries through the System money pool could be made pursuant to open account advances, although any lender would at all times be entitled to receive upon demand a promissory note evidencing the transaction. In the case of loans from CSW, any such note will be dated as of the date of the borrowing, mature on a date agreed to by the parties to the transaction, but in no event later than the earlier of December 31, 1983 or one year from the date of the borrowing, and prepayable in whole or in part at any time without premium or penalty. In the case of loans by a subsidiary, any promissory note would be substantially similar to CSW's notes, except that its maturity date would in no event be later than the earlier of (a) the date the borrower could be expected to obtain funds with which to pay the note or (b) the date the lender would require the excess funds for its own use. If a note matures in accordance with (b) above, the loan would be continued by another subsidiary or CSW from surplus funds or by CSW through the external borrowings proposed in this application-declaration.

The interest rate applicable on any day to then outstanding loans through the System money pool of surplus funds from the treasuries of CSW or any of the subsidiaries will be the weighted average daily cost incurred by CSW for borrowings from external sources or if there are no borrowings outstanding then the highest annual rate for that day published in *The Wall Street Journal* for General Motors Acceptance Corporation 30 to 179 day commercial paper. The interest rate applicable to loans made from funds borrowed by CSW from external sources would be equal to CSW's net cost for such borrowings.

CSW in recent years has customarily satisfied most of its short-term borrowing needs and those of the subsidiaries through the sale of

commercial paper notes through commercial paper dealers ("dealers"). CSW requests authorization for the issuance and sale of such notes during the period to one or more dealers subject to the limitations on aggregate outstanding principal amount stated above. There is no affiliation between CSW or any of the subsidiaries and any dealer or any of its affiliates. The proceeds from the sale of commercial paper to dealers would be added to CSW's treasury funds and would be invested in or loaned to the subsidiaries in the manner herein described.

The commercial paper notes which CSW proposes to issue to dealers would have varying maturities of not more than nine months from date of issue, exclusive of days of grace, would be in varying denominations of not less than $25,000 each, and could be issued and sold by CSW from time to time to and including December 31, 1983. Such notes would be issued and sold by CSW directly to dealers at a rate not to exceed the rate per annum prevailing at the time of issuance thereof to commercial paper of comparable quality and maturity sold by issuers thereof to commercial paper dealers and at an interest cost which would not exceed the effective cost of money for unsecured prime commercial bank loans prevailing on the date of issue of such commercial paper. No commission or fee would be payable in connection with the issuance and sale of the commercial paper. The purchasing dealer, however, would reoffer such notes at a rate less than the rate to the issuer.

The dealers, as principals, would reoffer such notes in such manner as not to constitute a public offering under the Securities Act of 1933. The notes would be reoffered to no more than 200 customers designated in a list prepared in advance by the dealers and filed with this Commission. The customer list will include commercial banks, insurance companies, corporate pension funds, investment funds, foundations, colleges and universities, municipal and state benefit funds, eleemosynary institutions, finance companies and nonfinancial corporations which invest surplus funds in commercial paper. Any change in the list of customers will be furnished to the Commission in connection with the reports listed below.

CSW's commercial paper notes sold to dealers are expected to be held by customers to maturity, except that if customers wish to sell such notes prior thereto, the dealer, pursuant to a repurchase agreement, would repurchase such notes and reoffer them to others in the group of customers on the dealer's list. CSW's commercial paper would not be subject to prepayment prior to maturity or extension.

CSW also requests authorization to sell commercial paper directly to certain approved financial institutions. Sales of commercial paper directly to such institutions would be undertaken only if the resulting cost of money would be equal to or less than that available from dealer-placed commercial paper or bank borrowings. Direct sales would be made only to institutions on a list furnished in advance to the Commission. Terms for directly-placed notes would be similar to those of dealer-placed notes.

CSW believes that the use of commercial paper would in most periods result in effective interest costs lower than those that would result from borrowings from commercial banks. However, if bank borrowings would produce a lower cost of money and if inadequate funds were available from the System money pool, CSW will borrow from banks from time to time through December 31, 1983 and subject to the aggregate limits for all borrowings stated above. The notes to banks would be for the principal amount to be borrowed at the time from the lending bank and be payable to the order of such bank, would be dated the date each such borrowing is made and would mature on a date not more than 12 months from the date thereof. Such notes would bear interest at a rate no higher than the effective cost of money for unsecured prime commercial bank loans prevailing on the date of such borrowing and would be subject to prepayment by the borrower in whole at any time or in part from time to time, without premium or penalty. None of the notes would be issued nor would any of the proposed borrowings be made under a credit agreement or contract.

Compensation arrangements under the lines of credit maintained by CSW and any subsidiaries are on a balance or fee basis. The most onerous compensating balance or commitment fee arrangement is a compensating balance of 10% of the line of credit. Based on a prime interest rate of 16.5%, such an arrangement results in an effective interest cost of 18.33%.

The cost of compensating balances and fees paid to banks to maintain credit lines will be initially allocated to the subsidiaries on the basis of 10% to WTU and 30% each to CPL, PSO and SWEP, and such costs will be retroactively reallocated at the end of each calendar year on the basis of relative maximum outstanding short-term borrowings of each company (including CSW when it borrows for its own corporate needs). Thus each company will be reallocated that proportion of the total line of credit costs which is equal to the percentage which its maximum short-term borrowings during the year represent of the aggregate of the maximum short-term borrowings, on a non-coincidental basis, of all the companies.

CSW requests authorization within the aggregate borrowing limits stated above to continue arrangements for borrowings from funds managed by the trust departments of banks. Trust fund borrowings would be made only from the banks on a list furnished in advance to the Commission, would be evidenced by notes payable on demand and would bear interest at a rate equal to the highest annual interest rate on 30- to 179-day commercial paper placed by General Motors Acceptance Corporation as reported in *The Wall Street Journal.*

Commercial paper and bank borrowings would be tailored to mature at such time as excess funds from CSW or any subsidiary were expected to become available for loans through the System money pool. Upon the availability of any such funds, external borrowings would be retired and loans refinanced to the extent of such funds.

Proceeds of any short-term borrowings (other than borrowings by CSWS) would be used (i) in the case of borrowings by CPL, PSO, SWEP, WTU and Transok (the "operating companies"), for the interim financing of their capital programs during the period and to provide for other temporary working capital needs; (ii) in the case of borrowings by CSW, to loan or contribute as capital (subject, in the case of any capital contribution, to separate authorization by the Commission) to the subsidiaries for such purposes; and (iii) to repay borrowings previously incurred for such purposes. Proceeds of borrowings by CSWS will be used to provide working capital for CSWS's operations or to repay borrowings used for such purpose.

The estimated capital programs for 1982 and 1983, respectively for the operating companies are as follows (in millions):

	1982	1983
CSW (consolidated)	$637	$711
CPL	222	236
PSO	102	154
SWEP	221	243
WTU	55	77
Transok	97	21

CSW requests an exception from the competitive bidding requirements of

Rule 50(b) pursuant to subparagraph (a)(5) for the issuance of commercial paper because it is impractical to obtain competitive bids for commercial paper, current commercial paper rates for prime issuers are published in daily financial publications and the commercial paper will have maturities not in excess of 270 days.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 28, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 and serve a copy on the applicant-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-15731 Filed 6-9-82; 8:45 am]

BILLING CODE 8010-01-M

Cincinnati Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

June 4, 1982.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Cigna Corporation
Common Stock, $1 Par Value (File No. 7-6227)
Florida Progress Corporation
Common Stock, $2.50 Par Value (File No. 7-6228)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 25, 1982 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-15740 Filed 6-9-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22518A; 70-6669]

The Connecticut Light & Power Co., the Hartford Electric Light Co., the Connecticut Gas Co., Selden Street, Berlin, Connecticut 06037; Supplemental Notice Correcting Error

June 4, 1982.

The notice issued in this proceeding on June 1, 1982 (HCAR No. 22518) used the wrong items for the dividend restrictions therein described. The last sentence of the second paragraph of the notice is hereby amended to read:

Although a separate computation is required for each series of bonds of each issuer, the effective restrictions are those contained in the most recent series which restrict about $113.5 million for CL&P and $102.5 million for HELCO, a total of $216.0 million.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-15750 Filed 6-9-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12458; 812-5085]

Insured Municipals—Income Trust; Application for Order Exempting Applicant

June 3, 1982.

In the matter of Insured Municipals-Income Trust, Investors' Quality Tax-Exempt Trust, Investors' Corporate-Income Trust, Investors' Governmental Securities-Income Trust, Investors' Municipal Pennsylvania Unit Trust, Pennsylvania Insured Municipal Bond Trust, New York Insured Municipal Bond Trust, California Quality Tax-Exempt Trust and Van Kampen Merritt Inc.; c/o Van Kampen Merritt Inc., 1901 North Naper Boulevard, Naperville, Illinois 60566.

Notice is hereby given that Insured Municipals—Income Trust, Investors' Corporate-Income Trust, Investors' Governmental Securities-Income Trust, Investors' Quality Tax-Exempt Trust, Investors' Municipal Pennsylvania Unit Trust, Pennsylvania Insured Municipal Bond Trust, New York Insured Municipal Bond Trust, California Quality Tax-Exempt Trust (collectively, "the Funds"), all unit investment trusts registered under the Investment Company Act of 1940 ("Act"), and Van Kampen Merritt Inc., the sponsor of the Funds ("Sponsor") and collectively with the Funds, ("Applicants"), filed an application on January 15, 1982, and an amendment thereto on April 15, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicants from the provisions of Rule 22c-1 under the Act to the extent necessary to permit the Sponsor to offer units of fractional undivided interest ("Units") of each future Series ("Series") of each Fund at a public offering price other than the price next computed after receipt of a purchase order on the first business day only of the initial offering period for each future Series. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that each Series of a Fund is created under New York or Massachusetts law by a separate Trust Agreement between the Sponsor and a trustee. Applicants further state that as of January 12, 1982, an aggregate of 114 separate Series of the Funds had been offered and that the underlying securities of each Series consist of either long term municipal, corporate or governmental debt obligations ("Securities").

Applicants state that, upon determining to offer a Fund Series, the Sponsor files with the Commission under the Securities Act of 1933 ("1933 Act") the documents necessary to register for sale Units of the particular Series, the Trust Agreement is signed (the "Date of Deposit") and the Sponsor deposits (with the trustee) Securities or contracts to purchase Securities accompanied by an irrevocable letter of credit in an amount sufficient to complete the purchase in exchange for certificates for Units representing the entire ownership of that Series.

Applicants state that upon the effectiveness of the 1933 Act registration for such Units on the Date of Deposit, the initial offering period commences, during which the Units of that Series are offered for sale to the public by the Sponsor and other underwriters. Applicants represent that the initial offering period continues from day to day as may be necessary until all the Units initially offered have been sold (but not exceeding 30 days unless extended by the Sponsor for up to four additional successive 30-day periods). Applicants maintain that the initial offering period of a Fund Series normally requires several days but many trades are consummated on the Date of Deposit. Applicants assert that since the indications of interest received prior to the effectiveness of the registration statement for a Series are only approximations and cannot be firm offers to purchase, the actual purchases upon the effectiveness of an offering may be considerably different from that estimated due to, for example, mistake, changed market conditions or inaccurate estimates.

Rule 22c–1 adopted under the Act provides, in pertinent part, that no registered investment company issuing any redeemable security, and no dealer in any such security, shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants propose to offer Units of each future Series of a Fund to the public at a public offering price determined as of 3:30 p.m. on the business day preceding receipt of the purchase order ("backward pricing") for the first day of the initial offering period for each such Series (the Date of Deposit). Since the public offering price so determined will be effective for all sales of the Units until such time on the next business day, the "forward pricing" requirement of Rule 22c–1 under the Act would not be met.

Applicants state that the forward pricing requirements of Rule 22c–1 are often confusing to investors who purchase Units on the Date of Deposit, particularly when the Unit price increases from the day preceding the Date of Deposit. Applicants submit that investors purchasing Units on the Date of Deposit can be confused in two ways. First, the price of Units of Applicant are normally calculated to create a market price as of the close of business on the day before the Date of Deposit equal to $1,000 per Unit. Applicants state that this is the price shown in the related prospectus (which happens to be dated the Date of Deposit) and that to accomplish the $1,000 price, a sufficient number of Units are created so that the aggregate offering price of the underlying portfolio Securities plus the applicable aggregate sales charge equal the number of Units divided by 1,000. Applicants state further that as a consequence of this pricing practice, brokers quote to prospective investors a price of $1,000 per Unit and that should the price of the underlying Securities actually change during the Date of Deposit, confirmations are sent out with the revised price (which is required by the forward pricing prodedure). Applicants state that investors, upon receipt of this revised confirmation, are often confused since they believe they purchased Units for exactly $1,000 per Unit, especially when they have also received a current prospectus with the $1,000 price indicated. Applicants state further that particularly in the situation where prices have increased, investors may contact their brokers for an explanation since they are required to pay more than was quoted. Applicants assert that assuming a broker understands forward pricing requirements, explaining the procedure to investors at a minimum can be time consuming and may in fact be quite difficult. It is further asserted that adding to this confusion is the fact that the actual estimated current return, which is alleged to be perhaps the most significant factor in making an investment decision relating to unit investment trusts, will be somewhat different from that quoted by the broker and indicated in the prospectus. Thus, Applicants believe that backward pricing on the Date of Deposit both removes investor confusion regarding pricing and insures the investor of his anticipated estimated current return.

Even though Applicants believe that backward pricing on the Date of Deposit is necessary to remove all investor price confusion and insure that quoted returns equal actual ones, Applicants currently believe that on balance when prices decrease on the Date of Deposit investor confusion is outweighed by the benefit of lower prices per Unit (and resulting increase in estimated current return).

Consequently, Applicants propose to eliminate all backward pricing if the price decreases on the Date of Deposit. Thus, if the price per Unit increases on the Date of Deposit, the price indicated in the related prospectus will apply, for trades on the Date of Deposit, but if such price decreases, such lower price will be charged.

Applicants believe that Rule 22c–1 has two purposes: (1) to eliminate or reduce any dilution of the value of outstanding redeemable securities of registered inestment companies which might occur through the practice of selling securities at a price based upon a previously established value which permits a potential investor to take advantage of an upswing in the market and an accompanying increase in the value of investment company shares by purchasing such shares at a price which does not reflect such invcrease, and (2) to minimize speculative trading practices which so compromise registered investment companies as to be unfair to the holders of their outstanding securities. Applicants submit that the proposed backward pricing of Units will not undermine or contravene the purposes of Rule 22c–1. In this regard, Applicants state that dilution of the Fund is not relevant since the Sponsor and the other underwriters, having deposited all of the Securities, own all of the Units, and the price at which the Sponsor and the other underwriters sell those Units can affect only the Sponsor and the other underwriters and not the value of the Securites nor the fractional undivided interest in the Securities represented by each Unit outstanding.

Applicants state further that possible speculative features relating to backward pricing are of such a limited nature to be a practical impossibility. First, Applicants state that of the 28 series of the various Funds initially offered during the last 12 month period, the average daily price change on the Date of Deposit was $1.98 per Unit (or 0.198% of the initial public offering price). Applicants assert that the largest price change was only $10.03 per Unit and that the estimated current returns were affected on average by 0.026% with the largest change being 0.17%. Applicants contend that in light of the applicable sales charges (generally $49.00 per Unit) and the difference between offering prices of the underlying Securities (which are the

prices used to compute the initial public offering price) and the bid prices thereof (which are used to compute redemption prices) (generally a difference of between $10 and $20 per Unit), such one day price changes do not approach the transactional costs related to any attempted speculation by investors. Applicants maintain that even though each Fund is comprised of long term securities, the volatility of market prices in any one day simply is not of such a magnitude to overcome the related costs of speculation. In addition, Applicants submit that even if the volatility existed, it is unlikely a prospective investor would know what specific Securities are in a portfolio before he gets a prospectus, how much principal amount of each Security will be included or the market prices related thereto (since such Securities are not traded on any exhange), and that, thus, it will be practically impossible for an investor to accurately determine the amount, if any, of a change in the net asset value of the Fund on the Date of Deposit. Finally, Applicants assert that unit investment trusts are marketed in a manner that is the antithesis of speculation since Units are sold for long term fixed income.

In connection with speculation by the Sponsor, underwriters and dealers, Applicants submit that since the Sponsor and certain of the underwriters intend to maintain a market for Units, to allow immediate redemptions to occur is both disruptive and expensive because the current prospectus would have to be supplemented to indicate changes in the underlying portfolio resulting from sales of Securities to meet redemptions. Applicants state that such costs would be borne by the Sponsor. Moreover, it is contended that the Sponsor, underwriters and dealers have less incentive to speculate since they already share in the sales charge. Applicants assert that of the typical initial $49.00 sales charge per Unit, the Sponsor receives $14.00, the underwriters receive $35.00 (if sold themselves) or $5.00 if sold to dealers and dealers receive $30.00 for each Unit they sell. Applicants maintain that, consequently, even if the practical limitations discussed in the previous sentence were ignored and the extremely unlikely possibility of a large one day price increase occurred, the profits generated, not to mention the goodwill created with investors, greatly mitigates against speculation. Nevertheless, because speculation is still a remote possibility, Applicants propose to ban any redemptions during the first 30 days of an initial offering period of a series of a Fund by the Sponsor, other underwriters and dealers.

Notice is further given that any interested person may, not later than June 28, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-15756 Filed 6-9-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18788; File No. SR-NYSE-82-9]

New York Stock Exchange, Inc.; Proposed Rule Change by Self-Regulatory Organization

Comments requested on or before July 1, 1982.

In the matter relating to the prohibition contained in NYSE Rule 107 against Registered Competitive Market-Markers ("RCMMs") handling "not held" orders.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1), notice is hereby given that on May 17, 1982, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to Exchange Rule 107, to enable an RCMM to accept and execute "not held" orders when acting as a Floor broker for a member organization other than the one with which he is associated.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Exchange Rule 13 defines a "not held" orders as * * * "a market or limited price order marked 'not held', disregard tape', 'take time' or which bears any such qualifying notation." In other words, the executing broker is permitted to use his judgement as to the time and price of execution.

Presently, Rule 107 prohibits and RCMM from accepting a "'not held" order from any source, i.e., the customer himself, a non-member, the RCMM's firm or another member organization. In the past, the Commission has recommended that the Exchange remove the "not held" prohibition. Basically, the Commission believed that the prohibition may be discouraging members who wish to continue to handle "not held" agency business from registering as RCMMs. The Exchange's proposal partially removes the prohibition by allowing an RCMM to accept a "not held" order when acting as a Floor broker for a member organization other than his own firm.

The purpose of the proposed rule change is to encourage RCMM registration and at the same time preserve the potential contributions of

RCMM dealer participation to the Exchange marketplace.

The Exchange believes that total removal of the "not held" prohibition at this time may be inappropriate. Allowing RCMMs to handle such orders will enhance the RCMM's agency role. Any increased time and effort that an RCMM gives to "not held" agency business reduces the amount of time he could devote to his dealer activities. In addition, Rule 107 contains another prohibition (see Rule 107.40) whereby an RCMM is prohibited from acting as broker and dealer in the same stock during the same trading session. Thus, an RCMM would be unable to assist as dealer in those stocks in which he accepted a "not held" order during the trading sessions in which he handles the "not held" order. Consequently, total removal of the "not held" prohibition may have the effect of overemphasizing the RCMM's agency role to the detriment of his primary responsibility as dealer.

The Exchange's proposal effectively enhances the RCMM's agency role to a lesser degree than if the prohibition were completely repealed. Thus, any adverse effect with removing the prohibition could have on potential RCMM dealer participation is reduced by only partially removing it. The number of stocks in which an RCMM could assist as dealer on a given day would still be lessened to the extent that he accepts "not held" order. However, by limiting the sources through which he can accept such orders, the impact on RCMM availability to the market and the amount of time spent on agency activities hopefully would be curtailed.

Moreover, by allowing RCMMs to accept "not held" orders only from another member organization, the RCMM maintains a passive role in acquiring such orders. By retaining the prohibition with respect to his own firm or customers, the Exchange's proposal addresses the possibility of the RCMM excessively promoting his agency role.

The proposed rule change provides RCMMs with more flexibility than they presently have to receive additional income from their agency business. This will make RCMM registration a more viable business opportunity for members and would also encourage RCMMs to deal when necessary to assist in maintaining markets. Thus, to the extent that relaxing the prohibition will encourage new bona-fide RCMM registrations, the Exchange marketplace can be expected to benefit by the entry of increased competition and capital.

Statutory Basis for the Proposed Rule Change

By providing RCMMs with more flexibility to accept and execute "not held" orders, the proposed rule change promotes the objectives of Section 6(b)(5) of the Securities Exchange Act which calls for the removal of impediments to the mechanism of a free and open market. The proposed change also furthers the purposes of Section 11A which calls for fair competition among brokers and dealers. Finally, the proposed rule change is in keeping with Section 6(b)(8) of the Act in that it reduces a burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change would significantly ease the burden on competition which is imposed by the "not held" order prohibition presently stated in Rule 107, while at the same time continuing that prohibition insofar as necessary to encourage RCMMs' participation in the market as supplemental market-makers. The Exchange believes that the partial "not held" prohibition that would remain in Rule 107 following adoption of the proposed rule change is necessary and appropriate in furthering the purposes of the Act. Essentially, it is the Exhange's intent to emphasize the dealer aspects of the RCMM's role in the marketplace rather than his agency aspects. By encouraging RCMM dealer participation, the RCMM's potential benefits to the quality of Exchange markets can be increased thereby promoting more fair and orderly markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before July 15, 1982 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 522, will be available for inspection and copying in the Commission's Public Reference Section, 1100 "L" Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 3, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-15748 Filed 6-9-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12461; 812-4978]

Trilogy Computer Development Partners, Ltd. and Trilogy Systems Corp.; Application for an Order Exempting Applicant From all Provisions of the Act

June 4, 1982.

Notice is hereby given that Trilogy Computer Development Partners, Ltd. ("Trilogy Partners"), 5150 Great America Parkway, Santa Clara, California 94050 and Trilogy Systems Corporation ("Trilogy Systems") (together, "Partnership") filed an application on September 28, 1981, and an amendment thereto on April 21, 1982, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a

statement of the representations contained therein, which are summarized below.

The application states that Trilogy Partners is a California limited partnership formed for the purpose of designing a new IBM-compatible computer system and realizing income from the licensing of the use of such design ("the Project"). Trilogy Partners publically offered 11,000 units of limited partnership interest pursuant to a registration statement that became effective on August 6, 1981. The application also states that the general partner of the Partnership is Trilogy Systems, a California corporation which is wholly owned by Trilogy Limited, a Bermuda holding company.

According to the application, development of a new computer system requires enormous capital resources and years of effort. Because of the substantial capital required to develop and produce a new computer system, Trilogy Partners must attract a broad range of investors. The organizational structure of the Partnership is designed to do just that. Outside financing for Trilogy Limited has been received from institutional investors who have been attracted to Trilogy Limited, in part, because investments in Trilogy Partners do not immediately dilute their interests. The limited partners, on the other hand, have been attracted by the tax benefits that flow from the Partnership's structure.

Accordingly to the application, Trilogy Partners is carrying out the Project through a binding development contract between itself and Trilogy Systems under which Trilogy Systems will develop the design and Trilogy Partners will pay for the costs of development plus, if the Project is successful, a sliding scale profit ranging from 0 to 15 percent of the cost of development (subject to a maximum total expenditure equal to substantially all of the funds of Trilogy Partners). Under the sliding scale, the profit component becomes progressively smaller as costs approach the total funds of Trilogy Partners. Trilogy Systems will receive no profit at all if costs equal or exceed the total funds or if the Project is not successfully completed. The application states that it has been estimated that Trilogy Systems should receive a profit of 7.5 percent of costs.

The application further states that because of the substantial capital required for the Project and the resulting need to attract investors, the Partnership and its investment advisers believe that all the funds necessary to successfully complete the design must be committed at the commencement of the Project in order to attract potential investors. Trilogy Partners, because it is required to register its units under the Securities Act of 1933, cannot offer its units pursuant to a staged investment program and therefore must accumulate all its cash reserves at the beginning of the Project. Further, during the period of development, Trilogy Partners' balance sheet, in accordance with generally accepted accounting standards, will never reflect as assets the expenditures on the Project or the existence of the resulting computer design. Rather, the assets will consist almost entirely of cash reserves.

Section 3(a)(3) of the Act provides, in pertinent part, that an issuer which "is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis" is an investment company. If Trilogy Partners were to invest any of its reserves in instruments other than Government securities and cash items, it would prima facie be an investment company. To limit investment to these securities, the application avers, would greatly reduce Trilogy Partners' possible contribution to the Project.

Section 6(c) of the Act provides, in part, that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions from any provision or provisions of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

The Partnership submits that its exemptive order should be granted pursuant to Section 6(c) because it is both necessary and appropriate in the public interest because the Partnership, by investing in the Project, is implementing national policies favoring research and development and small business. The Partnership further submits that it is consistent with investor protection the purposes and policies underlying the Act to exempt it from the Act because the Partnership is so designed as to eliminate the potential for many of the abuses addressed by the Act. Management's discretion to invest investor's money is limited by the obligations of Trilogy Partners under the Partnership Contract, which prescribes that all of Trilogy Partners' assets be committed to the Project and that the assets accordingly be invested solely for the purpose of preserving the value of the assets. The Partnership has adopted a policy fo not speculating in securities and intends to purchase short-term, high quality money market securities that it will hold to maturity unless earlier liquidation is prudent because of operating needs or unforeseen events. Investors in Trilogy Partners are informed by the prospectus that any interest or incidental profit realized by Trilogy Partners on its cash reserves will be applied to the Project and not paid out to investors. The Partnership further submits that investors are protected by the provisions of the Securities Act of 1933 and by the limited partnership agreement, which grants investors the right to receive information about Trilogy Partners, to inspect its books and records and to remove Trilogy Systems and elect a successor general partner. Finally, units in Trilogy Partners were sold only to investors meeting substantial net worth and income qualifications.

Finally, to further assure the protection of investors, the Partnership has consented to its exemptive order containing the following conditions:

(1) While it is general partner of the Partnership, Trilogy Systems will be and remain primarily engaged in the business of research and development, manufacturing and/or marketing of computer systems and computer-related products and services.

(2) Any successor general partner will be and remain primarily engaged in the business of research and development, engineering, manufacturing and/or marketing and will not be primarily engaged in the business of investing, reinvesting, owning, holding or trading in securities.

(3) Trilogy Partners will invest the proceeds of the sale of its interests only in the following money market instruments without material exception:

(i) obligations issued by or guaranteed as to principal or interest by the United States or its agencies or its instrumentalities;

(ii) obligations of banks, including certificates of deposit and time or demand deposits in commercial banks, bankers' acceptances, Eurodollar deposits and notes (either fixed rate or floating), and instruments secured by such obligations, provided, however, that Triology Partners shall limit to investments in obligations of banks and instruments issued by banks to; (a) those of domestic banks with total

assets of more than five hundred million dollars, (b) those of foreign banks whose total assets rank them within the top one hundred foreign banks in total asset size, or (c) those instruments whose principal is guaranteed or insured by the Federal Deposit Insurance Corporation;

(iii) savings and loan deposits of savings and loan associations whose principal business office in California and whose total assets rank them among the top ten such savings and loan associations, or savings and loan deposits whose principal is guaranteed or insured by the Federal Savings and Loan Insurance Corporation;

(iv) commercial paper rated A–1 by Standard and Poor's Corporation or Prime–1 or better by Moody's Investor Services, Inc., or substantially equivalent ratings of the successor of either of the foregoing.

(4) Trilogy Partners will use its best efforts to provide an annual report to every person who was a limited partner of Trilogy Partners at any time during the fiscal year containing (i) financial statements of Trilogy Partners prepared in accordance with generally accepted accounting principles consistently applied and accompanied by a reprot containing an opinion of a firm of independent certified public accountants; (ii) a report of any material transactions between Trilogy Partmenrs and Trilogy Systems or its affiliates, including fees or compensation paid by Trilogy Partners and the services performed by Trilogy Systems or any such affiliates for such fees or compensation.

Notice is further given that any interested person may not later than June 28, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-15754 Filed 6-9-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Application No. 05/05–0169]

Michigan Tech Capital Corp.; Application for License To Operate as a Small Business Investment Company (SBIC)

Correction

In FR Doc. 82–14875 appearing on page 24009 in the issue for Wednesday, June 2, 1982, please make the following correction:

On page 24010, in the first column, in the third complete paragraph, in the second line, "(not later than 15 days from the publication of this Notice)", should have read "not later than June 17, 1982."

BILLING CODE 1505-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 809]

Declaration of Hostile Action

Pursuant to 22 CFR 191.1(a), I declare that:

As of December 17, 1981, and for a period deemed to continue until January 28, 1982, Brigadier General James L. Dozier, United States Army, has been placed in captive status in Italy because of hostile action abroad directed against the United States.

Dated: May 25, 1982.

Alexander M. Haig, Jr.,

Secretary of State.

[FR Doc. 82-15872 Filed 6-9-82; 8:45 am]

BILLING CODE 4710-24-M

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1980; Form Under Review by the Office of Management and Budget

AGENCY: Tennessee Valley Authority.

ACTION: Form Under Review by the Office of Management and Budget.

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35). Copies of the form proposed for extension may be obtained from the Agency Clearance Officer, whose name and telephone number appear below.

Agency Clearance Officer: R. Eugene Mynatt, (615) 751–2146, FTS 850–2146.

Type of Request: Extension.

Title of Information Collection: TVA 6157, Electric Sales Statistics.

Frequency of Use: Monthly.

Type of Affected Public: Municipal and cooperative electric utilities distributing TVA power.

Standard Industrial Classification: 491.

Small Businesses or Organizations Affected: No.

Federal Budget Functional Category Code: 271.

Estimated Number of Annual Responses: 120.

Estimated Total Annual Burden Hours: 90.

Estimated Annual Cost to Federal Government: $50,400.

Need for and Uses of Information: "Electricity Sales Statistics" provides necessary information for comprehensive reporting of wholesale purchases and retail sales for local systems distributing TVA power and a summary of statistics for use by all distributors of TVA power. It also provides information for the TVA power program evaluation and direction.

Dated: June 3, 1982.

Charles Bonine, Jr.,

Manager, Office of Management Services.

[FR Doc. 82-15862 Filed 6-9-82; 8:45 am]

BILLING CODE 3120-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 82–064]

Memorandum of Understanding Between the United States Coast Guard and the American Bureau of Shipping Concerning Plan Review and Inspection Functions for New Vessel Construction for Vessels Certificated by the Coast Guard

On April 27, 1982, the Coast Guard and the American Bureau of Shipping (ABS) signed a Memorandum of Understanding (MOU) which sets forth

guidelines for cooperation in plan review and inspection of vessels which are certificated by the Coast Guard. This MOV supersedes the MOV between the Coast Guard and The ABS dated June 9, 1981 (published in the **Federal Reister** of June 18, 1981 at 46 FR 31977). In accordance with the MOU, the Coast Guard has also issued a Navigation and Vessel Inspection Circular (NVC) which outlines the procedures for plan review and inspection of new U.S.-flag vessels under the MOU. This circular, NVC 10–82, was signed on May 18, 1982, and went into effect on June 1, 1982. Copies of the NVC may be obtained from Commandant (G–MP–4/14), U.S. Coast Guard, Washington, D.C. 20593. The full text of the MOU reads as follows:

Dated: June 4, 1982.

Clyde T. Lusk, Jr.

Rear Admiral, U.S. Coast Guard Chief, Office of Merchant Marine Safety.

Memorandum of Understanding Between the United States Coast Guard and the American Bureau of Shipping Concerning Plan Review and Inspection Functions for New Vessel Construction for Vessels Certificated by the Coast Guard

I. Purpose

The purpose of this memorandum is to set forth guidelines for cooperation between the American Bureau fo Shipping and the United States Coast Guard in plan review and inspection of vessels under construction which are certificated by the Coast Guard. Appropriate provisions of the Memorandum of Understanding (MOU) of 9 June 1981 are incorporated in this Memorandum, therefore, the MOU of 9 June 1981 is cancelled.

II. United States Coast Guard

The United States Coast Guard (USCG) has statutory authority, under the laws governing marine inspection, to regulate in order to promote the safety of life and property at sea and to protect the marine environment.

III. American Bureau of Shipping

The American Bureau of Shipping (ABS) is a classification society which provides classification services for ships and other marine vehicles and structures, and which is authorized by law to perform various functions in cooperation with, and on behalf of, the United States Coast Guard.

IV. USCG Acceptance of ABS Plan Review and Inspection

A. General. Plan review and inspection functions as described in USCG Navigation and Vessel Inspection Circulars (NVC's) for implementing this agreement, performed by full time employees of the ABS, may be accepted by the Officer in Charge, Marine Inspection, as part of the USCG vessel certification process without review or attendance by USCG personnel. NVC's implementing this Agreement will be mutually developed between the USCG and the ABS.

B. Approval and inspection standards. The standards to be applied by the ABS in approvals and inspection for the USCG in order of precedence are:

1. The requirements of (1) Safety of Life at Sea (SOLAS) or other international conventions to which the United States is party, (2) United States statutes, and (3) USCG regulations including specific industry standards incorporated therein.

2. Rules and standards of the ABS.

C. Verification. Unless specified elsewhere, copies of ABS approval letters, stamped plans, class certificates, and other ABS documents provided to the Officer in Charge, Marine Inspection, will be deemed sufficient for verification of compliance with USCG requirements.

D. Fees. The Coast Guard recognizes that services which are in addition to classification requirements may be subject to additional fee assessments by the ABS.

V. Appeals

Actions of the ABS performed under this memorandum may be appealed according to existing appeal procedures in USCG regulations. In the event of an appeal resulting from any such action, the ABS, upon request, will provide the Officer in Charge, Marine Inspection, with a statement concerning the status of the matter with respect to class, if applicable.

VI. Savings Provision

The USCG will continue to perform services as required in accordance with regulations and law. Nothing in this memorandum shall be deemed to alter in any way the statutory or regulatory authority of the USCG or the classification responsibilities of the ABS. The Coast Guard will maintain oversight sufficient to ensure that its regulatory and statutory requirements are maintained.

VII. Effective Date

This Memorandum is effective immediately. Effective dates of implementing this Memorandum of Understanding will be determined by mutual agreement between the ABS and the USCG.

VIII. Termination

This memorandum may be terminated by one party after written notice to the other party.

Signed at New York on this 27th day of April 1982.

J. B. Hayes,

Commandant, United States Coast Guard.

William N. Johnston,

President and Chairman, American Bureau of Shipping.

[FR Doc. 82–15664 Filed 6–9–82 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA); Special Committee 147; Traffic Alert and Collision Avoidance Systems; Meeting

Pursuant to the section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 147 on Traffic Alert & Collision Avoidance Systems to be held on June 30 and July 1, 1982 in Conference Rooms 8A–B–C, Federal Aviation Administration Building, 800 Independence Avenue, S.W., Washington, D.C., commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Seventh Meeting Held on April 28–29, 1982; (3) Presentation of Working Group Reports; (4) Review of Draft Minimum Operational Performance Standards for TCAS; (5) Review of Action Items and Assignment of Tasks; and (6) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296–0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on May 28, 1982.

Karl F. Bierach,

Designated Officer.

[FR Doc. 82–15611 Filed 6–9–82; 8:45 am]

BILLING CODE 4910–13–M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 148; Airborne Radio Communication Equipment Operating in the Radio Fequency Range of 117.975—137.000 Megahertz; Cancellation of Meeting

This Notice announces the cancellation of the Radio Technical Commission for Aeronautics (RTCA) Special Committee 148 meeting which was scheduled for June 15–16, 1982, and announced in the **Federal Register** on May 24, 1982, (47 FR 22444). The meeting will be rescheduled and a Notice of Meeting published in the near future.

Issued in Washington, D.C. on June 1, 1982.

Karl F. Bierach,

Designated Officer.

[FR Doc. 82-15409 Filed 6-9-82; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: Hanalei, Hawaii

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project located in the Hanalei District, Island of Kauai, State of Hawaii.

FOR FURTHER INFORMATION CONTACT: Mr. H. Kusumoto, Division Administrator, Federal Highway Administration, 300 Ala Moana Boulevard, Box 50206, Honolulu, Hawaii 96850, Telephone: (808) 546-5150.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the State of Hawaii, Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to replace Hanalei Bridge which is located on Kauai Belt Road (FAP56) on the island of Kauai. The existing bridge is of a single-lane design. It is severely deteriorated, structurally deficient, and functionally obsolete. The bridge provides a vital highway link for areas from Hanalei to Haena with the rest of the island-wide highway network. A closure of the bridge would place undue hardship on the community.

In addition, the project will explore the general implications of a "no-build" alternative. The project EIS will reveal anticipated effects should it be decided to forego any improvements to Hanalei Bridge.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and citizens. In addition, a public hearing will be held and testimony will be received regarding each of the proposed alternatives. A public notice will be published indicating the time and place of the hearing. A draft EIS will be available at the time of the hearing, for public review and comment.

No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on June 4, 1982.

Mr. H. Kusumoto,

Division Administrator, Honolulu, Hawaii.

[FR Doc. 82-15674 Filed 6-9-82; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Montgomery County, Ohio

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) is being prepared for a proposed highway project in Montgomery County, Ohio.

FOR FURTHER INFORMATION CONTACT: Mr. John W. McBee, Division Administrator, or Mr. Robert W. Cooper, District Engineer, Federal Highway Administration, 200 North High Street, Columbus, Ohio 43215. Telephone: (614) 469-6896 or 469-5150.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration (FHWA) in cooperation with the Ohio Department of Transportation (ODOT), Montgomery County, and the City of Dayton, has been preparing a draft environmental impact statement (EIS) since 1978 on the proposed construction of a limited access highway to complete the relocation of U.S. Route 35 in the Dayton metropolitan area. The facility would connect the existing interchange of U.S. Route 35 and Interstate Route 75 with a point on existing U.S. Route 35 in or near the western edge of Dayton.

Four major build alternatives and the no-build alternative are under consideration, with the build alternatives ranging from 4.7 to 7.5 miles in length. Two of the proposed routes would traverse the westside Dayton inner city, a closely settled area, and two would bypass this residential area to the south, entailing a parkland involvement. The western portions of three routes are identical, traversing agricultural and undeveloped land; the other utilizes a closer terminus. No preferred alternative has yet been identified; however, community objection to an inner city route has been strongly registered.

The proposed facility will complete a crosstown freeway, providing better access to major employment centers and public institutions, and it will relieve congestion on local streets.

There are currently no plans to hold a formal scoping meeting. To date, there has been extensive federal, state, local and public involvement with the proposed project. It is envisioned that such involvement will continue throughout further development of the project.

To insure that the full range of issues related to this proposed action are addressed and that all significant issues are identified, comments or questions concerning this action and the EIS should be addressed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on June 2, 1982.

John W. McBee,

Division Administrator, Columbus, Ohio.

[FR Doc. 82-15694 Filed 6-9-82; 8:45 am]

BILLING CODE 4910-22-M

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements: Submittals to OMB, May 5-19, 1982

AGENCY: Office of the Secretary, Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements, transmitted by the Department of Transportation, between May 5 and 19, 1982, to the Office of Management and Budget (OMB) for its approval. This notice is published in accordance with the requirments of Paperwork Reducation Act of 1980. (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Windsor, John Chandler, or Annette Wilson, Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 7th Street, SW., Washington, D.C. 20590, (202) 426-1887 or Donald Arbuckle or Wayne Leiss, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503, (202) 395-7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register** listing those information collection requests submitted to the Office of the

Management and Budget (OMB) for approval under the Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements.

On Mondays and Thursdays, as needed, the Department of Transportation will publish in the **Federal Register** a list of those forms, reporting and recordkeeping requirments that it has submitted to OMB for review and approval under the Paperwork Reduction Act. The list will include new items imposing paperwork burdens on the public as well as revisions, renewals and reinstatements of already existing requirements. OMB approval of an information collection requirements. OMB approval of an information collection requirements must be renewed at least once every three years. The published list also will include the following information for each itme submitted to OMB:

(1) A DOT control number.

(2) An OMB approval number if the submittal involves the renewal, reinstatement or revision of a previously approved item.

(3) The name of the DOT Operating Administration or Secretarial Office involved.

(4) The title of the information collection request.

(5) The form numbers used, if any.

(6) The frequency of required responses.

(7) The persons required to respond.

(8) A brief statement of the need for and uses to be made of the information collection.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above.

Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 5 days from the date of publication is needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB between May 5 and 19, 1982:

DOT No: 1937
OMB No: 2125-0063
By: Federal Highway Administration (FHWA)
Title: Highway Safety Improvement Priorities
Forms: None
Frequency: Annual
Respondents: States
Need/Use: The clearance of this requirement is necessary for the FHWA to determine whether Federal-aid funds should be used for projects proposed by the States and to comply with Congressional reporting requirements.

DOT No: 1938
OMB No: 2127-0019
By: National Highway Traffic Safety Administration
Title: Automotive Fuel Economy Reports
Forms: None
Frequency: Semiannual
Respondents: Businesses or other institutions
Need/Use: 15 U.S.C. 2005 requires manufacturers to submit this report. This agency examines the reports to see if and how the manufacturer will comply with applicable average fuel economy standards.

DOT No: 1939
OMB No: None
By: United States Coast Guard
Title: Records of Testing, Repair, Drydocking and Certification
Forms: Coast Guard forms; CG-4678, CG-835, CG-841, CG-854, CG-858, CG-948 and CG-3753.
Frequency: As required
Respondents: Owners, operators and masters of U.S. and foreign merchant vessels operating in U.S. ports.
Need/Use: These reporting and recordkeeping requirements are used to make record of the inspection, repair or certification of a vessel's material condition and are needed to ensure safety of life and property at sea.

DOT No: 1940
OMB No: 2125-0079
By: Federal Highway Administration (FHWA)
Title: Medical Examination of Drivers Transporting Migrant Workers
Forms: None
Frequency: Every 3 years
Respondents: Drivers transporting migrant workers
Need/Use: The information is needed for enforcement personnel to ensure that only those persons who are physically and mentally fit transport migrant workers in interstate or foreign commerce.

DOT No: 1941
OMB No: (None)
Agency: Office of the Secretary
Title: Study of Shipper/Receiver Mode Choice in Selected Rural Communities
Form: Questionnaire
Frequency: One Time Follow-up
Respondents: Selected Shippers
Need/Use: Assess the freight service availability, wage and quality in rural areas. Data will be compared with that of pre and post Motor Carrier Act of 1980. Results for congressional oversight hearings and Motor Carrier Ratemaking Study Commission.

DOT No: 1942
OMB No: None
Agency: FAA
Title: Aircraft Trading and/or Selling Slots
Form: N/A
Frequency: On Occasion
Respondents: Air Carriers
Need/Use: Special Federal Aviation Regulation No. 44, 14 CFR Part 91, authorizes the collection of information to allocate landing slots after evaluation of air carrier requests.

Issued in Washington, D.C. on June 1, 1982.

Robert L. Fairman,
Assistant Secretary for Administration.

[FR Doc. 82-15540 Filed 6-9-82; 8:45 am]
BILLING CODE 4910-62-M

Minority Business Resource Center Advisory Committee; Cancellation and Rescheduling of Meeting

This notice is given to advise of the cancellation of the Minority Business Resource Center Advisory Committee meeting originally scheduled to be held June 23, 1982. Notice of meeting was published in the **Federal Register** issue of June 3, 1982 (47 FR 24246).

Notice is hereby given of the rescheduling of said meeting for July 12, 1982, at 10:00 p.m. until 1:00 p.m. in Room 10234-38 at the Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590. The agenda for the meeting remains the same as published in the issue of June 3, 1982.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Minority Business Resource Center not later than the day before the meeting. Information pertaining to the meeting may be obtained from Ms. Betty Chandler, Minority Business Resource Center, 400 7th Street, SW., Washington, D.C. 20590, telephone (202) 426-2852. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on June 4, 1982.

Melvin Humphrey,

Director, Office of Small and Disadvantaged Business Utilization.

[FR Doc. 82-15646 Filed 6-9-82; 8:45 am]

BILLING CODE 4910-62-M

Urban Mass Transportation Administration

[Docket No. 82-H]

Third Party Contracting Guidelines

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of Issuance of UMTA C 4220.1A, Third Party Contracting Guidelines, and Request for Comments.

SUMMARY: The Urban Mass Transportation Administration (UMTA) has issued UMTA C 4220.1 which implements Office of Management and Budget (OMB) Circular A-102, Attachment O, and specifies third party contracting requirements for UMTA grant recipients. UMTA is soliciting comments on Attachment B, Bid Protest Procedures of UMTA C 4220.1A.

DATE: 1. This Circular was effective June 7, 1982.

2. Comments on Attachment B, Bid Protest Procedures, must be received by September 8, 1982.

ADDRESS: Comments on Attachment B, Bid Protest Procedures, should be submitted to UMTA Docket No. 82-H, Urban Mass Transportation Administration, Room 9228, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 8:30 a.m. and 5 p.m., Monday through Friday. Receipt of comments will be acknowledged by UMTA if a self-addressed, stamped postcard is included with each comment.

FOR FURTHER INFORMATION CONTACT: Jim Watson, Office of Third Party Contracts, UMTA, Room 6431, 400 Seventh Street, SW., Washington, D.C. 20590, 202/426-2710.

SUPPLEMENTARY INFORMATION: UMTA issued formal third party contracting guidelines in 1972 as part of its External Operating Manual, Section IIIC. Since that time, these procedures have been amplified and clarified on an *ad hoc* basis by UMTA. In 1979, in an attempt to revise and consolidate its third party contracting guidelines and procedures, UMTA issued a draft circular 4220.1 and disseminated it to grantees and other interested parties for comments. Shortly after the draft circular was distributed, OMB published its own revised guidelines for Federal grantor agencies administering third party contracts (OMB Circular A-102, Attachment O). Although Attachment O was similar to the draft UMTA circular in many respects, it prescribed a somewhat lower level of Federal grantor involvement in third party contract reviews and set up a different certification procedure. A significant number of comments received in connection with UMTA's draft guidelines pointed out these differences and urged UMTA to amend its procedures to conform to the standards set forth in Attachment O. The UMTA circular issued on June 7, 1982, accomplishes this task.

SIGNIFICANT FEATURES OF NEW GUIDELINES: UMTA Circular 4220.1A, together with its attachments, contains the following significant features:

1. *Minimum Procurement Requirements.* Grantees are required to follow their own State and local procurement procedures so long as they conform to minimum standards contained in UMTA C 4220.1A The requirements set forth in UMTA C 4220.1A are limited to the standards contained in OMB Circular A-102, Attachment O, certain additional Department of Transportation requirements, and UMTA statutory requirements.

This differs from the previous requirements in that UMTA has deleted a number of very specific requirements, including those related to preparing a summary of negotiations, determination and findings, contract modifications and change orders, professional and consulting services, and architect/engineer contracts.

2. *UMTA Preaward Review of Contracts.* Under UMTA C 4220.1A, there are three different categories or levels of UMTA review:

(1) If a grantee's procurement system is fully certified in accordance with paragraph 4 of Attachment O to OMB Circular A-102, UMTA will not conduct systematic preward reviews of its contracts;

(2) If a grantee submits a letter certifying that it complies with the minimum requirements of UMTA C 4220.1A, UMTA will limit its review to procurements over $10,000 which involve single bid, sole source or offer, brand name, or a proposed award to other than the apparent low bidder under a formally advertised procurement.

(3) If a grantee does not provide the above-referenced assurance of compliance, within 30 days of publication of this Notice, or prior to solicitation for award of a contract (whichever is later), then all contracts over $10,000 are subject to preaward review and approval by UMTA.

Under the former procedures, UMTA systematically reviewed all contracts involving single bid or offer, sole source or brand name over $10,000, all negotiated contracts over $10,000, and all awards to other than the low bidder. (For those grantees previously certified by UMTA, reviews had been limited to single bid or offer, sole source, and brand name procurements over $10,000, change orders over $1,000,000, negotiated contracts over $1,000,000, and force account contracts over $25,000.)

3. *Grantee Procurement System Reviews.* UMTA will review grantee procurement systems and procedures pursuant to paragraph 4 of Attachment O to OMB Circular A-102. These reviews may consist of both desk and on-site review, and will be as detailed or limited as deemed appropriate. Attachment A to UMTA C 4220.1A describes the procedure for obtaining such certification, and conforms to draft guidelines prepared by the Office of Federal Procurement Policy at OMB. Although UMTA's former draft circular 4220.1 provided for a limited certification under certain circumstances, it was not as comprehensive as the present procedure. *The certifications which were previously granted on September 11, 1978, to selected grantees are no longer in effect,* and grantees must now comply with the procedure set forth in UMTA C 4220.1A.

4. *Contents of Preaward Review Submission.* For those contracts which must be submitted to UMTA for review, the grantee should include:

(1) A complete copy of the proposed contract (including a copy of the successful bid/proposal, and in the case of formally advertised procurement, copies of all lower bids);

(2) A copy of the solicitation document;

(3) An explanation of the basis for selection of the contractor;

(4) A determination that the price is fair and reasonable;

(5) A cost or price analysis; and

(6) In the case of formally advertised procurements, a list of all bids received.

5. *Bid Protest Procedures.* Attachment B to UMTA C 4220.1A describes the circumstances under which an interested party may protest to UMTA the award of a third party contract and sets forth a procedure for filing such a protest. UMTA is permitted by paragraph 5 of Attachment O to OMB Circular A-102 to develop an

administrative procedure for handling such complaints. Although UMTA has always entertained third party bid protests as a matter of practice, it is in the best interest of all parties to formalize these procedures. Since UMTA has not previously published formal protest procedures, comments are solicited from all interested parties.

TEXT: The text of UMTA C 4220.1A is not reprinted in its entirety here due to the length and general availability of the information. However, copies will be available upon request. Both Attachments A and B are being printed in their entirety in this Notice, since they have not previously been made available. Attachment A conforms to OMB draft guidelines concerning the certification process, and Attachment B describes UMTA's bid protest procedure. Comments are solicited regarding all aspects of Attachment B.

Attachment A—Grantee Certification Procedure

1. *Scope.* This attachment sets forth the procedures for obtaining certification in accordance with paragraph 4 of Attachment O to OMB Circular A–102 and outlines the standards the grantee must achieve and maintain to be certified.

2. *Procedures.*

a. *Eligibility.* All grantees eligible for an UMTA grant may apply for certification.

b. *Application.* Requests for certification *must be submitted to the appropriate UMTA regional office.*

c. *Requirements for Submission.* The grantee must set forth its complete system for processing third party contracts under Federal grants and should show in detail how each of the standards in this attachment are met. Each set of these documents should be in two parts, with one part addressing the procurement portion and the other part addressing the technical portion. The following is a list of certification documents that the grantee must submit to UMTA:

(1) Two complete sets of the grantee's procurement policies and procedures;

(2) An organization chart of the grantee's organization down to at least the first level of supervision;

(3) Function manuals, procurement instructions, procedures, etc.;

(4) Copies of all important procurement forms; and

(5) Two sets of any other documents that may be used to meet the minimum standards set forth in this Attachment.

(d.) *Onsite Review.* The following is a list of actions UMTA will take in conducting onsite reviews:

(1) Upon satisfactory completion of the above (in-house) review, an onsite review will be conducted.

(2) A team of qualified procurement personnel will conduct the onsite review essentially as follows:

(a) Contracts and related documents will be selected for onsite review.

(b) Interviews will be conducted with grantee personnel from top management down to the operating level.

(c) Minimum areas of coverage will be as follows:

1 Advance procurement planning,

2 Degree and type of competition obtained,

3 Methods of evaluating contractor's responsibility,

4 Completeness of contracts, including forms used, contract history of actions, etc.,

5 Socio-economic programs,

6 Evaluation of make or buy and lease versus purchase,

7 Standards of conduct,

8 Maintenance of records and files,

9 System of contract administration,

10 System for resolution of protests or disputes and the grantee's history of protests or disputes,

11 Procurement policies and procedures,

12 Contract clauses,

13 Selection procedures of contractors for award,

14 Bonding requirements, and

15 Other procurement procedures necessary to ensure good and proper contracts.

(d) The onsite review will also look into the technical and procurement standards as outlined in this attachment.

e. *Certification.* If the UMTA review results in a determination that the grantee's system meets the minimum standards set forth herein, the grantee will receive a written certification, within specified limits, authorizing the grantee to manage its third party contract actions without preaward review by UMTA. If the grantee does not meet the minimum standards, it will be notified of the specific failures and the action required to correct them so that certification may be achieved.

3. *Grantee Technical Standards.*

a. To ensure that the grantee has the technical capability, certification review teams will include personnel qualified to determine the grantee's capabilities in accordance with the standards outlined in paragraph b. below.

b. The grantee's project management staff should have free access to the grantee top management and should be consulted regularly in respect to matters relating to the domain of the staff expertise.

(1) The project manager is responsible for:

(a) Examining and investigating alternate concepts to assure an end product with minimum life-cycle costs.

(b) Assuring that contracts for equipment and construction contain performance schedules and that the contractor's performance is monitored on a routine and periodic basis. Management should be kept informed in a timely manner by means of a written report of the status of each contract.

(c) Establishing and maintaining a process to routinely and periodically monitor the quality of a contractor's work. Written reports of these compliance reviews should be prepared and top management informed of significant deviations as they occur and corrective actions taken or proposed.

(d) Reviewing all contract amendments, change orders, changes in scope of work, etc., and concurring in such actions prior to execution by the contracting officer.

(2) The grantee staff is responsible for:

(a) Assuring the technical quality of all contract documents and for assuring that the documents do not contain exclusionary provisions that restrict free and open competitive bidding.

(b) Assuring compliance with the UMTA guidelines.

(c) Assuring compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and implementing regulations. For guidance, refer to the Land Acquisition and Relocation Assistance Procedures Manual (UMTA C 4530.1).

(d) Assuring compliance with MBE regulations, 49 C.F.R. Part 23.

(e) Reviewing contract documents to assure that they contain all the clauses and provisions required by Federal, State, and local governments and specifically OMB Circular A–102, Attachments B and O, and this circular.

(f) Establishing performance schedules and conducting design/work progress and schedule performance reviews in professional, consultant and architectural/engineering service activities. These reviews should be coordinated, as necessary, with segments of the grantee organizations such as safety, operations, maintenance, quality, reliability, etc.

4. *Grantee Procurement Standards.*

a. *Personnel.* The grantee should have personnel with knowledge and experience in contracts and procurement that is commensurate with the level of contracting and procurement authority granted in the certification.

b. *Organization.* The contracts and procurement function should be at a

level in the grantee's organizational structure to ensure autonomy for the contract and procurement office. Personnel awarding contracts should not be subject to undue pressures from technical and other groups.

c. *Ethics.* The grantee should have a written code or standards of conduct which will govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds. The grantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors or potential contractors. To the extent permissible by State or local law or regulations, such standards of conduct should provide for penalties, sanctions, or other disciplinary actions to be applied for violations of such standards by either the grantee's officers, employees, or agents, or by contractors or their agents.

In final form, it is not sufficient that the grantee be free from all conflict of interest situations; it should also be free from the appearance of conflict of interest.

d. *Operations.*

(1) The grantee should have written procurement procedures that show how each procurement is to be processed from receipt of procurement request through award and administration of contract to closeout and retirement of the contract. The procedure should clearly show that the grantee has the capability and does the planning necessary to accomplish procurement at a level commensurate with the authority granted for local management. Included in the procedures should be detailed directions on:

(a) How procurements are to be planned, advertised, and solicited;

(b) How bids/proposals are to be received and recorded;

(c) How determinations of responsiveness/responsibility are made;

(d) How and by whom bid proposal evaluations will be done;

(e) How and on what basis determinations that negotiated costs/prices are fair and reasonable will be made;

(f) How the successful bidder/proposer will be selected and the contract awarded; and

(g) How contract administration and closeout will be handled.

(2) Since each solicitation and contract action should be recorded, the written procurement procedure should also state how such documentation will be assured for the contract file.

(3) The written procurement procedure should indicate that the grantee is fully aware of the requirement for open and free competition and how the grantee will ensure compliance.

(4) The written procurement procedures should clearly indicate that the grantee understands and is in compliance with the requirements for involvement of Minority Business Enterprises as set forth in the Department's regulations.

e. *Support.* The grantee should have available, when necessary, the contract support tools such as:

(1) Cost/Price Analysis,

(2) Auditing,

(3) Preaward Survey Teams, and

(4) Technical Analysis.

f. *Contract and Solicitation Documents.* The grantee should have the ability to properly construct a solicitation package and contract document that includes all the required contract clauses and otherwise meets the requirements of OMB Circular A-102, Attachment O, and this circular.

g. *Contract Files.* The grantee should have a system of filing and maintaining contract files that ensures a complete and readily available record of all contract-related actions.

Attachment B—Bid Protest Procedures

1. *Purpose.*

Under certain limited circumstances (see paragraph 3a), an interested party may protest to UMTA the award of a contract pursuant to an UMTA grant. The purpose of this directive is to establish procedures for processing all such protests. This procedure permits review by UMTA, provided that: (1) The protest is filed within the time limits specified in Section 4; and, (2) the protester has exhausted all administrative remedies available to him at the grantee level.

2. *Definitions.*

a. The term "days" refers to working days of the Federal Government.

b. The term "file" or "submit" refers to the date of receipt by UMTA.

c. "Exhaustion of administrative remedies at the grantee level" means any action or inaction on the part of the grantee which is prejudicial to the position taken in a written protest filed with the grantee. It may include, but is not limited to:

(1) A final grantee decision on the merits of the protest.

(2) A procurement action such as the award of a contract or the rejection of a bid despite the pendency of the protest.

(3) Grantee acquiescence in and active support of continued and substantial contract performance despite the pendency of a protest.

d. The term "interested party" includes all bidders on the contract or procurement. The term may also include a subcontractor or supplier at any tier who shows that he/she has a substantial economic interest in a provision of the Invitation for Bids (IFB) or the Request for Proposals (RFP), or in the interpretation of such a provision.

e. Violation of Federal law or regulation is defined as the infringement of any valid requirement imposed by Federal statute or regulation which requirement governs the letting of contracts pursuant to a great agreement. However, any protests involving a local matter and/or determinations that are clearly within the discretionary powers of the grantee should be resolved at the local level. Specific examples of determinations that are within the discretionary powers of the grantee include, but are not necessarily limited to, determinations of responsiveness and responsibility, the revision of specifications to incorporate the evaluation of life-cycle costing (LCC) factors in connection with any given procurement, and determinations regarding bonding requirements. In other words, the protester must be able to demonstrate or establish a clear violation by the grantee of a specific law or regulation, e.g., a violation of the prohibition against unduly exclusionary and restrictive specifications, or a violation of the Buy American requirements.

f. The term "bid" as used herein also includes the term "offer" or "proposal" as used in the context of negotiated procurements.

3. *General Conditions.*

a. UMTA's review of any protest will be limited to:

(1) Violations of Federal law or regulations. Violations of State or local law shall be under the jurisdiction of State or local authorities.

(2) Violation of grantee's protest procedures or failure to review a complaint or protest.

b. Protests must be filed with the grantee in accordance with the local procedures and requirements. Following an adverse decision by the grantee, the protester may file a protest with UMTA, in accordance with paragraph 4 below, if there has been a violation as described in paragraph 3.a.(1) or 3.a.(2) above. Protests should be filed with the appropriate UMTA regional office and concurrent copies sent to the grantee and UMTA Headquarters, Attention: UAD-43. To expedite handling within UMTA, the address should include "Attention: Bid Protest."

c. The initial protest filed with UMTA shall:

(1) Include the name and address of the protester.

(2) Identify the grantee, project number, and the number of the solicitation contract.

(3) Contain a statement of the grounds for protest and any supporting documentation. (The grounds for protest filed with UMTA must be fully supported to the extent feasible. Additional materials in support of an initial protest will only be considered if filed within the time limits specified in paragraph 4.)

(4) Include a copy of the protest filed with the grantee, and a copy of the grantee's decision, if any.

(5) Indicate the ruling or relief desired from UMTA.

d. UMTA will not consider any data that was not submitted to the grantee. If new data becomes available after the exhaustion of administrative remedies at the grantee level, that data should be filed with the grantee with a request for reconsideration. If the request is denied or if the protester's administrative remedies at the grantee level are again exhausted, the protester may then submit the new data to UMTA. UMTA will consider the data if filed as part of an initial protest within the time limits specified in paragraph 4, or as additional material filed within the time limit specified in paragraph 4.

e. No formal briefs or other tehnical forms of pleading or motion are required, but a protest and other submission should be concise, logically arranged, and clear.

4. *Time for Filing.*

a. Protests shall be filed within the specified time limits set forth in the specifications which are the subject of the procurement and must adhere strictly to any procedures specified therein. The time period established for the filing of protests as set forth in all such specifications will be controlling and will take precedence over a time period established here.

b. Protests must be filed within the time limits set forth in this paragraph b. in order to be considered timely unless the specifications which are the subject of a particular procurement set forth a different period for filing a protest, in which case the provisions of paragraph a. above will apply. Protests based upon restrictive specifications or alleged improprieties in any type of solicitation, which are apparent prior to bid opening or the closing date for receipt of intial proposals, shall be filed not later than three (3) days prior to bid opening or the closing date for receipt of initial proposals.

c. In cases other than those covered in the preceding paragraphs of this section, bid protests shall be filed not later than ten (10) days after the exhaustion of administrative remedies at the grantee level is known or should have been known, whichever is earlier.

d. A protest may be considered, even if the initial filing is late, in the following circumstances:

(1) Good cause based on a compelling reason beyond the protester's control, whereby the lateness is due to the fault of UMTA or the grantee in the handling of his protest submission.

(2) UMTA determines the protest raises issues significant to procurement practice or procedure.

(3) A court of competent jurisdiction requests, expects, or otherwise expresses interest in UMTA's decision.

5. *Time for Submission of Additional Information.*

Any additional information requested or required by UMTA from the protester, the grantee, or interested parties shall be submitted as expeditiously as possible but in no case later than five (5) days after the receipt of such request unless specifically excepted by UMTA.

6. *Notice of Protest, Confidentiality, Submission of Grantee Report, and Time for Filing Comments on Report.*

a. UMTA shall notify the grantee by telephone and in writing in a timely manner of the receipt of a protest, requesting the grantee to give notice of the protest to the contractor if award has been made or, if no award has been made, to all bidders or proposers who appear to have a substantial and reasonable prospect of receiving an award if the protest is denied. All who receive such notice shall be instructed that they may communicate further directly with UMTA.

b. Material submitted by a protester will not be withheld from any interested party outside the Government or from any Government agency which may be involved in the protest, except to the extent that the withholding of information is permitted or required by law or regulation. If the protester considers that the protest contains proprietary material which should be withheld, a statement advising of this fact must be affixed to the front page of the protest document and the alleged proprietary information must be so identified wherever it appears.

c. The grantee shall be requested to submit a complete report on the protest to UMTA, with a copy to the protester, as expeditiously as possible but not later than within twenty-five (25) working days of being notified by UMTA of the protest. The grantee report shall include:

(1) Copies of all relevant bids;

(2) A copy of the Invitation for Bids or Request for Proposals, including pertinent provisions of the specifications;

(3) A copy of the abstract of bids;

(4) Any other documents that pertain to the protest, including correspondence with the bidders; and

(5) A statement by the grantee explaining its actions and the reasons for them.

The protester must be informed that any comments must be submitted to UMTA within ten (10) days (see paragraph 6.d. below).

d. Comments on the grantee report shall be filed by the protester with UMTA within ten (10) days after receipt of the report, with a copy to the grantee which furnished the report. The grantee's rebuttal to these comments shall be filed with UMTA within five (5) days after receipt of the comments to which the rebuttal is directed.

e. The failure of a protester or of a grantee to comply with the time limits stated in this Attachment may result in resolution of the protest without consideration of the comments untimely filed.

7. *Furnishing of Information on Protests.*

UMTA shall, upon request, make available to any interested party information bearing on the substance of the protest which has been submitted by the protester, interested parties or grantees, except to the extent that withholding of information is permitted or required by law or regulation. Any comments thereon shall be submitted within a maximum of ten (10) days.

8. *Withholding of Award.*

When a protest has been filed before award, the grantee will not make an award prior to the resolution of the protest, and when a protest has been filed before the opening of bids, the grantee will not open bids prior to the resolution of the protest, unless the grantee determine that:

a. The items to be procured are urgently required; or

b. Delivery or performance will be unduly delayed by failure to make the award promptly; or

c. Failure to make prompt award will otherwise cause undue harm to the grantee or the Federal Government.

In the event that the grantee determines that the award is to be made during the pendency of a protest, the grantee will notify UMTA prior to making such award. UMTA reserves the right not to participate in the funding of any contract awarded during the pendency of a protest to UMTA.

9. *Conference*

a. A conference on the merits of the protest with members of UMTA may be held at the request of the protester or the grantee. Requests for a conference should be made in a timely manner so as not to interfere with the resolution of the protest and not later than the expiration of the time period allowed for filing comments on the grantee report as specified in Section 5(d). Except in unusual circumstances, requests for conferences after such time will not be honored.

b. Conferences normally will be held prior to the expiration of the period allowed for filing comments on the grantee report. Interested parties may request, and in UMTA's discretion may be invited to attend the conference.

10. *Request for Reconsideration.*

a. Reconsideration of a decision of UMTA may be requested by the protester or any grantee involved in the protest. The request for reconsideration shall contain a detailed statement of the factual and legal grounds upon which reversal or modification is deemed warranted, specifying any errors of law made or information not previously considered.

b. Request for reconsideration of a decision of UMTA shall be filed not later than 10 days after the initial written decision, and shall be filed with the office which issued the decision being appealed. The protest shall not be considered pending during the 10-day period specified in this paragraph.

c. A request for reconsideration shall be subject to these bid protest procedures, consistent with the need for prompt resolution of the matter.

11. *Effect of Judicial Proceedings.*

UMTA may refuse to decide any protest where the matter involved is the subject of litigation before a court of competent jurisdiction, or has been decided on the merits by such a court. The foregoing shall not apply where the court requests, expects, or otherwise expresses interest in UMTA's decision.

Issued on: June 7, 1982.

Arthur E. Teele, Jr.,

Administrator.

[FR Doc. 82-15775 Filed 6-9-82; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review

During the period May 28 through June 3, 1982, the Department the Treasury submitted the following public information collection requirements to OMB, for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collections should be addressed to the Treasury Reports Management Officer, Information Resources Management Division, Room 309, 1625 I St. NW., Washington, D.C. 20220; *and* to the OMB reviewer listed at the end of each entry.

Date Submitted: June 1, 1982.

Submitting Bureau: International Revenue Service.

OMB Number: 1545-0242.

Form Number: 6197.

Type of Submission: Revision.

Title: Fuel Economy Tax.

Purpose: Used to compute tax on gas-guzzler automobiles under section 26 U.S.C. 4064. Tax is reported quarterly on Form 720. One Form 6197 is filed when production and sales of a model year automobile is ended. Autos not meeting certain standards are taxable. IRS uses the information to verify computation of tax and compliance with the law.

OMB Reviewer: Michael Abrahams, (202) 395-6880, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

Date Submitted: June 2, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: 1545-0020.

Form Number: 709.

Type of Submission: Revision.

Title: United States Gift Tax Return.

Purpose: Form is used to report transfers subject to the gift tax and to compute the gift tax. IRS uses the information to enforce the gift gax and to compute the gift and the estate tax.

OMB Reviewer: Michael Abrahams, (202) 395-6880, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

Joy Tucker,

[FR Doc. 82-15760 Filed 6-9-82; 8:45 am]

BILLING CODE 4810-25-M

Issuance of Directive License to the New York Federal Reserve Bank Relating to the Payment of Awards by the Iran-U.S. Claims Tribunal

June 7, 1982.

The Treasury Department today issued a directive license authorizing the New York Federal Reserve Bank ("Fed") to deduct two percent of each amount received in satisfaction of an award, including interest thereon, by the Iran-United States Claims Tribunal in favor of a United States national. The balance of each amount after deduction is to be paid immediately thereafter to the person identified by the award as the awardee, without further deduction or alteration. The two percent deduction is to be deposited in the Treasury to reimburse the United States Government for costs incurred for the benefit of U.S. nationals who have claims against Iran.

The Algiers Accords, which achieved the release of the American hostages from Iran, consisted primarily of two "declarations" by the Government of Algeria which were adhered to by the United States and Iran. The first of these (the General Declaration) provided for the revocation of sanctions and nullification of certain claims and attachments as well as the transfer of Iranian funds and other assets. In particular, the General Declaration provides for a Security Account at an initial funding level of $1,000,000,000 to secure the payment of claims against Iran in accordance with the second declaration (the Claims Settlement Agreement). The Claims Settlement Agreement provides for an Iran-United States Claims Tribunal at The Hague to decide, *inter alia,* claims by nationals of the United States against Iran arising out of debts, contracts, expropriations or other measures affecting property rights. Under implementing agreements signed on August 17, 1981, by the Federal Reserve Bank of New York as Fiscal Agent of the United States, Bank Markazi Iran, Bank Centrale d'Algerie as escrow agent and the Dutch Central Bank and its subsidiary depositary bank, awards by the Tribunal against Iran in favor of U.S. nationals will be certified by the President of the Tribunal for payment from the Security Account at the depositary bank to the Federal Reserve Bank of New York.

Directive License Federal Reserve Deduction From Tribunal Awards

To: Federal Reserve Bank of New York, Fiscal Agent of the United States

Pursuant to the Fiscal Agency Agreement between the United States and the Federal Reserve Bank of New York dated August 14, 1981, Executive Orders issued January 19, 1981 (Nos. 12276-12284), the authority of the Independent Office Appropriations Act (31 U.S.C. 483(a)) the Technical Agreement of August 17, 1981, among De Nederlandsche Bank N.V., Banque Centrale d'Algerie as Escrow Agent, Bank Markazi Iran, and the Federal Reserve Bank of New York as fiscal agent of the United States ("FRBNY") and the Technical Agreement of August 17, 1981, among the N.V. Settlement

Bank of the Netherlands, Banque Centrale d'Algerie as Escrow Agent, Bank Markazi Iran, and FRBNY, FRBNY is hereby licensed, authorized, directed and compelled:

1. As amounts are received from the Security Account provided for in the Declaration of the Democratic and Popular Republic of Algeria of January 17, 1981, for the execution of arbitral awards, including interest thereon, by the Iran-United States Claims Tribunal in favor of United States claimants, to deduct two percent of such amounts on behalf of the Treasury Department;

2. To pay the balance, immediately following deduction pursuant to paragraph 1, of such amounts to the U.S. claimants designated by the awards as recipients, without further deduction or alteration of the amounts; and

3. To pay to the Treasury Department for deposit in the general fund miscellaneous receipts the amounts deducted pursuant to paragraph 1 above.

FRBNY has no obligation to invest amounts received from the Security Account pending transfer to the recipient, and should transfer funds to recipients as soon as is practical in the circumstances. Further, FRBNY may rely on instructions from the N.V. Settlement Bank of the Netherlands or the Banque Centrale d'Algerie as Escrow Agent, or on telephone or telex instructions from recipients, designating the depository institution to which the funds are to be transferred.

Dated: June 7, 1982.

Treasury Department.

Robert E. Powis,

Acting Assistant Secretary (Enforcement and Operations).

[FR Doc. 82-15745 Filed 6-9-82; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Medical Research Service Merit Review Boards; Meetings

The Veterans Administration gives notice pursuant to Pub. L. 92-463 of the meetings of the following Merit Review Boards.

Merit Review Board	Date	Time	Location
Basic sciences	June 24, 1982	8 a.m. to 5 p.m.	Room 817, VA Central Office.[1]
Do	June 25, 1982	do	Do.
Do	June 28, 1982	do	Council Room, Hotel Washington.[2]
Do	June 29, 1982	do	Do.
Do	June 30, 1982	do	Do.
Oncology	July 8, 1982	do	Assembly Room, Hotel Washington.[2]
Do	July 9, 1982	do	Do.
Surgery	July 8, 1982	do	Caucus Room, Hotel Washington.[2]
Do	July 9, 1982	do	Do.
Do	July 10, 1982	do	Do.
Immunology	July 13, 1982	do	Do.
Do	July 14, 1982	do	Do.
Endocrinology	July 14, 1982	do	Assembly Room, Hotel Washington.[2]
Do	July 15, 1982	do	Do.
Behavioral sciences	July 19, 1982	do	Council Room, Hotel Washington.[2]
Do	July 20, 1982	do	Do.
Do	July 21, 1982	do	Do.
Alcoholism and drug dependence	Aug. 3, 1982	do	Caucus Room, Hotel Washington.[2]
Cardiovascular studies	Aug. 11, 1982	do	Assembly Room, Hotel Washington.[2]
Do	Aug. 12, 1982	do	Do.
Nephrology	Aug. 12, 1982	do	Caucus Room, Hotel Washington.[2]
Do	Aug. 13, 1982	do	Do.
Hematology	Aug. 23, 1982	do	Do.
Do	Aug. 24, 1982	do	Do.
Neurobiology	Aug. 25, 1982	do	Council Room, Hotel Washington.[2]
Do	Aug. 26, 1982	do	Do.
Do	Aug. 27, 1982	do	Do.
Do	Aug. 26, 1982	do	Do.
Infectious diseases	Aug. 26, 1982	do	Caucus Room, Hotel Washington.[2]
Do	Aug. 27, 1982	do	Do.
Gastroenterology	Sept. 1, 1982	do	Assembly Room, Hotel Washington.[2]
Do	Sept. 2, 1982	do	Do.
Respiration	Sept. 2, 1982	do	Caucus Room, Hotel Washington.[2]
Do	Sept. 3, 1982	do	Do.

[1] Veterans Administration, Central Office, 810 Vermont Avenue NW., Washington, DC 20420.
[2] Hotel Washington, 15th and Pennsylvania Avenue NW., Washington, DC 20004.

These meetings will be for the purpose of evaluating scientific merit of research conducted in each specialty by Veterans Administration investigators working in Veterans Administration hospitals and clinics.

The meetings will be open to the public up to the seating capacity of the rooms at the start of each meeting to discuss the general status of the program. All of the Merit Review Board meetings will be closed to the public after approximately one-half hour from the start, for the review, discussion and evaluation of initial, and renewal research projects.

The closed portion of the meetings involves: discussion; examination, reference to, and oral review of site visits, staff and consultant critiques of research protocols, and similar documents. During this portion of the meeting, discussion and recommendations will deal with qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, as well as research information, the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action regarding such research projects. Closure of these meetings is in accordance with subsection 10(d) of Pub. L. 92-463, as amended by Pub. L. 94-409, and as cited in 5 U.S.C. 552b(c)(6) and (9)(B).

Because of the limited seating capacity of the rooms, those who plan to attend should contact Mr. Howard M. Berman, Chief, Merit Review Board Staff Division, Medical Research Service, Veterans Administration, Washington, DC, (202)-389-5065 at least five days prior to each meeting. Minutes of the meeting and rosters of the members of the Boards may be obtained from this source.

Dated: June 3, 1982.

By direction of the Administrator.

Charles T. Hagel,

Deputy Administrator.

[FR Doc. 82-15641 Filed 6-9-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 112
Thursday, June 10, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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	Items
Commodity Futures Trading Commission	1
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1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, June 18, 1982.

PLACE: 2033 K Street, NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:
Surveillance Briefing.

AGENY HOLDING THE MEETING:
Commodity Futures Trading Commission.

TIME AND DATE: 11 a.m., Friday, June 25, 1982.

PLACE: 2033 K Street, NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:
Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6334.

[S-863-82 Filed 6-8-82; 9:03 am]
BILLING CODE 6351-01-M

2

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, June 15, 1982 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:
Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Thursday, June 17, 1982 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Advisory Opinion 1982-8—Paul E. Suplizio, Executive Director, International Association of Trade Exchanges (and BARTERPAC)
Ballot access exemptions
Addendum to final audit report—Kennedy for President Committee
Appropriations and budget
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION:
Mr. Fred Eiland, Public Information Officer; Telephone: 202-523-4065.

Marjorie W. Emmons,
Secretary of the Commission.

[S-865-82 Filed 6-9-82; 8:45 am]
BILLING CODE 6715-01-M

3

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., June 16, 1982.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Docket No. 82-23: In the Matter of Rates Applicable to Ocean Shipments via American President Lines—Consideration of the record.
2. Informal Docket No. 1120(I): Singer Products, Inc. v. Delta Steamship Lines, Inc.—Petition for reconsideration.
3. Informal Docket No. 1126(I): Singer Products, Inc. v. Delta Steamship Lines, Inc.—Petition for reconsideration.

Portions closed to the public:

1. Agreements Nos. 2846-41 and 50; 5660-27 and 35; and 9522-38 and 47: Amendments to WINAC, Marseilles/North Atlantic U.S.A. Freight Conference and Med-Gulf Conference to conform self-policing provisions to Commission Order 7.
2. Docket No. 82-8: Compliance with General Order 7, Revised, Self-Policing—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.

[S-864-82 Filed 6-8-82; 3:28 pm]
BILLING CODE 6730-01-M

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federal register

Thursday
June 10, 1982

Part II

Department of the Interior

Geological Survey

Onshore Oil and Gas; Unit or Cooperative Agreements; Proposed Rulemaking

DEPARTMENT OF THE INTERIOR

Geological Survey

30 CFR Part 226

Unit or Cooperative Agreements

AGENCY: Minerals Management Service, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking would amend the existing regulations which govern the formation and operation of onshore Federal oil and gas unit plans. The provisions would be revised and modernized to eliminate unnecessary items and to incorporate necessary modifications in recognition of changed circumstances which have evolved since 1951, when the part was last published in its entirety. The model unit agreement (30 CFR 226.12) for unproven areas would be revised to incorporate all previously accepted modifications and those resulting from specific comments received as a result of the May 14, 1981, Notice of Intent to Propose Rulemaking (46 FR 26661).

DATE: Comments on this proposed rulemaking must be received by July 26, 1982.

ADDRESS: Comments may be mailed to: Mr. Andrew V. Bailey, Acting Associate Director for Onshore Minerals Operations, Minerals Management Service, Mail Stop 650, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald R. Daniels, (703) 860–7535, (FTS) 928–7535, or Mr. Stephen H. Spector, (703) 860–6259, (FTS) 928–6259.

SUPPLEMENTARY INFORMATION: The principal authors of this proposed rulemaking are Mr. Gilbert Kutchins and Mr. Leo Kozola of the Office of the Deputy Minerals Manager—Oil and Gas, North Central Region, Casper, Wyoming; Mr. Gerald R. Daniels, Chief, Branch of Fluid Minerals Management; and Mr. Stephen H. Spector, Branch of Onshore Rules and Procedures.

This proposed rulemaking is intended to remove from the present regulations those items that the Department of the Interior has identified as unnecessary to the effective formation and operation of onshore Federal oil and gas unitization plans, while also modernizing the regulations to reflect current circumstances. The Minerals Management Service's (MMS) predecessor, the Conservation Division of the U.S. Geological Survey, announced its intention to propose rulemaking by Notice of Intent published on May 14, 1981 (46 FR 26661). Comments were invited for 45 days ending June 29, 1981. Numerous responses were received including nine from oil and gas operators, one from a firm specializing in the formation of federally approved units, one from an oil and gas association, and one from an organization which represents several Indian Tribes which have energy interests. In addition, comments were received from one Regional Office of the U.S. Forest Service.

One general change which is proposed throughout this rulemaking is the designation to the responsible official as the Deputy Minerals Manager (DMM) rather than Area Supervisor. This change results from the 1980 reorganization, and in part from the 1982 reorganization of the Conservation Division, and is merely a title change. This administrative change does not enhance or diminish the authority of the responsible official, nor should it affect the existing relationship between either the parties to the agreement or the proponents and the Federal Government.

A second general change is the removal of all references to the "U.S. Geological Survey" or "GS" and inserting in their place the "Minerals Management Service." This change reflects the reorganization of the Conservation Division of the U.S. Geological Survey into a separate Agency by Secretarial Order 3071, January 19, 1982.

A third general change is to clearly limit the part as being applicable only to onshore Federal unit plans. This would eliminate references to cooperative agreements in which separate ownership units would be independently operated without allocation of production. Although such agreements are still authorized by law, the practice is no longer in use and its removal should not adversely impact industry.

The majority of the oil and gas lessees and/or operators who responded to the Notice of Intent indicated that, except for minor modifications, the unit regulations were satisfactory in the present form and no major changes were necessary. Several operators did suggest that the sample unit agreement for unproven areas, which is now set forth in the regulations (§ 226.12), should be updated to conform to the unit agreements that are currently in use with the modifications which have been developed since the regulations were promulgated. This is accomplished through the inclusion at § 226.12 of a new model unit agreement. The model agreement and model Exhibits A and B, have been updated to inlcude approved changes and those deemed necessary for further clarification.

The organization representing various Indian Tribes having energy interests suggested that a separate standard form of unit agreement for Indian lands be developed and included in the regulations. Although this comment has some merit, it is beyond the scope of this rulemaking. Moreover, there is currently no uniformity in the text of agreements which are now accepted by the numerous Indian Tribes and the Bureau of Indian Affairs. If such a model or standard form of agreement could be developed which would be acceptable to all parties involved with Indian oil and gas leases, it should be contained under a separate heading of either Title 30 or Title 25 (Indians) of the CFR.

The above organization also suggested the addition of a provision to clarify procedures when Indian lands are part of a Federal unit area. This suggestion has been adopted by expanding the section dealing with the inclusion of non-Federal lands to include a specific paragraph on Indian lands (§ 226.7(b)).

A suggestion to provide additional approval authority to Federal surface managing agencies has not been adopted. Procedures already exist whereby input is received from such agencies and if any changes are needed in the various interagency relationships, these can be accomplished by other means.

One commentor suggested that § 226.8 be modified to exempt non-Federal lands within a unit area from Federal regulation when less than 50 percent of the unit lands are Federal. We find the benefits to be gained by administering the entire unit under the same general control outweigh the benefits that would be achieved by adopting the recommendation. However, current practice in cases where the Federal lands consititute less than 10 percent is to commit the Federal lands to a non-Federal unit agreement. Therefore, the current provision in § 226.8(b) is proposed to be deleted as unnecessary.

Some commentors suggested that § 226.9 be revised to change the number of copies of documents required to be submitted. This suggestion has been adopted and the proposed § 268.9 requires only the minimum number of copies required for distribution following approval.

Most of the oil and gas operators responding to the Notice of Intent took exception to the implication that some units were being formed merely to gain extension of lease terms and not as a means of promoting orderly, cost-effective development of oil and gas. While the Notice was not intended to

imply that unitization does not contribute greatly to the exploration for oil and gas, instances have been observed where steps are begun to dissolve a unit agreement even before it has been formally approved. To eliminate such actions, sections 9 and 20 of the model agreement have been modified to provide for a minimum term of 1 year before initiating a request to voluntary termination unless one obligation well is drilled after the effective date of the unit agreement.

The remainder of the comments recommended modifications to address specific provisions of the model unit agreement (§ 226.12). Specific suggestions are discussed below by the section of the agreement to which they relate.

Section 2. Subsection (e) has been an approved modification of the agreement for many years. Two operators suggested further modification to provide a longer time period before lands not included within a participating area are automatically excluded. This provision was subjected to considerable review and analysis, and it has been concluded that 10 years is sufficient time in which to develop a unit area approved under existing or proposed guidelines. Accordingly, this suggestion has not been adopted and the section would be modified to include subsection (e) without the provision for extension beyond 10 years following the effective date of the initial participating area.

Section 9. In addition to the change concerning termination during the first year, previously discussed, a suggestion was made to clarify the term "beginning of a well." The word beginning has been replaced with "commencement (spudding)" in order to indicate that actual drilling must be in progress by the specified period.

Section 11. A commentor suggested a revision of this section to include lands within a participating area in tracts no smaller than 40 acres (legal subdivision). This suggestion has not been adopted since it would create inequities with existing units, and experience has shown many past instances when the inclusion of smaller tracts in a participating area is consistent with the intent of the law and the provisions of the unit agreement relating to the establishment and expansion of participating areas.

Section 14. One commentor suggested the inclusion of terms to clarify the meaning of this section; however, since no significant problems in interpretation have been observed, the provision has not been altered.

Sections 18(e) and 26. Several comments recommended changes which cannot be accomplished without statutory revisions.

Section 18(g). Commentors suggested that this provision (section 18(h) in most currently approved unit agreements) be deleted since it deals with non-Federal or "fee" leases and can be covered by the terms of such leases. The provision has been retained as an optional provision (section 18(h)) to provide the parties to unit agreements the flexibility to have the provision available where needed, while indicating that agreements would be acceptable without the provision.

Section 26. One operator recommended that the provision relating to unavoidable delay be expanded to include availability of drilling rigs. As rig availability has generally been given consideration in requests for unavoidable delay in the past, this recommendation has been adopted.

One commentor recommended much more extensive revision of the model agreement, but since the majority of those commenting suggested the model only required minor revision, this suggested was not adopted.

The "Note" has been redesignated "General Guidelines" and expanded. The Department of the Interior has determined that this document is not a major rule and does not require a regulatory analysis under Executive Order 12291. The Department has also certified that this rulemaking will not have a significant economic impact on a substantial number of small entities, thus a small entity flexibility analysis under the Regulatory Flexibility Act, Pub. L. 96-354, is not required.

It is hereby determined that this proposed rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment, and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (43 U.S.C. 4332(2)(C)) is required.

Paperwork Reduction Act

Unit agreements which conform to the model set out in § 226.12 of these regulations are basically contracts between the private parties and not an information collection requirement. It is submitted for approval to insure that the rights granted to each lessee of a Federal lease are not adversely impacted through the joining of a lease in a unitized plan of development. All operations continue to be conducted under 30 CFR 221 and the information collection requirements of that section apply to the unitized operations as if it were a single lease. The model agreement does not constitute information collection as defined by 44 U.S.C. 3502 and therefore does not require OMB approval.

List of Subjects of 30 CFR 226

Government contracts, Oil and gas reserves, Public lands/mineral resources.

Under the authority of the Act of February 25, 1920 (30 U.S.C. 189, 226e), and Executive Order 12291 (46 FR 13193), it is proposed to revise Part 226, Chapter II, Title 30 of the Code of Federal Regulations as set forth below.

PART 226—ONSHORE OIL AND GAS UNIT AGREEMENTS

Sec.

226.1 Introduction and jurisdiction.
226.2 Definitions.
226.3 Designation of unit area; depth of test well.
226.4 Preliminary consideration of unit agreement.
226.5 Parties to unit agreement.
226.6 Qualifications of Unit Operator.
226.7 Inclusion of non-Federal lands.
226.8 Approval of unit agreement.
226.9 Filing of papers and number of counterparts.
226.9-1 Retroactive approval of communitization agreement.
226.10 Bonds.
226.11 Appeals.
226.12 Model onshore unit agreement for unproven areas.
226.13 Model Exhibit "A."
226.14 Model Exhibit "B."
226.15 Model collective bond.
226.16 Model for designation of successor unit operator by working interest owners.
226.17 Model for change in unit operator by assignment.

Authority: The Act of February 25, 1920 (30 U.S.C. 181, 189, 226(e), 226(j)), as amended.

§ 226.1 Introduction and jurisdiction.

(a) The regulations in this part prescribe the procedures to be followed and the requirements to be met by the owners of any right, title, or interest in Federal oil and gas leases (see § 226.2(b)), and their representatives who wish to unite with each other, or jointly or separately with others, in collectively adopting and operating under a unit plan for the development of any oil or gas pool, field, or like area, or any part thereof. All unit operations are subject to the regulations contained in 30 CFR Part 221, Onshore Oil and Gas Operations.

(b) Subject to the supervisory authority of the Secretary, the administration of the regulations in this part shall be under the jurisdiction of the Deputy Minerals Manager (DMM). In the exercise of his jurisdiction, the DMM shall be subject to the direction and supervisory authority of the Director,

Minerals Management Service, and the appropriate regional Minerals Manager, Minerals Management Service, each of whom may exercise the jurisdiction of the DMM.

§ 226.2 Definitions.

The following terms, as used in this part or in any unit agreement approved under the regulations in this part, shall have the meanings here indicated unless otherwise defined in such unit agreement:

(a) Unit agreement (agreement). An agreement or plan for the development and operation which provides for the recovery of oil and/or gas made subject thereto, as a single consolidated entity without regard to separate ownerships and for the allocation of costs and benefits on a basis as defined in the agreement or plan.

(b) Federal lease. A lease issued under the Act of February 25, 1920, as amended (30 U.S.C. 181, et seq.); the Act of May 21, 1930 (30 U.S.C. 351–359); the Act of August 7, 1947 (30 U.S.C. 351, et seq.); or the Act of November 16, 1981 (Pub. L. 97–78, 95 Stat. 1070). Such lease shall be issued in accordance with the regulations at 43 CFR Group 3100.

(c) Unit area. The area described in an agreement as constituting the land logically subject to exploration and/or development under such agreement.

(d) Unitized land. Those lands within a unit area which are committed to the agreement or plan.

(e) Unitized substances. Deposits of oil and gas contained in the unitized land which are recoverable by operation under and pursuant to an agreement.

(f) Unit operator. The person, association, partnership, corporation, or other business entity designated under a unit agreement to conduct operations on unitized land as specified in such agreement.

(g) Participating area. That part of a unit area which is considered proven productive and to which production is allocated in the manner described in a unit agreement.

(h) Working interest. An interest held in unitized substances or in lands containing the same by virtue of a lease, operating agreement, fee title, or otherwise, under which, except as otherwise provided in the agreement, the owner of such interest is vested with the right to explore for, develop, and produce such substances. The rights delegated to the unit operator by the unit agreement are not regarded as a working interest.

(i) Secretary. The Secretary of the Interior or any person duly authorized to exercise the powers vested in that officer.

(j) Director. The Director of the Minerals Management Service or any person authorized to act on the Director's behalf.

(k) Deputy Minerals Manager (DMM). A representative of the Secretary subject to the direction and supervisory authority of the Director; the Chief, Minerals Management; the Deputy Chief, Onshore Minerals Management; and the appropriate regional Minerals Manager, Minerals Management Service authorized and empowered to designate areas as logically subject to unitization, to execute proposals submitted for approval, and to supervise and direct onshore oil and gas operations, and to perform other duties prescribed in the regulations in this part.

§ 226.3 Designation of unit area; depth of test well.

An application for designation of an area as logically subject to development under a unit agreement and for determination of the depth of a test well may be filed by a proponent of such an agreement. Such application shall be accompanied by a map or diagram on a scale of not less than 2 inches to 1 mile, outlining the area sought to be designated under this section. The Federal, State and privately owned land should be indicated by distinctive symbols or colors. Federal oil and gas leases and lease applications should be identified by lease serial numbers. Geologic information, including the results of any geophysical surveys, and any other available information showing that unitization is necessary and advisable in the public interest should furnished. If requested, geologic information so furnished will be treated as confidential in accordance with the provisions of 30 CFR Part 221. These data will be considered by the DMM and the applicant will be informed of the decision reached. The designation of an area, pursuant to an application filed under this section, shall not create an exclusive right to submit an agreement for such area, nor preclude the inclusion of such area or any party thereof in another unit area.

§ 226.4 Preliminary consideration of unit agreement.

The model unit agreement set forth in § 226.12, is acceptable for use in unproven areas. Unique situations requiring special provisions should be clearly identified, since these and other special conditions may necessitate a modification of the model unit agreement set forth in § 226.12. Any proposed special provisions or other modifications of the model agreement should be submitted for preliminary consideration so that any necessary revision may be prescribed prior to execution by the interested parties.

§ 226.5 Parties to unit agreement.

The owners of any right, title, or interest in the oil and gas deposits to be unitized are regarded as proper parties to a proposed agreement. All such parties must be invited to join the agreement. If any party fails or refuses to join the agreement, the proponent of the agreement, at the time it is filed for approval, must submit evidence of reasonable effort made to obtain joinder of such party and, when requested, the reasons for such nonjoinders. The address of each signatory party to the agreement should be inserted below the signature. Each signature should be attested by at least one witness of not notarized. Corporate or other signatures made in a representative capacity must be accompanied by evidence of the authority of the signatories to act unless such evidence is already a matter of record with the DMM. The signing parties may execute any number of counterparts of the agreement with the same force and effect as if all parties signed the same document, or may execute a ratification or consent in a separate instrument with like force and effect.

§ 226.6 Qualification of unit operator.

A unit operator must qualify as to citizenship in the same manner as those holding interests in Federal oil and gas leases under the regulations at 43 CFR Group 3100. The unit operator may be an owner of a working interest in the unit area or such other party as may be selected by the owners of working interests. The unit operator shall execute an acceptance of the duties and obligations imposed by the agreement. No designation of or change in a unit operator will become effective until approved by the DMM, and no such approval will be granted unless the successor unit operator is deemed qualified to fulfill the duties and obligations prescribed in the agreement.

§ 226.7 Inclusion of non-Federal land.

(a) Where State-owned land is to be unitized with Federal lands, approval of the agreement by appropriate State officials must be obtained prior to its submission to the DMM for final approval. When authorized by the laws of the State in which the unitized land is situated, appropriate provision may be made in the agreement, recognizing such laws to the extent that they are applicable to non-Federal unitized land.

(b) When Indian lands are included, modification of the unit agreement will be required by the DMM. Approval of an agreement containing Indian lands by the Bureau of Indian Affairs must be obtained prior to submission to the DMM for final approval.

§ 226.8 Approval of unit agreement.

A unit agreement will be approved by the DMM upon a determination that such agreement is necessary or advisable in the public interest and is for the purpose of more properly conserving natural resources. Such approval will be incorporated in a Certification-Determination document appended to the agreement (example in § 226.12). No such agreement will be approved unless the parties signatory to the agreement hold sufficient interests in the unit area to provide reasonably effective control of operations. Any modification of an approval agreement will require the prior approved of the DMM.

§ 226.9 Filing of papers and number of counterparts.

(a) All papers, instruments, documents, and proposals submitted under this part should be filed in the office of the DMM for the region in which the unit area is situated.

(b) An application for designation of a proposed unit area and determination of the required depth of test well shall be filed in duplicate. A like number of counterparts should be filed of any geologic data and any other information submitted in support of such application.

(c) Where a duly executed agreement is submitted for final approval, a minimum of four signed counterparts should be filed. The number of counterparts to be filed for supplementing, modifying, or amending an existing agreement, including change of operator, designation of new operator, designation of a participating area, and termination shall be prescribed by the DMM.

(d) Two counterparts of a substantiating geologic report, including structure-contour map, cross sections, and pertinent data, shall accompany each application for approval of a participating area or revision thereof under an approved agreement.

(e) Three counterparts of all plans of development and operation shall be submitted for approval under an approved agreement.

(f) One approved counterpart of each instrument or document submitted for approval will be returned to the operator by the DMM or his representative, together with such additional counterparts as may have been furnished for that purpose.

§ 226.9–1 Retroactive approval of a communitization agreement.

(a) Generally, no communitization agreement shall be given an effective date that is prior to the date of its filing with the Deputy Minerals Manager (DMM). However, under circumstances of good faith mistake or error by lessee or operator, and in the absence of intervening third party rights, the effective date of a communitization agreement may be fixed as far back as the date of execution of the agreement between the lessees or operators.

(b) No retroactive approval of a communitization agreement may be made where the lease expired prior to execution of the agreement. The agreement need not be in a form required for approval by the Minerals Management Service to qualify for this equitable relief, but may be any agreement between lessees or operators, such as an operating agreement evidencing the intent of the parties to combine, and having the effect of combining, their leases or interests for operational purposes. If the agreement that combined such leases or interests is other then a formal communitization agreement acceptable for filing and approval as such, the DMM may require the parties to submit such an agreement in proper form, which, if submitted and approved, shall be deemed effective as of the date of the earlier agreement between the parties that combined their leases or interests.

§ 226.10 Bonds.

In lieu of separate bonds required for each Federal lease committed to a unit agreement, the unit operator may furnish and maintain a collective corporate surety bond or a personal bond conditioned upon faithful performance of the duties and obligations of the agreement and the terms of the Federal leases subject thereto. Personal bonds shall be accompanied by a deposit of negotiable Federal securities in a sum equal at their par value to the amount of the bonds, and by a proper conveyance to the Secretary of full authority to sell such securities in case of default in the performance of the obligations assumed. The liability under the bond shall be for such amount as the DMM shall determine to be adequate to protect the interests of the United States, and additional bond may be required whenever deemed necessary. The bond shall be filed with the State Director of the Bureau of Land Management having jurisdiction over the Federal leases in the unit. Evidence must be furnished to the DMM that such bond has been accepted by the Bureau of Land Management before operations will be authorized. A form of corporate surety bond is set forth in § 226.15. In case of change of unit operator, a new bond must be filed or consent of surety to such change of operator must be furnished.

§ 226.11 Appeals.

A technical and procedural review may be requested pursuant to 30 CFR 221.62 and/or an appeal may be taken as provided in 30 CFR Part 290 of this chapter from any order or decision issued under the regulations in this part.

§ 226.12 Model onshore unit agreement for unproven areas.

Introductory Section.
Section 1—Enabling Act and regulations.
Section 2—Unit area.
Section 3—Unitized land and unitized substances.
Section 4—Unit Operator.
Section 5—Resignation or removal of Unit Operator.
Section 6—Successor Unit Operator.
Section 7—Accounting provisions and unit operating agreement.
Section 8—Rights and obligations of Unit Operator.
Section 9—Drilling to discovery.
** Section 9a—Multiple well requirements.
Section 10—Plan of further development and operation.
Section 11—Participation after discovery.
Section 12—Allocation of production.
Section 13—Development or operation of nonparticipating land or formations.
Section 14—Royalty settlement.
Section 15—Rental settlement.
Section 16—Conservation.
Section 17—Drainage.
Section 18—Leases and contracts conformed and extended.
Section 19—Covenants run with land.
Section 20—Effective date and term.
Section 21—Rate of prospecting, development, and production.
Section 22—Appearances.
Section 23—Notices.
Section 24—No waiver of certain rights.
Section 25—Unavoidable delay.
Section 26—Nondiscrimination.
Section 27—Loss of title.
Section 28—Nonjoinder and subsequent joinder.
Section 29—Counterparts.
* Section 30—Surrender.
*Section 31—Taxes.
*Section 32—No partnership.
Concluding Section—In witness whereof.
General Guidelines.
Certification—Determination.

** Paragraph included when more than one obligation well is to be drilled.
* Optional sections (in addition, paragraph (h) of section 18 is optional).

Unit Agreement for the Development and Operation of the

Unit area ———————————
County of ———————————
State of ———————————

No. ———————————

This agreement, entered into as of the ——— day of ———, 19—, by and between the parties subscribing, ratifying, or consenting hereto, and herein referred to as the "parties hereto,"

Witnesseth

Whereas, the parties hereto are the owners of working, royalty, or other oil and gas interests in the unit area subject to this agreement; and

Whereas the Mineral Leasing Act of February 25, 1920, 41 Stat. 437, as amended, 30 U.S.C. Sec. 181 et seq., authorizes Federal leasees and their representatives to unit with each other, or jointly or separately with others, in collectively adopting and operating a unit plan of development or operations of any oil and gas pool, field, or like area, or any part thereof for the purpose of more properly conserving the natural resources thereof whenever determined and certified by the Secretary of the Interior to be necessary or advisable in the public interest; and

Whereas the parties hereto hold sufficient interests in the ———— Unit Area covering the land hereinafter described to give reasonably effective control of operations therein; and

Whereas, it is the purpose of the parties hereto to conserve natural resources, prevent waste, and secure other benefits obtainable through development and operation of the area subject to this agreement under the terms, conditions, and limitations herein set forth;

Now, therefore, in consideration of the premises and the promises herein contained, the parties hereto commit to this agreement their respective interests in the below-defined unit area, and agree severally among themselves as follows:

1. Enabling Act and regulations. The Mineral Leasing Act of February 25, 1920, as amended, supra, and all valid pertinent regulations including operating and unit plan regulations, heretofore issued thereunder or valid, pertinent, and reasonable regulations hereafter issued thereunder are accepted and made a part of this agreement as to Federal lands, provided such regulations are not inconsistent with the terms of this agreement; and as to non-Federal lands, the oil and gas operating regulations in effect as of the effective date hereof governing drilling and producing operations, not inconsistent with the terms hereof or the laws of the State in which the non-Federal land is located, are hereby accepted and made a part of this agreement.

2. Unit area. The area specified on the map attached hereto marked Exhibit A is hereby designated and recognized as constituting the unit area, containing —— acres, more or less.

Exhibit A shows, in addition to the boundary of the unit area, the boundaries and identity of tracts and leases in said area to the extent known to the Unit Operator. Exhibit B attached hereto is a schedule showing to the extent known to the Unit Operator, the acreage, percentage, and kind of ownership of oil and gas interests in all lands in the unit area. However, nothing herein or in Exhibits A or B shall be construed as a representation by any party hereto as to the ownership of any interest other than such interest or interests as are shown in the Exhibits as owned by such party. Exhibits A and B shall be revised by the Unit Operator whenever changes in the unit area or in the ownership interest of the individual tracts render such revision necessary, or when requested by the Deputy Minerals Manager—Oil and Gas,[1] hereinafter referred to as "DMM," and not less than four copies of the revised Exhibits shall be filed with the DMM.

The above-described unit area shall when practicable be expanded to include therein any additional lands or shall be contracted to exclude lands whenever such expansion or contraction is deemed to be necessary or advisable to conform with the purposes of this agreement. Such expansion or contraction shall be effected in the following manner:

(a) Unit Operator, on its own motion (after preliminary concurrence by the DMM), or on demand of the DMM, shall prepare a notice of proposed expansion or contraction describing the contemplated changes in the boundaries of the unit area, the reasons therefore, any plans for additional drilling, and the proposed effective date of the expansion or contraction, preferably the first day of a month subsequent to the date of notice.

(b) Said notice shall be delivered to the DMM, and copies thereof mialed to the last known address of each working interest owner, lessee, and lessor whose interests are affected, advising that 30 days will be allowed for submission to the Unit Operator of any objections.

(c) Upon expiration of the 30-day period provided in the preceding item (b) hereof, Unit Operator shall file with the DMM evidence of mailing of the notice of expansion or contraction and a copy of any objections thereto which have been filed with Unit Operator, together with an application in triplicate, for approval of such expansion or contraction and with appropriate joinders.

(d) After due consideration of all pertinent information, the expansion or contraction shall, upon approval by the DMM, become effective as of the date prescribed in the notice thereof or such other appropriate date.

(e) All legal subdivisions of lands (i.e., 40 acres by Government survey or its nearest lot or tract equivalent; in instances of irregular surveys, unusually large lots or tracts shall be considered in multiples of 40 acres or the nearest aliquot equivalent thereof), no parts of which are in or entitled to be in a participating area on or before the fifth anniversary of the effective date of the first initial participating area established under this unit agreement, shall be eliminated automatically from this agreement, effective as of said fifth anniversary, and such lands shall no longer be a part of the unit area and shall no longer be subject to this agreement, unless diligent drilling operations are in progress on unitized lands not entitled to participation on said fifth anniversary, in which event all such lands shall remain subject hereto for so long as such drilling operations are continued diligently, with not more than 90-days time elapsing between the completion of one such well and the commencement of the next such well. All legal subdivisions of lands not entitled to be in a participating area within 10 years after the effective date of the first initial participating area approved under this agreement shall be automatically eliminated from this agreement as of said tenth anniversary. The Unit Operator shall, within 90 days after the effective date of any elimination hereunder, describe the area so eliminated to the satisfaction of the DMM and promptly notify all parties in interest. All lands proved productive of unitized substances in paying quantities by diligent drilling operations after the aforesaid 5-year period shall become participating in the same manner as during said first 5-year period. However, when such diligent drilling operations cease, all nonparticipating lands shall be automatically eliminated effective as the 91st day thereafter.

Any expansion of the unit area pursuant to this section which embraces lands theretofore eliminated pursuant to this subsection 2(e) shall not be considered automatic commitment or recommitment of such lands.

3. Unitized land and unitized substances. All land now or hereafter committed to this agreement shall constitute land referred to herein as "unitized land" or "land subject to this agreement." All oil and gas in any and all formations of the unitized land are unitized under the terms of this agreement and herein are called "unitized substances."

4. Unit Operator. ———— is hereby designated as Unit Operator and by signature hereto as Unit Operator agrees and consents to accept the duties and obligations of Unit Operator for the discovery, development, and production of unitized substances as herein provided. Whenever reference is made herein to the Unit Operator, such reference means the Unit Operator acting in that capacity and not as an owner of interest in unitized substances, and the term "working interest owner" when used herein shall include or refer to Unit Operator as the owner of a working interest only when such an interest is owned by it.

5. Resignation or removal of Unit Operator. Unit Operator shall have the right to resign at any time prior to the establishment of a participating area or areas hereunder, but such resignation shall not become effective so as to release Unit Operator from the duties and obligations of Unit Operator and terminate Unit Operator's rights as such for a period of 6 months after notice of intention to resign has been served by Unit Operator on all working interest owners and the DMM, and until all wells then drilled hereunder are placed in a satisfactory condition for suspension or abandonment, whichever is required by the DMM, unless a new Unit

[1] In the Eastern Region and the Alaska Region, the responsible official is the Deputy Minerals Manager—Onshore Minerals.

Operator shall have been selected and approved and shall have taken over and assumed the duties and obligations of Unit Operator prior to the expiration of said period.

Unit Operator shall have the right to resign in like manner and subject to like limitations as above provided at any time after a participating area established hereunder is in existence, but in all instances of resignation or removal, until a successor Unit Operator is selected and approved as hereinafter provided, the working interest owners shall be jointly responsible for performance of the duties of Unit Operator, and shall not later than 30 days before such resignation or removal becomes effective appoint a common agent to represent them in any action to be taken hereunder.

The resignation of Unit Operator shall not release Unit Operator from any liability for any default by it hereunder occurring prior to the effective date of its resignation.

The Unit Operator may, upon default or failure in the performance of its duties or obligations hereunder, be subject to removal by the same percentage vote of the owners of working interests as herein provided for the selection of a new Unit Operator. Such removal shall be effective upon notice thereof to the DMM.

The resignation or removal of Unit Operator under this agreement shall not terminate its right, title, or interest as the owner of working interest or other interest in unitized substances, but upon the resignation or removal of Unit Operator becoming effective, such Unit Operator shall deliver possession of all wells, equipment, materials, and appurtenances used in conducting the unit operations to the new duly qualified successor Unit Operator or to the common agent, if no such new Unit Operator is elected, to be used for the purpose of conducting unit operations hereunder. Nothing herein shall be construed as authorizing removal of any material, equipment, and appurtenances needed for the preservation of any wells.

6. Successor Unit Operator. Whenever the Unit Operator shall tender his or its resignation as Unit Operator or shall be removed as hereinabove provided, or a change of Unit Operator is negotiated by working interest owners, the owners of the working interests according to their respective acreage interests in all unitized land shall, pursuant to the Approval of Parties requirements of the unit operating agreement, select a successor Unit Operator. Such selection shall not become effective until:

(a) a Unit Operator so selected shall accept in writing the duties and responsibilities of Unit Operator, and

(b) the selection shall have been approved by the DMM.

If no successor Unit Operator is selected and qualified as herein provided, the DMM at his election may declare this unit agreement terminated.

7. Accounting provisions and unit operating agreement. If the Unit Operator is not the sole owner of working interests, costs and expenses incurred by Unit Operator in conducting unit operations hereunder shall be paid and apportioned among and borne by the owners of working interests, all in accordance with the agreement or agreements entered into by and between the Unit Operator and the owners of working interests, whether one or more, separately or collectively. Any agreement or agreements entered into between the working interest owners and the Unit Operator as provided in this section, whether one or more, are herein referred to as the "unit operating agreement." Such unit operating agreement shall also provide the manner in which the working interest owners shall be entitled to receive their respective proportionate and allocated share of the benefits accuring hereto in conforming with their underlying operating agreements, leases, or other independent contracts, and such other rights and obligations as between Unit Operator and the working interest owners as may be agreed upon by Unit Operator and the working interest owners; however, no such unit operating agreement shall be deemed either to modify any of the terms and conditions of this unit agreement or to relieve the Unit Operator of any right or obligation established under this unit agreement, and in case of any inconsistency or conflict between this agreement and the unit operating agreement, this agreement shall govern. Two copies of any unit operating agreement executed pursuant to this section shall be filed with the DMM prior to approval of this unit agreement.

8. Rights and obligations of Unit Operator. Except as otherwise specifically provided herein, the exclusive right, privilege, and duty of exercising any and all rights of the parties hereto which are necessary or convenient for prospecting for, producing, storing, allocating, and distributing the unitized substances are hereby delegated to and shall be exercised by the Unit Operator as herein provided. Acceptable evidence of title to said rights shall be deposited with said Unit Operator and, together with this agreement shall constitute and define the rights, privileges, and obligations of Unit Operator. Nothing herein, however, shall be construed to transfer title to any land or to any lease or operating agreement, it being understood that under this agreement the Unit Operator, in its capacity as Unit Operator, shall exercise the rights of possession and use vested in the parties hereto only for the purposes herein specified.

9. Drilling to discovery. Within 6 months after the effective date hereof, the Unit Operator shall begin to drill an adequate test well at a location approved by the DMM, unless on such effective date a well is being drilled in conformity with the terms hereof, and thereafter continue such drilling diligently until the ——— formation has been penetrated or until at a lesser depth unitized substances shall be discovered which can be produced in paying quantities (to wit: quantities sufficient to repay the costs of drilling, completing, and producing operations, with a reasonable profit) or the Unit Operator shall at any time establish to the satisfaction of the DMM that further drilling of said well would be unwarranted or impracticable, provided, however, that Unit Operator shall not in any event be required to drill said well to a depth in excess of —— feet. Until discovery of unitized substances capable of being produced in paying quantities, the Unit Operator shall continue drilling one well at a time, allowing not more than 6 months between the completion of one well and the commencement (spudding) of the next well, until a well capable of producing unitized substances in paying quantities is completed to the satisfaction of the DMM or until it is reasonably proved that the unitized land is incapable of producing unitized substances in paying quantities in the formations drilled hereunder. Nothing in this section shall be deemed to limit the right of the Unit Operator to resign as provided in Section 5, hereof, or as requiring Unit Operator to commence or continue any drilling during the period pending such resignation becoming effective in order to comply with the requirements of this section.

The DMM may modify the drilling requirements of this section as follows:

(a) For the initial obligation well or wells, a single extension as provided in Section 25, Unavoidable delay, may be granted; and

(b) For all other wells, a single extension, not to exceed 6 months, may be granted, in addition to any extension granted under Section 25.

** 9a. Multiple well requirements. Notwithstanding anything in this unit agreement to the contrary, except Section 25, Unavoidable delay, —— wells shall be drilled with not more than 6-months time elapsing between the completion of the first well and commencement of the second well and with not more than 6-months time elapsing between completion of the second well and the commencement of the third well, . . . regardless of whether a discovery has been made in any well drilled under this provision. Both the initial well and the second well must be drilled in compliance with the above specified formation or depth requirements in order the meet the dictates of this section; and the second well must be located a minimum of —— miles from the initial well in order to be accepted by the DMM as the second unit test well, within the meaning of this section. The third test well shall be diligently drilled, at a location approved by the DMM, to penetrate the ——— formation or to a depth of —— feet and must be located a minimum of —— miles from either the initial or second test well. Nevertheless, in the event of the discovery of unitized substances in paying quantities by any well, the unit agreement shall not terminate for failure to complete the ——— well program, but the unit area shall be contracted automatically, effective the first day of the month following the default, to eliminate by subdivisions (as defined in Section 2(e) hereof) all lands not then entitled to participation.**

Upon failure to commence any well as provided for in this (these) section(s) within the time allowed, prior to the establishment

**Provision is included when multiple wells are to be drilled.

of a participating area, including any extension of time granted by the DMM, this agreement will automatically terminate. Upon failure to continue drilling diligently any well commenced hereunder, the DMM may, after 15-days notice to the Unit Operator, declare this unit agreement terminated. The parties to this agreement may not initiate a request to voluntarily terminate during the first year of its term unless at least one obligation well has been drilled in accordance with the provisions of this (these) section(s).[2]

10. Plan of further development and operation. Within 6 months after completion of a well capable of producing unitized substances in paying quantities, the Unit Operator shall submit for the approval of the DMM an acceptable plan of development and operation for the unitized land which, when approved by the DMM, shall constitute the further drilling and development obligations of the Unit Operator under this agreement for the period specified therein. Thereafter, from time to time before the expiration of any existing plan, the Unit Operator shall submit for the approval of the DMM a plan for an additional specified period for the development and operation and subsequent plans should normally be filed on a calender year basis not later than March 1 each year. Any proposed modification or addition to the existing plan should be filed as a supplement to the plan.

Any plan submitted pursuant to this section shall provide for the timely exploration of the unitized area, and for the diligent drilling necessary for determination of the area of areas capable of producing unitized substances in paying quantities in each and every productive formation, shall be as complete and adequate as the DMM may determine to be necessary for timely development and proper conservation of the oil and gas resources of the unitized area and shall:

(a) Specify the number and locations of any wells to be drilled and the proposed order and time for such drilling; and

(b) Provide a summary of operations and production for the previous year.

Plans shall be modified or supplemented when necessary to meet changed conditions or to protect the interests of all parties to this agreement. Reasonable diligence shall be exercised in complying with the obligations of the approved plan of development and operation. The DMN is authorized to grant a reasonable extension of the 6-month period herein prescribed for submission of an initial plan of development and operation where such action is justified because of unusual conditions or circumstances.

After completion of a well capable of producing unitized substances in paying quantities, no further wells, except such as may be necessary to afford protection against operations not under this agreement and such as may be specifically approved by the DMM, shall be drilled except in accordance with an approved plan of development and operation.

11. Participation after discovery. Upon completion of a well capable of producing unitized substances in paying quantities, or as soon thereafter as required by the DMM, the Unit Operator shall submit for approval by the DMM a schedule, based on subdivisions of the public-land survey or aliquot parts thereof, of all land then regarded as reasonably proved to be productive of unitized substances in paying quantities. These lands shall constitute a participating area on approval of the DMM, effective as of the date of completion of such well or the effective date of this unit agreement, whichever is later. The acreages of both Federal and non-Federal lands shall be based upon appropriate computations from the courses and distances shown on the last approved public-land survey as of the effective date of each initial participating area. The schedule shall also set forth the percentage of unitized substances to be allocated, as provided in Section 12, to each tract in the participating area so established, and shall govern the allocation of production commencing with the effective date of the participating area. A different participating area shall be established for each separate pool or deposit of unitized substances or for any group thereof which is produced as a single pool or zone, and any two or more participating areas so established may be combined into one, on approval of the DMN. When production from two or more participating areas is subsequently found to be from a common pool or deposit, the participating areas shall be combined into one, effective as of such appropriate date as may be approved or prescribed by the DMM. The participating area or areas so established shall be revised from time to time, subject to the approval of the DMM, to include additional lands then regarded as reasonably proved to be productive of unitized substances in paying quantities or which are necessary for unit operations, or to exclude land then regarded as reasonably proved not to be productive of unitized substances in paying quantities, and the schedule of allocation percentages shall be revised accordingly. The effective date of any revision shall be the first of the month in which the knowledge or information is obtained on which such revision is predicated; provided, however, that a more appropriate effective date may be used if justified by Unit Operator and approved by the DMM. No land be excluded from a participating area on account of depletion of its unitized substances, except that any participating area established under the provisions of this unit agreement shall terminate automatically whenever all completions in the formation on which the participating area is based are abandoned.

It is the intent of this section that a participating area shall represent the area known or reasonably estimated to be productive in paying quantities; but, regardless of any revision of the participating area, nothing herein contained shall be construed as requiring any retroactive adjustment for production obtained prior to the effective date of the revision of the participating area.

In the absence of agreement at any time between the Unit Operator and the DMM as to the proper definition or redefinition of a participating area, or until a participating area has, or areas have, been established, the portion of all payments affected thereby shall, except royalty due the United States, be impounded in a manner mutually acceptable to the owners of committed working interests. Royalties due the United States shall be determined by the DMM and the amount thereof shall be deposited, as directed by the DMM, until a participating area is finally approved and then adjusted in accordance with a determination of the sum due as Federal royalty on the basis of such approved participating area.

Whenever it is determined, subject to the approval of the DMM, that a well drilled under this agreement is not capable of production in paying quantities and inclusion of the land on which it is situated in a participating area is unwarranted, production from such well shall, for the purpose of settlement among all parties other than working interest owners, be allocated to the land on which the well is located, unless such land is already within the participating area established for the pool or deposit from which such production is obtained. Settlement for working interest benefits from such a nonpaying unit well shall be made as provided in the unit operating agreement.

12. Allocation of production. All unitized substances produced from each participating area established under this agreement, except any part thereof used in conformity with good operating practices within the unitized area for drilling, operating, and other production or development purposes, for repressuring or recycling in accordance with a plan of development and operations first approved by the DMM, or unavoidably lost, shall be deemed to be produced equally on an acreage basis from the several tracts of unitized land of the participating area established for such production. For the purpose of determining any benefits accruing under this agreement, each such tract of unitized land shall have allocated to it such percentage of said production as the number of acres of such tract included in said participating area bears to the total acres of unitized land in said participating area, except that allocation of production hereunder for purposes other than for settlement of the royalty, overriding royalty, or payment out of production obligations of the respective working interest owners, shall be on the basis prescribed in the unit operating agreement whether in conformity with the basis of allocation herein set forth or otherwise. It is hereby agreed that production of unitized substances from a participating area shall be allocated as provided herein regardless of whether any wells are drilled on any particular part or tract of the participating area. If any gas produced from one participating area is used for repressuring or recycling purposes in another participating area, the first gas withdrawn from the latter participating area for sale during the life of this agreement, shall be considered to be the gas so transferred, until an amount equal to that transferred shall be so produced for sale and such gas shall be allocated to the participating area from which initially produced as such area was defined

[2] If multiple well provision (9a) is not included, this paragraph shall be the last paragraph of Section 9.

at the time that such transferred gas is finally produced and sold.

13. Development or operation of nonparticipating land or formations. Any party hereto owning or controlling the working interest in any unitized land having thereon a regular well location may with the approval of the DMM, at such party's sole risk, costs, and expense, drill a well to test any formation provided the well is outside any participating area established for the formation, unless within 90 days of receipt of notice from said party of his intention to drill the well, the Unit Operator elects and commences to drill the well in a like manner as other wells are drilled by the Unit Operator under this agreement.

If any well drilled under this section by a working interest owner results in production such that the land upon which it is situated may properly be included in a participating area, such participating area shall be established or enlarged as provided in this agreement and the well shall thereafter be operated by the Unit Operator in accordance with the terms of this agreement and the unit operating agreement.

If any well drilled under this section by a working interest owner that obtains production in quantities insufficient to justify the inclusion of the land upon which such well is situated in a participating area, such well may be operated and produced by the party drilling the same, subject to the conservation requirements of this agreement. The royalties in amount or value of production from any such well shall be paid as specified in the underlying lease and agreements affected.

14. Royalty settlement. The United States and any State and any royalty owner who is entitled to take in kind a share of the substances now unitized hereunder shall hereafter be entitled to the right to take in kind its share of the unitized substances, and Unit Operator, or the working interest owner in case of the operation of a well by a working interest owner as herein provided for in special cases, shall make deliveries of such royalty share taken in kind in conformity with the applicable contracts, laws, and regulations. Settlement for royalty interest not taken in kind shall be made by working interest owners responsible therefor under existing contracts, laws and regulations, or by the Unit Operator on or before the last day of each month for unitized substances produced during the preceding calendar month; provided, however, that nothing in this section shall operate to relieve the lessees of any land from their respective lease obligations for the payment of any royalties due under their leases.

If gas obtained from lands not subject to this agreement is introduced into any participating area hereunder, for use in repressuring, stimulation of production, or increasing ultimate recovery, in conformity with a plan of development and operation approved by the DMM, a like amount of gas, after settlement as herein provided for any gas transferred from any other participating area and with appropriate deduction for loss from any cause, may be withdrawn from the formation into which the gas is introduced, royalty free as to dry gas, but not as to any products which may be extracted therefrom; provided that such withdrawal shall be at such time as may be provided in the approved plan of development and operation or as may otherwise be consented to by the DMM as conforming to good petroleum engineering practice; and provided further, that such right of withdrawal shall terminate on the termination of this unit agreement.

Royalty due the United States shall be computed as provided in 30 CFR Part 221 and paid in value or delivered in kind as to all unitized substances on the basis of the amounts thereof allocated to unitized Federal land as provided in Section 12 at the rates specified in the respective Federal leases, or at such other rate or rates as may be authorized by law or regulation and approved by the DMM; provided, that for leases on which the royalty rate depends on the daily average production per well, said average production shall be determined in accordance with the operating regulations as though each participating area were a single consolidated lease.

15. Rental settlement. Rental or minimum royalties due on leases committed hereto shall be paid by appropriate working interest owners under existing contracts, laws, and regulations, provided that nothing herein contained shall operate to relieve the lessees of any land from their respective lease obligations for the payment of any rental or minimum royalty due under their leases. Rental or minimum royalty for lands of the United States subject to this agreement shall be paid at the rate specified in the respective leases from the United States unless such rental or minimum royalty is waived, suspended, or reduced by law or by approval of the Secretary or his duly authorized representative.

With respect to any lease on non-Federal land containing provisions which would terminate such lease unless drilling operations are commenced upon the land covered thereby within the time therein specified or rentals are paid for the privilege of deferring such drilling operations, the rentals required thereby shall, notwithstanding any other provision of this agreement, be deemed to accrue and become payable during the term thereof as extended by this agreement and until the required drilling operations are commenced upon the land covered thereby, or until some portion of such land is included within a participating area.

16. Conservation. Operations hereunder and production of unitized substances shall be conducted to provide for the most economical and efficient recovery of said substances without waste, as defined by or pursuant to State or Federal law or regulation.

17. Drainage. The Unit Operator shall take such measures as the DMM deems appropriate and adequate to prevent drainage of unitized substances from unitized land by wells on land not subject to this agreement.

18. Leases and contracts conformed and extended. The terms, conditions, and provisions of all leases, subleases, and other contracts relating to exploration, drilling, development, or operation for oil or gas on lands committed to this agreement are hereby expressly modified and amended to the extent necessary to make the same conform to the provisions hereof, but otherwise to remain in full force and effect; and the parties hereto hereby consent that the Secretary shall and by his approval hereof, or by the approval hereof by his duly authorized representative, does hereby establish, alter, change, or revoke the drilling, producing, rental, minimum royalty, and royalty requirements of Federal leases committed hereto and the regulations in respect thereto to conform said requirements to the provisions of this agreement, and, without limiting the generality of the foregoing, all leases, subleases, and contracts are particularly modified in accordance with the following:

(a) The development and operation of lands subject to this agreement under the terms hereof shall be deemed full performance of all obligations for development and operation with respect to each and every separately owned tract subject to this agreement, regardless of whether there is any development of any particular tract of the unit area.

(b) Drilling and producing operations performed hereunder upon any at that time, such lease shall be extended for 2 years, and so tract of unitized lands will be accepted and deemed to be performed upon and for the benefit of each and every tract of unitized land, and no lease shall be deemed to expire by reason of failure to drill or produce wells situated on the land therein embraced.

(c) Suspension of drilling or producing operations on all unitized lands pursuant to direction or consent of the DMM shall be deemed to constitute such suspension pursuant to such direction or consent as to each and every tract of unitized land. A suspension of drilling or producing operations limited to specified lands shall be applicable only to such lands.

(d) Each lease, sublease, or contract relating to the exploration, drilling, development, or operation for oil or gas of lands other than those of the United States committed to this agreement which, by its terms might expire prior to the termination of this agreement, is hereby extended beyond any such term so provided therein so that it shall be continued in full force and effect for and during the term of this agreement.

(e) Any Federal lease committed hereto shall continue in force beyond the term so provided therein or by law as to the land committed so long as such lease remains subject hereto, provided that production is had in paying quantities under this unit agreement prior to the expiration date of the term of such lease, or in the event actual drilling operations are commenced on unitized land, in accordance with the provisions of this agreement, prior to the end of the primary term of such lease and are being diligently prosecuted long thereafter as oil or gas is produced in paying quantities in accordance with the provisions of the Mineral Leasing Act, as amended.

(f) Each sublease or contract relating to the operation and development of unitized substances from lands of the United States

committed to this agreement, which by its terms would expire prior to the time at which the underlying lease, as extended by the immediately preceding paragraph, will expire is hereby extended beyond any such term so provided therein so that it shall be continued in full force and effect for and during the term of the underlying lease as such term is herein extended.

(g) The segregation of any Federal lease committed to this agreement is governed by the following provision in the fourth paragraph of sec. 17(j) of the Mineral Leasing Act, as amended by the Act of September 2, 1960 (74 Stat. 781–784) (30 U.S.C. 226(j)):

Any [Federal] lease heretofore or hereafter committed to any such [unit] plan embracing lands that are in part within and in part outside of the area covered by any such plan shall be segregated into separate leases as to lands committed and the lands not committed as of the effective date of unitization: *Provided, however,* That any such lease as to the nonunitized portion shall continue in force and effect for the term thereof but for not less than two years from the date of such segregation and so long thereafter as oil or gas is produced in paying quantities.

* (h) Any lease, other than a Federal lease, having only a portion of its lands committed hereto shall be segregated as to the portion committed and the portion not committed, and the provisions of such lease shall apply separately to such segregated portions commencing as of the effective date hereof. In the event any such lease provides for a lump-sum rental payment, such payment shall be prorated between the portions so segregated in proportion to the acreage of the respective tracts.

19. Covenants run with land. The covenants herein shall be construed to be covenants running with the land with respect to the interest of the parties hereto and their successors in interest until this agreement terminates, and any grant, transfer, or conveyance of interest in land or leases subject hereto shall be and hereby is conditioned upon the assumption of all privileges and obligations hereunder by the grantee, transferee, or other successor in interest. No assignment or transfer of any working interest, royalty, or other interest subject hereto shall be binding upon Unit Operator until the first day of the calendar month after Unit Operator is furnished with the original, photostatic, or certified copy of the instrument of transfer.

20. Effective date and term. This agreement shall become effective upon approval by the DMM and shall automatically terminate 5 years from said effective date unless:

(a) Upon application by the Unit Operator, such date of expiration is extended by the DMM, or

(b) It is reasonably determined prior to the expiration of the fixed term or any extension thereof that the unitized land is incapable of production of unitized substances in paying quantities in the formations tested hereunder, and after notice of intention to terminate this agreement on such ground is given by the Unit Operator to all parties in interest at their last known addresses, this agreement is terminated with the approval of the DMM, or

(c) A valuable discovery of unitized substances has been made or accepted on unitized land during said initial term or any extension thereof, in which event this agreement shall remain in effect for such term and so long thereafter as unitized substances can be produced in quantities sufficient to pay for the cost of producing same from wells on unitized land within any participating area established hereunder. Should production cease and diligent drilling operations to restore production or new production are not in progress during the period of nonproduction, and production is not restored or should new production not be obtained in paying quantities on committed lands within this unit area, this agreement will automatically terminate effective the last day of the month in which the last unitized production occurred, or

(d) It is voluntarily terminated as provided in this agreement. This agreement may be terminated at any time prior to the discovery of unitized substances which can be produced in paying quantities by not less than 75 per centum, on an acreage basis of the working interest owners signatory hereto, with the approval of the DMM. The Unit Operator shall give notice of any such approval to all parties hereto. Voluntary termination may not occur during the first year of this agreement unless at least one obligation well has been drilled in accordance with Section 9.

21. Rate of prospecting, development, and production. The DMM is hereby vested with authority to alter or modify from time to time, in his discretion, the quantity and rate of production under this agreement when such quantity and rate is not fixed pursuant to Federal or State law, or does not conform to any Statewide voluntary conservation or allocation program which is establish, recognized, and generally adhered to by the majority of operators in such State. The above authority is hereby limited to alteration or modifications which are in the public interest and the purpose thereof, and the public interest to be served must be stated in the order of alteration or modification. Without regard to the foregoing, the DMM is also hereby vested with authority to alter or modify from time to time, in his discretion, the rate of prospecting and development and the quantity and rate of production under this agreement when such alteration or modification is in the interest of attaining the conservation objectives stated in this agreement and is not in violation of any applicable Federal or State law.

Powers in this section vested in the DMM shall only be exercised after notice to Unit Operator and opportunity for hearing to be held not less than 15 days from notice.

22. Appearances. Unit Operator shall, after notice to other parties affected, have the right to appear for and on behalf of any and all interests affected hereby before the Department of the Interior and to appeal from orders issued under the regulations of said Department, or to apply for relief from any of said regulations, or in any proceedings relative to operations before the Department, or any other legally constituted authority; provided, however, that any other interested party shall also have the right at his own expense to be heard in any such proceeding.

23. Notices. All notices, demands, or statements required hereunder to be given or rendered to the parties hereto shall be in writing and shall be personally delivered to the party or parties, or sent by postpaid registered or certified mail, to the last-known address of the party or parties.

24. No waiver of certain rights. Nothing contained in this agreement shall be construed as a waiver by any party hereto of the right to assert any legal or constitutional right or defense as to the validity or invalidity of any law of the State where the unitized lands are located, or of the United States, or regulations issued thereunder in any way affecting such party, or as a waiver by any such party of any right beyond his or its authority to waive.

25. Unavoidable delay. All obligations under this agreement requiring the Unit Operator to commence or continue drilling, or to operate on or produce unitized substances from any of the lands covered by this agreement, shall be suspended while the Unit Operator, despite the exercise of due care and diligence, is prevented from complying with such obligations, in whole or in part, by strikes, acts of God, Federal, State, or municipal law or agencies, unavoidable accidents, uncontrollable delays in transportation, inability to obtain necessary materials or equipment in the open market, or other matters beyond the reasonable control of the Unit Operator whether similar to matters herein enumerated or not.

26. Nondiscrimination. In connection with the performance of work under this agreement, the Unit Operator agrees to comply with all the provisions of section 202 (1) to (7) inclusive, of Executive Order 11246 (30 FR 12319), as amended, which are hereby incorporated by reference in this agreement.

27. Loss of title. In the event title to any tract of unitized land shall fail and the true owner cannot be induced to join in this unit agreement, such tract shall be automatically regarded as not committed hereto, and there shall be such readjustment of future costs and benefits as may be required on account of the loss of such title. In the event of a dispute as to title to any royalty, working interest, or other interests subject thereto, payment or delivery on account thereof may be withheld without liability for interest until the dispute is finally settled; provided, that, as to Federal lands or leases, no payments of funds due the United States shall be withheld, but such funds shall be deposited as directed by the DMM to be held as unearned money pending final settlement of the title dispute, and then applied as earned or returned in accordance with such final settlement.

Unit Operator as such is relieved from any responsibility for any defect or failure of any title hereunder.

28. Nonjoinder and subsequent joinder. If the owner of any substantial interest in a tract within the unit area fails or refuses to subscribe or consent to this agreement, the owner of the working interest in that tract may withdraw the tract from this agreement by written notice delivered to the DMM and the Unit Operator prior to the approval of this agreement by the DMM. Any oil or gas

*Optional subsection.

interests in lands within the unit area not committed hereto prior to final approval may thereafter be committed hereto by the owner or owners thereof subscribing or consenting to this agreement, and, if the interest is a working interest, by the owner of such interest also subscribing to the unit operating agreement. After operations are commenced hereunder, the right of subsequent joinder, as provided in this section, by a working interest owner is subject to such requirements or approval(s), if any, pertaining to such joinder, as may be provided for in the unit operating agreement. After final approval hereof, joinder by a nonworking interest owner must be consented to in writing by the working interest owner committed hereto and responsible for the payment of any benefits that may accrue hereunder in behalf of such nonworking interest. A nonworking interest may not be committed to this unit agreement unless the corresponding working interest is committed hereto. Joinder to the unit agreement by a working interest owner, at any time, must be accompanied by appropriate joinder to the unit operating agreement, in order for the interest to be regarded as committed to this agreement. Except as may otherwise herein be provided, subsequent joinders to this agreement shall be effective as of the date of the filing with the DMM of duly executed counterparts of all or any papers necessary to establish effective commitment of any tract to this agreement.

29. Counterparts. This agreement may be executed in any number of counterparts, no one of which needs to be executed by all parties or may be ratified or consented to by separate instrument in writing specifically referring hereto and shall be binding upon all those parties who have executed such a counterpart, ratification, or consent hereto with the same force and effect as if all such parties had signed the same document, and regardless of whether or not it is executed by all other parties owning or claiming an interest in the lands within the above-described unit area.

* Surrender. Nothing in this agreement shall prohibit the exercise by any working interest owner of the right to surrender vested in such party by any lease, sublease, or operating agreement as to all or any part of the lands covered thereby, provided that each party who will or might acquire such working interest by such surrender or by forfeiture as hereafter set forth, is bound by the terms of this agreement.

If as a result of any such surrender, the working interest rights as to such lands become vested in any party other than the fee owner of the unitized substances, said party may forfeit such rights and further benefits from operation hereunder as to said land to the party next in the chain of title who shall be and become the owner of such working interest.

If as the result of any such surrender of forfeiture working interest rights become vested in the fee owner of the unitized substances, such owner may:

(1) Accept those working interest rights subject to this agreement and the unit operating agreement; or

(2) Lease the portion of such land as is included in a participating area established hereunder subject to this agreement and the unit operating agreement; or

(3) Provide for the independent operation of any part of such land that is not then included within a participating area established hereunder.

If the fee owner of the unitized substances does not accept the working interest rights subject to this agreement and the unit operating agreement or lease such lands as above provided within 6 months after surrendered or forfeited, working interest rights become vested in the fee owner; the benefits and obligations of operations accruing to such lands under this agreement and the unit operating agreement shall be shared by the remaining owners of unitized working interests in accordance with their respective working interest ownerships, and such owners of working interests shall compensate the fee owner of unitized substances in such lands by paying sums to the rentals, minimum royalties, and royalties applicable to such lands under the lease in effect when the lands were unitized.

An appropriate accounting and settlement shall be made for all benefits accruing to or payments and expenditures made or incurred on behalf of such surrendered or forfeited working interest subsequent to the date of surrender or forfeiture, and payment of any moneys found to be owing by such an accounting shall be made as between the parties within 30 days.

The exercise of any right vested in a working interest owner to reassign such working interest to the party from whom obtained shall be subject to the same conditions as set forth in this section in regard to the exercise of a right to surrender.

*31. Taxes. The working interest owners shall render and pay for their account and the account of the royalty owners all valid taxes on or measured by the unitized substances in and under or that may be produced, gathered and sold from the land covered by this agreement after its effective date, or upon the proceeds derived therefrom. The working interest owners on each tract shall and may charge the proper proportion of said taxes to royalty owners having interests in said tract, and may currently retain and deduct sufficient amount of the unitized substances or derivative products, or net proceeds thereof from the allocated share of each royalty owner to secure reimbursement for the taxes so paid. No such taxes shall be charged to the United States or the State of ——— or to any lessor who has a contract with his lessee which requires the lessee to pay such taxes.

*32. No partnership. It is expressly agreed that the relation of the parties hereto is that of independent contractors and nothing contained in this agreement, expressed or implied, nor any operations conducted hereunder, shall create or be deemed to have created a partnership or association between the parties hereto or any of them.

In witness whereof, the parties hereto have caused this agreement to be executed and have set opposite their respective names the date of execution.

Unit Operator; Working Interest Owners

General Guidelines

1. Executed agreement to be legally complete.

2. Agreement submitted for approval must contain Exhibit A and B in accordance with models shown in §§ 226.13 and 226.14.

3. Consents should be identified (in pencil) by tract numbers as listed in Exhibit B and assembled in that order as far as practical. Unit agreements submitted for approval shall include a list of the overriding royalty interest owners who have executed ratifications of the unit agreement. Subsequent joinders by overriding royalty interest owners shall be submitted in the same manner, except each must include or be accompanied by a statement that the corresponding working interest owner has consented in writing. Original ratifications of overriding royalty owners will be kept on file by the Unit Operator or his designated agent.

4. All leases held by option should be noted on Exhibit B with an explanation as to the type of option, i.e., whether for operating rights only, for full leasehold record title, or for certain interests to be earned by performance. In all instances, optionee committing such interests is expected to exercise option promptly.

5. All owners of mineral interests must be invited to join the unit agreement, and statement to that effect must accompany executed agreement, together with summary of results of such invitations. A written reason for all interest owners who have not joined shall be furnished by the unit operator.

6. In the event fish and wildlife lands are included, add the following section:

"Wildlife Stipulation. Nothing in this unit agreement shall modify the special Federal lease stipulations applicable to lands under the jurisdiction of the United States Fish and Wildlife Service."

7. In the event National Forest System lands are included within the unit area, add the following section:

"Forest Land Stipulation. Notwithstanding any other terms and conditions contained in this agreement, all of the stipulations and conditions of the individual leases between the United States and its lessees or their successors or assigns embracing lands within the unit area included for the protection of lands or fucntions under the jurisdiction of the Secretary of Agriculture shall remain in full force and effect the same as though this agreement had not been entered into, and no modification thereof is authorized except with the prior consent in writing of the Regional Forester, United States Forest Service, ———."

8. In the event National Forest System lands within the Jackson Hole Area of Wyoming are included within the unit area, additional "special" stipulations may be required to be included in the unit agreement by the U.S. Forest Service, including the Jackson Hole Special Stipulation.

9. In the event reclamation lands are included, add the following as a new section:

*Optional sections and subsection. (Agreements submitted for final approval should not identify any provision as "optional.")

"Reclamation Lands. Nothing in this agreement shall modify the special, Federal lease stipulations applicable to lands under the jurisdiction of the Bureau of Reclamation."

10. In the event a powersite is embraced in the proposed area, the following section should be added:

"Powersite. Nothing in this agreement shall modify the special, Federal lease stipulations applicable to lands under the jurisdiction of the Federal Energy Regulatory Commission."

11. In the event special surface stipulations have been attached to any of the Federal oil and gas leases to be included, add the following section:

"Special surface stipulations. Nothing in this agreement shall modify the special Federal lease stipulations attached to the individual Federal oil and gas leases."

12. In the event State lands are included in the proposed area, add the appropriate State Lands Section as a new section. (See 30 CFR 226.7(a))

13. In the event restricted Indian lands are involved, consult the DMM regarding appropriate requirements under 30 CFR 226.7(b).

Certification—Determination

Pursuant to the authority vested in the Secretary of the Interior, under the act approved February 25, 1920, 41 Stat. 437, as amended, 30 U.S.C. sec. 181, et seq., and delegated to the appropriate Deputy Minerals Manager of the Minerals Management Service under the authority of 30 CFR 226, I do hereby:

A. Approve the attached agreement for the development and operation of the ———, Unit Area, State of ———.

B. Certify and determine that the unit plan of development and operation contemplated in the attached agreement is necessary and advisable in the public interest for the purpose of more properly conserving the natural resources.

C. Certify and determine that the drilling, producing, rental minimum royalty, and royalty requirements of all Federal lease committed to said agreement are hereby established, altered, changed, or revoked to conform with the terms and conditions of this agreement.

Dated ———.

Deputy Minerals Manager—Oil and Gas,* Minerals Management Service.

*In Eastern and Alaska Regions, Deputy Minerals Manager—Onshore Minerals.

Contract Number———

BILLING CODE 4310-MR-M

§ 226.13 Model of exhibit A.

Company Name
Exhibit A
Swan Unit Area
Campbell County, Wyoming

R. 59 W.

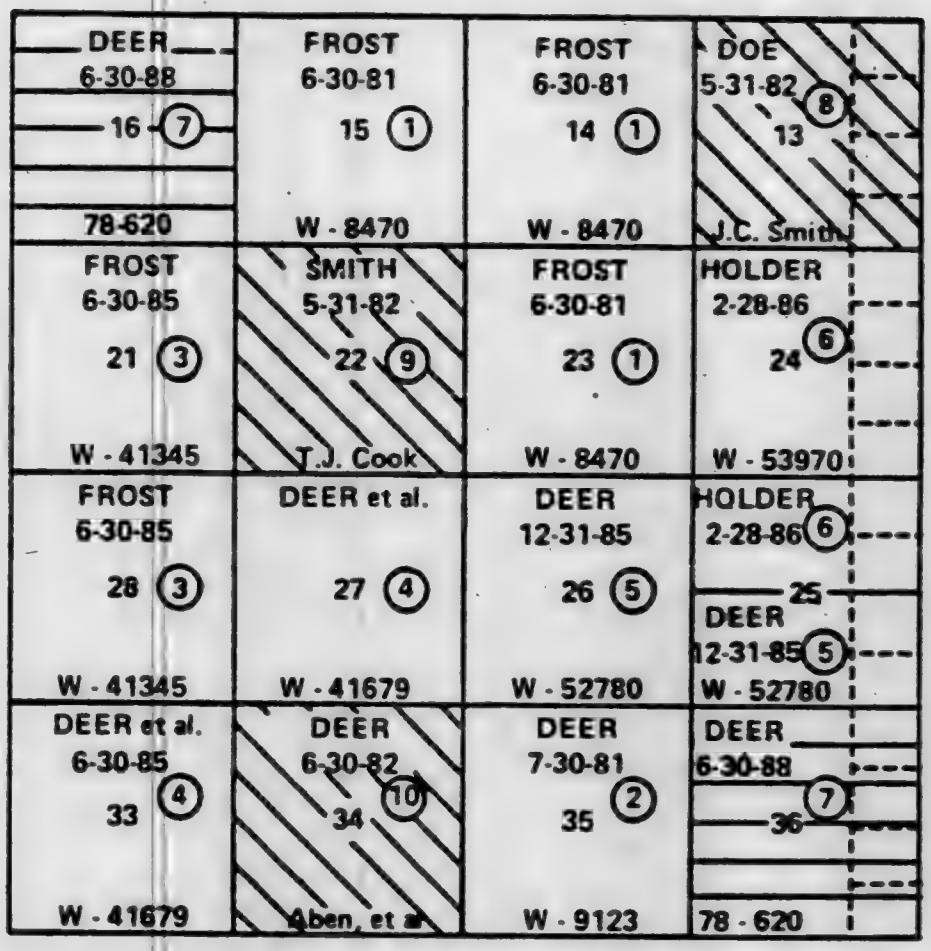

T. 54 N.

(1) Means tract number as listed on Exhibit B

Public Land

State Land

Patented Land

Scale - Generally 2" = 1 mile.

Include acreage for all irregular sections and lots.

BILLING CODE 4310-MR-C

§ 226.14 Model of Exhibit B

EXHIBIT B.—SWAN UNIT AREA, CAMPBELL COUNTY, WYO.

Tract No.	Description of land	Number of acres	Serial No. and expiration date of lease	Basic royalty and ownership percentage	Lessee of record (percent)	Overriding royalty and percentage	Working interest and percentage
	All in the area of T54N-R59W,6thP.M.						
	Federal Land						
1	Sec. 14: All	1,920.00	W-8470, June 30, 1981	U.S.: All	T. J. Cook 100	T. J. Cook 2	Frost Oil Co. 100.
	Sec. 15: All						
	Sec. 23: All						
2	Sec. 35: All	640.00	W-9123, July 30, 1981	U.S.: All	O. M. Odom 100	O. M. Odom 1	Deer Oil Co. 100.
3	Sec. 21: All	1,280.00	W-41345, June 30, 1985	U.S.: All	Max Pen 50	Max Pen 1	Frost Oil Co. 100.
	Sec. 28: All				Sam Small 50	Sam Small 1	
4	Sec. 27: All	1,280.00	W-41679, June 30, 1985	U.S.: All	Al Preen 100	Al Preen 2	Deer Oil Co. 50.
	Sec. 33: All						Deer Oil Co. 50.
5	Sec. 26: All	961.50	W-52780	U.S.: All	Deer Oil Co. 100	J. G. Goodin 2	Deer Oil Co. 100.
	Sec. 25: Lots 3,4, SW/4,W/2SE/4.						
6	Sec. 24: Lots 1,2,3,4,W/2,W/2E/2 (All).	925.80	W-53970, Feb. 28, 1986	U.S.: All	T. H. Holder 100		T. H. Holder 100.
	Sec. 25: Lots 1,2,NW/4,W/2NE/4.						
	6 Federal tracts 7,047.30 acres or 68.76 pct of unit area.						
	State Land						
7	Sec. 16: All	1,280.60	65-67430, Aug. 31, 1985	State: All	Deer Oil Co. 100	T. T. Timo 2	Deer Oil Co. 100.
	Sec. 36: Lots 1,2,3,4,W/2,W/2E/2 (All).						
	1 State tract 1,280.60 acres or 12.49 pct of unit area.						
	Patented Land						
8	Sec. 13: Lots 1,2,3,4,W/2,W/2E/2 (All).	641.20	Aug. 2, 1974	J .C. Smith: 100	Doe Oil Co. 100		Doe Oil Co. 100.
9	Sec. 22: All	640.00	Sept. 15, 1976	T. J. Cook: 100	W. W. Smith 100	Sam Spade 1	W. W. Smith 100.
10	Sec. 34: All	640.00	June 1, 1975	A. A. Aben: 75	Deer Oil Co. 100		Deer Oil Co. 100.
				L. P. Carr: 25			
	3 patented tracts 1,921.20 acres or 18.75 pct of unit area.						
	Total: 11 tracts 10,249.10 acres in entire unit area.						

§ 226.15 Model collective bond.

Collective Corporate Surety Bond

Know all men by these presents. That we, ———— (Name of unit operator), signing as Principal, for and on behalf of the record owners of unitized substances now or hereafter covered by the unit agreement for the ———— (Name of unit), approved ——— (Date) ———— (Name and address of Surety), as Surety are jointly and severally held and firmly bound unto the United States of America in the sum of ——— (Amount of bond) Dollars, lawful money of the United States, for the use and benefit of and to be paid to the United States and any entryman or patentee of any portion of the unitized land here-to-fore entered or patented with the reservation of the oil or gas deposits to the United States, for which payment, well and truly to be made, we bind ourselves, and each of us, and each of our heirs, executors, administrators, successors, and assigns by these presents.

The condition of the foregoing obligation is such, that, whereas the Secretary of the Interior on ——— (Date) approved under the provisions of the Act of February 25, 1920, 41 Stat. 437, 30 U.S.C. secs. 181, *et seq.*, as amended by the Act of August 8, 1946, 60 Stat. 950, a unit agreement for the development and operation of the ———— (Name of unit and State); and

Whereas said Principal and record owners of unitized substances, pursuant to said unit agreement, have entered into certain covenants and agreements as set forth therein, under which operations are to be conducted; and

Whereas said Principal as Unit Operator has assumed the duties and obligations of the respective owners of unitized substances as defined in said unit agreement; and

Whereas said Principal and Surety agree to remain bound in the full amount of the bond for failure to comply with the terms of the unit agreement, and the payment of rentals, minimum royalties, and royalties due under the Federal leases committed to said unit agreement; and

Whereas the Surety hereby waives any right of notice of and agrees that this bond may remain in force and effect notwithstanding;

(a) Any additions to or change in the ownership of the unitized substances herein described;

(b) Any suspension of the drilling or producing requirements or waiver, suspension, or reduction of rental or minimum royalty payments or reduction of royalties pursuant to applicable laws or regulations thereunder; and

Whereas said Principal and Surety agree to the payment of compensatory royalty under the regulations of the Interior Department in lieu of drilling necessary offset wells in the event of drainage; and

Whereas nothing herein contained shall preclude the United States (from requiring an additional bond at any time when deemed necessary:

Now, therefore, if the said Principal shall faithfully comply with all of the provisions of the above-indentified unit agreement and with the terms of the leases committed thereto, then the above obligation is to be of no effect; otherwise to remain in full force and virtue.

Signed, sealed, and delivered this —— day of ———, 19—, in the presence of:

Witnesses:

_____

(Principal)

_____

_____

_____

(Surety)

§ 226.16 Model for designation of successor unit operator by working interest owners.

Designation of successor Unit Operator ———— Unit Area, County of ———, State of ———. No. ——.

This indenture, dated as of the — day of ———, 19—, by and between ———, hereinafter designated as "First Party," and the owners of unitized working interests, hereinafter designated as "Second Parties."

Witnesseth: Whereas under the provisions of the Act of February 25, 1920, 41 Stat. 437, 30 U.S.C. secs. 181, *et seq.*, as amended by the Act of August 8, 1946, 60 Stat. 950, the Secretary of the Interior, on the — day of ———, 19—, approve a unit agreement for the ———— Unit Area, wherein ——— is designated as Unit Operator; and

Whereas said ——— has resigned as such Operator,[1] and the designation of a successor

[1] Where the designation of a successor Unit Operator is required for any reason other than resignation, such reason shall be substituted for the one stated.

Unit Operator is now required pursuant to the terms thereof; and

Whereas the First Party has been and hereby is designated by Second Parties as Unit Operator, and said First Party desires to assume all the rights, duties, and obligations of Unit Operator under the said unit agreement:

Now, therefore, in consideration of the premises hereinbefore set forth and the promises hereinafter stated, the First Party hereby covenants and agrees to fulfill the duties and assume the obligations of Unit Operator under and pursuant to all the terms of the ———— unit agreement, and the Second Parties covenant and agree that, effective upon approval of this indenture by the Director of the Minerals Management Service First Party shall be granted the exclusive right and privilege of exercising any and all rights and privileges as Unit Operator, pursuant to the terms and conditions of said unit agreement; said unit agreement being hereby incorporated herein by reference and made a part hereof as fully and effectively as though said unit agreement were expressly set forth in this instrument.

In witness whereof, the parties hereto have executed this instrument as of the date hereinabove set forth.

_____

_____

(Witnesses)

_____

_____

(Witnesses)

_____

(First Party)

_____

(Second Party)

I hereby approve the foregoing indenture designating ———— as Unit Operator under the unit agreement for the ——— Unit Area, this — day of ————, 19—.

_____

Director of the Minerals Management Service.

§ 226.17 Model for change in unit operator by assignment.

Change in Unit Operator ———— Unit Area, County of ————, State of ———, No. —. This indenture, dated as of the — day of ———, 19—, by and between ———— hereinafter designated as "First Party," and ———— hereinafter designated as "Second Party."

Witnesseth: Whereas under the provisions of the Act of February 25, 1920, 41 Stat. 437 30 U.S.C. secs. 181, *et seq.*, as amended by the Act of August 8, 1946, 60 Stat. 950, the Secretary of the Interior, on the — day of ———, 19—, approved a unit agreement for the ———— Unit Area, wherein the First Party is designated as Unit Operator: and

Whereas the First Party desires to transfer, assign, release, and quitclaim, and the Second Party desires to assume all the rights, duties, and obligations of Unit Operator under the unit agreement; and

Whereas for sufficient and valuable consideration, the receipt whereof is hereby acknowledged, the First Party has transferred, conveyed, and assigned all his/its rights under certain operating agreements involving lands within the area set forth in said unit agreement unto the Second Party:

Now, therefore, in consideration of the premises hereinbefore set forth, the First Party does hereby transfer, assign, release, and quitclaim unto Second Party all of First Party's rights, duties, and obligations as Unit Operator under said unit agreement; and

Second Party hereby accepts this assignment and hereby covenants and agrees to fulfill the duties and assume the obligations of Unit Operator under and pursuant to all the terms of said unit agreement to the full extent set forth in this assignment, effective upon approval of this indenture by the Director of the Minerals Management Service; said unit agreement being hereby incorporated herein by reference and made a part hereof as fully and effectively as though said unit agreement were expressly set forth in this instrument.

In witness whereof, the parties hereto have executed this instrument as of the date hereinabove set forth.

_____

_____

(Witnesses)

_____

_____

(Witnesses)

_____

(First Party)

_____

(Second Party)

I hereby approve the foregoing indenture designating ———— as Unit Operator under the unit agreement for the ———— Unit Area, this — day of ———, 19—.

_____

Director of the Minerals Management Service.

Dated: April 30, 1982.

William P. Pendley,

Acting Assistant Secretary of the Interior.

[FR Doc. 82-15575 Filed 6-9-82; 8:45 am]

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federal register

Thursday
June 10, 1982

Part III

Department of Transportation

Federal Highway Administration

Design Standards for Highways; Resurfacing, Restoration, and Rehabilitation of Streets and Highways Other Than Freeways; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 625

[FHWA Docket No. 80-3, Notice 2]

Design Standards for Highways; Resurfacing, Restoration, and Rehabilitation of Streets and Highways Other Than Freeways

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is revising its regulations to provide a flexible approach to resurfacing, restoration, and rehabilitation (RRR) projects on highways other than freeways. No single geometric design criteria will be adopted for application nationwide. Instead, geometric design criteria and/or procedures will be adopted in each State to ensure that proposed projects meet Federal policy objectives. Present regulations require that all federally funded highway improvements meet geometric design criteria adopted for new construction, unless specific exceptions are granted. The primary purpose of RRR is to prolong and preserve the service life of existing facilities; consequently, design criteria for new construction are not particularly appropriate to most RRR projects. This action is necessary to allow the development and adoption of geometric design criteria and/or procedures more appropriate to the scope and purpose of RRR. The action should provide more flexibility to meet State and local needs with a less cumbersome Federal approval process. Comments are invited on experience obtained in implementing and operating under this rule.

DATES: This rule is effective on July 12, 1982. Comments should be submitted on or before July 12, 1983.

ADDRESS: Anyone wishing to submit written comments concerning the implementation of this rule may do so. Comments should be sent, preferably in triplicate, to FHWA Docket No. 80-3, Notice 2, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Alvin R. Cowan or Kenneth H. Davis, Office of Engineering, Room 3124, 202-426-0312, or Lee J. Burstyn, Office of the Chief Counsel, Room 4223, 202-426-0754, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: This is considered to be a major rule under Executive Order 12291. The requirement to conduct a Regulatory Impact Analysis has been waived by the Office of Management and Budget; its review found this final rule consistent with the principles of Executive Order 12291. A technical analysis of the rule is available for inspection in the public docket (No. 80-3) in Room 4205 at the address provided above. Copies of the 147 page analysis may be obtained by contacting Alvin R. Cowan or Kenneth H. Davis at the address provided above. The impact of this regulatory action falls primarily on the State highway agencies. Accordingly, under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities. Based upon an evaluation of the implementation of this rule, including a review of the comments submitted to the public docket, the FHWA will determine the need for future revisions to its policies and procedures for the geometric design of nonfreeway RRR projects. Notice of this determination will be published in the Federal Register.

Background

While the FHWA has provided funding to the States to aid in the construction of the Nation's highways, it has always been the States' responsibility to maintain these highways once initial construction was completed. As highways began deteriorating at an increasing rate, Congress recognized the need to assist the States by providing funds for resurfacing, restoration, and rehabilitation work which had primarily been the States' responsibility to fund in the past.

In the Federal-Aid Highway Act of 1976, Congress amended Section 101 of Title 23, United States Code, by redefining the term "construction," to include "resurfacing, restoration, and rehabilitation" commonly referred to as "RRR". This allowed Federal-aid construction funds to be used for certain types of work which were previously considered to be heavy maintenance.

The RRR work is defined as work undertaken primarily to extend the service life of an existing facility. This includes placement of additional surface material and/or other work necessary to return an existing roadway, including shoulders or bridges, the roadside, and appurtenances, to a condition of structural or functional adequacy. The RRR work may include upgrading of geometric features, such as minor roadway widening, flattening curves, or improving sight distances. The concept of RRR work does not include new construction or major reconstruction, such as adding continuous traffic lanes. Currently, all Federal-aid RRR projects are being designed under the same standards which have been approved by FHWA for use on new Federal-aid construction projects. These standards are incorporated by reference in Part 625 of 23 CFR, Design Standards for Highways, and include various standards, specifications, policies, guides, references, and other criteria. Part 625 provides that exceptions to these standards may be granted by FHWA on an individual project basis.

Following the 1976 Federal-Aid Highway Act, the FHWA initiated efforts to establish separate geometric design criteria for RRR. First, an advance notice of proposed rulemaking (42 FR 42876, August 25, 1977, Docket No. 77-4) was issued, requesting suggestions and comments on establishment of separate geometric design standards specifically for use on RRR projects. The standards would apply to Federal-aid RRR work on all highways other than freeways. The standards applicable to work on the Interstate System and other freeways would not be affected.

Three alternatives were offered for consideration: (1) Continue to operate under the existing regulations in part 625, (2) adopt the "Geometric Design Guide for Resurfacing, Restoration, and Rehabilitation (RRR) of Highways and Streets," American Association of State Highway and Transportation Officials (AASHTO), 1977, or (3) permit State highway officials and FHWA Division Administrators to develop individual State criteria, using the AASHTO RRR Guide and/or other materials as a base. Following evaluation of the comments received, a decision was made to adopt national standards. However, because of the severe criticism of the AASHTO RRR Guide, it was decided not to adopt if for use as a national standard on Federal-aid projects. The advance notice was withdrawn (43 FR 2734, January 19, 1978), and a decision made by FHWA to draft its own RRR geometric design standards.

A notice of proposed rulemaking (NPRM) setting forth the FHWA's proposed "Geometric Design Standards for Resurfacing, Restoration, and

Rehabilitation (RRR) of Streets and Highways Other Than Freeways" was then published (43 FR 37556, August 23, 1978, Docket No. 78–10). Comments on the specific elements of the proposed standards and their effect on the Federal-aid highway program were requested. The FHWA standards for RRR work were to be more stringent than those in the AASHTO RRR Guide, but less stringent than the criteria for new construction in Part 625.

The various issues raised in response to the NPRM led FHWA to a reevaluation of its proposed action. Following the close of the comment period on the NPRM in January 1979, the FHWA established an internal task force and four working groups to evaluate RRR implementation and make recommendations for further action to the Administrator. The working groups addressed the following tasks: (1) Preparation of a summary of Docket No. 78–10 comments, (2) evaluation of Docket No. 78–10 comments, including those which suggested alternative procedures, (3) preparation of draft regulatory analysis, and (4) preparation of options for the Administrator's decision, based upon comments received and impact analysis. At that time, the FHWA published a notice (44 FR 29921, May 23, 1979) reporting the status of RRR rulemaking action and describing the objectives of the task force and the four working groups.

Technical Analysis

In analyzing the impacts of this rulemaking action, one of the FHWA working groups prepared a technical report, "RRR Alternative Evaluations for Non-Interstate Rural Arterial and Collector Highway Systems," which evaluates three levels of geometric design criteria for nonfreeway RRR work:

Case 1: Minimum tolerable conditions (MTC) are set at the level of the currently approved design criteria (23 CFR Part 625) for new construction. This case places emphasis on improving lane and shoulder widths, operating speeds, and horizontal and vertical alignments whenever a RRR project is undertaken. Case 1 is a theoretical bound which exceeds present practice for RRR in that the MTC used are the current criteria in Part 625 applied without exception to the roadway sections needing improvement. Case 1 represents the upper bound for RRR geometric design criteria.

Case 2: The MTC are essentially the criteria proposed by FHWA in the August 1978 NPRM (Docket No. 78–10). This case represents the lower bound that would be considered in this analysis as being acceptable for RRR work. Case 2 emphasizes reversing the present trend toward nonfreeway pavement surface deterioration without substantially changing the existing system relative to highway geometrics (i.e., lane and shoulder widths, operating speeds, etc.).

Mid-Case: The MTC used in the Mid-Case more nearly represent current State practices for Federal-aid RRR work (i.e., current design criteria in Part 625 with exceptions granted by the FHWA Division Administrator on a project-by-project basis).

The report evaluates the application of the various RRR geometric criteria relative to both total system needs and projected funding levels. The period examined was from 1975 to 1990.

The report concludes that under unlimited funding conditions the highest design criteria (Case 1), as expected, would provide the best safety and operational performance. However, given limited program funding, the report indicates that RRR projects would provide greater benefits nationally if they more closely parallel the Case 2 or Mid-Case conditions rather than the Case 1 condition.

The complete 139-page technical report was made available to the public as an appendix to the draft regulatory analysis for the NPRM (Docket 80–3).

Based upon a review and evaluation of the technical report and the comments submitted to the public docket, various options were considered by the FHWA task force. Two basic policy alternatives were available to the agency.

Under the first alternative, the FHWA would adopt design criteria for use on all nonfreeway RRR projects nationwide. The second alternative would involve adoption of a flexible approach to nonfreeway RRR projects that would encourage individual State initiative without establishing specific criteria for nationwide application. The recommendations of the FHWA task force to proceed with the second alternative form the basis for this final rule.

Final Rule

The FHWA is implementing the individual State approach by issuing a policy statement and establishing a framework for the adoption of geometric design criteria and/or procedures for nonfreeway RRR projects in each State. The only nonfreeway standards affected by this action are those related to the geometric features of a highway, e.g., lane and shoulder width, horizontal and vertical alignment, sight distances, cross slopes, side slopes, and vertical and horizontal clearances. Standards related to such other features as pavement design, traffic control devices, pavement markings, roadway lighting and construction materials are not affected. In addition, geometric design criteria and/or procedures covered by a State's Certification Acceptance Program (23 CFR Part 640) or Secondary Road Plan (23 CFR Part 642) are not affected by this rule.

The design standards applicable to work on the Interstate System and other freeways are not affected by this action.

The policy statement is, in part, a restatement of the statutory requirements in 23 U.S.C. 109(a) for all Federal-aid highway projects. It is also a statement of FHWA's official policy on RRR work and the overall standard by which a State's RRR process and eligible highway projects will be judged.

The RRR policy will be implemented in each State by the State highway agency and the FHWA Division Administrator. The appropriate Federal-aid requirements will be met by the development of criteria and/or procedures under which the State will ensure that all nonfreeway RRR projects conform to the FHWA's RRR policy.

This approach will allow for State and local discretion in the development and implementation of a RRR program. At the same time, it provides for guidance and oversight by the FHWA to assure consistency with national policy objectives.

Under this rule, the minimum geometric design criteria adopted in Part 625 for new construction or reconstruction will not necessarily apply to nonfreeway RRR projects. There will be sufficient flexibility to allow their use; however, other geometric design criteria may also be used for RRR, including criteria based on the AASHTO RRR Guide (Docket 77–4), the FHWA RRR criteria (Docket 78–10), safety performance standards, or combinations of these. The basic requirement is that the criteria selected be appropriate to the circumstances of their application and that they be conducive to safety, durability, and the economy of maintenance.

The criteria and/or procedures to be developed by each State would indicate the type of projects covered by the State's nonfreeway RRR criteria and could even provide for exceptions from the criteria under appropriate circumstances. Criteria could be established to cover all projects in the State, individual projects, or projects grouped by various factors such as geographic region, type of work involved, functional classification,

special project features (e.g., historic bridges), etc.

These criteria and/or procedures would not necessarily include specific, numerical standards. A State's proposal to satisfy the requirements of 23 CFR 625.3(a)(6) could be criteria with specific numerical values, a procedure or process, or any combination of these that adequately address such factors as pavement condition, traffic volumes, accident experience, physical characteristics, system or functional classification, traffic regulations and controls, treatment of high hazard locations and features, skid resistance, economics, and the potential impacts of various types of improvements.

Where a State develops or adopts more than a single set of criteria for a group of projects, the State's procedures would indicate how a particular set of criteria would be selected for a given project. For example, a State could indicate that the choice of design criteria would depend upon the accident history of the highway section involved and the availability of funds for various types of improvements. A State's procedures could be included in its criteria and would not have to be set out in a separate document.

These design evaluation procedures should not be confused with normal project processing procedures. It is not the FHWA's intention to suggest the States develop detailed procedures for processing RRR projects. These projects are currently processed and will continue to be processed under normal Federal-aid procedures.

The FHWA will monitor the RRR program in each State to provide oversight necessary to ensure that full consideration is given to both safety and highway preservation objectives and that Federal assistance is provided where needed in the development and implementation of the program.

It should be noted that the upgrading of those features that would improve highway safety will continue to be eligible for funding with safety funds and regular Federal-aid funds.

The FHWA's choice of the individual State approach as opposed to national criteria was based primarily on non-technical factors. The major advantages of this approach are summarized below:

1. Provides needed program flexibility and discretion at the State and local level.

2. Encourages the design of projects that conform to the particular needs of each locality (23 U.S.C. 109(a)(2)).

3. Maintains sufficient Federal oversight to ensure that proper consideration is given to promoting the safety of highway users and preventing continued deterioration of the Nation's highway systems.

4. Reflects the intent of Congress to provide greater flexibility in the use of Federal funds for obtaining maximum use from the extensive system of existing highway facilities.

5. Implements the requirements of Executive Order 12291, Federal Regulation (46 FR 13193, February 19, 1981), the national policy on minimization of redtape in Federal highway programs as expressed by Congress in 23 U.S.C. 101(e), and the FHWA's well-established policy on the minimization of redtape (43 FR 10578, March 14, 1978).

6. Avoids disproportionate impacts on urban areas and rural communities that might result from the imposition of uniform criteria nationwide.

A disadvantage of this approach is that in order to utilize the flexibility provided by the regulation, it is necessary for States to develop their own criteria and/or procedures for RRR projects. However, the FHWA believes that sufficient resources are available to minimize the burden on State highway agencies. The States may select from or expand on a variety of existing references with adequate technical support and guidance provided by FHWA. If a State is not interested in exercising its option under this regulation, it can simply notify the FHWA of its intention to continue operating under geometric design criteria currently adopted for new construction and reconstruction.

Standards developed on a national level often provide for uniformity at the expense of local needs and preferences. This is particularly true with regard to RRR work—what works well in one part of the country, or even one area of a State, may be totally unacceptable in another. To a certain extent, criteria such as those currently approved for use on the construction of new highways and reconstruction projects recognize the need for local variations by providing ranges of acceptable values, alternate standards for use under varying conditions, and a procedure for requesting exceptions on individual projects. Because of the type of work included in most nonfreeway RRR projects, it is anticipated that the number of requests for exceptions from national standards would be quite large. The FHWA believes that this process would impose an unreasonable burden on grant recipients and agency field offices and could unnecessarily delay needed improvements.

Discussion of Comments

The FHWA published a notice of proposed rulemaking (46 FR 1228, January 5, 1981, Docket 80-3) setting forth this rule for public review and comments. A 120-day comment period was provided. Thirty-six formal responses to the NPRM were received from 35 organizations and individuals. In addition, a public meeting was held on February 3, 1981, at DOT Headquarters in Washington, D.C., to discuss this rule. A summary of the discussion at this public meeting has been included in the public docket (No. 80-3).

Twenty-six responses to the NPRM favored the rule, including 10 which offered suggestions and recommendations for revisions. Most of these favorable comments came from those directly affected by the rule, namely the State and local highway agencies.

Ten responses were opposed to the rule, six because of perceived adverse impacts on highway safety, two because they preferred adoption of the 1977 AASHTO Geometric Design Guide for RRR (Purple Book) instead, and two because they preferred the status quo—granting exceptions to standards for new construction on a project-by-project basis for RRR projects.

The paramount concern of those opposed to the rule because of perceived impacts on highway safety is that RRR work would involve only resurfacing and other pavement restoration activities, with little or no attention given to safety or geometric improvements. They maintain that a renewed surface will increase operating speed, and when coupled with the lack of safety or geometric improvements, will lead to increased accident rates. In effect, they believe the rule will cause highway safety to diminish.

The FHWA disagrees with this assessment. First and foremost, the FHWA believes that with the limited amount of funds expected to be available for highway improvements, greater overall system safety and fewer total accidents can be achieved by improving more miles of highway with less costly improvements than by improving many fewer miles completely to current criteria for new construction. That is the primary reason why separate, more flexible geometric design criteria are necessary for RRR.

While it may be argued that operating speeds will increase following RRR work, the FHWA questions the assumption that accident rates will increase following RRR work, even RRR

work involving only resurfacing. Studies identified during FHWA's analysis of RRR alternatives indicate that there is no discernible difference in the before and after accident rates for RRR work involving only resurfacing.

The FHWA also believes the assumption that RRR work will involve only resurfacing, without regard for safety, is unfounded. While the primary objective of RRR has been and will continue to be to preserve and prolong the service life of existing highways, appropriate safety improvements have been and will continue to be made in conjunction with RRR work. Safety has been a major concern of State and local highway agencies for many years, and has been reflected in their highway design, construction, maintenance, and operation activities. The FHWA is confident that this concern will be reflected in the geometric design criteria and/or procedures developed for RRR. This rule serves to reinforce this concern for safety, and provides a control measure for instances where safety might not be sufficiently addressed.

One adverse comment emphasized that this rule incorporates an approach previously considered and rejected. The FHWA acknowledges this. The approach was reevaluated and finally adopted as a direct result of comments received during earlier rulemaking efforts and the conclusions drawn from the analysis of RRR alternatives. It became increasingly evident that the flexible approach was the only alternative which could provide for the preservation and prolonged service life of the existing highway system and at the same time provide a vehicle for justified and cost-effective safety improvements.

The FHWA also acknowledges the observation that geometric design criteria previously rejected as unacceptable for national standards may be acceptable as a basis for individual State or local criteria. Each State's criteria and/or procedures will be evaluated on their own merits and circumstances of application. The flexible approach is based on the fact that many variables do exist (traffic, geography, climate, topography, etc.) and the realization that these variables determine to a large extent what criteria are most cost-effective for a particular State or local area.

The FHWA also agrees with the observation that many safety deficiencies do exist on older highways and that some of these deficiencies will not be corrected under this rule. It simply will not be possible to correct all deficiencies with the funds likely to become available within the foreseeable future. However, this rule will enable the most cost-effective safety improvements to be accomplished in conjunction with RRR work. Furthermore, the rule does not preclude the inclusion of major safety improvements in RRR projects. The FHWA expects that many of the most hazardous and costly deficiencies will be corrected in this manner. Lastly, projects that would result in the deterioration of safety as compared to existing conditions will not be eligible for Federal-aid funding under this rule.

The FHWA disagrees with the allegation that adoption of the rule constitutes an attempt by FHWA and the States to avoid responsibility and the opportunity to reduce accidents and promote a safer driving environment. For the reasons noted previously, FHWA believes that this rule is the most realistic and cost-effective approach for preserving our highway system while still achieving a reasonable and fiscally obtainable level of safety improvements.

Similarly, the FHWA does not agree with the allegation that it is attempting to reinterpret the Secretary of Transportation's duties concerning safety, durability, and economy of maintenance. The only reinterpretation of duties occurred when the 1976 Federal-Aid Highway Act changed the definition of construction to include RRR. That action made it clear that Federal funds were to be made available for work primarily intended to preserve and prolong the service life of existing facilities. Improvements for safety, capacity, or any other purpose are a secondary and often optional objective of RRR. The FHWA believes this rule is in complete accord with the Secretary's statutory responsibilities under Federal-aid highway laws, including the revisions in the 1976 Federal-Aid Highway Act.

The FHWA emphatically disagrees with the charges that the rule will not diminish the rate of structural decay or that it does not require the use of engineering practices that will guarantee long term durability of highways. Those objectives are precisely what the rule is intended to accomplish—timely structural rehabilitation and/or restoration of existing pavements. The FHWA has been and will continue to stress all aspects of pavement management, including the latest and most reliable or promising techniques for extending pavement life. With the limited funding now available, FHWA believes this rule provides the needed emphasis and flexibility to preserve the long-term durability and serviceability of our highway system in the most cost-effective manner.

The FHWA acknowledges that maintenance efforts over the past several years have not kept pace with the deterioration of the highway system. The FHWA believes that this situation is a reflection of the rapidly mounting maintenance burden rather than the result of an attempt by the States to evade maintenance obligations or qualify for Federal funding for RRR by deferring normal maintenance, or due to any lack of enforcement effort on the part of FHWA.

The highway system has grown to be very large, and increasingly complex. Unfortunately, it is also beginning to show its age. Many segments have served well beyond their expected service life. The net result of all these factors is a much greater need for both maintenance and RRR. These increasing needs coincide with rapidly escalating costs, thus, severely taxing most States' current and traditional sources of revenue. Many States have been forced to cut back on major improvements and even on RRR work to meet essential maintenance and operation needs.

The 1976 Federal-Aid Highway Act expanded the definition of construction to include RRR specifically to assist States in meeting essential RRR needs. Thus, RRR work became eligible for Federal-aid funding. This rule aids in implementing that change in definition by permitting the use of reduced geometric design criteria and increased flexibility. Continued adherence to geometric design criteria for new construction on RRR projects would thwart the intent of the 1976 Act. The FHWA believes the rule will enable States to establish and accomplish more effective highway management programs, and thereby arrest the advancing deterioration of the highway system.

The FHWA does not regard the lack of finite definitions for maintenance and RRR work to be a problem. With the aid of the legislative history of the Federal-Aid Highway Acts, the FHWA has been able to identify maintenance work and exclude it from Federal funding in the past without rigid definitions, and will continue to do so.

Contrary to the view expressed in some comments, the FHWA believes that this rule and normal Federal-aid procedures will provide adequate Federal oversight of the RRR program. This rule requires FHWA approval of all State developed geometric design criteria and/or procedures for nonfreeway RRR. In addition, federally funded RRR will be monitored in the same manner as other Federal-aid work within each State. At the same time, the

rule significantly reduces Federal involvement in individual project actions primarily by eliminating the need for FHWA approval of exceptions to current criteria for new construction. Such actions are frequently necessary under existing regulations because current criteria for new construction are frequently inappropriate to the scope and purpose of RRR. Elimination of needless Federal involvement and redtape is an important objective of this rule.

One comment noted that the rule has no effective link between safety programs and RRR work programs. Specifically, it noted that there are no requirements for accident data collection, performance reviews or other special monitoring procedures. The FHWA believes that ongoing accident monitoring activities conducted in all States pursuant to other legislative and regulatory requirements will provide sufficient information to adequately monitor the safety performance of RRR projects and programs. Highway Safety Program Standards Numbers 9 and 10 (23 CFR 1204.4) require State programs on identification and surveillance of accident locations and on maintenance of traffic records. The FHWA's National Highway Performance Monitoring System collects data relating to highway system performance and conditions, including safety, on an annual basis. This data is then analyzed in a variety of ways for a number of purposes, including a biannual report to Congress. Additional data collection, performance reviews and other special monitoring procedures specifically for RRR are not considered desirable or necessary.

One comment expressed concern that variations in geometric design criteria for RRR among the States would ultimately produce hazardous inconsistencies in geometric features of highways. It went on to assert that citizens of one State have a vital interest in the safety, durability, and maintenance of highways in other States.

The FHWA believes that the magnitude of potential hazards induced by variations in geometric design criteria for RRR among States is being overstated. If rigid national criteria were used for RRR, fewer miles of highway would be improved and even greater inconsistency would result in the actual condition of existing highways from State to State and even within States. The FHWA believes that the flexibility provided by this rule will yield the greatest overall benefit to society with the limited funds available.

Another comment expressed concern that this rule, and the lack of national geometric design criteria for RRR, would increase the likelihood of adverse legal actions based on unsafe and/or unimproved highways, and that this would require greater portions of already scarce highway revenues to be expended in the resulting legal settlements.

The FHWA believes that tort liability is incurred as a result of a failure to implement design criteria in a reasonable manner. State developed geometric criteria and/or procedures should, when implemented, enhance the States' ability to defend against liability actions.

Another comment expressed concern that reduced geometric design criteria for RRR work will eventually become accepted standards for other types of highway improvements. The FHWA believes this concern is unfounded. This rule clearly defines RRR and clearly indicates that the flexible procedures for developing geometric design criteria are applicable only to nonfreeway RRR improvements.

One comment suggested that guidelines on recommended practice be issued by FHWA in conjunction with the rule. The FHWA plans to issue guidelines which specify the essential factors which should be addressed in the geometric design criteria and/or procedures developed by each State for RRR projects. These essential factors, as described earlier, include pavement condition, traffic volumes, accident experience, physical characteristics, system or functional classification, traffic regulations and controls, treatment of high hazard locations and features, skid resistance, economics and other potential impacts. These guidelines will be included in an FHWA Technical Advisory to be issued after publication of this rule. However, the FHWA will not include specific numerical criteria in the guidelines because they could be interpreted as minimum national criteria.

If interpreted in that manner, they would serve to stifle the flexibility provided by the rule. The FHWA believes it is preferable for the geometric design criteria developed by each State to be justified on their own merits.

The two responses to the docket which favored adoption of the 1977 AASHTO Geometric Design Guide for RRR each offered a reason for their position. One felt it was unrealistic to expect FHWA Division Administrators to approve State developed geometric criteria which had previously been rejected by the FHWA at the Washington Headquarters level. The FHWA does not view this as a problem. As indicated before, acceptance of each State's geometric design criteria will be based on the merits of the proposed criteria and the circumstances of application.

The other response favoring adoption of the AASHTO RRR Guide felt that AASHTO should retain the lead role in developing all design criteria for highway work. The FHWA agrees that State and local agencies and their representative organizations such as AASHTO have an important role to play in the development of design criteria. At the same time, the FHWA also recognizes that it has the ultimate responsibility for assuring that all Federal-aid projects, including RRR, are carried out in conformance with certain basic requirements for design and construction set forth by Congress in the Federal-aid highway acts.

The two responses to the docket which favored the current procedures (compliance with geometric design criteria for new construction unless exceptions are approved by FHWA on a project-by-project basis) both indicated they were quite comfortable with current procedures and saw no reason for change. In addition, one of these responses indicated a fear that geometric design criteria developed under this rule may prove less flexible than the present procedures. The FHWA notes that this rule allows, rather than requires, States to develop separate geometric design criteria for RRR. Any State may continue the present procedure if it so desires.

As indicated earlier, 10 responses to the docket which favored this rule offered suggestions and recommendations for revisions.

Five responses suggested that the rule be revised to lend greater emphasis to local involvement (counties, cities, etc.) in the development of geometric design criteria for RRR. One additional response objected to State control of the development of geometric design criteria for RRR. The FHWA encourages local involvement, and nothing in this rule precludes local involvement. Local agencies may participate in the development of geometric design criteria for RRR, which may include separate criteria for local jurisdictions, areas, systems, or functional classifications, provided that development is coordinated through the State. Present law (23 U.S.C. 145) requires that the FHWA work through the States.

One response felt that the rule placed too much emphasis on safety considerations at the expense of extending the service life of as many roads as is possible. The FHWA

disagrees. It believes the rule does put the major emphasis on preserving and prolonging the service life. At the same time, FHWA believes the emphasis on safety considerations is both appropriate and necessary.

Another response suggested that the rule include provisions for and consideration of bicycle use in conjunction with RRR work. The FHWA believes decisions on inclusion of bicycle facilities with RRR are best made at the State or local level.

Two favorable responses suggested that the requirement that RRR work meet probable future traffic needs contradicted the basic definition of RRR—work undertaken primarily to extend the service life of an existing facility. Both noted that in many situations, additional lanes would be required to adequately meet future traffic needs, and that additional lanes are clearly beyond the scope of RRR.

The FHWA appreciates the fact that current traffic volumes are generally adequate for use in the geometric design of most RRR projects. The FHWA also realizes that strict adherence to geometric improvements necessary to provide unimpeded traffic operation for all probable levels of future traffic would dictate improvements beyond the scope of RRR. However, the FHWA also notes that both existing and forecast future traffic are significant factors in determining priorities for undertaking RRR projects and for determining whether RRR or major reconstruction is more appropriate. To preclude any overemphasis of future traffic on the geometric design of RRR projects, States may wish to address the issue of future traffic in their geometric design criteria and/or procedures.

One generally favorable comment recommended that § 625.3, paragraph (a)(6) be deleted because it required the establishment of minimum criteria and/or standards, and therefore, implied a requirement for improvement of geometric features. This, the respondent maintained, contradicted the basic purpose of RRR—to preserve the existing highway system.

The FHWA disagrees for two reasons. First, highway safety remains an important consideration even though it is not the primary purpose of RRR work. The FHWA believes a significant safety benefit can be achieved in a very cost-effective manner with RRR. Section 625.3(a)(6) serves to emphasize that potential. Second, the FHWA believes that some standard, criteria, or procedure must be established to govern the scope and direction of RRR. Through this rulemaking process, the FHWA has come to the conclusion that the standards, criteria, and/or procedures for RRR should be flexible, cost-effective, and locally developed (by or through the States). This paragraph conveys that requirement and is, therefore, essential to the rule.

Many of the responses favoring adoption of this rule also offered reasons for that position. The two reasons most often mentioned were (1) the flexible approach, and (2) the provision for State and/or local development of the geometric design criteria for RRR.

In addition to the comments received during the public comment period, the FHWA also received a National Transportation Safety Board (NTSB) report titled "Safety Effectiveness Evaluation of FHWA's Non-Interstate RRR Program". This report is critical of this rule and the entire RRR program. It contains five major recommendations which the NTSB subsequently issued as formal Safety Recommendations (H–81–88 through H–81–92) on November 19, 1981.

The FHWA agrees in essence with the first four NTSB recommendations. Actually, FHWA is already in substantial compliance with two of these four recommendations by virtue of established, ongoing procedures and studies, and will be in compliance with the other two upon issuance of this rule and completion of a review now being initiated. Recommendation H–81–88 suggested that a review of current RRR practices and procedures be made. FHWA is initiating this review and expects it to be completed within a few months. Recommendation H–81–89 suggested that guidelines be issued in conjunction with this rule to provide further direction on the review and approval of State developed geometric design criteria for use on RRR projects. This preamble identifies essential factors which should be addressed in State-developed geometric design criteria for RRR. A Technical Advisory further identifying these essential factors will be issued after publication of this rule. Recommendation H–81–90 suggested that the FHWA perform an analysis to identify the optimum combination of new construction, reconstruction and RRR projects. FHWA has worked for years with the States to develop and refine programming and project selection procedures, and will continue to do so. Recommendation H–81–91 suggested that the FHWA develop a plan for monitoring and evaluating the impact of the RRR program on the highway system condition and safety. The FHWA is continually monitoring highway conditions and needs through the ongoing National Highway Performance Monitoring Study and through accident data collection and evaluation activities conducted by the States in compliance with Highway Safety Program Standards 9 and 10. In addition, the FHWA is inviting comments on the implementation of this rule from all interested parties. Based upon an evaluation of the implementation of the rule, including a review of the comments submitted to the docket, the FHWA will determine the need for future revisions to its policies and procedures for the geometric design of nonfreeway RRR projects.

The FHWA does not agree with the fifth recommendation (H–81–92) which suggests that the FHWA continue to administer the RRR program using existing procedures and criteria for new construction, with exceptions permitted only if their basis and predicted impact are documented for review and future evaluation. The FHWA believes that geometric design criteria for new construction are not appropriate to the scope and purpose of most RRR projects, and that their continued application will generate an excessive number of requests for exceptions, needless red tape, further delays, and additional unwarranted costs. This rule, with its flexible approach, would avoid the application of inappropriate criteria by allowing local discretion and initiative in the development of geometric design criteria for RRR projects. The FHWA believes it is the most practical and cost-effective method of preserving and prolonging the service life of our existing highway system.

The FHWA's formal reply to the NTSB recommendations has been placed in the Public Docket 80–3.

The Subcommittee on Investigations and Oversight of the House Committee on Public Works and Transportation conducted a series of hearings in September, October, and December, 1981, concerning this rulemaking and the nonfreeway RRR program in general. The FHWA testified twice during these hearings in support of this rule. Copies of the prepared statements of FHWA witnesses, the FHWA's answers to subsequent questions by Subcommittee members, and transcripts of FHWA's testimony have been placed in the Public Docket 80–3.

Several other groups and individuals also testified during the hearings, including AASHTO, NTSB, Midwest Research Institute, Howard Anderson, the Center for Auto Safety, the National Association of Governors Highway Safety Representatives, Potters Industries, Charles W. Prisk, Edmund R. Ricker, Robert R. Coleman, and James E.

Wilson. Issues raised by these groups and individuals were considered in the final development of this rule. Copies of their prepared statements have been placed in the Public Docket 80–3.

During the hearings, AASHTO was asked by the Subcommittee to survey its members to determine which basic approach to administration of the Federal-aid RRR program each member favored. The Summary Report for that survey showed that:

(a) 11 States favored adoption of national geometric design criteria for RRR, generally along the lines of the AASHTO RRR Guide or the 1978 FHWA RRR criteria.

(b) 21 States favored adoption of this rule which allows each State to develop its own geometric design criteria for RRR projects.

(c) 10 States favored continuation of the current procedure, using current geometric design criteria for new construction for RRR projects with exceptions granted by FHWA on a project-by-project basis.

The full Summary Report on the AASHTO Survey has been placed in the Public Docket 80–3.

The FHWA notes that half of the State transportation agencies responding favored this rule, and an overwhelming majority (31 of 42) favored either the proposed rule or the present procedures. Both alternatives would be permissible under this rule. The FHWA further notes that these State transportation agencies are the organizations most directly affected by this rule.

On May 17, 1982, the House Committee on Public Works and Transportation reported a bill (H.R. 6211) entitled "The Surface Transportation Assistance Act of 1982." Section 112 of this bill specifies that standards adopted by the FHWA for new construction projects on the Federal-aid primary, secondary and urban systems shall also apply to all nonfreeway RRR projects on those systems, unless the Secretary of Transportation or his designee, on request of the State highway agency, grants a specific exception or exceptions to these standards. The requirements of this provision are intended to require the FHWA to continue the current practice for nonfreeway RRR projects without alteration of the scope of the waivers currently being granted. H.R. Rept. No. 555, 97th Cong. 2d sess. 10 (1982).

The FHWA rule set forth herein would allow any State desiring continuation of the current procedure to do so (apparently at least 10 of the 42 States responding to the AASHTO Survey do favor this option). It would also permit other States to develop a more streamlined process, assuming FHWA agreement on geometric design criteria for nonfreeway RRR projects in those States.

For the reasons previously stated, the FHWA believes that mandatory national geometric design criteria for new construction are not appropriate to the scope and purpose of most RRR projects, and that their continued application to RRR projects will generate an excessive number of requests for exceptions, needless red tape, further delays, and additional unwarranted costs.

In accordance with the provisions of Executive Order 12291, in promulgating this rule the FHWA has determined that (a) the rule is clearly within the authority delegated by law and consistent with congressional intent, and (b) the factual conclusions upon which the rule is based have substantial support in the agency record, viewed as a whole, with full attention to public comments in general and the comments of persons directly affected by the rule in particular.

In consideration of the foregoing, and under the authority of 23 U.S.C. 101, 109, 315 and 49 CFR 1.48(b), the Federal Highway Administration revises Chapter 1, Part 625 of Title 23, Code of Federal Regulations, as set forth below.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on June 4, 1982.

R. A. Barnhart,

Federal Highway Administrator.

List of Subjects in 23 CFR Part 625

Design standards, Grant programs—transportation, Highways and roads.

PART 625—DESIGN STANDARDS FOR HIGHWAYS

1. The table of sections is amended by adding a new section to read:

Sec.

* * * * *

625.2 Policy.

* * * * *

2. Section 625.2 is added to read as follows:

§ 625.2 Policy.

(a) Plans and specifications for proposed Federal-aid highway projects shall provide for a facility that will (1) adequately meet the existing and probable future traffic needs and conditions in a manner conducive to safety, durability, and economy of maintenance; and (2) be designed and constructed in accordance with standards best suited to accomplish the foregoing objectives and to conform to the particular needs of each locality.

(b) The development and overall management of highway facilities must be considered as a continuing program. This process of highway management commences with planning and extends through design, construction, maintenance, and operation. To assure a continuing acceptable level of safe traffic service, it is essential to provide for adequate maintenance and periodic resurfacing, restoration, and rehabilitation (RRR) throughout the life of the highway. The RRR work is defined as work undertaken primarily to extend the service life of an existing facility. This includes placement of additional surface material and/or other work necessary to return an existing roadway, including shoulders or bridges, the roadside, and appurtenances to a condition of structural or functional adequacy. The RRR work may include upgrading of geometric features, such as minor roadway widening, flattening curves, or improving sight distances. The RRR work is an essential part of any highway program, and each State and local agency should provide for these types of improvements in each annual highway program.

(c) An important goal of the FHWA is to provide the highest practical and feasible level of safety for people and property associated with the Nation's highway transportation systems and to reduce highway hazards and the resulting number and severity of accidents on all the Nation's highways. Accordingly, the only constraint on the application of Federal-aid funds to RRR work is that they must be used to provide a facility that adequately meets existing and probable future traffic needs and conditions in a manner conducive to safety, durability, and economy of maintenance, and acceptable levels of community and environmental impact. The RRR projects should be designed and constructed in a manner that will prevent deterioration of safety and yet accomplish the foregoing objectives according to the particular needs of each State and locality.

§ 625.3 [Amended]

3. Paragraphs (a)(6) through (a)(20) of § 625.3 are redesignated (a)(7) through (a)(21), respectively.

4. A new paragraph (a)(6) of § 625.3 is added to read as follows:

(a) * * *

(6) The geometric design standards for resurfacing, restoration, and rehabilitation (RRR) projects on highways other than freeways shall be the procedures and the design or design criteria established for individual projects, groups of projects, or all nonfreeway RRR projects in a State, and as approved by the FHWA. The other geometric design standards in this section do not apply to RRR projects on highways other than freeways, except as adopted on an individual State basis. The RRR design standards shall reflect the consideration of the traffic, safety, economic, physical, community, and environmental needs of the projects.

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Part IV

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Areas Unsuitable for Surface Coal Mining: Areas Designated by Act of Congress; Criteria for Designating Areas; State Processes for Designating Areas; Designating Lands as Unsuitable Under a Federal Program for a State; and Petition Process for Designation of Federal Lands

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 736, 760, 761, 762, 764, 765, and 769

Areas Unsuitable for Surface Coal Mining: Areas designated by Act of Congress; Criteria for Designating Areas; State Processes for Designating Areas; Designating Lands as Unsuitable Under a Federal Program for a State; and Petition Process for Designation of Federal Lands

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rules.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is proposing to amend existing permanent program rules which establish procedures for implementing the requirements of the Surface Mining Control and Reclamation Act of 1977 for designating lands unsuitable for all or certain types of surface coal mining operations, for terminating such designations, for identifying lands on which surface coal mining operations are limited or prohibited, and for implementing those limits and prohibitions.

OSM has drafted these revisions in response to the Secretary's goal of removing burdensome or counterproductive rules. The proposed rules would afford States flexibility needed to accommodate unique State circumstances and would also enable the Department to implement the unsuitability process for Federal lands more efficiently.

DATES:

Written comments: Accepted until further notice.

Public hearings: Held on request only, on July 19, 1982, in Washington, D.C. and July 22, 1982 in Denver, CO., at 9:00 a.m. (local).

Public meetings: Scheduled on request only.

ADDRESSES:

Written comments: Hand-deliver to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (SPA–04), Room 5315, 1100 L Street, NW., Washington, D.C.; or *mail* to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (SPA–04), Room 5315L, 1951 Constitution Avenue, NW., Washington, DC 20240.

Public hearings: Washington, D.C.—Department of the Interior Auditorium, 18th and C Streets, NW.; and Denver, Colo.—Brooks Tower, 2d Floor Conference Room, 1020 15th Street.

Public meetings: OSM offices in Washington, D.C.; Charleston, W. Va.; Knoxville, Tenn.; Indianapolis, Ind.; Pittsburgh, Pa.; and Denver, Colo.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Program Operations and Inspection, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; 202–343–4225.

SUPPLEMENTARY INFORMATION:

I. Public Commenting Procedures.
II. Background.
III. Discussion of Proposed Rules.
IV. Procedural Matters.

I. Public Commenting Procedures

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Commenters are requested to submit five copies of their comments (see "Addresses"). Comments received at locations other than Washington, D.C., will not necessarily be considered or be included in the Administrative Record for the final rulemaking. The comment period will remain open until the close of the comment period on the draft supplemental environmental impact statement that will consider this proposed rule.

Public Hearings

Public hearings will be held at any or all of the locations listed under "Addresses" only if OSM receives a timely request for a hearing at the particular location. Persons wishing to comment at the public hearings should contact the person listed under "For Further Information Contact" by the close of business *three working days* before the date of the hearing. If no one requests to comment at a public hearing at a particular location by that date, the hearing will not be held. If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions.

Public hearings will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meetings

Persons wishing to meet with OSM representatives to discuss these proposed rules may request a meeting at any of the OSM offices listed under "Addresses" by contacting the person listed under "For Further Information Contact."

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record room (1100 L St.). A written summary of each public meeting will be made a part of the Administrative Record.

II. Background

Section 522 of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* (the Act) establishes a process through which mining may be limited or prohibited where other values are found to be more important than mining and specifies certain areas as unsuitable for mining. Section 522(a) establishes requirements for State regulatory programs and specifies the criteria for determining whether an area should be declared unsuitable for mining. Section 522(b) establishes a review process to determine whether Federal lands should be designated as unsuitable for mining. Section 522(c) describes the procedures and requirements for submitting and reviewing petitions to have areas designated as unsuitable for mining. Section 522(d) requires the consideration of certain factors prior to designating an area as unsuitable. Section 522(e) forbids mining in areas expressly designated by Congress as unsuitable for mining, with certain exceptions.

On March 13, 1979, the Secretary promulgated final rules (30 CFR Chapter VII) for the permanent regulatory program under the Act. These rules (30 CFR Parts 760 through 769) provide for the designation of lands as unsuitable for all or certain types of surface coal mining operations, for terminating such designations, for identifying lands on which surface coal mining operations are limited or prohibited under section 522(e) of the Act, and for implementing those limits and prohibitions. The proposed rules would modify existing requirements to provide States with new flexibility in carrying out the requirements of the Act. In some cases,

the proposed rules would allow regulatory authorities to modify procedural requirements for determining areas designated unsuitable by Act of Congress and processes for designating areas unsuitable for surface coal mining operations. Specifically, the changes would—

1. Eliminate duplicative regulatory language, or modify such language to more accurately reflect provisions of the Act;
2. Modify definitions and requirements;
3. Give States and OSM (in a Federal program or Federal lands program) an opportunity to require more information from the petitioners for complete and nonfrivolous petitions;
4. Allow States to suspend and OSM to reject petitions where no real and foreseeable potential for mining to occur is found;
5. Revise standing requirements for persons to submit a petition or intervene in the petition evaluation process;
6. Allow States to defer petitions when the State or local government has a land use planning process that provides comparable environmental protection and public participation;
7. Provide States and OSM with more flexibility regarding the fulfillment of public notice obligations;
8. Provide States and OSM with greater flexibility in the implementation of the unsuitability process, including acceptance of petitions and the nature of the hearing to be held on petitions for designation and termination of designation;
9. Provide States and OSM with the authority to withhold historic resources information from public disclosure, where such disclosure would expose the resources to substantial risk of harm or destruction (pursuant to 1980 Amendments to the National Historic Preservation Act); and
10. Limit or eliminate the petition process on Federal lands.

States may, of course, have rules which are different from the Federal requirements as long as they are consistent with them. "Consistent with" is defined by 30 CFR 730.5, as amended October 28, 1981 (46 FR 53376 *et seq.*). Thus, some States may wish to retain existing requirements even though this rulemaking would allow change.

The proposed changes are discussed below. In a number of cases, alternatives for proposed rule changes are set forth. OSM invites comments on specific alternatives.

OSM has proposed numerous changes for editorial clarity. Those which have no substance are not specifically discussed. For example, wherever the term "Regional Director" was used, is proposed to be changed to "OSM" or "Director" to reflect the September 13, 1981, reorganization of OSM.

III. Discussion of Proposed Rules

A. Section 736.15 Implementation, Enforcement, and Maintenance of a Federal Program (Amendment 1)

OSM proposes to revise § 736.15 to include the effective date for a Federal program for designating lands unsuitable for mining. This requirement is presently included in § 765.13(a). The present § 736.15 would be redesignated § 736.15(a), a sentence referencing Subchapter F would be deleted, and a new paragraph (b) would be added to include the provision being moved from § 765.13.

B. Part 760 (Amendment 2)

OSM proposes to eliminate all of Part 760. Section 760.1 explains requirements which follow in Subchapter F. It contains no substantive provisions.

Section 760.2, entitled "Objectives," is proposed to be removed because the text repeats information provided in Parts 761, 762, and 764, merely explains requirements which follow, and does not contain substantive provisions.

Section 760.3, entitled "Authority," is proposed to be removed in order to streamline the chapter. This section repeats materials presented elsewhere in the chapter.

Section 760.4, entitled "Responsibility," is proposed to be removed for editorial clarity. The deletion is proposed in order to streamline the chapter by eliminating those sections which are redundant or do not contain substantive requirements.

C. Sections 761.2 and 761.4 (Amendment 3)

Section 761.2, entitled "Objective," is proposed to be removed because the substantive text is incorporated in §§ 761.5, 761.11, and 761.12 of the rules. As in other sections this section is proposed for removal to streamline the chapter.

Section 761.4, entitled "Responsibility," is proposed to be removed because it repeats material contained elsewhere in the chapter.

D. Section 761.5 Definitions; Valid Existing Rights (Amendments 4 through 6)

Under section 522(e) of the Act, operators with valid existing rights (VER) may mine in areas where mining is otherwise forbidden. The present definition of valid existing rights distinguishes between haul roads and other types of rights and operations. Any road in existence as a August 3, 1977, plus any other right-of-way, easement, or permit for a road existing on August 3, 1977, is considered to have VER. "Any road in existence" means any road regardless of use, not just haul roads. No changes to the definition of haul road VER are proposed.

Under the existing definition, other facilities and operations must meet two tests to establish VER: First, coal production must have been authorized by "property rights in existence on August 3, 1977, that were created by a legally binding conveyance, lease, deed, contract, or other document which authorizes the applicant to produce coal by a surface coal mining operation;" second, either the operator must have received all necessary permits to mine by August 3, 1977, or must demonstrate that "the coal is both needed for, and immediately adjacent to, an ongoing surface coal mining operation for which all mine plan approvals and permits were obtained prior to August 3, 1977."

The existing definition of VER for facilities other than haul roads has been challenged as being unnecessarily restrictive and as destroying legitimate property rights. Informal comments from states and members of the public indicate that many believe that application of the definition is a taking without just compensation in violation of the Constitution and congressional intent.

OSM is proposing three options for revising the definition of VER. Option 1 is similar to the existing definition, with changes to reflect judicial action and to clarify terminology. Option 2 would establish ownership of the coal as VER, and Option 3 would make ownership plus the right to mine by the method to be used as the test for VER.

Option 1

OSM recognizes that, at a minimum, the existing definition needs to be revised to reflect a judicial decision and to clarify vague terminology.

First, Paragraph (a)(2)(i) is proposed to be amended to extend the definition of VER to include the case where an applicant had exercised a good faith effort to obtain, on or before August 3, 1977, all State and Federal permits necessary to conduct operations, in addition to operations which had been issued all necessary State and Federal permits. This change responds to *In re: Permanent Surface Mining Regulation Litigation*, Civil Action No. 79–1144 (D.D.C. February 26, 1980), in which the court indicated that it believed "that a good faith attempt to obtain all permits

before the August 3, 1977, cutoff date should suffice for meeting the 'all permits' test." (February 26, 1980, opinion cited above at p. 20.) The proposed revision within Option 1 would accomplish that objective. A good faith effort would be considered met if all necessary permits had been applied for prior to August 3, 1977.

Second, Option 1 proposes changes for paragraph (a)(2)(ii) which provides that VER may be demonstrated where coal is both needed for, and immediately adjacent to, an ongoing operation for which all mine plan approvals and permits were obtained prior to August 3, 1977. The term "needed for" is ambiguous. Therefore, this section would be amended under Option 1 to specify that "needed for" means that the extension of mining is required to make the operation, as a whole, economically viable. This change is consistent with the U.S. District Court decision upholding the need concept in, *In re: Permanent Surface Mining Regulation Litigation,* Civil Action No. 79–1144 (D.D.C. February 26, 1980).

Existing paragraph (d), which lists certain rights which would not be VER is proposed to be relettered paragraph (f) and revised to delete the phrase which indicates that applying for a Federal or State permit would not be a VER, as this statement is inconsistent with the proposed definition in Option 1.

Option 2

The present definition, modified as described in the preceding paragraph, is the most restrictive alternative proposed by OSM for a definition of VER. At the opposite extreme, ownership of the coal alone could be considered VER. The present definition links VER to the concept of substantial legal and financial commitments in section 522(a)(6) of the Act as defined in § 762.5 of the existing rules. Section 522(a)(6) exempts lands from the unsuitability petition process (but not from the section 522(e) prohibitions) if substantial legal and financial commitments had been made in such operations prior to January 4, 1977. When the present VER definition for application to section 522(e) was developed, OSM reasoned that to be entitled to an exemption from the areas where Congress had prohibited mining, property owners "must have a property interest in the mine that is even greater than the substantial legal and financial commitments needed to mine despite a designation by petition under section 522(a). Thus, OSM believes that VER must be more than 'significant investments, that have been made on the basis of a long-term coal contract, in powerplants, railroads, coal preparation, extraction, handling and storage facilities, and other capital itensive activities* * *' " (44 FR 14991–2; March 13, 1979). This rationale further enabled OSM in the original rules to apply to VER the legislative history applicable to substantial legal and financial commitments, which states that "The committee does not intend that mere ownership or acquisition costs of the coal itself or the right to mine it should constitute 'substantial legal and financial commitments.' " (H. Rept. 95–218, 95th Cong., 1st sess., p. 95 (1977)).

In reexamining the definition, however, it is important to note that the relationship between VER and substantial legal and financial commitments is not suggested by the legislative history. Both concepts were covered repeatedly in the long legislative history. Each was discussed separately in every case. Nowhere in the legislative history does Congress compare the two concepts. The Secretary believes that VER need not be a stricter test than substantial legal and financial commitments and it does not necessarily follow that VER requires more than ownership of the coal.

The legislative history indicates that VER was introduced to make clear that the language of section 522(e) is subject to previous court interpretations:

"The language 'subject to valid existing rights' in Section 522(e) is intended * * * to make clear that the prohibition of strip mining on the national forests is subject to previous court interpretations of valid existing rights." (H. Rept. 95–218, 95th Cong., 1st sess., p. 95 (1977)).

Similar language is found in several U.S. Congress reports (H. Rept. 94–1445, 94th Cong., 2d sess., p. 47 (1976); S. Rept. 94–28, 94th Cong., 2d sess., p. 220 (1976); and S. Rept. 95–128, 95th Cong., 1st sess., p. 94 (1977)). These reports also made clear that VER applies to all the other prohibitions in section 522(e); not just to national forests (section 522(e)(2)).

This legislative history gives no definitive guidance on how VER should be defined. The only consistent theme is that interpretation should be based on previous court decisions. In some instances, the history says only "court decisions," in others "State court decisions." This allows a great deal of latitude. Interpretations of rights to mine vary substantially from State to State. For example, in Kentucky coal-bearing lands purchased using the broad form deed prevalent in Appalachian States in the late 19th century could be mined using surface mining methods regardless of whether such methods were contemplated at the time of sale. Setting the standard at whatever the State laws and courts allow would result in an inconsistent interpretation of VER. The standard which would clearly allow consistency among all States would be to make ownership of the coal on August 3, 1977, VER.

Under this second option, paragraph (a) would be revised to read "Except for haul roads, those property rights in existence on August 3, 1977, that were created by a legally binding conveyance, lease, deed, contract, or other document which establishes ownership of the coal resource." In addition, paragraph (d) of the existing definition which states that ownership is not VER, would be removed, because it would contradict the proposed language of paragraph (a).

This definition would result in a significant expansion in the number of areas having VER.

Option 3

In its discussions of VER in the legislative history, Congress cited the *Polino* decision *(United States* v. *Polino,* 133 F. Supp. 722 (D. W. Va. 1955)) in a way which can be interpreted either as an example of VER or as the standard for VER. In *Polino,* the court held that strip mining was not authorized unless such rights were specifically granted. In other words, a coal owner did not have the right to strip unless the contract or other documents clearly conveyed that right. In House Report 95–218 (95th Cong., 1st sess., p. 95 (1977)), *Polino* is used as an example of previous court interpretations which should be accepted. In contrast, Senate Report 95–128 (95th Cong., 1st sess., p. 94 (1977)) requires that the VER claimant "must show usage or custom at the time and place where the contract is to be executed and must show that such rights were contemplated by the parties." This is the only definition suggested in the legislative history. Using this standard, VER would consist of (1) the ownership of the coal resource plus (2) the right as against the surface owner to mine the coal by the method intended.

Under this option, paragraph (a) would be revised to read "Expect for haul roads, those property rights in existence on August 3, 1977, that were created by a legally binding conveyance, lease, deed, contract, or other document which establishes ownership of the coal resource and authorizes the applicant to disturb the surface in connection with an underground mine, or, for surface mines, to produce coal by a surface coal mining method."

This definition would increase the number of areas having VER in comparison to Option 1, but would

result in fewer areas having VER than under Option 2.

Other options

OSM is also considering three related options. VER would consist of (a) ownership for owners of record on August 3, 1977, but not for subsequent purchasers, (b) ownership plus right to mine (but not requiring a right to a specific method) or (c) ownership, right to mine using the specific method at issue, and intent to mine. No language has been proposed because these have only minor differences from the basic options presented. The only difference in (a) is to limit transferability. With regard to (b), ownership itself generally carries some mining rights, at least using underground techniques. In (c), intent is difficult to prove or disprove without imposing highly specific requirements, such as for plans and financing, for which there is no support in the legislative history. Another alternative being considered is to specify a basic standard, such as one of the six options described above, plus alternative tests which would be accepted as equivalent to the basic standard. For example, if the basic standard were ownership, right to mine using surface mining methods, and intent to mine, OSM might also include the test that any operator who had received all permits as of August 3, 1977, had VER. Receipt of all permits would be considered evidence that the basic standard had been met. This combination of tests approach could be applied to any of the six basic options described. Comments are requested on all the options described, plus the alternative test. Any of these options or combinations or variations of them may be adopted as the final rule.

Continually Created VER

Experience with section 522(e) of the Act indicates that VER is not static; that is, new VER are continuously being created under certain situations. For example, OSM believes that an operator who obtains all permits required after August 3, 1977, should be able to mine the permit area even if an adjacent landowner subsequently builds a house closer than 300 feet.

Accordingly, OSM proposes to provide under each option above that VER can be shown when the operator proposing to conduct surface coal mining operations demonstrates that the operation existed or had been permitted at the time an area became protected under section 522(e), or at the time a structure, road, cemetery, or other activity listed in section 522(e) came into existence within the prohibited distance of an operation. This change is being proposed as a means to address future situations in which an operator will get a permit and be conducting operations in conformity therewith. Someone subsequently may build a home, for example, within 300 feet of the existing operations or begin a cemetery within 100 feet thereof, and the existing rules could be construed to require termination of such operations, no matter how long they had been existence.

Similarly, without this proposed change, an underground mine operator who acquired rights for just enough land for a power hole could be forced to stop using the hole if someone moved within 300 feet of it. To be protected, the underground operator would have to acquire rights to a 300-foot buffer area at each point of surface access, and the surface operator would have to acquire a 300-foot buffer area around each permit area. The preamble to the existing rules addressed this possibility by stating:

> "An operator would be well advised to obtain a waiver from a potential owner before beginning to mine." (44 FR 14991; March 13, 1979).

OSM now recognizes that it may be infeasible for operators to determine all potential owners of lands adjacent to proposed mining activity or to foresee the possible relocation of a public road or the possible beginning of a cemetery within the prohibited distances of their operations. A workable interpretation of the term "existing" as used in Section 522(e) is that of being in existence at the time a conflicting activity or comes into being. OSM believes that Congress meant to protect such operations whether or not they were permitted before enactment of the Act.

The proposed revision would apply such new VER both to operations in existence as well as to operations which have not yet begun but for which all permits have been obtained. OSM also is considering whether the right should be created earlier, when an operator applies for permits, or limited to when operations are actually initiated. OSM is proposing to use permit issuance as the cutoff point because the public notice and public participation requirements of the permit process give notice to the public that such new rights will be created. Members of the public may then participate in the permitting process if their interests would be affected. Similarly, OSM proposes to restrict the new VER to the permit area, because that area will have been subject to public review and comment. Selection of a broader area might affect persons without giving adequate notice and opportunity to participate in the decision process. However, OSM requests comments on the timing and areal extent of the VER which would be so created.

Avoidance of Takings

A new paragraph (d) is proposed for each option to provide that VER may be found where no reasonable use of the property other than surface mining would otherwise remain. As is discussed in the preamble to the existing definition of VER (44 FR 14992, March 13, 1979), there is evidence in the legislative history that Congress decided to protect property rights in order to ensure that section 522(e) of the Act would not lead to unconstitutional takings without just compensation. Under this theory, the Secretary's basic purpose in defining VER is to provide a simple administrative means of determining those rights which should be protected as VER to avoid the constitutional issue.

The proposed § 761.5(d) is based on case law which indicates that where the value of property is diminished to such an extent that the property has no reasonable remaining use, the governmental action causing this loss constitutes a taking. *Pennsylvania Coal Co* v. *Mahon*, 260 U.S. 322 (1922); *Goldblatt* v. *Hempstead*, 369 U.S. 590 (1962); *South Terminal Corp.* v. *EPA*, 504 F. 2d 646 (1st Cir. 1974).

Interpretation of Documents

The existing paragraph (c) is proposed to be redesignated pargraph (e) and amended in each of the options. In addition, the rule being proposed is a revised version of an earlier proposal (45 FR 8242, February 6, 1980) which is intended to provide an alternative basis for interpreting the document authorizing the applicant to conduct surface mining, under the first part of the test for VER in § 761.5(a)(1). Paragraph (c) of the existing rule provides that interpretation is to be "based upon the usage and custom at the time and place where it [the document] came into existence and upon a showing by the applicant that the parties * * * actually contemplated a right to conduct the same * * * mining activities for which the applicant claims a valid existing right." The rule being proposed here would provide that where a State has statutory or case law establishing some standard for interpreting documents conveying mineral rights, that law will be used to interpret documents executed in that State. Only if no such statutory or case law existed would custom and usage be

relied upon for interpretation. This amendment to the existing rule was proposed in order to implement Congress' intent that State case law on interpretation of documents not be overruled. As stated in the 1974 Conference Committee Report and other reports, "the language of 522(e) is in no way intended to affect or abrogate any previous State court decisions." (H. Rept. 93–1522, 93d Cong., 2d sess., p. 85 (1974)). Comments received when this change was previously proposed are addressed as follows:

1. Several commenters on the February 6, 1980, proposed rule supported the proposed amendment but suggested it should be further expanded to recognize State statutory law in addition to State case law and provide flexibility for relying on future State decisions where State courts have not yet had an opportunity to rule on these issues. OSM agrees that valid State statutes as well as case law may be used to interpret documents relied upon to establish the first part (ownership) of the test for VER, and the new proposed rule would reflect this. OSM expects this revision in the rule to have minimal effect since the majority of problems with VER concern the intent of the parties to deeds executed prior to 1940, when surface mining had not yet become the viable method of mining that it is today. OSM agrees with the comment that the rule should accommodate future State court decisions, and OSM interprets "State case law" to encompass both existing and future decisions.

One of the commenters also suggested that, where no State case law exists, interpretations of documents should be based on interpretations by local courts of competent jurisdiction. OSM believes the commenter may have misunderstood the meaning of "State case law." State case law includes decisions of local courts as well as the decisions of appellate or higher courts.

2. One commenter opposed the proposed change, stating that it would negate the intent of Congress to establish a uniform national standard. However, Congress also intended that applicable State law should not be ignored in VER determinations. (H. Rept. 93–1522, 93d Cong., 2d sess., p. 85 (1974)). OSM invites further discussion of this commenter's statement.

3. One commenter suggested that the applicant should not have to show that the parties to the document actually contemplated a right to conduct the same underground or surface mining activities for which the applicant claims a VER. The commenter claimed that the choice or method of extraction is the right of the owner of the mineral rights, subject to usage and custom. This comment is related to the test set forth in *United States* v. *Polino*, 133 F. Supp. 722 (D. W. Va. 1955) which was the basis for VER paragraph (c) as originally issued (44 FR 14992, March 13, 1979). Option 2 for paragraph (a) reflects this suggestion.

Paragraph (f) for Option 1

The existing paragraph (d), which states that VER is more than the expectation of a right to mine, is proposed to be redesignated paragraph (f) for editorial purposes. Note that if Options 2 or 3 of paragraph (a) were adopted, this paragraph would be removed, as it would contradict the basic definition.

Paragraph (f) for Options 2 and 3 or Paragraph (g) for Option 1

A new paragraph (f) for Options 2 and 3 or (g) for Option 1 is proposed to provide that, notwithstanding paragraphs (a) through (e) or (f), as applicable, VER includes those private property rights for which a judicial finding of a taking of property without just compensation has occurred. The reasoning for this change is to clarify that VER extends to those rights which, if destroyed, would constitute a taking of property.

Under this paragraph, an owner who fails to meet the administrative definition of VER in § 761.5 may go to court for a determination that the governmental restriction on mining will constitute a taking unless the agency treats the owner as having VER. This paragraph recognizes that although there are several principles such as the reasonable remaining use principle, which courts seem to apply in many "taking" cases, there is no set formula for determining whether a particular factual situation constitutes a taking. Each case must be decided on its individual facts. *Penn Central Transportation Co.* v. *City of New York*, 438 U.S. 104 (1978).

Paragraph (g) for Options 2 and 3 or Paragraph (h) for Option 1

A new paragraph (g) for Options 2 and 3 or (h) for Option 1 is proposed to clarify that the Act's section 522(e) prohibition on mining within national forest boundaries does not apply to private inholdings. The legislative history makes clear that Congress did not intend that private inholdings be covered by section 522(e)(2) of the Act. House Report 95–218 (95th Cong., 1st sess., p. 95 (1977)) states "it is not the intent, nor is it the effect of this provision to preclude surface coal mining on private inholdings within the national forests."

E. Section 761.5 Definitions: No Significant Recreational, Timber, Economic, or Other Values Incompatible With Surface Coal Mining Operations (Amendment 7)

This provision defines those values that might be damaged by mining and cannot exist together with mining for the purposes of determining when mining could be allowed in national forests. Four changes are proposed to the existing definition. First, the use of the word "no" in the existing rule is inappropriate to the definition and would be eliminated. "No" refers to the type of findings to be made, not to the definition. Second, the term "damaged" would be changed to "irreparably damaged." This change reflects the fact that, under the Act, mining is intended to be a temporary use of the land. A temporary disruption which is fully repaired when mining is complete is consistent with the standards of the Act and is not a significant concern. Third, the term "offsite areas," which in the existing definition indicates that values outside the permit area are to be considered would be changed to "affected areas," a more precise and usable term. The present use of the term is "on offsite areas" which could be affected by mining. By substituting the term "affected areas" similar coverage is attained without necessarily implying coverage of an undefined, perhaps remote area away from the minesite. Finally, paragraph (d) is proposed to be changed to "other values which may be incompatible with surface mining operations" in order to reflect the specific language of the statute.

F. Section 761.5 Definitions: Occupied Dwelling (Amendment 8)

Section 522(e) of the Act prohibits mining within 300 feet of an occupied dwelling. The existing rules define an occupied dwelling as "any building that is currently being used on a regular or temporary basis for human habitation." OSM proposes to clarify the term "occupied dwelling" by defining the term "temporary" to mean that the dwelling is used for human habitation for not less than three consecutive months each year. The 3-month standard is suggested because it corresponds to a full season of use. Less than 3 months suggests intermittent use, which would not expose an occupant to the steady impact of nearby mining. OSM requests comments on other periods of time which would be an appropriate standard for temporary use.

G. Section 761.5 Definitions: Public Building (Amendments 9 and 10)

Section 522(e)(5) of the Act forbids mining within 300 feet of public buildings. "Public building" is presently defined as "any structure that is owned by a public agency or used principally for public business, meetings, or other group gatherings." OSM is considering two options to amend the definition of public building. Option 1 would define public building to mean "any structure that is owned, leased, or principally used by a governmental agency for public business, meetings, or other group gatherings." This revision would modify the existing definition by including in the concept structures not only owned or used but also those leased by government agencies for public purposes. Modifying the term "public" to "government" would eliminate certain community building from consideration in this context.

Option 2 would revise the definition to encompass only those structures that are owned by a public agency. Under this revision, the definition would narrow considerably the application of the prohibition on mining within 300 feet of a public building.

OSM requests comments on these two proposed options and whether the existing definition is satisfactory.

H. Section 761.5 Definitions: Public Park (Amendments 11 and 12)

Section 522(e)(5) of the Act prohibits mining within 300 feet of public parks. The existing definition of "public park" includes areas dedicated or designated by a public agency for public recreation, including lands leased, reserved or held open for that use. OSM is considering two options to modify the definition. First, OSM is considering eliminating the existing reference to lands "held open to the public" because it is not clear that Congress intended to cover private lands that have not been designated as a public park by a government agency. OSM rejected similar comments in the preamble to the existing rules (44 FR 14991, March 13, 1979) by noting that lands which are owned by nonprofit organizations whose primary purpose is the protection of natural resources, and which are open to the public, should be protected as provided under this definition since they are dedicated for public purposes. Such lands have no official status as parks, however, and could include areas which could not meet the usual governmental standards for public recreation areas.

The second option being considered by OSM would limit the definition of public park to areas or portions of areas "dedicated or designated by any Federal, State, or local agency primarily for public recreational use." * * *" This suggestion is based on concerns that, under the existing definition, in some circumstances, lands which are reserved as watershed property or other public service facility areas may be considered public parks. In some cases, parts of a broader area might be designated as a public park under the proposed revision, allowing other parts of the area to be managed for other purposes. Also, certain areas are devoted to mixed uses, which, at the discretion of the regulatory authority, may be deemed public parks. For example, one State has raised the problem that, on certain game lands which are considered public parks in that State, the State does not own the mineral rights and mining has historically been permitted to occur, subject to certain criteria. Under the existing rules, mining would not be permitted on such lands.

OSM has been considering the question whether all or part of the Fishtrap Lake Army Corps of Engineers' reservoir in eastern Kentucky is a public park. Several areas of the project lands are termed high density recreation areas. Recreation was one of the principal reasons for creation of the Fishtrap Lake project. OSM is of the view that these areas should qualify as pubic parks under either option. Such areas were designated for recreational use on the maps and plans for the reservoir project. Facilities for camping, boating, and swimming have been constructed and are used extensively by the public. OSM believes such areas fall within the protections of section 522(e)(3) and (5) of the Act becuase they were specifically designated and developed as recreation areas by the public agency charged with administration of the land. In addition, the recreational use is the dominant use and is concentrated in a defined area. This would allow operators to easily determine what areas within a large public project such as Fishtrap Lake will fall within the section 522 protections. The insertion of the term "primarily" in the second option would more explcitly include the high density recreation areas of Fishtrap Lake or similar facilities but OSM believes that the language of Option 1 would provide the same results as well.

In addition to these two options, OSM is considering a middle position which would allow the classification of multiple use areas to change, depending upon the use which is dominant at the time. For example, the use of an area might shift from timber mangement to wildlife to public recreation; it might be designated as a public park only during the recreation phase.

I. Section 761.5 Definitions: Public Road (Amendment 13)

OSM proposes to delete the definition of "public road." The definition of "road" and the public road concept in the definition of "affected area" would be used in the future to define public roads. These definitions are the subject of a separate rulemaking (47 FR 41–57, January 4, 1982).

J. Section 761.5 Definition: Cemetery (Amendment 14)

OSM proposes to revise the definition of "cemetery" to reflect the August 6, 1981, decision of the United States Court of Appeals for the Sixth Circuit. 655 F.2d 732 (6th Cir. 1981).

In that decision, the Court distinguished between public cemeteries and private family burial plots. It stated "There is no evidence that Congress ever intended to regulate private family burial plots not open to the public. It can hardly be claimed that the mining close to the graves on private property interferes with interstate commerce." Id. at 738.

In reviewing the legislative history, OSM has found no statement that indicated Congress intended that family burial plots should be considered cemeteries for the purpose of section 522(e) of the Act. Accordingly, OSM proposes to add to the existing definition the phrase "but does not include family burial grounds."

K. Section 761.11 (Amendment 15)

Section 761.11(a): Wild and Scenic Rivers

Existing § 761.11(a) provides that, subject to valid existing rights, no surface coal mining operations shall be conducted within the boundaries of certain national systems, such as the Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)). A proposed boundary for rivers under study for wild and scenic designation has been identified by the National Park Service (NPS) in guidelines published in the **Federal Register** on Janaury 28, 1981 (46 FR 9148). The study area defined by NPS would cover, at a minimum, a corridor extending the length of the study segment and extending in width one-quarter mile from each bank of the river. Accordingly, OSM proposes to revise § 761.11(a) to include this clarification, which would give States discretion to establish these boundaries or others which would exceed the

minimum standard established by NPS. OSM invites comments on this issue.

Section 761.11(c): National Register of Historic Places

Section 522(e)(3) of the Act prohibits, subject to valid existing rights, surface coal mining operations "which will adversely affect any publicly owned park or places included in the National Register of Historic Sites [sic] unless approved jointly by the regulatory authority and the Federal, State, or local agency with jurisdiction over the park or the historic site." When promulgating § 761.11(c) of the permanent program rules, OSM interpreted section 522(e)(3) to be as broad as the National Historic Preservation Act of 1966, as amended (NHPA) (16 U.S.C. 470) and thus to include publicly owned properties listed in the National Register and properties merely eligible for listing in the National Register. As a result of litigation in the United States District Court for the District of Columbia, *In re: Permanent Surface Mining Regulation Litigation*, Civil Action No. 79–1144 (D.D.C. Feb. 26, 1980), OSM suspended this rule insofar as it covered areas merely eligible for the National Register and privately owned properties. OSM is proposing to amend § 761.11(c) to apply only to publicly owned properties listed on the National Register.

The proposed change would delete privately owned properties listed in the National Register and all eligible properties from the prohibition and procedures established in section 522(e)(3) of the Act and Part 761. This amended language would be consistent with OSM's present interpretation of section 522(e)(3) and with the proposed amendment to § 761.12(f)(1), discussed below.

Section 761.11(d)(2): Public Road Decisions

Existing § 761.11(d)(2) provides that, subject to valid existing rights, no surface coal mining operations shall be conducted after August 3, 1977, within 100 feet, measured horizontally, of the outside right-of-way line of any public road, except where the regulatory authority allows the public road to be relocated or the area affected to be within 100 feet of the road. OSM has found that decisions regarding public road relocations are rarely made solely by the regulatory authority but are typically made by a public road authority in coordination with the regulatory authority. In accord with this finding, OSM proposes to amend § 761.11(d)(2) by providing that the regulatory authority, or public road authority upon being designated as the responsible agency by the regulatory authority, may take action provided that the procedures in § 761.11(d) are followed. In addition, this section would be modified to allow roads to be closed as an alternative to relocation.

Section 761.11(e): 300-Foot Limitation on Mining

Existing § 761.11(e) provides that, subject to valid existing rights, no surface coal mining operations shall be conducted after August 3, 1977, unless those operations existed on that date, within 300 feet, measured horizontally, of any occupied dwelling, except when the owner thereof has provided a written waiver consenting to operations closer than 300 feet. OSM proposes to add a second exception haul roads which connect with public roads opposite occupied dwellings.

This provision is being proposed to address the issue of whether an existing public road adjacent to and within 300 feet of an occupied dwelling essentially negates the purposes of prohibiting a haul road that intersects the public road on the opposite side and within 300 feet of the dwelling. Such a haul road would not bring impacts any closer to a dwelling on the opposite side of the road, because the dwelling is already subject to the impacts of public road use.

L. Sections 761.12 (b) and (d): Procedures for Reviewing Permit Applications (Amendment 16)

Section 761.12(b)

Section 761.12(b) provides that, where a proposed surface coal mining operation would be located on any lands listed in § 761.11(a), (f), or (g), the regulatory authority shall reject the application if the applicant had no valid existing rights for the area on August 3, 1977, or if the operation did not exist on that date. The proposed modifications to the definition of valid existing rights would allow valid existing rights to be vested after August 3, 1977, pursuant to circumstances specified in proposed § 761.5. In correlation with these proposed modifications, § 761.12(b)(1) is proposed to be amended to provide that the regulatory authority shall reject the application if the applicant has no valid existing rights for the area pursuant to § 761.5.

Section 761.12(b)(2) provides that, when the regulatory authority is unable to determine whether the proposed operation is located within the boundaries of certain prohibited or limited areas, it will transmit information to the appropriate agency, which must respond within 30 days of receipt of the request.

Section 761.12(b)(2) is being proposed for revision to provide that the appropriate agency has 30 days from receipt of the request in which to respond or the regulatory authority may make a determination based on available information. This change would clarify that regulatory authorities have the discretion to proceed with determining areas prohibited or limited by Congress when response from outside agencies is not forthcoming within the designated comment period. Nonetheless, regulatory authorities are still responsible for making sure that section 522(e) of the Act is not violated.

Section 761.12(d)

Existing § 761.12(d) provides procedures for obtaining approval to mine within 100 feet of a public road or to relocate public roads. OSM proposes to revise this section to reflect the change proposed to § 761.11(d) to allow a public road authority, as appropriate, to act on road relocation and to include the additional option of closing a road. Actions involving roads generally are required to be coordinated with the agency responsible for public roads. OSM believes that there is no need for regulatory authorities to duplicate the actions of a road authority. If the road authority provides the opportunity, notice, and findings consistent with these rules to protect the interests of the public and landowners, the road authority should be able to take action. OSM also proposes to allow roads to be closed using the same procedures. Road closings are presently available to States to deal with other problems. Provided that the public interest is protected, OSM believes that closings should be available to deal with mining problems.

Sections 761.12(d)(2) and (3) are proposed to be revised for clarity. No substantive change is intended.

Section 761.12(d)(4) specifies that a written finding will be made based upon information received at the public hearing within 30 days after completion of the hearing as to whether the interests of the public and affected landowners will be protected from the proposed mining operations. This section is proposed for revision in conjunction with the changes proposed for § 761.12(d)(2) and (3) to provide that a finding will be made within 30 days after completion of the hearing, or at the end of the public comment period if no hearing is held.

M. Section 761.12(e) Waivers (Amendments 17 Through 19)

Section 761.12(e) provides requirements for obtaining waivers from certain limitations on mining. OSM previously proposed changes for this section (45 FR 8240–8245, February 6, 1980) and is reproposing these as part of this proposed rulemaking. OSM previously proposed to redesignate § 761.12(e) as § 761.12(e)(1). OSM also previously proposed to add § 761.12(e)(2), providing that where an applicant for a permit after August 3, 1977, had obtained a valid waiver from the owner of an occupied dwelling prior to August 3, 1977, a new waiver would not be required to mine within 300 feet of that dwelling (45 FR 8242–43, February 6, 1980).

OSM now proposes two options for proposed § 761.12(e)(1) option 1 for § 761.12(e)(1) would leave the existing text of Paragraph (e) unchanged except to remove the term "mine plan," which will be redefined in future revisions to 30 CFR Subchapter D of Chapter VII (Federal Lands Program) and will no longer be applicable to this situation. Option 2 would provide that, where proposed surface coal mining operations would be conducted within 300 feet, measured horizontally, of any occupied dwelling, the permit applicant shall submit with the application a written waiver by lease, deed, or other conveyance from the owner of the dwelling, clarifying that the owner and signator had the legal right to deny mining and knowingly waived that right. The waiver shall allow such operations within a closer distance of the dwelling as specified.

The revisions proposed in Option 2, which correspond to the previously proposed revisions, respond to the comments received in response to the February 6, 1980, rulemaking. These comments are summarized below.

One commenter suggested that the rule should not contain language requiring a written waiver "that is knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver." The commenter also suggested that such a rule improperly empowers the Secretary to prescribe the form of and construe the effects of acts or instruments subject to common law rule. Another commenter suggested that a valid waiver be limited to a written instrument in which it is clear that the signator had the legal right to deny mining and knowingly waived that right. The commenter stated that prior to August 3, 1977, most States did not allow an individual to deny the right to mine within 300 feet of his residence unless he owned the surface area in question. Option 2 reflects these concerns by allowing the waiver to be made through any appropriate conveyance and by requiring that the waiver indicated that the owner understood his right to deny mining and knowingly waived that right.

One commenter suggested adding the phrase "by lease, deed, or other conveyance" after the word "waiver" to clarify that the waiver can be accomplished through normal land conveyance procedures. Option 2 also incorporates this comment.

Previously proposed paragraph (e)(2), which would provide that no new waiver need be obtained if a permit applicant had obtained a valid waiver prior to August 3, 1977, is again proposed as Paragraph (e)(2).

OSM proposes at this time to add § 761.12(e)(3)(i), which would provide that where an applicant for a permit after August 3, 1977, had obtained a valid waiver, the waiver would remain effective against subsequent purchasers who had actual or constructive knowledge of the existing waiver at the time of purchase. Proposed § 761.12(e)(3)(ii) would provide that a subsequent purchaser shall be deemed to have constructive knowledge if the waiver has been properly filed in public property records pursuant to State laws or if mining has already proceeded within the prohibited distance at the time of purchase. It should be noted that a valid waiver may encompass the transfer of both valid leases and permits. Several commenters supported the February 6, 1980, proposed amendment, which would provide that a new waiver would not be required if an applicant had obtained a valid waiver prior to August 3, 1977. One commenter suggested that the phrase "valid waiver" should refer only to "the right to mine" obtained prior to August 3, 1977. However, under the proposed rules discussed for § 761.5(a)(3), there are circumstances in which VER could be shown when rights to mine were obtained after August 3, 1977. Therefore, this change is not included in the proposed rule.

Many commenters on the February 6, 1980, proposed rule recommended that as an alternative to, or in place of, the requirement that subsequent purchasers have actual knowledge of a waiver, a waiver should be deemed effective if properly filed in public records pursuant to applicable State recordation laws. With the rule so modified, the waiver would be accorded the same treatment as any outstanding lien, easement, or other interest in the property. An opposing commenter recommended that OSM require a prospective purchaser to provide a signed statement that he has been placed on notice of a waiver before he signs a purchase agreement. OSM agrees with the first recommendation that a waiver should be deemed effective if the waiver was properly filed in public property records or if a subsequent purchaser has actual knowledge of the waiver. These recommendations are reflected in proposed § 761.12(e)(3)(ii). As noted by these commenters, a prospective purchaser has the responsibility to check property records, consistent with many State recording statutes. Knowledge of the waiver would be imputed to a subsequent purchaser regardless of his or her actual knowledge if the waiver was properly recorded. This alternative would also provide a greater degree of certainty for operators, who are not parties to property sales negotiations and cannot be sure if an owner has given actual notice of the waiver to a subsequent purchaser. The opposing suggestion that the rule require a signed statement from a prospective purchaser is not accepted. The revised proposed rule, by requiring actual knowledge or constructive knowledge through recordation of waivers, would allow diligent prospective purchasers to know that their right to prohibit mining within 300 feet of their dwelling has been waived.

N. Section 761.12(f): Agency Review of National Register of Historic Places (Amendment 20)

Section 761.12(f)(1) establishes requirements and procedures for consulting with agenices which have responsibility for reviewing the impact of mining on public places and historic plans. OSM proposes to revise this section to eliminate reference to places eligible for listing on the National Register of Historic Places. This reflects a change similar to that proposed for § 761.11(c), discussed above. This amendment would also modify the language to "Where the proposed surface coal mining operation *will* adversely affect any public park or any publicly owned site * * *" (Emphasis added.) The existing rules use "may" rather than "will." Both of these changes are proposed to reflect the actual wording of section 522(e)(3) of the Act.

OSM also proposes to revise this section to provide that lack of response from other agencies with jurisdiction over parks or sites on the National Register within 30 days from receipt of the request would constitute approval of the proposed permit, subject to final

regulatory authority determination. This is proposed because a lack of agency action could result in long delays to permit approval.

OSM is considering additional modification to this section to provide States with further flexibility in establishing the appropriate government contacts for review and approval. One State has requested that the regulatory authority need only submit information requested pursuant to interagency agreements. OSM requests comments regarding whether such an approach would comply with the breadth of notification and review requirements under section 522(e)(3) of the Act.

Section 761.12(f)(2) is proposed to be revised to delete the words "mine plan approval or" from the requirement that a mine plan approval or permit for the operation shall not be issued unless jointly approved by all affected agencies. This change is proposed to be consistent with proposed rules published January 4, 1982 (47 FR 41–57) which would delete the definition of mine plan area and planned changes to 30 CFR Subchapter D of Chapter VII which would limit the application of "mine plan" to certain actions applicable only to Federal lands.

OSM has also considered clarifying what are "affected agencies" which must approve of a permit where the proposed operation will adversely affect sites listed on the National Register. OSM believes, however, that the term "affected agencies" is adequately defined in the proposed paragraph (f)(1) as "the Federal, State, or local agencies with jurisdiction over, or a statutory or regulatory responsibility for, the public park or publicly owned National Register site."

O. Section 762.5 Definitions (Amendments 21 Through 23)

Fragile Lands (Amendments 21 and 22)

The existing § 762.5 provides that the term "fragile lands" means geographic areas containing natural, ecologic, scientific, or esthetic resources that could be damaged or destroyed by surface coal mining operations. A number of examples are then provided, including uncommon geologic formations and buffer zones adjacent to the boundaries of areas where surface coal mining operations are prohibited. OSM is proposing two alternative revisions to this definition.

In Option 1, the term "damaged" would be modified by adding "irreparably" to reflect the fact that mining is an appropriate temporary use of the land and should not be prohibited where adequate reclamation can be accomplished. In addition, the "fragile lands" example of "areas where mining may cause flooding" is proposed to be changed to "areas where mining may result in flooding" as mining is not necessarily in itself the direct cause. In this option, the rest of the existing "fragile lands" definition would be left unchanged.

In Option 2, the definition of "fragile lands" would be narrowed in several ways. "Fragile lands" would mean geographic areas containing important natural, ecological, scientific, or esthetic resources that could be irreparably and significantly damaged or destroyed by surface coal mining operations.

Adding the words "important" and "significantly" to the definition would make the definition parallel the wording included in the Act (Section 522(a)(3)(B)) as part of the criteria for designation of unsuitability. Adding "irreparably" reflects the fact that mining is an appropriate temporary use of land and should not be prohibited where adequate reclamation is possible. The addition of these words would narrow the definition of fragile lands, therebyallowing State regulatory authorities to preclude certain lands from consideration for petition review and subsequent unsuitability designation. This could be done by finding a petition "frivolous" because no "fragile lands" were affected which were perceived to contain "important" resources subject to "irreparable" and "significant" damage or destruction. Importance and significance are included in the existing rules as part of the criteria for designation and are addressed in the evaluation of any petition deemed complete.

OSM further proposes in Option 2 to modify and eliminate certain examples. The example of "areas where mining may cause flooding" would be changed to "areas where mining may result in flooding" as mining is not necessarily in itself the direct cause. Also, the reference to "buffer zones adjacent to the boundaries of areas where surface coal mining operations are prohibited under section 522(e) of the Act and Part 761 of this chapter" would be eliminated, since Congress specifically included certain buffer zones in the limitations of section 522(e) where it wanted to establish such buffer zones.

OSM is considering a further suggestion to eliminate examples from each of the definitions in § 762.5, including all examples of "fragile lands." These examples appear to provide useful explanation and assistance in carrying out the provisions of the Act. Therefore, they have been retained in the proposed rules, but comments are invited on whether they should be deleted or retained in the final rule.

Historic Lands (Amendment 23)

The existing definition of "historic lands" includes a broad array of historic, cultural, and scientific areas.

OSM proposes to define "historic lands" to mean important historic, cultural, and scientific areas that could be irreparably damaged or destroyed by surface coal mining operations. Examples of historic lands include sites listed on the National Register of Historic Places, National Historic Landmark sites, and sites for which historic designation is pending. This change would add the terms "important" and "irreparably" to make clear that areas of minor importance or temporary disruptions would not qualify a site for designation. In addition, the list of examples would be reduced to the types of areas which would clearly qualify for designation. The term "eligible for listing" would be deleted to eliminate confusion over its meaning. This does not mean that an area eligible for listing under the highly technical definition of that term under the National Historic Preservation Act would not receive proper consideration; rather the change indicates that important and significant areas should be considered regardless of their relationship to the National Register of Historic Places. Similarly, deletion of the examples of sites listed on State registers of historic places and sites with religious or cultural significance to native Americans or religious groups would not preclude their consideration.

Renewable Resource Lands (Amendment 23)

OSM proposes to add a definition of the term "renewable resource lands" to clarify its use as a discretionary basis for designation of unsuitability under the Act (section 522(a)(3)(C)). "Renewable resource lands" is proposed to mean "geographic areas which contribute significantly to the long-range productivity of water supply or of food or fiber products, such lands to include aquifers and aquifer recharge areas."

Substantial Legal and Financial Commitments (Amendment 23)

OSM proposes to revise the definition or substantial legal and financial commitments (SLFC). The existing definition requires both investments and commitments in capital intensive activities and a long-term coal contract. The proposed revision would recognize that substantial commitments can be made with or without a long-term coal

contract. An operator could purchase equipment, construct facilities, and contract for construction without having a coal supply contract in hand. These obligations can be as substantial and binding as those made by an operator who also has a long-term supply contract. In either instance, the operator would have made both legal and financial commitments which go far beyond ownership and the right to mine. OSM believes that Congress intended to exempt areas where major commitments have been made, but not to specify an inflexible definition which would very rarely be met. OSM believes that the House committee which discussed the role of contracts may have been merely describing an example of the type of commitment required (H. Rept. 95–218, 95th Cong., 1st sess., p. 95 (1977)). This example was not used in any Senate report. If Congress had intended to limit SLFC to cases where the operator had a coal contract, it could have placed this limitation in the Act. Thus, under the proposed revision, SLFC would mean that significant investments and legal commitments have been made in activities and facilities such as powerplants, railroads, coal handling, preparation, extraction or storage facilities, and other capital-intensive activities. The existence of a contract would be consideration, but not a requirement.

OSM also has been presented with questions regarding the transferability of substantial legal and financial commitments from one coal operator to another, for a given operation and land area. OSM preliminarily believes that substantial legal and financial commitments may be transferred as part of the rights and commitments sold along with a business. Once established, this right is similar to others which are ordinarily transferred in the sale of businesses and properties. Not to allow such a transfer would diminish the value of the property.

P. Section 762.11 Criteria for Designating Lands as Unsuitable

OSM has considered revising § 762.11(b) to provide that lands should be designated only on the basis of allegations raised in the petition rather than on the basis of any or all criteria for designation specified in the Act, regardless of whether or not they were alleged by the petitioner. This concept would deny regulatory authorities the discretion to designate areas on the basis of information or allegations not provided in a petition. OSM has chosen to maintain the existing rule intact, at the request of States which want an opporunity to implement the processes for designating lands unsuitable under the identified criteria in a variety of acceptable ways.

The existing rule, which repeats the discretionary criteria from section 522(a)(3) of the Act, does not prevent States from either (1) addressing only the allegations presented in a petition or (2) addressing all unsuitability criteria for a given petitioned area, regardless of allegations presented.

State regulatory authorities must recognize that when a State process provides for designations only on the basis of specific allegations the State may receive repeated petitions for the same area of land, thereby potentially increasing the administrative burdens of review.

Furthermore, all relevant information in the entire data base and inventory system must be considered in each designation decision, as provided in § 764.19(a)(1). The data base may bring forth information not alleged which might serve as the basis of a designation decision. Limiting consideration to criteria specified by the petition, might prevent the regulatory authority from using information available in its own records.

Q. Section 762.12 Additional Criteria

Section 762.12 provides that State regulatory authorities and the Secretary may establish additional criteria for determining whether lands within their jurisdiction should be designated as unsuitable for surface mining operations. OSM has received comments requesting deletion of this section. However, OSM notes that, as stated by the court in *In re: Permanent Surface Mining Regulation Litigation*, Civil Action No. 79–1144 (D. D.C. Feb. 26, 1980 at p. 63), section 523(a) of the Act states: "The Federal lands programs shall, at a minimum, incorporate all of the requirements of this Act * * *" The decision goes on to state that "The language 'at a minimum' indicates Congressional authorization for the Secretary to establish additional criteria for Federal lands. Similarly, the language 'more stringent' in section 505(b) of the Act, permits State regulatory authorities to promulgate factors in addition to those enumerated in the SMCRA." The provisions of additional criteria is at the discretion of the States. Therefore, no change is proposed for § 762.12.

R. Sections 764.2 and 764.3 (Amendment 24)

Section 764.2, entitled "Objective," which states the general objective of Part 764, is proposed to be deleted. This change is intended to streamline the chapter by eliminating unnecessary and redundant provisions. Section 764.3, entitled "Authority," which summarizes the authority of the Secretary and the States related to State programs and procedures for designating lands unsuitable, is proposed to be deleted. This change is intended to steamline the chapter by eliminating unnecessary provisions.

S. Section 764.13(a) (Amendment 25)

Existing § 764.13(a) extends the right to petition to any person "having an interest which is or may be adversely affected." This extremely broad criterion allows persons with very minor interests to prevent mining. OSM proposes that this right be limited to persons with more significant and tangible ownership interests in land or mineral resources. Such interest are more nearly equal to those of potential mine operators or minerals owners whose interests are threatened by the petition. Moreover, the impact of mining on such interests is more likely to be significant, as opposed to those of a casual user or visitor.

Section 764.13(b) (Amendments 26 and 27)

Information that must be provided in petitions to designate lands unsuitable for mining is set forth in § 764.13(b). Two options for amendments to this section are proposed to provide State regulatory authorities with flexibility to impose additional information requirements for designation petitions.

Proposed Option 1 would first amend § 764.13(b)(1) to reorder the list of information required in a petition. A complete petition for designation would include the petitioner's name, address, telephone number, and notarized signature; an identification of the petitioned area, included its location and size; an identification of the petitoner's interest which is or may be adversely affected by surface coal mining operations; and a description of how mining of the area has affected or may adversely affect people, land, air water, or other resources. These changes would not substantively modify the existing rule, except the requirement for a notarized signature which would be added to emphasize the importance of the petition and the need for a serious, nonfrivolous petition document. The requirement for notarized signatures would also prevent the inclusion of unauthorized names on a petition. When processing the Alton (Utah) petition, OSM added several names of the list of petitioners at the request of some of the original petitioners. Two of the persons

whose names were added objected, stating that no authorization to include them as petitioners had been given. The list then had to be amended.

Second, Option 1 would add a requirement that the allegations of fact and supporting evidence which tend to establish that the area is unsuitable for all or certain types of surface coal mining operations assume that contemporary mining practices required under applicable regulatory programs would be followed were the area to be mined. The last phrase is intended to clarify that, if damage would be prevented by following the Act, there is no basis for designation.

In addition, Option 1 would require that petitioners provide evidence for all lands covered by a petition, or conversely, to limit the areas covered by a petition to those lands for which there is supporting evidence. Information collected for a limited area could not be extrapolated to a broader area and the petition area enlarged unless the petitioner also presented evidence tending to establish that the information was relevant to the larger area. This change is intended to prevent the inclusion of lands in a petition area without adequate justification.

In Option 1, § 764.13(b)(3) also would give the State regulatory authority discretion to require that the petition include allegations of fact and supporting evidence that tend to establish that the petitioned area is unsuitable pursuant to the criteria in section 522(a) (2) and (3) of the Act and how they relate to the petitioner's described interests. This change would allow States the discretion to require a more specific presentation of allegations as they relate to the petitioner's described interests and to the criteria specified in the Act, thereby clarifying key issues and concerns to be addressed by the regulatory authority. This option would also give States discretion to require that allegations be specific as to the mining operation or to the portion(s) of the petitioned area to which the allegations apply. Further, the State could require that allegations be supported by evidence that tends to establish the validity of the allegations for such mining operations or portions of the petitioned area and that such evidence be relevant to the mining practices which would be required under applicable regulatory programs should the area be mined.

Finally, Option 1 would provide, in proposed § 764.13(b)(3), that the State regulatory authority may request other supplementary information which is readily available to be provided by the petitioner. Readily available information could include public documents or publicly available information which can be obtained and used by a person who has no special training or knowledge. Failure to include such information would make a petition incomplete.

Option 2 for § 764.13 proposes several modifications and additions to the Option 1 proposal. Option 2 would also require a U.S. Geological Survey topographic map outlining the perimeter of the petitioned area; a listing of property and mineral owners of record in the petitioned area; and evidence that all property and mineral owners of record have been notified of the petition. Such notice would describe the boundaries of the petitioned area and the allegations and provide information on where the petition may be reviewed and comments may be filed.

Option 2 would further require that the petitioner provide a copy of the newspaper advertisement on the petition, which is to be placed by the petitioner in a newspaper of general circulation in the locality of the petitioned area, to be published once a week for four successive weeks, and to include a description of the boundaries of the petitioned area, allegations of fact, and information regarding where the petition is available for public review.

Option 2 would provide for substantially increased petition requirements, based on the reasoning that the filing of a petition prevents the issuance of permits for all types of mining within the petitioned area, pursuant to section 510(b)(4) of the Act. Even with the changes proposed to § 764.15 below, the filing of a petition would prevent issuance of permits where permit applications had not been received by the cutoff date, no matter when that date is set. Under this option, the petitioner must meet specific requirements for notifying private land and mineral owners within the petitioned area, as well as the public.

U. Section 764.13(c) (Amendment 28)

Section 764.13(c) identifies information to be provided in petitions for the termination of unsuitability designations. Like § 764.13(b), this section is proposed to be amended in its entirety to allow regulatory authorities to expand the information requirements for termination petitions. The proposed changes are similar to those of Option 1 for petitions for designation, except that allegations of facts and supporting evidence would be focused on the reasons why the previous action should be changed.

The proposed amendment for § 764.13(c)(1) would provide that a complete petition for termination must include the petitioner's name, address, telephone number, and notarized signature; an identification of the petitioned area, including its location and size; an identification of the petitioner's interest which is or may be adversely affected by the continuation of the designation; and allegations of facts with supporting evidence not contained in the record of the proceeding in which the area was designated unsuitable, that tend to establish that the designation should be terminated, based on several considerations which remain unchanged from the existing rules. The proposed § 764.13(c)(1) would renumber provisions of the existing § 764.13(c)(1) and (2) without substantive modification.

Proposed § 764.13(c)(2) would provide that the State regulatory authority may also require, in addition to the allegations of fact and supporting evidence in paragraph (c)(1), that the petition include allegations of fact with supporting evidence that tends to establish that the petitioner has an interest which may be adversely affected by the continuation of the designation. The allegations should also be specific as to the portions of the designated area to which they apply and be supported by evidence that tends to establish the validity of the allegations for the portion of the designated area, assuming that contemporary mining practices required under applicable regulatory programs would be followed if the area were to be mined. This proposed amendment would allow States to require a more focused presentation of allegations as they apply to standing and need to specific land areas.

Proposed § 764.13(c)(3) would provide that the State regulatory authority may request other supplementary information which is readily available to be provided by the petitioner. Readily available information could include public documents or publicly available information which can be obtained and used by a person who has no special training or knowledge. Failure to include such information would make a petition incomplete.

OSM is also considering whether, if Option 2 information requirements for submission of a petition to designate are adopted, similar requirements should be placed on petitions to terminate a designation.

V. Section 764.15 (Amendments 29 and 30)

The existing § 764.15(a)(1) provides a 30-day time limit within which the regulatory authority must notify the petitioner by certified mail as to whether the petition is complete. A proposed amendment would allow the regulatory authority 60 days in which the completeness determination must be made. The time limit is proposed for extension to encompass proposed new initial hearing procedures and more extensive analysis requirements which would be provided in § 764.15(b).

For example, under the proposed rules, the regulatory authority would determine whether the petition is complete, whether there is a real and foreseeable potential to mine (§ 764.15(a)(3)), and whether the allegations and supporting evidence are applicable to all or to part of the petitioned area (§ 764.15(a)(4)).

The proposed § 764.15(a)(1) also would provide a definition of "complete," meaning that the information required under § 764.13(b) or (c) has been provided.

OSM considered proposing a section that would allow States to accept a petition in part when the petition met the standard of completeness for some but not all of the petitioned area. If this procedure were applied, the regulatory authority could be imposing unnecessary burdens upon itself by rejecting portions of the petition hastily, and subsequently becoming obligated to comply with two related but distinct timetables for the processing of individual smaller petitions. Furthermore, OSM believes that it is the responsibility of the petitioner to submit petitions which are complete and nonfrivolous for the entire petitioned area. States may still adopt different procedures provided they are no less effective than the Federal rules.

OSM considered proposing a revision to § 764.15(a)(2) to require the existence of "minable" coal resources, thereby potentially reducing petition review costs for unminable areas. Although formal determinations of minability are typically made for Federal lands by the Minerals Management Service, they are not for State and private properties. Moreover, the proposed revision to § 764.15(a)(3) which follows would achieve the same effect without raising the question of whether coal is minable. Therefore, this concept does not appear to be necessary.

A new § 764.15(a)(3) is proposed which would provide that the regulatory authority may suspend petitions on lands where there is no real and foreseeable potential for surface coal mining operations to occur. "Real and foreseeable" potential means that the petitioned lands are likely to be subject to leasing or mining activity within 5 years. This concept would allow States to set a time frame for acceptable petitioning in relation to perceived imminent mining activity. Unless State regulatory authorities can limit petitioning to areas where mining is likely to occur within a reasonable period of time, States could be obligated to process immediately unsuitability petitions for which a clear need could not be shown. OSM considered various other options for the definition of "real and foreseeable potential," including 1 year, 10 years, and no specified time frame, which would leave States with discretion. Any such provision would have to include a requirement that no mining could occur until any suspended petition was evaluated. OSM invites comments on the 5-year time frame and alternatives to it.

Existing § 764.15(a)(3) is proposed to be renumbered § 764.15(a)(4) and a sentence added to define "frivolous." Frivolous would mean that a petition or the allegations of fact and supporting evidence are trivial, insignificant, or unworthy of serious attention. Congress intended that the Secretary adopt rules to preclude frivolous petitions, stating "The Secretary is intended to issue regulations defining those petitions to be considered valid, to preclude frivolous requests." (S. Rept. 95–128, 95th Cong., 1st sess., p. 94 (1975)). OSM has carefully addressed the definition of "frivolous." If petitions do not contain serious allegations and evidence, they would be frivolous. Further, OSM believes that the proposed revisions to §§ 764.13 and 764.15, which would give regulatory authorities the discretion to require additional petition information and base decisions regarding completeness on this revised information, would help to clarify application of the term "frivolous" in petition processing. OSM also proposes to delete the second sentence of this section which states that no burden of proof may be imposed to be consistent with changes proposed to § 764.17(a).

Paragraph (a)(4) of § 764.15 is proposed to be renumbered Paragraph (a)(5) and modified to provide that, when the regulatory authority finds that a petition for an area which has been previously and unsuccessfully petitioned does not contain new significant allegations of fact, the regulatory authority may choose not to consider the petition. By adding the terms "significant" and "may choose not to," OSM would allow States to determine whether allegations for a repetitioned area are nontrivial and substantive in nature, warranting indepth review.

Paragraph (a)(5) of §764.15 is proposed to be renumbered paragraph (a)(6) for clarity.

Paragraph (a)(6) of §764.15 is proposed to be renumbered paragraph (a)(7) for clarity.

Paragraph (a)(7) of §764.15 is proposed to be renumbered paragraph (a)(8) for editorial purposes and revised as discussed in the following section.

W. Section 764.15(a)(8) (Amendments 31 and 32)

Two options for revising § 764.15(a)(8) are being proposed for the new § 764.15(a)(8). The present § 764.15(a)(7) allows the regulatory authority to proceed with permit decisions if a petition is received after the end of the public comment period. Option 1 would allow the regulatory authority not to process any petition which pertains to lands for which a complete permit application has been filed and the first newspaper notice has been published. Based on such a determination, the regulatory authority would not be prevented from issuing a decision on such a permit application and would return the petition to the petitioner with a statement explaining why the regulatory authority cannot consider it. This provision would not be applicable in cases where a permit application is filed for an area where one or more petitions have been suspended due to no real and foreseeable potential to mine. In such cases, the regulatory authority would be required to immediately initiate petition review and not issue any permit.

This provision is being proposed in response to the concern that operators who have invested significant expense and time initiating permit approval remain in considerable jeopardy even after obtaining and submitting the extensive documentation and information required for permit review. Moreover, many of the issues which may be raised in a petition can and should be considered during permit review. For example, a regulatory authority may not issue a permit unless it finds that the land can be reclaimed, that water quality will be protected and that significant aquifers will be protected. Further, the purpose of the petition process is to avoid last minute conflicts by advance planning, not create new conflicts at the permit issuance stage.

Option 2 for § 764.15(a)(8) would provide, as does the existing rule, that any petitions received after the close of

the public comment period on a permit application relating to the same permit area shall not prevent the regulatory authority from issuing a decision on that permit application. Under this option, OSM would redefine "close of the public comment period" as 30 days after the last advertisement giving notice of filing of a permit application under § 786.11(a). The existing rules define "close of the public comment period" as the close of any informal conference held under § 786.14, or, if no conference is requested, at the close of the period for filing written comments and objections under §§ 786.12 and 786.13. An informal conference must be requested within 30 days of the last advertisement giving notice of the filing, but may be held at an unspecified later date. The close of the period for filing written comments is not specified; the regulatory authority is required only to provide a "reasonable time." This change is proposed in response to concerns presented to OSM that the public comment period as defined in the existing rules is too vague for the purpose of implementing the unsuitability process requirements. Other potential cutoff points for the public comment period were also considered. This option is an attempt to clarify a precise time period within which petitions may be submitted in relation to permit applications. This option also would change reference from "mine plan area" to "permit area" pursuant to proposed OSM policy on this remanded term. See *In re: Permanent Surface Mining Regulation Litigation,* Civil Action No. 79-1144, (D. D.C., Feb. 26, 1980, pp. 35 and 36, and May 16, 1980, p. 57); 47 FR 41-57 (January 4, 1982).

Section 764.15(a)(8) is proposed to be further amended by providing that, if a petition submitted during the public comment period on a permit application is deemed incomplete, the State regulatory authority may allow the petitioner to resubmit the petition within 15 days from the date of rejection, even if the deadline for petition submission has passed. A petitioner may, in any case, submit a revised petition prior to the deadline. Resubmissions after the deadline would be for the purpose of clarifying or refining the materials which were originally submitted, not providing new allegations as the basis of the petition. This proposed option is intended to give petitioners an opportunity to adequately respond to the requirements for completeness in the proposed § 764.13. However, the provision is not intended to allow petitioners to correct frivolous petitions or petitions where no apparent effort was made to meet minimum requirements. The existing rule does not provide such a mechanism for resubmission of incomplete petitions.

X. Section 764.15(a)(9), 764.15(b), 764.15(c), and 764.15(d) (Amendment 33)

Section 764.15(a)(9)

In new § 764.15(a)(9), OSM proposes to allow the regulatory authority to incorporate petitions into State or local land use planning programs if such programs would provide protections equivalent to the petition process. Some States and localities may have land use planning programs which must precede coal leasing or mining activities (one of the criteria for acceptable land use planning under the proposed provision). Therefore, this provision is being proposed for comment. Land use planning could not be substituted for the petition process in its entirety, however. Issues raised by a petition which is incorporated into the planning process would have to be fully considered in that process. Also, petitions could continue to be used to raise new issues or new evidence, or to examine areas not being covered by the land use planning process.

To be acceptable for this purpose, a State or local land use planning program would have to include policies and procedures consistent with those required by Parts 762 and 764 of this subchapter. For example, land use planning would have to—

1. Be required prior to the issuance of any permit for surface coal mining operations;
2. Explicitly address the unsuitability criteria of section 522(a)(2) and (3) of the Act and Part 762 of this subchapter;
3. Develop and utilize a data base and inventory system comparable to that required by § 764.21;
4. Include an analytical and evaluation methodology which addresses, at a minimum, areawide and site-specific attributes and concerns in a systematic and comprehensive manner;
5. Provide notice to the public and an opportunity for public participation; and
6. Possess the authority to declare areas off limits to mining and to prevent mining in such areas.

If a State or local agency is engaging in an acceptable type of land use planning under the above listed criteria or such planning is scheduled to begin within 1 year, petitions could be rejected, and the allegations of the petitioners addressed in the land use planning process. If no land use planning were scheduled for the petition area within 1 year, the petition would have to be accepted for processing.

OSM also considered an amendment which would specify a time period within which new petitions would not be accepted subsequent to a nondesignation decision for a previous petition on the same land area. This was based on the idea expressed by some State officials that a petition should be evaluated using the full range of designation criteria, that a decision should be made, and that the area should then be precluded from subsequent petition activity. Such a limitation would preclude consideration of significant new information developed subsequent to a petition decision. Also, this approach contradicts the methodology used by certain States whereby a petition evaluation may be limited to the specific criteria cited in the allegations of the petition. These issues are further discussed in Section III.O. of the preamble to these proposed rules at § 762.11. In the rules proposed today, the concern for repeated petitioning on a given land area is addressed in proposed § 764.15(a)(5), under which, if new significant allegations of fact are not made, the regulatory authority would be able to choose not to consider the petition.

Section 764.15(b)

Existing § 764.15(b) requires that public participation in the petition process begin only after a petition is found to be complete. OSM proposes to revise the procedures in § 764.15(b) to provide for public input to the decision on completeness. The completeness decision is not intended to take the place of the decision whether to designate and the public input into the completeness decision is not intended to turn it into such a substitute. One of the elements of a complete petition is allegations supported by evidence which tends to establish their validity, but this should not be confused with sufficient evidence on which to base a decision to designate. Thus, the completeness determination should not turn into a complex battle of evidence and counterevidence over whether the area should be designated. The proposed rule would provide for public notice within 3 weeks of the date a petition is received and require copies to be made available to allow for comment on whether the petition is complete. It would also eliminate the petitioner as a recipient, because this notification procedure is unnecessary. Section 764.15(b)(1) would also clarify that "persons with an ownership interest of record," who are to receive copies of petitions for notification and response purposes shall be identified and notified

according to requirements of applicable State law. This change would expand the flexibility of States regarding acceptable notification procedures.

The proposed § 764.15(b)(1) would further provide that the regulatory authority shall inform the specified persons and governmental agencies of an opportunity to request a completeness hearing, or to provide written comments within 6 weeks from the date of petition filing as to whether the petition is complete. A completeness hearing, if requested, would be announced in local and regional newspapers and any State register of public notices and held within 5 to 6 weeks after petition filing with the regulatory authority. The petitioner would be notified of the hearing by certified mail. On the basis of regulatory authority review as well as consideration of all comments, the regulatory authority would be required to issue a written decision on whether the petition is complete within 60 days after petition filing, as specified in proposed § 764.15(a)(1).

Section 764.15(b)(2) is proposed to be revised to increase from 3 weeks to 5 weeks the period within which the regulatory authority must notify the general public of petition completeness. The extension of this time period would provide the regulatory authority with the time needed to place the various required newspaper advertisements.

Existing § 764.15(b)(2) requires publication of a newspaper advertisement in the locale of the area covered by the petition, in the newspaper of largest circulation in the State, and in any official State register of public notices. Publication in the newspaper of largest circulation in the State does not, in a number of circumstances, reach those persons with an interest in such proceedings. Therefore, OSM proposes to modify this particular phrase by requiring notice in the newspaper providing broadest circulation in the region of the petitioned area rather than the newspaper with largest circulation in the State. In the context of this proposed rule, "region" is intended to encompass a wider geographic area than the locale of the area covered by the petition, but in any case, the advertisement should be placed in the newspaper generally read by residents of the area potentially affected by mining or the designation petition. This change is intended to accommodate the need for adequate notice to persons with an interest in unsuitability proceedings.

OSM received other comments suggesting revisions to § 764.15(b)(2) which would specify the content of general public notices, including suggestions that all known evidence should be presented in the pending proceeding and that such evidence should not be accepted in connection with any subsequent petition on the petitioned lands. OSM tentatively has determined that the content of notices should be determined by the States. Further, any requirement for submission of all known evidence is both enormously burdensome and unenforceable. It would probably be impossible to determine what was known and now is known to a broadly defined audience at any one time.

OSM considered specifying in the rules other information to be included in newspaper notices. However, OSM wishes to recognize that States have flexibility to expand upon the specified components of public notices, as each State deems appropriate.

If proposed Option 2 for revising the petition information requirements of § 764.13(b) is adopted, additional changes may be required in § 764.15(b). Under the proposed Option 2, petitioners would be required to notify property and mineral owners of record that a petition has been filed. Option 2 would not require that the petitioner provide copies of the petition to property and mineral owners. OSM requests comments on whether such notice is sufficient or whether the regulatory authority should provide copies of the petition as is presently required in § 764.15(b).

Section 764.15(c)

Section 764.15(c) provides that "any person" may intervene in an unsuitability proceeding. This standard does not even require that an intervenor have an "interest" which may be affected and is far broader than any standards proposed or applied to petitioners. It allows any person, regardless of interest, to prolong and complicate an unsuitability process. This would increase the time requirements and costs to the regulatory authority, petitioners, and intervenors with interests. Accordingly, OSM proposes the same requirements for intervenors as petitioners. The proposed revision to § 764.15(c) would allow "any person having a property interest in land or mineral resources which is or may be adversely affected" to intervene in an unsuitability proceeding.

Section 764.15(d)

Section 764.15(d) requires the development, maintenance, and availability of a public record both at a central location of the county or multicounty area in which the petitioned land is located and at the main office of the regulatory authority. OSM has received a number of questions regarding the practicality and desirability of maintaining more than one complete public record for each petition. OSM proposes to modify the existing rule to provide that the complete record shall be available to the public for inspection free of charge and for copying at reasonable cost, during all normal business hours at the main office of the regulatory authority. Under the proposed rule, the regulatory authority would also be required to maintain information in or near the area in which the petitioned land is located. This information, at a minimum, would include a copy of the petition and would be available for inspection and copying similar to the public record. As an alternative to maintaining information at a remote locale, OSM is also considering requiring that copies of the petition be mailed to interested persons and that other information be made available at no expense. OSM invites comments on the proposed rule and alternative.

Y. Section 764.17 Hearing Requirements (Amendments 34 Through 37)

Options 1, 2, and 3 for § 764.17(a) (Amendments 34 Through 36)

Section 764.17(a) requires that a legislative hearing be held after receipt of a complete petition. OSM is considering three options for amending this rule. All three options would eliminate the requirement that the hearing be purely legislative in nature. In place of these requirements, the three proposed options would provide for a hearing with a record, made and preserved according to State law, and no relevant part of the data base and inventory system or public comments would be excluded from consideration in decisions on the petition. Nonrelevant portions of the data base and inventory have no bearing on the decision and should be excluded. Factual challenges to portions of the data base and inventory would be allowable. The differences among the three options pertain to cross-examination of witnesses and burden of proof.

Option 1 would provide that no cross-examination of witnesses would be allowed. This option was included in the existing rules in response to concern that cross-examination procedures would expose certain interested or affected parties to intimidation at the hearing. To date OSM has no knowledge that would indicate that changing this provision would have such an effect.

Option 2 would provide that cross-examination of expert witnesses would be an acceptable procedure. Under this option, only those persons qualifying and testifying as expert witnesses would be subject to cross-examination. In addition, the prohibition against imposing a burden of proof on any party would be deleted, giving the regulatory authority discretion to determine who, if anyone, should bear this responsibility.

Option 3 would provide that cross-examination is an acceptable procedure. Under this option, the regulatory authority and any party to the petition would be given the prerogative to cross-examine any or all available witnesses. In addition, the burden of proof would be assigned to the petitioner.

Options 2 and 3 would provide States with the flexibility to employ a broader range of hearing procedures. The flexibility proposed here would allow States to use procedures which allow sworn testimony. In these options, states would have the right to subpoena witnesses. These attributes of quasi-judicial hearing procedures are viewed in some States as desirable for resolving factual disputes, assuring due process for landowners where uses of property may be limited, and for developing a more complete record by eliciting more information during the hearing.

OSM has determined that certain State discretion may be allowed without forfeiting those measure essential for nationwide consistency. Section 522(c) does not specify the type of public hearing which must be held. While an informal hearing meets the requirements of the Act, a more formal hearing is potentially more helpful in clarifying factual issues. Since property rights are directly involved in these decisions, the right of cross-examination appears reasonable.

OSM has also proposed revisions to the requirements on burden of proof. The existing rules do not impose such a burden on any party. However, many hearing procedures do assign such a responsibility. There are at least two reasons for assigning the burden of proof to the petitioner: (1) Such a responsibility would discourage frivolous petitions, and (2) submission of a petition disrupts the permitting process and may cause substantial economic losses whether or not a petition is eventually granted. Such power should be accompanied by the responsibility to submit and defend sound petitions.

Option on Hearing Deadlines

OSM also requests comments on an option to revise the 10-month deadline for holding a hearing. This proposal differs from *Options 1, 2, and 3* only in the wording of the introductory phrase in Paragraph (a). The present rules require that the hearing be held within 10 months of the receipt of a complete petition. This is reflected in the proposed language to *Options 1, 2, and 3*. Under the optional revisions being considered, the regulatory authority would be required to hold the hearing instead within 10 months of a determination that a petition is complete. Such a determination could come as long as 2 months after receipt. OSM recognizes that to begin a detailed study of allegations and evidence prior to the completeness determination could result in a significant waste of resources if a petition is later rejected for incompleteness. At the same time, a complex petition or issue may require a full 10 months of study before a hearing would be useful. This proposed revision would require that the first sentence of §764.17(a) be revised as follows for each of *Options 1, 2, and 3:* "(a) Within 10 months of the determination that a petition is complete, the regulatory authority shall hold a public hearing in the locality of the area covered by the petition." OSM specifically requests comments on this option.

Section 764.17(b) (Amendment 37)

Section 764.17(b)(1)(iii) requires notice of the hearing to any person with an ownership or other interest known to the regulatory authority in the area covered by the petition. An amendment is being proposed which would require such notice only for persons with an ownership interest of record in the property and other persons known to the regulatory authority to have an ownership interest in the property. It would further provide proper notice to persons with an ownership interest of record as required by State law. This change would limit notification to persons with an identifiable or known ownership interest and delete the "other interest" category, which is vague and undefined. However, under § 764.17(c) the general public would still receive notice through a newspaper advertisement. This change would make the notice requirements for hearings consistent with the notice requirements for petition filing in § 764.15(b)(1).

Section 764.17(b)(2) is proposed for change to require that notice of hearing shall be sent by certified mail only to petitioners and intervenors. Property owners and government agencies would receive notice by regular mail. The requirement that hearing notices shall be sent by certified mail to other parties to the proceeding in the existing regulation has been found to be unnecessarily burdensome and costly. Since the petitioners and intervenors will receive a certified notice, OSM believes that regular mail, plus the required newspaper advertisements, are suitable notices for other interested parties.

Z. Section 764.19 Decision procedures (Amendment 38)

Section 764.19(a)(3)

Section 764.19(a)(3) is proposed to be amended by clarifying that in reaching a decision, the detailed statement on the coal resources, demand for coal, and impacts on the area involved as prepared under § 764.17(e) will be considered when it is prepared prior to a designation of unsuitability pursuant to section 522(d) of the Act. This change is proposed to reflect the wording of section 522(d) of the Act (30 U.S.C. 1272), which states only that the detailed statement shall be prepared prior to a designation and does not require that such a statement shall be prepared for every unsuitability proceeding.

Section 764.19(b)

Section 764.19(b) is proposed to be amended by eliminating the requirement that the decision be sent by certified mail to every party to the proceeding and the Regional Director (OSM), as this is burdensome and costly. The amended section would require that the decision be sent by certified mail to the petitioner and intervenors and by regular mail to all other persons involved in the petition. The requirement to notify OSM would be deleted, as it duplicates reporting requirements being developed for oversight of approved State programs.

Requests have been made for clarification of the types of decisions available to State regulatory authorities under § 764.19(b). OSM believes that final decision may be (1) to designate the petitioned land areas in whole or in part for all or certain types of mining, (2) not to designate the petitioned land areas, or (3) to place conditions on future operations in all or part of the petitioned areas which would successfully mitigate the impacts of such operations.

Paragraph (b) which requires a decision within 12 months of receipt of a petition if no hearing is held is also proposed to be revised to require that, where no hearing is held, the decision be made within 12 months after a petition is determined to be complete. This is consistent with Options 4, 5, and 6 proposed for § 764.17(a) and would allow the regulatory authority to adopt

the broader review proposed for completeness without reducing the time to study a petition. This change would not be included if Option 1, 2, or 3 is selected.

Section 764.19(c)

Section 764.19(c) requires that State regulatory authority decisions with respect to a petition, or failure to act within time limits set forth in § 764.19(b), be subject to judicial review by a court of competent jurisdiction.

An amendment is being proposed to require that all relevant portions of the data base and inventory system and public comments received during the public comment period be included in the record of the administrative proceeding. This proposed change is necessary because of the proposal that the hearing not be required to be legislative in nature and to ensure that courts review the relevant record as a whole in making their findings as required under section 526 of the act. A corresponding change is proposed for § 764.17(a) to ensure that all relevant parts of the data base, inventory system, and public comments be included in the public record.

AA. Section 764.23(a) Public Information (Amendment 39)

Section 764.23(a) requires that the regulatory authority make the information and data base system developed under § 764.21 available to the public for inspection free of charge and for copying at a reasonable cost. OSM proposes that this be amended to modify public disclosure requirements regarding historic resources information. These proposed changes would comply with section 304 of the National Historic Preservation Act Amendments of 1980 (Pub. L. 96–515) and afford regulatory authorities the discretion to withhold historic resources information from the public where disclosure would expose the resources to risk of harm or destruction. The change would encompass all protected cultural and archeological sites proposed to be nominated to, or listed on the National Register. The State regulatory authority, with the assistance of the State Historic Preservation Officer, would make these determinations regarding the withholding of such information, which must be disclosed when a potential designation for unsuitability rests primarily on an allegation based on that data. This provision is being considered in conformity with the National Park Service Interim Rules on the National Register of Historic Places (46 FR 56191, Nov. 16, 1981; 36 CFR 60.6(x)).

BB. Section 764.25 (Amendment 40)

Section 764.25 is proposed to be amended by requiring States to maintain maps or other unified and cumulative records of areas designated unsuitable for all or certain types of surface coal mining operations. The existing rule provides that the regulatory authority must maintain maps of designated areas. The proposed changes would provide regulatory authorities with additional flexibility concerning the type of records to be maintained.

CC. Part 765 (Amendment 41)

OSM proposes to delete Part 765, which contains provisions for designating lands unsuitable under a Federal program for a State. The substantive provisions in this part are generally covered by Part 736, Federal Program for a State. By adding to Part 736 the requirement to implement a program for designating lands unsuitable one year after a Federal program is established and deleting a cross reference to Part 765, all of Part 765 would become unnecessary. The change proposed for Part 736 is discussed above before the proposed revisions to Parts 760 through 769.

Section 765.1

OSM proposes to delete § 765.1. This section describes the scope of Part 765 and does not include any substantive requirements.

Section 765.11

OSM proposes to delete § 765.11, which describes the requirements of a procedure to designate land unsuitable under a Federal program. It duplicates § 736.22.

Section 765.12

OSM proposed to delete § 765.12, which requires that a Federal program consider the unique features of a State and that more stringent State requirements be incorporated in a Federal program. These requirements are included in §§ 736.22 and 736.23.

Section 765.13

OSM proposes to move the requirements of § 765.13(a), which specifies the effective date of a Federal program for designating lands unsuitable for mining, to § 735.15. Section 765.13(a) would then be deleted. OSM also proposes that § 765.13(b) be deleted. This section authorizes OSM to implement immediately an unsuitability program in those cases where a Federal program is required because a State has failed to implement, maintain, or enforce a State unsuitability program. This contradicts section 504(a) of the Act (30 U.S.C. 1254), which states "If a Federal program is implemented for a State, section 522(a), (c), and (d) shall not apply for a period of 1 year following the date of such implementation."

DD. Part 769—Petition Process for Federal Lands (Amendments 42 through 57)

Existing 30 CFR Part 769 establishes a petition process for designation of Federal lands as unsuitable for mining and for termination of such designations. The process is similar to that required of States in 30 CFR Part 764, but with such changes as are needed to reflect the differences between Federal and non-Federal lands, and the organization and management of the process within the Department of the Interior. This section of the preamble discusses only those proposed changes to the rules on Federal lands which are not equivalent to changes proposed for State lands. The preceding preamble for State lands is applicable to the Federal lands proposal insofar as it describes proposals which are also included in the Federal lands proposal.

There are four major issues discussed here involving the interpretation of section 522 as it applies to Federal lands: (1) Whether the petition process applies to Federal lands, (2) when petitions are ripe for processing, (3) the extent and type of information needed to determine whether a petition is frivolous ("sufficient merit"), and (4) the elements and their specificity necessary for a petition to be accepted as complete for further processing ("completeness"). OSM is proposing various options for resolving these issues. They are discussed below, followed by a discussion of other issues and a section-by-section explanation of the proposed changes.

1. *Major changes proposed. a. Petition process.* The first issue is whether persons having an interest which is or may be adversely affected by surface coal mining operations may petition to have Federal lands designated as unsuitable for such operations.

The Act is ambiguous concerning the issues of whether or not the petition process was intended to cover Federal lands. Section 522(b) requires a "review" of Federal lands "to determine * * * whether there are areas on Federal lands which are unsuitable for all or certain types of surface coal mining operations * * *" This section goes on to state that "when the Secretary determines an area on Federal lands to be unsuitable for all or certain types of surface coal mining operations, he shall withdraw such area or

condition any mineral leasing or mineral entries in a manner so as to limit surface coal mining operations on such area * * *" The means by which the review is to be conducted are not specified. Thus, the statute expressly requires an unsuitability review for all Federal lands, making a petition process unnecessary on Federal lands.

Section 522(c) of the Act states that "Any person having an interest which is or may be adversely affected shall have the right to petition the *regulatory authority* to have an area designated as unsuitable for surface coal mining operations, or to have such a designation terminated." [Emphasis added.] Section 701(22) of the Act defines "regulatory authority" as "The State regulatory authority where the State is administering this Act under an approved State program or the Secretary where the Secretary is administering this Act under a Federal program." Federal programs are programs established by the Secretary on non-Federal lands when the State involved fails to have approved or to maintain a State program; thus the term "regulatory authority" does not include the Secretary in his capacity as regulator of Federal lands (sections 701(6) and 504 of the Act). This suggests that the petition process is required only on State lands and that the Federal lands review is to fulfill a similar role on Federal lands.

The language of section 523(a) of the Act also suggests that the Federal lands review process rather than the petition process is to apply on Federal lands. That section requires that the Federal lands program include the requirements of any approved State program, with the proviso that the Secretary must retain his responsibility for "designation of Federal lands as unsuitable for mining in accordance with section 522(b) of this title." (Emphasis added.)

Section 522(b) establishes the Federal lands review requirement. If Congress had intended that there be a petition process on Federal lands, it logically would have mentioned sections 522 (a) and (c) in this provision as well as section 522(b) and reserved that authority too for the Secretary.

Based upon the foregoing, OSM is of the view that the Act does not require a petition process on Federal lands. Therefore, OSM is proposing as one alternative the deletion of 30 CFR Part 769.

In the event, that OSM does not adopt the first option and the petition process is retained for Federal lands, OSM believes that several changes, discussed below, are needed.

b. Ripeness (§ 769.14(a)(2) Procedures: Initial processing, recordkeeping, and notification requirements).

The ripeness criterion is being proposed pursuant to section 522(a)(5) of the Act to integrate the petition process with land use planning. Proposed § 769.14 would state that, with certain exceptions discussed below, petitions would be accepted only if a "real and forseeable potential exists for surface coal mining operations to occur within 5 years on the lands subject to the petition." In addition, ripeness would mean that formal land use planning by the land management agency has been completed for the area petitioned or that the area is covered by a PRLA or by lease issued prior to 1979. For those areas where land use planning is required prior to leasing a petition would be deemed "not ripe" because no leasing and therefore no mining, could occur until land use planning had been completed.

The Act says that petitions may be filed, but neither the Act nor the current rules address ripeness. This lack of specificity has meant that petitions were accepted at any time, thus forcing OSM to accept, process, and rule on petitions even when there may be no potential for mining in the near future.

In one case, a petition evaluation was conducted at the same time a preleasing study was underway. To better understand what is being proposed, it is necessary to distinguish among (*a*) unleased land; (*b*) leased land; and (*c*) lands subject to preference right lease applications. The differences in these three types of Federal coal lands are explained as follows:

(1) *Unleased land.* A significant portion of all coal in the United States is under Federal ownership. Prior to any of this coal being mined, it must be leased by the U.S. Bureau of Land Management (BLM) which is responsible for leasing all Federal coal except that of the Tennessee Valley Authority (TVA). Before BLM leases, it (or the Federal land management agency administering the land) must conduct land use planning pursuant to the Federal Coal Leasing Amendments Act which amended the Mineral Leasing Act of 1920 (30 U.S.C. 181) and the Federal Land Policy and Management Act (43 U.S.C. 1701), and the Secretary conducts a "Federal lands review" under section 522(b) of the Surface Mining Control and Reclamation Act. The Secretary has delegated his oversight authority to the BLM to ensure that the other Federal agencies managing Federal land also subject their lands to the Federal lands review (per a delegation of authority by Under Secretary of the Interior James Joseph on July 5, 1978). The U.S. Bureau of Land Management, the U.S. Forest Service, the Tennessee Valley Authority, the U.S. Department of Defense, and the U.S. Bureau of Reclamation are the largest Federal land management agencies. During the Federal lands review, BLM applies unsuitability criteria to determine if the land in question should be assessed as unsuitable and conditioned or withdrawn from leasing. Although section 522(b) calls for a review pursuant to the criteria of section 522(a), other criteria have been added to the Federal lands review which were taken from section 522(e) of the Act and from other environmental legislation and executive orders. If, after the Federal lands review, land is not assessed unsuitable, it may be leased for coal mining. Under the existing rules, such land is still subject to petitioning for designation as unsuitable.[1]

BLM's unsuitability criteria include most of the Act's major unsuitability criteria. Therefore, the time and expense of much of the required evaluation needed in processing a petition could be saved if processing petitions were delayed until the Federal lands review was initiated on unleased lands.

(2) *Leased land.* Leased land falls into two categories: Those coal lands leased on or before July 19, 1979, and those leased after July 19, 1979, when BLM established a new coal management program (44 FR 42584). Pre-1979 leased lands have not had BLM's unsuitability criteria applied to them. Section 522(b) permits surface coal mining operations on these lands though the Federal lands review has not yet occurred. Those lands containing coal may also be reviewed for unsuitability prior to mining as part of the BLM lease review process. Post-1979 leased lands have been scrutinized with BLM's 20 criteria.

(3) Preference right lease applications (PRLA). A PRLA is a new noncompetitive application for a coal lease. Until the early 1970's the Federal Government issued prospecting permits to interested parties to explore for coal in areas where workable deposits were not known to exist. By demonstrating that the permit area contained commercially valuable coal, a prospecting permit holder could apply

[1] Land may be "assessed" as unsuitable as a result of a Federal lands review (pursuant to section 522(b) and 43 CFR Part 3461). Land may be "designated" as unsuitable as a result of the petition process (pursuant to 30 CFR Part 769). Being assessed unsuitable is not as formal a process as being designated unsuitable. To date, no lands assessed as unsuitable have been reassessed as suitable.

for and obtain a lease to mine the deposit. Under the Federal Coal Leasing Amendments Act, PRLA's are no longer given.

Once land subject to PRLA's is leased, it is treated just like other Federally-leased coal land. Lands subject to PRLA's will have unsuitability criteria applied in the development of a land use plan, or in an amendment to an existing land use plan for the area, if either action occurs prior to adjudication of the right to lease itself.

The significance of the distinction among unleased, leased, and PRLA land is that OSM's proposed application of the ripeness criterion to these lands would differ.

By intergrating the petition process and the land use planning process, Federal planning efforts for coal development, environmental protection, and total land use planning would be more rational and efficient. Petitions would be accepted where the land has been leased, is subject to a PRLA, or is owned by TVA. No coal may be mined on unleased Federal lands until mining has been determined to be an acceptable land use and the land subsequently leased. Rejecting a petition as not ripe until after land use planning has been completed would be appropriate because, with the exception of TVA-owned land, land is not leased for surface coal mining until the Federal lands review has been completed; therefore, no coal mining could occur before land use planning. Rejecting a petition as not ripe would also save funds, since the processing of petitions and consequent preparation of costly petition evaluation documents would be unnecessary if land use planning and the Federal lands review assessed the Federal lands in question as unsuitable for surface coal mining. The cost of processing the only petition to date (Tongue River) involving Federal land which would have been not ripe under these proposed rules, was approximately $440,000. Most of this would have been saved (not simply deferred) had the petition been rejected as not ripe until land use planning.

In addition to the option of defining ripeness to require that land use planning be completed before unleased Federal lands could be petitioned, OMB is considering requiring that if land use planning is scheduled to be initiated within 3 or 5 years, then a petition would be returned to the petitioner as not ripe. Alternatively, a petition would not be considered until a mine plan and permit application had been received for the petitioned area; it would instead be suspended and considered only when a mine plan or permit application was received.

The 3 and 5 year options are simply variations of the major "ripeness" option which is being proposed in these rules, that is, waiting until land use planning is completed before accepting petitions.

c. *Sufficient merit (§ 769.14(a) (3) and (4) Procedures: Initial processing, recordkeeping, and notification requirements).* The rules do not currently contain a "sufficient merit" criterion, per se. Sufficient merit is intended as an aid in eliminating frivolous petitions, which need not be considered under § 769.14(b), by further defining "frivolous" petitions.

Sufficient merit for designation petitions would encompass (1) the petitioner's interest; (2) the quality of the allegation of facts and supporting evidence; (3) whether there is "minable" coal, that is, coal that has development potential; and (4) whether the petitioner presents new evidence where a Federal lands review has been completed. The "minability" determination would be made by the Minerals Management Service at the time of the coal resource and minability inventory which the Department of the Interior's Regional Coal Team makes pursuant to the Mineral Leasing Act.

The proposed § 769.14 would require consideration of new evidence during initial petition review in instances where a Federal lands review or land use planning had been completed. It also would provide that a petition would not be processed if the petitioned lands were covered by a completed land use plan that found the land unacceptable for further consideration for coal leasing and that reserved the lands for uses other than coal development. In such cases, petitions serve no useful purpose, since the land use plan has barred coal mining (presumably the petitioner's desired outcome). Such a petition would not be processed, but would instead be returned to the petitioner.

d. *Completeness (§ 769.13 Procedures: Contents of petitions).* A discussion of the existing completeness criterion, its inadequacies, and the rationale for the proposed revisions appears in the preamble for proposed § 764.13, since the completeness criterion for the proposed State unsuitability rules (Part 764) is similar to the proposed Federal unsuitability rules (Part 769).

2. *Other proposed changes. a. Section 769.3 Authority.* This section would be deleted to streamline the chapter by eliminating redundant and unnecessary provisions.

b. Section 769.4 Responsibility. This section would be deleted to streamline the chapter by eliminating unecessary provisions.

c. Section 769.7 Regulatory policy. Paragraphs (a), (c), and (d), which establish procedures for maintaining maps, review of permanent program permit applications and review of interim program mining plans, would be removed because they are unnecessary. Such procedural matters can best be covered by agency procedures. Paragraph (b) which requires that mining be prohibited or limited in areas designated as unsuitable, would be revised to remove the term "mine plan" which will no longer be used under revised rules for Federal lands which are to be proposed shortly. Paragraph (b) would be placed in the last section of the rule, § 769.19. Placing it in the last section is appropriate because it deals with the results of designation.

d. Section 769.12: Procedures: Where to submit petitions. This section would be revised to reflect OSM's September 13, 1981, reorganization.

e. Section 769.14(g). In addition to major changes being proposed for § 769.14, OSM would delete some of the internal administrative procedures contained in that section related to assembling information on the petitioned area (§ 769.14(g)). OSM believes these procedures should instead be dealt with by agency and interagency memorandums and directives.

Two options are being proposed for the new § 769.14(g), which formerly was partially contained in § 769.19(i), regarding issuance of permits in petitioned areas. Explanations for these options are found in the preamble to the proposed § 764.15(a)(8).

f. Proposed Section 769.16 Procedures: Public information. Explanations for the revisions proposed to this section are found in the preamble to the proposed § 764.23.

g. Proposed Section 769.17 Procedures: Hearing requirements. Explanations for the revisions proposed in this section are found in the preamble to the proposed § 764.17.

h. Section 769.18 Procedures: Decisions on petitions. Explanation for the revisions proposed to this section are found in § 764.19 of this preamble.

i. Section 769.19 Regulatory policy. A new § 769.19 is proposed to ensure that mine plan permits or coal leases are conditioned to limit or prohibit surface coal mining operations on land designated as unsuitable for surface coal mining operations.

IV. Procedural Matters

Federal Paperwork Reduction Act

The information collection requirements in existing 30 CFR Subchapter F of Chapter VII were approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3501 *et seq.*, (Paperwork Reduction Act of 1980, Pub. L. 96–511) and assigned new clearance numbers 1029–0029, 1029–0030, and 1029–0031 on April 1, 1981. Those approvals were identified in "notes" at the introductions to 30 CFR Parts 761, 764, and 769 under the old numbers RO590, RO600, and RO601 (under No. B–190462). Information collection requirements for 30 CFR Part 761 are not being changed. Information collection requirements for 30 CFR Parts 764 and 769 have affected less than 10 respondents over the past 3 years and are not expected to affect more than that in the future. Since this information collection has fewer than 10 respondents per year, it is exempt from the requirements of the Paperwork Reduction Act and does not require clearance by OMB.

The information required by 30 CFR Part 761 is needed to determine whether proposed surface coal mining operations can be authorized in light of the prohibitions and limitations in section 522(e) of the Act. The information required by 30 CFR Part 764 is necessary to establish minimum standards to be included in each State program for designating non-Federal and non-Indian lands in a State as unsuitable for all or certain types of surface coal mining operations and for terminating designations. The information required by 30 CFR Part 769 will be used by OSM in the implementation of the unsuitability procedures for petitioned Federal lands. The information required by 30 CFR Parts 761, 764, and 769 is mandatory.

Executive Order 12291

The Department of the Interior has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291 (February 17, 1981).

Regulatory Flexibility Act

The Department of the Interior has also determined that the proposed rule will not have a significant economic impact on a substantial number of small entities and therefore does not require a regulatory flexibility analysis under the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601 *et seq.*).

National Environmental Policy Act

OSM has prepared a cumulative environmental assessment (EA) on this and other proposed rules and has made an interim finding that this proposal would significantly affect the quality of the human environment. The cumulative EA is on file in the OSM Administrative Record at the address listed in the "Addresses" section of this preamble. A final determination of the significance of the impact on the quality of the human environment will be made and a supplemental environmental impact statement will be prepared before issuance of the final rule.

List of Subjects

30 CFR Part 736

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

30 CFR Parts 760 and 762

Coal mining, Historic preservation, Monuments and memorials, National forests, National parks, Surface mining, Underground mining, Wildlife refuges.

30 CFR Part 761

Coal mining, Historic preservation, Monuments and memorials, National forests, National parks, Reporting requirements, Surface mining, Underground mining, Wildlife refuges.

30 CFR Parts 764 and 769

Administrative practice and procedure, Coal mining, Reporting requirements, Surface mining, Underground mining.

30 CFR Part 765

Coal mining, Surface mining, Underground mining.

Accordingly, 30 CFR Parts 736, 760, 761, 762, 764, 765, and 769 are proposed to be amended as set forth below.

Dated: May 17, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

PART 736—FEDERAL PROGRAM FOR A STATE

1. Section 736.15 is revised to read as follows:

§ 736.15 Implementation, enforcement, and maintenance of a Federal program.

(a) The Director shall implement, administer, enforce, and maintain a Federal program or any revision not later than 30 days after a Federal program is promulgated or revised.

(b) The Director shall implement the procedures and criteria of a Federal program for a State for designating lands unsuitable for all or certain types of surface coal mining 1 year after a Federal program is made effective for a State.

PART 760—GENERAL [Removed]

2. Part 760 is removed.

PART 761—AREAS DESIGNATED BY ACT OF CONGRESS

§§ 761.2 and 761.4 [Removed]

3. Sections 761.2 and 761.4 are removed.

Option 1 for § 761.5. Definition of valid existing rights.

4. Section 761.5 definition of "valid existing rights" is amended by revising paragraphs (a)(2)(i) and (ii), (c), and (d) and adding paragraphs (e), (f), (g), and (h) to read as follows:

§ 761.5 Definitions.

* * * * *

Valid existing rights means: (a) * * *

(2) * * *

(i) Had been validly issued, or exercised a good faith effort to obtain, on or before August 3, 1977, all State and Federal permits necessary to conduct such operations on those lands, or

(ii) Can demonstrate to the regulatory authority that the coal is both needed for, and immediately adjacent to, an ongoing surface coal mining operation for which all mine plan approvals and permits were obtained prior to August 3, 1977. A determination that coal is "needed for" will be based upon a finding that the extension of mining is essential to make the surface coal mining operation as a whole economically viable;

* * * * *

(c) Valid existing rights may be found for a permit area when the operator can demonstrate that the operation existed or had been permitted at the time an area became protected under section 522(e), or at the time a structure, road, cemetery, or other activity listed in section 522(e) came into existence within the prohibited distance of an operations;

(d) Valid existing rights may be found where no reasonable use of the property other than surface coal mining operations remains, including all nonmining uses. For owners of only coal rights, there is not reasonable remaining use where surface coal mining operations cannot occur by any technological means available under the Act in the foreseeable future, and there is no other reasonable use available provided that coal rights were severed from surface rights prior to August 3, 1977;

(e) Interpretation of the terms of the document relied upon to establish valid existing rights shall be based either upon applicable State statutory or case law concerning interpretation of documents conveying mineral rights or, where no applicable State law exists, upon the usage and custom at the time and place where it came into existence;

(f) Valid existing rights does not mean mere expectation of a right to conduct surface coal mining operations or the right to conduct underground coal mining. Examples of rights which alone do not constitute valid existing rights include, but are not limited to, coal exploration permits or licenses and applications or bids for leases;

(g) Notwithstanding paragraphs (a) through (f) of this section valid existing rights include those private property rights for which a judicial finding has been made that the restriction on mining would constitute a taking without just compensation;

(h) Private inholdings within national forests shall be considered to have valid existing rights for the purposes of section 522(e)(2) of the Act and § 761.11(b)(2).

* * * * *

Option 2 for § 761.5: Definition of valid existing rights.

5. Section 761.5 is amended by revising paragraphs (a), (c), and (d) and adding paragraphs (e), (f), and (g) to the term "valid existing rights" to read as follows:

§ 761.5 Definitions.

* * * * *

Valid existing rights means: (a) Except for haul roads, those property rights in existence on August 3, 1977, that were created by a legally binding conveyance, lease, deed, contract, or other document which establishes ownership of the coal resource;

* * * * *

(c) Valid existing rights may be found for a permit area when the operator can demonstrate that the operation existed or had been permitted at the time an area became protected under section 522(e), or at the time a structure, road, cemetery, or other activity listed in section 522(e) came into existence within the prohibited distance of an operation;

(d) Valid existing rights may be found where no reasonable use of the property other than surface coal mining operations remains, including all nonmining uses. For owners of only coal rights, there is no reasonable remaining use where surface coal mining operations cannot occur by any technological means available under the Act in the foreseeable future, and there would be a deprivation of the use or value of that property, provided that coal rights were severed from surface rights prior to August 3, 1977;

(e) Interpretation of the terms of the documents relied upon to establish valid existing rights shall be based either upon applicable State statutory or case law concerning interpretation of documents conveying mineral rights or, where no applicable State law exists, upon the usage and custom at the time and place where it came into existence;

(f) Notwithstanding paragraphs (a) through (e) above, valid existing rights include those private property rights for which a judicial finding has been made that the restriction on mining would constitute a taking without just compensation;

(g) Private inholdings within national forests shall be considered to have valid existing rights for the purposes of section 522(e)(2) of the Act and § 761.11(b)(2).

* * * * *

Option 3 for § 761.5: Definition of valid existing rights.

6. Section 761.5 is amended by revising paragraphs (a), (c), and (d) and adding paragraphs (e), (f), and (g) to the term "valid existing rights" to read as follows:

§ 761.5 Definitions.

* * * * *

Valid existing rights means: (a) Except for haul roads, those property rights in existence on August 3, 1977, that were created by a legally binding conveyance, lease, deed, contract, or other document which establishes ownership of the coal resource and authorizes the applicant to disturb the surface in connection with an underground mine or, for surface mines, to produce coal by a surface coal mining method;

* * * * *

(c) Valid existing rights may be found for a permit area when the operator can demonstrate that the operation existed or had been permitted at the time an area became protected under section 522(e), or at the time a structure, road, cemetery, or other activity listed in section 522(e) came into existence within the prohibited distance of an operation;

(d) Valid existing rights may be found where no reasonable use of the property remains, including all nonmining uses. For owners of only coal rights, there is not reasonable remaining use when surface coal mining operations cannot occur by any technological means available under the Act in the foreseeable future, and there would be a deprivation of the use or value of that property, provided that coal rights were severed from surface rights prior to August 3, 1977;

(e) Interpretation of the terms of the document relied upon to establish valid existing rights shall be based either upon applicable State statutory or case law concerning interpretation of documents conveying mineral rights or, where no applicable State law exists, upon the usage and custom at the time and place and where it came into existence;

(f) Notwithstanding paragraphs (a) through (e) above, valid existing rights include those private property rights for which a judicial finding has been made that the restriction on mining would constitute a taking without just compensation;

(g) Private inholdings within national forests shall be considered to have valid existing rights for the purposes of section 522(e)(2) of the Act and §761.11(b)(2).

* * * * *

7. In § 761.5, the introductory text and paragraph (d) of the definition of "no significant recreational, timber, economic, or other values incompatible with surface coal mining operation" are revised to read as follows:

§ 761.5 Definitions.

* * * * *

Significant recreational, timber, economic, or other values incompatible with surface coal mining operations means those significant values which could be irreparably damaged by, and are not capable of existing together with, surface coal mining operations because of the undesirable effects mining would have on those values, either on the area included in the permit application or on other affected areas. Those values to be evaluated for their importance include:

* * * * *

(d) Other values which may be incompatible with surface mining operations.

* * * * *

8. Section 761.5 is amended by revising the definition of the term "occupied dwelling" to read as follows:

§ 761.5 Definitions.

* * * * *

Occupied dwelling means any building that is currently being used on a regular or temporary basis for human habitation. Temporary means that the dwelling is used for human habitation

for not less than three consecutive months each year.

* * * * *

Option 1 for Section 761.5: Definition of public building.

9. Section 761.5 is amended by revising the term "public building" to read as follows:

§ 761.5 Definitions.

* * * * *

Public building means any structure that is owned, leased, or principally used by a governmental agency for public business, meetings, or other group gatherings.

* * * * *

Option 2 for Section 761.5: Definition of public building.

10. Section 761.5 is amended by revising the term "public building" to read as follows:

§ 761.5 Definitions.

* * * * *

Public building means any structure that is owned by a public agency.

* * * * *

Option 1 for Section 761.5: Definition of public park.

11. Section 761.5 is amended by revising the term "public park" to read as follows:

§ 761.5 Definitions.

* * * * *

Public park means an area dedicated or designated by any Federal, State, or local agency for public recreational use, whether or not such use is limited to certain times or days, including any land leased or reserved because of that use.

* * * * *

Option 2 for Section 761.5: Definition of public park.

12. Section 761.5 is amended by revising the term "public park" to read as follows:

§ 761.5 Definitions.

* * * * *

Public park means an area or portion of an area dedicated or designated by any Federal, State, or local agency primarily for public recreational use, whether or not such use is limited to certain times or days, including any land leased, reserved, or held open to the public because of that use.

* * * * *

§ 761.5 [Amended]

13. In § 761.5, the definition of the term "public road" is removed.

14. Section 761.5 is amended by revising the term "Cemetery" to read as follows:

Cemetery means any area of land where human bodies are interred, but does not include family burial grounds.

15. In § 761.11, paragraphs (a), (c), (d), and (e) are revised to read as follows:

§ 761.11 Areas where mining is prohibited or limited.

* * * * *

(a) On any lands within the boundaries of the National Park System, the National Wildlife Refuge System, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System including, for study rivers designated under section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)), a corridor extending one-quarter mile from each bank for the length of the segment being studied, and National Recreation Areas designated by Act of Congress;

* * * * *

(c) On any lands where mining will adversely affect any publicly owned park or any publicly owned site included in the National Register of Historic Places, unless approved jointly by the regulatory authority and the Federal, State, or local agency with jurisdiction over the park or site;

(d) Within 100 feet, measured horizontally, of the outside right-of-way line of any public road, except—

(1) Where mine access roads or haulage roads join such right-of-way line; or

(2) Where the regulatory authority or the appropriate public road authority, pursuant to being designated as the responsible agency by the regulatory authority, allows the public road to be relocated, closed, or the area affected to be within 100 feet of such road, after—

(i) Public notice and opportunity for a public hearing in accordance with § 761.12(d); and

(ii) Making a written finding that the interests of the affected public and landowners will be protected;

(e) Within 300 feet, measured horizontally, of any occupied dwelling, except when—

(1) The owner thereof has provided a written waiver consenting to surface coal mining operations closer than 300 feet; or

(2) The part of the mining operation which is within 300 feet of the dwelling is a haulroad which connects with an existing public road on the side of the public road opposite the dwelling;

* * * * *

16. Section 761.12 is amended by revising paragraphs (b) and (d) to read as follows:

§ 761.12 Procedures.

* * * * *

(b)(1) Where the proposed operation would be located on any lands listed in § 761.11 (a), (f), or (g), the regulatory authority shall reject the application if the applicant has no valid existing rights for the area.

(2) If the regulatory authority is unable to determine whether the proposed operation is located within the boundaries of any of the lands in § 761.11(a) or closer than the limits provided in § 761.11 (f) and (g), the regulatory authority shall transmit a copy of the relevant portions of the permit application to the appropriate Federal, State, or local government agency for a determination or clarification of the relevant boundaries or distances, with a notice to the appropriate agency that it has 30 days from receipt of the request in which to respond. If no response is received within the 30-day period, the regulatory authority may make the necessary determination based on the information it has available.

* * * * *

(d) Where the mining operation is proposed to be conducted within 100 feet, measured horizontally, of the outside right-of-way line of any public road (except as provided in § 761.11(d)(2)) or where the applicant proposes to relocate or close any public road, the regulatory authority or public road authority shall—

(1) Require the applicant to obtain necessary approvals of the authority with jurisdiction over the public road;

(2) Provide an opportunity for a public hearing in the locality of the proposed mining operations for the purpose of determining whether the interests of the public and affected landowners will be protected;

(3) If a public hearing is requested, provide appropriate advance notice of the public hearing, to be published in a newspaper of general circulation in the affected locale at least 2 weeks prior to the hearing; and

(4) Make a written finding based upon information received at the public hearing within 30 days after completion of the hearing, or at the end of any public comment period if no hearing is held, as to whether the interests of the public and affected landowners will be protected from the proposed mining operations. No mining shall be allowed within 100 feet of the outside right-of-way line of a road, nor may a road be relocated unless the regulatory authority or public road authority determines that

the interests of the public and affected landowners will be protected.

* * * * *

Option 1 for Paragraph (e) of § 761.12.

17. Section 761.12 is amended by redesignating paragraph (e) as (e)(1) and revising it to read as follows:

§ 761.12 Procedures.

* * * * *

(e)(1) Where the proposed surface coal mining operations would be conducted within 300 feet, measured horizontally, of any occupied dwelling, the permit applicant shall submit with the application a written waiver from the owner of the dwelling, consenting to such operations within a closer distance of the dwelling as specified in the waiver. The waiver must be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver.

* * * * *

Option 2 for Paragraph (e) of § 761.12.

18. Section 761.12 is amended by redesignating paragraph (e) as (e)(1) and revising it to read as follows:

§ 761.12 Procedures.

* * * * *

(e)(1) Where the proposed surface coal mining operations would be conducted within 300 feet, measured horizontally, of any occupied dwelling, the permit applicant shall submit with the application a written waiver by lease, deed, or other conveyance from the owner of a dwelling, clarifying that the owner and signator had the legal right to deny mining and knowingly waived that right. The waiver shall consent to such operations within a closer distance of the dwelling as specified.

* * * * *

19. Section 761.12 is amended by adding paragraphs (e)(2) and (3)(i) and (ii) to read as follows:

§ 761.12 Procedures.

* * * * *

(e) * * *

(2) Where the applicant for a permit after August 3, 1977, had obtained a valid waiver prior to August 3, 1977, from the owner of an occupied dwelling to mine within 300 feet of such dwelling, a new waiver shall not be required.

(3)(i) Where the applicant for a permit after August 3, 1977, had obtained a valid waiver from the owner of an occupied dwelling, that waiver shall remain effective against subsequent purchasers who had actual or constructive knowledge of the existing waiver at the time of purchase.

(ii) A subsequent purchaser shall be deemed to have constructive knowledge if the waiver has been properly filed in public property records pursuant to State laws or if the mining has proceeded to within the 300-foot limit prior to the date of purchase.

* * * * *

20. Section 761.12 is amended by revising paragraph (f) to read as follows:

§ 761.12 Procedures.

* * * * *

(f)(1) Where the proposed surface coal mining operations will adversely affect any public park or any publicly owned site included in the National Register of Historic places, the regulatory authority shall transmit to the Federal, State, or local agency with jurisdiction over, or a statutory or regulatory responsibility for, the public park or publicly owned National Register site a copy of applicable parts of the permit application containing a request for that agency's approval or disapproval of the operations, with a notice to the appropriate agency that it has 30 days from receipt of the request within which to respond. Failure to respond within 30 days shall constitute an approval of the proposed permit.

(2) A permit for the operation shall not be issued unless jointly approved by all affected agencies.

* * * * *

PART 762—CRITERIA FOR DESIGNATING AREAS AS UNSUITABLE FOR SURFACE COAL MINING OPERATIONS

Option 1 for Section 762.5: Definition of fragile lands.

21. Section 762.5 is amended by revising the definition of the term "fragile lands" to read as follows:

§ 762.5 Definitions.

* * * * *

Fragile lands means geographic areas containing natural, ecologic, scientific, or esthetic resources that could be irreparably damaged or destroyed by surface coal mining operations. Examples of fragile lands include valuable habitats for fish or wildlife, critical habitats for endangered or threatened species of animals or plants, uncommon geologic formations, National Natural Landmark sites, areas where mining may result in flooding, environmental corridors containing a concentration of ecologic and esthetic features, areas of recreational value due to high environmental quality, and buffer zones adjacent to the boundaries of areas where surface coal mining operations are prohibited under section 522(e) of the Act and Part 761 of this chapter.

* * * * *

Option 2 for Section 762.5: Definition of fragile lands.

22. Section 762.5 is amended by revising the definition of the term "fragile lands" to read as follows:

§ 762.5 Definitions.

* * * * *

Fragile lands means geographic areas containing important natural, ecologic, scientific, or esthetic resources that could be irreparably and significantly damaged or destroyed by surface coal mining operations. Examples of fragile lands include valuable habitats for endangered or threatened species of animals or plants, uncommon geologic formations, National Natural Landmark sites, areas where mining may result in flooding, environmental corridors containing a concentration of ecologic and esthetic features, and areas of recreational value due to high environmental quality.

* * * * *

23. Section 762.5 is amended by adding the definition of the term "renewable resource lands" in alphabetical order and revising the definitions of the terms "historic lands" and "substantial legal and financial commitments in a surface coal mining operation" to read as follows:

§ 762.5 Definitions.

* * * * *

Historic lands means important historic, cultural, and scientific areas that could be irreparably damaged or destroyed by surface mining operations. Examples of historic lands include sites that have been listed on the National Register of Historic Places, National Historic Landmark sites, and sites for which historic designation is pending.

* * * * *

Renewable resource lands means geographic areas which contribute significantly to the long-range productivity of water supply or of food or fiber products, such lands to include aquifers and aquifer recharge areas.

Substantial legal and financial commitments in a surface coal mining operation means that significant investments and legal commitments have been made in activities and facilities such as powerplants; railroads; coal handling, preparation, extraction, or storage facilities; or other capital-intensive activities.

PART 764—STATE PROCESSES FOR DESIGNATING AREAS UNSUITABLE FOR SURFACE COAL MINING OPERATIONS

§§ 764.2 and 764.3 [Removed]

24. Sections 764.2 and 764.3 are removed.

25. In § 764.13, paragraph (a) is revised to read as follows:

§ 764.13 Procedures: Petitions.

(a) *Right to petition.* Any person having a property interest in land or mineral resources which is or may be adversely affected has the right to petition the regulatory authority to have an area designated as unsuitable for surface coal mining operations, or to have an existing designation terminated.

Option 1 for Paragraph (b) of § 764.13.

26. Section 764.13 is amended by revising paragraph (b) to read as follows:

§ 764.13 Procedures: Petitions.

* * * * *

(b) *Designation.* The regulatory authority shall determine what information must be provided by the petitioner to have an area designated as unsuitable for surface coal mining operations.

(1) At a minimum, a complete petition for designation shall include—

(i) The petitioner's name, address, telephone number; and notarized signature;

(ii) An identification of the petitioned area, including its location and size;

(iii) An identification of the petitioner's interest which is or may be adversely affected by surface coal mining operations;

(iv) Allegations of fact and supporting evidence, covering all lands in the petition area, which tend to establish that the area is unsuitable for all or certain types of surface coal mining operations, assuming that contemporary mining practices required under applicable regulatory programs would be followed if the area were to be mined; and

(v) A description of how mining of the area has affected or may adversely affect people, land, air, water, or other resources.

(2) The State regulatory authority may also require, in addition to the requirements of § 764.13(b)(1)(iv), that the petition include allegations of fact, with supporting evidence, that tend to establish that the petitioned area is unsuitable for surface coal mining operations pursuant to specific criteria of section 522(a)(2) and (3) of the Act. Each of the allegations of fact should be specific as to the mining operation, if any, and the portion(s) of the petitioned area and petitioner's interests to which the allegation applies and be supported by evidence that tends to establish the validity of the allegations for the mining operation or portion of the petitioned area, assuming that contemporary mining practices required under applicable regulatory programs would be followed if the area were to be mined.

(3) The regulatory authority may request that the petitioner provide other supplementary information which is readily available.

* * * * *

Option 2 for Paragraph (b) of § 764.13

27. Section 764.13 is amended by revising paragraph (b) to read as follows:

§ 764.13 Procedures: Petitions.

* * * * *

(b) *Designation.* The regulatory authority shall determine what information must be provided by the petitioner to have a petition accepted to determine if the area should be designated as unsuitable for surface coal mining operations.

(1) At a minimum, a complete petition for designation shall include—

(i) The petitioner's name, address, telephone number, and notarized signature;

(ii) Identification of the petitioned area, including its location and size, and a U.S. Geological Survey topographic map outlining the perimeter of the petitioned area;

(iii) Identification of the petitioner's interest which is or may be adversely affected by surface coal mining operations;

(iv) Allegations of fact and supporting evidence, covering all lands in the petition area, which tend to establish that the area is unsuitable for all or certain types of surface coal mining operations, assuming that contemporary mining practice required under applicable regulatory programs would be followed if the area were to be mined, pursuant to specific criteria of section 522(a)(2) and (3) of the Act;

(v) A description of how mining of the area has affected or may adversely affect people, land, air, water, or other resources, including the petitioner's interests;

(vi) A list of property and mineral owners of record in the petitioned area;

(vii) Evidence that all property and mineral owners of record have been notified by regular mail that a petition requesting designation of land unsuitable for mining has been submitted. Such notification shall describe the boundaries of the petitioned area and the allegations and provide information on where the petition may be reviewed and comments may be filed; and

(viii) A copy of the newspaper advertisement on the petition to be placed by the petitioner in a newspaper of general circulation in the locality of the petitioned area; publication shall take place once a week for four successive weeks and shall include a description of the boundaries of the petitioned area, allegations of fact, and information regarding where the petition is available for public review.

(2) The State regulatory authority may request that the petitioner provide other supplementary information which is readily available.

* * * * *

28. Section 764.13 is amended by revising paragraph (c) to read as follows:

§ 764.13 Procedures: Petitions.

* * * * *

(c) *Termination.* The regulatory authority shall determine what information must be provided by the petitioner to terminate designations of lands as unsuitable for surface coal mining operations.

(1) At a minimum, a complete petition for termination shall include—

(i) The petitioner's name, address, telephone number, and notarized signature;

(ii) Identification of the petitioned area, including its location and size;

(iii) Identification of the petitioner's interest which is or may be adversely affected by the continuation of the designation; and

(iv) Allegations of facts covering all lands for which the termination is proposed with supporting evidence not contained in the record of the proceeding in which the area was designated unsuitable, that tend to establish that the designation should be terminated, based on the nature or abundance of the protected resource or condition or other basis of the designation if the designation was based on the criteria found in § 762.11(b) of this chapter; or reclamation now being technologically and economically feasible, if the designation was based on the criterion found in § 762.11(a) of this chapter; or the resources or condition not being affected by surface coal mining operations, or in the case of land use plans, not being incompatible with surface coal mining operations during and after mining, if the designation was based on the criteria found in § 762.11(b) of this chapter.

(2) The regulatory authority may also require, in addition to the requirements of § 764.13(c)(1)(ii), that the allegations in the petition be specific as to the portion(s) of the designated area to which they apply. Each of the allegations of fact shall be specific as to the mining operation, if any, and the portions of the petition area and petitioner's interests to which the allegation applies and be supported by evidence that tends to establish the validity of the allegations for the mining operation or portion of the petitioned area, assuming that contemporary mining practices required under applicable regulatory programs would be followed were the area to be mined.

(3) The State regulatory authority may request that the petitioner provide other supplementary information which is readily available.

§ 764.15 [Amended]

29. Section 764.15 is amended by redesignating paragraphs (a) (5), (6), and (7) as paragraphs (a) (6), (7), and (8), respectively.

30. Section 764.15 is amending by revising paragraphs (a)(1), (a)(3), and (a)(4) and adding new paragraph (a)(5) to read as follows:

§ 764.15 Procedures: initial processing, recordkeeping, and notification requirements.

(a)(1) Within 60 days of receipt of a petition, the regulatory authority shall notify the petitioner by certified mail whether or not the petition is complete under § 764.13(b) or (c). Complete, for a designation or termination petition, means that the information required under § 764.13(b) or (c) has been provided. * * *

(3) The regulatory authority may suspend petitions related to lands where it finds that there is no real and foreseeable potential for surface coal mining operations to occur. Real and foreseeable potential means that the petitioned lands are likely to be subject to leasing or mining activity within 5 years. Where petitions are suspended, the regulatory authority will automatically resume review of the petition when the petitioned area is found to have real and foreseeable potential for surface coal mining operations to occur.

(4) The regulatory authority may reject petitions for designations or terminations of designations which are frivolous. Frivolous means that the petition or the allegations of fact and supporting evidence are trivial, insignificant or unworthy of serious attention.

(5) When considering a petition for an area which was previously and unsuccessfully proposed for designation, the regulatory authority shall determine if the new petition presents significant new allegations of facts with evidence which tends to establish the allegations. If the petition does not contain such material, the regulatory authority may choose not to consider the petition and may return the petition to the petitioner, with a statement of its findings and a reference to the record of the previous designation proceedings where the facts were considered.

* * * * *

Option 1 for paragraph (a)(8) of §764.15

31. Section 764.15 is amended by revising the newly redesignated paragraph (a)(8) to read as follows:

§ 764.15 Procedures: initial processing, recordkeeping, and notification requirements.

(a) * * *

(8) The regulatory authority may determine not to process any petition received which pertains to lands for which a complete permit application has been filed and the first newspaper notice has been published. Based on such a determination, the regulatory authority shall not be prevented from issuing a decision on such a permit application and shall return the petition to the petitioner with a statement why the regulatory authority cannot consider it. When a permit application is filed for an area where a petition has been suspended pursuant to § 764.15(a)(3), the regulatory authority shall initiate petition review and not issue a permit until a decision is made on the petition.

* * * * *

Option 2 for Paragraph (a)(8) of § 764.15

32. Section 764.15 is amended by revising the newly redesignated paragraph (a)(8) to read as follows:

§ 764.15 Procedures: initial processing, recordkeeping, and notification requirements.

(a) * * *

(8) Any petition received after the close of the public comment period on a permit application relating to the same permit area shall not prevent the regulatory authority from issuing a decision on that permit application. For the purposes of this section, close of the public comment period shall mean 30 days after the last advertisement giving notice of filing of a permit application under § 786.11(a) of this chapter. If a petition submitted during the public comment period on a permit application is deemed incomplete, and the comment period closes in less than 15 days, the State regulatory authority may allow the petitioner 15 days to resubmit the petition regardless of the end of the period.

* * * * *

33. Section 764.15 is amended by adding paragraph (a)(9) and revising paragraphs (b), (c) and (d) to read as follows:

§ 764.15 Procedures: initial processing, recordkeeping, and notification requirements.

(a) * * *

(9) The regulatory authority may incorporate a petition into a land use planning process if formal land use planning by authorized State or local agencies is currently underway or is scheduled to be initiated within 1 year. Acceptable land use planning, for the purposes of this section must include criteria and procedures consistent with 30 CFR Part 762, 30 CFR Part 764 and section 522 of the Act. In addition, the land use planning program must be required by prior to any authorized mining activity in that State or local jurisdiction and possess the authority to declare areas off limits to mining and to prevent mining in such areas.

(b)(1) Within 3 weeks after a petition is received, the regulatory authority shall notify the general public of the receipt of the petition and request submissions of relevant information on completeness by a newspaper advertisement placed in the locale of the area covered by the petition, in the newspaper providing broadest circulation in the region of the petitioned area, and in any official State register of public notices. The regulatory authority shall make copies of the petition available to the public and shall provide copies of the petition to, and request submissions of relevant information on petition completeness from other interested governmental agencies, intervenors, persons with an ownership interest of record in the property, and other persons known to the regulatory authority to have an interest in the property. Proper notice to persons with an ownership interest of record in the property shall comply with the requirements of applicable State law. The regulatory authority shall inform these persons and governmental agencies of the opportunity to request a hearing or provide written comments within 6 weeks from the date of the petition filing with the regulatory authority regarding whether the petition is complete for further processing. Notice of a hearing shall be made by a newspaper advertisement placed in the

locale of the area covered by the petition, in the newspaper providing broadest circulation in the region of the petitioned area and in any official State register of public notices. The regulatory authority shall notify the petitioner of a hearing by certified mail. On the basis of regulatory authority review as well as consideration of all comments, the regulatory authority shall issue a written decision on whether the petition is complete pursuant to the requirement of paragraph (a)(1) of this section.

(2) Within 5 weeks after the determination that a petition is complete, the regulatory authority shall notify the general public of the receipt of the petition and request submissions of relevant information by a newspaper advertisement placed once a week for two consecutive weeks in the locale of the area covered by the petition, in the newspaper providing broadest circulation in the region of the petitioned area, and in any official State register of public notices.

(c) Until 3 days before the regulatory authority holds a hearing under § 764.17, any person having a property interest in land or mineral resources which is or may be adversely affected may intervene in the proceeding by filing allegations of facts, supporting evidence, a short statement identifying the petition to which the allegations pertain, and the intervenor's name, address, and telephone number.

(d) Beginning from the date a petition is filed, the regulatory authority shall compile and maintain a record consisting of all documents relating to the petition filed with or prepared by the regulatory authority. The regulatory authority shall make the record available to the public for inspection free of charge and for copying at reasonable cost during all normal business hours at the main office of the regulatory authority. The regulatory authority shall also maintain information in or near the area in which the petitioned land is located and make this information available to the public for inspection free of charge and for copying at reasonable cost during all normal business hours. At a minimum, this information shall include a copy of the petition.

Option 1 for Paragraph (a) of § 764.17

33. Section 764.17 is amended by revising paragraph (a) to read as follows:

§ 764.17 Procedures: Hearing requirements.

(a) Within 10 months after receipt of a complete petition, the regulatory authority shall hold a public hearing in the locality of the area covered by the petition. If all petitioners and intervenors agree, the hearing need not be held. The hearing shall be conducted without cross-examination of witnesses, a record of the hearing shall be made and preserved according to State law, no party shall bear the burden of proof or persuasion, and all relevant parts of the data base and inventory system and all public comments received during the public comment period set by the regulatory authority shall be included in the record and considered by the regulatory authority in deciding the petition.

* * * * *

Option 2 for Paragraph (a) of § 764.17

35. Section 764.17 is amended by revising paragraph (a) to read as follows:

§ 764.17 Procedures: Hearing requirements.

(a) Within 10 months after receipt of a complete petition, the regulatory authority shall hold a public hearing in the locality of the area covered by the petition. If all petitioners and intervenors agree, the hearing need not be held. The regulatory authority may subpoena witnesses as necessary. The hearing shall be conducted with cross-examination of expert witnesses as an acceptable procedure, a record of the hearing shall be made and preserved according to State law, and all relevant parts of the data base and inventory system and all public comments received during the public comment period set by the regulatory authority shall be included in the record and considered by the regulatory authority in deciding the petition.

* * * * *

Option 3 for Paragraph (a) of § 764.17

36. Section 764.17 is amended by revising paragraph (a) to read as follows:

§ 764.17 Procedures: Hearing requirements.

(a) Within 10 months after receipt of a complete petition, the regulatory authority shall hold a public hearing in the locality of the area covered by the petition. If all petitioners and intervenors agree, the hearing need not be held. The regulatory authority may subpoena witnesses as necessary. The hearing shall be conducted with cross-examination as an acceptable procedure, a record of the hearing shall be made and preserved according to State law, the petitioner shall bear the burden of proof or persuasion, and all relevant parts of the data base and inventory system and all public comments received during the public comment period set by the regulatory authority shall be included in the record and considered by the regulatory authority in deciding the petition.

* * * * *

37. Section 764.17 is amended by revising paragraph (b)(1)(iii) and (b)(2) to read as follows:

§ 764.17 Procedures: Hearing requirements.

* * * * *

(b)(1) * * *

(iii) Any person known by the regulatory authority to have a property interest of record in the property and other persons known to the regulatory authority to have an ownership interest in the property. Proper notice to persons with an ownership interest of record shall comply with the requirements of applicable State law.

(2) Notice of the hearing shall be sent by certified mail to petitioners and intervenors, and by regular mail to government agencies and property owners involved in the proceeding, and postmarked not less than 30 days before the scheduled date of the hearing.

* * * * *

38. In Section 764.19, paragraphs (a)(3), (b), and (c) are revised to read as follows:

§ 764.19 Procedures: Decision.

(a) * * *

(3) The detailed statement when it is prepared under § 764.17(e); and

* * * * *

(b) A final written decision shall be issued by the regulatory authority, including a statement of reasons, within 60 days of completion of the public hearing, or, if no public hearing is held, then within 12 months after a petition is determined to be complete. The regulatory authority shall simultaneously send the decision by certified mail to the petitioner and intervenors and by regular mail to all other persons involved in the proceeding.

(c) The decision of the State regulatory authority with respect to a petition, or the failure of the regulatory authority to act within the time limits set forth in this section, shall be subject to judicial review by a court of competent jurisdiction in accordance with State law under section 526(a) of the Act and § 787.12 of this chapter. All relevant portions of the data base, inventory system, and public comments received during the public comment period set by the regulatory authority shall be

considered and included in the record of the administrative proceeding.

39. Section 764.23 is amended by revising paragraph (a) to read as follows:

§ 764.23 Public information

* * * * *

(a) Make the information in the data based and inventory system developed under § 764.21 available to the public for inspection free of charge and for copying at reasonable cost, except that specific information relating to location of properties proposed to be nominated to, or listed in, the National Register of Historic Places need not be disclosed if the regulatory authority determines that the disclosure of specific information would create a risk of destruction or harm to such properties;

40. Section 764.25 is amended by revising paragraph (b) to read as follows:

§ 764.25 Regulatory authority responsibility for implementation.

* * * * *

(b) The regulatory authority shall maintain a map or other unified and cumulative record of areas designated unsuitable for all or certain types of surface coal mining operations.

* * * * *

PART 765—DESIGNATING LANDS AS UNSUITABLE FOR SURFACE COAL MINING OPERATIONS UNDER A FEDERAL PROGRAM FOR A STATE [REMOVED]

41. Part 765 is removed.

PART 769—PETITION PROCESS FOR DESIGNATION OF FEDERAL LANDS AS UNSUITABLE FOR ALL OR CERTAIN TYPES OF SURFACE COAL MINING OPERATIONS AND FOR TERMINATION OF PREVIOUS DESIGNATIONS

Alternative 1 (Amendments 42 Through 56)

§§ 769.3, 769.4 and 769.7 [Removed]

42. Sections 769.3, 769.4, and 769.7 are removed.

43. Section 769..12 is revised to read as follows:

§ 769.12 Procedures: Where to submit petitions.

Each petition to have an area of Federal lands designated as unsuitable or to terminate an existing designation shall be submitted to the Director of the OSM State Office responsible for that area where Federal lands are located.

Option 1 for Paragraph (a) of § 769.13

44. In § 769.13, paragraph (a) is revised to read as follows:

§ 769.13 Procedures: Contents of petitions.

(a) *Designation.* (1) At a minimum, a complete petition for designation shall include—

(i) The petitioner's name, address, telephone number, and notarized signature;

(ii) The identity, location, and size of that area to which the petition relates;

(iii) An identification of the petitioner's interest that is or may be adversely affected by surface coal mining operations;

(iv) Allegations of fact, with supporting evidence, which would tend to establish that the area described in the petition is unsuitable for surface coal mining operations under the criteria set forth in section 522(a) (2) and (3) of the Act; and each of which allegation should specify the portion(s) of the petitioned area and petitioner's interests to which the allegation applies and be supported by evidence which tends to establish the validity of the allegation, assuming that contemporary mining practices required under applicable regulatory programs would be followed should the area be mined; and

(v) A description of how mining of the area has affected or may adversely affect people, land, water, or other resources.

(2) OSM may request other supplementary information which is readily available to be provided by the petitioner. Any request for such supplementary information from the petitioner shall not affect OSM's determination that the petition is complete for further processing.

Option 2 for paragraph (a) of § 769.13.

45. In § 769.13, paragraph (a) is revised to read as follows:

§ 769.13 Procedures: Contents of petitions.

(a) *Designation.* At a minimum, a complete petition for designation shall include—

(1) The petitioner's name, address, telephone number, and notarized signature;

(2) The identity, location, and size of the area to which the petition relates and a U.S. Geological Survey topographic map (or equivalent) outlining the perimeter of the petitioned area;

(3) An identification of the petitioner's interest that is or may be adversely affected by surface coal mining operations;

(4) Allegations of fact with supporting evidence which tends to establish that the area described in the petition is unsuitable for surface coal mining operations under the criteria set forth in section 522(a) (2) and (3) of the Act. Each allegation should specify the portion(s) of the petitioned area and petitioner's interests to which the allegation applies. The allegation should assume that contemporary mining practices required under applicable regulatory programs would be followed should the area be mined; and

(5) A description of how mining of the area has affected or may adversely affect people, land, water, or other resources.

(6) A listing of property and mineral owners of record in the petitioned area;

(7) Evidence that all property and mineral owners of record have been notified by certified mail that a petition requesting designation of lands unsuitable for mining has been submitted; such notification shall describe the petitioned area boundaries and the allegations and provide information both on where the petition may be reviewed and on where comments may be filed; and

(8) A copy of the newspaper advertisement to be placed by the petitioner in a newspaper of general circulation in the locality of the petitioned area; to be published once a week for four successive weeks; and to include a description of the boundaries of the petitioned area, allegations of fact, and information regarding where the petition is available for public review.

46. In § 769.13, paragraph (b) is revised to read as follows:

§ 769.13 Procedures: Contents of petitions.

* * * * *

(b) *Termination.* At a minimum, a complete petition for termination shall include—

(1) The petitioner's name, address, telephone number, and notorized signature;

(2) Identification of the petitioned area, including its location and size;

(3) Identification of the petitioner's interest which is or may be adversely affected by the continuation of the designation;

(4) Allegations of fact covering all lands for which the termination is proposed with supporting evidence not contained in the record of the proceeding in which the area was designated unsuitable and which—

(i) Tends to establish that the designation should be terminated, based

on (A) the nature or abundance of the protected resource or condition or other basis of the designation if the designation was based on the criteria found in § 762.11(b) of this chapter; (B) or reclamation now being technologically and economically feasible, if the designation was based on the criterion found in § 762.11(a) of this chapter; or (C) the resources or condition not being affected by surface coal mining operations, or in the case of land use plans, not being incompatible with surface coal mining operations during and after mining, if the designation was based on the criteria found in § 762.11(b) of this chapter; and

(ii) Is specific as to the portion(s) of the designated area to which each allegation in the petition applies. Each of the allegations of fact shall be specific as to the mining operation, if any, and the portions of the petition area and petitioner's interest to which the allegation applies and be supported by evidence that tends to establish the validity of the allegations for the mining operation or portion of the petitioned area, assuming that contemporary mining practices required under applicable regulatory programs would be followed should the area be mined.

47. In § 769.14, paragraphs (a), (b), (c), (d), (e), and (f) are revised to read as follows:

§ 769.14 Procedures: initial processing, recordkeeping, and notification requirements.

(a) Within 60 days of receipt of a petition the Director shall determine whether or not the petition is complete, ripe, and possesses sufficient merit for further processing. OSM may request other supplementary information which is readily available to be provided by the petitioner. Any request for such supplementary information from the petitioner shall not affect OSM's determination that the petition is complete for further processing.

(1) *Complete,* for a designation or termination petition, means that all information required under § 769.13(a) or (b) has been provided.

(2) *Ripe,* for a designation petition, means that a real and foreseeable potential exists for surface coal mining operations to occur within 5 years on the lands subject to the petition. Real and foreseeable potential means that the petitioned lands are (A) subject to a Federal coal lease; or (B) covered by a preference right lease application; or (C) included in a tract for which land use planning has been completed and which tract is available for further consideration for coal leasing; or (D) subject to noncompetitive leasing procedures.

(3) *Sufficient merit,* for a designation petition, means that—

(i) For areas previously and unsuccessfully proposed for designation, new significant allegations of fact and supporting evidence are presented in the petition;

(ii) If a Federal lands review did not result in any part of the petitioned area being assessed unsuitable, the information submitted by the petitioner contains significant new evidence not considered in the Federal lands review that tends to establish that the lands are indeed unsuitable;

(iii) The information submitted by the petitioner provides a clear indication that the petitioner has an interest which is or may be adversely affected by surface coal mining operations on the petitioned land;

(iv) Available information shows that "minable" coal (coal contained in a "Known Recoverable Coal Resource Area") resources exist in the petitioned area or that the petitioned area is subject to related "surface operations and impacts incident to an underground coal mine" as defined in § 761.5 of this chapter; and

(5) *Sufficient merit,* for a termination petition, means that the petitioned area has been designated as unsuitable for surface coal mining operations and that—

(i) For an area previously proposed for termination which did not result in termination, new significant allegations of fact and supporting evidence are presented in the petition; or

(ii) The information submitted by the petitioner demonstrates that the petitioner has interests in property or in resource values which are or may be adversely affected by the continued unsuitability designation of the petitioned lands; or

(iii) Where a Federal lands review has been completed by the land management agency and the review for any part of the petitioned area resulted in lands being assessed unsuitable, the information submitted by the petitioner contains significant new evidence which has not been considered in the Federal lands review and which tends to establish that the lands are no longer unsuitable for surface coal mining operations.

(b)(1) When the Director finds that the petition is incomplete, not ripe, or without sufficient merit, he or she shall reject the petition with a written statement of reasons and advise the petitioner, via certified mail, that the petition may be reconsidered upon resubmittal with appropriate remedies.

(2) When rejection for lack of ripeness is based on land use planning not having occurred yet on unleased Federal land, the Director shall advise the petitioner of his/her opportunity to participate in the planning process. In addition, the Director shall advise the land management agency of the issues raised by the petitioner and will request the agency to specifically consider the issues in its planning effort and to advise the petitioner of all public participation activities for the planning unit. The planning agency shall give consideration to the issues raised in the petition.

(c) When the Director finds that the petition is complete, ripe and of sufficient merit, he or she shall accept the petition for further processing and so advise the petitioner via certified mail.

(d)(1) Within 2 weeks after accepting the petition for further processing, the Director shall send a copy of the petition to the authorized officer of the land management agency for the officer's recommendation on the petition.

(2) The authorized officer of the appropriate Federal land management agency shall furnish a recommendation on the petition to OSM within 30 days of its receipt, if the area covered by the petition has been included in a completed Federal lands review, or within 9 months, if the area has not been included in a Federal lands review.

(e) Within 3 weeks after accepting the petition for further processing, the Director shall notify the general public of the receipt of the petition and request submissions of relevant information on completeness, ripeness and sufficient merit by a newspaper advertisement placed in the locale of the area covered by the petition, in the newspaper providing broadest circulation in the region of the petitioned area, and in the **Federal Register.** OSM shall make copies of the petition available to the public and shall provide copies of the petition to, and request submission of relevant information from, other interested governmental agencies, the petitioner, and any person known by the Director to have an ownership interest in the property. OSM shall inform these persons and governmental agencies that within 6 weeks from the date the petition was filed with OSM they may request a hearing or provide written comments regarding whether the petition is complete, ripe, timely and has sufficient merit for further processing. Notice of a hearing shall be made by a newspaper advertisement placed in the locale of the area covered by the petition, in the newspaper providing broadest circulation in the region of the

petitioned area and in the **Federal Register**. OSM shall notify the petitioner of a hearing by certified mail. After considering all comments and the record of the hearing, if any, OSM shall issue a written decision on whether the petition is complete, ripe and of sufficient merit pursuant to § 769.14(a)(1).

(f) Where lands administered by the Department of the Interior and other Federal land management agencies are contiguous or intermingled or where one Department's resource management could affect resources on the other's land, the Director of OSM shall also refer a copy of the petition to the other Federal land management agency and shall consider that agency's recommendations about designating those lands unsuitable for all or certain types of surface coal mining or terminating such designations.

* * * * *

Option 1 for Paragraph (g) in § 769.14.

48. Section 769.14 is amended by removing paragraphs (h) and (i) and by revising paragraph (g) to read as follows:

§ 769.14 Procedures: Initial processing, recordkeeping, and notification requirements.

* * * * *

(g) OSM may determine not to process any petition received which pertains to lands for which a complete permit application has been filed and the first newspaper notice has been published. Based on such a determination, OSM shall not be prevented from issuing a decision on such a permit application and shall return the petition to the petitioner with a statement why OSM cannot consider it.

Option 2 for paragraph (g) in § 769.14.

49. Section 769.14 is amended by removing paragraphs (h) and (i) and by revising paragraph (g) to read as follows:

§ 769.14 Procedures: Initial processing, recordkeeping, and notification requirements.

* * * * *

(g) Any petition received after the close of the public comment period on a permit application relating to the same permit area shall not prevent OSM from issuing a decision on that permit application. For the purposes of this section, close of the public comment period shall mean 30 days after the last advertisement giving notice of filing of a permit application under § 786.11(a) of this chapter. If a petition submitted during the public comment period on a permit application is deemed incomplete OSM may allow the petitioner to resubmit the petition within 15 days from the date of rejection even if this is after the close of the public comment period.

50. Section 769.16 is revised to read as follows:

§ 769.16 Procedures: Public information.

(a) Wihtin 5 weeks after determining that a petition is complete, the Director shall notify the general public of the receipt of the petition and request submission of relevant information by a newspaper advertisement placed once a week for four successive weeks in a newspaper of general circulation in the locality of the petitioned area, and in the **Federal Register**. The advertisement and **Federal Register** notice shall include a description of the boundaries of the petitioned area, the allegations of fact, and information regarding where the petition is available for public review.

(b)(1) Beginning immediately after a petition is determined complete, the Director shall compile and maintain a record consisting of all documents relating to the petition filed with or prepared by the Director with the exception of that information excluded under § 769.16(b)(2). The Director shall make the record available for public inspection free of charge and for copying at a reasonable cost during all normal business hours at the OSM office nearest the petitioned land. OSM shall also maintain information in or near the area in which the petitioned land is located; this information shall be available for public inspection, free of charge, during all normal business hours.

(2) The Director need not make available to any person or entity (except a Federal agency planning a project, the property owner, the chief local elected official of the political jurisdiction in which the property is located, and the local historic preservation commission for certified local governments) information relating to the specific location of property proposed to be nominated to be listed or listed in the National Register of Historic Places if it is determined that disclosure of that information would create a risk of destruction or harm to such properties. Withheld information must be disclosed when a designation of unsuitability would rest primarily on an allegation based on that information.

Option 1 for paragraph (a) of § 769.17.

51. Section 769.17 is amended by revising paragraph (a) to read as follows:

§ 769.17 Procedures: Hearing requirements.

(a) Within 10 months after receipt of a complete petition, OSM shall hold a public hearing in the locality of the area covered by the petition. If all petitioners and intervenors agree, the hearing need not be held. The hearing shall be conducted without cross-examination of witnesses, a record of the hearing shall be made and preserved, no party shall bear the burden of proof or persuasion, and no relevant part of the data base and inventory system and no public comment received during the public comment period set by OSM shall be excluded from consideration by OSM in deciding the petition.

* * * * *

Option 2 for Paragraph (a) of § 769.17.

52. Section 769.17 is amended by revising paragraph (a) to read as follows:

§ 769.17 Procedures: Hearing requirements.

(a) Within 10 months after receipt of a complete petition, OSM shall hold a public hearing in the locality of the area covered by the petition. If all petitioners and intervenors agree, the hearing need not be held. OSM may subpoena witnesses as necessary. The hearing shall be conducted with cross-examination of expert witnesses, a record of the hearing shall be made and preserved and all relevant parts of the data base and inventory system and all public comment received during the public comment period set by OSM shall be considered by OSM in deciding the petition.

* * * * *

Option 3 for Paragraph (a) of § 769.17.

53. Section 769.17 is amended by revising paragraph (a) to read as follows:

§ 769.17 Procedures: Hearing requirements.

(a) Within 10 months after receipt of a complete petition, OSM shall hold a public hearing in the locality of the area covered by the petition. If all petitioners and intervenors agree, the hearing need not be held. OSM may subpoena witnesses as necessary. The hearing shall be conducted with cross-examination of witnesses, a record of the hearing shall be made and preserved, the petitioner shall bear the burden of proof or persuasion and all relevant parts of the data base and inventory system and all public comment received during the public comment period set by OSM shall be considered by OSM in deciding the petition.

54. Section 769.17 is amended by revising paragraph (b) to read as follows:

§ 769.17 Procedures: Hearing requirements.

* * * * *

(b)(1) OSM shall give notice of the date, time, and location of the hearing to—

(i) Local, State, and Federal agencies which may have an interest in the decision on the petitions;

(ii) The petitioner and the intervenors; and

(iii) Any person known by OSM to have an ownership interest of record in the property and other persons known to OSM to have an interest in the property.

(2) Notice of the hearing shall be sent by certified mail to the petitioner and intervenors, and by regular mail to other persons involved in the proceeding, and postmarked not less than 30 days before the scheduled date of the hearing.

* * * * *

55. Paragraphs (a) and (b) of § 769.18 are revised to read as follows:

§ 769.18 Procedures: Decisions on petitions.

(a) In reaching his or her decision, the Director shall consider the information and recommendation provided by the Federal land management agency, information provided by other governmental agencies, the petition evaluation document (when it is prepared) under § 769.17(e), and any other relevant information submitted during the comment period.

(b) A final written decision shall be issued by the Director, including a statement of reasons, within 60 days of completion of the public hearing, or if no public hearing is held, within 12 months after receipt of the petition. The Director shall simultaneously send the decision by certified mail to the petitioner and the intervenors and by regular mail to all other persons or agencies involved in the proceeding.

56. Section 769.19 is added to read as follows:

§ 769.19 Regulatory policy.

Once an area of Federal lands is designated as unsuitable for all or certain types of surface coal mining operations, the authorized officer shall condition any permit or lease in a manner so as to limit or prohibit surface coal mining operations on the designated areas in accordance with the designation.

Alternative 2 (Amendment 56)

PART 769—PETITION PROCESS FOR DESIGNATION OF FEDERAL LANDS AS UNSUITABLE FOR ALL OR CERTAIN TYPES OF SURFACE COAL MINING OPERATIONS AND FOR TERMINATION OF PREVIOUS DESIGNATIONS [Removed]

57. Part 769 is removed.

(Pub. L. 95-87; 30 U.S.C. 1201 *et seq.*)

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June 10, 1982

Part V

Department of Energy

Bonneville Power Administration

Proposed Amendments to Utility Power Sales Contracts Required for Settlement of Lawsuits and Full Implementation of Pacific Northwest Electric Power Planning and Conservation Act Opportunities for Public Review and Comment

DEPARTMENT OF ENERGY

Bonneville Power Administration

Proposed Amendments to Utility Power Sales Contracts Required for Settlement of Lawsuits and Full Implementation of Pacific Northwest Electric Power Planning and Conservation Act Opportunities for Public Review and Comment

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of proposed amendments to utility power sales contract offered August 28, 1981, required for settlement of several lawsuits and full implementation of the Regional Act; including proposed contract language, a discussion of the issues involved and implications of the proposed changes, and opportunities for public review and comment.

SUMMARY: This Notice announces for public review and comment proposed amendments to the utility power sales contract which was offered by BPA to its customers on August 28, 1981. The customers have 1 year, until August 28, 1982, to accept the offered contract. The proposed amendments, which are part of a package submitted to the Administrator by BPA's customers, are required for settlement of several lawsuits and for full implementation of the Regional Act.

This Notice contains the language of the original power sales contract, residential purchase and sale agreement, general contract provisions, and exhibit language with new language inserted and underlined. The language is followed by an explanation of the issue, how the contract language was added to or modified, who is affected by the proposed contract language, and alternatives considered by the customers in their discussions.

DATES: A public information forum to explain proposed amendments to the utility power sales contract will be held on June 30, 1982, at 7:30 p.m., in the Lloyd Center Auditorium, Multnomah Level (West of Mannings), Portland, Oregon. Registration will begin at 7 p.m. On July 19, 1982, meetings to receive pubic oral comment on the proposed amendments will be held in Portland, Oregon; Seattle, Washington; Boise, Idaho; and Missoula, Montana. All meetings will begin at 7:30 p.m. with registration starting at 7 p.m. The meeting in Portland will be held in Conference Rooms A and B, Activities Building, Willamette Center, 121 SW. Salmon. The meeting in Seattle will be held in the Fidalgo Room, Seattle Center, First North and Republican Street. The meeting in Boise will be held in the Bonneville Room, Boise City Hall, 150 North Capital Boulevard. The meeting in Missoula will be held in Room 201, Missoula County Courthouse Annex. Written comments will also be accepted and should be sent to the Public Involvement Coordinator. The deadline for receipt of written comments is, July 26, 1982.

ADDRESSES: Copies of the utility power sales contract offered on August 28, 1981, are available for distribution or review by contacting BPA's Public Involvement Office or the BPA Area and District Offices listed below. Written comments should be sent to the Public Involvement Coordinator, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Ms. Donna L. Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212, 503–230–3478. Oregon callers may use the toll-free number 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use 800–547–6048.

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97208, 503–230–4551;

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Street, Eugene, Oregon 97401, 503–345–0311.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washngton 99201, 509–456–2518.

Mr. Gordon H. Brandenburger, Kalispell District Manager, P.O. Box 758, Kalispell, Montana 59901, 406–755–6202.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington, 98801, 509–662–4377, extension 379.

Mr. Richard Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206–442–4130.

Mr. Thomas W. Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509–525–5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.

SUPPLEMENTARY INFORMATION: The Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96–501 (Regional Act), required BPA to simultaneously offer, within 9 months of the date of enactment, which was December 5, 1980, long-term power sales contracts to (1) existing public body and cooperative customers and investor-owned utility customers, (2) Federal agency customers, (3) electric utility customers participating in the residential exchange, and (4) direct-service industrial customers. BPA offered utility power sales contracts to its customers on August 28, 1981. The customers have 1 year, until August 28, 1982, to accept the offered contracts. This Notice contains amendments to the offered contracts which BPA customers have proposed.

On November 12, 1981, BPA's public agency customers met with BPA to discuss problems they felt remained unresolved with the offered contracts. They expressed the view that if these outstanding issues were resolved they might be able to sign the offered contracts.

PBA met with customer representatives on November 17 and November 20, 1981, to discuss the outstanding issues raised by the public agencies and investor-owned utilities. In response, on November 27, 1981, BPA's Administrator sent a letter to BPA's customers and interested parties noting customer concern regarding (1) errors and ambiguities in the contracts, (2) issues relating to the optimum, efficient, and economical use of BPA and its customers' systems, and (3) substantive issues related to each party's rights and obligations under the contracts. BPA stated that it would attempt to resolve issues included in categories (1) and (2) but would not discuss issues in category (3).

Just prior to expiration of the deadline for filing, each of BPA's customer classes filed a lawsuit challenging BPA's contract offers. These lawsuits include *Public Power Council* v. *Johnson*, *Pacific Power and Light* v. *Johnson*, and *Alcoa* v. *BPA*, Ninth Circuit Court of Appeals Action Nos. 81–7806, 81–7803, and 81–7813, respectively. The first two lawsuits involved challenges to the utility power sales contract offer. The third lawsuit challenges provisions of BPA's residential purchase and sale agreement offer.

In March 1982, BPA reached a settlement agreement with the investor-owned utilities which were petitioners in *Pacific Power and Light* v. *Johnson* and the direct-service industries which were petitioners in *Alcoa* v. *BPA*. Settlement of these two lawsuits was conditioned on the public agencies not raising issues in their briefs in *Public Power Council* v. *Johnson* which the petitioners felt affected the cost or quality of service to investor-owned utilities or direct-service industries.

In April 1982, the BPA Administrator met with public agency customers to discuss whether it would be possible to reach a settlement instead of proceeding with their lawsuit. BPA encouraged the public agency customers to attempt to reach a settlement of outstanding issues with BPA's other customer classes. BPA also informed its public agency customers that BPA could not commit itself in a settlement agreement to offer contract amendments, nor would BPA offer proposed contract amendments on issues of subtance until BPA had provided for public comment, consulted with interested agencies and groups, and complied with the National Environmental Policy Act of 1969 (NEPA).

Between April 26 and April 30, 1982, BPA's public agency customers called a series of meetings of all BPA customers to attempt to resolve outstanding issues in the contract offers, including the issues raised in the lawsuits. BPA attended these meetings at the request of the public agency customers.

The areas of discussion included (1) errors and ambiguities in the utility power sales contract, (2) an investor-owned utility proposal to modify the Contracted Requirements provisions of the contract, and (3) issues in the public agency customers' lawsuit. The public agency customers called an additional meeting on May 7 where agreement was reached by BPA's customer classes on a package of proposed solutions which the customers asked the BPA Administrator to implement.

Public Review and Comment. In order to meet its responsibilities to inform the public and involve interested persons in the process of amending the utility power sales contract offered August 28, 1981, BPA will hold a public information forum, informal meetings upon request, and four public comment forums. The public information forum to explain the nature and reasons for the proposed contract amendments will be held in Portland, Oregon, on June 30, 1982. Upon request, BPA will also meet with any person or group in the region desiring information on the proposed amendments. Requests for such meetings should be directed to the Office of the Public Involvement Coordinator or the BPA Area or District Managers shown in this Notice.

The four public comment forums will be held on July 19, 1982, in Portland, Oregon; Seattle, Washington; Boise, Idaho; and Missoula, Montana. Comments presented at these forums will become part of the Official Record. Written comments may also be made and should be sent to the Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212. The deadline for receipt of written comments is July 26, 1982.

Environmental Considerations: As required under the National Environmental Policy Act (NEPA), BPA is preparing an environmental assessment (EA) of the settlement package to the lawsuits on the utility power sales contracts. The EA will be available for public review and comment. Prior to any decision about offering contract amendments pursuant to the settlement package, BPA will make a decision about the appropriate documentation for NEPA compliance.

I. Introduction.

The proposed settlement package contains three separate documents. There is a stipulation for settlement between public agency customers and BPA, an agreement between the investor-owned utilities and BPA not to challenge the actions of the BPA Administrator in offering amendments or agreeing to the contract interpretations contained in the stipulation for settlement, and an Amendatory Agreement addressing the correction of errors and ambiguities described in the **Federal Register** Notice published June 4, 1982 (47 FR 24381). The stipulation for settlement and the agreement with the investor-owned utilities contain two exhibits, one describing interpretations of the power sales contract offered on August 28, 1981, and the other describing proposed amendments to the utility power sales contract and the residential purchase and sale agreement offered on August 28, 1981, which BPA agrees to consider offering to its customers. Some of the proposed amendments are also included in the errors and ambiguities amendment since BPA believes the proposed resolution of such errors or ambiguities reflects BPA's intention in offering the power sales contract. Some of the contract interpretations are also included as contract amendments in the errors and ambiguities amendment.

The stipulation for settlement provides that the contract interpretations were immediately effective upon execution of the stipulation. These interpretations addressed the following areas:

(1) The effect of the utility power sales contract on the rights to purchase nonfirm energy of a utility which purchases Firm Power on a Metered Requirements basis. This ambiguity is also addressed in the errors and ambiguities amendment.

(2) The effect of a notice of restriction issued to public agencies on BPA's ability to restrict deliveries of industrial firm power to each of BPA's direct-service industrial customers under their power sales contract and the effect of BPA's other obligations in determining whether to issue a notice of restriction to public agencies.

(3) The effect of participation by a utility in the development by a consumer of a resource at a facility to serve such facility which would otherwise be a New Large Single Load.

(4) The effect of consumer resources existing as of September 1, 1979, which the consumer was not obligated to use to serve its load, on a determination of the BPA Administrator on the amount of load contracted for or committed to as of September 1, 1979, at a consumer's facility.

(5) The effect of a New Large Single Load determination under section 8(e) of the utility power sales contract on the amount a utility will be billed by BPA and a description of "uncontrollable events" in section 8(e) which would prevent a New Large Single Load determination under such section.

(6) The effect on billing and rate design of language in section 8(i) of the General Contract Provisions that provides a utility will not be billed for Firm Power in excess of the amount it is entitled to take.

(7) The effect of the language in section 8(l) of the General Contract Provisions on the cost of exchange resources acquired by BPA pursuant to section 5(c)(2) of the Regional Act.

(8) The effect of notice requirements in sections 9(c) and 9(f) on the utility's ability to add loads at a single facility of 35 average megawatts or less.

(9) The effect of the power sales contract on BPA's obligation to acquire replacement power for a utility under section 9(i) of the Regional Act. This ambiguity is also addressed in the errors and ambiguities amendment.

The stipulation for settlement provides for dismissal of the lawsuit by the public agencies if BPA offers the amendments described in this notice by August 23, 1982. BPA agreed to consider offering such amendments after publishing the proposed amendments, seeking comment and consulting with interested agencies and groups on whether they should be offered, and taking appropriate steps to comply with the NEPA.

The language of the proposed contract amendments follows. The original utility power sales contract, residential purchase and sale agreement, general contract provisions and exhibit language is shown with the new language inserted and underlined. Deleted language is shown in brackets and struck through.

The language is followed by an explanation of the issue, how the contract language was added to or modified, and who is affected by the proposed contract language.

II. Proposed Amendments to Utility Power Sales Contract

A. *Exhibit B, Section 8(d)(3) is deleted and replaced by a new Exhibit B, Section 8(d)(3) as follows:*

1. *Existing general contract provision language with proposed new language inserted.*

"Upon adoption of a methodology as provided in section 4(f)(2) and section 4(e)(3)(G) of Pub. L. 96–501, Bonneville will give notice of intent to adopt a *policy*, provide opportunity for public comment, and publish draft procedures in the *Federal Register* for imposing surcharges. Such *proposed policy* shall include:

(A) standards to be met before Bonneville will excuse surcharges which would otherwise be appropriate, consistent with Bonneville's obligations to implement cost-effective conservation measures to the maximum extent practicable;

(B) that Bonneville will impose surcharges to the extent not excused or suspended under the terms of the *policy;*

(C) an opportunity for interested persons to present views, data questions, and arguments to Bonneville relevant to the imposition of surcharges in specific instances, and the adequacy of financial assistance made available by Bonneville;

(D) that surcharges imposed will be continued to the extent and for the period projected energy savings attributable to cost-effective model conservation standards are not achieved;

(E) for recovery from the Purchaser of the additional costs (including increases in the Utility's average system cost) that Bonneville will incur because the projected energy savings attributable to model conservation standards have not been achieved, subject to the limitations set forth in sections 4(f)(1) and 4(f)(2) of Pub. L. 96–501; *provided, however,* that surcharges will not be levied as a result of an increase in a Utility's average system cost except to the extent that the Utility failed to implement conservation measures that are designed to be cost-effective for its Consumers in terms of the electric rates its Consumers pay.

2. *Explanation of ambiguity and proposed resolution.* The utilities have expressed a concern that section 8(d)(3) of the General Contract Provisions imposed an unlawful method of establishing policy. Section 8(d)(3) requires BPA to establish standards for the imposition of conservation surcharges after the Regional Council adopts a methodology for determining when surcharges should be applied. Such standards should provide guidelines as to when BPA will exercise its discretion and not impose surcharges recommended by the Regional Council. Section 8(d)(3) included five standards and provided that "such rule shall include" these standards. The utilities were concerned that by stating that the rule must include these standards, they would be denied an opportunity to comment on the standards.

The concern of the utilities was an unintended result. The contract amendment changes "such rule shall include" to "such proposed policy shall include" to reflect BPA's intent to allow interested parties an opportunity to comment on the proposed standards. BPA also changed the language of section 8(d)(3) from the development of a "rule" to the development of a "policy" to clearly reflect the Agency action which is occurring.

The correcting language provides that BPA will issue a proposed policy containing standards described in section 8(d)(3). The correcting language reflects that BPA would be required to provide notice of an opportunity to comment on proposed standards under 8(d)(3) before adoption by BPA.

B. *Table 1 of Exhibit C of the utility power sales contract shall be changed by the addition of the following paragraph.*

1. *Existing Exhibit language with proposed new exhibit language following.*

"Table 1 of the Customer Service Objectives Exhibit is applicable to the Purchaser if the Purchaser is a public body, cooperative, or Federal agency. The provisions of Table 1 are subject to the provisions of Bonneville's Customer Service Policy, which Bonneville may amend from time to time.

Bonneville will provide service to its Customers by constructing transmission lines (115 kV or higher) and stepdown substations to the Customers utilization voltage (12.5 kV or higher), (Customer Service Facilities), which are necessary to provide the widest possible, diversified and efficient use of electric power. To accomplish this objective, construction of new Customer Service Facilities will be undertaken following studies conducted jointly by Bonneville and the Customer to determine the best engineering, economic, and environmental plan of service based on a one utility concept of evaluation.

Bonneville's primary transmission responsibility is to provide a stable and reliable transmission system for the integration and delivery of the bulk power requirements in the Pacific Northwest. It is intended that the Customer will assume the primary role for distribution of this power to the Consumer. In recognition of this basic division of responsibility, Bonneville will construct the necessary Customer Service Facilities, providing that capital recovery is reasonably assured, until such time that the load density in the area under consideration reaches a point that requires construction of customer service substations in relatively close proximity. At this point, the Customer will assume, as part of its distribution utility responsibility, construction of the transmission lines and stepdown substations required to serve the loads within this high load density area. Therefore, the scope of Bonneville's participation will be narrowed to providing the required high voltage transmission facilities into the load area and stepdown substations to the local transmission level while conforming with Bonneville's published reliability standards, which may be amended by Bonneville from time to time. It is the intent that the dividing line between Bonneville's transmission responsibility and the Customer's distribution responsibility be a dynamic relationship which will shift from Bonneville to the Customer as the load density in a particular area increases.

Joint utility planning and one utility concept of evaluation will be the foundation for all Bonneville customer service planning efforts. These concepts have become more important in recent years to insure maximum electrical system efficiencies, and minimize impact on the environment in addition to meeting other economic and engineering criteria.

Bonneville's Customer Service Policy will encourage additional joint utility planning including (1) better long-range planning; (2) energy loss reduction studies, including common standards of conductor economics, and distribution voltage levels; (3) voltage regulation on the transmission and distribution system; and (4) elimination of duplicate facilities such as may result from separate substations and low voltage circuit breakers.

At the request of Purchaser, which has not specified an amount of residential load or has specified an amount of zero under Exhibit D of the Residential Purchase and Sale Agreement, Bonneville shall enter into a transmission services agreement which shall provide benefits to such Purchaser for its transmission system which the Purchaser would have received under a

Residential Purchase and Sale Agreement and the Average System Cost methodology.

2. *Explanation of proposed new contract language.* The addition of the above paragraph to Table 1 of Exhibit C of the utility power sales contract is a compromise proposal to allow settlement of the dispute among the three customer classes regarding section 8(1) of the General Contract Provisions. Section 8(1) describes the method to be used in allocating the costs of exchange resources acquired by BPA under Residential Purchase and Sale Agreements. At issue among the respective customer classes is the method BPA will use in calculating the cost of exchange resources. The cost of these resources vary depending upon the average system cost of each utility which is participating in the Residential Purchase and Sale Agreement. Under dispute among the parties is whether BPA should average the cost of all exchange resources or should treat each exchange resource acquired from each utility as a separately priced resource and develop a methodology for allocating these different priced resources to different rate pools.

The average system cost methodology calculates the average cost of a utility's generation and the transmission necessary to deliver such generation to the utility load area. Under the Residential Purchase and Sale Agreement a utility exchanges these costs in an amount equal to its residential load for an equivalent amount of priority firm power from BPA. The inclusion of a utility's transmission costs necessary to move generation to its load area creates a potential benefit to certain public agencies which purchase their entire firm power requirements from BPA at the Priority Firm Power Rate. These utilities would receive a benefit due to these transmission costs if they executed a Residential Purchase and Sale Agreement. This potential exchange by public agencies which do not have generation of their own creates a low-cost exchange resource which exacerbates the dispute on whether exchange resources should be priced at the average cost of all exchange resources or allocated as separately identified exchange resources.

The effect of public agency exchanges for transmission benefits if exchange resources were priced at the average cost of all exchange resources would provide benefits to those utilities having transmission costs which were includable in the average system cost methodology but would increase the cost of service to the loads other public agencies and the residential loads of investor-owned utilities participating in the Residential Purchase and Sale Agreement. The compromise language proposed above allows public agencies which would benefit from the Residential Purchase and Sale Agreement to receive those benefits without creating a negative impact on other public agencies and the residential loads of investor-owned utilities.

Under the compromise language above all customer classes are able to agree on the pricing of exchange resources at the average cost of all exchange resources. Using the average cost of all exchange resources provides certainty to BPA's customers whose rates are largely based on the cost of exchange resources. Without certainty on the method BPA would use in allocating the costs of exchange resources, customers would be unsure of the methodology BPA would use in allocating these costs and would be unable to predict their rates into the future.

Such rate certainty benefits BPA's direct-service industries and investor-owned utilities which place their load growth requirement on BPA during the period prior to July 1, 1985. These customers can now predict how BPA will allocate costs which constitute a major portion of the cost used by BPA to design their rates. Without this certainty BPA's direct-service industries would face additional risks when considering new investments to modernize existing facilities. Investor-owned utilities might find the cost of service from BPA too expensive under worst case scenarios to allow them to sign power sales contracts without this rate certainty.

C. *Section 2 of the utility power sales contract shall be changed by addition of the following subsection:*

1. *Proposed new contract language.*

"(b) *This contract may be terminated by the Purchaser upon (i) 7 years' prior notice to Bonneville; (ii) concurrent submission by the Purchaser to Bonneville of a Firm Resource Exhibit reciting zero demand upon Bonneville as of the proposed date of termination; and (iii) a determination that termination will cause no adverse economic impacts on Bonneville's other customers."*

2. *Explanation of proposed new contract language.* The termination language suggested above is a compromise proposal by the utilities to allow them to keep the right to terminate a power sales contract with BPA. BPA's existing power sales contracts provide a utility with the right to terminate the contract on 60 days' notice if BPA increases the wholesale power rate it charges the utility under the contract. The utilities insist this right must be maintained in the present contract due to the flexibility BPA retains in its ability to establish different methods of rate design. The utilities are concerned that a new method of rate design may severely impact a single utility or a small group of utilities.

The proposal suggested by the utilities above recognizes the potential adverse impact caused by a utility's termination of its power sales contract under Pub. L. 96–501. These impacts may be caused by other contracts the utility executes with BPA under Pub. L. 96–501 such as conservation contracts, billing credit contracts, other resource acquisition agreements, and any other similar agreements where compensation is provided by BPA's other ratepayers to the terminating utility. The other potential impact on BPA's other ratepayers would be a failure of the terminating utility to plan or develop adequate resources to meet its loads after termination which caused such utility to request implementation of regional curtailment mechanisms.

A suggested alternative termination proposal provided an objective standard on when adverse economic impact occurred as opposed to the standard in (iii) above. Such standard provided that a utility would develop resources upon termination to meet its loads on a critical water basis and that adverse economic impact due to other contracts executed under Pub. L. 96–501 would be handled by provisions in such contracts.

D. *Section 3(b) is deleted and replaced by a new section 3(b) as follows:*

1. *Existing Contract language with proposed new contract language inserted.*

" 'Actual Firm Peak Load' and 'Actual Firm Energy Load' mean the actual maximum integrated one-hour monthly peak and average monthly energy loads, respectively, of the Purchaser's system in the Pacific Northwest, for each Billing Month, after adjustment pursuant to section 17(e). Such actual loads shall not include any load to the extent that the Purchaser had a unilateral right to interrupt such load during such month, even if such load was not actually interrupted, but shall include the amount of any load which the Purchaser *had a right to interrupt or* actually interrupted for the purpose of backing up or providing economic operation of *its system including* its Firm Resources. In addition, any New Large Single Load or portion of such load shall not be

included in the Purchaser's firm loads hereunder prior to the date Bonneville is obligated to supply such load with Firm Power pursuant to the terms of section 8(e). Contractual obligations of the Purchaser to utilities outside its normal service area may, if permitted by the terms of section 12(a), be included in the Purchaser's Firm Resources, but shall not be included in the Purchaser's Actual Firm Loads hereunder. Actual Firm Peak Load and Actual Firm Energy Load shall be referred to collectively as 'Actual Firm Load.' "

2. *Explanation of error or ambiguity and proposed resolution.* The contract as offered on August 28, 1981, includes a definition of Actual Firm Loads which BPA is obligated to serve pursuant to the power sales contract. There is a corresponding definition of Estimated Firm Loads which is used for planning purposes and determining BPA's estimated obligation to serve a utility in the upcoming Operating Year. Under the terms of both definitions, BPA does not provide service to any load where the purchaser has a unilateral right to interrupt service to such loads. The definitions provide an exception to this principle where the utility may interrupt the load only for the purposes of backing up its Firm Resources or promoting the economic operation of its Firm Resources. The parties agreed that the definition of Estimated Firm Load clearly included the loads covered by the exception but that it was ambiguous whether such loads were actually included by the language in the definition of Actual Firm Load. An additional issue was raised concerning the effect of the language on interruptible loads on the implementation of load management schemes. The utilities were concerned that the language on interruptible loads might prevent the use of load management schemes when load management was an alternative to the installation of additional distribution facilities in a congested urban area. Such result is an ambiguity in the language and would result in an unintended effect from the definition of Actual Firm Load and Estimated Firm Load.

It was determined that such ambiguities could be cleared up by the insertion of the words "had a right to interrupt or" between the words "purchaser" and "actually" in the second sentence of the definition of Actual Firm Loads which, would clear up the ambiguity regarding which interruptible loads could receive service from BPA. It was also determined that the insertion of the words "its system including" between the phrases "economic operation of" and "its Firm Resources" would make clear that load management schemes could promote economic operation of a utility's entire system instead of only its resource use. A corresponding change in the definition of "estimated firm loads" was also made to not preclude the intended use of loan management schemes.

E. *Section 11 is deleted and replaced by a new section 11 as follows:*

1. *Existing contract language with proposed new contract language inserted.*

"11. *Compensation Program for Regional Curtailment of Firm Loads.*

(a) The parties agree to commence negotiations as soon as practicable to develop a comprehensive agreement among utilities in the Pacific Northwest to buy and sell electric energy made available due to curtailments in consumption or from resources on a party's system during period when governmental bodies having the authority to do so have so ordered such curtailments or sales.

(b)(1) If the Bonneville Power Administrator and the governor of the State encompassing the Purchaser's service area publicly appeal for curtailments of electric power consumption or if mandatory curtailments of electric power consumption in the Purchaser's service area are ordered by governmental bodies having the authority to so order, Bonneville shall compensate the Purchaser as provided in this section for any reduction in Bonneville's obligation to supply Firm Power to the Purchaser. If the Purchaser's service area extends into more than one State and all of such States do not participate in the curtailments described above, the procedures of this section shall be applied only to those loads in service areas in the participating States.

Compensation under this section shall not be available to the Purchaser during any Operating Year that the Purchaser is purchasing Firm Power from Bonneville on a *Planned* Computed Requirements *or Contracted Requirements* basis. The compensation under this section may be reduced partially or in its entirety as described in (4) *or paragraph (5)* below. *The reductions described in paragraph (4) below shall be made after the adjustments described in paragraph (5) below.*

Compensation shall begin with the first full month following such appeal for curtailment or ordered curtailment. Compensation shall end with the month during which the Bonneville Power Administrator and the appropriate State political leaders publicly indicate that a need for curtailment no longer exists or such State officials rescind an order for curtailment.

(2) Bonneville shall pay the Purchaser each month an amount equal to the product of the rate set forth in this paragraph and the amount of load curtailment determined in paragraph (3) below unless such amount of load curtailment is reduced partially or in its entirety as set forth in paragraph (4) below. Such rate shall be the amount per kilowatthour by which the Purchaser's average revenue from retail sales of electric energy exceeds the wholesale firm power rate the Purchaser would have paid Bonneville for the increment of energy determined pursuant to paragraph (3) below.

(3) The amount of regional load curtailment on the Purchaser's system during a month shall be deemed to be the amount, if any, by which the Purchaser's Estimated Firm Energy load, after adjustment as specified below, exceeds the Purchaser's Actual Firm Energy load for such month after adjustment, if any, as set forth below. If the Purchaser does not regularly publish an Estimated Firm Energy Load, such Purchaser's Estimated Firm Energy Load for purposes of this section shall be the Purchaser's component of Bonneville's latest published estimate of its firm energy loads.

The Purchaser's most recently published Estimated Firm Energy Load shall be used herein to determine amounts of regional load curtailment in conjunction with information submitted by the Purchaser to Bonneville as soon as possible following the end of each month in which a regional load curtailment program is in effect. Such information shall be provided for each such month and for the three most recent, but not necessarily consecutive, months in which a regional load curtailment program *or a load curtailment program pursuant to section 17(e)* was not in effect. Such information shall include: (A) the Purchaser's Actual Firm Energy Load for such months; and (B) detail on any separately identifiable significant changes in the Purchaser's Actual Firm Energy Load from its Estimated Firm Energy Load which were not the result of a regional load curtailment program, *a load curtailment program pursuant to section 17(e), or an interruption of load for the purpose of providing economic operation of the Purchaser's system including its Firm Resources.*

The Purchaser's Actual Firm Energy Loads for all months used for calculations herein shall be adjusted to

reflect only those loads in the Purchaser's service area which are in States participating in the regional curtailment program. Such adjustments shall be made by subtracting the portion of the Purchaser's Actual Firm Energy Load in States which are not participating in the regional curtailment program from the Purchaser's Actual Firm Energy Load for such month. Such adjustment may be changed monthly to reflect changes in the States which are participating in the regional curtailment program.

The Purchaser's Estimated Firm Energy Load for all months for which information was requested above shall first be adjusted to reflect separately identifiable changes in load which were not the result of a regional load curtailment program, *a load curtailment program pursuant to section 17(e), or an interruption of load for the purpose of providing economic operation of the Purchaser's system including its Firm Resources.* The Estimated Firm Energy Load shall then be adjusted in the manner specified for Actual Firm Energy Loads above to reflect only those loads in the Purchaser's service area which are in States participating in the regional curtailment program. An adjusted Estimated Firm Energy Load for each month in which a regional load curtailment program is in effect shall then be determined by multiplying the Estimated Firm Energy Load for such month, as adjusted above, by the ratios of the Purchaser's Actual Firm Energy Load, as adjusted above, to its Estimated Firm Energy Load, as adjusted above, for the three most recent, but not necessarily consecutive, months in which a regional load curtailment program *or a load curtailment program pursuant to section 17(e)* was not in effect.

(4) If regional curtailment has been requested after July 1, 1983, because Bonneville is unable to acquire sufficient resources to meet its firm obligations, Bonneville shall reduce the amount of load curtailment determined in paragraph (3) above during any month if the Purchaser's load growth [after July 1, 1983,] as specified in subparagraph (A) below exceeds the amount of resources which the Purchaser dedicated to its own load or made available to Bonneville as specified in subparagraph (B) below. Such amount of load curtailment for each month shall be reduced partially or in its entirety by the amount which (A) exceeds (B) below:

(A) the excess of the Purchaser's Actual Firm Energy Load in average megawatts over the Purchaser's Actual Firm Energy Load in average megawatts for the same month during [the '82–83 Operating Year; and] *the Operating Year prior to the first Operating Year for which Bonneville's load growth notice provided in section 10(e) of this agreement is effective; and*

(B) the annual firm energy capability in average megawatts of (i) resources acquired by Bonneville from the Purchaser under Pub. L. 96–501; and (ii) the portion of the Purchaser's Firm Resources which are included as 5(b)(1)(B) resources in its Firm Resources Exhibit. Such resources shall not include conservation programs to the extent such programs have been reflected in the Purchaser's Actual Firm Energy Load in subparagraph (A) above.

(5) If the Purchaser purchases Firm Power from Bonneville on an Actual Computed Requirements basis, the amount of load curtailment determined in paragraph (3) above for any month shall be determined after the following adjustments:

(A) The amount of load curtailment determined in paragraph (3) above shall be reduced to provide compensation only for the portion of the Purchaser's Actual Firm Energy Load served by Bonneville. Such reduction shall be made by increasing the Purchaser's Actual Firm Energy Load used to determine the amount of load curtailment in paragraph (3) by the amount of load curtailment attributable to the Purchaser's Firm Resources. Such increase in the Purchaser's Actual Firm Energy Load shall be deemed to be the amount determined in the manner specified in section 17(e)(5) even if the Purchaser has not implemented a load curtailment program pursuant to section 17(e).

(B) if the Purchaser initially purchased Firm Power from Bonneville on a Metered Requirements basis, but is purchasing Firm Power from Bonneville on an Actual Computed Requirements basis at the time regional curtailment is requested hereunder, subparagraph (A) above will apply only if the Purchaser has implemented a load curtailment program pursuant to section 17(e). This subparagraph (B) shall no longer apply if the Purchaser was offered the opportunity to be a party to a comprehensive agreement among utilities in the Pacific Northwest described in subsection (a) above after it commenced purchasing on a Computed Requirements basis."

2. *Explanation of proposed new contract language.* The language above is a rewrite of section 11 of the utility power sales contract which provides compensation to utilities in the event of regional curtailment. This payment reflects the difference between a customer's resale rate and the wholesale power rate a customer pays to BPA. This provision is designed to reduce the effect on utility rates due to a regional curtailment program designed to assist another utility.

The contract offered on August 28, 1981, provided that such payments would be made only to metered requirements customers. Excluding Computed Requirements customers from such payments was a compromise between public agency generating utilities and the investor-owned utilities made during negotiations prior to the offer of the contract. Public agencies feel this compromise is unacceptable and believe that compensation payments should be made to Computed Requirements customers for that portion of their load served by BPA. The compromise proposal suggested above allows such partial payment to Computed Requirements customers. The proposal also provides a safety net for Metered Requirements customers who later purchase power on a Computed Requirements basis and are unable to participate in a regional shortage sharing mechanism.

F. *Section 17(b) is deleted and replaced by a new section 17(b) as follows:*

1. *Existing contract language with proposed new contract language inserted.*

"(b) On or before the effective date of this contract, and thereafter, as provided in paragraph (1) below, the Purchaser may request in writing to purchase on the basis of Contracted Requirements by submitting the data and proposed schedule of Contracted Requirements purchases of peak and energy pursuant to paragraph (2) below.

(1) The Purchaser may request that it begin to purchase on a Contracted Requirements basis at the time of submittal of any revised Firm Resources Exhibit. Such request shall become effective, *in accordance with* this subsection (b), for the seventh Operating Year of such exhibit, or for an earlier Operating Year if Bonneville is expected to have an excess of firm load over its firm resources in the first Operating Year for which the Purchaser requests to purchase on a Contracted Requirements basis. Bonneville's expected firm load-resource balance and the priority of competing requests for purposes of allocating the availability of the *subparagraph of* paragraph (1) shall be determined in the manner described in section 12(b)(7) above.

The Purchaser may elect to cease purchasing on a Contracted

Requirements basis at the time of submittal of any revised Firm Resources Exhibit. Such election shall become effective for the seventh Operating Year of such exhibit, or for an earlier Operating Year if Bonneville is expected to have an excess of firm resources over its firm load in the first Operating Year for which the Purchaser proposes to cease purchasing on a Contracted Requirements basis. Bonneville's expected firm load-resource balance and the priority of competing requests for purposes of allocating the availability of this *subparagraph of* paragraph (1) shall be determined in the manner described in section 12(b)(9) above.

(2) If the Purchaser requests to purchase on the basis of Contracted Requirements, it shall submit to Bonneville in the Purchaser's initial Firm Resources Exhibit in addition to data required in section 12(a), the Purchaser's annual Estimated Firm Peak Load, the annual average of Purchaser's Estimated Firm Energy Load, the estimated Assured Capabilities of the Purchaser's Firm Resources corresponding to the time period of such loads, and a schedule of annual Contracted Requirements purchases of peak and energy for each of the first seven Operating Years. If the Purchaser's Contracted Requirements peak purchase amount for any such Operating Year is based on its Estimated Firm Peak Load for the months June through November, such amount shall be the Purchaser's Contracted Requirements peak purchase amounts for June through November and the Purchaser shall also submit a lower amount which is based on its Estimated Peak Load for the months December through May. With each revised Firmn Resources Exhibit submitted in accordance with section 12(b), such Purchaser shall submit a new schedule deleting the amounts of Contracted Requirements peak and energy purchases for the current Operating Year and adding the amounts to be purchased in the seventh succeeding Operating Year together with Purchaser's annual Estimated Firm Peak Load and annual average Estimated Firm Energy Load in the seventh Operating Year, and new information on the estimated Assured Capability of all Firm Resources *and Estimated Firm Loads* for which information is *provided for* under paragraphs *(4)(5)* and *(6)* below. Such revised Firm Resources Exhibit shall be prepared in the same format as the initial Firm Resources Exhibit or such other format as Bonneville and the Purchaser may agree upon. *Submission of the data specified in this paragraph (2) shall be in lieu of preparation of an Assured Capability Exhibit as provided for in section 16 above.*

If Bonneville determines that the Purchaser's Estimated Firm Loads do not conform to the definitions in this contract, Bonneville shall notify the Purchaser, as soon as practicable, of the specific deficiencies and the Purchaser may submit revised data or revised schedule of Contracted Requirements purchases. If Bonneville expects to approve a reduced quantity of peak or energy in any period of time included in a schedule of Contracted Requirements purchases and Bonneville determines that such reduction under this paragraph (2) or paragraph (6) below is in any way affected by the Purchaser's Estimated Firm Loads, Bonneville shall notify the Purchaser in the manner specified above of specific deficiencies in the Purchaser's Estimated Firm Load data submission and shall determine any reduction described in this paragraph (2) on Bonneville's determination of the Purchaser's Estimated Firm loads unless the Purchaser submits revised data or revised schedule of Contracted Requirements purchases prior to the start of the Operating Year following initial submission of the data and such data or schedule are approved by Bonneville.

Bonneville shall approve either each requested schedule of Contracted Requirements purchases or a reduced schedule of Contracted Requirements purchases in any period of time included in such schedule; provided, however, that such reduced schedule shall not be reduced below the lesser of the following:

(A) the amount by which the Purchaser's Estimated Firm Load exceeds its estimated Assured Capability in such period of time; or

(B) the minimum amount of peak or energy which Bonneville would be obligated to make available to the Purchaser under the following assumptions: (1) such amount shall be determined as though a notice of restriction issued under section 7(a) was in effect during such period of time for the Purchaser and its class of Customers; (2) such amount shall be limited to the amounts that Bonneville would be obligated to make available to the Purchaser as determined under section 7(e), section 7(f), and Exhibit D for amounts of resources acquired by Bonneville under Pub. L. 96–501 from or on behalf of the Purchaser or its class of Customers with the amounts calculated under section 7(f) determined as though section 7(f)(1) and 7(f)(2) did not apply; and (3) such amount shall be deemed to be equal to the amount specified in (A) above, unless Bonneville has issued a notice of restriction under section 7(a) to such class applicable to such period of time or has reasonable expectation of issuing such notice, pursuant to the provisions of section 7, either with, or in the absence of, this reduction.

(3) The amounts of power shown in Purchaser's schedule of Contracted Requirements purchases, as submitted with the Firm Resources Exhibit for an Operating Year *and approved by Bonneville, shall not be revised thereafter except for changes as specifically provided for by paragraphs (4), (5) and (6) below.* The Estimated Firm Load on which the Purchaser's Contracted Requirements purchases for each Operating Year were based shall be deemed to be the Purchaser's Actual Firm Load during such Operating Year for the purpose of determining whether the Purchaser is using its purchase from Bonneville for resale.

(4) If the Purchaser makes a change in its Firm Resources as permitted by section 12(b), the Purchaser shall, at the time such change is submitted to Bonneville, make a change in its schedule of Contracted Requirements purchases shown in its Firm Resources Exhibit. Such change shall be equal and opposite to the change in the Purchaser's Assured Capability resulting from such change in Firm Resources.

(5) If the Purchaser's Estimated Firm Loads change for any Operating year for which the Purchaser is purchasing on a Contracted Requirements basis, and if such change corresponds to changes in Purchaser's Firm Resources which are permitted by sections 12(b) (7), (9), and (11) (as though an increase in Estimated Firm Loads corresponds to a removal of Firm Resource and a decrease in Estimated Firm Loads corresponds to an addition to Firm Resource) the Purchaser may submit such changed loads to Bonneville at the time it submits a revised Firm Resources Exhibit and may, at such time, make an equivalent change in its schedule of Contracted Requirements purchases show in its Firm Resources Exhibit.

(6) If prior to any Operating Year Bonneville determines that it would be required to acquire a resource under Pub. L. 93–454 or Section 6(a)(2) of Pub. L. 96–501 to meet Bonneville's firm loads including the Purchaser's previously approved schedule of Contracted Requirements purchases for such Operating Year, Bonneville may request the Purchaser to submit revised Estimated Firm Loads for such

Operating Year for Bonneville's approval in the manner specified in section 17(b)(2) above. Such request shall be made not less than 30 days prior to the date for submission of data for the modified requlation under the Coordination Agreement. Such revised Estimated Firm Loads shall be the Purchaser's most current estimate and shall include power savings for such Operating Year from all conservation measures and direct application renewable resources including those funded by Bonneville either directly or through billing credits. If due to the Purchaser's revised Estimated Firm Loads, the Purchaser's schedule of Contracted Requirements purchases are in excess of the amount specified in section 17(b)(2)(A) above, Bonneville may reduce the Purchaser's schedule of Contracted Requirements purchases to the amount specified in section 17(b)(2)(A) above. Bonneville shall notify the Purchaser of such reduction prior to the submission of data for the modified regulation.

In addition the schedule of Contracted Requirements purchases shown in the Purchaser's Firm Resource Exhibit may be changed for any Operating Year if and to the extent that Bonneville has given prior written consent.

(7) *Within seven days after receipt of the preliminary regulation under the Coordination Agreement prior to* each Operating Year, the Purchaser [shall prepare an Assured Capability Exhibit as provided for in section 16 above and] shall allocate its annual Contracted Requirements energy purchase among months of such Operating Year in a manner which results in a requirement on Bonneville each month equal to or between the amounts determined by (A) or (B):

(A) one-twelfth of the Purchaser's annual Contracted Requirements energy purchase from Bonneville for that Operating Year; and

(B) a fraction of such annual Contracted Requirements energy purchase obtained by dividing the Estimated Firm Energy Load for that month by the total of the twelve Estimated Firm Energy Loads for that Operating Year. If requested by the Purchaser and if Bonneville agrees, the Purchaser may allocate its annual Contracted Requirements energy purchase among months so as to place monthly requirements on Bonneville other than those determined by (A) or (B) above to reflect a period of planned thermal maintenance or other causes. The Purchaser's total Contracted Requirements purchase shall not be changed by such reallocation.

(8) For the purpose of determining the amount of power Bonneville shall make available to the Purchaser under this contract, the Purchaser's Contracted Requirements peak purchases shown in its schedule of such purchases submitted pursuant to paragraph (2) above shall be deemed to be the Purchaser's Computed Peak Requirement in each month of the Operating Year as specified in such schedule and the twelve monthly amounts of energy determined pursuant to paragraph (7) above shall be deemed to be the Purchaser's Computed Average Energy Requirement for each such month of the Operating Year.

(9) Before requesting implementation on its behalf of a regional load curtailment program affecting loads besides its own or a regional shortage-sharing mechanism affecting such loads, the Purchaser shall purchase all energy, to the extent necessary to make up its resource deficiency, from resources available to the Purchaser as documented by Bonneville at a cost equal to or less than the sum of 115 percent of the incremental operating cost of oil-fired generation from simple cycle combustion turbines and the cost for transmission and transmission losses not to exceed 15 percent of the cost of such generation.

For the purpose of this paragraph (9) a Purchaser's resource deficiency shall be the amount, if any, by which the Purchaser's most current estimate of its annual average Estimated Firm Energy Load for such Operating Year exceeds the sum of:

(A) The estimated Assured Energy Capability of the Purchaser's Firm Resources for such Operating Year, determined in the manner provided in paragraph (2) above;

(B) The assured energy capability, determined in the manner provided in section 16 and paragraph (2) above, of resources acquired by the Purchaser on a firm basis in addition to the Purchaser's Firm Resources for such Operating Year; and

(C) The amounts of energy shown in the Purchaser's schedule of Contracted Requirements purchases for such Operating Year.

2. *Explanation of new contract language.* The language proposed above is a rewrite of the Contracted Requirements section of the contract offered on August 28, 1981. The language proposed above is a compromise proposal to allow a utility greater flexibility in planning resources to meet its load while insuring adequate development of regional resources to meet regional loads. Such language was suggested by investor-owned utilities. They have proposed an economic incentive to insure they develop adequate resources as opposed to the current contract offer which provides that BPA will acquire the difference between their load and the resources they develop.

The utility power sales contract offered on August 28, 1981, included a Contracted Requirements basis for purchasing power which provided a "window" of 10 percent of a customer's load. This window allowed the utility to request BPA to acquire resources to the extent 90 percent of a utility's Estimated Firm Load exceeded the resources a utility listed in its Firm Resources Exhibit. The window allowed the utility the flexibility to acquire short to medium term resources to meet up to 10 percent of its load during the 7-year notice period under the Firm Resources Exhibit.

The compromise language suggested above makes the following changes in the Contracted Requirements portion of the contract. The suggested language provides an absolute right for a utility to purchase on the basis of Contracted Requirements. The contract offered on August 28, 1981, allowed BPA the right to refuse a request to purchase on the basis of Contracted Requirements if a utility did not submit load forecasts in conformance with the definition of Estimated Firm Load or did not submit a schedule of Contracted Requirements purchases sufficient to meet the 90 percent test of the window. The proposed revision of Contracted Requirements allows a utility to purchase any amount of power from BPA either above or below the needs of a utility purchasing power on a Computed Requirement basis. If a utility requests a schedule of Contracted Requirements purchases above its needs on a Computed Requirements basis, the language in paragraph 2 above allows BPA to reduce such requested schedule of Contracted Requirements purchases to a utility's needs on a Computed Requirements basis. The language in paragraph 2 also provides BPA the ability to reduce the schedule of Contracted Requirements purchases to the level a utility could purchase under a notice of insufficiency. This reduction allows BPA to reduce its obligations in lieu of invoking a notice of insufficiency. The language in paragraph 2 above also provides that BPA may reduce a schedule of Contracted Requirements purchases to BPA's determination of a utility's needs on a Computed Requirements basis if a utility's forecasted loads do not conform to the

definition of Estimated Firm Load contained in the contract.

The language proposed above contains two protections for BPA's other ratepayers which are not contained in the utility power sales contracts offered on August 28, 1981. Paragraph 6 of the language above provides that BPA may reduce a previously established schedule of Contracted Requirements to the amount a utility needs on a Computed Requirements basis prior to any Operating Year before BPA acquires a resource. The present contract language does not allow BPA to make this reduction even though the loads used to establish a schedule of Contracted Requirements had not materialized. This provision allows BPA to receive benefits from load underruns while leaving the risks of unanticipated load growth on the utility. Paragraph 9 of the proposed language above incorporates the resource planning standard BPA uses to acquire resources for Computed Requirements customers. Paragraph 9 provides that a utility purchasing on a Contracted Requirements basis will purchase available oil-fired generation prior to requesting implementation on its behalf of a regional load curtailment program affecting loads besides the utility's own loads. A utility purchasing on a Contracted Requirements basis accepts this obligation to acquire oil-fired generation until it has acquired resources equivalent to the resources developed by a utility and acquired by BPA to meet the needs of Computed Requirements customers.

G. *Section 17(c) is deleted and replaced by a new section 17(c) as follows:*

1. *Existing contract language with proposed new contract language inserted.*

"(c) If the Purchaser does not request that Bonneville sell to it on the basis of planned Computed Requirements or Contracted Requirements or if Bonneville disapproves *the Purchaser's* [*such*] request *to purchase on the basis of Planned Computed Requirements,* the Purchaser shall purchase on the basis of Actual Computed Requirements and its Computed Peak Requirement and Computed Average Energy Requirement shall be determined after the end of each month based on the Purchaser's Actual Firm Load."

2. *Explanation of new contract language.* The proposed language above implements the Contracted Requirements proposal suggested by investor-owned utilities. The suggested change in section 17(c) removes BPA's ability to disapprove a utility request to purchase on the basis of Contracted Requirements.

H. *Section 17 (g)(1) is deleted and replaced by a new section 17(g)(1) as follows:*

1. *Existing contract language with proposed new contract language inserted.*

"(1) During Heavy Load Hours: the larger of the Purchaser's Computed Peak Requirement or its Computed Average Energy Requirement; *provided, however,* that *after June 30, 1987,* Bonneville may limit the amounts of power it makes available during up to six Heavy Load Hours of each day designated by Bonneville to amounts less than the Purchaser's Computed Average Energy Requirement but not less than the Purchaser's Computed Peak Requirement. Bonneville shall not so limit the amounts of power it makes available unless: (A) Bonneville has informed the Purchaser's representative by the time specified in the Power Scheduling Provisions Exhibit that Bonneville will make such limitation; (B) Bonneville has limited all other Customers having contracts which permit this limitation approximately in proportion to the amount by which each such Customer's Computed Average Energy Requirement exceeds its Computed Peak Requirement for such month; *and (C) Bonneville has determined that such limitation is reasonably necessary either (1) to enable Bonneville to meet loads which Bonneville serves from firm load carrying capability as defined in the Coordination Agreement or (2) to serve other loads in the Pacific Northwest which Bonneville has previously committed to serve provided that the purchaser, using its best efforts, is able to comply with such request on an operating basis. Bonneville shall demonstrate to the Purchaser and to other Customers having similar contracts that Bonneville has sufficient firm capacity resources to meet its firm capacity obligations without invoking the limitations of this paragraph (1) before Bonneville renews any existing contracts or enters into any new contracts to deliver capacity to entities outside the Pacific Northwest.*

2. *Explanation of new contract language.* The contract language proposed above modifies BPA's rights to limit its deliveries of power for up to 6 Heavy Load Hours to a utility's Computed Peak Requirement. The existing BPA power sales contracts provide that a utiity may request delivery of the larger of its Computed Peak Requirement or its Computed Average Energy Requirement during any hour. These provisions allow a utility to require BPA to deliver its energy obligation to a utility in equal amounts during any hour of the day even though the utility may have sufficient peak resources to meet its loads during Heavy Load Hours. BPA had included a provision in the power sales contract offered on August 28, 1981, which allowed BPA to limit deliveries on up to 6 Heavy Load Hours to a utility's Computed Peak Requirement. The public agencies sued BPA over this provision.

BPA believes the 6-hour limitation is required to prevent the region from developing more peak resurces than are necessary to meet regional loads. To the extent a utility's resources used to calculate its Assured Peak Capability are unable to produce such Assured Peak Capability for 15 Heavy Load Hours day after day, BPA believes such utility should rerate the capability of its peak resources. BPA included provisions in the contract allowing a utility to rerate the capability of its resources and thereby purchase additional peak resources from BPA. BPA believed these provisions would prevent the region from developing more peak resources than necessary to meet regional loads.

The public agencies had three objections to the 6-hour limitation BPA included in the power sales contract offered on August 28, 1981. They objected to BPA using the 6-hour peak limition to serve nonfirm loads instead of their requirements on Heavy Load Hours which exceeded their Computed Peak Requirement. They objected to BPA using the 6-hour peak limitation to make additional sales of Firm Capacity outside the Pacific Northwest. They also felt it was impractical for them to rerate the capability of their peak resources.

The compromise suggested above addresses the three objections raised by the public agencies. First, it prevents BPA from invoking the 6-hour limitation until July 1, 1987, to allow utilities sufficient time to rerate the capability of their peak resources or to develop additional resources. Second, it qualifies BPA's right to use the 6-hour peak limitation to serve its loads in the Pacific Northwest other than loads served by BPA on a firm basis. BPA may use the 6-hour limitation in such instances only if a utility is able to comply on a best efforts basis. Third, BPA has agreed not to enter into new contracts or renew existing contracts to deliver Firm Capacity outside the Pacific Northwest based on the use of the 6-hour limitation.

The contract language proposed above preserves BPA's objective of insuring that the region does not develop more peak resources than needed to

meet regional loads. The suggested language may reduce revenues from capacity sales outside the Pacific Northwest which would not be offset by increased revenues from deliveries to utilities in the region.

III. Proposed Amendments to Residential Purchase and Sale Agreement

A. *Section 12 is changed by the addition of the sentences described below:*

1. *Existing contract language with proposed new language inserted.*

"12. *Exhibits.* Exhibit A (Priority Firm Power Rate, Schedule PF–1, and General Rate Schedule Provisions), Exhibit B (General Contract Provisions), Exhibit C (Average System Cost Methodology), Exhibit D (Residential Load Definition), Exhibit E (Load Factor Specification), and Exhibit F (Determination of New Large Single Loads) are hereby made part of this contract. Exhibit D shall be revised to incorporate additional qualifying tariff schedules, subject to Bonneville's determination that the loads served under these schedules are qualified under the Act. *If the Purchaser has not specified an amount of Residential Load in Exhibit D, the Utility may request and Bonneville shall revise Exhibit D, at any time during the one year period following the occurrence of conditions (1) and (2) specified in section I. of Exhibit D, to increase the amount of Residential Load sold to Bonneville under this agreement from zero. This provision does not preclude subsequent revision of the amount of residential load shown on Exhibit D, based on changes in Residential Load.* Each time Bonneville has a new rate adjustment date, the Utility shall submit a revised Exhibit E, prepared in the same manner as Exhibit E attached hereto, to Bonneville within 20 working days of such date. The revised Exhibit E shall become effective as of such date."

2. *Explanation of new contract language.* The proposed changes described above to the Residential Purchase and Sale Agreement allow a utility to execute the contract offered on August 28, 1981, and put such contract to sleep. Public agencies which felt that the compromise proposal of a transmission services agreement was acceptable also desired to preserve their options under the Residential Purchase and Sale Agreement. The proposed addition to section I of Exhibit D puts the Residential Purchase and Sale Agreement to sleep by deeming utilities residential load to be zero until a utility is using resources to serve its firm load which produce an average system cost which exceeds BPA's Priority Firm Power Rate. The proposed change to section 12 allows a utility to have one year to determine whether to actually exchange resources under the Residential Purchase and Sale Agreement after the conditions specified in Exhibit D are met.

B. *Exhibit D, Section I is deleted and replaced by a new Section I as follows:*

1. *Existing exhibit language with proposed new language inserted.* "The Utility's Residential Load means the sum of the Regional loads the Utility elects to use as a basis for the exchange under the tariff schedules described below adjusted for distribution losses as determined pursuant to Exhibit C, as the same may be amended, supplemented, or superseded. If Bonneville determines that any such action changes the Utility's general tariffs or service schedules in a manner which would allow loads other than residential loads, as defined in the Regional Act, to be included under these tariff schedules, such nonresidential loads shall, from the date the Utility is notified of Bonneville's determination, be excluded from the residential purchase and sale transaction hereunder.

The Utility's Residential Load shall be zero instead of the amount specified in A. and B. below until both of the following conditions have occurred:

(1) *The Utility has resources being used to serve its firm load other than the resources specified in section 5(b)(1)(A) of the Regional Act and its purchase of Firm Power from Bonneville; and*

(2) *The Utility's Average System Cost exceeds the cost of Firm Power purchased by the Utility from Bonneville at the Priority Firm Power Rate Schedule or its successor rate schedule.*

Such tariff schedules, as presently effective include:

A. all schedules listed below, the following designated percentages, or —— kilowatthours of the load supplied by the Utility under:

B. a portion of the load as determined pursuant to section II below supplied by the Utility under:"

2. *Explanation of new exhibit language.* The above provisions are designed to place public agencies in the equivlant positions faced investor-owned utilities when the Residential Purchase and Sale Agreement was offered on August 28, 1981. These changes preserve the utilities' options under the Residential Purchase and Sale Agreement. They allow a utility to participate in such agreement without requiring a utility to request a new contract under section 5(c) of the Regional Act. The conditions described above allow a utility to not exchange Residential Load until it has actually used a resource to serve its load which causes its average system cost to exceed BPA's Priority Firm Power Rate.

Issued at Portland, Oregon, June 7, 1982.

Earl Gjelde,

Acting Administrator.

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This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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Note: No public bills which have become law were received by the Office of the Federl Register for inclusion in today's **List of Public Laws.**

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 363]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period June 13–19, 1982. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: June 13, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 7, 1981. The committee met again publicly on June 8, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficent time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

Section 910.663 is added as follows:

§ 910.663 Lemon Regulation 363.

The quantity of lemons grown in California and Arizona which may be handled during the period June 13, 1982, through June 19, 1982, is established at 275,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: June 10, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82–16037 Filed 6–10–82; 11:00 am]
BILLING CODE 3410–02–M

Office of the Secretary

7 CFR Part 2900

Certification of Essential Agricultural Uses and Requirements—Natural Gas Policy Act of 1978

AGENCY: Agriculture Department.

ACTION: Final rule.

SUMMARY: The Department of Agriculture hereby amends its regulations certifying essential agricultural uses and requirements under the Natural Gas Policy Act of 1978 (NGPA). This amendment adds monosodium glutamate to the list of essential agricultural uses certified by the Secretary of Agriculture.

EFFECTIVE DATE: This amendment will become effective on June 11, 1982.

FOR FURTHER INFORMATION CONTACT: Earle E. Gavett, Acting Director, Office of Energy, USDA, 14th and Independence Avenue, SW., Washington, D.C. 20250; Telephone Number: 202–447–2834.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1512–1 which implements Executive Order 12291 and has been determined to be "nonmajor".

Under Section 401 of the NGPA, the Secretary of Agriculture is required to certify to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) essential agricultural uses of natural gas and the amounts of natural gas for such essential agricultural uses necessary for full food and fiber production. A final rule containing such certification was issued by the Secretary of Agriculture on May 17, 1979 (44 FR 28782)

The Secretary of Energy and the FERC have incorporated the USDA certification in their rules promulgating and implementing agricultural priority in curtailment plans of interstate pipelines in accordance with the NGPA.

In accordance with 7 CFR 2901.5(b), on March 2, 1982, the Acting Director, Office of Energy, USDA issued a proposed rule which would amend USDA certification of essential agricultural uses and requirements to include under 7 CFR 2900.3, SIC Code 2869—Industrial Organic Chemicals (Monosodium Glutamate Only) as an essential agricultural use. The proposed amendment was in response to a petition submitted by Stauffer Chemical Company.

Stauffer proposed that the manufacture of monosodium glutamate, classified in SIC Code 2869, Industrial Organic Chemicals, be certified as an essential agricultural use of natural gas

under Section 401(f)(1)(A)—that is, to the extent of all natural gas used in its manufacture whether for process, feedstock, or boiler fuel uses. Currently, monosodium glutamate manufacture is certified under Section 401(f)(1)(B) which gives priority for only the process and feedstock natural gas requirements. 44 FR 28786.

The public was invited to participate in any aspect of the proposed amendment by submitting data, views, or arguments with respect to the inclusion of monosodium glutamate in USDA's certification as an essential agricultural use. Thirty-four comments were received from the public. There were no requests that USDA convene a public hearing.

All the comments received from the public went to the merits of monosodium glutamate in the diet and not to the issue of this rulemaking, namely, whether the production of monosodium glutamate is food processing under the NGPA. Because the NGPA requires that all food processing be classified under Section 401(f)(1)(A), and does not address the relative merits of one food product over another, these comments are not germane to this rulemaking. The USDA based its determination on information provided in the petition for amendment and other relevant information, including its treatment of other analogous functions in its certification of "essential agricultural uses".

Section 401(f)(1) of the NGPA states that "'essential agricultural use', when used with respect to natural gas, means any use of natural gas (A) for * * * food processing, * * * which the Secretary of Agriculture determines is necessary for full food and fiber production."

Monosodium glutamate has as its basic material, common molasses which is derived from refining sugar beets or sugar cane. The manufacture of such molasses is classified under the major heading of "food" in SIC Codes 2063 and 2061. Sugar beet molasses, sometimes blended with sugar cane molasses, is combined with lesser amounts of trace nutrients and ammonia, and is fermented in large tanks by introduction of the bacteria *Corynebactrium lilium*. When the fermentation is completed, the resulting culture is harvested. After the bacterial cell and proteins are removed, the remaining broth is evaporated by the use of steam and further refined. Acid is added, and crystallized crude glutamic acid, an amino acid, is produced. This substance is separated by filtration, dissolved, and converted into MSG by neutralization with sodium hydroxide. The resulting solution is decolorized and then crystallized, dried, screened, and packed for shipment. All chemicals used in the process are of food-grade quality, and the Food and Drug Administration inspects the facility for adherence to government regulations for the production of food and food additives. MSG is sold to food processors (SIC major group 20) who use it in canned and preserved foods (SIC subgroup 203) and also is sold in grocery stores where it is generally grouped with salt or spices as a flavor enhancer.

There is a single monosodium glutamate plant in the United States, operated by Stauffer in San Jose, California. The plant operates 24 hours a day, 365 days a year and uses an average of 8,000 Mcf of natural gas per day, 6,500 Mcf of which is used as boiler fuel. Inclusion of the boiler fuel use to the certified natural gas uses will add about 2.4 billion cubic feet to the total agricultural gas use of 1,392 billion cubic feet, less than one-tenth of 1 percent of the interstate gas component identified as essential agricultural use in the May 14, 1979 combined Environmental Impact Statement and Final Impact Statement prepared by the Department of Agriculture in connection with the Essential Agricultural Uses and Requirements certification rule (7 CFR Part 2900). A copy of the Final Statement is available for inspection and copying in Room 144–E, Administration Building, USDA, 14th and Independence Ave. SW., Washington, D.C. 20250.

Based on the foregoing, USDA has determined that the use of natural gas in the production of monosodium glutamate is a use of natural gas for food processing which is necessary for full food and fiber production.

List of Subjects in 7 CFR Part 2900

Agricultural commodities, Alcohol and alcoholic beverages, Animals, Chemicals, Crop services (SIC Code 072), Farm-product raw materials—grain (SIC Code 5153), Fertilizers, Food stores (SIC Code 54) Foods, Forests and forest products, Groceries and related products (SIC Code 514), Irrigation, Leather tanning and finishing (SIC Code 3111), Natural gas, Packaging and containers, Pesticides and pests, Textiles, Warehouses.

PART 2900—ESSENTIAL AGRICULTURAL USES AND VOLUMETRIC REQUIREMENTS—NATURAL GAS POLICY ACT

§ 2900.3 [Amended]

Accordingly, Chapter XXIX of Title 7 § 2900.3 Code of Federal Regulations is amended by adding at the end of the "Food and Natural Fiber Processing—Food" list: 2869—Industrial Organic Chemicals (Monosodium Glutamate Only).

(Pub. L. 95–621, November 8, 1979, 92 Stat. 3350.15, 15 U.S.C. 3301 *et seq.*)

Dated: May 28, 1982.

John Block,

Secretary of Agriculture.

[FR Doc. 82-15806 Filed 6-10-82; 8:45 am]
BILLING CODE 3410-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 444

[Docket No. 79N–0341; DESI Nos. 8615, 9152, 9188, and 50168]

Oligosaccharide, Peptide, and Certain Other Antibiotic Drugs

Corrections

In FR Doc. 82–14405 appearing on page 23440 in the issue for Friday, May 28, 1982, make the following changes:

(1) On page 23440, second column, under DATES, first paragraph, seventh line, "444.343k" should read "444.342k".

(2) On page 23441, third column, in the heading for § 444.342j, second line, "sufate" should read "sulfate".

(3) On page 23442, first column, in the heading for § 444.342k, third line, "Onitment" should read "Ointment"; second column, § 444.342k (a)(3)(ii)(*c*), subparagraph "(*3*)" should read "(*2*)".

BILLING CODE 1505-01-M

21 CFR Parts 520 and 556

New Animal Drugs; Sulfamethazine Oblets; Sulfamethazine Sodium Soluble Powder and Drinking Water Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of supplemental new animal drug applications (NADA's) filed by American Cyanamid Co., providing for safe and effective use of sulfamethazine oblets in horses, beef cattle, and nonlactating dairy cattle and sulfamethazine sodium soluble powder and drinking water solution for treating chickens, turkeys, swine, beef cattle, and nonlactating dairy cattle for certain infections caused by sulfamethazine-sensitive organisms. The regulations are further amended to indicate those conditions of use of the products for

which applications for approval of identical or similar products need not include certain types of effectiveness data, and to establish a tolerance for negligible residues of sulfamethazine in the uncooked edible tissues of chickens and turkeys.

EFFECTIVE DATE: June 11, 1982.

FOR FURTHER INFORMATION CONTACT: Emilio E. Viera, Bureau of Veterinary Medicine (HFV–138), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301–443–3410.

SUPPLEMENTARY INFORMATION: American Cyanamid Co., Berdan Ave., Wayne, NJ 07470, filed 3 supplemental NADA's providing for the safe and effective use of sulfamethazine and sulfamethazine sodium in cattle, horses, swine, chickens, and turkeys against certain diseases caused by organisms susceptible to sulfamethazine as follows:

NADA 122–271, sulfamethazine oblets containing 2.5 grams and 5 grams of sulfamethazine for calves and foals, sulfamethazine oblets containing 15 grams of sulfamethazine for beef cattle, nonlactating dairy cattle, and horses.

NADA 122–272, sulfamethazine sodium soluble powder, containing 100 percent sulfamethazine sodium, for chickens, turkeys, swine, beef cattle, and nonlactating dairy cattle. The product is administered in poultry drinking water and in drinking water or as a drench in cattle and swine.

NADA 6–084, sulfamethazine sodium drinking water solution, containing 12.5 percent sulfamethazine sodium for use in drinking water for swine, chickens, turkeys, beef cattle, and nonlactating dairy cattle.

The products were the subject of a National Academy of Sciences/National Research Council (NAS/NRC) Drug Efficacy Study Group evaluation published in the **Federal Register** of July 17, 1970 (35 FR 11532). NAS/NRC found, and FDA concurred, that the products were probably effective for treatment of infectious diseases caused by sulfamethazine-sensitive organisms.

The Academy stated: (1) Each disease claim should be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to (name of drug)"; if the disease claim cannot be so qualified the claim must be dropped; (2) the claim for coccidiosis should be qualified by listing the species for each respective host; (3) claims made regarding "for prevention" or "to prevent" should be replaced with "as an aid in the control of" or "to aid in the control of"; (4) the labels should warn that treated animals must actually consume enough medicated water or medicated feed to provide a therapeutic dose under the conditions that prevail; as a precaution, labels should state the desired oral dose per unit of animal weight per day for each species as a guide to effective use of the preparations in drinking water or feed; (5) there is need for documentation of blood and tissue concentrations of the drug when used at the recommended dosage levels in order to establish efficacy of the bacterial disease claims; and (6) evidence should be furnished to demonstrate that the oblets disintegrate in the gastrointestinal tract of the medicated species to produce the desired therapeutic effect.

The Food and Drug Administration concurs with the Academy's findings.

Subsequent to review by NAS/NRC, the firm complied with the recommendations of the Academy to enable FDA to classify the products as effective. The firm also submitted literature references in support of its supplemental application. Based on the data and information submitted, the NADA's are approved and the regulations are amended accordingly to provide for use of the products.

The sponsor also submitted acute toxicity data to support a tolerance of 0.1 part per million for negligible residues in tissues. Also, the regulations are amended by revising § 556.670 to provide a tolerance of 0.1 part per million for negligible residues of sulfamethazine in the uncooked edible tissues of chickens and turkeys. Although this drug has been indicated for use in chickens and turkeys for many years, a residue tolerance has not been listed in § 556.670. In addition, the firm submitted data to support the withdrawal periods that are listed in the amended regulations.

The evaluation was published to inform NADA holders of the findings of the NAS/NRC and FDA and to inform all interested persons that such articles may be marketed, provided they are the subject of approved NADA's and otherwise comply with the requirements of the Federal Food, Drug, and Cosmetic Act. NADA's that pertain to identical products and reflect those conditions of use as set forth in this regulation do not require efficacy data as specified by § 514.1(b)(8)(ii) or § 514.111(a)(5)(ii)(*a*)(*4*) of the animal drug regulations. In lieu of such data, approval may require bioequivalency or similar data as suggested in the guideline for submitting NADA's for NAS/NRC-reviewed generic drugs. The guideline is available from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. Those conditions of use are identified in this regulation.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (address above), from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects

21 CFR Part 520

Animal drugs, Oral use.

21 CFR Part 556

Animal drugs, Foods, Residues.

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 520 and 556 are amended as follows:

1. Part 520 is amended by adding new §§ 520.2260a, 520.2261, 520.2261a and 520.2261b to read as follows:

§ 520.2260a Sulfamethazine oblets.

(a) *Sponsor.* See No. 010042 in § 510.600(c) of this chapter for use of 2.5-, 5-, or 15-gram sulfamethazine oblet.

(b) *Related tolerances in edible products.* See § 556.670 of this chapter.

(c) *Conditions of use*—(1) *Amount.* Administer as a single dose 100 milligrams of sulfamethazine per pound of body weight the first day and 50 milligrams per pound of body weight on each following day.

(2) *Indications for use.* For treatment of diseases caused by organisms sensitive to sulfamethazine.

(i) *Beef cattle and nonlactating dairy cattle.* Treatment of bacterial pneumonia and bovine respiratory disease complex (shipping fever complex) (*Pasteurella* spp.), colibacillosis (bacterial scours) (*Escherichia coli*), necrotic pododermatitis (foot rot) (*Fusobacterium necrophorum*), calf diphtheria (*Fusobacterium necrophorum*), acute mastitis (*Streptococcus* spp.), acute metritis (*Streptococcus* spp.), coccidiosis (*Eimeria bovis, Eimeria zurnii*).

(ii) *Horses.* Treatment of bacterial pneumonia (secondary infections associated with *Pasteurella* spp.), strangles (*Streptococcus equi*), and bacterial enteritis (*Escherichia coli*).

(3) *Limitations.* Administer daily until animal's temperature and appearance are normal. If symptoms persist after using for 2 or 3 days consult a veterinarian. Fluid intake must be adequate. Treatment should continue 24 to 48 hours beyond the remission of disease symptoms, but not to exceed 5 consecutive days. Follow dosages carefully. Not for use in lactating dairy animals. Do not treat cattle within 10 days of slaughter. Not to be used in horses intended for food.

(d) *NAS/NRC status.* The conditions of use specified in this section have been reviewed by NAS/NRC and are found effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

§ 520.2261 Sulfamethazine sodium oral dosage forms.

§ 520.2261a Sulfamethazine sodium drinking water solution.

(a) *Sponsor.* See No. 010042 in § 510.600(c) of this chapter for use of a 12.5 percent sulfamethazine sodium solution.

(b) *Related tolerances in edible products.* See § 556.670 of this chapter.

(c) *Conditions of use.*—(1) *Amount.* Administer in drinking water to provide: Cattle and swine 112.5 milligrams of sulfamethazine sodium per pound of body weight per day on the first day and 56.25 milligrams per pound of body weight on subsequent days; Chickens, 61 to 89 milligrams of sulfamethazine sodium per pound of body weight per day, and turkeys 53 to 130 milligrams of sulfamethazine sodium per pound of body weight per day, depending upon the dosage, age, and class of chickens or turkeys, ambient temperature, and other factors.

(2) *Indications for use.* For treatment and control of diseases caused by organisms sensitive to sulfamethazine.

(i) *Beef and nonlactating dairy cattle.* Treatment of bacterial pneumonia and bovine respiratory disease complex (shipping fever complex) (*Pasteurella* spp.), colibacillosis (bacterial scours) (*Escherichia coli*), necrotic pododermatitis (foot rot) (*Fusobacterium necrophorum*), calf diphtheria (*Fusobacterium necrophorum*), acute mastitis (*Streptococcus* spp.), and acute metritis (*Streptococcus* spp.).

(ii) *Swine.* Treatment of porcine colibacillosis (bacterial scours) (*Escherichia coli*), and bacterial pneumonia (*Pasteurella* spp.).

(iii) *Chickens and turkeys.* In chickens for control of infectious coryza (*Haemophilus gallinarum*), coccidiosis (*Eimeria tenella, Eimeria necatrix*), acute fowl cholera (*Pasteurella multocida*), and pullorum disease (*Salmonella pullorum*). In turkeys for control of coccidiosis (*Eimeria meleagrimitis, Eimeria adenoeides*). Medicate as follows: Infectious coryza in chickens, medicate for 2 consecutive days; acute fowl cholera and pullorum disease, in chickens, medicate for 6 consecutive days; coccidiosis, in chickens and turkeys, medicate as in paragraph (c) of this section, then reduce amount of medication to one-half for 4 additional days.

(3) *Limitations.* Add the required dose to that amount of water that will be consumed in 1 day. Consumption should be carefully checked. Have only medicated water available during treatment. Withdraw medication from cattle, chickens, and turkeys 10 days prior to slaughter for food. Withdraw medication from swine 15 days before slaughter for food. Not for use in lactating dairy cattle. Do not medicate chickens or turkeys producing eggs for human consumption. Treatment of all diseases should be instituted early. Treatment should continue 24 to 48 hours beyond the remission of disease symptoms, but not to exceed a total of 5 consecutive days in cattle or swine. Medicated cattle, swine, chickens, and turkeys must actually consume enough medicated water which provides the recommended dosages.

(d) *NAS/NRC status.* The conditions of use specified in this section have been reviewed by NAS/NRC and are found effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

§ 520.2261b Sulfamethazine sodium soluble powder.

(a) *Sponsor.* See No. 010042 in § 510.600(c) of this chapter for use of a soluble powder composed of 100 percent sulfamethazine sodium.

(b) *Related tolerances in edible products.* See § 556.670 of this chapter.

(c) *Conditions of use*—(1) *Amount.* Administer in drinking water to provide: Chickens 58 to 85 milligrams of sulfamethazine sodium per pound of body weight per day; turkeys 50 to 124 milligrams of sulfamethazine sodium per pound of body weight per day; depending upon the dosage, age, and class of chickens or turkeys, ambient temperature, and other factors. Administer to cattle and swine in drinking water, or as a drench, to provide 108 milligrams of sulfamethazine sodium per pound of body weight on the first day and 54 milligrams of sulfamethazine sodium per pound of body weight per day on the second, third, and fourth days of administration.

(2) *Indications for use.* For treatment and control of disease caused by organisms sensitive to sulfamethazine.

(i) *Beef and nonlactating dairy cattle.* Treatment of bacterial pneumonia and bovine respiratory disease complex (shipping fever complex) (*Pasteurella* spp.), colibacillosis (bacterial scours) (*Escherichia coli*), necrotic pododermatitis (foot rot) (*Fusobacterium necrophorum*), calf diphtheria (*Fusobacterium necrophorum*), acute mastitis (*Streptococcus* spp.), and acute metritis (*Streptococcus* spp.).

(ii) *Swine.* Treatment of porcine colibacillosis (bacterial scours) (*Escherichia coli*), and bacterial pneumonia (*Pasteurella* spp.).

(iii) *Chickens and turkeys.* In chickens for control of infectious coryza (*Haemophilus gallinarum*), coccidiosis (*Eimeria tenella, Eimeria necatrix*), acute fowl cholera (*Pasteurella multocida*), and pullorum disease (*Salmonella pullorum*). In turkeys for control of coccidiosis (*Eimeria meleagrimitis, Eimeria adenoeides*). Medicate as follows: Infectious coryza in chickens, medicate for 2 consecutive days; acute fowl cholera and pullorum disease in chickens, medicate for 6 consecutive days; coccidiosis in chickens and turkeys, medicate as in paragraph (c) of this section for 2 days, then reduce drug concentration to one-half for 4 additional days.

(3) *Limitations.* Add the required dose to that amount of water that will be consumed in 1 day. Consumption should be carefully checked. Have only

medicated water available during treatment. Withdraw medication from cattle, chickens, and turkeys 10 days prior to slaughter for food. Withdraw medication from swine 15 days prior to slaughter for food. Not for use in lactating dairy animals. Do not medicate chickens or turkeys producing eggs for human consumption. Treatment of all diseases should be instituted early. Treatment should continue 24 to 48 hours beyond the remission of disease symptoms, but not to exceed a total of 5 consecutive days in cattle or swine. Medicated cattle, swine, chickens, and turkeys must actually consume enough medicated water which provides the recommended dosages.

(d) *NAS/NRC status.* The conditions of use specified in this section have been reviewed by NAS/NRC and are found effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

2. Part 556 is amended by revising § 556.670 to read as follows:

§ 556.670 Sulfamethazine.

A tolerance of 0.1 part per million is established for negligible residues of sulfamethazine in the uncooked edible tissues of chickens, turkeys, cattle, and swine.

Effective date. This amendment is effective June 11, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: June 4, 1982.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 82-15827 Filed 6-10-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Sources of Standards; Correction

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule; correction.

SUMMARY: This document corrects the table in 29 CFR 1910.99 which lists the sources of various OSHA standards in Subpart G. Through a typographical error, the source of § 1910.94(a) was listed incorrectly in the May 29, 1971, **Federal Register** when the regulations in Subpart G were first published as part of the OSHA General Industry Standards. (36 FR 10466, 10523).

The table currently cites American National Standards Institute (ANSI) standard N2.3–1967 with the incorrect title, "Immediate and Safe Practices, (sic) of Abrasive Blasting Operations," as the source of § 1910.94(a). The correct citation, however, should be ANSI Z9.4–1968, "Ventilation and Safe Practices of Abrasive Blasting Operations."

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, Room N3641, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202) 523–8148.

Accordingly, the source standard for § 1910.94(a) listed in 29 CFR 1910.99 is corrected to read as follows:

§ 1910.99 Sources of standards.

Section	Source
1910.94(a)	ANSI Z9.4–1968, Ventilation and Safe Practices of Abrasive Blasting Operations.

* * * * *

Dated: May 31, 1982.

Thorne G. Auchter,

Assistant Secretary, Occupational Safety and Health Administration.

[FR Doc. 82-15681 Filed 6-10-82; 8:45 am]

BILLING CODE 4510-26-M

29 CFR Part 1952

Arizona, Indiana, Minnesota, Iowa, Nevada, New Mexico, Puerto Rico, Virginia, Virgin Islands, and Wyoming State Plans

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Final rule; level of federal enforcement.

SUMMARY: The Occupational Safety and Health Administration (OSHA) has determined that the State occupational safety and health programs approved under section 18 of the Occupational Safety and Health Act for the States of Arizona, Indiana, Minnesota, Iowa, Nevada, New Mexico, Puerto Rico, Virginia, the Virgin Islands, and Wyoming have been developed sufficiently to justify suspension of concurrent Federal enforcement activity. OSHA has therefore entered into operational status agreements with these States whereby concurrent Federal enforcement authority will not be initiated with regard to Federal occupational safety and health standards in the issues covered by these State plans. OSHA is hereby amending sections of its regulations in 29 CFR Part 1952 to reflect this level of enforcement authority.

EFFECTIVE DATE: June 11, 1982.

FOR FURTHER INFORMATION CONTACT: Veronica Allen, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N–3613, Washington, D.C. 20210; (202) 523–8061.

SUPPLEMENTARY INFORMATION:

Background

Part 1954 of Title 29, Code of Federal Regulations, sets out procedures under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) for the evaluation and monitoring of State plans which have been approved under Section 18(c) of the Act and 29 CFR Part 1902. After initial approval, but prior to final approval, Section 18(e) of the Act provides for a period of concurrent jurisdiction. Section 1954.3 of this chapter provides guidelines and procedures for the exercise of discretionary concurrent Federal enforcement authority during that period with regard to Federal standards in issues covered under an approved State plan. In determining the appropriate level of Federal enforcement, OSHA must consider the effectiveness of State enforcement and current worker protection needs in the States. If Federal monitoring shows that a State program has developed its program to a degree sufficient to justify suspension of duplicative Federal enforcement activity, regulations provide that OSHA through its Regional Administrator may enter into a procedural agreement with the State, usually referred to as an "operational status agreement," setting forth areas of Federal and State enforcement responsibility (29 CFR 1954.3(f)). Any finding of operational status, and any procedural agreement based upon such a finding must be approved by the Assistant Secretary. A State is determined to be operational under § 1954.3(b) of this chapter when it has enacted enabling legislation; promulgated State standards; achieved an adequate level of qualified personnel; and established a system for review of contested enforcement actions. In determining whether and to what extent a State plan meets the operational guidelines, the results of evaluations conducted under 29 CFR Part 1954 are also taken into consideration. Once this determination has been made, under

§ 1954.3(f) of this chapter, a notice of determination of the operational status of a State plan as described in an agreement setting forth Federal-State responsibilities is to be published in the Federal Register.

In general, these agreements provide that concurrent federal enforcement authority will not be exercised as to safety and health issues covered by the plan. Federal OSHA retains responsibility for enforcement in occupational safety and health issues not covered by the State plan (as specified in the notice of state plan approval as codified in 29 CFR Part 1952), for new Federal standards not yet promulgated by the State, and may reassume jurisdiction to assist the State in fulfilling its enforcement obligations under certain limited conditions. An operational status agreement is an administrative agreement which serves to limit discretionary enforcement activities. *General Motors Corp., Central Foundry Division,* OSHRC No. 78–2690 (Rev. Comm'n 1980); *Willamette Iron and Steel Co.,* OSHRC No. 76–1201 (Rev. Comm'n 1980). It is a procedural allocation of enforcement responsibilities that does not divest OSHA of its Federal concurrent jurisdiction as a matter of statutory law. *Id.; General Motors Corp., Chevrolet Motor Division,* OSHRC No. 76–5344 (Rev. Comm'n 1982). Statutory authority for concurrent Federal jurisdiction is terminated only after an 18(e) determination (final approval).

Arizona, Indiana, Minnesota, Iowa, Nevada, New Mexico, Puerto Rico, Virginia, Virgin Islands and Wyoming have been determined to have achieved operational status by:

a. Enactment of State enabling legislation which provides the necessary legal framework to bring the State Plans into conformity with the Act and 29 CFR Part 1902;

b. Promulgation of State standards comparable to Federal standards in issues covered by the State Plans;

c. Employment of a sufficient number of qualified personnel necessary for the enforcement of State standards; and

d. Provision for administrative and/or judicial review of State citations and penalties.

In addition, the States have provided under their plans for:

a. Notification to employers and employees of their rights and responsibilities under the State plan through the development and required display of a State poster;

b. Occupational accident and illness recordkeeping and reporting by employers covered under the plans;

c. Response to complaints alleging job safety and health violations, and to complaints alleging discrimination under the State Act; and

d. Adequate protection of employer and employee rights.

List of Subjects in 29 CFR Part 1952

Intergovernmental relations; Law enforcement; Occupational safety and health.

The purpose of the present rule is to amend each state's subpart in 29 CFR Part 1952 to give notice of the procedural agreements described below. These agreements were effective upon signature by the parties and further public participation would be unnecessary.

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

In accordance with the operational status agreements, the following subparts of Part 1952 are hereby amended as set forth below:

Subpart CC—Arizona

Section 1952.352 of Part 1952, Subpart CC—Arizona is revised to read as follows:

§ 1952.352 Level of federal enforcement.

Pursuant to § 1902.20(b)(1)(iii) and § 1952.3 of this chapter under which an agreement has been entered into with Arizona, effective September 14, 1981, and based on a determination that Arizona is operational in the issues covered by Arizona occupational safety and health plan, discretionary Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR Part 1910, 29 CFR Part 1926, and 29 CFR Part 1928. The U.S. Department of Labor will continue to exercise authority, among other things, with regard to: complaints filed with the U.S. Department of Labor alleging discrimination under Section 11(c) of the Act (29 U.S.C. 660(c)); standards in the maritime and longshoring issues covered by 29 CFR Parts 1915, 1916, 1917, 1918 and 1919 (ship building, shipbreaking, ship repairing, longshoring and gear certification), which issues have been specifically excluded from coverage in the Arizona plan; the enforcement of occupational safety and health standards on Indian reservations; mining operations which have been specifically excluded from coverage under the plan; enforcement relating to any contractors or subcontractors on any Federal establishment where the State cannot obtain entry; enforcement of new Federal standards until the State adopts a comparable standard; situations where the State is refused entry and is unable to obtain a warrant or enforce the right of entry; enforcement of unique and complex standards as determined by the Assistant Secretary; enforcement in situations where the State is temporarily unable to exercise its enforcement authority fully or effectively; completion of enforcement actions initiated prior to the effective date of the agreement; and investigations for the purpose of the evaluation of the Arizona plan under Sections 18 (e) and (f) of the Act (29 U.S.C. 667 (e) and (f)). The Regional Administrator for Occupational Safety and Health will make a prompt recommendation for the resumption of the exercise of Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) whenever, and to the degree, necessary to assure occupational safety and health protection to employees in Arizona.

Subpart Z—Indiana

Section 1952.322 of Part 1952, Subpart Z—Indiana is revised to read as follows:

§ 1952.322 Level of federal enforcement.

Pursuant to § 1902.20(b)(1)(iii) and § 1954.3 of this chapter under which an agreement has been entered into with Indiana effective October 22, 1981, and based on a determination that Indiana is operational in the issues covered by the Indiana occupational safety and health plan, discretionary Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR Part 1910, 29 CFR Part 1926, and 29 CFR Part 1928. The U.S. Department of Labor will continue to exercise authority, among other things, with regard to: complaints filed with the U.S. Department of Labor alleging discrimination under Section 11(c) of the Act (29 U.S.C. 660(c)); standards in the maritime and longshoring issues covered by 29 CFR Parts 1915, 1916, 1917, 1918, and 1919 (ship building, shipbreaking, ship repairing, longshoring and gear certification), which have been specifically excluded from coverage under the plan; enforcement relating to any contractors or subcontractors on any Federal establishment where the State cannot obtain entry; enforcement of new Federal standards until the State adopts a comparable standard; situations where the State is refused

entry and is unable to obtain a warrant or enforce the right of entry; enforcement of unique and complex standards as determined by the Assistant Secretary; situations when the State is temporarily unable to exercise its enforcement authority fully or effectively; completion of enforcement actions initiated prior to the effective date of the agreement; and investigations and inspections for the purpose of the evaluation of the Indiana plan under Sections 18 (e) and (f) of the Act (29 U.S.C. 667 (e) and (f)). The Regional Administrator for Occupational Safety and Health will make a prompt recommendation for the resumption of the exercise of Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) whenever, and to the degree, necessary to assure occupational safety and health protection to employees in Indiana.

Subpart N—Minnesota

Section 1952.202 of Part 1952, Subpart N—Minnesota is revised to read as follows:

§ 1952.202 Level of federal enforcement.

Pursuant to § 1902.20(b)(1)(iii) and § 1954.3 of this chapter under which an agreement has been entered into with Minnesota, effective October 9, 1981, and based on a determination that Minnesota is operational in the issues covered by the Minnesota occupational safety and health plan, discretionary Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR Part 1910, 29 CFR Part 1928 and 29 CFR Part 1926. The U.S. Department of Labor will continue to exercise authority, among other things, with regard to: complaints filed with the U.S. Department of Labor alleging discrimination under Section 11(c) of the Act (29 U.S.C. 660(c)); standards in the maritime and longshoring issues covered by 29 CFR Parts 1915, 1916, 1917, 1918, and 1919 (ship building, shipbreaking, ship repairing, longshoring and gear certification), which have been specifically excluded from coverage under the plan; enforcement relating to any contractors or subcontractors on any Federal establishment where the State cannot obtain entry; enforcement of new Federal standards until the State adopts comparable standards; situations where the State is refused entry and is unable to obtain a warrant or enforce the right of entry; enforcement of unique and complex standards as determined by the Assistant Secretary; situations when the State is temporarily unable to exercise its enforcement authority fully or effectively; completion of enforcement actions initiated prior to the effective date of the agreement; and investigations and inspections for the purpose of the evaluation of the Minnesota plan under Sections 18 (e) and (f) of the Act (29 U.S.C. 667 (e) and (f)). The Regional Administrator for Occupational Safety and Health will make a prompt recommendation for the resumption of the exercise of Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) whenever, and to the degree, necessary to assure occupational safety and health protection to employees in Minnesota.

Subpart J—Iowa

Section 1952.162 of Part 1952, Subpart J—Iowa is revised to read as follows:

§ 1952.162 Level of federal enforcement.

Pursuant to § 1902.20(b)(1)(iii) and § 1954.3 of this chapter under which an agreement has been entered into with Iowa, effective April 29, 1982, and based on a determination that Iowa is operational in the issues covered by Iowa occupational safety and health plan, discretionary Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR Part 1910, 29 CFR Part 1928, and 29 CFR Part 1926. The U.S. Department of Labor will continue to exercise authority, among other things, with regard to: complaints filed with the U.S. Department of Labor alleging discrimination under Section 11(c) of the Act (29 U.S.C. 660(c)); standards in the maritime and longshoring issues covered by 29 CFR Parts 1915, 1916, 1917, 1918, and 1919 (ship building, shipbreaking, ship repairing, longshoring and gear certification), which issues have been specifically excluded from coverage in the Iowa plan; enforcement relating to any contractors or subcontractors on any Federal establishment where the State cannot obtain entry; enforcement of new Federal standards until the State adopts a comparable standard; situations where the State is refused entry and is unable to obtain a warrant or enforce the right of entry; enforcement of unique and complex standards as determined by the Assistant Secretary; enforcement in situations where the State is temporarily unable to exercise its enforcement authority fully or effectively; completion of enforcement actions initiated prior to the effective date of the agreement; and investigations and inspections for the purpose of the evaluation of the Iowa plan under Sections 18 (e) and (f) of the Act (29 U.S.C. 667(e) and (f)). The Regional Administrator for Occupational Safety and Health will make a prompt recommendation for the resumption of the exercise of Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) whenever, and to the degree, necessary to assure occupational safety and health protection to employees in Iowa.

Subpart W—Nevada

Section 1952.292 of Part 1952, Subpart W—Nevada is revised to read as follows:

§ 1952.292 Level of federal enforcement.

Pursuant to § 1902.20(b)(1)(iii) and § 1954.3 of this chapter under which an agreement has been entered into with Nevada, effective December 9, 1981, and based on a determination that Nevada is operational in the issues covered by the Nevada occupational safety and health plan, discretionary Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR Part 1910, 29 CFR Part 1928, and 29 CFR Part 1926. The U.S. Department of Labor will continue to exercise authority, among other things, with regard to: complaints filed with the U.S. Department of Labor alleging discrimination under Section 11(c) of the Act (29 U.S.C. 660(c)); standards in the maritime and longshoring issues covered by 29 CFR Parts 1915, 1916, 1917, 1918, and 1919 (ship building, shipbreaking, ship repairing, longshoring and gear certification), which have been specifically excluded from coverage under the plan; enforcement relating to any contractors or subcontractors on any Federal establishment where the State cannot obtain entry; enforcement of new Federal standards until the State adopts a comparable standard; situations where the State is refused entry and is unable to obtain a warrant or enforce the right of entry; enforcement of unqiue and complex standards as determined by the Assistant Secretary; situations when the State is temporarily unable to exercise its enforcement authority fully or effectively; completion of enforcement actions initiated prior to the effective date of the agreement; and investigations and inspections for the purpose of the evaluation of the Nevada plan under Sections 18 (e) and (f) of the Act (29 U.S.C. 667 (e) and (f)). The

Regional Administrator for Occupational Safety and Health will make a prompt recommendation for the resumption of the exercise of Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) whenever, and to the degree, necessary to assure occupational safety and health protection to employees in Nevada.

Subpart DD—New Mexico

Section 1952.302 of Part 1952, Subpart DD—New Mexico is revised to read as follows:

§ 1952.302 Level of federal enforcement.

Pursuant to § 1902.20(b)(1)(iii) and § 1954.3 of this chapter under which an agreement has been entered into with New Mexico, effective October 5, 1981, and based on a determination that New Mexico is operational in the issues covered by the New Mexico occupational safety and health plan, discretionary Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR Part 1910, 29 CFR Part 1926, and 29 CFR Part 1928. The U.S. Department of Labor will continue to exercise authority, among other things, with regard to: complaints filed with the U.S. Department of Labor alleging discrimination under Section 11(c) of the Act (29 U.S.C. 660(c)); standards in the maritime and longshoring issues covered by 29 CFR Parts 1915, 1916, 1917, 1918 and 1919 (ship building, shipbreaking, ship repairing, longshoring and gear certification), which have been specifically excluded from coverage under the plan; enforcement relating to any contractors or subcontractors on any Federal establishment where the State cannot obtain entry; enforcement of new Federal standards until the State adopts a comparable standard; situations where the State is refused entry and is unable to obtain a warrant or enforce the right of entry; enforcement of unique and complex standards as determined by the Assistant Secretary; situations when the State is temporarily unable to exercise its enforcement authority fully or effectively; completion of enforcement actions initiated prior to the effective date of the agreement; and investigations and inspections for the purpose of the evaluation of the New Mexico plan under Sections 18 (e) and (f) of the Act (29 U.S.C. 667 (e) and (f)). The Regional Administrator for Occupational Safety and Health will make a prompt recommendation for the resumption of the exercise of Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) whenever, and to the degree, necessary to assure occupational safety and health protection to employees in New Mexico.

Subpart FF—Puerto Rico

Section 1952.382 of Part 1952, Subpart FF—Puerto Rico is revised to read as follows:

§ 1952.382 Level of federal enforcement.

Pursuant to § 1902.20(b)(1)(iii) and § 1954.3 of this chapter under which an agreement has been entered into with Puerto Rico, effective December 8, 1981, and based on a determination that Puerto Rico is operational in the issues covered by the Puerto Rico occupational safety and health plan, discretionary Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR Part 1910, 29 CFR Part 1928, and 29 CFR Part 1926. The U.S. Department of Labor will continue to exercise authority, among other things, with regard to: complaints filed with the U.S. Department of Labor alleging discrimination under Section 11(c) of the Act (29 U.S.C. 660(c)); standards in the maritime and longshoring issues covered by 29 CFR Parts 1915, 1916, 1917, 1918 and 1919 (ship building, shipbreaking, ship repairing, longshoring and gear certification), which have been specifically excluded from coverage under the plan; enforcement relating to any contractors or subcontractors on any Federal establishment where the State cannot obtain entry; enforcement of new Federal standards until the State adopts a comparable standard; situations where the State is refused entry and is unable to obtain a warrant or enforce the right of entry; enforcement of unique and complex standards as determined by the Assistant Secretary; situations when the State is temporarily unable to exercise its enforcement authority fully or effectively; completion of enforcement actions initiated prior to the effective date of the agreement; and investigations and inspections for the purpose of the evaluation of the Puerto Rico plan under Sections 18 (e) and (f) of the Act (29 U.S.C. 667 (e) and (f)). The Regional Administrator for Occupational Safety and Health will make a prompt recommendation for the resumption of the exercise of Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) whenever, and to the degree, necessary to assure occupational safety and health protection to employees in Puerto Rico.

Subpart EE—Virginia

Section 1952.372 of Part 1952, Subpart EE—Virginia is revised to read as follows:

§ 1952.372 Level of federal enforcement.

Pursuant to § 1902(b)(1)(iii) and § 1954.3 of this chapter under which an agreement has been entered into with Virginia, effective October 1, 1981, and based on a determination that Virginia is operational in the issues covered by the Virginia occupational safety and health plan, discretionary Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR Part 1910, 29 CFR Part 1928 and 29 CFR Part 1926. The U.S. Department of Labor will continue to exercise authority, among other things, with regard to: Complaints filed with the U.S. Department of Labor alleging discrimination under Section 11(c) of the Act (29 U.S.C. 660(c)); standards in the maritime and longshoring issues covered by 29 CFR Parts 1915, 1916, 1917, 1918 and 1919 (ship building, shipbreaking, ship repairing, longshoring and gear certification), which have been specifically excluded from coverage under the plan; enforcement relating to any contractors or subcontractors on any Federal establishment where the State cannot obtain entry; enforcement of new Federal standards until the State adopts a comparable standard; situations where the State is refused entry and is unable to obtain a warrant or enforce the right of entry; enforcement of unique and complex standards as determined by the Assistant Secretary; situations when the State is temporarily unable to exercise its enforcement authority fully or effectively; completion of enforcement actions initiated prior to the effective date of the agreement; and investigations and inspections for the purpose of the evaluation of the Virginia plan under Sections 18 (e) and (f) of the Act (29 U.S.C. 667 (e) and (f)). The Regional Administrator for Occupational Safety and Health will make a prompt recommendation for the resumption of the exercise of Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) whenever, and to the degree, necessary to assure occupational safety and health protection to employees in Virginia.

Subpart S—Virgin Islands

Section 1952.252 of Part 1952, Subpart S—Virgin Islands, is revised to read as follows:

§ 1952.252 Level of federal enforcement.

Pursuant to § 1902.20(b)(1)(iii) and § 1954.3 of this chapter under which an agreement has been entered into with the Virgin Islands, effective September 9, 1981, and based on a determination that Virgin Islands is operational in the issues covered by the Virgin Islands occupational safety and health plan, discretionary Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR Part 1910, 29 CFR Part 1928, and 29 CFR Part 1926 except in those issues relating to occupational health hazards and environmental control (Subparts G and U of 29 CFR Part 1910 and Subpart D of 29 CFR Part 1926, et al.). The U.S. Department of Labor will continue to exercise authority, among other things, with regard to: Complaints filed with the U.S. Department of Labor alleging discrimination under Section 11(c) of the Act (29 U.S.C. 660(c)); standards in the maritime and longshoring issues covered by 29 CFR Parts 1915, 1916, 1917, 1918 and 1919 (ship building, shipbreaking, ship reparing, longshoring and gear certification), and health which issues have been specifically excluded from coverage under the plan; enforcement relating to any contractors or subcontractors on any Federal establishment where the State cannot obtain entry; enforcement of new Federal standards until the State adopts a comparable standard; situations where the State is refused entry and is unable to obtain a warrant or enforce the right of entry; enforcement of unique and complex standards as determined by the Assistant Secretary; situations when the State is temporarily unable to exercise its enforcement authority fully or effectively; completion of enforcement actions initiated prior to the effective date of the agreement; and investigations and inspections for the purpose of the evaluation of the Virgin Islands plan under Sections 18 (e) and (f) of the Act (29 U.S.C. 667 (e) and (f)). The Regional Administrator for Occupational Safety and Health will make a prompt recommendation for the resumption of the exercise of Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) whenever, and to the degree, necessary to assure occupational safety and health protection to employees in the Virgin Islands.

Subpart BB—Wyoming

Section 1952.342 of Part 1952, Subpart BB—Wyoming, is revised to read as follows:

§ 1952.342 Level of federal enforcement.

Pursuant to § 1902.20(b)(1)(iii) and § 1954.3 of this chapter under which an agreement has been established with Wyoming, effective December 10, 1981, and based on a determination that Wyoming is operational in the issues covered by the Wyoming occupational health and safety plan, discretionary Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR Part 1910, 29 CFR Part 1928, and 29 CFR Part 1926. The U.S. Department of Labor will continue to exercise authority, among other things, with regard to: complaints filed with the U.S. Department of Labor alleging discrimination under Section 11(c) of the Act (29 U.S.C. 660(c)); enforcement relating to any contractors or subcontractors on any Federal establishment where the State cannot obtain entry, including National Parks, Department of Defense facilities, etc.; completion of enforcement actions initiated prior to the effective date of the agreement; enforcement of new Federal standards until the State adopts a comparable standard; situations where the State is refused entry and is unable to obtain a warrant or enforce the right of entry; enforcement of unique and complex standards as determined by the Assistant Secretary; situations when the State is temporarily unable to exercise its enforcement authority fully or effectively; and investigations and inspections for the purpose of the evaluation of the Wyoming plan under Sections 18 (e) and (f) of the Act (29 U.S.C. 667 (e) and (f)). The Regional Administrator for Occupational Safety and Health will make a prompt recommendation for resumption of the appropriate level of exercise of Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) whenever, and to the degree, necessary to assure occupational safety and health protection to employees in Wyoming.

(Secs. 8(g)(2), 18, Pub. L. 91-596, 84 Stat. 1600, 1608; (29 U.S.C. 657(g), 667))

Signed at Washington, D.C., this 1st day of June 1982.

Thorne G. Auchter,

Assistant Secretary.

[FR Doc. 82-15901 Filed 6-10-82; 8:45 am]

BILLING CODE 4510-26-M

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29 CFR Part 1952

Approval of Supplements to the Puerto Rico State Plan

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: This notice approves various supplements to the Puerto Rico State plan including: position descriptions of State plan personnel, affirmative action plan, and staffing on-board for on-site consultation and the industrial hygiene laboratory; public information program (private and government sectors); analysis for inspection scheduling (private and government sectors); administrative regulations; field operations manuals; management information system; internal training schedule; employer/employee training schedule; implementation of public employee program; on-site consultation regulations; industrial hygiene laboratory; and, deletion of boiler and elevator inspection program from the State plan.

EFFECTIVE DATE: June 11, 1982.

FOR FURTHER INFORMATION CONTACT: John Smith/Dorothy Johnson, Project Officers, Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210 (202) 523-8045.

SUPPLEMENTARY INFORMATION: Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) for the review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On August 30, 1977, notice was published in the **Federal Register** (42 FR 43628) of the approval of the Puerto Rico plan and the adoption of Subpart FF to Part 1952 containing the approval decision and describing the plan.

Description of Plan Supplements

1. *State Plan Personnel.* On March 3, 1980, Puerto Rico submitted a State plan supplement consisting of position descriptions for personnel in the State plan organization and an organizational

chart showing staffing levels in the State plan, including the staffing levels for the on-site consultation program and the industrial hygiene laboratory. Based on OSHA review comments, Puerto Rico resubmitted revised position descriptions and an updated organizational chart on September 8, 1980. Puerto Rico also submitted State-initiated plan supplements adding or deleting positions in the State plan organization as follows: January 22, 1980, added one new position (additional lawyer in the legal division); March 3, 1980, added three new positions (one industrial hygienist chief, one executive director, and one chemist assistant); July 16, 1980, added five new positions (one secretary in the Office of the Assistant Secretary, one administrative technician, one translator, and two electronic composition equipment operators); November 14, 1980, deleted six positions (six boiler and elevator program inspectors); and, February 18, 1981, added one new position (one management information system statistical clerk). In addition, this State plan supplement includes notification from the United States Office of Personnel Management, by letter of February 11, 1981, that the Puerto Rico merit system is in substantial conformity with the Standards for a Merit System of Personnel Administration, and, by letter of March 27, 1981, that the Puerto Rico Occupational Safety and Health Office has developed a satisfactory Affirmative Action Plan.

2. *Public Information Program (Private and Government Sectors).* On August 10, 1978, Puerto Rico submitted a State plan supplement consisting of its public information program for the private sector and on March 12, 1980, submitted its public information program for the government sector. The private sector public information program consists of kits that are distributed to employers and employees containing a copy of the State plan poster, a brief informational pamphlet about the Puerto Rico plan, a promotional letter on on-site consultation, an invitation for the training that will be offered, a list of publications available to employers and employees and information on how to obtain them, and a letter of offering to provide employers with monthly articles to be published in their internal publications. The government sector public information program consists of similar kits that are geared to public employment and are distributed to government employers and employees.

3. *Inspection Scheduling (Private and Government Sectors).* On June 3, 1980, Puerto Rico submitted a State plan supplement consisting of its analysis for inspection scheduling in the private sector, and on August 13, 1980, submitted its analysis for inspection scheduling in the government sector. These State plan supplements consist of ranking lists by Standard Industrial Code of establishments in Puerto Rico and the high-hazard inspection schedules by the six Puerto Rico State plan Area Offices. Puerto Rico participates in the Federal Management Information System and uses the Federal OSHA high-hazard lists to schedule its inspections. In addition, on November 26, 1979, Puerto Rico responded to changes in the Federal OSHA program for scheduling inspections by notifying OSHA of its adoption of OSHA's scheduling system for programmed inspections contained in OSHA Instruction CPL 2.25 and the requirements in OSHA instruction PAE 1.1 that at least 70% of field resources must be devoted to compliance program activity and that at least 95% of all general scheduled inspections must be in the "high-risk" sector of employment.

4. *Administrative Regulations.* On September 13, 1978, Puerto Rico submitted a State plan supplement consisting of its administrative regulations governing: Inspections, Citations and Proposed Penalties; Recording and Reporting Occupational Injuries and Illnesses; Rules of Practice for Variances, Limitations, Tolerances and Exemptions; Rules of Procedure for Promulgating, Modifying or Revoking Occupational Safety or Health Standards; Advisory Committees; Disclosure of Information; Discrimination Against Emloyees Exercising Rights under the Occupational Safety and Health Act of Puerto Rico; and, Hearing Examiner Rules of Procedure. In addition, Puerto Rico submitted revisions to its administrative regulations on October 27, 1978, March 12, 1979, and February 14, 1980. These revisions reflect both OSHA review comments and required Federal program changes. The Puerto Rico administrative regulations parallel the comparable Federal regulations.

5. *Field Operations Manuals.* On July 31, 1980, Puerto Rico submitted a State plan supplement consisting of its Field Operations Manuals. On February 25, 1981, in response to OSHA review comments, Puerto Rico submitted a revised State plan supplement adopting the Federal OSHA Field Operations Manuals, effective March 1, 1981, with special chapters to cover the public sector and the hearing examiner, and an attachment to cover differences between the Federal and State programs.

6. *Management Information System (MIS).* On May 23, 1980, Puerto Rico submitted a State plan supplement consisting of the forms used as the basis of its MIS. The forms used by Puerto Rico parallel the Federal OSHA forms, and Puerto Rico participates in the Federal MIS.

7. *Internal Training Schedule.* On May 5, 1980, Puerto Rico submitted a State plan supplement consisting of a Statement of Puerto Rico's training policy, a description of the Training Unit structure and program, and training plans and schedules for safety specialists, industrial hygienists, and laboratory personnel.

8. *Employer/Employee Training.* On March 11, 1980, Puerto Rico submitted a State plan supplement on its employer/employee training program consisting of: a narrative of the program, a description of the methods used to reach employers and employees, a schedule of specific offerings, and a system for recording the number of employers and employees who participate. On February 13, 1981, Puerto Rico submitted a revision to this supplement consisting of an updated training schedule for the government sector and for employers and employees in high-hazard industries.

9. *Public Employee Program Operational.* As reported in the third evaluation report on the Puerto Rico State plan, covering the period of July through December of 1978, the public employee program was operational in October 1978.

10. *On-site Consultation Program.* On March 30, 1979, Puerto Rico submitted a State plan supplement on its on-site consultation program consisting of its administrative regulations governing on-site consultation. These regulations parallel the Federal regulations (29 CFR Part 1908) governing on-site consultation under the Federal OSHA 7(c)(1) program. In addition, Puerto Rico submitted a State plan supplement on May 9, 1980, consisting of a brief narrative description of the on-site consultation program, documentation of staffing for the program, the State consultation manual, and a list of equipment used for a safety and health consultation.

11. *Industrial Hygiene Laboratory.* On July 14, 1980, Puerto Rico submitted a State plan supplement on its industrial hygiene laboratory consisting of an inventory of laboratory equipment and copies of the standard operating procedures for the laboratory. Based on OSHA review comments, Puerto Rico

also submitted a copy of the laboratory sampling and analytical techniques tables which show the substances the laboratory can analyze and a copy of State plan staffing levels for the laboratory.

12. *Boiler and Elevator Program.* On November 28, 1979, Puerto Rico submitted a State plan supplement consisting of procedures for its boiler and elevator inspection program. OSHA review of this State plan supplement found that Puerto Rico's boiler and elevator inspection program could not meet the OSHA requirements for unannounced inspection, employer and employee walkaround, citation and proposed penalty for first instance violations, and specific abatement dates for correction of violations. Based on OSHA recommendations, Puerto Rico submitted an amendment to its FY 1981 grant application deleting the boiler and elevator inspectors from its State plan and on November 14, 1980, submitted a State plan supplement deleting the entire boiler and elevator inspection program from its State plan.

Location of the Plan and Its Supplements for Inspection and Copying

A copy of the Puerto Rico State plan and the supplements described above may be inspected and copied during normal business hours at the following locations:

Office of the Director, Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N3613, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210

Office of the Regional Administrator, Occupational Safety and Health Administration, 1515 Broadway (1 Astor Plaza), Room 3445, New York, New York 10036

Commonwealth of Puerto Rico, Occupational Safety and Health Administration, Department of Labor, Prudencio Rivera Martinez Building, 505 Munoz Rivera Avenue, Hato Rey, Puerto Rico 00918

Public Participation

Under 29 CFR 1953.2(c) of this chapter, the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Commonwealth of Puerto Rico's supplements described above are consistent with commitments made in the approved plan which were previously made available for public comment. Accordingly, it is found that further public comment is unnecessary.

List of Subjects in 29 CFR Part 1952

Intergovernmental relations, Law enforcement, Occupational safety and health.

Decision

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

After careful consideration, the Puerto Rico plan supplements described above are hereby approved under Subpart B of Part 1953. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally. In addition, Subpart FF of 29 CFR Part 1952 is amended to reflect the completion of developmental steps by designating the first paragraph under § 1952.384 as paragraph (a) and by adding paragraphs (b) through (r) as follows:

§ 1952.384 Completed developmental steps.

* * * * *

(b) In accordance with 29 CFR 1952.383(a), Puerto Rico submitted position descriptions for State plan personnel on March 3, 1980, and submitted revised position descriptions on September 8, 1980.

(c) In accordance with 29 CFR 1952.383(b), Puerto Rico submitted its public information program for the private sector on August 10, 1978.

(d) In accordance with 29 CFR 1952.383(c), Puerto Rico submitted its analysis for inspection scheduling in the private sector on June 3, 1980.

(e) In accordance with 29 CFR 1952.383(d), Puerto Rico submitted its administrative regulations on September 13, 1978, and submitted revisions to the regulations on October 27, 1978, March 12, 1979, and February 14, 1980.

(f) In accordance with 29 CFR 1952.383(e), Puerto Rico has developed an affirmative action plan that was found acceptable by the United States Office of Personnel Management on March 27, 1981.

(g) In accordance with 29 CFR 1952.383(f), Puerto Rico has promulgated standards identical to Federal standards and subsequent amendments to reflect changes in and additions to Federal standards. The Regional Administrator approved these supplements on July 14, 1978 (43 FR 37233), June 18, 1979 (44 FR 71470), June 12, 1979 (44 FR 33751), April 17, 1979 (44 FR 22830), and October 23, 1981 (46 FR 52080).

(h) In accordance with 29 CFR 1952.383(g), Puerto Rico submitted its Field Operations Manuals on July 31, 1980, and submitted a revised supplement adopting the Federal OSHA Field Operations Manuals on February 25, 1981.

(i) In accordance with 29 CFR 1952.383(h), Puerto Rico has participated in the Federal OSHA Management Information System since August of 1978.

(j) In accordance with 29 CFR 1952.383(i), Puerto Rico submitted its internal training schedule on May 5, 1980.

(k) In accordance with 29 CFR 1952.383(j), Puerto Rico submitted its employer/employee training schedule on March 11, 1980, and on February 13, 1981, submitted an updated training schedule.

(l) In accordance with 29 CFR 1952.383(k), Puerto Rico submitted its public information program for the government sector on March 13, 1980.

(m) In accordance with 29 CFR 1952.383(l), Puerto Rico submitted its analysis for inspection scheduling in the government sector on August 13, 1980.

(n) In accordance with 29 CFR 1952.383(m), Puerto Rico implemented its public employee program in October 1978.

(o) In accordance with 29 CFR 1952.383(n), Puerto Rico submitted its on-site consultation regulations on March 30, 1979.

(p) In accordance with 29 CFR 1952.383(o), Puerto Rico submitted a State plan supplement on its industrial hygiene laboratory on July 14, 1980.

(q) In accordance with 29 CFR 1952.383(q), Puerto Rico submitted its procedures for a boiler and elevator inspection program on November 28, 1979. Based on OSHA recommendations, Puerto Rico submitted a revision to this supplement deleting the boiler and elevator inspection program from the State plan on November 14, 1980.

(r) In accordance with 29 CFR 1952.383(r), Puerto Rico submitted documentation of staffing levels for the on-site consultation program and the industrial hygiene laboratory on March 3, 1980. Based on OSHA recommendations, Puerto Rico deleted staffing for the boiler and elevator inspection program from its State plan on November 14, 1980.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1600, 1608 (29 U.S.C. 667))

Signed at Washington, D.C. this 4th day of June 1982.

Thorne G. Auchter,

Assistant Secretary.

[FR Doc. 82-15752 Filed 6-10-82; 8:45 am]

BILLING CODE 4310-36-M

DEPARTMENT OF THE INTERIOR

Geological Survey

30 CFR Parts 250 and 251

Reimbursement to Lessees and Permittees

AGENCY: Geological Survey, Interior.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations of the Department of the Interior (DOI) to modify the practices and procedures for reimbursement of lessees and permittees for geological and geophysical (G&G) data and information submitted to the Director. These modifications are required by section 26 of the Outer Continental Shelf (OCS) Lands Act as interpreted by the Solicitor of DOI.

EFFECTIVE DATE: July 12, 1982.

FOR FURTHER INFORMATION CONTACT: David A. Schuenke, (703) 860-7916, (FTS) 928-7916.

SUPPLEMENTARY INFORMATION:

Background

The OCS Lands Act, prior to 1978, provided no statutory authority to reimburse a permittee or lessee for the costs incurred to provide the Director with required G&G data and information. Section 26 of the OCS Lands Act, as amended in 1978, requires that certain costs will be reimbursed to the submitting parties. This final rule implements that requirement. Under the rule a lessee or permittee will be reimbursed for the costs to reproduce any G&G data or information required to be submitted to the Director. A permittee or lessee will be reimbursed for the reasonable cost of processing geophysical information when the processing is in a form or manner required by the Director and is not used in the normal conduct of business of the permittee or lessee. When the processing is in the form and manner which is used by a permittee in the normal conduct of business, the Secretary will pay the costs attributable to such processing at the lowest rate available to any purchaser for processing such data and information. A lessee's similar costs may not be reimbursed. Reimbursement is not authorized for analyzing geological information, collecting G&G data, or interpreting G&G information.

This final rule follows the analysis of comments received in response to a Notice of Proposed Rulemaking published October 5, 1981 (46 FR 48952). A total of nine comments were received: Eight from industry or trade organizations and one from a State governmental agency.

Difference Between Proposed Rule and Final Rule

There are two differences between the proposed and final rule. In the final rule the right to request reimbursement for reproduction costs is triggered by submission of the data or information to the Director as distinguished from submission and retention of the data or information. The proposed definitions, 30 CFR 250.2(mmm) and (nnn), 30 CFR 251.2(pp) and (qq), and 30 CFR 252.2(u) and (v), are not part of the final rule.

Discussion of Comments

Of the nine commenters, eight supported the regulatory change to provide for reimbursement. The single opposing commenter felt that the Government should not pay the costs for industry. However, Congress required that the Government reimburse industry for reasonable costs of providing necessary data and information to the Government. Congress has legislated that the Government pay its share.

One commenter who otherwise supported the change, stated that the use of the word "reasonable" created confusion and necessitated a case by case analysis. It was suggested that a commercial rate be set periodically by region, thereby eliminating the need to evaluate on an individual basis. We disagree that the commenter's suggested method would simplify the process. Periodically setting a rate would be burdensome and inequitable because of the numerous variables that can apply to each separate case.

Two commenters expressed the opinion that the regulations should provide for reimbursement for Environmental Reports (ER) and all surveys authorized under 30 CFR Part 250 and not just G&G data and information applicable to Exploration Plans or Development and Production Plans. The Solicitor's Opinion M-36924 specifies that the reimbursement authorized in section 26 of the OCS Lands Act applies only to reimbursement for G&G data and information, not to reports or surveys *per se*. The Government does not reimburse a permittee or lessee for a survey itself, but only for reproduction and/or limited processing of G&G data or information. To the extent an ER contains G&G data and information, the lessee is entitled to reimbursement for the cost of its reproduction and reimbursement for processing of geophysical information as provided in these regulations.

One commenter disagreed with the requirement that the Director retain the submitted information in order to trigger entitlement to reimbursement for reproduction costs. We agree, and the final rule reflects this change. Section 26 of OCS Lands Act requires the Secretary to reimburse permittees and lessees for reproduction costs whenever they provide the data and information to the Secretary. At a minimum the submitter is entitled to reimbursement for the cost of reproduction, regardless of whether the information is retained. Where the party has met the requirement of providing required information and has borne the cost of its reproduction, the retention of such information by the Government is irrelevant to the issue of reimbursement. The final rule, therefore, triggers entitlement to reimbursement for reproduction costs on submission and not retention of the required information.

Two commenters objected to the process for receiving reimbursement as being complicated and burdensome. We have recognized that the process is complicated and we are examining simplified procedures in that regard. Any procedures adopted must be consistent with the Federal Procurement Regulations and are not within the specific purview of the OCS operating regulations.

One commenter expressed concern that the Govenment was not properly handling data and information gathered for the protection of underwater cultural resources on the OCS. The commenter recommended that the Government establish a uniform nationwide archiving system to retain information of historical and/or cultural significance. This issue is not specifically relevant to the question of reimbursement. Nevertheless, in response to that comment, this issue has been called to the attention of the task force on cultural resources made up of personnel from the U.S. Geological Survey and Bureau of Land Management.

The proposed definitions of G&G information and data are not included as a part of the final rule. It was concluded that these definitions provide little, if any, improvement over the current definitions.

Information Collection: The information collection requirements contained in 30 CFR 250.58 and 30 CFR

251.13 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1028–0039.

Authors: Platte Clark, Jane Roberts, and David Schuenke, Minerals Management Service, Department of the Interior, (703) 860–7916.

Regulatory Analysis and Small Entity Flexibility Analysis

The Department has determined that this final rule is not a major action and does not require the preparation of a regulatory impact analysis under E.O. 12291. In addition, the Department had determined that this rule will not have a significant economic effect on a substantial number of small entities and does not, therefore, require a small entity flexibility analysis under the Regulatory Flexibility Act.

List of Subjects

30 CFR Part 250

Continental shelf, Environmental protection, Oil and gas reserves, Public lands—mineral reserves, Reporting requirements.

30 CFR Part 251

Continental shelf, Public lands—mineral resources, Reporting requirements, Science and technology.

Daniel N. Miller, Jr.,

Assistant Secretary of the Interior.

December 31, 1981.

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

For the reasons stated in the preamble, it is proposed that 30 CFR Part 250 be amended as set forth below:

1. Section 250.0 is added to 30 CFR Part 250 to read as follows:

§ 250.0 Authority for information collection.

(a) The information collection requirement contained in 30 CFR 250.58 has been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1028–0039. The information is being collected and will be used to determine eligibility for reimbursement from the Government for certain costs. The obligation to respond is required to obtain a benefit.

2. Section 250.12 is amended by adding a new sentence to paragraph (d)(1) immediately preceding the last sentence as follows:

§ 250.12 Suspension of operation and lease cancellation.

* * * * *

(d)(1) * * * other than the lessee. The lessee may be reimbursed for the cost of information and data as otherwise authorized in this Part of the regulations. The Director shall make such results available * * *.

* * * * *

3. Section 250.34–1, paragraph (k) is amended by revising the last sentence to read as follows:

§ 250.34–1 Exploration plan.

* * * * *

(k) * * * The lessee shall provide to the Director, upon request, copies of any data or information obtained as a result of those surveys.

* * * * *

4. Section 250.34–2, paragraph (n) is amended by revising the last sentence to read as follows:

§ 250.34–2 Development and production plan.

* * * * *

(n) * * * The lessee shall provide to the Director, upon request, copies of any data or information obtained as a result of the surveys.

* * * * *

§ 250.39 [Amended]

5. Section 250.39 paragraph (a) is amended by removing the phrase "* * * and without cost to the lessor, * * *"

6. A new § 250.58 is added to read as follows:

§ 250.58 Reimbursement to lessees.

(a) After the delivery to the Director of geological data, analyzed geological information, interpreted geological information, geophysical data, processed geophysical information, reprocessed geophysical information, and interpreted geophysical information selected by the Director, and upon receipt of a request for reimbursement and a determination by the Director that the requested reimbursement is proper, the lessee or third party shall be reimbursed for the reasonable costs of reproducing the selected information and data at the lessee's or third party's lowest rate, or at the lowest commercial rate established in the area, whichever is less.

(b) After the delivery to the Director of processed or reprocessed geophysical information selected and retained by the Director, and upon receipt of a request for reimbursement and a determination by the Director that the requested reimbursement is proper, the lessee or third party shall be reimbursed for the reasonable costs attributable to processing and reprocessing such information (as distinguished from the cost of data acquisition), but only if the processing or reprocessing was in the form and manner of processing other than that used in the normal conduct of the lessee's business at the request of the Director.

(c) Requests for reimbursement shall identify processing and reprocessing costs separate from acquisition costs.

(d) The lessee shall not be reimbursed for the costs of analyzing geological information or for interpreting geological or geophysical information.

PART 251—GEOLOGICAL AND GEOPHYSICAL (G&G) EXPLORATIONS OF THE OUTER CONTINENTAL SHELF

For the reasons stated in the preamble, it is proposed that 30 CFR Part 251 be amended as set forth below:

1. Section 251.0 is added to 30 CFR Part 251 to read as follows:

§ 251.0 Authority for information collection.

(a) The information collection requirement contained in 30 CFR 251.13 has been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1028–0039. The information is being collected and will be used to determine eligibility for reimbursement from the Government for certain costs. The obligation to respond is required to obtain a benefit.

2. Section 251.13 is revised to read as follows:

§ 251.13 Reimbursement to permittees.

(a) After the delivery to the Director of geological data, analyzed geological information, interpreted geological information, geophysical data, processed geophysical information, reprocessed geophysical information, and interpreted geophysical information selected by the Director in accordance with §§ 251.11 or 251.12, and upon receipt of a request for reimbursement and a determination by the Director that the requested reimbursement is proper, the permittee or third party shall be reimbursed for the reasonable costs of reproducing the selected information and data at the permittee's or third party's lowest rate or at the lowest commercial rate established in the area, whichever is less.

(b) After the delivery to the Director of processed or reprocessed geophysical information selected and retained by the Director in accordance with § 251.12(b), and upon receipt of a request for reimbursement and a determination by the Director that the requested reimbursement is proper, the permittee or third party shall be reimbursed for the reasonable costs attributable to

processing and reprocessing such information (as distinguished from the cost of data acquisition) as follows: (1) If the processing or reprocessing was in the form and manner which is used by the permittee in the normal conduct of the business, the Director shall pay the reasonable costs at the lowest rate at which the processed or reprocessed information is made available to any party; or (2) if the processing or reprocessing was in the form and manner of processing other than that used in the normal conduct of the permittee's business at the Director's request, the Director shall pay the reasonable costs of processing and reprocessing such information.

(c) Requests for reimbursement shall identify processing and reprocessing costs separate from acquisition costs.

(d) The permittee or third party shall not be reimbursed for the costs of analyzing geological information or interpreting geological or geophysical information.

(43 U.S.C. 1352)

[FR Doc. 82-15817 Filed 6-10-82; 8:45 am]
BILLING CODE 4310-MR-M

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 906

Approval of the Abandoned Mine Land Reclamation Plan for the State of Colorado Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: On February 16, 1982, the State of Colorado submitted to OSM its proposed Abandoned Mine Land Reclamation Plan (Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of this submission was to demonstrate the State's intent and capability to assume responsibility for administering and conducting the Abandoned Mine Land Reclamation Program established by Title IV of SMCRA and regulations adopted by OSM (30 CFR Chapter VII, Subchapter R, 43 FR 49932–49952, October 25, 1978). After opportunity for public comment and review of the plan submission, the Assistant Secretary for Energy and Minerals of the Department of the Interior has determined that the Colorado Plan meets the requirements of SMCRA and the Secretary's regulations. Accordingly, the Assistant Secretary has approved the Colorado Plan.

EFFECTIVE DATE: The rule is effective June 11, 1982.

ADDRESSES: Copies of the full text of the Colorado Plan are available for review during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, New Mexico State Office, 219 Central Avenue NW, Suite 216, Albuquerque, New Mexico 87102

State of Colorado, Department of Natural Resources, Mined Land Reclamation Division, 423 Centennial Bldg., 1313 Sherman Street, Denver, Colorado 80203

Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5315, 1100 L Street, NW., Washington D.C. 20240

FOR FURTHER INFORMATION CONTACT: Don Willen, Chief, Division of Abandoned Mine Land Reclamation, Office of Surface Mining Reclamation and Enforcement U.S. Department of the Interior, 1951 Constitution Avenue, NW. Washington, D.C. 20240 Telephone (202) 343–7951.

SUPPLEMENTARY INFORMATION:

General Background of the Abandoned Mine Land Reclamation Program

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, establishes an abandoned mine land reclamation program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977 and for which there is no continuing reclamation responsibility under State or Federal law.

Each State, having within its borders coal mined lands eligible for reclamation under Title IV of SMCRA, may submit to the Department a State reclamation plan demonstrating its capability for administering an abandoned mine reclamation program. Title IV provides that the Department may approve the plan once the State has an approved Regulatory Program under Title V of SMCRA. If the Secretary determines that a State has developed and submitted a program for reclamation and has the necessary State legislation to implement the provisions of Title IV, the Secretary shall grant the State exclusive responsibility and authority to implement the provisions of the approved plan. Section 405 of SMCRA (30 U.S.C. 1235) contains the requirements for State reclamation plans.

The Secretary has adopted regulations that specify the content requirements of a State reclamation plan and the criteria for plan approval (30 CFR Part 884, 43 FR 49932, 48847, October 25, 1978). Under those regulations, the Director of the Office of Surface Mining is required to review the plan and solicit and consider comments of other Federal agencies and the public. It the State plan is disapproved, the State may resubmit a revised reclamation plan at any time.

Upon approval of the State reclamation plan, the State may submit to the Director on an annual basis an application for funds to be expended in that State on specific reclamation projects which are necessary to implement the State reclamation plan as approved. Such annual requests are reviewed and approved by OSM in compliance with the requirements of 30 CFR Part 886.

To codify information applicable to individual States under SMCRA, including decisions on State reclamation plans, OSM has established a new Subchapter T of 30 CFR Chapter VII. Subchapter T consists of Parts 900 through 950. Provisions relating to Colorado are found in 30 CFR Part 906.

Background on the Colorado Abandoned Mine Land Reclamation Plan Submission

On November 1, 1979, a cooperative agreement between the State of Colorado, Department of Natural Resources, Mined Land Reclamation Division, and the Office of Surface Mining was approved. The purpose of this agreement was to assure that information required for the preparation of the Colorado Abandoned Mine Land Reclamation Plan would be assembled.

On February 16, 1982, the State of Colorado submitted its proposed Abandoned Mine Land Reclamation Plan to the Office of Surface Mining.

The public was provided adequate notice and opportunity to be heard on the Plan. The record did not reflect any major unresolved controversies. Therefore, a public hearing on the Plan was deemed necessary.

Notice of receipt of the submission initiating the Plan review was published March 26, 1982 (47 FR 13009–13010). The announcement requested public comments. On February 19, 1982, OSM's New Mexico State Director and on May 12, 1982, the Assistant Director for Program Operations and Inspection recommended to the Director that the Assistant Secretary approve the Colorado Reclamation Plan.

The administrative record on the Colorado Plan is available for review during regular business hours at the Office of Surface Mining Reclamation and Enforcement at the address listed above in "Addresses."

Assistant Secretary's Findings

1. In accordance with section 405 of SMCRA the Assistant Secretary finds that Colorado has submitted a Plan for reclamation of abandoned mine lands and has the ability and necessary legislation to implement the provisions of Title IV of SMCRA.

2. The Assistant Secretary has determined, pursuant to 30 CFR 884.13, that:

(a) The Colorado Department of Natural Resources, Mined Land Reclamation Division has the legal authority, policies and administrative structure necessary to carry out the Plan;

(b) The Plan meets all the requirements of 30 CFR Chapter VII, Subchapter R;

(c) The State has an approved regulatory program; and

(d) The Plan is in compliance with all applicable State and Federal laws and regulations.

3. The Assistant Secretary has solicited and considered the views of other Federal agencies having an interest in the Plan as required by 30 CFR 884.14(a)(2). Agencies that recommended revisions to the plan include: U.S. Department of Agriculture (USDA); U.S. Department of the Interior, Bureau of Mines (BOM); U.S. Department of Interior, Fish and Wildlife Service (FWS); and U.S. Environmental Protection Agency (EPA).

Disposition of Comments

The following comments received on the Colorado Plan during the public comment period were considered in the Assistant Secretary's evaluation as indicated below:

1. The USDA commented in Table IV–1 of the plan that vegetative cover needs to be identified and cites two examples: The Pryor and Delcarbon projects which show 174 acres and 107 acres of disturbed land respectively, have no environmental problems or no revegetation measures shown. OSM's response is that there is not a requirement for the State to include a comprehensive evaluation of revegetative measures in the plan. Revegetation would best be addressed on a case by case basis when individual projects are submitted by the State to OSM for construction grants. No modification to the plan is considered necessary.

2. The USDA commented that in Table IV–2 of the plan the cost is shown for hydro-mulch under services, but no cost estimates are shown for seed or plant materials. OSM's response is that Table IV–2 gives the estimated unit costs used in hazard abatement; mainly, equipment, services and materials. Including the cost of seed and plants to this table would be conjecture and would not add significantly to the plan. No modification to the plan is considered necessary.

3. The USDA commented that on page VI–7 of the plan soil (like water and air) should be addressed as a resource in selecting projects and priorities. OSM agrees that soil is an important resource base; however soil condition would be more appropriately addressed by the State on a case by case basis when individual projects are submitted by the State to OSM for construction grants. No modification to the plan is considered necessary.

4. The USDA suggested that information developed by the Upper Colorado Environmental Plant Center on "plant material testing for coal mine revegetation" be incorporated in the Plan by reference. OSM's response is that this suggestion is more appropriate for specific project proposals contemplated by the State in the future. No modification to the Plan is necessary.

5. The BOM commented that implementation of the plan may hinder or preclude recovery of mineral resources, in some cases, if inactive workings are sealed, or if dumps or tailings are reclaimed without regard to mineral values that may remain in some of them. OSM's response is that the State has addressed BOM's concern on page V–6 of the plan. No modification to the plan is required.

6. The BOM commented that "underlying or adjacent beds of commercially mineable coal and other minerals and materials and projected methods of extraction" are not fully addressed in the plan. Specifically, other minerals and materials are not addressed. OSM's response is that the State has indicated in the Appendix (page 3) of Volume I that coal reserves are given but "other minerals and materials cannot be determined." This statement is sufficient. No modification to the plan is necessary. Colorado has indicated in its Plan that only coal related problems will be addressed. After these have been completed, another Plan will be developed for handling the hazards and environmental problems associated with other types of mining. This schedule is consistent with the priorities listed in sections 403 and 409 of SMCRA.

7. The FWS commented that disturbance of land as a result of moving equipment to remote reclamation sites should be carefully weighed against the benefits of proposed alterations to the land. OSM's response is that the movement of heavy equipment over the terrain is a matter that can be addressed on a case-by-case or project-by-project basis by environmental assessments and/or environmental impact statements. No modification to the plan is required.

8. The EPA commented that it is not clear in the plan how inactive metal mines will be dealt with. See OSM's response to comment number 6.

9. The EPA commented that several potential coal mine drainage problems exist for problems cited in the plan—specifically mitigation measures are not proposed. OSM's response is that site specific mitigation measures will be dealt with by the State on a case by case basis. The plan does not have to address the specific detail of each and every problem cited. Therefore, no modification to the plan is required.

10. The EPA agreed with the State's concept of filling abandoned shafts with impervious materials. However, where such material is unavailable or where mine openings will only be covered with a steel grate, EPA recommends that the entrance be graded in such a way as to channel surface water away. OSM feels that EPA's recommendation has merit for actual projects and has passed it on to the State for consideration in the future. However, modifying the reclamation plan to include this recommendation is not necessary.

Additional Findings

The Office of Surface Mining has examined this rulemaking under section 1(b) of Executive Order No. 12291 (February 17, 1981), and has determined that, based on available quantitative data, it does not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval will not have an effect on costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; and

2. Approval will not have adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rulemaking has been examined pursuant to the Regulatory Flexibility

Act, 5 U.S.C. 601 *et seq.*, and the Office of Surface Mining has determined that the rule will not have a significant economic effect on a substantial number of small entities. The reason for this determination is that approval will not have demographic effects, direct costs, information collection and recordkeeping requirements, indirect costs, nonquantifiable costs, competitive effects, enforcement costs or aggregate effects on small entities.

The Assistant Secretary has determined that the Colorado Abandoned Mine Land Reclamation Plan will not have a significant effect on the quality of the human environment because the decision relates only to policies, procedures and organization of the State's Abandoned Mine Land Reclamation Program. Therefore, under the Department of Interior Manual (DM) 516.2.2(A)(1), the Assistant Secretary's decision on the Colorado Plan is categorically excluded from the National Environmental Policy Act requirements. As a result, no environmental assessment or environmental impact statement (EIS) has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjunction with the implementation of Title IV. Also, an environmental analysis or an EIS will be prepared for the approval of grants for the abandoned mine land reclamation projects under 30 CFR Part 886.

The rule is effective June 11, 1982. The good cause for making this rule effective upon date of publication is: (1) The Office of Surface Mining wants to minimize the time between the approval of Title V regulatory programs and Title IV State reclamation programs plans; and (2) grants are pending approval of the Title IV plan and OSM wishes to expedite grant assistance to States to initiate needed reclamation work as required by the Act.

List of Subjects in 30 CFR Part 906

Coal mining, Intergovernmental regulations, Surface mining, Underground mining.

Dated: June 2, 1982.

J. R. Harris,

Director, Office of Surface Mining.

Dated: June 4, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

PART 906—COLORADO

Therefore, Part 906 is amended by adding § 906.20 to read as follows:

§ 906.20 Approval of Colorado Abandoned Mine Plan.

The Colorado Abandoned Mine Plan, as submitted and revised is approved.

Copies of the approved program are available at:

Office of Surface Mining Reclamation and Enforcement, New Mexico State Office, 219 Central Avenue NW, Albuquerque, New Mexico 87102

State of Colorado, Department of Natural Resources, Mined Land Reclamation Division, 423 Centennial Building, 1313 Sherman Street, Denver, Colorado 80203

[FR Doc. 82-15808 Filed 6-10-82; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-2-FRL 2129-3; Region II, Docket No. 1]

Revision to the New Jersey State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces Environmental Protection Agency (EPA) approval for inclusion in the New Jersey State Implementation Plan of two particulate matter emission variances issued by the State. One of these was issued to the Anchor Hocking Corporation's Salem glass making facility and the other to the Owens-Illinois, Inc. Vineland glass making facility.

The Anchor Hocking variance is applicable to one of three glass furnaces at the facility and is premised on the use of at least 35 percent cullet (recycled glass) in the furnace. It raises the allowable particulate matter emission rate from 9.5 to 11.5 pounds per hour for the furnace. The Owens-Illinois variance is applicable to seven furnaces at the facility (five of which exhaust through a common stack) and is premised on the use of at least 45 percent cullet in six of the furnaces and 25 percent cullet in the remaining furnace. This variance will permit an increase in the total allowable hourly emissions from this source from 42.9 to 61.9 pounds

If approved, both variances will remain in effect until June 11, 1984. EPA agrees with New Jersey's analysis which demonstrates that approval of these "cullet variance" will not cause a contravention of any of the provisions of the Clean Air Act.

This action will be effective August 10, 1982, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

EFFECTIVE DATE: This action is effective August 10, 1982, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: All comments should be addressed to: Jacqueline E. Schafer, Regional Administrator, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

Copies of the SIP revision are available at the following addresses for inspection during normal business hours:

Environmental Profection Agency, Region II Office, Air Programs Branch, Room 1005, 26 Federal Plaza, New York, New York 10278

Enviromental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460

New Jersey Department of Environmental Protection, Bureau of Air Pollution Control, Room 1108, Labor and Industry Building, John Fitch Plaza, Trenton, New Jersey 08625

The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Room 1005, 26 Federal Plaza, New York, New York 10278, (212) 264-2517

SUPPLEMENTARY INFORMATION: On March 17, 1982 and on April 27, 1982 the Environmental Protection Agency (EPA) received from New Jersey two proposed revisions to its State Implementation Plan (SIP). The State requested EPA approval of two "cullet (recycled glass) variances" which it had issued under the provisions of Subchapter 6.5(b) of Chapter 27, Title 7, of the New Jersey Administrative Code.

The effects of these "cullet variances" are: To increase the allowable particulate matter emissions rate from 9.5 to 11.5 pounds per hour for one (furnace number 2) of three glass furnaces at an Anchor Hocking Corporation Salem glass making facility, and to permit the hourly emissions from an Owens-Illinois, Inc. Vineland glass making facility (at seven furnaces: G, Y, J, K, L, M, R) to increase from 42.9 to 62.9 pounds. These variances are based on the use of at least 35 percent cullet in the Anchor Hocking furnace, 45 percent cullet in six of the Owens-Illinois furnaces, and 25 percent cullet in the remaining Owens-Illinois furnace. As

such they are designed to encourage recycling of glass and the conservation of energy. These "cullet variances" will remain in effect until June 11, 1984.

The State's submittals consisted of the "cullet variance" applications from the sources, reports of recent stack tests, air quality modeling analyses supporting the "cullet variances," notices of public hearing and proofs of publication, and a copy of proposed letters to the companies from the State approving each variance for two years from the date of EPA final approval. During the State's public comment periods, no comments were received.

The State's air quality modeling analyses were supplemented by EPA analyses of the air qualtiy impact of the proposals in the immediate vicinity of the furnace building.

Air Quality Analysis of the Anchor Hocking Variance

EPA's air quality modeling analysis indicated that the maximum 24-hour particulate matter impact would be 15 $\mu g/m^3$ and the maximum annual impact would be 0.4 $\mu g/m^3$. The existing air quality level in the area where the maximum impacts are predicted to occur is 50 $\mu g/m^3$, annual geometric mean, and 73 $\mu g/m^3$, second highest 24-hour average. The predicted impacts in combination with existing air quality data yield concentrations well below the national ambient air quality standards of 75 $\mu g/m^3$ on an annual basis and 260 $\mu g/m^3$ on a 24-hour basis.

Air Quality Analysis of the Owens-Illinois Variance

EPA's air quality modeling analysis indicated that the maximum 24-hour particulate matter impact would be 27 $\mu g/m^3$ and the maximum annual impact would be 0.3 $\mu g/m^3$. The existing air quality level in the area where the maximum impacts are predicted to occur is 43 $\mu g/m^3$, annual geometric mean, and 81 $\mu g/m^3$, second highest 24-hour average. The predicted impacts in combination with existing air quality data yield concentrations well below the national ambient air quality standards, as in the preceding case.

Also, in both analyses no adverse interstate impacts were predicted to occur and no applicable Prevention of Significant Deterioration increments were predicted to be violated. Therefore, based on EPA's review of Anchor Hocking and Owens-Illinois air quality impacts, EPA is approving the State's SIP revision request.

This notice is issued as required by Section 110 of the Clean Air Act, as amended. The Administrator's decision regarding approval of this proposed plan revision was based on its meeting the requirements of Section 110 of the Clean Air Act and 40 CFR Part 51.

EPA is approving this SIP revision request without prior proposal because it is viewed as noncontroversial and no adverse comments are anticipated. The public should be advised that this action will be effective 60 days from the date of this Federal Register notice. However, if someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and the other will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If adverse or critical comments are received which address only one of the variance requests, EPA will only repropose action with respect to that specific variance and will finalize action with regard to the other variance request.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. This action only approves a state action. It imposes no new requirements.

The Office of Management and Budget (OMB) has exempted this regulation from OMB review requirements of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110, 301, Clean Air Act, as amended (42 U.S.C. 7410, 7601))

Note.—Incorporation by reference of the State Implementation Plan for the State of New Jersey was approved by the Director of the Federal Register on July 1, 1981.

Dated: June 4, 1982.

Anne M. Gorsuch,

Administrator, Environmental Protection Agency.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, Chapter I, Subchapter C, Part 52 Code of Federal Regulations, is amended as follows:

Subpart FF—New Jersey

1. Section 52.1570 is amended by adding new paragraph (c)(32) as follows:

§ 52.1570 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(32) Revisions submitted on March 17, 1982 and April 27, 1982 by the New Jersey State Department of Environmental Protection which grant "cullet variances" to furnace number 2 of the Anchor Hocking Corporation's Salem plant and furnaces G, Y, J, K, L, M, R of the Owens-Illinois, Inc. Vineland plant. The "cullet variances" will remain in effect for up to two years from August 10, 1982.

[FR Doc. 82-15884 Filed 6-10-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Parts 52 and 62

[A-9-FRL-2123-1]

Approval and Promulgation of State Implementation Plans and State Plans for Designated Facilities and Pollutants; Utah Fluoride and TSP

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: One purpose of this notice is to approve a revision to the Utah State Implementation Plan (SIP) which was submitted on March 1, 1982. The major issue addressed by the State in the SIP is opacity limitations for the Kennecott Copper Smelter and for Utah Power and Light's Gadsby and Hale facilities. The other purpose is to approve limitations on fluoride emissions submitted in accordance with section 111(d) of the Clean Air Act.

DATES: These actions will be effective on August 10, 1982 unless notice is received by July 12, 1982 that someone

wishes to submit adverse or critical comments.

ADDRESSES: Copies of the revision are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295

Environmental Protection Agency, Public Information Reference Unit, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460

The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT: David S. Kircher, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-3711.

SUPPLEMENTARY INFORMATION: On March 1, 1982, the Governor of Utah submitted a revision to the State Implementation Plan (SIP) which addressed several issues. These are discussed below:

Notice of Intent

Under current regulations all fuel burning equipment using gas is exempted from the permit requirements. This revision would limit the exemption to gas burning equipment with a rated capacity less than 5 million BTU per hour. The intent of this change is to provide for review and approval of potentially large sources of nitrogen oxides.

Particulate Emission Limitations

On December 21, 1981 (46 FR 61859), EPA approved, for the most part, the Utah SIP for TSP nonattainment areas. In that action it was explained that the SIP did not have enforceable opacity limits for some stacks at the Kennecott Copper Company's smelter in Magna, Utah and Utah Power and Light's Gadsby and Hale facilities. Because of the need to have a method to insure continuing compliance, EPA previously withheld approval of the SIP for those sources. This revision includes enforceable opacity requirements for all the sources in question except the Kennecott smelter main stack. The proposed changes are approvable. However, the revision did not address the SIP deficiency at the Kennecott smelter main stack. As was discussed in the December 21, 1981, action, EPA and the State are working with the company on the best approach to meet the requirement for that stack. Although this deficiency in the SIP does not affect the approvability of the March 1, 1982, submittal, the overall SIP remains unapproved with respect to that source.

Unavoidable Breakdown

This section was expanded by the State to apply to pollutants other than those for which there is a national ambient air quality standard.

Fluoride

Section 111(d) of the Clean Air Act requires States to adopt emission limitations for non-criteria air pollutants whenever EPA has adopted a new source performance standard for that pollutant. These emission limitations must be developed and submitted in accordance with EPA guidelines and regulations found in Subpart B of 40 CFR Part 60. The revision includes new fluoride limits for phosphate fertilizer plants. There is only one such facility in Utah and the new limitation would reduce emissions at that facility from 737 to 281 pounds per day. Taking into consideration several factors including the size, age, and location of the facility, the State demonstrated that the proposed limitation is consistent with EPA guidelines and the State submittal meets the requirements of 40 CFR 60.20–60.29.

EPA Action

On December 19, 1981, the State held a public hearing on the proposed changes to their SIP. No comments were received at or following the hearing.

EPA today is approving the SIP revision and the section 111(d) fluoride plan. The public is advised that this action will be effective August 10, 1982. However, if we receive written notice by July 12, 1982 that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw this final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under section 307(b)(1) of the Clean Air Act, petitions for review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2)).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to 5 U.S.C. 605(b), I have certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (46 FR 8709.)

(Secs. 110 and 111 of the Clean Air Act (42 U.S.C. 7410))

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Note.—Incorporation by reference of the State Implementation Plan for the State of Utah was approved by the Director of the Federal Register on July 1, 1981.

Dated: June 3, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

Subpart TT—Utah

(1) In § 52.2320, paragraph (c)(13) is added as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(13) Provisions to meet the requirements of Part D of the Clean Air Act, as amended in 1977, for particulates were submitted on March 1, 1982.

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

Title 40, Part 62 of the Code of Federal Regulations is amended by adding a new Subpart TT as follows:

Subpart TT—Utah

Fluorides From Existing Phosphate Fertilizer Plants

§ 62.1110 Identification of plan.

(a) *Title of plan:* "Control of Fluorides from Existing Phosphate Plants".

(b) The plan was officially submitted on March 1, 1982.

(c) *Identification of Source:* The plan includes the Chevron Chemical Company's phosphate fertilizer plant in Magna, Utah.

[FR Doc. 82-15855 Filed 6-10-82; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–8

[FPMR Amdt. A–32]

Nondiscrimination in Federally Assisted Programs

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is issuing this regulation to implement section 504 of the Rehabilitation Act of 1973, as amended. It forbids discrimination against qualified handicapped persons in any program or activity receiving Federal assistance from the GSA.

DATES: Effective Date: June 8, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Grant B. Williams, Jr., Director, Office of Civil Rights, or Mr. Thomas E. Henderson, Policy, Planning, and Program Development Division, Office of Civil Rights, U.S. General Services Administration, 18th and F Streets, NW., Washington, D.C. 20405, (202–566–1413). A telecommunications device for deaf (TDD) persons is available on (202) 566–1368.

SUPPLEMENTARY INFORMATION:

Background

In the **Federal Register** (44 FR 62298) October 30, 1979, GSA proposed for public comment a regulation prohibiting discrimination on the basis of handicap. A final section 504 regulation was not issued at that time because of a decision to issue a consolidated regulation covering not only section 504, but also title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, as amended, and the Age Discrimination Act of 1975, as amended, which prohibit discrimination on the bases of race, color, national origin, sex and age in programs receiving Federal assistance from GSA.

However, on June 16, 1981, the United States District Court of the Central District of California issued an Order and supporting Findings of Fact and Conclusions of Law in the case of *Paralyzed Veterans of America et al.* vs. *William French Smith et al.* The order requires, in part, GSA to publish a final regulation implementing section 504 on an "expedited basis." Therefore, in order to comply with the court order, GSA is issuing this section 504 subpart separately as a final rule.

In order to streamline administrative and procedural requirements which are common in each of the statutes requiring nondiscrimination in federally assisted programs, GSA will still prepare at a later date a comprehensive proposed rule including this 504 subpart as well as related subparts for the other nondiscrimination statutes. The consolidation of prohibitions of discrimination into one regulation will make nondiscrimination requirements clearer and easier to comply with, less burdensome to recipients of GSA assistance and more manageable for GSA to administer. Comments on the comprehensive rule and the related regulations will be solicited at a future time. In addition to requesting information on possible content changes, we will be also seeking comment on the economic impact of our regulation.

However, the Department of Justice and the Equal Employment Opportunity Commission are reviewing the 504 guidelines issued by the Department of Health, Education, and Welfare and GSA will amend its regulation if the guidance is revised. This is in accordance with Executive Orders 12067, 12250 and 12291.

Summary of Rule and Comments

This final rule implementing section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, is issued under 41 CFR Subpart 101–8.3. It defines in general terms the meaning of nondiscrimination in employment, including necessary limitations on preemployment inquiries, and the requirement that recipients assure reasonable accommodation to qualified handicapped applicants and employees. It also establishes requirements for making existing and newly constructed facilities accessible to qualified handicapped applicants, employees, or beneficiaries. Section 101–8.311 provides guidance to applicants and recipients on program accessibility in historic preservation programs.

The section 504 guidelines of the Department of Justice require GSA to issue rules and regulations consistent with the DOJ guidelines (45 CFR Part 85, redesignated as 28 CFR Part 41 (46 FR 40686)). This final rule issued by GSA is consistent with the DOJ guidelines.

The intent of this regulation is to assure that qualified handicapped persons enjoy equitable distribution and quality in services, benefits, and employment provided by federally assisted programs or activities. Individuals who feel that they have been discriminated against should follow the procedures applicable to title VI of the Civil Rights Act of 1964, which may be found in 41 CFR 101–6.209–215. They are referenced in § 101–8.312 of this regulation.

Few public comments were received on the proposed rule, which appeared in the **Federal Register** (44 FR 62298) October 30, 1979. The comments received were generally supportive in nature.

However, several comments were directed at provisions of the proposed rule concerning hearing impaired persons. One recommendation was that examples be given of how communications can be made available to hearing impaired persons. Accordingly, this is accomplished in § 101–8.303(h) and § 101–8.306(b)(2). The reporting and recordkeeping provisions contained in this regulation (§§ 101–8.308, 101–8.309, and 101–8.313) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control number 3090–0099.

List of Subjects in 41 CFR Part 101–8

Handicap, Discrimination.

In consideration of the foregoing, Title 41, Code of Federal Regulations, is amended by adding a new Part 101–8 to read as set forth below:

PART 101–8—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Subpart 101–8.1—General Provisions [Reserved]

Subpart 101–8.2—Discrimination Prohibited on the Bases of Race, Color, National Origin, Sex or Age [Reserved]

Subpart 101–8.3—Discrimination Prohibited on the Basis of Handicap

Sec.

101–8.300 Purpose and applicability.
101–8.301 Definitions.
101–8.302 General prohibitions.
101–8.303 Specific prohibitions.
101–8.304 Effect of State or local law or other requirements and effect of employment opportunities.
101–8.305 Employment practices prohibited.
101–8.306 Reasonable accommodation.
101–8.307 Employment criteria.
101–8.308 Preemployment inquiries.
101–8.309 Program accessibility.
101–8.310 New construction.
101–8.311 Historic Preservation Programs.
101–8.312 Procedures.
101–8.313 Self evaluation.

Subpart 101-8.4—Requirements for Applicants and Recipients [Reserved]

Subpart 101-8.5—Agency Compliance Procedures [Reserved]

Subpart 101-8.6—Laws Authorizing Federal Assistance [Reserved]

Subparts 101-8.7—101-8.49 [Reserved]

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subparts 101-8.1 and 101-8.2 [Reserved]

Subpart 101-8.3—Discrimination Prohibited on the Basis of Handicap

§ 101-8.300 Purpose and applicability.

(a) The purpose of this subpart is to implement section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap in any program or activity receiving Federal financial assistance.

(b) This subpart applies to each recipient or subrecipient of Federal assistance from GSA and to each program or activity that receives or benefits from assistance.

§ 101-8.301 Definitions.

(a) "Section 504" means Sec. 504 of the Rehabilitation Act of 1973, Pub. L. 93-112, as amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93-516, 29 U.S.C. 794.

(b) "Handicapped person" means any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such impairments, or is regarded as having such an impairment.

(c) As used in paragraph (b) of this section, the phrase:

(1) "Physical or mental impairment" means:

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genitourinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness and drug addiction and alcoholism, when current use of drugs and/or alcohol is not detrimental to or interferes with the employee's performance, nor constitutes a direct threat to property or safety of others.

(2) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(3) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) "Is regarded as having an impairment" means:

(i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraphs (c)(1)(i) and (ii) of this section, but is treated by a recipient as having such an impairment.

(d) "Qualified handicapped person" means:

(1) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question;

(2) With respect to public preschool, elementary, secondary, or adult education services, a handicapped person:

(i) Of an age during which nonhandicapped persons are provided such services;

(ii) Of any age during which it is mandatory under state law to provide such services to handicapped persons; or

(iii) To whom a state is required to provide a free appropriate public education under sec. 612 of the Education for All Handicapped Children Act of 1975, Pub. L. 94-142.

(3) With respect to postsecondary and vocational education services, a handicapped person who meets the academic and technical standards requisite to admission or participation in the recipient's education program or activity; and

(4) With respect to other services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

(e) "Handicap" means condition or characteristic that renders a person a handicapped person as defined in paragraph (b) of this section.

The definitions set forth in Subpart 101-6.216, to the extent not inconsistent with this subpart, are made applicable to and incorporated into this subpart.

§ 101-8.302 General prohibitions.

No qualified handicapped persons shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives or benefits from Federal assistance from GSA.

§ 101-8.303 Specific prohibitions.

(a) A recipient, in providing any aid, benefit, or service, may not directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(1) Deny a qualified person the opportunity to participate in or benefit from the aid, benefit, or service;

(2) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(3) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided others;

(4) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons than is provided to others unless the action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(5) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or services to beneficiaries of the recipient's program;

(6) Deny a qualified handicapped person the opportunity to participate as a member of planning committees, advisory boards, or other groups; or

(7) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(b) For purposes of this subpart, aids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for handicapped and nonhandicapped persons, but must afford handicapped persons equal opportunity to obtain the same result, to gain the same benefit, or

to reach the same level of achievement in the most integrated setting appropriate to the person's needs.

(c) Despite the existence of permissible separate or different programs or activities, a recipient may not deny a qualified handicapped person the opportunity to participate in programs or activities that are not separate or different.

(d) A recipient may not, directly or through contractual or other arrangements, use criteria or methods of administration that:

(1) Have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap;

(2) Have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program with respect to handicapped persons; or

(3) Perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.

(e) In determining the site of a facility, an applicant for assistance or a recipient may not make selections that:

(1) Have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives Federal assistance from GSA; or

(2) Have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(f) As used in this section, the aid, benefit, or service provided under a program or activity receiving or benefitting from Federal assistance includes any aid, benefit, or service provided in or through a facility that has been constructed, expanded, altered, leased, or rented, or otherwise acquired, in whole or in part, with Federal assistance.

(g) The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or Executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or Executive order to a different class of handicapped persons is not prohibited by this subpart.

(h) Recipients shall take appropriate steps to ensure that communications with the donees, applicants, employees, and handicapped persons participating in federally assisted programs and activities or receiving aid, benefits, or services are available to persons with impaired vision and hearing. Examples of communications methods include: Telecommunication devices for the deaf (TDD's), other telephonic devices, provision of braille materials, readers, and qualified sign language interpreters.

(i) The enumeration of specific forms of prohibited discrimination in this section does not limit the generality of the prohibition in § 101–8.302 of this subpart.

§ 101–8.304 Effect of State or local law or other requirements and effect of employment opportunities.

(a) The obligation to comply with this subpart is not obviated or alleviated by the existence of any State or local law or other requirement that, on the basis of handicap, imposes prohibitions or limits upon the eligibility of qualified handicapped persons to receive services or to practice any occupation or profession.

(b) The obligation to comply with this subpart is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for handicapped persons than for nonhandicapped persons.

§ 101–8.305 Employment practices prohibited.

(a) No qualified handicapped person shall, on the basis of handicap, be subjected to employment discrimination under any program or activity to which this subpart applies.

(b) A recipient shall make all decisions concerning employment under any program or activity to which this subpart applies in a manner which ensures that discrimination on the basis of handicap does not occur and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(c) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. The relationships referred to in this paragraph include relationships with employment and referral agencies, labor unions, organizations providing or administering fringe benefits to employees of the recipient, and organizations providing training and apprenticeship programs.

(d) The provisions of this subpart apply to:

(1) Recruitment, advertising, and processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick or otherwise;

(6) Fringe benefits available by virtue of employment, whether administered by the recipient or not;

(7) Selection and provision of financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer-sponsored activities, including social or recreational programs; and

(9) Any other term, condition, or privilege of employment.

(e) A recipient's obligation to comply with this subpart is not affected by any inconsistent term of any collective bargaining agreement to which it is a party.

§ 101–8.306 Reasonable accommodation.

(a) A recipient shall make reasonable accommodation to the known physical or metal limitations of an otherwise qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

(b) Reasonable accommodation may include:

(1) Making facilities used by employees readily accessible to and usable by handicapped persons; and

(2) Job restructing; part-time or modified work schedules; acquisition or modification of equipment or devices, such as telecommunications devices or other telephonic devices for hearing impaired persons; provision of reader or qualified sign language interpreters; and other similar actions. These actions are to be taken either upon request of the handicapped employee or, if not so requested, upon the recipient's own initiative, after consultation with and approval by the handicapped person.

(c) In determining, under paragraph (a) of this section, whether an accommodation would impose an undue hardship on the operation of a recipient's program, factors to be considered include:

(1) The overall size of the recipient's program with respect to number of employees, number and type of facilities, and size of budget;

(2) The type of the recipient's operation, including the composition and structure of the recipient's work force; and

(3) The nature and cost of the accommodation needed.

(d) A recipient may not deny an employment opportunity to a qualified handicapped employee or applicant if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

§ 101-8.307 Employment criteria.

(a) A recipient may not use an employment test or other selection criterion that screens out or tends to screen out handicapped persons unless the test score or other selection criterion, as used by the recipient, is shown to be job-related for the position in question.

(b) A recipient shall ensure that employment tests are adapted for use by persons who have handicaps that impair sensory, manual, or speaking skills except where those skills are the factors that the test purports to measure.

§ 101-8.308 Preemployment inquiries.

(a) Except as provided in paragraphs (b) and (c) of this section, a recipient may not conduct a preemployment medical examination or may not make preemployment inquiries of an applicant as to whether the applicant is a handicapped person or as to the nature or severity of a handicap. A recipient may, however, make preemployment inquiries into an applicant's ability to perform job-related functions.

(b) When a recipient is taking remedial action to correct the effects of past discrimination, or is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity, or when a recipient is taking affirmative action under section 503 of the Rehabilitation Act of 1973, as amended, the recipient may invite applicants for employment to indicate whether, and to what extent, they are handicapped provided that:

(1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally, if no written questionnaire is used, that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary or affirmative action efforts; and

(2) The recipient states clearly that the information is requested on a voluntary basis, that it will be kept confidential as provided in paragraph (d) of this section, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this subpart.

(c) This section does not prohibit a recipient from conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty provided that all entering employees are subjected to the examination regardless of handicap or absence of handicap and results of the examination are used only in accordance with the requirements of this subpart.

(d) Information obtained in accordance with this section concerning the medical condition or history of the applicant shall be collected and maintained on separate forms that are to be accorded confidentiality as medical records, except that:

(1) Supervisors and managers may be informed of restrictions on the work or duties of handicapped persons and of necessary accommodations;

(2) First aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment; and

(3) Government officials investigating compliance with section 504 of the Rehabilitation Act of 1973, as amended, shall be provided relevant information upon request.

§ 101-8.309 Program accessibility.

(a) *General.* No handicapped person shall, because a recipient's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or be subjected to discrimination under any program or activity that receives or benefits from Federal assistance from GSA.

(b) *Program accessibility.* A recipient shall operate any program or activity to which this subpart applies so that the program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This paragraph does not require a recipient to make each of its existing facilities or every part of a facility accessible to and usable by handicapped persons.

(c) *Methods.* A recipient may comply with the requirement of paragraph (a) of this section through such means as acquisition or redesign of equipment, such as telecommunications devices or other telephonic devices for the hearing impaired; reassignment of classes or other services to alternate sites which have accessible buildings; assignment of aides to beneficiaries, such as readers for the blind or qualified sign language interpreters for the hearing impaired when appropriate; home visits; delivery of health, welfare, or other social services at alternate accessible sites; alterations of existing facilities and construction of new facilities in conformance with the requirements of § 101-8.310; or any other methods that result in making its program or activity accessible to handicapped persons. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (a) of this section. In choosing among available methods for meeting the requirement of paragraph (a) of this section, a recipient shall give priority to those methods that offer programs and activities to handicapped persons in the most integrated setting appropriate.

(d) *Small service providers.* If a recipient with fewer than 15 employees finds, after consultation with a handicapped person seeking its services, that there is no available method of complying with paragraph (a) of this section other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other providers of those services that are accessible at no additional cost to the handicapped person.

(e) *Time period.* A recipient shall comply with the requirement of paragraph (a) of this section within 60 days of the effective date of this subpart, except that where structural changes in facilities are necessary, the changes are to be made as expeditiously as possible, but in no event later than 3 years after the effective date of this subpart.

(f) *Transition plan.* In the event that structural changes to facilities are necessary to meet the requirements of paragraph (a) of this section, a recipient shall develop, within 6 months of the effective date of this subpart, a transition plan setting forth the steps necessary to complete the changes. The plan shall be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, and the plan must meet with the approval of the Director of Civil Rights, GSA. A copy of the transition plan shall be made available for public inspection. At a minimum, the plan shall:

(1) Identify physical obstacles in the recipient's facilities that limit the accessibility to and usability by handicapped persons of its program or activity;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve full program accessibility and, if the time period or the transition plan is longer than 1 year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the person responsible for implementation of the plan.

(g) *Notice.* The recipient shall adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information concerning the existence and location of services, activities, and facilities that are accessible to, and usable by, handicapped persons.

§ 101–8.310 New construction.

(a) *Design and construction.* Each facility or part of a facility constructed by, on behalf of, or for the use of a recipient shall be designed and constructed in a manner that the facility or part of the facility is readily accessible to, and usable by, handicapped persons, if the construction began after the effective date of this subpart.

(b) *Alteration.* Each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient after the effective date of this subpart in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in a manner that the altered portion of the facility is readily accessible to and usable by handicapped persons.

(c) *GSA Accessibility Standard.* Design, construction, or alteration of facilities shall be in conformance with the "GSA Accessibility Standard," PBS (PCD): DG6, October 14, 1980. A copy of the standard can be obtained through the Business Service Centers, General Services Administration, National Capital Region, 7th and D Streets, SW., Washington, D.C. 20407 or Regional Business Service Centers, Region 1, John W. McCormack, Post Office and Courthouse, Boston, Massachusetts 02109; Region 2, 26 Federal Plaza, New York, New York 10007; Region 3, Ninth and Market Streets, Philadelphia, Pennsylvania 19107; Region 4, 75 Spring Street, SW., Atlanta, Georgia 30303; Region 5, 230 South Dearborn, Chicago, Illinois 60604; Region 6, 1500 East Bannister Road, Kansas City, Missouri 64131; Region 7, 819 Taylor Street, Fort Worth, Texas 76102; Region 8, Building 41, Denver Federal Center, Denver, Colorado 80225; Region 9, 525 Market Street, San Francisco, California 94105; Region 10, GSA Center, Auburn, Washington 98002.

In cases of practical difficulty, unnecessary hardship, or extreme differences, exceptions may be granted from the literal requirements of the above-mentioned standard, as defined in §§ 101–19.604 and 101–19.605 ("Exceptions" and "Waiver or modification of standards"), but only when it is clearly evident that equal facilitation and protection are thereby secured.

§ 101–8.311 Historic Preservation Programs.

(a) *Definitions.* For purposes of this section, the term:

(1) "Historic preservation programs" means programs receiving Federal financial assistance that has preservation of historic properties as a primary purpose.

(2) "Historic properties" means those properties that are listed or eligible for listing in the National Register of Historic Places.

(3) "Substantial impairment" means a permanent alteration that results in a significant loss of the integrity of finished materials, design quality or special character.

(b) *Obligation.*—(1) *Program accessibility.* In the case of historic preservation programs, program accessibility means that, when viewed in its entirety, a program is readily accessible to and usable by handicapped persons.
This paragraph does not necessarily require a recipient to make each of its existing historic properties or every part of an historic property accessible to and usable by handicapped persons.
Methods of achieving program accessibility include:

(i) Making physical alterations which enable handicapped persons to have access to otherwise inaccessible areas or features of historic properties;

(ii) Using audio-visual materials and devices to depict otherwise inaccessible areas or features of historic properties;

(iii) Assigning persons to guide handicapped persons into or through otherwise inaccessible portions of historic properties;

(iv) Adopting other innovative methods to achieve program accessibility.
Because the primary benefit of an historic preservation program is the experience of the historic property itself, in taking steps to achieve program accessibility, recipients shall give priority to those means which make the historic property, or portions thereof, physically accessible to handicapped individuals.

(2) *Waiver of accessibility standards.* Where program accessibility cannot be achieved without causing a substantial impairment of significant historic features, the Administrator may grant a waiver of the program accessibility requirement. In determining whether program accessibility can be achieved without causing a substantial impairment, the Administrator shall consider the following factors:

(i) Scale of property, reflecting its ability to absorb alterations;

(ii) Use of the property, whether primarily for public or private purpose;

(iii) Importance of the historic features of the property to the conduct of the program; and

(iv) Cost of alterations in comparison to the increase in accessibility.
The Administrator shall periodically review any waiver granted under this section and may withdraw it if technological advances or other changes so warrant.

(c) *Advisory Council comments.* Where the property is federally owned or where Federal funds may be used for alterations, the comments of the Advisory Council on Historic Preservation shall be obtained when required by section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), and 36 CFR Part 800, prior to effectuation of structural alterations.

§ 101–8.312 Procedures.

The procedural provisions of Title VI of the Civil Rights Act of 1964 are adopted and stated in §§ 101–6.205–215 and apply to this subpart. (Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c)).

§ 101–8.313 Self-evaluation.

(a) *Procedures.* Each recipient shall, within one year of the effective date of this part:

(1) Whenever possible, evaluate, with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, its current policies and practices and the effects thereof that do not or may not meet the requirements of this Part;

(2) Modify any policies and practices which do not or may not meet the requirements of this part; and

(3) Take appropriate remedial steps to eliminate the effects of discrimination which resulted or may have resulted from adherence to these questionable policies and practices.

(b) *Availability of self-evaluation and related materials.* Recipients shall maintain on file, for at least three years following its completion, the evaluation required under paragraph (a) of this section, and shall provide to the

Director, upon request, a description of any modifications made under paragraph (a)(2) of this section and of any remedial steps taken under paragraph (a)(3) of this section.

Subparts 101-8.4—101-8.7 [Reserved]

Ray Kline,
Acting Administrator of General Services.

[FR Doc. 82-15833 Filed 6-10-82; 8:45 am]
BILLING CODE 6820-34-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 73

[BC Docket No. 81-896; FCC 82-227]

Use of the AM Carrier for Utility Load Management Purposes

AGENCY: Federal Communications Commission.

ACTION: Final rule (Report and Order).

SUMMARY: Action taken herein resolves the issue raised in the Commissions Notice of Proposed Rule Making adopted December 17, 1981 proposing to permit utility load management signals to be transmitted through the AM broadcast carrier as long as they do not degrade AM main channel broadcasting. This use currently is not permitted. As with FM subsidiary communication authorization (SCA) load management considered in Docket No. 81-352, concerning use of SCA for utility load management, use of the AM carrier would allow expansion of load management communication alternatives for utilities. This authorization appears to offer valuable energy conservation and cost saving possibilities. The Commission is amending its rules to permit this use, finding it to be in the public interest.

DATE: Effective July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Norman Plotkin, Broadcast Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 2

Radio.

47 CFR Part 73

Radio broadcast.

Report and Order (Proceeding Terminated)

Adopted: May 13, 1982.
Released: May 25, 1982.

In the matter of amendment of Parts 2 and 73 of the Commission's AM rules with reference to the use of the AM carrier for utility load management purposes, BC Docket No. 81-896.

1. On December 17, 1981, the Commission adopted a Notice of Proposed Rule Making (47 FR 1306, published January 12, 1982) proposing an amendment to its AM broadcast rules which would authorize a new use of the AM carrier that could enhance national energy conservation efforts. The amendment would permit AM radio stations, including public broadcasting AM stations, to use the AM carrier for utility load management purposes. This same authorization was given for FM station subcarriers in the recently approved *Report and Order* in FM utility load management.[1] Specifically, in the *FM Order*, the Commission approved the use of FM subsidiary communications authorizations (SCA's) for energy load management applications by utilities. Comments received in the FM utility load management docket urged the expansion of utility load management alternatives to include the use of AM carrier signals. Upon consideration of these comments, the Commission decided that such an authorization clearly appeared to be in the public interest as long as use of AM carriers for this purpose did not interfere with or degrade main channel AM broadcasting. This protection of main channel broadcasting was proposed as a basic requirement for the acceptability of any AM utility load management method used.[2] After reviewing the overwhelmingly positive comments received for this proposed action and carefully evaluating the small number of negative reservations expressed, the Commission has decided to adopt the proposal with this *Report and Order*.

2. It appeared to the Commission when it adopted its Notice that the same strong energy conservation case for authorizing utility load management was as valid for the AM carrier as for the FM SCA. As we summarized in the Notice: "[The] public interest would be furthered by expanding utility load management communication alternatives to include both FM SCA and AM carrier methods * * * (because) it appears that: (a) They offer valuable energy conservation and cost-saving possibilities by helping fulfill a critical need for load management alternatives suitable to the diverse situations and cost capabilities of utilities; (b) they offer this possibility at a time when utilities are in a search, demonstration and implementation process for load management techniques that are best suited to their individual situation; and (c) with respect to using the AM carrier, one such method has been demonstrated in an on-air test." [3]

Comments

3. An expanded summary of the comments is set forth below. In brief, however, all twenty-one comments received in response to the Notice supported the proposed authorization, while more than half expressed some reservations. Only one comment expressed serious reservations. However, this party failed to provide any substantiating details regarding its concerns. Of the six reply comments that were filed, four strongly defended the current proposal, while two reinforced the negative reservations expressed during the comment period and urged postponement pending further evaluation of these reservations by the Commission. The views expressed in the comments have been categorized below.

4. *Unqualified approval.* Ten commenters favored the proposed action without qualification. These were made up of four utility and four broadcasting organizations and two equipment producers. As part of these comments, the American Public Power Association stated that such action "should assure that virtually 100% of the electric utility industry would have the option of using commercial radio as a load management communication alternative." The Hearst Corporation, a broadcast licensee, asserted: "If the rule is adopted as proposed, the uses of AM radio in serving community needs would clearly be enlarged and enhanced." National Public Radio noted that most of the 27 current NPR member AM stations "have all news and information formats. These formats are the most expensive to implement and the most difficult for which to raise money * * * The prospect of AM SCA operations is a welcome addition to the list of potential sources of such funding."

5. *Broad uses of AM carriers.* In addition to prompt adoption of the current action, expanded use of the AM carrier was urged by six commenters. These were predominantly broadcasters and the American Foundation for the Blind. Essentially, they felt the proceeding was too narrowly focused.

[1] 47 FR 1306, January 13, 1982.

[2] In the AM utility load management *Notice* (47 FR 1306, January 12, 1982), the Commission stated, "This proposal does not confine AM carrier use for utility load management to a particular technique but allows the use of any method that meets these safeguards".

[3] *Notice of Proposed Rule Making*, 47 FR 1306 at paragraph 4.

Anxious about the future status of Radio Reading and Information Services (RRIS) on FM SCA's, the American Foundation for the Blind stated: "Certainly the use of AM carriers will potentially diminish any adverse effect on RRIS for the competitive use of FM SCA's * * * The Commission should allow AM carriers to be used for any purpose which provides the safeguards referred to in paragraphs 2 and 5 of the docket." Describing this Notice as "an important first step," McKenna, Wilkinson and Kittner (MWK) states: "The Commission should not * * * limit expanded uses of the AM carrier to utility load management functions. There are no sound engineering or policy reasons for postponing consideration of broader broadcast carrier uses * * * (It) urges the Commission to move forward with a broad rulemaking * * *" In the same vein, the National Association of Broadcasters urged the Commission "to abandon this piecemeal approach to a larger issue and initiate [action] to give commercial radio broadcasters complete discretion as to how they will utilize their FM SCA's or AM signals for the provision of new services in the public interest."

6. *Compatibility and interference problems.* Four commenters expressed technical reservations with reference to the possibility of main channel interference to load management AM modulation techniques, and the compatibility of such techniques to a "market-based solution" for selection of an AM stereophonic broadcasting system. These commenters were equipment producers and the Electronic Industries Association (EIA). Vedette Energy Research, Inc. noted that "AM frequencies are subject to significant skywave propagation after sunset. Since load management systems are frequently required to be used during the evening hours, such propagation can result in substantial cochannel and adjacent channel interference at great distances." [4] They stated their belief that one station's load management system could thus interfere at night with a distant station's load management system. In its reply comments Vedette also called attention to the possible "deleterious effect on the bearing function" of existing ADF navigation receivers for aircraft.[5] While approving the underlying purpose of the proceeding, it urged the Commission to move cautiously on this new and, as yet, experimental technology "because of the possible ramification of channel interference, and its possible effect on AM stereo and aerial navigation."

7. With further regard to AM stereo, the EIA pointed out that "If the Commission chooses the so called 'marketplace approach' and authorizes all five systems, then the stage would be set for compatibility problems. Specifically, EIA felt that load management transmissions could cause false triggering of receiver AM stereo recognition circuits with one or more of the proposed AM stereophonic broadcast systems." [6]

8. In its reply comments addressing these issues, Westinghouse Broadcasting stated: "Any adverse effect of skywave interference can easily be avoided by an AM station. Many AM stations have strong enough signals so that skywave interference has no noticeable effect. Other AM stations can avoid the effect simply by using either a coded tone or a dual tone signal * * * (o)nce a particular stereo system with specified pilot tone characteristics is selected—whether by the Commission or by a broadcaster choosing among systems in the marketplace—a compatible load management system can be designed."

9. *Commercial stations only.* The National Association of Broadcasters (NAB) recommended that this proceeding be limited to commercial AM stations, stating: "There are a number of unresolved policy issues concerning the allowable commercial activities of public stations—activities which now are under study by the Temporary Commission on Alternative Financing for Public Telecommunications * * * It would appear that consideration of the noncommercial AM utility load management should be deferred until after the Temporary Commission submits its report to Congress on July 1, 1982."

10. On the other hand, National Public Radio argues that public radio AM stations "* * * especially need to have access to every means of alternative financing." They firmly support the inclusion of public broadcasters in any Commission action in this area.

11. *Patent limitations.* One commenter, an equipment producer, approved of the proposal but with some reservation, fearing that the patent rights of Altran Electronic Products might be an impediment to AM load management equipment supply competition. In its reply comments, the commenter, TFT, Inc., requested a postponement of any action in this proceeding to afford the Commission an opportunity to evaluate the effect of such patents on competition in this area. In support of its request, TFT, Inc., stated that "It would appear to be contrary to public policy for the Commission to establish without proper investigations technical standards that are requested by owners of patent rights which technical standards will result in the lessening of competition and a restraint of competition among suppliers of broadcast equipment and radio apparatus." No other commenter expressed concern regarding Altran's patent. A number of other commenters, however, did support the Commission's expressed intention to permit any non-interfering AM load management system to operate.

Discussion

12. *Compatibility and interference problems.* In authorizing a marketplace determination in the AM stereo proceeding, the Commission recognized the compatibility and channel interference possibilities and the potential complications to AM load management transmissions. Thus, we are aware that this area may constitute a problem which parties interested in AM load management will have to take into account in their actions. However, we do not feel that the degree of concern expressed in the comments is warranted given the solutions and choices available to the AM licensee to overcome or avoid the interference factors. Those designing and installing load management systems will be expected to take these factors into account in setting up their systems. In this regard, a coded or otherwise "protected" system would not respond to load management directions that intrude on the relevant service area by skywave propagation.[7] Thus, users have a natural incentive to protect their load management systems by coding or taking other protective measures since no Commission regulations are required.

13. With reference to the compatibility of AM stereo and load management systems, such compatibility is not at all precluded. In this regard, we are in agreement with the comments expressed

[4] Vedette recommended two ways for the Commission to treat this problem: (1) Restrict AM load management systems to clear channel stations or (2) develop a system of allocations to avoid potential interference.

[5] Vedette here refers to the comment by King Radio Corporation that some problems of interference could occur with certain types of ADF navigation receivers for aircraft. However, no information was submitted to the Commission to verify this claim.

[6] The Commission approved a marketplace determination to selection of an AM stereo system on March 4, 1982 (released March 18, 1982).

[7] This may occur even though such interference is not objectionable from a broadcast point of view.

by Westinghouse Broadcasting. There appears to be no reason why an AM licensee cannot make choices that assure compatible systems by picking a particular AM stereo system and then using a load management system compatible with it. Alternatively, an AM licensee can decide to give priority to one use over another by choosing an AM stereo system and foregoing load management use, or the reverse.

14. One problem that could arise is that a licensee could choose a load management system frequency which was the same as the pilot frequency of an AM stereo system that was in use by another station. If this occurred, no interference problem would be created for other stations. However, listeners with receivers designed for the other station's stereo system could face adverse reception effects when tuned to the station transmitting the load management signal. Such effects could range from erroneously turning on the stereo indicator light to switching the receiver into a stereo mode and perhaps introducing noise in the reception.

15. Obviously, such a situation is one which should be avoided by licensees. The Commission feels that strong incentives exist for licensees not to choose load management system frequencies that will alienate or even eliminate a portion of their listening audience. Therefore, we feel that no specific Commission action is required to avoid this possibility. However, we do wish to alert licensees, AM stereo designers, load management system designers, and others to the possible problem so that diversive action may be taken. For informational purposes, we also note that submissions to the Commission during the AM stereo proceeding indicate that the five existing AM stereo systems have located their subaudible pilot tones at the following frequencies: Magnavox—5 Hz; Belar—10 Hz; Kahn—15 Hz; Motorola—25 Hz, and Harris—55 to 96 Hz (a sweeping tone). Although no restrictions are being placed on either AM stereo pilot tones or load management signals as to which frequencies they must use, it is noted that load management systems would avoid any possible interference problems by using the frequency opening that currently exists between 25 and 55 Hz and we think licensees should consider locating their load management signals in that range.

16. *Commercial stations only.* We do not agree with the recommendation that any authorization of AM carriers for utility load management should be limited to commercial AM stations. The Commission has recently issued a Notice of Proposed Rule Making [8] which proposes to allow the use of public broadcasting FM SCA's for profit purposes on a basis comparable to that of commercial FM stations. The public broadcasting AM stations are not part of the FM Notice, but, as the public broadcasters' comments herein reflect, they too have strong needs for additional revenue sources. Unless they are included in this AM authorization, they would be unable to use their AM carriers both for additional needed revenue and for energy conservation purposes. We therefore conclude that the public interest would best be served by including AM public broadcasting licensees in our AM carrier authorization.

17. *Patent limitations.* We have also concluded that there is no justification for postponement of this action on the basis of the patent argument made by TFT, Inc. First, TFT, Inc. is in error if it implies that the Commission intended to use this proceeding to establish technical standards as requested by the owner of patent rights to such standards. On the contrary, the Commission specifically decided against such a narrow rule making. As indicated in note 2, *supra*, the *Notice* proposed allowing the use of *any method* that does not disrupt or degrade regular programs. Second, based upon the views expressed in the comments received and the information we have available,[9] we believe that there are a variety of AM utility load management methods available. Accordingly, we anticipate the existence of reasonable competition within the AM load management field. Finally, the Commission feels that the relevant competitive market is load management in general, not merely AM load management as suggested by some of the commenters in this proceeding. The Commission feels that competition among the many possible load management techniques is sufficient to result in efficient resource use in the public interest.[10]

18. *Broad uses of AM carriers.* The Commission notes the strong interest shown by a number of commenters with respect to a wide variety of uses of AM carriers. These requests will not be considered in this proceeding since they are beyond the purview of the Notice. Nevertheless, the Commission will seriously consider these views in determining possible future actions in this field.

19. In light of the above discussion, the Commission rejects the arguments of those who wish to postpone or restrict the proposed action in this proceeding. Instead, the Commission adopts its proposal to authorize AM carrier use for utility load management purposes with the proviso that such use does not disrupt or degrade regular broadcasts of AM stations.

20. Pursuant to the Regulatory Flexibility Act of 1980, the Commission's final regulatory flexibility analysis is as follows:

I. Need for and Purpose of the Rule

The Commission has concluded that the national energy conservation effort in the U.S. could be enhanced by permitting the use of AM carrier signals as an additional load management technique. Such use is not currently permitted and would open another choice to utilities in their energy conservation efforts as well as offering an additional revenue source for AM licensees. It also will allow the more efficient utilization of our nation's scarce radio spectrum.

II. Summary of Issues Raised by Public Comment in Response to the Initial Regulatory Flexibility Analysis, Commission Assessment, and Changes Made as a Result

A. Issues Raised

1. Only one issue was raised that appeared to be contrary to the positive effects expected for small business units in the initial regulatory flexibility analysis. One commenter expressed concern that patent rights held by one AM load management equipment producer would give that producer monopoly power in the AM load management field and would prevent other equipment suppliers from competing in this area.

B. Assessment

1. The Commission concludes that this claim was not justified by the facts. The technical parameters established by the Commission in this proceeding to protect against interference are not so narrow that they would be covered by any existing patent rights. On the contrary, the Commission decided to allow the use of any method of AM load management that does not disrupt or degrade regular programs. Under this

[8] 47 FR 2364, January 15, 1982.

[9] The record in this proceeding includes a study by the Canadian Electronics Association listing several methods by which an AM carrier may be used for load managment. "Development of a Load Control Scheme Utilizing AM Broadcast Radio", Final Report, CEA Research Project 77-41, January, 1978. Canadian Electronics Association.

[10] With reference to this patent issue, the Commission herein denies a motion to file additional comments by Sigma Instruments, Inc. In addition to being late filed, the comments did not contain new information and would not affect the Commission's findings in this proceeding.

open approach, the Commission anticipates, from the comments received and other information available to it, that a variety of AM load management techniques will be available and that reasonable competition can be expected.

C. Changes Made as a Result of Such Comments

None.

III. Significant Alternatives Considered and Rejected

The Commission's alternative would be to forego the action proposed in this proceeding. Such inaction would not permit it to accomplish the beneficial objective sought in this rule making.

21. Authority for adoption of the rules herein is contained in sections 2, 4(i) and 303 of the Communications Act of 1934, as amended.

22. Accordingly, it is ordered, that Parts 2 and 73 of the Commission's rules are amended as set forth in the attached Appendix, effective July 1, 1982.

23. It is further ordered that this proceeding is terminated.

24. For further information concerning this proceeding, contact Norman Plotkin, Broadcast Bureau, (202) 632-6302.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 2 and 73, of the Federal Communications Commission's Rules and Regulations are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. Section 2.106, the National Table of Frequency Allocations, is amended by adding footnote designator NG128 in column 7 in the band 535–1605 kHz, and by revising footnote NG128 in the list of footnotes which follow the Table.

§ 2.106 Table of frequency allocations.

FEDERAL COMMUNICATIONS COMMISSION

Band (kHz)	Service	Class of station	Frequency (kHz)	Nature of services of stations
7	8	9	10	11
•	•	•	•	•
535–1605 (US15) (NG16) (NG128)	Broadcasting			AM broadcasting.

NG128 In the band 535–1605 kHz, AM broadcast licensees or permittees may use their AM carrier to transmit signals intended for utility load management. In the band 88–108 MHz, FM broadcast licensees or permittees may be granted a Subsidiary Communications Authorization (SCA) to transmit signals intended for utility load management.

2. Section 2.1001 is amended by adding new paragraph (h) to read as follows:

§ 2.1001 Changes in type accepted equipment.

* * * * *

(h) The interconnection of a utility load management exciter with a type accepted AM broadcast transmitter in accordance with the manufacturer's instructions and completion of equipment performance measurements showing the transmitter meets the minimum performance requirements applicable thereto is defined as a Class I permissive change for compliance with this Section.

PART 73—RADIO BROADCAST SERVICES

3. Subpart A of Part 73 is amended by adding new § 73.127 to read as follows:

§ 73.127 Use of multiplex transmission.

The licensee of an AM broadcast station may use its AM carrier to transmit signals not audible on ordinary consumer receivers, for utility load management purposes subject to the following requirements:

(a) Such use does not disrupt or degrade the station's own programs or the programs of other broadcast stations.

(b) In all arrangements entered into with outside parties with reference to such use, the licensee or permittee must retain control over all uses and signals transmitted over the station's facilities, with the right to reject any material which it claims inappropriate or undesirable.

(c) Installation of the multiplex transmitting equipment conforms with the requirements of § 73.1690(e)(5).

4. Section 73.1690 is amended by adding new paragraph (e)(6) to read as follows:

§ 73.1690 Modification of transmission systems.

* * * * *

(e) * * *

(6) Modification of the transmitter for utility load management operations with an exciter unit that has been designed for interfacing with the type accepted transmitter with which it is to be used in accordance with the following:

(i) The combination of the utility load management exciter and transmitter meets the minimum specifications given in §§ 73.40 and 73.44.

(ii) The frequency stability requirements of § 73.1545(a) must be maintained.

* * * * *

[FR Doc. 82-15804 Filed 6-10-82; 8:45 am]

BILLING CODE 6712-01-M

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7 CFR Part 73

[BC Docket No. 82-64; RM-4014]

FM Broadcast Station in Lakeview, Michigan; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 292A to Lakeview, Michigan, in response to a petition filed by Daniel L. Pettengill. The assigned channel could provide a first FM service to Lakeview.

DATE: Effective August 3, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: May 26, 1982.

Released: June 2, 1982.

Report and Order (Proceeding Terminated)

In the matter of an amendment of § 73.202(b), Table of Assignmens, FM Broadcast Stations. (Lakeview, Michigan); BC Docket No. 82-64, RM-4014.

1. The Commission has under consideration a Notice of Proposed Rule Making, 47 FR 7274, published February 18, 1982, proposing the assignment of Channel 292A to Lakeview, Michigan, as that community's first FM assignment, in response to a petition filed by Daniel L. Pettengill ("petitioner"). Comments in support of the proposal were filed by the petitioner. No oppositions to the proposal were received.

2. Lakeview (population 1,139),[1] in Montcalm County (population 7,555), is located approximately 216 kilometers (135 miles) northwest of Detroit, Michigan. It is without local broadcast service.

3. In his comments to the proposal, petitioner incorporated by reference the information contained in the *Notice* demonstrating the need for a first FM assignment to Lakeview. Petitioner also reaffirmed his interest in applying for the channel, if assigned.

4. Canadian concurrence in the assignment has been received.

5. The Commission has determined that the public interest would be served by assigning Channel 292A to Lakeview, Michigan, since it would provide the community with an opportunity for its first local FM broadcast service.

6. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules, it is ordered, That effective August 3, 1982, § 73.202(b) of the Commission's rules is amended with regard to the following community:

City	Channel No.
Lakeview, Michigan	292A

7. It is further ordered, That this proceeding is terminated.

8. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-15795 Filed 6-10-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-3, RM-3970]

FM Broadcast Station in Mangum, Oklahoma; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 221A to Mangum, Oklahoma, in response to a petition filed by Mangum Broadcasting, Inc. The assigned channel could provide a first FM service to Mangum.

DATE: Effective August 3, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

Adopted: May 26, 1982.

Released: June 2, 1982.

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Mangum, Oklahoma); BC Docket No. 82–3, RM–3970.

1. The Commission has under consideration a Notice of Proposed Rule Making, 47 FR 2893, published January 20, 1982, proposing the assignment of Channel 221A to Mangum, Oklahoma, as that community's first FM assignment in response to a petition filed by Mangum Broadcasting, Inc. ("petitioner"). Comments in support of the proposal were filed by the petitioner. No oppositions to the proposal were received.

2. Mangum (population 4,066),[1] seat of Greer County (population 7,979), is located approximately 192 kilometers (120 miles) southeast of Oklahoma City, Oklahoma. It has no local broadcast service.

3. In its comments, the petitioner restated the need for an FM assignment to Mangum and urged the Commission to adopt its proposal. Petitioner also stated its intention to apply for Channel 221A, if assigned.

4. The Commission has determined that the public interest would be served by assigning Channel 221A to Mangum, Oklahoma, since it would provide the community with its first local FM broadcast service.

5. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules, it is ordered, That effective August 3, 1982, § 73.202(b) of the Commission's rules is amended with regard to the following community:

City	Channel No.
Mangum, Oklahoma	221A

6. It is further ordered, That this proceeding is terminated.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-15796 Filed 6-10-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 81-816; RM-3948, RM-4031]

FM Broadcast Stations in Mathis, Robstown and Odem, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action deletes unused FM Channel 252A from Mathis, Texas, and reassigns it to Odem, Texas, as its first local aural broadcast service (as requested by Reina Broadcasting) rather than assigning it to Robstown, Texas, as its second FM channel (as requested by Humberto Lozano Lopez).

DATE: Effective August 3, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Philip S. Cross, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

Adopted: May 26, 1982.

Released: June 2, 1982.

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Mathis) Robstown and Odem,[1] Texas); BC Docket No. 81–816, RM–3948, RM–4031.

1. A Notice of Proposed Rule Making in this proceeding was published in the **Federal Register** on December 3, 1981 (46 FR 48726). The Notice was issued in response to a petition filed by Humberto Lozano Lopez ("petitioner"). Petitioner

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[1] Population figures are taken from the 1980 U.S. Census, Advance Report.

[1] Population figures are derived from the 1970 U.S. Census.

[1] This community has been added to the caption.

requested that FM Channel 252A be deleted from Mathis, Texas, where it is unused, and reassigned to Robstown, Texas.

2. Reina Broadcasting ("Reina") filed comments and a counterproposal requesting the reassignment of Channel 252A from Mathis, Texas, to Odem, Texas.

3. Petitioner filed comments in support of its proposal and reply comments opposing Reina's counterproposal. A letter was submitted by the Mayor of Robstown in support of petitioner's proposal.

4. The distance between Robstown and Odem is approximately 12 miles. Channel 252A cannot be assigned to both communities in compliance with our mileage separation requirements which require a separation of 65 miles. See § 73.207(b) of the Commission's rules. No other Class A channel can be assigned to Robstown or Odem.

5. Robstown (population 12,100),[1] in Nueces County (population 268,215), is located approximately 24 kilometers (15 miles) west of Corpus Christi. It has two local aural broadcast services, Stations KROB(AM) and KROB–FM, Channel 260. Odem (population 2,363), in San Patricio County (population 58,013), is located approximately 24 kilometers (15 miles) northwest of Corpus Christi. It has no local broadcast service.

6. Reina supports its counterproposal with the claim that there is a particular need for Spanish language programming in the Odem area. The only other media outlet in Odem, Reina states, is a weekly newspaper printed in English. Reina further states that the lack of local service is particularly acute in the case of weather emergencies, especially during the hurricane season. Thus, Reina argues that Odem should receive the channel assignment because it would be a first local aural service whereas an assignment to Robstown would give the community its third aural service and its second FM channel. Reina states that it will apply for operation on the channel, if it is assigned to Odem.

7. In response, petitioner states that it would provide a much needed Spanish outlet to serve the 10,455 persons of Hispanic descent in Robstown. Petitioner opposes the Odem counterproposal, contending that a Spanish service to the 10,455 persons of Hispanic descent in Robstown would provide a more efficient use of the channel than a Spanish service to the 1,674 persons of Hispanic descent in Odem. Petitioner states that Odem will not financially support a station and that the large market of Corpus Christi would have to be relied upon for revenues. According to petitioner, Reina is not chartered by the Secretary of the State of Texas to do business in Texas, nor registered for use as an assumed name as of January 11, 1982. Thus, petitioner questions whether a company "which does not exist as far as the Secretary of State is concerned can pledge to apply for and build a radio station."

8. Channel 252A was assigned to Mathis, Texas, in 1973. It remains unused. In view of the lack of interest in a Mathis station, we believe the public interest may be better served by putting to use a vacant frequency if there is no interest in its use at the place of assignment.

9. As to petitioner's challenge of Reina's qualifications, we know of no impediment to Reina's becoming a licensee. Petitioner has not pointed to any reasons that Reina could not registered to do business in Texas. We shall assume that Reina would take the appropriate steps to become incorporated if it desires to do so.

10. In view of the showing before us, we believe that the public interest would be served by deleting Channel 252A from Mathis and reassigning it to Odem. Assignment of the channel to Odem is in accord with our higher priority of providing a first local aural service to a community. Assignment to Robstown would give that community its third local aural service and its second local FM channel. See *Anamosa and Iowa City, Iowa*, 46 FCC 2d 520 (1974), restating the Commission's priorities first set forth in *FM Unlimited, Inc.*, 27 FR 7797 (1962).

11. Mexican coordination has been received for Odem.

12. Authority for the adoption of the amendment herein is contained in sections 4(i), 5(d)(1), 303(g) and (r) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules.

13. Accordingly, it is ordered, That effective August 3, 1982, § 73.202(b) of the Commission's rules, the FM Table of Assignments, is amended with regard to the following communities:

City	Channel No.
Mathis, Texas	
Odem, Texas	252A

14. It is further ordered, That this proceeding is terminated.

15. For further information concerning this proceeding, contact Philip S. Cross, Broadcast Bureau, (202) 632–5414.

[1] Population figures are derived from the 1980 U.S. Census, Advance Report.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-15797 Filed 6-10-82; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order No. 1473]

Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Corrected Thirty-seventh Revised Service Order No. 1473.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96–254, this order authorizes various railroads to provide interim service over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE: 12:01 a.m., June 1, 1982, and continuing in effect until 11:59 p.m., September 30, 1982, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275–7840 or 275–1559.

SUPPLEMENTARY INFORMATION:

Decided: June 7, 1982.

Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96–254 (RITEA), the Commission is authorizing various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for those operations.

In view of the urgent need for continued rail service over RI's lines pending the implementation of long-range solutions, this order permits carriers to provide service to shippers which may otherwise be deprived of essential rail transportation.

Appendix A, to the previous order, is revised by adding at Item 18, the authority for the Iowa Railroad Company (IRRC) to extend its operations from Rock Island, Illinois to Dexter, Iowa, a distance of approximately 212 miles, and between Altoona and Pella, Iowa, a distance of approximately 47 miles. A portion of this operation was previously provided by Chicago and North Western Transportation Company (CNW), which authority is vacated by this order. Appendix A is further revised by adding at Item 28, the authority for a new operator, the Okarche Central Railway, Inc. (OCRI), to operate between Enid and El Reno, Oklahoma, a distance of approximately 59 miles. OCRI also requested authority to operate between El Reno and Council, Oklahoma, and at El Reno, however, that authority is currently held by the North Central Oklahoma Railway, Inc. (NCOR). There has been no indication by either the Trustee or NCOR that NCOR's agreement to operate those segments has terminated. Moreover, OCRI's application is silent with respect to the overlapping segments. Therefore, that portion of the application is granted to OCRI as overlapping authority with NCOR to assure that shippers will continue to receive service while OCRI establishes divisions and interchange agreements. At such time as OCRI and NCOR mutually agree on terms for handling NCOR traffic over the overlapping segments, the order may be modified to reflect such agreement.

In Appendix A, the following corrections are made:

1. The milepost designation for West Des Moines, Iowa, should read milepost 364.34 instead of 363.34 in Items 5. E. and 18. A. and D.

2. The authority of the Iowa Railroad Company to operate between Altoona and Pella, Iowa, which was inadvertently omitted, is inserted as Item 18. J.

Appendix B of Thirteenth Revised Service Order No. 1473 is unchanged, and becomes Appendix B to this Order.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the named appendices be authorized to conduct operations using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1473 Service Order No. 1473.

(a) Various railroads authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, debtor (William M. Gibbons, Trustee). Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI; and as listed in Appendix B to this order, to provide for continuation of joint or common use facility agreements essential to the operations of these carriers as previously authorized in Service Order No. 1435.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service as authorized in paragraph (a) of this section.

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Pub. L. 96–254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations. Termination of interim operations will require at least (30) thirty days notice to the Railroad Service Board and affected shippers.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of the operations over the RI lines authorized in paragraph (a) of this section, operators shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

(1) In those instances where more than one railroad is involved in the joint use of RI tracks and/or facilities described in Appendix B, one of the affected carriers will perform the maintenance and have supervision over the operations in behalf of all the carriers as may be agreed to among themselves, or in the absence of such agreement, as may be decided by the Commission.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as the operations described in Appendix A by interim operators over tracks previously operated by the RI are deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

(k) In transporting traffic over these lines, all interim operators described in Appendix A shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) To the maximum extent practicable, carriers providing service under this order shall use the employees who normally would have performed the work in connection with traffic moving over the lines subject to this Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., June 1, 1982.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., September 30, 1982, unless otherwise modified, amended, or vacated by order of this Commission.

(49 U.S.C. 10304, 10305, and sec. 122, Pub. L. 96–254)

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad

Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

List of Subjects in 49 CFR Part 1033

Railroads.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien. J. Warren McFarland not participating.

Agatha L. Mergenovich,

Secretary.

Appendix A.—RI Lines Authorized to be Operated by Interim Operators

1. *Louisiana and Arkansas Railway Company (LA):*

A. Tracks one through six of the Chicago, Rock Island and Pacific Railroad Company's (RI) Cadiz yard in Dallas, Texas, commencing at the point of connection of RI track six with the tracks of The Atchison, Topeka and Santa Fe Railway Company (ATSF) in the southwest quadrant of the crossing of the ATSF and the Missouri-Kansas-Texas Railroad Company (MKT) at interlocking station No. 19.

2. *Peoria and Pekin Union Railway Company (PPU):*

A. All Peoria Terminal Railroad property on the east side of the Illinois River, located within the city limits of Pekin, Illinois.

B. Mossville, Illinois (milepost 148.23) to Peoria, Illinois (milepost 161.0) including the Keller Branch (milepost 1.55 to 6.15).

3. *Union Pacific Railroad Company (UP):*

A. Beatrice, Nebraska.

B. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 561.5 north of Hallam, Nebraska.

4. *Toledo, Peoria and Western Railroad Company (TPW):*

A. Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois.

5. *Chicago and North Western Transportation Company (CNW):*

A. from Minneapolis-St. Paul, Minnesota, to Kansas City, Missouri.

B. from Rock Junction (milepost 5.2) to Inver Grove, Minnesota (milepost 0).

C. from Inver Grove (milepost 344.7) to Northwood, Minnesota.

D. from Clear Lake Junction (milepost 191.1) to Short Line Junction, Iowa (milepost 73.6).

* **E. from East Des Moines, Iowa (milepost 350.8) to West Des Moines, Iowa (milepost 364.34).

F. from Short Line Junction (milepost 73.6) to Carlisle, Iowa (milepost 64.7).

G. from Carlisle (milepost 64.7) to Allerton, Iowa (milepost 0).

H. from Allerton, Iowa (milepost 363) to Trenton, Missouri (milepost 415.9).

I. from Trenton (milepost 415.9) to Air Line Junction, Missouri (milepost 502.2).

J. from Iowa Falls (milepost 97.4) to Estherville, Iowa (milepost 206.9).

K. from Bricelyn, Minnesota (milepost 57.7) to Ocheyedan, Iowa (milepost 246.7).

L. from Palmer (milepost 454.5) to Royal, Iowa (milepost 502).

M. from Dows (milepost 113.4) to Forest City, Iowa (milepost 158.2).

N. from Cedar Rapids (milepost 100.5) to Cedar River Bridge, Iowa (milepost 96.2) and to serve all industry formerly served by the RI at Cedar Rapids.

O. at Sibley, Iowa.

P. at Worthington, Minnesota.

Q. from Carlisle to Indianola, Iowa.

R. at Omaha, Nebraska, (between milepost 502 to milepost 504).

S. Peoria Terminal Company trackage from Iowa Junction (RI milepost 164.32/PTC milepost .91) through Hollis, Illinois to the Illinois River bridge (milepost 7.40).

6. *Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW):*

A. from West Davenport, through and including Muscatine, to Fruitland, Iowa, including the Iowa-Illinois Gas and Electric Company near Fruitland.

B. at Washington, Iowa.

C. from Newport, Minnesota to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil Refinery, at St. Paul Park, Minnesota.

D. from Davenport (milepost 182.35) to Iowa City, Iowa (milepost 237.01).

E. at Davenport, Iowa.

7. *St. Louis Southwestern Railway Company (SSW):*

A. from Brinkley to Briark, Arkansas, and at Stuttgart, Arkansas.

B. at North Topeka and Topeka, Kansas.

8. *Little Rock & Western Railway Company (LRWN):*

A. from Little Rock, Arkansas (milepost 135.2) to Perry, Arkansas (milepost 184.2).

B. from Little Rock (milepost 136.4) to the Missouri Pacific/RI Interchange (milepost 130.6).

9. *Missouri Pacific Railroad Company (MP):*

A. from Little Rock, Arkansas (milepost 135.2) to Hazen, Arkansas (milepost 91.5).

B. from Little Rock, Arkansas (milepost 135.2) to Pulaski, Arkansas (milepost 141.0).

C. from Hot Springs Junction (milepost 0.0) to and including Rock Island (milepost 4.7).

D. from Wichita, Kansas (milepost 243.7) to Kechi, Kansas (milepost 235.9).

10. *Norfolk and Western Railway Company (NW):* is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Expressway, at which point the RI track connects to Chicago Regional Port District track, for the purpose of serving industries located adjacent to such tracks. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago Regional Port District Lake Calumet Harbor, West Side, will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.

11. *Cadillac and Lake City Railway Company (CLK):*

A. from Sandown Junction (milepost 0.1) to and including junction with DRGW Belt Line (milepost 2.7) all in the vicinity of Denver, Colorado, a distance of approximately 6.6 miles.

B. from Colorado Springs (milepost 609.1) to and including all rail facilities at Colorado Springs and Roswell, Colorado (milepost 602.8), all in the vicinity of Colorado Springs, Colorado, and Eastward from Colorado Springs to Falcon, Colorado (milepost 590.3), a total distance of approximately 25.1 miles.

C. from Simla, Colorado (milepost 558.3) to Colby, Kansas (milepost 387.0), a distance of approximately 171.3 miles.

D. Rock Island trackage rights over Union Pacific Railroad Company between Limon and Denver, Colorado, a distance of approximately 83.8 miles.

12. *Baltimore and Ohio Railroad Company (BO):*

A. from Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.

B. from Bureau, Illinois (milepost 114.12) to Henry, Illinois (milepost 126.94) a distance of approximately 12.8 miles.

13. *Keota Washington Transportation Company (KWTR):*

A. from Keota to Washington, Iowa; to effect interchange with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Washington, Iowa, and to serve any industries on the former RI which are not being served presently.

B. at Vinton Junction, Iowa (milepost 120.0 to 123.0).

C. from Vinton, Iowa (milepost 23.4) to Iowa Falls, Iowa (milepost 97.4).

14. *The La Salle and Bureau County Railroad Company (LSBC):*

A. from Chicago (milepost 0.60) to Blue Island, Illinois (milepost 16.61), and yard tracks 6, 9 and 10; and crossover 115 to effect interchange at Blue Island, Illinois.

B. from Western Avenue (Subdivision 1A, milepost 16.6) to 119th Street (Subdivision 1A, milepost 14.8), at Blue Island, Illinois.

C. from Gresham (subdivision 1, milepost 10.0) to South Chicago (subdivision 1B, milepost 14.5) at Chicago, Illinois.

D. from Pullman Junction, Chicago, Illinois, (milepost 13.2) running southerly to the entrance of the Chicago International Port, a distance of approximately five miles, for the purpose of bridge rights only.

15. *The Atchison, Topeka and Santa Fe Railway Company (ATSF):*

A. at Alva, Oklahoma.

B. at St. Joseph, Missouri.

16. *The Brandon Corporation (BRAN):*

A. from Belleville, Kansas (milepost 220.1), to Manhattan, Kansas (milepost 143.0), a distance of approximately 83 miles.

17. *Iowa Northern Railroad Company (IANR):*

A. from Cedar Rapids, Iowa (milepost 100.5), to Manly, Iowa, (milepost 225.1).

B. at Vinton, Iowa, and west on the Iowa Falls Line to milepost 24.3.

18. *Iowa Railroad Company (IRRC):*

* **A. from Council Bluffs (milepost 490.15) to West Des Moines, Iowa (milepost 364.34) a distance of approximately 126.81 miles.

B. from Audubon Junction (milepost 440.7) to Audubon, Iowa (milepost 465.1) a distance of approximately 24.4 miles.

C. from Hancock, Iowa (milepost 0.4) to Oakland, Iowa (milepost 12.3) a distance of approximately 5.9 miles.

* **D. Overhead rights from West Des Moines, Iowa (milepost 364.34) to East Des Moines, Iowa (milepost 350.8). (This trackage is currently leased to the CNW, see Item 5.E.)

+E. from East Des Moines, Iowa (milepost 350.8) to Iowa City, Iowa (milepost 237.01) a distance of 113.79 miles.

+F. Overhead rights from Iowa City, Iowa (milepost 237.01) to Davenport, Iowa (milepost 182.35), including interchange with the Cedar Rapids and Iowa City Railway. (This trackage is currently leased to the MILW, see Item 6.D.)

*G. from Bureau, Illinois (milepost 114.2) to Davenport, Iowa (milepost 182.35).

H. from Rock Island, Illinois through Milan, Illinois, to a point west of Milan sufficient to serve the Rock Island Industrial Complex.

I. at Rock Island, Illinois including 26th Street Yard.

**J. from Altoona to Pella, Iowa.

19. *Missouri-Kansas-Texas Railroad Company (MKT):*

A. from Oklahoma City, Oklahoma (milepost 496.4) to McAlester, Oklahoma (milepost 365.0), a distance of approximately 131.4 miles.

20. *Chicago Short Line Railway Company (CSL):*

A. from Pullman Junction easterly for approximately 1000 feet to serve Clear-View Plastics, Inc., all in the vicinity of the Calumet switching district.

B. from Rock Island Junction westerly for approximately 3000 feet to Irondale Wye.

21. *Kyle Railroad Company (Kyle):*

A. from Belleville (milepost 187.0) to Caruso, Kansas (milepost 430.0), a distance of approximately 243 miles. KYLE will be responsible for the maintenance of the jointly used track between Colby and Caruso as mutually agreed upon with CLK, and for coordinating operations.

22. *North Central Texas Railway, Inc. (NCTR):*

A. from Chico, Texas (milepost 502) to Dallas (North Junction), Texas (milepost 643.6).

B. joint right-of-way district between Dallas (North Junction) and Endot, Texas (milepost 646.4).

23. *Enid Central Railway, Inc. (ENIC):*

A. from Enid, Oklahoma (milepost 345.27) to Kremlin, Oklahoma (milepost 330.03), including operations on the Ponca City Branch line from milepost 0.02 to milepost 0.30.

B. from North Enid, Oklahoma (milepost 0.30) to Ponca City, Oklahoma (milepost 54.6).

24. *North Central Oklahoma Railway, Inc. (NCOR):*

A. from Mangum, Oklahoma (milepost 97.2) to Chickasha, Oklahoma (milepost 0.0).

B. from Richards Spur, Oklahoma (milepost 486.45) to Anadarko, Oklahoma (milepost 463.39).

C. from Chickasha, Oklahoma (milepost 434.09) to El Reno, Oklahoma (milepost 400.31).

D. from El Reno, Oklahoma (milepost 513.31) to Council, Oklahoma (milepost 494.5).

25. *South Central Arkansas Railway, Inc. (SCAR):*

A. from El Dorado, Arkansas (milepost 99) to Ruston, Louisiana (milepost 154.77).

26. *Burlington Northern Railroad Company (BN):*

A. at Burlington, Iowa (milepost 0 to milepost 2.06).

B. at Okeene, Oklahoma.

C. at Lawton, Oklahoma.

27. *Fort Worth and Denver Railway Company (FWD):*

A. from Amarillo to Bushland, Texas, including terminal trackage at Amarillo, and approximately three (3) miles northerly along the old Liberal Line.

B. at North Fort Worth, Texas (mileposts 603.0 to 611.4).

+28. *Okarche Central Railway, Inc. (OCRI):*

A. from Enid, Oklahoma (milepost 345.27) to El Reno Junction, Oklahoma (milepost 405.21).

B. from El Reno, Oklahoma (milepost 514.32) to Council, Oklahoma (milepost 496.40).

C. at El Reno, Oklahoma (milepost 402.73) to (milepost 404.19).

Note.—Certain segments of the above operation are overlapping with the NCOR (see Item 24). In the interest of operational clarity and efficiency, OCRI will be the supervising carrier for operations and maintenance.

+Added.
*Changed.
**Corrected.

[FR Doc. 82-15809 Filed 6-10-82; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

Atlantic Tuna Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA publishes final regulations to implement the recommendations of the International Commission for the Conservation of Atlantic Tunas to limit fishing for Atlantic bluefin tuna for two years in the western Atlantic Ocean to a small catch needed to monitor the status of the stock. These regulations establish annual quotas for U.S. fishermen and provide a reasonable mechanism for managing the fishery. This action is necessary to minimize further depletion of the already depleted western Atlantic Ocean stock of Atlantic bluefin tuna.

EFFECTIVE DATE: These regulations are effective on June 10, 1982. Comments on the Final Environmental Impact Statement (EIS) must be received on or before July 6, 1982.

ADDRESSES: Send comments on the EIS to: National Marine Fisheries Service, Northeast Region, Management Division, State Fish Pier, Gloucester, Massachusetts 01930-3097. Clearly mark "Comments on bluefin tuna EIS" on the outside of the envelope. Copies of the combined final EIS, Regulatory Impact Review, and Regulatory Flexibility Analysis are available from: National Marine Fisheries Service, Northeast Region, Analytical Services Branch, P.O. Box 1109, Gloucester, Massachusetts 01930-5309.

FOR FURTHER INFORMATION CONTACT: William C. Jerome, Jr., 617-281-3600, extension 325 or David S. Crestin, 617-281-3600, extension 253.

SUPPLEMENTARY INFORMATION: OMB Control Numbers: 0648-0013,0648-097,0648-0031.

Background

The United States is a signatory nation to the International Convention for the Conservation of Atlantic Tunas (the Convention, 20 UST 2887, TIAS 6767). The Convention's provisions entered into force for the United States on March 21, 1969. The United States' obligations under the Convention are implemented by the Atlantic Tunas Convention Act of 1975, 16 U.S.C. 971-971h (the Act). Both the Convention and the Act are directed towards "maintaining the populations of Atlantic bluefin tuna at levels which will permit the maximum sustainable catch for food and other purposes" (Preamble to the Convention). The Act directs the Secretary of Commerce to promulgate regulations necessary to implement recommendations adopted by the International Commission for the Conservation of Atlantic Tunas (ICCAT) and to carry out the purposes and objectives of the Convention.

At its Seventh Regular Meeting in Tenerife, Canary Islands, November 11-17, 1981, the ICCAT adopted a Standing Committee on Research and Statistics (SCRS) recommendation that harvest levels of Atlantic bluefin tuna in the western Atlantic Ocean be as near zero as feasible for two years, since information indicates this stock is depleted. The ICCAT recommended that the nations actively fishing for Atlantic bluefin tuna in the western Atlantic Ocean (United States, Canada, Japan, and to a lesser extent Brazil and Cuba) consult and conclude consultations before February 15, 1982, to develop conditions under which fishing by their nationals would be carried out.

The required consultations were held on February 8-12, 1982 in Miami,

Florida, among officials representing the Governments of Brazil, Canada, Japan, and the United States. The annual catch needed to allow ongoing scientific studies to continue and to monitor the abundance of the stock was considered. Preliminary estimates of economic impacts of the ICCAT recommendations on the different Atlantic bluefin tuna fisheries also were reviewed. Officials agreed to recommend to their governments the following measures for 1982 and 1983 to implement the ICCAT recommendations on Atlantic bluefin tuna management in the western Atlantic Ocean:

(1) The annual catch be limited to 1,160 mt (1,279 st);

(2) The annual catch be allocated as follows:

Canada	250 mt (276 st)
Japan	305 mt (336 st)
United States	605 mt (667 st)

(3) The catch from the developing tuna fisheries of Brazil and Cuba, which currently take less than 50 mt (55 st) of Atlantic bluefin tuna annually, not be included in the total quota of 1,160 mt.

(4) There be no directed fishery on the spawning stock of Atlantic bluefin tuna in the Gulf of Mexico.

Officials also agreed to recommend to their governments that they immediately initiate steps necessary to implement the management measures agreed upon in these consultations. These regulations fulfill the United States' international treaty obligations by implementing the ICCAT recommendations from the November 1981 Tenerife meeting and the recommended management measures from the February 1982 consultative process which were reported to and adopted by the Commission.

Rulemaking Process

Following the consultative process which concluded on February 12, 1982, NOAA began work necessary to implement the recommended management measures in 1982. A notice of intent to prepare an environmental impact statement and related documents was published on March 23, 1982 (47 FR 12367). NOAA published proposed regulations on April 21, 1982 (47 FR 17086); public comment was invited for a 30 day period which ended May 21, 1982. To ensure the maximum opportunity for public participation in the rulemaking process, NOAA held ten evening public hearings during the period from April 19, 1982 through May 3, 1982 in the following states: Texas, Louisiana, Florida, Virginia, New Jersey, New York, Massachusetts, and Maine. NOAA informed the public of these hearings in the following manner: (a) Notice mailed on April 1, 1982 to all Atlantic bluefin tuna permit holders (over 10,000); (b) general news release mailed on April 1, 1982 to media and industry representatives; (c) notice of public hearings published on April 5, 1982 in the **Federal Register** (47 FR 15401); and (d) notice of the public hearings contained in the preamble to the proposed regulations.

Discussion of Public Comments

Attendance at each of the four public hearings held in the Gulf states was low (2 through 11 people signed the attendance record). For each of the six public hearings held in the Atlantic seaboard states (Virgina through Maine), attendance was significantly higher with between 40 and 138 people signing the attendance record. In addition to the individual comments received at the public hearings, 65 written comments were received during the 30 day public comment period. Discussion of the comments received and NOAA's response to these comments are grouped together by major issue.

1. General

At the hearings and in written comments, a number of commentators, including representatives of coastal state marine fishery agencies, state legislatures, and tuna recreational and commercial industry associations, recommended that Atlantic bluefin tuna be managed by the United States through its exclusive fishery management authority under the Magnuson Fishery Conservation and Management Act, ("Magnuson Act") and suggested that the rulemaking consider this alternative. Such action would require legislative change to the Magnuson Act's definition of highly migratory species and, further, is not within the authority conferred by the Atlantic Tunas Convention Act, which is the legal authority for this rulemaking. Revising the legal authority of the United States over Atlantic bluefin tuna is beyond the scope of this rulemaking.

One commentator suggested that NOAA could bring Atlantic bluefin tuna under the Magnuson Act by revising regulations promulgated at 50 CFR 601.2 to remove Atlantic bluefin tuna from the list of highly migratory species not subject to management under the Magnuson Act. Revising the list would not be consistent with the Magnuson Act, and could not accomplish timely implementation of the ICCAT recommendation.

Several commentators questioned the domestic restrictions of the proposed regulations, when foreign fishing effort for Atlantic bluefin tuna in the western Atlantic Ocean is not regulated by the United States. The international aspects of managing this fishery are addressed through ICCAT. Under ICCAT, each member nation has the responsibility to implement ICCAT recommendations for its own nationals. NOAA's legal authority under the Atlantic Tunas Convention Act is limited to implementing recommendations of ICCAT through regulations pertaining solely to the domestic fishery. In fact, the ICCAT recommendation severely limits Atlantic bluefin tuna fishing by foreign vessels in waters adjacent to the United States. Simultaneous action by the United States to manage the U.S. fishery is required to assure that foreign nations will continue to observe their ICCAT obligations.

Several commentators expressed favor with or supported the proposed regulations. A few of these suggested that the ICCAT recommendation and these regulations, which limit domestic harvest for two years, should be in place for up to ten years. Several commentators recommended a total moratorium on Atlantic bluefin tuna fishing in the western Atlantic Ocean to conserve the depleted spawning stock. On the other hand, NOAA received numerous comments from individuals participating in all segments of the fishery, a State marine fishery agency, and a public petition recommending that this rulemaking not go forward and that the present regulations (45 FR 40118, 45 FR 48636, 46 FR 8012) remain in effect. This course of action would ignore the ICCAT recommendations of November 1981, and would be contrary to the international treaty obligations of the United States.

Several commentators suggested an embargo on the export of Atlantic bluefin tuna and others suggested a complete prohibition on the sale or export of Atlantic bluefin tuna. Prohibitions on the sale or export of Atlantic bluefin tuna would have significant negative financial effects on all segments of the industry. Such measures would go beyond those reasonably necessary to implement the ICCAT recommendation.

One commentator recommended that all quotas address only scientific needs for stock monitoring and assessment purposes. NOAA acknowledges that information obtained from certain segments of the domestic fishery is more useful than others for stock assessment purposes. The quotas proposed for the various segments of the fishery were developed based on the following six

criteria: (1) the total catch should be the minimum sufficient for scientific purposes; (2) catch should broadly cover as many age groups as possible; (3) fishing effort generates the catch should be related to the fishing mortality rate; (4) catch must be available for scientific sampling; (5) minimal incidental catch should be allowed, and (6) the regulatory burden on U.S. fisherman should be minimized to the extent consistent with the ICCAT recommendations. Information obtained from all segments of the fishery will be used for stock monitoring and assessment purposes.

Several commentators questioned the validity of the two stock theory for Atlantic bluefin tuna (separate eastern and western Atlantic Ocean stocks). Over the years, there has been much discussion in the international scientific community about the stock structure of Atlantic bluefin tuna. As indicated in the preamble to the proposed regulations, however, the scientific information presently available supports the hypothesis of separate eastern and western Atlantic Ocean stocks. The SCRS recommendation that catches of Atlantic bluefin tuna in the western Atlantic Ocean be as near zero as possible was based on a two stock assumption. However, the SCRS did both one and two stock analyses and did not state definitely that there are one or two stocks. Tag returns indicate at least a limited exchange between western and eastern populations. NOAA stock assessment scientists are using a variety of biological and statistical techniques to research the question of one or two stocks of Atlantic bluefin tuna. These studies, when completed, should assist in determining whether the stocks are distinct. SCRS likely will continue to pursue this issue in the future.

Stock analyses done by SCRS under the assumptions of either the single or two stock theory indicate Atlantic bluefin tuna in the western Atlantic Ocean are severely depleted and continue to decline. Some commentators questioned the validity of the stock assessments. NOAA is not aware of other scientific information on which to base management of Atlantic bluefin tuna. NOAA believes the most reasonable approach is to assume that there are two separate stocks of Atlantic bluefin tuna. A management scheme predicated upon this hypothesis affords more protection to resource.

One Federal agency and one state marine fishery agency, along with several commentators at the hearings, indicated the 30-days comment period was too short a period of time to review and comment adequately on the proposed rulemaking, and requested that NOAA extend the public comment period. NOAA is attempting to implement the ICCAT recommendations in the shortest time period consistent with applicable law. This is necessary so the regulations can be in place before the 1982 fishery begins in earnest in June, to preclude a possible harvest of Atlantic bluefin tuna in excess of the total U.S. quota of 667 st. NOAA believes the 30-day comment period was adequate based on the significant amount of public comment at the public hearings. It is the agency's experience that a 30-day comment period is sufficient for reviewers to comment upon relatively simple regulatory schemes. For this reason, NOAA did not extend the comment period.

2. Miscellaneous Comments

One commentator recommended that the proposed regulations in § 285.2 define "recreational fisherman". The term recreational fishery was used in the preamble to the proposed regulations as a descriptor for the rod and reel fishery which catches young school, school, and medium-sized Atlantic bluefin tuna. A majority of the tuna taken in this fishery are not sold. The regulations themselves, however, make no distinction between "commercial" and "recreational" fisherman. Therefore, defining the term is unnecessary.

Individuals actively participating in the fishery took exception with NOAA's statement in the preamble to the proposed regulations that there are over 10,000 permit holders engaged in fishing for giant Atlantic bluefin tuna. These fishermen stated something less than 25 percent of the permit holders actively fish. One of these commentators recommended NOAA institute a permit fee system to identify more realistically the number of actual fishery participants. NOAA has examined the issue of permit fees in the past. The considerable administrative problems with such a system outweigh any potential benefits that might result. There also is the issue of unequitable treatment of certain U.S. fishermen. If NOAA were to adopt this recommendation, a permit to engage in the Atlantic bluefin tuna fishery would be the only domestic fishing permit issued by NOAA subject to a fee. No change, therefore, has been made.

On the issue of enforcement, several commentators recommended vigorous enforcement with strong penalties for persons violating these regulations. Section 285.4, "Civil Penalties," provides for civil penalties ranging from $1,000 to $100,000 depending on the nature of the violation. These penalties are consistent with the nature of the offense and are the maximum penalties allowed under the Atlantic Tunas Convention Act. A comment received recommended that § 285.6, "Civil Procedures," be modified to provide monetary compensation to individuals giving NOAA information which leads to a notice of violation. The commentator suggested this would be an incentive for "self policing" of the fishery. NOAA believes this type of informant system would be difficult to administer effectively and may not be in the best interests of natural resource law enforcement efforts. No changes, therefore, have been made to § 285.4 of the regulations.

Several commentators recommended that fishermen instead of dealers have the responsibility for reporting catch and effort information and for affixing the required metal tags to giant Atlantic bluefin tuna. The regulations which governed the fishery before 1980 required fishermen to report their catch information and affix the metal tags. This system was changed in 1980 to the dealer reporting system currently in place, which NOAA proposed to continue. NOAA believes the conservation objectives of the Convention and the Act will continue to be met by this approach, yet at a continued reduction in overall management and enforcement costs and in the paperwork burden imposed on the public. Because the counter-signing design of the system enables cross checks to be made, random audits of dealers' records can be made if necessary. The fewer number of individuals responsible for maintaining the catch reports (100 dealers as opposed to over 10,000 fishermen) eases the enforcement burden. The present system of dealer reporting has worked well and provides excellent catch information.

For the past several years, NOAA has used a sampling program to monitor the fishery for young school, school, and medium-sized Atlantic bluefin tuna along the mid-Atlantic and southern New England coasts. This program provides reasonable catch and effort information and will be expanded to obtain catch and effort information from the fishery for giant Atlantic bluefin tuna.

One commentator recommended the regulations state more clearly that tag and release fishing under § 285.33 may be conducted throughout the year. The commentator felt there was some ambiguity about whether tag and

release fishing could be conducted during the time fishing was allowed under § 285.29. NOAA agrees the regulations were not clear on this point and has modified §285.29(b) (2) to incorporate this recommendation.

One commentator recommended that individuals issued tag and release permits under § 285.33 be required to maintain catch and effort logs for thier fishing trips. While not stated in the proposed regulations, all cooperating fishermen participating in the tag and release program currently submit pertinent catch information on each fish tagged and released. This information is essential for the conduct of the program; otherwise tag returns would have little meaning. Section 285.33(b) has been clarified on this point. Requiring cooperating fishermen to maintain logs showing effort information would pose a significant additional reporting burden on the public and would be inconsistent with the objectives of the Paperwork Reduction Act. NOAA further believes effort data from the tag and release fishery is not essential for monitoring the status of the stock. Adequate effort information for use in stock assessment activities will be collected through an expanded sampling program.

One commentator suggested that NOAA indicate that the regulations apply to U.S. vessels and fishermen regardless of where the fishery occurs. This is addressed in § 285.1 of these regulations and in the definition of "regulatory area" in § 285.2.

One commentator noted the need for a definition of the term "regulatory area," which appears in §§285.29 and 285.30. NOAA agrees that a definition of this term is useful to clarify that the regulatory area in which these regulations apply includes waters within the boundaries of certain states and the territorial sea of the Unites States adjacent to such states. These regulations reinstate a definition of the term "regulatory area" as it appeared in earlier regulations, with a cross-reference to the "scope" section (§ 285.1(d)) indicating where these regulations apply.

One state marine fisheries agency questioned whether the regulations adopted today could apply within state boundaries until such states have had a "reasonable period of time" to adopt complementary or stricter regulations applicable within their waters and the adjacent territorial sea. This agency also opined that federal regulations could not apply within the "internal waters" of a state even after such a determination under section 9(d) of the Act. NOAA disagrees on both counts for the reasons discussed below.

Determinations made in the past by the Assistant Administrator with respect to earlier bluefin tuna regulations were prospective in nature and continue in effect for the regulations adopted today. The essential question in determinations under section 9(d) is whether a state has enacted rules that are as strict as, or stricter than, the federal regulations implementing the ICCAT recommendation. Since the regulations adopted today are stricter than those implementing previous ICCAT recommendations, these determinations remain valid in the absence of a request by any affected state that NOAA consider evidence that the state has adopted more restrictive regulations than those that were in place at the time of the original determination. Any state which adopts new regulations, or believes that its present regulations effectively implement the ICCAT recommendations, is invited to inform NOAA of this fact, and may, within a reasonable period of time after these regulations are made final, request a redetermination under section 971(d). Absent any such indication of a need, performing redeterminations in every case would cause an unacceptable hiatus in the implementation of ICCAT obligations during the course of such redeterminations. NOAA considers determinations made under section 9(d) of the Act to be prospective in nature and applicable to future more restrictive amendments of the federal regulations without further action. Therefore, previous determinations that Federal bluefin regulations apply to waters within the boundaries of certain states, and within the territorial sea adjacent thereto, continue in effect and apply to these regulations as adopted today.

These regulations apply within the boundaries of States subject to determinations noted in § 285.1(d) of these regulations, i.e. within state "internal waters" as well as within the adjacent territorial sea. Section 9(d)(2) of the Act authorizes application of federal regulations "within the boundaries of any state" and is not limited to the territorial sea of the United States adjacent to such states. As indicated in an interpretive statement (44 FR 3 393, June 22, 1979) published in response to questions raised by Massachusetts:

> * * * the application of federal regulations *in state waters* under 50 CFR 285.9 (now 285.1(d)) is not intended to prevent application of state regulations which when concurrently applied do not conflict with federal regulations and are not inconsistent with conservation and management of Atlantic bluefin tuna under recommendations made by the International Commission for the Conservation of Atlantic Tuna.

It is clear from this statement and the authority provided by the Act that the determinations noted in § 285.1(d) extend the "regulatory area" to include the internal waters of the states affected, as well as the territorial sea of the United States adjacent to such states. Federal regulations have in fact been applied to such waters without objection from the state.

One commentator recommended that the regulations should require U.S. observers on all foreign fishing vessels that catch Atlantic bluefin tuna in the western Atlantic Ocean. For the past several years, the NMFS Foreign Fishing Observer Program has placed observers on foreign longline vessels (principally Japanese tuna longliners) to monitor the incidental capture of Atlantic billfishes and sharks in the fishery conservation zone (FCZ). These individuals, as an adjunct operation, also observe any catches of Atlantic bluefin tuna.

One commentator recommended that the regulations establish Atlantic bluefin tuna incidental catch restrictions for foreign longline vessels consistent with the restrictions for U.S. longline vessels under § 285.31. As stated in § 285.1, these regulations implement the ICCAT recommendations "for persons and vessels subject to the jurisdiction of the United States." Each member nation of ICCAT implements the ICCAT recommendations for its own vessels and fishermen. The comment is beyond the scope of these regulations and U.S. authority.

The regulations eliminate the scientific quota of 225 st for the purposes of tagging and obtaining age, sex, and any other scientific information. This quota tradionally was allocated to purse seine vessels to assist NOAA in collecting these data. A few commentators recommended continuing a scientific quota for these purposes. With only 667 st available to the U.S. fishery, continuing this research quota would be at the expense of other segments of the fishery and would have negative economic effects. Further, the information obtained through this quota was considered supplementary to information obtained through the ongoing monitoring of the fishery for young school, school, and medium-sized Atlantic bluefin tuna. Stock assessment scientists determined that this latter fishery will be the primary monitoring mechanism for assessing the status of the stock.

3. Elimination of the Directed Purse Seine Fishery

For two reasons, regulations prohibit a directed purse seine fishery for Atlantic bluefin tuna. First, effort information on purse seine fishing is not suited for indexing the fishing mortality rate in small, localized fisheries. This U.S. purse seine fishery is no exception in that only a relatively few vessels are active in the fishery. If their catch were restricted to 100–200 st, the entire amount could be taken during a few sets and consist of only a few schools comprised of one or two age groups. Thus, the purse seine fishing effort as an index of the fishing mortality rate would not be sufficiently useful for developing stock assessments for bluefin tuna of these ages.

Second, the domestic purse seine vessels which have been involved in the Atlantic bluefin tuna fishery also direct effort at skipjack and yellowfin tunas and may catch substantial amounts of these species. Information obtained from the 1981 directed skipjack tuna fishery indicates that bluefin tuna are taken as an unavoidable incidental catch. Percentages of bluefin tuna in some of the skipjack tuna catches ranged from approximately 8 to 17 percent. Also, catches of bluefin tuna may occur from errors in identification of the species of tuna in a school before making a purse seine set.

To address the incidental catch in this fishery and reduce overall Atlantic bluefin tuna mortality, the regulations provide for an allowable incidental catch of bluefin tuna not to exceed 10 percent by weight of all other tuna species on board a vessel at the end of a trip. This incidental catch allowance is limited to only those purse seine vessels, or their replacements, which were granted allocations and landed Atlantic bluefin tuna in the directed fishery for Atlantic bluefin tuna during the period 1980 through 1981.

The regulations also limit the catch under these incidental catch allowances to a quota of 171 st of bluefin tuna by purse seine vessels regardless of the directed fishery. These measures are necessary to prevent catches from exceeding the total quota of 667 st available for all segments of the U.S. fishery.

Representatives of the purse seine industry objected to eliminating the directed purse seine fishery for Atlantic bluefin tuna. Numerous commentators favored the existing regulations and recommended no reductions in the quota available for purse seine vessels. The existing regulations provide for a total quota of 950 st of Atlantic bluefin tuna for the directed purse seine fishery. This amount is 283 st greater than the total quota of 667 st available for all gear segments of the U.S. fishery under the November 1981 ICCAT recommendation and the February 1982 consultative process.

An industry representative favored a 10 percent incidental catch provision for all U.S. purse seine vessels as opposed to only those historical participants granted allocations of Atlantic bluefin tuna in 1980 and 1981. This commentator also objected to the requirement that purse seine vessels which incidentally take Atlantic bluefin tuna obtain permits.

The previous existing regulations provided preferential treatment in the allocation of the purse seine quota to those east coast purse seine vessels that historically participated in the east coast fishery. These vessels have operated successfully in the fishery and have developed a substantial financial dependency on the Atlantic bluefin and skipjack tuna fisheries. In recent years, tuna purse seine vessels from the west coast have shown no desire to participate in the east coast tuna fisheries. With declining stocks and an extremely limited quota, NOAA believes it is appropriate to limit participation in the incidental purse seine fishery to the historical participants meeting the crtieria specified in § 285.21(b). This represents the most equitable distribution of the quota and provides some measure of recognition of the east coast purse seine vessels reliance on Atlantic bluefin tuna.

NOAA believes that allowing an unlimited number of purse seine vessels to catch Atlantic bluefin tuna incidentally to fishing for other tuna species would be difficult to enforce and would require significant expenditures of funds well beyond that considered reasonable for this fishery. To have a large number of purse seine vessels catching Atlantic bluefin at the rate of 10 percent by weight of all other tuna species on board could undermine the integrity of the incidental catch quota. Therefore, no change has been made to the regulations as they were proposed.

Several comments received stated the belief that purse seine catches are useful for stock monitoring and assessment purposes. This position is contrary to that taken by NMFS scientists actively engaged in Atlantic bluefin tuna stock assessment efforts. Many commentators recommended that the proposed quota of 667 st be apportioned to the various gear segments of the fishery on the same percentage basis as in the existing regulations, an alternative which NOAA considered and rejected in developing the proposed regulations. Since the quota for purse seine vessels in the previously existing regulations is approximately 50 percent of the total quota, this would result in a quota of approximately 330 st. This is similar to comments received which stated the need for a minimum of 300–350 st of giant Atlantic bluefin tuna to sustain the purse seine fishery. The approach, while straightforward, would not be consistent with the ICCAT recommendation that quotas be used to the maximum extent practicable to allow collecting the necessary scientific information to assess the status of the Atlantic bluefin tuna stock. No change, therefore, has been made to the proposed regulations as a result of these comments.

NOAA also has received several comments opposing the purse seine fishery for Atlantic bluefin tuna. They recommended a zero quota for these vessels. As stated above, there is a legitimate unavoidable incidental catch of Atlantic bluefin tuna in the skipjack tuna fishery. Since the ICCAT recommendation states that all directed and incidental catches of Atlantic bluefin tuna be counted against the total quota, an incidental catch provision must be provided for the purse seine fishery.

One commentator recommended closing the purse seine fishery for tunas once the incidental catch quota of Atlantic bluefin tuna was reached. The proposed regulations in § 285.29(b) provide for closure of any segment of the U.S. Atlantic bluefin tuna fishery once the respective quotas are taken. NOAA believes that no additional provisions are necessary and, therefore, no change has been made to the proposed regulations.

Several comments, including those from a representative of a State marine fishery agency and a tuna industry association, recommended that the incidental catch restrictions on Atlantic bluefin tuna for purse seine vessels be limited to three percent of all other fish onboard the vessel at the end of a fishing trip, instead of the 10 percent allowance put forth in the proposed regulations under § 285.31(a). One comment was received in support of the 10 percent incidental catch allowance. As indicated above, catches of Atlantic bluefin tuna in the skipjack tuna fishery can be significantly greater than three percent. NOAA believes that an incidental catch restriction for Atlantic bluefin tuna of less than 10 percent of all other fish onboard by weight would unduly hamper legitimate fishing operations for other species of tuna.

Therefore no change has been made to the regulations as they were proposed.

One comment recommended that the regulations allow the transfer of any unused portion of the incidental catch quota for purse seine vessels to the handgear fishery (General category). Several comments recommended that the incidental catch quota for purse seine vessels be reduced from 171 st to 87 st and the difference be transferred to the quota for anglers taking young school, school, and medium-sized Atlantic bluefin tuna. Based on past years' information, the entire incidental catch quota of 165 st may be necessary to address the unavoidable incidental catch of Atlantic bluefin tuna in other tuna fisheries. Further, NOAA believes neither of these proposals would provide any incentive for purse seine vessels to attempt to limit, when possible, their incidental catch of school-sized Atlantic bluefin tuna. Additional discussion on this general theme is given below.

One commentator proposed that the quota for purse seine vessels be in numbers of fish rather than tonnage. The commentator stated that the proposed quota of 171 st could amount to the harvesting of approximately 34,000 one-year old fish. Instead, the commentator recommended the quota allow the harvest of 10,000 school-sized fish and 1,286 giant Atlantic bluefin tuna. This would reduce fishing mortality by approximately 66 percent and, concomitantly, result in a positive financial benefit to purse seine vessels because giants are worth considerably more per ton than school-sized fish.

NOAA agrees that such a system could result in a reduction in fishing mortality. However, monitoring would be more difficult and time consuming as NOAA would have to count individual school-sized fish in the purse seine catches. Fishermen also might have to submit more detailed reports, thus increasing the paperwork burden. Moreover, a quota of 1,286 giants would allow purse seine vessels to approximately double their harvest of giants based on 1980 and 1981 catch information. Based on the average age and weight of the fish (approximately 400 pounds) harvested by purse seine vessels, these fish are part of the population known to spawn in the Gulf of Mexico. NOAA believes that with the stock's present low level of abundance, a significant increase in the harvest of adult fish of this size is not in the best interests of resource conservation. Finally, the provisions of the ICCAT management system are based on tonnage. The countries represented at the February 1982 consultations in Miami (Brazil, Canada, Japan, and the United States) agreed to tonnage quotas for each nation for 1982 and 1983. If NOAA were to adopt a quota system based on numbers of fish, similar to that proposed by the commentator, the U.S. quota of 667 st could be exceeded significantly. This would be contrary to the agreed provisions of the February 1982 consultations.

Representatives from two state marine fishery agencies recommended incidental catch quotas for purse seine vessels of 70 st for school-sized fish and 100 st for giant fish. The rationale for these recommendations was similar to that of the comment discussed above, in that harvest of giants could reduce fishing mortality. This comment fails to take into consideration the unpredictable nature of the incidental catch of Atlantic bluefin tuna (primarily school-sized fish) in the skipjack tuna fishery. NOAA believes that formal subdivision of the incidental catch quota may not address legitimate needs of the fishery. As an alternative to this recommendation, one comment recommended that whatever quantity of the 10 percent incidental catch quota for tuna purse seine vessels is not caught as school-sized Atlantic bluefin tuna be later converted into a quantity of giants. NOAA has examined these recommendations and believes any system that provides an incentive for limiting the incidental catch of school sized Atlantic bluefin tuna could result in a positive conservation measure for the resource. Therefore § 285.31(a) of these regulations has been modified to allow purse seine vessels to harvest giants, in whatever quantity of Atlantic bluefin tuna is not taken as an incidental catch in other tuna fisheries.

Several commentators recommended the incidental catch quota for purse seine vessels be divided into individual allocations for those vessels which had participated in the fishery in 1980 and 1981. This would provide each of the five vessels which participated with an equal amount of Atlantic bluefin tuna.

NOAA accepts the recommendation; the regulations in § 285.30 provide that the incidental catch quota of 165 st will be allocated by the Regional Director equally among the eligible purse seine vessels. NOAA believes individual vessel allocations will prevent a situation whereby, if each vessel were fishing simultaneously for an undefined portion of the total incidental catch quota, the quota could be substantially exceeded.

4. Swordfish Longline Incidental Catch Quota and Catch Limits

The proposed regulations establish a quota of 44 st for longline vessels which harvest Atlantic bluefin incidental to a directed swordfish fishery. A specific quota is necessary to comply with the ICCAT recommendation that all directed and incidental catches be counted against each nation's total quota. Comments were received both in favor and in opposition to this proposed quota. One commentator recommended there be a zero quota for swordfish longliners; another recommended that the incidental quota for swordfish longliners be significantly reduced based on historical catch information. Another commentator questioned the small amount of the quota since it represents only about 50 percent of the 1981 catch. As stated in the preamble to the proposed regulations, NOAA believes the 80 st harvested in the Gulf of Mexico in 1981 is more than the unavoidable incidental catch needs of the swordfish fishery. Considering the traditional incidental catch of between two to three short tons, the proposed quota of 44 st should address adequately the needs of the present swordfish longline fishery throughout the regulatory area and provide adequately for the unavoidable incidental catch of giant Atlantic bluefin tuna in this fishery with minimal change in the type of gear used and tending practices.

One of the reasons for the substantial increase in the incidental catch of Atlantic bluefin tuna is that swordfish longline vessels have switched to using gear with heavier leaders. Several commentators recommended that the regulations establish a maximum line strength restriction for longline gear. This would allow giant Atlantic bluefin tuna to break free. NOAA will communicate this recommendation to the five Regional Fishery Management Councils presently engaged in developing a fishery management plan for swordfish under authority of the Magnuson Act.

The regulations in § 285.31 continue the current incidental catch restrictions for swordfish longline vessels of two fish per vessel per trip south of 36°00′ N. latitude and two percent by weight of all other fish on board the vessel at the end of each fishing trip north of 36°00′ N. latitude. One commentator recommended a uniform incidental catch restriction for the western Atlantic Ocean of three percent by weight of all other fish on board, not to exceed 10 st annually. The differing incidental catch rates north and south of 36°00′ N.

latitude take into account the differing nature of the swordfish longline fisheries in these two areas. No change has been made as a result of this comment.

Several commentators recommended that NOAA allow retention of dead Atlantic bluefin tuna caught on longline gear in excess of these incidental catch restrictions. One proposal was to allow fishermen to either donate or sell for a nominal fee these "excess" fish to non-profit institutions. NOAA shares the concern that, under these incidental catch regulations, some fish are caught and killed but cannot be utilized. The NOAA policy on incidental catches after a fishery is closed is now under review for all domestic and foreign fisheries. In the meantime, NOAA believes that swordfish longline fishermen should abide by the incidental catch regulations and attempt to reduce their incidental capture of Atlantic bluefin tuna.

5. Quota and Catch Limit for Anglers Fishing for Young School, School, and Medium Sized Tuna.

The regulations at § 285.30 establish a quota of 99 st for anglers fishing for young school, school, and medium-sized Atlantic bluefin tuna. In previous years, this fishery was not assigned a specific quota. A majority of comments received on this issue were against establishing any quota for this fishery. A quota is necessary, however, to implement the ICCAT recommendation that catches from all directed and incidental fisheries be counted against each nation's total quota.

On the amount of the quota, several commentators were in favor of the 99 st which NOAA proposed; conversely, several commentators objected to the 99 st and recommended that the quota should be less. Another commentator, however, felt that the ratio of the proposed quotas for this fishery (99 st) and for purse seine vessels in the incidental catch category (171 st) was unfair. This commentator stated that since there are upwards of 40,000 anglers versus only a limited number of purse seine vessels, the quota for anglers should be proportionally greater than the incidental catch quota for purse seine vessels.

The quota of 99 st reasonably reflects the harvesting capacity of this fishery as the five year average catch was 105 st. Further, it provides adequately for stock assessment needs. Any substantial increase in this quota likely would mean that fish would remain unharvested and the unharvested tonnage would not be available to other fisheries since the quotas are for specific fishery segments. No change in the quota has been made.

Several commentators objected to allowing the harvest of small Atlantic bluefin tuna; this was considered not to be in the best interests of conservation. One of the criteria NOAA used for developing a monitoring program to assess the status of the stock consistent with the ICCAT recommendation is that the catch broadly cover as many age (size) classes as possible. Harvesting small Atlantic bluefin tuna consistent with the established quotas is essential to collect needed scientific information. No changes to the proposed regulations were made as a result of this concern.

NOAA has proposed in § 285.32 to reduce the catch limit for anglers fishing for young school, school, and medium-sized Atlantic bluefin tuna from four to two fish per angler per day. The primary reason for this proposed reduction was to reduce the potential for exceeding for the specific quota proposed for anglers of 99 st. The overwhelming majority of comments received on this issue were against the proposal.

Representatives of the charter boat industry at one of the public hearings requested that the catch limit for anglers fishing for young school, school, and medium-sized Atlantic bluefin tuna be changed to a number of fish per vessel per day. The number of anglers fishing on individual charter boats varies considerably throughout the regulatory area. NOAA believes, therefore, that this proposal could result in significant inequities in catch limits for individual anglers.

Fishermen, representatives of fishing industry organizations, representatives of State governments, and Congressional representatives recommended the catch limit remain at four fish per angler per day. The principal reasons stated by commentators for keeping the catch limit at four fish per angler per day was to ensure that the information collected from this segment of the fishery is comparable to the historical data base. Stock assessment scientists use catch and effort information from this fishery as the primary means for monitoring abundance of these size classes of Atlantic bluefin tuna. A technical review of this proposal indicates that reducing the catch limit from four to two fish per angler per day may degrade the quality and consistency of the time series of data and could hamper future stock assessment efforts without providing any major benefits.

NOAA acknowledges that information collection for stock assessment needs is critical. The quota of 99 st for anglers fishing for young school, school, and medium-sized Atlantic bluefin tuna is based on a five year average of catch from this fishery. Consequently, there is a reasonable expectation that this quota will not be exceeded.

For these reasons, NOAA agrees with the comments and has revised the regulations under § 285.32(c) to allow a catch limit of four fish per angler per day, provided, as under previous regulations, that only one of four fish may be a medium.

6. Buy Boats

A few commentators supported the proposed prohibition on the operation of buy boats in the Atlantic bluefin tuna fishery. The vast majority of commentators on this issue, however, favored the continued operation of buy boats. Some fishermen stated they find it convenient to sell or transfer their Atlantic bluefin tuna at sea and to continue fishing for other species. Other fishermen stated that buy boats provide useful services including assistance in safely transporting catches in adverse weather conditions, aid in the proper handling of the tuna to protect product quality, and transporting additional supplies of ice and bait to the fishermen.

The preamble to the proposed regulations implied that there were potential difficulties in enforcing provisions of the regulations pertaining to the operation of buy boats. One commentator questioned whether or not the NOAA's administrative record documented a history of enforcement problems. A review of this record for the period in which buy boats have been operating shows little evidence of improper activity.

For the reasons cited above, the regulations in § 285.22 and § 285.23 provide for the operation of buy boats and allow the Regional Director to place individuals onboard buy boats to observe the conduct of their operation; these provisions are identical to the previously effective regulations. Several commentators recommended that placement of NMFS observers be a prerequisite for buy boats to operate. NOAA believes that the option of placing observers onboard buy boats is adequate for monitoring purposes and that mandatory observer coverage is both unnecessary and costly. This recommendation, therefore, is rejected.

7. Change in Commencement Date of Handgear Fishery

The regulations change the commencement date for the handgear fishery from January 1 to July 15 of each year. Several commentators supported eliminating the directed fishery in the Gulf of Mexico. Conversely, several

commentators from the Gulf states objected to this proposal because it virtually eliminates a directed handgear fishery in the Gulf of Mexico. This consequence was acknowledged in the preamble to the proposed regulations. Any commencement date before June 1 would provide an opportunity for a sizable directed handgear fishery to develop in the Gulf of Mexico.

Several commentators, including a Regional Fishery Management Council, recommended that the rod and reel fishery in the Gulf of Mexico be treated as an incidental catch fishery. These commentators contend that Atlantic bluefin tuna are not fished for directly and are caught only on rare occasions. NOAA disagrees that the catch is solely incidental in nature. Information indicates a directed rod and reel fishery for giant Atlantic bluefin tuna has been conducted by U.S. fishermen for many years in the Gulf of Mexico and immediately adjacent waters (e.g., in the vicinity of the Bahamas).

NOAA continues to believe the change in commencement date is necessary to prevent a directed handgear fishery from occurring on Atlantic bluefin tuna spawning in the Gulf of Mexico. At current low stock levels, such a fishery could have deleterious effects on an already declining stock. This change complies with the recommedation in the February 1982 resolution developed in Miami to prohibit directed fishing on Atlantic bluefin tuna spawning in the Gulf of Mexico.

Several comments were received from New England handgear fishermen recommending a somewhat earlier commencement date. A review of historical catch information shows that relatively few giant Atlantic bluefin tuna are harvested in June and the first half of July. The regulations establish a commencement date of June 1. This change accommodates fishermen (principally harpooners) who wish to take advantage of favorable weather conditions in June. NOAA believes this change will not have significant adverse effect on the fishery.

8. Establishing a Single Catch Limit for Harvesting Giant Atlantic Bluefin Tuna Throughout the Regulatory Area

The proposed regulations in § 285.32(a) established, for vessels registered in the General category, quota of 353 st and a catch limit of one giant Atlantic bluefin tuna per vessel per week with a possession limit of only one giant at any time. Several commentators advised NOAA that this proposal would eliminate commercial fishing for giant Atlantic bluefin tuna. A number of commentators supported a catch limit of one giant per vessel per day or the existing regulations which provide for a variable catch limit beginning at one giant per vessel per day. One commentator recommended that operators of vessels permitted in the General category be allowed to catch and retain giant Atlantic bluefin tuna at an unlimited catch rate until the quota was taken. Any of these approaches could result in an extremely short season. NOAA's proposal, which was based on available catch information for 1979–1981, provides for the longest season possible. This was done to address the various and diverse interests of participants involved in the Atlantic bluefin tuna industry desiring an extended fishing season.

Several comments recommended individual vessel allocations of a number of giant Atlantic bluefin tuna per year rather than catch limits of a number of giants per vessel per week. With approximately 10,000 permit holders, a vessel allocation system for a directed fishery is not feasible.

One commentator stated he believed the General category quota of Atlantic bluefin tuna would not be attained with a catch limit of one giant per vessel per week. Other commentators recommended that the catch be monitored and the catch limit increased if necessary to harvest the quota. Other commentators recommended the fishery begin on August 15 with a catch limit of one giant per vessel per day.

NOAA agrees that the proposed regulations were too rigid. The regulations in § 285.32(a) now establish a catch limit of one giant per vessel per week, increasing to one giant per vessel per day on August 15 unless, based on a review of the catch information, the Regional Director determines otherwise. This management scheme is similar in nature to several recommended in the comments received.

The proposed regulations eliminated the distinction of separate northern and southern management areas each with their separate quotas. The rationale for this change was that since the proposed regulations established a single catch limit for the entire regulatory area, separate management areas were unnecessary. Numerous comments were received against the proposal since they believe separate areas in conjunction with separate quotas are necessary to ensure a fishery in both areas. NOAA's position on this issue remains that separate management areas are unnecessary and would not assist in effective management of the fishery. No change has been made to the regulations.

Section 285.30(a)(1) of the proposed regulations provided that no more than 327 st of the General category quota of 353 st of giant Atlantic bluefin tuna could be harvested before September 1 east and north of a line drawn north and south through Gay Head, Martha's Vineyard. The purpose of this proposal was to take into consideration the normally late fishery in what previously had been known as the "southern area." Many comments indicated the need to reserve a quantity of giant Atlantic bluefin tuna for the late starting fishery off the southern New England/mid-Atlantic coast. Several comments indicated that this could be better accomplished by establishing the north-south line of demarcation through Montauk, Long Island, New York instead of Gay Head, Martha's Vineyard, Massachusetts. One commentator suggested that there should be not only a separate quota reserved for the late-starting fishery in the southern area, but also small, separate quotas for localized fisheries. Comments from numerous individuals, including a representative of a State marine fishery agency and a Congressman, requested that NOAA clarify when and where this 26 st of giants (353 st minus 327 st) could be harvested.

NOAA has reviewed this section of the regulations and now believes the objective of providing a small quantity of Atlantic bluefin tuna for the late fishery off the southern New England and mid-Atlantic coasts can be accomplished by holding 26 st of the General category quota in reserve until September 15, which would be available for harvest throughout the regulatory area. This eliminates the need to reference the line through Gay Head, Martha's Vineyard. Section 285.30 of the regulations reflects this change.

Many commentators from the mid-Atlantic area recommended that the harvest of the 26 st reserve be limited to rod and reel fishing only. One commentator recommended the 26 st be reserved solely for those rod and reel fishermen fishing under International Game Fish Association (IGFA) rules (maximum of 130-pound test line). Since the 26 st reserve is available for harvest throughout the regulatory area after September 15, NOAA believes the harvest of these fish should not be limited to a single gear type. Ample opportunity exists for rod and reel fishing for Atlantic bluefin tuna south of Cape Cod both in the giant fishery and in the young school, school, and medium-sized fishery.

9. Elimination of Separate Quotas for Harpoon Boats and Charter Boats

The proposed regulations included harpoon boats in the General category; the separate specific quota and unlimited daily catch limit of giant Atlantic bluefin tuna for this small segment of the fishery were eliminated. The NOAA proposal would have allowed harpoon boats an opportunity to catch collectively more giant Atlantic bluefin tuna than the 43 st which could be made available for a separate quota. Harpoon boat fishermen and others, however, expressed overwhelming support for continuing the separate quota and unrestricted catch limit, despite the reduced amount of tuna available for the United States.

These individuals repeatedly indicated that harpoon fishing requires weather conditions conducive to spotting giant bluefin tuna at or near the water's surface. They commented that a separate quota coupled with an unrestricted catch limit was essential to take advantage of those few days with relatively calm ocean surfaces to harvest giant Atlantic bluefin tuna. Without this flexibility, harpoon boat fishermen commented that they would not be able to continue a financially sound fishing operation.

Based on this strong industry support, the final regulations remove harpoon boats from the General category. A separate quota for harpoon boats of 43 st is established in § 285.30 along with an unrestricted catch limit established in § 285.32. The final regulations reduce the quota for the General category by 43 st (from 353 st to 310 st).

The proposed regulations eliminated the separate specific quota for charter boats; instead charter boats would fish under the General category quota. Several comments were against the proposal. These individuals felt the proposal would create adverse effects on charter boats and would lead to elimination of the charter boat industry for Atlantic bluefin tuna fishing. The 16 vessels permitted in this category reported catching only 11 giant Atlantic bluefin tuna in 1980 and eight in 1981. NOAA continues to feel a separate quota is not warranted. The final regulations are unchanged from the proposed regulations.

Changes Made in the Regulations

For the reasons discussed above, the final regulations differ from the proposed regulations as follows:

Section 285.1

Paragraph (d) is revised to clarify that determinations made in the past (41 FR 27908, 41 FR 32803, 44 FR 36393) as to the application of these regulations within state boundaries continue in effect for these regulations as amended. These regulations apply within the internal waters of the states listed as well as within the territorial sea of the United States adjacent to such States. The Assistant Administrator may extend the application of these regulations within the boundaries of additional states after proceedings under § 285.7.

Citations to those sections of the regulations which do not apply within the boundaries of the State of Maine were redesignated to reflect changes made elsewhere in the regulations.

Section 285.2

A definition of the term "regulatory area" was added because it is used in several sections of the regulations. The term "round weight" was expanded to "round or round weight"; the definition remains the same.

Section 285.21

Paragraph (b) of this section was changed to include the Harpoon Boat category and rewritten slightly for clarity. Paragraph (c) was changed by adding (c)(1) which requires each vessel owner applying for an Atlantic bluefin tuna permit to identify the category in which the vessel is to be permitted. The paragraph further was changed to include the requirement that except for purse seine vessels, owners may change the category in which the vessel is registered by notifying the Regional Director in writing before May 15 of each year.

Section 285.22

The terminology in this section was changed from "dealer license" to "dealer permit" to reflect current NOAA terminology. Paragraph (a) was modified to indicate that buy boats must have a valid permit. Paragraph (c)(1) was modified to allow the Regional Director discretion in issuing permits to individuals who previously violated provisions of the Act. A new paragraph (1) describing permitting and operating procedures for buy boats was added.

Section 285.23

Paragraph (b) was rewritten to indicate dealers using buy boats must report the precise time that the Atlantic bluefin tuna are received on the buy boat.

A new paragraph (e), derived from the existing regulations, was added informing buy boat operators of required procedures to follow before offloading tuna, including requesting vessel inspection at least six hours before such offloading.

Section 285.24

Paragraph (d) was rewritten for clarity.

Section 285.25

Paragraph (d) was rewritten to note that fishing under the tag and release program is not a violation of the catch limits, and to prohibit the possession of Atlantic bluefin tuna in excess of specified catch limits.

Paragraph (f) was rewritten to allow dealers permitted to operate buy boats to purchase or receive Atlantic bluefin tuna at sea.

A new paragraph (o) was added prohibiting the purchase or transport with a buy boat any Atlantic bluefin tuna captured incidentally by longlines.

Paragraph (v) in the proposed regulations which prohibited the purchase or transport of Atlantic bluefin tuna with a buy boat was deleted.

Paragraphs (o) through (u) and (w) in the proposed regulations were redesignated accordingly.

Section 285.26

The heading for this section was changed from "Presumptions" to "Size Classes" to reflect more closely the content of this section.

An error in the table pertaining to the approximate weight of giant tuna was corrected to read "310 pounds or more." The heading for the table's middle column was changed from "approximate weight (whole fish)" to "approximate round weight."

Section 285.27

The references in this section to various paragraphs of section 285.25 were rearranged to reflect the current lettering system of the prohibitions.

Section 285.29

The heading for this section was changed from "Permitted fishing" to "Fishing seasons" to reflect more closely the content of this section. The rest of the section was reorganized for clarity.

Paragraph (a) was rewritten to change the commencement date for vessels permitted in the General or Harpoon Boat categories from July 15 to June 1 of each year; and for clarification purposes to indicate that the commencement date for anglers fishing for young school, school, and medium Atlantic bluefin tuna is January 1 of each year.

A new paragraph was included to identify the allowable fishing season for individuals participating in the tag and release program.

Section 285.30

In paragraph (a) the total amount of giant Atlantic bluefin tuna allocated to the General category was reduced from 353 st to 310 st. Of the 310 st, no more than 284 st may be taken before September 15.

Paragraph (a)(2) in the proposed regulations was redesignated as paragraph (c) in these regulations. A new paragraph (b) was added which establishes a quota of 43 st for the Harpoon Boat category.

Paragraphs (a)(3) and (a)(4) of the proposed regulation were combined in these regulations into paragraph (d) which establishes the total amount of Atlantic bluefin tuna available to vessels permitted in the Incidental Catch category. The quota of 215 st is further subdivided as follows:

(1) 44 st for longline vessels,

(2) 6 st for vessels fishing for species of fish other than tuna,

(3) 165 st for purse seine vessels fishing for tunas other than Atlantic bluefin tuna, which shall be allocated equally by the Regional Director among the vessels eligible under § 285.21(b).

Section 285.31

Paragraph (a) was rewritten to indicate that any portion of an individual vessel allocation under § 285.30(d)(3) not caught at the termination of the vessel's fishing for species of tuna other than Atlantic bluefin tuna may be taken by that vessel as giant Atlantic bluefin tuna.

Section 285.32

Paragraph (a) was modified to establish a catch limit for giant Atlantic bluefin tuna of one fish per vessel per day beginning on August 15, unless the Regional Director determines that this catch limit will result in a closure of the fishery before September 15.

A new paragraph (b) was added which establishes an unrestricted catch rate limit of giant Atlantic bluefin tuna for vessels in the Harpoon Boat category.

Paragraph (b) of the proposed regulations was redesignated paragraph (c) in final regulations. Further, the catch limit for anglers was changed from two to four young school, school, and medium Atlantic bluefin tuna per day, only one of which can be a medium.

Section 285.33

Paragraph (b) of this section was modified slightly to indicate that fishermen cooperating in the tag and release program file catch reporting cards.

Classification

The NOAA Administrator has determined that these regulations are not major under Executive Order 12291. A Regulatory Impact Review has been prepared which describes the expected benefits and costs of the proposed regulatory action. The review provides the basis for the Administration's determination.

The NOAA Administrator has found good cause for this rulemaking to be exempt from section (3)(c)(3) of E.O. 12291 under section 8(a) of that Order. Transmitting this regulation to the Director of the Office of Management and Budget (OMB) at least 10 days before publication would cause a delay in implementation necessary to ensure resource conservation and to meet an international commitment. A copy of this notice is being sent to OMB simultaneously with its publication in the **Federal Register.**

The NOAA Administrator has determined that these regulations will have a significant economic impact upon a substantial number of small entities under the Regulatory Flexibility Act. A Final Regulatory Flexibility Analysis has been prepared and is available to the public as a combined Environmental Impact Statement/Regulatory Impact Review/Regulatory Flexibility Analysis.

Information collection requirements contained in § 285.21, § 285.23, and § 285.33 have been approved by the OMB under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB control numbers 0648-0097, 0648-0013, and 0648-0031, respectively. OMB approval of the dealer and buy boat permits under § 285.22 is pending.

A Final Environmental Impact Statement (FEIS) has been prepared under Sections 102(2)(c) and 702(d) of the National Environmental Policy Act of 1969. A notice of intent to prepare an Environmental Impact Statement was published in the **Federal Register** on March 23, 1982 (47 FR 12367). The Environmental Protection Agency (EPA) published its notice of availability of the Draft EIS on April 16, 1982 (47 FR 16402). Comments on the DEIS/RIR/RFA were received until May 19, 1982. A final EIS/RIR/RFA has been prepared and filed with EPA. Notice of the filing of the FEIS at the Environmental Protection Agency was published on June 4, 1982. Under 40 CFR 1506.10(d), EPA has reduced the "cooling-off" period on this FEIS so these regulations can become effective upon publication and the United States may carry out its ICCAT commitments in time for the 1982 fishing season. Nevertheless, NOAA will receive comments on the FEIS until July 6, 1982, for informal review and consideration in future rulemakings.

Appendix B of the 1980 Final Environmental Impact Statement discussed the participants who will be affected by this action. Since 1980, the number of applications (Federal Fisheries Permit, OMB control number 0648-0097) for permits in the giant bluefin tuna fishery (all categories) has increased by approximately 30 percent. The number of recreational anglers in the young school, school, and medium sized fishery has increased by an estimated three percent during the same time period.

NOAA has found good cause to waive the 30-day delayed effective date applicable under section 4(c) of the Administrative Procedures Act, 5 U.S.C. 553(d). Making these regulations effective at the beginning of June, before the U.S. directed fishery begins in earnest, is required to fulfill this country's commitment to the other ICCAT members to implement the ICCAT recommendation as soon as possible. Japan implemented the ICCAT recommendation for its nationals on March 3, 1982, and Canadian regulations will be in place before bluefin fishing commences in Canadian waters. Postponing U.S. implementation of the ICCAT recommendation and enforcement of these regulations for thirty days would greatly increase the potential that quotas for the various fishery sectors would be exceeded. This would seriously erode U.S. credibility at ICCAT and other international fishery management organizations, and could jeopardize the negotiation of additional needed organizations (e.g. for Pacific tuna). Therefore, the NOAA Assistant Administrator has found good cause to make these regulations effective upon publication.

List of Subjects in 50 CFR Part 285

Administrative practices and procedures, Fish, Fisheries, Fishing, Imports, International organizations, Penalties, Reporting requirements.

Dated: June 8, 1982.

William H. Stevenson,

Deputy Assistant Administrator, National Marine Fisheries Service.

Subparts A and B of 50 CFR Part 285 are revised to read as follows:

PART 285—ATLANTIC TUNA FISHERIES

Subpart A—General

Sec.

285.1 Purpose and scope.
285.2 Definitions.

Sec.

285.3 Prohibitions.
285.4 Civil penalties.
285.5 Enforcement.
285.6 Civil procedures.
285.7 Relationships to other laws and regulations.

Subpart B—Atlantic Bluefin Tuna (Thunnus thynnus thynnus)

285.20 Effective period of regulations.
285.21 Vessel permits.
285.22 Dealer permits.
285.23 Dealer recordkeeping and reporting.
285.24 Metal tags.
285.25 Prohibitions.
285.26 Size classes.
285.27 Penalties.
285.28 Purse seine vessel inspection.
285.29 Fishing seasons.
285.30 Quotas.
285.31 Incidental catch.
285.32 Catch limits.
285.33 Tag and release program.

Authority: 16 U.S.C. 971 *et seq.*

Subpart A—General

§ 285.1 Purpose and scope.

(a) The Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971–971h) authorizes the Secretary to implement the recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The Secretary's authority under the Act has been delegated to the Assistant Administrator.

(b) These regulations implement the ICCAT recommendations for persons and vessels subject to the jurisdiction of the United States.

(c) This part does not apply to any person or vessel authorized by the Commission, the Regional Director, the Director of the Southeast Fisheries Center, or any State upon approval by the Regional Director, to engage in fishing for research purposes.

(d) Under Section 9(d) of the Act and § 285.7, determinations made by the Assistant Administrator that the provisions of this part apply within the territorial sea of the United States adjacent to, and within the boundaries of, the States of Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, New York, Massachusetts, New Hampshire, and the Commonwealths of Puerto Rico and the Virgin Islands, and, with the exceptions of §§285.30(a), 285.30(d) (2) and (3), 285.31(a), and 285.32(c), within the territorial sea of the United States adjacent to, and within the boundaries of the State of Maine, continue in effect.

§ 285.2 Definitions.

The terms used in this part are defined in the Act and as follows:

"Act" means the Atlantic Tunas Convention Act of 1975, 16 U.S.C. 971–971h.

"Albacore" means the fish species *Thunnus alalunga.*

"Angling" means fishing for or catching, or the attempted fishing for or catching, fish by any person (angler) with a hook attached to a line which is hand held or by rod and reel designed or manufactured for this purpose.

"Assistant Administrator" means the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.

"Atlantic bluefin tuna" means the fish species *Thunnus thynnus thynnus.* Class sizes for Atlantic bluefin tuna are defined in § 285.26.

"Atlantic bonito" means the fish species *Sarda chiliensis* or *Sarda sarda.*

"Authorized Officer" means

(a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(b) Any certified enforcement agent or Special Agent of the NMFS;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Commandant of the U.S. Coast Guard to enforce the provisions of the Act; or

(d) Any U.S. Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

"Bigeye tuna" means the fish species *Thunnus obesus.*

"Buy boat" means any vessel used by a dealer in purchasing or receiving Atlantic bluefin tuna from any person or fishing vessel engaged in fishing for any tuna.

"Cargo vessel" means any fishing vessel used for transporting fish or fish products.

"Commercial activity" means any activity, other than fishing, of industry, trade, and commerce, including but not limited to the buying or selling of a regulated species and activities conducted for the purpose of facilitating such buying and selling.

"Commission" means the International Commission for the Conservation of Atlantic Tunas established under Article III of the Convention.

"Convention" means the International Convention for the Conservation of Atlantic Tunas, signed at Rio de Janeiro May 14, 1966, 20 U.S.T. 2887, TIAS 6767, including any amendments or protocols thereto, which are binding upon the United States.

"Dealer" means any person who engages in a commercial activity with respect to a regulated species or parts thereof.

"Dressed weight" means the weight of a fish after it has been gilled, gutted, beheaded, and definned.

"Fish" or "fishing" means the catching or fishing for, or the attempted catching or fishing for, any species of fish covered by the Convention, or any activities in support of fishing.

"Fishing trip" means the time period between when a fishing vessel departs from port to carry out fishing operations and the time such vessel returns to port or offloads any of its catch.

"Fishing vessel" means any vessel engaged in fishing, processing, or transporting fish loaded on the high seas, or any vessel outfitted for such activities.

"Fishing week" means a period of time beginning at 0001 hours local time on Sunday, and ending at 2400 hours local time on the following Saturday.

"Fork length" means a measurement of the length of Atlantic bluefin tuna taken in a straight line along the middle of the lateral surface from the tip of the snout to the fork of the tail.

"Handgear" means handline, harpoon, or rod and reel.

"Handline" or "handline gear" means fishing gear which is released by hand and consists of one main line of variable length to which is attached one or two leaders and hooks. Handlines are retrieved only by hand, and not by mechanical means.

"Longline" or "longline gear" means fishing gear which is set horizontally, either anchored, floating, or attached to a vessel, which consists of a main or groundline of three or more gangions and hooks. A longline may be retrieved by hand or mechanical means.

"Metal tag" means the flexible, selflocking ribbon of metal issued by the NMFS for the identification of Atlantic bluefin tuna required under § 285.24.

"Metric ton" (mt) means 2204.6 pounds (1000 kilograms).

"NMFS" means the National Marine Fisheries Service, National Oceanic and Atmospheric Administration.

"Person" means any individual, partnership, corporation, or association subject to the jurisdiction of the United States.

"Plastic tag" means the plastic or combination plastic and metal marker issued with a tag and release permit under § 285.33(b).

"Purse seining" means fishing for or catching a regulated species by means of an encircling net and associated gear.

"Regional Director" means:

(a) For purposes of Atlantic bluefin tuna, the Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930–3799; and

(b) For purposes of yellowfin tuna, the Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

"Regulated species" means Atlantic bluefin tuna, yellowfin tuna, skipjack tuna, albacore, or bigeye tuna.

"Regulatory area" means all waters of the Atlantic Ocean including adjacent seas, except the waters over which the individual States exercise jurisdiction unless the Assistant Administrator has determined otherwise in accordance with this part, as noted in § 285.1(d).

"Reporting week" means a period of time beginning at 0001 hours local time on Sunday, and ending at 2400 hours local time the following Saturday.

"Round" or "round weight" means a fish or the weight of a fish before gilling, gutting, beheading, and definning.

"Secretary" means the Secretary of Commerce or an individual to whom appropriate authority has been delegated.

"Short ton" (st) means 2,000 pounds (907 kilograms).

"Skipjack tuna" means the fish species *Katsuwonus pelamis*.

"State" means any State of the United States, the District of Columbia, the Commonwealths of Puerto Rico and the Virgin Islands, and territories and possessions of the United States.

"Tuna" means Atlantic bluefin tuna, yellowfin tuna, skipjack tuna, albacore, or bigeye tuna.

"Yellowfin tuna" means the fish species *Thunnus albacares*.

§ 285.3 Prohibitions.

It is unlawful—

(a) For any person in charge of a fishing vessel or for any fishing vessel subject to the jurisdiction of the United States to engage in fishing or to land any tuna in violation of these regulations.

(b) For any person to land, transship, ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish which the person knows, or should have known, was taken or retained contrary to this part, without regard to the citizenship of the person or registry of the fishing vessel which took the fish.

(c) For a dealer or any person in charge of any fishing vessel subject to the jurisdiction of the United States to fail to make, keep, or furnish reports required by this part.

(d) For a dealer or any person in charge of any fishing vessel subject to the jurisdiction of the United States to obstruct or to refuse to allow any authorized officer to enter the dealer's premises or to board the vessel in order to search or inspect its catch, equipment, books, documents, records, or other articles, or to question the persons onboard under the provisions of this part.

(e) For any person to import from any country any regulated species in any form subject to regulation under a recommendation of the Commission, or any fish in any form not under regulation but under investigation by the Commission, during the period such fish have been denied entry under this part.

§ 285.4 Civil penalties.

Any person who—

(a) Violates any provision of § 285.3 (a) or (b) of this part shall be assessed a civil penalty of not more than $25,000 for a first violation and a civil penalty of not more than $50,000 for any subsequent violation;

(b) Violates any provision of § 285.3 (c) or (d) of this part shall be assessed a civil penalty of not more than $1,000 for a first violation and a civil penalty of not more than $5,000 for any subsequent violation; or

(c) Violates any provision of § 285.3(e) shall be assessed a civil penalty of not more than $100,000.

§ 285.5 Enforcement.

(a) This part and the provisions of the Act shall be enforced jointly by the Secretary, the Secretary of the Department in which the U.S. Coast Guard is operating, and the U.S. Customs Service.

(b) Enforcement Agents of the NMFS shall enforce provisions of this part and the Act on behalf of the Secretary and may take any actions authorized under this part and the Act with respect to enforcement. By agreement, the Secretary may utilize the personnel, services, and facilities of any other Federal Agency to enforce the Act and, also may designate personnel of a State to enforce the Act.

§ 285.6 Civil procedures.

(a) The method for assessment of civil penalties for violation of these regulations or the Act shall be in accordance with the procedures set forth in 15 CFR Part 904.

(b) In view of the perishable nature of tuna when not processed otherwise than by chilling or freezing, authorized officers may cause to be sold, for not less than its reasonable market value, unchilled or unfrozen tunas that may be seized and forfeited under the Act and this part.

(c) The proceeds of any sale made under paragraph (b) of this section must be remitted by the purchaser to the Regional Director. The Regional Director shall deposit and retain the proceeds in the Suspense Account of the NMFS (Account No. 14x6875(17)) after deducting the reasonable cost of the sale, if any, pending judgement of the court or other disposition of the case.

§ 285.7 Relationship to other laws and regulations.

(a) These regulations apply within the boundaries of any State bordering the convention area if the Assistant Administrator determines, and so notifies the State, that the State:

(1) Has not enacted laws or promulgated regulations which implement the recommendations of the Commission within its waters within 30 days after the promulgation of these regulations; or

(2) Has enacted such laws or promulgated such regulations, but such laws or regulations are less restrictive than the regulations promulgated under the Act to implement such recommendations of the Commission, or are not being enforced effectively.

(b) To ensure that the purposes of this part are carried out, the Assistant Administrator shall review continually the relevant laws and regulations of the pertinent States and the extent to which such laws and regulations are enforced.

(c) Upon notice of a determination adverse to its interests under § 285.7(a), a State may request a hearing on the record.

Subpart B—Atlantic Bluefin Tuna ("Thunnus thynnus thynnus")

§ 285.20 Effective period of regulations.

This subpart shall remain in effect until superseded, amended, or otherwise suspended.

§ 285.21 Vessel permits.

(a) *Permit requirements.* Each vessel which fishes for or takes Atlantic bluefin tuna, except vessels being used by anglers fishing for young school, school, or medium Atlantic bluefin tuna under § 285.32(c), must have an appropriate permit issued under this section.

(b) *Categories of permits.* Each vessel may be permitted in only one of the following categories: General (handgear), Harpoon Boat, or Incidental Catch (purse seine, longline, traps, or fixed gear). A vessel may fish only under the quota for the category in which it is permitted, and may use only gear appropriate to that category. Anglers may also fish for young school, school, and medium bluefin tuna from a vessel that has a permit for other types of fishing, but anglers will remain subject to provisions of this subpart applicable to angling. Only those purse

seine vessels, or their replacements, which were granted allocations and landed Atlantic bluefin tuna in the directed fishery for Atlantic bluefin tuna during the period 1980 through 1981 will be issued permits to take Atlantic bluefin tuna incidentally as described in § 285.31(a). Any vessel which was replaced with another vessel and retired from the fishery during the period 1980 through 1981 will not be issued a permit to take Atlantic bluefin tuna under § 285.31(a).

(c) *Registration procedure.* (1) Any vessel owner applying for an Atlantic bluefin tuna permit under this section shall indicate on the permit application the category in which the vessel is to be registered. Except for purse seine vessels, an owner may change the category in which the vessel is registered by notifying the Regional Director in writing before May 15.

(2) All permit applications under this section must be submitted and signed by the vessel owner on an appropriate form obtained from the Regional Director. The application must be submitted to the Regional Director at least 30 days before the date on which the applicant desires to have the permit made effective. The application must include the name and address of the vessel owner, the name of the vessel, the port where the vessel is docked, the official registration or documentation number, the length of the vessel, the tonnage (if known), the area to be fished, and the category in which the vessel is to be registered.

(d) *Issuance.* (1) The Regional Director shall issue a permit within 30 days of receipt of a completed application.

(2) The Regional Director shall notify the applicant of any deficiency in the application. If the applicant fails to correct the deficiency within 15 days following the date of notification, the application will be considered abandoned.

(e) *Duration.* A permit issued under this section will remain valid until it is suspended, revoked or expires. A permit issued under this section will expire when the owner or name of the vessel changes.

(f) *Alteration.* Any permit issued under this section which is substantially altered, erased, or mutilated is invalid.

(g) *Replacement.* Replacement permits may be issued by the Regional Director. An application for a replacement permit will not be considered a new application.

(h) *Transfer.* Permits issued under this section are not transferable or assignable. A permit is valid only for the vessel and owner for which it is issued.

(i) *Display.* Any permit issued under this section must be carried on board the vessel at all times. The permit must be displayed for inspection upon request of any Authorized Officer or any employee of the NMFS designated by the Regional Director for such purpose.

(j) *Modification.* Permits issued under this section may be modified, suspended, or revoked by the Assistant Administrator for violations of the Act, or any of the Act's implementing regulations. Any action to modify, suspend or revoke a permit issued under this section will follow the procedures of 15 CFR Part 904.

(k) *Fees.* No fee is required for any permit issued under this section.

(l) *Change in application information.* Any change in the information contained in an application submitted under this section must be reported in writing to the Regional Director within 15 days of the change.

(Approved by the Office of Management and Budget under OMB control number 648–0097).

§ 285.22 Dealer permits.

(a) *General.* Any person purchasing or receiving Atlantic bluefin tuna for a commercial purpose from any person or vessel which catches such tuna shall have a valid permit required under this section. If such purchase or receipt is made from a buy boat, the buy boat must have a valid permit under paragraph (l) of this section.

(b) *Application.* An application for a dealer permit must be made in writing, be signed by the applicant, and be submitted to the Regional Director at least 30 days before the date upon which the applicant desires to have the permit made effective. Applications must contain the following information:

(1) The name, mailing address, and telephone number of the applicant; and

(2) The expected disposition of all Atlantic bluefin tuna purchased (e.g., foreign or domestic markets).

(c) *Issuance.* (1) The Regional Director shall issue a permit within 30 days of receipt of a completed application; provided, however, that the Regional Director may exercise his discretion not to issue a permit to any applicant who has violated any provision of the Act or regulations of this part.

(2) The Regional Director shall notify the applicant of any deficiency in the application. If the applicant fails to correct the deficiency within 15 days following the date of notification, the application will be considered abandoned.

(d) *Duration.* Any permit issued under this section will remain valid until December 31 of the year for which it is issued, or until it is suspended or revoked.

(e) *Alteration.* Any permit which is substantially altered, erased, or mutilated is invalid.

(f) *Replacement.* Replacement permits may be issued by the Regional Director. An application for a replacement permit will not be considered a new application.

(g) *Transfer.* Permits issued under this section are not transferable or assignable. A permit is valid only for the dealer to whom it is issued.

(h) *Inspection.* A permit issued under this section must be kept at the principal place of business of the dealer. The permit must be displayed for inspection upon request of any Authorized Officer, or any employee of the NMFS designated by the Regional Director for that purpose.

(i) *Modification.* Permits issued under this section may be modified, suspended, or revoked by the Assistant Administrator for violations of the Act, or any of the Act's implementing regulations. Any action to modify, suspend or revoke a permit issued under this section will follow the procedures of 15 CFR Part 904.

(j) *Fees.* No fee is required for any permit issued under this section.

(k) *Change in application information.* Any change in the information contained in an application submitted under this section must be reported in writing to the Regional Director within 15 days of the change.

(l) *Buy boats.* Each buy boat must have a dealer permit issued under this section. No vessel to which a valid permit has been issued under § 285.21 may be issued a dealer permit under this section for buy boat operations. No buy boat will be issued a dealer permit under this section unless its owner or operator agrees in writing to allow an individual authorized by the Regional Director to accompany the buy boat on any trip to observe operations. The Regional Director shall provide reasonable notice to the owner or operator of any buy boat that an individual will be placed on board. The Regional Director shall reimburse the owner of any buy boat for any expenses which the Regional Director determines to be reasonable and which are directly related to the placement of an individual on that buy boat. Buy boats may not purchase or transport Atlantic bluefin tuna caught incidentally by longlines.

(Approval by the Office of Management and Budget is pending.)

§ 285.23 Dealer recordkeeping and reporting.

Any person issued a dealer permit under § 285.22:

(a) Shall submit to the Regional Director a daily report on a reporting card provided by the NMFS, within 24 hours of the purchase or receipt of each giant Atlantic bluefin tuna. Each reporting card must show the Atlantic bluefin tuna vessel permit number, metal tag number affixed to the fish by the dealer or assigned by an Authorized Officer, the date landed, the port where landed, the round or dressed weight, the fork length, gear used, and area where caught. This reporting card must be signed by the vessel permit holder or vessel operator;

(b) Shall submit to the Regional Director a weekly report on forms supplied by the NMFS, within two days after the end of each reporting week in which Atlantic bluefin tuna were purchased or received. Each report must specify accurately and completely: the number of tuna purchased or received; location where the tuna was caught; the disposition of the tuna (names, addresses and, where applicable, country of destination); the source of the tuna (names and addresses); date; metal tag numbers (where applicable); round or dressed weight and fork length (by individual tuna); and any other information requested by the Regional Director. Also, dealers using buy boats, in addition to the information required above, shall include the precise time when any tuna were received on the buy boat;

(c) Shall allow an Authorized Officer, or any employee of the NMFS designated by the Regional Director for this purpose, to inspect any records of transfers, purchases, or receipts of Atlantic bluefin tuna;

(d) Shall retain in his/her possession a copy of each weekly report for a period of two years from the date on which it was submitted to the Regional Director.

(e) Each operator of a buy boat, in addition to the above, shall notify the Regional Director of any offloading and request a vessel inspection at least six hours before such offloading. Arrangements may be made by calling (617) 281–3600, extension 252, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, local time, or at all other times during the day and weekends, by calling (617) 992–7711. In making the request for inspection, the owner or operator of the buy boat or his/her designated representative must provide his/her name, the buy boat's name and permit number, the number of tuna received, and the location and anticipated time of landing in port.

(Approved by the Office of Management and Budget under OMB control number 648–0013).

§ 285.24 Metal tags.

(a) *Issuance of tags.* Any person receiving a dealer's permit under the provisions of § 285.22 will be issued numbered metal tags by the NMFS.

(b) *Transfer of tags.* Tags issued under paragraph (a) of this section are not transferable.

(c) *Affixing tags.* (1) Giant Atlantic bluefin tuna must be tagged immediately by a dealer or his/her agent upon offloading from a vessel. The tag, issued under paragraph (a) of this section, shall be affixed to the tuna between the fifth dorsal finlet and the keel.

(2) Any person who catches a giant Atlantic bluefin tuna and does not transfer it to a permitted dealer shall contact the nearest NMFS enforcement office within 24 hours of landing such tuna and make the tuna available for inspection and attachment of the metal tag.

(d) *Removal of tags.* A metal tag affixed to any giant Atlantic bluefin tuna must remain on the tuna until the tuna is either cut into portions or sold for export from the United States. If the tuna or tuna parts are subsequently packaged for transport for domestic commercial use or for export, the tag must be attached to the outside of the package or container and the tag number must be written legibly and indelibly on the outside of any package or container.

§ 285.25 Prohibitions.

It is unlawful for any person or vessel subject to the jurisdiction of the United States:

(a) To fish for or catch Atlantic bluefin tuna without a valid permit required under § 285.21 and carried onboard the vessel;

(b) To fish for or catch Atlantic bluefin tuna after fishing has been closed or before fishing has commenced under § 285.29, except under the provisions of § 285.31 or § 285.33;

(c) To fish for, catch or possess Atlantic bluefin tuna in excess of the quotas specified in § 285.30 except under the provisions of § 285.33;

(d) To fish for, catch, or possess Atlantic bluefin tuna in excess of the catch limits specified in § 285.32 except under the provisions of § 285.33;

(e) To fish for or catch Atlantic bluefin tuna within 100 yards (91.5 meters) of the cork line of a purse seine net used by an vessel conducting scientific research operations authorized by the NMFS;

(f) To catch and retain Atlantic bluefin tuna in excess of the incidental catch allowed in § 285.31;

(g) To land any Atlantic bluefin tuna in forms other than round, or with the head removed;

(h) To retain any Atlantic bluefin tuna caught under a tag and release permit issued under § 285.33;

(i) To purchase, receive, or transfer any Atlantic bluefin tuna at sea from a person or vessel engaged in fishing for such tuna without a valid dealer permit for buy boat operations issued under § 285.22;

(j) To sell, offer for sale, or transfer any Atlantic bluefin tuna to any person other than a dealer permitted under § 285.22;

(k) To engage in fishing with a vessel holding a permit under § 285.21(a) unless the vessel travels to and from the area where it will be fishing under its own power and the person operating that vessel brings under control (secured to the catching vessel or boated) any Atlantic bluefin tuna with no assistance from other vessels, except in circumstances where the safety of the vessel or its crew is jeopardized or due to other circumstances beyond the control of the operator;

(l) To fail to release immediately with a minimum of injury any Atlantic bluefin tuna which will not be retained;

(m) To fail to affix immediately to any giant Atlantic bluefin tuna, between the fifth dorsal finlet and the keel, an individually numbered metal tag when the tuna has been received or purchased by that person for a commercial purpose from any person or vessel having caught such tuna;

(n) To remove any metal tag affixed to an Atlantic bluefin tuna under § 285.24 before removal is allowed under that section, or fail to write the tag number on the shipping package or container as prescribed by that section;

(o) To purchase or transport with a buy boat any Atlantic bluefin tuna captured incidentally by longlines;

(p) To begin fishing or off loading from any purse seine vessel to which a permit has been issued under § 285.21 any Atlantic bluefin tuna without first requesting an inspection of the vessel in accordance with § 285.28;

(q) To fail to report the taking of any Atlantic bluefin tuna to which a plastic tag has been affixed under a bona fide tag and release program conducted by the NMFS or any other recognized scientific organization;

(r) To falsify or fail to make, keep, maintain, or submit any reports, or other record required by this subpart;

(s) To refuse to allow an Authorized Officer to make inspections for the purpose of checking any records relating to the catching, harvesting, landing, purchase or sale of any Atlantic bluefin tuna required by this subpart;

(t) To make any false statement, oral or written, to an Authorized Officer concerning the catching, harvesting, landing, purchase, sale, or transfer of any Atlantic bluefin tuna;

(u) To fish for or catch giant Atlantic bluefin tuna with longline gear except as provided in § 285.31(d);

(v) To fish for or catch giant Atlantic bluefin tuna with longline gear, or while having longline gear on board, if the vessel is registered in the General category under § 285.21(b);

(w) To violate any other provision of this subpart, the Act, or any other regulations promulgated under the Act.

§ 285.26 Size classes.

For any Atlantic bluefin tuna which is landed with the head removed, there shall be a rebuttable presumption for purposes of this subpart that the tuna, when caught, fell into a size class in accordance with the following table. For this purpose, all measurements must be taken in a straight line along the middle of the lateral surface from the forward most part of the beheaded fish to the fork of the tail. Approximate round weights are given for illustrative purposes only.

Original size class (fork length)	Approximate round weights	Length with head off
Young school tuna: Less than 26 inches (66 cm).	Less than 14 pounds.	Less than 18 inches (46 cm).
School tuna: Equal to 26 inches (66 cm) but less than 57 inches (145 cm).	From 14 pounds but less than 135 pounds.	18 inches (46 cm) but less than 40 inches (102 cm).
Medium tuna: Equal to 57 inches (145 cm) but less than 77 inches (196 cm).	From 135 pounds but less than 310 pounds.	40 inches (102 cm) but less than 54 inches (137 cm).
Giant tuna: 77 inches (196 cm) or more.	310 pounds or more.	54 inches (137 cm) or more.

§ 285.27 Penalties.

(a) Any person who violates paragraphs (a) through (p), inclusive, or paragraphs (s) through (v), inclusive, of § 285.25 shall be assessed a civil penalty of not more than $25,000 for a first violation and a civil penalty of not more than $50,000 for a subsequent violation.

(b) Any person who violates paragraphs (q) or (r), of § 285.25 shall be assessed a civil penalty of not more than $1,000, and a civil penalty of not more than $5,000 for a subsequent violation.

(c) Any person who violates paragraph (w) of § 285.25 shall be assessed a civil penalty in accordance with the criteria set forth in 16 U.S.C. 971e.

§ 285.28 Purse seine vessel inspection.

Any owner or operator of a purse seine vessel with a permit issued under § 285.21 shall request an inspection of the vessel by a Special Agent of the NMFS before offloading any Atlantic bluefin tuna. Request for such inspection may be made by calling (617) 281–3600 extension 252; or (617) 992–7711. Requests must be made at least 24 hours before offloading.

§ 285.29 Fishing seasons.

(a) *Commencement.* Fishing in the regulatory area for Atlantic bluefin tuna will begin:

(1) On January 1 of each year:

(i) For vessels permitted in the Incidental Catch category,

(ii) For anglers fishing for young school, school, and medium tuna, and

(iii) For anglers participating in the tag and release program.

(2) On June 1 of each year:

(i) For vessels permitted in the General category and

(ii) For vessels permitted in the Harpoon Boat category.

(3) Consistent with the Convention, the Act and this part, the Assistant Administrator may change the commencement date under this section for any vessel permit category or person (angler) if the Administrator determines that the changed date will enable scientific research on the status of the stock to be conducted more effectively and will not prevent the quotas for the affected fishery from being caught, based upon historical catch data or other relevant information. The Assistant Administrator shall publish a notice in the **Federal Register** of any change in the commencement date(s) for fishing under this section at least 60 days before commencement of the affected fishery. Nothing in this paragraph will be construed to invalidate any more restrictive commencement date established by any State in waters under its jurisdiction.

(b) *Closure.* (1) The Assistant Administrator shall monitor catch and landing statistics of Atlantic bluefin tuna. On the basis of these statistics, the Assistant Administrator shall project a date when the catch of Atlantic bluefin tuna will equal any quota under § 285.30, and shall publish a notice in the **Federal Register** stating that fishing for or retaining Atlantic bluefin tuna under that quota must cease on that date at a specified hour.

(2) Angling for Atlantic bluefin tuna under a tag and release program under § 285.33 may continue even after a quota closure.

(3) Nothing in this paragraph will be construed to invalidate any more restrictive closure date established by any State in waters under its jurisdiction.

§ 285.30 Quotas.

Total quota. The total annual amount of Atlantic bluefin tuna which may be caught and retained by persons and vessels subject to U.S. jurisdiction in the regulatory area is 667 st (605 mt), subdivided as follows:

(a) The total amount of giant Atlantic bluefin tuna which may be caught and retained in the regulatory area by vessels permitted in the General category under § 285.21(b) is 310 st (281 mt). No more than 284 st (258 mt) may be taken before September 15.

(b) The total amount of giant Atlantic bluefin tuna which may be caught and retained in the regulatory area by vessels permitted in the Harpoon Boat category under § 285.21(b) is 43 st (39 mt).

(c) The total amount of young school, school, and medium Atlantic bluefin tuna which may be caught and retained in the regulatory area by anglers is 99 st (90 mt).

(d) The total amount of Atlantic bluefin tuna which may be caught and retained in the regulatory area by vessels permitted in the Incidental Catch category under § 285.21(b) is 215 st (195 mt). This quota is further subdivided as follows:

(1) 44 st (40 mt) for longline vessels;

(2) 6 st (5 mt) for vessels fishing for species of fish other than tuna; and

(3) 165 st (150 mt) for purse seine vessels fishing for tunas other than Atlantic bluefin tuna, which will be allocated equally by the Regional Director among the vessels eligible under § 285.21(b).

§ 285.31 Incidental catch.

(a) Subject to the quotas in § 285.30, purse seine vessels fishing for tunas other than Atlantic bluefin tuna and possessing an Atlantic bluefin tuna Incidental Catch permit under § 285.21 may catch, during any fishing trip, Atlantic bluefin tuna, provided that the total amount of Atlantic bluefin tuna taken does not exceed 10 percent by weight of all other tuna species onboard the vessel at the end of each fishing trip.

Any vessel that has not taken its allocation under § 285.30(d)(3) at the termination of the vessel's fishing for species of tuna other than Atlantic bluefin tuna, may fish for, and retain the remainder of its allocation as giant Atlantic bluefin tuna.

(b) *Herring, mackerel, and menhaden purse seine vessels and vessels using fixed gear other than longlines or traps (pounds, weirs, and gillnets).* Subject to the quotas in § 285.30, any person operating a vessel fishing principally for species of fish other than tuna and possessing an Atlantic bluefin tuna Incidental Catch permit under § 285.21 may catch, during any fishing trip, Atlantic bluefin tuna of any size class, provided that, the total amount of Atlantic bluefin tuna taken does not exceed 2 percent, by weight, of all other fish onboard the vessel at the end of each fishing trip.

(c) *Traps.* Subject to the quotas in § 285.30, any person operating a vessel possessing an Incidental Catch permit issued under § 285.21 which catches Atlantic bluefin tuna incidentally while fishing with traps, may retain Atlantic bluefin tuna, provided, that such tuna do not exceed 2 percent, by weight, of the total amount of all other fish species caught within the preceding 30-day period.

(d) *Longlines.* Subject to the quotas in § 285.30, any person operating a vessel using longline gear possessing an Incidental Catch permit issued under § 285.21 may land giant Atlantic bluefin tuna as an incidental catch. The amount of Atlantic bluefin tuna may not exceed;

(1) Two fish per vessel, per trip, south of 36°00′ N. latitude, and

(2) Two percent by weight of all other fish onboard at the end of each fishing trip, north of 36°00′ N. latitude.

§ 285.32 Catch limits.

(a) From June 1 through August 14, operators of vessels permitted in the General Category may catch and retain only one giant Atlantic bluefin tuna per fishing week, per vessel and may possess only one giant Atlantic bluefin tuna at any time. Beginning on August 15, vessels registered in the General Category may catch and retain one giant Atlantic bluefin tuna per day, unless the Regional Director determines and publishes a notice that this increase in catch rate will result in a closure of the fishery before September 15.

(b) Vessels permitted in the Harpoon Boat category are not restricted in their catch rate of giant Atlantic bluefin tuna.

(c) Persons angling in the regulatory area may catch and retain no more than four young school, school, or medium Atlantic bluefin tuna each day, only one of which may be a medium.

§ 285.33 Tag and release program.

(a) *Tag and release permits.* Any angler who wishes to tag and release Atlantic bluefin tuna shall obtain a valid tag and release permit, and tags issued by the NMFS under paragraph (b) of this section. A tag and release permit and tags may be obtained by sending an application to the Atlantic Bluefin Tuna Tagging Program, Southeast Fisheries Center, NMFS, 75 Virginia Beach Drive, Miami, Florida 33149–1099. The application must include the name of the vessel, official U.S. Coast Guard or State number(s), name(s) of the owner and master, and the general area(s) in which the tag and release activity will be carried out. The Center Director shall issue a tag and release permit and tags within 30 days of receipt.

(b) *Plastic tags.* Anglers receiving a tag and release permit under paragraph (a) of this section also will receive plastic tags, reporting cards, and detailed instructions for their use. All Atlantic bluefin tuna caught under a tag and release permit must be tagged before they are released. Such tuna must be released immediately with a minimum of injury.

(Approved by the Office of Management and Budget under OMB control number 0648–0031).

[FR Doc. 82–15816 Filed 6–8–82; 8:45 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 47, No. 113
Friday, June 11, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

United States Standards for Grades of Frozen Peas [1]

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposed rule is to revise the voluntary U.S. grade standards for frozen peas. The proposed rule was developed by the U.S. Department of Agriculture at the request of the frozen food industry. The proposed rule would: (1) Coordinate USDA's standards with those of the Food and Drug Administration and Codex Alimentarius Commission, where practicable; (2) convert the current variables (score points) standards to attributes type standards; and (3) replace dual grade nomenclature with single letter grade designations. Its effect would be to improve the standards and promote efficient and orderly marketing.

DATES: Comments must be received on or before September 30, 1982.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Comments should reference the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Mr. Romeo V. Villaluz, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-6247.

SUPPLEMENTARY INFORMATION: William T. Manley, Acting Administrator, Agricultural Marketing Service has determined that this proposed rule is not major. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not result in significant adverse effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

William T. Manley, Acting Administrator, Agricultural Marketing Service, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because it reflects current marketing practices.

The current U.S. grade standards for frozen peas were last revised in 1959. The U.S. Food and Drug Administration, on December 31, 1974, promulgated a "Standard of Identity and Minimum Standard of Quality for Frozen Peas." The Codex Alimentarius Commission has issued Recommended International Standards for Quick Frozen Peas. These developments, along with changes in packing practices, suggest a need for reevaluating the quality requirements of the current U.S. Standards for Grades of Frozen Peas. The American Frozen Food Institute requested an on-line acceptance plan that incorporates an objective step-by-step procedure for reporting on-line product quality, continually, without having to wait until the end of the production shift or day to determine product acceptance. By incorporating this procedure in the standards, the proposal would have an overall effect of simplifying and clarifying the U.S. grade standards. It would enable processors' line personnel to trace the status of product quality. While the classification of defects and defective product for official grading purposes would still require the expertise of the Department's Agricultural Commodity Graders, the final results of grading would be more easily understood by other interested persons.

The proposal would also further simplify the U.S. grade standards by replacing dual grade nomenclature with single letter grade designations. Under the proposal, "U.S. Grade A" or "U.S. Fancy," "U.S. Grade B" or "U.S. Extra Standard," and "U.S. Grade C" or "U.S. Standard" would become simply "U.S. Grade A," "U.S. Grade B" and "U.S. Grade C."

A Notice of Proposed Rulemaking was published in the **Federal Register** on March 2, 1977 (42 FR 12058), to revise the voluntary U.S. grade standards for frozen peas. No written exceptions were filed to this proposal; however, the affected industries' reaction was unfavorable. Following discussions held at meetings between the various industry advisory committees and USDA Agricultural Marketing Specialists, it was concluded that a suitable "cooling-off" period would be desirable to enable on-site use of the proposed U.S. standards. During this period, other changes occurred which affected the voluntary grade standards. These subsequent changes included uniform grade nomenclature, modified traditional grading procedures, and a change in format.

List of Subjects in 7 CFR Part 52

Processed fruits and vegetables, Food grades and standards.

Accordingly, the proposed revision of Subpart—United States Standards for Grades of Frozen Peas (7 CFR 52.3511 through 52.3520) would read as follows:

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Subpart—United States Standards for Grades of Frozen Peas

Sec.

52.3511 Product descriptions.
52.3512 Size designations.
52.3513 Defintions of terms.
52.3514 Recommended sample unit size.
52.3515 Grades.
52.3516 Factors of quality.
52.3517 Classification of defects.
52.3518 Tolerances for defects.
52.3519 Sample size.
52.3520 Size requirement criteria.
52.3521 Quality requirement criteria.

[1] Compliance with provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624).

§ 52.3511 Product description.

"Frozen Peas" is the product represented as defined in the current Standards of Identity for Frozen Peas (21 CFR) issued under the Federal Food, Drug, and Cosmetic Act.

§ 52.3512 Size designations.

General. Size of frozen peas is not incorporated in the grades of the finished product since size is not a factor of quality for these standards. If offered for a given size, the size designations and specifications shall be as shown in Table I; size defects classified as shown in Table II; and acceptance criteria as shown in Table III.

TABLE I.—SIZE DESIGNATIONS

Size designation	Specification	
	Millimeters	Inches
Extra small	Up to 7.5	Up to 0.295.
Very small	Up to 8.2	Up to 0.32
Small	Up to 8.7	Up to 0.34
Medium	Up to 10.2	Up to 0.40
Large	Over 10.2	Over 0.40.

TABLE II.—CLASSIFICATION OF SIZE DEFECTS

Defect	Classification	
	Minor	Major
Next size larger than designated size (each unit).	X	
Two sizes larger than designated size (each unit).		X.

TABLE III.—TOLERANCES FOR SIZE DEFECTS

	Total [2]	Major
AQL [1]	22.0	4.0

[1] AQL expressed as percent defective.
[2] Total = Minor + Major.

§ 52.3513 Definitions of terms.

As used in these U.S. standards, unless otherwise required by the context, the following terms shall be construed, respectively, to mean:

(a) *Acceptable Quality Level (AQL)* means that maximum percent of defective units or the maximum number of defects per hundred units of product that, for the purpose of acceptance sampling, can be considered satisfactory as a process average.

(b) *Blemished* means peas that are stained, spotted, discolored, or affected by pathological or insect injury to the extent that the appearance or eating quality is:

(1) Slightly affected;

(2) Materially affected;

(3) Seriously affected (including hard and shriveled peas).

(c) *Brightness* means the extent that the overall appearance of the sample unit as a mass is affected by dullness.

(1) Grade A—Good overall brightness; not affected by dullness;

(2) Grade B—Reasonably good overall brightness, not more than slightly affected by dullness;

(3) Grade C—Fairly good overall brightness; not more than materially affected by dullness.

(d) *Broken peas (pea fragments)* mean portions of peas, separated or individual cotyledons, crushed, partial or broken cotyledons, and loose skins, but excluding entire intact peas with skins detached.

(e) *Color.* Color of individual peas is based on the variance of the individual units from the predominant color of the sample unit.

(1) *Peas that vary markedly*—individual pea units with color variance that materially affects the appearance of the sample unit.

(2) *Blond peas*—peas that are white, cream, or yellowish in color.

(f) *Extraneous vegetable material (EVM).* (1) *Flat material* means succulent harmless vegetable material such as leaves and pea pods.

(2) *Cylindrical material* means harmless vegetable material, such as stems or pieces of vine.

(3) *Spherical material* means harmless vegetable material other than the pea plant.

(g) *Flavor and odor.*—(1) *Good flavor and odor* means the product, after cooking, has a good characteristic flavor and odor for the maturity and is free from objectionable flavors and objectionable odors of any kind.

(2) *Fairly good flavor and odor* means that the product, after cooking, may be lacking in good flavor but is free from objectionable flavors and objectionable odors of any kind.

(h) *Sample unit* means the amount of product specified to be used for grading. It may be:

(1) The entire contents of a container;

(2) A portion of the content of a container;

(3) A combination of the contents of two or more containers;

(4) A portion of unpacked product.

§ 52.3514 Recommended sample unit size.

(a) Size designation—100 peas.

(b) Maturity determination—25 peas; 50 peas; or 100 peas.

(c) Alcohol Insoluble Solids (AIS) determination—250 g (8.8 oz) of peas.

(d) Evaluation of other quality factors—300 g (10.6 oz) of peas.

§ 52.3515 Grades.

(a) *U.S. Grade A* is the quality of frozen peas that:

(1) Meets the following prerequisites in which the peas:

(i) Are of similar varietal characteristics;

(ii) Have a good flavor and odor;

(iii) Have a good overall brightness.

(2) Meets the requirements for tenderness and maturity as classified in Table V and specified in Table VII.

(3) Is within the limits for defects as classified in Table IV and specified in Table VI.

(b) *U.S. Grade B* is the quality of frozen peas that:

(1) Meets the following prerequisites in which the peas:

(i) Are of similar varietal characteristics;

(ii) Have a good flavor and odor;

(iii) Have a reasonably good overall brightness.

(2) Meets the requirements for tenderness and maturity as classified in Table V and specified in Table VII.

(3) Is within the limits for defects as classified in Table IV and specified in Table VI.

(c) *U.S. Grade C* is the quality of frozen peas that:

(1) Meets the following prerequisites in which the peas:

(i) Are of similar varietal characteristics;

(ii) Have a fairly good flavor and odor;

(iii) Have a fairly good brightness.

(2) Meets the requirements for tenderness and maturity as classified in Table V and specified in Table VII.

(3) Is within the limits for defects as classified in Table IV and specified in Table VI.

(4) The alcohol insoluble solids does not exceed 19 percent for sweet green wrinkled skin varieties and 23 percent for smooth skin varieties.

(d) *Substandard* is the quality of frozen peas that fails to meet the requirements for "U.S. Grade C."

§ 52.3516 Factors of quality.

The grade of frozen peas is based on meeting the requirements for the following quality factors:

(a) Prerequisite quality factors:

(1) Varietal characteristics;

(2) Flavor and odor;

(3) Brightness.

(b) Classified quality factors:

(1) Maturity;

(2) Individual unit color;

(3) Blemished;

(4) Extraneous vegetable material (EVM);

(5) Broken pea (fragments).

§ 52.3517 Classification of defects.

All defects are classified as minor, major, severe, or critical. Each "X" in Table IV and Table V represents "one (1) defect."

TABLE IV.—CLASSIFICATION OF DEFECTS OTHER THAN MATURITY

Quality factor	Defect	Classification			
		Min.	Maj.	Sev.	Crit.
Color	Peas that vary markedly. For Grade A and B only (ea. 3 g).	X			
	Blond Peas (ea. 3 g).			X	
Blemished	Slightly (ea. 3 g).	X			
	Materially (ea. 3 g).		X		
	Seriously (ea. 3 g).			X	
Broken peas (fragments).	(Ea. 3 g)	X			

TABLE IV.—CLASSIFICATION OF DEFECTS OTHER THAN MATURITY—Continued

Quality factor	Defect	Classification			
		Min.	Maj.	Sev.	Crit.
Extraneous vegetable material.	Flat material (ea. 0.5 cm^2).		X		
	Cylindrical material (ea. 4 mm).			X	
	Spherical material (ea. piece).				X.

NOTE.—Each 3 g increment to the nearest 3 g equals one (1) unit.

TABLE V.—CLASSIFICATION OF DEFECTS FOR MATURITY

Quality factor	Defect	Classification
		Minor
Grade A maturity	Each sinker in 13 percent brine.	X.
Grade B maturity	Each sinker in 15 percent brine.	X.
Grade C maturity	Each sinker in 18 percent brine.	X.

§ 52.3518 Tolerances for defects.

TABLE VI.—ALL CLASSIFIED DEFECTS (EXCEPT MATURITY)

	Grade A				Grade B				Grade C			
	Total [2]	Maj	Sev	Crit	Total [2]	Maj	Sev	Crit	Total [2]	Maj	Sev	Crit
AQL [1]	8.5	2.5	0.65	0.15	10.0	4.0	1.5	0.25	15.0	6.5	2.5	0.65

[1] AQL expressed as defects per hundred units.
[2] Total = Minor + Major + Severe + Critical.

TABLE VII.—CLASSIFIED DEFECTS FOR MATURITY

	Grade A	Grade B	Grade C
AQL [1]	8.5	10.0	12.5

[1] AQL expressed as percent defective.

§ 52.3519 Sample size.

The sample size to determine whether the requirements of these standards are met shall be as specified in the sampling plans and procedures in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products" (7 CFR 52.1–52.83), for lot grading and on-line grading as applicable.

§ 52.3520 Size requirement criteria.

(a) *Lot grading.* A lot of frozen peas is considered as meeting the requirements for size if the Acceptable Quality Levels (AQL's) in Table III, as applicable for the size, are not exceeded.

(b) *On-line grading.* A portion of production is considered as meeting the requirements for size if the Acceptable Quality Levels (AQL's) in Table III, as applicable for the size, are not exceeded.

(c) *Single sample unit.* Each single sample unit submitted for size evaluation will be treated individually and is considered as meeting the requirements for size if the Acceptable Quality Levels (AQL's) in Table III, as applicable for the size, are not exceeded.

§ 52.3521 Quality requirement criteria.

(a) *Lot grading.* A lot of frozen peas is considered as meeting the requirements for quality if:

(1) The requirements specified in § 52.3515 are met;

(2) The Acceptable Quality Levels (AQL's) in Tables VI and VII are not exceeded.

(b) *On-line grading.* A portion of production is considered as meeting the requirements for quality if:

(1) The requirements specified in § 52.3515 are met;

(2) The Acceptable Quality Levels (AQL's) in Tables VI and VII are not exceeded.

(c) *Single sample unit.* Each single sample unit submitted for quality evaluation will be treated individually and is considered as meeting the requirements for quality if:

(1) The requirements specified in § 52.3515 are met;

(2) The Acceptable Quality Levels (AQL's) in Tables VI and VII are not exceeded.

Done at Washington, D.C. on June 7, 1982.

Eddie F. Kimbrell

Deputy Administrator, Commodity Services.

[FR Doc. 82-15823 Filed 6-10-82; 8:45 am]

BILLING CODE 3410-02-M

Food and Nutrition Service

7 CFR Part 235

State Administrative Expense Funds; Limitations on Allocation of Discretionary Funds

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would limit the amount of State Administrative Expense (SAE) funds initially given to State Agencies to administer the child nutrition programs. The Food and Nutrition Service is proposing this rule because some States now receive disproportionately large amounts of SAE funds, when SAE funds are compared to program funds. However, this rule would allow States to justify additional SAE funds in their annual SAE Plans. The Food and Nutrition Services believes that this rule would result in a more equitable and efficient allocation of available SAE funds.

DATE: Comments must be postmarked on or before August 10, 1982.

ADDRESSES: Comments should be mailed to Stanley C. Garnett, Branch Chief, Policy and Program Development Branch, School Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Alexandria, Va. 22302, or may be delivered to Room 509, 3101 Park Center Drive, Alexandria, Va., during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday). Comments received may also be inspected in Room 509 between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett in writing at the above address or by telephone (703) 756-3620.

SUPPLEMENTARY INFORMATION:

Classification

This proposed rule has been reviewed under Executive Order 12291 and has not been classified major because it does not meet any of the three criteria of the Executive Order. It will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices, and will not have a

significant impact on competition, employment, investment, productivity, innovation, or on the ability of U.S. enterprises to compete.

This proposed rule has also been reviewed with regard to the requirements of Pub. L. 96–354, the Regulatory Flexibility Act. The Administrator of the Food and Nutrition Service has certified that this proposed rule will not have a significant economic impact on a substantial number of small entities.

Any reporting or recordkeeping requirements that may result from this rulemaking effort will be subject to clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. Once the Department has analyzed the comments on this proposal, we will submit the intended requirements to OMB for that clearance.

Background

The Department allocates State Administrative Expense (SAE) funds to State agencies to help them administer the child nutrition programs. The Department makes two types of SAE allocations: nondiscretionary and discretionary.

Pub. L. 95–627, enacted on November 10, 1978, established two nondiscretionary formulas for allocating SAE funds. The bulk of SAE funds are allocated under these two formulas, which provide school nutrition and child care SAE funds, respectively, based on program funds expended in the second preceding fiscal year. In addition, the legislation specified that the school nutrition SAE allocation to any State shall not be less than the greater of $100,000 or the amount allocated in the fiscal year ending September 30, 1978. (Pub. L. 97–35 changed this date to September 30, 1981.)

Any funds appropriated for SAE which remain after these nondiscretionary allocations are made, are to be allocated among the States in amounts the Secretary determines necessary for improving program administration. These are the "discretionary" SAE funds and FNS has established, through regulations, several methods for allocating these funds to the States. First, $30,000 is allocated to each State agency which administers the Child Care Food Program and additional $30,000 is allocated to each State educational agency or distributing agency which administers the Food Distribution program in schools. Secondly, a minimum of four million dollars is allocated under a four-part formula to assist States in implementing the Assessment, Improvement, and Monitoring System (AIMS) requirements. Finally, any remaining or residual funds are divided between the Child Care and Food Distribution programs (as determined by the Secretary) and allocated to State agencies and distributing agencies in accordance with formulas prescribed in the regulations.

Because of the minimum support levels and uniform allocation provisions built into the multiple SAE allocation formulas, the actual SAE support level varies widely from State to State if the total amount of SAE allocated to each State agency is compared to program expenditure levels in the allocation base year. The medium and larger sized States receive total SAE allocations that are equivalent to one to two percent of their second preceding fiscal year's program expenditures while the smaller States have SAE support levels ranging from two to over 20 percent. If SAE support levels for individual agencies are computed, the range is even greater. In Fiscal Year 1981, one small State agency received over 75 percent of its second preceding year's program expenditures in SAE funds.

It is generally recognized that administrative costs for smaller agencies are higher proportionately than for larger ones due to the effect of fixed costs, the relative lack of economies of scale, etc. It is for this reason that the law provides for a minimum nondiscretionary school nutrition allocation of $100,000 to any State. However, the uniform allocations provided by three of the discretionary SAE formulas (Child Care, Food Distribution and AIMS), when added to the minimum school nutrition nondiscretionary allocation create SAE support levels for some States which may be excessive. To remedy this situation, FNS is proposing to modify its procedures for allocating discretionary SAE funds to achieve a more equitable allocation of funds by considering discretionary and nondiscretionary allocations together.

Child Care Food program

Each State agency that administers the Child Care Food program is given a nondiscretionary allocation of SAE funds according to a formula based on percentages of program funds expended within the State during the second preceding fiscal year: Twenty percent of the first $50,000; 10 percent of the next $100,000; 5 percent of the next $250,000; and two and one-half percent of any remaining funds. In addition, each State Child Care agency is given discretionary allocations as follows: $30,000 plus a proportionate amount of any child care residual funds based on Child Care SAE funds already allocated.

This rule would limit the amount of child care discretionary funds initially allocated to the State agency. If the amount of child care nondiscretionary funds allocated to a State agency is equal to or greater than ten percent of program funds expended in the second preceding fiscal year, that State would not be allocated any discretionary funds. If the amount of nondiscretionary funds is less than ten percent of program funds, the Department would allocate discretionary funds in an amount equal to the lesser of the full unadjusted discretionary allocations or the difference between the amount of nondiscretionary funds and ten percent of program funds.

For example, assuming that the base year expenditure level was $500,000, the formula allocation of nondiscretionary funds would be $35,000 or 7 percent. This State agency would thus be eligible for 3 percent of its base year expenditures, or $15,000, in discretionary allocations to meet the limit of 10 percent.

School Nutrition Programs

Each State agency that administers the school nutrition programs is allocated nondiscretionary SAE funds equal to one percent of program funds expended within the State during the second preceding fiscal year; however, a State agency cannot by law be allocated less than the greater of: $100,000 or the amount of SAE funds allocated to the State in the fiscal year ending September 30, 1981. In addition each State agency administering the school nutrition programs is allocated discretionary funds for the Assessment, Improvement, and Monitoring System (AIMS) by regulatory formula and if it also administers the Food Distribution Program, is allocated $30,000 in discretionary funds plus a proportionate amount of any food distribution residual funds based on the total value of USDA donated food for schools and child care institutions.

This rule would reduce the amount of discretionary funds initially allocated to State agencies whose nondiscretionary allocations were greater than one percent of their program funds.

For example: State "A" with a base year school nutrition program expenditure level of $7,500,000 earns one percent or $77,000 in nondiscretionary funds under the basic school nutrition SAE formula but is allocated its FY 1981 level, for example $100,000, due to the legislatively mandated minimum funding provision. Assuming that the State

agency's computed discretionary allocations for AIMS and food distribution were an additional $70,000, this rule would reduce the actual amount of discretionary funds allocated by $25,000 ($100,000–$75,000) so that the State agency would receive $45,000 in discretionary funds rather than $70,000.

SAE Plan

Due to special circumstances such as excessive travel distances or large numbers of small School Food Authorities, some State agencies may legitimately justify a higher SAE support level than the level that would be allowed under this rule. To provide FNS with the flexibility to deal with such special circumstances, this rule would allow State agencies to submit justification for additional discretionary SAE funds (up to the unrestricted allocation formula amounts) as part of or amendments to their annual SAE Plan. FNS Regional Offices would be responsible for approving or disapproving these requests.

List of Subjects in 7 CFR Part 235

Food Assistance Programs, National School Lunch Program, School Breakfast Program, Special Milk Program, Grant administration, Intergovernmental relations, Reporting and recordkeeping requirements, Administrative practice and procedure.

PART 235—STATE ADMINISTRATIVE EXPENSE FUNDS

Accordingly, Part 235 is proposed to be amended as follows:

1. Under § 235.4 paragraph (a) and the introductory text of paragraph (b) are redesignated (a)(1) and (a)(2) respectively; redesignated paragraph (a)(2) and paragraphs (b)(1), (b)(2), (b)(3) and (b)(4) are revised for clarity and consistency; a new paragraph (b)(5) is added; in paragraph (c), the first sentence is amended by revising the words "paragraphs (a), (b), (b)(1), (b)(2), (b)(3), (b)(4) and (f)" to read "paragraphs (a)(1), (a)(2), (b)(1), (b)(2), (b)(3), (b)(4), (b)(5) and (f)"; in paragraph (h), the first sentence is amended by revising the words "paragraphs (a), (b), and (b)(1)" to read "paragraphs (a)(1), (a)(2) and (b)(1)"; and headings are added to all paragraphs of the section to read as follows:

§ 235.4 Allocation of funds to States.

(a) *Nondiscretionary funds.*

(1) *School Nutrition Programs.* * * *

(2) *Child Care Food Program.* Each fiscal year, for each State agency that administers the Child Care Food Program, FNS shall allocate nondiscretionary State Administrative Expense (SAE) funds based on the amount of funds expended within the State under the Child Care Food Program (7 CFR Part 226) during the second preceding fiscal year according to the following formula: 20 percent of the first $50,000 of Program funds expended; 10 percent of the next $100,000; five percent of the next $250,000; and two and one-half percent of any remaining funds. FNS may adjust the amount of this allocation to reflect changes in the size of the Child Care Food Program in a State.

(b) *Discretionary funds*—(1) *Child Care Food Program.* Except as provided under paragraph (b)(5)(iii) of this section, each fiscal year FNS shall allocate $30,000 in discretionary State Administrative Expense (SAE) funds for each State agency that administers the Child Care Food Program (7 CFR Part 226).

(2) *Food Distribution.* Except as provided under paragraph (b)(5)(ii) of this section, each fiscal year FNS shall allocate $30,000 in discretionary State Administrative Expense (SAE) funds for each State agency that administers the Food Distribution Program (7 CFR Part 250) in schools as defined in § 235.2(o)(1) of this Part which participate in the National School Lunch Program (7 CFR Part 210). Therefore, a State agency that administers the Food Distribution Program (7 CFR Part 250) *only* in residential child care institutions (schools as defined in § 235.2(o)(2)) will not be allocated these discretionary SAE funds.

(3) *AIMS.* (i) Except as provided under paragraph (b)(5)(ii) of this section, each fiscal year FNS shall allocate funds from the discretionary State Administrative Expense (SAE) funds designated by FNS for the Assessment, Improvement and Monitoring System (AIMS) according to the following four part formula for each State agency that administers the school nutrition programs:

(A) One equal share of forty (40) percent of the AIMS funds.

(B) The ratio of the number of School Food Authorities participating in the National School Lunch Program within the State to the number of those School Food Authorities in all States times twenty (20) percent of the AIMS funds.

(C) The ratio of the number of free and reduced price meals served within the State during the second preceding fiscal year to the number of free and reduced price meals served in all States in the second preceding fiscal year times twenty (20) percent of the AIMS funds.

(D) In States with at least two School Food Authorities having enrollments of 40,000 or more, equal shares of twenty (20) percent of the AIMS funds for each such School Food Authority. In States with fewer than two School Food Authorities having enrollments of 40,000 or more, an equal share for the two largest School Food Authorities having enrollments of more than 2,000. In States with only one School Food Authority, regardless of size, one equal share.

(ii) Each fiscal year the amount of AIMS SAE funds shall be equal to or greater than the amount of SAE funds designated by FNS for program management improvements for the fiscal year ending September 30, 1980.

(4) *Residual for Food Distribution and Child Care.*—(i) *General.* Funds that remain after the allocations required in paragraphs (a)(2), (b)(1), (b)(2) and (b)(3) of this section, and after any payments provided under paragraph (f) and (h) of this section, shall be available, as determined by the Secretary, for allocation for those State agencies which are allocated funds under paragraph (b)(2) of this section for food distribution purposes and for State agencies which administer the Child Care Food Program (7 CFR Part 226).

(ii) *Child Care Food Program.* Except as provided under paragraph (b)(5)(iii) of this section, for any fiscal year the amount of funds allocated for each State Child Care agency shall bear the same ratio to the total amount of funds allocated for all State Child Care agencies under this paragraph as the amount of nondiscretionary funds allocated to the State Child Care agency under paragraph (a)(2) of this section bears to the amount allocated to all State Child Care agencies under that paragraph.

(iii) *Food Distribution.* Except as provided under paragraph (b)(5)(ii) of this section, for any fiscal year the amount of funds allocated for each eligible State agency shall bear the same ratio to the total amount of funds allocated for all eligible State agencies under this paragraph as the value of donated foods delivered to the State during the second preceding fiscal year for schools and institutions participating in National School Lunch Program (7 CFR Part 210) and Child Care Food Program (7 CFR Part 226) bears to the value of donated foods delivered to all States during the second preceding fiscal year for schools and institutions participating in these programs.

(5) *Reduction in discretionary funds.*—(i) *General.* As provided in paragraphs (b)(5)(ii) and (b)(5)(iii) of this section, FNS may withhold funds from a State agency's allocation of discretionary funds calculated under paragraphs (b)(1), (b)(2), (b)(3) and (b)(4) of this section. If FNS withholds funds, it

will hold them until the first reallocation of SAE funds under § 235.4(e) of this section. Any time before the first reallocation, a State agency which has had funds withheld may submit justification for, together with a request for restoration of, all or a portion of the funds as part of, or as an amendment to, its annual SAE Plan under § 235.4(d) of this section. Unless FNS receives adequate justification, FNS will make the unjustified funds available to other State agencies during the first reallocation. (ii) *School Nutrition Programs.* Each fiscal year, if one percent of funds expended during the second preceding fiscal year by the State agency under section 4 and 11 of the National School Lunch Act, as amended, and sections 3 and 4 of the Child Nutrition Act of 1966, as amended, is less than the amount of nondiscretionary funds allocated to the State agency under paragraph (a)(1) of this section, FNS shall withhold the difference from discretionary allocations for that State agency under paragraphs (b)(2), (b)(3), and (b)(4)(iii) of this section. (iii) *Child Care Food Program.* Each fiscal year, if the amount of nondiscretionary funds allocated for a State agency under paragraph (a)(2) of this section is equal to or greater than ten percent of the funds expended within the State for the Child Care Food Program during the second preceding fiscal year, FNS shall withhold all discretionary allocations for that State agency under paragraphs (b)(1) and (b)(4)(ii) of this section. If the amount of nondiscretionary funds is less than ten percent of the funds expended within the State for the Child Care Food Program during the second preceding fiscal year, but the total of nondiscretionary and discretionary Child Care allocations exceeds ten percent of those funds, FNS shall withhold all discretionary funds allocated in excess of the ten percent amount.

(c) *Transfer of funds among programs.* Funds allocated under paragraphs (a)(1), (a)(2), (b)(1), (b)(2), (b)(3), (b)(4), and (b)(5) * * *.

(d) *Plan.* * * *

(e) *FNS reallocation of funds.* * * *

(f) *Adjustment for State assuming administration of program.* * * *

(g) *Adjustment for State terminating administration of program.* * * *

(h) *Funds for FNS administration of programs.* FNS shall have available to it the applicable amounts provided for in paragraphs (a)(1), (a)(2) * * *.

§ 235.6 [Amended]

2. In § 235.6, the references to paragraphs (a) and (b) in the first sentence of paragraph (c) are changed to (a)(1) and (a)(2) respectively.

§ 235.11 [Amended]

3. In § 235.11, the references to § 235.4 (a) in paragraphs (b)(2) and (b)(3) are changed to § 235.4(a)(1) .

(Sec. 7(a), Pub. L. 95-627, 92 Stat. 3621 (42 U.S.C. 1776))

Signed on June 4, 1982.

Samuel J. Cornelius,

Administrator, Food and Nutrition Service.

[FR Doc. 82-15822 Filed 6-10-82; 8:45 am]

BILLING CODE 3410-30-M

Rural Electrification Administration

7 CFR Part 1701

Proposed Revision of REA Form 805

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend Appendix A—REA Bulletins by adding a new REA Bulletin 50–2, Electric Transmission Specifications and Drawings for 115 kV through 230 kV Structures (T–805B). This bulletin sets forth revised drawings to include approximate loading for structures and assemblies, several new 136 kV single structures, numerous new guying assemblies categorized in light, medium, and heavy duty classes. The specifications section has also been expanded to reflect current practices. A separate bulletin will be issued at a later date to cover 34.5 kV through 69 kV transmission structures.

DATE: Public comments must be received by REA no later than August 10, 1982.

ADDRESS: Submit written comments to Archie Cain, Director, Engineering Standards Division, Rural Electrification Administration, Room 1270, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mr. Lee Belfore, Transmission Standards Branch, Rural Electrification Administration, Room 1271, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382–9086. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend 7 CFR Part 1701, Appendix A—REA Bulletins, by adding new REA Bulletin 50–2, Electric Transmission Specifications and Drawings for 115 kV through 230 kV Structures (T–805B). This proposed action has been reviewed in accordance with Executive Order 12291, Federal Regulation. The action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies; or (3) result in significant adverse effects on competition, employment, investment or productivity and therefore has been determined to be "not major". This action does not fall within the scope of the Regulatory Flexibility Act and is not subject to OMB Circular A–95 review requirements. This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

An Advance Notice of Proposed Rulemaking was published in the **Federal Register** on June 22, 1980, Volume 45, Number 142, page 42000. However, no public comments were received in response to the notice.

This proposed action will establish one in a series of new REA Bulletins covering specifications and drawings for electric systems and structures. This particular proposal will update REA's existing specifications and drawings for 115 kV through 230 kv transmission structures. It will also provide space on drawings to add computer and/or inventory control numbers. It will include new structures and assemblies required to meet today's needs and should significantly improve REA borrowers' basis of selection. A new type drawing, transmission detail assembly, has been developed to insure proper field assembly of units. This proposed bulletin will replace REA Form 805, Electric Transmission Specifications and Drawings, 115 kV through 230 kV.

In view of the need to update REA's existing electric transmission specifications and drawings it is hereby proposed to issue a new REA Bulletin 50–2, Electric Transmission Specifications and Drawings for 115 kV through 230 kV Structures (T–805B). A copy of the proposed publication is available upon request from the address indicated above. All written submissions made pursuant to this action will be made available for public inspection during regular business hours, above address.

List of Subjects in 7 CFR Part 1701

Administrative practice and procedure, Electric utilities, Loan programs—energy.

Dated June 2, 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-15665 Filed 6-10-82; 8:45 am]

BILLING CODE 3410-15-M

FEDERAL TRADE COMMISSION

16 CFR Part 436

Franchise Disclosure Rule; Information Collection Requirement

AGENCY: Federal Trade Commission.

ACTION: Application to OMB under the Paperwork Reduction Act [44 U.S.C. 3501 *et seq.*) for clearance of a pilot study of the impact of the Federal Trade Commission's Franchise Rule.

SUMMARY: This application seeks clearance to conduct a pilot study to determine the feasibility of a full-scale effort to gather retrospective data on the impact of the FTC's trade regulation rule "Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures," 16 CFR Part 436 (1982), promulgated on December 21, 1978, and which became effective on October 21, 1979. A small sample of franchisees and of individuals who investigated a franchise and decided against the investment will be surveyed.

DATE: Comments on this application must be submitted on or before July 12, 1982.

ADDRESS: Send comments to Ms. Nell Minow, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503. Copies of this application may be obtained from: Public Reference Branch, Room 130, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Thomas J. Maronick, Office of Impact Evaluation, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 724-1877.

By the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-15694 Filed 6-10-82; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR PARTS 201, 230, 240, 250, 260, 270, and 275

[Release Nos. 33-6407; 34-18794; 35-22527; 39-729; IC-12465; IA-807; S7-934]

Elimination of Legal Size Paper

AGENCY: The Securities and Exchange Commission.

ACTION: Proposed amendments to rules.

SUMMARY: The Securities and Exchange Commission is proposing to amend its rules to require the use of 8½ x 11 inch paper for all statements, applications, reports, documents and amendments thereto filed with the Commission. The Commission's filing system was designed to accommodate both letter size (8½ x 11 inches) and legal size (8½ x 14 inches) papers. After the Commission adopted a micrographics filing program, however, it became apparent that attempting to accommodate both size papers increased the cost of microfiche because, in most instances, it is not possible to get the maximum number of images on each microfiche. Adopting a uniform size for all documents filed with the Commission will achieve maximum cost-efficiency in the Commission's micrographics filing program.

DATE: Comments must be received by June 18, 1982.

ADDRESS: All comments should be submitted in triplicate and addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All comments should refer to File No. S7-934. Comments will be available for public inspection at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Douglas J. Scheidt, Office of the General Consel, Securities and Exchange Commission, 500 North Capitol St., Washington, D.C. 20549. Telephone (202) 272-2454.

SUPPLEMENTARY INFORMATION: The Commission expects that in most instances requiring registrants and others to use 8½ x 11 inch paper for all filings with the Commission will not create hardship. The Commission recognizes, however, that certain documents filed as exhibits with the Commission, such as material contracts and leases, as well as maps, plats and geological surveys, may commonly be prepared on larger paper for purposes other than for filing with the Commission. In some instances, reducing such documents to the required size would be costly or would result in an illegible document. Under such circumstances in which it is not practicable to reduce documents to 8½ x 11 inch paper, the Commission would permit filings on larger paper.

At the request of the Archivist of the United States and upon recommendation of its Court Administrative Committee, the Judicial Conference of the United States has adopted the 8½ x 11 inch paper size standard for use throughout the federal judiciary and directed the elimination of the use of legal size paper measuring 8½ x 14 inches, effective January 1, 1983 (46 FR 60864, Dec. 14, 1981). In addition, many state courts have adopted the letter size requirement.

In light of the above, the Commission is proposing to amend its rules relating to filing requirements to specify the use of 8½ x 11 inch paper for all applications, statements, reports, documents, and amendments thereto filed with the Commission.

The Commission finds, in accordance with the Administrative Procedure Act ("APA"), 5 U.S.C. 553(b)(A), and 5 U.S.C. 553(d), that these amendments relate solely to agency organization, procedure or practice and do not relate to substantive rules. Accordingly, notice and opportunity for public comment pursuant to the APA is not required. In order to assist the Commission to determine whether to approve the proposed amendments, however, interested persons are invited to submit written data, views and arguments concerning the amendments on or before June 18, 1982.

Regulatory Flexibility Act

No regulatory flexibility analysis (or certification that one is not required) is necessary because the proposed rules are procedural, and thus not within the definition of "rule" for purposes of Chapter 6, Title 5, U.S.C.

List of Subjects

17 CFR Part 201

Administrative practice and procedure, Investigations, Securities.

17 CFR Parts 230, 240 and 260

Reporting requirements, Securities.

17 CFR Part 250

Accounting, Reporting requirements, Securities, Utilities.

17 CFR Part 270

Investment companies, Reporting requirements, Securities.

17 CFR Part 275

Investment advisers, Reporting requirements, Securities.

Text of Proposed Amendments

In consideration of the foregoing, the Commission hereby proposes to amend Parts 201, 230, 240, 250, 260, 270 and 275 of Chapter II, Title 17, Code of Federal Regulations, as follows:

PART 201—RULES OF PRACTICE

The authority citation for Part 201 reads as follows:

Authority: Secs. 19, 23, 48 Stat. 85, as amended, 901, as amended, sec. 20, 49, Stat. 833, sec. 319, 53 Stat. 1173, secs. 38, 211, 54 Stat. 841, 855 (15 U.S.C. 77s, 78w, 79t, 77sss, 80a–37, 80b–11).

1. Paragraph (e) of § 201.22 is proposed to be revised as follows:

§ 201.22 Filings; formalities; computation of time.

* * * * *

(e) *Paper, spacing, type.* All paper filed under this part shall be typewritten, mimeographed, lithographed, printed or prepared by any similar process which, in the opinion of the Commission, produces copies suitable for microfilming. All papers shall be plainly legible and shall be on one grade of good unglazed white paper measuring 8½ x 11 inches. To the extent that the reduction of larger documents, which were prepared for purposes other than for filing with the Commission, would render them illegible, such documents may be filed on paper larger than 8½ x 11 inches in size. All papers should have left-hand margins at least 1½ inches wide, shall be bound on the lefthand side, and shall be double-spaced, except that quotations shall be single-spaced and indented. If printed, they shall be in either 10- or 12-point type with double-leaded text and single-leaded quotations.

* * * * *

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

The authority citation for Part 230 reads as follows:

Authority: Secs. 6, 8, 10, 19, 48 Stat. 78, 79, 81, as amended, 85, as amended (15 U.S.C. 77f, 77h, 77s).

2. Paragraph (a) of § 230.403 is proposed to be revised as follows:

§ 230.403 Requirements as to paper, printing, language and pagination.

(a) Registration statements, applications and reports shall be filed on good quality, unglazed, white paper 8½ x 11 inches in size, insofar as practicable, although prospectuses may be on smaller paper if the registrant so desires. To the extent that the reduction of larger documents, which were prepared for purposes other than for filing with the Commission, would render them illegible, such documents may be filed on paper larger than 8½ x 11 inches in size.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

The authority citation for Part 240 reads as follows:

Authority: Secs. 4, 16, 19, 24, 48 Stat. 77, 896, 85, as amended, 901 (15 U.S.C. 77d, 78p, 77s, 78x).

3. Paragraphs (a) and (b) of § 240.12b–12 are proposed to be revised as follows:

§ 240.12b–12 Requirements as to paper, printing and language.

(a) Statements and reports shall be filed on good quality, unglazed white paper, 8½ x 11 inches in size, insofar as practicable. To the extent that the reduction of larger documents, which were prepared for purposes other than for filing with the Commission, would render them illegible, such documents may be filed on paper larger than 8½ x 11 inches in size.

(b) The statement or report and, insofar as practicable, all papers and documents filed as a part thereof, shall be printed, lithographed, mimeographed, or typewritten. However, the statement or report or any portion thereof may be prepared by any similar process which, in the opinion of the Commission, produces copies suitable for a permanent record and microfilming. Irrespective of the process used, all copies of any such material shall be clear, easily readable and suitable for repeated photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies.

* * * * *

PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

The authority citation for Part 250 reads as follows:

Authority: Sec. 19, 48 Stat. 85, as amended, secs. 13, 15, 23, 48 Stat. 894, 895, 901, as amended, sec. 15, 49 Stat. 828, secs. 305, 307, 314, 319, 53 Stat. 1154, 1156, 1167, 1173, as amended, secs. 38, 39, 54 Stat. 841 (15 U.S.C. 77s, 77m, 78o, 78w, 79o, 77eee, 77ggg, 77nnn, 77sss, 80a–37, 80a–38).

4. Paragraph (d) of § 250.22 is proposed to be revised as follows:

§ 250.22 Applications and declarations.

* * * * *

(d) *Formal specifications.* All applications, declarations, certificates and statements, and any amendments thereto, shall be filed in triplicate. One copy shall be signed but the other two copies may have facsimile or typed signatures. Applications and declarations, amendments thereto, and where practicable, all papers filed as a part thereof shall be on good quality, unglazed, white paper, 8½ x 11 inches in size. To the extent that the reduction of larger documents, which were prepared for purposes other than for filing with the Commission, would render them illegible, such documents may be filed on paper larger than 8½ x 11 inches in size. All documents filed shall be bound on the left side in such manner as to leave the reading matter legible, and shall be printed, lithographed, mimeographed, typewritten, or prepared by any process which, in the opinion of the Commission, produces copies suitable for permanent records and microfilming. Irrespective of the process used, all copies of such material shall be clear, easily readable and suitable for repeated photocopying. Debits and credits in financial statements shall be clearly distinguishable as such on photocopies.

* * * * *

PART 260—GENERAL RULES AND REGULATIONS, TRUST INDENTURE ACT OF 1939

The authority citation for Part 260 reads as follows:

Authority: Secs. 305, 307, 314, 319, 53 Stat. 1154, 1156, 1167, 1173 (15 U.S.C. 77eee, 77ggg, 77nnn, 77sss).

5. Section 260.7a–17 is proposed to be revised as follows:

§ 260.7a–17 Quality, color and size of paper.

The application, statement or report, including all amendments and, where practicable, all papers and documents filed as a part thereof, shall be on good quality, unglazed, white paper, 8½ x 11 inches in size. To the extent that the reduction of larger documents, which were prepared for purposes other than filing with the Commission, would render them illegible, such documents may be filed on paper larger than 8½ x 11 inches in size.

6. Paragraph (a) of § 260.7a–18 is proposed to be revised as follows:

§ 260.7a–18 Legibility.

(a) The application, statement or report, including all amendments and,

where practicable, all papers and documents filed as a part thereof, shall be clear, easily readable and shall be typewritten, mimeographed, printed or prepared by any similar process which, in the opinion of the Commission, produces copies suitable for repeated photocopying and microfilming.

* * * * *

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

The authority citation for Part 270 reads as follows:

Authority: Secs. 38, 40, 54 Stat. 841, 842 (15 U.S.C. 80a–37, 80c–89).

7. Paragraph (b) of § 270.0–2 is proposed to be revised as follows:

§ 270.0–2 General requirements of papers and applications.

* * * * *

(b) *Formal specifications respecting applications.* Every application for an order under any provision of the Act, for which a form with instructions is not specifically prescribed, and every amendment to such application shall be filed in quintuplicate. One copy shall be signed by the applicant but the other four copies may have facsimile or typed signatures. Such applications should be on paper 8½ x 11 inches in size. To the extent that the reduction of larger documents, which were prepared for purposes other than for filing with the Commission, would render them illegible, such documents may be filed on paper larger than 8½ x 11 inches in size. The left margin should be at least 1½ inches wide and, if the application is bound, it should be bound on the left side. The application must be typed, printed, copied or prepared by any process which, in the opinion of the Commission, produces copies suitable for microfilming. All typewritten or printed matter (including deficits in financial statements) should be set forth in black so as to permit photocopying.

* * * * *

8. Paragraphs (a) and (b) of § 270.8b–12 are proposed to be revised as follows:

§ 270.8b–12 Requirements as to paper, printing and language.

(a) Registration statements and reports shall be filed on good quality, unglazed, white paper, 8½ x 11 inches in size, insofar as practicable. To the extent that the reduction of larger documents, which were prepared for purposes other than for filing with the Commission, would render them illegible, such documents may be filed on paper larger then 8½ x 11 inches in size.

(b) The registration statement or report and, insofar as practicable, all papers and documents filed as a part thereof, shall be printed, lithographed, mimeographed, or typewritten. However, the registration statement or report or any portion thereof may be prepared by any similar process which, in the opinion of the Commission, produces copies suitable for a permanent record and microfilming. Irrespective of the process used, all copies of any such material shall be clear, easily readable and suitable for repeated photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies.

* * * * *

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

The authority citation for part 275 reads as follows:

Authority: Secs. 203, 204, 211, 54 Stat. 850, as amended, 852, as amended, 855, as amended (15 U.S.C. 80b–3, 80b–4, 80b–11).

9. Paragraph (b) of § 275.0–4 is proposed to be revised as follows:

§ 275.0–4 General requirements of papers and applications.

* * * * *

(b) *Formal specifications respecting applications.* Every application for an order under any provision of the Act, for which a form with instructions is not specifically prescribed, and every amendment to such application shall be filed in quintuplicate. One copy shall be signed by the applicant, but the other four copies may have facsimile or typed signatures. Such applications shall be on paper 8½ x 11 inches in size. To the extent that the reduction of larger documents, which were prepared for purposes other than filing with the Commission, would render them illegible, those documents may be filed on paper larger than 8½ x 11 inches in size. The left margin should be at least 1½ inches wide and, if the application is bound, it should be bound on the left side. All typewritten or printed matter (including deficits in financial statements) should be set forth in black so as to permit photocopying and microfilming.

* * * * *

By the Commission.

George A. Fitzsimmons,

Secretary.

June 7, 1982.

[FR Doc. 82–15867 Filed 6–10–82; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

New Mexico; High-Cost Gas Produced From Tight Formations; Correction

June 7, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: This document corrects a Notice of Proposed Rulemaking in Docket No. RM79–76–109 (New Mexico-12) that appeared in the **Federal Register** on April 5, 1982 (47 FR 14492). This action deletes certain sections from the description of the area recommended for tight formation designation as it appeared in § 271.703(d)(105)(i).

FOR FURTHER INFORMATION CONTACT:

Leslie J. Lawner, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357–8511.

SUPPLEMENTARY INFORMATION:

PART 271—CEILING PRICES

The following correction is made in FR Doc. 82–9023, appearing on page 14493 of the issue of April 5, 1982:

§ 271.703 [Corrected]

§ 271.703(d)(105)(i) is corrected to read as follows:

* * * * *

(d) * * *

(105) * * *

(i) *Delineation of formation.* The Mesaverde Formation is found in San Juan County, New Mexico, Township 32 North, Range 8 West, NMPM, Sections 30 and 31; Township 32 North, Range 9 West, NMPM, Sections 25, 26, 27, 34 and 35.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–15787 Filed 6–10–82; 8:45 am]

BILLING CODE 6717–01–M

18 CFR Part 271

[Docket No. RM 79–76–095 (Texas–20)]

Texas; High-Cost Gas Produced from Tight Formations

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Proposed rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the amended recommendation of the Railroad Commission of Texas that portions of the Vicksburg Formation in Texas be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on June 14, 1982. Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on June 14, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511 or Walter W. Lawson, (202) 357–8556.

SUPPLEMENTARY INFORMATION:

Issued: June 4, 1982.

I. Background

On January 8, 1982, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Monte Christo Vicksburg 9000' Formation located in Hidalgo County, Texas, be designated as a tight formation. Pursuant to § 271.703(c)(4), a Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation (OPPR) was issued on February 12, 1982 (47 FR 7451, February 19, 1982) to determine whether Texas' recommendation that the Monte Christo Vicksburg 9000' Formation be designated as a tight formation should be adopted. On June 2, 1982, Texas amended its recommendation for the Monte Christo Vicksburg 9000' Formation and deleted certain acreage. This Notice of Proposed Rulemaking is hereby issued to give notice of the amended recommendation by Texas and to determine if the recommendation as amended should be adopted. Texas' original recommendation and June 2, 1982 revision and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

As originally submitted to the Commission, the recommended area of the Monte Christo Vicksburg 9000' Formation, found in Hidalgo County, Texas (Railroad Commission District 4), consisted of the following surveys: Jackson Subdivision of the San Salvador Del Tule Grant, Juan Jose Balli Survey A–290; Section 203, Tex.-Mex. Ry. Co. Survey A–124; Section 206, Tex.-Mex. Ry. Co. Survey A–637; Section 207, Tex.-Mex. Ry. Co. Survey A–126; Section 210, W. T. Bomar Survey A–624; Section 211, Tex.-Mex. Ry. Co. Survey A–128; Section 214, Macedonio Vela, Jr. Survey A–623. By its submittal on June 2, 1982, Texas deleted from the recommendation an area in the form of a rectangle, two sides of which extend due north and south, the north line being 750' north of and the west line being 750' west of the Shell Oil Co. Bright & Schiff Hamman No. 1 Well, and the south side being 750' south of and the east line being 750' east of the Shell Oil Co. Bright & Hamman No. 2 Well.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53458, August 12, 1980), notice is hereby given of the proposal submitted by Texas that the Monte Christo Vicksburg 9000' Formation, as described and delineated in Texas' recommendation, as amended, filed with the Commission, be designated as a tight formation pursuant to § 271.703.

III. Public Comments Procedures

Texas requested that the Commission shorten the comment period in this proceeding to permit an expeditious review of the amended formation recommendation. The Director shortens the comment period, inasmuch as this is the second notice of proposed rulemaking issued in this docket, and no major changes have been made. Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before June 14, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–085 (Texas—20), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than June 14, 1982.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation, as amended, is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703(d) is amended by adding new suparagraph (93) to read as follows:

§ 271.703 Tight formations.

* * * * * *

(d) *Designated tight formations.* * * *

(65) through (92) [RESERVED]

(93) *Monte Christo Vicksburg 9000' Formation in Texas.* RM79076–085 (Texas—20).

(i) *Delineation of formation.* The Monte Christo Vicksburg 9000' Formation is located in a portion of Hidalgo County, Texas and is encountered in portions of the following surveys: Jackson Subdivision of the San Salvadore Del Tule Grant, Juan Jose Balli Survey. A–290; Section 203, Tex-Mex. Ry. Co. Survey A–124; Section 206, Tex-Mex. Ry. Co. Survey A–637; Section 207, Tex-Mex. Ry. Co. Survey A–126; Section 210, W. T. Bomar Survey A–624; Section 211, Tex-Mex. Ry. Co. Survey A–128; Section 214, Macedonio Vela, Jr. Survey A–623. Excluded from the

designation is a rectangular area in the Juan Jose Balli Suvey A-290, two sides of which extend due north and south, the north line being 750' north of and the west line being 750' west of the Shell Oil Co. Bright & Schiff Hamman No. 1 Well, and the south side being 750' south of and the east line being 750' east of the Shell Oil Co. Bright & Hamman No. 2 Well.

(ii) *Depth.* The Monte Christo Vicksburg 9000' Formation ranges from a depth of approximately 9000 feet to approximately 9700 feet, with a gross average thickness of approximately 650 feet. The bottom of the formation may extend as deep as 10,400 feet in the undeveloped areas.

[FR Doc. 82-15798 Filed 6-10-82; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

[Regulations No. 4]

Federal Old-Age, Survivors, and Disability Insurance Benefits; Limitations on Benefit Payments to Prisoners; Restrictions on Disability Determinations for Felony-Related and Prison-Related Impairments

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rules.

SUMMARY: These proposed regulations, which are based on Pub. L. 96-473, place certain restrictions on the payment of benefits based on disability and student status to persons who have been convicted of a felony and are imprisoned and restrict the use of certain impairments in determining disability. These proposed rules specify the conditions under which benefits will not be paid to these individuals and how a finding of disability may be affected when an impairment, or the aggravation of a preexisting impairment, arises during the commission of a felony or imprisonment. Before the enactment of Pub. L. 96-473, there were no restrictions upon the payment of benefits or the making of disability determinations for these persons.

DATES: We will consider your comments if we receive them no later than July 12, 1982.

ADDRESSES: Send your written comments to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or deliver them to the Office of Regulations, Social Security Administration, 3-A-3 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235 between 8:00 a.m. and 4:30 p.m., on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: W. Ziegler, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594-7415.

SUPPLEMENTARY INFORMATON:

General Background

Section 5 of Pub. L. 96-473 amends sections 202, 216, and 223 of the Social Security Act (the Act) by placing limitations upon the conditions under which a prisoner may receive benefits as a full-time student and benefits based upon disability. The amendments also impose restrictions on making title II disability determinations by eliminating from consideration impairments or aggrevations of preexisting impairments which occur during the commission of a felony. In addition, impairments or aggravations of preexisting impairments which arise in connection with confinement upon conviction for a felony cannot be considered for payment of disability benefits during the period of confinement. Before the enactment of Pub. L. 96-473 on October 19, 1980, persons confined to penal institutions for convictions of crimes and convicted criminals in mental institutions could become entitled to social security benefits if they met all the conditions required for benefit payments. Conviction of a crime and confinement at public expense generally did not affect benefit payments under the Act. There were only two exceptions. First, by regulation, a person convicted of the felonious homicide of an insured person could not receive social security benefits based on the earnings record of that person. Second, under the Act, a person convicted of a subversive crime against the United States, such as espionage, sabotage, treason, and sedition, could be denied social security benefits as a part of a sentence by a judge.

The 1970 census disclosed that there were approximately 4,000 prisoners throughout the United States who were receiving social security benefits. More recent data collected by the General Accounting Office (GAO) provided estimates of approximately 6,000 prisoners receiving these benefits. These figures indicated to Congress that the number of prisoners becoming entitled to social security benefits is increasing. The Senate Committee on Finance expressed its concern in its Report accompanying H.R. 5295, the House of Representatives' bill which was later enacted as Pub. L. 96-473. (Senate Report No. 987, 96th Cong. 2nd Sess. (1980) page 8).

The committee believes that the basic purposes of the social security program are not served by the unrestricted payment of benefits to individuals who are in prison or whose eligibility arises from the commission of a crime. The disability program exists to provide a continuing source of monthly income to those whose earnings are cut off because they have suffered a severe disability. The need for this continuing source of income is clearly absent in the case of an individual who is being maintained at public expense in prison. The basis for his lack of other income in such circumstances must be considered to be marginally related to his impairment at best.

Disability Benefits

Consequently, the Act was amended to require the suspension of benefits to disabled workers and children disabled before age 22 who would otherwise be receiving benefits based on disability while imprisoned by reason of a felony conviction. This suspension applies unless the prisoner is participating in a vocational rehabilitation program which has been specifically approved for that prisoner by a court of law. However, benefit payments will continue only as long as the prisoner continues to participate actively and satisfactorily in an approved vocational rehabilitation program which is expected to result in the prisoner being able to do substantial gainful activity upon release and within a reasonable time. The amendments also provide that a person may not be considered to be a full-time student for payment of social security benefits while imprisoned for conviction of a felony. In addition, the amendments to the Act provide that impairments, to the extent that they arise from or are aggravated during the commission of a felony for which the individual is convicted, may never be considered in determining whether or not the individual qualifies for social security benefits based on disability. An impairment or aggravation not connected with the commission of a felony but occurring while an individual is in prison for conviction of a felony cannot be considered for purposes of benefit payments based on disability as long as the individual remains in prison. However, impairments arising, or aggravations of preexisting impairments occurring, during confinement can be

used to establish a period of disability for disabled workers. The Social Security Administration is proposing amendments in its regulations in 20 CFR Part 404 to reflect these changes in the law.

Student Benefits

We are proposing to amend § 404.367 of Subpart D (Old-Age, Disability, Dependents' and Survivors' Insurance Benefits; Period of Disability), by adding a new paragraph (d) to explain that no one will be considered in full-time school attendance for benefit payments while imprisoned for conviction of a felony committed after October 19, 1980. This change is based on section 5(b) of Pub. L. 96–473.

Nonpayment of Benefits Based on Disability to Prisoners

We are proposing to add a new § 404.468 to Subpart E (Deductions; Reductions; and Nonpayments of Benefits) to explain that if a person is imprisoned for conviction of a felony committed at any time and is entitled to social security benefits on the basis of disability, other than as a widow, widower, or surviving divorced spouse, benefits will not be paid for any month after September 1980, during all or part of which the person is imprisoned. The only exception to the nonpayment of a prisoner's benefit will be if the person is actively and satisfactorily participating in a rehabilitation program which is specifically approved by a court of law for that person and which the Secretary of Health and Human Services expects will result in the person's being able to do substantial gainful work upon release and within a reasonable time.

Although disability benefits are not payable to the prisoner during confinement, payment of benefits will be made, as if the prisoner were still receiving benefits, to family members who are otherwise entitled to benefits as the prisoner's dependents.

Benefits will be restored to the prisoner effective with the first full month after release from prison if he or she is still disabled. This rule is based on section 5(c) of Pub. L. 96–473.

Permanent Exclusion of Felony-Related Impairment

We are proposing to add a new § 404.1506 to Subpart P (Determining Disability and Blindness) to explain in paragraph (a) that in determining whether a person is under a disability, we will not consider any physical or mental impairment, or any increase in severity (aggravation) of a preexisting impairment, that occurs in connection with the commission of a felony. This rule applies only to felonies committed after October 19, 1980, the date of enactment of Pub. L. 96–473. The person must also have been subsequently convicted of the crime. The impairment, or aggravation, must occur during the commission of the felony in order to be considered to have occurred in connection with the commission of the felony and to be excluded from consideration in determining disability. It is not necessary that there be a causative connection between the commission of the felony and the medical condition, but it must be related to, or associated with, the commission of the offense. Under these circumstances, the impairment or the aggravation of an impairment can never be considered in determining disability, whether or not the person is sentenced to prison. Nor can the impairment, or aggravation, be considered after release from prison after serving a sentence for the crime. This rule is based on section 5(a) of Pub. L. 96–473, and applies in determining disability for workers, children, widows, widowers, and surviving divorced spouses.

Impairments Occurring During Confinement

In the new § 404.1506 of Subpart P (Determining Disability and Blindness), we are proposing to add a paragraph (b) to explain that in determining whether a person is under a disability for purposes of benefit payments, we will not consider any physical or mental impairment, or any increase in severity (aggravation) of a preexisting impairment, that occurs in connection with confinement in a jail, prison, or other penal institution or correctional facility. However, the confinement must be due to the person having been convicted of a felony committed after October 19, 1980, the date of enactment of Pub. L. 96–473. An impairment is considered to have arisen in connection with confinement when it first occurs during confinement. An impairment that began prior to confinement and then increases in severity during confinement is considered to be aggravated in connection with confinement. Under this rule, the impairment or aggravation is excluded from consideration in determining disability for benefits payable for any month during which the person is imprisoned. However, in the case of a disabled worker, an impairment or aggravation that occurs during confinement can be used to establish a period of disability (disability freeze) while the worker is confined.

A prisoner who, because of this provision, is determined not to be disabled for benefit purposes, may become entitled to benefits based on disability upon release from prison, provided that the person is under a disability at that time. In order to receive these benefits, the person will have to apply for them again after release from prison. Benefits, including benefits for dependents, could begin effective with the first full month the person is no longer confined. This rule is also based on section 5(a) of Pub. L. 96–473 and applies to all benefits based upon disability, including benefits for disabled workers, disabled children, and disabled widows, widowers, and surviving divorced spouses.

We are also proposing to cross-refer § 404.1577, which defines disability for widows, widowers, and surviving divorced spouses, and § 404.1581, which defines blindness under the law, to the new § 404.1506 to show that the amendments apply to these cases.

Felonious Offenses and Confinement

Under section 5 of Pub. L. 96–473, a crime is a felony if it is an offense which constitutes a felony under applicable law. However, some legal jurisdictions, such as the State of New Jersey, the U.S. military under the Uniform Code of Military Justice, and some foreign countries, do not classify any crime as a felony. Both § 404.468(b) and § 404.1506(c) explain that in jurisdictions such as these, an offense punishable by death or imprisonment for a term exceeding one year will be considered a felony for purposes of these regulations. This rule is the same as the definition of felony in 18 U.S.C. 1(1), the U.S. Criminal Code.

Also, the proposed new §§ 404.468(c) and 404.1506(d) explain that a jail, prison, or other penal institution or correctional facility includes any facility which is under the control and jurisdiction of the agency in charge of the penal system or any facility in which convicted criminals can be incarcerated. This includes, for example, a mental hospital for the criminally insane which is used as a place for incarcerating convicted criminals, regardless of whether that institution is operated by the correctional authority. These proposed new sections also explain that a person under sentence of confinement to any of these facilities is considered "confined" even though he or she is temporarily hospitalized outside the facility or is temporarily or intermittently outside the facility to work, attend school, or for some other reason. However, a prisoner who is

released on parole or because his or her sentence has ended, been suspended or overturned would no longer be considered confined in the penal facility. Proposed new paragraph (d) of § 404.367 has been cross-referred to proposed § 404.468(b) and (c).

Executive Order 12291—These proposed regulations have been reviewed under E.O. 12291 and do not meet any of the criteria for a major regulation. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act—We certify in accordance with the Regulatory Flexibility Act that these proposed regulations do not have any adverse impact on small entities, because they only place certain restrictions on the payment of benefits based on disability and students benefits to persons who have been convicted of a felony and are imprisoned and restrict the use of certain impairments in determining disability.

Paperwork Reduction Act—These proposed regulations impose no reporting/recordingkeeping requirements necessitating OMB clearance.

(Secs. 202, 205, 216, 223, and 1102 of the Social Security Act, as amended; 49 Stat. 623, as amended, 53 Stat. 1382, as amended, 64 Stat. 510, as amended, 70 Stat. 815, as amended, and 49 Stat. 647, as amended; 42 U.S.C. 402, 405, 416, 423 and 1302)

(Catalog of Federal Domestic Assistance Program Nos. 13.802, Social Security Disability Insurance; 13.803, Social Security Retirement Insurance; 13.805, Social Security Survivors' Insurance)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Death benefits, Disabled, old-age, survivors and disability insurance.

Dated: May 17, 1982.

John A. Svahn

Commissioner of Social Security.

Approved: May 25, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

For the reasons set out in the preamble, Part 404 of Chapter III of Title 20, Code of Federal Regulations, is amended as set forth below.

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950-)

Subpart D—Old-Age, Disability, Dependents' and Survivors' Insurance Benefits; Period of Disability

20 CFR Part 404, Subpart D is amended as follows:

1. The authority citation for Subpart D reads as follows:

Authority: Secs. 202, 205, 216, 223, 228, 1102 of the Social Security Act, 49 Stat. 623, 53 Stat. 1368, 64 Stat. 492, 70 Stat. 815, 80 Stat. 67, 49 Stat. 647; Sec. 5, Reorganization Plan No. 1 of 1953, 67 Stat. 631; 42 U.S.C. 402, 405, 416, 423, 428, and 1302, and 5 U.S.C. Appendix.

2. Section 404.367 is amended by adding a new paragraph (d), reading as follows.

§ 404.367 When are you a "full-time student."

* * * * *

(d) You are not confined in a jail, prison, or other penal institution or correctional facility for conviction of a felony committed after October 19, 1980. (See § 404.468, paragraphs (b) and (c) for the meaning of "felony" and an explanation of when we consider a person to be confined in a penal or correctional facility).

Subpart E—Deductions; Reductions; and Nonpayments of Benefits

20 CFR Part 404, Subpart E is amended as follows:

3. The authority citation for Subpart E reads as follows:

Authority: Secs. 205, 207, and 1102, 53 Stat. 1368, as amended, 79 Stat. 379, as amended, 49 Stat. 647, as amended; sec. 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 18; 42 U.S.C. 405, 427, 1302, unless otherwise noted.

4. A new § 404.468 is added to Subpart E, reading as follows:

§ 404.468 Nonpayment of benefits based on disability to prisoners.

(a) *General.* Except for widows, widowers, and surviving divorced spouses, no benefits based upon disability will be paid to any individual for any month any part of which the individual is confined in a jail, prison, or other penal institution or correctional facility for conviction of a felony. This rule is effective with benefits payable for months beginning on or after October 1, 1980. However, it applies only to the prisoner; benefit payments to any other person who is entitled on the basis of the prisoner's wages and self-employment income are payable as though the prisoner were receiving disability benefits.

(b) *Felonious Offenses.* An offense will be considered a felony if—

(1) It is a felony under applicable law; or

(2) In a jurisdiction which does not classify any crime as a felony, it is an offense punishable by death or imprisonment for a term exceeding one year.

(c) *Confinement.* In general, a jail, prison, or other penal institution or correctional facility is a facility which is under the control and jurisdiction of the agency in charge of the penal system or in which convicted criminals can be incarcerated. Confinement in such a facility continues as long as the individual is under a sentence of confinement and has not been released due to parole or pardon. An individual is considered confined even though he or she is temporarily or intermittently outside of that facility (e.g., on work release, attending school, or hospitalized).

(d) *Vocational rehabilitation exception.* The nonpayment provision of paragraph (a) of this section does not apply if the prisoner is actively and satisfactorily participating in a rehabilitation program which has been specifically approved for the individual by a court of law. In addition, the Secretary must determine that the program is expected to result in the individual being able to do substantial gainful activity upon release and within a reasonable time. No benefits will be paid to the prisoner for any month prior to the approval of the program.

Subpart P—Determining Disability and Blindness

20 CFR Part 404, Subpart P is amended as follows:

5. The authority citation for Subpart P reads as follows:

Authority: Issued under Secs. 202, 205, 216, 221, 222, 223, 225, and 1102 of the Social Security Act, as amended; 49 Stat. 623, as amended, 53 Stat. 1368, as amended, 68 Stat. 1080, as amended, 68 Stat. 1081, as amended, 68 Stat. 1082, as amended, 70 Stat. 815, as amended, 70 Stat. 817, as amended, 49 Stat. 647, as amended; 42 U.S.C. 402, 405, 416, 421, 422, 423, 425, and 1302.

6. A new § 404.1506 is added to Subpart P, reading as follows:

§ 404.1506 When we will not consider your impairment.

(a) *Permanent exclusion of felony-related impairment.* In determining whether you are under a disability, we will not consider any physical or mental impairment, or any increase in severity (aggravation) of a preexisting impairment, which arises in connection with your commission of a felony after October 19, 1980, if you are subsequently convicted of this crime. Your subsequent conviction will invalidate any prior determination establishing disability if that determination was based upon any impairment, or aggravation, which we must exclude under this rule.

(b) *Limited use of impairment arising in prison.* In determining whether you are under a disability for purposes of benefit payments, we will not consider any physical or mental impairment, or any increase in severity (aggravation) of a preexisting impairment, which arises in connection with your confinement in a jail, prison, or other penal institution or correctional facility for conviction of a felony committed after October 19, 1980. The exclusion of the impairment, or aggravation, applies in determining disability for benefits payable for any month during which you are confined. This rule does not preclude the establishment of a period of disability based upon the impairment or aggravation. You may become entitled to benefits upon release from prison provided that you apply and are under a disability at that time.

(c) *Felonious offenses.* We will consider an offense a felony if—

(1) It is a felony under applicable law; or

(2) In a jurisdiction which does not classify any crime as a felony, it is an offense punishable by death or imprisonment for a term exceeding one year.

(d) *Confinement.* In general, a jail, prison, or other penal institution or correctional facility is a facility which is under the control and jurisdiction of the agency in charge of the penal system or in which convicted criminals can be incarcerated. Confinement in such a facility continues as long as you are under a sentence of confinement and have not been released due to parole or pardon. You are considered confined even though you are temporarily or intermittently outside of the facility (e.g., on work release, attending school, or hospitalized).

§ 404.1577 [Amended]

7. Section 404.1577 of Subpart P is amended by adding to the end a new sentence that reads: "We also do not consider certain felony-related and prison-related impairments, as explained in § 404.1506."

§ 404.1581 [Amended]

8. Section 404.1581 of Subpart P is amended by adding to the end a new sentence that reads: "We do not consider certain felony-related and prison-related impairments, as explained in § 404.1506."

[FR Doc. 82-15688 Filed 6-10-82; 8:45 am]

BILLING CODE 4110-11-M

Food and Drug Administration

21 CFR Part 101

[Docket No. 77N-0404]

Food Labeling; Protein Products; Warning Label

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend a final rule published in the Federal Register of April 4, 1980, that established label warning requirements for certain protein products that may be used to reduce weight. The regulation is being amended in accordance with a decision of the District Court for the District of Columbia. The decision found a part of the regulation to be invalid and remanded the entire regulation to the agency for revision of those parts of the regulation invalidated by the court. This document proposes amendments to the regulation that are consistent with the courts ruling.

DATE: Comments by August 10, 1982; should a final rule be published, it will become effective 90 days after its publication in the Federal Register.

ADDRESS: Written comments (preferably two copies) to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Victor P. Frattali, Bureau of Foods (HFF-261), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1064.

SUPPLEMENTARY INFORMATION:

I. General Background

In the Federal Register of December 2, 1977 (42 FR 61285), FDA first proposed to require warnings on the labels and labeling of protein products that may be used for weight reduction. The proposal was issued after FDA received numerous reports of illness and death among persons using these products in very low calorie diets for rapid weight loss. Since that time, significant evidence has accumulated supporting the hypothesis that prolonged use of these protein products for rapid weight loss is related to the sudden onset of cardiac arrythmias and death in otherwise healthy individuals.

The final rule was published in the Federal Register of April 4, 1980 (45 FR 22904). It required that the label and other labeling of any food product that derives more than 50 percent of its total caloric value from either whole protein, protein hydrolysates (degradation products of the chemical or enzymatic treatment of protein), amino acid mixtures, or a combination of these, and that is promoted for use to reduce weight bear the following warning:

> Warning.—Very low calorie protein diets (below 800 Calories per day) may cause serious illness or death. DO NOT USE FOR WEIGHT REDUCTION WITHOUT MEDICAL SUPERVISION. Use with particular care if you are taking medication. Not for use by infants, children, or pregnant or nursing women.

(This warning hereafter is referred to as the "first warning.")

The final rule also provided that protein products subject to the first warning are exempt from that labeling requirement if they are promoted as part of a nutritionally balanced diet plan providing 800 or more Calories (kilocalories) per day, if their label and other labeling bear the following warning:

> Warning.—Use only as directed in the diet plan herewith * * * Do not use as the sole or primary source of calories for weight reduction.

(This warning hereafter is referred to as the "second warning.")

In addition, the final rule provided that the label and other labeling of protein products, as defined in § 101.17(a)(1) (21 CFR 101.17(a)(1)), promoted or intended for food supplementation and promoted specifically for purposes other than weight reduction bear the following warning:

> Warning.—Use this product as food supplement only. Do not use for weight reduction.

(This warning hereafter is referred to as the "third warning.")

Finally, the regulation required that all of the warning statements appear prominently and conspicuously on the principal display panel of the product's package label and on any other labeling in letters of not less than one-sixteenth of an inch.

On May 5, 1980, the Council for Responsible Nutrition (CRN), a trade association whose membership includes manufacturers of dry, whole protein products, filed suit in the District Court for the District of Columbia seeking declaratory and injunctive relief to invalidate the protein products warning label regulation. (A copy of CRN's complaint has been placed on file with FDA's Dockets Management Branch.)

On August 1, 1980, Judge Joyce Hens Green issued a decision in which she held that FDA has legal authority and adequate evidence to impose a label warning requirement on dry, whole

protein products to denote the health risks that might arise from such products while dieting. (A copy of Judge Green's opinion is on file with FDA's Dockets Management Branch.)

Specifically, the court upheld the overall labeling scheme adopted by the agency in which the severity of the warning lessened as the likelihood for misuse of the product lessened. In upholding the second and third warnings, the court stated that "there is no basis for invalidating the defendants' efforts to impose the second and third warnings on dry, whole protein products promoted for use in nutritionally balanced diets of 800 or more calories and on dry, whole protein products promoted as food supplements." (*Id.* at 20–21). The court further held that the first warning was valid as it applied to dry, whole protein products promoted in diets of less than 400 Calories per day. (*Id.* at 18–19).

The court did find, however, that there was insufficient evidence in the record to support FDA's finding that diets between 400 and 800 Calories per day may cause serious illness or death and therefore invalidated the regulation to the extent that it required warnings informing consumers that diets between 400 and 800 Calories per day may cause serious illness or death. The court remanded this portion of the regulation to FDA "for further study and the formulation of sufficient evidence to support its rule as presently drawn or to enable it to create any new warning or warnings that may be required" (*Id.* at 21). Because of the court's view that it would be inequitable and unwise to place the second and third warnings into effect while remanding the first, the court's remand encompassed the entire regulation.

Although the court did not reach a final decision on certain first amendment issues raised by CRN, the court did observe that, while FDA was not obligated to accept language recommended by CRN, CRN had suggested that its members would accept cautionary words other than "Warning" such as "Important" or "Notice." The court further noted that FDA should consider, as an alternative to the second warning's directive that the diet plan be carried in full on those products seeking an exemption from the first warning, whether distributors should be given the option of providing an address from which such a diet plan could be obtained by mail. (FDA's response to these suggestions are discussed below.)

The agency decided not to seek appeal of Judge Green's decision because the agency substantially prevailed in the litigation. On October 10, 1980, FDA published a notice in the Federal Register (45 FR 67319) announcing that it would not implement the April 4, 1980, final rule and that the agency would reopen the rulemaking proceeding in accordance with the remand instructions of Judge Green.

On June 26, 1980, a second legal action was filed in the District Court for the Southern District of New York by the National Nutritional Foods Association (NNFA), a trade association representing manufacturers of liquid as well as powdered protein products. NNFA made legal and factual arguments similar to those arguments presented to the District of Columbia District Court by CRN. This case is now being held in abeyance as a result of FDA's decision to reopen the rulemaking proceeding and propose to revise the regulation in accordance with Judge Green's instructions.

Following Judge Green's decision, CRN submitted a letter to FDA dated November 11, 1980, which proposed changes in the protein product label warning regulation and requested that FDA allow notice and comment on any changes to be made. (A copy of CRN's letter has been placed on file with FDA's Dockets Management Branch.) Although FDA is not legally required to allow notice and comment, it has decided to do so because this proposal involves an important public health issue and has generated a great deal of controversy. Because FDA has decided to accept public comment on the current proposal, FDA will not respond to CRN's proposals in this document, but rather will consider them with other comments received in response to this proposal.

II. New Evidence

FDA has reexamined the record of this rulemaking proceeding and examined other available information to determine whether additional evidence exists concerning the risks associated with the use of protein products in very low calorie diets generally, and specifically in diets of 400 to 800 Calories per day. FDA believes that it has found significant additional evidence concerning some of these risks both in the existing record and from other sources.

A. The University of Rochester Study

A recent study conducted at the University of Rochester demonstrated that a liquid protein diet of 300 Calories per day is frequently associated with potentially life-threatening arrhythmias that are not detected by routine electrocardiography. (Lantigua, R. A., et al., Cardiac Arrhythmias Associated With a Liquid Protein Diet for the Treatment of Obesity, *New England Journal of Medicine*, 303: 735–8, 1980.) (A copy of this article has been placed on file with FDA's Dockets Management Branch.) In this closely monitored in-patient study, potentially life-threatening arrythmias were documented through 24-hour ambulatory recordings in 3 of 6 obese patients within 4 weeks after the liquid protein diet had began. These arrythmias occurred as early as 10 days after the beginning of the diet and were not detected on repeat standard 12-lead electrocardiography. The absence of these arrythmias in the periods before and after the diet was considered to preclude the possibility of spontaneous variability in cardiac rhythm.

The study used a commercially available collagenderived amino acid mixture as the sole source of protein. The authors of the study did not attribute these cardiac abnormalities to the quality of the protein used, noting that "the cause of these cardiac abnormalities is unknown." Indeed, the authors observed that their subjects "had modest total body protein loss, as measured by potassium-40 counting and nitrogen balance. This loss occurred primarily in the first 10 days of the diet, and over 40 days averaged 2.25 grams per day, which is similar to the loss while ingesting protein of high biological value." (*Id.* at 737, footnotes omitted.) These data tend to support the conclusion that protein quality is not a demonstrable factor in the causation of these cardiac arrythmias.

The authors of the study concluded that "protein-supplemented fasts as currently prescribed should be terminated pending further studies of the cause and prevention of such cardiac arrythmias." (*Id.* at 738.)

Although the agency does not believe that the findings of the University of Rochester study are sufficient to warrant banning the use of protein products in very low calorie diets, these data add considerable support to FDA's conclusion that very low calorie protein diets may cause serious illness or death. The most significant aspect of this study is that potentially life-threatening effects that were not detectable by conventional electrocardiography occurred within a short period of time. These data underscore the need for appropriate label warnings to ensure that unsuspecting consumers are not subjected to these hazards.

While the agency recognizes that the caloric intake of those persons in the University of Rochester study was below 400 Calories per day, the study

does not provide any assurance that protein diets above 400 Calories per day are safe. The agency has been unable to obtain detailed information concerning the risks of protein diets above 400 calories per day.

B. Other Evidence Concerning Protein Biological Quality and Caloric Intake

The agency is aware of newly published and some unpublished clinical data that permit an evaluation of the metabolic efficacy of high and low biological quality protein foods when used for rapid weight reduction at daily intakes between approximately 330 and 500 Calories. These studies include one conducted at the University of California at Los Angeles (Fisler, J. S.; Very Low Calorie—Protein Sparing—Diets in Severe Obesity, A Metabolic Evaluation of High and Low Quality Protein Supplements with Comparisons to Total Fasting; dissertation for the degree of Doctor of Philosophy in Public Health, UCLA, 1980), another at Columbia University (Yang, M. U., et al., Metabolic Effects of Substituting Carbohydrate for Protein in a Very Low Calorie Diet: A Prolonged Study in Obese Patients, *International Journal of Obesity*, 5:231–236, 1981), and a third at Yale University (DeHaven, J., et al., Nitrogen and Sodium Balance and Sympathetic-Nervous-System Activity in Obese Subjects Treated with a Low-Calorie Protein or Mixed Diet, *New England Journal of Medicine*, 302:477–82, 1980). All documents have been filed with FDA's Dockets Management Branch.

The UCLA study involved 10 obese male subjects divided equally between two test groups: one fed a low calorie, low quality (hydrolyzed collagen) protein diet, and the other fed a high quality soy protein diet. The diets for both groups lasted for 40 days. Daily amounts of protein were determined on the basis of ideal body weight for each subject. Accordingly, the averages and ranges for daily caloric intake for the low and high biological quality protein diet groups were 372 (302–455) Calories per day, and 416 (361–476) Calories per day, respectively. Mean nitrogen balance values for the low and high quality protein groups were calculated to be −4.41 and −3.57 g per day. The difference between the two groups, however, was not found to be statistically significant.

In the Columbia University study, three obese male subjects were fed a low calorie protein diet of high biological quality with a small amount of safflower oil at fixed intakes based on ideal body weight. The intakes ranged from 430 to 480 Calories per day. The average value nitrogen balance of −3.52 g per day for the first 40 days is almost identical to the observed in the UCLA study. In the Yale University study, a net nitrogen balance of −2.6 g per day was reported for one male and six female subjects on a 21-day low calorie protein diet consisting of boiled turkey at 400 Calories per day. As mentioned previously, the University of Rochester group reported an average value of −2.25 g nitrogen per day for six obese subjects (five women and one man) placed on a hydrolyzed collagen diet at 300 Calories per day for 40 days.

All of these data taken together indicate that total body protein loss is similar for both high and low quality protein products in very low calorie diets. Since it is not known to what extent the rate of body protein loss, as determined from nitrogen balance data, is a factor relevant to the causation of death, the agency sees no basis for distinguishing among protein products on the basis of biological quality in very low calorie diets.

The agency has also reexamined the telephone survey conducted in 1977 to determine the usage of protein products in dieting. This reexamination has revealed that at least 79 percent (and possibly more) of the persons who reported using a powdered protein product as the principal or sole source of calories for a day or longer were using a high quality powdered protein product.[1] Virtually none of these high quality powdered protein products was promoted specifically for use in diets of less than 400 Calories per day.

Moreover, further examination of the results of the telephone survey revealed that significant numbers of persons were using these high quality protein products for extended periods of time, in some cases exceeding one or two months. These data lend further support to FDA's conclusion that high quality powdered protein products can be and have been used as the principal or sole source of calories for extended periods of time. In view of the risks of such usage, label warning requirements for such products are clearly warranted.

From the telephone survey, FDA has made statistical projections of the numbers of powdered protein product users in the U.S. among 25 to 44 year old females during 1977. These projections demonstrated that during 1977, between 17,000 and 78,000 women in this age category consumed a powdered protein product as the sole or principal source of calories for a month or more and between 5,000 and 51,000 women in this category consumed such products for 2 months or more. Given that at least 79 percent of those persons who reported using a powdered protein product as the principal or sole source of calories for a day or longer were in fact using a high quality protein product, these projections show that a significant number of people used high quality powdered protein products as the sole or principal source of calories for periods both of 1 month or longer and of 2 months or longer.

Finally, FDA's reexamination of the telephone survey has also revealed that 14 of the persons surveyed who reported using a high quality powdered protein product as the sole or principal source of calories for a period of a day or longer also reported that they discontinued use of the product because they became ill. Although this additional evidence lacks sufficient detail to permit any firm conclusions to be drawn about the safety of high quality protein products when used in very low calorie diets, it is an added cause for concern about the safety of these products and, when viewed with the other evidence of serious illness and death associated with the use of high quality powdered protein products discussed in the tentative final rule (43 FR 60890) and the final rule (45 FR 22906), confirms FDA's conclusions that the proposed label warning requirements should apply to high quality powdered protein products.

[1] FDA was unable to determine the quality of the powdered protein products used by the remaining people in this category.

III. The Proposed Protein Product Label Warning and Notice Regulation

FDA proposes to make the following six changes in the April 4, 1980, label warning regulation:

1. The first statement, a warning would be amended to inform consumers that "Very low calorie protein diets (below 400 Calories per day) (instead of 800 Calories per day) may cause serious illness or death." In addition, the statement "Use with particular care if you are taking medication" would be deleted from the first warning.

2. The second statement, a notice would be amended to exempt products promoted in diets of 400 Calories or more per day rather than 800 Calories or more per day.

3. The definition of "protein products" subject to the label warning requirements would be amended to include only protein products marketed in liquid, powder, capsule, tablet, or similar forms. Because of this revision, the exemption from the warning for traditional foods labeled "low calorie" or "reduced calorie" in accordance with

21 CFR 105.66 would be unnecessary and therefore would be deleted.

4. The second and third statements would be amended by substituting for the word "Warning" the word "Notice" preceding the text of the second and third statements.

5. The second statement would be amended to eliminate the requirement that the entire detailed diet plan be included on the labeling of the product if the manufacturer includes a brief description of the plan in the labeling of the product and makes the complete diet plan available by mail.

6. The specific requirements for the form of the label statements, e.g., letter size, have been deleted. The statements would be required only to appear prominently and conspicuously on the principal display panel of the label and any other labeling.

A. Proposed Revision of the First and Second Label Warnings

FDA has reviewed and reassessed the evidence in the record at the time of the publication of the April 4, 1980, final rule and the new evidence discussed above and believes that the record fully supports the need for a warning informing consumers that protein diets consisting of less than 400 Calories per day may cause serious illness or death. Therefore, FDA proposes to retain the first warning, but to amend it to delete the statement that protein diets below 800 Calories per day may cause serious illness or death and replace it with a statement that, "Very low calorie protein diets (below 400 Calories per day) may cause serious illness or death."

The agency has also deleted the phrase "Use with particular care if you are taking medication" from the first warning. The agency decided that this phrase was unnecessary in view of the statement in the first warning that the product should not be used for weight reduction without medical supervision. FDA continues to be concerned about the health effects of protein products used in diets providing between 400 and 800 Calories per day. FDA believes that a diet consisting of between 400 and 800 Calories per day and followed for an extended period of time is potentially hazardous no matter what foods are consumed. A recent review of available scientific information entitled "Evidence Concerning Hazards of 400–800 Calorie Diets and Related Questions," which was prepared under contract with FDA and which has been placed on file with FDA's Dockets Management Branch, lends support to this position. FDA has decided, however, that the evidence at this time relating specifically to the use of protein products in diets between 400 and 800 Calories per day is insufficient to warrant requiring on such products a warning of serious illness or death. Therefore, FDA proposes to amend the second statement by exempting from the warning all protein products promoted as part of a nutritionally balanced diet plan providing 400 Calories or more per day. Manufacturers who choose to do so may of course promote their products as part of a nutritionally balanced diet plan providing 800 Calories or more per day without violating the Federal Food, Drug, and Cosmetic Act, if they comply with the other provisions of the second statement requirement.

FDA believes that the evidence of record fully supports the proposed amendments to the first and second statements as they apply to both liquid collagen-derived and dry, whole protein products. This evidence is discussed in detail above and in FDA's initial proposed rule (42 FR 61285), the tentative final rule (43 FR 60883), and the April 4, 1980 final rule (45 FR 22904). FDA incorporates by reference these documents and the evidence cited in them. FDA further believes that this amendment to the first and second statements remedies the defect in them found by Judge Green.

B. Proposed Revision of Protein Products Definition

FDA proposes to revise the definition of "protein products" subject to this regulation to include only protein products in liquid, powder, tablet, capsule, or similar forms. FDA is proposing this revision in response to comments by CRN and other manufacturers that traditional foods such as fish and cottage cheese should not be subject to the label warning requirement even though they derive more than 50 percent of their caloric value from protein. FDA agrees with these suggestions because, unlike liquid and dry, whole powdered protein products, there is no significant evidence of usage of traditional foods in very low calorie diets nor is FDA aware that any traditional foods have been promoted for use in such diets. FDA therefore is proposing to narrow the definition of "protein products" subject to the proposed rule to those products containing protein in a form compositionally equivalent to the form of protein that was associated with the deaths and serious illnesses reported to FDA, i.e., liquid, powder, tablet, capsule, or similar forms. Because of this proposed revision, the exemption from the warning for traditional foods labeled "low calorie" or "reduced calorie" in accordance with 21 CFR 105.66 is unnecessary. FDA therefore proposes to delete this provision.

C. Proposed Revisions of the Second and Third Labeling Statements

FDA proposes to revise further the second labeling statement which required manufacturers to include the complete detailed diet plan on the label of the product. Under this proposal, manufacturers would have the option of either including a brief description of the diet plan on the label or in the labeling of the product or informing consumers that the detailed diet plan can be obtained by mail. This option would place less of a burden on manufacturers, especially those who recommend lengthy or complex diet plans.

In addition, FDA proposes to amend the second and third labeling statements, in accordance with Judge Green's suggestion, to lessen their severity. The text of the second and third labeling statements was preceded by the word "Warning," which many manufacturers complained was too harsh. Under the proposal, the text of the proposed notice would be preceded by the word "Notice" rather than "Warning." FDA believes that the word "Notice" is sufficient to alert consumers and at the same time should satisfy manufacturers who complained about the word "Warning."

D. Proposed Revision of the Required Format

FDA proposes to amend § 101.17(d)(7) to require only that the labeling statements "appear prominently and conspicuously on the principal display panel of the package label and on any other labeling." The agency proposes to delete specific requirements as to the size of the lettering and other format requirements to give manufacturers more flexibility to design their own label warning and notice formats, while at the same time ensuring that the statement is prominent and conspicuous so that consumers are given adequate notice of the information contained in the warning and notices.

IV. Conclusion

After consideration of all comments received in response to this notice of proposed rulemaking, the agency will decide whether to publish a final regulation in the **Federal Register** establishing the label warning and notice requirements.

All information on which the agency relies in support of this proposal has been filed with the Dockets Management Branch (address above). A

list of these documents can be obtained from the Dockets Management Branch.

The environmental impact analysis report prepared in conjunction with the regulation proposed December 2, 1977, was determined valid for this proposal. A copy of the environmental impact analysis report has been filed in the Dockets Management Branch.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposed rule would have on small entities including small businesses and has determined that the proposal will require labeling changes involving minimal cost expenditures. Therefore, FDA certifies in accordance with section 605(b) of the act that no significant economic impact on a substantial number of small entities will derive from this action. The agency has also determined that the proposed rule is not a major rule as defined in Executive Order 12291.

A copy of the regulatory assessment supporting these determinations is on file with the Dockets Management Branch.

List of Subjects in 21 CFR Part 101

Food labeling; Misbranding; Nutrition labeling; Warning statements.

PART 101—FOOD LABELING

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 403(a), 701(a), 52 Stat. 1041 as amended, 1047 as amended, 1055 (21 U.S.C. 321(n)), 343(a), 371(a))) and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982), it is proposed that Part 101 be amended in § 101.17 by adding new paragraph (d) to read as follows:

§ 101.17 Food labeling warning and notice statements.

* * * * *

(d) *Protein products.* (1) The label and labeling of any food product in liquid, powdered, tablet, capsule, or similar forms that derives more than 50 percent of its total caloric value from either whole protein, protein hydrolysates, amino acid mixtures, or a combination of these, and that is represented on the label or in labeling or is otherwise promoted for use to reduce weight shall bear the following warning:

Warning.—Very low calorie protein diets (below 400 Calories per day) may cause serious illness or death. DO NOT USE FOR WEIGHT REDUCTION WITHOUT MEDICAL SUPERVISION. Not for use by infants, children, or pregnant or nursing women.

(2) Products described in paragraph (d)(1) of this section are exempt from the labeling requirements of that paragraph if the protein products are promoted as part of a nutritionally balanced diet plan providing 400 or more Calories (kilocalories) per day and the label or labeling of the product specifies the diet plan in detail or provides a brief description of that diet plan and adequate information describing where the detailed diet plan may be obtained and the label and labeling bear the following statement:

Notice.—Use only as directed in the diet plan described herewith (the name and specific location in labeling of the diet plan may be included in this statement in place of "diet plan described herewith"). Do not use as the sole or primary source of calories for weight reduction.

(3) The label and labeling of food products promoted or intended for dietary (food) supplementation that derive more than 50 percent of their total caloric value from either whole protein, protein hydrolysates, amino acid mixtures, or a combination of these, and that are promoted specifically for purposes other than weight reduction shall bear the following statement:

Notice.—Use this product as a food supplement only. Do not use for weight reduction.

(4) Protein products described in paragraph (d)(2) of this section that are also promoted for purposes other than weight reduction as described in paragraph (d)(3) of this section shall bear the warning statement set forth in paragraph (d)(2) of this section except that the phrase "or as a food supplement" may be inserted in the first sentence, i.e., "Use only as directed in the diet plan described herewith or as a food supplement."

(5) The provisions of this paragraph are separate from and in addition to any labeling requirements promulgated by the Federal Trade Commission for protein supplements.

(6) Protein products shipped in bulk form for use solely in the manufacture of other foods and not for distribution to consumers in such container are exempt from the labeling requirements of this paragraph.

(7) The warning and notice statements required by paragraphs (d)(1), (2), (3), and (4) of this section shall appear prominently and conspicuously on the principal display panel of the package label and on any other labeling.

Interested persons may, on or before August 10, 1982, submit to the Dockets Management Branch written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 19, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Dated: May 19, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82-15798 Filed 6-8-82 10:42 am]
BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

Public Disclosure of Comments Received From Federal Agencies on the Pennsylvania Proposed State Permanent Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: Before the Secretary of the Interior may approve permanent State regulatory programs submitted under section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain Federal agencies must be solicited and disclosed. The Secretary has solicited comments of these agencies on the Pennsylvania proposed program, and is today announcing their public disclosure.

ADDRESSES: Copies of the comments received are available for public review during regular business hours at:

Pennsylvania Department of Environmental Resources, Fulton Bank Bldg., 10th Floor, Third and Locust Streets, Harrisburg, Pennsylvania 17120, Phone: (717) 787-4856

Office of the Field Solicitor, 603 Morris Street, Charleston, West Virginia 25301, Phone: (304) 347-7175

Office of Surface Mining, Department of the Interior, Room 5315, 1100 L Street NW., Washington, D.C. 20240, Phone: (202) 343-7896

FOR FURTHER INFORMATION CONTACT: Mr. Patrick B. Boggs, Regional Director, Office of the Field Solicitor, 603 Morris Street, Charleston, West Virginia 25301, Phone: (304) 347-7175.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is reevaluating the permanent regulatory program

submitted by Pennsylvania for his review on February 29, 1980, and the revisions thereto. See 45 FR 15575–15576 (March 11, 1980), 45 FR 28165–28167 (April 28, 1980), FR 41656–41659 (June 20, 1980), 45 FR 69970–69977 (October 22, 1980), 47 FR 4318–4320 (January 29, 1982), 47 FR 15368 (April 9, 1982), 47 FR 19721–19722 (May 7, 1982). In accordance with section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1), the Pennsylvania program may not be approved until the Secretary has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following Federal agencies were invited to comment on the Pennsylvania program:

Advisory Council on Historic Preservation
Appalachian Regional Commission
Council on Environmental Quality
Delaware River Basin Commission
Department of Agriculture
Agriculture Stabilization and Conservation Service
Farmers Home Administration
Forest Service
Agricultural Research Service
Soil Conservation Service
Department of Energy
Department of the Interior
Bureau of Indian Affairs
Bureau of Land Management
Bureau of Mines
Bureau of Reclamation
Fish and Wildlife Service
Geological Survey
National Park Service
Department of Labor
Mine Safety and Health Administration
Environmental Protection Agency
Ohio River Basin Commission
U.S. Army Corps of Engineers
Water Resources Council

Of those agencies invited to comment, OSM received comments from the following offices:

Advisory Council on Historic Preservation
Delaware River Basin Commission
Department of Agriculture
Forest Service
Soil Conservation Service
Department of the Interior
Fish and Wildlife Service
Geological Survey
Bureau of Mines
Bureau of Land Management
Department of Labor
Mine Safety and Health Administration
Environmental Protection Agency
U.S. Army Corps of Engineers

These comments are available for review and copying during regular business hours at the locations listed above under "ADDRESSES."

Dated: June 8, 1982.

Carl C. Close,
Acting Assistant Director, Program Operations and Inspection, Office of Surface Mining, Reclamation and Enforcement.

[FR Doc. 82-15885 Filed 6-10-82; 8:45 am]
BILLING CODE 4310-05-M

Bureau of Land Management

43 CFR Subtitle A and Subtitle B

Draft Wildlife Program Policy Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Extension of comment period.

SUMMARY: The comment period in the Federal Register Notice, dated May 10, 1982, (47 FR, Vol. 90, Page 20009) has been extended from June 30, 1982, to July 30, 1982, regarding basic policies for managing and safeguarding wildlife resources on the public lands.)

DATE: Comments by July 30, 1982.

ADDRESS: Comments should be sent to: Director (240), Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: J. David Almand, 202/653–9202.

Robert F. Burford,
Director, Bureau of Land Management.
June 7, 1982.

[FR Doc. 82-15834 Filed 6-10-82; 8:45 am]
BILLING CODE 4310-84-M

Notices

Federal Register
Vol. 47, No. 113
Friday, June 11, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Information Collection Request Under Review

AGENCY: ACTION.

ACTION: Information Collection Request Under Review.

SUMMARY: This notice sets forth certain information about an information collection proposal by ACTION, the national volunteer agency.

BACKGROUND: Under the Paperwork Reduction Act (44 U.S.C., Chapter 35), the Office of Management and Budget (OMB) reviews and acts upon proposals to collect information from the public or to impose recordkeeping requirements. ACTION has submitted the information collection proposal described below to OMB. OMB and ACTION will consider comments on proposed collect of information and recordkeeping requirements. Copies of the proposed forms and supporting documents (request for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents) may be obtained from the agency clearance officer.

INFORMATION ABOUT THIS PROPOSED COLLECTION: Agency Clearance Officer—Richard D. English—202–254–8501.

Agency Address: ACTION, 806 Connecticut Ave., N.W. Washington, D.C. 20525.

I

Title of Form: Descriptive Evaluation of RSVP and FGP Volunteers Working in Selected Head Start Projects Office of ACTION Issuing Proposal: Evaluation Division Office of Policy and Planning.

Agency Official to Contact for Further Information: Melvin E. Beetle.

Type of Request: New.

Frequency of Collection: Nonrecurring.

General Description of Respondents: Project directors Head Start grant directors, centers directors, volunteers.

Estimated Number of Responses: 419.

Estimated Hours for All Respondents to Complete Form: 210.

Respondent's Obligation to Reply: Voluntary.

This is not a collection proposal under Sec. 3504(h) of the Paperwork Reduction Act.

II

Title of Form: RSVP Participant Impact Evaluation.

Office of ACTION Issuing Proposal: Evaluation Division, Office of Policy and Planning.

Agency Official to Contact for Further Information: Mel Beetle.

Type of Request: New.

Frequency of Collection: Three times in 24 months.

General Description of Respondents: Retired Senior Volunteer Program participants.

Estimated Number of Responses: 1800.

Estimated Hours of All Respondents to Complete Form: 1350.

Respondent's Obligation to Reply: Voluntary.

This is not a collection proposal under Sec. 3504(h) of the Paperwork Reduction Act.

Person responsible for OMB Review: James L. Thomas, 202–395–6880.

Richard D. English,

Deputy Assistant Director, ACTION.

[FR Doc. 82-15829 Filed 6-10-82; 8:45 am]
BILLING CODE 6050-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Water Bank Program (WBP) Payments; Determination of Primary Purpose for Amounts That May Be Excluded From Income Under Section 126 of the Internal Revenue Code of 1954, as Amended

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of Determination.

SUMMARY: The purpose of this notice is to announce the determination by the Secretary of Agriculture that certain Federal payments made to farmers under the Water Bank Program (WBP) are deemed to have been made primarily for purposes of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife. This determination by the Secretary is made in accordance with Section 126(b) of the Internal Revenue Code of 1954 as amended by Section 543 of the Revenue Act of 1978 and the Technical Corrections Act of 1979. The effect of this determination is to make it possible for recipients of these payments to exclude some or all of such payments from gross income for Federal income tax purposes if certain other conditions are met.

FOR FURTHER INFORMATION CONTACT: Director, Conservation and Environmental Protection Division, Agricultural Stabilization and Conservation Service, U.S.D.A., P.O. Box 2415, Washington, D.C. 20013, (202) 447–6221.

SUPPLEMENTARY INFORMATION: This action has been reviewed in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified as "not major." It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this notice applies are: Title—Water Bank Program; Number—10.062; as found in the Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local governments are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of determination since ASCS is not required to publish a notice of proposed rulemaking pursuant to 5 U.S.C. 553 or any other provision of law with respect

to the subject matter of this determination.

Section 126 of the Internal Revenue Code of 1954, as amended by the Revenue Act of 1978 and the Technical Corrections Act of 1979, provides that certain payments which are made to persons under conservation programs administered by the Department of Agriculture may be eligible for exclusion from gross income if certain determinations are made. One such determination involves the Secretary of Agriculture who must determine whether certain cost-share payments issued to persons under designated programs listed in Section 126(a) are "made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife." In making any such determination, the Secretary of Agriculture must evaluate each of those designated programs based upon criteria set forth at 7 CFR Part 14.

One of the conservation programs listed in Section 126(a) is the Water Bank Program (WBP) which is authorized by the Water Bank Act, as amended (16 U.S.C. 1301 et seq.). This program is funded annually by agriculture appropriations acts.

The objective of the Water Bank Program is to preserve, restore, and improve the wetlands of the Nation, and thereby (1) to conserve surface waters, (2) to preserve and improve habitat for migratory waterfowl and other wildlife resources, (3) to reduce surface runoff, soil and wind erosion and contribute to flood control, (4) to contribute to improved water quality and reduce stream sedimentation, (5) to contribute to improved subsurface moisture, (6) to reduce acres of new land coming into production and to retire lands now in agricultural production, (7) to enhance the natural beauty of the landscape, and (8) to promote comprehensive and total water management planning.

Under the WBP, the Secretary is authorized to enter into agreements with landowners or operators to place certain eligible wetlands and adjacent areas in the program for ten year periods. Under such agreements, the landowner or operator agrees to maintain the character of the wetland area and not to use such area for agricultural purposes. In return, the Secretary is authorized by Section 5 of the Water Bank Act to make two distinct types of payments to landowners or operators. One such payment, which is an annual payment, is not the subject of this "primary purpose" determination. The other payment, which is the subject of this determination, is a cost-share payment which is made by the Secretary to landowners and operators for the establishment and maintenance of conservation and development practices on wetlands and adjacent areas. Generally, cost-share assistance is provided by the Secretary for the performance of these conservation practices in accordance with WBP agreements entered into with landowners or operators if it is determined that such practices are necessary to achieve or maintain the WBP acreage as a viable waterfowl habitat. Cost-share payments are made to eligible producers under the program for the satisfactory installation of conservation practices developed primarily to accomplish one or more of the following:

(a) Establish long-lasting vegetative cover to protect the wetlands by conserving soil and water and providing migratory nesting cover.

(b) Benefit wildlife by providing shallow water areas and improved habitat.

(c) Conserve surface waters and contribute to flood control and improved subsurface moisture.

(d) Control soil erosion to contribute to improved water quality and soil conservation.

The WBP authorizing legislation, regulations, and operating procedures have been carefully examined using the criteria established by the Department of Agriculture under 7 CFR Part 14 for making "primary purpose" determinations with respect to payments which are identified in the applicable Water Bank agreement as cost-share payments. It has been concluded that these cost-share payments under the WBP are made for the purpose of providing financial assistance to landowners and operators for preserving, restoring and improving wetlands in important migratory waterfowl nesting and breeding areas and for other environmental enhancement measures. A "Water Bank Program (WBP) Record of Decision: Primary Purpose Determination for Federal Tax Purposes" has been prepared and is available upon request from the Conservation and Environmental Protection Division.

Determination

Therefore, I have determined that in accordance with Section 126(b)(1) of the Internal Revenue Code of 1954, as amended, all cost-share payments made for those conservation practices approved under the Water Bank Program after September 30, 1979, for the purpose of establishing and maintaining conservation and development practices on wetlands and adjacent areas are made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife.

Signed at Washington, D.C. on June 4, 1982.

John R. Block,

Secretary, U.S. Department of Agriculture.

Water Bank Program (WBP), Record of Decision, Primary Purpose Determination for Federal Tax Purposes

Introduction: The Secretary of Agriculture is authorized by Section 126 of the Internal Revenue Code of 1954, as amended (26 USC 126), to determine the primary purpose for which payments are made under certain Federal and State programs. The determination will identify the payments which recipients may exclude from their gross income for Federal tax purposes to the extent allowed by the Internal Revenue Service.

Basis for Determination: U.S. Department of Agriculture (USDA) determinations are made in accordance with 7 CFR Part 14 by reviewing authorizing legislation, regulations, and operating policy to identify the purpose for which payments are made. Final determinations are made on the basis of program, category of practices or practice and are published in the Federal Register.

Statement of Findings: The WBP is authorized by the Water Bank Act, as amended. It is funded by the Agriculture, Rural Development and Related Agencies Appropriations Act. The authorizing legislation provides that the purpose of the program is to preserve, restore and improve wetlands in important migratory waterfowl nesting and breeding areas and provide other environmental and agricultural benefits.

The objective of the Water Bank Program is to preserve, restore, and improve the wetlands of the Nation, and thereby (1) conserve surface waters, (2) preserve and improve habitat for migratory waterfowl and other wildlife resources, (3) reduce runoff, soil and wind erosion, (4) contribute to flood control, (5) contribute to improved water quality and reduce stream sedimentation, (6) contribute to improved subsurface moisture, (7) reduce acres of new land coming into production and to retire lands now in agricultural production, (8) enhance the natural beauty of the landscape, and (9) promote comprehensive and total water management planning.

The program is applicable in States and counties designated by the Deputy Administrator, State and County Operations (DASCO), ASCS, in consultation with the U.S. Fish and Wildlife Service, United States Department of the Interior.

Specified wetlands and adjacent lands identified for conservation of water or related uses in a conservation plan are developed in cooperation with the Soil and Water Conservation District in which the lands are located. A farm is eligible for participation in the program if at the time the request for an agreement is filed, land on the farm is not covered by a Water Bank Program agreement and the farm contains types 1 through 7 wetlands which are described in Circular 39, Wetlands of the United States, published by the United States Department of the Interior and which are further identified in a conservation plan.

There are two distinct types of payments (i.e. annual and cost-share) which are made by the Secretary of Agriculture to landowners and operators under the Water Bank Program. Annual payments are made to landowners or operators who enter into agreements with the Secretary to place certain wetlands and adjacent areas in the Water Bank Program for a period of ten years. These agreements may be extended for additional periods of ten years each. The Secretary is also authorized to make cost-share payments under the program to landowners or operators for the purpose of establishing and maintaining conservation and development practices on wetlands and adjacent areas.

Cost-share payments are made to eligible producers under the program for the satisfactory installation of conservation practices developed primarily to accomplish one or more of the following:

(a) Establishing long-lasting vegetative cover to protect the wetlands by conserving soil and water and providing migratory waterfowl nesting cover.

(b) Benefit wildlife by providing shallow water areas and improved habitat.

(c) Conserve surface waters and contribute to flood control and improved subsurface moisture.

(d) Control soil erosion to contribute to improved water quality and soil conservation.

The Secretary of the Treasury has indicated in a temporary regulation published by the Department of the Treasury at 46 FR 2736 that the annual payments made to landowners and operators under the WBP are rental payments and, therefore, not excludable from gross income. Accordingly, no "primary purpose" determination is being made with respect to these payments at this time.

However, the cost-share payments which are made by the Secretary to landowners and operators under the program for the purpose of establishing and maintaining conservation and development practices on wetlands and adjacent areas have been determined to be the type of payments which are eligible for exclusion from gross income under the provisions of Section 126 of the Internal Revenue Code of 1954. Thus, the Secretary of Agriculture proposes to make a "primary purpose" determination with respect to these cost-share payments.

Determination: The primary purpose of cost-share payments made under the WBP to improve the habitat or the wetlands is for the purpose of conserving soil or water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife.

[FR Doc. 82-15803 Filed 6-10-82; 8:45 am]
BILLING CODE 3410-05-M

Forest Service

Red River Wild and Scenic River Study, Daniel Boone National Forest, Menifee, Powell, and Wolfe Counties, Kentucky; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service, will prepare an environmental impact statement for the study of the Red River on the Stanton Ranger District.

In accordance with the Wild and Scenic Rivers Act of 1968 as amended by the National Parks and Recreation Act of 1978, the Forest Service will study a segment of the Red River from Highway No. 746 (also known as Spradlin Bridge) in Wolfe County, Kentucky, downstream to the Menifee and Powell County line just downstream of the iron bridge where Kentucky Highway No. 77 passes over the river.

A range of alternatives will be developed and considered during the analysis process. A no action alternative, continue current management, wil be formulated. Other alternatives will address the inclusion of portions of the Red River as a component of the national wild and scenic rivers system based on the eligibility and classification criteria as defined in the Wild and Scenic Rivers Act.

Federal, state and local agencies and other individuals or organizations who may be interested in or affected by the decision will be invited to participate in the process. The initial scoping process has been completed on the Study Report and involved several public meetings with interested agencies and the public. Individual meetings were held with affected federal and state agencies. Additional public involvement sessions are tentatively planned after the draft environmental impact statement is released for public review.

The responsible official for the study and environmental impact statement is the Secretary of Agriculture, Washington, D.C.

The analysis is expected to take about one year to complete. The analysis is being conducted by Forest Supervisor Richard H. Wengert and his staff, Daniel Boone National Forest, 100 Vaught Road, Winchester, Kentucky 40391. The draft environmental impact statement should be available for public review by October 1982. The final environmental impact statement is scheduled to be completed by July 1983. Written comments and suggestions should be sent to the Forest Supervisor.

Questions about the proposed action and environmental impact statement should be directed to Robert Strosnider, Recreation Staff Officer, Daniel Boone National Forest, phone 606-744-5656.

Dated: May 28, 1982.

Douglas Leisz,

Acting Chief.

[FR Doc. 82-15880 Filed 6-10-82; 8:45 am]
BILLING CODE 3410-11-M

Rural Electrification Administration

Northern Michigan Electric Cooperative, Inc., Boyne City, Michigan; Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65), and in conformance with the applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $125,000,000 to Northern Michigan Electric Cooperative, Inc., (Northern) of Boyne City, Michigan. This loan guarantee will be used to provide supplemental funds needed to complete the financing of Northern's 11.22 percent undivided ownership interest in the Detroit Edison Company's Enrico Fermi No. 2 nuclear-powered 1100 MW gererating unit.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed program, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Clyde L. Johnson, Jr., Manager, Northern Michigan Electric Cooperative, Inc., P.O. Box 138, Boyne City, Michigan 49712.

In order to be considered, proposals must be submitted on or before July 12, 1982 to Mr. Johnson. The right is reserved to give such consideration and to make such evaluation or other disposition of all proposals received as Northern and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Public Information Office, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 28th day of May 1982.

Harold V. Hunter,

Administrator, Rural Electrification Administration.

[FR Doc. 82–15661 Filed 6–10–82; 8:45 am]

BILLING CODE 3410–15–M

Wabash Valley Power Association, Inc., Indianapolis, Indiana; Proposed Loan Guarantee

Under the authority of Pub. L. 93–32 (87 Stat. 65), and in conformance with the applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $150,000,000 to Wabash Valley Power Association, Inc., (Wabash) of Indianapolis, Indiana. This loan guarantee will be used to finance a 25 percent undivided ownership interest in the Gibson No. 5 coal-fired generating unit being constructed by the Public Service Company of Indiana, Inc., (PSI) and to finance the purchase of an additional 40 percent of 765 kV transmission line from PSI.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed program, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Edward P. Martin, Manager, Wabash Valley Power Association, Inc., P.O. Box 24700, Indianapolis, Indiana 46224.

In order to be considered, proposals must be submitted on or before July 12, 1982 to Mr. Martin. The right is reserved to give such consideration and to make such evaluation or other disposition of all proposals received as Wabash and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Public Information Office, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 28th day of May, 1982.

Harold V. Hunter,

Administrator, Rural Electrification Administration.

[FR Doc. 82–15662 Filed 6–10–82; 8:45 am]

BILLING CODE 3410–15–M

Soil Conservation Service

Allen Park Land Drainage RC&D Measure, Kentucky; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Allen Park Land Drainage RC&D Measure, Floyd County, Kentucky.

FOR FURTHER INFORMATION CONTACT: Eddie L. Wood, State Conservationist, Soil Conservation Service, 333 Waller Avenue, Lexington, KY 40504, telephone 606–233–2749.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Eddie L. Wood, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for 15 acres of land drainage, water disposal, and 2 acres of vegetative cover. The planned works of improvement include: open ditch drainage, 7750 feet of underground tile drainage, a grass waterway, a riprap outlet, and some land smoothing.

The Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Eddie L. Wood.

No administrative action on implementation of the proposal will be taken until July 12, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects if applicable)

Dated: June 1, 1982.

Eddie L. Wood,

State Conservationist.

[FR Doc. 82–15744 Filed 6–10–82; 8:45 am]

BILLING CODE 3410–15–M

Interlakes School RC&D Measure, New Hampshire; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40

CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Interlakes School RC&D Measure, Belknap County, New Hampshire.

FOR FURTHER INFORMATION CONTACT: Richard L. Porter, State Conservationist, Soil Conservation Service, Federal Building, Box G, Durham, New Hampshire 03824, telephone 603–868–7581.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Richard L. Porter, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include grass and rock-lined waterways and diversions, subsurface drainage, and the establishment of erosion control vegetation.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Richard R. DeMark, District Conservationist, Soil Conservation Service, P.O. Box 581, Laconia, New Hampshire 03246.

No administrative action on implementation of the proposal will be taken until July 12, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: June 2, 1982.

Richard L. Porter,

State Conservationist.

[FR Doc. 82–15631 Filed 6–10–82; 8:45 am]

BILLING CODE 3410–16–M

Upper Piedmont Agricultural Research Station, RC&D Measure, North Carolina; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Upper Piedmont Agricultural Research Station, RC&D Measure, Rockingham County, North Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. Coy A. Garrett, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, Telephone (919) 755–4210.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts of the environment. As a result of these findings, Mr. Coy A. Garrett, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns the stabilization of streambanks, the reduction of cropland erosion resulting from out of bank flows, and reduction of sedimentation. The planned works of improvement include the construction of a 300 foot long earth dike along the west side of a tributary of Wolf Island Creek.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Coy A. Garrett.

No administrative action on implementation of the proposal will be taken until July 12, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: June 3, 1982.

Coy A. Garrett,

State Conservationist.

[FR Doc. 82–15691 Filed 6–10–82; 8:45 am]

BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

[Order 82–6–41; Docket No. 40639]

Application of the Aeroamerica, Inc., for a Certificate of Public Convenience and Necessity

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order instituting a fitness investigation of Aeroamerica, Inc., 82–6–41, Docket 40639.

SUMMARY: The Board is issuing an order instituting a fitness investigation of Aeroamerica, Inc.

DATES: Persons wishing to file requests for additional evidence or petitions to intervene in the *Aeroamerica Fitness Investigation* shall file their requests and petitions in Docket 40639 by June 23, 1982 and serve such filings on all persons listed below.

ADDRESSES: Requests for additional evidence and petitions to intervene should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, in Docket 40639.

In addition, copies of such filings should be served on the persons listed in the service list attached to this order.

Service will also be required on any other person filing petitions.

FOR FURTHER INFORMATION CONTACT: Phyllis C. Solomon, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5340.

SUPPLEMENTARY INFORMATION: The complete text of Order 82–6–41 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 82–6–41 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board, June 8, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–15681 Filed 6–10–82; 8:45 am]

BILLING CODE 6320–01–M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations; Week Ended June 4, 1982

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set for the below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings. (See 14 CFR 302.1701 et seq.)

Date filed	Docket No.	Description
June 3, 1982	40747	Emerald Air, Inc. d/b/a Emerald Airlines, c/o Benjamin P. Lamberton, Howes, Morelle & Gelband, 1010 Wisconsin Avenue, N.W., Suite 640, Washington, D.C. 20007. Application of Emerald Air, Inc. d/b/a Emerald Airlines pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations applies for expeditious issuance of a certificate authorizing it to engage in scheduled and charter carriage of persons, property and mail in interstate and oversees air transportation. Conforming Applications, motions to modify scope, and Answers may be filed by July 1, 1982.
June 4, 1982	39711	British Caledonian Airways Limited, c/o Leonard N. Bebchick, Martin, Whitfield, Smith & Bebchick, Suite 1102, 1701 Pennsylvania Avenue, N.W., Washington, D.C. 20006. Application of British Caledonian Airways Limited, pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests an amendment of its foreign air carrier permit so as to add Los Angeles, California as an additional U.S. coterminal point on its existing Paragraph A route authorization. B. Cal will operate both scheduled and charter services over its Los Angeles route. Answers may be filed by July 2, 1982.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-15862 Filed 6-10-82; 8:45 am]
BILLING CODE 6320-01-M

[Order 82-6-39; Docket No. 40524]

Application of Independent Air Incorporated for a Charter Certificate

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Instituting a Fitness Investigation of Independent Air Incorporated in Docket 49524 (Order 82-6-39).

SUMMARY: The Board is instituting an investigation to determine the fitness of Independent Air to engage in the interstate and overseas charter air transportation of persons, property and mail.

DATE: Persons wishing to file petitions for leave to intervene in the *Independent Air Incorporated Fitness Investigation* shall file their petitions in Docket 40524 by June 21, 1982 and shall serve such filings on all persons listed below.

ADDRESSES: Petitions for leave to intervene should be filed in Docket 40524 and should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on Independent Air Incorporated and on any other persons filing petitions.

FOR FURTHER INFORMATION CONTACT: Mr. Peter M. Bloch, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5333.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-6-39 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82-6-39 to that address.

By the Civil Aeronautics Board, June 7, 1982.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-15863 Filed 6-10-82; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Cost Comparison Reviews Scheduled for Commercial or Industrial Activities Performed by Government Personnel in the Bureau of the Census

Notice is hereby given that the Bureau of the Census is postponing the start and completion dates of its scheduled cost comparisons for 6 months effective July 1, 1982. The cost comparisons were scheduled pursuant to Office of Management and Budget Circular A-76 and Department of Commerce Administrative Order 201-41 and were published in the **Federal Register** on July 31, 1980 (45 FR 50848).

FOR FURTHER INFORMATION CONTACT: William H. Sweeney, Bureau of the Census, Organization and Management Systems Division, Washington, D.C. 20233, (301) 763-5897.

Dated: June 8, 1982.

Bruce Chapman,
Director, Bureau of the Census.

[FR Doc. 82-15835 Filed 6-10-82; 8:45 am]
BILLING CODE 3510-07-M

Foreign-Trade Zones Board

[Docket No. 14-82]

Proposed Foreign-Trade Zone and Subzones, Harris County, Tex. (Houston Port of Entry); Application and Public Hearing

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port of Houston Authority, a Texas public corporation, requesting authority to establish a foreign-trade zone in Harris County, Texas, within the Houston Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400. It was formally filed on June 3, 1982. The applicant is authorized to make this proposal under Chapter 109, Acts 1977, 65th Texas Legislature, May 4, 1977 (Article 14467, Vol. 3, Chapter 10 Vernon's Annotated Civil Statutes).

The proposed zone project would cover over 1600 acres on 32 sites within

the jurisdictional area of the Port Authority in Harris County, Texas. Fourteen sites totaling some 1000 acres would be available for public use. Two of the sites covers 351 acres in the Port Authority's Industrial Park West and Industrial Park East, with space available for firms requiring separate facilities. Three additional parcels owned by the Port Authority will be developed to accommodate container and bulk storage. The nine remaining public sites involve a public liquid bulk storage facility and six general-purpose public warehousing facilities owned and operated by seven different private firms.

Seven sites consisting of some 100 acres would be for the following private non-manufacturing operations: Applebaum and Co., importing and distributing commercial and industrial electronic products; Unibar/ Uniminerals, Inc., manipulating crushed barytes ore; Texas Steel Conversion, forging and heat-treating oil-country tubular goods; Zakhem Overseas, repairing and reexporting heavy machinery; NYCO International, Inc. (two sites), blending lubricants; and Houston Export Crating Company, assemblying custom shipping crates for exporting.

Eleven sites covering 450 acres are requested for the private manufacturing operations of 9 firms as follows: a site for the Cameron Iron Works, Oil Tools Division, which manufactures iron control and safety valves for oil field equipment; three sites for Porta-Kamp, Inc., which constructs prefabricated housing from steel, plywood and aluminum; a site for the Hughes Tool Company which produces drilling tools and equipment; and a site for Gassett Steel, Inc., which will manufacture steel gratings for industrial platforms; one for Gundle Lining Systems, which produces plastic liners; one for Adamson-Chronister Valves, Inc., which manufactures steel gate valves for pipelines; one for Koride Chemicals, which processes copper and organic compounds for pesticides; a site for C.E. American Pole Structures, Inc., which manufactures steel electric utility poles; and a site for Standco, which produces steel brake blocks and fasteners. The eighteen foregoing manufacturing and non-manufacturing private-use sites will be considered by the Board as separate requests for subzone status.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr., (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Donald F. Kelly, Regional Commissioner, U.S. Customs Service, Region VI, 500 Dallas Street, Houston, Texas 77002; and Colonel Alan L. Laubscher, District Engineer, U.S. Army Engineer District Galveston, P.O. Box 1229, Galveston, Texas 77553.

As part of its investigation, the Examiners Committee will hold a public hearing on July 8, 1982, beginning at 9:00 a.m., in the Lecture Room of World Trade Building, 1520 Texas Avenue, Houston. The purpose of the hearing is to help inform interested parties about the proposal, to provide an opportunity for their expression of views, and to obtain information useful to the examiners.

Interested parties are invited to present their views at the hearing. They should notify the Board's Executive Secretary of their desire to be heard in writing at the address below or by phone (202/377–2862) by July 2. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through August 9, 1982. Evidence submitted during the post-hearing is not desired unless it is clearly shown that the matter is new and material and that there are good reasons why it could not be presented at the hearing. A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

Office of the Director, U.S. Department of Commerce District Office, 2625 Federal Building, 515 Rusk Street, Houston, Texas 77002

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3721, 14th and Constitution Ave., NW., Washington, D.C. 20230.

Dated: June 8, 1982.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 82-15879 Filed 6-10-82; 8:45 am]
BILLING CODE 3510-25-M

International Trade Administration

Animal Glue and Inedible Gelatin From Yugoslavia; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On November 19, 1981, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on animal glue and inedible gelatin from Yugoslavia. The review covered the two known exporters of this merchandise to the United States, Kemija-Impex and HP Kolinska (Kemin), and separate time periods for each through November 30, 1980.

Interested parties were given an opportunity to submit oral or written comments, and a public hearing was conducted on December 18, 1981. As a result of this hearing and our analysis of pre-hearing and post-hearing briefs, our preliminary results of review remain unchanged.

EFFECTIVE DATE: June 11, 1982.

FOR FURTHER INFORMATION CONTACT: Betty H. Laxague or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–3601).

SUPPLEMENTARY INFORMATION:

Background

On December 22, 1977, an antidumping finding with respect to animal glue and inedible gelatin from Yugoslavia was published in the **Federal Register** as Treasury Decision 78–4 (42 FR 64116–7). On November 19, 1981, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of its administrative review of the finding (46 FR 56838–9). The Department has now completed that administrative review,

Scope of the Review

Imports covered by the review are shipments of animal glue and inedible gelatin, of which there are two principal types, hide glue and bone glue. Animal glue is an organic colloid of protein derivation. There is no significant difference between animal glue and inedible gelatin. Animal glues are odorless, dry, hard, hornlike materials. They are used as general purpose adhesives in industries producing abrasives, paper containers, book and magazine bindings, and leather goods. They are also used as sizing agents, as an essential part of many compositions, and as colloids in emulsions and cleaning compounds. Animal glue and inedible gelatin are currently classifiable under items 455.4000 and 455.4200 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of two Yugoslavian exporters of this merchandise to the United States, HP Kolinska (Kemin) and Kemija-Impex. This review covers separate time periods for each through November 30, 1980.

Analysis of Comments Received

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. At the request of domestic producers, the Department held a hearing on December 18, 1981.

(1) *Comment:* The domestic parties argued that the Department should request cost of production information from Kemin for its period of review. Home market price decreases, despite significant domestic inflation, raise the likelihood of sales below the cost of production.

Position: Actual home market price information on hand shows that such prices actually increased significantly. These price increases kept pace with inflation and with increased costs of production of this merchandise. There is insufficient evidence to warrant a cost of production investigation.

(2) *Comment:* The domestic parties argued that the Department should verify the information which was submitted by Kemin.

Position: In the conduct of a section 751 review the Department has the discretion to determine on a case-by-case and company-by-company basis when verification is warranted. In this case the Department believes the information submitted by the respondent is accurate and complete. Therefore verification is unnecessary.

(3) *Comment:* The domestic parties argued that Kemija-Impex is dumping animal glue in the United States at margins much higher than the 9.7% margin calculated during the original fair value investigation. If the Department uses the fair value margin as best evidence for this non-responsive firm, it should take into account subsequent inflation.

Position: The domestic parties' assertion does raise a significant question concerning the impact of home market inflation. However, the Department examined the possibility and found no evidence that the margin would be higher than the 9.7% fair value margin if actual price information was available from Kemija-Impex. Since we had no information on Kemija-Impex's home market sales, we compared its actual prices to the U.S. (as evidenced from Customs Form 6432) with Kemin's sales in the home market of similar merchandise in the same month and found no margin. Since we never had any information from Kemija-Impex, we used Kemin's fair value rate of 9.7% as the best information available.

(4) *Comment:* The domestic parties questioned whether Kemija-Impex is the only remaining active exporter of Yugoslav animal glue to the United States. Census Bureau data indicate much larger quantities of this merchandise shipped to the United States from Yugoslavia during 1979 and 1980 than accounted for by Kemin and arguably by Kemija-Impex.

Position: We have no evidence of any exporters of Yugoslav animal glue to the United States other than Kemija-Impex and Kemin during the periods reviewed. Further, the Department has reviewed relevant Customs records and is satisfied that the Department has covered all shipments during the periods of review.

(5) *Comment:* The domestic parties noted that there is no record in the public file indicating either the identity of the different grades sold by Kemin in either market or the prices of the different grades.

Position: The Department has now included information in the public file concerning the various grades of this merchandise. Counsel for the domestic producers could have had access to this information under administrative protective order.

(6) *Comment:* The importer of such glue from Kemija-Impex stated that (a) since it bought on a long-term basis, there is no need for an inflation adjustment to the fair value rate of 9.7%; (b) since Kemija-Impex had no domestic sales the importer should not be penalized for failure to supply information; (c) it paid prices substantially in excess of home market prices, based on the petitioner's data regarding Kemin.

Position: As for (a), there is no need for an inflation adjustment; see our position in response to Comment #3. Since we received no response from Kemija-Impex we are unable to affirm (b) or (c).

(7) *Comment:* The importer of such glue from Kemija-Impex stated that since animal glue prices in Yugoslavia are fixed by the state it is appropriate to use a third country's prices to determine whether the 9.7% margin is appropriate.

Position: In this case the Department does not consider, and has not considered since the original investigation, Yugoslavia to be a state-controlled economy. For comparison purposes, therefore, home market prices are appropriate.

Final Results of the Review

As a result of our analysis of these comments, the final results of our review are the same as those presented in our preliminary results of review, and we determine that the following weighted-average margins exist:

Exporter	Time period	Margin (percent)
HP Kolinska (Kemin)	1/1/79–11/30/80	0
Kemija-Impex	1/4/77–11/30/80	9.7

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries made by these firms with purchase dates during the periods involved. The Department will issue assessment instructions on each exporter directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce regulations, a cash deposit of estimated antidumping duties based on the margins above shall be required on all shipments by these firms of animal glue and inedible gelatin from Yugoslavia entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. For any shipment from a new exporter not covered in this review, unrelated to any covered firm, a cash deposit shall be required at the highest rate for responding firms with shipments during the most recent period in which shipments occurred. These deposit requirements shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of December 1982.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-15671 Filed 6-10-82; 8:45 am]

BILLING CODE 3510-25-M

Certain Stainless Steel Products From Spain; Postponements of Preliminary Countervailing Duty Determinations

AGENCY: International Trade Administration Commerce.

ACTION: Postponements of Preliminary Countervailing Duty Determinations.

SUMMARY: The preliminary determinations of certain stainless steel products (see Appendix A) from Spain are being postponed, and we intend to issue these determinations not later than August 23, 1982.

EFFECTIVE DATE: June 11, 1982.

FOR FURTHER INFORMATION CONTACT: Holly Kuga, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230, telephone (202) 377-0171.

SUPPLEMENTARY INFORMATION: On March 10, 1982, we announced initiations of countervailing duty investigations under section 303 of the Tariff Act of 1930, as amended (the "Act"), to determine whether the government of Spain is giving its producers and exporters of certain stainless steel products certain benefits that constitute bounties or grants (47 FR 10288). The notice stated that we would issue preliminary determinations by May 13, 1982.

On April 14, 1982, the U.S. Trade Representative's office announced that Spain was a "country under the Agreement" as set out in section 701(b) of the Act. As a result of this announcement, Title VII applies to all countervailing duty investigations concerning merchandise from Spain. Accordingly, on April 29, 1982, we published a notice in the Federal Register (47 FR 18401) that we were terminating the investigations begun on March 10, 1982 under section 303 and were initiating investigations under Title VII of the Act as of April 14, 1982. Without postponements the preliminary determinations in these investigations would be due no later than June 18, 1982. Since Spain is a "country under the Agreement," an injury determination is required. Therefore we notified the U.S. International Trade Commission ("ITC") of these initiations. On June 2, 1982, the ITC preliminarily determined that there is a reasonable indication that these imports are materially injuring a U.S. industry.

As detailed in the original notice of "Initiation of the Countervailing Duty Investigations," the petition alleges that the government of Spain provides various bounties or grants to producers and exporters of certain stainless steel products. The practices alleged to be bounties or grants are numerous and raise complex issues. Moreover, it is difficult to determine the extent of utilization of the programs by the various firms. We have determined that the Spanish government and the other parties concerned are cooperating and that additional time is necessary to make the preliminary determinations. For these reasons we determine that these cases are extraordinarily complicated in accordance with section 703(c)(1)(B) of the Act. The preliminary determinations are therefore postponed. We will issue them not later than August 23, 1982.

This notice is published pursuant to section 703(c)(2) of the Act.

Dated: June 17, 1982.

Gary Horlick,

Deputy Assistant Secretary for Import Administration.

APPENDIX A.—CERTAIN STAINLESS STEEL PRODUCTS

Country	Products
Spain	Stainless steel wire rod, hot-rolled stainless steel bars and cold-formed stainless steel bars.

[FR Doc. 82-15873 Filed 6-10-82; 8:45 am]

BILLING CODE 3510-25-M

Certain Steel Products From Spain; Postponements of Preliminary Countervailing Duty Determinations

AGENCY: International Trade Administration, Commerce.

ACTION: Postponements of Preliminary Countervailing Duty Determinations.

SUMMARY: The preliminary determinations of certain steel products (see Appendix A) from Spain are being postponed, and we intend to issue these determinations not later than August 23, 1982.

EFFECTIVE DATE: June 11, 1982.

FOR FURTHER INFORMATION CONTACT: Holly Kuga, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-0171.

SUPPLEMENTARY INFORMATION: On February 8, 1982, we announced initiations of countervailing duty investigations under section 303 of the Tariff Act of 1930, as amended (the "Act"), to determine whether the government of Spain is giving its producers and exporters of certain steel products certain benefits that constitute bounties or grants (47 FR 5753).

On April 14, 1982, the U.S. Trade Representative's office announced that Spain was a "country under the Agreement" as set out in section 701(b) of the Act. As a result of this announcement, Title VII applies to all countervailing duty investigations concerning merchandise from Spain. Accordingly, on April 29, 1982, we published a notice in the Federal Register (47 FR 18402) that we were terminating the investigations begun on February 8, 1982, under section 303 and were initiating investigations under Title VII of the Act as of April 14, 1982. Without postponements the preliminary determinations in these investigations would be due not later than June 18, 1982. Since Spain is a "country under the Agreement," an injury determination is required. Therefore we notified the U.S. International Commission ("ITC") of these initiations. On June 2, 1982, the ITC preliminarily determined that there is a reasonable indication that these imports are materially injuring a U.S. industry.

As detailed in the original notice of "Initiation of the Countervailing Duty Investigations," the petitions allege that the government of Spain provides various bounties or grants to producers and exporters of certain steel products.

The practices alleged to be bounties or grants are numerous and raise complex issues. Moreover, it is difficult to determine the extent of utilization of the programs by the various firms. We have determined that the Spanish government and the other parties concerned are cooperating and that additional time is necessary to make the preliminary determinations. For these reasons we determine that these cases are extraordinarily complicated in accordance with section 703(c)(1)(B) of the Act. The preliminary determinations are therefore postponed. We will issue them not later than August 23, 1982.

This notice is published prsuant to section 703(c)(2) of the Act.

Dated: June 7, 1982.

Gary Horlick,

Deputy Assistant Secretary for Import Administration.

APPENDIX A.—CERTAIN STEEL PRODUCTS

Country	Products
Spain	Carbon steel structural shapes, hot-rolled carbon steel plate, cold-rolled carbon steel sheet and strip, galvanized carbon steel sheet, hot-rolled carbon steel bars, and cold-formed carbon steel bars.

[FR Doc. 82-15872 Filed 6-10-82; 8:45 am]

BILLING CODE 3510-25-M

Sugar and Syrups From Canada; Final Results of Administrative Review of Antidumping Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping duty order.

SUMMARY: On April 12, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on sugar and syrups from Canada. The review covered the seven known exporters of this merchandise to the United States and separate time periods for each through March 31, 1981.

Interested parties were given an opportunity to submit oral or written comments. One non-responsive firm submitted a questionnaire response. Based on our policy not to consider a response received after the preliminary results have been published, our results of review remain unchanged.

EFFECTIVE DATE: June 11, 1982.

FOR FURTHER INFORMATION CONTACT: Betty H. Laxague or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–3601).

SUPPLEMENTARY INFORMATION:

Background

On April 9, 1980, an antidumping duty order with respect to sugar and syrups from canada was published in the **Federal Register** (45 FR 24128–7). On April 12, 1982, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of its administrative review of the order (47 FR 15621–2). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of sugar and syrups produced from raw sugar derived from sugar cane and sugar beets. The sugar is refined into granulated or powdered sugar, icing, or liquid sugar. Sugar and syrups are currently classifiable under items 155.2025, 155.2045, and 155.3000 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of seven Canadian exporters of this merchandise to the United States. This review covers separate time periods for each through March 31, 1981.

Analysis of Comments Received

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. One non-responsive firm, Scott Paper Co., Ltd., submitted a questionnaire response. It is the Department's policy not to consider a response received after the preliminary results have been published. Therefore, we did not use the response. No further comments were received.

Final Results of the Review

Since the submitted response was untimely, the final results of our review are the same as those presented in our preliminary results of review, and we determine that the following weighted-average margins exist:

Canadian exporter	Time period	Margin
Atlantic Sugar, Ltd.	4/1/80–3/31/81	U.S. $0.0223 per lb.[1]
B. C. Sugar	4/1/80–3/31/81	U.S. $0.010105 per lb.[1]
F. W. Jones & Son	4/1/80–3/31/81	0.367 pct.
Lantzco Ltd	11/3/79–3/31/81	17.33 pct.
Redpath Sugars Ltd.	4/1/80–3/31/81	17.33 pct.
Scott Paper Co., Ltd.	4/9/80–3/31/81	17.33 pct.
St. Lawrence Sugar, Ltd.	4/1/80–3/31/81	17.33 pct.

[1] No shipments during the period.

The Department shall determine, and the U.S. Customs Service shall assess, duties on all appropriate entries made by these firms with purchase dates during the periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue assessment instructions on each exporter directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the margins calculated above shall be required on all shipments by these firms of sugar and syrups from Canada entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. Since the margin for F. W. Jones & Son is less than 0.5 percent and therefore *de minimis*, the Department is waiving the deposit requirement for this firm. For any shipment from a new exporter not covered in this review, unrelated to any covered firm, a cash deposit shall be required at the highest rate for responding firms with shipments during the most recent period in which shipments occurred. These deposit requirements and waiver shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of April 1983.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82–15670 Filed 6–10–82; 8:45 am]

BILLING CODE 3510–25–M

Consolidated Decision on Applications for Duty-Free Entry of Accessories for Foreign Instruments; Duke University, et al.

The following is a consolidated decision on applications for duty-free entry of accessories for foreign instruments pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82–00063. Applicant: Duke University, Department of Zoology, Durham, NC 27706. Article: 340789 Goniometer for Electron Microscope. Manufacturer: Carl Zeiss, West Germany. Intended use of article: See Notice on page 9259 in the **Federal Register** of March 4, 1982. Advice submitted by: Department of Health and Human Services: April 1, 1982.

Docket No. 82–00034. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Chicago, IL 60439. Article: Magnetic Specimen Observation Device for Electron Microscope. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 60045 in the **Federal Register** of December 8, 1981. Advice submitted by: Department of Health and Human Services: March 17, 1982.

Comments: No comments have been received with respect to either of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, is being manufactured in the United States.

Reasons: The applications relate to compatible accessories for instruments that have been previously imported for the use of the applicant institutions. The articles are being manufactured by the manufacturers which produced the instruments with which they are intended to be used. We are advised by Department of Health and Human Services in its respectively cited memoranda that the accessories are pertinent to the applicant's intended uses and that it knows of no comparable domestic articles.

The Department of Commerce knows of no similar accessories being manufactured in the United States, which are interchangeable with or can be readily adapted to the instruments with which the foreign articles are intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-15879 Filed 6-10-82; 8:45 am]

BILLING CODE 3510-25-M

Applications for Duty-Free Entry of Scientific Articles; University of Chicago et al.

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the Federal Register.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00160. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, IL 60439. Article: Gas Chromatograph Mass Spectrometer, Model MS-25. Manufacturer: Kratos Scientific Instruments, United Kingdom. Intended Use of article: The article is intended to be used for the study of a variety of reaction products derived from selective degradation of coals and other fossil fuels such as oil shales. Most of the experiments involve GCMS analysis of products from oxidations, reductions and pyrolysis of coals and oil shales. The gas inlet will be used for characterization of gases produced in these reactions and the batch inlet will be used for products which are too non-volatile for elution through a gas chromatograph. The data will be analyzed by the data system which operates the instrument. Further refinement will be made using the large computer facilitates at Argonne including the use of factor analysis. Application Received by Commissioner of Customs: May 3, 1982.

Docket No. 82-00161. Applicant: University of Illinois, Urbana-Champaign Campus, Purchasing Division, 223 Administration Building, 506 South Wright Street, Urbana, IL 61801. Article: Dye Laser-Excimer Laser Pumped, FL 2000. Manufacturer: Lambda Physik GmbH & Co., West Germany. Intended use of article: The article is intended to be used for the following experiments:

(1) Multi-photon excitation of the rare gas atoms and xenon, in particular.

(2) Laser-induced collisional transfer studies in metal vapors.

(3) Laser-induced fluorescence studies of photofragments produced by ultraviolet (UV) photodissociation of polyatomic molecules. Graduate students working towards the Ph.D. degree in either electrical Engineering or Physics will use the article as part of their thesis research. Application Received by Commissioner of Customs: May 3, 1982.

Docket No. 82-00164. Applicant: Unversity of Illinois, Purchasing Division, 223 Administration Building, 506 South Wright Street, Urbana, Illinois 61801. Article: Excimer Pumped Dye Laser System consisting of EMG FL 2002 and FL 52. Manufacturer: Lambda Physik GmbH & Co., West Germany. Intended use of article: The article is intended to be used for continued study of the quantum beat spectroscopy (QBS) of the dicarbonyls, benzoquinone, and other polyatomic molecules including formaldehyde, acetaldehyde, and benzaldehyde, etc. and the study of angular distributions and energy partitioning associated with photodissociations of organic molecules using laser induced fluorescence (LIF) from fragments excited to selected single rovibronic states. This research includes hydrogen peroxide, cyanogen, the halocyanogens, simple mono and dicarbonyls, and van der Waals molecules. The objectives of this research include assessing the possibility of bond/state selective chemistry through the study of the distributions of intramolecular coupling elements and by finding and studying non-statistical energy selected angular distribution functions. There are a number of other important aspects of the program involving high resolution spectroscopy, Zeeman effect, and optimization of a tunable infrared laser system that relate, if only indirectly, to the purchase of this laser system. For all the proposed experiments, the article will be used to either generate photoproducts or produce laser induced fluorescence from isolated molecules. In addition, the article will be used in the course Chemistry 499, Ph.D. Thesis Research for the training of students in the general techniques of laser molecular beam spectroscopy with particular emphasis on the study of the photophysics and chemistry of isolated molecules. Application received by Commissioner of Customs: May 3, 1982.

Docket No. 82-00165. Applicant: The Rockefeller University, 1230 York Avenue, New York, N.Y. 10021. Article: Incubators, Feedback Controlled to maintain PO_2 and PCO_2 and pH. Manufacturer: Heraeus, West Germany. Intended use of article: The article is intended to be used in the exploration of the biological basis of oxygen toxicity. This will involve culturing human diploid fibroblasts under defined partial pressures of oxygen (PO_2) and determining if oxygen or oxygen-inducted free radicals can cause DNA damage; disturb intracytoplasmic energy and reduce equivalent metabolism; and promote membrane lipid peroxidation in the intact cell. Researchers will also explore the regulation of cellular antioxidant defense mechanisms and the capacity of the cell to respond to an oxidative stress. Application received by Commissioner of Customs: May 3, 1982.

Docket No. 82-00191. Applicant: Monsanto Research Corporation, Mound Facility, Operated for the U.S. Dept. of Energy, Mound Road, Miamisburg, OH 45342. Article: Two (2) Mass Spectrometers, MM 3001. Manufacturer: VG Instruments, United Kingdom. Intended use of article: The articles are intended to be used to measure isotopes of hydrogen (H, D, T,) and helium (^4He, ^3He) and impurities (N_2, O_2, Ar, CO, CO)methanes (CH_4,D,T_4) and waters

(H_2O)...DTO...T_2O) in mixtures resulting from classified process development efforts. Experiments to be conducted are the calibration of the mass spectrometer using Mound-prepared D/T/^{3}He standards followed by analysis of unknown samples generated by process development experiments. The objective of these analyses are to accurately determine H, D, T, ^{3}He, ^{4}He and impurity composition in samples required for qualifying the performance of a classified process. Application received by Commissioner of Customs: May 10, 1982.

Docket No. 82-00194 Applicant: Masters, Mates & Pilots MATES Program, 5700 Hammonds Ferry Road, Linthicum Heights, MD 21090. Article: Radar Navigational Aid Apparatus. Manufacturer: Vereinigte Flugtechnische Werke (VFW), West Germany. Intended use of article: The article is intended to be used for studies of several navigational phenomena, including "squat", the increase in the draft of a vessel due to configuration, speed and water depth; the forces known as "bank suction" which tend to draw a vessel in a channel or other confined waters toward a nearby bank; those forces known as "bank cushion" which tend to repel a vessel from a bank; and the hydrodynamic properties of various hull forms, rudder forces, and propeller forces in fluid mediums under varying conditions. The article will also be used for educational purposes in a course designated as "The Shiphandling Course." Application received by Commissioner of Customs: May 10, 1982.

Docket No. 82-00195 Applicant: University of Illinois, Urbana-Champaign Campus, Purchasing Division, 223 Administration Building, 506 South Wright Street, Urbana, IL 61801. Article: Replacement Console for MS-902 Mass Spectrometer. Manufacturer: VG Analytical, Ltd., United Kingdom. Intended use of article: The article is intended to be used in a program of polymer characterization by Electrohydrodynamic Ionization Mass Spectrometry (EHMS). EHMS is an analytical method for determining the composition of ionic solutions by extracting ions from solution and determining their masses. The technique is especially well-suited for investigating samples which are soluble but nonvolatile and/or thermally labile, because virtually no excess internal energy is imparted to the sample ions. Application received by Commissioner of Customs: May 10, 1982.

Docket No. 82-00201. Applicant: UMDNJ-New Jersey School of Osteopathic Medicine, Department of Osteopathic Sciences, P.O. Box 55, Piscataway, NJ 08854. Article: Particle Electrophoresis Apparatus Manufacturer: Rank Brothers—Scientific Instrument Division, United Kingdom. Intended use of article: The article is intended to be used for measuring the surface charge properties of bone particles in different pH solutions. Application received by Commissioner of Customs: May 10, 1982.

Docket No. 82-00209. Applicant: Sandia National Laboratories, Division 2516, P.O. Box 5800, Albuquerque, NM 87185. Article: ESCALAB 5 Spectrometer. Manufacturer: VG Scientific Limited, United Kingdom. Intended use of article: The article is intended to be used for the following studies of surface chemistry and physics of explosives and pyrotechnic materials:

I. Pyrotechnics

A. Single component behavior will be studied with emphasis on the oxidation and thin oxide dissolution of current and proposed pyrotechnic fuels (B, Ti, TiH_2, Zr, ZrH_2) as well as the reduction of pyrotechnic oxidants ($KClO_4$, $CaCrO_4$, NH_4ClO_4, NH_4NO_3, KNO_3).

B. Characterization of pyrotechnic compositions will be undertaken to determine the influence of production processes on surface composition. The mechanism of thermal ignition in pyrotechnic systems will be characterized as well as the influence of surface composition and properties on pyrotechnic behavior (spark sensitivity, ignition sensitivity, RAF, burn rate).

C. Compatibility and aging studies to allow measurement of the uptake, interaction, and thermal desorption of H_2 from pyrotechnic mixtures to complement TDS data from a new system which is currently under construction. In addition the interaction of other reactive gases (such as those released during the aging of HE) with pyrotechnic constituents will be examined. The compatibility of pyrotechnics and HE at pellet interfaces and the corrosion of materials used to contain pyrotechnic and HE compositions are of further interest.

II. High Explosives

A. Valence band data is needed to corroborate molecular orbital calculations of HE which are currently in progress.

B. The detection of ion and free radical fragments from photon and electron stimulated desorption as well as inert ion sputtering of HE samples is necessary for experimental verification of emerging models of the shock initiation process.

C. Interaction of reactives gases (produced during aging or thermal decompostion of HE) with component materials (bridgewire, glass ceramic, alloys, epoxies, etc.) will be studied.

Application received by Commissioner of Customs: May 11, 1982.

Docket No. 82-00213. Applicant: University of Arizona, Department of Geosciences, Geology Building Room 108, Tucson, AZ 85721. Article: VG ISOMASS 54E MkII Thermal Ionization Mass Spectrometer. Manufacturer: VG Instruments Inc., United Kingdom. Intended use of article: The article will be used in teaching and research efforts dealing with studies directed toward elucidating the origin and evolution of terrestrial and extraterrestrial samples over the history of the earth and the solar system. The measurements to be made will vary at the level of the current state of the art of the instrumentation and the mass spectrometer must meet the minimum level of performance in precision. Investigations that will be undertaken include studies of samples to resolve temporal problems in the Precambrian of the southwest United States, considerations of secular change in continents, examination of the nature and origin of materials that make up the solar system, studies to establish precise dates on the early events at the beginning of the solar system and measurements of the abundances of rare earths. Application received by Commissioner of Customs: May 11, 1982.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-15875 Filed 6-10-82; 8:45 am]

BILLING CODE 3510-25-M

[Case No. 628]

Order Temporarily Denying Export Privileges

In the matter of: Ingeneria y Desarrollo Industrial, S.A., Guzman el Bueno, 121 and 133, Parque de las Naciones, Edificio Britannia, Madrid 3, Spain.

The Department of Commerce (the "Department"), pursuant to the provisions of § 388.19 of the Export Administration Regulations (15 CFR 368, *et seq.* (1981)) (the "Regulations"), has petitioned the Hearing Commissioner for an order temporarily denying all export privileges to Ingeneria y Desarrollo Industrial, S.A. ("INDEIN").

The Department states that INDEIN is under investigation by the Department's

Office of Export Compliance. The Department states further that its investigation gives it reason to believe: (i) That INDEIN has engaged in a scheme to procure United States-origin goods for use in, for, or by Cuba; (ii) that, in carrying out certain transactions, INDEIN has reexported U.S.-origin commodities contrary to the Regulations; and (iii) that INDEIN may attempt future reexports to the Regulations unless appropriate action is taken to preclude such attempts.

Based upon the showing made by the Department, I find that an order temporarily denying all export privileges to INDEIN is required in the public interest to facilitate enforcement of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401, *et seq.* (Supp. III 1979)), and the Regulations and to permit completion of the Department's investigation.

Anybody who is now or may in the future be dealing with the above-named respondent in transactions that in any way involve U.S.-origin commodities or technical data is specifically alerted to the provisions set forth in Paragraph IV below.

Accordingly, it is hereby ordered:

I. All outstanding validated export licenses in which respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Administration for cancellation.

II. The respondent, its successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity, (a) as a party or as a representative of a party to a validated export license application, (b) in the preparation or filing of any export license application or reexportation authorization, or of any document to be submitted therewith, (c) in the obtaining or using of any validated or general export license or other export control document, (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data in whole or in part, exported or to be exported from the United States, and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondent, but also to its agents and employees and to any successor and to any person, firm, corporation, or business organization with which it now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services related thereto.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any named respondent or related party, or whereby any named respondent or related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for any named respondent or related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. In accordance with the provisions of § 388.19(b) of the Regulations, the respondent may move at any time to vacate or modify this temporary denial order by filing with the Hearing Commissioner, International Trade Administration, U.S. Department of Commerce, Room 3886D, 14th and Constitution Avenue, NW., Washington, D.C. 20230, an appropriate motion for relief, supported by substantial evidence, and may also request an oral hearing thereon, which, if requested, shall be held before the Hearing Commissioner at the earliest convenient date.

VI. This order is effective immediately. It remains in effect until the final disposition of any administrative or judicial proceeding or proceedings initiated against the named respondent as a result of the ongoing investigation. A copy of this order and Parts 387 and 388 of the Regulations shall be served upon the respondent.

Dated: June 4, 1982.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 82-15877 Filed 6-10-82; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

Revision to Federal Information Processing Standard 71; Advanced Data Communications Control Procedures (ADCCP)

Correction

In FR Doc. 82-14770 appearing on page 23798 in the issue for Tuesday, June 1, 1982; on page 23799, second column, the seventh and eighth lines from the bottom, should read as follows:

"In this case, the unique remainder is the remainder of the division

$$XY \frac{L(X)}{P(X)}".$$

BILLING CODE 1505-01-M

National Oceanic and Atmospheric Administration

Fishermen's Contingency Fund

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notification of claims pursuant to Title IV of the Outer Continental Shelf Lands Act Amendments of 1978 (Title IV). Notification 06-82.

SUMMARY: 50 CFR 296.6 requires that the Chief, Financial Services Division (FSD), publish in the **Federal Register** a notice of claims received under the Title IV Program. Any interested person may, on or before July 12, 1982, submit to the Chief, FSD, National Marines Fisheries Service (NMFS), evidence concerning the claim or a request to be admitted as a party to any hearing concerning the claim.

Important Date: Any evidence concerning any claim described in this Notice, and any request to be admitted as a party to any hearing concerning any such claim, must be submitted, in writting, to the Chief, FSD, on or before July 12, 1982.

ADDRESS: Send evidence and any request to be admitted as a party to any hearing to: Mr. Michael L. Grable, Chief, Financial Services Division, Attention:

Charles L. Cooper, National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Washington, D.C. 20235 (telephone 202–634–4668).

Supplementary Information

Title IV establishes a Fishermen's Contingency Fund (FCF) to compensate fishermen for eligible claims for actual and consequential damages, including lost profits, due to damages to, or loss of, fishing vessels or fishing gear by items associated with oil and gas exploration, development, or production on the Outer Continental Shelf (OCS). Title IV regulations require that upon receipt of a timely-filed claim which is not clearly ineligible because of statutory exemptions from eligibility, the Chief, PSD publish a 30-day notice of the claim in the Federal Register. Upon expiration of the 30–day period following publication of the Federal Register notice, the claim will be referred to the Administrative Law Judge (ALJ). (50 CFR 296.6(a)(1)(iii))

Dated: June 4, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

The following claims have been received.

Claim No.	Nature of loss and location	Amount	
FCF–41–82	On 5–10–82 claimant lost a bag and broke a net while trawling for shrimp at the following coordinates: 7980X20843.6, 7980Y46909.2.	[1]Unknown	Gear loss.
		Unknown	Economic loss.
		Unknown	Consequential loss.
		Unknown	Total.
FCF–42–82	On 5–17–82 claimant lost 2–40 ft nets, 900 ft of cable, while trawling for shrimp at the following coordinates: 7980X11596.1, 7980Y28145.7.	[1]Unknown	Gear loss.
		Unknown	Economic loss.
		Unknown	Consequential loss.
		Unknown	Total.
FCF–43–82	On 5–21–82 claimant lost a 65 ft net and baidles while trawling for shrimp at the following coordinates: 7980X26927.7, 7980Y46948.6.	[1]Unknown	Gear loss.
		Unknown	Economic loss.
		Unknown	Consequential loss.
		Unknown	Total.

[1] Amounts not yet reported at this publishing.

[FR Doc. 82–15869 Filed 6–10–82; 8:45 am]

BILLING CODE 3510–22–M

Gulf of Mexico Fishery Management Council's Shrimp Subpanel; Public Meeting

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), has established a Shrimp Subpanel, which will meet to review first-year operations for the Shrimp Fishery Management Plan.

DATES: The public meeting will convene on Thursday, July 8, 1982, at approximately 9:30 a.m., and will adjourn at approximately 4:30 p.m.

ADDRESS: The public meeting will take place at the Pembroke Room of the Holiday Inn-Houston, Houston International Airport, 3702 North Belt Road, East, Houston, Texas.

FURTHER INFORMATION: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228–2815.

Dated: June 8, 1982.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82–15870 Filed 6–10–82; 8:45 am]

BILLING CODE 3510–22–M

Mid-Atlantic Fishery Management Council, its Scientific and Statistical Committee and its Fluke Subpanel; Public Meetings

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), has established a Scientific and Statistical Committee (SSC) and a Fluke Subpanel (FS). The Council, its SSC and its FS will hold separate public meetings.

AGENDAS: *Council*—discuss Tilefish, Bluefish, Summer Flounder, Surf Clam and Ocean Quahog Fishery Management Plans (FMPs); discuss status of other FMPs, foreign fishing applications, as well as other fishery management and administrative matters. *SSC*—discuss background research for the Tilefish FMP. *FS*—review and make recommendations on the Summer Flounder FMP.

DATES: *Council*—Wednesday, July 10, 1982—meeting will convene at approximately noon, and will adjourn on Friday, July 1982, at approximately noon, at Rutgers University, Holly House, Cook Campus, New Brunswick, New Jersey. *SSC*—meeting will convene on Wednesday, July 7, 1982, at approximately 10 a.m., and will adjourn at approximately 3:30 p.m., at the Best Western Airport Motel, Philadelphia International Airport, Philadelphia, Pennsylvania. *FS*—meeting will convene on Wednesday, July 7, 1982, at approximately 10 a.m., and will adjourn at approximately 4 p.m., with meeting location identical to that of the SSC meeting. These meetings may be lengthened or shortened or agenda items rearranged depending upon progress on the same.

FURTHER INFORMATION: Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, Delaware 19901, Telephone: (302) 674–2331.

Dated: June 8, 1982.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82–15880 Filed 6–10–82; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1982 Additions and Deletion; Janitorial Service

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and Deletion from Procurement List.

SUMMARY: This action adds to and delete from Procurement List 1982 services to be provided by and commodities to be produced by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: June 11, 1982.

ADDRESS: Committee for Purchaser from the Blind and Other Severely Handicapped, 2009 14th Street, North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. FletCher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On March 19, 1982 and April 9, 1982, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (47 FR 11918, and 47 FR 15403) of proposed additions to and deletion from Procurement List 1982, November 12, 1981 (46 FR 55740).

Additions

After consideration of the relevant matter presented, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following services are hereby added to Procurement List 1982:

SIC 7349

Janitorial Service, U.S. Postal Service, Mailbag Facility, 7600 West Roosevelt Road, Forest Park, Illinois

SIC 7349

Janitorial Service, Federal Building, 400 N. 8th Street, Richmond, Virginia

Deletion

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodities are hereby deleted from Procurement List 1982:

Class 7220

Mat, Floor, 7220–00–224–6489, 7220–00–205–2807, 7220–00–205–2808, 7220–00–224–6490, 7220–00–205–2805, 7220–00–205–2806

C. W. Fletcher,

Executive Director.

[FR Doc. 82–15823 Filed 6–10–82; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1982 Proposed Additions and Deletions; Cushion, Seat Vehicular

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to and Deletions from Procurement List.

SUMMARY: The Committee has received proposals to add to and delete from Procurement List 1982 commodities and military resale commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: July 14, 1982.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street, North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1982, November 12, 1981 (46 FR 55740):

Class 2540

Cushion, Seat, Vehicular, 2540–00–806–3611

Class 7210

Blanket, Bath, (Flame Resistant), 7210–00–NIB–0011

SIC 5812

Food Service Attendant Service, Consolidated Enlisted Dining Facility, Building 61, Fort McPherson, Georgia

SIC 7349

Janitorial Services, Federal Building, U.S. Courthouse, Montgomery, Alabama

Janitorial Services, DCASR Building B–95, Lockheed Complex, 805 Walker Street, DCASR Building B–95, AF Plant 6, 612 Tinker Street, Marietta, Georgia

Janitorial Service, USDA Forest Service, Coeur d'Alene Nursery, Coeur d'Alene, Idaho

Janitorial & Mechanical Maintenance Service, Federal Building—Post Office, 200 East Washington Street, Greenwood, Mississippi

Custodial Service, Multiple Agency Building, 1100 Filmore Street, Amarillo, Texas

Deletions

It is proposed to delete the following military resale commodities and services from Procurement List 1982, November 12, 1981 (46 FR 55740):

Military Resale Item Nos. and Names

No. 450—Tennis racket, deluxe
No. 452—Tennis racket, economy
No. 588—Opener, pour and store
No. 911—Brush, floor, plastic filament, with handle
No. 952—Brush, percolator

SIC 7358

Rebuilding Automotive Components for the following locations:
GSA Interagency Motor Pool, Newark, New Jersey
GSA Interagency Motor Pool, New York, New York

SIC 7389

Assembly, Food Packet, In-Flight, Individual (8970–01–060–2890)

SIC 7699

Repair and Maintenance of Electric and Manual Typewriters
Rochester, New York (including Monroe County)
Repair, Maintenance, and Overhaul of Building Maintenance, Grounds Maintenance, and Related Types of Equipment in:
New York City (5 Boroughs, Nassau County, Suffolk County, New York; Newark, New Jersey, plus 5-mile radius

C. W. Fletcher,

Executive Director.

[FR Doc. 82–15824 Filed 6–10–82; 8:45 am]

BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

June 3, 1982.

The USAF Scientific Advisory Board, Foreign Technology Division Advisory Group, Air Force Systems Command, will meet on July 13, 1982 from 8:00 am to 5:00 pm and on July 14, 1982 from 8:00 am to 1:00 pm at Wright-Patterson Air Force Base, Ohio, Building 656, Room 270.

The purpose of the meeting will be to receive classified briefings and participate in review and discussions related to Foreign Technology Division assessment of foreign spread spectrum technology. Review emphasis will be

place on determining state of technology and potential for military application.

The meeting concerns matters listed in section 552b(c), Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly the meeting will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-15680 Filed 6-10-82; 8:45 am]

BILLING CODE 3901-01-M

Office of the Secretary

Defense Science Board Task Force on Automatic Target Recognition

The Defense Science Board Task Force on Automatic Target Recognition will meet in closed session on 7, 8 July and 10, 11 August in the Pentagon.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceiving needs of the Department of Defense.

At both meetings the task force will review both government in-house programs and contracted efforts on electrooptical and computer techniques for the automatic detection and classification of tactical targets.

In accordance with 5 U.S.C. App. 1 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

June 7, 1982.

[FR Doc. 82-15628 Filed 6-10-82; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51416; TSH-FRL 2139-1]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of sixteen PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 82–381 & 82–382, August 19, 1982.

PMN 82–383, 82–384 & 82–385, August 22, 1982.

PMN 82–386, 82–387, 82–388, 82–389 & 82–390, August 23, 1982.

PMN 82–391, 82–392, 82–393, 82–394, 82–395 & 82–396, August 25, 1982.

Written comments by:

PMN 82–381 and 82–382, July 20, 1982.

PMN 82–383, 82–384 & 82–385, July 23, 1982.

PMN 82–386, 82–387, 82–388, 82–389 & 82–390, July 24, 1982.

PMN 82–391, 82–392, 82–393, 82–394, 82–395 & 82–396, July 26, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS–51416]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, DC 20460, (202–382–3729)

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the public reading room E–107.

PMN 82–381

Manufacturer. Confidential.

Chemical. (G) Tetrasubstituted benzisoxazole.

Use/Production. (G) Site-limited intermediate. Prod. range: 500–1,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal and inhalation, a total of 10 workers, up to 2 hrs/da, up to 5 day/yr.

Environmental Release/Disposal. No release. Disposal by incineration.

PMN 82–382

Manufacturer. Confidential.

Chemical. (G) Polymer of alkenoic acid alkyl esters, 2-propenoic acid, and 2-propenoic acid, 2-methyl.

Use/Production. (G) Open use. Prod. range: 1,000–15,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing, use and disposal: accidental dermal and inhalation, a total of 186 workers, up to 8 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. More than 10,000 kg/yr released to water up to 10 da/yr. Disposal by publicly owned treatment works (POTW), landfill and activated sludge treatment settling.

PMN 82–383

Manufacturer. Confidential.

Chemical. (G) Brominated xylenol.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture, use and disposal: dermal and inhalation, a total of 4 workers, up to 4 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air 2 hrs/da, 20 da/yr. Disposal by incineration and approved landfill.

PMN 82–384

Manufacturer. Confidential.

Chemical. (G) Bis[bromo xylenol]sulfide.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture, use and disposal: dermal and inhalation, a total of 7 workers, up to 2 hrs/da, up to 24 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air 2 hrs/da, 20 da/yr. Disposal by incineration and approved landfill.

PMN 82–385

Manufacturer. Confidential.

Chemical. (G) Bis[xylenol]sulfide.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted

Exposure. Manufacturer, use and disposal: dermal and inhalation, a total of 5 workers, up to 2 hrs/da, up to 27 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air 2 hrs/da, 27 da/yr. Disposal by incineration and approved landfill.

PMN 82–386

Importer. Confidential.

Chemical. (G) Metal complex of disazo aromatic acids, sodium salt.

Use/Import. (S) Dye for wool and nylon. Import range: 1,500–3,000 kg/yr.

Toxicity Data. Acute oral: >5 g/kg; Skin irritation: Slight; Eye irritation: None; Inhalation: >5.4 mg/kg (4 hrs); Ames Test: Negative.

Exposure. Processing: dermal and inhalation, a total of 12 workers, up to 2 hrs/da, up to 60 da/yr.

Environmental Release/Disposal. 10–100 kg/yr released to water 1 hr/da, 60 da/yr. Disposal by POTW and incineration.

PMN 82–387

Manufacturer. Confidential.

Chemical. (S) Phosphorodithioic acid, O,O', secondary butyl and isooctyl mixed esters.

Use/Production. (S) Captive intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: Moderately to highly toxic; Acute dermal: Moderately toxic.

Exposure. Manufacture and processing: dermal, 12 workers, 8 hrs/da, 50 da/yr.

Environmental Release/Disposal. 10–100 kg/yr released to air and water. Disposal by navigable waterway or tributary.

PMN 82–388

Manufacturer. Confidential.

Chemical. (S) Phosphorodithioic acid, O,O', secondary butyl and isooctyl mixed esters, zinc salt.

Use/Production. (S) Lubricating oil additive. Prod. range: Confidential.

Toxicity Data. Acute oral: 2,160 mg/kg; Acute dermal: >3,160 mg/kg; Eye irritation: Severe; Subchronic toxicity: Moderate to severe effects.

Exposure. Manufacture and processing: dermal, 12 workers, 8 hrs/da, 50 da/yr.

Environmental Release/Disposal. 10–100 kg/yr released to air and water. Disposal by navigable waterway or tributary.

PMN 82–389

Manufacturer. Confidential.

Chemical. (S) Reaction product of [[(phosphonomethyl)imino] bis[6,1-hexanediyl-nitrilobis(methylene)]] tetrakis phosphonic acid and (2,2' oxybisethanol, reaction products with ammonia; morpholine derivatives, residues).

Use/Production. (G) Oil production chemical. Prod. range: 60,000–66,000 lb/yr.

Toxicity Data. Acute oral: >6.81 g/kg, Acute dermal: >3,160 mg/kg; Skin irritation: Slight to moderate; Eye irritation: Slight.

Exposure. Manufacture and use: limited, dermal and inhalation.

Environmental Release/Disposal. Limited. Disposal by deep well injection.

PMN 82–390

Manufacturer. Confidential.

Chemical. (S) Polymer of styrene, 2-propenoic acid, 1,1-dimethylethyl ester of 2-propenoic acid, 2-ethylhexyl ester of 2-propenoic acid, and 2-hydroxy propyl acrylate.

Use/Production. (S) Industrial baking enamel coating. Prod. range: 10,000–125,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing, use and disposal: dermal and inhalation, a total of 28 workers, up to 8 hrs/da, up to 252 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air with an unknown amount to water up to 16 hrs/da, up to 252 da/yr.

PMN 82–391

Manufacturer. Confidential.

Chemical. (G) Cresol-formaldehyde resin.

Use/Production. (G) Intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and use: dermal and inhalation, a total of 36 workers.

Environmental Release/Disposal. Confidential Disposal by incineration and approved landfill.

PMN 82–392

Manufacturer. Confidential.

Chemical. (G) Hydroxy ethyl ester substituted polybis imide of pyromellitic dianhydride.

Use/Production. (G) Contained use. Prod. range: 225–2,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and use: dermal, 5 workers, 23 hrs/da, 40 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to land. Disposal by landfill.

PMN 82–393

Manufacturer. American Hoechst.

Chemical. (S) Amines, N-(3-aminopropyl)-N-talloalkyltrimethylenedibis-(3-aminopropyl)-N-tallowamine.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: 5,000 mg/kg; Skin irritation: None; Eye irritation: None.

Exposure. Processing: dermal and inhalation, 11 workers, 88 man hrs/yr.

Environmental Release/Disposal. Disposal by biological treatment system and approved landfill.

PMN 82–394

Manufacturer. Confidential.

Chemical. (G) Modified polyurethane from diisocyanate, substituted alkanol and a substituted alkane diol.

Use/Production. (G) Open use. Prod. range: 2,000–100,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and use: dermal and eye, a total of 98 workers, up to 6 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 100–1,000 kg/yr to land. Disposal by incineration.

PMN 82–395

Manufacturer. Confidential.

Chemical. (G) Polymer of a vegetable oil derivative, alkane diols and a carbomonocyclic anhydride.

Use/Production. (G) Open use. Prod. range: 30,000–450,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and use: dermal and eye, a total of 111 workers, up to 6 hrs/da, up to 60 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 1,000–10,000 kg/yr to land. Disposal by incineration.

PMN 82–396

Manufacturer. Confidential.

Chemical. (G) Substituted oxirane, reacted with polyalkylene glycol.

Use/Production. (G) Open use. Prod. range: 1,000–100,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 4 workers, up to 1 hr/da, up to 35 da/yr.

Environmental Release/Disposal. 100–1,000 kg/yr released to water 1 hr/da, 26 da/yr. Disposal by POTW.

Dated: June 1, 1982.

Denise F. Swink,

Acting Director, Management Support Division.

[FR Doc. 82-15445 Filed 6-10-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51417; TSH-FRL 2143-6]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before

manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the Federal Register of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of twenty one PMNs and provides a summary of each.

DATES: Close of Review Period: PMN 82-397, 82-398 and 82-399, August 28, 1982. PMN 82-400, 82-401 and 82-402, August 30, 1982. PMN 82-403, 82-404, 82-405, 82-406, 82-407, 82-408, 82-409, 82-410 and 82-411, August 31, 1982. PMN 82-412, 82-413, 82-414, 82-415, 82-416 and 82-417, September 1, 1982.

Written comments by: PMN 82-397, 82-398 and 82-399, July 27, 1982. PMN 82-400, 82-401 and 82-402, July 31, 1982. PMN 82-403, 82-404, 82-405, 82-406, 82-407, 82-408, 82-409, 82-410 and 82-411, August 1, 1982. PMN 82-412, 82-413, 82-414, 82-415, 82-416 and 82-417, August 2, 1982.

ADDRESS: Written comments, identified by the document control number "(OPTS-51417)" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, D.C. 20460 (202-382-3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, D.C. 20460 (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the public reading room E-107.

PMN 82-397

Manufacturer. Confidential.

Chemical. (G) Tetrasubstituted benzisozazole.

Use/Production. (G) Site-limited intermediate. Prod. range: 500-1,500 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal and inhalation, a total of 10 workers, up to 1 hr/da, up to 10 da/yr.

Environmental Released/Disposal. No release. Disposal by biological treatment system and incineration.

PMN 82-398

Importer. Confidential.

Chemical. (G) A mixture of benzamide, N-((substituted naphthyl)azo)phenyl-((substituted amino-hydrozy-sulfonaphthyl)azo) and benzamide, N-((substituted naphthyl)azo)phenyl-((substituted amino-hydroxy-sulfonaphthyl)azo, compounded with organic acids.

Use/Import. (S) Colorant for paper. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. No exposure.

Environmental Release/Disposal. No release.

PMN 82-399

Importer. Ciba-Geigy Corporation.

Chemical. (S) C_{10-16}-alkyl mercaptoacetates reaction products with dichlorodioctylstannane and trichlorooctylstannane.

Use/Import. (G) Contained use. Import range: Confidential.

Toxicity Data. Acute oral: 5,600 mg/kg; Skin irritation: None; Eye irritation: None; Subchronic oral, rats (3 mos): 50 mg/kg; Ames Test: Non-mutagenic; Subchronic oral, dogs (13 wks): 60 mg/kg.

Exposure. Dermal and inhalation, up to 8 hrs/da, up to 200 da/yr during transfer.

Environmental Release/Disposal. Minimal release to air. Disposal by incineration and approved landfill.

PMN 82-400

Manufacturer. Jordan Chemical Company.

Chemical. (S) Potassium N,N-bis (hydroxyethyl) cocoamine oxide phosphate.

Use/Production. (S) Industrial, commercial and consumer surfactant. Prod. range: 5,000-200,000 kg/yr.

Toxicity Data. Acute oral: <5.0 mg/kg; Skin irritation: Primary irritant; Eye irritation: Primary irritant.

Exposure. Manufacture: dermal, 1 worker, 1 hr/da, 30 da/yr.

Environmental Release/Disposal. No release.

PMN 82-401

Manufacturer. Clinton Corn Processing Company, Inc.

Chemical. (G) Polyvinyl starch.

Use/Production. (G) Sizing agent. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential

PMN 82-402

Manufacturer. Confidential.

Chemical. (G) Styrene-diene-substituted alkene copolymer.

Use/Production. (G) Open use. Prod. range: Confidential.

Toxicity Data. Acute oral: >2 gm/kg; Skin irritation: 0.8; Eye irritation: Mild to moderate; Skin sensitization: Negative.

Exposure. Manufacture and processing: dermal and inhalation, a total of 70 workers, up to 12 hrs/da, up to 30 da/yr.

Environmental Release/Disposal. Confidential.

PMN 82-403

Manufacturer. Walsh Chemical Corporation.

Chemical. (S) Ethyl acrylate—methyl acrylate copolymer.

Use/Production. (S) Site-limited and industrial latex for compounding cloth back. Prod. range: 1,240,000-5,000,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing and use: dermal, a total of 17 workers, up to .02 hr/da, up to 260 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land .3 hr/da, 260 da/yr. Disposal by waste trash.

PMN 82-404

Manufacturer. Walsh Chemical Corporation.

Chemical. (S) Ethyl acrylate—methyl methacrylate copolymer.

Use/Production. (S) Site-limited and industrial latex for compounding cloth back. Prod. range: 80,000-130,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing and use: dermal, a total of 17 workers, up to .02 hr/da, up to 260 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land .3 hr/da, 260 da/yr. Disposal by waste trash.

PMN 82-405

Manufacturer. Walsh Chemical Corporation.

Chemical. (S) Ethyl acrylate—methyl acrylate—methyl methacrylate copolymer.

Use/Production. (S) Site-limited and industrial latex for compounding cloth back. Prod. range: 2,250,000-10,000,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing and use: dermal, a total of 17 workers, up to .02 hr/da, up to 260 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land .3 hr/da, 260 da/yr. Disposal by waste trash.

PMN 82-406

Manufacturer. Walsh Chemical Corporation.

Chemical. (S) Ethyl acrylate—methyl acrylate copolymer.

Use/Production. (S) Site-limited and industrial latex for compounding cloth back. Prod. range: 80,000–90,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing and use: dermal, a total of 17 workers, up to .02 hr/da, up to 260 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land .3 hr/da, 260 da/yr. Disposal by waste trash.

PMN 82-407

Manufacturer. Walsh Chemical Corporation.

Chemical. (S) Vinyl acetate homopolymer.

Use/Production. (S) Industrial textile sizing and adhesives. Prod. range: 350,000–400,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: dermal, .02 hr/da, 260 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land .3 hr/da, 260 da/yr. Disposal by waste trash.

PMN 82-408

Manufacturer. Hach Company.

Chemical. (G) Tetra tosylate porphine.

Use/Production. (S) Industrial and consumer analytical reagent. Prod. range: 0.2–1.5 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: oral and dermal, a total of 3 workers, up to 4 hrs/da, up to 2 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water. Disposal by publicly owned treatment works (POTW).

PMN 82-409

Manufacturer. Jordan Chemical Company.

Chemical. (S) Potassium N,N-bis (hydroxyethyl) tallow amine oxide phosphate.

Use/Production. (S) Industrial, commercial and consumer surfactant. Prod. range: 5,000–200,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, 1 worker, 1 hr/da, 30 da/yr.

Environmental Release/Disposal. No release.

PMN 82-410

Importer. Confidential.

Chemical. (G) Substituted heterocycle, amine salt.

Use/Import. (G) Contained use. Import range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Skin irritation: Minimal; Eye irritation: Slight.

Exposure. Use: dermal and inhalation, 2 hrs/da, 200 da/yr.

Environmental Release/Disposal. No release. Disposal by incineration and approved landfill.

PMN 82-411

Manufacturer. The Dow Chemical Company.

Chemical. (G) Mixed metal hydroxide.

Use/Production. Confidential. Prod. range: 15,000–800,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal and inhalation, a total of 35 workers, up to 5 hrs/da, up to 240 da/yr.

Environmental Release/Disposal. No release. Disposal by approved landfill.

PMN 82-412

Manufacturer. Confidential.

Chemical. (S) Anthra[2,1,9-def:6,5,10-d'e'f']diisoquinoline-1,3,8,10(2H,9H)-tetrone, 2,9-bis(4-aminophenyl).

Use/Production. (S) Industrial textile dye. Prod. range: 180–3,300 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and disposal: dermal, a total of 19 workers, up to 8 hrs/da, up to 240 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air with 10–100 kg/yr to water and land 24 hrs/da, 365 da/yr. Disposal by National Pollution Discharge Elimination System (NPDES) and approved landfill.

PMN 82-413

Manufacturer. Confidential.

Chemical. (G) Polyether polyglycol resin polymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: liquid, 2 workers, 1 hr/da, 12 da/yr.

Environmental Release/Disposal. No release.

PMN 82-414

Manufacturer. E. I. du Pont de Nemours and Company, Inc.

Chemical. (G) Polyester polymer.

Use/Production. (S) Intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, 8 workers, 24 hrs./da, 1 da/yr.

Environmental Release/Disposal. Minimal. Disposal by incineration.

PMN 82-415

Manufacturer. E.I. du Pont de Nemours and Company, Inc.

Chemical. (G) Polyester polymer.

Use/Production. (G) Component of a final product. Prod. range: confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, 8 workers, 24 hrs/da, 3 da/yr.

Environmental Release/Disposal. Minimal. Disposal by incineration.

PMN 82-416

Manufacturer. E.I. du Pont de Nemours and Company, Inc.

Chemical. (G) Urethane polyol.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, 8 workers, 24 hrs/da, 4 da/yr.

Environmental Release/Disposal. Minimal. Disposal by incineration.

PMN 82-417

Manufacturer. Confidential.

Chemical. (G) Polymer of alkenes and substituted alkenes.

Use/Production. (G) Contained use. Prod. range: Confidential.

Toxicity Data. Acute oral: 5.0 g/kg; Acute dermal: 2.0 g/kg; Skin irritation: Mild; Eye irritation: Mild; Ames Test: Negative.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

Dated: June 7, 1982.

Denise F. Swink,

Acting Director, Management Support Division.

[FR Doc. 82-15607 Filed 6-10-82; 8:45 am]

BILLING CODE 6560-50-M

[AMS-FRL 2143-2]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Federal Certification Test Results for 1982 Model Year

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Section 206(e) of the Clean Air Act as amended August 1977, directs the Administrator of the Environmental Protection Agency to announce in the **Federal Register** and make available to the public the results of certification tests conducted on new motor vehicles and new motor vehicle engines to determine conformity with Federal standards for the control of air pollution caused by motor vehicles and motor vehicle engines. The Federal Certification Test Results for the 1982 model year are now available and may be obtained by writing: U.S. Environmental Protection Agency, Mobile Source Air Pollution Control, Certification Division, 2565 Plymouth

Road, Ann Arbor, Michigan 48105, (313) 668–4202.

FOR FURTHER INFORMATION CONTACT: Christine Mikolajczyk, Certification Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, (313) 668–4284.

Dated: May 27, 1982.

Charles Elkins,

Acting Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 82–15849 Filed 6–10–82; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–2144–5]

Availability of Environmental Impact Statements Filed June 1 through June 4, 1982 Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, Ms. Kathi Wilson, (202) 382–5074, procedural inquiries, general information, 382–5075 or 382–5073.

Corps of Engineers:
- EIS# 820356, Draft, COE, AL, Threemile Creek Flood Control Project, Mobile County, Due: July 26, 1982
- EIS# 820354, Draft, COE, VA, Willoughby Spit and Vicinity Shoreline Protection, City of Norfolk, Due: July 26, 1982
- EIS# 820361 Draft, COE, WA, Grays Harbor/Chehalis and Hoquiam Rivers Navigation Improvement, Due: July 26, 1982
- EIS# 820360, Draft, COE, WA, East, West and Duwamish Waterways Navigation Improvements, King Co., Due: Aug. 2, 1982
- EIS# 820350 Final, COE, MS, Port Gibson Port Construction, Mississippi River, Claiborne County, Due: July 12, 1982
- EIS# 820352, Final, COE, OR, Siuslaw River and Bar Jetty Extension, Lane County, Due: July 12, 1982

Department of Commerce:
- EIS# 820367, Draft, NOA, NY, New York Coastal Management Program, CZM, Due: July 26, 1982

Department of Interior:
- EIS# 820357, Draft, BLM, OR, Riley Area Grazing Management Plan, Harney County, Due: Aug. 3, 1982
- EIS# 820358 Final, IBR, ID, Anderson Ranch Powerplant, Unit 3, Generation Increase, Elmore County, Due: July 12, 1982
- EIS# 820359, Final, IBR, ID, Minidoka Powerplant, Rehabilitation and Enlargement, Minidoka County, Due: July 12, 1982
- EIS# 820371 Final, OSM, WY, North Antelope Mine, Mining/Reclamation Plan Approval, Campbell Co., Due: July 12, 1982

Department of Transportation:
- EIS# 820356 Draft, FHW, CA, I–80 Improvement, Auburn Ravine Undercrossing to East Auburn Overhead, Due: July 26, 1982
- EIS# 820365, Draft, FHW, WI, US 53 Upgrading, Rice Lake to Trego, Barron and Washburn Counties, Due: July 26, 1982
- EIS# 820362, DSuppl, FHW, HI, Interstate H–3 Gap Closure/Construction, Honolulu County, Due: July 26, 1982
- EIS# 820372, Final, FHW, GA, North Thomasville Bypass Construction US 84 to US 319, Thomas County, Due: July 16, 1982
- EIS# 820353, FSuppl, FHW, SEV, IA NB Missouri River Bridge Construction, Nebraska City, Due: July 16, 1982

Environmental Protection Agency:
- EIS# 820368, Final, EPA, FL, St. Johns River Power Park, NPDES Permit, Duval County, Due: July 12, 1982

Genesal Services Administration:
- EIS# 820370, Final, GSA, AZ, San Luis New Border Station, Yuma County, Due: July 12, 1982

Department of Housing and Urban Development:
- EIS# 820369, Final, CDB, NY, Rochester Convention Center Construction, Grant, Monroe County, Due: July 12, 1982

Department of Agriculture:
- EIS# 820363, Draft, AFS, CA, Los Padres NF/Navajo Area Mineral Exploration Plan, Approval, Due: Sept. 2, 1982
- EIS# 820364, Draft, AFS, Co, Homestake Phase II Water Diversion, White River NF, Eagle County, Due: July 26, 1982

Amended Notices:
- EIS# 820321, Final, FHW, WV, Appalachian Corridor G Construction, Holden/Godby Heights, Logan Co., *Published FR 5/28/82—Officially Retracted, due to noncompletion of distribution, Due:
- EIS# 820291, Final, SCS, CA, Liagas Creek Watershed Flood Control Resource Management Plan, *Published FR 5/21/82—Review Reestablished due to noncompletion of distribution, Due: July 6, 1982
- EIS# 820077, DSuppl, NOA, AK, High Seas Salmon Fishery Management Plan, *Published FR 2/19/82—Officially withdrawn, Due:

Dated: June 8, 1982.

Pat A. Alberico,

Acting Director, Office of Federal Activities.

[FR Doc. 82–15884 Filed 6–10–82; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–2144–5]

Intent To Prepare an Environmental Impact Statements (EIS)

AGENCY: Environmental Protection Agency, Region 6—Dallas.

CONTACT: Mr. Clinton B. Spotts, Regional Coordinator, U.S. Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270, Telephone: 214/767–2716 or FTS 729–2716.

SUMMARY: Pursuant to EPA regulations for the preparation of EISs (40 CFR Part 6), EPA is preparing an EIS in the proposed issuance of a new source NPDES permit to Houston Lighting and Power Company and a subsidiary of North American Coal Corporation for discharges from the Malakoff Electric Generating Station and the Trinity Mine, respectively. Previously, EPA published a notice of intent (47 FR 9574) to prepare an EIS on the generating station. However, since that time EPA has decided to prepare one EIS that will include the generating station and the mine. EPA estimates draft EIS will be available in November 1982.

Additionally, Region 6 will prepare an EIS on the proposed issuance of a new source NPDES permit for the Dolit Hills Surface Lignite Mine near Mansfield, Louisiana. Southwestern Electric Power Company and Central Louisiana Electric Company, Inc., have announced the signing of a lignite mining contractor for supplying fuel to the Dolit Hills Power Plant. EPA plans to hold a scoping meeting on July 6, 1982 at 7:30 p.m. at the DeSoto Parish Instructional Material Center located on Oxford Road in Mansfield, Louisiana. EPA estimates the draft EIS will be available in November 1982. For further information regarding these notices contact Mr. Clinton Spotts (see above).

Dated: June 8, 1982.

Pat A. Alberico,

Acting Director, Office of Federal Activities.

[FR Doc. 82–15882 Filed 6–10–82; 8:45 am]

BILLING CODE 6560–50–M

[CR–FRL–2144–5]

Withdrawal of Intent To Prepare an Environmental Impact Statement (EIS)

AGENCY: Environmental Protection Agency, Region 4—Atlanta.

CONTACT: Mr. Dario J. Dal Santo, Project Officer, Environmental Assessment Branch, Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365, Telephone: 404/881–3776.

SUMMARY: On December 18, 1981, EPA published a notice of intent to prepare an Environmental Impact Statement (46 FR 61714) on the proposed issuance of a new source NPDES permit for the Tri-State Synfuels Company's (TSSC) proposed indirect liquefaction facility near Geneva, Henderson County, Kentucky. Recently, TSSC informed EPA of its intention to postpone ongoing project activities. Therefore, EPA is issuing notice of its intention to suspend further efforts in preparing this EIS. Should the project activity and EIS efforts resume at some future date, public notice would be made at the reinitiation of these efforts.

Dated: June 8, 1982.
Pat A. Alberico,
Acting Director, Office of Federal Activities.
[FR Doc. 82-15660 Filed 6-10-82; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 82-267; File No. BP-800327AE, etc.]

New England Broadcasting, Inc., et al.; Designating Applications for Consolidated Hearing on Stated Issues

In re Applications of New England Broadcasting, Inc., Berlin, New Hampshire, Req: 1230 kHz, 250 W, 1 kW-LS, U, Req: 103.7 MHz, Channel 279, 17 kW (H&V); 160 feet BC Docket No. 82-267, File No. BP-800327AC; BC Docket No. 82-268, File No. BPH-800327AE; Berlin Broadcasting Company, Inc., Berlin, New Hampshire, Req: 1230 kHz, 250 W, 1 kW-LS, U, Req: 103.7 MHz, Channel 279, 17 kW (H&V); 160 feet, BC Docket No. 82-269, File No. BP-800620AE; BC Docket No. 82-270, File No. BPH-800620AH; Christina and Joel Martin, Berlin, New Hampshire, Req: 1230 kHz, 250 W, 1 kW-LS, U, Req: 103.7 MHz, Channel 279, 17 kW (H&V); 255 feet, BC Docket No. 82-271, File No. BP-800620AC; BC Docket No. 82-272, File No. BPH-800724AD; Sico Communications, Inc., Berlin, New Hampshire BC Docket No. 82-273, File No. BPH-800725AF; Req: 103.7 MHz, Channel 279, 17 kW (H&V); 160 feet for construction permit.

Memorandum Opinion and Order

Adopted: May 13, 1982.
Released: May 27, 1982.

By the Commission: Chariman Fowler not participating.

1. White Mountain Broadcasting Co., Inc. was the licensee of stations WMOU and WXLQ(FM), Berlin, New Hampshire, from 1969 until 1979, and Robert R. Powell was its president and sole shareholder. In a hearing on the stations' license renewal applications we found that Powell had knowingly engaged in fraudulent billing of many local advertisers while he controlled the stations, terming his conduct among the most egregious violations of Section 73.1205 of the Rules we had encountered. Also we found that White Mountain had failed to maintain adequate program logs for WXLQ. For these reasons we denied the license renewal applications of both stations. *White Mountain Broadcasting Co., Inc.*, 60 FCC 2d 342, *reconsid. denied*, 61 FCC 2d 472 (1976); *aff'd sub nom. White Mountain Broadcasting Co., Inc.* v. *FCC*, 598 F. 2d 274 (D.C. Cir.), *cert. denied*, 444 U.S. 963 (1979). We now have under consideration: (a) the above-captioned mutually exclusive applications for new AM and FM stations to continue service formerly provided by WMOU and WXLQ; (b) New England's petition to deny the Martin applications; and (c) related pleadings.

Financial Qualifications

2. *Preliminary matters.* The applicants who have applied for both an AM and an FM station may be granted permits for both, or for only one. We have therefore reviewed each such applicant's proposals to determine its qualifications to finance just an AM station, just an FM, and both.

3. *New England.* This applicant has not projected costs for acquiring and operating the AM or FM station separately. It estimates that $64,613 will be required for an AM-FM combination, itemized as follows:

Equipment payments	$7,000
Other pre-operation costs	7,500
Operating costs (3 months)	50,113
Total	64,613

4. New England says that it will purchase the stations' physical plant from the former licensee's secured creditor, and that the $7,000 for equipment payments is the down payment required. The payment terms, however, have not been clearly set out. Applicant plans to finance its proposal with $15,000 in shareholder contributions and loans, a $50,000 bank loan, and advertising revenues. However, it has not submitted stock-subscription agreements, or loan commitments and balance sheets showing the principals' capacity to meet these commitments. In addition the bank loan letter was valid for less than one month and has expired, and anticipated advertising revenues may not be relied upon. A general financial issue will therefore be specified.

5. *Berlin.* This applicant has also provided cost estimates only for an AM-FM combination, as follows:

Equipment down payment	$7,000
Equipment payments	3,012
Other pre-operation costs	21,000
Operating costs (3 months)	49,400
Total	80,412

Berlin relies on $10,000 in existing capital, a $50,000 line of credit, and advertising revenues. It has not, however, submitted a current balance sheet for the corporation, or documentation from a lending institution indicating a willingness to provide the $50,000 line of credit. Accordingly, a general financial issue will be specified.

6. *Martin.* This applicant has segregated costs and funding for its AM and FM proposals, and for a combined operation, as follows:

	AM only	FM only	AM-FM
Equipment down payment	$16,277	$17,362	$33,650
Equipment payments	6,789	9,372	16,582
Land	2,000	2,000	2,000
Buildings	3,000	3,000	3,000
Miscellaneous	8,500	8,500	8,500
Operating costs (3 months)	18,107	[1]21,332	21,322
Total	56,673	61,566	84,254

[1] Martin did not provide us with a complete list of operating costs for an FM operation alone. It did, however, list additional operating costs for an FM station. For purpose of analysis, we have assumed that Martin's FM operating costs would not exceed its operating costs for an AM-FM combination.

To finance its proposals, Martin relies on $55,000 existing capital, a $100,000 Small Business Administration loan, and advertising revenues. Only the existing capital has been shown to be available, however. Therefore, a limited financial issue will be specified.

7. *Sico.* This applicant, which seeks authority to operate only the FM station, has not adequately explained the costs it expects to incur. Aside from an estimated $26,755 in three months operating costs and miscellaneous expenses of $6,000, Sico only states that it expects to spend $100,000 for land, building renovation, and equipment. Further, Sico states that it only "assumes" that WXLQ's former licensee will sell it the necessary FM equipment. Regarding its financing, Sico plans to rely upon station revenues and the possibility of a $200,000 bank loan. Because this applicant's explanation of expected costs and documentation of funding are deficient, a general financial issue will be specified.

Petition To Deny Martin's Applications and Martin's Allegations

8. *Martin's allegations.* As previously noted, in denying WMOU and WXLQ license renewal, we determined that Robert R. Powell personally was aware of and affirmatively engaged in the process of fraudulent billing by falsifying affidavits regarding the true cost and quantity of the advertising broadcast by the stations.[1] Powell has not severed his connections with the stations, however. Upon request of the interim operator (and with the informal approval of the Commission's staff), he has been employed by the stations in a non-management capacity as talk-show host and salesman.[2] In addition, we note

[1] 60 FCC 2d at 344.

[2] Community Broadcasting Association of Berlin, Inc., applicant for interim authority to operate both stations, has provided service under special

that Berlin and New England are composed of the children of Powell: New England's principals include offspring Stephen E. Powell and Deborah J. Powell Stever, while Berlin is primarily composed of sons Michael Powell and Robert R. Powell, Jr., and their wives.

9. Martin alleges that several improper relationships exist among Robert R. Powell, Community, Berlin, and New England. First, it claims that New England and Berlin are not bona fide competitors. As stated above, Robert Powell's children comprise both applicants, although there is no overlap of principals between Berlin and New England. Martin also points out the similarity of both applicants' financial proposals. Each proposes to purchase the equipment of WMOU/WXLQ from a secured creditor on similar terms and sets forth similar funding plans: securing a $50,000 loan from a lending institution. There apparently also exists a sharing of attorneys between applicants. Berlin's attorney of record, Philip R. Waystack, Jr., filed New England's petition to deny, but is identified in the petition as New England's attorney. Martin also points out that New England's attorney of record, Scott H. Robb, was not served with a copy of the petition. Neither Berlin nor New England has responded to Martin's contention that they are not bona fide separate entities.

10. Next, Martin attempts to link New England with interim operator Community. It notes that New England's petition to deny the Martin application contains the engineering affidavit of J. Gordon Keyworth, in which Keyworth states that Community authorized him to file the affidavit. Martin therefore alleges that Community has violated Section 292:2–a of New Hampshire's Not-For-Profit Corporation Law by engaging in self-dealing.[3] Furthermore, Martin contends that Community misrepresented its claim to the Commission that, as an interim operator, it would use any profits it received for charitable purposes. Community responds by stating only that a "misunderstanding" prompted Keyworth to declare that he prepared the technical exhibit on behalf of Community, and that Community never employed Keyworth in any capacity. Besides these matters, we note that New England's attorney of record (and corporate director), Scott Robb, is also counsel for Community.

11. Finally, Martin sees links between Community and Robert Powell. It claims that Powell has exercised management-level responsibilities by hiring employees for the interim operator, in addition to serving as saleman and announcer. In support, Martin submits a Berlin newspaper article reporting that Powell hired an announcer in the summer of 1980, well after White Mountain Broadcasting lost its licenses. Community admits that Powell serves as an employee, but terms the newspaper article erroneous and denies that Powell hired any station personnel or otherwise assumed an active management role in the station since Community assumed temporary operating authority.

12. Community's responses to Martin's charges are cursory and inadequate, and New England and Berlin have not responded at all. We believe that sufficient factual questions have been raised to warrant issues exploring the relationships among Robert Powell, New England, Berlin, and Community.[4] These questions leave us unable to determine whether some of the applicants have misrepresented matters to or been less than candid with us, and whether New England and Berlin are bona fide competitors.[5] Further, implicit in Martin's allegations is the charge that Robert Powell, through New England, Berlin, and Community, is attempting to regain control of the stations he lost.[6] A real-party-in-interest issue will therefore also be specified.

13. *New England's petition.*[7] New England alleges in its petition that Martin misrepresented interviewing Olivette M. Dumas, a community leader, in its ascertainment survey.[8] Dumas has signed a letter, apparently drafted by New England principal Stephen Powell, stating that she was never interviewed by any applicant seeking the instant facilities. Joel Martin states, however, that he did interview Ms. Dumas, and to support his contention he submits a survey questionnaire he says Dumas signed at the time of the interview. New England has not rebutted Martin's evidence, and we find that New England has raised no substantial question of fact requiring specification of an issue. See *Mize & Rowland Radio*, 86 FCC 2d 782, 784–85 (1981).

14. Likewise, New England's other two charges require no further action. Petitioner alleges that a Martin employee offered a job to one of New England's principals if Martin won the comparative hearing, but fails to explain how this alleged job offer violates any Commission rule or standard of conduct. Lastly, petitioner contends that Martin's original transmitter site coordinates did not correspond to the actual WMOU/WXLQ site, which Martin stated it was seeking. Martin has since remedied this discrepancy by submitting the correct coordinates for the proposed site. Neither of these charges requires specification of an issue against Martin.

Other Matters

15. Berlin principal Robert R. Powell, Jr. stated in response to Question 17(a) of Section II, FCC Form 301, that he had no previous connection with a broadcast station. He was, however, listed as being elected a "Clerk Director" of the former licensee of stations WMOU and WXLQ in those stations' ownership reports. We have no evidence that this was anything other than an oversight, and therefore no qualification issue will be specified. However, Berlin's applications should be appropriately amended.

16. We have no evidence that Berlin or Sico published the required local notices of the filing of their applications. To remedy this deficiency, they will be required to publish local notice of their

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temporary operating authority since March 7, 1980, using WMOU and WXLQ's physical plant.

[3] This statute expressly prohibits a private foundation (e.g., a non-profit corporation) from self-dealing, which is using funds for purposes other than the limited, non-profit ones for which it is organized and operated. Since Community is organized and operated for educational and charitable purposes, Martin argues that its alleged use of funds on behalf of a commercial applicant for a construction permit in a contested proceeding is improper. See § 501(c)(3) of the Internal Revenue Code.

[4] These matters call into question the qualifications of Community, the interim applicant, as well, such that we cannot find that grant of the interim applications would serve the public interest. The Broadcast Bureau will therefore make further inquiry, and if appropriate will entertain additional interim applications. We will also make Community a party to this hearing.

[5] Even if it does not show misrepresentation of real parties in interest, the evidence may show violation of Section 73.3520 of our Rules, which prohibits multiple applications by the same parties.

[6] We are, however, satisfied with Community's March 6, 1980 agreement to lease Powell's physical plant in that we believe the agreement does not *per se* give any actual or potential controlling power to Powell. As a practical matter, such an arrangement was necessary to maintain service to the public.

[7] We would not ordinarily consider New England's petition at this time. In the "Paglin Report" we found that competing applicants have ample opportunity to raise objections to other applications after designation for hearing, and that considering their petitions beforehand only delays Commission proceedings. *Processing of Contested Broadcast Applications*, 72 FCC 2d 202, 212–15 (1979). [Petitions to dismiss, however, can be dealt with at the predesignation stage because they involve threshold questions of the acceptability of applications.) Because of the nature of the allegations, however, we are exercising our discretion to examine them on their merits in this order.

[8] New England also faults two of the interviews for having been conducted by an unidentified non-principal. The question presented is moot in light of Martin's response that the interviewer was its proposed sales manager, and our subsequent elimination of formal ascertainment procedures. *Deregulation of Radio*, 84 FCC 2d 968 (1981).

applications, if they have not already done so, and to certify the publications to the presiding Administrative Law Judge.

17. Of the applicants for both AM and FM permits, Martin proposes independent programming. New England, however, proposes to duplicate some programming (2½ hours per day), and Berlin will duplicate all programming if it is successful in obtaining permits for both facilities. Therefore, evidence regarding program duplication will be admissible under the standard comparative issue. When duplicated programming is proposed, the showing permitted will be limited to evidence concerning the benefits to be derived from the proposed duplication which would offset its inefficiency. *Jones T. Sudbury, 8 FCC 2d 360 (1967).*

18. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

19. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the relationships and connections among Robert R. Powell, New England, Berlin, and Community.

2. To determine, in light of the evidence adduced pursuant to issue 1 above, whether Robert R. Powell is a real party in interest to the applications of New England or Berlin.

3. To determine, in light of the evidence adduced pursuant to issue 1 above, whether New England and Berlin are bona fide arms' length competitors.

4. To determine, in light of the evidence adduced pursuant to issues 1, 2, and 3 above, whether New England or Berlin misrepresented matters to or has been lacking in candor with the Commission.

5. To determine whether New England is financially qualified to construct and operate either or both of its proposed stations.

6. To determine whether Berlin is financially qualified to construct and operate either or both of its proposed stations.

7. To determine with respect to Martin:

a. The source and availability of additional funds over and above the $55,000 indicated; and

b. In light of the evidence adduced pursuant to (a) above, whether the applicant is financially qualified to construct and operate either or both of its proposed stations.

8. To determine whether Sico is financially qualified to construct and operate its proposed FM station.

9. To determine which of the proposals would, on a comparative basis, best serve the public interest.

10. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

20. It is further ordered, That the burden of proceeding with the introduction of evidence on Issue 1 will be on Martin, and the burden of proof on Issues 2 through 4 will be on New England and Berlin.

21. It is further ordered, That New England's petition to deny Martin's applications is dismissed as a petition to deny, and treated as an informal objection, is denied.

22. It is further ordered, That Martin's informal objection is granted to the extent indicated.

23. It is further ordered, That Community Broadcasting Association of Berlin, Inc. is made a party to this proceeding.

24. It is further ordered, That Berlin shall amend its application as specified in paragraph 16 above on or before July 12, 1982.

25. It is further ordered, That Berlin and Sico shall publish local notice of the filing of their applications (if they have not already done so), and shall certify their publications to the presiding Administrative Law Judge within 40 days after this order is published in the **Federal Register.**

26. It is further ordered, That to avail themselves of the opportunity to be heard, and pursuant to § 1.221(c) of the Commission's Rules, the parties shall, in person or by attorney, within 20 days of the mailing of this order, file with the Commission in triplicate written appearances stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

27. It is further ordered, That pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, the applicants shall give notice of the hearing (either individually or jointly) within the time and in the manner prescribed in the rule, and shall advise the Commission of the publication of notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-15782 Filed 6-10-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Open Committee Meetings

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on: Thursday, July 1, 1982; Thursday, July 29, 1982.

These meetings will convene at 10 a.m., and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW, Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management theron.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the

President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Committee Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW, Washington, D.C. 20415 (202–632–9710).

William B. Davidson, Jr.,

Chairman, Federal Prevailing Rate Advisory Committee.

June 7, 1982.

[FR Doc. 82–15801 Filed 6–10–82; 8:45 am]

BILLING CODE 6325–01–M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Authorization for Domestic Open Market Operations

In accordance with the Committee's rules regarding availability of information, notice is given that on April 13–14, 1982, paragraph 1(a) of the Committee's authorization for domestic open market operations was amended to raise from $3 billion to $5 billion the limit on changes between Committee meetings in System Account holdings of U.S. government and federal agency securities, effective immediately, for the period ending with the close of business on May 18, 1982.

On April 26–27, the Committee voted to approve an additional increase of $1 billion, to $6 billion, in the intermeeting limit on changes in holdings of U.S. government and federal agency securities for the period ending with the close of business of May 18, 1982.

Note.—For paragraph 1(a) of the authorization, see 36 FR 22697.

By order of the Federal Open Market Committee, June 4, 1982.

Murray Altmann,

Secretary.

[FR Doc. 82–15783 Filed 6–10–82; 8:45 am]

BILLING CODE 6210–01–M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Coastal Bankshares, Inc.*, Hinesville, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of The Coastal Bank, Hinesville, Georgia. Comments on this application must be received not later than July 4, 1982.

2. *Foxworth Corporation*, Foxworth, Mississippi; to become a bank holding company by acquiring 80 percent of the voting shares of Foxworth Bank, Foxworth, Mississippi. Comments on this application must be received not later than July 4, 1982.

3. *Progressive Capital Corporation*, Amite, Louisiana; to become a bank holding company by acquiring 80 percent of the voting shares of Central Progressive Bank of Amite, Amite, Louisiana. Comments on this application must be received not later than July 4, 1982.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Peoria Corp.*, Peoria, Illinois; to become a bank holding company by acquiring 100 percent (less directors' qualifying shares) of the voting shares of The First National Bank of Peoria, Peoria, Illinois. Comments on this application must be received not later than July 4, 1982.

2. *Weaver Bancshares, Inc.*, Riverton, Iowa; to become a bank holding company by acquiring 82 percent of the voting shares of Nishna Valley State Bank, Riverton, Iowa. Comments on this application must be received not later than July 4, 1982.

C. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Monticello Bankshares, Inc.*, Monticello, Kentucky; to become a bank holding company by acquiring 80 percent or more of the voting shares of Monticello Banking Company, Monticello, Kentucky. Comments on this application must be received not later than July 4, 1982.

2. *Vernois Bancorp, Inc.*, Mt. Vernon, Illinois; to become a bank holding company by acquiring 80 percent of the voting shares of Bank of Illinois in Mt. Vernon, Mt. Vernon, Illinois. Comments on this application must be received not later than July 4, 1982.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First National Bancshares of Fredonia*, Fredonia, Kansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of First National Bank of Fredonia, Fredonia, Kansas. Comments on this application must be received not later than July 4, 1982.

E. Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551:

1. *Americana Bancorporation of Alden, Inc.*, Edina, Minnesota; to become a bank holding company by acquiring an additional 75.63 percent of the voting shares of Americana State Bank of Alden, Alden, Minnesota. Applicant currently owns 24 percent of Bank. This application may be inspected at the Federal Reserve Bank of Minneapolis. Comments on this application must be received not later than July 4, 1982.

Board of Governors of the Federal Reserve System, June 4, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82–15784 Filed 6–10–82; 8:45 am]

BILLING CODE 6210–01–M

Colonial Capital Corp.; Formation of Bank Holding Co.

Colonial Capital Corporation, Mantee, Mississippi, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 83 percent or more of the voting shares of Bank of Mantee, Mantee, Mississippi. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Colonial Capital Corporation, Mantee, Mississippi, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), to act as insurance

agent or broker for the sale of insurance that is directly related to an extension of credit by a bank or bank related firm. These activities would be performed from offices of Applicant's subsidiary in Mantee, Olive Branch, and Starkville, Mississippi, and the geographic areas to be served are Webster, De Soto and Oktibbeha Counties in Mississippi. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than July 4, 1982.

Board of Governors of the Federal Reserve System, June 4, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-15785 Filed 6-10-82; 8:45 am]

BILLING CODE 6210-01-M

Santa Fe Trail Banc Shares, Inc.; Proposed Acquisition of Thayer Leasing, Inc.

Santa Fe Trail Banc Shares, Inc., Hutchinson, Kansas, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Thayer Leasing, Inc., Hutchinson, Kansas.

Applicant states that the proposed subsidiary would engage in general leasing activities, including those for commerical, agribusiness, and municipal customers, in conformance with the Board's Regulation Y. These activities would be performed from offices of Applicant's subsidiary in Hutchinson, Kansas and the geographic areas to be served are Hutchinson, Kansas and southwest Kansas. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received no later than July 4, 1982.

Board of Governors of the Federal Reserve System, June 4, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-15786 Filed 6-10-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[S 2817 WR, S 5102 WR]

California; Order Providing for Opening of Public Land

June 2, 1982.

1. In an exchange of lands made under the provision of section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1964), the following lands have been reconveyed to the United States:

Mount Diablo Meridian

T. 11 N., R. 11 E.,
Sec. 20, Lots 41 and 42 (MS 2971 and MS 3354).

The areas described aggregate 23.50 acres in El Dorado County.

Mount Diablo Meridian

T. 8 S., R. 4 E.,
Sec. 11, Lots 6, 11, and N½ of Lot 14.

The areas described aggregate 97.72 acres in Santa Clara County.

2. The mineral estate of Lot 41, sec. 20, T. 11 N., R. 11 E., is privately owned and not subject to disposition under the mining and mineral leasing laws. Lots 6, 11, and N½ of Lot 14 have been and will continue to be open to location under the mining laws pursuant to the Act of December 29, 1916, and to applications and offers under the mineral leasing laws.

3. At 10 a.m. on July 9, 1982, the land shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on July 9, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 10 a.m. on July 9, 1982, Lot 42, sec. 20, T. 11 N., R. 11 E., shall be open to location under the United States mining laws, and to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the Bureau of Land Management, Department of the Interior, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Walter F. Holmes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-15683 Filed 6-10-82; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules; Devon Energy Corp.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Devon Energy Corp., is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of Canadian Pacific, Ltd. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early

termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

Effective Date: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-15600 Filed 6-10-82; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; Dowty Group, PLC

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Dowty Group, PLC is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all voting securities of RFL Industries, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Dowty Group, PLC. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-15602 Filed 6-10-82; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; MCO Holdings, Inc.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: MCO Holdings, Inc., is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain voting securities of Simplicity Pattern Co., Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by MCO Holdings, Inc. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: June 1, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-15601 Filed 6-10-82; 8:45 am]

BILLING CODE 6750-01-M

Line of Business Reports Program; Intention To Publish 1976 Line of Business Annual Report

AGENCY: Federal Trade Commission.

ACTION: Authorization to publish the 1976 Annual Line of Business Report on or after June 27, 1982.

FOR FURTHER INFORMATION CONTACT: Line of Business Program, Room LL01, 2120 L Street, NW., Washington, D.C. 20037, Telephone: (202) 254–6170.

The Federal Trade Commission has authorized publication of the 1976 Annual Line of Business Report (ALBR), which contains aggregates of data reported by individual companies, but which does not contain any information by which individual company data can be identified. In order to assure that all reporting companies receive adequate notice, companies were mailed notices on June 7, 1982. Publication will not take place prior to twenty days following the date of that letter.

In connection with the Commission's notice regarding publication of the 1974 ALBR, on August 6, 1981, the Commission placed on the public record and sent to reporting companies copies of a statement explaining its publication policies. Copies of the Commission's statement may be obtained by contacting the LB Program at the address or phone number above and requesting the *Statement of the Federal Trade Commission Concerning Publication of the 1974 Line of Business Annual Report.*

The 1976 ALBR is virtually identical in format to the 1975 ALBR, copies of which were mailed to the 1975 respondents. Copies of the 1976 ALBR may be obtained by contacting the LB Program. Advance information on the number of companies in each line of business is also available upon request to the LB Program.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-15690 Filed 6-10-82; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Blood Products Advisory Committee; Renewal

Correction

In FR Doc. 82-14407 appearing on page 23563 in the issue for Friday, May 28, 1982, make the following correction:

On page 23563, third column, under **DATES**, first paragraph, second line, the date "May 13, 1983" should be changed to "May 13, 1984."

BILLING CODE 1505-01-M

[Docket No. 82N-0153; DESI 11409 and 50230]

Bristol Laboratories, Lederle Laboratories, Pfizer Laboratories, E.R. Squibb & Sons, Inc., and the Upjohn Co.; Certain Combination Drugs Containing Antibiotics and Antifungal Agents; Notice of Hearing

Correction

In FR Doc. 82-14562 appearing at page 23564 in the issue for Friday, May 28, 1982, make the following correction:

On page 23566, first column, third line from the top, the word "competition" should be corrected to read "completion."

BILLING CODE 1505-01-M

[Docket No. 80N-0074; DESI 9149 and 11127]

Chlorpromazine Hydrochloride; Hearing

Correction

In FR Doc. 82-14561 appearing on page 23566 in the issue for Friday, May 28, 182, make the following correction.

On page 23566, third column, last paragraph, tenth line, "3.14.111" should be changed to "314.111".

BILLING CODE 1505-01-M

[Docket No. 80N-0204]

International Vitamin Corp., et al.; New Drug Applications; Withdrawal of Approval

Correction

In FR Doc. 82-14559 appearing on page 23567 in the issue for Friday, May 28, 1982; third column, NDA 06-042, Applicant's name should read "Reed & Carnrick Pharmaceutical".

BILLING CODE 1505-01-M

[Docket No. 82F-0132]

Ralston Purina Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ralston Purina Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of oxidized soy isolate as a binder-adhesive component of coatings for paper and paperboard intended for use in contact with dry food.

FOR FURTHER INFORMATION CONTACT: Julia L. Ho, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St., SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (Sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3594) has been filed by Ralston Purina Co., Checkerboard Square, St. Louis, MO 63188, proposing that § 176.180 *Components of paper and paperboard in contact with dry food* (21 CFR 176.180) be amended to provide for the safe use of oxidized soy isolate as a binder-adhesive component of coatings for paper and paperboard intended for use in contact with dry food.

The agency has carefully considered the potential environmental effects o this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement, therefore, is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 1, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-15642 Filed 6-10-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 80N-0273]

Vale Chemical Co., Withdrawal of Approval

Corrections

In FR Doc. 82-14560 appearing on page 23568, in the issue for Friday, May 28, 1982; second column, NDA 09-454, Drug name should read "Tensathyn Capsules", NDA-11-196, Drug name should read "Hemoton Tablet".

BILLING CODE 1505-01-M

[Docket No. 75N-0223; DESI No. 597]

Withdrawal of Approval; Pathilon With Phenobarbital Sequels

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration is withdrawing approval of the new drug application for Pathilon with Phenobarbital Sequels containing tridihexethyl chloride and phenobarbital. Approval is withdrawn because the drug lacks substantial evidence of effectiveness in the treatment of various gastrointestinal disorders. The product is no longer marketed.

EFFECTIVE DATE: June 23, 1982.

ADDRESS: Requests for an opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 597 and directed to the Division of Drug Labeling Compliance (HFD-310), Bureaus of Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Jean A. Peeler, Bureaus of Drugs and Biologics (HFD-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** on November 11, 1975 (40 FR 52651), the Director of the Bureau of Drugs proposed to withdraw approval of certain anticholinergic drug products in controlled-release dosage form. The proposed order was based on a lack of substantial evidence of effectiveness, including evidence of prolonged effect.

In response to the notice, Lederle Laboratories, Division American Cyanamid Co., P.O. Box 500, Pearl River, NY 10965, requested a hearing for its product listed below, but has since withdrawn the request. Therefore, approval of the following new drug application is being withdrawn.

NDA 11-940; Pathilon with Phenobarbital Sequels (controlled-release capsules) containing tridihexethyl chloride and phenobarbital.

Any drug product that is identical, related, or similar to the drug product named above and is not the subject of an approved new drug application is

covered by the new drug application reviewed and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance (address given above).

This notice does not apply to Pathilon Tablets (NDA 9-489) and Sustained Release Capsules (NDA 11-869) containing tridihexethyl chloride and Pathilon with Phenobarbital Tablets (NDA 9-489) containing tridihexethyl chloride and phenobarbital. These products are the subject of pending hearing requests and will be the subject of future Federal Register notices.

Based on new information on the drug product and the evidence available when the application was approved, the Director of the Bureaus of Drugs and Biologics, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053 as amended (21 U.S.C. 355)), and under the authority delegated to him (21 CFR 5.82), finds that there is a lack of substantial evidence that the drug product will have the effect it purports, or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, pursuant to the foregoing finding, approval of new drug application 11-960, and all amendments and supplements thereto, is withdrawn effective June 23, 1982.

Shipment in interstate commerce of the above product or any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Dated: June 3, 1982.

Harry M. Meyer, Jr.,

Director, Bureau of Drugs and Biologics.

[FR Doc. 82-15643 Filed 6-10-82; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committee; Date, Agenda, and Location Changes

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing changes in the date, agenda, and location of a meeting of the Ophthalmic Device Section of the Ophthalmic, Ear, Nose, and Throat, and Dental Devices Panel. The meeting was announced in the Federal Register of May 14, 1982 (47 FR 20861) for June 21 and 22, 1982. The meeting will now be held on June 22 only, in Rm. 17-09A, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD, from 3 p.m. until approximately 5 p.m. The meeting will be held by a telephone conference call. A speaker phone will be provided in the conference room to allow public participation in the meeting. The meeting will discuss premarket approval applications for two 250-milligram salt tablet systems, two contact lens solutions, and one contact lens.

FOR FURTHER INFORMATION CONTACT: George C. Murray, Bureau of Medical Devices (HFK-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7940.

Dated: June 8, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-15796 Filed 6-10-82; 8:45 am]

BILLING CODE 4160-01-M

Peripheral and Central Nervous System Drugs Advisory Committee; Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration (FDA) is announcing the renewal of the Peripheral and Central Nervous System Drugs Advisory Committee by the Secretary, Department of Health and Human Services.

DATE: Authority for this committee will expire on June 4, 1984, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated: June 8, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-15791 Filed 6-10-82; 8:45 am]

BILLING CODE 4160-01-M

Psychopharmacologic Drugs Advisory Committee; Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration (FDA) is announcing the renewal of the Psychopharmacologic Drugs Advisory Committee by the Secretary, Department of Health and Human Services.

DATE: Authority for this committee will expire on June 4, 1984, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated: June 8, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-15792 Filed 6-10-82; 8:45 am]

BILLING CODE 4160-01-M

Science Advisory Board; Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration (FDA) is announcing the renewal of the Science Advisory Board by the Secretary, Department of Health and Human Services.

DATE: Authority for this committee will expire on June 2, 1984, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated: June 8, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-15793 Filed 6-10-82; 8:45 am]

BILLING CODE 4160-01-M

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on June 4.

Public Health Service

Center for Disease Control

Subject: Campylobacter National Surveillance—New
Respondents: State and local governments
Subject: Employee Vital Status Letter (0920–0035)—Extension
Respondents: Individuals or households

Health Resources Administration

Subject: Survey of Recent Optometry Graduates to Determine Practice Patterns—New
Respondents: Individuals or households

National Institutes of Health

Subject: Cancer Information Service Call—Record Form—New
Respondents: Individuals or households
OMB Desk Officer: Richard Eisinger

Food and Drug Administration

Subject: Transmittal of Labels and Circulars for Biological Products (0910–0039)—Extension
Respondents: Manufacturers of biological products
OMB Desk Officer: Fay S. Iudicello

Health Care Financing Administration

Subject: Uniform Billing Form (HCFA–1480)—Extension/No Changes
Respondents: Hospitals
Subject: Application for Health Insurance Benefits Under Medicare for Individuals with Chronic Renal Disease (HCFA 43)—Extension/No Change
Respondents: Individuals
Subject: Request for Certification in the Medicare Program for Physical Therapists in Independent Practice (HCFA–262)—New
Respondents: Businesses
OMB Desk Officer: Fay S. Iudicello

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

J. J. Strnad, HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524.F, Washington, D.C. 20201
OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, Attn.: (name of OMB Desk Officer)

Dated: June 4, 1982.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 82-15820 Filed 6-10-82; 8:45 am]

BILLING CODE 4150-04-M

Public Health Service

Debarment From Eligibility for Financial Assistance

AGENCY: Public Health Service, HHS.

ACTION: Notice of debarment.

SUMMARY: This notice announces the debarment of Marc J. Straus, M.D. from eligibility for direct or indirect financial assistance under any discretionary program awarded or administered by the Department of Health and Human Services.

DATE: The debarment became effective on May 18, 1982.

FOR FURTHER INFORMATION CONTACT: William F. Raub, Ph.D., Associate Director for Extramural Research and Training, National Institutes of Health, 9000 Rockville Pike, Building 1, Room 107, Bethesda, Maryland 20205, Telephone: (301) 496–1096.

SUPPLEMENTARY INFORMATION: Pursuant to 45 CFR 76.16, Marc J. Straus, M.D., New York Medical College, Valhalla, New York 10595, has been debarred from receiving or applying for, directly or indirectly, any form of financial assistance under any discretionary program awarded or administered by the Department of Health and Human Services. The debarment applies to assistance provided through grants, cooperative agreements, fellowships, traineeships, loans, loan guarantees, and interest subsidies, as well as contracts, subcontracts, and subgrants supported by such assistance. It also debars Dr. Straus from service or participation in the conduct or performance of an assisted project. The debarment became effective on May 18, 1982. After the expiration of 4 years, Dr. Straus may again apply to the Department for receipt of financial assistance.

The debarment results from a National Institutes of Health (NIH) and Food and Drug Administration (FDA) investigation of the clinical studies on the use of experimental oncological drugs performed by Dr. Straus and a team of researchers at Boston University Medical Center. With few exceptions, these studies were monitored and coordinated by the Eastern Cooperative Oncology Group (ECOG) under the sponsorship of NIH. As a result of this investigation, NIH concluded that the following findings justified debarment of Dr. Straus under 45 CFR Part 76:

(1) The plan of investigation was not followed;

(a) Some ineligible patients were entered into the studies;

(b) Some drug dosages deviated from protocol requirements.

(2) False information was submitted to the sponsor of the investigation; adequate and accurate case histories were not maintained;

(a) Data in some patient records were altered;

(b) Patient data (including number and size of tumors, status of disease, response to treatment, white blood counts, platelet counts and various eligibility criteria) reported to ECOG were different from the data reflected on some patient records.

(3) Documentation of informed consent for some study participants was not maintained adequately and protocols were not reviewed in compliance with the HHS Protection of Human Subjects Regulations, 45 CFR Part 46.

By a written agreement dated May 18, 1982, Dr. Straus conceded the presence of these deficiencies in the clinical studies, waived his right to all hearings contemplated by 45 CFR Part 76, and agreed to the debarment described above. As a part of the same agreement, Dr. Straus also agreed that, pursuant to 21 CFR 312.1(c), he would be ineligible to receive investigational new drugs.

Dated: June 4, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 82-15819 Filed 6-10-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[M 44853]

Montana; Realty Action—Exchange

June 4, 1982.

AGENCY: Bureau of Land Management, Lewistown District Office, Interior.

ACTION: Notice of Realty Action M 44853, Exchange of public and private lands in Fergus County, Montana.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716.

Principal Meridian

T. 20 N., R. 23 E.,
Sec. 31, Lots 1 and 2, NE¼ and E½NW¼.
T. 20 N., R. 24 E.,

Sec. 25, SW¼NE¼.
T. 20 N., R. 25 E.,
Sec. 18, Lot 2 and NE¼SE¼; and
Sec. 19, SE¼NW¼.

Aggregating 461.75 acres of public land.

In exchange for these lands, the United States will acquire the surface estate in the following described lands:

Principal Meridian

T. 21 N., R. 25 E.,
Sec. 21, NE¼;
Sec. 22, W½; and
Sec. 27, NW¼.

Containing 640 acres of private lands.

DATES: Until July 26, 1982, interested parties may submit comments to the District Manager, Bureau of Land Management, Drawer 1160, Lewistown Montana 59457. Any adverse comments will be evaluated by the State Director, who may vacate on modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of this Department.

FOR FURTHER INFORMATION CONTACT: Information related to the exchange, including the environmental assessment and land report, is available for review at the Lewistown District Office, Airport Road, Lewistown, Montana 59457.

SUPPLEMENTARY INFORMATION: The proposed exchange would result in acquisition of 640 acres by the Federal Government adjacent and contiguous to a large parcel of public land in the Missouri River Breaks. In return, approximately 462 acres of isolated land suitable for agriculture would be transferred to private ownership. The proposed exchange will benefit public needs and improve manageability of public lands. The publication of this notice segregates the public lands described above from settlement, sale, location and entry under the public land laws, including the mining laws, but not from exchange pursuant to sec. 206 of the Federal Land Policy and Management Act of 1976.

The exchange will be made subject to:

1. A reservation to the United States in the land being transferred of a right-of-way for ditches or canals constructed by the authority of the United States in accordance with 43 U.S.C. 945.

2. The reservation to the United States of all minerals in the lands being transferred out of Federal ownership. The Government already owns the mineral estate in the land being acquired.

3. All valid existing rights (e.g., rights-of-way, easements and leases of record).

4. The Value equalization by cash payments or acreage adjustments.

5. The exchange must meet the requirements of 43 CFR 4110.4–2(b).

This exchange is consistent with Bureau of Land Management policies and planning and has been discussed with State and local officials. The public interest will be served by completion of this exchange.

Michael J. Penfold,
State Director.

[FR Doc. 82–15859 Filed 6–10–82; 8:45 am]
BILLING CODE 4310–84–M

New Mexico; Southeast Oklahoma Management Framework Plan—Underground Minable Coal Reserves

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Decision on the Amendment of Southeast Oklahoma Management Framework Plan.

SUMMARY: This notice is to advise the public that the District Manager, Albuquerque District, Bureau of Land Management, has issued a decision on the amendment of the Southeast Oklahoma Management Framework Plan (MFP). The amendment decision designated a 50-acre parcel, area M1A–38, as suitable for further leasing consideration. The State Director of New Mexico has concurred in that decision.

SUPPLEMENTARY INFORMATION: The District Manager, Albuquerque District, Bureau of Land Management, has issued a decision on the amendment of the Southeast Oklahoma Management Framework Plan (MFP), in response to a federal coal lease modification application filed by Lone Star Steel Company. The MFP amendment incorporated the 50-acre lease addition, area M1A–38, into the land use planning process. The amendment decision designated area M1A–38 as suitable for further leasing consideration. The State Director of New Mexico has concurred in that decision.

Area M1A–38 includes the following described lands:

Indian Meridian, Oklahoma

T. 8 N., R. 24 E.,
Sec. 18, NE¼NW¼, NW¼SE¼NW¼.

Copies of the Decision Document and Final Environmental Assessment are available for public review in the New Mexico State Office, U.S. Post Office and Federal Building, Santa Fe, New Mexico; at the Albuquerque District Office, 3550 Pan American Freeway, NE, Albuquerque, New Mexico; or at the Oklahoma Resource Area Office, 200 NW Fifth Street, Room 548, Oklahoma City, Oklahoma, during regular office hours. Individual copies of the document are available from the Oklahoma Area Manager, Bureau of Land Management, 200 NW Fifth Street, Room 548, Oklahoma City, Oklahoma 73102, telephone (405) 231–4481.

Any person who participated in the planning process and who has an interest which may be adversely affected by approval of the MFP amendment may file a protest on or before July 12, 1982. A protest may raise only those issues which were submitted for the record to the District Manager during the planning process. The protest shall be in writing and shall be filed with the State Director, Bureau of Land Management, New Mexico State Office, P.O. Box 1449, Santa Fe, New Mexico 87501. The protest shall contain the name, mailing address, telephone number and interest of the person filing the protest; a statement of the issue or issues being protested; a statement of the part of the amendment being protested; a copy of all documents addressing the issue or issues that were submitted during the amendment process by the protesting party or an indication of the date the issue or issues were discussed for the record; and a short, concise statement explaning why the District Manager's decision was wrong.

Implementation of the decision will begin no sooner than July 12, 1982, or upon resolution of any protest received by the State Director.

L. Paul Applegate,
District Manager.

[FR Doc. 82–15861 Filed 6–10–82; 8:45 am]
BILLING CODE 4310–84–M

[CA 12321]

California; Classification of Public Lands for State Indemnity Selection

1. The California State Lands Commission has filed petition for classification and application to acquire the public lands, including the mineral estate, described in paragraph 3 below, under provisions of sections 2275 and 2276 of the Revised Statutes, as amended (43 U.S.C. 851, 852), in lieu of certain lands granted to the State under the act of Congress signed March 3, 1853 (10 Stat. 244) that were encumbered by other rights or reservations before the State's title could attach. This application has been assigned Serial Number CA 12321.

2. The notice of proposed classification of these lands was published on April 1, 1982 in Federal Register Volume 47, Number 62 as Document Number 82–8735, appearing

on pages 13908 to 13910, and was widely publicized. Several comments were received primarily concerning management by the State after transfer. These comments were considered to be neither supportive nor nonsupportive of the proposed classification. There have been no substantive changes made in the classification from that presented in the proposed decision.

3. The Lands included in the proposed classification are located within Mendocino County, California, and are described as follows:

a. Lands available for State Indemnity Lieu Selection:

Mount Diablo Meridian

T. 17 N., R. 11 W.,
Sec. 4, Lots 1, 2, SE¼NE¼.
T. 18 N., R. 11 W.,
Sec. 7, SE¼;
Sec. 8, Lots 7–9;
Sec. 15, Lots 1–8;
Sec. 17, Lots 1–10;
Sec. 18, N½NE¼;
Sec. 20, E½NE¼, SW¼SE¼;
Sec. 21, Lots 1–12;
Sec. 22, N½NW¼;
Sec. 23, SW¼SW¼;
Sec. 26, SE¼SE¼;
Sec. 27, SE¼NE¼;
Sec. 30, Lots 1–4, E½SW¼;
Sec. 31, Lot 1, NE¼NW¼.
T. 19 N., R. 11 W.,
Sec. 31, Lots 3, 4, E½SW¼.
T. 23 N., R. 11 W.,
Sec. 4, Lots 1–4, S½N½, S½;
Sec. 5, Lots 5–12;
Sec. 6, Lots 17–23;
Sec. 7, Lot 11;
Sec. 8, Lots 1–13;
Sec. 9, Lots 1–8, N½;
Sec. 17, Lots 1–3;
Sec. 18, NW¼SE¼, SE¼SW¼.
T. 13 N., R. 12 W.,
Sec. 7, Lot 3;
Sec. 18, Lot 1.
T. 14 N., R. 12 W.,
Sec. 30, Lot 1.
T. 18 N., R. 12 W.,
Sec. 2, Lot 4;
Sec. 5, Lots 2–4, E½ Lot 5, W½ Lot 6;
Sec. 6, N½S½, SE¼SW¼, SW¼SE¼;
Sec. 9, N½SW¼;
Sec. 12, E½NE¼;
Sec. 13, S½SW¼, NW¼SW¼, SW¼NW¼;
Sec. 14, N½S½, SE¼SE¼, SW¼SW¼, S½NE¼, SE¼NW¼;
Sec. 15, SE¼SE¼;
Sec. 19, Lot 5;
Sec. 20, NW¼NE¼, SE¼SE¼;
Sec. 21, SW¼SW¼;
Sec. 22, E½NE¼;
Sec. 23, NW¼NW¼, NE¼NE¼;
Sec. 24, NW¼, NW¼SW¼, NE¼SE¼, SW¼SE¼;
Sec. 25, NE¼, N½NW¼, N½SE¼;
Sec. 29, NE¼NE¼;
Sec. 30, Lot 15;
Sec. 32, SW¼NE¼.
T. 19 N., R. 12 W.,
Sec. 6, Lots 2, 10, SE¼NE¼;
Sec. 7, Lots 2–8, E½SW¼, W½SE¼;
Sec. 18, Lots 2–9, 11–14, E½SW¼, W½SE¼, NE¼SE¼;
Sec. 19, N½ Lot 1 of NW¼;
Sec. 24, Lots 1, 2;
Sec. 25, Lots 2, 5–7, N½SW¼, SE¼SW¼, NW¼SE¼;
Sec. 28, E½SW¼;
Sec. 33, NE¼SW¼;
Sec. 35, SE¼SW¼.
T. 20 N., R. 12 W.,
Sec. 18, N½ Lot 1, N½ Lot 2, NW¼NE¼;
Sec. 19, Lots 11, 15;
Sec. 30, Lots 1, 2, 4–6, 8, 11–15;
Sec. 31, Lots 1, 2, 4–9, E½NW¼, W½NE¼.
T. 13 N., R. 13 W.,
Sec. 2, Lot 1, S½NE¼, SE¼NW¼, E½SW¼, NW¼SE¼;
Sec. 9, NE¼SW¼;
Sec. 12, SW¼NE¼, SE¼NW¼;
Sec. 13, NE¼SW¼.
T. 14 N., R. 13 W.,
Sec. 4, Lot 4, SW¼NW¼, NW¼SW¼;
Sec. 5, S½, S½NE¼;
Sec. 6, Lot 3;
Sec. 8, NE¼, N½S½, N½NW¼, SE¼NW¼;
Sec. 9, W½W½, W½NE¼, SE¼NE¼, NE¼NW¼, N½SE¼, SE¼SE¼;
Sec. 18, N½SE¼;
Sec. 24, SW¼NW¼;
Sec. 34, NE¼NW¼.
T. 15 N., R. 13 W.,
Sec. 23, E½NW¼;
Sec. 26, NW¼SE¼;
Sec. 29, SW¼, S½NW¼, W½SE¼;
Sec. 30, Lots 4–12, S½NE¼, S½SE¼;
Sec. 31, Lots 1–5, 7, 8, E½NE¼, NW¼NE¼, N½SE¼;
Sec. 32, S½, NW¼, W½NE¼, SE¼NE¼.
T. 18 N., R. 13 W.,
Sec. 15, SW¼NW¼;
Sec. 24, SW¼SW¼;
Sec. 25, Lot 3.
T. 19 N., R. 13 W.,
Sec. 1, Lots 3, 4, 16;
Sec. 3, W½ Lot 5;
Sec. 4, E½ Lot 8, Lot 9, N½SW¼, NW¼SE¼, S½SE¼;
Sec. 5, Lots 1, 2, W½ Lot 6, W½ Lot 7, W½ Lot 10;
Sec. 6, Lot 14, NE¼SW¼, NW¼SE¼;
Sec. 9, N½NE¼, SE¼NE¼;
Sec. 10, SW¼NE¼, SE¼NW¼, W½NW¼, NW¼SW¼;
Sec. 11, Lot 13;
Sec. 12, Lots 1, 9, 10, 15, 16;
Sec. 13, Lots 1, 13;
Sec. 14, Lots 15, 16;
Sec. 15, W½SW¼;
Sec. 22, NW¼NE¼, N½NW¼, SE¼NW¼;
Sec. 23, Lot 1;
Sec. 24, Lots 4, 13;
Sec. 25, Lots 4, 5, 13;
Sec. 34, NE¼SE¼, SW¼SE¼;
Sec. 35, Lot 13.
T. 20 N., R. 13 W.,
Sec. 1, S½;
Sec. 2, SW¼, S½SE¼, NE¼SE¼;
Sec. 9, NE¼NE¼;
Sec. 10, W½NE¼, S½NW¼, N½SW¼;
Sec. 11, NE¼NW¼;
Sec. 12, E½NE¼, SE¼;
Sec. 13, N½NE¼, NE¼NW¼, SW¼NW¼, W½SW¼, SE¼SW¼, SW¼SE¼;
Sec. 14, S½N½, S½;
Sec. 15, SE¼NW¼, E½SE¼;
Sec. 17, W½SW¼, SE¼SW¼;
Sec. 18, Lots 7, 12, SE¼;
Sec. 19, Lot 12, N½NE¼, SE¼NE¼, SE¼;
Sec. 20, W½NW¼, SE¼NW¼, SW¼, W½SE¼;
Sec. 22, E½E½;
Sec. 23, All;
Sec. 24, W½;
Sec. 25, S½NE¼, W½, SE¼;
Sec. 26, E½, E½W½, SW¼NW¼;
Sec. 27, SE¼NE¼, E½E½SE¼;
Sec. 29, SE¼NE¼, W½E½, W½, E½SE¼;
Sec. 30, Lot 1, N½NE¼, SE¼NE¼, E½SE¼, SW¼SE¼;
Sec. 31, Lots 1–6, 8, 9, NE¼;
Sec. 32, E½NE¼, NW¼NE¼, NE¼MW¼, W½NW¼, S½;
Sec. 33, NW¼SW¼;
Sec. 35, E½, NE¼NW¼, E½SW¼.;
T. 21 N., R. 13 W.,
Sec. 3, Lot 3, N½SW¼, S½NW¼;
Sec. 4, Lot 3, SE¼NE¼;
Sec. 13, Lots 2, 3;
Sec. 14, Lots 1, 2, 6;
Sec. 15, Lots 1, 4;
Sec. 18, Lot 4;
Sec. 20, NE¼NW¼;
Sec. 22, Lots 1, 3–8;
Sec. 23, Lots 3–7, 9–15;
Sec. 24, Lots 5, 8.
T. 22 N., R. 13 W.,
Sec. 4, Lot 2, S½SW¼, SW¼SE¼;
Sec. 5, Lot 1, SE¼NE¼, SE¼SW¼;
Sec. 8, E½, E½NW¼, NE¼SW¼;
Sec. 9, W½, W½E½;
Sec. 17, N½NE¼, SW¼NE¼, NW¼SE¼;
Sec. 21, N½NE¼, SW¼NE¼, SW¼SE¼;
Sec. 28, NW¼NE¼, NW¼NW¼;
Sec. 33, W½SE¼, SW¼NE¼.
T. 13 N., R. 14 W.,
Sec. 28, E½NW¼.
T. 14 N., R. 14 W.,
Sec. 1, SE¼NE¼;
Sec. 2, SW¼NW¼;
Sec. 3, Lot 3, SE¼SW¼;
Sec. 24, N½NE¼.
T. 15 N., R. 14 W.,
Sec. 13, S½N½;
Sec. 24, NW¼NE¼;
Sec. 34, S½SW¼.
T. 16 N., R. 14 W.,
Sec. 10, Lots 1–3;
Sec. 11, SW¼SW¼;
Sec. 14, N½NW¼, SW¼NW¼, NW¼SW¼;
Sec. 15, Lot 1;
Sec. 22, SW¼SW¼;
Sec. 26, SW¼NE¼, S½NW¼;
Sec. 27, SE¼NE¼;
Sec. 28, SW¼NE¼, SE¼NW¼;
Sec. 35, N½SW¼.
T. 20 N., R. 14 W.,
Sec. 24, SE¼SE¼;
Sec. 25, NE¼SE¼, S½SE¼, SE¼SW¼.
T. 21 N., R. 14 W.,
Sec. 4, Lots 1, 2, S½NE¼, E½SE¼, SW¼NW¼, N½SW¼;
Sec. 5, Lot 1, SE¼NE¼;
Sec. 6, Lots 2–7, SE¼NW¼, E½SW¼, SW¼SE¼;
Sec. 12, S½SE¼;
Sec. 13, NW¼NE¼.
T. 22 N., R. 14 W.,
Sec. 4, SE¼SW¼;
Sec. 5, Lots 7, 14, NW¼SW¼;
Sec. 6, Lots 4, 13, 14, 16, 17, NE¼SE¼, SW¼SE¼;

Sec. 7, Lots 1–6, S½NE¼, SE¼;
Sec. 9, E½NW¼, NE¼SW¼, SW¼SW¼;
Sec. 17, SW¼NW¼;
Sec. 18, Lots 1–6, 8, S½NE¼, SW¼SE¼;
Sec. 19, Lots 1–3, 5, 8, NW¼NE¼, SE¼SE¼;
Sec. 20, N½SW¼, W½SE¼, SE¼SE¼;
Sec. 21, SE¼SW¼, NE¼NE¼;
Sec. 22, W½NW¼, SE¼NW¼;
Sec. 23, NE¼NE¼;
Sec. 27, S½SW¼;
Sec. 28, E½E½, SW¼SE¼, W½NW¼;
Sec. 29, Lots 1, 3–6, 8–12, NE¼;
Sec. 32, Lots 3, 4, 7, 8, SE¼;
Sec. 33, NW¼NE¼;
Sec. 34, N½NW¼, SE¼NW¼.
T. 23 N., R. 14 W.,
Sec. 30, Lot 3, N½, Lot 5, N½, Lot 6;
Sec. 33, NW¼NW¼.
T. 13 N., R. 15 W.,
Sec. 10, SW¼SE¼.
T. 14 N., R. 15 W.,
Sec. 30, NE¼;
Sec. 32, SW¼NE¼, E½NW¼, SW¼NW¼, NW¼SW¼.
T. 21 N., R. 15 W.,
Sec. 1, E½ Lot 2 of NE¼.
T. 22 N., R. 15 W.,
Sec. 1, Lots 5, 7–14;
Sec. 12, Lots 1–8;
Sec. 13, Lots 1, 2, 7–10, 15, 16;
Sec. 24, Lots 1–4.
T. 23 N., R. 15 W.,
Sec. 3, SW¼SE¼;
Sec. 10, Lots 1, 2;
Sec. 13, Lots 1–12, SW¼;
Sec. 17, SW¼;
Sec. 18, NE¼SE¼;
Sec. 20, NW¼NE¼, N½NW¼, SW¼NW¼;
Sec. 21, SE¼SW¼;
Sec. 24, Lots 1–8, W½NE¼, NW¼, NE¼SW¼, NW¼SE¼;
Sec. 26, S½SE¼;
Sec. 28, W½NE¼;
Sec. 32, Lots 3–6, SE¼NE¼.
T. 13 N., R. 16 W.,
Sec. 1, Lots 1, 6, 7, 9;
Sec. 9, NE¼NE¼, NE¼SW¼;
Sec. 22, SE¼NW¼.
T. 14 N., R. 16 W.,
Sec. 10, NW¼NE¼;
Sec. 21, SE¼SW¼;
Sec. 24, N½SW¼;
Sec. 28, NE¼NW¼;
Sec. 31, NW¼SE¼.
T. 20 N., R. 16 W.,
Sec. 7, Lot 4.
T. 20 N., R. 17 W.,
Sec. 1, Lots 5, 6.

The area aggregates 37,526.98 acres.

The following listed corporations and individuals are holders of valid leases, permits, and/or rights-of-way on the public lands described above:

S 437: 66-foot wide road right-of-way to U.S. Forest Service.
S 039594: 40-foot wide power line right-of-way under the act of March 4, 1911 to the Pacific Gas and Electric Company.
CA 259: 100-foot wide road right-of-way to Bureau of Land Management.
CA 3088: 100-foot wide road right-of-way to Bureau of Land Management.
5506 Grazing lease to Mr. Edwin Phillips dba Phillips Land and Cattle Company.
CA–050–TS1–0002: Salt Creek Timber Sale to Louisiana-Pacific Corp. Sale will terminate on May 28, 1984.
Ham Pass Timber Sale: Sold on May 27, 1982 with a 36-month term to the Harwood Investment Company. Execution of sale may be delayed by protest from the Louisiana-Pacific Corporation.

b. Lands available for State Indemnity Selection only with revocation of the wild and scenic rivers protective withdrawal under section 8 of the act of October 2, 1968 (P. L. 90–542) as amended, and to the opening subject to Section 24 of the Federal Power Act of the withdrawal by Secretarial Order dated November 26, 1921 for Power Site Classification 14:

Mount Diablo Meridian

T. 21 N., R. 13 W.,
Sec. 3, SE¼, S½SW¼;
Sec. 4, SW¼NE¼, SE¼.
T. 22 N., R. 14 W.,
Sec. 13, SW¼SW¼;
Sec. 24, NW¼NW¼, SW¼NE¼.
T. 23 N., R. 14 W.,
Sec. 21, Lots 4, 5;
Sec. 28, Lots 1, 2.
T. 24 N., R. 14 W.,
Sec. 32, Lots 2, 3.

The area aggregates 693.22 acres.

The following listed corporations and individuals are holders of valid leases, permits, and/or rights-of-way on the public lands described above:

S 3334: 200-foot wide railroad right-of-way under the act of March 3, 1875 the California Northwest Pacific Railroad (Southern Pacific Transportation Company).

c. Lands available for State Indemnity Lieu Selection only with revocation of the wild and scenic rivers protective withdrawal under section 8 of the act of October 2, 1968 (Pub. L. 542) as amended:

Mount Diablo Meridain

T. 18 N., R. 12 W.,
Sec. 2, Lot 3.
T. 19 N., R. 12 W.,
Sec. 6, Lots 3, 4, 5, 11, SE¼NW¼, SW¼NE¼;
Sec. 7, Lot 1, S½NE¼, SE¼NW¼, SE¼SE¼;
Sec. 17, SW¼NW¼, NW¼SW¼;
Sec. 18, Lots 1, 10;
Sec. 35, SE¼SE¼.
T. 19 N., R. 13 W.,
Sec. 1, Lots 1, 2, 6–11, 15.
T. 20 N., R. 13 W.,
Sec. 4, SW¼SE¼;
Sec. 9, SW¼NE¼;
Sec. 10, SW¼SW¼;
Sec. 15, W½NW¼, N½SW¼, SE¼SW¼, W½SE¼;
Sec. 22, W½NE¼, NE¼NW¼, NE¼SW¼, W½SE¼;
Sec. 27, W½E½SE¼.
T. 22 N., R. 14 W.,
Sec. 24, NE¼SE¼.
T. 23 N., R. 14 W.,
Sec. 28, W½NE¼, NW¼SE¼.

The area aggregates 1,855.65 acres.

The following list of corporations and individuals are holders of valid leases, permits, and/or rights-of-way on the public lands described above:

S 3334: 200-foot wide railroad right-of-way under the act of March 3, 1875 to California Northwest Pacific Railroad (Southern Pacific Transportation Company).
S 039594: 40-foot wide electric transmission line right-of-way under the act of March 4, 1911 to Pacific Gas and Electric Company.

d. Lands available for State Indemnity Selection only with the opening subject to Section 24 of the Federal Power Act of the withdrawal by Executive Order dated October 30, 1911 for Power Site Reservation 218:

Mount Diablo Meridian

T. 18 N., R. 11 W.,
Sec. 27, SE¼SE¼;
Sec. 28, NE¼SE¼;
Sec. 34, NW¼NW¼.

The area aggregates 120.00 acres.

There are no holders of valid leases, permits, and/or rights-of-way on the public lands described above.

4. This classification decision is based on the following disposal criteria set forth in Title 43, Code of Federal Regulations, Part 2400.

Transfer of the lands to the State will help fulfull the Federal Government's common school land grant to the State, and constitutes a public purpose use of the land. Lands found to be valuable for a public purpose use will be considered chiefly valuable for public purposes (43 CFR 2430.2b).

Rights-of-way granted by the Bureau of Land Management on the above described lands will transfer with the land or may be reserved to the United States in accordance with Section 508 of the Act of October 21, 1976 (90 Stat. 2743; 43 U.S.C. 1768). Timber sales will remain in effect under the terms and conditions of the sales. Upon expiration or termination of the sales, or any authorized extensions thereof, such rights shall automatically vest in the State.

A portion of the subject lands are under grazing lease to Edwin McC. Phillips, dba Phillips Land and Cattle Company, 24777 East Lane, Covelo, California 95428, and there are no range improvements of record on the lands under lease.

In the event these lands are clearlisted, the grazing lease will be terminated no later than February 23, 1964.

Threatened and Endangered Species and Cultural Resources Evaluations have been performed and approved for subject classifications. Any cultural resources will be managed by the State Lands Commission in coordination with the California State Historic Preservation Officer pursuant to E.O. B-64-80 and section 5024 of the Public Resources Code and in coordinance with the Cooperative Agreement Between the Bureau of Land Management, Department of Interior, the California State Historic Preservation Officer and the California State Lands Commission Regarding the Transfer of Federal Lands to the State of California.

A study has been made of the area which indicates little potential for mineral exploration. There are no mining claims recorded with BLM for these lands, nor was any evidence of mining activity found on the ground.

6. The transfer of the lands described in paragraph 3 above is mandated by Revised Statutes 2275 and 2276. Therefore, this action is excepted from the disposal restrictions of Executive Order 11988 of May 24, 1977, pertaining to floodplain management. In the management or disposition of the above described lands by the State of California, the State will subject those lands identified as base floodplain lands to such terms, convenants, conditions and reservations as deemed necessary to ensure proper land use and protection of the public interest and floodplains.

7. The public lands classified by this notice are shown on maps on file and available for inspection in the Ukiah District Office, 555 Leslie Street (P.O. Box 940), Ukiah, California 95482-0940, and in the California State Office (BLM), Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

8. Until July 12, 1982, this classification will be subject to exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2461.3 and 2462.3. Interested parties may submit comments to the Secretary of the Interior, LLM 320, Washington, D.C. 20240.

Dated: June 1, 1982.

For State Director.

Edwin G. Kathas,

Acting Ukiah District Manager.

[FR Doc. 82-15625 Filed 6-10-82; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Intent To Prepare an Environmental Impact Statement on the Proposed State-Federal Land Exchange Involving Portions of False Cape State Park and Back Bay National Wildlife Refuge Located in Virginia Beach, Virginia

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This Notice advises the public that the Fish and Wildlife Service intends to gather information necessary for the preparation of an Environmental Impact Statement (EIS) for the Proposed State-Federal Land Exchange involving False Cape State Park and Back Bay National Wildlife Refuge in Virginia. Two public meetings regarding this proposal and preparation of the EIS will also be held. This Notice is being furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1501.7) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are solicited.

DATES: A public meeting will be held in Richmond, Virginia, on July 12, 1982, at 7:30 p.m. at Virginia War Memorial Auditorium, 621 Belvedere Street, Richmond, Virginia 23220. A second public meeting will be held on July 13, 1982, at 7:30 p.m. at Virginia Beach Pavilion, 1000 19th Street, Virginia Beach, Virginia 23458. Oral presentations shall be limited to ten (10) minutes; written statements may be submitted if the ten (10) minute limitation is deemed to be inadequate to present all of the information that a given witness has to offer. Written comments on the scope of the EIS must be received by July 15, 1982.

ADDRESSES: Persons interested in making an oral presentation at the public meeting should call or write Mr. William C. Ashe at the address given below. Those persons submitting a notice of intent to participate will be given first priority for oral presentations at the public meeting.

Written comments should be addressed to: Mr. Howard N. Larsen, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

FOR FURTHER INFORMATION CONTACT: Mr. William C. Ashe, Deputy Regional Director, U.S. Fish and Wildlife Service, One Gateway Center Suite 700, Newton Corner, Massachusetts 02158, Telephone: (617) 965-5100, extension 200—FTS 829-0200.

SUPPLEMENTARY INFORMATION: Mr. Walter Quist, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158, Telephone (617) 965-2300, is the primary author of this notice.

The Fish and Wildlife Service, Department of the Interior, proposes to exchange portions of Back Bay National Wildlife Refuge for portions of False Cape State Park. This is an attempt by the Service to work with the Commonwealth of Virginia to further the goals of both the park facility and the wildlife refuge. The EIS will examine various alternatives designed to provide limited access through the refuge to the park.

The environmental review of this project will be conducted in accordance with the Requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4331 et seq.), Council on Environmental Quality Regulations (40 CFR Parts 1500-1508), other appropriate Federal regulations, and the Service procedures for compliance with those regulations.

We estimate the Draft EIS will be made available to the public by August 13, 1982.

Dated: June 8, 1982.

William C. Ashe,

Acting Regional Director.

[FR Doc. 82-15580 Filed 6-10-82; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Applications; William Gruenerwald, et al.

The applicants listed below wish to conduct certain activities with endangered species:

Applicant: William Gruenerwald, Colorado Spring, CO; PRT 2-0230.

The applicant requests a permit to purchase in foreign commerce and import two captive-bred Asian wild asses (*Equus hemionus kulan)* for enhancement of propagation.

Applicant: Rare Feline Breeding Center, Center Hill, FL; PRT 2-0228.

The applicant requests a permit to export one female captive-born jaguar *(Panthera onca)* to the Bloemfontein City Zoo, South Africa, for enhancement of propagation.

Applicant: National Zoo, Washington, DC; PRT 2-0400.

The applicant requests an amendment to their permit to allow import of frozen serum, fixed blood smears and frozen semen of cheetah (*Acinonyx jubatus*)

from Africa instead of South Africa alone.

Humane care and treatment during transport, if applicable, has been indicated by the applicants.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications on or before July 12, 1982, by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: June 1, 1982.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82-15698 Filed 6-10-82; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Kenia Fjords National Park, Alaska; Intent To Prepare a General Management Plan and Environmental Assessment and To Conduct Public Workshops and Scoping Meetings

AGENCY: National Park Service, Interior.

ACTION: Prepare a General Management Plan and Environmental Assessment and conduct public workshops and scoping meetings for Kenia Fjords National Park, Alaska.

Preliminary discussions will be held during the summer of 1982 to establish the major envioronmental issues to be addressed in the Environmental Assessment and to solicit ideas for the development of reasonable and practical alternatives. Public meetings will be held in the winter of 1983 following the official release of the draft General Management Plan and its Environmental Assessment. The time and place of these meetings will be announced in the regional news media.

SUMMARY: The National Park Service intends to prepare a General Management Plan for the conservation and management of Kenia Fjords National Park. The plan will chart the strategies for solving the park's problems and meeting its management objective over the next 10–15 years for resources management and protection, visitor use and interpretation, and general development at a level of detail that will, in most cases, authorize implementation. An Environmental Assessment will be prepared to present feasible alternatives and to determine if the environmental consequences are significant enough to require the preparation of an environmental impact statement.

The planning effort will consider the alternate of continuing existing management (no action alternative); the alternative of providing the minimum actions required to meet the purpose of the area under Public Law 96–487 (Alaska National Interest Lands Conservation Act of 1980); and those reasonable and practical strategies developed during public and other agency participation in the planning process. Pub. L. 96–487 mandates that the plan will contain a review of wilderness suitablility for those lands not already so designated by Congress.

FOR FURTHER INFORMATION CONTACT: Dave Moore, Superintendent, Kenia Fjord National Park, P.O. Box 1727, Seward, Alaska 99664, (907) 224–3874.

Douglas G. Warnock,

Acting Regional Director, Alaska Region.

[FR Doc. 82-15841 Filed 6-10-82; 8:45 am]

BILLING CODE 4310-70-M

Denali National Park and Preserve, Alaska; Intent To Prepare a General Management Plan and Environmental Assessment and To Conduct Public Workshops and Scoping Meetings

AGENCY: National Park Service, Interior.

ACTION: Prepare a General Management Plan and Environmental Assessment and conduct public workshops and scoping meetings for Denali National Park and Preserve, Alaska.

Preliminary discussions will be held during the summer of 1982 to establish the major environmental issues to be addressed in the Environmental Assessment and to solicit ideas for the development of reasonable and practical alternatives. Public meetings will be held in the winter of 1983. The time and place of these meetings will be announced in the regional news media.

SUMMARY: The National Park Service intends to prepare a General Management Plan for the conservation and management of Denali National Park and Preserve. The plan will chart the strategies for solving the park's problems and meeting its management objective over the next 10–15 years for resources management and protection, visitor use and interpretation, and general development at a level of detail that will, in most cases, authorize implementation. An Environmental Assessment will be prepared to present feasible alternatives and to determine if the environmental consequences are significant enough to require the preparation of an environmental impact statement.

The planning effort will consider the alternate of continuing existing management (no action alternative); the alternative of providing the minimum actions required to meet the purpose of the area under Pub. L. 96–487 (Alaska National Interest Lands Conservation Act of 1980); and those reasonable and practical strategies developed during public and other agency participation in the planning process. Public Law 96–487 mandates that the plan will contain a review of wilderness suitability for those lands not already so designated by Congress.

FOR FURTHER INFORMATION CONTACT: Robert Cunningham, Superintendent, Denali National Park and Preserve, P.O. Box 9, McKinley Park, Alaska 99755, (907) 683–2294.

Douglas G. Warnock,

Acting Regional Director, Alaska Region.

[FR Doc. 82-15842 Filed 6-10-82; 8:45 am]

BILLING CODE 4310-70-M

Texas, Seis Pros, Incorporated, Big Thicket National Preserve; Availability of Plan of Operations and Environmental Analysis for the Purpose of Conducting Geophysical Exploration

Notice is hereby given in accordance with § 9.52(b) of Title 36 of the Code of Federal Regulations that the National Park Service has received from Seis Pros, Incorporated, a plan of operations for the purpose of conducting geophysical exploration in the Lance Rosier Unit of Big Thicket National Preserve, Texas.

The Plan of Operations and Environmental Analysis are available for public review and comment until July 12, 1982 in the Office of the Superintendent, Big Thicket National Preserve, 8185 Eastex Freeway, Beaumont, Texas; the Jefferson County Courthouse, in Beaumont, Texas; and the Southwest Regional Office, National Park Service, 1100 Old Santa Fe Trail, Santa Fe, New Mexico. Copies of the document are available from the Southwest Regional Office, National Park Service, Post Office Box 728, Santa Fe, New Mexico 87501, and will be sent upon request.

Dated: May 28, 1982.

Robert Kerr,

Regional Director, Southwest Region.

[FR Doc. 82-15838 Filed 6-10-82; 8:45 am]

BILLING CODE 4310-70-M

Upper Delaware National Scenic and Recreational River

AGENCY: National Park Service; Upper Delaware Citizens Advisory Council, Interior.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: June 25, 1982, 7 p.m.

ADDRESS: Arlington Hotel, Narrowsburg, New York.

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent, Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, N.Y. 12764–0159 (717/729–7135).

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Pub. L. 95–625, 16 U.S.C. 1274 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region. The agenda for the meeting will include review of Draft Management Plan.

The meeting will be open to the public. Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Council c/o Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, N.Y. 127864–0159. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Upper Delaware National Scenic and Recreational River, River Road, 1¾ miles north of Narrowsburg, N.Y., Damascus Township, Pennsylvania.

Dated: June 3, 1982.

Don H. Castleberry,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 82-15844 Filed 6-10-82; 8:45 am]

BILLING CODE 4310-70-M

Wyoming; Proposed Land Exchange in Teton and Carbon Counties

AGENCY: National Park Service and Bureau of Land Management, Interior.

ACTION: Availability of environmental assessment.

SUMMARY: On March 5, 1982, the Bureau of Land Management announced in the **Federal Register** (Vol. 47, No. 44, p. 9581) a land exchange proposal between Rocky Mountain Energy Co. and the United States. The exchange of land would benefit the National Park Service inasmuch as the land to be acquired by the United States is situated within Grand Teton National Park.

The National Park Service announces the availability of an environmental assessment which analyzes the environmental consequences of the proposed exchange. The assessment addresses two alternatives: the proposal, and no action. The environment of the lands involved is briefly described. The document evaluates the impacts which the alternatives would have on the environment, together with measures that could be taken to mitigate impacts.

The public is invited to express its views on this assessment. Comments will be received for a period of 30 days following publication of this notice. The comments may be sent to Mr. Bob Kasparek, Compliance Officer, Rocky Mountain Regional Office, National Park Service, 655 Parfet Street, P.O. Box 25287, Denver, Colorado 80225; telephone 303–234–4942. Copies of the assessment may be obtained from the above office, from the District Manager, Bureau of Land Management, P.O. Box 670, 1300 Third Street, Rawlins, Wyoming 82301; and from the Superintendent, Grand Teton National Park, P.O. Drawer 170, Moose, Wyoming 83012.

Dated: June 3, 1982.

James B. Thompson,

Acting Regional Director, Rocky Mountain Region.

[FR Doc. 82-15843 Filed 6-10-82; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Esmark, Inc., 55 East Monroe Street, Chicago, Illinois 60603.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(1) Swift & Company (Delaware).
(2) Strongheart Products, Inc. (Delaware).
(3) Estech, Inc. (Delaware).
(4) Weskem, Inc. (Nebraska).
(5) Eschem, Inc. (Delaware).
(6) Cross Adhesives, Inc. (Delaware).
(7) National Wax Company (Illinois).
(8) International Playtex, Inc. (Delaware).
(9) Danskin, Inc. (Delaware).
(10) Danskin Florida, Inc. (Delaware).
(11) Danskin Texas, Inc. (Delaware).
(12) Pennaco Hosiery, Inc. (Delaware).
(13) Virginia Maid Hosiery Mills, Inc. (Virginia).
(14) Playtex Export Corporation (Delaware).
(15) Milky Way Products Company (Delaware).
(16) BG Marketing Corp. (Delaware).
(17) Mayfield Laboratories, Inc. (Delaware).
(18) Tailby-Nason Company, Inc. (Delaware).
(19) IPI Texas (Delaware).
(20) Jhirmack Enterprises, Inc. (California).
(21) STP Corporation (Delaware).
(22) Estronics, Inc. (Delaware).
(23) International Jensen Incorporated (Delaware).
(24) Custom Technologies Corporation (Delaware).
(25) Federal Stampings, Inc. (Minnesota).
(26) Washington Manufacturing Company, Inc. (Delaware).
(27) Escast, Inc. (Illinois).

1. Parent corporation and address of principal office: The Quaker Oats Company, Merchandise Mart Plaza, Chicago, IL 60654.

2. Wholly-owned subsidiaries which will participate in the operations:

Brookstone Company, Inc., Vose Farm Road, Peterborough, New Hampshire 03452
Ardmore Farms, Inc., 1915 Woodland Blvd., Deland, FL 32720
Herrschners, Inc., 999 Plaza Drive, Schaumburg, IL 60195
Jos. A. Bank Clothiers, Inc., 109 Market Place, Baltimore, MD 21202
Wolf Brand Products, 416 S. Main Street, Corsicana, Texas 75110
Quality Operations, Inc., 870 E. Higgins Road, Suite 143, Schaumburg, IL 60195
Rockford Can Company, Quaker Road, Rockford, IL 61105
Magic Pan, Inc., Francisco Bay Office Park, 50 Francisco Street, San Francisco, CA 94133

1. Parent corporation and address of principal office: Sunland Enterprises, Inc., P.O. Box 1667, Eunice, LA 70535.

2. Wholly-owned subsidiaries (or divisions) which will participate in the operations, and state(s) of incorporation:

(i) Sunland Construction, Inc.—LA.

(ii) I. E. Miller of Eunice, Inc.—LA.

(iii) Sunland Farms, Inc.—LA.

1. Parent corporation and address of principal office: Union Camp Corporation, 1600 Valley Road, Wayne, New Jersey 07470.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

Moore Handley, Highway 31 South, P.O. Box 2807, Birmingham, Alabama 35202

Allied Container Corporation, 1 Allied Drive, Dedham, Massachusetts 02026

Rocky Creek Logging Company, Inc., Highway 31, P.O. Box 68, Chapman, Alabama 36015

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15813 Filed 6-10-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP1-95

Decided: June 3, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 145151 (Sub-7), filed May 24, 1982. Applicant: RAY BELLEW & SONS, INC., 7810 Almeda Genoa Rd., Houston, TX 77075. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (713) 437-1768. (1) As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI); and (2) transporting, (a) *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons and munitions), between points in the U.S. (except AK and HI); (b) *shipments weighing 100 pounds of less if transported in a motor vehicle in which no one package exceeds 100 pounds*, between points in the U.S. (except AK and HI); (c) *used household goods*, for the account of the U.S. Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI); and (d) *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, between points in the U.S. (except AK and HI).

MC 145970 (Sub-6), filed May 24, 1982 Applicant: SKILLETT & SONS, INC., P.O. Box 196, Rush Center, KS 67575. Representative: William B. Barker, P.O. Box 1979, Topeka, KS 66601, (913) 234-0565. Transporting for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 162190, filed May 25, 1982 Applicant: LUCIANO MIKE CORTEZ, d.b.a. CISCO, 2885 West 128th Ave., Space #3145, Denver, CO 80234. Representative: Luciano Mike Cortez (same address as applicant), (303) 469-1511. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162191, filed May 25, 1982 Applicant: CLARKSVILLE MEDICAL LABORATORY, 1724 Memorial Drive, Clarksville, TN 37040. Representative: Bill G. Britton, P.O. Box 3046, Clarksville, TN 37040 (615) 552-7268. Transporting *shipments weighing 100 pounds* or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

Volume No. OP2-114

Decided: June 2, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 97642 (Sub-3), filed April 9, 1982 Applicant: YOUNG TRUCKING, INC., P.O. Box 9197, Corpus Christi, TX 78408. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (713) 437-1768. (1) Transporting, for or on behalf of the United States Government,

general commodities (except used household goods, hazardous or secret materials, and sensitive weapons and munition), between points in the U.S. (2) Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (3) As a broker of *general commodities* (except household goods) between points in the U.S. (4) Transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (5) Transporting *food and other edible products and by products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 161513, filed April 15, 1982 Applicant: HENRY G. SUPKA, d.b.a. SAV-ON TRANSPORTATION SERVICES, 932 Elyria Drive, Los Angeles, CA 90065. Representative: Henry G. Supka (same address as applicant), 213–222–3640. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 161503, filed April 14, 1982. Applicant: RANDALL D. SMITH, d.b.a. RANDALL MOVERS, 13166 Morning Spring Lane, Fairfax, VA 22033. Representative: Robert L. Smith (same address as applicant), (703) 378–8828. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. Transporting, *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

MC 161873, filed May 6, 1982. Applicant: V.S.V, INC., 6095—28th Street S.E., Grand Rapids, MI 49506. Representative: Thomas W. Schouten, 2745 DeHoop Ave. S.W., Wyoming, MI 49509, (616) 538–6380. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 161643, filed April 23, 1982. Applicant: KENNETH YOUTSEY, Route 1, Brookfield, MO 64628. Representative: Kenneth Youtsey (same address as applicant), (816) 258–3294. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP3–067

Decided: June 7, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 150424 (Sub-3), filed May 26, 1982. Applicant: NESHEM-PETERSON, INC., Bethold, ND 58718. Representative: Charles E. Johnson, P.O. Box 2056, Bismarck, ND 58502. Transporting for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 162195, filed May 26, 1982. Applicant: VERNON BOYLES TRUCKING, INC., Route 1, Box 306–A, Vale, NC 28168. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–244. Transporting (1) for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), and (2) *used household goods* for the account of the U.S. Government incident to the performance of a pack-and crate service on behalf of the Department of Defense, between points in the U.S. (except HI).

MC 162234, filed May 27, 1982. Applicant: TRANS-ACT FREIGHT SERVICE, 901 Castaic Ave., Bakersfield, CA 93308. Representative: Gary A. Blacksburn (same address as applicant), (805) 393–5450. As a *broker* of *general commodities* (except household goods), between points in the U.S.

Volume No. OP5–125

Decided: June 1, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 144069 (Sub-32), filed May 20, 1982. Applicant: FREIGHTWAYS, INC., P.O. Box 5204, Charlotte, NC 28225. Representative: W. T. Trowbridge (same address as applicant), 704–372–1610. Transporting, for and on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 144359 (Sub-4), filed May 20, 1982. Applicant: STANLEY G. DUNIGAN d.b.a. DUNIGAN TRUCKING COMPANY, 1271 East Cooke Rd., Columbus, OH 43224. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215, (615) 224–3161. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 162018, filed May 17, 1982. Applicant: TERRENCE W. BAKER, 10400 Interstate Service Dr., Maple Grove, MN 55369. Representative: Terrence W. Baker (same address as applicant), 612–425–5030. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162068, filed May 18, 1982. Applicant: PAUL A. BOULO, INC., 118 N. Royal St., Room 711, Mobile, AL 36601. Representative: Tyler T. Boulo (same address as applicant), 205–433–5445. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162069, filed May 18, 1982. Applicant: THOMAS H. DELIGEANNIS, 7741 Mullen Ave., Olympia, WA 98503. Representative: Thomas H. Deligeannis (same address as applicant), 206–456–6821. Transporting *food and other edible products and byproducts intended for human consumption* (except Alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP5–127

Decided: June 2, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 161978, filed May 13, 1982. Applicant: RUDY T. CORAZZA, RUDY T. CORAZZA TRUCKING, 107 Maple St., Freeland, PA 18224. Representative: Rudy T. Corazza (same address as above), (717) 636–0627. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 162168, filed May 24, 1982. Applicant: BRUCE L. LYONS, 2011 Galloway, Yakima, WA 98908. Representative: Donna Carr, Rt. 8, Box 215, Yakima, WA 98908, (509) 966–5724. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle, in such vehicle, between points in the U.S. (except AK and HI).

MC 162169, filed May 24, 1982. Applicant: CARRIER SYSTEMS, INC., 2000 Market St., Philadelphia, PA 19103. Representative: Harry J. Jordan, Suite 502, Solar Bldg., 1000 16th St., NW., Washington, DC 20036, (202) 783–6131. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162188, filed May 25, 1982. Applicant: THE HIGBEE COMPANY, 7319 252nd St. E, Graham, WA 98338. Representative: Kenneth R. Mitchell, 2320A Milwaukee Way, Tacoma, WA 98421, (206) 383–3998. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle, in such vehicle, between points in the U.S. (except AK and HI).

MC 162178, filed May 24, 1982. Applicant: ROBERT C. CARRIER, d.b.a. ROB CARRIER TRUCKING, Albeni Falls #2, P.O. Box 971, Newport, WA 99156. Representative: Irene Gebe, 635 S.E. 11th, Portland, OR 97214, (503) 233–5766. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle, in such vehicle, between points in the U.S. (except AK and HI).

MC 162199, filed May 26, 1982. Applicant: NEW ENGLAND TRANSPORTATION, INC. P.O. Box 8793, New Haven, CT 06532. Representative: Alan Kahn and Barry D. Kleban, 1430 Land Title Bldg., Philadelphia, PA 19110, (215) 561–1030. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15885 Filed 6-10-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absense of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP1–94

Decided: June 2, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

FF–601, filed May 25, 1982. Applicant: JEURO CONTAINER TRANSPORT (U.S.A.) INC., 770 Edgewood Drive, Suite 300, Oakland, CA 94621. Representative: David R. Cabbell (same address as applicant) (415)–430–8440. As a *freight forwarder* of *general commodities* (except classes A and B explosives), between points in the U.S.

MC 120781 (Sub-7), filed May 24, 1982. Applicant: KRAFTOURS CORPORATION, P.O. Box 45790, Tulsa, OK 74145. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St., N.W., Washington, DC 20005 (202) 783–7200. Transporting *passengers and their baggage*, in the same vehicle with passengers, in charter operations, between points in the U.S. (except HI), under continuing contract(s) with Allan S. Kraft, dba Kraftours, of Tulsa, OK.

MC 128521 (Sub-18), filed May 24, 1982. Applicant: BIRMINGHAM-NASHVILLE EXPRESS, INC., P.O. Box 100417. Nashville, TN 37210. Represenative: Stephen L. Edwards 806 Nashville Bank & Trust Bldg., 315 Union St., Nashville, TN 37201 (615) 255–9911. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Lauderdale and Colbert Counties, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—Applicant intends to tack this authority with its existing regular route authority.

MC 144821 (Sub-18), filed May 24, 1982. Applicant: FREEDOM FREIGHTWAYS, INC., 9060 Latty Ave., St. Louis, MO 63134. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701 (601) 335–3576. Transporting (1) *such commodities as are dealt in or used by distributors of*

commercial and industrial cleaning compounds and disinfectants; and (2) *chemical and related products,* between St. Louis, MO, and points in St. Louis County, MO, and Los Angeles County, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 145860 (Sub-4), filed May 24, 1982. Applicant: JAMES MILTON HOWLETT d.b.a. HOWLETT'S TRUCKING COMPANY, 2621 Medina Drive, San Bruno, CA 94066. Representative: James Milton Howlett (same address as applicant) (405) 871–8596. Transporting *machinery, water, beverages, and liquors,* between points in the U.S., under continuing contract(s) with (a) Stanford Wine Co., of South San Francisco, CA, and (b) Manitou Corp., of Manitou Springs, CO.

MC 146890 (Sub-46), filed May 25, 1982. Applicant: C & E TRANSPORT, INC. d.b.a. C. E. ZUMSTEIN CO., P.O. Box 27, Lewisburg, OH 45338. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., NW, Suite 500, Washington, DC 20006 (202) 828–5015. Transporting *general commodities* (except classes A and B explosives and household goods), between points in DE, IL, IN, KY, MD, MI, MN, MO, NJ, NY, PA, WV and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 148150 (Sub-2), filed May 26, 1982. Applicant: BROTHERS TRUCKING CO., INC., R.D. No. 2, Manchester, PA 17345. Representative: J. Bruce Walter P.O. Box 1146 Harrisburg, PA 17108 (717) 233–5731. Transporting (1) *iron and steel articles;* and (2) *electric welders,* between points in York County, PA, on the one hand, and, on the other, points in AZ, CO, CT, DE, ID, IA, KS, ME, MI, MT, NE, NV, NH, NJ, NM, NY, OR, PA, RI, SD, UT, VT and WY.

MC 152230 (Sub-5), filed May 25, 1982. Applicant: THEODORE F. MILLER, d.b.a. T & L MILLER, 36 West 8th St., Bloomsburg, PA 17815. Representative: David C. Venable, 400 Spring Valley Center, 4801 Massachusetts Ave., N.W., Washington, DC 20016 (202) 634–8933. Transporting (1) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Northumberland County, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI), (2) *textile mill products and rubber and plastic products,* between Baltimore, MD, St. Louis, MO, Miami, FL, and points in Adams, Columbia, and Montour Counties, PA, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA, and (3) *food and related products,* between points in Berks and Cumberland Counties, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 154121 (Sub-27), filed May 28, 1982 (Sub-20), filed May 20, 1982 and (Subs-21, -22, -23, -24, -25, and -26), filed May 21, 1982. Applicant: TRAILINER CORP., 2169 E. Blaine, Springfield, MO 65803. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 435–7140. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

Note.—Since the authority sought in applicant's Sub 27 encompasses the authority in the additional applications reflected above, these applications will be handled on a consolidated record along with MC–154121 Sub 19 published in the **Federal Register** on May 27, 1982.

MC 159040 (Sub-1), filed May 24, 1982. Applicant: K.I.S.S. EXPRESS CO., 4820 West Belmont Ave., Chicago, IL 60641. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., NW., Suite 500, Washington, DC 20006, (202) 828–5015. Transporting *general commodities* (except classes A and B explosives), household goods and commodities in bulk, between points in the U.S. (except AK and HI), under continuing contract(s) with (1) Schnadig Corporation, of Chicago, IL; (2) Pettibone-Chicago, Inc., of Chicago, IL; (3) Genie Toys, of St. Louis, MO; (4) Lee Rowan, of St. Louis, MO: (5) St. Charles Manufacturing Company, of St. Charles, IL: (6) Adams Foam Rubber Company, Inc., of Chicago, IL; and (7) Cole Sewell Corporation, of St. Paul, MN.

MC 160441, filed May 24, 1982. Applicant: S & S CARTAGE CO., INC., 1515 So. Walnut St., P.O. Box 6424, South Bend, IN 46660. Representative: Paul D. Borghesani, 300 Communicana Bldg., 421 So. Second St., Elkhart, IN 46516, (219) 293–3597. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with (1) Clark Equipment Company, of Buchanan, MI; and (2) A M General Corporation, of South Bend, IN.

MC 161291 (Sub-1), filed May 24, 1982. Applicant: BIG SKY TRUCKING, 8280 Finch Drive, Helena, MT 59601. Representative: Randall D. Stewart (same address as applicant), (406) 458–9366. Transporting (1) *chemicals and related products,* between points in CA, MT and OR, (2) *automotive parts and accessories,* between points in MT and OR, (3) *alcoholic beverages, beer and wine,* between points in CA, MT, OR and WA, and (4) *lumber and wood products and building materials,* between points in CA, ID, MT, ND, NV, OR, SD, UT, and WA.

MC 162140, filed May 21, 1982. Applicant: WHITE LIGHTNING TRUCKING SERVICE, INC., Route 62, Cynthiana Pike, P.O. Box 313, Georgetown, KY 40324. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. Transporting *malt beverages,* (a) between those points in KY on and east of U.S. Hwy 31W, on the one hand, and, on the other, points in GA, IL, IN, MI, NC, OH, and WI, (b) between points in Wayne County, MI, on the one hand, and, on the other, points in Hamilton County, OH, and (c) between points in Wayne County, MI, and Hamilton County, OH, on the one hand, and, on the other, points in IN, KY, NC, SC and TN.

MC 162170, filed May 24, 1982. Applicant: JOHN M. BOAST, INC., 1607 West River Drive, P.O. Box 4168, Davenport, IA 52808. Representative: Joseph Winter, 29 LaSalle St., Chicago, IL 60603, (312) 263–2306. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162180, filed May 24, 1982. Applicant: RISCHITELLI BROTHERS, INC., Second and Water Sts., P.O. Box 169, Belle Vernon, PA 15012. Representative: Arthur J. Diskin, 402 Law and Finance Bldg., Pittsburgh, PA 15219, (412) 281–9494. Transporting *commodities in bulk,* between points in Westmoreland, Somerset, Indiana, Armstrong, Greene, Washington, Fayette, Beaver and Allegheny Counties, PA, on the one hand, and, on the other, points in PA, NY, NJ, MD, OH, VA, WV, and DC.

MC 162201, filed May 26, 1982. Applicant: CORO-MEX, 1023 Flora Ave., Coronado, CA 92118. Representative: Leticia Flores Avila (same address as applicant), (714) 435–3076. Transporting *passengers and their baggage,* in the same vehicle as passengers, beginning and ending at points in Riverside County, CA, and extending to the ports of entry on the International Boundary line between the U.S. and Mexico.

Volume No. OP2–113

Decided: June 2, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 56213 (Sub-20), filed April 12, 1982. Applicant: RICHARD L. KINARD, INC, 310 N. Zarfoss Drive, York, PA 17404. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K Street, NW., Washington, D.C. 20005,

(202) 783–3525. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 145462 (Sub-5), filed May 20, 1982. Applicant: Hollis E. LOWE, d.b.a. LOWE TRUCKING COMPANY, 6639 Abington Pike, P.O. Box 1281, Richmond, IN 47374. Representative: Russell H. Schussler, 400 1st National Bank Bldg., Richmond, IN 47374, 317–962–7527. Transporting *iron and steel articles*, between Richmond, IN, and points in IL, MI, OH, and MO, under continuing contract(s) with Dana Corporation, of Richmond, IN.

MC 155013 (Sub-2), filed April 26, 1982. Applicant: FREIGHTMASTER, INC., P.O. Box 488, Taylorsville, NC 28681. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064, (615) 790–2510. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Warren Oil Company, of Dunn, NC.

MC 160972, filed April 23, 1982. Applicant: AURORA TRUCKING, INC., P.O. Box 81290, Fairbanks, AK 99708. Representative: Stanley C. Olsen, Jr., 5200 Willson Road, Suite 307, Edina, MN 55424, (612) 927–6955. Transporting *general commodities* (except classes A and B explosives), between points in AK, on the one hand, and, on the other, points in the U.S., including AK (except HI).

MC 161462 (Sub-2), filed May 20, 1982. Applicant: MIDLAND EXPRESS, INC., 29 South LaSalle St., Suite 350, Chicago, IL 60603. Representative: Anthony E. Young (same address as applicant), 312–782–8880. Transporting *food and related products*, between New Orleans, LA, Charleston, SC, Gulfport, MS, Tampa, Miami, and Fort Lauderdale, FL, Mobile, AL, and Galveston, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162102, filed May 20, 1982. Applicant: INDUSTRIAL MOVERS, INC., 851 Wesley Drive, Villa Hills, KY 41017. Representative: George M. Catlett, Suite 700–702, McClure Bldg., Frankfort, KY 40601, 502–227–7384. Transporting *telephone equipment, materials, and supplies* used in the maintenance, construction, installation, and repair of telephone systems, between points in OH and KY.

Volume No. OP4–198

Decided: June 1, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 146957 (Sub-4), filed May 25, 1982. Applicant: DACIANO A. SANTOS, d.b.a. CONNECTICUT AIRPORT SERVICE, 17 Fairfield Ave., Danbury, CT. Representative: John E. Fay, 663 Maple Ave., Hartford, CT 06114. Transporting *passengers and their baggage*, between the John F. Kennedy International Airport and La Guardia Airport at New York, NY, and the Newark International Airport, at Newark, NJ, on the one hand, and, on the other, points in Bristol and Plymouth Counties, MA, and Providence County, RI.

MC 149497 (Sub-27), filed May 24, 1982. Applicant: HAUPT CONTRACT CARRIERS, INC., P.O. Box 1023, Wausau, WI 54401. Representative: Robert A. Wagman (same address as applicant), (715) 359–2907. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with International Paper Company, International Paper Plaza, of New York, NY.

MC 156677 (Sub-1), filed May 24, 1982. Applicant: FIVE BORO TRUCKING CORP., 34–51 48th St., Long Island City, NY 11101. Representative: Bruce J. Robbins, 18 E. 48th St., New York, NY 10017, (212) 755–9400. Transporting *food and related products*, between New York, NY, on the one hand, and, on the other, points in CT, ME, MA, NH, RI, and VT.

MC 158347, filed May 24, 1982. Applicant: TIMMON H. MARTIN, d.b.a. T. H. MARTIN TRUCKING, 8314 Scout Ave., Bell Gardens, CA 90201. Representative: Milton W. Flack, 8484 Wilshire Blvd., #840, Beverly Hills, CA 90211, (213) 655–3573. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of insulation products, between points in the U.S. (except AK and HI), under continuing contract(s) with Childers Products Company, of Montebello, CA, and Extol, A Division of Childers Products Company, of City of Commerce, CA.

MC 128837 (Sub-51), filed May 26, 1982. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62626. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *new furniture*, between points in the U.S. (except AK and HI).

Volume No. OP5–124

Decided: June 1, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 2228 (Sub-75), filed May 20, 1982. Applicant: MERCHANTS FAST MOTOR LINES, INC., East Hwy. 80, P.O. Drawer 591, Abilene, TX 79604. Representative: Jerry Prestridge, P.O. Box 1148, Austin, TX 78767, (512) 472–8800. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), serving points in CO, NM, and AZ as off-route points in connection with applicant's authorized regular-route operations.

MC 43289 (Sub-77), filed May 20, 1982. Applicant: WELLS CARGO, INC., P.O. Box 1511, Reno, NV 89505–1511. Representative: Royal F. Miller (same address as applicant), (702) 329–0061. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NV, on the one hand, and on the other, points, in CA, under continuing contract(s) with K Mart Corporation, Sparks, NV.

MC 50069 (Sub-573), filed May 21, 1982. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION,445 Earlwood Ave., Oregon, OH 43616. Representative: J.A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, 216–566–5639. Transporting *commodities in bulk* between points in the U.S., under continuing contract(s) with Reserve Petroleum Co. of Pittsburgh, PA.

MC 88368 (Sub-58), filed May 24, 1982. Applicant: CARTWRIGHT VAN LINES, INC., 11901 Cartwright Ave., Grandview, MO 64030. Representative: Thomas R. Kingsley, 10610 Amherst Ave., Silver Spring, MD 20902, 301–649–5074. Transporting (1) *machinery* and (2) *metal products*, between Omaha, NE., New York, NY, Memphis, TN, and points in Webster County, LA, AR, KS, OK, and TX, on the one hand, and, on the other, points in the U.S.

MC 97998 (Sub-5), filed May 20, 1982. Applicant: REFRIGERATED TRANSPORT INC., P.O. Box 225299, Dallas, TX 75265. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116, (817) 731–8431. Transporting *general commodities* (except household goods, classes A and B explosives, and commodities in bulk), between points in AL, AR, CO, KS, LA, MS, MO, NM, OK, TN, and TX.

MC 99869 (Sub-2), filed May 20, 1982. Applicant: COASTAL MOVING CO., INC., P.O. Box AQ, Jacksonville, NC 28540. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, 202–785–0024. Transporting *household goods*, between points in NC, on the one hand

and, on the other, points in MD, DE, NC, SC, VA, WV, GA, AL, FL, and DC.

MC 103798 (Sub-56), filed May 21, 1982. Applicant: MARTEN TRANSPORT, LTD., Rt. 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1600 TCF Tower, 121 South 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, AZ, AR, CA, CO, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, TN, TX, UT, WA, WI, and WY.

MC 120869 (Sub-4), filed May 19, 1982. Applicant: CALIFORNIA TANK LINES, INC., P.O. Box 6245, 3105 S. El Dorando St., Stockton, CA 95206. Representative: John G. Lyons, 220 Bush St., San Francisco, CA 94104, (415) 392–1423. Transporting *chemicals and related products*, between points in CA, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY.

MC 128449 (Sub-14), filed May 17, 1982. Applicant: JIMMIE TUCKER TRUCKING, INC., Box 428, Broken Bow, OK 74728. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154, (405)424–3301. Transporting *chemicals*, between points in Eddy County, NM, on the one hand, and, on the other, points in AL, AR, CA, CO, FL, GA, KS, LA, MN, MS, MT, ND, OH, OK, TX, UT, VA and WY.

MC 135989 (Sub-37), filed May 21, 1982. Applicant: COAST EXPRESS, INC., 14280 Monte Vista Ave., Chino, CA 91710. Representative: William J. Lippman, P.O. Box 6060, Snowmass Village, CO 81615, 303–923–4565. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Charles McAlpin Brokerage, Inc. of Decatur, AL.

MC 144168 (Sub-7), filed May 20, 1982. Applicant: R. E. GARRISON TRUCKING, INC., P.O. Box 186, Cullman, AL 35055. Representative: Michael M. Knight (same address as applicant), 205–734–1470. Transporting *general commodities* (except A and B explosives, household goods, and commodities in bulk), between points in AL, GA, FL, TN, CA, AZ, TX, LA, MS, NC, SC, IA, IN, IL, KY, MI, OH, and WI.

MC 147038 (Sub-4), filed May 17, 1982. Applicant: C. STRANGE TRUCKING CO., INC., Rt. 2, Box 38, Wallace, MI 49893. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719, (608) 273–1003. Transporting *lumber and wood products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Rodman Industries Inc., of Marinette, WI.

MC 147038 (Sub-5), filed May 17, 1982. Applicant: C. STRANGE TRUCKING CO., INC., Rt. 2, Box 38, Wallace, MI 49893. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719, (608) 273–1003. Transporting *transportation equipment*, between points in the U.S. (except AK and HI), under continuing contract(s) with The Budd Company of Clinton, MI.

MC 148539 (Sub-2), filed May 20, 1982. Applicant: LINDO'S TOURS U.S.A., INC., 1886 U.S. 19th South, Clearwater, FL 33516. Representative: Richard M. Davis, Suite 320, Lewis State Bank Bldg., Tallahassee, FL 32301, 904–222–5175. Transporting *passengers and their baggage* in the same vehicle with passengers, in charter and special operations, beginning and ending at points in Dade, Broward, and Palm Beach Counties, FL, and extending to points in the U.S.

MC 148928 (Sub-1), filed May 4, 1982. Applicant: R H TRUCKING, INC., Rt 2, Nichols, SC 29581. Representative: Jon F. Hollengreen, 1020 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., NW., Washington, D.C. 20004, (202) 628–4600. Transporting *fertilizer and related products*, between points in NC, SC, and GA.

MC 152849 (Sub-10), filed February 22, 1982. (previously published (republication) in **Federal Register** on March 16, 1982). Applicant: RIVERLAND TRUCKING CO., INC., Post Office Drawer BC., Reserve, LA 70084. Representative: Harold O. Orlofske, P.O. Box 368, Neenah, WI 54956, (414) 722–2848. Transporting (1) *packaging products and packaging materials and supplies*, between points in AL, AR, FL, GA, IL, KY, LA, MI, MS, NC, SC, TN, and TX, and (2) *food and related products*, between points in St. John the Baptist Parish, LA, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, KY, MS, NC, NE, OH, OK, SC, TN, TX, VA, and WI.

Note.—Republication made to show correct parish in LA, in (2) of caption summary.

MC 153979 (Sub-3), filed May 21, 1982. Applicant: WEST POINT TRANSPORT, INC., 1700 Willis Rd., Richmond, VA 23234. Representative: Paul D. Collins, 7761 Lakeforest Drive, Richmond, VA 23235, (804) 745–0446. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) between points in the U.S. (except AK and HI), under continuing contract(s) with Celanese Fibers Company of Charlotte, NC, Federal Paper Board Company, Inc., of Richmond, VA, A.H. Robins Company of Richmond, VA, Thompson Industries, Inc., a division of Dart & Kraft, Inc., of Phoenix , AZ, and Thalhimer Brothers, Inc., Division of Carter-Hawley-Hale, Inc., of Richmond, VA.

MC 154728 (Sub-2), filed May 20, 1982. Applicant: HARVEY G. ALLEN, d.b.a. ALLEN TRUCKING COMPANY, 11803 Kerry Lane, Mabelvale, AR 72103. Representative: Thomas B. Staley, 1550 Tower Bldg., Little Rock, AR 72201, (501) 375–9151. Transporting *forest products* and *lumber and wood products*, between points in Dallas and Pulaski Counties, AR, on the one hand, and, on the other, points in IL, KY, NM, AZ, CO, and MN.

MC 155118 (Sub-7), filed May 17, 1982. Applicant: T.D.S. TRANSPORTATION, INC., 1700 South Wolf Road, Des Plaines, IL 60018. Representative: Julie L. Roper (same address as applicant), (312) 298–8800). Transporting *general commodities* (except household goods, commodities in bulk, and classes A and B explosives) between points in the U.S. (except AK and HI), under continuing contract(s) with Packer Plastics, Incorporated, of Lawrence, KS, Noodles by Leonardo, Inc., of Cando, ND, The Stearns & Foster Co., of Lockland, OH, and Kieffer Paper Mills, Inc., of Brownstown, IN.

MC 160698 (Sub-1), filed May 17, 1982. Applicant: JBM ENTERPRISES, INC., 405 Hansen Ave., Bulter, PA 16001. Representative: Arthur J. Diskin, 402 Law & Finance Bldg., Pittsburgh, PA 15219, 412–281–9494. Transporting (1) *such commodities* as are dealt in or used by home-products manufacturers and distributors of cosmetics, toilet preparations and jewelry; (2) *such commodities* as are distributed by hardware stores; and (3) *new furniture*, between points in the U.S. (except AK and HI).

MC 160788, filed May 17, 1982. Applicant: J & H TRANSPORTATION, INC., Rt. 2, Leadey, OK 73654. Representative: Michael H. Lennox, 3925 N. W. 10th St., Box 75613, Oklahoma City, OK 73147, (405) 943–2722. Transporting *Mercer commodities*, between points in the U.S. (except AK and HI), under continuing contract(s) with Offshore and Inland Leasing and McGuire Industries, both of Elk City, OK.

MC 161608 (Sub-1), filed May 18, 1982. Applicant: FORTY GRAND TRANSPORTATION, INC., Hwy 90 East, Amelia, LA 70340. Representative:

Janet Boles Chambers, 8211 Goodwood Blvd., Suite C–1, Baton Rouge, LA 70806, 504–924–2686. Transporting *Mercer commodities* between those points in LA, in and south of Sabine, Vernon, Rapides, Avoyelles and Concordia Parishes, LA, on the one hand, and, on the other, points in AL, AR, CA, CO, FL, GA, MS, NM, OK, TX and WY.

MC 162029, filed May 17, 1982. Applicant: G.J.G. ENTERPRISES, INC., 109 Brookside Drive, O'Fallon, IL 62269. Representative: Robert L. Glock (same address as applicant), 618–632–7683. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Switzer Candy Co. of St. Louis, MO, and Hollywood Brands, Inc. of Centralia, IL.

MC 162039, filed May 17, 1982. Applicant: INTERSTATE STONE & BLOCK CO., INC., 3300 Crater Lake Ave., Medford, OR 97501. Representative: John A. Tucker (same address as applicant), 503–772–7173. Transporting (1) *lumber and wood products*, (2) *construction materials*, (3) *clay, concrete, glass or stone products*, between points in AZ, CA, CO, ID, NV, OR, WA, and UT.

MC 162078, filed May 18, 1982. Applicant: UTAH HIGHWAY EXPRESS, No. 35 South West, Salt Lake City, UT 84101. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110, 801–531–1777. Transporting *pipe, valves, fittings, and related tools*, between points in the U.S., under continuing contract(s) with Fluor Supply Company of Salt Lake City, UT.

MC 162139, filed May 21, 1982. Applicant: COMMONWEALTH TRUCKING, INC., P.O. Box 902, Yreka, CA 96097. Representative: Donald L. Smith (same address as applicant), 916–842–4435. Transporting (1) *lumber and wood products*, under continuing contract(s) with Columbia Plywood Corp. of Klamath Falls, OR; Aetna Plywood, Inc. of Chicago, IL; and American Forest Products Co. of San Francisco, CA; and (2) *metal products*, under continuing contract(s) with Inmark Metal Services, Inc. of Seattle, WA, between points in the U.S.

Volume No. OP5–126

Decided: June 2, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 8509 (Sub-2), filed May 24, 1982. Applicant: FAYETTE TRUCKING, INC., Rte. 21, P.O. Box 1006, Uniontown, PA 15401. Representative: Arthur J. Diskin, 402 Law & Finance Bldg., Pittsburgh, PA 15219, 412–281–9494. Transporting (1) *machinery*, and (2) *contractors' equipment*, between points in PA, VA, MD, WV, OH, NY, KY, and NJ.

MC 96328 (Sub-9), filed May 24, 1982. Applicant: J. AND W CORPORATION, 3525 S. Leavitt St., Chicago, IL 60609. Representative: Robert J. Gill, First Commercial Bank Bldg., 410 Cortez Rd. West, Bradenton, FL 33507, 813–758–4153. Transporting *hospital and medical supplies, toilet preparations, and agriculutral products*, between points in Cook County, IL, on the one hand, and, on the other, points in IL, IN, IA, MO, OH, and WI.

MC 114028 (Sub-43), filed May 24, 1982. Applicant: ROWLEY INTERSTATE TRANSPORTATION COMPANY, INC., 2010 Kerper Boulevard, Dubuque, IA 52001. Representative: Carl L. Steiner, 29 South LaSalle St., Chicago, IL 60603, (312) 236–9375. Transporting *hides* between Maquoketa, IA, and Chicago, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 114028 (Sub-44), filed May 24, 1982. Applicant: ROWLEY INTERSTATE TRANSPORTATION COMPANY, INC., 2010 Kerper Boulevard, Dubuque, IA 52001. Representative: Carl L. Steiner, 29 South LaSalle St., Chicago, IL 60603, (312) 236–9375. Transporting *bananas* between Tampa, FL, on the one hand, and, on the other, points in DE, IL, IN, IA, KY, MN, NJ, VA, and WI.

MC 117119 (Sub-843), filed May 24, 1982. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant), (501) 248–7261. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Campbell Soup Company of Camden, NJ.

MC 123499 (Sub-3), filed May 17, 1982. Applicant: LOWELL L. TREFFERT, INC., 3323 Rodney Lane, Racine, WI 53406. Representative: Richard C. Alexander, 710 North Plankinton Ave., Milwaukee, WI 53203, (414) 273–7410. Transporting *food and related products*, (a) between Memphis, TN, on the one hand, and, on the other, points in Racine County, WI, and (b) between Milwaukee, WI, on the one hand, and, on the other, points in IL.

MC 139858 (Sub-51), filed May 25, 1982. Applicant: AMSTAN TRUCKING, INC., 1255 Corwin Ave., Hamilton, OH 45015. Representative: Keith G. O'Brien, 1729 H St. NW., Washington, DC 20006, (202) 337–6500. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 141318 (Sub-22), filed May 24, 1982. Applicant: WEATHER SHIELD TRANSPORTATION, LTD., Box Ltd., 129 No. Main St., Medford, WI 54451. Representative: Robert S. Lee, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting (1) *building materials* between points in AL, AZ, CA, CO, CT, GA, ID, IL, IN, IA, KS, KY, ME, MI, MN, MO, MT, NJ, ND, NM, OH, OR, PA, SD, TN, UT, WA, and WI, on the one hand, and on the other, points in the U.S. (except AK and HI), and (2) *chemicals and related products* between points in CA, on the one hand, and, on the other, points in CO, ID, NV, and UT.

MC 147666 (Sub-3), filed May 24, 1982. Applicant: CANTON SALES & STORAGE COMPANY, 555 Mathews Drive, Canton, MS 39406. Representative: Harold D. Miller, Jr., 17th Floor Deposit Guaranty Plaza, Jackson, MS 39205, (601) 948–5711. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), (a) between points in NY, MA, RI, CT, PA, NJ, DE, MD, VA, NC, SC, and GA, on the one hand, and, on the other, points in MS, LA, and TX, under continuing contract(s) with TG&Y Stores Co., of Oklahoma City, OK, (b) between points in NJ, on the one hand, and, on the other, points in Shelby County, TN, and Marion County, AL, under continuing contract(s) with Vassarette, Div. of Munsingwear, Inc., of Minneapolis, MN, and (c) between Milwaukee, WI, Boston, MA, Jersey City, NJ, Charlotte, NC, and Atlanta, GA, on the one hand, and, on the other, Memphis, TN, and points in Haywood County, TN, Webster, Neshoba, and Wayne Counties, MS, Desha County, AR, and West Carroll Parish, LA, under continuing contract(s) with Wells-Lamont Corporation, of Chicago, IL.

MC 146449 (Sub-5), filed May 24, 1982. Applicant: ALL CITIES TRANSFER, INC., 1567 East Hamilton Ave., East Point, GA 30344. Representative: Ben M. Cotton (same address as applicant), (404) 768–7780. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with International Freight Brokers, Inc., of Charlotte, NC.

MC 150368 (Sub-2), filed May 24, 1982. Applicant: BURKLUND TRANSPORTATION, INC., Route 1, Vulcan, MI 49892. Representative: Nancy J. Johnson, 103 East Washington

St., Box 218, Crandon, WI 54520, (715) 478–3341. Transporting *paper and paper products,* between Milwaukee, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 155438 (Sub-1), filed May 11, 1982. Applicant: PAUL D. CHURCH & IRENE A. CHURCH, d.b.a. CHURCH TRUCKING, INC., 3126 S.E. Washington St., Milwaukie, OR 97222. Representative: Paul D. Church (same address as applicant), (503) 654–1821. Transporting *lift trucks, machinery, and machinery parts,* between Portland and Eugene, OR, and points in Jackson County, OR, on the one hand, and, on the other, San Francisco, Sacramento, and Fresno, CA, and points in Los Angeles, Santa Clara, Stanislaus, Humboldt, Sonoma, Monterey, Siskiyou, Kern, Modoc, Lassen, and Shasta Counties, CA.

MC 157199 (Sub-2), filed May 17, 1982. Applicant: SRT TOURS, INC., 119 Graham Lane, Lodi, NJ 07644. Representative: Larah B. Mewhinney, 555 Madison Ave., New York, NY 10022, 212–838–0600. To engage in operations as a *broker,* at Jacksonville, FL, in arranging for the transportation of *passengers and their baggage,* between points in the U.S.

MC 161479 (Sub-2), filed May 25, 1982. Applicant: B & P TRANSPORTATION COMPANY, INC., 4066 Viscount, Memphis, TN 38118. Representative: Tommie J. Perkins, Sr., P.O. Box 18307, Memphis, TN 38118, (901) 362–2868. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, AR, GA, IL, KY, LA, MS, MO, and TN.

MC 162049, filed May 18, 1982. Applicant: JAG TRANSPORT & LEASING CO., INC., 2956 Paula Circle, Oxnard, CA 93030. Representative: Edwin C. Johnson (same address as applicant), 805–483–8169. Transporting (1) *food and related product,* (2) *plastic and plastic products,* (3) *ordnance and related accessories,* between points in Ventura County, CA, on the one hand, and, on the other, points in AZ, CA, CO, ID, NV, OR, UT, and WA, and (4) *metal products,* between points in AZ, CA, CO, ID, NV, OR, UT, and WA. Condition: Any certificate issued in this proceeding to the extent it authorizes transportation of classes A and B explosives shall be limited in points of time to a period expiring five years from the date of issuance of the certificate.

MC 162059, filed May 18, 1982. Applicant: ROLF DRESCHER, d.b.a. ELMCREST HORSE TRANSPORT, 701 Henry Ave., Winnipeg, Manitoba, Canada R3E 1T9. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58101, 701–237–4223. Transporting in foreign commerce only, *horses other than ordinary,* between points in the U.S. (except AK and HI).

MC 162148, filed May 24, 1982. Applicant: YOUR MAN TOURS, INC., 8831 Aviation Blvd., Inglewood, CA 90301. Representative: Joseph J. Weisenfeld, Suite 1850, One Biscayne Tower, Miami, FL 33131, (305) 374–5600. Transporting *passengers and their baggage* in same vehicle with passengers, in charter and special operations, beginning and ending at points in OH, PA, MI, MO, MN, and WI, and extending to points in FL.

MC 162158, filed May 21, 1982. Applicant: DAUGHERTY'S TRAVEL AGENCY, Dividing Creek Road, Rt #1, Box 219A, Pocomoke City, MD 21851. Representative: Irene Daugherty (same address as applicant), (301) 957–3020. To operate as a *broker* at Pocomoke City, MD, in arranging for the transportation of *passengers and their baggage,* in special and charter operations, beginning and ending at points in MD, DE, and VA, and extending to points in the U.S

MC 162196, filed May 26, 1982. Applicant: TRAVEL MATES OF VIRGINIA, INCORPORATED, 869 North Liberty Street, P.O. Box 2, Harrisonburg, VA 22801. Representative: Gaye M. Stover (same address as applicant), (703) 434–4155. Transporting *passengers and their baggage* in same vehicle with passengers, in special and charter operations, between Harsionburg, VA, and points in Rockingham County, VA, on the one hand, and, on the other, points in the U.S.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82–15614 Filed 6–10–82; 8:45 am]
BILLING CODE 7035–01–M

[Finance Docket No. 29936]

Rail Carriers; Canadian Pacific Limited and Newport and Richford Railroad Co.—Extension and Amendment of Lease With the Montreal and Atlantic Railway Co.—Exemption

June 3, 1982.

Petitioner Canadian Pacific Limited (CPL), a Canadian corporation, operates a railway system of approximately 16,300 miles in Canada. Petitioner Newport and Richford Railroad Company (N&R), a Vermont corporation, is a Class III rail carrier, and petitioner the Montreal and Atlantic Railway Company (M&A), a Canadian corporation, is a Class I rail carrier. CPL owns 100 percent of the voting stock of N&R and 97 percent of M&A.

N&R owns approximately 90 miles of railroad in Vermont, which is operated by CPL under lease arrangements. N&R has no employees and owns no rolling stock or properties other than the line of railroad. M&A owns approximately 218 miles of railroad, about 131.5 miles of which are in Canada and the rest are in Vermont. These are operated by CPL under various leases. M&A also has no employees or rolling stock, other than the line of railroad.

On June 8, 1881 N&R leased to M&A (then known as The South Eastern Railway Company) its railway situated in Orleans and Franklin Counties in Vermont. The lease ran for 99 years and provided, among other things, for a rental of $1,500 per month. By lease dated September 15, 1931, M&A leased to CPL for 999 years (commencing October 1, 1931) all of its railways whether then in existence or to be constructed, including all of its rights as lessee of N&R under the 1881 lease.

Petitioners state that if the 1881 lease were to expire, the rights of CPL to operate that portion of the railway lines of N&R described in the 1881 lease, which CPL holds through the 1931 lease from M&A, would also expire. For administrative convenience CPL determined (1) that the 1881 lease should be extended for a term of 950 years from June 8, 1980 to September 30, 2930 (to have it coincide with the term of the 1931 lease) and (2) to amend the rental provisions of the 1881 lease to eliminate obsolete rental provisions, to provide for an annual rental equal to the net expenses to Lessor, and to pay the interest due on bonds or other outstanding obligations of N&R.

To implement the extension and amendment of the 1881 lease, a new agreement was drawn and approved by the directors and shareholders of M&A and N&R.

By petition filed May 13, 1982, petitioners seek exemption under 49 U.S.C. 10505 of the proposed extension of the 1881 lease and its amendment.

This is a transaction wholly within a corporate family which is exempt as a class because it does not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family. 49 CFR 1111.2(d)(3).

As a condition to the use of this exemption, any rail employees affected by this transaction shall be protected pursuant to *Mendocino Coast Ry., Inc.-Lease and Operate,* 354 I.C.C. 732 (1978) and 360 I.C.C. 653 (1980). This will

satisfy the statutory requirements of 49 U.S.C. § 10505(g)(2).

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15811 Filed 6-10-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-146)]

Rail Carriers; Chesapeake and Ohio Railway Co. Exemption for Contract Tariff ICC-CO-C-0015

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: Petitioners are granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The Chesapeake and Ohio Railway Company and the Grand Trunk Western Railway Company filed a petition on May 25, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). They request that we permit its contract ICC-CO-C-0015 filed on May 12, 1982 to become effective on one day's notice. The contract involves the movement of industrial sand.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. The carriers have a sizeable surplus of covered hoppers suitable for transporting industrial sand. Permitting short notice will enable the carrier to use equipment which would otherwise be idle. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Petitioners contract ICC-CO-C-0015 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings.

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests are filed within 15 days of publication in the Federal Register.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Dated: June 4, 1982.

By the Commission, Division 2, Commissioners Gresham, Taylor, and Simmons. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15809 Filed 6-10-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub-63)A]

Rail Carriers; Illinois Central Gulf Railroad—Abandonment—Between Milepost 0.26 and Milepost 7.62 in Ohio County, KY; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number has found that the public convenience and necessity permit Illinois Central Gulf Railroad Company to abandon the segment of its rail line between milepost 0.26 and milepost 7.62 in Ohio County, KY a total distance of 7.36 miles, subject to conditions. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that:

(1) A financially responsible person (or government entity) has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and

(2) It is likely that:

(a) If a subsidy, the assistance would cover the difference between the revenues attributable to the line and the avoidable cost of providing rail freight service on the line, together with a reasonable return on the value of the line, or

(b) If a purchase, the assistance would cover the acquisition cost of all or any portion of the line.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this notice.

If the Commission makes the findings described above, the issuance of the abandonment certificate will be postponed. An offeror may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of an offer, and no request is made for the Commission to set conditions or amount of compensation, the abandonment certificate will become effective. Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980. Pub. L. 96-448) and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15812 Filed 6-10-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-63)B]

Rail Carriers; Seaboard Coast Line Railroad Co.—Abandonment—Between Milepost AVC 830.11 and Milepost AVC 832.0 in Haines City, FL; Findings

The Commission has found that the public convenience and necessity permit Seaboard Coast Line Railroad Company to abandon its 1.89 mile line of railroad between Haines City (milepost AVC 830.11) and Prine (milepost AVC 832.0) in Polk County, FL. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail

service are contained in 49 U.S.C. 10905 and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15610 Filed 6-10-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-148)]

Rail Carriers; Southern Pacific Transportation Co. Exemption for Contract Tariff ICC-SP-C-0089

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The Southern Pacific Transportation Company (SP) filed a petition on May 25, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC-SP-C-0089 filed on May 25, 1982 to become effective on one day's notice. The contract is with a cooperative association of shippers in the Northwest.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. The applicable published tariff on the shipper asociation's commodities currently requires that ten boxcars be released in any 24 hour period. However, due to current economic conditions, the shipper association is unable to make its ten car releases without holding up the traffic beyond a period of time acceptable to its members. As a result, the shipper cooperative has lost four of its members to truck competition and may lose more unless the contract is approved. The contract provides for an annual commitment but does not require that ten cars be released at a time, thus eliminating the service disadvantage caused by the published tariff. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Petitioner's contract ICC-SP-C-0089 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commiosn approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is no need to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests are filed within 15 days of publication in the **Federal Register.**

This action will not significantly affect neither the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Dated: June 4, 1982.

By the Commission, Division 2, Commissioners Gresham, Taylor, and Simmons. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15607 Filed 6-10-82; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL COMMUNICATION AGENCY

Book and Library Advisory Committee

The Book and Library Advisory Committee will hold its first meeting on Thursday, June 24, 1982, from 9:30 a.m. to 1:00 p.m. in Room 600, 1750 Pennsylvania Avenue NW., Washington, D.C. 20547. The committee will be briefed on Agency activities in general and on the book and library programs at posts overseas. For further information, contact Mr. Robert R. Reilly, Director of the Office of Private Sector Programs, (202) 632-6716.

Mary Jane Winnett,

Management Assistant, Office of Management Plans, Analysis, and Directives, Associate Directorate for Management.

[FR Doc. 82-15530 Filed 6-10-82; 8:45 am]

BILLING CODE 8230-01-M

DEPARTMENT OF JUSTICE

Consent Decree To Require Compliance With the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree to enforce the terms of the New York State Implementation Plan in *United States* v. *Non-Ferrous Processing Corp.*, was lodged with the United States District Court for the Eastern District of New York on May 18, 1982. The decree imposes on defendant certain requirements and compliance dates with respect to the operation of its secondary smelting plant in Brooklyn, New York.

The Department of Justice will receive for a period of thirty (30) days from the date of this notice, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States* v. *Non-Ferrous Processing Corp.*, D.J. Ref. 90-5-2-1-406.

The proposed order may be examined at the office of the United States Attorney, Eastern District of New York, Federal Building, 225 Cadman Plaza East, Brooklyn, New York 11201, and the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.50 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82-15550 Filed 6-10-82; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under section 107 (e)(1) of the Contract Work Hours and Safety Standards Act (40

U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) will meet on June 29–30, 1982 in Room N–5437, Frances Perkins Department of Labor Building, Washington, D.C. 20210. The meeting is open to the public and will begin at 9:00 a.m.

The agenda for this meeting will include a discussion of OSHA program directives that are related to the construction industry, a subgroup review of a draft proposal for the revision of Subpart L—Ladders and Scaffolding, a subgroup review of a draft proposal for the revision of Subpart M—Floor and Wall Openings and Stairways, and a general discussion of construction safety and health matters.

Writen data, views or comments may be submitted, preferably with 20 copies, to the Division of Consumer Affairs. Any such submission received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation.

Oral presentations will be scheduled at the discretion of the Chairman depending on the extent to which time permits. Communications may be mailed to: Ken Hunt, Committee Management Officer, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–3635, Washington, D.C. 20210, Telephone: 202–523–8024.

Materials provided to members of the Committee are available for inspection and copying at the above address.

Signed at Washington, D.C., the 4th day of June 1982.

Thorne G. Auchter,

Assistance Secretary.

[FR Doc. 82–15887 Filed 6–10–82; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meeting

AGENCY: National Endowment for the Humanities.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meeting of the Humanities Panel will be held at 806 15th Street, NW., Washington, D.C. 20506.

DATE: June 21, 1982.

TIME: 8:30 to 5:30 p.m.

ROOM: 1134.

PROGRAM: This meeting will review applications submitted for Consultant Grants, Division of Education, for projects beginning after October 1982. Because this is the first meeting of a panel to review Consultant Grant applications, the panel could not be scheduled until after the applications were received, but because of new, earlier deadlines for submission of panel results, it was not possible to provide the required 15 day notice period.

The proposed meeting is for the purpose of panel review, discussion, evaluation and recommendation of applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meeting will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and priviledged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which could significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority To Close Advisory Committee Meetings, dated January 15, 1978, I have determined that this meeting will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 82–15832 Filed 6–10–82; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Engineering; Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Engineering
Date and time: June 30–July 1, 1982; 9 a.m.–5 p.m., June 30; 9 a.m.–3 p.m., July 1
Place: National Science Foundation, 1800 G Street, NW., Room 540, Washington, D.C. 20550
Type of meeting: Open
Contact person: Mrs. Mary Poats, Executive Secretary, Advisory Committee for Engineering, Room 537, National Science Foundation, Washington, D.C. 20550, Telephone: (202) 357–9571
Summary minutes: Contact Mrs. Mary Poats at the above address
Purpose of advisory meeting: To provide advice, recommendations, and counsel on major goals and policies pertaining to Engineering programs and activities.

Agenda

June 30

9:00 a.m.—Welcome and Introductory Remarks
9:30 a.m.—Minorities and Women in Engineering
10:45 a.m.—Report on National Science Board Precollege Commission on Mathematics, Science, and Technology
Noon—Lunch
1:30 p.m.—Directorate for Engineering—The Present
3:15 p.m.—Directorate for Engineering—The Future—I
5:00 p.m.—Adjournment

July 1

9:00 a.m.—Directorate for Engineering—The Future—II
10:30 a.m.—Contribution of the Advisory Committee to Future of the Directorate
Noon—Lunch
1:30 p.m.—Future Committee Activities
2:45 p.m.—Closing Remarks
3:00 p.m.—Adjournment

M. Rebecca Winkler,

Committee Management Coordinator.

June 8, 1982.

[FR Doc. 82–15821 Filed 6–10–82; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Applications for Licenses To Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

A request for a hearing or a petition for leave to intervene may be filed on or before July 12, 1982. Any request for

hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of applications for license to export production or utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The table below lists all new major applications.

Dated this 7th day of June at Bethesda, Md.

For the Nuclear Regulatory Commission.

James V. Zimmerman,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

Name of applicant, date of application, date received, application number	Material type	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
Transnuclear, May 24, 1982, May 26, 1982, XSNM01959	4.3 pct enriched uranium	8,982,000	426,643	Reload fuel for S.E.N.A.	France.
Mitsui and Co., May 24, 1982, May 27, 1982, XSNM01961.	4.0 pct enriched uranium	17,833	473	Reload fuel for Fukushima I, Unit No. 1.	Japan.
Byron Jackson Pump Division, May 25, 1982, May 28, 1982, XR141.		(1)	(1)		People's Republic of China.

[1] Two Primary Coolant Reactor Pumps—300mw PWR, Total Value—$5,000,000.

[FR Doc. 82-15864 Filed 6-10-82; 8:45 am]

BILLING CODE 7590-01-M

Regional State Liaison Officers' Meeting

On June 24 and 25, 1982, the Nuclear Regulatory Commission (NRC) will sponsor a regional meeting with the Governor-appointed State Liaison Officers from Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hamsphire, New Jersey, New York, Pennsylvania, Rhode Island & Vermont. The subjects which will be discussed include emergency planning, waste management, spent fuel shipments and notification, regionalization as well as other items of mutual regulatory interest.

The meeting will be conducted at the NRC Region I Office, 631 Park Avenue, King of Prussia, Pennsylvania. The meeting is open to the public for attendance and observation and will take place from 9:00 a.m. until 5:15 p.m., on Thursday, June 24, and from 8:30 a.m. until 12:15 p.m. on Friday, June 25, 1982.

Questions regarding this meeting should be directed to Sue Weissberg at (301) 492-9877.

Dated at King of Prussia, Pa., this 7th day of June 1982.

For the Nuclear Regulatory Commission.

James M. Allan,

Deputy Regional Administrator, Region I.

[FR Doc. 82-15865 Filed 6-10-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 30-19102 (50-259, -260, and -296)]

Tennesse Valley Authority; Availability of Safety Evaluation Report Related to the Low-Level Radioactive Waste Storage Facility at Tennessee Valley Authority Browns Ferry Nuclear Plant

The Office of Nuclear Material Safety and Safeguards, Division of Fuel Cycle and Material Safety has issued its Safety Evaluation Report on the proposed issuance of Materials License No. 01-21075-01. Application for storage of low-level radioactive waste at the Browns Ferry Nuclear Plant near Athens, Alabama was made by the Tennessee Valley Authority as amendments to the Facility Operating Licenses Nos. DPR-33, DPR-52 and DPR-68. Notice of receipt of TVA's application and offering an opportunity for the public participation in connection with this action was published in the **Federal Register** on December 11, 1980 (45 FR 81697). For administrative purposes the application has been reviewed under 10 CFR Part 30.

The report is available for public inspection and copying at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555 and at the Local Public Document Room established at the Athens Public Library, South and Forrest Streets, Athens, Alabama 35611, under the Browns Ferry Nuclear Plant Dockets Nos. 50-259, -260 and -296.

Dated at Silver Spring, Md, this 4th day of June 1982.

For the Nuclear Regulatory Commission.

Leland C. Rouse,

Chief, Advanced Fuel and Spent Fuel Licensing Branch, Division of Fuel Cycle and Material Safety.

[FR Doc. 82-15862 Filed 6-10-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-280, 50-281, 50-338, and 50-339]

Virginia Electric & Power Co.; Granting of Relief From ASME Code Section XI Inservice Inspection Requirements

The Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components," to Virginia Electric and Power Company (the licensee), which revised the inservice inspection program for the Surry Power Station, Unit Nos. 1 and 2 and for the North Anna Power Station, Unit Nos. 1 and 2 located in Surry County and Louisia County, Virginia, respectively. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance, and expires August 20, 1982.

The action provides relief from the 1974 ASME Code Section XI requirements for inservice inspection hydrostatic tests and that the requirements in the source articles of the 1977 edition of ASME Section XI with approved addenda through summer of 1979 be applied instead.

The request for this granting of relief complies with the standards and requirements of the Atomic Energy Act

of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the Evaluation of Relief request.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the request for relief dated December 29, 1981; (2) the letter to the licensee dated June 7, 1982; and (3) the Commission's related Evaluation of Relief Request. These items are available for public inspection at the Commission's Public Document Room, 1717 H Stree, NW., Washington, D.C. 20555, at the Swem Library, College of William and Mary, Williamsburg, Virginia 23185, and at the Board of Supervisors Office, Louisia County Courthouse, Louisa, Virginia and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 7th day of June 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactor Branch No. 1, Division of Licensing.

[FR Doc. 82-15882 Filed 6-10-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

White House Science Council Panel on the National Airspace System Plan; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following:

Name: White House Science Council Panel on the National Airspace System Plan.
Date and time: June 23, 1982, 9:00 a.m.
Place: Room 9104, New Executive Office Building, 17th and Pennsylvania Avenue, NW., Washington, D.C. 20500.
Type of meeting: Part open 9:00 a.m. to 11:30 a.m. Part closed 1:00 p.m. to 5:00 p.m.
Purpose of panel: To review the Federal Aviation Administration's National Airspace System Plan (NASP) and comment on technological applications embraced by the plan, including cost benefits, and to evaluate operational impacts on the aviation community. Comments and recommendations will be provided to the President's Science Advisor by August 1, 1982.
Agenda: Discussions with FAA on computer acquisition processes and other major programs embraced by the NASP.
Reason for closed meeting: Discussion of Plan impact/implications in regards to national security.
Authority to close meeting: These matters are within the exemptions of 5 U.S.C. 552b(c)(1), in that they deal with classified defense information. Closing is pursuant to a determination by the Director of the Office of Science and Technology Policy.
Public participation: The meeting is open to the public during the hours indicated above. Written statements may be filed with the Executive Secretary at the address listed below either before or after the meeting.
Contact: James R. Banks, Executive Secretary, White House Science Council Panel on the National Airspace System Plan, Office of Science and Technology Policy, Room 5013, New Executive Building, 17th and Pennsylvania Avenue, NW., Washington, D.C. 20500, Telephone (202) 395-3157.

Robert D. Linder,

Executive Director, Office of Science and Technology Policy.

June 8, 1982.

[FR Doc. 82-15695 Filed 6-9-82; 11:23 am]

BILLING CODE 3170-01-M

POSTAL SERVICE

Change in Mail Classification Schedule; Express Mail Next Day Service Acceptance Times

On November 10, 1981, the United States Postal Service requested the Postal Rate Commission to submit to the Governors of the Postal Service a recommended decision on a change in the Domestic Mail Classification Schedule so that Express Mail Next Day Service shipments can be accepted at the time or times prescribed by the Postal Service, pursuant to Chapter 36, Title 39, United States Code. An explanation of the Postal Service proposal and an invitation to participate in Commission Docket No. MC82-1 was published in the **Federal Register** by the Postal Rate Commission on November 23, 1981 (46 FR 57403). The Postal Service, under the authority of 39 U.S.C. § 3641(e), put its proposal into effect on a temporary basis on March 14, 1982 and published notice of this action in the **Federal Register** of March 4, 1982 (47 FR 9311).

On June 4, 1982, The Postal Rate Commission issued an Opinion and Recommended Decision in Docket No. MC82-1. The Commission recommended that the Governors adopt the change in the Domestic Mail Classification Schedule proposed by the Postal Service and put into effect on a temporary basis. On June 8, 1982, the Governors, pursuant to 39 U.S.C. 3625, approved the Commission's recommended decision and ordered the recommended change in the Domestic Mail Classification Schedule on a permanent basis. The Board of Governors concurrently determined that this change would become effective at 12:01 p.m. on June 8, 1982. (The Governors' Decision, the record of the Commission's hearings, and the Commission's Recommended Decision may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The Governors' Decision and the Commission's Opinion and Recommended Decision are available for inspection in the Library at Headquarters, United States Postal Service, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260-1641.)

In accordance with these actions by the Governors and the Board of Governors, the Postal Service hereby gives notice that the following change to the Domestic Mail Classification Schedule becomes effective at 12:01 p.m., June 8, 1982 (39 U.S.C. 3625).

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

Classification Schedule, 500, Express Mail is amended to read as follows:

500.025 ..... REGULAR

Regular service is available at designated retail postal facilities for overnight service to designated destination facilities or locations for items tendered by the time or times prescribed by the Postal Service.

[FR Doc. 82-15836 Filed 6-10-82; 8:45 am]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

Philadelphia Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

June 7, 1982.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Heritage Communications, Inc., Common Stock, $.50 Par Value (File No. 7–6229)
Lear Petroleum Corp., Common Stock, $.10 Par Value (File No. 7–6230)
Mattel Inc., Warrants, $4 Par Value (File No. 7–6231)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 28, 1982 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82–15681 Filed 6–10–82; 8:45 am]
BILLING CODE 8010–01–M

TREASURY DEPARTMENT

Customs Service

[T.D. 82–113]

Tuna Fish—Tariff-Rate Quota; Tariff-Rate Quota for the Calendar Year 1982, on Tuna Classifiable Under Item 112.30, Tariff Schedules of the United States, (TSUS)

AGENCY: Customs Service, Treasury Department.

ACTION: Announcement of the quota quantity for tuna for calendar year 1982.

SUMMARY: Each year the tariff-rate quota for tuna fish described in item 112.30, (TSUS), is based on the U.S. pack of canned tuna during the preceding calendar year.

EFFECTIVE DATES: The 1982 tariff-rate quota is applicable to tuna fish entered, or withdrawn from warehouse, for consumption during the period January 1 through December 31, 1982.

FOR FURTHER INFORMATION CONTACT: William D. Slyne, Chief, Special Operations Branch, Duty Assessment Division, Office of Commercial Operations, U.S. Customs Service, Washington, D.C. 20229 (202–566–2957).

It has now been determined that 109,742,200 pounds of tuna may be entered for consumption or withdrawn from warehouse for consumption during the calendar year 1982, at the rate of 6 per centum ad valorem under item 112.30, TSUS. Any such tuna which is entered, or withdrawn from warehouse, for consumption during the current calendar year in excess of this quota will be dutiable at the rate of 12.5 per centum ad valorem under item 112.34 of the tariff schedules.

Dated: June 2, 1982.

Alfred R. De Angelus,
Acting Commissioner of Customs.

[FR Doc. 82–15657 Filed 6–10–82; 8:45 am]
BILLING CODE 4820–02–M

Office of the Secretary

National Productivity Advisory Committee; Meeting

June 4, 1982.

The Subcommitee on The Role of Government in the Economy of the National Productivity Advisory Committee will meet at 4:00 p.m. on June 21, 1982, in Room 3424, Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, D.C.

The purpose of the meeting will be to discuss ways in which changes in government policy can improve national productivity.

Roger B. Porter,
Executive Secretary, National Productivity Advisory Committee.

[FR Doc. 82–15618 Filed 6–10–82; 8:45 am]
BILLING CODE 4810–25–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 113
Friday, June 11, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

[M–356; June 8, 1982]

TIME AND DATE: 10 a.m., June 15, 1982.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Notice of incorporation by reference of terms of contracts of carriage after sunset of domestic tariffs. (Memo 1333, OGC, BDA, BIA, OCCCA)
3. Removal of Part 262. (OGC, BIA, OC)
4. Docket 40508, *Air Atlanta, Inc., Fitness Investigation;* Order Declining Review. (OGC)
5. Docket 35107, *Hawaii Common Fares Investigation.* (Memo 226–E, OGC)
6. Dockets 30790, 33472, 40461, *United States—Benelux Low-Fare Proceeding, Application of New ONA, Inc., Revocation of Supplemental Service Certificates of Overseas National Airways*—Petitions for Reconsiderations. (Memo 1340, OGC)
7. Guaranteed air fare rules—industry letter regarding carriers providing notice to passengers of any changes in carrier practices after the end of 1982. (BIA)
8. Docket 32484, The Seventh Review of Class Rate IX and termination of Section 406 subsidy payments at the end of FY 1982. (Memo 289–C, BDA, OCCCA, OC)
9. Dockets 36204, 38046 and 40287, Pennsylvania Commuter Airlines' final hold-in compensation for the provision of essential air service at Clearfield/Philipsburg. (BDA, OCCCA, OC)
10. Docket 39480, Essential Air Service for Brookings, Huron and Mitchell, South Dakota. (BDA, OCCCA, OC)
11. Dockets 39620 and EAS–656, Amended essential air service determination for Parkersburg, West Virginia which designated Columbus, Ohio as an additional essential hub for a one-year test period. (BDA)
12. Docket EAS–754, Essential Air Service Eligibility for Rome, Georgia. (BDA, OGC, OCCCA)
13. Docket 40453, Air National Aircraft Sales and Service, Inc.—Application for a section 418 All-Cargo Air Service Certificate. (Memo 1335, BDA)
14. Commuter carrier fitness determination of Wheeler Airlines. (BDA)
15. Commuter carrier fitness determination of Sunbelt Airlines, Inc. (BDA)
16. Commuter carrier fitness determination of Spirit Airways, Inc. (BDA)
17. Dockets 40613 and 40614, American World Airways' application for a certificate of public convenience and necessity under section 401(d)(1) for interstate and overseas air transportation and under section 401(d)(3) for foreign charter authority. (BDA)
18. Docket 40345, Certificate Application of Airpac, Inc., Filed under Subpart Q. (Memo 1119–A, BDA)
19. Docket 37392, *Transatlantic, Transpacific and Latin American Service Mail Rates Investigation.* (Memo 343–K, BIA)
20. Docket 37294, *Priority and Nonpriority Domestic Service Mail Rates Investigation.* (BIA)
21. Docket 39606, Application of Lufttransport-Unternehmen KG. (LTU) for amendment and renewal of its foreign air carrier permit to conduct passenger and cargo charter operations. (BIA)
22. Docket 40545, CAB Recommendations to the FAA concerning slot allocations under the Interim Operations Plan. (Memo 1146–C, OGC)
23. Negotiations with Scandinavia. (BIA)
24. Negotiations with France. (BIA)
25. Report on China Negotiations. (BIA)
26. Negotiations with Canada. (BIA
27. Negotiations with ECAC. (BIA)

STATUS: 1–22 Open, 23–27 Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

[S–872–82 Filed 6–9–82; 3:22 pm]

BILLING CODE 6320–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 9:45 a.m. on Tuesday, June 8, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by means of a telephone conference call, to consider certain personnel actions (names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

Dated: June 8, 1982.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[S–868–82 Filed 6–9–82; 12:29 pm]

BILLING CODE 6714–01–M

3

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10 a.m., Wednesday, June 16, 1982.

PLACE: Board room, Sixth floor, 1700 G Street NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6679).

MATTERS TO BE CONSIDERED:

Reconsideration of the Merger of—Home Federal Savings and Loan Association, Yakima, Washington INTO First Federal Savings and Loan Association of Walla Walla, Walla Walla, Washington.

Monitoring Fair Lending Practices.

[No. 40, June 9, 1982]

[S–867–82 Filed 6–9–82; 10:17 am]

BILLING CODE 6720–01–M

4

INTER-AMERICAN FOUNDATION

TIME AND DATE: 6:30 p.m., June 17, 1982.

PLACE: Hotel Santo Domingo Sur, Avenida Independencia Esq. Abraham Lincoln, Santo Domingo, Dominican Republic.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Chairman's Report;
2. President's Report;
3. Minutes of April 26–27, 1982 Board meeting;
4. Other Business.

CONTACT PERSON FOR MORE INFORMATION: Lawrence E. Bruce, Jr. (703) 841–3812.

[S-873-82 Filed 6-9-82; 3:23 pm]

BILLING CODE 7025-01-M

5

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 9:30 a.m., Wednesday, June 16, 1982.

PLACE: Seventh floor board room, 1776 G Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility lending rate.
2. Report on status of National Credit Union Share Insurance Fund.
3. Policy statement on examination and enforcement of state unclaimed property laws.
4. Proposed amendment to expand the field of membership of Mid-States Corporate FCU charter.
5. Proposed conversion to community charter of West Haven Teachers FCU #2936.

RECESS: 10:15 a.m.

TIME AND DATE: 10:30 a.m., Wednesday, June 16, 1982.

PLACE: Seventh floor board room, 1776 G Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Requests from federally insured credit unions for special assistance to prevent liquidation under Section 208(a)(1) of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
2. Administrative Adjudication pursuant to 12 U.S.C. 1786. Closed pursuant to exemptions (8) and (10).

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357–1100.

[S-869-82 Filed 6-9-82; 1:04 pm]

BILLING CODE 7535-01-M

6

NATIONAL CREDIT UNION ADMINISTRATION

Change in Subject of Meeting

The National Credit Union Administration Board determined that its business required that the previously announced closed meeting on Wednesday, April 21, 1982, include the following additional items, which were closed to public observation:

Regional Reorganization. Closed pursuant to exemption (2).
Reallocation of Resources. Closed pursuant to exemptions (2) and (9)(B).

The previously announced items were:

1. Administrative Adjudications. Closed pursuant to exemptions (8), (9)(A)(ii) and (10).
2. Requests from Federally Insured Credit Unions for Special Assistance Under Section 208(a)(1) of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
3. Requests for Mergers with Special Assistance under Section 208(a)(2) of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
4. Requests for Purchase and Assumption with Special Assistance under Section 208(a)(2) of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).

The meeting was held at 10:45 a.m., in the Seventh Floor Board Room, 1776 G Street, NW., Washington, D.C.

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357–1100.

[S-870-82 Filed 6-9-82; 1:05 pm]

BILLING CODE 7535-01-M

7

NEIGHBORHOOD REINVESTMENT CORPORATION

Fourth Annual Meeting

TIME AND DATE: 2 p.m., June 16, 1982.

PLACE: Board Room, sixth floor, Federal Home Loan Bank Building, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Timothy McCarthy, Associate Director, Communications 202–377–6815.

AGENDA:

I. Call to Order and Remarks of the Chairman
II. Approval of Minutes, April 5, 1982
III. Approval of Audit Committee
IV. Report of the Audit Committee
V. Election of Officers
VI. Executive Director's Report
VII. Treasurer's Report

[No. 22, June 9, 1982]

Donnie L. Bryant,

Secretary.

[S-874-82 Filed 6-9-82; 3:42 pm]

BILLING CODE 6000-00-M

8

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

TIME AND DATE: 9 a.m., June 17, 1982.

PLACE: Federal Building, South Auditorium, 915 Second Avenue, Seattle, Washington.

MATTERS TO BE CONSIDERED:

1. Staff briefing on alternative assumptions on regional economic and population growth.
2. Presentation on methodologies used in the development of the Northwest Conservation Act Coalition "Model Plan."
3. Council Business.

CONTACT PERSON FOR MORE INFORMATION: Ms. Bess Wong, (503) 222–5161.

Edward Sheets,

Executive Director.

[S-871-82 Filed 6-9-82; 3:01 pm]

BILLING CODE 0000-00-M

9

SYNTHETIC FUELS CORPORATION

Meeting of the Board of Directors

ACTION: Notice of meeting.

SUMMARY: Interested members of the public are invited to attend and observe a meeting of the Board of Directors of the United States Synthetic Fuels Corporation to be held at the time, date and place specified below. This public announcement is made pursuant to the open meeting requirements of Section 116(f)(1) of the Energy Security Act (9 Stat. 611, 637; 42 U.S.C. 8701, 8712(f)(1) and Section 4 of the Corporation's Statement of Policy on Public Access to Board Meetings. During the meeting, the

Board of Directors may consider a resolution to close a portion of the meeting pursuant to Article II Section 4 of the Corporation's By-laws, Section 116(f) of the said Act and Sections 4 and 5 of the said policy.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Prior Meeting.
2. Management Report.
3. Employee Benefit and Retirement Plans.
4. Compensation of the Inspector General and Deputy Inspector General.
5. Ratification of Claim Settlement.
6. Standards of Conduct Policy.
7. Task Force Report on Programmatic Strategy.
8. Proposals Received Under Second Solicitation.
9. Status of Project Monitoring.
10. Consideration of Projects in Phase IIA.

In addition, the Board of Directors will consider such other matters as may be properly brought before the meeting.

TIME AND DATE: 8:30 a.m., June 17, 1982.

PLACE: Key Bridge Marriott Hotel, Rossyln, Virginia.

PERSON TO CONTACT FOR MORE INFORMATION: If you have any questions regarding this meeting, please contact Mr. Owen J. Malone, Office of General Counsel (202)822-6336.

June 8, 1982.

United States Synthetic Fuels Corporation.

Edward E. Noble,

Chairman of the Board.

[S-866-82 Filed 6-9-82; 8:45 am]

BILLING CODE 0000-00-M

federal register

Friday
June 11, 1982

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Connecticut:	
CT82–3001	Feb. 5, 1982.
CT81–3032	May 15, 1981.
Pennsylvania:	
PA82–3017	Mar. 26, 1982.
PA81–3090	Dec. 18, 1981.
Kansas: KS82–4013	Apr. 16, 1982.
West Virginia: WV82–3003	May 14, 1982.
Maryland:	
MD81–3056	Aug. 14, 1981.
MD81–3074	Oct. 9, 1981.

Please note that we are changing the format for **Federal Register** wage decisions to coincide with the provisions of All Agency Memorandum No. 132 dated January 29, 1980, which provides that the Department of Labor will discontinue identifying fringe benefits separately. Rather, they will be stated as a composite figure which is the total hourly equivalent value of fringe benefits found to be prevailing. Fringe benefits which can not be stated in monetary terms will be shown in footnotes. This procedure will be phased in gradually.

Signed at Washington, D.C., this 4th day of June 1982.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

MODIFICATION PAGE 2
MODIFICATION PAGE 1
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MODIFICATION PAGE 1

DECISION NO. CT82-3001 - MOD. #5 (47 FR 5621 - February 5, 1982) FAIRFIELD, LITCHFIELD AND WINDHAM COUNTIES, CONNECTICUT	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS, CEMENT MASONS, FINISHERS, MASONS, PLASTERERS, STONE MASONS, TERRAZZO WORKERS, TILE SETTERS		
BUILDING CONSTRUCTION		
Area 1	15.20	1.75
Area 2	13.95	1.75
Area 3	15.65	1.75
Area 4	15.88	1.58
Area 5	15.00	2.73
Area 6	14.90	1.75
Area 7	13.95	1.75
Area 8	14.90	1.75
Area 9	13.95	1.75
CARPENTERS, MILLWRIGHTS, PILEDRIVERMEN, SOFT FLOOR LAYERS		
BUILDING CONSTRUCTION		
Area 1	13.80	1.55+b+c
Area 4	13.85	1.60
Area 5		
Carpenters	13.80	1.58
Millwrights	14.30	1.58
ELECTRICIANS		
Area 3	17.45	6%+6½%+10%+½+e
Area 6	15.80	4.35+3%+½ of 1%

DECISION NO. CT81-3032 - MOD. #9 (46 FR 27040 - May 15, 1981) HARTFORD, MIDDLESEX, NEW HAVEN, NEW LONDON AND TOLLAND COUNTIES, CONNECTICUT	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS, CEMENT MASONS, FINISHERS, MARBLE MASONS, PLASTERERS, STONEMASONS, TERRAZZO WORKERS AND TILE SETTERS		
BUILDING CONSTRUCTION		
Area 1	13.95	1.75
Area 2	14.90	1.75
Area 3	13.95	1.75
Area 4	13.95	1.75
Area 5	13.95	1.75
Area 6	13.95	1.75
Area 7	14.90	1.75
Area 8	15.20	1.75
CARPENTERS, MILLWRIGHTS, PILEDRIVERMAN, RESILIENT FLOOR LAYERS		
BUILDING CONSTRUCTION		
Area 1	13.10	2.40
Area 2	13.85	1.60
Area 3	13.80	1.55+c+e
Area 4		
Carpenters	13.80	1.58
Millwrights	14.30	1.58
ELECTRICIANS		
Area 1	16.15	2.45+3%+½%
Area 4	15.80	4.35+3%+½ of 1%

MODIFICATION PAGE 2

DECISION NO. PA82-3017 - MOD. #1 (47 FR 13108 - March 26, 1982) LACKAWANNA, SUSQUEHANNA, WAYNE & WYOMING COUNTIES, PENNSYLVANIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS & STONEMASONS		
Scranton in Lackawanna County	14.50	2.01
Susquehanna and Wyoming Counties	14.25	2.00
CARPENTERS:		
Lackawanna, Susquehanna and Wayne Counties	13.86	1.75
Wyoming County		
East of Susquehanna River	14.37	1.75
West of Susquehanna River	13.94	1.95
CEMENT MASONS:		
Wyoming, Wayne, Susquehanna Counties, Scranton in Lackawanna County	14.30	
ELECTRICIANS:		
Lackawanna, Susquehanna and Wayne Counties	14.15	2.75+3%
Wyoming County:		
East of Susquehanna River	14.15	2.75+3%
West of Susquehanna River	14.84	2.13+3%
LABORERS:		
Lackawanna, Wayne, Susquehanna and Northern part of Wyoming County:		
Unskilled and Window Cleaners	11.80	2.32
Semi skilled laborers; jackhammer operators, (each man when two are required for operation of jackhammer) vibrator and buster man, wagon drill and all men handling dynamite, gas buggies, 2" pumps and concrete mixers (up to 2 bags) and all pneumatic tools	11.95	2.32
Plasterer tenders and mason tenders and handling of all material to be used; masons and scaffold builders	12.20	2.32
Non-Metallic pipe layers and making of joints, clay, terra cotta, ironstone, vitrified concrete handling of burning torches; asphalt or other material	11.95	2.32
Southern part of Wyoming County:		
Unskilled	11.87	2.28
Semi skilled laborers; pneumatic and other mechanical tool operator; 2" pump or under; handling and mixing of all material used by masons from stock pile to mason; non-metallic pipelayer and making of joints, clay, terra cotta, ironstone, vitrified concrete, handling of burning torches; asphalt or other hot material; cement finishers and blasters helpers	12.07	2.35
Plasterers' tenders; blaster; wagon drill operators	12.19	2.25
Mason tenders and scaffold builders	12.27	2.35
MARBLE SETTERS	13.10	1.65
MILLWRIGHTS:		
Lackawanna, Susquehanna and Wayne Counties	14.44	1.75
PLASTERERS	15.38	

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DECISION NO. PA82-3017 - (CONT'D)	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
GROUP 1	15.14	22.6%+ a
GROUP 2	14.85	"
GROUP 3	13.97	"
GROUP 4	13.20	"
GROUP 5	12.72	"
GROUP 6	11.80	"
GROUP 7	15.39	"
GROUP 7-A	15.64	"
GROUP 7-B	15.89	"
PIPEFITTERS	15.09	2.60
ROOFERS:		
Composition & Kettleman	13.32	2.13
SHEET METAL WORKERS	14.62	1.85
SOFT FLOOR LAYERS:		
Lackawanna, Wayne and Susquehanna Counties	13.86	1.75
Wyoming County	11.69	1.95
SPRINKLER FITTERS	16.92	2.83
DECISION NO. PA81-3090		
MOD. NO. 3		
(46 FR 61813 - December 18, 1981)		
Lycoming County, Pennsylvania		
CHANGE:		
Electricians	$12.21	3.18+3%
Plumbers	15.51	2.19
Roofers, Kettleman	13.30	2.10
Steamfitters	15.51	2.19
Truck Drivers	8.75	

	Basic Hourly Rates	Fringe Benefits
DECISION NO. KS82-4013		
Mod. #5		
(47 FR 16519 - April 16, 1982)		
Leavenworth County, Kansas		
CHANGE		
Roofers	$15.23	2.36
DECISION NO. WV82-3003 -		
Mod. #1		
(47 FR 20992 - May 14, 1982)		
STATEWIDE WEST VIRGINIA		
OMIT:		
Laborers-Group 5-Flagman		
Laborers-Group 6-Watchman		

[FR Doc. 82-15609 Filed 6-10-82; 8:45 am]

BILLING CODE 4510-27-M

DECISION NO. MD81-3056 - MOD. #2 (46 FR 61325 - August 14, 1981) BALTIMORE CITY, MARYLAND	Basic Hourly Rates	Fringe Benefits
CHANGE:		
POWER EQUIPMENT OPERATORS		
Group I	12.70	2.55
Group II	12.10	2.55
Group III	11.41	2.55
Group IV	10.13	2.55
DECISION NO. MD81-3074 - MOD. #8 (46 FR 50238 - October 9, 1981) ANNE ARUNDEL (EXCLUDING THE D.C. TRAINING SCHOOL) BALTIMORE AND BALTIMORE CITY, MARYLAND AND FOR HEAVY CONSTRUCTION PROJECTS IN HARFORD & HOWARD COUNTIES, MARYLAND		
CHANGE:		
POWER EQUIPMENT OPERATORS (PAVING, SITE CLEARANCE AND UTILITIES):		
Group I	12.70	2.55
Group II	12.10	2.55
Group III	11.41	2.55
Group IV	10.13	2.55

federal register

Friday
June 11, 1982

Part III

Department of Agriculture

Office of the Secretary

Nondiscrimination—Direct USDA Programs and Activities; and Nondiscrimination on the Basis of Handicap Programs and Activities Receiving or Benefiting From Federal Financial Assistance

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 15

Nondiscrimination; Direct USDA Programs and Activities

AGENCY: Agriculture Department.

ACTION: Final rule.

SUMMARY: This rule prohibits agencies, officers, and employees of the Department of Agriculture from discriminating on the basis of handicap against qualified handicapped persons in any program or activity administered by the Department. Such discrimination is prohibited by Section 504 of the Rehabilitation Act of 1973, as amended by the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978. The effect of this action will be to alert agencies, officers, and employees of the Department to the prohibitions of Section 504 of the Rehabilitation Act of 1973, as amended, until the Department develops more detailed regulations.

EFFECTIVE DATE: June 11, 1982.

FOR FURTHER INFORMATION CONTACT: William C. Payne, Jr., Policy and Operations Division, Office of Minority Affairs, U.S. Department of Agriculture, Washington, D.C. 20250. Phone: 202–382–1130 (voice and TTY—telecommunications device). Copies of this rule are available in Braille and on tape and will be provided upon request.

SUPPLEMENTARY INFORMATION: Section 504 of the Rehabilitation Act of 1973, as amended, by the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978, (29 U.S.C. 794) provides that: "No otherwise qualified handicapped individual in the United States * * * shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service." Accordingly, this rule will add "handicap" to the current prohibitions against discrimination on the bases of race, color, religion, sex, age and national origin in programs and activities conducted by the Department.

Since no legal requirements are established beyond those contained in Section 504 itself, the Department, pursuant to 5 U.S.C. 553, for good cause finds that general notice of proposed rulemaking and public procedure thereon are unnecessary. The Secretary has determined that this regulation is not a major rule as defined by Executive Order 12291. According to that order, a major rule is one that is likely to result in: an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Department does not believe that this regulation will have any of these consequences. Its conclusion is based upon the fact that the regulation establishes no new legal requirements. As a result, it is not necessary to prepare a Regulatory Impact Analysis.

Furthermore, the Secretary has determined that this action will not have a significant economic impact on a substantial number of small entities because the regulation impacts on direct USDA programs only. Therefore, no Regulatory Flexibility Analysis is required.

Pending the issuance of Government-wide guidelines by the Department of Justice, the Department of Agriculture will develop more detailed regulations implementing Section 504 as its pertains to programs it conducts.

A final regulation similar to this regulation but pertaining to federally assisted programs, is being published simultaneously with this regulation.

List of Subjects in 7 CFR Part 15

Administrative practice and procedure, Civil rights, Government contracts, Grant programs—Agriculture, Loan programs—Agriculture.

For the reasons given above, Title 7, Part 15, Subpart B of the Code of Federal Regulations is amended as follows:

PART 15—NONDISCRIMINATION

1. The authority citation is revised to read as follows:

Authority: 78 Stat. 252; 80 Stat. 379; 87 Stat. 394, as amended by 92 Stat. 2955; 42 U.S.C. 2000d–1; 5 U.S.C. 301, 29 U.S.C. 794.

2. Section 15.51 is revised to read as follows:

§ 15.51 Discrimination prohibited.

(a) No agency, officer, or employee of the United States Department of Agriculture, shall exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States on the ground of race, color, religion, sex, age, handicap, or national origin under any program or activity administered by such agency, officer, or employee.

(b) No agency, officer, or employee of the Department shall on the ground of race, color, religion, sex, handicap, age, or national origin deny to any person in the United States: (1) Equal access to buildings, facilities, structures, or lands under the control of any agency in this Department, equal opportunity for employment, for participation in meetings, demonstrations, training activities or programs, fairs, awards, field days, encampments, for receipt of information disseminated by publication, news, radio, and other media, for obtaining contracts, grants, loans, or other financial assistance or for selection to assist in the administration of programs or activities of this Department.

Dated: June 3, 1982.

John R. Block,

Secretary.

[FR Doc. 82–15802 Filed 6–10–82; 8:45 am]

BILLING CODE 3410–96–M

7 CFR Part 15b

Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting From Federal Financial Assistance

AGENCY: Agriculture Department.

ACTION: Final rule.

SUMMARY: This rule prohibits entities which operate programs assisted by this Department from discriminating against qualified handicapped persons on the basis of handicap. The rule is necessary to implement section 504 of the Rehabilitation Act of 1973, as amended, and Executive Order 12250 of November 2, 1980, Leadership and Coordination of Nondiscrimination Laws. The effect of this action will be to define and forbid acts of discrimination in the operation of programs and activities and to specify certain administrative requirements to reduce the possibilities for discrimination.

The public is advised that the general government guidelines published in 1978 by the then Department of Health, Education and Welfare are now under review by the Department of Justice. Should the Department of Justice determine that the general government guidelines should be revised, the Department of Agriculture will revise its Section 504 regulations accordingly. In light of the possibility that the 504

regulations published here may be subject to such a revision, the Department will receive public comments on possible changes and on the economic impact of these regulations. This announcement does not commit the Department in any way to change its regulations.

DATES: Effective Date: July 12, 1982. Comments should be received by August 10, 1982.

ADDRESS: Comments should be directed to Isidoro Rodriguez, Acting Director, Office of Minority Affairs, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: William C. Payne, Jr., Policy and Operations Division, Office of Minority Affairs, U.S. Department of Agriculture, Washington, D.C. 20250. Phone: 202–382–1130 (voice and TDD—telecommunications device). Copies of this rule are available in Braille and on tape and will be provided upon request. Though not required by Executive Order 12291, a Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is also available upon request from the above named individual.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

Information collection requirements contained in this regulation, § 15b.8(c), have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB number 0505–003.

Background

Section 504 of the Rehabilitation Act of 1973, as amended, provides that: "No otherwise qualified handicapped individual in the United States * * * shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service." These regulations implement Section 504 as it pertains to federally assisted programs and activities, that is, where Federal assistance flows from the Department through an intermediary called a recipient. Regulations to implement section 504 as it pertains to federally conducted programs will be considered in the future.

On April 28, 1976, Executive Order 11914, "Nondiscrimination with Respect to the Handicapped in Federally Assisted Programs," was issued. This Executive Order assigned to the Department of Health, Education, and Welfare (HEW) the responsibility for coordinating the implementation of section 504 for federally assisted programs. HEW published "Implementation of Executive Order 11914" (45 CFR 85.1–85.99), guidelines for Federal agencies, on January 13, 1978. The regulations established Federal agency responsibilities, standards for determining who are handicapped persons, and guidelines for determining discriminatory practices in employment and program services.

The HEW guidelines recognized that because of the diversity of types of handicaps and the variety of settings in which federally assisted programs are offered, the prohibition of discrimination would not itself be sufficient to ensure handicapped persons an equal opportunity to enjoy benefits. For example, admission of a hearing-impaired person to an educational program would be meaningless unless adequate visual materials or an interpreter were also provided. Accordingly, the guidelines specified that recipients be required to make special accommodations for handicapped persons where necessary and even to provide special programs if that is the only way in which an equal opportunity to participate in the federally assisted program can be assured. At the same time, the guidelines took into consideration the financial and human burdens entailed in making federally assisted programs accessible to handicapped persons and made allowances to minimize hardship.

In developing proposed regulations to implement section 504, the Department of Agriculture followed the HEW guidelines and that Department's own section 504 regulations which were later adopted by the Department of Health and Human Services (45 CFR 84.1–84.99) and by the Department of Education (34 CFR 84.1–84.99). The Department of Agriculture's proposed section 504 regulations were published on January 29, 1979 (44 FR 4620) and widely distributed among organizations representing handicapped persons, Federal agencies, and entities administering programs assisted by the Department. A thorough discussion of the public comment received is contained below in Explanation of Revisions and Response to Comments.

On November 2, 1980, Executive Order 12250, Leadership and Coordination of Nondiscrimination Laws, transferred coordination authority for the implementation of section 504 in regard to federally assisted programs from the Department of Health and Human Services, which had succeeded the Department of Health, Education and Welfare, to the Department of Justice. On August 4, 1981, at 46 FR 49686, the Department of Justice redesignated the HEW Guidelines of January 13, 1978, entitled "Implementation of Executive Order 11914," as Department of Justice Guidelines. The guideline will be recodified at 28 CFR Part 41.

In compliance with Executive Order 12250 and "Implementation of Executive Order 11914" these regulations have been reviewed and approved by the Department of Justice, the Equal Employment Opportunity Commission, and the Architectural and Transportation Barriers Compliance Board.

On June 19, 1981, the District Court in *Paralyzed Veterans of America* v. *Smith* (No. 79–1979 C.D. Cal.), granted a preliminary injunction ordering Federal agencies to publish final regulations on an expedited basis implementing section 504. This rule is being published pursuant to the Court order.

Classification

The Secretary has determined that this regulation is not a major rule as defined by Executive Order 12291. According to that order, a major rule is one that is likely to result in: An annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Department does not believe that its section 504 regulations will have any of these consequences. Its conclusion is based upon cost estimates for recipients implementing the regulation, the various elements of flexibility that have been incorporated into the regulation to minimize cost, and estimated benefits for handicapped persons and society that will result. Each of these considerations cut across all of the factors involved in determining whether or not a regulation is a "major rule".

Regulatory Flexibility Analysis

The Secretary has determined that this action will not have a significant economic impact on a substantial number of small entities because of allowances in the regulations for

recipients to adopt the least costly methods of achieving compliance where existing facilities are inaccessible or to obtain modifications of requirements for existing facilities if compliance would result in the impairment of significant features of historic properties. In addition, employers are only required to make accommodations for qualified handicapped persons if those accommodations do not cause an undue economic hardship on the operation of the assisted program. Certain administrative requirements are also waived for recipients employing fewer than fifteen persons.

Overview of the Regulations

The regulations are divided into seven parts. Subpart A, General Provisions, establishes basic definitions, concepts of nondiscrimination, and administrative requirements. Key definitions are those for recipient, Federal financial assistance, and qualified handicapped persons. The subpart generally prohibits recipients from discriminating against qualified handicapped persons solely on the basis of handicap through exclusion from program participation, denial of benefits, or other discriminatory actions. Administrative requirements include an assurance of nondiscrimination, designation of an employee responsible to coordinate compliance with the regulations, adoption of a grievance procedure, notification of interested persons that the recipient does not discriminate on the basis of handicap and that its program is accessible, and a self-evaluation of the program by the recipient. The subpart also specifies when remedial actions can be required and when they can be adopted voluntarily. Finally, Subpart A advises recipients that administrative requirements, adequately completed in compliance with regulations of other Federal agencies or State agencies, will satisfy this regulation.

Subpart B, Employment Practices, develops the basic concept of nondiscrimination in terms of employment by the recipient. All terms, conditions and privileges of employment are covered. In particular, recipients are prohibited from making preemployment inquiries as to whether an applicant is a handicapped person or the nature or severity of a handicap except in certain limited situations and then only in compliance with the regulations. Beyond the prohibition of discriminatory practices, the subpart requires recipients to make reasonable accommodations to the known physical or mental limitations of otherwise qualified handicapped applicants or employees. Accommodations that are unreasonable, that is, that impose an undue hardship on the operation of the program, are not required. Factors to be considered in determining the reasonableness of accommodations are listed.

Subpart C, Program Accessibility, describes what is meant by nondiscrimination in regard to the accessibility of facilities. Two standards are set, one for existing facilities and one for new construction and alterations. Where existing facilities are inaccessible, recipients can make the assisted program accessible through such means as the relocation of services to accessible facilities, the provision of aides, or home visits. Only when nonstructural alternatives are inadequate to provide handicapped persons with an equal and effective opportunity to participate in the program are structural alterations or new construction required. In this case, a transition plan must be prepared describing the steps necessary to complete the structural changes in the three-year period allowed for such changes. All new construction and alterations must be designed and constructed to be accessible.

Subpart D, Preschool, Elementary, Secondary, Adult, and Extension Education, specifies the meaning of program accessibility for these programs. Public elementary and secondary programs must identify handicapped persons entitled to services and provide them with a free appropriate public education. Recipients operating public elementary and secondary education programs must also meet certain technical standards and procedural safeguards in the evaluation, placement, and reevaluation of handicapped persons who need or are believed to need special education or related services. Recipients operating private elementary and secondary education programs must provide qualified handicapped persons with an appropriate education in an integrated setting for both academic and nonacademic activities. Private school recipients are not held, however, to the same technical and procedural requirements for special education programs as public school recipients and may charge a handicapped person more than a nonhandicapped person if the provision of services to a handicapped person results in substantial cost increases. Both public and private education programs are prohibited from discriminating in the operation of food service programs and are specifically directed to provide special meals at no extra charge to students whose handicap restricts their diet. Recipients operating extensive education programs must make their services, including camping activities and program materials, accessible to handicapped persons.

Subpart E, Postsecondary Education, prohibits recipients operating postsecondary education programs, including vocational education programs, from discriminating on the basis of handicap in admissions and recruitment and in the provision of academic and nonacademic services. Included in the latter are housing, financial aid and employment assistance.

Subpart F, Other Programs and Activities, prohibits discrimination in programs and activities not covered by subparts D and E. Recipients are required to provide effective notice concerning benefits, waivers of rights, or consent to treatment to persons with impaired sensory or speaking skills. In particular, recipients operating hospital programs must establish a procedure for providing emergency treatment for the hearing-impaired and may not discriminate in the admission or treatment of drug or alcohol abusers.

A new section on multi-family rental housing requires that five percent or at least one of the units in new rental housing projects must be accessible or adaptable to physically handicapped persons. To allow for local market conditions, some flexibility is permitted in the number of accessible or adaptable units required above one.

Subpart G stipulates that the same procedural provisions applicable to the enforcement of Title VI of the Civil Rights Act of 1964 will apply to the regulations implementing Section 504 of the Rehabilitation Act of 1973. These procedures provide for monitoring of compliance records, complaint processing, hearings, termination of assistance, and enforcement by any other means authorized by law.

Explanation of Revisions and Responses to Comments

The Department of Agriculture's final regulations implementing section 504 of the Rehabilitation Act of 1973 have been patterned after the section 504 regulations of the Department of Health and Human Services (HHS) (42 FR 22675 (1977), 45 CFR 84.1–84.99 (1979)) and the Department of Education (ED) (45 FR 30802) (1980), 34 CFR 84.1–84.99 (1980)). The Department adopted this approach in order to simplify compliance for its many recipients who are also affected by the HHS or ED regulations. Since analyses of each section of the HHS and

ED section 504 regulations were published with those regulations, this section is intended to supplement rather than repeat those analyses. Other general interpretive material can be found in the guidelines, "Implementation of Executive Order 11914," (43 FR 1231 (1978), 45 CFR 85.1–85.99)), originally published by the Department of Health, Education and Welfare and subsequently adopted by the Department of Justice according to Executive Order 12250 (45 FR 72995 (1980). The Department of Health and Human Services' published Policy Determinations (43 FR 18629 (1978) and 43 FR 36033 (1978)) address specific issues.

The final regulations have also been patterned after the Department's regulations implementing Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d (relating to race, color and national origin), and Title IX of the Education Amendments of 1972, as amended, 42 U.S.C. 1683 (relating to sex), except where the legislative history of section 504 or government policy has required a different approach. The Department's Title VI regulations appear at 7 CFR 15.1–15.12 and 15.60–15.124 (1980), and the Title IX regulations appear at 7 CFR 15a.1–15a.71 (1980).

The Department received 74 letters of official comment on the proposed regulations containing approximately 250 recommendations. Most of these comments were from recipients or organizations representing recipients and from agencies within the Department.

Nearly every section of the regulations received some comment. In general commenters approved of the regulations and their similarity to the HHS and ED section 504 regulations. One frequent recommendation was that the regulations should be tailored more specifically to this Department's programs. As a result, several agencies of the Department were involved in preparing new language pertaining to specific program areas.

Other concerns of commenters were the potential costs of making existing facilities accessible, the meaning of requirements for auxiliary aids, and the administrative burdens involved in compliance. The Department has attempted to respond to these concerns either by modifying the proposed regulations or by explaining the regulatory requirements.

Several editorial changes have been made to the text of the proposed regulations in the interest of clarity. These changes are minor and will not be discussed below.

Subpart A—General Provisions

Section 15b.1 Purpose.

This section has been rewritten to conform to the language of section 504 of the Rehabilitation Act of 1973.

Several commenters suggested that the regulations be revised to implement the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, Pub. L. 95–602, 92 Stat. 2955 (1978). The regulations have been revised to incorporate those sections of the 1978 amendments which affect Federally assisted programs and activities. Consequently, the phrase, "as amended," has been added to this section.

We note that the 1978 amendments include a provision prohibiting Executive agencies from discriminating against qualified handicapped individuals in programs which those agencies operate themselves. While these regulations express the Department's general policies in regard to programs and activities which it directly administers, the regulations are not strictly applicable to such programs and activities. The Department is considering what additional regulations may be necessary to carry out this provision of the 1978 amendments.

Section 15b.2 Applicability.

In response to a comment and because of the Department's desire to clarify the applicability of these regulations, this section has been rewritten to conform the language in this section to the language in section 504, Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, as amended, and the Department's Title VI regulations.

This section has also been modified by adding language to clarify the applicability of the specific subparts.

Section 15b.3 Definitions.

Section 15b.3(a) The Act.

The definition of "Executive Order" has been deleted because Executive Order 11914 is not referred to in the body of the regulations.

Reference to the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, Pub. L. 95–602, 92 Stat. 2955 (1978), has been added to the definition of "the Act" as recommended in several comments, and because these regulations have been revised to incorporate those sections of the 1978 amendments which affect Federally assisted programs and activities.

Section 15b.3(f) (formerly, § 15b.3(g) Recipient.

One commenter asked that the extent of coverage for States and their political subdivisions be clarified. Another suggested that definitions for primary recipient, sub-recipient, and beneficiary be added. The Department recognizes that questions as to the meaning of the term, "recipient," may arise in specific situations, especially in programs which refer to ultimate beneficiaries as recipients. However, the Department feels that these questions can best be resolved through program guidelines and case by case interpretations rather than by expanding the definition of "recipient." For purposes of these regulations, "recipient" will have the same meaning as it has in the Department's Title VI regulations.

Section 15b.3(g) (formerly, § 15b.3(i)) Federal financial assistance.

Two commenters pointed out that certain types of assistance, special use permits and food commodities in particular, were not clearly included in the definition of Federal financial assistance. The Department considers special use permits issued for less than fair market value, for reduced consideration or in recognition of the public nature of the assisted recipient program or activity to be Federal financial assistance and has added the phrase, "use (on other than a casual or transient basis) of Federal property for less than fair market value, for reduced consideration, or in recognition of the public nature of the recipient's program or activity," to the list of covered real and personal property (§ 15b.3(g)(3)(i)), in order to clarify the Department's interpretation of Federal financial assistance and to conform the definition to that which appears in the Department's Title VI and Title IX regulations. The phrase, "any other thing of value," has been added to cover food commodities as well as other forms of assistance not specifically included in the proposed definition of "Federal financial assistance."

One commenter requested that definitions of indirect and direct assistance be added to the regulations. The Department does not feel that this is necessary since the regulations will apply to the same recipients as have been covered by our Title VI regulations for indirect assistance. Several comments questioned whether contracts of insurance or guarantee should be excluded from the definition. The Department has retained the exclusion as it is consistent with the legislative

history of Section 504 and government policy. The interpretation of "contracts of insurance or guarantee" will be the same as used under Title VI. As recommended by one commenter, formula allocations have been added to the list of covered arrangements between recipients and the Department.

Section 15b.3(g) Applicant for assistance.

The definition of "applicant for assistance" has been deleted since the term is self-explanatory.

Section 15b.3(i) (formerly, § 15b.3(k)) Handicapped person.

Several commenters raised questions about the manner in which handicapped persons were to be identified. Section 504 and these regulations do not require that recipients identify which of their beneficiaries or employees are handicapped. Rather, recipients are to provide equitable services and employment opportunities to all qualified persons. Where handicapped persons have requested special programs or employment accommodations, recipients may, in certain cases, require medical certification that such accommodations are necessary because of a physical or mental impairment. However, there is no general requirement that physical or mental impairments be medically certified in order for a person to qualify as handicapped. In fact, it is not even necessary for a "handicapped person" to have a physical or mental impairment as long as a recipient regards that person as having such an impairment.

Section 15b.3(j) (formerly, § 15b.3(k)(i)(B)) Physical or mental impairment.

Positive comments were received on the partial list of diseases and impairments in § 15b.3(j)(2) which constitute physical and mental impairments.

Section 15b.3(k) (formerly, § 15b.3(j)(2)(ii)) Major life activities.

One commenter recommended that the definition of major life activities be modified to reflect the definitions used in the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978. The Department considers the two definitions to be compatible and has therefore not amended the regulations.

Section 15b.3(n) (formerly, § 15b.3(l)) Qualified handicapped person.

The Department regards the terms, "otherwise qualified handicapped person" and "qualified handicapped person," to be synonymous. Like HHS and ED this Department means by these terms handicapped persons who are qualified in spite of their handicap (45 CFR Part 84, App. A (1979) at p. 405). The definition is consistent with *Southeastern Community College* v. *Davis*, 442 U.S. 397, 406–407 (1979).

No change has been made to the basic definition of qualified handicapped persons with respect to employment. Even though the definition refers to handicapped persons who, with reasonable accommodation, can perform the essential functions of the job in question, the definition does not exclude handicapped persons who do not need any accommodation. The requirement that handicapped persons be able to perform essential job functions has been retained to conform to DOJ guidelines. In judging whether essential job functions can be performed, recipients may hold handicapped applicants to the same standards of education, training, and experience as are applied to nonhandicapped applicants.

Further guidance on the qualifications of alcoholics and drug addicts has been added to this section in accordance with the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978. This language means that alcoholism and drug addiction, in themselves, cannot be used to disqualify persons for employment. However, inability to fulfill the duties of the job or endangering property or the safety of others, due to current alcohol or drug abuse, are legally disqualifying factors.

The definition of qualified handicapped person for purposes of postsecondary and vocational education has been modified by specifying that a handicapped person must meet "all" rather than "the" academic and technical standards requisite to admission or participation in the recipient's education program or activity. This was done to clarify the Department's intention to respect *bona fide* academic and technical standards of postsecondary and vocational education programs.

With regard to other services, including extension education, recipients that are not now serving qualified handicapped persons because of the inaccessibility of their program must take steps to provide effective services to handicapped persons meeting valid requirements for program participation. Physical and mental abilities may be valid requirements for participation in certain types of programs and activities, as in the case of camps providing a wilderness experience, or private school offering only a college preparatory program.

Section 15b.4 Discrimination prohibited.

Most commenters approved of the language in this section or suggested that it be strengthened. A few requested clarifications or pointed out perceived hardships as a result of requirements for site selections, communications, and the extent of covered benefits. This section is the heart of the Department's Section 504 regulations and as such describes prohibited actions in general terms. Thus, while health and life insurance benefits are not specifically named, they and other similar arrangements of recipients can be inferred from the language of §§ 15b.4(b)(1) and 15b.4(b)(4). Applications of the general prohibitions of this section to particular situations will be found in the remaining subparts of this regulation and in pertinent program guidelines.

Section 15b.5 Assurances required.

A few commenters expressed concern that unnecessary paperwork would be required by this section. The Department does not wish to impose unreasonable administrative burdens on recipients and therefore plans to consolidate all civil rights assurances, to incorporate these into standard forms, and to accept existing assurances whenever possible.

Section 15b.6 (formerly, § 15b.7) Designation of responsible employee and adoption of grievance procedures.

Section 15b.6(b) entitled "adoption of grievance procedures," has been revised slightly to conform to the comparable HHS and ED regulations.

The omission in the proposed regulation was inadvertent. A specific grievance procedure has not been provided to allow recipients the flexibility to develop a procedure appropriate to their programs. Grievance procedures required by other regulations will be acceptable as long as they comply with due process standards and provide for the prompt and equitable resolution of complaints.

Despite a comment that all recipients should be required to name a responsible employee and to adopt grievance procedures, the Department has retained the fifteen or more employees limitation as more reasonable. This section does not require that an additional employee be hired to coordinate compliance. Recipients may select a person who has other civil rights duties, the responsible person named in compliance with

another agency's Section 504 regulations, or any other person.

A new § 15b.6(c) (formerly, § 15b.9) has been added to make clear that the Secretary can require recipients having fewer than 15 employees to designate a responsible employee and adopt grievance procedures if the recipient has been found in noncompliance with these regulations or if the imposition of these administrative requirements will not impair the ability of the recipient to provide benefits or services.

Section 15b.7 Notice of nondiscrimination and accessible services.

This section has been renamed, "Notice of nondiscrimination and accessible services," to reflect the additional requirement that recipients inform interested persons of the existence and location of accessible services, activities, and facilities. This new requirement was previously expressed in § 15b.18(g). It is included here to simplify compliance by recipients.

Most commenters supported the requirement that all recipients give notice of nondiscrimination on the basis of handicap. The Department has adopted this policy, as opposed to the policy expressed in the HHS and ED section 504 regulations requiring only recipients employing 15 or more persons to give such notice, because it is more appropriate to our programs and recipients. Unlike the recipients affected by the HHS regulations, many of our recipients employ fewer than 15 persons. An exemption from notice requirements for such recipients could have a serious impact on the delivery of assisted services to handicapped persons. Since the regulation requires only that appropriate initial and continuing notification be made, without specifying the steps or forms of the notice, and since the nature of the recipient and the assisted program will be taken into account in evaluating compliance, the Department believes that even very small recipients can meet this requirement without impairing their ability to provide benefits and services.

In response to one comment, an example of nonprint communications media has been added to the list of acceptable methods. Another commenter suggested that appropriate notice be provided to persons with mental retardation, learning disability, or any other disability which may interfere with the communications process. While the Department recognizes the importance of reaching such persons, this suggestion has not been adopted because of the difficulty of enforcement. In all cases, recipients are encouraged to coordinate their notice with other civil rights requirements.

Section 15b.8 (formerly, § 15b.6) Remedial action, voluntary action, and self-evaluation.

Many comments were submitted in regard to this section. As a result of one comment, § 15b.8(a)(3)(iii) has been added to permit the Secretary, where necessary to overcome the effects of discrimination in violation of section 504 or this part, to require remedial action on behalf of handicapped persons presently in the program but not receiving full benefits or equal and integrated treatment. Other comments on remedial actions questioned their necessity, legality, appropriateness without a review process, and their retroactive application. The Department believes that remedial action is an appropriate tool to overcome the effects of discrimination in violation of section 504 or this part. However, the Secretary may order remedial action only for violations which occur after the effective dates of section 504 and these implementing regulations. The enforcement procedures contained in Subpart G provide an adequate opportunity for a hearing.

The largest number of comments concerned the requirement for self-evaluation, its meaningfulness for small recipients, the implications of allowing flexibility in the process, the importance of involving handicapped persons, and the impact of requiring all recipients to maintain their self-evaluation for three years. No changes have been made to this subsection because the Department is convinced that the self-evaluation is a useful activity for all recipients. The requirement that all recipients retain their self-evaluation records for three years deviates from the HHS regulations which apply such a requirement only to recipients employing 15 or more persons. While a number of commenters objected to this record-keeping requirement, the Department remains convinced that the retention of the self-evaluation records does not, in itself, create an unreasonable burden that would interfere with the assisted programs of small recipients.

The actual content of the self-evaluation will vary considerably depending on the size and nature of the recipient and assisted program. Even the smallest recipients, however, will necessarily generate some written material as they solicit the advice of handicapped persons or organizations representing handicapped persons, review their policies and practices, make necessary modifications to their policies and practices, and take appropriate remedial steps. More specific details on the elements of the self-evaluation have not been incorporated in order to allow the flexibility necessary for implementation by the wide range of recipients assisted by this Department. The involvement of handicapped persons in evaluating the accessibility of assisted programs and activities to qualified handicapped persons will greatly assist recipients in identifying the most effective and economical modifications to their programs. Where a recipient's program has been included in the self-evaluation of the programs of a parent institution or primary recipient, the self-evaluation requirement is met if all aspects of the recipient's program have been adequately evaluated and appropriate modifications and remedial steps have been implemented.

Section 15b.10 Effect of compliance with regulations of other Federal agencies.

The requirement for coordination with sections 502 and 503 of the Act has been deleted since it was directed toward Federal agencies and not recipients. In its place, the Department has inserted language on the effects of recipient compliance with regulations of other Federal agencies where such regulations overlap with the administrative requirements of these regulations. This has been done to emphasize that the Department does not wish to create unnecessary administrative burdens for recipients.

Section 15b.11 Interagency cooperation.

The language on interagency cooperation has been deleted because it required action by Federal agencies and is therefore not appropriate in a regulation intended for recipients. The Department is nevertheless committed to the principle of such cooperation.

Subpart B—Employment Practices

Several commenters objected to Subpart B's general prohibition of discrimination in recipient employment practices. They argued that section 504 should only apply to employment practices when employment is a primary objective of Federal financial assistance or when the recipient's employment discrimination results in discrimination against the ultimate beneficiaries of the program. In support, they cited the language and legislative history of section 504; the limited applicability of Title VI to employment situations; judicial interpretations of Title IX of the

Education Amendments of 1972; Section 120(a) of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978; and finally, the decisions in *Trageser* vs. *Libbie Rehabilitation Center, Inc.*, 590 F.2d 87 (4th Cir. 1978), *cert. denied*, 442 U.S. 947 (1979) and *Carmi* v. *Metropolitan St. Louis Sewer District*, 620 F.2d 672 (8th Cir. 1980).

The Department has studied the arguments of these commenters and the recent decision in *U.S.* v. *Cabrini Medical Center*, —— F.2d (2d Cir. 1981) but has determined that Subpart B must be retained in view of the legislative history of the Rehabilitation Act of 1973 and its amendments, including the legislative history of section 102(a) of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, the administrative construction of HHS and ED, and the remedial nature of section 504. However, *Trageser* is currently the law in Maryland, North Carolina, South Carolina, Virginia and West Virginia, the five states comprising the Fourth Circuit; *Carmi* is currently the law in Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota and South Dakota, the seven states comprising the Eighth Circuit; and *Cabrini* is currently the law in New York, Connecticut, and Vermont, the three states comprising the Second Circuit. Accordingly, pending further clarification of the law the provisions of this subpart will be enforced in the Second, Fourth and Eighth Circuit States only where employment is a primary objective of the Federal financial assistance or where discrimination against employees affects the ultimate beneficiaries of the assistance.

Section 15b.12 (formerly § 15b.13) Discrimination prohibited.

Two changes have been made to this section. First, § 15b.13(a)(2) of the proposed regulations has been deleted. This paragraph required recipients that receive assistance under the Education of the Handicapped Act to take positive steps to employ and promote qualified handicapped persons in programs assisted under that Act. Since the Department does not administer programs under the Education of the Handicapped Act, the requirement is inappropriate for these regulations. Recipients of the Department who are also recipients of Education of the Handicapped Act assistance from an agency outside the Department will be subject to that agency's regulations.

The second change is the inclusion of volunteers in § 15b.12(a)(4). The Department has added this language because it would be an anomalous result of the regulations to protect program beneficiaries and recipient employees from discrimination on the basis of handicap but not to protect qualified handicapped volunteers. Under the regulations, all provisions of Subpart B that apply to employees will apply equally to volunteers such as 4–H club leaders. This does not mean that the same procedures and benefits must be established for volunteers as for employees but that where comparable covered situations exist, discrimination is similarly prohibited. For example, recipients may not deny volunteer opportunities to classes of handicapped persons such as diabetics or refuse to provide reasonable accommodations to qualified handicapped volunteers unless such accommodations would impose an undue hardship on the operation of the program.

Section 15b.13 (formerly, § 15b.4) Reasonable accommodation.

A number of comments were received on this section, most requesting more specific guidance on the meaning of the terms, "reasonable accommodation" and "undue hardship."

This section describes two general areas in which reasonable accommodations can be made, i.e., changes to the facility in which the handicapped person is employed and modifications to the handicapped employee's job or work environment. Within these two categories there are an indeterminable number of specific accommodations varying according to the purpose of the assisted program, nature and resources of the recipient, job requirements, handicapping condition, preferences of the handicapped person, and other factors.

While a list of possible accommodations could be constructed, the *reasonableness* of such accommodations could not be determined without considering the specific compliance situation. For example, the provision of deaf interpreters may be a reasonable accommodation for a recipient governmental entity but may constitute an undue hardship for an individual entrepreneur who is a recipient. Examples of percent budget expenditures for accommodations would be inappropriate for many recipients and would quickly become outdated. The Department does not, however, consider expenditure of more than a negligible amount to be, in itself, an undue hardship.

While the Department has not provided a listing of possible reasonable accommodations, it is committed in its compliance procedures to provide assistance and guidance to recipients to help them comply voluntarily with the regulations in this part. In addition, recipients can obtain substantial assistance through consultation with handicapped persons during the self-evaluation process.

A new criterion, "the number of employees," has been added to the factors to be considered in judging whether an accommodation imposes an undue hardship on the operation of a recipient's program (§ 15b.13(c)). The Department believes that examination of the number of persons employed by a recipient is important in evaluating a recipient's ability to restructure jobs or work schedules.

Two commenters recommended that a handicapped person's ability to work safely be added to the factors for judging whether an accommodation would create an undue hardship. The Department gave serious consideration to this suggestion but decided that it was unnecessary since reasonable accommodations are only required for qualified handicapped persons. If safe procedures are essential to a job function, handicapped persons, like other applicants or employees, must meet valid safety standards in order to be considered qualified.

One commenter recommended that all deaf interpreters be required to meet certain standards of proficiency and ethical conduct. These regulations do not set such standards because of the diverse circumstances under which interpreters may be used and the availability of highly qualified interpreters. Nevertheless, recipients should be aware that the basic requirement of the regulation is to make assisted programs accessible to handicapped persons, and that the quality of interpreters provided has a direct effect on the ability of handicapped persons to participate fully in the recipient's program or to take advantage of employment opportunities.

Subpart C—Program Accessibility

Section 15b.18 Existing facilities.

The numerous comments received on this section reflect the public's great concern over the potential financial costs of making assisted programs accessible. The Department believes that many of these concerns are based on a misunderstanding of the requirements of the regulations. For those rare situations in which the achievement of program accessibility is infeasible, the Department, in certain

instances, has provided avenues for referrals or for modifications to the requirements of the regulations.

Section 15b.18(b) Methods.

This is a critical section of the regulations in that it specifies when structural alterations are required in existing facilities as opposed to less costly methods of making programs accessible. It cannot be emphasized too strongly that the purpose of this section is to make programs, not buildings accessible. Existing buildings or facilities must be made accessible only when program services cannot be adequately provided through any other method. Structural modifications are then only required to the extent necessary to deliver the program benefit. This concept is particularly important in situations where facilities have historical significance.

In choosing among nonstructural methods of making programs accessible, recipients must give priority to those methods which offer programs and activities to handicapped persons in the most integrated setting appropriate to obtain the full benefit of the program. The phrase, "to obtain the full benefit of the program," has been added in order to clarify the meaning of "most integrated setting appropriate."

To illustrate, State Departments of Social Services which contract with banks for the distribution of food stamps must ensure that handicapped persons have convenient access to food stamps. This does not mean that every bank must be accessible. Program accessibility can be accomplished by selecting enough accessible banks to give handicapped persons equivalent access to food stamps, by contracting with other accessible distributors, or by mailing or delivering stamps to handicapped beneficiaries. Since social interaction or a particular setting is not important to the distribution of food stamps, each of these alternatives would be acceptable. Recipients are encouraged, however, to provide services to handicapped persons in the same setting as is used to serve nonhandicapped persons.

On the other hand, a handicapped person could only enjoy the full benefits of a 4–H club program in an integrated setting. If the existing site of club meetings and activities is inaccessible, a recipient could make the program accessible by, among other methods, changing the site, providing aides, or making structural modifications to the existing site. Recent material on the subject of accessibility shows that such modifications can often be made at little cost.

One commenter asked whether facilities must be structurally changed for handicapped employees. Where employment is a primary objective of federal assistance, existing structures will have to be altered to make the program accessible to qualified handicapped participants unless the program can be made accessible through some other means. However, in all other programs assisted by this Department, a recipient need not make structural modifications for employees until a qualified handicapped employee is hired and the modifications are necessary as reasonable accommodations (§ 15b.13(b)). Recipients who foresee that the inaccessibility of their facility will exclude or discourage qualified handicapped employees are nevertheless encouraged to make such facilities accessible in advance of the employment of handicapped persons.

Section 15b.18(c) Small providers.

The term, "small providers," has been substituted for "small health, welfare, or social service providers," to more accurately reflect the broad range of recipients assisted by the Department of Agriculture. The referral option in this paragraph applies to all recipients including those operating educational programs, except where conflicting requirements of Subparts D, E, and F take precedence. Before referring a handicapped person to another provider, small recipients have the responsibility of ensuring that the other providers have accessible programs that will provide equivalent service to the handicapped person at no additional cost to the handicapped person.

Section 15b.18(d) Application for waiver of requirements

Many commenters requested some general relaxation of the strict requirement for program accessibility which might require alterations to existing facilities or the construction of new facilities. Some feared that they would be forced out of assisted programs because of their financial inability to make structural alterations or undertake new construction. Others pointed out that special problems are involved where facilities have historic significance.

Private schools, both church-related and independent, participate in the Department's school feeding programs. These recipients expressed concern over program accessibility requirements since many of their facilities are old and funds for renovation often limited. Unlike public schools, these private schools are generally not part of a school system in which some schools could be made accessible to fulfill the requirement for program accessibility. Also, many private schools would be ineligible to make referrals under the small provider provision (§ 15b.18(c)) because they have more than 15 employees.

The Department was also advised that other private, nonprofit entities, such as camps and residential institutions for children and the elderly may encounter difficulty in achieving program accessibility. Like private schools, these entities are often small, without similar providers nearby for referrals, and lacking funds to make major alterations to facilities. Finally, the Department was made aware that recipients of special-use permits for land in national forests and recipients participating in forestry assistance programs on private lands may need to provide program accessibility in historic properties.

The Department remains convinced that accessibility problems can be resolved without imposing undue hardship on the operation of the recipient's program. Moreover, the rights of handicapped persons to accessibility are a much more compelling need than the temporary inconvenience that may result from the process of making programs accessible. Nonetheless, in rare instances where after completing a self-evaluation a recipient determines that program accessibility can only be accomplished through substantial modifications which would result in a fundamental alteration in the nature of the program, they may apply to the Secretary for a modification of the requirement.

Since substantial alterations to historic properties could negate the reasons for maintaining the property, the Department has added a provision allowing recipients to apply for a modification of the requirements of § 15.18.

Recipients may make such an application only after they have completed a self-evaluation which meets the requirements of § 15b.18(c) and which shows that the only method that can be used to make a program accessible is one which substantially impairs significant historic features of properties listed in the National Register of Historic Places. The Department believes that in most cases other effective methods will be identified during the self-evaluation process, especially if handicapped persons or organizations representing handicapped persons or organizations representing handicapped persons are properly involved. In addition, the Department

will provide necessary technical assistance to recipients who encounter special problems in achieving program accessibility.

Specific guidelines have been provided to assist recipients in making applications concerning properties listed in the National Register of Historic Places. The criteria have been recommended by the Advisory Council on Historic Preservation to eliminate any adverse effect of these regulations on properties that are included or that are eligible for inclusion in the National Register of Historic Places.

Section 15b.18(f) (formerly, § 15b.18(d)) Time period.

One commenter requested that the time period for complying with § 15b.18(a), except for structural changes, be extended to 180 days. Although the Department recognizes that 60 days may not be adequate time for recipients to relocate programs or take other nonstructural measures to make programs accessible, it has not changed the requirement. In cases where 60 days is not sufficient a recipient must take temporary measures such as making home visits or providing aides until permanent methods can be arranged. The purpose of the regulation is to ensure that handicapped persons are provided access to programs as soon as reasonably possible.

Section 15b.18(g) (formerly, § 15b.18(e)) Transition plan.

The time for completing transition plans has been changed from six months to one year to permit closer coordination of this activity with the self-evaluation process. The determination of necessary structural changes is a logical outgrowth of the recipient's analysis of total program accessibility and necessary program modifications. Since structural changes may take considerable time and since the three-year deadline for making alterations or constructing new facilities has not been changed, recipients should complete the transition plan as quickly as possible within the first year after the effective date of these regulations.

Transition plans prepared in compliance with regulations of other agencies may meet the requirements of § 15b.18(f). Similarly, the transition plan of a parent institution or prime recipient may satisfy requirements of § 15b.18(f) if all provisions of that section are met in regard to the recipient's program.

One commenter objected to this section on the basis that it required companies to involve noninterested outsiders in management decisions. The Department rejects this argument on two grounds. First, handicapped persons are certainly interested in the continuing viability of recipient programs benefiting them. Second, although this section requires that recipients develop transition plans with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, final responsibility for the transition plan remains with recipients.

For specific information on physical barriers and appropriate modifications, recipients should consult the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by the Physically Handicapped," published by the American National Standards Institute, Inc. (ANSI A117.1–1980). Former § 15b.18(f), "Notice," has been moved to § 15b.7, "Notice of nondiscrimination and accessible services," the general notice requirement for recipients.

Section 15b.19 New Construction

The standard which the Department will use for new construction and alterations is the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped, published by the American National Standards Institute, Inc. (ANSI A117.1–1980). Approval to incorporate this standard by reference into 7 CFR Part 15b was granted by the Director of the Federal Register on June 8, 1981.

This standard, approved by the Institute on March 3, 1980, is currently the best nationally-recognized standard available for making facilities accessible to physically-handicapped persons. It is the result of years of research and the advice of experts representing handicapped persons, the building industry, manufacturers, service providers, local governments, and Federal agencies, including this Department. If, at some later date, the four agencies authorized by the Architectural Barriers Act of 1968, Public Law 90–480, to prescribe standards for federally funded facilities decides to issue a uniform accessibility standard for the Federal Government, the Department will make appropriate changes in the regulations to incorporate that uniform standard.

Some facilities subject to the ANSI A117.1–1980 standard under these regulations will also be subject to a standard issued by either the General Services Administration (GSA) or the Department of Housing and Urban Development (HUD), two of the four standard-setting agencies under the Architectural Barriers Act of 1968. Both the GSA Accessibility Standard (45 FR 67664 (1980), 41 CFR Part 101–19 (1980)) and the HUD Standard (36 FR 24437 (1971), 24 CFR Part 40) are being revised to conform to the Minimum Guidelines and Requirements for Accessible Design (46 FR 4270 (1981), 36 CFR Part 1190) issued by the Architectural and Transportation Barriers Compliance Board (ATBCB), the agency responsible for enforcing the Architectural Barriers Act of 1968.

Recipients whose facilities are subject to both ANSI A117.1–1980 under these regulations and either the GSA or HUD standard can generally comply with both by following the stricter standard. For example, a facility can be designed with accessible walks having a clearance of 48 inches to meet the ANSI requirements (4.3.3) of a 36 inch minimum clearance and the GSA requirement (4.2.2) of a 48 inch minimum clearance. The Department plans to issue guidelines on how recipients can meet both the standard set by this regulation and the standard required under the Barriers Act. Recipients may depart from particular requirements of A117.1–1980 by adopting different requirements, such as those in the GSA or HUD standards, if equivalent accessibility is provided. In most cases, the Department will consider the requirements of the GSA and HUD standards as providing such equivalent accessibility.

Only a few comments were received on this section and these focused on two areas: Potential loopholes for structural accessibility and possible misinterpretations by recipients covered by the Architectural Barriers Act of 1968 as well as section 504. One commenter was concerned that alterations made accessible and usable only "to the maximum extent feasible," according to § 15b.19(b), could compromise program accessibility. The Department does not foresee this result since program accessibility must be achieved regardless of the accessibility of building alterations, except in those cases specifically referred to in § 15b.18(c), § 15b.18(d), and Subparts D, E, and F.

Another commenter recommended that § 15b.19(c) be revised to require that "equivalent usability" be added to "equivalent access" in determining when deviations from the ANSI Standards shall be permitted. The Department has not made this change but intends to consider usability as well as accessibility, as both criteria are considered in the ANSI Standards.

Another commenter requested that the provision in § 15b.19(c) allowing

departures from the ANSI Standard where equivalent access is provided be deleted to prevent confusion in situations where a facility is covered by both the Architectural Barriers Act of 1968, as amended, 42 U.S.C. 4151–4157, and section 504. Unlike the requirement of § 15b.19(c), regulations implementing the Architectural Barriers Act of 1968 permit departures from the required standard only after a formal waiver process. Despite this inconsistency, § 15b.19(c) has been retained to provide needed flexibility to recipients whose facilities are covered only by section 504.

A new section, § 15b.19(d), "Compliance with the Architectural Barriers Act of 1968," has been added to remind recipients that compliance with these regulations for program accessibility does not necessarily satisfy their responsibilities under the Architectural Barriers Act of 1968 as enforced by the Architectural and Transportation Barriers Compliance Board.

Subpart D—Preschool, Elementary, Secondary Adult and Extension Education

Two commenters recommended that Subpart D be deleted entirely as inappropriate for the Department of Agriculture's programs. This has not been done since the Department assists many education programs through grants, construction loans, revenues from national forest receipts, and feeding programs. Many of the recipients operating these programs are also recipients of assistance from the Department of Education. In order to simplify the compliance efforts of these recipients, the regulations of this subpart incorporate most of the language of the ED section 504 regulations (34 CFR 84.1–84.99 (1980)).

The title of this subpart has been revised to include adult and extension education. Adult education is already included in § 15b.20, "Applicability." Extension education is a major educational program assisted by the Department.

Section 15b.20 Applicability.

A separate reference to recipients has been deleted from this section to maintain consistency with § 15b.2, "Applicability". See the discussion of that section for an explanation of this change.

Extension education has been added to the list of program areas covered by this subpart.

Section 15b.22 Free appropriate public education.

One commenter recommended that § 15b.22(c)(2) be revised to require a recipient to provide transportation to handicapped persons participating in their programs as is required for handicapped persons placed in programs not operated by recipients. Under § 15b.22(c)(2), a recipient who places a handicapped person in a program which it does not operate, must assure that adequate transportation is provided at no greater cost than would be incurred if the handicapped person were placed in the recipient's program. The purpose of this regulation is to ensure that handicapped persons have equal access to education programs. The regulation does not imply an obligation for a recipient to establish transportation service to its own programs for either handicapped or nonhandicapped persons. However, if the recipient does provide transportation to its programs, that service must be equally accessible, in terms of convenience and cost, to both handicapped and nonhandicapped persons.

Section 15b.22(d) has been deleted as unnecessary. See ED's commentary to § 84.33(d) of its regulations (34 CFR Part 84, App.A (1980)). A new subparagraph has been added to inform recipients that they must be in compliance with this section by not later than September 1, 1982.

Section 15b.24 Evaluation and placement.

The Department received two comments concerning the title of § 15b.24(a), "Placement evaluation." The commenters were concerned that the use of "placement" instead of "preplacement" might imply that recipients could conduct evaluations of handicapped persons needing or believing to need special education or related services after an initial tentative placement. The Department does not intend this reading of the regulation and believes that the requirement for an evaluation to be completed before taking any action regarding initial placement or subsequent changes in placement is clear from the text of the subsection.

Section 15b.26 Nonacademic services.

Section 15b.26(d) Food services.

A number of comments suggested that the regulations should make more specific reference to Department programs, including school feeding programs. As a result, § 15b.26(d) has been added to address the most commonly raised issues in school food services.

Section 15b.26(d)(1) requires recipients to serve special meals to handicapped persons whose handicap restricts their diet in such a way that they cannot fully participate in the recipient's meal program. It is the handicapped person's responsibility to inform the recipient of the need for special meals. Recipients may require medical certification that special meals are necessary on the basis of handicap, but are not required to do so by these regulations.

In providing special meals, recipients may not charge handicapped persons more than they would be charged for regular meals. For example, a handicapped person eligible for a free lunch could not be required to pay for a special meal.

Depending on the needs of individual handicapped persons, recipients may have to adjust food selections, portions, or methods of preparation. However, recipients are not obligated to establish new feeding programs for handicapped persons. For instance, a recipient operating a lunch program is not required to serve breakfast to handicapped persons.

Section 15b.26(d)(2) concerns the delivery of food services in existing facilities that are not completely accessible and usable. This section should be read in conjunction with § 15b.23(b), "Nonacademic setting," which requires that handicapped persons participate with nonhandicapped persons in meal services to the maximum extent appropriate to the needs of the handicapped person in question. This means that handicapped persons must be served in the same room or setting as nonhandicapped persons except where the needs of individual handicapped persons dictate that they be served in some other place or manner. Section 15b.26(d)(2) specifies that where serving lines, food dispensers, or furnishings in existing facilities are not completely accessible to and usable by handicapped persons, recipients may use aides, modifications to equipment, or other equally effective measures to provide food services to handicapped persons. The ultimate effect of such methods must be to provide handicapped persons with an opportunity to participate in the program that is equal to the opportunity which is available to nonhandicapped persons.

Section 15b.27 Extension education.

Many commenters advised the Department that Subparts D and E,

directed toward formal educational programs, were inadequate for cooperative extension education, an informal program with voluntary participants of wide-ranging ages and interests. The Department recognizes the special situations involved in the design of extension programs, the selection of delivery sites, and the development of program material, and consequently has added a new § 15b.27 to provide general guidance in these areas. This section is essentially an elaboration of § 15b.18(b) which explains options available to recipients for making programs accessible in existing facilities. Both § 15b.18(b) and § 15b.27 emphasize that program accessibility can often be achieved through methods other than building alterations or new construction and that structural modifications are, in fact, not required when other equally effective methods are available.

The first part of § 15b.27 is a general prohibition against discrimination and a requirement that the needs of qualified handicapped persons be taken into account in planning program activities. This parallels the proposed language for § 15b.27 which was directed toward preschool and adult education programs.

The second part of § 15b.27 discusses the specific accessibility problems of extension programs delivered at extension offices, at other publicly-owned facilities, at privately-owned facilities, and at camps. Where existing offices are inaccessible, program benefits may be delivered through other equally effective methods such as the use of alternate accessible locations, home visits, and written or telephonic communications. The key consideration is that these other methods must be equally effective.

To illustrate, a county agent's consultation with a mobility-impaired community leader could take place in that community leader's home or office rather than at the inaccessible office of the agent, provided that the agent's office was not essential to the consultation. If the community leader were named to an advisory board which regularly met in the agent's inaccessible office, provision would have to be made for the handicapped board member to participate in all board meetings. This could be accomplished by holding the meetings in other accessible locations, by relocating the county agent's office to an accessible facility, or by modifying the office. It would not be equally effective in this case for the county agent to meet individually with the handicapped board member since an important aspect of the program is the interaction of the board members.

Where extension programs are delivered at publicly-owned facilities other than at recipient offices, these facilities must be accessible wherever possible. It is recognized that settings such as natural terrain cannot always be made accessible to handicapped persons. In these cases, recipients must use other equally effective methods to deliver the program benefits to qualified handicapped persons. These methods include redesigning the activity or some sessions of the activity. For example, recipients may continue to schedule nature walks in an undeveloped park, making accommodations for persons with visual, hearing, and limited mobility impairments, but would also have to arrange sessions in which comparable information is available to persons with severe mobility impairments through the use of lectures, visual aids, exhibits or other suitable techniques. Such alternate sessions cannot be limited only to handicapped persons.

Many extension activities take place in privately-owned delivery facilities which are often inaccessible. Such activities may continue in these facilities unless a handicapped person requiring accessibility is participating, has expressed an interest in participating, or is likely to participate. Thus, when a qualified handicapped person applies to join a homemakers group, the group must arrange to hold its meetings in an accessible place. Also, any of the group's activities which are open to the public and for which the accessibility requirements of those attending cannot be determined in advance will have to be conducted in accessible locations. Recipients should be aware that the Department intends to follow the HEW policy prohibiting the carrying of handicapped persons except as a temporary expedient when program accessibility can only be achieved through structural changes and in manifestly exceptional circumstances under controlled conditions (43 FR 36033, 36035 (1978)).

Camping programs, like other extension programs, must be accessible to qualified handicapped persons. This does not mean that every existing camp must be accessible but that the recipient's program as a whole must be accessible. If the camp that a handicapped person would normally attend is inaccessible, the recipient may assign that person to another accessible camp which it operates. In all camping activities, qualified handicapped persons must participate with nonhandicapped persons to the extent appropriate to the needs of individual handicapped persons. Therefore, the recipient cannot limit qualified handicapped persons or any class of handicapped persons to one camp or camping session.

The third and final part of § 15b.27 requires that program materials be accessible to qualified handicapped persons with sensory or mental impairments. One commenter asked if all written materials provided through the extension education program would have to be put on tape. This is not the intent of the regulations. Accessibility to written materials can be achieved by having available Brailled or taped copies of the most commonly-requested publications and by providing other materials in alternate forms upon request. Volunteer services can frequently be obtained for Brailling, taping, and other accommodations for persons with impaired vision or hearing. For persons with mental impairments, simplified versions of program materials may be necessary.

Section 15b.28 Private education programs.

Several comments were submitted regarding the requirement that private schools operating special education programs adopt the guidelines for evaluation, placement and procedural safeguards outlined in §§ 15b.24 and 15b.25. The commenters felt that these guidelines, developed by ED primarily for public elementary and secondary schools, were too burdensome for private schools, most of whom participate only in the Department's school feeding programs.

The Department has examined this issue carefully and has noted the differences that exist between public and private schools in regard to student bodies, curriculums, educational innovations, teaching staffs, administration, and financial resources. Additionally, the Department has considered the protections against discrimination that exist in Subpart A, including the grievance procedure which must be established by most recipients. On the basis of these factors, the Department has revised § 15b.28 to make only §§ 15b.22(b)(1)(i), 15b.23, and 15b.26 applicable to private schools. The effect of these sections is to require private schools to provide qualified handicapped students an appropriate education, in an integrated setting for both academic and nonacademic activities. Private school recipients will not be held to the technical requirements for special education in

§§ 15b.24 and 15b.25. However, such recipients who operate special education programs may not discriminate against qualifed handicapped persons in the administration of their special education programs.

Subpart E—Postsecondary Education

Few comments were received on this section and no significant changes have been made. Two commenters recommended that the subpart be deleted as inappropriate for the Department's programs. This has not been done since the Department assists many postsecondary education programs, including postsecondary vocational education programs, through grants to support education programs, grants and cooperative agreements to support research, and construction loans. Many of the recipients operating these programs are also recipients of assistance from the Department of Education. In order to simplify the compliance efforts of these recipients, the regulations of this subpart incorporate most of the language of the ED section 504 regulations [34 CFR 84.1–84.99 (1980)].

Section 15b.29 Applicability.

A separate reference to recipients has been deleted from this section to maintain consistency with § 15b.2, "Applicability." See the discussion of that section for an explanation of this modification.

Section 15b.30 Admissions and recruitment.

One commenter suggested that when recipients make preadmission inquiries, § 15b.30(c), they be required to make clear to the applicant, as opposed to merely stating clearly, the limitations on the recipient's request for information on the applicant's handicapped status. The Department believes that the conditions set out in § 15b.30(c) provide adequate and enforceable protections for handicapped applicants.

Section 15b.31 Treatment of students; general.

Section 15b.31(c) has been revised to include "course" in addition to "course of study" among the aspects of a recipient's education program or activity from which a qualified handicapped person may not be excluded. This language was inadvertently omitted from the Department's proposed regulations.

Section 15b.32 Academic adjustments.

One commenter recommended that § 15b.32(d)(2) be amended to explicitly require recipients to provide interpreters to hearing-impaired students when materials are delivered orally. This would enable hearing-impaired students to understand the lecture and participate in any discussion. The recommended amendment has not been adopted since not all orally-delivered information involves discussion. Recipients are, however, required by §§ 15b.4(b)(1)(ii) and 15b.32(d)(i) to provide those auxiliary aids necessary to give qualified handicapped persons an equal opportunity to participate in their programs. If educational materials are delivered orally and discussed, hearing-impaired students must be provided those auxiliary aids that will allow them to participate fully and effectively in this activity.

Subpart F—Other Programs and Activities

Subpart F supplements Subparts A, B and C with specific requirements for some programs of the Department which are not covered by Subparts D and E. Few comments were received on this subpart and, with the exception of adding sections on food services and multi-family rental housing, only minor modifications have been made.

The title of the subpart has been changed from "Health, Welfare, Social and Other Services" to "Other Programs and Activities." This has been done to reflect the broad range of programs assisted by this Department.

Section 15b.36 Applicability.

A separate reference to recipients has been deleted from this section to maintain consistency with § 15b.2. An explanation of this change can be found in the discussion of that section.

Section 15b.37 (formerly, § 15b.37(d)) Auxiliary aids.

Several comments were received on the determination of appropriate auxiliary aids. It is the recipient's responsibility to make this determination after considering the nature of the program, the information being communicated or service being provided, and the needs of handicapped persons. Recipients are encouraged to consult with handicapped persons to learn which types of auxiliary aids are preferred.

Section 15b.40 Food Services.

Section 15b.40, "Food services," which is patterned after § 15b.26(d) has been added to clarify responsibilities of recipients operating assisted food service programs in institutions not covered by Subpart D.

Section 15b.41 Multi-family rental housing.

A new § 15b.41, "Multi-family rental housing," has been added to this subpart in response to the particular accessibility issues associated with this program. Issues not addressed in this section are, of course, covered by Subparts A, B, and C.

Section 15b.41(a) is a general prohibition of discrimination on the basis of handicap against qaulified handicapped persons as defined in Subpart A.

Section 15b.41(b) outlines general requirements for making new multi-family rental housing projects structurally accessible to qualified handicapped persons. These requirements apply only to recipients that have entered into an agreement of assistance with the Department after the effective date of the regulations.

In setting these limits, the Department considered carefully the number of multi-family rental housing projects assisted between the effective dates of section 504 and these regulations, the housing needs of handicapped persons, the costs involved in retrofitting existing housing projects and the number of projects already covered by other accessibility standards. The Department concluded that application of the accessibility requirements of this section to existing projects could not be justified in light of previous agreements between the Department and recipients and would likely result in recipients assuming additional debt that would be passed on to tenants in the form of higher rents. Additionally, the Department determined that many existing multi-family housing projects are already at least minimally accessible due to standards prescribed by other regulations. A new subsection (c), discussed below, has been added to clarify program accessibility requirements for existing facilities.

The Department will consider adaptable as well as fully accessible units as meeting the requirements of this section. An adaptable unit is one which is basically accessible in terms of entry and circulation and which has been constructed to permit recipients to easily install grab bars, modify kitchen facilities, and make other standard adaptations at the time that a handicapped person needing these adaptations would rent the unit. In contrast, an accessible unit would be constructed with all accessibility features in place. One advantage of adaptable units is that they can be more easily rented to nonhandicapped person.

Another is that handicapped persons will be able to have installed only those accessibility features which they need and in the positions which will be most helpful to them.

The minimum number of accessible or adaptable units per housing project has been set at five percent or at least one unit, whichever is greater. This measure of accessibility is based on available data on the number of handicapped persons needing such housing nationwide, and the fact that many rental housing projects assisted by the Department have fewer than 20 units.

Because many of these housing programs are located in small rural communities where populations may differ from national averages, some flexibility has been built into the accessibility requirement by allowing a different percentage of accessible units where a market survey approved by the Department indicates that this would be more appropriate for a particular program and its service area.

As for the rental housing units themselves, they must be comparable in variety to other units in the project, must be rented at the same rates as other comparable units, and cannot be clustered at one site if the program emcompasses more than one site. This means, for example, that a multi-family housing program consisting of 40 units, 20 each at two sites and divided equally between one and two-bedroom units, would have at least two accessible or adaptable units, one at each site, and one each of the one and two-bedroom styles.

Section 15b.41(c) outlines general requirements for making existing multi-family rental housing projects accessible to qualified handicapped persons. These requirements apply only to recipients that have entered into an agreement of assistance with the Department prior to the effective date of the regulations. In such situations, recipients must assure program accessibility in their projects. See § 15b.18 of the regulations and the appropriate part of this "Supplementary Information" for a discussion of program accessibility requirements. Efforts to provide program accessibility in existing facilities should begin when a qualified handicapped person applies for admission. Physical alterations to existing facilities to make them accessible must be completed within a reasonable amount of time after the unit becomes available for occupancy. Under normal circumstances, it is expected that the unit will be altered to meet accessibility requirements within 30 days of the time the unit becomes ready for occupancy.

The section also contains information on how the Department will help recipients to comply with program accessibility requirements. In general, the Department will consider applications by the recipient for subsequent loans to make existing facilities accessible or to construct additional accessible units. The Department will also consider requests to use the housing project's reserve fund account for making minor modifications to existing facilities in order to make them accessible.

Subpart G—Procedures

No substantive changes have been made to this subpart.

List of Subjects in 7 CFR Part 15b

Administrative practice and procedure, Civil rights, Handicapped.

For the reasons given above, Part 15b is added to Title 7 of the Code of Federal Regulations as set forth below.

Dated: June 3, 1982.

John R. Block,

Secretary.

Title 7 of the Code of Federal Regulations is amended by adding a new Part 15b as follows:

PART 15b—NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

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Subpart F—Other Programs and Activities

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15b.37 Auxiliary aids.
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15b.41 Multi-family rental housing.

Subpart G—Procedures

15b.42 Procedures.
Appendix A—List of USDA-Assisted Programs.

Authority: Sec. 504, Rehabilitation Act of 1973, Pub. L. 93–112, 87 Stat. 394 (29 U.S.C. 794); sec. 111(a), Rehabilitation Act of 1974, Pub. L. 93–516, 88 Stat. 1619 (29 U.S.C. 706); sec. 120(a). Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, Pub. L. 95–602, 92 Stat. 2955 (1978); Executive Order 12250, November 2, 1980, and 45 CFR Part 85.

Subpart A—General Provisions

§ 15b.1 Purpose.

The purpose of this part is to implement section 504 of the Rehabilitation Act of 1973, as amended, to the end that no otherwise qualified handicapped individual in the United States shall solely by reason of his or her handicap be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

§ 15b.2 Applicability.

This part applies to all programs and activities that receive or benefit from Federal financial assistance extended by the Department of Agriculture after the effective date of this part whether or not the assistance was approved after the effective date. Subparts A, B, and C are of general applicability. Subparts D, E, and F are tailored to specific programs. Subpart G is procedural.

§ 15b.3 Definitions.

As used in this part, the term or phrase:

(a) "The Act" means the Rehabilitation Act of 1973, Pub. L. 93–112, 87 Stat. 390 (1973), as amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93–651, 89 Stat. 2 (1974) and Pub. L. 93–516, 88 Stat. 1617 (1974) and the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978, Pub. L. 95–602, 92 Stat. 2955 (1978). The Act appears at 29 U.S.C. 701–794.

(b) "Section 504" means section 504 of the Act, 29 U.S.C. 794.

(c) "Education of the Handicapped Act" means the Education of the Handicapped Act, Pub. L. 92–230, Title VI, 84 Stat. 175 (1970), as amended by the Education of the Handicapped Amendments of 1974, Pub. L. 93–380, Title VI, 88 Stat. 576 (1974), the Education for All Handicapped Children Act of 1975, Pub. L. 94–142, 89 Stat. 773 (1975), and the Education of the Handicapped Amendments of 1977, Pub. L. 95–49, 91 Stat. 230 (1977). The Education of the Handicapped Act appears at 20 U.S.C. 1401–1461.

(d) "Department" means the Department of Agriculture and includes each of its operating agencies and other organizational units.

(e) "Secretary" means the Secretary of Agriculture or any officer or employee of the Department to whom the Secretary has delegated or may delegate the authority to act under the regulations of this part.

(f) "Recipient" means any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

(g) "Federal financial assistance" or "assistance" means any grant, contract (other than a procurement contract or a contract of insurance or guaranty), cooperative agreement, formula allocation, loan, or any other arrangement by which the Department provides or otherwise makes available assistance in the form of:

(1) Funds;

(2) Services of Federal personnel;

(3) Real and personal Federal property or any interest in Federal property, including:

(i) A sale, transfer, lease or use (on other than a casual or transient basis) of Federal property for less than fair market value, for reduced consideration or in recognition of the public nature of the recipient's program or activity; and

(ii) Proceeds from a subsequent sale, transfer or lease of Federal property if the Federal share of its fair market value is not returned to the Federal Government.

(4) Any other thing of value.

(h) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

(i) "Handicapped person" means any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

(j) "Physical or mental impairment" means (1) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or (2) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis, cancer; heart disease; diabetes; mental retardation; emotional illness; and drug addiction and alcoholism.

(k) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(l) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(m) "Is regarded as having an impairment" means (1) has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation; (2) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others towards such impairments, or (3) has none of the impairments defined in paragraph (j) of this section but is treated by a recipient as having such an impairment.

(n) "Qualified handicapped person" (used synonymously with "otherwise qualified handicapped individual") means:

(1) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question, but the term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others;

(2) With respect to public preschool, elementary, secondary, or adult educational services, a handicapped person, (i) of an age during which non-handicapped persons are provided such services, (ii) of an age during which it is mandatory under State law to provide such services to handicapped persons, or (iii) to whom a State is required to provide a free appropriate public education under Section 612 of the Education of the Handicapped Act; and

(3) With respect to postsecondary and vocational education services, a handicapped person who meets all academic and technical standards requisite to admission or participation in the recipient's education program or activity;

(4) With respect to other services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

(o) "Handicap" means any condition or characteristic that renders a person a handicapped person as defined in paragraph (i) of this section.

(p) For purposes of § 15b.18(d), "Historic preservation programs" means programs receiving Federal financial assistance that has preservation of historic properties as a primary purpose.

(q) For purposes of § 15b.18(d), "Historic properties" means those properties that are listed or eligible for listing in the National Register of Historic Places.

(r) For purposes of § 15b.18(d), "Substantial impairment" means a significant loss of the integrity of finished materials, design quality or special character which loss results from a permanent alteration.

§ 15b.4 Discrimination prohibited.

(a) *General.* No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any

program or activity receiving assistance from this Department.

(b) *Discriminatory actions prohibited.* (1) A recipient, in providing any aid, benefit or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit or services;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit or services that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit or to reach the same level of achievement in the most integrated setting appropriate as that provided to others;

(iv) Provide a different or separate aid, benefit or service to handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with an aid, benefit or service that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit or service to beneficiaries of the recipient's program;

(vi) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vii) Otherwise limit a qualified handicapped person in the enjoyment of any rights, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit or service.

(2) For purposes of this part, aids, benefits and services, to be equally effective, are not required to produce the identical result or level of achievement for handicapped and nonhandicapped persons, but must afford handicapped persons equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting appropriate to the person's needs.

(3) Despite the existence of separate or different programs or activities provided in accordance with this part, a recipient may not deny a qualified handicapped person the opportunity to participate in such programs or activities that are not separate or different.

(4) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration (i) that have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap, (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program with respect to handicapped persons, or (iii) that perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.

(5) In determining the site or location of a facility, an applicant for assistance or a recipient may not make selections (i) that have the effect of excluding handicapped persons, from denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives or benefits from Federal financial assistance or (ii) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(6) As used in this section, an aid, benefit or service provided under a program or activity receiving or benefiting from Federal financial assistance includes any aid, benefit or service provided in or through a facility that has been constructed, expanded, altered, leased or rented, or otherwise acquired, in whole or in part, with Federal financial assistance.

(c) *Programs limited by Federal law.* The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or executive order to a different class of handicapped persons is not prohibited by this part.

(d) *Communications.* Recipients shall take appropriate steps to ensure that communications with their applicants, employees, and beneficiaries are available to persons with impaired vision and hearing.

§ 15b.5 Assurances required.

(a) *Assurances.* An applicant for Federal financial assistance for a program or activity to which this part applies shall submit an assurance, on a form specified by the Secretary, that the program will be operated in compliance with this part. An applicant may incorporate these assurances by reference in subsequent applications to the Department.

(b) *Duration of obligation.* (1) In the case of Federal financial assistance extended in the form of real property or to provide real property or structures on the property, the assurance will obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for the purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) In the case of Federal financial assistance extended to provide personal property, the assurance will obligate the recipient for the period during which it retains ownership or possession of the property.

(3) In all other cases, the assurance will obligate the recipient for the period during which Federal financial assistance is extended.

(c) *Covenants.* (1) Where Federal financial assistance is provided in the form of real property or interest in the property from the Department, the instrument effecting or recording this transfer shall contain a covenant running with the land to assure nondiscrimination for the period during which the real property is used for the purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) Where no transfer of property is involved but property is purchased or improved with Federal financial assistance, the recipient shall agree to include the covenant described in paragraph (c)(1) of this section in the instrument effecting or recording any subsequent transfer of the property.

(3) Where Federal financial assistance is provided in the form of real property or interest in the property from the Department, the covenant shall also include a condition coupled with a right to be reserved by the Department to revert title to the property in the event of a breach of the covenant. If a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on the property for the purposes for which the property was transferred, the Secretary may, upon request of the transferee and if necessary to accomplish such financing and upon such conditions as the Secretary deems appropriate, agree to forebear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

§ 15b.6 Designation of responsible employee and adoption of grievance procedures.

(a) *Designation of responsible employee.* A recipient that employs fifteen or more persons shall designate at least one person to coordinate its efforts to comply with this part.

(b) *Adoption of grievance procedures.* A recipient that employs fifteen or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part. Such procedures need not be established with respect to complaints from applicants for employment or from applicants for admission to postsecondary educational institutions.

(c) The Secretary may require any recipient with fewer than fifteen employees to designate a responsible employee and adopt grievance procedures when the Secretary finds a violation of this part or finds that complying with these administrative requirements will not significantly impair the ability of the recipient to provide benefits or services.

§ 15b.7 Notice of nondiscrimination and accessible services.

(a) A recipient shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the recipient that it does not discriminate on the basis of handicap in violation of section 504 and this part. The notification shall state, where appropriate, that the recipient does not discriminate in admission or access to, or treatment or employment in, its programs and activities. The recipient shall also identify the responsible employee designated pursuant to § 15b.6(a), and identify the existence and location of accessible services, activities, and facilities. A recipient shall make the initial notification required by this paragraph within 90 days of the effective date of this part. Methods of initial and continuing notification may include but are not limited to the posting of notices, placement of notices in the recipient's publications, radio announcements, and the use of other visual and aural media.

(b) If a recipient publishes or uses recruitment materials or publications containing general information that it makes available to participants, beneficiaries, applicants or employees, it shall include in those materials or publications a statement of the policy described in paragraph (a) of this section. A recipient may meet the requirement of this paragraph either by including appropriate inserts in existing materials and publications or by revising and reprinting the materials and publications.

§ 15b.8 Remedial action, voluntary action, and self-evaluation.

(a) *Remedial action.* (1) If the Secretary finds that a recipient has discriminated against persons on the basis of handicap in violation of Section 504 or this part, the recipient shall take such remedial action as the Secretary deems necessary to overcome the effects of the discrimination.

(2) Where a recipient is found to have discriminated against persons on the basis of handicap in violation of Section 504 or this part and where another recipient exercises control over the recipient that has discriminated, the Secretary, where appropriate, may require either or both recipients to take remedial action.

(3) The Secretary may, where necessary to overcome the effects of discrimination in violation of section 504 or this part, require a recipient to take remedial action (i) with respect to handicapped persons who are no longer participants in the recipient's program but who were participants in the program when such discrimination occurred or (ii) with respect to handicapped persons who would have been participants in the program had the discrimination not occurred, or (iii) with respect to handicapped persons presently in the program, but not receiving full benefits or equal and integrated treatment within the program.

(b) *Voluntary action.* A recipient may take steps, in addition to any action that is required by this part, to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity by qualified handicapped persons.

(c) *Self-evaluation.* (1) A recipient shall, within one year of the effective date of this part:

(i) Evaluate, with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, its current policies and practices and the effects thereof that do not or may not meet the requirements of this part.

(ii) Modify, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, any policies and practices that do not meet the requirements of this part; and

(iii) Take, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to these policies and practices.

(2) A recipient shall, for at least three years following completion of the evaluation required under paragraph (c)(1) of this section, maintain on file, make available for public inspection, and provide to the Secretary upon request: (i) A list of the interested persons consulted, (ii) a description of areas examined and any problems identified, and (iii) a description of any modifications made and of any remedial steps taken.

§ 15b.9 Effect of State or local law or other requirements, and effect of employment opportunities.

(a) The obligation to comply with this part is not obviated or alleviated by the existence of any State or local law or other requirement that, on the basis of handicap, imposes prohibitions or limits upon the eligibility of qualified handicapped persons to receive services or to practice any occupation or profession.

(b) The obligation to comply with this part is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for handicapped persons than for nonhandicapped persons.

§ 15b.10 Effect of compliance with regulations of other Federal agencies.

A recipient that has designated a responsible official and established a grievance procedure, provided notice, completed a self-evaluation, or prepared a transition plan in the course of complying with regulations issued by other Federal agencies under section 504 will be in compliance with § 15b.6, 15b.7, 15b.8(c), or 15b.18(f), respectively, if all requirements of those sections have been met in regard to programs assisted by this Department.

Subpart B—Employment Practices

§ 15b.11 Applicability.

This subpart applies to all programs and activities that receive or benefit from Federal financial assistance provided by the Department of Agriculture after the effective date of this part.

§ 15b.12 Discrimination prohibited.

(a) *General.* (1) No qualified handicapped person shall, on the basis

of handicapped, be subjected to discrimination in employment under any program or activity receiving assistance from this Department.

(2) A recipient shall make all decisions concerning employment in a manner which ensures that discrimination on the basis of handicap does not occur and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(3) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. This includes relationships with employment and referral agencies, with labor unions with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeship programs.

(4) All provisions of this subpart pertaining to employment, apply equally to volunteer service.

(b) *Specific activities.* The provisions of this subpart apply to:

(1) Recruitment, advertising, and the processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right to return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer sponsored activities, including social or recreational programs; and

(9) Any other term, condition, or privilege of employment.

(c) A recipient's obligation to comply with this subpart is not affected by any inconsistent term of any collective bargaining agreement to which it is a party.

§ 15b.13 Reasonable accommodation.

(A) A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

(b) Reasonable accommodation may include: (1) Making facilities used by employees readily accessible to and useable by handicapped persons, and

(2) Job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provisions of readers or interpreters, and other similar actions.

(c) In determining pursuant to paragraph (a) of this section whether an accommodation would impose an undue hardship on the operation of a recipient's programs, factors to be considered include:

(1) The overall size of the recipient's program with respect to number of employees, number and type of facilities, and size of budget;

(2) The type of the recipient's operation, including the composition and structure of recipient's workforce;

(3) The nature and cost of the accommodation needed.

(d) A recipient may not deny any employment opportunity to a qualified handicapped employee or applicant if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

§ 15b.14 Employment criteria.

(a) A recipient may not make use of any employment test or other selection criterion that screens out or tends to screen out handicapped persons or any class of handicapped persons unless:

(1) The recipient shows that the test score or other selection criterion, as used by the recipient, is job-related for the position in question, and (2) the Secretary cannot show that alternative job-related tests or criteria are available that do not screen out or tend to screen out as many handicapped persons.

(b) A recipient shall select and administer tests concerning employment so as best to ensure that, when administered to an applicant or employee who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's or employee's job skills, aptitude, or whatever other factor the test purports to measure, rather than reflecting the applicant's or employee's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

§ 15b.15 Preemployment inquiries.

(a) Except as provided in paragraphs (b) and (c) of this section, a recipient may not conduct a preemployment medical examination or may not make preemployment inquiry of an applicant as to whether the applicant is a handicapped person or as to the nature or severity of a handicap. A recipient may, however, make preemployment inquiry into an applicant's ability to perform job-related functions.

(b) When a recipient is taking remedial action to correct the effects of past discrimination pursuant to § 15b.8(a), when a recipient is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity pursuant to § 15b.8(b), or when a recipient is taking affirmative action pursuant to section 503 of the Act, the recipient may invite applicants for employment to indicate whether and to what extent they are handicapped: *Provided,* That (1) the recipient states clearly on any written questionnaire used for this purpose or makes clear orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary affirmative action efforts; and (2) the recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential as provided in paragraph (d) of this section, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this part.

(c) Nothing in this section shall prohibit a recipient for conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty: *Provided,* That (1) all entering employees are subjected to such an examination regardless of handicap; and (2) the results of such an examination are used only in accordance with the requirements of this part.

(d) Information obtained in accordance with this section as to the medical condition or history of the applicant shall be collected and maintained on separate forms that shall be accorded the same confidentiality as medical records except that:

(1) Supervisors and managers may be informed regarding restrictions on the work or duties of handicapped persons and regarding necessary accommodations;

(2) First aid and safety personnel may be informed, where appropriate, if the

condition might require emergency treatment; and

(3) Governement officials investigating compliance with the Act shall be provided relevant information upon request.

Subpart C—Program Accessibility

§ 15b.16 Applicability.

This subpart applies to all programs and activities that receive or benefit from Federal financial assistance provided by the Department of Agriculture after the effective date of this part.

§ 15b.17 Discrimination prohibited.

No qualified handicapped person shall, because a recipient's facilities are inaccessible to or unusuable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity receiving assistance from this Department.

§ 15b.18 Existing facilities.

(a) *Program accessibility.* A recipient shall operate each assisted program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by qualified handicapped persons. This paragraph does not necessarily require a recipient to make each of its existing facilities or every part of an existing facility accessible to and usable by qualified handicapped persons.

(b) *Method.* A recipient may comply with the requirements of paragraph (a) of this section through such means as redesign of equipment, reassignment of classes or other services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of exiting facilities and construction of new facilities in conformance with the requirements of § 15b.19, or any other method that results in making its program or activity accessible to qualified handicapped persons. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (a) of this section. In choosing among available methods for meeting the requirement of paragraph (a) of this section, a recipient shall give priority to those methods that offer programs and activities to qualified handicapped persons in the most intergrated setting appropriate to obtain the full benefits of the program.

(c) *Small providers.* If a recipient with fewer than fifteen employees finds, after consultation with a handicapped person seeking its services, that there is no method of complying with paragraph (a) of this section other than by making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other providers of those services that are accessible at no additional cost to handicapped persons.

(d) *Application for modification of requirements.* Recipients that determine after a self-evaluation conducted according to the requirements of § 15b.8(c), that program accessibility can only be accomplished through substantial modifications which would result in a fundamental alteration in the nature of the program, may apply to the Secretary for a modification of the requirements of this section.

(e) *Historic preservation programs. Application for waiver of program accessibility requirements.* (1) In the case of historic preservation programs, program accessibility means that, when viewed in its entirety, a program is readily accessible to and usable by handicapped persons. This paragraph does not necessarily require a recipient to make each of its existing historic properties or every part of an historic property accessible to and usable by handicapped persons. Methods of achieving program accessibility include:

(i) Making physical alterations which enable handicapped persons to have access to otherwise inaccessible areas or features of historic properties;

(ii) Using audio-visual materials and devices to depict otherwise inaccessible areas or features of historic properties;

(iii) Assigning persons to guide handicapped persons into or through otherwise inaccessible portions of historic properties;

(iv) Adopting other innovative methods to achieve program accessibility. Because the primary benefit of an historic preservation program is the experience of the historic property itself, in taking steps to achieve program accessibility, recipients shall give priority to those means which make the historic property, or portions thereof physicially accessible to handicapped individuals.

(2) Where program accessibility cannot be achieved without causing a substantial impairment of significant historic features, the Secretary may grant a waiver of the program accessibility requirement. In determining whether program accessibility can be achieved without causing a substantial impairment, the Secretary shall consider the following factors:

(i) Scale of property, reflecting its ability to absorb alterations;

(ii) Use of the property, whether primarily for public or private purpose;

(iii) Importance of the historic features of the property to the conduct of the program; and,

(iv) Cost of alterations in comparison to the increase in accessibility.

The Secretary shall periodically review any waiver granted under this section and may withdraw it if technological advances or other changes so warrant.

(3) Where the property is federally owned or where Federal funds may be used for alterations, the comments of the Advisory Council on Historic Preservation shall be obtained when required by section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), and 36 CFR Part 800, prior to effectuation of structural alterations.

(f) *Time period.* A recipient shall comply with the requirements of paragraph (a) of this section within sixty days of the effective date of this part except that where structural changes in facilities are necessary, such changes shall be made within three years of the effective date of this part and as expeditiously as possible.

(g) *Transition plan.* In the event that structural changes to facilities are necessary to meet the requirement of paragraph (a) of this section, a recipient shall develop, within one year of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes. The plan shall be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum:

(1) Identify physical obstacles in the recipient's facilities that limit the accessibility of its program or activity to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve full program accessibility and if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(4) Identify the person responsible for implementation of the plan.

§ 15b.19 New construction.

(a) *Design and construction.* Each facility or part of a facility constructed by, on behalf of, or for the use of a

recipient shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by handicapped persons, if the construction is commenced after the effective date of this part.

(b) *Alteration.* Each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient after the effective date of this part in a manner that affects or could affect the usability of the facility or part of the facility shall to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by handicapped persons.

(c) *American National Standards Institute accessibility standards.* Design, construction, or alteration of facilities in conformance with the "American National Standard Specifications for "Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," published by the American National Standards Institute Inc. (ANSI A117.1–1980), 1430 Broadway, New York, N.Y. 10018, which is incorporated by reference into this part, shall constitute compliance with paragraphs (a) and (b) of this section. Departures from particular requirements of those standards by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided.

(d) *Compliance with the Architectural Barriers Act of 1968.* Nothing in this section of § 15b.18 relieves recipients, whose facilities are covered by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157) from their responsibility of complying with the requirements of that Act and any implementing regulations.

Subpart D—Preschool, Elementary, Secondary, Adult, and Extension Education

§ 15b.20 Applicability.

Except as otherwise noted, this subpart applies to public and private schools, elementary, secondary, adult, and extension education programs and activities that receive or benefit from Federal financial assistance provided by the Department of Agriculture after the effective date of this part and to recipients that operate, or that receive or benefit from Federal financial assistance for the operation of, such programs or activities.

§ 15b.21 Location and notification.

A recipient that operates a public elementary or secondary education program shall annually:

(a) Undertake to identify and locate every qualified handicapped person residing in the recipient's jurisdiction who is not receiving a public education; and

(b) Take appropriate steps to notify handicapped persons and their parents or guardians of the recipient's duty under this subpart.

§ 15b.22 Free appropriate public education.

(a) *General.* A recipient that operates a public elementary or secondary education program shall provide a free appropriate public education to each qualified handicapped person who is in the recipient's jurisdiction, regardless of the nature or severity of the person's handicap.

(b) *Appropriate education.* (1) For the purpose of this subpart, the provision of an appropriate education is the provision of regular or special education and related aids and services that (i) are designed to meet individual educational needs of handicapped persons as adequately as the needs of nonhandicapped persons are met and (ii) are based upon adherence to procedures that satisfy the requirements of §15b.23, §15b.24, and §15b.25.

(2) Implementation of an individualized education program developed in accordance with the Education of the Handicapped Act is one means of meeting the standard established in paragraph (b)(1)(i) of this section.

(3) A recipient may place a handicapped person in or refer such person to a program other than the one that it operates as its means of carrying out the requirements of this subpart. If so, the recipient remains responsible for ensuring that the requirements of this subpart are met with respect to any handicapped person so placed or referred.

(c) *Free education.* (1) *General.* For the purpose of this section, the provision of a free education is the provision of educational and related services without cost to handicapped persons or their parents or guardians, except for those fees that are imposed on nonhandicapped persons or their parents or guardians. It may consist either of the provision of free services or, if a recipient places a handicapped person in or refers such person to a program not operated by the recipient as its means of carrying out the requirements of this subpart, payment for the costs of the program. Funds available from any public or private agency may be used to meet the requirements of this subpart. Nothing in this section shall be construed to relieve an insurer or similar third party from an otherwise valid obligation to provide or pay for services provided to a handicapped person.

(2) *Transportation.* If a recipient places a handicapped person in or refers such person to a program not operated by the recipient as its means of carrying out the requirements of this subpart, the recipient shall ensure that adequate transportation to and from the program is provided at no greater cost than would be incurred by the person or his or her parents or guardian if the person were placed in the program operated by the recipient.

(3) *Residential placement.* If placement in a public or private residential program is necessary to provide a free appropriate public education to a handicapped person because of their handicap, the program, including nonmedical care and room and board, shall be provided at no cost to the person or his or her parents or guardian.

(4) *Placement of handicapped persons by parents.* If a recipient has made available in conformance with the requirements of this section and § 15b.23, a free appropriate public education to a handicapped person and the person's parents or guardian choose to place the person in a private school, the recipient is not required to pay for the person's education in the private school. Disagreements between a parent or guardian and a recipient regarding whether the recipient has made such a program available or otherwise regarding the question of financial responsibility are subject to the due process procedures of § 15b.25.

(d) *Compliance.* A recipient may not exclude any qualified handicapped person from a public elementary or secondary education after the effective date of this regulation. A recipient that is not, on the effective date of this regulation, in full compliance with the other requirements of the preceding paragraphs of this section shall meet such requirements at the earliest practicable time but in no event later than September 1, 1982.

§ 15b.23 Educational setting.

(a) *Academic setting.* A recipient to which this subpart applies shall educate, or shall provide for the education of each qualified handicapped person in its jurisdiction with persons who are not handicapped to the maximum extent appropriate to the needs of the

handicapped person. A recipient shall place a handicapped person in the regular educational environment operated by the recipient unless it is demonstrated by the recipient that the education of the person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. Whenever a recipient places a person in a setting other than the regular educational environment pursuant to this paragraph, it shall take into account the proximity of the alternate setting to the person's home.

(b) *Nonacademic setting.* In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in § 15b.26(a)(2), a recipient shall ensure that handicapped persons participate with nonhandicapped persons in such activities and services to the maximum extent appropriate to the needs of the handicapped person in question.

(c) *Comparable facilities.* If a recipient, in compliance with paragraph (a) of this section, operates a facility that is identifiable as being for handicapped persons, the recipient shall ensure that the facility and the services and activities provided therein are comparable to the other facilities, services, and activities of the recipient.

§ 15b.24 Evaluation and placement.

(a) *Placement evaluation.* A recipient that operates a public elementary or secondary education program shall conduct an evaluation in accordance with the requirements of paragraph (b) of this section of any person who, because of handicap, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the person in a regular or special education program and any subsequent significant change in placement.

(b) *Evaluation procedures.* A recipient to which this section applies shall establish standards and procedures for the evaluation and placement of persons who, because of handicap, need or are believed to need special education or related services which ensure that:

(1) Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer;

(2) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and

(3) Tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual or speaking skills (except where those skills are the factors that the test purports to measure).

(c) *Placement procedures.* In interpreting evaluation data and in making placement decisions, a recipient shall (1) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical conditions, social or cultural background, and adaptive behavior, (2) establish procedures to ensure that information obtained from all such sources is documented and carefully considered, (3) ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options, and (4) ensure that the placement decision is made in conformity with § 15b.23.

(d) *Reevaluation.* A recipient to which this section applies shall establish procedures, in accordance with paragraph (b) of this section, for periodic reevaluation of students who have been provided special education and related services. A reevaluation procedure consistent with the Education for the Handicapped Act is one means of meeting this requirement.

§ 15b.25 Procedural safeguards.

A recipient that operates a public elementary or secondary education program shall establish and implement, with respect to action regarding the identification, evaluation, or educational placement of persons who, because of handicap, need or are believed to need special instruction or related services, a system of procedural safeguards that includes notice, an opportunity for the parents or guardian of the person to examine relevant records, an impartial hearing with opportunity for participation by the person's parents or guardian and representation by counsel, and a review procedure. Compliance with the procedural safeguards of section 615 of the Education of the Handicapped Act is one means of meeting this requirement.

§ 15b.26 Nonacademic services.

(a) *General.* (1) Recipients to which this subpart applies shall provide nonacademic and extracurricular services and activities in such a manner as is necessary to afford handicapped students an equal opportunity for participation in such services and activities.

(2) Nonacademic and extracurricular services and activities may include counseling services, physical education and athletics, food services, transportation, health services, recreational activities, special interest groups or clubs sponsored by the recipient, referrals to agencies which provide assistance to handicapped persons, and assistance in obtaining outside employment.

(b) *Counseling services.* A recipient to which this subpart applies that provides personal, academic, or vocational counseling, guidance, or placement services to its students shall provide these services without discrimination on the basis of handicap. The recipient shall ensure that qualified handicapped students are not counseled toward more restrictive career objectives than are nonhandicapped students with similar interests and abilities.

(c) *Physical education and athletics.* (1) In providing physical education courses and athletics and similar programs and activities to any of its students, a recipient to which this subpart applies may not discriminate on the basis of handicap. A recipient that offers physical education courses or that operates or sponsors interscholastic, club, or intramural athletics shall provide to qualified handicapped students an equal opportunity for participation in these activities.

(2) A recipient may offer handicapped students physical education and athletic activities that are separate or different from those offered to nonhandicapped students only if separation or differentiation is consistent with requirements of § 15b.23, and only if no qualified handicapped student is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

(d) *Food services.* In providing food services to any of its students, a recipient to which this subpart applies may not discriminate on the basis of handicap.

(1) Recipients shall serve special meals, at no extra charge, to students whose handicap restricts their diet. Recipients may require students to provide medical certification that special meals are needed because of their handicap.

(2) Where existing food service facilities are not completely accessible and usable, recipients may provide aides or use other equally effective methods to serve food to handicapped persons. Recipients shall provide all food services in the most intergrated setting appropriate to the needs of handicapped persons as required by § 15b.23(b).

§ 15b.27 Extension education.

(a) *General.* A recipient to which this subpart applies that operates an extension education program or activity receiving assistance from this Department may not, on the basis of handicap, exclude qualified handicapped persons from the program or activity. A recipient shall take into account the needs of such persons in determining the benefits or services to be provided under the program or activity.

(b) *Program delivery sites.* (1) Where existing extension office facilities are inaccessible, recipients may make program services normally provided at those sites available to qualified handicapped persons through other methods which are equally effective. These methods may include meetings in accessible locations, home visits, written or telephonic communications, and other equally effective alternatives.

(2) For program services delivered at other publicly-owned facilities, recipients shall select accessible facilities wherever possible. If accessible facilities cannot be selected because they are unavailable or infeasible due to the nature of the activity, recipients shall use other methods to deliver program benefits to qualified handicapped persons. These methods may include the redesign of activities or some sessions of activities, the provision of aides, home visits, or other equally effective alternatives.

(3) For program services delivered at privately-owned facilities, such as homes and farm buildings, recipients shall use accessible facilities whenever qualified handicapped persons requiring such accessibility are participating, have expressed an interest in participating, or are likely to participate. If accessible facilities cannot be selected because they are unavailable or infeasible due to the nature of the activity, recipients shall use other methods to deliver program benefits to qualified handicapped persons. These methods may include the redesign of activities or some sessions of activities, the provision of aides, home visits, or other equally effective alternatives.

(4) Recipients shall make camping activities accessible to qualified handicapped persons. Recipients are not required to make every existing camp, all existing camp facilities, or all camp sessions accessible, but recipients who operate more than one camp or session may not limit qualified handicapped persons to one camp or session.

(c) *Program materials.* Recipients shall make program materials accessible to qualified handicapped persons with sensory or mental impairments. Commonly-used materials shall be readily available in alternate forms such as Braille or tape. Upon request, recipients shall make other materials available through appropriate means such as Braille, tape, readers, large print formats, simplified versions, written scripts, or interpreters. Recipients need not provide individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature.

§ 15b.28 Private education programs.

(a) A recipient that operates a private elementary or secondary education program receiving assistance from this Department may not, on the basis of handicap, exclude a qualified handicapped person from such program if the person can, with minor adjustments, be provided an appropriate education, as defined by § 15b.22(b)(1)(i). Each recipient to which this section applies is also subject to the provisions of § 15b.23 and § 15b.26.

(b) A recipient to which this section applies may not charge more for the provision of an appropriate education to handicapped persons than to nonhandicapped persons except to the extent that any additional charge is justified by a substantial increase in cost to the recipient.

Subpart E—Postsecondary Education

§ 15b.29 Applicability.

Subpart E applies to public and private postsecondary education programs and activities, including postsecondary vocational education programs and activities, that receive or benefit from Federal financial assistance provided by the Department of Agriculture after the effective date of this part.

§ 15b.30 Admissions and recruitment.

(a) *General.* Qualified handicapped persons may not, on the basis of handicap, be denied admission or be subjected to discrimination in admission or recruitment by a recipient to which this subpart applies.

(b) *Admissions.* In administering its admission policies, a recipient to which this subpart applies:

(1) May not apply limitations upon the number or proportion of handicapped persons who may be admitted;

(2) May not make use of any test or criterion for admission that has a disproportionate, adverse effect on handicapped persons or any class of handicapped persons unless (i) the test or criterion, as used by the recipient, has been validated as a predictor of success in the education program or activity in question and (ii) alternate tests or criteria that have a less disproportionate, adverse effect are not shown by the Secretary to be available.

(3) Shall assure itself that (i) admissions tests are selected and administered so as best to ensure that, when a test is administered to an applicant who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the applicant's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure); (ii) admissions tests that are designed for persons with impaired sensory, manual, or speaking skills are offered as often and in as timely a manner as are other admissions tests; and (iii) admissions tests are administered in facilities that, on the whole, are accessible to handicapped persons; and

(4) Except as provided in paragraph (c) of this section, may not make preadmission inquiry as to whether an applicant for admission is a handicapped person but, after admission, may take inquiries on a confidential basis as to handicaps that may require accommodation.

(c) *Preadmission inquiry exception.* When a recipient is taking remedial action to correct the effects of past discrimination pursuant to § 15b.8(a) or when a recipient is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity pursuant to § 15b.8(b), the recipient may invite applicants for admissions to indicate whether and to what extent they are handicapped: *Provided,* That (1) the recipient states clearly on any written questionnaire used for this purpose or makes clear orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary action efforts; and (2) the recipient states clearly that the

information is being requested on a voluntary basis, that it will be kept confidential, that refusal to provide it will not subject the applicant to any adverse treatment, and that it will be used only in accordance with this part.

(d) *Validity studies.* For the purpose of paragraph (b)(2) of this section, a recipient may base prediction equations on first year grades, but shall conduct periodic validity studies against the criterion of overall success in the education program or activity in question in order to monitor the general validity of the test scores.

§ 15b.31 Treatment of students.

(a) *General.* No qualified handicapped student shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any academic, research, occupational training, housing, health, insurance, counseling, financial aid, physical education, athletics, recreation, transportation, other extracurricular, other postsecondary education program or activity to which this subpart applies.

(b) A recipient to which this subpart applies that considers participation by students in education programs or activities not operated wholly by the recipient as part of, or equivalent to, an education program or activity operated by the recipient shall assure itself that the other education program or activity, as a whole, provides an equal opportunity for the participation of qualified handicapped persons.

(c) A recipient to which this subpart applies may not, on the basis of handicap, exclude any qualified handicapped student from any course, course of study, or other part of its education program or activity.

(d) A recipient to which this subpart applies shall operate its programs and activities in the most integrated setting appropriate.

§ 15b.32 Academic adjustments.

(a) *Academic requirements.* A recipient to which this subpart applies shall make such modifications to its academic requirements as are necessary to ensure that such requirements do not discriminate or have the effect of discriminating on the basis of handicap, against a qualified handicapped applicant or student. Academic requirements that the recipient can demonstrate are essential to the program or instruction being pursued by such student or to any directly related licensing requirement will not be regarded as discriminatory within the meaning of this section. Modifications may include changes in the length of time permitted for the completion of degree requirements, substitution of specific courses required for the completion of degree requirements, and adaptation of the manner in which specific courses are conducted.

(b) *Other rules.* A recipient to which this subpart applies may not impose upon handicapped students other rules, such as the prohibition of tape recorders in classrooms or of dog guides in campus buildings, that have the effect of limiting the participation of handicapped students in the recipient's education program or activity.

(c) *Course examinations.* In its course examinations or other procedures for evaluating students' academic achievement in its program, a recipient to which this subpart applies shall provide such methods for evaluating the achievement of students who have a handicap that impairs sensory, manual, or speaking skills as will best ensure that the results of the evaluation represent the students' achievements in the course, rather than reflecting the students' impaired sensory, manual, or speaking skills (except where such skills are the factors that the test purports to measure).

(d) *Auxiliary aids.* (1) A recipient to which this subpart applies shall take such steps as are necessary to ensure that no handicapped student is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination under the education program or activity operated by the recipient because of the absence of educational auxiliary aids for students with impaired sensory, manual, or speaking skills.

(2) Auxiliary aids may include taped texts, interpreters or other effective methods of making orally delivered materials available to students with hearing impairments, readers in libraries for students with visual impairments, classroom equipment adapted for use by students with manual impairments, and other similar services and actions. Recipients need not provide attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature.

§ 15b.33 Housing.

(a) *Housing provided by the recipient.* A recipient that provides housing to its nonhandicapped students shall provide comparable, convenient, and accessible housing to handicapped students at the same cost as to others. At the end of the transition period provided for in Subpart C, such housing shall be available in sufficient quantity and variety so that the scope of handicapped students' choice of living accommodations is, as a whole, comparable to that of nonhandicapped students.

(b) *Other housing.* A recipient that assists any agency, organization, or person in making housing available to any of its students shall take such action as may be necessary to assure itself that such housing is, as a whole, made available in a manner that does not result in discrimination on the basis of handicap.

§ 15b.34 Financial and employment assistance to students.

(a) *Provision of financial assistance.* (1) In providing financial assistance to qualified handicapped persons, a recipient to which this subpart applies may not (i), on the basis of handicap, provide less assistance than is provided to nonhandicapped persons, limit eligibility for assistance, or otherwise discriminate or (ii) assist any entity or person that provides assistance to any of the recipient's students in a manner that discriminates against qualified handicapped persons on the basis of handicap.

(2) A recipient may administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance established under wills, trusts, bequests, or similar legal instruments that require awards to be made on the basis of factors that discrimate or have the effect of discriminating on the basis of handicap only if the overall effect of the award of scholarships, fellowships, and other forms of financial assistance is not discriminatory on the basis of handicap.

(b) *Assistance in making available outside employment.* A recipient that assists any agency, organization, or person in providing employment opportunities to any of its students shall assure itself that such employment opportunities, as a whole, are made available in a manner that would not violate Subpart B if they were provided by the recipient.

(c) *Employment of students by recipients.* A recipient that employs any of its students may not do so in a manner that violates Subpart B.

§ 15b.35 Nonacademic services.

(a) *Physical education and athletics.* (1) In providing physical education courses and athletics and similar programs and activities to any of its students, a recipient to which this subpart applies may not discriminate on the basis of handicap. A recipient that offers physical education courses or that operates or sponsors intercollegiate, club, or intramural athletics shall provide to qualified handicapped

students an equal opportunity for participation in these activities.

(2) A recipient may offer to handicapped students physical education and athletic activities that are separate or different only if separation or differentiation is consistent with the requirements of § 15b.31(d) and only of no qualified handicapped student is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

(b) *Counseling and placement services.* A recipient to which this subpart applies that provides personal, academic, or vocational counseling, guidance, or placement services to its students shall provide these services without discrimination on the basis of handicap. The recipient shall ensure that qualified handicapped students are not counseled toward more restrictive career objectives than are nonhandcapped students with similar interests and abilities. This requirement does not preclude a recipient from providing factual information about licensing and certification requirements that may present obstacles to handicapped persons in their pursuit of particular careers.

(c) *Social organizations.* A recipient that provides significant assistance to fraternities, sororities, or similar organizations shall assure itself that the membership practices of such organizations do not permit discrimination otherwise prohibited by this subpart.

Subpart F—Other Programs and Activities

§ 15b.36 Applicability.

Subpart F applies to programs and activities, other than those covered by Subparts D and E, that receive or benefit from Federal financial assistance provided by the Department of Agriculture after the effective date of this part.

§ 15b.37 Auxiliary aids.

(a) A recipient to which this subpart applies that employs fifteen or more persons shall provide appropriate auxiliary aids to persons with impaired sensory, manual, or speaking skills, where necessary to afford such persons an equal opportuntiy to benefit from the service in question.

(b) The Secretary may require recipients with fewer than fifteen employees to provide auxiliary aids where the provision of aids would not significantly impair the ability of the recipient to provide its benefits or services.

(c) For the purpose of this section, auxiliary aids may include Brailled and taped material, interpreters, and other aids for persons with impaired hearing or vision.

§ 15b.38 Health care facilities.

(a) *Communications.* A recipient that provides notice concerning benefits or services or written material concerning waivers of rights or consent to treatment shall take such steps as are necessary to ensure that qualified handicapped persons, including those with impaired sensory or speaking skills, are not denied effective notice because of their handicap.

(b) *Emergency treatment for the hearing impaired.* A recipient hospital that provides health services or benefits shall establish a procedure for effective communication with persons with impaired hearing for the purpose of providing emergency health care.

(c) *Drug and alcohol addicts.* A recipient to which this subpart applies that operates a general hospital or outpatient facility may not discriminate in admission or treatment against a drug or alcohol abuser or alcoholic who is suffering from a medical condition, because of the person's drug or alcohol abuse or alcoholism.

§ 15b.39 Education of institutionalized persons.

A recipient to which this subpart applies that operates or supervises a program or activity for persons who are institutionalized because of handicap shall ensure that each qualified handicapped person, as defined in § 15b.3(n)(2), in its program, or activity is provided an appropriate education, as defined in § 15b.22(b). Nothing in this section shall be interpreted as altering in any way the obligations of recipients under Subpart D.

§ 15b.40 Food services.

(a) Recipients which operate food service programs assisted by this Department shall serve special meals, at no extra charge, to persons whose handicap restricts their diet. Recipients may require handicapped persons to provide medical certification that special meals are needed because of their handicap.

(b) Where existing food service facilities are not completely accessible and usable, recipients may provide aides or use other equally effective methods to serve food to handicapped persons. Recipients shall provide all food services in the most integrated setting appropriate to the needs of handicapped persons.

§ 15b.41 Multi-family rental housing.

(a) *General.* No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in a multi-family rental housing program.

(b) *New construction.* (1) Recipients receiving assistance from the Department for multi-family rental housing projects constructed after the effective date of this part shall construct at least five percent of the units in the project or one unit, whichever is greater, to be accessible to or adaptable for physically handicapped persons. The requirement that five percent of the units in the project or at least one unit, whichever is greater, be accessible or adaptable may be modified if a recipient shows, through a market survey approved by the Department, that a different percentage of accessible or adaptable units is appropriate for a particular project and its service area.

(i) The variety of units accessible to or adaptable for physically handicapped persons shall be comparable to the variety of units available in the project as a whole.

(ii) No extra charge may be made for use of accessible or adaptable units.

(iii) A recipient that operates multi-family rental housing projects on more than one site may not locate all accessible or adaptable units at one site unless only one accessible or adaptable unit is required.

(2) Standards for accessibility are contained in Subpart C and in appropriate program regulations.

(c) *Existing facilities.* Recipients receiving assistance from the Department for multi-family rental housing projects constructed prior to the effective date of this part shall assure that their facilities comply with the program accessibility requirements established in Section 15b.18 if a qualified handicapped person applies for admission. Necessary physical alterations made pursuant to such requirements shall be completed within a reasonable amount of time after the unit becomes available for occupancy by the qualified handicapped person. Subject to the availability of funds and fulfillment by the recipient of all program eligibility requirements, the Department may assist recipients to comply with program accessibility requirements through methods such as (1) consideration of subsequent loan applications for purposes of making

existing facilities accessible or for the construction of additional units which are accessbile and (2) consideration of approval to commit project reserve account funds for minor modifications in order to make existing facilities accessible.

Subpart G—Procedures

§ 15b.42 Procedures.

The procedural provisions applicable to Title VI of the Civil Rights Act of 1964 apply to this part. These procedures are found in 7 CFR 15.5–15.11 and 15.60–15.143.

Appendix A—List of USDA-Assisted Programs

Programs administered by the U.S. Department of Agriculture in which Federal financial assistance is rendered, include but are not limited to the following:

Program	Authority
Administered by the Agricultural Cooperative Service	
1. Technical assistance for agricultural cooperatives	Cooperative Marketing Act of 1926, 7 U.S.C., Secs. 451–457.
Administered by the Agricultural Marketing Service	
2. Federal-State marketing improvement program	Sec. 204(b) of the Agricultural Marketing Act of 1946, 7 U.S.C. 1623(b).
3. Market news service	Sec. 203(g) of the Agricultural Marketing Act of 1946, 7 U.S.C. 1622(g); the Cotton Statistics and Estimates Act, as amended, 7 U.S.C. 471–476; the Tobacco Statistics Act, as amended, 7 U.S.C. 501–508; the Tobacco Inspection Act, 7 U.S.C. 511–511(q); the Naval Stores Act, 7 U.S.C. 91–99; the Turpentine and Rosin Statistics Act, 7 U.S.C. 2248; the United States Cotton Futures Act, 7 U.S.C. 15b; and the Peanut Statistics Act as amended, 7 U.S.C. 951–957.
Administered by the Agricultural Research Service	
4. Agriculture research grants	Secs. 1 and 10 of the Act of June 29, 1935, as amended, 7 U.S.C. 427 and 427i; and 202–208 of the Agricultural Marketing Act of 1946, as amended, 7 U.S.C. 1621–1627.
Administered by the Agricultural Stabilization Conservation Service	
5. Price support programs operating through producer associations, cooperatives, and other recipients in which the recipient is required to furnish specified benefits to producers (e.g., tobacco, peanuts, sugar, cotton, rice, honey and soybeans price support programs).	Agricultural Act of 1949, as amended; 7 U.S.C. 1421–1447.
6. Disaster feed donation programs	Section 407 of the Agricultural Act of 1949, as amended, 7 U.S.C. 1427.
Administered by the Cooperative State Research Service	
7. Payments under the Hatch Act	Hatch Act of 1887, as amended, 7 U.S.C. 361a–361i.
8. McIntire-Stennis cooperative forestry research	Act of October 10, 1962, as amended, 16 U.S.C. 582a–582a–7.
9. Payments to 1890 colleges and Tuskegee Institute for research	Sec. 1445 of the Food and Agriculture Act of 1977, as amended, 7 U.S.C. 3222.
10. Native latex research	Native Latex Commercialization and Economic Development Act of 1978, 7 U.S.C. 178 *et seq.*
11. Alcohol Fuels research	Sec. 1419 of the Food and Agriculture Act of 1977, as amended, 7 U.S.C. 3154.
12. Animal Health Research	Sec. 1433 of the Food and Agriculture Act of 1977, as amended, 7 U.S.C. 3195.
13. Competitive research grants	Sec. 2(b) of the Act of August 4, 1965, as amended, 7 U.S.C. 450i(b).
14. Experiment station research facilities	Act of July 22, 1963, as amended, 7 U.S.C. 390–390j.
15. Special research grants	Sec. 2(c) of the Act of August 4, 1965, as amended, 7 U.S.C. 450i(c).
16. Rural development research	Title V of the Rural Development Act of 1972, as amended, 7 U.S.C. 2661 *et. seq.*
Administered by Extension Service	
17. Cooperative extension work	Smith-Lever Act, as amended, 7 U.S.C. 341–349; District of Columbia Public Postsecondary Education Reorganization Act, D.C. Code Secs. 31–1719; Rural Development Act of 1972, as amended, 7 U.S.C. 2661 *et. seq.*; Sec. 1444 of the Food and Agriculture Act of 1977, 7 U.S.C. 3221.
Administered by Farmers Home Administration	
18. Farm ownership loans to install or improve recreational facilities or other nonfarm enterprises.	Sec. 303 of the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1923.
19. Operating loans to install or improve recreational facilities or other nonfarm enterprises.	Sec. 312 of the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1942.
20. Soil and water conservation, (including pollution abatement facilities), and recreational facilities.	Sec. 304 of the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924.
21. Financial and other assistance to landowners, operators, or occupiers to carry out land uses and conservation.	Sec. 203 of the Appalachian Regional Development Act of 1965, as amended, 40 U.S.C. App. 203.
22. Rural renewal, resource, conservation development, land conservation and utilization.	Secs. 31–35 of the Bankhead-Jones Farm Tenant Act, as amended, 7 U.S.C. 1010–1035.
23. Watershed protection and flood prevention program	Watershed Protection and Flood Prevention Act, as amended, 16 U.S.C. 1001–1008.
24. Resource conservation and development loans	Sec. 32(e) of the Bankhead-Jones Farm Tenant Act, as amended, 7 U.S.C. 1011(e).
25. Farm labor housing loans	Sec. 514 of the Housing Act of 1949, 42 U.S.C. 1484.
26. Farm labor housing grants	Sec. 516 of the Housing Act of 1949, as amended, 42 U.S.C. 1486.
27. Rural rental housing for the elderly and families of low and moderate income persons.	Sec. 515 of the Housing Act of 1949, as amended, 42 U.S.C. 1485.
28. Rural cooperative housing	Sec. 515 of the Housing Act of 1949, as amended, 42 U.S.C. 1485.
29. Rural housing site loans	Sec. 524 of the Housing Act of 1949, as amended, 42 U.S.C. 1490d.
30. Technical and supervisory assistance grants	Sec. 525 of the Housing Act of 1949, as amended, 42 U.S.C. 1490e.
31. Technical assistance grants	Sec. 523 of the Housing Act of 1949, as amended, 42 U.S.C. 1490c.
32. Rural housing self-help site loans	Sec. 523 of the Housing Act of 1949, as amended, 42 U.S.C. 1490c.
33. Mutual self-help housing	Sec. 523 of the Housing Act of 1949, as amended, 42 U.S.C. 1490c.
34. Water and waste facility loans and grants and community facility loans and grants.	Sec. 306 of the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1926.
35. Rural and industrial loan program	Sec. 310(a) of the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1932(a).
36. Private business enterprise grants	Sec. 310(c) of the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1932(c).
37. Area development assistance planning grant program	Sec. 306(a)(11) of the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1926(a)(11).
38. Energy impacted area development assistance program	Sec. 601 of the Power Plant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8401.

Program	Authority
Administered by the Federal Grain Inspection Service	
39. Inspection administration and supervision	U.S. Grain Standards Act, as amended, 7 U.S.C. 71–87; and, Sec. 203(h) of the Agricultural Marketing Act of 1946, 7 U.S.C. 1621–1630.
Administered by the Food and Nutrition Service	
40. Food stamp program	Food Stamp Act of 1964, as amended, 7 U.S.C. 2011–2027.
41. Special supplemental food program for women, infants, and children (WIC).	Sec. 17 of the Child Nutrition Act of 1966, as amended, 42 U.S.C. 1786.
42. Commodity supplemental food program	Sec. 32 of the Act of August 24, 1935, as amended, 7 U.S.C. 612c; Sec. 416 of the Agricultural Act of 1949, as amended, 7 U.S.C. 1431.
43. Food distribution program	Sec. 416 of the Agricultural Act of 1949, as amended, 7 U.S.C. 1431; Sec. 32 of the Act of August 24, 1935, as amended, 7 U.S.C. 612c; Secs. 6, 13 and 17 of the National School Lunch Act, as amended, 42 U.S.C. 1755, 1761, 1766; Sec. 8 of the Child Nutrition Act of 1966, 42 U.S.C. 1777; Sec. 709 of the Food and Agriculture Act of 1965, as amended, 7 U.S.C. 1446a–1.
44. National school lunch program	National School Lunch Act, as amended, 42 U.S.C. 1751–1769a.
45. School breakfast program	Sec. 4 of the Child Nutrition Act of 1966, as amended, 42 U.S.C. 1773.
46. Special milk program	Sec. 3 of the Child Nutrition Act of 1966, as amended, 42 U.S.C. 1772.
47. Food service equipment assistance	Sec. 5 of the Child Nutrition Act of 1966, as amended, 42 U.S.C. 1774; Sec. 5 of the National School Lunch Act, as amended, 42 U.S.C. 1754.
48. Summer food service program	Sec. 13 of the National School Lunch Act, as amended, 42 U.S.C. 1761.
49. Child care food program	Sec. 17 of the National School Lunch Act, as amended, 42 U.S.C. 1766.
50. Nutrition education and training program	Secs. 18 and 19 of the Child Nutrition Act of 1966, 42 U.S.C. 1787, 1788.
Administered by the Food Safety and Inspection Service	
51. Payments to States for the inspection of egg handlers to insure that they are properly disposing of restricted eggs.	Egg Products Inspection Act, 21 U.S.C. 1031–1056.
52. Financial and technical assistance to States for meat inspection activities.	Federal Meat Inspection Act, as amended, 21 U.S.C. 601–695.
53. Financial and technical assistance to States for poultry inspection activities.	Poultry Products Inspection Act, as amended, 21 U.S.C. 451–470.
54. Financial and technical assistance to States for meat and poultry inspection activities.	Talmadge-Aiken Act, 7 U.S.C. 450.
Administered by the Forest Service	
56. Permits for use of National Forests and National Grasslands by other than individuals at a nominal or no charge.	Act of June 4, 1897, as amended, 16 U.S.C. 551; Sec. 501 of the Federal Land Policy Management Act of 1976, 43 U.S.C. 1761; Term Permit Act of March 4, 1915; as amended, 16 U.S.C. 497; Secs. 3 and 4 of the American Antiquities Act of June 8, 1906, 16 U.S.C. 432; Sec. 32 of the Bankhead-Jones Farm Tenant Act, as amended, 7 U.S.C. 1011.
58. Permit for land use of Government-owned improvements by other than individuals at a nominal charge.	Sec. 7 of the Granger-Thye Act of April 24, 1950, 16 U.S.C. 580d.
57. Permits for disposal of common varieties of mineral materials from lands under the Forest Service jurisdiction for use by other than individuals at a nominal or no charge.	Secs. 1–4 of the Act of July 31, 1947, as amended, 30 U.S.C. 601–603, 611.
58. Easements for use of National Forests and Grasslands by other than individuals at a nominal or no charge.	Sec. 32 of the Bankhead-Jones Farm Tenant Act, as amended, 7 U.S.C. 1011; Sec. 501 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1761.
59. Easements for road rights-of-way over lands administered by the Forest Service.	Sec. 2 of the Act of October 13, 1964, 16 U.S.C. 533.
60. Road rights-of-way	Federal Highway Act of 1956, 23 U.S.C. 107, 317.
61. Rights-of-ways for wagon roads or railroads	Sec. 501 of the Act of March 3, 1899, 16 U.S.C. 525.
62. Timber granted free or at nominal cost to any group	Sec. 1 of the Act of June 4, 1897, as amended, 16 U.S.C. 551; Sec. 32 of the Bankhead-Jones Farm Tenant Act, as amended, 7 U.S.C. 1011.
63. Transfer for fire-lookout towers, improvements and land to States political subdivisions.	Sec. 5 of the Act of June 20, 1958, 16 U.S.C. 565b.
64. Payment of 25 percent of National Forest receipts to States for schools and roads.	Act of May 23, 1908, as amended, 16 U.S.C. 500.
65. Payment to Minnesota from National Forest receipts of a sum based on a formula.	Sec. 5 of the Act of June 22, 1948, as amended, 16 U.S.C. 577g, 577g–1.
66. Payment of 25 percent of net revenues from Title III, Bankhead-Jones Farm Tenant Act lands to counties for schools and road purposes.	Sec. 33 of the Bankhead-Jones Farm Tenant Act, as amended, 7 U.S.C. 1012.
67. Cooperative action to protect, develop, manage, and utilize forest resources on State and private lands.	Cooperative Forestry Assistance Act of 1978, 16 U.S.C. 2101–2111.
68. Advance of funds for cooperative research	Sec. 20 of the Granger-Thye Act of April 24, 1950, 16 U.S.C. 581i–1.
69. Grants for support of scientific research	Act of September 6, 1958, 42 U.S.C. 1891–1893.
70. Research cooperation	Forest and Rangeland Renewable Resources Research Planning Act of 1974, as amended, 16 U.S.C. 1600–1614.
71. Youth conservation corps State grant program	Act of August 13, 1970, as amended, 16 U.S.C. 1701–1706.
72. Young adult conservation corps State grant program	Secs. 801–809 of the Comprehensive Employment and Training Act, as amended, 29 U.S.C. 991–999.
73. Grants to Maine, Vermont, and New Hampshire for the purpose of assisting economically disadvantaged citizens over 55 years of age.	Older Americans Act of 1965, as amended, 42 U.S.C. 3001–3057g.
74. Senior community service employment program (SCSEP)	Sec. 902(b)(2) of Title IX of the Older Americans Amendments of 1975, 42 U.S.C.
Administered by the Rural Electrification Administration	
75. Rural electrification and rural telephone programs	Rural Electrification Act of 1963, as amended, 7 U.S.C. 901–950b.
76. CATV, community facilities program	Secs. 306 and 310B of the Consolidated Farm and Rural Development Act of 1979, 7 U.S.C. 1926, 1932.
Administered by Science and Education Program Staff	
77. Higher education	Sec. 22 of the Act of June 29, 1935, as amended, 7 U.S.C. 329; Sec. 1417 of the Food and Agriculture Act of 1977, 7 U.S.C. 3152.
Administered by the Soil Conservation Service	
78. Soil and water conservation	Secs. 1–6 and 17 of the Soil Conservation and Domestic Allotment Act, as amended, 16 U.S.C. 590a–590f, 590q.
79. Plant materials for conservation	Secs. 1–6 and 17 of the Soil Conservation and Domestic Allotment Act, as amended, 16 U.S.C. 590a–590f, 590q.
80. Resource, conservation and development	Secs. 31 and 32 of the Bankhead-Jones Farm Tenant Act, as amended, 7 U.S.C. 1010, 1111; Secs. 1–6 and 17 of the Soil Conservation and Domestic Allotment Act, as amended, 16 U.S.C. 590a–590f, 590q.
81. Watershed protection and flood prevention	Watershed Protection and Flood Prevention Act, as amended, 16 U.S.C. 1001–1008.
82. Great plains conservation	Secs. 1–6 and 17 of the Soil Conservation and Domestic Allotment Act, as amended, 16 U.S.C. 590a–590f, 590q.

Program	Authority
83. Soil survey	Secs. 1–6 and 17 of the Soil Conservation and Domestic Allotment Act, as amended, 16 U.S.C. 590a–590f, 590q.
84. River basin surveys and investigations	Sec. 6 of the Watershed Protection and Flood Prevention Act, 16 U.S.C. 1006.
85. Snow survey and water supply forecasting	Secs. 1–6 and 17 of the Soil Conservation and Domestic Allotment Act, as amended, 16 U.S.C. 590a–590f, 590q.
86. Land inventory and monitoring	Secs. 1–6 and 17 of the Soil Conservation and Domestic Allotment Act, as amended, 16 U.S.C. 590a–590f, 590q; Sec. 302 of the Rural Development Act of 1972, 7 U.S.C. 1010a.
87. Resource appraisal and program development	Soil and Water Resources Conservation Act of 1977, 16 U.S.C. 2001–2009.
88. Rural clean water program	Clean Water Act, 33 U.S.C. 1251–1376.
89. Rural abandoned mine program	Secs. 406–413 of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1236–1243.
90. Emergency watershed protection	Sec. 7 of the Act of June 28, 1938, as amended, 33 U.S.C. 701b–1; Sec. 403, Agriculture Credit Act of 1978, 16 U.S.C. 2203.
91. Eleven authorized watershed projects	Sec. 13 of the Act of December 22, 1944, 58 Stat. 905.
Administered by the Office of Transportation	
92. Transportation services	Sec. 201 of the Agricultural Adjustment Act of 1938, 7 U.S.C. 1291; Sec. 203(j) of the Agricultural Marketing Act of 1946, as amended, 7 U.S.C. 1622(l); Sec. 104 of the Agricultural Trade Development and Assistance Act of 1954, as amended, 7 U.S.C. 1704.

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federal register

Friday
June 11, 1982

Part IV

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Permanent Regulatory Program; General Requirements for Alluvial Valley Floors

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701, 785, and 822

Permanent Regulatory Program; General Requirements for Alluvial Valley Floors

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) proposes to revise rules governing surface coal mining operations on or near alluvial valley floors (AVF's). The proposed rules would amend the permit requirements and performance standards associated with AVF's. Most of the changes are needed to eliminate counter productive or burdensome rules. The proposal would provide State regulatory authorities with flexibility as to the amount of information that has to accompany permit applications for mining on or near AVF's. It would allow applicants to request expedited determinations of whether statutory exclusions apply. In addition, it would conform the rules to a district court decision which caused OSM to suspend a number of provisions dealing with AVF's.

DATES: *Written comments:* Accepted until further notice.

Public hearings: Held on request only, on July 28, 1982, at 9 a.m. (local).

Public meetings: Scheduled on request only.

ADDRESSES: *Written comments: Hand-deliver* to the Office of Surface Mining, U.S. Department to the Interior, Administrative Record (TSR 14.09), Room 5315, 1100 L Street, N.W., Washington, D.C.; or *mail* to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (TSR 14.09), Room 5315L, 1951 Constitution Avenue, NW., Washington, DC 20240.

Public hearings: Washington, D.C.—Department of the Interior Auditorium, 18th and C Streets, NW.; Pittsburgh, Pa.—William S. Moorehead Federal Building, Room 2212, 1000 Liberty Ave.; and Denver, Colo.—Brooks Tower, 2d Floor Conference Room, 1020 15th Street.

Public meetings: OSM offices in Washington, D.C.; Charleston, W. Va.; Knoxville, Tenn.; Indianapolis, Ind.; Pittsburgh, Pa.; and Denver, Colo.

FOR FURTHER INFORMATION CONTACT: *Public hearings and information:* Dr. Mark Boster, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; 202–343–2156.

Public meetings: Jose del Rio, 202–343–4022.

SUPPLEMENTARY INFORMATION:

I. Public Commenting Procedures
II. Background
III. Discussion of Proposed Rules
IV. Procedural Matters

I. Public Commenting Procedures

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Commenters are requested to submit five copies of their comments (see "Addresses"). Comments received at locations other than Washington, D.C., will not necessarily be considered or be included in the Administrative Record for the final rulemaking. The comment period will remain open until the close of the comment period on the draft environmental impact statement that will consider this proposed rule.

Public Hearings

Persons wishing to comment at the public hearings should contact the person listed under "For Further Information Contact" by the close of business *three working days* before the date of the hearing. If no one requests to comment at a public hearing at a particular location by that date, the hearing will not be held. If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record. Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions.

Public hearings will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment, and persons present in the audience who wish to comment, have been heard.

Public Meetings

Persons wishing to meet with OSM representatives to discuss these proposed rules may request a meeting at any of the OSM offices listed in "Addresses" by contacting the person listed under "For Further Information Contact."

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record room (1100 L St.). A written summary of each public meeting will be made a part of the Administrative Record.

II. Background

The Act

The Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* (the Act), provides specific protection for AVF's in addition to the general environmental protection performance standards applicable to AVF's. Section 701(1) of the Act defines alluvial valley floors as "unconsolidated stream laid deposits holding streams where water availability is sufficient for subirrigation (natural) or flood irrigation (artificial)," excluding upland areas.

Section 510(b)(5) of the Act requires surface coal mining operation permit applications to demonstrate affirmatively and the regulatory authority to find in writing that a number of requirements unique to AVF's will be satisfied. That section applies only to proposed surface coal mining operations located west of the 100th meridian west longitude. Section 510(b)(5)(A) requires a permit application to demonstrate that the surface coal mining operation would "not interrupt, discontinue, or preclude farming on alluvial valley floors that are irrigated or naturally subirrigated * * *" Two exceptions from this requirement are provided in section 510(b)(5)(A). The first is for undeveloped rangeland which is not significant to farming. The second allows mining when the regulatory authority finds that mining activities will interrupt "such small acreage as to be of negligible impact on the farm's agricultural production."

In addition, section 510(b)(5)(B) of the Act requires a demonstration that the mining would not materially damage the quantity or quality of water in surface or underground water sytems that supply the AVF's referred to in section 510(b)(5)(A) of the Act on which farming cannot be interrupted, discontinued, or precluded.

A proviso in section 510(b)(5) of the Act exempts from the requirements of section 510(b)(5) those surface coal-mining operations which in the year preceding the enactment of the Act (August 3, 1977) produced coal in commercial quantities and were located within or adjacent to AVF's or had specific permit approval from the State

regulatory authority to conduct surface coal mining operations on AVF's.

A further proviso, in section 506(d)(2) of the Act, excludes from the requirements of section 510(b)(5) of the act any land that is the subject of an application for renewal or revision of a permit issued under the Act which is an extension of the original permit, insofar as (1) the land was previously identified in a reclamation plan submitted under section 508 of the Act, and (2) the original permit area was excluded from the requirements of section 510(b)(5) of the Act under the proviso of section 510(b)(5) for operations which produced coal in the year preceding enactment of the Act.

Regardless of whether the standards of section 510(b)(5) of the Act for protection of AVF's apply, the hydrologic protections of sections 510(b)(3) and 515(b)(10)(F) of the Act apply. Section 515(b)(10)(F) requires mining operations to minimize disturbances to the prevailing hydrologic balance at the minesite and in associated offsite areas and to the quality and quantity of water in surface and ground water systems both during and after surface coal mining operations and during reclamation by preserving throughout the mining and reclamation process the essential hydrologic functions of AVF's in the arid and semiarid areas of the country.

Regulatory Implementation of AVF Requirements

The Act's AVF requirements have been implemented in three principal places in 30 CFR. The major terms pertaining to AVF's are defined in 30 CFR 701.5. Specific permit application requirements for AVF's are set forth in 30 CFR 785.19. Finally, additional specific performance standards for AVF's are set forth in 30 CFR Part 822.

A discussion of particular features of the existing rules is included below in "III. Discussion of Proposed Rules."

Legal Challenge to AVF Rules

Several provisions of the rules of AVF's were the subject of judicial review in *In re: Permanent Surface Mining Regulation Litigation*, Civil Action No. 79–1144 (D.D.C., February 26, 1980) at pp. 45–53. Although a number of OSM's AVF rules were upheld, Judge Flannery invalidated §§ 785.19(d)(2)(iii) and (iv), (e)(1)(ii), and (e)(2). The court's actions are explained in the next paragraph and in the "Discussion of Proposed Rules." OSM complied with the district court decision in a **Federal Register** notice published on August 4, 1980, (45 FR 51549) which suspended the invalidated portions of § 785.19.

OSM had interpreted the requirement of section 510(b)(5)(B) of the Act that surface coal mining operations not materially damage the quantity or quality of water system supplying AVF's to apply to water systems supplying any AVF regardless of whether the exclusions of section 510(b)(5)(A) apply. The district court held that this requirement does not apply to mining operations affecting AVF's that are exempt from the requirements of section 510(b)(5)(A), *i.e.*, undeveloped rangelands which are not significant to farming and small acreage with negligible impact on farm production. The rules proposed today would be consistent with the district court decision.

Purpose of Rulemaking

The purpose of this rulemaking is to implement Congressional intent as expressed in the Act for the protection of alluvial valley floors in the arid and semiarid west. At the same time, the changes are intended to eliminate confusion about the protection requirements for alluvial valley floors, simplify the permit application procedures with which operators must comply, and provide the regulatory authority with enough flexibility to reflect site-specific conditions by adjusting the type of information and level of analysis necessary to demonstrate that the alluvial valley floor is being protected.

Much of the technical information that is proposed for elimination, while not wrong, would not be included as part of the rules. Although such information could appropriately be included in accompanying guidelines, it adds unnecessary length and confusion to the regulatory structure.

III. Discussion of Proposed Rules

Section 701.5 Definitions.

OSM proposes to amend the definition of five terms related to the protection of alluvial valley floors to eliminate unnecessary and excessive language and to improve understanding of the terms' meanings.

1. *Agricultural activities.* The first of the definitions, "agricultural activities," would be changed slightly to include consideration of regional agricultural practices. OSM believes that the regulatory authority should evaluate agricultural activities on the alluvial valley floor in accordance with accepted regional agricultural practices to eliminate any confusion about an agricultural land use on alluvial valley floors.

2. *Essential hydrologic functions.* Two alternative definitions of "essential hydrologic functions" are proposed, both of which would shorten and simplify the existing definition. The existing definition contains one basic description and then provides a lengthy and often confusing discussion of the characteristics of alluvial valley floors referred to in the basic description. As presently defined, essential hydrologic functions means the role of an AVF in collecting, storing, regulating and making the natural flow of surface or ground water, or both, usefully available for agricultural activities by reason of the valley floor's topographic position, the landscape, and the physical properties of its underlying materials. The remainder of the definition is a discussion of the functions of collection, storage, regulation, and the making of water usefully available.

The first proposed alternative would adopt the operative portions of the existing definition, which is the existing first paragraph, and would eliminate the unnecessary and excessive explanation of the role of the alluvial valley floor contained in paragraphs (a) through (d). The proposed shortened definition would continue to recognize the basic concern of Congress for the protection of the essential hydrologic functions and provides a more functional definition to assure protection of these areas of the West.

The second proposed alternative would separately define essential hydrologic functions of an AVF for the periods during and after mining. Under the second proposed alternative, essential hydrologic functions would mean, with respect to AVF's, (1) during the mining process, the maintenance of the water balance both upstream and downstream of surface coal mining operations so that the natural vegetation cover is not destroyed and the erosional balance of the area is not seriously disrupted, and (2) upon the completion of mining, the reestablishment of the premining capability of an alluvial valley floor to collect, store, regulate, and make the natural flow of surface or ground water, or both, usefully available. OSM believes that this second proposed definition is consistent with congressional intent as expressed in H. Rept. No. 95–218, 95th Cong., 1st sess. (1977) at p. 118.

3. *Materially damage the quantity or quality of water.* The definition of "materially damage the quantity or quality of water" is also proposed to be amended slightly to simplify and clarify its application and to reflect the February 26, 1980, district court decision,

referred to previously, that material damage requirements only apply to alluvial valley floors on which farming will not be interrupted, discontinued, or precluded.

The proposed definition would not change the level of protection of water systems that supply alluvial valley floors which are significant to farming. It would reflect OSM's belief that some impacts to the water system will probably occur as a result of surface mining. However, those impacts may not be of sufficient magnitude to decrease the capability of the alluvial valley floor to support agricultural activities. Whether the damage to the quality and quantity of water that supplies an alluvial valley floor would be material is relative to the water contained in the actual alluvial valley floor in question. The proposed definition considers the interaction between the water supplying the alluvial valley floor and the water in the alluvial valley floor system that supports or could support an agricultural activity. Under this proposed definition, changes to the water quantity or quality of the supplying water would have to be evaluated relative to the water contained in the alluvial valley floor. Thus, the magnitude and direction of any change would have to be considered along with flow rates and storage volume so that the entire water system could be evaluated. Under the proposed definition, a determination would have to be made on whether the water in the alluvial valley floor would be degraded to a point that would significantly affect its capability to support agricultural activities.

4. *Subirrigation.* Subirrigation, as currently defined, means the supplying of water to plants from underneath or from a semisaturated or saturated subsurface zone where water is available for use by vegetation. The existing definition specifies five categories of water availability to aid in identifying subirrigation. The proposed definition of "subirrigation" would be shortened to eliminate unnecessary regulatory language in existing paragraphs (a) through (e) on the identification of subirrigation. Elimination of this material from the definition would have no effect on the application of the definition or on the level of protection provided alluvial valley floors.

5. *Unconsolidated streamlaid deposits holding streams.* "Unconsolidated streamlaid deposits holding streams," as currently defined, means all flood plains and terraces located in the lower portions of topographic valleys which contain perennial or other streams with channels that are greater than 3 feet in bankfull width and greater than one-half foot in bankfull depth. This definition was upheld by the district court in its February 26, 1980, decision.

The proposed definition of "unconsolidated streamlaid deposits holding streams" would be shortened to eliminate the unnecessary technical details on the stream bankfull width and depth. The proposed definition, without this detailed technical information, would allow the regulatory authority to adopt identification techniques that best reflect local conditions while assuring the protection of alluvial valley floors consistent with Congressional intent. In addition, the existing definition would specify the meaning of "* * * other streams * * *" as intermittent and ephemeral.

Section 785.19 Permit application requirements.

The rules on permit application requirements for surface coal mining and reclamation operations involving alluvial valley floors which are currently contained in § 785.19 would be modified to: delete duplicative information contained in other parts of the rules; delete detailed technical information and requirements that are not necessary for the protection of alluvial valley floors; respond to the February 26, 1980, district court decision; and establish a procedure by which the regulatory authority, as early in the permit process as possible, can identify alluvial valley floors and determine whether the statutory exclusions are applicable.

Existing §§ 785.19 (a) and (b).

The proposed rule would eliminate existing §§ 785.19 (a) and (b) in order to avoid repeating regulatory language adequately covered by other provisions of the rules. The "Scope" paragraph is unnecessary because the succeeding paragraphs describe the persons to whom the rule would be applicable. Similarly, the prohibition in existing § 785.19(b) against mining without a permit is also covered elsewhere in the rules.

Identification of Alluvial Valley Floors—Proposed § 785.19(a)

Existing § 785.19(c) enables the operator to obtain a determination of the existence of an alluvial valley floor prior to submittal of the permit application. Unfortunately, in every situation it requires a plethora of information to be submitted for the regulatory authority to base its determination of the existence of an AVF. This includes results of a field investigation of the proposed mine plan area and adjacent area. The investigation has to include detailed geologic, hydrologic, land use, and soils and vegatation studies. The studies have to include maps of unconsolidated streamlaid deposits holding streams, maps of streams, surface watersheds, flood plains, terraces, maps of land subject to agricultural activity, etc. In addition, documentation based on environmental monitoring, measurements, and representative sampling is required, together with infrared aerial photographs.

Existing § 785.19(c) would be renumbered as § 785.19(a). OSM proposes to amend this section by deleting the unnecessary detailed technical information and study requirements. The proposed changes do not alter the requirement that adequate data and analysis are required to support an alluvial valley floor determination by the regulatory authority. The primary difference is that the proposed rules allow the regulatory authority to adjust the type of information and level of analysis to better reflect site-specific conditions. The enumeration of the specific types of maps, monitoring, documentation, and photographs that has to be included in all studies would be eliminated. OSM believes this change would result in substantial time and cost savings in those situations where the presence or absence of an alluvial valley floor is obvious and not controversial. A new § 785.19(a)(3) is proposed to clarify that, if alluvial valley floor areas are not identified, the applicant could complete the permit application process without further consideration of § 785.19.

Applicability of Statutory Exclusions—Proposed § 785.19(b)

The existing rules require that a complete permit application for mining operations be filed, including all hydrologic data, before the regulatory authority makes a determination of the applicability of the various statutory exclusions. In some cases, this procedure creates an unnecessary amount of uncertainty and expense for the applicant and does not contribute to a higher level of environmental protection of the alluvial valley floor.

OSM is proposing to change the procedure. If the regulatory authority were to determine that an alluvial valley floor is present, proposed § 785.19(b) would provide that the operator may request that the regulatory authority make a determination of the applicability of the exclusions of section 510(b)(5) of the Act. The operator would have to submit sufficient data,

information, and analysis to the regulatory authority to support the determination, and the regulatory authority could make the determination, based on this supporting material. If the regulatory authority were to need further information to determine whether the exclusions apply, it could request additional data collection and analysis, including submittal of a complete permit application.

The exclusions of section 510(b)(5) of the Act would be set forth in proposed § 785.19(b)(2). The first exclusion, for undeveloped rangeland that is not significant to farming, would be set forth in proposed § 785.19(b)(2)(i). The second exclusion, in proposed § 785.19(b)(2)(ii), would apply to small acreage with negligible impact on a farm's agricultural production.

The previous test for compliance with the small acreage exclusion was set forth in the now suspended § 785.19(e)(2) which provided:

> The effect of the proposed operations on farming will be concluded to be significant if they would remove from production, over the life of the mine, a proportion of the farm's production that would decrease the expected annual income from agricultural activities normally conducted at the farm.

The February 26, 1980, district court decision, referenced previously in "II. Background" of this preamble, held that this test was inconsistent with the Act because even interference with a small number of acres, a situation in which the Act does not intend mining to be precluded, may result in a decrease in a farm's income.

Under the proposal, negligible impact on a farm's agricultural production would be determined by the aggregate production over the life of the mine based upon typical farming practices in the region. OSM believes that a time frame needs to be defined to measure the impact and that the expected life of the mine is the most reasonable and accurate one. Consideration of impacts over such an extended period would reduce errors in measurement associated with normal expected fluctuations in a farm's annual output.

The statement of what constitutes a farm would be moved from existing § 785.19(e)(4) to proposed § 785.19(b)(3), but would remain unchanged. Comments are requested as to whether it is necessary for the rules to prescribe what a farm consists of or whether the regulatory authority can set its own guidelines.

The proposed exclusion would also provide that a mining operation could have negligible impact on farming with regard to land on which no farming exists in those cases where farming is already precluded because of physical or economic considerations based on regional agricultural practices. For example, if an AVF were to exist in a physically isolated location in which it would be completely uneconomical to develop and establish any agricultural activity common to the surrounding region, then farming would already be effectively precluded and a proposed mining operation would have negligible impact on farm production. The exclusion would apply even if physically the land could support farming. (In this latter example, the undeveloped rangeland exception would probably also apply.)

The third regulatory exclusion from the requirements of section 510(b)(5) of the Act, referenced in proposed § 785.19(b)(2)(iii), would account for the proviso in section 510(b)(5) of the Act and its extension in the proviso in section 506(d)(2) of the Act. Rather than having the substance of the provisos repeated a number of times in the rules, proposed § 785.19(b)(2)(iii) would cross-reference proposed § 822.12(c), the section which describes the provisos. The substance of the two provisos was described in the "Background" section of this preamble.

Summary Denial of Permit—Proposed § 785.19(c)

If the regulatory authority were to determine under proposed § 785.19(b)(2) that the exclusions of section 510(b)(5) of the Act do not apply to the applicant, the applicant would have a number of choices: (1) Attempt to obtain a permit by meeting the standards of section 510(b)(5) of the Act; (2) withdraw its application; or (3) finally, under new proposed § 785.19(c), request the regulatory authority summarily to deny the permit based on a finding that mining would be precluded under section 510(b)(5) of the Act. Such a denial could enable the applicant to initiate a request for an exchange of land under the coal exchange program required by section 510(b)(5) of the Act without having to file a complete permit application otherwise required by § 785.19. OSM believes that this would be a more logical procedure than currently exists and that its implementation could avoid the problem with the existing rules that could require the operator to collect and submit unnecessary data and analysis.

Contents of Application—Proposed § 785.19(d)

The existing rules in § 785.19(d)(1) provide that once land within the proposed permit area or adjacent area is identified as an alluvial valley floor and the proposed mining operation may affect an alluvial valley floor or waters that supply alluvial valley floors, the applicant shall submit a complete application for the proposed mining and reclamation operations. The complete application has to include detailed surveys and baseline data required by the regulatory authority for a determination of—

(i) The characteristics of the alluvial valley floor which are necessary to preserve the essential hydrologic functions during and after mining;

(ii) The significance of the area to be affected to agricultural activities;

(iii) Whether the operation will cause, or presents an unacceptable risk of causing, material damage to the quantity or quality of surface or ground waters that supply the alluvial valley floor;

(iv) The effectiveness of proposed reclamation with respect to requirements of the Act and the regulatory program; and

(v) Specific environmental monitoring required to measure compliance with Part 822 during and after mining and reclamation operations.

Existing §§ 785.19(d) (2) and (3) describe in detail the information and surveys required to be submitted as part of the application in addition to the information required for the identification of the AVF's.

The proposed rule would generally retain the above-described requirements of existing § 785.19(d)(1), with a few variations in language to parallel the Act. Existing §§ 785.19(d) (2) and (3) would be removed.

If the regulatory authority would have already determined that any of the statutory exclusions in proposed § 785.19(d)(2) apply, then the applicant would not have to submit information as to whether the proposed operation would interrupt, discontinue, or preclude farming on the AVF or whether it would materially damage the quantity or quality of the surface or ground water supplied to the AVF. However, regardless of whether the exclusions were to apply, the applicant would have to provide data to show that the essential hydrologic functions of the AVF would be preserved throughout the mining and reclamation process.

Proposed § 785.19(d) would not enumerate the technical data, information, and analysis required for a complete permit application, but would continue to require generally that sufficient information be submitted to enable the regulatory authority to make the necessary determinations. Because the determinations would have to be supported, the proposed rules should not

change the level of protection afforded AVF's. The principal difference is that the regulatory authority would have the flexibility to adjust the type of data and level of analysis necessary on which to base its determinations.

Regulatory Authority Determinations—Proposed § 785.19(e)

Existing § 785.19(e) is a confusing section that currently sets forth the findings that have to be made by the regulatory authority to allow mining on or adjacent to an AVF, the applicability of the exclusions of section 510(b)(5) of the Act, and the criteria for determining whether the facts would support particular exclusions.

The corresponding section in the proposal would be substantially shorter than existing § 785.19(e). As described above, the applicability of the exclusions would be covered by proposed § 785.19(b) and need not be contained in proposed § 785.19(e).

Proposed § 785.19(e) would not change the basic requirements for permit approval on or near an AVF and these requirements would be presented in a straightforward and simplified manner that closely parallels the Act. The regulatory authority would have to find that the proposed operations would not interrupt, discontinue, or preclude farming on an AVF and that the quantity and quality of surface and underground waters supplying the AVF would not be materially damaged. The section would provide that these findings would not have to be made if any of the exclusions apply. The regulatory authority would also have to find that the proposed operation would comply with Part 822, including preservation of the AVF's essential hydrologic functions (to be discussed in the next section of this preamble) and the other requirements of the regulatory program.

Performance Standards for Alluvial Valley Floors—Part 822

Part 822 contains performance standards for surface coal mining and reclamation operations on or which affect AVF's in the arid and semiarid regions of the country. Existing § 822.2, which contains the objectives of the part, is proposed to be deleted to eliminate unnecessary repetitive language.

Information Collection—Proposed § 822.10

The proposal would add a new § 822.10 on information collection. It would be a codification of the note currently at the beginning of the part that reflects approval by the Office of Management and Budget of the information collection requirements of Part 822.

Essential Hydrologic Functions—Proposed § 822.11

Existing § 822.11 implements the performance standard of section 515(b)(10)(F) of the Act that the essential hydrologic functions of AVF's be preserved throughout the mining and reclamation process. It currently has three paragraphs. Paragraph (a) of existing § 822.11 establishes the statutory standard of preserving essential hydrologic functions for AVF's not in the affected area. Paragraph (b) of the existing section, recognizing that mining operations would cause disturbances, requires surface coal mining and reclamation operations to reestablish the essential hydrologic functions for AVF's within the affected area. Both existing §§ 822.11 (a) and (b) require the maintenance or reestablishment of the geologic, hydrologic, and biologic characteristics that support the essential hydrologic functions. Existing § 822.11(c) is an explanation of the supporting geologic, hydrologic, and biologic characteristics.

OSM proposes several changes to § 822.11 to make it shorter and to make it more understandable. Proposed §§ 822.11 (a) and (b) would be similar to their existing counterparts. In the proposed paragraphs reference to the statutory language of minimizing disturbance to the hydrologic balance would be included in order to clarify the context in which this requirement was developed by Congress. The term affected area would be replaced with the term minesite and associated offsite areas which has a more definite meaning and is the language used in section 515(b)(10) of the Act. Reference to the particular characteristics that have to be maintained would be eliminated. OSM believes that reference to the particular characteristics is unnecessary because the essential hydrologic function of the alluvial valley floor can be protected without preserving the exact geologic, hydrologic, and biologic conditions. Further, maintenance of such characteristics would not necessarily insure that the essential hydrologic functions are preserved. Existing paragraph (c), which explains these characteristics, would be removed entirely.

Existing and proposed § 822.11 apply to all alluvial valley floors, irrespective of the area's significance to farming. The concern of Congress for alluvial valley floors that would be mined or affected by adjacent mining was that long term permanent damage not be caused to the AVF's hydrologic system. Recognizing that total prevention of hydrologic effects from mining was impossible, Congress required minimization of the effects (including those on the hydrologic function of alluvial valley floors) to assure the impacts "are not irreparable" (H. Rept. No. 95–218, cited previously, p. 110). Thus, the purpose of § 822.11 is the longer term protection of essential hydrologic functions while the shorter term effects on agricultural activities on alluvial valley floors is protected by the "materially damage" requirements of Section 510(b)(5) of the Act implemented by § 822.12 of the rules.

The existing rules often confuse protection of the hydrologic functions of alluvial valley floors with the physical characteristics of those valley floors. While in some cases the physical characteristics must be recreated to reestablish a certain function, such as water storage, in other situations the function of the alluvial valley floor may be preserved by an alluvial valley floor with slightly different physical characteristics. The proposed rules would recognize this difference.

Protection of Agricultural Activities—Proposed § 822.12

Existing § 822.12 implements the requirements of section 510(b)(5) of the Act that surface coal mining operations should not interrupt, discontinue, or preclude farming and should not materially damage the quantity and quality of surface or underground waters supplying AVF's. However, in existing § 822.12 the undeveloped rangeland and small acreage exclusions are applied in a manner inconsistent with the February 26, 1980, district court decision, described in the "Background" section of this preamble.

The exclusions in the provisos of sections 510(b)(5) and 506(d)(2) of the Act are also implemented, albeit imprecisely, in existing § 822.12(d). Existing § 822.12(d) incorrectly limits the applicability of the section 510(b)(5) proviso to lands which were identified in a reclamation plan approved by the State prior to August 3, 1977. This language was inserted in the March 13, 1979, rules (44 FR 15284) in an unsuccessful attempt to implement the proviso of Section (d)(2) of the Act.

In addition to implementing the requirements and exclusions of section 510(b)(5) of the Act, existing §§ 822.12(b) and (c) also require that when environmental monitoring shows that operations are violating the requirements of § 822.12, the operations must cease and remedial actions that

are approved by the regulatory authority must be taken.

OSM proposes to change the title of proposed § 822.12 to "Protection of agricultural activities" to clarify the purpose of the section. The major change to this section would be the reorganization which would implement the February 26, 1980, district court decision. Proposed §§ 822.12(a) and (b) would set forth the requirements of Section 510(b)(5) of the Act, together with the exclusions relating to agricultural activities. Proposed § 822.12(c) would correctly implement the provisos of sections 506(d)(2) and 510(b)(5) of the Act.

The requirement to cease mining and to take remedial action contained in existing §§ 822.12(b) and (c) would be deleted. Contrary to the statement in the March 13, 1979, **Federal Register** preamble adopting these requirements (44 FR 15283), OSM believes that such requirements are not necessary to make clear the duty of the regulatory authority and the permittee.

These responsibilities are adequately stated in 30 CFR 786.29 which requires a permittee to take all possible steps to minimize any adverse impact on the environment resulting from any term or condition of the permit. Such steps include the immediate implementation of measures necessary to comply. If the only means for the permittee to comply with the terms or conditions of the permit is to cease mining, the permittee must cease mining under § 786.29.

Protection of Agricultural Uses—Existing § 822.13

Existing § 822.13 requires the reestablishment of agricultural utility and levels of productivity of AVF's in affected areas. OSM proposes to delete § 822.13 because the existing section is unnecessary. The postmining land use provision in §§816.133 and 817.133 already necessitate the restoration of the land to the same capability as existed before mining. Also, the revegetation rules in §§ 816.111 through 816.117 and §§ 817.111 through 817.117 and, to the extent applicable, the prime farmland rules of 30 CFR Part 823 require the reestablishment of agricultural utility. Finally, the requirements of sections 510(b)(5) and 510(b)(10)(F) would assure the protection of agricultural uses.

Monitoring—Proposed § 822.13

Existing § 822.14 requires the establishment and maintenance of an environmental monitoring system on AVF's during surface coal mining and reclamation operations and continuation until all bonds are released.

Existing § 822.14 would be renumbered as proposed § 822.13. The basic monitoring scheme would be retained. OSM proposes changes to clarify that the requirements for monitoring on AVF's should parallel the requirements of sections 510(b)(5) and 515(b)(10)(F) of the Act.

IV. Procedural Matters

National Environmental Policy Act

OSM has prepared an Environmental Assessment (EA) of the cumulative impacts on the human environment of this rulemaking and related rulemakings under the Act. This cumulative EA is on file in the OSM Administrative Record at the address listed in the "Addresses" section of this preamble. OSM is also preparing a supplemental environmental impact statement that will consider this proposed rule. (See 47 FR 18920, May 3, 1982.)

Executive Order 12291

The Department of the Interior has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291.

Regulatory Flexibility Act

These rules have also been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and OSM has determined that the proposed rules do not have significant economic impact on a substantial number of small entities. The proposed rule is expected to ease the regulatory burden on small coal operators by giving the State regulatory authorities the discretion of reducing the amount of information that will have to accompany each permit application.

Federal Paperwork Reduction Act

The information collection requirements in existing 30 CFR 785.19 and 822.14 were approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and assigned new clearance numbers on April 1, 1981. These approvals were identified in the "Note" paragraphs at the introduction to Parts 785 and 822 under the old numbers RO610 and RO620 (B–190462). The new numbers are 1029–0040 and 1029–0049, respectively. OSM is proposing to remove the "Note" paragraphs and to codify the OMB approvals for the existing requirements under new §§ 785.10 and 822.10. The information required by §§ 785.19 and 822.14 is being collected to meet the requirements of sections 510(b)(5) and 515(b)(10)(F) of the Act, which protect alluvial valley floors from the adverse effects of surface coal mining operations. The information required by § 785.19 will be used to give the regulatory authority a sufficient baseline upon which to assess the impact of the proposed operation during the permanent regulatory program. The recordkeeping requirements in proposed §822.13 will measure compliance with performance standards during and after mining operations. The obligation to respond is mandatory.

The amendments to these requirements will be submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3507.

List of Subjects

30 CFR Part 701

Coal mining, Law enforcement, Surface mining, Underground mining.

30 CFR Part 785

Coal mining, Reporting requirements, Surface mining, Underground mining.

30 CFR Part 822

Coal mining, Environmental protection, Surface mining, and Underground mining.

Accordingly, 30 CFR Parts 701, 785, and 822 are proposed to be amended as set forth below.

Dated: May 27, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

PART 701—PERMANENT REGULATORY PROGRAM

1. Section 701.5 is amended by revising the following definitions (two alternatives are given for the definition of "essential hydrologic functions"; only one definition will be adopted):

§ 701.5 Definitions.

* * * * *

Agricultural activities means, with respect to alluvial valley floors, the use of any tract of land for the production of animal or vegetable life, based on regional agricultural practices, where the use is enhanced or facilitated by subirrigation or flood irrigation. These uses include, but are not limited to, the pasturing, grazing or watering of livestock, and the cropping, cultivation, or harvesting of plants whose production is aided by the availability of water from subirrigation or flood irrigation. These uses do not include agricultural activities which have no relationship to the availability of water from subirrigation or flood irrigation practices.

* * * * *

(Alternative 1)

Essential hydrologic functions means the role of an alluvial valley floor in collecting, storing, regulating, and making the natural flow of surface or ground water, or both, usefully available for agricultural activities by reason of the valley floor's topographic position, the landscape, and the physical properties of its underlying materials. A combination of these functions provides a water supply during extended periods of low precipitation.

(Alternative 2)

Essential hydrologic functions means, with respect to alluvial valley floors—

(1) During the mining process, the maintenance of water balance both upstream and downstream of surface coal mining operations so that the natural vegetation cover is not destroyed and the erosional balance of the area is not seriously disrupted, and

(2) Upon the completion of mining, the reestablishment of the premining capability of an alluvial valley floor to collect, store, regulate, and make the natural flow of surface or ground water, or both, usefully available.

* * * * *

Materially damage the quantity and quality of water means, with respect to alluvial valley floors, to degrade or reduce by surface mining and reclamation operations the water quantity and quality supplied to the alluvial valley floor to the extent that resulting changes would significantly decrease the capability of the alluvial valley floor to support agricultural activities.

* * * * *

Subirrigation means, with respect to alluvial valley floors, the supplying of water to plants from underneath or from a semisaturated or saturated subsurface zone where water is available for use by vegetation.

* * * * *

Unconsolidated streamlaid deposits holding streams means, with respect to alluvial valley floors, all flood plains and terraces located in the lower portions of topographic valleys which contain perennial, intermittent, or ephemeral streams.

* * * * *

(Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*)

PART 785—REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

2. Section 785.19 is revised to read as follows:

§ 785.19 Surface coal mining and reclamation operations on areas or adjacent to areas including alluvial valley floors in the arid or semiarid areas west of the 100th meridian.

(a) *Alluvial valley floor determination.* (1) Permit applicants who propose to conduct surface coal mining and reclamation operations within a valley holding a stream or in a location where the adjacent area includes any stream in the arid or semiarid regions of the United States, as an initial step in the permit process, shall request the regulatory authority to make an alluvial valley floor determination with respect to that valley floor. The applicant shall demonstrate and the regulatory authority shall determine, based on either available data or field studies submitted by the applicant, or a combination of available data and field studies, the presence or absence of an alluvial valley floor. Studies shall include sufficiently detailed geologic, hydrologic, land use, soils, and vegetation data and analysis to demonstrate the probable existence of an alluvial valley floor in the potentially impacted area. The regulatory authority may require additional data collection and analysis or other supporting documents, maps, and illustrations in order to make the determination.

(2) The regulatory authority shall make a written determination as to the extent of any alluvial valley floors within the area. The regulatory authority shall determine that an alluvial valley floor exists if it finds that—

(i) Unconsolidated streamlaid deposits holding streams are present; and

(ii) There is sufficient water available to support agricultural activities as evidenced by—

(A) The existence of current or historical flood irrigation in the area in question;

(B) The capability of an area to be flood irrigated, based on typical regional agricultural practices, streamflow water yield, soils, water quality, and topography; or

(C) Subirrigation of the lands in question derived from the ground-water system of the valley floor.

(3) If the regulatory authority determines in writing that an alluvial valley does not exist pursuant to § 785.19(a)(2), no further consideration of this section is required.

(b) *Applicability of statutory exclusions.* (1) If land within the proposed permit area or adjacent area is identified as an alluvial valley floor pursuant to § 785.19(a)(2) and the proposed mining operation may affect this alluvial valley floor or waters that supply alluvial valley floors, the applicant may request the regulatory authority to separately determine the applicability of statutory exclusions as part of the permit application process. The regulatory authority may make such a determination based on the available data and applicant-submitted data, may require additional data collection and analysis in order to make the determination, or may require the applicant to submit a complete permit application and not make the determination until after the complete application is evaluated.

(2) The regulatory authority shall determine that the exclusions apply if—

(i) The potentially impacted area on the alluvial valley floor is undeveloped rangeland which is not significant to agricultural activities;

(ii) Any farming on the potentially impacted area on the alluvial valley floor that would be interrupted, discontinued, or precluded is of such small acreage as to be of negligible impact on the farm's agricultural production. Negligible impact on the farm's agricultural production shall be determined by the aggregate change in the relative value or output of the agricultural production over the life of the mine, based upon typical farming practices in the region. If no farming exists on the AVF, negligible impact on farming can be determined if farming is precluded already because of physical or economic considerations based on regional agricultural practices; or

(iii) The circumstances set forth in § 822.12(c) of this chapter exist.

(3) For the purposes of this section, a farm is one or more land units on which agricultural activities are conducted. A farm is generally considered to be the combination of land units with acreage and boundaries in existence prior to August 3, 1977, or, if established after August 3, 1977, with those boundaries based on enhancement of the farm's agricultural productivity and not related to surface coal mining operations.

(c) *Summary denial.* If the regulatory authority determines that the statutory exclusions are not applicable and that any of the required findings of § 785.19(e)(1) cannot be made, the regulatory authority may, at the request of the applicant, determine that mining is precluded on the proposed permit area and deny the permit without the applicant filing any additional information required by this section.

(d) *Application contents for operations affecting designated alluvial valley floors.* (1) If land within the potentially impacted area is identified

as an alluvial valley floor and the proposed mining operation may affect an alluvial valley floor or waters supplied to an alluvial valley floor, the applicant shall submit a complete application for the proposed mining and reclamation operations to be used by the regulatory authority together with other relevant information as a basis for approval or denial of the permit. If an exclusion of Paragraph (b) of this section applies, then the applicant need not submit the information required in paragraphs (d)(2)(ii) and (iii) of this section.

(2) The complete application shall include detailed surveys and baseline data required by the regulatory authority for a determination of—

(i) The characteristics of the alluvial valley floor which are necessary to preserve the essential hydrologic functions throughout the mining and reclamation process;

(ii) Whether the operation will avoid during mining and reclamation the interruption, discontinuance, or preclusion of agricultural activities on the alluvial valley floor;

(iii) Whether the operation will cause material damage to the quantity or quality of surface or ground waters supplied to the alluvial valley floor;

(iv) Whether the reclamation plan is in compliance with requirements of the Act, this chapter, and the regulatory program; and

(v) Whether the proposed monitoring system will provide sufficient information to measure compliance with Part 822 of this chapter during and after mining and reclamation operations.

(e) *Findings.* (1) No permit or permit revision application for surface coal mining and reclamation operations on lands located west of the 100th meridian west longitude shall be approved by the regulatory authority unless the application demonstrates and the regulatory authority finds in writing, on the basis of information set forth in the application, that—

(i) The proposed operations would not interrupt, discontinue, or preclude farming on an alluvial valley floor;

(ii) The proposed operations would not materially damage the quantity and quality of water in surface and underground water systems that supply alluvial valley floors which are included in paragraph (e)(1)(i) of this section; and

(iii) The proposed operations would comply with Part 822 of this chapter and the other applicable requirements of the Act and the regulatory program.

(2) The finding of paragraphs (e)(1) (i) and (ii) of this section are not required with regard to alluvial valley floors to which are applicable any of the exclusions of paragraph (b)(2) of this section.

(Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*)

3. Part 822 is revised to read as follows:

PART 822—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—OPERATIONS IN ALLUVIAL VALLEY FLOORS

Sec.

822.1 Scope.
822.10 Information collection.
822.11 Alluvial valley floors: Essential hydrologic functions.
822.12 Alluvial valley floors: Protection of agricultural activities.
822.13 Alluvial valley floors: Monitoring.

Authority: Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*).

§ 822.1 Scope.

This part sets forth additional requirements for surface coal mining and reclamation operations on or which affect alluvial valley floors in the arid and semiarid regions of the country.

§ 822.10 Information collection.

The information collection requirements contained in § 822.13 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0049. The information is being collected to meet the requirements of sections 510(b)(5) and 515(b)(10)(F) of the Act which provide the information collection requirements and performance standards for alluvial valley floors. This information will be used to enable the regulatory authority to assess the impact of the proposed operation during the permanent regulatory program. The obligation to respond is mandatory.

§ 822.11 Alluvial valley floors: Essential hydrologic functions.

(a) The operator of a surface coal mining and reclamation operation shall minimize disturbances to the hydrologic balance in associated offsite areas by preserving throughout the mining and reclamation process the essential hydrologic functions of an alluvial valley floor outside the minesite.

(b) The operator of a surface coal mining and reclamation operation shall minimize disturbances to the hydrologic balance at the minesite by reestablishing throughout the mining and reclamation process the essential hydrologic functions of alluvial valley floors.

§ 822.12 Alluvial valley floors: Protection of agricultural activities.

(a) Surface coal mining and reclamation operations shall not interrupt, discontinue, or preclude farming on alluvial valley floors, unless—

(1) The premining land use is undeveloped rangeland which is not significant to agricultural activities; or

(2) The area of affected alluvial valley floor is small and provides or may provide negligible support for production from one or more farms over the life of the mine.

(b) Surface coal mining and reclamation operations shall not cause material damage to the quantity or quality of water in surface or underground water systems that supply alluvial valley floors protected under paragraph (a) of this section.

(c) Paragraphs (a) and (b) of this section do not apply—

(1) To any surface coal mining and reclamation operation that, in the year preceding August 3, 1977—

(i) Produced coal in commercial quantities and was located within or adjacent to an alluvial valley floor; or

(ii) Obtained specific permit approval by the regulatory authority to conduct surface coal mining and reclamation operations within an alluvial valley floor; or

(2) To any land that is the subject of an application for renewal or revision of a permit issued pursuant to the Act which is an extension of the original permit, insofar as (i) the land was previously identified in a reclamation plan submitted under either Part 780 or 784 of this chapter, and (ii) the original permit area was excluded from the protection of paragraphs (a) and (b) of this section for a reason set forth in paragraph (c)(1) of this section.

§ 822.13 Alluvial valley floors: Monitoring.

(a) A monitoring system shall be installed, maintained, and operated by the permittee on all alluvial valley floors during surface coal mining and reclamation operations and continued until all bonds are released in accordance with Part 807 of this chapter. The monitoring system shall provide sufficient information to allow the regulatory authority to determine that—

(1) The essential hydrologic functions of alluvial valley floors are being preserved and/or reestablished throughout the mining and reclamation process in accordance with § 822.11;

(2) Agricultural activities on lands protected under § 822.12 are not being interrupted, discontinued, or precluded; and

(3) The operation is not causing material damage to the quantity and quality of water in the surface or underground systems that supply

alluvial valley floors protected under § 822.12.

(b) Monitoring shall be conducted at adequate frequencies to indicate long-term trends that could affect compliance with §§ 822.11 and 822.12.

(c) All monitoring data collected and analyses thereof shall routinely be made available to the regulatory authority.

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Part V

Department of Agriculture

Food and Nutrition Service

Food Stamp Program; Food Stamp Administrative Matching Grants: Final Rules

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 277

[Amdt. No. 201]

Food Stamp Program; Food Stamp Administrative Matching Grants

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule contains requirements for the claiming of Federal financial participation (FFP) in Food Stamp Administrative Grants. Reductions in fraud, waste, abuse, and error rates as well as other improvements toward efficient and effective administration of the Food Stamp Program may be achieved by States through improved use of automated systems. Accordingly, incentive for States to design and implement such systems for food stamp operations authorized by the 1980 Amendments to the Food Stamp Act, is being offered by raising the FFP for developing these systems to 75 percent.

DATES: This final rule is effective July 12, 1982. Funding for systems planning, design, development, or installation is available retroactive to October 1, 1980 for approved costs incurred after that date.

FOR FURTHER INFORMATION CONTACT: Joan G McAndrew, Chief, Analysis Section, Program Policy and Analysis Branch, State Operations Division (phone 703–756–3561) on questions pertaining to program functional standards or William E. Mothorpe, Director, State Financial Control Division (phone 703–756–3850) on all other matters.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and has been classified "not major". The rule will not have an effect upon the economy of $100 million, will not result in major increase in costs or prices, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or foreign trade.

The rule has also been reviewed with regard to the requirements of Pub. L. 96–354. The Administrator of the Food and Nutrition Service (FNS) has certified that the rule does not have significant economic impact on a substantial number of small entities. The rule includes State and local planning requirements but only at the option of the State. It establishes conditions under which, at their option, States may apply for an enhanced level of Federal funding (75 percent) for the planning, design, development, or installation of automatic data processing and information retrieval systems to provide more efficient and effective administration of the Food Stamp Program. The trend at this time is toward Statewide development of systems projects, and away from county or local area systems. Therefore, the impact of the requirements of this rule should be felt by only a small number of local jurisdictions.

The reporting burden contained in § 277.18(a) has been reviewed and approved by the Office of Management and Budget (OMB) and given OMB number 40–R 5018.

Background

The Department published a proposed rule on August 11, 1981, (46 FR 40764) to implement Section 129 of Pub. L. 96–249 which allowed increased Federal cost sharing for States' planning, designing, developing, or installing automated systems from 50 percent to 75 percent. These systems, in order to be funded at the enhanced rate, must assist States in meeting the requirements of the Act, meet such conditions as the Secretary prescribes, provide more efficient and effective administration of the Program, and be compatible with systems used to administer Aid to Families With Dependent Children (AFDC).

Funding was to be made available as of October 1, 1980. Approval of enhanced Federal financial participation (FFP) depends upon (a) FNS approval of a State Plan of Operations which contains a State agency's expression of intent, and (b) FNS approval of the proposed plan for system development or Advanced Planning Document (APD) for systems funding as required by Appendix A of Part 277.

The Department received a total of 21 comment letters from State agencies, private industry, FNS Regional Offices, other Federal agencies, and a public interest group. This preamble discusses changes made in the final rule which result from comments received. We have also clarified several points where commenters expressed confusion. The rationale contained in the August 11 proposed rule should be regarded as the basis for the final rule, where the rule is unchanged.

General Concerns

Several commenters expressed confusion over definitions of various terms used in the proposed regulation. Seven comments related to clarification for terms like upgrade, modification, new system, planning, design, development, installation and operations. Some of these definitions are already included in either Appendix A to Part 277 or in Financial Management handbooks already in use within the Agency. Therefore, we intend to add any definitions necessary to the FNS Handbook 151 (ADP Advance Planning Document Handbook for State Agencies).

Retroactive Funding

The enabling legislation provided that enhanced funding at 75 percent could be paid to States effective October 1, 1980. Our intent to do so was stated in the preamble of the proposed rule. However, five commenters expressed concern that the subject should be clearly presented in the final rule (rather than in the preamble) and that the matter of timing should be clarified.

Paragraph (b) has been redesignated as *Funding* in response to the comments received. State agencies which are planning, designing, developing or installing automatic data processing and information retrieval systems which they believe qualify at the higher funding level should seek clarification from FNS Regional Offices. No expenditures which predate October 1, 1980 can be supported at more than the ongoing 50 percent rate.

Functional Standards

The Department proposed that State agencies, in order to receive enhanced funding for their systems development efforts, would have to demonstrate that the automated system would assist in meeting the requirements of the Act and meet certain program functional standards.

Comments on the standards focused on two areas:

(1) *Use of standards to evaluate systems proposals (rather than some other means such as a model system).* Comments relating to the use of standards to evaluate systems proposals were divided. Some commenters felt that the standards were too specific; that States should not have to meet all of the standards in order to qualify for enhanced levels of funding.

Other commenters expressed the opinion that the standards were adequate as proposed. Still others felt that the standards should be even more specific.

The Department feels that general standards are a more appropriate means to promote development than a specific model system design. Our primary objective is to allow maximum flexibility for States designing systems.

We believe that standards are the best means to fulfill this objective. We also believe that it is best to make standards as generic as possible. In this way, new program requirements can be included in existing standards without the need to amend the regulation for each requirement change.

(2) *Specific recommendations on specific standards.* The Department proposed functional standards relating to program requirements for use in evaluating proposed computer systems. These standards were divided into three basic areas: (a) Standards for certification systems, (b) standards for issuance systems, and (c) general standards for all systems. It was not intended in the proposed rule that all States be required to develop total certification and issuance systems. For this reason, the standards applying to each were separated. Some confusion was expressed over whether systems addressing only one of these two areas would be funded. We expect that most systems seeking enhanced funding will be capable of performing both certification and issuance functions. The final rule clarifies, however, that funding for State agencies which may wish to automate certification only or issuance only may be available provided the system is demonstrated to be cost effective, and provided the system meets all applicable elements of the appropriate standards.

(a) *Certification Standards.* Of the 10 elements required of certification, six received some comments, and one (compatibility with AFDC) will be treated separately.

In general the Department adopted suggestions made by commenters regarding standards. Commenters recommended that all casefile information be stored individually for all household members, particularly income information. Language has been added to the regulation to clarify our intention that this information be stored individually.

The Department did not adopt recommendations that some of the proposed administrative processes would be better handled manually. Various commenters addressed this recommendation to the automated tracking of the status of aliens, elderly, disqualified individuals, strikers, and periodic work registration, as well as the automated generation of notices to households.

We do not agree with these commenters. Enhanced funding is specifically aimed at developing the "fullest computerization consistent with cost effectiveness" (House Committee on Agriculture Report on the Food Stamp Act Amendments of 1980, Report No. 96-788, p. 112). Some systems already in existence are able to track these program areas. We feel that handling these functions manually defeats the purpose of the legislation. Additionally, we believe that requiring systems to store these recipient characteristics will provide a valuable management tool to use in estimating the impact of regulatory changes on various segments of the caseload. Finally, we feel that systems which rely on manual procedures to accomplish functions which should be automated should not be funded at an enhanced level.

The ability of a system to generate notices is dependent upon the particular design of that system. Systems which automatically determine eligibility should be able to generate notices directly to the household. Systems which simply validate a worker calculation may be dependent upon some additional input to generate a notice. The standard should be flexible enough for the State agency to make its own choice.

(b) *Issuance Standards.* Of nine proposed issuance elements, comments were received on seven. The majority centered around reconciliation and reporting. Section 277.18(c)(2) has been redesignated *Issuance, Reconciliation, and Reporting* to more accurately reflect its content.

All but one recommendation by commenters was adopted. One Regional Office (RO) disagreed with the requirement that the system be capable of expedited issuance of benefits to households which qualify.

We do not agree with this. It is important that the system be responsive enough to input to be able to issue benefits in an expedited manner.

Other changes in this section included addition of standards for fiscal management and financial reporting, and sample selection for Management Evaluation reviews. Other standards were expanded, specifically those relating to reconciliation of redeemed Authorization-to-Participate (ATP) cards, reduction or suspension of benefits in the event of a funding shortfall, and changes in benefit levels due to claims collection or restored benefits.

There is a requirement, in the proposed rule, for the system to have the capability to crosscheck for duplicate participation within the jurisdiction. Because of the split between centralized State agencies and county administration of the program, we did not specify what we meant by jurisdiction. The term is dependent (at a minimum) upon the scope of the system. If the system is Statewide, the system must check across all recipients Statewide. If a county system, the check must include all county recipients, as well as other counties with compatible systems. The final rule has been revised to reflect this clarification.

Finally, commenters suggested that some new standards be added to those already proposed:

(i) We should add a requirement that all certification and issuance computer files be retained. There is already a requirement that certification and issuance files be kept for three years. It is the State's option to keep them in hard copy form, microform or on computer tape. However, we feel it is most likely that States which maintain files on computer tape will keep them either on tape or in microform dependent upon their storage considerations, (ii) We should require that recipient characteristics be stored; (iii) Capability for SSN enumeration should be added; (iv) We should add a requirement for retrospective budgeting; and (v) There should be a requirement that the system produce and store a participation history on each household. We agree with the last four comments and have added these requirements to the final rule.

(c) *General Standards.* Two respondents commented that the required State level management reports should be specified. The Department preferred to allow States the option to decide what kinds of specific reports they find useful under the general categories of caseload, participation and actions. Thus we have not specified what management reports must be generated.

Compatibility

In the proposed regulation, compatibility with AFDC was treated as a functional standard for certification systems (or the certification portion of a system). At that time, we defined compatibility, for non-integrated systems as the capability "to exchange information concerning participation, eligibility, benefits and changes at some mechanized level with any system used in the administration of the AFDC program."

We received thirteen comments on the subject of compatibility. Three of them agreed with the latitude which they saw in the proposed rule. However, some respondents did not agree.

Due to the comments received on this issue, we have further restricted the definition of compatibility. Food stamp systems, in order to be compatible with

AFDC, must be integrated with the AFDC system. Also, since AFDC's enhanced funding legislation limits funding to Statewide systems, requiring food stamp systems to be Statewide would provide for maximum automation consistent with cost-effective use of Federal funds. The Department believes that close coordination with AFDC at this time is consistent with Congressional intent in passing such legislation. Two final benefits to be achieved from such a requirement are the decrease in duplication of effort in developing local systems with a corresponding increase in control over duplicate participation resultant from a Statewide integrated data base. Therefore, the Department is requiring that systems funded under these regulations be statewide and integrated with AFDC, with certain exceptions discussed below.

The Department is reserving the option to fund systems which are exceptions to this rule where the State agency can justify that exception. In some instances, systems which are less than statewide, dedicated to the Food Stamp Program, or less than total certification and issuance systems may prove more cost beneficial than development of a statewide integrated system. Under this exception clause, the Department will be able to fund systems where the State agency can demonstrate to our satisfaction that a local or single function (e.g. issuance only) system is more appropriate to its needs. Therefore, we have redesignated § 277.18(d) as *Compatibility*. Although it is not our intent to prescribe technical details which lay out a model system, we have stated some basic elements which are felt to be appropriate for a compatible system.

Issues Related to Computer Technology and the Systems Approval Process

The paragraph previously designated § 277.18(c) has been redesignated § 277.18(e) *Prior Approval Process*. In this section, we have addressed many respondent concerns about computer technology.

Commenters expressed some confusion concerning the conduct of feasibility studies. The final rule contains additional language concerning feasibility studies, clarifying our intention to require feasibility studies for proposed systems seeking 75 percent funding. These studies require prior FNS approval. Both feasibility study and production of the APD may be funded at the 75 percent level regardless of the final approval or denial of the system itself.

Some commenters expressed concern that States which failed to develop systems in accordance with an approved APD might continue to receive 75 percent funding. They also pointed out that a mechanism for reporting in-progress changes must be provided. We have added language to § 277.18(e)(2) to specify the penalty for failure to comply with an approved APD (suspension of funding), as well as to provide a means of reporting in-progress changes.

Six State agencies and two federal offices expressed concern about differences between developmental and operational activities. Developmental cost(s) should be tied theoretically to benefits obtainable in future time periods. Costs incurred in producing current benefits are considered to be operational costs. Example: System's design and testing are developmental efforts up to the point where the products of this effort are used to process Food Stamp recipient data in actual certification or issuance. The APD budget and approval process must clearly relate time phases during which development may continue and installation will occur. At a point in time when the system includes its database hardware, software, and security, its operation will result in a product (output).

By legislation, systems can only be funded at the 50 percent level for operational costs. When an approved system produces automated processing of food stamp recipient applications, ATP's or other reports, it will be considered operational. The administrative process for approvals must clarify the initial number of days for continuous operation, percentage of accomplishment(s) and benchmark specifics that will result in a determination of "operational". A data base serving 30 geographical areas for information retrieval may be declared operational when it supports a single area. Equipment directly associated, supporting software, and system security may also be operational at that time. Activities not completed in the 29 other geographical areas might continue to be funded for costs at the 75 percent level until each begins operation. While the example is an oversimplification, it does illustrate the administrative and budgetary process anticipated.

Some commenters recommended that controls be added to discourage duplication of design efforts across States. Although we do not want to require, as one commenter suggested, that a State review a specific number of systems prior to beginning development of its own, we do encourage States to transfer or modify already developed systems as much as possible. Agency handbooks describing the approval process for proposed systems require discussion in the APD of alternatives considered including review of existing systems.

Finally, two commenters expressed concern that FNS improve property management and individual security requirements. We agree with these commenters and specify in the final rule that technological safeguards and managerial procedures must ensure the integrity of the system and individual privacy.

FNS reserves rights to title and use of systems developed with 75 percent funding and to authorize others to use a system for federal purposes.

The provisions of Part 277 Appendix A as regards automatic data processing, APD submissions and approvals, allowable costs, procurement, ownership rights of software and equipment, and Federal financial participation are specifically adopted and are applicable to 75 percent funding for computer development unless otherwise noted.

List of Subjects in 7 CFR Part 277

Food stamps, Government procurements, Grant programs-social programs, Investigations, Records, and Reporting requirements.

PART 277—PAYMENTS OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES

Accordingly, 7 CFR Part 277 is amended to read as follows:

In § 277.4, paragraph (b)(1) is revised to read as follows:

§ 277.4 Funding.

* * * * *

(b) *Federal Reimbursement Rate(s).* (1) A 75 percent Federal reimbursement is payable for Food Stamp Program allowable costs incurred for:

(i) State fraud investigations, prosecutions, and fraud hearings upon presentation and approval of a State Plan Addendum as outlined in § 277.15.

(ii) State agency planning, designing, developing, or installing computerized systems as approved by the Food and Nutrition Service (FNS) and outlined in § 277.18.

* * * * *

A new § 277.18 is added to Part 277 to read as follows:

§ 277.18 Establishment of an Automatic Data Processing (ADP) and Information Retrieval System.

(a) *General.* A State agency may, at its option, receive Federal reimbursement at a 75 percent payment rate for the planning, design, development or installation of automatic data processing and information retrieval systems. An Advance Planning Document (APD) will be submitted to present requests and to document approvals. Except for Fiscal Years 1981 and 1982, a State agency shall first indicate its desire for 75 percent level of funding in corresponding State plans. FNS has issued Handbook 151, ADP Advance Planning Document Handbook for State Agencies, which provides detailed procedural guidelines for document preparation and submission for approval of costs. Additional guidance is contained in Appendix A to this part. The 75 percent funding level may be approved by FNS if the proposed system will:

(1) Assist the State agency in meeting the requirements of the Act;

(2) Meet such conditions as prescribed in this section;

(3) Be likely to provide more efficient and effective administration of the program; and

(4) Be compatible with other such systems utilized in the administration of State plans under the program of Aid to Families with Dependent Children (AFDC).

(b) *Funding.* Upon approval by FNS Regional Offices (FNSRO) of an APD, State agencies will be funded at the 75 percent rate for expenditures in connection with the approved system. This higher rate may apply retroactively, except that in no instance will such higher level funding be authorized for any costs which predate October 1, 1980.

(c) *Program Functional Standards.* In order to meet the requirements of the Act and ensure the efficient and effective administration of the program, the proposed system, must, at a minimum, meet the following applicable program standards:

(1) *Certification.* (i) Determine eligibility and calculate benefits or validate the eligibility worker's calculations by processing and storing all casefile information necessary for the eligibility determination and benefit computation, (including but not limited to all household member's names, addresses, dates of birth, social security numbers, individual household members' income by source: Earned and unearned, deductions, resources and household size). Redetermine or revalidate eligibility and benefits based on notices of change in households' circumstances;

(ii) Identify other elements that affect the eligibility of household members such as alien status, presence of an elderly person in the household, or status of periodic work registration;

(iii) Provide for an automatic cutoff of participation for households which have not been recertified at the end of their certification period;

(iv) Notify the certification unit (or generate notices to households) of cases requiring Notices of (A) case disposition, (B) Adverse Action and Mass Change, and/or (C) Expiration;

(v) Provide for verification of income by means of comparison with records of other Federal and State programs (AFDC, Medicaid, SDX, BENDEX—benefits and wage data, State Employment Security Agency);

(vi) Prior to certification, crosscheck for duplicate cases for all household members by means of comparison with food stamp records within the relevant jurisdiction;

(vii) Provide the capability to effect mass changes: Those initiated at the state level, as well as those initiated from changes at the federal level (eligibility standards, allotments, deductions, utility standards, SSI, AFDC, SSA benefits);

(viii) Identify cases where action is pending or follow-up must be pursued; for example, households with verification pending or households containing disqualified individuals or a striker;

(ix) Calculate or validate benefits based on restored benefits or claims collection, and maintain a record of the changes made;

(x) Store information concerning characteristics of all household members;

(xi) Provide for Social Security enumeration for all required household members; and

(xii) Provide for monthly reporting and retrospective budgeting as required.

(2) *Issuance, reconciliation and reporting.* (i) Generate authorizations for benefits in issuance systems employing ATP's, direct mail, or online issuance and store all Household Issuance Record (HIR) information including: Name and address of household, household size, period of certification, amount of allotment, case type (PA or NA), name, address of authorized representative, and racial/ethnic data;

(ii) Prevent a duplicate HIR from being established for presently participating or disqualified households;

(iii) Allow for authorized under or over issuance due to claims collection or restored benefits;

(iv) Provide for reconciliation of all transacted ATP's to the HIR masterfile.

This process must incorporate any manually issued ATP's, account for any replacement or supplemental ATP's issued to a household, and identify cases of unauthorized and duplicate participation;

(v) Provide a mechanism allowing for a household's redemption of more than one valid ATP in a given month;

(vi) Generate data necessary to meet Federal issuance and reconciliation reporting requirements, including:

(A) Issuance

(*1*) FNS–259—Summary of mail issuance and replacements;

(*2*) FNS–250—Reconciliation of redeemed ATP's with reported authorized coupon issuance.

(B) Reconciliation: FNS–46—ATP Reconciliation Report.

(vii) Generate data necessary to meet other reporting requirements including:

(A) FNS–101—Program participation by race;

(B) FNS–256—Report of coupon issuance and participation; and

(C) FNS–388—Coupon issuance and participation estimates.

(viii) Allow for sample selection for quality control reviews of casefiles, and for management evaluation reviews;

(ix) Provide for program-wide reduction or suspension of benefits and restoration of benefits if funds later become available and store information concerning the benefit amounts actually issued;

(x) Provide for expedited issuance of benefits within designated timeframes;

(xi) Produce and store a participation history covering 3 year(s) for each household receiving benefits; and

(xii) Provide for cut-off of benefits for households which have not been recertified timely.

(3) *General.* The following standards apply to all proposed systems:

(i) Perform all activities necessary to meet the various timeliness requirements established by FNS;

(ii) Allow for reprogramming to implement regulatory and other changes including a testing phase to meet implementation deadlines, generally within 90 days;

(iii) Generate whatever data is necessary to provide management information for the State's own use, such as caseload, participation and actions data;

(iv) Provide support as necessary for the State's management of Federal funds relative to Food Stamp Program administration, generate information

necessary to meet Federal financial reporting requirements; and

(v) Provide for routine purging of casefiles and file maintenance.

(d) *Compatibility.* (1) State agencies seeking an enhanced level of funding for the planning, design, development or installation of automatic data processing and information retrieval systems must develop statewide systems which are integrated with AFDC. In cases where a State agency can demonstrate that a local, dedicated or single function (issuance or certification only) system will provide for more efficient and effective administration of the program, FNS may grant an exception to the statewide integrated requirement. These exceptions will be based on an assessment of the proposed system's ability to meet the state's needs for automation. Systems funded as exceptions to this rule, however, should be capable to the extent necessary, of an automated data exchange with the state system used to administer AFDC. In no circumstances will funding be available for systems which duplicate other State agency systems, whether presently operational or planned for future development.

(2) The system developed in response to these regulations will contain the following elements, where appropriate:

(i) A data base which receives information, sorts, performs calculations, and stores information;

(ii) An information retrieval system which will have the ability to access the data base, display, or print data and update the data in numerical or alphabetical form;

(iii) Hardware, in addition to that required for the data base, which will include visual display terminal(s) with an attached keyboard, connected to the data base hardware components by telephone lines;

(iv) Software which will include system programs for data recall and input, budget calculations capability when not included in the data base system, printout and display for data entry and inquiry terminals, and for network control; and

(v) Technological safeguards and managerial procedures will be established and applied to computer hardware, software, and data in order to ensure the protection of the integrity of the system and individual privacy (ADP system security). System security shall be inherent in the system and provided for in the APD submitted for approval. The system will process machine readable data files used for the authorized exchange of information between levels of government (i.e., state to state, state to federal).

(e) *Prior Approval Process.* (1) Feasibility studies or advance planning documents which are designed for analysis of future compatible ADP systems are considered management studies and require prior approval by FNS. FNSRO's shall be responsible for approval of requests for 75 percent funding of compatible ADP systems.

(i) A feasibility study is required for approval of funding at the 75 percent level. State agencies may apply for 75 percent funding of a study by letter request which describes the study. State management information systems staff, program staff, cost analysts and other staff officials shall provide input to the final study report.

(ii) An APD may result from a favorable feasibility report. The cost of resources used to produce the APD may be funded at the 75 percent level regardless of final approval or denial of the APD. The APD package will be simultaneously submitted to the appropriate FNSRO and the Assistant Secretary for Management and Budget, Department of Health and Human Services *except* that a single agency APD will be processed by FNSRO to approve 75 percent funding when an exception to the compatible system has been justified, in accordance with paragraph (d)(1) of this section.

(2) Funding of costs for system development and hardware procurement and installation will continue at the 75 percent level when those project phases progress according to the approved APD.

(i) In-progress changes which are not within the scope or context of the originally approved APD and which will result in costs above those projected in the APD and for which 75 percent funding is sought shall be submitted to FNSRO in writing promptly following a decision to change by letter entitled "notice of change and increased cost" which will be considered and responded to promptly by FNSRO.

(ii) IF FNS suspends approval of an APD in the course of a State agency's planning, designing, development, or installation, the 75 percent level of funding shall not be allowable for any costs incurred until such time as the conditions for approval are met.

(3) APD's will include cost distribution budgets, presented on a federal fiscal year basis in a clear fashion to associate costs with each developmental piece and/or functional module.

(i) Where costs are incurred for more than one program, these costs will be organized into pools of related administrative activities and allocated on an acceptable basis agreed to in advance by appropriate officials, or based on a previously approved cost allocation method. The resulting dollar amounts will be funded by FNS along with single program element costs at the 75 percent level.

(ii) Budgets must identify all development costs separately from any ongoing operational costs. Costs must be distinguished by developmental projects and developmental time periods. Actual costs claimed must be reconcilable to projected costs which appeared in the FNS approved budget.

(4) Approval of APD's for payment by FNS of costs at the 75 percent level will be limited to:

(i) Development, *i.e.*, detailing of system and program specifications, programming, and testing;

(ii) Installation, *i.e.*, conversion, training of staff, and turnover to operational status.

(5) Costs may not be funded at 75 percent when the approved system produces automated processing of food stamp recipient applications, issuance authorizations or other reports (operations) on a continuing basis for use by State agency personnel for administration of the Food Stamp Program. Operations includes the use of purchased or rented computer equipment and software directly required for and used in the operation of the automated data processing and information retrieval system. Pilot testing and an initial period of parallel processing for test purposes shall not be considered as operations.

(6) FNS approval of requests for 75 percent funding will provide notification to the State agency of the budget authority and dollar limitations under which such funding may be claimed. FNS shall provide this amount as a total authorization for such funding which may not be exceeded unless amended by FNS. FNS's determination of the amount of this authorization will be based on the budget submitted by the State agency. Activities not included in the approved budget, as well as continuation of approved activities beyond scheduled deadlines in the approved plan, shall require FNS approval of an amended State budget for payment. Requests to amend the budget authorization approved by FNS must be submitted to the FNSRO prior to claiming such expenses at the 75 percent level.

(7) The complete system and hardware acquired, will be used for a period of time which is consistent with the APD as approved, or which FNS determines is sufficient to justify the related expenditure of federal funds.

(f) *Cost Elements.* Incident to the activities listed in paragraph (e) of this section, a State agency may seek payment for the following expenses at a 75 percent level:

(1) *Personnel.* Salaries, wages, travel, and benefits of personnel actually engaged in design, development, or installation of approved ADP systems;

(2) *Materials, Equipment, Facilities, and Supplies.* Costs of materials, equipment, facilities and supplies used in design, development, or installation of approved ADP systems. Only the proportionate share of the costs of capital assets assignable to the period of time or prorated for usage may be claimed during the design, development, or installation of these systems. This share must be determined based on acquisition costs and/or depreciation or approved usage rates. Data with respect to such costs shall be submitted with the request for funding;

(3) *Contracted Services.* Services obtained under the provisions of contracts which meet the procurement standards of this part for the design, development, or installation of FNS approved systems;

(4) *Management Studies and Other Planning.* The proportionate share of the costs of a feasibility study and preparation of APD's.

(g) *Cost Determination.* Actual costs must be determined in compliance with an FNS approved budget and Appendix A to this part, and must be reconcilable with the FNS funding level. There shall be no payments pursuant to this section to the extent that a State agency is reimbursed for such costs pursuant to any other federal program or uses ADP systems for purposes not connected with the Food Stamp Program. The cost allocation plan must be amended to disclose the methods which will be used to identify and classify costs to be claimed at the 75 percent rate. This methodology must be submitted to the appropriate FNSRO as part of the request for FNS approval of funding at the 75 percent rate as required in Appendix A to this part. Any costs matched pursuant to these regulations shall be excluded in determining the State agency's administrative costs under any other section of this part.

(h) *Specifications.* Specification for system hardware components, software, and services purchased from commercial suppliers or individuals will be submitted to FNS for review as part of the APD.

(1) The management of contracting and contract administration procedures is to be accomplished according to the state's own policies and the provisions of § 277.14. Procurement actions not in accordance with the procurement standards set forth in § 277.14 shall not be funded at the 75 percent level.

(2) The State will have all ownership rights in software or modifications thereof and associated documentation designed or developed with 75 percent FNS funding under this section, except that FNS reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use for federal purposes, such software, modifications, and/or documentation.

(3) The policies and procedures governing title, use and disposition of property purchased with Food Stamp Program funds, which are covered in § 277.13 are applicable to automatic data processing equipment purchased with enhanced funding.

(91 Stat. 958 (7 U.S.C. 2011–2027))

(Catalog of Federal Domestic Assistance Programs No. 10.561 State Administrative Matching Grants for Food Stamp Program)

Dated: June 9, 1982.

Samuel J. Cornelius,

Administrator.

[FR Doc. 82-15928 Filed 6-10-82; 8:45 am]

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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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Federal Register
Vol. 47, No. 114
Monday, June 14, 1982

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Title 3—

The President

Proclamation 4946 of June 10, 1982

National Child Abuse Prevention Week, 1982

By the President of the United States of America

A Proclamation

Each year, more than one million children are the victims of child abuse and child neglect. These children represent every racial, religious, and socio-economic group, and the suffering they endure poses a threat to our families and to our society as a whole.

Most instances of child abuse and child neglect are not caused by inhuman, hateful intent but by the accumulation of stresses experienced by parents attempting to meet their responsibilities. If parents can get help in coping with the pressures in their lives and if communities support preventive programs to assist parents and others responsible for the care of their children, young lives can be saved and suffering prevented.

The health and well-being of our children is and must continue to be one of our Nation's highest priorities.

The Congress, by Senate Joint Resolution 149, has recognized the magnitude of the problem of child abuse by requesting me to designate June 6 through June 12, 1982, as National Child Abuse Prevention Week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the week of June 6 through June 12, 1982, as "National Child Abuse Prevention Week." I urge all citizens to renew our Nation's commitment to meet the serious challenge which child abuse and child neglect pose to the welfare of our children and families.

I especially invite the Governors of the States and the Commonwealth of Puerto Rico; the heads of voluntary and private groups; and the offices of local, State, and Federal government to join in this observance. I urge them to encourage activities whose purpose is to prevent and treat child abuse and child neglect.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of June, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-16063
Filed 6-10-82; 3:07 pm]
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Rules and Regulations

Federal Register
Vol. 47, No. 114
Monday, June 14, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1106

[Milk Order No. 106]

Milk in the Oklahoma Metropolitan Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This action continues for an additional month an earlier suspension of certain provisions of the Oklahoma Metropolitan Federal milk order. The suspension, which applies to June 1982, reduces the amount of milk that a supply plant must ship to pool distributing plants in order to qualify as a pool plant. Also, the suspension increases the amount of milk that may be moved directly from farms to nonpool plants for manufacturing and still be priced under the order. The continuation of the earlier suspension for April and May was requested by a producer cooperative association because milk production will continue to be considerably in excess of fluid milk sales in June. Thus, the suspension is needed to assure the efficient disposition of reserve milk supplies and to assure that dairy farmers who have regularly supplied the fluid milk needs of the market will continue to have their milk pooled and priced under the order.

EFFECTIVE DATE: June 14, 1982.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-4824.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Proposed Suspension: Issued May 20, 1982; published May 25, 1982 (47 FR 22544).

It has been determined that this action is not a major rule under the criteria set forth in Executive Order 12291.

It has also been determined that the need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the issuance of the suspension on a timely enough basis for it to be effective for the month of June 1982. In this instance, the initial request for this action was received on May 17, 1982. A notice of proposed suspension was issued on May 20, 1982, inviting interested parties to submit comments on the proposed action on or before June 1, 1982.

It has also been determined that this action will not have a major economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Oklahoma Metropolitan marketing area.

Notice of proposed rulemaking was published in the **Federal Register** (47 FR 22544) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information it is hereby found and determined that for the month of June 1982 the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In § 1106.7(b), that part of the provisions that reads "until any month of such period in which less than 20 percent of the plant receipts and diverted milk specified previously herein is transferred to plants described in paragraph (a) of this section. A plant not meeting such 20 percent requirement in any month of such January–August period shall be qualified under this paragraph in any remaining month of the year only if transfers of fluid milk products (except filled milk) from the plant during the month to plant(s) described in paragraph (a) of this section are at least 50 percent of the plant receipts and diverted milk specified previously herein".

2. In § 1106.13(e)(1), that part of the provisions that reads ", subject to the conditions of paragraph (e)(3) of this section, a total quantity of milk not in excess of total" and "received at all pool plants during the month. Diversions in excess of such quantity shall not be eligible under this section and the diverting cooperative shall specify the dairy farmers whose diverted milk is not so eligible. If the cooperative association fails to designate such persons, status under this section shall be forfeited with respect to all milk diverted by such cooperative association".

3. In § 1106.13(e)(2), that part of the provisions that reads ", subject to the conditions of paragraph (e)(3) of this section," and ", in a total quantity not in excess of the milk of producers not members of such cooperative association received at such pool plant(s) during the month. Milk diverted in excess of such quantity shall not be eligible under this section and the diverting handler shall specify the dairy farmers whose diverted milk is not so eligible. If a handler fails to designate such persons, status under this section shall be forfeited with respect to all milk diverted by such handler".

4. In § 1106.13, paragraph (e)(3).

Statement of Consideration

The suspension continues for the month of June an identical suspension that was effective for April and May 1982. Under the suspension, the amount of milk that supply plants must ship to pool distributing plants to attain pool plant status is reduced in that only one shipment to a pool distributing plant would be needed to pool a supply plant that was pooled during each of the immediately preceding months of September through December. The action also increases the amount of milk that may be moved directly from farms

to nonpool manufacturing plants and still be priced under the order. Without the suspension, diversions would be limited to producers who deliver not less than 15 percent of their producer milk to pool plants. In addition, diversions to nonpool plants by proprietary handlers and cooperatives could not exceed the quantity of producer milk received at pool plants.

A continuation of the suspension was requested by a cooperative association that represents producers who supply the market. The cooperative indicated that the same imbalance between fluid requirements and production that existed in April and May is expected to continue in June. The cooperative stated that, although milk production appears to have reached its peak, there appears to be no indication of a decrease in production. Consequently, the cooperative anticipates that milk production will hold close to present levels well into June while fluid milk sales in June will be below April and May levels due to schools being closed.

Because of the continuation of the imbalance between fluid milk sales and production, greater than normal quantities of milk will have to be moved to manufacturing outlets for surplus disposal. In the absence of the suspension for the month of June, costly and inefficient movements of milk would have to be made by handlers solely for the purpose of assuring that the milk of dairy farmers who have regularly supplied the fluid milk needs of the market would continue to be pooled under the order.

Interested parties were given an opportunity to submit written data, views, or arguments concerning the suspension and no views in opposition to the suspension were received. The operator of a proprietary pool supply plant supported the continuation of the earlier suspension because the supply-demand imbalance is exacerbated by a reduction in fluid milk sales due to school closings.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that without this action uneconomic movements of milk would be made solely for the purpose of pooling the milk of dairy farmers who have regularly been associated with the market;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension.

Therefore, good cause exists for making this order effective June 14, 1982.

List of Subjects in 7 CFR Part 1106

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the month of June 1982.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: June 14, 1982.

Signed at Washington, D.C. on: June 9, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-15963 Filed 6-11-82; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 82-ASO-22]

Alteration of Transition Area, Bainbridge, Georgia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment will revoke that portion of the Bainbridge, Georgia, Transition Area associated with Commodore Decatur Airport as instrument flight rule (IFR) operations at the airport have been cancelled. This action will raise the base of controlled airspace from 700 feet to 1,200 feet above the surface in the vicinity of the airport.

DATES: Effective date: 0901 G.m.t, September 2, 1982. Comments must be received on or before August 15, 1982.

ADDRESSES: Send comments on the rule in triplicate to:

Federal Aviation Administration, ATTN: Chief, Airspace and Procedures Branch, ASO-530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320;

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves alteration of the Bainbridge, Georgia, Transition Area by revoking that airspace associated with Commodore Decatur Airport, and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to revoke that portion of the Bainbridge, Georgia Transition Area that was designated for containment of instrument flight operations conducted at Commodore Decatur Airport. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982. Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to revoke that portion of the transition area which is no longer required for instrument flight operations. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is contrary to the public interest and that good cause exists for making this amendment effective in less than 45 days after its publication in the **Federal Register.**

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 G.m.t., September 2, 1982, as follows:

Bainbridge, Georgia—Revised

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Decatur County Industrial Airport (Lat. 30°58'14"N., Long. 84°37'53"W.).

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on May 28, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82-15600 Filed 6-11-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASO-17]

Alteration of Transition Area, Clemson, South Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the description of the Clemson, South Carolina, Transition Area by correcting the names of two air navigational aids. No change in airspace is intended.

DATES: Effective date: 0901 G.m.t., September 2, 1982. Comments must be received on or before July 15, 1982.

ADDRESSES: Send comments on the rule in triplicate to:

Federal Aviation Administration, Attn: Chief, Airspace and Procedures Branch, ASO-530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320;

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344; telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves correcting the names of two air navigational aids, and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to correct the name Oconee RBN to Clemson RBN and the name Pickens RBN to Lake Keowee RBN in the description of the Clemson, South Carolina, Transition Area. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982. Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to reflect the correct name of the air navigational aids upon which portions of the Clemson, South Carolina, Transition Area are designated. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is contrary to the public interest and that good cause exists for making this amendment effective in less than 45 days after its publication in the **Federal Register**.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 G.m.t., September 2, 1982, as follows:

Clemson, South Carolina, Amended

By removing the words "* * * Oconee RBN * * *" and "* * * Pickens RBN * * *" and substituting for them the words "* * * Clemson RBN * * *" and "* * * Lake Keowee RBN * * *."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on May 28, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82-15601 Filed 6-11-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASO-5]

Alteration of Transition Area, Jackson, Miss.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter the Jackson, Mississippi, Transition Area by lowering the base of controlled airspace from 1,200 feet to 700 feet above the surface in the vicinity of the John Bell Williams Airport to accommodate an instrument approach procedure which is being developed to serve the airport. It will also revoke a 700-foot transition area arrival extension which is located north of Hawkins Field.

EFFECTIVE DATE: 0901 G.m.t., October 28, 1982.

FOR FURTHER INFORMATION CONTACT:
Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

History

On Thursday, March 25, 1982, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by lowering the base of controlled airspace in the vicinity of John Bell Williams Airport to accommodate an instrument approach procedure which is being developed to serve the airport (47 FR 12808). During the comment period it was determined that a 700-foot transition area arrival extension associated with Hawkins Field (which is also located in the Jackson, Mississippi, Transition Area) was no longer required and should be revoked. The arrival extension was previously designated to provide controlled airspace for aircraft executing the VOR–A instrument approach procedure to Hawkins Field. However, an Instrument Landing System to serve Hawkins Field has recently been established and this negates the need for the VOR–A instrument approach procedure and associated arrival extension. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections to the proposal were received in response to this publication. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3 dated January 29, 1982.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the Jackson, Mississippi, Transition Area to provide controlled airspace for aircraft executing a new instrument approach procedure at the John Bell Williams Airport. In addition, a transition area arrival extension, which is no longer required for aircraft operations at Hawkins Field, is revoked.

The operating status of the John Bell Williams Airport is changed from VFR to IFR.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 G.m.t., October 28, 1982, as follows:

Jackson, Mississippi [Amended]

By deleting the words "* * * within 3 miles each side of the Jackson VORTAC 194° radial, extending from the 8-mile radius area to the VORTAC * * *" and substituting for them the words "* * * within an 8.5-mile radius area of John Bell Williams Airport (Lat. 32°18'12"N., Long. 90°24'30"W.) * * *."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on May 28, 1982.

J. Stiglin,
Acting Director, Southern Region.

[FR Doc. 82-15089 Filed 6-11-82; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 91

[Docket No. 22050; Reference SFAR No. 44-3]

Air Traffic Control System; Interim Operations Plan; Transfers and Exchanges of Slots

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of extension of policy and request for comments.

SUMMARY: Because of the limited capacity of the Air Traffic Control System resulting from the illegal air traffic controllers' strike, authority to land ("slots") at 22 of the Nation's busiest airports has been allocated to air carriers by the Federal Aviation Administration (FAA) under the Interim Operations Plan, Special Federal Aviation Regulation (SFAR) Nos. 44 through 44–3. Once allocated, the slots, which are assigned by hour, become part of a carrier's "operating base." Initially, allocation procedures did not provide for changes in a carrier's slot allocation.

In order to provide the airlines with more flexibility in scheduling, particularly for the upcoming summer scheduling season, a Notice of Policy issued May 6 (47 FR 19989; May 10, 1982) announced that the FAA would recognize transfers of slots between air carriers. That policy was to be in effect until June 10. Because of the allocation in early June of new slots by the FAA for the rest of the summer season (August 1 through October 25), the transfer policy will be continued an additional two weeks.

The FAA will therefore continue to accept applications for transfers of arrival slots in accordance with the May 10 Notice of Policy until 5 p.m. June 24, but proposes to terminate the transfer policy that permits carriers to buy and sell slots thereafter. The FAA does, however, propose to continue to accept, after June 24, the exchange or trade of slots, but not necessarily on a one-for-one basis. Comments on these proposed actions are requested from all interested parties; those received by June 21 will be considered before a final decision is reached on whether the transfer policy should be terminated.

DATE: Comments must be received on or before June 21, 1982.

ADDRESS: Mail comments on the proposal in duplicate to: Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Docket No. 22050, Federal Aviation Administration, Washington, D.C. 20591; or deliver them to: Room 915G, 800 Independence Avenue, SW., Washington, D.C. Comments may be examined in the Rules Docket, weekdays except federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT:
Donald R. Segner, Associate Administrator for Policy and International Aviation, Federal Aviation Administration, Washington, D.C. 20591; 202–426–3030, or
Franklin K. Willis, Deputy Assistant Secretary for Policy and International Affairs, Office of the Secretary of Transportation, Washington, D.C. 20590; 202–426–4540.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the

proposed policy by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impacts that might result from adoption of the proposals contained in this notice are invited. Communications should identify the docket or notice number and be submitted in duplicate to the address above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action. The proposals contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with the policy will be filed in the docket. Commenters wishing to have the FAA acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 22050." The postcard will be dated, time stamped, and returned to the commenter.

Availability of Notice

Any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the docket number of this notice. Persons interested in being placed on a mailing list for future notices should also request a copy of Advisory Circular 11–2, which describes the application procedures.

Background and Discussion

The actions of certain air traffic controllers in August of 1981 reduced the number of controllers available to operate the Air Traffic Control (ATC) system. In order to assure the safe and efficient use of the navigable airspace, the FAA has been obliged to ration the limited ATC system capacity among users. It has done so by assigning "slots" (authority to land) under a series of emergency regulations (SFAR No. 44 (46 FR 30600; August 4, 1981); SFAR No. 44–1 (46 FR 44424; September 4, 1981); SFAR No. 44–2 (46 FR 48906, October 5, 1981); and SFAR No. 44–3 (47 FR 7816, February 22, 1982)).

Airlines began the period of restricted operations with a "base" number of slots at the Nation's 22 busiest airports derived from their pre-strike planned operations. As the capacity of the ATC system has increased, additional slots have been awarded in response to requests by the carriers under procedures prescribed in SFARs 44–1, 44–2, and 44–3. These regulations also provide that air carriers must use slots awarded to them or lose them from their operating bases.

Because SFAR No. 44–3 does not provide for adjustments in slot assignments that may be occasioned by seasonal variations in demand, competitive pressures, or economic decisions of the carriers, the FAA has been receptive to efforts to add flexibility to the slot allocation system. To this end, the FAA withdrew its opposition to an air carrier request for antitrust immunity from the CAB to permit trades of slots between carriers under a procedure administered by the ATA. While that procedure has been successful in increasing scheduling flexibility among the carriers, the CAB-imposed anonymity requirement has made it difficult for the carriers to consummate trades. Thus, the FAA in May issued a Notice of Policy (47 FR 19989; May 10, 1982) designed to test a procedure that might provide still greater flexibility to the allocation procedures.

Under that Policy, the FAA has accepted transfers of slots between carriers in any number, without requiring an exchange or trade, and regardless of any consideration other than slots involved in the transfer. To register a transfer, a carrier has been obliged only to provide evidence that the transferor of a slot agreed to the transfer. When the FAA has verified that the slot or slots transferred were actually in the transferor's base and that they were not necessary for the provision of essential air service, it has "approved" the transaction and added the transferred slot to the transferee's base.

As of June 7, 33 transfer requests had been received by the FAA. Eighteen had been acted upon; 11 were approved, 6 disapproved, and 1 partially approved. Two of the seven disapprovals fell outside the policy guidelines. The other disapprovals had inadequate information and may be resubmitted. Thus the administrative burden of the program has not been substantial.

The purpose of the experimental policy has been to provide the agency with experience to evaluate the long-term policy consequences of transfers for consideration. The timing was selected to provide additional flexibility to the carriers in adjusting their summer schedules. By mid-June, the FAA will have informed the carriers of their allocation of new and additional slots for the scheduling period August 1 to October 25. Depending on what slots they have been allocated, carriers may now desire to make further transfers to complete their summer schedule adjustments. Therefore, in accordance with the original purpose of the experiment, requests to transfer under the May 10 Policy will be accepted until June 24, 1982.

The Policy has met with some public opposition. Concerns with the transfer of slots for consideration have been expressed by airport operators, public officials, including Members of Congress, and, on behalf of the air carriers themselves, the Air Transport Association and the Regional Airline Association.

After termination, the FAA proposes to continue to allow a high degree of flexibility with respect to the trading or exchange of slots. Carriers would be permitted to exchange slots in any numbers, not necessarily on a slot-for-slot basis. Such transactions would be submitted in accordance with the following terms, which are basically the same as those that have been in effect under the May 10 Policy:

1. Any slot or slots to be exchanged after June 24 would have to come from the carriers' FAA-approved June 1—July 31 operating base, as determined under SFAR 44–3. Later FAA-approved bases would be used for exchanges in the future.

2. All requests for approval would have to be submitted in writing to the Associate Administrator for Policy and International Aviation, API–1, Federal Aviation Administration, Washington, D.C. 20591 in the same format as slot requests submitted under SFAR No. 44–3. Exchange requests combined with other requests under the SFAR (such as slides) would not be accepted.

3. Written evidence of both carriers' consent to the exchange must be provided.

4. A record of the exchange will be made available to the public.

5. Exchanges that would reduce the number of slots allocated to an air carrier that has been afforded priority treatment in the distribution of new slots under paragraph 3(c) of the Appendix to SFAR No. 44–3 (certain new entrant airlines) would not be approved unless the carrier waives its right to be considered a "new entrant" in future distributions under the Interim Operations Plan.

6. Exchanges of slots necessary for the provision of essential air service within

the meaning of section 419 of the Federal Aviation Act of 1958, as amended, 49 U.S.C. 1389, would not be approved.

The provisions of SFAR No. 44–3 or any amendments to it would continue to apply. In particular, it should be noted that only carriers may hold slots, and that a single slot covers only an arrival in a given hour at a single airport. In addition, for the present, the exchange of "tower en route" and ARTCC slots would not be "approved."

Affirmative approval would have to be obtained from the FAA before slots may be used. The FAA anticipates that properly documented exchange requests would be approved within two weeks of the receipt of a request.

Finally, all interested parties are reminded that a slot is a temporary creation of FAA emergency regulations, and does not confer on any carrier a long-term right. Slots can be taken from any carrier in accordance with the terms of the existing SFAR or any amendments to it. Moreover, the FAA does not guarantee that slots will be required at any airport for any particular period of time. As soon as possible, the FAA intends to relieve the carriers from the requirement of obtaining slots.

Comments are requested on both the proposal to terminate the transfer policy and the proposal to allow the exchange of slots. Comments received by June 21 will be taken into account in reaching a decision on the two proposals. Comments and other proposals on future slot exchange and transfer policy are welcome at any time, and should be sent to the rulemaking docket identified above.

(49 U.S.C. 1301 et seq. and 49 U.S.C. 1651 et seq.)

Issued at Washington, D.C. on June 10, 1982.

J. Lynn Helms,

Administrator.

[FR Doc. 82-16078 Filed 6-11-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 23079; Amdt. No. 1218]

Standard Instrument Approach Procedures

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATED: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA–430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO–730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4 and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS critria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument.

Adoption Of The Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending,

suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 g.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

* * * Effective September 2, 1982.

Smith Center, KS—Smith Center Muni, VOR/DME-A, Original

* * * Effective August 5, 1982

Estherville, IA—Estherville Muni, VOR/DME-A, Original
Akron, CO—Akron-Washington Co., VOR Rwy 27, Amdt. 5
Groton (New London), CT—Groton-New London, VOR Rwy 23, Amdt. 4
Boise, ID—Boise Air Terminal (Gowen Field), VOR Rwys 10L/R, Amdt. 18
Boise, ID—Boise Air Terminal (Gowen Field), VOR Rwys 10L/R, Amdt. 4
Plymouth, MA—Plymouth Muni, VOR-A, Amdt. 1
Plymouth, MA—Plymouth Muni, VOR/DME Rwy 15, Amdt. 1
Corvallis, Or—Corvallis Muni, VOR-A, Amdt. 5
Corvallis, Or—Corvallis Muni, VOR-B, Amdt. 3
Corvallis, Or—Corvallis Muni, VOR/DME Rwy 17, Amdt. 3
Corvallis, Or—Corvallis Muni, VOR/DME Rwy 35, Amdt. 6
Gloucester, VA—Gloucester, VOR-A, Amdt. 5

* * * Effective July 22, 1982

Modesto, CA—Modesto City-County-Harry Sham Fld, VOR Rwy 10L, Amdt. 8, cancelled
Muscle Shoals, AL—Muscle Shoals, VOR Rwy 29, Amdt. 24
Benton, AR—Saline County, VOR-A, Amdt. 8
Oakdale, CA—Oakdale, VOR Rwy 10, Amdt. 2
LaGrange, GA—Callaway, VOR Rwy 13, Amdt. 13
Russellville, KY—Russellville-Logan County, VOR/DME Rwy 24, Amdt. 1
Holly Springs, MS—Holly Springs-Marshall County, VOR Rwy 18, Amdt. 5
Tonopah, NV—Tonopah, VOR-A, Amdt. 2
Fayetteville, NC—Fayetteville Muni (Grannis Field), VOR Rwy 4, Amdt. 12
Fayetteville, NC—Fayetteville Muni (Grannis Field), VOR Rwy 22, Amdt. 3
Fayetteville, NC—Fayetteville Muni (Grannis Field), VOR Rwy 28, Amdt. 4

* * * Effective July 8, 1982

Dodge City, KS—Dodge City Muni, VOR Rwy 14, Amdt. 14
Dodge City, KS—Dodge City Muni, VOR/DME 32, Amdt. 2

* * * Effective June 1, 1982

Emporia, KS—Emporia Muni, VOR-A, Amdt. 11

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

* * * Effective August 5, 1982

Abingdon, VA—Virginia Highlands, VOR/DME-B, Amdt. 2

* * * Effective July 22, 1982

Burbank, CA—Burbank-Glendale-Pasadena, LOC Rwy 7, Original
Columbus, OH—Port Columbus Intl, LOC BC Rwy 28R, Amdt. 4
Corpus Christi, TX—Corpus Christi Intl, LOC Rwy 31, Original
Corpus Christi, TX—Corpus Christi Intl, LOC BC Rwy 31, Amdt. 9, cancelled
McAllen, TX—Miller Intl, LOC BC Rwy 31, Amdt. 3

* * * Effective July 8, 1982

Clovis, NM—Clovis Muni, LOC Rwy 3, Original
Olean, NY—Olean Muni, LOC Rwy 22, Original

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * Effective September 2, 1982

Junction City, KS—Junction City Muni, NDB-B, Original

* * * Effective August 5, 1982

Boise, ID—Boise Air Terminal (Gowen Field), NDB Rwy 10R, Amdt. 25
Plymouth, MA—Plymouth Muni, NDB Rwy 6, Amdt. 4
Abingdon, VA—Virginia Highlands, NDB-A, Amdt. 1

* * * Effective July 22, 1982

Searcy, AR—Searcy Muni, NDB Rwy 1, Amdt. 2
De Ridder, LA—Beauregard Parish, NDB Rwy 18, Amdt. 2, cancelled
De Ridder, LA—Beauregard Parish, NDB Rwy 36, Amdt. 1, cancelled
Albemarle, NC—Stanly County, NDB Rwy 4, Orig.
Columbus, OH—Port Columbus Intl, NDB Rwy 10R, Amdt. 3
Columbus, OH—Port Columbus Intl, NDB Rwy 10L, Amdt. 3
Columbus, OH—Port Columbus Intl, NDB Rwy 28L, Amdt. 12
Oxford, OH—Miami University, NDB Rwy 4, Amdt. 7
Clarksville, TN—Outlaw Field, NDB Rwy 18, Amdt. 4, cancelled

* * * Effective July 8, 1982.

Topeka, KS—Forbes Field, NDB Rwy 31, Amdt. 5
Clovis, NM—Clovis Muni, NDB Rwy 3, Original

* * * Effective May 21, 1982

Rochester, MN—Rochester Muni, NDB Rwy 31, Amdt. 18

* * * Effective March 25, 1982

Ft. Scott, KS—Ft. Scott Muni, NDB Rwy 17, Amdt. 6

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

* * * Effective August 5, 1982

Groton (New London), CT—Groton-New London, ILS Rwy 5, Amdt. 6
Boise, ID—Boise Air Terminal (Gowen Field), ILS Rwy 10R, Amdt. 4

* * * Effective July 22, 1982

Birmingham, AL—Birmingham Muni, ILS Rwy 5, Amdt. 34
Burbank, CA—Burbank-Glendale-Pasadena, ILS Rwy 7, Amdt. 30
Kankakee, IL—Greater Kankakee, ILS Rwy 4, Amdt. 3
Columbus, OH—Port Columbus Intl, ILS Rwy 10R, Amdt. 2
Columbus, OH—Port Columbus Intl, ILS Rwy 10L, Amdt. 10
Columbus, OH—Port Columbus Intl, ILS Rwy 28L, Amdt. 25
Corpus Christi, TX—Corpus Christi Intl, ILS Rwy 13, Amdt. 20
Corpus Christi, TX—Corpus Christi Intl, ILS Rwy 35, Amdt. 5

* * * Effective July 8, 1982

Atlanta, GA—The William B. Hartsfield Atlanta Intl, ILS Rwy 27R, Orig.
Topeka, KS—Forbes Field, ILS Rwy 31, Amdt. 5

* * * Effective June 2, 1982

Monroe, LA—Monroe Regional, ILS Rwy 4, Amdt. 18
Monroe, LA—Monroe Regional, ILS Rwy 22, Amdt. 1

* * * Effective May 27, 1982

Knoxville, TN—McGhee-Tyson, ILS Rwy 22R, Amdt. 6

* * * Effective May 21, 1982

Rochester, MN—Rochester Muni, ILS Rwy 13, Amdt. 2
Rochester, MN—Rochester Muni, ILS Rwy 31, Amdt. 17

5. By amending § 97.31 RADAR SIAPs identified as follows:

* * * Effective July 22, 1982

Savannah, GA—Savannah Muni, RADAR-1, Amdt. 4
Dallas, TX—Dallas Love Field, RADAR-1, Amdt. 23

* * * Effective July 8, 1982

Kodiak, AK—Kodiak, RADAR-1, Amdt. 2, cancelled

6. By amending § 97.33 RNAV SIAPs identified as follows:

* * * Effective August 5, 1982

Estherville, IA—Estherville Muni, RNAV Rwy 34, Original
Manchester, NH—Manchester Airport-Grenier Industrial Airpark, RNAV Rwy 6, Amdt. 1
Philadelphia, PA—Philadelphia Intl, RNAV Rwy 17, Amdt. 3

* * * Effective July 22, 1982

LaGrange, GA—Callaway, RNAV Rwy 31, Amdt. 1
Dowagiac, MI—Cass County Memi, RNAV Rwy 9, Amdt. 4
Oxford, OH—Miami University, RNAV Rwy 4, Amdt. 3

* * * Effective June 1, 1982

Emporia, KS—Emporia Muni, RNAV Rwy 18, Amdt. 5

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510; sec. 6(c), Department of

Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034: February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. The FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C. on June 4, 1982.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980.

John M. Howard,

Acting Chief, Aircraft Programs Division.

[FR Doc. 82-15032 Filed 6-11-82; 8:45 am]

BILLING CODE 4910-13-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1025

Equal Access to Justice Act Regulation

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: In this document the Consumer Product Safety Commission issues its final regulation implementing the Equal Access to Justice Act (EAJA) which took effect October 1, 1981. The purpose of the EAJA and the Commission's regulation is to provide for the award of fees and expenses to eligible parties who prevail over the Commission in certain adversary adjudicative proceedings unless the position of the Commission is substantially justified. An additional purpose of the EAJA and the Commission's regulation is to establish uniform procedures for making awards of fees and expenses.

EFFECTIVE DATE: June 14, 1982.

FOR FURTHER INFORMATION CONTACT: Eric N. Wise or Alan H. Schoem, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207, phone: (301) 492-6980.

SUPPLEMENTARY INFORMATION: The Equal Access to Justice Act (hereinafter, the "EAJA"), Pub. L. No. 96-481, 94 Stat. 2325, 5 U.S.C. 504, mandates agencies to establish uniform procedures for the submission and consideration of applications for an award of fees and other expenses to qualified parties who prevail over the government in certain adversary administrative proceedings.

The Act applies to adversary adjudicative proceedings conducted by the Commission and which are pending at any time between October 1, 1981 and September 30, 1984, regardless of when they were initiated or when final Commission action occurs. 5 U.S.C. 504, note. These are adjudications which, pursuant to 5 U.S.C. 554, are "required by statute to be determined on the record after opportunity for an agency hearing." Covered adversary adjudicative proceedings are identified in § 1025.70(c) of this rule. This rule also governs proceedings designated by Commission order as an adjudicative proceeding for purposes of the EAJA. Furthermore, if the Commission does not designate a proceeding as an adversary adjudication, that will not preclude a party who believes the proceeding is covered by the EAJA from filing an application.

In an effort to promote uniformity of procedures, the Administrative Conference of the United States ("Administrative Conference") developed draft model rules to implement the EAJA and solicited comment from all affected agencies. The Administrative Conference issued a model regulation, 46 FR 32900 (June 25, 1981), and has encouraged agencies to follow its model regulation where possible in adopting the agencies' regulations. The Commission's regulation tracks the model regulation with few exceptions.

The Commission published its proposed regulation in the **Federal Register** of November 19, 1981 (46 FR 223). Interested persons may refer to that **Federal Register** notice for a summary of the highlights of the Commission's regulation. The Commission's regulation implementing the EAJA will appear as new subpart H, section 1025.70 *et seq.*, to the Commission's Rules of Practice for Adjudicative Proceedings, 16 CFR Part 1025.

Discussion of Comments

Two persons, a toy manufacturer and the Administrative Conference of the United States, commented on the Commission's proposed regulation of November 19, 1981. The manufacturer expressed support for the Commission's proposed regulation, but suggested that the scope (Section 1025.70(a)) of the regulation be broadened so as to award fees to prevailing parties regardless of whether the Commission's position was "substantially justified." The issue of substantial justification received much Congressional attention during the debates and hearings that preceded enactment of the EAJA. The Department of Justice's *Guide on the Equal Access to Justice Act* provides a review of the legislative history concerning this issue. The Commission, however, is unable to broaden the scope of the Commission's regulation as suggested by the commenter since the EAJA (specifically 5 U.S.C. 504(a)(1)) states that an award of fees will not be made if the position of the agency is substantially justified or that special circumstances make an award unjust. Furthermore, 5 U.S.C. 504(a)(2) requires that a party seeking an award of fees and expenses affirmatively allege that the position of the agency was not substantially justified. The Commission cannot circumvent the statutory requirements of the EAJA.

According to the Judiciary Committee Reports of the United States Senate (S. Rep. No. 253, 96th Cong., 1st Sess. 6-7 (1979) and the House (H.R. Rep. No. 1418, 96th Cong., 2d Sess. 10-11 (1980)), the standard of substantial justification represents a compromise between the dual standards under the Civil Rights Act as articulated in *Newman* v. *Piggie Park*, 390 U.S. 400 (1968) (prevailing plaintiffs should ordinarily recover their attorney fees) and *Christianburg Garment Co.* v. *Equal Employment Opportunity Commission*, 434 U.S. 412, at 421 (1978) (prevailing defendants should recover fees only upon a finding that a plaintiff's action was frivolous, unreasonable or without foundation). The Department of Justice, Office of Legal Policy's *Guide on the Equal Access to Justice Act* provides a thorough discussion of the issue of substantial justification and burden of proof.

Congress has characterized the standard as one of reasonableness. According to the legislative history of the Act, the language "substantially justified" was adopted from the standard in Rule 37 of the Federal Rules of Civil Procedure (Fed. R. Civ. P. 37). More specifically, Fed. R. Civ. P. 37(a)(4) provides that reasonable expenses, including attorney's fees, shall be awarded to the prevailing party on a motion for an order compelling discovery unless the court finds that the position of the losing party was "substantially justified."

According to the notes of the Advisory Committee on Civil Rules concerning the 1970 amendments to Rule 37(a)(4), an award is contemplated only where no genuine dispute exists. By

expressly adopting the Rule 37(a)(4) standard in the Act, Congress has indicated that fees should not be awarded against the government unless the government's position is found to be unreasonable or the government has sued or defended in a situation where no genuine dispute exists.

Based upon the aforementioned analysis of the standard of substantial justification, much of which was provided by the Department of Justice's *Guide on the Equal Access to Justice Act*, the text of the Commission's regulation at Section 1025.70(a) has not been changed as suggested by the manufacturer.

The Administrative Conference of the United States provided two comments concerning the Commission's proposed regulation. The first comment pertains to proposed § 1025.70(f)(2), the second sentence of which states that "no award to compensate an expert witness may exceed the highest rate at which the Commission is authorized to pay expert witnesses." The Administrative Conference believes that the figure representing the highest rate should be included in the text of the regulation, or the source authorizing such a figure should be cited.

The relevant provision which prescribes the highest rate at which the Commission would be authorized to pay expert witnesses is Section 408 of the HUD-Independent Agencies Appropriations Act of 1981, Pub. L. No. 96-526, 94 Stat. 3065. The Commission agrees that inclusion of an amendment stating the statutory authorization of such a payment could initially clarify potential questions. The Commission believes, however, that the clarification benefits from such an amendment are outweighed by the potential confusion and expense incurred by amending this regulation should this rate of compensation change in the future. If applicants for fees have any questions concerning recoverable expenses they can obtain assistance from the Commission staff.

The second comment made by the Administrative Conference pertains to proposed § 1025.70(h), which states that an applicant seeking an award against another agency that participates in a proceeding before the Commission should apply to that other agency for an award. The Administrative Conference believes that the Commission should determine whether such an award should be made. It points out that the Commission's presiding officer would be the person most familiar with the record of the underlying proceeding and would satisfy the definition of "adjudicative officer" in the Act. The Administrative Conference states that a conforming change should also be made to § 1025.72(g).

The Commission agrees with the Administrative Conference's comment that the person most familiar with the record of the adjudicative proceeding before the Commission is the Commission's presiding officer. However, after careful consideration of this comment and provision in general, the Commission has reconsidered its position concerning the need for proposed § 1025.70(h).

The likelihood of another federal agency participating in an adversary adjudicative proceeding subject to application of this regulation is very remote. Therefore, because this section addresses a type of proceeding the Commission believes would not be conducted, § 1025.70(h) (Awards against other agencies) as it appeared in the proposed regulation has been deleted in the final regulations.

This regulation is a subpart of the Commission's Rules of Practice for Adjudicative Proceedings. Those rules identify who may be a presiding officer in an adjudicative proceeding. 16 CFR 1025.3(i). To avoid confusion to the public and to prospective parties to an adversary adjudicative proceeding concerning who may be the presiding officer in a proceeding under the EAJA, the Commission has added a new § 1025.70(h) to the final regulation. This section states that the "presiding officer" is a person as defined in § 1025.3(i) of the Commission's Rules of Practice for Adjudicative Proceedings who conducts an adversary adjudicative proceeding.

Conclusion

The EAJA which became effective October 1, 1981, requires agencies to adopt regulations which establish uniform procedures for the award of fees and expenses in adversary adjudicative proceedings. The Commission published its proposed rule which tracks the Administrative Conference's model regulation with few exceptions and provided a 60 day comment period.

Two persons submitted comments concerning the Commission's proposed regulation. The Commission has carefully considered the comments and, with the exception of nonsubstantive editorial changes, determined to issue its final rule as set forth below.

The Administrative Procedure Act provides at 5 U.S.C. 553(d) that a substantive rule must be published at least 30 days before its effective date, unless the Commission makes a finding of good cause for an earlier effective date and includes that finding within the rule. The Commission finds for good cause that its regulation should be effective immediately upon publication.

This finding of good cause is based upon the lengthy period provided the public for comment to the Administrative Conference's model regulation, and the close similarity between the model rule and the Commission's regulation being issued here. More importantly, there are approximately eleven adversary adjudications pending before the Commission which are subject to the EAJA. If the effective date of this regulation were delayed, applicants for fees and expenses would have to rely on the less satisfactory approach of interpreting and applying under the EAJA without the guidance of Commission regulation.

List of Subjects in 16 CFR Part 1025

Administrative practice and procedure, Equal access to justice, Lawyers.

PART 1025—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

* * * * *

Accordingly, the Commission issues a new Subpart H to Part 1025 of Title 16, Chapter II of the Code of Federal Regulations, with an effective date immediately upon publication to read as follows:

Subpart H—Implementation of the Equal Access to Justice Act in Adjudicative Proceedings With the Commission

Sec.

1025.70 General provisions.
1025.71 Information required from applicant.
1025.72 Procedures for considering applications.

Authority: Equal Access to Justice Act. Pub. L. 96-481, 94 Stat. 2325, 5 U.S.C. 504 and the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*

Subpart H—Implementation of the Equal Access to Justice Act in Adjudicative Proceedings With the Commission

§ 1025.70 General provisions.

(a) *Purpose of this rule.* The Equal Access to Justice Act, 5 U.S.C. 504 (called "the EAJA" in this Subpart), provides for the award of attorney fees and other expenses to eligible persons who are parties to certain adversary adjudicative proceedings before the Commission. An eligible party may receive an award when it prevails over Commission complaint counsel, unless complaint counsel's position in the

proceeding was substantially justified or special circumstances make an award unjust. This Subpart describes the parties eligible for awards and the proceedings covered. The rules also explain how to apply for awards and the procedures and standards that the Commission will use to make them.

(b) *When the EAJA applies.* The EAJA applies to any adversary adjudicative proceeding pending before the Commission at any time between October 1, 1981 and September 30, 1984. This includes proceedings commenced before October 1, 1981, if final Commission action has not been taken before that date, and proceedings pending on September 30, 1984, regardless of when they were initiated or when final Commission action occurs.

(c) *Proceedings covered.* (1) The EAJA and this rule apply to adversary adjudicative proceedings conducted by the Commission. These are adjudications under 5 U.S.C. 554 in which the position of the Commission or any component of the Commission is represented by an attorney or other representative who enters an appearance and participates in the proceeding. The rules in this Subpart govern adversary adjudicative proceedings relating to the provisions of sections 15 (c), (d) and (f) and 17(b) of the Consumer Product Safety Act (15 U.S.C. 2064 (c) (d) and (f); 2066(b)), sections 3 and 8(b) of the Flammable Fabrics Act (15 U.S.C. 1192, 1197(b)), and section 15 of the Federal Hazardous Substances Act (15 U.S.C. 1274), which are required by statute to be determined on the record after opportunity for a public hearing. These rules will also govern administrative adjudicative proceedings for the assessment of civil penalties under section 20(a) of the Consumer Product Safety Act (15 U.S.C. 2068(a)). *See* 16 CFR 1025.1.

(2) The Commission may designate a proceeding not listed in paragraph (c)(1) of this section as an adversary adjudicative proceeding for purposes of the EAJA by so stating in an order initiating the proceeding or designating the matter for hearing. The Commission's failure to designate a proceeding as an adversary adjudicative proceeding shall not preclude the filing of an application by a party who believes the proceeding is covered by the EAJA. Whether the proceeding is covered will then be an issue for resolution in proceedings on the application.

(3) If a proceeding includes both matters covered by the EAJA and matters specifically excluded from coverage, any award made will include only fees and expenses related to covered issues.

(d) *Eligibility of applicants.* (1) To be eligible for an award of attorney fees and other expenses under the EAJA, the applicant must be a party to the adversary adjudication for which it seeks an award. The term "party" is defined in 5 U.S.C. 551(3) and 16 CFR 1025.3(f). The applicant must show that it meets all conditions of eligibility set out in this paragraph and in section 1025.71.

(2) The types of eligible applicants are:

(i) Individuals with a net worth of not more than $1 million;

(ii) Sole owners of unincorporated businesses who have a net worth of not more than $5 million including both personal and business interests, and not more than 500 employees;

(iii) Charitable or other tax-exempt organizations described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) which have not more than 500 employees;

(iv) Any other partnership, corporation, association, or public or private organization with a net worth of not more than $5 million and which have not more than 500 employees.

(3) For the purpose of eligibility, the net worth and number of employees of an applicant shall be determined as of the date the proceeding was initiated.

(4) An applicant who owns an unincorporated business will be considered as an "individual" rather than as a "sole owner of an unincorporated business" if the issues on which the applicant prevails are related primarily to personal interests rather than to business interests.

(5) The number of employees of an applicant include all persons who regularly perform services for remuneration for the applicant, under the applicant's direction and control. Part-time employees shall be included on a proportional basis.

(6) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. For this purpose, "affiliate" means (i) An individual, corporation or other entity that directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or (ii) Any corporation or other entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interest. However, the presiding officer may determine that such treatment would be unjust and contrary to the purposes of the EAJA in light of the actual relationship between the affiliated entities. In addition, the presiding officer may determine that financial relationships of the applicant other than those described in this paragraph constitute special circumstances that would make an award unjust.

(7) An applicant that participates in a proceeding primarily on behalf of one or more other persons or entities that would be ineligible is not itself eligible for an award.

(8) An applicant that represents himself/herself regardless of whether he is licensed to practice law may be awarded all such expenses and fees available to other prevailing eligible parties. *See* 16 CFR 1025.61 and 1025.65 of the Commission's rules.

(e) *Standards for awards.* (1) An eligible prevailing applicant may receive an award for fees and expenses incurred in connection with a proceeding, or in a significant and discrete substantive portion of the proceeding, unless the position of Commission complaint counsel over which the applicant has prevailed was substantially justified. Complaint counsel bear the burden of proof that an award should not be made to an eligible prevailing applicant. Complaint counsel may avoid the granting of an award by showing that its position was reasonable in law and fact.

(2) An award will be reduced or denied if the applicant has unduly or unreasonably protracted the proceeding or if special circumstances make the award sought unjust.

(f) *Allowable fees and expenses.* (1) Awards will be based on rates customarily charged by persons engaged in the business of acting as attorneys, agents and expert witnesses, even if the services were made available without charge or at a reduced rate to the applicant.

(2) No award for the fee of an attorney or agent under these rules may exceed $75 per hour. No award to compensate an expert witness may exceed the highest rate at which the Commission is authorized to pay expert witnesses. However, an award may also include the reasonable expenses of the attorney, agent, or witness as a separate item, if the attorney, agent or witness ordinarily charges clients separately for such expenses.

(3) In determining the reasonableness of the fee sought for an attorney, agent or expert witness, the presiding officer shall consider the following:

(i) If the attorney, agent or witness is in private practice, his or her customary fee for similar services, or, if an employee of the applicant, the fully allocated cost of the services;

(ii) The prevailing rate for similar services in the community in which the attorney, agent or witness ordinarily performs services;

(iii) The time actually spent in the representation of the applicant;

(iv) The time reasonably spent in light of the difficulty or complexity of the issues in the proceeding; and

(v) Such other factors as may bear on the value of the services provided.

(4) The reasonable cost of any study, analysis, engineering report, test, project or similar matter prepared on behalf of a party may be awarded, to the extent that the charge for the service does not exceed the prevailing rate for similar services, and the study or other matter was necessary for preparation of the applicant's case.

(5) Fees may be awarded to eligible applicants only for service performed after the issuance of a complaint and the commencement of the adjudicative proceeding in accordance with 16 CFR 1025.11(a).

(g) *Rulemaking on maximum rates for attorney fees.* (1) If warranted by an increase in the cost of living or by special circumstances, the Commission may adopt regulations providing that attorney fees may be awarded at a rate higher than $75 per hour in some or all of the types of proceedings covered by this Subpart. The Commission will conduct any rulemaking proceedings for this purpose under the informal rulemaking procedures of the Administrative Procedure Act, 5 U.S.C. 533.

(2) Any person may file with the Commission a petition for rulemaking to increase the maxiumum rate for attorney fees, in accordance with the Administrative Procedure Act, 5 U.S.C. 553(e). The petition should identify the rate the petitioner believes the Commission should establish and the types of proceedings in which the rate should be used. The petition should also explain fully the reasons why the higher rate is warranted. The Commission will respond to the petition within a reasonable time after it is filed, by initiating a rulemaking proceeding, denying the petition, or taking other appropriate action.

(h) *Presiding Officer.* The presiding oficer in a proceeding covered by this regulation is a person as defined in the Commission's Rules, 16 CFR 1025.3(i), who conducts an adversary adjudicative proceeding.

§ 1025.71 Information required from applicant.

(a) *Contents of application.* (1) An application for an award of fees and expenses under the EAJA shall identify the applicant and the proceeding for which an award is sought. The application shall show that the applicant has prevailed and identify the position of complaint counsel in the adjudicative proceeding that the applicant alleges was not substantially justified. Unless the applicant is an individual, the application shall also state the number of employees of the applicant and describe briefly the type and purpose of its organization or business.

(2) The application shall also include a verified statement that the applicant's net worth does not exceed $1 million (if an individual) or $5 million (for all other applicants, including their affiliates). However, an applicant may omit this statement if it attaches a copy of a ruling by the Internal Revenue Service that it qualifies as an organization described in section 501(c)(3) of the Internal Revenue Code or, in the case of a tax-exempt organization not required to obtain a ruling from the Internal Revenue Service on its exempt status, a statement that describes the basis for the applicant's belief that it qualifies under such section.

(3) The application shall state the amount of fees and expenses for which an award is sought.

(4) The application may also include any other matters that the applicant wishes the Commission to consider in determining whether and in what amount an award should be made.

(5) The application shall be signed by the applicant or an authorized officer or attorney of the applicant. It shall also contain or be accompanied by a written verification under oath or under penalty of perjury that the information provided in the application is true and correct.

(b) *Net worth exhibit; confidential treatment.* (1) Each applicant except a qualified tax-exempt organization or cooperative association must provide with its application a detailed exhibit showing the net worth of the applicant and any affiliates (as defined in § 1025.70(d)(6) of this Subpart) when the proceeding was initiated. The exhibit may be in any form convenient to the applicant that provides full disclosure of the applicant's and its affiliates' assets and liabilities and is sufficient to determine whether the applicant qualifies under the standards in this Subpart. The presiding officer may require an applicant to file additional information to determine its eligibility for an award.

(2) Ordinarily, the net worth exhibit will be included in the public record of the proceeding. However, an applicant that objects to public disclosure of information in any portion of the exhibit or to public disclosure of any other information submitted, and believes there are legal grounds for withholding it from disclosure, may move to have that information kept confidential and excluded from public disclosure in accordance with § 1025.45 of the Commission rules for *in camera* materials, 16 CFR 1025.45. This motion shall describe the information sought to be withheld and explain, in detail, why it falls within one or more of the specific exemptions from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552(b)(1)–(9).

(3) Section 6(a)(2) of the Consumer Product Safety Act, 15 U.S.C. 2055(a)(2), provides that certain information which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, or subject to 5 U.S.C. 552(b)(4) shall not be disclosed. This prohibition is an Exemption 3 statute under the Freedom of Information Act, 5 U.S.C. 552(b)(3). Material submitted as part of an application for which *in camera* treatment is granted shall be available to other parties only in accordance with 16 CFR 1025.45(c) of the Commission Rules and, if applicable, section 6(a)(2) of the CPSA. If the presiding officer determines that the information should not be withheld from disclosure because it does not fall within section 6(a)(2) of the CPSA, he shall place the information in the public record but only after notifying the submitter of the information in writing of the intention to disclose such document at a date not less than 10 days after the date of receipt of notification. Otherwise, any request to inspect or copy the exhibit shall be disposed of in accordance with the Commission's established procedures under the Freedom of Information Act [*see* 16 CFR 1015].

(c) *Documentation of fees and expenses.* The application shall be accompanied by full documentation of the fees and expenses, including the cost of any study, analysis, engineering report, test, project or similar matter, for which an award is sought. A separate itemized statement shall be submitted for each professional firm or individual whose services are covered by the application, showing the hours spent in connection with the proceeding by each individual, a description of the specific services performed, the rate at which each fee has been computed, any expenses for which reimbursement is sought, the total amount claimed, and the total amount paid or payable by the applicant or by any other person or entity for the services provided. The presiding officer may require the applicant to provide vouchers, receipts;

or other substantiation for any expenses claimed.

(d) *When an application may be filed.* (1) An application may be filed whenever the applicant has prevailed in a proceeding covered by this Subpart or in a significant and discrete substantive portion of the proceeding. However, an application must be filed no later than 30 days after the Commission's final disposition of such a proceeding.

(2) If review or reconsideration is sought or taken of a decision as to which an applicant believes it has prevailed, proceedings for the award of fees shall be stayed pending final disposition of the underlying controversy.

(3) If review or reconsideration is sought or taken of a decision as to which an applicant believes it has prevailed, proceedings for the award of fees shall be stayed pending final disposition of the underlying controversy.

(4) For purposes of this Subpart, final disposition means the later of:

(i) The date on which an initial decision by the presiding officer becomes final, *see* 16 CFR 1025.52;

(ii) The date on which the Commission issues a final decision (*See* 16 CFR 1025.55);

(iii) The date on which the Commission issues an order disposing of any petitions for reconsideration of the Commission's final order in the proceeding (*See* 16 CFR 1025.56; or

(iv) Issuance of a final order or any other final resolution of a proceeding, such as a settlement or voluntary dismissal, which is not subject to a petition for reconsideration.

(e) *Where an application must be filed.* The application for award and expenses must be submitted to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207 in accordance with the application requirements of this section.

§ 1025.72 Procedures for considering applications.

(a) *Filing and service of documents.* Any application for an award or other pleading or document related to an application shall be filed and served on all parties to the proceeding in the same manner as provided in the Commission's Rules of Practice, 16 CFR 1025.11–1025.19.

(b) *Answer to Application.* (1) Within 30 days after service of an application for an award of fees and expenses, complaint counsel in the underlying administrative proceeding upon which the application is based may file an answer to the application. Unless complaint counsel requests an extension of time for filing or files a statement of intent to negotiate under paragraph (b)(2) of this section, failure to file an answer within the 30-day period may be treated as a consent to the award requested.

(2) If complaint counsel and the applicant believe that the issues in the fee application can be settled, they may jointly file a statement of their intent to negotiate a settlement. The filing of this statement shall extend the time for filing an answer for an additional 30 days, and further extensions may be granted by the presiding officer upon request by complaint counsel and the applicant.

(3) The answer shall explain in detail any objections to the award requested and identify the facts relied on in support of Commission counsel's position. If the answer is based on any alleged facts not already in the record of the proceeding, complaint counsel shall include with the answer either supporting affidavits or a request for further proceedings under paragraph (f) of this section.

(c) *Reply.* Within 15 days after service of an answer, the applicant may file a reply. If the reply is based on any alleged facts not already in the record of the proceeding, the applicant shall include with the reply either supporting affidavits or a request for further proceedings under paragraph (f) of this section.

(d) *Comments by other parties.* Any party to a proceeding other than the applicant and complaint counsel may file comments on an application within 30 days after it is served or on an answer within 15 days after it is served. A commenting party may not participate further in proceedings on the application unless the presiding officer determines that the public interest requires such participation in order to permit full exploration of matters raised in the comments.

(e) *Settlement.* The applicant and complaint counsel may agree on a proposed settlement of the award before final action on the application, either in connection with a settlement of the underlying proceeding, or after the underlying proceeding has been concluded, in accordance with the Commission's standard settlement procedure *(See* 16 CFR 1115.20(b), 1118.20, 1025.28, and 1605.3). If a prevailing party and complaint counsel agree on a proposed settlement of an award before an application has been filed, the application shall be filed with the proposed settlement.

(f) *Further proceedings.* (1) Ordinarily, the determination of an award will be made on the basis of the written record. However, on request of either the applicant or complaint counsel, or on his or her own initiative, the presiding officer may order further proceedings. Such further proceedings shall be held only when necessary for full and fair resolution of the issues arising from the application, and shall be conducted as promptly as possible.

(2) A request that the presiding officer order further proceedings under this paragraph shall specifically identify the information sought or the disputed issues and shall explain why the additional proceedings are necessary to resolve the issues.

(g) *Initial Decision.* The presiding officer shall endeavor to issue an initial decision on the application within 30 days after completion of proceedings on the application. The decision shall include written findings and conclusions on the applicant's eligibility and status as a prevailing party, and an explanation of the reasons for any difference between the amount requested and the amount awarded. The decision shall also include, if at issue, findings on whether the complaint counsel's position was substantially justified, whether the applicant unduly protracted the proceedings, or whether special circumstances make an award unjust. If the applicant has sought an award against more than one agency, the decision of this Commission will only address the allocable portion for which this Commission is responsible to the eligible prevailing party.

(h) *Agency review.* (1) Either the applicant or complaint counsel may seek review of the initial decision on the fee application, or the Commission may decide to review the decision on its own initiative, in accordance with 16 CFR 1025.54, 1025.55 and 1025.56.

(2) If neither the applicant nor Commission complaint counsel seeks review and the Commission does not take review on its own initiative, the initial decision on the application shall become a final decision of the Commission 30 days after it is issued.

(3) If an appeal from or review of an initial decision under this Subpart is taken, the Commission shall endeavor to issue a decision on the application within 90 days after the filing of all briefs or after receipt of transcripts of the oral argument, whichever is later, or remand the application to the presiding officer for further proceedings.

(i) *Judicial Review.* Judicial review of final Commission decisions on awards may be sought as provided in 5 U.S.C. 504(c)(2).

(j) *Payment of award.* An applicant seeking payment of an award shall

submit to the Secretary of the Commission a copy of the Commission's final decision granting the award, accompanied by a verified statement that the applicant will not seek review of the decision in the United States courts. (Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.) The Commission will pay the amount awarded to the applicant within 60 days, unless judicial review of the award or of the underlying decision of the adversary adjudication has been sought by the applicant or any other party to the proceeding. Comments and accompanying material may be seen in or copies obtained from the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, during working hours Monday through Friday.

Dated: June 4, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 82-16015 Filed 6-11-82; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-107; Ref: Notice No. 386]

Chalone Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area located in Monterey and San Benito Counties, California, to be known as "Chalone." The name for this viticultural area was initially proposed as "The Pinnacles", in Notice No. 338 (45 FR 17027). However, based on comments received and testimony given at a public hearing on May 2, 1980, the Bureau of Alcohol, Tobacco and Firearms (ATF) concluded that the proposed name would be inappropriate if used to designate the proposed viticultural area. ATF, in Notice No. 386 (46 FR 49600), reopened the comment period for submission of alternative names in lieu of "The Pinnacles." The petitioner, Gavilan Vineyards, Inc., through its Chairman of the Board, Mr. Richard H. Graff, submitted the name "Chalone" as an alternative name, which was supported by another comment. ATF believes the establishment of Chalone as a viticultural area and its subsequent use as an appellation of origin in wine labeling and advertising will allow the petitioner and other wineries which may produce wine from grapes grown in the area to better designate their specific grape-growing area and will enable consumers to better identify the wines they purchase.

EFFECTIVE DATE: July 14, 1982.

FOR FURTHER INFORMATION CONTACT: Norman P. Blake, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas. These regulations also allow the name of the approved viticultural area to be used as an appellation of origin in wine labeling and advertising.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new Part 9 to 27 CFR for the listing of approved viticultural areas. Section 9.11, Title 27 CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographic features.

Section 4.25a(e)(2), Title 27 CFR, outlines the procedures for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

ATF was petitioned by the Gavilan Vineyards, Inc. (d.b.a. Chalone Vineyard) to establish a viticultural area in Monterey and San Benito Counties, California, to be named "The Pinnacles." In response to this petition, ATF published a Notice of Proposed Rulemaking and Notice of Hearing, No. 338, in the **Federal Register** on March 17, 1980 (45 FR 17027).

A public hearing concerning the proposal was held in Salinas, California, on May 2, 1980, and written comments were accepted until May 16, 1980. Five persons testified at the hearing and two written comments were submitted.

Based upon testimony presented at the public hearing and written comments submitted, ATF concluded that the proposed name, "The Pinnacles", was inappropriate to designate the proposed viticultural area. This determination was arrived at because of trademark claims by another winery and the possibility of consumer confusion that would result if the proposed name were approved. Therefore, ATF issued another Notice of Proposed Rulemaking, No. 386, in the **Federal Register** on October 7, 1981 (46 FR 49600), reopening the comment period to solicit comments for alternative names. In particular, ATF requested comments concerning the names "Chalone", "Gavilan" or derivations of those names.

Comments for New Proposed Name

In response to the notice for alternative names, ATF received four comments. The comments were submitted by: the petitioner; Paragon Vineyard, a California winery not located in the vicinity of the proposed area; a law firm representing Foreign Vintages, Inc., an importer of distilled spirits; and a professor from the University of Illinois, College of Medicine.

The petitioner stated that the most satifactory and proper designation for the viticultural area would be "the simple and unadorned word 'Chalone'." The petitioner further stated the name is associated with two of the most distinctive geographical features surrounding the proposed area, North and South Chalone Peaks. Paragon Vineyard also supported the name "Chalone" as being the most appropriate name while discounting the use of "Gavilan" as referring to numerous geographical features within California. The law firm representing the importer of distilled spirits objected to the use of "Gavilan" on the basis that their client has established common law and statutory rights as owner of the trademark "Gavilan" for tequila. The university professor commented that the proposed area was too restrictive to qualify for the designation Gavilan (or Gabilan) Mountains.

Evidence Relating to the Name "Chalone"

Paragon Vineyard submitted historical evidence which establishes the history of the name Chalone, dating back to 1816 at which time the name referred to a division of the Costanoan family which lived in the area. Further evidence was submitted which claimed that the Pinnacles Monument was initially called Chalone Peaks prior to being designated as a national monument. Within the area covered by the Pinnacles National Monument, the two most distinctive geographical features, according to the petitioner, are the North and South Chalone Peaks. The western boundary of the national monument is the eastern boundary of the viticultural area. One of the U.S.G.S. maps submitted with the petition is entitled "North Chalone Peak." Chalone

Creek encircles the viticultural area on two sides, the north and east.

The viticultural area contains one winery, Chalone Vineyard, and 120 acres of vines. The petitioner stated that approximately 50 percent of the proposed area is plantable; however, due to the shortage of water for irrigation, the majority of the area is not being cultivated.

ATF believes that sufficient evidence has been submitted which establishes the historical and current use of the name Chalone as applying to the proposed viticultural area.

Boundaries

The petitioner initially proposed boundaries which included 5760 acres of land which "has historically been farmed on the [geological] bench, as well as essentially all reasonably capable of being farmed." During the public hearing, the petitioner proposed an amendment to the boundaries of an additional 2880 acres which were omitted from the original petition through an oversight on his part and which he claims properly belong in the viticultural area. The petitioner further stated that it was initially his intention to avoid including too much unplantable land. Subsequently the boundaries were amended to include "more area that was not plantable in order to avoid omitting anything." The proposal to amend the boundaries did not receive any objections at the public hearing or in post-hearing comments submitted.

The viticultural area, as amended, consists of 8640 acres of rolling land located on a geological bench in the Gabilan (or Gavilan) Mountain Range of Central California. The area has a mean elevation of 1650 feet above sea level and drains into Bryant Canyon, Stonewell Canyon and Shirttail Gulch. The boundaries are as follows: to the south and west, the points at which the land drops off sharply to the Salinas Valley; to the north, the ridge line (watershed divide) effectively dividing Monterey and San Benito Counties, and the Gloria Valley on the other side; and, to the east, the western boundary of the Pinnacles National Monument.

Based on the evidence submitted and testimony given at the public hearing, ATF has determined that the amended boundaries sufficiently distinguish the viticultural area from surrounding areas and, therefore, the amended boundaries are being adopted. While the boundaries do not precisely coincide with geographical outlines of the area, the use of section lines to describe the boundaries is acceptable in this instance since the section lines closely approximate natural boundaries.

The exact boundaries of the viticultural area and the appropriate U.S.G.S. maps used to determine the boundaries are listed in the final regulation of this document.

Geophysical Evidence

In accordance with 27 CFR 4.25a(e)(2), a viticultural area should possess geographical features which distinguish its viticultural features from surrounding areas. ATF has determined on the basis of the testimony presented at the public hearing and the written comments received that the proposed area is distinguished from the surrounding area in elevation, climate and soil.

The proposed area ranges in elevation from 1400 to 2000 feet above sea level, with a mean elevation of 1650 feet above sea level. The surrounding area to the south and west is characterized by a steep drop to the Salinas Valley, which has a mean elevation of 300 feet above sea level. The area to the east, the Pinnacles National Monument, is unavailable for private agriculture. Except for the Gloria Valley (which is distinguishable from the viticultural area for other reasons), the area to the north rises to higher elevations than those found in the viticultural area.

The petitioner claims that the differences in elevation between the Salinas Valley and the proposed area produce dramatic differences in climatic conditions. The climate of the Salinas Valley is tempered by the cooling winds from Monterey Bay which form a thick fog layer that extends to an elevation of 1000 feet. In summer the viticultural area is approximately 10 degrees warmer than the Salinas Valley because the former does not receive the cooling winds and fog cover from Monterey Bay.

The soils of the proposed area significantly differ from soils of surrounding areas. Within the proposed area, the soils primarily consist of Miocene volcanic and Mesozoic granitic rocks, heavy in limestone deposits. The Salinas Valley to the south and west consists of alluvium and river terrace rocks, while the Gloria Valley to the north is alluvial. The Pinnacles National Monument, to the east, though similar in mineral deposits, is unavailable for private agriculture.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) do not apply to this final rule because it will not have a significant economic impact on a substantial number of small entities. This final rule will not have any other significant effect on a substantial number of small entities, or cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. Available information indicates that this final rule affects only one small entity.

Accordingly, it is certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this final rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

It has been determined that this final regulation is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Miscellaneous

ATF is approving this area as being viticulturally distinct from surrounding areas. By approving the area, ATF is permitting wine producers to claim a distinction on labels and advertisements as to the origin of the grapes. Any commercial advantage gained can only be substantiated by consumer acceptance of Chalone wines.

Drafting Information

The principal author of this document is Norman P. Blake, Specialist, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, and Wine.

Authority

PART 9—AMERICAN VITICULTURAL AREAS

Accordingly, under the authority contained in section 5 of the Federal Alcohol Administration Act (49 Stat. 981, as amended; 27 U.S.C. 205), 27 CFR Part 9 is amended as follows:

Par. 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.24. As amended, the table of sections reads as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.24 Chalone.

Par. 2. Subpart C is amended by adding § 9.24 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.24 Chalone.

(a) *Name.* The name of the viticultural area described in this section is "Chalone."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Chalone viticultural area are four U.S.G.S. 7.5 minute quadrangle maps. They are titled:

(1) "Mount Johnson, California, 1968";

(2) "Bickmore Canyon, California, 1968";

(3) "Soledad, California, 1955"; and

(4) "North Chalone Peak, California, 1969."

(c) *Boundaries.* The Chalone viticultural area includes 8640 acres, primarily located in Monterey County, California, with small portions in the north and east located in San Benito County, California. The boundaries of the Chalone viticultural area encompass:

(1) Sections 35 and 36, in their entirety, of T.16 S., R.6 E.;

(2) Sections 1, 2 and 12, in their entirety, of T.17 S., R.6 E.;

(3) Sections 6, 7, 8, 9, 16, and 17, in their entirety, the western half of Section 5, and the eastern half of Section 18 of T.17 S., R.7 E.; and

(4) Section 31, in its entirety, and the western half of Section 32 of T.16 S., R.7 E.

Signed: May 17, 1982.

Stephen E. Higgins,

Acting Director.

Approved: June 2, 1982.

John M. Walker, Jr.,

Assistant Secretary, (Enforcement and Operations).

[FR Doc. 82-16021 Filed 6-11-82; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 1

[CGD 81-063]

Delegation of Authority Under the Regulatory Flexibility Act; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This document corrects the paragraph designation of a delegation of authority with respect to Regulatory Flexibility Act certifications, published at 46 FR 42268, Aug. 20, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. William Register, Office of the Chief Counsel, Coast Guard Headquarters G-LRA; (202) 426-1534.

SUPPLEMENTARY INFORMATION:

PART 1—GENERAL PROVISIONS

The Delegation of Authority published on August 20, 1981 (46 FR 42268) incorrectly placed the delegation within 33 CFR Part 1. The delegation should have been placed at 33 CFR § 1.05-1(k), rather than at paragraph (i) as published.

Accordingly, the Delegation is corrected to read:

§ 1.05-1 General.

* * * * *

(k) The Commandant redelegates to each Coast Guard District Commander and Captain of the Port the authority to make the certification in section 605(b) of the Regulatory Flexibility Act (Sec. 605(b), Pub. L. 96-354, 94 Stat. 1168 (5 U.S.C. 605)) for rules that they issue.

E. H. Daniels,

Chief Counsel.

[FR Doc. 82-16036 Filed 6-11-82; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 127

[CGD 13-82-03]

Security Zone—Strait of Juan de Fuca and Hood Canal, Washington

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment to the Coast Guard's Security Zone Regulations establishes two Security Zones within the waters of Northwestern Washington during the port call of the USS *Ohio* (SSBN 726). These security zones are established to safeguard the USS *Ohio* while she transits to and from the U.S. Naval Submarine Base, Bangor, Washington through the Strait of Juan De Fuca and the Hood Canal and while moored at her homeport in the Hood Canal. The effect of this Rule will be to close portions of the Strait of Juan De Fuca and Hood Canal from use by general maritime traffic while the USS *Ohio* is within the waters of Northwestern Washington.

DATES: This amendment is effective on August 1, 1982 or when the USS *Ohio* enters the waters of Northwestern Washington whichever occurs last and will remain in effect until the vessel's departure from the navigable waters of the United States but in no case will its provisions extend beyond December 31, 1982.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Timothy G. M. Balunis, c/o Captain of the Port, 1519 Alaskan Way S., Seattle, Washington 98134; Tel: (206) 442-1853.

SUPPLEMENTARY INFORMATION:

Discussion

During August of 1982, the USS *Ohio* (SSBN 726) will arrive within the waters of Northwestern Washington to commence its assigned duties in the national defense operating out of its homeport the United States Naval Submarine Base at Bangor, Washington. Considerable public attention has been focused on this vessel's arrival as the first defense resource of its kind in this area. There have been numerous reports of activities planned to disrupt the vessel's ability to perform her mission by delaying her arrival and departure from the U.S. Naval Submarine Base. Similarly, the U.S. Naval Submarine Base itself will reportedly be the focus of much public protest concerning the USS *Ohio's* mission capabilities during the period of time that the vessel is in port. The United States Navy has requested the implementation of these security areas. The security zones will be enforced by representatives of the Captain of the Port, Seattle, Washington. The Captain of the Port will be assisted in enforcing these security zones by local law enforcement authorities.

Prohibited Acts

As provided in the General Security Zone Regulations (333 CFR 127.15) no person or vessel may enter a security zone unless authorized by the Captain of the Port.

Penalties

Violation of this security zone will result in prosecution under the authority of 50 U.S.C. 191, which provides for the seizure and forfeiture of vessels and imprisonment for up to 10 years and a fine of up to $10,000.

Rule-making procedures have not been followed in accordance with 5 U.S.C. 553 since this action involves a military affairs function of the United States.

Drafting Information

The principal persons involved in the drafting of the rulemaking are LCDR Timothy G. M. Balunis, Project Officer.

The project attorney is Commander Jonathan Collom c/o Commander, Thirteenth Coast Guard District (d1), 915 Second Ave., Seattle, Washington 98174, Tel: (206) 442-7953.

List of Subjects in 33 CFR Part 127

Harbors, Security measures, Vessels.

PART 127—SECURITY ZONES

In consideration of the above, Part 127 of Title 33 of the Code of Federal Regulations is amended by adding § 127.1309, to read as follows:

§ 127.1309 Vicinity, USS "Ohio" (SSBN 726), Strait of Juan De Fuca and Hood Canal, Washington.

(a) *Security Zones.*—(1) *Security Zone A.* All land, water and structures within the area enclosed by a circle whose radius is 1,000 yards from the USS *Ohio* (SSBN 721) while she is located within the waters of Northwestern Washington. The zone will move with the vessel wherever the vessel may be located in these waters until she departs for sea.

(2) *Security Zone B.* The waters of the Hood Canal and any structures on or over the Hood Canal enclosed by a line beginning on the east side of the canal at latitude 47°41.4'N., longitude 122°44.7'W. (on the shoreline east of Flashing Green Light "11"); thence westerly across the canal to latitude 47°41.6'N., longitude 122°46.4'W. (Hazel Point Light); thence north along the shoreline to latitude 47°58.3'N., longitude 122°40.9'W. (Olele Point); thence southeasterly to latitude 47°57.9'N., longitude 122°40.3'W (Klas Rock Qk Fl Bell Buoy "I"); thence easterly to the northwest corner of Foulweather Bluff at latitude 47°56.4'N., longitude 122°36.9'W.; thence south along the shoreline to the point of the beginning. This security zone will commence prior to arrival of the USS *Ohio* (SSBN 726) within the waters of Northwestern Washington upon announcement by the Captain of the Port Seattle in a Broadcast Local Notice to Mariners and will continue in existence until the vessel is moored at the U.S. Naval Submarine Base at Bangor, Washington.

(b) *Special regulations.* Section 127.15 does not apply to United States Naval vessels when operating in Security Zones A or B, or to the Washington State Ferries operating on the regularly scheduled Lofall/Southpoint run when operating in Security Zone B.

(50 U.S.C. 191; E.O. 10173; 33 CFR 6.04-6)

Dated: June 1, 1982.

P. P. Coady,

Captain, U.S. Coast Guard, Captain of the Port, Seattle, Washington.

[FR Doc. 82-15680 Filed 6-11-82; 8:45 am]

BILLING CODE 4910-14-M

ADVISORY COUNCIL ON HISTORIC PRESERVATION

36 CFR Part 811

Conflict of Interest Regulations

AGENCY: Advisory Council on Historic Preservation.

ACTION: Interim regulations with request for comments.

SUMMARY: These interim regulations establish responsibilities and procedures for employees and members of the Council for avoiding conflicts of interest prohibited by 18 U.S.C. 202, 203, 205, 208, and 209, and Executive Order 11222. Heretofore the Council has followed the Department of the Interior's Conflict of Interest Regulations. These regulations will provide the Council with its own regulations to better meet its specific needs.

DATE: These interim regulations are effective June 14, 1982; comments must be received on or before August 13, 1982.

ADDRESS: Send comments to: Advisory Council on Historic Preservation, 1522 K Street NW., Suite 430, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: John M. Fowler, General Counsel, or Charlotte R. Bell, Attorney, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, D.C. 20005, telephone 202-254-3967.

SUPPLEMENTARY INFORMATION: The Council was established by the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 *et seq.*), and consists of the Secretary of the Interior, the Secretary of Agriculture, the heads of four federal agencies the activities of which affect historic preservation, the Architect of the Capitol, the Chairman of the National Trust for Historic Preservation, the President of the National Conference of State Historic Preservation Officers, four members from the general public appointed by the President, four historic preservation experts appointed by the President, a governor, and a mayor. The Act charges the Council with advising the President and the Congress on historic preservation matters. The Council's administrative support is provided by the Department of the Interior. Heretofore, the Council has opted to follow the Department's Conflict of Interest Regulations.

These interim regulations will provide the Council with its own regulations to better meet its specific needs. These regulations are published herein as interim rules effective immediately. The Council will receive comments on these interim regulations for 60 days. The Council will publish final rules after consideration of comments.

The Council has determined that this document is not a major rule under Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities in accordance with the Regulatory Flexibility Act of 1980 (Pub. L. 96-354).

The Council has determined that these regulations do not have a significant effect on the human environment under the National Environmental Policy Act (42 U.S.C. 4321, *et seq.*) and that an environmental impact statement is not required.

List of Subjects in 36 CFR Part 811

Conflict of interests.

Principal Author

Charlotte R. Bell, Attorney.

Dated: June 9, 1982.

Robert R. Garvey, Jr.,

Executive Director.

For the reasons set out in the preamble, Part 811 is added to Title 36 of the Code of Federal Regulations to read as set forth below:

PART 811—CONFLICTS OF INTEREST

Sec.

811.1 General provisions.
811.2 Scope.
811.3 Financial interests.
811.4 Outside work and activities.
811.5 Gifts, entertainment and favors.
811.6 Other conflicts.
811.7 Statements of employment and financial interest.
811.8 Review and analysis of statements.
811.9 Procedures for resolving conflicts of interest—members.
811.10 Procedures for resolving conflicts of interest—employees.
811.11 Definitions.

Authority: Executive Order 11222, 5 CFR Parts 734, 735, and 738, Pub. L. 95-521, Ethics In Government Act, (5 U.S.C. 301).

§ 811.1 General provisions.

(a) *Purpose.* These regulations set forth Council policies and identify principle laws and regulations that relate to member and employee conflict of interest responsibilities. The regulations are applicable to all members of the Council and their

designees, both ex officio and appointed, and to all specified employees of the Council.

(b) *General policy.* Members and employees of the Council are expected to maintain high standards of honesty, integrity, impartiality, and conduct to ensure the proper performance of government business and the continual trust and confidence of citizens in their government. It is the intent of these regulations that members and employees avoid any action that might result in or create the appearance of (1) Using public office for private gain; (2) Giving preferential treatment to any organization or person; (3) Impeding government efficiency or economy; (4) Losing complete independence or impartiality of action; (5) Making a government decision outside official channels; or (6) Affecting adversely the confidence of the public in the integrity of the government.

(c) *Member and employee responsibility.* It is the responsibility of members and employees to familiarize themselves and comply with these regulations.

§ 811.2 Scope.

(a) *Content.* These regulations prescribe policies and procedures for the avoidance of conflicts of inerests in connection with members' or employees' Council positions or in the discharge of their official Council responsibilities, and set out the requirements for reporting and reviewing financial interests and outside employment.

(b) *Types of requirements.* Members and employees have a duty to avoid apparent or actual conflicts of interest pursuant to two authorities. First, 18 U.S.C. 203, 205, 208 and 209 impose criminal sanctions on officers and employees of the federal government, including special government employees, who participate in certain official activities where they have a conflicting personal financial interest. Second, Executive Order 11222 prescribes standards of ethical conduct for government officers and employees and special government employees and requires officers and employees and special government employees occupying certain government positions to report all financial interests and outside employment and certain affiliations. These authorities have the common objective of assuring that government officers and employees conduct government business free from the constraints that conflicting interests might present.

(c)(1) Members of the Council fall into three groups: (i) "special government employees", "officers or employees of the Executive Branch", and "officers and employees of the Legislative Branch." (ii) "Special government employees", as defined by 18 U.S.C. 202, are those Council members who have been appointed or designated to perform for fewer than 130 days per year. Included in this category for purposes of these regulations are all private members, the mayor, the governor, the Chairman of the National Trust for Historic Preservation, and the President of the National Conference of State Historic Preservation Officers. (iii) The Secretaries of Interior and Agriculture and their designees and the heads of the four other agencies of the United States appointed by the President and their designees are "officers and employees of the Executive Branch." (iv) The Architect of the Capitol is an "officer or employee of the Legislative Branch" who is appointed by the President.

(2) For purposes of these regulations, unless otherwise specified, all members of the Council and their designees shall be referred to as "members" regardless of their classification under other authorities.

(3) All Council staff members are referred to as "employees."

§ 811.3 Financial interests.

(a) *Policy.* A personal financial interest may create an actual or apparent conflict of interest. This section sets forth standards of conduct to avoid such conflicts.

(b) *Restrictions—Members and Employees.* No member or employee shall—

(1) Have a direct or indirect financial interest that conflicts substantially or appears to conflict substantially with the member's or employee's Council duties and responsibilities; or

(2) Engage, directly or indirectly, in financial transactions resulting from, or primarily relying on, information obtained through the member's or employee's Council membership or employment.

§ 811.4 Outside work and activities.

(a) *Policy.* Under certain circumstances, outside work or activities may create an actual or apparent conflict of interest. In general, outside work or activities are permitted to the extent that they do not prevent employees from devoting their primary interests, talents, and energies to the accomplishment of their work for the Council or tend to create a conflict or appearance of conflict between the private interests of members or employees and their Council responsibilities.

(b) *Restrictions—Members who are heads of Federal agencies and their designees and the Architect of the Capitol and his designee:*

(1) It shall not be considered to be a conflict of interest for members who are the heads of federal agencies or their designees or for the Architect of the Capitol or his designee to engage in the performance of their statutory duties under other provisions of law. The Council may adopt procedures for dealing with instances where an undertaking proposed or sponsored by a member's agency or by the Architect of the Capitol comes before the Council.

(2) Members who are the heads of federal agencies and their designees and the Architect of the Capitol and his designee may not engage in outside activities not compatible with the full and proper discharge of the members' official duties and responsibilities as members of the Council.

(3) Members who are the heads of Federal agencies and their designees shall abide by the conflict of interest regulations of their own agencies except when they are acting in their official capacities as Council members.

(c) *Restrictions—other Members:* Members not covered by paragraph (b) of this section shall not:

(1) Engage in outside activities not compatible with the full and proper discharge of the member's official duties and responsibilities as a member of the Council;

(2) Perform outside work or engage in outside activities (i) That are of such a nature that they may be reasonably construed by the public to be the official acts of the Council, (ii) That involve the use of Council facilities, equipment, and supplies of any kind, or (iii) That involve the use for private gain of official Council information not available to the public;

(3) Receive any salary or anything of monetary value from a private source as compensation for services to the Council (18 U.S.C. 209); or

(4) Use the member's Council employment to coerce a person to provide financial benefit to the member or another person.

(d) *Restrictions-Employees:* No employee shall—

(1) Engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of the employee's Council employment; or

(2) Engage in any activity prohibited by paragraphs (c)(2), (3), and (4) of this section.

§ 811.5 Gifts, entertainment and favors.

Members or employees shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value from a person who has, or is seeking to obtain, business or financial relations with the Council or has interests that may be substantially affected by the performance or nonperformance of Council duties. The Council adopts the exceptions to this prohibition set forth in 5 CFR 735.202 (b)(1)—(4).

§ 811.6 Other conflicts.

(a) *Used of Council property.* No member or employee shall use or allow the use of Council property for other than officially approved activities.

(b) *Use of Council membership.* No member who is a "special government employee" under § 811.2(c) shall use his Council membership for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for the member or another person.

(c) *Misuse of information.* No member or employee shall use for private gain or allow the use of inside information which has not been made available to the public. Inside information is information obtained through or in connection with the member's Council membership or the employees' Council employment.

(d) *Indebtedness; gambling, betting and lotteries; conduct prejudicial to the Council; miscellaneous provisions.* Members and employees shall be bound by the terms of 5 CFR 735.207–735.210.

(e) *Post-employment conflicts.* Members and employees shall comply with the terms of 5 CFR Part 737 regarding post-employment conflicts of interest.

§ 811.7 Statement of employment and financial interest.

(a) *General.* All employees who are classified at GS–13 or above or at comparable pay levels and all members shall file a Statement of Employment and Financial Interest.

(b) *When to file.* Each member or employee required to file a Statement of Employment and Financial Interest shall file such a Statement with the Ethics Counselor at the time of entrance on duty as a new member or employee, or within thirty days after the Ethics Counselor notifies a member or employee of the need to file such a Statement.

(c) *Members who have filed elsewhere.* A member who has filed a Statement of Employment and Financial Interest under 2 U.S.C. 701, *et seq.* or 5 U.S.C. App. Sec. 201, *et seq.*, may satisfy these regulations by submitting that Statement to the Ethics Counselor.

(d) *What to report.* (1) Statements of Employment and Financial Interest shall be made on Department of the Interior forms DI–212 and DI–213, unless otherwise specified in these regulations. Employees and federal members shall use form DI–212 and all private members shall use form DI–213. The Executive Director shall use SF 278. Federal members who have filed SF 278 or another equivalent form may use those forms. Forms DI–212, DI–213 and SF 278 are available from the Ethics Counselor.

(2) Members and employees shall disclose all employment, outside activities or financial interests that relate to, or appear to relate to, the member's or employee's work at the Council.

(3) Members and employees must file a supplementary Statement of Employment and Financial Interests if pertinent information arises or is discovered after any Statement is filed.

(4) If any information required to be included on a Statement of Employment and Financial Interests or supplementary Statement is not known to the member or employee but is known to another person, the member or the employee shall request that other person to submit to the Ethics Counselor information on the member's or employee's behalf.

(e) *Confidentiality of member's and employee's statements.* (1) Except for Statements filed pursuant to 2 U.S.C. 701, *et seq.*, or 5 U.S.C. App, 201, *et seq.*, and submitted to the Council under subsection (c) of this section, and except for the Statement of the Executive Director, each Statement of Employment and Financial Interest will be held in confidence. The Ethics Counselor is responsible for maintaining the Statements in strict confidence. Members and employees having access to Statements shall not allow information to be disclosed from Statements except to those individuals who must have access in order to carry out responsibilities assigned by these regulations or specific law.

(2) Statements of Employment and Financial Interest will be retained by the Ethics Counselor. All Statements shall be destroyed two years after a member or employee leaves a position in which a Statement is required or two years after the member or employee leaves the Council, whichever is earlier.

§ 811.8 Review and analysis of statements.

(a) *Review by Ethics Counselor.* Each Statement of Employment and Financial Statement shall be reviewed by the Ethics Counselor to ensure that the member or employee is in compliance with these regulations. The Ethics Counselor will exercise judgment and reasonableness in reviewing Statements, but will be alert to potential, actual, or apparent conflicts which may be indicated.

(b) *Determination of conflict and referral for resolution.* If a member's or employee's Statement of Employment and Financial Interest reflects a potential, actual, or apparent conflict, the Ethics Counselor shall endeavor to resolve the matter informally with the member or employee. If a member's conflict cannot be resolved, the Ethics Counselor shall refer the member's Statement and a report of efforts made to determine and resolve the conflict to the Chairman of the Council for appropriate action. If an employee's conflict cannot be resolved, the Ethics Counselor shall refer the employee's Statement and a report of efforts made to determine and resolve the conflict to the Executive Director for appropriate action.

(c) *Opportunity to provide information.* At all stages in the review process, members and employees shall be provided full opportunity to offer information and explanation prior to any final determination.

§ 811.9 Procedures for resolving conflicts of interest—members.

(a) *Remedial action.* (1) Members shall disqualify themselves from participating in any Council proceeding involving any matter in which they have a potential, actual, or apparent conflict of interest. In lieu of disqualification, members may divest themselves of the interest, establish a blind trust, or otherwise eliminate the conflict of interest.

(2) Members with unresolved conflicts of interest may be disqualified by the Chairman.

(b) *Chairman's authority.* The Chairman of the Council is authorized to take whatever remedial action authorized by these regulations that is appropriate to protect the integrity of the Council.

§ 811.10 Procedures for resolving conflicts of interest—employees.

(a) *Remedial action.* Violations of these regulations by an employee may be cause for mandatory remedial action. If the Executive Director decides that remedial action is required, the Executive Director shall initiate immediate action to eliminate the conflict or apparent conflict of interest

within a reasonable time. Remedial action may include reassignment or restriction of the employee, diverstiture of the interest, establishment of a blind trust, or other means by which the conflict or apparent conflict is eliminated.

(b) *Disciplinary action.* Employees who refuse to comply with an order for remedial action shall be considered to be in violation of these regulations and may be subject to disciplinary action, including suspension or removal from their positions.

(c) *The Executive Director's authority and decision.* The Executive Director is authorized to order resolution of conflict of interest situations and the Executive Director's decision regarding remedial action shall be final.

§ 811.11 Definitions.

(a) *Apparent conflict.* A situation where a resonable member of the public could suppose a member or employee to be in conflict, even though the member or employee might not be.

(b) *Conflict or actual conflict.* A situation where a member's or employee's duties or responsibilities at the Council are or will be affected or influenced by the member's or employee's financial interest or outside employment of activities.

(c) *Direct interest.* Ownership or part ownership of lands, stocks, bonds, or other holdings by a member or employee in the member's or employee's name. Direct interest includes the holdings of a spouse and minor child and the holdings of other relatives, including in-laws, who live in the member's or employee's home.

(d) *Indirect interest.* Ownership or part ownership of land, stocks, bonds, or other holdings by a member or employee in the name of another person where the member or employee reaps the benefits of the ownership. An indirect interest is considered to be a direct interest for purposes of these regulations.

(e) *Outside work and activities.* All gainful employment and other activities other than the performance of official duties.

(f) *Potential conflict.* A situation where a conflict or an apparent conflict is likely to occur in the future.

[FR Doc. 82-16014 Filed 6-11-82; 8:45 am]
BILLING CODE 4310-10-M

POSTAL RATE COMMISSION

39 CFR Part 3002

[Docket No. RM82-2; Order No. 433]

Organization; Policy Guidelines

June 1, 1982.

AGENCY: Postal Rate Commission.

ACTION: Policy guidelines (for representation of the interests of the general public in Commission proceedings).

SUMMARY: The Postal Rate Commission is required to provide an opportunity for a hearing on the record to "the Postal Service, users of the mails, and an officer of the Commission who shall be required to represent the interest of the general public" before recommending decisions on rate and classification matters. 39 U.S.C. 3624(a). This statement explains the role of that officer during Commission hearings. This material will be incorporated into 39 CFR 3002 when this part of Commission regulations are next revised using the procedures outlined into the Administrative Procedure Act. Additionally, the Commission is providing supplementary information to help interested persons understand the ongoing activities of personnel assigned to assist the Officer of the Commission.

EFFECTIVE DATE: These guidelines are effective June 14, 1982, and apply to all proceedings noticed subsequent to its date of issue.

FOR FURTHER INFORMATION CONTACT: David F. Stover, General Counsel, Postal Rate Commission, Suite 500, 2000 L Street, NW., Washington, D.C. 20268; Telephone (202) 254-3824.

SUPPLEMENTARY INFORMATION: Before recommending decisions on rate and classification matters, the Postal Rate Commission is required by the Postal Reorganization Act to provide an opportunity for a hearing on the record to "the Postal Service, users of the mails, and an officer of the Commission who shall be required to represent the interests of the general public." 39 U.S.C. 3624(a). This statement provides policy guidelines for the Officer of the Commission (OOC) designated at the commencement of each rate and classification proceeding, and the supporting permanent "Office of the Officer of the Commission."

Participants in pending and future proceedings are advised that the purpose of publishing these guidelines is to apprise the general public of the role of the OCC in the work of the agency and the opportunities available for input. The Commission will not permit the OOC's compliance with these guidelines to be raised by other participants as an issue in a proceeding.

Commission staff assigned to the Office of the Officer of the Commission carry out their responsibilities with due regard for the benefits available from appropriate contact with members of the general public. These benefits to the program administered by the OOC include (a) availability of accurate information as to general public postal needs and widely held complaints about, or perceptions of, deficiencies in the existing postal structure, (b) specific suggestions for changes in the Domestic Mail Classification Schedule, and (c) other public suggestions for change in which the Commission may be interested, even though they may not be the subject of Commission proceedings (e.g., suggestions for legislation on postal questions).

The OOC staff is expected to stay abreast of the body of published information germane to postal rate and classification matters, as well as developments in the fields of public utilities and transportation regulation and consumer policy (including public consumer advocacy). In addition, they are expected to seek to increase their understanding of mailer needs and postal operations by appropriate field study. Public contacts and informational undertakings under this paragraph will be both appropriately related to the OOC's statutory function under the Act, and consistent with avoidance of any unnecessary expenditure of funds.

To assist in this effort the Secretary shall establish a list of consumer groups interested in postal rate and classification changes and shall notify such groups of pending cases, inviting them to express their interest to the OOC (see attached Exhibit A).

In cases where the Commission indicates through a notice of inquiry or other suitable procedure that it wishes to explore certain issues, including the reconsideration of previous decisions to evaluate their continued precedential significance, the OOC shall contribute to this process on the same basis as all other parties.

Policy Statement

Pursuant to 39 U.S.C. 3603, 3624, effective immediately, the responsibilities of the Officer of the Commission in Postal Rate Commission proceedings shall be:

1. The OOC shall assist, using the means and procedures available to parties before the Commission, to develop a complete and accurate record by:

(a) Identifying information or data that are needed in addition to those presented by other parties;

(b) Identifying inaccuracies or fallacies in submitted data or information; and

(c) Sponsoring relevant and material evidence which presents needed data or information, which critiques record evidence, or which supports proposals of the OOC or other participants not inconsistent with Commission precedents and judicial decisions reviewing Commission precedents. The preceding shall not preclude the OOC from offering testimony on a methodology which the Commission has previously considered but not adopted, if a fair reading of the Commission opinion(s) concerned shows that such methodology offers potential benefits and new data are available to remedy any defects cited by the Commission.

2. To argue for equity on behalf of the general public and principally those segments of the general public who are not otherwise represented in PRC proceedings. In so doing, the OOC shall consider both long and short term consequences.

3. During the course of proceedings the Officer of the Commission, in accordance with Commission rules, shall maintain complete independence from the members of the Commission and the agency's advisory staff.

(39 U.S.C. 3603, 3624)

By the Commission.

David F. Harris,

Secretary.

EXHIBIT A

Notice of Pending Case

This is to advise you that the U.S. Postal Service has filed a case before the Postal Rate Commission requesting the following postal increases:

First Class Mail: A 33% increase raising letters to 20¢ and postcards to 13¢.
Second Class Mail (Periodicals): A 2% increase.
Third Class Mail (advertising mail): A 29% increase on regular 3rd class mail and a 12% increase for presorted 3rd class mail.
Fourth Class Mail: An 11% increase in parcel post rates and a 1% increase in the rates for books and records.

The Postal Rate Commission is required by law to have an official representing the interests of the general public. This official is known as the Officer of the Commission (OOC) and is located at the Postal Rate Commission. If you wish to file written comments regarding the pending case before the Commission, you should contact the Officer of the Commission, Postal Rate Commission, Washington, D.C. 20268 within the next 30 days. You may also call the OOC at (202) 254–3640.

Should you wish to appear before the Commission regarding the pending case, you should also contact the OOC at the above address who will coordinate the appearances of those who wish to be heard. These are public hearings, and witnesses will give sworn testimony subject to cross-examination. Either you or your representative should contact the OOC within the next 30 days if you wish to make such an appearance before the Commission. We are not able to reimburse anyone for such expenses as may be incurred by such appearance.

David F. Harris.

Secretary.

[FR Doc. 82-15911 Filed 6-11-82; 8:45 am]

BILLING CODE 7715-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[A-3-FRL 2144-6]

New Source Performance Standards; Delegation of Authority to Allegheny County, PA

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This document amends 40 CFR 60.4 to reflect delegation to Allegheny County, Pennsylvania, of authority to implement and enforce Standards of Performance for New Stationary Sources (NSPS) under the Clean Air Act. In addition, this document updates the address for Philadelphia's Air Management Services (AMS), which has changed since delegation of NSPS to AMS. These are administrative changes and will not affect air quality.

EFFECTIVE DATE: July 14, 1982.

FOR FURTHER INFORMATION CONTACT: Gregory Ham (3AW11), Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106; Telephone: (215) 597–2745.

SUPPLEMENTARY INFORMATION:

I. Background

On March 22, 1982, Peter S. Duncan, Secretary of the Pennsylvania Department of Environmental Resources (DER), requested delegation of authority to implement and enforce existing and future regulations for New Source Performance Standards (NSPS) in Allegheny County, Pennsylvania.

The DER currently has the authority to implement and enforce NSPS in the State, except for Allegheny County and the City of Philadelphia. The Allegheny County Health Department's Bureau of Air Pollution Control (BAPC) has requested that DER accept delegation of NSPS and then authorize the BAPC to carry out the program. In order to simplify the process, EPA is delegating the authority for NSPS directly to the BAPC. The end result is the same, as the BAPC will be the implementing and enforcing agency in both cases. (Philadelphia's Air Management Services also has received direct delegation of NSPS authority (See 42 FR 6812 and 42 FR 6886, February 4, 1977)).

EPA has reviewed this request for delegation, and on May 6, 1982 a letter was sent to Dr. N. Mark Richards, Director, Allegheny County Health Department, stating that delegation of authority for NSPS in Allegheny County is appropriate subject to the conditions set forth in that letter as follows:

United States Environmental Protection Agency, Region III, 6th and Walnut Sts., Philadelphia, Pennsylvania 19106

Certified Mail; Return Receipt Requested

N. Mark Richards, M.D., Director, Allegheny County Health Department, Bureau of Air Pollution Control, 3333 Forbes Avenue, Pittsburgh, PA 15213

Re: Delegation of authority for New Source Performance Standards pursuant to Section 111(c) of the Clean Air Act, as amended.

Dear Dr. Richards: This is in response to a letter of March 22, 1982 from Peter S. Duncan, Secretary of the Pennsylvania Department of Environmental Resources, to Peter N. Bibko, Regional Administrator, requesting delegation of authority for implementation and enforcement of the New Source Performance Standards (NSPS) in Allegheny County.

We have reviewed the pertinent laws and regulations governing the control of air pollution in Allegheny County, Pennsylvania and have determined that they provide an adequate and effective procedure for implementation and enforcement of the NSPS regulations by the Bureau of Air Pollution Control (the Bureau). Although Secretary Duncan requested delegation to the Commonwealth of Pennsylvania of the authority for NSPS in Allegheny County, we have determined delegation directly to the Bureau is appropriate in this situation.

Therefore, we hereby delegate authority to the Bureau, as follows:

The Bureau is delegated and shall have authority for all sources located in Allegheny County, Pennsylvania subject to the Standards of Performance for New Stationary Sources presently promulgated, or subject to any standards promulgated in the future, in 40 CFR Part 60.

This delegation is based upon the following conditions:

1. Quarterly reports will be submitted to EPA by the Bureau and should include the following:

(i) Sources determined to be applicable during that quarter;

(ii) Applicable sources which started operation during that quarter or which

started operation prior to that quarter which have not been previously reported;

(iii) The compliance status of the above; including the summary sheet from compliance test(s); and

(iv) Any legal actions which pertain to these sources.

2. Enforcement of NSPS regulations in Allegheny County will be the primary responsibility of the Bureau. Where the Bureau determines that such enforcement is not feasible and so notifies EPA, or where the Bureau acts in a manner inconsistent with the terms of this delegation, EPA will exercise its concurrent enforcement authority pursuant to Section 113 of the Clean Air Act, as amended, with respect to sources within the County subject to NSPS regulations.

3. The Bureau will not grant a variance from compliance with the applicable NSPS regulations if such variance delays compliance with the Federal Standards (Part 60). Should the Bureau grant such a variance, EPA will consider the source receiving the variance to be in violation of the applicable Federal regulations and may initiate enforcement action against the source pursuant to Section 113 of the Clean Air Act. The granting of such variances by the Bureau shall also constitute grounds for revocation of delegation by EPA.

4. The Bureau and EPA will develop a system of communication sufficient to guarantee that each office is always fully informed regarding the interpretation of applicable regulations. In instances where there is a conflict between a Bureau interpretation and a Federal interpretation of applicable regulations, the Federal interpretation must be applied if it is more stringent than that of the Bureau.

5. If at any time there is a conflict between a Department regulation and Federal regulation, 40 CFR Part 60, the Federal regulation must be applied if it is more stringent than that of the Bureau. If the Bureau does not have the authority to enforce the more stringent Federal regulation, this portion of the delegation may be revoked.

6. The Bureau will utilize the methods specified in 40 CFR Part 60 in performing source tests pursuant to these regulations.

7. If the Director of the Air and Waste Management Division determines that a Bureau program for enforcing or implementing the NSPS regulations is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the Bureau.

A notice announcing this delegation will be published in the **Federal Register** in the near future. The notice will state, among other things, that effective immediately, all reports required pursuant to the above-referenced NSPS regulations by sources located in Allegheny County should be submitted to the Bureau in addition to EPA Region III. Any original reports which have been or may be received by EPA Region III will be promptly transmitted to the Bureau.

Since this delegation is effective immediately, there is no requirement that the Bureau notify EPA of its acceptance. Unless EPA receives from the Bureau written notice of objections within ten (10) days of receipt of this letter, the Allegheny County Health Department, Bureau of Air Pollution Control will be deemed to have accepted all of the terms of the delegation.

Sincerely,

Robert J. Mitkus,

for Stephen R. Wassersug, *Deputy Director, Air & Waste Management Division.*

Therefore, pursuant to the authority delegated by the Administrator, the Air & Waste Management Division Director notified Dr. N. Mark Richards, Director, Allegheny County Health Department on May 6, 1982 that the authority to implement and enforce the standards of performance for new stationary sources was delegated to the Allegheny County Health Department.

II. Regulations Affected by This Action

EPA is today amending 40 CFR 60.4, *Address,* to reflect the delegation discussed above. The amended § 60.4, which states the address of the Allegheny County Bureau of Air Pollution Control, (to which all reports, requests, applications, and communications to the Administrator regarding this subpart must be addressed) is set forth below.

Another change made by today's action is the update of the address listed for Philadelphia's Air Management Services (AMS). The offices of AMS have been moved to a new location since delegation of NSPS to AMS.

The Administrator finds good cause to make this rulemaking effective immediately without prior public notice since it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. The delegation which is reflected by this administrative amendment was effective on May 6, 1982.

This rulemaking is effective immediately, and is issued under the authority of Section III of the Clean Air Act, as amended.

The Office of Management and Budget has exempted this action from Executive Order 12291.

III. List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc.

(42 U.S.C. 7401–7642)

Dated: June 2, 1982.

Robert J. Mitkus,

Deputy Director, Air and Waste Management Division.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Part 60 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. In § 60.4, paragraph (b) is amended by revising subparagraph (NN) to read as follows:

§ 60.4 Address.

* * * * *

(b) * * *

(NN) (a) City of Philadelphia: Philadelphia Department of Public Health, Air Management Services, 500 S. Broad Street, Philadelphia, PA 19146.

(b) Commonwealth of Pennsylvania: Department of Environmental Resources, Post Office Box 2063, Harrisburg, Pennsylvania 17120.

(c) Allegheny County: Allegheny County Health Department, Bureau of Air Pollution Control, 301 Thirty-ninth Street, Pittsburgh, Pennsylvania 15201.

* * * * *

[FR Doc. 82-15938 Filed 6-11-82; 8:45 am]
BILLING CODE 6560-50-M

VETERANS ADMINISTRATION

[41 CFR Parts 8-4 and 8-75]

Consulting and Related Services; Delegations of Authority

AGENCY: Veterans Administration.

ACTION: Final Rule and Request for Comments.

SUMMARY: This final rule revises Veterans Administration Procurement Regulations to conform to FPR 1-4.8. The VA has been asked to participate in the development and implementation of a model control system for consulting and related services. Although the model does not significantly depart from controls presently in place in VA Procurement Regulations, additional management control components required by the model are incorporated in this revision. Implementation of the model includes an evaluation phase to begin on the date of this application. As part of the test phase, the VA requests comments on the model system.

EFFECTIVE DATE: This rule is effective June 8, 1982. Comments on the model system itself to be sent to the address below by no later than August 31, 1982.

ADDRESS: Policy and Interagency Service (91), Office of Procurement and Supply, 810 Vermont Avenue, NW., Washington, D.C. 20420.

FOR FURTHER INFORMATION CONTACT: T. J. Ganous, Telephone (202) 389–5465.

SUPPLEMENTARY INFORMATION: The Administrator hereby certifies that this final rule, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), this final rule is therefore exempt from the initial and final regulatory flexibility analysis requirements of section 603 and section 604. The reason for this certification is because this rule is not likely to result in a major increase in costs to consumers or others, or to have other significant adverse effects.

It is the general policy of the VA to allow time for interested persons to participate in the rulemaking process (38 CFR 1.12). Since this amendment only affects internal procedures, the rulemaking process is considered unnecessary in this instance.

List of Subjects in 41 CFR Parts 8–4 and 8–75

Government procurement, Livestock, Utilities, Authority delegations (Government agencies).

Approved: June 8, 1982.

Robert P. Nimmo,

Administrator.

41 CFR Part 8–4, *Special Types and Methods of Procurement*, and Part 8–75, *Delegations of Authority*, are revised as follows:

PART 8–4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Subpart 8–4.8 Consulting and Related Services

1. Subpart 8–4.8 is added to 41 CFR Part 8–4 to read as follows:

Sec.

8–4.800 Scope of subpart.
8–4.802 Definition.
8–4.803 Contracting requirements.
8–4.803–1 Basic policy.
8–4.803–2 Guidelines for use of consulting services.
8–4.803–3 Responsibilities.
8–4.803–4 Approval of procurement of consulting services.
8–4.803–5 Special controls for letters of agreement.
8–4.804 Contract data reporting.
8–4.851 Organizational conflicts of interest.
8–4.851–1 Basic policy.
8–4.851–2 Contracting officer responsibilities.
8–4.852 Ethics in Government Act.
8–4.853 Management and professional services.
8–4.853–1 Scope.
8–4.853–2 Definition.
8–4.853–3 Guidelines for use of contracts for management and professional services.
8–4.853–4 Approval for use of contractual services.
8–4.853–5 Contract administration.

Subpart 8–4.8—Consulting and Related Services

§ 8–4.800 Scope of subpart.

This subpart implements FPR 1–4.8 and supplements it with the basic policy prescribed by OMB Circular A–120 and with the agency control procedures established pursuant to that directive. The subpart also applies to the procurement of management and professional services, special studies and analyses, and the management and support services for research and development activities as indicated in § 8–4.853.

§ 8–4.802 Definition.

For the purpose of this subpart, the definition of consulting services shall, in addition to examples listed in FPR 1–4.802, include peer review of research proposals.

§ 8–4.803 Contracting requirements.

§ 8–4.803–1 Basic policy.

(a) Consulting services will not be used in performing work of a policy or decision-making or managerial nature which is the direct responsibility of agency officials.

(b) Consulting services will normally be obtained only on an intermittent or temporary basis; repeated or extended arrangements are not to be entered into except under extraordinary circumstances.

(c) Consulting services will not be used to bypass or undermine personnel ceilings, pay limitations, or competitive employment procedures.

(d) Former Government employees per se will not be given preference in consulting service arrangements.

(e) Consulting services will not be used under any circumstances to specifically aid in influencing or enacting legislation.

(f) Grants and cooperative agreements will not be used as legal instruments for consulting service arrangements.

(g) A competitive solicitation is the preferred method of obtaining consulting services and should be used to the maximum extent practicable to insure that costs are reasonable. To that end, requests for approval of the use of consulting services must be made in sufficient time to enable the appropriate procurement action to be taken. A firm fixed-price contract (FFP) is the preferred contract type and will be used to the maximum extent possible. The contracting officer will determine the feasibility of using a FFP contract and may solicit further detail from the requesting official in order to make that determination.

(h) Sponsoring offices will avoid any contact or discussion with prospective contractors that may impinge on the integrity of the procurement process. Final selection of contractors and negotiation of terms, conditions and prices are matters lying solely within the province of the contracting officer (also see § 8–1.402).

(i) Requesting officials submitting requirements for consulting services will submit work statements which are specific, complete, and which specify fixed periods of service. End products must be specific and unambiguous, and defined in terms which directly relate to the problem at hand.

(j) Sole-source contracts for consulting services resulting from unsolicited proposals are generally not appropriate. Therefore, when a using activity receives an unsolicited proposal for consulting services, and determines it has a need for such services, a contracting officer shall synopsize the requirement for publication in the Commerce Business Daily to determine if there are other qualified contractors interested in submitting a proposal. Qualified contractors shall be solicited.

(k) If program or contracting officials become aware of serious deficiencies in the performance of duties and responsibilities outlined in this subpart, they will report such deficiencies to their respective department or staff office heads for corrective action. These reports, including corrective actions taken, will be forwarded to the Administrator.

§ 8–4.803–2 Guidelines for use of consulting services.

Consulting service arrangements may be used when essential to the mission of the agency to:

(a) Obtain specialized opinions or professional or technical advice which does not exist or is not available within the agency or another agency.

(b) Obtain outside points of view to avoid too limited judgment on critical issues.

(c) Obtain advice regarding developments in industry, university, or foundation research.

(d) Obtain the opinion of noted experts whose national or international prestige can contribute to the success of important projects.

(e) Secure citizen advisory participation in developing or

implementing Government programs that by their nature or by statutory provision call for such participation.

(f) Obtain assistance to complete a necessary project within a specified period of time.

§ 8-4.803-3 Responsibilities.

(a) Contracting officer responsibilities: (1) The contracting officer is responsible for making the determination that the requirements submitted by the requesting official are in fact consulting services. The contracting officer will be guided by definitions in FPR 1-4.6. Upon an affirmative determination that consulting services are being requested, the contracting officer will insure that all justifications for approval required by § 8-4.803-4 are prepared and submitted properly.

(2) The contracting officer will require as a condition of the contract that the contractor will submit all reports with covers which display the following information:

(i) Name and business address of the contractor.

(ii) Contract number.

(iii) Dollar amount of award (including modifications).

(iv) Type of award, i.e., competitive or noncompetitive.

(v) Identification of the official who requested the consulting services, including the name of the organization and telephone number.

(vi) The following notation will be included:

Note.—Public Law 97-101, section 412, requires that upon the transfer of the contents of this report, or a substantial part of this report, to any other Government document, the new document shall appropriately identify the contract and contractor involved in the development of this report.

(3) The contracting officer is responsible for assessing actual and potential organizational conflicts of interest. These determinations will be governed by § 8-4.851. The contracting officer should pay particular attention to proposed contract requirements which call for advice on future agency decisions to contract, particularly when the development of specifications and work statements is involved.

(b) *Technical support:* (1) Contracting officers will designate a representative of the sponsoring office as the Contracting Officer's Technical Representative (COTR).

(2) The designated COTR will monitor contract performance in accordance with the plan required by Appendix A of this subpart and submit to the contracting officer all resulting documentation for inclusion in the contract file.

(3) No consulting contract file will be closed out until the sponsoring official has provided for file a written evaluation of the performance of each consulting contractor as well as a statement of the extent to which the contractor's report (or other end product) has been used or is expected to be used. Also, the contracting officer should, in conjunction with the responsible program official, compare the original contract cost with the final cost and determine the nature of any other deviations from the original contract specifications. Any irregularities should be reported to the Inspector General. Final evaluations should also specify reasons for rejecting any of the contractor's recommendations.

(4) Copies of all final evaluations should be sent to the Assistant Deputy Administrator for Procurement and Supply (93).

§ 8-4.803-4 Approval of procurement of consulting services.

(a) Contracts for consulting services will be approved by the Administrator regardless of amount, except as provided for in § 8-4.803-51. The methodology for obtaining the approvals required by this paragraph are set forth in paragraph (c) of this section. However, no request for approval of procurement shall be initiated by a contracting officer without the requirement for consulting services first having received the review required in paragraph (b) of this section.

(b) Prior to the submission of an approval request to a contracting officer as required by paragraph (c) of this section, the activity requesting the consulting services will have such requirements reviewed and approved at one level above the activity and, if occurring during the fourth quarter, two levels above. At field facilities this initial review need not exceed the facility head. In Central Office this review need not exceed department heads for requirement emanating within the operating departments and will not exceed the Associate Deputy Administrator having jurisdiction for requirements emanating from staff offices. The purpose of this initial review will be to notify management in the chain of command of all consulting services requirements, and to insure that departmental policy pertaining to such services has been adhered to, including any budget restrictions imposed by the Office of Management and Budget.

(c) The approval of the Administrator will be requested by means of a notification of intent prepared by the contracting officer in the form of a letter or memorandum and submitted through channels to the Assistant Deputy Administrator for Procurement and Supply. The Assistant Deputy Administrator for Procurement and Supply will review the submission for consistency of application of agency policy, and will be responsible for maintaining a consolidated record of requests submitted to the Administrator and the results of those submissions. Subsequent to that review, the notices will be forwarded for the approval of the department head (or designated staff) or to the appropriate Associate Deputy Administrator having jurisdiction over the requesting activity. The General Counsel and the Assistant Deputy Administrator for Budget and Finance will also review and concur in the requests.

(d) The notification of intent will cite the pertinent authority warranting negotiation and, in addition to any required Determination and Findings, will contain the information indicated in Appendix A to this part as applicable to the proposed procurement. Where a specific individual or concern is proposed, the notification of intent will also include a statement as to any previous or current contracts with that individual or concern, and as to the consideration given to organizational conflicts of interest.

(e) The approval of the Administrator is in addition to and does not replace technical and legal reviews of contract documents prior to award prescribed elsewhere in these regulations.

§ 8-4.803-51 Special controls for letters of agreement.

(a) Letters of agreement may be used to procure consulting services and advisory board memberships only by those individuals designated in § 8-75.201-17(a) and individuals delegated authority under the conditions specified in paragraph (b) of that section. The delegated official will perform or have performed for each letter of agreement all those duties and requirements prescribed in this subpart, as modified by paragraphs (b), (c), (d) and (e) of this section. That official will also insure that all reporting requirements are completed for each action.

(b) The department or staff office head will be the highest level approving official (except under those circumstances described in paragraph (c) of this section) for each procurement action which does not exceed $500 in consulting fees (excluding travel, per diem and other travel-related costs) and which does not award more than an

accumulated total of $2,500 per year in consulting fees to any individual or firm.

(c) All actions exceeding the limits specified in paragraph (b) of this section and those actions anticipated to be awarded in a fourth quarter regardless of dollar amount, except as provided for in paragraph (d) of this section, will continue to require the approvals specified in § 8–4.803–4. All such actions will be forwarded through the Assistant Deputy Administrator for Procurement and Supply (93) for review and concurrence.

(d) Advisory board memberships duly established under the authorities contained in Title 38 U.S.C. and peer review of research proposals may be approved by department and staff office heads during the fourth quarter without further review by the Administrator. However, those actions pertaining to board memberships and peer review of research proposals exceeding the dollar limits for other than travel-related compensation as specified in paragraph (b) will require the approval of the Administrator.

(e) In lieu of the requirements outlined in Appendix A of Part 8–4, justifications for letters of agreement will provide a statement of need and will certify that such services do not unnecessarily duplicate any previously performed work or services. The justification will also certify that the procurement action will not violate post-employment restrictions prescribed in the Ethics in Government Act and § 8–4.852.

(f) All procurements for consulting services accomplished through letters of agreement will be entered into the agency consolidated listing of consultant contracts in the format prescribed by § 8–4.804, paragraphs (b) and (c). All such log entries applicable to Central Office activities shall be forwarded to the Assistant Deputy Administrator for Procurement and Supply (93). That office shall also be responsible for entering such information pertaining to Central Office letters of agreement into the Federal Procurement Data System.

§ 8–4.804 Contract data reporting.

(a) The contracting officer will take care to report correctly a contract award for consulting services in the Federal Procurement Data System.

(b) A separate log (in addition to any station contract register) for all consulting services contracts, regardless of dollar value, will be maintained at the procuring activity for management control purposes. Log entries will be made on separate sheets of paper for each contract award and in the following format:

(1) Contract/obligation number.

(2) Date of award.

(3) Requesting service.

(4) Type of award, i.e., competitive or noncompetitive.

(5) Name and address of awardee.

(6) Contract price.

(7) A short narrative description of the work to be performed.

(c) The contracting officer will forward a copy of each log entry on standard size plain white bond paper to the Assistant Deputy Administrator for Procurement and Supply (93) on a quarterly basis. Log entries should be received in Central Office no later than 15 days after the end of each quarter. Upon receipt of log entries, the Office of Procurement and Supply (93) will immediately enter all submissions into the consolidated listing. Negative responses, if applicable, are required on an annual basis and should be received in Central Office no later than 15 days after the end of the fiscal year.

(d) Upon a change in status of a consultant contract, i.e., termination, modification, extension or completion, the contracting officer will annotate the log entry and resubmit a copy of the entry to the Assistant Deputy Administrator for Procurement and supply (93).

§ 8–4.851 Organizational conflicts of interest.

§ 8–4.851–1 Basic policy.

The determination that organizational conflicts of interest exist can only be made when facts surrounding individual contracting situations are known. Therefore, it is up to the contracting officer to exercise common sense, good judgment and sound discretion in making such a determination and to take steps to mitigate to the greatest extent possible organizational conflicts of interest. The contracting officer will be guided by at least two underlying principles. These are that organizational conflicts of interest may result from (a) Conflicting roles and interests of the contractor, in which case he/she would be unable to give unbiased and objective advice or may otherwise produce a biased work product; or (b) Unfair competitive advantage which exceeds a normal flow of benefits from the award of the contract.

§ 8–4.851–2 Contracting officer responsibilities.

(a) Contracting officers will be responsible for determining the existence of actual and/or potential organizational conflicts of interest which would result from the award of the contract. The contracting officer will be guided by information submitted by offerors and by his/her own judgment. The contracting officer may obtain the advice of legal counsel and the assistance of technical specialists in evaluating potential organizational conflicts.

(b) If it is determined that organizational conflicts of interest will be created by the award of the contract, the contracting officer may find an offeror nonresponsible.

(c) Notwithstanding the existence of organizational conflicts of interest, it may be determined that the award of the contract would be in the best interest of the Government. In that case, the contracting officer may set terms and conditions which will reduce the organizational conflicts of interest to the greatest extent possible, with the approval of the head of the procuring activity.

(d) The contracting officer will, in addition to any certifications required by this subpart, require in all solicitations for consulting services that the offeror submit as part of an offer a statement which discloses all relevant facts relating to existing or potential organizational conflicts of interest surrounding the contract and/or the proposed use of subcontractors during the contract.

(e) The following repesentation will be made a part of all solicitations for consulting services.

Organizational Conflicts of Interest

(a) The offeror represents to the best of his/her knowledge and belief that the award of the contract/would/~~co~~/would not/involve organizational conflicts of interest as defined in this representation. The term organizational conflicts of interest shall mean that a relationship exists whereby an offeror or a contractor (including his/her chief executives, directors, proposed consultants and subcontractors) has interests which may (1) diminish his/her capacity to give impartial, technically sound, objective assistance and advice or may otherwise result in a biased work product; or (2) result in an unfair competitive advantage. It does not include the "normal flow of benefits" from the performance of a contract.

(b) Based on this representation and any other information solicited by the contracting officer, it may be determined that organizational conflicts of interest exist which would warrant disqualifying the contractor for award of the contract unless the organizational conflicts of interest can be mitigated to the contracting officer's satisfaction by negotiating terms and conditions of the contract to that effect. In the case of a formally advertised solicitation, the apparent successful offeror may enter into a supplemental agreement which mitigates the organizational conflicts of interest

(c) Nondisclosure or misrepresentation of organizational conflicts of interest at the time of the offer, or arising as a result of a

modification to the contract, may result in the termination of the contract at no expense to the Government.

§ 8–4.852 Ethics in Government Act.

(a) Former employees are not specifically prohibited under Section 207 of Title 18, United States Code, from acting as consultants for the Veterans Administration. However, former employees are prohibited, for certain periods of time, from representing or otherwise acting as agents of other parties for the purpose of obtaining Government contracts.

(b) The certification in § 8–1.1250 will be made a part of all solicitations for consulting services and management and professional services contracts.

§ 8–4.853 Management and professional services.

§ 8–4.853–1 Scope.

(a) The controls in this section are applicable to management and professional services, special studies and analyses and management and support services for research and development. Specific types of services to be controlled are listed in Appendix B. Management and support services for research and development are the same services listed in Appendix B when procured with Research and Development funds. However, the controls do not apply to the conduct of research and development.

(b) Services in other than the categories listed in Appendix B are also controlled if covered by the definition in § 8–4.853–2 and either represent unusual, nonroutine requirements or requirements having significant impact on agency operations. Contracting officers will be responsible for making such determinations.

(c) This section does not apply to contracts for the medical, dental and ancillary care of beneficiaries or to contracts for the provision of other services directly to beneficiaries, such as educational services.

§ 8–4.853–2 Definition.

The term "management and professional services" means those services related to the performance of operating functions of an agency, involving knowledge of an advanced type, and requiring the use of discretion and judgment. Management and professional services differ from consulting services in that the latter term refers to services of a purely advisory nature. Both categories of services involve selection of the contractor on the basis of qualifications, rather than price alone, and are therefore normally procured by negotiation.

§ 8–4.853–3 Guidelines for use of contracts for management and professional services.

(a) *Contracts are appropriate when:* (1) Unusual or peak workloads occur that cannot be accomplished by Government personnel.

(2) Work involved is of an intermittent, occasional, or one-time nature for which the hiring of Government personnel is not feasible.

(3) They result in a more economical method of performing the work. [See OMB Circular A–76, revised.]

(b) *Contracts are inappropriate (improper or illegal) when:* (1) The service involves exercising a Governmental judgment, i.e., managing programs requiring value judgements; selection of priorities; direction of Federal employees; and all regulatory responsibilities.

(2) An employer-employee relationship would be established or involved.

(3) They circumvent personnel salary or ceiling limitations.

§ 8–4.853–4 Approval for use of contractual services.

(a) All contracts controlled by this section require the approval of the Administrator except as provided in paragraph (b) of this section. The procedure to be used in obtaining approval is the same as that required for a consulting service as prescribed in § 8–4.803–4. The format and content of the supporting justification will be the same as that in Appendix A.

(b) Contracts not exceeding $500 may be approved by the heads of facilities, without higher level review, for requirements emanating at the local level. In Central Office, contracts not exceeding $500 may be approved at one level above the requesting activity, without higher level review. Supporting justifications will be the same as required in paragraph (a) of this section.

(c) The approvals of officials designated in paragraphs (a) and (b) of this section are in addition to and do not replace the technical and legal reviews of contract documents prior to award prescribed elsewhere in these regulations.

§ 8–4.853–5 Contract administration.

(a) All the basic policy considerations contained in § 8–4.803–1 are applicable to services controlled herein, including the development of work statements which are specific, complete and which specify fixed periods of service and the solicitation of other qualified sources for proposed sole-source awards emanating from unsolicited proposals.

(b) All responsibilities of contracting officers and their technical representatives as prescribed in § 8–4.803, Contracting requirements, will apply to services controlled by this section, including the monitoring of contactor performance and the final evaluation of end products.

(c) All reporting requirements contained in § 8–4.804, Contract data reporting, are applicable to services controlled by this section.

§§ 8–4.5300—8–4.5305 (Subpart 8–4.52) [Removed]

§§ 8–4.5300—8–4.5303 (Subpart 8–4.53) [Removed]

2. Part 8–4 is amended by removing Subparts 8–4.52, Consulting Services and 8–4.53, Management, Administrative and Professional Services.

3. Part 8–4 is amended by removing Appendix A; by revising Appendix B and redesignating it as Appendix A; and by adding a new Appendix B so that the revised and added material reads as follows:

Appendix A.—Information to be Included in Requests for Contractual Services

Requests for approval to procure contractual services, whether with individuals or firms, must contain statements on the following items where applicable. Items other than those listed may be added to clarify or justify the request.

Problem or Project

1. Description of the problem or project.
2. Length of time this problem or condition has existed.
3. Effect on the mission should the problem continue to exist.
4. Specific examples of losses or excessive costs caused by the problem.
5. Whether the proposed study or project is a small segment of a much greater project. If so, elaborate on the complete study or project and state what action will be taken concerning the overall project when this segment is completed.
6. Alternative approaches available to perform this work, and reasons for eliminating each approach.
7. Previous attempts to solve the problem or perform the work and their results, with an explanation why they were unsuccessful if that was the case.
8. Results or end products sought. End products can be as simple as a report containing recommendations, or as lengthy and detailed as a completely installed system for management.
9. Efforts made to determine if similar studies or other sources of information already exist, and whether this proposed effort duplicates other efforts known to have taken place or which are ongoing.

10. Whether a lack of equipment has a bearing on this problem. If so, what attempts were made to remedy the situation?

11. Type of skills required to solve problem or accomplish the project.

Personnel

12. Whether a shortage of qualified personnel has a bearing on the problem. If so, what attempts were made to remedy the situation?

13. Number of in-service personnel by descriptive title to be made available to work with the contractor.

14. If the services of a specific individual are requested, specific reasons why this individual or another equally competent individual cannot be temporarily employed as authorized in personnel regulations.

15. If a request is for a specific individual, reasons for selecting that person over other suitable persons. List of other suitable persons, or explanation if there are none.

Firms

16. If a specific firm is recommended, reasons for selecting it over other suitable firms, or explanation if there are none.

Cost of Contract and Funds

17. Estimated cost of contract.

18. Identification of funds to be used to pay for contract.

Attachments

19. Copies of staff studies and papers bearing on the problem.

20. Copy of proposed contract work statement.

Automated Data Processing

21. If the request includes a requirement for services related to ADP, a copy of a completed and approved GSA Form 2068, Request for ADP Services (FPMR 101–36.2).

Evaluation

22. The methodology by which contractor performance will be monitored including how departures from the original contract specifications will be documented and approved.

23. The methodology by which the final product will be evaluated and by whom.

Advance Procurement Planning

24. Does the requirement fall within the activity's advance procurement plan, and if not, why?

Appendix B—Management and Professional Services, Special Studies and Analyses, and Management and Support Services for Research and Development

Federal Procurement Data System

Service Code and Category

Management and Professional Services:
- R402—Management Data Collection Services
- R405—Operations Research Services
- R406—Policy Review/Development Services
- R407—Program Evaluation Services
- R408—Program Management/Support Services
- R409—Program Review/Development Services
- R410—Public Relations Services
- R412—Simulations
- R413—Specifications Development Services (Nonconstruction)
- R498—Other Professional Services
- R499—Other Management Services

Special Studies and Analyses:
- R501—ADP Systems Analyses
- R505—Cost Benefit Analyses
- R507—Economic Studies and Analyses
- R513—Feasibility Studies (Nonconstruction)
- R521—Historical Studies
- R523—Legislative Studies
- R524—Mathematical/Statistical Analyses
- R527—Recreation Studies
- R528—Regulatory Studies
- R529—Scientific Data Studies (Nonmedical)
- R531—Socio-Economic Studies
- R537—General Health Studies
- R599—Other Special Studies and Analyses

PART 8–75—DELEGATIONS OF AUTHORITY

4. Section 8–75.201–17 is added to 41 CFR Part 8–75 to read as follows:

§ 8–75.201–17 Letters of agreement.

(a) Authority to execute, award, and administer letters of agreement is delegated to the following:

(1) General Counsel.

(2) Assistant Deputy Administrator for Personnel and Labor Relations.

(3) Chief Medical Director.

(4) Chief Benefits Director.

(5) Chief Memorial Affairs Director.

(6) Assistant Deputy Administrator for Procurement and Supply.

(b) The contracting officers name in paragraph (a) of this section may designate one or more subordinates, and authority to execute the same duties and responsibilities is hereby delegated to such subordinates. All such designations wil be in writing and will specifically state the scope and limitations of the designees' contractual authority. Copies of all designations will be forwarded to the Assistant Deputy Administrator for Procurement and Supply (93).

[FR Doc. 82–15894 Filed 6–11–82; 8:45 am]
BILLING CODE 8320–01–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Ch. II

OMB Control Numbers for Reporting Requirements in Regulations

AGENCY: Maritime Administration, Transportation (DOT).

ACTION: Technical amendments.

SUMMARY: This document amends MARAD regulations to include OMB control numbers in the regulations wherever current information collection requirements are described.

EFFECTIVE DATE: June 14, 1982.

FOR FURTHER INFORMATION CONTACT: John L. Mann, Jr., Director, Office of Management & Organization, 400 7th St., S.W., Washington, D.C. 20590, (202) 426–5816.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The information collection requirements contained in the regulatory sections listed below have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and assigned the control numbers contained in the listing.

Text of the Amendments

Following the text of each section in Chapter II of Title 46, Code of Federal Regulations, cited in the first column of the table, add parenthetically the corresponding OMB number listed in the second column.

CFR Citation	OMB Control No.
Section	
221.14	(2133–0006)
221.23	(2133–0015)
221.30	(2133–0015)
222.1	(2133–0008)
222.2	(2133–0016)
251.1	(2133–0020)
251.11	(2133–0017)
252.24(a)	(2133–0024)
252.24(d)	(2133–0005)
252.31	(2133–0004)
252.33(d)	(2133–0004)
252.34(f)	(2133–0004)
252.41	(2133–0024)
272.7	(2133–0007)
281.1	(2133–0009)
282.1	(2133–0022)
287.4	(2133–0032)
298.3	(2133–0018)
309.6	(2133–0011)
310.5	(2133–0010)
355.2	(2133–0012)
390.2	(2133–0027)

Georgia P. Stamas,

Assistant Secretary, Maritime Administration.

[FR Doc. 82–15780 Filed 6–11–82; 8:45 am]
BILLING CODE 4910–81–M

FEDERAL MARITIME COMMISSION

46 CFR Part 510

[General Order 4, Revised: Docket No. 80–13]

Licensing of Independent Ocean Freight Forwarders

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The effect of this action is to continue to allow vessel operating common carriers and their agents to receive freight forwarder compensation on shipments with respect to which they performed both common carrier and freight forwarding functions. It amends a proposal adopted by the Commission, but not made effective, which would have prohibited the receipt of such compensation.

DATE: Section 510.33(g), as revised herein, will be effective July 14, 1982.

ADDRESS: For further information contact: Jeremiah D. Hospital, Chief, Office of Freight Forwarders, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573, (202) 523-5843.

SUPPLEMENTARY INFORMATION: The Commission instituted this proposed rulemaking proceeding on March 17, 1980 (45 FR 17029) to revise General Order 4 (46 CFR 510), which governs the licensing and operations of independent ocean freight forwarders (forwarders). One of the proposed revisions was the substitution of a new rule for original § 510.22(c). Insofar as is relevant here, § 510.22(c) prohibited the receipt of compensation [1] by a forwarder who also acted as, or who was related to a person who acted as, a nonvessel operating common carrier (NVO) on the same shipment.

In pertinent part, § 510.22(c) reads as follows:

> A nonvessel operating common carrier by water or person related thereto * * * may collect compensation under section 44(c) when, and only when, the following certification is made on the "line copy" of the ocean carrier's bill of lading, in addition to all other certifications required by section 44 of the Shipping Act, 1916, and this part: "The undersigned certifies that neither it, nor any related person, has issued a bill of lading covering ocean transportation or otherwise undertaken common carrier responsibility for the ocean transportation of the shipment covered by this bill of lading." Whenever a person acts in the capacity of a nonvessel operating common carrier by water as to any shipment he shall not be entitled to collect compensation under section 44(c) nor shall a common carrier by water pay such compensation to a nonvessel operating common carrier for such shipment.

The proposed revision of § 510.22(c) initially was designated as new § 510.33(i). This proposed new rule would have expanded the prohibition in § 510.22(c) by also prohibiting the receipt of compensation by a forwarder who acted as a vessel operating common carrier, or agent of such carrier, on the same shipment.

In its final version, published by the Commission on May 1, 1981 (46 FR 24565), with a scheduled effective date of October 1, 1981, § 510.33(i) was redesignated as § 510.33(g) and read as follows:

> (g) *Licensed oceangoing common carriers; compensation.* An oceangoing common carrier, agent or person related thereto, acting as an independent ocean freight forwarder, may collect compensation when, and only when, the following certification is made on the "line copy" of the underlying carrier's bill of lading, in addition to all other certifications required by this part:
>
> The undersigned certifies that neither it, nor any related person, has issued a bill of lading covering the ocean transportation of the shipment covered by this bill of lading or otherwise undertaken common carrier responsibility therefor.
>
> Whenever a person acts in the capacity of an oceangoing common carrier or agent thereof as to any shipment, such person shall not be entitled to collect compensation nor shall any underlying carrier pay such compensation to such oceangoing common carrier or agent thereof for such shipment.

On May 27, 1981, a Petition for Clarification and Reconsideration was filed on behalf of five forwarders operating in Florida, North Carolina, South Carolina and Georgia. As a result of this petition, on July 14, 1981, the Commission stayed the effective date of section 510.33(g) as to vessel operating common carriers and agents, and gave further notice of proposed rulemaking so that the merits of the expanded prohibition could be explored in full.

Subsequently, comments were submitted by the following:

1. Freehill, Hogan and Mahar, Attorneys for Associated Latin American Freight Conferences;
2. Independent Freight Forwarders and Customs Brokers Association of Savannah, Inc.;
3. Senator Jesse Helms of North Carolina;
4. Congressman Walter B. Jones of North Carolina;
5. National Customs Brokers and Forwarders Association of America, Inc.; and
6. Kominers, Fort, Schlefer and Boyer, Attorneys for the five original forwarder/petitioners in Florida, North Carolina, South Carolina and Georgia.

The position taken by each commentator is summarized below:

Associated Latin American Freight Conferences

The Conferences favor § 510.33(g) as adopted in the final rules. They state that in instances where a forwarder is controlled by a carrier, the forwarder would not be acting in the typical arm's-length fashion, but more like an "in-house" sales and booking department. They raise the question of whether such a forwarder/agent actually was performing the statutorily required services to be eligible to receive compensation, i.e., it could be argued that the carrier already was providing the services for itself and thus was barred by law from paying compensation for such services.

Independent Freight Forwarders and Customs Brokers Association of Savannah, Inc.

The Association favors § 510.33(g) and argues that carriers and their agents should not be licensed in the first place. The Association also requests a rule which would make carriers pay compensation promptly.

Senator Jesse Helms

Senator Helms objects to § 510.33(g). He states that if there is no basis for denying licenses to forwarder/agents, there is no apparent basis for denying them the right to collect compensation. He maintains that the effect of the rule will be anti-competitive because forwarder/agents will be forced to choose between the ship's agent business and freight forwarding business. Such a choice, he states, would seriously affect ports where there is insufficient business to justify separate freight forwarding and ship's agency business. Senator Helms also states that he understands there are serious legal impediments to the rule.

Congressman Walter B. Jones

Congressman Jones objects to § 510.33(g) because of its restriction on compensation to forwarder/agents. He feels the rule would severely jeopardize the livelihood of small-port forwarders who combine their forwarding business with ship agency business, and believes that the rule may be contrary to the intent of Congress.

National Customs Brokers and Forwarders Association of America, Inc.

The Association supports § 510.33(g) and maintains that the rule will prevent forwarder/agents from receiving double payment for substantially the same services, i.e., an agency commission and forwarder compensation, thus dissipating carrier revenue. The Association also points out that Congress has prohibited a carrier from paying compensation to a forwarder who has not performed certain functions

[1] The term "compensation", as used in the Commission's forwarder regulations, means the payment by a water common carrier to a forwarder. Such payment is prohibited by section 44(c) of the Shipping Act, 1916, unless the forwarder performs certain functions that the common carrier otherwise would have to perform itself.

specified in the Shipping Act, 1916—functions which the carrier must otherwise perform itself. The question is, in the case of a person who acts as both a forwarder and an agent, who actually is performing such functions—the forwarder or the agent? Further, if the forwarder and carrier are represented by the same person, there is no motivation for such person to ensure that the statutory prerequisites for the payment of compensation have been met. Such conflict of interest extends even more obviously to a forwarder/agent attempting to service the opposing interests of the shipper and carrier at the same time. The Association also states that § 510.33(g) will serve to correct the present anti-competitive situation in small ports where nonagent forwarders find it difficult to compete with forwarder/agents. It is difficult for nonagent forwarders to compete because forwarder/agents receive double payment from the carrier and are able to use such higher revenue to underquote nonagent forwarders when soliciting export shippers.

Florida, North Carolina, South Carolina and Georgia Fowarders

The five Florida, North Carolina, South Carolina and Georgia forwarders mentioned above object to § 510.33(g) because it restricts their "right" to collect compensation when and if they choose to act as agents. They state that Congress, in the 1959–1961 period, deliberately refused to give the Commission power to deny licenses to carriers or agents or to restrict their right to compensation. Thus, they state that the restriction in § 510.33(g) would violate a forwarder's right to compensation under section 44(e) of the Shipping Act, 1916 (Act), and also would violate section 44(d) of the Act and section 9(b) of the Administrative Procedure Act by restricting a license without affording a hearing to the licensee. Further, they state that fifteen years of Commission files disclosed no basis for the "concern" expressed in the March, 1980 notice of proposed rulemaking. In addition, these forwarders argue that the Commission ignores the fact that forwarder/agents are entitled to dual compensation (i.e., forwarder compensation and agency commissions or fees) because they perform dual functions. Finally, these five forwarders argue that, for a number of procedural reasons, due process has been denied. They request oral argument.

After giving full consideration to the above summarized comments, the Commission has decided against adopting the proposed change to the previous rule (§ 510.22(c) of General Order 4) concerning the receipt of compensation. Thus, a vessel operating common carrier or its agent, who also functions as a licensed ocean freight forwarder on the same shipment, may continue to receive compensation. Licensed nonvessel operating common carriers by water and forwarders related thereto will not be permitted to receive compensation. In short, all parties will be left as they were under previous § 510.22(c). After reconsidering all of the arguments pro and con, the Commission sees no reason to alter the status quo concerning this issue.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Commission certifies that this action will not have a significant economic impact on a substantial number of small entities within the meaning of the said Act. This action will not require forwarders or any other persons to submit reports or maintain records. Since it is a decision against adopting a new rule, it will result in no regulatory burden of any type on any person.

List of Subjects in 46 CFR 510

Freight forwarders and common carriers.

PART 510—LICENSING OF INDEPENDENT OCEAN FREIGHT FORWARDERS

Therefore, pursuant to sections 43 and 44 of the Shipping Act, 1916 (46 U.S.C. 841a and 841b), and 5 U.S.C. 553, § 510.33(g) of Title 46, Code of Federal Regulations, is revised to read as follows:

§ 510.33 Forwarder and carrier; compensation.

* * * * *

(g) *Licensed oceangoing common carriers; compensation.* A nonvessel operating common carrier by water or person related thereto licensed under this part may collect compenstion when, and only when, the following certification is made on the "line copy" of the underlying carrier's bill of lading, in addition to all other certifications required by this part:

The undersigned certifies that neither it nor any related person has issued a bill of lading or otherwise undertaken common carrier responsibility as a nonvessel operating common carrier for the ocean transportation of the shipment covered by this bill of lading.

Whenever a person acts in the capacity of a nonvessel operating common carrier by water as to any shipment such person shall not collect compensation, nor shall any underlying carrier pay compensation to such person for such shipment.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-16020 Filed 6-11-82; 8:45 am]

BILLING CODE 6730-01-M

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46 CFR Part 536

[General Order 13, Amdt. No. 11; Docket No. 81-50]

Per Container Rates; Tariff Filing Regulations Applicable to Carriers and Conferences in the Foreign Commerce of the United States

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: This prescribes the form and manner governing the establishment of per-container/trailer rates to ensure the proper application of such rates.

DATES: Effective August 13, 1982.

ADDRESS: For further information contact: James A. Warner, Chief, Office of Foreign Tariffs, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573; (202) 523–5827.

SUPPLEMENTARY INFORMATION: On August 28, 1981 the Commission published a Notice of Proposed Rulemaking in the **Federal Register** (46 FR 43474) which proposed two alternative rules to govern the establishment of per-container/trailer rates. The first would require the publication of the size and capacity specifications of containers and trailers upon which per-container/trailer rates are based and would require that the rate vary directly with the capacity. The second alternative would not require a specific relationship between the capacity of the container/trailer and the rate charged (although carriers would certainly be free to establish such a relationship), but rather it would permit the carrier to establish categories of containers and to charge the same rate for any container or trailer falling within the category, *e.g.*, 20-foot dry van, 40-foot reefer, etc.

Comments to the Notice of Proposed Rulemaking were submitted by or on behalf of eight shippers,[1] three carriers,[2] four other organizations and associations[3] and forty-five

[1] Union Carbide Company, RCA Corporation, E. I. du Pont de Nemours & Co., Emerson Electric Co., General Electric Company, Military Sealift Command, Airco Carbon, Rohm and Haas.

[2] Compagnie Maritime d'Affretement, United States Lines, Inc., Sea-Land Service, Inc.

[3] Houston Port Bureau, Inc., Tobacco Association of United States, California Association of Port

conferences.[4] These comments are addressed below.

I. Definitions

Several commentators argued that the definitions governing the terms used in the per-container/trailer rate rule should appear in the rule itself rather than in that section of Part 536 establishing tariff filing definitions generally. The Commission agrees. While there are advantages in having all the definitions in one place, because the terms defined here pertain only to per-container/trailer rates, the definitions will be relocated to § 536.12.

Several comments were received regarding the definition of "capacity." However, because the term is not otherwise used in the final rule adopted, there is no need for this definition and it will be deleted.

One commentator suggested that the definition of containers be expanded to include "any receptacle used for the storage of shipments during transportation." The Commission agrees that a more expansive definition is necessary but is of the opinion that the word "receptacle" is too vague. Accordingly, the definition will be modified to include examples of those sorts of containers that are encompassed in the definition.

Many conferences contended that the definition of "mixed shipments" should be limited to CY/CY shipments. While such a limitation has merit, the Commission has concluded that any limitation should be made on a commercial basis by the conference or carrier rather than imposed by rulemaking.

The definition of "shipment" in the proposed rule concluded with the phrase "for delivery to one *or more* destination location." Several commentators opposed the rule's application to more than one delivery port or point. They pointed out that the words "or more" in the definition of "shipment" might be read as allowing "per-container/trailer" rates to be quoted for *less* than containerload ("LCL") shipments. There is merit to this contention. If "per-container/trailer" rates are to be applied to a *portion* of a container/trailer load at each destination port, confusion could arise as to how much of the container/trailer is occupied by the cargo. This would be in essence a return to a weight/measurement system and is inconsistent with the concept of per-container/trailer rates. Allowing per-container/trailer rates to be quoted to multiple destinations would defeat a principal advantage of per-container/trailer rates to shippers and carriers, which is the ability to calculate transportation rates on the basis of a uniform and interchangeable cargo unit, the container/trailer. Therefore, the words "or more" have been deleted from the final rule. Moreover, because the "shipment" provision imposes a limitation on the publication of per-container/trailer rates and is not merely a definition in any event, it has been included as a filing requirement in § 536.12(b)(1).

At the suggestion of one commentator, the word "freight" has been changed to "cargo" in the definition of "trailer" to make it conform to other sections of the Commission's tariff filing rules embodied in Part 536.

II. Tariff Filing Requirements

Most commentators preferred what has been termed the second alternative, *i.e.*, permit the establishment of categories of containers/trailers. Although the first alternative is more precise, the Commission is of the opinion that the objective of the rulemaking can be accomplished by adopting the second alternative. Accordingly, it has incorporated it into the final rule.

The second alternative requires the carrier to limit the application of the per-container/trailer rate to a given category of equipment. The types of containers falling within the category must be clearly described. For example, a per-container/trailer rate which, by its terms, is limited to standard 40-foot dry vans may not be applied to a 40-foot high cube container. However, a carrier may provide a formula for the use of an alternate container/trailer where equipment in the specified category is unavailable. Absent such a formula, weight and measure commodity rates must be applied to shipments moving in containers/trailers which do not fall within the category of equipment specified by the per-container/trailer rate item.

Likewise when there is no specific provision for a given mixture of cargo, the weight or measurement rate for each commodity shall apply. Several commentators suggested, as an alternative, that tariffs with mixed shipment rates be required to contain a residual rating formula for mixtures not specifically itemized in the tariff. However, it is unclear how rates established by a residual formula could be applied so as to ensure that they would not alternate or conflict with individual commodity rates found in the tariff. Absent a clear application of rates, the potential for abuse is significant. Accordingly, the suggestion has not been adopted. This decision does not prevent the carrier from meeting the needs of the shippers it serves. The Commission is not prescribing the terms of any mixing provision. If a shipper cannot or does not meet the requirements for a published rate, it can request the carrier to publish a rate with a mixture requirement which it can meet.

It has been suggested that the requirement that the mixed shipment rates specify "limitations as to ports or points of destination" be deleted because the port range served is published in a general section of a tariff and, as a result, would be applicable to mixed shipments as well as to other shipments. Section 536.12(b)(1) limits the application of per-container/trailer rates to shipments moving between a single origin point or port and a single destination point or port within the range served. Per-container/trailer rate

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Authorities, Motor Vehicle Manufacturers Association.

[4] Lillick, McHose & Charles for Pacific-Straits Conference, Pacific Indonesian Conference, Malaysia-Pacific Rate Agreement—Lillick, McHose & Charles for Trans-Pacific American Flag Berth Operators—Lillick, McHose & Charles for Pacific Westbound Conference—Far East Conference, Graham & James for North Europe-U.S. Pacific Freight Conference, Pacific Australia-New Zealand Conference, Pacific Coast European Conference, Freehill, Hogan & Maher for Atlantic & Gulf/Panama Canal Zone, Colon and Panama City Conference, Atlantic & Gulf/West Coast of South America Conference, East Coast Colombia Conference, Southeastern Caribbean Conference, United States Atlantic & Gulf-Jamaica Conference, United States Atlantic & Gulf-Santo Domingo Conference, United States Atlantic & Gulf Venezuela Conference, West Coast South America Northbound Conference, United States Atlantic & Gulf-Haiti Conference, United States Atlantic & Gulf Ecuador Freight Conference, Warren & Associates for Trans-Pacific Freight Conference of Japan/Korea, Japan/Korea-Atlantic and Gulf Freight Conference, Warren & Associates for Philippines North America Conference, Billig, Sher & Jones, P.C. for Australia-Eastern U.S.A. Shipping Conference, Greece/U.S. Atlantic Rate Agreement, Iberian/U.S. North Atlantic Westbound Freight Conference, Marseilles North Atlantic U.S.A. Freight Conference, Med-Gulf Conference, Mediterranean-North Pacific Coast Freight Conference, North Atlantic Mediterranean Freight Conference, U.S. Atlantic & Gulf/Australian-New Zealand Conference, U.S. North Atlantic Spain Rate Agreement, U.S. South Atlantic/Spanish, Portuguese, Moroccan and Mediterranean Rate Agreement, The West Coast of Italy, Sicilian and Adriatic Ports/North Atlantic Range Conference (WINAC), Burlington Underwood & Lord for Inter-American Freight Conference, Howard A. Levy for the North European Conferences consisting of North Atlantic United Kingdom Freight Conference, North Atlantic French Atlantic Freight Conference, North Atlantic Continental Freight Conference, North Atlantic Baltic Freight Conference, Scandinavia Baltic/U.S. North Atlantic Westbound Freight Conference, Continental North Atlantic Westbound Freight Conference, North Atlantic Westbound Freight Association, United Kingdom & U.S.A. Gulf Westbound Rate Agreement, Continental-U.S. Gulf Freight Association, Gulf-United Kingdom Conference, Gulf-European Freight Association.

items need not identify these ports or points by name.

Several other non-substantive changes have been made to clarify the intent of § 536.12(b)(1) establishing the per-container/trailer rate filing requirements. The number of examples in the rule has been expanded to more clearly indicate what information should be included when categorizing a container or trailer.

Some commentators are concerned that by this rule the Commission is encouraging the establishment of per-container/trailer rates while others fear that the rule will hamper the development of this type of rates. It is the Commission's intention neither to promote nor discourage this form of ratemaking. The Commission's only interest is providing a meaningful form and manner by which per-container/trailer rates may be lawfully established. The decision whether to establish such rates remains with the carriers and conferences. Nor does the Commission intend by this rule to limit the categories of containers/trailers for which the rule format would apply. Carriers are not only free to develop innovative and simplified rate and tariff structures, but are encouraged to do so.

A number of commentators argue that the rule should not require a mixed shipment per-container/trailer rate item to specify the commodities to which the rate applies. The commentators were particularly concerned over the effect of the rule on shipments by non-vessel operating common carriers and container loads of odd lots of cargo tendered as a consolidated container shipment. The requirement to identify the commodities which are subject to a per-container/trailer rate is designed to prevent mixed shipment per-container/trailer rates from duplicating or conflicting with any FAK (Freight All Kinds) and Cargo N.O.S. (Not Otherwise Specified) rates which may be published in the same tariff. FAK and Cargo N.O.S. rates present unique problems and potential duplications and conflicts. Cargo N.O.S. is an all-encompassing description which is utilized to provide a rate for a given commodity when no specific rate for that commodity appears in the tariff. An FAK rate is as the name implies, a description utilized to rate "All Kinds" of freight. Without some qualification it would duplicate or conflict with a Cargo N.O.S. rate. To permit both FAK and Cargo N.O.S. rates in the same tariff, carriers usually qualify the FAK description in order to distinguish it from the Cargo N.O.S. rate. Likewise, mixed shipment per-container/trailer rates must be distinguished from FAK and Cargo N.O.S. rates. However, the requirement to distinguish mixed shipment per-container/trailer rates from FAK rates should not be construed to require any particular limitation or qualification on FAK or Cargo N.O.S. rates. Nor is it intended to limit the flexibility of carriers in designing tariff provisions to serve the needs of the U.S. foreign commerce.

Carriers and conferences will be provided 60 days after its publication in the **Federal Register** to bring their tariffs into conformity with this rule.

The Commission finds that this rule is exempt from the requirements of the Regulatory Flexibility Act (5 U.S.C. 601). Section 601(2) of that Act excepts from its coverage any "rule of particular applicability relating to such rates * * *." As this rule clearly relates to rates and practices, the Regulatory Flexibility Act requirements are determined to be inapplicable.

Information collection requirements contained in this regulation (§ 536.12(b)(1), (2) and (3)) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control number 3072.0036.

List of Subjects in 46 CFR Part 536

Rates, Maritime carriers.

PART 536—PUBLISHING AND FILING TARIFFS BY COMMON CARRIERS IN THE FOREIGN COMMERCE OF THE UNITED STATES

Therefore, pursuant to 5 U.S.C. 533 and sections 18(b), 22, and 43 of the Shipping Act, 1916 (46 U.S.C. 817(b), 821 and 941(a)), 46 CFR Part 536 is amended by adding a new § 536.12 reading as follows:

§ 536.12 Tariffs publishing per-container and/or per-trailer rates.

(a) *Definitions.* The following definitions shall apply for purposes of this section:

(1) *Container.* A van, flatrack, open top trailer, or other similar trailer body on or into which cargo is loaded and transported without chassis aboard ocean vessels.

(2) *Mixed Shipment.* A shipment consisting of more than one commodity; articles described under more than one class or commodity rate item in a tariff.

(3) *Per-Container Rate.* Rates and/or charges on shipments transported in containers or trailers and rated on the basis of the category of the container or trailer.

(4) *Trailer.* A van, flatrack, open top trailer, or other similar trailer body on or into which cargo is loaded and transported complete with chassis aboard ocean vessels.

(b) *Tariff filing requirements.* (1) Tariffs which publish rates and/or charges on shipments transported in containers or trailers and rated on the basis of the container or trailer shall state a rate for each category of carrier designated container or trailer to which such rate applies, *e.g.*, 20-foot dry van container, 40-foot refrigerated trailer, 40-foot hi-cube van container, 40-foot dry van container 9'6" high, 20-foot dry van container 9 feet high, etc. Per-container/trailer rates shall only apply to cargo received from one shipper at one origin location, consigned to one consignee, carried on one voyage, on one bill of lading for delivery to one destination location.

(2) Tariffs which publish rates for mixed shipments shall contain a governing rule or provide reference to a separate publication which shall clearly define the application of such rates. The tariff shall also provide that whenever there is a mixing of cargoes in a container/trailer for which there is no specific rate item permitting and indicating a rate for that mixture, the weight or measurement rate for each commodity shall apply.

(3) A mixed shipment rate item shall list therein all articles or merchandise which may be shipped under the item. Any restrictions on the application of the rate item shall be explained. Each commodity contained in mixed shipment rate item shall be listed in the tariff's commodity index or cross-referenced in the body of the tariff. A mixed shipment rate item shall specify any conditions which apply, *e.g.:*

(i) Type of service offered, whether CY/CY or CY/CFS, etc.;

(ii) Limitation in the number of commodities allowed or required per bill of lading and the percentage of the total shipment that one commodity may not exceed;

Approved by the Office of Management under OMB control number 3072–0036.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-15948 Filed 6-11-82; 8:45 am]

BILLING CODE 6730-01-M

Proposed Rules

Federal Register
Vol. 47, No. 114
Monday, June 14, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 485

Price Support Loans for Municipal Waste Energy Projects

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The Department of Energy today gives notice of the withdrawal of its October 29, 1980 Notice of Proposed Rulemaking (45 FR 71746) "Price Support Loans for Municipal Waste Energy Projects". This notice of proposed rulemaking set forth the terms under which DOE would provide price support loans to assist municipal waste-to-energy projects. The proposed price support loan rule is being withdrawn because the focus of the municipal waste program has shifted from commercialization to long range research and development.

DATE: This withdrawal is effective July 14, 1982.

FOR FURTHER INFORMATION CONTACT:
Donald K. Walter, Office of Conservation and Renewable Energy, Department of Energy, Room 5G086, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585, 202/252–1697.
Neal J. Strauss, Office of General Counsel, Department of Energy, Room 6B144, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585, 202/252–9513.

SUPPLEMENTARY INFORMATION: Section 234 of the Energy Security Act (the Act) (Pub. L. 96–294) 42 U.S.C. 8834, authorizes the Secretary of Energy (Secretary) to provide price support loans to selected municipalities to assist in establishment of commercial municipal waste-to-energy facilities. On October 29, 1980, the Department of Energy (DOE) published a Notice of Proposed Rulemaking and invited public comment on proposed procedures for issuing and administering price support loans (45 FR 71746).

After President Reagan took office on January 20, 1981, policies were put in place to stimulate commercial activity in the energy marketplace. Through decontrol of domestic crude oil prices, the President provided the incentive of more realistic energy prices. Then, Congress passed the Economic Recovery Tax Act (Pub. L. 97–34) which provided substantial tax advantages for which municipal waste-to-energy projects are eligible.

While these incentives to commercialization were being put in place, Congress took action to reduce the available budget. On June 5, 1981, the Supplemental Appropriations and Rescission Act 1981 (Pub. L. 97–12) was enacted. This law rescinded the appropriations previously made available which might have provided funds for price support loans. Subsequently, Congress passed the Interior and Related Agencies Appropriations Act, 1982 (Pub. L. 97–100) which did not provide new money for assisting commercial projects directly. The conference report on the act indicated that, in the future, the municipal waste-to-energy program should focus on such research and development projects as were appropriate for Federal support. Accordingly, given the shift in the focus of the Municipal Waste Program away from direct financial incentives, there is no longer any need for final price support loan rules.

List of Subjects in 10 CFR Part 485

Energy and materials recovery, Financial assistance—energy, Municipal waste, Energy conservation, Waste treatment and disposal, Loan Programs—energy.

In consideration of the foregoing, the October 29, 1980, Notice of Proposed Rulemaking, under Section 234 of the Act is hereby withdrawn.

Issued in Washington, D.C. June 4, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 82–15844 Filed 6–11–82; 8:45 am]
BILLING CODE 6450–01–M

FARM CREDIT ADMINISTRATION

12 CFR Part 614

Loan Policies and Operations Provisions

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration is proposing to specify which Farm Credit System bank is responsible for approving a loan by a System association to a director or an employee. The purpose of this amendment is to clarify the existing regulation.

DATE: Written comments must be received on or before August 14, 1982.

ADDRESSES: Comments or suggestions should be submitted in writing to Donald E. Wilkinson, Governor, Farm Credit Administration, Washington, DC 20578. Copies of all communications received will be available for inspection by interested persons in the Office of Director, Congressional and Public Affairs Division, Office of Administration, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:
Larry H. Bacon, Deputy Governor, Office of Administration, 490 L'Enfant Plaza, SW., Washington, DC 20578, (202–755–2181).

SUPPLEMENTARY INFORMATION:

List of Subjects in 12 CFR Part 614

Agriculture, Banks, Banking, Credit, Rural areas.

PART 614—LOAN POLICIES AND OPERATIONS

As stated in the preamble, it is proposed that Part 614 of Chapter VI, Title 12 of the Code of Federal Regulations be amended by revising § 614.4470 to read as follows:

§ 614.4470 Loans subject to bank approval.

(a) The following loans (unless such loans are of a type prohibited under § 612.2150) shall be subject to prior approval of the bank supervising the association in which the loan application originates:

(1) Loans to a director of the association.

(2) Loans to a director of an association which is under joint

management when the application originates in one of the associations.

(3) Loans to an employee of the association.

(4) Loans to an employee of an association which is under joint management when the application originates in one of the associations.

(5) Loans to bank employees when the application originates in one of the associations supervised by the employing bank.

(b) Loans to any borrower shall be subject to the prior approval of the bank supervising the association in which the loan application originates whenever a director or an employee of the association or an employee of the bank supervising the association:

(1) Will receive proceeds of the loan in excess of the amount prescribed by the supervising bank board and approved by the Farm Credit Administration, or

(2) Has a significant personal or beneficial interest in the loan, the proceeds, or the security, or controls (as defined in § 612.2130(e)) the borrower, or

(3) Is an endorser, guarantor, or comaker with respect to the loan in excess of an amount prescribed by the supervising bank board and approved by the Farm Credit Administration.

(c) Any loan which will result in any one borrower being obligated (as defined in § 614.4360(b)) in excess of an amount established by the supervising bank under its policies for delegation of authority to associations shall be subject to prior approval of the supervising bank.

(Sec. 5.9, 5.12, 5.18, Pub. L. 92-181, 85 Stat. 619, 620, 621 (12 U.S.C. 2243, 2246 and 2252))

C. T. Frederickson,

Acting Governor.

[FR Doc. 82-16024 Filed 6-11-82; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 82-ANM-5]

Proposed Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to alter the 1200′ transition areas at Bozeman and Butte, Montana to allow arriving aircraft at Butte, executing the ILS Rwy 15 approach with a Whitehall (HIA) transition, to utilize the minimum transition altitude of 11,000′ in controlled airspace. In addition, expanding controlled airspace around airports and associated navaids will allow users on direct route navigation to use uninterrupted descents, reducing flying time, in addition to streamlining air traffic control (ATC) service.

DATE: Comments must be received on or before July 19, 1982.

ADDRESSES: Send comments on the proposal to: Chief, Airspace & Procedures Branch, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, WA 98168

FOR FURTHER INFORMATION CONTACT:

William H. Dickson, Airspace & Procedures Specialist, ANM-531, Airspace & Procedures Branch, Air Traffic Division, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; telephone (206) 433-1640.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted to the Chief, Airspace & Procedures Branch, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. All communications received on or before July 19, 1982, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of the comments received. All comments received will be available, before and after the closing dates for comments, in the official docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking by submitting a request to the Federal Aviation Administration, Chief, Airspace & Procedures Branch, ANM-530, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, or by calling (206) 433-1640. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The Federal Aviation Administration (FAA) is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the 1200′ transition areas located at Bozeman and Butte, Montana. This proposal is necessary to provide additional controlled airspace for aircraft operating to and from the Butte and Bozeman, Montana airports.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Accordingly, the FAA proposes to amend Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Secion 71.181 Bozeman, Montana

Section 71.181 is amended as follows:

Remove lines 4, 5, 6 and 7 in their entirety.

Section 71.181 Butte, Montana

Section 71.181 is amended as follows:

Remove all words following "* * * 11 miles northwest of the VORTAC", and insert

* * * and that airspace extending upward from 1200′ above the surface beginning at latitude 46°33′00″N, longitude 113°05′00″W, direct to latitude 46°33′00″N, longitude 112°54′00″W; then bounded on the north by the Helena, Montana 1200′ transition area and the south edge of V2N on the east along longitude 110°42′00″W, on the south along latitude 45°35′00″N; on the west along longitude 113°05′00″W to point of beginning, excluding that airspace within the Dillon and Livingston, Montana 1200′ transition areas.

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, will not have a significant effect on substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington, June 3, 1982.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-15939 Filed 6-11-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspact Docket No. 82-ASW-32]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Proposed Designation of Transition Area: Cleveland, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes designation of a transition area at Cleveland, OK. The intended effect of the proposed action is to provide adequate controlled airspace for aircraft executing a new instrument approach procedure to the Cleveland Municipal Airport. This action is necessary to provide protection for aircraft executing a new instrument approach procedure based on the Cleveland Nondirectional Beacon (NDB). Coincident with this action, the airport is changed from visual flight rules (VFR) to instrument flight rules (IFR).

DATE: Comments must be received on or before July 14, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Adiministration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: James L. Owens, Airspace and Procedures Branch, ASW-536, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G 71.181 as republished in Advisory Circular AC 70-3 dated January 29, 1982, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Designation of the transition area at Cleveland, OK, will necessitate an amendment to this subpart. This amendment will be required at Cleveland, OK, since there is a proposed new IFR procedure to the Cleveland Municipal Airport.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-ASW-32." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Control zones and/or transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71, as follows:

Cleveland, OK—New

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Cleveland Municipal Airport, OK, (latitude 36°17'00"N., longitude 96°27'50"W.) and within 3.5 miles each side of the 212° magnetic bearing from the Cleveland NDB (latitude 36°16'17"N., longitude 96°27'43"W.) extending from the 6.5-mile radius area to 8 miles southwest of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on June 3, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-15936 Filed 6-11-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASW-31]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Proposed Designation of Transition Area: Bonham, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes designation of a transition area at Bonham, TX. The intended effect of the proposed action is to provide adequate controlled airspace for aircraft executing a new instrument approach procedure to the Jones Field Municipal Airport. This action is necessary to provide protection for aircraft executing an instrument approach procedure using the Blue Ridge VORTAC. Coincident with this action, the airport is changed from visual flight rules (VFR) to instrument flight rules (IFR).

DATE: Comments must be received on or before July 14, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, Air Traffic

Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mount Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT:
James L. Owens, Airspace and Procedures Branch, ASW-536, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G 71.181 as republished in Advisory Circular AC 70-3 dated January 29, 1982, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Designation of the transition area at Bonham, TX, will necessitate an amendment to this subpart. This amendment will be required at Bonham, TX, since there is a proposed new IFR procedure to the Jones Field Municipal Airport.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-ASW-31." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Control zones and/or transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Bonham, TX New

That airspace extending upward from 700 fet above the surface within a 6.5-mile radius of Jones Field Municipal Airport, Bonham, TX, (latitude 33°36'41"N., longitude 96°10'45"W.) and within 4.5 miles each side of the 025° radial from the Blue Ridge VORTAC extending from the 6.5-mile radius area to 42.5 miles northeast of the VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on June 3, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-15983 Filed 6-11-82; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-ASW-34]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Proposed Alteration of Transition Area: Wichita Falls, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes alteration of a transition area at Wichita Falls, TX. The intended effect of the proposed action is to provide adequate controlled airspace for aircraft executing a new instrument approach procedure to the Tom Danaher's Lake Wichita Airport, Wichita Falls, TX. This action is necessary to provide protection for aircraft executing a new VOR/DME approach to Runway 35 at the Tom Danaher's Airport.

DATE: Comments must be received on or before July 14, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT:
James L. Owens, Airspace and Procedures Branch, ASW-536, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G 71.181 as republished in Advisory Circular AC 70-3 dated January 29, 1982, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Alteration of the transition area at Wichita Falls, TX, will necessitate an amendment to this subpart. This amendment will be required at Wichita Falls, TX, since there is a proposed new IFR procedure to the Tom Danaher's Lake Wichita Airport.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82–ASW–34." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 624–4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR 71

Control zones and/or transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Wichita Falls, TX Amended

* * * and within 4.5 miles each side of the Wichita Falls VORTAC 174° radial extending from the 20-mile radius area to 29 miles south of the VORTAC.

(Sec. 307(a), Federal Aviation Act (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on June 3, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-15834 Filed 6-11-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82–ASO–26]

Proposed Alteration of Transition Area, Alma, Ga.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to increase the size of the Alma, Georgia, transition area by adding an arrival extension southeast of the airport. In addition, the provision in the description which specifies effective hours of the transition area will be revoked. Since the Bacon County Airport, and its associated instrument approach procedure is available for use 24 hours per day, a full-time transition area and arrival extension are required for protection of aircraft during those periods when the control zone is not effective. This proposed alteration will provide the necessary controlled airspace and designate the transition area as full-time rather than part-time.

DATE: Comments must be received on or before: July 30, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Chief, Airspace and Procedures Branch, ASO–530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763–7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82–ASO–26." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Chief, Airspace and Procedures Branch (ASO–530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the

Federal Aviation Regulations (14 CFR Part 71) which will designate a transition area arrival extension southeast of Bacon County Airport, Alma, Georgia, and delete the listing of specific hours during which the transition area is effective. At the present time, the effective hours of the transition area coincide with those of the Alma Control Zone. As there is an existing control zone arrival extension, there is no requirement for a transition area arrival extension when the control zone is effective. Since the Bacon County Airport, and its associated instrument approach procedure is available for use 24 hours per day, a full-time transition area and arrival extension are required for protection of aircraft during those periods when the control zone is not effective. This proposed alteration will provide the necessary controlled airspace and designate the transition area as full-time rather than part-time. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Alma, Georgia Revised

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Bacon County Airport (Lat. 31°32'17"N., Long. 82°30'33"W.); within 3 miles each side of Alma VORTAC 146° radial, extending from the 6.5-mile radius area to 8.5-miles southeast of the VORTAC.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies anbd Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on June 1, 1982.

J. Stiglin,

Acting Director, Southern Region.

[FR Doc. 82-15990 Filed 6-11-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-119 (New Mexico—2 Addition)]

High-Cost Gas Produced From Tight Formations, New Mexico; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of New Mexico that an additional area of the Atoka Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on July 8, 1982.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on June 23, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Victor Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION:

Issued June 8, 1982.

I. Background

On May 21, 1982, the State of New Mexico, Oil Conservation Division (New Mexico) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that an additional area of the Atoka Formation located in Lea County, New Mexico, be designated as a tight formation. The Commission previously adopted a recommendation that portions of the Atoka Formation in Lea County, New Mexico, be designated as a tight formation (Order No. 138, issued March 30, 1981, in Docket No. RM79-76 (New Mexico-2)). Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether New Mexico's recommendation that additional portions of the Atoka Formation in Lea County, New Mexico, be designated a tight formation should be adopted. The United States Department of the Interior, Minerals Management Service (formerly the U.S. Geological Survey) concurs with New Mexico's recommendation. New Mexico's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

New Mexico recommends that two new portions of the Atoka Formation on either side of that acreage granted tight sand designation in Order No. 138 be designated as a tight formation. These areas are continguous to the original acreage. New Mexico wishes to add portions of Townships 12 through 14 South, Range 36 East to the east of the existing designated area and portions of Townships 12 through 14 South, Range 35 East to the west of the existing designated area of the Atoka Formation. The top of the recommended formation appears at an average depth of 12,200 feet in the area outlined above, and the thickness of the formation varies from 375 to 750 feet.

III. Discusion of Recommendation

New Mexico claims in its submission that evidence gathered through information and testimony presented at a public hearing in Case No. 7491 convened by New Mexico on this matter demonstrates that:

(1) The average *in situ* gas premeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stablized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

New Mexico further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by New Mexico that the Atoka Formation, as described and delineated in New Mexico's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before July 8, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-119 (New Mexico-2 Addition), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than June 23, 1982.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event New Mexico's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703 is amended by revising paragraph (d)(19) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(19) *Atoka Formation in New Mexico.* RM79-76-119 (New Mexico—2).

(i) *Delineation of formation.* The Atoka Formation is found in Lea County, New Mexico, and underlies an area approximately 9 miles north of Lovington, New Mexico, 3 miles southwest of Tatum, New Mexico, and 15 miles west of the Texas border. The formation underlies Township 12 South, Range 35 East, Sections 31 through 36; Township 12 South, Range 36 East, Sections 31 through 36; Township 13 South, Ranges 35 and 36, All; Township 14 South, Range 35 East, Sections 1 through 24; and Township 14 South, Range 36 East, Sections 1 through 24, NMPM.

(ii) *Depth.* The Atoka Formation is defined as that formation the depth to the top of which ranges from 11,500 to 12,450 feet, and averages 12,200 feet, and the base of which is defined by the top of the Morrow Formation. The thickness varies from 375 to 750 feet.

[FR Doc. 82-16023 Filed 6-11-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 655

[FHWA Docket No. 82-9]

Traffic Operations; Traffic Surveillance and Control

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FHWA requests comments on proposed revisions to its regulation on traffic surveillance and control. Traffic surveillance and control projects include traffic signals, freeway surveillance and control, highway advisory radio and special purpose systems. The regulation contains provisions which prescribe procedures and requirements for the expenditure of Federal-aid highway funds for traffic surveillance and control measures. The proposed revisions would significantly reduce the existing regulation in length and detail with certain unnecessary requirements deleted.

In order to encourage the maximum utilization of traffic surveillance and control systems, the proposed revisions would require the development of an operations plan as part of the traffic engineering analysis which provides the basis for the installation of a traffic surveillance and control system. Also, since system start-up activities are critical to the achievement of optimal performance of a system, the revision specifically provides for their eligibility for Federal-aid funding.

DATE: Comments must be received on or before July 14, 1982.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 82-9, Federal Highway Administration, Room 4205, HCC-10, 400 7th Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Robert C. Harp, Traffic Control Systems Division, Office of Traffic Operations, (202) 426-0411, or Mr. Michael J. Laska, Office of the Chief Counsel, (202) 426-0800, Federal Highway Administration, 400 7th Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The policies, procedures, and requirements relating to Federal-aid highway funding for traffic surveillance and control systems are set forth in 23 CFR Part 655, Subpart D. A traffic surveillance and control system is an array of human, institutional, hardware and software components designed to monitor and control traffic and to manage transporatation on streets and highways. Traffic surveillance and control systems, when implemented and utilized efficiently, are essential in urban areas to provide a full measure of transportation system efficiency, fuel

conservation, safety, and environmental quality. With the benefit of numerous evaluations of existing systems, the FHWA has reviewed the present regulation with the purpose of reducing redtape and eliminating unnecessary requirements, while at the same time insuring the achievement of optimal performance. The proposed revisions reflect the results of that review.

Summary of Revisions

As part of the continuing effort to reduce regulatory burdens on the States, the proposed revisions would substantially reduce in length and detail the sections in the regulation which relate to purpose, objectives, definitions, and system characteristics. The revisions would delete and simplify introductory and background language so as to permit an easier understanding of compliance requirements.

The proposed revisions would also delete certain requirements that are considered unnecessary. The requirement that FHWA-developed software be given priority consideration for inclusion as an element of a traffic surveillance and control system is deleted in its entirely. Although the FHWA beleives that the utilization of FHWA-developed software can have considerable utility in the development, construction, and operation of a system, this consideration would be left entirely to the judgment of the individual States.

Another deletion relates to the evaluation reporting requirements under the existing regulation. A number of evaluations have been completed and provided to the FHWA. Thus far these evaluations have provided sufficient data to prescribe and monitor system performance. Highway users are also providing system evaluation to the Institute of transportation Engineers for publication in the Computer Control Systems Applications Group (CCSAC) Newsletter.

As has been mentioned, the FHWA believes that certain traffic surveillance and control systems are being underutilized and are not operating at an optimal level. A policy statement would be added to underscore the significance of traffic control measures and to emphasize the importance of efficient system performance. The traffic engineering analysis, on which a traffic surveillance and control system is based, would be revised to reflect the FHWA policy.

The proposed revisions would clearly define the aspects of a traffic engineering analysis that should be analyzed relative to system utilization. A specific provision for the development of an operation plan would include elements of system design, procurement methods, construction management, acceptance testing, system start-up, operation and maintenance. The plan would also include necessary institutional arrangements and the dedication of needed personnel and budget resources required for system utilization.

Another proposed revision which would reflect the FHWA's commitment to the achievement of optimal system performance is the specific listing of start-up activities as an eligible item for Federal-aid funding. System start-up activities include: completion and installation of a data base; familiarization; evaluation of hardware, software, and transportation performance; and accomplishment of those modifications and corrective actions necessary to achieve optimal performance of the system. By describing in detail the parameters of funding eligibility, the proposed revision would give evidence that start-up activities are a critical phase in the development of a traffic surveillance and control system.

Regulatory Impact

The proposed revisions would reduce the regulatory burdens placed on States and local agencies in undertaking the installation of a traffic surveillance and control system. The revised regulation would delete certain requirements as well as simplify compliance requirements. Eligibility requirements would not be changed. For these reasons, it is anticipated that this proposal will not have a significant economic impact. Accordingly, a full regulatory evaluation is not required at this time. Under the criteria of the Regulatory Flexibility Act, it is certified that this proposal will not have a significant economic impact on a substantial number of small entities.

Comments are requested on the proposed revision from all interested parties. The comments should specifically address the effects of the proposed revisions on the highway and construction industry and any effects on the Federal-aid program in the States. The FHWA is also interested in any economic effects of the proposed revisions and any effects on small contractors.

The FHWA has determined that this document contains neither a major proposal under Executive Order 12291 nor a significant proposal under the regulatory policies and procedures of the Department of Transportation. A 30 day comment period is considered sufficient because of the interest in eliminating unnecessary burdens and in providing increased funding eligibility.

In consideration of the foregoing and under the authority of 23 U.S.C. 101(a), 135(b) and 315; 49 CFR 1.48(b); the FHWA proposes to revise Part 655, Subpart D of title 23, Code of Federal Regulations, as set forth below.

(Catalog of Federal Domestic Assistance Program No. 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

List of Subjects in 23 CFR Part 655

Grant programs—transportation, Highways and roads, traffic regulations.

Issued on: June 4, 1982.

R. A. Barnhart,

Federal Highway Administrator.

PART 655—TRAFFIC OPERATIONS

Subpart D—Traffic Surveillance and Control

Sec.

655.401 Purpose.
655.403 Traffic surveillance and control systems.
655.405 Policy.
655.407 Eligibility.
655.409 Traffic engineering analysis.
655.411 Project administration.

Authority: 23 U.S.C. 101(a), 135(b) and 315; 49 CFR 1.48(b).

Subpart D—Traffic Surveillance and Control

§ 655.401 Purpose.

The purpose of this regulation is to provide policies and procedures relating to Federal-aid requirements of traffic surveillance and control system projects.

§ 655.403 Traffic surveillance and control systems.

(a) A traffic surveillance and control system is an array of human, institutional, hardware and software components designed to monitor and control traffic, and to manage transportation on streets and highways and thereby improve transportation performance, safety, and fuel efficiency.

(b) Systems may be of various degrees of sophistication. Examples include, but are not limited to, the following systems: traffic signal control, freeway surveillance and control highway advisory radio and special purpose.

(c) Examples of special purpose systems include reversible lane control, tunnel and bridge control, adverse weather advisory, remote control of movable bridges, and priority lane control.

(d) System start-up is the process that includes: completion and installation of data base; familiarization; evaluation of hardware, software, and transportation performance; and accomplishment of those modifications and corrective actions necessary to achieve optimal performance of the system. The process is accomplished in a limited period of time after a system is turned on.

§ 655.405 Policy.

Implementation and efficient utilization of traffic surveillance and control systems are essential in urban areas to provide a full measure of transportation systems efficiency, fuel conservation, safety, and environmental quality.

§ 655.407 Eligibility.

Traffic surveillance and control system projects are an integral part of Federal-aid highway construction and all phases of these projects are eligible for funding with appropriate Federal-aid highway funds. The degree of sophistication of any system must be in scale with needs and with the availability of personnel and budget resources to operate and maintain the system.

§ 655.409 Traffic engineering analysis.

Traffic surveillance and control system projects shall be based on a traffic engineering analysis. The analysis should be on a scale commensurate with the project scope. The analysis may be done in stages.

(a) *Elements.* The Traffic Engineering Analysis should define or determine: The area to be controlled; transportation characteristics; objectives of the system; existing systems resources (including communications); existing personnel and budget resources for the maintenance and operation of the system.

(b) *Alternative systems.* Alternative systems (systems as defined in § 655.403(a) should be analyzed as applicable. For the alternatives considered, the analysis should encompass incremental initial costs; required maintenance and operating budget and personnel resources; and benefits or utility. Utilization of existing resources, as applicable, should be considered.

(c) *Procurement and system start-up methods.* Procurement and system start-up methods should be considered in the analysis. Federal-aid laws, regulations, policies, and procedures provide considerable flexibility to accommodate the special needs of systems procurement.

(d) *Special features.* The utility of unique or special features including special components and functions (such as emergency vehicle priority control, redundant hardware, closed circuit television, etc.) should be specifically defined in relation to the objectives of the system and incremental initial costs, operating costs, and resource requirements.

(e) *Laws and ordinances.* Existing traffic laws, ordinances, and regulations relevant to the effective utilization of the proposed system shall be reviewed to insure compatibility with proposed systems.

(f) *Development of operations plan.* An operations plan shall be developed. It shall include needed legislation, systems design, procurement methods, construction management including acceptance testing, system start-up, operation and maintenance. It shall include necessary institutional arrangements and the dedication of needed personnel and budget resources required for the utilization of the system.

§ 655.411 Project administration.

(a) Prior to authorization of Federal-aid highway funds for construction, there should be a level of commitment to the operations plan (see § 655.409(f)).

(b) The plans, specifications, and estimates submittal shall include a total system acceptance plan.

(c) Project approval actions are delegated to the Division Administrator. Approval actions for traffic surveillance and control system projects costing over $1,000,000 are subject to review by the Regional Administrator prior to approval of plans, specifications, and estimates.

(d) System start-up is an integral part of a surveillance and control project. (1) Costs for system start-up, over and above those attributable to routine maintenance and operation, are eligible for Federal-aid funding. (2) The project should not be accepted until completion of the start-up phase.

[FR Doc. 82-15665 Filed 6-11-82; 8:45 am]
BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Parts 53, 55, 81, 90, 92, 93, 120, 121, 122, and 127

Amendment or Removal of Obsolete Regulations

AGENCY: Office of the Secretary, Treasury.

ACTION: Proposed amendment or removal of regulations.

SUMMARY: The Department of the Treasury proposes the removal or the amendment of certain regulations which are now obsolete because of changed statutory requirements or because of changed conditions. The regulations proposed to be removed pertain to gold and silver and emergency banking regulations. These regulations are out of date and their revocation will reflect current practice.

DATE: Interested members of the public are invited to furnish written comments on the proposed revisions. Comments must be received on or before August 13, 1982.

ADDRESS: Send comments to: Jordan A. Luke, Assistant General Counsel (Enforcement and Operations), Department of the Treasury, Room 2310, 1500 Pennsylvania Ave., NW., Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT: Jordan A. Luke (address above) (202) 566-5404.

SUPPLEMENTARY INFORMATION: The proposed amendments to Title 31 of the CFR are intended to eliminate regulations which have become obsolete because of changes in the underlying statutory authority. The reasons for the proposed changes are explained in greater detail as follows:

Part 53

Part 53 implements the order of the Secretary of the Treasury dated January 15, 1934, as amended, concerning the delivery of wrongfully withheld gold coins and bullion. The January 15, 1934 order required the delivery of gold coin and gold bullion to the Treasurer of the United States by January 17, 1934.

Part 53.1 provides that with respect to gold delivered after the January 17, 1934 deadline, the Treasury shall pay for gold coins at their face amount and for gold bullion at the price of $20.67 an ounce.

Pub. L. 93-110, as amended by Pub. L. 93-373, removed all restrictions on U.S. citizens purchasing, holding, selling or otherwise dealing in gold, thereby superceding the January 15, 1934 order requiring delivery of privately held gold to the Treasury and rendering obsolete Part 53, which implemented the order.

Part 55

Part 55 contains President Roosevelt's Proclamation 2072, January 31, 1934, 48 Stat. 1730, which fixed the weight of the gold dollar at 15 5/21 grains nine-tenths fine, corresponding to a price of $35 per ounce. The proclamation was issued

pursuant to authority granted the President by section 43(b)(2) of the Act of May 12, 1933 (48 Stat. 52). The President's authority to change the gold content of the dollar expired on June 30, 1943 (55 Stat. 396), after which time only Congress, by statute, could establish the value of the dollar in terms of gold.

On March 31, 1972, Pub. L. 92–268 (86 Stat. 116), the Part Value Modification Act, established a new par value for the dollar equal to one thirty-eighth of a fine troy ounce of gold, thereby superceding Proc. 2072. On September 21, 1973, Pub. L. 93–110 (87 Stat. 352), amending the Par Value Modification Act, changed the par value of the dollar to equal "0.828948 Special Drawing Right or, the equivalent in terms of gold, of forty-two and two-ninths dollar per fine troy ounce of gold."

The par value of the dollar, established by section 2 of the Par Value Modification Act, was repealed by section 6 of Pub. L. 94–564 (90 Stat. 2660). Under section 9 of that Act, the repeal became effective "upon entry into force of the amendments to the Articles of Agreement of the International Monetary Fund approved in resolution numbered 31–4 of the Board of Governors of the Fund" *i.e.*, adoption by the IMF of the proposed Second Amendment to the Articles of Agreement of the IMF. Under the amended IMF Articles of Agreement, which became effective April 1, 1978, the United States has no legal obligation to establish and maintain a par value for the dollar.

Part 81

Part 81 establishes procedures for the receipt of newly-mined silver by the Treasury Department and related recordkeeping requirements, pursuant to sections 104 and 107 of the Act of July 23, 1965. That Act requires the Secretary to purchase at a price of $1.25 an ounce any silver mined after July 23, 1965, from natural deposits in the United States or any place subject to the jurisdiction thereof. Inasmuch as the current market price of silver is considerably in excess of $1.25 an ounce, there presently does not exist sufficient interest on the part of potential sellers of silver to warrant the continued maintenance of formal procedures to effect purchases of newly-mined silver at the statutory price. In light of the above, Part 81 should be repealed.

Part 90

Part 90 prescribes policies, regulations and charges of the Mints and assay offices, for the acceptance and treatment of silver deposited for purchase under the provisions of the Newly-Mined Domestic Silver Regulations of 1965, the regulations of the (defunct) Office of Domestic Gold and Silver Operations (Parts 61 and 93 of 31 CFR) and Title 31 of the United States Code. This part also provides a table of charges for special assays of gold or silver bullion samples and assays of ores. Those sections relating to the acceptance of silver should be repealed. Section 104 of the Act of July 23, 1965, requires the Secretary to purchase at a price of $1.25 an ounce, any silver mined after July 23, 1965, from natural deposits in the United States or any place subject to the jurisdiction thereof. Inasmuch as the current market price of silver is considerably in excess of $1.25 an ounce, there presently does not exist sufficient interest on the part of potential sellers of silver to warrant the continued maintenance of formal procedures to effect purchases of newly mined silver at the statutory price. In regard to the remainder of Part 90, which deals with the assaying of bullion, metals and ores, it has been determined that this function can be adequately performed by the private sector. The provision of this service is a relic of times when U.S. coinage contained precious metals and citizens were authorized to present bullion to the Mint for exchange into bars. Currently, with the administrative termination of the exchange activity in 1970 (See 35 FR 15922 (1970)), no governmental purpose is served by continuing the special assays. The private assaying function of the Mint is in competition with commercial firms offering the same service and diverts Mint employees and facilities from the Mint's primary missions. Accordingly, all of Part 90 should be repealed.

Part 92

Part 92 prescribes procedures for the receipt of "newly mined domestic silver" as provided by Parts 81 and 93 and for the redemption of U.S. coin. Part 92 also enumerates Mint practices in regard to the manufacture and sale of medals, and proof and uncirculated coins. Finally, this part details the practice governing disclosure of Mint records, pursuant to 5 U.S.C. 301 and 552.

Sections 92.1 and 92.2 should be repealed, inasmuch as there does not presently exist sufficient interest on the part of potential silver sellers to warrant continuation of the procedures detailed therein. (For detailed explanation, see discussion on Part 81). Section 92.3(a) should be repealed as there is little interest in the present or expected market, for redeeming gold coin at face value, or if the gold coin is worn or mutilated, at $20.67+ per ounce of fine gold. Section 92.3(b) can also be repealed as it merely refers to Part 100 for rules governing redemption of silver and minor coins. (We note further that redemption of silver and silver coins at face value is still authorized pursuant to 31 CFR 100.3). Section 92.4, "Sale of Silver" merely cross references the reader to Part 56, and accordingly may be deleted. The last sentence of section 92.5, dealing with application to the Director of the Mint for the manufacture of national medals designated by Congress, should be deleted as it is obsolete and meaningless. Congressional approval is necessary for the minting of national medals and application to the Director of the Mint cannot replace such approval.

The sections of Part 92 are renumbered appropriately in light of these revisions.

Part 93

Part 93 establishes procedures for the purchase of newlymined silver by the Treasury Department, pursuant to section 104 of the Act of July 23, 1965. That Act requires the Secretary to purchase at a price of $1.25 an ounce any silver mined after July 23, 1965, from natural deposits in the United States or any place subject to the jurisdiction thereof. Inasmuch as the current market price of silver is considerably in excess of $1.25 an ounce, there does not presently exist sufficient interest on the part of potential sellers of silver to warrant the continued maintenance of formal procedures to effect purchases of newly mined silver at the statutory price.

Part 120

Part 120 consists of Presidential Proclamations and Executive Orders concerning the 1933 bank holiday. These enactments have been obsolete for many years, but have never been specifically repealed. Part of the authority under which they were issued was the Trading With the Enemy Act of 1917, which empowered the President to declare national emergencies in periods other than wartime. The 1977 amendments to the Trading With the Enemy Act provided that the President can declare national emergencies under the Trading With the Enemy Act only in time of war. (The International Emergency Economic Powers Act, 50 U.S.C. App. 1701–1706, provides that the President can declare national emergencies with respect to threats which have their sources in whole or substantial part outside the United States). The 1977 amendments also provided that all declared national

emergencies in effect at the time of their enactment (1977) terminated in two years, unless extended. Because these emergencies were not extended, they lapsed in 1979.

Authority to issue these enactments was also derived from the Emergency Banking Act, 12 U.S.C. 95, which remains in effect. However, the Emergency Banking Act only states what powers the President may invoke during a national emergency with respect to banks which are members of the Federal Reserve System—it does not give the President authority to declare a national emergency for purely domestic reasons.

Because the President's powers to declare national emergencies in peacetime have been restricted by the 1977 amendments to the Trading With the Enemy Act and the International Emergency Economic Powers Act, enactments promulgated under the national emergencies which have terminated pursuant to the 1977 amendments have also terminated.

Part 121

Part 121 contains the Emergency Banking Regulations issued under the Trading With the Enemy Act, the Emergency Banking Act and Procs. 2039 and 2049. This Part, like Part 120, became inapplicable when the 1977 amendments to the Trading With the Enemy Act were enacted and should be removed.

Part 122

Part 122 contains the general license to transact normal banking business for banks which are members of the Federal Reserve System. The general license was issued under Executive Order 6073, as amended. Proclamation 2725 (1947) excluded Federal Reserve member banks from the application of E.O. 6073, except with respect to gold transactions, and E.O. 11825 removed from E.O. 6073 the provisions pertaining to gold. The 1977 amendments to the Trading With the Enemy Act eliminated the statutory authority for E.O. 6073. Therefore, Part 122 should be eliminated.

Part 127

Part 127 consists of the text of Executive Order 6560 of 1934 § 127.0 to 127.7), regulating transactions of foreign exchange, transfers of credit and export of coin and currency, and specific prohibitions relating to countries occupied by axis forces during World War II §§ 127.9–127.17). The authority for the Executive Order is based upon the Trading With the Enemy Act, 12 U.S.C. 95a, and E.O. 6260. The 1977 amendments restricted the scope of the President's authority to invoke the extraordinary powers contained therein, and eliminated the existing national emergencies. E.O. 6260 was revoked by E.O. 11825 (1974). Thus the statutory authority for E.O. 6560 and Part 127 no longer exists. The prohibitions contained in §§ 127.9–127.17 are no longer applicable since they refer only to the World War II era. For these reasons, Part 127 should be removed.

List of Subjects

31 CFR Parts 53 and 55

Currency, Gold.

31 CFR Part 81

Silver.

31 CFR Parts 90 and 93

Gold, Silver.

31 CFR Part 92

Currency, Gold, Silver.

31 CFR Parts 120, 121 and 122

Banks, Banking.

31 CFR Part 127

Banks, Banking, Currency.

The text of the proposed amendments is as follows:

PART 53—INSTRUCTIONS OF THE SECRETARY OF THE TREASURY CONCERNING WRONGFULLY WITHHELD GOLD COIN AND GOLD BULLION DELIVERED AFTER JANUARY 17, 1934 [REMOVED]

1. Part 53 is removed.

PART 55—PROCLAMATION FIXING THE WEIGHT OF THE GOLD DOLLAR [REMOVED]

2. Part 55 is removed.

PART 81—NEWLY-MINED DOMESTIC SILVER REGULATIONS OF 1965 [REMOVED]

3. Part 81 is removed.

PART 90—TABLE OF CHARGES AND REGULATIONS OF THE MINTS AND ASSAY OFFICES OF THE UNITED STATES FOR PROCESSING SILVER AND ASSAYING BULLION, METALS, AND ORES [REMOVED]

4. Part 90 is removed.

5. Part 92 is revised to read as follows:

PART 92—BUREAU OF THE MINT OPERATIONS AND PROCEDURES

Sec.

92.1 Manufacture of medals.
92.2 Sale of "list" medals.
92.3 Manufacture and sale of "proof" coins.
92.4 Uncirculated mint sets.
92.5 Procedure governing availability of Bureau of the Mint records.
92.6 Appeal.

Authority: 5 U.S.C. 301.

§ 92.1 Manufacture of medals.

With the approval of the Director of the Mint, dies for medals of a national character designated by Congress may be executed at the Philadelphia Mint, and struck in such field office of the Mints and Assay Offices as the Director shall designate.

§ 92.2 Sale of "list" medals.

Medals on the regular Mint list, when available, are sold to the public at a charge sufficient to cover their cost, and to include mailing cost when mailed. Copies of the list of medals available for sale and their selling prices may be obtained from the Director of the Mint, Washington, D.C.

§ 92.3 Manufacture and sale of "proof" coins.

"Proof" coins, i.e., coins prepared from blanks specially polished and struck, are made as authorized by the Director of the Mint and are sold at a price sufficient to cover their face value plus the additional expense of their manufacture and sale. Their manufacture and issuance are contingent upon the demands of regular operations. Information concerning availability and price may be obtained from the Director of the Mint, Treasury Department, Washington, D.C. 20220.

§ 92.4 Uncirculated mint sets.

Uncirculated Mint Sets, i.e., specially packaged coin sets containing one coin of each denomination struck at the Mints at Philadelphia and Denver, and the Assay Office at San Francisco, will be made as authorized by the Director of the Mint and will be sold at a price sufficient to cover their face value plus the additional expense of their processing and sale. Their manufacture and issuance are contingent upon demands of regular operations. Information concerning availability and price may be obtained from the Director of the Mint, Treasury Department, Washington, D.C. 20220.

§ 92.5 Procedure governing availability of Bureau of the Mint records.

(a) *Regulations of the Office of the Secretary adopted.* The regulations on the Disclosure of Records of the Office of the Secretary and other bureaus and offices of the Department issued under 5 U.S.C. 301 and 552 and published as Part 1 of this title, 32 FR No. 127, July 1, 1967, except for § 1.7 of this title entitled

"Appeal," shall govern the availability of Bureau of the Mint records.

(b) *Determination of availability.* The Director of the Mint delegates authority to the following Mint officials to determine, in accordance with Part 1 of this title, which of the records or information requested is available, subject to the appeal provided in § 92.6: The Deputy Director of the Mint, Division Heads in the Office of the Director, and the Superintendent or Officer in Charge of the field office where the record is located.

(c) *Requests for identifiable records.* A written request for an identifiable record shall be addressed to the Director of the Mint, Washington, D.C. 20220. A request presented in person shall be made in the public reading room of the Treasury Department, 15th Street and Pennsylvania Avenue, NW, Washington, D.C., or in such other office designated by the Director of the Mint.

§ 92.6 Appeal.

Any person denied access to records requested under § 92.5 may file an appeal to the Director of the Mint within 30 days after notification of such denial. The appeal shall provide the name and address of the appellant, the identification of the record denied, and the date of the original request and its denial.

PART 93—DOMESTIC GOLD AND SILVER OPERATIONS PROCEDURES AND DESCRIPTIONS OF FORMS [REMOVED]

6. Part 93 is removed.

PART 120—PROCLAMATIONS AND EXECUTIVE ORDERS CONCERNING BANKING [REMOVED]

7. Part 120 is removed.

PART 121—MITIGATION OF FORFEITURE OF COUNTERFEIT GOLD COINS [REMOVED]

8. Part 121 is removed.

PART 122—GENERAL LICENSES ISSUED UNDER EXECUTIVE ORDER 6073, AS AMENDED [REMOVED]

9. Part 122 is removed.

PART 127—EXECUTIVE ORDER OF JANUARY 15, 1934, REGULATING TRANSACTIONS IN FOREIGN EXCHANGE, TRANSFERS OF CREDIT, AND EXPORT OF COIN AND CURRENCY [REMOVED]

10. Part 127 is removed.

Executive Order 12291

It has been determined that this proposal does not meet the criteria for "major rules", set forth in Executive Order 12291 (February 17, 1981) in that it will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects or competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because, if promulgated as a final rule, it will not have a significant economic impact on a substantial number of small entities. The proposal is not expected to: have significant secondary or incidental effects on a substantial number of small entities; or impose or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. Accordingly, the Secretary of the Treasury has certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposal, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entitities.

Comments

Before adopting final regulations, consideration will be given to any written comments timely submitted. Comments submitted will be available for public inspection during regular business hours at the Library, Room 5030, Main Treasury Building, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220.

Drafting Information

The principal authors of this document were:

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Peter J. Wallison,
General Counsel.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122, 123, and 124

[FRL-2063-4]

Consolidated Permit Regulations; Revision in Accordance with Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: On November 16, 1981, EPA entered into a settlement agreement with numerous industry petitioners in the consolidated permit regulations litigation (*NRDC* v. *EPA* and consolidated cases, No. 80–1607 (D.C. Cir., filed June 2, 1980)). This rulemaking proposes to revise certain provisions of the consolidated permit regulations in accordance with that settlement. The proposed changes are intended to minimize the regulatory burdens imposed on permittees under four permitting programs administering by EPA or approved States.

These proposed changes, and others tht we expect to make, are also intended to respond to the President's Task Force on Regulatory Relief. The Task Force has asked that the Agency review the consolidated permit regulations with the objective of enhancing efficiency and eliminating unnecessary regulatory burdens.

DATES: EPA will accept public comments on the proposed amendments until August 13, 1982. A hearing is scheduled for August 3, 1982, at the address listed below, to consider several of the proposed regulatory amendments as they apply to State Underground Injection Control (UIC) programs under the Safe Drinking Water Act (SDWA). However, EPA intends to forego this hearing if sufficient public notice is not shown.

ADDRESSES: Interested persons may participate in the rulemaking by submitting written comments to Karen Wardzinski, Office of Water Enforcement and Permits, Permits Division (EN–336), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Hearing: 401 M Street, SW., Washington, D.C. 20460, Room 3906.

FOR FURTHER INFORMATION CONTACT: Karen Wardzinski, Office of Water Enforcement and Permits, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 202–755–0750.

SUPPLEMENTARY INFORMATION:

I. Introduction

On June 7, 1979, EPA published final regulations establishing program requirements and procedures for the National Pollutant Discharge Elimination System (NPDES) program under the Clean Water Act (CWA), 44 FR 32854. Shortly thereafter, on June 14, 1979, the effective date of these regulations for purposes of judicial review, a number of petitioners representing major industrial trade associations, several of their member companies, and the Natural Resources Defense Council (NRDC) filed petitions for review of the regulations. Some of these parties subsequently filed complaints in several district courts. On the same day, EPA published proposed regulations consolidating the requirements and procedures for five EPA permit programs, including the NPDES program under the CWA, the Hazardous Waste Management Program (HWMP) under the Resource Conservation and Recovery Act (RCRA), the Underground Injection Control (UIC) program under the Safe Drinking Water Act (SDWA), State "Dredge and Fill" permit programs under section 404 of the CWA, and the Prevention of Significant Deterioration (PSD) program under the Clean Air Act (CAA). These new consolidated permit regulations took the place of the final NPDES regulations at 40 CFR Parts 122–124. Final consolidated permit regulations were published on May 19, 1980, 45 FR 35290. Again, these regulations were challenged in court. Petitions for review were filed in several Courts of Appeal and subsequently consolidated in the District of Columbia Circuit (*NRDC* v. *EPA*, and consolidated cases (No. 80–1607).) EPA held extensive discussions on all issues raised in these petitions and subsequently signed three separate Settlement Agreements with industry litigants. The first of these addresses substantive issues affecting only the UIC program was signed on July 22, 1981. Final amendments implementing that agreement were published in the **Federal Register** on September 27, 1981 (46 FR 43156), and on February 3, 1982 (47 FR 4992). The second agreement, signed on November 16, 1981, addresses substantive issues affecting only the RCRA program. Proposed amendments have not yet been published to implement that agreement. The third agreement, also signed on November 16, 1981, and filed with the D.C. Circuit, relates to issues raised by the parties which were common to at least two of the three programs involved in the litigation (i.e. RCRA, NPDES, and UIC) and to three issues which affect the definition of "new discharger" and its effect on mobile drilling rigs. These last issues are applicable only to the NPDES program. (The "common issues" are also reflected in the RCRA settlement agreement to the extent the amendments propose changes to RCRA provisions.) In some instances the settlement agreements resulted in different proposed changes on a particular issue for each of the three programs. This was generally due to differing legal authority or policy consideration associated with each program. Under the terms of the third agreement, commonly referred to as the "Common Issues" Settlement Agreement, EPA must propose the amendments set forth below. If EPA promulgates final rules which are substantially the same as these proposed rules, (or in the case of proposed changes to § 122.6(a) and (d) and § 122.7(c) and § 122.60(b), which are the same as the proposed rules) the parties will withdraw their challenges to these regulations. EPA will consider carefully all public comments on this proposal before promulgating final regulations.

In addition, the President's Task Force on Regulatory Relief has designated the consolidated permit regulations for review by EPA. Settlement of the litigation and implementation of the agreements represents a major portion of the Agency's response to the Task Force. The Agency also expects to propose other changes to the consolidated permit regulations, consistent with those proposed below, in the course of this review. We expect that these other changes will be proposed in the latter half of 1982.

Section 1421 of the Safe Drinking Water Act requires the Administrator to provide an opportunity for public hearing prior to the promulgation of regulations for State UIC programs. Several of the proposed regulatory amendments apply to State UIC programs, and EPA, as required by law, will provide the opportunity for public hearing to consider those amendments as they relate to the UIC program. A hearing is scheduled for July 27, 1982, at 401 M Street, SW., Washington, D.C. 20460, Room 3906. EPA anticipates, however, that the 60-day public notice and comment period will provide ample opportunity for public imput. Therefore, unless sufficient public interest is shown, by means of written notification received at least 1 week prior to the scheduled date, we intend to forego the hearing in the interest of conserving limited agency resources.

II. Common Issues

A. Signatories (40 CFR 122.6)

The first of the changes affects the signatory provisions of 40 CFR § 122.6. Section 122.6(a) has been revised with respect to the level of officer authorized to sign permit applications for corporations. The existing regulation requires permit applications submitted on behalf of a corporation to be signed by a "principal executive officer of at least the level of vice president." The current proposal would change this to allow applications to be signed by "a responsible corporate officer" as defined in proposed § 122.6(a)(1). This definition incorporates into the regulation EPA's interpretation of "executive officer of the level of vice president" adopted in a previously published policy statement (45 FR 52149, August 6, 1980). That statement clarified that an officer performing "policy-making functions" similar to those performed by a corporate vice-president could sign permit applications. In addition, the manager of one or more manufacturing, production, or operating facilities of a corporation can now qualify as a "responsible corporate officer" if the facilities employ more than 250 persons or have gross national sales or expenditures exceeding $25 million, as long as the manager has been authorized to sign applications in accordance with proper corporate procedures. Formal assignments or delegations of authority are not necessary for corporate officers identified in § 122.6(a)(1)(i). EPA believes that the ability to delegate signatory responsibility to corporate managers of facilities which fit within the specified levels is justified for several reasons. Those corporate divisions which do fit within the definition will, in many cases, be larger than the total operations of other smaller corporations whose corporate officers must sign permit applications. In addition, larger corporations frequently must submit many more permit applications than smaller businesses. EPA believes that this propsal will reduce the burden of investigating and signing numerous permit applications for executive officers of extremely large

corporations, while continuing to maintain a high level of corporate responsibility in the permit application process.

This proposal would also revise the certification language of § 122.6(d). Under the current § 122.6(d), the signer of the form must have personally examined and be familiar with all information submitted with the application. Under the revised §122.6(d) certification language, the person signing the form (the signer) must have some form of direction or supervision over the persons gathering the data and preparing the form (the preparers), although the signer need not personally or directly supervise these activities. The signer need not be in the same corporate line of authority as the preparers, nor do the persons gathering the data and preparing the form need to be company employees (e.g., outside contractors can be used). It is sufficient that the signer has authority to assure that the necessary actions are taken to prepare a complete and accurate application form. For example, the signature of an "environmental" vice president is acceptable if the signer has the requisite authority. Such authority should include the power to direct that revisions be made to the application form if necessary. The signer does have a duty of inquiry of the persons responsible for managing the system or gathering the information in order to satisfy himself that the information submitted is true, accurate and complete. Again, the Agency believes this change will continue to guarantee a high level of corporate involvement and responsibility in the permit application process, whicle eliminating the burdensome requirement of personal examination of all information submitted with the application by those individuals responsible for signing permit applications. (Additional changes to the certification provision for RCRA permit applications were agreed to in the RCRA Settlement Agreement. These will be addressed in a separate rulemaking proposal.)

Pursuant to 42 U.S.C. 6974 and 40 CFR 260.20, the Departments of the Interior and Agriculture petitioned the Administrator of the EPA for modification of § 122.6(a)(3) to allow authorized representatives of a principal executive officer or ranking elected official to sign permit applications submitted on behalf of municipalities, State, Federal or other public agencies. These Departments argued that the required level of signatory was administratively cumbersome in light of the level of review and certification required by §122.6(d). EPA believes that the proposed revision of the certification provision discussed above, which eliminates the requirement of personal examination of all information submitted with the application, adequately addresses the concerns raised by the Departments of the Interior and Agriculture. Therefore, no change to the signatory requirement of §122.6(a)(3) for public agencies is proposed. EPA solicits comments on this position.

B. Duty to Mitigate (40 CFR 122.7(d))

Section 122.7(d) requires permittees to "take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with RCRA, UIC, NPDES or State section 404 "dredge and fill" permits. Industry petitioners feared that misinterpretation of this provision might imply an obligation to assume liability for medical costs for persons harmed by the results of any noncompliance. The Settlement Agreements require EPA to propose revisions to clarify the intent of the provision. In the case of NPDES and State "dredge and fill" permits, the revised language focuses on the permittee's obligations to "minimize or prevent" non-complying discharges. These permittees are required to take steps to minimize or prevent those non-complying discharges which have "a reasonable likelihood of adversely affecting human health or the environment." RCRA permittees would be required to "take all reasonable steps to minimize releases to the environment," and to "carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment."

The proposed language changes are not intended to suggest that a permittee need not comply with all conditions of its permit. All conditions of a permit must be met, whether or not they would be likely to lead to adverse effects. These conditions impose an *additional* requirement of mitigation measures when non-compliance with the permit presents a risk of environmental harm.

Industry UIC petitioners withdrew their challenge to § 122.7(d) as part of the UIC settlement agreement. Accordingly, if EPA adopts these proposed amendments in final form, the existing text of that Section will be redesignated as § 122.41(f), applicable to UIC only.

C. Other Federal Statutes (40 CFR 122.12)

Section 122.12 lists a number of Federal statutes which may be applicable to the issuance of RCRA, UIC, or NPDES permits. Industry petitioners feared that misinterpretation of the provision might result in the imposition of substantive permit requirements which were not required by the listed statutes. EPA is proposing to rewrite the introductory paragraph to the section to make it clear that the Agency does not intend by these regulations to condition or deny permits based on those statutes when these actions are not required by the statutes themselves. The principal purposes of the section is not to impose requirements, but to notify permit issuers of requirements that already exist, and which may be applicable to particular permits.

D. Continuation of Expired Federal Permits in Approved States (40 CFR 122.5(d))

Permits often expire after the submission of a timely and complete renewal application, but before the issuing agency has been able to act on the renewal application. In such cases, if EPA is the permit issuing agency, the Administrative Procedure Act (5 U.S.C. 558(c)) automatically extends the expiring permit until EPA acts on the renewal application. Section 122.5(d) allows approved State permit-issuing agencies to continue State or federally issued permits if their State has an administrative procedure law similar in operation to the Federal Administrative Procedure Act (APA). However, Federal law does not automatically continue these permits.

Industry petitoners requested that EPA amend its regulations to provide that if an EPA-issued permit expires in a State which has been authorized to administer the NPDES or RCRA program, and the applicant has properly re-applied for a permit, the original permit will automatically continue in force until such time as the State reissues the permit, irrespective of what the State APA provides.

In States with no State extension law, EPA has concluded that it is unable to provide for the automatic extension of NPDES permits, due to the Clean Water Act's requirement that permits be issued for "fixed terms not exceeding five years." For RCRA permits, the continuation problem should seldom arise because EPA will be proposing that federally-issued permits extend over the anticipated life of the permitted facility. (See RCRA Settlement Agreement, signed November 16, 1981, issue number nine). Nevertheless, should the problem arise, we have concluded that we have authority to provide for automatic extension of EPA-

issued RCRA permits, even after State assumption of permit-issuing authority, and have done this in proposed § 122.5(d)(2).

Although EPA is unable to provide for the automatic continuation of expired federally-issued NPDES permits in States which have been approved to run the program, the Agency believes that a permittee who has done all it can to comply with the requirements for re-issuance should not be penalized for a State's inability to act promptly. Therefore, the Agency has adopted the following policy with respect to these permits. If a State program has been approved, expired federally-issued permits do not remain in effect unless continued under State law. However, if the discharger, owner, or operator has submitted a timely and complete application for a renewal permit to the State, and the State has not acted, EPA will refrain from initiating an enforcement action based on the applicant's failure to have a permit if the applicant continues to comply with the terms of the expired permit, unless the permitted activity presents an imminent and substantial endangerment to the environment or human health.

EPA recognizes that this policy does not, nor can it, provide certain protection from citizen suits against facilities without required permits. However, in these circumstances, we would not expect a court to assess penalties if delays in permit reissuance were not due to failure of the facility owner or operator to submit required information.

This policy is not being extended to federally-issued UIC permits. Though program requirements and procedures are currently being developed to implement a federal UIC program, no federal program has yet been established and thus, no federally-issued permits exist. Once the federal program is implemented, UIC permits will generally be issued for a term of 10 years for Class I and V wells, and for a term extending over the life of the facility for Class II and III wells. Thus no need for a non-enforcement policy has been demonstrated with respect to UIC permits, and EPA sees no reason to limit its enforcement discretion where such a need does not exist. This decision in no way limits the Agency's ability to provide appropriate relief on a case-by-case basis in the future if need is shown.

In the case of section 404 "dredge and fill" permits, the Corps of Engineers issues the federal permits and thus EPA has no authority to extent this policy to permits issued under that program.

E. State Adoption of EPA Civil Penalty Policy (40 CFR § 123.9)

EPA proposes to amend § 123.9(c) to eliminate the requirement that States adopt specific methods provided for calculating civil penalties. As proposed, the section would merely require that any civil penalty agreed upon by the State Director must be "appropriate to the violation." Elimination of the remainder of the provision will afford States a greater degree of flexibility in administering their civil enforcement program. Of course, to the extent the penalties assessed by the State are in amounts substantially inadequate in comparison to amounts EPA would have required under similar facts, EPA may exercise its authority, when granted by applicable statute, to commence its own actions for penalties.

F. Commencement of Operations Pending Hearing on Appeal (40 CFR §§ 124.60, 124.119)

The Settlement Agreement requires EPA to propose several amendments to § 124.60. Section 124.60 governs the circumstances under which a new source new discharger, or recommencing discharger, whose initial permit has been challenged in a formal hearing, may begin operations pending the outcome of the hearing or an appeal of its denial. Upon the applicant's request, the current provision allows the Presiding Officer to grant an order authorizing the source to begin operations if no party opposes the order or if the applicant shows that: (1) It is likely to prevail on the merits; (2) No irreparable harm will result from its discharges in the interim; and (3) The public interest requires commencement of operations. If an "early operation order" is granted, the source must operate in compliance with all conditions of the final permit issued by the Agency.

Industry petitioners argued that in many cases the stringency of these requirements prevented the commencement of operations pending the outcome of often lengthy administrative proceedings, in some cases lasting several years. Though EPA does not agree with industry's characterization of the severity of the problem, the Agency does believe that some relief is appropriate. Today's proposal establishes a more flexible scheme for obtaining an "early operation order" which the Agency, nonetheless, believes still maintains an adequate degree of environmental protection pending "final agency action" on a permit. The specific proposed changes affect both the scope of an "order" and the demonstration necessary to obtain one. First, orders may now authorize an NPDES source to begin "discharging" as opposed to "operations." This proposed language clarifies the Agency's original meaning of the term "operations" as it applied to NPDES permittees. In the case of RCRA permits, the order may authorize either construction (under certain limited circumstances) or operation, since RCRA permits do not authorize discharge as do NPDES permits. Second, the three-part demonstration required of the source to obtain an "early discharge order" has been changed to impose somewhat less burdensome requirements. Rather than demonstrating a likelihood of prevailing on the merits, the source need only show that it is likely to receive a permit to discharge (or operate in the case of RCRA permits.) The source must still show that no irreparable harm to the environment will result from its discharge/operations and that its discharge/operations is in the public interest. If the source makes this demonstration, or no party opposes the request, the Presiding Officer must grant the order. This is a change from the current provision under which his authority is discretionary.

Third, the Presiding Officer in a formal hearing is empowered by the rule to include "appropriate conditions" in lieu of the conditions set by the EPA. The previous rule precluded the Presiding Officer from imposing conditions other than those in the EPA permit, which may be under challenge. This new provision allows the Presiding Office to set "appropriate conditions" effective during the evidentiary hearing which are more stringent if necessary to meet the requirements of § 124.60(a)(2)(i)–(iii) or which are less stringent when those requirements would be satisfied by the less stringent conditions. The Presiding Officer may grant relief under § 124.60 even if the challenge involves the entire authorization to discharge, such as a challenge to an EIS supporting the issuance of the permit. In such cases, even though the entire permit may be under challenge, such that there are no uncontested conditions, the Presiding Officer has authority to set conditions to satisfy the requirements of § 124.60(a)(2)(i)–(iii) that must be met if the applicant is authorized to discharge during the evidentiary hearing.

Finally, the Presiding Officer can issue an order allowing a RCRA facility to begin construction only if no construction-related condition of the permit have been challenged. (In a

technical amendment published on April 8, 1982, 47 FR 15304, EPA amended § 124.60 to add the term "or facility" following each mention of the term "source" in order to clarify the application of this provision to RCRA facilities.)

In addition, a new § 124.119, applicable only to NPDES permittees, is proposed which would make the same provisions for obtaining an "early discharge order" applicable in non-adversary panel hearings. These orders can only be obtained for sources covered by an individual permit.

Under § 124.81, the Regional Administrator is required to request the Chief Administrative Law Judge to assign an Administrative Law Judge to an evidentiary hearing no later than the notice granting the hearing. Assignment of an ALJ may become particularly urgent in cases involving new sources and new dischargers which may wish to file a motion under § 124.60. Applicants who believes they will seek such a motion may, in requesting an evidentiary hearing, also request the Regional Administrator to ask for an expedited assignment of an ALJ with whom the motion may be filed. Regional Administrators should freely grant such requests.

A new § 124.60(c), applicable only to NPDES permits, is proposed which would establish a new procedure applicable to those mobile drilling rigs which are proposed to be excluded from the "new discharger" classification. Mobile rigs excluded from the new discharger classification would become "existing sources" for the purposes of the consolidated permit regulations, even if the rig has never received a finally effective permit to discharge at a given site. Under § 124.16, if a request for review of an NPDES permit for an existing source is granted, the contested permit conditions are stayed pending final agency action. In such cases a source with an existing permit must comply with the terms of its previous permit. In order to allow controls to be imposed when necessary on owners or operators of mobile drilling rigs which do not have existing permits, EPA proposes new § 124.60(c)(7). This proposal provides that if the Regional Administrator determines that compliance with certain permit conditions may be necessary to avoid irreparable environmental harm during administrative review, he may specify in the statement of basis or fact sheet for the permit those conditions which, even if contested, will remain enforceable during the administrative review. The Presiding Officer may change this determination in connection with his authority to grant "early discharge orders" under paragraph (a)(2) of this section.

III. NPDES Issues

The following proposed changes apply only to the NPDES program.

A. Need to Halt or Reduce Activity to Maintain Compliance (40 CFR 122.60(b)

The Agency is proposing to delete § 122.60(b). Section 122.60(b) requires that upon reduction, loss, or failure of the treatment facility, a permittee, in order to maintain compliance with its permit limitations, must control production, or all discharges, or both until treatment is restored. Industry petitioners in the consolidated permit regulations litigation argued that a mandatory requirement to cease or reduce production or discharges in all cases where failure of the treatment system results in noncompliance with the permit is unreasonable. In some circumstances, noncompliance may not be serious enough to justify ceasing production or discharge. The requirement to halt production was particularly troublesome to the electric utilities industry, which asserted that in some cases state law requires utilities to provide a continuous, reliable supply of electric power, and that § 122.60(b) could place utilities in the position of violating state law in order to comply with NPDES requirements, even in the event of only minor permit violations.

EPA believes that the appropriateness of controlling production or discharge may vary with the situation and thus, is more suitably dealt with as a question of defense to liability in enforcement proceedings. On April 5, 1982, 47 FR 15304 EPA revised the caption of § 122.7(c) "Duty to Halt or Reduce Activity" to "Need to Halt or Reduce not a Defense," to clarify the intent of that section that a permittee will not be allowed to defend its noncompliance in an enforcement action on the ground that it would have had to halt or reduce its regulated activity. The Agency believes that § 122.7(c) adequately addresses the intent of § 122.60(b). Thus, to avoid unnecessary duplication the Agency proposes to delete § 122.60(b) in its entirety.

B. New Discharger Issues

The second proposed change concerns the application of the "new discharger" classification to mobile oil and gas drilling rigs. The current "new discharger" definition specifically includes mobile drilling rigs. Each time a mobile drilling rig move to a new unpermitted site it is required to apply for a new NPDES permit, subjecting it once again to the new discharger requirements. As a result of inclusion in the new discharger classification, if an evidentiary hearing is requested, either by the applicant or a third party, the mobile point source is without a permit until the conclusion of the hearing or an appeal of its denial, 40 CFR 124.60(a)(1). The Agency's original basis for including mobile drilling rigs in the "new discharger" definition was its belief that the commencement of operations at a new site constituted a new environmental insult which must be independently analyzed before imposing permit limitations and conditions. However, the Agency's experience in issuing permits to oil and gas facilities in the Gulf of Mexico has shown that this is not always true. On April 13, 1979, EPA issued three general permits for drilling operations in Outer Continental Shelf (OCS) lease sale areas in the Gulf of Mexico. These permits imposed a common set of limitations and conditions applicable to all mobile rigs operating in the designated general permit areas. The issuance of these general permits allows mobile rigs to move freely within the area of coverage defined in the general permit. Their use eliminates the time-consuming requirement, burdensome to mobile rigs, of obtaining new NPDES permits prior to each move, and in addition, significantly reduces the resources burden for the permitting authority. In today's Federal Register notice, EPA is proposing regulatory amendments which would establish a general permitting scheme for oil and gas operations within the OCS. Because it will take some time before the Agency can issue general permits for oil and gas facilities in all OCS lease sale areas, and because approved NPDES States will not be required to issue general permits, rather than individual permits, to oil and gas facilities in all OCS lease sale areas, and because approved NPDES States will not be required to issue general permits, rather than individual permits, to oil and gas facilities, the Agency believes that mobile drilling rigs should, in most cases, be excluded from coverage in the "new discharger" classification. This exclusion is subject to two limitations. First, the exclusion will cover all mobile *exploratory* drilling rigs operating in both offshore and coastal areas, and mobile *developmental* rigs operating in *coastal* areas. However, mobile *developmental* rigs operating in any *offshore* area will continue to be included in the "new discharger" category if they would

otherwise fit the definition. Developmental rigs operating in offshore areas are treated differently for several reasons. Developmental rigs generally remain at a given site for longer periods of time than do exploratory rigs and have more advance notice before moving to new sites. Thus, the burdens of obtaining a new permit prior to moving to a new site are not as great as for exploratory rigs.

More importantly, developmental rigs pose more risk of harm to the marine environment than exploratory rigs. Ordinarily, an exploratory rig drills a limited number of wells, (e.g., one (1) to three (3) wells to identify the nature and extent of potential oil or gas reserves. A developmental rig, on the other hand, may drill a large number of wells (e.g., anywhere from 3 to 60 wells) and generally remains at a given site for longer periods of time while developing oil or gas reserves. Thus, the volume of pollutants discharged can be far greater than in the case of exploratory rigs, and movement to a new site could indeed constitute a significant new environmental insult. In issuing NPDES permits for offshore discharges, EPA has an obligation under section 403(c) of the Clean Water Act (CWA) to determine whether or not unreasonable degradation of the marine environment will occur as a result of the discharge. In accordance with guidelines published pursuant to Section 403(c), the Agency must make this determination prior to permit issuance. No permit can be issued if unreasonable degradation will occur. If there is insufficient information to make a determination as to unreasonable degradation, no NPDES permit can be issued unless the Agency determines that such discharge will not cause irreparable harm to the marine environment, In light of the increased volume of pollutants potentially dicharged from developmental operations, EPA must perform complex analyses to develop adequate permit limitations and conditions. Thus, developmental rigs discharging into offshore waters will continue to be included in the "new discharger" definition. Section 403 does not apply to dicharges into coastal waters (as defined in 40 CFR 435.41(c)).

Second, all mobile oil and gas drilling rigs operating in an area of biological concern will continue to be considered "new dischargers" if they otherwise fit the definition. The Agency continues to believe that the commencement of operations in these environmentally sensitive areas should be carefully examined before imposing appropriate permit limitations. Of course, general permits may be appropriate for these areas, eliminating the need for re-evaluation of each site.

On August 29, 1980 the United States District Court, Western District of Louisiana, entered an order in *American Petroleum Institute* v. *Costle* (No. 79-0858) enjoining EPA from applying the "new discharger" definition to mobile drilling rigs operating in offshore areas adjacent to the Gulf Coast, the Atlantic Coast, California, and Alaska, except in the Flower gardens and other areas determined to be environmentally sensitive by the Bureau of Land Management. In accordance with that order, EPA on October 15, 1980, suspended the application of the "new discharger" definition to offshore mobile drilling rigs operating in these areas, 45 FR 68391. That suspension will continue in effect until new final regulations are published. At that time, the parties will move to dismiss the complaint as to the issue covered by the Settlement Agreement, and thereby to vacate the August 29, 1980, order.

EPA issues NPDES permits to offshore oil and gas facilities involved in the identification and recovery of hydrocarbon reserves, including mobile drilling units and fixed platforms discharging into ocean waters beyond the three mile limit of the territorial seas. EPA also issues NPDES permits to these facilities operating in the territorial seas if the adjoining State does not have an approved NPDES permit program. EPA's current consolidated permit regulations at 40 CFR 122.59 authorize the issuance of NPDES general permits to control the discharge of pollutants from a category of point sources located in the same geographic area if it is determined that their discharges warrant similar pollution control measures. EPA proposes to revise § 122.59 to require Regional Administrators to issue general permits, rather than individual permits, for most discharges from oil and gas exploration and production facilities within the Region's jurisdiction, unless the use of a general permit is demonstrated to be clearly inappropriate.

The traditional regulatory framework for NPDES permits requires that an owner or operator of a facility file an application for a permit; therefore, the permit process does not begin until the identity of the owner or operator is established after the Final Notice of Sale by the Bureau of Land Management (BLM). EPA proposes the use of general permits for oil and gas facilities in existing lease sale areas, as well as future lease sale areas established by the BLM. The general permit should eliminate this post-lease delay in permit issuance. The provisions for general permits provide that sufficient information may be available to determine permit conditions without application information. Therefore, general permits can be issued without a named party and without any application required from individual owners or operators. In addition, final general NPDES permits are not subject to evidentiary hearings (although the Regional Administrator may in his discretion hold a panel hearing), thereby eliminating another time-consuming aspect of the NPDES process.

EPA's decision to issue a general permit is dependent upon information sufficient to determine appropriate permit conditions. For discharges into the marine waters, the information must be sufficient to address specific criteria set forth in the Ocean Discharge Criteria under section 403(c) of the Clean Water Act (40 CFR 125.122). Since EPA's mechanism for obtaining necessary information rests with the NPDES application, eliminated in the general permit program, the issuance of general permits during the OCS lease sale process will depend upon close cooperation and coordination between the Department of the Interior (DOI) and EPA. A Memorandum of Understanding (MOU) which will provide the mechanism for further coordination of NPDES permit issuance and lease sale activities is currently under development and review by both agencies.

With sufficient information to determine permit conditions, general NPDES permits may be issued for entire tracts or groups of tracts offered in OCS lease sales. The provision for the use of general permits also applies to discharges into the territorial seas when EPA is the permit-issuing authority and sufficient information exists to determine appropriate permit conditions. Generally, broad areas of a lease sale will require the same effluent limitations and self-monitoring and reporting requirements, and, therefore, are appropriately controlled by a single general permit. Areas of biological concern within a lease sale area should also be subject to general permits. However, these areas of biological concern will require permit conditions which differ from those contained in a broader area general permit. In such cases separate general permits are necessary. If a lease sale area contains several areas of biological concern with different community structure, they may be more appropriately controlled by

separate general permits or by individual permits. However, individual permits should only be used when a general permit is clearly inappropriate.

EPA is developing criteria to identify areas of biological concern on the outer continental shelf. These criteria will provide those personnel involved in making permit decisions for the OCS with a comprehensive methodology that can be applied in determining habitat sensitivity. Criteria for objectively "scoring" a candidate habitat against sensitivity criteria and techniques for evaluating such "scorings" will enable EPA to determine the types of hazard assessments required, and identify the appropriate mitigating measures for permit effluent limitations and conditions.

Section 122.59(c)(2) requires that when a Regional Administrator determines that a general permit is appropriate for a particular offshore lease sale area, he shall issue a project decision schedule which complies with the requirements of § 124.3(g) and which provides for the issuance of a final general permit no later than the date of final notice of sale of the lease sale area as projected by the Department of Interior or 6 months after the date of request for a general permit, whichever is later. As with all dates projected in project decision schedules, the Regional Administrator should strive to meet such deadlines. Recognizing, however, that factors beyond the control of EPA (*e.g.*, failure of the enviornmental impact statement to provide adequate information upon which to base decisions required by section 403(c) of the CWA) could delay the issuance of the final general permit beyond the dates projected in the project decision schedule, the Regional Administrator shall, in any event, on or before the final notice of lease sale, issue a draft general permit for those areas which are not potential areas of biological concern or do not otherwise need separate permit conditions.

C. Modification of NPDES Permits (40 CFR 122.15)

In order to prevent unnecessary administrative hearings and litigation during rulemaking proceedings on these proposals, EPA has agreed to propose a new § 122.15(a)(5) allowing NPDES permits which became final after August 19, 1981, to be modified to conform to any final rule adopted under the Settlement Agreement for §§ 122.7(c) and 122.60(b). Changes proposed today relating to other provisions would not affect the terms or conditions of existing permits. The cut-off date is proposed so as to prevent unnecessary modifications which could place an unreasonable strain on Agency or State resources.

IV. Effective Date

Section 553(d) of the Administrative Procedure Act (APA) requires publication of a substantive rule not less than 30 days before its effective date. In addition, section 3010(b) of RCRA provides that EPA's hazardous waste regulations, and revisions thereto, take effect six months after their promulgation. The purpose of these requirements is to allow permittees sufficient lead time to prepare to comply with new regulatory requirements. For the amendments proposed today, however, EPA believes that an effective date 30 days or six months after promulgation would cause unnecessary disruption in the implementation of the regulations and would be contrary to the public interest. Section 553(d)(1) of the APA provides an exemption from the requirement to delay the effective date of a promulgated regulation for 30 days in instances where the regulation will relieve restrictions on the regulated community. These amendments, if promulgated in final form, would relieve restrictions on permittees under the NPDES, RCRA and UIC programs by providing greater flexibility in meeting the requirements of the programs. EPA believes that these are not the type of regulations that Congress had in mind when it provided a delay between the promulgation and the effective date of revisions to regulations. Consequently, EPA believes it will have good cause to make these amendments effective immediately if and when they are promulgated in final form, but requests comments on whether such action would cause hardship for the regulated community or otherwise be inappropriate.

V. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is major and therefore subject to the requirement of a Regulatory Impact Analysis. These amendments clarify the meaning of several generic permit requirements and generally make the regulations more flexible and less burdensome for affected permittees. They do not satisfy any of the criteria specified in section 1(b) of the Executive Order and, as such do not constitute major rulemakings. This regulation was submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at the office of Water Enforcement and Permits, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

VI. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., EPA must submit a copy of any proposed rule which contains a collection of information requirement to the Director of OMB for review and approval. These amendments contain no information collection requests and therefore the Paperwork Reduction Act is not applicable.

VII. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., EPA is required to prepare a Regulatory Flexibility Analysis to assess the impact of rules on small entities. No regulatory flexibility analysis is required, however, where the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of entities. Today's proposed amendments to the regulations clarify the meaning of several generic permit requirements and otherwise make the regulations more flexible and less burdensome for all permittees. Accordingly, I hereby certify, pursuant to 5 U.S.C. 605(b) that these amendments will not have a significant impact on a substantial number of small entities.

Dated: June 1, 1982.

Anne M. Gorsuch,

Administrator.

List of Subjects

40 CFR Part 122

Administrative practice and procedure, Air pollution control, Hazardous materials, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, confidential business information.

40 CFR Part 123

Hazardous materials, Indians—lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information:

40 CFR Part 124

Administrative practice and procedure, Air pollution control, Hazardous materials, Waste treatment and disposal, Water pollution control, Water supply, Indians—lands.

It is proposed that 40 CFR Parts 122,123, and 124 be amended as follows:

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM; THE HAZARDUS WASTE PERMIT PROGRAM; AND THE UNDERGROUND INJECTION CONTROL PROGRAM

1. Section 122.3 is proposed to be amended by revising the definition of "New discharger" as follows:

§ 122.3 Definitions.

"New discharger" (NPDES) means any building, structure, facility, or installation:

(a) From which there is or may be a "discharge of pollutants;"

(b) That did not commence the "discharge of pollutants" at a particular "site" prior to August 13, 1979;

(c) which is not a "new source;" and

(d) Which has never received a finally effective NDPES permit for discharges at that "site."

This definitions includes and "indirect discharger" which commences discharging into "waters of the United States" after August 13, 1979. It also includes any existing mobile point source (other than an offshore or coastal oil and gas exploratory drilling rig or a coastal oil and gas developmental drilling rig) such as seafood processing rig, seafood processing vessel, or aggregate plant, that begins discharging at a "site" for which it does not have a permit; and any offshore or coastal mobile oil and gas exploratory drilling rig or coastal mobile oil and gas developmental drilling rig that commences the discharge of pollutants after August 13, 1979, at a "site" under EPA's permitting jurisdiction for which it is not covered by an individual or general permit and which is located in an area determined by the Regional Administrator in the issuance of a final permit to be area of biological concern. In determining whether an area is an area of biological concern, the Regional Administrator shall consider the factors specified in 40 CFR 125.122(a)(1) through (10). An offshore or coastal mobile exploratory drilling rig or coastal mobile developmental drilling rig will be considered a "new discharger" only for the duration of its discharge in an area of biological concern.

* * * * *

2. Section 122.5 is proposed to be amended by revising paragraph (d) as follows:

§ 122.5 Continuation of expiring permits.

* * * * *

(d) *State continuation.* (1) An EPA-issued NPDES or UIC permit, or a Corps of Engineers 404 permit, does not continue in force beyond its expiration date under Federal law if at that time a State is the permitting authority. States authorized to administer the UIC, NPDES, or 404 programs may continue either EPA or Corps of Engineers or State-issued permits until the effective date of the new permits, if State law allows. Otherwise, the facility or activity is operating without a permit from the time of expiration of the old permit to the effective date of the State-issued new permit.

(2) In a State with a hazardous waste program authorized under 40 CFR Part 123, Subparts A and B or Subpart F, if a permittee has submitted a timely and complete application under applicable state law and regulations, the terms and conditions of an EPA-issued RCRA permit continue in force beyond the expiration date of the permit, but only until the effective date of the State's issuance or denial of a State RCRA permit.

3. Section 122.6 is proposed to be amended by revising paragraphs (a)(1) and (d) as follows:

§ 122.6 Signatories to permit applications and reports.

(a) * * *

(1) *For a corporation:* by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

Note.—EPA does not require specific assignments or delegations of authority to responsible corporate officers identified in § 122.6(a)(1)(i). The Agency will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Director to the contrary. Corporate procedures governing authority to sign RCRA and NPDES permit applications may provide for assignment or delegation to applicable corporate positions under § 122.6(a)(1)(ii) rather than to specific individuals.

* * * * *

(d) *Certification.* Any person signing a document under paragraphs (a) or (b) of this section shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

§ 122.7 [Amended]

4. Section 122.7 is proposed to be amended by removing paragraph (d) and redesignating paragraphs (e) through (l) as (d) through (k).

5. Section 122.12 is proposed to be amended by revising the introductory paragraph as follows:

§ 122.12 Considerations under Federal law.

The following is a list of Federal laws that may apply to the issuance of permits under these rules. When any of these laws is applicable, its procedures must be followed. When the applicable law requires consideration or adoption of particular permit conditions or requires the denial of a permit, those requirements also must be followed.

* * * * *

6. Section 122.15 is proposed to be amended by adding paragraph (a)(5)(xii) as follows:

§ 122.15 Modification or revocation and reissuance of permits.

(a) * * *

(5) * * *

(xii) When the permit becomes final and effective on or after August 19, 1981, if the permittee shows good cause for the modification, to conform to changes respecting the following regulations issued under the Settlement Agreement dated November 16, 1981, in connection with *Natural Resources Defense Council v. EPA*, No. 80-1607 and consolidated cases:

Section 122.7(c)
Section 122.60(b)

* * * * *

7. Section 122.28 is proposed to be amended by redesignating paragraphs (d) and (e) as (e) and (f), and adding a new paragraph (d) as follows:

§ 122.28 Additional conditions applicable to all RCRA permits.

* * * * *

(d) In the event of noncompliance with the permit, the permittee shall take all reasonable steps to minimize releases to the environment, and shall

carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment.

* * * * *

8. Section 122.41 is proposed to be amended by adding a new paragraph (f) as follows:

§ 122.41 Additional conditions applicable to all UIC permits.

* * * * *

(f) *Duty to mitigate.* The permittee shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this permit.

* * * * *

9. Section 122.59 is proposed to be amended by adding a new paragraph (c) as follows:

§ 122.59 General permits.

* * * * *

(c) *Offshore oil and gas facilities* (Not applicable to State programs.) (1) The Regional Administrator shall, except as provided below, issue general permits covering discharges from offshore oil and gas exploration and production facilities within the Region's jurisdiction. Where the offshore area includes areas, such as areas of biological concern, for which separate permit conditions are required, the Regional Administrator may issue separate general permits, individual permits, or both. The reason for separate general permits or individual permits shall be set forth in the appropriate fact sheets or statements of basis. Any statement of basis or fact sheet for a draft permit shall include the Regional Administrator's tentative determination as to whether the permit applies to "new sources," "new dischargers," or existing sources and the reasons for this determination, and the Regional Administrator's proposals as to areas of biological concern subject either to separate individual or general permits. For Federally leased lands, the general permit area should generally be no less extensive than the lease sale area defined by the Department of the Interior.

(2) Any interested person, including any prospective permittee, may petition the Regional Administrator to issue a general permit. Unless the Regional Administrator determines under paragraph (c)(1) that no general permit is appropriate, he shall promptly provide a project decision schedule covering the issuance of the general permit or permits for any lease sale area for which the Department of the Interior has published a draft environmental impact statement. The project decision schedule shall meet the requirements of § 124.3(g), and shall include a schedule providing for the issuance of the final general permit or permits not later than he date of the final notice of sale projected by the Department of the Interior or six months after the date of the request, whichever is later. The Regional Administrator may, at his discretion, issue a project decision schedule for offshore oil and gas facilities in the territorial seas.

(3) Nothing in this paragraph (c) shall affect the authority of the Regional Administrator to require an individual permit under § 122.59(b)(2)(i) (A) through (F).

10. Section 122.60 is proposed to be amended by revising paragraph (b) as follows:

§ 122.60 Additional conditions applicable to all NPDES permits.

* * * * *

(b) The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

* * * * *

PART 123—STATE PROGRAM REQUIREMENTS

11. Section 123.9 is proposed to be amended by revising paragraph (c) and adding a new first paragraph to the note following paragraph (c) as follows:

§ 123.9 Requirements for enforcement authority.

* * * * *

(c) A civil penalty assessed, sought, or agreed upon by the State Director under paragraph (a)(3) of this section shall be appropriate to the violation.

Note.—To the extent that State judgments or settlements provide penalties in amounts which EPA believes to be substantially inadequate in comparison to the amounts which EPA would require under similar facts, EPA, when authorized by the applicable statute, may commence separate actions for penalties.

* * * * *

12. Section 123.97 is proposed to be amended by adding a new paragraph (e) as follows:

§ 123.97 Additional conditions applicable to all 404 permits.

* * * * *

(e) The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

PART 124—PROCEDURES FOR DECISIONMAKING

§ 124.3 Application for a permit.

13. Section 124.3(g) is proposed to be amended by adding the following after the words "new discharger" and before the words "the Regional Administrator shall * * *":

* * * * *

(g) * * * or a permit to be issued under provisions of § 122.59(c) * * *

14. Section 124.60 is proposed to be amended by revising paragraph (a)(2) and adding new paragraphs (a)(3) and (c)(7) as follows:

§ 124.60 Issuance and effective date and stays of NPDES permits.

* * * * *

(a) * * *

(2) Whenever a source or facility subject to this paragraph or to paragraph (c)(7) of this section has received a final permit under § 124.15 which is the subject of a hearing request under § 124.74 or a formal hearing under § 124.75, the Presiding Officer, on motion by the source or facility, may issue an order authorizing it to begin discharges (or in the case of RCRA permits, construction or operations) if it complies with all uncontested conditions of the final permit and all other appropriate conditions imposed by the Presiding Officer during the period until final agency action. The motion shall be granted if no party opposes it, or if the source or facility demonstrates that:

(i) It is likely to receive a permit to discharge (or in the case of RCRA permits, to operate) at that site;

(ii) The environment will not be irreparably harmed if the source or facility is allowed to begin discharging (or in the case of RCRA, to begin operating) in compliance with the conditions of the Presiding Officer's order pending final agency action; and

(iii) Its discharge (or in the case of RCRA, its operation) pending final agency action is in the public interest.

(3) *For RCRA only,* no order under paragraph (a)(2) may authorize a facility to commence construction if any party has challenged a construction-related permit term or condition. If no party has challenged a construction-related permit term or condition, the Presiding Officer, on motion by the facility, shall issue an order authorizing it to begin construction under the terms of paragraph (a)(2).

* * * * *

(c) * * *

(7) If for any offshore or coastal mobile exploratory drilling rig or coastal mobile developmental drilling rig which

has never received a finally effective permit to discharge at a "site," but which is not a "new discharger" or a "new source," the Regional Administrator finds that compliance with certain permit conditions may be necessary to avoid irreparable environmental harm during the administrative review, he may specify in the statement of basis or fact sheet that those conditions, even if contested, shall remain enforceable obligations of the discharger during administrative review unless otherwise modified by the Presiding Officer under paragraph (a)(2) of this section.

15. Section 124.119 is proposed to be amended by adding new paragraphs (c) and (d) as follows:

§ 124.119 Presiding Officer.

* * * * *

(c) Whenever a panel hearing will be held on an individual draft NPDES permit for a source which does not have an existing permit, the Presiding Officer, on motion by the source, may issue an order authorizing it to begin discharging if it complies with all conditions of the draft permit or such other conditions as may be imposed by the Presiding Officer in consultation with the panel. The motion shall be granted if no party opposes it, or if the source demonstrates that:

(i) It is likely to receive a permit to discharge at that site;

(ii) The environment will not be irreparably harmed if the source is allowed to begin discharging in compliance with the conditions of the Presiding Officer's order pending final agency action; and

(iii) Its discharge pending final agency action is in the public interest.

(d) If for any offshore or coastal mobile exploratory drilling rig or coastal mobile developmental drilling rig which has never received a finally effective permit to discharge at a "site," but which is not a "new discharger" or "new source," the Regional Administrator finds that compliance with certain permit conditions may be necessary to avoid irreparable environmental harm during the nonadversary panel procedures, he may specify in the statement of basis or fact sheet that those conditions, even if contested, shall remain enforceable obligations of the discharger during administrative review unless otherwise modified by the Presiding Officer under paragraph (c) of this section.

[FR Doc. 82-15650 Filed 6-11-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 761

[OPTS 62017A; TSH FRL 2103-7]

Polychlorinated Biphenyls (PCBs); Manufacture, Processing, Distribution, and Use in Closed and Controlled Waste Manufacturing Processes

Correction

In FR Doc. 82-15599 appearing on page 24976 in the issue of Tuesday, June 8, 1982, make the following correction.

On page 24976, in the first column, the "**DATES**" paragraph, the date for the informal hearing reading "August 6, 1982" should read "July 23, 1982" and the date for comments reading "July 23, 1982" should read "July 8, 1982".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 192

[Docket No. PS-60; Notice 2]

Transportation of Natural and Other Gas by Pipeline; Hot Taps in Gas Pipelines

AGENCY: Materials Transportation Bureau (MTB), DOT.

ACTION: Withdrawal of proposed rulemaking.

SUMMARY: By Notice 1, MTB proposed that operators be required to determine the pressure in a pressurized pipeline before allowing the gas to flow through a newly made branch connection into another pipeline. The proposed rule was intended to preclude overpressurization hazards that can arise when two pipelines are erroneously connected. Although all commenters supported the safety objective to be attained, the proposed rule would be unnecessary in some cases, and MTB does not have enough historical accident data or other information about the potential for future accidents to clearly demonstrate that the expected benefits of the proposed rule would outweigh the costs of implementation. As a consequence, the proposed rulemaking action is hereby withdrawn.

FOR FURTHER INFORMATION CONTACT: L. M. Furrow, 202-426-2392.

SUPPLEMENTARY INFORMATION:

Background

The National Transportation Safety Board (NTSB) investigated and reported on two pipeline accidents caused by operators making branch connections to pressurized pipelines other than the ones intended. The connecting procedure is called a "hot tap," and results in gas flowing to the connected piping without interrupting the operation of the tapped pipeline.

One accident occurred in Greenwich, Connecticut, on May 25, 1977, when a gas company crew tapped a 3-inch casing pipe, thinking it was a gas main. The crew did not have accurate maps or records to show the main's location. As a result, the tap severed a 2-inch gas line inside the casing and caused a massive gas escape that exploded, destroying 3 buildings and injuring 10 people.

The second accident happened May 17, 1978, at Mansfield, Ohio, during completion of the tie-in of a replacement for an 8-inch high pressure gas main. The gas company crew, mistakenly tapped an 8-inch low pressure gas main and connected it to the pressurized 8-inch high pressure main. The resulting overpressurization of the low-pressure system caused excessively high pilot flames on gas appliances that damaged 16 houses, 5 extensively. The mistaken connection occurred because the two mains were similar in appearance and crossed each other near where the connection was made. As in the Greenwich incident, gas company maps and records did not accurately show the correct location of the mains.

Following its investigation of the Mansfield incident, and in light of the Greenwich occurrence, NTSB made the following recommendation for rulemaking:

Revise 49 CFR Part 192 to require that gas system operators verify through pressure monitoring or other means the identity of all pipelines before performing hot taps. (P-78-51)

Proposed Rules

In the belief that operators should take steps, apart from reliance on maps and records, to reduce the chance of performing hot taps on the wrong pipelines, MTB published a notice of proposed rulemaking (NPRM) (44 FR 68491, November 29, 1979). The NPRM requested comments on a two-part proposal to revise an existing regulation (§ 192.627), which requires that hot taps be made "by a crew qualified to make hot taps."

The first part of the proposal would have redesignated the present rule as paragraph (a) of § 192.627, and modified the language to require that hot taps be made "by a person who has demonstrated competency in the application and use of the tapping equipment." This proposed amendment was to clarify the meaning of the phrase

"qualified to make hot taps," expecting to eliminate errors of incorrect piping identification that could, in part, be due to lack of training.

In the second part of the NPRM, MTB proposed that a new paragraph (b) be added to § 192.627 to require that "where two or more pressurized pipelines are being connected, the pressure in each pipeline * * * must be determined by a pressure gauge prior to allowing gas to flow between the pipelines." This proposal was based on NTSB's Recommendation P–78–51 quoted above.

Qualification of Personnel

Of the 40 persons who submitted comments on the NPRM, there were 29 that expressed an interest in the proposed § 192.627(a). Eleven of these supported the proposal, generally indicating it was believed to be in the interest of safety. However, the remainder either opposed the rule change outright or offered modifications.

Those who preferred that the existing rule not be amended stated that it is more indicative of actual hot tapping practice, which usually involves a "crew" (this point was especially made by interstate transmission operators). Many commenters interpreted the proposed requirement for a person to have "demonstrated competency" to necessitate training and testing or a similar certification program. This latter point was also made by the Technical Pipeline Safety Standards Committee (TPSSC) who reviewed the proposed rule change as required by Section 4 of the Natural Gas Pipeline Safety Act of 1968, as amended (49 U.S.C. 1673).

After considering these comments, MTB believes that changing the current rule as proposed would not provide a better standard for the qualifications of persons making hot taps. While the present rule is imprecise in this regard, the proposed rule that persons must have "demonstrated competency" arguably is just as imprecise, and would not require any more than is normally done by prudent operators in complying with the present rule. Also, it does not appear that merely rewarding the present rule would have the desired effect of helping to preclude problems of human error with respect to misconnections. MTB, therefore, is withdrawing the proposal to amend § 192.627.

Identification of Pipelines

While all of the commenters supported the safety objective of the proposed § 192.627(b), there were many who, for different reasons, questioned the need for a new regulation. Among this group were those who said that the present rule (§ 192.627) provides sufficient safeguards if it is conscientiouly observed, and that one or two accidents caused by improper procedures do not justify a rule change.

Interstate transmission operators said their industry already follows stringent operating procedures that avoid confusion in linking pipelines of incongruous pressures, so that the proposed rule would provide no additional safety benefit. To support this position, these operators pointed out that due to the high pressures involved, experienced personnel and sophisticated pressure indicating and recording equipment must be used in making hot taps. They added that most hot taps on transmission lines are made in relatively unpopulated areas (Classes 1 and 2), and pipeline identity is not difficult since in these areas, rights-of-way normally contain only the pipelines of the operator involved.

A third set of comments questioned the need to identify pipelines by pressure indicators in systems that have only one pressure. This situation occurs mostly in low-pressure, private or municipally operated systems, but it is also present in high-pressure or low-pressure districts of large distribution systems. The operators who submitted these comments said that maps and records suffice to identify pipelines in single-pressure areas, and that pressure gauges are needed only when some uncertainty arises in identifying a pipeline.

MTB has paid close attention to these comments because of its desire to eliminate or not adopt unnecessary regulations. Certainly, if a safety problem does not exist or a potential problem is small and remote, there is no need for a new generally applicable regulation. Moreover, the President's Executive Order on Federal regulation, E.O. 12291, requires, among other things, that new regulations not be established unless there is "adequate information concerning the need for and consequences of" the regulation, and unless "the potential benefits to society from the regulation outweigh the potential costs to society."

The comments indicate that overpressurization by tapping the wrong pipeline is not likely to happen on transmission lines. Commenters representing the interstate transmission industry pointed out, correctly we believe, that the problem of erroneous connections is more apt to occur on pipeline systems with a range of pressures buried in populated areas crowded with utility piping. In contrast, the bulk of hot taps on transmission lines are done in relatively unpopulated areas on rights-of-way dedicated to transmission piping. In addition, because of the high pressures involved, hot taps on transmission lines are usually performed with special techniques and procedures that are not used on distribution lines, and the techniques normally incorporate pressure measuring devices. In consideration of these factors, MTB believes that the problem of misconnections involving transmission lines is not an actual or potential threat to public safety, and rulemaking with respect to these lines is unnecessary.

Although there were no comments with respect to gathering lines in populated areas that are subject to Part 192, they too are normally located in dedicated rights-of-way, reducing the likelihood of misconnections Inasmuch as these gathering lines are subject to the same safety standards in Part 192 as transmission lines, further rulemaking with respect to these lines for purposes of precluding misconnections does not appear necessary.

Likewise, MTB is persuaded that there is no need to test the pressure of a pipeline as an added check on its identity if that pipeline is part of a single-pressure distribution system where all the mains have the same design pressure. These systems often occur in small towns, where there is only one pressure regulating station downstream from a transmission line. While confusion about a pipeline's identity could lead in these systems to an incorrect connection, there would be no chance of overpressurization like in the Mansfield case. Also, even if prompt pressure measurement at the moment of hot tapping were to preclude accidents like that at Greenwich, Connecticut, the uncertainty of this eventuality reduces the potential benefits below that needed to offset costs. Therefore, rulemaking does not appear necessary with respect to single-pressure distribution systems characterized by just one pressure regulating station downstream from a transmission line.

With the elimination of transmission lines, gathering lines, and single-pressure distribution systems from consideration for rulemaking, there remains to be considered only single-pressure districts of large multi-pressure distribution systems with staged pressure regulation. In the case of a single-pressure district, a higher pressure main may be near or pass through the district as in the Mansfield case, so that the threat of misconnection and overpressurization is not totally absent. Even commenters who opposed

rulemaking for single-pressure districts admitted that situations could occur where a pipeline's identity would be uncertain. Yet, upon further examination of the record, MTB finds little more than conjecture to show that the proposed rule would, if implemented in these single-pressure districts, result in fewer accidents due to misconnections, and thus net dollar benefits to society as required by E.O. 12291. Only 2 accidents are directly attributable to misconnections, and of these, it is doubtful the Greenwich accident would have been prevented had the proposed rule on pressure monitoring been in effect. A sounder historical statistical base is necessary to show both a need for rulemaking, in terms of the prevalence of the problem, and that the projected costs of implementation (estimated at approximately $0.5 million a year) would be less than the projected payoff in terms of accidents prevented. Hence, in accordance with E.O. 12291, MTB is withdrawing the NPRM from further consideration. In the future, if adequate statistical data develop through the leak reporting under 49 CFR Part 191 or other sources to clearly demonstrate the need for and benefits from additional regulations to preclude misconnections, MTB will again propose rulemaking action.

(49 U.S.C. 1672; 49 U.S.C. 1804; 49 CFR 1.53, App. A to Part 1 and App. A to Part 106)

Issued in Washington, DC, on June 7, 1982.

Melvin A. Judah,

Acting Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 82-15686 Filed 6-11-82; 8:45 am]

BILLING CODE 4910-60-M

Notices

Federal Register
Vol. 47, No. 114
Monday, June 14, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Programmatic Memorandum of Agreement Regarding Treatment of Historic Properties Affected by the Operation and Maintenance of Projects of the Walla Walla District of the Corps of Engineers in the States of Washington, Oregon, and Idaho

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory Council on Historic Preservation proposes to execute a Programmatic Memorandum of Agreement pursuant to Sec. 800.8 of the regulations, "Protection of Historic and Cultural Properties" (36 CFR 800) with the Walla Walla District of the Corps of Engineers and the State Historic Preservation Officers of Washington, Oregon, and Idaho concerning the operation and maintenance of Corps of Engineers projects in the states of Washington, Oregon, and Idaho and the effects such activities may have on historic properties. The agreement establishes a system to ensure adequate consideration is given to historic properties in planning and carrying out operation and maintenance in order to meet the requirements of Section 106 of the National Historic Preservation Act (16 U.S.C. 470) and Section 2(b) of Executive Order 11593.

COMMENTS DUE: July 14, 1982.

ADDRESS: Comments should be addressed to Executive Director, Advisory Council on Historic Preservation, 730 Simms Street, Room 450, Golden, Colorado 80401.

FOR FURTHER INFORMATION CONTACT: Brit Allan Storey, Historian, Western Division of Project Review, Advisory Council on Historic Preservation, 730 Simms Street, Room 450, Golden, Colorado 80401 (303) 234–4946.

Dated: June 9, 1982.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 82–15962 Filed 6–11–82; 8:45 am]

BILLING CODE 4310–10–M

CIVIL AERONAUTICS BOARD

Appointments to Senior Executive Service Performance Review Board

Two additional members are being appointed to the CAB's Performance Review Board. The additional members are: John V. Coleman, Director, Bureau of Domestic Aviation and Paul L. Gretch, Assistant Director, Bureau of International Aviation.

FOR FURTHER INFORMATION CONTACT: Steven G. Rappold, Assistant Director, Office of Human Resources, Civil Aeronautics Board. (202) 673–5503.

Wilma J. Kriviski,

Director, Office of Human Resources.

[FR Doc. 82–15969 Filed 6–11–82; 8:45 am]

BILLING CODE 6320–01–M

[Docket 40432]

Bergt-AIA-Western-Wien Acquisition and Control Case; Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this case is assigned to be held before the Board on Wednesday, July 7, 1982, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise The Secretary, in writing, on or before Wednesday, June 30, 1982, together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., June 9, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–15966 Filed 6–11–82; 8:45 am]

BILLING CODE 6320–01–M

[Order 82–6–12; Docket 37554]

Establishment of the Standard Foreign Fare Level; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of June, 1982.

The International Air Transport Competition Act (IATCA), P.L. 96–192, requires that the Board establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base [1] periodically by percentage changes in actual operating costs per available seat-mile (ASM). The SFFL computed becomes the benchmark for measuring the statutory no-suspend zone similar to the zone of reasonableness established by the Airline Deregulation Act and set forth in section 1002(d) of the Federal Aviation Act of 1958 (the Act). Order 80–2–69 established the first interim SFFL and Order 82–3–79 established the currently effective SFFL applicable through May 31, 1982.

The SFFL for travel commencing June 1, 1982, will be established for a two-month period, and, alternatively, for a four-month period—June through September. The two-month SFFL is required by statute. The four-month SFFL represents a continuation of our policy to provide carriers an additional option recognizing that a longer effectiveness period may be better suited to the sometimes complex procedures involved in international fare-setting.

In calculating the SFFL for the period commencing June 1, we have projected nonfuel costs, based on the year ended December, 1981, and we have adjusted fuel prices to reflect the experienced rate of fuel cost escalation. The four-month average of December through March, 1982 fuel costs provides the following rates of escalation: 0.93 cents per gallon for the Atlantic entity; 01.33 cents per gallon in the Latin American entity; and 0.37 cents per gallon in the Pacific. Furthermore, in the absence of compelling reasons to do otherwise we are continuing our policy of relying on annual data in the computation of nonfuel cost escalation rates. As we have stated before, twelve-month data are usually more reliable because quarterly results can be completely distorted, and in the absence of unusual circumstances annual data provide a preferable base.

Four-Month SFFL

In establishing the SFFL for the four-month period commencing June 1, 1982, we have projected nonfuel costs, based

[1] As defined in Section 1002(j) of the Federal Aviation Act of 1958.

on the year ended December, 1981, and we have adjusted fuel prices to reflect the latest fuel cost changes. Our calculations measure inflation from July 1, 1981, to August 1, 1982, the midpoint of the June-September projection period, for the three rate-making entities: Atlantic, Latin America and Pacific. The resulting projections for fuel prices are 105.47 cents in the Atlantic; 96.26 cents in Latin America; and 113.41 cents in the Pacific at August 1, 1982.

Consequently, based on our calculations, we find the projected cost adjustment factor to be 1.3034 in the Atlantic, 1.2810 in Latin America, and 1.3594 in the Pacific over the October 1, 1979 level. (See Appendix B). This results in changes over the last four-month SFFL of −6.1 percent in the Atlantic; −3.5 percent in Latin America, and +1.2 percent in the Pacific.

Two-Month SFFL

As above, our calculations, based on the year ended December, 1981, measure inflation from July 1, 1981 to July 1, 1982, the midpoint of the June-July projection period, for the three rate-making entities. The rates of escalation for fuel are the same. Based on our calculations, we find the projected cost adjustment fdactor to be 1.3008 in the Atlantic; 1.2803 in Latin America; and 1.3514 in the Pacific, resulting in changes from the last two-month SFFL of −6.3 percent, −4.1 percent and +.01 percent, respectively.

The downward shift in the SFFL is the result of significant differences in the rate of change between the two periods being measured. Both fuel and nonfuel costs per available seat-mile have trended downward from the same period for the prior year. For example, the annual rate of change per available seat-mile for the year ended September 30, 1981 over 1980 was 14.5%. For the calendar year 1981 over CY 1980 the rate of change is reduced to 8 percent. Projecting the latest cost data to the midpoint of the new ratemaking period thus results in a lower SFFL level than was projected for the current ratemaking period for the Atlantic and Latin American entities. It should be noted that, for the first time, the latest twelve month period reflects a lower unit cost in nonfuel expense per ASM over the prior period, *i.e.*, the year ended December 31, 1981 was less than the twelve months ended September 30, 1981, in the Atlantic entity.

Carriers should note that we will issue a revised two-month SFFL effective August 1, but those implementing the four-month projection may not take the August 1 revision.

It should be noted that in calculating this SFFL adjustment, the Board limited its examination of fuel prices to the latest monthly figures available through March, since most of the carriers participating in our international weekly fuel price sample have failed to file the most recent weekly fuel data with us. While industry sources indicate that the recent fuel price reductions may have slowed, our latest monthly data does not support such a conclusion. We admonish those carriers that have been required to file weekly fuel data since 1979, that they must continue to do so.

Accordingly, pursuant to sections 102, 204(a), 403, 801 and 1002(j) of the Federal Aviation Act of 1958, as amended:

1. Effective June 1, 1982, fares may be increased by the following adjustment factors over the October 1, 1979, level:

	Four month	Two month
Atlantic	1.3034	1.3008
Latin America	1.2810	1.2803
Pacific		

Secretary.

[FR Doc. 82-15880 Filed 6-11-82; 8:45 am]

BILLING CODE 6320-01-M

Mail Rates; Order

Order 82-6-36, June 4, 1982, Docket 40751, proposes increased intra-Hawaii service mail rates for the period July 1 through December 31, 1982.

Copies of this order are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

Phyllis T. Kayor,

Secretary.

[FR Doc. 82-15887 Filed 6-11-82; 8:46 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Massachusetts Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Massachusetts Advisory Committee to the Commission will convene at 4:00 p.m. and will end at 6:00 p.m., on July 13, 1982, at the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts, 02110. The purpose of this meeting will be to discuss plans for followup activities to the report on teacher layoffs, racial tensions in Boston, Massachusetts, future activities and review the progress of the report on successful affirmative action.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Dr. Bradford E. Brown, 17 Roberta Jean Circle, Post Office Box 95, East Falmouth, Massachusetts, 02536, (617) 548-5123 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts, 02110, (617) 223-4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., June 7, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-15880 Filed 6-11-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Intent To Approve Amendments to the Coastal Management Program for San Francisco Bay

Introduction

The Management Program for San Francisco Bay (a segment of the California Coastal Management Program) was approved by the Assistant Administrator for Coastal Zone Management on February 16, 1977 pursuant to the requirements of the Coastal Zone Management Act of 1972 (CZMA) and the National Oceanic and Atmospheric Administration's (NOAA) implementing regulations (15 CFR Part 923). Under section 306(g) of the CZMA, States are permitted to amend or modify their approved management programs. The procedures for doing so are explained in 15 CFR 923.80.

The San Francisco Bay Conservation and Development Commission (BCDC) has requested the Assistant Administrator to amend its approved Management Program to include planning processes related to providing public access, controlling erosion, and siting energy facilities which were developed in accordance with sections 305(b)(7)–(9) of the CZMA, and a Public Access Supplement to the Management

Program. These program elements are summarized below.

The Assistant Administrator has made a preliminary determination that the Management Program will continue to be an approvable program under the CZMA if amended, and that BCDC has coordinated with all appropriate parties the development of the amendments and has held public hearings on the proposed amendments, after proper notice, on March 15 and April 5, 1979, in accordance with section 306(c)(1) of the CZMA. It has also been determined that an environmental impact statement is not required for these amendments and that they qualify as categorical exclusions under NOAA Directive 02–10, Section 6.c.(1)(b): "Incorporation into a Coastal Zone Management Plan of State-proposed additional provisions that are consistent with the management objectives and are within the scope of the program for which an EIS or EA has already been issued." As explained below, the proposed amendments generally are based on existing provisions of the Management Program, the impacts of which were considered in an environmental assessment which was circulated at the time of NOAA approval of the Management Program. Also, pursuant to the California Environmental Impact Report Guidelines BCDC has certified a Negative Declaration for the planning elements, dated January 5, 1979.

The Office of Coastal Zone Management is interested in soliciting comments from Federal agencies and other interested parties on the proposed amendments. The comment period will stay open until July 29, 1982.

Comments should be submitted to: Mr. William Brah, Pacific Regional Manager, Office of Coastal Zone Management, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

Copies of the proposed amendments were widely circulated to Federal agencies and interested persons during their review and adoption by BCDC and can be reviewed at the above location and the following location: San Francisco Bay Conservation and Development Commission, 30 Van Ness Avenue, San Francisco, CA 94102.

The Office of Coastal Zone Management will consider all comments received and if there are no serious disagreements raised by Federal agencies during the comment period, the Assistant Administrator will make a final decision on whether to approve the proposed amendments and issue notice thereof in the Federal Register.

Description of the Proposed Amendments

The Shorefront Access Planning Element consists of two parts: (a) The existing BCDC planning and regulatory process as it relates to providing visual and physical access to public beaches and other public shoreline areas: and (b) BCDC's continuing process for updating and refining the shoreline land use and resources inventory upon which the current Management Program policies and regulations relating to public access are based. The Element also includes a more detailed Public Access Supplement to the Management Program which facilitates implementation of BCDC's legal responsibility to provide maximum feasible public access to the Bay by identifying sites around the Bay which are important for public access and by providing more specific policy guidance about what kind of access is appropriate.

The BCDC Energy Facility Planning Element is based on the statutes under which BCDC operates (the McAteer-Petris Act and certain provisions of the Suisun Marsh Preservation Act) and the policies of the two comprehensive plans that the BCDC has prepared (San Francisco Bay Plan and the Suisun Marsh Protection Plan) under those statutes. The planning process includes (a) an identification of energy facilities likely to locate in or significantly affect the coastal zone, (b) a process for assessing the suitability of sites for energy facilities, (c) the identification of State policy and other implementation means for managing energy facilities and their impacts, and (d) a process for coordination and cooperation with local, State and Federal agencies in siting energy facilities, including a process for adequately considering the national interest in siting decisions.

The Shoreline Erosion Planning Element consists of two parts: (a) The existing BCDC planning and regulatory process as it relates to shoreline erosion issues, including the policies and provisions of the McAteer-Petris Act and the San Francisco Bay Plan; and (b) a continuing process for updating and expanding to the extent necessary, current BCDC policies and regulations relating to shoreline erosion.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Dated: June 7, 1982.

William Matuszeski,

Acting Assistant Administrator for Coastal Zone Management.

[FR Doc. 82–15949 Filed 6–11–82; 8:45 am]
BILLING CODE 3510–08–M

Pacific Fishery Management Council's Groundfish Subpanel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Pacific Fishery Management Council was established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), and the Council has established a Groundifsh Subpanel which will meet to discuss proposed changes to the Groundfish Fishery Management Plan.

DATES: The public meeting will convene on Tuesday, July 13, 1982, at approximately 10 a.m., and will adjourn at approximately 5 p.m.

ADDRESS: The meeting will take place at the Hacienda Airport Hotel, Wright International Room, 525 Sepulveda Boulevard, El Segundo, California.

FOR FURTHER INFORMATION CONTACT:

Pacific Fishery Management Council, 526 S.W., Mill Street—Second Floor, Portland, Oregon 97201, Telephone: (503) 221–6352.

Dated: June 9, 1982.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82–16008 Filed 6–11–82; 8:45 am]
BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Import Controls on Certain Cotton Textile Products From the People's Republic of China

June 8, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing levels of restraint for cotton printcloth in Category 315 and other woven cotton fabrics in Category 320, produced or manufactured in the People's Republic of China and exported during the ninety-day period which began on October 21, 1981 and extended through January 18, 1982; and the twelve-month period which began on January 19, 1982 and extends through January 18, 1983.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR

52409), February 9, 1982 (47 FR 5928), and May 13, 1982 (47 FR 20654)].

SUMMARY: Pursuant to the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of September 17, 1980, as amended, between the Governments of the United States and the People's Republic of China, consultations have been held concerning imports into the United States of textile products in Categories 315 and 320 from the People's Republic of China. Notice of the intention to hold these consultations was published in the Federal Register on October 21, 1981 (46 FR 51631). Under the terms of the bilateral agreement, the People's Republic of China is obligated to limit its exports to the United States of these products during the ninety-day and twelve-month periods to the following amounts:

Category	90-day level of restraint [1]
315	32,811,078 square yards.
320	18,191,281 square yards.

[1] Oct. 21, 1981 to Jan. 18, 1982.

Category	12-month level of restraint [1]
315	109,812,778 square yards.
320	57,214,246 square yards.

[1] Jan. 19, 1982 to Jan. 18, 1983.

In the event the limits established for the ninety-day period have been exceeded, such excess amounts shall be charged to the levels defined in the agreement for the subsequent twelve-month period.

Inasmuch as a mutually satisfactory solution has not yet been reached between the two governments, despite numerous discussions, the United States Government has decided, in carrying out the provisions of the agreement, to limit the entry of imports as set forth above. The United States, however, remains committed to finding a mutually satisfactory solution concerning these categories. Should such a solution be reached in consultations with the Government of the People's Republic of China, further notice will be published in the Federal Register.

EFFECTIVE DATE: June 14, 1982.

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On December 17, 1981, there was published in the Federal Register (46 FR 61495) a letter dated December 14, 1981 to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain categories of cotton, wool, and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1982. The notice document which preceded that letter referred to the consultation mechanism which applies to categories of textile products under the bilateral agreement, such as Categories 315 and 320, which are not subject to specific ceilings and for which levels may be established during the year. In the letter published below, pursuant to the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Categories 315 and 320, produced or manufactured in the People's Republic of China and exported during the indicated ninety-day and twelve-month periods in excess of the designated levels of restraint.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

June 8, 1982.

Committee for The Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of September 17, 1980, as amended, between the Governments of the United States and the People's Republic of China, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on June 14, 1982 and for the ninety-day period which began on October 21, 1981 and extended through January 18, 1982, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 315 and 320, produced or manufactured in the People's Republic of China and exported on and after October 21, 1981, in excess of the following levels of restraint:

Category	90-day level of restraint [1]
315	32,811,078 square yards.
320	18,191,281 square yards.

[1] The levels of restraint have not been adjusted to reflect any imports after October 20, 1982.

Textile products in Categories 315 and 320 which have been exported to the United States prior to October 21, 1981 shall not be subject to this directive.

You are further directed to prohibit, effective on June 14, 1982 and for the twelve-month period beginning on January 19, 1982 and extending through January 18, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 315 and 320, produced or manufactured in the People's Republic of China and exported on and after January 19, 1982, in excess of the following levels of restraint:

Category	12-month level of restraint [1]
315	109,812,778 square yards.
320	57,214,246 square yards.

[1] The levels of restraint have not been adjusted to reflect any imports after January 18, 1982.

In carrying out this directive, entries of cotton textile products in Categories 315 and 320, produced or manufactured in the People's Republic of China, which have been exported to the United States during the period, October 21, 1981 through January 18, 1982, shall be charged against the levels of restraint established for such goods during that period. Goods in excess of the levels of restraint established for that period shall be charged to the levels of restraint established for the twelve-month period which began on January 19, 1982 and extends through January 18, 1983.

Textile products in Category 315 and 320, which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963) October 27, 1981 (46 FR 52469), February 9, 1982 (47 FR 5928) and May 13, 1982 (47 FR 20654).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the People's Republic of China and with respect to imports of cotton textile products from China have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-16016 Filed 6-11-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Navy

Naval Discharge Review Board; Hearing Locations

In November 1975, the Naval Discharge Review Board (NDRB) commenced to convene and conduct prescheduled discharge review hearings for a number of days each quarter in locations outside of the Washington, D.C., area. The cities in which these hearings are scheduled are determined in part by the concentration of applicants in a geographic area.

The following Naval Discharge Review Board itinerary for June 1982 through December 1982 has been approved, but remains subject to modification if required:

Boston, MA
June 7 through June 25, 1982
Chicago, IL
September 13 through September 24, 1982
San Francisco, CA
October 18 through October 29, 1982
Dallas, TX
December 6 through December 17, 1982

Any former member of the Navy or Marine Corps who desires a discharge review, either in Washington, D.C., or in a city nearer to his or her residence, should file an application with the Naval Discharge Review Board using DD Form 293. If a personal appearance is requested, the petitioner should enter on the application the hearing location which is preferred. Application forms (DD 293) may be obtained from, and the completed application should be mailed to, the following address: Naval Discharge Review Board, Suite 910, 801 North Randolph Street, Arlington, Virginia 22203.

Notice is hereby given that, since the foregoing itinerary is subject to modification and since, following receipt of a new application, the Naval Discharge Review Board must obtain the applicant's military records before a hearing may be scheduled, the submission of an application to the Naval Discharge Review Board is not tantamount to scheduling a hearing. Applicants and representatives will be notified by mail of the date and place of hearing when personal appearance has been requested.

For further information concerning the Naval Discharge Review Board, contact: Captain Raymond A. Ways, U.S. Navy, Executive Secretary, Naval Discharge Review Board, Suite 910, 801 North Randolph Street, Arlington, Virginia 22203, telephone no. (202) 696-4881.

Dated: June 9, 1982.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc 82-16031 Filed 6-11-82; 8:45 am]

BILLING CODE 3810-AE-M

Secretary of the Navy's Advisory Board on Education and Training; Meeting

Pursuant to section 10, paragraph (a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given of an open meeting of the Secretary of the Navy's Advisory Board on Education and Training (SABET) to be held June 28-29, 1982. The June 28 session will begin at 8:15 a.m. and continue until 4:00 p.m. The June 29 session will begin at 8:30 a.m. and continue until 11:00 a.m. The Board will meet at the Chief of Naval Education and Training Command Headquarters in Pensacola, Florida.

As part of the meeting, the Board will examine training technology initiatives in the Naval Education and Training Command including the use of computer-based instruction. The Board will tour the USS Lexington (AVT-16), navigation and flight simulators, and receive briefings on the Aviation Officer Candidate School training.

Matters of continuing interest to be included by SABET at its working session on June 29 include issues and a report relating to Navy off-duty education.

Dated: June 10, 1982.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 82-16002 Filed 6-11-82; 8:45 am]

BILLING CODE 3810-AE-M

DELAWARE RIVER BASIN COMMISSION

Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, June 23, 1982, commencing at 1:30 p.m. The hearing will be a part of the Commission's regular June business meeting, which is open to the public. Both the hearing and the meeting will be held in the Rembrandt Peale Room of the Holiday Inn, 1800 Market Street, Philadelphia, Pennsylvania. The subject of the hearing will be applications for approval of the following projects as amendments to the Comprehensive Plan pursuant to Article 11 of the Compact and/or as project approvals pursuant to Section 3.8 of the Compact.

1. *City of Philadelphia Water Department (D-70-54 CP (Revised)).* Modifications to a proposed upgrading and expansion project to the Southeast Water Pollution Control Facility in the City of Philadelphia, Pennsylvania. The proposed revisions include reducing the number of aeration basins from 10 to 8, reducing the number of final settling tanks from 16 to 12, and changing the handling procedure for sludge disposal. Final detailed design has reduced the number of units required to treat a maximum monthly flow of 140 million gallons a day.

2. *Township of Middletown (D-75-65 CP).* A surface water withdrawl project to serve Langhorne, Langhorne Manor and Penndel Boroughs and portions of Middletown Township, Bucks County, Pennsylvania. The applicant seeks transfer of withdrawal rights previously granted by the Commonwealth of Pennsylvania, and to obtain DRBC and Pennsylvania Department of Environmental Resources approval for an increase in withdrawal from Chub Run, a tributary of Neshaminy Creek. Up to 600,000 gallons a day will be withdrawn for treatment at the existing treatment plant in Langhorne Manor Borough to supplement ground water sources.

3. *Schwenksville Borough Authority (D-78-33 CP—Revision 2).* A well water supply project to augment public water supplies in the Authority's service area in Schwenksville Borough, Montgomery County, Pennsylvania. The applicant seeks to increase the permitted total withdrawal from all existing wells from 200,000 gallons a day to 250,000 gallons a day. Water demand data previously submitted did not include water being conveyed by the Authority to Lower Frederick Water Company.

4. *Homestead Water Utility Company, Inc. (D-81-73 CP).* A well water supply project to provide water supplies to the "Homestead at Mansfield" housing development in Mansfield Township, Burlington County, New Jersey. Two new wells will be utilized at a combined maximum monthly withdrawal rate of approximately 13 million gallons.

5. *Borough of Matamoras (D-81-78 CP).* A well water supply project to augment public water supplies in the Borough of Matamoras, Pike County, Pennsylvania. Designated as Well No. 8, the new facility is expected to yield

about 250,000 gallons a day and will be used as standby for two existing wells.

Documents relating to the above-listed projects may be examined at the Commission's offices. Persons wishing to testify at this hearing are requested to register with the Acting Secretary prior to the date of the hearing.

Dated: June 8, 1982.

Dawes Thompson,

Acting Secretary.

[FR Doc. 82-15996 Filed 6-11-82; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF EDUCATION

List of Nationally Recognized Accrediting Agencies and Associations

AGENCY: Department of Education.

ACTION: Notice—List of Nationally Recognized Accrediting Agencies and Associations.

SUMMARY: The Secretary of Education lists the nationally recognized accrediting agencies and associations that he determines to be reliable authority as to the quality of training offered by educational institutions or programs they accredit. The Secretary publishes this list for the purpose of determining institutional eligibility under the Higher Education Act and other Federal legislation. The list includes the general sope of recognition granted to each accrediting body.

FOR FURTHER INFORMATION CONTACT: Barbara Binker, Agency Evaluation Section, Eligibility and Agency Evaluation Staff, Office of Postsecondary Education, 400 Maryland Avenue, SW. (Room 3522, ROB-3), U.S. Department of Education, Washington, D.C. 20202. Telephone: (202) 245-9873.

SUPPLEMENTARY INFORMATION: The Higher Education Act and other legislation, including the Veterans' Readjustment Assistance Act and the Public Health Service Act, require the Secretary to publish a list of nationally recognized accrediting agencies that the Secretary has determined to be reliable authorities concerning educational quality. The most recent list was published in the **Federal Register** on January 19, 1979, 44 FR 4017-4020. Revisions to this list were published in the **Federal Register** on March 13, 1980, 45 FR 16338-16339.

A number of changes have occurred since publication of the revisions on March 13, 1980. Rather than publish a new list of revisions, the Secretary feels it appropriate, and less confusing to the public, to issue a comprehensive list of nationally recognized accrediting agencies and associations. This list supersedes the lists published in the **Federal Register** on January 19, 1979 and March 13, 1980.

Regional Institutional Accrediting Associations

New England Association of Schools and Colleges
- Commission on Independent Schools
- Commission on Institutions of Higher Education
- Commission on Public Schools
- Commission on Vocational, Technical, Career Institutions

Regional Institutional Accrediting Commissions

Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges

Accrediting Commission for Schools, Western Association of Schools and Colleges

Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges

Commission on Colleges, Northwest Association of Schools and Colleges

Commission on Colleges, Southern Association of Colleges and Schools

Commission on Higher Education, Middle States Association of Colleges and Schools

Commission on Institutions of Higher Education, North Central Association of Colleges and Schools

Commission on Occupational Education Institutions, Southern Association of Colleges and Schools

Commission on Schools, North Central Association of Colleges and Schools

National Institutional and Specialized Accrediting Agencies and Associations

Architecture
- National Architectural Accrediting Board, Inc. (first professional degree programs)

Art
- National Association of Schools of Art and Design, Commission on Accreditation and Membership (professional schools and programs)

Bible College Education
- American Association of Bible Colleges, Commission on Accrediting (Bible colleges and institutes)

Blind and Visually Handicapped Education
- National Accreditation Council for Agencies Serving the Blind and Visually Handicapped (specialized schools for the blind and visually handicapped)

Blood Bank Technology
- American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Subcommittee on Accreditation, American Association of Blood Banks (programs for the blood bank technologist)

Business
- American Assembly of Collegiate Schools of Business, Accreditation Council (baccalaureate and graduate degree programs in business and management)
- Association of Independent Colleges and Schools, Accrediting Commission (private postsecondary schools, junior colleges and senior colleges which are predominantly organized to educate students for business careers)

Chiropractic
- Council on Chiropractic Education, Commission on Accreditation (programs leading to the D.C. degree)

Clinical Pastoral Education
- Association for Clinical Pastoral Education, Inc. (professional training centers)

Continuing Education
- Council for Non-Collegiate Continuing Education, Accrediting Commission (programs in non-collegiate continuing education)

Cosmetology
- National Accrediting Commission of Cosmetology Arts and Sciences (cosmetology schools and programs)

Cytotechnology
- American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Cytotechnology Programs Review Committee, American Society of Cytology (programs for the cytotechnologist)

Dance and Theater Education
- Joint Commission on Dance and Theater Accreditation, sponsored by the National Association of Schools of Art and Design and the National Association of Schools of Music (independent dance and theater schools)

Dental and Dental Auxiliary Programs
- American Dental Association, Commission on Dental Accreditation (programs leading to the DDS or DMD degree, advanced dental specialty programs, general practice residency programs and programs in dental hygiene, dental assisting and dental technology)

Dietetics
- American Dietetic Association, Commission on Accreditation (coordinated undergraduate programs in dietetics, and dietetic

internships)
Engineering
Accreditation Board for Engineering and Technology, Inc. (first professional degree programs in engineering, graduate programs leading to advanced entry into the engineering profession, and associate and baccalaureate degree programs in engineering technology)
Forestry
Society of American Foresters (programs leading to a bachelor's or higher first professional degree and related resource-oriented programs)
Funeral Service Education
American Board of Funeral Service Education, Committee on Accreditation (independent schools and collegiate departments)
Health Services Administration
Accrediting Commission on Education for Health Services Administration (graduate programs in health services administration)
Histologic Technology
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the National Accrediting Agency for Clinical Laboratory Sciences, which is sponsored by the American Society for Medical Technology and the American Society of Clinical Pathologists (programs for the histologic technician)
Home Study Education
National Home Study Council, Accrediting Commission (home study schools, including those granting associate degrees)
Interior Design Education
Foundation for Interior Design Education Research, Committee on Accreditation (programs of interior design in junior and community colleges, trade and technical schools, professional schools, baccalaureate level schools and colleges and graduate schools)
Journalism
Accrediting Council on Edcuation in Journalism and Mass Communications (first professional degree programs)
Landscape Architecture
American Society of Landscape Architects, Landscape Architectural Accreditation Board (first professional degree programs)
Law
American Bar Association, Council of the Section of Legal Education and Admissions to the Bar (professional schools)
Librarianship
American Library Association, Committee on Accreditation (graduate programs leading to the first professional degree)
Marriage and Family Therapy
American Association for Marriage and Family Therapy, Commission on Accreditation for Marriage and Family Therapy Education (graduate degree programs and clinical training programs)
Medical Assistant Education
Accrediting Bureau of Health Education Schools (private medical assistant educational institutions and programs)
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Curriculum Review Board, American Assocation of Medical Assistants (one- and two-year medical assistant programs)
Medical Laboratory Technician Education
Accrediting Bureau of Health Education Schools (schools and programs for the medical laboratory technician)
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the National Accrediting Agency for Clinical Laboratory Sciences, which is sponsored by the American Society for Medical Technology and the American Society of Clinical Pathologists (associate degree and certificate programs for the medical laboratory technician)
Medical Record Education
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Council on Education, American Medical Record Association (programs for the medical record administrator and medical record technician)
Medical Technology
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the National Accrediting Agency for Clinical Laboratory Sciences, which is sponsored by the American Society for Medical Technology and the American Society of Clinical Pathologists (professional programs)
Medicine
Liaison Committee on Medical Education of the Council on Medical Education, American Medical Association and the Executive Council, Association of American Medical Colleges (programs leading to the M.D. degree)
Microbiology
American Academy of Microbiology, Committee on Postdoctoral Educational Programs (postdoctoral programs)
Musuc
National Association of Schools of Music (baccalaureate and graduate degree programs and non-degree granting institutions offering music education)
Nuclear Medicine Technology
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Joint Review Committee on Educational Programs in Nuclear Medicine Technology, which is sponsored by the American College of Radiology, American Society for Medical Technology, American Society of Clinical Pathologists, American Society of Radiologic Technologists and the Society of Nuclear Medicine (programs for the nuclear medicine technologist)
Nursing
American Association of Nurse Anesthetists, Council on Accreditation of Nurse Anesthesia Education Programs/Schools (professional schools/programs of nurse anesthesia)
National Association for Practical Nurse Education and Service, Inc., Accrediting Review Board (practical nurse programs)
National League for Nursing, Inc., Board of Review for Associate Degree Programs, Board of Review for Baccalaureate and Higher Degree Programs, Board of Review for Diploma Programs, Board of Review for Practical Nursing Programs (professional, technical and practical nurse programs)
Occupational Therapy
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Accreditation Committee, American Occupational Therapy Association (professional programs)
Occupational, Trade and Technical Education
National Association of Trade and Technical Schools, Accrediting Commission (private schools primarily engaged in trade or technical training, including those offering associate and baccalaureate degrees)
Optometry
American Optometric Association, Council on Optometric Education (professional programs)

Osteophathic Medicine
American Osteophathic Association (programs leading to the D.O. degree)
Pharmacy
American Council on Pharmaceutical Education (professional degree programs)
Physical Therapy
American Physical Therapy Association, Committee on Accreditation in Education (professional programs for the physical therapist and programs for the physical therapist assistant)
Physician's Assistant Education
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Joint Review Committee on Educational Programs for Physician's Assistants, which is sponsored by the American Academy of Family Physicians, American Academy of Pediatrics, American Academy of Physician's Assistants, American College of Physicians, American College of Surgeons, American Society of Internal Medicine and the Association for Physician Assistant Programs (programs for the assistant to the primary care physician and the surgeon's assistant)
Podiatry
American Podiatry Association, Council on Podiatry Education (colleges of podiatric medicine, including first professional degree and graduate degree programs)
Psychology
American Psychological Association, Committee on Accreditation (doctoral programs in clinical, counseling, and school psychology, and predoctoral internship programs in professional psychology)
Public Health
Council on Education for Public Health (graduate schools of public health, and graduate programs offered outside schools and public health in community health education and in community health/preventive medicine)
Rabbinical and Talmudic Education
Association of Advanced Rabbinical and Talmudic Schools, Accreditation Commission (rabbinical and Talmudic Schools)
Radiologic Technology
American Medical Association, Committee on Allied Health Education Accreditation, in cooperation with the Joint Review Committee on Education in Radiologic Technology, which is sponsored by the American College of Radiology and the American Society of Radiologic Technologists (programs for the radiographer and radiation therapy technologist)
Respiratory Therapy
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Joint Review Committee for Respiratory Therapy Education, which is sponsored by the American Association for Respiratory Therapy, American College of Chest Physicians, American Society of Anesthesiologists and the American Thoracic Society (programs for the respiratory therapist and respiratory therapy technician)
Social Work
Council on Social Work Education, Commission on Accreditation (master's and baccalaureate degree programs)
Speech Pathology and Audiology
American Speech-Language-Hearing Association, Council on Professional Standards in Speech Pathology and Audiology (master's degree programs)
Surgical Technology
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Joint Review Committee on Education for the Surgical Technologist, which is sponsored by the American College of Surgeons, American Hospital Association and the Association of Surgical Technologists (programs for the surgical technologist)
Teacher Education
National Council for Accreditation of Teacher Education (baccalaureate and graduate degree programs)
Theology
Association of Theological Schools in the United States and Canada, Commission on Accrediting (graduate schools of theology)
Veterinary Medicine
American Veterinary Medical Association, Committee on Animal Technician Activities and Training (two-year programs for animal technicians)
American Veterinary Medical Association, Council on Education (programs leading to the D.V.M. or V.M.D. degree)
Other
New York State Board of Regents (registration [Accreditation] of collegiate degree-granting programs or curricula offered by institutions of higher education)

National Accrediting Agencies and Associations Recognized for Preaccreditation Categories—Regional Institutional Accrediting Commissions

Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges (Candidate for Accreditation)
Accrediting Commission for Schools, Western Association of Schools and Colleges (Candidate for Accreditation)
Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges (Candidate for Accreditation)
Commission on Colleges, Northwest Association of Schools and Colleges (Candidate for Accreditation)
Commission on Colleges, Southern Association of Schools and Colleges (Candidate for Accreditation)
Commission on Higher Education, Middle States Association of Colleges and Schools (Candidate for Accreditation)
Commission on Independent Schools, New England Association of Schools and Colleges (Recognition of Candidacy for Accreditation)
Commission on Institutions of Higher Education, New England, Association of Schools and Colleges (Candidate for Accreditation)
Commission on Institutions of Higher Education, North Central Association of Colleges and Schools (Candidate for Accreditation)
Commission on Occupational Education Institutions, Southern Association of Colleges and Schools (Candidate for Accreditation)
Commission on Public Schools, New England Association of Schools and Colleges (Recognition of Candidacy for Accreditation)
Commission on Schools, North Central Association of Colleges and Schools (Candidate for Accreditation)
Commission on Vocational, Technical, Career Institutions, New England Association of Schools and Colleges (Candidate for Accreditation, Candidacy for Accreditation)

National Institutional and Specialized Accrediting Agencies and Associations

Accreditation Board for Engineering and Technology, Inc., Engineering Technology Committee (Candidate for Accreditation [to be discontinued after 1983])
American Association of Bible Colleges, Commission on Accrediting (Candidate for Accreditation)
American Association of Nurse Anesthetists, Council on

Accreditation of Nurse Anesthesia Educational Programs/Schools (Preaccreditation)
American Council on Pharmaceutical Education (Candidate)
American Dental Association, Commission on Dental Accreditation (Accreditation Eligible)
American Optometric Association, Council on Optometric Education (Reasonable Assurance, Preliminary Approval)
American Osteopathic Association (Preaccreditation Status, Provisional Accreditation)
American Podiatry Association, Council on Podiatry Education (Reasonable Assurance, Preliminary Accreditation)
American Veterinary Medical Association, Council on Education (Reasonable Assurance of Accreditation)
Association of Advanced Rabbinical and Talmudic Schools, Accreditation Commission (Correspondent, Candidate)
Association of Independent Colleges and Schools, Accrediting Commission (Recognized Candidate for Junior College Accreditation, Recognized Candidate for Senior College Accreditation [for institutions already holding accredited status])
Association of Theological Schools in the United States and Canada, Commission on Accrediting (Candidate for Accredited Membership)
Council on Chiropratic Education, Commission on Accreditation (Recognized Candidate for Accreditation)
Council on Education for Public Health (Preaccreditation)
Council on Social Work Education (Candidacy)
Liaison Committee on Medical Education (Reasonable Assurance, Provisional Accreditation)
National Association of Schools of Art and Design, Commission on Accreditation and Membership (Candidacy Status)

Discontinued preaccreditation categories: New York State Board of Regents (Interim Registration, Preliminary Registration); American Dietetic Association (Developmental Accreditation).

Dated: June 8, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82-15942 Filed 6-11-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Cordele Operating Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial order which was issued to Cordele Operating Company (Cordele) of Corsicana, Texas. This Proposed Remedial Order charges Cordele with pricing violations in the amount of $2,381,884.17 connected with the sale of crude oil at prices in excess of those permitted by 10 CFR Part 212, Subpart D during the time period September 1, 1973 through October 31, 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James A. Martin, Deputy Director, Crude and NGL Audit & Litigation Support Group, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767-7401. On or before June 29, 1982, any aggrieved person may file a Notice of objection with the Office of Hearings and Appeals, 12 & Penn. Ave. N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 3rd day of June, 1982.

James A. Martin,

Deputy Director, Crude and NGL Audit & Litigation Support Group, Economic Regulatory Administration.

[FR Doc. 82-15899 Filed 6-11-82; 8:45 am]

BILLING CODE 6450-01-M

Engineered Operating Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Engineered Operating Company (Engineered) of Wichita Falls, Texas. This Proposed Remedial Order charges Engineered with pricing violations in the amount of $2,229,215.85 connected with the sale of crude oil at prices in excess of those permitted by 10 CFR 212, Subpart D during the time period September 1, 1973 through June 30, 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James A. Martin, Deputy Director, Crude and NGL Audit & Litigation Support Group, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767-7401. Within fifteen (15) days of publication of this notice, any aggriveded person may file a Notice of objection with the Office of Hearings and Appeals, 12 and Penn. Ave. NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 3rd day of June, 1982.

James A. Martin,

Deputy Director, Crude and NGL Audit & Litigation Support Group, Economic Regulatory Administration.

[FR Doc. 82-15898 Filed 6-11-82; 8:45 am]

BILLING CODE 6450-01-M

LeClair Operating Company; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to LeClair Operating Company (LeClair) of Abilene, Texas. This Proposed Remedial Order charges LeClair with pricing violations in the amount of $405,556.35 connected with the sale of crude oil at prices in excess of those permitted by 10 CFR Part 212, Subpart D during the time period September 1, 1973 through August 31, 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James A. Martin, Deputy Director, Crude and NGL Audit & Litigation Support Group, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767-7401. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 12 and Penn. Ave. NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 3rd day of June, 1982.

James A. Martin,

Deputy Director, Crude and NGL Audit & Litigation Support Group, Economic Regulatory Administration.

[FR Doc. 82-15897 Filed 6-11-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP81-257-001]

Columbia Gulf Transmission Co. and Tennessee Gas Pipeline Company a Division of Tenneco Inc.; Amendment

June 8, 1982.

Take notice that on May 14, 1982, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, and Tennessee Gas Pipeline Company a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Huston, Texas 77001, filed in Docket No. CP81-257-001 purusant to section 7(c) of the Natural Gas Act a joint amendment to Columbia Gulf's application filed on March 27, 1981, in Docket No. CP81-257-000 so as to reflect joint ownership and operation of certain pipeline and related facilities, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicants state that Columbia Gulf requested authority to construct and operate approximately 9.8 miles of 22-inch pipeline in Uinta County, Wyoming. Applicants further state that Columbia Gulf has agreed to permit Tennessee to share in the ownership and operation of the proposed facilities in order to assist Tennessee in effectuating the receipt of natural gas supplies from the Carter Creek area in Wyoming. It is stated that pursuant to an agreement dated March 23, 1982, Columbia Gulf and Tennessee would each own 50 percent of the proposed facilities. It is asserted that the estimated total cost of the proposed facilities is $4,515,000.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before June 28, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15872 Filed 6-11-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-328-000]

Consolidated Gas Supply Corp.; Application

June 8, 1982.

Take notice that on May 14, 1982, Consolidated Gas Supply Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP 82-328-00 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and/or sale of natural gas for the City of Houma, Louisiana (Houma), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a natural gas service agreement dated April 16, 1982, Applicant proposes to sell on a firm basis natural gas to Houma in quantities sufficient to meet the requirements of Houma's publicly-owned retail gas distribution in Terrebonne Parish, Louisiana. It is asserted that Applicant and Houma have agreed that the billing demand would be 6,650 dekatherms (dt) equivalent of natural gas per day and the winter requirement quantity would be 422,800 dt equivalent. Applicant states that delivery to Houma would be at the Getty Plant in Houma with provisions for an alternate point of delivery also in Houma. It is asserted that the sale for resale to Houma would be for a limited-term ending October 31, 1992 and would be made pursuant to Applicant's Rate Schedule RQ.

It is also asserted that Houma and Applicant have entered into a separate contract dated April 16, 1982 for a non-jurisdictional direct sale of natural gas to be used for electric generation. Applicant further proposes to transport this gas for Houma. Applicant states that it would sell up to 25,000 dt equivalent of natural gas daily and up to 5,140,000 dt equivalent of gas annually to Houma for power generation.

It is asserted that Houma would pay Applicant a rate for the gas sold to it equivalent to the 100 percent load factor rate based upon Applicant's three-part Rate Schedule RQ. Applicant requests that the quantities of gas sold in the non-jurisdictional direct sale to Houma not be considered in designing Applicant's jurisdictional rates and that it be permitted to retain all revenues from the direct sale on natural gas to Houma.

It is asserted that the proposed services would give Applicant added market flexibility to avoid any take-or-pay penalties that might otherwise be imposed by its suppliers and would permit it to continue to be aggressive in securing additional long-term supplies for the benefit of its present and future firm customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 28, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15873 Filed 6-11-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. CI67-343-000 and CI76-453-001]

El Paso Exploration Co. (Successor in Interest to Odessa Natural Gasoline Co.) and El Paso Exploration Co. (Successor in Interest to Odessa Natural Corp.; Applications for Certificates of Public Convenience

June 7, 1982.

Take notice that on May 14, 1982, El Paso Exploration Company, ("Applicant"), of Post Office Box 1492, El Paso, Texas 79978, filed applications for certificates of public convenience and necessity authorizing Applicant to continue to render service previously authorized by the Commission under certificates of public convenience and necessity heretofore issued to Odessa Natural Gasoline Company, predecessor in interest to Odessa Natural Corporation ("Odessa") at Docket No. CI67-343-000 and to Odessa Natural Corporation ("Odessa") at Docket No. CI76-435-001. Applicant is also requesting redesignation of FERC Gas Rate Schedule No. 9 in Docket No. CI67-343-000 by Odessa Natural Gasoline Company ("Odessa") and FERC Gas Rate Schedule No. 12 in Docket No. CI76-453-001 by Odessa Natural Corporation ("Odessa") on file with the Commission as the Rate Schedules of El Paso Exploration Company.

By Articles of Amendment to the Articles of Incorporation of Odessa Natural Corporation, dated December 19, 1980, the name of Odessa was changed to El Paso Exploration Company, effective January 1, 1981.

The properties of Odessa subject to the instant certificates were conveyed to Applicant by instruments of assignments executed on various dates in 1981, all to be effective January 1, 1981.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 22, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applications to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15974 Filed 6-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-324-000]

Michigan Wisconsin Pipe Line Co.; Application

June 8, 1982.

Take notice that on May 13, 1982, Michigan Wisconsin Pipe Line Company, One Woodward Avenue, Detroit, Michigan 48226 (Applicant), filed in Docket No. CP82-324-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the account of Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the application which is on file with the Commission and open to pubic inspection.

It is submitted that pursuant to a gas sale agreement between Natural and Central Louisiana Electric Company, Inc. (CLECO), dated June 3, 1981, as amended, Natural agreed to sell to CLECO 37,000,000 Mcf of natural gas during an initial term of 363 days commencing on the date of first deliveries. Applicant states that the parties expect the maximum daily delivery volumes would not exceed 100 billion Btu of natural gas per day. Applicant further states that Natural would cause the transportation and delivery of the gas through Louisiana Intrastate Gas Corporation's (LIG) pipeline system.

It is asserted that to effectuate the arrangement, Natural has requested Applicant to assist it by displacing certain quantities of gas between the pipeline systems of Natural and LIG. Pursuant to an agreement dated March 30, 1982, Applicant has agreed to take deliveries of gas from Natural at an existing interconnection between the pipelines systems of Natural and Applicant located in Will County, Illinois, an existing interconnection between the pipeline systems of Natural and Applicant located in McHenry County, Illinois, or such other locations as the parties may mutually agree upon, it is stated.

Applicant states that it has agreed to redeliver thermally equivalent quantities of gas to LIG for the account of Natural at a point of interconnection between the pipeline systems of Applicant and LIG located in St. Mary Parish, Louisiana, the tailgate of Exxon Corporation's Garden City Plant located in St. Mary Parish, Louisiana, where Applicant would cause the plant operator to make deliveries of gas to LIG, or at both of the above.

It is asserted that Applicant would charge Natural 1.0 cent for each million Btu redelivered to LIG for Natural's account. Applicant further asserts that the transportation service would be provided by it on a best efforts basis.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 28, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene if filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public

convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15875 Filed 6-11-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-330-000]

Texas Eastern Transmission Corp.; Application

June 8, 1982.

Take notice that on May 17, 1982, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP82-330-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the account of Public Service Electric and Gas Company (Public Service), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a transportation agreement dated May 5, 1982, Applicant proposes to transport up to 15,363 dekatherms (dt) equivalent of natural gas per day, less quantities retained for applicable shrinkage, for Public Service from a point of interconnection in Colbert County, Alabama, from Public Service's supplier, Alabama Tennessee Natural Gas Company, to Union County, New Jersey, or other mutually agreeable existing points of delivery.

It is asserted that Public Service would pay Applicant the rate of 27.39 cents per dt equivalent under Applicant's Rate Schedule TS-1 but, if the volume of natural gas delivered when added to the quantities delivered to Public Service under Applicant's Rate Schedules TS-1, SS-II and other transportation agreements exceed the combined total curtailment of natural gas sales to Public Service under all of Applicant's firm sales rate schedules, then Public Service would pay 31.66 cents per dt equivalent. Applicant further asserts that it would retain applicable shrinkage, which presently is 7.0 percent of all natural gas received for transportation from April 16 through November 15 of each year and 13.0 percent of all gas received for transportation from November 16 through April 15 of each year. Applicant proposes that the retention of revenues derived from the transportation service proposed herein shall be subject to Applicant's pending rate proceeding in Docket No. RP81-109-000.

It is asserted that the proposed service would enable Public Service to implement its purchase of natural gas and to help fulfill its need for a greater natural gas supply. Applicant further states that the service would be for a limited term commencing upon the date of initial delivery or sixty days after receipt of certificate authorization whichever occurs earlier and terminating on October 31, 1982.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 28, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15876 Filed 6-11-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-329-000]

Texas Eastern Transmission Corp.; Application

Take notice that on May 17, 1982, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP82-329-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the account of Public Service Electric and Gas Company (Public Service), all as more fully set forth in the application which is on file with the Commission and open to pubic inspection.

Pursuant to a transportation agreement dated May 5, 1982, Applicant proposes to transport up to 40,000 dekatherms (dt) equivalent of natural gas per day, less quantities retained for applicable shrinkage, for Public Service from a point of interconnection in Giles County, Tennessee where gas would be received from Public Service's supplier, East Tennessee Natural Gas Company, to Union County, New Jersey, or other mutually agreeable existing points of delivery.

It is asserted that Public Service would pay Applicant the rate of 27.39 cents per dt equivalent under Applicant's Rate Schedule TS-1 but, if the volume of natural gas delivered when added to the quantities delivered to Public Service under Applicant's Rate Schedules TS-1, SS-II and other transportation agreements exceed the combined total curtailment of natural gas sales to Public Service under all of Applicant's firm sales rate schedules, then Public Service would pay 31.66 cents per dt eqivalent. Applicant further asserts that it would retain applicable skrinkage, which presently is 7.0 percent of all natural gas received for transportation from April 16 through November 15 of each year and 13.0 percent of all gas received for transportation from November 16 through April 15 of each year. Applicant proposes that the retention of revenues derived from the transportation service proposed herein shall be subject to Applicant's pending rate proceeding in Docket No. RP81-109-000.

It is asserted that the proposed service would enable Public Service to implement its purchase of natural gas and to help fulfill its need for a greater natural gas supply. Applicant further states that the service would be for a limited term commencing upon the date of initial delivery or sixty days after receipt of certificate authorization

whichever occurs earlier and terminating on October 31, 1982.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 28, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15977 Filed 6-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-166-001]

Transcontinental Gas Pipe Line Corp.; Amendment

June 8, 1982.

Take notice that on May 19, 1982, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP82-166-001 pursuant to section 7(c) of the Natural Gas Act an amendment to its application filed on January 20, 1982, in Docket No. CP82-166-000 revising its request for authorization to construct and operate certain pipeline and appurtenant facilities, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that in its application it requested authority to construct and operate in the Eugene Island area, offshore Louisiana, (1) approximately 28.28 miles of 20-inch pipeline which would extend from a production platform in Block 10 to a subsea tie-in with Applicant's Southeast Louisiana Gathering System in Block 107, (2) approximately 0.38 mile of 16-inch pipeline which would extend from a production platform in Block 24 to a subsea tie-in with the above 20-inch pipeline in that Block and (3) approximately 0.89 mile of 6-inch pipeline which would extend from a production platform in Block 46 to a subsea tie-in with the above 20-inch pipeline in Block 45.

It is stated that because there are as yet no commitments to purchasers, nor has any prospective purchaser requested Applicant to transport the Block 24 natural gas, Applicant amends its application in order to delete its proposal to construct the 0.38 mile of 16-inch pipeline in Block 24. Applicant states that elimination of these facilities would reduce the estimated cost of the facilities shown in the application by an estimated $2,849,840.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before June 28, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15979 Filed 6-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-321-000]

Transcontinental Gas Pipe Line Corp.; Application

June 8, 1982.

Take notice that on May 12, 1982, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP82-321-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the interruptible transportation of natural gas for Consolidated Edison Company of New York, Inc. (Con Edison), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Con Edison has arranged to purchase natural gas from Pennsylvania Gas & Water Company (PG&W). It is asserted that PG&W would deliver up to 46,900 dekatherms (dt) equivalent of gas per day to Applicant at Applicant's and PG&W's point of interconnection, while Applicant would redeliver the subject gas to Con Edison at existing points of delivery, less retainage for compressor fuel and line loss make-up.

Applicant states that the proposed transportation service would begin on the date of initial deliveries and end of October 31, 1982, or on the expiration of the fuel shortage emergency period as defined in § 284.201(e) of the Commission's Regulations, whichever occurs first. The proposed transportation, it is explained, would be interruptible at Applicant's sole discretion and would be subordinate to Applicant's deliveries to Con Edison under Applicant's Rate Schedules CD, PS, LGA, and GSS. Con Edison initially would pay Applicant 7.0 cents per dt equivalent delivered with 0.7 percent retention for compressor fuel and line loss makeup, it is stated.

Applicant asserts that Con Edison would burn the gas directly to generate electricity and/or steam, which would displace normally used fuel oil. Applicant maintains that such transportation service would be conditioned upon the availability of capacity sufficient to provide the service without detriment or disadvantage to Applicant's existing customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 28, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a

protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice an Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15679 Filed 6-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CI61-1265-002, et al.]

Unicon Producing Co. (Successor to Supron Energy Corporation); Application To Amend Certificates of Public Convenience and Necessity, To Redesignate Rate Schedules, and to Redesignate Pending Proceedings

June 7, 1982

Take notice that on May 20, 1982, Unicon Producing Company (Unicon) of One Riverway, Houston, Texas 77056, successor to Supron Energy Corporation (Supron), filed an application with the Commission in Docket Nos. CI61-1265-002, et al., to amend the certificates of public convenience and necessity issued under each of the proceedings listed in Exhibit A attached hereto by deleting therefrom the name Supron Energy Corporation and substituting therein the name Unicon Producing Company, in such manner and to the end that Unicon shall thereafter succeed to and be possessed of all of Supron's rights, titles, interests and obligations heretofore had thereunder by Supron and to substitute Unicon for Supron as a party in any pending proceeding before the Commission.

On April 29, 1982 Supron Energy Corporation (Supron) was merged into Union Texas Exploration Corporation (UTEC) a subsidiary of Union Texas Petroleum Corporation. Following such merger which took place as a result of a certain Merger and Stock Aquisition Agreement dated February 10, 1982, UTEC owned 100% of the assets of Surpon. On April 29, 1982 UTEC, along with Exploration Finance Company, formed Unicon Producing Company (Unicon), a Texas general partnership and conveyed to Unicon substantially all of the producing properties formerly owned by Supron.

Following these transactions, Unicon Producing Company now holds all rights, titles interests and obligations formerly held by Supron Energy Corporation in and to those certain gas sales and purchase contracts which are identified by certain docket and rate schedule on Exhibit A.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 22, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission of its own review of the matter believes that a grant of the cetificates of the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

EXHIBIT A.—UNICON PRODUCING CO.; SUCCESSION, CERTIFICATE OF ADOPTION AND REDESIGNATION OF RATE SCHEDULES

Supron Energy Corp. FERC Gas Rate Schedule No.[1]	Certificate Docket No.	Purchaser
1	CI61-1265-002	El Paso Natural Gas Co.
2	CI61-1265	Do.
3	CI61-1265	Southern Union Gathering Co.
5	CI61-1267	El Paso Natural Gas Co.
6	CI61-1266	Southern Union Gathering Co.
7	CI61-1268	El Paso Natural Gas Co.
8	CI61-1268	Do.
10	CI64-262	Do.
11	CI64-835	Michigan Wisconsin PipeLine Co.
12	CI65-26	Champlin Petroleum Co.
13	CI65-263	Northern Natural Gas Co.
14	CI65-472	Michigan Wisconsin PipeLine Co.
15	CI65-767	El Paso Natural Gas Co.
16	CI65-646	Do.
17[2]	CI65-403	Arkansas Louisiana Gas Co.
18	CI66-772	Do.
19	CI66-1003	Michigan Wisconsin PipeLine Co.
20	CI66-1346	Do.
21	CI67-304	Southern Union Gathering Co.
22	CI67-195	El Paso Natural Gas Co.
24	CI68-679	Do.
25	CI68-1107	Western Gas Interstate Co.
26[3]	CI69-1163	Arkansas Louisiana Gas Co.
32	CI73-605	Do.
33	CI65-787	Northwest Pipeline Corp.
34	CI75-138	Arkansas Louisiana Gas Co.
35	CI77-314	El Paso Natural Gas Co.
36	CI77-536	Southern Union Gathering Co.
37	CI61-1265	Northwest PipeLine Corp.[3]
38	CI78-398	Transcontinental Gas PipeLine Corp.
39	CI79-32	Arkansas Louisiana Gas Co.

[1] In order to maintain continuity of the acquired records, Unicon hereby requests that its rate schedules be assigned the same rate schedule numbers as the Supron rate schedules which they will replace.

[2] (Operator), et al.

[3] Originally a sale to El Paso Natural Gas Company before divestiture to Northwest.

[FR Doc. 82-15680 Filed 6-11-82; 8:45 am]

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KENTUCKY DEPARTMENT OF MINES & MINERALS									
-ASHLAND EXPLORATION INC			RECEIVED:	05/13/82		JA: KY			
8232242	502581	1619545540	103			BALLARD & J WEDDINGTON #8-092931	EASTERN KENTUCKY GAS	14.0	COLUMBIA GAS TRAN
8232243	502586	1619545540	107-DV			BALLARD & J WEDDINGTON #8-092931	EASTERN KENTUCKY GAS	14.0	COLUMBIA GAS TRAN
8232248	502579	1619545532	103			BALLARD & JOHN WEDDINGTON #9	EASTERN KENTUCKY GAS	16.0	COLUMBIA GAS TRAN
8232241	502580	1619545530	107-DV			BALLARD & J WEDDINGTON #9-092941	EASTERN KENTUCKY GAS	16.0	COLUMBIA GAS TRAN
8232245	504349	1619544203	107-DV			JOHN FORD HEIRS #5 - 092311	EASTERN KENTUCKY GAS	20.0	COLUMBIA GAS TRAN
8232244	502587	1619544203	103			JOHN FORD HEIRS #5 - 093211	EASTERN KENTUCKY GAS	20.8	COLUMBIA GAS TRAN
LOUISIANA OFFICE OF CONSERVATION									
-GREAT SOUTHERN OIL & GAS CO INC			RECEIVED:	05/13/82		JA: LA			
8232419	81-893	1700120963	102-4			ARISTILE RICHARD #1	SOUTH LEWISBURG	270.0	TEXAS GAS TRANSMI
-MID LOUISIANA GAS COMPANY			RECEIVED:	05/13/82		JA: LA			
8232279	82-1809	1711100000	108			MLGC FEE GAS #0251	MONROE GAS FIELD	35.7	MID LOUISIANA GAS
8232401	82-1905	1711100000	108			MLGC FEE GAS #105	MONROE GAS FIELD	25.4	MID LOUISIANA GAS
8232397	82-1906	1711100000	108			MLGC FEE GAS #121	MONROE GAS FIELD	48.0	MID LOUISIANA GAS
8232445	82-1863	1711100000	108			MLGC FEE GAS #128	MONROE GAS FIELD	173.3	MID LOUISIANA GAS
8232428	82-1864	1711100000	108			MLGC FEE GAS #135	MONROE GAS FIELD	50.4	MID LOUISIANA GAS
8232444	82-1862	1711100000	108			MLGC FEE GAS #153	MONROE GAS FIELD	53.4	MID LOUISIANA GAS
8232443	82-1861	1711100000	108			MLGC FEE GAS #166	MONROE GAS FIELD	61.1	MID LOUISIANA GAS
8232298	82-1825	1711100000	108			MLGC FEE GAS #189	MONROE GAS FIELD	81.6	MID LOUISIANA GAS
8232433	82-1826	1711100000	108			MLGC FEE GAS #191	MONROE GAS FIELD	98.2	MID LOUISIANA GAS
8232434	82-1827	1711100000	108			MLGC FEE GAS #192	MONROE GAS FIELD	97.9	MID LOUISIANA GAS
8232435	82-1828	1711100000	108			MLGC FEE GAS #193	MONROE GAS FIELD	65.6	MID LOUISIANA GAS
8232404	82-1829	1711100000	108			MLGC FEE GAS #194	MONROE GAS FIELD	76.3	MID LOUISIANA GAS
8232442	82-1860	1711100000	108			MLGC FEE GAS #196	MONROE GAS FIELD	63.0	MID LOUISIANA GAS
8232320	82-1820	1711100000	108			MLGC FEE GAS #197	MONROE GAS FIELD	50.7	MID LOUISIANA GAS
8232321	82-1821	1711100000	108			MLGC FEE GAS #198	MONROE GAS FIELD	65.1	MID LOUISIANA GAS
8232248	82-1822	1711100000	108			MLGC FEE GAS #199	MONROE GAS FIELD	61.8	MID LOUISIANA GAS
8232246	82-1823	1711100000	108			MLGC FEE GAS #201	MONROE GAS FIELD	31.7	MID LOUISIANA GAS
8232296	82-1824	1711100000	108			MLGC FEE GAS #202	MONROE GAS FIELD	116.0	MID LOUISIANA GAS
8232423	82-1835	1711100000	108			MLGC FEE GAS #203	MONROE GAS FIELD	88.3	MID LOUISIANA GAS
8232424	82-1836	1711100000	108			MLGC FEE GAS #204	MONROE GAS FIELD	56.9	MID LOUISIANA GAS
8232425	82-1837	1711100000	108			MLGC FEE GAS #205	MONROE GAS FIELD	77.7	MID LOUISIANA GAS
8232391	82-1903	1711100000	108			MLGC FEE GAS #207	MONROE GAS FIELD	142.2	MID LOUISIANA GAS
8232426	82-1838	1711100000	108			MLGC FEE GAS #208	MONROE GAS FIELD	159.7	MID LOUISIANA GAS
8232402	82-1904	1711100000	108			MLGC FEE GAS #209	MONROE GAS FIELD	93.3	MID LOUISIANA GAS
8232427	82-1839	1711100000	108			MLGC FEE GAS #211	MONROE GAS FIELD	35.6	MID LOUISIANA GAS
8232353	82-1810	1711100000	108			MLGC FEE GAS #212	MONROE GAS FIELD	113.4	MID LOUISIANA GAS
8232351	82-1811	1711100000	108			MLGC FEE GAS #213	MONROE GAS FIELD	99.2	MID LOUISIANA GAS
8232390	82-1902	1711100000	108			MLGC FEE GAS #214	MONROE GAS FIELD	126.8	MID LOUISIANA GAS

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8232352	82-1812	1711100000	-	108		MLGC FEE GAS #215	MONROE GAS FIELD	167.4	MID LOUISIANA GAS
8232364	82-1813	1711100000		108		MLGC FEE GAS #216	MONROE GAS FIELD	46.8	MID LOUISIANA GAS
8232322	82-1814	1711100000		108		MLGC FEE GAS #217	MONROE GAS FIELD	72.1	MID LOUISIANA GAS
8232292	82-1785	1711100000		108		MLGC FEE GAS #218	MONROE GAS FIELD	46.2	MID LOUISIANA GAS
8232294	82-1786	1711100000		108		MLGC FEE GAS #219	MONROE GAS FIELD	28.3	MID LOUISIANA GAS
8232293	82-1787	1711100000		108		MLGC FEE GAS #222	MONROE GAS FIELD	36.7	MID LOUISIANA GAS
8232295	82-1788	1711100000		108		MLGC FEE GAS #223	MONROE GAS FIELD	27.6	MID LOUISIANA GAS
8232343	82-1789	1711100000		108		MLGC FEE GAS #225	MONROE GAS FIELD	63.5	MID LOUISIANA GAS
8232323	82-1815	1711100000		108		MLGC FEE GAS #227	MONROE GAS FIELD	63.2	MID LOUISIANA GAS
8232324	82-1816	1711100000		108		MLGC FEE GAS #229	MONROE GAS FIELD	64.1	MID LOUISIANA GAS
8232325	82-1817	1711100000		108		MLGC FEE GAS #230	MONROE GAS FIELD	104.9	MID LOUISIANA GAS
8232329	82-1818	1711100000		108		MLGC FEE GAS #232	MONROE GAS FIELD	57.5	MID LOUISIANA GAS
8232300	82-1819	1707300000		108		MLGC FEE GAS #233	MONROE GAS FIELD	42.1	MID LOUISIANA GAS
8232273	82-1795	1711100000		108		MLGC FEE GAS #234	MONROE GAS FIELD	33.1	MID LOUISIANA GAS
8232278	82-1796	1711100000		108		MLGC FEE GAS #235	MONROE GAS FIELD	33.3	MID LOUISIANA GAS
8232277	82-1797	1711100000		108		MLGC FEE GAS #236	MONROE GAS FIELD	61.6	MID LOUISIANA GAS
8232297	82-1798	1711100000		108		MLGC FEE GAS #237	MONROE GAS FIELD	67.1	MID LOUISIANA GAS
8232382	82-1799	1711100000		108		MLGC FEE GAS #238	MONROE GAS FIELD	48.1	MID LOUISIANA GAS
8232389	82-1961	1711100000		108		MLGC FEE GAS #239	MONROE GAS FIELD	33.0	MID LOUISIANA GAS
8232345	82-1790	1711100000		108		MLGC FEE GAS #240	MONROE GAS FIELD	48.4	MID LOUISIANA GAS
8232387	82-1900	1711100000		108		MLGC FEE GAS #242	MONROE GAS FIELD	38.9	MID LOUISIANA GAS
8232344	82-1791	1711100000		108		MLGC FEE GAS #243	MONROE GAS FIELD	37.1	MID LOUISIANA GAS
8232346	82-1792	1711100000		108		MLGC FEE GAS #244	MONROE GAS FIELD	92.3	MID LOUISIANA GAS
8232291	82-1793	1711100000		108		MLGC FEE GAS #245	MONROE GAS FIELD	93.2	MID LOUISIANA GAS
8232274	82-1794	1711100000		108		MLGC FEE GAS #246	MONROE GAS FIELD	126.1	MID LOUISIANA GAS
8232283	82-1805	1711100000		108		MLGC FEE GAS #247	MONROE GAS FIELD	78.6	MID LOUISIANA GAS
8232282	82-1806	1711100000		108		MLGC FEE GAS #248	MONROE GAS FIELD	87.3	MID LOUISIANA GAS
8232281	82-1807	1711100000		108		MLGC FEE GAS #249	MONROE GAS FIELD	53.7	MID LOUISIANA GAS
8232288	82-1808	1711100000		108		MLGC FEE GAS #250	MONROE GAS FIELD	20.1	MID LOUISIANA GAS
8232350	82-1876	1711100000		108		MLGC FEE GAS #252	MONROE GAS FIELD	94.2	MID LOUISIANA GAS
8232407	82-1840	1711100000		108		MLGC FEE GAS #253	MONROE GAS FIELD	133.4	MID LOUISIANA GAS
8232408	82-1841	1711100000		108		MLGC FEE GAS #255	MONROE GAS FIELD	77.8	MID LOUISIANA GAS
8232409	82-1842	1711100000		108		MLGC FEE GAS #257	MONROE GAS FIELD	74.8	MID LOUISIANA GAS
8232410	82-1843	1707300000		108		MLGC FEE GAS #261	MONROE GAS FIELD	142.2	MID LOUISIANA GAS
8232411	82-1844	1711100000		108		MLGC FEE GAS #265	MONROE GAS FIELD	104.4	MID LOUISIANA GAS
8232405	82-1830	1711100000		108		MLGC FEE GAS #266	MONROE GAS FIELD	75.5	MID LOUISIANA GAS
8232406	82-1831	1711100000		108		MLGC FEE GAS #267	MONROE GAS FIELD	58.3	MID LOUISIANA GAS
8232420	82-1832	1711100000		108		MLGC FEE GAS #268	MONROE GAS FIELD	48.4	MID LOUISIANA GAS
8232421	82-1833	1711100000		108		MLGC FEE GAS #270	MONROE GAS FIELD	121.9	MID LOUISIANA GAS
8232349	82-1877	1711100000		108		MLGC FEE GAS #271	MONROE GAS FIELD	96.3	MID LOUISIANA GAS
8232422	82-1834	1711100000		108		MLGC FEE GAS #272	MONROE GAS FIELD	0.0	MID LOUISIANA GAS
8232360	82-1878	1707300000		108		MLGC FEE GAS #295	MONROE GAS FIELD	33.8	MID LOUISIANA GAS
8232359	82-1879	1711100000		108		MLGC FEE GAS #301	MONROE GAS FIELD	58.6	MID LOUISIANA GAS
8232369	82-1875	1711100000		108		MLGC FEE GAS #310	MONROE GAS FIELD	33.8	MID LOUISIANA GAS
8232449	82-1891	1711100000		108		MLGC FEE GAS #338	MONROE GAS FIELD	14.3	MID LOUISIANA GAS
8232450	82-1892	1711100000		108		MLGC FEE GAS #359	MONROE GAS FIELD	83.8	MID LOUISIANA GAS
8232451	82-1893	1711100000		108		MLGC FEE GAS #382	MONROE GAS FIELD	119.3	MID LOUISIANA GAS
8232452	82-1894	1711100000		108		MLGC FEE GAS #384	MONROE GAS FIELD	71.9	MID LOUISIANA GAS
8232448	82-1890	1711100000		108		MLGC FEE GAS #412	MONROE GAS FIELD	100.0	MID LOUISIANA GAS
8232249	82-1966	1711100000		108		MLGC FEE GAS #425	MONROE GAS FIELD	47.6	MID LOUISIANA GAS
8232250	82-1967	1711100000		108		MLGC FEE GAS #426	MONROE GAS FIELD	48.3	MID LOUISIANA GAS
8232441	82-1859	1711100000		108		MLGC FEE GAS #427	MONROE GAS FIELD	50.4	MID LOUISIANA GAS
8232247	82-1968	1711100000		108		MLGC FEE GAS #428	MONROE GAS FIELD	104.2	MID LOUISIANA GAS

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROL	PURCHASER
8232448	82-1858	1711100300		108		MLGC FEE GAS #429	MONROE GAS FIELD	121.0	MID LOUISIANA GAS
8232311	82-1969	1711100000		108		MLGC FEE GAS #430	MONROE GAS FIELD	85.1	MID LOUISIANA GAS
8232310	82-1970	1711100000		108		MLGC FEE GAS #433	MONROE GAS FIELD	79.9	MID LOUISIANA GAS
8232439	82-1857	1711100000		108		MLGC FEE GAS #434	MONROE GAS FIELD	50.0	MID LOUISIANA GAS
8232309	82-1971	1711100000		108		MLGC FEE GAS #435	MONROE GAS FIELD	80.7	MID LOUISIANA GAS
8232308	82-1972	1711100000		108		MLGC FEE GAS #436	MONROE GAS FIELD	82.6	MID LOUISIANA GAS
8232332	82-1973	1711100000		108		MLGC FEE GAS #438	MONROE GAS FIELD	97.3	MID LOUISIANA GAS
8232438	82-1856	1711100000		108		MLGC FEE GAS #439	MONROE GAS FIELD	141.4	MID LOUISIANA GAS
8232331	82-1974	1711100000		108		MLGC FEE GAS #440	MONROE GAS FIELD	136.9	MID LOUISIANA GAS
8232261	82-1945	1711100000		108		MLGC FEE GAS #441	MONROE GAS FIELD	100.4	MID LOUISIANA GAS
8232262	82-1946	1711100000		108		MLGC FEE GAS #443	MONROE GAS FIELD	40.3	MID LOUISIANA GAS
8232263	82-1947	1711100000		108		MLGC FEE GAS #444	MONROE GAS FIELD	147.2	MID LOUISIANA GAS
8232362	82-1948	1711100000		108		MLGC FEE GAS #445	MONROE GAS FIELD	38.1	MID LOUISIANA GAS
8232264	82-1949	1711100000		108		MLGC FEE GAS #446	MONROE GAS FIELD	64.5	MID LOUISIANA GAS
8232303	82-1940	1711100000		108		MLGC FEE GAS #447	MONROE GAS FIELD	46.7	MID LOUISIANA GAS
8232302	82-1941	1711100000		108		MLGC FEE GAS #448	MONROE GAS FIELD	83.7	MID LOUISIANA GAS
8232301	82-1942	1711100000		108		MLGC FEE GAS #449	MONROE GAS FIELD	93.6	MID LOUISIANA GAS
8232437	82-1855	1711100000		108		MLGC FEE GAS #450	MONROE GAS FIELD	54.0	MID LOUISIANA GAS
8232259	82-1943	1711100000		108		MLGC FEE GAS #451	MONROE GAS FIELD	63.8	MID LOUISIANA GAS
8232260	82-1944	1711100000		108		MLGC FEE GAS #454	MONROE GAS FIELD	102.5	MID LOUISIANA GAS
8232363	82-1985	1711100000		108		MLGC FEE GAS #456	MONROE GAS FIELD	102.0	MID LOUISIANA GAS
8232367	82-1870	1711100000		108		MLGC FEE GAS #456	MONROE GAS FIELD	88.9	MID LOUISIANA GAS
8232267	82-1986	1711100000		108		MLGC FEE GAS #457	MONROE GAS FIELD	62.4	MID LOUISIANA GAS
8232266	82-1987	1711100000		108		MLGC FEE GAS #458	MONROE GAS FIELD	72.9	MID LOUISIANA GAS
8232265	82-1988	1711100000		108		MLGC FEE GAS #459	MONROE GAS FIELD	51.5	MID LOUISIANA GAS
8232355	82-1989	1711100000		108		MLGC FEE GAS #460	MONROE GAS FIELD	73.0	MID LOUISIANA GAS
8232354	82-1990	1711100000		108		MLGC FEE GAS #461	MONROE GAS FIELD	70.8	MID LOUISIANA GAS
8232361	82-1991	1711100000		108		MLGC FEE GAS #463	MONROE GAS FIELD	80.4	MID LOUISIANA GAS
8232366	82-1871	1711100000		108		MLGC FEE GAS #464	MONROE GAS FIELD	64.3	MID LOUISIANA GAS
8232338	82-1992	1711100000		108		MLGC FEE GAS #465	MONROE GAS FIELD	148.6	MID LOUISIANA GAS
8232365	82-1872	1711100000		108		MLGC FEE GAS #468	MONROE GAS FIELD	58.9	MID LOUISIANA GAS
8232334	82-1993	1711100000		108		MLGC FEE GAS #469	MONROE GAS FIELD	68.6	MID LOUISIANA GAS
8232333	82-1994	1711100000		108		MLGC FEE GAS #470	MONROE GAS FIELD	61.1	MID LOUISIANA GAS
8232256	82-1980	1711100000		108		MLGC FEE GAS #471	MONROE GAS FIELD	144.9	MID LOUISIANA GAS
8232257	82-1981	1711100000		108		MLGC FEE GAS #473	MONROE GAS FIELD	63.7	MID LOUISIANA GAS
8232371	82-1873	1711100000		108		MLGC FEE GAS #475	MONROE GAS FIELD	59.9	MID LOUISIANA GAS
8232258	82-1982	1711100000		108		MLGC FEE GAS #476	MONROE GAS FIELD	60.8	MID LOUISIANA GAS
8232326	82-1983	1711100000		108		MLGC FEE GAS #477	MONROE GAS FIELD	103.3	MID LOUISIANA GAS
8232305	82-1984	1711100000		108		MLGC FEE GAS #479	MONROE GAS FIELD	54.9	MID LOUISIANA GAS
8232399	82-1930	1711100000		108		MLGC FEE GAS #480	MONROE GAS FIELD	62.5	MID LOUISIANA GAS
8232400	82-1931	1711100000		108		MLGC FEE GAS #481	MONROE GAS FIELD	62.1	MID LOUISIANA GAS
8232307	82-1932	1711100000		108		MLGC FEE GAS #482	MONROE GAS FIELD	104.9	MID LOUISIANA GAS
8232306	82-1933	1711100000		108		MLGC FEE GAS #483	MONROE GAS FIELD	138.5	MID LOUISIANA GAS
8232318	82-1934	1711100000		108		MLGC FEE GAS #484	MONROE GAS FIELD	133.9	MID LOUISIANA GAS
8232341	82-1960	1711100000		108		MLGC FEE GAS #485	MONROE GAS FIELD	54.3	MID LOUISIANA GAS
8232342	82-1961	1711100000		108		MLGC FEE GAS #486	MONROE GAS FIELD	67.1	MID LOUISIANA GAS
8232299	82-1962	1711100000		108		MLGC FEE GAS #487	MONROE GAS FIELD	95.2	MID LOUISIANA GAS
8232319	82-1963	1711100000		108		MLGC FEE GAS #488	MONROE GAS FIELD	54.7	MID LOUISIANA GAS
8232370	82-1874	1711100000		108		MLGC FEE GAS #489	MONROE GAS FIELD	108.8	MID LOUISIANA GAS
8232328	82-1964	1711100000		108		MLGC FEE GAS #490	MONROE GAS FIELD	69.8	MID LOUISIANA GAS
8232271	82-1975	1711100000		108		MLGC FEE GAS #493	MONROE GAS FIELD	62.1	MID LOUISIANA GAS
8232270	82-1976	1711100000		108		MLGC FEE GAS #495	MONROE GAS FIELD	58.0	MID LOUISIANA GAS
8232269	82-1977	1711100000		108		MLGC FEE GAS #496	MONROE GAS FIELD	38.9	MID LOUISIANA GAS

JD NO	JA DKT	API NO	C	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8232268	82-1978	1711100000	108			MLGC FEE GAS #497	MONROE GAS FIELD	65.9	MID LOUISIANA GAS
8232255	82-1979	1711100000	108			MLGC FEE GAS #498	MONROE GAS FIELD	96.2	MID LOUISIANA GAS
8232276	82-1950	1711100000	108			MLGC FEE GAS #503	MONROE GAS FIELD	90.0	MID LOUISIANA GAS
8232275	82-1951	1711100000	108			MLGC FEE GAS #505	MONROE GAS FIELD	82.4	MID LOUISIANA GAS
8232348	82-1952	1711100000	108			MLGC FEE GAS #506	MONROE GAS FIELD	140.2	MID LOUISIANA GAS
8232347	82-1953	1711100000	108			MLGC FEE GAS #507	MONROE GAS FIELD	100.8	MID LOUISIANA GAS
8232336	82-1954	1711100000	108			MLGC FEE GAS #508	MONROE GAS FIELD	87.6	MID LOUISIANA GAS
8232317	82-1935	1711100000	108			MLGC FEE GAS #511	MONROE GAS FIELD	97.3	MID LOUISIANA GAS
8232316	82-1936	1711100000	108			MLGC FEE GAS #512	MONROE GAS FIELD	139.1	MID LOUISIANA GAS
8232315	82-1937	1711100000	108			MLGC FEE GAS #514	MONROE GAS FIELD	84.2	MID LOUISIANA GAS
8232314	82-1938	1711100000	108			MLGC FEE GAS #515	MONROE GAS FIELD	52.2	MID LOUISIANA GAS
8232304	82-1939	1711100000	108			MLGC FEE GAS #517	MONROE GAS FIELD	110.4	MID LOUISIANA GAS
8232335	82-1955	1711100000	108			MLGC FEE GAS #519	MONROE GAS FIELD	120.0	MID LOUISIANA GAS
8232337	82-1956	1711100000	108			MLGC FEE GAS #520	MONROE GAS FIELD	168.3	MID LOUISIANA GAS
8232340	82-1957	1711100000	108			MLGC FEE GAS #521	MONROE GAS FIELD	167.4	MID LOUISIANA GAS
8232339	82-1958	1711100000	108			MLGC FEE GAS #523	MONROE GAS FIELD	119.7	MID LOUISIANA GAS
8232338	82-1959	1711100000	108			MLGC FEE GAS #524	MONROE GAS FIELD	184.5	MID LOUISIANA GAS
8232376	82-1925	1711100000	108			MLGC FEE GAS #549	MONROE GAS FIELD	129.7	MID LOUISIANA GAS
8232375	82-1926	1711100000	108			MLGC FEE GAS #552	MONROE GAS FIELD	53.6	MID LOUISIANA GAS
8232374	82-1927	1711100000	108			MLGC FEE GAS #553	MONROE GAS FIELD	70.6	MID LOUISIANA GAS
8232373	82-1928	1711100000	108			MLGC FEE GAS #554	MONROE GAS FIELD	187.8	MID LOUISIANA GAS
8232398	82-1929	1711100000	108			MLGC FEE GAS #555	MONROE GAS FIELD	69.0	MID LOUISIANA GAS
8232384	82-1800	1711100000	108			MLGC FEE GAS #560	MONROE GAS FIELD	104.4	MID LOUISIANA GAS
8232385	82-1801	1711100000	108			MLGC FEE GAS #561	MONROE GAS FIELD	124.3	MID LOUISIANA GAS
8232386	82-1802	1711100000	108			MLGC FEE GAS #562	MONROE GAS FIELD	158.2	MID LOUISIANA GAS
8232383	82-1803	1711100000	108			MLGC FEE GAS #563	MONROE GAS FIELD	111.7	MID LOUISIANA GAS
8232284	82-1804	1711100000	108			MLGC FEE GAS #565	MONROE GAS FIELD	153.4	MID LOUISIANA GAS
8232312	82-1920	1711100000	108			MLGC FEE GAS #568	MONROE GAS FIELD	74.9	MID LOUISIANA GAS
8232446	82-1888	1711100000	108			MLGC FEE GAS #57	MONROE GAS FIELD	34.6	MID LOUISIANA GAS
8232412	82-1845	1711100000	108			MLGC FEE GAS #570	MONROE GAS FIELD	56.7	MID LOUISIANA GAS
8232380	82-1921	1711100000	108			MLGC FEE GAS #571	MONROE GAS FIELD	81.6	MID LOUISIANA GAS
8232379	82-1922	1711100000	108			MLGC FEE GAS #572	MONROE GAS FIELD	159.8	MID LOUISIANA GAS
8232378	82-1923	1711100000	108			MLGC FEE GAS #574	MONROE GAS FIELD	95.8	MID LOUISIANA GAS
8232377	82-1924	1711100000	108			MLGC FEE GAS #576	MONROE GAS FIELD	77.9	MID LOUISIANA GAS
8232288	82-1915	1711100000	108			MLGC FEE GAS #577	MONROE GAS FIELD	139.9	MID LOUISIANA GAS
8232413	82-1846	1711100000	108			MLGC FEE GAS #578	MONROE GAS FIELD	117.6	MID LOUISIANA GAS
8232414	82-1847	1711100000	108			MLGC FEE GAS #579	MONROE GAS FIELD	63.0	MID LOUISIANA GAS
8232287	82-1916	1711100000	108			MLGC FEE GAS #580	MONROE GAS FIELD	68.9	MID LOUISIANA GAS
8232290	82-1917	1711100000	108			MLGC FEE GAS #581	MONROE GAS FIELD	41.7	MID LOUISIANA GAS
8232289	82-1918	1711100000	108			MLGC FEE GAS #582	MONROE GAS FIELD	122.8	MID LOUISIANA GAS
8232415	82-1848	1711100000	108			MLGC FEE GAS #583	MONROE GAS FIELD	71.1	MID LOUISIANA GAS
8232313	82-1919	1711100000	108			MLGC FEE GAS #584	MONROE GAS FIELD	154.2	MID LOUISIANA GAS
8232416	82-1849	1711100000	108			MLGC FEE GAS #588	MONROE GAS FIELD	56.7	MID LOUISIANA GAS
8232393	82-1910	1711100000	108			MLGC FEE GAS #591	MONROE GAS FIELD	147.0	MID LOUISIANA GAS
8232392	82-1911	1711100000	108			MLGC FEE GAS #592	MONROE GAS FIELD	104.5	MID LOUISIANA GAS
8232372	82-1912	1711120002	108			MLGC FEE GAS #593	MONROE GAS FIELD	130.5	MID LOUISIANA GAS
8232285	82-1913	1711120004	108			MLGC FEE GAS #595	MONROE GAS FIELD	76.5	MID LOUISIANA GAS
8232286	82-1914	1711120005	108			MLGC FEE GAS #596	MONROE GAS FIELD	83.8	MID LOUISIANA GAS
8232417	82-1850	1711120015	108			MLGC FEE GAS #601	MONROE GAS FIELD	154.4	MID LOUISIANA GAS
8232447	82-1889	1711100000	108			MLGC FEE GAS #64	MONROE GAS FIELD	65.7	MID LOUISIANA GAS
8232272	82-1887	1711100000	108			MLGC FEE GAS #65	MONROE GAS FIELD	64.2	MID LOUISIANA GAS
8232430	82-1866	1711120084	108			MLGC FEE GAS #653	MONROE GAS FIELD	138.7	MID LOUISIANA GAS
8232431	82-1867	1711120085	108			MLGC FEE GAS #654	MONROE GAS FIELD	78.5	MID LOUISIANA GAS

UMI 28 47 MC 47-1-1-1-1-1-1-1

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8232432	82-1868	1711120234		108		MLGC FEE GAS #656
8232368	82-1869	1711120235		108		MLGC FEE GAS #657
8232429	82-1865	1711120236		108		MLGC FEE GAS #658
8232418	82-1851	1711120237		108		MLGC FEE GAS #659
8232456	82-1852	1711120239		108		MLGC FEE GAS #661
8232457	82-1853	1711120240		108		MLGC FEE GAS #662
8232436	82-1854	1711120241		108		MLGC FEE GAS #663
8232253	82-1886	1711100000		108		MLGC FEE GAS #67
8232358	82-1880	1711121412		108		MLGC FEE GAS #673
8232254	82-1885	1711100000		108		MLGC FEE GAS #68
8232388	82-1898	1711100000		108		MLGC FEE GAS #69
8232357	82-1881	1711121479		108		MLGC FEE GAS #707
8232381	82-1899	1711100000		108		MLGC FEE GAS #71
8232356	82-1882	1711121536		108		MLGC FEE GAS #719
8232455	82-1897	1711100000		108		MLGC FEE GAS #73
8232454	82-1896	1711100000		108		MLGC FEE GAS #75
8232453	82-1895	1711100000		108		MLGC FEE GAS #77
8232251	82-1883	1711121832		108		MLGC FEE GAS #770
8232252	82-1884	1711121835		108		MLGC FEE GAS #773
8232395	82-1908	1711100000		108		MLGC FEE GAS #80
8232394	82-1909	1711100000		108		MLGC FEE GAS #86
8232396	82-1907	1711100000		108		MLGC FEE GAS #95
8232327	82-1965	1711100000		108		MLGC FEE GAS CO #424
-SOUTHPORT EXPLORATION INC				RECEIVED: 05/13/82		JA: LA
8232403	81-2575	1710922375		103		CONTINENTAL LAND & FUR NA-3
********** NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION **********						
-BOUNTY OIL & GAS INC				RECEIVED: 05/12/82		JA: NY
8232196	2183	3101315956		107-TF		FREDERES #1
-ENVIROGAS INC				RECEIVED: 05/12/82		JA: NY
8232207	1898	3101315563		107-TF		A KOPTA #1
8232202	2010	3101315565		107-TF		A KOPTA #3
8232209	1896	3101315456		107-TF		C LATTA #1
8232201	2022	3101315891		107-TF		C LEGTERS #1
8232199	2014	3101315814		107-TF		D BREADS #1
8232193	1868	3101315775		107-TF		D HAYES #1
8232212	1900	3101315344		107-TF		D LIMBERG #1
8232223	1847	3101315510		107-TF		E GODARD #2
8232195	2026	3101315905		107-TF		E MARTT #2
8232228	1857	3101314653		107-TF		G HEWES #1
8232229	1856	3101314655		107-TF		G HEWES #3
8232194	2024	3101314775		107-TF		H COLEMAN #1
8232239	1863	3101314776		107-TF		H COLEMAN #2
8232237	1869	3101315453		107-TF		H GIBBS #1
8232232	1861	3101315454		107-TF		H GIBBS #2
8232230	1860	3101315455		107-TF		H GIBBS #3
8232213	1899	3101315298		107-TF		H KEOPKA #2
8232204	1895	3101315221		107-TF		H KEOPKA #3
8232208	1897	3101315289		107-TF		H KEOPKA #4
8232206	1893	3101315300		107-TF		H KEOPKA #5
8232233	1865	3101315397		107-TF		J ALDAY #1
8232235	1867	3101315452		107-TF		J ALDAY #2

FIELD NAME	PROD	PURCHASER
MONROE GAS FIELD	90.9	MID LOUISIANA GAS
MONROE GAS FIELD	96.6	MID LOUISIANA GAS
MONROE GAS FIELD	105.9	MID LOUISIANA GAS
MONROE GAS FIELD	97.9	MID LOUISIANA GAS
MONROE GAS FIELD	184.0	MID LOUISIANA GAS
MONROE GAS FIELD	136.4	MID LOUISIANA GAS
MONROE GAS FIELD	88.7	MID LOUISIANA GAS
MONROE GAS FIELD	33.7	MID LOUISIANA GAS
MONROE GAS FIELD	196.0	MID LOUISIANA GAS
MONROE GAS FIELD	26.1	MID LOUISIANA GAS
MONROE GAS FIELD	45.5	MID LOUISIANA GAS
MONROE GAS FIELD	203.6	MID LOUISIANA GAS
MONROE GAS FIELD	32.9	MID LOUISIANA GAS
MONROE GAS FIELD	191.6	MID LOUISIANA GAS
MONROE GAS FIELD	35.9	MID LOUISIANA GAS
MONROE GAS FIELD	195.4	MID LOUISIANA GAS
MONROE GAS FIELD	56.1	MID LOUISIANA GAS
MONROE GAS FIELD	187.1	MID LOUISIANA GAS
MONROE GAS FIELD	183.8	MID LOUISIANA GAS
MONROE GAS FIELD	26.8	MID LOUISIANA GAS
MONROE GAS FIELD	97.1	MID LOUISIANA GAS
MONROE GAS FIELD	39.5	MID LOUISIANA GAS
MONROE GAS FIELD	188.8	MID LOUISIANA GAS
BAYOU COPASAW (BIGENE	547.0	CHAMPION VALLEY F
WILDCAT	0.0	NATIONAL FUEL GAS
SUMMERDALE	18.0	COLUMBIA GAS TRAN
SUMMERDALE	18.0	COLUMBIA GAS TRAN
WILDCAT	18.0	COLUMBIA GAS TRAN
CLYMER	18.0	COLUMBIA GAS TRAN
STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
SUMMERDALE	18.0	COLUMBIA GAS TRAN
STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
CHAUTAUQUA	18.0	COLUMBIA GAS TRAN
FRENCH CREEK	18.0	COLUMBIA GAS TRAN
STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
CHAUTAUQUA	18.0	COLUMBIA GAS TRAN
STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
CHAUTAUQUA	18.0	COLUMBIA GAS TRAN
CHAUTAUQUA	18.0	COLUMBIA GAS TRAN
CHAUTAUQUA	18.0	COLUMBIA GAS TRAN
SUMMERDALE	18.0	COLUMBIA GAS TRAN
SUMMERDALE	18.0	COLUMBIA GAS TRAN
SUMMERDALE	18.0	COLUMBIA GAS TRAN
SUMMERDALE	18.0	COLUMBIA GAS TRAN
SUMMERDALE	18.0	COLUMBIA GAS TRAN
SUMMERDALE	18.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8232206	1894	3101315301		107-TF		H KEOPKA #6
8232205	1892	3101315302		107-TF		H KEOPKA #7
8232200	1891	3101315303		107-TF		H KEOPKA #8
8232198	1890	3101315304		107-TF		H KEOPKA #9
8232197	1889	3101315305		107-TF		H KEOPKA #10
8232192	1888	3101315306		107-TF		H KEOPKA #11
8232191	1887	3101315307		107-TF		H KEOPKA #12
8232190

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8232203	1891	3101315202		107-TF		L KERSHAW #2	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8232238	1892	3101315201		107-TF		L KERSHAW #3	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8232210	1902	3101315008		107-TF		L NICKERSON #1	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8232215	1903	3101315007		107-TF		L NICKERSON #2	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8232218	1905	3101315002		107-TF		L NICKERSON #3	STEBBINC CORNERS	18.0	COLUMBIA GAS TRAN
8232217	1906	3101315006		107-TF		L NICKERSON #4	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8232216	1907	3101315005		107-TF		L NICKERSON #5	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8232221	1908	3101315585		107-TF		L NICKERSON #6A	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8232214	1870	3101315812		107-TF		M CRANDALL #1	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8232220	1845	3101315587		107-TF		N REED #1	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8232208	2016	3101315936		107-TF		NYS REFORESTATION AREA #3-#4	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8232198	2012	3101315937		107-TF		NYS REFORESTATION AREA #3-#5	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8232236	1866	3101315642		107-TF		R DAVIS #2	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8232231	1858	3101315182		107-TF		R GEER #2	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8232197	1859	3101315183		107-TF		R GEER #3	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8232226	1855	3101315334		107-TF		R HEWES #1	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8232227	1854	3101315335		107-TF		R HEWES #2	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8232224	1853	3101315336		107-TF		R HEWES #3	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8232205	1894	3101315446		107-TF		R KUKLA #1	LAKESHORE	18.0	COLUMBIA GAS TRAN
8232219	1904	3101315223		107-TF		R MONCKTON #1	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8232225	1852	3101315314		107-TF		R P HEWES #1	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8232222	1851	3101315315		107-TF		R P HEWES #2	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8232234	1864	3101315316		107-TF		R P HEWES #3	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8232211	1901	3101314617		107-TF		WM MCCREARY #1	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before June 29, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
- 102–2: New well (2.5 mile rule)
- 102–3: New well (1000 ft rule)
- 102–4: New onshore reservoir
- 102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
- 107–GB: Geopressured brine
- 107–CS: Coal seams
- 107–DV: Devonian shale
- 107–PE: Production enhancement
- 107–TF: New tight formation
- 107–RT: Recompletion tight formation

Section 108: Stripper well
- 108–SA: Seasonally affected
- 108–ER: Enhanced recovery
- 108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–15961 Filed 6–11–82; 8:45 am]

BILLING CODE 6717–01–M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
OHIO DEPARTMENT OF NATURAL RESOURCES									
-BROWN PETROLEUM CORP				RECEIVED:	09/04/81	JA: OH			
81485068		3403124885	D	107-TF		LONSINGER #1	BEDFORD	10.0	COLUMBIA GAS TRAN
-COLLINS-MCGREGOR OPERATING COMPANY				RECEIVED:	04/08/82	JA: OH			
82267898		3408924231	D	107-TF		MOSSMAN #1	HOPEWELL	2.8	NEWZANE GAS CO
-HOPCO RESOURCES INC				RECEIVED:	03/16/82	JA: OH			
8223307A		3412725205		103		VAN BUREN #1	GLENFORD	12.0	
-RIMCO OPERATING INC				RECEIVED:	03/16/82	JA: OH			
8223378A		3416923364		103		ALLEN #1	MOHICAN	12.0	COLUMBIA GAS TRAN
-VIKING RESOURCES CORP				RECEIVED:	03/16/82	JA: OH			
82234248		3415123574	D	107-TF		SNYDER UNIT #3	OSNABURG	30.0	
OKLAHOMA CORPORATION COMMISSION									
-ANADARKO PRODUCTION COMPANY				RECEIVED:	08/05/81	JA: OK			
81448538	11875	3502721874		103		JUDY "B" NO 1	MOCANE	36.0	PANHANDLE EASTERN
TEXAS RAILROAD COMMISSION									
-ABRAXAS PETROLEUM CORP				RECEIVED:	05/13/82	JA: TX			
8232630	F-04-045647	4224931366		102-4 103		SHANNON MILLER #1	REYNOLDS N (FRIO 4700	200.0	
-AKERS AND FULTZ INC				RECEIVED:	05/13/82	JA: TX			
8232887	F-09-050403	4223734893		103		ROY CHERRYHOMES F 15	MARINA MAG (CONGLOMER	73.0	CITIES SERVICE GA
-AMOCO PRODUCTION CO				RECEIVED:	05/13/82	JA: TX			
8232682	F-10-048416	4239300000		108		LIPS RANCH "A" #6 (2ND)	LIPS (MORROW)	18.0	NORTHERN NATURAL
8232716	F-7C-049599	4213730184		108		MIERS #2	SAWYER (CANYON)	11.4	LONE STAR GAS CO
-ANADARKO PRODUCTION COMPANY				RECEIVED:	05/13/82	JA: TX			
8232687	F-10-048814	4221131373		103		GEORGE "A" #5045	HEMPHILL GRANITE WASH	146.0	PANHANDLE EASTERN
-ANDERSON PETROLEUM INC				RECEIVED:	05/13/82	JA: TX			
8232710	F-7C-049418	4243532381		107-TF		PAULINE FRIESS "B" 3-102	SAWYER (CANYON)	55.0	SUTTON COUNTY PIP
-ARCO OIL AND GAS COMPANY				RECEIVED:	05/13/82	JA: TX			
8232637	F-7C-045974	4223531788		103		ELA C SUGG "48" #1	SPRABERRY (TREND AREA	13.0	J L DAVIS
8232738	F-08-050227	4213533779		103		GOLDSMITH CUMMINS (SA) UNIT #224	GOLDSMITH (SAN ANDRES	12.8	PHILLIPS PETROLEU
8232737	F-08-050225	4213533781		103		GOLDSMITH CUMMINS (SA) UNIT #227	GOLDSMITH (SAN ANDRES	5.0	PHILLIPS PETROLEU
8232595	F-02-042936	4229732686		102-4		T J LYNNE #14	TOM LYNNE N (WILCOX 1	1000.0	TEXAS EASTERN TRA
-BENNETT PRODUCTION CORP				RECEIVED:	05/13/82	JA: TX			
8232607	F-09-044046	4233700000		103		DONALD AND DONALD #3	MPS ELLENBURGER	496.0	MATADOR PIPELINE
-BLACK JACK RESOURCES INC				RECEIVED:	05/13/82	JA: TX			
8232546	F-03-038733	4208931285		103		REES #1	WILDCAT	182.5	HYDROCARBON GATHE
-BLAIR ENERGY JOINT VENTURE				RECEIVED:	05/13/82	JA: TX			
8232663	F-08-047396	4231732417		103		SUN TEXAS-FLANAGAN #1	SPRAYBERRY	0.0	PHILLIP PETROLEUM
-BLOCKER EXPLORATION CO				RECEIVED:	05/13/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8232649	F-05-046623	4229330565		102-4	107-TF	FLOYD A LOWRY #1		548.0	TEXAS UTILITIES F
-BLUESKY OIL & GAS INC				RECEIVED:	05/13/82	JA: TX			
8232645	F-03-046381	4205131363		102-2		GERDES "A" UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
8232643	F-03-046349	4205131337		102-2		KIEL "A" UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
-BOB WALLACE OIL INC				RECEIVED:	05/13/82	JA: TX			
8232852	F-10-050515	4206531091		103		HAYS TRUST (04938) #6-7	PANHANDLE CARSON COUN	9.0	CABOT PIPELINE CO
8232788	F-10-050333	4206531095		103		HAYS TRUST (04938) #7-7	PANHANDLE CARSON COUN	12.0	CABOT PIPELINE CO
8232787	F-10-050332	4206531096		103		HAYS TRUST (04938) #8-7	PANHANDLE CARSON COUN	71.0	CABOT PIPELINE CO
-BRAZOS PETROLEUM CO				RECEIVED:	05/13/82	JA: TX			
8232594	F-08-042849	4237133287		103		JEFF #1	ABELL (CLEARFORK UPPE	20.0	DELHI GAS PIPELIN
-BROCK PETROLEUM CORP				RECEIVED:	05/13/82	JA: TX			
8232688	F-01-048374	4217700088		102-2		BOOTHE UNIT #1	BEACH CREEK (BUDA)	32.0	
-C L GAGE JR				RECEIVED:	05/13/82	JA: TX			
8232557	F-78-040755	4236300086		103		PUTMAN #1	MINERAL WELLS (CONGL	65.3	SOUTHWESTERN GAS
-CALDWELL OIL CO				RECEIVED:	05/13/82	JA: TX			
8232756	F-10-050266	4206530972		103		CALDWELL #1 (ID#05026)	PANHANDLE CARSON	50.0	GETTY OIL CO
-CARAWAY OPERATING CO				RECEIVED:	05/13/82	JA: TX			
8232633	F-7C-045798	4241330983		103		MRS A B THOMERSON #2 (08222)	TOE NAIL (STRAWN)	63.0	ARCO OIL & GAS
-CARTER ENERGY CORP				RECEIVED:	05/13/82	JA: TX			
8232671	F-09-047876	4249732233		103		OATES #2-C	BOYD NORTH (4200') ST	75.0	NATURAL GAS PIPEL
-CARTER EXPLORATION CO				RECEIVED:	05/13/82	JA: TX			
8232698	F-02-048995	4202531706		103		J G MOUNTREE #3	SLIVA SOUTHWEST (3950	180.0	HOUSTON PIPE LINE
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	05/13/82	JA: TX			
*8232529	F-84-031784	4235531649		103		G P WARDNER #151	STRATTON (SELLERS & L	0.0	TENNESSEE GAS PIP
8232843	F-06-050472	4236500000		108		P J MCNEE #1	CARTHAGE (SMITH-ALLIS	6.4	TENNESSEE GAS PIP
8232844	F-7B-050473	4235300000		108		TXL "B" #1	BECKHAM (ELLENBURGER)	6.7	AMOCO PRODUCTION
-CHEVRON U S A INC				RECEIVED:	05/13/82	JA: TX			
8232794	F-8A-050346	4241532071		103		SACROC UNIT 869-6	KELLY - SNYDER	24.0	EL PASO NATURAL G
-CLAYTON W WILLIAMS JR				RECEIVED:	05/13/82	JA: TX			
8232644	F-03-046366	4205188000		102-2		JOSEPH MATCEK UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
8232664	F-03-047412	4205180000		102-2		MARY GOLD "A" #1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
8232555	F-03-046462	4205180000		102-2		RUST-HOUDEK UNIT A-1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
-CLOVER ENERGY CORP				RECEIVED:	05/13/82	JA: TX			
8232652	F-02-046741	4228531627		102-4		DOPSLAUF #1 I D NO 96920	PROVIDENT CITY (FRIO	0.0	TEXAS EASTERN TRA
-CONOCO INC				RECEIVED:	05/13/82	JA: TX			
8232545	F-02-038460	4212300000		108-ER		ROYCE C WOOD #1	SLICK (RENLAU)	20.0	UNITED GAS PIPELI
8232605	F-04-043877	4242700000		108-ER		T B SLICK EST A-221 #153	RENCON (ENID B-1)	0.0	TENNESSEE GAS PIP
-CORDOVA RESOURCES INC				RECEIVED:	05/13/82	JA: TX			
8232622	F-78-044502	4213332966		103 108		HARRIS FISHER #5	EASTLAND COUNTY REGUL	4.0	ODESSA NATURAL GA
-CORPUS CHRISTI OIL AND GAS CO				RECEIVED:	05/13/82	JA: TX			
8232636	F-04-045938	4260330127		102-4		STATE TRACT 835-S WELL #1	CLEAR (MIOCENE 6550')	0.0	CHANNEL INDUSTRIE
-CPC EXPLORATION INC				RECEIVED:	05/13/82	JA: TX			
8232587	F-03-042685	4228730706		102-2		O B JOHNSON LEASE NO 13272	GIDDINGS (BUDA) LEASE	100.0	PHILLIPS PETROLEU
-CROMEENS PETROLEUM INC				RECEIVED:	05/13/82	JA: TX			
8232617	F-78-044274	4223734827		102-4		HALSELL #1	KEVIN (ATOKA)	345.1	SOUTHWESTERN GAS
-CROWN CENTRAL PETROLEUM CORP				RECEIVED:	05/13/82	JA: TX			
8232845	F-08-050474	4213533171		103		COWDEN #11	HARPER	9.0	PHILLIPS PETROLEU
-D & G GAS & OIL CO				RECEIVED:	05/13/82	JA: TX			
8232576	F-01-042818	4212732235		102-4		STUMBERG #76-1	STUMBERG (OLMOS 4360)	56.0	VALERO TRANSMISSI
-D E RADTKE & ASSOCIATES INC				RECEIVED:	05/13/82	JA: TX			
8232821	F-8A-050427	4207931133		103		SNODGRASS #1	LEVELLAND	3.7	CITIES SERVICE CO
8232820	F-8A-050426	4207931135		103		SNODGRASS #2	LEVELLAND	3.7	CITIES SERVICE CO
8232819	F-8A-050425	4207931136		103		SNODGRASS #3	LEVELLAND	3.7	CITIES SERVICE CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8232824	F-8A-050430	4207931134		103		STCLAIR #1	LEVELLAND	3.7	CITIES SERVICE CO
8232823	F-8A-050429	4207931273		103		STCLAIR #2	LEVELLAND	3.7	CITIES SERVICE CO
8232822	F-8A-050428	4207931274		103		STCLAIR #3	LEVELLAND	3.7	CITIES SERVICE CO
-DALECO RESOURCES				RECEIVED:	05/13/82	JA: TX			
8232733	F-03-050220	4205100000		102-4		WILKINS #4	CLAY N E (EDWARDS REE	0.0	CLAJON GAS CO
-DAVIS OIL COMPANY				RECEIVED:	05/13/82	JA: TX			
8232717	F-08-049637	4217331215		102-4		LOIS BLALOCK #2	DEWEY LAKE (FUSSELMAN	300.0	EL PASO NATURAL G
-DAWSON EXPLORATION INC				RECEIVED:	05/13/82	JA: TX			
8232667	F-03-047617	4224500000		102-4	103	LUCILLE DURAND #1	HILDEBRANDT BAYOU S E	0.0	UNITED TEXAS TRAN
-DELTA OIL & GAS CO				RECEIVED:	05/13/82	JA: TX			
8232849	F-7B-050499	4242900000		108		JULIUS GRAY RRC #85805	TULLOS (CADDO)	3.6	PETROLEUM CORP OF
8232761	F-7B-050275	4242900000		108		R M ROGERS ESTATE "F" RRC #76890	STEPHENS COUNTY REGUL	6.5	PETROLEUM CORP OF
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	05/13/82	JA: TX			
8232632	F-10-045770	4229531013		103		W C MERYDITH "D" #1-558	NORTHRUP	0.0	
-DON H HANVEY OIL INTERESTS INC				RECEIVED:	05/13/82	JA: TX			
8232610	F-7B-044065	4213332883		102-4		HANVEY-CLOWER #1	ADRIENNE (DUFFER)	107.0	ODESSA NATURAL CO
-DORCHESTER GAS PRODUCING CO				RECEIVED:	05/13/82	JA: TX			
8232679	F-1C-048301	4217900000		103		KINNEY #2	PANHANDLE WEST	219.0	NORTHERN NATURAL
-EGAN-WILSON PETROLEUM INC				RECEIVED:	05/13/82	JA: TX			
8232538	F-04-032783	4235500000		102-4		LEON BALZER UNIT #1-T	BALZER (2240)	91.0	VALLEY PIPE LINES
-EL PASO NATURAL GAS COMPANY				RECEIVED:	05/13/82	JA: TX			
8232659	F-10-047227	4221131415		103		CAMPBELL #7	CANADIAN SW (MORROW/U	1100.0	EL PASO NATURAL G
-ENERGY RESERVES GROUP INC				RECEIVED:	05/13/82	JA: TX			
8232828	F-7C-050436	4246131759		103		ROSA H BARNETT "E" #2	AMACKER-TIPPETT (WOLF	7.2	EL PASO NATURAL G
-ENSERCH EXPLORATION INC				RECEIVED:	05/13/82	JA: TX			
8232677	F-05-048232	4221330309		103		C A PEACOCK #2	OPELIKA	797.0	LONE STAR GAS CO
8232647	F-7B-046522	4219300000		107-PE		T K REA #1	POTTSVILLE	42.0	LONE STAR GAS CO
8232646	F-7B-046492	4219300000		107-PE		W A MARWITZ #1	POTTSVILLE	0.0	LONE STAR GAS CO
-EVERGREEN OIL CORP				RECEIVED:	05/13/82	JA: TX			
8232577	F-01-042021	4217730830		102-2	103	BARNETT #1	COST (AUSTIN CHALK)	4.7	TIPPERARY GATHERI
-EXXON CORPORATION				RECEIVED:	05/13/82	JA: TX			
8232837	F-03-050450	4215731196		103		BRAZOS FARMS #32	SUGARLAND	91.2	UTTCO
8232836	F-03-050447	4215731197		103		BRAZOS FARMS #33	SUGARLAND	300.0	UTTCO
8232835	F-03-050446	4215731215		103		C C NELSON #26	SUGARLAND	91.2	UTTCO
8232707	F-08-049287	4200332968		103		FULLERTON CLEARFORK UNIT #2617	FULLERTON	15.0	PHILLIPS PETROLEU
*8232790	F-04-050351	4227331614		102-4		K R BORREGOS 569 (097770)	BORREGOS (ZONE P-5 NW	224.0	ARMCO STEEL CORP
*8232797	F-04-050385	4227331388		102-4		K R CANELO 40-D (097771)	CANELO, (8-41)	511.0	ARMCO STEEL CORP
*8232791	F-04-050353	4227331602		102-4		K R MORGAN M-74 (097872)	STRATTON (6870')	344.0	ARMCO STEEL CORP
8232760	F-04-050271	4204730949		103		MCGILL BROS 474 (96756)	KELSEY DEEP (ZONE 6B-	68.0	TRUNKLINE GAS CO
8232757	F-04-050268	4204730964		103		MCGILL BROS 475 (96559)	KELSEY DEEP (ZONE 7-I	435.0	TRUNKLINE GAS CO.
8232759	F-04-050270	4242731587		103		MCGILL BROS 480 (097622)	KELSEY SOUTH (7450)	66.0	TRUNKLINE GAS CO
8232686	F-38-043887	4200332797		103		MEANS/SAN ANDRES/UNIT 1160	MEANS	15.0	PHILLIPS PETROLEU
8232758	F-04-050269	4224730913		102-4		MRS A M K BASS 42-F (097090)	KELSEY DEEP (ZONE 18-	308.0	TRUNKLINE GAS CO
8232834	F-03-050445	4224531503		103		MRS SEAWILLOW PINCHBACK #16	AMELIA (FRIO 6)	14.6	HOUSTON PIPELINE
8232602	F-04-043419	4200730672		103		NINE MILE PT CONS #12 (95013)	NINE MILE POINT (CONS	391.0	NATURAL GAS PIPEL
8232830	F-08-050439	4237100000		108		REDMOND B #1	PECOS VALLEY (WOLFCAM	4.0	EL PASO NATURAL G
*8232691	F-03-048988	4214930607		102-3		T M COWAN #1	GIDDINGS (AUSTIN CHAL	2.0	ARMCO STEEL CORP
-FALCON PETROLEUM COMPANY				RECEIVED:	05/13/82	JA: TX			
8232626	F-10-044938	4235731165		102-4		ALPAR-MURPHY #1	FALCON (MORROW UPPER)	438.0	PHILLIPS PETROLEU
-FLAIR RESOURCES				RECEIVED:	05/13/82	JA: TX			
8232769	F-7B-050287	4208331382		103		EARL DAVIS #A-1 (14309)	COLEMAN COUNTY REGULA	16.0	LONE STAR GAS CO
8232767	F-7B-050285	4208331247		103		EARL DAVIS #1 (13939)	COLEMAN COUNTY REGULA	17.0	LONE STAR GAS CO
8232768	F-7B-050286	4208300000		103		EARL DAVIS #2 (13939)	COLEMAN COUNTY REGULA	35.0	LONE STAR GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8232765	F-78-050283	4206332035		102-4		H R M #1 (815122)	RHONDA (MARBLE FALLS	336.0	LONE STAR GAS CO
8232766	F-78-050284	4206332110		102-4		H R M #2 (830133)	RHONDA (MARBLE FALLS	33.0	LONE STAR GAS CO
8232774	F-78-050292	4208331659		103		JACK SHIELDS #1 (14905)	COLEMAN COUNTY REGULA	146.0	LONE STAR GAS CO
8232771	F-78-050289	4208331751		103		LUCY GRAY #1 (15265)	COLEMAN COUNTY REGULA	91.0	LONE STAR GAS CO
8232772	F-78-050290	4208331773		103		NATHAN PARKER #1 (15276)	COLEMAN COUNTY REGULA	58.0	LONE STAR GAS CO
8232770	F-78-050288	4208331782		103		OPAL GORMAN #1 (15033)	COLEMAN COUNTY REGULA	175.0	LONE STAR GAS CO
8232775	F-78-050293	4208300000		103		THOMAS L SOUTH #1 (13894)	COLEMAN COUNTY REGULA	195.0	LONE STAR GAS CO
8232776	F-78-050294	4208300000		103		THOMAS L SOUTH #2 (13894)	COLEMAN COUNTY REGULA	7.0	LONE STAR GAS CO
8232773	F-78-050291	4208331407		103		W R ROBERTSON #1 (14373)	COLEMAN COUNTY REGULA	24.0	LONE STAR GAS CO
-FLORIDA GAS EXPLORATION COMPANY				RECEIVED:	05/13/82	JA: TX			
8232554	F-80-040231	4237133402		102-4		CRAWFORD 21 #1	ALPHA	6.0	
-FORTUNE PRODUCTION CO				RECEIVED:	05/13/82	JA: TX			
8232848	F-7C-050495	4223531892		103		BAKER "B" #3	CAL (CANYON)	83.5	NORTHERN NATURAL
-FROST OIL CO INC				RECEIVED:	05/13/82	JA: TX			
8232574	F-86-041933	4245900000		103		H J TRAMMELL GAS UNIT #2	GILMER	200.0	ARKANSAS LOUISIAN
-GALAXY OIL COMPANY				RECEIVED:	05/13/82	JA: TX			
8232635	F-83-045846	4204130595		102-2		J M AKIN #1 (RRC ID NOT ASSIGNED)	BRYAN (AUSTIN CHALK)	100.0	PRODUCERS GAS CO
-GENERAL PRODUCTION CORP				RECEIVED:	05/13/82	JA: TX			
8232653	F-83-046847	4205131550		103		HENRY SHEPARD UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
-GETTY OIL COMPANY				RECEIVED:	05/13/82	JA: TX			
8232639	F-83-046173	4205100000		102-2		O J SLOVACEK #1	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
-GULF OIL CORPORATION				RECEIVED:	05/13/82	JA: TX			
8232537	F-10-036104	4221132157		103		BILLIE JARVIS #2-220	S W CANADIAN	6.0	PIONEER NATURAL G
8232826	F-09-050433	4223700000		108		BILLIE YATES #2	BOONSVILLE BEND CONGL	14.0	NATURAL GAS PIPEL
8232596	F-10-042943	4223331899		103		C L DIAL #279	PANHANDLE HUTCHINSON	10.0	PHILLIPS PETROLEU
8232570	F-10-041299	4223331893		103		C L DIAL #283	PANHANDLE HUTCHINSON	6.0	PHILLIPS PETROLEU
8232571	F-10-041300	4223331887		103		C L DIAL #284	PANHANDLE HUTCHINSON	0.0	PHILLIPS PETROLEU
8232628	F-10-044359	4223300000		103		C L DIAL #285	PANHANDLE HUTCHINSON	6.0	PHILLIPS PETROLEU
8232597	F-10-042944	4223331884		103		C L DIAL #287	PANHANDLE HUTCHINSON	0.0	PHILLIPS PETROLEU
8232629	F-10-045389	4223331895		103		C L DIAL ETAL #281	PANHANDLE HUTCHINSON	0.0	PHILLIPS PETROLEU
8232572	F-10-041301	4223331885		103		C L DIAL ETAL #286	PANHANDLE HUTCHINSON	4.0	PHILLIPS PETROLEU
8232795	F-88-050380	4247532884		103		HUTCHINGS STOCK ASSN #1088	WARD-ESTES NORTH	16.0	CABOT CORP
8232827	F-88-044942	4247532394		103		HUTCHINGS STOCK ASSN #1134	WAGON WHEEL (PENN)	0.0	CABOT CORP
8232809	F-88-050412	4247532438		103		HUTCHINGS STOCK ASSN #1152	WARD-ESTES NORTH	36.0	CABOT CORP
8232796	F-88-050382	4247532484		103		HUTCHINGS STOCK ASSN #1154	WARD-ESTES NORTH	4.0	CABOT CORP
8232728	F-88-049979	4247532511		103		HUTCHINGS STOCK ASSN #1156	WARD-ESTES NORTH	12.0	CABOT CORP
8232524	F-89-010817	4223700000		108		J C RIGGS #2	RIGGS (CONGLOMERATE)	15.9	SOUTHWESTERN GAS
8232642	F-88-046312	4249531418		103		KEYSTONE HOLT UNIT #9348	KEYSTONE (HOLT)	68.0	CABOT CORP
8232827	F-09-050434	4223700000		108		NANCY WORTHINGTON #1	BOONSVILLE BEND CONGL	18.0	NATURAL GAS PIPEL
8232846	F-88-050475	4236910494		108		S E LIGON "A" #4	WAHA WEST (ELLENBURGE	2.8	TRANSWESTERN PIPE
*8232881	F-88-050392	4210332668		103		W N WADDELL #1152	DUNE	3.3	
8232804	F-88-050395	4210332555		103		W N WADDELL #1179	SAND HILLS (JUDKINS)	183.0	H & T GATHERING
8232806	F-88-050397	4210332526		103		W N WADDELL #1181	SAND HILLS (JUDKINS)	88.0	H & T GATHERING
8232803	F-88-050394	4210332608		103		W N WADDELL #1191	SAND HILLS (JUDKINS)	373.0	H & T GATHERING
8232802	F-88-050393	4210332646		103		W N WADDELL #1193	SAND HILLS (JUDKINS)	376.0	H & T GATHERING
8232805	F-88-050396	4210332582		103		W N WADDELL ET AL #1192	SAND HILLS (JUDKINS)	101.0	H & T GATHERING
-GULFSTREAM PETROLEUM CORP				RECEIVED:	05/13/82	JA: TX			
8232688	F-83-048885	4208931204		102-4		RALPH S FULLER SR #1	STARR-LITE (WILCOX A-	689.0	UNITED GAS PIPE L
-GUNN OIL CO				RECEIVED:	05/13/82	JA: TX			
8231615	F-8A-044213	4226930933		102-4		J P RATLIFF JR #1	TOM ("B" CONGL)	0.0	PALO DURO PIPELIN
-HARRISON INTERESTS LTD				RECEIVED:	05/13/82	JA: TX			
8232674	F-7C-048005	4210500000		107-TF		NO 5 JOE WYLIE MCMULLAN	DAVIDSON RANCH (PENN	58.0	INTRATEX GAS CO
-HENRY ENERGY CORP				RECEIVED:	05/13/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8232765	F-78-050283	4206332035		102-4		H R M #1 (815122)	RHONDA (MARBLE FALLS	336.0	LONE STAR GAS CO
8232766	F-78-050284	4236332110		102-4		H R M #2 (830133)	RHONDA (MARBLE FALLS	33.0	LONE STAR GAS CO
8232774	F-78-050292	4208331659		103		JACK SHIELDS #1 (14905)	COLEMAN COUNTY REGULA	146.0	LONE STAR GAS CO
8232771	F-78-050289	4208331751		103		LUCY GRAY #1 (15265)	COLEMAN COUNTY REGULA	91.0	LONE STAR GAS CO
8232772	F-78-050290	4208331773		103		NATHAN PARKER #1 (15276)	COLEMAN COUNTY REGULA	58.0	LONE STAR GAS CO
8232770	F-78-050288	4208331782		103		OPAL GORMAN #1 (15033)	COLEMAN COUNTY REGULA	175.0	LONE STAR GAS CO
8232775	F-78-050293	4208300000		103		THOMAS L SOUTH #1 (13894)	COLEMAN COUNTY REGULA	195.0	LONE STAR GAS CO
8232776	F-78-050294	4208300000		103		THOMAS L SOUTH #2 (13894)	COLEMAN COUNTY REGULA	7.0	LONE STAR GAS CO
8232773	F-78-050291	4208331407		103		W R ROBERTSON #1 (14373)	COLEMAN COUNTY REGULA	24.0	LONE STAR GAS CO
-FLORIDA GAS EXPLORATION COMPANY				RECEIVED:	05/13/82	JA: TX			
8232554	F-80-040231	4237133402		102-4		CRAWFORD 21 #1	ALPHA	6.0	
-FORTUNE PRODUCTION CO				RECEIVED:	05/13/82	JA: TX			
8232848	F-7C-050495	4223531892		103		BAKER "B" #3	CAL (CANYON)	83.5	NORTHERN NATURAL
-FROST OIL CO INC				RECEIVED:	05/13/82	JA: TX			
8232574	F-86-041933	4245900000		103		H J TRAMMELL GAS UNIT #2	GILMER	200.0	ARKANSAS LOUISIAN
-GALAXY OIL COMPANY				RECEIVED:	05/13/82	JA: TX			
8232635	F-83-045846	4204130595		102-2		J M AKIN #1 (RRC ID NOT ASSIGNED)	BRYAN (AUSTIN CHALK)	100.0	PRODUCERS GAS CO
-GENERAL PRODUCTION CORP				RECEIVED:	05/13/82	JA: TX			
8232653	F-83-046847	4205131550		103		HENRY SHEPARD UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
-GETTY OIL COMPANY				RECEIVED:	05/13/82	JA: TX			
8232639	F-83-046173	4205100000		102-2		O J SLOVACEK #1	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
-GULF OIL CORPORATION				RECEIVED:	05/13/82	JA: TX			
8232537	F-10-036104	4221132157		103		BILLIE JARVIS #2-220	S W CANADIAN	6.0	PIONEER NATURAL G
8232826	F-09-050433	4223700000		108		BILLIE YATES #2	BOONSVILLE BEND CONGL	14.0	NATURAL GAS PIPEL
8232596	F-10-042943	4223331899		103		C L DIAL #279	PANHANDLE HUTCHINSON	10.0	PHILLIPS PETROLEU
8232570	F-10-041299	4223331893		103		C L DIAL #283	PANHANDLE HUTCHINSON	6.0	PHILLIPS PETROLEU
8232571	F-10-041300	4223331887		103		C L DIAL #284	PANHANDLE HUTCHINSON	0.0	PHILLIPS PETROLEU
8232628	F-10-044359	4223300000		103		C L DIAL #285	PANHANDLE HUTCHINSON	6.0	PHILLIPS PETROLEU
8232597	F-10-042944	4223331884		103		C L DIAL #287	PANHANDLE HUTCHINSON	0.0	PHILLIPS PETROLEU
8232629	F-10-045389	4223331895		103		C L DIAL ETAL #281	PANHANDLE HUTCHINSON	0.0	PHILLIPS PETROLEU
8232572	F-10-041301	4223331885		103		C L DIAL ETAL #286	PANHANDLE HUTCHINSON	4.0	PHILLIPS PETROLEU
8232795	F-88-050380	4247532884		103		HUTCHINGS STOCK ASSN #1088	WARD-ESTES NORTH	16.0	CABOT CORP
8232827	F-88-044942	4247532394		103		HUTCHINGS STOCK ASSN #1134	WAGON WHEEL (PENN)	0.0	CABOT CORP
8232809	F-88-050412	4247532438		103		HUTCHINGS STOCK ASSN #1152	WARD-ESTES NORTH	36.0	CABOT CORP
8232796	F-88-050382	4247532484		103		HUTCHINGS STOCK ASSN #1154	WARD-ESTES NORTH	4.0	CABOT CORP
8232728	F-88-049979	4247532511		103		HUTCHINGS STOCK ASSN #1156	WARD-ESTES NORTH	12.0	CABOT CORP
8232524	F-89-010817	4223700000		108		J C RIGGS #2	RIGGS (CONGLOMERATE)	15.9	SOUTHWESTERN GAS
8232642	F-88-046312	4249531418		103		KEYSTONE HOLT UNIT #9348	KEYSTONE (HOLT)	68.0	CABOT CORP
8232827	F-09-050434	4223700000		108		NANCY WORTHINGTON #1	BOONSVILLE BEND CONGL	18.0	NATURAL GAS PIPEL
8232846	F-88-050475	4236910494		108		S E LIGON "A" #4	WAHA WEST (ELLENBURGE	2.8	TRANSWESTERN PIPE
*8232881	F-88-050392	4210332668		103		W N WADDELL #1152	DUNE	3.3	
8232804	F-88-050395	4210332555		103		W N WADDELL #1179	SAND HILLS (JUDKINS)	183.0	H & T GATHERING
8232806	F-88-050397	4210332526		103		W N WADDELL #1181	SAND HILLS (JUDKINS)	88.0	H & T GATHERING
8232803	F-88-050394	4210332608		103		W N WADDELL #1191	SAND HILLS (JUDKINS)	373.0	H & T GATHERING
8232802	F-88-050393	4210332646		103		W N WADDELL #1193	SAND HILLS (JUDKINS)	376.0	H & T GATHERING
8232805	F-88-050396	4210332582		103		W N WADDELL ET AL #1192	SAND HILLS (JUDKINS)	101.0	H & T GATHERING
-GULFSTREAM PETROLEUM CORP				RECEIVED:	05/13/82	JA: TX			
8232688	F-83-048885	4208931204		102-4		RALPH S FULLER SR #1	STARR-LITE (WILCOX A-	689.0	UNITED GAS PIPE L
-GUNN OIL CO				RECEIVED:	05/13/82	JA: TX			
8231615	F-8A-044213	4226930933		102-4		J P RATLIFF JR #1	TOM ("B" CONGL)	0.0	PALO DURO PIPELIN
-HARRISON INTERESTS LTD				RECEIVED:	05/13/82	JA: TX			
8232674	F-7C-048005	4210500000		107-TF		NO 5 JOE WYLIE MCMULLAN	DAVIDSON RANCH (PENN	58.0	INTRATEX GAS CO
-HENRY ENERGY CORP				RECEIVED:	05/13/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8232699	F-09-049075	4223700000		102-4		R E VOYLES #1	VOYLES (CADDO UPPER)	15.0	SOUTHWESTERN GAS
8232704	F-7B-049241	4236700000		102-4		SMELLEY #1	SMELLEY (5200 MARBLE	109.0	SOUTHWESTERN GAS
-MILLIN PRODUCTION CO				RECEIVED:	05/13/82	JA: TX			
8232711	F-08-049436	4238138332		102-4	103	BORDER STATE "5" #1	WHEAT S (CHERRY CANYO	130.3	INTRATEX GAS CO
8232654	F-08-047871	4237133637		103		I R T "29" #4	PECOS VALLEY (YATES)	83.5	INTRATEX GAS CO
-HNG OIL COMPANY				RECEIVED:	05/13/82	JA: TX			
8232668	F-04-047680	4247933118		102-2	103	A V NORFLEET #2L	BIG COWBOY (WILCOX 62	234.0	HOUSTON PIPELINE
-HONE PETROLEUM CORPORATION				RECEIVED:	05/13/82	JA: TX			
8232941	F-06-037716	4245930484		103	107-TF	ARTHUR BINION #1	GILMER (COTTON VALLEY	380.0	WESTERN GAS CORP
-HOU-TEX OIL & GAS CO				RECEIVED:	05/13/82	JA: TX			
8232562	F-01-041115	4202100000		107-TF		O R MITCHELL #1 - TRRC ID NO 92456	PAIGE NE	182.0	PGP GAS PRODUCTS
-HOUSTON OIL & MINERALS CORPORATION				RECEIVED:	05/13/82	JA: TX			
8232585	F-03-042588	4228730972		103		OTTO SAENGER #2	GIDDINGS (AUSTIN CHAL	0.0	PGP GAS PRODUCTS
-HOWELL DRILLING INC				RECEIVED:	05/13/82	JA: TX			
8232650	F-02-046670	4228500000		103	107-TF	HATHAWAY EDWARDS GAS UNIT #3	WORD N	0.0	VALERO TRANSMISSI
-HUFO OILS				RECEIVED:	05/13/82	JA: TX			
8232712	F-7B-049508	4236332650		103		EMORY BIRDWELL #2 #79689	EMORY (LAKE)	0.0	SOUTHWESTERN GAS
-HUGHES & HUGHES				RECEIVED:	05/13/82	JA: TX			
8232648	F-04-046537	4235531928		102-4		BERNSEN-WELTY GAS UNIT #2	COTTON (8350)	110.0	FERGUSON CROSSING
-HUMBLE EXPLORATION CO INC				RECEIVED:	05/13/82	JA: TX			
8232535	F-03-036014	4214900000		102-4	103	ANGELIQUE MCLEAN #1 -	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8232534	F-03-036012	4228730002		102-2	103	CARRIE GANTT #1 -	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8232547	F-03-038983	4214930965		102-4	103	LUCILLE MILLER #1	GIDDINGS (AUSTIN CHAL	892.4	PHILLIPS PETROLEU
8232548	F-03-038984	4214930969		102-4	103	RANDY ULLRICH #1	GIDDINGS (AUSTIN CHAL	540.2	PHILLIPS PETROLEU
8232551	F-01-039356	4217730868		102-2	103	RUTH NELSON #1	PEACH CREEK (AUSTIN C	130.7	
-INDIAN WELLS OIL CO				RECEIVED:	05/13/82	JA: TX			
8232681	F-7C-048385	4223531834		102-2		RICHEY 53-3	PROBANDT (CANYON)	109.5	NORTHERN NATURAL
-J & C ENERGY INC				RECEIVED:	05/13/82	JA: TX			
8232575	F-7B-041942	4209330899		102-4		ANN YOUNG #1	DELEON N (STRAWN)	0.0	SOUTHWESTERN GAS
-J A LEONARD				RECEIVED:	05/13/82	JA: TX			
8232745	F-03-050242	4205100000		102-4		COFFIELD-WINSTON "A" #4	INEZ JAMESON (NAVARRO	51.0	FERGUSON CROSSING
-J M HUBER CORPORATION				RECEIVED:	05/13/82	JA: TX			
8232831	F-10-050440	4223331372		103		MAGNOLIA HERRING #24	PANHANDLE	43.0	COLORADO INTERSTA
8232781	F-10-050307	4223331290		103		PERKY #18	PANHANDLE	33.0	COLORADO INTERSTA
8232829	F-10-050437	4223331284		103		READ #23	PANHANDLE	43.0	COLORADO INTERSTA
8232782	F-10-050308	4223331285		103		READ #24	PANHANDLE	22.0	COLORADO INTERSTA
-JOE MCGUIRE				RECEIVED:	05/13/82	JA: TX			
*8232586	F-7C-042668	4210533374		102-4	103	JOE F BEAN "C" #2	PIKES PEAK DRAW (ELLE	43.7	PERMIAN CORP
-JOHN L COX				RECEIVED:	05/13/82	JA: TX			
8232673	F-7C-047993	4246131877		103		ARCO-STATE #1 RRC #NA	BENEDUM (FUSSELMAN)	10.0	EL PASO NATURAL G
8232658	F-08-046141	4231700000		103		SHAFFER #1	SPRABERRY (TREND AREA	10.0	
-KAARI OIL CO				RECEIVED:	05/13/82	JA: TX			
8232755	F-10-050265	4206531665		103		HAIDUK "A" #1 (ID#05023)	PANHANDLE CARSON	32.0	GETTY OIL CO
8232754	F-10-050264	4206531071		103		HAIDUK "B" #1 (ID#05024)	PANHANDLE CARSON	45.0	GETTY OIL CO
-KEYSTONE OIL & GAS INC				RECEIVED:	05/13/82	JA: TX			
8232779	F-7B-050298	4213333335		102-4		RUSSELL WALKER #1 (97633)	EASTLAND W (RANGER)	372.0	ODESSA NATURAL CO
-KILROY CO OF TEXAS				RECEIVED:	05/13/82	JA: TX			
8232651	F-04-046678	4250531442		102-4		JUAN G BENAVIDES #3	LOPENO S W (WILCOX 73	1466.0	TRANSCONTINENTAL
8232603	F-04-043562	4250531225		102-4		JUAN G BENAVIDES G U "A" #1	LOPENO NE (WILCOX 737	182.0	TRANSCONTINENTAL
-LADD PETROLEUM CORPORATION				RECEIVED:	05/13/82	JA: TX			
8232689	F-01-048915	4212732069		103		FITZSIMONS RANCH #1-42-C	HUGH FITZSIMONS (OLMO	136.9	
8232698	F-01-048916	4212732112		103		FITZSIMONS RANCH #2-45	HUGH FITZSIMONS (OLMO	95.8	
-LARIAT OIL & GAS				RECEIVED:	05/13/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8232628	F-7B-045166	4236332706		102-4		4 C COALSON #1
-LOGUE AND PATTERSON INC				RECEIVED:	05/13/82	JA: TX
8232666	F-03-047544	4237300000		103		W T CARTER & BROS B#2
-MABEE PETROLEUM CORP				RECEIVED:	05/13/82	JA: TX
8232850	F-08-050500	4231732361		103		BREEDLOVE "C" #1
-MAJOR EXPLORATION INC				RECEIVED:	05/13/82	JA: TX
8232684	F-01-048617	4216332115		103		ALERKAMP #2
-MARATHON OIL COMPANY				RECEIVED:	05/13/82	JA: TX
8232640	F-7C-046181	4238332073		103		UNIVERSITY "N" #7
8232641	F-7C-046185	4210333665		103		UNIVERSITY "O" #7
-MARIANAS OPERATING CO INC				RECEIVED:	05/13/82	JA: TX
8232838	F-7C-050462	4209330559		102-4		OWENS #1 (09271)
-MARK IV ENERGY				RECEIVED:	05/13/82	JA: TX
8232727	F-01-049972	4249331020		103		RENATO MARTINEZ ARC#07545
-MARSHALL EXPLORATION INC				RECEIVED:	05/13/82	JA: TX
8232618	F-06-044313	4236331205		103		J B HOOKER #2
-MAY-FAR OIL & GAS				RECEIVED:	05/13/82	JA: TX
8232589	F-7B-042726	4208332563		103		HOSCH #1 (17498)
-MCCORMICK OPERATING CO				RECEIVED:	05/13/82	JA: TX
8232662	F-06-047382	4249131321		103	107-TF	PAUL GAS UNIT #1
8232625	F-08-044875	4231732290		102-4		RILEY #1
-MCFARLANE OIL CO INC				RECEIVED:	05/13/82	JA: TX
8232532	F-02-034759	4246900000		103		GLADYS SMITH SELLERS #1
-MCIVER INC				RECEIVED:	05/13/82	JA: TX
8232608	F-7B-043364	4208300000		102-4		ETHEL MATHEWS #2
8232599	F-7B-043363	4208300000		102-4		ETHEL MATHEWS #3
8232588	F-7B-042723	4208332592		102-4		GRADY MCIVER #3 (96931)
-MCZ INC				RECEIVED:	05/13/82	JA: TX
8232678	F-03-048264	4204185000		102-2		PHILIPELLO OIL UNIT I #1-LT
-MECCA ENERGY INC				RECEIVED:	05/13/82	JA: TX
8232543	F-08-037731	4213533503		103		BLAKNEY "D" #2
8232542	F-08-037730	4213533504		103		BLAKNEY "D" #3
-MITCHELL ENERGY CORPORATION				RECEIVED:	05/13/82	JA: TX
8232786	F-03-050329	4237330390		102-4		ALLEN C WILLIAMS #1 #79698
8232539	F-02-036499	4228500000		103		ASCHBACHER #1 97343
8232621	F-05-044439	4229330557		103	107-TF	B J RAINES #1
8232544	F-09-037980	4249700000		108		FLOYD CLAYTON #3 91062
8232538	F-09-036308	4249732008		103		GRACE-HODGE #3
8232553	F-7B-040005	4236732114		103		J P REED #2
8232741	F-09-050235	4223733029		102-4		J W LOVING EST #1 #20233
8232743	F-09-050238	4223733185		102-4		J W LOVING EST #2C 21044
8232762	F-09-050279	4223733454		102-4		J W LOVING EST #6 #20233
8232763	F-09-050280	4223733314		102-4		J W LOVING EST #8 #20233
8232744	F-09-050239	4223733185		102-4		J W LOVING ESTATE #2T(94443)
8232764	F-09-050281	4223733380		102-4		J W LOVING ESTATE #5 #20233
8232623	F-03-044520	4228700008		102-2		LAAKE #1
8232742	F-09-050237	4259334776		102-4		OLIVER LOVING #3 21289
8232715	F-09-049573	4223733978		102-4		OLIVER LOVING #5
-MOBIL PROD TEXAS & NEW MEXICO INC				RECEIVED:	05/13/82	JA: TX
8232700	F-7C-049096	4244330223		108-SA		B F FOSTER #1-A
*8232778	F-08-050297	4237133595		103		EFFIE POTTS SIBLEY #11
*8232777	F-08-050296	4237133617		103		EFFIE POTTS SIBLEY B #8
8232854	F-08-050520	4210332532		108-SA		SAND HILLS JUDKINS UNIT #11

FIELD NAME	PROD	PURCHASER
IRSFIELD (CONGL)	276.0	SOUTHWESTERN GAS
CAMP RUBY (YEGUA 3645	109.0	HOUSTON PIPELINE
BREEDLOVE SOUTH (SPRA	72.4	NORTHERN NATURAL
PEARSALL (AUSTIN CHAL	120.0	T G T INC
AMIGO (SAN ANDRES)	33.0	BIG LAKE GAS CORP
AMIGO (SAN ANDRES)	32.0	BIG LAKE GAS CORP
RED APPALOOSA (1ST ST	11.0	SUN GAS GATHERING
SUTIL (AUSTIN)	54.0	J L DAVIS
WILDCAT	140.0	TEXAS GAS TRANSMI
SANTA ANNA S (MARBLE	95.0	LONE STAR GAS CO
OAK HILL (COTTON VALL	350.0	HYDROCARBON TRANS
J L M (MISSISSIPPIAN)	36.0	NORTHERN NATURAL
PLACEDO	0.0	TENNECO CHEMICALS
TRICKHAM (CROSSCUT)	14.0	LONE STAR GAS CO
TRICKHAM (CROSSCUT)	10.0	LONE STAR GAS CO
TRICKAHM (JENNINGS)	18.0	LONE STAR GAS CO
BRYAN N (GEORGETOWN)	37.0	FERGUSON CROSSING
COWDEN NORTH (SAN AND	18.2	PHILLIPS PETROLEU
COWDEN NORTH (SAN AND	18.2	PHILLIPS PETROLEU
SANDY CREEK (AUSTIN C	164.0	DELHI GAS PIPELIN
VIENNA (MIDDLE WILCOX	370.0	UNITED TEXAS TRAN
POKEY (COTTON VALLEY	27.0	TEXAS UTILITIES F
BOONSVILLE (BEND CONG	11.2	NATURAL GAS PIPEL
ALVORD (ATOKA CONGLOM	90.0	NATURAL GAS PIPEL
RENO (STRAWN 2900')	140.0	SOUTHWESTERN GAS
JERMYN WEST (CADDO)	62.0	
JERMYN WEST (CADDO LO	101.0	SOUTHWESTERN GAS
JERMYN WEST (CADDO)	0.0	SOUTHWESTERN GAS
JERMYN WEST (CADDO)	0.0	SOUTHWESTERN GAS
JERMYN WEST (MARBLE F	180.0	SOUTHWESTERN GAS
JERMYN WEST (CADDO)	0.0	SOUTHWESTERN GAS
GIDDINGS (AUSTIN CHAL	27.0	PGP GAS PRODUCTS
JERMYN WEST (MARBLE F	168.0	SOUTHWESTERN GAS
JERMYN WEST (CADDO)	180.0	SOUTHWESTERN GAS
WOLF SPRING (PENN)	10.2	EL PASO NATURAL G
COYANOSA N (DELAWARE)	17.9	EL PASO NATURAL G
COYANOSA N (DELAWARE)	9.1	EL PASO GAS CO
SAND HILLS (JUDKINS)	5.1	EL PASO NATURAL G

JD NO	JA DKT	API NO	C	SEC(1)	SEC(2)	WELL NAME
8232779	F-08-050298	4237133594		103		EFFIE POTTS SIBLEY #10
8232780	F-08-050299	4237133596		103		EFFIE POTTS SIBLEY #12
8232781	F-08-050300	4237133597		103		EFFIE POTTS SIBLEY #13
8232782	F-08-050301	4237133598		103		EFFIE POTTS SIBLEY #14
8232783	F-08-050302	4237133599		103		EFFIE POTTS SIBLEY #15
8232784	F-08-050303	4237133600		103		EFFIE POTTS SIBLEY #16
8232785	F-08-050304	4237133601		103		EFFIE POTTS SIBLEY #17
8232787	F-08-050305	4237133602		103		EFFIE POTTS SIBLEY #18
8232788	F-08-050306	4237133603		103		EFFIE POTTS SIBLEY #19
8232789	F-08-050307	4237133604		103		EFFIE POTTS SIBLEY #20
8232790	F-08-050308	4237133605		103		EFFIE POTTS SIBLEY #21
8232791	F-08-050309	4237133606		103		EFFIE POTTS SIBLEY #22
8232792	F-08-050310	4237133607		103		EFFIE POTTS SIBLEY #23
8232793	F-08-050311	4237133608		103		EFFIE POTTS SIBLEY #24
8232794	F-08-050312	4237133609		103		EFFIE POTTS SIBLEY #25
8232795	F-08-050313	4237133610		103		EFFIE POTTS SIBLEY #26
8232796	F-08-050314	4237133611		103		EFFIE POTTS SIBLEY #27
8232797	F-08-050315	4237133612		103		EFFIE POTTS SIBLEY #28
8232798	F-08-050316	4237133613		103		EFFIE POTTS SIBLEY #29
8232799	F-08-050317	4237133614		103		EFFIE POTTS SIBLEY #30
8232800	F-08-050318	4237133615		103		EFFIE POTTS SIBLEY #31
8232801	F-08-050319	4237133616		103		EFFIE POTTS SIBLEY #32
8232802	F-08-050320	4237133618		103		EFFIE POTTS SIBLEY #33
8232803	F-08-050321	4237133619		103		EFFIE POTTS SIBLEY #34
8232804	F-08-050322	4237133620		103		EFFIE POTTS SIBLEY #35
8232805	F-08-050323	4237133621		103		EFFIE POTTS SIBLEY #36
8232806	F-08-050324	4237133622		103		EFFIE POTTS SIBLEY #37
8232807	F-08-050325	4237133623		103		EFFIE POTTS SIBLEY #38
8232808	F-08-050326	4237133624		103		EFFIE POTTS SIBLEY #39
8232809	F-08-050327	4237133625		103		EFFIE POTTS SIBLEY #40
8232810	F-08-050328	4237133626		103		EFFIE POTTS SIBLEY #41
8232811	F-08-050329	4237133627		103		EFFIE POTTS SIBLEY #42
8232812	F-08-050330	4237133628		103		EFFIE POTTS SIBLEY #43
8232813	F-08-050331	4237133629		103		EFFIE POTTS SIBLEY #44
8232814	F-08-050332	4237133630		103		EFFIE POTTS SIBLEY #45
8232815	F-08-050333	4237133631		103		EFFIE POTTS SIBLEY #46
8232816	F-08-050334	4237133632		103		EFFIE POTTS SIBLEY #47
8232817	F-08-050335	4237133633		103		EFFIE POTTS SIBLEY #48
8232818	F-08-050336	4237133634		103		EFFIE POTTS SIBLEY #49
8232819	F-08-050337	4237133635		103		EFFIE POTTS SIBLEY #50
8232820	F-08-050338	4237133636		103		EFFIE POTTS SIBLEY #51
8232821	F-08-050339	4237133637		103		EFFIE POTTS SIBLEY #52
8232822	F-08-050340	4237133638		103		EFFIE POTTS SIBLEY #53
8232823	F-08-050341	4237133639		103		EFFIE POTTS SIBLEY #54
8232824	F-08-050342	4237133640		103		EFFIE POTTS SIBLEY #55
8232825	F-08-050343	4237133641		103		EFFIE POTTS SIBLEY #56
8232826	F-08-050344	4237133642		103		EFFIE POTTS SIBLEY #57
8232827	F-08-050345	4237133643		103		EFFIE POTTS SIBLEY #58
8232828	F-08-050346	4237133644		103		EFFIE POTTS SIBLEY #59
8232829	F-08-050347	4237133645		103		EFFIE POTTS SIBLEY #60
8232830	F-08-050348	4237133646		103		EFFIE POTTS SIBLEY #61
8232831	F-08-050349	4237133647		103		EFFIE POTTS SIBLEY #62
8232832	F-08-050350	4237133648		103		EFFIE POTTS SIBLEY #63
8232833	F-08-050351	4237133649		103		EFFIE POTTS SIBLEY #64
8232834	F-08-050352	4237133650		103		EFFIE POTTS SIBLEY #65
8232835	F-08-050353	4237133651		103		EFFIE POTTS SIBLEY #66
8232836	F-08-050354	4237133652		103		EFFIE POTTS SIBLEY #67
8232837	F-08-050355	4237133653		103		EFFIE POTTS SIBLEY #68
8232839	F-08-050356	4237133654		103		EFFIE POTTS SIBLEY #69
8232840	F-08-050357	4237133655		103		EFFIE POTTS SIBLEY #70
8232841	F-08-050358	4237133656		103		EFFIE POTTS SIBLEY #71
8232842	F-08-050359	4237133657		103		EFFIE POTTS SIBLEY #72
8232843	F-08-050360	4237133658		103		EFFIE POTTS SIBLEY #73
8232844	F-08-050361	4237133659		103		EFFIE POTTS SIBLEY #74
8232845	F-08-050362	4237133660		103		EFFIE POTTS SIBLEY #75
8232846	F-08-050363	4237133661		103		EFFIE POTTS SIBLEY #76
8232847	F-08-050364	4237133662		103		EFFIE POTTS SIBLEY #77
8232848	F-08-050365	4237133663		103		EFFIE POTTS SIBLEY #78
8232849	F-08-050366	4237133664		103		EFFIE POTTS SIBLEY #79
8232851	F-08-050367	4237133665		103		EFFIE POTTS SIBLEY #80
8232852	F-08-050368	4237133666		103		EFFIE POTTS SIBLEY #81
8232853	F-08-050369	4237133667		103		EFFIE POTTS SIBLEY #82
8232855	F-08-050370	4237133668		103		EFFIE POTTS SIBLEY #83
8232856	F-08-050371	4237133669		103		EFFIE POTTS SIBLEY #84
8232857

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
*8232855	F-04-050521	4200700000		108-SA		SOUTH LAGLORIA GAS UNIT #10	LAGLORIA (RILEY)	21.3	TRANSCONTINENTAL
-MOLE OPERATING COMPANY INC				RECEIVED:	05/13/82	JA: TX			
8232694	F-06-049066	4200131314		102-4		S O WYLIE #2	CAROL JEAN	365.0	LONE STAR GAS CO
-MONTERREY PETROLEUM CORP				RECEIVED:	05/13/82	JA: TX			
8232665	F-03-047470	4205131280		102-2		P C THOMASON #1	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
-MORAN EXPLORATION INC				RECEIVED:	05/13/82	JA: TX			
8232619	F-7C-044325	4223531649		103		ROCKER B "R" #3	SPRABERRY (TREND AREA	6.0	NORTHERN NATURAL
-MR OIL CO				RECEIVED:	05/13/82	JA: TX			
8232859	F-08-053466	4247532461		103		CONTINENTAL HAWKINS #9 #26866	PAYTON	14.0	
-OIL AND GAS CO				RECEIVED:	05/13/82	JA: TX			
8232685	F-03-048620	4205131806		102-2		SAM DIX UNIT #1	GIDDINGS (BUDA)	44.6	FERGUSON CROSSING
-OKLAHOMA OIL COMPANY				RECEIVED:	05/13/82	JA: TX			
8232551	F-02-053461	4223531493		103		EVELYN BRAGG #L	MORALES (4390)-3498'	108.0	DELHI GAS PIPELIN
-OMEGA ENERGY				RECEIVED:	05/13/82	JA: TX			
8232783	F-10-050311	4217930881		103		HOLMES (95018) #1	PANHANDLE GRAY COUNTY	0.7	CABOT PIPELINE CO
-OXY PETROLEUM INC				RECEIVED:	05/13/82	JA: TX			
8232526	F-04-029066	4260330146		102-4		STATE LEASE 77221 #1-U	MATAGORDA ISLAND-BLK	3.0	CHANNEL INDUSTRIE
8232527	F-04-028863	4260330136		102-4		STATE TRACT 845-S #1-U	MATAGORDA ISLAND BLOC	3.0	CHANNEL INDUSTRIE
8232526	F-04-028851	4260330147		102-4		STATE TRACT 845-S #2-U	MATAGORDA ISLAND BLOC	3.0	CHANNEL INDUSTRIE
-PALO PETROLEUM INC				RECEIVED:	05/13/82	JA: TX			
8232578	F-7C-042154	4238331861		103		BRANCH #1	SPRABERRY (TREND AREA	21.9	EL PASO NATURAL G
8232566	F-7C-041244	4238300000		103		HUSKY #1	SPRABERRY TREND AREA	8.0	EL PASO NATURAL G
-PANHANDLE PRODUCING COMPANY				RECEIVED:	05/13/82	JA: TX			
8232713	F-10-049552	4233300000		108		WHITTENBURG #5	WEST PANHANDLE	7.0	COLORADO INTERSTA
-PAR PRODUCING CO				RECEIVED:	05/13/82	JA: TX			
8232709	F-03-049324	4214900000		102-2		MUTSCHINK #1	GIDDINGS (AUSTIN CHAL	40.0	PHILLIPS PETROLEU
8232708	F-03-049323	4214900080		102-2		TANECKA #1	GIDDINGS (AUSTIN CHAL	42.0	PHILLIPS PETROLEU
-PATRICK PETROLEUM CORP (NI)				RECEIVED:	05/13/82	JA: TX			
8232583	F-04-042427	4270230126		102-4		STATE LEASE 774-L #2 SERIAL #027582	BLOCK 774 (L)	1100.0	TENNESSEE GAS PIP
-PEARSON-SIBERT OIL CO OF TEXAS				RECEIVED:	05/13/82	JA: TX			
8232798	F-7C-050389	4208130760		103		FRANK PEARSON REEF UNIT #310	FRANK PEARSON (STRAWN	3.3	SUN OIL CO
8232799	F-7C-050390	4208130761		103		FRANK PEARSON REEF UNIT #311	FRANK PEARSON (STRAWN	3.0	SUN OIL CO
8232800	F-7C-050391	4208130762		103		FRANK PEARSON REEF UNIT #312	FRANK PEARSON (STRAWN	4.5	SUN OIL CO
-PENINSULA RESOURCES CORPORATION				RECEIVED:	05/13/82	JA: TX			
8232672	F-04-047911	4227331628		103		WILSON A RAY UNIT #1-T	RAY S	256.0	TEXAS EASTERN TRA
-PENNZOIL PRODUCING COMPANY				RECEIVED:	05/13/82	JA: TX			
8232676	F-04-048858	4247933108		102-4	107-TF	BMT-ALICE B HALL GU #7-1	AVIATORS N (12000')	438.0	UNITED TEXAS TRAN
8232748	F-04-050231	4250500000		108		JENNINGS #20	JENNINGS WEST (CROCKE	7.0	NATURAL GAS PIPEL
8232739	F-04-050230	4250500080		108		JENNINGS #22	JENNINGS WEST (CROCKE	13.0	NATURAL GAS PIPEL
8232624	F-06-044809	4236531329		103		R E HANCOCK #1	PAXTON/HILL/	365.0	
-PETRO-LEWIS CORPORATION				RECEIVED:	05/13/82	JA: TX			
8232567	F-06-041245	4236500000		103		RUSHING #2	JOAQUIN (TRAVIS PEAK)	76.3	UNITED GAS PIPE L
-PETROLEUM CORPORATION OF TEXAS				RECEIVED:	05/13/82	JA: TX			
8232781	F-7B-050261	4222130207		108		JOE NOAH UNIT #4	LIPAN (MARBLE FALLS)	7.3	TEXAS UTILITIES F
8232783	F-7B-050263	4236730789		108		LILLIAN GLASS #1	EAST BRAZOS (MARBLE F	1.8	NORTHERN GAS PROD
8232782	F-7B-050262	4222100000		108		NOAH #1 UNIT	LIPAN (MARBLE FALLS)	4.0	TEXAS UTILITIES F
8232749	F-7B-050258	4222100000		108		REYNOLDS UNIT #1	LIPAN (MARBLE FALLS)	5.5	TEXAS UTILITIES F
8232750	F-7B-050259	4222130113		108		W E WALDRUP #1 UNIT	LIPAN (MARBLE FALLS)	3.7	TEXAS UTILITIES F
8232748	F-7B-050257	4222130532		108		WILLARD LITTLEJOHN #1	LIPAN (MARBLE FALLS)	12.8	TEXAS UTILITIES F
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	05/13/82	JA: TX			
8232714	F-08-049554	4213502426		108		ABELL #1	GOLDSMITH N (SAN ANDR	18.0	EL PASO NATURAL G
8232851	F-08-050511	4213507291		108		N PENWELL UNIT #134	PENWELL	3.0	EL PASO NATURAL G
-PIONEER PRODUCTION CORPORATION				RECEIVED:	05/13/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8232634	F-10-045840	4229500000		103		LULA CAIN #1-337	LIPSCOMB SW (CLEVELAN	0.0	PIONEER CORP
8232681	F-10-043375	4221131359		102-4		MAUDE MURRAY #1-77	CAST (MORROW UPPER)	0.0	PIONEER CORP
8232698	F-10-049072	4229500000		103		REDELSPERGER #3-957	MAMMOTH CREEK NORTH (	0.0	NORTHERN NATURAL
-PITTS OIL CO AND DALLAS PRODUCTION				RECEIVED:	05/13/82	JA: TX			
8232703	F-06-049156	4242330521		102-4		WALTON HEIRS # 2 RRC LEASE # 10527	CHAPEL HILL N E (TRAV	54.0	ETEXAS PRODUCERS
-R N SIEGFRIED				RECEIVED:	05/13/82	JA: TX			
8232784	F-09-050319	4249700000		103		R L MORRIS "A" #28	CHICO WEST (CADDO CON	37.0	NATURAL GAS PIPEL
-REALITOS IV EXPLORATORY PROGRAM				RECEIVED:	05/13/82	JA: TX			
8232598	F-02-043007	4246931658		102-4		BEN WILLIAMS #1	WILDCAT-PROPOSED COLO	185.0	TENNESSEE GAS PIP
-RENUDA OIL & GAS CO				RECEIVED:	05/13/82	JA: TX			
8232525	F-06-021605	4240100000		102-4		CARTER GAS UNIT #1	CHURCHILL (TRAVIS PEA	80.0	ARKANSAS-LOUISIAN
-REO INDUSTRIES INC				RECEIVED:	05/13/82	JA: TX			
8232840	F-10-050467	4223300000		103		WHITTENBURG 1-11	PANHANDLE HUTCHINSON	720.0	TRANS-PAN PIPELIN
8232792	F-10-050362	4223300000		103		WHITTENBURG 1-21	PANHANDLE HUTCHINSON	720.0	TRANS-PAN PIPELIN
8232723	F-10-049719	4223300000		103		WHITTENBURG 1-28	PANHANDLE HUTCHINSON	720.0	TRANS-PAN PIPELIN
8232793	F-10-050363	4223300000		103		WHITTENBURG 5-5	PANHANDLE HUTCHINSON	720.0	TRANS-PAN PIPELIN
-RETAMCO INC				RECEIVED:	05/13/82	JA: TX			
8232631	F-03-045656	4214931003		103		BIGLEY #1	GIDDINGS (AUSTIN CHAL	18.2	PHILLIPS PETROLEU
-RIDGE OIL CO				RECEIVED:	05/13/82	JA: TX			
*8232729	F-7B-050201	4213333504		102-4	103	DECKER #1	RANGER NW (MARBLE FAL	29.5	COMPRESSOR RENTAL
*8232732	F-7B-050205	4213333417		102-4	103	G M TURNER #1	RANGER NW (MARBLE FAL	28.8	COMPRESSOR RENTAL
*8232731	F-7B-050204	4213333354		102-4	103	HILL #1	RANGER NW (MARBLE FAL	25.2	COMPRESSOR RENTAL
*8232730	F-7B-050203	4213333486		102-4	103	MILLS #3	RANGER NW (MARBLE FAL	75.6	COMPRESSOR RENTAL
-ROBERT L TIGRETT OIL & GAS CO				RECEIVED:	05/13/82	JA: TX			
8232780	F-10-050305	4217900000		103		WEBB-A-BATTERY 5 #29 (ID#017161)	PANHANDLE GRAY	68.0	PHILLIPS PETROLEU
-SAGE ENERGY CO				RECEIVED:	05/13/82	JA: TX			
8232721	F-03-049680	4205100000		102-2		MORE UNIT #1 RRC #	GIDDINGS (AUSTIN CHAL	175.0	PHILLIPS PETROLEU
8232728	F-03-049678	4205100000		102-2		RUTH UNIT #1 RRC #	GIDDINGS (AUSTIN CHAL	90.0	PHILLIPS PETROLEU
-SANTA FE-WINDSOR PRODUCING CO				RECEIVED:	05/13/82	JA: TX			
8232701	F-03-049112	4228731129		103		BANKS UNIT #1	GIDDINGS (AUSTIN CHAL	219.0	PERRY PIPELINE CO
8232683	F-03-048542	4228731873		102-2	103	MELISSA UNIT #1	GIDDINGS (AUSTIN CHAL	36.5	PERRY PIPELINE CO
-SAXON OIL COMPANY				RECEIVED:	05/13/82	JA: TX			
8232533	F-08-036081	4231732329		103		KNOX #4A	BREEDLOVE EAST (SPRAB	22.6	PHILLIPS PETROLEU
8232669	F-8A-047705	4231700000		103		ROGER "A" #2	ACKERLY (DEAN SAND)	0.0	ADOBE OIL & GAS C
8232568	F-7C-041247	4246131798		103		RATLIFF "A" #3	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
8232584	F-08-042439	4231732357		103		SHELL #2	BREEDLOVE EAST (SPRAB	192.0	PHILLIPS PETROLEU
8232565	F-08-041241	4231732356		103		SHELL #1	BREEDLOVE EAST (SPRAB	0.0	PHILLIPS PETROLEU
-SCANDRILL CO				RECEIVED:	05/13/82	JA: TX			
8232581	F-09-042218	4250334961		103		CLARK #2	YOUNG COUNTY REGULAR	73.0	SUN GAS TRANSMISS
8232684	F-09-043838	4223733823		103		DAN DAVIS #1	JACK COUNTY REGULAR B	27.4	LONE STAR GAS CO
8232658	F-09-047157	4223734105		103		GEORGE KINDER #2	BRYSON EAST	102.2	TEXAS UTILITIES F
8232660	F-09-047247	4223734287		103		GEORGE KINDER #3	BRYSON EAST	86.6	TEXAS UTILITIES F
8232656	F-09-047131	4223734131		103		HENDERSON #5	BRYSON EAST	143.1	SUN GAS TRANSMISS
8232613	F-09-044289	4223734042		103		HENDERSON-BRIDWELL #5	JACK COUNTY REGULAR	253.3	TEXAS UTILITIES F
8232614	F-09-044211	4223734096		103		HENDERSON-BRIDWELL #6	BRYSON EAST	33.6	TEXAS UTILITIES F
8232573	F-09-041374	4250334274		103		KURK #25	YOUNG COUNTY REGULAR	0.0	SUN GAS TRANSMISS
8232561	F-09-040869	4250334803		103		MORRIS STEPHENS #5	YOUNG COUNTY REGULAR	29.2	SUN GAS TRANSMISS
8232536	F-09-036067	4250334612		103		MORRIS STEPHENS "B" #2	BO SCAN (CONGL)	182.5	SUN GAS GATHERING
8232580	F-09-042217	4250334742		103		MORRIS STEPHENS "B" #4	YOUNG COUNTY REGULAR	15.3	SUN GAS TRANSMISS
8232593	F-09-042808	4250335199		103		MORRIS STEPHENS "B" #5	KNOX (MISS LIME)	54.8	SUN GAS TRANSMISS
8232592	F-09-042807	4250335053		103		MORRIS STEPHENS "C" #12	YOUNG COUNTY REGULAR	73.0	SUN GAS TRANSMISS
8232657	F-09-047134	4250335303		103		PEARL T KURK #35	NAPECO (MISS)	168.6	SUN GAS TRANSMISS
8232560	F-7B-040786	4244732810		102-4	103	PUTNAM #14	RICHARDS RANCH (MISS)	54.8	CLEAR FORK GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8232685	F-03-048543	4228731874		102-2	103	MELISSA UNIT #2	GIDDINGS (AUSTIN CHAL	36.5	PERRY PIPELINE CO
-SAXON OIL COMPANY				RECEIVED:	05/13/82	JA: TX			
8232532	F-08-036080	4231732328		103		KNOX #3A	BREEDLOVE EAST (SPRAB	22.6	PHILLIPS PETROLEU
8232667	F-8A-047704	4231700000		103		ROGER "A" #1	ACKERLY (DEAN SAND)	0.0	ADOBE OIL & GAS C
8232567	F-7C-041246	4246131797		103		RATLIFF "A" #2	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
8232583	F-08-042438	4231732358		103		SHELL #3	BREEDLOVE EAST (SPRAB	192.0	PHILLIPS PETROLEU
8232566	F-08-041242	4231732355		103		SHELL #4	BREEDLOVE EAST (SPRAB	0.0	PHILLIPS PETROLEU
-SCANDRILL CO				RECEIVED:	05/13/82	JA: TX			
8232582	F-09-042219	4250334962		103		CLARK #3	YOUNG COUNTY REGULAR	73.0	SUN GAS TRANSMISS
8232685	F-09-043839	4223733824		103		DAN DAVIS #2	JACK COUNTY REGULAR B	27.4	LONE STAR GAS CO
8232659	F-09-047158	4223734106		103		GEORGE KINDER #1	BRYSON EAST	102.2	TEXAS UTILITIES F
8232661	F-09-047248	4223734288		103		GEORGE KINDER #4	BRYSON EAST	86.6	TEXAS UTILITIES F
8232655	F-09-047130	4223734130		103		HENDERSON #4	BRYSON EAST	143.1	SUN GAS TRANSMISS
8232612	F-09-044288	4223734041		103		HENDERSON-BRIDWELL #4	JACK COUNTY REGULAR	253.3	TEXAS UTILITIES F
8232615	F-09-044212	4223734097		103		HENDERSON-BRIDWELL #7	BRYSON EAST	33.6	TEXAS UTILITIES F
8232574	F-09-041375	4250334275		103		KURK #26	YOUNG COUNTY REGULAR	0.0	SUN GAS TRANSMISS
8232562	F-09-040870	4250334804		103		MORRIS STEPHENS #6	YOUNG COUNTY REGULAR	29.2	SUN GAS TRANSMISS
8232537	F-09-036068	4250334613		103		MORRIS STEPHENS "B" #3	BO SCAN (CONGL)	182.5	SUN GAS GATHERING
8232581	F-09-042216	4250334741		103		MORRIS STEPHENS "B" #6	YOUNG COUNTY REGULAR	15.3	SUN GAS TRANSMISS
8232594	F-09-042809	4250335200		103		MORRIS STEPHENS "B" #7	KNOX (MISS LIME)	54.8	SUN GAS TRANSMISS
8232591	F-09-042806	4250335052		103		MORRIS STEPHENS "C" #11	YOUNG COUNTY REGULAR	73.0	SUN GAS TRANSMISS
8232655	F-09-047132	4250335302		103		PEARL T KURK #34	NAPECO (MISS)	168.6	SUN GAS TRANSMISS
8232559	F-7B-040785	4244732809		102-4	103	PUTNAM #13	RICHARDS RANCH (MISS)	54.8	CLEAR FORK GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8232661	F-7B-047249	4244732936		103		PUTNAM "C" #13	RICHARDS RANCH (MISS)	36.5	THROCKMORTON GAS
8232559	F-09-040785	4250334052		103		WILLIAM KURK #28	YOUNG COUNTY REGULAR	73.0	SUN GAS TRANSMISS
8232558	F-09-040782	4250334275		103		WILLIAM KURK #24	YOUNG COUNTY REGULAR	18.3	SUN GAS TRANSMISS
-SEQUOIA FOSSIL FUELS INC				RECEIVED:	05/13/82	JA: TX			
8232670	F-7B-047824	4241734209		102-4		HUDSON (SEC 70) #2	D JACK (GARDNER)	200.0	DELHI GAS PIPELIN
-SHELL OIL CO				RECEIVED:	05/13/82	JA: TX			
8232832	F-04-050442	4221530838		103		A A MCALLEN "B" #14	MCALLEN RANCH (VICKSB	200.0	VALERO TRANSMISSI
8232833	F-04-050443	4221531155		102-4		HAMMAN RANCH #8	MONTE CHRISTO (VICKSB	600.0	VALERO TRANSMISSI
8232816	F-08-050421	4213500000		108		JORDAN UNIVERSITY #614	JORDAN	0.7	PHILLIPS PETROLEU
8232811	F-08-050416	4249500000		108		SEALY SMITH FDN #178	MONAHANS (QUEEN SAND)	1.2	EL PASO NATURAL G
8232812	F-09-050417	4218100000		108		STEEDMAN L A #1	B M C (V SDSTN)	11.9	UNION TEXAS PETRO
8232815	F-08-050420	4213500000		108		TXL NORTH UNIT #327-L	TXL (TUBB)	7.4	SHELL OIL ET AL
8232814	F-08-050419	4213500000		108		TXL NORTH UNIT #355-L	TXL (TUBB)	3.0	SHELL OIL ET AL
8232813	F-08-050418	4213500000		108		TXL-L-A/C 1 NO 31-U	TXL NORTH (WADDELL)	11.1	SHELL OIL ET AL
8232810	F-08-050414	4200300000		108		UNIVERSITY-G- #1	ANDREWS SOUTH (DEVONI	21.6	EL PASO NATURAL G
-SHOW PETROLEUM INC				RECEIVED:	05/13/82	JA: TX			
8232725	F-7B-049578	4242932858		103		HAMES #1 (17516)	STEPHENS COUNTY REGUL	36.0	LONE STAR GAS CO
-SMITH PETROLEUM CO				RECEIVED:	05/13/82	JA: TX			
8232550	F-03-039119	4216730754		103		B C SCHROEDER #1	DICKINSON (FRIO 1)	255.0	HOUSTON PIPELINE
-SPARKMAN PRODUCING CO				RECEIVED:	05/13/82	JA: TX			
8232655	F-02-047098	4217500000		103		ARNOLD #1	GOTTSCHALT (8900)	100.0	UNITED GAS PIPELI
-SPENCER & HUTSON				RECEIVED:	05/13/82	JA: TX			
8232563	F-03-041172	4228730838		103		DOROTHY #1	GIDDINGS (AUSTIN CHAL	105.0	PGP GAS PRODUCTS
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	05/13/82	JA: TX			
8232706	F-04-049259	4242731575		103		CAFFARELLI #11	LOCKHART	0.7	TENNESSEE GAS PIP
8232817	F-7B-050422	4242900000		108		I A STOKER #17	STEPHENS COUNTY REGUL	1.0	LONE STAR GAS CO
8232818	F-7B-050423	4242900000		108		I A STOKER "D" #1	STEPHENS COUNTY REGUL	14.0	LONE STAR GAS CO
8232736	F-7B-050224	4242900000		108		JAMES CARLISLE #1	STEPHENS COUNTY REGUL	2.0	WARREN PETROLEUM
8232735	F-7B-050222	4242900000		108		JAMES CARLISLE #5	STEPHENS COUNTY REGUL	11.0	WARREN PETROLEUM
*8232705	F-8A-049255	4207931371		103		LEAGUE 91 PROJECT #3-10	SLAUGHTER	4.0	AMOCO PRODUCTION
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	05/13/82	JA: TX			
8232734	F-7B-050221	4242900000		108		JAMES CARLISLE #4	STEPHENS COUNTY REGUL	5.0	WARREN PETROLEUM
-SWEETWATER DRILLING CO INC				RECEIVED:	05/13/82	JA: TX			
8232549	F-7B-039059	4205932831		102-4		NAOMI HEYSER #4	NUGENT'S NOOK (DUFFER	116.0	DELHI GAS PIPELIN
-TAYLOR OPERATING COMPANY				RECEIVED:	05/13/82	JA: TX			
8232847	F-09-050478	4223700000		103		JOHNSON RANCH "B" #1(21679)	JACK COUNTY REGULAR	36.9	LONE STAR GAS CO
-TENNECO OIL COMPANY				RECEIVED:	05/13/82	JA: TX			
8232616	F-08-044230	4230130284		107-DP		BRUNSON #14-1	BRUNSON RANCH	380.0	TENNESSEE GAS PIP
8232785	F-8A-050325	4207931326		103		MALLET LAND & CATTLE #18	SLAUGHTER	0.0	AMOCO PRODUCTION
8232569	F-8A-041264	4250131848		103		PRENTICE (6700 CLEARFORK) #1608	PRENTICE	9.9	AMOCO PRODUCTION
8232556	F-04-040726	4235531771		103		W W BOGEL #3	AGUA DULCE	185.0	
-TEXACO INC				RECEIVED:	05/13/82	JA: TX			
8232693	F-10-047038	4217900000		108		A CHAPMAN "A" NCT-1 #53	PANHANDLE EAST	1.0	COLTEXO CORP
8232746	F-10-050249	4217900000		108		B M REEVES #2	EAST PANHANDLE	7.0	WESTAR TRANSMISSI
8232747	F-08-050256	4237100000		108		R M PRICE "B" NCT-1 #4-T	CROSSETT SOUTH (DETRI	15.0	NORTHERN NATURAL
-TEXAS CRUDE INC				RECEIVED:	05/13/82	JA: TX			
8232675	F-04-048015	4204730823		102-4	103	SOUTH CAGE #1	TRES ENCINOS (7250')	3007.0	ESPERANZA TRANSMI
-TEXAS OIL & GAS CORP				RECEIVED:	05/13/82	JA: TX			
8232564	F-02-041217	4212331165		103		ADCOCK #3	RICHARD ADCOCK (2850'	0.0	UNITED GAS PIPELI
8232726	F-10-049875	4229530845		103		BAAK #1	HORSE CREEK NW (LOWER	70.0	DIAMOND SHAMROCK
8232579	F-05-042173	4216100000		103	107-TF	HILL "F" #1	NAN-SU-GAIL (BOSSIER)	0.0	
8232582	F-02-042239	4217531539		102-4		RENFOR A-1 RRC ID #096593	BOMBA (5160')	8.0	DELHI GAS PIPELIN
-THE STONE OIL CORPORATION				RECEIVED:	05/13/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8232695	F-02-049068	4212331089		102-4		ERNEST KUESTER #1-C	YOAKUM (WILCOX 7300)	438.4	LONE STAR GAS CO
8232697	F-02-049070	4212331089		102-4		ERNEST KUESTER #1-T	YOAKUM	407.7	LONE STAR GAS CO
8232696	F-02-049069	4212331023		102-4		JULIA MOTT #3	YOAKUM (WILCOX 7300)	367.9	LONE STAR GAS CO
-TOMMY STAPLES OIL CO				RECEIVED:	05/13/82	JA: TX			
8232686	F-02-048778	4217331440		103		BURCHFIELD-FORREST #1	BERCLAIR (1700')	50.0	UNITED GAS PIPELI
8232552	F-02-039540	4217500000		103		DESMOND R PEREIRA #1	DIAL (HOCKLEY 5300)	36.0	UNITED GAS PIPELI
-TRAVELERS OIL CO				RECEIVED:	05/13/82	JA: TX			
8232719	F-10-049668	4217931847		103		KATE #1	PANHANDLE GRAY COUNTY	8.0	TRANSWESTERN PIPE
8232718	F-10-049667	4217931048		103		MORGAN #1	PANHANDLE GRAY COUNTY	10.0	TRANSWESTERN PIPE
-TUCKER DRILLING COMPANY INC				RECEIVED:	05/13/82	JA: TX			
8232825	F-7C-050432	4223531882		103		HENRY-LINDLEY "41" #2	CHRISTI (CANYON 6800)	62.3	NORTHERN NATURAL
-UNION OIL COMPANY OF CALIF				RECEIVED:	05/13/82	JA: TX			
8232808	F-08-050408	4200332989		103		FUHRMAN-MASCHO UNIT #608 BLK 10	NOT APPLICABLE	1.5	PHILLIPS PETROLEU
-W L BUPTON				RECEIVED:	05/13/82	JA: TX			
8232702	F-7B-049241	4236731973		103		94197 #1	TIN TOP (STRAWN)	72.0	SOUTHWESTERN GAS
-W R EDWARDS JR				RECEIVED:	05/13/82	JA: TX			
8232841	F-10-050468	4223300000		103		BEARKILLER #10	PANHANDLE HUTCHINSON	150.0	PANHANDLE PRODUCI
8232842	F-10-050469	4223300000		103		BEARKILLER #3	PANHANDLE HUTCHINSON	150.0	PANHANDLE PRODUCI
-WAGNER & BROWN				RECEIVED:	05/13/82	JA: TX			
*8232611	F-08-044148	4243130613		103		RAY #2-2	CONGER (PENN)	121.0	VALERO TRANSMISSI
*8232612	F-08-044149	4243130330		103		RAY "A" #3-31	CONGER (PENN)	189.0	VALERO TRANSMISSI
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	05/13/82	JA: TX			
8232853	F-08-050519	4210332007		103		P J LEA #126	LEA (SAN ANDRES)	29.1	EL PASO NATURAL G
-WATCO ENERGY INC				RECEIVED:	05/13/82	JA: TX			
8232609	F-7C-044058	4239931868		102-4	103	F G WITTER #2	Q V (FRY LOWER)	70.1	ODESSA NATURAL CO
8232608	F-7C-044057	4239932026		102-4	103	ROHMFELD #1	Q V (FRY LOWER)	55.5	ODESSA NATURAL CO
-WAYNE HARPER				RECEIVED:	05/13/82	JA: TX			
8232722	F-09-049715	4218138776		102-4		HOGG UNIT #1	HAGERMAN FIELD	360.0	TEXAS UTILITIES F
-WILLIFORD ENERGY CO				RECEIVED:	05/13/82	JA: TX			
8232540	F-10-037788	4229538974		102-4	103	BECHTOLD #1	BROOKER E (MORROW UPP	0.0	
-WINN EXPLORATION/DULCE CO				RECEIVED:	05/13/82	JA: TX			
8232724	F-01-049727	4250731095		102-4		SMYTH 6	JUDGE MILLS	0.0	NORTHERN NATURAL
-WOODS PETROLEUM CORP				RECEIVED:	05/13/82	JA: TX			
8232590	F-8A-042748	4207931341		102-4	103	RJR RANCH #8-1	BONANZA (SAN ANDRES)	7.8	WARREN PETROLEUM
8232591	F-8A-042749	4207931360		102-4	103	VERNON #2	BONANZA (SAN ANDRES)	19.0	WARREN PETROLEUM
-WY-VEL CORP				RECEIVED:	05/13/82	JA: TX			
8232789	F-10-050334	4206531882		103		AEBERSOLD (049804) #3	PANHANDLE CARSON COUN	142.0	GETTY OIL CO

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WEST VIRGINIA DEPARTMENT OF MINES

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-ALLEGHENY LAND & MINERAL COMPANY				RECEIVED:	05/13/82	JA: WV			
8232478		4708300495		103		A-1934	ROARING CREEK DISTRIC	6.0	COLUMBIA GAS TRAN
-APPALACHIAN PETROLEUM CORP				RECEIVED:	05/13/82	JA: WV			
8232491		4707301818		107-DV		PAUL WILSON #4	LAFAYETTE	36.0	CONSOLIDATED GAS
-BEREA OIL AND GAS CORPORATION				RECEIVED:	05/13/82	JA: WV			
8232481		4710728984		108		CARPENTER #1	UNION	12.0	CONSOLIDATED GAS
-D C MALCOLM INC				RECEIVED:	05/13/82	JA: WV			
8232489		4707901047		107-DV		JORDAN #2	SCOTT DISTRICT	36.0	COLUMBIA GAS TRAN
8232488		4703903620		107-DV		MABEL THUMM #2	ROCKY FORK	20.0	COLUMBIA GAS TRAN
8232490		4707901048		107-DV		ZERKLE #1	SCOTT DISTRICT	36.0	COLUMBIA GAS TRAN
-INTERSTATE DRILLING INC				RECEIVED:	05/13/82	JA: WV			
8232479		4704102954		103		MACE #2	WESTON	12.0	CONSOLIDATED GAS
-JAMES F SCOTT				RECEIVED:	05/13/82	JA: WV			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8232488		4704103105		103		JUANITA SULLIVAN S-369	FREEMANS CREEK	27.0	CONSOLIDATED GAS
-L & M PETROLEUM INC				RECEIVED:	05/13/82	JA: WV			
8232502		4707321216		107-DV		HOBART ISEKEIT #1	WASHINGTON	12.0	COLUMBIA GAS TRAN
8232504		4707320858		108		JAMES POWELL #1	WASHINGTON	10.0	COLUMBIA GAS TRAN
8232501		4707320791		108		JAMES POWELL #2	WASHINGTON	10.0	COLUMBIA GAS TRAN
8232505		4707320859		107-DV		JAMES POWELL #3	WASHINGTON	10.0	COLUMBIA GAS TRAN
8232506		4707320859		108		JAMES POWELL #3	WASHINGTON	10.0	COLUMBIA GAS TRAN
8232503		4707320858		107-DV		JIM POWELL #1	WASHINGTON	10.0	COLUMBIA GAS TRAN
8232500		4707320791		107-DV		JIM POWELL #2	WASHINGTON	10.0	COLUMBIA GAS TRAN
-MONITOR PETROLEUM CORP				RECEIVED:	05/13/82	JA: WV			
8232484		4700121505		103		MONITOR #1 TETER	VALLEY	54.0	COLUMBIA GAS TRAN
8232483		4700121318		103		MONITOR #1 WILMOTH	VALLEY	9.0	COLUMBIA GAS TRAN
8232482		4700121422		103		MONITOR #2 STALNAKER	BARKER	54.0	COLUMBIA GAS TRAN
-SENECA-UPSHUR PETROLEUM CO				RECEIVED:	05/13/82	JA: WV			
8232485		4705900977		107-DV		C-12	HARDEE	35.0	COLUMBIA GAS TRAN
8232486		4705900958		107-DV		C-3	HARDEE	35.0	COLUMBIA GAS TRAN
8232487		4705900986		107-DV		C-7	HARDEE	35.0	COLUMBIA GAS TRAN
-STERLING DRILLING & PROD CO INC				RECEIVED:	05/13/82	JA: WV			
8232523		4701501588		108		BAILES #2 SDP #96	BUFFALO DISTRICT	18.3	EQUITABLE GAS CO
-STOCKTON OIL/GAS CO				RECEIVED:	05/13/82	JA: WV			
8232498		4704322510		103		W M ADKINS HRS #4	JEFFERSON DISTRICT	0.0	COLUMBIA GAS TRAN
-SUMMIT GAS & DEVELOPMENT CO				RECEIVED:	05/13/82	JA: WV			
8232512		4707900083		108		C E & ARDITH PAUL #1	CURRY	2.7	PENNZOIL CO
8232493		4707900143		108		J B & EDNA L WOOD #1	CURRY	0.0	PENNZOIL CO
8232492		4707900156		108		J B & EDNA L WOOD #2	CURRY	0.9	PENNZOIL CO
8232514		4707900059		108		JOHN S BURDETTE #1	CURRY	2.5	PENNZOIL CO
8232513		4707900075		108		JOHN S BURDETTE #2	CURRY	2.7	PENNZOIL CO
8232511		4707900097		108		JOHN S BURDETTE #3	CURRY	2.5	PENNZOIL CO
8232517		4707900189		108		JOHN S BURDETTE #5	CURRY	2.7	PENNZOIL CO
8232515		4707900245		108		LUCIAN KEYSER #1	CURRY	0.5	PENNZOIL CO
8232510		4707900288		108		LUCIAN KEYSER #2	CURRY	0.0	PENNZOIL CO
8232519		4707900169		108		MILLARD F EASTER #1	CURRY	0.5	PENNZOIL CO
8232518		4707900178		108		MILLARD F EASTER #2	CURRY	0.5	PENNZOIL CO
8232516		4707900190		108		MILLARD F EASTER #3	CURRY	0.5	PENNZOIL CO
8232509		4707900560		108		R E MYNES #1	CURRY	1.2	PENNZOIL CO
8232499		4707900564		108		R E MYNES #2	CURRY	1.2	PENNZOIL CO
8232494		4707900109		108		VIRGIL & MYRTLE CALDWELL #1	CURRY	1.0	PENNZOIL CO
8232520		4707900163		108		VIRGIL & MYRTLE CALDWELL #2	CURRY	1.0	PENNZOIL CO
8232508		4707900152		108		WALTER JOHNSON #1	CURRY	0.2	PENNZOIL CO
8232521		4707900158		108		WALTER JOHNSON #2	CURRY	0.2	PENNZOIL CO
-SWIFT ENERGY CO				RECEIVED:	05/13/82	JA: WV			
8232495		4702103771		107-DV		ALLEN #1-A	GLENVILLE NORTH	50.0	
8232497		4702103785		107-DV		MICK #1-A	GLENVILLE NORTH	50.0	
8232496		4702103786		107-DV		WELCH #4	GLENVILLE NORTH	50.0	
-TEXAS INTERNATIONAL PET CORP				RECEIVED:	05/13/82	JA: WV			
8232522		4706700557		103		FEDERAL COAL #36	TWENTY MILE CREEK	45.0	CABOT CORP
-UNION DRILLING INC				RECEIVED:	05/13/82	JA: WV			
8232507		4709702262		103 -DV		BAYARD GUM AGENT #4 1E97	WARREN DISTRICT	6.0	CONSOLIDATED GAS

BILLING CODE 6717-01-C

OTHER PURCHASERS VOLUME NO :662

8232529	COLUMBIA GAS TRANS CORP
8232586	EL PASO NATURAL GAS CO
8232611	TEXAS UTILITIES FUEL CO
8232612	TEXAS UTILITIES FUEL CO
8232691	E I DUPONT DE*NEMOURS & CO INC
8232705	EL PASO NATURAL GAS CO
8232729	LONE STAR GAS CO
8232730	LONE STAR GAS CO
8232731	LONE STAR GAS CO
8232732	LONE STAR GAS CO
8232777	DELHI GAS P L CORP
8232778	DELHI GAS P L CORP
8232790	E I DUPONT DE NEMOURS & CO INC
8232791	E I DE NEMOURS & CO INC
8232797	E I DUPONT DE NEMOURS & CO INC
8232801	EL PASO NATURAL GAS CO
8232855	NATURAL GAS P L CO OF AMER

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1,000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before June 29, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

[FR Doc. 82–15962 Filed 6–11–82; 8:45 am]
BILLING CODE 6717–01–M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	ROD	PURCHASER
KENTUCKY DEPARTMENT OF MINES & MINERALS									
-EQUITABLE LIFE ASSURANCE SOCIETY			RECEIVED:	05/14/82		JA: KY			
8232858	582629	1608537825	108			EQUITABLE-DUEL SEATON #1	SHREWSBERRY GAS FIELD	12.5	MIDWESTERN GAS TR
8232861	582632	1608539076	108			EQUITABLE-DUEL SEATON #2	SHREWSBERRY GAS FIELD	9.0	MIDWESTERN GAS TR
8232860	582631	1608537838	108			EQUITABLE-JOHNSON #1	SHREWSBERRY GAS FIELD	5.0	MIDWESTERN GAS TR
8232864		1608538247	108			EQUITABLE-L COY #1	SHREWSBERRY GAS FIELD	11.0	MIDWESTERN GAS TR
8232859	582630	1608539487	108			EQUITABLE/NOVAL SEATON #1	SHREWSBERRY GAS FIELD	12.0	MIDWESTERN GAS TR
8232863	582636	1608539265	108			EQUITABLE/OTIS MOOR #1	SHREWSBERRY GAS FIELD	13.0	MIDWESTERN GAS TR
8232862	582634	1608539134	108			EQUITABLE/ROY WILLIS #1	SHREWSBERRY GAS FIELD	3.0	MIDWESTERN GAS TR
MONTANA BOARD OF OIL & GAS CONSERVATION									
-AMOCO PRODUCTION CO			RECEIVED:	05/14/82		JA: MT			
8232998	5-81-93	2512121857	102-2			AMOCO BN "A" #1	WILDCAT	46.3	
-D A S RESOURCE VENTURES INC			RECEIVED:	05/14/82		JA: MT			
8232992	5-81-87	2510121913	102-2			PETERSON 2-32 SW NW SE 32 T31N R2E	NOT DESIGNATED	65.7	MONTANA POWER CO
-GULF OIL CORPORATION			RECEIVED:	05/14/82		JA: MT			
8232994	5-81-85	2508321326	102-2			WALDO MERRILL 1-3	EAST PUTNAM	14.0	CRYSTAL OIL CO
-SOUTHLAND ROYALTY CO			RECEIVED:	05/14/82		JA: MT			
8232991	5-81-102	2507121738	103			STATE 1635 #2	DOWDOIN-WHITEWATER UN	36.0	KANSAS NEBRASKA N
-WESTERN NATURAL GAS CO			RECEIVED:	05/14/82		JA: MT			
8232993	5-81-98	2504122063	103			KAERCHER 3-16 T32N R14E SEC 16	TIGER RIDGE	15.0	NORTHERN NATURAL
-WESTERN NATURAL GAS COMPANY			RECEIVED:	05/14/82		JA: MT			
8232996	5-81-100	2504122171	103			KAFKA 11-11 T32N R14E SEC 11	TIGER RIDGE	15.0	NORTHERN NATURAL
8232989	5-81-101	2504122059	103			MALSAM 1-31 T33N R14E SEC 31	FRESNO	25.0	NORTHERN NATURAL
8232995	5-81-99	2504122070	103			SWICK 3-22 T32N R14E SEC 22	TIGER RIDGE	20.0	NORTHERN NATURAL
NORTH DAKOTA INDUSTRIAL COMMISSION									
-BURNETT OIL CO INC			RECEIVED:	05/14/82		JA: ND			
*8233065	518	3310500970	103			C BLIKRE #2	LINDAHL-MADISON	12.0	AMINOIL USA INC
*8233066	519	3310500974	103			KARLGAARD #1	LINDAHL-MADISON	12.0	AMINOIL USA INC
-EXETER EXPLORATION COMPANY			RECEIVED:	05/14/82		JA: ND			
8233060	513	3305301408	102-2			HYSTAD 15-2	POE	1000.0	
-HBF OIL CORP			RECEIVED:	05/14/82		JA: ND			
8233063	517	3300700726	102-4			BURLINGTON-NORTHERN 44-1	DEVIL'S PASS	18.0	KOCH HYDROCARBON
-NUCORP ENERGY INC			RECEIVED:	05/14/82		JA: ND			
8233064	516	3300700707	102-2			FEDERAL #32-2	ELKHORN RANCH	67.0	KOCH HYDROCARBON
-PATRICK PETROLEUM CORP OF MICHIGAN			RECEIVED:	05/14/82		JA: ND			
8233062	515	3305301334	102-2			ENDERUD #1-17		750.0	
8233061	514	3300700669	102-2			MOSSER #2-25	TR	22.0	WESTERN GAS PROCE
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-ALAN J AHTWEIL			RECEIVED:	05/17/82		JA: NM			

UMI 28 41 MC 41 1 7 4

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8232987		3002527484		103		DEWEY #1 1-J-5-20S-38E
8232986		3002527668		103		DEWEY #2 2-G-5-T20S-R38E
8233068		3002527589		103		FILBERT #1 1-J-8-20S-38E
8233067		3002527553		103		HERMAN #1 1-F-8-20S-38E
8232985		3002527627		103		HUEY #1 1-K-5-20S-38E
-AMOCO PRODUCTION CO				RECEIVED:	05/17/82	JA: NM
8233091		3001534879		102-4		FATE #1
8232984		3001523960		103		LODEWICK A #1
-ARCO OIL AND GAS COMPANY				RECEIVED:	05/17/82	JA: NM
8233076		3002524650		108-ER		CURRAN JONES WN #10
8233112		3002508870		108		H S RECORD WN #3
8233088		3002500000		108-ER		JALMAT STATE GAS COM #1
8233089		3002500000		108-ER		MCDONALD STATE NW #4
-BELCO PETROLEUM CORPORATION				RECEIVED:	05/17/82	JA: NM
8233075		3001523522		102-2		CAVALIER #1
8233074		3001523521		102-2		KIMBLEY #1
-C & E OPERATORS INC				RECEIVED:	05/17/82	JA: NM
8233083		3104524694		103		FEE NM
-DEPCO INC				RECEIVED:	05/17/82	JA: NM
8233082		3000561231		107-TF		MILLER #1
8233084		3000561231		102-2		MILLER #1
-DINERO OPERATING CO				RECEIVED:	05/17/82	JA: NM
8233071		3001523797		103		VASQUEZ COMM #1
-DOYLE HARTMAN OIL OPERATOR				RECEIVED:	05/17/82	JA: NM
8233072		3002526948		103		E C WINTERS #2
-EL PASO NATURAL GAS COMPANY				RECEIVED:	05/17/82	JA: NM
8233110		3004506142		108		CUCCIA COM B #4
8233109		3004506175		108		CUCCIA STATE #2
8233111		3004513144		108		FARMINGTON COM B #1
-ENERGY RESERVES GROUP INC				RECEIVED:	05/17/82	JA: NM
8232981		3004120554		102-2		EL PASO STATE #1
8232979		3004120581		102-2		EL PASO STATE #2
-GETTY OIL COMPANY				RECEIVED:	05/17/82	JA: NM
8233073		3004524311		103		GARRETT FEDERAL COM 2 #1E
8233086		3002527386		103		MYERS LANGLIE MATTIX UNIT #162
-INEXCO OIL COMPANY				RECEIVED:	05/17/82	JA: NM
8233101		3002527552		102-4		LOTTIE YORK #1
-JEROME P MCHUGH				RECEIVED:	05/17/82	JA: NM
8233103		3003922696		103		PUPPA MANCHE #5
-KENAI OIL AND GAS INC				RECEIVED:	05/17/82	JA: NM
8233102	128	3004525199		103		STATE OF NEW MEXICO #36-44
-MARBOB ENERGY CORPORATION				RECEIVED:	05/17/82	JA: NM
8232982		3001523640		103		NG PHILLIPS ST #25
8232983		3001523619		103		WEST ARTESIA GRBG UT TR 2 #21
-MERRION OIL & GAS CORP				RECEIVED:	05/17/82	JA: NM
8233079		3003922893		103		GLENMORANGIE #1
8232988		3003922883		103		RITA #2
-MESA PETROLEUM COMPANY				RECEIVED:	05/17/82	JA: NM
8233098		3000561169		102-2		ACME #6
8233107		3000561170		102-2	107-TF	ACME #7
8233106		3000561172		102-2	107-TF	ACME #9
8233104		3000561180		102-2	107-TF	COMER #4
8233105		3000561147		102-2	107-TF	DAVIS #3

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FIELD NAME	PROD	PURCHASER
WEST NADINE BLINEBRY	22.0	WARREN PETROLEUM
WEST NADINE BLINEBRY	21.0	WARREN PETROLEUM
WEST NADINE DRINKARD	186.0	WARREN PETROLEUM
WEST NADINE BLINEBRY	35.0	WARREN PETROLEUM
WEST NADINE BLINEBRY	38.0	WARREN PETROLEUM
UND ATOKA	245.7	EL PASO NATURAL G
UND NORTH DAGGER DRAW	150.7	NATURAL GAS PIPEL
JALMAT	0.0	EL PASO NATURAL G
EUNICE (7 RIVERS QUEE	9.0	PHILLIPS PETROLEU
JALMAT	0.0	EL PASO NATURAL G
JALMAT	0.0	EL PASO NATURAL G
CAVALIER	0.0	EL PASO NATURAL G
NORTH LOVING (STRAWN)	0.0	EL PASO NATURAL G
AZTEC PICTURED CLIFFS	100.0	EL PASO NATURAL G
UNDESIGNATED ABO	91.0	TRANSWESTERN PIPE
UNDESIGNATED ABO	91.0	TRANSWESTERN PIPE
UND MALAGA ATOKA	730.0	EL PASO NATURAL G
JALMAT-YATES (OIL)	118.6	EL PASO NATURAL G
BLANCO - MESAVERDE	22.0	EL PASO NATURAL G
BLANCO SOUTH - PICTUR	22.0	EL PASO NATURAL G
BASIN DAKOTA GAS	22.0	EL PASO NATURAL G
WILDCAT	72.0	WARREN PETROLEUM
EAST TANNEYHILL-CISCO	216.0	WARREN PETROLEUM
BASIN DAKOTA	16.9	EL PASO NATURAL G
LANGLIE MATTIX	48.9	EL PASO NATURAL G
UNDESIGNATED	60.0	PHILLIPS PETROLE
SOUTH BLANCO P C	200.0	EL PASO NATURAL G
LYBROOK-GALLUP EXT	20.0	MESA PETROLEUM CO
ARTESIA QUEEN GRAYBUR	10.0	PHILLIPS PETROLEU
ARTESIA QUEEN GRAYBUR	3.5	PHILLIPS PETROLEU
UNDESIGNATED	185.0	
LYBROOK GALLUP	66.0	
UNDESIGNATED ABO	400.0	TRANSWESTERN PIPE
UNDESIGNATED ABO	360.0	TRANSWESTERN PIPE
UNDESIGNATED ABO	400.0	TRANSWESTERN PIPE
UNDESIGNATED ABO	639.0	TRANSWESTERN PIPE
UNDESIGNATED ABO	519.0	TRANSWESTERN PIPE

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8233099		3030561162		102-2		RIC #4	UNDESIGNATED ABO	500.0	TRANSWESTERN PIPE
-MGF OIL CORP				RECEIVED:	05/17/82	JA: NM			
8233078		3002523862		108		STAN #1	NORTH BAGLEY PENN	4.5	WARREN PETROLEUM
-MID-AMERICA PETROLEUM INC				RECEIVED:	05/17/82	JA: NM			
8233086		3002500000		102-4		NEW MEXICO STATE "A" #1	EAST LA RICA MORROW	1.0	LLANO INC
-MTS LTD PARTNERSHIP				RECEIVED:	05/17/82	JA: NM			
8233094		3002527223		107-DP		JACKSON UNIT #1	WILDCAT MORROW	405.0	
8233095		3000561229		107-TF		JAMIE COM #1	UNDESIGNATED ABO	288.0	
-PETROLEUM CORPORATION OF TEXAS				RECEIVED:	05/17/82	JA: NM			
8233070		3004500000		103		HANLEY #3	AZTEC FRUITLAND	146.0	EL PASO NATURAL G
-PIONEER PRODUCTION CORPORATION				RECEIVED:	05/17/82	JA: NM			
8233085		3004500000		102-4		NYE COM #1-E (CHACRA)	CHACRA (UNDESIGNATED)	0.0	PIONEER NATURAL G
-SANTA FE ENERGY PRODUCTS CO				RECEIVED:	05/17/82	JA: NM			
8233113		3002525345		102-4		STATE UTP #1	WILDCAT	300.0	WARREN PETROLEUM
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	05/17/82	JA: NM			
8233081	128	3004120573		103		J MCCLELLAN #1	UNDESIGNATED (CISCO)	29.0	
8233098		3004100000		108		STATE C V #3	CHAVEROO SAN ANDRES	8.0	CITIES SERVICE CO
-TENNECO OIL COMPANY				RECEIVED:	05/17/82	JA: NM			
8233108		3002527458		102-4		STATE LF 30-2	SOUTH KEMNITZ ATOKA M	1825.0	TRANSWESTERN PIPE
-VIKING PETROLEUM CORP				RECEIVED:	05/17/82	JA: NM			
8232980		3000500000		107-TF		GRYNBERG 32 STATE #3	PECOS SLOPE ABO GAS	0.0	TRANSWESTERN PIPE
8233077		3000500000		107-TF		GRYNBERG 32 STATE #4	PECOS SLOPE ABO GAS	0.0	TRANSWESTERN PIPE
-W B HAMILTON ESTATE				RECEIVED:	05/17/82	JA: NM			
8233069		3003900000		103		STATE #1	BASIN-DAKOTA	175.0	
-YATES PETROLEUM CORPORATION				RECEIVED:	05/17/82	JA: NM			
8233097		3000561239		107-TF		CONEJO "RH" STATE #3	UND ABO	0.0	TRANSWESTERN PIPE
8233093		3000561049		107-TF		GRYNBERG "LZ" STATE #2	UND ABO	0.0	TRANSWESTERN PIPE
8233092		3001523321		102-4		IRISH HILLS KW STATE COM #2	UND PENASCO DRAW PERM	0.0	TRANSWESTERN PIPE
8233100		3001523998		102-4		MILLMAN "SB" STATE #1	SOUTH MILLMAN MORROW	0.0	TRANSWESTERN PIPE
8233087		3000560665		102-4		NINE MILE "LV" STATE #1	UNDESIGNATED BUFFALO	0.0	TRANSWESTERN PIPE
8233096		3000561215		102-2		WHITWORTH RU STATE #1	WILDCAT	0.0	TRANSWESTERN PIPE
**********									
OHIO DEPARTMENT OF NATURAL RESOURCES									
**********									
-ALTHEIRS OIL INC				RECEIVED:	05/14/82	JA: OH			
8232866		3408923844		103		LENAROSE ASHCRAFT ROBERTS #1	FALLSBURY TWP	3.0	NATIONAL OIL & GA
-ATLAS ENERGY GROUP INC				RECEIVED:	05/14/82	JA: OH			
8232867		3415522133		102-2	107-TF	RUST 1A	BROOKFIELD	29.0	COLUMBIA GAS TRAN
-BRIDGE OIL DEV (O*LD) PTY LTD				RECEIVED:	05/14/82	JA: OH			
8232869		3416923247		103	107-TF	ANNA MORGAN #1	RITTMAN	0.0	COLUMBIA GAS TRAN
8232870		3416923274		103	107-TF	L MARTY #1	CRESTON	22.0	COLUMBIA GAS TRAN
-BROWN PETROLEUM CORP				RECEIVED:	05/14/82	JA: OH			
8232871		3407522215		103		CROWE #2	KILLBUCK	250.0	COLUMBIA GAS TRAN
8232872		3407522216		103		CROWE #3	KILLBUCK	250.0	COLUMBIA GAS TRAN
-BUCKEYE OIL PRODUCING CO				RECEIVED:	05/14/82	JA: OH			
8232873		3416923201		103	107-TF	ZOLLINGER #1-A	MILTON	12.0	COLUMBIA GAS TRAN
-CLARENCE SHERMAN				RECEIVED:	05/14/82	JA: OH			
8232967		3415723702		103	107-TF	JERRY TROUT #1	SUGARCREEK	15.0	EAST OHIO GAS CO
8232968		3415723706		103	107-TF	NELSON MILLER #3	SUGARCREEK	10.0	EAST OHIO GAS CO
-CLINTON OIL CO				RECEIVED:	05/14/82	JA: OH			
8232874		3411924867		108		DALTON #1		10.0	COLUMBIA GAS TRAN
8232875		3411925929		103	107-TF	THOMAS JACKSON #1-572	DRESDEN	10.0	
-DERBY OIL & GAS CORP				RECEIVED:	05/14/82	JA: OH			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8232876		3407523467		103	107-TF	MELVIN MILLER #2	HARDY	12.0	COLUMBIA GAS TRAN
8232877		3407523472		103	107-TF	MELVIN MILLER #4	HARDY	12.0	COLUMBIA GAS TRAN
8232878		3407523659		103	107-TF	ROBERT STARNER #1	HARDY	12.0	COLUMBIA GAS TRAN
-DORAN & ASSOCIATES INC				RECEIVED:	05/14/82	JA: OH			
8232879A		3412725362		103		ROBERT STOLTZ #1	JACKSON	12.0	COLUMBIA GAS TRAN
8232879B		3412725362	D	107-TF		ROBERT STOLTZ #1	JACKSON	12.0	COLUMBIA GAS TRAN
-EARTH RESOURCES EXPL DEV CORP				RECEIVED:	05/14/82	JA: OH			
8232880		3416923017		103	107-TF	WOOD #8	CONGRESS	5.0	
8232881		3416923021		103	107-TF	WOOD UNIT #2	CONGRESS	5.0	
-EDWARD E ATHA				RECEIVED:	05/14/82	JA: OH			
8232868A		3400922465		103		JAMES D HAYES "B" #1	STEWART	12.0	
8232868B		3400922465	D	107-TF		JAMES D HAYES "B" #1	STEWART	12.0	
-FRANKLIN GAS & OIL CO INC				RECEIVED:	05/14/82	JA: OH			
8232883		3408323028		103		D P & L M SHELDON #1	BRINKHAVEN	6.0	EAST OHIO GAS CO
8232884		3408323029		103		R J MCCLAIN #1	BRINKHAVEN	6.0	EAST OHIO GAS CO
8232882		3408322942		103		RUBY FARQUHAR #1	JEFFERSON	6.0	EAST OHIO GAS CO
-GEO ENERGY INC				RECEIVED:	05/14/82	JA: OH			
8232885		3411926048		107-TF		MCCALL #22-2	OTSEGO	15.0	COLUMBIA GAS TRAN
-HERALD OIL & GAS CO				RECEIVED:	05/14/82	JA: OH			
8232886		3410521832		108		DORIS WOODYARD #1		5.4	COLUMBIA GAS TRAN
-HOPEWELL OIL AND GAS DEVELOPMENT CO				RECEIVED:	05/14/82	JA: OH			
8232887		3411122248	D	107-TF		MAE KILZER/GERTRUDE BAKER #1	STAFFORD	6.0	COLUMBIA GAS TRAN
-HORTIN & HUFFMAN				RECEIVED:	05/14/82	JA: OH			
8232888		3403124733		103		DALLAS & MARY LINT #2	SPRING MOUNTAIN	18.0	COLUMBIA GAS TRAN
-JADOIL INC				RECEIVED:	05/14/82	JA: OH			
8232890		3403123417		107-TF		ARCHIE & DONNA WAGERS #2	CLARK	15.0	COLUMBIA GAS TRAN
8232889		3403123084		107-TF		EMMA AMMANN #4	CLARK	6.0	COLUMBIA GAS TRAN
8232891		3403124098		107-TF		RAYMOND & BEVERLY PATTERSON #1	CLARK	13.0	COLUMBIA GAS TRAN
8232892		3403124393		107-TF		RAYMOND R & BEVERLY A PATTERSON #3	CLARK	15.0	COLUMBIA GAS TRAN
-JAMES DRILLING CORP				RECEIVED:	05/14/82	JA: OH			
8232893		3409721883		103	107-TF	THOMAS S ROMANOWSKI #1	LEON	7.0	
-LBJ DRILLING DBA JEFF MORAN				RECEIVED:	05/14/82	JA: OH			
8232894		3408323062		103		R C BEBEUT #2	MARTINSBURG	6.0	
-LEADER EQUITIES INC				RECEIVED:	05/14/82	JA: OH			
8232895		3411926122		103	107-TF	CULLINS #2	CASS	13.0	
-LOMAK PETROLEUM INC				RECEIVED:	05/14/82	JA: OH			
8232896		3408322307		103		D KAUFFMAN #1	JEFFERSON	12.0	EAST OHIO GAS
8232898		3408323805		103		F SHELDON #2	JEFFERSON	12.0	EAST OHIO GAS
-M B OPERATING CO INC				RECEIVED:	05/14/82	JA: OH			
8232902		3415723614		103	107-TF	ABE MILLER #2	WAYNE	45.6	
8232905		3415723650		103	107-TF	BAKER #1	BOLIVAR	45.6	
8232897		3415123630		103	107-TF	BIXLER UNIT #2-A	BOLIVAR	27.4	
8232901		3415723351		103	107-TF	G & B MIZER #3	MINERAL CITY	21.9	
8232906		3415723653		103	107-TF	MEID UNIT #3	BOLIVAR	25.6	
8232900		3415123637		103	107-TF	PRICE UNIT #1	CANTON	18.3	
8232903		3415123626		103	107-TF	R MILLER #1-A	ROBERTSVILLE	9.1	
8232904		3415123656		103	107-TF	RAMSEY #3	LIMAVILLE	14.6	
8232899		3415123634		103	107-TF	RENTAL INVESTMENTS INC #1	MASSILLAN	36.5	
-NATIONAL PRODUCTION CORP				RECEIVED:	05/14/82	JA: OH			
8232920		3412100000		108		BETTS (FLOOD #1)		2.1	NATIONAL GAS & OI
8232909		3412120084		108		BETTS (HOUSE #1)		21.1	NATIONAL GAS & OI
8232918		3412120692		108		BUCKEY HAYES LEASE #2		2.4	NATIONAL GAS & OI
8232913		3412120527		108		MCCOLESON (OHIO POWER #2)		4.2	NATIONAL GAS & OI

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8232914		3412129531		108		HEDDLESON (OHIO POWER #3)		4.2	NATIONAL GAS & OI
8232916		3412120603		108		HESSON #2		26.5	NATIONAL PRODUCTI
8232910		3412120395		108		JAMES LEASE #2		3.6	NATIONAL GAS & OI
8232915		3412120559		108		JAMES LEASE #3		3.6	NATIONAL GAS & OI
8232912		3412120463		108		NEWTON (STATE OF OHIO) #2		3.6	NATIONAL GAS & OI
8232911		3412120415		108		NEWTON (STATE OF OHIO) #3		3.6	NATIONAL GAS & OI
8232919		3412100000		108		NEWTON (STATE OF OHIO) #4		3.6	NATIONAL GAS & OI
8232921		3401300000		108		PFEFFER #2		3.6	NATIONAL GAS & OI
8232917		3412120632		108		VILLAGE OF CALDWELL #2		5.5	NATIONAL GAS & OI
8232908		3401300000		108		WARFIELD #1		13.6	NATIONAL GAS & OI
-OHIO OIL & GAS CO				RECEIVED: 05/14/82 JA: OH				16.2	NATIONAL GAS & OI
8232923		3415521586		107-TF		BAKOS #1	HARTFORD	20.0	COLUMBIA GAS TRAN
8232940		3415522028		107-TF		DENMAN #3	GUSTAVUS	20.0	COLUMBIA GAS TRAN
8232941		3415522057		107-TF		DENMAN #4	GUSTAVUS	20.0	COLUMBIA GAS TRAN
8232939		3415521393		107-TF		KOPERVAC #1	CORTLAND	20.0	COLUMBIA GAS TRAN
8232922		3415521714		102-2	107-TF	VALISKI #2	JOHNSTON	20.0	COLUMBIA GAS TRAN
8232924		3415521950		107-TF		YOUNG #2	JOHNSTON	20.0	COLUMBIA GAS TRAN
-OXFORD OIL CO				RECEIVED: 05/14/82 JA: OH					
8232933		3411924349		108		AGNES BEISSER #1		19.0	NATIONAL GAS & OI
8232931		3411923730		108		CARL BRINGARDNER #1		1.5	NATIONAL GAS & OI
8232935		3411924816		108		CLIFF RATLIFFE #1		21.0	NATIONAL GAS & OI
8232930		3411923629		108		CLYDE RHODES #1		18.0	NATIONAL GAS & OI
8232926		3408923382		108		JESSE MONTGOMERY #1-A		3.5	NATIONAL GAS & OI
8232927		3408923490		108		JESSE MONTGOMERY #2-A		3.5	NATIONAL GAS & OI
8232934		3411924725		108		LEO PAUL #1		0.0	NATIONAL GAS & OI
8232929		3411923545		108		LULU FORD #1		10.0	NATIONAL GAS & OI
8232925		3403123296		108		ROBERT BORDEN #1		18.0	NATIONAL GAS & OI
8232928		3411520478		108		VAN HORN-BARR-REX #1		20.0	NATIONAL GAS & OI
8232932		3411923779		108		WALTER ABELE #1		8.0	NATIONAL GAS & OI
8232936		3411925059		108		WALTER DERRY #1		14.5	NATIONAL GAS & OI
-P-T OIL & GAS PROG 81-1 LTD				RECEIVED: 05/14/82 JA: OH					
8232937		3415123610		103	107-TF	T ROHRER #1	NORTH CANTON	20.0	COLUMBIA GAS OF O
-POI ENERGY INC				RECEIVED: 05/14/82 JA: OH					
8232938		3400721981		103	107-TF	HRABAL UNIT #6	ANDOVER	35.0	
-RESOURCE EXPLORATION INC				RECEIVED: 05/14/82 JA: OH					
8232942		3415723483		107-TF		M J L #1	UNION TOWNSHIP	8.0	AMERICAN ENERGY C
-RINCO OPERATING INC				RECEIVED: 05/14/82 JA: OH					
8232954		3416922709		103	107-TF	B WIRT #2	FRANKLIN	12.0	COLUMBIA GAS TRAN
8232958		3416923161		103	107-TF	BOREMAN #1	WEST SALEM	12.0	COLUMBIA GAS TRAN
8232959		3416923162		103	107-TF	BOREMAN #2	WEST SALEM	12.0	COLUMBIA GAS TRAN
8232960		3416923163		103	107-TF	BOREMAN #3	WEST SALEM	12.0	COLUMBIA GAS TRAN
8232950		3416922413		103	107-TF	DANIELS #1	CHESTER	12.0	COLUMBIA GAS TRAN
8232949		3416922343		103	107-TF	E STULL #1	CHESTER	12.0	COLUMBIA GAS TRAN
8232952		3416922531		103	107-TF	J WIRT #1	FRANKLIN	12.0	COLUMBIA GAS TRAN
8232961		3416923165		103	107-TF	KACHMAR #2	WEST SALEM	12.0	COLUMBIA GAS TRAN
8232951		3416922443		103	107-TF	LADRACH #1	CHESTER	12.0	COLUMBIA GAS TRAN
8232956		3416923110		103	107-TF	LANDIS #4	NEW PITTSBURG	12.0	COLUMBIA GAS TRAN
8232946		3416922251		103	107-TF	OGDEN #2	CHESTER	12.0	COLUMBIA GAS TRAN
8232948		3416922342		103	107-TF	OGDEN #3	CHESTER	12.0	COLUMBIA GAS TRAN
8232955		3416922715		103	107-TF	OSMUNDSEN #2	CLINTON	12.0	COLUMBIA GAS TRAN
8232945		3416922249		103	107-TF	PETERSON #1	CHESTER	12.0	COLUMBIA GAS TRAN
8232943		3416922245		103	107-TF	SHRIVER #1	CLINTON	12.0	COLUMBIA GAS TRAN
8232947		3416922256		103	107-TF	SHRIVER #2	CLINTON	12.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8232957		3416923160		103	107-TF	STINE #1
8232953		3416922562		103	107-TF	STROCK #1
8232944		3416922247		103	107-TF	WELLS #1
-SANDHILL ENERGY INC (OH)				RECEIVED:	05/14/82	JA: OH
8232962		3416726943		107-DV		FRANKLIN BUEGEL #3
8232963		3416726943		103		FRANKLIN BUEGEL #3
8232964		3416726947		103		GEORGE B SHAPLEY #3
-SANTA FE DRILLING CO INC				RECEIVED:	05/14/82	JA: OH
8232965		3416723987		103		HOMER AND WYONA ANDERSON #1
8232966		3416724339		103		ROBERT AND REBECCA STILLE #2
-THE MUTUAL OIL & GAS COMPANY				RECEIVED:	05/14/82	JA: OH
8232987		3411122657		103		ROSSI #6M
-TIPKA - BARTLO OIL & GAS CO				RECEIVED:	05/14/82	JA: OH
8232978		3405922702		103	107-TF	M G HOLDERBAUM #3
8232969		3405922701		103	107-TF	M HOLDERBAUM #4
-TOWNER PETROLEUM CO				RECEIVED:	05/14/82	JA: OH
8232978		3405923286		103	107-TF	BSA/BURNS #2
8232976		3405923230		103	107-TF	C SHARP #1
8232975		3405923223		103	107-TF	C STEEB #1
8232973		3405923209		103	107-TF	DRINKWORTH #2
8232971		3405923074		103	107-TF	DUVALL #1
8232977		3405923272		103	107-TF	HALL #1
8232972		3405923136		103	107-TF	J SUDDETH #1
8232974		3405923219		103	107-TF	ROBERT MATTHEW #1

OKLAHOMA CORPORATION COMMISSION

-ANADARKO PRODUCTION COMPANY				RECEIVED:	05/14/82	JA: OK
8232997	09898	3509321923		103		BANE "B" #2
-B & J DEVELOPERS INC				RECEIVED:	05/14/82	JA: OK
8233003	14146	3514722435		103		HUNT #1
8233038	14136	3518524681		103		MASON #5
-BOSWELL ENERGY CORP				RECEIVED:	05/14/82	JA: OK
8233012	15794	3510920476		102-4		RED FORK
8233011	15793	3510920476		102-4		SIMPSON DOLOMITE
8233010	15792	3510920476		103		SIMPSONDOLOMITE - RED FORK
-CLIFFORD RESOURCES INC				RECEIVED:	05/14/82	JA: OK
8233006	14183	3507300000		103		GARMS #1-26
8233007	14182	3507300000		103		JINDRA #2-18
-COLORADO GAS COMPRESSION INC				RECEIVED:	05/14/82	JA: OK
8233021	04206	3511921022		103		HILLHOUSE #1
-COOK OPERATING CO				RECEIVED:	05/14/82	JA: OK
8233001	14137	3511721042		103		K C #1
-DOWLARR EXPLORATION INC				RECEIVED:	05/14/82	JA: OK
8233005	14163	3507323160		103		LAN "30" #1
8233017	14164	3510321400		103		RODGERS #1
-GADSCO INC				RECEIVED:	05/14/82	JA: OK
8233015	18478	3503928457		107-DP		GADSCO - LAUREN #1
-GEC PRODUCTION CO				RECEIVED:	05/14/82	JA: OK
8233024	13907	3504921666		103		LOVE BAPTIST CHURCH #1
-GULF OIL CORPORATION				RECEIVED:	05/14/82	JA: OK
8233013	I7078	3501722116		102-2		GLADYS BALYEAT #1-1
-HARPER OIL COMPANY				RECEIVED:	05/14/82	JA: OK

FIELD NAME	PROD	PURCHASER
CONGRESS	12.0	COLUMBIA GAS TRAN
CHESTER	12.0	COLUMBIA GAS TRAN
CLINTON	12.0	COLUMBIA GAS TRAN
NEW MATAMORAS	0.0	
NEW MATAMORAS	0.0	
NEW MATAMORAS	14.6	
SALEM	50.0	
SALEM	56.0	
SUMMERFIELD	16.0	COLUMBIA GAS TRAN
WILLS	40.0	LIBBEY-OWENS-FORD
WILLS	30.0	LIBBEY-OWENS-FORD
RICHLAND	0.0	TENNESSEE GAS PIP
EAST GUERNSEY	0.0	TENNESSEE GAS PIP
GUERNSEY	0.0	TENNESSEE GAS PIP
EAST GUERNSEY	0.0	TENNESSEE GAS PIP
EAST GUERNSEY	0.0	TENNESSEE GAS PIP
EAST GUERNSEY	0.0	TENNESSEE GAS PIP
EAST GUERNSEY	0.0	TENNESSEE GAS PIP
GUERNSEY	0.0	TENNESSEE GAS PIP
E CAMPBELL	115.0	MICHIGAN WISCONSI
WILDCAT	27.0	PHILLIPS PETROLEU
WILDCAT - CURL CREEK	18.0	ENICO PIPELINE CO
E PRAIRIE BELL	0.0	PHILLIPS PETROLEU
E PRAIRIE BELL	0.0	PHILLIPS PETROLEU
E PRAIRIE BELL	0.0	PHILLIPS PETROLEU
SOONER TREND	46.0	PHILLIPS PETROLEU
SOONER TREND	73.0	CONOCO INC
SOUTH RIPLEY	30.0	
NORTH TERLTON	35.5	H J D CATTLE CO
SOONER TREND	153.0	AMINOIL USA INC
S W PERRY	29.0	AMINOIL USA INC
	365.0	TRANSWESTERN PIPE
GOLDEN TREND	16.4	
MUSTANG NORTH	146.6	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8233018	13999	35[7323255		103		CHOATE #2	WEST HENNESSEY	54.0	PHILLIPS PETROLEU
8232999	14130	3509322000		103		LAUBHANS #1	SOONER TREND	90.0	PHILLIPS PETROLEU
8233000	14131	3507322085		103		PERDUE #1	SOONER TREND	18.0	EASON OIL CO
-HAZELWOOD PRODUCTION & EXPLORATION				RECEIVED:	05/14/82	JA: OK			
8233014	17091	3501722282		102-A		RAY #1	DILWORTH	78.5	CITIES SERVICE GA
-HUNGERFORD OIL & GAS INC				RECEIVED:	05/14/82	JA: OK			
8233029	14128	3504722257		103		KIDD-MEWHERTER #1	ELKHORN	780.0	AMINOIL USA INC
8233028	14127	3504722682		103		KIDD-MEWHERTER #2		33.6	AMINOIL USA INC
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	05/14/82	JA: OK			
8233009	14192	3504700000		108		BARNARD #1	ENID SOUTH EAST POOL	8.0	EXXON CORP
8233019	14027	3504700000		108		GARBER #1	NORTH ENID	7.0	CHAMPLIN PETROLEU
8233008	14191	3505100000		108		L B BROWN #1	BRADLEY	4.0	PHILLIPS PETROLEU
-LONG ROYALTY CO				RECEIVED:	05/14/82	JA: OK			
8232998	14078	3501700000		103		HANSKA #1	WEST CONCHO	8.0	PHILLIPS PETROLEU
-M M RESOURCES INC				RECEIVED:	05/14/82	JA: OK			
8233002	14138	3511721146		103		TALLY #1		186.0	MID-AMERICA GAS L
-PERKINS PRODUCTION CO				RECEIVED:	05/14/82	JA: OK			
8233004	14147	3504921623		103		CARL #1	WEST WHITEBEAD	18.0	WARREN PETROLEUM
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	05/14/82	JA: OK			
8233031	14156	3513900000		108		BORAH #1	GUYMON HUGOTON	6.0	PANHANDLE EASTERN
8233025	13950	3513700000		108		DOYLE #33-02	DOYLE	5.0	AMINOIL USA INC
-RAINBOW VENTURES				RECEIVED:	05/14/82	JA: OK			
8233032	14176	3509322346		102-2		MONTCASTLE 31-1	RINGWOOD	6.0	PIONEER GAS PRODU
-RICHARD WHEELER JR				RECEIVED:	05/14/82	JA: OK			
8233016	11520	3508320885		103		HENKE #1	SOUTH ELKHORN	25.0	EASON OIL CO
-RICKS EXPLORATION CO				RECEIVED:	05/14/82	JA: OK			
8233023	12340	3513722367		103		RAUCH 15A	STAGE SAND	527.0	NATURAL GAS OPERA
-SOUTHLAND ROYALTY CO				RECEIVED:	05/14/82	JA: OK			
8232865	13837	3509321521		108-ER		REAY 1-18	N E SEILING	30.0	MICHIGAN WISCONSI
-SOUTHPORT EXPLORATION INC				RECEIVED:	05/14/82	JA: OK			
8233020	04052	3505120663		103		WHITENER #1-A	NORTHWEST CHITWOOD	110.0	OKLAHOMA NATURAL
-STEVE JERNIGAN INC				RECEIVED:	05/14/82	JA: OK			
8233026	13908	3504722678		103		WARD #A-1	NW ELK HORN	8.0	EASON OIL CO
-TAYLOR INTERNATIONAL INC				RECEIVED:	05/14/82	JA: OK			
8233027	14105	3511921560		103		S TAYLOR #1	WILDCAT	274.0	PARKS ENERGY INVE
-WESTERN PACIFIC PETROLEUM INC.				RECEIVED:	05/14/82	JA: OK			
8233022	12296	3508300000		103		EDWARDS #1-11		60.5	AMINOIL USA INC
**********									
TENNESSEE OIL & GAS BOARD									
**********									
-CATOOSA EXPLORATION CORP				RECEIVED:	05/14/82	JA: TN			
8233055		4104920796		102-2		BRUNO GERNT #1		4.0	FENTRESS GAS TRAN
8233054		4104920805		102-2		ERNEST NORRIS #1		5.0	FENTRESS GAS TRAN
8233052		4104920818		102-2		PLATEAU PROPERTIES #6		6.2	FENTRESS GAS TRAN
-CUMBERLAND OIL PRODUCING CO INC				RECEIVED:	05/14/82	JA: TN			
8233058		4112920329		108		B WOOLUM #1	DOUGLAS BRANCH	8.0	EAST TENNESSEE NA
8233033		4112920635		108		EARL SCOTT #1	DOUGLAS BRANCH	4.0	EAST TENNESSEE NA
8233035		4112920634		108		EARL SCOTT #2	DOUGLAS BRANCH	4.0	EAST TENNESSEE NA
8233038		4112920509		108		M STEELE #1	DOUGLAS BRANCH	20.0	EAST TENNESSEE NA
8233036		4112920449		108		O COLE #3	DOUGLAS BRANCH	4.0	EAST TENNESSEE NA
8233037		4112920622		108		O COLE UNIT #3	DOUGLAS BRANCH	4.0	EAST TENNESSEE NA
8233059		4112920680		108		PLATEAU PROPERTIES #5	WILDCAT	6.0	EAST TENNESSEE NA
8233034		4112921329		102-2		ROSCOE POTTER #1	DOUGLAS BRANCH	75.0	EAST TENNESSEE NA

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-DIXIE-SHAMROCK OIL & GAS INC				RECEIVED:	05/14/82	JA: TN			
8233048		4104928688		102-2		CROOKS-GERNT #1	STOCKTON SW	2.7	
8233044		4104920706		102-2		GERNT-GERNT #3	STOCKTON SW	0.5	
8233043		4104920716		102-2		GERNT-GERNT #5	STOCKTON SW	0.5	
8233042		4104920712		102-2		GERNT-GERNT #6	STOCKTON SW	0.5	
8233041		4104920753		102-2		GERNT-GERNT #7	STOCKTON SW	1.0	
8233039		4104920765		102-2		GERNT-PLATEAU PROPERTIES #4	STOCKTON SW	0.7	
-HICKORY CREEK DEVELOPMENT CORP				RECEIVED:	05/14/82	JA: TN			
8233051		4103120061		102-2		DICK SPEARS #5	HICKORY CREEK	75.0	EAST TENNESSEE NA
8233050		4103120068		102-2		MAX SELLARS UNIT #1	HICKORY CREEK	75.0	EAST TENNESSEE NA
-HUDSON RESOURCES				RECEIVED:	05/14/82	JA: TN			
8233046		4112920710		102-4		ELLIS #1	NONE	46.2	INTRASTATE ENERGY
-JON E JONES				RECEIVED:	05/14/82	JA: TN			
8233053		4104920819		102-2		ART & VIC GERNT #1		2.5	
-PARMA PETROLEUM CORP				RECEIVED:	05/14/82	JA: TN			
8233056		4112920883		102-4		CLARENCE OLMSTEAD ETAL #1	BURRVILLE	21.9	INTRASTATE ENERGY
-RANDY HUDSON				RECEIVED:	05/14/82	JA: TN			
8233045		4115120659		102-2		STORIE #1	NONE	36.5	INTRASTATE ENERGY
-SAINT JOSEPH PETROLEUM INC				RECEIVED:	05/14/82	JA: TN			
8233049		4104920655		102-2		G STOCKTON & H STOCKTON #1	STOCKTON	18.0	
-SUNBRIGHT OIL & GAS INC				RECEIVED:	05/14/82	JA: TN			
8233040		4112920880		103		BISHOP PAYNE #1	NONE	32.9	INTRASTATE ENERGY
8233057		4112926897		102-4		JOHN R FREELS #1		36.5	INTRASTATE ENERGY
-VOLUNTEER DRILLING CO INC				RECEIVED:	05/14/82	JA: TN			
8233047		4115120795		102-4		ONEIDA FARMS #3-A	ONEIDA SOUTH	54.8	INTRASTATE ENERGY
UTAH DIVISION OF OIL,GAS, & MINING									
-AMOCO PRODUCTION CO				RECEIVED:	05/14/82	JA: UT			
8232857	K-121-10	4304330167		102-2		ISLAND RANCHING "E" #2	ANSCHUTZ RANCH EAST -	1825.0	EL PASO NATURAL G
-COASTAL OIL & GAS CORP				RECEIVED:	05/14/82	JA: UT			
8232856	K-136-6A	4304730835		107-TF		NATURAL BUTTES 50N2 (30-9-22)	NATURAL BUTTES	182.0	COLORADO INTERSTA
WEST VIRGINIA DEPARTMENT OF MINES									
-ASHLAND EXPLORATION INC				RECEIVED:	05/17/82	JA: WV			
8233135		4701900447		107-DV		EASTERN GAS & FUEL #71 - 090372	PAINT CREEK	8.0	
8233134		4701900448		107-DV		J F B PEYTON #3 - 090502	PAINT CREEK	3.0	
-BLUE CREEK GAS COMPANY				RECEIVED:	05/17/82	JA: WV			
8233129		4701501917		103		CANNEL #1	HENRY	30.0	COLUMBIA GAS TRAN
8233130		4701501919		103		CANNEL #3	HENRY	22.0	COLUMBIA GAS TRAN
-CARSON PETROLEUM CORP				RECEIVED:	05/17/82	JA: WV			
8233118		4701702821		107-DV		COX-GAIN #3A	ST CLAIR	20.0	COLUMBIA GAS TRAN
-J & J ENTERPRISES INC				RECEIVED:	05/17/82	JA: WV			
8233114		4700121558		103		J-496	VALLEY	6.0	CONSOLIDATED GAS
-KEITH CRIHFIELD				RECEIVED:	05/17/82	JA: WV			
8233138		4701303343		103		T P MCCUNE #2	ORMA	12.0	CABOT CORP
8233131		4701302843		108		W A DOWNEY #4	ORMA	4.0	CONSOLIDATED GAS
-KIOWA PETROLEUM CORP				RECEIVED:	05/17/82	JA: WV			
8233146		4707501260		107-DV		C N POWELL #1	MCKIM DISTRICT ST MAR	73.0	COLUMBIA GAS TRAN
8233147		4707501297		107-DV		CATHERINE L SMITH #1	MCKIM DISTRICT ST MAR	90.0	COLUMBIA GAS TRAN
-L & M PETROLEUM INC				RECEIVED:	05/17/82	JA: WV			
8233124		4707320807		108		DAVIS/WAGNER #2	UNION	10.0	COLUMBIA GAS TRAN

JD NO	JA DAT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8233125		4707320811		108		DAVIS/WAGNER #3	UNION	10.0	COLUMBIA GAS TRAN
8233127		4707321082		108		HAROLD SMITH #1	UNION	8.0	COLUMBIA GAS TRAN
8233122		4707320794		108		JAMES POWELL #4	UNION	10.0	COLUMBIA GAS TRAN
8233123		4707320795		108		L C WAGNER #3	UNION	10.0	COLUMBIA GAS TRAN
8233128		4707320826		108		ROBERT LAIDLEY #1	UNION	10.0	COLUMBIA GAS TRAN
8233126		4707320825		108		W J ELLIOTT #1	UNION	10.0	COLUMBIA GAS TRAN
-QUAKER STATE OIL REFINING CORP		RECEIVED:		05/17/82		JA: WV			
8233121		4703923584		103		J H COPENHAUER #16	ELK DISTRICT	11.0	COLUMBIA GAS TRAN
8233120		4710321223		103		JOHN MILLS JR #153	GRANT DISTRICT	3.7	CONSOLIDATED GAS
8233119		4710321224		103		JOHN MILLS JR #154	GRANT DISTRICT	3.7	CONSOLIDATED GAS
-R & S GAS COMPANY		RECEIVED:		05/17/82		JA: WV			
8233143		4708505101		103		ELIZABETH CAMPBELL #5	MURPHY DISTRICT	10.0	CABOT CORP
8233145		4708500080		108		J W HEFNER #1	MURPHY DISTRICT	6.0	CABOT CORP
8233144		4708505105		103		LEROY MCCALLISTER #2	MURPHY DISTRICT	12.0	ROARING FORK GAS
-SENECA-UPSHUR PETROLEUM CO		RECEIVED:		05/17/82		JA: WV			
8233133		4708300220		108		J M HUBER #52	MIDDLE FORK	24.0	EQUITABLE GAS CO
8233132		4708300221		108		J M HUBER #53	MIDDLE FORK	24.0	EQUITABLE GAS CO
-SPARTAN GAS COMPANY		RECEIVED:		05/17/82		JA: WV			
8233141		4701100689		103		F W MCCULLOUGH #2	GRANT DISTRICT	3.6	COLUMBIA GAS TRAN
8233142		4710900860		103		V & O COAL COMPANY 82-S-273	SLAB FORK	18.0	COLUMBIA GAS TRAN
-STERLING DRILLING & PROD CO INC		RECEIVED:		05/17/82		JA: WV			
8233115		4701501659		108		ALOI #14 SDP #141	BUFFALO DISTRICT	0.0	EQUITABLE GAS CO
8233117		4701302969		108		CHENOWETH #111 SDP #111	WASHINGTON DISTRICT	7.6	COLUMBIA GAS TRAN
8233116		4701302966		108		CHENOWETH 110 SDP #110	WASHINGTON DISTRICT	14.0	COLUMBIA GAS TRAN
-TWI OIL CO		RECEIVED:		05/17/82		JA: WV			
8233137		4704103114		103		JAMES O KELLEY #I	COLLINS SETTLEMENT	0.0	CONSOLIDATED GAS
8233136		4704103115		103		KELLEY KING #1	COLLINS SETTLEMENT	0.0	CONSOLIDATED GAS
-UNITED PETRO LTD		RECEIVED:		05/17/82		JA: WV			
8233140		4702103706		108		A N BAILEY #1	GLENVILLE SOUTH GAS F	8.0	COLUMBIA GAS TRAN
8233139		4702103707		108		MOLLIE BAILEY #1	GLENVILLE SOUTH GAS F	8.0	COLUMBIA GAS TRAN

BILLING CODE 6717-01-C

. OTHER PURCHASERS VOLUME NO :663

8233065 AMERADA HESS CORP
8233066 AMERADA HESS CORP

CORRECTIONS TO PREVIOUS NOTICES OF DETERMINATION

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C:	Correction to prior Fed. Register notice
82-25202	NM	Casing Pullers, Inc.	Yates "A" No. 7	634	04-20-82	C:	Applicant, Well name
82-25321	OK	Latigo Oil & Gas Inc	Barby A-1	635	04-23-82	C:	108-ER approved, not 108
82-25584	TX	Clarion Resources Inc	Quarles B-1-85124	637	04-23-82	C:	Well name
82-25585	TX	Clarion Resources Inc	Thompson-Bleeker #1-8720H	637	04-23-82	C:	Well name
82-25657	TX	Tom P. Marsh Inc	Pannell #1-2	637	04-23-82	C:	Well name
82-26168	US(NM)	Wallen Production Co	Wallen Tonto #2	639	04-27-82	C:	Well name
82-26181	NM	McClellan Oil Corp	"P2" Federal No. 1	639	04-27-82	C:	102-4 approved and 107PE approved
82-26665	NY	Anderson Oil Co	Anderson 24-23	640	05-05-82	C:	Applicant
82-26789	OH	Collins-McGregor Operating Co	Mossman #1	641	05-05-82	C:	103 Approved, 107-TF Denied
82-26905	OH	Strata Explo. Inc. LTD	#2 James Flynn	641	05-05-82	C:	107-TF Denied, not approved
82-26914	OH	C J Warren Oil Co	McMillan #3	641	05-05-82	C:	103 Approved, not denied
82-26990	PA	Vincent Kutch	Holmes #2	641	05-05-82	C:	107-PE approved, not 107-TF
82-27503	TX	Cordova Resources Inc	Webb "B" #1	643	05-07-82	C:	108 approved, not 103 and 108
82-27725	TX	Mobil Prdg Texas & New Mexico Inc.	Mary Miller #1	643	05-07-82	C:	108 approved, not 108-SA
82-27726	TX	Mobil Prdg Texas & New Mexico Inc	Fee Land 277 #5	643	05-07-82	C:	Well name; 108 approved not 108-SA
82-27727	TX	Mobil Prdg Texas & New Mexico Inc	Vicars #2	643	05-07-82	C:	108 approved, not 108-SA
82-27728	TX	Mobil Prdg Texas & New Mexico Inc.	LaGloria Gas Unit #85	643	05-07-82	C:	108 approved, not 108-SA
82-27729	TX	Mobil Prdg Texas & New Mexico Inc.	W W Boyce #14	643	05-07-82	C:	108 approved, not 108-SA
82-27730	TX	Mobil Prdg Texas & New Mexico Inc	State Vollmar #2	643	05-07-82	C:	108 approved, not 108-SA
82-27829	OK	D L B Energy Corp	Snyder #1	644	05-12-82	C:	102-4 & 103 approved
82-28196	US(NM)	Mobil Prdg. Texas & New Mexico Inc.	Federal RH Comm #1	646	05- -82	C:	108 approved, not 108-SA

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-15083 Filed 6-11-82; 8:45 am]

BILLING CODE 6717-01-C

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: June 8, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-A L SAUDER JR				RECEIVED:	05/18/82	JA: TX			
8233205	F-09-042492	4249700000		102-4	103	J J YOUNG #1	AUDABON (6300)	70.0	NATURAL GAS PIPEL
-ADA OIL EXPLORATION CORP				RECEIVED:	05/18/82	JA: TX			
8233153	F-02-031441	4228500000		102-2		BELLINGER #1	WILDCAT (SUPPLE JACK	100.0	VALERO TRANSMISSI
-AMAREX INC				RECEIVED:	05/18/82	JA: TX			
8233255	F-10-043897	4221131282		103		NORRIS #6-29	HEMPHILL	825.0	ARKANSAS LOUISIAN
-AMAX PETROLEUM CORPORATION				RECEIVED:	05/18/82	JA: TX			
8233349	F-03-048722	4215731230		102-4	103	CRIDER #1	KATY S (FIRST WILCOX)	1270.0	HOUSTON PIPE LINE
8233422	F-03-050282	4215731230		102-2		CRIDER #1	KATY S (FIRST WILCOX)	1270.0	HOUSTON PIPE LINE
-AMERADA HESS CORPORATION				RECEIVED:	05/18/82	JA: TX			
8233185	F-05-041052	4221330086		102-4		CHARLES C MONROE #1	EUSTACE	550.0	LONE STAR GAS CO
-AMINOIL USA INC				RECEIVED:	05/18/82	JA: TX			
8233478	F-08-050701	4200333015		103		UNIVERSITY 29 "B" #3	ANDREWS SOUTH	28.0	EL PASO NATURAL G
-AMOCO PRODUCTION CO				RECEIVED:	05/18/82	JA: TX			
8233523	F-02-050916	4229732926		103		DUTY GAS UNIT #5	MAXINE EAST/MACKHANK/	153.3	NATURAL GAS PIPEL
8233436	F-8A-050533	4221933102		103		LEVELLAND UNIT #811	LEVELLAND	141.6	EL PASO NATURAL G
8233524	F-06-050919	4234730433		102-4		MAX W HART JR #1	APPLEBY N/TRAVIS PEAK	365.0	UNITED GAS PIPELI
8233358	F-08-048837	4200333014		103		MIDLAND FARMS UNIT #553	MIDLAND FARMS	2.5	AMOCO PRODUCTION
-ANADARKO PRODUCTION COMPANY				RECEIVED:	05/18/82	JA: TX			
8233525	F-10-050921	4221100000		103		NORRIS "A" #2028	HEMPHILL (GRANITE WAS	82.0	PANHANDLE EASTERN
-ARCO OIL AND GAS COMPANY				RECEIVED:	05/18/82	JA: TX			
8233403	F-08-049930	4210332635		103		BARNSLEY UNIT #42	SAND HILLS (TUBB)	3.7	WARREN PETROLEUM
8233404	F-08-049931	4210332636		103		BARNSLEY UNIT #43	SAND HILLS (TUBB)	3.7	WARREN PETROLEUM
8233318	F-06-046724	4236531260		102-2	107-TF	S L DAVIS GAS UNIT #2	CARTHAGE (COTTON VALL	200.0	SOUTHERN NATURAL
8233459	F-7C-050656	4238331877		103		TEXON "8" #1	TEXON (W SPRABERRY)	30.0	EL PASO NATURAL G
-ARKLA EXPLORATION COMPANY				RECEIVED:	05/18/82	JA: TX			
8233167	F-06-038857	4236531169		103	107-TF	SIPES #1	BECKVILLE	45.0	
-AUSTEX ENERGY CO INC				RECEIVED:	05/18/82	JA: TX			
8233293	F-78-045583	4236332730		102-4		J M & M W MCCLURE #1 (898177)	MCCLURE (CONGL)	67.0	SOUTHWESTERN GAS
-B D K PRODUCTION CO INC				RECEIVED:	05/18/82	JA: TX			
8233519	F-02-050899	4229700000		103		GOEBEL GAS UNIT #1	GOEBEL	5.0	TRANSCONTINENTAL
-B J BIERHART INC				RECEIVED:	05/18/82	JA: TX			
8233196	F-03-041867	4228700000		102-2		SCHULTZE #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-BAYTECH INC				RECEIVED:	05/18/82	JA: TX			
8233383	F-08-049420	4231732466		103		S W STEEL #1	SPRABERRY (TREND AREA	0.0	NORTHERN NATURAL
-BISON EXPLORATION CO				RECEIVED:	05/18/82	JA: TX			
8233235	F-08-043597	4238900000		103		CHEVRON-STATE #1	SO MARSH (DELAWARE)	186.0	VALERO TRANSMISSI
-BLUESKY OIL & GAS INC				RECEIVED:	05/18/82	JA: TX			
8233213	F-01-042727	4217730747		102-4		HARTMANN UNIT #1	PEACH CREEK (GEORGETO	5.5	VALERO TRANSMISSI
-BROCK PETROLEUM CORP				RECEIVED:	05/18/82	JA: TX			
8233347	F-03-048643	4205131883		102-2		BARITE #1	GIDDINGS (AUSTIN CHAL	219.0	FERGUSON CROSSING

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-BTA OIL PRODUCERS				RECEIVED:	05/18/82	JA: TX
8233381	F-08-049380	4217331264		102-4		7613 JV-P COX "C" 86
-CHAMBERS OIL & GAS INC				RECEIVED:	05/18/82	JA: TX
8233208	F-02-042631	4225500000		102-4		B P GREEN #1
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	05/18/82	JA: TX
8233163	F-06-038600	4236500000		103	107-TF	CARTHAGE GAS UNIT 17 #4
8233315	F-08-046946	4243100000		102-2	103	J E WATSON #4
8233314	F-08-046945	4243100000		103		R L COPE #6
-CHEVRON U S A INC				RECEIVED:	05/18/82	JA: TX
8233441	F-04-050556	4204701440		108		MERTIN OIL & GAS CO #1-49
8233331	F-7C-048154	4241331175		103		NEVA WEST #608
8233330	F-7C-048153	4241331142		103		NEVA WEST #703
-CIRCLE SEVEN PRODUCTION CO				RECEIVED:	05/18/82	JA: TX
8233276	F-09-044681	4249731868		185		J C ROMINES #1 (ID NO)
8233275	F-09-044678	4223733482		102-4		SHAWVER "B" #1 (ID NO)
-CITIES SERVICE COMPANY				RECEIVED:	05/18/82	JA: TX
8233397	F-03-049845	4204131682		102-2		MCSWAIN "A" #1
8233396	F-03-049844	4204130620		102-2		MCSWAIN "B" #1 (15164)
8233475	F-08-050717	4200333010		103		NORTH DOLLARHIDE UNIT #110
8233474	F-08-050716	4238931218		103		PERKINS F #2
-CLAYTON W WILLIAMS JR				RECEIVED:	05/18/82	JA: TX
8233165	F-03-038739	4205100000		102-2		JOHN SEE #4
8233335	F-03-048383	4205100000		102-2		MARY GOLD #1
8233189	F-03-041595	4228700000		102-2		ROY KIPP #1
8233234	F-03-043583	4205100000		102-2		URBANOVSKY-BRYANT UNIT #2
-COSTA RESOURCES INC				RECEIVED:	05/18/82	JA: TX
8233175	F-08-040296	4237133300		103		EATON #2 #826445
8233176	F-7C-040308	4238331724		103		HOWARD #3A #07958
-CPC EXPLORATION INC				RECEIVED:	05/18/82	JA: TX
8233210	F-03-042608	4214930576		102-2		KILIAN #1 LEASE NO 13809
-CROWN CENTRAL PETROLEUM CORP				RECEIVED:	05/18/82	JA: TX
8233267	F-10-042588	4235700000		108		M B WEICKER #257
-CROWN EXPLORATION CO				RECEIVED:	05/18/82	JA: TX
8233522	F-7C-050913	4245100000		102-4		ROBERTSON #4
8233521	F-7C-050911	4245100000		102-4		ROBERTSON #7
-DE SOTO OPERATING CO				RECEIVED:	05/18/82	JA: TX
8233424	F-7B-050299	4209330822		103		HADLEY SCOTT #1 (98546)
-DELMI OIL CORP				RECEIVED:	05/18/82	JA: TX
8233392	F-03-045763	4214900000		102-2		APPELT #6 (RRC # NOT ASSIGNED)
-DELTA DRILLING CO				RECEIVED:	05/18/82	JA: TX
8233253	F-06-043769	4236500000		102-2	103	CRNKO-BIGGS #1
8233253	F-06-043769	4236500000		107-TF		CRNKO-BIGGS #1
-DELTA OIL & GAS CO				RECEIVED:	05/18/82	JA: TX
8233433	F-7B-050498	4242900000		103		A R KNIGHT "B" RRC #15415
8233520	F-7B-050910	4242900000		108		BOLES ORPHAN HOME RRC #89942
8233458	F-7B-050652	4242900000		103		DICK ATKINS 1 "A" RRC #89186
8233457	F-7B-050649	4242900000		103		DICK ATKINS 2 "A" RRC #84716
8233435	F-7B-050531	4242900000		108		GRANBERRY-GANDY RRC #75003
8233449	F-7B-050587	4242900000		108		P B STEPHENS RRC #71166
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	05/18/82	JA: TX
8233188	F-7B-041451	4236332551		103		CARL LITTLEFIELD GAS UNIT #1
8233498	F-10-050807	4223300000		108		LUCAS #13
-DISCOVERY OPERATING INC				RECEIVED:	05/18/82	JA: TX

FIELD NAME	PROD	PURCHASER
BLALOCK LAKE SE (WOLF	18.0	PHILLIPS PETROLEU
BIRDIE (CARRIZZO) 710	120.0	INTRASTATE GATHER
CARTHAGE	8.8	TENNESSEE GAS PIP
CONGER SW (PENN)	0.0	NORTHERN NATURAL
CONGER SW (PENN)	0.0	NORTHERN NATURAL
ALTA MESA	5.1	TENNESSEE GAS PIP
NEVA WEST (STRAWN)	0.0	ARCO OIL & GAS CO
NEVA WEST (STRAWN)	0.0	ARCO OIL & GAS CO
BOONSVILLE (BEND CONG	0.0	LONE STAR GAS CO
LENORA (D-ZONE CONGL)	0.0	LONE STAR GAS CO
BRYAN (GEORGETOWN)	157.0	PRODUCER'S GAS CO
GIDDINGS (AUSTIN CHAL	177.0	PRODUCER'S GAS CO
NORTH DOLLARHIDE (DEV	13.0	UNION OIL CO OF C
COLLIE (DELAWARE)	39.0	INTRATEX GAS CO
GIDDINGS	6.0	VALERO TRANSMISSI
GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
ABELL (PERMIAN GENERA	36.5	NORTHERN NATURAL
CALVIN (DEAN)	118.6	PHILLIPS PETROLEU
GIDDINGS (BUDA)	188.0	PHILLIPS PETROLEU
SHARE FIELD (UPPER MU	9.0	NORTHERN NATURAL
ALLEN HILL (STRAWN)	0.0	SEAGULL PIPELINE
ALLEN HILL (STRAWN)	9.8	SEAGULL PIPELINE
MITTIE (MARBLE FALLS)	100.0	LONE STAR GAS CO
GIDDINGS (EDWARDS GAS	620.5	PHILLIPS PETROLEU
CARTHAGE S E	8.8	WESTERN GAS CORP
CARTHAGE S E	0.0	WESTERN GAS CORP
STEPHENS COUNTY REGUL	9.3	WARREN PETROLEUM
CADDO (ELLENBURGER MI	5.9	LONE STAR GAS CO
CRYSTAL FALLS EAST (C	0.0	SUN GAS TRANSMISS
CRYSTAL FALLS EAST (C	0.0	SUN GAS TRANSMISS
STEPHENS COUNTY REGUL	5.7	PETROLEUM CORP OF
STEPHENS COUNTY REGUL	7.0	PETROLEUM CORP OF
J V T	300.0	
PANHANDLE	5.0	NORTHERN NATURAL

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
*8233394	F-08-049804	4211531592		103		SPECK #1	SPRABERRY (TREND AREA	21.6	PHILLIPS PETROLEU
-DORCHESTER EXPLORATION INC				RECEIVED:	05/18/82	JA: TX			
8233193	F-06-041813	4242330458		103		EDWARDS #1	WEST CHAPEL HILL (PET	0.0	
*8233194	F-08-041818	4243130986		103		FOSTER CONGER #19	W A M FUSSELMAN	175.0	VALERO TRANSMISSI
*8233339	F-08-048489	4243131002		103		WESTBROOK 28-4	WILDCAT (MONTOYA)	0.0	TEXAS UTILITIES F
-DORCHESTER GAS PRODUCING CO				RECEIVED:	05/18/82	JA: TX			
8233154	F-10-034810	4217900000		108-ER		SHERIDAN NO 3 (24386)	PANHANDLE WEST	19.0	NORTHERN NATURAL
-DUNIGAN OPERATING CO INC				RECEIVED:	05/18/82	JA: TX			
8233491	F-8A-050765	4207900000		108		MASTEN (66744) #2	LEVELLAND (SAN ANDRES	10.0	EL PASO NATURAL G
8233490	F-8A-050764	4207900000		108		MASTEN (69671) #5	LEVELLAND (SAN ANDRES	13.0	EL PASO NATURAL G
8233489	F-8A-050763	4207900000		108		MASTEN (69672) #6	LEVELLAND (SAN ANDRES	7.0	EL PASO NATURAL G
-EAGLE ENERGY				RECEIVED:	05/18/82	JA: TX			
8233420	F-08-050232	4237133658		103		RADFORD NO 3 097745	FORT STOCKTON (YATES	200.0	EL PASO NATURAL G
-EDWIN L & BERRY R COX				RECEIVED:	05/18/82	JA: TX			
8233379	F-04-049361	4240931562		102-4		GALLAGHER #1	GERONIMO N (SLICK)	219.0	
-EL PASO NATURAL GAS COMPANY				RECEIVED:	05/18/82	JA: TX			
8233284	F-10-044947	4221131354		103		CAMPBELL #6	CANADIAN SW (MORROW/U	281.8	EL PASO NATURAL G
-ENCINO OIL CORP				RECEIVED:	05/18/82	JA: TX			
8233268	F-04-042098	4243900088		102-4		MCCLENDON #1	MILLER RANCH S (FRIO	150.0	UNITED GAS PIPE L
-ENERGY SOURCES INC				RECEIVED:	05/18/82	JA: TX			
8233386	F-06-049507	4200131312		102-4		ELIZABETH S HUTCHINSON #1	HOLLY SPRING (RODESSA	164.6	DELHI GAS PIPELIN
8233472	F-06-050712	4200131285		102-4		ROLAND S ARTHUR #1	BLACKFOOT SOUTH (RODE	84.3	DELHI GAS PIPELIN
8233473	F-06-050713	4200131245		102-4		THELMA HENRY #1	BLACKFOOT SOUTH (RODE	519.4	DELHI GAS PIPELIN
-ENRE CORP				RECEIVED:	05/18/82	JA: TX			
8233501	F-78-050815	4242900000		103		ELLIOTT #1	CAL-M (ELLENBURGER)	21.0	BENGAL GAS TRANSM
8233502	F-78-050816	4242931845		102-4		ELLIOTT #2 (78108)	CAL-M (DUFFER)	237.8	BENGAL GAS TRANSM
8233503	F-78-050817	4213331638		102-4		T C WILLIAMS #1 (14807)	SITTERLE (4050)	139.0	BENGAL GAS TRANSM
8233414	F-78-0450094	4205933341		102-4		WATTS "A" #1	SCRANTON N W (DUFFER)	19.0	BENGAL GAS TRANSM
-ENSERCH EXPLORATION INC				RECEIVED:	05/18/82	JA: TX			
8233265	F-08-044447	4222700000		103		SE LUTHER UNIT #25-3	SE LUTHER	21.0	GETTY OIL CO
*8233158	F-02-029129	4228531451		102-2	107-TF	W A EILERS #2	WORD N	705.0	VALERO TRANSMISSI
8233215	F-02-042762	4217931509		103		W DUDERSTADT #1	WILDCAT	318.0	HOUSTON PIPELINE
-ENSOURCE INC				RECEIVED:	05/18/82	JA: TX			
8233156	F-78-935813	4214330529		103		SWANNER #2		0.0	SOUTHWESTERN GAS
-EUROPEAN SOUTHWEST CO				RECEIVED:	05/18/82	JA: TX			
8233287	F-01-045402	4249300000		102-4		J C UHLIG #1	CINDY ANN (AUSTIN CHA	300.0	VALERO TRANSMISSI
8233288	F-01-045403	4249300000		102-4		JAMES JIRAL #1	CINDY ANN (AUSTIN CHA	300.0	VALERO TRANSMISSI
-EXXON CORPORATION				RECEIVED:	05/18/82	JA: TX			
*8233319	F-03-047423	4207131171		103		A D MIDDLETON A/C 1 #95	ANAHUAC (CHGD SHALLOW	220.0	ARMCO STEEL CORP
8233426	F-08-050357	4249500000		108		EMPEROR DEVONIAN GAS UNIT 1 #1	EMPEROR (DEVONIAN)	6.0	WEST TEXAS GATHER
*8233495	F-06-050793	4236530661		102-3		F H DONALD #2 (CFEC #500)	CARTHAGE (COTTON VALL	670.0	ARMCO STEEL CORP
*8233429	F-06-050451	4207330407		102-4		FAUSTINE GUIDRY GAS UNIT 1-1	REKLAW (TRAVIS PEAK)	220.0	ARMCO STEEL CORP
8233317	F-08-047300	4200332875		103		FULLERTON CLEARFORK UNIT #421	FULLERTON	15.0	PHILLIPS PETROLEU
8233405	F-08-049982	4200332924		103		FULLERTON CLEARFORK UNIT 2917	FULLERTON	15.0	PHILLIPS PETROLEU
8233337	F-08-048463	4210332671		103		J C TUBB A/C 1 #251L	SAND HILLS (TUBB)	60.0	EL PASO NATURAL G
8233505	F-08-050829	4200300000		108		J E PARKER A/C 7 #58	THREE BAR (YATES)	6.0	NORTHERN NATURAL
*8233485	F-04-050749	4235531839		102-4		JOSIE MILLER ROSCOE #8 ID #09960	FLOUR BLUFF (H-99)	32.0	ARMCO STEEL CORP
*8233471	F-04-050711	4227331560		103		K R ALAZAN 368 (0976267)	MADERO (J-24)	913.0	ARMCO STEEL CORP
*8233484	F-04-050748	4235531820		102-4		L A WEBB #17 ID #97314	FLOUR BLUFF (J-33)	775.0	ARMCO STEEL CORP
8233377	F-08-049290	4200333078		103		MEANS/SAN ANDRES/UNIT #3462	MEANS	18.0	PHILLIPS PETROLEU
8233518	F-03-050898	4201530488		103		ROBERT G PAINE #37	RACCOON BEND (COCKFIE	72.5	TEXAS SOUTHEASTER
8233418	F-8A-050168	4216532244		103		ROBERTSON CLFK UNIT #8701	ROBERTSON N (CLFK 710	19.0	PHILLIPS PETROLEU
8233340	F-04-048497	4227330779		102-4		SANTA FE RANCH 53 (097832)	SANTA FE (ZONE 1)	234.0	NATURAL GAS PIPEL

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8233327	F-04-047847	4213135128		102-4		V KOHLER A-137F ID #97044
8233494	F-03-050792	4240131285		103		WEBSTER FIELD UNIT #1321
8233439	F-03-050538	4220121286		103		WEBSTER FIELD UNIT #2139
*8233486	F-04-[illegible]	4213133983		102-4		YATES RANCH FEE *D*-1 ID #85823
-FORTUNE PRODUCTION CO				RECEIVED:	05/18/82	JA: TX
8233393	F-7C-049802	4245100000		102-4		WOOD #1
-FRAC INC				RECEIVED:	05/18/82	JA: TX
8233273	F-08-044628	4200332895		103		THORNBERRY "13" #4 #26820
8233272	F-08-044627	4200332897		103		THORNBERRY "13" #7 #26820
8233271	F-08-044626	4200332824		103		THORNBERRY "5" #2 #26073
-FREMONT ENERGY CORP				RECEIVED:	05/18/82	JA: TX
8233431	F-04-050480	4247900000		103		FEC-CNR #21 093695
8233432	F-04-050482	4247900000		103		FEC-CNR #22 093417
-FRIEMEL & CARPENTER				RECEIVED:	05/18/82	JA: TX
8233266	F-08-044459	4210332604		103		CROLEY ESTATE #2
-GENERAL AMERICAN OIL COMPANY OF TEX				RECEIVED:	05/18/82	JA: TX
8233360	F-04-048991	4213100000		108		MAYER JANE S - STATE #2
-GENERAL PRODUCTION CORP				RECEIVED:	05/18/82	JA: TX
8233263	F-03-044913	4205131768		103		ARMETTA NELSON #1
8233264	F-01-044417	4233100000		103		H H COFFIELD-HILL A #1
8233303	F-03-046379	4205100000		103		SIMPSON #1
-GETTY OIL COMPANY				RECEIVED:	05/18/82	JA: TX
8233254	F-03-043881	4205100000		102-2		CHARLES SEBESTA #1
8233277	F-03-044696	4205100000		102-2		F BOULDEN UNIT #1
8233298	F-03-046172	4205100000		102-2		I BALKE #1
8233294	F-03-045623	4205100000		102-2		W H GIESENSCHLAG JR #1
8233182	F-8A-040977	4207931369		103		XIT UNIT #182
-GOLDEN PETOLEUM				RECEIVED:	05/18/82	JA: TX
8233513	F-09-050859	4223733329		102-4		EATMERLY #1
8233514	F-09-050868	4223733532		102-4		EATMERLY-BETHESDA #1
8233515	F-09-050869	4223733872		102-4		WOODHOUSE #1
8233516	F-09-050870	4223133900		102-4		WOODHOUSE #2
8233517	F-09-050871	4223734067		102-4		WOODHOUSE #3
-GRACE PETROLEUM CORPORATION				RECEIVED:	05/18/82	JA: TX
8233197	F-05-041906	4229330558		103	107-TF	CARLTON GAS UNIT #1
8233198	F-09-041927	4218133764		103		FLORENTINE ESTATE UNIT #1
-GULF OIL CORPORATION				RECEIVED:	05/18/82	JA: TX
8233243	F-10-043731	4217900000		108		CAB "A" #1
8233242	F-10-043730	4217900000		108		CAB "A" #3
8233252	F-10-043747	4206500000		108		COOPER "A" #1
8233251	F-10-043746	4206500000		108		COOPER "A" #2
8233250	F-10-043745	4206500000		108		COOPER "A" #3
8233249	F-10-043744	4206500000		108		COOPER "A" #4
8233248	F-10-043743	4206500000		108		COOPER "A" #5
8233247	F-10-043742	4206500000		108		COOPER "A" #6
8233246	F-10-043741	4206500000		108		COOPER "A" #7
8233245	F-10-043740	4206500000		108		COOPER "A" #8X
8233241	F-10-043729	4217900000		108		DUN #3
8233209	F-10-042662	4217930830		103		EAST MORSE UNIT #23A
8233499	F-7C-050808	4210510140		108		F R HENDERSON #6
8233464	F-08-050675	4247532440		103		HUTCHINGS STOCK ASSN #1149
8233244	F-10-043732	4217900000		108		I B HUGHEY /A/ #8
8233333	F-08-048262	4237133690		103		IVY B WEATHERBY #4

FIELD NAME	PROD	PURCHASER
ZARAGOSA (B-83)	18.3	TENNESSEE GAS PIP
WEBSTER	36.0	HOUSTON PIPELINE
WEBSTER	800.0	HOUSTON PIPELINE
STRAKE (2328)	115.0	ARMCO STEEL CORP
WOOD STRAWN (LOWER) (	204.9	PRODUCER'S GAS CO
FUHRMAN-MASCHO	16.7	PHILLIPS PETROLEU
FUHRMAN-MASCHO	33.5	PHILLIPS PETROLEU
FUHRMAN-MASCHO	6.9	PHILLIPS PETROLEU
MESQUITE (ESCONDIDO)	8.6	LONE STAR GAS CO
MESQUITE (ESCONDIDO)	20.5	LONE STAR GAS CO
SAND HILLS NW (WOLFCA	110.0	ODESSA NATURAL CO
LOMA NOVIA N E	0.0	TENNESSEE GAS PIP
WILLARD (NAVARRO)	0.0	FERGUSON CROSSING
WILDCAT	0.0	FERGUSON CROSSING
INEZ JAMESON (NAVARRO	0.0	FERGUSON CROSSING
GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
LEVELLAND SAN ANDRES	1.5	CITIES SERVICE CO
STRAHAN (CONGLOMERATE	216.0	SOUTHWESTERN GAS
STRAHAN (STRAWN)	50.0	SOUTHWEST GAS PIP
STRAWN (MARBLE FALLS	100.0	LONE STAR GAS CO
STRAHAN (MISSISSIPPIA	50.0	LONE STAR GAS CO
STRAWN (MARBLE FALLS	100.0	LONE STAR GAS CO
PERSONVILLE N (COTTON	0.0	TEXAS UTILITIES F
SOUTH DENNISON	0.0	TEXAS UTILITIES F
PANHANDLE GRAY COUNTY	0.6	COLTEXCO CORP
PANHANDLE GRAY COUNTY	0.6	COLTEXCO CORP
PANHANDLE CARSON COUN	0.3	GETTY OIL CO
PANHANDLE CARSON COUN	0.8	GETTY OIL CO
PANHANDLE CARSON COUN	0.8	GETTY OIL CO
PANHANDLE CARSON COUN	0.8	GETTY OIL CO
PANHANDLE CARSON COUN	0.8	GETTY OIL CO
PANHANDLE CARSON COUN	0.8	GETTY OIL CO
PANHANDLE CARSON COUN	0.8	GETTY OIL CO
PANHANDLE CARSON COUN	0.8	GETTY OIL CO
PANHANDLE GRAY	0.7	PHILLIPS PETROLEU
PANHANDLE GRAY COUNTY	17.0	PHILLIPS PETROLEU
OZONA NORTHWEST (CANY	8.5	SHELL OIL CO
WARD-ESTES NORTH	8.0	CABOT CORP
PANHANDLE GRAY COUNTY	2.0	CITIES SERVICE CO
ROJO CABALLOS (DELAWA	0.0	

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8233202	F-10-043733	4217900000		108		CAB "A" #2
8233240	F-10-043728	4217900000		108		DUN #2
8233239	F-10-043727	4217900000		108		DUN #4
8233238	F-10-043726	4217900000		108		DUN #5
8233237	F-10-043725	4217900000		108		DUN #6
8233236	F-10-043724	4217900000		108		DUN #7
8233235	F-10-043723	4217900000		108		DUN #8
8233234	F-10-043722	4217900000		108		DUN #9
8233233	F-10-043721	4217900000		108		DUN #10
8233232	F-10-043720	4217900000		108		DUN #11
8233231	F-10-043719	4217900000		108		DUN #12
8233230	F-10-043718	4217900000		108		DUN #13
8233229	F-10-043717	4217900000		108		DUN #14
8233228	F-10-043716	4217900000		108		DUN #15
8233227	F-10-043715	4217900000		108		DUN #16
8233226	F-10-043714	4217900000		108		DUN #17
8233225	F-10-043713	4217900000		108		DUN #18
8233224	F-10-043712	4217900000		108		DUN #19
8233223	F-10-043711	4217900000		108		DUN #20
8233222	F-10-043710	4217900000		108		DUN #21
8233221	F-10-043709	4217900000		108		DUN #22
8233220	F-10-043708	4217900000		108		DUN #23
8233219	F-10-043707	4217900000		108		DUN #24
8233218	F-10-043706	4217900000		108		DUN #25
8233217	F-10-043705	4217900000		108		DUN #26
8233216	F-10-043704	4217900000		108		DUN #27
8233215	F-10-043703	4217900000		108		DUN #28
8233214	F-10-043702	4217900000		108		DUN #29
8233213	F-10-043701	4217900000		108		DUN #30
8233212	F-10-043700	4217900000		108		DUN #31
8233211	F-10-043699	4217900000		108		DUN #32
8233210	F-10-043698	4217900000		108		DUN #33
8233208	F-10-042661	4217930830		103		EAST MORSE UNIT #23
8233207	F-10-042660	4217930830		103		EAST MORSE UNIT #24
8233206	F-10-042659	4217930830		103		EAST MORSE UNIT #25
8233205	F-10-042658	4217930830		103		EAST MORSE UNIT #26
8233204	F-10-042657	4217930830		103		EAST MORSE UNIT #27
8233203	F-10-042656	4217930830		103		EAST MORSE UNIT #28
8233201	F-10-042655	4217930830		103		EAST MORSE UNIT #29
8233200	F-10-042654	4217930830		103		EAST MORSE UNIT #30
8233199	F-10-042653	4217930830		103		EAST MORSE UNIT #31
8233196	F-10-042652	4217930830		103		EAST MORSE UNIT #32
8233195	F-10-042651	4217930830		103		EAST MORSE UNIT #33
8233194	F-10-042650	4217930830		103		EAST MORSE UNIT #34
8233193	F-10-042649	4217930830		103		EAST MORSE UNIT #35
8233192	F-10-042648	4217930830		103		EAST MORSE UNIT #36
8233191	F-10-042647	4217930830		103		EAST MORSE UNIT #37
8233190	F-10-042646	4217930830		103		EAST MORSE UNIT #38
8233189	F-10-042645	4217930830		103		EAST MORSE UNIT #39
8233188	F-10-042644	4217930830		103		EAST MORSE UNIT #40
8233187	F-10-042643	4217930830		103		EAST MORSE UNIT #41
8233186	F-10-042642	4217930830		103		EAST MORSE UNIT #42
8233185	F-10-042641	4217930830		103		EAST MORSE UNIT #43
8233184	F-10-042640	4217930830		103		EAST MORSE UNIT #44
8233183	F-10-042639	4217930830		103		EAST MORSE UNIT #45
8233181	F-10-042638	4217930830		103		EAST MORSE UNIT #46
8233180	F-10-042637	4217930830		103		EAST MORSE UNIT #47
8233179

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8233411	F-09-050057	4218130811		102-4		R H PICKENS #8	N E SOUTHMAYD	2.0	LONE STAR GAS CO
8233504	F-08-050818	4237133770		103		USM HILLIN "B" #1	USM (QUEEN)	146.0	NORTHERN NATURAL
-GUY I WARREN				RECEIVED:	05/18/82	JA: TX			
8233357	F-02-048794	4217500000		103		GUY WARREN FEE #3	CIRCLE "A" 2600' SAND	120.5	UNITED GAS PIPELI
-H & S PRODUCTION INC				RECEIVED:	05/18/82	JA: TX			
8233382	F-7B-049413	4242932862		103		WALKER #1	MOON MARBLE FALLS (39	100.0	LONE STAR GAS CO
-H-H OIL CO				RECEIVED:	05/18/82	JA: TX			
8233326	F-03-047758	4248132270		103		KOUNTZE & COUCH #1	HOLUB (6500)	8.0	UNITED TEXAS TRAN
-HAJECATE OIL CO				RECEIVED:	05/18/82	JA: TX			
8233427	F-01-050368	4258731612		102-4		CROSS "S" RANCH SD #120-1 (098060)	CROSS "S" RANCH SUBD	183.0	VALERO TRANSMISSI
-HOME PETROLEUM CORPORATION				RECEIVED:	05/18/82	JA: TX			
8233220	F-06-042967	4245900000		103	107-TF	IDA MAE BROWN #1	GILMER (COTTON VALLEY	183.7	WESTERN GAS CORP
-HUMBLE EXPLORATION CO INC				RECEIVED:	05/18/82	JA: TX			
8233158	F-03-037576	4228700000		102-2	103	VLASTA SIMEK #2	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-HUNT OIL COMPANY				RECEIVED:	05/18/82	JA: TX			
8233359	F-7C-048892	4246131763		102-4		V T AMACKER "8" 78 #2	AMACKER-TIPPETT SW (W	156.0	EL PASO NATURAL G
-INDIAN WELLS OIL CO				RECEIVED:	05/18/82	JA: TX			
8233496	F-7C-050799	4223531869		103		CRAVENS #35-1	IRION W (CANYON)	0.0	NORTHERN NATURAL
8233226	F-7C-043191	4223531744		102-2		PROBANDT #70-2	PROBANDT (CANYON)	91.5	CRA INC
8233497	F-7C-050800	4223531854		103		RICHEY #43A-5	PROBANDT (CANYON)	0.0	NORTHERN NATURAL
8233336	F-7C-048387	4223531845		103		TANKERSLEY 711-1	IRION W (CANYON)	36.5	NORTHERN NATURAL
-INTERNORTH INC				RECEIVED:	05/18/82	JA: TX			
8233329	F-10-047926	4229531079		103		TERRELL 972 #1	FOLLETT (MORROW)	300.0	INTERNORTH INC
-INVESTEK INC				RECEIVED:	05/18/82	JA: TX			
8233161	F-09-038444	4223700000		102-4		MARCUS HILL #1	HULL (CADDO "A") GAS	0.0	SOUTHWESTERN GAS
-J H PURVIS				RECEIVED:	05/18/82	JA: TX			
8233269	F-08-044527	4231731308		103		O L SNODGRASS #1	SPRABERRY (TREND AREA	4.4	ADOBE OIL & GAS C
-J M HUBER CORPORATION				RECEIVED:	05/18/82	JA: TX			
8233166	F-10-038820	4223330900		108		JOHNSON "B" #2A	PANHANDLE WEST	15.0	COLORADO INTERSTA
-J O BRUMMETT				RECEIVED:	05/18/82	JA: TX			
8233398	F-02-049860	4246900000		103		A KOMUTEK AB #1	VICTORIA (3600)	120.0	VALERO TRANSMISSI
-J-O-B OPERATING CO				RECEIVED:	05/18/82	JA: TX			
8233410	F-06-050017	4207330456		102-4		C A CLAYTON #1	LARISSA (RODESSA)	600.0	LONE STAR GAS CO
-JAMES P GORDON				RECEIVED:	05/18/82	JA: TX			
8233415	F-7B-050896	4213333314		102-4		W W MASSEY #1	GAIL G (MARBLE FALLS)	115.0	LONE STAR GAS CO
-JOHN H HENDRIX CORP				RECEIVED:	05/18/82	JA: TX			
8233295	F-08-045680	4237133439		102-4	103	THIGPIN "A" #3	THIGPIN (DEVONIAN)	162.7	W WILSON CORP
-JOHN L COX				RECEIVED:	05/18/82	JA: TX			
8233192	F-8A-041764	4211531560		103		GRAVES "A" #2 RRC #12742	ACKERLY (DEAN SAND)	10.0	TEXACO INC
8233172	F-08-039809	4232931012		103		MABEE FOUNDATION "G" #1 RRC #NA	SPRABERRY (TREND AREA	10.0	NORTHERN NATURAL
8233173	F-7C-039890	4238300000		103		MARY HUGHES "182" #1 RRC #NA	SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
8233239	F-7C-043626	4246131814		103		POWELL "13" #2	SPRABERRY (TREND AREA	10.0	MOBIL PROD TEXAS-
8233238	F-7C-043625	4246131813		103		POWELL "23" #2	SPRABERRY (TREND AREA	10.0	MOBIL PROD TEXAS-
8233237	F-7C-043622	4246131816		103		POWELL "26" #2	SPRABERRY (TREND AREA	10.0	MOBIL PROD TEXAS-
-L & L PETROLEUM CORPORATION				RECEIVED:	05/18/82	JA: TX			
8233299	F-02-046205	4246931274		103		C K MCCAN JR #2	SALEM	46.0	TEXAS EASTERN TRA
-LAUREL FUEL CO				RECEIVED:	05/18/82	JA: TX			
8233300	F-03-046211	4248132232		102-4		WINTERMAN "A" #1-C	BONUS S (MIOCENE 4100	671.0	TRUNKLINE GAS CO
-LEAR PETROLEUM CORPORATION				RECEIVED:	05/18/82	JA: TX			
8233149	F-10-021092	4208700000		108-ER		BELL #2	EAST PANHANDLE	1.6	EL PASO NATURAL G
8233361	F-03-049002	4218530303		102-2		LEAR SELECTED LANDS #2	IOLA (SUBCLARKSVILLE)	1277.5	PRODUCER'S GAS CO
-LESTER CLARK				RECEIVED:	05/18/82	JA: TX			
8233453	F-7B-050606	4242931632		103		A A ATKINS #22	STEPHENS COUNTY REGUL	25.9	PETROLEUM CORP OF

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROL	PURCHASER
8233454	F-7B-050607	4242931707		103		A A ATKINS #23	STEPHENS COUNTY REGUL	18.6	PETROLEUM CORP OF
8233492	F-7B-050777	4242931700		103		A A ATKINS "A" #8	STEPHENS COUNTY REGUL	7.3	PETROLEUM CORP OF
8233468	F-7B-050661	4242932838		103		A A ATKINS "A" #9	STEPHENS COUNTY,REGUL	36.5	PETROLEUM CORP OF
8233452	F-7B-050604	4242900000		103		BLACK "D" #1	STEPHENS COUNTY REGUL	18.3	PETROLEUM CORP OF
8233455	F-7B-050608	4242931701		103		HENRY W HILL #3	STEPHENS COUNTY REGUL	36.9	PETROLEUM CORP OF
8233456	F-7B-050609	4242931707		103		HENRY W HILL #4	STEPHENS COUNTY REGUL	4.0	PETROLEUM CORP OF
-LUCKY BIRD PETROLEUM, INC.				RECEIVED:	05/18/82	JA: TX			
8233440	F-10-050551	4206530851		103		THORBURG #4	PANHANDLE	0.0	GETTY OIL CO
-MABEE PETROLEUM CORP				RECEIVED:	05/18/82	JA: TX			
8233476	F-08-050722	4231732359		103		BREEDLOVE "C" #3	BREEDLOVE SOUTH (SPRA	67.3	NORTHERN NATURAL
-MARSHALL EXPLORATION INC				RECEIVED:	05/18/82	JA: TX			
8233323	F-06-047692	4236531205		102-4		J B HOOKER #2	WOODS (TRAVIS PEAK)	140.0	UNITED GAS PIPELI
8233316	F-06-047024	4236531385		103		SABINE ROYALTY #3	BELLE BOWER (PETTIT L	180.0	TENNESSEE GAS PIP
8233306	F-06-046479	4241930365		102-4	103	WATERS #2	HAWKEYE (BLOSSOM SD)	36.0	UNITED GAS PIPELI
-MCBRAYER OIL CORP				RECEIVED:	05/18/82	JA: TX			
8233461	F-06-050669	4245930500		103	107-TF	J R BARBER G U #1	ROSEWOOD (COTTON VALL	43.8	WESTERN GAS CORP
-MCCORMICK OPERATING CO				RECEIVED:	05/18/82	JA: TX			
8233217	F-06-042868	4240131250		103	107-TF	OVERTON GAS UNIT #2	OAK HILL (COTTON VALL	215.0	HYDROCARBON TRANS
8233191	F-06-041617	4240131226		103	107-TF	RAIDER GAS UNIT #3	OAK HILL (COTTON VALL	300.0	HYDROCARBON TRANS
-MCKENZIE OPERATING CO INC				RECEIVED:	05/18/82	JA: TX			
8233268	F-7B-044486	4236300000		102-4		DYMENT #1-C	MINERAL WELLS S (STRA	0.0	INTRASTATE GATHER
8233267	F-7B-044485	4236300000		102-4		DYMENT #1-T	MINERAL WELLS S (ATOK	0.0	INTRASTATE GATHER
8233332	F-7B-048286	4236300000		102-4		MOORE #1	MINERAL WELLS S (GEOR	299.0	INTRASTATE GATHER
-MCMAHON-BULLINGTON DRLG CO				RECEIVED:	05/18/82	JA: TX			
8233425	F-09-050314	4223700000		102-4		BALL ELVERA "A" #1	ANTELOPE S (BRYSON) -	20.0	LONE STAR GAS CO
-NEWBOURNE OIL COMPANY				RECEIVED:	05/18/82	JA: TX			
8233230	F-10-043442	4235731091		103		HARDY #3 RRC ID #	BULER NORTH (CLEVELAN	25.0	TRANSWESTERN PIPE
8233308	F-10-046527	4235731170		103		HARDY "81-A" #1	BULER NORTH (CLEVELAN	40.0	TRANSWESTERN PIPE
8233309	F-10-046576	4235731171		103		HARDY "81-B" #1	BULER NORTH (CLEVELAN	40.0	TRANSWESTERN PIPE
8233307	F-10-049525	4235700000		103		TURNER "104" #1 RRC ID # N/A	HANSFORD (MORROW UPPE	110.0	NORTHERN NATURAL
-MIDWAY OIL CORP				RECEIVED:	05/18/82	JA: TX			
8233278	F-03-044778	4205131841		102-4		SUDA-LUKSA #2	CALDWELL N E (GEORGET	108.0	CLAJON GAS CO
-MINERAL DEVELOPMENT INC				RECEIVED:	05/18/82	JA: TX			
8233354	F-08-048755	4237133543		103		SCHARFF-BLACKMON #6 #26915	PECOS VALLEY (HIGH GR	9.4	PERRY PIPE LINE C
8233351	F-08-048752	4237133469		103		SCHARFF-BLACKMON "A" #2 #26915	PECOS VALLEY (HIGH GR	5.4	PERRY PIPE LINE C
8233352	F-08-048753	4237133467		103		SCHARFF-BLACKMON "A" #3 #26915	PECOS VALLEY (HIGH GR	12.7	PERRY PIPE LINE C
8233353	F-08-048754	4237133484		103		SCHARFF-BLACKMON "A" #5 #26915	PECOS VALLEY (HIGH GR	6.9	PERRY PIPE LINE C
8233355	F-08-048756	4237133562		103		SCHARFF-BLACKMON "A" #8 #26915	PECOS VALLEY (HIGH GR	12.0	PERRY PIPE LINE C
8233356	F-08-048757	4237133561		103		SCHARFF-BLACKMON "A" #9 #26915	PECOS VALLEY (HIGH GR	8.7	PERRY PIPE LINE C
-MITCHELL ENERGY CORPORATION				RECEIVED:	05/18/82	JA: TX			
8233279	F-7B-044859	4236300000		128		A D CRAWFORD #2 45673	CRAWFORD (CONGL)	13.0	SOUTHWESTERN GAS
8233148	F-09-017048	4249700000		108-ER		ANNIE HAMILTON #3 17351	MORRIS (CONSOL CONGL)	9.0	NATURAL GAS PIPEL
8233281	F-09-044868	4250300000		108		C A MCMURTRY #2 93519	JERMYN WEST (MARBLE F	6.6	SOUTHWESTERN GAS
8233469	F-09-050695	4249700000		108		FT BEND-ENSLEY #1 #6835H	ALVORD (ATOKA CONGL)	12.0	NATURAL GAS PIPEL
8233467	F-09-050688	4249700000		108		G A LEMMBERG #2 #84156	BOONSVILLE (BEND CONG	12.8	NATURAL GAS PIPEL
8233305	F-09-046448	4249700000		108		HENRY TACKEL #1C 30720	BOONSVILLE (BEND CONG	13.9	NATURAL GAS PIPEL
8233350	F-7B-048723	4236732114		102-4		J P REED #2	RENO (STRAWN 2900)	140.0	LIQUID ENERGY COR
8233231	F-7B-043527	4236300000		108		JOHN RITCHIE #1 40841	STRAWN (N BEND CONGL)	12.8	SOUTHWESTERN GAS
8233421	F-09-050236	4223733047		102-4		OLIVER LOVING #1 20273	JERMYN WEST (CADDO)	75.0	SOUTHWESTERN GAS
8233468	F-09-050692	4249700000		108		S L WILLIAMS #1 #38189	BOONSVILLE (BEND CONG	12.0	NATURAL GAS PIPEL
8233233	F-7B-043535	4236700000		108		SARA JANE HOWARD #1 79704	LAKE MIN WELLS (4000	12.5	NATURAL GAS PIPEL
8233280	F-7B-044860	4242900000		108-ER		T RANDELL #1	STEPHENS COUNTY REGUL	0.0	SOUTHWESTERN GAS
8233229	F-08-043349	4231732349		103		UNIVERSITY 13 #2 25268	LACAFF (WOLFCAMP)	0.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8233252	F-09-043530	4223700000		108		YALE GRIFFIS #1 35782	BOONSVILLE (BEND CONG	12.8	NATURAL GAS PIPEL
-MOBIL PROD TEXAS & NEW MEXICO INC		RECEIVED:		05/18/82		JA: TX			
*8233446	F-08-050577	4237133594		103		EFFIE POTTS SIBLEY #12	COYANOSA N (DELAWARE)	18.3	EL PASO NATURAL G
*8233445	F-08-050575	4250131475		103		M O MAHONEY #52	WASSON	80.7	SHELL OIL CO
8233480	F-08-050739	4233531533		103		MARY FOSTER #125	IATAN EAST HOWARD	0.4	GETTY OIL CO
8233478	F-08-050737	4233531628		103		MARY FOSTER #127	IATAN EAST HOWARD	0.4	GETTY OIL CO
8233479	F-08-050738	4233531629		103		MARY FOSTER #128	IATAN EAST HOWARD	0.4	GETTY OIL CO
8233423	F-08-050295	4247532431		103		STATE "AL" #5	CAPRITO (DELAWARE MID	10.2	LONE STAR GAS CO
-MONSANTO COMPANY		RECEIVED:		05/18/82		JA: TX			
8233334	F-7C-048294	4210531826		102-2		UNIVERSITY 29-35 #1	BACHELOR HILL (GRAYBU	675.0	SOUTHWESTERN GAS
-MONTERREY PETROLEUM CORP		RECEIVED:		05/18/82		JA: TX			
8233174	F-04-040230	4247900000		108		BLOCKER RANCH #3-C(72805)	APACHE RANCH (OLMOS)	4.3	DELHI GAS PIPELIN
-MORGAN ENTERPRISES INC		RECEIVED:		05/18/82		JA: TX			
8233203	F-04-042408	4235531763		103		J W CALLAWAY #1	LUBY (3000)	200.0	HOUSTON PIPE LINE
-MOSBACHER PRODUCTION CO		RECEIVED:		05/18/82		JA: TX			
8233402	F-01-049928	4217731061		102-2	103	HERBERT M BECKENDORF #2	PEACH CREEK (AUSTIN C	600.0	VALERO TRANSMISSI
-NATIONAL OIL COMPANY		RECEIVED:		05/18/82		JA: TX			
8233270	F-04-044546	4221500000		103		SCHUSTER #1	SOUTH SHEPARD	500.0	VALERO INTERSTATE
-NATURAL GAS ANADARKO INC		RECEIVED:		05/18/82		JA: TX			
8233390	F-10-049529	4235731175		103		COX 1-10A	WAKA S W (HARMATON)	18.0	PHILLIPS PETROLEU
8233388	F-10-049526	4235731069		103		MILLEDGE 1-37	PSHIGODA N (DES MOINE	15.0	PHILLIPS PETROLEU
8233274	F-10-044634	4235731081		102-4		PATTON 1-316	TURNER S E (MORROW UP	360.0	TRANSWESTERN PIPE
8233389	F-10-049528	4229500000		103		WASSELL 1-439	WILDCAT (CLEVELAND)	60.0	PHILLIPS PETROLEU
-NEMOURS CORPORATION		RECEIVED:		05/18/82		JA: TX			
8233438	F-06-050537	4236500000		108		J D FURRH #2 029416	BETHANY (PETTIT)	0.0	TENNESSEE GAS PIP
-NICKLOS OIL & GAS CO C/O BRADCO OIL		RECEIVED:		05/18/82		JA: TX			
8233391	F-04-049746	4240931501		102-4		NEVADA JONES #1	MIDWAY S (JONES SAND)	8.0	
-NICO ENERGY CORP		RECEIVED:		05/18/82		JA: TX			
8233177	F-33-040357	4205180000		102-2	103	WHITENER "E" #1	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
8233178	F-03-040384	4205100000		102-2	103	WHITENER "K" UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
-NORTH AMERICAN PRODUCTION CO		RECEIVED:		05/18/82		JA: TX			
8233187	F-04-041410	4213135234		102-4		GARCIA ESTATE #1	FITZSIMMONS N (3850)	91.0	VALERO TRANSMISSI
-OILWELL OPERATORS INC		RECEIVED:		05/18/82		JA: TX			
8233400	F-10-049890	4217900000		103		HOLMES #7 00259	PANHANDLE-GRAY	64.0	PHILLIPS PETROLEU
-PALO PETROLEUM INC		RECEIVED:		05/18/82		JA: TX			
8233218	F-08-042963	4217331106		103		JOE CALVERLEY "A" #1	SPRABERRY (TREND AREA	14.6	EL PASO NATURAL G
8233219	F-7C-042964	4217300000		103		VESTER HUGHES ESTATE #2	SPRABERRY (TREND AREA	0.0	EL PASO NATURAL G
-PATRICK B FEAGIN OIL & GAS		RECEIVED:		05/18/82		JA: TX			
8233236	F-02-043600	4246931614		102-4		ROSE & SAMPLE #1	WILDCAT (S E SALEM 25	180.0	TEXAS EASTERN TRA
-PAUL DE CLEVA		RECEIVED:		05/18/82		JA: TX			
8233180	F-09-040646	4249700000		103		MANN #1	BOONSEVILLE (BEND CON	0.0	SOUTHWESTERN GAS
-PEERLESS OIL CO INC		RECEIVED:		05/18/82		JA: TX			
8233328	F-7B-047853	4236731944		102-2		WOOD #1	WEATHERFORD (ATOKA MI	32.0	SOUTHWESTERN GAS
-PENNZOIL PRODUCING COMPANY		RECEIVED:		05/18/82		JA: TX			
8233526	F-04-050955	4235500337		108		MINNIE BROWN #1	AGUA DULCE (BENTONVIL	14.0	UNITED GAS PIPE L
-PETE GRACE		RECEIVED:		05/18/82		JA: TX			
8233380	F-09-049370	4223700000		103		BERRY #2	LYTLE CONGLOMERATE 7	120.0	LONE STAR GAS CO
-PETRO-LEWIS CORPORATION		RECEIVED:		05/18/82		JA: TX			
8233261	F-08-044321	4210332448		103		ATLANTIC STATE #2	SAND HILLS (MCKNIGHT)	150.0	WARREN PETROLEUM
8233262	F-08-044338	4210332437		103		ATLANTIC STATE #3	SAND HILLS (MCKNIGHT)	250.0	WARREN PETROLEUM
8233204	F-08-042423	4210332428		103		J B TUBB STATE #19 U	SAND HILLS (JUDKINS)	1000.0	WARREN PETROLEUM
-PEYTON MCKNIGHT JR		RECEIVED:		05/18/82		JA: TX			
8233447	F-06-050578	4240100000		103	107-TF	J L BURTON EST #4 (98670)	OAK HILL (COTTON VALL	878.0	LONE STAR GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	05/18/82	JA: TX			
8233164	F-18-038623	4223300000		103		CHAIN A #1	PANHANDLE HUTCHINSON	0.0	PANHANDLE EASTERN
8233512	F-10-050857	4217900000		108		EAST #2	PANHANDLE WHEELER	0.0	
8233282	F-10-044876	4217930959		103		EMIL #2	PANHANDLE GRAY	0.0	
8233260	F-10-044302	4217900000		103		GATSY #3	PANHANDLE GRAY	0.0	
8233151	F-10-030504	4221131214		103		HUMPHRIES E #1	TWISTER DOUGLAS	274.0	
8233482	F-10-050741	4242100000		108		JASPER A #1	STRATFORD-MASSIVE	0.0	SHAMROCK OIL CO
8233481	F-10-050740	4223300000		108		JOHNSON HH #1	PANHANDLE WEST	0.0	EL PASO NATURAL G
8233256	F-10-043983	4217900000		103		MCCRACKEN #2	PANHANDLE GRAY	0.0	
8233160	F-10-030146	4217930931		103		URBANCZYK #2	PANHANDLE GRAY	0.0	
8233434	F-7C-050512	4238330239		108		WEATHERBY A #5	SPRAYBERRY (TREND ARE	6.0	NORTHERN NATURAL
8233483	F-10-050742	4242100000		108		WELDON #1	TEXAS HUGOTON	0.0	MICHIGAN WISCONSI
-PIONEER PRODUCTION CORPORATION				RECEIVED:	05/18/82	JA: TX			
8233297	F-10-045839	4229500000		103		OLLIE P SCOTT #1-336	LIPSCOMB SW (CLEVELAN	0.0	PIONEER CORP
-PLAINS OIL CO INC				RECEIVED:	05/18/82	JA: TX			
8233465	F-08-050676	4231700000		103		THELMA ANDERSON #1	SPRAYBERRY (TREND ARE	7.0	PHILLIPS PETROLEU
-PYRAMID EXPLORATION				RECEIVED:	05/18/82	JA: TX			
8233190	F-03-041615	4240730419		102-4		ELMORE #1	FLORES (10-H)	150.0	TEXAS EASTERN TRA
-R A W ENERGY CORP				RECEIVED:	05/18/82	JA: TX			
8233206	F-78-042581	4236732095		102-4		BROWN #1-U RRC ID NOT ASSIGNED	GARNER	350.0	SOUTHWESTERN GAS
8233368	F-78-049196	4236700000		102-4		DILL UNIT #1	CABBAGE PATCH (BIG SA	0.0	ALEDO GAS CO LTD
8233373	F-78-049201	4236700000		102-4		GANDEE-RANKIN UNIT #1	CABBAGE PATCH (BIG SA	0.0	ALEDO GAS CO LTD
8233370	F-78-049198	4236700000		102-4		JEFFERSON #1	CABBAGE PATCH (BIG SA	0.0	ALEDO GAS CO LTD
8233369	F-78-049197	4236700000		102-4		JOHN FLORENCE #1	CABBAGE PATCH (BIG SA	0.0	ALEDO GAS CO LTD
8233372	F-78-049200	4236700000		102-4		JORDAN #1	CABBAGE PATCH (ATOKA)	0.0	ALEDO GAS CO LTD
8233367	F-78-049194	4236700000		102-4		SCHERER UNIT #1	CABBAGE PATCH (ATOKA)	0.0	ALEDO GAS CO LTD
8233371	F-78-049199	4236700000		102-4		SHARPE UNIT #1-L	CABBAGE PATCH (BIG SA	0.0	ALEDO GAS CO LTD
8233366	F-78-049193	4236700000		102-4		SHAW UNIT #1	CABBAGE PATCH (BIG SA	0.0	ALEDO GAS CO LTD
8233374	F-78-049202	4236700000		102-4		WARD UNIT #1	CABBAGE PATCH (BIG SA	0.0	ALEDO GAS CO INC
-R E SMITH INTERESTS				RECEIVED:	05/18/82	JA: TX			
8233291	F-06-045543	4236531358		103		107-TF COPELAND UNIT #2 #4	CARTHAGE (COTTON VALL	545.0	TEXAS EASTERN TRA
8233292	F-06-045544	4236531264		103		107-TF PARKER UNIT #3 #2	CARTHAGE (COTTON VALL	545.0	TEXAS EASTERN TRA
-R M ENGELKE				RECEIVED:	05/18/82	JA: TX			
8233320	F-02-047498	4223931175		103		JOHN M BENNETT "B" #1	LASALLE (5725) PROPOS	0.0	TENNESSEE GAS PIP
-RANGER OIL CO				RECEIVED:	05/18/82	JA: TX			
8233286	F-03-045358	4205130482		103		HINTZ ESTATE "A" #4 - #75937	SEALY (WILCOX M-2)	365.0	TEJAS/SOUTHWEST P
-REALITOS ENERGY CORP				RECEIVED:	05/18/82	JA: TX			
8233348	F-04-048693	4224931475		102-4		BLUNDELL #2	WILDCAT-PROPOSED CAPT	6.0	NUE WELLS PIPE LI
-REO INDUSTRIES INC				RECEIVED:	05/18/82	JA: TX			
8233417	F-10-050113	4223300000		103		WHITTENBURG 2-9	PANHANDLE HUTCHINSON	72.0	TRANS-PAN PIPELIN
8233463	F-10-050672	4223300000		103		WHITTENBURG 33-14	PANHANDLE HUTCHINSON	72.0	TRANS-PAN PIPELIN
-RHONDA OPERATING CO				RECEIVED:	05/18/82	JA: TX			
8233289	F-78-045433	4214330688		102-4	103	C J MOORE #1	WILLMAN (BIG SALINE)	36.5	SOUTHWESTERN GAS
-RICHEY EXPLORATION CO				RECEIVED:	05/18/82	JA: TX			
8233318	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-RIDGE OIL CO				RECEIVED:	05/18/82	JA: TX			
*8233448	F-78-050580	4213333461		102-4	103	STUBBLEFIELD #1	RANGER NW (MARBLE FAL	11.5	COMPRESSOR RENTAL
-ROBERT L MCCAMEY				RECEIVED:	05/18/82	JA: TX			
8233450	F-78-050593	4215131361		102-4		ROYSTON-SMITH UNIT A-1	ALKALI CREEK SW (FLIP	7.3	PALO DURO PIPELIN
-ROBINSON BROS DRILLING CO INC				RECEIVED:	05/18/82	JA: TX			
8233186	F-03-041136	4214930903		103		W E BUCEK UNIT #1	GIDDINGS (AUSTIN CHAL	13.0	PHILLIPS PETROLEU
-ROVER OIL CO				RECEIVED:	05/18/82	JA: TX			
8233477	F-78-050736	4234932883		103		WATKINS #1 (17657)	BROWN COUNTY REGULAR	14.0	ODESSA NATURAL CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-ROYALTY PRODUCTION CO				RECEIVED:	05/18/82	JA: TX			
8233284	F-10-044302	4217900000		103		GATSY #2	PANHANDLE GRAY	0.0	
-RUSSELL OIL CO				RECEIVED:	05/18/82	JA: TX			
8233209	F-78-042581	4236732095		102-4		BROWN #1-U RRC ID NOT ASSIGNED	GARNER	350.0	SOUTHWESTERN GAS
-S & S OIL CO				RECEIVED:	05/18/82	JA: TX			
8233188	F-03-041136	4214930903		103		W E BUCEK UNIT #1	GIDDINGS (AUSTIN CHAL	13.0	PHILLIPS PETROLEU
-SAMSON RESOURCES CO				RECEIVED:	05/18/82	JA: TX			
8233322	F-02-047498	4223931175		103		JOHN M BENNETT "B" #1	LASALLE (5725) PROPOS	0.0	TENNESSEE GAS PIP
-SANTA FE ENERGY CO				RECEIVED:	05/18/82	JA: TX			
8233330	F-02-047498	4223931175		103		JOHN M BENNETT "B" #1	LASALLE (5725) PROPOS	0.0	TENNESSEE GAS PIP
-SCHERMERHORN OIL CORP				RECEIVED:	05/18/82	JA: TX			
8233178	F-03-041136	4214930903		103		W E BUCEK UNIT #1	GIDDINGS (AUSTIN CHAL	13.0	PHILLIPS PETROLEU
-SCHLUMBERGER WELL SERVICES				RECEIVED:	05/18/82	JA: TX			
8233322	F-02-047498	4223931175		103		JOHN M BENNETT "B" #1	LASALLE (5725) PROPOS	0.0	TENNESSEE GAS PIP
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233315	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233316	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233317	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233319	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233320	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233321	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233322	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233323	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233324	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233325	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233326	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233327	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233328	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233329	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233330	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233331	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233332	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233333	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233334	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233335	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233336	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233337	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233338	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233339	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233340	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233341	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233342	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233343	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233344	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233345	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233346	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233347	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233348	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233349	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233350	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233351	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233352	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233353	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233354	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233355	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233356	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233357	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233358	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233359	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233360	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233361	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233362	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233363	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233364	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233365	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233366	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233367	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233368	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233369	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233370	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233371	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233372	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233373	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233374	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233375	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233376	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233377	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233378	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233379	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233380	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233381	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233382	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233383	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233384	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233385	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233386	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233387	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233388	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233389	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233390	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233391	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233392	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233393	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233394	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233395	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233396	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233397	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233398	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233399	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233400	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233401	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233402	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233403	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233404	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233405	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233406	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233407	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233408	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233409	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233410	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233411	F-09-047422	4249732205		103		A J HILL	BOONSVILLE (BEND CONG	172.0	LONE STAR GAS CO
-SEAGULL ENERGY E&P INC				RECEIVED:	05/18/82	JA: TX			
8233412	F-09-047422	4249732205		103		A J HILL	BOON

JD NO	JA DKT	API NO	C	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-SABIO OIL & GAS INC				RECEIVED:	05/18/82	JA: TX			
8233259	F-09-044293	4249700000		108		H CLAY RANEY #1 ID #28542	BOONSVILLE (BEND CONG	19.0	NATURAL GAS PIPEL
-SAMEDAN OIL CORPORATION				RECEIVED:	05/18/82	JA: TX			
8233322	F-03-047690	4222530388		102-4		HESTER B #1	FT TRINIDAD NE (GLENN	182.0	SOUTH TEXAS GATHE
8233321	F-03-047668	4222530404		102-4		ST REGIS PAPER CO "D" 1	FT TRINIDAD NE (GLENN	182.0	SOUTH TEXAS GATHE
-SANTA FE-WINDSOR PRODUCING CO				RECEIVED:	05/18/82	JA: TX			
8233408	F-03-050014	4228731149		103		ADELIA UNIT #1	GIDDINGS (AUSTIN CHAL	36.5	PERRY PIPELINE CO
8233313	F-03-046920	4228731092		102-2	103	ADKINS #1	GIDDINGS (AUSTIN CHAL	36.5	PERRY PIPELINE CO
8233407	F-03-050013	4228731130		103		BEN UNIT #1	GIDDINGS (BUDA)	36.5	PERRY PIPELINE CO
8233312	F-03-046919	4228731108		102-2	103	BESSIE #1	GIDDINGS (BUDA)	36.5	PERRY PIPELINE CO
8233406	F-03-050012	4228731135		103		KELLY UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	PERRY PIPELINE CO
8233409	F-03-050015	4228730984		103		LEM MACK UNIT #1	GIDDINGS (AUSTIN CHAL	36.5	PERRY PIPELINE CO
-SCANDRILL CO				RECEIVED:	05/18/82	JA: TX			
8233181	F-09-040784	4250334945		103		CLARK #1	YOUNG COUNTY REGULAR	109.9	SUN GAS TRANSMISS
8233341	F-09-048516	4223734206		103		HENDERSON-BRIDWELL #16	BRYSON EAST	38.6	TEXAS UTILITIES F
8233345	F-09-048565	4223734041		103		HINSON-BANNIN #1	JACK COUNTY REGULAR	32.9	TEXAS UTILITIES F
8233221	F-09-042969	4250335112		103		WILLIAM KURK #30	YOUNG COUNTY REGULAR	64.6	SUN GAS TRANSMISS
-SEQUOIA FOSSIL FUELS INC				RECEIVED:	05/18/82	JA: TX			
8233385	F-78-049981	4205932847		102-4		PRUET "A" #1	MEXIA CREEK (CONGL)	45.0	SIOUX PIPELINE CO
-SHELL OIL CO				RECEIVED:	05/13/82	JA: TX			
8233437	F-04-050535	4221530812		102-4		A A MCALLEN "B" #11	MCALLEN RANCH (VICKSB	190.0	VALERO TRANSMISSI
8233428	F-04-050449	4221530960		102-4		JONES RANCH "A" #4	MCALLEN RANCH N (VICK	600.0	VALERO TRANSMISSI
-SHOW PETROLEUM INC				RECEIVED:	05/18/82	JA: TX			
8233500	F-78-050813	4242932944		102-4		R L CANTWELL #3 (17671)	RANGER NW (MARBLE FAL	27.0	LONE STAR GAS CO
-STEVE JERNIGAN INC				RECEIVED:	05/18/82	JA: TX			
8233212	F-10-042717	4229531027		103		DAISY #1-A	LIPSCOMB (CLEVELAND)	0.0	PHILLIPS PETROLEU
-STRINGER OIL & GAS				RECEIVED:	05/18/82	JA: TX			
8233240	F-01-043718	4250731556		103		ELIZABETH BARTLETT "B" 18	BATESVILLE (SAN MIGUE	192.0	VALERO ENERGY COR
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	05/18/82	JA: TX			
8233346	F-01-048605	4212732179		103		BIG WELLS (SAN MIGUEL) UT #3137	BIG WELLS (SAN MIGUEL	3.0	HOUSTON PIPE LINE
8233442	F-03-050570	4224531425		103		BROUSSARD & HEBERT #38	LABELLE SE (M-77A)	35.8	UNITED TEXAS TRAN
8233375	F-03-049265	4207131124		103		C DOORNBOS #6	WILLOW SLOUGH N (F-4	18.0	UNITED TEXAS TRAN
8233443	F-04-050571	4235500000		108		IDA WALKER #4	RICHARD KING	16.0	DELHI GAS PIPELIN
8233444	F-08-050574	4200332977		103		NELLIE C MARTIN #8	MARTIN (TUBB)	50.0	PHILLIPS PETROLEU
8233376	F-04-049278	4235531864		103		RICHARD KING #329	RICHARD KING (VICKSBU	87.0	DELHI GAS PIPELIN
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	05/18/82	JA: TX			
8233162	F-08-038451	4213533506		103		EAST GOLDSMITH HOLT UNIT #29-2	GOLDSMITH EAST	5.0	PHILLIPS PETROLEU
8233216	F-7C-042843	4244330250		103		ELLEN A WORD "C" #1-A	MCKAY CREEK (CABALLOS	1.0	EL PASO NATURAL G
-TAURUS OIL CORP				RECEIVED:	05/18/82	JA: TX			
8233401	F-08-049898	4210332683		103		SOUTH ROBERDEAU 1A	LYLES (CLEARFORK)	18.3	
-TEE OPERATING CO				RECEIVED:	05/18/82	JA: TX			
8233302	F-03-046343	4214931119		103		HELMCAMP #2	GIDDINGS (AUSTIN CHAL	0.0	SOUTH CEN-TEX GAS
8233152	F-03-051063	4247739381		102-4	103	JANNER #1	CLAY CREEK (WILCOX)	0.0	
-TEMPLETON ENERGY INC				RECEIVED:	05/18/82	JA: TX			
8233296	F-02-045775	4212300000		102-4		BRANDT #1	COTTONWOOD NW (12400)	100.0	LONE STAR GAS CO
-TENNECO OIL COMPANY				RECEIVED:	05/18/82	JA: TX			
8233169	F-04-038879	4221531060		102-4		MCALLEN FIELDWIDE UNIT #48	MCALLEN	650.0	TRUNKLINE GAS CO
8233283	F-8A-044896	4250132198		103		PRENTICE (6700') CLEARFORK #723	PRENTICE (6700')	0.0	AMOCO PRODUCTION
-TESORO PETROLEUM CORP				RECEIVED:	05/18/82	JA: TX			
8233227	F-02-043206	4205731094		103		HUBBARD #1	MAGNOLIA BEACH (7800'	0.0	CHANNEL INDUSTRIE
-TEXACO INC				RECEIVED:	05/18/82	JA: TX			
8233537	F-38-051859	4237133687		108		E DICKINSON #1	FORT STOCKTON (YATES)	5.3	NUECES CORP
8233508	F-08-050852	4237100000		108		H J EATON F #3	FORT STOCKTON (YATES)	11.5	NUECES CORP

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8233285	F-8A-045045	4221933308		103		IRA P DELOACHE #48
8233509	F-08-050853	4249500000		108		J A THOMAS #1
8233511	F-09-050855	4223700000		108		J D CRAFT #2
8233307	F-8A-046504	4250132056		103		ROBERTS UNIT #1725
8233378	F-8A-049313	4250132067		103		ROBERTS UNIT #2725
8233518	F-08-050854	4249500000		108		SETH CAMPBELL "B" ACT-1 #2
8233290	F-08-045466	4243130957		103		V E BROWNFIELD #3
-TEXAS OIL & GAS CORP				RECEIVED:	05/18/82	JA: TX
8233179	F-02-040397	4223931643		103		MCCAIG #1
8233171	F-02-039187	4212331137		103		MUSSELMAN H-1
-THE ANSCHUTZ CORPORATION				RECEIVED:	05/18/82	JA: TX
8233466	F-04-050678	4202731008		102-4		RUPP NEIL 1-B RRC ID #97545
-THOMAS K TOMLINSON INC				RECEIVED:	05/18/82	JA: TX
8233168	F-03-038858	4205100000		102-2		JAMES BURNS #1 RRC ID# NOT AVAIL
-THROCKMORTON GAS SYSTEMS				RECEIVED:	05/18/82	JA: TX
8233344	F-7B-048533	4244733053		102-4		CARPENTER #2 (17793)
8233170	F-7B-038904	4244731766		102-2		E E SMITH WELL NO 4 #86959
8233157	F-7B-037149	4244732260		102-4		RICHARDS #3-H 90239
8233257	F-7B-043918	4244731628		102-4		W L RICHARDS "B" #10 (14166)
8233258	F-7B-043919	4244731579		102-4		W L RICHARDS "B" #9 (14166)
-TIPPERARY OIL AND GAS CORP				RECEIVED:	05/18/82	JA: TX
8233159	F-83-042022	4214931116		102-2		HYDROCARBON GATHERING #1
-TOWNSEND CO				RECEIVED:	05/18/82	JA: TX
8233412	F-7C-050089	4239900000		102-4		DICKINSON #5 (08625)
8233413	F-7C-050092	4239932040		102-4		DICKINSON #8 (08955)
-TSPI INC				RECEIVED:	05/18/82	JA: TX
8233399	F-10-049862	4206500000		103		JON ANN #5
-TXO PRODUCTION CORP				RECEIVED:	05/18/82	JA: TX
8233365	F-08-049115	4210931555		103		CATCLAW STATE "A" #1
8233214	F-03-042731	4248132226		102-4		DUNCAN B-5
8233416	F-05-050186	4228930497		102-4		ELLIS "B" #1
8233159	F-04-037701	4213135208		102-4		LOPEZ D-1 RRC#94696
8233201	F-02-042179	4229732700		102-4		MCCLELLAND B-1
8233183	F-04-041017	4221531107		102-4		PAINTER #7
8233195	F-02-041834	4223931592		102-4		SCHAEFER G U #1
8233282	F-02-042236	4223931671		103		STAFFORD A-3
8233155	F-03-034863	4214930901		102-2	103	SVRCEK #1
8233338	F-08-048486	4237133667		103		WOODWARD "55"
-U S MINERAL OPERATING CO INC				RECEIVED:	05/18/82	JA: TX
8233343	F-04-048531	4213100000		102-4		BAZAN #1-C
8233342	F-04-048528	4213100000		102-4		BAZAN #1-T
-U S OPERATING INC				RECEIVED:	05/18/82	JA: TX
8233304	F-03-046441	4205131824		102-2		JIMMIE #1 RRC ID 97106
-UNIT DRILLING & EXPLORATION CO				RECEIVED:	05/18/82	JA: TX
8233324	F-10-047742	4229531096		103		HEIL #2
-VENUS OIL COMPANY				RECEIVED:	05/18/82	JA: TX
8233311	F-03-046844	4248100000		102-4		MOLLNAR #1
-W H TAYLOR ESTATE				RECEIVED:	05/18/82	JA: TX
8233362	F-10-049092	4217930986		103		TAYLOR RANCH (TEH) #31-R
8233363	F-10-049093	4217930987		103		TAYLOR RANCH (TEH) #34-R
8233364	F-10-049094	4217930985		103		TAYLOR RANCH (WHT) 11-R
-W L PENNINGTON INC				RECEIVED:	05/18/82	JA: TX
8233184	F-10-041040	4208700000		108-ER		ST MARY 1-84

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FIELD NAME	PROD	PURCHASER
LEVELLAND	8.8	
EMPEROR (DEVONIAN)	15.7	WEST TEXAS GATHER
CATLIN (CADDO CONGLOM	13.1	CITIES SERVICE CO
WASSON	37.8	SHELL OIL CO
WASSON	11.3	SHELL OIL CO
KERMIT SOUTH (DEVONIA	6.5	WEST TEXAS GATHER
CONGER (PENN)	0.0	VALERO TRANSMISSI
STERLING (4800')	0.0	DELHI GAS PIPELIN
BALFOUR (YEGUA 5350')	0.0	DELHI GAS PIPELIN
FALFURRIAS (RUPP)	461.8	
GIDDINGS (AUSTIN CHAL	140.0	CLAJON GAS CO
BOHNER-KIMBELL (CADDO	0.0	WARREN PETROLEUM
BRYLE SOUTH (CADDO UP	0.0	WARREN PETROLEUM
RICHARDS RANCH (CADDO	0.0	WARREN PETROLEUM
RICHARDS RANCH (HOME	0.0	WARREN PETROLEUM
RICHARDS RANCH (HOME	0.0	WARREN PETROLEUM
GIDDINGS (AUSTIN CHAL	180.0	PHILLIPS PETROLEU
BALLINGER WEST (CAPPS	9.0	LONE STAR GAS CO
BALLINGER WEST (GARDN	21.0	LONE STAR GAS CO
PANHANDLE CARSON	50.0	PANHANDLE EASTERN
FORD WEST (4100)	12.0	CONOCO INC
EGYPT (6970')	0.0	DELHI GAS PIPELIN
BEAR GRASS (PETTIT)	0.0	
J R (5618')	0.0	VALERO TRANSMISSI
OAKVILLE (WILCOX 9700	0.0	DELHI GAS PIPELIN
MERCEDES (1-4-0)	0.0	TENNESSEE GAS PIP
MCDANIEL (4100')	0.0	UNITED GAS PIPELI
MORALES (3955')	0.0	TENNESSEE GAS PIP
GIDDINGS (AUSTIN CHAL	0.0	CLAJON INC
CHENOT (WOLFCAMP)	358.0	DELHI GAS PIPELIN
FIVE GATES (COLE SAND	280.0	HOUSTON PIPELINE
FIVE GATES (UPPER YEG	280.0	HOUSTON PIPELINE
CLAY N E (DEEP)	0.0	PHILLIPS PETROLEU
WILEY (TONKAWA)	37.0	PHILLIPS PETROLEU
HUTCHINS SOUTHWEST (S	0.0	DOW CHEMICAL CO
WEST PANHANDLE	0.0	PHILLIPS PETROLEU
WEST PANHANDLE	0.0	PHILLIPS PETROLEU
WEST PANHANDLE	0.0	PHILLIPS PETROLEU
PANHANDLE EAST	0.0	EL PASO NATURAL G

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8233285	F-8A-045045	4221933308		103		IRA P DELOACHE #48
8233509	F-08-050853	4249500000		108		J A THOMAS #1
8233511	F-09-050855	4223700000		108		J D CRAFT #2
8233307	F-8A-046504	4250132056		103		ROBERTS UNIT #1725
8233378	F-8A-049313	4250132067		103		ROBERTS UNIT #2725
8233518	F-08-050854	4249500000		108		SETH CAMPBELL "B" ACT-1 #2
8233290	F-08-045466	4243130957		103		V E BROWNFIELD #3
-TEXAS OIL & GAS CORP				RECEIVED:	05/18/82	JA: TX
8233179	F-02-040397	4223931643		103		MCCAIG #1
8233171	F-02-039187	4212331137		103		MUSSELMAN H-1
-THE ANSCHUTZ CORPORATION				RECEIVED:	05/18/82	JA: TX
8233466	F-04-050678	4202731008		102-4		RUPP NEIL 1-B RRC ID #97545
-THOMAS K TOMLINSON INC				RECEIVED:	05/18/82	JA: TX
8233168	F-03-038858	4205100000		102-2		JAMES BURNS #1 RRC ID# NOT AVAIL
-THROCKMORTON GAS SYSTEMS				RECEIVED:	05/18/82	JA: TX
8233344	F-7B-048533	4244733053		102-4		CARPENTER #2 (17793)
8233170	F-7B-038904	4244731766		102-2		E E SMITH WELL NO 4 #86959
8233157	F-7B-037149	4244732260		102-4		RICHARDS #3-H 90239
8233257	F-7B-043918	4244731628		102-4		W L RICHARDS "B" #10 (14166)
8233258	F-7B-043919	4244731579		102-4		W L RICHARDS "B" #9 (14166)
-TIPPERARY OIL AND GAS CORP				RECEIVED:	05/18/82	JA: TX
8233159	F-83-042022	4214931116		102-2		HYDROCARBON GATHERING #1
-TOWNSEND CO				RECEIVED:	05/18/82	JA: TX
8233412	F-7C-050089	4239900000		102-4		DICKINSON #5 (08625)
8233413	F-7C-050092	4239932040		102-4		DICKINSON #8 (08955)
-TSPI INC				RECEIVED:	05/18/82	JA: TX
8233399	F-10-049862	4206500000		103		JON ANN #5
-TXO PRODUCTION CORP				RECEIVED:	05/18/82	JA: TX
8233365	F-08-049115	4210931555		103		CATCLAW STATE "A" #1
8233214	F-03-042731	4248132226		102-4		DUNCAN B-5
8233416	F-05-050186	4228930497		102-4		ELLIS "B" #1
8233159	F-04-037701	4213135208		102-4		LOPEZ D-1 RRC#94696
8233201	F-02-042179	4229732700		102-4		MCCLELLAND B-1
8233183	F-04-041017	4221531107		102-4		PAINTER #7
8233195	F-02-041834	4223931592		102-4		SCHAEFER G U #1
8233282	F-02-042236	4223931671		103		STAFFORD A-3
8233155	F-03-034863	4214930901		102-2	103	SVRCEK #1
8233338	F-08-048486	4237133667		103		WOODWARD "55"
-U S MINERAL OPERATING CO INC				RECEIVED:	05/18/82	JA: TX
8233343	F-04-048531	4213100000		102-4		BAZAN #1-C
8233342	F-04-048528	4213100000		102-4		BAZAN #1-T
-U S OPERATING INC				RECEIVED:	05/18/82	JA: TX
8233304	F-03-046441	4205131824		102-2		JIMMIE #1 RRC ID 97106
-UNIT DRILLING & EXPLORATION CO				RECEIVED:	05/18/82	JA: TX
8233324	F-10-047742	4229531096		103		HEIL #2
-VENUS OIL COMPANY				RECEIVED:	05/18/82	JA: TX
8233311	F-03-046844	4248100000		102-4		MOLLNAR #1
-W H TAYLOR ESTATE				RECEIVED:	05/18/82	JA: TX
8233362	F-10-049092	4217930986		103		TAYLOR RANCH (TEH) #31-R
8233363	F-10-049093	4217930987		103		TAYLOR RANCH (TEH) #34-R
8233364	F-10-049094	4217930985		103		TAYLOR RANCH (WHT) 11-R
-W L PENNINGTON INC				RECEIVED:	05/18/82	JA: TX
8233184	F-10-041040	4208700000		108-ER		ST MARY 1-84

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FIELD NAME	PROD	PURCHASER
LEVELLAND	8.8	
EMPEROR (DEVONIAN)	15.7	WEST TEXAS GATHER
CATLIN (CADDO CONGLOM	13.1	CITIES SERVICE CO
WASSON	37.8	SHELL OIL CO
WASSON	11.3	SHELL OIL CO
KERMIT SOUTH (DEVONIA	6.5	WEST TEXAS GATHER
CONGER (PENN)	0.0	VALERO TRANSMISSI
STERLING (4800')	0.0	DELHI GAS PIPELIN
BALFOUR (YEGUA 5350')	0.0	DELHI GAS PIPELIN
FALFURRIAS (RUPP)	461.8	
GIDDINGS (AUSTIN CHAL	140.0	CLAJON GAS CO
BOHNER-KIMBELL (CADDO	0.0	WARREN PETROLEUM
BRYLE SOUTH (CADDO UP	0.0	WARREN PETROLEUM
RICHARDS RANCH (CADDO	0.0	WARREN PETROLEUM
RICHARDS RANCH (HOME	0.0	WARREN PETROLEUM
RICHARDS RANCH (HOME	0.0	WARREN PETROLEUM
GIDDINGS (AUSTIN CHAL	180.0	PHILLIPS PETROLEU
BALLINGER WEST (CAPPS	9.0	LONE STAR GAS CO
BALLINGER WEST (GARDN	21.0	LONE STAR GAS CO
PANHANDLE CARSON	50.0	PANHANDLE EASTERN
FORD WEST (4100)	12.0	CONOCO INC
EGYPT (6970')	0.0	DELHI GAS PIPELIN
BEAR GRASS (PETTIT)	0.0	
J R (5618')	0.0	VALERO TRANSMISSI
OAKVILLE (WILCOX 9700	0.0	DELHI GAS PIPELIN
MERCEDES (1-4-0)	0.0	TENNESSEE GAS PIP
MCDANIEL (4100')	0.0	UNITED GAS PIPELI
MORALES (3955')	0.0	TENNESSEE GAS PIP
GIDDINGS (AUSTIN CHAL	0.0	CLAJON INC
CHENOT (WOLFCAMP)	358.0	DELHI GAS PIPELIN
FIVE GATES (COLE SAND	280.0	HOUSTON PIPELINE
FIVE GATES (UPPER YEG	280.0	HOUSTON PIPELINE
CLAY N E (DEEP)	0.0	PHILLIPS PETROLEU
WILEY (TONKAWA)	37.0	PHILLIPS PETROLEU
HUTCHINS SOUTHWEST (S	0.0	DOW CHEMICAL CO
WEST PANHANDLE	0.0	PHILLIPS PETROLEU
WEST PANHANDLE	0.0	PHILLIPS PETROLEU
WEST PANHANDLE	0.0	PHILLIPS PETROLEU
PANHANDLE EAST	0.0	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-W R EDWARDS JR				RECEIVED:	05/18/82	JA: TX
8233488	F-10-050757	4223300000		103		BEARKILLER #11
8233462	F-10-050671	4223300000		103		LITTLE RASCALS #25
8233487	F-10-050756	4223300000		103		LITTLE RASCALS #27
-WAGNER & BROWN				RECEIVED:	05/18/82	JA: TX
8233228	F-08-043337	4243130337		103		GLASS "D" #3-25
-WALSH AND WATTS INC				RECEIVED:	05/18/82	JA: TX
8233506	F-78-050843	4215131470		103		BOYD -D- (LEASE NO 10970) #9
-WALTER EXPLORATION INC				RECEIVED:	05/18/82	JA: TX
8233381	F-89-046252	4233500000		102-4		J K BRITE "A" #1 (96561)
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	05/18/82	JA: TX
8233395	F-08-049842	4210331918		103		J B TUBB #28
8233384	F-08-049427	4210332722		103		T C BARNSLEY #7
-WEAVER OIL AND GAS CORPORATION				RECEIVED:	05/18/82	JA: TX
8233419	F-86-050128	4208131263		103		J S CARROLL #1
-WES-TEX DRILLING COMPANY				RECEIVED:	05/18/82	JA: TX
8233325	F-7C-047744	4243532535		103		VALLIANT #2
-WESLEY SENKEL INC				RECEIVED:	05/18/82	JA: TX
8233438	F-09-050457	4250300000		102-4		O B HEARNE #3
-WESLEY STEPHENS				RECEIVED:	05/18/82	JA: TX
8233451	F-89-050605	4250300000		103		MAHANEY "A" #5 RRC ID #94665
-WOODS PETROLEUM CORP				RECEIVED:	05/18/82	JA: TX
8233211	F-8A-042699	4207931248		102-4	103	SLAUGHTER TRUST #1
-WORLDWIDE ENERGY CORPORATION				RECEIVED:	05/18/82	JA: TX
8233493	F-06-050780	4242300000		102-4		WARREN A-1
-XB ENERGY SERVICES INC				RECEIVED:	05/18/82	JA: TX
8233225	F-01-043059	4216331984		103		ARTHUR HURT JR 2-B
8233224	F-01-043055	4216331987		103		ARTHUR HURT JR 6-B
8233223	F-01-043054	4216331959		103		ARTHUR HURT JR 7-B
8233222	F-01-043053	4216331983		103		ARTHUR HURT JR 8-B

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FIELD NAME	PROD	PURCHASER
PANHANDLE HUTCHINSON	150.0	PANHANDLE PRODUCI
PANHANDLE HUTCHINSON	100.0	PANHANDLE PRODUCI
PANHANDLE HUTCHINSON	100.0	PANHANDLE PRODUCI
CONGER (PENN)	88.0	VALERO TRANSMISSI
JUDY GAIL (CANYON SAN	10.0	LONE STAR GAS CO
ROOTER (CONGL)	365.0	LONE STAR GAS CO
SAND HILLS (TUBB)	75.0	EL PASO NATURAL G
LEA (SAN ANDRES)	3.2	EL PASO NATURAL G
TENNESSEE COLONY (LOW	110.0	LONE STAR GAS CO
WHITEHEAD (STRAWN)	0.0	NORTHERN NATURAL
SENKEL (CADDO 4600)	256.0	SOUTHWESTERN GAS
YOUNG COUNTY REGULAR/	65.7	SUN GAS TRANSMISS
BONANZA EAST (SAN AND	10.0	WARREN PETROLEUM
SUNSHINE	0.0	SEMCO GAS INC
PEARSALL (AUSTIN CHAL	0.0	TGP INC
PEARSALL (AUSTIN CHAL	0.0	TGP INC
PEARSALL (AUSTIN CHAL	0.0	TGP INC
PEARSALL (AUSTIN CHAL	0.0	TGP INC

OTHER PURCHASERS VOLUME NO :664

8233150	NATURAL GAS P L CO OF AMER
8233194	TEXAS UTILITIES FUEL CO
8233319	E I DUPONT DE*NEMOURS & CO INC
8233339	VALERO TRANSMISSION CORP
8233394	NORTHERN NATURAL GAS CO
8233429	E I DUPONT DE*NEMOURS & CO INC
8233445	COLTEXO CORP
8233446	DELHI GAS P L CORP
8233448	LONE STAR GAS CO
8233471	E I DUPONT DE*NEMOURS & CO INC
8233484	E I DUPONT DE*NEMOURS & CO INC
8233485	E I DUPONT DE*NEMOURS & CO INC
8233486	E I DUPONT DE*NEMOURS & CO INC
8233495	E I DUPONT DE*NEMOURS & CO INC

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before June 29, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–15984 Filed 6–11–82; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Cases Filed; Week of April 30 Through May 7, 1982

During the week of April 30 through May 7, 1982, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

June 7, 1982

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of April 30, 1982 through May 7, 1982]

Date	Name and location of applicant	Case No.	Type of submission
Apr. 30, 1982	Empire State Petroleum Association, Albany, New York	HEA–0001	Appeal of Conservation and Renewable Energy Division Decision. If granted: The March 31, 1982, Decision issued by the Assistant Secretary for Conservation and Renewable Energy pursuant to Section 216 of the National Energy Conservation and Policy Act (4 U.S.C. § 8217) permitting the Long Island Lighting Company to sell and install residential solar water heating units would be rescinded.
Apr. 30, 1982	Marathon Oil Company, Washington, D.C.	HRZ–0062	Interlocutory Order. If granted: Landmark Inc.'s Statement of Objections submitted in response to the Proposed Remedial Order (Case Nos. HRO–0024 and 0025) issued to Marathon Oil Company would be stricken.
Apr. 30, 1982	Marathon Oil Company, Washington, D.C.	HRZ–0063	Interlocutory Order. If granted: Growmark Inc.'s, Statement of Objections submitted in response to the Proposed Remedial Order (Case Nos. HRO–0024 and 0025) issued to Marathon Oil Company would be stricken.
Apr. 30, 1982	Marathon Oil Company, Washington, D.C.	HRZ–0064	Interlocutory Order. If granted: Township Oil Company's Statement of Objections submitted in response to the Proposed Remedial Order (Case Nos. HRO–0024 and 0025) issued to Marathon Oil Company would be stricken.
May 3, 1982	Mobil Oil Corporation/Office of Special Counsel, Washington, D.C.	HRS–0006	Request for Stay. If granted: Mobil Oil Corporation would receive a stay of the filing date of its Statement of Objections (Case No. HRO–0014).
May 3, 1982	Mobil Oil Corporation/Office of Special Counsel, Washington, D.C.	HRS–0007	Request for Stay. If granted: Mobil Oil Corporation would receive a stay of the filing date of its Statement of Objections (Case No. HRO–0016).
May 3, 1982	Mobil Oil Corporation/Office of Special Counsel, Washington, D.C.	HRS–0008	Request for Stay. If granted: Mobil Oil Corporation would receive a stay of the filing date of its Statement of Objections (Case No. HRO–0017).
May 3, 1982	Mobil Oil Corporation/Office of Special Counsel, Washington, D.C.	HRS–0009	Request for Stay. If granted: Mobil Oil Corporation would receive a stay of the filing date of its Statement of Objections (Case No. HRO–0022).
May 3, 1982	Mobil Oil Corporation/Office of Special Counsel, Washington, D.C.	HRS–0011	Request for Stay. If granted: Mobil Oil Corporation would receive a stay of the filing date of its Statement of Objections (Case No. HRO–0023).
May 4, 1982	Montague, Ted d/b/a Ted's Unitn Service Cupertino, California.	HRW–0018	Remedial Order Without Objection. If granted: The Proposed Remedial Order issued to Ted Montague d/b/a/ Ted's Union Service on August 14, 1982 would be issued as a final Remedial Order.
May 4, 1982	Redman Service Inc., Santa Monica, California	HEX–0026	Supplemental Order. If granted: The September 28, 1980, Remedial Order issued by the Office of Hearings and Appeals to Redman Service, Inc. (Case No. BRW–0067) would be rescinded.
May 6, 1982	Exxon Company, U.S.A., Washington, D.C.	HRR–0025	Request for Modification/Rescission. If granted: The November 12, 1981, dismissal letter issued to Exxon Company, U.S.A., dismissing Exxon Company, U.S.A.'s Motion to Dismiss the Proposed Remedial Order issued to it on May 29, 1981 would be rescinded.
May 6, 1982	State of Alaska, Anchorage, Alaska	HEE–0028	Exception from the Energy Conservation Program. If granted: The State of Alaska would be granted an exception from the requirement contained in 10 C.F.R. § 455.2 that a residential child care center provide care for at least ten minor persons in order to qualify for assistance under the National Energy Conservation Policy Act.
May 7, 1982	Arizona Fuels Corp./Cities Service, Tulsa, Oklahoma	HEJ–0020	Motion for Protective Order. If granted: Cities Service would enter into a Protective Order with Arizona Fuels Corporation regarding the release of proprietary information to Cities Service in connection with Arizona Fuels Corp.'s Application for Exception (Case Nos. BEH–0526, DEE–6984 and DEF–0529).

[FR Doc. 82–15920 Filed 6–11–82; 8:45 am]

BILLING CODE 6450–01–M

Cases Filed; Week of May 7 through May 14, 1982

During the week of May 7 through May 14, 1982, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,
Director, Office of Hearings and Appeals.
June 7, 1982.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of May 7 through May 14, 1982]

Date	Name and location of applicant	Case No.	Type of submission
May 10, 1982	Economic Regulatory Administration/Marathon Oil Company, Washington, D.C.	HRR-0026	Request for Modification/Recission. If granted: The May 6, 1982, Decision and Order issued to Office of Special Counsel/Marathon Oil Company (Case Nos. HRZ-0050 thru HRZ-0055) would be modified regarding the last sentence on page 6.
May 10, 1982	Mobil Oil Corporation, New York, New York	HRS-0012	Request for Stay. If granted: Mobil Oil Corporation would receive a stay of the filing date of its Statement of Objections (Case No. HRO-0030).
May 10, 1982	Paul B. Woodall, Washington, D.C.	HFA-0055	Appeal of an Information Request Denial. If granted: The May 6, 1982, Information Request Denial issued by the DOE Director of Personnel would be rescinded, and Paul B. Woodall would receive access to certain personal medical records.
May 10, 1982	Whitaker Oil Company, Atlanta, Georgia	HEE-0029	Price Exception. If granted: Whitaker Oil Company would receive an exception from the provisions of 10 CFR Part 212, with respect to Whitaker's sales of petroleum products during the audit period of November 1, 1973 through November 31, 1974.
May 13, 1982	Arizona Fuels Corporation, Washington, D.C.	HCX-0027	Supplemental Order. If granted: The February 12, 1979, Decision and Order (Case Nos. DXE-0224 and DXE-1046) issued to Arizona Fuels Corp. by the Office of Hearings and Appeals would be modified as required by the May 5, 1982, Order issued by the Federal Energy Regulatory Commission.
May 13, 1982	Saveway Service Station Inc. & Auto Fillo Co., Inc.	HRH-0009	Motion for Evidentiary Hearing. If granted: An Evidentiary Hearing would be convened in connection with the Statement of Objections submitted by Saveway in response to a Proposed Remedial Order (Case No. DRO-0288).

NOTICE OF OBJECTION RECEIVED

[Week of May 7, 1982 to May 14, 1982]

Date	Name and location of applicant	Case No.
May 10, 1982	W. T. Waggoner Estate, Fort Worth, Texas	BEE-1366

[FR Doc. 82-15823 Filed 6-11-82; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of April 12 Through April 16, 1982

During the week of April 12 through April 16, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Cladouhos & Brashares; Nieter, Dixon, Whitmore, Myers & Koehlinger, 4/16/82; BFA-0690, BFA-0683

The law firms of Cladouhos & Brashares and Nieter, Dixon, Whitmore, Myers & Koehlinger filed Appeals from denials by the Director of the Office of Safeguards and Security of the Requests for Information which the firms had submitted under the Freedom of Information Act (FOIA). In considering the Appeals, the DOE noted the existence of a recent amendment to the Atomic Energy Act that prohibits the public dissemination of certain safeguards information regarding energy production or utilization facilities. Finding that the material sought by each appellant might arguably fall within the purview of the new provision, the DOE remanded the requests to the Safeguards Director, directing him to promptly release the materials or issue determinations that the documents are exempt from mandatory disclosure under the FOIA as a result of the amendment.

Environmentalists, Inc., 4/16/82; BFA-0680

Environmentalists, Inc. filed an Appeal from a partial denial by the Acting Manager of DOE's Savannah River Operations Office of a Request for Information which the organization had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that certain portions of the documents which were initially withheld under Exemption 3 could be released to the public without disclosing any classified materials. Accordingly, nonclassified portions of two documents were released to Environmentalists.

National Wildlife Federation, 4/12/82; HFA-0043

National Wildlife Federation filed an Appeal from a denial by the Bonneville Power Administration of a request for a waiver of search and copying fees imposed in connection with a Request for Information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that a fee waiver was in the public interest and, therefore, should be granted. Important issues that were considered in the Decision and Order were (i) the status of the requester as a representative of a bona fide interest group, (ii) the current public interest in the subject matter of the documents sought by the requester, and (iii) the status of the requester as a party in administrative proceedings against the government.

Remedial Order

Fasgo, Inc., 4/16/82; BRO-1445, BRD-1445, BRH-1445

The Office of Enforcement (OE) filed a Motion to Dismiss without prejudice a Proposed Remedial Order (PRO) issued to Fasgo, Inc. In considering the OE's Motion,

the DOE found that the firm would not be unduly burdened by having to respond to a revised PRO. Accordingly, the DOE dismissed the PRO without prejudice to the reissuance of a revised PRO to the firm.

Request for Modification and/or Rescission

Economic Regulatory Administration; Energy Information Administration; Energy Systems, Inc., 4/13/82; BER–0066, BST–0358, BFA–0565

The Economic Regulatory Administration and the Energy Information Administration filed a Petition for Reconsideration of the Freedom of Information Act (FOIA) appeal issued in *Foster Associates, Inc.*, 6 DOE ¶ 80,121 (1980). In that decision, the DOE ordered the release of the following specific data for each installation listed in the Major Fuel Burning Installation Coal Conversion Report (MFBI Report): (1) combustor capacity; (2) fuel use; (3) coal sulfur content; and (4) four digit Standard Industrial Classification (SIC) Code. In their joint submission, the ERA and the EIA contended that Exemption 4 of the FOIA permits the release of only the SIC Code. Energy Systems, Inc. filed a separate FOIA Appeal requesting the release of the above-listed information, as well as combustor age data and the total design firing rate of the plants. The DOE then issued a Notice in the **Federal Register** requesting interested parties to submit comments concerning the proper treatment under the FOIA of the information in dispute. After reviewing the ERA/EIA Petition, the Energy Systems Appeal, and the comments received, the DOE determined that the fuel use and combustor capacity figures should be withheld for seven of the firms in the MFBI Report that submitted comments. With respect to all other firms listed in the MFBI Report, the DOE concluded that it did not possess enough information to determine whether release of the fuel use and combustor capacity data would be likely to cause the firms substantial competitive harm. The DOE therefore remanded this question to the ERA. The DOE also determined that the ERA had failed to show that the release of the coal sulfur content figures, combustor age data, and total design firing rates would likely result in competitive harm to each firm listed in the MFBI Report. Accordingly, the DOE also remanded these issues to the ERA.

Requests for Exception

Milder Oil Company, 4/13/82; BEE–1326

Milder Oil Company filed an Application for Exception from its obligation to comply fully with the terms of a Consent Order the firm entered into with the ERA on December 12, 1977. The DOE determined that Milder failed to demonstrate that extraordinary circumstances exist which would warrant the relief requested. Accordingly, relief was denied. The important issue discussed in the Decision is the standard applicable to requests for exception relief from consent orders.

Oasis Petroleum Corporation, 4/12/82; DEE–7983

Oasis Petroleum Corporation filed an Application for Exception from the provisions of 10 C.F.R. Part 212, Subpart L of the Mandatory Petroleum Price Regulations, in which the firm sought permission to be classified as a Class C reseller of crude oil for the purposes of calculating its maximum permissible selling prices for the period beginning on January 1, 1978. In considering Oasis' exception request, the DOE determined that the application to the firm of the provisions of the DOE regulations concerning the resale of crude oil resulted in a gross inequity which warranted exception relief. The DOE further determined that Oasis should be permitted to charge any price in the sales of crude oil during the period from January 1, 1978 through November 30, 1980 provided that its permissible average markup for each month does not exceed $.20 per barrel. Accordingly, exception relief was granted.

Powerine Oil Company, 4/12/82; DEE–2099, BEE–1619

Powerine Oil Company, filed an Application for Exception from the provisions of 10 C.F.R. § 211.67 (the Entitlements Program) in which the firm requested that its entitlements sales position be increased in order to reduce its crude oil acquisition costs for its fiscal years ending January 31, 1979 and January 31, 1981. In considering the request, the DOE found that although Powerine had experienced a crude oil cost disparity relative to other California refiners during these two years, the firm had not suffered a significant financial hardship, nor had it experienced a permanent adverse shift in is competitive position. Thus, the firm did not qualify for relief under the general statutory standards of serious hardship, gross inequity, or unfair distribution of burdens. The DOE further concluded that Powerine did not qualify for relief under the *Delta* standards, since, as a net seller of entitlements the firm did not meet the threshold showing for consideration for *Delta* relief. Accordingly, exception relief was denied.

Texaco, Inc., 4/13/82; DEE–1777

Texaco, Inc., filed an Application for Exception from the provisions of 10 C.F.R. Part 212, Subpart D in which the firm sought an order permitting it to sell at market prices all of the crude oil produced from the TS–1 and TS–3 wells on Platform A in the Cook Inlet, Alaska after workovers were performed. In considering the request, the DOE found that although the firm had gone ahead and made the capital investments before relief was granted, and without notifying the agency, exception relief was nontheless necessary to prevent serious hardship to the firm. Accordingly, partial exception relief was granted. The important issues discussed in the Decision and Order are (i) DOE's authority to consider equitable factors in ruling on an exception request; (ii) the application of the "clean hands" doctrine; and (iii) the standards for ordering exception relief to encourage new investments in crude oil production.

Office of Special Counsel, 4/13/82; BRD–0131, HRD–0005, HRD–0018, HRD–0021,

The Office of Special Counsel sought discovery from Texaco, Inc., through four separate motions. The DOE approved the parties' stipulation resolving most of the issues arising under those motions and ruled that "corporate state of mind" discovery should be limited through the application of a "responsible corporate official" concept utilized in previous cases.

Supplemental Orders

Marathon Oil Company; Office of General Counsel, 4/12/82; HRX–0021

On April 12, 1982, the DOE issued a Supplemental Order modifying *Marathon Oil Co.*, 9 DOE ¶ 84,012 (1982) (discovery order). In a previous Supplemental Order, issued on March 15, 1982, the DOE had dismissed those protions of a PRO issued to Marathon Oil Company that alleged that Marathon overstated its costs as a result of its improper treatment of inter-affiliate transfers of natural gas liquids and natural gas liquid products as "first sales" under 10 CFR Part 212, Subpart K. The April 12, 1982 Supplemental Order then rescinded those portions of *Marathon Oil Co.*, 9 DOE ¶ 84,012 (1982), that had ordered discovery relating to the "first sale" issue.

Vickers Energy Corporation/K–G Oil Corporation, et al., 4/16/82; HFX–0017

On April 16, 1982, the DOE issued a second determination addressing applications for refund filed in the Vickers Consent Order Proceeding. In a previously issued Decision and Order, the DOE had instituted special refund procedures for distribution of a fund obtained by the DOE through a consent order entered into by the agency and the Vickers Energy Corporation. *Office of Enforcement*, 8 DOE ¶ 82,597 (1981). In the April 16, 1982 determination, 15 applications for refund were granted, in a total dollar amount of approximately $44,000. These applications were all filed by firms who purchased an average volume of 50,000 gallons per month or less and therefore were not required to provide information regarding unrecouped product costs. One application was denied in this determination because the refund requested was less than the $15 minimum established in the Vickers refund proceeding.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

June 7, 1982.

[FR Doc. 82–15822 Filed 6–11–82; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Proposed Decisions and Orders; Week of May 3 through May 7, 1982

During the week of May 3 through May 7, 1982, the proposed decisions and orders sumarized below were issued by the Office of Hearings and Appeals of the Deparment of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 2.05, Subpart D) any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date and aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copes of the fill text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

June 7, 1982

George B. Breznay,

Director, Office of Hearings and Appeals.

Amoco Oil Company, Chicago, Illinois; HEE–0002 Crude Oil

Amoco Oil Company filed and Application for Exception from the provisions of 10 CFR §§ 212.69 and 212.131. The exception request, if granted, would permit Amoco to submit an amended ERA–49 entitlements report for its activities during the month of August 1980. On May 7, 1982, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be deemed.

Charter Oil Company, Jacksonville, Florida; HEE–0007 Crude Oil

Charter Oil Company filed and Application for Exception from the provisions of 10 CFR § 211.69. The exception request, if granted, would permit charter to file amended entitlements reports for April and May of 1980. On May 3, 1982, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Mt. Airy Refining; DEE–1498

Mt. Airy Refining Company filed an application for Exception from 10 CFR § 212.94, as modified by Special Rule No. 2, 44 Fed. Reg. 9372 (1979). Those provisions governed the prices refiner-sellers could charge under 10 CFR § 211.65. The firm requested that DOE direct refiner-sellers under the Buy/Sell program who had not yet satisfied that sales obligation for the October 1980 through March 1981 allocation period to sell Mt. Airy crude oil equal to its Buy/Sell allocation entitlement for that period. In considering the request, the DOE found that the firm had not experience a level or type of financial difficulty which warranted exception relief. The DOE also determined that any financial difficulty which the firm may have experienced was not attributable to DOE regulations, but to the type of refinery and the refining process used by the company. Accordingly, on May 6, 1982, the Department of Energy issued a Proposed Decision and Order which determined that the exception request he denied.

Stoudnour Atlantic Incorporated, Saxton, Pennsylvania; HEE–0014 Petroleum

Stoudnour Atlantic, Inc. (Stoudnour) filed an Application for Exception from the provisions of the EIA Reporting Requirements. The exception request, if granted, would permit Stoudnour to be relieved of its obligation to file Form EIA–9A. On May 7, 1982, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 82–15023 Filed 6–11–82; 8:45 am]

BILLING CODE 6450–01

ENVIRONMENTAL PROTECTION AGENCY

Schedule for Awarding Senior Executive Service Bonuses

AGENCY: Environmental Protection Agency.

[FRL 2146–5]

ACTION: Notice of schedule for awarding senior executive service bonuses.

NOTICE: Under guidelines issued by the Office of Personnel Management, agencies must publish a notice in the **Federal Register** of their schedule for awarding Senior Executive Service bonuses at least 14 days prior to the date on which the bonuses will be paid. In accordance with these guidelines, the Environmental Protection Agency gives notice of the intention to award Senior Executive Service bonuses for the performance rating cycle of October 1, 1980 through September 30, 1981. Bonuses will be paid not earlier than July 1, 1982.

FOR FURTHER INFORMATION CONTACT:

Mr. Clarence Hardy, Director, Personnel Management Division, Environmental Protection Agency, Washington, D.C. 20460; telephone (202) 382–3300.

Anne M. Gorsuch,

Administrator.

June 7, 1982.

[FR Doc. 82–15043 Filed 6–11–82; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Request for Comments on the Proposed Revised Quarterly Report of Condition and Income Required of All Insured Commercial Banks

AGENCY: Federal Financial Institutions Examination Council.

ACTION: Notice of request for comments.

SUMMARY: The FFIEC is proposing a major revision of the Report of Condition and Income (the "Call Report") required quarterly by the Office of the Comptroller of the Currency for national banks, the Federal Reserve Board for state member banks and the Federal Deposit Insurance Corporation for state nonmember banks. The FFIEC proposes that the revised Report of Condition and Income be implemented as of the March 31, 1983, report date.

A major feature of the proposal is the addition and revision of supervisory data items to permit the more effective monitoring of individual bank condition and performance. This is particularly important given the environment of volatile interest rates and ongoing interest rate deregulation. The general thrust of the proposed new supervisory data applies to all sizes and types of banks and includes information on asset and liability maturities for interest rate sensitivity analysis; expanded averages of particular balance sheet items and additional income breakdowns for yield analysis; expanded data on past due, renegotiated, and non-accrual loans and leases, and charge-offs to assist in determining credit quality. Some current reporting requirements are proposed for elimination. Overall, however, the burden of reporting is increased, particularly for smaller banks.

DATE: Comments must be received on or before July 29, 1982.

ADDRESS: Comments should be sent to Robert J. Lawrence, Executive Secretary, Federal Financial Institutions Examination Council, Eighth Floor, 490 L'Enfant Plaza, S.W., Washington, D.C. 20219

FOR FURTHER INFORMATION CONTACT: Rhoger H. Pugh, Chairman, Reports Task Force, Federal Financial Institutions Examination Council, Washington, D.C. 20219, (202) 447–1164.

SUPPLEMENTARY INFORMATION: The FFIEC is proposing a separate set of forms for each of three different categories of banks: One to be filed by all banks regardless of size that have any foreign offices—foreign branches or subsidiaries, Edge Act or Agreement subsidiaries or International Banking Facilities; another for banks exceeding $100 million in total assets and having no foreign offices as defined above; and a third somewhat simplified report for banks having less than $100 million in total assets.

Each commercial bank is being sent, along with a document describing the proposed revisions, the set of reports appropriate for its size or situation with respect to foreign offices. Any bank wishing to obtain copies of a report set other than the one it has received should direct its request to the Executive Secretary at the above address. Copies of the proposal along with the descriptive document are also being sent to all multibank holding companies, state banking supervisors, banking trade associations, the financial press, the Securities and Exchange Commission, and other interested federal agencies. Copies will be made available upon request to any other interested parties. Copies of working drafts of the proposed instructions for the report will also be made available upon request.

OMB Control Numbers 3064–0052 (FDIC); 1577–0090; –0081 (OCC); 7100–0036 (FRB)

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the current Reports of Condition and Income required of all insured commercial banks have been submitted to, and approved by, the Office of Management and Budget (OMB). The final version of the current proposal, to be developed after due consideration of the comments received, will be submitted to OMB.

Dated: June 9, 1982.

Robert J. Lawrence,

Executive Secretary, FFIEC.

[FR Doc. 82–15961 Filed 6–11–82; 8:45 am]

BILLING CODE 6210–01–M

FEDERAL HOME LOAN BANK BOARD

[No. AC–173]

Westside Federal Savings and Loan Association of Seattle, Seattle, Washington; Final Action Approval of Conversion Applications

Dated: June 9, 1982.

Notice is hereby given that on May 19, 1982, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 82–361 approved the application of Westside Federal Savings and Loan Association of Seattle, Seattle, Washington ("Association"), for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Seattle, 600 Stewart Street, Seattle, Washington, 98101.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82–15966 Filed 6–11–82; 8:45 am]

BILLING CODE 6720–01–M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 2214]

All International Freight Forwarders, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of All International Freight Forwarders, Inc. was cancelled effective June 3, 1982.

By letter dated May 13, 1982, All International Freight Forwarders, Inc., P.O. Box 522005, 8101 N.W. 60th Street, Miami, FL 33152 was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2214 would be automatically revoked unless a valid surety bond was filed with the Commission.

All International Freight Forwarders, Inc., has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2214 be and is hereby revoked effective June 3, 1982.

It is ordered, that Independent Ocean Freight Forwarder License No. 2214 issued to All International Freight Forwarders, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon All International Freight Forwarders, Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc 82–16000 Filed 6–11–82; 8:45 am]

BILLING CODE 6730–01–M

Independent Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reasons why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

S & Z International Air Forwarders, Inc. d.b.a. International Freight Forwarding, P.O. Box 8778, Air Cargo Complex, Bldg. A, Bays 11 & 12, BWI Airport, MD 21240–0787. Officers: Ethel R. Zoet, President, Antonie Zoet, Vice President, Gregory J. McCloskey, Operations Manager.

Agencia Maritima International Inc., 4516 Spring Park Road, Jacksonville, FL 32207. Officers: Floyd A. De Osca, President, Lloyd De Osca, Secretary, Gregory De Osca, Stockholder, Kevin De Osca, Stockholder, Kirk De Osca, Stockholder, Cindy De Osca, Stockholder.

Maritime Freight Brokers, Inc., 1635 Orchard Drive, Annapolis, MD 21401. Officers: Richard M. Williams, President/Director/Stockholder, Henry Waley, Secretary.

Daniel Landsbaum, 1616 Creve Coeur Mill Road, St. Louis, MO 63141.

Aircontact Inc., d.b.a. Viking Transport, 2001 Marcus Avenue, Lake Success, NY 11042. Officer: Angelo Pusateri, President.

By the Federal Maritime Commission.

Dated: June 9, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-16003 Filed 6-11-82; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1566-R]

Nationwide International Forwarders & Brokers, Inc.; Order of Revocation

On May 20, 1982, Nationwide International Forwarders & Brokers, Inc., 1400 NE., 125th Street, North Miami, FL 33161 requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 1566-R.

Therefore, by vitue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 1566-R issued to Nationwide International Forwarders & Brokers, Inc., be revoked effective May 20, 1982 without prejudice to reapplication for a license in the future.

It is further ordered, that Independent Ocean Freight Forwarder License No. 1566-R issued to Nationwide International Forwarders & Brokers, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Nationwide International Forwarders & Brokers, Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 82-15999 Filed 6-11-82; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public—Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

K/S A/S Sunward II, A/S Sunward II and Klosters Rederi A/S d/b/a Norwegian Caribbean Lines, c/o Norwegian Caribbean Lines, One Biscayne Tower, Miami, Florida 33131

Dated: June 9, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-16002 Filed 6-11-82; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public—Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility To Meet Libility Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commisson General Order 20, as amended (46 CFR 540):

K/S A/S Sunward II, A/S Sunward II and Klosters Rederi A/S d/b/a Norwegian Caribbean Lines c/o Norwegian Caribbean Lines, One Biscayne Tower, Miami, Florida 33131

Dated: June 9, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-16001 Filed 6-11-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President), 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *The Colonial Bancgroup, Inc.*, Montgomery, Alabama; to acquire 80 percent of the voting shares or assets of Exchange National Bank of Montgomery, Montgomery, Alabama. Comments on this application must be received not later than July 7, 1982.

B. **Federal Reserve Bank of Minneapolis:** (Bruce J. Hedblom, Vice President), 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Hopkins Financial Corporation*, Mitchell, South Dakota; to acquire 76 percent of the voting shares or assets of Day County Bank, Webster, South Dakota. Comments on this application must be received not later than July 7, 1982.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *Unicorp Bancshares, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares or assets of Unitedbank—I 10 West, N.A., Katy, Texas. Comments on this application must be received not later than July 7, 1982.

2. *RLG Bancshares, N.V., and its subsidiary, First Western Bancshares, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares or assets of First Western Bank—Westwood, N.A., Houston, Texas, a proposed new bank. Comments on this application must be received not later than July 7, 1982.

D. **Secretary, Board of Governors of the Federal Reserve System,** Washington, D.C. 20551:

1. *First City Bancorporation of Texas, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares or assets of First City National Bank of Forth Worth, Forth Worth, Texas. This application may be inspected at the Federal Reserve Bank of Dallas. Comments on this application must be received not later than July 7, 1982.

Board of Governors of the Federal Reserve System, June 7, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-15905 Filed 6-11-82; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *DetroitBank Corporation,* Detroit, Michigan; to acquire 100 percent of the voting shares or assets of The National Bank of Jackson, Jackson, Michigan. Comments on this application must be received not later than July 8, 1982.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Assistant Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *International Bancorp,* Denver, Colorado; to acquire 100 percent of the voting shares or assets of International Bank North, Federal Heights, Colorado. Comments on this application must be received not later than July 8, 1982.

C. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Assistant Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *Tahoka First Bancorp, Inc.,* Tahoka, Texas; to acquire 80 percent of the voting shares or assets of Cedar Creek Bank, Seven Points, Texas. Comments on this application must be received not later than July 8, 1982.

Board of Governors of the Federal Reserve System, June 8, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-15608 Filed 6-11-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The band holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than July 7, 1982.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp,* New York, New Yord (sale of travelers checks; Hawaii): To engage through a *de novo* office of its subsidiary, Citicorp (USA), Inc. in the sale of travelers checks. The *de novo* office would be located at the Honolulu International Airport, Honolulu, Hawaii and would serve individuals at the airport.

2. *Citicorp,* New York, New York (credit related insurance activities; Georgia): To expand the service area of an existing office of its subsidiary, Citicorp Acceptance Company, Inc., located in Atlanta, Georgia. The proposed expanded service area shall include the entire state of Georgia for the previously approved activity of the sale of credit related property and casualty insurance protecting real and personal property subject to a security agreement with Citicorp Acceptance Co., Inc.

B. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Security Pacific Corporation,* Los Angeles, California (financing and credit-related insurance activities; California): To engage through its subsidiary Security Pacific Finance Corp., in making or acquiring for its own account or for the account of others, loans and extensions of cerdit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance related life, accident and health insurance and credit-related property and casualty insurance. The activities would be conducted from an office of Security Pacific Finance Corp., located in Pasadena, Califiornia, serving the State of California.

Board of Governors of the Federal Reserve System, June 8, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-15609 Filed 6-11-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writting and received by the appropriate

Federal Reserve Bank not later than July 2, 1982.

A. Federal Reserve Bank of Boston (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Fleet Financial Group, Inc.*, Providence, Rhode Island (formerly Industrial National Corporation; mortgage banking activities; Michigan): To engage through its indirect subsidiary, Mortgage Associates, Inc., in the servicing of residential mortgage loans and loans secured by junior liens on residential real estate. These activities would be conducted from a new office to be located in Southfield, Michigan serving the counties of Genesee, Lapeer, Macomb, Monroe, Oakland, St. Clair, Sanilac and Wayne, all in Michigan.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *The Wachovia Corporation*, Winston-Salem, North Carolina (mortgage banking and insurance activities; South Carolina): To engage, through its subsidiary, Wachovia Mortgage Company, in providing mortgage banking services, including the origination and processing of residential, construction, development, and income property mortgage loans, the purchase and sale or placement or mortgage loans, the administration and servicing of mortgage loans, the management and sale of properties acquired through foreclosure or transfers in lieu of foreclosure, and acting as agent for credit life and accident and health insurance and for property and casualty insurance related to extensions of credit. These activities would be conducted from an office located in Greenville, South Carolina, serving the Greenville SMSA.

C. Federal Reserve Bank of San Francisco, (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *BankAmerica Corporation*, San Francisco, California (financing, servicing, and insurance activities; *de novo* office; Kentucky): To engage, through its indirect subsidiary, FinanceAmerica Credit Corporation, a Delaware corporation, in the activities of making or acquiring for its own account loans and other extensions or credit such as are made or acquired by a finance company; servicing loans and other extensions of credit; and offering credit-related life insurance and credit-related accident and health insurance. Credit-related property insurance will not be offered in the State of Kentucky. Such activities will include, but not be limited to, purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses, making loans secured by real and personal property, and offering credit-related life and credit-related accident and health insurance directly related to extensions of credit made or acquired by FinanceAmerica Credit Corporation. These activities will be conducted from a *de novo* office located in Lexington, Kentucky, serving the entire State of Kentucky.

2. *BankAmerica Corporation*, San Franciso, California (financing and servicing activities; *de novo* commerical loans office; all fifty (50) States and the District of Columbia): To engage, through its proposed indirect subsidiary, Sea Ray Credit Corporation ("Sea Ray"), a proposed Delaware corporation, in the activities of making loans and extending credit, servicing loans and other extensions of credit for itself and others, and providing services incidental to such loans and extensions of credit such as are made or provided by a finance company. Such activities will include, but not be limited to, providing funds, and/or credit services in connection with the financing of stock and floor plan inventory of distributors and dealers of consumer products. No credit-related insurance of any type will be offered by Sea Ray in connection with its lending activities. Sea Ray's activities will be conducted from a *de novo* office located in Columbus, Ohio, serving all fifty (50) States and the District of Columbia.

Board of Governors of the Federal Reserve System, June 8, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-15804 Filed 6-11-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than July 8, 1982.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York (consumer finance and insurance activities; Texas): To engage, through its subsidiaries, Citicorp Person-to-Person Financial Center, Inc., and Citicorp Homeowners, Inc., in the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the making, acquiring, and servicing for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or nonresidential real estate; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners, Inc. These activities would be conducted from offices in Houston, Texas, serving the State of Texas.

2. *Citicorp,* New York (consumer finance and insurance activities; California): To engage, through its subsidiary, Citicorp Homeowners, Inc., in the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers as required; the sale of credit related property and casualty insurance protecting real and personal property subject to a security agreement with Citicorp Homeowners, Inc., to the extent permissible under applicable state insurance laws and regulations; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. Credit related life, accident and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Homeowners, Inc. These activities would be conducted from an office in Orange, California, serving the State of California.

3. *Citicorp,* New York, New York (consumer finance and insurance activities; California): To engage, through its subsidiary, Citicorp Homeowners, Inc., in the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health or decreasing or level in the case of single payment loans) term life insurance by licensed agents or brokers as required; the sale of credit related property and casualty insurance protecting real and personal property subject to a security agreement with Citicorp Homeowners, Inc., to the extent permissible under applicable state insurance laws and regulations; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. Credit related life, accident and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Homeowners, Inc. These activities would be conducted from an office in Industry, California, serving the State of California.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Klein Bancorporation, Inc.,* Chaska, Minnesota (underwriting credit life, health and accident insurance; Minnesota): Proposes to engage, through a subsidiary, Klein Life Insurance Company ("Company"), in the activity of underwriting, as reinsurer, credit life and credit accident and health insurance directly related to extensions of credit by Applicant's credit-granting subsidiary banks. Company will be qualified to underwrite insurance directly only in Arizona. Accordingly, insurance sold by Applicant's subsidiary banks in Minnesota will be underwritten directly by an affiliated company, North Central Life Insurance Company, qualified to do business in Minnesota and will be assigned or ceded to Company under an reinsurance and other related agreements. Such activity will be conducted from Klein Bancorporation, Inc.'s subsidiary banks located in Chaska, Minnesota, Cologne, Minnesota, Madison, Minnesota, Montevideo, Minnesota, Victoria, Minnesota, Waconia, Minnesota and Young America, Minnesota, serving each bank's local trade area.

Board of Governors of the Federal Reserve System, June 8, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-15907 Filed 6-11-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holdiog Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Vermont Financial Services Corp.,* Brattleboro, Vermont; to become a bank holding company by acquiring 100 percent of the voting shares of Vermont National Bank, Brattleboro, Vermont. Comments on this application must be received not later than July 7, 1982.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Southwest Georgia Bankshares, Inc.,* Americus, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Commerce, Americus, Georgia. Comments on this application must be received not later than July 7, 1982.

2. *United American of Northwest Florida, Inc.,* Pensacola, Florida; to become a bank holding company by acquiring at least 90 percent of the voting shares of First State Bank of Pensacola, Pensacola, Florida. Comments on this application must be received not later than July 7, 1982.

c. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 00690:

1. *Marquette National Corporation,* Chicago, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Marquette National Bank, Chicago, Illinois. Comments on this application must be received not later than July 7, 1982.

2. *Oregon Bancorp, Inc.,* Oregon, Wisconsin; to become a bank holding company by acquiring 80 percent of the voting shares of Community National Bank, Oregon, Wisconsin. Comments on this application must be received not later than July 7, 1982.

D. Federal Reserve Bank of St. Louis: (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *PDR Bancshares, Inc.*, Praire du Rocher, Illinois; to become a bank holding company by acquiring 80 percent of the voting shares of State Bank of Praire du Rocher, Praire du Rocher, Illinois. Comments on this application must be received not later than July 7, 1982.

Board of Governors of the Federal Reserve System, June 7, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-15908 Filed 6-11-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hering, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphin, Pennsylvania 19105:

1. *Keystone Heritage Group, Inc.*, Lebanon, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Lebanon Valley National Bank, Lebanon, Pennsylvania. Comments on this application must be received not later than July 8, 1982.

B. Federal Reserve Bank of St. Louis,(Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Farmers Bancorp, Inc.*, Dyersburg, Tennessee, to become a bank holding company by acquiring 85 percent of the voting shares of Farmers Bank, Trimble, Tennessee. Comments on this application must be received not later than July 8, 1982.

C. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Andrews Financial Corporation*, Andrews, Texas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Andrews Bancshares, Inc. and, indirectly, Commercial State Bank, both located in Andrews, Texas. Comments on this application must be received not later than July 8, 1982.

D. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Meridian Bancorp*, Pleasant Hill, California; to become a bank holding company by acquiring 100 percent of the voting shares of Meridian National Bank, Pleasant Hill, California. Comments on this application must be received not later than July 8, 1982.

Board of Governors of the Federal Reserve System, June 8, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-15909 Filed 6-11-82; 8:45 am]

BILLING CODE 6210-01-M

Mellon Bank, N.A.; Establishment of U.S. Branch of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

Mellon Bank, N.A., Pittsburgh, Pennsylvania, has applied to reorganize its subsidiaries, Mellon Bank International, New York, New York and Mellon Bank International-Miami, Miami, Florida, corporations organized under section 25(a) of the Federal Reserve Act. Mellon Bank, N.A., proposes to transfer the capital stock of Mellon Bank International to Mellon Bank International-Miami, liquidate Mellon Bank International, and change the name of Mellon Bank International-Miami to Mellon Bank International. Mellon bank International (the new Edge Corporation) has applied for the Board's approval under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish a branch in New York, New York, which was formerly the head office of Mellon Bank International.

The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than June 28, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 8, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-15910 Filed 6-11-82; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[F-82-16]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Washington Utilities and Transportation Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority contained in the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly Sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Washington Utilities and Transportation Commission involving the application of the Pacific Nortwest Bell Telephone Company in Cause No. U-8219 for an increase in rates for telecommunications services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add the General Services Administration to its service list in this case so that GSA will receive copies of

testimony, briefs and other Department of Defense filings.

Dated: June 4, 1982.

Francis A. McDonough,

Deputy Commissioner for Government-wide Management, Automated Data and Telecommunications Service.

[FR Doc. 82-15997 Filed 6-11-82; 8:45 am]

BILLING CODE 6820-25-M

[F-82-17]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the New Hampshire Public Utilities Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority contained in the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly Sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the New Hampshire Public Utilities Commission involving the application of the New England Telephone and Telegraph Company in Docket No. DR-82-70 for an increase in rates for telecommunications services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add the General Services Administration to its service list in this case so that GSA will receive copies of testimony, briefs, and other Department of Defense filings.

Dated: June 4, 1982.

Francis A. McDonough,

Deputy Commissioner for Government-wide Management Automated Data and Telecommunications Service..

[FR Doc. 82-15996 Filed 6-11-82; 8:45 am]

BILLING CODE 6820-AM-M

[F-82-18]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Tennessee Public Service Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority contained in the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly Sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Tennessee Public Service Commission involving the application of the South Central Bell Telephone Company in Docket No. U-82-7161 for an increase in rates for telecommunications services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add the General Services Administration to its service list in this case so that GSA will receive copies of testimony, briefs, and other Department of Defense filings.

Dated: June 4, 1982.

Francis A. McDonough,

Deputy Commissioner for Government-wide Management, Automated Data and Telecommunications Service.

[FR Doc. 82-15995 Filed 6-11-82; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Mental Health Behavioral Sciences Research Review Committee; Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (5 U.S.C. Appendix I), the Alcohol, Drug Abuse, and Mental Health Administration announces approval and certification by the Secretary of Health and Human Services, with the concurrence of the General Services Administration Committee Management Secretariat, of the following advisory committee:

Designation: Mental Health Behavioral Sciences Research Review Committee.

Purpose: The Committee shall advise the Secretary and the Director, National Institute of Mental Health concerning applications for research grants, cooperative Agrements, National Research Service Awards to individuals and institutions, and research and development contract projects relating to the behavioral science areas relevant to mental health. These include research activities in the following areas: the relationship of life events and family processes to mental illness and health; the influence of attitudes on mental health and health related behaviors; the influence of specific environmental or systems factors on normal and abnormal behavior and mental processes; the development and maintenance of personal networks and support systems as these affect individual and family functioning; and psychosocial stressors and coping mechanisms. Also included will be studies of communication processes, motivation, and cognition when undertaken in an interpersonal setting; and studies of how the family, peer groups, school, work setting, employment status, community and cultural processes relate to mental health and mental illness.

Expiration Date: Authority for the Mental Health Behavioral Sciences Research Review Committee will expire on January 31, 1984, unless the Secretary formally determines that continuance is in the public interest.

Effective with this establishment, the following committees were abolished: Basic Sociocultural Research Review Committee, Community Processes and Social Policy Review Committee, and Minority Group Mental Health Review Committee.

Dated: June 8, 1982.

William Mayer,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 82-15986 Filed 6-11-82; 8:45 am]

BILLING CODE 4160-20-M

National Institutes of Health

Aging Review Committee; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the

Aging Review Committee, National Institute on Aging, on July 21, 22, and 23, 1982 in Building 31, Conference Room 6 (C wing), National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public from 9:00 a.m. to 10:00 a.m. on July 21, for introductory remarks. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92–463, the meeting will be closed to the public on July 21, from 10:00 a.m. to adjournment on July 23, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June C. McCann, Committee Management Officer, NIA, Building 31, Room 2C05, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–5898, will provide summaries of meetings and rosters of Committee members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.866, Aging Research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: June 1, 1982.

Betty J. Beveridge,

National Institutes of Health, Committee Management Officer.

[FR Doc. 82–15806 Filed 6–11–82; 8:45 am]

BILLING CODE 4140–01–M

Genetic Basis of Disease Review Committee; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Genetic Basis of Disease Review Committee, National Institute of General Medical Sciences on July 12, 1982, at the National Institutes of Health, Building 31C, Conference Room 7, Bethesda, Maryland.

This meeting will be open to the public on July 12, 1982, from 8:30 a.m. until 9:30 a.m. for background information and discussion of issues relevant to the National Institute of General Medical Sciences and its National Research Service Award training activities and research programs. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92–463, the meeting will be closed to the public for approximately eight hours for the review, discussion, and evaluation of individual grant applications. It is anticipated that this will occur on July 12 from 9:30 a.m. until adjournment. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Ellen Casselberry, Public Information Officer, NIGMS, Westwood Building, Room 9A10, Bethesda, Maryland 20205, Telephone 301–496–7301, will furnish summary minutes of the meeting and a roster of committee members. Dr. Helen Sunshine, Executive Secretary, Genetic Basis of Disease Review Committee, National Institute of General Medical Sciences, National Institutes of Health, Room 949, Westwood Building, Bethesda, Maryland 20205 (Telephone 301–496–7585) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13–862, Genetics Research, National Institute of General Medical Sciences, National Institutes of Health).

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: June 1, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82–15804 Filed 6–11–82; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Dental Research Special Grants Review Committee; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Institute of Dental Research Special Grants Review Committee, on July 13, 14 and 15, 1982, in Conference Room 9, Building 31–C, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 9:00 a.m. to 9:30 a.m. on July 13, 1982, for general discussions. Attendance by the public is limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92–463, the meeting will be closed to the public from 9:30 a.m. on July 13 to adjournment on July 15, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Emil L. Rigg, Executive Secretary, NIDR Special Grants Review Committee, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 504, Bethesda, MD 20205, (telephone 301 496–7658) will provide summaries of meeting, rosters of committee members, and substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.840-Caries Research, 13.841-Periodontal Diseases Research, 13.842-Craniofacial Anomalies Research, 13.843-Restorative Materials Research, 13.844-Pain Control and Behavioral Studies, 13.845-Dental Research Institutes, 13.878-Soft Tissue Stomatology and Nutrition Research, National Institutes of Health)

Note.—NIH programs are not coverd by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: June 1, 1982.

Betty J. Beveridge,

National Institutes of Health Committee Management Officer.

[FR Doc. 82–15805 Filed 6–11–82; 8:45 am]

BILLING CODE 4140–01–M

Meeting of the Board of Scientific Counselors, NICHD

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Child Health and Human Development, July 12, 1982, in Building 31, Room 2A52. This meeting will be open to the public from 8:30 a.m. to 12:15 p.m. and from 1:30 p.m. to 5:00 p.m. on July 12 for the review of the Laboratory of Developmental Neurobiology of the Intramural Research Program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463,

the meeting will be closed to the public from 12:15 p.m. to 1:30 p.m. on July 12 for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, NICHD, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management, Officer, NICHD, Landow Building, Room 6C08, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of Board members. Dr. James Sidbury, Scientific Director, NICHD, Building 31, Room 2A50, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–2133, will furnish substantive program information.

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) of that Circular.

Dated: June 2, 1982.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 82–15956 Filed 6–11–82; 8:45 am]

BILLING CODE 4140–01–M

Cellular and Molecular Basis of Disease Review Committee; Meeting of the National Institute of General Medical Sciences

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Cellular and Molecular Basis of Disease Review Committee, National Institute of General Medical Sciences, on July 9 and 10, 1982, at the Holiday Inn, Chevy Chase, Maryland.

This meeting will be open to the public on July 9, 1982, from 8:30 a.m. until 10:00 a.m. for background information and discussion of issues relevant to the National Institute of General Medical Sciences and its National Research Service Award training activities and research programs. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 10:00 a.m. on July 9, 1982, until adjournment on July 10, 1982, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Therefore, this meeting is concered with matters exempt from mandatory disclosure under section 552b(c)(6) of Title 5, U.S. Code.

Ms. Ellen Casselberry, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Room 9A10, Westwood Building, Bethesda, Maryland, 20205 (Telephone: 301/496–7301) will provide a summary of the meeting and a roster of committee members.

Dr. Carl D. Rhodes, Executive Secretary, Cellular and Molecular Basis of Disease Review Committee, NIGMS, National Institutes of Health, Room 950, Westwood Building, Bethesda, Maryland, 20205 (Telephone: 301/496–7125) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13–863, Cellular and Molecular Basis of Disease Research)

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Date: June 1, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82–15964 Filed 6–11–82; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute's Clinical Trials Review Committee; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, on July 11–14, 1982, at the Sheraton-Ritz Hotel, 315 Nicollet Mall, Minneapolis, Minnesota 55401.

This meeting will be open to the public from 8:00 p.m. to approximately 9:00 p.m. on July 11, 1982 to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on July 11, from approximately 9:00 p.m. to adjournment, on July 14, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Therefore, this meeting is concered with matters exempt from mandatory disclosure under section 552b(c)(6) of Title 5, U.S. Code.

Ms. Terry Bellicha, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, Bethesda, Maryland 20205, Building 31, Room 4A–21, phone (301) 496–4236, will provide summaries of the meeting and rosters of the committee members. Dr. Fred P. Heydrick, Chief, Contracts, Clinical Trials and Training Review Section, Division of Extramural Affairs, NHLBI, Westwood Building, Bethesda, Maryland 20205, Room 548B, phone (301) 496–7363, will furnish substantive program information.

Date: June 1, 1982.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8(b)(4) and(5) of that Circular.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 82–15965 Filed 6–11–82; 8:45 am]

BILLING CODE 4140–01–M

National Digestive Diseases Advisory Board; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Digestive Diseases Advisory Board on July 29 and 30, 1982, from 1:00 p.m. to 6:00 p.m. on July 29 and from 8:30 a.m. to adjournment on July 30, in Conference Room 6, Building 31, C Wing, 6th Floor, Bethesda, Maryland 20205. The meeting, which will be open to the public, is being held to discuss the Board's activities and to continue the evaluation of the implementation of the current digestive diseases plan. Attendance by the public will be limited to space available.

Dr. Ralph Bain, Executive Director, National Digestive Diseases Advisory Board, P.O. Box 30377, Bethesda, Maryland 20084, (301) 496–2232, will provide an agenda and roster of the members. Summaries of the meeting may be obtained by contacting Carole A. Peters, Committee Management Office, NIADDK, National Institutes of Health, Room 9A46, Building 31, Bethesda, Maryland 20205, (301) 496–5785.

Date: June 3, 1982.
Betty J. Beveridge,
NIH, Committee Mangement Officer.
[FR Doc. 82-15863 Filed 6-11-82; 8:45 am]
BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-19155-17]

Alaska Native Claims Selection

This decision approves lands in the vicinity of Healy Lake, Alaska for conveyance to Doyon, Limited.

On April 2, 1975, Doyon, Limited, filed selection application F-19155-17, as amended, under the provisions of section 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611(c) (1976)) (ANCSA), as amended, for the surface and subsurface estates of certain lands withdrawn pursuant to section 11(a) for the Native village of Healy Lake.

As to the lands described below, selection application F-19155-17, as amended, is properly filed and meets the requirements of ANCSA and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to section 12(c) of ANCSA, aggregating approximately 109,810 acres, are considered proper for acquisition by Doyon, Limited, and are hereby approved for conveyance pursuant to Section 14(e) of ANCSA.

Copper River Meridian, Alaska (Unsurveyed)

T. 25 N., R. 5 E.,
Secs. 1 to 36, inclusive.
Containing approximately 20,566 acres.
T. 27 N., R. 5 E.,
Secs. 1 to 36, inclusive.
Containing approximately 20,442 acres.

Fairbanks Meridian, Alaska (Surveyed)

T. 9 S., R. 15 E.,
Secs. 1 to 36, inclusive.
Containing 22,791.84 acres.

Fairbanks Meridian, Alaska (Unsurveyed)

T. 8 S., R. 14 E.,
Secs. 1 to 36, inclusive.
Containing approximately 23,004 acres.
T. 8 S., R. 16 E.,
Secs. 1 to 36, inclusive.
Containing approximately 23,004 acres.
Aggregating approximately 109,810 acres.

There are no inland water bodies considered to be navigable within the above-described lands.

The conveyance issued for the surface and subsurface estates of the lands described above shall contain the following reservation to the United States: Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), as amended, the following public easement, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F-21779-17, is reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

50 Foot Trail.—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, and four-wheel drive vehicles.

(EIN 1 D9, L) An easement for an existing access trail fifty (50) feet in width from Sec. 24, T. 8 S., R. 13 E., Fairbanks Meridian, easterly to public lands located in T. 7 S., R. 18 E., Fairbanks Meridian. The season of use will be limited to winter.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat, or supplemental plat, of survey confirming the boundary description and acreage of the lands hereinabove granted; and

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, section 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to section 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), as amended, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

To date, approximately 2,935,087 acres of land, selected pursuant to section 12(c) of ANCSA, as amended, have been approved for conveyance to Doyon, Limited.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the FAIRBANKS DAILY NEWS-MINER.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may apeal the decision to the Alaska Native Claims Appeal Board before June 30, 1982, or to the Interior Board of Land Appeals after June 30, 1982; provided, however, pursuant to Public Law 96-487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken *before June 30, 1982,* the notice of appeal must be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

If an appeal is taken *after June 30, 1982,* the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), address given above. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, address given above.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until July 14, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board or the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. (See enclosed AK Form 2650-4 and DOI Form 1842-1.)

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska, Department of Natural Resources, Division of Research and

Development, Pouch 7–005,
Anchorage, Alaska 99510
Doyon, Limited, Land Department,
Doyon Building, 201 First Avenue,
Fairbanks, Alaska 99701

Ann Johnson,

Chief, Branch of ANCSA, Adjudication.

[FR Doc. 82–15940 Filed 6–11–82; 8:45 am]
BILLING CODE 4310–84–M

[F–19558–A]

Alaska Native Claims Selection

On November 20, 1974, Umkumiute Ltd., for the Native village of Umkumiute, filed selection application F–19558–A under the provisions of section 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1611 (ANCSA), as amended, for the surface estate of certain lands in the vicinity of Umkumiute.

As to the lands described below, application F–19558–A, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 63,410 acres, is considered proper for acquisition by Umkumiute Ltd., and is hereby approved for conveyance pursuant to section 14(a) of ANCSA:

Seward Meridian, Alaska (Unsurveyed)

T. 6 N., R. 89 W.
Secs. 3 to 10, inclusive;
Secs. 16 to 21, inclusive;
Secs. 27 to 34, inclusive.
Containing approximately 13,987 acres.
T. 7 N., R. 89 W.
Sec. 23;
Secs. 25 to 29, inclusive;
Secs. 31 to 35, inclusive.
Containing approximately 7,019 acres.
T. 6 N., R. 90 W.
Secs. 1 and 2;
Secs. 10 to 17, inclusive;
Secs. 19 to 34, inclusive;
Sec. 35, excluding Native allotment F–16004 Parcel D;
Sec. 36.
Containing approximately 17,841 acres.
T. 7 N., R. 90 W.
Sec. 36.
Containing approximately 640 acres.
T. 5 N., R. 91 W.
Secs. 1 to 23, inclusive;
Secs. 24 to 30 (frational), inclusive;
Containing approximately 17,228 acres.
T. 5 N., R. 92 W.
Secs. 1 and 2;
Secs. 3, 10, and 11 (fractional);
Secs. 12 and 13;
Secs. 14, 23, and 24 (fractional).
Containing approximately 4,680 acres.
T. 6 N., R. 92 W.
Secs. 25, 26, 34, and 35 (fractional);
Sec. 36.
Containing approximately 2,015 acres.
Aggregating approximately 63,410 acres.

All named and unnamed water bodies within the lands to be conveyed were reviewed and based on existing evidence, they were considered to be nonnavigable.

Actual limits of tidal influence for the water bodies within the lands to be conveyed, if any, will be determined at the time of survey.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for the following reason: lands are under applications pending further adjudication. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(f); and

2. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in easement case file F–19558–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: Travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

a. (EIN 4 D9) An easement for an existing access trail twenty-five (25) feet in width from trail EIN 2 D1, D9 on the Tununak selection connecting with trail EIN 4 D9 on the Toksook Bay selection. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the unsurveyed lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958, 48 U.S.C. Ch. 2, section 6(g)), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to section 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b)(2) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of section 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(c), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Umkumiute Ltd., is entitled to conveyance of 69,120 acres of land selected pursuant to section 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 63,410 acres. The remaining entitlement of approximately 5,710 acres will be conveyed at a later date.

Pursuant to section 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issued to Calista Corporation when the surface estate is conveyed to Umkumiute Ltd., and shall be subject to the same conditions as the surface conveyance.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in The Tundra Drums.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board before June 30, 1982, or to the Interior Board of Land Appeals after June 30, 1982; provided, however, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land

Management concerning navigability of water bodies.

If an appeal is taken *before June 30, 1982,* the notice of appeal must be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

If an appeal is taken *after June 30, 1982,* the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), address given above. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, address given above.

The time limits for filing an apppeal are.

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until July 14, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board of the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Umkumiute Ltd., Umkumiute, Alaska, Via Nightmute, Alaska 99690

Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-15941 Filed 6-11-82; 8:45 am]

BILLING CODE 4310-84-M

Oregon, Vegetation Management; Intent To Prepare an Environmental Impact Statement and Conduct Scoping Meetings

The Department of the Interior, Bureau of Land Management, Oregon State Office, will prepare an Environmental Impact Statement (EIS) on its western Oregon vegetation management program. The final statement is to be completed in the summer of 1983.

This statement will analyze the environmental effects of alternative approaches to vegetation management on some 70,000 acres annually. BLM administers 2.4 million acres of forest lands in western Oregon. Vegetation management practices to be considered and analyzed will include: site preparation using chemical, burning, manual and mechanical methods; stocking maintenance using chemical, manual and biological methods; conifer release and pre-commercial thinning using chemical and manual methods; and right-of-way maintenance and noxious weed control using chemical, manual, mechanical and biological methods.

Discussion of an alternative of no management of competing vegetation or other unwanted vegetation is required and will be included in the EIS. Additional alternatives which might be discussed in the statement include:

1. Maximum use of herbicides. Use of all chemicals whenever appropriate to the task, considering maximum economic efficiency. All chemicals, including 2,4,5–T and Silvex, would be used.

2. Use of all approved vegetation management treatments. An integrated program of mixed practices, including burning, mechanical, manual and biological treatment and application of currently approved herbicides.

3. Use of all approved vegetation management treatments except burning.

4. Use of all approved vegetation management treatments except aerial applications of herbicides.

5. Use of all approved vegetation management treatments except application of herbicides.

The EIS will identify the impacts to the natural and human environment that can be expected from implementation of any alternative. The statement will be an analytical tool used to assist in making decisions which are expected to guide the Bureau's western Oregon vegetation management program for some years to come, after 1983.

Public scoping meetings will be held to identify significant issues related to the vegetation management program and to obtain public comments on the formulation of alternatives to be analyzed in the EIS. These meetings will be held at the following places and times:

Medford District

Grants Pass, Oregon, July 7th, at 7:30 p.m., Josephine County Court House, Room 156, 500 N.W. 6th, Grants Pass, Oregon 97526

Medford, Oregon, July 8th, at 7:30 p.m., BLM District Office, Oregon Room, 3040 Biddle Road, Medford, Oregon 97501

Roseburg District

July 12th, at 7:30 p.m., BLM District Office, Main Conference Room 777 N.W. Garden Valley Blvd., Roseburg, Oregon 97470

Coos Bay District

July 13th, at 7:30 p.m., Coos Bay Public Library, 525 Anderson St., Coos Bay, Oregon 97420

Eugene District

July 14th, at 7:30 p.m., Harris Hall, South Room—Basement, 125 E. 8th, Eugene, Oregon 97401

Salem District

July 15th, at 7:00 p.m., BLM District Office, Main Conference Room, 1717 Fabry Road S.E., Salem, Oregon 97302

Further information may be obtained from: Chuck Hawkins, Team Leader, Bureau of Land Management, 1717 Fabry Road S.E., P.O. Box 3227, Salem, Oregon 97302, Telephone (503) 399–5825.

Dated: June 4, 1982.

Herbert L. Haglund,

Chief, Division of Resources, Oregon State Office.

[FR Doc. 82-15992 Filed 6-11-82; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–167 (Sub-No. 388N)]

Conrail Abandonment Between South Braintree and Plymouth, MA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to discontinue service over its rail line between S. Braintree (milepost 1.7) and Plymouth (milepost 27.1) in the Counties of Plymouth and Norfork, MA, a total distance of 25.4 miles effective on June 11, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15936 Filed 6-11-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 353N)]

Conrail Abandonment Between Chick and Cook Street and Needham Jct. and Medfield Jct.; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to discontinue service over its rail line between Chick (milepost 0.0) and Cook Street (milepost 14.1) and Needham Jct (milepost 0.0) and Medfield Jct (milepost 7.3) in the Counties of Norfolk and Middlesex, MA, a total distance of 21.4 miles effective on June 11, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15827 Filed 6-11-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-160 (Sub-4)]

Montour Railroad Co.—Abandonment—in Washington County, Pa.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number 3, has issued a certificate authorizing the Montour Railroad Company to abandon its rail line of railroad extending from milepost 22.9 to the end of the line at railroad milepost 32.5, a distance of 9.6 miles and its entire National #3 spur from Muse Jct. at railroad milepost 0.0 to the end of the line at railroad milepost 1.2, a distance of 1.2 miles in Washington County, PA, subject to certain conditions. Since no investigation was instituted, the requirement of Section 1121.38(b) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15825 Filed 6-11-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-59)]

Seaboard Coast Line Railroad Co.—Abandonment—in Charleston County, S.C.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number 3, has issued a certificate authorizing the Seaboard Coast Line Railroad Company to abandon its rail line known as the Charleston Subdivision of its Florence Division extending from railroad milepost ACN 394.14 to the end of SCL ownership at milepost ACN 394.98, a distance of 0.84 miles in Charleston County, SC, subject to certain conditions. Since no investigation was instituted, the requirement of Section 1121.38(b) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15824 Filed 6-11-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-176

The following applications were filed in Region I. Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 134806 (Sub-1-31TA), filed May 26, 1982. Applicant: B-D-R TRANSPORT, INC., Vernon Drive, P.O. Box 1277, Brattleboro, VT 05301. Representative: Edward T. Love, 4401

East West Highway, Suite 404, Bethesda, MD 20814. *Contract carrier:* irregular routes: *Office equipment* from Oxford, CT to points in AZ, CA, CO, ID, MT, NV, MN, OR, UT, WA, and WY under continuing contract(s) with Dahle U.S.A., Oxford, CT. Supporting shipper: Dahle U.S.A., 6 Benson Road, Oxford, CT 06483.

MC 73444 (Sub-1–3TA), filed May 26, 1982. Applicant: FRANK L. CASTINE, d.b.a. CASTINE MOTOR SERVICE, 1235 Chestnut Street, Athol, MA 01331. Representative: Donald R. Castine, (same as applicant). *Contract carrier:* irregular routes: *Household goods and personal effects belonging to transferring personnel of Westvaco Corporation U.S. Envelope Division and or products, supplies and equipment of,* between all points in the U.S. under continuing contract(s) with Westvaco Corporation U.S. Envelope Division, Springfield, MA. Supporting shipper: Westvaco Corporation U.S. Envelope Division, Memorial Industrial Park, 2001 Roosevelt Avenue, Box 3300, Springfield, MA 01101.

MC 162205 (Sub-1–1TA), filed May 26, 1982. Applicant: J.A. DE VOS & SONS, INC., Greenbush Road, Box 66, North Ferrisburg, VT 05473. Representative: John A. De Vos, Jr., (same as applicant). *Contract carrier:* irregular routes: *Petroleum products* from Rensselaer-Albany, NY to points in VT under continuing contract(s) with Wesco Inc. of Burlington, VT. Supporting shipper: Wesco Inc., 25 N. Prospect St., Burlington, VT 05401.

MC 126985 (Sub-1–1TA), filed May 26, 1982. Applicant: CLIFFORD B. FINKLE, JR., 800 Bloomfield Avenue, P.O. Box 682, Clifton, NJ 07012. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Contract carrier:* irregular routes: *Paper and paper products and materials, equipment and supplies used in the manufacturing, packaging and sales thereof, except in bulk* between Meriden, CT and West Hempstead, NY, on the one hand, and, on the other, points in CT, ME, MA, NH, NJ, NY, PA, RI and VT, under the continuing contract(s) with Westvaco Corp., New York, NY, Simkins Industries, Inc., West Hempstead, NY. Supporting shipper(s): Westvaco Corp., 299 Park Avenue, New York, NY 10171 and Simkins Industries, Inc., P.O. Box 98, West Hempstead, NY 11552.

MC 139579 (Sub-1–3TA), filed May 26, 1982. Applicant: GEORGE H. GOLDING, INC., 5879 Marion Drive, Lockport, NY 14094. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580. *Contract carrier:* irregular routes: *Paper and paper articles and inbound materials and supplies used in the manufacture of paper and paper articles,* between Stroudsburg, PA and points in NY and OH, under continuing contract(s) with Packaging Corporation of America, Evanston, IL. Supporting shipper: Packaging Corporation of America, 1603 Orrington Avenue, Evanston, IL 60204.

MC 150903 (Sub-1–2TA), filed May 21, 1982. Applicant: H–N TRUCKING COMPANY, INC., 2381 Post Road, Warwick, RI 02886. Representative: Peter J. Rotelli, Esquire, 5 Benefit Street, Providence, RI 02904. *General commodities (except explosives, hazardous wastes, toxic substances, and household goods),* between points in the U.S. (excluding AK and HI). Supporting shipper(s): There are seven (7) statements in support attached to this application which may be examined at the I.C.C. Regional Office in Boston, MA.

MC 42212 (Sub-1–1TA), filed May 27, 1982. Applicant: HARDER'S EXPRESS, INC., Route 9–H, Claverack, NY 12513. Representative: Michael R. Werner, Esq., 241 Cedar Lane, Teaneck, NJ 07666. *Paper products and plastic film,* between points in Berkshire County, MA, Columbia County, NY, Middlesex County, NJ, and Cumberland County, PA on the one hand, and, on the other, points in PA, DE, MD, WV, VA, ME, NH, RI, CT, MA, NY, NJ and DC. Supporting shipper: Kimberly Clark Corporation, 1414 W. Larsen Road, Neenah, WI 54956.

MC 144394 (Sub-1–1TA), filed May 26, 1982. Applicant: HOOK UP LTD., 342 Munster Avenue, Toronto, Ontario, CD M8Z 3C5. Representative: Robert D. Gunderman, Can-Am Building, 101 Niagara Street, Buffalo, NY 14202. *Self-propelled machinery and equipment, in driveaway service,* between ports of entry on the International Boundary line between the US and CD located in MI, on the one hand, and, on the other, points in Colorado County, TX. Supporting shipper: Dresser Canada, Inc., 200 Avenue Road, Cambridge, Ontario, CD N1R 5V7.

MC 162206 (Sub-1–1TA), filed May 26, 1982. Applicant: IMPERIAL FREIGHT SERVICES, INC., 740 Lloyd Road, Matawan, NJ 07747. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Paper products, hardware (door and general) and locks, tile, chemicals or allied products described in STCC 28 (except in bulk and hazardous waste), watches or clocks and wire, and materials and supplies used in the manufacturing and distribution thereof, (except in bulk),* between New York, NY Commercial Zone, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper(s): There are six (6) statements in support of this application which may be examined at the regional office of the I.C.C. in Boston, MA.

MC 162221 (Sub-1–1TA), filed May 27, 1982. Applicant: J.M.D. TRANSPORTATION INC., 537 Washington Ave., Audubon, NJ 08106. Representative: Mark H. Watson, 116 Haddon Ave., Haddonfield, NJ 08033. *Contract carrier:* irregular routes: *Passengers and their baggage in the same vehicle,* between points in Camden, Gloucester and Burlington Counties, NJ, on the one hand, and, on the other, points in NJ, PA, DE, MD, DC, NY, CT, RI and MA, under continuing contract(s) with Bioferm International, Medford, NJ; Dorothy Monahan, Medford Lakes, NJ; Rainbow Travel, Barrington, NJ; Framework, Ltd., Haddon Heights, NJ; Inglis House, Philadelphia, PA. Supporting shipper(s): Bioferm International, Stokes Road, Medford, NJ 08055; Dorothy Monahan, 51 Algonquin Trail, Medford Lakes, NJ 08055; Rainbow Travel, 38 Clements Bridge Road, Barrington, NJ 08807; Framework, Ltd., 602 Station Ave., Haddon Heights, NJ; Inglis House, 2816 Poplar Street, Philadelphia, PA 19130.

MC 145338 (Sub-1–1TA), republication filed May 7, 1982. Applicant: MEDICAL EMERGENCY TRANSPORTATION CORPORATION, d.b.a. METCOR, Essex County Airport, 125 Passaic Avenue, Fairfield, NJ 07006. Representative: Charles Ephraim, 406 World Center Building, 918 16th Street, N.W., Washington, DC 20006. *Medical and scientific equipment, materials and supplies,* (1) From Buffalo, NY to points in NY and PA, and (2) From Newark, NJ, to points in PA, NJ, NY, CT, MA, RI, DE, MD, VA, and DC. Supporting shipper: Mallinckrodt, Incorporated, 2703 Wagner Place, Maryland Heights, MO 63043. Sole purpose of this republication is to show applicant's request to interline.

MC 135220 (Sub-1–1TA), filed May 26, 1982. Applicant: MORRIS MILLER TRUCKING, INC., Route 60, Cassadaga, NY 14718. Representative: Robert D. Gunderman, Can-Am Building, 101 Niagara Street, Buffalo, NY 14202. *Malt beverages and empty malt beverage containers,* between Fostoria, OH, on the one hand, and, on the other, points in NY. Supporting shipper: The Stroh Brewery Co., 1 Stroh Drive, Detroit, MI 48226.

MC 146463 (Sub-1–3TA), filed May 27, 1982. Applicant: SLACK TRANSPORT LIMITED, Box 579, Caledonia, Ontario CD NOA 1AO. Representative: William J. Hirsch P.C., 1125 Convention Tower, 43 Court Street, Buffalo, NY 14202. *Contract carrier:* irregular routes: *Cement, Sand and Clay-based Refractory Products, in bags;* between Buffalo, NY, on the one hand, and, on the other, ports of entry on the US–CD International Boundary line located in NY, under continuing contract(s) with Riverside Refractories Canada Limited, Ontario, CD NOA 1LO. Supporting shipper: Riverside Refractories Canada Limited, 16 Hawk Street, Nanticoke, Ontario, CD NOA ILO. Applicant intends to interline.

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St. Rm. 620, Philadelphia, PA 19106.

MC 142864 (Sub-II–8TA), filed June 3, 1982. Applicant: RAY E. BROWN TRUCKING, INC., P.O. Box 501, Massillon, OH 44646. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. *Such commodities as are dealt in or used by manufacturers of rubber products, and foodstuffs,* between points in Stark County, OH, and Allegheny County, PA, on the one hand, and, on the other, points in and east of WI, IA, MO, AR, and LA, for 270 days. An underlying ETA seeks authority for 120 days. Supporting shipper(s): Alliance Rubber Co., 633 N. Union Ave., Alliance, OH 44601. Perry Rubber Co., 1875 Harsh Ave., S.E., Massillon, OH 44646. Northside Packing Co., 2200 Spring Garden Ave., Pittsburgh, PA 15212.

MC 152509 (Sub-II–28TA), filed June 3, 1982. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., 1370 Ontario Street, Cleveland, OH 44101. Representative: J. L. Nedrich (same as applicant). *Contract; irregular; plastic containers, materials, supplies and equipment used in the manufacture of plastic containers,* between points in the U.S. (except AK & HI) under continuing contract(s) with Hoover Universal, Inc., Distribution Services, Georgetown, KY, for 270 days. Supporting shipper: Hoover Universal Inc., Distribution Services, Route #2, 585 Tri Port Road, Georgetown, KY 40324.

MC 152509 (Sub-II–29TA), filed June 3, 1982. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO.; 1370 Ontario St., Cleveland, OH 44101. Representative: J. L. Nedrich (same as applicant). *Contract; irregular: general commodities,* between points in the U.S. (except AK & HI) under continuing contract(s) with Julius J. Schaefer Associates, Englewood, NJ, for 270 days. Supporting shipper: Julius J. Schaefer Associates, P.O. Box 693, Englewood, NJ 07631.

MC 152509 (Sub-II–30TA), filed June 3, 1982. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., 1370 Ontario St., Cleveland, OH 44101. Representative: J. L. Nedrich (same as applicant). *Contract; irregular: general commodities,* between pts. in the U.S. (except AK and HI) under continuing contract(s) with Lawson Products Co., Des Plaines, IL, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Lawson Products Co., 1666 East Toughey, Des Plaines, IL 60018.

MC 152509 (Sub-II–31TA), filed June 3, 1982. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., 1370 Ontario St., Cleveland, OH 44101. Representative: J. L. Nedrich (same as applicant). *Contract; irregular: general commodities,* between pts. in the U.S. (except AK and HI) under continuing contract(s) with Valentine Truck Brokers, Phoenix, AZ, for 270 days. Supporting shipper: Valentine Truck Brokers, P.O. Box 6246, Phoenix, AZ 85005.

MC 127030 (Sub-II–2TA), filed June 1, 1982. Applicant: MATTHEW J. DEPALMA, INC., 1700 Orthodox St., Phila., PA 19124. Representative: Leonard W. Becker (same as applicant). *Urea, in bulk, in dump vehicles,* from Port Newark, NJ to Mt. Airy, MD and So. Deerfield, MA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Philipp Brothers, Inc., 1221 Avenue of the Americas, New York, NY 10020.

MC 149043 (Sub-II–12TA), filed June 3, 1982. Applicant: EASTERN TANK LINES, INC., 5536 Brentlinger Dr., Dayton, OH 45414. Representative: H. Neil Garson, 3251 Old Lee Hwy., Fairfax, VA 22030. *Liquid Sweeteners, in bulk, in tank vehicles,* between points in MO, on the one hand, and, on the other, points in IL, IN, KY and OH, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Cargill, Inc., Box 1400–A, 3201 Needmore Rd., Dayton, OH 45414.

MC 162318 (Sub-II–1TA), filed June 3, 1982. Applicant: EMERY OIL CO., INC., d.b.a. EMERY TRANSPORTATION, 6730 Clough Pike, Cincinnati, OH 45244. Representative: David A. Turano, 100 East Broad St., Columbus, OH 43215. *Petroleum and petroleum products, in bulk, in tank vehicles,* between points in Butler, Clermont, Hamilton, Montgomery and Warren Counties, OH and points in Boone, Bracken, Campbell, Fleming, Grant, Kenton, Mason and Pendleton Counties, KY for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: King Kwik Minit Marketing, Inc., 3870 Virginia Ave., Cincinnati, OH 45227. Triumph Energy Corp., 5706 Hillsdale Ave., Cincinnati, OH 45233. M. C. Russell Co., P.O. Box 249, Maysville, KY 45056. Koch Marketing Co., P.O. Box 2315, Wichita, KS 67201.

MC 73366 (Sub-II–1TA), filed June 3, 1982. Applicant: FIRPO & SONS, INC., d.b.a. FIRPO'S MOVING AND STORAGE, 900–B Tryens Road, Aston, PA 19014. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113. *Contract; irregular: machinery, machinery parts, materials, equipment and supplies used in the manufacture and distribution of machinery and machinery parts,* between Charlotte and Winston-Salem, NC on the one hand, and, on the other, Lester, PA, under a continuing contract(s) with Westinghouse Electric Corp., Lester, PA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Westinghouse Electric Corp., P.O. Box 9175, Philadelphia, PA 19113.

MC 108297 (Sub-II–1TA), filed June 1, 1982. Applicant: FOX TRANSPORT SYSTEM, #8 East Oregon Ave., Philadelphia, PA 19148. Representative: James J. Fox (same as applicant). *Cable, electric and electric supplies and materials,* between pts. in CT, NJ, NY, MA, MD, and RI, for 270 days. Supporting shipper(s): Western Electric Co., Inc., 2500 Broening Highway, Baltimore, MD 21224.

Originally published in the **Federal Register** on 5/17/82.[1]

MC 154667 (Sub-II–1TA), filed May 3, 1982. Applicant: D. L. GEORGE & SONS CONSTRUCTION CO., INC., Box K, Blue Ridge Summit, PA 17214. Representative: Edward N. Button, 635 Oak Hill Ave., Hagerstown, MD 21740. *Roofing granules, crushed stone, filler materials, equipment and supplies used in the manufacturing and distribution thereof,* between the facilities of G.A.F. Corp., at or near Charmain, PA, on the one hand, and, on the other, pts. in MD, VA, WV, NJ, NC, CT, MA, DE, SC, GA, and OH, for 270 days. Supporting shipper(s): G.A.F. Corp, 1361 Alps Rd., Wayne, NJ 07470.

MC 147661 (Sub-II–1TA), filed June 1, 1982. Applicant: H & W TRUCKING,

[1] The purpose of this republication is to include "used in the manufacturing and distribution thereof," in the commodity description and also to include, "between the facilities of G.A.F. Corp." in the origin. These additions were inadvertently omitted from original publication.

INC., 108 E. Walnut St., Cardington, OH 43315. Representative: E. H. Van Deusen, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017. *Truck bodies and truck body parts and materials* from the facilities of the Stahl Division, Scott-Fetzer Co., at or near Valdosta, GA, to Birmingham, AL; Miami and Pompano Beach, FL; Metairie, LA; Charlotte and High Point, NC; and Greenville and Spartanburg, SC, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Stahl Metal Products, Division of Scott-Fetzer Co., 14600 Detroit Ave., Lakewood, OH 44107.

MC 161495 (Sub-II–2TA), filed June 1, 1982. Applicant: KEY TRANSPORT, INC., Rt 47 W, Sidney, OH 45365. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212. *Contract: Irregular: Yogurt,* from the facilities of The Dannon Co., Inc. at Minster, OH, to Minneapolis, MN and St. Louis, MO for 270 days, under continuing contract(s) with The Dannon Co., Inc., Minster, OH. An underlying ETA seeks 120 days authority. Supporting shipper: The Dannon Co., 234 E. First St., Minster, OH 45365.

MC 25153 (Sub-II–3TA), filed June 1, 1982. Applicant: MARTIN FREIGHT SERVICE, INC., 112 Frick Ave., Waynesboro, PA 17268. Representative: Edward N. Button, 635 Oak Hill Ave., Hagerstown, MD 21740. *Ground Stone in bags and related materials* between Hagerstown, MD and Charmain, PA on the one hand, and, on the other, pts. in and east of TX, OK, MO, IA, and MN (restricted to traffic originating at or destined to facilities used by Har Tru Corp.), for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Har Tru Corp., P.O. Box 569, Hagerstown, MD 21740.

MC 107012 (Sub-II–220), filed June 1, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Ft. Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant). Contract, irregular: *General commodities (except household goods, Classes A & B explosives, and commodities in bulk)* between points in the U.S., under continuing contract(s) with Pizza Time Theatre, Inc. An underlying ETA seeks 120 days authority. Supporting shipper(s): Pizza Time Theatre, Inc., 310 East Caribbean Dr., Sunnyvale, CA 94086.

MC 107012 (Sub-II–221TA), filed June 1, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Ft. Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). Contract, irregular: *Household goods* between points in the U.S. (including AK and HI), under continuing contract(s) with General Mills, Inc. Supporting shipper(s): General Mills, Inc., P.O. Box 1113, Minneapolis, MN 55440.

MC 133966 (Sub-II–4TA), filed May 21, 1982. Applicant: NORTH EAST EXPRESS, INC., P.O. Box 127, Mountaintop, PA 18707. Representative: Jon F. Hollengreen, 1020 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., N.W., Washington, DC 20004. *Textiles, rubber, plastic and paper products, and related articles,* (1) between Morris County, NJ, on the one hand, and, on the other, points in the U.S.; and (2) from Covington County, AL, to Rowan County, NC, for 270 days. Supporting shipper: L. E. Carpenter & Co., 170 No. Main St., Wharton, NJ 07885.

MC 151224 (Sub-II–3TA), filed June 1, 1982. Applicant: NORTHERN STEEL TRANSPORT CO., 6041 Benore Rd., Toledo, OH 43612. Representative: Michael M. Briley, P.O. Box 2088, Toledo, OH 43603. *Building and construction materials and materials, equipment and supplies used in the manufacture and distribution of building and construction materials* between the facilities of CertainTeed Corp., at Chicago Hgts., IL; Shakopee, MN; Kansas City, MO; Oxford, NC and Avery, OH on the one hand, and, on the other, points in IA, IL, IN, KY, MI, MN, MO, NC, NY, OH, PA, TN, VA, WI, and WV, for 270 days. Supporting shipper: CertainTeed Corp., P.O. Box 860, Valley Forge, PA 19482.

MC 160628 (Sub-II–TA), filed June 1, 1982. Applicant: TITAN TRANSFER, INC., 3617A Silverside Rd., Wilmington, DE 19803. Representative: Gerald K. Burns, 3308 Englewood Rd., Wilmington, DE 19810. Contract, irregular: *asphalt roofing materials, and materials, supplies and equipment used in the manufacture and distribution of the above materials,* between Frederick, MD, on the one hand, and, on the other, points in NC, VA, WV, DC, MD, DE, PA, OH, NJ, NY, CT, RI, MA, VT, NH, MN, under continuing contract(s) with Tamko Asphalt Products, Inc. An underlying ETA seeks 120 days authority. Supporting shipper(s): Tamko Asphalt Products Inc., 220 W. 4th St., Joplin, MO 64801.

MC 149029 (Sub-II–1TA), filed June 1, 1982. Applicant: VANWORMER TRUCKING, INC., Star Route, Cranberry, PA 16319. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, 110 North Second St., Clearfield, PA 16830. *Paper, from Franklin, PA, to Buffalo, NY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Intercounty Recycling Co., Box 648, Franklin, PA 16323.*

MC 124579 (Sub-II–1TA), filed June 1, 1982. Applicant: WIKEL BULK EXPRESS, INC., Rt. 2, Huron, OH 44839. Representative: E. H. van Deusen, 220 West Bridge St., P.O. Box 97, Dublin, OH 43017. *Malt beverages and materials and supplies used in the manufacture thereof,* between points in Erie and Sandusky Counties, OH, on the one hand, and, on the other, points in IN, MI and PA for 270 days. Supporting shipper: THE SANDUSKY BUTTER & EGG CO., 2229 Superior St., Sandusky, OH 44870.

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 162091 (Sub-3–1TA), filed June 2, 1982. Applicant: ACMA ENTERPRISES, INC., 511 Legion Drive, Warrenton, GA 30828. Representative: John P. Tucker, Jr., Suite 222, Lenox Towers, 3390 Peachtree Road, N.E., Atlanta, GA 30326. "(1) *Rubber and plastic articles and related items,* (2) *textiles, textile products, synthetic fiber products and related items,* (3) *adhesives, chemicals and related items (except in bulk),* (4) *non-bulk recyclable materials,* (5) *acoustical materials,* (6) *tooling equipment and machinery used in the textile and acoustical industries,* between points in GA, MA and MI, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, OK and TX. Supporting shippers: Personal Sportwear (A Division of Leslie Fay, Inc.), 1056 Personal Place, Morrow, GA 30360; Transworld Adhesives and Chemical Corporation, Air Station Industrial Park, Rockland, MA 02370; Southern Division of Northern Fibre Products Co., P.O. Box 1145, Thomson, GA 30824; E. H. Mann, Inc., d/b/a Warrenton Rubber, P.O. Box 9, Warrenton, GA 30828; Superior Plastic Products Corporation (and corporate subsidiaries), Cumberland Industrial Park, Cumberland, RI.

Republication—originally published in Federal Register of May 17, 1982, Page 21152, Vol. 47, No. 95. MC 161667 (Sub-3–1TA), filed May 7, 1982. Applicant: GARY LINE SIGHTSEEING TOUR, INC., 626 Valley Hill Rd., Riverdale, GA 30274. Representative: Archie W. Andrews, 617 F Lynrock Terrace, Eden, NC 27288. *Passengers and their baggage in special and charter operations,* beginning and ending at points in Rabon County, GA; Macon, Jackson, and Transylvania Counties, NC and extending to points in GA, NC, SC and TN. Supporting shippers: There are

seven (7) statements in support of this application which may be examined at the ICC Regional Office, Atlanta, GA.

MC 154559 (Sub-3–1TA), filed June 2, 1982. Applicant: GREENVILLE BUS LEASING, INC., 3147 N. Pleasantburg Drive, Greenville, SC 29609. Representative: James Robert Evans, 145 W. Wisconsin Avenue, Neenah, WI 54956. *Passengers and their baggage, in charter operations,* beginning and ending at Clemson, Columbia, Laurens, and Spartansburg, SC, and points in Greenville County, SC and extending to Washington, DC, and its commercial zone, Atlanta, GA, Knoxville and Nashville, TN and points in Orange County, FL. There are fifteen supporting shippers.

MC 162266 (Sub-3–1TA), filed June 1, 1982. Applicant: TEMPUS TRUCKING COMPANY, 2508 Starita Road, Charlotte, NC 28213. Representative: Roy L. Wilburn (same address as applicant). *Contract carrier,* irregular routes, *general commodities (except classes A & B explosives and household goods),* between the facilities of the Charlotte Freight Association, Inc. and its members located in Birmingham, AL, Charlotte, NC, Richmond, VA, Philadelphia, PA, Jersey City, NJ, Boston, MA, Atlanta, GA, Nashville, TN, Woonsocket, RI, and Greenville, SC under continuing contract with Charlotte Freight Association, Charlotte, NC. Supporting shipper: Charlotte Freight Association, Inc., 2508 Starita Rd. Charlotte, NC 28213.

MC 161703 (Sub-3–1TA), filed June 3, 1982. Applicant: ARCHIE CAMPBELL, d.b.a. CAMPBELL TRUCKING, P.O. Box 81, Route #1, Robertsdale, AL 36567. Representative: (same as above). *Contract* Carrier: irregular: *Anhydrous Ammonia* from Pascagoula, MS to Atmore, Robersdale, Loxley, Foley, AL. Supporting shipper: Estech, Inc., 340 Interstate North Parkway, Suite 150, Atlanta, GA 30339.

MC 140902, (Sub-3–15TA), filed June 3, 1982. Applicant: DPD, INC., 3600 N.W. 82 Avenue, Miami, FL 33166. Representative: Dale A. Tibbets (same address as applicant). *Contract;* irregular; *prefabricated buildings and materials equipment and supplies* between Meridian, ID, Salt Lake City, UT and Lafayette, CO on the one hand and on the other points in and west of the states of ND, SD, NE, KS, OK and TX under continuing contract(s) with The Boise Company. Supporting shipper: The Boise Company, 1475 Tyrell Lane, P.O. Box 8358, Boise, ID 83707.

MC 162066 (Sub-3–1TA), filed June 2, 1982. Applicant: Humphrey Services, Inc., 206 Western Hills Drive, Madison, AL 35758. Representative; Doris R (Dot) Humphrey, 206 Western Hills Drive, Madison, AL 35758. *Hazardous Waste,* from San Antonio, TX to Emelle, AL. Supporting shipper: Technical Micronics Control, Inc., 210 Wynn Drive, Huntsville, AL 35805.

The following applications were filed in region 4. Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 60325 (Sub-4–4TA), filed June 1, 1982. Applicant: JEFFERSON LINES, INC., 1206 Currie Avenue, Minneapolis, MN 55403. Representative: Richard D. Howe, Myers, Knox & Hart, 600 Hubbell Building, Des Moines, IA 50309. *Passengers and their baggage, and express and newspapers, in the same vehicles with passagers,* between Cedar Rapids and Davenport, IA, serving all intermediate points: from Cedar Rapids over Intersate 380 to junction U.S. Highway 30, thence over U.S. Highway 30 to junction Iowa Highway 38, thence over Iowa Highway 38 to Tipton, thence over Iowa Highway 130 to Davenport. Supporting Shippers: 3.

MC 81779 (Sub-4–2TA), filed May 28, 1982. Applicant: PAUL JOHNSON, INC., 340 West Adams Street, Waterman, IL 60556. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., NW, Suite 500, Washington, DC 20006. *Metal products,* between Chicago, IL and points in its commercial zone, on the one hand, and, on the other, points in Portage County, WI, for 270 days. An underlying ETA application seeks 120 days authority. Supporting shipper: Del Monte Corporation, P.O. Box 89, Rochelle, IL 61068.

MC 101269 (Sub-4–1TA), filed June 1, 1982. Applicant: FANCHER TRUCKING & EXCAVATING, INC., 1012 N. Meridian Road, Chesterton, IN 46304. Representative: Oliver B. Fancher, Jr. (same address as applicant), (1) *Loam* from Chesterton, IN to montgomery, MI (2) *Aggregate* from Hillsdale County, MI to LaPorte, Porter, and Lake Counties, IN. Supporting Shipper: Jacks's Pottery Co., 108 N. Hayward, Montgomery, MI. 49255, Destiny Farms, 335 Cambria Rd, Hillsdale, MI. 49242.

MC 140257 (Sub-4–3TA), filed June 1, 1982. Applicant: BENNETT & SON TRANSPORT, LTD., 47 Bothwell Crescent, Regina, Saskatchewan, Canada S4R 5Y7. Representative: Richard P. Anderson, P.O. Box 2561, Fargo, ND 58108. (1) *Irrigation systems;* and (2) *parts and components for irrigation systems* from points in CA, CO, ID, IL, MT, NE, ND, OR, WA and WY to points on the International Boundary line between the United States and Canada in MT and ND. RESTRICTION: Restricted to traffic moving in foreign commerce to Outlook and Swift Current, Saskatchewan. Supporting shipper: Central Irrigation Company, Ltd., 403 Saskatchewan Avenue E., Outlook, Saskatchewan, Canada S0L 2N0.

MC 142204 (Sub-4–4TA), filed June 1, 1982. Applicant: GUNVILLE TRUCKING, INC., d.b.a. GUNVILLE TRUCKING, P.O. Box 77, Niagara, WI 54151. Representative: Michael S. Varda, P.O. Box 2509, Madison, WI 53701. *Woodpulp, paper, and paper products,* between points in the Upper Peninsula of MI, on the one hand, and, on the other, points in WI. Supporting shipper: Kimberly-Clark Corporation, 1414 Larsen Road, Neenah, WI 54956.

MC 150571 (Sub-4–3TA), filed June 1, 1982. Applicant: NORSEMAN TRUCKING, INC., Route 2, Box 37A, Waseca, MN 56093. Representative: John B. Van de North, Jr., Briggs and Morgan, 2200 First National Bank Building, St. Paul, MN 55010, (612) 291–1215. *Tires, batteries and petroleum products (except in bulk) and automotive accessories,* between points in MN, on the one hand, and, on the other, points in IL, IN, KS, MT, ND, OK, LA, MO, MI, SD, WY, and TX. Supporting shipper: Kritzer Oil Company, 501 South State Street, Waseca, MN 56093.

MC 151111 (Sub-4–2), filed May 28, 1982. Applicant: CUSTOMER SERVICES, INC., P.O. Box 489, Red Cloud, NE 68970. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064. *Chemicals, drugs, toilet preparations, health care items, food stuffs, and materials and supplies used in the manufacture of the aforementioned* from points in WI and MN to points in the U.S. Supporting shippers: Tobiason Central, 671 Fondulac St., Ripon, WI 54971; Gold Bond Ice Cream, 808 Packerland Drive, Greenbay, WI 54303; Meeter Brothers, P.O. Box 7, Union Grove, WI 53182.

MC 152337 (Sub-4–4TA), filed June 1, 1982. Applicant: CENTRAL STATES TRUCKING CO. 5101 South Lawndale Avenue, P.O. Box 450, Summit, IL 60501. Representative: Edward G. Bazelon, 29 South LaSalle Street, Chicago, IL 60603. *Contract*—Irregular—*General Commodities (except Classes A & B Explosives, Household Goods and Commodities in Bulk)* between Chicago, IL, and New York City, NY, and points in their respective Commercial Zones under continuing contract(s) with Pacific Northwest Perishable Shippers Association; Washington Oregon Shippers Cooperative Association, Inc.; Northwest Perishable Shippers

Cooperative Association, Inc.; Pacific Northwest Shippers Cooperative Association, Inc.; and Trailer Express, Inc., all of 200 West Thomas Street, Seattle, WA 98119. SS:—Supporting shippers.

MC 152517 (Sub-IV–1TA), filed June 1, 1982. Applicant: RO–MAR TERMINAL & WAREHOUSE CO., INC., 3356 S. Ashland Avenue, Chicago, IL 60608. Representative: Robert L. Cope, 1730 M Street, NW., Suite 501, Washington, DC. 20036. *Contract carrier, Irregular route: Grain Mill Products and Macaroni, Spaghetti, Vermicelli or Noodles and Products thereof, dry,* between Lincoln, NE, on the one hand, and, on the other, Omaha and Fremont, NE, Council Bluffs, IA, and Kansas City, KS, under continuing contract(s) with Gooch Mill & Elevator, a Division of ADM Milling Co., Gooch Foods, Inc., and Gooch Feed Mill Corp. Supporting shippers: (1) Gooch Mill & Elevator, a division of ADM Milling Co., P.O. Box 7007, Shawnee Mission, KS. (2) Gooch Foods, Inc., P.O. Box 81308, Lincoln, NE 68501. (3) Gooch Feed Mill Corp., P.O. Box 81308, Lincoln, NE 68501.

MC 153646 (Sub-4–2TA), filed June 1, 1982. Applicant: YODER TRUCKING, INC., G–5161 Dania Street, Flint, MI 48504. Representative: Bruce A. Newman, P.C., 1000 Beach Street, Flint, 48502. *Contract* irregular: *Hazardous and Combustible Waste Materials* between all points in the U.S. under continuing contract with Metalworking Lubricants Company. Supporting shipper: Metalworking Lubricants Company, 6785 Telegraph Road, Birmingham, MI 48010.

MC 156002 (Sub-4–2TA), filed June 1, 1982. Applicant: CLAIR R. MESSERSMITH, Route 1, Box 67, Wilson, MI 49896. Representative: Same as applicant. *Motorcycles, snowmobiles, snowblowers, lawn and garden equipment, generators, outboard motors, and parts and accessories therefor;* from Chicago, IL and Grand Rapids, MI commercial zones to points in the Upper Peninsula of MI and Florence County, WI. There are 6 supporting shippers.

MC 157134 (Sub-4–2TA), filed June 1, 1982. Applicant: SUPER CARRIER COMPANY, INC., 3250 South Pulaski, Chicago, IL 60623. Representative: Albert A. Andrin, 180 North La Salle Street, Chicago, IL 60601. *Contract,* irregular: *General commodities* (except Classes A and B explosives, commodities in bulk and household goods), between the facilities of Capitol Freight Systems, Ltd. and its affiliates, at points in the U.S., on the one hand, and, on the other, points in the U.S., for the account of Capitol Freight Systems, Ltd. Supporting shipper: Capitol Freight Systems, Ltd., 1238 N. Kostner, Chicago, IL.

MC 157923 (Sub-4–2TA), filed June 1, 1982. Applicant: TAYLOR TRUCKING, INC., 4080 Lancer Circle, Manitowoc, WI 54220. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. *Contract*—Irregular. *Cement* from LaSalle, IL to points in WI on and south of WI Hwy 64 under a continuing contract(s) with Illinois Cement Company. An underlying ETA seeks 120 days authority. Supporting shipper: Illinois Cement Company, P.O. Box 442, LaSalle, IL 61301.

MC 160951 (Sub-4–2TA), filed May 28, 1982. Applicant: A. M. EXPRESS, INC., 18603 Harrison, Lowell, IN 46356. Representative: Joel H. Steiner, 29 South LaSalle, Suite 905, Chicago, IL 60603. *Sand,* from Jasper County, IN to Cook County, IL. Supporting shipper: Continental Concrete Pipe Corp., P.O. Box 174, Blue Island, IL 60406.

MC 161370 (Sub-4–2TA), filed May 28, 1982. Applicant: ROBERT L. KELLER, d.b.a. KELLER TRANSIT, P.O. Box 6, Kempton, IN. Representative: Joseph P. Murdock, P.O. Box 40248, Indianapolis, IN 46240. *Chemicals and allied products* between points in IN, OH, and MI. Supporting shipper: Central Indiana Supply, 1432 Kentucky Avenue, Indianapolis, IN.

MC 161615 (Sub-4–3TA), filed June 1, 1982. Applicant: SONN LINE TRANSPORT CO., INC., 4320 North 126th Street, Brookfield, WI 53005. Representative: Daniel R. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. *Contract; irregular; Metal products,* between the facilities of Port Metal Corporation at Belgium, WI, on the one hand, and, on the other, points in the United States under continuing contract(s) with Port Metal Corporation of Belgium, WI. An underlying ETA seeks 120 days authority. Supporting shipper: Port Metal Corporation, 652 Main Street, Belgium, WI 53004.

MC 162088 (Sub-4–1TA), filed May 28, 1982. Applicant: TRANSPORTATION AND WASTE, INC., 514 Kyser Drive, Box 146, North Adams, MI 49262. Representative: Philip Blonde, P.O. Box 387, Litchfield, MI 49252. *Contract* Irregular: *Fertilizer, agricultural chemicals and supplies, coal and limestone* between points in MI, OH and IN. Supporting shippers: The Andersons, 1200 Dussell Drive, P.O. Box 119, Maumee, OH 43537 and Michigan South Central Power Agency, 720 Herring Road, Litchfield, MI 49252.

MC 162261 (Sub-4–1TA), filed May 1, 1982. Applicant: RICHARD WILLE, d.b.a. WILLE TRANSPORT, P.O. Box 304, Inger Road, Deer River, MN 56636. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402. *Lumber and lumber products* between points in MN, WI and the Upper Peninsula of MI. Supporting shippers are: E.J.R. LBR Distribution Reman Ltd., Winnipeg, Manitoba; Northwood Building Materials, Winnipeg, Manitoba; Owens Forest Products, Duluth, MN; Midwest Lumber Sales, Duluth, MN; Erickson Mills, Inc., Kelliher, MN.

MC 162291 (Sub-4–1TA), filed June 1, 1982. Applicant: WAYNE WOLLITZ TRUCKING, 202 Second St. S.W., Lidgerwood, ND 58053. Representative: Wayne Wollitz (same as above). *General Commodities* from Minneapolis, MN to points in ND, SD, MT, MN and WY. Supporting Shippers: Empro Corporation, 14530 27th Avenue North, Minneapolis, MN 55441.

MC 162293 (Sub-4–1TA), filed: June 1, 1982. Applicant: EAGLE ENTERPRISES INC., d.b.a. EEI TRUCKING, P. O. Box 481, Winnebago, MN 56098. Representative: Richard D. Howe, Myers, Knox & Hart, 600 Hubbell Building, Des Moines, IA 50309. *(1) Plastic pipe and fittings, and (2) concrete products,* between Winnebago, MN, on the one hand, and, on the other, points in IA, IL, KS, MO, MT, ND, NE, SD, and WI. Supporting shipper: Winnebago Drainage Systems, Inc. and Winnebago Concrete Products, Winnebago, MN 56098.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 61440 (Sub-5–15TA), filed June 1, 1982. Applicant: LEE WAY MOTOR FREIGHT, INC., P. O. Box 12750, Oklahoma City, OK 73157. Representative: T. M. Brown (same as above). Contract, Irregular; *General Commoodities (except Classes A & B explosives, HHG's, and commodities in bulk)* between points in the U.S. (except AK and HI) under continuing contract with Phillips Petroleum Co. and its subsidiaries, Bartlesville, OK.

MC 139905 (Sub-5–3 TA), filed June 3, 1982. Applicant: R. B. STUCKY & N. M. STUCKY, d.b.a. S & S Dairies, Route 2, Moundridge, KS 67107. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. *Liquid sweetners,* from Keokuk, IA to Wichita, KS. Supporting shipper: Pepsi-Cola Bottling Co. of Wichita, Inc., 301 N.W. McLean Bldg., Wichita, KS 67201.

MC 144449 (Sub-5–6TA), filed June 4, 1982. Applicant: A & A CONTRACT CARRIERS, A & A MOVING & STORAGE, d.b.a., 2412 Blue Smoke Court South, Fort Worth, TX 76105. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. Contract; irregular; *restaurant fixtures, furnishings and supplies* between points in the U.S. (except AK & HI), under continuing contract(s) with H & K Dallas, of 1343 S. Henderson Ave., Dallas, TX 75223.

MC 146336 (Sub-5–6TA), filed June 1, 1982. Applicant: WESTERN TRANSPORTATION SYSTEMS, INC., 1609–109th Street, Grand Prairie, TX 75050. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. Contract; irregular; *general commodities* (except household goods Classes A and B explosives and commodities in bulk) between Irving, TX, on the one hand, and, on the other, Indianapolis, IN; Monmouth Jct., NJ; Chicago, IL; Los Angeles and Sunnyvale, CA under continuing contract(s) with NCH Corporation. Supporting shipper(s): NCH Corporation, 2730 Carl Road, Irving, TX 75062.

MC 146553 (Sub-5–24TA), filed June 1, 1982. Applicant: ADRIAN CARRIERS, INC., P.O. Box 3532, Davenport, IA 52808. Representative: James M. Hodge, 3730 Ingeresoll Avenue, Des Moines, IA 50312. *Such merchandise as is dealt in by those engaged in public warehouse and distribution center operations,* between the facilities of Federal Warehouse Company at Peoria and East Peoria, IL on the one hand, and on the other, Pts in the U.S. Supporting shipper(s): Federal Warehouse Company, P.O. Box 1329, Peoria, IL 61654.

MC 146970 (Sub-5–1TA), filed June 1, 1982. Applicant: J & J GUTIERREZ, INC., Box 336, Elsa, TX 78543. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767. *Foodstuffs* (except in bulk), from the facilities of Texsun Corporation, in Hidalgo and Cameron Counties, TX, to points in AR, IL, IN, IA, KS, LA, MS, MO, NE, OK, TN and WI.

MC 151946 (Sub-5–2TA), filed June 3, 1982. Applicant: BIG LAKE TRANSPORT, INC., P.O. Box 98, Charleston, MO 63834. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440. Contract Irregular. *General commodities (except household goods, classes A and B explosives and commodities in bulk)* between points in the U.S. (except AK and HI) under a continuing contract(s) with Fairchild Camera and Instrument Corp. of Mountain View, CA.

MC 155806 (Sub-5–3TA), filed June 3, 1982. Applicant: B-LINE EXPRESS, INC., Route 3, Hwy 59 West, Atchison, KS 66002. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. *General commodities (except those of unusual value, Class A & B Explosives, Household Goods as defined by the Interstate Commerce Commission, Commodities in bulk, and those requiring special equipment),* Between Atchison County, KS on the one hand, and points and places in NE, IA, IL and MN, on the other hand. Supporting shippers: The Lockwood Co., Inc., Atchison, KS 66002; Atchison Leather Products Co., Inc., Atchison, KS 66002; The Pillsbury Co., Atchison, KS 66002; Atchison Ks. Div., of Rockwell Industries, Atchison, KS 66002; Atchison Hospital Assoc., Atchison, KS 66002.

MC 157105 (Sub-5–1TA), filed June 3, 1982. Applicant: B & R TRUCK LINE, INC., P.O. Box 30001, Houston, TX 77009. Representative: James M. Doherty, P.O. Box 1945, Austin, TX 78767. *Mercer* commodities and those commodities, because of their size or weight, require the use of special handling or equipment, between points in TX, OK, LA, AR, NM, and MS. Supporting shippers: 6.

MC 157957 (Sub-5–3TA), filed June 3, 1982. Applicant: LORAS KALB, 904 Monticello Drive, Dubuque, IA 52001. Representative: Carl E. Munson, 469 Fischer Building, P.O. Box 796, Dubuque, IA 52001. Contract; Irregular, *coal and coal products,* from points in Dubuque County, IA, to points in Richland County, WI, under continuing contracts with Carbon Energies, Inc., Naperville, IL.

MC 158682 (Sub-5–2TA), filed June 1, 1982. Applicant: H.I.S. COMPANY, P.O. Box 1868, Council Bluffs, IA 51501. Representative: James M. Hodge, 3730 Ingersoll, Des Moines, IA 50312. (1) *Rubber products,* and (2) *Such commodities as are dealt in by retail and wholesale furniture and appliance stores,* (1) From points in the U.S. (excerpt AK and HI) to the facilities of Good-More Enterprises Co. at Omaha, NE and (2) Between the facilities of Nebraska Furniture Mart, Inc. at Omaha, NE on the one hand, and on the other, points in AL, AR, GA, IN, KY, LA, MS, NC, SC, TN, VA and WV. Supporting shipper(s): Good-More Enterprises Co., 614 South 11th, Omaha, NE 68102; Nebraska Furniture Mart, Inc., 700 South 72nd Street, Omaha, NE 68114.

MC 162014 (Sub-5–1TA), filed June 2, 1982. Applicant: HULL FARMS TRANSPORT, INC., Rt. #2 Box 196, Urich, MO 64788. Representative: Roger Irvin, 130 E. Main, Adrian, MO 64720. Contract, irregular; *soybean meal in bulk,* from Kansas City, MO commercial zone to the facilities of Ralston Purina Company at or near Denver, CO. Supporting shipper: Ralston Purina Company, St. Louis, MO.

MC 162026 (Sub-5–1TA), filed June 3, 1982. Applicant: KENNETH E. BODNAR, INC., P.O. Box 24, Hwy 10 East, Hackett, AR 72937. Representative: Thompson Industries, Inc., P.O. Box 810, Russellville, AR 72801. Contract, Irregular; *green & treated cross ties and/or klin dried lumber products* between points in the U.S. Supporting shipper: Thompson Industries, Inc., P.O. Box 810, Russellville, AR 72801.

MC 162257 (Sub-5–1TA), filed June 1, 1982. Applicant: MARLIN BEARD, d.b.a. MARLIN'S I–10 TRANSPORT, P.O. Box 456, Vidor, TX 77662. Representative: Doyle G. Owens, 4655 Dellwood, Beaumont, TX 77706. *Motor Vehicles,* between Vidor, TX and Sour Lake, TX, on the one hand, and on the other, Gulfport, MS, Houma, LA, Jeanerette, LA, Morgan City, LA, New Orleans, LA, Miami, FL, N. Miami Beach, FL, Tucson, AZ, Phoenix, AZ, St. Louis, MO, and Kansas City, MO. Supporting shippers: Buller and Buller Used Cars, Inc., P.O. Box 1028, Vidor, TX and Town and Country Chevrolet, P.O. Box 999, Sour Lake, TX 77659

MC 162260 (Sub-5–1TA), filed June 1, 1982. Applicant: MATERIAL CONTRACTING, INC., 7th & Olive, St. Joseph, MO 64501. Representative: Tom B. Kretsinger, Kretsinger & Kretsinger, P.C., 20 East Franklin, P.O. Box 258, Liberty, 64068. Contract, irregular; *commodities in bulk* between points in MO, KS, NE, IA, and OK. Supporting shipper: Feeney Ready Mix Concrete, Inc., 7th & Olive, St. Joseph, MO 64501.

MC 162317 (Sub-5–1TA), filed June 3, 1982. Applicant: PACKARD TRUCK LINES, INC., Post Office Box 1536, Harvey, LA 70059. Representative: Claiborne Perrilliat (Same as Applicant). (1) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproductions, between points in LA on the one hand, and, on the other, points in MS, OK, TX, AL. (2) *Machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, between points in LA on the one hand, and, on the other,

points in MS, OK, TX, AL. Supporting shippers: 17.

MC 162338 (Sub-5–1TA), filed June 4, 1982. Applicant: TKOMA LINES, INC., P.O. Box 1266, Claremore, OK 74017. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154. Common; regular. *Passengers and their baggage, and express, newspapers, and mail, in the same vehicle with passengers,* (1) between Oklahoma City, OK and Texarkana, TX: From Oklahoma City to Norman, OK over Interstate Highway 35, thence along Interstate 35 to junction State Highway 9 south of Norman, OK, thence along State Highway 9 to Tecumseh, OK, thence along U.S. Highway 177 to Shawnee, OK, thence along State Highway 3E to intersection State Highway 9A east of Shawnee, OK, thence along State Highway 9A to intersection State Highway 9 at or near Earlsboro, OK, thence along State Highway 9 to Seminole, OK, thence along State Highway 99 to Ada, OK, thence along State Highway 3 to intersection U.S. Highway 75 near Coalgate, OK, thence along U.S. Highway 75 to Atoka, OK, thence along State Highways 7 and 3 to Antlers, OK, thence along U.S. Highway 271 to junction U.S. Highway 70,thence along U.S. Highway 70 to intersection U.S. Highways 59 and 71 north of Lockesburg, AR, thence along U.S. Highways 59 and 71 to Texarkana, AR and return serving all intermediate points. Alternate route: From Ada, OK south along State Highway 99 to intersection U.S. Highway 70 at Madill, OK, thence along U.S. Highway 70 to Hugo, OK. (2) Between Hugo, OK and Paris, TX: From Hugo to Paris over U.S. Highway 271 and return serving all immediate points. (3) Between Ada, OK and Wichita Falls, TX: From Ada along State Highway 1 to intersection State Highway 7 south of Hickory, OK, thence along State Highway 7 to junction U.S. Highway 177 at Sulphur, OK, thence along U.S. Highway 177 to intersection U.S. Highway 70 at Dickson, OK, thence along U.S. Highway 77 to intersection State Highway 79 west of Waurika, OK, thence along State Highway 79 to Wichita Falls, TX and return serving all intermediate points.

Note.—Applicant intends to interline. Supporting shippers: There are 13 supporting shippers.

MC 162339 (Sub-5–1TA), filed June 6, 1982. Applicant: LESTER WINFREE, d.b.a. LESTER WINFREE RICE AND CATTLE, Route 9, Box 347, Orange, TX 77630. Representative: Doyle G. Owens, 4655 Dellwood, Beaumont, TX 77706. *Pipe and Oil Well Supplies,* between Beaumont, TX, Orange, TX, and Port Arthur, TX on the one hand, and, on the other, Houston, TX, Dayton, TX, Liberty, TX, Dallas, TX, Lone Star, TX, Winnie, TX, Abilene, TX, Midland, TX, Odessa, TX, Sabine Pass, TX, Corpus Christie, TX, Ft. Worth, TX, New Orleans, LA, Lake Charles, LA, Houma, LA, Morgan City, LA, Lafayette, LA, Baton Rouge, LA, Shreveport, LA, Gretna, LA, Harvey, LA, Intracoastal City, LA, Cameron, LA, and Hackberry, LA. Supporting shipper: Western Pacific Industries, Inc., Route 1, Box 1600, Orange, TX 77630.

MC 162341 (Sub-5–TA), filed June 4, 1982. Applicant: HAZEL MARSHALL, d.b.a. HAZEL'S HOTSHOT SERVICE, 13351 Kit, P.O. Box 401052, Dallas, TX 75240. Representative: James W. Hightower, Hightower, Alexander, Cook and Birnbaum, P.C., 5801 Marvin D. Love Freeway, #301, Dallas, TX 75237–2385. *Parts and attachments for machinery* between Dallas and Tarrant Counties, TX, on the one hand, and, on the other, points in OK. Supporting shippers: Darr Equipment Company, P.O. Box 20737, Dallas, TX 75220 and 2000 East Airport Freeway, Irving, TX 75061, and Boecking Machinery Company, 4501 W. Reno, Oklahoma City, OK 73127.

MC 162343 (Sub-5–1TA), filed June 3, 1982. Applicant: MO-KAN COURIER SERVICE, INC., 3008 South 44th Street, Kansas City, KS 66106. Representative: James J. Nathanson (same as applicant). Contract: Irregular. *Machine parts and related commodities,* between Kansas City, KS and points in AR, IL, IA, LA, MO, NE, OK and TX. Supporting shipper: Engineering, Plating & Processing, Inc., 641 Southwest Boulevard, Kansas City, KS 66103.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105.

MC 147974 (Sub-6–1TA), filed June 1, 1982. NOEL TERRY BORDEN d.b.a. BORDEN AND SON'S CRANE AND RIGGING, 1112 E. Service Rd., Ceres, CA 95307. Applicant's representative: Noel Terry Borden (same as applicant). *Molded fiber glass pools.* Milpitas, Hollister, Ukia, Manteca, Sacramento, Plam Springs, CA, Portland, Salem and Medford, OR, Seattle & Spokane, WA., for 270 days. Supporting shipper: Classic Spas, Inc., 765 Montague Expressway, Milpitas, CA 95035.

MC 144542 (Sub-6–1TA), filed June 2, 1982. Applicant: CAR TRANSPORTERS CORPORATION, 2001 West Fourth Plain, Vancouver, WA 98660. Representative: Brian L. Troiano, 918 - 16th Street, NW., Washington, D.C. 20006. *Contract carrier,* irregular routes *Automobiles,* between Portland, OR, on the one hand, and, on the other, points in ID, MT, OR, WA, and WY, under contract with Subaru Northwest, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Subaru Northwest, Inc., 8040 N.E. 33rd Drive, Portland, OR, 97211.

MC 162259 (Sub-6–1TA), filed May 28, 1982. Applicant: D.E.L.L. TRUCKING, INC., P.O.B. 1230, Ft. Morgan, CO 80701. Representative: Charles J. Kimball, 1600 Sherman St. #665, Denver, CO 80203. *Mercer Commodities* between points in CO, on the one hand, and, on the other, points in ND, SD, NE, KS, OK, TX, NM, WY, MT, UT and CA for 270 days. Supporting shippers: There are 13 shippers. Their statements may be examined at the Regional Office listed.

MC 1515 (Sub-6–19TA), filed June 1, 1982. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: R. L. Wilson (same address as applicant). *Common carrier; regular routes, passengers and their baggage and express and newspapers in the same vehicle with passengers,* between Rome, GA and Calhoun, GA, over Highway 53, serving all intermediate points, for 180 days. An underlying E.T.A. seeking 90 days authority has been filed. Applicant intends to tack this authority with authority it presently holds in MC–1515. Supporting shippers: C. T. Craton, Battery Machinery Co., 102 W. 2nd Ave., Rome, GA; Don Bowen, Route #2, Resaca, GA; Sylvia Chorn, Calhoun, GA.

MC 158755 (Sub-6–2TA), filed June 2, 1982. Applicant: IRELAND FARM EQUIPMENT LTD., P.O. Box 757, Vermilion, Alberta, CD TOB 4MO. Representative: Daniel O. Hands, 205 West Touhy Ave., Suite 200A, Park Ridge, IL 60068. *Farm machinery,* from the facilities of Hesston Corporation at or near Hesston, KS to the International Boundary between the U.S. and CD at Portal, ND, for 270 days. Supporting shipper: Hesston Industries Ltd., No. 2—2315–30 Avenue, N.E., Calgary, Alberta, CD T2E 7C7.

MC 158526 (Sub-6–2TA), filed June 2, 1982. Applicant: MERGENTHALER TRANSFER & STORAGE CO., 1414 N. Montana Ave., Helena, MT 59601. Representative: David L. Jackson, 203 N. Ewing St., Helena, MT 59601. *General commodities (except Class A and B explosives, commodities in bulk, and household goods)* between Helena, Winston, Townsend, Toston and White Sulphur Springs, MT, over U.S. 12, 287 and 89, for 270 days. Supporting shippers: There are 7 shippers. Their

statements may be examined at the Regional office listed.

MC 162300 (Sub-6–1TA), filed June 1, 1982. Applicant: RODMAN ENTERPRISES, 522 Box Elder, Paonia, CO 81428. Representative: C. Joseph Croker, 725 Rood Ave., Grand Junction, CO 81501. *Contract Carrier,* Irregular routes, *heavy equipment, coal coke, rock dust, roofmats, roof bolts, rock and other by-product residue of coal processing,* from Paonia, CO to points in NV, CA, WY, UT, AZ, NM, TX, OK, MT, OR, WA, ID, KS, NE and between these states for the account of Pacific Basin Coal and Carbon. Restricted against transportation of liquids in tank vehicles or commodities in refrigerator vehicles, for 270 days. Supporting shipper: Pacific Basin Coal and Carbon, 17922 Fitch Avenue, #210, Irvine, CA 92714.

MC 162314 (Sub-6–1TA), filed June 2, 1982. Applicant: SAUER & SONS TRANSPORT LTD., General Delivery, Picture Butte, Alberta, CD TOK 1VO. Representative: Daniel O. Hands, 205 West Touhy Ave., Suite 200A, Park Ridge, IL 60068. *Meat, meat products, meat byproducts and articles distributed by meat packing houses,* from the ports of entry along the U.S.-Canadian International Boundary Line at Eastport, ID and Sweetgrass, MT to points in the U.S. in and west of MT, WY, CO and NM, for 270 days. Supporting shipper: Lakeside Packers, a division of Lakeside Farm Industries Ltd., P.O. Box 1868, Brooks, Alberta, CD T0J 0J0.

MC 143562 (Sub-6–1TA), filed June 2, 1982. Applicant: DONALD R. FORD, d.b.a. SERVICE TRANSPORT, P.O. Box 37, Burbank, WA 98323. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98009. *Food products* and *supplies* and *such commodities as are delt in by wholesale and retail food business houses* between points in Walla Walla, Franklin, and Benton Counties, WA on the one hand and points in OR and CA on the other hand for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Bur-bee Company, 822 W. Main, Walla Walla, WA 99362.

MC 162262 (Sub-6–1TA), filed June 1, 1982. Applicant: SUNSHINE CHARTERS, INC., P.O. Box 134, Wallula, WA 99363. Representative: Lester L. Kelly (same as applicant) *Water Carrier:* Irregular Routes: *Passengers* in Special and Charter operations between points in ID, OR & WA on the Columbia and Snake Rivers for 180 days. Supporting shipper(s): Pacific Northwest Countryside Tours, 1020–108th N.E., Bellevue, WA 98004; Alladin's Desert River Inn, 705 Willamette, Umatilla, OR 97882; Clover Island Motor Inn, 435 Clover Island, Kennewick, WA 99336; White Lightning Tours, Inc., 419 N. Yelm St., Kennewick, WA 99336.

MC 126104 (Sub-6–1TA), filed June 1, 1982. Applicant: TRAMCOR CORPORATION, 2711 Midland Dr., Ogden, UT 84401. Representative: Bruce W. Shand, Ste. 280, 311 S. State St., Salt Lake City, UT 84111. *Contract carriage,* irregular routes, *clay, concrete, glass and stone products, and metal products,* between points in AZ, CA, CO, ID, MT, NV, OR, UT, WA, & WY, under a continuing contract(s) with Interpace Corp., for 270 days. ETA seeks 120 days authority. Supporting shipper: Interpace Corporation, 736 W. Harrisville Rd., Ogden, UT 84402.

MC 160774 (Sub-6–2TA), filed June 1, 1982. Applicant: TRANSCO SERVICES, INC., P.O. Box 20133, Phoenix, AZ 85036. Representative: Robinson & Ames, 2228 W. Northern Ave., Phoenix, AZ 85021, *General Commodities (except hazardous materials and household goods)* between points along the U.S./Mexican border in Hidalgo, Starr and Cameron Counties, TX, on the one hand, and on the other hand, points in TX, having a prior or subsequent movement in foreign commerce, for 270 days. An underlying ETA seeks 120 days' authority. Supporting shipper(s): Rey-Mex-Bra S.A. de C.V., Apartado Postal No. 90, Reynosa, Tamaulipas, Mexico; Jimmy Santos, Inc., P.O. Box 1255, Hidalgo, TX 78557; Consejo Nacional de la Industria Maquiladora, Apartado Postal No. 90, Reynosa, Tamaulipas, Mexico.

MC 153384 (Sub-6–2TA), filed May 28, 1982. Applicant: JOHN C. WARD, Rt. 4 Box 331, Newberg, OR 97132 Representative: John C. Ward (same as applicant). *Refractory brick, Exothermic materials, Chemical* and *mineral compounds* except in bulk between Cuyhoga and Lorain Co., OH to Lewis Co., WA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Foseco Inc., 20200 Sheldon Road, Brookpark, OH.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-15931 Filed 6-11-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 266]

Permanent Authority Decisions; Restriction Removals; Decision

Decided: June 7, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian carrier applicants: In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC–157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Ewing, and Williams.

Agatha L. Mergenovich,

Secretary.

MC 99938 (Sub-12)X, filed May 26, 1982. Applicant: VAN'S AUTO & AIR EXPRESS, INC., P.O. Box 2340, Newburgh, NY 12550. Representative: Bruce J. Robbins, 18 East 48th St., New York, NY 10017. Sub-9F: (1) Remove ex-air restriction; (2) remove the facilities limitation; (3) broaden to (a) Orange County, NY, for Stewart Airport, Newburgh, NY: (b) Westchester County, NY, for Rye, NY, and (c) Fairfield County, CT for Stratford, CT.

MC 141635 (Sub-4)X, filed May 10, 1982. Applicant: LAVERN GIBSON SERVICE COMPANY, INC., P.O. Box 1123, Henderson, TX 75652. Representative: Timothy Mashburn, P.O.

Box 2207, Austin, TX 78768–2207. Sub-No. 2, (1) broaden disabled, repossessed, and replacement vehicles, and trailers, other than trailers designed to be drawn by passenger vehicles, by use of wrecker equipment only, to "transportation equipment" and (2) remove exception of TX in radial authority between TX, and, points in the US (except AK, HI, and TX).

MC 145231 (Sub-1)X, filed May 28, 1982. Applicant: KROY TRANSPORTATION CO., P.O. Box 309, York, NE 68467. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Lead permit: broaden (1) to "metal products, rubber and plastic products, and machinery," from pipe, pipe fittings and irrigation equipment, and materials, equipment and supplies used in their manufacture and distribution; (2) to "between points in the United States," under continuing contract(s) with the named shippers; and (3) eliminate "except commodities in bulk, in tank vehicles" in materials, equipment and supplies part of the commodity description.

[FR Doc. 82-15929 Filed 6-11-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Permanent Authority Decisions; Decision

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed: Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate of foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP1–96

Decided: June 7, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

FF–450 (Sub-2), filed May 26, 1982. Applicant: AMERICAN WORLD FORWARDERS, INC., 4411 East 119th St., Grandview, MO 64030. Representative: Alan F. Wohlstetter, 1700 K St., N.W., Washington, D.C. 20006, (202) 833–8884. Transporting *used household goods, unaccompanied baggage, and used automobiles,* between points in AK, on the one hand, and, on the other, points in the U.S.

FF–600, filed May 20, 1982. Applicant: AMODIO WORLD-WIDE FORWARDERS, INC., 600 East Street, New Britain, CT 06014. Representative: Robert J. Gallagher, 1000 Connecticut Avenue, NW., Suite 1200, Washington, DC 20036, (202) 785–0024. As a *freight forwarder,* in connection with the transportation of *household goods,* as defined by the Commission, between points in the U.S.

MC 2900 (Sub-456), filed May 24, 1982. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408, Jacksonville, FL 32203. Representative: R. E. Allish (same address as applicant), (904) 353–3111. Transportating *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Anchor Hocking Corporation, of Lancaster, OH.

MC 94350 (Sub-437), filed May 27, 1982. Applicant: TRANSIT HOMES, INC., 400 Hayward Road, Greenville, SC 29607. Representative: Edward J. Kiley, 1730 M Street, NW., Washington, DC 20036. Transporting *motorized recreational vehicles,* between points in Marion County, FL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 126091 (Sub-22), filed May 24, 1982. Applicant: FRALEY & SCHILLING, INC., c/o General Delivery, Rushville, IN 46173. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *rubber and plastic products,* between points in Rutherford County, NC, Orange County, NY, and Brooke County, WV, on the one hand, and, on the other, points in GA, FL, MA, MN, PA, NC, KY, TN, MO, IA, VA, MD, OH, MI, NY, MS, NJ, IN, and IL.

MC 131031 (Sub-1), filed May 27, 1982. Applicant: COM-TRAN, INC., P.O. Box 12574, North Kansas City, MO 64116. Representative: James M. Hagan, 4625 Highway 80 East, Mesquite, TX 75150, (214) 324–3666. Transporting *iron and steel articles,* (a) between Dallas and Houston, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (b) between Kansas City, MO, on the one hand, and, on the other, points in TX.

MC 142610 (Sub-8), filed May 28, 1982. Applicant: LEWIS TRANSPORT, INC., P.O. Box 385, Municipal Bldg., Columbia, KY 42728. Representative: Rudy Yessin, P.O. Drawer B, Frankfort, KY 40602, (502)–227–7326. Transporting *petroleum and petroleum products,* between New Albany, IN, on the one hand, and, on the other, points in KY.

MC 145481 (Sub-38), filed May 27, 1982. Applicant: HOOSIER TRANSPORTATION SYSTEM, INC., 501 Sam Ralston Rd., Lebanon, IN 46052. Representative: Steven K. Kuhlmann,

717 17th St., Suite 2600, Denver, CO 80202–3357, (303)–892–6700. Transporting (1) *furniture and fixtures;* and (2) *such commodities as are dealt in by home furnishing, department and appliance stores,* between points in the U.S. (except AK and HI), under continuing contract(s) with Tatung Company of America, Inc., of Long Beach, CA.

MC 160770, filed May 27, 1982. Applicant: JAMES LEETE, d.b.a. JAMES LEETE TRUCKING, P.O. Box 147, Farmersburg, IA 52047. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. Transporting *dry fertilizer* between (1) points in Crawford County, WI, on the one hand, and, on the other, points in Dubuque, Delaware, Clayton, Fayette, and Buchanan Counties, IA; and (2) points in Putnam County, IL, and Vernon and Dane Counties, WI, on the one hand, and, on the other, points in Clayton, Allmakee, and Winneshiek Counties, IA.

MC 161190, filed May 27, 1982. Applicant: CONDOR EXPRESS INCORPORATED, 6756 Fath Court, Cincinnati, OH 45239. Representative: Michael Spurlock, 275 E. State Street, Columbus, OH 43215, (614) 228–8575. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in OH, KY, IN, TN and GA, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 162111, filed May 20, 1982. Applicant: WILLIAMS BUS TOURS, 5512 5th St., N.E., Washington, DC 20011. Representative: Paul A. Quander, Jr., 2804 Martin Luther King Jr. Ave., S.E., Washington, DC 20032, (202) 561–0100. Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter operations, beginning and ending at points in DC and extending to points in ME, RI, VT, NH, NY, MA, CT, NJ, PA, MI, IL, OH, KY, WV, MD, VA, DE, IN, NC, SC, GA, FL, AL, MS, TN, and MO.

MC 162141, filed May 21, 1982. Applicant: ESCAMBIA TRUCKING COMPANY, Route 5, Box 2–E, Brunswick, GA 31520. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237 (404) 477–1525. Transporting *lumber and wood products, metal products and building materials,* between those points in the U.S. in and east of ND, SD, NE, KS, OK and TX.

MC 162151, filed May 24, 1982. Applicant: NORTH SIDE PRODUCE COMPANY, 6029 North 16 Street, Omaha, NE 68101. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106 (402) 392–1220. Transporting *food and related products,* between points in NE, on the one hand, and, on the other, points in NE, KS, and IA, under continuing contract(s) with Nash-Finch Company of Minneapolis, MN.

MC 162200, filed May 26, 1982. Applicant: ACE FEED COMPANY, INC., 6603 Romilly Drive, Jacksonville, FL 32210. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202, (904) 632–2300. Transporting *general commodities* (except classes A and B explosives and household goods), between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 162220, filed May 27, 1982. Applicant: SCHAFFER BUS SERVICE, INC., 3501 Hampstead Mexico Road, Hampstead, MD 21074. Representative: Wesley D. Blakeslee, 127 East Main St., P.O. Box 525, Westminster, MD 21157, (301) 848–3333. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Anne Arundel, Baltimore, Carroll, Harford, Howard and Montgomery Counties, MD, and Adams and York Counties, PA, and extending to points in the U.S. (except AK and HI).

Volume No. OP3–088

Decided: June 7, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 9644 (Sub-20), filed May 24, 1982. Applicant: HAYES TRUCK LINE, INC., 1410 Intercity Trafficway, P.O. Box 4016, Kansas City, MO 64101. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), serving Shennadoah, IA, as an off-route point, in connection with carrier's otherwise authorized regular-route operations, and (2) *transportation equipment,* between Shenandoah, IA, on the one hand, and, on the other, Kansas City, MO.

MC 15735 (Sub-44), filed May 24, 1982. Applicant: ALLIED VAN LINES, INC., P.O. Box 4403, Chicago, IL 60680. Representative: Richard V. Merrill, (same address as applicant), (312) 681–8378. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Intel Corporation, of Santa Clara, CA.

MC 15735 (Sub-45), filed May 24, 1982. Applicant: ALLIED VAN LINES, INC., P.O. Box 4403, Chicago, IL 60680. Representative: Richard V. Merrill, (same address as applicant), (312) 681–8378. Transporting *household goods,* between points in the U.S. (except AK and HI), under continuing contract(s) with Rohm and Haas Company, of Philadelphia, PA.

MC 57275 (Sub-16), filed April 5, 1982, previously noticed in the F.R. on April 20, 1982. Applicant: SCHADE REFRIGERATED LINES, INC., 4420 N. 42nd Ave., Phoenix, AZ 85019. Representative: Andrew V. Baylor, 337 E. Elm St., Phoenix, AZ 85012 (602) 274–5146. Transporting (1) *food and related products,* (2) *chemicals and related products,* and (3) *instruments and photographic goods,* (a) between points in AZ, and (b) between points in AZ, on the one hand, and, on the other, points in Imperial, Riverside, and San Bernardino Counties, CA, Dolores and La Plata Counties, CO, Clark County, NV, San Juan and McKinley Counties, NM, and Kane and Washington Counties, UT.

Note.—This republication corrects the territorial description.

MC 77874 (Sub-8), filed May 24, 1982. Applicant: ALVIN D. FREY, INC., 966 York St., Hanover, PA 17331. Representative: Norman T. Petow, 43 North Duke St., York, PA 17401 (717) 843–8004. Transporting (1) *such commodities* as are dealt in or used by grocery and food business houses, and (2) *wooden pallets,* between points in AL, CT, DE, FL, GA, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and DC, on the one hand, and, on the other, points in MD, NJ, NY, OH, PA, VA, and DC.

MC 110144 (Sub-26), filed May 26, 1982. Applicant: ROBINSON FREIGHT LINES, P.O. Box 4126, Knoxville, TN 37921. Representative: Warren A. Goff, 109 Madison Ave., Memphis, TN 38103 (901) 526–2900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Hancock County, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—This application may be tacked with applicant's existing regular-route authority.

MC 110325 (Sub-185), filed May 27, 1982. Applicant: TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90009. Representative: Jerome Biniasz (same address as applicant), (213) 640–1800. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Sears, Roebuck and

Company and its subsidiaries of Chicago, IL.

MC 110525 (Sub-1323), filed May 24, 1982. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Lionville, PA 19353. Representative: Robert K. Maslin (same address as applicant), (215) 363–4282. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Shell Oil Co., of Houston, TX.

MC 118494 (Sub-1), filed May 24, 1982. Applicant: DENALI TRANSPORTATION CORPORATION, P.O. Box 1752, Anchorage, AK 99501. Representative: Henry C. Winters, 12600 S.E. 38th, Suite 200, Bellevue, WA 98006, (206) 644–2100. Transporting *general commodities* (except classes A and B explosives), between Seattle and Tacoma, WA, and Portland, OR, on the one hand, and, on the other, points in the AK.

MC 119875 (Sub-16), filed May 27, 1982. Applicant: WAR-HUNT TRUCKING CO., INC. RD #8, Box 129, Allentown, PA 18104. Representative: John C. Fudesco, Suite 960, 1333 New Hampshire Ave., NW., Washington, DC 20036. Transporting *food and related products*, between Chicago, IL, and points in CT, DE, IN, KY, MA, MD, ME, NH, NJ, NY, OH, PA, RI, TN, VA, VT, WV, and DC.

MC 140554 (Sub-2), filed May 27, 1982. Applicant: HEY, INC., d.b.a. SOUTHWEST TOURS, Route 4, Box 51A, Marshall, MN 56258. Representative: Patrick J. Leary, 509 West Main St., Marshall, MN 56258, (507) 532–5766. As a *broker*, at Marshall, MN, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, between points MN, ND, SD, IA, and WI, on the one hand, and, on the other, points in the U.S.

MC 141094 (Sub-7), filed December 28, 1981. Applicant: ACME TRUCKING, INC., 109 E. Main St., Newark, OH 43055. Representative: Frank L. Calvary, 3066 N. Star Rd., Columbus, OH 43221. Transporting *general commodities* (except classes A and B explosives), between Heath and Hebron, OH, and Licking and Newark Townships, OH, on the one hand, and, on the other, points in the U.S.

MC 142864 (Sub-33), filed May 24, 1982. Applicant: RAY E. BROWN TRUCKING, INC., P.O. Box 501, Massillon, OH 44646. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215, (614) 464–4103. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of rubber and rubber products and food and related products, between points in Stark County, OH, and Allegheny County, PA on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 143065 (Sub-5), filed May 24, 1982. Applicant: WEATHERFORD TRANSIT, INC., Hwy. 15N, Hartsville, SC 29550. Representative: Kim G. Meyer, 235 Peachtree St., N.W., Suite 1200, Atlanta, GA 30303, (404) 522–2322. Transporting *passengers and their baggage*, in the same vehicle with passengers, in charter and specical operations, (1) between the New York La Guardia, John F. Kennedy, and Newark Airports, at or near New York, NY, Dulles Airport and Washington National Airport, at or near Washington, DC, Friendship Airport, at or near Baltimore, MD, San Francisco International Airport, Oakland Airport, and San Jose Airport, at or near San Francisco, CA, Los Angeles International Airport, at or near Los Angeles, CA, Charlotte Airport, at or near Charlotte, NC, and Atlanta International Airport, at or near Atlanta, GA, and points in the U.S. (except AK and HI), and (2) beginning and ending at points in Atlanta, GA, Charlotte, NC, and Nashville and Knoxville, TN, and extending to points in the U.S. (except AK and HI).

MC 145225 (Sub-4), filed May 24, 1982. Applicant: GAULCO, LTD., 1700 Church Ave., Winnipeg, Manitoba, Canada R2X 2W9. Representative: Robert D. Gisvold, 1600 TCF Tower, 121 S. 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting *lumber and wood products*, between ports of entry on the International Boundary line between the United States and Canada, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with Trojan Board, Ltd., of Winnipeg, Manitoba, Canada.

MC 147465 (Sub-3), filed May 27, 1982. Applicant: MOORE & SON CO., 1101 Cable Ave., Columbus, OH 43222. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *metal products and shipping and packaging materials*, between points in the U.S. (except AK and HI), under continuing contract(s) with Metal Container Corporation, of Columbus, OH.

MC 148634 (Sub-4), filed May 24, 1982. Applicant: COMPASS TRANSPORTATION COMPANY, P.O. Box 81225, San Diego, CA 92138. Representative: David P. Downey (same address as applicant), (714) 571–1549. Transporting *cleaning and washing compounds*, between points in Los Angeles County, CA, on the one hand, and, on the other, points in Maricopa, Pinal and Pima Counties, AZ.

MC 152744 (Sub-6), filed May 27, 1982. Applicant: CITADEL TRANSPORT, INC., 180 North Michigan Ave., Suite 400, Chicago, IL 60601, Representative: Thomas M. O'Brien, 180 North Michigan Ave., Suite 1700, Chicago, IL 60601. (312) 263–1600. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of malt beverages and snack foods, between points in the U.S. (except AK and HI), under continuing contract(s) with Anheuser-Busch Companies, Inc., of St. Louis, MO.

MC 154234 (Sub-2), filed May 26, 1982. Applicant: LAMBERT TRANSFER CO., a Corporation, 666 Grand Ave., Des Moines, IA 50309. Representative: Kenneth L. Kessler, P.O. Box 855, Des Moines, IA 50304, (515) 245–2725. Transporting *general commodities* (except classes A and B explosives and household goods), between points in Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington Counties, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 155234 (Sub-3), filed May 27, 1982. Applicant: STOW TRANSPORT, INC., 3275 Kent Road, Stow, OH 44224. Representative: Garry J. Boecker (same address as applicant), (216) 688–6262. Transporting *general commodities* (except household goods, commodities in bulk and classes A and B explosives), between those points in the U.S. in and east of MN, IA, MO, AR and LA.

MC 157255 (Sub-1), filed May 27, 1982. Applicant: RANGER EXPRESS CO., P.O. Box 950, Ashtabula, OH 44004. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215, (614) 228–8575. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Champion International Corporation of Stamfort, CT and Northeast Box Company, Inc. of Ashtabula, OH.

MC 161735, filed April 29, 1982, previously noticed in the **Federal Register** on May 19, 1982. Applicant: MOTOR COACH TOURS, INC., 13 Syossett Lane, Cazenovia, NY 13035. Representative: Charles J. Williams, P.O. Box 186, Scotch Plains, NJ 07076. (201) 322–5030. As a *broker* at Cazenovia and Syracuse, NY, in arranging for the transportation of *passengers and their baggage*, between points in the U.S.

Note.—This republication adds an additional location, Syracuse, NY.

MC 161874, filed May 25, 1982. Applicant: B & D TRANSPORTATION, INC., P.O. Box 37581, Omaha, NE 68137. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, (402) 397–9900. Transportation *food and related products,* between points in Pottawattamie County, IA, Douglas and Sarpy Counties, NE, and Monmouth County, NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162905, filed May 24, 1982. Applicant: TRI-LINE TRANSPORTATION, INC., 14 E. 5th St., Ada, MN 50510. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515) 282–3525. Transporting *lumber and wood products,* between points in CA, ID, MT, OR and WA, on the one hand, and, on the other, points in IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, OK, PA, SD, TX and WI.

MC 162095 (Sub-1), filed May 24, 1982. Applicant: TRI-LINE TRANSPORTATION, INC., 14 East 5th Street, Ada, MN 56510. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515) 282–3525. Transporting *lumber and wood products, paper and paper products,* and *building materials,* between points in the U.S., under continuing contract(s) with Louisiana-Pacific Corporation, of Portland, OR.

MC 162104 (Sub-1), filed May 24, 1982. Applicant: PETERSON EXPRESS, INC., P.O. Box 41770, Indianapolis, IN 47241. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *such commodities* as are dealt in or used by service stations and commerical food stores, between points in AR, TN, IA, KY, MO, WI, IL, IN, MI, OH, PA, and WV, on the one hand, and, on the other, points in the U.S. (except AK and HI)

MC 162174, filed May 25, 1982. Applicant: RED & TAN TOURS, a Corporation, 437 Tonnele Ave., Jersey City, NJ 07306. Representative: W. C. Mitchell, 370 Lexington, Ave., New York, NY 10017, (212) 532–5100. Transporting *passengers and their baggage,* in charter operations, between points in the U.S., under continuing contract(s) with Parker Tours, of New York, NY.

MC 162175, filed May 24, 1982. Applicant: CLEM HAGENHOFF, 1049 Oakley, Wentzville, MO 63385. Representative: Herman W. Huber, 101 E. High St., Jefferson City, MO 65101, (314) 636–9131. Transporting *petroleum and petroleum products,* between points in Madison and St. Clair Counties, IL, on the one hand, and, on the other, points in MO.

MC 162184, filed May 24, 1982. Applicant: LOADSTAR TRANSPORT, INC., 14403 Portland Ave., S. Burnsville, MN 55337. Representative: L. K. Hansen (same address as applicant), (612) 435–8536. Transporting *general commodities* (except classes A and B explosives and household goods), between points in MN, on the one hand, and, on the other, points in the U.S. (except HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–15830 Filed 6–11–82; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Gary L. McAliley, et al.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement, as set forth below, have been filed with the United States District Court for the Middle District of Alabama in *United States v. Gary L. McAliley, et al.,* Civil Action No. 80–111–S. The Complaint alleged that the defendants and their co-conspirators engaged in a combination and conspiracy to fix fees for legal and related services by formulating and disseminating a fee schedule in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. The proposed Final Judgment enjoins the defendants from fixing legal fees in concert with others and further prohibits certain communications about legal fees between the defendants and any other attorney, except members of the same firm. Each defendant is also required to destroy all jointly formulated fee schedules.

Public comment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to John W. Poole, Jr., Chief, Special Litigation Section, Antitrust Division, United States Department of Justice, Washington, D.C. 20530 (Telephone: 202/633–2425).

Joseph H. Widmar,

Director of Operations.

U.S. District Court, Middle District of Alabama, Southern Division

United States of America, Plaintiff, v. *Gary L. McAliley, Daniel F. Carmichael, John C. Dowling, Thomas E. Haigh, S. Mark Jordan, D. Bruce McLean, and Paul Young,* Defendants.

Civil Action No. 80–111–S.

Filed: June 1, 1982.

Stipulation

The parties, by their attorneys, stipulate that:

1. The parties consent that a Final Judgment in the form attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, and without further notice to any party or other proceedings, provided that the plaintiff has not withdrawn its consent, which it may do any time before the entry of the proposed Final Judgment by serving notice on the defendants and by filing that notice with the Court.

2. If the plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated:

For the Plaintiff:

William F. Baxter,

Assistant Attorney General.

Joseph H. Widmar,

Charles F. B. McAller,

John W. Poole, Jr.,

Attorneys, U.S. Department of Justice.

For the Defendants:

L. Drew Redden,

Redden, Mills & Clark, 940 First Alabama Bank Bldg., Birmingham, Alabama 35203,

Attorney for Gary L. McAliley, Daniel F. Carmichael, John C. Dowling, Thomas E. Haigh, S. Mark Jordan, D. Bruce McLean, and Paul Young.

Joel F. Brenner,

Steven B. Kramer,

Attorneys, Antitrust Division, United States Department of Justice, 10th & Pennsylvania Avenue, N.W., Washington, D.C. 20530, Telephone: (202) 633–2836.

U.S. District Court, Middle District of Alabama, Southern Division

United States of America, Plaintiff, v. *Gary L. McAliley, Daniel F. Carmichael, John C. Dowling, Thomas E. Haigh, S. Mark Jordan, D. Bruce McLean, and Paul Young,* Defendants.

Civil Action No. 80–111–S.

Filed: June 1, 1982.

Final Judgment

Plaintiff, United States of America, having filed its complaint on December 9, 1980, and the plaintiff and the defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party with respect to any issue;

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law and upon consent of the parties, it is

Ordered, adjudged and decreed, as follows:

I

This Court has jurisdiction of the subject matter of this action and of the parties. The complaint states a claim upon which relief may be granted against the defendants under Section 1 of the Sherman Act, 15 U.S.C. 1.

II

As used in this Final Judgment:

(A) "Legal fees" means any charge made by an attorney or law firm for services provided to a client.

(B) "Law firm" means a partnership, professional association, or professional corporation, formed by two or more attorneys pursuant to a written or oral agreement, through which the attorneys practice law as a group.

III

This Final Judgment applies to the defendants and to each of their partners, members, agents, employees, successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

(A) Each defendant is enjoined and restrained from directly or indirectly:

(1) Entering into, adhering to, participating in, maintaining, reviving, furthering, or enforcing with any other defendant, law firm, or attorney, any contract, agreement, understanding, arrangement, plan, program, combination, or conspiracy to fix, establish, raise, or maintain legal fees, or which has the effect of fixing, establishing, raising, or maintaining legal fees.

(2) Formulating, adopting, publishing, reviving, or renewing with any other defendant, law firm, or attorney, any list, formula, guide, or schedule for legal fees.

(3) Recommending, suggesting the use of, circulating, or otherwise transmitting to any other defendant, law firm or attorney, any list, formula, guide, or schedule for legal fees.

(4) Communicating to, requesting from, or exchanging with any other defendant, law firm or attorney any statistics or other information concerning past, current, or future legal fees, or consideration or contemplation of changes in legal fees by any attorney. Any defendant, however, may communicate with another defendant, attorney or law firm about legal fees where (a) such legal fees are to be determined by a court or included in a court order, (b) an attorney-client relationship exists between a defendant and another defendant, attorney or law firm with whom he is communicating, and the communications concern only legal fees incurred as a result of such relationship, (c) the attorneys communicating about legal fees are representing the same client in the same matter, and the communications concern the legal fees to be charged that client, or (d) such legal fees are to constitute all or part of a settlement of any dispute between the client of a defendant and a client of another defendant, attorney or law firm with whom he is communicating about legal fees, and the communications concern the amount of legal fees that one client will pay the attorney of the other.

(B) Nothing in paragraph IV(A) shall apply as between any defendant and any member, partner, stockholder, associate, or employee of his law firm.

(C) Nothing in paragraph IV(A) shall prevent any defendant from attending any seminar presented by the Alabama State Bar.

(D) Each defendant shall destroy the original and all copies of any list, formula, guide, or schedule for legal fees that was formulated, directly or indirectly, by him and any other attorney not a member of his law firm, together with any notes, fee schedules or other guides used in the preparation of any such list, formula, guide, or schedule for legal fees.

V

Each of the defendants is ordered and directed to file with this Court and serve upon the plaintiff, within sixty (60) days from entry of this Final Judgment, an affidavit describing the fact and manner of compliance with paragraph IV(D).

VI

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Any duly authorized representative of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to his business office, be permitted:

(1) Access during any defendant's office hours to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of that defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of any defendant and without restraint or interference from him, to interview him, his partners, employees, agents, or associates, who may have counsel present, regarding any such matters.

(B) Upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division made to any defendant's business office, that defendant shall submit such written reports, under oath if required, with respect to any of the matters contained in this Final Judgment as may be requested. No information or documents obtained by the means provided in this paragraph VI shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by any defendant to plaintiff, that defendant represents and identifies in writing any material in any such information or documents for which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and the defendant marks each pertinent page of such material, "Subject to Claim of Protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by plaintiff to that defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which that defendant is not a party.

VII

Jurisdiction is retained by this Court to enable any of the parties, but no other person or entity, to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or implementation of this Final Judgment, for the enforcement or modification of any of its provisions, or for the punishment of any violations.

VIII

This Final Judgment shall expire ten (10) years after its entry.

IX

Entry of this Final Judgment is in the public interest.

Dated:

United States District Judge.

U.S. District Court, Middle District of Alabama, Southern Division

United States of America, Plaintiff, v. *Gary L. McAliley, Daniel F. Carmichael, John C. Dowling, Thomas E. Haigh, S. Mark Jordan, D. Burce McLean, and Paul Young,* Defendants.

Civil Action No. 80-111-S.

Filed: June 1, 1982.

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h) (the "Act"), the United States of America submits this Competitive Impact Statement relating to the proposed final judgment submitted for entry in this civil antitrust proceeding.

I

Nature and Purpose of the Proceedings

The Complaint in this action, filed on December 9, 1980, alleges that beginning at least as early as March, 1980 and continuing to filing of the Complaint, the defendants and their co-conspirators engaged in a combination and conspiracy to raise, fix, maintain and stabilize fees for legal and related services offered to purchasers in the Enterprise, Alabama area in violation of Section 1 of the Sherman Act, 15 U.S.C. 1, by formulating, publishing, and disseminating a schedule of fees to be charged for attorneys' services.

In its Complaint, the Government asked the Court to find that the defendants and their co-conspirators engaged in such a conspiracy and requested the Court to enjoin the defendants from continuing or renewing the conspiracy or engaging in any other actions having a similar purpose or effect and to

order the defendants to destory any jointly formulated fee schedule in their possession.

Entry of the proposed final judgment would terminate the action, except that the Court would retain jurisdiction over the matter for further proceedings which might be required to interpret, enforce or modify the judgment, or to punish violations of it.

II

Description of the Practices Involved in the Alleged Violation

The defendants are attorneys admitted to the bar of Alabama and practice law in the Enterprise, Alabama area.

The Complaint alleges that the defendants and their co-conspirators engaged in a combination and conspiracy to raise, fix, maintain, and stabilize fees for legal and related services provided in the Enterprise, Alabama area by formulating a fee schedule to be used in determining how much to charge clients. These services include giving advice, drafting documents, representing clients in litigation, conducting negotiations on behalf of clients, acting as fiduciaries, and closing real estate transactions.

The Complaint further alleges that the combination has had the following effects, among others:

(a) Fees charged by the defendants for their services have been raised, fixed, maintained, and stabilized at artificial and non-competitive levels;

(b) Price competition among the defendants for their services has been restrained; and

(c) Purchasers of legal and related services in the Enterprise, Alabama area have been deprived of the right to purchase such services at competitively determined prices.

III

Explanation of the Proposed Final Judgment

The United States and the defendants have stipulated that the Court may enter the proposed final judgment after compliance with the Act. The proposed final judgment provides that its entry does not constitute any evidence against or admission by any party with respect to any issue of fact or law. Under the provisions of Section 2(e) of the Act, the proposed final judgment may not be entered until the Court finds that entry is in the public interest.

A. Prohibited Conduct

The proposed final judgment prohibits each defendant, in concert with others, from continuing the conspiracy or participating in any activities whose purpose or effect is to fix, establish, raise, or maintain legal fees. Each defendant is also prohibited from jointly formulating, renewing, publishing, or adopting any list or similar guide used in calculating legal fees and from encouraging the use of any such guide. In addition, any form of communication between each defendant and any other attorney or law firm about legal fees is prohibited with certain exceptions, namely, (a) where the fees are court ordered, (b) where an attorney-client relationship exists between a defendant and the other attorney or law firm and the communication involves the fee to be charged as a result of that relationship, (c) where there is joint representation of a client and the communication involves the fee to be charged that client, and (d) where the legal fees are part of a settlement between a client of a defendant and a client of another attorney or law firm and the communication involves the paying of that legal fee.

Nothing in the final judgment prohibits in-house communications in a law firm or prevents attendance at state bar seminars.

B. Affirmative Obligations

Each defendant is required to destroy any list or similar guide for legal fees that was formulated by him and any other attorney not a member of his law firm and to destory any document used in preparation of such a list or guide.

C. Scope of the Proposed Judgment

The proposed final judgment will remain in effect ten (10) years from date of entry and applies to the defendants, and to each of their partners, members, agents, employees, successors, and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of the final judgment.

D. Effect of the Proposed Judgment on Competition

The relief in the proposed final judgment is designed to ensure that consumers have the opportunity to purchase legal and related services in the Enterprise, Alabama area at competitive rates.

Two methods for determining compliance with the terms of the final judgment are provided. First, upon reasonable notice, the Department of Justice is given access to any of the defendants' records relating to matters contained in the final judgment and is permitted to interview each of the defendant's partners, members associates, employees, or agents. Second, upon written request, the Department of Justice can require each defendant to submit written reports about any matters relating to the final judgment.

The Department of Justice believes that this final judgment contains adequate provisions to prevent further violations of the type upon which the compliant is based.

IV

Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages suffered, as well as costs and reasonable attorney's fees. Entry of the proposed final judgment will neither impair nor assist the bringing of such actions. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. 16(a)), the judgment has no automatic effect in any subsequent lawsuits that may be brought against the defendants.

V

Procedures Available for Modification of the Proposed Judgment

As provided by the Act, any person who believes that the proposed final judgment should be modified may submit written comments to John W. Poole, Jr., Chief, Special Litigation Section, Antitrust Division, United States Department of Justice, 10th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530, within the 60-day period provided by the Act. These comments, and the Department's responses, will be filed with the Court and published in the **Federal Register**. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed judgment at any time prior to entry. The judgment provides that the Court retains jurisdication over this action and that any of the parties may apply to the Court for any order necessary or appropriate for its modification, interpretation, or enforcement.

VI

Alternative to the Proposed Final Judgment

The alternative to the proposed final judgment considered by the Department of Justice was a full trial of the issues on the merits and on relief. The Department considers the substantive language of the proposed judgment to be of sufficient scope and effectiveness to make litigation on the issues unnecessary because the judgment provides appropriate relief against the violations alleged in the Complaint.

VII

Determinative Materials and Documents

No materials and documents of the type described in Section 2(b) of the Act, 15 U.S.C. 16(b), were considered in formulating the proposed final judgment.

Respectfully submitted,

/s/ Joel F. Brenner,

Steven B. Kramer,

Attorneys, Special Litigation Section, Antitrust Division, U.S. Department of Justice, 10th & Pennsylvania Avenue, N.W., Washington, D.C. 20530, Telephone: (202) 633-2178.

[FR Doc. 82-15993 Filed 6-11-82; 8:45 am]
BILLING CODE 4410-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 82-33]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Agency Report Forms Under OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made the submission. The proposed forms under review are

listed below. One is a new requirement and the others are extensions.

Copies of the proposed forms, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letters, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

DATE: Comments must be received in writing by June 24, 1982. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the Agency Clearance Officer of your intent as early as possible.

ADDRESSES: Christine Cabell, NASA Agency Clearance Officer, Code NSM–12, NASA Headquarters, Washington, DC 20546, and Edward Clarke, Office of Information and Regulatory Affairs, OMB, Room 3208, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Christine Cabell, NASA Agency Clearance Officer, (202) 755–3219 or Edward Clarke, OMB Reviewer, (202) 395–4814.

Reports

Title: Aerospace Technologist (AST) Supplemental Qualification Statement
Type of Request: New
Frequency of Report: On occasion
Type of Respondent: Applicants for Aerospace Technology positions
Annual Responses: 800
Annual Reporting Hours: 800
Federal Cost: $149.00
Number of Forms: One
Abstract-Needs/Uses: Applicants for NASA Aerospace Technologist jobs must provide information concerning their knowledge, skill, abilities and other characteristics (KSAOCs) related to positions applied for. The KSAOCs were developed under the Office of Personnel Management Uniform Guidelines on Employee Selection Procedure. This form will be used by applicants to provide the information
Title: Radioactive Material Transfer Receipt
Type of Request: Extension
Frequency of Report: On occasion
Type of Respondent: NASA Contractors
Annual Responses: 500
Annual Reporting Hours: 250
Federal Cost: $2,500.00
Number of Forms: One
Abstract-Needs/Uses: The Nuclear Regulatory Commission has authorized NASA to use radioactive material at temporary job sites throughout the United States for research and development purposes, and launching of space vehicles. This report is needed to furnish NASA with the necessary records on the possession, location and use of radioactive material
Title: Department of Defense (DoD) Property Record (NASA Use)
Type of Request: Extension
Frequency of Report: On occasion
Type of Respondent: NASA Contractors
Annual Responses: 3,000
Annual Reporting Hours: 1,476
Federal Cost: $73,800.00
Number of Forms: One
Abstract-Needs/Uses: For NASA contractors to use Government-owned equipment they must report the status of that equipment. The Form, DD 1342, is already used by DoD contractors for this purpose; NASA uses DD 1342's rather than creating a separate form. NASA contractors, however, prepare only Section I of the form

Walter B. Olstad,

Associate Administrator for Management.

June 8, 1982.

[FR Doc. 82–15897 Filed 6–11–82; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel: Meeting

AGENCY: National Endowment for the Humanities

ACTION: Notice of Meeting

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meeting of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506:

DATE: June 30—July 1, 1982.

TIME: 9:00 a.m. to 5:30 p.m. each day

Room: 1023

PROGRAM: This meeting will review applications submitted for Program Development/Special Projects, Division of Special Programs, for projects beginning after October 1, 1982.

The proposed meeting is for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meeting will consider information that is likely to disclose: (1) trade secrets and commerical of financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delgation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that this meeting will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 82–15951 Filed 6–11–82; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–261]

Carolina Power & Light Co.; Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 69 to Facility Operating License No. DPR–23 issued to Carolina Power and Light Company (the licensee), which revised Technical Specifications for operating of the H. B. Robinson Steam Electric Plant, Unit No. 2, (the facility) located in Darlington County, South Carolina. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications to enlarge the capacity of the spent fuel pool from 276 fuel assemblies to 534 assemblies.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the **Federal**

Register on January 15, 1981 (45 FR 3685). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because the proposed action will not significantly affect the quality of the human environment.

For further details with respect to this action, see (1) the application for amendment dated December 1, 1980, as modified by letters dated April 10, May 11, June 15, June 18, August 28, 1981 and April 2, 1982, (2) Amendment No. 69 to License No. DPR–23, (3) the Commission's related Safety Evaluation and (4) the Commission's Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29550. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 8th day of June, 1982.

For the Nuclear Regulatory Commission.

David Wigginton,

Acting Branch Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82–16008 Filed 6–11–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–251]

Florida Power & Light Co.; Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 80 to Facility Operating License No. DPR–41 issued to Florida Power and Light Company (the licensee), which revised the license of the Turkey Point Plant, Unit No. 4 (the facility) located in Dade County, Florida. The amendment is effective as of the date of issuance.

The amendment extends the operating interval to ten equivalent full power months from December 10, 1981 at which time the steam generators shall be inspected.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 21, 1982, (2) Amendment No. 80 to License No. DPR–41, and (3) the Commission's rleated Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street, N.W., Washington, D.C. and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 4th day of June 1982.

For the Nuclear Regulatory Commission.

Joseph D. Neighbors,

Acting Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82–16009 Filed 6–11–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–336]

Northeast Nuclear Energy Co., et al.; Issuance of Amendments to Facility Operating Licenses and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 84 to Provisional Operating License No. DPR–21 and Amendment No. 77 to Facility Operating License No. DPR–65, issued to Northeast Nuclear Energy Company, the Connecticut Light and Power Company, the Hartford Electric Light Company, and the Western Massachusetts Electric Company (the licensee), which revised Environmental Technical Specifications for operation of the Millstone Nuclear Power Station, Units No. 1 and 2 (the facilities) located in the Town of Waterford, Connecticut. The amendments are effective as of the date of issuance.

The amendments revise the Appendix B Environmental Technical Specifications to add monitoring and sampling requirements for the distillate discharge from the condensate polishing radioactive waste evaporator and revise the limits on liquid radioactive effluents from "activity released" to "dose produced."

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facilities dated June 1973.

For further details with respect to this action, see (1) the application for amendments dated May 14, 1982, (2) Amendment Nos. 84 and 77 to License Nos. DPR–21 and DPR–65, and (3) the Commission's Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Waterford, Connecticut. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 28th day of May 1982.

For the Nuclear Regulatory Commission.

Eben L. Conner,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82–16010 Filed 6–11–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50-266 and 50-301]

Wisconsin Electric Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 60 to Facility Operating License No. DPR-24, and Amendment No. 65 to Facility Operating License No. DPR-27 issued to Wisconsin Electric Power Company (the licensee), which revised Technical Specifications for operation of Point Beach Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in the Town of Two Creeks, Manitowoc County, Wisconsin. The amendments are effective as of the date of issuance.

The amendments upgrade the operability requirements for containment fan coolers for Point Beach Units 1 and 2.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated April 30, 1982, (2) Amendment Nos. 60 and 65 to License Nos. DPR-24 and DPR-27, (3) the Commission's letter dated May 28, 1982, and (4) letter of February 10, 1982 from R. A. Clark to Sol Burstein. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Joseph Mann Library, 1516 16th Street, Two Rivers, Wisconsin 54241. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 28th day of May, 1982.

For the Nuclear Regulatory Commission.

Eben L. Conner,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-16011 Filed 6-11-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289 (Restart)]

Metropolitan Edison Co. et al. (Three Mile Island Nuclear Station, Unit 1) Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Appeal Board for that portion of this restart proceeding concerned with plant design and procedures, separation of TMI-1 and TMI-2 and emergency planning, the subjects of the Licensing Board's December 14, 1981 partial initial decision. For purposes of hearing the appeal of intervenors Marjorie M. Aamodt and Norman O. Aamodt from that partial initial decision, the Appeal Board will consist of the following members: Gary J. Edles, Chairman, Dr. John H. Buck, Dr. Lawrence R. Quarles.

For purposes of hearing the remaining appeals from the partial initial decision, the Appeal Board will consist of the following members: Gary J. Edles, Chairman, Dr. John H. Buck, Dr. Reginald L. Gotchy.

Dated: June 8, 1982.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 82-16012 Filed 6-11-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289-SP]

Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit No. 1); Oral Argument

Notice is given that, in accordance with the Appeal Board's June 8, 1982 order, the oral argument on the appeals from the Licensing Board's December 14, 1981 partial initial decision, earlier scheduled for *Thursday, June 24, 1982* (see 47 FR 23835), will be divided and heard on that date in two phases. The first, involving the appeal of the Aamodts alone, will be heard at 9:30 a.m. The appeal on all other issues will begin at 1:30 p.m. Both phases will be heard in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

Dated: June 9, 1982.

For the Appeal Board,

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 82-16013 Filed 6-11-82; 8:45 am]

BILLING CODE 7590-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Forecasting Subcommittee; Meeting

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

STATUS: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of the Forecasting Subcommittee of its Scientific and Statistical Advisory Committee.

DATE: Monday, June 14, 1982. 9:00 a.m.

ADDRESS: The meeting will be held at the Council's Central Office located at 700 S.W. Taylor Street, Suite 200, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Terry Morland, (503) 222-5161.

DISCUSSION: ICF Module IV Report, Policy Discussion of Critical Water.

Edward Sheets,

Executive Director.

[FR Doc. 82-16169 Filed 6-11-82; 11:15 am]

BILLING CODE 0000-

SECURITIES AND EXCHANGE COMMISSION

[Release No. 18792; File No. SR-NSCC-82-5]

National Securities Clearing Corp.; Filing and Immediate Effectiveness of Proposed Rule Change

June 7, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 7, 1982, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would require NSCC members using the Singature Distribution Service to obtain insurance comparable to the amount and type required of New York Stock

Exchange ("NYSE") members under NYSE Rule 319, which essentially requires members to maintain blanket fidelity bonding to cover losses resulting from the acts of officers and employees. The proposed rule change, however, rescinds NSCC's requirement that NSCC members using this service obtain insurance that provides coverage for the benefit of NSCC, NYSE and their affiliates. NSCC now believes that such insurance is unavailable. In the event that NSCC were required to pay a claimant for losses suffered as a consequence of member's use of the signature distribution service, NSCC, under the rule change, would seek indemnfication directly from that member, rather than that member's insurance company. That member, in turn, could resort to its insurance company under its blanket fidelity bond.

The foregoing rule change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filng of such proposed rule change, the Commission may summarily abrogate such rule change, if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission on or before July 2, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–NSCC–82–6.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–16006 Filed 6–11–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 22528; 70–6741]

The Southern Co.; Proposal To Issue and Sell Common Stock

June 7, 1982.

The Southern Company ("Southern"), Perimeter Center East, P.O. Blx 720081, Atlanta, Georgia 30346, a registered holding company, has filed a declaration with this Commission pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 promulgated thereunder.

Southern proposes to issue and sell up to 12,000,000 additional shares of its authorized but unissued common stock, par value $5 per share, in one or several transactions from time to time through the period ending March 31, 1983. Southern will publicly invite from time to time sealed, written proposals from prospective bidders for these stock purchases. Initially, a published invitation will request that parties interested in bidding advise Southern. Such public invitation wil be made at such time as may be permissible under the Securities Act of 1933 and at least 6 days prior to Southern's entering into any contract or agreement for the issuance and sale of any of these shares. Thereafter, in accordance with the competitive bidding requirements of Rule 50 and with the terms of the public invitation, Southern will notify prospective bidders, by telephone with a followup written telegraphic confirmation, of the date and time for each presentation and opening of proposals. For each issuance and sale, all prospective bidders will receive this telephone notification not less than 48 hours prior to the time designated for the presentation of proposals. Southern will also designate in each such notice the number of shares to be issued and sold, subject to Southern's right to designate a different number upon at least 24 hours' notice prior to the time of bidding.

Southern proposes to use treasury funds along with the net proceeds from the sales of this stock and from the sales of common stock through the operation of its Dividend Reinvestment and Stock Purchase Plan, Employee Savings Plan and Employee Stock Ownership Plan to make, from time to time, additional equity investments in the form of capital contributions to Southern's operating subsidiaries and for other corporate purposes. The subsidiaries propose to use these funds to provide a portion of their cash requirements to carry on their electric utility businesses.

Southern has indicated that it may request at some future time that these stock sales be excepted from the competitive bidding requirements of Rule 50 should circumstances develop which, in the opinion of management, make such exception in the best interests of Southern and its investors and consumers.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by July 2, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declaration at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date the declaration may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–16007 Filed 6–11–82; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Flight Standards Field Unit at Wilmington, Delaware; Relocation and Merger

Notice is hereby given that on or about July 1, 1982, the Wilmington, Delaware, Flight Standards Field Unit will be relocated and merged with the Philadelphia, Pennsylvania Flight Standards Distict Office. It will provide all services to air carrier and general aviation in the area. Communication to the Flight Standards District Office should be addressed as follows: Philadelphia Flight Standards District Office, Department of Transporation, Federal Aviation Administration, Building 1, Cargo Area, Room 15,

Philadelphia International Airport, Philadelphia, Pennsylvania 19153.

(Sec. 313(a) of the Federal Aviation Act of 1958, 72 Stat. 752, 49 U.S.C. 1354)

Issued in New York, New York on June 4, 1982.

Joseph M. Del Balzo,

Director, Eastern Region.

[FR Doc. 82-15914 Filed 6-11-82; 8:45 am]

BILLING CODE 4910-13-M

National Airspace Review; Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of Task Group 1-4 of the Federal Aviation Administration (FAA) National Airspace Review Advisory Committee. The agenda for this meeting is as follows: A review of weather information dissemination, including its accuracy, timeliness, and appropriateness.

DATE: Beginning July 6, 1982, at 11:00 a.m., continuing daily, except Saturdays, Sundays, and holidays, not to exceed three weeks.

ADDRESS: The meeting will be held at the Federal Aviation Administration, conference room 9 A B, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, room 1005, Federal Aviation Administration, 800 Independence Avenue, SW., AAT-30, Washington, D.C. 20591, (202) 426-3560. Attendance is open to the interested public, but limited to the space available. To insure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Air Traffic Service, AAT-1, 800 Independence Avenue, SW., Washington, D.C. 20591, by July 2, 1982. Time permitting and subject to the approval of the chairman, these individual may make oral presentations of their previously submitted statements.

Issued in Washington, D.C. on June 8, 1982.

Willard H. Reazin,

Program Manager, NARAC.

[FR Doc. 82-15912 Filed 6-11-82; 8:45 am]

BILLING CODE 4910-13-M

National Airspace Review; meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of Task Group 1-6 of the Federal Aviation Administration (FAA) National Airspace Review Advisory Committee. The agenda for this meeting is as follows: A review of requirements and specifications for VFR charts, including color, contrast, topographic features, control information, and navigational use.

DATE: Beginning July 6, 1982, at 11:00 a.m., continuing daily, except Saturdays, Sundays, and holidays, not to exceed three weeks.

ADDRESS: The meeting will be held at the Federal Aviation Administration, conference room 8 A B, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, room 1005, Federal Aviation Administration, 800 Independence Avenue, SW., AAT-30, Washington, D.C. 20591, (202) 426-3560. Attendance is open to the interested public, but limited to the space available. To insure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Air Traffic Service, AAT-1, 800 Independence Avenue, SW., Washington, D.C. 20591, by July 2, 1982. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issued in Washington, D.C. on June 8, 1982.

Willard H. Reazin,

Program Manager, NARAC.

[FR Doc. 82-15913 Filed 6-11-82; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA), Special Committee 149—Airborne Distance Measuring Equipment (DME); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 149 on Airborne Distance Measuring Equipment (DME) to be held on July 7-9, 1982 in RTCA First Floor Conference Room, 1717 H Street, NW., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Introductory Remarks; (2) Review of Commitee Terms of Reference; (3) Briefing on International Civil Aviation Organization (ICAO) Working Group M Activities; (4) Review First Draft of Committee Report on Minimum Operational Performance Standards for Airborne Distance Measuring Equipment; (5) Develop Committee Work Program; and (6) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street, NW., Washington, D.C. 20006; (202) 294-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on June 4, 1982.

Karl F. Bierach,

Designated Officer.

[FR Doc. 82-15915 Filed 6-11-82; 8:45 am]

BILLING CODE 4910-13-M

Traffic Alert and Collision Avoidance System II (TCAS II); Proposed U.S. National Aviation Standard

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Extension of comment period.

SUMMARY: On April 22, 1982, the Federal Aviation Administration published, for public review and comment, a proposed Traffic Alert and Collision Avoidance System II U.S. National Aviation Standard (47 FR 17390). This notice announces that the comment period is extended to July 1, 1982.

DATE: Comments must be received on or before July 1, 1982.

ADDRESS: Director, Systems Research and Development Service, Attention: ARD-10, Federal Aviation Administration, Department of Transportation, 800 Independence Avenue, SW, Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: T. A. Morgan, Separation Systems Branch, ARD-242, Communications and Surveillance Division, Systems Research and Development Service, Federal Aviation Administration, Department of Transportation, 800 Independence Avenue, SW, Washington, D.C. 20591, telephone (202) 426-8382.

SUPPLEMENTARY INFORMATION: On April 22, 1982, the Federal Aviation

Administration proposed a U.S. National Aviation Standard for the Traffic Alert and Collision Avoidance System II (47 FR 17390). The standard would define the system and its performance characteristics needed to satisfy operational requirements and to assure compatibility with all elements of the National Airspace System (NAS). While not regulatory, the standard may provide the basis for later rule making.

Comments received in response to the previous notice indicate that a longer time for public comment is warranted. The public comment period is thus extended to July 1, 1982.

Issued in Washington, D.C., on June 8, 1982.

Robert W. Wedan,

Director, Systems Research and Development Service, Engineering and Development, Federal Aviation Administration, Department of Transportation.

[FR Doc. 82-15902 Filed 6-11-82; 8:45 am]

BILLING CODE 4910-13-M

Research and Special Programs Administration

Office of Hazardous Materials Regulation; Applications for Exemptions

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. Each made of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: July 14, 1982.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, S.W., Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8838-N	FMC Corporation, Philadelphia, PA	49 CFR 173.217(a)(4), 178.224	To authorize shipment of tri-chloro-s-triazinetrione, classed as an oxidizer in drums of not over 51 gallons capacity similar to DOT Specification 21C fiber drum except for plastic top head. (modes 1, 2, 3).
8839-N	Poly Cal Plastics, Inc., French Camp, CA	49 CFR 173.266, Part 173, Subpart F	To manufacture, mark and sell non-DOT specification approximately 600 gallon crosslinked polyethylene tanks for shipment of hydrogen peroxide, classed as an oxidizer and corrosive materials presently authorized in DOT Specification 34 containers and DOT Specification 57 portable tanks. (modes 1, 2, 3).
8841-N	Valmont Oilfield Products Co., Springer, OK	49 CFR 173.119(a)(17), 173.245(a)(30), (31), 178.340-7, 178.342-5, 178.343-5.	To manufacture, mark and sell non-DOT specification cargo tanks complying generally with DOT Specification MC-307/312 except for bottom outlet valve variations for transportation of flammable or corrosive waste liquid or semi-solids. (mode 1).
8842-N	HTL Industries, Inc., Duarte, CA	49 CFR 173.302(a), 175.3, 178.44.	To authorize shipment of nitrogen or helium, classed as nonflammable gases in non-DOT specification 15 gallon capacity girth welded stainless steel cylinder similar to DOT Specification 3HT. (modes 1, 2, 4, 5).
8843-N	Pengo Industries, Inc., Fort Worth, TX	49 CFR 172.101, 173.246, 175.3	To manufacture, mark and sell non-DOT specification cylinders for shipment of bromine trifluoride, classed as an oxidizer, to be shipped without the poison label. (modes 1, 2, 4).
8844-N	Beall, Inc., Billings, MT	49 CFR 173.119(a)(17), 173.245(a)(30), 173.245(a)(31), 178.340-7, 178.342-5, 178.343-5.	To manufacture, mark and sell non-DOT specification cargo tanks complying generally with DOT Specification MC-307/312 except for bottom outlet valve variations for transport of flammable or corrosive waste liquids or semi-solids. (mode 1).
8845-N	Pengo Industries, Inc., Fort Worth, TX	49 CFR 173.110(c)(1), 173.80(b), 173.80(c)	To authorize transportaion of charged oil well jet perforating guns equipped with detornator and arrest device, classed as explosive A and C (mode 1).
8850-N	Hoover Universal, Inc., Beatrice, NB	49 CFR Part 173, Subpart D, E, F, H, Subpart K.	To manufacture, mark and sell non/DOT specification 16 gauge 304 stainless steel square container, having a rated capacity of 70 gallons for shipment of various liquid hazardous material for which DOT Specification 5, 5B, 5C or 17E containers are prescribed. (modes 1, 2, 3).
8851-N	Process Engineering Inc., Plaistow, NH	49 CFR 173.315(a)(1)	To manufacture, mark and sell non-DOT specification portable tanks for shipment of liquefied argon and liquefied carbon dioxide classed as nonflammable gases. (mode 3).
8852-N	Procter & Gamble Company, Cincinnati, OH	49 CFR 173.119(b)(4)	To authorize shipment of a certain flammable liquid, n.o.s. contained in four 2 liter polyethylene terephthalate bottles overpacked in a DOT Specification 12B fiberboard box. (modes 1, 2).
8853-N	Union Carbide Corporation, Danbury, CT	49 CFR 173.31(d)(9)	To authorize the substitution of visual inspection for hydrostatic testing for Class DOT Specification 106A and 110AW tank car tanks for certain flammable gases free of corroding components. (modes 1, 2, 3)

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C. on June 3, 1982.

J. R. Grothe,

Chief Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-15826 Filed 6-11-82; 8:45 am]

BILLING CODE 4910-60-M

Office of Hazardous Materials Regulation; Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATE: July 14, 1982.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

Application No. and applicant	Renewal of exemption
3004-X Union Carbide Corp., Danbury, CT	3004
3004-X Airco Industrial Gases, Murray Hill, NJ	3004
3004-X Air Products & Chemicals, Inc., Allentown, PA	3004
3302-X Air Products & Chemicals, Inc., Allentown, PA	3302
4600-X Halocarbon Products Corp., Hackensack, NJ	4600
5038-X Synthatron Corp., Parsippany, NJ	5038
5196-X El Paso Products Co., Odessa, TX	5196
5414-X E. I. du Pont de Nemours & Co., Inc., Wilmington, DE	5414
5736-X El Paso Products Co., Odessa, TX	5736
6016-X Welding & Cutting Supply Co., Cleveland, OH	6016
6045-X Union Carbide Corp., Danbury, CT	6045
6113-X Boston Gas Co., Boston, MA	6113
6197-X Boston Gas Co., Boston, MA	6197
6305-X Monsanto Co., St. Louis, MO	6305
6309-X General Latex & Chemical Corp. of GA, Dalton, GA	6309
6418-X Dow Chemical Co., Midland, MI	6418
6418-X Great Lakes Chemical Corp., El Dorado, AR	6418
6497-X FMC Corp., Middleport, NY	6497
6530-X Mass Oxygen Equipment Co., Inc., Westbourgh, MA	6530
6602-X Dow Chemical Co., Midland, MI	6602
6802-X Great Lakes Chemical, El Dorado, AR	6802
6758-X Roper Plastics, Inc., Norwalk, CA	6758
6606-X Kaiser Aluminum Chemical Corp., Pleasanton, CA	6606
6844-X Mobay Chemical Corp., Union, NJ	6844
7026-X Hydraulic Research, Pacoima, CA	7026
7052-X Sonatech, Inc., Goleta, CA	7052
7052-X EG & G Environmental Equipment, Herndon, VA	7052
7052-X Battery Safety Society, Inc., Fairfax, VA	7052
7052-X Allen-Bradley Co., Twinsburg, OH	7052
7067-X Plant Products Corp., Vero Beach, FL	7067
7409-X Sea-Land Service, Inc., Elizabeth, NJ	7409
7454-X E. I. du Pont de Nemours & Co., Inc., Wilmington, DE	7454
7494-X Airco Industrial Gases, Murray Hill, NJ	7494
7544-X Eastman Kodak Co., Rochester, NY	7544
7594-X Bromine Compounds, Ltd., Beersheva, Israel	7594
7601-X Atlantic Research Corp., Gainesville, VA	7601
7753-X Monsanto Co., St. Louis, MO	7753
7754-X Hercules, Inc., Wilmington, DE	7754
7768-X Plasti-Drum Corp., Lockport, IL	7768
7770-X Logemafer S.A., Paris, France	7770
7777-X Stabilex Ltd., Boynton Beach, FL	7777
7876-X Ashland Oil, Inc., Columbus, OH	7876
7885-X The Mercoid Corp., Chicago, IL	7885
7888-X Rheem Manufacturing Co., Linden, NJ	7888
7891-X Fisher Scientific Co., Fair Lawn, NJ	7891
7971-X Hydraulic Research Textron, Pacoima, CA	7971
7987-X Stauffer Chemical Co., Westport, CT	7987
8006-X Nichols-Kusan, Inc., Jacksonville, TX	8006
8006-X Bland Bros., Inc., New York, NY	8006
8006-X Kilgore Corp., Toone, IN	8006
8009-X Pressure Transport, Inc., Austin, TX	8009
8012-X Compagnie des Containers Reservoirs, Neuilly-sur-Seine, France	8012
8035-X NL McGullough, NL Industries, Inc., Houston, TX [1]	8035
8055-X Associated Lead, Inc., Philadelphia, PA	8055
8074-X Matheson Gas Products, Secaucus, NJ	8074
8238-X ASARCO Inc., New York, NY [2]	8238
8344-X Western-Hoegee Co., Glendale, CA [3]	8344
8357-X FMC Corp., Philadelphia, PA	8357
8388-X B. W. Norton Manufacturing Co., Inc., Oakland, CA	8388
8390-X Texas Instruments Inc., Dallas, TX	8390
8390-X Allied Corp., Morristown, NJ	8390
8397-X Mauser Packaging Ltd., New York, NY [4]	8397
8423-X U.S. Environmental Protection Agency, Washington, DC	8423
8426-X Martin Tank Manufacturing, Cerritos, CA	8426
8437-X Park Chemical Co., Detroit, MI	8437
8439-X Hydraulic Research Textron, Pacoima, CA	8439
8442-X Evans Tank Co., Lubbock, TX	8442
8468-X Hedwin Corp., Baltimore, MD [5]	8468
8498-X Hunter Drums Ltd., Burlington, Ontario [6]	8498
8499-X Hedwin Corp., Baltimore, MD	8499
8570-X Snyder Industries, Inc., Lincoln, NB [7]	8570
8646-X GAF Corp., Wayne, NJ	8646

[1] To renew and to authorize an increase in the individual solid propellant, Class C explosive, grain length from 4¼ inches to 5½ inches.

[2] To authorize an alternate fabric woven polypropylene bag for shipment of arsenical flue dust classed as a poison B solid.

[3] To authorize rail as an additional mode of transportation.

[4] To renew and to add calcium cyanamide, classed as ORM-C as additional commodity.

[5] To renew and to authorize a 4 gallon capacity polyethylene container.

[6] To authorize methanol, classed as a flammable liquid as an additional commodity.

[7] To authorized water as an additional mode of transportation.

Application No. and applicant	Parties to exemption
3941-P Aerojet Strategic Propulsion Co., Sacramento, CA	3941
6309-P Freeman Chemical Corp., Port Washington, WI	6309
6762-P Aquaphase Laboratories, Inc., Adrian, MI	6762
7052-P Sanders Associates, Inc., Nashua, NH	7052
7607-P Ecology and Environment, Inc., Arlington, VA	7607
7783-P Velsicol Chemical Corp., Chicago, IL	7783
7835-P Burdett Gas Products Co., Norristown, PA	7835
8441-P Battery Safety Society, Inc., Fairfax, VA	8441
8441-P Sanders Associates, Inc., Nashua, NH	8441
8839-P Poly Processing Co., Inc., Monroe, LA	8839
8843-P Chem Cut Co., Fort Worth, TX	8843

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on June 3, 1982.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-15832 Filed 6-11-82; 8:45 am]

BILLING CODE 4910-60-M

Office of the Secretary

Request for Applicants by Office of Small and Disadvantaged Business Utilization

AGENCY: Office of Small and Disadvantaged Business Utilization (OSDBU), Office of the Secretary, DOT.

ACTION: Notice and request for applicants interested in establishing a reinsurance underwriting pool to participate in a surety bonding program for minority and women-owned business enterprises (MBEs) bidding on or performing rail-related contracts..

SUMMARY: The Railroad Revitalization and Regulatory Reform Act of 1976, created the Minority Business Resource Center (The Center) to insure that minority entrepreneurs, including

women-owned and operated businesses, receive a fair share of the business opportunities derived from maintenance, rehabilitation, restructuring, improvement and revitalization of the Nation's railroads. The Center is further authorized to establish a surety bonding program to aid MBEs bidding on or performing contracts to provide goods and services to the railroad industry. The Center has been placed under the authority of the OSDBU.

OSDBU has examined a number of approaches with respect to establishing a surety bonding program to assist MBEs bidding on or performing rail-related contracts. This examination has included a report by Professors J. David Cummins and James E. Walter of the Wharton School, University of Pennsylvania, entitled, "Surety Bonding and Short-Term Lending Services for Minority Contractors Involved in Rail Improvement Projects".

As a result of this examination, OSDBU is considering providing funds toward the establishment of a reinsurance pool formed and operated by a group of private surety companies to provide surety and bonding assistance to MBEs bidding on or performing rail-related contracts. The purpose of this notice is to solicit proposals for establishing a surety-bonding pool for MBE contractors serving the rail transportation industry. The bonding program is intended to broaden the range of minority rail contractors who can successfully qualify for surety bonds.

The bonding pool should be designed to serve minority bonding requirements on an efficient basis and to cover as broad a geographic area as possible. Preference will be given to a pool arrangement which relies primarily on private resources, with DOT financial involvement limited to that which is necessary to make a private sector venture feasible for a broader range of MBE risks.

All participating surety companies must have sufficient, competent in-house personnel to handle bond claims, a two-tier system for under-writing approval, and a management system for review of claims and losses. All participating sureties must be listed on the Department of Treasury's list of Surety Companies Acceptable on Federal Bonds (Circular 570, 1981 revision) and must have sufficient bonding capability to cover the surety requirements of MBEs beyond graduation from this program.

Total available Federal funding may be up to $5 million depending on the nature of the proposed surety bonding assistance program. The submissions should include:

1. A preliminary proposal.
2. Financial statements of applicant companies.
3. The names of the primary executives of the applicant companies and statements of their background.
4. The manner in which the Federal funds would be utilized and controlled.

DATE: The deadline for submitting a letter expressing interest in the program and requesting additional information is July 7, 1982.

ADDRESS: Interested surety organizations may submit letters to the Director, Office of Small and Disadvantaged Business Utilization, U.S. Department of Transportation, 400 7th Street, SW., Room 10222, Washington, D.C. 20590, not later than the submission date shown above. Such submission shall indicate the docket number shown on this notice.

Dated: June 7, 1982.

Melvin Humphrey,

Director, Office of Small and Disadvantaged Business Utilization, U.S. Department of Transportation..

[FR Doc. 82-15800 Filed 6-11-82; 8:45 am]
BILLING CODE 4910-62-M

Request for Applicants by Office of Small and Disadvantaged Business Utilization

AGENCY: Office of Small and Disadvantaged Business Utilization (OSDBU), Office of the Secretary, Department of Transportation.

ACTION: Notice and Request for Applications from Minority Banks to participate in a financial assistance program for Minority Business Enterprises.

SUMMARY: The Railroad Revitalization and Regulatory Reform Act of 1976, created the Minority Business Resource Center (The Center) to insure that minority entrepreneurs, including women-owned and operated businesses, receive a fair share of the business opportunities derived from maintenance, rehabilitation, restructuring, improvement and revitalization of the Nation's railroads. The Center is further authorized to establish financial assistance programs to aid those minority businesses bidding for contracts to provide goods and services to the railroad industry. The Center has been placed under the authority of the OSDBU.

The OSDBU is interested in entering into agreements with one or more minority banks which can provide short-term financial assistance to minority and women-owned concerns bidding for or performing contracts or subcontracts within the railroad industry. The OSDBU would agree to set up the funding mechanism totaling $3,000,000. The funds will enable the minority bank(s) to make financial assistance available to MBEs participating in the railroad revitalization program. The funds will be used by the minority bank(s) to cover all expenses, including a profit margin, incurred in servicing MBEs.

The OSDBU is particularly interested in offering this assistance to MBEs in the following cities:

1. Philadelphia, PA.
2. New York, NY.
3. Boston, MA.
4. New Haven, CT.
5. Baltimore, MD.
6. Washington, D.C.
7. Norfolk, VA.
8. Chicago, IL.
9. Atlanta, GA.
10. Kansas City, MO.
11. St. Louis, MO.
12. Dallas, TX.
13. Los Angeles, CA.
14. Denver, CO.
15. San Francisco, CA.
16. Pittsburgh, PA.

Other areas will be considered.

DATE: The deadline for submitting a letter expressing interest in the program and requesting additional information is July 7, 1982.

ADDRESS: Interested minority banks may submit letters to the Director, Office of Small and Disadvantaged Business Utilization, U.S. Department of Transportation, 400 7th Street, SW, Room 10222, Washington, D.C. 20590, not later than the submission date shown above. Such submission shall indicate the docket number shown on this notice.

Dated: June 7, 1982.

Melvin Humphrey,

Director, Office of Small and Disadvantaged Business Utilization, U.S. Department of Transportation.

[FR Doc. 82-15799 Filed 6-11-82; 8:45 am]
BILLING CODE 4910-62-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 114
Monday, June 14, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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Legal Services Corporation	7
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Securities and Exchange Commission	9

1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Wednesday, June 16, 1982.

LOCATION: Third Floor Hearing Room, 1111 18th Street, NW., Washington. D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *CB Antennas*
The Commission will consider the issuance of a final consumer product safety standard for omnidirectional citizens band base station antennas.

Closed to the Public:

2. *Enforcement Matter OS# 2049 (Closed)*
The Commission will consider issues related to enforcement matter OS# 2049.

Enforcement Matter OS#2059 (Closed)
The staff will brief the Commission on issues related to enforcement matter OS# 2059.

Compliance Complaint Strategy
The staff will brief the Commission on issues related to the compliance complaint strategy.

CONTACT PERSON FOR ADDITIONAL INFORMATION:
Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Suite 342, 5401 Westbard Avenue, Bethesda, MD 20207; Telephone (301) 492–6800.

[S–860–82 6–10–82; 11:15 am]
BILLING CODE 6355–01–M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Thursday, June 17, 1982.

LOCATION: Third Floor Hearing Room, 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. The staff will brief the Commission on issues related to the Operating Plan for Fiscal Year 1983.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Suite 342, 5401 Westbard Avenue, Bethesda, MD 20207; Telephone (301) 492–6800.

[S–861–82 Filed 6–10–82; 11:16 am]
BILLING CODE 6355–01–M

3

FEDERAL ENERGY REGULATORY COMMISSION

TIME AND DATE: 10 a.m., June 16, 1982.

PLACE: Room 9306, 825 North Capitol Street, NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; Telephone (202) 357–8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda—751st Meeting, June 16, 1982 Regular Meeting (10 a.m.)

CAP–1. Project No. 5865–000, David Cereghino
CAP–2. Project No. 4263–001, Consolidated Hydroelectric, Inc.
CAP–3. Project No. 6105–001, Lawrence J. McMurtrey
CAP–4. Project No. 6151–002, Rainsong Co. (Cabin Creek Project)
CAP–5. Project No. 4282–001, Consolidated Hydroelectric, Inc.
CAP–6. Project No. 4282–000, Consolidated Hydroelectric, Inc.; Project No. 4840–000, Modesto Irrigation District
CAP–7. Project No. 4280–001, Consolidated Hydroelectric, Inc.; Project No. 4280–002, Consolidated Hydroelectric, Inc.; Project No. 4844–000, Modesto Irrigation District
CAP–8. Project No. 4907–000, J–3 Lumber Co.; Project No. 4997–000, Modesto Irrigation District
CAP–9. Project No. 6092–000, Western Hydro Electric, Inc., and Butter Creek Hydro Electric Project
CAP–10. Project No. 4417–000, Consolidated Hydroelectric, Inc.; Project No. 4957–000, City of Rohnert Park; Project No. 5009–001, Modesto Irrigation District
CAP–11. Project No. 5531–000, Hydro Resource Co.; Project No. 5901–000, Mason County Pud #1; Project No. 6150–001, Rainsong Co.; Project No. 6367–000, Western Hydro Electric, Inc.
CAP–12. Project No. 4419–000, Consolidated Hydroelectric, Inc.; Project No. 4992–000, City of Rohnert Park; Project No. 5013–001, Modesto Irrigation District
CAP–13. Project No. 4329–000, Consolidated Hydroelectric, Inc.; Project No. 4953–001, Modesto Irrigation District; Project No. 4973–000, City of Rohnert Park; Project No. 5374–000, Tehama County Flood Control and Water Conservation District
CAP–14. Project No. 3724–000, Mitchell Energy Co., Inc.; Project No. 4649–000, City of Ammon, Idaho
CAP–15. Project No. 4237–000, The City of Riverton, Wyoming; Project No. 3505–000, Pacific Northwest Generating Co.; Project No. 3710–000, Mitchell Energy Co., Inc.; Project No. 3860–000, City of Lander, Wyoming and Wyoming Hydro Inc.; Project No. 4530–000, The City of Gillette, Wyoming; Project No. 4622–000, Town of Jackson, Wyoming
CAP–16. Project No. 3528–000, American Hydroelectric Development Corp.; Project No. 3947–000, Kaweah Delta Water Conservation District and Tulare Irrigation District
CAP–17. Project No. 5585–000, Southern Pacific Land Co.
CAP–18. Omitted
CAP–19. Project No. 6087–001, Western Hydro Electric, Inc.
CAP–20. Project No. 5956–000, Potter Instrument Co., Inc.
CAP–21. Project No. 1962–002, Pacific Gas & Electric Co.
CAP–22. Project Nos. 4161–000, 4162–000, 4163–000 and 4164–000, Sierra Pacific Power Co.
CAP–23. Project No. 5801–001, Oroville-Wyandotte Irrigation District
CAP–24. Project No. E–6454–004, City of Centralia
CAP–25. Omitted
CAP–26. Project No. 3105–000, Power Authority of the State of New York
CAP–27. Project No. 3494–000, Noah Corp.; Project No. 3666–000, borough of Central City, PA; Project No. 3961–000, Energenics System, Inc.; Project No. 4460–000, Tri-Cities of Arnold, Lower Burrell and New Kensington, PA, and A. Richard Marcus & Associates; Project No. 4473–000, township of Harrison, PA; Project No. 4474–000, Borough of Cheswick, PA and Allegheny Valley North Council of Governments
CAP–28. Project No. 2338–000, Consolidated Edison Co. of New York, Inc. (Cornwall Project)

CAP–29. Docket No. ER82–146–004, Commonwealth Edison Co.
CAP–30. Docket No. ER82–481–000, Arizona Public Service Co.
CAP–31. Docket No. ER82–468–000, Kansas City Power & Light Co.
CAP–32. Docket No. ER82–454–000, Black Hills Power & Light Co.
CAP–33. Docket No. ER82–465–000, Empire District Electric Co.
CAP–34. Docket No. ER82–104–000, Public Service Co. of Colorado
CAP–35. Docket No. ER81–764–000, Minnesota Power & Light Co.
CAP–36. Docket Nos. ER77–533–009 and ER77–533–000 (Phase I), Louisiana Power & Light Co.
CAP–37. Docket Nos. ER76–205–000 and ER76–205–004, Southern California Edison Co.
CAP–38. Docket No. ER77–347–000, Wisconsin Power & Light Co.
CAP–39. Docket Nos. ER77–175–000 and ER78–19–000 (Phase II), et al., Florida Power & Light Co.
CAP–40. Docket Nos. ER81–730–000 and ER81–731–000, Georgia Power Co.
CAP–41. Docket No. ER80–344–000, Carolina Power & Light Co.
CAP–42. Docket No. E–7578, Commonwealth Edison Co. Docket No. IN–989, City of Geneva, Illinois v. Commonwealth Edison Co.; Docket No. IN–991, City of Batavia, Illinois v. Commonwealth Edison Co.
CAP–43. Docket No. ER78–522, Virginia Electric & Power Co.
CAP–44. Docket No. ER81–557–000, Lake Superior District Power Co.
CAP–45. Project No. 4349–002, Long Lake Energy Corp.

Consent Miscellaneous Agenda

CAM–1. Docket No. ER79–607, Public Service Co. of Colorado
CAM–2. Docket Nos. RM78–22–000, RM78–22–010, RM78–22–011 and RM78–22–012, revision of rules of practice and procedure to expedite trial-type hearings
CAM–3. Docket No. RM79–76–106 (New Mexico—11), high-cost gas produced from tight formations
CAM–4. Docket No. RM79–76–096 (Alabama—2), high-cost gas produced from tight formations
CAM–5. Docket No. RM79–76–100 (Texas—3 addition II), high-cost gas produced from tight formations
CAM–6. Docket No. GP81–36–000, Railroad Commission of Texas, Section 108 NGPA Determination, Phillips Petroleum Co., EMBAR–B #13 Well JD No. 81–02474
CAM–7. Docket No. GP80–48–000, State of West Virginia, Section 108 NGPA Determination, James F. Scott Oil & Gas, S–281 Terry Haggerty Well W. V. File No. 800721–108–033–2192, FERC No. JD81–26295, API No. 047–033–2192
CAM–8. Docket No. GP80–115, Sun Gas Co., a Division of Sun Oil Co., (Delaware), Section 108 NGPA Well Determination Filing, FERC Control No. 80–34194, J. F. Hall—State Well No. 18C, State of Texas
CAM–9. Docket No. GP80–75–000, Oklahoma Natural Gas Co.
CAM–10. Docket No. GP80–6–001, Arkansas Louisiana Gas Co.; Docket No. GP80–7–000, Caprock Pipeline Co.; Docket No. GP80–28–000, Cimarron Transmission Co.; Docket No. GP80–31–000, Cities Service Gas Co.; Docket No. GP80–8–000, Colorado Interstate Gas Co.; Docket No. GP80–11–000, Columbia Gas Transmission Corp.; Docket No. GP80–12–000, Consolidated Gas Supply Corp.; Docket No. GP80–45–000, Eastern Shore Natural Gas Co.; Docket No. GP80–40–000, El Paso Natural Gas Co.; Docket No. GP80–9–000, Equitable Gas Co.; Docket No. GP80–29–000, Florida Gas Transmission Co.; Docket No. GP80–39–000, Kentucky-West Virginia Gas Co.; Docket No. GP80–4–000, Louisiana-Nevada Transit Co.; Docket No. GP80–14–000, McCulloch Interstate Gas Co.; Docket No. GP80–16–000, Mid-Louisiana Gas Co.; Docket No. GP80–17–000, Mississippi River Transmission Corp.; Docket No. GP80–32–000, Montana-Dakota Utilities Co; Docket No. GP80–30–000, Mountain Fuel Supply Corp.; Docket No. GP80–5–000, Natural Gas Pipeline Co. of America; Docket No. GP80–44–000, Natural Fuel Gas Supply Corp.; Docket No. GP80–43–000, Northern Natural Gas Co.; Docket No. GP80–36–000, Northwest Pipeline Corp.; Docket No. GP80–37–000, Oklahoma Natural Gas Gathering Corp.; Docket No. GP80–18–000, Pacific Gas Transmission Co.; Docket No. GP80–19–000, Panhandle Eastern Pipeline Co.; Docket No. GP80–33–000, South Texas Natural Gas Co.; Docket No. GP80–35–000, Southern Natural Gas Co.; Docket No. GP80–20–000, Tennessee Gas Pipeline Co.; Docket No. GP80–21–000, Texas Eastern Transmission Corp.; Docket No. GP80–22–000, Texas Gas Pipe Line Corp.; Docket No. GP80–23–000, Texas Gas Transmission Corp.; Docket No. GP80–25–000, Transwestern Pipeline Co.; Docket No. GP80–26–000, Trunkline Gas Co.; Docket No. GP80–34–000, West Texas Gathering Co.; Docket No. GP80–27–000, Western Gas Interstate Co.; Docket No. GP80–10–000, Western Transmission Corp.; Docket No. GP80–38–000, Zenith Natural Gas Co.; Docket No. GP80–13–000, Kansas-Nebraska Natural Gas Co.
CAM–11. Omitted
CAG–1. Docket No. RP82–94–000, El Paso Natural Gas Co.
CAG–2. Docket No. TA82–2–33–000, El Paso Natural Gas Co.
CAG–3. Docket No. RP82–62–001, Natural Gas Pipeline Co. of America
CAG–4. Docket No. TA82–2–46–001, (PGA82–2 and IPR82–2), Kentucky West Virginia Gas Co.
CAG–5. Docket No. RP82–56–000, Northwest Pipeline Corp.
CAG–6. Docket No. RP82–58–000, Panhandle Eastern Pipe Line Co.
CAG–7. Docket No. RP82–54–000, Colorado Interstate Gas Co.
CAG–8. Docket No. RP82–103–000, State of Michigan and Michigan Public Service Commission v. Trunkline Gas Co.
CAG–9. Docket No. RP74–41–016, Texas Eastern Transmission Corp.
CAG–10. Docket Nos. RP81–54–003, RP81–56–002, RP82–12–001, RP82–10–001, RP80–97–008 and RP77–62–016, Tennessee Gas Pipeline Co.
CAG–11. Docket No. RP81–47–003, Northwest Pipeline Corp.
CAG–12. Docket Nos. RI74–188–003, 004, 007, 008, 009 and RI75–21–002, 003, 004, and 006, Independent Oil & Gas Association of West Virginia
CAG–13. Docket No. RI79–25–002, Maran Oil Co.
CAG–14. Docket No. RI82–4–001, Arco Oil & Gas Co., Division of Atlantic Richfield Co.
CAG–15. Docket No. CI82–206–001, Chevron U.S.A. Inc.; Docket No. CI81–314–002, Marathon Oil Co.; Docket No. CI82–215–002, Aminoil U.S.A. Inc.; Docket No. CI80–28–000, Mobil Oil Exploration & Producing Southeast Inc.; Docket No. CI82–205–000, McMoran-Freeport Oil Co., Docket No. CI82–210–000, Cenergy Exploration Co.
CAG–16. Docket No. CP81–398–000, Northern Natural Gas Co., Division of Internorth, Inc.
CAG–17. Docket No. CP80–300–003, Transcontinental Gas Pipe Line Corp.
CAG–18. Docket No. CP82–80–001, Michigan Wisconsin Pipe Line Co.
CAG–19. Docket No. CP82–172–001, Natural Gas Pipeline Co. of America and Tennessee Gas Pipeline Co., a Division of Tenneco Inc.
CAG–20. Docket No. CP82–43–000, Panhandle Eastern Pipe Line Co. and Trunkline Gas Co.
CAG–21. Docket No. CP74–280–000, El Paso Natural Gas Co.
CAG–22. Docket No. CP82–86–000, Southern Natural Gas Co.
CAG–23. Docket No. CP81–205–002 and CP81–205–003, Delhi Gas Pipeline Corp.
CAG–24. Docket No. CP82–199–000, CP82–199–001, CP82–199–002 and CP82–199–003, National Fuel Gas Supply Corp.
CAG–25. Docket No. CP79–340–000, Transcontinental Gas Pipe Line Corp.
CAG–26. Docket No. CP82–200–000, Equitable Gas Co.
CAG–27. Docket No. CP82–282–000, Mountain Fuel Supply Co.
CAG–28. Docket No. CP82–135–000, Consolidated Gas Supply Corp.
CAG–29. Docket No. CP82–216–000, Arkansas Louisiana Gas Co.
CAG–30. Docket No. CP82–241–000, Mountain Fuel Supply Co.
CAG–31. Docket No. ST82–147–000, Louisiana State Gas Corp.
CAG–32. Docket No. TA82–1–30–003 (PGA82–1, IPR82–1, TT82–1 and AP82–1), Truckline Gas Co.
CAG–33. Docket No. TA82–1–52–000, Western Gas Interstate Co.

I. Licensed Project Matters

P–1. Omitted
P–2. Omitted

II. Electric Rate Matters

ER–1 Docket No. ER81–749–001 and ER82–325–000, Montaup Electric Co.
ER–2 Docket No. ER82–257–001, Kansas Gas & Electric Co.
ER–3 Docket Nos. ER79–126–001, ER79–126–002, ER79–126–003 and ER79–126–004, Arizona Public Service Co.
ER–4 Omitted
ER–5 Docket No. EF81–2011–001 and EF81–2021–001, United States Secretary of Energy—Bonneville Power Administration
ER–6 Docket No. ID–1987–001, Margery Somers Foster

ER–7 Docket No. ID–1958–000, William T. Coleman, Jr.

Miscellaneous Agenda

M–1. Reserved
M–2. Reserved
M–3. Omitted
M–4. Docket No. RM80–38, high-cost natural gas produced from wells drilled in deep water
M–5. Docket No. RM82–32–000, valued base incentive price ceilings under 107(c)(5) of the NGPA

Gas Agenda

I. Pipeline Rate Matters

RP–1. Docket No. RP79–64 and RP79–16, Florida Gas Transmission Co.

II. Producer Matters

CI–1. Reserved

III. Pipeline Certification Matters

CP–1. Docket No. CP81–237–000, Texas Eastern Transmission Corp.
CP–2. (a) Docket Nos. CP81–328–001, and CP81–488–001, Colorado Interstate Gas Co., (b) Docket No. CP81–260–000, Colorado Interstate Gas Co.
CP–3. Docket No. CP82–204–000, Columbia Gas Transmission Corp.
CP–4. Docket No. CP82–22–002, Pacific Interstate Transmission Co.
CP–5. Docket No. CP81–455–000, Kokomo Gas & Fuel Co.
CP–6. Docket No. CP82–98–000, Natural Gas Pipeline Co. of America

Kenneth F. Plumb,

Secretary.

[S–879–82 Filed 6–10–82; 10:39 am]

BILLING CODE 6717–01–M

4

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: Approximately 11 a.m., following a recess at the conclusion of the open meeting on Wednesday, June 16, 1982.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: June 9, 1982.

James McAfee,

Associate Secretary of the Board.

[S–875–82 Filed 6–9–82; 4:17 pm]

BILLING CODE 6210–01–M

5

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 10 a.m., Wednesday, June 16, 1982.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: *Summary Agenda:* Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a rember of the Board requests that the item be moved to the discussion agenda.

1. Petition to repeal or amend that portion of Regulation Y (Bank Holding Companies and Change in Bank Control) relating to the issuance of travelers checks.

Discussion Agenda:

2. Proposed Board Affirmative Action Plan for Minorities and Women for 1982–1985.
3. Any items carried forward for a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be abailable for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: June 9, 1982.

James McAfee,

Associate Secretary of the Board.

[S–876–82 Filed 6–9–82; 4:17 pm]

BILLING CODE 6210–01–M

6

INTERNATIONAL TRADE COMMISSION

[USITC SE–82–23]

TIME AND DATE: 2:30 p.m., Tuesday, June 22, 1982.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary:
a. Electrostatic copiers (Docket No. 836).
5. Investigation 731–TA–48 [Final] (Amplifier Assemblies from Japan)—vote.
6. Investigation 337–TA–105 (Certain Coin-Operated Audiovisual Games and Components Thereof)—briefing and vote.
7. Any items left over from previous agenda.

Portions closed to the public:

5. Investigation 731–TA–48 [Final] (Amplifier Assemblies from Japan)—briefing.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–877–82 Filed 6–9–82; 4:50 pm]

BILLING CODE 7020–02–M

7

LEGAL SERVICES CORPORATION

Presidential Search Committee

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 24906, June 8, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m.–12 noon, Tuesday, June 15, 1982.

CHANGE IN THE MEETING: Cancelled. To be rescheduled.

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Bernstein, Office of the President, (202) 272–4040.

Dated: June 10, 1982.

Gerald M. Caplan,

Acting President.

[S–882–82 Filed 6–10–82; 11:25 am]

BILLING CODE 6820–35–M

8

NUCLEAR REGULATORY COMMISSION

DATE: Week of June 14, 1982.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Wednesday, June 16:*

10:00 a.m.:
Discussion of Management-Organization and Internal Personnel Matters (Closed—Exemptions 2 and 6)
2:00 p.m.
Meeting with Cincinnati Gas & Electric/ Government Accountability Project on QA/QC and Related Matters at Zimmer (Public Meeting)

Thursday, June 17:

3:00 p.m.:
Affirmation/Discussion Session (Public Meeting)
Affirmation and/or Discussion and Vote:
a. Proposed Rulemaking Requiring Fitness for Duty for Personnel with Unescorted Access to Protected Areas
b. Amendment to 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements"

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Walter Magee,

Office of the Secretary.

[S-878-82 Filed 6-10-82; 9:45 am]

BILLING CODE 7590-01-M

9

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 24406. June 4, 1982.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, June 1, 1982.

CHANGES IN THE MEETING: Additional items. The following items will be considered at a closed meeting scheduled for Thursday, June 10, 1982, following the 10:00 a.m. open meeting:

Litigation matter.
Freedom of Information Act appeal.

Chairman Shad and Commissioners Loomis, Evans, Thomas and Longstreth determined by vote that Commission business required consideration of this matter and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added. Deleted or postponed, please contact: Richard Starr at (202) 272–2467.

June 10, 1982.

[S-883-82 Filed 6-10-82; 2:27 pm]

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Monday
June 14, 1982

Part II

Environmental Protection Agency

Ore Mining and Dressing Point Source Category; Effluent Limitations Guidelines and New Source Performance Standards

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 440

[WH FRL 1979-8]

Ore Mining and Dressing Point Source Category; Effluent Limitations Guidelines and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed regulation.

SUMMARY: EPA proposes a regulation to limit effluent discharges to waters of the United States and introduction of pollutants from facilities engaged in mining and processing of metal ores. The purpose of this proposed rulemaking is to provide effluent limitations guidelines for "best available technology," (BAT) and to establish new source performance standards (NSPS) under the Clean Water Act.

DATE: Comments on this proposal must be submitted on or before August 13, 1982.

ADDRESS: Send comments to: Mr. William Telliard, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Attention: EGD Docket Clerk, Proposed Rulemaking—Ore Mining and Dressing Industry. The supporting information and all comments on this proposal will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library), at the EPA address given above. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Technical information may be obtained from Mr. B. Matthew Jarrett, at the address listed above, or by calling (202) 426-4618. Copies of technical documents may be obtained from the Distribution Officer at the above address or by calling (202) 426-2724. The economic information may be obtained from Mr. John Ataman, Office of Analysis and Evaluation (WH-586), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, or by calling (202) 755-2484.

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I. Legal Authority

The regulations described in this notice are proposed under authority of sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 et seq., as amended by the Clean Water Act of 1977, Pub. L. 95-217) (the "Act"). These regulations are also proposed in response to the Settlement Agreement in *Natural Resources Defense Council, Inc.*, v. *Train*, 8 ERC 2120 (D.D.C. 1976), *modified*, 12 ERC 1833 (D.D.C. 1979).

II. Background

A. The Clean Water Act

The Federal Water Pollution Control Act Amendments of 1972 established a comprehensive program to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." Section 101(a). By July 1, 1977, existing industrial discharges were required to achieve "effluent limitations requiring the application of the best practicable control technology currently available" (BPT), Section 301(b)(1)(A). By July 1, 1983, these dischargers were required to achieve "effluent limitations requiring the application of the best available technology economically achievable* * *" which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants" (BAT), Section 301(b)(2)(A). New industrial direct dischargers were required to comply with section 306 new source performance standards (NSPS), based on best available demonstrated technology. The requirements for direct dischargers were to be incorporated into National Pollutant Discharge Elimination System (NPDES) permits issued under section 402 of the Act.

Although section 402(a)(1) of the 1972 Act authorized the setting of requirements for direct dischargers on a case-by-case basis, Congress intended that for the most part, control requirements would be based on regulations promulgated by the Administrator of EPA. Section 304(b) of the Act required the Administrator to promulgate regulations providing guidelines for effluent limitations setting

forth the degree of effluent reduction attainable through the application of BPT and BAT. Moreover, sections 304(c) and 306 of the Act required promulgation of regulations for NSPS. In addition to these regulations for designated industry categories, section 307(a) of the Act required the Administrator to promulgate effluent standards applicable to all dischargers of toxic pollutants. Finally, section 501(a) of the Act authorized the Administrator to prescribe any additional regulations "necessary to carry out his functions" under the Act.

EPA was unable to promulgate many of these regulations by the dates contained in the Act. In 1976, EPA was sued by several environmental groups, and in settlement of this lawsuit EPA and the plaintiffs executed a Settlement Agreement which was approved by the Court. This Agreement required EPA to develop a program and adhere to a schedule for promulgating BAT effluent limitations guidelines, and new source performance standards covering 65 classes of toxic pollutants (subsequently defined by the Agency as 129 specific "priority pollutants") for 21 major industries. See *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), *modified*, 12 ERC 1833 (D.D.C. 1979).

On December 27, 1977, the President signed into law the Clean Water Act of 1977 ("the Act"). Although this law makes several important changes in the Federal Water Pollution Control Program, its most significant feature is its incorporation of several basic elements of the Settlement Agreement program for toxic pollution control. Sections 301(b)(2)(A) and 301(b)(2)(C) of the Act now require the achievement, by July 1, 1984, of the effluent limitations requiring application of BAT for toxic pollutants, including the 65 priority pollutants and classes of pollutants that Congress declared toxic under section 307(a) of the Act. Likewise, EPA's programs for new source performance standards are now aimed principally at toxic pollutant controls. Moreover, to strengthen the toxics control program, section 304(e) of the Act authorizes the Administrator to prescribe "best management practices" (BMPs) to control the release of toxic and hazardous pollutants from plant site runoff; spillage or leaks; sludge or waste disposal; and drainage from raw material storage associated with, or ancillary to, the manufacturing or treatment process.

In keeping with its emphasis on toxic pollutants, the Act also revises the control program for nontoxic pollutants. Instead of BAT for "conventional" pollutants identified under section 304(a)(4) (including biochemical oxygen demand (BOD), total suspended solids (TSS), fecal coliform, oil and grease, and pH), the new Section 301(b)(2)(E) requires achievement, by July 1, 1984, of "effluent limitations requiring the application of the best conventional pollutant control technology" ("BCT"). The factors considered in assessing BCT for an industry include an analysis of cost-effectiveness and the costs and benefits of reducing pollutants at a point source compared with the costs and benefits of reducing pollutants at POTWs (section 304(b)(4)(B)). For nontoxic, nonconventional pollutants, sections 301(b)(2)(A) and (b)(2)(F) require achievement of BAT effluent limitations within three years after their establishment or by July 1, 1984, whichever is later, but not later than July 1, 1987.

The purpose of the proposed regulations is to provide effluent limitations guidelines for BAT and to establish NSPS on the basis of the authority granted in sections 301, 304, 306, 307, and 501 of the Clean Water Act. Pretreatment Standards (PSES and PSNS) are not proposed for the ore mining and dressing category since no known indirect dischargers exist nor are any known to be in the planning stage. In general, ore mines and mills are located in rural areas, far from a POTW. EPA expects that the cost of pumping mine drainage and mill process water to a POTW would be prohibitive, and onsite treatment is more cost effective in virtually every instance.

B. Prior EPA Regulations

On November 6, 1975, EPA published interim final regulations establishing BPT requirements for existing sources in the ore mining and dressing industry (see 40 FR 51722). These regulations became effective upon publication. However, concurrent with their publication, EPA solicited public comments with a view to possible revisions. On the same date, EPA also published proposed BAT, NSPS, and pretreatment standards for this industry (see 40 FR 51738). Comments were also solicited on these proposals.

On May 24, 1976, as a result of the public comments received, EPA suspended certain portions of the interim final BPT regulations and solicited additional comments (see 41 FR 21191). EPA promulgated revised, final BPT regulations for the ore mining and dressing industry on July 11, 1978, (see 43 FR 29711, 40 CFR Part 440). On February 8, 1979, EPA published a clarification of the regulations as they apply to storm runoff (see 44 FR 7953). On March 1, 1979, the Agency amended the final regulations by deleting the requirements for cyanide applicable to froth flotation mills in the base and precious metals subcategory (see 44 FR 11546).

On December 10, 1979, the United States Court of Appeals for the Tenth Circuit upheld the BPT regulations, rejecting challenges brought by five industrial petitioners. *Kennecott Copper Corp.* v. *EPA* 612 F.2d 1232 (10th Cir. 1979). These regulations are in effect and EPA is not proposing any changes to them.

The Agency withdrew the proposed BAT, NSPS, and pretreatment standards on March 19, 1981 (see 46 FR 17567).

C. Industry Overview

The ore mining and dressing industry is both large and diverse. It includes the ores of 23 separate metals and is segregated by the U.S. Bureau of the Census Standard Industrial Classification (SIC) into nine major codes; SIC 1011, Iron Ore; SIC 1021, Copper Ores; SIC 1031, Lead and Zinc Ores; SIC 1041, Gold Ores, SIC 1044, Silver Ores; SIC 1051, Aluminum Ore; SIC 1061, Ferroalloy Ores including Tungsten, Nickel, and Molybdenum; SIC 1092 Mercury Ores; SIC 1094 Uranium, Radium, and Vanadium Ores; and SIC 1099 Metal Ores, Not Elsewhere Classified including Titanium and Antimony.

Over 500 active mining and over 150 milling operations are located in the United States and many are in remote areas.

The industry includes facilities that mine ores to produce metallic products and all ore dressing and beneficiating operations at mills operated either in conjunction with a mine operation or at a separate location.

Mining is defined as the extraction of metal ores from natural deposits. It also means recovery of metal ores from refuse and storage piles derived from actual mining or concentration of metal ores.

The mining of metals ores is usually divided into four principal methods: underground or deep-mining, open-cut, in situ or solution mining, and placer or dredge mining.

Underground mining methods include open stopes, timbered stopes, filled stopes, caving method, and combinations of these methods. In open stope mining, an underground chamber is created in which the walls are supported by pillars of ore left in place. The finished stope is an open cavity. In timbered stope mining the chamber is

supported by wood and steel timber. The wood and steel are used where the walls require support during mining and can also serve as a working platform for workers and equipment. A filled stope is an underground chamber where waste rock, tailings, or other fill material is an integral part of the support of the walls and sometimes the back of the ore body. Also fill material usually serves as a working platform for workers and equipment to work the next adjacent portion of the ore body. Caving methods use the weight of the ore, the overlying rock, or a combination of the two to break the ore down. The ore is first undercut and then worked by sublevel caving, block-caving, or top-slicing, with many modifications to these methods.

Three different open-cut or surface mining methods are used to mine metal ores: open pit, area stripping, and contour mining. In open-pit mining, the amount of overburden that must be removed to mine the ore is small in relation to the amount of ore mined. By this method, a large quantity of ore can be removed from a comparatively small surface area because of the thickness of the ore body. The mining follows the ore body. In area strip mining, larger areas are excavated to mine the ore body, which is generally in a seam or zone, and the amount of overburden can be large in comparison with the ore removed. Area strip mining is generally limited to fairly flat topography. In contour mining, excavation follows the contour of the land until the ore recovery is prohibited by the amount of overburden. Contour mining is used in hilly or mountainous terrain and has limited application in ore mining.

In situ or solution mining methods are generally restricted to the recovery of copper and uranium from surface or underground deposits. In in situ mining, a leaching solution (often acid or water) is brought into contact with the ore zone, either in place or after it has been broken in the mine, and the barren solution is allowed to seep through the ore to a lower level where the pregnant leach solution is collected for transfer to a metal recovery or precipitation facility. In situ mining also includes the secondary recovery of metal values by leaching mined ore, waste rock, low grade ore, or tailings.

Placer mining is the mining of alluvial deposits (generally loose gravel, sand, soil, or mud that has been deposited by water or ice) of minerals derived from erosion or weathering of bedrock. Placer mining consists of excavating waterborne or glacial deposits, e.g., gold-bearing gravel and sands, which can then be separated by physical or gravity means. Methods that are used today include various dredging techniques (clam shell, continuous bucket, or dragline) and the use of bulldozers and front-end loaders. Where water availability and physical characteristics permit, dredging or hydraulic methods are often favored because they are economical. At some locations, hydraulic excavation (water cannons) is used both for overburden removal and for sluicing ores.

Water is little and seldom used in the mining process. Of the principal mining methods used, only in situ or solution mining and placer mining actually use water as part of the mining method. In underground and open-cut mining a small amount of water is used (e.g., for machine cooling, dust suppression, drilling fluids, etc.). Approximately nine deep mines use water in hydraulic backfilling of stopes. This water is brought back to the surface combined with mine water.

An even larger quantity of water may enter the mine by percolation, interception of an aquifer, and runoff. This water, though usually unwanted, must also be managed by the mine operator and discharged as mine process wastewater of mine drainage. The management of mine drainage is an integral part of most mining systems. Mine water flows are extemely variable, ranging from nonexistent to flows occasionally as high as 227,000 m^3 (60 million gallons) per day or more. Mine drainage flow rates are related to geologic conditions, climate, and topography and are generally beyond the control of the mine operator.

Five main ore dressing processes use water: gravity concentration, magnetic separation, electrostatic separation, froth flotation, and leaching. Most of the processes follow communition (size reduction).

In froth flotation, chemicals are added to make particles of a mineral or group of minerals adhere preferentially to air bubbles (froth). When air is forced through a slurry (water plus finely ground ore) of mixed minerals, the rising bubbles carry the particles of the mineral(s) to be separated from the matrix. If a foaming agent is added, which prevents the bubbles from bursting when they reach the surface, a mineral-layer of foam is built up at the surface of the flotation cell that may be removed to recover the mineral. Details of the process and reagents employed vary from ore to ore and with time at a given mill, but because the process is adaptable to fine particle sizes, it often allows a high rate of recovery even from low-grade ores.

Gravity concentration processes use differences in specific gravity to separate the valuable ore minerals from gangue (unwanted minerals). They depend upon viscosity forces to suspend and transport gangue away from the heavier, valuable mineral. Several techniques are employed including jigs, tables, spirals, and sink/float separation. Each technique employs water as the medium through which the separation takes place and provides a means of removing the unwanted minerals.

The magnetic separation process, based on differences in magnetic permeability, involves the transport of ore through a region of high magnetic field gradient. The most magnetically permeable minerals are attracted to a moving surface behind which is the pole of a large electromagnet, and are carried by it out of the ore stream. Although dry separators are used for rough separations, the process is often run wet on slurries produced by grinding mills.

Electrostatic separation is used to separate minerals on the basis of their conductivity. This process is inherently dry and uses very high voltages. The ore is typically charged to 20,000 to 40,000 volts, and the charged particles are dropped onto a conductive rotating drum. The conductive particles discharge very rapidly and are thrown off and collected, while the nonconductive particles keep their charge and adhere by electrostatic attraction.

The leaching process dissolves away either gangue or metal values in aqueous acids or bases, liquid metals, or other specific solutions. Amalgamation and cyanidation are two variations of leaching. The cynanidation process is used to extract gold and sliver by using potassium or sodium cyanide in diluted weak alkaline solutions. Amalgamation uses mercury to form an amalgam, a combination of mercury and another metal. Amalgamation, once used extensively to extract gold and silver from pulverized ore, has largely been replaced by cyanidation because of environmental concerns about the use and control of mercury.

Leach solutions of acids or bases are used to extract copper, uranium, vanadium and tungsten. The solutions dissolve certain metals present as well as constitutents of the gangue. Heat, agitation, and pressure are often used to speed the action of the leach. Ores can be exposed to leach in a variety of ways, including in situ (in the ore body), vats, and heap or dump. The pregnant leach solution containing metal values is

further processed to remove the metals from solutions.

General Wastewater Characteristics

Mine Water. The wastewater situation in the mining segment differs from that encountered in most other industries. Usually, most industries (such as the miling segment) use water in the specific processes they employ. This water frequently becomes contaminated during the process and must be treated before it is discharged. In the ore mining segment, process water is not normally used in the actual mining of ores except in the in situ leaching process or placer mining operations and in dust control, or for drilling fluids. Water is a natural feature that interferes with mining activities. It enters surface mines by direct precipitation, runoff and infiltration and underground mines by infiltration. The quantity of water from an ore mine is thus unrelated (or only indirectly related) to production quantities. Generally, raw mine water has high concentrations of dissovled metals because ground water or surface water has come into contact with minerals in the ore, host rock, and overburden. Generally, infiltration water is relatively low in suspended solids (as compared with mill process water) although water used for dust control may contain elevated solids levels. At a few facilities, trace quantities of process reagents may be present because of the backfilling of stopes with coarse fractions of miill tailings.

Mill Water. Process water is primarily used in wet screening or classification, gravity separation processed, heavy-media separation, flotation processes, leaching solutions, and for transporting ore between various process steps. Process water is often obtained from wells, domestic sources, and mine water. It is often recycled and reused in areas where water is scarce or where water balance in an integrated system allows it. Recycling often requires a great deal of planning and careful engineering, but results in reduction of the costs associated with purchase of water, exploration, and drilling of new wells and reduction of pollutants discharged to the environment.

Mill process wastewater is characterized by very high suspended solids levels (often in the percent range rather than milligrams per liter), high metals levels, and process reagents such as cyanide.

The diversity of the ore mining and milling industry makes it difficult to generalize about process metallurgy, water use patterns, or wastewater treatment practices for the industry. As a result, the mining and processing of each ore is described separately.

Iron

The United States has approximately 50 iron ore mines which produce about 270 million metric tons of ore annually. Forty-four iron ore milling operations annually produce 69 million metric tons of pellets and 16.2 million metric tons of fines, coarse, and sinter. The vast majority of production (over ¾) is in the Great Lakes states, especially the Mesabi and Marquette Ranges. Beneficiation processes generally employed include direct shipping, gravity separation, magnetic separation, and flotation.

On the basis of production figures, about 54 percent of iron milling operations achieve no discharge, 31 percent discharge to surface waters, and 15 percent have unknown discharges. The trend in recent years for newer facilities has been no discharge, primarily for pelleting operations in the Mesabi Range in Minnesota. This trend reflects a concern for treatment costs, discharge of pollutants into the environment, and increased use of recycle to ensure adequate water availability.

The primary wastewater treatment technology used in iron ore mining and milling operations is removal of suspended solids by settling.

In reviewing BAT for the iron ore subcategory, EPA found the following pollutants for control: iron and TSS. (See Section VIII of this notice for a discussion of pollutant parameter selection.)

Copper, Lead, Zinc, Gold, Silver, Molybdenum

In reviewing BAT for the copper, lead, zinc, gold, silver, and molybdenum ores subcategory, EPA found the following pollutants for control: copper, lead, zinc, mercury, cadmium, nickel, arsenic, cyanide, and TSS. (See section VIII of this notice for a discussion of pollutant parameter selection.)

Copper

The United States has 59 copper mines, which produce 258 million metric tons of ore annually. Of these, 22 are small operations employing 10 people or less. The majority of these mines (31) are in Arizona and produce 67 percent of the total amount of copper mined in the United States annually. The U.S. Bureau of Mines estimates that 90 percent of all copper ore produced in the United States comes from open-pit mines. Twenty-six copper mills in the United States produce over 7.1 million metric tons of copper concentrate primarily using the froth flotation method. Byproducts of these mills include molybdenum and silver concentrate.

Many copper mills use mine water for mill process water. Some mine water is also directly discharged to surface waters. In arid areas, many mills practice total recycle and achieve zero discharge. In addition, mines and mills which leach the ore to recover copper collect leaching water, strip it of the metal values, and recycle/reuse or evaporate it, resulting in zero discharge.

Mine drainage and wastewater from froth flotation mills are often treated in combined treatment systems which use lime precipitation or pH adjustment and settling.

Lead and Zinc

Since lead and zinc are most often found in the same ore, they are generally mined and milled together. The United States has 49 individual mines which annually produce over 16 million metric tons of ore. Lead and zinc ores are produced almost exclusively from underground mines. Many of these mines and mills also produce silver and copper concentrates from the lead/zinc ore. Thirty-three milling operations produce over 0.9 million metric tons of lead concentrates, over 408,000 metric tons of zinc concentrates, and 25,000 metric tons of copper concentrates annually.

Missouri produces 83 percent of the lead, with the remaining portion coming primarily from Idaho, Colorado, and Utah. New York produces 19 percent of the zinc, followed by Missouri (18 percent), Tennessee (17 percent), and Colorado (10 percent).

Most mine and mill wastewaters are treated in combined treatment systems, which use lime precipitation for pH adjustment and setting predominatly.

Gold

Four leading producers accounted for 73 percent of total annual gold production in the United States in 1975. Ninety-five percent of all production came from 25 mines or mine/mill operations, 10 of which operate primarily for the recovery of gold. Thirty-six percent of the total gold produced in the United States is a byproduct of copper, lead, or zinc production; the rest is the result of primary recovery from gold lode and placer operations. Placer deposits are alluvial or glacial deposits containing a valuable mineral, primarily gold. These operations are concentrated in Alaska.

Domestic gold production has steadily declined in recent years. This decline is

due to increased costs, mining of lower grade ores, diminished copper production, and depletion of easily mined ore. Increased exploration and development is stimulated by price increases, which may reverse this trend as the price of gold fluctuates.

Most of the nine active gold milling operations in the United States use the cyanidation process to recover gold, but some flotation, concentration, and amalgamation processes are also used. For the most part, spent leach solutions used to beneficiate ore are recycled, resulting in zero discharge of mill wastewater.

Many placer mines do not treat wastewater, although several large dredge operations recycle process water from the dredge pond and settle solids in the pond itself before discharging the excess wastewater. Several facilities use settling ponds for water treatment and to conserve process water for use during periods of water scarcity.

Silver

Eight major mines produce over 1,000 metric tons (35 million troy ounces) of silver in the United States each year. Seventy percent of this silver is a byproduct of lead/zinc and copper mining.

All five major milling operations recover silver metal concentrates. In most cases, froth flotation is the beneficiation method used.

Wastewater treatment at major mine/mill operations consist of a tailings pond to settle bulk flotation circuit tailings before final discharge. In some cases, however, process wastewater is recycled for reuse within the mill.

Molybdenum

The United States has three active molybdenum mines, with three more under exploration. Two existing mines discharge to surface waters and the third has zero discharge because there is little or no infiltration of ground waters. The mines produce over 10 million metric tons or ore, while the mills produce over 50,000 metric tons of concentrate.

All three mines are associated with froth flotation mills. To treat wastewaters, the mills typically use lime precipitation for pH adjustment, followed by primary and secondary settling. One wastewater treatment system uses granular media filters. Two facilities have wastewater treatment technology for the reduction of cyanide: one by alkaline chlorination and the second by hydrogen peroxide (described in Section VI of this notice). The third facility recycles process water and has no discharge.

Aluminum

Two open-pit mining operations in Arkansas produce bauxite ore for metallurgical production of aluminum. For the past 10 years, the annual production rate of bauxite ore has been approximately 1.8 million metric tons. Each bauxite ore mine discharges about 15 million gallons of water a day. No process water is used to crush or grind ore, and no beneficiation processes are used that would require water. Both operations use lime precipitation for pH adjustment and settling to treat wastewaters.

In reviewing BAT for the aluminum ore subcategory, EPA found the following pollutants for control: iron, aluminum, and TSS. (See section VIII of this notice for a discussion of pollutant parameter selection.)

Tungsten

The United States, has five large mines, each producing over 5,000 metric tons of tungsten ore per year, and over 30 small mines, each producing less than 5,000 metric tons of tungsten ore per year. Most small tungsten mining and milling operations are intermittent. Annual production in the United States is about 740,203 metric tons. All mines are underground and are located in California, Oregon, Idaho, Utah, and Nevada. These facilities typically do not discharge mine water. Of the 14 tungsten mills, 7 produce more than 5,000 metric tons of ore per year each. They generally use gravity separation and/or froth flotation to beneficiate the ore.

The tungsten industry is expected to increase production in the coming years. At least two new large operations are in the planning, exploration, or development stages in Nevada.

Mill wastewater treatment methods vary but include impoundment of wastewater in a tailings pond (settling) and recycle and/or evaporation. Most of the active mills recycle mill process water, since they are located in arid regions.

In reviewing BAT for the tungsten ore subcategory, EPA found the following pollutants for control: arsenic, cadmium, copper, zinc and TSS. (See Section VIII of this notice for a discussion of pollutant parameter selection.)

Nickel

The relatively small amount of nickel produced domestically is obtained from one open-pit mine in Oregon. The mine has a smelter, but no milling or beneficiation is practiced.

Wet beneficiation processes are not practiced at this nickel mine/smelter. Most of the plant water is used in the smelting operation for ore belt washing, cooling and slag granulation. The process water is treated in two settling ponds and them recycled for use in the smelter. An average yearly runoff of 120,000 gallons of water per day comes from the mine itself. Most of this runoff occurs during the winter rainy season when daily flows can be as high as 580,000 gallons per day. The mine water runoff is treated at the settling ponds and used at the smelter. Excess water is discharged after treatment.

In reviewing BAT, EPA established a separate subcategory for nickel ore subcategory reserving effluent limitations until the Agency gathers additional data on the wastewater discharge of the single existing facility.

Vanadium

Vanadium, radium, and uranium are usually found in the same ore. Vanadium itself is almost exclusively obtained as a byproduct of uranium mining/milling. However, the United States has one open-pit vanadium mine/mill that extracts vanadium from nonradioactive ore using a leaching process. After the ore is extracted, the mill uses complex hydrometallurgical processes such as roasting, leaching, solvent extraction, and precipitation. (These processes are explained in the development document). At present, this mill is inactive because of the decreased demand for vanadium.

Nearly 70 percent of the effluent stream and all of the pollutants it contains come from leaching and solvent extraction, wet scrubbers or roasters, and ore dryers.

In reviewing BAT, EPA established a separate subcategory for vanadium ores (mined along and not as a byproduct) reserving effluent limitations until the Agency gathers additional data on the wastewater discharges of the single existing facility.

Uranium

Of the approximately 213 underground and open-pit uranium mines in the United States, about 44 percent now have fewer than five employees. As a result, the actual number of active mines at any given time will vary, depending on market conditions and company status. The large number of small mines means that each of 18 active uranium mills may service as many as 40 different mines.

While uranium mines produce approximately 9.1 million metric tons of ore annually (0.15 percent U_3O_8), the mills produce only 28,000 metric tons of processed U_3O_8. Uranium mills use acid leach, alkaline leach, and combined

acid/alkaline leach processes to beneficiate the ore.

Uranium Milling Processes. Uranium ores tend to vary in consistency and grade and may come from mines owned by different companies. Because uniform grade and consistency must be achieved, ore blending is required before further processing. Ore high in vanadium is often roasted with sodium chloride to facilitate its removal by other processes. Roasting to carbonize and oxidize organics may be necessary to prevent interference with hydrometallurgical processes. Ore is ground to the proper size for either acid, alkaline, or combined acid/alkaline leach processes.

The acid leach process is used for ores with less than 12 percent calcium carbonate. Sulfuric acid, which extracts values quickly (usually 4 to 24 hours) is used. Tetravalent uranium must be oxidized to the uranyl form (VI) by adding an oxidizing agent (typically sodium chlorate or manganese dioxide). Uranyl sulfate forms a complex compound in the leach, with the anions subsequently extracted for value.

The alkaline leach process employs a solution of sodium carbonate in an oxidizing environment. In this process, uranium and vanadium values are extracted from their ores selectively and subsequently precipitated from the leach by raising the pH through the addition of sodium hydroxide.

Uranium in the pregnant leach liquor can be concentrated through ion exchange or solvent extraction. The values are then stripped or extracted and precipitated.

Approximately 80 percent of the total amount of uranium ore produced in the United States is recovered from mines that generate mine water. Water treatment practices in those mines include: (1) impoundment and solar evaporation, (2) ion exchange for uranium recovery, (3) flocculation and settling for heavy metals and suspended solids removal, (4) barium chloride ($BaCl_2$) coprecipitation of radium 226, and (5) radium 226 removal by ion exchange. Mine drainage is usually discharged to surface waters.

Only one of the 18 uranium mills discharges mill process water to surface waters. It treats the 580,000 gallon per day waste stream by settling, flocculation, and barium chloride coprecipitation for radium 226 removal. The remaining mills achieve zero discharge largely by impoundment and evaporation.

In reviewing BAT for the uranium ores subcategory, EPA found the following pollutants for control: arsenic, nickel, zinc, radium 226, uranium, COD, and TSS. (See Section VIII of this notice for a discussion of pollutant parameter selection.)

Antimony

Antimony is recovered both from ore and as a byproduct of silver and lead concentrates. Antimony is located in ores in Idaho and Montana. However, only one operating mine/mill now produces antimony as a primary product. The ore is mined underground and concentrated using the froth flotation process. The mine has no known discharge because it is above the water table. The mill wastewater flows to an impoundment and is then retained.

Other mine/mills and smelters recover byproduct antimony. Thirty to fifty percent of domestic production of antimony (724 metric tons in 1977) in recent years has been recovered as a byproduct of lead smelting.

In reviewing BAT, EPA established a separate subcategory for antimony ores, reserving effluent limitations reserved until the Agency gathers additional data on the waste water discharges of this single existing facility.

Titanium

Four facilities in the United States produce titanium concentrates. One operation extracts titanium from lode ore desposits. Three operations dredge sands to recover titanium minerals (ilmenite). The lode ore operation is in New York, one sand dredging operation is in New Jersey and the remaining facilities are in Florida. In 1979, severe price competition from Australian titanium-producing operations forced three other sand dredging operations to close.

The titanium sand dredging mines are now processing over 27 million metric tons of ore per year. From this ore, the mills produce approximately 500,000 metric tons per year of mineral concentrate.

The mine that extracts ilmenite from lode ore treats wastewater by settling. The mill associated with this mine uses pH adjustment, settling, and recycle to treat wastewaters, with seasonal discharge to a river. Usually the discharge period lasts approximately three weeks per year. At the sand dredging facilities, multiple settling ponds are used before discharge. Dredge pond water is recycled for reuse, with excess water entering the multiple settling pond system Wastewater treatment removes suspended solids primarily.

In reviewing BAT for the titanium ore subcategory, EPA found the following pollutants for control: nickel zinc, iron, and TSS. (See Section VIII of this preamble for a discussion of pollutant parameter selection.)

III. Scope of This Rulemaking and Summary of Methodology

The proposed regulation is an expansion of water pollution control requirements for the ore mining and dressing industry. From 1973 through 1976, EPA emphasized the achievement of limitations based on application of best practicable technology (BPT) by July 1, 1977. In general, this technology level represented the average of the best existing performances of well-known technologies for control of familiar (i.e., "classical") pollutants. In this industry, many metal pollutants that Congress subsequently designated as toxic were also regulated under BPT.

In this rulemaking, EPA has sought to ensure the achievement, by July 1, 1984, of limitations based on application of the best available technology economically achievable (BAT). In general, this technology level represents the best economically achievable performance in any industry category or subcategory. Moreover, as a result of the Clean Water Act of 1977, the emphasis of EPA's program has shifted from control of "classical" pollutants to the control of toxic substances.

In the 1977 legislation, Congress recognized that it was dealing with areas of scientific uncertainty when it declared the 65 "priority" pollutants and classes of pollutants "toxic" under section 307(a) of the Act. The "priority" pollutants have been relatively unknown outside the scientific community, and those engaged in wastewater sampling and control have had little experience dealing with these pollutants. Additionally, these pollutants can often appear and can have toxic effects at concentrations that severely tax current analytical techniques. Even though Congress was aware of the state-of-the-art difficulties and expense of toxics control and detection, it directed EPA to act quickly and decisively to detect, measure, and regulate these substances.

EPA's implementation of the Act is described in this section and succeeding sections of this notice. Initially, because in many cases no public or private agency had done so, EPA, its laboratories, and consultants had to develop analytical methods for toxic pollutant detection and measurement (see section IV of this notice). EPA then gathered technical and economic data about the industry, which are also summarized in Section IV. A number of steps were involved in arriving at the proposed limitations.

First, EPA studied the ore mining and dressing industry to determine whether differences in raw materials; final products; manufacturing processes; equipment, age, and size of plants, water usage; wastewater constituents; or other factors required the development of separate effluent limitations and standards for different subcategories and segments of the industry. This study included identifying raw waste and treated effluent characteristics, including: the sources and volume of water used, the processes employed, the sources of pollutants and wastewater in the plant and the constituents of wastewater, including toxic pollutants. EPA then identified the constituents of wastewaters that should be considered for effluent limitations guidelines and standards of performance.

Next, EPA identified several distinct control and treatment technologies, including both in-plant and end-of-process technologies, that are in use or capable of being used in the ore mining and dressing industry. The Agency compiled and analyzed historical and newly generated data on the effluent quality resulting from the application of these technologies. The long-term performance, operations, limitations, and reliability of each treatment and control technology were also identified. In addition, EPA considered the non-water quality environmental impacts of these technologies, including impacts on air quality, solid waste generation, water availability, and energy requirements.

The Agency then estimated the costs of each control and treatment technology from unit cost curves developed by standard engineering analyses as applied to ore mining and dressing wastewater characteristics. EPA derived unit process costs from representative plant characteristics (production and flow) applied to each treatment process (i.e., secondary settling, pH adjustment and settling, granular-media filtration, etc.). These unit process costs were added to yield total cost at each treatment level. After confirming the reasonableness of this methodology by comparing EPA cost estimates with treatment systems supplied by the industry, the Agency evaluated the economic impacts of these costs. (Costs and economic impacts are discussed in detail under the various technology options and in section XVII of this preamble.)

After considering these factors, EPA identified various control and treatment technologies as BAT and BADT (Best Available Demonstrated Technology). The proposed regulation, however, does not require the installation of any particular technology or limit the choices of technologies that may be used in specific situations. Rather, it requires achievement of effluent limitations that represent the proper design, construction, and operation of these or equivalent technologies.

The effluent limitations for ore mining and dressing BAT, BCT, and NSPS are expressed in concentrations (e.g., milligrams of pollutant per liter of wastewater) rather than loading per unit(s) of production (e.g., kg of pollutant per metric ton of product) because correlating units of production and wastewater discharged by mines and mills was not possible for this category. The reasons are:

(1) The quantity of mine water discharged varies considerably from mine to mine and is influenced by topography, climate, geology (affecting infiltration rates) and the continuous nature of water infiltration regardless of production rates. Mine water may be generated and required to be treated and discharged even if production is reduced or terminated.

(2) Consistent water use and loss relationships for ore mills could not be derived from facility to facility within a subcategory because of wide variations in application of specific processes. The subtle differences in ore mineralogy and process development may require the use of differing amounts of water and process reagents but do not necessarily require different wastewater treatment technology(ies).

The Agency is not proposing pretreatment standards because it does not know of any existing facilities that discharge to POTWs or any that are planned.

IV. Data-Gathering Program

(A) Sampling and Analytical Methods

As Congress recognized in enacting the Clean Water Act of 1977, the state-of-the-art ability to monitor and detect toxic pollutants is limited. Most toxic pollutants were relatively unknown until only a few years ago, and only on rare occasions has EPA regulated or has industry monitored or even developed methods to monitor these pollutants. Section 304(h) of the Act, however, requires the Administrator to promulgate guidelines to establish test procedures for the analysis of toxic pollutants. As a result, EPA scientists, including staff of the Environmental Research Laboratory in Athens, Georgia, and staff of the Environmental Monitoring and Support Laboratory in Cincinnati, Ohio, conducted a literature search and initiated a laboratory program to develop analytical protocols. The analytical techniques used in this rulemaking were developed concurrently with the development of general sampling and analytical protocols and were incorporated into the protocols ultimately adopted for the study of other industrial categories. See *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants*, revised April 1977.

Because section 304(h) methods were available for most toxic metals, pesticides, cyanide and phenolics (4AAP), the analytical effort focused on developing methods for sampling and analyses of organic toxic pollutants. The three basic analytical approaches considered by EPA are infrared spectroscopy (IS), gas chromatography (GC) with multiple detectors, and gas chromatography/mass spectrometry (GC/MS). Evaluation of these alternatives led the Agency to propose analytical techniques for 113 toxic organic pollutants (see 44 FR 69464, December 3, 1979, amended 44 FR 75020, December 18, 1979) based on: (1) GC with selected detectors, or high-performance liquid chromatography (HPLC), depending on the particular pollutant and (2) GC/MS. In selecting among these alternatives, EPA considered their sensitivity, laboratory availability, costs, applicability to diverse waste streams from numerous industries, and capability for implementation within the statutory and court-ordered time constraints of EPA's program. The rationale for selecting the proposed analytical protocols may be found in 44 FR 69464 (December 3, 1979).

In EPA's judgment, the test procedures used in this rulemaking represent the best state-of-the-art methods for toxic pollutant analyses available when this study was begun. As state-of-the-art technology progresses, future rulemaking will be initiated to evaluate, and if necessary, incorporate these changes.

Before analyzing ore mining and dressing wastewater, EPA defined specific toxic pollutants for the analyses. The list of 65 pollutants and classes of pollutants potentially includes thousands of specific pollutants, and the expendure of resources in government and private laboratories would be overwhelming if analyses were attempted for all these pollutants. Therefore, to make the task more manageable, EPA selected 129 specific toxic pollutants for study in this

rulemaking and other industry rulemakings.

In general, EPA collected four types of samples from each sampling point: (1) a 9.6 liter, 24-hour composite sample used to analyze metals, pesticides, PCBs, asbestos, organic compounds, and the classical parameters; (2) a 1-liter, 24-hour composite sample used to analyze total cyanide; (3) a 0.47-liter, 24-hour composite sample to analyze total phenolics (4AAP); and (4) two 125-ml grab samples to analyze volatile organic compounds by the "purge and trap" method.

EPA analyzed for toxic pollutants according to groups of chemicals and associated analytical schemes. Organic toxic pollutants included volatile (purgeable), base-neutral and acid (extractable) pollutants, and pesticides. Inorganic toxic pollutants included toxic metals, cyanide, and asbestos (chrysotile and total asbestiform fibers).

The primary method used in screening and verification of the volatile, base-neutral, and acid organics was gas chromatography with confirmation and quantification on all samples by mass spectrometry (GC/MS). Phenolics (total) were analyzed by the 4-aminoantipyrine (4AAP) method. GC was employed for analysis of pesticides with limited MS confirmation. The Agency analyzed the toxic metals by atomic adsorption spectrometry (AAS), with flame or graphite furnace atomization following appropriate digestion of the sample. Samples were analyzed for total cyanide by a colorimetric method, with sulfide previously removed by distillation. Asbestos was analyzed by transmission electron microscopy and fiber presence reported as chrysotile and total fiber counts. EPA analyzed for seven other parameters including: pH, temperature, TSS, VSS, COD, TOC, iron, aluminum, and radium 226 (total and dissolved).

The high costs, time-consuming nature of analysis, and limited laboratory capability for toxic pollutant analyses posed considerable difficulties to EPA. The cost of each wastewater analysis for organic toxic pollutants ranges between $650 and $1,700, excluding sampling costs (based on quotations recently obtained from a number of analytical laboratories). Even with unlimited resources, however, time and laboratory capability would have posed additional constraints. Efficiency is improving, but when this study was initiated, a well-trained technician using the most sophisticated equipment could perform only one complete organic analysis in an eight-hour workday. Moreover, when this rulemaking study began only about 15 commercial laboratories in the United States could perform these analyses. Today, EPA knows of over 50 commercial laboratories that can perform these analyses, and the number is increasing as the demand increases.

In planning data generation for this rulemaking, EPA considered requiring dischargers to monitor and analyze toxic pollutants under section 308 of the Act. The Agency did not use this authority, however, because it was reluctant to increase the cost to the industry and because it desired to keep direct control over sample analyses in view of the developmental nature of the methodology and the need for close quality control. In addition, EPA believed that the slow pace and limited laboratory capability for toxic pollutant analysis would have hampered mandatory sampling and analysis. Although EPA believes that available data support these regulations, it would have preferred a larger data base for some of the toxic pollutants and will continue to seek additional data. EPA will periodically review these regulations, as required by the Act, and make any revisions supported by new data.

(B) Data Gathering Efforts

Data gathering for the ore mining and dressing industry included an extensive collection of information:

(1) Screening and verification sampling and analysis programs
(2) Engineering cost site visits
(3) Supporting data from EPA regional offices
(4) Treatability studies
(5) Industry self-monitoring sampling
(6) BPT data base
(7) Placer study
(8) Titanium sand dredges study
(9) Uranium study

EPA began an extensive data collection effort during 1974 and 1975 to develop BPT effluent standards. These data included results from sampling programs conducted by the Agency at mines and mills and an assimilation of historical data supplied by the industry, the Bureau of Mines, and other sources. This information characterized wastewaters from ore mining and milling operations according to what were then considered key parameters—total suspended solids, pH, lead, zinc, copper, and other metals. However, little information on other environmental parameters, such as other toxic metals and organics, was available from industry or government sources. To establish the levels of these pollutants, the Agency instituted a second sampling and analysis program to specifically address these toxic substances, including 129 specific toxic pollutants for which regulation was mandated by the Clean Water Act.

EPA began the second sampling and analysis program (screening and verification sampling) in 1977 to establish the quantities of toxic, conventional, and nonconventional pollutants in ore mine drainage and mill processing effluents. EPA visited 20 and 14 facilities respectively for screening and verification sampling.

EPA selected at least one facility in each major BPT subcategory. The sites selected were representative of the operations and wastewater characteristics present in particular subcategories. To determine these sites, the Agency reviewd the BPT data base and industry as a whole, with consideration to:

(1) Those using reagents or reagents constituents on the toxic pollutants list;
(2) Those using effective treatment for BPT regulated pollutants;
(3) Those for which historical data were available as a means of verifying results obtained during screening;
(4) Those suspected of producing wastewater streams that contain pollutants not traditionally monitored. These facilities were visited from April through November 1977.

After reviewing screen sampling analytical results, EPA selected 14 sites for verification sampling visits. Because most of the organic toxic pollutants were either not detected or detected only at low concentrations in the screen samples, the Agency emphasized verification sampling for total phenolics (4AAP), total cyanide asbestos (chrysotile), and toxic metals.

EPA revisited six of the facilities to collect additional data on concentrations of total phenolics (4AAP) total cyanide, asbestos (chrysotile), and to confirm earlier measurements of these parameters.

After completing verification sampling, EPA conducted sampling of two additional sites. At one molybdenum mill operation, a complete screen sampling effort was performed to determine the presence of toxic pollutants and to collect data on the performance of a newly installed treatment system. The second facility, a uranium mine/mill, was sampled to collect data on a facility removing radium 226 by ion exchange. Samples collected at this facility were not analyzed for organic toxic pollutants.

The Agency conducted a separate sampling effort to evaluate treatment technologies at Alaskan placer gold mines. This study was undertaken because gold placer mining was reserved under BPT rulemaking and

because little data were previously available on the performance of existing treatment systems.

Industrial self-sampling was conducted at three facilities visited during screen sampling to supplement and expand the data for these facilities. The programs lasted from two to twelve weeks. EPA selected two operations because they had been identified during the BPT study as two of the best treatment facilities; the third because additional data on long-term variations in waste stream characteristics at these sites were needed to supplement the historical discharge monitoring data, to reflect any recent changes or improvements in the treatment technology used, and to confirm that variations in raw wastewater levels did not affect concentrations in treated effluents.

The Agency's regional surveilliance and analysis groups performed additional sampling at fourteen facilities: nine in Colorado, Idaho, Wyoming, and Montana; one in Arkansas; and four in Missouri.

Discharge monitoring reports were collected from EPA regional offices for many of the ore producing facilities with treatment systems. These data were used in evaluating the variations in flow and wastewater characteristics associated with mine drainage and mill wastewater.

The Agency took samples during the cost-site visits, although the primary reason for the visits was to collect data that would assist the Agency in developing unit process cost curves and that would verify the cost assumptions made. However, since many of the sites had been sampled previously, the new sampling data obtained served as additional verification of waste characterization data.

EPA conducted thirteen treatability studies to characterize performance of alternative treatment technologies on ore mine and mill wastewaters. Secondary settling, flocculation, granular media filtration, ozonation, alkaline chlorination and hydrogen peroxide treatment (described in detail in section VI) were all examined in bench- and pilot-scale studies. The data obtained from these studies were compared with data obtained on the performance of these systems in actual operation on pilot and full scale. In addition, the data were used to determine the range of variability that might be expected for these technologies, especially during periods of steady running.

EPA obtained the data for its economic analysis primarily from a survey conducted under section 308 of the Clean Water Act. The Agency sent questionnaires to 136 companies engaged in mining and milling of metal ores. The data collected included production levels, employment, revenue, operatng costs, working capital, ore grade, and other relevant information. The economic survey data were supplemented by data from government publications, trade journals, and visits to several mine/mills.

V. Industry Subcategorization

All industries vary among facilities with respect to raw materials and other factors which can affect wastewater characteristics and treatment technology. These factors in the ore mining and dressing industry are extraordinarily diverse. Therefore, EPA had to decide on a subcategorization which would, adequately account for important differences among different types of mines and mills. On the other hand, many differences are simply not relevant to the issue underlying subcategorization—whether the effluent limitations for plants in one group should differ from those in another group.

The BPT subcategorization scheme was based on several factors that the Agency deemed important in subcategorizing the industry for BAT. Ore mineralogy was a useful method for initially subcategorizing the industry. Generally, the type of ore is one factor in determining the types of pollutants found in wastewater, and hence the treatment technology required. For example, wastewater associated with uranium ore contains radium 226 and uranium, which require treatment technologies not needed for iron ore wastewater. On the other hand, wastewater from lead, zinc, or copper facilities contains a variety of toxic metals not associated with uranium ores.

However, in some cases, wastewater characteristics, treatment technology, and achievable effluent limitations are independent of ore type. This is particularly true for copper, lead, zinc, gold, and silver ores which are processed by froth flotation. Moreover, these metals are frequently found together in the same ore.

Thus, the BPT regulations subcategorized the industry first by basic ore type: iron ore, base and precious metals (including copper, lead, zinc, gold, platinum and silver), aluminum, ferroalloy, uranium, radium and vanadium, mercury, and titanium.

EPA subdivided each subcategory on the basis of whether the discharger is a mine or a mill, since the flow of minewater may vary considerably and untreated mine water generally contains lower concentrations of most pollutants than untreated mill process water.

EPA further subdivided some subcategories according to the type of beneficiation process employed. Flotation processes, for example, significantly change the character of mill effluent because of pH control, which is needed to maximize metals recovery, and addition of chemical reagents during the mill process. Consequently, flotation processes create different kinds of wastewater than other beneficiation processes. Moreover, EPA determined that for some beneficiation processes, zero discharge of process wastewater was a proper BPT requirement.

In *Kennecott Copper Corp.* v. *EPA, supra,* the court upheld the Agency's BPT subcategorization scheme against industry challenge (with one minor exception not pertinent here). Consequently, the Agency has retained the BPT subcategorization scheme, with a few minor adjustments.

Subpart D of the BPT regulations created a subcategory consisting of ferroalloy ores, which include chromium, cobalt, columbium, tantalum, manganese, molybdenum, nickel, tungsten, and vanadium (recovered alone, not as a byproduct of uranium mining or milling). EPA made a further subdivision that was based on whether more or less than 5,000 tons per year is processed. However, more recent data show that wastewater from molybdenum mines and mills is like the discharges from facilities in the BPT base and precious metals subcategory—that is, mines and mills extracting copper, lead, zinc, gold, or silver (see 40 CFR Subpart B). Consequently, this proposed regulation move molybdenum mines and mills into the Copper, Lead, Zinc, Gold, Silver, Platinum, and Molybdenum Subcategory (see 40 CFR 440.120). (There are three known molybdenum mines and three mills, all of which process more than 5,000 tons per year.)

In the BPT ferroalloy subcategory, one nickel mine remains and one vanadium mine and mill. Except for tungsten, all other ores are recovered as byproducts of ores directly regulated under other subcategories. The Agency has commissioned studies to consider more closely the nickel and vanadium facilities. After reviewing these data, EPA will take appropriate action. Accordingly, this rulemaking creates subcategories for nickel and vanadium, with limitations reserved. (See 40 CFR 440.90, 440.100).

Tungsten mines and mills, however, would be regulated under this rulemaking (see 40 CFR 440.80). Unlike the BPT requirements, this rulemaking makes no distinctions about facility size. Seven tungsten mines and two mills are known which process more than 5,000 tons per year. Mines and mills with smaller production are generally intermittent operations, which open and close frequently. In addition, EPA believes that many of these facilities are dry and do not discharge. Because of their intermittent nature, these facilities are difficult to locate and thus, the Agency lacks extensive data on them. However, EPA has no information at this time indicating that a separate subcategory should be created, for BAT limitations, for tungsten mines based on size. Tungsten facilities processing less than 5,000 tons per year are encouraged to submit all pertinent information during the comment period on these proposed regulations.

These effluent limitations are applicable to facilities discharging water from ore mining and milling operations. However, some operations, known as complex facilities, combine waste streams from other processes such as refining and smelting with their ore mining and milling wastes, and this combined waste stream is then treated for discharge. BPT effluent limitations are not directly applicable to these complex facilities, but provide a basis for facility-specific limitations (see 43 FR 29771). During the BAT study, EPA gathered additional data on 3 facilities that are known to be complex facilities: White Pine Copper Division, Copper Range Co., White Pine Michigan; Kennecott Copper Corp., Utah Copper Division (Treatment plant effluent only), Salt Lake City, Utah, and Bunker Hill Co., Kellogg, Idaho. EPA considered creating a separate subcategory for all the complex facilities or a separate subcategory for each of the complex facilities.

We have, however, decided not to propose such regulation and instead have prepared a separate report on each of the 3 facilities to be used as guidance documents by the permitting authority in issuing NPDES permits. In effect, each facility will be given effluent limitations that will take into account BAT mine and mill guidelines, treatability of waste streams, and smelter and refining guidelines.

BAT effluent limitations for smelters and refineries Nonferrous Metals Manufacturing, were promulgated February 27, 1975 (40 FR 8527), but, as a result of the 1977 amendments to the Act addressing the control of toxics, is being reviewed. The Agency will be proposing revised BAT limits for smelters and refineries

VI. Available Wastewater Control and Treatment Technology

(A) Status of In-Place Technology

BPT regulations for the ore mining and dressing industry have been in effect since 1978. The treatment technologies required to meet these limitations vary somewhat from subcategory to subcategory. In general, mines and mills use wastewater treatment that includes chemical precipitation (usually with lime) of metals by elevation of pH, followed by settling to remove solids. Use of flocculation aids, such as alum or polyelectrolytes, was identified as a BPT technology for treatment of mine drainage and mill process water in the iron ore subcategory (except for the Mesabi Range mills, where zero discharge was specified). Secondary settling and flocculation chemicals were identified as BPT treatment technologies for mine drainage in the ferroalloy ore (tungsten ore) subcategory. In the uranium ore subcategory, for mine drainage and mill process water, BPT treatment included chemical precipitation of metals, settling, ion exchange (for uranium), and secondary settling. Throughout the industry, EPA found facilities that employed these technologies to various degrees to suit their specific situation(s). In fact, several facilities used settling alone to achieve BPT limitations.

(B) Control Technologies Considered for Use in the Industry

Current industry practices and other available wastewater treatment technologies considered for control of the pollutants discharged by the ore mining and dressing industry include secondary settling, flocculant addition, additional pH adjustment, granular media filtration, use of mechanical clarifiers, activated carbon adsorption, sulfide precipitation, ion exchange, ozonation, alkaline chlorination, hydrogen peroxide oxidation, and partial or total recycle. All these technologies are considered to be "add-on" technologies to the basic BPT treatment schemes, which EPA assumes are already in place. The "add-on" element is taken into account both in the evaluation of achievable effluent pollutant levels and in the cost estimates prepared for each facility.

A number of facilities may be able to meet BAT limitations more stringent than BPT limitations by optimizing their present treatment system. In addition, many facilities may employ additional process controls rather than additional treatment technologies to achieve more stringent limitations. Specific facilities may be able to meet more stringent limitations without installation of the technologies identified above. For example, inital raw wastewater pollutant concentrations may be low; or particle size distributions may be amenable to rapid settling and thus effect removal of suspended solids and contained metals, in primary settling ponds. Regardless, for each technology studied, the limitation can be achieved provided the technologies are operated optimally.

Wastewater treatment technologies were evaluated for applicability to the pollutant parameters of concern, appropriateness for the wastewater volume and pollutant concentrations found in this industry, and economic achievability. The technologies that fulfilled these criteria are described below.

Pollutant levels or concentrations achievable by these technologies were determined using data from sampling and analysis at existing facilities, together with data from 13 treatability studies and data provided by the industry.

(1) *Toxic Metals and TSS Removal.*

Secondary Settling

Settling ponds are frequently used in a multiple arrangement, in which one or more settling ponds are added in series with primary settling ponds. The purpose of this scheme is to further reduce suspended solid loading in the sequential ponds. It may also be used to allow the use of chemical precipitation, pH control, or coagulants or flocculations before discharge or recycle. Unaided secondary settling is most effective when existing conditions are not ideal in the primary settling ponds. It provides additional residence time in the treatment system and affords additional removal of suspended solids and associated heavy metals. At least 17 facilities practice secondary or mutliple pond treatment.

Coagulation/Flocculation

In coagulation and flocculation, chemical coagulants act to destabilize colloidal solids, causing them to gather together in a floc and settle. The primary purpose of chemical coagulation or flocculant addition to wastewater is to increase the size of settling particles by forming flocs of individual particles that act as a single large particle, which settles faster than individual particles. These chemicals typically are added upstream of sedimentation ponds,

clarifiers, or filter units. This practice has demonstrated improved metals removal due to the formation of flocs, which appear to be effective in adsorbing and absorbing fine metal hydroxide precipitates (particles) formed either naturally or by pH adjustment using lime.

Over ten facilities in the industry now practice this type of treatment.

pH Adjustment and Settling

Adjustment of pH, usually with lime, changes the solubility of many dissolved metals, causing them to precipitate as a solid. These precipitated metals are then removed with other solids through settling. This technology is commonly used in the industry and is the basis for BPT in most subcategories. It is considered again because the process can be applied or optimized with the potential for significantly improved metals removal in some subcategories. For example, a treatment system operated at a pH of 7 can often improve dissolved metals removal by increasing the pH to 9 while maintaining the same settling time.

Granular Media Filtration

Filtration is accomplished by passing water through a physically restrictive medium (such as sand), thereby entrapping suspended particulate matter. Filtration systems are usually located downstream of primary settling ponds and work best when applied to waste streams having TSS loads of 50 mg/l or less. Filtration can be used to remove a wide range of suspended particle sizes. Next to gravity sedimentation (unaided settling), granular-media filtration is the most widely used process for the separation of solids from wastewater. Ultimate clarification of the filtered water is a function of particle size, filter medium porosity, filter loading rate, frequency of backwash, and other variables. This technology has been demonstrated in both industrial and municipal applications and is cost-effective in relation to other technologies when reductions to 10 mg/l TSS are required. During periods of steady operation of properly sized and designed units, granular media filters have consistently demonstrated the ability to achieve proposed limitations for TSS and metals. Reduction of metals is a function of the metals contained in the solids (particles of ores, waste rock, tailings, and solids formed during lime precipitation of dissolved metals).

Clarifiers

Clarifiers are large tanks that have systems to direct and segregate solids. The design of these devices provides for concentration and removal of suspended and settleable solids in one effluent stream and a clarified liquid in the other. Clarified waters with extremely low solids contents may be produced through proper design and application. Settled solids from clarifiers are removed periodically or continuously for either disposal or recovery of contained values. The use of clarifiers improves treatment efficiency, reduces the area needed for tailing ponds, and facilities the reuse or recycle of water in the milling operation. The use of flocculants to enhance the performance of clarifiers is common practice. In this industry, clarifiers have their greatest use when the additional space for more settling ponds is not available or topography precludes construction of ponds.

Complete Recycle

Raw wastewater discharged from a typical ore mill is usually routed to a settling pond for suspended solids and metals removal. In complete recycle, all treated water is routed back to the mill for reuse in the beneficiating process. Facilities that use recycle are often in arid regions because of the scarcity of available water. Many facilities both in arid and humid regions recycle at least a portion of their process wastewater.

Complete recycle of mine drainage is generally not a viable option. Except for small amounts of water used in dust control, cooling, drilling fluids, and transport fluids for sluicing tailings back to the mine, water is not widely used in mines. In some cases, mine drainage is used by the mill as process water in beneficiation. However, the volume of mine drainage may exceed the mill's requirement for process water, making complete reuse unachievable.

(2) *Cyanide Removal.*

Three technologies, alkaline chlorination, ozonation, and hydrogen peroxide oxidation were considered to convert cyanide into the nontoxic gases carbon dioxide (CO_2) and nitrogen (N_2). These technologies do not remove toxic metals. Cyanide appears in wastewater as the result of two processes used in the ore mining and dressing industry: (1) the cyanidation leach process used primarily for gold recovery and (2) the froth flotation process in which cyanide componds are used as selective reagents. Under BPT, wastewater from the cyanide leach process for gold was subject to no discharge. The cyanide limits for the froth flotation mills under the base and precious metals ores were later withdrawn because of an inadequate data base. Raw wastewater from froth flotation mills typically contains some total cyanide, but the highest treated effluent level measured was less than 0.4 mg/l. A few mines in the industry practice hydraulic backfilling of mines with tailings from froth flotation process, and in these cases, cyanide is found in the mine drainage in concentrations less than those found in the mill discharge.

Specific technology for destruction of cyanide is not used at most domestic mine/mill operations that use cyanide. Such technology is generally not necessary because in-process controls and retention of wastewater in tailing ponds have reduced cyanide concentrations to less than detectable. The mechanism of cyanide decomposition within a tailing pond is throught to involve photo-decomposition by ultraviolet light, aeration, and biological oxidation.

Some domestic and foreign mine/mill operations have investigated and implemented specific technologies for cyanide oxidation. The technologies most applicable to mine/mill wastewater are discussed below.

Alkaline Chlorination

In alkaline chlorination, free cyanide (CN) is oxidized to cyanate (CNO-), then to carbon dioxide (CO_2) and free nitrogen (N_2). One facility in the industry now has an alkaline chlorination system in operation as a standby treatment if an emergency discharge should occur (mill treatment system is no discharge). A major mill has installed a full-scale system (2000 gpm). Several other facilities are performing treatability studies to determine the applicability and economics of operation of this technology.

The process uses free chlorine or sodium hypochlorite at a pH above 10. Reagent dosage, contact time, and the number of stages must be suited to the wastewater in question. Optimization of this process is best done using pilot-scale testing. Advantages to the use of alkaline chlorination include relatively low reagent costs, applicability of automatic process control, and experience with its use in other industries (e.g., electroplating).

Ozonation

In the ozonation process, the highly reactive ozone (O_3) molecules readily liberate oxygen atoms, which then react with cyanide to form cyanate very rapidly. Complete oxidation to CO_2 and N_2 occurs over a longer period of time (perhaps 30 minutes) with a higher concentration of ozone. Cyanide oxidation to cyanate is very rapid (10 to 15 minutes) at pH 9 to 12 and is

practically instantaneous if copper is present.

Ozone also oxidizes other organic compounds if sufficient ozone and retention time are provided. However, the concentrations of compounds, such as phenol are already very low and may be below the levels at which this treatment may be applied economically.

Hydrogen Peroxide Oxidation

This process uses hydrogen peroxide to oxidize cyanide. In practice, a 30 percent solution is usually used at an alkaline pH with a copper catalyst. A patented process is also commercially available, which is capable of oxidizing cyanide to cyanate. This process has been successfully employed at one molybdenum mining and milling facility to treat relatively low concentrations of cyanide and reduce effluent levels to near detection limit.

In-Process Control of Cyanide

As noted, sodium cyanide is used as a reagent in the froth flotation process. Control of sodium cyanide dosages is important for optimal recovery and purity of the ore concentrate, for control of reagent costs, and for quality of the facility wastewater effluent. An insufficient amount of reagent may seriously reduce recovery but an excess amount seldom affects recovery except in extreme dosages. As a result, mills may tend to overshoot the necessary dosage. Therefore, improvements in control and reduction of cyanide dosage to the absolutely necessary level will result in lowered effluent cyanide levels. Seven mills in the industry have installed on-line X-ray analysis systems of ore feed. Other mills have replaced valve operated reagent feeders with metered feeders, such as the Clarkson or Geary feeder, which maintain constant flow. Use of these technologies to influence the amount of cyanide fed to the process insures that the proper amount of reagent required is added and reduces the possibility of "overshooting" the correct dosage.

Reagent Substitution

Research sponsored by EPA shows that, in some cases, sodium sulfite or sodium monosulfide can replace sodium cyanide as reagents in froth flotation. In fact, one mill in the ore industry uses sodium sulfide and another uses sodium bisulfide in its froth flotation process. However, the successful use of cyanide alternatives would generally require readjustment (for maximum recovery) of the process and adjustment of other reagent concentrations at the flotation mill. The degree of effectiveness of any given reagent varies, depending on the properties of the ore at a particular location. The Agency has not been able to determine whether reagent substitution is feasible on an industry-wide basis.

(c) *Cost Development.*

EPA determined the costs of applying these technologies by obtaining cost data from equipment manufacturers and by applying standard engineering data and cost estimation techniques (see section IX of the development document). The Agency then assessed the impact of these costs on individual companies, the subcategories within the industry, and the industry as a whole.

None of the in-plant control or end-of-pipe treatment technologies studied in the development of these regulations is considered innovative within section 301(k) of the Clean Water Act. All the in-plant controls and process modifications described in this notice, and in greater detail in the development document, have either been used or investigated for use in this industry and do not represent major process changes in cyanide control. The end-of-pipe treatment technologies have also been applied in this and other industries.

VII. Substantive Change From Prior Regulations

This proposed rulemaking requires no more stringent effluent limitations in most instances than do the BPT regulations applicable to this industry. However, today's proposal would differ from the BPT requirements in the following respect.

Storm Provision

The BPT regulation states that:

> Any excess water, resulting from rainfall or snowmelt, discharged from facilities designed, constructed, and maintained to contain or treat the volume of water which would result from a 10-year, 24-hour precipitation event, shall not be subject to the limitations set forth in 40 CFR 440.
> 40 CFR 440.81(c) (1980).

This provision was further clarified by EPA on February 8, 1979 (see 44 FR 7954). As explained in that notice, the storm provision modifies the requirements for both mill process water and mine.

> The (BPT) regulations are intended to require that, if a holding facility * * * is designed, constructed, and maintained to hold a volume of water equal to (1) all process water applied by the operator to the active leach area plus (2) a volume of storm water which, during a 10-year, 24-hour storm event, falls on the area which drains into such holding facility, then any excess water discharged * * * may be discharged.
> (44 FR 7954 (February 8, 1979))

The storm provision modified the effluent requirements for mine drainage in similar fashion. *Id.*

The storm provision proposed in this rulemaking would differ slightly depending on whether or not a facility must achieve no discharge. Under the BPT provision, the storm exemption in all cases is predicated on a design volume criterion—that the facility be constructed and operated to provide proper treatment or containment of (1) process water and (2) a volume of water equal to the volume that would result from a 10-year, 24-hour storm. If the facility met that volume criterion, the storm provision could apply during a storm of any magnitude. In short, the storm exemption was tied to a design volume, not to a design storm event.

However, this proposed rulemaking ties the storm exemption to the 10-year, 24-hour storm event for new sources subject to no discharge requirements. For example, wastewater from a copper dump leach operation, which is subject to no discharge (40 CFR 440.124), must be contained, including all storm runoff draining into the holding pond. Process wastewater may be discharged only when a 10-year, 24-hour or larger precipitation event occurs. For facilities not subject to no discharge (e.g., existing froth flotation mills and existing and new source mine drainage), the storm provision remains tied to a design volume criterion. The Agency recognizes that these facilities, which frequently have a continuous discharge, may not be able to meet the prescribed effluent limitations during storms smaller than a 10-year event.

VIII. Pollutant Parameter Selection

(A) Pollutants Not Regulated

The Revised Settlement Agreement discussed in Sections I and II authorizes the exclusion from regulation, in certain instances, of pollutants and industry subcategories. Data collected by EPA and individual companies within the industry were used in deciding which specific toxic pollutants would be excluded.

Paragraph 8(a)(iii) of the Revised Settlement Agreement allows the Administrator to exclude from regulation toxic pollutants not detectable by section 304(h) analytical methods or other state-of-the-art methods. This provision includes pollutants below EPA's nominal detection limit. In addition, Paragraph 8(a)(iii) allows the exclusion of pollutants that were detected in amounts too small to be effectively reduced by technologies known to the

Administrator. Pollutants excluded under these provisions are listed in Appendices B, C and D. One hundred and thirteen toxic organics, cyanide and six toxic metals are excluded from regulation under these provisions.

Cyanide, as measured by the EPA-approved method for total cyanide, is subject to 100-percent error when applied to the concentrations found in the discharges from the ore mining and dressing point source category. Problems were frequently encountered with quality control and analysis of cyanide in mining wastewater samples using the EPA-approved Belack Distillation method. A study of the analysis of cyanide in ore mining and processing wastewater was conducted in cooperation with industry, EPA's EMSL laboratory in Cincinnati, and private chemical laboratories. (Section V of the development document presents a discussion of this study).

This study indicates that any limitation for cyanide from this industry must allow an analytical measurement of up to 0.4 mg/1 for total cyanide, where the sample is collected as a grab sample. Because of inprocess controls on the use of cyanide which have been implemented by the industry and the natural aeration that occurs in the BPT systems designed essentially for the removal of metals and TSS, all of the effluent data on total cyanide and many existing permit conditions show concentrations below 0.4 mg/1. Therefore, further reduction of cyanide is unnecessary and beyond the technologies known to the Administrator.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation pollutants detected in the effluent of only a small number of sources within the category and uniquely related to those sources. The toxic organic pollutant, 2,4-dimethylphenol, was detected in the effluent at only one facility (9202) during the screen sampling program. Aerofloat TM, used as a flotation agent in ore beneficiation at this facility, is a precursor of 2,4-dimethylphenol. Thus, 2,4-dimethylphenol is excluded under this provision.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation pollutants that are effectively controlled by the technology upon which other effluent limitations and guidelines are based. The Agency believes that the technology upon which BPT and BCT effluent limitations for TSS are based will effectively control the toxic pollutant asbestos (chrysotile). As discussed in Section X of this notice, BCT limitations for TSS are established equal to BPT limitations.

Furthermore, the Agency believes that arsenic and nickel found in discharges from ore mining and dressing are adequately controlled by the incidental removal associated with the control and removal of other metals found in the discharges from this industry, e.g., copper, lead, mercury, and zinc. Where any of these metals are limited, they are also found in the raw discharge and if controlled to the limitations specified, any arsenic and nickel in the raw discharge would be reduced to levels that would be proposed if arsenic and nickel were controlled directly (see section X of the development document).

Paragraph 8(a)(i) allows the exclusion of specific pollutants or subcategories for which equal or more stringent protection is already provided by an effluent standard, new source performance standard, or pretreatment standard. EPA proposes to exclude particular subcategories and subparts as listed in Appendix G where BPT provides protection equal to those options considered for BAT.

In addition to the toxic pollutants excluded for all subcategories, EPA is proposing to exclude certain toxic pollutants from particular subcategories and subparts. These pollutants were either not detected or detected in particular subcategories and subparts and then excluded because the pollutants were present in amounts too small to be effectively reduced by technologies known to the Administrator. See Appendix H for pollutants excluded by subcategory and subpart.

In addition to the toxic pollutants excluded for subcategories and subparts, EPA is proposing to exclude from BAT the uranium mill subpart of the uranium ore subcategory. A subcategory or subpart may be excluded for a specific pollutant if the pullutant is detectable in the effluent from only a small number of sources within the subcategory or subpart and the pollutant is uniquely related to these sources. Currently eighteen of nineteen existing uranium mills achieve zero discharge of process wastewater. In addition, the Agency knows of no uranium mill that commingles its process wastewater with mine drainage and it is anticipated that none of these zero discharge mills would elect to treat and discharge at the BPT limitations because of the expense to install BPT, i.e., ion exchange, ammonia stripping, lime precipitation, barium chloride coprecipitation, and settling. Therefore, the pollutants detected in the uranium mill subpart are uniquely related to one point source, the single discharging mill, and the uranium mill subpart is excluded from BAT under the provision. However, as discussed in section XI of this preamble, NSPS is proposed at zero discharge.

The limitations in this regulation have been developed to apply to the general case for this industry category. In specific cases, the NPDES permitting authority may have to establish permit limits on toxic pollutants that are not subject to limitations in this regulation (see Section XVII of this preamble).

(B) Regulated Pollutants

The basis on which the controlled pollutants were selected is set out in Section VII of the development document.

(1) *BAT and NSPS.* Five toxic pollutants found in the ore mining and dressing wastewaters are controlled, except when excluded by criteria described in subsection (A) above. BAT limitations and NSPS are being established for cadmium, copper, lead, mercury, and zinc in particular subcategories and subparts.

In addition to the control of toxics, nonconventional pollutants which were regulated under BPT are being controlled in BAT. Effluent limitations are being established for: radium 226 (total and dissolved), uranium, aluminum, and iron (total and dissolved) in the same subcategories and subparts where these pollutants were regulated in BPT.

Pollutants are subject to limitations expressed in milligrams per liter or milliliters per liter for settleable solids. The rationale for the development of concentration-based limitations instead of those based on mass loadings is presented in Section III.

Pollutants that were regulated under BPT and have the same requirements under BAT include the toxic metals and the nonconventional pollutants: radium 226 (total and dissolved), uranium aluminum, and iron (total and dissolved).

(2) BCT. Specific effluent limitations based on BPT are being established for TSS and pH. TSS is also used to control the toxic pollutant asbestos (chrysotile). "Asbestiform fibers" are evident in discharges from ore mining and milling facilities, and chrysotile asbestos was detected in wastewaters in all subcategories and subparts. The difficulty and high cost of analyses for asbestos (chrysotile) found in ore mining and dressing wastewaters has prompted EPA to propose an alternative method of regulation. The BPT and proposed BCT

effluent limitations on TSS, discussed in Section X of this notice, will also control asbestos. The data available to EPA show that the reduction of TSS results in a concomitant reduction in asbestos (chrysotile) to levels that the Agency believes are approximately equal to natural background levels. The Agency believes the limitations on TSS will reduce the difficulty, high cost, and delays of pollutant monitoring and analyses that result if compliance monitoring is based on specific effluent limitations on asbestos (chrysotile). EPA estimates that the indirect regulation by TSS rather than direct regulation of asbestos will save each facility between $3,000 and $11,000 annually in monitoring and analysis costs.

In the initial review of the draft technical documents supporting the regulation (see Section XVIII of this preamble), EPA received comments on whether chrysotile asbestos was actually present in some facilities discharges from this industry. If a facility wants to determine whether it is discharging asbestos, the mine or mill operator may monitor for chrysotile asbestos with the limitation of a daily maximum not to exceed 1×10^6 fibers/liter to confirm the absence of asbestos above natural background levels.

IX. BAT Effluent Limitations

The factors considered in assessing BAT include the age of equipment and facilities involved, the process employed, process changes, non-water quality environmental impacts (including energy requirements), and the costs of applying such technology. (Section 304(b)(2)(B)) In general, the BAT level represents the best economically achievable performance of plants of various ages, sizes, processes, or other shared characteristics. Where existing performance is uniformly inadequate in a particular subcategory, BAT may be transferred from a different subcategory or category. BAT may include process changes or internal controls, even when not common industry practice.

The statutory assessment of BAT considers costs but does not require a balancing of costs against effluent reduction benefits. See *Weyerhaeuser v. Costle*, 590 F. 2d 1011 (D.C. Cir. 1978). Nevertheless, in developing the proposed BAT effluent limitations EPA has given substantial weight to the reasonableness of costs. The Agency has considered the volume and nature of discharges, the volume and nature of discharges expected after application of BAT, the general environmental effects of the pollutants, the technical feasibility of implementing the technology, and the costs and economic impacts of the required pollution control levels.

(A) BAT Options for Reduction of Toxic Metal Pollutants

The options considered for BAT are essentially all "add-on" treatment technologies and would be used after treating wastewater in BPT systems (see Section VI (a)).

A study was performed to evaluate the relation of toxic metals to TSS reduction when candidate BAT technologies were applied to ore mining and dressing wastewater (see Section VII of the development document). EPA determined that removing the toxic metals to be regulated is directly correlated to the removal of TSS. Therefore, suspended solids removal technologies can also be used to remove the toxic metals in this industry. These technologies are discussed as options for all subcategories and subparts. (For a discussion of the individual treatment technologies, see Section VI of this preamble.)

Option 1: Secondary Settling. Another settling pond is added in series with any existing ponds required for BPT. EPA estimates that no mines/mills would close as a result of adopting Option 1.

Option 2: Coagulation/Flocculation. Chemical coagulating/flocculating aids are added followed by mixing and settling. EPA estimates that no mines/mills would close as a result of adopting Option 2.

Option 3: Grandular Media Filtration. Granular media, such as sand and anthracite coal, are used to filter out the suspended solids and associated toxic metals. EPA estimates that no mines/mills will close as a result of adopting Option 3.

Option 4: Zero Discharge/Complete Recycle. Mill process water is completely recycled and reused (not once-through mine water used as mill process water). This option was analyzed only for the uranium subcategory. EPA recognizes that some treatment of process water may be required before reuse in the process. EPA estimates that one mine/mill employing 160 persons might close as a result of adopting Option 4. This option was considered for froth-flotation mills, but was rejected for technical reasons because of the potential changes in some of the existing metallurgical processes. Therefore, no economic analysis was conducted for existing froth-flotation mills required to go to zero discharge.

Option 5: BAT Equals BPT. In-place BPT is used. This option is viable if (1) the candidate BAT treatment technologies do not appreciably reduce the levels of toxics below levels in BPT, (2) the levels measured were at or below detection levels, (3) the amount and toxicity of the pollutant does not require further control, or (4) BPT specified no discharge.

(b) *BAT Selection and Decision Criteria Subcategories and Subparts Under Option 5.* Option 5 BAT equals BPT, has been selected for iron ore mills in the Mesabi Range; copper, lead, zinc, silver, gold, platinum and molybdenum, mines and mills that use leach to recover copper, mills that use the cyanidation process to recover gold; and mercury mills, since BPT specified zero discharge of process wastewater. Therefore, no additional reduction of toxic pollutants is possible under BAT for these subparts.

Since the application of candidate BAT did not reduce the levels of the toxic pollutants, this option has also been selected for iron ore mine drainage and mill process water (not in the Mesabi Range), aluminum ore mine drainage (there are no mills), titanium ore mine drainage, mills, and dredges, and mercury ore mine drainage. The concentration levels of toxic metals found in effluents from these subcategories and subparts are at or near detection levels or are found at concentrations below the practical limits of additional technology. Consequently, further reduction of these parameters is not technically or economically justified.

However, BPT controlled certain nonconventional pollutants in these subcategories and subparts, including iron and aluminum. BAT for these subcategories and subparts will control these nonconventional pollutants at BPT levels.

Subcategories and Subparts Under Option 4. Option 4, no discharge, was considered for process wastewater emanating from uranium mills. Of the 19 operating mills, 18 now achieve zero discharge of process wastewater. The Agency believes that uranium mills should be excluded from BAT regulation under paragraph 8 of the Consent Decree (as discussed in Section VIII of this notice).

Subcategories and Subparts Under Option 1. Option 1, secondary settling was considered for copper, lead, zinc, gold, silver, platinum, and molybdenum mine drainage and mill wastewater from froth flotation process, titanium ore mills, and tungsten mine drainage and mill wastewater, but was not chosen.

The effluent limitations considered under this option were derived by the following method: eighteen facilities

throughout the ore mining and dressing industry were identified as using multiple settling ponds; fourteen facilities using coagulation and flocculation; and one facility using granular media filtration. The entire BAT and BPT data base was searched and screened to obtain 17 facilities with data. Of these 17 facilities, 7 were eliminated because the Agency believed that they were not operated properly (e.g., observed short circuiting in the settling ponds) or no raw wastewater data was available to compare with treated effluent.

The facility mean values were ranked for each pollutant from largest to smallest. Since each facility used only one of the candidate BAT treatment technologies, the facility mean also represents a treatment technology mean value. When examining the ranked mean values, EPA observed that mean values for secondary settling were both smaller and larger than those for flocculation and granular media filtration. This variation indicates that the differences between facilities are greater than the differences between treatment technologies. Possibly, differences exist between the true performance capabilities of the treatment technology; however, on the basis of available data, the Agency is unable to discern such differences.

The 10 facilities were then further reduced to six by eliminating facilities whose raw waste contained low pollutant concentrations. Data for a particular pollutant was excluded if the median raw wastewater concentration was less than the average facility effluent concentration of any other facility. Of the six facilities, 5 use secondary settling and one uses granular media filtration. Since the Agency was unable to discern any true difference in the levels achievable by the three technologies (based on available data), it selected the least costly alternative for establishing effluent limitations, secondary settling.

Effluent limitations were derived by using the average of the facility averages for each pollutant to represent the average discharge. The statistical analysis used data from the five facilities using secondary settling (two copper, two lead/zinc, and one silver) that remained following the screening procedures described above. Most of the data were supplied by the industry.

The method used to derive the limitations assumed that within plant effluent concentrations are log normally distributed. The 30-day average maximum and daily maximum effluent limits were determined on the basis of 99-percent percentile estimates. The 30-day limits were determined on the central limit theorem. (Further explanation is provided in Section X of the development document). The limitations derived from the data analysis for some metals in the subcategories were more stringent than the BPT limitations.

However, because 95 percent of the relevant pollutants are removed by BPT and because of the unique nature of the ore mining industry effluent and other factors, the Agency has determined that nationally applicable regulations based on secondary settling are not warranted. (See section X of the development document.)

Where site specific considerations, including the pH of the receiving stream, so indicate, individual permit writers may impose more stringent limitations.

Control of Asbestos (Chrysotile).

Direct regulation and indirect regulation through control of TSS were considered for asbestos. The analytical method used to determine the concentration of asbestos is not an approved EPA method and though the method is the most viable one available, there are serious concerns as to its precision and accuracy.

Asbestos (chrysotile) is controlled in BAT by the BPT and BCT effluent limitations on TSS. Individual mines or mills may monitor for asbestos (chrysotile) using the anayltical method as defined in Supplement B of the technical development document should they wish to establish that their effluent asbestos (chrysotile) level is less than 1×10^6 fibers per liter.

Regulation of Gold Placer Mines.

Gold placer mines were not regulated under BPT because of insufficient data. The data gathering effort for this rulemaking included two separate studies of existing gold placer mines in Alaska. These studies support effluent limitations on settleable solids as the appropriate and most viable control of pollutants in the wastewater discharges from gold placer mines. However, the actual effluent quality data from existing settling ponds associated with gold placer mines is limited because many mines do not operate settling ponds and many of the remaining mines settling ponds are undersized, filled with sediment, or short circuited. The data from well constructed, operated, and maintained settling ponds is limited to demonstration projects and a few existing settling ponds which may not be truly representative of gold placer mining operations.

Moreover, no economic analysis was performed for the gold placer mining subpart because no data are available, although several requests for data have been made to that industry.

In the absence of more information regarding the environmental benefits and economic impact of regulating gold placer mines, the placer mining subpart of the copper, lead, zinc, silver, gold, platinum and molybdenum subcategory is reserved in this rulemaking while the Agency solicits additional information on which to base a decision.

X. BCT Effluent Limitations

The 1977 Amendments added Section 304(b)(4) to the Act, establishing BCT for discharges of conventional pollutants from existing industrial point sources. Conventional pollutants are those defined in Section 304(b)(4)—BOD, TSS, fecal coliform, and pH—and any additional pollutants defined by the Adminsitrator as "conventional." On July 30, 1978, EPA designated oil and grease as conventional pollutants (see 44 FR 44501).

On July 28, 1981, the Fourth Circuit Court of Appeals remanded the regulations establishing the "best conventional technology" (BCT) methodology and directed EPA to conduct an additional cost-effectiveness test and to correct data errors. *American Paper Institute* v. *EPA*, No. 79–1511. While EPA Has not yet promulgated a new BCT methodology, EPA is proposing BCT Limitations for the ore mining and dressing industry. These limits are identical to those for BPT. Since BPT is the minimal level of control required by law, no possible reassessment of BCT pursuant to the Court's remand could result in BCT limitations lower than those proposed today. Accordingly, there is no reason to wait until EPA revises the BCT methodology before proposing these BCT limitations.

XI. New Source Performance Standards (NRSPS)

The basis for new source performance standards (NSPS) under Section 306 of the Act is the application of the best available demonstrated technology (BADT). New facilities have the opportunity to implement the best and most efficient ore mining and milling processes and wastewater technologies. Accordingly, Congress directed EPA to consider the best demonstrated process changes and end-of-pipe treatment technologies capable of reducing pollution to the maximum extent feasible through a standard of performance which includes, "where practicable, a standard permitting no discharge of pollutants."

(A) NSPS Options

(1) Option 1: Require achievement of performance standards in each subcategory that are based on the same technology proposed for BAT.

(2) Option 2: Require standards that are based on a complete water recycle system (no discharge of pollutants).

(B) NSPS Selection and Decision Criteria Subcategories and Subparts Under Option 1

This proposed rulemaking requires that all facilities in the ore mining and dressing industry achieve performance standards based on the same technology proposed for BAT, except those facilities using froth flotation in the copper, lead, zinc, gold, silver, platinum, and molybdenum subcategory and mills in the uranium subcategory. Option 1 has been selected for iron ore mills in the Mesabi range; copper, lead, zinc, silver, gold, platinum, and molybdenum mills that use leaching to recover copper and the cyanidation process for the recovery of gold; and mercury mills since BAT specifies zero discharge. Option 1 has also been selected for iron ore mine drainage, iron ore mills, aluminum mine drainage, copper, lead, zinc, gold, silver, platinum, and molybdenum mine drainage, titanium mine drainage, dredges and mills, and mercury mine drainage. The concentration levels of toxic metals found in new sources in these subcategories and subparts are expected to be similar to existing sources. Since concentrations of some toxic metals were found at or near detection levels or at concentrations below the practical limits of additional technology, further reduction of these parameters would not be technically or economically justified.

Subcategories and Subparts Under Option 2

The Agency proposes that new source copper, lead, zinc, gold, silver, platinum, and molybdenum mills that use froth flotation achieve zero discharge of process wastewater.

For this subpart, EPA considered zero discharge based on recycle for BAT, but rejected it because of the extensive retrofit required at some existing facilities, the cost of retrofitting, and the possible changes required in the process. This concern does not apply to new sources. Recycle, if required to achieve zero discharge, is a demonstrated technology and meets the definition of standard of performance permitting zero discharge of pollutants. New sources have the option to recycle because the metallurgical processes can be adjusted and designed to recycle process wastewater before the actual construction of the new source. While reagent buildup has been mentioned by industry as a potential problem in extractive metallurgy, no evidence has been submitted to validate this assertion. The Agency will entertain any specific comments containing actual data which may validate the assertion.

The Agency proposes that new source uranium mills achieve zero discharge of process wastewater. For this subpart, EPA considered zero discharge for BAT based on total impoundment and evaporation or recycle and reuse of the mill process water or a combination of these technologies. Because the pollutants detected in the current discharge from this subpart are uniquely related to one point source, the single mill discharging, the uranium mill subpart is excluded from BAT (see section VIII of this preamble).

However, the Agency believes that for new sources a standard of performance must be proposed. Otherwise additional discharges (new sources) could occur that obviously would not be unique to one source. New source mills are anticipated by the Agency and these mills can achieve zero discharge as indicated by the fact that 18 of 19 mills currently achieve no discharge.

EPA estimates that the cost to implement zero discharge for new sources would approximate the cost to implement the technology identified as BPT for the two subparts, therefore, the zero discharge requirement should not impede construction of new facilities. (See section IX of the development document).

XII. Best Management Practices

As described in sections I and II, section 304(e) of the Act authorizes the Administrator to publish regulations to control discharges of significant amounts of toxic pollutants under section 307 or hazardous substances under section 311 to avoid activities that the Administrator determines are associated with or ancillary to industrial manufacturing or treatment process.

Section 402(a)(1) of the Act allows the Administrator to prescribe conditions in a permit determined necessary to carry out the provisions of the Act. BMPs are one such condition. The discharges to be controlled by BMPs are plant site runoff, spillage or leaks, sludge or waste disposal and drainage from raw material storage.

EPA intends to develop BMPs that are (1) applicable to all industrial sites, (2) applicable to a designated industrial category, or (3) capable of guiding permit authorities in establishing BMPs required by unique circumstances of a given plant.

The ore mining and dressing industry has numerous problem areas, including storm water runoff, groundwater infiltration, and seepage. Section XIII of the development document addresses possible BMP approaches and can guide the permitting agency in developing case-by-case BMP requirements for NPDES permits. The following paragraphs contain a brief description of some possible BMP approaches.

Minimizing the volume of water contaminated in a mine is desirable because the mass of pollutants to be treated is less. Diversion of water around a mine site to prevent its contact with possible pollution-forming materials is an effective and widely applied control technique. For example, settling ponds should be designed with adequate drainage and storm water diversion around the pond.

Regrading or recontouring of some types of surface mines, and surface waste piles can be used to modify surface runoff, decrease erosion, and prevent infiltration of water into the mine area.

Mine-sealing techniques are more frequently applied to inactive or abandoned mines. Internal sealing by placing barriers within an underground mine can be used in an active mine. However, this practice must be applied with caution. The barriers must be carefully designed so as to prevent inundation of the working areas.

Most of the metal-ore mines examined in this report practice some measure of mine drainage control, including regulated pumping of mine drainages and the use of mine drainage as intake mill process water. Use of mine water as makeup water in mill circuits is a desirable management practice and is widely implemented in this industry.

In some situations, operators must prevent or control seepage of toxic substances into groundwater supplies. Prevention of seepage from impoundment systems can be achieved by the use of liners. Pond liners fall into two general categories: natural (clay or treated clay) and synthetic (commonly polyvinyl chloride (PVC), polyethylene (PE), chlorinated polyethylene (CPE), or Hypalon). Other materials that can be used as pond liners are compacted earth, waste tailings, concrete, shotcrete, rock or brick. See section VIII of the Development Document.

XIII. Variances and Modifications

After the final regulations are promulgated, the effluent limitations must be incorporated in all new or

renewed NPDES permits issued to direct dischargers in this industrial category, and also in those permits that have been issued with a reopener clause.

The BAT, BPT and BCT effluent limitations are subject to EPA's "fundamentally different factors" variance. See *E. I. du Pont de Nemours and Co. v. Train*, 430 U.S. 1112 (1977); *EPA v. National Crushed Stone Association*, 101 S. Ct. 295 (1980) *Weyerhaeuser Co. v. Costle*, supra. This variance recognizes factors concerning a particular discharger that are fundamentally different from the factors considered in this rulemaking. Although this variance clause was set forth in EPA's 1973–1976 industry regulations, it will now be included only by reference in the ore mining and dressing and other industry regulations. (See 40 CFR 125.30–.32, for the text and explanation of the "fundamentally different factors" variance.)

In addition, BAT limitations for nonconventional pollutants are subject to modifications under sections 301(c) and 301(g) of the Act. These statutory modifications do not apply to toxic or conventional pollutants. According to section 301(j)(1)(B), applications for these modifications must be filed within 270 days after promulgation of final effluent limitations guidelines. (See 43 FR 40859 September 13, 1978).

NSPS is not subject to modification through EPA's "fundamentally different factors" variance or any statutory or regulatory modifications. (See *du Pont vs. Train, supra).*

After reviewing MSHA and Army Corps of Engineers regulations, design guidelines, and holding discussions with representatives of the appropriate Federal regulatory agencies (Department of Labor, Department of Interior, Department of Defense), EPA is confident that the impoundment facilities needed to comply with the regulations proposed in this notice are reasonable, and that no additional danger will result from their implementation. If evidence is submitted to the Agency that indicates that facilities would have to construct a structure which would violate safety standards set out by a State or Federal agency, EPA will consider granting a variance. The Agency does not expect the construction of impoundment facilities would result in violation of State or Federal safety standards. However, if an operation submits to the permitting authority evidence to the contrary, a variance from the national effluent limitations may be considered through the "fundamentally different factors" variance. Under no circumstances will an owner or operator be required to violate applicable safety standards to meet these requirements. If more than isolated instances occur, EPA will consider amending this regulation. However, the State and Federal authorities with whom EPA has consulted on this matter uniformly have concluded that safety issues should arise infrequently, if at all.

XIV. Upset and Bypass Provisions

An issue of recurrent concern has been whether industry guidelines should include provisions authorizing noncompliance with effluent limitations during periods of "upset" or "bypass." An upset, sometimes called an "excursion," is unintentional noncompliance occurring for reasons beyond the reasonable control of the permittee. Some argue that an upset provision in EPA's effluent limitations guidelines is necessary because such upsets will inevitably occur because of the limitations, even in properly operated control equipment. Because technology-based limitations require only what technology can achieve, some claim that liability for such situations is improper. When confronted with this issue, courts have disagreed on the question of whether an explicit upset or excursion exemption is necessary, or whether upset or excursion incidents may be handled through EPA's exercise of enforcement discretion.

While an upset is an unintentional episode during which effluent limits are exceeded, a bypass is an act of intentional noncompliance during which waste treatment facilities are circumvented in emergency situations. Bypass provisions have in the past been included in NPDES permits.

EPA has determined that both explicit upset and bypass provisions should be included in NPDES permits and has promulgated NPDES regulations that include upset and bypass permit provisions (see 45 FR 33448, 122.60 (g) and (h) (May 19, 1980)). The upset provision establishes an upset as an affirmative defense if an operation is prosecuted for violating a techology-based effluent limitation. The bypass provision authorizes bypassing to prevent loss of life, personal injury, or severe property damage.

The Agency has received several inquiries on the relation between the general upset and bypass provisions set forth in the consolidated permit regulations and the storm exemption contained in the BPT regulations for ore mining and dressing. The storm exemption discussed in Section VII of this preamble supersedes the generic upset and bypass provisions with respect to precipitation events; that is, an operator wishing to obtain relief from BAT limitations and NSPS during precipitation events must comply with the prerequisites of the rainfall exemption provision. However, the upset and bypass provisions are available in all other applicable situations.

XV. Non-Water-Quality Aspects of Pollution Control

The elimination or reduction of one form of pollution may aggravate other environmental problems. Therefore, section 304(b) and 306 of the Act require EPA to consider the non-water-quality environmental impacts (including energy requirements) of certain regulations. In compliance with these provisions, EPA has considered the effect of these regulations on air pollution, solid waste generation, land requirements, and energy consumption. This proposal was circulated to and reviewed by EPA personnel responsible for non-water-quality environmental programs. While balancing pollution problems against each other and against energy use is difficult, EPA is proposing a regulation that it believes best serves competing national goals.

The following are the non-water-quality environmental impacts associated with proposed regulation.

Air Pollution

Imposition of BAT and BCT limitations and NSPS will not create any additional air pollution problems.

Solid Waste Generation

Some of the solid waste production associated with the ore mining and dressing industry is generated by treatment systems installed primarily to treat wastewater. For subcategories in which the Agency has concluded that BAT limitations are equal to those under BPT, BAT standards add no additional solid waste. In those subparts for which NSPS is more stringent than BPT, the increase in solid waste generated should not be greater than one percent.

In addition, section 7 of the Solid Waste Disposal Act Amendments of 1980 has exempted under Subtitle C of the RCRA solid waste from the extraction, beneficiation, and processing of ores and minerals. This exemption will remain in effect until at least six months after the Administrator submits a study on the adverse environmental effects of solid waste from mining. The study is required to be submitted by October 21, 1983 (see 42 U.S.C. 6982).

Land Requirements

As a general rule, imposition of BAT, BCT, and NSPS standards is not expected to create any significant adverse impacts on land requirements beyond those associated with BPT standards.

Energy Consumption

Achievement of BAT and BCT limitations and NSPS will not result in a significant net increase in energy requirements. The main use of energy is for pumping, mixing, and control instrumentation. Wherever feasible, gravity flow is used in treatment facilities for mine drainage and mill process wastewater.

XVI. Costs And Economic Impact

Executive Order 12291 requires that EPA and other agencies perform Regulatory Impact Analyses of major regulations. The three conditions that determine whether a regulation is classified as major are:

- An annual effect on the economy of $100 million or more or;
- A major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment productivity, innovation, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

EPA estimates that compliance with these regulations (BAT, BCT, NSPS) for all subcategories will impose no additional cost burden on industry.

EPA believes that this regulation will have no impact on prices and no significant effects on competition, employment, investment, productivity, innovation or the balance of payments. Therefore, EPA believes that this does not constitute a major regulation.

Nonetheless EPA conducted a detailed economic impact analysis on all portions of the industry except small tungsten mines and mills and gold placer mines. This analysis was conducted using financial data supplied by industry on a confidential basis. The analysis used discounted cash flow techniques to estimate a net present value for each facility. Only one uranium mill was projected to close with the application of any of the technologies under consideration. Because this rule imposes no significant cost and therefore no economic impact on any portion of the industry included in the economic analysis, and because of concerns about the sensitive nature of the confidential information supplied by industry, EPA is not publishing this analyses.

Regulatory Flexibility Analysis: Pub. L. 96-354 requires that EPA prepare an Initial Regulatory Flexibility Analysis for all proposed regulations that have a significant impact on a substantial number of small entities. This analysis must:

- Describe the reasons, objectives, and legal basis for the proposed rule;
- Describe, and where feasible, estimate the number of small entities affected by the proposed rule;
- Describe the reporting, recordkeeping, and other compliance requirements;
- Identify any Federal rules that may duplicate, overlap, or conflict with the proposed rule;
- Describe any significant alternatives that would accomplish the stated objectives, and summarize any significant economic impacts of the proposed rules on small entities.

Many of the provisions of the Initial Regulatory Flexibility Analysis have been addressed in detail in other sections of this preamble. Sections I, IIA, and III discuss the legal authority and objectives of the proposed rules. Sections XVIII and XIX discuss the public participation procedures. Section XVII discusses the reporting requirements. The Agency is not aware of any other Federal rules that may overlap or conflict with this proposed rule.

Therefore there can be no significant impact on a substantial number of small entities.

RCRA Costs

On May 19, 1980, EPA promulgated Interim Status Standards (ISS) for handling and disposal of hazardous wastes under the Resource Conservation and Recovery Act (RCRA) (see 45 FR 33066). As a part of assessing the economic impact of the BAT and BCT limitations and NSPS on an industry, EPA includes the cost of waste disposal based on current practices that may not comply with the RCRA-ISS. Solid waste from the extraction, beneficiation, and processing of ores is now excluded from regulation under Subtitle C of RCRA. Such waste may not be regulated under Subtitle C until at least six months after the Administrator submits a study on the adverse effects of solid wastes from mining. The study must be submitted by October 21, 1983 (see 42 U.S.C. 6982). To predict what regulations, if any, may be applied to the ore mining industry under RCRA Subtitle C is not possible. Therefore, the Agency has not projected any costs for RCRA ISS compliance in its economic impact analysis.

XVII. Relation to NPDES Permits

The BAT and BCT limitations and NSPS in this regulation will be applied to individual ore mines and mills through NPDES permits issued by EPA or approved State agencies, under section 401 of the Act. Immediately after promulgation of final regulations, the effluent limitations must be incorporated in all Federal NPDES permits issued to ore mining and dressing direct dischargers. Permits issued by States with NPDES authority must have limitations as stringent as those proposed in this regulation. However, State-issued NPDES permits may contain, as determined by each State permit issuing authority, limitations that are more stringent than those proposed today.

If this regulation does not control a particular pollutant, the permit issuer is not precluded from limiting such a pollutant on a case-by-case basis when necessary to carry out the purposes of the Act. In addition, to the extent that State water quality standards or other provisions of State or Federal law require limitation of pollutants not covered by this regulation (or require more stringent limitations on covered pollutants), such limitations can be applied by the permit-issuing authority.

With respect to monitoring requirements, the Agency intends to establish a regulation requiring permittees to conduct additional monitoring when they violate permit limitations. The provisions of such monitoring requirements will be specific for each permittee and may include analysis for some or all of the toxic pollutants or the use of biomonitoring techniques. The additional monitoring is designed to determine the cause of the violation, necessary corrective measures, and the identity and quantity of toxic pollutants discharged. The permit-issuing authority will evaluate each violation on a case-by-case basis. (For more discussion of this requirement, see 45 FR 33290 (May 19, 1980)).

One additional topic that warrants discussion is the operation of EPA's NPDES enforcement program, many aspects of which have been considered in developing this regulation. The Agency emphasizes that, although the Clean Water Act is a strict liability statute, EPA can initiate enforcement proceedings at its discretion. EPA has exercised and intends to exercise this discretion in a manner that recognizes and promotes good faith compliance

efforts and conserves enforcement resources for those who fail to make good faith efforts to comply with the Act.

XVIII. Summary of Public Participation

Before publication of this notice, EPA distributed a contractor's draft technical document to Federal agencies, all State and territorial pollution control agencies, industry trade associations (including the American Mining Congress and American Iron Ore Association), and conservation organizations, including the Natural Resources Defense Council. Comments on that report were solicited. The major comments and the Agency's responses are set forth below.

The following groups responded to the request for written comments contained in the letter of transmittal sent along with the contractor's draft technical document: American Mining Congress, Bunker Hill Company, Natural Resources Defense Council, Inc., Prather, Seeger, Doolittle, and Farmer, St. Joe Minerals Corporation, Trustees for Alaska, U.S. Department of Interior—Bureau of Mines, U.S. Department of Labor, USEPA—Environmental Research Laboratory (Athens, GA), Walter C. McCrone Associates, Inc., White Pine Copper Division.

Comment: One commenter expressed concern that the 1976 costs presented in the contractors draft were outdated and did not reflect variability on a regional basis. One commenter stated that the cost assumptions and factors used were not documented properly and further, that the treatment costs could not be evaluated because the parameters and levels chosen for regulation were not known. One commenter stated that monitoring costs should be further supported and another stated that waste disposal costs might be too low if the wastes were defined under RCRA as "hazardous."

Response: At the time the contractor's draft was forwarded for comment, the Agency was revising costs to reflect a December 1979 data base. Each facility's potential treatment costs were evaluated several options for control and treatment. These updated and revised costs are summarized in the development document which outlines the technical analysis used to develop this proposed rulemaking. These updated facility-by-facility costs were used by the economic assessment contractor. Actual costs for reagents, energy, land, waste disposal, chemical analysis, etc. were solicited from the industry, and factors were used that represented the reported range of costs incurred in 1979 dollars. Although the entire cost calculations for each facility were not presented in the contractor's report, the system definitions, cost factors and assumptions used, and references sources were included. In this way, a comparison of an individual facility's costs to those stated could be made. At the time the contractor's draft was prepared, the Agency had not selected parameters to be regulated or effluent limitations. However, potential technologies for implementing BAT were identified in the contractor's draft. These treatment technologies were sized and costed on the basis of typical (or range of) flow rates encountered and influent expected from BPT treatment systems.

With respect to solid wastes resulting from mining activities and associated treatment, EPA had not issued any standards or guidelines against which solid waste disposal costs could be compared when the draft was issued. Of importance now is that at present, solid waste from the extraction, beneficiation, and processing of ores and minerals is excluded from regulation under Subtitle C of RCRA (see 42 U.S.C. 6921(b)(3)(A)(ii); 45 FR 76618 (November 19, 1980) and Section XVI of this preamble).

Comment: A number of commenters expressed concern about the analytical and sampling procedures used during the screening and verification phases of the study. Some commented that grab or short-term composite samples do not properly assess the impact of seasonal or annual variations. One commenter stated that the reliability of cyanide analysis is questionable. One commenter stated that no health basis exists for removing asbestiform fibers from water, therefore there is no reason to regulate asbestos, and also, that the definition of asbestos is confusing.

Response: The analytical methods and procedures used during screening and verification-including collection and transportation of samples—are outlined in Appendix III of *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants* (USEPA–EMSL). The analytical procedures and sampling methods used are also outlined in the development document which accompanies this rulemaking and are summarized in Section IV(a) of this preamble. In addition, the Effluent Guidelines Division has sponsored numerous technical seminars during the past three years to which industry representatives, technical contractors, EPA laboratory personnel, and interested persons were invited. Problems with analytical procedure, data variability, suggestions for improvement, and results obtained were discussed at each of these meetings. EPA does not rely on one-time sampling as its data base for pollutants that it chooses to regulate. Rather, the data obtained during screening and verification are supplemented by long-term montoring data, NPDES monitoring reports, company data, pilot scale studies, and data available from other studies.

With respect to cyanide analysis, EPA recognized the variability of results being obtained by commercial and industrial laboratories and commissioned an in-depth review of the analytical method and results obtained as discussed in Section IX of this preamble. The guidelines proposed here reflect the results of that in-depth study.

"Asbestos" was not defined in the EPA–NRDC Consent Decree, and consequently EPA had to develop a working definition for this pollutant. The Agency had to choose a particular mineral form of asbestos from the many varieties so that screening could be performed. The Agency chose chrysotile because of: (1) its known toxicity as the result of respiration of the particles; (2) its industrial prevalence (over 90 percent of all commercial asbestos is chrysotile); (3) its distinctive selected area diffraction pattern. Asbestos was included in the Agency's review of BAT because the Act requires the Agency to limit the discharge of pollutants identified as toxic unless the pollutant can be excluded by the criteria discussed in Section VIII of this notice.

Comment: In various places in the draft technical document, detection levels for particular pollutants are reported at different levels.

Response: The data presented reflect the actual data reported from different laboratories or the detection levels obtained by the laboratories at the time of analysis. Slight differences may occur with analytical instrumentation from day to day or week to week, thus accounting for these differing values reported as "less than."

Comment: One commenter stated that improvements in ore processing technology were overlooked in the document and cited those technologies. The commenter stated that no wastewater samples were obtained from Arizona copper producers. In addition, the commenter stated that improvements in uranium processing technology were also overlooked in the development document.

Response: The "new" process technology cited by the commenter is described in the development document

supporting this proposed regulation and is taken into account in selecting BAT. In any event, the subpart in which the facilities are classified is subject to zero discharge requirements under the BPT guidelines. No wastewater samples were or could be obtained from Arizona copper operations achieving zero discharge. Similarly, the uranium processing technology is noted in the development document. Uranium mills would be subject to zero discharge under NSPS.

Comment: One commenter stated that the industry data base (Section III of the draft technical document) should be updated, since some of the data are from 1976.

Response: Much of the data in the contractor's draft are from 1976; some are also as recent as 1977, 1978, and 1979. Much of the data on the industry had to be gathered from individual companies under Section 308 authority and was not submitted voluntarily. In addition, industry-wide statistics had not been issued at that time. For example, recently the U.S. Government Printing Office released the *1977 Minerals Yearbook*. A continuous effort to update the development document and the industry profile has been made and, to the degree that Agency resources permit, will be made as information becomes available to the Agency.

Comment: Two commenters stated that closer consideration should be given to recycling mine water rather than treatment and discharge. One commenter was particularly concerned about recycling process water at gold placer mining operations as an option.

Response: There are few uses of water in underground or open pit mining. Mine water can usually be "reused" in limited amounts for dust control, drilling fluid, cooling or sluicing of sand backfill. Mine water must be removed from mines so that ore extraction may be carried on and for safety considerations. Therefore, recycle of water back into a mine, except for small volumes, is impractical. At many facilities, mine water is "reused" as mill process water or makeup water. This regulation encourages such practice. In such cases, the wastewater is subject to mill limitations as discussed in Section VII(B) of this preamble.

A few placer mines may be able to recycle water for use in sluicing sediments containing minerals to be extracted. However, for gold placer deposits in rural areas of Alaska, electric power is not available to run recycle pumps, and the costs and energy requirements are prohibitive.

Comment: One commenter claimed that the control of mine wastewater was not adequately addressed in the draft document.

Response: The entire mining portion of the industry is profiled in the development document supporting this regulation with data presented on flow, production, status, product, type of mine, etc. The tables in the development document summarize the data gathered as part of the industry data base. Detailed data for cost estimates are summarized in the cost section of the report. In addition, at every mine visited that had wastewater flow, EPA performed separate sampling and characterization. These data were then evaluated with historical data on mine water. Mining and milling operations are often located together, and discharges are commingled and treated in a common treatment system. The most important factor considered with respect to mine water is whether any differences were noted that would significantly affect the quality of wastewater discharged after BAT treatment. The regulation proposed here lists separate limitations for mine and mill wastewater.

Comment: One commenter expressed concern about disposal of hazardous waste at uranium facilities.

Response: The standards proposed under NSPS will result in zero discharge of process water for new uranium mills. For the mines, no additional total suspended solids are removed compared with the volumes that are removed under BPT limitations.

Comment: One commenter charged that the EPA method of asbestos analysis was faulty because it required extensive dilution of raw wastewater samples and that no attempts were made to identify through mineralogy whether serpentine (chrysotile) was present. In the commenters opinion, asbestos determinations from samples with the high solids concentrations typical in this industry are not quantitative.

Response: While extensive dilution of "raw" wastewater samples is often necessary, extensive dilution is not normally required for samples of treated wastewater that achieve the BPT total suspended solids daily limitation of 30 mg/l. Since effluent level(s) are of primary interest in this BAT rulemaking, the analytical method is considered adequate to evaluate whether substantial discharges of this parameter exist. A detailed determination of the presence of asbestiform fibers in the ore itself would be time-consuming and expensive. The Agency undertook this study in the same manner as it screened other parameters. Many sources other than the ore itself which may contribute small "asbestos" fibers to the wastewater, including cement-asbestos pipe, spray-on or other types of insulation, seals or gaskets, etc. These sources are common in this industry.

Comment: Several commenters stated that guidelines for operations that combine mine, mill, smelter, and refinery wastewater should be developed on a case-by-case basis.

Response: The Agency considered this alternative and during the BAT investigation, EPA gathered additional data on three facilities that are known to have combined wastewater treatment that included smelter and/or refinery wastewater in addition to mine and/or mill wastewater. These facilities are: White Pine Copper Division, Copper Range Co., White Pine, Michigan; Kennecott Copper Corp., Utah Copper Division (treatment plant effluent only), Salt Lake City, Utah; and Bunker Hill Co., Kellogg, Idaho. A separate report has been prepared on each facility to be used as guidance documents by the regional permitting authority in issuing NPDES permits. In effect, each facility will be given effluent limitations that will take into account BAT mine and mill guidelines, smelter and refinery guidelines, treatability of waste streams, and any special circumstances that may result from the combining waste streams.

Comment: One commenter stated that pH values above 9.0 may be required to insure adequate removal of certain heavy metals.

Response: A pH above 9.0 may be necessary to achieve desired treatment levels for certain toxic metals at selected facilities. Subpart M of these regulations (General Provisions) allows a small excursion from an effluent value of pH from 6 to 9 to meet other limitations. In these cases, the pH of the final effluent may be under or over the range stipulated if evidence is submitted to the permitting authority demonstrating that this provision will not result in degradation of water quality in the receiving stream or toxic conditions for its biota.

Comment: One commenter stated that the report gave inadequate consideration to controlling the seepage that occurs at uranium mill tailing impoundments and other ore facilities (the commenter defined seepage as a point source discharge, but urged control of seepage as a BMP).

Response: EPA is aware that seepage from uranium tailings impoundments has posed serious threats to groundwater and, in some cases, may possibly affect surface waters. However, the Agency notes that the Uranium Mill

Tailings Radiation Control Act of 1978, as amended 42 U.S.C. 2021(o), 2022, 2113, 21114, 2201(x), 7901–7942 ("UMTRCA") provides comprehensive and direct authority to remedy this problem. UMTRCA establishes a program to (1) regulate mill tailings during uranium or thorium ore processing at active and inactive uranium mill operations, (2) stabilize and control tailings in a safe and environmentally sound manner, and (3) minimize or eliminate radiation health hazards to the public. Title I of UMTRCA establishes a remedial action program to clean up inactive uranium mill tailings sites, to be carried out by the Secretary of Energy (42 U.S.C. 7911–7925). Title II expands the authority of the Nuclear Regulatory Commission (NRC) to establish standards concerning uranium mill tailings in licenses issued under the Atomic Energy Act of 1954. Title II also directs the Administrator to promulgate, within one year after enactment, standards of general application for the protection of public health and safety and the environment from radiological and nonradiological hazards associated with inactive mill tailings sites (42 U.S.C. 2022(a)). These general standards would be the basis for the Secretary of Energy's remedial actions at individual inactive sites. The Administrator is also directed, within eighteen months after enactment, to establish general standards to protect the public health and safety and the environment from radiological and nonradiological hazards associated with the possession, transfer and disposal of "by-product material" (including uranium mill tailings) at active uranium mill sites (42 U.S.C. 2022(b)). These standards are to be implemented and enforced by the NRC and the States (42 U.S.C. 2022(d)).

EPA expects to propose general standards for inactive uranium sites within the next several months and for active sites within several months thereafter. These standards will, among other things, address the problems of seepage from uranium mill tailings impoundments.

Moreover, shortly after promulgation of UMTRCA, the NRC embarked on a rulemaking, partly in response to a petition filed by the Natural Resources Defense Council (NRDC), to address the potential environmental impacts of uranium mill tailings. On rules and a draft generic environmental impact statement, the NRC promulgated final regulations. 45 FR 65521 (amending 40 CFR Part 40). These regulations establish a number of technical criteria that operators of uranium mill tailings facilities must meet. The regulations require measures "to reduce seepage of toxic materials into groundwater to the maximum extent reasonably achievable" 45 FR at 65534, 40 CFR Part 40, Appendix A. In addition, unpreventable seepage may not cause a deterioration of existing groundwater supplies "from their current or potential uses." (Id). The regulations state that several technologies should be considered in achieving these goals, including the installation of low permeability liners, maximum recyle, conservation of process water, dewatering of tailings and other measures. The NRC will ensure that these regulations remain compatible with the general standards to be promulgated by EPA under UMTRCA (45 FR 65530). In fact, the staffs of the two agencies have coordinated, and will continue to coordinate, their efforts in this area.

In any event, Congress has created through UMTRCA comprehensive approach to ameliorating the environmental impacts of uranium mill tailings disposal and has provided a vehicle for participation and coordination among Federal agencies with jurisdiction in this area. Accordingly, EPA believes it appropriate to continue to address the problem of seepage from uranium mill tailings impoundments through UMTRCA, rather than through the Clean Water Act.

Moreover, the Agency does not propose to regulate seepage from impoundments at ore mines and mills other than those extracting uranium. The extent to which such seepage adversely affects navigable waters (as opposed to groundwater) is highly problematic. Frequently, even when seepage reaches navigable waters, it does not constitute a point source discharge—a "discernible, confined and discrete conveyance"—and is therefore not subject to effluent limitations. In such cases, BMP's might be imposed under section 304(e) of the Act (see Section XII of this preamble). However, section 304(e) of the Act authorizes the promulgation of BMP's only when the Administrator finds them necessary to prevent "significant amounts" of toxic pollutants from reaching navigable waters on a national scale. At this time, the Agency does not possess information indicating that seepage from non-uranium tailings impoundments or lagoons contributes significant amounts of toxic pollutants to the navigable waters on a national scale. For these reasons, the Agency does not propose at this time to establish national regulations covering seepage from settling ponds and taillings impoundments in this industry. Of course, permit writing authorities retain the authority under section 402(a)(1) of the Act to require control of seepage when necessary on a case-by-case basis.

Comment: One commenter argued that the effluent from a mine and a mill producing and processing ores with "high, and approximately equal, percentages of lead and zinc has a very different content from that of mines and mills processing ores with either a high lead or zinc content but not both." This commenter therefore urged that a separate subcategory be established for mines and mills whose ores have "high, and approximately equal, percentages of lead and zinc."

Response: After the promulgation of BPT regulations, and concurrent with the filing of its brief in the BPT litigation, this commenter filed a petition for reconsideration with the Agency, in which the commenter argued that facilities processing ores with a high ratio of zinc to lead should be subcategorized separately. The agency investigated that claim, found it to be without merit, and denied the petition for reconsideration. A second petition was then filed with EPA, in which the commenter made the claim (for the first time) repeated here—that ores with high concentrations of both zinc and lead warrant separate subcategorization. Since the BPT litigation, the Agency's contractor has revisited this facility, sampled and analyzed its wastewater, and performed treatability studies on its waste streams. These investigations (discussed in Section VIII of the development document) reconfirm the Agency's earlier conclusions that this plant's waste stream is similar to other effluents in the proposed subcategory and that, with proper pH control, application of BAT technology will achieve the proposed effluent limitations at this facility. At a meeting in January 1980, Agency counsel invited this commenter to submit new information and data to support the claim. The commenter has not done so. Accordingly, the Agency sees no need or justification to create a separate subcategory for mines and mills processing ores with high concentrations of lead and zinc.

Comment: One commenter asked whether replicate samples were taken during the screening and verification sampling program. This commenter also requested information on the holding times associated with the samples collected.

Response: EPA did not collect replicate samples, but each facility where sampling was conducted was invited to participate in the program by using split samples. Many facilities accepted this invitation, and these split samples are included in the Agency's data base. Holding times for the samples were kept to a minimum in all cases, allowing for the remote location of many mines and mills in relation to commercial airports and analytical laboratories.

Comment: One commenter objected to the subcategorization scheme, stating that it was the same as the scheme used for BPT and cited the numerous differences from facility to facility in ore mineralogy and other factors that exist in this industry. This commenter did not propose a subcategorization scheme other than to suggest that effluent limitations should be established on a plant-by-plant basis.

Response: The commenter has provided no information that would warrant altering the basic BPT subcategorization scheme now used, which was upheld by the Tenth Circuit (see section V of this notice). Plant-by-plant limitations are impracticable and inconsistent with the goal of the Clean Water Act.

Comment: One commenter stated that he could not comment on the information in the draft document until numerical effluent limitations are proposed and he knows "to what use the data will be put."

Response: The purpose of circulating the technical document in draft form was to give the regulated community and other interested groups an opportunity to review the Agency's data base and methodology as early in the regulatory process as feasible so that errors could be corrected and improvements made.

Comment: One commenter submitted data and a report on the presence of asbestos in his wastewater discharge. The data showed that the asbestos reported by EPA's technical contractor was not chrysotile, but was in fact diatoms. The commenter stated the EPA data were wrong and that in the commenter's analysis of the wasterwater, no asbestos fibers of any kind, including chrysotile, were found.

Response: First, the samples from the EPA study and the commenter's study were collected over two years apart and only one of the commenter's sampling sites corresponds directly with the EPA sampling site. Also, the preparation of the sample before analysis was different. The commenter stated that the entire sample volume was filtered as compared with the 10 ml sample and 40 ml blank diluent that was filtered by the EPA contractor. For the common EPA and commenter's sampling site, assuming TSS levels are approximately equal in the samples taken two years apart, the loading on the filter used by the commenter before his analysis would be over ten times the maximum loading recommended and over 500 times the optimal loading recommended in the EPA sampling and analysis method. One explanation for the difference is that preferential settling of the denser particles might have occurred in the commenter's sample during filtering. The less dense debris would cover the denser particles on the filter, causing the denser mineral material to be missed during scanning electron microscopy, which looks only at the surface.

Second, the EPA procedure requires the use of Transmission Electron Microscope (TEM) analysis and the commenter's study used the Scanning Electron Microscope (SEM) analysis. EPA does not use the SEM method because of the high probability of missing smaller asbestos fibers. The emphasis of the commenter's report is on larger fibers (fibers greater than 1 micron in length). The EPA study reported asbestos fibers in the commenter's wastewater discharge of 0.3 to 0.4 microns in length. In fact, the majority of fiber sizes reported by EPA are less than 1.0 micron in length and typically 0.025 to 0.2 microns in width, while the diatoms reported by the commenter are approximately 5 to 10 microns in length and 2 microns in width. The EPA data is based on what the commenter terms "negligible fibers", possibly because the SEM is not a powerful enough tool to identify them. Also, low fiber counts have been attributed to letting a a sample sit for a period of time before analysis; the commenter did not mention the age of the samples. The size of the particles reported by EPA and by the commenter indicates that the particles referenced in the two reports are different and not the same particles misidentified.

Regardless, the EPA data do show the fibers claimed, i.e. chrysotile. After receiving the report submitted by the commenter, the Agency had the technical contractor do a qualitative analysis of a portion of the original samples and again found chrysotile asbestos fibers.

Also, additional wastewater samples were obtained in July 1981 from the mine and mill that questioned whether asbestos was present in their discharge, and these samples were analyzed by a second laboratory who confirmed the presence of chrysotile. This laboratory not only confirmed the presence of chrysotile by use of the TEM and the selected area electron diffraction pattern to identify the crystalline structure of the fiber, but also confirmed that the fibers are chrysotile by employing a combined scanning and transmission electron microscope with an energy despersive X-ray microprobe (EDX) attachment. The chemical composition was determined with the microprobe which confirmed the elemental composition which is primarily magnesium and silicon oxides.

XIX. Solicitation Of Comments

The regulations as proposed here are supported by: *Development Document for Proposed Effluent Limitations Guidelines and New Source Performance Standards for the Ore Mining and Dressing Point Source Category.*

EPA encourages public participation in this rulemaking. The Agency asks that any deficiencies in the BAT record of this proposal be pointed to with specificity and that suggested revisions or corrections be supported by data.

EPA is particularly interested in receiving comments and data on the following issues:

(1) The Agency is reviewing the sampling and analytical methods used to determine the presence and magnitude of toxic pollutants and solicits comments on the data produced by these methods, as well as the methods themselves. Guidelines establishing test procedures for analyzing pollutants were proposed in 44 FR 69463 (December 3, 1979), *amended,* 44 FR 75028 (December 18, 1979).

(2) The *Preliminary Interim Procedure for Fibrous Asbestos,* EPA 600/4–80–005, PB–80–152879, may be used as the method for analyzing chrysotile asbestos. The method appears in Appendix B of the development document. The Agency solicits comments on the use of this method as the designated method for asbestos determinations.

(3) EPA recognizes the limits of available data and the expense of monitoring for certain toxic pollutants. Therefore, EPA proposes to control these toxic pollutants through the limitations on other pollutants. The data indicate that when concentrations of certain traditional pollutants are reduced, concentrations of toxic pollutants are also reduced. Control of the traditional pollutant would insure control of toxics with similar physical and chemical properties that respond to similar treatment mechanisms. This

method of toxics regulation could obviate the difficulties, high costs, and delays of monitoring and analysis that could result from direct limitations of certain toxic pollutants. Specifically, EPA is proposing limitations on TSS to control chrysotile asbestos (see section VIII of this preamble). TSS limitations would be based on TSS concentrations achievable with technologies identified as BPT, BCT, and NSPS. Also, EPA believes that arsenic and nickel are adequately controlled by the incidental removal associated with the control and removal of copper, lead, mercury, and zinc found in the discharges from this industry (see section VIII of this preamble). EPA requests comments on limitations of indicator pollutants as an alternative to direct limitations on the toxic pollutants.

(4) EPA has obtained from the industry a substantial data base for the control and treatment technologies that form the basis for the proposed regulation. Plants that have not submitted data, or that have compiled more recent data than that already submitted, are requested to forward these data to EPA. These data should be individual data points, not averages or other summary data, including flow, production, and all pollutant parameters for which analyses were run. Please submit any qualification to the data, such as descriptions of facility design, operating procedures, and upset problems during specified periods.

EPA specifically requests any comments, data, or information pertaining to the technical or economic feasibility of the following issues as they apply to existing sources:

(1) Comments are requested on the approach proposed here for the precipitation relief. A substantial number of proposals and modifications have been made in this area, and the Agency invites substantive comments.

(2) Industry and other sources are invited to submit any data from pilot or commercial studies of flocculant addition, secondary settling, or granular-media filtration, particularly on their effectiveness in controlling toxic metals. Although the Agency has conducted a variety of treatability studies to address these technologies, EPA invites the submission of results from additional studies representing the diverse characteristics of raw wastewaters present in the ore mining and dressing industry.

(3) The Agency has completed an extensive effort to establish realistic costs for treatment technologies being considered, including verification of cost estimates at specific mines and mills where site-specific data have been collected. However, the Agency is aware that many approaches to cost estimation are available and invites commenters to present alternative cost methodologies. To perform a meaningful comparison between these alternatives and EPA's approach, commenters are requested to supply detailed information on salient design and operating characteristics; actual installed costs for each unit treatment operation or piece of equipment, the date of installation and the amount of installation labor provided by facility personnel; the actual cost of operation, maintenance, amortization; and other annual cost factors, including energy use, land, raw material, and labor requirements. Commenters should supply this information on an itemized basis with necessary supporting information to permit a meaningful evaluation of the alternative. The Agency specifically requests information from gold placer mine operations on these items.

(4) Both BAT and MSPS for gold placer mines are reserved in this rulemaking. EPA has been unable to acquire detailed, factual information that would enable the Agency to perform a cash flow analysis for gold placer mine operations and small tungsten mine operations. The Agency seeks individual replies. Replies will be treated as confidential, if so requested, at the time they are submitted.

EPA has conducted two separate studies of gold placer mines as part of the review of BAT and has reviewed additional studies performed by State and Federal agencies. This data indicates that limitations on settleable solids are the most appropriate and viable control for wastewater discharges from gold placer mines. However, the data on discharges from well constructed, operated, and maintained settling ponds associated with gold placer mines are limited because many of the mines do not operate settling ponds or the ponds were filled with sediment or the flow was short circuited through the pond. The Agency seeks additional data on the effluent from settling ponds associated with gold placer mines to augment the present data base and here asks for data from individual mines, miners associations and agencies. Specifically the Agency would like data on discharges during the forthcoming 1982 mining season in Alaska.

XX. Small Business Administration (SBA) Financial Assistance

Two SBA programs might be important sources of financing for the ore mining and dressing industry: SBA's Economic Injury Loan Program and the Pollution Control Financing Bond Guarantees.

Section 8 of the Clean Water Act of 1977 amended Section 7 of the Small Business Act, 5 U.S.C. 636, to authorize the SBA through its Economic Injury Loan Program to make loans to assist small business concerns in making additions to, or alterations in, equipment, facilities, or methods of operation to meet water pollution control requirements under the Act if the concern is likely to suffer a substantial economic injury without such assistance. This program is open to small business firms as defined by the SBA. Loans can be made either directly by SBA or through a bank using an SBA guarantee. The interest on direct loans depends on the cost of money to the Federal Government. Loan repayment periods, depending on the ability of the firm to repay the loan may extend up to thirty years but will not exceed the useful life of the equipment.

Firms in the ore mining and dressing industry may be eligible for direct or indirect SBA loans. For further details on this Federal loan program, write or telephone any of the following individuals at EPA headquarters or at the ten EPA regional offices:

Headquarters—Ms. Frances Desselle, Office of Analysis and Evaluation (WH-586), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 Telephone: (202) 426-7874

Region I—Mr. Ted Landry, Enforcement Division, Environmental Protection Agency, J. F. Kennedy Federal Building, Boston, MA 02203, Telephone: (617) 223-5061

Region II—Mr. Gerald DeGartano, Enforcement Division, Room 432, Environmental Protection Agency, 26 Federal Plaza, New York, NY 10007, Telephone: (212) 264-4711

Region III—Mr. Bob Gunter, Environmental Protection Agency, Curtis Building, 3IR20, 6th and Walnut Streets, Philadelphia, PA 19106, Telephone: (215) 597-2564

Region IV—Mr. John Hurlebaus, Grants Administrative Support Section, Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, GA 30308, Telephone: (404) 881-4491

Region V—Mr. Arnold Leder, Water and Hazardous Material, Enforcement Branch, Environmental Protection Agency, 230 South Dearborn Street, Chicago, IL 60605, Telephone: (312) 353-2114

Region VI—Ms. Jan Horn, Enforcement Division, Environmental Protection Agency, 1st International Building, 1201 Elm Street, Dallas, TX 75270, Telephone: (214) 729-2760

Region VII—Mr. Paul Walker, Water Division, Environmental Protection Agency, 1735 Baltimore Avenue, Kansas City, MO 64108, Telephone: (816) 374-2725

Region VIII—Mr. Gerald Burke, Office of Grants, Water Division, Environmental Protection Agency, 1860 Lincoln Street,

Denver, CO 80203, Telephone: (303) 327–4579

Region IX—Ms. Linda Powell, Permits Branch, Enforcement Division (E–4), Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105, Telephone: (415) 556–3450

Region X—Mr. Danforth Bodien, Enforcement Division, Environmental Protection Agency, 1200 6th Avenue, Seattle, WA 98101, Telephone: (206) 442–1352

Interested persons may also contact the Assistant Regional Administrators for Financial Assistance in the Small Business Administration Regional offices for more details on Federal loan assistance programs. For further information, write or telephone any of the following individuals:

Region I—Mr. George H. Allen, Assistant Regional Administrator for Financial Assistance, Small Business Administration, 60 Batterymarch, 10th Floor, Boston, MA 02110, Telephone: (617) 223–3891

Region II—Mr. John Axiotakis, Assistant Regional Administrator for Financial Assistance, Small Business Administration, 26 Federal Plaza, New York, NY 10007, Telephone: (212) 264–1452

Region III—Mr. David Malone, Assistant Regional Administrator for Financial Assistance, Small Business Administration, 231 St. Asaphs Road, West Lobby, Suite 646, Bala Cynwyd, PA 19004, Telephone: (215) 596–5908

Region IV—Mr. Merritt Scoggins, Assistant Regional Administrator for Financial Assistance, Small Business Administration, 1375 Peachtree Street, N.E., Atlanta, GA 30367, Telephone: (404) 881–2009

Region V—Mr. Howard Bondruska, Assistant Regional Administrator for Financial Assistance, Small Business Administration, 219 South Dearborn Street, Chicago, IL 60604, Telephone: (312) 353–4534

Region VI—Mr. Till Phillips, Assistant Regional Administrator for Financial Assistance, Small Business Administration, 1720 Regal Row, Suite 230, Dallas, TX 75202, Telephone: (214) 767–7873

Region VII—Mr. Richard Whitley, Assistant Regional Administrator for Financial Assistance, Small Business Administration, 911 Walnut Street, 23rd Floor, Kansas City, MO 64016, Telephone: (816) 374–3210

Region VIII—Mr. James Chuculate, Assistant Regional Administrator for Financial Assistance, Small Business Administration, 1405 Curtis Street, Executive Tower Building, 22nd Floor, Denver, CO 80202, Telephone: (303) 837–3686

Region IX—Mr. Larry J. Wodarski, Deputy Assistant Regional Administrator for Financial Assistance, Small Business Administration, 450 Golden Gate Avenue, San Francisco, CA 94102, Telephone: (415) 556–7782

Region X—Mr. Jack Welles, Regional Administrator, Small Business Administration, 710 2nd Avenue, Dexter Horton Bldg., 5th Floor, Seattle, WA 98104, Telephone: (206) 442–1455

In addition to the Economic Injury Loan Program, the Small Business Investment Act, as amended by Pub. L. 94–305, authorizes SBA to guarantee the payments on qualified contracts entered into by eligible small businesses to acquire needed pollution facilities when the financing is provided through tax-exempt revenue or pollution control bonds. This program is open to all eligible small businesses as defined by the SBA. Bond financing with SBA's guarantee of payments makes available long-term (20–30 years), low-interest (7 percent) financing to small businesses. For further details on this program write to the SBA, Pollution Control Financing Division, Office of Special Guarantees, 1815 North Lynn Street, Magazine Bldg., Rosslyn, VA 22209, (703) 235–2900.

XXI. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not Major and does not require a Regulatory Impact Analysis because the annual effect on the economy is less than $100 million, it will not cause a major increase in costs, or significant adverse effects on the industry.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Environmental Protection Agency, 401 M Street, SW., Washington, D.C.

List of Subjects in 40 CFR Part 440

Metal, Mines, Water pollution control, Waste treatment and disposal.

May 25, 1982.

Anne M. Gorsuch,

Administrator.

Appendix A.—Abbreviations, Acronyms and Units Used in This Notice

Act—The Clean Water Act.

Agency—The U.S. Environmental Protection Agency.

BADT—Best available demonstrated technology under sections 304(c) and 306.

BAT—The best available technology economically achievable, under section 304(b)(2)(B) of the Act.

BCT—The best conventional pollutant control technology, under section 304(b)(4) of the Act.

BMP's—Best management practices under section 304(e) of the Act.

BPT—The best practicable control technology currently available, under section 304(b)(1) of the Act.

CWA—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 et seq.) as amended by the Clean Water Act of 1977 (Pub. L. 95–217).

FWPCA—Federal Water Pollution Control Act.

MSHA—The Department of Labor, Mine Safety and Health Administration.

NPDES Permit—A National Pollutant Discharge Elimination System permit issued under section 402 of the Act.

NSPS—New Source performance standards under section 306 of the Act.

POTW—Publicly owned treatment works.

RCRA—Resource Conservation and Recovery Act (Pub. L. 94–580) of 1976, Amendments to Solid Waste Disposal Act.

Units

gpd—gallons per day.
mgd—million gallons per day.
mg/l—milligram(s) per liter.
μg/l—microgram(s) per liter.

Appendix B.—Toxic Organic Compounds Not Detected During Sampling

1. Acenaphthene.
2. Acrolein.
3. Acrylonitrite.
4. Benzidene.
5. Carbon Tetrachloride.
6. 1,2,4-Trichlorobenzene.
7. Hexachlorobenzene.
8. 1,2-Dichloroethane.
9. Hexachloroethane.
10. 1,1-Dichloroethane.
11. 1,1,2-Trichloroethane.
12. 1,1,2,2-Tetrachloroethane.
13. Chloroethane.
14. Bis(Chloromethyl) Ether.
15. Bis(2-Chloroethyl) Ether.
16. 2-Chloroethyl Vinyl Ether.
17. 2-Chloronaphthalene.
18. 2,4,6-Trichlorophenol.
19. Parachlorometa Cresol.
20. 2-Chlorophenol.
21. 1,2-Dichlorobenzene.
22. 1,3-Dichlorobenzene.
23. 1,4-Dichlorobenzene.
24. 3,3-Dichlorobenzidene.
25. 1,1-Dichloroethylene.
26. 2,4-Dichlorophenol.
27. 1,2-Dichloropropane.
28. 1,3-Dichloropropylene.
29. 2,4-Dinitrotoluene.
30. 2,6-Dinitrotoluene.
31. 1,2-Diphenylhydrazine.
32. Fluoranthene.
33. 4-Chlorophenyl Phenyl Ether.
34. 4-Bromophenyl Phenyl Ether.
35. Bis(2-Chloroisopropyl) Ether.
36. Bis(2-Chloroethoxy) Methane.
37. Methyl Chloride.
38. Methyl Bromide.
39. Bromoform.
40. Dichlorodifluoromethane.
41. Chlorodibromomethane.
42. Hexachlorobutadiene.
43. Hexachlorocyclopentadien.
44. Isophorone.
45. Naphthalene.
46. Nitrobenzene.
47. 2-Nitrophenol.
48. 4-Nitrophenol.
49. 2,4-Dinitrophenol.
50. 4,6-Dinitro-O-Cresol.
51. N-Nitrosodimethylamine.

52. N-Nitrosodiphenylamine.
53. N-Nitrosodi-N-Propylamine.
54. Pentachlorophenol.
55. Benzo(A)Anthracene.
56. Benzo(A)Pyrene.
57. 3,4-Benzofluoranthene.
58. Benzo(K)Fluoranthene.
59. Chrysene.
60. Acenaphthylene.
61. Anthracene.
62. Benzo(G,H,I)Perylene.
63. Phenathrene.
64. Dibenzo(A,H)Anthracene.
65. Indeno(1,2,3-C,D)Pyrene.
66. Pyrene.
67. Trichloroethylene.
68. Vinyl Chloride.
69. Chloradane.
70. 4,4-DDT.
71. 4,4-DDE.
72. 4,4-DDD.
73. Endosulfan-Alpha.
74. Endosulfan-Beta.
75. Endosulfan Sulfate.
76. Endrin Aldehyde.
77. Heptachlor Epoxide.
78. γBHC(Lindane)-Gamma.
79. PCB–1242 (AROCHLOR 1242).
80. PCB–1254 (AROCHLOR 1254).
81. PCB–1221 (AROCHLOR 1221).
82. PCB–1232 (AROCHLOR 1232).
83. PCB–1248 (AROCHLOR 1248).
84. PCB–1260 (AROCHLOR 1260).
85. PCB–1016 (AROCHLOR 1016).
86. Toxaphene.
87. 2,3,7,8-Tetrachlorodibenzo-p-Dioxin.

Appendix C.—Toxic Organic Compounds Detected at Least One Facility But Always 10 μg/l or less

1. Chlorobenzene.
2. Dichlorobromomethane.
3. Fluorene.
4. Aldrin.
5. Dieldrin.
6. Endrin.
7. Heptachlor.
8. 1,1,1-Trichloroethane.
9. Chloroform.
10. Ethylbenzene.
11. Trichlorofluoromethane.
12. Diethyl Phthalate.
13. Tetrachloroethylene.
14. Toluene.
15. αBHC-Alpha.
16. βBHC-Beta.
17. ΔBHC-Delta.

Appendix D.—Toxics Detected at Levels Too Small To Be Effectively Reduced by Technologies Known to the Administrator

1. Antimony.
2. Beryllium.
3. Silver.
4. Thallium.
5. Selenium.
6. Chromium.
7. Cyanide.
8. Benzene.
9. 1,2-Trans-Dichloroethylene.
10. Phenol.
11. Bis(2-Ethylhexyl) Phthalate.
12. Butyl Benzyl Phthalate.
13. Di-N-Butyl Phthalate.
14. Di-n-Octyl Phthalate.
15. Dimethyl Phthalate.
16. Methylene Chloride.

Appendix E.—Toxic Organic Compounds Detected From a Small Number of Sources and Uniquely Related to These Sources

2,4-dimentylphenol.

Appendix F.—Pollutants Effectively Controlled by the Technology upon Which Other Effluent Limitations and Guidelines are Based

1. Asbestos.
2. Arsenic.
3. Nickel.

Appendix G.—Subcategories and Subparts Where Equal or More Stringent Protection is Already Provided by Existing Effluent Limitations (BAT=BPT)

Iron Ore Subcategory
Aluminum Ore Subcategory
Uranium, Radium, and Vanadium Ores Subcategory, Mine Drainage
Mercury Ore Subcategory, Mills
Copper, Lead, Zinc, Silver, Gold, Platinum, and Molybdenum Ore Subcategory
Mills and mine areas employing leaching for the recovery of copper
Mills employing cyanidation process or the amalgamation process for the recovery of gold or silver.

Appendix H.—Pollutants Excluded by Subcategory and Subpart

Uranium Ore Subcategory—Mine Drainage

Cadmium (not detected)
Copper (present in amounts too small to treat)
Lead (present in amounts too small to treat)
Mercury (present in amounts too small to treat)

Tungsten Ore Subcategory—Mine Drainage

Cadmium (present in amounts to small to treat)
Lead (not detected)
Mercury (present in amounts too small to treat)

Tungsten Ore Subcategory—Mill Process Water

Cadmium (present in amounts too small to treat)
Mercury (not detected)

Mercury Ore Subcategory—Mine Drainage

Mercury (present in amounts too small to treat)

Appendix I.—Subpart Where Pollutants Are Detected From a Small Number of Sources Within the Subpart and the Pollutants Are Uniquely Related to These Sources

Uranium, Radium, and Vanadium Ores Subcategory
Mills using the acid and alkaline leach process for the extraction of uranium

Appendix J. Proposed BAT=BPT

Pollutants Where the Small Amounts Remaining in the BPT Effluent Does Not Justify Additional Regulation
Titanium Ore—Mills, Zinc
Tugsten Ore—Mine Drainage and Mills
Copper
Zinc
Cadmium
Copper, Lead, Zinc, Silver, Gold, Platinum, and Molybdenum Ore—Mine Drainage and Mills Employing Froth-Flotation
Copper
Zinc
Lead
Mercury
Cadmium

For the purpose of clarity, the BPT effluent limitations guidelines are being published as part of today's document. However, the BPT requirements remain unaffected by today's proposal and are not being reproposed today. For the reasons discussed above, EPA proposes to revise Part 440 to read as follows:

PART 440—ORE MINING AND DRESSING POINT SOURCE CATEGORY

Subpart A—Iron Ore Subcategory

Sec.
440.10 Applicability: description of the iron ore subcategory.
440.11 [Reserved]
440.12 Effluent limitations representing the degree of effluent reduction attainable by applying the best practicable control technology currently available (BPT).
440.13 Effluent limitations representing the degree of effluent reduction attainable by applying the best available technology economically achievable (BAT).
440.14 New Source Performance Standards (NSPS) representing the degree of effluent reduction attainable by applying the best available demonstrated technology (BADT).
440.15 Effluent limitations representing the degree of effluent reduction attainable by applying the best conventional pollutant control technology (BCT).

Subpart B—Base and Precious Metals Subcategory

440.20 Applicability: description of the base and precious metals subcategory.
440.21 [Reserved]
440.22 Effluent limitations representing the degree of effluent reduction attainable by applying the best practicable control technology currently available (BPT).

Subpart C—Aluminum Ore Subcategory

440.30 Applicability: description of the aluminum ore subcategory.
440.31 [Reserved]
440.32 Effluent limitations representing the degree of effluent reduction attainable by applying the best practicable control technology currently available (BPT).
440.33 Effluent limitations representing the degree of effluent reduction attainable by applying the best available technology economically achievable (BAT).
440.34 New Source Performance Standards (NSPS) representing the degree of effluent reduction attainable by applying best available demonstrated technology (BADT).
440.35 Effluent limitations representing the degree of effluent reduction attainable by

Sec.
applying the best conventional pollutant control technology (BCT).

Subpart D—Ferroalloy Ores Subcategory

440.40 Applicability: description of the ferroalloy ores subcategory.
440.41 [Reserved]
440.42 Effluent limitations representing the degree of effluent reduction attainable by applying the best practicable control technology currently available (BPT).

Subpart E—Uranium, Radium, and Vanadium

Ores Subcategory

440.50 Applicability: description of the uranium, radium, and vanadium ores subcategory.
440.51 [Reserved]
440.52 Effluent limitations representing the degree of effluent reduction attainable by applying the best practicable control technology currently available (BPT).
440.53 Effluent limitations representing the degree of effluent reduction attainable by applying the best available technology economically achievable (BAT).
440.54 New Source Performance Standards (NSPS) representing the degree of effluent reduction attainable by applying the best available demonstrated technology (BADT)
440.55 Effluent limitations representing the degree of effluent reduction attainable by applying the best conventional pollutant control technology (BCT).

Subpart F—Mercury Ores Subcategory

440.60 Applicability: description of the mercury ores subcategory.
440.61 [Reserved]
440.62 Effluent limitations representing the degree of effluent reduction attainable by applying the best practicable control technology currently available (BPT).
440.63 Effluent limitations representing the degree of effluent reduction attainable by applying the best available technology economically achievable (BAT).
440.64 New Source Performance Standards (NSPS) representing the degree of effluent reduction attainable by applying the best available demonstrated technology (BADT).
440.65 Effluent limitations representing the degree of effluent reduction attainable by applying the best conventional pollutant control technology (BCT).

Subpart G—Titanium Ore Subcategory

440.70 Applicability: description of the titanium ore subcategory.
440.71 [Reserved]
440.72 Effluent limitations representing the degree of effluent reduction attainable by applying the best practicable control technology currently available (BPT).
440.73 Effluent limitations representing the degree of effluent reduction attainable by applying the best available technology economically achievable (BAT).
440.74 New Source Performance Standards (NSPS) representing the degree off effluent reduction attainable by applying the best available demonstrated technology (BADT).

Sec.
440.75 Effluent limitations representing the degree of effluent reduction attainable by applying the best conventional pollutant control technology (BCT).

Subpart H—Tungsten Ore Subcategory

440.80 Applicability: description of the tungsten ore subcategory.
440.81 [Reserved]
440.82 Not Applicable
440.83 Effluent limitations representing the degree of effluent reduction attainable by applying the best available technology economically achievable (BAT).
440.84 New Source Performance Standards (NSPS) representing the degree of effluent reduction attainable by applying the best available demonstrated technology (BADT).
440.85 Effluent limitations representing the degree of effluent reduction attainable by applying the best conventional pollutant control technology (BCT).

Subpart I—Nickel Ore Subcategory

440.90 Applicability: description of the nickel ore subcategory.
440.91 [Reserved]
440.92 Not applicable.
440.93 Effluent limitations representing the degree of effluent reduction attainable by applying the best available technology economically achievable (BAT).
440.94 New Source Performance Standards (NSPS) representing the degree of effluent reduction attainable by applying the best demonstrated technology (BADT).
440.95 Effluent limitations representing the degree of effluent reduction attainable by applying the best conventional pollutant control technology (BCT).

Subpart J—Vanadium Ore Subcategory (Mined Alone and Not as a Byproduct)

440.100 Applicability: description of the vanadium ore subcategory.
440.101 [Reserved]
440.102 Effluent limitations representing the degree of effluent reduction attainable by applying the best practicable control technology currently available (BPT).
440.103 Effluent limitations representing the degree of effluent reduction attainable by applying the best available technology economically achievable (BAT).
440.104 New Source Performance Standards (NSPS) representing the degree of effluent reduction attainable by applying the best available demonstrated technology (BADT).
440.105 Effluent limitations representing the degree of effluent reduction attainable by applying the best conventional pollutant control technology (BCT).

Subpart K—Antimony Ore Subcategory

440.110 Applicability: description of the antimony ore subcategory.
440.111 [Reserved]
440.112 Effluent limitations representing the degree of effluent reduction attainable by applying the best practicable control technology currently available (BPT).
440.113 Effluent limitations representing the degree of effluent reduction attainable by

Sec.
applying the best available technology economically achievable (BAT).
440.114 New Source Performance Standards (NSPS) representing the degree of effluent reduction attainable by applying the best available demonstrated technology (BADT).
440.115 Effluent limitations representing the degree of effluent reduction attainable by applying the best conventional pollutant control technology (BCT).

Subpart L—Copper, Lead, Zinc, Gold, Silver, Platinum, and Molybdenum Ores Subcategory

440.120 Applicability: description of the copper, lead, zinc, gold, silver, platinum, and molybdenum ores subcategory.
440.121 [Reserved]
440.122 Not applicable.
440.123 Effluent limitations representing the degree of effluent reduction attainable by applying the best available technology economically achievable (BAT).
440.124 New Source Performance Standards (NSPS) representing the degree of effluent reduction attainable by applying the best available demonstrated technology (BADT).
440.125 Effluent limitations representing the degree of effluent reduction attainable by applying the best conventional pollutant control technology (BCT).

Subpart M—General Provisions and Definitions

440.130 Applicability.
440.131 General provisions.
440.132 General definitions.

Authority: Secs. 301, 304(b) and (c), 306, and 501, Clean Water Act [The Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977 (the Act)] as amended 33 U.S.C. 1311, 1314(b) and (c), 1316, and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–217.

Subpart A—Iron Ore Subcategory

§ 440.10 Applicability: Description of the iron ore subcategory.

The provisions of this subpart are applicable to discharges from:

(a) Mines operated to obtain iron ore, regardless of the type of ore or its mode of occurrence;

(b) Mills beneficiating iron ores by physical (magnetic and nonmagnetic) and/or chemical separation and

(c) Mills beneficiating iron ores by magnetic and physical separation (Mesabi Range).

§ 440.11 [Reserved]

§ 440.12 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subject to Subpart M-General Provisions and Definitions, the following limitations establish the concentrations of pollutants controlled by this section

which may be discharged by a point source after application of the best practicable control technology currently available:

(a) The concentration of pollutants discharged in mine drainage from mines operated to obtain iron ore shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
TSS	30	20
Fe (dissolved)	2.0	1.0
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) The concentration of pollutants discharged from mills that employ physical (magnetic and nonmagnetic) and/or chemical methods to beneficiate iron ore shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
TSS	30	20
Fe (dissolved)	2.0	1.0
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(c) (1) There shall be no discharge of process wastewater from mills that employ magnetic and physical methods to beneficiate iron ore (Mesabi Range) except as provided in paragraph (c)(2) of this section.

(2) In the event that the annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility exceeds the annual evaporation, a volume of water equivalent to the difference between annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility and annual evaporation may be discharged subject to the limitations set forth in paragraph (a) of this section.

§ 440.13 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in Subpart M of this regulation and 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations:

(a) The concentration of pollutants discharged in mine drainage from mines operated to obtain iron ore shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
Fe (dissolved)	2.0	1.0

(b) The concentration of pollutants discharged from mills that employ physical (magnetic and nonmagnetic) and/or chemical methods to beneficiate iron ore shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
Fe (dissolved)	2.0	1.0

(c)(1) There shall be no discharge of process wastewater from mills that employ magnetic and physical methods to beneficiate iron ore (Mesabi Range) except as provided below in paragraph (c)(2) of this section.

(2) In the event that the annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility exceeds the annual evaporation, a volume of water equal to the difference between annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility and annual evaporation may be discharged subject to the limitations set forth in paragraph (a) of this section.

§ 440.14 New Source Performance Standards (NSPS).

Except as provided in Subpart M of this regulation, any new source subject to this subpart must achieve the following NSPS representing the degree of effluent reduction attainable by applying the best available demonstrated technology (BADT):

(a) The concentration of pollutants discharged in mine drainage from mines operated to obtain iron ore shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
Fe (dissolved)	2.0	1.0
pH	(1)	(1)
TSS	30.0	20.0

[1] Within the range 6.0 to 9.0.

(b) The concentration of pollutants discharged from mills that employ physical (magnetic and nonmagnetic) and/or chemical methods to beneficiate iron ore shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
Fe (dissolved)	2.0	1.0
pH	(1)	(1)
TSS	30.0	20.0

[1] Within the range 6.0. to 9.0

(c) There shall be no discharge of process wastewater from mills that employ magnetic and physical methods to beneficiate iron ore (Mesabi Range) except as provided below.

In the event that the annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility exceeds the annual evaporation, a volume of water equal to the difference between annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility and annual evaporation may be discharged subject to the limitations set forth in paragraph (a) of this section.

440.15 Effluent limitations representing the degree of effluent reduction attainable by applying the best conventional pollutant control technology (BCT).

Except as provided in Subpart M of this regulation and 40 CFR 125.30—125.32, any existing source subject to this subpart must achieve the following limitations:

(a) The concentration of pollutants discharged in mine drainage from mines operated to obtain iron ore shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
pH[1]	(1)	(1)
TSS	30.0	20.0

[1] Within the range 6.0. to 9.0.

(b) The concentration of pollutants discharged from mills that employ physical (magnetic and nonmagnetic) and/or chemical methods to beneficiate iron ore shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
pH	(1)	(1)
TSS	30.0	20.0

[1] Within the range 6.0. to 9.0.

(c)(1) There shall be no discharge of process wastewater from mills that employ magnetic and physical methods to beneficiate iron ore (Mesabi Range) except as provided in paragraph (c)(2) of this section.

(2) In the event that the annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility exceeds the annual evaporation, a volume of water equal to the difference between annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility and annual evaporation may be discharged subject to the limitations set forth in paragraph (a) of this section.

Subpart B—Base and Precious Metal Ores Subcategory

§ 440.20 Applicability; description of the subcategory.

The provisions of this subpart are applicable to discharges from:

(a) Mines operated to obtain copper bearing ores, lead bearing ores, zinc bearing ores, gold bearing ores or silver bearing ores, or any combination of these ores from open pit or underground. operations other than placer deposits;

(b) Mills which employ the froth-flotation process alone or in conjunction with other processes, for the beneficiation of copper ores, lead ores, zinc ores, gold ores or silver ores, or any combination of these ores;

(c) Mines and mills which employ dump, heap, in-situ leach or vat-leach processes for the extraction of copper from ores or ore waste materials;

(d) Mills which extract gold or silver by the cyanidation process and

(e) Mines or mines and mills beneficiating gold ores, silver ores, or platinum ores by gravity separation methods, (this includes placer or dredge mining or concentrating operations, and hydraulic mining operations).

§ 440.21 [Reserved]

§ 440.22 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subject to the provisions of Subpart M–General Provisions and Definitions, the following limitations establish the concentration of pollutants controlled by this section which may be discharged by a point source after application of the best practicable control technology currently available:

(a) The concentration of pollutants discharged in mine drainage from mines operated to obtain copper bearing ores, lead bearing ores, zinc bearing ores, gold bearing ores, or silver bearing ores or any combination of these ores open-pit or underground operations other than placer deposits shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
TSS	30	20
Cu	.30	.15
Zn	1.5	.75
Pb	.6	.3
Hg	.002	.001
pH	(1)	(1)

[1] With the range 6.0 to 9.0

(b) The concentration of pollutants discharged from mills which employ the froth-flotation process alone or in conjunction with other processes, for the beneficiation of copper ores, lead ores, zinc ores, gold ores, or silver ores or any combination of these ores shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
TSS	30	20
Cu	.30	.15
Zn	1.0	.5
Pb	.6	.3
Hg	.002	.001
Cd	.10	.05
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(c)(1) There shall be no discharge of process wastewater from mines and mills which employ dump, heap, in situ leach or vat-leach processes for the extraction of copper from ores or ore waste materials except as provided in paragraph (c)(2) of this section.

(2) In the event that the annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility exceeds the annual evaporation, a volume of water equivalent to the difference between annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility and annual evaporation may be discharged subject to the limitations set forth in paragraph (a) of this section.

(d)(1) There shall be no discharge of process wastewater from mills which extract gold or silver by use of the cyanidation process except as provided in paragraph (d)(2) of this section.

(2) In the event that the annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility exceeds the annual evaporation, a volume of water equivalent to the difference between annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility and annual evaporation may be discharged subject to the limitations set forth in paragraph (a) of this section.

(5) The concentration of pollutants discharged in mine drainage from mines or discharged from mine and mill complexes beneficiating gold ores, silver ores or platinum ores by gravity separation methods including mining of

placer deposits, dredge mining and hydraulic mining operations shall not exceed: [Defined at a later date]

Subpart C—Aluminum Ore Subcategory

§ 440.30 Applicability: description of the aluminum ore subcategory.

The provisions of this subpart are applicable to discharges from facilities engaged in the mining of bauxite as an aluminum ore.

§ 440.31 [Reserved]

§ 440.32 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subject to the provisions of Subpart M, *General Provisions and Definitions*, the limitations described in the table below establish the concentration of pollutants controlled by this section, which may be discharged by a point source after application of the best practicable control technology currently available. The concentration of pollutants discharged in mine drainage from mines producing bauxite ores shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
TSS	30	20
Fe	1.0	.5
Al	2.0	1.0
pH	(1)	(1)

[1] Within the range 6.0 to 9.0

§ 440.33 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in Subpart M of this regulation and 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the limitations described in the table below. The concentration of pollutants discharged in mine drainage from mines producing bauxite ores shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
Fe (total)	1.0	0.5
Al	2.0	1.0

§ 440.34 New Source Performance Standards (NSPS).

Except as provided in Subpart M of this regulation, any new source subject to this subpart must achieve the NSPS described in the table below, representing the degree of effluent reduction attainable by the application of the best available demonstrated technology (BADT). The concentration of pollutants discharged in mine drainage from mines producing bauxite ores shall not exceed:

Effluent characteristic	Effluent limitations	Average of daily values for 30 consecutive days
	Maximum for any 1 day	
	Milligrams per liter	
Fe (total)	1.0	0.5
Al	2.0	1.0
pH	(1)	(1)
TSS	30.0	20.0

[1] Within the range 6.0 to 9.0.

§ 440.35 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in Subpart M of this part and 40 CFR §§ 125.30—125.32, any existing source subject to this subpart must achieve the following limitations:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
pH	(1)	(1)
TSS	30.0	20.0

[1] Within the range 6.0 to 9.0.

Subpart D—Ferroalloy Ores Subcategory

§ 440.40 Applicability: description of the ferroalloy ores subcategory.

The provisions of this subpart are applicable to discharges from:

(a) Mines producing 5,000 metric tons (5,512 short tons) or more of ferroalloy ores per year;

(b) Mines producing less than 5,000 metric tons (5,512 short tons) of ferroalloy ores per year by methods other than ore leaching;

(c) Mills processing 5,000 metric tons (5,512 short tons) or more of ferroalloy ores per year by purely physical methods including ore crushing, washing, jigging, heavy media and gravity separation, and magnetic and electrostatic separation; and

(d) Mills processing 5,000 metric tons (5,512 short tons) or more of ferroalloy ores per year by froth flotation methods. Ferroalloy metals include: molybdenum, nickel, tungsten and vanadium (recovered alone and not as a byproduct of uranium mining and mills).

§ 440.41 [Reserved]

§ 440.42 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subject to the provisions of Subpart M, *General Provisions and Definitions*, the following limitations establish the concentration of pollutants controlled by this section which may be discharged by a point source after application of the best practicable control technology currently available:

(a) The concentration of pollutants discharged in mine drainage from mines producing 5,000 metric tons (5,512 short tons) or more of ferroalloy bearing ores per year shall not exceed:

Effluent characteristic	Effluent limitations	Average of daily values for 30 consecutive days
	Maximum for any 1 day	
	Milligrams per liter	
TSS	30	20
Cd	.10	.05
Cu	.3	.15
Zn	1.0	.5
Pb	.6	.3
As	1.0	.5
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(2) The concentration of pollutants discharged in mine drainage from mines producing less that 5,000 metric tons (5,512 short tons) or discharged from mills processing less than 5,000 metric tons (5,512 short tons) of ferroalloy ores per year by methods other than ore leaching shall not exceed:

Effluent characteristic	Effluent limitations	Average of daily values for 30 consecutive days
	Maximum for any 1 day	
	Milligrams per liter	
TSS	30	20
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(3) The concentration of pollutants discharged from mills processing 5,000 metric tons (5,512 short tons) or more of ferroalloy ores per year by purely physical methods including ore crushing, washing, jigging, heavy media

separation, and magnetic and electrostatic separation shall not exceed:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days
	Milligrams per liter	
TSS	30	20
Cd	.10	.05
Cu	.30	.15
Zn	1.0	.5
As	1.0	.5
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(4) The concentration of pollutants discharged from mills processing 5,000 metric tons (5,512 short tons) or more of ferroalloy ores per year by froth flotation methods shall not exceed:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days
	Milligrams per liter	
TSS	30	20
Cd	.10	.05
Cu	.30	.15
Zn	1.0	.5
As	1.0	.5
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

Subpart E—Uranium, Radium and Vanadium Ores Subcategory

§ 440.50 Applicability: Description of the uranium, radium and vanadium ores subcategory.

The provisions of this subpart are applicable to discharges from

(a) Mines, either open-pit or underground, from which uranium, radium and vanadium ores are produced; and

(b) Mills using the acid leach, alkaline leach, or combined acid and alkaline leach process for the extraction of uranium, radium and vanadium.

Only vanadium by-product production from uranium ores is covered under this subpart.

§ 440.51 [Reserved]

§ 440.52 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subject to the provisions of Subpart M, *General Provisions and Definitions*, the following limitations establish the concentration of pollutants controlled by this section which may be discharged by a point source after application of the best practicable control technology currently available:

(a) The concentration of pollutants discharged in mine drainage from mines, either open-pit or underground, from which uranium, radium and vanadium ores are produced excluding mines using in-situ leach methods shall not exceed:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days
	Milligrams per liter	
TSS	30	20
COD	200	100
Zn	1.0	0.5
Ra226 [1] (dissolved)	10	3
Ra225 [1] (total)	30	10
U	4	2
pH	(2)	(2)

[1] Values in picocuries per liter (pCi/l).
[2] Within the range 6.0 to 9.0.

(b) The concentrations of pollutants discharged from mills using the acid leach, alkaline leach or combined acid and alkaline leach process for the extraction of uranium, radium and vanadium including mill-mine facilities and mines using in-situ leach methods, shall not exceed:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days
	Milligrams per liter	
TSS	30	20
COD	200	100
As	1.0	.5
Zn	1.0	.5
Ra226* (dissolved)	10	3
Ra226* (total)	30	10
NH3		100
pH	(2)	(2)

[1] Values in picocuries per liter (pCi/l).
[2] Within the range 6.0 to 9.0.

§ 440.53 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in Subpart M of this regulation and 40 CFR 125.30—125.32, any existing point source subject to this subpart must achieve the limitations: Described in the talk below. The concentration of pollutants discharged in mine drainage from mines, either open-pit or underground, that produce uranium ore, including mines using in-situ leach methods, shall not exceed:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days
	Milligrams per liter	
COD	200	100
Zn	1.0	0.5
Ra 226* (dissolved)	10.0	3.0
RA 226* (total)	30.0	10.0
U	4.0	2.0

[1] Values in picocuries per liter (pCi/l).

§ 440.54 New Source Performance Standards (NSPS).

Except as provided in Subpart M of this regulation any new source subject to this subpart must achieve the following NSPS representing the degree of effluent reduction attainable by the application of the best available demonstrated technology (BADT):

(a) The concentration of Pollutants discharged in mine drainage from mines, either open-pit or underground, that produce uranium ore, including mines using in-situ leach methods, shall not exceed:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days
	Milligrams per liter	
COD	200	100
Zn	1.0	0.5
Ra 226* (dissolved)	10.0	3.0
Ra 226* (total)	30.0	10.0
U	4.0	2.0
pH	(1)	(1)
TSS	30.0	20.0

[1] Values in picocuries per liter (pCi/1).
[2] Within the range 6.0 to 9.0.

(b)(1) There shall be no discharge of process wastewater from mills using the acid leach, alkaline leach or combined acid and alkaline leach process for the extraction of uranium or from mines and mills using in-situ leach methods.

(2) In the event that the annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility exceeds the annual evaporation, a volume of water equivalent to the difference between annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility and annual evaporation may be discharged subject to the limitations set forth in paragraph (a) of this section.

§ 440.55 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in Subpart M of this part and 40 CFR 125.30–125.32, any existing source subject to this subpart must achieve the following limitations:

(a) The concentration of pollutants discharged in mine drainage from mines, either open pit or underground, that produce uranium ore, including mines using in-situ leach methods, shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
pH	(1)	(1)
TSS	30.0	20.0

[1] Within the range 6.0 to 9.0.

(b) The concentration of pollutants discharged in wastewater from mills using the acid leach, alkaline leach or combined acid and alkaline leach process for the extraction of uranium shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
pH	(1)	(1)
TSS	30	20

[1] Within the range 6.0 to 9.0.

Subpart F—Mercury Ore Subcategory

§ 440.60 Applicability: Description of the mercury ore subcategory.

The provisions of this subpart are applicable to discharges from:

(a) Mines, either open-pit or underground, that produce mecury ores; and

(b) Mills beneficiating mercury ores by gravity separation methods or by froth-flotation methods.

§ 440.61 [Reserved]

§ 440.62 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subject to the provisions of Subpart M—General Provisions and Definitions, the following limitations establish the concentration of pollutants controlled by this section which may be discharged by a point source after application of the best practicable control technology currently available:

(a) The concentration of pollutants discharged in mine drainage from mines, either open-pit or underground, operated for the production of mercury ores shall not exceed the following limitations:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
TSS	30	20
Hg	.002	.001
Ni	.2	.1
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b)(1) There shall be no discharge of process wastewater from mills beneficiating mercury ores by gravity separation methods or by froth-flotation methods except as provided in paragraph (b)(2) of this section.

(2) In the event that the annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility exceeds the annual evaporation, a volume of water equivalent to the difference between annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility and annual evaporation may be discharged subject to the limitations set forth in paragraph (a) of this section.

§ 440.63 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in Subpart M of this regulation and 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following limitations:

(a) The concentration of pollutants discharged in mine drainage from mines, either open pit or underground, that produce mercury ores shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
Hg	0.002	0.001

(b)(1) There shall be no discharge of process wastewater from mills beneficiating mercury ores by gravity separation methods or by froth-flotation methods.

(2) In the event that the annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility exceeds the annual evaporation, a volume of water equal to the difference between annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility and annual evaporation may be discharged subject to the limitations set forth in paragraph (a) of this section.

§ 440.64 New Source Performance Standards (NSPS).

Except as provided in Subpart M of this regulation any new source subject to this subpart must achieve the following NSPS representing the degree of effluent reduction attainable by the application of the best available demonstrated technology (BADT):

(a) The concentration of pollutants discharged in mine drainage from mines, either open pit or underground, that produce mercury ores shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
Hg	0.002	0.001
pH	(1)	(1)
TSS	30.0	20.0

[1] Within the range 6.0 to 9.0

(b)(1) There shall be no discharge of process wastewater from mills beneficiating mercury ores by gravity separation methods or by froth-flotation methods.

(2) In the event that the annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the

treatment facility exceeds the annual evaporation, a volume of water equal to the difference between annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility and annual evaporation may be discharged subject to the limitations set forth in paragraph (a) of this section.

§ 440.65 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in Subpart M of this regulation and 40 CFR 125.30–125.32, any existing source subject to this subpart must achieve the following limitations:

(a) The concentration of pollutants discharged in mine drainage from mines, either open pit or underground, that produce mercury ores shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
pH	(1)	(1)
TSS	30	20

[1] Within the range 6.0 to 9.0.

(b)(1) There shall be no discharge of process wastewater from mills beneficiating mercury ores by gravity separation methods or by froth-flotation methods.

(2) In the event that the annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility exceeds the annual evaporation, a volume of water equal to the difference between annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility and annual evaporation may be discharged subject to the limitations set forth in paragraph (a) of this section.

Subpart G—Titanium Ore Subcategory

§ 440.70 Applicability; description of the titanium ore subcategory.

The provisions of this subpart are applicable to discharges from

(a) Mines obtaining titanium ores from lode deposits;

(b) Mills beneficiating titanium ores by electrostatic methods, magnetic and physical methods, or flotation methods; and

(c) Mines engaged in the dredge mining of placer deposits of sands containing rutile, ilmenite, leucoxene, monazite, zircon, and other heavy metals, and the milling techniques employed in conjunction with the dredge mining activity (milling techniques employed include the use of wet gravity methods in conjunction with electrostatic or magnetic methods).

§ 440.71 [Reserved]

§ 440.72 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subject to the provisions of Subpart M-General Provisions and Definitions, the following limitations establish the concentration of pollutants controlled by this section which may be discharged by a point source after application of the best practicable control technology currently available:

(a) The concentration of pollutants discharged in mine drainage from mines obtaining titanium ores from lode deposits shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
TSS	30	20
Fe	2.0	1.0
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) The concentration of pollutants discharged from mills beneficiating titanium ores by electrostatic methods, magnetic and physical methods, or flotation methods shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
TSS	30	20
Zn	1.0	0.5
Ni	0.2	0.1
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(c) The concentration of pollutants discharged in mine drainage from mines engaged in the dredge mining of placer deposits of sands containing rutile, ilmenite, leucoxene, monazite, zircon, or other heavy metals, and the milling techniques employed in conjunction with the dredge mining activity (milling techniques employed include the use of wet gravity methods in conjunction with electrostatic or magnetic methods) shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
TSS	30	20
Fe	2	1
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 440.73 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in Subpart M of this regulation and 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following limitations:

(a) The concentration of pollutants discharged in mine drainage from mines obtaining titanium ores from lode deposits shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
Fe	2.0	1.0

(b) The concentration of pollutants discharged from mills beneficiating titanium ores by electrostatic methods, magnetic and physical methods, or flotation methods shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
Zn	1.0	0.5

(c) The concentration of pollutants discharged in mine drainage from mines engaged in the dredge mining of placer deposits of sands containing rutile, ilmenite, leucoxene, monazite, or zircon and the milling techniques employed in conjunction with the dredge mining activity (milling techniques employed include the use of wet gravity methods in conjunction with electrostatic or magnetic methods) shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
Fe	2.0	1.0

§ 440.74 New source performance standards (NSPS).

Except as provided in Subpart M of this regulation any new source subject to this subpart must achieve the following NSPS representing the degree of effluent reduction attainable by the application of the best available demonstrated technology (BADT):

(a) The concentration of pollutants discharged in mine drainage from mines obtaining titanium ores from lode deposits shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
Fe	2.0	1.0
pH	(1)	(1)
TSS	30.0	20.0

[1] Within the range 6.0 to 9.0.

(b) The concentration of pollutants discharged from mills beneficiating titanium ores by electrostatic methods, magnetic and physical methods, or flotation methods shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
Zn	1.0	0.5
pH	(1)	(1)
TSS	30.0	20.0

[1] Within the range 6.0 to 9.0.

(c) The concentration of pollutants discharged in mine drainage from mines engaged in the dredge mining of placer deposits of sands containing rutile, ilmenite, leucoxene, monazite, zircon and the milling techniques employed in conjunction with the dredge mining activity (milling techniques employed include the use of wet gravity methods in conjunction with electrostatic or magnetic methods) shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
Fe	2.0	1.0
pH	(1)	(1)
TSS	30.0	20.0

[1] Within the range 6.0 to 9.0.

§ 440.75 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in Subpart M of this regulation and 40 CFR 125.30–125.32, any existing source subject to this subpart must achieve the following limitations:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
pH	(1)	(1)
TSS	30.0	20.0

[1] Within the range 6.0 to 9.0.

Subpart H—Tungsten Ore Subcategory

§ 440.80 Applicability; description of the tungsten ore subcategory.

The provisions of this subpart are applicable to discharges from (a) mines that produce tungsten ore and (b) mills that process tungsten ore by either the gravity separation or froth-flotation methods.

§ 440.81 [Reserved]

§ 440.82 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Tungsten ore is included in the BPT regulation for the Ferroalloy Ores subcategory (40 CFR 440.42).

§ 440.83 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in Subpart M of this regulation and 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following limitations:

(a) The concentration of pollutants discharged in mine drainage from tungsten mines shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
Cd	0.10	0.05
Cu	0.30	0.15
Zn	1.0	0.5

(b) The concentration of pollutants discharged from mills shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
Cd	0.10	0.05
Cu	0.3	0.15
Zn	1.0	0.5

§ 440.84 New source performance standards (NSPS).

Except as provided in Subpart M of this regulation any new source subject to this subpart must achieve the following NSPS representing the degree of effluent reduction attainable by the application of the best available demonstrated technology (BADT):

(a) The concentration of pollutants discharged in mine drainage from tungsten mines shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
Cd	0.10	0.05
Cu	0.30	0.15
Zn	1.0	0.5
pH	(1)	(1)
TSS	30.0	20.0

[1] Within the range of 6.0 to 9.0.

(b) The concentration of pollutants discharged from mills shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
Cd	0.10	0.05
Cu	0.3	0.15
Zn	1.0	0.5

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
pH	(1)	(1)
TSS	30.0	20.0

[1] Within the range 6.0 to 9.0.

§ 440.85 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in Subpart M of this regulation and 40 CFR 125.30—125.32, any existing source subject to this subpart must achieve the following limitations:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
pH	(1)	(1)
TSS	30.0	20.0

[1] Within the range 6.0 to 9.0.

Subpart I—Nickel Ore Subcategory

§ 440.90 Applicability; description of the nickel ore subcategory.

The provisions of this subpart are applicable to discharges from:

(a) Mines that produce nickel ore and

(b) Mills that process nickel ore.

§ 440.91 [Reserved]

§ 440.92 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Nickel ore is included in the ferroalloy ores subcategory (see Subpart D).

§ 440.93 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). [Reserved]

§ 440.94 New source performance standards (NSPS). [Reserved]

§ 440.95 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

Subpart J—Vanadium Ore Subcategory (Mined Alone and Not as a Byproduct)

§ 440.100 Applicability; description of the vanadium ore subcategory

The provisions of this subpart are applicable to discharges from:

(a) Mines that produce vanadium ore (recovered alone and not as a by-product of uranium mining and mills) and

(b) Mills that process vanadium ore (recovered alone, not as a byproduct of uranium mining and mills).

§ 440.101 [Reserved]

§ 440.102 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Vanadium ore (recovered alone and not as a byproduct of uranium mining and mills) is included in the ferroalloy ores subcategory (see Subpart D).

§ 440.103 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). [Reserved]

§ 440.104 New source performance standards (NSPS). [Reserved]

§ 440.105 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

Subpart K—Antimony Ore Subcategory

§ 440.110 Applicability; description of the antimony ore subcategory.

The provisions of this subpart are applicable to discharges from:

(a) Mines that produce antimony ore and

(b) Mills that process antimony ore.

§ 440.111 [Reserved]

§ 440.112 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT). [Reserved]

§ 440.113 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). [Reserved]

§ 440.114 New source performance standards (NSPS); effluent limitations. [Reserved]

§ 440.115 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

Subpart L—Copper, Lead, Zinc, Gold, Silver, Platinum, and Molybdenum Ores Subcategory

§ 440.120 Applicability.

The provisions of this subpart are applicable to discharges from:

(a) Mines that produce copper, lead, zinc, gold, silver, platinum, or molybdenum bearing ores, or any combination of these ores from open-pit or underground operations other than placer deposits;

(b) mills that use the froth-flotation process alone or in conjunction with other processes, for the beneficiation of copper, lead, zinc, gold, silver, platinum, or molybdenum ores, or any combination of these ores;

(c) mines and mills that use dump, heap, in-situ leach or vat-leach processes to extract copper from ores or ore waste materials;

(d) mills that use the cyanidation process to extract gold or silver; and

(e) mines or mines and mills that use gravity separation methods (including placer or dredge mining or concentrating operations, and hydraulic mining operations) to extract gold ores, silver ores, or platinum ores.

§ 440.121 [Reserved]

§440.122 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology (BPT).

Copper, lead, zinc, gold, silver and platinum ores are included in the BPT regulation for the Base and Precious Metals subcategory (40 CFR 440.22). Molybdenum ore is included in the BPT regulation for the Ferroalloy Ores subcategory (40 CFR 440.42).

§ 440.123 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (Bat).

Except as provided in Subpart M of this regulation and 40 CFR 125.30—125.32, any existing point source subject to this subpart must achieve the following limitations:

(a) The concentration of pollutants discharged in mine drainage from mines that produce copper, lead, zinc, gold, silver, platinum, or molydenum bearing ores or any combination of these ores from open-pit or underground operations other than placer deposits shall not exceed:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
Cu	0.30	0.15
Zn	1.5	0.75
Pb	0.6	0.3
Hg	0.002	0.001
Cd	0.10	0.05

(b) The concentration of pollutants discharged from mills that use the froth-flotation process alone, or in conjunction with other processes, for the beneficiation of copper, lead, zinc, gold, silver, platinum or molybdenum ores or any combination of these ores shall not exceed:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
Cu	0.30	0.15
Zn	1.0	0.5
Pb	0.6	0.3
Hg	0.002	0.001
Cd	0.10	0.05

(c)(1) There shall be no discharge of process wastewater from mine areas and mills processes and areas that use dump, heap, in-situ leach or vat-leach processes to extract copper from ores or ore waste materials except as provided in paragraph (c)(2) of this section.

(2) In the event that the annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility exceeds the annual evaporation, a volume of water equal to the difference between annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility and annual evaporation may be discharged subject to the limitations set forth in paragraph (a) of this section.

(d)(1) There shall be no discharge of process wastewater from mills that use the cyanidation process to extract gold or silver except as provided in paragraph (d)(2) of this section.

(2) In the event that the annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility exceeds the annual evaporation, a volume of water equal to the difference between annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility and annual evaporation may be discharged subject to the limitations set forth in paragraph (a) of this section.

(e) The concentration of pollutants discharged in mine drainage or discharged from mines and mills beneficiating gold, silver, or platinum ores by gravity separation methods including mining of placer deposits, dredge mining and hydraulic mining operations shall not exceed: (Reserved)

§ 440.124 New source performance standards (NSPS).

Except as provided in Subpart M—General Provisions and Definitions, any new source subject to this subsection must achieve the following NSPS representing the degree of effluent reduction attainable by the application of the best available demonstrated technology (BADT):

(a) The concentration of pollutants discharged in mine drainage from mines that produce copper, lead, zinc, gold, silver, platinum or molybdenum bearing ores or any combination of these ores from open-pit or underground operations other than place deposits shall not exceed:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
Cu	0.30	0.15
Zn	1.5	0.75
Pb	0.6	0.3
Hg	0.002	0.001
Cd	0.10	0.05
pH	[1]	[1]
TSS	30.0	30.0

[1] Within the range 6.0 to 9.0.

(b) (1) There shall be no discharge of process wastewater from mills that use the froth-flotation process alone, or in conjunction with other processes, for the beneficiation of copper, lead, zinc, gold, silver, platinum or molybdenum ores or any combination of these ores except as provided in paragraph (b)(2) of this section.

(2) In the event that the annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility exceeds the annual evaporation, a volume of water equal to the difference between annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility and annual evaporation may be discharged subject to the limitations set forth in paragraph (a) of this section.

(c) (1) There shall be no discharge of process wastewater from mine areas and mills processes and areas that use dump, heap, in-situ leach or vat-leach processes to extract copper from ores or ore waste materials except as provided in paragraph (c)(2) of this section.

(2) In the event that the annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility exceeds the annual evaporation, a volume of water equal to the difference between annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility and annual evaporation may be discharged subject to the limitations set forth in paragraph (a) of this section.

(d) (1) There shall be no discharge of process wastewater from mills that use the cyanidation process to extract gold or silver except as provided in paragraph (d)(2) of this section.

(2) In the event that the annual precipitation falling on the treatment facility and the drainage area contributing surfce runoff to the treatment facility exceeds the annual evaporation, a volume of water equal to the difference between annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility and annual evaporation may be discharged subject to the limitations set forth in paragraph (a) of this section.

(e) The concentration of pollutants discharged from mines and mills beneficiating gold, silver, or platinum ores by gravity separation methods including mining of placer deposits, dredge mining and hydraulic mining operations shall not exceed: [Defined at a later date]

§ 440.125 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in Subpart M of this regulation and 40 CFR 125.30—125.32, any existing source subject to this subpart must achieve the following limitations:

(a) The concentration of pollutants discharged in mine drainage from mines that produce copper, lead, zinc, gold, silver, platinum or molybdenum bearing ores or any combination of these ores from open-pit or underground operations, except gold placer mines, shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
pH	(1)	(1)
TSS	30.0	20.0

[1] Within the range 6.0 to 9.0.

(b) The concentration of pollutants discharged from mills that use froth-flotation process alone, or in conjunction with other processes, for the beneficiation of copper, lead, zinc, gold, silver, platinum, or molybdenum ores, or any combination of these shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1-day	Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
pH	(1)	(1)
TSS	30.0	20.0

[1] Within the range 6.0 to 9.0.

(c)(1) There shall be no discharge of process wastewater from mines and mills that extract copper from ores or ore waste materials by the dump, heap, in-situ leach or vat-leach processes except as provided in paragraph (c)(2) of this section.

(2) In the event that the annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility exceeds the annual evaporation, a volume of water equal to the difference between annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility and annual evaporation may be discharged subject to the limitations set forth in paragraph (a) of this section.

(d)(1) There shall be no discharge of process wastewater from mills that use the cyanidation process to extract gold or silver except as provided in paragraph (d)(2) of this section.

(2) In the event that the annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility exceeds the annual evaporation, a volume of water equal to the difference between annual precipitation falling on the treatment facility and the drainage area contributing surface runoff to the treatment facility and annual evaporation may be discharged subject to the limitations set forth in paragraph (a) of this section.

Subpart M—General Provisions and Definitions

§ 440.130 Applicability.

Abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to Part 440 except as provided in these general provisions and definitions. The general provisions and definitions in this subpart apply to all subparts of Part 440.

§ 440.131 General Provisions.

(a) Existing sources which as of the date of this proposal have combined for treatment waste streams from various subparts or segments of subparts in Part 440: The quantity and quality of each pollutant or pollutant property in the combined discharge that is subject to effluent limitations shall not exceed the quantity and quality of each pollutant or pollutant property that would have been discharged had each waste stream been treated separately. The discharge flow from a combined discharge shall not exceed the volume that would have been discharged had each waste stream been treated separately.

(b) New sources that combine for treatment waste streams from various subparts or segments of subparts in Part 440: The quantity and quality of each pollutant or pollutant property in the combined discharge that is subject to effluent limitations shall not exceed the quantity and quality of each pollutant or pollutant property that would have been discharged had each waste stream been treated separately.

(c) Existing sources and new sources that are permitted to discharge subject to effluent limitations and that are designed, constructed, and maintained to contain or treat the maximum volume of process wastewater discharged in a 24-hour period, including the volume which would result from a 10-year, 24-hour precipitation event, or snowmelt of equal volume: Any excess wastewater discharged shall not be subject to the limitations set forth in 40 CFR 440.

(d) Existing sources which are not permitted to discharge and that are designed, constructed, and maintained to contain the maximum volume of process wastewater discharged in a 24-hour period including the volume that would result from a 10-year, 24-hour precipitation event, or snowmelt of equal volume: Any excess wastewater discharged shall not be subject to the limitations set forth in 40 CFR 440.

(e) Determining the maximum volume of wastewater which would result from a 10-year 24 hour precipitation event at any facility (in (c) and (d) above): The volume must include the volume that would result from runoff from all areas contributing runoff to the individual treatment facility, i.e. all runoff that is not diverted from the active mining area, run off which is not diverted from the mill area, and other runoff that is allowed to commingle with the influent to the treatment system.

(f) New sources that must achieve no discharge of process wastewater: Excess wastewater that results from the occurrence of a 10-year, 24-hour precipitation event or snowmelt of equal volume may be discharged and shall not be subject to the limitations set forth in 40 FR 440.

(g) When neutralization and sedimentation treatment technology to comply with the metal limitations set forth results in inability to meet the pH range of 6 to 9:

(1) The permit issuer may allow the pH level in the final effluent to slightly exceed 9.0 so that the metals effluent limitations in the permit will be achieved.

(2) For a discharge into receiving waters for which the pH (if unaltered by human activities) is or would be less than 6.0 and if approved water quality standards authorize such lower pH, the pH limitation for the discharge may be adjusted downward to the pH water quality criterion for the receiving waters if the other effluent limitations for the discharge are met.

§ 440.132 General definitions.

(a) "Active mining area" is a place where work or other activity related to the extraction, removal, or recovery of metal ore is being conducted, except, with respect to surface mines, any area of land on or in which grading has been completed to return the earth to desired contour and reclamation work has begun.

(b) "Mine" is an active mining area, including all land and property placed under, or above the surfact of such land, used in or resulting from the work of extracting metal ore from its natural deposits by any means or method, including secondary recovery of metal ore from refuse or other storage piles derived from the mining, cleaning, or concentration of metal ores.

(c) "Mill" is a preparation facility within which the metal ore is cleaned, concentrated, or otherwise processed before it is shipped to the customer, refiner, smelter, or manufacturer. A mill includes all ancillary operations and structures necessary to clean, concentrate, or otherwise process metal ore, such as ore and gangue storage areas and loading facilities.

(d) "10-year, 24-hour precipitation event" is the maximum 24-hour precipitation event with a probable recurrence interval of once in 10 years as defined by the National Weather Service and Technical Paper No. 40, "Rainfall Frequency Atlas of the U.S.," May 1961, and subsequent amendments, or equivalent regional or rainfall probability information based on the paper.

(e) "Annual precipitation" and "annual evaporation" are the mean annual precipitation and mean annual lake evaporation, respectively, as defined in *Climatic Atlas of the United States*, U.S. Department of Commerce, Environmental Science Services Administration, Environmental Data Services, June 1968, or equivalent regional rainfall and evaporation data.

(f) "U" (Uranium) is measured by the procedure discussed in *HASL Procedure Manual*, edited by John H. Harley, HASL 300 Health and Safety Laboratory, U.S. Atomic Energy Commission, 1973, pg. EU–03, or an equivalent method.

(g) "Chrysotile asbestos" is measured by the procedure discussed in Charles H. Anderson and J. MacArthur Long, *Preliminary Interim Procedure for Fibrous Asbestos*, EPA 600/4–80–005, PB–80–152879. The procedure is also presented in Addendum A to the technical development document.

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federal register

Monday
June 14, 1982

Part III

Department of the Interior

Bureau of Land Management

Procedures for the Leasing of Combined Hydrocarbon Resources

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3140

Procedures for the Leasing of Combined Hydrocarbon Resources

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed Rulemaking.

SUMMARY: This proposed rulemaking would provide procedures to be used by the Secretary of the Interior in implementing a competitive leasing program in Special Tar Sand Areas as required by the Combined Hydrocarbon Leasing Act of 1981.

DATE: Comments by August 13, 1982.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 18th and C Streets, N.W., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m., to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Edward E. Coggs (202) 343–3258 or Richard J. Aiken (202) 343–3258 or Robert C. Bruce (202) 343–8735.

SUPPLEMENTARY INFORMATION: The Combined Hydrocarbon Leasing Act of 1981 (95 Stat. 1070) amends the Minerals Lands Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*), the Federal Lands Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), and the Mineral Lands Leasing Act for Acquired Lands, as amended (30 U.S.C. 351 *et seq.*) to establish a competitive leasing program for 11 designated areas in eastern Utah. These areas are designated by Secretary of the Interior's Orders of November 20, 1980 (45 FR 76800), and January 21, 1981 (46 FR 6077).

This proposed rulemaking, as mandated by the Combined Hydrocarbon Leasing Act, would provide a procedure under which all future leasing of any hydrocarbons except coal, oil shale, or gilsonite within the areas designated by the Secretary of the Interior's Orders of November 20, 1980 (45 FR 76800), and January 21, 1981 (46 FR 6077), and referred to as Special Tar Sand Areas, would be by competitive bidding. A combined hydrocarbon lease would convey the rights to all hydrocarbons located on the lease except coal, oil shale and gilsonite.

The proposed provisions for a competitive combined hydrocarbon leasing program would be substantially similar to the provisions of the Bureau of Land Management's existing oil and gas leasing regulations (43 CFR Part 3100), particularly those special provisions pertaining to mineral development activity taking place in a unit of the National Park System, and to the Operating Regulations for Exploration, Development, and Production (30 CFR Part 231) of the Minerals Management Service.

The Bureau of Land Management would hold a lease sale in those areas in which industry has expressed an interest. Leasing would take place only after the lands have been processed through the Bureau's land-use planning program in accordance with 43 CFR Part 1600 or the appropriate Minerals Management Plan of the National Park Service. In addition to the consultation with any affected agencies that will be taking place during the land-use planning phase, additional consultation is required with the Governor of Utah and any affected surface management agencies prior to lease offering.

The proposed rulemaking also includes provisions that allow prelease exploration and use of additional lands to support combined hydrocarbon lease operations.

Specific provisions of the proposed rulemaking are herein discussed in more detail.

Section 3141.0–5 Definitions

A number of terms used in this rulemaking are defined in the definitions section of the proposed rulemaking. Included among them are: (1) "combined hydrocarbon leases" which would follow the provisions of section 4 of the Combined Hydrocarbon Leasing Act. This term is only appropriate in Special Tar Sand Areas. The lease would convey the rights to all hydrocarbonaceous materials except coal, oil shale, and gilsonite, thereby eliminating the need to distinguish tar sand from oil within Special Tar Sand Areas; (2) "Special Tar Sand Areas" would be defined in accordance with the guidance provided in section 4 of the Combined Hydrocarbon Leasing Act and includes only those areas designated in the Secretary of the Interior's Orders of November 20, 1980, and January 21, 1981. These 11 areas, all in eastern Utah, are referred to as:

i. Asphalt Ridge—Whiterocks
ii. Ravenridge—Rimrock
iii. Pariette
iv. Argyle Canyon—Willow Creek
v. Sunnyside
vi. Hill Creek
vii. PR Spring
viii. San Rafael Swell
ix. Tar Sand Triangle
x. White Canyon.
xi. Circle Cliffs.

The other term that would also be defined is "tar sand" which is defined in accordance with the provisions set forth in section 7 of the Combined Hydrcarbon Leasing Act.

Section 3141.0–6 Effect of Existing Regulations

Paragraph (a) of this section of the proposed rulemaking explains that all combined hydrocarbon leases issued under this subpart would be required to follow all relevant provisions set out in existing oil and gas leasing regulations except that provisions relating to chargeable acreage, acreage limitations, royalty and rental rates, and primary terms are not applicable to leases that would be issued under this subpart. The existing regulations include the special leasing regulations pertaining to any mineral development activity taking place on a unit of the National Park Service.

Paragraph (b) of the proposed rulemaking explains the provisions of 30 CFR Part 231 as they would apply to the development and approval of plans of combined hydrocarbon leases issued under this subpart. This includes the requirement that prior to commencement of operations, the successful lessee shall develop a plan of operations as described in 30 CFR 231.10 which ensures reasonable protection of the environment and diligent development of the resource.

Paragraph (c) of this section would be applicable to all unit or cooperative agreements involving combined hydrocarbon leases. This section recognizes that 30 CFR Part 226 is written for oil and gas operations and, therefore, has some requirements and procedures that may be inappropriate to certain methods of tar sand development. However, to the extent applicable, the proposed rulemaking makes it clear that unit or cooperative agreements involving combined hydrocarbon leases should comply with the requirements of 30 CFR Part 226.

Section 3141.1 General

In accordance with section 6(a)(2) of the Combined Hydrocarbon Leasing Act, this section of the proposed rulemaking would establish that all public lands and acquired lands available for leasing within a Special Tar Sand Area shall be leased only by competitive bidding and to the highest responsible qualified bidder. Also, as set out in section 5 of the Act, it would establish that acreage covered by a lease within a Special Tar Sand Area is not chargeable against acreage

limitations established in existing oil and gas leasing regulations. Further, it authorizes the noncompetitive leasing of additional lands needed to support operations of the combined hydrocarbon lease. Such lands would be made available using the procedures included in Parts 2800, 2880 and 2920 of Title 43 of the Code of Federal Regulations unless the lands required are located within units of the National Park System in which case a permit or lease issued by the Regional Director of the National Park Service would be required.

Section 3141.2-1 Geophysical Exploration

This section of the proposed rulemaking would establish procedures to be followed in conducting tar sand exploration on the public lands by referring to the regulations in 43 CFR Part 3045. The procedures in that part would not allow core drilling nor the casual use of public lands for any needed tar sand exploration.

Section 3141.2-2 Exploration Licenses

This section of the proposed rulemaking would establish procedures which would allow a person(s) to conduct core drilling and other exploration activities within Special Tar Sand Areas for tar sand resources if an exploration license were obtained. All applications would be required to be processed in accordance with 30 CFR 231.10(b).

Section 3141.4-2 Consultation with Others

The provisions of existing regulations in 43 CFR Part 3100 are applicable to this subpart and would set the basis for consultation with other surface managing agencies prior to leasing of lands for combined hydrocarbons.

As authorized in section 11 of the Combined Hydrocarbon Leasing Act, this section of the proposed rulemaking would permit leasing of combined hydrocarbon within units of the National Park System with specified restrictions. These restrictions include: (1) that the law establishing the particular unit allow mineral development; (2) that tar sand development be in accordance with the applicable mineral management plan developed by the National Park Service; and (3) that there will be no significant adverse impact resulting from tar sand development in the National Park Service unit or contiguous units. At present this section would apply only to certain areas in the Glen Canyon National Recreation Area in which tar sands are present and mineral development is authorized.

Section 3141.5-3 Royalties and Rentals

This section would establish the rental and royalty rate for combined hydrocarbon leases. It is recognized by the Department of the Interior that some methods of extraction will result in the value of the product produced from tar sand being different from the value of a similar product produced using the more traditional methods. In accordance with section 7 of the Act, this section would allow the Secretary of the Interior, at the request of the lessee, to review and reduce the lease royalty rate prior to commencement of commercial operations with the intent of promotion development and maximizing production of resources requiring enhanced recovery methods. The section would also restate the authority granted by section 39 of the Mineral Lands Leasing Act (30 U.S.C. 209) by which the Secretary may reduce the royalty rate after commencement of commercial production.

Section 3141.6-1 Initiation of Competitive Lease Offering

This section would provide a process whereby the public and private industry can express an interest in leasing certain areas within the Special Tar Sand Areas. Such areas would be considered for competitive bidding after review and approval by the Bureau of Land Management.

The primary authors of this proposed rulemaking are Richard Aiken and Edward Coggs, Division of Coal, Tar Sands, and Oil Shale, Bureau of Land Management, Bob Randolph and Orvall Hadley, Utah State Office, assisted by William Murray, Division of Energy and Resources, Office of the Solicitor, Department of the Interior, the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management, and other Bureau of Land Management and Department of the Interior staff.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The leasing procedures provided in this proposed rulemaking are available to all entities who wish to avail themselves of the opportunity to lease combined hydrocarbon resources, regardless of the size of the entity. The proposed rulemaking follows the guidance set out in the Combined Hydrocarbon Leasing Act and is designed to provide an equitable process for leasing and development of combined hydrocarbon resources.

The information collection requirements contained in 43 CFR Subpart 3141 have been submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3507. The collection of this information will not be required until it has been approved by the Office of Management and Budget.

List of Subjects in 43 CFR Part 3140

Administrative practice and procedure, Environmental protection, Mineral royalties, Oil and gas reserves, Public lands—mineral resources.

PART 3140—COMBINED HYDROCARBON LEASING

Under the authority of the Combined Hydrocarbon Leasing Act of 1981 (95 Stat. 1070), the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.), the Mineral Lands Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359 et seq.), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), it is proposed to amend Group 3100, Subchapter C, Charter II of the Code of Federal Regulations by adding a new Subpart 3141 as follows:

Subpart 3141—Competitive Leasing in Special Tar Sand Areas

Sec.

3141.0-1 Purpose.
3141.0-3 Authority.
3141.0-5 Definitions.
3141.0-8 Effect of existing regulations.
3141.1 General.
3141.2 Prelease exploration within Special Tar Sand Areas.
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3141.5-4 Lease size.
3141.5-5 Dating of lease.
3141.6 Sale procedures.
3141.6-1 Initiation of competitive lease offering.
3141.6-2 Publication of notice of competitive lease offering.
3141.6-3 Conduct of sales.
3141.6-4 Qualifications.
3141.6-5 Rejection of bid.

3141.6-6 Consideration of next highest bid.
3141.7 Award of lease.

Authority. 30 U.S.C. 181 et seq., 351 et seq., 43 U.S.C. 1701 et seq., 95 Stat. 1070.

Subpart 3141—Competitive Leasing in Special Tar Sand Areas

§ 3141.0-1 Purpose.

This subpart provides procedures for the competitive leasing of lands and issuance of Combined Hydrocarbon Leases within Special Tar Sand Areas.

§ 3141.0-3 Authority.

These regulations are issued under the authority of the Mineral Leasing Act of February 25, 1920 (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), the Federal Lands Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and the Combined Hydrocarbon Leasing Act of 1981 (95 Stat. 1070).

§ 3141.0-5 Definitions.

As used in this subpart, the term:

(a) "Combined hydrocarbon lease" means a lease issued in a Special Tar Sand Area for the removal of any gas and nongaseous hydrocarbon substance other than coal, oil shale or gilsonite.

(b) "Special Tar Sand Area" means an area designated by the Secretary of the Interior's Orders of November 20, 1980 (45 FR 76800), and January 21, 1981 (46 FR 6077), and referred to in those orders as Designated Tar Sand Areas, as containing substantial deposits of tar and sand.

(c) "Tar sand" means any consolidated or unconsolidated rock (other than coal, oil shale or gilsonite) that either: (1) contains a hydrocarbonaceous material with a gas-free viscosity, at original reservoir temperature greater than 10,000 centipoise, or (2) contains a hydrocarbonaceous material and is produced by mining or quarrying.

§ 3141.0-8 Effect of existing regulations.

(a) The provisions of Part 3100 of this title apply to the issuance and administration of combined hydrocarbon leases issued under this subpart; except that chargeable acreage, acreage limitations, royalty and rental rates, and primary terms are controlled by the provisions of this subpart.

(b) Prior to commencement of operations, the lessee shall develop and submit to the District Mining Supervisor of the Minerals Management Service a plan of operations as described in 30 CFR 231.10 which ensures reasonable protection of the environment and diligent development of the resource.

(c) The provisions of 30 CFR Part 226 shall serve as general guidance to the issuance and administration of combined hydrocarbon leases issued under this subpart to the extent applicable to unit or cooperative agreements.

§ 3141.1 General.

(a) All hydrocarbons, except coal, oil shale and gilsonite, within a Special Tar Sand Area subject to the issuance of a combined hydrocarbon lease shall be leased only by competitive bonus bidding and only combined hydrocarbon leases shall be issued for such resources.

(b) The acreage of combined hydrocarbon leases held within a Special Tar Sand Area shall not be charged against acreage limitations for the holding of oil and gas leases.

(c)(1) The authorized officer may noncompetitively lease additional lands for ancillary facilities in a Special Tar Sand Area that are shown by an applicant to be needed to support any operations necessary for the recovery of tar sand. Such uses include, but are not limited to, mill siting or waste disposal. An application for a lease or permit to use additional lands shall be filed under the provisions of part 2920 of this title with the Utah State Office of the Bureau of Land Management. The application for additional lands may be filed at the time a plan of operations is filed.

(2) A lease for the use of additional lands shall not be issued under this part when the use can be authorized under part 2800 of this title. Such uses include, but are not limited to, reservoirs, pipelines, electrical generation systems, transmission lines, roads and railroads.

(3) Within units of the National Park System, permits or leases for additional lands shall be issued only by the National Park Service. Applications for such permits or leases shall be filed with the Regional Director of the National Park Service.

§ 3141.2 Prelease exploration within Special Tar Sand Areas.

§ 3141.2-1 Geophysical exploration.

Geophysical exploration in Special Tar Sand Areas shall be governed by subpart 3045 of this title. Information obtained under a permit shall be made available upon request to the Minerals Management Service.

§ 3141.2-2 Exploration licenses.

(a) Any person(s) qualified to hold a lease under the provisions of subpart 3102 of this title and this subpart may obtain an exploration license to conduct core drilling and other exploration activities to collect geologic, environmental and other data concerning tar sand resources within a Special Tar Sand Area. The application for such a license shall be submitted to the Utah State Office of the Bureau of Land Management. No drilling for oil or gas will be allowed under an exploration license issued under this subpart. No specific form is required for an application for an exploration license.

(b) The application for an exploration license shall be subject to the following requirements:

(1) Each application shall contain the name and address of the applicant(s);

(2) Each application shall be accompanied by a nonrefundable filing fee of $250.00;

(3) Each application shall contain a description of the lands covered by the application according to section, township and range in accordance with the official survey;

(4) Each application shall include 3 copies of an exploration plan which complies with the requirements of 30 CFR 231.10(a); and

(5) An application shall cover no more than 5,120 acres, which shall be as nearly compact as possible, except the authorized officer may grant an exploration license for more than 5,120 acres upon a showing by the applicant of a need for an exception to the normal limitation of 5,120 acres.

(c) Applicants for exploration licenses shall provide an opportunity for others to participate in exploration activities under any exploration license on a pro rata cost sharing basis. The invitation to participate shall meet the following:

(1) Simultaneously with the filing of an application for an exploration license under this section, the applicant shall publish a Notice of Invitation, approved by the authorized officer, once a week for 2 consecutive weeks in at least 1 newspaper of general circulation in the area where the lands covered by the license application are situated. The notice shall contain an invitation to participate in the exploration under the license. Copies of the Notice of Invitation shall be filed with the authorized officer at the time of publication and shall be posted in the Utah State Office of the Bureau of Land Management at least 30 days prior to the issuance of an exploration license;

(2) Any person seeking to participate in the exploration program described in the Notice of Invitation shall notify the authorized officer and the applicant in writing of such intention within 30 days after posting in the Utah State Office of the Bureau of Land Management. The authorized officer may: (i) to avoid duplication of exploration activities in an area, require modification of the

original exploration plan to accommodate the exploration needs of person(s) seeking to participate, or (ii) notify the person seeking to participate that he/she file a separate application for an exploration license.

(d) The authorized officer may accept or reject an exploration license application. If the authorized officer determines that an application covers exploration operations that could have been conducted as part of exploration under an existing or recent exploration license, the application may be rejected. An exploration license shall become effective on the date specified by the authorized officer as the date when exploration activities may begin. The exploration plan approved by the Minerals Management Service shall be attached and made a part of each exploration license.

(e) An exploration license shall be subject to these terms and conditions:

(1) The license shall be for a term of not more than 2 years;

(2) The rental shall be $2 per acre per year payable in advance;

(3) The licensee shall provide a bond in an amount determined by the authorized officer after consultation with the Mining Supervisor, but not less than $5,000. The authorized officer may accept bonds furnished under subpart 3104 of this title as compliance with the requirement of this section. The period of liability under the bond shall be terminated only after the authorized officer determines that the terms and conditions of the license, the exploration plan and the regulations have been met;

(4) The licensee shall provide to the Minerals Management Service all required information obtained under the license. Any information provided shall be treated as confidential and proprietary, if appropriate, at the request of the licensee, but only until the lands covered by the application have been leased or for 3 years, whichever occurs first;

(5) Operations conducted under a license shall not unreasonably interfere with or endanger any other lawful activity on the same lands, shall not damage any improvements on the lands, and shall not result in any substantial disturbance to the surface of the lands and their resources;

(6) The authorized officer shall include in each license requirements and stipulations to protect the environment and resource values in the area and to ensure reclamation of the land disturbed by exploration operations;

(7) When a licensee notices the authorized officer that he/she has encountered unforeseen conditions that could result in an action prohibited by subparagraph (5) of this section, or when warranted by geologic or other physical conditions, the authorized officer, after consultation with the District Mining Supervisor, may adjust the terms and conditions of the exploration license, or the District Mining Supervisor, after consultation with the authorized officer, may direct adjustment in the exploration plan;

(8) The licensee may request modification of the exploration plan. The District Mining Supervisor may approve the modifications after consultation with the authorized officer and after any necessary adjustments to the terms and conditions of the license are accepted in writing by the licensee; and

(9) The license shall be subject to termination or suspension as provided in § 2920.9–3 of this title.

§ 3141.3 Land use plans.

No lease shall be issued under this subpart unless the proposed use of the lands covered be the lease has been found in conformance with a land use plan developed under Part 1600 of this title or an approved Minerals Management Plan of the National Park Service. The decision to hold a lease sale and issue leases shall be in conformance with the appropriate plan.

§ 3141.4 Consultation.

§ 3141.4–1 Consultation with the Governor.

The authorized officer shall consult with the Governor of Utah before publishing a notice of lease sale and provide the Governor a minimum of 30 days to respond to a proposed sale.

§ 3141.4–2 Consultation with others.

The issuance of combined hydrocarbon leases within units of the National Park System shall be allowed only where mineral leasing is permitted by law and where the lands are open to mineral resource disposition in accordance with any applicable Minerals Management Plan of the National Park Service. (See § 3101.4–5 of this title) In order to consent to any issuance or subsequent development under a combined hydrocarbon lease requiring further approval, the Regional Director of the National Park Service in accordance with § 3109.5–2 of this title.

§ 3141.5 Leasing procedures.

§ 3141.5–1 Economic evaluation.

The authorized officer shall request from the Minerals Management Service an economic evaluation of the total hydrocarbon resource of the lease area exclusive of coal, oil shale or gilsonite. Minimum acceptable bids shall be not less than $25 per acre.

§ 3141.5–2 Term of lease.

Combined hydrocarbon leases shall have a primary term of 10 years and shall remain in effect so long thereafter as oil or gas is produced in paying quantities.

§ 3141.5–3 Royalties and rentals.

(a) The royalty rate on all combined hydrocarbon leases is 12½ percent of the value of production removed or sold from a lease. The Minerals Management Service shall be responsible for assessing and administering royalties.

(b) The lessee may request the Secretary to reduce the royalty rate applicable to tar sand prior to commencement of commercial operations in accordance with § 3103.3–7 of this title and in order to promote development and maximum production of the tar sand resource after commencement of commercial operations. Supporting evidence shall be submitted with the request. Procedures for requesting royalties reduction are included in 30 CFR Part 231.

(c) The rental rate for a combined hydrocarbon lease shall be $2 per acre per year, and shall be payable annually in advance.

(d) Except as explained in paragraphs (a), (b), and (c) of this section, all other provisions of subpart 3103.3 of this title apply to combined hydrocarbon leasing.

§ 3141.5–4 Lease size.

Combined hydrocarbon leases shall not exceed 5,120 acres.

§ 3141.5–5 Dating of lease.

A combined hydrocarbon lease shall be effective as of the first day of the month following the date the lease is signed on behalf of the United States, except that where prior written request is made, a lease may be made effective on the first of the month in which the lease is signed.

§ 3141.6 Sale procedures.

§ 3141.6–1 Initiation of competitive lease offering.

The Bureau of Land Management may, in its own motion, offer lands through competitive bidding. A request or expression(s) of interest in tract(s) for competitive lease offerings shall be submitted in writing to the Utah State Office of the Bureau of Land Management Office.

§ 3141.6–2 Publication of a notice of competitive lease offering.

Where a determination to offer lands for competitive leasing is made, a notice

shall be published of the lease sale in the **Federal Register** and a newspaper of general circulation in the area in which the lands to be leased are located. The publication shall appear once in the **Federal Register** and at least once a week for 3 consecutive weeks in a newspaper, or for other such periods deemed necessary. The notice shall specify the time and place of sale, the manner in which the bids may be submitted; the description of the lands; the terms and conditions of the lease, including the royalty and rental rates; the minimum acceptable bid for each tract; and shall state that the terms and conditions of the leases are available for inspection and bid forms may be obtained in the Utah State Office of the Bureau of Land Management.

§ 3141.6–3 Conduct of sales.

(a) Competitive sales shall be conducted by the submission of written sealed bids followed by oral bidding. A sealed bid of not less than the published minimum acceptable bid shall be submitted before participation in the oral auction may occur. In oral auction sales, the higher bidder shall confirm his/her bid in writing immediately upon being declared the high bidder.

(b) In the event that only 1 sealed bid is received and it is equal to or greater than the minimum acceptable bid, that bid shall be considered the highest bid.

(c) The authorized officer may reject any or all bids.

(d) The authorized officer may waiver minor deficiencies in the bids or the lease sale advertisement.

(e) A bid deposit of one-fifth of the amount of the sealed bid shall accompany the sealed bid. All bid deposits shall be in the form of either a certified check, money order, bank cashier's check or cash. A high oral bidder shall, by the close of business on the day of the oral suction, bring the bid deposit up to one-fifth of the oral bid.

§ 3141.6–4 Qualifications.

Each bidder shall submit with the bid a signed statement with respect to compliance with the provisions of subpart 3102 of this title.

§ 3141.6–5 Rejection of bid.

If the high bid is rejected for failure by the successful bidder to execute the lease forms and pay the balance of the bonus bid, or otherwise to comply with the regulations of this subpart, the one-fifth bonus accompanying the bid shall be forfeited.

§ 3141.6–6 Consideration of next highest bid.

The Department reserves the right to accept the next highest bid if the highest bid is rejected. In no event shall an offer be made to the next bidder if the difference between his/her bid and that of the successful bidder is greater than the one-fifth bonus forfeited by the rejected successful bidder.

§ 3141.7 Award of lease.

After determining the highest responsible qualified bidder, the authorized officer shall send 3 copies of the lease on a form approved by the Director, and any necessary stipulations, to the successful bidder. The successful bidder shall, not later than the 15th day after receipt of the lease, execute the lease, pay the balance of the bid and the first year's rental, and file a bond as required in subpart 3104 of this title. Failure to comply with this section shall result in rejection of the lease.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

May 27, 1982.

[FR Doc. 82-15907 Filed 6-N-82; 8:45 am]

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June 14, 1982

Part IV

Department of Health and Human Services

Office of Human Development Services

Administration for Native Americans

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

[Program Announcement 13612-831]

Acceptance of Financial Assistance Applications by Administration for Native Americans

AGENCY: Office of Human Development Services, HHS.

SUBJECT: Announcement of Available Fiscal Year 1983, Financial Assistance for Native American Projects.

SUMMARY: The Administration for Native Americans (ANA) announces that applications are being accepted for financial assistance under section 803 of the Native American Programs Act of 1974, Pub. L. 93-644, as amended. Regulations covering this program are published in the Code of Federal Regulations in 45 CFR Part 1336.

DATES: The closing date for receipt of all applications is 90 days prior to the Budget Period End Date (BPE) of the current ANA grant.

Scope of this Program Announcement

This program announcement is directed to the attention of Fiscal Year 1982 ANA grantees. It solicits applications for FY '83 grants; notifies the public of the Administration for Native American's funding priorities for Fiscal Year 1983; and provides guidance in the preparation of their applications for FY '83 funding from the Administration for Native Americans.

This announcement is intended to solicit applications only from Indian tribes and Native American organizations which are FY '82 grantees of ANA. Competition for other grant awards in FY '83 will be announced separately in the Federal Register.

Program Purpose

The purpose of the Administration for Native Americans is to promote economic and social self-sufficiency for American Indians, Alaska Natives, and Native Hawaiians. Self-sufficiency is the level of development and degree to which a Native American community can provide for the needs of its community members and pursue its own social and economic goals. ANA has three goals:

A. To develop or strengthen tribal governments and Native American institutions and local leadership to assure local control and decision making over all resources.

B. To foster the development of stable, diversified local economies and economic activities which provide jobs, promote economic well-being, and reduce dependency on welfare services.

C. To support local access to and coordination of services and programs which safeguard the health and well-being of Native Americans and are essential to a thriving and self-sufficient community.

ANA Program Goals

In FY 1982, the Administration for Native Americans implemented a new program direction that moved from the previous emphasis on core administration and filling service gaps to a community-based social and economic development strategy (SEDS). For FY 1983, ANA continues this broader focus which promotes self-determination and local decision-making through support for balanced social, economic and governmental development of Native American communities.

Consistent with ANA's mission of promoting self-sufficiency, the goal of the ANA program is to provide financial assistance to Indian tribes and Indian, Alaska Native and Hawaiian Native organizations to enable them to create and implement effective local social and economic development strategies. The implementation of these strategies is expected to result in sustained improvement in the social and economic conditions of Native Americans within the community, as well as in increased effectiveness and efficiency of the Indian tribe or Native American organization in defining and achieving its own economic and social goals.

The local community has primary responsibility for determining its own needs and priorities and for planning and implementing its own programs. A balanced and interrelated approach to social and economic development is the most workable and appropriate way in which self-sufficiency can be attained. Only the local community is in a position to apply its own cultural values, and weigh the trade-offs in deciding on various strategies and programs which have socio-cultural as well as economic consequences.

Because the local community knows the appropriate activities required to create its own social and economic balance, it is ANA's policy to strengthen tribes and Native American organizations in providing direction to social and economic development and in coordinating all resources, Federal and non-Federal, toward locally determined priorities. It is also ANA's policy to support the development of local leadership, on and off the reservation, in planning and implementing local programs which meet community needs.

Project Objectives

The purpose of this program announcement is to provide financial assistance grants to Indian tribes and Native American organizations to support locally determined social and economic development strategies that promote self-sufficiency for Native American communities. The applications must identify and address community specific goals and objectives that fall within the parameters of ANA's three program goals. The proposed project(s) must directly relate to social and economic development in the community in keeping with local needs, resources and cultural values.

Specialized Assistance Required

Program funds may be used for obtaining specialized outside assistance necessary to achieve the project objectives. The specialized assistance must be sufficiently detailed in the work plan to make clear its relationship to the project objectives and to demonstrate how it will facilitate the applicant's ability to achieve local objectives. The specialized assistance should be defined in terms of task, expertise, staff time, cost and time schedule.

Eligible Applicants

Only Indian tribes and Native American organizations which are FY '82 grantees of the Administration for Native Americans are eligible to apply. See Appendix A for a partial list of FY '82 ANA grantees funded to date. The final list of all grantees funded in FY '82 will be published later. Any FY '82 ANA grantees not listed should contact their ANA program specialist for clarification if necessary.

Budget Consideration

ANA anticipates that $22 million will be available for financial assistance grants to Indian tribes and Native American organizations in Fiscal Year 1983. Approximately 135 grants will be funded. The number and amount of grants depends on the availability of funds and the conditions set forth in this program announcement.

Grantee Share of Project

Grantees must provide up to 20% of the total approved cost of the project in cash or in kind. The contributions must be project related and must be allowable under the Department's applicable regulations in 45 CFR Part 74, Subparts G and Q.

Under certain circumstances, some or all of the non-Federal share may be waived by ANA. Further explanation is contained in § 1336.52 of ANA's regulations (45 CFR 1336).

The Application Process

Availability of Forms. An application kit, containing the necessary forms will be sent to all eligible applicants 180 days prior to the Budget Period End date of their current ANA grant.

Application submission. The grant application, including all attachments, must be submitted 90 days prior to the Grantee's Budget Period End (BPE) date to: Department of Health and Human Services, Office of Human Development Services, Grants Management Branch, HHS Building, Room 1740, 330 Independence Avenue, SW., Washington, D.C. 20201, Attention: 13612–831.

The application must be signed by an individual authorized to act for the applicant agency and to assume for the agency the obligations imposed by the terms and conditions of the grant award, including applicable rules and regulations.

A–95 notification process. In compliance with the Department of Health and Human Service's implementation of the Office of Management and Budget Circular No. A–95 Revised (procedures at 41 FR 2052, January 13, 1976), applicants, with the exception of Federally recognized tribes, must notify both the State and Areawide Clearinghouses of their intent to apply for Federal financial assistance prior to applying. Some State and Areawide Clearinghouses provide their own forms and others use the facesheet (SF–424) of the application form. Contact the appropriate Clearinghouses (listed at 42 FR 2210, January 10, 1977) for information on how your organization can meet the A–95 requirements.

Application consideration. The Commissioner determines the final action to be taken on each grant applicaton. Applications which are complete and on time will be evaluated against the published criteria by a panel of ANA staff. The ANA program specialist for the particular applicant will provide written comments on the application to the Commissioner and will also review the applicant's compliance with ANA administrative requirements, such as the submission of the required financial reports, project progress reports and audits. The above reviews assist the Commissioner in his consideration of each application. The Commissioner also takes into account the comments of the A–95 Clearinghouse and other interested parties. The Commissioner makes grant awards consistent with the purpose of the Act, the regulations, and the program announcement within the limits of funds available.

After the Commissioner has reached a decision to disapprove, defer or fund a grant application, unsuccessful applicants will be notified in writing. Successful applicants will be notified through an official Notice of Financial Assistance Awarded. This notice states the amount of funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period, and the amount of grantee participation.

Criteria for Review and Condition for Funding

Applications which are late or incomplete will be returned without consideration for funding. The applicant's performance in the timeliness and adequacy of the submission of the required reports for the previous and current year will be reviewed and will be a factor in the Commissioner's final funding decision.

Evaluation Criteria: Applications which are complete and on time will be evaluated against the following criteria:

(1) Overall application specifies community goals and priorities which reflect a local social and economic development strategy (SEDS) and demonstrates applicability toward achieving social and economic sefl-sufficiency for the Native American community within the framework of ANA's three goals. (30 points)

(2) Application contains objectives which are results oriented, quantifiable, measurable and directly contribute to achieving local goals and priorities. (20 points)

(3) Application identifies a work plan of proposed activities which are clearly defined, sufficiently detailed to explain the tasks to be done, and relate to each objective. (20 points)

(4) Application presents a detailed budget, with complete explanations and justifications of line items, including specialized assistance if needed, and is directly related to the activities which are set forth in the work plan. Budget must be of reasonable cost to the government. (10 points)

(5) Application identifies all proposed key personnel and demonstrates their qualifications to achieve project objectives by resumes and/or position descriptions. (5 points)

(6) Application provides sufficient evidence of the necessary management and administrative capabilities in fiscal, personnel and property matters to justify receipt of Federal funds to ensure accountability. (5 points)

(7) Application describes a plan for a coordinated use of total current non-ANA and future non-ANA resources for the project which will support continued social and economic development for the community. (5 points)

(8) Application provides evidence of achievement toward grantee's current ANA-supported objectives. (5 points)

Maximum Score—100 points.

Due Date for Receipt of Application

The due date for applications submitted in response to this program announcement is 90 days prior to the applicant's current Budget Period End date. See Appendix A for a partial list of due dates. The final list will be published at a later date.

Applications may be mailed or hand delivered. An application will be considered on time if it is received on or before close of business of the correct due date in the OHDS Grants Receiving Office in Washington, D.C. The official time or date of receipt is that registered by the Department of Health and Human Services.

Applications received after the due date because they were mailed or hand delivered too late or addressed incorrectly will not be accepted and will be returned to the applicant without consideration.

(Catalog of Federal Domestic Assistance Program No. 13.612 Native American Programs)

Dated: May 28, 1982.

A. David Lester,

Commissioner, Administration for Native Americans.

Approved: June 9, 1982.

Dorcas R. Hardy,

Assistance Secretary for Human Development Services.

APPENDIX A.—ADMINISTRATION FOR NATIVE AMERICANS FINANCIAL ASSISTANCE GRANTS

Grantee	State	BPE	Application due date
Spokane Tribe of Indians	WA	10/31/82	8/3/82
Lumbee Regional Development Assoc. Inc.	NC	10/31/82	8/3/82
Six Sandoval Indian Pueblos, Inc.	NM	10/31/82	8/3/82
Rosebud Sioux Tribe	SD	10/31/82	8/3/82
Organization of the Forgotten American	OR	10/31/82	8/3/82
American Indian Center of Omaha, Inc.	NE	10/31/82	8/3/82
Alu Like, Inc	HI	11/30/82	9/2/82
Ute Mountain Ute Tribe	CO	11/30/82	9/2/82
Cheyenne and Arapaho Tribes of Oklahoma	OK	11/30/82	9/2/82
Cumberland County Association for Indian People	NC	11/30/82	9/2/82
Oklahomans for Indian Opportunity	OK	12/31/82	10/3/82

APPENDIX A.—ADMINISTRATION FOR NATIVE AMERICANS FINANCIAL ASSISTANCE GRANTS—Continued

Grantee	State	DPE	Application due date
American Indian Scholarship, Inc.	NM	12/31/82	10/3/82
Southern Ute Indian Tribe	CO	12/31/82	10/3/82
Cheyenne River Sioux Tribe	SD	12/31/82	10/3/82
San Carlos Apache Tribe	AZ	12/31/82	10/3/82
Hikiola Cooperative	HI	1/31/83	11/3/82
Abenaki Self-Help Association, Inc.	VT	1/31/83	11/3/82
American Indians for Development, Inc.	CT	1/31/83	11/3/82
Wampanoag Tribal Council of Gay Head, Inc.	MA	1/31/83	11/3/82
Narragansett Tribal Education Project, Inc.	RI	1/31/83	11/3/82
White Earth Reservation Business Committee.	MN	2/28/83	12/1/82
Blackfeet Tribe	MT	2/28/83	12/1/82
Pueblo of Laguna	NM	2/28/83	12/1/82
Shoshone-Arapaho Joint Council.	WY	2/28/83	12/1/82
Lincoln Indian Center, Inc	NE	2/28/83	12/1/82
Council of Energy Resources Tribes, Inc.	DC	2/28/83	12/1/82
Leech Lake Reservation Business Committee.	MN	3/31/83	1 1/83
Oneida Tribe of Indians of Wisconsin.	WI	3/31/83	1/1/83
The Business Committee of the Chippewa Cree.	MT	3/31/83	1/1/83
Eight Northern Pueblos Council, Inc.	MN	3/31/83	1/1/83
Native Americans for Community Action, Inc.	AZ	3/31/83	1/1/83
Miccosukee Tribe of Florida	FL	4/30/83	1/31/83
Hoopa Valley Indian Reservation.	CA	4/30/83	1/31/83
Fort McDermitt Paiute-Shoshone Tribe.	CA	4/30/83	1/31/83
Pueblo de Acoma	NM	4/30/83	1/31/83
Standing Rock Sioux Tribe	SD	4/30/83	1/31/83
Eastern Band of Cherokee	NC	4/30/83	1/31/83
Indian Development District of Arizona.	AZ	4/30/82	1/81/83
Aleutian/Pribilof Islands Assn.	AK	4/30/83	1/31/83
Keweenaw Bay Indian Community.	MI	4/30/83	1/31/83
American Indian Center	CA	4/30/83	1/31/83
Cooper River Native Assn.	AK	4/30/83	1/31/83
Saginaw Chippewa Indian Tribe	MI	4/30/83	1/31/83
Reno Sparks Indian Colony	NV	4/30/83	1/31/83
Council for Tribal Employment Rights.	WA	4/30/83	1/31/83
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Monday	Tuesday	Wednesday	Thursday	Friday
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Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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Environmental Protection Agency

Animal Drugs
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National Highway Traffic Safety Administration

Electric Power Plants
Economic Regulatory Administration

Grant Programs—Environmental Protection
Environmental Protection Agency

Hunting
Fish and Wildlife Service

Pesticides and Pests
Environmental Protection Agency

Probation and Parole
Parole Commission

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DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 508

[Docket No. ERA-R-82-1]

Powerplant and Industrial Fuel Use Act of 1978; Electric Utility Conservation Plan

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing this final rule to implement the new section 808 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.*, ("FUA"), which was added to FUA by section 1023 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35 ("OBRA"). Section 808 of FUA requires certain electric utilities which have used and intend to continue to use natural gas as a primary energy source to submit conservation plans to DOE. These final rules set forth the procedures for submission of conservation plans to DOE and establish the substantive requirements for such plans.

EFFECTIVE DATE: Sections 508.1-508.8 of this final rule will not become effective until the information collection requirements therein, which are under review at the Office of Management and Budget (OMB), have been approved.

FOR FURTHER INFORMATION CONTACT:
Robert L. Davies, Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-093, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-1316
Henry Garson, Assistant General Counsel for Coal Regulations (GC-14), Office of the General Counsel, Department of Energy, Room 6B-178, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-2907

SUPPLEMENTARY INFORMATION:

[OMB CONTROL NUMBER: Approval by OMB is pending].

I. Background.
II. Comments.
III. Procedural Matters.

I. Background

Section 1023 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35, August 13, 1981 ("OBRA"), amended the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA"), by adding a new section 808, entitled "Electric Utility Conservation Plan." Section 808 requires utilities which used natural gas as a primary energy source between August 14, 1980, and August 13, 1981, in any electric powerplant, and which also plan to use natural gas in any electric powerplant, to develop and submit to DOE for approval a conservation plan to achieve conservation of electric energy. The plan must be designed to achieve conservation at a level equal to 10 percent of the electric energy output of the utility which is attributable to natural gas measured against the four calendar quarters ending on June 30, 1981. The plan must be fully implemented within five years after DOE approves it.

On March 3, 1982, DOE issued proposed rules (47 FR 10589 (March 11, 1982)) ("NOPR") concerning the procedural and substantive requirements for the submission of conservation plans to DOE for approval. The NOPR provided for a 45-day public comment period, which expired on April 26, 1982. Most of the comments received by DOE strongly endorsed the content of the NOPR. All comments received by DOE have been considered in promulgating this final rule, and comments recommending revisions to the NOPR are addressed in Section II, *infra.*

II. Comments

A. Applicability (§ 508.2)

DOE received a number of comments recommending that it exempt from the reporting requirements of the final rule utilities generating relatively small amounts of electric power on natural gas during the statutory base period for applicability (i.e. the one-year period ending on August 13, 1981), including utilities using natural gas exclusively for peaking purposes during that period. Several commenters recommended, for example, that DOE exempt from the requirements of Part 508 utilities using natural gas solely for peaking purposes, where such natural gas use is attributable to no more than 5 percent of their total electrical generation. Other commenters suggested exemption of utilities using coal for 90 percent of their total electrical generation, or exemption of utilities either generating less than 100 million kilowatt hours with natural gas during the base period for applicability, or capable of achieving conservation of no greater than one percent of their total energy output. Finally, most of these commenters requested that, in the event DOE is unable to exempt the categories of utilities described, it should provide a simple self-certification procedure for compliance by such utilities.

DOE is sympathetic to the concerns expressed by the commenters requesting such categorical relief from the requirements of Part 508. DOE has concluded, however, that it has no authority to exempt any utility which meets the explicit jurisdictional standards set forth in section 808 of FUA, as amended. Specifically, section 808(a) provides, in pertinent part, that "An electric utility is subject to this subsection if—(1) the utility owns or operates any existing electric powerplant in which natural gas was used as a primary energy source at any time during the 1-year period ending on the date of the enactment of this section, and (2) the utility plans to use natural gas as a primary energy source in any electric powerplant.

It should be noted that on November 30, 1981 (46 FR 59872 (December 7, 1981)), in revising its final rules implementing FUA, DOE eliminated its so-called "aggregation rules," thus removing from the definition of "electric powerplant" units smaller than the statutory minimum fuel heat input rate of 100 million Btu's per hour. At the same time, DOE narrowed the scope of the term "primary energy source," to exclude therefrom 25 percent of the total annual Btu heat input within a unit. Thus, under DOE's revised implementing regulations, the applicability of section 808 is limited to

any utility which owned or operated an existing "electric powerplant" (i.e., a stationary electric generating unit consisting of a boiler, gas turbine or combined cycle unit of 100 million Btu's per hour or greater fuel heat input rate), and which consumed natural gas in that unit in excess of 25 percent of the total annual Btu heat input of the unit during the statutory base period for applicability. In this regard, DOE notes that the one utility commenter who indicated that it had operated solely a natural gas or diesel-fired internal combustion engine during the base period, would not be subject to the section 808 requirements, since an internal combustion unit is not defined as an "electric powerplant" under FUA.

In the event that smaller natural gas users could not be exempted, commenters also suggested provision of a simple self-certification procedure for such utilities. DOE does not believe that such a procedure would be consistent with the explicit section 808 requirements governing plan submission, contents, and approval.

In response to the expressed concerns of the small natural gas users, it should be emphasized that the conservation requirement of section 808 correlates directly with the amount of natural gas burned by a utility during the statutory base period. Thus, for example, a utility using natural gas in a powerplant solely for peaking purposes during the base period for applicability, and for whom such gas use amounted to 5 percent of its aggregate fuel heat input, would be required within five years to achieve conservation of only 10 percent of the electric energy *output* attributable to that natural gas use, or .5 percent of its electric energy output during the base period for compliance.

DOE also received a number of comments concerning section 508.2(b) of its NOPR, which provided that "A public utility holding company may file a plan for all of the public utilities under its direct control or may file separate conservation plans for each such public utility." In response to these comments, DOE has adopted the following revisions to this subsection:

(1) DOE has deleted the term "direct" in the phrase "direct control," since we do not believe that it is consequential under this program whether the control is "direct" or "indirect."

(2) DOE has inserted language to clarify its intention that a public utility holding company may elect to file plans for any one or more of the individual utilities which it controls, and that, for those utilities for which individual plans will be filed, it is the responsibility of each such individual utility to file its own plan.

DOE received one comment recommending that holding companies should not be permitted to file plans on behalf of their constituent utilities. DOE declines to adopt this recommendation, since it would result in the imposition of unnecessary and sometimes excessive regulatory burdens for individual affected utilities, with no concomitant conservation benefits.

B. Dates for Submission of Plan (§ 508.3)

DOE received one comment recommending that the August 13, 1982, submission deadline for conservation plans should be moved back to September 13, 1982. Section 808(b)(1) of FUA, as amended, requires that plans be submitted "within 1 year after the date of the enactment of [OBRA]." DOE's August 13, 1982, deadline implements this statutory directive, and DOE is without authority to adopt the requested revision.

C. Procedures for Submission of Conservation Plans to DOE (§ 508.4)

One commenter requested substitution of a 45-day public comment period on the contents of proposed conservation plans, in lieu of the 30-day period provided for in the NOPR. DOE believes that a 30-day comment period is reasonable, and that provision of a longer time period could unnecessarily impede its compliance with the statutory deadline of 120 days to approve each plan.

D. Approval of Proposed Conservation Plan (§ 508.5)

In recognition of the fact that there will be only one DOE approval of a plan, DOE has deleted the inadvertent references to "initial" and "final" approval of a plan in §§ 508.3(c), 508.5(a), 508.6(a) and 508.8(a) of the NOPR.

One commenter requested that DOE provide a fixed 60-day period for submission of a modified conservation plan. DOE has adopted the "reasonable period of time" standard as initially proposed. DOE believes that this case-by-case approach will better take account of differing circumstances that may exist for affected utilities.

E. Contents of Conservation Plan (§ 508.8)

One commenter requested further explanation of the measurement of the electrical output conservation target of § 508.8. DOE remains ready to assist any utility in understanding its responsibilities under this rule, but believes that the statutory standard, as embodied in the rule, is sufficiently explicit.

Several commenters recommended clarification of § 508.8(a) by revising the second sentence to begin as follows: "The amount of electric energy to be conserved not later than the fifth year after approval, measured on an annual basis, must be at least equal to * * *" DOE agrees that this language clarifies the compliance responsibilities of affected utilities, and has adopted the revision.

One commenter requested that DOE remove the word "any" in the phrase "Any such other measures as the utility may consider appropriate" at the beginning of § 508.8(b)(3). The word does not appear in the corresponding provision in the statute, and DOE has adopted this change by deleting the word "any."

A number of commenters expressed concern that DOE had failed to include in the NOPR a provision corresponding to section 808(c)(3) of FUA, as amended, which provides that any conservation plan may set forth a program for the use of renewable energy sources (other than hydroelectric power). DOE believes that § 508.8(b)(3) was broad enough to encompass this provision, and to make it even clearer, DOE has added this provision to § 508.8(c) of the final rule.

Comments were received requesting that DOE allow conservation programs developed and implemented pursuant to the 1978 National Energy Act to be included in qualifying conservation plans. Authority to include such programs is already provided in § 508.8(a) of these rules. Other commenters were uncertain whether a utility could: (1) Include measures undertaken prior to the enactment of OBRA; and (2) include measures required pursuant to state or local law. DOE believes that inclusion of such measures is already permitted by section 808(c)(2)(C) of FUA, as amended, and § 508.8(b)(3) of this rule.

One commenter recommended that DOE delete the inclusion in § 508.8(a) of in-plant electric usage in the base figure to which the 10 percent conservation requirement applies, by deleting the phrase "including electric energy used directly by the utility." DOE agrees that strictly in-plant electric usage is not required to be included in the "electric energy output" measurement called for under section 808(c) of FUA, as amended. DOE believes, however, that any other electric energy used by the utility company, outside of a generating facility, but within its system, must be included in the calculation. DOE has revised the rule accordingly.

One commenter suggested that DOE permit conservation to be achieved through the introduction of new non-natural-gas-fired generation. DOE notes that the regulations permit affected utilities wide latitude in selecting the means to achieve their conservation requirements. It should be emphasized, however, in response to several commenters who interpreted those requirements as calling for a 10 percent *natural gas* savings, that the statute requires a 10 percent savings in the utility's *electric energy output* attributable to natural gas usage during the base period for compliance.

The substitution of natural gas with alternate fuels, therefore, while consistent with the purposes of FUA, will not, absent demonstration of a resulting conservation of electric generation, meet the requirements of section 808 of FUA, as amended.

One commenter felt that there was an inconsistency between §§508.2 and 508.8 of the NOPR. In section 508.8, according to the comment, the conservation target is required to be set as a percent of the electrical energy output sold within the utility's system, while in § 508.2, the applicability criteria fail to indicate whether the natural gas which is planned to be burned is to be used for energy sold within the utility's system or sold outside of it. DOE's rules, consistent with section 808 of FUA, as amended, establish separate and distinct standards governing applicability and conservation requirements. The applicability criteria look to a utility's past and expected fuel input, while the conservation requirements, as noted *supra*, pertain to a utility's historic electric energy output during a statutorily established base period. Accordingly, the provisions of §§ 508.2 and 508.8 are not inconsistent.

A comment was received recommending the exclusion of wholesale power sales from the 10 percent conservation requirement of § 508.8. DOE notes that the rule already excludes from the 10 percent figure power sales outside of a utility's system, including wholesale power sales.

Finally, one commenter requested that DOE include in this section of the final rule language from the Conference Report on OBRA indicating that all obligations of a utility to implement its conservation plan cease at the end of the five-year compliance period. DOE is not adopting this change in its final rule since there is no statutory language corresponding to this portion of the OBRA legislative history. In response to the comment, however, DOE wishes to emphasize that there is no statutory requirement to implement a plan beyond the five year period, but section 808(c) of the statute requires that plans be fully implemented before the expiration of that period.

F. General

DOE received the following general comments on its March 11, 1982, NOPR:

(1) One commenter states that references to "Director" in the NOPR as the approving official should be replaced with "Secretary" pursuant to section 808 of FUA, as amended.—As with a large part of the existing FUA program, in the interests of administrative efficiency, responsibility for implementation of the section 808 program will be delegated to the Director of the Fuels Conversion Division of the Office of Fuels Programs within DOE. The recommended change is accordingly not being adopted.

(2) Several commenters felt that "conservation plans" already filed by utilities obtaining special temporary public interest exemptions for the use of natural gas under Title III of FUA, and DOE's implementing rules (44 FR 21230 (April 9, 1979)); or proposed system compliance plans already filed by utilities pursuant to Title V and FUA and DOE's implementing rules (45 FR 53696 (August 12, 1980)), should suffice to meet the conservation plan requirements of section 808 of FUA, as amended.—In response to the repeal under OBRA of the so-called "off-gas" prohibitions of the former section 301 of FUA, DOE's regulations governing the foregoing two programs were eliminated on December 21, 1981 (47 FR 749 (January 7, 1982)). Unlike section 808 of FUA, which requires a demonstration of conservation of electrical output, the foregoing programs emphasized conservation of oil and, in the case of the system compliance option, natural gas, by means of fuels substitution. Further, DOE has no authority under section 808 to accept utility submissions under those former programs in lieu of the explicit conservation plan requirements enacted as part of the OBRA amendments to FUA.

(3) One commenter stated that DOE's rules should provide for oversight of the effectiveness of aspects of approved plans to ensure appropriate progress toward the five-year goal.—Section 808 of FUA and DOE's implementing rules require utilities subject to the conservation plan requirements to file annual reports with DOE, indicating steps taken during the preceding year to implement the plan. DOE believes that the authority will be sufficient to evaluate a utility's progress in meeting its plan commitments.

(4) One commenter objected to DOE's statement in the NOPR that "These proposals will not be likely to result in an annual effect on the economy of $100 million or more" for purposes of Executive Order 12291, and stated that DOE is required to prepare a Regulatory Impact Analysis for this rule pursuant to that Order.—

While DOE continues to believe that this final rule is not a "major rule" within the meaning of the Executive Order, even if it were, it would also be exempt from the requirements of the Executive Order, based upon the fact that compliance with the Order would conflict with the statutorily established submittal deadline in section 808 of FUA, as amended. Specifically, section 808 requires the submission of plans within one year after enactment, or by August 13, 1982. Compliance with the requirements for a major rule, especially preparation of a Regulatory Impact Analysis, could impede the ability of affected utilities to meet this statutory requirement. Pursuant to section 8(a)(2) of the Executive Order, DOE has reported the exemption to OMB together with a statement of the reasons therefor.

III. Procedural Matters

A. Section 102 of the National Environmental Policy Act (NEPA)

DOE has determined that this final rule does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of NEPA. Therefore, the preparation of an Environmental Impact Statement for this rule is not required.

B. Regulatory Flexibility Act

In the NOPR published on March 11, 1982, DOE announced its determination that this rule would not have a "significant economic impact on a substantial number of small entities" under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This determination was based on DOE's findings that: (1) A very small number of the companies which could be affected by the conservation plan requirements would qualify as "small businesses," and (2) the economic impact of compliance with the rule would be relatively insignificant for these small concerns. At the same time, DOE announced in the NOPR its willingness to review any comments concerning the impact of this rule on small entities.

No comments received by DOE challenged the foregoing findings. DOE continues to believe that, at most, a very small number of small entities will be

affected by this rule, and that the impact on those small entities affected will be insignificant. Therefore, DOE certifies that this rule is not likely to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

C. Executive Order No. 12291

DOE has invoked an exemption under section 8(a)(2) of Executive Order 12291, based upon the fact that compliance with the requirements of the Order would conflict with the statutorily established submittal deadline in section 808 of FUA, as amended. Pursuant to section 8(a)(2) of the Executive Order, DOE has submitted a statement concerning this conflict to OMB.

D. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the reporting or recordkeeping provisions that are included in this final rule have been or will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained and the public notified to that effect through a technical amendment to this rule.

List of Subjects in 10 CFR Part 508

Business and industry, Electric powerplants, Natural Gas, Conservation.

(Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620, 92 Stat. 3289 (42 U.S.C. 8301 *et seq.*); E.O. 12009, 42 FR 46267, September 15, 1977; Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, August 13, 1981)

In consideration of the foregoing, Subchapter E, "Alternate Fuels" of Chapter II, Title 10 of the Code of Federal Regulations is amended by adding a new Part 508 thereto, as set forth below.

Issued in Washington, D.C., on June 3, 1982.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

PART 508—ELECTRIC UTILITY CONSERVATION

Subpart A—General Provisions

Sec.

508.1 Purpose and scope.
508.2 Applicability.
508.3 Date for submission of plan.

Subpart B—Procedures

508.4 Procedures for submission of plans to DOE.
508.5 Approval of proposed plan.
508.6 Amendments of approved plan.
508.7 Annual reporting requirement.

Subpart C—Contents of Conservation Plan

508.8 Contents of plan.

Authority: Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7101 et seq.); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620, 92 Stat. 3289 (42 U.S.C. 8301 et seq.); E.O. 12009, 42 FR 46267, September 15, 1977; Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, August 13, 1981.

Subpart A—General Provisions

§ 508.1 Purpose and scope.

This Part establishes the requirements and procedures for submission to DOE of any Electric Utility Conservation Plan ("plan"), pursuant to section 808 of FUA, as amended. Section 508.2 establishes the applicability of the requirement for a plan which is imposed by section 808 of FUA. Sections 508.4 and 508.5 provide the procedures for submission to and approval by DOE of plans by electric utilities. Section 508.6 provides for the amendment of plans which have received approval from DOE, and section 508.7 establishes an annual reporting requirement for utilities subject to the plan requirement. Section 508.8 establishes the requirements for the contents of plans.

§ 508.2 Applicability.

(a) These regulations apply to any electric utility which:

(1) Owns or operates any existing electric powerplant (for definition of "existing electric powerplant" see 10 CFR 500.2) in which natural gas was used as a primary energy source (for definition of "primary energy source" see 10 CFR 500.2) at any time during the one-year period ending on August 13, 1981; and

(2) Plans to use natural gas as a primary energy source in any electric powerplant (for definition of "electric powerplant" see 10 CFR 500.2).

(b) A public utility holding company may file a plan for any or all of the public utilities under its control. In the event that a public utility holding company elects not to file a plan for any or all of the pubic utilities under its control, each such public utility is responsible for filing its own plan pursuant to this Part.

§ 508.3 Date for submission of plan.

(a) Each electric utility subject to this Part must, on or before August 13, 1982, submit to DOE a plan which satisfies the requirements of § 508.8 of this Part.

(b) The Director of the Fuels Conversion Division of the Office of Fuels Programs of ERA shall approve or disapprove such plans pursuant to section 508.5 of this Part.

(c) Each utility subject to this Part must implement the approved plan during the five-year period beginning on the date of approval of the plan.

Subpart B—Procedures

§ 508.4 Procedures for submission of plans to DOE.

(a) *Filing of Proposed Plans.* Proposed plans are to be filed with DOE at the following address: Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration, Department of Energy, Forrestal Building, 1000 Independence Ave., S.W., Room GA–093, Washington, D.C. 20585.

(b) *Notice of Receipt of Plan and Public Comment Period.* Upon receipt of a proposed plan, DOE shall publish in the **Federal Register** a Notice of Receipt of Proposed Conservation Plan. The publication of such Notice shall commence a public comment period of thirty (30) days, during which interested persons may submit written comments concerning the content of the proposed plan. The proposed plan shall be available for public inspection during this period at a location announced in the Notice.

§ 508.5 Approval of proposed plan.

(a) The Director of the Fuels Conversion Division of the Office of Fuels Programs shall, within 120 days after the submission of any proposed plan, approve or disapprove the proposed plan submitted by an electric utility pursuant to § 508.4 of this Part. The Director shall approve the proposed plan unless he finds that the plan does not meet the requirements established by § 508.8 of this Part. Prior to approval of a proposed plan, DOE shall evaluate the environmental consequences of such plan.

(b) When the Director approves the proposed plan, DOE will publish a Notice of Approval of Conservation Plan in the **Federal Register.** Approval of the plan will be effective upon such publication.

(c) If the proposed plan, as originally submitted, fails to meet the requirements for approval, DOE will notify the utility submitting the plan by letter, setting forth the reasons for disapproval. The Director shall provide a reasonable period of time for submission of a modified conservation plan. Where the modified plan is not submitted within the specified time period, a Notice of Non-approval shall be published in the **Federal Register**

together with the basis for the determination that the proposed plan fails to meet the requirements of § 508.8 of this Part.

§ 508.6 Amendment of approved plan.

(a) An electric utility may, at any time, propose an amendment to a conservation plan for which approval has been received pursuant to § 508.5 of this Part.

(b) The proposed amended plan shall be submitted in accordance with the procedures established in section 508.4 of this Part, and shall be subject to approval pursuant to § 508.5 of this Part.

§ 508.7 Annual reporting requirement.

Any electric utility required to submit a plan under section 808 of FUA, as amended, shall annually submit to the Director of the Fuels Conversion Division of the Office of Fuels Programs a report identifying the steps taken during the preceding year to implement such plan.

Subpart C—Contents of Conservation Plan

§ 508.8 Contents of plan.

(a) Any plan submitted pursuant to section 508.4 of this Part shall set forth the means determined by the utility to achieve the required conservation of electric energy not later than the fifth year after its approval. The amount of electric energy to be conserved not later than the fifth year after removal, measured on an annual basis, must be at least equal to 10 percent of the electric energy output of that utility sold within its own system (excluding electric energy utilized within a utility's generating facility) which is attributable to natural gas during the four calendar quarters ending June 30, 1981. A plan may include those conservation measures adopted and conservation benefits achieved in response to the National Energy Act of 1978 and its component parts including the Powerplant and Industrial Fuel Use Act of 1978 and the National Energy Conservation Policy Act of 1978.

(b) The plan shall include: (1) All activities required for such utility by Part 1 of Title II of the National Energy Conservation Policy Act of 1978;

(2) An effective public information program for conservation; and

(3) Such other measures as the utility may consider appropriate.

(c) Any plan submitted pursuant to § 508.4 of this Part may set forth a program for the use of renewable energy sources (other than hydroelectric power).

(d) Any plan shall contain procedures to permit the amounts expended by the utility in developing and implementing the plan to be recovered in a manner specified by the appropriate State regulatory authority (or by the utility in the case of a nonregulated utility). A utility may submit an amended plan for approval pursuant to § 508.6 of this Part at any time to reflect changes to the plan which will permit such recovery.

[FR Doc. 82-16070 Filed 6-14-82; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 303

Applications, Requests, Submittals and Notices of Acquisition of Control

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notification of Action By the Office of Management and Budget.

SUMMARY: This document announces that the Office of Management and Budget ("OMB") has approved under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq*), the collection of relevant information under § 303.11(f) of FDIC's Rules and Regulations (12 CFR 303.11(f)) which delegates to the FDIC's Board of Review authority to act on requests for relief from reimbursement under the Truth-in-Lending Simplification and Reform Act ("TILA") (15 U.S.C. 1607(e)(2)).

FOR FURTHER INFORMATION CONTACT: James L. Meador, Attorney, Legal Division, Federal Deposit Insurance Corporation, 550–17th Street, NW., Washington, D.C., 20429, (202) 389–4171.

SUPPLEMENTARY INFORMATION: Section 303.11(f) was published as an amendment to Part 303 of FDIC's Rules and Regulations on March 8, 1982 (47 FR 9810). The information that may be voluntarily submitted to FDIC by a bank in support of its request for relief refers to types of violations of the TILA, the statutory authority giving FDIC discretion to grant relief under the TILA, any arguments for allowing an extended time period for making reimbursement, any bank efforts to correct the violations, the total amount of reimbursement required to remedy the violations, and an explanation of any significant impact reimbursement would have on the safety or soundness of the bank.

Accordingly, the FDIC announces that the Office of Management and Budget has approved collection of the information described above through November 30, 1984. The collection has been assigned OMB No. 3064–0065.

Dated: June 4, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 82-16080 Filed 6-14-82; 8:45 am]
BILLING CODE 6714-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 5 and 12

Equal Access to Justice Act; Delegations of Authority and Organization; Cross-Reference to Departmental Regulations

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority to describe a new delegation of authority to the Commissioner of Food and Drugs from the Secretary of Health and Human Services under the Equal Access to Justice Act. The delegation authorizes the Commissioner to take final action on matters pertaining to section 203 of the Act (5 U.S.C. 504) and to develop procedures and regulations supplementing the Department of Health and Human Services' (DHHS) implementation regulations. FDA also is amending its administrative practices and procedures regulations to refer to the DHHS regulations.

EFFECTIVE DATE: June 15, 1982.

FOR FURTHER INFORMATION CONTACT: Robert L. Miller, Office of Management and Operations (HFA–340), Food and Drug Administration, 4500 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION: The DHHS regulations for implementation of the Equal Access Justice Act in agency proceedings (45 CFR Part 13) were published in the **Federal Register** of March 12, 1982 (47 FR 10834). Section 13.8 (45 CFR 13.8) delegated to certain Department officials the authority to take final action on matters pertaining to section 203 of that Act (on award of fees in certain adversary adjudications) and to develop procedures and regulations where necessary to supplement these regulations. With respect to FDA proceedings, the authority was delegated to the Commissioner of Food and Drugs or his designee.

FDA is amending the list in § 5.10 (21 CFR 5.10) of the Commissioner's delegations of authority to add a new paragraph (f) describing the new delegation of authority. FDA also is amending § 12.21 of the regulations (21 CFR 12.21) to add a new paragraph (d) that refers to the DHHS regulations. FDA has no current plans to issue supplementary regulations, but may do so in the future if necessary.

Notice of this regulation, opportunity for public comment, and delayed effective date are unnecessary under 5 U.S.C. 553(b)(A).

List of Subjects

21 CFR Part 5

Authority delegations (Government agencies); Organizations and functions (Government agencies).

21 CFR Part 12

Administrative practice and procedure.

Therefore, under the Equal Access to Justice Act (5 U.S.C. 504 and 504 note) and the Federal Food, Drug, and Cosmetic Act (secs. 505, 512, 515, 701(a), 52 Stat. 1052–1053 as amended, 1055, 82 Stat. 343–351 as amended, 90 Stat. 552–559 (21 U.S.C. 355, 360b, 360e, 371(a))), and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Chapter I of Title 21 of the Code of Federal Regulations is amended:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. In Part 5, by adding new paragraph (f) to § 5.10, to read as follows:

§ 5.10 Delegations from the Secretary, the Assistant Secretary for Health, and Public Health Service Officials.

* * * * *

(f) The Secretary of Health and Human Services has redelegated to the Commissioner of Food and Drugs, or his designee, the authority to take final action on matters pertaining to section 203 of the Equal Access to Justice Act (5 U.S.C. 504), and to develop procedures and regulations where necessary to supplement the Department's regulations, 45 CFR Part 13.

PART 12—FORMAL EVIDENTIARY PUBLIC HEARING

2. In Part 12, by adding a new paragraph (d) to § 12.21, to read as follows:

§ 12.21 Initiation of a hearing involving the issuance, amendment, or revocation of an order.

* * * * *

(d) In a proceeding under sections 505(e), 512(e) or (m), or 515(e) of the act in which a party wishes to apply for reimbursement of certain expenses under the Equal Access to Justice Act (5 U.S.C. 504 and 504 note), FDA will follow the Department of Health and Human Services' regulations in 45 CFR Part 13.

Effective date. This regulation shall become effective June 15, 1982.

(5 U.S.C. 504 and 504 note); (secs. 505, 512, 515, 701(a), 52 Stat. 1052–1053 as amended, 1055, 82 Stat. 343–351 as amended, 90 Stat. 552–559 as amended (21 U.S.C. 355, 360b, 360c, 371(a)))

Dated: June 7, 1982.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 82-16060 Filed 6-14-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Sulfamethazine Sodium Drinking Water Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by the Ralston Purina Co., providing for safe and effective use of sulfamethazine sodium drinking water solution for treating chickens, turkeys, swine, and beef cattle and nonlactating dairy cattle for certain infections caused by sulfamethazine-sensitive organisms.

EFFECTIVE DATE: June 15, 1982.

FOR FURTHER INFORMATION CONTACT: Emilio E. Viera, Bureau of Veterinary Medicine (HFV–138), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3410.

SUPPLEMENTARY INFORMATION: Ralston Purina Co., Checkerboard Square, St. Louis, MO 63199, filed an NADA (49–729) for the safe and effective use of sulfamethazine sodium drinking water solution for use in cattle, swine, chickens, and turkeys against certain diseases caused by organisms susceptible to sulfamethazine. It is used in beef and nonlactating dairy cattle for treatment of bacterial pneumonia and bovine respiratory disease complex (shipping fever complex) (*Pasteurella* spp.), colibacillosis (bacterial scours) (*Escherichia coli*), necrotic pododermatitis (foot rot) (*Fusobacterium necrophorum*), calf diphtheria (*Fusobacterium necrophorum*), acute mastitis (*Streptococcus* spp.), and acute metritis (*Streptococcus* spp.). It is used in swine for treatment of porcine colibacillosis (bacterial scours) (*Escherichia coli*) and bacterial pneumonia (*Pasteurella* spp.). It is used in chickens for control of infectious coryza (*Haemophilus gallinarum*), coccidiosis (*Eimeria tenella, Eimeria necatrix*), acute fowl cholera (*Pasteurella multocida*), and pullorum disease (*Salmonella pullorum*). It is used in turkeys for control of coccidiosis (*Eimeria meleagrimitis, Eimeria adenoeides*).

A similar product was the subject of a National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group, evaluation published in the **Federal Register** of July 17, 1970 (35 FR 11532). NAS/NRC found, and FDA concurred, that the product was probably effective for treatment of infectious diseases caused by sulfamethazine-sensitive organisms.

The product reviewed by the Academy was subsequently regulated for use under § 520.2261a (21 CFR 520.2261a), which provides that applications for the uses specified in the section need not include effectiveness data as specified by § 514.111 (21 CFR 514.111), but may require bioequivalency and safety information.

Ralston Purina submitted information establishing that its product is equivalent to the product regulated under § 520.2261a, has the same conditions of use, and furnished proof of authorization to use data from 90-day studies and tissue residue studies as required by a notice published in the **Federal Register** of July 14, 1981 (46 FR 36254). The application is approved and the regulations amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence

supporting this finding, contained in a statement of exemption (pursuant to 21 CFR 25.1(f)(2)(ii)) may be seen in the Dockets Management Branch (address given above).

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 520

Animal drugs, Oral use.

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 28052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended in § 520.2261a by revising paragraph (a), to read as follows:

§ 520.2261a Sulfamethazine sodium drinking water solution.

(a) *Sponsors.* See Nos. 017800 and 010042 in § 510.600(c) of this chapter for use of a 12.5-percent sulfamethazine sodium solution.

* * * * *

Effective date: June 15, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: June 4, 1982.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 82-16096 Filed 6-14-82; 8:45 am]

BILLING CODE 4110-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 888

[Docket No. R-82-945]

Low Income Housing; Section 8 Housing; Fair Market Rents for New Construction and Substantial Rehabilitation

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of effective date for final rule.

SUMMARY: This document announces the effective date for the final rule published in the Federal Register on May 4, 1982 (47 FR 19124) which revised the note to Schedule A and revised the section 8 Fair Market Rents for new Construction and Substantial Rehabilitation which were applicable to 23 selected market areas, in compliance with the requirments of section 8(c)(1) of the U.S. Housing Act of 1937. The effective date provision of the rule stated that the rule would become effective upon expiration of the first period of 30 calender days of continuous session of Congress after publication, subject to waiver, retroactive to October 1, 1981 and announced that future notice of the effectiveness of the rule would be published in the Federal Register.

Thirty calendar days of continuous session of Congress have expired since the rule was published.

DATE: The effective date for the final rule published May 4, 1982, at 47 FR 19124, is June 14, 1982, retroactive to October 1, 1981.

FOR FURTHER INFORMATION CONTACT: Grady J. Norris, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Room 10278, 451 7th Street, SW., Washington, D.C. 20410, Telephone No. (202) 755-5705. This is not a toll-free number.

Dated: June 9, 1982.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 82-16102 Filed 6-14-82; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners; Correction

AGENCY: Parole Commission, Justice.

ACTION: Correction of final rule.

SUMMARY: The Parole Commission is correcting an error in its final rule at 28 CFR 2.14, Subsequent Proceedings, published on July 31, 1981 at 46 FR 39136.

EFFECTIVE DATE: June 15, 1982.

FOR FURTHER INFORMATION CONTACT: Toby D. Slawsky, telephone (301) 492-5959.

SUPPLEMENTARY INFORMATION: The Commission is clarifying 28 CFR 2.14(a)(1) by removing the last sentence of § 2.14(a)(1)(ii) and making that sentence § 2.14(a)(1)(iii). This change is intended to clarify the Commission policy that regardless of sentence length prisoners with unsatisfied minimum terms will have their first interim hearing deferred until the docket of hearings immediately proceeding the month of parole eligibility.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Probation and parole, Prisoners.

PART 2—PAROLE, RELEASE, SUPERVISION, AND RECOMMITMENT OF PRISONSERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Accordingly pursuant to 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR 2.14 is corrected as follows:

§ 2.14 Subsequent proceedings.

* * * * *

(a)(1)(ii) In the case of a prisoner with a maximum term or terms of seven years, every twenty four-months (until released).

(iii) However, in the case of a prisoner with an unsatisfied minimum term, the first interim hearing shall be deferred until the docket of hearings immediately proceeding the month of parole eligibility.

* * * * *

Dated: June 8, 1982.

Benjamin F. Baer,

Chairman, Parole Commission.

[FR Doc. 82-16027 Filed 6-14-82; 8:45 am]

BILLING CODE 4410-01-M

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners; Correction

AGENCY: Parole Commission, Justice.

ACTION: Correction of final rule.

SUMMARY: The Parole Commission is correcting a clerical error to its final rule, 28 CFR 2.48, Revocation: Preliminary interview, published on January 16, 1979 at 44 FR 3409.

EFFECTIVE DATE: June 15, 1982.

FOR FURTHER INFORMATION CONTACT: Toby D. Slawsky (301) 492-5959.

SUPPLEMENTARY INFORMATION: The reference in 28 CFR 2.48(b) to 28 CFR 2.49(a) is incorrect. This error is corrected by removing the reference to 28 CFR 2.49(a) and replacing it with a reference to 28 CFR 2.51.

Dated: June 8, 1982.

Benjamin F. Baer,

Chairman, Parole Commission.

[FR Doc. 82-16028 Filed 6-14-82; 8:45 am]

BILLING CODE 4410-01-M

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners; Correction

AGENCY: Parole Commission, Justice.

ACTION: Correction of final rule.

SUMMARY: The Parole Commission is correcting a clerical error to its final rule, 28 CFR 2.21, re parole consideration guidelines, published on May 4, 1979 at 44 FR 26548.

EFFECTIVE DATE: June 15, 1982.

FOR FURTHER INFORMATION CONTACT: Toby D. Slawsky, (301) 492–5959.

SUPPLEMENTARY INFORMATION: On July 10, 1981 at 46 FR 35637, the Commission amended 28 CFR 2.47 and omitted a conforming amendment to 28 CFR 2.21(b)(3). This omission is corrected by changing the reference in 28 CFR 2.21(b)(3) from 28 CFR 2.47(b) to 28 CFR 2.47(d).

Dated: June 8, 1982.

Benjamin F. Baer,

Chairman, Parole Commission.

[FR Doc. 82-16025 Filed 6-14-82; 8:45 am]

BILLING CODE 4410-01-M

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners; Correction

AGENCY: Parole Commission, Justice.

ACTION: Correction of final rule.

SUMMARY: The Parole Commission is correcting a clerical error to its final rule, 28 CFR 2.13(f), initial hearing; procedure, published on August 5, 1977 at 44 FR 39812.

EFFECTIVE DATE: June 15, 1982.

FOR FURTHER INFORMATION CONTACT: Toby D. Slawsky, (301) 492–5959.

SUPPLEMENTARY INFORMATION: On May 4, 1979 at 46 FR 26550 the Commission amended 28 CFR 2.55 and 2.56 and omitted a conforming amendment to 28 CFR 2.13(f) published August 5, 1977, 42 FR 39912. This omission is corrected by changing the reference in 28 CFR 2.13(f) from 28 CFR 2.55 to 28 CFR 2.56.

Dated: June 8, 1982.

Benjamin F. Baer,

Chairman, Parole Commission.

[FR Doc. 82-16026 Filed 6-14-82; 8:45 am]

BILLING CODE 4410-01-M

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The Parole Commission is amending the format of its Paroling Policy Guidelines, 28 CFR 2.20 to make them easier to read. This amendment makes no substantive changes in the Commission's guidelines.

EFFECTIVE DATE: June 15, 1982.

FOR FURTHER INFORMATION CONTACT: Toby Slawsky, Office of General Counsel, telephone (301) 492–5959.

SUPPLEMENTARY INFORMATION: The Parole Commission is amending the format of its paroling policy guidelines, 28 CFR 2.20, by displaying the adult and youth guidelines on the same page. This change is intended to make use of the guidelines easier; it makes no substantive changes in either the adult or youth guidelines.

List of Subjects in 28 CFR Part 2

Administrative practice and procedures, Probation and parole, Prisoners.

PART 2—PAROLE, RELEASE, SUPERVISION, AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Accordingly, pursuant to the provisions of 18 U.S.C. 4203(a)(1) and 4204(a)(6) the Commission is revising the table in 28 CFR 2.20 to read as follows:

§ 2.20 Paroling Policy Guidelines; Statement of General Policy.

* * * * *

BILLING CODE 4410-01-M

GUIDELINES FOR DECISION-MAKING

[Guidelines for Decision-Making, Customary Total Time To Be Served Before Release (Including Jail Time)]

OFFENSE CHARACTERISTICS: Severity of Offense Behavior (Examples)	PRISONER CHARACTERISTICS: Parole Prognosis (Salient Factor Score 1981)			
	Very Good (10 - 8)	Good (7 - 6)	Fair (5 - 4)	Poor (3 - 0)
LOW				
Alcohol or Cigarette law violations, including tax evasion (amount of tax evaded less than $2,000)1/		ADULT RANGE		
Gambling law violations (no managerial or proprietary interest)	<=6 months	6-9 months	9-12 months	12-16 months
Illicit drugs, simple possession				
Marihuana/hashish, possession with intent to distribute/sale [very small scale (e.g., less than 10 lbs. of marihuana/less than 1 lb. of hashish/less than .01 liter of hash oil)]		(YOUTH RANGE)		
Property offenses (theft, income tax evasion, or simple possession of stolen property) less than $2,000	(<=6) months	(6-9) months	(9-12) months	(12-16) months
LOW MODERATE				
Counterfeit currency or other medium of exchange [(passing/possession) less than $2,000]				
Drugs (other than specifically categorized), possession with intent to distribute/sale [very small scale (e.g., less than 200 doses)]		ADULT RANGE		
Marihuana/hashish, possession with intent to distribute/sale [small scale (e.g., 10-49 lbs. of marihuana / 1-4.9 lbs. of hashish / .01-.04 liters of hash oil)]	<=8 months	8-12 months	12-16 months	16-22 months
Cocaine, possession with intent to distribute/sale [very small scale (e.g., less than 1 gram of 100% purity, or equivalent amount)]				
Gambling law violations - managerial or proprietary interest in small scale operation [e.g., Sports books (estimated daily gross less than $5,000); Horse books (estimated daily gross less than $1,500); Numbers bankers (estimated daily gross less than $750)]		(YOUTH RANGE)		
Immigration law violations	(<=8) months	(8-12) months	(12-16) months	(16-20) months
Property offenses (forgery/fraud/theft from mail/embezzlement/interstate transportation of stolen or forged securities/receiving stolen property with intent to resell) less than $2,000				
MODERATE				
Automobile theft (3 cars or less involved and total value does not exceed $19,999)2/		ADULT RANGE		
Counterfeit currency or other medium of exchange [(passing/possession) $2,000 - $19,999]	10-14 months	14-18 months	18-24 months	24-32 months
Drugs (other than specifically categorized), possession with intent to distribute/sale [small scale (e.g., 200-999 doses)]		(YOUTH RANGE)		
Marihuana/hashish, possession with intent to distribute/sale [medium scale (e.g., 50-199 lbs. of marihuana / 5-19.9 lbs. of hashish / .05-.19 liters of hash oil)]	(8-12) months	(12-16) months	(16-20) months	(20-26) months

	Very Good (10 - 8)	Good (7 - 6)	Fair (5 - 4)	Poor (3 - 0)
MODERATE (continued)				
Cocaine, possession with intent to distribute/sale [small scale (e.g., 1.0-4.9 grams of 100% purity, or equivalent amount)]				
Opiates, possession with intent to distribute/sale [evidence of opiate addiction and very small scale (e.g., less than 1.0 grams of 100% pure heroin, or equivalent amount)]	ADULT RANGE			
	10-14 months	14-18 months	18-24 months	24-32 months
Firearms Act, possession/purchase/sale (single weapon: not sawed-off shotgun or machine gun)				
Gambling law violations - managerial or proprietary interest in medium scale operation [e.g., Sports books (estimated daily gross $5,000-$15,000); Horse books (estimated daily gross $1,500-$4,000); Numbers bankers (estimated daily gross $750-$2,000)]	(YOUTH RANGE)			
	(8-12) months	(12-16) months	(16-20) months	(20-26) months
Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/income tax evasion/receiving stolen property) $2,000-$19,999				
Smuggling/transporting of alien(s)				
HIGH				
Carnal Knowledge[3/]				
Counterfeit currency or other medium of exchange [(passing/possession) $20,000 - $100,000]				
Counterfeiting [manufacturing (amount of counterfeit currency or other medium of exchange involved not exceeding $100,000)]	ADULT RANGE			
	14-20 months	20-26 months	26-34 months	34-44 months
Drugs (other than specifically listed), possession with intent to distribute/sale [medium scale (e.g., 1,000-19,999 doses)]				
Marihuana/hashish, possession with intent to distribute/sale [large scale (e.g., 200-1,999 lbs. of marihuana / 20-199 lbs. of hashish / .20-1.99 liters of hash oil)]				
Cocaine, possession with intent to distribute/sale [medium scale (e.g., 5-99 grams of 100% purity, or equivalent amount)]				
Opiates, possession with intent to distribute/sale [small scale (e.g., less than 5 grams of 100% pure heroin, or equivalent amount) except as described in moderate]	(YOUTH RANGE)			
Firearms Act, possession/purchase/sale (sawed-off shotgun(s), machine gun(s), or multiple weapons)	(12-16) months	(16-20) months	(20-26) months	(26-32) months
Gambling law violations - managerial or proprietary interest in large scale operation (e.g., Sports books (estimated daily gross more than $15,000); Horse books (estimated daily gross more than $4,000); Numbers bankers (estimated daily gross more than $2,000)]				
Involuntary manslaughter (e.g., negligent homicide)				

	Very Good (10 - 8)	Good (7 - 6)	Fair (5 - 4)	Poor (3 - 0)
HIGH (continued)				
Mann Act (no force - commercial purposes)		ADULT RANGE		
Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/income tax evasion/receiving stolen property) $20,000 - $100,000	14-20 months	20-26 months	26-34 months	34-44 months
Threatening communications (e.g., mail/phone) - not for purposes of extortion and no other overt act		(YOUTH RANGE)		
	(12-16) months	(16-20) months	(20-26) months	(26-32) months
VERY HIGH				
Robbery (1 or 2 instances)				
Breaking and entering - armory with intent to steal weapons				
Breaking and entering/burglary - residence; or breaking and entering of other premises with hostile confrontation with victim				
Counterfeit currency or other medium of exchange [(passing/possession/manufacturing) / amount more than $100,000 but not exceeding $500,000]		ADULT RANGE		
	24-36 months	36-48 months	48-60 months	60-72 months
Drugs (other than specifically listed), possession with intent to distribute/sale [large scale (e.g., 20,000 or more doses) except as described in Greatest I]				
Marihuana/hashish, possession with intent to distribute/sale [very large scale (e.g., 2,000 lbs. or more of marihuana / 200 lbs. or more of hashish / 2 liters or more of hash oil)]				
Cocaine, possession with intent to distribute/sale [large scale (e.g., 100 grams or more of 100% purity, or equivalent amount) except as described in Greatest I]				
Opiates, possession with intent to distribute/sale [medium to a very large scale (e.g., 5 grams or more of 100% pure heroin, or equivalent amount) unless the offense is described in Greatest I or Greatest II]		(YOUTH RANGE)		
	(20-26) months	(26-32) months	(32-40) months	(40-48) months
Extortion [threat of physical harm (to person or property)]				
Explosives, possession/transportation				
Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/income tax evasion/receiving stolen property) more than $100,000 but not exceeding $500,000				
GREATEST I				
Aggravated felony (e.g., robbery: weapon fired or injury of a type normally requiring medical attention)		ADULT RANGE		
	40-52 months	52-64 months	64-78 months	78-100 months
Arson or explosive detonation [involving potential risk of physical injury to person(s) (e.g., premises occupied or likely to be occupied) - no serious injury occurred]		(YOUTH RANGE)		
	(30-40) months	(40-50) months	(50-60) months	(60-76) months

	Very Good (10 - 8)	Good (7 - 6)	Fair (5 - 4)	Poor (3 - 0)
GREATEST I (continued)				
Drugs (other than specifically listed), possession with intent to distribute/sale [managerial or proprietary interest and very large scale (e.g., offense involving more than 200,000 doses)]		ADULT RANGE		
Cocaine, possession with intent to distribute/sale [managerial or proprietary interest and very large scale (e.g., offense involving more than 1 kilogram of 100% purity, or equivalent amount)]	40-52 months	52-64 months	64-78 months	78-100 months
Opiates, possession with intent to distribute/sale [managerial or proprietary interest and large scale (e.g., offense involving more than 50 grams but not more than 1 kilogram (1000 grams) of 100% pure heroin or equivalent amount)]				
Kidnaping [other than listed in Greatest II; limited duration; and no harm to victim (e.g., kidnaping the driver of a truck during a hijacking, driving to a secluded location, and releasing victim unharmed)]		(YOUTH RANGE)		
	(30-40) months	(40-50) months	(50-60) months	(60-76) months
Robbery (3 or 4 instances)				
Sex act- force (e.g., forcible rape or Mann Act (force)]				
GREATEST II				
Murder				
Voluntary manslaughter				
Aggravated felony - serious injury (e.g., robbery: injury involving substantial risk of death or protracted disability, or disfigurement) or extreme cruelty/brutality toward victim		ADULT RANGE		
	52+ months	64+ months	78+ months	100+ months
Aircraft hijacking				
Espionage				
Kidnapping (for ransom or terrorism; as hostage; or harm to victim)		(YOUTH RANGE)		
Treason				
Opiates, possession with intent to distribute/sale [managerial or proprietary interest and very large scale (e.g., offense involving more than 1 kilogram (1000 grams) of 100% pure heroin or equivalent amount)]	(40+) months	(50+) months	(60+) months	(76+) months
	Specific upper limits are not provided due to the limited number of cases and the extreme variation possible within category.			

* * *

BILLING CODE 4410-01-C

I certify that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: June 8, 1982.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 82-16296 Filed 6-14-82; 8:45 am]

BILLING CODE 4410-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 8E2065/R445; PH-FRL 2147-6]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Chlorothalonil

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the fungicide chlorothalonil and its metabolite 4-hydroxy-2,5,6-trichloroisophthalonitrile in or on the raw agricultural commodity dry beans. This regulation to establish a maximum permissible level for residues of the fungicide in or on the commodity was requested by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on June 15, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7700).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking in the Federal Register of April 28, 1982 (47 FR 18152) which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition number 8E2065 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Arkansas, Florida, Georgia, Kentucky, Michigan, Minnesota, Tennessee, and the U.S. Department of Agriculture.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the fungicide chlorothalonil (tetrachloroisophthalonitrile) and its metabolite 4-hydroxy-2,5,6-trichloroisophthalonitrile in or on the raw agricultural commodity dry beans at 0.1 part per million (ppm).

No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The data submitted in the petition and all other relevant material have been evaluated and discussed in the notice of proposed rulemaking (47 FR 18152, April 28, 1982). The pesticide is considered useful for the purpose for which the tolerance is sought.

Based on the information considered by the Agency, it is concluded that the tolerance established by amending 40 CFR Part 180 will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Effective on June 15, 1982.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: June 4, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.275 is amended by adding and alphabetically inserting the raw agricultural commodity dry beans to read as follows:

§ 180.275 Chlorothalonil; tolerances for residues.

* * * * *

Commodities	Parts per million
Beans (dry)	0.1

[FR Doc. 82-16301 Filed 6-14-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 1F2574/R448; PH-FRL 2145-7]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Colletotrichum Gloeosporioides f. sp. Aeschynomene

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for residues of the mycoherbicide *Colletotrichum gloeosporioides* f. sp. *aeschynomene* (C.g.a.) in or on the raw agricultural commodities rice grain and soybeans. This regulation to eliminate the need to establish the maximum permissible level for residues of the mycoherbicide in or on these raw agricultural commodities was requested by Tuco Products Co.

EFFECTIVE DATE: June 15, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice in the Federal Register of December 16, 1981 (46 FR 61329) which announced that Tuco Product Co., Division of Upjohn Co. 7171 Portage Rd., Kalamazoo, MI 49001, had submitted a pesticide petition (PP 1F2574) to the EPA. The petition proposed that an exemption from the requirement of a tolerance be established for residues of the mycoherbicide *Colletotrichum gloeosporioides* f. sp. *aeschynomene* in or on the raw agricultural commodities rice (grain, hay, straw); soybeans (dry or

succulent) (forage, hay, hulls, straw, vines); meat, fat, and meat byproducts of cattle, goats, hogs, horses, sheep, and poultry; eggs; and milk. This petition was subsequently amended to propose that an exemption from the requirement of a tolerance be established for viable spores of *Colletotrichum gloeosporioides* f. sp. *aeschynomene* in or on rice grain and soybeans, and to delete the raw agricultural commodities fat, meat, and meat byproducts of cattle, goats, hogs, horses, sheep, and poultry; eggs, and milk.

No comments were received in response to the notice of filing.

The data submitted or referenced in the petition and all other relevant material have been evaluated. The toxicological data considered in support of the proposed exemption from the requirement of a tolerance included an acute oral infectivity study in rats, a subacute oral toxicity study in dogs, an acute and subacute inhalation exposure study in rats. *Colletotrichum gloeosporioides* f. sp. *aeschynomene* culture filtrate administered orally to rats showed no evidence of toxin production and administration of *Colletotrichum gloeosporioides* f. sp. *aeschynomene* fungus spores on a weekly basis to dogs for 6 months did not produce any subchronic toxicity. Results were submitted from a single dose intraperitoneal infectivity potential study in immunodepressed and non-immunodepressed $B_6C_3F_1$ hybrid mice. Gross observations of organs from all mice injected with viable spores of *Colletotrichum gloeosporioides* f. sp. *aeschynomene* did not show any infection. Viable spores of *Colletotrichum gloeosporioides* f. sp. *aeschynomene* were not found in any tissue or peritoneal washes four weeks following intraperitoneal injection. The results showed no toxicologically significant effects related to *Colletotrichum gloeosporioides* f. sp. *aeschynomene* spores.

It is reported by Upjohn Company that personnel involved in the production and harvesting of *Colletotrichum gloeosporioides* f. sp. *aeschynomene* for use in greenhouse and field studies over a 10-year period did not report any incidence of health problems due to contact with this mycoherbicide.

In regard to whether *Colletotrichum gloeosporioides* f. sp. *aeschynomene* is pathogenic to fish and wildlife species, the Agency is requiring the registrant to submit, within 2 years of conditional registration, the following studies:

1. Avian injection pathogenicity test;
2. Freshwater fish toxicity and pathogenicity test; and
3. Freshwater aquatic invertebrate toxicity and pathogenicity test.

Although a final determination of whether C.g.a. is nonpathogenic to fish and wildlife is dependent upon the results of the studies listed above, preliminary data indicate no adverse effects to wildlife at field use rates. In the meantime, until these studies are complete, the granting of an exemption from the requirement of a tolerance would be in the public interest because of the beneficial role of this mycoherbicide in rice and soybean pest management. *Colletotrichum gloeosporioides* f. sp. *aeschynomene* is known to cause anthraconose of only one plant species, northern jointvetch, (*Aeschynomene virginica*) which is a severe pest common to rice-producing areas of Arkansas, Mississippi, Missouri, and Louisiana. Northern jointvetch infests an estimated 700,000 acres of rice in the Mississippi Valley rice-producing area; it also infests more than one million acres of soybeans in this area. The weed competes with rice for nutrients and light, interferes with harvest and reduces grade and quality of rough and milled rice. Its seeds, which remain viable in the soil for many years, are difficult to remove from harvested grain. The petitioner reported that in Arkansas, 11 percent of the 1980 crop was discounted after harvest due to presence of jointvetch seeds, a loss valued at $7.6 million. In soybeans, lack of control of northern jointvetch results in reseeding which increases problems in subsequent rice crops and in further dissemination of the weed in uninfested areas.

The examination of the available literature indicates that the genus *Colletotrichum* is not known to infect or cause any health hazards in humans or domestic animals. Results from toxicological studies revealed no adverse effects. The fungal spores are identical, as far as technologically feasible to determine, to those endemic in the area where the product will be used. Lack of spore durability, together with the highly developed host-specificity of the organism, provides natural constraints that will prevent this facultative saprophyte from posing any adverse effects on the environment. It is not expected to enter the human food chain.

Acceptable daily intake (ADI) and maximum permissible intake (MPI) considerations are not relevant to this petition. No enforcement actions are anticipated. Therefore, the requirements of an adequate analytical method for enforcement purposes is not applicable to this exemption request. This is the first exemption from the requirement of tolerance for this mycoherbicide.

The mycoherbicide is considered useful for the purpose for which the exemption from the requirement of a tolerance is sought and it is concluded that establishment of the exemption will protect the public health. Therefore, the regulation is established as set forth below.

Any person adversely affected by this regulation may, by July 15, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Effective on: June 15, 1982.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Raw agricultural commodities, Pesticides and pests.

Dated: June 2, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR Part 180 is amended by adding a new § 180.1075 to read as follows:

§ 180.1075 Colletotrichum gloeosporioides f. sp. aeschynomene; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of the mycoherbicide *Colletotrichum gloeosporioides* f. sp. *aeschynomene* in or on the following raw agricultural commodities:

Commodities
Rice grain
Soybeans

[FR Doc. 82-16041 Filed 6-14-82; 8:45 am]
BILLING CODE 6560-50-M

Proposed Rules

Federal Register
Vol. 47, No. 115
Tuesday, June 15, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S-600]

Proposed Revocation of Advisory and Repetitive Standards

Correction

In FR Doc. 82-14289 appearing on page 23477 in the issue for Friday, May 28, 1982, make the following correction:

On page 23479, first column, in § 1910.6 paragraph (a), line 8, the word "work" should be changed to "word."

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[A-3-FRL 2145-5]

Federal Assistance Limitations and Construction Moratorium; State of Pennsylvania

AGENCY: Environmental Protection Agency.

ACTION: Notice of Public Hearing.

SUMMARY: Section 176(b) of the Clean Air Act requires EPA to withhold Clean Air Act funds from any area where a State or local government has failed to implement an approved or promulgated State Implementation Plan ("SIP"). Section 173(4) of the Act and 40 CFR 52.24 impose a moratorium on the construction of major new stationary sources and major modifications of existing stationary sources in any area where EPA finds that a State is not carrying out an approved Part D SIP.

On October 5, 1981 the Pennsylvania legislature passed a bill over the Governor's veto which prohibited the expenditure of any public funds to implement a motor vehicle emission inspection program. Pennsylvania's ozone and carbon monoxide SIPs require implementation of an emission inspection and maintenance program in the Pittsburgh, Philadelphia, and Allentown-Bethlehem-Easton areas. (In a separate action, Pennsylvania submitted a March 29, 1982 request to redraw the boundaries of the inspection and maintenance (I/M) areas. EPA currently is reviewing this request.) On March 5, 1982 (47 FR 9477) EPA proposed to find that the Commonwealth of Pennsylvania was no longer implementing its ozone and carbon monoxide SIPs in these three areas, and provided an opportunity for written comments and requests for a hearing on EPA's proposal. A hearing was requested. The purpose of this notice is to announce a public hearing, in accordance with Section 105(e) of the Act, to determine if Pennsylvania is implementing its SIPs in these areas. EPA will consider this hearing record in making a final determination.

DATE: The public hearing will be held on August 10, 1982. Requests to present oral testimony must be submitted by not later than the close of business on July 30, 1982. EPA requests advance copies of the intended testimony and of any additional written comments and information whenever possible. Written material will also be accepted, regardless of whether the commenter wishes to testify orally, and must be submitted by the close of business on August 20, 1982.

ADDRESS: The hearing will be held at Courtroom 3A, Federal Court House, 601 Market St., in Philadelphia, will convene at 9:00 a.m., and will adjourn when all scheduled testimony has been completed. Individuals wishing to present oral testimony are requested to contact Robert J. Smolski, Assistant Regional Counsel, Environmental Protection Agency, Region III, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, at (215) 597-8300. Written comments should also be sent to Mr. Smolski. Previously submitted comments and future comments will be available for public inspection at the above address and are docketed as AH311 PA.

FOR FURTHER INFORMATION CONTACT: Robert J. Smolski, Assistant Regional Counsel, Environmental Protection Agency, Region III, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, (215) 597-8300.

SUPPLEMENTARY INFORMATION:

A. Background

The Clean Air Act Amendments of 1970 required each State to submit a State Implementation Plan ("SIP") to provide for attainment and maintenance of each of the national ambient air quality standards.

The Clean Air Act Amendments of 1977 added a new Part D to the Act which requires States to revise SIPs for any area which had not yet attained a national ambient air quality standard. The revised plan must meet specific requirements outlined in Sections 172 and 173 of the Act, and generally must provide for attainment of the national ambient air quality standard by December 31, 1982.

For areas where a state demonstrates that it cannot attain the ozone (O_3) or carbon monoxide (CO) standards by 1982, Section 172(a)(2) allows EPA to extend the attainment deadline to 1987. If an extension is granted, the State must also meet the additional requirements of Section 172(b)(11). One of the these requirements is submittal, by July 1, 1979, of a schedule for implementation of a vehicle emission inspection and maintenance ("I/M") program in the area with the extended attainment deadline.

Pursuant to Section 172(a)(2) of the Act, the Commonwealth of Pennsylvania submitted a Part D SIP which demonstrated that the O_3 and CO standards could not be attained by 1982 in the Philadelphia and Pittsburgh areas, and that the O_3 standard could not be attained by 1982 in the Allentown-Bethlehem-Easton area. Consequently, Pennsylvania requested an extension for attainment of the O_3 and CO standards in these areas. As required by Section 172(b)(11)(B), Pennsylvania also submitted schedules for the implementation of I/M in these areas. These schedules incorporated the terms of a 1978 consent decree requiring the Commonwealth to implement I/M (the "Consent Decree").[1]

[1] In 1976 and 1977, a citizen's group and EPA sued the Commonwealth to compel it to fulfill an earlier commitment to implement I/M which was approved by EPA as a SIP revision in 1973. *Delaware Valley Citizen's Council for Clean Air v. Commonwealth of Pennsylvania* and *United States v. Commonwealth of Pennsylvania* (E.D. Pa. Civ. Nos. 76-2068 and 77-619). The consent decree entered in this case applies only in the Philadelphia and Pittsburgh areas; in its Part D SIP, the State committed to apply the

On May 20, 1980 (45 FR 33604), EPA approved the Commonwealth's revised SIPs for O_3 and CO, including the extension requests and the I/M schedules.

B. Pennsylvania's Failure to Implement I/M

On October 5, 1981 the Pennsylvania General Assembly enacted House Bill 456. Section 2, which was effective immediately upon enactment, provided that the executive branch of the State government may not "expend any public funds for the establishment and administration of any system for the periodic inspection of emissions of motor vehicles."

As required by the Consent Decree schedule (modified by a court order of June 16, 1981), on October 10, 1981 the Pennsylvania Department of Transportation published in the *Pennsylvania Register* final regulations for the use of emission analyzers in the Commonwealth's I/M program. The Consent Decree schedule next required the Commonwealth to develop an I/M data collection system by December 6, 1981. Apparently, the Commonwealth has not fulfilled this requirement and has not taken any other action to implement I/M.

Moreover, on October 16, 1981 counsel for the Commonwealth filed in the United States District Court for the Eastern District of Pennsylvania a motion to stay and modify the Consent Decree and Order which require the Commonwealth to implement I/M. In its supporting memorandum, the Commonwealth admitted that the enactment of House Bill 456 prevents it from taking further action to implement I/M.

C. Consequences of a Failure To Implement a Part D SIP

Section 176(b) prohibits EPA from making grants under the Clean Air Act in an area where a State or local government fails to implement an approved or promulgated SIP. EPA interprets Section 176(b) to require a cut-off of funds only for the specific government which actually fails to carry out a SIP. Under this interpretation, if State and county agencies share responsibility for SIP implementation in a particular area, and only the State stops implementing the SIP, EPA can continue to fund the county while cutting off funds for the State.

Section 173(4) provides that a moratorium on the construction of new major stationary sources and the modification of existing major stationary sources applies in any area where a State is not implementing an approved plan. EPA has incorporated this construction moratorium into each State's SIP. See 40 CFR 52.24 (1981). Both the statute and the regulation make the ban pollutant-specific. For example, if a State fails to carry out its ozone SIP, only the construction of ozone-precursor sources is prohibited. If EPA makes a finding that Pennsylvania is failing to implement its Part D SIPs, the construction moratorium will apply to all major sources and modifications defined by 40 CFR 52.24(f) (1981) which have not yet received preconstruction permits required under the State's new source review program for nonattainment areas. Minor sources and modifications which may be subject to some new source permitting requirements will not be affected by the construction moratorium.

The Clean Air Act does not establish procedures for implementing either Section 176(b) or Section 173(4). EPA proposed to find that Pennsylvania had failed to implement its plan and solicited comments on March 5, 1982 (47 FR 9477) before imposing either the funding cut-off under Section 176(b) or the construction moratorium under Section 173(4). Section 105(e) of the Act requires EPA to provide an opportunity for a public hearing before disapproving any application for Section 105 funds. EPA has received two requests for such a hearing. Therefore, EPA has scheduled its public hearing for August 10, 1982 at 9:00 a.m. in Philadelphia.

Specific Hearing Issues

EPA believes that two issues should be addressed at this hearing. A threshold question is whether Pennsylvania is implementing the O_3 and CO SIPS approved by EPA, 45 FR 33607 (May 20, 1980). The second issue is that if EPA finds Pennsylvania is failing to implement any provisions of these SIPs, then the Agency must determine the amount of Clean Air Act funds that will be withheld from the State. Finally, although Section 105(e) of the Act requires a public hearing only on the issue of the withholding of Clean Air Act funds, EPA will also consider testimony and comments on the issue of the proposed imposition of the construction moratorium. However, if EPA makes a finding that Pennsylvania is failing to implement its SIPs, a construction ban must follow by operation of law. A short discussion of the two issues to be decided by EPA follows.

1. *Pennsylvania Implementation of O_3 and CO SIPs.* EPA is proposing to find that Pennsylvania is not implementing the O_3 and CO SIPs in the Philadelphia, Pittsburgh, and Allentown-Bethlehem-Easton areas. Specific coverage includes the entire Counties of Butler, Allegheny, Beaver, Washington, and Westmoreland in the Pittsburgh region; the Counties of Bucks, Chester, Delaware, Montgomery and Philadelphia in the Philadelphia region and the Counties of Lehigh and Northampton in the A/B/E region. (In a separate action, Pennsylvania submitted a March 29, 1981 request to redraw the boundaries of the I/M areas. EPA currently is reviewing this request.) This proposal is based on Pennsylvania's representation that it cannot proceed with I/M implementation, and Pennsylvania's apparent failure to meet its I/M schedule. Such a finding is necessary before EPA can withhold Clean Air Act funds and impose a construction moratorium in the nonattainment areas.

2. *Cut-off of Clean Air Act Funds.* EPA is proposing to withhold Clean Air Act funds from the Pennsylvania Department of Transportation and the Pennsylvania Department of Environmental Resources, the two State agencies which have SIP responsibilities in the Pittsburgh, Philadelphia and Allentown-Bethlehem-Easton areas. EPA welcomes comments on the proper means of determining what funds are to be withheld.

More specifically, EPA is proposing to withhold funds from the Pennsylvania Department of Transportation for the development of I/M. When EPA entered into the Consent Decree in 1978, it agreed to provide $400,000 for I/M implementation. EPA has not yet awarded $172,000 of this amount. EPA is proposing to withhold this $172,000 until Pennsylvania restores its I/M funding.

EPA is also proposing to withhold all funds for the regional offices of the Pennsylvania Department of Environmental Resources with jurisdiction in the I/M areas. For those regional offices which have jurisdiction over an area larger than an I/M area, EPA has estimated the percentage of the regional population in the I/M area. EPA is proposing to withhold the same percentage of federal funds from these regional offices. The total amount to be withheld is $563,352.

EPA is not proposing to withhold any funds to be used in areas of the State which do not need I/M.

In the Pittsburgh and Philadelphia areas, State agencies share SIP implementation responsibilities with two local agencies. EPA is not proposing to withhold funds from these local agencies, which have no responsibility

provisions of the decree in the Allentown-Bethlehem-Easton area.

to implement I/M. No local agencies receive Clean Air Act funds in the Allentown-Bethlehem-Easton area.

EPA will consider any future actions or commitments by the Commonwealth before making a final determination on this issue. If the Commonwealth resumes I/M implementation prior to EPA's final action on this matter, EPA will withdraw this proposal.

Nature of the Public Hearing

EPA will conduct the public hearing on the above issues. Although no cross-examination will take place at the hearing, EPA may question the witnesses to clarify issues or to make the record complete. Any person wishing to make a presentation or submit material for inclusion in the hearing record should provide written notice of this intention to Robert J. Smolski, Esq. at the address given above by June 30, 1982. The notice should include (1) name(s), title(s) and affiliation, and (2) amount of time necessary for presentation. The time allotted for each presentation will depend on the number of persons seeking an opportunity to appear. A verbatim transcript of the hearing, copies of written statements, and copies of other material will be docketed at Docket No. AH311 PA and will be available for public inspection and copying during normal working hours at the USEPA, Region III, Philadelphia offices. EPA will consider the public hearing and public comment record in making its final determination on these issues and the decision and a response to comments will be announced in the Federal Register.

Dated: May 28, 1982.

Peter N. Bibko,

Regional Administrator.

[FR Doc. 82-16004 Filed 6-11-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-5-FRL 2050-8]

Proposed Revision of Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Commonwealth of Pennsylvania submitted a proposed revision to its State Implementation Plan to change the automobile emission inspection and maintenance (I/M) program coverage area in the Pittsburgh, Philadelphia and Allentown/Bethlehem/Easton regions. It is not anticipated that this revision will have a significant effect on air quality. EPA proposes approval of the revision.

DATE: Public comments must be submitted by July 15, 1982.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Air Programs & Energy Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, PA. 19106, ATTN: Patricia Sheridan (3AW12)

Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA. 17120, ATTN: Mr. James Hambright

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, SW. (Waterside Mall), Washington, DC 20460.

All comments on the proposed revision submission on or before July 15, 1982 will be considered and should be directed to: Mr. Glenn Hanson, Chief, Pennsylvania Section (3AW11), Air and Waste Management Division, U.S. Environmental Protection Agency, Region III, Curtis Building, 10th Floor, 6th & Walnut Streets, Philadelphia, PA. 19106, ATTN: (AH306PA).

FOR FURTHER INFORMATION CONTACT: Mr. Charles Miesse, U.S. Environmental Protection Agency, Region III, Air Media & Energy Branch, Curtis Building, 10th Floor, 6th & Walnut Streets, Philadelphia, PA. 19106, (215) 597-8180.

SUPPLEMENTARY INFORMATION:

Description of Submittal

On July 27, 1981, August 13, 1981 and September 15, 1981 the Pennsylvania Department of Environmental Resources (DER) submitted proposed revisions to the Pennsylvania State Implementation Plan, along with supporting documentation, to revise the automobile emission Inspection and Maintenance (I/M) program coverage areas.

DER proposed to limit the I/M program coverage areas to urbanized areas in the Pittsburgh, Philadelphia and Allentown/Bethlehem/Easton (A/B/E) regions, as defined by the U.S. Census Bureau in its preliminary 1980 report. The previous I/M program coverage areas included the entire Counties of Butler, Allegheny, Beaver, Washington, and Westmoreland in the Pittsburgh region; the Counties of Bucks, Chester, Delaware, Montgomery and Philadelphia in the Philadelphia region and the counties of Lehigh and Northampton in the A/B/E region.

In order to align the I/M program coverage areas with the urbanized areas, DER used U.S. Postal Service ZIP code maps. All ZIP code areas which are in the urbanized areas are included in the I/M program coverage areas. The ZIP code areas in the rural portions of the existing I/M coverage area will no longer be included in the I/M coverage areas. As a result, the rural portions of Lehigh, Northampton, Bucks, Chester, Delaware, Montgomery, Allegheny, Beaver, Washington and Westmoreland Counties and all of Butler County will be deleted from the I/M program areas. All of Philadelphia County remains in the program.

EPA Review Criteria

As per EPA's I/M policy memos of July 17, 1978 (from David Hawkins, Assistant Administrator for Air and Waste Management to Regional Administrators) and January 19, 1981 (from Michael P. Walsh, Deputy Assistant Administrator for Mobile Source Air Pollution Control, to Air and Hazardous Materials Division Directors), EPA reviewed DER's proposed SIP revision to: (1) Verify that the I/M program can be administered and enforced effectively with the changed boundaries; (2) verify that attainment of the national ambient air quality standards for ozone and carbon monoxide can be attained no later than December 31, 1987; (3) verify that the minimum reasonably available control technology (RACT) emission reduction of 35% from light duty gasoline powered vehicles in the urbanized area will be obtained from the program.

EPA Findings

The primary tool for administering the I/M program is the Motor Vehicle Registration Card, which is mailed to each motorist in the State. When a motorist goes for one of the bi-annual safety inspections the motorist must show the inspector the vehicle's registration card. Registration cards mailed to motorists in the I/M areas have a mark identifying the vehicles which must undergo an I/M inspection.

Since the proposed I/M program boundaries are delineated by ZIP code, mailing registration cards with I/M identification marks to motorists in the I/M areas will allow effective administration and enforcement of the I/M program.

In regard to air quality, the proposed program boundaries still encompass the urbanized areas and, therefore, the 35% RACT emission reduction will be obtained. DER demonstrated that attainment of the carbon monoxide and

ozone air quality standard by 1987 will not be jeopardized because the proposed I/M boundaries will result in only 3% more emissions of carbon monoxide and hydrocarbons (hydrocarbons form ozone) than if the rural portions of the affected counties remained in the program.

Based on the review to date, EPA believes DER's proposed SIP revision meets all applicable regulations and policies and EPA is, therefore, proposing to approve the revision.

EPA recognizes that final action to approve this revision would not affect the I/M program in the Pittsburgh and Philadelphia areas required under the consent decree. (*DVCCCA et al.* v. *Commonwealth of Pennsylvania*, Civil Action No. 78-2068; and *United States of America* v. *Commonwealth of Pennsylvania, et. al.*, Civil Action No. 77-619). If this Commonwealth wants to modify this decree it would have to file a motion for a modification with United States District Court for the East District of Pennsylvania.

EPA's review of the material indicates that these proposed revisions to the SIP are approvable if they are not substantially changed by the State after the forthcoming State hearing and public comment period. In the interest of shortening the Federal review period, EPA is proposing approval of these changes now, before the completion of the state public review period, and thus before final submittal of the revision to EPA. EPA refers to this procedure as "parallel processing." If the proposed revisions are substantially altered during the public review period, EPA will reevaluate them and publish a revised notice of proposed rulemaking. If, based on the State and Federal public comments, it is determined that no substantial revisions are required, EPA will issue a final rulemaking on the submittal. Parallel processing is estimated to reduce the time necessary for final approval of SIP revisions by 3 to 4 months on the average.

The public is invited to submit, to the address stated above, comments on whether the proposed revisions should be approved as revisions of the Pennsylvania State Implementation Plan.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination whether they meet the requirements of Sections 110 and 172 of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because this action, if promulgated, only approves a State action and imposes no new requirements.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. Section 605(b), the Administrator has certified that this action will not have a significant economic impact on a substantial number of small entities (46 FR 8709). This action, if promulgated, constitutes a SIP approval under Sections 110 and 172 of the Clean Air Act and only approves a State action. It imposes no no new regulatory burden on anyone.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: February 5, 1982.

Peter N. Bibko,

Regional Administrator.

[FR Doc. 82-16049 Filed 6-14-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Parts 162 and 180

[OPP 30050; PH-FRL 2136-3]

Pesticides Applied to Bodies of Water; Proposed Procedural Changes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule related notice.

SUMMARY: EPA proposes to modify its procedures for regulating aquatic pesticide uses which will result in pesticide residues in drinking water. The procedural changes detailed in this notice implement in part a Memorandum of Understanding between the Food and Drug Administration (FDA) and the EPA concerning the control of direct and indirect additives to, and substances in drinking water. EPA solicits comment on the proposed procedural changes to assess the probable impact of this notice.

DATE: Comments should be received by August 16, 1982.

ADDRESS: Written comments to: Document Control Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Reto Engler, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 246, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-3661).

SUPPLEMENTARY INFORMATION:

I. Background and Scope

In the Federal Register of July 20, 1979 (44 FR 42775), the Environmental Protection Agency and the Food and Drug Administration issued a memorandum of understanding (MOU) with regard to the control of direct and indirect additives to and substances in drinking water. The purpose of this MOU was to eliminate duplicative and inconsistent regulation which might result from the possibility of overlapping jurisdiction. Under the MOU, EPA has the primary responsibility over direct and indirect additives and other substances in drinking water under the authority of the Safe Drinking Water Act (SDWA), the Toxic Substances Control Act (TSCA), and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Both parties (FDA and EPA) have determined that the passage of the SDWA in 1974 implicitly repealed FDA's authority under the Federal Food, Drug, and Cosmetic Act (FFDCA) over water used for drinking purposes. Under the provision of section 410 of the FFDCA, FDA retains the responsibility for water, and substances in water, used in food and for food processing and for bottled water.

This notice addresses only the evaluation and regulation of pesticide residues in drinking water which may occur as a result of the direct application of pesticides to bodies of water for the purpose of controlling aquatic pests. This notice proposes a procedural change for registering pesticides in the aquatic environment. The data requirement and the assessment of public health implications will not be affected by this notice. However, the application requirements of the registrant are expected to be reduced since he no longer is required to obtain a clearance under the FFDCA but can instead consolidate the necessary information and data into one FIFRA submission.

II. Change in Procedure

Under the procedures followed heretofore, an application to register a pesticide for use in the aquatic environment was first evaluated to determine whether or not residues in drinking water could occur. If the use directions were such that residues in

drinking water and irrigated crops were not expected, the application was evaluated as an outdoor, non-food use. If, however, residues in drinking water were likely, the registrant was required to submit a petition pursuant to section 409 of the FFDCA proposing a food additive regulation to set an acceptable residue level of the pesticide in drinking water. The applicant also had to meet the requirements of FIFRA section 3(c)(5). Upon completion of the risk assessment, and finding that the risks were acceptable, the agency regulated the new use by registration under FIFRA and also by establishing a food additive regulation under the FFDCA (see 21 CFR 193).

Since, as indicated in Unit I, the authority of the FFDCA no longer applies to drinking water, the new agency procedures will eliminate the requirement for establishing a food additive regulation. Instead the agency will regulate such residues under the authority of FIFRA and the SDWA. Labeling pursuant to FIFRA will be required to assure that an acceptable residue level is not exceeded and that the provisions of the SDWA are met. The details of the new agency procedure are described in the following units.

A. Application for Registration

When an application for a new or amended registration of a product intended for use to control pests in the aquatic environment is received the agency will, as it has previously, determine if the proposed use will result in residues in drinking water. If residues are not expected, the application will be processed as an outdoor non-food use applying the commensurate criteria for environmental effects and toxicity evaluation. If such residues are likely to occur, the following parts of this procedure apply.

B. Data in Support of an Application

Although the agency is eliminating the formal establishment of pesticide residue food additive regulations, it will continue to evaluate the safety of those residues in drinking water according to the same principles applied previously. The only distinction will be that the review will culminate in a registration action under FIFRA rather than a regulation under the FFDCA. Consequently, the data requirements for evaluating the safety of pesticide residues in drinking water will remain unchanged. The application for registration (or amendment to a registration) must contain the following basic information:

(1) Specific use directions, including application rates, application frequency, and any necessary limitations, e.g., geographic limitations, limitation on proximity of use in relation to water intakes, limitation to user groups (State or Federal authorities), limitations to flowing or standing water.

(2) Residue data in support of an acceptable residue level in drinking water (ARLDW), and an analytical method for residue analysis of water samples.

(3) Toxicological data (of references) which allow a risk (or incremental risk) assessment. The risk assessment will be performed in the same manner as a risk evaluation for dietary exposure for food commodities.

(4) Environmental fate data for the aquatic use.

(5) Environmental effects (fish and wildlife) data (or references) pertinent to the aquatic use.

(6) Any other information, e.g., periods of intake shut-offs, or holding of treated water before delivery to consumers, which may be pertinent to the evaluation of the application.

C. Secondary Residues in Fish and/or Irrigated Crops

If the agency determines that the proposed use may result in secondary residues in fish and/or irrigated crops, a petition for tolerances in fish and/or the irrigated crops will be required in accordance with section 408 of the FFDCA, unless existing tolerances are adequate to cover the proposed new use. The establishment of the appropriate tolerance(s) in 40 CFR Part 180 would be required before the issuance of the aquatic use registration.

D. Evaluation and Disposition of Application

In general, an application will be evaluated in accordance with the procedures set forth in 40 CFR 162.7. The human health effects evaluation will be carried out, as previously, by the Office of Pesticide Programs. This evaluation, however, will include collaboration and consultation with the Office of Drinking Water (ODW). The decision to register the pesticide for the proposed use will require the concurrence of both offices, and an ARLDW will be established for the registration file. On a case by case basis, the ODW may issue further advice to State and local authorities concerning the expected pesticide residues in drinking water, or establish National Drinking Water Maximum Contamination Levels, as appropriate.

E. Labeling, Restrictions, and Limitations

In order to protect the public health, the agency has in the past imposed label restrictions and detailed use instructions for pesticides used in aquatic areas rather than requiring a routine monitoring program for residue levels in drinking water. The agency believes that this practice is more effective and practical than a nonspecific monitoring program for residue detection and it will therefore be continued. The agency will consider, *inter alia*, the following types of regulatory restrictions to assure that the residue levels of the added pesticides will not exceed a safe level:

(1) Limitations of use to State and Federal agencies.

(2) Limitation to specified geographical areas.

(3) Required holding period before water may be used for drinking by man and/or domestic animals, or for agricultural uses.

(4) Required water analysis for specific chemicals and post treatment time periods.

(5) Required notification of local water authorities in areas to be treated.

(6) Posting of treated lakes and ponds.

(7) Seasonal restrictions (high or low water volume).

(8) Restriction to certified applicators.

F. Existing Food Additive Regulations for Pesticides in Drinking Water

After this notice has become final, the agency will initiate actions to delete the existing food additive regulations for pesticide residues in drinking water (21 CFR Part 193). Labeling changes may be required at that time to assure that the pesticide residue levels will not exceed an acceptable level. The ODW will be informed about these deletions. As appropriate, that office may initiate further actions similar to those listed under D above.

III. Compliance With Executive Order 12291

Executive Order (EO) 122291 (40 FR 13193, February 19, 1981) requires that EPA prepare a Regulatory Impact Analysis for each major rule. The order defines a "major rule" as any regulation that is likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions;

(3) Significant adverse impact on competition, employment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

EPA's procedural change for evaluating pesticides used directly in bodies of water in order to control

aquatic pests is not a major regulation by these definitions. The change proposed in this notice does not in fact increase the burden, financial or otherwise, for an applicant of a pesticide registration. If anything, this procedural change relieves the applicant from filing a Food Additive Petition under section 409 of FFDCA in addition to the application for a registration. Therefore, the agency concludes that this procedural change would in fact decrease in the cost of preparing an application.

This regulation was submitted to the Office of management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection in Rm. E-107, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, and are available for viewing from 8:00 a.m. to 4:00 p.m. Monday to Friday, excluding holidays.

List of Subjects

40 CFR Part 162

Intergovernmental relations, Labeling, Packaging and containers, pesticides and pests, Administrative practice and procedure.

40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: May 8, 1982

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 82-16047 Filed 6-14-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 1E2578/P235; PH-FRL 2145-9]

Bromoxynil; Proposed Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that tolerances be established for residues of the herbicide bromoxynil, resulting from application of the octanoic acid ester or the butyric acid ester, in or on the raw agricultural commodities annual canarygrass seed and straw. The proposed amendment to establish a maximum permissible level for residues of the herbicide in or on these commodities was submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before July 15, 1982.

ADDRESS: Written comments to: Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-7700).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition number 1E2578 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Minnesota.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for negligible residues of the herbicide bromoxynil (3,5-dibromo-4-hydroxybenzonitrile), from application of its octanoic acid ester, in or on the raw agricultural commodities annual canarygrass seed and straw at 0.1 part per million (ppm). The petition was later amended to propose tolerances at 0.1 ppm resulting from application of either the octanoic acid ester or the butyric acid ester.

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. The toxicological data considered in support of the proposed tolerances include a subchronic (13-week) dog feeding study with a no-observed-effect level (NOEL) of 5 mg/kg/day (200 ppm) and a subchronic (13-week) rat feeding study with a NOEL of 312 ppm. While the toxicity of this chemical has not been completely characterized, there will be no incremental residue contribution to the theoretical maximum residue contribution (TMRC) from this use since canarygrass seed and straw are not intended for use in the diet of either humans or domestic food animals. If a market develops in the future for use of canarygrass straw for livestock feed or bedding, established tolerances for bromoxynil in meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep will cover residues. Tolerances of 0.1 ppm have previously been established for a number of raw agricultural commodities from application of the herbicide as its octanoic acid ester or butyric acid ester.

The acceptable daily intake (ADI), based on the 13-week dog feeding study (NOEL of 5 mg/kg/day, or 200 ppm) and using a 2,000-fold safety factor, is calculated to be 0.0025 mg/kg of the body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 0.15 mg/day. The TMRC from existing tolerances for a 1.5-kg daily diet is calculated to be 0.0336 mg/day; published tolerances utilize 22.43 percent of the ADI. The requested tolerances will not contribute to the TMRC nor utilize any part of the ADI.

The nature of the residues is adequately understood and an adequate analytical method (gas-liquid chromatography utilizing an electron capture detector) is available for enforcement purposes. No secondary residues are expected in meat, milk, poultry, or eggs since neither annual canarygrass seed nor straw is presently utilized as livestock or poultry feed items. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerances established by amending 40 CFR Part 180 would protect the public health. It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request on or before July 15, 1982 that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, "[PP 1E2578/P235]". All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant

economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 34a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: June 4, 1982.

Douglas D. Campt

Director, Registration Division, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURE COMMODITES

Therefore, it is proposed that 40 CFR 180.324 be amended by adding and alphabetically inserting the raw agricultural commodities annual canarygrass seed and annual canarygrass straw to read as follows:

§ 180.324 Bromoxynil; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Grass, canary, annual, seed	0.1
Grass, canary, annual, straw	0.1
* * * * *	

[FR Doc. 82-16043 Filed 6-14-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 1E2577/P234; PH-FRL 2146-1]

2-Methyl-4-Chlorophenoxyacetic Acid; Proposed Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that tolerances be established for residues of the herbicide 2-methyl-4-chlorophenoxyacetic acid (MCPA), resulting from application as its isooctyl or butoxyethyl esters, in or on the raw agricultural commodities annual canarygrass seed and straw. The proposed amendment to establish a maximum permissible level for residues of the herbicide in or on these commodities was submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before July 15, 1982.

ADDRESS: Written comments to: Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-7700).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition number 1E2577 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Minnesota.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for residues of the herbicide MCPA, from application of its isooctyl or butoxyethyl esters, in or on the raw agricultural commodities annual canarygrass seed and straw at 0.1 part per million (ppm).

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. The toxicological data considered in support of the proposed tolerance included a subchronic (13-week) dog feeding study with a no-observed-effect level (NOEL) of 160 ppm/; a 90-day rat feeding study with a NOEL of 8 mg/kg/day; and a mouse teratogenicity study, negative at 100 mg/kg/day (highest dose tested). While the toxicity of this chemical has not been completely characterized, there will be no incremental residue contribution to the theoretical maximum residue contribution (TMRC) from this use since canarygrass seed and straw are not intended for use in the diet of either humans or domestic food animals. If a market develops in the future for use of canarygrass straw for livestock feed or bedding, established tolerances for MCPA in milk and meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep will cover residues. Tolerances of 0.1 ppm have previously been established for a number of raw agricultural commodities from application of the herbicide.

The acceptable daily intake (ADI), based on the 13-week dog feeding study (NOEL of 4 mg/kg/day, or 160 ppm) and using a 2,000-fold safety factor, is calculated to be 0.002 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 0.12 mg/day. The TMRC from existing tolerances for a 1.5-kg daily diet is calculated to be 0.0817 mg/day; published tolerances utilize 68.10 percent of the ADI. The requested tolerances will not contribute to the TMRC nor utilize any part of the ADI.

The nature of the residues is adequately understood and an adequate analytical method (gas-liquid chromatography utilizing an electron capture detector) is available for enforcement purposes. No secondary residues are expected in meat, milk, poultry, or eggs since neither annual canarygrass seed nor straw is presently utilized as livestock or poultry feed items. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerances established by amending 40 CFR 180.339 would protect the public health. It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request on or before July 15, 1982, that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, "[PP 1E2577/P234]". All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: June 4, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR 180.339(a) be amended by adding and alphabetically inserting the raw agricultural commodities annual canarygrass seed and annual canarygrass straw to read as follows:

§ 180.339 2-Methyl-4-chlorophenoxyacetic acid; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * * * *	
Grass, canary, annual, seed	0.1
Grass, canary, annual, straw	0.1
* * * * *	

[FR Doc. 82-16042 Filed 6-14-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 7E1956/P228; PH-FRL 2145-6]

1-Naphthaleneacetic Acid; Proposed Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that tolerances be established for residues of the plant growth regulator 1-naphthaleneacetic acid (NAA) in or on the raw agricultural commodities oranges and tangerines. The proposed amendment to establish a maximum permissible level for residues of NAA in or on the commodities was submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before July 15, 1982.

ADDRESS: Written comments to: Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-7700).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition number 7E1956 to EPA on behalf of the IR-4 Technical Committee and the Agriculture Experiment Stations of Arizona, California, and Florida.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the plant growth regulator 1-naphthaleneacetic acid (NAA) in or on the raw agricultural commodity citrus fruits at 1 part per million (ppm). The petition was later amended to propose tolerances in or on oranges and tangerines at 0.1 ppm.

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. The toxicological data considered in support of the proposed tolerances were: a 90-day rat feeding study with a no-observed-effect level (NOEL) of 150 mg/kg/day; a 3-generation mouse reproduction study with no effect on reproductive performance up to 86 ppm; and a 6-month oral (capsule) study in dogs with a NOEL of 50 mg/kg/day. A teratology study is currently lacking but in progress.

The provisional acceptable daily intake (PADI), based on the 6-month dog feeding study (NOEL of 50.0 mg/kg/day) and using a 1,000-fold safety factor, is calculated to be 0.050 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 3.00 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5 kg daily diet is calculated to be 0.0425 mg/day; the current action will increase the TMRC by 0.0033 mg/day. Published and proposed tolerances utilize 1.53 percent of the PADI.

The nature of the residues is adequately understood and an adequate analytical methodology (gas-liquid chromatography-mass spectrometry) is available for enforcement purposes. No secondary residues in meat, milk, poultry, or eggs are expected. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerances established by amending 40 CFR Part 180 would protect the public health. It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request on or before July 15, 1982 that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, "[PP 7E1956/P228]". All written comments filed in response to this petition will be available for public inspection in the office of Donald Stubbs at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: June 4, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR 180.155(a) be amended by alphabetically inserting the raw agricultural commodities oranges and tangerines to read as follows:

§ 180.155 1-Naphthaleneacetic acid; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * * * *	
Oranges	0.1
* * * * *	
Tangerines	0.1
* * * * *	

[FR Doc. 82-16044 Filed 6-14-82; 8:45 am]

BILLING CODE 6560-50-M

Notices

Federal Register
Vol. 47, No. 115
Tuesday, June 15, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Foster Grandparent and Senior Companion Programs; Income Eligibility Levels

AGENCY: Action.

ACTION: Notice of revision of income eligibility levels for Foster Gransparent and Senior Companion programs.

SUMMARY: This notice revises the schedule of income eligibility levels for individuals and families for the Foster Grandparent Program published in the **Federal Register** May 6, 1981 (45 FR 25328) The revised schedule is based on revised Poverty Income Guidelines from HHS, effective April 9, 1982. This revision adopts as the income eligibility level for each State the higher amount of either (a) 125% of the DHHS Poverty Income Guideline, or (b) 100% of the DHHS Poverty Income Guideline plus the amount each state supplements Federal SSI.

EFFECTIVE DATE: June 15, 1982.

FOR FURTHER INFORMATION CONTACT: Betty Brake, Director OAVP, ACTION, Room M–1007, 806 Connecticut Avenue, NW., Washington, D.C. 20515 , or telephone toll free (800) 484–8580, Extension 239 or (202) 254–7310.

SUPPLEMENTARY INFORMATION: These ACTION programs are authorized pursuant to Sections 211 and 213 of the Domestic Volunteer Service Act of 1973, as amended, Pub. L. 93–113, 87 Stat. 414. The income eligibility levels are determined by the currently applicable guideline published by DHHS pursuant to sections 652 and 673(2) of the Omnibus Budget Reconciliation Act of 1981 which requires poverty income guidelines to be adjusted for Consumer Price Index changes.

The income eligibility levels will be reviewed at least once a year, and similar schedules will be prepared to reflect any changes required as a result of that review.

SCHEDULE OF INCOME ELIGIBILITY LEVELS: FOSTER GRANDPARENT AND SENIOR COMPANION PROGRAMS

State	Individuals	Family of two	Family of three
Alabama	$5,850	$7,775	$9,700
Alaska	9,000	12,300	14,700
Arizona	5,850	7,775	9,700
Arkansas	5,850	7,775	9,700
California	8,770	11,235	13,160
Colorado	5,850	9,280	11,205
Connecticut	6,095	7,775	9,700
Delaware	5,850	7,775	9,700
District of Columbia	5,850	7,775	9,700
Florida	5,850	7,775	9,700
Hawaii	6,740	8,950	11,165
Idaho	5,850	7,775	9,700
Illinois	5,850	7,775	9,700
Indiana	5,850	7,775	9,700
Iowa	5,850	7,775	9,700
Kansas	5,850	7,775	9,700
Kentucky	5,850	7,775	9,700
Louisiana	5,850	7,775	9,700
Maine	5,850	7,775	9,700
Maryland	5,850	7,775	9,700
Massachusetts	6,325	8,790	10,715
Michigan	5,850	7,775	9,700
Minnesota	5,850	7,775	9,700
Mississippi	5,850	7,775	9,700
Missouri	5,850	7,775	9,700
Montana	5,850	7,775	9,700
Nebraska	5,850	7,565	9,700
Nevada	5,850	7,775	9,700
New Hampshire	5,850	7,775	9,700
New Jersey	5,860	7,775	9,700
New Mexico	5,850	7,775	9,700
New York	5,850	7,775	9,700
North Carolina	5,850	7,775	9,700
North Dakota	5,850	7,775	9,700
Ohio	5,850	7,775	9,700
Oklahoma	5,850	8,115	10,040
Oregon	5,850	7,775	9,700
Pennsylvania	5,850	7,775	9,700
Rhode Island	5,850	7,775	9,700
South Carolina	5,850	7,775	9,700
South Dakota	5,850	7,775	9,700
Tennessee	5,850	7,775	9,700
Texas	5,850	7,775	9,700
Utah	5,850	7,775	9,700
Vermont	5,850	7,775	9,700
Virginia	5,850	7,775	9,700
Washington	5,800	7,775	9,700
West Virginia	5,850	7,775	9,700
Wisconsin	5,875	8,150	10,075
Wyoming	5,850	7,775	9,700
Guam	5,850	7,775	9,700
Puerto Rico	5,850	7,775	9,700
Virgin Islands	5,850	7,775	9,700

For families of more than three-persons in the household, add the appropriate supplement for each member over three as follows:

	Per person
In the 48 contiguous States	$1,925
Alaska	2,400
Hawaii	2,210

Signed at Washington, D.C. this 8th day of June 1982.

Thomas W. Panken,

Director.

[FR Doc. 82–16075 Filed 6–14–82; 8:45 am]

BILLING CODE 6050–01–M

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Approval of Programmatic Memorandum of Agreement Regarding Arizona Public Service; San Diego Gas and Electric Company Interconnection Project

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Chairman of the Council has ratified a Programmatic Memorandum of Agreement (PMOA) regarding construction of the Arizona Public Service—San Diego Gas and Electric Company Interconnection project in California, an undertaking regulated by the Department of the Interior, Bureau of Land Management. Notice of intent to execute the PMOA was published on November 9, 1981 (46 FR 55291). Copies of the PMOA are available from the Council.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas F. King, Director, Office of Cultural Resource Preservation, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, D.C. 20005.

Dated: June 10, 1982.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 82–16092 Filed 6–14–82; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Flue-Cured Tobacco Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following committee meeting:

Name: Flue-Cured Tobacco Advisory Committee.

Date: June 29, 1982.

Place: Tobacco Division, Agricultural Marketing Service, U.S. Department of

Agriculture, Laboratory, Room 223 Flue-Cured Tobacco Cooperative Stabilization Corporation, 1306 Annapolis Drive, Raleigh, North Carolina 27605.

Time: 1 p.m.

Purpose: To discuss marketing area opening dates and selling schedules for flue-cured tobacco to be sold in each marketing area for the 1982 season. Also, other matters as specified in 7 CFR Part 29 will be discussed.

The meeting is open to the public. Persons, other than members, who wish to address the Committee at the meeting should contact J. T. Bunn, Deputy Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, 300—12th Street, S.W., Washingon, D.C., 20250 (202) 447–7235. Written statements should be submitted prior to or at the meeting.

Dated: June 11, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-16241 Filed 6-14-82; 8:45 am]

BILLING CODE 3410-02-M

Food and Nutrition Service

Availability of Surplus Cheese

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: The Department of Agriculture announces that it will provide 120 million additional pounds of surplus process cheese to requesting State agencies for distribution to eligible recipients. The process cheese being made available by this announcement is in addition to the total of 100 million pounds of this product whose availability to such State agencies was announced on December 29, 1981 (46 FR 62882) and March 9, 1982 (47 FR 10068).

FOR FURTHER INFORMATION CONTACT: Joseph E. Shepherd, Director, Food Distribution Division, Food and Nutrition Service, Park Office Center, Alexandria, Virginia 22302, (703) 756–3660.

DATE: Requests for allocations of cheese must be submitted by December 31, 1982.

SUPPLEMENTARY INFORMATION: In addition to the 100 million pounds of surplus process cheese previously made available to State agencies for distribution to eligible recipients, the Department is prepared to provide an additional 120 million pounds of process cheese to requesting State agencies for the same purpose, bringing the total available to 220 million pounds. The Department will pay the cost of transporting the cheese from Federal storage facilities to centralized storage facilities designated by recipient State agencies. State agencies will be responsible for arranging and financing distribution of the cheese within the State.

The cheese is being offered under the provisions of section 416 of the Agricultural Act of 1949 and section 1114 of the Agriculture and Food Act of 1981. It may be used only in nonprofit school lunch programs; nonprofit summer camps for children, and other child nutrition programs providing food service; in nutrition projects operating under authority of the Older Americans Act of 1965, including congregate nutrition sites and providers of home-delivered meals; in assistance to needy persons; and in charitable institutions, including hospitals, serving needy persons.

Distribution to needy persons for use in the preparation of meals in the home may be made only through food banks participating in the program established under section 211 of the Agriculture Act of 1980. States wishing to distribute cheese for this use will be required to assist the Department in designating food banks for participation in that program.

State agencies participating in this distribution of cheese will be required to enter into an agreement with the Department if they have not already done so. This agreement will embody the terms and conditions under which the cheese is being provided. A copy of the agreement may be obtained from the appropriate Regional Administrator, Food and Nutrition Service. Agencies wishing to participate in the distribution should, by December 31, 1982, advise the appropriate Regional Administrator, in writing, of their interest and of the amount which they would like to receive. There is no limitation on the amount of cheese which may be requested by a State agency.

Dated: June 9, 1982.

Samuel J. Cornelius,

Administrator.

[FR Doc. 82-16081 Filed 6-14-82; 8:45 am]

BILLING CODE 3410-30-M

Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools; Income Eligibility Guidelines

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This Notice announces the Department's annual July adjustments to the Income Eligibility Guidelines to be used in determining eligibility for free and reduced price meals or free milk for the period from July 1, 1982–June 30, 1983. These guidelines are used by schools, institutions, and centers participating in the National School Lunch and Breakfast Programs, Special Milk Program, Child Care Food Program and by commodity schools. The adjustments are made pursuant to section 9 of the National School Lunch Act as amended by Public Law 97–35, the Omnibus Budget Reconciliation Act of 1981. The guidelines are intended to direct benefits to those children most in need.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett, Branch Chief, Policy and Program Development Branch, School Program Division, FNS, USDA, Alexandria, Virginia 22302 (703) 756–3620.

SUPPLEMENTARY INFORMATION:

Classification

This Notice has been reviewed under Executive Order 12291 and has not been classified major because it does not meet any of the three criteria identified under the executive order. The action announced in the notice will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices and will not have a significant impact on competition, employment, investment, productivity, innovation or the ability of U.S. enterprises to compete with foreign based enterprises in domestic or foreign markets.

This notice has also been reviewed with regard to the requirements of Pub. L. 96–354, the Regulatory Flexibility Act. Samuel J. Cornelius, Administrator of the Food and Nutrition Service, has certified that this action will not have a significant adverse economic impact on a substantial number of small entities.

This notice imposes no new reporting or recordkeeping provisions that are subject to OMB review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Background

Pursuant to sections 9 and 17 of the National School Lunch Act (42 U.S.C. 1758 and 42 U.S.C. 1766), and sections 3 and 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1772 and 1773(e)), the Department annually issues the Income Eligibility Guidelines for free and reduced price meals in the National School Lunch Program (7 CFR Part 210), School Breakfast Program (7 CFR Part 220), Child Care Food Program (7 CFR Part 226), Commodity schools (7 CFR

210.2) and the guidelines for free milk in the Special Milk Program (7 CFR Part 215).

The Department requires schools and institutions which charge for meals separately from other foods, to serve free meals or, at local option, free milk to all children from any family whose income is at or below 130 percent of the poverty level for that family's size. The Department also requires such schools and institutions to serve reduced price meals to all children from any family whose income is more than 130 percent of the poverty level for that family's size but at or below 185 percent of the poverty level for that family's size.

For the convenience of State agencies, the tables in this notice show the poverty guidelines when increased by 30 percent and when increased by 85 percent. Guidelines are shown separately for Alaska and for Hawaii and for the Island of Guam.

Definition of Income

"Income," as the term is used in this notice, is similar to that defined in the Bureau of the Census report, "Characteristics of the Low-Income Population: 1971," Current Population Reports, series P–60, No. 86, December 1972. "Income" means income before deductions for income taxes, employees' social security taxes, insurance premiums, bonds, etc. It includes the following: (1) Monetary compensation for services, including wages, salary, commissions or fees; (2) net income from nonfarm self-employment; (3) net income from farm self-employment; (4) social security; (5) dividends or interest in savings bonds, income from estates or trusts, or net rental income; (6) public assistance or welfare payments; (7) unemployment compensation; (8) government civilian employee, or military retirement, or pensions or veterans payments; (9) private pensions or annuities; (10) alimony or child support payments; (11) regular contributions from persons not living in the household; (12) net royalties; and (13) other cash income. Other cash income would include cash amounts received or withdrawn from any source including savings, investments, trust accounts, and other resources which would be available to pay the price of a child's meal.

"Income," as the term is used in this notice, does not include any income or benefits received under any Federal program which are excluded from consideration as income by any legislative prohibition. Furthermore, the value of assistance to children or their families shall not be considered as income if prohibited by the authorizing legislation, e.g., the National School Lunch Act, the Child Nutrition Act of 1966, and the Food Stamp Act of 1977.

The Income Eligibility Guidelines

The following are the Income Eligibility Guidelines to be effective from July 1, 1982 until June 30, 1983. The Department's guidelines for free meals and milk and reduced price meals were obtained by multiplying the Federal (formerly OMB) nonfarm income poverty guidelines by 1.30 and 1.85 respectively, and by rounding the result to the nearest $10.00. Weekly and monthly guidelines were computed by dividing annual income by 52 and 12 respectively, and by rounding to the nearest $1.00.

INCOME ELIGIBILITY GUIDELINES

[Effective From July 1, 1982, to June 30, 1983]

Family size	Nonfarm poverty guidelines			130 pct free meals			185 pct reduced price meals		
	Year	Month	Week	Year	Month	Week	Year	Month	Week
48 Contiguous United States, District of Columbia, Territories—Excluding Guam									
1	4,680	390	90	6,090	507	117	8,660	722	167
2	6,220	518	120	8,090	674	156	11,510	959	221
3	7,760	647	149	10,090	841	194	14,360	1,197	276
4	9,300	775	179	12,090	1,008	233	17,210	1,434	331
5	10,840	903	209	14,090	1,174	271	20,060	1,671	386
6	12,380	1,032	238	16,090	1,341	309	22,900	1,908	440
7	13,920	1,160	268	18,100	1,508	348	25,750	2,146	495
8	15,460	1,288	297	20,100	1,675	387	28,600	2,383	550
For each additional family member add	1,540	128	30	2,000	167	39	2,850	238	55
Alaska									
1	5,870	489	113	7,630	636	147	10,860	905	209
2	7,790	649	150	10,130	844	195	14,410	1,201	277
3	9,710	809	187	12,620	1,052	243	17,960	1,497	345
4	11,630	969	224	15,120	1,260	291	21,520	1,793	414
5	13,550	1,129	261	17,620	1,468	339	25,070	2,089	482
6	15,470	1,289	298	20,110	1,676	387	28,620	2,385	550
7	17,390	1,449	334	22,610	1,884	435	32,170	2,681	619
8	19,310	1,609	371	25,100	2,092	483	35,720	2,977	687
For each additional family member add	1,920	160	37	2,500	208	48	3,560	296	68
Hawaii and Guam									
1	5,390	449	104	7,010	584	135	9,970	831	192
2	7,160	597	138	9,310	776	179	13,250	1,104	255
3	8,930	744	172	11,610	968	223	16,520	1,377	318
4	10,700	892	206	13,910	1,159	268	19,800	1,650	381
5	12,470	1,039	240	16,210	1,351	312	23,070	1,923	444
6	14,240	1,187	274	18,510	1,543	356	26,340	2,195	507
7	16,010	1,334	308	20,810	1,734	440	29,620	2,468	570
8	17,780	1,482	342	23,110	1,926	444	32,890	2,741	633
For each additional family member add	1,770	148	34	2,300	192	44	3,270	273	63

NOTE.—Do not allow hardship deductions from the above income eligibility guidelines.

(42 U.S.C. 1758, Sec. 803, Pub. L. 97-35, 95 Stat. 521-535)

Dated: June 9, 1982.

Samuel J. Cornelius,

Administrator, Food and Nutrition Service.

[FR Doc. 82-16018 Filed 6-14-82; 8:45 am]

BILLING CODE 3410-30-M

Rural Electrification Administration

Plains Electric Generation and Transmission Cooperative, Inc.; Finding of No Significant Impact

The Rural Electrification Administration (REA) has prepared a Finding of No Significant Impact in connection with proposed financing assistance by REA for Plains Electric Generation and Transmission Cooperative, Inc., (Plains) of Albuquerque, New Mexico, to rebuild and reconductor 104.45 km (65.28 mi) of 115 kV transmission line from Dona Ana to Alamogordo Substations in Dona Ana and Otero Counties, New Mexico. Rebuilding the line is necessary because the conductors suffer from extensive vibration damage, the crossarms are in poor condition, and the poles are nearing the end of their useful life.

Plains has prepared a Borrower's Environmental Report (BER) concerning the proposed project. An Environmental Assessment (EA) was prepared by REA. Threatened and endangered species, important farmlands and forestlands, archaeological and historic sites, wetlands and floodplains, and other potential impacts of the proposed project are adequately considered in the EA.

An unnamed floodplain is crossed by the existing transmission line. REA determined that there are no practical alternatives to the continued crossing of this floodplain. The transmission structures, however, are designed to mitigate any potential effects to the floodplain.

Alternatives evaluated include no action, reconductoring on existing structures and complete line rebuild. The proposed transmission line rebuild is an acceptable alternative to provide power to all existing and projected loads of Plains within the project area.

Copies of the Finding of No Significant Impact, the EA and Plains' BER may be obtained from the office of the Director, Power Supply Division, Room 0230, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250 or reviewed at the office of Plains Electric Generation and Transmission Cooperative, Inc., 2401 Aztec Road, NE, Albuquerque, New Mexico 87107.

This Program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 10th day of June 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-16060 Filed 6-14-82; 8:45 am]

BILLING CODE 3410-15-M

Office of the Secretary

1982 Crop Cotton; Determinations Regarding the 1982 Loan Rates for Upland and Extra Long Staple (ELS) Cotton, Established (Target) Price and Acreage Reduction Program for Upland Cotton and Seed Cotton Loan Program for Upland and Extra Long Staple Cotton

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of determinations of the 1982 crop loan rates for upland and extra long staple (hereinafter referred to as ELS) cotton, established (target) price and acreage reduction program for upland cotton, and seed cotton loan program for upland and ELS cotton.

SUMMARY: The purpose of this notice contains the following determinations with respect to the 1982 crop of cotton: (1) Loan rate for Strict Low Middling one-and-one-sixteenth-inch upland cotton (micronaire 3.5 through 4.9) of 57.08 cents per pound; (2) loan rate for ELS cotton of 99.89 cents per pound; (3) established (target) price for upland cotton of 71 cents per pound; (4) acreage reduction program of 15 percent for upland cotton; (5) no land diversion payments for upland cotton; and (6) the availability of an upland and ELS seed cotton loan program. These determinations are required to be made in accordance with sections 101(f) and 103(g) of the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981 (hereinafter referred to as the "Act").

EFFECTIVE DATE: January 29, 1982.

ADDRESS: Director, Analysis Division, ASCS, USDA, Room 3741 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Charles V. Cunningham, Acting Deputy Director, Analysis Division, USDA-ASCS, P.O. Box 2415, Washington, D.C. 20013 (202) 447-7954. The Final Regulatory Impact Analysis describing the options considered in developing these determinations is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: These determinations have been reviewed in accordance with the provisions of Executive Order 12291 and Secretary's Memorandum No. 1512-1 and have been designated as "major". These determinations have been designated as "major" because they are expected to affect the supply and price of upland cotton during the 1982-83 marketing year, which will in turn impact upon producers, processors, exporters and consumers of cotton and cotton products.

The titles and numbers of the federal assistance programs that this notice applies to are: Title—Cotton Production Stabilization, number 10.052, and Title—Commodity Loans and Purchases, number 10.051, as found in the Catalog of Federal Domestic Assistance.

These actions will not have a significant impact specifically on area and community development. Therefore, review as established under OMB Circular A-95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since there is no requirement that a notice of proposed rulemaking be published with respect to the subject matter of these determinations in accordance with 5 U.S.C. 553 or any other provision of law.

1. *Loan Rate for Upland Cotton.* Section 103(g)(1) of the Act provides that the loan level for 1982-crop upland cotton must reflect for Strict Low Middling one-and-one-sixteenth-inch upland cotton (micronaire 3.5 through 4.9) at average location in the United States, the smaller of (1) 85 percent of the average price (weighted by market and month) of Strict Low Middling one-and-one-sixteenth-inch cotton quoted in the designated U.S. spot markets during 3 years of the 5-year period ending July 31, 1981, dropping the highest and lowest years, or (2) 90 percent of the average, for the 15 week period beginning July 1, 1981, of the five lowest priced growths of the growths quoted for Middling one-and-three-thirty-seconds-inch cotton, C.I.F. Northern Europe (adjusted

downward by the average difference during the period April 15, 1981 through October 15, 1981 between the Northern Europe quotation and quotations in the designated U.S. spot markets for Strict Low Middling one-and-one-sixteenth-inch cotton (micronaire 3.5 through 4.9)). The loan level cannot be less than 55 cents per pound. If the Northern Europe calculation is less than the spot market calculation, the Secretary may adjust the loan level up to the spot market calculation, the 1982 loan rate must be announced as soon as practicable following the enactment of the Agriculture and Food Act of 1981 (Pub. L. 97–98) and cannot thereafter be changed.

2. *Loan Rate for ELS Cotton.* Section 101(f) of the Act provides that if producers have not disapproved marketing quotas for any crop of ELS cotton, price support loans shall be made available to cooperators for such crop at a level which is not less than 75 per centum or more than 125 per centum in excess of the loan level established for Strict Low Middling one-and-one-sixteenth-inch upland cotton (micronaire 3.5 through 4.9) of such crop at average location in the United States.

Section 401 of the Act provides that in determining the level of support in excess of the minimum level prescribed for any commodity, including ELS cotton, consideration shall be given to the supply of the commodity in relation to the demand therefor, the price level at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired through a price support operation, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand.

3. *Established (Target) Price.* Section 103(g)(3) of the Act provides that the established price for 1982-crop upland cotton shall not be less than the higher of (a) 71 cents per pound plus any adjustments for changes in production costs or (b) 120 percent of the loan level determined pursuant to section 103(g)(1). The Act provides that the price of 71 cents per pound quoted in the preceding sentence may be adjusted upward as the Secretary determines to be appropriate to reflect any change in (a) the average adjusted cost of production per acre for the two crop years immediately preceding the year for which the determination is made (1980 and 1981) from (b) the average adjusted cost of production per acre for the two crop years immediately preceding the year previous to the one for which the determination is made (1979 and 1980). The adjusted cost of production for each of such years may be determined by the Secretary on the basis of such information as the Secretary finds necessary and appropriate and may include variable costs, machinery ownership costs, and general farm overhead costs, allocated to the corps involved on the basis of the proportion of the value of the total production derived from each crop.

4. *Acreage Reduction Program.* Section 103(g)(9)(A) of the Act provides that the Secretary may establish a limitation on planted acreage if the Secretary determines that the total supply of upland cotton will, in the absence of such limitation, be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. Such limitation shall be achieved by applying a uniform percentage reduction to the acreage base for each cotton-producing farm. Producers who knowingly produce cotton in excess of the permitted acreage shall be ineligible for cotton loans and payments with respect to that farm. The acreage base for any farm for the purpose of determining any reduction required to be made for any year shall be the acreage planted on the farm to upland cotton for harvest in the immediately preceding year or, at the discretion of the Secretary, the average acreage planted to upland cotton for harvest in the two crop years immediately preceding the year for which the determination is made. For the purpose of determining the acreage base, the acreage planted to upland cotton for harvest shall include any acreage which producers were prevented from planting to cotton or other nonconserving crop because of a natural disaster or other condition beyond the control of the producres. The Secretary may make adjustments to reflect crop-rotation practices and other factors as the Secretary determines necessary to establish a fair and equitable base. A number of acres on the farm determined by dividing (a) the product obtained by multiplying the number of acres required to be withdrawn from the production of upland cotton times the number of acres actually planted to upland cotton, by (b) the number of acres authorized to be planted to upland cotton in accordance with the acreage limitation established by the Secretary shall be devoted to approved conservation uses in accordance with regulations issued by the Secretary. If an acreage limitation is in effect for any crop, the national program acreage, program allocation factor, and voluntary reduction provisions of section 103(g) of the Act are not applicable to such crop. The individual farm program acreage shall be the acreage planted on the farm to upland cotton for harvest within the permitted upland cotton acreage established for the farm under the acreage reduction program.

5. *Land Diversion Program.* Section 103(g)(9)(B) of the Act provides that the Secretary may make land diversion payments, whether or not an acreage limitation is in effect, if the Secretary determines that such payments are necessary to assist in adjusting the total national acreage of upland cotton to desirable goals. Such land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such producers.

6. *Seed Cotton Loan Program.* Section 103(g)(18) of the Act provides that in order to assist producers in the orderly ginning and marketing of their cotton production, the Secretary shall make recourse loans available to such producers on seed cotton in accordance with authority vested in the Secretary under the Commodity Credit Corporation Charter Act (15 U.S.C. 714 *et seq.).*

Production of upland cotton in 1981 is projected to be approximately 15.6 million bales. Total disappearance of upland cotton during the marketing year that began on August 1, 1981 is estimated to be 12.7 million bales. If these estimates are accurate, then carryover stocks on August 1, 1982 will equal about 5.7 million bales, which is deemed and excessive level. The monthly average price received by farmers fell from 65 cents per pound in August 1981 to 50 cents per pound in mid-January 1982.

Because of the large projected beginning stock level, it is likely that the supply of cotton in the 1982-83 marketing year again will be excessive. Therefore, the following options were considered to reduce the production of upland cotton in 982: (1) No acreage reduction program; (2) 10 percent acreage reduction program; (3) 15 percent acreage reduction program; (4) 20 percent acreage reduction program; and (5) 10 percent acreage reduction program in combination with a 5 percent paid land diversion.

Planted acres in 1982 are estimated at 13.6 million acres with no acreage reduction program. Production is projected to be 12.7 million bales and the estimated total supply of upland cotton is 18.4 million bales. With an estimated total disappearance of 13.6 million bales, ending stocks would be 4.9 million bales. Under this option, government costs in fiscal year 1983 are projected to total $580 million.

Under a 10 percent reduction program, planted acres are estimated at 12.9 million acres. Production of upland cotton would be about 12.1 million bales with average yields. The total supply and total disappearance are projected to be 17.8 million bales and 13.3 million bales, respectively, leaving ending stocks of 4.6 million bales. Fiscal year 1983 government outlays are estimated at $210 million under this option.

Planted acres under the 15 percent acreage reduction option are estimated to be 12.7 million acres. Production is estimated at 11.9 million bales and the total supply is estimated at 17.6 million bales. With a probable total disappearance of 13.3 million bales, ending stocks would equal about 4.4 million bales. Under this option, government costs for fiscal year 1983 are projected to total $76 million.

With a 20 percent acreage reduction program, planted acres are estimated to be 12.6 million acres. Production is projected at 11.8 million bales for a total supply of 17.5 million bales. Disappearance is estimated at 13.3 million bales and ending stocks would be about 4.3 million bales. A net government income of $35 million is estimated for fiscal year 1983 under this option.

A 10 percent acreage reduction program in combination with an additional 5 percent paid diversion is estimated to result in planted acres of 12.4 million. With average yields, production would be 11.8 million bales and the total supply would be 17.3 million bales. Disappearance is projected to be 13.2 million bales, leaving ending stocks, 4.2 million bales. Total government outlays, including a land diversion payment of 20 cents per pound on the diverted acres, are estimated to be $230 million.

The 15 percent acreage reduction option was selected because it was estimated to provide necessary reductions in production, ending stocks, and government costs. This option is expected to result in strengthened prices for producers and still allow for an adequate supply of cotton for consumers.

A number of the determinations in this notice are generally required to be made by section 103(g) of the Act by November 1 of the calendar year prior to the crop year for which such determinations are required to be made. However, the provisions of section 103(g) were not enacted until December 22, 1981. Therefore, the provisions of the Act require that these determinations be made as soon as practicable after enactment. On January 29, 1982, the Secretary announced by press release the determinations with respect to the 1982 crop of cotton which are set forth herein. The purpose of this document is to affirm those determinations. Thus, it is hereby determined that no further public rulemaking is required with respect to the following determinations:

Determinations

1. *Upland Cotton Loan Rate.* Based on the formula prescribed in section 103(g)(1) of the Act, the loan rate for Strict Low Middling, one-and-one-sixteenth-inch upland cotton (micronaire 3.5 through 4.9) at average location in the United States is determined to be 57.08 cents per pound. This figure is calculated using the domestic spot market prices as required by section 103(g)(1)(A) of the Act.

The spot market calculation is as follows: (1) Weighted average spot market prices for Strict Low Middling one-and-one-sixteenth-inch upland cotton, micronaire 3.5 through 4.9:

August 1976 through July 1977—71.59 cents;
August 1977 through July 1978—51.15 cents;
August 1978 through July 1979—61.01 cents;
August 1979 through July 1980—68.87 cents;
August 1980 through July 1981—83.77 cents;

(2) Average of the five years, excluding the highest and lowest years: 71.59+61.01+68.87/3=67.157 cents; and (3) Loan rate based on U.S. spot market calculation: 67.157×0.85=57.08 cents.

The Northern Europe calculation is as follows:

(1) Average Northern Europe quotation for Middling one-and-three-thirty-seconds-inch cotton July 1 through October 13, 1981	80.25
(2) Average difference between average Northern Euorpe quotation and the U.S. sport market average for Strict Low Middling one-and-one-sixteenth-inch, (micronaire 3.5 through 4.9) April 15 through October 15, 1981	11.22
(3) Adjusted Northern Europe average	69.03
(4) 90 percent of adjusted average	62.13

Accordingly, the 1982 upland cotton loan rate is 57.08 cents per pound.

2. *Loan Rate for ELS Cotton.* The loan rate for Strict Low Middling one-and-one-sixteenth-inch upland cotton (micronaire 3.5 through 4.9) has been determined to be 57.08 cents per pound. The possible range of the loan rate for ELS cotton is 99.89 to 126.43 cents per pound (75 percent to 125 percent in excess of the loan level in effect for upland cotton). Supplies of ELS cotton are considered to be adequate since stocks carried over into the 1982–83 marketing year are projected at 85,000 bales. Therefore, there is no need to increase the support rate above the statutory minimum to encourage production.

Accordingly, it is determined that the loan rate for 1982-crop ELS cotton is 99.89 cents per pound.

3. *Established (Target) Price.* Based on the provisions of section 103(g)(3) of the Act, the 1982 established (target) price for upland cotton is determined to be 71.0 cents per pound, the statutory minimum.

4. *Acreage Reduction Program.* In accordance with section 103(g)(9)(A) of the Act, it is hereby determined that an acreage reduction program shall be in effect for the 1982 crop of upland cotton. The reduction shall be achieved by applying a uniform reduction of 15 percent to the acreage base for each cotton-producing farm. An acreage reduction program is being established because it has been determined that the total supply of upland cotton will be excessive in the absence of a program.

Producers who knowingly produce cotton in excess of the permitted acreage shall be ineligible for loans and payments with respect to that farm. A number of acres equal to 17.65 percent of the planted acres (not to exceed the acres permitted to be planted) must be devoted to approved conservation uses in accordance with regulations issued by the Secretary. It is hereby determined that, because an acreage reduction program has been established, the national program acreage, program allocation factor, and voluntary reduction provisions shall not be applicable to the 1982 crop of upland cotton.

5. *Land Diversion Program.* It is hereby determined that no land diversion payments are necessary to assist in adjusting the total national acreage of upland cotton to desirable goals.

6. *Seed Cotton Loan Program.* It is hereby determined that a recourse seed cotton loan program shall be available for both upland and ELS cotton. Seed cotton shall be converted to a lint basis for loan-making purposes and loan

levels with respect to such cotton will be the same as those applicable to lint cotton. Detailed regulations concerning the seed cotton loan program will be published later.

(Secs. 4, 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); Secs. 101(f), 103(g), 401, 66 Stat. 758, as amended, 95 Stat. 1234, 63 Stat. 1054, as amended (7 U.S.C. 1441, 1444, 1421))

Signed at Washington, D.C. on June 8, 1982.

John R. Block,

Secretary.

[FR Doc. 82-16025 Filed 6-14-82; 8:45 am]

BILLING CODE 3410-05-M

CIVIL AERONAUTICS BOARD

[Docket 40639]

Aeroamerica Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to him.

Dated at Washington, D.C., June 9, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82-16087 Filed 6-14-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40658]

Hawaii Express, Inc., Fitness Investigation; Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-titled proceeding will be held on June 18, 1982, at 10:00 a.m. (local time), in Room 1012, 1825 Connecticut Avenue, N.W., Washington, D.C., before Administrative Law Judge William A. Kane, Jr.

For information concerning the issues involved and other details of this proceeding, interested persons are referred to Board Order 82-5-128 adopted May 24, 1982, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., June 9, 1982.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 82-16088 Filed 6-14-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40524]

Independent Air Incorporated Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Chief Administrative Law Judge Elias C. Rodriguez. Future communications should be addressed to him.

Dated at Washington, D.C., June 9, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82-16089 Filed 6-14-82; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Oregon Advisory Committee, Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Oregon Advisory Committee to the Commission will convene at 2:00 p.m. and will end at 5:00 p.m. on July 1, 1982, at the Portland Hilton, 921 South West Sixth, Portland, Oregon, 97204. The purpose of this meeting will be to discuss program planning activities for the remaining period of Fiscal Year 1982 and for Fiscal Year 1983.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Thomas J. Sloan, 215 North West Orchard Drive, Portland, Oregon 97229, (503) 627-8162 or the Northwestern Regional Office, 915 Second Avenue, Room 2852, Seattle, Washington, 98174, (206) 442-1246.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., June 8, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-16019 Filed 6-14-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Tapered Roller Bearings and Certain Components Thereof From Japan; Final Results of Administrative Review and Revocation in Part of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review and revocation in part of antidumping finding.

SUMMARY: On February 27, 1981, the Department of Commerce published the preliminary results of its administrative review and its tentative determination to revoke the antidumping finding on tapered roller bearings and certain components thereof from Japan with respect to NTN Toyo Bearing Co., Ltd. and NTN Bearing Corporation of America.

Interested parties were given an opportunity to submit oral or written comments, and a public hearing was conducted on May 11, 1981. The petitioner and the exporter provided comments at the hearing and during the comment period. As a result of our analysis of these comments we have made no changes in these final results from those contained in our preliminary results of review.

EFFECTIVE DATE: June 15, 1982.

FOR FURTHER INFORMATION CONTACT:

J. Linnea Bucher or John Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-3601).

SUPPLEMENTARY INFORMATION:

Background

On August 18, 1974, a dumping finding with respect to tapered roller bearings and certain components thereof ("TRBs") from Japan was published in the **Federal Register** as Treasury Decision 76-227 (41 FR 34974-5). On February 27, 1981, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of its administrative review and tentative determination to revoke the finding with respect to NTN Toyo Bearing Co., Ltd. ("NTN") and NTN Bearing Corporation of America ("NBCA") (46 FR 14371-2). The Department has now completed that administrative review with respect to NTN and NBCA.

Scope of the Review

The imports covered by the review, as clarified in the **Federal Register** on August 10, 1981 (46 FR 40550), are tapered roller bearings, four inches or less in outside diameter when assembled, including inner race or cone assemblies and outer races or cups, exported to and sold in the United States either as a unit or separately. They are currently classifiable under items 680.3932, 680.3934, and 680.3938 of the **Tariff Schedules of the United States Annotated (TSUSA).** The review covers TRBs produced and sold by NTN and NBCA during the period April 1, 1978 through November 14, 1978, the date the original tentative revocation for NTN and NBCA was published by the Treasury Department.

Analysis of Comments

(1) *Comment:* Claims for circumstances of sale adjustments to foreign market value must be based on specific proof of exact costs incurred in the sale of TRBs rather than on

allocation of costs based on sales volume.

Position: Section 153.10 of the Customs Regulations provides that "reasonable allowances will be made" for differences in circumstances of sale which cause the seller to incur direct costs in connection with sales of the product in question. Where the claimant proves that it incurred selling costs but does not have precise product-related accounting records, the actual amount of the adjustment may be based on a reasonable allocation of selling costs. In the present review the circumstance of sale adjustments claimed by the manufacturer were verified to be reasonably allocated based on the expenses of the narrowest corporate accounting unit possible.

(2) *Comment:* The Department's use of the ESP offset is contrary to the statute and must not be allowed as an adjustment to foreign market value.

Position: We made adjustments for the ESP offset in accordance with § 153.10 of the Customs Regulations. The offset is intended to permit an equitable adjustment to foreign market value where a comparable expense is required by section 204(3) of the Antidumping Act of 1921 ("the 1921 Act") to be deducted from the exporter's sales price. The ESP offset is a longstanding practice. Congress in its amendments to the antidumping law in 1974 and 1979 did not alter or bar the practice.

(3) *Comment:* Both the petitioner and the respondent feel that the ITA incorretly computed the amount of the commissions to be deducted. In our calculations we reduced the exporter's sales price only by the amount by which the U.S. commission exceeded the home market common, rather than by the full amuont of the U.S. commission. The petitioner states that the statute requires deduction, only from the exporter's sales price, of the full amount of the commissions for selling the merchandise.

The respondent's position is that, since commissions are a type of selling expense, when the U.S. commission exceeds the home market commission the Department should make an allowance for that difference under the ESP offset provision.

Position: We have recalculated the ESP and foreign market value by deducting from each the total commission paid in each market. No further adjustment for commission, under the ESP offset provision, is appropriate.

(4) *Comment:* The statutory definition of foreign marke value does not permit the deduction of transportation costs in calculating the home market price.

Position: In making a fair and equitable comparison the Department believes it is necessary to reduce the United States price and foreign market value being compared to comparable terms. In its simplest form, the calculation will ordinarily be made by taking the ex-factory price for both the sale to the U.S. and for home comsumption. In adjusting foreign market value pursuant to section 202 of the 1921 Act for differences in circumstances of sale, to permit a fair value comparison on comparable terms, the Department followed a longstanding administrative practice with regard to inland freight.

(5) *Comment:* The ITA should deduct NBCA's profit from U.S. prices. An exporter's sales price that is overstated by inclusion of U.S. profits serves as a cushion against a finding of dumping. Substracting a related importer's profits from the price at which the affiliate sells in the U.S. market is consistent with the intent and spirit of the ESP provision.

Position: Deductions from the U.S. price are made pursuant to section 204 of the 1921 Act. There is no statutory provision for a deduction from the ESP of a U.S. subsidiary's profit.

(6) *Comment:* The petitioner contends that home are pricing and manufacturing data submitted by NTN market understated, as illustrated in documents submitted by the petitioner in a market research survey. The respondent contends that the petitioner's submission and market survey of December 13, 1979, are based on inaccurate information and should be disregarded.

Position: The Department believes that NTN submitted accurate information, based on its verification of NTN documents in Japan. Submissions by the petitioner in the form of market research surveys were either refuted by verified NTN data or unsupported due to the petitioner's failure to provide adequate and detailed source data for its documents. Inaccuracies, such as incorrect NTN customer names and export and home market prices, contributed to our decision not to use the petitioner's market surveys in this review.

(17) *Comment:* The Department's allowance of claims for adjustment to foreign market value is impermissible because the Department did not establish that any differences between the United States price and foreign market value were "wholly or partly due to" the alleged differences in circumstances of sale. Specifically, no proof was provided that expenses incurred for advertising, sales promotion, warranties, technical services, warehousing, and transportation wholly or partly influenced sales prices of TRBs.

Position: All adjustments were made in accordance with section 153.10(c) of the Customs Regulations, which states that in determining the amount of the reasonable allowances for any differences in circumstances of sale, the Department will be guided primarily by the cost of such differences to the seller. The regulation is valid and consistent with section 202 of the 1921 Act, which states that an allowance will be made for any price difference "wholly or partly due to" differences in circumstances of sale. We conclude that the differences in cost generally are reflected in and a reasonable measure of the differences in price. The law does not require specific proof or quantification of the cost/price relationship for each circumstance-of-sale adjustment during the period of review.

(8) *Comment:* No adjustment should be made for physical differences between the TRBs sold in Japan and in the U.S. because the record does not establish that the amount of any price differential is "wholly or partly due to" differences in cost of production of the comparable merchandise sold in each market. In addition, the petitioner claimed that most inch-size bearings sold in the U.S. are also sold in Japan.

Position: All adjustments were made in accordance with section 153.11 of the Customs Regulations, which states that, in making allowances for differences in the physical characteristics of the merchandise in the markets being compared, the Department will be guided primarily by differences in the cost of production. The regulation is valid and consistent with section 202 of the 1921 Act, which states that an allowance will be made for any price differences "wholly or partly due to" differences in physical characteristcs. We conclude that differences in cost of production generally result in and are a reasonable measure of differences in price. The law does not require specific proof and quantification of the cost/price relationship for each product. As for sales of inch-size bearings, the record indicates that they are not sold in the home market as claimed by the petitioner. Although inch-size bearings are listed in a catalogue, it does not necessarily follow that the inch-size bearings were sold or offered for sale in the home market. There is no evidence of such sales.

(9) *Comment:* The petitioner contends that the authority to use appraisement instructions ("master lists") issued prior

to January 1, 1980, to liquidate entries unliquidated before that date, lapsed on that date (the effective date of the Trade Agreements Act of 1979 ("the Act")). Therefore, the Department must conduct a review under section 751 covering all entries unliquidated as of January 1, 1980, and thereafter.

Position: All unliquidated entries which are not subject to appraisement instructions ("master lists") issued prior to January 1, 1980, are subject to the administrative review provisions of the Act. The issue concerning unliquidated entries which are the subject of master lists issued prior to January 1, 1980, is currently under review by the Department. We are continuing suspension of liquidation of such entries pending a decision as to whether such entries must be the subject of a section 751 review.

(10) *Comment:* The respondent contends that the Commerce Department should not have conducted this administrative review. It claims that the underlying determination is contrary to law and is unsupported by substantial facts of record, because Treasury erred in failing to exclude NTN from the original finding and because the Departments of Treasury and Commerce and the International Trade Commission ("ITC") improperly expanded the scope of the case to include products not complained of in the original petition. It also claims that the finding is erroneous because it is not based on a lawful determination by the ITC.

Position: The respondent is estopped from making these arguments at this time, inasmuch as it failed to pursue the remedy that was available to it prior to 1980. Section 751 of the Tariff Act limits the administrative review of dumping findings to a determination of the antidumping duties due, if any, for the period under review. Moreover, section 201(c)(1) of the 1921 Act gave the Secretary of the Treasury authority to define the class or kind of merchandise to be investigated.

(11) *Comment:* By applying the administrative review provisions of section 751 to merchandise entered prior to January 1, 1980, the effective date of Title VII of the Tariff Act, the Department is denying the respondent certain substantive rights which vested at the time of entry. These rights include the right to file a protest under section 514 of the Tariff Act as it existed prior to January 1, 1980, and the right to trial *de novo* of an administrative denial of such a protest. In abrogating these rights, the Department violated the due process clause of the Fifth Amendment.

Position: The Act preserves the respondent's right to administrative and judicial review of the determination of the amount, if any, of dumping duties due on merchandise entered prior to January 1, 1980. The Act merely changes the procedures for implementing the importer's right of review for entries not covered by master lists issued prior to January 1, 1980 (section 106(a) of Title I and section 1002(b) of Title X of the Act noted). Therefore, the Department has denied the respondent neither its substantive rights nor its right to due process.

Final Results of the Review

Based on our analysis of comments received the Department has made no changes in its tentative determination to revoke the antidumping finding on tapered roller bearings and certain components thereof from Japan with respect to NTN and NBCA. We therefore determine that there was no sales at less than fair value during the period April 1, 1978 through November 14, 1979.

Determination

As a result of this review the Department revokes the antidumping finding on tapered roller bearings, four inches or less in outside diameter when assembled, including inner race or cone assemblies and outer races or cups, exported to and sold in the United States either as a unit or separately, from Japan, produced and sold by NTN Tokyo Bearing Co., Ltd. and NTN Bearing Corporation of America.

This revocation applies to all entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after November 14, 1979. Since all sales by NTN between April 1, 1978 and November 14, 1979, were made at not less than fair value, the Department shall instruct the Customs Service to liquidate all entries in that period without regard to dumping duties. The Department will issue appraisement instructions directly to the Customs Service.

This administrative review, revocation, and notice are in accordance with sections 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1), (c)) and §§ 353.53 and 353.54(e) of the Commerce Regulations (19 CFR 353.53, 353.54(e)).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

June 10, 1982.

[FR Doc. 82-16106 Filed 6-14-82; 8:45 am]
BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

South Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA; Commerce.

SUMMARY: The South Atlantic Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), will meet to discuss the fiscal year 1983 budget; law enforcement actions; Swordfish, Shrimp, Calico Scallop, Bluefish and Snapper-Grouper Fishery Management Plans, as well as other Council business as appropriate.

DATES: The public meeting will convene on Monday, June 21, 1982, at approximately 9 a.m., and will adjourn on Thursday, June 24, 1982, at approximately noon.

ADDRESS: The meeting will take place at the Blockade Runner Hotel, Wrightsville Beach, North Carolina.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, One Southparck Circle—Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571-4366.

Dated: June 10, 1982.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82-16110 Filed 6-14-82; 8:45 am]
BILLING CODE 3510-22-M

Office of the Secretary

[BT-353]

Financial Disclosure Reports

By notice in the **Federal Register** of May 15, 1979 (44 FR 28395) (amended by notice at 44 FR 38953, July 3, 1979), the Department published its procedures for examining and obtaining copies of financial disclosure reports filed pursuant to title II of the Ethics in Government Act of 1978. The Department has changed the location of the filed reports, and, therefore, the following changes are made to its published procedures regarding public inspection of those reports:

1. Paragraph 3(a) is revised to read as follows:

(a) Copies of the financial disclosure reports filed by officers and employees of the Department of Commerce under title II of the Act, together with the relevant official position descriptions, will be available for public inspection in the Office of the Assistant General Counsel for Administration (hereinafter, "the Office"), Room 5883, Department of Commerce, 14th

Street between Constitution Avenue and E Street, N.W., Washington, D.C. 20230. The Office is open to the public for this purpose Monday through Friday of each week, except on official holidays of the United States Government, between the hours of 9:00 a.m. and 4:30 p.m. The telephone number of the Office is (202) 377-5397.

2. In paragraphs 3(b), 4(a), and 4(b), the word "Office" is substituted for the word "Facility."

Dated: June 7, 1982.

Marilyn G. Wagner,

Assistant General Counsel for Administration.

[FR Doc. 82-16017 Filed 6-14-82; 8:45 am]

BILLING CODE 3810-57-M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; Amendment of a Notice for a System of Records

AGENCY: Department of the Army, DOD.

ACTION: Amendment of a notice for a system of records.

SUMMARY: The Department of the Army proposes to amend the routine uses for Army system of records A0305.10aDACA entitled: "Joint Uniform Military Pay System—Active Army" to indicate certain limited information concerning some Army allottees will be provided the City of New York in connection with a matching program to detect and curtail fraud and abuse in Federal Assistance Programs.

DATES: This new routine use will be effective July 12, 1982 unless comments are received which result in a contrary determination.

ADDRESSES: Send any comments to: Assistant Comptroller of the Army, ATTN: DACA-FAF-M, Indianapolis, IN 46249.

FOR FURTHER INFORMATION CONTACT: Mrs. Frances Monforte, telephone: AV 699-2144 or commercial (317) 542-2144.

SUPPLEMENTARY INFORMATION: Pursuant to paragraph 5.c.(2) of the Office of Management and Budget Revised Guidance for Conducting Computerized Matching Program (47 FR 21656, May 19, 1982) the Army is establishing this routine use specifically for this matching program. The only information that the Army will disclose to the City of New York will be the names and addresses of allottees whose zip codes are within New York City and whose names appear on the list of Food Stamp and Aid to Families with Dependent children recipients furnished by the city. The City will not be given access to the entire allotment files but only to the names and addresses of the allottees and the amount of the allotment.

Also the City will not discontinue or adjust any benefit based solely on the data provided by the Army, but will investigate to include an interview of the recipient prior to taking any such actions. The new routine use while for an unspecified duration will be reviewed at least annually.

A notice of the Matching Program to include a matching program report will be forwarded as required by paragraph 5.f of the OMB Revised Guidelines.

June 9, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

Changes

A0305.10aDACA

System name:

Joint Uniform Military Pay System—Active Army.

Routine uses of records maintained in the system including categories of users and purposes of such uses:

At the end of the current entry add: "City of New York: Department of Income Maintenance: Name and address of allottees whose ZIP Codes are in New York City and dollar amount of allotments for the purpose of detecting and curtailing fraud and abuse in Federal Assistance Programs, specifically Aid to Families with Dependent Children and Food Stamps."

A0305.10aDACA

SYSTEM NAME:

Joint Uniform Military Pay System—Active Army.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USER AND PURPOSE OF SUCH USES:

USAFAC—Purpose is to provide a basis for establishment of computation of each active member's military pay entitlement, to provide a history of pay transactions. This information is also used to provide necessary data to the Treasury Department, the Social Security Administration, the U.S. Army Military Personnel Center, the Veterans Administration, those states and cities which have an agreement with the Department of the Army to receive taxable earnings information, the American Red Cross and the Department of Health, Education and Welfare.

Treasury Department—To record check and bond issue data and to record taxable earnings and taxes withheld from military personnel.

Social Security Administration: To record earned wages by member under the Federal Insurance Contributions Act (FICA).

US Army Military Personnel Center (MILPERCEN): To compare military personnel identification with the Social Security Administration for purpose of correction and to compare and correct common data elements with USAFAC.

Veterans Administration: To record the collection of premiums for National Service Life Insurance and to transfer contributions to Post-Vietnam Era Veterans Education Account.

States and Cities: To verify tax liability against members' state and city income tax returns.

American Red Cross: To assist military personnel and their dependents in determining the status of monthly pay, dependents allotments, loans, and related financial transactions.

Department of Health, Education and Welfare: Disclose the name, rank and social security account number of each member of the Armed Services on active duty to the Inspector General of that Department only for comparison with appropriate rolls reflecting recipients of Aid to Families with Dependent Children (AFDC).

City of New York: Department of Income Maintenance: Name and address of allottees whose ZIP Codes are in New York City and dollar amount of allotments for the purpose of detecting and curtailing fraud and abuse in Federal Assistance Programs, specifically Aid to Families with Dependent Children and Food Stamps.

* * * * *

[FR Doc. 82-16040 Filed 6-14-82; 8:45 am]

BILLING CODE 3710-08-M

Office of the Secretary

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92-463, as amended by Section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee has been rescheduled from July 1, as follows:

Wednesday, July 14, 1982, Plaza West, Rosslyn, Virginia. The entire meeting, commencing at 9:00 a.m. is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will

be used in a special study on the REIS program.

June 10, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 82-16097 Filed 6-14-82; 8:45 am]

BILLING CODE 3810-01-M

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92-463, as amended by Section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a panel of the DIA Advisory Committee has been scheduled as follows:

Tuesday, July 13, 1982, Plaza West, Rosslyn, Virginia. The entire meeting, commencing at 9:00 am is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on the Department of Defense Intelligence Information System.

June 10, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 82-16098 Filed 6-14-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

National Advisory Council on Indian Education; Meeting

AGENCY: National Advisory Council on Indian Education.

ACTION: Amendment to meeting.

SUMMARY: Notice is hereby given to amend a notice concerning a Legislative, Rules and Regulations Committee and Executive Committee meeting of the National Advisory Council on Indian Education. The meeting was scheduled for June 16-18, 1982, in Tempe, Arizona, for the purpose of reviewing the Indian Education Act Rules and Regulations, legislative analysis of Pub. L. 92-318, the Indian Education Act of 1972, with regard to proposed legislative changes in the Act at the time of Reauthorization and discuss strategies for introduction of a bill to reauthorize Pub. L. 92-318. The meeting has been rescheduled for July 6-8, 1982, at the same location and time. The original notice was published in the **Federal Register** on May 27, 1982, page 23197, Vol. 47, No. 103.

Dated: June 9, 1982.

Signed at Washington, D.C.

Michael P. Doss,

Executive Director, National Advisory Council on Indian Education

[FR Doc. 82-16073 Filed 6-14-82; 8:45 am]

BILLING CODE 4000-01-M

Office of Postsecondary Education

Publication of Approved Systems of Need Analysis for the National Direct Student Loan; College Work-Study; Supplemental Educational Opportunity Grant Programs

AGENCY: Office of Postsecondary Education, Ed.

ACTION: Notice of approved systems of need analysis for academic year 1981-83.

SUMMARY: The Secretary of Education announces approved need analysis systems that institutions of higher education must use in making awards to students during academc year 1982-83 under the National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs.

FOR FURTHER INFORMATION CONTACT: Paula M. Husselmann, Division of Policy and Program Development, Office of Student Financial Assistance, Department of Education, 400 Maryland Avenue, S.W., Washington, DC 20202-3454, Telephone (202) 245-9720.

SUPPLEMENTARY INFORMATION:

General

The Secretary is approving separate systems of need analysis under the authority of Section 124(3) of the third continuing resolution for Fiscal Year 1982, Pub. L. 97-92, and Pub. L. 97-161, the fourth continuing resolution for Fiscal Year 1982. The systems listed below meet the criteria for approval published on April 23, 1982 in the **Federal Register** in the Notice of publication of sample cases and the expected parental contributions for the approval of need analysis systems (47 FR 17612-17613) or are preapproved systems (34 CFR Parts 674, 675, 676). The following systems are approved for use in academic year 1982-83 under the National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs:

1. Academic Computing Systems Financial Aid Management System (FAMS), Dallas, Texas
2. The American College Testing Program, Iowa City, Iowa
3. The College Scholarship Service—The College Board, New York, New York
4. Compugrant, Incorporated, Hiram, Ohio
5. G. E. White Needs Analysis System, Lake Forest, Illinois
6. Family Contribution (FC) printed on the Student Aid Report, United States Department of Education
7. The method of calculating student aid indices used in the Pell Grant Program (34 CFR 690), United States Department of Education
8. Financial Analysis Service, Hiram, Ohio
9. Functional Solutions, Incorporated, Utica, New York
10. The Graduate and Professional School Financial Aid Service (GAPSFAS), Princeton, New Jersey
11. The Income Tax System (dependent students only), United States Department of Education
12. M-Data, Incorporated, Cedar Springs, Michigan
13. Miller Computing Corporation Student Financial Aid System, Phoenix, Arizona
14. Pennsylvania Higher Education Assistance Agency, Harrisburg, Pennsylvania
15. Proprietary Systems, Incorporated, Denver, Colorado
16. SAFE System—Information and Communications, Incorporated, Burbank, California
17. Student Aid Management (SAM) System—Systems Research, Incorporated, Washington, District of Columbia.

Dated June 10, 1982.

(Catalog of Federal Domestic Assistance No. 84.038, National Direct Student Loan Program; 84.033, College Work-Study Program; and 84.007, Supplemental Educational Opportunity Grant Program)

Thomas P. Melady,

Assistant Secretary for Postsecondary Education.

[FR Doc. 82-16081 Filed 6-14-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Intent To Revise Customer Service Policy; Request for Recommendations

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of intent to revise customer service policy and request for recommendations and suggestions. File Number: CSP-1.

SUMMARY: Under the Bonneville Project Act of 1937 and subsequent legislation, the Bonneville Power Administration is responsible for marketing power from Federal dams in the Pacific Northwest. The agency also acquires power from the sources to serve loads imposed on it under the Pacific Northwest Electric Power Planning and Conservation Act of 1980 (Regional Act). BPA must assure the widest possible diversified and efficient use of the electricity it markets.

In fulfillment of its responsibilities, BPA has provided a stable and reliable system for transmission of bulk power from Northwest generating facilities to the utilities and other customers which buy power from BPA.

BPA's Customer Service Policy defines the divisions of responsibility between BPA and its customers for provision of substations and other facilities linking BPA's transmission system with the distribution systems or other facilities of BPA's customers.

BPA is now in the initial stages of updating its Customer Service Policy to reflect current conditions including provisions of the Regional Act. Various issues which BPA plans to address in its Customer Service Policy have been identified. At this time, BPA is seeking suggestions, advice, and recommendations from interested persons which can be used to assist in the development of the proposed policy.

Responsible Official: Wayne Lee, Chief, Branch of Contract Management, is the official responsible for development of the Customer Service Policy.

EFFECTIVE DATE: Suggestions and recommendations concerning the development of the proposed policy will be accepted through November 20, 1982. All documents should be designated with the file number CSP–1.

ADDRESSES: Persons who wish to be kept informed of developments in this process and of scheduled public meeting should direct their request to Ms. Donna L. Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212. Suggestions and recommendations should also be sent to this address.

FOR FURTHER INFORMATION CONTACT: Ms. Donna L. Gieger, Public Involvement Coordinator, P.O. 12999, Portland, Oregon 97212, 503–230–3478. Oregon callers may use the toll-free number 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use 800–547–6048.

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97208, 503–230–4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Street, Eugeue, Oregon 97401, 503–345–0311.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2518.

Mr. Gordon H. Brandenburger, Kalispell District Manager, P.O. Box 758, Kalispell, Montana 59901, 406–755–6202.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509–662–4377, extension 379.

Mr. Richard D. Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206–442–4130.

Mr. Tom Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509–525–5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.

SUPPLEMENTARY INFORMATION: The Bonneville Power Administration (BPA) Customer Service Policy contains BPA's guidelines for establishing various service arrangements and construction responsibilities for sale and transmission of power to its customers. BPA's present Customer Service Policy, which was last revised in 1976, does not address many existing conditions including new responsibilities added by the Regional Act. BPA is now in the initial stages of identifying issues that must be addressed in an updated Customer Service Policy. The issues identified to date are described below.

Issues

1. What services should BPA provide to preference customers under its Customer Service Policy?
2. Should BPA and its customers conform to the same one-utility planning standards in, for example, conductor economics, reliability, transmission and distribution loss evaluations, and long-range planning?
3. What planning criteria should be established for scheduling installation of additional facilities?
4. What factors should be considered in determining the separation between BPA's transmission responsibility and the customer's distribution responsibility?
5. Under what circumstances should BPA lease facilities to serve its customers?
6. What customer service and facilities should BPA provide regarding the integration of small resources?
7. What customer services and facilities should BPA provide for serving loads from non-Federal generating plants?
8. What customer services and facilities should BPA provide for Investor-Owned Utilities, Federal Agencies, and Direct-Service Industries?

Note.—The Customer Service Policy will not include issues related to high-voltage power transmission, wheeling, or integration of generation when that generation is not acquired by BPA. These issues are dealt with in BPA's Transmission Policy (Tr–1) and Resource Services to Customers Policy, which are now undergoing separate development.

BPA is seeking recommendations and suggestions for its proposed Customer Service Policy now during the earliest planning stages of the policy development effort. All interested persons are encouraged to submit comments on the listed issues. Suggestions which will be useful in targeting any additional areas of concern are also welcome.

BPA plans to schedule informal workshops throughout the region to meet with its customers and other interested persons who wish to participate in comprehensive discussions of what should be in the proposed policy. Workshop schedules will be furnished on request.

When the proposed policy is announced, BPA will hold information and comment forums to receive public comment on the proposal and will receive written comments. BPA's National Environmental Policy Act (NEPA) documentation on the proposed Customer Service Policy will also be available for public review and comment. The final Customer Service Policy will be determined based on consideration of all suggestions, recommendations, and comments received from BPA's customers and other interested persons. It is scheduled for completion in fall 1983.

Issued in Portland, Oregon.

Dated: June 7, 1982.

Earl Gjelde,

Acting Administrator.

[FR Doc 82-16000 Filed 6-14-82; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA–FC–82–016; OFC Case No. 55372–0107–20–24]

Procter & Gamble Paper Products Co.; Acceptance of Petition for Exemption and Availability of Certification

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Acceptance of petition for exemption and availability of certification by Procter & Gamble Paper Products Company

SUMMARY: On May 5, 1982, The Procter & Gamble Paper Products Company (P&G), filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption for an electric powerplant from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits the use of petroleum and natural gas as a primary energy source in new powerplants and certain new major fuel burning installations (MFBIs). Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA were published in the **Federal Register** at 46 FR 59872 (December 7, 1981) ("final rules"). Eligibility and evidentiary requirements governing the cogeneration exemption are contained in § 503.37 of the final rules.

The powerplant for which the petition was filed is a 19,876KW combined cycle cogeneration facility capable of using natural gas or No. 2 distillate oil, and designed to produce electricity, process heat, and steam at P&G's Oxnard, California, papermaking facility. It is expected that more than fifty percent of the net annual electric power generation of P&G's turbine generator will be sold to Southern California Edison Company (SCE), making the cogeneration facility an electric powerplant pursuant to § 500.2 of the final rules.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination, and is therefore accepted pursuant to § 501.3 of the final rules. A review of the petition is provided in the **SUPPLEMENTAL INFORMATION** section below.

As provided for in sections 701 (c) and (d) of FUA and §§ 501.31 and 501.33 of the final rules, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding are available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E–190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m. to 4:00 p.m.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register**.

DATE: Written comments are due on or before July 30, 1982. A request for a public hearing must be made within this same 45-day period.

ADDRESS: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA–093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Docket No. ERA–FC–82–016 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Ellen Russell, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA–093, Washington, D.C. 20585, Phone (202) 252–2201

Allan Stein, Esq., Office of the General Counsel, Department of Energy, Forrestal Building, Room 6B–178, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252–2967

Jack Vanderberg, Office of Public Information, Department of Energy, 12th and Pennsylvania Avenue, Room 7120, Washington, D.C. 20461, Phone (202) 633–8755

SUPPLEMENTARY INFORMATION: In March, 1982, P&G completed and commenced operating, at its Oxnard paper products facility, a General Electric Model LM 2500 gas turbine congeneration unit which (1) generates electrical power for P&G's needs, plus an excess for sale, and (2) utilizes the heat exhausted from the turbine for direct-contact drying of P&G's paper products. A heat recovery boiler which utilizes exhaust heat from the turbine, not required by the drying process, has also been installed to meet P&G's steam needs. The heat recovery boiler has no supplemental firing capability.

As planned, P&G's foregoing congeneration facility would utilize in excess of 50 percent of its new annual electric generation, selling the remainder to SCE. Since the facility would not then be selling in excess of 50 percent of its new annual electric power generation, it would be defined under FUA as a non-boiler MFBI, not currently subject to the fuel use restrictions under the final rules. P&G has now determined, however, that its own needs for electric power are less than it had initially anticipated. P&G accordingly wished to sell more than half of the 19,876KW output of the unit to SCE. The sale of in excess of 50 percent of the facility's net annual electric power generation would cause it to be classified as an electric powerplant under FUA, subject to the Title II prohibitions against the use of petroleum or natural gas as a primary energy source in any new electric powerplant.

Section 212(c) of the Act and § 503.37 of the final rules provide for a permanent congeneration exemption from the prohibitions of Title II of FUA. In accordance with the requirements of § 503.37(a)(1) of the final rules, P&G has certified that:

1. The oil or gas to be consumed by the congeneration facility will be less than that which would otherwise be consumed in the absence of the congeneration facility, where the calculation of savings is in accordance with § 503.37(b) of the final rules; and

2. The use of a mixture of petroleum and natural gas and an alternate in the cogeneration facility for which an exemption under § 503.38 of the final rules would be available, would not be economically or technically feasible.

In accordance with the evidentiary requirements of § 503.37(c), P&G has also included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under § 503.13 of the final rules.

The acceptance of the petition by ERA does not constitute a determination that P&G is entitled to the exemption requested. That determination will be based on the entire record of these proceedings, including any comments received during the public comment period provided for in this notice.

Issued in Washington, D.C. on June 4, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-16066 Filed 6-14-82; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA–FC–79–005; FC Case No. 61004–9018–05–11]

Air Products & Chemicals, Inc.; Proposed Rescission of Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice and Proposed Rescission of Order Granting a Temporary

Synthetic Fuel Exemption to Air Products and Chemicals, Inc., for its Boiler Installed at its Calvert City, Kentucky, Facility.

On September 29, 1981, the Economic Regulatory Administration (ERA) issued an Order granting a temporary exemption to Air Products and Chemicals, Inc. (Air Products) to permit the use of petroleum and natural gas for five years in a new packaged boiler at its Calvert City, Kentucky, facility based upon the future use of synthetic fuel. The Order, published in the **Federal Register** on October 7, 1981, at 46 FR 49636, exempts the unit from the prohibitions of section 202 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act), which prohibits the use of natural gas or petroleum as a primary energy source by certain new major fuel-burning installations.

ERA granted the temporary exemption to Air Products for a new boiler having a design heat input rate of 86 million Btu's per hour, under § 500.5(b)(1) of the final rules which were in effect at that time (45 FR 38276, June 6, 1980). The boiler was subject to the final rules by reason of the required aggregation, by heat input rating, of all boilers located on the same site of the new installation.

By letter dated May 14, 1982, Air Products requested that ERA rescind the subject Order, stating that ERA's revised final rules (46 FR 59872, December 7, 1981) no longer require that boilers be aggregated for determining whether a new unit is within the jurisdiction of FUA. Air Products specifically referenced the revised definition of "major fuel burning installation" (10 CFR 500.2) that, among other criteria, defines such a unit as having the design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 100 million Btu's per hour or greater.

Based upon its review of Air Product's May 14, 1981, request and the record in this matter, ERA has commenced a proceeding to rescind the above described exemption Order. ERA agrees that the revision of its final rules that deletes the aggregation requirement for jurisdictional purposes forms a basis for rescinding this Order as provided in 10 CFR 501.102(b)(3).

This Notice and Proposed Rescission will serve as notice of ERA's proposed action to the persons upon whom the Order was served in the original proceedings. A person who was a party to the original proceedings culminating in the Order may file a written response to this Notice within 30 days of its publication in the **Federal Register**. If ERA receives no response, the proposed recission will become effective, without further action on the part of ERA, July 15, 1982.

ADDRESS: All comments should be addressed to Public Hearing Management, Docket No. ERA–FC–79–005, Department of Energy, Room 7140, 12th Street and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Issued in Washington, D.C., June 8, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-16066 Filed 6-14-82; 8:45 am]

BILLING CODE 6450-01-M

Husky Oil Co.; Action on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Adoption of proposed consent order as final.

SUMMARY: The Department of Energy (DOE) hereby gives the Notice requested by 10 CFR 205.199J that it has adopted the Consent Order with Husky Oil Company ("Husky"), executed on January 5, 1982 and published for comment in 47 FR 10072 on March 9, 1982, as a final order of DOE. The Consent Order resolves all issues of compliance with the DOE Petroleum and Allocation Regulations, with the exceptions set forth in the Consent Order, for the period August 19, 1973 through January 28, 1981. To remedy any violations that may have occurred during this period, Husky has agreed to make payments totalling $2,000,000.

As required by the regulation cited above, DOE received comments on the Consent Order for a period of not less than 30 days following publication of the Notice cited above. Seven comments were received by April 8, 1982, the thirtieth day following publication of the Notice of the Proposed Consent Order. An additional comment was received after that deadline. DOE has considered all comments, including that which was filed late and determined that the Consent Order should be made final without modification. The Consent Order became effective as a final Order of the DOE on May 26, 1982, upon actual notice to Husky.

FOR FURTHER INFORMATION CONTACT: Leslie Wm. Adams, Deputy Solicitor, Economic Regulatory Administration, Department of Energy, 1200 Pennsylvania Avenue, N.W., Room 3115, Washington, D.C. 20461, Phone: (202) 633–9165.

Copies of the Consent Order may be received free of charge by written request to: Husky Consent Order Request, Office of Special Counsel, Department of Energy, Room 5109, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Copies may also be obtained in person at the same address or at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, S.W., Room 1E–190, Washington, D.C.

SUPPLEMENTARY INFORMATION:

The Consent Order

On March 9, 1982, DOE published Notice in the **Federal Register** at page 10072, announcing the execution of a Proposed Consent Order between Husky and DOE. In compliance with DOE Regulations, that Notice, and a Press Release issued on March 17, 1982, summarized the Consent Order and the facts behind it. The Notice and Press Release also gave instructions for obtaining copies of the Consent Order.

The Consent Order can be summarized as follows:

1. The Consent Order marks the conclusion of the Office of Special Counsel's ("OSC") audit of Husky's compliance with the Mandatory Petroleum Price and Allocation Regulations, including the Entitlements and Mandatory Oil Import Programs, for the period August 19, 1973 through January 27, 1981 (the audit period). With the exception of the matters excluded from the settlement in the Consent Order, this Consent Order resolves all administration and civil issues not previously resolved concerning the allocation and sale of covered petroleum products during the audit period.

2. To resolve the issues raised by OSC's audit of Husky and to remedy any violations that may have occurred during the audit, other than those specifically reserved to DOE by this Consent Order, Husky has agreed to make payments totalling $2,000,000 to the United States Department of Energy for later distribution.

3. The Consent Order also provides details concerning the conclusion of the audit and procedures concerning enforcement of the provisions of the Consent Order. These matters include Husky's obligation under DOE recordkeeping regulations and DOE's obligation to maintain the confidentiality required by law of proprietary data received from Husky. The Consent Order also provides that Husky has waived its right to an administrative or judicial review of the Consent Order. The Consent Order does

not constitute an admission by Husky or a finding by OSC of a violation of any federal petroleum price and allocation statutes or regulations.

Comments Received

As noted above, DOE received numerous comments on the proposed Husky Consent Order. Comments were submitted by the States of North Carolina, Vermont, Oregon, Maine and New York, the Petroenergy Corporation, the Transportation Group and the National Council of Farmer Cooperatives.

DOE has considered all comments and determined that the Consent Order should be made final without modification. The significant points raised by the comments are discussed below.

Several commentors apparently misconstrued the remedy set forth in the Consent Order as providing for the payment by Husky of $2,000,000 to the United States Treasury. Referencing the decision of the Temporary Emergency Court of Appeals in *Citronelle-Mobile Gathering, Inc. v. Edwards*, 669 F2d 717 (Temp. Emer. Ct. Appl., 1982), the commentors opposed the Consent Order asserting that the *Citronelle* decision prohibited such a disposition.

In *Citronelle*, the court found that where there was an adjudicated overcharge to identifiable purchasers, the Government was under an obligation to attempt to provide restitution to injured parties with monies obtained through the enforcement action. Although that case did not involve a Consent Order where there is no such adjudication or admission of overcharge, the commentors' concern with the restitutionary character of the settlement is an area of legitimate inquiry. In this case, the negotiated remedy is fully consistent with the preferences of the *Citronelle* court which favors the implementation of remedies designed to compensate identifiable parties directly injured by the overcharges in that the instant Consent Order authorizes the deposit and maintenance of settlement monies in an escrow account while DOE seeks to determine an appropriate disposition.

Other commentors suggested various remedies including the implementation of a distribution plan similar to the one set forth in the Chevron Consent Order, 46 FR 52221, October 26, 1981, which, in part, provided for payments to the States based on the volume of product sales by Chevron in those states and/or the initiation of Subpart V proceedings.

DOE appreciates the interest which these commentors have expressed as to DOE's ultimate disposition of the settlement payment. In formulating a distribution plan, DOE will consider all available administrative remedies including those suggested in the comments. No remedy has been foreclosed.

Having considered all comments submitted, DOE has determined that the Proposed Consent Order with Husky should be made final without modification. This was accomplished by providing actual notice to Husky of this decision on May 26, 1982.

Issued in Washington, D.C., June 8, 1982.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 82-16097 Filed 6-14-82; 8:45 am]

BILLING CODE 6450-01-M

San Joaquin Oil Co. and San Joaquin Refinery Co., Inc.; Proposed Remedial Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Proposed Remedial Order to San Joaquin Oil Company and San Joaquin Refining Co., Inc., and Opportunity for Objection.

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that a Proposed Remedial Order (PRO) was issued on June 4, 1982, to San Joaquin Oil Company (San Joaquin), 359 San Miguel, Suite 300–B, Newport Beach, California 92660, and San Joaquin Refining Co., Inc., 359 San Miguel, Suite 204, Newport Beach, California 92660. Any aggrieved person may file a Notice of Objection to the Proposed Remedial Order in accordance with 10 CFR 205.193 on or before June 30, 1982.

San Joaquin Oil Company was the owner and operator of a refinery located in Bakersfield, California, during the period from September 1973 through April 1975, which is the audit period of concern. In 1979, the refinery assets of San Joaquin Oil Company were purchased by San Joaquin Refining Co., Inc. As part of that agreement, San Joaquin Refining Co., Inc. agreed to assume any liability arising out of Department of Energy litigation concerning San Joaquin Oil Company.

By this PRO, ERA sets forth proposed findings of fact and conclusions of law concerning San Joaquin's pricing of refined petroleum products under the refiner price rules in 10 CFR part 212, Subpart E between September 1973 and April 1975. San Joaquin is alleged to have overcharged its general refinery products customers by more than $991,514 in violation of the Mandatory Petroleum Price Regulations.

Specifically, San Joaquin is charged with (1) improperly revising its crude oil costs for the base month of May 1973 and for other months by impermissibly prorating the proceeds from "sales" of fee-exempt oil import licenses rather than reporting these proceeds in the months in which the oil was imported under the licenses, (2) erring in its calculations of its increased crude oil costs, and (3) improperly computing its cost "recoveries." As a remedy, San Joaquin would be directed to calculate the full amount of overcharges during the audit period, plus interest, and to refund those amounts to the customers who were overcharged. These customers are located principally in the southern portion of the San Joaquin Valley of California.

Requests for copies of the Proposed Remedial Order, with confidential information deleted, should be directed to: Patrick J. O'Hern, Director, San Francisco Office, Economic Regulatory Administration, United States Department of Energy, 333 Market Street, Sixth Floor, San Francisco, California 94105.

Aggrieved persons may object to this Proposed Remedial Order by filing a "Notice of Objection to the Proposed San Joaquin Remedial Order." This notice must comply with the requirements of 10 CFR 205.193. To be considered, a Notice of Objection must be filled with: Office of Hearings and Appeals, Department of Energy, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

The Notice must be filed, in duplicate, by 4:30 p.m. EDT on or before June 30, 1982, or the first federal workday thereafter. In addition, a copy of the Notice of Objection must, on the same day as filed, be served on San Joaquin and on each of the following persons, pursuant to 10 CFR Section 205.193(c):

Patrick J. O'Hern, Director, San Francisco Office, Economic Regulatory Administration, United States Department of Energy, 333 Market Street, Sixth Floor, San Francisco, California 94105

George Kielman, Deputy Solicitor, Office of Special Counsel, United States Department of Energy, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461

No data or information which is confidential shall be included in any Notice of Objection.

Issued in San Francisco, California on the 4th day of June 1982.

Patrick J. O'Hern,

Director, San Francisco Office, Economic Regulatory Administration.

[FR Doc. 82-16064 Filed 6-14-82; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Solar Panel Energy Research Advisory Board; Meeting

Notice is hereby given of the following meeting:

Name: Solar Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770).

Date and time: July 13 and 14, 1982, 9 a.m. to 5 p.m.

Place: Coronado Club, Room 85, Kirtland Air Force Base, Albuquerque, NM 87185

Contact: William Woodward, Energy Research Advisory Board, Department Building, ER-6, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: 202/252-8933.

Purpose of parent board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative agenda: Meet and discuss with solar technology and engineering and development community, including individuals from universities, industry, and the National Laboratories.

Review draft of the Solar R&D Panel's report.

Public participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Energy Research Advisory Board at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW Washington, DC, between 8:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

Issued at Washington, DC, on June 10, 1982.

J. Ronald Young,

Director for Management, Office of Energy Research.

[FR Doc 82-16071 Filed 6-14-82; 8:45 am]

BILLING CODE 6450-01-M

Multiprogram Lab Panel, Energy Research Advisory Board; Meeting

Notice is hereby given of the following meeting:

Name: Multiprogram Lab Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770).

Date and time: 8-9 July, 1982, 9 a.m. to 4 p.m.

Place: Department of Energy, San Francisco Operations Office, Room 620, 1333 Broadway, Oakland, California 94612

Contact: Mary Gant, Energy Research Advisory Board, Department of Energy, Forrestal Building, ER-6, 1000 Independence Avenue SW., Washington, D.C. 20585, Telephone: 202/252-8933.

Purpose of the parent board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative agenda:

—Briefing on Jet Propulsion Laboratory

—Discussion of Panel recommendations on DOE Multiprogram Laboratory issues for final report to Secretary of Energy.

Public participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Energy Research Advisory Board at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between 8:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on June 9, 1982.

J. Ronald Young,

Director for Management, Office of Energy Research.

[FR Doc. 82-16035 Filed 6-14-82; 8:45 am]

BILLING CODE 6450-01-M

Solar Panel, Energy Research Advisory Board; Meeting

Notice is hereby given of the following meeting:

Name: Solar Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770)

Date and time: July 1 and 2, 1982, 9 a.m. to 5 p.m.

Place: Solar Energy Research Institute, Building 17, 1617 South Cole Boulevard, Denver West Office Complex, Golden, CO 80401

Contact: William Woodard, Energy Research Advisory Board, Department of Energy, Forrestal Building, ER-6, 1000 Independence Avenue SW., Washington, DC 20585, Telephone: 202/252-8933

Purpose of the parent board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative agenda:

—Meet and discuss basic and applied solar research with the National Laboratories, Universities, and Industry Communities; and

—Review the first draft of the Solar R&D Panel's report.

Public participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Energy Research Advisory Board at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 8:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

Issued at Washington, DC, on June 9, 1982.

J. Ronald Young,

Director for Management, Office of Energy Research.

[FR Doc. 82-16034 Filed 6-14-82; 8:45 am]

BILLING CODE 6450-01-M

Hearings and Appeals Office

Issuance of Proposed Decisions and Orders; Office of Hearings and Appeals Period of April 5 Through April 30, 1982

During the period of April 5 through April 30, 1982, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of

objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

Dated: June 9, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

Big Muddy Oil Processors, Inc., 4/28/82; BXE-1368

Big Muddy Oil Processors, Inc. filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart L. The exception request, if granted, would permit the firm to resell the crude oil that it reclaims at market price levels. On April 28, 1982, the DOE issued a Proposed Decision and Order that tentatively determined that exception relief should be granted in part.

Metropolitan Fuels Co., 4/27/82; BEE-1353

On August 20, 1980, Metropolitan Fuels Company (Metro) filed an Application for Exception in which it requested that it be relieved of the obligation to prepare and submit Form EIA-172 ("Sales Report of Fuel and Kerosene"). Metro contended that the Form duplicates information recorded in other forms the firm submits to the Energy Information Administration. In considering Metro's request, the DOE found that the forms which Metro submits are not redundant and that the firm had not shown that it would experience a serious hardship, gross inequity, or unfair distribution of burdens as a result of the reporting requirements. Accordingly, on April 27, 1982, the Department of Energy issued a Proposed Decision and Order which tentatively determined that the exception request be denied.

[FR Doc. 82-16088 Filed 6-14-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS 81011; TSH-FRL #2146-2]

Toxic Substances Control Act Chemical Substances Inventory; Availability of Cumulative Supplement II

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: Cumulative Supplement II to EPA's Toxic Substances Control Act Chemical Substances Initial Inventory will be published and become available in late May 1982. Cumulative Supplement II supersedes the Cumulative Supplement published in 1980 and, when combined with the Initial Inventory published in May 1979, will constitute the TSCA Revised Inventory with a total of over 58,000 chemical substances. Copies of the Cumulative Supplement II will be available through the Government Printing Office (GPO) in Washington, D.C. Microfiche will be available through National Technical Information Service (NTIS) in Springfield, VA.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St., SW., Washington, D.C. 20460. Toll free: (800-424.9065), in Washington, D.C.: (554.1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Availability of Cumulative Supplement II

EPA in the past supplied each Inventory submitter with a free copy of each edition of the printed Inventory. The Agency will not, however, furnish free copies of Cumulative Supplement II. GPO is now taking pre-publication orders for the Cumulative Supplement II. Firms wanting to purchase a copy of Cumulative Supplement II should contact GPO at the address given below.

Superintendent of Documents, Government Printing Office, Washington, D.C. 20460, Order Desk: (202-783-3238).

Requests for copies of Cumulative Supplement II should specify the document number GPO No. 055-000-00218-5 and be accompanied by a check or money order made out to the Superintendent of Documents in the amount of $17.00 per copy. GPO will accept orders by telephone. Master Charge and Visa credit cards will be accepted. For shipments outside the United States the cost is $21.25 in U.S. funds.

Cumulative Supplement II will also be available on microfiche. NTIS is now taking advance orders for microfiche. Firms desiring to purchase microfiche of Cumulative Supplement II should contact NTIS at the following address: National Technical Information Service, 5285 Port Royal Rd., Springfield, Va., Order Desk: (703-487-4650).

Orders for microfiche should specify the document number PB 82-203290 and attached to the order should be a check or money order made out to NTIS for $11.50 per set. NTIS will accept orders by telephone and will accept Master Charge and Visa credit cards. Shipments outside the United States will cost $23.00 in U.S. funds.

Cumulative Supplement II will also be made available on computer tape. EPA will announce the availability of the tape in another **Federal Register** notice.

II. Publication of the Cumulative Supplement II

Section 8(b) of the Toxic Substances Control Act (TSCA), Public Law 94-469, requires the Administrator of the EPA to identify, compile and keep current a list of chemical substances which are manufactured, imported, or processed for commercial purposes in the United States. To meet this requirement, EPA promulgated the Inventory Reporting Regulations (40 CFR Part 710) which appeared in the **Federal register** of December 23, 1977 (42 FR 64572). These regulations provided the basis for the initial compilation of the TSCA Chemical Substances Inventory.

Since May 1979, the Agency has published three editions of the TSCA Chemical Substances Inventory. The distinguishing subtitles of these publications are: Initial Inventory of May 1979, Supplement I of October 1979 to the Initial Inventory, and Cumulative Supplement of July 1980. The present publication, Cumulative Supplement II, supersedes both Supplement I of October 1979 and the first Cumulative Supplement of July 1980. The Initial Inventory and Cumulative Supplement II now constitute the Revised Inventory representing a total of over 58,000 chemical substances including 1,800 generic names developed for chemical substances whose identities have been claimed as confidential. Furthermore,

Cumulative Supplement II contains 166 new substances for which premanufacture notification review has been completed and manufacturing or importation has begun. Substances for which premanufacture notification review has been completed but for which actual manufacture or importation has not commenced in the United States are not included on the Inventory and will not be included until the Agency receives notice of commencement of manufacture.

III. Contents And Use Of Cumulative Supplement II

With the publication of Cumulative Supplement II, the printed Inventory is nearly 7 percent complete. Most of the submissions yet to be completed involve a trademarked reactant whose specific identity has not be fully established. As the identities of the trademarked reaction products are established, a specific chemical name will be added to the confidential portion of the Agency's Master Inventory File. Whether a generic chemical name will be added to the printed Inventory has yet to be determined. Similarly, chemical substances whose specific identity has been claimed to be confidential are also not found in the printed inventory, but are included in the Master Inventory File. In this case generic names for such chemical substances are found in Appendix B of the printed Inventory.

Individuals who require assistance with the Inventory should adddress their inquiries to Inventory Control Team (TS-793), Office of Toxic Substances, U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Most questions regarding the contents and use of the Cumulative Supplement II can be readily answered by reviewing the Introduction section of that publication. Persons who use the Supplement are advised to first read the Introduction throughly before using the information.

Dated: June 3, 1982.

John A. Todhunter,

Assistant Administrator, for Pesticides and Toxic Substances.

[FR Doc. 82-16045 Filed 6-14-82; 8:45 am]
BILLING CODE 6560-50-M

[OPP 40009; PH-FRL 2123-2]

Department of the Interior Federal Agency Plan; Intent To Approve Plan for Certification of Applicators of Restricted Use Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with terms of the Federal Register notice of August 19, 1977 (42 FR 41907), the U.S. Department of the Interior (DOI) has submitted a Federal Agency Plan for the certification of its employees to apply restricted use pesticides in the performance of their duties. The Administrator has reviewed this plan and finds that it complies with the terms of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended and the August 19, 1977 Federal Register notice. Accordingly, notice is hereby given of the intention of the Administrator to approve the Department of the Interior Plan. Interested persons are invited to submit written comments on the proposed plan.

DATE: Comments must be received on or before July 30, 1982.

Written comments should be submitted to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St. SW., Washington, D.C. 20460.

Comments should bear the identifying notation OPP 40009. The administrative record supporting this action is available for public inspection in Rm. E-107 at the address noted above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

ADDRESSES: The entire plan, together with attachments and comments, will also be available for examination during business hours at the following locations:

U.S. Department of the Interior, Bureau of Land Management (230), 1725 I Street NW., Washington, D.C. 20240;
U.S. Environmental Protection Agency, Region I, John F. Kennedy Bldg., Boston, MA 02203;
U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, NY 10278;
U.S. Environmental Protection Agency, Region III, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106;
U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, GA 30365;
U.S. Environmental Protection Agency, Region V, Pesticides Branch, 111 W. Jackson St., Chicago, IL 60604;
U.S. Environmental Protection Agency, Region VI, 1201 Elm Street, 1st International Building, Dallas, TX 75270;
U.S. Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, MO 64106;
U.S. Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Suite 900, Denver, CO 80295;
U.S. Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105;
U.S. Environmental Protection Agency, Region X, 1200 6th Avenue, Seattle, WA 98101.

FOR FURTHER INFORMATION CONTACT: John MacDonald, Office of Pesticides and Toxic Substances Enforcement (EN-342), Environmental Protection Agency, Rm. 3220H, 401 M St. SW., Washington, D.C. 20460 (202-755-0970).

The plan is also available for inspection at selected Department of the Interior installations throughout the country. Interested persons desiring the location of the installation nearest them should contact Buck Waters at the Department of the Interior (202-653-8864).

SUPPLEMENTARY INFORMATION:

Summary of Plan

The Department of the Interior Certification Plan at present applies only to employees of the Bureau of Land Management. If the department should at a later date wish to include others under the certification plan, the submittal and approval of a new certification plan or an amendment to this certification plan, should it be approved, would be required.

Federal employees are considered by EPA to be commercial applicators. The Department of the Interior has proposed certification of its employees in the following commercial applicator categories: Agriculture Pest Control—Plant; Forest Pest Control; Ornamental and Turf Pest Control; Aquatic Pest Control; Right-of-Way Pest Control; Industrial, Institutional, Structural and Health Related Pest Control; Public Health Pest Control; and Demonstration and Research Pest Control.

Certification is based on the taking and passing of a written examination and is valid for a period not to exceed three years. Recertification will also require the taking and passing of a written examination. It is anticipated that training for certification and recertification will often be provided by outside organizations, most especially the Department of Defense which has an approved certification plan in operation. When training is provided by outside organizations, a Department of the Interior examination will still have to be passed before certification or recertification is granted.

Certified applicators will be issued a certificate and wallet-size identification card to be carried when applying pesticides or supervising their use. These documents will identify the

certified applicator, the category in which the applicator is certified, the date of issuance, expiration date, and issuing authority. Examples of these documents are contained in the plan.

General use and restricted use pesticides will be applied either by a certified applicator or by a person under the direct supervision of a certified applicator. The certified applicator will retain responsibility for the actions of the non-certified applicator and be available if and when required.

The plan provides for the hiring of non-Department of the Interior employees for pest control operations. Such persons must be certified commercial applicators, or under the direct supervision of a certified commercial applicator, holding certification valid in the State or territory where the services are performed.

Authority for denying, suspending and revoking Department of the Interior certification rests with the officials responsible for carrying out the plan. Any applicator who falsifies records or who violates any provision of the Federal Insecticide, Fungicide, and Rodenticide Act, including the prohibition against the misuse of pesticides, may have the applicator's certificate suspended or revoked.

Records regarding the kinds, amounts, uses, dates and places of use of restricted use pesticides will be maintained for two years from the date of application of the restricted use pesticides. Such records will be available for inspection and copying by Federal and State pesticide officials.

Incidents of pesticide misuse and record falsification by any persons will be reported to the appropriate EPA or State authority. EPA and State enforcement personnel will have access to DOI property at reasonable times for sampling, inspection and observation.

The Department of the Interior Plan requires personnel to comply with substantive State standards for pesticide regulation which are more stringent than, or are in addition to, standards established in the plan, as required by E.O. 12088. In cases where the State decides its substantive standards are more stringent than those of the Department of the Interior it may notify the Director of the Bureau of Land Management and request compliance. In any case where the Director and the State disagree as to the need for Department of the Interior employees to comply with a State standard, the Administrator of EPA will arbitrate the dispute.

Annual reports will be submitted by the Department of the Interior to the Administrator, EPA. The report will contain information as outlined in 40 CFR 171.7(d)(1), such as, numbers of applicators certified, changes in commercial subcategories, summary of enforcement actions and significant proposed changes in standards of competency. Other reports will be submitted as required by 40 CFR 171.7(d)(2).

(Sec. 4, as amended, 92 Stat. 827 (Pub. L. 95-396))

Dated: June 7, 1982.

Anne M. Gorsuch,

Adminstrator.

[FR Doc. 82-16048 Filed 6-14-82; 8:45 am]

BILLING CODE 6560-50-M

[A-10-FRL-2143-7]

Final Agency Action Regarding Issuance of a Prevention of Significant Deterioration (PSD) Permit to Northern Tier Pipeline Company

Final notice is hereby given that on September 14, 1981, a PSD permit was issued to Northern Tier Pipeline Company to construct a marine oil terminal and tank farm at Port Angeles, Washington by EPA Region 10.

The permit was issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations, subject to certain conditions specified in the permit.

This action was previously noticed in the **Federal Register** on Tuesday, September 29, 1981. However, two subsequent Petitions for Review of the subject permit were filed with the Administrator pursuant to 40 CFR 124.19.

On March 31, 1982, the Administrator denied both Petitions for Review and so notified the petitioners. Pursuant to 40 CFR 124.19(f)(2), EPA is hereby giving notice of final Agency action regarding issuance of the Northern Tier Pipeline Company PSD permit.

Uder Section 307(b)(1) of the Clean Air Act in section 2011 of the Public Regulatory Policy Act, 43 U.S.C. 2001, et seq., judicial review of the PSD permit is available by the filing of a Petition for Review in the appropriate Federal court within 60 days of today.

Copies of documents relating to the subject permit are available for public inspection upon request at the following location: Michael Johnston, Chief, Air Operations Section, Environmental Protection Agency, 1200 Sixth Avenue, Mail Stop 532, Seattle, Washington 98101, (206) 442-1941.

Dated: June 1, 1982.

Joan R. Spencer,

Regional Administrator, Region 10.

[FR Doc. 82-15048 Filed 6-14-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Petition for Exemption From the Filing and Approval Requirements of Section 15, Shipping Act, 1916

Notice is hereby given that the members of the Household Goods Forwarders Association of America, Inc., have filed a petition requesting the Commission, pursuant to section 35 of the Shipping Act, 1916 (46 U.S.C. 833a), to exempt from the filing and approval requirements of section 15 of the Act arrangements pertaining to the joint loading of used military household goods and personal effects by non-vessel operating common carriers by water serving the foreign and domestic off-shore commerce of the United States.

Petitioners state that they move the preponderance of all military used household goods and personal effects shipments in the foreign and domestic off-shore commerce of the United States and that the Commission, in Docket No. 80-37, has already exempted such shipments from the tariff filing requirements of the Act.

The subject petition has been filed due to petitioner's concern that the co-loading of containers (consolidating several shipments to form a container load) might be constitute preferential arrangements requiring filing with the Commission and approval under section 15 of the Shipping Act, 1916.

Interested parties may inspect and obtain a copy of the petition at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 11101, or may inspect the petition at the Field Offices located at New York, New York; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois and Hato Rey, Puerto Rico. Interested persons may submit comments to the Secretary, Federal Maritime Commission, Washington, D.C., by July 20, 1982. An original and fifteen copies of such comments shall be submitted and a copy thereof served on applicant.

Francis C. Hurney,

Secretary.

[FR Doc. 82-16111 Filed 6-14-82; 8:45 am]

BILLING CODE 6730-01-M

Agreements Filed

The Federal maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10327; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before July 6, 1982. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustily discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreements Nos. T–4046 and T–4046–A.

Filing party: Greg Baker, Deputy Director, Finance & Administration, Port of Astoria, P.O. Box 569, Astoria, Oregon 97103.

SUMMARY: Agreement No. T–4046, between the Port of Astoria (Port) and Pan Ocean Bulk Carriers, Ltd. (POBC) provides that the Port will lease to POBC the grain elevator, including all related equipment at Pier 1, Astoria. The leased premises will be used by POBC for the handling of bulk commodities. The term of the lease is for 15 years. The Port will grant a yearly extension if it is determined that POBC has made a minimum of 7 percent improvement investment in the property. As rent POBC shall pay to the Port an annual amount of $1. The annual rent after the original term shall be the total sum of the annual rent plus 6 percent of the market value of the underlying ground. POBC shall file tariffs for all charges for use of the facility, and Port shall assess and collect dockage charges.

Agreement No. T–4046–A is a provisional agreement whereby the parties agree to expand and modernize the facility into a fully automatic elevator complex to handle wheat and corn. The Port will offer revenue bonds to enable the renovation to be completed. The Port will lease land for the Complex under a term of 50 years with three 10-year renewal options. The annual rent will be 6 percent of the market value of the land.

By Order of the Federal Maritime Commission.

Dated: June 10, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82–16100 Filed 6–14–82; 8:45 am]

BILLING CODE 6730–01–M

Port of Oswego Authority and Lakespan Marine, Inc.; Cancellation

Agreement No. T–3972.

Filing party: G. Robert Witmer, Jr., P.C., Nixon, Hargrave, Devans & Doyle, Lincoln First Tower, P.O. Box 1051, Rochester, New York 14603.

Summary: Agreement No. T–3972, between the Port of Oswego Authority and Lakespan Marine, Inc., has been cancelled by mutual agreement of the parties effective October 23, 1982.

By Order of the Federal Maritime Commission.

Dated: June 10, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82–16101 Filed 6–14–82; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of March 30, 1982

In accordance with § 217.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on March 29–30, 1982.[1]

The information reviewed at this meeting suggests that real GNP declined appreciably further in the first quarter of 1982 but that final purchases were sustained and the contraction in activity moderated during the quarter; prices on the average rose much less rapidly than in the preceding quarter. In January weakness in activity was accentuated by unusually severe weather, and in February the nominal value of retail sales rebounded while industrial production and nonfarm payroll exployment recovered part of their January declines. The unemployment rate in February, at 8.8 percent, was unchanged from December. Although housing starts rose further in the first two months of the year, they remained at a depressed level. The rise in both the consumer price index and the producer price index for finished goods moderated substantially, and the advance in the index of average hourly earnings on the average remained at a reduced pace.

The weighted average value of the dollar against major foreign currencies continued to rise strongly in February and March; foreign monetary authorities intervened on a substantial scale to resist the depreciation of their currencies. The U.S. foreign trade deficit in January and February on the average was somewhat less than the fourth-quarter rate.

M1 declined in February, after three months of rapid growth, and then increased moderately in early March. Growth of M2 slowed appreciably in February, owing to a slackening of the expansion in the nontransaction component as well as to the decline in M. Short-term market interest rates and bond yields on balance have declined since early February, and mortgage interest rates have edged down.

The Federal Open Market Committee seeks to foster monetary and financial conditions that will help to reduce inflation, promote a resumption of growth in output on a sustainable basis, and contribute to a sustainable pattern of international transactions. At its meeting in early February, the Committee agreed that its objectives would be furthered by growth of M1, M2, and M3 from the fourth quarter of 1981 to the fourth quarter of 1982 within ranges of 2½ to 5½ percent, 6 to 9 percent; and 6½ to 9½ percent respectively. The associated range for bank credit was 6 to 9 percent.

In the short run, the Committee seeks behavior of reserve aggregates consistent with growth of M1 and M2 from March to June at annual rates of about 3 percent and 8 percent respectively. The Committee also noted that deviations from these targets should be evaluated in light of the probability that M2 would be less affected over the period than M1 by deposit shifts related to the tax date and by changes in the relative importance of NOW accounts as a savings vehicle.

[1] The Record of Policy Actions of the Committee for the meeting of March 29–30, 1982, is filed as part of the original document. Copies are available upon request to The Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

Some shortfall in growth of M1, consistent with progress toward the upper part of the range for the year as a whole, would be acceptable in the context of appreciably reduced pressures in the money market and relative strength of other aggregates. The Chairman may call for Committee consultation if it appears to the Manager for Domestic Operations that pursuit of the monetary objectives and related reserve paths during the period before the next meeting is likely to be associated with a federal funds rate persistently outside a range of 12 to 16 percent.

Votes for this action: Messrs. Volcker, Solomon, Balles, Ford, Gramley, Partee, Rice, Mrs. Teeters, and Mr. Winn. Votes against this action: Messrs. Black and Wallich.

By order of the Federal Open Market Committee, June 2, 1982.

Murray Altmann,

Secretary.

[FR Doc. 82-16077 Filed 6-14-82; 8:45 am]

BILLING CODE 6210-01-M

Central Service Corp.; Proposed Commercial Paper Sweep Plan

Central Service Corporation, Enid, Oklahoma, has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage in the activity of daily sweeping of demand deposit accounts at Central National Bank and Trust Company, a subsidiary of Central Service Corporation, of minimum amounts of at least $25,000. Swept funds would be used to purchase commercial paper of Central Service Corporation and would earn a market rate of interest. Proceeds of the sale of commercial paper would be used to purchase certificates of deposit from Central National Bank and Trust Company. Each investment would mature the next day and would be deposited back into the customer's demand deposit account. These activities would be performed from offices of Applicant's subsidiary in Enid, Oklahoma, and the geographic area to be served is Enid, Oklahoma. Such activity has not been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies. The Board believes, however, that the application raises significant issues that would be of interest to the public.

Interested persons may express their views on the question of whether the proposed activity is closely related to banking and whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." The Board views the proposal as raising significant questions concerning monetary control and competitive balance among financial institutions and also requests comments on these issues. Any request for a hearing on these questions must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than July 8, 1982.

Board of Governors of the Federal Reserve System, June 8, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-16078 Filed 6-14-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel

Date, time, and place. July 29 and 30; 9 a.m., Auditorium, 200 Independence Ave. SW., Washington, DC.

Type of meeting and executive secretary. Open public hearing, July 29, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 1 p.m.; closed committee deliberations, 2 p.m. to 5 p.m.; open public hearing, July 30, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 1 p.m.; closed committee deliberations, 2 p.m. to 5 p.m.; Dr. George C. Murray, Bureau of Medical Devices (HFK-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7940.

General function of committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the executive secretary before July 19, 1982, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On July 29 the committee will discuss premarket approval applications (PMA's) for intraocular lenses (IOL's) and may discuss PMA's for other ophthalmic products. If discussion of all pertinent IOL issues is not completed, discussion will be continued the following day. On July 30 the committee may discuss PMA's or general issues relating to contact lens or other ophthalmic products.

Closed committee deliberations. On July 29 and 30 the committee will conduct reviews of PMA's for IOL applications. On July 30 the committee may also discuss PMA's for contact lens products. These portions of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public

hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: June 8, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 82–16033 Filed 6–14–82; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 82F–0156]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of C_{16-18}-alkyl mercaptoacetates reaction products with dichlorodioctylstannane and trichlorooctylstannane, as a stabilizer for vinly chloride plastics intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Michael E. Kashtock, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St., SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3597) has been filed by the Ciba-Geigy Corp., Hawthorne, NY 10532, proposing that § 178.2650 *Octyltin stablizers in vinyl chloride plastics* (21 CFR 178.2650) be amended to provide for the safe use of C_{16-18}-alkyl mercaptoacetates reaction products with dichlorodioctylstannane and trichlorooctylstannane, as a stabilizer for vinly chloride plastics intended for use in contact with food.

The agency has carefully considered the potential environmental effects of this proposed action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 4, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82–16019 Filed 6–14–82; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 82F–0161]

NL Chemicals/NL Industries, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that NL Chemicals/NL Industries, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of sulfated

castor oil in resinous and polymeric coating for food-contact use.

FOR FURTHER INFORMATION CONTACT: James H. Maryanski, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3628) has been filed by NL Chemicals/NL Industries, Inc., Wyckoff Mills Road, Hightstown, NJ 08520, proposing that § 175.300 *Resinous and polymeric coatings* (21 CFR 175.300) be amended to provide for the safe use of sulfated castor oil as a miscellaneous material in resinous and polymeric coatings for food-contact use.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: June 4, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-15918 Filed 6-14-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket Nos. 79F-0451 and 79F-0452]

Rohm and Haas Co.; Amended Notice of Filing of Food Additive Petitions

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is amending two notices that appeared in the **Federal Register**. The notices announced the filing of food additive petitions for the use of a preservative in (1) adhesive emulsions used as components of food-contact articles and (2) polymer latex emulsions used to coat paper which contacts food. The petitioner, Rohm and Haas Co., also is proposing that the food additive regulations be amended to provide for the safe use of magnesium nitrate as a component of the preservative formulation.

FOR FURTHER INFORMATION CONTACT: John L. Herrman, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice was given in the **Federal Register** of January 29, 1980 (45 FR 6651) and February 22, 1980 (45 FR 11911) that petitions (FAP 9B3446 and FAP 8B3406, respectively) had been filed by the Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105. These notices announced petitions proposing that (1) § 175.105 *Adhesives* (21 CFR 175.105) (FAP 9B3446; Docket No. 79F-0452) and (2) § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) (FAP 8B3406; Docket No. 79F-0451) be amended to provide for the safe use of a mixture containing 5-chloro-2-methyl-4-isothiazolin-3-one and 2-methyl-4-isothiazolin-3-one as a preservative for polymer latex emulsions in adhesives and for polymer latex emulsions to coat paper which contacts food, respectively.

Notice is given that these petitions also propose that such regulations provide for the safe use of magnesium nitrate as a component of the preservative formulation.

In the earlier notices, FDA announced that, based upon the environmental impact analysis report and other relevant material, it has determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report and the environmental assessment report are on file with the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and they may be seen there between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 4, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-15918 Filed 6-14-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82F-0139]

Union Carbide Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administraton (FDA) is announcing that Union Carbide Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of *gamma*-aminopropyltrimethoxysilane as components of adhesives.

FOR FURTHER INFORMATION CONTACT: James H. Maryanski, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Comestic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3628) has been filed by Union Carbide Corp., Old Saw Mill River Rd., Tarrytown, NY 10591, proposing that § 175.105 *adhesives* (21 CFR 175.105) be amended to provide for the safe use of *gamma*-aminopropyltrimethoxysilane as components of adhesives.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's findings of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: June 4, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-15917 Filed 6-14-82; 8:45 am]

BILLING CODE 4160-01-M

Office of the Secretary

Office of the Deputy Assistant Secretary for Equal Employment Opportunity; Statement of Organization, Functions, and Delegations of Authority

Part A, Chapter AHE (Office of Equal Employment Opportunity) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (most recently amended at 45 FR 17638, March 19, 1980) is replaced to reflect the reorganization and retitling to the Office of the Deputy Assistant Secretary for Equal Employment Opportunity.

The purpose of the reorganization is to arrange functions and responsibilities in order to: Reflect new program emphases and objectives; improve program control, efficiency and effectiveness; reduce the number of reporting units; and strengthen the functional management role of the office.

1. Under Part A, Chapter AHE, Office of Equal Empoyment Opportunity, retitle the name to the Office of the Deputy Assistant Secretary for Equal Employment Opportunity, delete the entire chapter, and replace it with the following:

AHE.00 Mission

AHE.10 Organization
AHE.20 Functions

AHE.00 Mission—The Office of the Deputy Assistant Secretary for Equal Employment Opportunity holds functional management responsibilities for the Secretary, the Under Secretary, and the Assistant Secretary for Personnel Administration (ASPER) for the elimination and prevention of discrimination in all facets of employment in the Department. As such, it is charged with the administration of the statutory and regulatory requirements of: Section 717 (Title VII) of the Civil Rights Act of 1964 (as amended); Section 6(d) of the Fair Labor Standards Act, the Equal Pay Act of 1963; Section 301 of the Civil Service Reform Act of 1978; Section 501 of the Rehabilitation Act of 1973 (as amended); Sections 12 and 15 of the Age Discrimination in Employment Act of 1967; appropriate anti-discriminatory provisions of both Title 5 and Title 29, Code of Federal Regulations.

The Office of the Deputy Assistant Secretary for Equal Employment Opportunity provides centralized Departmentwide leadership and oversight in policy making; analysis of both organizational and systemic barriers to equal employment opportunity; in program guidance; in the prevention and eradication of employment discrimination and protection of its employees against discrimination; Title VII program evaluation; and in the fair and prompt adjudication of complaints of discrimination.

AHE.10 Organization—The Office of the Deputy Assistant Secretary for Equal Employment Opportunity reports through the Assistant Secretary for Personnel Administration (ASPER). The Office consists of the following:

Immediate Office
Division of Complaints Adjudication and Management
Division of Program Planning and Systemic Analysis
Division of Evaluation, Information and Data Management

AHE.20 Functions.

A. *General.*

The Office of the Deputy Assistant Secretary for Equal Employment Opportunity:

1. Formulates Departmental level policies, standards, guidance and procedures in those functional areas of the prevention and prohibition of employment discrimination and promotion of equal opportunity for the Director of EEO; and coordinates policies, standards, guidance and procedures of the Operating Divisions (and subordinate units) needed for the implementation of the Departmental issuances.

2. Assesses and determines that Operating Divisions and the Office of the Secretary are effectively implementing and supporting operational needs, and are in compliance with law, regulations and policies.

3. Fosters the use of consistent policies, procedures, terms, conditions of program operations within the Department; recommends Governmentwide policies to the Equal Employment Opportunity Commission (EEOC), Office of Personnel Management (OPM), Merit Systems Protection Board (MSPB), or the Office of Management and Budget (OMB).

4. Provides guidance and technical assistance to Operating Divisions on organizational and employment barrier analysis, on EEO data manipulation and usage, on appropriate legislative and EEO case law application, and in the processing of complaints of discrimination.

5. Develops, directs and coordinates training in the DAS/EEO areas of functional responsibility; and establishes standards for Title VII staff and purchase of contracts.

6. Provides liaison, counsel and support to other Government agencies, appropriate Congressional staffs, and professional associations.

7. Compiles and analyzes data required for proper functional administration and management.

8. Conducts reviews and other assessments of the Department's Operating Divisions to determine operational effectiveness and compliance with Departmental issuances covering the broad area of employment discrimination; recommends changes or modifications where appropriate, or makes recommendations through the ASPER.

9. Approves new or revised forms; operating formats; methods of EEO or program management activities.

10. Provides staff support and counsel to the ASPER, Under Secretary, and the Secretary on all facets of equal opportunity and discrimination in Federal employment.

B. *Immediate Office of the Deputy Assistant Secretary*—Is responsible for the executive direction, management, leadership, oversight, supervision and administration of all Departmental anti-discrimination/equal employment opportunity functions.

C. *Division of Complaints Adjudication and Management*

1. Formulates all policy and develops guidance covering the administration of the discrimination complaints system in the Department.

2. Provides advice, guidance and interpretation of all facets of the processing of complaints of discrimination.

3. Drafts all final Departmental decisions in complaints of employment discrimination; negotiates and coordinates settlements with the Office of General Counsel; and recommends corrective or remedial actions.

4. Develops and maintains a Departmentwide Title VII case management and control system; monitors employment discrimination case law as it evolves.

5. Develops, coordinates and provides guidance on EEOC hearings, appeals, remands, class actions, and attorney's fees.

6. Conducts, participates in and oversees EEO counseling, conciliation, and mediation training for the Department.

7. Reviews proposed Operating Division, subordinate unit and/Staff Division issuances or reports covering the processing of complaints of discrimination; and monitors adaptation to Governmentwide or Departmental policies and guidance.

8. Provides legal assistance and guidance to ASPER.

9. Serves as liaison to the Office of Personnel System Integrity (OPSI), Office of the General Counsel (OGC), and the Labor Management Relations Division within the Department on discrimination complaint matters; and the EEOC, the MSPB's Office of Special Counsel and the Department of Justice.

Division of Program Planning and Systemic Analysis.

1. Formulates and interprets Departmentwide policy and develops guidance on Affirmative Action/Federal Equal Opportunity Recruitment Program Planning.

2. Reviews OPDIV reports, policies and procedures, making recommendations for changes as necessary.

3. Provides technical assistance, program direction to and monitoring of Affirmative Action Program/Federal Equal Opportunity Recruitment Program (AAP/FEORP) Plans developed and implemented by Operating Divisions.

4. Develops, directs and coordinates a Departmentwide program of analysis of barriers to fair employment and equitable employability within the Department, focussing on systems, organizational practices, and policies.

5. Establishes and provides direction to Operating Divisions on work force

assessments, underrepresentation, and protected class analyses.

6. Provides general EEO/Affirmative Action training for EEO and Personnel staffs; and for Departmental managers and supervisors.

7. Serves as liaison and maintains working relationships with Operating Divisions, Office of Personnel Policy and Communications (OPPC) and the EEOC.

E. *Division of Evaluation, Information and Data Management.*

1. Provides broad EEO program evaluations for the Department, assessing program achievement, program management, and managerial performance.

2. Formulates Departmentwide guidance for consistency of program direction, management quality and evaluation.

3. Develops, maintains and controls EEO data systems.

4. Provides data development and analysis in support of complaints of discrimination, affirmative action requirements, work force analyses, special Title VII projects, and FOIA and Privacy Act requests.

5. Provides review and coordination of Departmental policies covering employment discrimination prohibitions, legislation and case law.

6. Facilitates the processing of conflict of interest charges within the delegated authority of the DAS/EEO, including informal resolution attempts and the issuance of proposed dispositions.

7. Monitors, analyzes and disseminates Departmentwide information on legislative and regulatory trends affecting equal employment and anti-discrimination programs; provides assessments of impact upon Departmental employment.

8. Makes studies of program issues requiring adoption of new policies or revision of current guidance; and of application of management controls, reports, and program cost quality and efficiency.

9. Guides, facilitates and assesses EEO training needs and training quality.

10. Serves as liaison within OPPC, Employee Systems Center (ESC) and OPSI within the Office of ASPER; to the Office of Management Analysis and Systems (OMAS) within the Office of the Assistant Secretary for Management and Budget (ASMB); and the Office of Evaluation and Technical Analysis (OETA) within the Office of the Assistant Secretary for Planning and Evaluation (ASPE).

Dated: June 7, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-16002 Filed 6-14-82; 8:45 am]

BILLING CODE 4150-04-M

Associate General Counsel for Enforcement; Statement of Organization, Functions, Delegations of Authority

Part A (Office of the Secretary), Chapter AG (Office of General Counsel) (47 FR 1426, January 13, 1982) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services is amended to reflect the reorganization of the Office of General Counsel to create a new position of Associate General Counsel for Enforcement to be responsible for supervision of the Department's civil rights and civil money penalty enforcement activity. The changes are as follows:

1. Chapter AG, Office of General Counsel, *Section AG.10 Organization* is amended by inserting in subsection 3.C. the words "or Associate General Counsel for Enforcement" immediately after "The Deputy General Counsels."

2. Chapter AG, *Section AG.14 Immediate Office of the General Counsel* is amended to read as follows:

A. The Immediate Office of the General Counsel consists of:

1. General Counsel.
2. Deputy General Counsel, Program Review.
3. Deputy General Counsel, Litigation.
4. Deputy General Counsel, Regulations.
5. Associate General Counsel.
6. Associate General Counsel for Enforcement.
7. Legal Counsel.
8. Special Assistants to the General Counsel.
9. Executive Assistant to the General Counsel.

3. Chapter AG, *Section AG.21 Immediate Office of the General Counsel* is amended by redesignating paragraphs F, G, and H as paragraphs G, H, and I, and by inserting a new paragraph F to read as follows:

F. "The Associate General Counsel for Enforcement assists the General Counsel with respect to civil rights and civil money penalties enforcement activities and supervises the Assistant General Counsel for Civil Rights and the Assistant General Counsel, Inspector General."

4. Chapter AG, *Section AG.22 Divisions of the Office of General Counsel* is amended in paragraph A by deleting subsection 1.g. and by inserting after subsection 2 the following new subsection: "3. *Inspector General Division.* The Inspector General Division shall provide legal services to the Inspector General and shall be responsible for prosecuting claims by the Department for civil money penalties under section 1128A of the Social Security Act, 42 U.S.C. 1320a-7a."

This action is effective June 15, 1982.

Dated: June 8, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-16074 Filed 6-14-82; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-82-1132]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Robert G. Masarsky, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information

submission; (7) whether the proposal is new or an extension or reinstatment of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from Robert G. Masarsky, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Housing Discrimination Complaint Form
Office: Fair Housing and Equal Opportunity
Form Number: HUD-903, HUD-903-A
Frequency of submission: On Occasion
Affected public: Individuals or Households who wish to file a housing discrimination complaint
Estimated burden hours: 1,000
Status: Extension
Contact: Marie Denning, HUD, (202) 426-3500. Robert Neal, OMB, (202) 395-6880.

(Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: June 6, 1982.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 82-16099 Filed 6-14-82; 8:45 am]

BILLING CODE 4210-01-M

Office of the Assistant Secretary for Community Planning and Development

[Docket No. D-82-658]

Redelegation of Authority With Respect to Waivers and Approvals; Noise Abatement and Control

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of redelegation of authority.

SUMMARY: The Assistant Secretary for Community Planning and Development is redelegating to a subordinate official the authority to grant special approvals and waiver of Environmental Impact Statements pursuant to 24 CFR Part 51.

EFFECTIVE DATE: January 22, 1982.

FOR FURTHER INFORMATION CONTACT:

Robert J. Rusin, Office of Management, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410; (202) 755-6087. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of 24 CFR Part 51—Enviromental Criteria and Standards, Subpart B (§§ 51.104(a)(2) and 51.104(b)(2)), the approval of the Assistant Secretary for Community Planning and Development is required for:

1. A waiver of the Environmental Impact Statement normally required for all projects in an Unacceptable Noise Zone;

2. All attenuation measures proposed for a project in an Unacceptable Noise Zone; and

3. All projects located in an Unacceptable Noise Zone.

It has been determined that certain authority should be further redelegated to the Deputy Assistant Secretary for Field Operations and Environment/Energy Programs.

Accordingly, the Assistant Secretary redelegates as follows:

The Deputy Assistant Secretary for Field Operations and Environment/Energy Programs is authorized to exercise authority to act for the Assistant Secretary pursuant to 24 CFR part 51, § 51.104(a)(2) in granting approval for the noise attenuation measures, and § 51.104(b)(2) in granting approval of projects with unacceptable noise exposure and in granting a waiver of the Environmental Impact Statement, normally required for all projects in an Unacceptable Noise Zone.

(Sec. 7(d)), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d)

Dated: June 1, 1982.

Stephen J. Bollinger,

Assistant Secretary for Community Planning and Development.

[FR Doc. 82-16098 Filed 6-14-82; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[INT-FEIS-82-21]

Ellis-Pahsimeroi Grazing Final Environmental Impact Statement; Availability

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Availability.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a Final Environmental Impact Statement (FEIS) for a proposed grazing management program for the Ellis-Pahsimeroi Planning Unit of the Salmon District in central Idaho. The proposal includes changes in stocking rates, implementing improved grazing systems, and installation of range improvements on a portion of 33 allotments encompassing approximately 380,458 acres of public land. No action can be taken or decisions made for at least 30 days following filing of this statement with the Environmental Protection Agency and distribution to known interested parties.

SUPPLEMENTARY INFORMATION: This Final EIS document is to be used in conjunction with the Ellis-Pahsimeroi Draft Grazing EIS, a limited number of which are available at the following locations:

Salmon District Office, Bureau of Land Management, Highway 93 South, Box 430, Salmon, ID 83467, Telephone (208) 756-2201.
Idaho State Office, Bureau of Land Management, Federal Building, 550 W. Fort Street, Box 042, Boise, ID 83724, Telephone (208) 334-1770.
Public Affairs, Bureau of Land Management, Interior Building, 18th & C Streets, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Jerry Wilfong, EIS Team Leader, at the above District Office address.

Dated: June 8, 1982.

Clair M. Whitlock,

State Director.

[FR Doc. 82-16052 Filed 6-14-82; 8:45 am]

BILLING CODE 4310-84-M

[AA-6655-A through AA-6655-G]

Alaska Native Claims Selection

The purpose of this decision is to modify the Decision to Issue Conveyance (DIC) dated January 13, 1978, and published in the **Federal Register** on January 18, 1978, page 2669. The DIC included those water bodies determined to be navigable in the Alaska State Director (SD), BLM, memorandum dated January 2, 1976, as revised April 21, 1976, as amended August 1, 1977, concerning final easements for the village of Chignik Lake.

On August 26, 1980, the Alaska Native Claims Appeal Board remanded the question of navigability of Black Lake to the Bureau of Land Management for the purpose of review and redetermination

on the navigability status of Black Lake (VLS 78–30).

Administrative redetermination as to the navigability status of Black Lake was accomplished by the SD memorandum dated May 30, 1980. Black Lake is determined to be navigable. Therefore, the DIC dated January 13, 1978, is modified as follows:

Page 2669

The paragraph beginning "On October 28, 1976" now reads:

On October 28, 1976, Bristol Bay Native Corporation filed selection applications AA–12415 and AA–12416, pursuant to section 14(h)(8) of the Alaska Native Claims Settlement Act (85 Stat. 688, 702; 43 U.S.C. 1601, 1613 (Supp V, 1975)). Section 14(h) and Departmental regulations issued thereunder, provide that the Secretary of the Interior is authorized to withdraw and convey unreserved and unappropriated public lands. Since part of the land encompassed in the subject section 14(h) applications had been properly selected by Chignik River, Limited, under section 12(a), application AA–12416 must be and is hereby rejected as to all lands in T. 43 S., R. 61 W., Seward Meridian except section 7, and application AA–12415 must be and is hereby rejected as to all lands in T. 43 S., R. 62 W., Seward Meridian except sections 9, 10, 13, 14, and 15.

The paragraph is hereby modified to read:

On October 28, 1976, Bristol Bay Native Corporation filed selection applications AA–12415 and AA–12416, pursuant to Sec. 14(h)(8) of the Alaska Native Claims Settlement Act for the surface and subsurface estates of the bed of Black Lake. Section 14(h) and Departmental regulations issued thereunder provide that the Secretary of the Interior is authorized to withdraw and convey unreserved and unappropriated public lands. As Black lake is considered navigable the submerged lands beneath it are not public lands and are not available for conveyance to Bristol Bay Native Corporation under the Alaska Native Claims Settlement Act (43 CFR 2650.0–5(g)). Therefore, regional selection applications AA–12415 and AA–12416 are rejected in their entirety and the case files will be closed of record when this decision becomes final.

Page 2671

The paragraph beginning "Only the following inland water bodies" now reads:

Only the following inland water bodies, within the described lands, are considered to be navigable:
Chignik Lake;
That portion of Chignik River which lies between Chignik Lagoon and Chignik Lake.

This paragraph is hereby modified to add the following water body to the list:

Black Lake.

This modified decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

The DIC of January 13, 1978, approved conveyance of a portion of the surface estate of the bed of Black Lake to Chignik River Limited, selected under Sec. 12(a), and conveyance of the subsurface estate of the same land to Bristol Bay Native Corporation. As Black Lake is now considered navigable, the submerged lands beneath it are not public lands and are not available for conveyance to the Native corporations under the Alaska Native Claims Settlement Act (43 CFR 2650.0–5(g)).

Therefore, the DIC of January 13, 1978, approving the submerged lands of a portion of Black Lake for conveyance to Chignik River Limited and Bristol Bay Native Corporation is hereby vacated. The total acreage of the lands charged against the village corporation's entitlement is modified to approximately 83,744 acres. Except as modified by this decision, the decision of January 13, 1978, stands as written.

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-16079 Filed 6-14-82; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before June 8, 1982. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by June 30, 1982.

Carol D. Shull,

Acting Keeper of the National Register.

INDIANA

Marion County

Indianapolis, *Indianapolis Wholesale District*, Roughly bounded by Capitol Ave., Maryland, Delaware and South Sts.

Shelby County

Waldron vicinity, *Cooper-Alley House*, S of Waldron

NEW MEXICO

Bernalillo County

Albuquerque, *Spruce Park Historic District*, Roughly bounded by University Blvd., Grand Ave., Las Lomas Rd. and Cedar St.

Taos County

Taos, *Taos Downtown Historic District*, NM 3 and NM 240

OKLAHOMA

Oklahoma County

Oklahoma City, *Wells Fargo and Company Livery Stable*, 115 E. Reno Ave.

Payne County

Yale vicinity, *Sun Oil Office and Maintenance Garage*, S of Yale

Rogers County

Sageeyah vicinity, *Hanes Home*, Off OK 88

Washington County

Bartlesville, *La Quinta*, 2201 Silver Lake Rd.

UTAH

Salt Lake County

Salt Lake City, *Woodruff Villa (Woodruff, Wilford, Family Historic Residences TR)*, 1622 S 5th E.
Salt Lake City, *Woodruff, Asahel Hart, House (Woodruff, Wilford, Family Historic Residences TR)*, 1636 S. 5th, E
Salt Lake City, *Woodruff, Wilford, Farm House (Woodruff, Wilford, Family Historic Residences, TR)*, 1604 S. 5th, E

Weber County

Ogden, *Burch-Taylor Mill*, 4287 Riverdale Rd.

WASHINGTON

Asotin County

Pomeroy, *Indian Timothy Memorial Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Alpowa Creek

Benton County

Prosser, *Prosser Steel Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Yakima River

Chelan County

Leavenworth vicinity, *Penstock Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Wenatchee River, N of Leavenworth on U.S. 2
Monitor vicinity, *West Monitor Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Wenatchee River
Wenatchee, *Columbia River Bridge (Historic Bridges/Tunnels in Washington State TR)*

Clallam County

Elwha, *Elwha River Bridge (Historic Bridges/Tunnels in Washington State TR)*, Old Hwy. 112
Sequim, *Dungeness River Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Dungeness River

Clark County

Vancouver, *Vancouver-Portland Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Columbia River
Yale, *Yale Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Lewis River, WA 502

Columbia County

Lyons Ferry, *Snake River Bridge (Lyons Ferry) (Hist. Bridges/Tunnels in Washington State TR)*, N of SR 12

Cowlitz County

Longview, *Longview Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Columbia River

Ferry County

Curlew, *Curlew Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Kettle River

Franklin County

Pasco, *Pasco-Kennewick Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Columbia River

Grant County

Beverly, *Beverly Railroad Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Columbia River

Grays Harbor County

Greenwood, *Wishkah River Bridge (Historic Bridges/Tunnels in Washington State TR)*, W. Wishkah Rd.

Hoquiam, *Hoquiam River Bridge (Historic Bridges/Tunnels in Washington State TR)*, N of SR 12

Taholah, *Chow Chow Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Quinault River

Jefferson County

Duckabush, *Duckabush River Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Duckabush River

King County

Seattle, *12th Avenue South Bridge (Historic Bridges/Tunnels in Washington State TR)*, Dearborn St.

Seattle, *14th Avenue South Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Duwamish River

Seattle, *Arboretum Sewer Trestle (Historic Bridges/Tunnels in Washington State TR)*

Seattle, *Aurora Avenue (Geo. Washington Mem.) Bridge (Hist. Bridges/Tunnels in WA State TR)*, SR 509, Aurora Ave.

Seattle, *Ballard Bridge (Fremont Bridge) (Historic Bridges/Tunnels in Washington State TR)*, Spans Lake Washington Ship Canal

Seattle, *Cowen Park Bridge (Historic Bridges/Tunnels in Washington State TR)*, 15th Ave. North

Seattle, *Lacey V. Murrow Floating Bridge (Historic Bridges/Tunnels in WA State TR)*, Spans Lake Washington

Seattle, *Montlake Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Lake Union Ship Canal

Seattle, *Mount Baker Ridge Tunnel (Historic Bridges/Tunnels in Washington State TR)*, E of WA 90

Seattle, *North Queen Anne Drive Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Ravine of 2nd Ave., N

Seattle, *Ravenna Park Bridge (Historic Bridges/Tunnels in Washington State TR)*, 20th Ave., Spans Ravenna Park Ravine

Seattle, *Schmitz Park Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Schmitz Park Ravine

Wishram, *Celilo Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Columbia River

Lewis County

Doty, *Doty Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Chehalis River

Pe Ell vicinity, *Weyerhaeuser/Pe Ell (Historic Bridges/Tunnels in Washington State TR)*, S of Pe Ell, Spans Chehalis River

Mason County

Eldon, *North/South Hamma Hamma River Bridges (Historic Bridges/Tunnels in WA State TR)*

Shelton vicinity, *Vance Creek Bridge (Historic Bridges/Tunnels in Washington State TR)*, NW of Shelton

Shelton, *Goldborough Creek Bridge (Historic Bridges/Tunnels in Washington State TR)*, WA 3

Shelton, *High Steel Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Skokomish South Fork

Okanogan County

Grand Coulee, *Grand Coulee Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Columbia River

Pend Oreille County

Metaline Falls, *Idaho and Wash. Northern RR Bridge (Historic Bridges/Tunnels in WA State TR)*, Spans Pend Oreille River, off WA 31

Pierce County

Melmont, *Fairfax Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Carbon River, S of Wilkeson

Purdy, *Purdy Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Henderson Bay

Puyallup vicinity, *McMillin Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Puyallup River, WA 162

Tacoma, *City Waterway Bridge (Historic Bridges/Tunnels in Washington State TR)*, 20th Ave., Spans Ravenna Park Ravine

Tacoma, *East 34th Street Bridge (Historic Bridges/Tunnels in Washington State TR)*, Pacific to A St.

Tacoma, *East 34th Street Bridge (Historic Bridges/Tunnels in Washington State TR)*, E. B St to E. D St.

Tacoma, *North 21st Street Bridge (Historic Bridges/Tunnels in Washington State TR)*, N. Fife and Oakes, Spans Buckley Gulch

Tacoma, *North 23rd Street Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Buckley Gulch, N. Fife and Oakes

Tacoma, *North 4th and Dock Street Bridge (Historic Bridges/Tunnels in Washington State TR)*, Dock St.

Tacoma, *Tacoma Narrows Bridge (Historic Bridges/Tunnels in Washington State TR)*,

Skagit County

Anacortes, *Deception Pass and Canoe Pass (Historic Bridges/Tunnels in Washington State TR)*, Rte. 20

Spokane County

Spokane, *Sunset Boulevard Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Latch Creek

Spokane, *Washington Street Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Spokane River

Stevens County

Northport, *Red Mountain Railroad Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Little Sheep Creek

Orient, *Orient Bridge (Historic Bridges/Tunnels in Washington State TR)*, Richardson Rd., Spans Kettle River

Orin, *Winslow Railroad Bridge (Historic Bridges/Tunnels in Washington State TR)*,

Thurston County

Tumwater, *Capitol Boulevard Crossing (Historic Bridges/Tunnels in Washington State TR)*, Spans Deschutes River

Walla Walla County

Lowden, *Johnson Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Touchet River

Whatcom County

Acme, *Middle Fork Nooksack River Bridge (Historic Bridges/Tunnels in Washington State TR)*, Mosquito Lake Rd.

Whitman County

Colfax, *Manning-Rye Covered Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Palouse River

Palouse, *F Street Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Palouse River

Palouse, *McClure Bridge (Historic Bridges/Tunnels in Washington State TR)*, Spans Palouse River

Rosalia, *Rosalia Railroad Bridge (Historic Bridges/Tunnels in Washington State TR)*, WA 271

[FR Doc. 82-16107 Filed 6-14-82; 8:45 am]
BILLING CODE 4310-70-M

North County National Scenic Trail Advisory Council Meeting

June 3, 1982.

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the North Country National Scenic Trail Advisory Council will be held August 5, 1982, beginning at 9:00 a.m. at Thunderbird Lodge, 2201 East 78th Street, Minneapolis, Minnesota, (I–494 at 24th Avenue exit).

The council was established on November 28, 1980, pursuant to provisions of the National Trails System Act, 82 Stat. 919, 16 U.S.C. 1244, to meet and consult with the Secretary of the Interior on matters relating to the administration and development of the North Country National Scenic Trail.

The members of the council are as follows:

Mr. Don Carlson (Chairperson)
Mr. J. L. Dunning
Mr. Pete Wingle
Mr. Alexander C. Otto
Mr. Ervin Market
Mr. Thomas J. Shearer
Dr. Douglas Eiken
Mr. Roger Hubbel
Mr. Forest J. Wicks
Professor Thomas Thwaites
Ms. Pat Allen
Mr. Preston Bristow
Mrs. Donna Skagerberg
Mr. George Pratt
Dr. Duane R. Lund
Mr. Richard T. Leier
Mrs. Joan H. Polivka
Mr. Robert Everett Kinsey

Matters to be discussed at the meeting will include issues related to the comprehensive management plan for the North Country National Scenic Trail and the role of the council in administration of the trail.

The meeting will be open to the public. Interested persons may submit written statements to the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from Robert P. Martin, Chief, Division of Rivers and Trails, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102, telephone (402) 221–3371 (FTS 864–3371). Minutes of the meeting will be available for public inspection at the Midwest Regional Office 3 weeks after the meeting.

Dated: June 3, 1982.

J. L. Dunning,

Regional Director, Midwest Region.

[FR Doc. 82–16108 Filed 6–14–82; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL COMMUNICATION AGENCY

Agency Forms Under Review by OMB

AGENCY: Voice of America, ICA.

ACTION: Notice.

In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 35), the International Communication Agency has submitted to OMB for review Form TAP–4, Supplemental Qualifications Statement—International Radio Broadcaster.

The form is used in the recruiting of radio broadcasters for the Voice of America to accomplish the personnel requirements imposed by OPM and EEOC to establish valid job-related selection procedures.

200 responses annually requiring 400 hours; not applicable under 3504(h) of Pub. L. 96–511.

Copies of the proposed form and supporting documents may be obtained from Mary Jane Winnett, Agency Clearance Officer (tel. 202–724–0403). Comments and questions should be directed to David Reed, OMB Reviewing Officer, (tel. 202–395–7231), and to the Agency clearance officer. If you anticipate commenting but find that time to prepare comments will prevent you from submitting them promptly, advise OMB and the Agency as soon as possible.

Mary Jane Winnett,

Management Assistant.

[FR Doc. 10001 Filed 6–14–82; 8:45 am]

BILLING CODE 8230–01–M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Decision-Notice; Finance Applications

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: June 8, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

James H. Bayne,

Acting Secretary.

MC–F–14862, filed May 25, 1982. FROCK BROS. TRUCKING, INC. (Frock) (R.D. 3, New Oxford, PA 17350)—purchase (portion)—ROBERT N. TOOMEY TRUCKING CO. (Toomey) (1516 S. George St., York, PA 17350). Representatives: Charles E. Creager, 1329 Penna. Ave., P.O. Box 1417, Hagerstown, MD 21740; and Edward N. Button, 635 Oak Hill Ave., Hagerstown, MD 21740. Frock seeks authority to

purchase a portion of the interstate operating rights and property of Toomey. Edmond B. Frock, Jr., and J. Daniel Frock, equal stockholders of Frock, seek authority to acquire control of said rights and property through the transaction. Frock is not a carrier but is affiliated with H. M. Kelly, Inc., a motor carrier under MC–117036. Frock seeks authority to purchase the rights contained in Certificate No. MC–119834 (Sub-No. 8), which authorizes the transportation of *agricultural chemicals, fertilizers, insecticides, fungicides, and adhesives* (except in bulk), from Hanover, PA, to those points in the U.S. in and west of MN, IA, MO, AR, and LA (except AK and HI); and those rights contained in Permit Nos. MC–124144 (Sub-Nos. 6, 12, 16, and 20), which authorize the transportation of (1) *agricultural chemicals* (except in bulk), from Hanover, PA, to points in CA, WA, NV, OR, and AZ, under continuing contract(s) with Miller Chemical & Fertilizer Corporation of Hanover, PA; (2) *chain and attachments and hardware therefor, cable, wire rope, and chain manufacturing machinery and equipment* (a) from York, PA, to points in WA, OR, CA, ID, NV, MT, WY, UT, AZ, CO, NM, OK, and TX, (b) from Denver, CO, to points in AZ, CA, ID, NV, OR, UT, and WA, and (c) from York, PA, to points in FL, GA, NC, SC, AR, AL, TN, MO, KS, LA, and MS, under continuing contract(s) with Campbell Chain Company, of York, PA; and (3) *iron and steel* (with exceptions), from points in CA to York, PA, under continuing contract(s) with Campbell Chain Company of York, PA.

Note.—TA has been filed.

[FR Doc. 82–16055 Filed 6–14–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Decision-Notice; Finance Applications

As indicated by the finding below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commenrce operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–79834. By decision of June 1, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to MEADE P. SAVAGE AND JAMES M. SAVAGE d.b.a. SAVAGE AND SON TRUCKING of W. Sacramento, CA of Certificate No. MC–151318, issued to CALIFORNIA CONTRACT CARRIERS OF W. Sacramento, CA authorizing: over irregular routes, printing paper, between the facility used by Simpson Paper Company in San Jaoquin County, CA, on the one hand, and, on the other, points in Arizona. Representative: Daniel W. Baker, 100 Pine St., Suite 2550, San Francisco, CA 94111. TA lease is not sought. Transferee is not a carrier.

MC–FC–79847. By decision of June 1, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to FRANK HABINOWSKI d.b.a. HEP TRANSPORTATION of Certificate No. MC–152411 (Sub-No. 1), issued to EMANON TRANSPORTATION SERVICES, INC. authorizing the transportation of *general commodites* (except household goods and commodities in bulk), between points in Luzerne County, PA, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). Transferee is a non-carrier. Representative: P. E. Myers, Suite 348, 425 13th St., NW., Washington, DC 20004—1879.

MC–FC–35485. By decision of May 26, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the lease to Denver-Chicago Express Inc., of Omaha, NE of Certificate No. MC–127602 (Sub-Nos. 29 and the remaining sub parts of Sub-30) issued to Flatlands Express, Inc., of Litchfield Park, AZ authorizing *general commodities* (with exceptions), over described regular and irregular routes, serving named intermediate and off-route points between IA, MN, NE, ND, SD, CO, IL, IN, KS, KY, MI, MO, OH, WI, CA, NV, and UT for a period of 1 year. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. TA lease is sought. Transferee is not a carrier.

Note.—Although applicants seek permission to lease the above-described rights for a period of 3 years, Commission policy favors leasing arrangement of not more than 12 months. Inasmuch as the tax benefits to be gained by Flatlands through a 3-year rather than an 1-year lease do not constitute sufficient cause for us to depart from Commission policy, our approval will be limited to 1-year.

MC–FC–79716. By decision of May 7, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to Isadore Spiegel d.b.a. Spiegel Trucking Co. of Permit No. MC–125770 (Sub-No. 8) issued February 12, 1975 to Spiegel Trucking, Inc. authorizing the transportation of steel ammunition boxes and steel office and library furniture, from the facilities of Art Metal-U.S.A. of Newark, NJ to points in the United States (including AK but excluding HI) under continuing contract or contracts with Art Metal-U.S.A., of Newark, NJ. Applicant's representative is: Harold L. Reckson, 33–28 Halsey Road, Fair Lawn, NJ 07410.

Note.—This notice corrects the notice published in the **Federal Register**, Vol. 47, No. 98, Thursday, May 20, 1982, which contained certain inadvertent errors.

MC–FC–79742. By decision of June 1, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to MIDCOM SERVICES, INC., of Schaumberg, IL, of Permit No. MC–134206 (Sub-No. 2), issued to F & K MILK SERVICE, INC., of Burlington, WI, which

authorizes the transportation of *dairy products, synthetic creams, puddings, fruit drinks, and noncarbonated beverages* (except commodities in bulk), (1) from Whitewater WI, to points in IL, IN, IA, MI, OH, PA, NJ, NY, KY, and MO, and (2) from the plant sites of Hawthorn-Mellody, Inc., at points in IL, IN, IA, MI, OH, PA, NJ, NY, KY, and MO, to Whitewater, WI, under continuing contract(s) with Hawthorn-Mellody, Inc., of Chicago, IL. Representative: Allan B. Torhorst, 217 East Jefferson Street, Burlington, WI 53105.

Note.—Transferee is not a carrier.

MC–FC–79769. By decision of June 1, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to VENTURE EXPRESS, INC. of Nashville, TN of a portion of Certificate No. MC–121821 (Sub-No. 13)X issued to TENNESSEE MOTOR LINES, INC. of Nashville, TN authorizing: *general commodities* (with usual exceptions), between Nashville, TN and Jasper, TN, over U.S. Hwy 41, serving all intermediate points. Representative: Paul M. Daniell, Suite 1200, 235 Peachtree St., Atlanta, GA 30303. TA lease is not sought. Transferee is a carrier.

MC–FC–79800. By decision of 6/1/82 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to R. F. TRUESDELL CO., INC. of Orlando, FL of Permit No. MC–6380 (Sub-No. 11) issued to R. F. TRUESDELL, INC. of Orlando, FL, authorizing over irregular routes, such commodities as are used by or are dealt in by manufacturers of paper and paper products, between points in the United States (except AK and HI), under continuing contract(s) with Inland Container Corporation of Indianapolis, IN. Representative: Paul M. Daniell, Suite 1200, 235 Peachtree St., N.E., Atlanta, GA 30303. TA least is not sought. Transferee is not a carrier.

MC–FC–79831. By decision of 5/26/82 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to HARLOW'S BUS SERVICE, INC., of Rolette, ND of Certificate No. MC–149340F issued to CLEM HEIDT, d.b.a. HEIDT BUS LINE, OF Dickinson, ND authorizing *passengers and their baggage, in charter operations*, between Dickinson, ND and Stark, Dunn, Billings, Golden Valley, McKenzie, Hettinger, Slope, Williams, and Bowman Counties, ND, on the one hand, and, on the other, points in the United States (except AK and HI). Representative: Charles E. Johnson, P.O. Box 2056, Bismarck, ND. TA least is sought. Transferee is not a carrier.

MC–FC–79832. By decision of 5/26/82 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to ALAPLEX TRANSPORTATION, INC. of Boaz, AL of a portion of Certificate No. MC–151551 (Sub-No. 1) issued to ALL AMERICAN FREIGHT LINES, INC. of Birmingham, AL authorizing as a common carrier, over irregular routes, food products, between points in AL, AR, FL, GA, LA, MS, NC, SC, TN, and TX, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK, and TX. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. TA lease is sought. Transferee is not a carrier.

MC–FC–79840. By decision of May 26, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to Commuter Bus line, Inc. of Permit No. MC–106207 (Sub-No. 16) issued to New York-Keansburg-Long Branch Bus Co., Inc. authorizing the transportation of *passengers and their baggage*. Between points in Richmond and New York Counties, NY, under continuing contract(s) with Village Hills Riders Association of Staten Island, NY. Representative: Sidney J. Leshin, 3 East 54th St., New York, NY 10022.

Note(s).—Transferee is a non-carrier.

MC–FC–79843. By decision of June 1, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to Bayside Waste Hauling & Transfer, Inc., d.b.a. Liquid Waste Disposal, of Seattle, WA, of Certificate No. MC–156410 issued to Liquid Waste Disposal Co. (a corporation), of Seattle, WA, authorizing: Hazardous waste and residuals, between points in King, Pierce, and Snohomist Counties, WA, on the one hand, and, on the other, points in WA, OR, ID, NV, and UT. Representative: Jack R. Davis, 1100 IBM Bldg., Seattle, WA 98101. TA least is sought. Transferee is a carrier.

Note(s).—MC–153147 (Sub-1), published in this Federal Register issue is a directly related matter.

MC–FC–79848. By decision of June 1, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to INDUSTRIAL PROCESSING AND PACKAGING, INC. of Princeton, IL of Certificate No. MC–8515 (Sub-Nos. 22, 28, 29, 30, 31, 33, 36, 38, 39, 42, and 43) issued to TOBLER TRANSFER, INC. of Peru, IL authorizing *Plastic, rubber preservatives, rubber accelerators, softeners, and commodities* which are manufactured, sold, and distributed by manufacturers of rubber or plastic products, between Henry, IL, on the one hand, and, on the other, points in IN, IA, KY, MI, MN, MO, OH, PA, TN, WV, and WI; *plastic and chemicals* (except commodities in bulk) between Ottawa, IL, on the one hand, and, on the other, points in IA, IN, KY, MI, MN, MO, OH, TN, WI, and WV; *iron and steel articles* and *materials, equipment, and supplies* used in the manufacture, sale, and distribution of iron and steel articles, (except commodities in bulk), between Peru, IL, on the one hand, and, on the other, points in IN, IA, MN, MO, OH, PA, and WI; *chemicals* (except commodities in bulk) from LaSalle, IL to points in PA, NC, SC, KY, OH, NY, KS, and MN; (a) *iron and steel articles*, and (b) *materials, equipment, and supplies* used in the manufacture, processing, and distribution of iron and steel articles, and (b) *materials, equipment, and supplies* used in the manufacture, processing, and distribution of iron and steel articles, (1) between Bartonville, IL, on the one hand, and, on the other, points in IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, and WI, (2) between Crawfordsville, IN, on the one hand, and on the other, points in IL, IA, KS, KY, MI, MN, MO, and WI, and (3) between Chicago Heights, IL, on the one hand, and, on the other, points in IA (except Des Moines, points in Polk County, and points in IA west of US Hwy 69), IN, KS, MI, and WI; *agricultural machine parts* (except tractor parts), *tractor parts, and materials, equipment, and supplies* used in the manufacture and maintenance of tractors and agricultural machinery, (except commodities in bulk), between the facilities used by International Harvester at Canton, Rock Island, and East Moline, IL, and points in MN, IA, MO, OH, KY, KS, IA, MI, and WI; (1) *alcoholic liquors*, in bulk, or in containers, and (2) *materials and supplies* used in the production of the commodities in (1) above, between points in IL, on the one hand, and on the other, Bardstown, Cox's Creek, Frankfort, and Louisville, KY; (1) *metal couplings, rubber hose, and pipe fittings*, and (2) *materials and supplies* used in the manufacture and distribution of commodities in (1) above (except commodities in bulk), between point in CO, IL, KS, and MO; (1) *alcoholic liquors* (except in bulk), and (2) *materials and supplies* used in the production of alcoholic liquors (except in bulk), between points in AR, IL, KY, and LA, on the one hand, and on the

other, points in AR, IL, KY, LA, MT, WY, CO, NM, AZ, CA, TX, OK, KS, NE, SD, ND, MN, IA, MO, WI, TN, MS, AL, FL, GA, SC, NC, WV, PA, NY, OH, IN, and MI; and *furniture and fixtures, and display material,* between points in IL, NC, TX, UT, and MO, on the one hand, and, on the other, points in the US. Transferee holds no authority the Commission. TA lease is not sought. Representative: Leonard R. Kofkin, Esq., Suite 1515, 140 South Dearborn St., Chicago, IL 60603.

MC-FC-79850. By decision of June 1, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to C&J TRUCKING, INC. of Permit No. MC-158179 issued to A. Curtis Wood, d.b.a. C&J TRUCKING authorizing the transportation of *clay, concrete, glass or stone products,* between points in the United States, under continuing contract(s) with Indiana Glass Company, a Division of Lancaster Colony Corporation, of Dunkirk, IN. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., Indianapolis, IN 46204.

Note(s).—(1) Transferee is a non-carrier.

MC-FC-79851. By decision of 6/1/82 issued under 49 U.S.C. 10924 and the transfer rules at 49 CFR Part 1133, Review Board Number 3 approved the transfer to RONALD J. HOVER, d.b.a. NEW HORIZON TOURS, of Binghamton, NY, of License No. MC-130788F issued to WILLIAM NEWLAND and RICHARD WASHINGTON, d.b.a. NEW HORIZON TOURS, of Binghamton, NY, authorizing brokerage service at Binghamton, NY as follows: passengers and their baggage, in special or charter operations, beginning and ending at points in NY (except Westchester, Putnam, and Dutchess Counties) and extending to Atlantic City, NJ. Representative: Jan L. Shephard, 230 Chenango St., Binghamton, NY 13901. Transferee is not a carrier.

Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed by Motor Carriers Under 49 U.S.C. 11344 and 11349,* 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

MC 153147 (Sub-1), filed May 17, 1982. Applicant: BAYSIDE WASTE HAULING & TRANSFER, INC., d.b.a. LIQUID WASTE DISPOSAL, 7201 West Marginal Way South, Seattle, WA 98106. Representative: Jack R. Davis, 1100 IBM Building, Seattle, WA 98101. Transporting *hazardous waste* between points in WA and OR on the one hand, and, on the other, points in WA, OR, ID, NV and UT.

Note.—This application is directly related to MC-FC-79843, published in this same **Federal Register** issue.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-16056 Filed 6-14-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual

operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absense of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP1–97

Decided: June 7, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

MC 136461 (Sub-3), filed May 20, 1982. Applicant: McKIMM MILK TRANSIT, INC., Highway 22 South, Hutchinson, MN 55350. Representative: Val M. Higgins, 1600 TCF Tower, 121 So. 6th St., Minneapolis, MN 55402, (612) 333–1341. Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 162230, filed May 27, 1982. Applicant: MICHAEL'S COURIER SERVICE, INC., 4701 Maple Ave., Bethesda, MD 20814. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds between points in MD, VA, WV, PA, DE, NJ, NY, and DC.

Volume No. OP2–115

Decided: June 8, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 151123 (Sub-1), filed May 3, 1982. Applicant: T–A–T AIRFREIGHT INC., 4401 N. W. 74th Ave., Miami, FL 33152. Representative: Dominick Antinoro (same address as applicant), 305–592–5492. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 157802 (Sub-3), filed May 26, 1982. Applicant: CONTRACT TRANSPORT, INC., P.O. Box 4120, Dalton, GA 30721. Representative: Frank D. Hall, Suite 202, 1750 Old Springhouse Lane, Atlanta, GA 30338, 404–451–0401. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Hedges, Centerpost, Chelsea, Telogo, and Menlo, GA, and Ewing, Jamestown, and Blanche, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—The purpose of this application is to substitute motor carrier service for abandoned rail carrier service.

MC 158613 (Sub-1), filed May 4, 1982. Applicant: TRICOR BUSINESS GROUP, INC., 1242 Tatamy Rd., Easton, PA 18042. Representative: Roger D. Hershman, 22 Olde Mill Run, Medford, NJ 08055, 609–953–0423. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI); (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI); (3) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI); and (4) as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 161712, filed April 26, 1982. Applicant: M.K.M. ENTERPRISES, INC., 75 Randolph Ave., Avenel, NJ 07001. Representative: Thomas F. X. Foley, P.O. Box F, Colts Neck, NJ 07722, 201–780–0300. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 161973, filed May 12, 1982. Applicant: JOHN L. WHITE, 7580 S. E. Lake Rd., Milwaukie, OR 97222. Representative: John L. White, 6744 W. Mariposa, Phoenix, AZ 85033 (602) 245–0593. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162162, filed May 24, 1982. Applicant: STEVE R. DANIELS, 1609 Plath Ave., Yakima, WA 98902. Representative: Donna Carr, Rt, 8, Box 215, Yakima, WA 98908, 509–966–5724. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditions*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Vol. No. OP4–200

Decided: June 7, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 162237, filed May 27, 1982. Applicant: SWIFT ENTERPRISES, INC., 7901 4th St., N., Suite 308, St. Petersburg, FL 33704. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW, Suite 1200, Washington, DC 20423 (202) 785–0024. Transporting (1) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, and (2) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

Vol. No. OP4–203

Decided: June 9, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 139506 (Sub-1),filed June 1, 1982. Applicant: SMITTY'S VAN & STORAGE

CO., 1417 N. 18th, Omaha, NE 68102. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114 (402) 397–0900. Transporting (a) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), (b) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, and (c) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

Vol. No. OP5–129

Decided: June 8, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 151009 (Sub-5), filed May 25, 1982. Applicant: ATLANTA CARRIERS, INC.,1260 Southern Road, Morrow, GA 30260. Representative: Bruce E. Mitchell, 3390 Peachtree Road, N.E., Atlanta, GA 30326 (404) 262–7855. Transporting, for or on behalf of, the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 162309, filed May 1, 1982. Applicant: D. I. J. MESSENGER d.b.a. A & G MESSENGER, 210 #12 Northern Boulevard, Bayside, NY 11361. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666 (201) 836–1144. Transporting *shipments weighing 100 pounds* or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

James H. Bayne,

Acting Secretary.

[FR Doc. 82-16089 Filed 6-14-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from any applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP2–116

Decided: June 8, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 2202 (Sub-680), filed May 24, 1982. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, OH 44309. Representative: William O. Turney, 7101 Wisconsin Ave., Suite 1010, Washington, DC 20014, 301–986–1410. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with The Boeing Company, of Seattle, WA.

MC 16513 (Sub-37), filed May 19, 1982. Applicant: REISCH TRUCKING AND TRANSPORTATION CO., INC., 1301 Union Avenue, Pennsauken, NJ 08110. Representative: Russell R. Sage, P.O. Box 11278, Alexandria, VA 22312, (703) 750–1112. Transporting *general commodities* (except household goods, commodities in bulk, and classes A and B explosives), between points in the U.S. (except AK and HI), under continuing contract(s) with International Tea Company of Pennsauken, NJ.

MC 82492 (Sub-264), filed May 6, 1982. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Rd., Kalamazoo, MI 49001. Representative: Neil E. Hannan, P.O. Box 2853, Kalamazoo, MI 49003, 616–342–9824. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), (1) between points in Kalamazoo, MI and DC, and (2) between Hopewell, VA, on the one hand, and, on the other, points in Kalamazoo, MI.

MC 105733 (Sub-90), filed May 19, 1982. Applicant: RITTER TRANSPORTATION, INC., 928 East Hazelwood Ave., Rahway, NJ 07065. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, D.C. 20005, (202) 296–3555. Transporting *general commodities* (except household goods and classes A and B explosives), between points in the U.S. (except AK and HI), under a continuing contract(s) with contract with Shell Oil Company, of Houston, TX.

MC 141382 (Sub-9), filed May 10, 1982. Applicant: DON'S MOVING & DELIVERY SYSTEM, INC., 527 South Fremont, Janesville, WI 53545. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI, 608–273–1003.

Transporting *foodstuffs and related products*, between points in the U.S. (except AK and HI), on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, AR and LA.

MC 146753 (Sub-23), filed May 17, 1982. Applicant: SAM YOUNG, INC., P.O. Box 337, Wolcott, IN 47995. Representative: E. Stephen Heisley, 119 Pennsylvania Avenue, NW., #500, Washington, DC 20006, 202–828–5015. Transporting *rubber and plastic products and chemicals*, between points in Vigo County, IN, and Beauregard Parish, LA, on the one hand, and, on the other, points in U.S. (except AK and HI).

MC 147402 (Sub-14), filed May 21, 1982. Applicant: WACO DRIVERS SERVICE, INC. 138 Atando Ave., Charlotte, NC 28206. Representative: Carl L. Helms (same address as applicant), 704–377–5410. Transporting *building materials and pulp, paper and related products*, between points in the U.S., under continuing contract(s) with Gery Manufacturing Company, of Charlotte, NC.

MC 147522 (Sub-2), filed May 17, 1982. Applicant: GEORGE J. BRZEZINSKI, d.b.a. SHUR-WAY MOVING & CARTAGE, 124 Baker Rd., Roundout, IL 60044. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, DC 20036, 202–785–0024. Transporting *household goods*, (1) between points in MI, IN, IL, and WI, and (2) between points in MI, IN, IL, and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 149513 (Sub-2), filed May 17, 1982. Applicant: ACORD TRANSPORTATION, INC., Box 203AA, Route 3, Chandler, OK 74834. Representative: Wilburn L. Williamson, Suite 107, 50 Classen Center, 5101 North Classen Blvd., Oklahoma City, OK 73118, 405–848–7946. Transporting *commodities in bulk*, between points in AR, CO, IA, IL, KS, LA, MO, NE, NM, OK, TN, and TX.

MC 153993 (Sub-4), filed May 25, 1982. Applicant: TKN, INC., 1242 Shawmut Ave., New Bedford, MA 02746. Representative: Terrence Murphy (same address as applicant), 617–996–5620. Transporting *electrical wire and cable* and *such commodities* as are dealt in or used by manufacturers of electrical products, between points in the U.S., under continuing contract(s) with Whitney Blake Company, of Hamden, CT.

MC 157212 (Sub-1), filed May 21, 1982. Applicant: DES MOINES PIGGYBACK SERVICES, INC., 4551 Delaware Ave., Des Moines, IA 50313. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, 515–282–3625. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IA, on the one hand, and, on the other, points in AR, CO, IL, IN, KS, KY, LA, MI, MN, MO, NE, ND, OH, OK, SD, TN, TX, and WI.

MC 161983, filed May 13, 1982. Applicant: BRUCE GRAY AND FLOYD GRAY, d.b.a. B. & F. TRANSPORT, Pleasant St., Monmouth, ME 04259. Representative: Bruce G. Gray (same address as applicant), 207–933–2348. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with (a) Giove Company, Inc., of Jamaica, NY, (b) Associated Grocers of Maine, Inc., of South Gardiner, ME, (c) D. Benedetto, Inc., of New York, NY, (d) Albany International-Technical Fabrics Div., of North Monmouth, NE, and (e) Boston Banana Co., Inc., of Chelsea, MA.

MC 162103, filed May 20, 1982. Applicant: NUNLEY-GARDNER, INC., 2006 N. Grand Ave., Evansville, IN 47710. Representative: James A. Harris (same address as applicant), 812–423–3173. Transporting *furniture and fixtures and household goods*, between points in IN, IL, OH, MO, KY, TN, and MI.

MC 162142, filed May 21, 1982. Applicant: VERL CARNEY, d.b.a. CARNEY TRUCKING, P.O. Box 627, Melvin, AL 36913. Representative: John A. Crawford, 17th Floor Deposit Guaranty Plaza, P.O. Box 22567, 601–948–5711. Transporting (1) *lumber and wood products*, and (2) *forest products*, between points in AL, AR, FL, GA, IL, IN, KY, LA, MO, MS, OH, OK, TN, and TX, under continuing contract(s) with Masonite Corporation of Chicago, IL.

Volume No. OP4–199

Decided: June 7, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 139587 (Sub-30), filed May 26, 1982. Applicant: BROWN REFRIGERATED EXPRESS, INC., Route 4, Box 601, Carthage, MO 64836. Representative: Patricia F. Scott, Laurie, MO 65038, (314) 374–9618. Transporting *malt beverages*, between points in LaCrosse County, WI, Ramsey County, MN, St. Clair County, IL, Bexar County, TX, and Vanderburgh County, IN, on the one hand, and, on the other, points in Jasper County, MO.

MC 147537 (Sub-4), filed May 26, 1982. Applicant: WOODROW NORMAN CALDWELL, d.b.a WOODY'S TRANSFER AND STORAGE, 122 Old Stage Coach Rd., Dumfries, VA 22036. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229, (804) 282–3809. Transporting *household goods*, between points in AL, AR, CO, DE, FL, GA, IL, IN, KS, KY, LA, MD, MO, MS, NC, NJ, NY, OH, OK, PA, SC, TN, TX, VA, WV, and DC.

MC 158307 (Sub-1), filed May 28, 1982. Applicant: WAYNE BROWN TRANSPORT, INC., 1109 Barlow St., Lafayette, IN 47903. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with United Costing, Inc., of Chicago, IL.

MC 162127, filed May 20, 1982. Applicant: GABRIEL B. AVILA, MATEUS E. MORIAS d.b.a. A.M. & S. TRANSPORTATION CO., 3009 Filbert St., Oakland, CA 94608. Representative: Mateus E. Morias, (same address as applicant), (415) 547–2905. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CA.

MC 162167, filed May 24, 1982. Applicant: RICH TRUCKING COMPANY, INC., 4510 Poplar Level Rd., Louisville, KY 40213. Representative: Steven K. Palmquist, 321 E. Brooks Ave., Clarksville, IN 47130, (812) 288–6668. Transporting *transportation equipment, agricultural equipment, machinery, those commodities which because of their size or weight require the use of special handling or equipment and self-propelled vehicles*, between points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV and WI.

MC 162217, filed May 27, 1982. Applicant: TRIANGLE TRANSPORT COMPANY, INC., 500 Penn Center Blvd., Pittsburgh, PA 15235. Representative: Thomas M. Mulroy, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222, (412) 471–3300. Transporting (1) *Chemicals and related products*, and (2) *hazardous materials and waste materials*, between points in the U.S., under continuing contract(s) with RAD Services, Inc., d/b/a Triangle Resource Industries, of Pittsburgh, PA. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an

application under 49 U.S.C. 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) from common control to team 4, Room 2410.

MC 162227, filed May 27, 1982. Applicant: O. D. ANDERSON, d.b.a. ANDERSON TOURS, 153 Conneaut Lake Rd., Greenville, PA 16125. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K Street NW., Washington, DC 20005, (202) 783-7900. To operate as a *broker*, at Greenville, PA, in arranging for the transportation of *passengers and their baggage*, in the same vehicle with passengers, in charter and special operations, between points in the U.S. (including AK and HI).

Volume No. OP4-201

Decided: June 9, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 138206 (Sub-22), filed May 27, 1982. Applicant: TRULINE CORPORATION, 4455 S Cameron Ave., Las Vegas, NV 89103. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701, (702) 882-5649. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Genstar Building Materials Co., of Irving, TX.

MC 149576 (Sub-17), filed May 24, 1982. Applicant: TRANS AMERICAN TRUCKING SERVICE, INC., P.O. Box 1247, Nixon Station, Edison, NJ 08818. Representative: R. M. McGraw (same address as applicant), (202) 965-2182. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 160736, filed May 13, 1982, previously noticed in the Federal Register issue of May 26, 1982, and republished this issue. Applicant: DAVID R. BELL TRUCKING, 7718 Kendall Rd., Pavilion, NY 14525. Representative: David R. Bell (same address as applicant), (716) 237-5078. Transporting *agricultural fertilizer and soil conditioners*, (a) between the ports of entry on the International Boundary line between the U.S. and Canada on the Niagara River in NY, on the one hand, and, on the other, points in Monroe, Livingston, and Wyoming Counties, NY, and (b) between Toledo, OH, Baltimore, MD, Wilmington, DE, and points in Shenandoah County, VA, on the one hand, and, on the other, points in Monroe, Livingston, and Wyoming Counties, NY, under continuing contract(s) with Geneseo Lime Products, Inc., and DEM Equipment and Leasing, Inc., both of Rochester, NY.

Note.—The purpose of this republication is to include the names of the contract shippers, which were inadvertently omitted from the previous notice.

MC 162228, filed May 27, 1982. Applicant: HELSER BROS. TRANSFER CO., 7077 NE Columbia Blvd., Portland, OR 97218. Representative: David C. White, 2400 SW Fourth Ave., Portland, OR 97201, (503) 226-6491. Transporting *building materials, metal products, machinery and lumber and wood products*, between points in OR and WA.

MC 162236, filed May 27, 1982. Applicant: LITTLE DONKEY ENTERPRISES, INC., P.O. Box 822 Estacada, OR 97023. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW, Suite 1200, Washington, D.C. 20423, (202) 785-0024. Transporting (1) *lumber and wood products*, (2) *metal products*, and (3) *machinery*, between points in Washington and Multnomah Counties, OR, and San Bernardino County, CA, on the one hand, and, on the other, points in WA, OR, CA, NV, MT, ID, UT, AZ, WY, CO, NM, OK, and TX.

MC 162256, filed June 1, 1982. Applicant: ACTION SKU TOURS, INC., 10 Broadway, Amityville, NY 11701. Representative: Anthony J. Dinome, 128 Grohmans Lane, Plainview, NY 11803, (516) 935-1714. As a *broker* at Amityville, NY, in arranging for the transportation of *passengers and their baggage*, between points in the U.S.

MC 59666 (Sub-22), filed June 1, 1982. Applicant: TRAFIK SERVICES, INC., 25 Esten Ave., Pawtucket, RI 02860. Representative: Robert A. Mega (same address as applicant), (401) 724-1200. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Taylor Rental Corporation, of Springfield, MA.

Volume No. OP4-202

Decided: June 9, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 94636 (Sub-4), filed June 1, 1982, Applicant: WARSAW MOVING & STORAGE, INC., Route 15 North, P.O. Box 256, Warsaw, IN 46580. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, (202) 785-0024. Transporting *household goods*, between points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, and DC.

MC 113646 (Sub-24), filed June 1, 1982, Applicant: JEFFERSON TRUCK COMPANY, P.O. Box 17, National City, MI 48748. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49684, (616) 941-5313. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 140276 (Sub-9), filed June 1, 1982, Applicant: LARRY SCHEFUS TRUCKING, INC., Rt. 1, Box 202, Redwood Falls, MN 56283. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., Minneapolis, MN 55402, (612) 340-0808. Transporting (1) *farm equipment and machinery*, between points in the U.S. (except AK and HI), under continuing contract(s) with Wood and Conn, Inc., of Redwood Falls, MN and (2) *lumber and wood products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Midwest Pacific Corporation, of Minneapolis, MN.

MC 140276 (Sub-10), filed June 1, 1982, Applicant: LARRY SCHEFUS TRUCKING, INC., Rt. 1, Box 202, Redwood Falls, MN 56283. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., Minneapolis, MN 55402, (612) 340-0808. Transporting *metal products*, between points in the U.S. (except AK and HI).

MC 143776 (Sub-53), filed June 1, 1982. Applicant: C.D.B., INCORPORATED, 155 Spaulding Ave., S.E., Grand Rapids, MI 49506. Representative: C. Michael Tubbs (same address as applicant), (800) 253-9527. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Stone Container Corporation, of Chicago, IL.

MC 148496 (Sub-3), filed June 1, 1982. Applicant: O. W. SMITH TRANSPORT, INC., Route 3, Hwy 71 North, DeQueen, AR 72832. Representative: Thomas B. Staley, 1550 Tower Bldg., Little Rock, AR 72201, (501) 375-0151. Transporting *steel and metal products*, between (a) points in Harris County, TX, on the one hand, and, on the other, points in AR, and (b) between points in Pulaski County, AR,

on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151556 (Sub-5), filed June 1, 1982. Applicant: ALLSTATE TRANSPORTATION COMPANY, 2000 West 98th St., Bloomington, MN 55431. Representative: Marvin M. Mueller (same address as applicant), (612) 881–3378. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of ranges and microwave ovens, between points in the U.S., under continuing contract(s) with Litton Microwave Cooking Products, Inc., of Minneapolis, MN.

Volume No. OP5–128

Decided: June 4, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 3419 (Sub-16), filed June 4, 1982. Applicant: THE CLEVELAND, COLUMBUS & CINCINNATI HIGHWAY, INC., 1375 Euclid Ave., One Playhouse Square, Cleveland, OH 44115. Representative: Elliott Bunce, Suite 1301, 1600 Wilson Blvd., Arlington, VA 222209, (703) 522–0900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Kmart Corporation, of Troy, MI.

MC 79658 (Sub-20), filed May 27, 1982. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant), 812–424–2222. Transporting *household goods,* between points in the U.S. under continuing contract(s) with Metropolitan Life Insurance Company of New York, NY.

MC 110689 (Sub-17), filed May 25, 1982. Applicant: AIRWAY TRUCKING CO., 4239 Newton Rd., Stockton, CA 95204. Representative: Robert Fuller, 13214 E. Penn St., Suite 310, Whittier, CA 90602, (213) 945–3002. Transporting *metal products; machinery; lumber and wood products; construction materials, equipment, and supplies; clay, concrete, glass or stone products; chemicals and related products; petroleum or coal products, rubber and plastic products; and commodities which, because of size or weight, require special handling or equipment,* between points in the U.S. (except AK and HI).

MC 128409 (Sub-10), filed June 4, 1982. Applicant: HAROLD MILLER TRUCKING, INC., P.O. Box 603, Moorhead, MN 56560. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108, (701) 237–4223. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with General Nutrition Corporation, of Pittsburgh, PA.

MC 135989 (Sub-38), filed May 28, 1982. Applicant: COAST EXPRESS, INC., 14280 Monte Vista Ave., Chino, CA 91710. Representative: William J. Lippman, P.O. Box 6060, Snowmass Village, CO 81615, (303) 923–4565. Transporting *such commodities* as are dealt in by manufacturers and distributors of automotive parts and accessories, between points in the U.S., under continuing contract(s) with Century Wheel & Rim, of Commerce, CA.

MC 139579 (Sub-15), filed May 27, 1982. Applicant: GEORGE H. GOLDING, INC., 5879 Marion Drive, Lockport, NY 14094. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580, (716) 265–9510. Transporting *pulp, paper and related products,* between points in the U.S., under continuing contract(s) with Packaging Corporation of America of Evanston, IL.

MC 140149 (Sub-5), filed June 3, 1982. Applicant: M.C. BUNCH, INC., Route 1, Box 52, Lake City, AR 72437. Representative: James M. Duckett, 221 W. 2nd, Suite 411, Little Rock, AR 72201, 501–375–3022. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with RSD Warehouse Company of City of Commerce, CA.

MC 143649 (Sub-10), filed June 3, 1982. Applicant: FIGANBAUM TRUCKING, INC., Tripoli, IA 52676. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *chemicals and related products,* between points in Winona County, MN, on the one hand, and, on the other, points in IA.

MC 150308 (Sub-2), filed May 27, 1982. Applicant: SUPERIOR TRANSFER SERVICE, INC., 401 East 20th St., Kansas City, MO 64180. Representative: Arthur J. Cerra, 2100 CharterBank Center, P.O. Box 19251, Kansas City, MO 64141, (816) 842–8600. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Mid-West Terminal Warehouse Co. of Kansas City, MO.

MC 151639 (Sub-5), filed June 3, 1982. Applicant: C & S TRUCKING, INC., P.O. Box 189, Suffolk, VA 23434. Representative: Blair P. Wakefield, Suite 1001, First and Merchants, National Bank Bldg., Norfolk, VA 23510, 804–627–0070. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in DE, GA, MD, NJ, NC, PA, SC, VA, WV, and DC.

MC 153749 (Sub-3), filed June 1, 1982. Applicant: REPUBLIC GYPSUM COMPANY, P.O. Drawer C, Duke, OK 73532. Representative: Don L. Strange (same address as applicant), (405) 679–3391. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AR, CO, IA, IL, KS, LA, MO, NE, NM, TN, WY, IN, TX, and OK.

MC 153938 (Sub-10), filed June 5, 1982. Applicant: ENERGY EXPRESS, INC., P.O. Box 27605, Salt Lake City, UT 84127. Representative: Norval Milsap (same address as applicant), (801) 364–4532. Transporting *petroleum, natural gas and their products,* between points in the U.S., under continuing contract(s) with Central Petroleum Corporation, of Dallas, TX.

MC 154779 (Sub-2), filed June 3, 1982. Applicant: ALLSTATE VAN LINES, INC., d.b.a. ALLSTATE MOVING & STORAGE CO., 11680 Grooms Rd., Cincinnati, OH 45242. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Washington, DC 20036, 202–785–0024. Transporting *household goods,* between points in the U.S. (except AK and HI), under continuing contract(s) wth James River Corporation of Richmond, VA.

MC 159189 (Sub-2), filed May 27, 1982. Applicant: MERRITT TRUCKING COMPANY, INC., P.O. Box 16346, Greensboro, NC 27419–6346. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602 (919) 828–0731. Transporting *liquefied petroleum gas,* between points in NC and SC.

MC 160399, filed May 27, 1982. Applicant: FIFE, INC., Hilton, Rd., P.O. Box 329 Keokuk, IA 52632. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309 (515) 244–2329. Transporting *iron and steel articles,* between points in Lee County, IA, on the one hand, and, on the other, points in IL, IN, KS, MI, MN, MO, NE, OK, TX, and WI.

MC 160609, filed May 4, 1982. Applicant: TOMAR, INC., Rt. 2, Box 274, Ridgeley, WV 26753. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740 (301) 797–6060. Transporting *ventilator equipment,* between points in the U.S. (except AK and HI), under continuing contract(s) with Penn Ventilator Company, Inc., of Philadelphia, PA.

MC 161069, filed June 1, 1982. Applicant: ROFFERS BROTHERS TRUCKING, INC., 750 Glory Road, Green Bay, WI 54303. Representative: Nancy J. Johnson, 103 East Washington St., Box 218, Crandon, WI 54520 (715) 478–3341. Transporting *meat, meat products and meat by-products,* between points in Brown County, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI.)

MC 162189, filed May 25, 1982. Applicant: LAND OCEAN TRANSPORT, INC., 2035 N. Miami Ave., Miami, FL 33127. Representative: Bernard C. Pestcoe, 201 Alhambra Circle, Suite 511, Coral Gables, FL 33134 (305) 445–9668. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), (a) between points in Dade, Broward and Palm Beach Counties, FL, and (b) between points in Orange, Duval, Hillsborough, Pinnellas, Marion, Monroe, Collier and Lee Counties, FL, on the one hand, and, on the other, points in Dade, Broward, and Palm Beach Counties, FL.

MC 162219, filed May 27, 1982. Applicant: HARRISON'S TOURING SERVICE, 9319–21 Gratiot, Detroit, MI 48213. Representative: Warren A. Harrison (same address as applicant) (313) 923–4041. Transporting *passengers and their baggage* in same vehicle with passengers, in special and charter operations, between Detroit, MI and Cleveland, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162228, filed May 27, 1982. Applicant: ALL PRO DISTRIBUTION, INC., 2700 Gaston Avenue, Dallas, TX 75226. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245 (214) 358–3341. Transporting *general commodities* (except commodities in bulk, household goods and classes A and B explosives) moving under freight forwarder bills of lading between points in TX.

MC 162229, filed May 27, 1982. Applicant: SANTAROSA TRUCKING, INC., 2445 Allen Ave., Niagara Falls, NY 14303. Representative: August A. Iacovitti (same address as applicant) (716) 285–9101. Transporting *petroleum or coal products and byproducts,* between points in NJ, NY, OH, and PA, under continuing contract(s) with Simon Oil Company of Niagara Falls, NY, and Mobil Oil Corporation of Fairfax, VA.

MC 162239, filed May 27, 1982. Applicant: SALEM CARRIERS, INC., 245 Charlois Blvd., Winston-Salem, NC 27103. Representative: Daniel J. Sweeney, Steven J. Kalish, Suite 1105, 1750 Pennsylvania Ave., NW., Washington, D.C. 20006 (202) 393–5710. Transporting (1) *tobacco products* under continuing contract(s) with Lorillard A Division of Loew's Theaters, Inc. of Greensboro, NC, and (2) *clothing,* under continuing contract(s) with the Hanes Hosiery Division of Consolidated Foods Corporation, of Winston-Salem, NC, between points in the U.S.

MC 162288, filed June 1, 1982. Applicant: LAWRENCE J. GIUSTO, d.b.a. LIBERTY TRANSPORTATION, 13501 Oakland Drive, Burnsville, MN 55337. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424 (612) 927–8855. Transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U. S., including AK but excluding HI, under continuing contract(s) with Home Brands, Division of Peavey Company, of Minneapolis, MN, and (2) *clay, concrete, glass or stone products,* between points in the U.S., including AK but excluding HI, under continuing contract(s) with Midland Glass Company, Inc., of Shakopee, MN.

MC 162299, filed June 1, 1982. Applicant: SYMONS TIRE, INC., 1264 N. Main St., Bishop, CA 93514. Representative: Robert G. Harrison, 4290 James Drive, Carson City, NV 89701 (702) 882–5649. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with The BF Goodrich Company of Akron, OH.

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Decided: June 8, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 50069 (Sub-572), filed May 21, 1982. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Ave., Oregon, OH 43616. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114 (216) 566–5659. Transporting *general commodities* (except household goods, and classes A and B explosives), between points in the U.S., under continuing contract(s) with Standard Oil Company, of Cleveland, OH, and its wholly-owned subsidiaries, BP Oil, Inc., Old Ben Coal Company, Vistron, Corporation, Mountaineer Carbon Company, and Sohio Petroleum Company, all of Cleveland, OH.

MC 56799 (Sub-11), filed June 1, 1982. Applicant: CLAXON TRUCK LINE, INC., P.O. Box 678, Frankfort, KY 40602. Representative: George M. Catlett, 700–702 McClure Bldg., Frankfort, KY 40601, 502–227–73—. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Franklin County, KY, on the one hand, and, on the other, points in AL, GA, IL, IN, MD, Lower Peninsula of MI, MO, NC, NJ, NY, OH, PA, SC, TN, VA, WI and WV.

Note.—Applicant proposes to tack the authority sought with its existing regular route authority.

MC 97748 (Sub-2), filed June 1, 1982. Applicant: ARTHUR E. ROLLINS, d.b.a. KEELEY'S OVERLAND EXPRESS, 345 Tremont St., Rehoboth, MA 02769. Representative: Robert A. Mega, 25 Esten Ave., Pawtucket, RI 02860 (401) 724–1200. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, MA, and RI.

MC 109818 (Sub-100), filed May 28, 1982. Applicant: WENGER TRUCK LINE, INC., P.O. Box 3427, Davenport, IA 52808. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309, 515–244–2329. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with General Foods Corporation of White Plains, NY, and its subsidiaries Birds Eye, Inc., of White Plains, NY, and Oscar Mayer and Co., Inc., of Madison, WI.

MC 133858 (Sub-3), filed June 1, 1982. Applicant: THE COTTER GARAGE CORPORATION, 86 Granby St., Bloomfield, CT 06002. Representative: James T. Graham, One Constitution Plaza, Hartford, CT 06103, 203–547–1120. Transporting *passengers and their baggage and newspapers,* in the same vehicle with passengers, limited to the transportation of not more than 8 passengers in the vehicle (excluding the driver), beginning and ending at Hartford, East Hartford, Farmington and Bloomfield, CT, and extending to New York, NY, under continuing contract(s) with Aetna Life & Casualty Company, and United Technologies Corporation both of Hartford, CT, and Connecticut General Corporation of Bloomfield, CT.

MC 139629 (Sub-7), filed June 1, 1982. Applicant: BOOTH REFRIGERATED LINES, INC., 1308 16th Ave., Central City, NE 68826. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, 402–397–9900. Transporting *food and related products,* between points in NE, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 145869 (Sub-6), filed June 1, 1982. Applicant: WILLIS TRUCKING CO., INC., Route 2, Willia, VA 24380. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, 703–629–2818. Transporting *textile mill products,* between points in Floyd County, VA, on the one hand, and, on the other, points in CA.

MC 147868 (Sub-4), filed May 26, 1982. Applicant: OKLAHOMA WESTERN LINES, INC., 1100 North Broadway, Checotah, OK 74426. Representative: Thomas A. Stroud, 109 Madison Ave., Memphis, TN 38103, (901) 526–2900. Transporting (1) *dryset mortars* and (2) *tile,* between Birmingham, AL, on the one hand, and, on the other, points in GA, AR, TX, OK, LA, MS, and TN.

MC 151699 (Sub-2), filed June 3, 1982. Applicant: BDL TRUCKING, INC., 18026 Ute St., N.W., Anoka, MN 55303. Representative: Stanley C. Olsen, Jr., 5200 Willson Road, Suite 307, Edina, MN 55424, (612) 927–8855. Transporting (1) *precut log homes,* between points in Warren County, PA, on the one hand, and, on the other, points in IA, IL, IN, MI, MN, ND, OH, SD, and WI, and (2) *such commodities* as are dealt in or used by manufacturers and distributors of machinery, between points in the U.S. (including AK but excluding HI).

MC 15118 (Sub-8), filed June 1, 1982, Applicant: T.D.S. TRANSPORTATION, INC., 1700 South Wolf Road, Des Plaines, IL 60018. Representative: Julie L. Roper (same address as applicant), (312) 298–8800. Transporting *general commodities* (except household goods, commodities in bulk, and classes A and B explosives), between points in the U.S. (except AK and HI), under continuing contract(s) with Charles McAlpin Brokerage, Inc., of Decatur, AL, Denver Oil Company, of Oklahoma City, OK, Dennison National, of Holyoke, MA, Lippincott Industries, Inc., of Aurora, NE, and Leslie Paper Company, of Minneapolis, MN.

MC 155599 (Sub-2), filed June 1, 1982, Applicant: ROBERT STOCK, d.b.a. STOCK TRANSPORT, Lebanon, IL 62254. Representative: Edward D. McNamara, Jr., Leslieann C. Maxey, 907 South Fourth St., Springfield, IL 62703, (217) 528–8476. Transporting *foundry supplies,* between St. Louis, MO and points in Madison County, IL, on the one hand, and, on the other, points in KS, under continuing contract(s) with St. Louis Coke & Foundry Supply Co., of St. Louis, MO.

MC 158989 (Sub-1), filed May 28, 1982, Applicant: EASTERN GILLETTE, INC., 20 Paulina St., Somerville, MA 02144. Representative: Ronald I. Shapss, 450 7th Ave., New York, NY 10123, (212) 239–4610. Transporting *printed matter,* between points in MA, CT, RI, NH, NY, and VT, on the one hand, and, on the other, points in TN, IL, NY, PA, IN, NJ, MA, NH, RI and OH. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of this affidavit or proof of filing the application(s) for common control to Team 5 Room 6370.

MC 160649, filed May 28, 1982, Applicant: SMALLEY TRUCKING COMPANY, 1709 Duke Rd. (P.O. Box 486), Sutherlin, OR 97479. Representative: Michael J. Smalley (same address as applicant), 503–459–4838. Transporting (1) *lumber and wood products,* (2) *building materials (except those in (1)),* bvetween points in OR, WA, CA, NV, ID, UT, AZ, MT, WY, CO, and NM; (3) *waste paper, paper and paper products,* between points in OR, WA, CA, NV, ID, UT, and AZ; (4) *agricultural chemicals and related products,* between points in OR, WA, CA, ID, NV, UT, MT, and ND.

MC 161278, filed June 1, 1982, Applicant: K CROWN CARTAGE, INC., 4225 West 107th St., Oak Lawn, IL 60453. Representative: Richard A. Kerwin, 180 North LaSalle St., Chicago, IL 60601, (312) 332–5106. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with R & A Distributing Corporation of Des Plaines, IL, and S–W Distributors, Inc., of Berkeley, IL.

MC 161979, filed May 14, 1982. Applicant: BEN C. WILLIAMS BAKERY SERVICE, INC., 6000 Denton Dr., Dallas, TX 75235. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245, 214–358–3341. Transporting *such commodities* as are dealt in or used by wholesale and retail bakeries, between points in TX, TN, NM, AL, AR, CO, GA, KS, KY, LA, MS, MO, OK, and IL.

MC 162089, filed June 1, 1982. Applicant: BODWAY TRUCKING, INC., 7660 Gainesville Ave., Jacksonville, FL 32206. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202, (904) 632–2300. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 162218 (Sub-1), filed May 17, 1982. Applicant: S.J.F. TRANSFER CORP., 11 Suncrest Dr., Dix Hills, NY 11746. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, 703 629–2818. Transporting (1) *pulp, paper and related products,* between points in Hanover County, VA, on the one hand, and, on the other, points in CT, FL, GA, IL, IN, KY, MD, NC, NJ, NY, OH, PA, SC, and WV; (2) *food and related products,* between Baltimore, MD, and points in Hillsboro County, NH, and James City County, VA, on the one hand, and, on the other, New York, NY, points in Nassau and Suffolk Counties, NY, and points in NJ; (3) *containers,* between points in Vigo County, IN, Scott County, MN, Okmulgee County, OK, Houston County, GA, and Monmouth County, NJ, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, KS, OK, and TX; and (4) such commodities as are dealt in by drug, grocery, or discount stores, between points in DE, FL, GA IL, MD, OH, PA, NJ, and VA, on the one hand, and, on the other, points in CT, DE, FL, GA, IL, IN, MA, MD, ME, MI, NC, NH, NJ, NY, OH, PA, RI, SC, VA, VT, and DC.

MC 162238, filed May 28, 1982. Applicant: BENNIE ANGERER, 5191 Marland SW., Navarre, OH 44662. Representative: Richard H. Brandon, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017, 614–889–2531. Transporting *bakery goods,* between points in the U.S. (except AK and HI), under continuing contract(s) with Nickles Bakery, Inc., of Navarre, OH.

MC 162288, filed June 1, 1982. Applicant: SWIFT MESSENGER & TRUCKING CO., 3950 West Lunt Ave., Lincolnwood, IL 60645. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603, (312) 263–2306. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 162308, filed June 2, 1982. Applicant: HAYES–ALBION TRANSPORTATION CORPORATION, 1999 Wildwood Ave., Jackson, MI 49202. Representative: William H. Borghesani, Jr., 1150 17th Street NW., Suite 1000, Washington, DC 20036, 202–457–1122. Transporting (1) *automobile, truck and tractor parts,* between points in the U.S. (except AK and HI), under continuing contract(s) with Detroit Diesel Division of G.M.C., of Detroit, MI; Melling Tool Company of Jackson, MI; Bendix Heavy Vehicle Systems Group of Elyria, OH; and Chrysler Corporation of Detroit, MI, and (2) *scrap grinding wheels,* between points in the U.S. (except AK and HI),

under continuing contract(s) with Jackson Abrasives of Jackson, MI.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-16059 Filed 6-14-82; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. 257]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: June 8, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to special provisions applicable to restriction removal.

Canadian Carrier Applicants: In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC-157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Ewing, and Williams.

James H. Bayne,

Acting Secretary.

MC 2202 (Sub-682)X filed June 1, 1982. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, Arkron, OH 44309. Representive: William O. Turney, 7101 Wisconsin Ave., Suite 1010, Washington, DC 20814. Sub-No. 643, remove the restriction against the transportation of commodities requiring special equipment in its general commodity authority.

MC 20582 (Sub-13)X, filed June 1, 1982. Applicant: HENRY H. STEVENS, INC., 1273 Broadway, Flint, MI 48506. Representative: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, MI 48226. Lead and Subs 2, 5, 6G, 7, 8 and 9 certificates, and letter notices E-1 through E-44. Broaden household goods to "household goods and furniture and fixtures" in each of the above authorities.

MC 126373 (Sub-4)X, filed May 3, 1982. Applicant: BONHAM'S SPECIAL DELIVERY, INC., d.b.a. BONHAM'S SPECIAL DELIVERY, P.O. Box 6584, Charleston, WV 25302. Representative: John M. Freidman, 2930 Putnam Ave., P.O. Box 426, Hurricane, WV 25526. Lead certificate, remove: (1) Except commodities of unusual value from authority to transport general commodites (with exceptions); (2) ex-air restriction; and (3) restrictions limiting service to named airports, and broaden to the following counties or cities: (a) Kanawha County Airport, at Charleston, WV (Kanawha and Putnam Counties, WV), (b) Greater Pittsburgh Airport, in Moon Township, PA (Allegheny, Washington, Westmoreland, Butler, and Beaver Counties, PA), (c) Washington National Airport in Arlington County (Washington, DC), (d) Dulles International Airport in Fairfax and Loudoun Counties (Arlington, Fairfax, and Loudoun Counties, VA) (e) Baltimore Washington International Airport in Anne Arundel County (Baltimore, MD), (f) Cincinnati Municipal Airport, in Hamilton County, OH and Greater Cincinnati Airport, in Boone County, KY, (Campbell, Boone, and Kenton Counties, KY, Hamilton, Butler, Warren, and Clermont Counties, OH), (g) Columbus Municipal Airport, in Franklin County, OH (Franklin, Union, Delaware, Licking, Fairfield, Madison, and Pickaway Counties, OH), (h) Cleveland Hopkins Airport, near Cleveland, OH (Cuyahoga, Lake, Lorain, Medina, Summit, and Geauga Counties, OH), (i) J. M. Cox Municipal Airport, near Dayton, OH (Montgomery, Greene, Clark, and Miami Counties, OH), (j) Douglas Municipal Airport, near Charlotte, NC (Mecklenburg, Union, Gaston, and Cabarrus Counties, NC and York County SC), and (k) Weir Cook Municipal Airport, near Indianapolis, IN (Marion, Hancock, Boone, Hamilton, Hendrix, Johnson, Morgan, and Shelby Counties, IN).

MC 135128 (Sub-2)X, filed May 27, 1982. Applicant: CLEVELAND CARTAGE SERVICE, INC., 3600 Bridge Rd., Cleveland, OH 44102. Representative: John P. McMahon, 100 East Broad St., Columbus, OH 43215. Lead certificate (1) broaden steel drums and steel pails to "metal products"; (2) change one-way to radial authority; (3) change facilities at Cleveland, OH to Cuyahoga County, OH; and (4) remove restriction against the transportation of steel drums and steel pails, when moved as contractor's equipment and supplies, between the Cleveland facilities and specified areas in MI and PA.

MC 139843 (Sub-20)X, filed May 24, 1982. Applicant: VERNON G. SAWYER, P.O. Box 847, Bastros, LA 71220. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180. Lead and Sub-Nos. 2, 3F, 5F, 6F, 8F, 11F, 12F, and 14F certificates: Broaden (1) commodities: Lead certificate, to "lumber and wood products" from wood residuals; Sub 2, "food and related products" from feed and feed ingredients; Subs 3 and 11, "pulp, paper and related products" from paper, paper products, and pulpboard, and "machinery" from paper mill machinery; Sub 5, "lumber and wood products" from turned wood products; Sub 6, "machinery, clay, concrete, glass or stone products, and plastic and rubber products," from refractories and materials and supplies used in the manufacture and repair of refractories; Subs 8 and 14, "clay, concrete, glass or stone products" from clay, sweeping compounds, and absorbents; and Sub 12, "rubber and plastic products," from plastic film and sheeting; (2) facilities and named points to countywide authority: Sub 2, Morehouse Parish, LA (facilities near Mer Rouge); Subs 3, 11, and 12, Ashley and Jefferson Counties, AR (facilities near Crossett and Pine Bluff), Ouachita Parish, LA (Monroe), Hinds County, MS (Jackson), Lincoln Parish, LA (Ruston), and Lowndes County, MS (Columbus); Subs 5 and 6, Morehouse Parish, LA (Bastrop); and Sub 8, Thomas County, GA (facilities near Ochlocknee); (3) from one-way to radial authority; and (4) remove: (a) "except commodities in bulk, in tank vehicle" restrictions in Subs 2, 3, 6, 8,

and 11, and (b) "originating at and destined to" restriction in Subs 2, 3, 5, 6, 8, 11, and 12.

[FR Doc. 82-16057 Filed 6-14-82; 8:45 am]
BILLING CODE 7035-01-M

[AB 18 (SDN) [1]]

Chessie System; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.23, that The Chessie System has filed with the Commission its amended color-coded system diagram map in docket No. AB18 (SDM). The Commission on June 1, 1982, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 18 (SDM) [1]

James H. Bayne,
Acting Secretary.

[FR Doc. 82-16053 Filed 6-14-82; 8:45 am]
BILLING CODE 7035-01-M

[AB 26 (SDM) [1]]

Southern Railway Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.23, that the Southern Railway Company has filed with the Commission its amended color-coded system diagram map in docket No. AB 26 (SDM). The Commission on May 19, 1982, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 26 (SDM).

James H. Bayne,
Acting Secretary.

[FR Doc. 82-16054 Filed 6-14-82; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 311 (Sub-4)]

Modification of the Motor Carrier Fuel Surcharge Program

AGENCY: Interstate Commerce Commission.

ACTION: Change in owner-operator fuel reimbursement figure.

SUMMARY: Due to an increase in the nationwide average cost of diesel fuel, owner-operator reimbursement has increased from 13 to 13.5 cents per mile.

EFFECTIVE DATE: This decision will be effective 10 working days from publication in the **Federal Register** (effective on June 29, 1982).

FOR FURTHER INFORMATION CONTACT:
Lee Alexander (202) 275-7723,
Ted Kalick (202) 275-6446,
Alan Rothenberg (202) 275-7597,
Richard Shullaw (202) 275-7639.

SUPPLEMENTARY INFORMATION: In a decision served May 28, 1982 (47 FR 24228, June 3, 1982), the Commission established owner-operator reimbursement as 13 cents per mile for all carrier-related business miles. This change will become effective June 17, 1982. As noted in the October 8, 1981 decision (46 FR 50070, October 9, 1981), the mileage payment will change when the price of fuel in conjunction with the reimbursement formula causes the figure to rise or decline by .5 cents per mile.

As of June 7, 1982, the current price of diesel fuel was 127.1 cents per gallon. The reimbursement figure is 13.5. Ten working days after publication of the notice in the **Federal Register** (on June 29, 1982), carriers shall reimburse owner-operators at a minimum of 13.5 cents per mile.

During this 10-day period or after, if they choose, carriers may adjust their rates to reflect the change in owner-operator reimbursement by using the 10-day notice provisions of Special Permission No. 81-2500 (see Part 2 of Appendix B and Appendix C to the October 8 decision). All other normal rate-making avenues are also available.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State having jurisdiction over transportation by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by depositing a copy with the Director, Office of the Federal Register, for publication.

Decided: June 9, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-16212 Filed 6-14-82; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-13,208]

Doreen Fashions, Newark, New Jersey; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 8, 1982 in response to a petition received on January 29, 1982 which was filed by the International Ladies' Garment Workers' Union on behalf of former workers at Doreen Fashions, Newark, New Jersey.

The investigation revealed that Doreen Fashions, Newark, New Jersey was in operation for three months, from April 1981 through June 1981, at which time the firm ceased to exist.

Due to the short term of operation of Doreen Fashions, it is not possible to determine trends of sales and production and to statistically measure the impact of imports. In addition, worker qualifying requirements in Section 231 of the Act may not be met by any former employees of Doreen Fashions. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 4th day of June 1982.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-16082 Filed 6-14-82; 8:45 am]
BILLING CODE 4510-30-M

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[1] AB 18 (SDM), The Chesapeake and Ohio Railway Company, AB 19 (SDM), The Baltimore and Ohio Railroad Company, and AB 69 (SDM), The Western Maryland Railway Company.

[1] AB 26 (SDM) includes its consolidated subsidiaries: AB 27 (SDM), The Alabama Great Southern Railroad Company; AB 28 (SDM), Central of Georgia Railroad Company; AB 29 (SDM), The Cincinnati, New Orleans and Texas Pacific Railway Company; AB 30 (SDM), Georgia Southern and Florida Railway Company; AB 64 (SDM), Chattanooga Station Company; AB 118 (SDM), Albany Passenger Terminal Company; and AB 125 (SDM), Norfolk Southern Railway Company.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period May 31, 1982–June 4, 1982.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–12,620; The Arrow Co., Troy, NY
TA–W–12,613; The Selmer Co., Elkhart, IN
TA–W–12,566; Quatro Knits, Inc., Newburgh, NY
TA–W–12,648; Crown Pants Co., Hammonton, NJ
TA–W–12,606; MKD Corp., Cherry Hill, NJ

In the following case the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–12,709; Junior Colony Fashions, Ltd, New York, NY

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–12,137; Zenith Electronics Corp. of Missouri, Springfield, MO

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of color televisions did not increase as required for certification.

TA–W–12,621; Cluett Peabody & Co., Inc., Troy, NY

A significant number or proportion of the workers of the firm were not totally or partially separated as required for certification.

Affirmative Determinations

TA–W–12,202; Russell, Burdsall & Ward Corp., Kent, Oh Plant (Formerly of Lamson & Sessions Co.)

A certification was issued in response to a petition received on January 29, 1981 covering all workers separated on or after March 23, 1980.

TA–W–12,790; South Bend Lathe, Inc., South Bend, IN

A certification was issued in response to a petition received on June 15, 1981 covering all workers separated on or after February 1, 1981.

TA–W–12,700; Harvey Manufacturing Corp., Mt. Clemens, MI

A certification was issued in response to a petition received on May 11, 1981 covering all workers separated on or after May 1, 1980 and before August 1, 1980.

TA–W–12,713; Dee Knitting Mills, Farmingdale, NY

A certification was issued in response to a petition received on May 20, 1981 covering all workers separated on or after November 15, 1980 and before June 1, 1981.

TA–W–12,714; Dippy Knits, Inc., Farmingdale, NY

A certification was issued in response to a petition received on May 20, 1981 covering all workers separated on or after November 15, 1980 and before June 1, 1981.

TA–W–12,716; Three Dee Knitting, Farmingdale, NY

A certification was issued in response to a petition received on May 20, 1981 covering all workers separated on or after November 15, 1980 and before June 1, 1981.

I hereby certify that the aforementioned determinations were issued during the period May 31, 1982–June 4, 1982. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW, Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: June 8, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-16084 Filed 6-14-82; 8:45 am]
BILLING CODE 4510-28-M

[TA–W–12,799]

Jay Clothing Industries, Elizabeth, New Jersey; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 29, 1981 in response to a petition received on June 24, 1981 which was filed by the International Ladies' Garment Workers' Union on behalf of former workers at Jay Clothing Industries, Elizabeth, New Jersey.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose and the investigation has been terminated.

Signed at Washington, D.C. this 3rd day of June 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-16083 Filed 6-14-82; 8:45 am]
BILLING CODE 4510-30-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (82–34)]

National Environmental Policy Act; Finding of No Significant Impact

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Astrophysical research has been a primary objective of NASA since the beginning of space exploration. The unique perspective of space, free from the disturbing effects of the atmosphere, enables the study of the Sun, the solar system, and the rest of the universe to be observed in ways which are not possible from the surface of the Earth. Gamma ray astronomy is one such field of study. These very high energy photons of light are absorbed so strongly by the Earth's atmosphere that they are virtually undetectable from the ground.

The Gamma ray Observatory (GRO) has been proposed to meet NASA's needs for gamma ray research during the late 1980's. This program involves placing into low-earth orbit a 12-ton spacecraft which includes in its complement of scientific instruments sensitive devices for the detection of gamma rays. Both imaging and spectroscopic information will be received about some of the most exotic and strange objects in the universe, including quasars, black holes, neutron

stars, and the erratically variable sources known as "bursters."

The GRO will be a free-flying observatory orbiting the Earth in a circular orbit at an altitiude between 250 and 500 km. It will be placed into orbit by the Space Transportation System (Shuttle) and is to be returned to Earth by controlled (destructive) reentry using its own propulsion system. The total mission lifetime is expected to be between 2 and 3 years.

Possible alternatives to this program do not exist. The Earth's atmosphere effectively stops gamma radiation from penetrating to the ground, and experiments flown on high-altitude balloons are limited in both duration and payload capacity. The GRO Program is the only known way to pursue gamma ray astronomy as a mature science, so as to round out the study of the universe in all regions of the electromanetic spectrum. The information which will be obtained from the program is critical to our understanding of the energy sources in black holes and other very energetic astronomical sources.

No significant environmental impact will result from any phase of development or operations during the GRO Mission. Any manufacturing pollutants will be contained with insignifacant effect on the atmosphere. The effects of any fuel leaks during launch and orbiting of the Space Shuttle are well understood and would be controlled with standard procedures to reduce environmental impacts to minor levels. Controlled reentry of the spacecraft will ensure that impact will occur in a non-inhabited area. Gases or agents which might cause pollution will be dissipated over a large track in the atmosphere and any surviving metals will be common metals such as copper aluminum whose corrosion will cause no sinificant effect.

The conclusions of all analyses are that environmental impacts are either vanishingly small or highly improbable.

DATE: Comments must be received in writing on or before July 15, 1982.

ADDRESS: National Aeronautics and Space Administration, Code EZ-7, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. B. R. McCullar, (202) 755-3676.

SUPPLEMENTARY INFORMATION: The environmental assessment of this proposal project was completed by the National Aeronautics and Space Administratin in January 1982.

CONCLUSION: The development and operation of the GRO will not result in any environmental impacts of a long-term or deleterious nature. No Environmental Impact Statement is required for the subject activity.

Robert F. Allnutt,

Acting Associate Administrator for External Relations

[FR Doc. 82-16038 Filed 6-14-82; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Withdrawal of Notice of Intent To Prepare an Environmental Impact Statement on the National Radio Astronomy Observatory 25-Meter, Millimeter Wave Telescope Project

Notice is hereby given that the National Science Foundation has terminated work on an Environmental Impact Statement for the proposed National Radio Astronomy Observatory 25-meter, millimeter wave telescope project. A Notice of Intent to prepare an EIS for the construction of such a telescope and its astrodome and their installation on Mauna Kea, Hawaii, appealed in the **Federal Register** on 5 February 1980 (Vol. 45, No. 25). Since that time various economic and scientific considerations, rather than environmental factors, have persuaded the Foundation not to pursue funding for such a project at this time. Any comments or questions regarding this action should be directed to Ms. Adair F. Montgomery; Chairman: Committee on Environmental Matters, Astronomical, Atmospheric, Earth and Ocean Sciences; National Science Foundation; 1800 G Street, NW., Washington, D.C. 20550; phone (202)357-9752.

For the National Science Foundation.

Dr. Francis S. Johnson,

Assistant Director for Astronomical, Atmospheric, Earth and Ocean Sciences.

June 10, 1982.

[FR Doc. 82-16072 Filed 6-14-82; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-461]

Negative Declaration Supporting Extension of Construction Permit No. CPPR-137, Expiration Date, Illinois Power Co., et al., Clinton Power Station, Unit 1

The Nuclear Regulatory Commission (the Commission) has reviewed the Illinois Power Company's request to extend the expiration date of the construction permit for the Clinton Power Station, Unit 1, which is located in Harp Township, Dewitt County, Illinois. The request is for an extension to the permit through October 1, 1984 for CPPR-137, to allow completion of construction of the facilities.

The Commission's Division of Licensing has prepared an environmental impact appraisal relative to these changes to CPPR-137. Based on this appraisal, the Commission has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the proposed action other than that which has already been described in the Commission's Final Environmental Statement—Construction Permit State or evaluated in the environmental impact appraisal.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Warner Vespasian Library, Clinton, Illinois.

Dated at Bethesda, Md., this 7th day of June 1982.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 82-16094 Filed 6-14-82; 8:45 am]

BILLING CODE 7590-01-M

Abnormal Occurrence; Major Deficiencies in Management Controls at a Nuclear Power Plant

Section 208 of the Energy Reorganization Act of 1974, as amended, requires the NRC to disseminate information on abnormal occurrences (i.e., unscheduled incidents or events which the Commission determines are significant from the standpoint of public health and safety). The following incident was determined to be an abnormal occurrence using the criteria published in the **Federal Register** on February 24, 1977 (42 Fr 10950). Example I.D.3 ("For All Licensees") in Appendix A notes that a serious deficiency in management or procedural controls in major areas can be considered an abnormal occurrence, The following description of the incident also contains the remedial actions taken.

Date and Place—On January 18, 1982, the NRC issued a Notice of Violation and Proposed Imposition of Civil Penalties for $550,000, together with an Order Modifying the License Effective Immediately, to Boston Edison Company (licensee for the Pilgrim Nuclear Power Station) for management control deficiencies, involving control of combustible gases inside containment and maintenance activities pertaining to

the reactor core isolation cooling system. On February 4, 1982, the licensee was further cited for various violations, including inadequate management controls for operation of the plant with drywell temperatures in excess of design values. The Pilgrim Nuclear Power Station (Pilgrim Unit 1) utilizes a boiling water reactor and is located in Plymouth County, Massachusetts.

Nature and Probable Consequences—Three occurrences of safety significance at Pilgrim Unit 1 indicated continuing serious deficiencies in management control of certain licensee activities. Two of the occurrences involved time periods of several years. Although different in nature these three occurrences demonstrated a recurring lack of management attention to those licensee activities important to safety. Two of these items were examined by NRC inspections conducted during the period June 15 to September 30, 1981. The third item was identified during NRC inspections conducted between November 1, 1981 and January 18, 1982.

The first item involved failure of the licensee from November 27, 1978 to June 5, 1981 to comply with the provisions of 10 CFR 50.44 regarding the ability to control combustible gas mixtures following postulated accidents.The safety significance of this item is that the ignition of an uncontrolled accumulation of combustible gases inside containment during certain postulated accident conditions could have resulted in deflagration and a pressure surge of the containment atmosphere having the potential to byreach the containment and to release substantial quantities of radioactive material to the environment.

The second item concerned violation of a Technical Specification limiting condition for operation. NRC inspections showed that improper management control of maintenance activities of safety related electrical power supplies resulted in a degradation of the containment automatic isolation control logic, partially disabling two isolation valves, and thereby significantly reducing the assurance that the valves would automatically close when required. The safety significance associated with this item is that failure of these valves to close when required during certain accident sequences would cause a significant increase in the amount of radioactive materials released to the environment.

The third item involved operation of the facility at various times from plant startup in 1972 until September 26, 1981 with the primary containment drywell temperature greater than stipulated in the Final Safety Analysis Report. Not only had the licensee been aware of the situation for several years, but there was no evidence that safety evaluations had been made as requird by 10 CFR 50.59. The safety significance of this item is that operation at the elevated temperatures for sustained periods could result in detrimental effects (e.g., premature aging) to equipment required to safely shut down the reactor and to mitigate certain postulated accidents.

Further details of these items are discussed below.

In regard to the first item, on May 29, 1981 the NRC was notified by the licensee that Pilgrim Unit 1 was not in compliance with the provisions of 10 CFR 50.44 pertaining to the control of post accident combustible gas mixtures in containment. On November 27, 1978, 10 CFR 50.44 became effective and required that licensees of light water reactors conduct analyses regarding hydrogen evolution following certain postulated accidents and make appropriate design and equipment modifications such that the combustible gases would be controlled. Pilgrim Unit 1 was required, as a minimum, to have a system capable of purging the containment of the atsmosphere following a postulated loss of coolant accident. The purging system was required to meet certain design criteria which included equipment redundancy to assure system function in the event of single component failure or loss of offsite power. However, the facility operated from November 27, 1978 until June 5, 1981 with a containment atmosphere combustible gas control system which did not meet all the requirements of 10 CFR 50.44.

Associated with this violation was a material false statement, described below, involving the licensee's statement of compliance with the NRC regulations and subsequent failure of the licensee to notify the NRC of deficiencies after the licensee became aware of them.

The second item concerned operation of the facility in violation of a Technical Specification limiting condition for operation for primary containment integrity. On September 12, 1981, during electrical maintenance activities, operating personnel de-energized electrical power supplies, which partly disabled the automatic isolation control logic electrical circuits for both of the redundant containment isolation valves in the reactor steam supply pipe to the reactor core isolation cooling system. This resulted in a loss of redundancy provided in the design of the electrical circuits to assure automatic closure of these valves during certain postulated accidents. The facility was operated in this condition until September 16, 1981 (for a total of about 89 hours) when the misoperation was discovered by the NRC Resident Inspector.

The third item concerned operation of the unit at various times between plant startup in 1972 until September 26, 1981 with the primary containment drywell temperature greater than the Final Safety Analysis Report (FSAR) specified value of 150°F. The FSAR also specifies that the primary cooling and ventilation system be designed to maintain containment temperature at an average value of 135°F (148°F following a reactor scram). Even though the licensee had been aware of the situation for several years, there was no evidence that a safety evaluation had been made as required by 10 CFR 50.59. This apparent lack of management attention to high drywell temperature was probably the root cause of an incident involving a malfunction of instrumentation important to safety which occurred on September 26, 1981. During a routine reactor shutdown and cooldown for refueling, level oscillations of reactor water level instruments were observed. These oscillations occurred four times at approximately 20 minute intervals. Each of these instrument oscillations resulted in a high level automatic isolation of turbines followed by a low level automatic reactor scram and primary containment isolation.

Following the initial oscillation, the operators conducted an isolation verification, a check of redundant level indication and a survey to determine any loss of coolant inventory. A check was also made of the drywell and coolant temperatures. The 0–400" shutdown wide range level instrument showed no oscillation and the survey produced no indication of any loss of coolant from the reactor. The drywell temperature at the highest elevation was 240° F and the coolant temperature was 220° F. It was concluded that the actual reactor water level was normal at the time of the initial instrument oscillation. There were no facilities damaged or radioactive releases associated with the sensed level indications and the automatic safety features functioned as required.

Cause or Causes—The root cause of the three items of concern described above is attributed to serious deficiencies in management controls of licensed activities.

For the first item, a series of major deficiencies in management controls resulted in a protracted failure of the Pilgrim facility to comply with the provisions of 10 CFR 50.44. When 10

CFR 50.44 became effective, the containment atmosphere control system actually installed at Pilgrim Station did not meet all of the regulatory requirements. This condition existed due to management's failure to conduct a proper design review of the capabilities of the existing atmosphere control system. However, the licensee erroneously informed the NRC in a letter dated October 19, 1979 that the existing installed equipment in Pilgrim Unit 1 was in full compliance with the requirements of 10 CFR 50.44. However, apparently as a result of an October 30, 1979 NRC letter requesting details of Pilgrim's compliance with 10 CFR 50.44, the licensee took steps to design and install a modification to the system which would bring Pilgrim into compliance. This modification was installed during the May 1980 outage; however, because of a failure of management to initiate an essential procedural change, the modified system was not fully operational until June 5, 1981.

Prior to installation of the system modification, the failure of licensee management to properly determine system capabilities via a thorough design analysis of the installed system (as compared with the requirements of 10 CFR 50.44) led the erroneous report to the NRC in October 1979. Further, when the licensee subsequently discovered in early 1980 that the installed system did not meet the requirements of 10 CFR 50.44, the licensee did not so inform the NRC and correct the material false statement made in the October 19, 1979 letter.

For the second item, the case involved a breakdown in the control of planned maintenance activities. There was a failure to properly review and control safety-related activities at the facility. The reduction in the level of safety was discovered and identified to the licensee's staff by the NRC resident inspector at the site.

For the third item, the problem of apparent erroneous level oscillations was determined to be caused by flashing of the level instrument reference legs at reduced reactor pressure because of the high drywell operating temperature (240° F) which was in excess of that specified in the FSAR (150° F). Drywell temperatures higher than this specified limit are attributed to ineffective drywell cooling due to a degraded condition of the drywell ventilation system (ducting, coolers, cooling water). The high drywell temperatures and degraded condition of the cooling systems had been observed by Pilgrim station operating personnel on many previous occasions and are considered to have been allowed to continue as a result of inadequate preventive maintenance and management controls in this area.

Actions Taken To Prevent Recurrence

Licensee—For the first item, the licensee restored the system to its original design and initiated an investigation to determine the cause of the unauthorized maintenance. Also, a procedural revision was made to permit effective remote operation of the system. The licensee proposed, and the NRC approved, technical specification changes concerning operability and surveillance requirements of the modified hydrogen control system.

For the second item, when the NRC Resident Inspector discovered the deficiency and notified the licensee, the licensee restored the partially disabled containment isolation control logic electrical circuits to a fully operable condition.

For the third item, corrective maintenance was initiated on the drywell cooling systems to restore the original design capacity during the refueling outage which began on September 26, 1981. Drywell equipment insulation was repaired and additional instrumentation was installed to monitor the drywell temperature and performance of the cooling systems. At the request of the NRC, the licensee proposed Technical Specifications limiting drywell temperatures. In addition, the licensee conducted special inspections, tests, and evaluations for possible detrimental effects on safety-related equipment subjected to this sustained abnormally high temperature environment. Certain equipment, such as instrument limit switches, electrical cables, and solenoids were found to be affected and were either repaired or replaced. The licensee submitted safety evaluations and actions to the NRC for review.

In response to the NRC Order, Notice of Violation and Proposed Imposition of Civil Penalties, described below under NRC actions, the licensee paid the civil penalty in full on March 19, 1982. In response to the Order, on March 18, 1982 the licensee submitted to the NRC for review and approval a Performance Improvement Program which involves a comprehensive action plan of tasks and milestones to correct the deficiencies identified in the NRC Order. The program includes an independent appraisal of site and corporate organizations and functions, modifications in organizational structure, improvements to be made in management control and oversight systems, and programs designed to improve individual performance. The proposed program would span a time period of from 18 to 24 months; however, both the scope and schedule of the program may be affected by the findings of the independent appraisal.

The licensee selected a contractor for the independent appraisal and the appraisal was initiated on February 23, 1982. The contractor's work is to be reviewed by a peer review group including executives from other utilities operating BWRs.

The licensee has restructured corporate functions within its nuclear organization. All nuclear activities at Boston Edison have been reassigned to an organizational unit directed by a Senior Vice President who has no other function or line responsibilities. Also, a new position of Director-Nuclear Operations Review having responsibility for corporate management oversight of on-site safety related activities was established and filled.

The licensee has several other improvement tasks in progress, including: (1) A corporate on-site review program, (2) evaluation of safety review and assessment functions, (3) monitoring of commitments, (4) monitoring of changes to NRC regulations, (5) a corrective action system, (6) completeness and accurac, of reporting to the NRC, (7) 10 CFR 50.59 review requirements, (8) quality assurance and preventative maintenance programs, and (9) training programs.

NRC—Based on the first two items, and previous deficiencies in regulatory performance, the NRC concluded that continued operation of the plant over the long term required significant changes in the control of licensed activities. As a result, the NRC issued an Order Modifying License Effective Immediately on January 18, 1982 requiring Boston Edison Company to develop and submit for NRC review and approval a comprehensive plan of action that will yield an independent appraisal of site and corporate management controls and oversight, and a review of previous safety-related activities to evaluate compliance with NRC requirements. Concurrent with the Order, the NRC issued a Notice of Violation and Proposed Imposition of Civil Penalties in the amount of $550,000.

As discussed previously, the licensee submitted a Performance Improvement Program in response to the NRC Order. In a letter to the licensee on April 23, 1982, the NRC Region I staff found the licensee's Performance Improvement Program acceptable subject to progress

reviews at predetermined milestones and periodic meetings with Boston Edison Company management.

The NRC (Region I) conducted a special investigation between November 24, 1981 and January 7, 1982 to evaluate the circumstances surrounding the material false statement submitted to the NRC in the licensee's October 19, 1979 letter. This investigation also examined the licensee's failure to notify the NRC when it was subsequently discovered by the licensee's staff that the requirements of 10 CFR 50.44 had not been fully met. The investigation concluded that the material false statement was not deliberate and that contrary information subsequently developed by the licensee's staff was not intentionally withheld from the NRC; both of these resulted from a lack of effective management control of licensee communication with the NRC. The results of this investigation were transmitted to the licensee on March 18, 1982.

For the third item, the NRC conducted inspections and reviewed the licensee's corrective actions. An NRC meeting was held on December 18, 1981 where licensee representatives described their plans and schedules for resolution of this major problem. At this meeting, the licensee was directed to propose Technical Specifications limiting drywell temperatures and provide a safety evaluation which describes the basis for operations with drywell temperatures exceeding maximum design values. This item was included in a citation for violations in a letter from NRC Region I to the licensee dated February 4, 1982.

The NRC has approved safety evaluation reports submitted by the licensee for the modified containment atmosphere control system and for past operation at elevated drywell temperatures. The NRC has agreed that the modified containment atmosphere control system and maintenance actions to replace components possibly degraded by the high drywell temperature meet regulatory requirements. The NRC has also approved technical specifications submitted by the licensee which limit drywell temperature during plant operation. The Pilgrim facility recovered from the protracted refueling (September 1981–March 1982) and achieved criticality on March 26, 1982.

NRC Region I has expanded the inspection program at Pilgrim to more thoroughly evaluate continuing licensee performance in light of the problems identified with management control. Through the inspection program and periodic management meetings, NRC Region I will closely follow implementation of the licensee's Performance Improvement Program.

Dated at Washington, D.C., this 10th day of June 1982.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82-16095 Filed 6-14-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-424 and 50-425]

Georgia Power Co., etc.; Order Extending Construction Completion Dates

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia and the City of Dalton, Georgia, (collectively, the applicants) are the holders of Construction Permits CPPR-108 and CPPR-109, issued by the Atomic Energy Commission [1] on June 28, 1974 for the construction of Alvin W. Vogtle Nuclear Plant, Units 1 and 2 (Vogtle Project). The Vogtle Project is under construction at a site in Burke County, Georgia, approximately 26 miles south-southeast of Augusta, Georgia. By letter dated April 28, 1982, the applicants filed a request for an extension of the construction completion dates as follows:

LATEST CONSTRUCTION COMPLETION DATES

	From—	To—
Unit 1	April 1983	March 1988.
Unit 2	April 1984	September 1988.

An extension of the construction completion dates for the Vogtle Project is required for the following reasons:

(1) The construction schedule was adversely affected by seven months following reactivation of construction in early 1976. This delay was due to an extended negotiation period required to consummate the sale of interests in the Vogtle Project to Oglethorpe Power Corporation, Municipal Electric Authority of Georgia and the City of Dalton, Georgia.

(2) The construction schedule was 1977 due to reduced projected load growth, additional requirements related to physical separation criteria for the cable spreading room and related redesign of the control building.

(3) During portions of 1978, 1979 and 1980, construction was delayed approximately eighteen months as a result of difficulties encountered in concrete production, backfill placement and erosion control.

The applicants have requested the remaining extension of the completion dates as a result of a comprehensive assessment of the construction schedule as of May 1981 by a Task Force reporting to the Vogtle Project Management Board. The applicants have re-estimated the construction schedule based on new projections for materials and equipment, projected versus actual manpower experience, and increased regulatory requirements, including TMI-requirements.

The Commission has reviewed the applicants' request for extension of the construction completion dates. Because this requested action involves no significant hazards consideration, good cause has been shown for the construction delay, and the requested extension is for a reasonable period, the bases for which are set forth in the NRC Staff Evaluation, dated June 4, 1982, the Commission supports the extension of the completion dates for the Vogtle Project.

The preparation of an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the Order other than that which has already been predicted and described in the Commission's Final Environmental Statement (Construction Permit Stage) of the Alvin W. Vogtle Nuclear Plant, Units 1 and 2, published in March 1974.

The Commission has determined that this action will not result in any significant environmental impact and, pursuant to 10 CFR 51.5(d)(4), an environmental impact statement, or negative declaration and environmental impact appraisal, need not be prepared in connection with this action.

The applicants' letter, dated April 28, 1982, and the staff's evaluation supporting the Order are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Burke County Public Library, Fourth Street, Waynesboro, Georgia 30830.

It is hereby ordered that the latest completion dates for construction of the Alvin W. Vogtle Nuclear Plant be extended to March 31, 1988 for Unit 1

[1] Effective January 19, 1975, the Atomic Energy Commission became the Nuclear Regulatory Commission. Permits in effect on that day were continued under the authority of the Nuclear Regulatory Commission.

CPPR–108) and September 30, 1989 for Unit 2 (CPPR–109).

Date of issuance: June 4, 1982.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 82–16093 Filed 6–14–82; 8:45 am]
BILLING CODE 7590–01–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Executive Committee Meeting

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

STATUS: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of the Executive Committee of its Scientific and Statistical Advisory Committee.

DATE: Tuesday, June 15, 1982, 1:00 p.m.

ADDRESS: The meeting will be held at the Council's Central Office located at 700 S.W. Taylor Street, Suite 200, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Ms. Torian Donohoe, (503) 222–5161.

DISCUSSION: Subcommittee administration.

Edward Sheets,

Executive Director.

[FR Doc. 82–16177 Filed 6–14–82; 8:45 am]
BILLING CODE 6560–00–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22–11653]

Greyhound Corp.; Application and Opportunity for Hearing

Notice is hereby given that the Greyhound Corporation (the "Applicant") has filed an application pursuant to clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of Citibank, N.A. ("Citibank") under two indentures of the Applicant, one qualified under the Act and the other not so qualified because of the exemption contained in section 304(a)(4) of the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Citibank from acting as trustee under either indenture.

The Applicant alleges that:

1. It has outstanding as of the date hereof:

(a) $10,325,400 aggregate principal amount of its 6% Convertible Subordinated Debentures due August 1, 1986 (the "6% Debentures") issued under an indenture dated August 1, 1966 (the "1966 Indenture"), between GC Computer Corporation and Citibank. The 6% Debentures were registered under the Securities Act of 1933 (the "1933 Act"). Pursuant to a merger in 1976, Greyhound Computer Corporation, a wholly-owned subsidiary of the applicant, became the successor to GC Computer Corporation. Greyhound Computer Corporation was merged into the Applicant on March 30, 1982, and the Applicant assumed all obligations with respect to the 6% Debentures; and

(b) $47,980,000 aggregate principal amount of its 6½% Convertible Subordinated Debentures due January 1, 1990 (the "6½% Debentures") issued under an indenture dated January 15, 1970 (the "1970 Indenture"), between the Applicant and Citibank. The 6½% Debentures were not registered under the 1933 Act.

2. As a result of the Applicant's assumption of the obligations with respect to the 6% Debentures, Citibank as acquired a conflicting interest.

3. The Applicant is not in default under either indenture.

4. The two indentures are wholly unsecured and rank equally with each other. The only material differences between the indentures relate to aggregate principal amounts, interest rates, dates of issue, dominations, maturity and interest payment dates, redemption prices and dates, sinking fund provisions, prepayment procedures, reports of the Applicant and Trustee, restrictions on payment of dividends, acquisition of Applicant stock and assumption and guarantee of certain subordinated indebtedness, requirements as to payment of taxes and assessments and the maintenance of insurance, corporate existence and property, events of default, waiver of defaults by debentureholders, conversion provisions, provisions for conflicting interest of the trustee, and other provisions of a similar nature.

5. In the opinion of the Applicant, the provisions of the aforementioned indebentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Citibank from acting as trustee under any of the indentures.

The Applicant has waived notice of hearing, any right to a hearing on the issues raised by the application, and all rights to specify procedures under the Rules of Practice of the Commission with respect to its application.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than July 6, 1982, submit to the Commission his views or any substantial facts bearing on this application or may request that a hearing be held on such matter. Any such communication or request should be addressed Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission. Persons who request a hearing or advice as to weather a hearing is ordered will receive all notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–16103 Filed 6–14–82; 8:45 am]
BILLING CODE 8010–01–M

[Release No. 12469; (812–5171)]

National Government Reserves, Inc.; Filing of Application

June 8, 1982.

Notice is hereby given that National Government Reserves, Inc. ("Applicant"), 605 Third Avenue, New York, New York 10158, an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on April 16, 1982, requesting an order of the Commission, pursuant to section 6(c) of

the Act, exempting Applicant from the provisions of section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit Applicant to value its assets using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund and is organized as a Maryland corporation. Applicant represents that a registration statement was filed on its behalf on February 22, 1982 but is not yet effective. Applicant states that its investment objective is to obtain high current income to the extent consistent with liquidity and safety of capital. Applicant further states that it invests exclusively in United States government obligations (including United States government agencies or instrumentalities) purchased outright or pursuant to repurchase agreements.

As here pertinent, section 2(a)(41) of the Act defines value to mean: (1) With respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security.

Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further provides that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair market value as determined in good faith by the board of directors of the investment company. The Commission has expressed the view that, among other things: (1) Rule 2a–4 requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments with remaining maturities in excess of sixty days on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order, upon application, may conditionally or unconditionally exempt any person or transaction from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant requests an exemption from section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to permit the Applicant to use the amortized cost method of valuing portfolio securities. Applicant represents that its board of directors has determined that, in the absence of unusual circumstances, amortized cost value would represent the fair value of its portfolio securities. Applicant represents that the board of directors also believes that the proposal would benefit its shareholders by assuring them the convenience of a stable price of $1.00 for each of their shares, together with the protection against dilution and excessive risk in the form of conditions, involving procedures for review by the board of directors and requirements as to the quality of the Applicant's portfolio investment.

Applicant has agreed that each of the following may be made a condition to the granting of the exemptive relief requested:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the board of directors of Applicant undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors of the Applicant shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes the extent of any deviation from the $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize captial gains or losses, or to shorten the average maturity of portfolio instruments; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its board of directors' considerations and actions taken in connection with the

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of directors in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which its board of directors determines present minimal credit risks.

6. Applicant will include in each of its quarterly reports, as an attachment to Form N–1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Applicant submits that the granting of the requested exemptions is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than July 6, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or uon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-16105 Filed 6-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12470; (811-2973)]

Property Mortgage Co. Sequoia Fund, Inc.; Filing of an Application

June 8, 1982.

Notice is hereby given that Property Mortgage Co. Sequoia Fund, Inc. ("Applicant"), 5858 Wilshire Boulevard, Los Angeles, California 90036, which is registered under the Investment Company Act of 1940 ("Act") as an open-end, management investment company, filed an application on March 26, 1982, requesting an order of the Commission, pursuant to section 8(f) of the Act, declaring that Applicant has ceased to be an investment company as defined by the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that Applicant registered under the Act by filing a registration statement on Form N–1 on December 13, 1979. Applicant is a California corporation which is in the process of withdrawing its application for qualification in California. Applicant states it has no assets and has never begun operations. Applicant states that it intends to dissolve as a corporation after its California application is withdrawn and provided it receives the order requested herein.

Section 3(c)(1) of the Act provides that any issuer whose outstanding securities (other than short-term paper) are beneficially owned by not more than 100 persons and which does not presently propose to make a public offering of its securities is not an investment company.

Applicant states that it has never made a public offering of its securities, has fewer than 100 stockholders for purposes of section 3(c)(1) of the Act and the rules thereunder, and does not propose to make a public offering or engage in business of any kind.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order, the registration of such company under the Act shall cease to be in effect.

Notice is further given that any interested person may, not later than July 6, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-16104 Filed 6-14-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Circ. Public Debt Series No. 15–82]

Series T–1984; Treasury Notes

June 10, 1982.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $5,500,000,000 of United Stats securities, designated Treasury Notes of June 30, 1984, Series T–1984 (CUSIP No. 912827 NH 1). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of

these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities will be dated June 30, 1982, and will bear interest from that date, payable on a semiannual basis on December 31, 1982, and each subsequent 6 months on June 30 and December 31 until the principal becomes payable. They will mature June 30, 1984, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered, and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Wednesday, June 16, 1982. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, June 15, 1982, and received no later than Wednesday, June 30, 1982.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in section 3.4., must be made or completed on or before Wednesday, June 30, 1982. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general

regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, June 28, 1982. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securites presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 82-16186 Filed 6-14-82; 8:45 am]
BILLING CODE 4810-40-M

[Dept. Circ., Public Debt Series No. 16-82]

Series H-1986; Treasury Notes

June 10, 1982.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $4,000,000,000 of United States securities, designated Treasury Notes of June 30, 1986, Series H-1986 (CUSIP No. 912827 NJ 7). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities will be dated June 30, 1982, and will bear interest from that date, payable on a semiannual basis on December 31, 1982, and each subsequent 6 months on June 30 and December 31 until the principal becomes payable. They will mature June 30, 1986, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered, and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving Time, Wednesday, June 23, 1982. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, June

22, 1982, and received no later than Wednesday, June 30, 1982.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yeild with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompained by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 a and lowest accepted price above the original issue discount limit of 99.000. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for alloted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4. must be made or completed on or before Wednesday, June 30, 1982. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, June 28, 1982. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20220. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be

exchangable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

5. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 82-16167 Filed 6-14-82; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 115
Tuesday, June 15, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

June 10, 1982.

TIME AND DATE: 10 a.m., Thursday, June 17, 1982.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will be considered and act upon the following:

1. Central Ohio Coal Company, Docket No. LAKE 81–78. (Issues include whether the judge erred in approving a settlement agreement containing an exculpatory clause.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

[S–864–82 Filed 6–11–82; 12:12 pm]

BILLING CODE 6735–01–M

2

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Monday, June 21, 1982.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed new building program and target budget for the Los Angeles Branch of the Federal Reserve Bank of San Francisco.
2. Proposed acquisition of computer equipment within the Federal Reserve System.
3. Personnel actions (appointments, promotions, assigments, reassigments, and salary actions) involving individual Federal Reserve System employees.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

Dated: June 11, 1982.

James McAfee,

Associate Secretary of the Board.

[S–866–82 Filed 6–11–82; 3:28 pm]

BILLING CODE 6210–01–M

3

POSTAL SERVICE BOARD OF GOVERNORS

Vote to Close Meeting

On June 7, 1982, the Board of Governors of the United States Postal Service unanimously voted to close to public observation a portion of the meeting of the Board to be held on July 6. The meeting is expected to be attended by the following persons: Governors Hardesty, Babcock, Camp, Hughes, Jenkins, McKean, and Sullivan; Postmaster General Bolger; Deputy Postmaster General Benson; Secretary of the Board Cox; Counsel to the Governors Califano; Assistant Postmaster General Cummings; and Executive Assistant to the Postmaster General Coughlin.

The portion of the Board meeting to be closed will consist of a discussion of Postal Service strategic planning.

The Board is of the opinion that public access to this discussion would be likely to disclose information in connection with future collective bargaining and information that will become involved in future rate litigation.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and section 7.3(c) of title 39, Code of Federal Regulations, this portion of the meeting is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552(b)), because it is likely to disclose information in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking, mail classification, and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of title 39, United States Code. The Board determined further that, pursuant to section 552b(c)(10) of title 5 and section 7.3(j) of title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding or the initiation of a particular case involving a determination on the record after opportunity for a hearing. It also determined, pursuant to section 552b(c)(9)(B) and section 7.3(i) of title 39, Code of Federal Regulations, that the discussion is exempt because premature disclosure of information to be discussed would be likely significantly to frustrate implementation of future action in regard to future collective bargaining. The Board further determined that the public interest does not require that the Board's discussion of this matter be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the portion of the meeting to be closed may properly be closed to public observation, pursuant to sections 552b(c)(3), (9)(B) and (10) of title 5 and sections 410(c) (3) and (4) of title 39, United States Code, and sections 7.3(c), (i), and (j) of title 39, Code of Federal Regulations.

Louis A. Cox,

Secretary.

[S–865–82 Filed 6–11–82; 12:12 pm]

BILLING CODE 7710–12–M

federal register

Tuesday
June 15, 1982

Part II

Department of Health and Human Services

Public Health Service, Health Resources Administration

List of Health Manpower Shortage Areas Designated Under Section 332 of the Public Health Service Act

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Health Resources Administration

List of Primary Care and Dental Health Manpower Shortage Areas Designated Under Section 332 of the Public Health Service Act

SUMMARY: This notice provides a list, updated as of March 31, 1982, of primary care and dental health manpower shortage areas designated by the Secretary of Health and Human Services under the authority of section 332 of the Public Health Service Act. (At a later date, an update of the lists of psychiatric, vision care, podiatric, pharmacy, and veterinary health manpower shortage areas will be published.)

FOR FURTHER INFORMATION CONTACT:
Richard C. Lee, Chief, Distribution Studies Branch, Division of Health Professions Analysis, Bureau of Health Professions, Health Resources Administration, Center Building, Room 4–44, 3700 East-West Highway, Hyattsville, Maryland 20782 (301–436–6750).

SUPPLEMENTARY INFORMATION:

1. Background

Section 332 of the Public Health Service Act provides that the Secretary of Health and Human Services shall designate health manpower shortage areas based on criteria established by regulation. Health manpower shortage areas are defined in section 332 to include (1) urban and rural geographic areas, (2) population groups, and (3) facilities with shortages of health manpower. Section 332 further requires that the Secretary publish a list of the designated geographic areas, population groups, and facilities. The list of areas is to be reviewed at least annually and revised as necessary. The Health Resources Administration's Bureau of Health Professions has been assigned the responsibility for designating these areas.

Public or non-profit entities in (or with a demonstrated interest in) these areas are eligible to apply for assignment of National Health Service Corps personnel to provide health services in, or to, the areas. These areas are also eligible obligated service areas for certain Public Health Service scholarship, loan repayment and nurse practitioner traineeship programs, and entities located in the areas are eligible to apply for (or receive preference for) certain Public Health Service grant programs.

2. Development of List

Criteria for designating health manpower shortage areas were first published by the Department of Health, Education, and Welfare as Interim-Final regulations (42 CFR Part 5) in the **Federal Register** of January 10, 1978. Final regulations, revised as warranted by public comments received, were published in the **Federal Register** on November 17, 1980. Criteria are defined for each of seven health manpower types (primary medical care, dental, psychiatric, vision care, podiatric, pharmacy, and veterinary manpower).

In January 1978 and June 1980, the Bureau of Health Professions compared the established criteria with available data on counties and small areas throughout the country and developed data listings showing areas which appeared to meet the criteria. These listings were submitted to the appropriate Health Systems Agencies (HSAs), State Health Planning and Development Agencies (SHPDAs), and Governors for thier review and recommendations. In addition, individual requests for designation or withdrawal of particular areas, population groups, or facilities are received continuously; these are routinely submitted to the appropriate HSAs, SHPDAs, Governors, and other interested organizations or individuals for their review and recommendations. Requests regarding primary care manpower are also provided to the appropriate State medical society and requests regarding dental manpower to the appropriate State dental society for comment.

The Bureau of Health Professions reviews each designation or withdrawal request, together with any recommendations received on individual requests or on the data listings, and determines whether or not each area involved meets the shortage criteria. The results of these reviews are provided by letter to the agency or individual requesting action or providing data; copies are sent to other involved agencies as well as to interested organizations and persons. These letters constitute the official notice of designation as a health manpower shortage area or the official disapproval of recommendations for such designation.

The list below includes all those areas, population groups, and facilities which had been designated by the Bureau of Health Professions as of March 31, 1982, as primary care or dental health manpower shortage areas. The list does not include those areas, population groups, or facilities which had previously been designated but whose designations had been withdrawn by this same date. For primary care and dental manpower, this list supersedes the list which appeared in the **Federal Register** on May 9, 1981, and all previously published lists of health manpower shortage areas.

An update of the lists of psychiatric, vision care, podiatric, pharmacy and veterinary health manpower shortage areas is now under development and will be published at a later date.

3. Format of List

For each type of manpower, the list of areas is arranged by State. Within each State, the list is first presented by county. If only a portion (or portions) of a county has been designated, or if the county is part of a larger designated service area, or if a population group residing in the county or a facility located in the county has been designated, the name of the service area, population group, or facility involved is listed under the county name. Following the county listing, a list of any designated service areas is presented identifying their component parts in terms of counties, towns, townships, census tracts (C.T.s), minor civil divisions (M.C.D.s), census county divisions (C.C.D.s), enumeration districts (E.D.s), magisterial districts, or other definable geographic divisions recognized by the Bureau of the Census. Following the service area listing, a list of any designated population groups is presented identifying each such group and the geographic area wherein it resides. Following the population group listing, a list by name and location of any separately designated facilities (including prisons, correctional institutions, health centers, or hospitals) is presented.

Beside each designated area, population group or facility the appropriate "degree-of-shortage" group is indicated, corresponding to the criteria for these groupings contained in the regulations. (Group 1 represents areas with the highest degree of shortage, Group 2 with next highest degree of shortage, etc.) Areas in groups 1 or 2 have highest priority for placement of federally-salaried National Health Service Corps (NHSC) personnel; areas in all four groups are eligible for placement of NHSC "private practice option" personnel not receiving a direct Federal salary.

In addition to the specific listings included in this notice, all Indian tribes which meet the definition in section 4(d)

of Pub. L. 94–437, the Indian Health Care Improvement Act of 1976, are automatically designated as population groups with primary medical care and dental manpower shortages. Such automatic designations of Indian tribes are assigned to degree-of-shortage group 4 unless otherwise indicated in this listing (based on specific data provided for this purpose).

4. Future Updates of List of Designated Areas

The list below consists of those primary care and dental health manpower shortage areas which were designated as of March 31, 1982. Additional areas are being designated continuously and future updates of the list will be published periodically in the **Federal Register**. In particular, it should be noted that some additional areas have been designated by letter since March 31, 1982, and the appropriate agencies and persons notified of the designation. Although officially designated, these areas are not included in the list below, because they had not yet been added to the computerized data base at the time this list was generated.

Any designated area listed below is subject to possible future withdrawal from designation if new information is received by the Bureau of Health Professions indicating that the situation in the area has changed or that erroneous or incomplete data were used in making the original designation. Interested parties are notified by mail of any such withdrawals, and future **Federal Register** listings will also reflect them.

For further information on these designations, to request additional designations, or to request withdrawal of any designation, please contact Richard C. Lee, Chief, Distribution Studies Branch, Division of Health Professions Analysis, at the address listed above. All requests for designations or withdrawals should be based on the criteria in the regulations as published on November 17, 1980.

Dated: April 26, 1982.

Robert Graham,

Acting Administrator.

DENTAL CARE: Alabama

County Listing

County name	Degree of shortage group
Autauga	04
Barbour	02
Bibb	04
Blount	01
Bullock	01
Chambers	02
Cherokee	04
Chilton	03
Choctaw	04
Clay	01
Cleburne	01
Conecuh	03
Coosa	01
Crenshaw	01
Cullman	03
Dale	02
De Kalb:	
Service area: Crossville	01
Service area: Ider	01
Elmore	02
Etowah:	
Service area: East Gasden	01
Franklin	04
Geneva	03
Greene	01
Hale	02
Jackson	04
Jefferson:	
Service area: Pratt City	01
Service area: Roosevelt City	01
Lamar	01
Lawrence	03
Lowndes	04
Macon	01
Madison:	
Population group: Dent. indigent pop. of Madison	01
Marengo	04
Marion	04
Mobile:	
Service area: Davis Ave. Community	01
Perry	03
Pickens	04
Randolph	02
Russell:	
Service area: Hurtsboro	01
St. Clair	03
Sumter	01
Talladega	04
Washington	01
Wilcox	01
Winston	02

DENTAL CARE: Alabama

Service Area Listing

Service area name	Degree of shortage group
Crossville	01
County—De Kalb:	
Parts of County:	
Collinsville CCD	
Crossville CCD	
Davis Ave. Community	01
County—Mobile:	
Parts of County:	
C.T. 2	
C.T. 3	
C.T. 4.01	
C.T. 4.02	
C.T. 5	
C.T. 6	
East Gasden	01
County—Etowah:	
Parts of County:	
C.T. 13–17	
C.T. 105	
C.T. 106	
Hurtsboro	01
County—Russell:	
Parts of County:	
Hurtsboro CCD	
Ider	01
County—De Kalb:	
Parts of County:	
Henger	
Ider CCD	
Valley Head-Mentone CCD	

DENTAL CARE: Alabama—Continued

Service Area Listing

Service area name	Degree of shortage group
Pratt City	01
County—Jefferson:	
Parts of County:	
C.T. 10–12	
C.T. 14	
Roosevelt City	01
C.T. 105	
C.T. 131	
C.T. 133	
C.T. 136	
C.T. 137	

DENTAL CARE: Alabama

Population Group Listing

Population group	Degree of shortage group
Dent. ind. pop. of Madison County	01

DENTAL CARE: Alaska

County Listing

County name	Degree of shortage group
Aleutian Island division	01
Angoon division	01
Barrow division	01
Bethel division	03
Bristol Bay Borough div.	
Service area: Bristol Bay	01
Bristol Bay division	
Service area: Bristol Bay	01
Kobuk division	03
Kuskokwim division	01
Nome division	04
Outer Ketchikan division	01
Prince of Wales division	01
Skagway-Yakutat division	01
Southeast-Fairbanks div.	01
Upper Yukon division	01
Valdez-Chitna-Whitt. div.	01
Wade Hampton division	01
Yukon-Koyukuk division	01

DENTAL CARE: Alaska

Service Area Listing

Service area name	Degree of shortage group
Bristol Bay	01
County—Bristol Bay Borough Div.	
County—Bristol Bay Division.	

DENTAL CARE: Arizona

County Listing

County name	Degree of shortage group
Apache:	
Service area: Southeast/south central Apache Co.	02
Coconino:	
Population group: Indian pop. of Coconino/Mohave area	02
Gila	04
Greenlee	06

DENTAL CARE: Arizona—Continued

County Listing

County name	Degree of shortage group
Maricopa	
Service area: El Mirage	01
Service area: Guadalupe	01
Service area: South Phoenix	04
Mohave	
Population group: Indian pop. of Coconino/Mohave area	02
Navajo	
Service area: Hopi Indian Reservation	01
Service area: Kayenta	01
Population group: Indian pop. of Ganado area	01
Pima	
Service area: Marana	02
Pinal	
Population group: Mig/Seas frmwkrs of cent/W. Pinal	01
Santa Cruz	02
Yavapai	
Service area: Seligman	01
Yuma	
Population group: Mig/low inc pop. of Somerton	01

DENTAL CARE: Arizona

Service Area Listing

Service area name	Degree of shortage group
El Mirage	01
County—Maricopa	
Parts of County:	
C.T. 405 (southern ½)	
C.T. 606	
C.T. 609	
Guadalupe	01
County—Maricopa	
Parts of County	
Twn of Guadalupe	
Kayenta	01
County—Navajo	
Parts of County	
Navajo monument div.	
Marana	02
County—Pima	
Parts of County	
Marana CCD	
Seligman	01
County—Yavapai	
Parts of County	
Ash Fork Division	
South Phoenix	04
County—Maricopa	
Parts of County	
C.T. 1152–1161	
C.T. 1162.01	
C.T. 1162.02	
C.T. 1163–1167	
Southeast/south central Apache Co.	02
County—Apache	
Parts of County	
St. Johns	
Round valley	
Pinetop	

DENTAL CARE: Arizona

Population Group Listing

Population group	Degree of shortage group
Hopi Indian reservation pop.	01
County—Navajo:	
Parts of county:	
Hopi div.	
Indian pop. of Ganado area	01
County—Apache	
Parts of county:	
Southern part	
County—Navajo:	
Parts of county:	
Southern part	

DENTAL CARE: Arizona—Continued

Population Group Listing

Population group	Degree of shortage group
Indian pop. of Coconino/Mohave	01
County—Mohave:	
Parts of county:	
Havasupai Reservation	
County—Coconino:	
Parts of county:	
Hualapai Reservation	
Mig/low inc pop. of Somerton	01
County—Yuma:	
Parts of county:	
Somerton Div. (Mig./low inc. pop)	
Mig/Seas farmworkers of cent./W. Pinal	01
County—Pinal:	
Parts of county:	
Casa Grande div.	
Coolidge div.	
Eloy div.	
Maricopa/Stanfield div.	
Sacaton div.	

DENTAL CARE: Arkansas

County Listing

County name	Degree of shortage group
Ashley	
Service area: Parkdale	01
Calhoun	01
Chicot	03
Clay	
Service area: Rector	01
Cleveland	01
Fulton	01
Grant	04
Greene	
Service area: Rector	01
Lafayette	01
Lincoln	02
Marion	03
Monroe	
Service area: Clarendon	01
Montgomery	04
Nevada	04
Newton	03
Perry	01
Poinsett	03
Scott	04
Sharp	01
Woodruff	01

DENTAL CARE: Arkansas

Service Area Listing

Service area name	Degree of shortage group
Clarendon	01
County—Monroe:	
Parts of County:	
Cache	
Cleburne	
Cypress Ridge	
Duncan	
Hindman	
Jackson	
Montgomery	
Pine Ridge	
Raymond	
Roc Roe	
Smally	
Parkdale	01
County—Ashley:	
Parts of county:	
Beech Creek	
De Bastrop	
Portland	
Wilmot	

DENTAL CARE: Arkansas—Continued

Service Area Listing

Service area name	Degree of shortage group
Rector	01
County—Clay:	
Parts of county:	
Blue Cane	
Haywood	
Oak Bluff	
Rector	
County—Greene:	
Parts of county:	
Hopewell	
Hurricane	

DENTAL CARE: California

County Listing

County name	Degree of shortage group
Alameda	
Service area: Fruitvale	02
Fresno	
Service area: Huron/Five Points	01
Imperial	
Population group: Mig/Seas Frmwkrs of Imperial	04
Kern	
Service area: Arvin/Lamont	02
Service area: Frazier Park	03
Los Angeles	
Service area: Newhall	02
Riverside	
Service area: Lower Coachella Valley	01
Population group: Indian Pop. of Banning	01
San Benito	04
San Bernardino	
Service area: Barstow	04
Population group: Indian Pop. of Banning	01
San Diego	
Service area: Anza	03
Service area: Pauma Val./Val. Ctr. Div.	01
Service area: Ramona	03
San Francisco	
Service area: Potrero Hill/South Bayshore	02
San Joaquin	
Population group: Mig/Seas Frmwkrs of San Joaquin	01
San Luis Obispo	
Population group: Sp-Spkg/Ind Pop. in Nipomo area	01
Santa Clara	
Service area: Loma Prieta School District	01
Santa Cruz	
Service area: Loma Prieta School District	01
Stanislaus	
Service area: West Modesto	01
Tulare	
Service area: South Tulare	01

DENTAL CARE: California

Service Area Listing

Service area name	Degree of shortage group
Anza	03
County—San Diego:	
Parts of County:	
Anza div. (C.T. 210)	
Arvin/Lamont	02
County—Kern:	
Parts of county:	
C.T. 24	
C.T. 32.01	
C.T. 32.02	
C.T. 62–64	
Barstow	04
County—San Bernardino:	
Parts of county:	
C.T. 89.02	
C.T. 90.01	
C.T. 90.02	

DENTAL CARE: California—Continued

Service Area Listing

Service area name	Degree of shortage group
C.T. 93–95	
C.T. 96.01	
C.T. 96.02 (ED 1045, 1056, 1057, 1104)	
C.T. 96.03	
C.T. 103 (ED 1021–1024)	
Frazier Park	03
County—Kern:	
Parts of county:	
C.T. 33.02	
Fruitvale	02
County—Alameda:	
Parts of county:	
C.T. 4006–4011	
C.T. 4014–4026	
C.T. 4030–4033	
C.T. 4053–4063	
C.T. 4065	
C.T. 4070–4078	
C.T. 4082–4098	
C.T. 4101–4104	
C.T. 4251	
Huron/Five Points	01
County—Fresno:	
Parts of county:	
C.T. 78	
Loma Prieta School District	01
County—Santa Clara:	
Parts of county:	
Lexington div. (Part)	
County—Santa Cruz:	
Parts of county:	
San Lorenzo Valley (Part)	
Scotts Valley Div. (Part)	
Lower Coachella Valley	01
County—Riverside:	
Parts of county:	
C.T. 456.01	
C.T. 456.02	
Newhall	02
County—Los Angeles:	
Parts of county:	
C.T. 1081	
C.T. 1082	
C.T. 9200.01	
C.T. 9200.02	
C.T. 9200.03	
C.T. 9201	
C.T. 9203.01	
C.T. 9203.02	
C.T. 9203.03	
Pauma Val./Val. Ctr. Div.	01
County—San Diego:	
Parts of county:	
C.T. 191.01	
C.T. 191.02	
Potrero Hill/South Bayshore	02
County—San Francisco:	
Parts of county:	
C.T. 180	
C.T. 226	
C.T. 227	
C.T. 230–234	
C.T. 606–610	
Ramona	03
County—San Diego:	
Parts of county:	
Ramona div. (C.T. 208)	
South Tulare	01
County—Tulare:	
Parts of county:	
C.T. 32	
C.T. 42–46	
West Modesto	01
County—Stanislaus:	
Parts of county:	
C.T. 15–17	
C.T. 22–25	
C.T. 31	

DENTAL CARE: California—Continued

Population Group Listing

Population group	Degree of shortage group
Indian pop. of Banning area	01
County—Riverside	
County—San Bernardino	
Migrant seasonal farmworkers of Imperial County	04
Migrant/seasonal farmworkers of San Joaquin Co	01
Spanish spkg. and Indian population of Nipomo area	01
County—San Luis Obispo:	
Parts of county:	
Nipomo area	

DENTAL CARE: Colorado

County Listing

County name	Degree of shortage group
Adams:	
Service area: Commerce City	02
Baca	01
Pueblo:	
Service area: Avondale	02
Saguache	01
Washington	01

DENTAL CARE: Colorado

Service Area Listing

Service area name	Degree of shortage group
Avondale	02
County—Pueblo:	
Parts of county:	
C.T. 30.01 (part—Avondale)	
C.T. 30.02 (part—Avondale)	
C.T. 31.02 (part—Avondale)	
C.T. 32–34	
Commerce City	02
County—Adams:	
Parts of County:	
C.T. 87.02 (Commerce City)	
C.T. 87.03 (Commerce City)	
C.T. 88.01 (Irondale)	
C.T. 88.02 (Adams City)	
C.T. 89.01 (Commerce City)	
C.T. 89.52 (South Welby)	

DENTAL CARE: Connecticut

County Listing

County name	Degree of shortage group
Fairfield:	
Service area: Central Bridgeport	04
Service area: Northcentral Bridgeport	03
Service area: Southeast Bridgeport	02
Service area: Southwest Bridgeport	01
Service area: Southwest Stamford	02
Hartford:	
Service Area: Charter Oak/Rice Hts.	01
Service Area: Northcentral Hartford	04
Middlesex:	
Population group: Low inc. pop. of Middletown	01

DENTAL CARE: Connecticut—Continued

Service Area Listing

Service area name	Degree of shortage group
Central Bridgeport	04
County—Fairfield:	
Parts of county:	
C.T. 713–717	
Charter Oak/Rice Hts	01
County—Hartford:	
Parts of county:	
C.T. 5046	
C.T. 5049	
Northcentral Bridgeport	03
County—Fairfield:	
Parts of county:	
C.T. 728	
Northcentral Hartford	04
County—Hartford:	
Parts of county:	
C.T. 5008–5010	
C.T. 5012–5015	
C.T. 5017	
C.T. 5018	
C.T. 5036	
C.T. 5037	
Southeast Bridgeport	02
County—Fairfield:	
Parts of county:	
C.T. 740–744	
Southwest Bridgeport	01
County—Fairfield:	
Parts of county:	
C.T. 702–706	
Southwest Stamford	02
County—Fairfield:	
Parts of county:	
C.T. 222	
C.T. 223	

DENTAL CARE: Connecticut

Population Group Listing

Population group	Degree of shortage group
Low inc. Pop. (Middletown)	01
County—Middlesex:	
Parts of county:	
C.T. 5401	
C.T. 5407	
C.T. 5408	

DENTAL CARE: Delaware

County Listing

County name	Degree of shortage group
Sussex	04

DENTAL CARE: District of Columbia

County Listing

County name	Degree of shortage group
District of Columbia:	
Service Area: North Capitol	01

DENTAL CARE: District of Columbia —Continued

Service Area Listing

Service area name	Degree of shortage group
North Capital	
Parts of District:	01
C.T. 33.20	
C.T. 46	
C.T. 47 (⅔)	
C.T. 86 (½)	
C.T. 87 (½)	

DENTAL CARE: Florida

County Listing

County name	Degree of shortage group
Baker:	
Facility: Baker Correctional Institution	01
Citrus	04
Collier:	
Service area: Collier (southern portion)	01
Service area: Immokalee	01
Columbia	04
Dade:	
Population group: Haitian pop. of Edison/Little Riv	01
Dixie:	02
Facility: Cross City Correctional Institution	01
Escambia:	
Service Area: Northern Escambia	01
Franklin	03
Gilchrist	01
Glades:	
Service area: Glades/Hendry	02
Gulf	03
Hamilton	04
Hardee	02
Hendry:	
Service area: Glades/Hendry	02
Hernando	04
Highlands:	
Population group: Low inc pop. of Highlands	03
Hillsborough:	
Service area: Hillsborough/Manlee	02
Holmes	03
Indian River:	
Population group: Dent. indigent of Indian River	01
Jackson	03
Lafayette	01
Lake:	
Population group: Mig/Seas farmworkers	04
Lee:	
Population group: Migrant pop. of Lee	01
Madison	04
Manlee:	
Service area: Hillsborough/Manlee	02
Martin:	
Service area: Indian Town	01
Okeechobee	02
Orange:	
Service area: West Central Orange	04
Orange:	
Service area: Northwest Orange	02
Osceola	04
Palm Beach:	
Service area: Glades	01
Service area: West Palm Beach	01
Pasco	04
Polk:	
Service area: Frostproof	01
Putnam	02
St. Lucie	99
Sumter	01
Suwannee	02
Union	99
Walton	04
Washington	02

DENTAL CARE: Florida—Continued

Service Area Listing

Service area name	Degree of shortage group
Southern Collier	01
County—Collier:	
Parts of county:	
Everglades (southern portion)	
Frostproof	01
County—Polk:	
Parts of County:	
Frostproof	
Lake Wales	
South Babson Park	
Glades	01
County—Palm Beach:	
Parts of County:	
C.T. 80-83	
Glades/Hendry	02
County—Glades	
County—Hendry	
Hillsborough/Manlee	02
County-Hillsborough:	
Parts of county:	
C.T. 121-141	
County—Manlee	
Parts of county:	
C.T. 13-16	
C.T. 19	
Immokalee	01
County—Collier:	
Parts of county:	
Immokalee CCD	
Indian Town	01
County—Martin:	
Parts of county:	
Indian Twn	
Northern Escambia	01
County—Escambia:	
Parts of county:	
C.T. 36-40	
Northwest Orange	02
County—Orange:	
Parts of county:	
C.T. 175-179	
West Central Orange	04
County—Orange:	
Parts of county:	
C.T. 150	
C.T. 171 (N. ½)	
C.T. 172-174	
West Palm Beach	01
County—Palm Beach:	
Parts of county:	
C.T. 22-25	

DENTAL CARE: Florida

Population Group Listing

Population group	Degree of shortage group
Dent. ind. pop. of Indian River County	01
Haitian pop. (Edison/Little River)	01
County—Dade:	
Parts of county:	
C.T. 14	
C.T. 20.01	
C.T. 20.02	
C.T. 22.01	
C.T. 22.02	
Low income pop. of Highlands Co.	03
Migrant population of Lee County	01
Mig./seas. farmworkers of Lake Co.	04

DENTAL CARE: Florida

Facility Listing

Facility	Degree of shortage group
Baker Correctional Inst	01
County—Baker	

DENTAL CARE: Florida—Continued

Facility Listing

Facility	Degree of shortage group
Cross City Corr. Inst	01
County—Dixie	

DENTAL CARE: Georgia

County Listing

County name	Degree of shortage group
Atkinson	01
Banks	02
Ben Hill	04
Brantley	01
Brooks	02
Bryan	01
Burke:	
Service area: Burke-Jenkins-Screven	04
Butts	03
Calhoun	02
Camden	04
Candler	03
Chattahoochee	01
Chattooga	02
Clarke:	
Service area: Athens Nrbrd Hlth Ctr target area	01
Clinch	01
Coffee	03
Crawford	01
Crisp	04
Dawson	01
Decatur	04
Dooly	02
Early	04
Emanuel	03
Fannin	04
Franklin	04
Fulton:	
Service area: Atlanta southside	01
Glascock:	
Service area: Tri-county	01
Grady	04
Greene	04
Hancock	01
Haralson	02
Harris	01
Hart	03
Heard	01
Irwin	02
Jefferson	03
Jenkins:	
Service area: Burke-Jenkins-Screven	04
Lamar	04
Lanier	04
Lee	01
Liberty	03
Lincoln	03
Long	01
Lumpkin	04
Macon	01
Madison	02
Meriwether	03
Miller	02
Mitchell	03
Montgomery	01
Murray	01
Oconee	04
Oglethorpe	01
Peach	01
Pickens	03
Pike	01
Randolph	02
Richmond:	
Population group: Mentally retarded (Gracewood School)	01
Screven:	
Service area: Burke-Jenkins-Screven	04
Seminole	01
Stewart:	
Service area: Stewart/Webster	02
Sumter:	
Population group: Dent indigent of Sumter	01
Talbot	03
Taliaferro:	
Service area: Tri-county	01
Tattnall	04

DENTAL CARE: Georgia—Continued

County Listing

County name	Degree of shortage group
Taylor	02
Union	02
Warren:	
Service area: Tri-county	01
Webster:	
Service area: Stewart/Webster	02
Wilcox	01
Wilkinson	01
Worth	03

DENTAL CARE: Georgia

Service Area Listing

Service area name	Degree of shortage group
Athens Neighborhood Hlth Ctr target area	01
County—Clarke:	
Parts of county:	
C.T. 2	
C.T. 3	
C.T. 6	
C.T. 9	
Atlanta southside	01
County—Fulton:	
Parts of County:	
C.T. 44–50	
C.T. 52	
C.T. 53	
C.T. 55.01	
C.T. 55.02	
C.T. 56–58	
C.T. 63	
C.T. 64	
C.T. 67	
C.T. 69–73	
Burke/Jenkins/Screven	04
County—Burke	
County—Jenkins	
County—Screven	
Stewart/Webster	02
County—Stewart	
County—Webster	
Tri-county	01
County—Glascock	
County—Taliaferro	
County—Warren	

DENATAL CARE: Georgia

Population Group Listing

Population group	Degree of shortage group
Dent. ind. pop. of Sumter County	01
Mentally retarded (Gracewood School)	01
County—Richmond:	
Parts of County:	
Gracewood School	

DENTAL CARE: Hawaii

County Listing

County name	Degree of shortage group
Hawaii:	
Service area: Kau	01

DENTAL CARE: Hawaii—Continued

Service Area Listing

Service area name	Degree of shortage group
Kau	01
County—Hawaii:	
Parts of County:	
C.T. 212	

DENTAL CARE: Illinois

County Listing

County name	Degree of shortage group
Alexander:	
Service area: Alexander/Pulaski	01
Brown	04
Calhoun	01
Cook:	
Service area: Englewood area	02
Service area: Robbins	02
Service area: South Lawndale (Chicago)	03
Service area: Uptown	04
Facility: Cook Co. Dept. of Corrections	02
Fayette:	
Population group: Pov. pop. of Fayette	02
Gallatin	03
Hamilton	03
Hancock	02
Hardin:	
Service area: Hardin/Pope	01
Henderson	02
Jackson:	
Population group: Pov. pop. of Jackson	01
Kankakee:	
Service area: Pembroke	01
Macon:	
Service area: Decatur inner city	01
Mercer	04
Pope:	
Service area: Hardin/Pope	01
Pulaski:	
Service area: Alexander/Pulaski	01
Randolph:	
Population group: Pov. pop. of Randolph	04
Rock Island:	
Population group: Pov. pop. of Rock Island	02
St. Clair:	
Service area: East Side Health Dist.	01
Washington:	
Service area: Nashville	03
Wayne	02
Will:	
Facility: Joliet Correctional Institution	01
Facility: Stateville Correctional Inst.	01
Winnebago:	
Service area: Rockford inner city	02

DENTAL CARE: Illinois

Service Area Listing

Service area name	Degree of shortage group
Alexander/Pulaski	01
County—Alexander	
County—Pulaski	
Decatur inner city	01
County—Macon:	
Parts of county:	
C.T. 1	
C.T. 7–9	
East Side Health Dist	01
County—St. Clair:	
Parts of county:	
C.T. 5001–6014	
C.T. 5015.01	
C.T. 5020–5030	

DENTAL CARE: Illinois—Continued

Service Area Listing

Service area name	Degree of shortage group
Englewood area	02
County—Cook:	
Parts of county:	
C.T. 6101–6122	
C.T. 6701–6726	
C.T. 6801–6807	
C.T. 6809–6814	
Hardin/Pope	01
County—Hardin	
County—Pope	
Nashville	03
County—Washington:	
Parts of county:	
Ashley Twp.	
Beaucoup Twp.	
Bolo Twp.	
Covington Twp.	
Dubois Twp.	
Johannisburg Twp.	
Lively Grove Twp.	
Nashville Twp.	
Oakdale Twp.	
Okawville Twp.	
Pilot Knob Twp.	
Plum Hill Twp.	
Richview Twp.	
Venedy Twp.	
Pembroke	01
County—Kankakee:	
Parts of county:	
Pembroke Twp.	
Robbins	02
County—Cook:	
Parts of county:	
Robbins Village	
Rockford inner city	02
County—Winnebago:	
Parts of county:	
C.T. 10	
C.T. 21	
C.T. 22	
C.T. 23.01	
C.T. 23.02	
C.T. 24–26	
South Lawndale (Chicago)	03
County—Cook:	
Parts of county:	
C.T. 3901–3920	
Uptown	04
County—Cook:	
Parts of county:	
C.T. 310–312	
C.T. 315–321	

DENTAL CARE: Illinois

Population Group Listing

Population group	Degree of shortage group
Pov. pop. (Fayette)	02
County—Fayette:	
Parts of county:	
Poverty population	
Pov. pop. (Jackson)	01
County—Jackson:	
Parts of county:	
Poverty population	
Pov. pop. (Randolph)	04
County—Randolph:	
Parts of county:	
Poverty population	
Pov. pop. (Rock Island)	02
County—Rock Island:	
Parts of county:	
Poverty population	

DENTAL CARE: Illinois—Continued

Facility Listing

Facility	Degree of shortage group
Cook Co. Dept. of Corrections	02
County—Cook	
Joliet Correctional Inst.	01
County—Will	
Statesville Correctional Inst.	01
County—Will	

DENTAL CARE: Indiana

County Listing

County name	Degree of shortage group
Crawford	01
Lake:	
Service area: Gary	01
Martin	03
Miami	03
Owen	02
Pike	04
Starke	04

DENTAL CARE: Indiana

Service Area Listing

Service area name	Degree of shortage group
Gary	01
County—Lake:	
Parts of county	
C.T. 101-129	

DENTAL CARE: Iowa

County Listing

County name	Degree of shortage group
Adair	03
Appanoose:	
Service area: Albia	04
Benton:	
Service area: Belle Plaine	03
Cedar:	
Service area: Clarence-Wheatland	03
Clarke:	
Service area: Osceola	02
Clayton:	
Service area: Southern Clayton County	04
Clinton:	
Service area: Clarence-Wheatland	03
Crawford:	
Service area: Onawa-Mapleton	03
Decatur	02
Guthrie	03
Harrison:	
Service area: Logan	04
Iowa:	
Service area: Brooklyn-Montezuma	03
Jasper:	
Service area: Brooklyn-Montezuma	03
Jones:	
Service area: Clarence-Wheatland	03
Facility: State correctional institution	01
Keokuk	04
Lee:	
Facility: State correctional institution	01
Louisa	04
Lucas:	
Service area: Charlton	03
Madison:	
Service area: Osceola	02
Mahaska:	
Service area: Brooklyn-Montezuma	03

DENTAL CARE: Iowa—Continued

County Listing

County name	Degree of shortage group
Marion:	
Service area: Albia	04
Monona:	
Service area: Logan	04
Service area: Onawa-Mapleton	03
Monroe:	
Service area: Albia	04
Service area: Charlton	03
Polk:	
Population group: Dent ind of Polk Co	01
Pottawattamie:	
Service area: Logan	04
Poweshiek:	
Service area: Brooklyn-Montezuma	03
Scott:	
Service area: Clarence-Wheatland	03
Shelby:	
Service area: Logan	04
Tama:	
Service area: Belle Plaine	03
Taylor:	
Service area: Bedford	02
Union:	
Service area: Osceola	02
Van Buren	02
Wapello:	
Service area: Albia	04
Warren:	
Service area: Charlton	03
Service area: Osceola	02
Wayne	04
Woodbury:	
Service area: Onawa-Mapleton	03

DENTAL CARE: Iowa

Service Area Listing

Service area name	Degree of shortage group
Albia	04
County—Appanoose:	
Parts of County:	
Monrovia Town	
County—Marion:	
Parts of County:	
Hamilton Town	
County—Monroe:	
Parts of County:	
Albia City	
Lovilla Town	
County—Wapello:	
Parts of County:	
Blakesburg Town	
Bedford	02
County—Taylor:	
Parts of County:	
Bedford Town	
Gravity Town	
Conway Town	
New Market Town	
Sharpsburg Town	
Athelstan Town	
Blockton Town	
Clearfield Town	
Belle Plaine	03
County—Benton:	
Parts of County:	
Belle Plaine Town	
Luzerne Town	
Keystone Town	
County—Tama:	
Parts of County:	
Elberon Town	
Vining Town	
Chelsea Town	
Brooklyn—Montezuma	03
County—Iowa:	
Parts of County:	
Victor Town	
County—Jasper:	
Parts of County:	
Lynville Town	

DENTAL CARE: Iowa—Continued

Service Area Listing

Service area name	Degree of shortage group
County—Mahaska:	
Parts of County:	
Barnes City Town	
County—Poweshiek:	
Parts of County:	
Brooklyn Town	
Guernsey Town	
Victor Town	
Hartwick Town	
Montezuma Town	
Searsboro Town	
Barnes City Town	
Deep River Town	
Malcom Town	
Charlton	03
County—Lucas:	
Parts of County:	
Charlton Township	
Lucas Town	
Derby Town	
Russell Town	
Williamson Town	
County—Monroe:	
Parts of County:	
Melrose Town	
County—Warren	
Parts of County:	
Lacona Town	
Clarence—Wheatland	03
County—Cedar:	
Parts of County:	
Clarence Town	
Lowden Town	
Stanwood Town	
County—Clinton:	
Parts of County:	
Lost Nation Town	
Calamus Town	
Wheatland Town	
Toronto Town	
County—Jones:	
Parts of County:	
Olin Town	
Wyoming Town	
Oxford Junction Town	
County—Scott:	
Parts of County:	
Dixon Town	
New Liberty Town	
Logan	04
County—Harrison:	
Parts of County:	
Logan Town	
Magnolia Town	
Woodbine Town	
Missouri Valley Town	
Modale Town	
Persia Town	
Mondamin Town	
Pisgah Town	
Little Sioux Town	
County—Monona:	
Parts of County:	
Moorhead Town	
County—Pottawattamie:	
Parts of County:	
Hancia Town	
Underwood Town	
County—Shelby:	
Parts of County:	
Portsmouth Town	
Panama Town	
Tennant Town	
Onawa—Mapleton	03
County—Crawford:	
Parts of County:	
Charter Oak Town	
Ricketts Town	
County—Monona:	
Parts of County:	
Whiting Town	
Turin Town	
Castana Town	
Mapleton Town	
Rodney Town	
Onawa Town	
Ute Town	
Soldier Town	

DENTAL CARE: Iowa—Continued

Service Area Listing

Service area name	Degree of shortage group
County—Woodbury:	
Parts of County:	
Anthon Town	
Oto Town	
Hornick Town	
Smithland Town	
Danbury Town	
Osceola	02
County—Clarke	
County—Madison:	
Parts of County:	
Truro Town	
County—Union:	
Parts of County:	
Afton	
Arispe	
Lorimer	
Thayer	
County—Warren:	
Parts of County:	
New Virginia Town	
Southern Clayton County	04
County—Clayton:	
Parts of County:	
Guttenberg City	
Garber Town	
Elkport Town	
North Buena Vista Town	
Elkader Town	
Saint Olaf Town	
Garnavillo Township	
Little Port Town	
Volga City Town	
Edgewood Town	
Strawberry Point Town	

DENTAL CARE: Iowa

Population Group Listing

Population group	Degree of shortage group
Dentally indigent of Polk Co	01

DENTAL CARE: Iowa

Facility Listing

Facility	Degree of shortage group
State correctional institutions	01
County—Jones	
Parts of county:	
Men's Reformatory (Anamosa)	
County—Lee	
Parts of county:	
State Penitentiary (Ft. Madison)	

DENTAL CARE: Kansas

County Listing

County name	Degree of shortage group
Chase	01
Chautauqua	03
Cherokee	05
Colfax	02
Comanche	01
Gove:	
Service area: Gove/Logan	04
Graham	01
Gray	01
Greeley	01
Jefferson	04

DENTAL CARE: Kansas—Continued

County Listing

County name	Degree of shortage group
Jewell	04
Lane	01
Linn	02
Logan:	
Service area: Gove/Logan	04
Meade	04
Ness	03
Smith	03
Wabaunsee	02
Wallace	01
Woodson	05

DENTAL CARE: Kansas

Service Area Listing

Service area name	Degree of shortage group
Gove/Logan	04
County—Gove	
County—Logan	

DENTAL CARE: Kentucky

County Listing

County name	Degree of shortage group
Ballard	04
Bath	04
Bell:	
Service area: Tejay/Pruden Fonde	01
Bracken	02
Breathitt	04
Butler	03
Carlisle	01
Carter	02
Casey	02
Clay	01
Edmonson	01
Elliott	01
Estill	02
Gallatin	01
Grant	03
Hancock	03
Harlan:	
Service area: Cumberland	01
Service area: Western Harlan	01
Jackson	01
Jefferson:	
Service area: West End	03
Johnson	04
Knott	02
Knox:	
Service area: Williamsburg	02
Larue	04
Laurel	02
Lee:	
Service area: Lee/Owsley	02
Leslie	01
Lewis	01
Lincoln	04
Livingston	03
Logan	04
Lyon:	
Facility: Kentucky State Reformatory	01
McCreary	04
Magoffin	01
Martin	01
Menifee	01
Morgan	05
Ohio	03
Owsley:	
Service area: Lee/Owsley	02
Pendleton	04
Perry	02
Pike	04
Spencer	04
Trimble	01
Wayne	04

DENTAL CARE: Kentucky—Continued

County Listing

County name	Degree of shortage group
Webster	03
Whitley:	
Service area: Williamsburg	02
Wolfe	05

DENTAL CARE: Kentucky

Service Area Listing

Service area name	Degree of shortage group
Cumberland	01
County—Harlan:	
Parts of County:	
Benham-Lynch division	
Cumberland CCD	
Poor Fork CCD	
Upper Clover CCD	
Lee/Owsley	02
County—Lee	
County—Owsley	
Tejay/Pruden Fonde	01
County—Bell:	
Parts of County:	
Tejay CCD	
Pruden Fork	
West End	03
County—Jefferson:	
Parts of County:	
C. T. 1–35	
Western Harlan	01
County—Harlan:	
Parts of County:	
Alva CCD	
Wallins Creek CCD	
Williamsburg	02
County—Knox:	
Parts of County:	
Barbourville CCD	
Barbourville east CCD	
Bryants CCD	
Dewitt CCD	
Girdler CCD	
Gray CCD	
Trosper CCD	
Barbourville west CCD	
County—Whitley:	
Parts of County:	
Ruler CCD	
Rockholds CCD	
Williamsburg CCD	

DENTAL CARE: Kentucky

Facility Listing

Facility	Degree of shortage group
Kentucky State Reformatory	01
County—Lyon	

DENTAL CARE: Louisiana

Parish Listing

Parish name	Degree of shortage group
Bienville	01
Caddo:	
Population group: Low inc. pop. of Shreveport	01
Caldwell	01
Catahoula	05
Concordia	04
De Soto	05

DENTAL CARE: Louisiana—Continued

Parish Listing

Parish name	Degree of shortage group
East Baton Rouge:	
Service area: Eden Park	01
East Carroll	03
Franklin	02
Grant	01
Jackson	03
Lincoln	04
Madison	01
Morehouse	04
Natchitoches	04
Orleans:	
Service area: Desire/Florida	01
Service area: Irish Channel	01
Service area: Lower 9th Ward	04
Population group: Pov. pop. of St. Bernard	02
Red River	01
Sabine:	
Service area: Zwolle	01
Tensas	01
Union	04
Vernon	02
West Baton Rouge	02
West Carroll	01
Winn	04

DENTAL CARE: Louisiana

Service Area Listing

Service area name	Degree of shortage group
Desire/Florida	01
Parish—Orleans:	
Parts of Parish:	
C. T. 11	
C. T. 14.01	
C. T. 14.02	
C. T. 15	
C. T. 16	
C. T. 17.03	
C. T. 17.04	
C. T. 17.05	
C. T. 17.06	
Eden Park	01
Parish—East Baton Rouge:	
Parts of Parish:	
C. T. 8–10	
C. T. 12	
C. T. 13	
Irish Channel	01
Parish—Orleans:	
Parts of Parish:	
C. T. 77	
C. T. 78	
C. T. 81.01	
C. T. 81.02	
C. T. 83	
C. T. 87–89	
Lower 9th Ward	04
Parish—Orleans:	
Parts of Parish:	
C. T. 7.01	
C. T. 7.02	
C. T. 8	
C. T. 9.01	
C. T. 9.02	
C. T. 9.03	
C. T. 9.04	
Zwolle	01
Parish—Sabine:	
Parts of Parish:	
Ward 5	
Ward 6	
Ward 8	

DENTAL CARE: Louisiana—Continued

Population Group Listing

Population group	Degree of shortage group
Pov. pop. of St. Bernard	02
Parish—Orleans:	
Parts of Parish:	
C.T. 33.05	
C.T. 33.06	
Low inc. pop. of Shreveport	01
Parish—Caddo:	
Parts of Parish:	
Shreveport	

DENTAL CARE: Maine

County Listing

County name	Degree of shortage group
Aroostook:	
Service area: Island Falls/Patten	01
Franklin:	
Service area: Rangeley/Kingsfield	01
Knox:	
Service area: Penobscot Bay	01
Oxford:	
Service area: Rangeley/Kingsfield	01
Penobscot:	
Service area: Howland/Old Town	02
Service area: Island Falls/Patten	01
Service area: Brooks	01
Waldo:	
Service area: Brooks	01
Washington:	
Service area: Eastport/Lubec	01

DENTAL CARE: Maine

Service Area Listing

Service area name	Degree of shortage group
Brooks	01
County—Penobscot:	
Parts of county:	
Dixmont Twn.	
Etna Twn.	
County—Waldo:	
Parts of county:	
Brooks Twn.	
Freedom Twn.	
Jackson Twn.	
Knox Twn.	
Monroe Twn.	
Montville Twn.	
Thorndike Twn.	
Troy Twn.	
Unity Twn.	
Eastport/Lubec	01
County—Washington:	
Parts of county:	
Dennysville Twn.	
Eastport City	
Lubec Twn.	
Pembroke Twn.	
Perry Twn.	
Plantation #14	
Whiting Twn.	
Howland/Old Town	02
County—Penobscot:	
Parts of county:	
Alton Twn.	
Argyle Twn.	
Bradley Twn.	
Burlington Twn.	
Edinburg Twn.	
Enfield Twn.	
Grand Falls Plantation	
Greenbush Twn.	
Greenfield Twn.	

DENTAL CARE: Maine—Continued

Service Area Listing

Service area name	Degree of shortage group
Howland Twn.	
La Grange Twn.	
Lowell Twn.	
Milford Twn.	
Old Town City	
Passadumbaag Twn.	
Summitt Twn.	
Island Falls/Patten	01
County—Aroostook:	
Parts of county:	
Benedicta Twn.	
Crystal Twn.	
Dyer Brook Twn.	
Hersey Twn.	
Island Falls Twn.	
Moro Plantation	
Sherman Twn.	
Unorg. terr. of S. Aroostook	
County—Penobscott:	
Parts of county:	
Mt. Chase Plantation	
Patten Twn.	
Stacyville Twn.	
Penobscot Bay	01
County—Knox:	
Parts of county:	
Mathicus Isle Plantation	
North Haven	
Vinalhaven	
Rangeley/Kingsfield	01
County—Franklin:	
Parts of county:	
Caplin Plantation	
Dallas Plantation	
Eustis Twn.	
Kingsfield Twn.	
Madrid Twn.	
Phillips Twn.	
Rangeley Plantation	
Rangeley Twn.	
Sandy River Plantation	
Unorg. terr. (N. Franklin)	
County—Oxford:	
Parts of county:	
Lincoln Plantation	
Magalloway Plantation	

DENTAL CARE: Maryland

County Listing

County name	Degree of shortage group
Somerset:	
Service area: Princess Anne	02
Baltimore city:	
Service area: Constant Care	02
Service area: East Baltimore	01
Service area: Hampden/Woodberry/Remington	04
Service area: West Baltimore	02

DENTAL CARE: Maryland

Service Area Listing

Service area name	Degree of shortage group
Constant Care	02
County—Baltimore City:	
Parts of County:	
C.T. 402	
C.T. 1401–1403	
C.T. 1501	
C.T. 1502	
C.T. 1601–1604	
C.T. 1701–1703	
C.T. 2101	

DENTAL CARE: Maryland—Continued

Service Area Listing

Service area name	Degree of shortage group
East Baltimore	01
County—Baltimore City:	
Parts of County:	
C.T. 501	
C.T. 603-605	
C.T. 704	
C.T. 806-808	
C.T. 909	
C.T. 1001	
C.T. 1002	
C.T. 1004	
Hampden/Woodberry/Remington	04
County—Baltimore City:	
Parts of County:	
C.T. 1203	
C.T. 1206	
C.T. 1207	
C.T. 1305	
C.T. 1306	
C.T. 1306.02	
Princess Anne	02
County—Somerset:	
Parts of County:	
Election Dist. 1	
Election Dist. 3	
Election Dist. 4	
Election Dist. 6	
Election Dist. 8	
Election Dist. 13	
Election Dist. 15	
West Baltimore	02
County—Baltimore City:	
Parts of County:	
C.T. 1801-1803	
C.T. 1901-1903	
C.T. 2001-2005	

DENTAL CARE: Massachusetts

County Listing

County name	Degree of shortage group
Suffolk:	
Service area: Allston	01
Service area: North Dorchester	02
Service area: Roxbury	03
Service area: South end	03

Dental care: Massachusetts

Service Area Listing

Service area name	Degree of shortage group
Allston	01
County—Suffolk:	
Parts of County:	
C.T. 1	
C.T. 7	
C.T. 8	
North Dorchester	02
County—Suffolk:	
Parts of County:	
C.T. 901-924	
Roxbury	03
County—Suffolk:	
Parts of County:	
C.T. 801-821	
South End	03
County—Suffolk:	
Parts of County:	
C.T. 703 (S. ½)	
C.T. 704-712	

DENTAL CARE: Michigan

County Listing

County name	Degree of shortage group
Alcona	03
Arenac:	
Service area: Rifle River	02
Service area: Sterling-Standish	04
Bay:	
Service area: Sterling-Standish	04
Chippewa:	
Service area: Bay Mills	01
Clare:	
Service area: Harrison	04
Genesee:	
Service area: North Flint	01
Gladwin:	
Service area: Gladwin	04
Service area: Sterling-Standish	04
Iosco:	
Service area: Rifle River	02
Lapeer:	
Service area: Sandusky	04
Livingston:	
Service area: Cohoctah	01
Ogemaw:	
Service area: Rifle River	02
Roscommon:	
Service area: Houghton Lake-St. Helen	04
Saginaw:	
Service area: Easton	04
Service area: Saginaw (inner city)	04
Sanilac:	
Service area: Sandusky	04
Shiawassee:	
Service area: Cohoctah	01
Service area: Easton	04
Wayne:	
Service area: Detroit (east)	02
Service area: Detroit (west)	03
Service area: Eloise	04
Service area: Sumpter	03
Facility: Herman Kiefer Health Complex	02
Facility: Titus Greenwood Health Center	02
Facility: Wayne County Jail	02

DENTAL CARE: Michigan

Service Area Listing

Service area name	Degree of shortage group
Bay Mills	01
County—Chippewa:	
Parts of county:	
Bay Mills Twp.	
Chippewa Twp.	
Hulbert Twp.	
Superior Twp.	
Whitefish Twp.	
Cohoctah	01
County—Livingston:	
Parts of county:	
Cohoctah Twp.	
Conway Twp.	
Deerfield Twp.	
County—Shiawassee:	
Parts of County:	
Antrim Twp.	
Burns Twp.	
Perry Twp.	
Detroit (east)	02
County—Wayne:	
Parts of county:	
C.T. 501-503	
C.T. 505	
C.T. 509	
C.T. 511-515	
C.T. 517-527	
C.T. 537	
C.T. 539-542	
C.T. 547-550	
C.T. 554-556	
C.T. 558-572	
C.T. 601.01	
C.T. 602	
C.T. 604	
C.T. 651-657	

DENTAL CARE: Michigan—Continued

Service Area Listing

Service area name	Degree of shortage group
C.T. 662-665	
C.T. 751-797	
C.T. 951-961	
Detroit (west)	03
County—Wayne:	
Parts of county:	
C.T. 3-13	
C.T. 15-21	
C.T. 36	
C.T. 38-41	
C.T. 43	
C.T. 51-56	
C.T. 58-64	
C.T. 66-73	
C.T. 101	
C.T. 103-123	
C.T. 153-169	
C.T. 170 (portions)	
C.T. 171 (portions)	
C.T. 173-183	
C.T. 184 (portions)	
C.T. 185	
C.T. 187	
C.T. 201-203	
C.T. 206-213	
C.T. 209	
C.T. 251-255	
C.T. 256.01	
C.T. 256.02	
C.T. 257	
C.T. 258.01	
C.T. 259.02	
C.T. 260	
C.T. 261.01	
C.T. 261.02	
C.T. 262.01 (portions)	
C.T. 262.02 (portions)	
C.T. 263	
C.T. 358	
C.T. 401	
C.T. 407	
C.T. 408	
C.T. 409.01	
Easton	04
County—Saginaw:	
Parts of county:	
Brady twp.	
Chapin Twp	
Chesaning Twp	
Maple Grove Twp.	
County—Shiawassee:	
Parts of county:	
Fairfield Twp.	
Hazelton Twp.	
New Haven Twp.	
Rush Twp.	
Eloise	04
County—Wayne	
Parts of county:	
C.T. 841-844	
C.T. 916.01	
C.T. 916.02	
C.T. 919	
C.T. 942.02	
C.T. 943	
Gladwin	04
County—Gladwin:	
Parts of county:	
Beaverton City	
Beaverton Twp.	
Bently Twp.	
Billings Twp.	
Buckeye Twp.	
Butman Twp.	
Clement Twp.	
Gladwin City	
Gladwin Twp.	
Grant Twp.	
Hay Twp.	
Sage Twp.	
Secord Twp.	
Sherman Twp.	
Tobacco Twp.	
Harrison	04
County—Clare:	
Parts of county:	
Arthur Twp.	
Franklin Twp.	

DENTAL CARE: Michigan—Continued

Service Area Listing

Service area name	Degree of shortage group
Freeman Twp.	
Frost Twp.	
Greenwood Twp.	
Hamilton Twp.	
Harrison City	
Hatton Twp.	
Hayes Twp.	
Lincoln Twp.	
Redding Twp.	
Summerfield Twp.	
Winterfield Twp.	
Houghton Lake/St. Helen	04
County—Roscommon:	
Parts of county:	
Richfield Twp.	
Au Sable Twp.	
Nester Twp.	
Backus Twp.	
Higgins Twp.	
Denton Twp.	
Roscommon Twp.	
North Flint	01
County—Genesee:	
Parts of county:	
C.T. 1–7	
C.T. 19–26	
C.T. 44	
Rifle River	02
County—Arenac:	
Parts of county:	
Moffet twp.	
Clayton Twp.	
Mason Twp.	
County—Iosco:	
Parts of county:	
Plainfield Twp.	
Reno Twp.	
Burleigh Twp.	
County—Ogemau:	
Parts of county:	
Horton Twp.	
Mills Twp.	
Richland Twp.	
Churchhill Twp.	
Logan Twp.	
Saginaw (inner city)	04
County—Saginaw:	
Parts of county:	
C.T. 1–11	
Sandusky	04
County—Lapeer:	
Parts of county:	
Burnside Twp.	
County—Sanilac	
Sterling/Standish	04
County—Arenac:	
Parts of county:	
Adams Twp.	
Arenac Twp.	
Au Gres City	
Au Gres Twp.	
Deep River Twp.	
Lincoln Twp.	
Omer City	
Sims Twp.	
Standish Twp.	
Turner Twp.	
Whitney Twp.	
County—Bay:	
Parts of county	
Gibson Twp.	
County—Gladwin:	
Parts of county:	
Bourret Twp.	
Grim Twp.	
Sumpter	03
County—Wayne:	
Parts of county:	
C.T. 937	
C.T. 936.01	
C.T. 936.02	
C.T. 939–941	
C.T. 942.01	

DENTAL CARE: Michigan—Continued

Facility Listing

Facility name	Degree of shortage group
Herman Kiefer Health Complex	02
County—Wayne	
Titus Greenwood Health Center	02
County—Wayne	
Wayne County Jail	02
County—Wayne	

DENTAL CARE: Minnesota

County Listing

County name	Degree of shortage group
Hennepin:	
Population group: Indian pop. of Minneapolis	01

DENTAL CARE: Minnesota

Population Group Listing

Population group	Degree of shortage group
Indian pop. of Minneapolis	01
County—Hennepin	

DENTAL CARE: Mississippi

County Listing

County name	Degree of shortage group
Amite	03
Attala	04
Benton	01
Bolivar	04
Carroll	01
Chickasaw	03
Choctaw	01
Claiborne	03
Clarke	01
Clay	01
Copiah	02
Covington	04
De Soto	02
Franklin	01
Greene	01
Hinds:	
Service area: Good Samaritan	02
Service area: Southwest Hinds	01
Holmes	04
Humphreys	01
Issaquena:	
Service area: Issaquena/Sharkey	04
Itawamba	04
Jasper	01
Kemper	01
Lafayette	04
Lamar	03
Leake	01
Madison	01
Marshall	01
Monroe	04
Montgomery	01
Neshoba	03
Newton	03
Noxubee	01
Perry	01
Pontotoc	03
Prentiss	02
Quitman	02
Rankin	03
Sharkey:	
Service area: Issaquena/Sharkey	04
Smith	02
Stone	01

DENTAL CARE: Mississippi—Continued

County Listing

County name	Degree of shortage group
Tallahatchie	02
Tate	03
Tippah	04
Tishomingo	03
Tunica	01
Walthall	02
Wayne	03
Webster	03
Winston	04
Yalobusha	03
Yazoo	03

DENTAL CARE: Mississippi

Service Area Listing

Service area name	Degree of shortage group
Good Samaritan	02
County—Hinds:	
Parts of County:	
C.T. 17–20	
C.T. 25–28	
Issaquena/Sharkey	04
County—Issaquena	
County—Sharkey	
Southwest Hinds	01
County—Hinds:	
Parts of County:	
C.T. 106	
C.T. 107	
C.T. 112	
C.T. 113	

DENTAL CARE: Missouri

County Listing

County name	Degree of shortage group
Bollinger	01
Carter	04
Cedar:	
Service area: Humansville	02
Charlton	04
Clark	02
Dallas	04
Davies	03
De Kalb	04
Dunklin	04
Hickory:	
Service area: Hickory	01
Service area: Humansville	02
Holt	02
Iron	04
Jackson:	
Service area: Central Kansas City	02
Knox	03
Lewis	02
Lincoln	03
McDonald	02
Maries	02
Mississippi	04
New Madrid	04
Oregon	01
Ozark	01
Pemiscot	02
Polk:	
Service area: Humansville	02
Pulaski	02
Ralls	01
Reynolds	01
Ripley	02
St. Clair:	
Service area: Humansville	02
St. Louis City:	
Service area: Grace Hill	01
Schuyler	01
Scotland	04
Shannon	01

DENTAL CARE: Missouri—Continued

County Listing

County name	Degree of shortage group
Stone	04
Sullivan	03
Texas	04
Washington	02
Wayne	01
Webster	04
Wright	04

DENTAL CARE: Missouri

Service Area Listing

Service area name	Degree of shortage group
Central Kansas City	02
County—Jackson:	
Parts of County:	
C.T. 4–10	
C.T. 15–26	
C.T. 32–34	
C.T. 35.01	
C.T. 35.02	
C.T. 36.01	
C.T. 36.02	
C.T. 37–42	
C.T. 52–55	
C.T. 56.01	
C.T. 56.02	
C.T. 57	
C.T. 58.01	
C.T. 58.02	
C.T. 59.01	
C.T. 60–64	
C.T. 75–77	
C.T. 78.01	
C.T. 78.02	
C.T. 79	
C.T. 80	
Grace Hill	01
County—St. Louis City:	
Parts of County:	
C.T. 1095	
C.T. 1202	
C.T. 1203	
C.T. 1261–1265	
Hickory	01
County—Hickory:	
Parts of County:	
Center Township.	
Cross Timbers Township.	
Green Township.	
Jordan Township.	
Montgomery Township.	
Stark Township.	
Wheatland Township.	
Humansville	02
County—Cedar:	
Parts of County:	
Jefferson Township	
Washington Township	
County—Hickory:	
Parts of County:	
Tyler Township.	
Weaubleau Township.	
County—Polk:	
Parts of County:	
Campbell Township.	
Cliquot Township.	
Flemington Township.	
Jefferson Township.	
Johnson Township.	
County—St. Clair:	
Parts of County:	
Collins Township.	
Washington Township.	

DENTAL CARE: Montana

County Listing

County name	Degree of shortage group
Liberty	01
Roosevelt:	
Service area: Poplar/Wolf Point	02

DENTAL CARE: Montana

Service Area Listing

Service area name	Degree of shortage group
Poplar/Wolf Point	02
County—Roosevelt:	
Parts of county:	
Poplar div.	
Wolf Point div.	
Wolf Point rural div.	

DENTAL CARE: Nebraska

County Area Listing

County area name	Degree of shortage group
Arthur:	
Service area: Mullen	01
Cherry:	
Service area: Mullen	01
Douglas:	
Service area: Northeast Omaha	04
Grant:	
Service area: Mullen	01
Hooker:	
Service area: Mullen	01
Logan:	
Service area: Mullen	01
McPherson:	
Service area: Mullen	01
Thomas:	
Service area: Mullen	01
Thurston:	
Population group: Winnebago Indians of Thurston County	01

DENTAL CARE: Nebraska

Service Area Listing

Service area name	Degree of shortage group
Mullen	01
County—Arthur	
County—Cherry:	
Parts of county:	
Calf Creek prec.	
Elsmere prec.	
Gillespie prec.	
Kennedy prec.	
Lackey prec.	
Loup prec.	
Mother Lake prec.	
Pleasant Hill prec.	
Wells prec.	
Elsmere	
County—Grant	
County—Hooker	
County—Logan:	
Parts of county:	
Burt prec.	
Cody Lake prec.	
Lone Valley prec.	
County—McPherson:	

DENTAL CARE: Nebraska—Continued

Service Area Listing

Service area name	Degree of shortage group
Parts of county:	
Hall prec.	
Whitewater prec.	
Worden prec.	
County—Thomas	
Northeast Omaha	04
County—Douglas:	
Parts of county:	
C.T. 6	
C.T. 7	
C.T. 9–12	
C.T. 13.01	
C.T. 13.02	
C.T. 14	
C.T. 15	
C.T. 52	
C.T. 60	

DENTAL CARE: Nebraska

Population Group Listing

Population group	Degree of shortage group
Winnebago Indians of Thurston County	01

DENTAL CARE: Nevada

County Listing

County name	Degree of shortage group
Clark:	
Service area: Northeast Clark	01
Service area: South/Southwest Clark	01
Service area: Western Clark	01
Population group: Low inc. pop. of W. Las Vegas	01
Esmeralda	01
Eureka	01
Lander	01
Lyon	03
Mineral	02
Nye	01
Storey	01
White Pine	04

DENTAL CARE: Nevada

Service Area Listing

Service area name	Degree of shortage group
Northeast Clark	01
County—Clark:	
Parts of county:	
C.T. 56	
C.T. 59 (E. part)	
South/Southwest Clark	01
County—Clark:	
Parts of county:	
C.T. 57	
C.T. 58 (S. part)	
Western Clark	01
County—Clark:	
Parts of county:	
C.T. 58 (N. and central part)	
C.T. 59 (W. part)	

DENTAL CARE: Nevada—Continued

Population Group Listing

Population group	Degree of shortage group
Low inc. pop. (W. Las Vegas)	01
County—Clark:	
Parts of county:	
C.T. 3.01	
C.T. 3.02	
C.T. 7	
C.T. 9	
C.T. 10	
C.T. 35	

DENTAL CARE: New Jersey

County Listing

County name	Degree of shortage group
Mercer:	
Population group: Dent ind of Austin service area	03
Passaic:	
Service area: Northside Paterson	02

DENTAL CARE: New Jersey

Service Area Listing

Service area name	Degree of shortage group
Northside Paterson	02
County—Passaic:	
Parts of county:	
C.T. 1803	
C.T. 1804	
C.T. 1805	
C.T. 1806	
C.T. 1807	

DENTAL CARE: New Jersey

Population Group Listing

Population group	Degree of shortage group
Dent. ind. of Austin service area	03
County—Mercer:	
Parts of county:	
C.T. 1	
C.T. 8 (portion)	
C.T. 9	
C.T. 10	
C.T. 11 (portion)	
C.T. 14 (portion)	
C.T. 15	
C.T. 16	
C.T. 17	
C.T. 18 (portion)	
C.T. 19	
C.T. 20	
C.T. 21 (portion)	
C.T. 22 (portion)	

DENTAL CARE: New Mexico

County Listing

County name	Degree of shortage group
Bernalillo:	
Service area: Los Padillas/Pajarito	01
Catron	01
Chaves:	
Population group: Indigent pop. of S. Chaves	04
De Baca:	
Service area: Ft. Sumner-Santa Rosa	01
Dona Ana:	
Service area: Hatch	01
Service area: Southern Dona Ana	01
Guadalupe:	
Service area: Ft. Sumner-Santa Rosa	01
Harding	01
Hidalgo	01
Lincoln:	
Service area: Northern Lincoln Co.	01
McKinley:	
Population group: Navajo Indian pop.	01
Quay	04
Rio Arriba	03
Sandoval	01
San Miguel	04
Santa Fe:	
Population group: Indigent pop. of Santa Fe	01
Sierra	01
Torrance	02

DENTAL CARE: New Mexico

Service Area Listing

Service area name	Degree of shortage group
Ft. Sumner-Santa Rosa	01
County—De Baca	
County—Guadalupe	
Hatch	01
County—Dona Ana:	
Parts of county:	
Hatch	
Los Padillas-Pajarito	01
County—Bernalillo:	
Parts of county:	
C.T. 46	
Northern Lincoln Co	01
County—Lincoln	
Parts of county:	
Carrizozo	
Capitan	
Corona	
Southern Dona Ana	01
County—Dona Ana:	
Parts of county:	
E.D. 76 (Anthony)	
E.D. 77 (Anthony)	
E.D. 78	
E.D. 80 (La Mesa)	
E.D. 81	
E.D. 84 (La Union)	

DENTAL CARE: New Mexico

Population Group Listing

Population group	Degree of shortage group
Indigent pop. of S. Chaves	01
County—Chaves:	
Parts of County:	
C.T. 12-14	
Indigent pop. of Santa Fe Co.	01
Indian pop. of Navajo area	01
County—McKinley	

DENTAL CARE: New York

County Listing

County name	Degree of shortage group
Bronx:	
Service area: Morris Heights	03
Service area: Soundview	04
Service area: South Bronx	04
Service area: South/Central Bronx/Fort Apache	04
Cattaraugus:	
Service area: Northwest Cattaraugus	01
Cortland:	
Service area: Marathon	01
Kings:	
Service area: Brownsville	03
Service area: Coney Island	01
Service area: Gowanus/Park Slope	02
Service area: Southwest Brooklyn (hlth area 41)	01
Service area: South Williamsburg (Brooklyn)	04
Service area: Sunset Park	03
New York:	
Service area: East/Central Harlem	03
Service area: East Harlem	02
Service area: Lower Eastside	02
Service area: Metro North	03
Service area: West Harlem	04
Rockland:	
Service area: Northern Rockland	04
Westchester:	
Population group: Dent ind pop. of Mt. Vernon	02

DENTAL CARE: New York

Service Area Listing

Service area name	Degree of shortage group
Brownsville	03
County—Kings:	
Parts of county:	
C.T. 882	
C.T. 884	
C.T. 886	
C.T. 888	
C.T. 890	
C.T. 892	
C.T. 894	
C.T. 896	
C.T. 898	
C.T. 900	
C.T. 902	
C.T. 904	
C.T. 906	
C.T. 908	
C.T. 910	
C.T. 912	
C.T. 914	
C.T. 916	
C.T. 918	
C.T. 920	
C.T. 922	
Coney Island	01
County—Kings:	
Parts of county:	
C.T. 326	
C.T. 328	
C.T. 330	
C.T. 340	
C.T. 342	
C.T. 346.02	
C.T. 552	
East/Central Harlem	03
County—New York:	
Parts of county:	
C.T. 186	
C.T. 190	

DENTAL CARE: New York—Continued

Service Area Listing

Service area name	Degree of shortage group
C.T. 197.02	
C.T. 200	
C.T. 201.02	
C.T. 206	
C.T. 207.02	
C.T. 208	
C.T. 209.02	
C.T. 210	
C.T. 212	
C.T. 213.02	
C.T. 214	
C.T. 216	
C.T. 217.02	
C.T. 218	
C.T. 220	
C.T. 221.02	
C.T. 222	
C.T. 224	
C.T. 226	
C.T. 227.02	
C.T. 228	
C.T. 230	
C.T. 231.02	
C.T. 232	
C.T. 234	
C.T. 235.02	
C.T. 236	
C.T. 243.02	
East Harlem	02
County—New York:	
Parts of county:	
C.T. 166	
C.T. 168	
C.T. 172.01	
C.T. 172.02	
C.T. 174.01	
C.T. 174.02	
C.T. 178	
C.T. 180	
C.T. 182	
C.T. 184	
C.T. 188	
C.T. 192	
C.T. 194	
C.T. 196	
C.T. 198	
C.T. 202	
C.T. 204	
Gowanus/Park Slope	02
County—Kings:	
Parts of County:	
C.T. 71	
C.T. 127	
C.T. 131	
C.T. 133	
Lower Eastside	02
County—New York:	
Parts of county:	
C.T. 10.02	
C.T. 20	
C.T. 22.02	
C.T. 24	
C.T. 26.01	
C.T. 26.02	
Marathon	01
County—Cortland:	
Parts of county:	
Cincinnatus	
Freetown	
Harford	
Lapeer	
Marathon	
Taylor	
Willet	
Metro North	03
County—New York:	
Parts of County:	
C.T. 156.02	
C.T. 162	
C.T. 164	
C.T. 170	
Morris Heights	03
County—Bronx:	
Parts of County:	
C.T. 235.01	
C.T. 235.02	
C.T. 237.02	
C.T. 239	
C.T. 241	
C.T. 243	
C.T. 245	
C.T. 247	
C.T. 249	
C.T. 251	
C.T. 253	
C.T. 255	
C.T. 257	
Northern Rockland	04
County—Rockland:	
Parts of County:	
C.T. 101-107	
Northwest Cattaragus	01
County—Cattaraugus:	
Parts of County:	
Dayton	
Persia	
Otto	
East Otto	
Mansfield	
Leon	
New Albion	
Conewango	
Napoli	
Little Valley	
South Williamsburg (Brooklyn)	04
County—Kings:	
Parts of County:	
C.T. 253	
C.T. 257	
C.T. 259.01	
C.T. 259.02	
C.T. 261	
C.T. 279	
C.T. 281	
C.T. 283	
C.T. 285.01	
C.T. 285.02	
C.T. 287	
C.T. 289	
C.T. 291	
C.T. 293	
C.T. 387	
C.T. 389	
C.T. 391	
C.T. 393	
C.T. 395	
C.T. 397	
C.T. 399	
C.T. 415	
C.T. 417	
C.T. 419	
C.T. 421	
C.T. 423	
C.T. 429	
C.T. 435	
C.T. 487	
C.T. 489	
C.T. 491	
C.T. 505	
C.T. 507	
C.T. 509	
C.T. 511	
C.T. 523	
C.T. 525	
C.T. 527	
C.T. 529	
C.T. 531	
C.T. 533	
C.T. 535	
C.T. 537	
C.T. 539	
C.T. 545	
C.T. 547	
C.T. 549	
Southwest Brooklyn	01
County—Kings:	
Parts of county:	
C.T. 55	
C.T. 57	
C.T. 59	
C.T. 85	
Soundview	04
County—Bronx:	
Parts of county:	
C.T. 2	
C.T. 4	
C.T. 16	
C.T. 20	
C.T. 24	
C.T. 28	
C.T. 36	
C.T. 38	
C.T. 40.01	
C.T. 40.02	
C.T. 44	
C.T. 46	
C.T. 48	
C.T. 50	
C.T. 52	
C.T. 54	
C.T. 56	
C.T. 62	
C.T. 64	
C.T. 66	
C.T. 68	
C.T. 70	
C.T. 72	
C.T. 74	
C.T. 76	
C.T. 84	
C.T. 86	
C.T. 88	
C.T. 96	
C.T. 102	
C.T. 110	
C.T. 116	
C.T. 130	
C.T. 132	
C.T. 138	
C.T. 144	
C.T. 154	
C.T. 156	
C.T. 158	
C.T. 160	
C.T. 162	
C.T. 164	
C.T. 166	
C.T. 194	
C.T. 214	
C.T. 274	
C.T. 276	
South Bronx	04
County—Bronx:	
Parts of county:	
C.T. 11	
C.T. 15	
C.T. 17	
C.T. 23	
C.T. 25	
C.T. 27.01	
C.T. 27.02	
C.T. 31	
C.T. 33	
C.T. 35	
C.T. 37	
C.T. 39	
C.T. 41	
C.T. 43	
C.T. 47	
C.T. 49	
C.T. 53	
C.T. 59.01	
C.T. 59.02	
C.T. 61	
C.T. 65	
C.T. 67	
C.T. 69	
C.T. 71	
C.T. 73	
C.T. 75	
C.T. 77	
C.T. 79	
C.T. 81	
C.T. 83	
C.T. 85	
C.T. 87	
C.T. 89	
C.T. 91	
C.T. 97	
C.T. 99	
C.T. 105	
C.T. 115.01	
C.T. 115.02	
C.T. 119	

DENTAL CARE: New York—Continued

Service Area Listing

Service area name	Degree of shortage group
C.T. 127.02	
C.T. 129.01	
C.T. 129.02	
C.T. 133	
C.T. 135	
C.T. 137	
C.T. 139	
C.T. 141	
C.T. 134	
C.T. 145	
C.T. 147	
C.T. 149	
C.T. 153	
C.T. 155	
C.T. 163	
C.T. 165	
C.T. 167	
C.T. 169	
C.T. 171	
C.T. 173	
C.T. 175	
C.T. 177	
C.T. 179	
C.T. 181	
C.T. 183	
C.T. 187	
C.T. 189	
C.T. 193	
C.T. 195	
C.T. 197	
C.T. 199	
C.T. 201	
C.T. 211	
C.T. 213.02	
C.T. 217.02	
C.T. 219	
C.T. 221	
C.T. 223	
C.T. 225	
C.T. 227.02	
C.T. 227.06	
C.T. 229.02	
C.T. 367	
C.T. 389.02	
South Central Bronx-Fort Apache	04
County—Bronx:	
Parts of county:	
C.T. 121.01	
C.T. 121.02	
C.T. 123	
C.T. 125	
C.T. 127.01	
C.T. 131	
C.T. 151	
C.T. 157	
C.T. 161	
Sunset Park	03
County—Kings:	
Parts of county:	
C.T. 2	
C.T. 18	
C.T. 20	
C.T. 22	
C.T. 72	
C.T. 74	
C.T. 76	
C.T. 78	
C.T. 80	
C.T. 82	
C.T. 84	
C.T. 86	
C.T. 88	
C.T. 90 (parts)	
C.T. 92 (parts)	
C.T. 94 (parts)	
C.T. 96	
C.T. 98	
C.T. 100	
C.T. 101	
C.T. 104 (parts)	
C.T. 106 (parts)	
C.T. 108 (parts)	
C.T. 116	
C.T. 122	
C.T. 143	
C.T. 145	
C.T. 147	
C.T. 182	

DENTAL CARE: New York—Continued

Service Area Listing

Service area name	Degree of shortage group
West Harlem	04
County—New York:	
Parts of county:	
C.T. 209.01	
C.T. 211	
C.T. 213.01	
C.T. 217.01	
C.T. 219	
C.T. 221.01	
C.T. 223	
C.T. 225	
C.T. 227.01	
C.T. 229	
C.T. 231.01	
C.T. 238	

DENTAL CARE: New York

Population Group Listing

Population group	Degree of shortage group
Dent ind. pop. of Mt. Vernon	02
County—Westchester:	
Parts of county:	
C.T. 25	
C.T. 27	
C.T. 28	
C.T. 29	
C.T. 31	
C.T. 32	
C.T. 36	

DENTAL CARE: North Carolina

County Listing

County name	Degree of shortage group
Alexander	03
Anson	01
Beaufort:	
Service area: Chocowinity—Richland	01
Bertie	02
Bladen	04
Brunswick	04
Caldwell	04
Camden	01
Chatham	04
Columbus	04
Cumberland:	
Service area: Eastern Cumberland Co	01
Currituck	02
Duplin	02
Durham:	
Service area: Lincoln Comm Hlth Ctr	02
Edgecombe	03
Franklin	03
Gates	01
Greene	01
Halifax	03
Harnett	04
Hertford	04
Hoke	02
Hyde	01
Jackson	04
Jones	02
McDowell	04
Macon	04
Madison	03
Martin	04
Mitchell:	
Service area: Northern Mitchell Co	01
Northampton	01
Onslow	04
Pender	02
Perquimans	01
Robeson:	
Population group: Dent ind of Pembroke	01
Sampson	03

DENTAL CARE: North Carolina—Continued

County Listing

County name	Degree of shortage group
Scotland	04
Swain	04
Tyrrell	01
Union	02
Warren	03
Washington	02
Wilkes	08

DENTAL CARE: North Carolina

Service Area Listing

Service area name	Degree of shortage group
Chocowinity-Richland	01
County—Beaufort:	
Parts of county:	
Chocowinity Twp.	
Richland Twp.	
Eastern Cumberland Co	01
County—Cumberland:	
Parts of county:	
Eastern Cumberland Co.	
Lincoln Comm. Hlth. Ctr. service area	02
County—Durham:	
Parts of county:	
C.T. 8.01	
C.T. 8.02	
C.T. 9	
C.T. 10.01	
C.T. 11	
C.T. 12.01	
C.T. 12.02	
C.T. 13.01	
C.T. 13.02	
C.T. 14	
Northern Mitchell Co	01
County—Mitchell:	
Parts of county:	
Bakersville	
Cane Creek	
Little Rock Creek	
Fork Mountain	
Red Hill	
Harrell	
Bradshaw	
Poplar	
Snow Creek	

DENTAL CARE: North Carolina

Population Group Listing

Population group	Degree of shortage group
Dent. ind. pop. of Pembroke area	01
County—Robeson:	
Parts of county:	
Burnt Twp. (dent. ind. pop.)	
Pembroke Twp. (dent. ind. pop.)	
Philadelphus Twp. (dent. ind. pop.)	
Smiths Twp. (dent. ind. pop.)	
Swamp Twp. (dent. ind. pop.)	

DENTAL CARE: North Dakota

County Listing

County name	Degree of shortage group
Benson	03
Billings	01
Burke	01
Dunn	01
Eddy	04

DENTAL CARE: North Dakota—Continued

County Listing

County name	Degree of shortage group
Emmons	01
Grant	01
Kidder	03
Logan	01
McHenry:	
Service area: Harvey	04
McKenzie	04
Mercer:	
Service area: Mercer/Oliver	02
Mountrail	03
Oliver:	
Service area: Mercer/Oliver	02
Pierce:	
Service area: Harvey	04
Sheridan:	
Service area: Harvey	04
Sioux	01
Slope	01
Ward:	
Service area: Kenmare	01
Wells:	
Service area: Harvey	04

DENTAL CARE: North Dakota

Service Area Listing

Service area name	Degree of shortage group
Harvey	04
County—McHenry:	
Parts of County:	
Drake div.	
County—Pierce:	
Parts of County:	
South Pierce division	
County—Sheridan	
County—Wells	
Kenmare	01
County—Ward:	
Parts of County:	
Des Lacs Valley div.	
Kenmare div.	
Mercer/Oliver	02
County—Mercer	
County—Oliver	

DENTAL CARE: Ohio

County Listing

County name	Degree of shortage group
Adams	01
Brown	03
Cuyahoga:	
Service area: Clark—Fulton/Denison/Tremont	01
Service area: Corlett/Mt. Pleas/Wiland	03
Service area: Glenville-Cleveland	02
Service area: Hough/Norwood	02
Service area: Near Westside—Cleveland	03
Service area: North/South Collingwood	04
Service area: Puritas—Bellaire/Jeffrsn	04
Population group: homebound pop. of Cuyahoga Co	01
Darke	03
Hamilton:	
Service area: Winton Hills (Cincinnati)	03
Harrison	02
Henry	02
Lucas:	
Service area: Old West End/Cir City/Door	02
Mahoning:	
Service area: Eastside—Youngstown	02
Meigs	03
Monroe	03
Montgomery:	
Service area: Dayton (west central)	04
Service area: Dayton (southwest)	01
Service area: Dayton (northwest)	02
Morgan	02
Noble	04
Perry	03
Ross:	
Population group: Dent. ind. of Ross Co	04
Sandusky:	
Population group: Mig. pop. of Sandusky Co	01
Population group: Pov. pop. of Sandusky Co	01
Vinton	01

DENTAL CARE: Ohio

Service Area Listing

Service area name	Degree of shortage group
Dayton (west central)	04
County—Montgomery:	
Parts of County:	
C.T. 1–5	
C.T. 16–18	
C.T. 30	
C.T. 31	
Dayton (southwest)	01
County—Montgomery:	
Parts of County:	
C.T. 19	
C.T. 22	
C.T. 23	
C.T. 25–29	
C.T. 32–34	
Dayton (northwest)	02
County—Montgomery:	
Parts of County:	
C.T. 6	
C.T. 7	
C.T. 12–15	
C.T. 20	
C.T. 21	
Clark—Fulton/Denison/Tremont	01
County—Cuyahoga:	
Parts of County:	
C.T. 1027–1029	
C.T. 1041–1048	
C.T. 1049 (Denison)	
C.T. 1051–1053	
C.T. 1054–1056	
Corlett/Mt. Pleas/Wiland	03
County—Cuyahoga:	
Parts of County:	
C.T. 1156	
C.T. 1193	
C.T. 1196	
C.T. 1199	
C.T. 1201	
C.T. 1203–1209	
C.T. 1213	
Eastside—Youngstown	02
County—Mahoning:	
Parts of County:	
C.T. 8001–8006	
Glenville-Cleveland	02
County—Cuyahoga:	
Parts of County:	
C.T. 1114	
C.T. 1161–1166	
C.T. 1181–1185	
Hough/Norwood	02
County—Cuyahoga:	
Parts of County:	
C.T. 1112	
C.T. 1113	
C.T. 1115–1119	
C.T. 1121	
C.T. 1123–1126	
Near Westside—Cleveland	03
County—Cuyahoga:	
Parts of County:	
C.T. 1025	
C.T. 1026	
C.T. 1031–1039	
North/South Collingwood	04

DENTAL CARE: Ohio—Continued

Service Area Listing

Service area name	Degree of shortage group
County—Cuyahoga:	
Parts of County:	
C.T. 1169	
C.T. 1171–1179	
C.T. 1261	
Old West End/Cir City/Door	02
County—Lucas	
Parts of County:	
C.T. 8	
C.T. 14–16	
C.T. 21–23	
C.T. 24.01	
C.T. 24.02	
C.T. 25–27	
C.T. 31–37	
Puritas—Bellaire/Jeffersn	04
County—Cuyahoga:	
Parts of County:	
C.T. 1014	
C.T. 1021	
C.T. 1033	
C.T. 1035	
C.T. 1239	
C.T. 1241–1246	
Winton Hills (Cincinnati)	02
County—Hamilton:	
Parts of County:	
C.T. 79 (Winton Hills)	
C.T. 80 (Winton Hills)	
C.T. 257 (Elmwood Place)	

DENTAL CARE: Ohio

Population Group Listing

Population group	Degree of shortage group
Dentally indigent pop. of Ross Co	04
Homebound pop. of Cuyahoga Co	01
Migrant pop. of Sandusky Co	01
Poverty pop. of Sandusky Co	01

DENTAL CARE: Oklahoma

County Listing

County name	Degree of shortage group
Adair	02
Atoka	01
Beaver	05
Choctaw	04
Coal	01
Cotton	04
Delaware	03
Dewey	01
Greer	03
Haskell	01
Hughes	04
Johnston	02
Kiowa	04
Latimer	03
Le Flore	03
McCurtain	04
Major	03
Oktibbeha	01
Oklahoma:	
Service area: Southeast Oklahoma City	03
Osage	03
Pushmataha	01
Roger Mills	01
Seminole	04
Tulsa:	
Service area: North Tulsa	04

DENTAL CARE: Oklahoma—Continued

Service Area Listing

Service area name	Degree of shortage group
North Tulsa	04
County—Tulsa:	
Parts of county:	
C.T. 2-15	
C.T. 62	
C.T. [illegible]	
Southeast Oklahoma City	03
County—Oklahoma:	
Parts of county:	
C.T. 1037-1040	
C.T. 1047-1049	
C.T. 1053	
C.T. 1054	
C.T. 1073.01	

DENTAL CARE: Oregon

County Listing

County name	Degree of shortage group
Curry:	
Service area: Port Orford	01
Gilliam	01
Malheur:	
Service area: Jordan Valley	01
Marion:	
Population group: Migrant population	01
Multnomah:	
Service area: North/Northeast Portland	03
Polk:	
Population group: Migrant population	01
Tillamook:	
Service area: Pacific City	01
Wheeler	01
Yamhill:	
Population group: Migrant population	01

DENTAL CARE: Oregon

Service Area Listing

Service area name	Degree of shortage group
Jordan Valley	01
County—Malheur:	
Parts of county:	
Jordan CCD	
North/Northeast Portland	04
County—Multnomah:	
Parts of county:	
C.T. 22.01	
C.T. 22.02	
C.T. 33.01	
C.T. 36.02	
C.T. 34.01	
C.T. 34.02	
C.T. 35.01	
C.T. 35.02	
C.T. 36.01	
C.T. 36.02	
C.T. 37.01	
C.T. 37.02	
C.T. 38.01	
C.T. 38.02	
C.T. 38.03	
C.T. 39.01	
C.T. 39.02	
C.T. 40.01	
C.T. 40.02	
Pacific City	01
County—Tillamook:	
Parts of county:	
Beaver div. (S R)	
Nestucca div.	
Port Orford	01
County—Curry:	
Parts of county:	
Port Orford CCD	

DENTAL CARE: Oregon—Continued

Population Group Listing

Population group	Degree of shortage group
Mig. pop. of Marion/Polk/Yamhill	01

DENTAL CARE: Pennsylvania

County Listing

County name	Degree of shortage group
Adams:	
Service area: North Adams	04
Allegheny:	
Service area: Arlington Heights/St. Clair	01
Service area: Beltzhoover/Knoxville	01
Service area: Homerwood-Brushton	04
Service area: Manchester	01
Service area: McKees Rocks/Stowe	04
Armstrong:	
Service area: Armstrong-Clarion	03
Service area: Kiski Valley	03
Bedford:	
Service area: Broad Top	02
Service area: Hyndman	01
Cambria:	
Service area: North Cambria (areas 1&6)	03
Service area: South Central Clearfield	02
Carbon:	
Service area: Jim Thorpe	01
Centre:	
Service area: Snow Shoe	05
Clarion:	
Service area: Armstrong-Clarion	03
Service area: Forest	02
Clearfield:	
Service area: Snow Shoe	03
Service area: South Central Clearfield	02
Clinton:	
Service area: Renovo	01
Crawford:	
Service area: East Crawford County	01
Dauphin:	
Service area: Tri-Town	04
Delaware:	
Service area: City of Chester	02
Erie:	
Population Group: Low inc. pop. of Erie City	04
Fayette:	
Service area: Greensboro	02
Forest:	
Service area: Forest	02
Franklin:	
Service area: Valleys Community	01
Fulton:	01
Greene:	
Service area: Greensboro	02
Greene:	
Service area: West Greene	01
Huntingdon:	
Service area: Broad Top	02
Service area: Mt. Union	02
Service area: Orbisonia	02
Indiana:	
Service area: Indiana—N Portion	02
Lancaster:	
Service area: Welsh Mountain	02
Population Group: Sp-epkg pop of SE Lancaster City	02
Mercer:	
Population Group: Low inc pop. of Farrell/Sharon	01
Mifflin:	
Service area: McClure	04
Service area: Mt. Union	02
Northumberland:	
Service area: Herndon/Mandata	01
Perry	03
Philadelphia:	
Service area: North Philadelphia	01
Schuylkill:	
Service area: Herndon/Mandata	01
Service area: Shenandoah/Mahanoy City	03
Service area: Tri-Town	04
Snyder:	
Service area: McClure	04

DENTAL CARE: Pennsylvania—Continued

County Listing

County name	Degree of shortage group
Somerset:	
Service area: Hyndman	01
Sullivan	01
Susquehanna:	
Service area: Barnes-Kasson	03
Tioga:	
Service area: Blossburg	04
Venango:	
Service area: Forest	02
Warren:	
Service area: Forest	02
Wayne:	
Service area: Barnes-Kasson	03
Westmoreland:	
Service area: Kiski Valley	03
Wyoming:	
Service area: Southern Wyoming Co.	01
York:	
Service area: York City	04

DENTAL CARE: Pennsylvania

Service Area Listing

Service area name	Degree of shortage group
Arlington Heights/St. Clair	01
County—Allegheny:	
Parts of county:	
C. T. 316.04	
C. T. 316.05	
Armstrong-Clarion	03
County—Armstrong:	
Parts of county:	
Brady's Bend Township	
Madison Township	
Perry Township	
Pine Township	
Sugarcreek Township	
Washington Township	
County—Clarion:	
Parts of county:	
Brady Township	
East Brady Township	
Madison Township	
Barnes-Kasson	03
County—Susquehanna:	
Parts of county:	
C. T. 301	
C. T. 302	
C. T. 307	
County—Wayne:	
Parts of county:	
Mt. Pleasant Twp.	
Preston Twp.	
Scott Twp.	
Starrucca Boro.	
Beltzhoover/Knoxville	01
County—Allegheny:	
Parts of county:	
C. T. 316.04	
C. T. 316.05	
C. T. 330.01	
Blossburg	04
County—Tioga:	
Parts of county:	
Blossburg Boro.	
Bloss Twp.	
Covington Twp.	
Duncan Twp.	
Hamilton Twp.	
Liberty Boro.	
Liberty Twp.	
Putnam Twp.	
Union Twp. (W. R)	
Ward Twp.	
Broad Top	02
County—Bedford:	
Parts of county:	
Broad Top Twp.	
Coaldale Boro.	
Hopewell Boro.	
Liberty Twp.	
Saxton Twp.	

DENTAL CARE: Pennsylvania—Continued

Service Area Listing

Service area name	Degree of shortage group
County—Huntingdon:	
Parts of county:	
Broad Top City Boro.	
Carbon Twp.	
Cass Twp.	
Cassville Boro.	
Coalmont Boro.	
Dudley Boro.	
Hopewell Twp.	
Lincoln Twp.	
Marklesburg Boro.	
Penn Twp.	
Todd Twp.	
Wood Twp.	
Chester City	02
County—Delaware:	
Parts of county:	
C. T. 4048	
C. T. 4049.01	
C. T. 4049.02	
C. T. 4050–4057	
C. T. 4058.01	
C. T. 4058.02	
C. T. 4059	
C. T. 4060	
East Crawford County	01
County—Crawford:	
Parts of county:	
Athens Township	
Bloomfield Township	
Centerville Township	
Richmond Township	
Rockdale Township	
Rome Township	
Sparta Township	
Spartanburg Township	
Steuben Township	
Townville Borough	
Forest	02
County—Clarion:	
Parts of county:	
Washington Township	
Farmington Township	
County—Forest:	
County—Venago:	
Parts of county:	
Pleasantville Township	
Allegheny Township	
President Township	
County—Warren:	
Parts of county:	
Triumph Township	
Limestone Township	
Watson Township	
Deerfield Township	
Cherry Grove Township	
South West Township	
Greensboro	02
County—Fayette:	
Parts of county:	
Point Marion Borough	
German Township	
Nicholson Township	
Springhill Township	
County—Greene:	
Parts of county:	
Dunkard Township	
Greene Township	
Monogahela Township	
Greensboro Township	
Herndon/Mandata	01
County—Northumberland:	
Parts of county:	
East Cameron Twp.	
Herndon Twp.	
Jackson Twp.	
Jordon Twp.	
Little Mahoney Twp.	
Lower Mahoney Twp.	
Upper Mahoney Twp.	
Washington Twp.	
West Cameron Twp.	
County—Schuylkill:	
Parts of county:	
Eldred Twp.	
Upper Mahantango	

DENTAL CARE: Pennsylvania—Continued

Service Area Listing

Service area name	Degree of shortage group
Homewood-Brushton	04
County—Allegheny:	
Parts of county:	
C. T. 1207	
C. T. 1301–1305	
Hyndman	01
County—Bedford:	
Parts of county:	
Harrison Twp.	
Hyndman Boro.	
Juniata Twp.	
Londonderry Twp.	
County—Somerset:	
Parts of county:	
Allegheny Twp.	
Fairhope Twp.	
Northern Indiana	02
County—Indiana:	
Parts of county:	
West Mahoning Twp.	
North Mahoning Twp.	
South Mahoning Twp.	
East Mahoning Twp.	
Canoe Twp.	
Banks Twp.	
Grant Twp.	
Montgomery Twp.	
Washington Twp.	
Rayne Twp.	
Green Twp.	
Pine Twp.	
Glen Campbell Borough.	
Smicksburg Borough.	
Cherry Tree Borough.	
Marion Center Borough.	
Plumville Borough.	
Creekside Borough.	
Clymer	
Jim Thorpe	01
County—Carbon:	
Parts of county:	
Kidder Township	
Penn Forest Township	
Jim Thorpe Township	
East Side Borough	
Lausanne Township	
Lehigh Township	
Kiski Valley	03
County—Armstrong:	
Parts of county:	
Apollo Borough	
Bethel Township	
Burrel Township	
Gilpin Township	
Kiskiminitas Township	
Leechburg Borough	
North Apollo Borough	
Parks Township	
South Bend Township	
County—Westmoreland:	
Parts of county:	
Allegheny Township	
Avonmore Borough	
Bell Township	
East Vandergrift Borough	
Hyde Park Borough	
Oklahoma Borough	
Vandergrift Borough	
Washington Township	
West Leechburg Borough	
Manchester	01
County—Allegheny:	
Parts of county:	
C. T. 321.01	
C. T. 321.02	
C. T. 321.03	
C. T. 321.05	
McClure	04
County—Mifflin:	
Parts of county:	
Decatur (N. E.)	
County—Snyder:	
Parts of county:	
Adams Twp.	
McClure	
Spring Twp.	
West Beaver Twp.	

DENTAL CARE: Pennsylvania—Continued

Service Area Listing

Service area name	Degree of shortage group
McKees Rocks/Stowe	04
County—Allegheny:	
Parts of county:	
C. T. 4621–4625	
C. T. 4631–4636	
Mt. Union	02
County—Huntingdon:	
Parts of county:	
Brady Twp.	
Mapleton	
Mill Creek	
Mt. Union	
Shirleysburg	
Shirley Twp.	
Union Twp.	
County—Mifflin:	
Parts of county:	
Newton Hamilton	
Wayne Twp.	
North Adams	04
County—Adams:	
Parts of county:	
Menallen Township	
Tyrone Township	
Huntington Township	
Butler Township	
Arendtsville Borough	
Bendersville Borough	
Biglerville Borough	
York Springs Borough	
North Cambria (areas 1 and 6)	06
County—Cambria:	
Parts of county:	
Allegheny Twp.	
Ashville Boro.	
Barnesboro Boro.	
Barr Twp.	
Carrolltown Boro.	
Chest Springs Boro.	
Chest Twp.	
Clearfield Twp.	
Dean Twp.	
East Carroll Twp.	
Elder Twp.	
Gallitzin Boro.	
Gallitzin Twp.	
Hastings Boro.	
Loretto Boro.	
Patton Boro.	
Reade Twp.	
Spangler Boro.	
Susquenhanna Twp.	
Tunnel Hill Boro.	
West Carroll Twp.	
White Twp.	
North Philadelphia	01
County—Philadelphia:	
Parts of county:	
C. T. 131–133.	
C. T. 135–141.	
C. T. 145–149.	
C. T. 151–155.	
C. T. 165–169.	
C. T. 171–174.	
Orbisonia	02
County—Huntington:	
Parts of county:	
Clay Twp.	
Cromwell Twp.	
Dublin Twp.	
Orbisonia Boro.	
Rockhill Boro.	
Saltillo Boro.	
Shade Gap Boro.	
Springfield Twp.	
Tell Twp.	
Three Springs Boro.	
Renovo	01
County—Clinton:	
Parts of county:	
Chapman Twp.	
East Keating Twp.	
Grugan Twp.	
Liedy Twp.	
Noyes Twp.	
Renovo Boro.	
South Renovo Boro.	

DENTAL CARE: Pennsylvania—Continued

Service Area Listing

Service area name	Degree of shortage group
Shenandoah/Mahanoy City	03
County—Schuylkill:	
Parts of county:	
Deland Twp.	
East Union Twp.	
Gilberton Boro.	
Kline Twp.	
Mahanoy City Boro.	
Mahanoy Twp.	
Maadoo Boro.	
North Union Twp.	
Ringtown Boro.	
Ryan Twp.	
Shenandoah Boro.	
Union Twp.	
West Mahanoy Twp.	
Snow Shoe	03
County—Centre:	
Parts of county:	
Baggs Twp. (W. ½)	
Burnside Twp.	
Curtin Twp. (W. ½)	
Huston Twp. (N. ½)	
Snow Shoe	
Snow Shoe Twp.	
Union Twp.	
Unionville	
County—Clearfield:	
Parts of county:	
Cooper Twp. (N.½)	
Covington Twp.	
Karthaus Twp.	
South Central Clearfield	02
County—Cambria:	
Parts of county:	
Read Twp (N. ½)	
White Twp.	
County—Clearfield:	
Parts of county:	
Beccaria Twp.	
Bigler Twp (W. ½)	
Chest Twp.	
Coalport Boro.	
Glen Hope Boro.	
Gulich Twp.	
Irvona Boro.	
Jordan Twp.	
Ramey Boro.	
Westover Boro.	
Southern Wyoming Co	01
County—Wyoming:	
Parts of county:	
Exeter Twp.	
Faue Twp.	
Monroe Twp.	
Northmoreland Twp.	
Noxen Twp.	
Tri-Town	04
County—Dauphin:	
Parts of county:	
Lykens Borough	
Williamstown Borough	
Gratz Borough	
Wiconisco Township	
County—Schuylkill:	
Parts of county:	
Tower City Borough	
Frailey Township	
Valleys Community	01
County—Franklin:	
Parts of county:	
Fannet Township	
Metal Township	
Welsh Mountain	02
County—Lancaster:	
Parts of county:	
Salisbury Township	
Caernarvon Township	
Earl Township	
East Earl Township	
West Greene	01
County—Greene:	
Parts of county:	
Allepo: Township	
Gilmore Township	
Gray Township	

DENTAL CARE: Pennsylvania—Continued

Service Area Listing

Service area name	Degree of shortage group
Jackson Township	
Richhill Township	
Springhill Township	
Center Township	
Freeport Township	
Morris Township	
Washington Township	
Wayne Township	
York City	04
County—York:	
Parts of county:	
C. T. 1–3	
C. T. 5	
C. T. 7	
C. T. 10	
C. T. 15	
C. T. 16	

DENTAL CARE: Pennsylvania

Population Group Listing

Population group	Degree of shortage group
Low income pop. of Erie City	04
County—Erie	
Low income pop. of Farrell/Sharon	01
County—Mercer	
Spanish spkg. pop. of S.E. Lancaster City	02
County—Lancaster:	
Parts of county:	
C.T. 6	
C.T. 9	
C.T. 15	
C.T. 16	

DENTAL CARE: South Carolina

County Listing

County name	Degree of shortage group
Abbeville:	
Service area: Iala	01
Allendale	02
Anderson:	
Service area: Iala	01
Beaufort	04
Berkeley	03
Calhoun	05
Charleston:	
Service area: Sea Island	01
Chester:	
Service area: Richburg	01
Chesterfield	04
Clarendon	04
Darlington	04
Dillon	04
Edgefield	04
Fairfield	03
Jasper	01
Kersha:	
Service area: Bethune/Mt. Pisgah	04
Lancaster	02
Lee	03
Marlboro	02
Richland:	
Service area: Richland Co	01
Saluda	02
Sumter	04
Williamsburg	03
York:	
Service area: Western York Co	03

DENTAL CARE: South Carolina—Continued

Service Area Listing

Service area name	Degree of shortage group
Bethune/Mt. Pisgah	04
County—Kershaw:	
Parts of county:	
Bethune Div.	
Mt. Pisgah Div.	
Iala	01
County—Abbeville:	
Parts of county:	
Antreville-Lowndesville.	
Calhoun Falls Div.	
County-Anderson:	
Parts of county:	
Iva.	
Starr.	
Richburg	01
County—Chester:	
Parts of county:	
Richburg Div.	
Lansford Div.	
Great Falls Div.	
E.D. 397 part Chester Div.	
E.D. 398 part Chester Div.	
E.D. 402 part Chester Div.	
E.D. 406 part Chester Div.	
Richland Co	01
County—Richland:	
Parts of county:	
C.T. 118.	
C.T. 119.02.	
C.T. 120.	
Sea Island	01
County—Charleston	
Parts of county:	
C.T. 19.01.	
C.T. 19.02.	
C.T. 20.01.	
C.T. 20.02.	
C.T. 20.03.	
C.T. 20.04.	
C.T. 21.01.	
C.T. 21.02	
C.T. 22–25.	
Western York Co	03
County—York:	
Parts of county:	
C.T. 14–16.	
C.T. 17 (E.D. 9).	
C.T. 19.	

DENTAL CARE: South Dakota

County Listing

County name	Degree of shortage group
Buffalo	01
Campbell	01
Corson	04
Dewey	01
Gregory	03
Harding	01
Jackson	01
Lyman	01
Marshall	01
Mellette	01
Moody	03
Roberts	02
Sanborn	02
Shannon	01
Sully	03
Todd	01
Washabaugh	01
Yankton:	
Facility: Human Services Center	03

DENTAL CARE: South Dakota—Continued

County Listing

County name	Degree of shortage group
Human Services Center	03
County—Yankton	

DENTAL CARE: Tennessee

County Listing

County name	Degree of shortage group
Claiborne	04
Clay	03
Cumberland:	
Service area: Monterey	03
Fayette	03
Fentress:	
Service area: Monterey	03
Grainger	02
Hancock	02
Haywood	03
Henry	01
Johnson	02
Lewis	03
Morgan	03
Overton:	
Service area: Monterey	03
Polk:	
Service area: West Polk	01
Putnam:	
Service area: Monterey	03
Scott	02
Union	02
Wayne	03

DENTAL CARE: Tennessee

Service Area Listing

Service area name	Degree of shortage group
Monterey	03
County—Cumberland:	
Parts of county:	
Maryland/Pleasant Hill	
County—Fentress:	
Parts of county:	
Clark Range	
County—Overton:	
Parts of county:	
Crawford	
County—Putnam:	
Parts of county:	
Monterey	
West Polk	01
County—Polk:	
Parts of county:	
E.D. 1-7	

DENTAL CARE: Texas

County listing

County name	Degree of shortage group
Bandera	03
Bee	03
Bexar:	
Service area: East side (San Antonio)	03
Service area: South side (San Antonio)	02
Service area: Southern rural Bexar	01
Service area: West side (San Antonio)	02
Caldwell:	
Population group: indigent pop. of Caldwell	01
Cameron	02
Castro	03
Chambers	03
Cochran	04
Colorado	04
Dallas:	
Service area: Fair Park/White Rock Creek	01
Service area: Lisbon	03
Service area: Simpson Stuart/Polk South	02
Service area: South Dallas	01
Service area: Trinity	02
Service area: West Dallas	02
Population Group: Indian pop. of Dallas/Ft. Worth	01
Deaf Smith	03
Dimmit	01
Duval	01
Edwards	01
El Paso:	
Service area: R.E. Thomason Gen Hosp catch area	01
Frio	01
Hall	04
Hardin	04
Hidalgo	02
Jefferson:	
Service area: Beaumont Inner City	04
Service area: Port Author Inner City	01
Karnes	04
Kinney	01
La Salle	03
Live Oak:	
Service area: McMullen/Live Oak	02
McMullen	
Service area: McMullen/Live Oak	02
Maverick	01
Newton	04
Parmer	02
Polk	02
San Jacinto	01
Sherman	01
Starr	01
Tarrant:	
Population Group: Indian pop. of Dallas/Ft. Worth	01
Trinity	02
Uvalde	03
Val Verde	03
Waller	04
Webb	02
Willacy	03
Yoakum	02
Zapata	01
Zavala	01

DENTAL CARE: Texas

Service Area Listing

Service area name	Degree of shortage group
Beaumont inner city	04
County—Jefferson:	
Parts of County:	
C.T. 7	
C.T. 8	
C.T. 10	
C.T. 15-19	
East side (San Antonio)	03
County—Bexar:	
Parts of county:	
C.T. 1301	
C.T. 1303-1313	
Fair Park/White Rock Creek	01
County—Dallas:	
Parts of county:	
C.T. 23	
C.T. 25	
C.T. 26	
C.T. 27.01	
C.T. 27.02	
C.T. 28	
C.T. 93.02	
C.T. 115	
Lisbon	03
County—Dallas:	
Parts of county:	
C.T. 56	
C.T. 57	
C.T. 58.01	
C.T. 58.02	
C.T. 67.01	
C.T. 67.02	
C.T. [illegible]	
McMullen/Live Oak	02
County—Live Oak	
County—McMullen	
Port Arthur Inner City	01
County—Jefferson:	
Parts of county:	
C.T. 51-53	
C.T. 57-62	
R. E. Thomason Gen Hosp service area	01
County—El Paso:	
Parts of county:	
C.T. 28-32	
C.T. 35.01	
C.T. 35.02	
C.T. 36-40	
C.T. 41.01	
C.T. 41.02	
C.T. 42.01	
C.T. 42.02	
C.T. 104	
C.T. 105	
Simpson Stuart/Polk South	02
County—Dallas:	
Parts of county:	
C.T. 112	
C.T. 113	
C.T. 114.01	
C.T. 167.01	
South Dallas	01
County—Dallas:	
Parts of county:	
C.T. 29	
C.T. 31.02	
C.T. 32.02	
C.T. 33-38	
C.T. 39.01	
C.T. 39.02	
C.T. 40	
South Side (San Antonio)	02
County—Bexar:	
Parts of county:	
C.T. 1501	
C.T. 1503-1507	
C.T. 1510	
C.T. 1601-1605	
Southern rural Bexar	01
County—Bexar:	
Parts of county:	
C.T. 1314-1316	
C.T. 1318	
C.T. 1416-1418	
C.T. 1519-1522	
C.T. 1610-1612	
C.T. 1619	
C.T. 1620	
Trinity	02
County—Dallas:	
Parts of county:	
C.T. 41	
C.T. 49	
C.T. 54	
C.T. 55	
C.T. 66	
C.T. 69	
West Dallas	02
County—Dallas:	
Parts of county:	
C.T. 43	
C.T. 101-106	
West side (San Antonio)	02
County—Bexar:	
Parts of county:	
C.T. 1606	
C.T. 1607	
C.T. 1701	
C.T. 1703	
C.T. 1704	
C.T. 1707-1712	
C.T. 1715	
C.T. 1716	

DENTAL CARE: Texas—Continued

Population Group Listing

Population group	Degree of shortage group
Indigent pop. of Caldwell Co	01
Indian pop. of Dallas/Ft. Worth	01
County—Dallas	
Parts of county	
Indian pop. of Dallas/Ft. Worth	
County—Tarrant	
Parts of county	
Indian pop of Dallas/Ft. Worth	

DENTAL CARE: Utah

County Listing

County name	Degree of shortage group
Daggett	01
Piute	01
Rich	01

DENTAL CARE: Vermont

County Listing

County name	Degree of shortage group
Addison:	
Service area: Addison	02
Essex	01
Grand Isle	01
Washington:	
Service area: Plainfield	01

DENTAL CARE: Vermont

Service Area Listing

Service area name	Degree of shortage group
Addison	02
County—Addison:	
Parts of county:	
Addison	
Bridport	
Bristol	
Ferrisburg	
Lincoln	
Monkton	
New Haven	
Orwell	
Panton	
Shoreham	
Waltham	
Starksboro	
Plainfield	01
County—Washington:	
Parts of county:	
Woodbury Town	
Cabot Town	
Calais Town	
Marshfield Town	
East Montpelier Town	
Plainfield Town	

DENTAL CARE: Virginia

County Listing

County name	Degree of shortage group
Albemarle:	
Service area: Southern Albemarle Co	01

DENTAL CARE: Virginia—Continued

County Listing

County name	Degree of shortage group
Amelia	02
Bath	03
Brunswick	02
Buchanan	02
Charlotte	02
Craig	01
Dickenson	02
Fluvanna	01
Grayson:	
Service area: Troutdale	01
Greene	01
Henry:	
Population Group: Pov. Pop. of Henry	01
King and Queen:	
Service area: King & Queen/Northern King William	01
King George	01
King William:	
Service area: King & Queen/Northern King William	01
Lee	03
Louisa	01
Lunenburg	02
Madison	03
Orange	04
Patrick	01
Rappahannock	01
Richmond:	
Service area: Randolph	01
Russell	01
Scott	03
Southampton	01
Surry	01
Sussex	01
Tazewell	04
Wise	03

DENTAL CARE: Virginia

Service Area Listing

Service area name	Degree of shortage group
King & Queen/N King William	01
County—King and Queen:	
County—King William:	
Parts of county:	
Acquilon dist.	
Mangohick dist.	
Randolph	01
County—Richmond:	
Parts of county:	
C.T. 411	
C.T. 418	
C.T. 414	
Southern Albemarle Co	01
County—Albemarle:	
Parts of county:	
Samuel Miller Dist (S. Part)	
Scottsville Dist.	
Troutdale	01
County—Grayson:	
Parts of county:	
Troutdale	

DENTAL CARE: Virginia

Population Group Listing

Population group	Degree of shortage group
Pov. pop. of Henry Co.	01

DENTAL CARE: Washington

County Listing

County name	Degree of shortage group
Adams:	
Population group: Migrant pop. of Grant/Adams	02
Cullem:	
Facility: Washington State correctional inst	06
Clark:	
Facility: Washington State correctional inst	03
Ferry	
Grant	
Service area: Grand Coulee area	03
Population group: Migrant pop. of Grant/Adams	02
King	
Population group: Dent. indigent pop. of King Co.	04
Facility: Seattle & King Co. Jails	02
Facility: Washington State correctional inst	08
Mason:	
Facility: Washington State correctional inst	08
Pierce:	
Facility: Washington State correctional inst	08
Snohomish:	
Facility: Washington State correctional inst	08
Walla Walla:	
Facility: Washington State correctional inst	08

DENTAL CARE: Washington

Service Area Listing

Service area name	Degree of shortage group
Grand Coulee	08
County—Grant	
Parts of county	
Grand Coulee Area	

DENTAL CARE: Washington

Population Group Listing

Population Group	Degree of shortage group
Dent. Ind. Pop. of King Co.	04
Mig Pop. of Grant/Adams	02
County—Adams	
Parts of county	
Migrant population	
County—Grant	
Parts of county	
Migrant population	

DENTAL CARE: Washington

Facility Listing

Facility	Degree of shortage group
Seattle & King Co. Jails	02
County—King	
Parts of county	
Seattle & King Co. Jails	
Washington State correctional institutions	08
County—Clallam	
Parts of county	
Forks (Clearwater corrections center)	
County—Clark	
Parts of county	
Yacolt (Larch corrections center)	

DENTAL CARE: Washington—Continued

Facility Listing

Facility	Degree of shortage group
County—King	
Parts of county	
Seattle (Firland correctional center)	
County—Mason	
Parts of county	
Shelton (Washington corrections center)	
County—Pierce	
Parts of county	
Gig Harbor (Purdy trment cent for women)	
County—Snohomish	
Parts of county	
Monroe (Washington State reformatory)	
County—Walla Walla	
Parts of county	
Walla Walla (Wa. St. pen/ment health unit)	

DENTAL CARE: West Virginia

county Listing

county name	Degree of shortage group
Barbour	02
Boone	03
Calhoun	01
Doddridge	03
Fayette:	
Service area: Fayetteville	02
Gilmer	04
Grant:	
Service area: Mt. Storm	01
Greenbrier:	
Service area: Greenbrier	02
Hampshire:	
Service area: Capon Bridge	01
Hardy:	
Service area: Baker	01
Kanawha:	
Service area: St. Albans	04
Lincoln	01
Logan	03
McDowell	04
Marshall:	
Service area: Wetzel	01
Mason county:	
Service area: Mason	01
Mercer:	
Service area: Mercer	01
Mineral:	
Service area: Cabin Run	02
Mingo:	
Service area: Mingo	01
Monongalia:	
Service area: Blacksville	01
Monroe	01
Nicholas:	
Service area: Nicholas-Webster	03
Pleasants:	
Service area: Jefferson	01
Preston	02
Putnam	03
Randolph:	
Service area: Mingo	01
Ritchie	02
Summers	04
Taylor	03
Tucker	03
Tyler:	
Service area: Tyler	01
Upshur:	
Service area: Mingo	01
Wayne:	
Service area: Mingo	01
Webster:	
Service area: Nicholas-Webster	03
Wetzel:	
Service area: Wetzel	01
Wirt	01
Wyoming	03

DENTAL CARE: West Virginia—Continued

Service Area Listing

Service area name	Degree of shortage group
Baker	01
County—Hardy	
Parts of county	
Capon	
Lost River	
Blacksville	01
County—Monongalia	
Parts of county	
Clay	
Bathville	
Cabin Run	02
County—Mineral	
Parts of county	
Frankfurt	
Cabin Run	
Capon Bridge	01
County—Hampshire	
Parts of county	
Bloomery	
Capon	
Sherman	
Gore	
Fayetteville	02
County—Fayette	
Parts of county	
Fayetteville	
Falls	
Quinnimont	
Sewell Mountain	
Nuttall	
Mountain Cove	
Greenbrier	02
County—Greenbrier	
Parts of county	
Meadow Bluff	
Jefferson	01
County—Pleasants	
Parts of county	
Grant	
Jefferson	
Lafayette	
McKim	
Union	
Mason	01
County—Mason County	
Parts of county	
Arbuckle District	
Clendenin District	
Cologne District	
Cooper District	
Graham District	
Hannan District	
Robinson District	
Union District	
Waggener District	
Mercer	01
County—Mercer	
Parts of county	
Rock	
Jumping Branch	
Plymouth	
Mingo	01
County—Mingo	
Parts of county	
Halley	
Hardie	
Kermit	
Lee	
Magnolia	
County—Randolph	
Parts of county	
Middlefork	
County—Upshur	
Parts of county	
Banks	
Meade	
Washington	
County—Wayne	
Parts of county	
Hacker Valley	
Mt. Storm	01
County—Grant	
Parts of county	
Union	
Nicholas-Webster	03
County—Nicholas	
County—Webster	

DENTAL CARE: West Virginia—Continued

Service Area Listing

Service area name	Degree of shortage group
St. Albans	04
County—Kanawha	
Parts of county	
Big Sandy	
Cabin Creek	
Elk	
St. Albans City	
Chesapeake Town	
Malden	
Union	
Washington	
Marmet Town	
Tyler	01
County—Tyler	
Parts of county	
Centerville	
Ellsworth	
McElroy	
Meade	
Union	
Wetzel	01
County—Marshall	
Parts of county	
Liberty District	
Meade District	
Cameron District	
Webster District	
County—Wetzel	
Parts of County	
Clay District	
Church District	
Center District	

DENTAL CARE: Wisconsin

County Listing

County name	Degree of shortage group
Brown:	
Service area: Kickapoo Valley	01
Buffalo:	
Service area: Whitehall/Arcadia	01
Crawford:	
Service area: Kickapoo Valley	01
Forest:	
Service area: Mountain	02
Jackson	02
Juneau:	
Service area: Hillsboro	02
Langlade:	
Service area: Mountain	02
Milwaukee:	
Service area: Inner City North Milwaukee	02
Monroe:	
Service area: Hillsboro	02
Oconto:	
Service area: Mountain	02
Richland:	
Service area: Hillsboro	02
Service area: Kickapoo Valley	01
Sauk:	
Service area: Hillsboro	02
Taylor:	
Service area: Hillsboro	02
Trempealeau:	
Service area: Whitehall/Arcadia	01
Vernon:	
Service area: Hillsboro	02
Service area: Kickapoo Valley	01

DENTAL CARE: Wisconsin

Service Area Listing

Service area name	Degree of shortage group
Hillsboro area	02
County—Juneau:	
Parts of county:	
Wonewoc (Vil)	
Wonewoc (Twn)	

DENTAL CARE: Wisconsin—Continued

Service Area Listing

Service area name	Degree of shortage group
County—Monroe:	
Parts of county:	
Sheldon	
Wellington	
Glendale	
Clashton	
Jefferson	
Kendall (Vil)	
Sheldon	
County—Richland:	
Parts of county:	
Henrietta	
Westford	
Bloom Town (Part)	
Yuba (Vil)	
County—Sauk:	
Parts of county:	
Woodland	
La Valle	
County—Vernon:	
Parts of County:	
Hillsboro (Twn)	
Greenwood	
Union Town (Part)	
Forest	
Clinton	
Hillsboro (City)	
Onkaro (Vil)	
Stark	
Whitestown	
Inner City North Milwaukee	02
County—Milwaukee:	
Parts of county:	
C.T. 66–70	
C.T. 81–88	
C.T. 101–106	
C.T. 114–118	
C.T. 139–142	
Kickapoo Valley	01
County—Brown:	
Parts of county:	
Pulaski Village	
Pittsfield Town	
County—Crawford:	
Parts of county	
Utica Town	
Mount Sterling Village	
Gays Mills Village	
Bell Center Village	
Haney Town	
Scott Town	
Clayton Town	
Soldiers Grave Village	
County—Richland:	
Parts of county:	
Sylvan Village (Part)	
Forest Town	
Bloom Town (Part)	
Viola Village (Part)	
County—Vernon:	
Parts of county:	
Stark Town	
La Farge Village	
Forest Town	
Union Town (Part)	
Ontario Village	
Whitestown Town	
Clinton Town	
Webster Town	
Liberty Town	
Viola Village (Part)	
Kickapoo Town	
Readstown Village	
Mountain	02
County—Forest:	
Parts of county:	
Freedom Twn	
Wabeno Twn	
Blackwell Twn	
County—Langlade:	
Parts of county:	
Evergreen Twn	
Wolf River Twn	
White Lake Village	
County—Oconto:	
Parts of county:	
Townsend Twn	

DENTAL CARE: Wisconsin—Continued

Service Area Listing

Service area name	Degree of shortage group
Lakewood Twn	
Doty Twn	
Riverview Twn	
Armstrong Twn	
Breed Twn	
Bagley Twn	
Brazeau Twn	
Whitehall/Arcadia	01
County—Buffalo:	
Parts of county:	
Cross	
Glencoe	
Milton	
County—Trempealeau:	
Parts of county:	
Arcadia (City)	
Arcadia (Town)	
Starr (City)	
Burnside (Town)	
Chimney Rock	
Dodge	
Hale	
Independence (City)	
Lincoln	
Pickon	
Pigeon Falls (Vil)	
Preston	
Whitehall	

DENTAL CARE: Wyoming

County Listing

County name	Degree of shortage group
Albany:	
Service area: Hanna-Rock River	01
Campbell	03
Carbon:	
Service area: Hanna-Rock River	01
Converse	04
Crook	03
Fremont:	
Service area: Dubois	01
Service area: Sweetwater	01
Johnson:	
Service area: Kaycee	01
Natrona:	
Service area: Sweetwater	01
Platte	03
Sublette:	
Service area: Big Piney	01

DENTAL CARE: Wyoming

County Listing

Service area name	Degree of shortage group
Big Piney	01
County—Sublette	
Parts of county	
Big Piney CCD	
Dubois	01
County—Fremont	
Parts of county	
Dubois CCD	
Hanna/Rock River	01
County—Albany	
Parts of county	
Rock River CCD	
County—Carbon	
Parts of county	
Hanna CCD	
Kaycee	01
County—Johnson	
Parts of county	
Kaycee CCD	

DENTAL CARE: Wyoming—Continued

County Listing

Service area name	Degree of shortage group
Sweetwater	01
County—Fremont	
Parts of county	
Sweetwater CCD	
Shoshoni CCD	
County—Natrona	
Parts of county	
Half's Half acre CCD	

DENTAL CARE: Puerto Rico

Municipio Listing

Municipo name	Degree of shortage group
Anasco:	
Service area: Mayaguez Area	02
Barceloneta:	
Population Group: Pov Pop. of Barceloneta	01
Barranquitas:	
Service area: Barranquitas Area	01
Cabo Rojo:	
Service area: Mayaguez Area	02
Catano:	
Service area: Catano Health Area	01
Cidra:	
Population group: Dent Ind of Cidra	01
Comerio:	
Service area: Barranquitas Area	01
Corozal	02
Dorado:	
Service area: Catano Health Area	01
Hatillo	01
Hormigueros:	
Service area: Mayaguez Area	02
Juana Diaz	01
Lares	01
Las Marias	01
Loiza	01
Manati	01
Maricao	02
Maunabo	03
Mayaguez:	
Service area: Mayaguez Area	02
Naranjito:	
Service area: Barranquitas Area	01
Orocovis:	
Service area: Barranquitas Area	01
Patillas	01
Penuelas:	
Service area: Guaraguao Community	01
Ponce:	
Service area: Guaraguao Community	01
Service area: Playa De Ponce	02
Quebradillas	01
Rincon	01
San Sebastian	01
Toa Bajo:	
Service area: Catano Health Area	01
Utuado	01
Vega Baja	02
Yauco	02

DENTAL CARE: Puerto Rico

Service Area Listing

Service area name	Degree of shortage group
Barranquitas area	01
Municipio—Barranquitas	
Municipio—Comerio	
Municipio—Naranjito	
Municipio—Orocovis	
Catano health area	01
Municipio—Catano	
Municipio—Dorado	
Municipio—Toa Bajo	
Guaraguao Community	01
Municipio—Penuelas	
Rucio Barrio	

DENTAL CARE: Puerto Rico—Continued

Service Area Listing

Service area name	Degree of shortage group
Municipio—Ponce	
Guaraduao Barrio	
Mayaguez Area	02
Municipio—Anasco	
Municipio—Cabo Rojo	
Municipio—Hormigueros	
Municipio—Mayaguez	
Playa De Ponce	02
Municipio—Ponce	
Playa	

DENTAL CARE: Puerto Rico

Population Group Listing

Population Group	Degree of shortage group
Med. Ind. of Cidra	01
Pov. pop. of Barceloneta	01

DENTAL CARE: Virgin Islands

County Listing

County name	Degree of shortage group
St. Croix	
Service area: Frederiksted	01

DENTAL CARE: Virgin Islands—Continued

Service Area Listing

Service area name	Degree of shortage group
Frederiksted	01
County—St. Croix	
Parts of county	
E.D. 13	
E.D. 14	
E.D. 19–25	

DENTAL CARE: American Samoa

District Listing

District name	Degree of shortage group
Manu'a District	04
Service area: Terr. of Amer. Samoa	
Eastern Tutuila District	04
Service area: Terr. of Amer. Samoa	
Western Tutuila District	04
Service area: Terr. of Amer. Samoa	
Swains Island District	04
Service area: Terr. of Amer. Samoa	

DENTAL CARE: American Samoa

Service Area Listing

Service area name	Degree of shortage group
Terr. of Amer. Samoa	04
Eastern Tutuila District	
Manu'a District	
Swains Island District	
Western Tutuila District	

DENTAL CARE: Trust Territory—Pacific

District Listing

District name	Degree of shortage group
Ponape District	04
Truk District	04

PRIMARY CARE: Alabama

County Listing

County name	Degree of shortage group
Autauga	01
Baldwin:	
Service area: Bay Minette	04
Barbour	01
Bibb	01
Blount	01
Bullock	01
Butler	03
Calhoun:	
Service area: Etowah	04
Service area: Oxford/S. Anniston	01
Service area: Weaver/N. Anniston	01
Service area: Webster Chapel/Alexandria	01
Chambers:	
Service area: La Fayette	01
Cherokee	02
Chilton	01
Choctaw	01
Clarke:	
Service area: Coffee/Jackson	02
Clay	04
Cleburne	01
Colbert:	
Service area: Cherokee	01
Conecuh	01
Coosa	01
Covington:	
Service area: North Covington	01
Service area: South East Covington	03
Crenshaw	03
Dale	01
De Kalb	02
Elmore	02
Escambia	04
Etowah	04
Service Area:Etowah	
Fayette	04
Geneva	01
Greene	04
Hale	02
Henry	01
Houston:	
Service area: East Houston	01
Jackson	02
Jefferson:	
Service area: Pratt City	01
Service area: Roosevelt City	01
Service area: Warrior/Morris	02
Lamar	04
Lauderdale:	
Service area: Waterloo	02
Lawrence	02
Limestone	04
Lowndes	01
Macon	04
Madison:	
Service area: Triana	02
Population Group: Med Ind Pop. of Madison	02
Marengo	03
Marion	01
Mobile:	
Service area: Bayou La Batre	01
Service area: City of Pritchard	01
Service area: Davie Area Community	01
Facility:Univ. S. Ala. Childrens Med Ctr	01
Monroe	04
Montgomery:	
Service area: South Montgomery	01
Perry	02
Pickens	02
Pike	03
Russell:	
Service area: Cottonton/Hurtsboro	01
St Clair	01
Sumter:	
Service area: Black Belt Community	01
Talladega:	
Service area: Childersburg	01
Service area: Lincoln/Estaboga	01
Service area: Munford	01
Tallapoosa	03
Tuscaloosa:	
Service area: West Tuscaloosa	01
Walker	02
Washington	01
Wilcox	02
Winston	02

PRIMARY CARE: Alabama—Continued

Service Area Listing

Service area name	Degree of shortage group
Bay Minette	04
County—Baldwin:	
Parts of County:	
C.T. 101–106	
Bayou La Batre	01
County—Mobile:	
Parts of county:	
C.T. 66 (parts)	
C.T. 67 (parts)	
C.T. 72 (parts)	
C.T. 73 (parts)	
Black Belt Community	01
County—Sumter:	
Parts of county:	
Gainesville Div.	
Livingston Div. (Epps Twn)	
Panola/Geiger Div.	
Cherokee	01
County—Colbert:	
Parts of county:	
Cherokee CCD	
Childersburg	01
County—Talladega	
Parts of county:	
Childersburg Div.	
City of Pritchard	01
County—Mobile:	
Parts of county:	
C.T. 12.01	
C.T. 39.01	
C.T. 39.02	
C.T. 40–50	
C.T. 61	
Coffee/Jackson	02
County—Clarke:	
Parts of county:	
Coffeeville	
Jackson NW	
Jackson SE	
Cottonton/Hurtsboro	01
County—Russell:	
Parts of county:	
Cottonton-Seale	
Hurtsboro	
Davis Area Community	01
County-Mobile:	
Parts of county:	
C.T. 2	
C.T. 3	
C.T. 4.01	
C.T. 4.02	
C.T. 5	
C.T. 6	
East Houston:	01
County—Houston:	
Parts of county:	
Columbia	
Gordon	
Etowah	04
County—Calhoun:	
Parts of county:	
Piedmont Div.	
Chatchee Div.	
Webster Chapel-Alexandria Div.	
County—Etowah	
La Fayette	01
County—Chambers:	
Parts of county:	
La Fayette Div	
Lincoln/Estaboga	01
County—Talladega:	
Parts of county:	
Lincoln-Estaboga Div	
Munford	01
County—Talladega:	
Parts of county:	
Munford	
North Covington	01
County—Covington:	
Parts of county:	
Red Level	
Rosehill-Garrit	
Oxford/South Anniston	01
County—Calhoun:	
Parts of county:	
E.D. 66	
E.D. 84	
E.D. 86–90	

PRIMARY CARE: Alabama—Continued

Service Area Listing

Service area name	Degree of shortage group
E.D. 92–98	
City of Oxford	
Pratt City	01
County—Jefferson:	
Parts of county:	
C.T. 10–12	
C.T. 14	
Roosevelt City	01
County—Jefferson:	
Parts of county:	
C.T. 105	
C.T. 131	
C.T. 133	
C.T. 136	
C.T. 137	
South East Covington	03
County—Covington:	
Parts of county:	
Florala CCD	
South Montgomery	01
County—Montgomery:	
Parts of county:	
Hope Hull	
Pine Level	
Ramer	
Triana	02
County—Madison:	
Parts of county:	
C.T. 106 (E.D. 8, 15)	
C.T. 110 (E.D. 9A, 9B, 10, 11, 18, 19A)	
C.T. 112 (E.D. 12, 17B, 20B, 21Z)	
Warrior/Morris	02
County—Jefferson:	
Parts of county:	
C.T. 113	
C.T. 114	
Waterloo	02
County—Lauderdale:	
Parts of county:	
Waterloo CCD	
Weaver/North Anniston	01
County—Calhoun:	
Parts of county:	
E.D. 58–65	
E.D. 69–77	
E.D. 80	
E.D. 81	
City of Weaver	
Webster Chapel/Alexandria	01
County—Calhoun:	
Parts of county:	
Webster Chapel/Alexandria	
West Tuscaloosa	01
County—Tuscaloosa:	
Parts of county:	
C.T. 116–119	

PRIMARY CARE: Alabama

Population Group Listing

Population Group	Degree of shortage group
Med. Ind. pop. of Madison Co.	02

PRIMARY CARE: Alabama

Facility Listing

Facility	Degree of shortage group
Univ. So. Ala. Childrens Med Ctr	01
County—Mobile	

PRIMARY CARE: Alaska

Division Listing

Division name	Degree of shortage group
Aleutian Islands Div	01
Anchorage Div.:	
Population Group: Low inc pop. of Anchorage	04
Angoon Div	04
Service Area: Juneau	
Barrow div.	01
Bethel div	01
Bristol Bay div	03
Service Area: Bristol Bay	
Bristol Bay Boro. div.	03
Service Area: Bristol Bay	
Juneau Div	04
Service Area: Juneau	
Kobuk div	01
Kuskukwim div	01
Matanuska-Susitna div	04
Nome div	01
Outer Ketechikan div	01
Prince of Wales div	01
Seward div	04
Skagway-Yakutat div	04
Service Area: Juneau	
Southeast-Fairbanks div	01
Upper Yukon div	01
Valdez-Chitna-Whitt. div	02
Wade Hampton div	01
Yukon-Koyukuk div	01

PRIMARY CARE: Alaska

Service area Listing

Service Area name	Degree of shortage group
Bristol Bay	03
Bristol Bay div.	
Bristol Bay Boro. div.	
Juneau	04
Angoon div.	
Juneau div.	
Skagway-Yakutat div.	

PRIMARY CARE: Alaska

Population Group Listing

Population group	Degree of shortage group
Low inc pop. of Anchorage Div	04

PRIMARY CARE: Arizona

County Listing

County name	Degree of shortage group
Apache:	
Service area: Pueroo Valley	01
Service area: St. Johns	02
Service area: White Mountain Indian Reservation	03
Population group: Indian pop. of Ganado	01
Population group: Indian pop. of Rough Rock	01
Cochise:	
Service area: Benson	03
Service area: Bowie	01
Service area: Tombstone City area	03
Coconino:	
Service area: Williams	02
Gila	
Service area: Payson	04
Service area: White Mountain Indian Reservation	01
Maricopa:	
Service area: El Mirage	01
Service area: South Phoenix	02
Service area: Town of Guadalupe	02
Facility: Maricopa Co. jails	02
Mohave:	
Service area: Bullhead City	02
Navajo:	
Service area: Kayenta	01
Service area: Hopi Indian Reservation	01
Service area: White Mountain Indian Reservation	03
Service area: Winslow	04
Population group: Indian pop. of Ganado	01
Population group: Indian pop. of Rough Rock	01
Pima:	
Service area: El Rio	01
Service area: Catalina	01
Service area: Marana	02
Pinal:	
Service area: Catalina	01
Service area: Superior	01
Population group: Migrant/seasonal farmworkers of Cent/W. Pinal	01
Santa Cruz	01
Yavapai:	
Service area: Seligman	02
Yuma:	
Service area: Northern Yuma County	01
Service area: Somerton Clinic Target area	01

PRIMARY CARE: Arizona

Service Area Listing

Service area name	Degree of shortage group
Benson	03
County—Cochise:	
Parts of county:	
Benson CCD	
Bowie	01
County—Cochise:	
Parts of county:	
Bowie CCD	
Bullhead city	02
County—Mohave:	
Parts of county:	
Kingman North (PT)	
Kingman South (PT)	
Catalina	01
County—Pima:	
Parts of county:	
C.T. 47.07	
County—Pinal:	
Parts of county:	
Oracle Junction (in San Manuel div)	
El Mirage	01
County—Maricopa:	
Parts of county:	
C.T. 405 (Southern ½)	
C.T. 608	
C.T. 609	
El Rio	01
County—Pima:	
Parts of county:	
C.T. 1–4	
C.T. 8–12	
C.T. 13.02	
C.T. 22–24	

PRIMARY CARE: Arizona—Continued

County Listing

County name	Degree of shortage group
Coconino:	
Service area: Williams	02
Gila	
Service area: Payson	04
Service area: White Mountain Indian Reservation	01
Maricopa:	
Service area: El Mirage	01
Service area: South Phoenix	02
Service area: Town of Guadalupe	02
Facility: Maricopa Co. jails	02
Mohave:	
Service area: Bullhead City	02
Navajo:	
Service area: Kayenta	01
Service area: Hopi Indian Reservation	01
Service area: White Mountain Indian Reservation	03
Service area: Winslow	04
Population group: Indian pop. of Ganado	01
Population group: Indian pop. of Rough Rock	01
Pima:	
Service area: El Rio	01
Service area: Catalina	01
Service area: Marana	02
Pinal:	
Service area: Catalina	01
Service area: Superior	01
Population group: Migrant/seasonal farmworkers of Cent/W. Pinal	01
Santa Cruz	01
Yavapai:	
Service area: Seligman	02
Yuma:	
Service area: Northern Yuma County	01
Service area: Somerton Clinic Target area	01

PRIMARY CARE: Arizona—Continued

Service Area Listing

Service area name	Degree of shortage group
C.T. 25.01	
C.T. 37.01	
C.T. 37.02	
C.T. 37.03	
C.T. 38	
C.T. 39	
Hopi Indian Reservation	01
County—Navajo:	
Parts of county:	
Hopi division	
Kayenta	01
County—Navajo:	
Parts of county:	
Navajo Monument division	
Marana	02
County—Pima:	
Parts of county:	
Marana CCD	
Northern Yuma County	01
County—Yuma:	
Parts of county:	
Parker division	
Payson	04
County—Gila:	
Parts of county:	
Christopher Creek	
Gisela	
Jakes Corner	
Kohls Ranch	
Payson	
Pine	
Rye	
Strawberry	
Tonto div.	
Tonto Village	
County—	
Parts of county:	
Pueroo Valley	
County—Apache:	
Parts of county:	
Pueroo Division	
Seligman	02
County—Yavapai:	
Parts of county:	
Ashfork division	
Somerton	01
County—Yuma:	
Parts of county:	
Somerton	
Wellton (part)	
South Phoenix	02
County—Maricopa:	
Parts of county:	
C.T. 1152–1161	
C.T. 1162.01	
C.T. 1162.02	
C.T. 1163–1167	
St. Johns	02
County—Apache:	
Parts of county:	
St. Johns division	
Superior	01
County—Pinal:	
Parts of county:	
E.D. 5-6	
Tombstone City area	03
County—Cochise:	
Parts of county:	
Tombstone Div. (Eastern half)	
Town of Guadalupe	02
County—Maricopa:	
Parts of county:	
Town of Guadalupe	
White Mountain Indian Reservation	03
County—Apache:	
Parts of county:	
McNary division	
County—Gila	
Parts of county:	
Reservation division (part)	

PRIMARY CARE: Arizona—Continued

Service Area Listing

Service area name	Degree of shortage group
Williams	02
County—Coconino:	
Parts of county:	
Williams CCD	
Winslow	04
County—Navajo:	
Parts of county:	
Winslow (Part of Little Colorado division)	

PRIMARY CARE: Arizona

Population Group Listing

Population group	Degree of shortage group
Indian pop. of Ganado area	01
County—Apache:	
Parts of county:	
Southern part	
County—Navajo:	
Parts of county:	
Southern part	
Indian pop. of Rough Rock area	01
County—Apache:	
Parts of county:	
Northern part	
County—Navajo:	
Parts of county:	
Northern part	
Migrant/seasonal farmworkers of cent/w. Pinal	01
County—Pinal:	
Parts of county:	
Casa Grande division	
Coolidge division	
Eloy division	
Maricopa/Stanfield division	
Sacaton division	

PRIMARY CARE: Arizona

Facility Listing

Facility	Degree of shortage group
Maricopa Co. Jails	02
County—Maricopa	

PRIMARY CARE: Arkansas

County Listing

County name	Degree of shortage group
Arkansas:	
Service Area: Arkansas County	01
Ashley	02
Calhoun	01
Clark:	
Service Area: Southern Clark Co	02
Clay	01
Cleveland	02
Crawford	01
Crittenden:	
Service Area: Parkin	01
Facility: Crittenden Memorial Hospital	01
Cross:	
Service Area: Parkin	01
Franklin	01
Fulton:	
Service Area: Horseshoe Bend	03
Grant	04
Howard	02
Izard:	
Service Area: Horseshoe Bend	03
Jefferson:	
Service Area: Northeast Jefferson County	01
Facility: South Arkansas Correctional Institutions	02
Lafayette	01
Lawrence	04
Lee	02
Lincoln	01
Little River	02
Logan	02
Lonoke	03
Mississippi	03
Monroe:	
Service Area: Clarendon	01
Montgomery	01
Nevada:	
Service Area: Clarendon	01
Newton	01
Ouachita:	
Service Area: Clarendon	01
Perry	01
Phillips:	
Service Area: Elaine	01
Pike:	
Service Area: Elaine	01
Poinsett	02
Polk:	
Service Area: Wickes	01
Pope:	
Service Area: Atkins	01
Prairie	01
Pulaski:	
Service Area: East Central Pulaski	01
Service Area: McAlmont	01
Scott	02
Searcy	01
Sebastian:	
Service Area: Diamond	01
Sharp	03
Stone	02
Union:	
Service Area: Diamond	01
Service Area: Strong	01
Van Buren	04
Washington:	
Service Area: West Washington	02
Woodruff	03

PRIMARY CARE: Arkansas

Service Area Listing

Service area name	Degree of shortage group
Arkansas County	01
County—Arkansas:	
Parts of county:	
Arkansas Township	
Barton Township	
Bayou Meto Township	
Brewer Township	
Chester Township	
Crockett Township	
Garland Township	
Keaton Township	
La Grue Township	
Point de Luce Township	
Prairie Township	
Stanley Township	
Atkins	01
County—Pope:	
Parts of county:	
Burnett	
Center	
Convenience	
Griffin	
Gum Logg	
Hill	
Hogan	
Independence	
Jackson	
Liberty	
Moreland	
North Fork	
Phoenix	
Smyrna	
Sulphur	
Valley	
Wilson	
Clarendon	01
County—Monroe:	
Parts of county:	
Cache	
Cypress Ridge	
Hindman	
Pine Ridge	
Roc Roe	
Diamond	01
County—Sebastian:	
Parts of county:	
Diamond Twp.	
Hartford Twp.	
Jim Fork Twp.	
Mississippi Twp.	
Sugarloaf Twp.	
County—Union:	
Parts of County:	
Boone	
Van Buren	
County—Pike:	
Parts of county:	
Eagle Township	
Mountain Township	
Muddy Fork Township	
Self Creek Township	
White Township	
East Central Pulaski	01
County—Nevada:	
Parts of county:	
Jackson	
Leslie	
County—Ouachita:	
Parts of County:	
Bragg	
Bridge Creek	
Jefferson	
Lafayette	
Liberty	
Marion	
Smackover	
County—Pulaski	
Parts of County:	
C.T. 1–13	
C.T. 16	
C.T. 25	
C.T. 26	
C.T. 28	
C.T. 40.01	
Elaine	01
County—Phillips:	
Parts of county:	
Jamestown	
Lake	
Mooney	
Searcy	
Horseshoe Bend	03
County—Fulton:	
Parts of county:	
Union	
County—Izard:	
Parts of county:	
Baker	
Franklin	
Jefferson	
New Hope	
Violet Hill	
McAlmont	01
County—Pulaski:	
Parts of county:	
C.T. 38	
C.T. 39	
Northeast Jefferson County	01
County—Jefferson:	
Parts of county:	
BarraqueTownship	
Bogy Township	
Bolivar Township	
Dudley Township	
Dunnington Township	
Jefferson Township	
Old River Township	
Pastoria Township	
Plum Bayou Township	

PRIMARY CARE: Arkansas—Continued

Service Area Listing

Service area name	Degree of shortage group
Roberts Township	
Villamont Township	
Washington Township	
Parkin	01
County—Crittenden:	
Parts of county:	
Tyronza Twp.	
County—Cross:	
Parts of county:	
Tyronza Twp.	
Southern Clark Co	02
County—Clark:	
Parts of county:	
Missouri Twp.	
Strong	01
County—Union:	
Parts of county:	
Harrison Twp.	
Lapile Twp.	
West Washington	02
County—Washington:	
Parts of county:	
Boston Twp.	
Cane Hill Twp.	
Cove Creek Twp.	
Dutch Mills Twp.	
Illinois Twp.	
Mars Hill Twp.	
Morrow Twp.	
Price Twp.	
Prairie Grove Twp.	
Rhea's Hill Twp.	
Starr Hill Twp.	
Valley Twp.	
Vineyard Twp.	
Weddington Twp.	
Wickes	01
County—Polk:	
Parts of county:	
Ozark	
White	

PRIMARY CARE: Arkansas

Facility Listing

Facility	Degree of shortage group
Crittenden Memorial Hosp	01
County—Crittenden	
S. Arkansas Correctional Facilities	02
County—Jefferson:	
Parts of county:	
Tucker Prison	
Women's Unit	
County—Lincoln:	
Parts of county:	
Cummins Prison	

PRIMARY CARE: California

County Listing

County name	Degree of shortage group
Alameda:	
Service area: Albany-Berkeley N.W./Berkeley S.W.	03
Service area: East Alameda	03
Population group: Sp. spkg./med. ind. pop. of Union Co	02
Alpine:	
Service area: Markleeville	01
Amador:	
Service area: Pine Grove/Silver Lake	02
Service area: Sutter Creek/Plymouth	04
Butte:	
Service area: Yuba foothills/Feather falls	01
Calaveras:	
Service area: West Point/Wilseyville	01
Contra Costa:	
Service area: Oakley/Bethel/Byron/Brentwood	01
Del Norte	04
Population group: Indian pop. of Trinidad area	01
El Dorado:	
Service area: Georgetown	03
Fresno:	
Service area: Firebaugh/Mendota	01
Service area: Fresno	01
Service area: Riverdale/Caruthers/Raisin City	02
Service area: Sanger	02
Service area: Southeast Fresno	01
Service area: Southwest Fresno	02
Glenn:	
Service area: Orland	04
Humboldt:	
Service area: Trinidad	03
Service area: Mad River	01
Population group: Indian pop. of Trinidad area	01
Inyo:	
Service area: Death Valley	01
Kern:	
Service area: Arvin/Lamont	03
Service area: Boron	03
Service area: Buttonwillow	01
Service area: Frazier Park	02
Service area: Lake Isabella	02
Service area: Wasco/Shafter	02
Lake:	
Service area: Clearlake Highlands	02
Lassen:	
Service area: North Lassen	01
Service area: Honey Lake	01
Los Angeles:	
Service area: Avalon/Goodyear/Main	04
Service area: Commerce	02
Service area: Dominguez/W. Compton/Willowbrook	03
Service area: East Compton	01
Service area: East LA/City Terrace/Maravilla	02
Service area: Figueroa/Firestone/Green Meadows/Watts	04
Service area: Florence/Huntington Park	04
Service area: Highland Pk/Linc. Hts/Mt Wash./El Sereno	02
Service area: Industry/La Puente/Baldwin	02
Service area: Maple/Santa Barbara	01
Service area: Maywood Bell/Southgate	03
Service area: Monterey Park/Rosemead	03
Service area: Newhall	02
Service area: North El Monte/South El Monte	03
Service area: Palmdale	02
Service area: Pico Rivera	04
Service area: West Compton	01
Service area: Wholesale Urban Subdivision	01
Population group: Sp. spkg./med. ind. pop. of Boyle Hts	01
Madera:	
Service area: Oakhurst-North Fork	02
Population group: Sp. spkg./mig. pop. of Madera	01
Marin:	
Service area: Bolinas/Stinson	01
Mariposa:	
Service area: Coulterville	01
Mendocino:	
Service area: Covelo	01
Service area: Northwest Mendocino	01
Service area: Point Arena	01
Merced:	
Service area: Northern Merced	06
Population group: Sp. spkg./mig. pop. of Gtr. Merced	02
Population group: Sp. spkg./mig./sea pop. of Los Banos/Dos Palos	01
Modoc:	
Service area: Adin/Lookout	01
Service area: Surprise Valley	04
Service area: Tule Lake/Butte Valley	06
Mono:	
Service area: North Mono	01
Monterey:	
Service area: Northcentral/E. Salinas	02
Service area: Seaside	02
Service area: Soledad	01
Orange:	
Population group: Indochinese pop. of Orange	02
Placer:	
Service area: Colfax/Summit	01
Service area: Foresthill/Backcountry	01
Plumas:	
Service area: Greenville	02
Riverside:	
Population group: Indian pop. of Banning area	01
Service area: Blythe	02
Service area: Lower Coachella Valley	01
Sacramento:	
Service area: Galt	01
San Benito:	04
San Bernardino:	
Population group: Indian pop. of Banning area	01
Service area: Lucerne Valley	01
Service area: Tri-community	01
Service area: Wrightwood	01
San Diego:	
Service area: Alpine	02
Service area: Anza	02
Service area: Mission/Ocean/Pacific Beach	02
Service area: Mountain Empire	01
Service area: Palomar/Laguna	03
Service area: Ramona	02
Service area: San Ysidro	02
Service area: Southwest San Diego	04
Service area: Valley Center/Pauma	02
Population group: Indochinese pov. pop. of Linda Vista	01
Population group: Sp Spkg/mig. pop. of Escondido	02
Population group: Pov. pop. of San Marcos	02
San Francisco:	
Service area: Bayview/Hunters Point	02
Service area: Tenderloin	01
Service area: Merced Hts/Visitation Valley	02
San Joaquin:	
Population group: Mig./seas. Frmwkrs of Inr City Stockton	04
San Luis Obispo:	
Service area: Nipomo/Arroyo Grande	02
San Mateo:	
Service area: Fair Oaks	02
Santa Barbara:	
Service area: Cuyama Valley	01
Santa Clara:	
Service area: Loma Prieta School District	02
Santa Cruz:	
Service area: Loma Prieta School District	02
Shasta:	
Service area: Burney Basin	03
Sierra:	
Service area: West Sierra	01
Siskiyou:	
Service area: Happy Camp	04
Service area: Siskiyou	01
Service area: Tule Lake/Butte Valley	03
Solano:	
Service area: Dixon/Esparto	03
Service area: Vacaville	04
Sonoma:	
Service area: Cloverdale/Geyserville	02
Service area: Russian River	02
Stanislaus:	
Population group: Sp. spkg. pop. of SW. Stanislaus	02
Service area: West Modesto	01
Trinity:	
Service area: Mad River	01
Tulare:	
Service area: Lipton/Earlimart	01
Service area: Springville	01
Tuolumne:	
Service area: Groveland	01
Service area: Stanislaus/Yosemite	01
Service area: Tuolumne City	01
Ventura:	
Population group: Dev. disabled of Ventura Co	02
Yolo:	
Service area: Dixon/Esparto	03
Yuba:	
Service area: Yuba Foothills/Feather Falls	01

PRIMARY CARE: California—Continued

Service Area Listing

Service area name	Degree of shortage group
Adin-Lookout	01
County—Modoc:	
Parts of county:	
Adin-Lookout	
Albany-Berkeley N.W./Berkeley S.W.	03
County—Alameda:	
Parts of county:	
C.T. 4201–4206	
C.T. 4218–4223	
C.T. 4230–4234	
C.T. 4240	
Alpine	02
County—San Diego:	
Parts of county:	
Alpine Div.	
Anza	02
County—San Diego:	
Parts of county:	
C.T. 210 (Anza Div.)	
Arvin/Lamont	03
County—Kern:	
Parts of county:	
C.T. 82	
C.T. 83	
C.T. 84	
Avalon/Goodyear/Main	04
County—Los Angeles:	
Parts of county:	
C.T. 2281–2289	
C.T. 2291–2294	
C.T. 2311	
C.T. 2318	
C.T. 2319	
C.T. 2328	
C.T. 2391–2396	
C.T. 5328	
C.T. 5329	
Bayview/Hunters Point	02
County—San Francisco:	
Parts of county:	
C.T. 230–234	
C.T. 606	
C.T. 608–610	
Blythe	01
County—Riverside:	
Parts of county:	
Palo Verde Div.	
Chuckwalla Div.	
Bolinas-Stinson	01
County—Marin:	
Parts of county:	
C.T. 1321	
Boron	03
County—Kern:	
Parts of county:	
C.T. 55.02	
C.T. 56–59	
Burney Basin	03
County—Shasta:	
Parts of county:	
Big Ben Div.	
Burney Div.	
Cassel Div.	
Caton Valley Div.	
East Shasta Div.	
Hat Creek Div.	
Johnson Park Div.	
Montgomery Creek Div.	
Old Station Div.	
Buttonwillow	01
County—Kern:	
Parts of county:	
C.T. 33.01 (Part)	
C.T. 37	
C.T. 42 (Part)	
C.T. 45 (Part)	
Clearlake Highlands	02
County—Lake:	
Parts of county:	
Lower Lake/Middletown CCD	
Upper Lake/Clear Lake Oak CCD (part)	
Cloverdale/Geyserville	02
County—Sonoma:	
Parts of county:	
C.T. 1541	
C.T. 1542	
Colfax-Summit	01

PRIMARY CARE: California—Continued

Service Area Listing

Service area name	Degree of shortage group
County—Placer:	
Parts of county:	
Colfax-Summit Div.	
Commerce	02
County—Los Angeles:	
Parts of county:	
C.T. 5323.01	
C.T. 5323.02	
Coulterville	01
County—Mariposa:	
Parts of county:	
Coulterville	
Covelo	01
County—Mendocino:	
Parts of county:	
Covelo	
Cuyama Valley	01
County—Santa Barbara:	
Parts of county:	
Cuyama Division	
Death Valley	01
County—Inyo:	
Parts of county:	
E.D. 23–26	
Dixon/Esparto	03
County—Solano:	
Parts of county:	
C.T. 2533	
C.T. 2534	
County—Yolo:	
Parts of county:	
C.T. 114	
C.T. 115	
Dominguez/W. Compton/Willowbrook	03
County—Los Angeles:	
Parts of county:	
C.T. 5406–5406	
C.T. 5409.01	
C.T. 5409.02	
C.T. 5410.01	
C.T. 5410.02	
C.T. 5411–5415	
C.T. 5425–5432	
C.T. 5433.01	
C.T. 5433.02	
C.T. 5434	
C.T. 5440	
East Alameda	03
County—Alameda:	
Parts of county:	
C.T. 4048–4066	
C.T. 4070–4078	
C.T. 4082–4086	
C.T. 4101–4104	
East Compton	01
County—Los Angeles:	
Parts of county:	
C.T. 5416.01	
C.T. 5416.02	
C.T. 5420	
C.T. 5421.01	
C.T. 5421.02	
C.T. 5422	
C.T. 5424.01	
C.T. 5424.02	
East La/City Terrace/Maravilla	02
County—Los Angeles:	
Parts of county:	
C.T. 5303–5306	
C.T. 5308–5319	
Fair Oaks	02
County—San Mateo:	
Parts of county:	
C.T. 6104	
C.T. 6106	
C.T. 6108	
C.T. 6117–6119	
Figueroa/Firestone/Green Meadows/Watts	04
County—Los Angeles:	
Parts of county:	
C.T. 2397–2399	
C.T. 2401–2409	
C.T. 2411–2418	
C.T. 2421–2429	
C.T. 2431	
C.T. 5349	
C.T. 5350	
C.T. 5351.01	

PRIMARY CARE: California—Continued

Service Area Listing

Service area name	Degree of shortage group
C.T. 5351.02	
C.T. 5352–5354	
C.T. 5404	
Firebaugh/Mendota	01
County—Fresno:	
Parts of county:	
Firebaugh Div.	
Mendota Div.	
Florence/Huntington Park	04
County—Los Angeles:	
Parts of county:	
C.T. 5325–5332	
C.T. 5335	
C.T. 5345	
C.T. 5347	
C.T. 5348	
Foresthill-Backcounty	01
County—Placer:	
Parts of county:	
C.T. 202 (Foresthill-Backcounty)	
Frazier Park	02
County—Kern:	
Parts of county:	
C.T. 33.02	
C.T. 60 (Part)	
Fresno	01
County—Fresno:	
Parts of county:	
C.T. 82	
Galt	01
County—Sacramento:	
Parts of county:	
C.T. 94	
C.T. 95	
Georgetown	01
County—El Dorado:	
Parts of county:	
C.T. 306	
C.T. 309 (Coloma & Lotus)	
Greenville	02
County—Plumas:	
Parts of county:	
Greenville CCD	
Groveland	01
County—Tuolumne:	
Parts of county:	
Groveland	
Happy Camp	04
County—Siskiyou:	
Parts of county:	
Happy Camp CCD	
Highland Pk/Linc. Hts/Mt Wash./El Sereno	02
County—Los Angeles:	
Parts of county:	
C.T. 1831–1833	
C.T. 1835–1836	
C.T. 1851–1853	
C.T. 1991–1999	
C.T. 2011–2017	
C.T. 5307	
Honey Lake	01
County—Lassen:	
Parts of county:	
Honey Lake Div.	
Industry/La Puente/Baldwin	02
County—Los Angeles:	
Parts of county:	
C.T. 4047–4052	
C.T. 4069–4073	
C.T. 4075–4079	
C.T. 4081–4086	
Lake Isabella	02
County—Kern:	
Parts of county:	
C.T. 51.01	
C.T. 52	
Lipton-Earlimart	01
County—Tulare:	
Parts of county:	
C.T. 32	
C.T. 42–44	
Loma Prieta School District	02
County—Santa Clara:	
Parts of county:	
Lexington Division (Part)	
County—Santa Cruz:	
Parts of county:	
San Lorenzo Valley (Part)	

PRIMARY CARE: California—Continued

Service Area Listing

Service area name	Degree of shortage group
Scotts Valley Division (Part)	
Lower Coachella Valley	01
County—Riverside:	
Parts of county:	
C.T. 406	
Lucerne Valley	01
County—San Bernardino:	
Parts of county:	
E.D. 1181	
E.D. 1183–1186	
E.D. 1246 (W. K)	
Mad River	01
County—Humboldt:	
Parts of county:	
Dinsmore Div.	
County—Trinity:	
Parts of county:	
Mad River Div	
Maple/Santa Barbara	01
County—Los Angeles:	
Parts of county:	
C.T. 2214.01	
C.T. 2214.02	
C.T. 2215.01	
C.T. 2215.02	
C.T. 2216.01	
C.T. 2216.02	
C.T. 2217.01	
C.T. 2217.02	
C.T. 2218	
C.T. 2219	
C.T. 2221–2227	
C.T. 2244–2247	
C.T. 2254–2257	
Markleeville	01
County—Alpine:	
Parts of county:	
Markleeville	
Maywood Bell/Southgate	03
County—Los Angeles:	
Parts of county:	
C.T. 5333	
C.T. 5334	
C.T. 5336	
C.T. 5337	
C.T. 5338.01	
C.T. 5338.02	
C.T. 5339–5348	
C.T. 5344.01	
C.T. 5344.02	
C.T. 5355	
C.T. 5356.01	
C.T. 5356.02	
C.T. 5357–5362	
Merced Hts/Visitation Valley	02
County—San Francisco:	
Parts of county:	
C.T. 255–264	
C.T. 312–314	
C.T. 605	
Mission/Ocean/Pacific Beach	02
County—San Diego:	
Parts of county:	
C.T. 73–78	
C.T. 79–01	
C.T. 79.02	
C.T. 80.01	
C.T. 80.02	
Monterey Park/Rosemead	03
County—Los Angeles:	
Parts of county:	
C.T. 4322	
C.T. 4329	
C.T. 4336	
C.T. 4813	
C.T. 4817	
C.T. 4818	
C.T. 4820–4829	
Mountain Empire	01
County—San Diego:	
Parts of county:	
Mountain Empire Div.	
N. Central/E. Salinas	02
County—Monterey:	
Parts of county:	
C.T. 5–9	
C.T. 16	
C.T. 17	

PRIMARY CARE: California—Continued

Service Area Listing

Service area name	Degree of shortage group
C.T. 18	
Newhall	02
County—Los Angeles:	
Parts of county:	
C.T. 1061	
C.T. 1062	
C.T. 9200.01	
C.T. 9200.02	
C.T. 9200.03	
C.T. 9201	
C.T. 9208.01, 9208.02, 9208.03	
North El Monte/South El Monte	03
County—Los Angeles:	
Parts of county:	
C.T. 4315	
C.T. 4323–4326	
C.T. 4331–4335	
C.T. 4337–4340	
North Lassen	01
County—Lassen:	
Parts of county:	
Big Valley	
Madeline Plains	
North Mono	01
County—Mono:	
Parts of county:	
Mono North	
Northern Merced	03
County—Merced:	
Parts of county:	
Atwater Division	
Hilmar-Irwin Division	
Livingston-Delhi	
Snelling Division	
Northwest Mendocino	01
County—Mendocino:	
Parts of county:	
Laytonville-Leggett	
Oakhurst-North Fork	02
County—Madera:	
Parts of county:	
Oakhurst-North Fork CCD	
Orland	04
County—Glenn:	
Parts of county:	
Orland CCD	
Palmdale	02
County—Los Angeles:	
Parts of county:	
C.T. 9100–9116	
Palomar-Laguna	03
County—San Diego:	
Parts of county:	
Palomar-Laguna Div.	
Pico Rivera	04
County—Los Angeles:	
Parts of county:	
C.T. 5504.01	
C.T. 5504.02	
C.T. 5005–5010	
C.T. 5021–5025	
C.T. 5026.01	
C.T. 5026.02	
Pine Grove/Silver Lake	02
County—Amador:	
Parts of county:	
Pine Grove/Silver Lake	
Point Arena	01
County—Mendocino:	
Parts of county:	
Point Arena	
Ramona	02
County—San Diego:	
Parts of county:	
C.T. 208 (Ramona Div)	
Riverdale/Caruthers/Raisin City	02
County—Fresno:	
Parts of county:	
C.T. 75–77	
Russian River	02
County—Sonoma:	
Parts of county:	
C.T. 1537	
C.T. 1543 (South Portion)	
San Ysidro	02
County—San Diego:	
Parts of county:	
C.T. 100	

PRIMARY CARE: California—Continued

Service Area Listing

Service area name	Degree of shortage group
C.T. 101.01	
C.T. 101.02	
C.T. 102–105	
C.T. 132.01	
C.T. 132.02	
C.T. 133.03	
C.T. 133.04	
Seaside	02
County—Monterey:	
Parts of county:	
Seaside Div.	
Sierra	02
County—Sierra:	
Parts of county:	
Sierra	
Siskiyou	01
County—Siskiyou:	
Parts of county:	
Etna	
Ft. Jones	
Soledad	01
County—Monterey:	
Parts of county:	
Soledad Div.	
Southeast Fresno	01
County—Fresno:	
Parts of county:	
C.T. 4	
C.T. 12	
C.T. 13	
C.T. 14.01	
C.T. 15	
Southwest Fresno	02
County—Fresno:	
Parts of county:	
C.T. 78–81	
Southwest San Diego	04
County—San Diego:	
Parts of county:	
C.T. 36	
C.T. 45–54	
Springville	01
County—Tulare:	
Parts of county:	
C.T. 27 (Springville)	
Stanislaus/Yosemite	01
County—Tuolumne:	
Parts of county:	
Stanislaus/Yosemite	
Surprise Valley	04
County—Modoc:	
Parts of county:	
Surprise Valley CCD	
Sutter Creek/Plymouth	04
County—Amador:	
Parts of county:	
Sutter Creek/Plymouth	
Tenderloin	01
County—San Francisco:	
Parts of county:	
C.T. 122–125	
Tri-Community	01
County—San Bernardino:	
Parts of county:	
E.D. 1246 (E. K)	
E.D. 1247–1257	
Trinidad	03
County—Humboldt:	
Parts of county:	
North Coastal Division	
Tule Lake-Butte Valley	03
County—Modoc:	
Parts of county:	
Tule Lake	
County—Siskiyou:	
Parts of county:	
Tule Lake CCD	
Butte Valley CCD	
Tuolumne City	01
County—Tuolumne:	
Parts of county:	
Tuolumne City	
Vacaville	04
County—Solano:	
Parts of county:	
C.T. 2529–2532	
Valley Center/Pauma	02

PRIMARY CARE: California—Continued

Service Area Listing

Service area name	Degree of shortage group
County—San Diego:	
Parts of county:	
C.T. 191.01 (Valley Center/Pauma)	
C.T. 191.02 (Valley Center/Pauma)	
Wasco/Shafter	02
County—Kern:	
Parts of county:	
C.T. 39–45	
West Compton	01
County—Los Angeles:	
Parts of county:	
C.T. 5411–5413	
C.T. 5425–5432	
West Modesto	01
County—Stanislaus:	
Parts of county:	
C.T. 15–17	
C.T. 22–25	
C.T. 31	
West Point/Wilseyville	01
County—Calaveras:	
Parts of county:	
West Point/Wilseyville	
West Sierra	01
County—Sierra:	
Parts of county:	
West Sierra Div.	
Wholesale Urban Subdivision	01
County—Los Angeles:	
Parts of county:	
C.T. 2061	
C.T. 2063–2065	
C.T. 2261–2263	
Wrightwood	01
County—San Bernardino:	
Parts of county:	
Mt. Baldy/Wrightwood	
Yuba Foothills/Feather Falls	01
County—Butte:	
Parts of county:	
Feather Falls Div.	
County—Yuba:	
Parts of county:	
Yuba Foothills Div.	

PRIMARY CARE: California

Population Group Listing

Population group	Degree of shortage group
Indian Population of Banning area	01
County—Riverside	
County—San Bernardino	
Indian Population of Trinidad area	01
County—Del Norte	
County—Humboldt	
Indochinese Population of Orange Co	02
Indochinese Population of Linda Vista	01
County—San Diego:	
Parts of county:	
C.T. 86	
C.T. 87.01	
C.T. 88	
C.T. 89.01	
C.T. 90	
C.T. 91.05	
Inner City Stockton Migrant/Seasonal Farmworkers	04
County—San Joaquin:	
Parts of county:	
C.T. 1–3	
C.T. 6–8	
C.T. 19	
C.T. 20	
C.T. 23–25	
Low Inc/Sp Spkg Pop. of Eastern Contra Costa	01
County—Contra Costa:	
Parts of county:	
C.T. 3010	
C.T. 3020	
C.T. 3031	
C.T. 3040	
Migrant/Spanish Spkg. Population (Madera)	01

PRIMARY CARE: California—Continued

Population Group Listing

Population group	Degree of shortage group
County—Madera:	
Parts of county:	
C.T. 4–10	
Migrant/Spanish Spkg. Population (Greater Merced)	02
County—Merced:	
Parts of county:	
Merced	
Merced Rural	
Planada-La Grand	
Migrant/Spanish Spkg. Population (SW Stanislaus)	02
County—Stanislaus:	
Parts of county:	
Patterson	
Newman	
Migrant/Sp Spkg Pop. (Nipomo/Arroyo Grande)	02
County—San Luis Obispo:	
Parts of county:	
Arroyo Grande Div.	
Poverty Population (San Marcos)	02
County—San Diego:	
Parts of county:	
C.T. 199	
C.T. 200.04	
C.T. 200.05	
C.T. 200.06	
C.T. 200.07	
C.T. 200.08	
Spanish Spkg./Med Ind Pop. of Alameda Co	02
County—Alameda:	
Parts of county:	
C.T. 4360–4364	
C.T. 4401–4403	
C.T. 4414	
C.T. 4415	
C.T. 4441–4446	
Spanish Spkg./Migrant Population (Escondido)	02
County—San Diego:	
Parts of county:	
C.T. 201.01	
C.T. 202.01	
C.T. 202.02	
C.T. 202.03	
C.T. 203.01	
C.T. 203.02	
C.T. 203.03	
C.T. 204.00	
C.T. 205.00	
C.T. 206.01	
C.T. 206.02	
Sp Spkg Mig/Seas Pop. of Dos Palos/Los Banos	01
County—Merced:	
Parts of county:	
Dos Palos Division	
Los Banos Division	
Spanish Spkg. & Med. Indigent Pop. (Boyle Hts)	01
County—Los Angeles:	
Parts of county:	
C.T. 2031–2039	
C.T. 2041–2049	
C.T. 2051	
The Developmentally Disabled in Ventura Co	02

PRIMARY CARE: Colorado

County Listing

County name	Degree of shortage group
Adams:	
Service area: Commerce City	02
Service area: Eastern Plains	02
Alamosa	04
Arapahoe:	
Service area: Eastern Plains	02
Archuleta	01
Baca	02
Bent	04
Boulder:	
Service area: Lafayette	02
Cheyenne:	
Service area: Flagler	01
Conejos	01

PRIMARY CARE: Colorado—Continued

County Listing

County name	Degree of shortage group
Service area: San Luis valley	
Costilla	01
Service area: San Luis valley	
Crowley	09
Population group: Low inc pop. of Crowley/Otero	01
Custer	01
Dolores	01
Elbert	01
El Paso:	
Service area: Calhan/Yoder	02
Population group: Low inc pop. of Colorado Springs	01
Gilpin:	
Service area: Central City	01
Hinsdale	01
Kiowa	01
Kit Carson:	
Service area: Flagler	01
Las Animas	02
Lincoln	02
Logan	04
Mesa:	
Service area: Collbran	02
Montrose:	
Service area: Nucla	04
Otero:	
Population group: Low inc pop. of Crowley/Otero	01
Ouray	03
Park:	
Service area: Fairplay	01
Prowers	04
Pueblo:	
Service area: Avondale	01
Rio Blanco	04
Routt:	
Service area: Hayden	01
Service area: Oak Creek	02
Saguache	05
San Juan	01
San Miguel	01
Sedgwick	01
Service area: Julesburg (Colo/Nebraska)	
Teller:	
Service area: Cripple Creek	01
Washington	01
Weld:	
Population group: Mig/seas frmwkrs of Weld	02
Yuma	01

PRIMARY CARE: Colorado

Service Area Listing

Service area name	Degree of shortage group
Avondale	01
County—Pueblo:	
Parts of county:	
C.T. 30.01	
C.T. 30.02	
C.T. 31.02	
C.T. 32–34	
Calhan-Yoder	02
County—El Paso:	
Parts of county:	
C.T. 39.01	
C.T. 46	
Central City	01
County—Gilpin:	
Parts of county:	
Central City div	
Collbran	02
County—Mesa:	
Parts of county:	
Collbran CCD	
Commerce City	02
County—Adams:	
Parts of county:	
C.T. 87.02 (Commerce city)	
C.T. 87.03 (Commerce city)	
C.T. 88.01 (Irondale city)	
C.T. 88.02 (Adams city)	

PRIMARY CARE: Colorado—Continued

Service Area Listing

Service area name	Degree of shortage group
C.T. 99.01 (Commerce city)	
C.T. 99.52 (South Welby)	
Cripple Creek	01
County—Teller:	
Parts of county:	
Cripple Creek div.	
Eastern Plains	02
County—Adams:	
Parts of county:	
East Adams div.	
County—Arapahoe:	
Parts of county:	
East Arapahoe div	
Fairplay	01
County—Park:	
Parts of county:	
Alma twn.	
Fairplay twn.	
Jefferson twn.	
Flagler	01
County—Cheyenne:	
Parts of county:	
Kit Carson div. (N. 1/2)	
County—Kit Carson	
Parts of county:	
Flagler div.	
Vona twn.	
Hayden	01
County—Routt:	
Parts of county:	
Hayden div.	
Julesburg (Colo./Neb.)	01
County—Sedgwick	
Lafayette	02
County—Boulder:	
Parts of county:	
C.T. 129	
Nucla	01
County—Montrose:	
Parts of county:	
Nucla division	
Oak Creek	02
County—Routt:	
Parts of county:	
Oak Creek div.	
Yampa div.	
San Luis Valley	01
County—Conejos	
County—Costilla	

PRIMARY CARE: Colorado

Population Group Listing

Population group	Degree of shortage group
Low inc pop. of Colorado Springs	01
County—El Paso:	
Parts of county:	
C.T. 22 (low income pop)	
C.T. 23 (low income pop)	
C.T. 26 (low income pop)	
C.T. 27 (low income pop)	
C.T. 30 (low income pop)	
Low inc pop. of Crowley/Otero	01
County—Crowley:	
Parts of county:	
Low income population	
County—Otero	
Parts of county:	
Low income population	
Mig./seas. farmworkers of Weld	02
County—Weld:	
Parts of county:	
Migrant/seasonal farmworkers	

PRIMARY CARE: Connecticut

County Listing

County	Degree of shortage group
Fairfield:	
Service area: Central Bridgeport	01
Service area: North central Bridgeport	01
Service area: Southeast Bridgeport	01
Service area: Southwest Bridgeport	01
Service area: Southwest Stamford	01
Service area: South Norwalk	03
Hartford:	
Service area: Charter Oak/Rice Hts	01
Service area: Enfield	02
Service area: North Central Hartford	04
Middlesex:	
Population group: Med Ind Pop. of Middletown	04
New Haven:	
Service area: Boulevard/Lower North End/Long Hill	02
Service area: Brooklyn/South End/Hopeville/East End	02
Service area: Fair Haven	01
Service area: Waterville/Buck's Hill	01
Service area: West Haven	03
Service area: West Rock/Newhallville	02
New London:	
Service area: New London	01
Windham:	
Service area: Northeast Windham	02

PRIMARY CARE: Connecticut

Service Area Listing

Service area name	Degree of shortage group
Boulevard/Lower North End/Long Hill	02
County—New Haven:	
Parts of county:	
C.T. 3002-3004	
C.T. 3508	
C.T. 3512	
Brooklyn/South End/Hopeville/East End	02
County—New Haven:	
Parts of county:	
C.T. 3505-3506	
C.T. 3513-3514	
C.T. 3517	
Central Bridgeport	01
County—Fairfield:	
Parts of county:	
C.T. 713-717	
Charter Oak/Rice Hts	01
County—Hartford:	
Parts of county:	
C.T. 5046	
C.T. 5049	
Enfield	02
County—Hartford:	
Parts of county:	
C.T. 4761-4763	
C.T. 4771-4772	
C.T. 4801-4813	
Fair Haven	01
County—New Haven:	
Parts of county:	
C.T. 1421-1426	
New London	01
County—New London:	
Parts of county:	
C.T. 6901-6907	
North Central Bridgeport	01
County—Fairfield:	
Parts of county:	
C.T. 728	
North Central Hartford	04
County—Hartford:	
Parts of county:	
C.T. 5006-5010	
C.T. 5012-5015	
C.T. 5017-5018	
C.T. 5035	
C.T. 5037	
Northeast Windham	02
County—Windham:	
Parts of county:	
Brooklyn Twn	
Canterbury Twn	
Eastford Twn	
Killingly Twn	
Plainfield Twn	
Pomfret Twn	
Putnam Twn	
Sterling Twn	
Thompson Twn	
Woodstock Twn	

PRIMARY CARE: Connecticut—Continued

Service Area Listing

Service area name	Degree of shortage group
South Norwalk	03
County—Fairfield:	
Parts of county:	
C.T. 418-419	
C.T. 422-428	
Southwest Bridgeport	01
County—Fairfield:	
Parts of county:	
C.T. 705-708	
Southeast Bridgeport	01
County—Fairfield:	
Parts of county:	
C.T. 740-744	
Southwest Stamford	01
County—Fairfield:	
Parts of county:	
C.T. 255-259	
Waterville/Buck's Hill	01
County—New Haven:	
Parts of county:	
C.T. 3522-3525	
West Haven	03
County—New Haven:	
Parts of county:	
West Haven Twn	
West Rock/Newhallville	02
County—New Haven:	
Parts of county:	
C.T. 1412-1415	

PRIMARY CARE: Connecticut

Population Group Listing

Population group	Degree of shortage group
Med. Ind. pop. of Middletown	04
County—Middlesex:	
Parts of county:	
C.T. 5401-5402	
C.T. 5408	

PRIMARY CARE: Delaware

County Listing

County name	Degree of shortage group
New Castle:	
Service area: City of Wilmington	02
Service area: Odessa/Middletown/Townsend	03
Sussex:	
Service area: Milton	02
Population group: Med. Ind. children of W. Sussex Co.	01

PRIMARY CARE: Delaware

Service Area Listing

Service area name	Degree of shortage group
City of Wilmington	02
County—New Castle:	
Parts of county:	
C.T. 1	

PRIMARY CARE: Delaware—Continued

Service Area Listing

Service area name	Degree of shortage group
C.T. 8	
C.T. 9	
C.T. 17	
C.T. 20	
C.T. 154–156	
Milton	02
County—Sussex:	
Parts of county:	
Selbyville-Frankford CCD	
Millsboro CCD	
Milton CCD	
Odessa-Middletown-Townsend	03
County—New Castle	
Parts of county	
C.T. 166–169	

PRIMARY CARE: Delaware

Population Group Listing

Population group	Degree of shortag groups
Med. Ind. children of W. Sussex Co.	01
County—Sussex	
Parts of county	
Bridgeville-Greenwood CCD	
Laurel-Delmar CCD	
Seaford CCD	

PRIMARY CARE: District of Columbia

County Listing

County name	Degree of shortage group
District of Columbia:	
Service area: Anacostia	01
Service area: North Capital	01
Facility: D.C. Detention Facility	03

PRIMARY CARE: District of Columbia

Service Area Listing

Service area name	Degree of shortage group
Anacostia	01
Parts of District:	
C.T. 73.01	
C.T. 73.02	
C.T. 73.03	
C.T. 73.04	
C.T. 73.06	
C.T. 73.07	
C.T. 73.08	
C.T. 74.01	
C.T. 74.02	
C.T. 74.04	
C.T. 74.05	
C.T. 75.01	
C.T. 75.02	
C.T. 76.01	
C.T. 76.02	
C.T. 76.03	
C.T. 77.01	
C.T. 77.02	
C.T. 77.03	
C.T. 77.05	
C.T. 77.06	
C.T. 77.07	
C.T. 78.01	
C.T. 78.02	
C.T. 78.03	
C.T. 78.04	
C.T. 78.05	

PRIMARY CARE: District of Columbia—Continued

Service Area Listing

Service area name	Degree of shortage group
C.T. 78.07	
C.T. 78.08	
C.T. 86–86	
North Capitol	01
Parts of District:	
C.T. 33.20	
C.T. 46	
C.T. 47 (¾)	
C.T. 86 (¾)	
C.T. 87 (¾)	

PRIMARY CARE: District of Columbia

Facility Listing

Facility	Degree of shortage group
D.C. Detention facility	03

PRIMARY CARE: Florida

County Listing

County name	Degree of shortage group
Baker:	
Facility: Baker Correctional Inst.	01
Bay:	
Population group: Med Ind pop. of Bay	01
Bradford	02
Facility: Florida State Prison	02
Brevard	03
Broward:	
Population Group: Mig/Seas Frmwks of Sunshine FHC Area	01
Facility: Sunshine Family Health Center	01
Calhoun:	04
Service Area: Calhoun/Liberty	
Collier:	
Service Area: Immokalee	01
Service Area: Southern Collier County	01
Columbia	04
Dade:	
Service Area: Southern Dade	01
Service Area: Wynwood	01
Dixie	01
Duval:	
Population Group: Low Inc. pop. of Duval	04
Escambia:	
Service Area: Northern Escambia	02
Gadsden	03
Gilchrist	01
Glades	02
Service area: Glades/Hendry	
Hamilton	04
Hardee	03
Hendry	02
Service Area: Glades/Hendry	
Hillsborough:	
Population group: Mig pop. of Hillsborough Co Health Center Area	02
Holmes	01
Jackson:	
Service Area: Sneads	01
Jefferson	02
Lafayette	01
Lake:	
Population Group: Mig/Seas Farmworkers of Lake	01
Lee:	
Population Group: Mig pop. of Lee	01
Liberty	04
Service Area: Calhoun/Liberty	
Madison	03
Manatee:	
Population Group: Mig pop. of Hillsborough Co HC Area	02
Marion	04

PRIMARY CARE: Florida—Continued

County Listing

County name	Degree of shortage group
Facility: Florida Correctional Inst.	01
Orange	04
Osceola	03
Palm Beach:	
Service Area: Glades	03
Service Area: Palm Beach	01
Service Area: West Palm Beach	01
Pasco:	
Population Group: Med Ind pop. of Pasco	01
Putnam	02
St Lucie	03
Santa Rosa:	
Service Area: Northern Santa Rosa	02
Seminole	02
Sumter	01
Suwannee	03
Taylor	02
Walton	03
Washington	02

PRIMARY CARE: Florida

Service Area Listing

Service area name	Degree of shortage group
Calhoun/Liberty	04
County—Calhoun	
County—Liberty	
Glades	03
County—Palm Beach:	
Parts of county:	
C.T. 80–83	
Glades/Hendry	02
County—Glades	
County—Hendry	
Immokalee	01
County—Collier:	
Parts of county:	
Immokalee CCD	
Northern Escambia	02
County—Escambia:	
Parts of county:	
Northwest Escambia	
South Flomaton	
Northern Santa Rosa	02
County—Santa Rosa:	
Parts of county:	
Jay-Berrydale	
Munson-McLellan	
Palm Beach	01
County—Palm Beach:	
Parts of county:	
C.T. 78	
Sneade	01
County—Jackson:	
Parts of county:	
Sneads CCD	
Southern Collier County	01
County—Collier:	
Parts of county:	
Everglades (Southern Portion)	
Southern Dade	01
County—Dade:	
Parts of county:	
C.T. 103–105	
C.T. 106.02	
C.T. 108–115	
West Palm Beach	01
County—Palm Beach:	
Parts of county:	
C.T. 22–25	
Wynwood	01
County—Dade:	
Parts of county:	
C.T. 26	
C.T. 27.01	
C.T. 27.02	
C.T. 28	

PRIMARY CARE: Florida—Continued

Population Group Listing

Population group	Degree of shortage group
Low income pop. of Duval	04
County—Duval:	
Parts of county:	
C.T. 1–5	
C.T. 9–19	
C.T. 26–29	
C.T. 107–109	
C.T. 112–116	
C.T. 118	
C.T. 121	
Med indigent pop. of Bay County	01
Med indigent pop. of Pasco County	01
Mig pop. of Hillsborough Co. HC Target Area	02
County—Hillsborough	
Parts of county:	
C.T. 121–141	
County—Manatee	
Parts of county:	
C.T. 13–16	
C.T. 19	
Migrant pop. of Lee Co	01
Mig/Seas Farmworkers of Lake County	01
Mig/Seas Farmworkers of Sunshine FHC Target Area	01
County—Broward	
Parts of county:	
C.T. 305	

PRIMARY CARE: Florida

Facility Listing

Facility	Degree of shortage group
Baker Correctional Inst	01
County—Baker	
Florida Correctional Inst	03
County—Marion	
Parts of county:	
Fla Corr Inst-Marion Corr Inst	
Florida State Prison	02
County—Bradford	
Sunshine Family Health Center	01
County—Broward	

PRIMARY CARE: Georgia

County Listing

County name	Degree of shortage group
Appling	02
Atkinson	01
Baker	04
Service area: Baker/Dougherty/Lee	
Banks	01
Bartow	03
Brantley	01
Brooks	02
Bryan	01
Burke	03
Butts	02
Calhoun	04
Camden	04
Charlton	03
Chattahoochee	02
Service area: Marion Extended	
Chattooga	01
Cherokee	04
Crawford	01
Crisp:	
Population Group: Med Ind Pop. of Crisp	01
Dade	01
Dawson	01
De Kalb:	
Service area: De Kalb	02

PRIMARY CARE: Georgia—Continued

County Listing

County name	Degree of shortage group
Dooly	03
Dougherty	03
Service area: Baker/Dougherty/Lee	
Early	02
Effingham	04
Evans	02
Fannin	04
Fayette	02
Forsyth:	
Population Group: Med Ind Pop. of Forsyth	01
Fulton:	
Service area: Inner-City Atlanta	04
Service area: Palmetto	01
Service area: Atlanta Southside	01
Service area: West End	01
Glascock	01
Gordon:	
Population Group: Med Ind Pop. of Gordon	01
Grady	02
Hall:	
Population Group: Med Ind Pop. of Hall	01
Hancock	02
Heard	01
Henry	02
Irwin	01
Jasper	01
Jeff Davis	02
Jefferson	04
Jones	02
Lee	04
Service area: Baker/Dougherty/Lee	
Lincoln	04
Long	01
McDuffie	04
McIntosh	01
Macon	01
Madison	02
Marion	02
Service area: Marion Extended	
Meriwether	02
Mitchell	04
Montgomery	01
Murray	04
Newton	03
Oglethorpe	01
Pickens	04
Pike	01
Polk	02
Pulaski	03
Service area: Pulaski/Wilcox	
Quitman	03
Service area: Randolph/Quitman	
Randolph	03
Service area: Randolph/Quitman	
Schley	02
Service area: Marion Extended	
Screven	03
Stewart	02
Service area: Stewart/Webster	
Sumter:	
Population Group: Med Ind Pop. of Sumter	01
Talbot	02
Service area: Marion Extended	
Taliaferro	01
Tattnall	02
Taylor	02
Service area: Marion Extended	
Terrell	03
Union:	
Service area: Suches	01
Walker:	
Service area: South Walker	02
Warren	02
Webster	02
Service area: Stewart/Webster	
Wheeler	01
White	02
Whitfield:	
Population Group: Med Ind Pop. of Whitfield	01
Wilcox	03
Service area: Pulaski/Wilcox	

PRIMARY CARE: Georgia

Service Area Listing

Service area name	Degree of shortage group
Atlanta (Southside)	01
County—Fulton:	
Parts of county:	
C.T. 44–49	
C.T. 52	
C.T. 53	
C.T. 55.01	
C.T. 55.02	
C.T. 57	
C.T. 58	
C.T. 63	
C.T. 64	
C.T. 66–73	
Baker/Dougherty/Lee	03
County—Baker	
County—Dougherty	
County—Lee	
DeKalb	02
County—DeKalb:	
Parts of county:	
C.T. 208	
C.T. 227	
C.T. 228	
Inner-City Atlanta	04
County—Fulton:	
Parts of county:	
C.T. 17	
C.T. 18	
C.T. 20	
C.T. 21	
C.T. 27	
C.T. 28	
C.T. 32	
C.T. 33	
C.T. 35	
Marion Extended	02
County—Chattahoochee	
County—Marion	
County—Schley	
County—Talbot	
County—Taylor	
Palemetto	01
County—Fulton:	
Parts of county:	
C.T. 13 (Palmetto CCD)	
Pulaski/Wilcox	03
County—Pulaski	
County—Wilcox	
Randolph/Quitman	03
County—Quitman	
County—Randolph	
South Walker	02
County—Walker:	
Parts of county:	
C.T. 205–206	
Stewart/Webster	02
County—Stewart	
County—Webster	
Suches	01
County—Union:	
Parts of county:	
Suches	
West End	01
County—Fulton:	
Parts of county:	
C.T. 22	
C.T. 23	
C.T. 25	
C.T. 26	
C.T. 30–43	
C.T. 59–62	

PRIMARY CARE: Georgia

Population Group Listing

Population group	Degree of shortage group
Med. Ind. Pop. of Crisp Co	01
Med. Ind. Pop. of Forsyth Co	01
Med. Ind. Pop. of Gordon Co	01
Med. Ind. Pop. of Hall Co	01
Med. Ind. Pop. of Sumter Co	01
Med. Ind. Pop. of Whitfield Co	01

PRIMARY CARE: Hawaii

County Listing

County name	Degree of shortage group
Hawaii:	
Service area: North Kohala	01
Honolulu:	
Service area: Kalihi Valley	01

PRIMARY CARE: Hawaii

Service Area Listing

Service area name	Degree of shortage group
Kalihi Valley	01
County—Honolulu:	
Parts of county:	
C.T. 62–66	
North Kohala	01
County—Hawaii:	
Parts of county:	
C.T. 216 (North Kohala Div.)	

PRIMARY CARE: Idaho

County Listing

County name	Degree of shortage group
Ada:	
Population Group: Med Ind Pop. of Boise City	04
Bannock:	
Service Area: Downey	01
Service Area: Lava Hot Springs	02
Population Group: Mig Pop. of E. Snake River Valley	01
Benewah:	
Service Area: St. Maries	02
Bingham:	
Service Area: American Falls	02
Population Group: Mig Pop. of E. Snake River Valley	01
Boise	01
Bonner:	
Service Area: Priest River	01
Butte:	
Service Area: Lost Rivers	01
Camas	01
Canyon:	
Service Area: Nyssa	03
Population Group: Mig Pop. of Southern Treasure Valley	04
Caribou	03
Cassia:	
Service Area: Albion/Oakley	01
Population Group: Mig Pop. of Magic Valley	01
Clearwater	01
Custer:	
Service Area: Challis	01
Service Area: Lost Rivers	01
Service Area: Stanley	01

PRIMARY CARE: Idaho—Continued

County Listing

County name	Degree of shortage group
Elmore:	
Service Area: Glenns Ferry	01
Fremont	02
Gem:	
Population Group: Mig Pop. of Northern Treasure Valley	01
Gooding:	
Service Area: Jerome	02
Population Group: Mig Pop. of Magic Valley	01
Jerome	02
Service Area: Jerome	
Kootenai:	
Service Area: Kootenai/Shoshone	03
Service Area: St. Maries	02
Lewis:	
Service Area: Nez Perce	02
Lincoln	02
Service Area: Jerome	
Minidoka:	
Population Group: Mig Pop. of Magic Valley	01
Oneida	01
Owyhee:	
Service Area: Northwest Owyhee	01
Population Group: Mig Pop. of Southern Treasure Valley	04
Payette:	
Population Group: Mig Pop. of Northern Treasure Valley	01
Power:	
Service Area: American Falls	02
Population Group: Mig Pop. of E. Snake River Valley	01
Shoshone	03
Service Area: Kootenai/Shoshone	
Twin Falls:	
Service Area: Jerome	02
Population Group: Mig Pop. of Magic Valley	01
Washington:	
Population Group: Mig Pop. of Northern Treasure Valley	01

PRIMARY CARE: Idaho

Service Area Listing

Service Area Name	Degree of shortage group
Albion/Oakley	01
County—Cassia:	
Parts of county:	
Albion Division	
Oakley Division	
American Falls	02
County—Bingham:	
Parts of county:	
Aberdeen Div.	
County—Power:	
Parts of county:	
American Falls Div.	
Rockland Div.	
Challis	01
County—Custer:	
Parts of county:	
Challis Div.	
Downey	01
County—Bannock:	
Parts of county:	
Arimo Twn	
Downey Div.	
Glenns Ferry	01
County—Elmore:	
Parts of county:	
Glenns Ferry	
Jerome	02
County—Gooding:	
Parts of county:	
Wendell CCD	
County—Jerome	
County—Lincoln	

PRIMARY CARE: Idaho—Continued

Service Area Listing

Service Area Name	Degree of shortage group
County—Twin Falls:	
Parts of county:	
Filler CCD (N. PT.)	
Twin Falls CCD (N. PT.)	
Kootenai/Shoshone	03
County—Kootenai:	
Parts of county:	
Cataldo	
Fourth of July	
Rose Lake	
County—Shoshone	
Lava Hot Springs	02
County—Bannock:	
Parts of county:	
Lava Hot Springs Div.	
Lost Rivers	01
County—Butte	
County—Custer:	
Parts of county:	
McKay Div.	
Nez Perce	02
County—Lewis:	
Parts of county:	
Nez Perce	
Winchester	
Northwest Owyhee	01
County—Owyhee:	
Parts of county:	
Homedale Div.	
Marsing Div.	
Murphy Div.	
Nyssa (Idaho/Oregon)	03
County—Canyon:	
Parts of county:	
Parma Div.	
Wilder Div.	
Notus Div.	
Priest River	01
County—Bonner:	
Parts of county:	
Blanchard-Glengary Div. (Western Part)	
Priest River Div.	
St. Maries	02
County—Benewah	
County—Kootenai:	
Parts of county:	
Harrison Div. (E.D. 44, 46–48)	
Worley Div. (E.D. 45)	
Stanley	01
County—Custer:	
Parts of county:	
Stanley Div.	

PRIMARY CARE: Idaho

Population Group Listing

Population group	Degree of shortage group
Med Indigent Pop. of Boise City	04
County—Ada:	
Parts of county:	
C.T. 1–24	
Migrant Pop. of Southern Treasure Valley	04
County—Canyon	
County—Owyhee	
Migrant Pop. of Northern Treasure Valley	01
County—Gem	
County—Payette	
County—Washington	
Migrant Pop. of Eastern Snake River Valley	01
County—Bannock	
County—Bingham	
County—Power	
Migrant Pop of Magic Valley	01
County—Cassia	
County—Gooding	

PRIMARY CARE: Idaho—Continued

Population Group Listing

Population group	Degree of shortage group
County—Minidoka	
County—Twin Falls	

PRIMARY CARE: Illinois

County Listing

County name	Degree of shortage group
Alexander	02
Service area: Cairo	
Brown	01
Calhoun	02
Service area: Hardin	
Carroll	02
Champaign:	
Service area: Northend Champaign-Urbana	01
Clay	04
Clinton	03
Cook:	
Service area: Cabrini-Green/Near North Side	01
Service area: Chatham (Near southeast)	04
Service area: Chicago Heights	03
Service area: Chicago Lawn	04
Service area: Douglas	03
Service area: E. Chicago Heights	01
Service area: Garfield Ridge	02
Service area: Humboldt/Austin/Garfield	01
Service area: New City/W. Englewood/Englewood	01
Service area: Phoenix	01
Service area: Robbins Village	01
Service area: S. Lawndale/Lower W. Side	01
Service area: Southeast Chicago	01
Service area: South Chicago	01
Service area: South Deering	01
Service area: South Shore	04
Service area: Uptown	01
Service area: West Town	02
Edwards	03
Fayette	03
Franklin	03
Fulton:	
Service area: London Mills	02
Gallatin	03
Greene:	
Service area: Hardin	02
Hamilton	02
Hancock:	
Service area: Nauvoo	01
Henderson	02
Jackson:	
Service area: Western Jackson	03
Jasper	02
Jersey:	
Service area: Hardin	02
Jo Daviess	03
Johnson	02
Kankakee:	
Service area: Pembroke	01
Knox:	
Service area: London Mills	02
McDonough:	
Service area: London Mills	02
Macon:	
Service area: Decatur Inner City	01
Marion:	
Service area: Salem	03
Marshall:	
Service area: Princeville	03
Mason	01
Massac	03
Mercer	03
Peoria:	
Service area: Princeville	03
Service area: Southeast Peoria	02
Pike	04
Pope	01
Pulaski:	
Service area: Cairo	02
Rock Island:	
Service area: East Moline	04
St. Clair:	
Service area: East Side Health Dist. (St. Louis)	02

PRIMARY CARE: Illinois—Continued

County Listing

County name	Degree of shortage group
Sangamon:	
Service area: Northeast Springfield	01
Scott	01
Stark:	
Service area: Princeville	03
Union	01
Warren:	
Service area: London Mills	02
Wayne	01
White	04
Will:	
Service area: Eastside Joliet	02
Facility: Joliet Correctional Institution	02
Facility: Statesville Correctional Institution	02
Williamson:	
Service area: Carterville	04
Winnebago:	
Service area: Rockford Inner City	01

PRIMARY CARE: Illinois

Service Area Listing

Service area name	Degree of shortage group
Cabrini-Green/Near North Side	01
County—Cook:	
Parts of county:	
C.T. 803–810	
C.T. 817–819	
Cairo	02
County—Alexander	
County—Pulaski	
Carterville	04
County—Williamson:	
Parts of county:	
Blairsville Twp.	
Carterville Twp.	
Grassy Twp.	
Chatham (Near Southeast)	04
County—Cook:	
Parts of county:	
C.T. 4401–4409	
C.T. 4501–4503	
C.T. 4701	
C.T. 6901–6915	
C.T. 7101–7115	
Chicago Heights	03
County—Cook:	
Parts of county:	
C.T. 8290–8292	
C.T. 8294	
Chicago Lawn	04
County—Cook:	
Parts of county:	
C.T. 6201–6204	
C.T. 6301–6309	
C.T. 6501–6505	
C.T. 6601–6611	
Decatur Inner City	01
County—Macon:	
Parts of county:	
C.T. 1	
C.T. 7–8	
Douglas	03
County—Cook:	
Parts of county:	
C.T. 3501–3515	
East Chicago Heights	01
County—Cook:	
Parts of county:	
C.T. 8297 (E. Chicago Heights)	
East Moline	04
County—Rock Island:	
Parts of county:	
C.T. 202	
C.T. 204	
C.T. 206	
C.T. 207	
East Side Health Dist. (St. Louis)	02
County—St. Clair:	
Parts of county:	
C.T. 5001–5014	
C.T. 5015.01	

PRIMARY CARE: Illinois—Continued

Service Area Listing

Service area name	Degree of shortage group
C.T. 5020–5029	
C.T. 5024.01	
C.T. 5024.02	
C.T. 5025	
C.T. 5026.01	
C.T. 5026.02	
C.T. 5026.03	
C.T. 5026.04	
C.T. 5027–5030	
Eastside Joliet	02
County—Will:	
Parts of county:	
C.T. 8807	
C.T. 8812	
C.T. 8813	
C.T. 8820–8825	
C.T. 8830	
C.T. 8831	
Garfield Ridge	02
County—Cook:	
Parts of county:	
C.T. 5801–5813.	
Hardin	02
County—Calhoun	
County—Greene:	
Parts of county:	
Woodville Twp. (West ⅔)	
County—Jersey:	
Parts of county:	
Quarry Twp.	
Richwood Twp.	
Rosedale Twp.	
Humboldt/Austin/Garfield	01
County—Cook:	
Parts of county:	
C.T. 2301–2318	
C.T. 2505–2510	
C.T. 2514	
C.T. 2516–2523	
C.T. 2525	
C.T. 2601–2610	
C.T. 2701–2719	
C.T. 2801–2809	
C.T. 2817–2828	
C.T. 2838–2843	
C.T. 2901–2927	
London Mills	02
County—Fulton:	
Parts of county:	
Ellisville Twp.	
Fairview Twp.	
Lee Twp.	
Union Twp.	
Young Hickory Twp.	
County—Knox:	
Parts of county:	
Chestnut Twp.	
Haw Creek Twp.	
Indian Point Twp.	
Maquon Twp.	
Orange Twp.	
County—McDonough:	
Parts of county:	
Prairie City Twp	
County—Warren:	
Parts of county:	
Berwick Twp.	
Greenbush Twp.	
Nauvoo	01
County—Hancock:	
Parts of county:	
Appanoose Twp.	
Nauvoo Twp.	
Sonora Twp.	
County—Cook:	
Parts of county:	
C.T. 6101–6108	
C.T. 6103–6122	
C.T. 6701–6720	
C.T. 6801–6814	
Northeast Springfield	01
County—Sangamon:	
Parts of county:	
C.T. 7	
C.T. 8	
C.T. 15–17	
Northend Champaign-Urbana	01

PRIMARY CARE: Illinois—Continued

Service Area Listing

Service area name	Degree of shortage group
County—Champaign:	
Parts of county:	
C.T. 2	
C.T. 7 (Blkgrps 1 & 2)	
C.T. 53 (Blkgrps 2 & 3)	
Pembroke	01
County—Kankakee:	
Parts of county:	
Pembroke Twp.	
St. Anne Twp.	
Phoenix	01
County—Cook:	
Parts of county:	
C.T. 8872 (Phoenix Village)	
Princeville	03
County—Marshall:	
Parts of county:	
La Prairie Twp.	
County—Peoria:	
Parts of county:	
Akron Twp.	
Brimfield Twp.	
Hallock Twp.	
Jubilee Twp.	
Millbrook Twp.	
Princeville Twp.	
County—Stark:	
Parts of county:	
Essex Twp.	
Valley Twp.	
West Jersey Twp.	
Robbins Village	01
County—Cook:	
Parts of county:	
Robbins Village	
Rockford, Inner City	01
County—Winnebago:	
Parts of county:	
C.T. 10	
C.T. 21	
C.T. 24-29	
Salem	03
County—Marion:	
Parts of county:	
Alma Twp.	
Foster Twp.	
Haines Twp.	
Iuka Twp.	
Kinmundy Twp.	
Meacham Twp.	
Odin Twp.	
Omega Twp.	
Romine Twp.	
Salem Twp.	
Stevenson Twp.	
Tonti Twp.	
South Chicago	01
County—Cook:	
Parts of county:	
C.T. 4601-4610	
South Deering	01
County—Cook:	
Parts of county:	
C.T. 5101-5104,	
S. Lawndale/Lower W. Side	02
County—Cook:	
Parts of county:	
C.T. 3001-3020	
C.T. 3101-3114	
South Shore	04
County—Cook:	
Parts of county:	
C.T. 4301-4314	
Southeast Chicago	01
County—Cook:	
Parts of county:	
C.T. 3601-3605	
C.T. 3701-3704	
C.T. 3801-3820	
C.T. 3901-3903	
C.T. 4001-4008	
Southeast Peoria	02
County—Peoria:	
Parts of county:	
C.T. 1-15	
Uptown	01
County—Cook:	
Parts of county:	
C.T. 310-312	
C.T. 315-321	
West Town	02
County—Cook:	
Parts of county:	
C.T. 2401-2436	
Western Jackson	03
County—Jackson:	
Parts of county:	
Bradley Twp.	
Degognia Twp.	
Fountain Bluff Twp.	
Grand Tower Twp.	
Kinkaid Twp.	
Levan Twp.	
Murphysboro Twp.	
Ora Twp.	
Pomona Twp.	
Sand Ridge Twp.	
Somerset Twp.	
Vergennes Twp.	

PRIMARY CARE: Illinois

Facility Listing

Facility	Degree of shortage group
Joliet Correctional Inst	02
County—Will	
Satatesville Correctional Inst	02
County—Will	

PRIMARY CARE: Indiana

County Listing

County name	Degree of shortage group
Brown	02
Clay	02
Clinton	02
Crawford	02
Decatur	04
Fayette	03
Franklin	01
Greene:	
Service area: Linton/Jasonville	04
Harrison	03
Howard	02
Jay	02
Jennings	04
Knox:	
Service area: Bicknell	02
Lake:	
Service area: Gary	01
Marion:	
Service area: Barrington (Indianapolis)	01
Service area: Highland/Brookside	01
Service area: Near North Side (Indianapolis)	02
Service area: Southwest Indianapolis	02
Service area: South Central Indianapolis	02
Martin	02
Owen	02
Parke	02
Perry	04
Ripley	03
Rush	03
Scott	02
Shelby	04
Spencer	02
Starke	04
Switzerland	03
Union	02
Vermillion:	
Service area: Northern Vermillion	01
Warren	02

PRIMARY CARE: Indiana

Service Area Listing

Service area name	Degree of shortage group
Barrington (Indianapolis)	01
County—Marion:	
Parts of county:	
C.T. 3572-3576	
Bicknell	02
County—Knox:	
Parts of county:	
Vigo Twp	
Washington Twp (E. X)	
Widner Twp	
Gary	01
County—Lake:	
Parts of county:	
C.T. 101-129	
Highland-Brookside	01
County—Marion:	
Parts of county:	
C.T. 3526	
C.T. 3527	
C.T. 3530	
C.T. 3543-3560	
Linton-Jasonville	04
County—Greene:	
Parts of county:	
Stockton Twp	
Wright Twp	
Near North Side (Indianapolis)	02
County—Marion:	
Parts of county:	
C.T. 3517-3522	
C.T. 3528-3532	
Northern Vermillion	01
County—Vermillion:	
Parts of county:	
Eugene Twp	
Highland Twp	
Hill Twp	
Vermillion Twp	
South Central Indianapolis	02
County—Marion:	
Parts of county:	
C.T. 3557-3563	
C.T. 3567-3571	
C.T. 3577-3580	
Southwest Indianapolis	02
County—Marion:	
Parts of county:	
C.T. 3411-3416	
C.T. 3422-3427	
C.T. 3537	
C.T. 3538	
C.T. 3564-3566	
C.T. 3581	

PRIMARY CARE: Iowa

County Listing

County name	Degree of shortage group
Adair:	
Service area: Adair/Casey	04
Allamakee:	
Service area: Caledonia/Spring Grove (Iowa/Minn)	02
Appanoose:	
Service area: Seymour	01
Audubon	01
Benton:	
Service area: Center Pt./Central City/Coggon	03
Service area: North Benton	03
Black Hawk:	
Service area: North Benton	03
Service area: Tama	02
Population Group: Low inc pop. of Waterloo	01
Facility: Peoples Comm. Health Center	01
Boone:	
Service area: Dayton-Gowrie	02
Buchanan	03
Butler	
Calhoun	03
Service area: Dayton-Gowrie	02
Cass:	
Service area: Oakland	02

PRIMARY CARE: Iowa—Continued

County Listing

County name	Degree of shortage group
Cedar:	
Service area: Clarence/Tipton	02
Cherokee:	
Service area: Kingsley/Anthon/Mapleton	02
Service area: Marcus/Ramsen	03
Clarke:	
Service area: Morrison Trail	01
Clinton:	
Service area: Clarence/Tipton	02
Decatur:	
Service area: Morrison Trail	01
Delaware:	
Service area: Center Pt./Central City/Coggon	03
Fremont:	
Service area: Tabor	03
Service area: Sheriandoah	03
Greene:	
Service area: Dayton-Gowrie	02
Grundy:	
Service area: Tama	02
Guthrie:	
Service area: Adair/Casey	04
Service area: Guthrie Center	04
Hamilton:	
Service area: Hubbard	02
Service area: Dayton-Gowrie	02
Hardin:	
Service area: Hubbard	02
Harrison:	
Service area: Onawa (Iowa/Nebr)	02
Service area: Harlan	03
Service area: Woodbine	04
Humboldt	02
Johnson:	
Service area: Clarence/Tipton	02
Jones:	
Service area: Clarence-Tipton	02
Keokuk:	
Service area: Keokuk	02
Kossuth:	
Service area: North Kossuth	02
Linn:	
Service area: Center Pt./Central City/Coggon	03
Service area: Clarence/Tipton	02
Lucas:	
Service area: Morrison Trail	01
Mills:	
Service area: Tabor	03
Service area: Oakland	02
Monona:	
Service area: Strawberry Pt	02
Service area: Onawa (Iowa/Nebr)	02
Service area: Kingsley/Anthon/Mapleton	02
Monroe	04
Muscatine:	
Service area: Clarence/Tipton	02
Page:	
Service area: Sheriandoah	03
Plymouth:	
Service area: Akron (Iowa/S. Dakota)	04
Service area: Kingsley/Anthon/Mapleton	02
Service area: Marcus-Ramsen	03
Pottawattamie:	
Service area: Harlan	03
Service area: Oakland	02
Scott:	
Service area: Clarence-Tipton	02
Population Group: Med ind pop. of Scott Co	04
Shelby:	
Service area: Harlan	03
Sioux:	
Service area: Akron (Iowa/S. Dakota)	04
Story:	
Service area: Hubbard	02
Tama:	
Service area: Tama	02
Taylor:	
Service area: South Taylor Co	02
Warren:	
Service area: South Taylor Co	03
Wayne:	
Service area: Seymour	01
Service area: Morrison Trail	01
Webster:	
Service area: Dayton-Gowrie	02
Woodbury:	
Service area: Kingsley/Anthon/Mapleton	02

PRIMARY CARE: Iowa—Continued

County Listing

County name	Degree of shortage group
Service area: Morningside/Sgt. Bluff (Iowa/Nebr)	02
Service area: Onawa (Iowa/Nebr)	02
Worth	03

PRIMARY CARE: Iowa

Service Area Listing

Service area name	Degree of shortage group
Adair/Casey	04
County—Adair	
County—Guthrie:	
Parts of county:	
Beaver Twp	
Grant Twp	
Thompson Twp	
Akron (Iowa/S. Dakota)	04
County—Plymouth:	
Parts of county:	
Grant (¾)	
Hancock	
Johnson	
Liberty	
Perry	
Plymouth (¾)	
Portland	
Preston	
Sioux	
Washington (¾)	
Westfield	
County—Sioux:	
Parts of county:	
Logan (¾)	
Washington (¼)	
Caledonia/Spring Grove (Iowa/Minn)	02
County—Allamakee:	
Parts of county:	
Highland Twp	
Waterloo Twp	
Center Pt./Central City/Coggon	03
County—Benton:	
Parts of county:	
Urbana	
County—Delaware:	
Parts of county:	
Ryan	
County—Linn:	
Parts of county:	
Alburnett	
Central City	
Center Pt.	
Coggon	
Marion	
Prairieburg	
Robins	
Walker	
Clarence-Tipton	02
County—Cedar:	
Parts of county:	
Clarence Division	
Lipton Division	
Mechanicsville Division	
Lowden Division	
Stanwood Division	
Bennett Division	
West Branch Division	
County—Clinton:	
Parts of county:	
Toronto Division	
Lost Nation Division	
Wheatland Division	
County—Johnson:	
Parts of county:	
Solon Division	
County—Jones:	
Parts of county:	
Olin Division	
Oxford Junction	
Center Junction	
Onslow Division	
Morley Division	
Wyoming Division	

PRIMARY CARE: Iowa—Continued

Service Area Listing

Service area name	Degree of shortage group
County—Linn:	
Parts of county:	
Lisbon Division	
County—Muscatine:	
Parts of county:	
Atalissa Division	
Wilton Division	
County—Scott:	
Parts of county:	
New Liberty Division	
Dixon Division	
Dayton-Gowrie	02
County—Boone:	
Parts of county:	
Dodge Twp	
Grant Twp	
Pilot Mound Twp	
County—Calhoun:	
Parts of county:	
Reading Twp	
County—Greene:	
Parts of county:	
Dawson Twp	
Paton Twp	
County—Hamilton:	
Parts of county:	
Marion Twp	
Webster Twp	
County—Webster:	
Parts of county:	
Burnside Twp	
Clay Twp	
Dayton Twp	
Gowrie Twp	
Hardin Twp	
Lost Grove Twp	
Roland Twp	
Sumner Twp	
Webster Twp	
Yeu Twp	
Guthrie Center	04
County—Guthrie:	
Parts of county:	
Baker Twp	
Bear Grove Twp	
Cass Twp	
Dodge Twp	
Highland Twp	
Jackson Twp	
Orange Twp	
Seely Twp	
Union Twp	
Valley Twp	
Victory Twp	
Harlan	03
County—Harrison:	
Parts of county:	
Washington Twp	
County—Pottawattamie:	
Parts of county:	
Layton Twp	
County—Shelby:	
Parts of county:	
Cass Twp	
Douglas Twp	
Greeley Twp	
Harlan Twp	
Jefferson Twp	
Shelby Twp	
Union Twp	
Washington Twp	
Westphalia Twp	
Hubbard	02
County—Hamilton:	
Parts of county:	
Lincoln Twp	
Lyon Twp	
Rose Grove Twp	
Scott Twp	
Williams Twp (Pt.)	
County—Hardin:	
Parts of county:	
Concord Twp	
Grant Twp	
Providence Twp	
Sherman Twp	
Tipton Twp	

PRIMARY CARE: Iowa—Continued

Service Area Listing

Service area name	Degree of shortage group
County—Story:	
Parts of county:	
Lincoln Twp	
Keokuk	02
County—Keokuk:	
Parts of county:	
Adams Twp	
Benton Twp (Pt.)	
Clear Creek Twp	
East Lancaster Twp	
English River Twp	
Jackson Twp	
Lafayette Twp	
Liberty Twp (Pt.)	
Plank Twp	
Prairie Twp (Pt.)	
Richland Twp (Pt.)	
Sigourney Twp	
Steady Run Twp	
Van Buren Twp	
Warren Twp	
Washington Twp	
West Lancaster Twp	
Kingsley/Anthon/Mapleton	00
County—Cherokee:	
Parts of county:	
Grand Meadow Twp	
County—Monona:	
Parts of county:	
Cooper Twp	
Grant Twp	
Maple Twp	
County—Plymouth:	
Parts of county:	
Elkhorn Twp	
Garfield Twp	
County—Woodbury:	
Parts of county:	
Arlington Twp	
Banner Twp	
Floyd Twp	
Grange Twp	
Grant Twp	
Kedron Twp	
Liston Twp	
Little Sioux Twp	
Miller Twp	
Morgan Twp	
Myrtle Twp	
Oto Twp	
Rock Twp.	
Rutland Twp	
Union Twp	
West Fork Twp	
Willow Twp (X)	
Wolf Creek Twp	
Marcus-Remsen	00
County—Cherokee:	
Parts of county:	
Amherst Twp	
Marcus Twp	
Tilden Twp	
County—Plymouth:	
Parts of county:	
Henry Twp	
Meadow Twp	
Remsen Twp	
Mormon Trail	01
County—Clarke:	
Parts of county:	
Franklin Twp (Pt.)	
County—Decatur:	
Parts of county:	
Center Twp (Pt.)	
Franklin Twp (Pt.)	
Garden Grove Twp	
High Point Twp (Pt.)	
Woodland Twp (Pt.)	
County—Lucas:	
Parts of county:	
Jackson Twp (Pt.)	
Union Twp	
Warren Twp (Pt.)	
County—Wayne:	
Parts of county:	
Clay Twp (Pt.)	
Richman Twp	
Washington Twp (Pt.)	

PRIMARY CARE: Iowa—Continued

Service Area Listing

Service area name	Degree of shortage group
Morningside/Sgt. Bluff (Iowa/Nebr)	02
County—Woodbury:	
Parts of county:	
C.T. 1 (Pt.)	
C.T. 18–21	
Concord Twp	
Liberty Twp (Pt.)	
Woodburg Twp (Pt.)	
North Benton	03
County—Benton:	
Parts of county:	
Benton Twp	
Big Grove Twp	
Bruce Twp	
Canton Twp	
Cedar Twp	
Eden Twp	
Eldorado Twp	
Harrison Twp	
Homer Twp	
Jackson Twp	
Monroe Twp	
Polk Twp	
Shellsburg Twp	
Taylor Twp	
Union Twp	
Vinton Twp	
County—Black Hawk:	
Parts of county:	
Big Creek Twp	
Spring Creek Twp	
North Kossuth	02
County—Kossuth:	
Parts of county:	
Buffalo Twp	
Burt Twp	
Eagle Twp	
Fenton Twp	
German Twp	
Grant Twp	
Greenwood Twp	
Harrison Twp	
Hebron Twp	
Ledgard Twp	
Lincoln Twp	
Portland Twp	
Ramsey Twp	
Seneca Twp	
Springfield Twp	
Swea Twp	
Oakland	02
County—Cass:	
Parts of county:	
Lewis Twp	
County—Mills:	
Parts of county:	
Henderson Twp	
County—Pottawattamie:	
Parts of county:	
Oakland Twp	
Carson Twp	
McClelland Twp	
Treynor Twp	
Avoca Twp	
Macedonia Twp	
Minden Twp	
Hancock Twp	
Onawa (Iowa/Nebr)	02
County—Harrison:	
Parts of county:	
Jackson Twp	
Little Sioux Twp	
County—Monona:	
Parts of county:	
Ashton Twp	
Belvidere Twp	
Center Twp	
Fairview Twp	
Franklin Twp	
Jordan Twp	
Kennebec Twp	
Lincoln Twp	
Onawa Twp	
St. Clair Twp	
Sherman Twp	
Sioux Twp	
Soldier Twp	
Spring Valley Twp	

PRIMARY CARE: Iowa—Continued

Service Area Listing

Service area name	Degree of shortage group
West Fork Twp	
Willow Twp	
County—Warren:	
Parts of county:	
New Virginia Division	
County—Woodbury:	
Parts of county:	
Lakeport Twp	
Liberty Twp (Pt.)	
Sloan Twp	
Willow Twp (Pt.)	
Seymour	01
County—Appanoose:	
Parts of county:	
Franklin Twp	
Independence Twp (Pt.)	
Johns Twp (Pt.)	
Lincoln Twp (Pt.)	
Pleasant Twp (Pt.)	
County—Wayne:	
Parts of county:	
Howard Twp	
Jackson Twp (Pt.)	
Monroe Twp	
South Fork Twp	
Walnut Twp	
Wright Twp (Pt.)	
Shenandoah	00
County—Fremont:	
Parts of county:	
Shenandoah Town	
Imogene Town	
Farragut Town	
County—Page:	
Parts of county:	
Essex Town	
Yorktown Town	
Coin Town	
Northboro Town	
South Taylor Co	02
County—Taylor:	
Parts of county:	
Bedford Twp	
Benton Twp	
Clayton Twp	
Dallas Twp	
Gay Twp	
Jackson Twp	
Jefferson Twp	
Mason Twp	
Polk Twp	
Ross Twp	
Strawberry Pt.	03
County—Monona:	
Parts of county:	
Lake Twp	
Tabor	03
County—Fremont:	
Parts of county:	
Randolph Town	
Thurman Town	
County—Mills:	
Parts of county:	
Tabor Town	
Malvern Town	
Tama	02
County—Black Hawk:	
Parts of county:	
Cate Twp	
Lincoln Twp	
County—Grundy:	
Parts of county:	
Black Hawk Twp	
County—Tama	
Woodbine	04
County—Harrison:	
Parts of county:	
Woodbine Town	
Logan Town	
Magnolia Town	
Dunlap Town	

PRIMARY CARE: Iowa

Population Group Listing

Population group	Degree of shortage group
Low Inc. pop. of Waterloo	01
County—Black Hawk:	
Parts of county:	
C.T. 1–9	
C.T. 17–20	
Med. Ind. pop. of Scott Co.	04
County—Scott:	
Parts of county:	
C.T. 109–115	
C.T. 123–124	

PRIMARY CARE: Iowa

Facility Listing

Facility	Degree of shortage group
Peoples Comm. Health Center	01
County—Black Hawk:	

PRIMARY CARE: Kansas

County Listing

County name	Degree of shortage group
Brown	04
Chase	03
Elk	03
Geary	02
Jackson	01
Jefferson	01
Kingman:	
Service area: Garden Plain	02
Lincoln	02
Linn	02
Miami	04
Nemaha:	
Service area: Southwest Nemaha	01
Osage	04
Reno:	
Service area: Haven	02
Scott	04
Sedgwick:	
Service area: Haven	02
Service area: Garden Plain	02
Shawnee:	
Service area: Northwest Shawnee	01
Service area: Northeast Topeka	02
Smith	04
Sumner:	
Service area: Garden Plain	02
Service area: Blackwell (Kansas/Okla)	04
Wabaunsee	01
Washington	04
Wichita	01
Woodson	03
Wyandotte:	
Service area: Clinicare	02

PRIMARY CARE: Kansas

Service Area Listing

Service area name	Degree of shortage group
Blackwell (Kansas/Oklahoma)	04
County—Sumner:	
Parts of county:	
Greene Twp	
Guelph Twp	
Falls Twp	
Jackson Twp	
Osborne Twp	
South Haven Twp	

PRIMARY CARE: Kansas—Continued

Service Area Listing

Service area name	Degree of shortage group
Val Verde Twp	
Walton Twp	
Clinicare	02
County—Wyandotte:	
Parts of county:	
C.T. 409.02	
C.T. 425.01	
C.T. 425.02	
C.T. 426–428	
C.T. 429.01	
C.T. 429.02	
C.T. 430	
C.T. 431.02	
C.T. 433.02	
Garden Plain	02
County—Kingman	
Parts of county:	
Allen Twp	
Bennett Twp	
Dale Twp	
Eagle Twp (Pt.)	
Evan Twp	
Galesburg Twp	
Vinita Twp	
White Twp (Pt.)	
County—Sedgwick:	
Parts of county:	
Afton Twp	
Attica Twp	
Delano Twp	
Eagle Twp	
Erie Twp	
Garden Plain Twp	
Grand River Twp	
Illinois Twp	
Morton Twp	
Ninnescah Twp	
Ohio Twp (Pt.)	
Park Twp	
Sherman Twp	
Union Twp	
Valley Center (Pt.)	
Viola Twp	
Waco Twp	
County—Sumner:	
Parts of county:	
Eden Twp (Pt.)	
Illinois Twp (Pt.)	
London Twp (Pt.)	
Springdale Twp (Pt.)	
Conway Twp	
Haven	02
County—Reno:	
Parts of county:	
Haven Township	
Yoder Township	
Lincoln Township	
Center Township	
Castleton Township	
Troy Township	
Albion Township	
Ninnescah Township	
Sumner Township	
County—Sedgwick:	
Parts of county:	
Grassy	
Northeast Topeka	02
County—Shawnee:	
Parts of county:	
C.T. 2–3	
C.T. 7–8	
C.T. 11–12	
C.T. 14	
C.T. 31	
Northwest Shawnee	01
County—Shawnee:	
Parts of county:	
Dover Twp	
Grove Twp	
Rossville Twp	
Silver Lake Twp	
Southwest Nemaha	01
County—Nemaha:	
Parts of county:	
Adams Twp	
Center Twp	
Harrison Twp	
Home Twp	

PRIMARY CARE: Kansas—Continued

Service Area Listing

Service area name	Degree of shortage group
Illinois Twp	
Mitchell Twp	
Neuchatel Twp	
Red Vermillion Twp	
Reilly Twp	

PRIMARY CARE: Kentucky

County Listing

County name	Degree of shortage group
Adair	03
Allen	02
Ballard	03
Bath	04
Bell:	
Service area: Western Harlan	01
Bourbon	02
Bracken	01
Breathitt:	
Service area: Perry County	02
Bullitt	03
Butler	04
Caldwell	02
Carlisle	01
Carter	01
Clay	04
Crittenden	03
Edmonson	04
Estill	04
Fayette:	
Population group: Med Ind Pop. of Fayette	01
Floyd:	
Service area: Mud Creek	03
Fulton:	
Service area: Western Fulton	01
Gallatin	01
Garrard	04
Grant	01
Grayson	04
Greenup	03
Hancock	03
Harlan:	
Service area: Western Harlan	01
Hickman	02
Jackson	03
Jefferson:	
Service area: West End	02
Jessamine	03
Knott:	
Service area: Perry	02
Knox	02
Larue	04
Laurel	03
Lee	03
Leslie	02
Letcher:	
Service area: Perry	02
Lewis	02
Lincoln	02
Livingston	02
Logan	04
Lyon	02
Magoffin	02
Marion	02
Meade	02
Menifee	02
Metcalfe	02
Muhlenberg	02
Ohio	03
Owen	02
Owsley	01
Pendleton	02
Perry:	
Service area: Perry	02
Pike:	
Service area: Pike	01
Service area: South Williamson	04
Powell	04
Robertson	01
Russell	02
Scott:	
Population group: Pov Pop. of Scott	01

PRIMARY CARE: Kentucky—Continued

County Listing

County name	Degree of shortage group
Shelby	04
Simpson	03
Spencer	02
Todd	04
Trigg	01
Trimble	01
Union	04
Washington	02
Webster	03
Whitley:	
Service area: Williamsburg	02
Wolfe	04

PRIMARY CARE: Kentucky

Service Area Listing

Service area name	Degree of shortage group
Mud Creek	03
County—Floyd:	
Parts of county:	
McDowell CCD	
Mud Creek CCD	
Wheelwright CCD	
Perry	03
County—Breathitt:	
Parts of county:	
Canoe Div.	
Haddix Div.	
Hardshell Div.	
County—Knott:	
Parts of county:	
Carr Fork Div.	
Emmalena Div.	
Mousie Div.	
County—Letcher:	
Parts of county:	
Blackey Div.	
County—Perry	
Pike	01
County—Pike:	
Parts of county:	
Feds Creek CCD	
Long Fork CCD	
Millard CCD	
Phelps CCD	
Robinson Creek CCD	
South Williams	04
County—Pike:	
Parts of county:	
McAndrews	
McCarr	
Phelps	
Sidney	
South Williamson	
West End	02
County—Jefferson:	
Parts of county:	
C.T. 1–35	
Western Fulton	01
County—Fulton:	
Parts of county:	
C.T. 7–12	
Western Harlan	01
County—Bell:	
Parts of county:	
Tejay CCD	
County—Harlan:	
Parts of county:	
Alva CCD	
Wallins Creek CCD	
Williamsburg	02
County—Whitley:	
Parts of county:	
Pearl	
Saxton	
Siler	
Williamsburg	

PRIMARY CARE: Kentucky

Population Group Listing

Population group	Degree of shortage group
Low income pop. of Fayette	01
County—Fayette:	
Parts of county:	
C.T. 1–4	
C.T. 9–11	
Poverty pop. of Scott Co	01

PRIMARY CARE: Louisiana

County Listing

County name	Degree of shortage group
Ascension	03
Assumption	02
Beauregard:	
Service area: Merryville	03
Bienville	01
Bossier	01
Caddo:	
Population Group: Low inc. pop. of Shreveport	01
Calcasieu:	
Service area: Dequincy	03
Service area: North Lake Charles	01
Caldwell	04
Cameron	03
Catahoula	02
De Soto	01
East Baton Rouge:	
Service area: Eden Park	01
East Feliciana	01
Evangeline	03
Grant	01
Iberia:	
Service area: Teche	02
Iberville	04
Jackson	04
Jefferson:	
Service area: Lafitte	02
Jefferson Davis	04
Livingston	02
Madison	02
Orleans	
Service area: Desire/Florida	01
Service area: Lower 9th Ward	02
Ouachita:	
Facility: E.A. Conway Memorial Hospital	04
Pointe Coupee	01
Rapides:	
Facility: Huey P. Long Hospital	02
Sabine:	
Service area: Zwolle	01
St. Helena	03
St. Martin	
Service area: St. Martin	02
St. Mary:	
Service area: Teche	02
St. Tammany	
Service area: Northeastern St. Tammany	01
Tangipahoa:	
Facility: Lallie Kemp Hospital	02
Tensas	02
Terrebonne:	
Service area: Dulac	01
Union:	
Service area: West Union	02
Vermilion:	
Service area: Gueydan	02
Vernon	01
Webster	02
West Baton Rouge	01
West Carroll	01
West Feliciana	03
Winn	04

PRIMARY CARE: Louisiana

Service Area Listing

Service area name	Degree of shortage group
Dequincy	03
County—Calcasieu:	
Parts of county:	
Ward 6	
Desire/Florida	01
County—Orleans:	
Parts of county:	
C.T. 11 (N. of Derbigny St.)	
C.T. 14.01	
C.T. 14.02	
C.T. 15 (N. of Derbigny St.)	
C.T. 16	
C.T. 17.03	
C.T. 17.14	
Dulac	01
County—Terrebonne:	
Parts of county:	
Ward 4	
Ward 7	
Eden Park	01
County—East Baton Rough:	
Parts of county:	
C.T. 8–10	
C.T. 12	
C.T. 13	
Gueydan	02
County—Vermilion:	
Parts of county:	
Ward 8	
Lafitte	02
County—Jefferson:	
Parts of county:	
C.T. 277–279	
Lower 9th Ward	02
County—Orleans:	
Parts of county:	
C.T. 7.01	
C.T. 7.02	
C.T. 8	
C.T. 9.01, 9.02, 9.03, 9.04	
Merryville	03
County—Beauregard:	
Parts of county:	
Ward 2	
Ward 5	
North Lake Charles	01
County—Calcasieu:	
Parts of county:	
C.T. 2–4	
C.T. 14	
C.T. 15	
Northeastern St. Tammany	01
County—St. Tammany:	
Parts of county:	
C.T. 401	
C.T. 407	
St. Martin	02
County—St. Martin:	
Parts of county:	
Ward 1–5	
Teche	02
County—Iberia:	
Parts of county:	
Ward 1	
Ward 6	
County—St. Mary:	
Parts of county:	
Ward 1–5	
Ward 7	
Ward 10	
West Union	02
County—Union:	
Division 3	
Division 4	
Division 10	
Zwolle	01
County—Sabine:	
Parts of county:	
Ward 5–6	
Ward 8	

PRIMARY CARE: Louisiana

Population Group Listing

Population group	Degree of shortage group
Low inc pop. of Shreveport	01
County—Caddo	

PRIMARY CARE: Louisiana

Facility Listing

Facility	Degree of shortage group
E.A. Conway Mem Hosp	04
County—Ouachita	
Huey P. Long Hospital	02
County—Rapide	
Lallie Kemp Hosp	02
County—Tangipahoa	

PRIMARY CARE: Maine

County Listing

County name	Degree of shortage group
Androscoggin:	
Service area: Leeds	01
Aroostook:	
Service area: Ashland	01
Service area: Eagle Lake	01
Service area: Southern Aroostook	01
Service area: St. Francis	01
Cumberland:	
Service area: Kezar Falls (Maine/N.H.)	01
Franklin:	
Service area: Rangeley	02
Hancock:	
Service area: Bucksport	01
Kennebec:	
Service area: Albion	02
Service area: Leeds	01
Knox:	
Service area: Penobscot Bay	01
Oxford:	
Service area: Bethel	01
Service area: Kezar Falls (Maine/N.H.)	01
Service area: Rangeley	02
Penobscot:	
Service area: Bradley	01
Service area: Dexter	03
Service area: Southern Aroostook	01
Piscataquis:	
Service area: Dexter	03
Service area: Greenville	02
Somerset:	
Service area: Bingham	04
Service area: Dexter	03
Service area: Jackman	01
Waldo:	
Service area: Albion	02
Service area: Bucksport	01
Washington:	
Service area: Eastport	03
Service area: Jonesport	01
Service area: Lubec	01
Service area: Southern Aroostook	01
York:	
Service area: Kezar Falls (Maine/N.H.)	01

PRIMARY CARE: Maine

Service Area Listing

Service area name	Degree of shortage group
Albion	02
County—Kennebec:	
Parts of county:	
Albion Town	
Vassalboro Town	
China Town	
County—Waldo:	
Parts of county:	
Troy Town	
Unity Town	
Thorndike Town	
Jackson Town	
Monroe Town	
Brooks Town	
Knox Town	
Freedom Town	
Montville Town	
Liberty Town	
Palermo Town	
Ashland	01
County—Aroostook:	
Parts of county:	
Ashland Twn	
Garfield Plantation	
Masardis Twn	
Nashville Plantation	
Oxbow Plantation	
Portage Lake Twn	
Bethel	01
County—Oxford:	
Parts of county:	
Bethel Twn	
Gilead Twn	
Hanover Twn	
Newry Twn	
Upton Twn	
Woodstock Twn	
Bingham	04
County—Somerset:	
Parts of county:	
Solon Town	
Bingham Town	
Moscow Township	
Brighton Town	
Pleasant Ridge Plantation	
The Forks Plant	
Carratunk Plant	
West Forks Plant	
Bradley	01
County—Penobscot:	
Parts of county:	
Bradley Division	
Clifton Division	
Greenbush Division	
Greenfield Division	
Milford Division	
Bucksport	01
County—Hancock:	
Parts of county:	
Dedham Town	
Orland Town	
Penobscot Town	
Verona Town	
Bucksport Town	
County—Waldo:	
Parts of county:	
Prospect Town	
Stockton Springs Town	
Dexter	03
County—Penobscot:	
Parts of county:	
Dexter	
Corinna	
Exeter	
Garland	
County—Piscataquis:	
Parts of county:	
Wellington	
County—Somerset:	
Parts of county:	
Athens	
Harmony	
Ripley	
St. Albans	
Eagle Lake	01
County—Aroostook:	
Parts of county:	
Eagle Lake Twn	
Wallagrass Plantation	
Winterville Plantation	
Eastport	03

PRIMARY CARE: Maine—Continued

Service Area Listing

Service area name	Degree of shortage group
County—Washington:	
Parts of county:	
Eastport	
Perry	
Passamaquoddy Indian Reservation	
Pembroke (Part)	
Dennysville (Part)	
Edmunds (Part)	
Charlotte (Part)	
Robbinston (Part)	
Greenville	02
County—Piscataquis:	
Parts of county:	
Beaver Cove Plant	
Blanchard Plant	
Elliotsville Plant	
Greenville	
Monson	
Shirley	
Willimantic	
Unorg. Terr of N. Piscataquis	
Jackman	01
County—Somerset:	
Parts of county:	
Jackman Town	
Moose River Town	
Dennistown Plant	
Jonesport	01
County—Washington:	
Parts of county:	
Addison Twn	
Beals Twn	
Centerville Twn	
Columbia Falls Twn	
Jonesboro Twn	
Jonesport Twn	
Kezar Falls (Maine/New Hampshire)	01
County—Cumberland:	
Parts of county:	
Baldwin Town	
County—Oxford:	
Parts of county:	
Brownfield	
Hiram Town	
Porter Town	
County—York:	
Parts of county:	
Newfield Town	
Limerick Town	
Cornish Town	
Parsonfield	
Leeds	01
County—Androscoggin:	
Parts of county:	
Turner Town	
Greene Town	
Lewis Town	
County—Kennebec:	
Parts of county:	
Wayne Town	
Monmouth Town	
Lubec	01
County—Washington:	
Parts of county:	
Dennysville Twn	
Edmunds (Unorg.)	
Lubec Twn	
Plantation #14	
Trescott (Unorg.)	
Whiting Twn	
Penobscot Bay	01
County—Knox:	
Parts of county:	
Vinalhaven Island	
North Haven Island	
Matinicus Island	
Isle Au Haut	
Rangeley	02
County—Franklin:	
Parts of county:	
Coplin Plantation	
Dallas Plantation	
Eustis Twn	
Madrid Twn	
Rangeley Plantation	
Rangeley Twn	
Redington (Unorg.)	
Sandy River	

PRIMARY CARE: Maine—Continued

Service Area Listing

Service area name	Degree of shortage group
County—Oxford:	
Parts of county:	
Adamstown (Unorg.)	
Lincoln Plantation	
Magalloway Plantation	
Richardstown (Unorg.)	
Southern Aroostook	01
County—Aroostook:	
Parts of county:	
Amity Town	
Bancroft Town	
Benedicta Town	
Crystal Town	
Dyer Brook Town	
Glenwood Plantation	
Hersey Town	
Island Falls Town	
Macwahoc Plantation	
Merrill Town	
Monticello Town	
Moro Plantation	
Oakfield Town	
Orient Town	
Reed Plantation	
Sherman Town	
Smyrna Town	
Weston Town	
Unorg. Terr. of S. Aroostook	
County—Penobscot:	
Parts of county:	
Drew Plantation	
Mt. Chase Plantation	
Patten Town	
Prentiss Plantation	
Stacyville Town	
County—Washington:	
Parts of county:	
Danforth Town	
St. Francis	01
County—Aroostook:	
Parts of county:	
Allagash Plantation	
St. Francis Plantation	
St. John Plantation	

PRIMARY CARE: Maryland

County Listing

County name	Degree of shortage group
Allegany:	
Service area: Hancock	01
Anne Arundel:	
Service area: Owensville	03
Baltimore:	
Facility: Maryland Penitentiary	03
Facility: Md Reception Diag/Class Center	02
Caroline	01
Cecil:	
Service area: Southeast Cecil	02
Charles	04
Dorchester:	
Service area: Northeast Dorchester County	01
Garrett	04
Howard:	
Facility area: Md House of Corrections	02
Kent:	
Service area: Northeast Kent	01
Service area: Eadesville/Fairlee	02
Queen Annes	01
Somerset	02
Washington:	
Service area: Keendysville	01
Service area: Hancock	01
Facility area: Md Correctional Institution	03
Facility area: Md Corr Training Center	02
Worcester:	
Service area: Pocomoke City	02
Baltimore City:	
Service area: Cherry Hill	01
Service area: Constant Care	02
Service area: East Baltimore	02
Service area: Hampton/Woodberry/Remington	01

PRIMARY CARE: Maryland—Continued

County Listing

County name	Degree of shortage group
Service area: North Central Baltimore	01
Service area: Northwest Baltimore	01
Service area: O'Donnell Heights	01
Service area: Orleans Square	01
Service area: West Baltimore	03
Facility: Baltimore City Jail	02

PRIMARY CARE: Maryland

Service Area Listing

Service Area Name	Degree of shortage group
Cherry Hill	01
County—Baltimore City:	
Parts of county:	
C.T. 2502.01	
C.T. 2502.02	
C.T. 2502.03	
C.T. 2502.04	
C.T. 2502.05	
C.T. 2503.01	
C.T. 2503.02	
C.T. 2503.03	
Constant Care	02
County—Baltimore City:	
Parts of county:	
C.T. 402	
C.T. 1401–1403	
C.T. 1501–1502	
C.T. 1601–1604	
C.T. 1701–1703	
C.T. 2101	
Eadesville/Fairlee	02
County—Kent:	
Parts of county:	
Dist. 5 (Eadesville)	
Dist. 6 (Fairlee)	
East Baltimore	02
County—Baltimore City:	
Parts of county:	
C.T. 501	
C.T. 603–605	
C.T. 704	
C.T. 806–808	
C.T. 909	
C.T. 1001–1002	
C.T. 1004	
Hampden/Woodberry/Remington	01
County—Baltimore City:	
Parts of county:	
C.T. 1203	
C.T. 1206–1207	
C.T. 1305–1306	
C.T. 1308.02	
Hancock	01
County—Allegany:	
Parts of county:	
Dist. 1 (Orleans)	
County—Washington:	
Parts of county:	
Dist. 4 (Clear Spring)	
Dist. 5 (Hancock)	
Dist. 15 (Indian Springs)	
Keendysville	01
County—Washington:	
Parts of county:	
Election District 1	
Election District 6	
Election District 8	
Election District 11	
Election District 19	
North Central Baltimore	01
County—Baltimore City:	
Parts of county:	
C.T. 602	
C.T. 603.01	
C.T. 603.02	
C.T. 804–805	
C.T. 901–906	
C.T. 1204	
Northeast Dorchester County	01
County—Dorchester:	
Parts of county:	

PRIMARY CARE: Maryland—Continued

Service Area Listing

Service Area Name	Degree of shortage group
Dist. 1	
Dist. 2	
Dist. 3	
Dist. 12	
Dist. 15	
Northeast Kent	01
County—Kent:	
Parts of county:	
Dist. 1 (Massey)	
Dist. 2 (Kennedyville)	
Northwest Baltimore	01
County—Baltimore City:	
Parts of county:	
C.T. 1512	
C.T. 1513	
C.T. 2716	
C.T. 2717	
C.T. 2718.01	
C.T. 2718.02	
O'Donnell Heights	01
County—Baltimore City:	
Parts of county:	
C.T. 2606.01	
C.T. 2606.02	
Orleans Square	01
County—Baltimore City:	
Parts of county:	
C.T. 103	
C.T. 105	
C.T. 201	
C.T. 601–602	
C.T. 701–703	
Owensville	03
County—Anne Arundel:	
Parts of county:	
C.T. 7012–7014	
C.T. 7070	
C.T. 7080	
Pocomoke City	02
County—Worcester:	
Parts of county:	
Dist. 1	
Dist. 7	
Dist. 8	
Southeast Cecil	02
County—Cecil:	
Parts of county:	
Dist. 1 (Cecilton)	
Dist. 2 (Chesapeake City)	
West Baltimore	03
County—Baltimore City:	
Parts of county:	
C.T. 1801–1803	
C.T. 1901–1903	
C.T. 2501–2506	

PRIMARY CARE: Maryland

Facility Listing

Facility	Degree of shortage group
Baltimore City Jail	02
County—Baltimore City	
MD Corr Training Center	02
County—Washington	
MD Correctional Inst	03
County—Washington	
MD House of Corrections	02
County—Howard	
MD Penitentiary	03
County—Baltimore	
MD Reception Diag/Class Center	02
County—Baltimore	

PRIMARY CARE: Massachusetts

County Listing

County name	Degree of shortage group
Barnstable:	
Service area: Provincetown	03
Bristol:	
Service area: New Bedford	01
Service area: Taunton	02
Population Group: Low inc pop. of Fall River	04
Dukes:	
Service area: New Bedford	01
Essex:	
Service area: Lynn	04
Service area: Methuen	03
Service area: North Lawrence	02
Service area: Peabody	02
Franklin:	
Service area: Mohawk	02
Hampden:	
Service area: Brookfield	02
Service area: Worthington	02
Hampshire:	
Service area: Worthington	02
Middlesex:	
Service area: East Cambridge	02
Service area: Hudson	02
Service area: Lowell	04
Service area: Maynard	03
Service area: North Cambridge	02
Service area: Somerville	02
Service area: South Framingham	01
Service area: Watertown	02
Norfolk:	
Service area: Hough's Neck/Germantown	01
Service area: North Weymouth	01
Service area: So. Blackstone Valley	02
Service area: Wrentham	02
Facility: Norfolk-Walpole Correctional Inst	03
Plymouth:	
Service area: Hull	01
Facility: Mass. Corr. Inst at Bridgewater	02
Suffolk:	
Service area: Allston	02
Service area: Hyde Park	02
Service area: Jamaica Plain	03
Service area: Mattapan	01
Service area: Neponset	02
Service area: North Dorchester	01
Service area: North End Boston	04
Service area: Revere City	02
Service area: Roxbury	03
Service area: South Boston	04
Population Group: Chinese pop of South End Boston	01
Worcester:	
Service area: Barre	04
Service area: Brookfield	02
Service area: South Blackstone Valley	02
Service area: Winchendon	04

PRIMARY CARE: Massachusetts

Service Area Listing

Service area name	Degree of shortage group
Allston	02
County—Suffolk:	
Parts of county:	
C.T. 1	
C.T. 7–8	
Barre	04
County—Worcester:	
Parts of county:	
Barre Twn	
Hardwick Twn	
New Braintree Twn	
Oakham Twn	
Petersham Twn	
Rutland Twn	
Brookfield	02
County—Hampden:	
Parts of county:	
Brimfield Twn	
Holland Twn	
Wales Twn	
County—Worcester:	
Parts of county:	
Brookfield Twn	
East Brookfield Twn	
North Brookfield Twn	
Spencer Twn	
Warren Twn	
West Brookfield Twn	
East Cambridge	02
County—Middlesex:	
Parts of county:	
C.T. 3521–3535	
Hough's Neck/Germantown	01
County—Norfolk:	
Parts of county:	
C.T. 4178	
Hudson	02
County—Middlesex:	
Parts of county:	
Hudson Twn	
Hull	01
County—Plymouth:	
Parts of county:	
Hull Twn	
Hyde Park	02
County—Suffolk:	
Parts of county:	
C.T. 1401–1404	
Jamaica Plain	03
County—Suffolk:	
Parts of county:	
C.T. 1202–1207	
Lowell	04
County—Middlesex:	
Parts of county:	
Lowell	
Lynn	04
County—Essex:	
Parts of county:	
C.T. 2060–2063	
C.T. 2065	
C.T. 2068	
C.T. 2070–2072	
Mattapan	01
County—Suffolk:	
Parts of county:	
C.T. 1010–1011	
Maynard	03
County—Middlesex:	
Parts of county:	
Maynard Twn	
Methuen	03
County—Essex:	
Parts of county:	
C.T. 2522–2526	
Mohawk	02
County—Franklin:	
Parts of county:	
Ashfield Twn	
Buckland Twn	
Charlemont Twn	
Colrain Twn	
Conway Twn	
Hawley Twn	
Heath Twn	
Shelburne Twn	
Monroe Twn	
Rowe Twn	
N. Weymouth	01
County—Norfolk:	
Parts of county:	
C.T. 4226–4228	
Neponset	02
County—Suffolk:	
Parts of county:	
C.T. 1006–1007	
New Bedford	01
County—Bristol:	
Parts of county:	
C.T. 6512–6513	
C.T. 6518–6519	
C.T. 6526–6527	
County—Dukes:	
Parts of county:	
Gosnold Twn	
North Cambridge	02
County—Middlesex:	
Parts of county:	
C.T. 3547–3550	
North Dorchester	01
County—Suffolk:	
Parts of county:	
C.T. 901–924	
C.T. 1001–1005	
North End Boston	04
County—Suffolk:	
Parts of county:	
C.T. 301–305	
North Lawrence	02
County—Essex:	
Parts of county:	
C.T. 2502–2511	
C.T. 2513–2514	
Peabody	02
County—Essex:	
Parts of county:	
C.T. 2105–2109	
Provincetown	04
County—Barnstable:	
Parts of county:	
Provincetown	
Revere City	02
County—Suffolk:	
Parts of county:	
Revere City	
Roxbury	03
County—Suffolk:	
Parts of county:	
C.T. 901–909	
C.T. 611–621	
South Framingham	01
County—Middlesex:	
Parts of county:	
C.T. 3831–3832	
C.T. 3834	
South Blackstone Valley	02
County—Norfolk:	
Parts of county:	
Bellingham Twn	
County—Worcester:	
Parts of county:	
Blackstone Twn	
Douglas Twn	
Mendon Twn	
Millville Twn	
Northbridge Twn	
Sutton Twn	
Uxbridge Twn	
Somerville	02
County—Middlesex:	
Parts of county:	
C.T. 3501–3516	
South Boston	04
County—Suffolk:	
Parts of county:	
C.T. 601–614	
Taunton	02
County—Bristol:	
Parts of county:	
Berkley Twn	
Dighton Twn	
Raynham Twn	
Rehoboth Twn	
Taunton City	
Watertown	02
County—Middlesex:	
Parts of county:	
Watertown	
Winchendon	04
County—Worcester:	
Parts of county:	
Ashburnham	
Gardner	
Hubbardston	
Royalston	

PRIMARY CARE: Massachusetts—Continued

Service Area Listing

Service area name	Degree of shortage group
Templeton	
Winchendon	
Worthington	02
County—Hampden:	
Parts of county:	
Chester Twn	
County—Hampshire:	
Parts of county:	
Cummington Twn	
Goshen Twn	
Huntington Twn	
Plainfield Twn	
Worthington Twn	
Chesterfield Twn	
Wrentham	02
County—Norfolk:	
Parts of county:	
Wrentham Twn	

PRIMARY CARE: Massachusetts

Population Group Listing

Population group	Degree of shortage group
Chinese pop. (South End Boston)	01
County—Suffolk:	
Parts of county:	
C.T. 701–712	
Low income pop. of Fall River	04
County—Bristol:	
Parts of county:	
C.T. 6406–6409	
C.T. 6411–6414	

PRIMARY CARE: Massachusetts

Facility Listing

Facility	Degree of shortage group
Mass. Corr. Inst. (Bridgewater)	02
County—Plymouth	
Norfolk & Walpole Corr. Institutions	03
County—Norfolk	

PRIMARY CARE: Michigan

County Listing

County name	Degree of shortage group
Alcona	02
Alger	04
Allegan:	
Service area: Allegan/Kent	02
Service area: Allegan	03
Antrim:	
Service area: East Jordan	01
Arenac:	
Service area: Sterling	01
Baraga	02
Bay:	
Service area: Sterling	01
Cass:	
Service area: Dowagiac	04
Charlevoix:	
Service area: East Jordan	01
Chippewa:	
Service area: De Tour	01
Service area: Kinross/Rudyard	01
Clare:	
Service area: Clare	01
Service area: Harrison	01

PRIMARY CARE: Michigan—Continued

County Listing

County name	Degree of shortage group
Crawford:	
Service area: Roscommon/St. Helen	03
Dickenson:	
Service area: Iron River/Crystal Falls	04
Genesee:	
Service area: Otter Lake	02
Service area: Central Flint	01
Service area: Montrose	01
Gladwin:	
Service area: Sterling	01
Gogebic:	
Service area: Ewen	01
Hillsdale	02
Houghton:	
Service area: Calumet/Keweenaw	01
Huron:	
Service area: Port Austin	01
Ionia:	
Service area: Hale/Whittemore	04
Iron:	
Service area: Iron River/Crystal Falls	04
Isabella:	
Service area: Clare	01
Jackson:	
Facility: St. Prison of S. Michigan	02
Kent:	
Service area: Northern Kent	03
Service area: Allegan/Kent	02
Population group: Med Ind pop. of Grand Rapids	04
Keweenaw	
Service area: Calumet/Keweenaw	01
Lake:	
Service area: Lake/Newaygo	01
Lapeer:	
Service area: Otter Lake	02
Leelanau:	
Service area: Northport/Suttons Bay	06
Livingston:	
Service area: Cohoctah	01
Mackinac	02
Marquette:	
Service area: Iron River/Crystal Falls	04
Mecosta:	
Service area: Mecosta	04
Menominee:	
Service area: Northern Menominee	01
Midland:	
Service area: Clare	01
Missaukee:	
Service area: Houghton Lake	01
Monroe:	
Service area: Bedford/Erie	02
Service area: Sumpter	01
Montmorency	01
Muskegon:	
Service area: Northern Kent	03
Service area: Northern Muskegon	02
Newaygo:	
Service area: Lake/Newaygo	01
Service area: Mecosta	04
Service area: Southern Newaygo	02
Oakland:	
Service area: Milford	02
Oceana:	
Service area: Shelby	02
Service area: Southern Newaygo	02
Ogemaw:	
Service area: Hale/Whittemore	04
Ontonagon:	
Service area: Ewen	01
Osceola:	
Service area: Osceola	04
Oscoda	03
Ottawa:	
Service area: Allegan/Kent	02
Service area: Northern Kent	03
Roscommon:	
Service area: Houghton Lake	01
Service area: Roscommon/St. Helen	03
Saginaw:	
Service area: Chesaning	01
Service area: Montrose	01
Service area: Saginaw City (East Side)	01
St. Clair:	
Service area: Algonac	04
Service area: Brown City	01
Service area: Yale	03

PRIMARY CARE: Michigan—Continued

County Listing

County name	Degree of shortage group
Sanilac:	
Service area: Brown City	01
Service area: Lexington/Croswell	01
Service area: Marlette/Kingston	02
Shiawassee:	
Service area: Chesaning	01
Service area: Cohoctah	01
Tuscola:	
Service area: Marlette/Kingston	02
Service area: Otter Lake	02
Van Buren:	
Service area: Dowagiac	04
Washtenaw:	
Service area: Sumpter	01
Wayne:	
Service area: Detroit (East)	01
Service area: Detroit (S.W.)	01
Service area: Detroit (N.W.)	02
Service area: Sumpter	01
Facility: Deaconess Hospital	01
Facility: Herman Kiefer Health Complex	01
Facility: Mt. Carmel Mercy Hospital	02
Facility: Titus Greene Health Center	02
Facility: Wayne County Jail	02

PRIMARY CARE: Michigan

Service Area Listing

Service area name	Degree of shortage group
Algonac	04
County—St. Clair:	
Parts of county:	
Algonac City	
Casco Township	
China Township	
Clay Township	
Columbus Township	
Cottrville Township	
East China Township	
Dra Township	
Marine City	
St. Clair City	
St. Clair Township	
Allegan	03
County—Allegan:	
Parts of county:	
Allegan Twp.	
Cheshire Twp.	
Gunplain Twp.	
Heath Twp.	
Hopkins Twp.	
Lee Twp.	
Martin Twp.	
Monterey Twp.	
Otsego Twp.	
Trowbidge Twp.	
Valley Twp.	
Watson Twp.	
Wayland Twp.	
Allegan/Kent	02
County—Allegan:	
Parts of county:	
Dorr Twp.	
Leighton Twp.	
Salem Twp.	
County—Kent:	
Parts of county:	
Byron Twp.	
Gaine Twp.	
County—Ottawa:	
Parts of county:	
Jamestown Twp.	
Bedford/Erie	02
County—Monroe:	
Parts of county:	
Bedford Twp. (Northern ⅔)	
Erie Twp. (Northern ⅔)	
Ida Twp.	
La Salle Twp.	
Summerfield Twp.	
Whiteford Twp. (N. ⅔)	
Brown City	01

PRIMARY CARE: Michigan—Continued

Service Area Listing

Service area name	Degree of shortage group
County—St. Clair:	
Parts of county:	
Lynn Twp. (Pt.)	
County—Sanilac:	
Parts of county:	
Brown City	
Elk Twp.	
Flynn Twp.	
Maple Valley Twp.	
Speaker Twp.	
Calumet/Keweenaw	01
County—Houghton:	
Parts of county:	
Calumet Township	
Hancock	
Osceola	
Schoolcraft	
Torch Lake	
County—Keweenaw	
Chesaning	01
County—Saginaw:	01
Parts of county:	
C.T. 125 (Chapin and Brady Township.)	
C.T. 127 (Chesaning Township.)	
C.T. 128 (Chesaning Township.)	
C.T. 129 (Maple Grove Township)	
County—Shiawassee:	
Parts of county:	
Fairfield Township	
Rush Township	
New Haven Township	
Hazelton Township	
Clare	01
County—Clare:	
Parts of county:	
City of Clare	
Garfield Township	
Surrey Township	
Grant Township	
Sheridan Township	
County—Isabella:	
Parts of county:	
Coldwater Township	
Gilmore Township	
Vernon Township	
Wise Township	
County—Midland:	
Parts of county:	
Coleman Village	
Warren Township	
Cohoctah	01
County—Livingston:	
Parts of county:	
Conway Township	
Cohocta Township	
Deerfield Township	
County—Shiawassee:	
Parts of county:	
Antrim Township	
Burns Township	
Perry City	
Perry Township	
De Tour	01
County—Chippewa:	
Parts of county:	
De Tour Twp.	
De Tour Village	
Drummond Twp.	
Raber Twp.	
Detroit (East)	01
County—Wayne:	
Parts of county:	
C.T. 536–538	
C.T. 539–541	
C.T. 548–550	
C.T. 560	
C.T. 561	
C.T. 565–570	
C.T. 655	
C.T. 661–665	
C.T. 755–728	
C.T. 799–797	
Detroit (S.W.)	01
County—Wayne:	
Parts of county:	
C.T. 11–13	
C.T. 15	
C.T. 16	

PRIMARY CARE: Michigan—Continued

Service Area Listing

Service area name	Degree of shortage group
C.T. 51–56	
C.T. 58–64	
C.T. 101	
C.T. 103–123	
C.T. 154–163	
C.T. 179	
C.T. 180	
C.T. 201	
C.T. 202	
C.T. 211	
Detroit (N.W.)	01
County—Wayne:	
Parts of county:	
C.T. 168–171	
C.T. 173–175	
C.T. 176.01	
C.T. 176.02	
C.T. 176.03	
C.T. 176.04	
C.T. 209	
C.T. 251–255	
C.T. 257	
C.T. 258.01	
C.T. 258.02	
C.T. 259.01	
C.T. 259.02	
C.T. 260	
C.T. 261.01	
C.T. 261.02	
C.T. 262.01	
C.T. 262.02	
C.T. 263	
C.T. 264	
C.T. 302.01	
C.T. 302.02	
C.T. 302.03	
C.T. 305.01	
C.T. 305.02	
C.T. 306.01	
C.T. 306.02	
C.T. 408	
C.T. 409.01	
C.T. 409.02	
Dowagiac	04
County—Cass:	
Parts of county:	
Dowagiac City	
Lagrange Twp.	
Marcellus Twp.	
Newberg Twp.	
Penn Twp.	
Silver Creek Twp.	
Volinia Twp.	
Wayne Twp.	
County—Van Buren:	
Parts of county:	
Decatur Twp.	
Hamilton Twp.	
Keeler Twp.	
Porter Twp.	
East Jordan	01
County—Antrim:	
Parts of county:	
Echo Twp. (Part)	
Jordan Twp.	
Warker Twp. (Part)	
County—Charlevoix:	
Parts of county:	
Bank Twp. (Part)	
South Arm Twp.	
Wilson Twp. (Part)	
Ewen	01
County—Gogebic:	
Parts of county:	
Marenisco Twp.	
Watersmeet Twp.	
County—Ontonagon:	
Parts of county:	
Bergland Twp.	
Haight Twp.	
Interior Twp.	
Matchwood Twp.	
McMillan Twp.	
Rockland Twp.	
Stannard Twp.	
Hale/Whittemore	04
County—Iosco:	
Parts of county:	

PRIMARY CARE: Michigan—Continued

Service Area Listing

Service area name	Degree of shortage group
Burleigh Twp.	
Grant Twp.	
Plainfield Twp.	
Reno Twp.	
Sherman Twp.	
Whittemore City	
County—Ogemaw:	
Parts of county:	
Hill Twp.	
Logan Twp.	
Richland Twp.	
Harrison	01
County—Clare:	
Parts of county:	
Authur Township	
Franklin Township	
Freeman Township	
Frost Township	
Greenwood Township	
Hamilton Township	
City of Harrison	
Hatton Township	
Hayes Township	
Lincoln Township	
Redding Township	
Summerfield Township	
Winterfield Township	
Houghton Lake	01
County—Missaukee:	
Parts of county:	
Butterfield Township	
Enterprise Township	
Holland Township	
County—Roscommon:	
Parts of county:	
Denton Township	
Lake Township	
Markey Township	
Roscommon Township	
Iron River/Crystal Falls	04
County—Dickinson:	
Parts of county:	
Sagola Twp.	
County—Iron	
County—Marquette:	
Parts of county:	
Republic Twp.	
Kinross/Rudyard	01
County—Chippewa:	
Parts of county:	
Bay Mills Twp.	
Front Lake Twp.	
Kinross Twp.	
Pickford Twp.	
Rudyard Twp.	
Superior Twp.	
Lake/Newaygo	01
County—Lake:	
Parts of county:	
Chase Twp.	
Cherry Valley Twp.	
Dover Twp.	
Eden Twp.	
Elk Twp.	
Ellsworth Twp.	
Lake Twp.	
Hewkirk Twp.	
Peacock Twp.	
Pinora Twp.	
Pleasant Plains Twp.	
Sauble Twp.	
Sweetwater Twp.	
Webber Twp.	
Yates Twp.	
County—Newaygo:	
Parts of county:	
Beaver Twp.	
Home Twp.	
LillyTwp.	
Merrill Twp.	
Monroe Twp.	
Troy Twp.	
Lexington/Croswell	01
County—Sanilac:	
Parts of county:	
Brlel Twp.	
Croswell Twp.	
Fremont Twp.	

PRIMARY CARE: Michigan—Continued

Service Area Listing

Service area name	Degree of shortage group
Worth Twp.	
Marlette/Kingston	02
County—Sanilac:	
Parts of county:	
La Motte Township	
Marlette Township	
County—Tuscola:	
Parts of county:	
Dayton Township	
Kingston Township	
Koylton Township	
Mecosta	04
County—Mecosta:	
Parts of county:	
Aetna Twp.	
Austin Twp.	
Big Rapids Twp.	
Chippewa Twp.	
Colfax Twp.	
Deerfield Twp.	
Fork Twp.	
Grant Twp.	
Green Twp.	
Martiny Twp.	
Mecosta Twp.	
Morton Twp.	
Sheridan Twp.	
Wheatland Twp.	
County—Newaygo:	
Parts of county:	
Barton Twp.	
Norwich Twp.	
Milford	02
County—Oakland:	
Parts of county:	
C.T. 1052 (Wixon City)	
C.T. 1055 (Milford Twnship)	
C.T. 1056 (Milford Twnship)	
C.T. 1057 (Commerce Twnship)	
C.T. 1058.01 (Commerce Twnship)	
C.T. 1058.02 (Commerce Twnship)	
C.T. 1112.01 (White Lake Twnship)	
C.T. 1112.02 (White Lake Twnship)	
C.T. 1112.03 (White Lake Twnship)	
C.T. 1113.01 (Highland Twnship)	
C.T. 1113.02 (Highland Twnship)	
Montrose	01
County—Genesee:	
Parts of county:	
Clio Village	
Montrose Village	
Montrose Twp.	
Vienna Twp.	
County—Saginaw:	
Parts of county:	
Albee Twp.	
Birch Run Twp.	
Maple Grove Twp.	
Taymouth Twp.	
North Central Flint	01
County—Genesee	
Parts of county:	
C.T. 4–7	
C.T. 19–26	
Northern Kent	03
County—Kent:	
Parts of county:	
Algoma Twp.	
Courtland Twp.	
Nelson Twp.	
Solon Twp.	
Sparta Twp.	
Tyrone Twp.	
County—Muskegon:	
Parts of county:	
Casnovia Twp.	
County—Ottawa:	
Parts of county:	
Chester Twp.	
Wright Twp.	
Northern Minominee	01
County—Minominee:	
Parts of county:	
Cedarville Twp.	
Dagget Twp.	
Dagget City	
Fathorn Twp.	
Gowley Twp.	

PRIMARY CARE: Michigan—Continued

Service Area Listing

Service area name	Degree of shortage group
Harris Twp.	
Homes Twp.	
Lake Twp.	
Meyer Twp.	
Nadeau Twp.	
Powers City	
Spalding Twp.	
Stephenson Twp.	
Stephenson City	
Northern Muskegon	02
County—Muskegon:	
Parts of county:	
Blue Lake Twp.	
Cedar Creek Twp.	
Dalton Twp.	
Fruitland Twp.	
Holton Twp.	
Montague Twp.	
White Hall Twp.	
White River Twp.	
Northport/Suttons Bay	03
County—Leelanau:	
Parts of county:	
Centerville Twp.	
Cleveland Twp.	
Leelanau Twp.	
Leeland Twp.	
Suttons Bay Twp.	
Osceola	04
County—Osceola:	
Parts of county:	
Cedar	
Evart	
Hartwick	
Hersey	
Leroy	
Lincoln	
Middle Branch	
Orient	
Osceolos	
Richmond	
Rose Lake	
Sylvan	
Otter Lake	02
County—Genesee:	
Parts of county:	
Thetford Township	
Forest Township	
County—Lapeer:	
Parts of county:	
Marathon Township	
Deerfield Township	
Rich Township	
County—Tuscola:	
Parts of county:	
Arbela Township	
Millington Township	
Watertown Township	
Port Austin	01
County—Huron:	
Parts of county:	
Dwight Twp.	
Gore Twp.	
Hume Twp.	
Huron Twp.	
Lake Twp.	
Port Austin Twp.	
Pte. Au Barques Twp.	
Roscommon/St. Helen	03
County—Crawford:	
Parts of county:	
Beaver Creek Twp.	
South Branch Twp.	
County—Roscommon:	
Parts of county:	
Au Sable Twp.	
Backus Twp.	
Gerrish Twp.	
Higgins Twp.	
Lyon Twp.	
Nester Twp.	
Richfield Twp.	
Roscommon Village	
Sagina City (East Side)	01
County—Saginaw:	
Parts of county:	
C.T. 1–8	
Shelby	02

PRIMARY CARE: Michigan—Continued

Service Area Listing

Service area name	Degree of shortage group
County—Oceana:	
Parts of county:	
Benova Twp.	
Colfax Twp.	
Claybanks Twp.	
Crystal Twp.	
Ebridge Twp.	
Ferry Twp.	
Golden Twp.	
Grant Twp.	
Hart Twp.	
Leavitt Twp.	
Newfield Twp.	
Otto Twp.	
Pentwater Twp.	
Shelby Twp.	
Weare Twp.	
Southern Newaygo	02
County—Newaygo:	
Parts of county:	
Ashland Twp.	
Big Prairie Twp.	
Brideton Twp.	
Brooks Twp.	
Croton Twp.	
Denver Twp.	
Endsley Twp.	
Everett Twp.	
Garfield Twp.	
Grant Twp.	
Lincoln Twp.	
Sheridan Twp.	
Wilcox Twp.	
County—Oceana:	
Parts of county:	
Greenwood Twp.	
Sterling	01
County—Arenac	
County—Bay:	
Parts of county:	
Gibson Township	
County—Gladwin:	
Parts of county:	
Bourret Township	
Bentley Township	
Grim Township	
Sumpter	01
County—Monroe:	
Parts of county:	
C.T. 303–306	
County—Washtenaw:	
Parts of county:	
C.T. 34 (Augusta Twp)	
County—Wayne:	
Parts of county:	
C.T. 940–941	
Yale	03
County—St. Clair:	
Parts of county:	
Brockway Twp.	
Emmett Twp.	
Lynn Twp. (Part)	
Mussey Twp.	

PRIMARY CARE: Michigan

Population Group Listing

Population group	Degree of shortage group
Med Indigent of Grand Rapids	04
County—Kent:	
Parts of county:	
Grand Rapids City	

PRIMARY CARE: Michigan

Facility Listing

Facility	Degree of shortage group
Deaconess Hosp County—Wayne	01
Herman Keifer Health Complex County—Wayne	01
Mt. Carmel Mercy Hosp County—Wayne	02
State Prison of South Michigan County—Jackson	03
Titus Greene Health Center County—Wayne	02
Wayne County Jail County—Wayne	02

PRIMARY CARE: Minnesota

County Listing

County name	Degree of shortage group
Aitkin:	
Service area: Floodwood	02
Service area: Mille Lacs	02
Service area: Sandstone/Hinckley	02
Cass	03
Chippewa:	
Service area: Granite Falls/Clarkfield	04
Clay:	
Service area: Barnesville	02
Clearwater	02
Cook:	
Service area: Silver Bay	02
Cottonwood:	
Service area: Windom/Mountain Lake	04
Crow Wing:	
Service area: Mille Lacs	02
Hennepin:	
Population Group: Indian Pop. of Minneapolis	01
Houston	
Service area: Caledonia/Spring Grove (Minn/Iowa)	02
Itasca:	
Service area: Bigfork	01
Service area: Floodwood	02
Jackson:	
Service area: Windom/Mountain Lake	04
Kanabec:	
Service area: Mille Lacs	02
Service area: Sandstone/Hinckley	02
Lac Qui Parle:	
Service area: Canby	04
Lake:	
Service area: Ely/Babbitt	02
Service area: Silver Bay	02
Le Sueur:	
Service area: Waterville	04
Lincoln:	
Service area: Canby	04
Mahnomen	01
Marshall	01
Mille Lacs:	
Service area: Mille Lacs	02
Morrison:	
Service area: Mille Lacs	02
Murray	04
Norman	04
Pine:	
Service area: Sandstone/Hinckley	02
Polk:	
Service area: Fosston	02
Ramsey:	
Service area: Riverview	02
Service area: Summit/University	01
Facility: Model Cities Health Center (St. Paul)	01
Red Lake	01
Renville:	
Service area: Granite Falls/Clarkfield	04
Rice:	
Service area: Waterville	04
Roseau	04
St. Louis:	
Service area: Ely/Babbitt	02
Service area: Floodwood	02
Sibley	02

PRIMARY CARE: Minnesota—Continued

County Listing

County name	Degree of shortage group
Wabasha:	
Service area: Plainview	01
Waseca	04
Wilkin	
Service area: Barnesville	02
Yellow Medicine:	
Service area: Canby	04
Service area: Granite Falls/Clarkfield	04

PRIMARY CARE: Minnesota

Service Area Listing

Service area name	Degree of shortage group
Barnesville	02
County—Clay:	
Parts of county:	
Alliance Township	
Barnesville City	
Barnesville Township	
Comstock Village	
Elkton Township	
Elmwood Township	
Holy Cross Township	
Humboldt Township	
Parke Township	
Sabin Village	
Skree Township	
Taneum Township	
County—Wilkin:	
Parts of county:	
Atherton Township	
Deerhorn Township	
Marston Township	
Mitchell Township	
Prairie View Township	
Rothsay Village	
Tanberg Township	
Wolverton Township	
Bigfork	02
County—Itasca:	
Parts of county:	
Balsam Twp	
Bearville Twp	
Bigfork Twp	
Bigfork Vil	
Bowstring Twp	
Carpenter Twp	
Effie Vil	
Good Hope Twp	
Grattan Twp	
Kinghurst Twp	
Lake Jessie Twp	
Liberty Twp	
Marcell Twp	
Max Twp	
Pomroy Twp	
Sand Lake Twp	
Squaw Lake Vil	
Stokes Twp	
Wirt Twp	
Unorg Terr of NE Itasca	
Caledonia/Spring Grove (Minn/Iowa)	02
County—Houston:	
Parts of county:	
Blackhammer Twp	
Caledonia Twp	
Caledonia Village	
Eitzen Village	
Mayville Twp	
Sheldon Twp	
Spring Grove Twp	
Spring Grove Village	
Union Twp	
Wilmington Twp	
Winnebago Twp	
Yucatan Twp	
Canby (Minn/South Dakota)	04
County—Lac Qui Parle:	
Parts of county:	
Freeland Twp	
Manfred Twp	

PRIMARY CARE: Minnesota—Continued

Service Area Listing

Service area name	Degree of shortage group
County—Lincoln:	
Parts of county:	
Marble Twp	
Alta Vista Twp	
County—Yellow Medicine:	
Parts of county:	
Canby City	
Florida Twp	
Hammer Twp	
Norman Twp	
Omro Twp	
Oshkosh Twp	
Porter City	
St. Leo City	
Wenzeland Twp	
Ely-Babbitt	02
County—Lake:	
Parts of county:	
Beaver Bay Twp	
Fall Lake Twp	
Unorg. Terr. (West Lake)	
County—St. Louis:	
Parts of county:	
Babbitt Vil.	
Breitung Twp	
Ely City	
Embarrass Twp	
Kugler Twp	
Morse Twp	
Tower City	
Vermilion Lake Twp	
Wasa Twp	
Winton Vil.	
Unorg. Terr. (Birch Lake)	
Unorg. Terr. (NE St. Louis)	
Floodwood	02
County—Aitkin:	
Parts of county:	
Ball Bluff Twp	
Balsam Twp	
Cornish Twp	
Turner Twp	
Unorg. Terr. (NE Aitkin)	
County—Itasca:	
Parts of county:	
Wawina Twp	
County—St. Louis	
Parts of county:	
Arrowhead Twp	
Cedar Valley Twp	
Cotton Twp	
Fine Lakes Twp	
Floodwood Twp	
Floodwood Vil.	
Halden Twp	
Kelsey Twp	
Meadowlands Twp	
Meadowlands Vil.	
Ness Twp	
Northland Twp	
Payne Twp	
Prairie Lake Twp	
Tlovola Twp	
Van Buren Twp	
Unorg. Terr. (Pot Shot Lake)	
Fosston	02
County—Polk:	
Parts of county:	
Badger Township	
Sarlen Twp	
Trail Village	
Garden Township	
Godrey Township	
Grove Park Township	
Knute Township	
Tilden Township	
Winger Township	
Woodside Township	
Fertile Village	
Mentor Village	
Winger Village	
Brandsvold Twp	
Chester Twp	
Columbia Twp	
Eden Twp	
Fosston City	
Gully Twp	
Gully Village	

PRIMARY CARE: Minnesota—Continued

Service Area Listing

Service area name	Degree of shortage group
Hill River Twp	
Johnson Twp	
King Twp	
Langby Twp	
Lessor Twp	
McIntosh Village	
Queen Twp	
Rosebud Twp	
Granite Falls/Clarkfield	04
County—Chippewa:	
Parts of county:	
Granite Falls City	
Granite Falls Twp	
Maynard Vil	
Stoneham Twp	
County—Renville:	
Parts of county:	
Hawk Creek Twp	
Wang Twp	
County—Yellow Medicine:	
Parts of county:	
Burton Twp	
Clarkfield Twp	
Friendship Twp	
Granite Falls City	
Hazley Falls Vil	
Hazel Run Vil	
Hazel Run Twp	
Lisbon Twp	
Minnesota Falls Twp	
Normania Twp	
Sandness Twp	
Sioux Agency Twp	
Stoney Run Twp	
Swede Prairie Twp	
Tyro Twp	
Wood Lake Vil	
Wood Lake Twp	
Mille Lacs	03
County—Aitkin:	
Parts of county:	
Idum Twp	
Seavy Twp	
Lakeside Twp	
County—Crow Wing:	
Parts of county:	
Bay Lake Twp	
Garrison Twp	
Garrison Village	
County—Kanabec:	
Parts of county:	
Anne Lake Twp	
Hillman Twp	
Hay Brook Twp	
County—Mille Lacs:	
Parts of county:	
East Side Twp	
Isle Harbor Twp	
Lewis Twp	
Onamia Twp	
South Harbor Twp	
Kathio Twp	
Bradbury Twp	
Dailey Twp	
Mudgett Twp	
Isle Village	
Wahkon Village	
Onamia Village	
County—Morrison:	
Parts of county:	
Richardson Twp	
Leigh Twp	
Mount Morris Twp	
Hillman Village	
Plainview	01
County—Wabasha:	
Parts of county:	
Elgin Twp	
Elgin Village	
Highland Twp	
Oakwood Twp	
Millville Village	
Plainview Twp	
Plainview Village	
Riverview	02
County—Ramsey:	
Parts of county:	
C.T. 361	

PRIMARY CARE: Minnesota—Continued

Service Area Listing

Service area name	Degree of shortage group
C.T. 370–372	
Lindstone/Hinckley	02
County—Aitkin:	
Parts of county:	
Wagner Twp	
County—Kanabec:	
Parts of county:	
Kroschel Twp	
Pomroy Twp	
County—Pine	
Parts of county:	
Wilma Twp	
Arlone Twp	
Arna Twp	
Askov Village Twp	
Barry Twp	
Bremen Twp	
Bruno Twp	
Glover Twp	
Danforth Twp	
Dill Grove Twp	
Finlayson Twp	
Finlayson Vil.	
Fleming Twp	
Hinckley Twp	
Hinckley Vil.	
Kettle River Twp	
New Dosey Twp	
Norman Twp	
Ogema Twp	
Park Twp	
Partridge Twp	
Pine Lake Twp	
Sandstone Twp	
Sandstone Vil.	
Silver Bay	02
County—Cook:	
Parts of county:	
Schroeder Twp	
Tofte Twp	
County—Lake:	
Parts of county:	
Beaver Bay City	
Beaver Bay Twp (Part)	
Crystal Bay Twp	
Silver Bay City	
Silver Creek Twp	
Summit/University	01
County—Ramsey:	
Parts of county:	
C.T. 335–340	
C.T. 354	
C.T. 355	
Waterville	04
County—Le Sueur:	
Parts of county:	
Elysian Twp & City	
Kilkenny Twp & City	
Montgomery Twp & City	
Waterville Twp & City	
County—Rice:	
Parts of county:	
Morristown Twp & Village	
Windom/Mountain Lake	04
County—Cottonwood:	
Parts of county:	
Windom City Vil	
Mountain Lake Vil	
Bingham Lake Vil	
Jeffers Vil	
Amboy Twp	
Amo Twp	
Carson Twp	
Dale Twp	
Delton Twp	
Great Bend Twp	
Lakeside Twp	
Midway Twp	
Mountain Lake Twp	
Selma Twp	
Springfield Twp	
County—Jackson:	
Parts of county:	
Wilder Vil	
Christiania Twp	
Delafield Twp	
Kimball Twp	

PRIMARY CARE: Minnesota

Population Group Listing

Population group	Degree of shortage group
Indian Pop. of Minneapolis	01
County—Hennepin:	
Parts of county:	
Am. Ind. Pop. of Minneapolis	

PRIMARY CARE: Minnesota

Facility Listing

Facility	Degree of shortage group
Model Cities Health Cntr (St. Paul)	01
County—Ramsey	

PRIMARY CARE: Mississippi

County Listing

County name	Degree of shortage group
Amite	01
Attala	03
Benton	01
Calhoun	02
Carroll	02
Service area: Carroll/Montgomery	
Chickasaw	04
Choctaw	02
Claiborne	01
Clarke	02
Clay	02
Coahoma	03
Covington	03
De Soto	01
Service area: De Soto/Tate	
George	03
Greene	01
Hancock	03
Harrison:	
Service area: East Biloxi	01
Service area: North Gulfport	04
Hinds:	
Service area: Hinds	01
Service area: Jackson Inner-City	01
Holmes	02
Humphreys	02
Issaquena	01
Service area: Issaquena/Sharkey	
Itawamba	01
Jasper	02
Jefferson	04
Jefferson Davis	03
Kemper	01
Lamar	02
Lawrence	03
Leake	04
Leflore	03
Lowndes	03
Madison	03
Marion	04
Marshall	01
Monroe	03
Montgomery	02
Service area: Carroll/Montgomery	
Neshoba	02
Newton	03
Noxubee	02
Perry	04
Pontotoc	01
Prentiss	02
Quitman	02
Rankin	02
Scott	03
Sharkey	01
Service area: Issaquena/Sharkey	
Simpson	02
Smith	02
Stone	02
Sunflower	04

PRIMARY CARE: Mississippi—Continued

County Listing

County name	Degree of shortage group
Facility: Mississippi St. Penitentiary	02
Tallahatchie	02
Tate	01
Service area: De Soto/Tate	
Tippah	03
Tishomingo	
Service area: Shiloh Pickwick (Miss/Tenn)	02
Tunica	01
Union	02
Washington	04
Webster	04
Winston	03
Yalobusha	02
Yazoo	02

PRIMARY CARE: Mississippi

Service Area Listing

Service Area Name	Degree of shortage group
Carroll/Montgomery	02
County—Carroll	
County—Montgomery	
De Soto/Tate	01
County—De Soto	
County—Tate	
East Biloxi	01
County—Harrison:	
Parts of county:	
C.T. 1–3	
Hinds	01
County—Hinds:	
Parts of county:	
C.T. 105–108	
C.T. 112	
C.T. 113	
Issaquena/Sharkey	01
County—Issaquena	
County—Sharkey	
Jackson Inner-City	01
County—Hinds:	
Parts of county:	
C.T. 6–12	
C.T. 16–20	
C.T. 24–32	
North Gulfport	04
County—Harrison:	
Parts of county:	
C.T. 18	
C.T. 24	
Shiloh Pickwick (Miss/Tenn)	02
County—Tishomingo:	
Parts of county:	
District 1	
District 2	

PRIMARY CARE: Mississippi

Facility Listing

Facility	Degree of shortage group
Mississippi State Penitentiary	02
County—Sunflower	

PRIMARY CARE: Missouri

County Listing

County name	Degree of shortage group
Andrew	03
Bollinger	01
Caldwell	03
Camden	03
Carter	02
Service area: Garden City	02
Cedar	04
Service area: Osage Prairie	
Christian	02
Clark	01
Crawford	02
Dallas	01
De Kalb	01
Douglas	03
Gasconade:	
Service area: Southern Gasconade	02
Harrison	04
Hickory	04
Service area: Osage Prairie	
Howell:	
Service area: Shannon	03
Iron	04
Jackson:	
Service area: Central Kansas City	02
Service area: Richard Cabot	01
Jefferson	01
Johnson:	
Service area: Sweet Springs	03
Lafayette:	
Service area: Sweet Springs	03
Lewis	02
McDonald	04
Macon	03
Maries	01
Mercer	02
New Madrid	01
Oregon	04
Osage	04
Ozark	01
Pettis:	
Service area: Sweet Springs	03
Polk:	
Service area: Osage Prairie	04
Pulaski	01
Putnam	02
Ralls	02
Reynolds	04
Ripley	02
St. Charles	04
St. Clair:	
Service area: Appleton	03
Service area: Osage Prairie	04
St. Louis:	
Service area: Kinlock/Berkley	02
St. Louis City:	
Service area: Southeast St. Louis	03
Service area: North St. Louis	02
Saline:	
Service area: Sweet Springs	03
Shannon	03
Service area: Shannon	
Stone	02
Texas	04
Vernon:	
Service area: Osage Prairie	04
Warren	01
Washington	03
Wayne	02
Webster	02
Wright	03

PRIMARY CARE: Missouri

Service Area Listing

Service area name	Degree of shortage group
Appleton	03
County—St. Clair:	
Parts of county:	
Appleton Twp.	
Butler Twp.	
Center Twp.	
Chalk Level Twp.	
Deuse Twp.	
Doyal Twp.	
Jackson Twp.	
Monegaw Twp.	
Osage Twp.	
Osceola Twp.	
Polk Twp.	
Taber Twp.	
Central Kansas City	02
County—Jackson:	
Parts of county:	
C.T. 4–10	
C.T. 15–26	
C.T. 32–34	
C.T. 35.01	
C.T. 35.02	
C.T. 36.01	
C.T. 36.02	
C.T. 37–42	
C.T. 52–55	
C.T. 56.01	
C.T. 56.02	
C.T. 57	
C.T. 58.01	
C.T. 58.02	
C.T. 59.01	
C.T. 60–64	
C.T. 75–77	
C.T. 78.01	
C.T. 78.02	
C.T. 79–80	
Garden City	02
County—Cass:	
Parts of county:	
C.T. 607–612	
Kinlock/Berkley	02
County—St. Louis:	
Parts of county:	
C.T. 2128–2129	
C.T. 2134	
North St. Louis	02
County—St. Louis City:	
Parts of county:	
C.T. 1051–1055	
C.T. 1061–1067	
C.T. 1071–1077	
C.T. 1081–1085	
C.T. 1091–1095	
C.T. 1101–1105	
C.T. 1111–1115	
C.T. 1121 (portion)	
C.T. 1122 (portion)	
C.T. 1123 (portion)	
C.T. 1192 (portion)	
C.T. 1193 (portion)	
C.T. 1201–1203	
C.T. 1211 (portion)	
C.T. 1212–1213	
C.T. 1214 (portion)	
C.T. 1251 (portion)	
C.T. 1252–1253	
C.T. 1261–1265	
Osage Prairie	04
County—Cedar	
County—Hickory	
County—Polk:	
Parts of county:	
Johnson Division	
Flemington Division	
Jefferson Division	
McKinley Division	
Greene Division	
County—St. Clair:	
Parts of county:	
Spredwell Division	
Roscoe Division	
Washington Division	
Collins Division	
County—Vernon:	
Parts of county:	
Bacon Division	
Clear Creek Division	
Virgil Division	
Montevallo Division	
Richard Cabot	01
County—Jackson:	
Parts of county:	
C.T. 1	
C.T. 11	
C.T. 29–30	
C.T. 45	

PRIMARY CARE: Missouri—Continued

Service Area Listing

Service area name	Degree of shortage group
Shannon	03
County—Howell:	
Parts of county:	
Chapel Twp.	
Goldsberry Twp.	
Hutton Valley Twp.	
County—Shannon	
Southeast St. Louis	03
County—St. Louis City:	
Parts of county:	
C.T. 1011-1017	
C.T. 1023-1025	
C.T. 1151-1157	
C.T. 1161-1165	
C.T. 1173 (portion)	
C.T. 1174 (portion)	
C.T. 1185 (portion)	
C.T. 1221-1224	
C.T. 1231-1235	
C.T. 1241-1245	
Southern Gasconade	02
County—Gasconade:	
Parts of county:	
Boeuf Twp.	
Boulware Twp.	
Bourbois Twp.	
Brush Creek Twp.	
Canaan Twp.	
Clay Twp.	
Third Creek Twp.	
Sweet Springs	03
County—Johnson:	
Parts of county:	
Grover Twp.	
County—Lafayette:	
Parts of county:	
Freedom Twp.	
County—Pettis:	
Parts of county:	
Blackwater Twp.	
Houstonia Twp.	
County—Saline:	
Parts of county:	
Elmwood Twp.	
Liberty Twp.	
Salt Pond Twp.	

PRIMARY CARE: Montana

County Listing

County name	Degree of shortage group
Big Horn	01
Blaine	03
Carter	01
Chouteau:	
Service area: Fort Benton	01
Daniels	01
Fallon	03
Gallatin:	
Service area: West Yellowstone	01
Glacier:	
Service area: Babb/Browning	01
Golden Valley:	
Service area: Tri-County	04
Hill:	
Service area: Chester	03
Jefferson:	
Service area: Boulder	01
Judith Basin:	
Service area: Petroleum/Judith Basin	01
Lake:	
Service area: Seely Lake	01
Lewis and Clark:	
Service area: Lincoln	01
Liberty:	
Service area: Chester	03
Meagher	01
Mineral	01
Missoula:	
Service area: Seely Lake	01
Musselshell:	
Service area: Tri-County	04

PRIMARY CARE: Montana—Continued

County Listing

County name	Degree of shortage group
Petroleum:	
Service area: Petroleum/Judith Basin	01
Philips	01
Pondera:	
Service area: Babb/Browning	01
Powell:	
Service area: Lincoln	01
Service area: Seely Lake	01
Roosevelt:	
Service area: Poplar	01
Rosebud:	
Service area: Forsyth/Colstrip	01
Toole:	
Service area: Chester	03
Treasure:	
Service area: Forsyth/Colstrip	01
Valley	02
Wheatland:	
Service area: Tri-County	04
Wibaux	01

PRIMARY CARE: Montana

Service Area Listing

Service area name	Degree of shortage group
Babb-Browning	01
County—Glacier:	
Parts of county:	
Browning-E. Glacier Division	
Babb Division	
County—Pondera:	
Parts of county:	
Valier-Dupeyer Division	
Boulder	01
County—Jefferson:	
Parts of county:	
Boulder Div.	
Chester	03
County—Hill:	
Parts of county:	
Gildford Division	
Rudyard Division	
County—Liberty	
County—Toole:	
Parts of county:	
South Toole CCD (E ½)	
Forsyth/Colstrip	01
County—Rosebud	
County—Treasure	
Fort Benton	01
County—Chouteau:	
Parts of county:	
Fort Benton Div.	
Highwood Div.	
Geraldine Div.	
Lincoln	01
County—Lewis and Clark:	
Parts of county:	
Lincoln Div.	
County—Powell:	
Parts of county:	
Helmville Div.	
Petroleum/Judith Basin	01
County—Judith Basin	
County—Petroleum	
Poplar	01
County—Roosevelt:	
Parts of county:	
Poplar Division	
Wolf Point Rural Div.	
Wolf Point Div.	
Seely Lake	01
County—Lake:	
Parts of county:	
Big Fork/Swan River Div.	
County—Missoula:	
Parts of county:	
Seely Lake/Blackfoot Div.	
County—Powell:	
Parts of county:	
Ovando Div.	
Tri-County	04

PRIMARY CARE: Montana—Continued

Service Area Listing

Service area name	Degree of shortage group
County—Golden Valley	
County—Musselshell	
County—Wheatland	
West Yellowstone	01
County—Gallatin:	
Parts of County:	
West Yellowstone	

PRIMARY CARE: Nebraska

County Listing

County name	Degree of shortage group
Antelope:	
Service area: Antelope	04
Arthur:	
Service area: Mullen	01
Blaine	01
Boone:	
Service area: Albion	02
Service area: Antelope	04
Brown	04
Buffalo:	
Service area: Sherman	04
Burt:	
Service area: Onawa (Nebr./Iowa)	02
Cass	03
Cedar:	
Service area: Cedar-Dixon	02
Chase:	
Service area: Southwest Nebraska	02
Cherry:	
Service area: Martin	02
Service area: Mullen	01
Clay	01
Colfax:	
Service area: Colfax/Dodge	03
Cuming	03
Custer:	
Service area: Arnold	01
Dakota:	
Service area: Morningside/Sgt. Bluff (Nebr./Iowa)	02
Dawson:	
Service area: Julesburg (Nebr./Colo.)	01
Dixon:	
Service area: Cedar/Dixon	02
Dodge:	
Service area: Colfax/Dodge	03
Douglas:	
Service area: Northeast Omaha	03
Dundy:	
Service area: Southwest Nebraska	02
Franklin	03
Garfield:	
Service area: Garfield	03
Gosper	01
Grant:	
Service area: Mullen	01
Greeley:	
Service area: Albion	03
Hayes:	
Service area: Southwest Nebraska	02
Hitchcock:	
Service area: Southwest Nebraska	02
Hooker:	
Service area: Mullen	01
Jefferson	04
Johnson	02
Keith:	
Service area: Sutherland	01
Keya Paha:	
Service area: Western Holt	03
Lincoln:	
Service area: Arnold	01
Service area: Sutherland	01
Logan:	
Service area: Arnold	01
Service area: Mullen	01
Loup:	
Service area: Garfield	03
McPherson:	
Service area: Mullen	01

PRIMARY CARE: Nebraska—Continued

County Listing

County name	Degree of shortage group
Madison	04
Merrick	02
Nuckolls	02
Pawnee	03
Perkins:	
Service area: Sutherland	01
Platte:	
Service area: Albion	05
Rock:	
Service area: Western Holt	03
Saunders	03
Sherman:	
Service area: Sherman	04
Sioux	01
Stanton	02
Thayer	04
Thomas:	
Service area: Mullen	01
Wayne	04
Wheeler:	
Service area: Garfield	03

PRIMARY CARE: Nebraska

Service Area Listing

Service area name	Degree of shortage group
Albion	02
County—Boone:	
Parts of county:	
Albion City	
Ashland Precinct	
Beaver Precinct	
Bonsriza Precinct	
Boone Precinct	
Cedar Precinct	
Dublin Precinct	
Manchester Precinct	
Midland Precinct	
North Branch Precinct	
Plumb Creek Precinct	
Rosalma Precinct	
Shell Creek Precinct	
Weltzel Precinct	
County—Greeley:	
Parts of county:	
Spalding Precinct	
County—Platte:	
Parts of county:	
St. Bernard	
Walker	
Antelope	04
County—Antelope	
County—Boone:	
Parts of county:	
Oakland Precinct	
Arnold	01
County—Custer:	
Parts of county:	
Hayes	
Arnold	
Cliff	
Triumph	
Elm	
Delight	
Wayne	
County—Lincoln:	
Parts of county:	
Whittier	
Garfield	
Harrison	
Table	
Cox	
Antelope	
County—Logan:	
Parts of county:	
Sandy	
Logan	
Cedar-Dixon	02
County—Cedar	
County—Dixon	
Colfax/Dodge	03

PRIMARY CARE: Nebraska—Continued

Service Area Listing

Service area name	Degree of shortage group
County—Colfax:	
Parts of county:	
Adams Precinct	
Colfax Precinct	
Lincoln Precinct	
Maple Creek Precinct	
Midland Precinct	
Rogers Precinct	
Schuyler City	
Schuyler Precinct	
County—Dodge:	
Parts of county:	
Cotterell Twp.	
Cuming Twp.	
North Bend City	
Pebble Twp.	
Pleasant Valley Twp.	
Ridgeley Twp.	
Scribner City	
Union Twp.	
Webster Twp.	
Garfield Service Areas	03
County—Garfield	
County Loup	
County Wheeler	
Julesburg (Nebr./Colo.)	01
County—Deuel	
Martin (Nebr./South Dakota)	02
County—Cherry:	
Parts of county:	
Ell Precinct	
Merriman Vil.	
Morningside/Sgt. Bluff (Nebr./Iowa)	02
County—Dakota	
Mullen	01
County—Arthur:	
Parts of county:	
Edward	
Arthur	
Lena	
County—Cherry:	
Parts of county:	
Gillaspie	
Cleveland	
Lackey	
Wells	
Loup	
Goosecreek	
Pleasant Hill	
Calf Creek	
Mother Lake	
County—Grant	
County—Hooker	
County—Logan:	
Parts of county:	
Dorp	
Stapleton	
Cody Lake	
Lone Valley	
Burt	
County—McPherson	
County—Thomas	
Northeast Omaha	03
County—Douglas:	
Parts of county:	
C.T. 6-7	
C.T. 9-12	
C.T. 13.01	
C.T. 13.02	
C.T. 14-15	
C.T. 52	
C.T. 60	
Onawa (Nebr./Iowa)	02
County—Burt:	
Parts of county:	
Silver Creek Twp.	
Decatur Twp.	
Quinnebaugh Twp.	
Riverside Twp.	
Sherman	04
County—Buffalo:	
Parts of county:	
Beaver Twp.	
Garfield Twp.	
Cherry Creek Twp.	
Cedar Twp.	
Schneider Twp.	
Gardner Twp.	

PRIMARY CARE: Nebraska—Continued

Service Area Listing

Service area name	Degree of shortage group
Ravenna City	
County—Sherman	
Southwest Nebraska	02
County—Chase	
County—Dundy	
County—Hayes	
County—Hitchcock	
Sutherland	01
County—Keith:	
Parts of county:	
Paxton CCD	
County—Lincoln:	
Parts of county	
Springdale CCD	
Birdwood CCD	
Roscdale CCD	
N. Roscdale CCD	
Hershey CCD	
Sunshine CCD	
Fairview CCD	
Nowrell CCD	
Wallace CCD	
Hooker CCD	
Dickens CCD	
Willow CCD	
County—Perkins:	
Parts of county:	
Woodson CCD	
Yankee CCD	
Marvin CCD	
Western Holt	03
County—Keya Paha	
County—Rock	

PRIMARY CARE: Nevada

County Listing

County name	Degree of shortage group
Churchill	01
Clark:	
Service area: Blue Diamond/Lee Canyon/Mt. Charleston	01
Service area: Cent./N. Cent. Las Vegas	01
Service area: Indian Springs	01
Service area: Jean-Goodspring/Sandy Valley	01
Service area: Lake Mead	01
Service area: Moapa Valley	01
Service area: Searchlight/Davis Dam	01
Service area: Virgin Valley	01
Population group: Paiute Indians of Las Vegas Valley	04
Population group: Paiute Indians of Moapa Valley	04
Douglas	02
Elko:	
Service Area: Wells	01
Service Area: Wendover (Nevada/Utah)	01
Eureka	01
Esmeralda	01
Humboldt	04
Lander	01
Lincoln	01
Lyon	01
Mineral	01
Nye:	
Service area: Nye	01
Pershing	02
Storey	01
Washoe:	
Service area: Gerlach/Bald Mt.	01
Service area: Stead/Lemmon Valley	01
Service area: Sun Valley	01
Service area: Wadsworth	01
White Pine:	
Service area: Wendover (Nevada/Utah)	01

PRIMARY CARE: Nevada

Service Area Listing

Service area name	Degree of shortage group
Blue Diamond/Lee Canyon/Mt. Charleston	01
County—Clark:	
Parts of county:	
C.T. 58 (central)	
Central/North-Central Las Vegas	01
County—Clark:	
Parts of county:	
C.T. 3.01	
C.T. 3.02	
C.T. 7	
C.T. 9	
C.T. 11	
C.T. 35–38	
C.T. 46	
Gerlach/Bald Mt	01
County—Washoe:	
Parts of county:	
C.T. 34	
Indian Springs	01
County—Clark:	
Parts of county:	
C.T. 58 (north)	
C.T. 59 (southwest)	
Jean-Goodspring/Sandy Valley	01
County—Clark:	
Parts of county:	
C.T. 57 (northwest)	
C.T. 58 (southeast)	
Lake Mead	01
County—Clark:	
Parts of county:	
C.T. 56 (southern part)	
Moapa Valley	04
County—Clark:	
Parts of county:	
C.T. 58 (cent./W. cent.)	
Nye	01
County—Nye:	
Parts of county:	
Beatty Twp.	
Pahrump Twp.	
Tonopah Twp.	
Searchlight/Davis Dam	01
County—Clark:	
Parts of county:	
C.T. 57 (southern part)	
Steed-Lemmon Valley	01
County—Washoe:	
Parts of county:	
C.T. 28	
Sun Valley	01
County—Washoe:	
Parts of county:	
C.T. 27	
Virgin Valley	01
County—Clark:	
Parts of county:	
C.T. 56 (north)	
Wadsworth	01
County—Washoe:	
Parts of county:	
C.T. 31	
Wells	01
County—Elko:	
Parts of county:	
Wells Twp.	
Wendover (Nevada/Utah)	01
County—Elko:	
Parts of county:	
Tecoma Twp.	
East Line Twp.	
County—White Pine:	
Parts of county:	
Ely Twp. (eastern part)	

PRIMARY CARE: Nevada

Population Group Listing

Population group	Degree of shortage group
Paiute Indians of Moapa Valley	04
County—Clark	

PRIMARY CARE: Nevada—Continued

Population Group Listing

Population group	Degree of shortage group
Paiute Indians of Las Vegas Valley	04
County—Clark	

PRIMARY CARE: New Hampshire

County Listing

County name	Degree of shortage group
Carroll:	
Service area: Kezar Falls (N.H./Maine)	01
Coos:	
Service area: Upper Connecticut Valley	03
Grafton:	
Service area: Baker River Valley	01
Hillsborough:	
Service area: Hillsborough	02
Merrimack:	
Service area: Hillsborough	02
Rockingham:	
Service area: Northwest Rockingham County	02
Sullivan:	
Service area: Hillsborough	02

PRIMARY CARE: New Hampshire

Service Area Listing

Service area name	Degree of shortage group
Baker River Valley	01
County—Grafton:	
Parts of county:	
Warren Twn	
Rumney Twn	
Wentworth Twn	
Hillsborough	02
County—Hillsborough:	
Parts of county:	
Deering Twn	
Hillsborough Twn	
Weare Twn (Western Part)	
Windsor Twn	
County—Merrimack:	
Parts of county:	
Henniker Twn	
County—Sullivan:	
Parts of county:	
Washington Twn	
Kezar Falls (New Hampshire/Maine)	01
County—Carroll:	
Parts of county:	
Effingham Town	
Freedom Town	
Madison Town	
Northwest Rockingham County	02
County—Rockingham:	
Parts of county:	
Nottingham Town	
Deerfield	
Candia	
Raymond	
Fremont	
Epping	
Upper Connecticut Valley (N.H./Vermont)	03
County—Coos:	
Parts of county:	
Colebrook Twn	
Columbia Twn	
Stratford Twn	
Stewartstown Twn	
Pittsburg Twn	
Dixville Twn	
Errol Twn	
Clarksville	
Millsfield Twn	
Wentworth Location	
Atkinson-Gilman Academy Grant	
Dix Grant	
Second College Grant	
Odell Twn	

PRIMARY CARE: New Jersey

County Listing

County name	Degree of shortage group
Atlantic:	
Service area: Atlantic City	04
Service area: Mays Landing	04
Camden:	
Service area: Northeast Camden	04
Service area: Northwest Camden	02
Service area: West Central Camden	02
Cape May:	
Service area: Lower Cape May	03
Service area: Mays Landing	04
Cumberland:	
Service area: Bridgeton	04
Facility: Leesburg State Prison	01
Essex:	
Service area: Central Newark	04
Service area: Dayton	01
Service area: Gladys E. Dickenson Area	04
Service area: North Newark	03
Hudson:	
Service area: Downtown Bergen/Lafayette	01
Mercer:	
Service area: Trenton NHG Target Area	04
Middlesex:	
Population Group: Med Ind of New Brunswick Urban Cen	02
Facility: Fam Hlth Ctr/Middlesex Gen Hospital	02
Passaic:	
Service area: Downtown Patterson	01
Service area: Northside Neighborhood-Patterson	01
Service area: West Milford Township	02
Sussex	03
Union:	
Service area: Westside Plainfield	02

PRIMARY CARE: New Jersey

Service Area Listing

Service area name	Degree of shortage group
Atlantic City	04
County—Atlantic:	
Parts of county:	
Atlantic City	
Bridgeton	04
County—Cumberland:	
Parts of county:	
Bridgeton Township	
Downe Township	
Fairfield Township	
Greenwich Township	
Hopewell Township	
Lawrence Township	
Shiloh Borough	
Stow Creek Township	
Central Newark	04
County—Essex:	
Parts of county:	
C.T. 8–9 (Med Indigent)	
C.T. 9–11 (Med Indigent)	
C.T. 14–16 (Med Indigent)	
C.T. 31	
C.T. 34 (Med Indigent)	
C.T. 39	
C.T. 40 (Med Indigent)	
C.T. 55–57 (Med Indigent)	
C.T. 59 (Med Indigent)	
C.T. 60	
C.T. 62	
C.T. 63–66	
C.T. 67 (Med Indigent)	
C.T. 80–83	
C.T. 84–85 (Med Indigent)	
C.T. 91 (Med Indigent)	
Dayton	01
County—Essex:	
Parts of county:	
C.T. 47	
C.T. 48.01	
C.T. 48.02	
C.T. 48–51	
Downtown Bergen/Lafayette	01
County—Hudson:	
Parts of county:	

PRIMARY CARE: New Jersey—Continued

Service Area Listing

Service area name	Degree of shortage group
C.T. 32-36	
C.T. 43-44	
C.T. 50	
Downtown Patterson	01
County—Passaic:	
Parts of county:	
C.T. 1814-1815	
C.T. 1816.01	
C.T. 1816.02	
C.T. 1817.01	
C.T. 1817.02	
C.T. 1818	
C.T. 1820	
C.T. 1822	
C.T. 1829	
Gladys E. Dickerson Area	04
County—Essex:	
Parts of county:	
C.T. 86-91	
Lower Cape May	02
County—Cape May	
Parts of county:	
Bayshore	
Bennett	
Cape May Beach	
Cape May City	
Cape May Point	
Cold Spring	
Erma	
Fishing Creek	
Highland Beach	
North Cape May	
Town Bank	
West Cape May	
Mays Landing	04
County—Atlantic:	
Parts of county:	
Buena Vista	
Corbin City	
Egg Harbor Twp	
Estell Manor	
Hamilton	
Weymouth	
Mullica Twp (Southern Portion)	
Galloway Twp (Southern Portion)	
County—Cape May:	
Parts of county:	
Upper	
North East Camden	04
County—Camden:	
Parts of county:	
C.T. 6011-6013	
North Newark	03
County—Essex:	
Parts of county:	
C.T. 92-97	
North West Camden	02
County—Camden:	
Parts of county:	
C.T. 6007-6008	
Northside Neighborhood (Patterson)	01
County—Passaic:	
Parts of county:	
C.T. 1803-1807	
Trenton NHG Target Area	04
County—Mercer:	
Parts of county:	
C.T. 1	
C.T. 8 (Part)	
C.T. 9 (Part)	
C.T. 10	
C.T. 11 (Part)	
C.T. 14 (Part)	
C.T. 15 (Part)	
C.T. 16	
C.T. 17 (Part)	
C.T. 18 (Part)	
C.T. 19	
C.T. 22 (Part)	
West Central Camden	02
County—Camden:	
Parts of county:	
C.T. 6016-6019	
West Milford Township	02
County—Passaic:	
Parts of county:	
C.T. 2508	
Westside of Plainfield	02

PRIMARY CARE: New Jersey—Continued

Service Area Listing

Service area name	Degree of shortage group
County—Union:	
Parts of county:	
C.T. 389	
C.T. 395	

PRIMARY CARE: New Jersey

Population Group Listing

Population group	Degree of shortage group
Med Ind/New Brunswick Urban Corridor	02
County—Middlesex:	
Parts of county:	
C.T. 53-55 (Med Indigent)	
C.T. 57-59 (Med Indigent)	

PRIMARY CARE: New Jersey

Facility Listing

Facility	Degree of shortage group
Fam H Clr of Middlesex Gen Hosp	02
County—Middlesex	
Leesburg State Prison	01
County—Cumberland	

PRIMARY CARE: New Mexico

County Listing

County name	Degree of shortage group
Bernalillo:	
Service area: Los Padillas/Pajarito	01
Chaves:	
Population group: Med Ind Pop. of S. Chaves	01
Colfax:	
Service area: Colfax/Harding	04
De Baca	01
Service area: Fort Sumner/Santa Rosa	
Dona Ana:	
Service area: Hatch	01
Service area: Southern Dona Ana	01
Guadalupe	01
Service area: Fort Sumner/Santa Rosa	
Harding:	
Service area: Colfax/Harding	04
Service area: Quay	01
Hidalgo	01
Lea:	
Service area: Eunice	02
Lincoln:	
Service area: Carrizozo	02
Luna	02
McKinley:	
Service area: Northern Gallup	01
Population Group: Indian pop. (Navajo)	01
Mora	02
Otero:	
Service area: Cloudcroft/Sacramento	01
Quay	01
Service area: Quay	
Rio Arriba:	
Service area: Rural Rio Arriba Co	02
Roosevelt	02
Sandoval	02
San Juan:	
Service area: Navajo Reservation	01
Population Group: Indian pop. of Shiprock	01
San Miguel:	
Service area: Quay	01
Service area: Pecos	02

PRIMARY CARE: New Mexico—Continued

County Listing

County name	Degree of shortage group
Santa Fe:	
Service area: La Clinica De La Gente	01
Facility: New Mexico St. Penitentiary (Cerillos)	03
Sierra:	
Service area: Hatch	01
Socorro:	
Service area: Carrizozo	02
Torrance	01
Union	04
Valencia:	
Service area: Los Lunas	02

PRIMARY CARE: New Mexico

Service Area Listing

Service area name	Degree of shortage group
Carrizozo	02
County—Lincoln:	
Parts of county:	
Capitan	
Carrizozo	
Corona	
County—Socorro:	
Parts of county:	
Claunch	
Cloudcroft/Sacramento	01
County—Otero:	
Parts of county:	
Cloudcroft/Sacramento	
Elkflying H.	
Mescalero (S.E. Part)	
Orogrande (N Part)	
Colfax/Harding	04
County—Colfax:	
Parts of county:	
Cimarron	
Springer	
County—Harding:	
Parts of county:	
North Harding	
Eunice	02
County—Lea:	
Parts of county:	
Eunice CCD	
Fort Sumner/Santa Rosa	01
County—De Baca	
County—Guadalupe	
Hatch	01
County—Dona Ana:	
Parts of county:	
Hatch (E.D. 8,9, 99)	
County—Sierra:	
Parts of county:	
Truth or Con (E. D. 8 & 14)	
La Clinica De La Gente	01
County—Santa Fe:	
Parts of county:	
C.T. 7	
C.T. 9	
C.T. 12	
Acme Estates	
Airport Road	
Aqua Fria Village	
Picuri Hills	
Los Padillas/Pajarito	01
County—Bernalillo:	
Parts of county:	
C.T. 46	
Los Lunas	02
County—Valencia:	
Parts of county:	
CCD 25	
Northern Gallup	01
County—McKinley:	
Parts of county:	
E.D. 20-24	
E.D. 26	
E.D. 27	
Pecos	02
County—San Miguel:	
Parts of county:	
Pecos	
Villanueva	

PRIMARY CARE: New Mexico—Continued

Service Area Listing

Service area name	Degree of shortage group
Quay	01
County—Harding:	
Parts of county:	
South Harding CCD	
County—Quay	
County—San Miguel:	
Parts of county:	
Conchos CCD	
Rural Rio Arriba County	02
County—Rio Arriba:	
Parts of county:	
Chama	
Coyote	
El Rito	
Tierra Amarilla	
Truchas	
Southern Dona Ana	01
County—Dona Ana:	
Parts of county:	
E.D. 76 (Anthony)	
E.D. 77 (Anthony)	
E.D. 79	
E.D. 80 (La Mesa)	
E.D. 81	
E.D. 84 (La Union)	

PRIMARY CARE: New Mexico

Population Group Listing

Population group	Degree of shortage group
Indian pop. of Navajo area	01
County—McKinley	
Indian pop. of Shiprock area	01
County—San Juan	
Med. indigent of South Chaves	01
County—Chaves:	
Parts of county:	
C.T. 12–14	
Navajo reservation Indian population	01
County—San Juan	

PRIMARY CARE: New Mexico

Facility Listing

Facility	Degree of shortage group
New Mexico St. Penitentiary at Carlloe	03
County—Santa Fe	

PRIMARY CARE: New York

County Listing

County name	Degree of shortage group
Albany:	
Service area: Northeast Albany	03
Allegany:	
Service area: Andover	04
Service area: Arcade	02
Service area: Letchworth	02
Bronx:	
Service area: Central Southwest Bronx	01
Service area: Hunts Point	01
Service area: Martin Luther King area	04
Service area: Mott Haven	01
Service area: Northeast Bronx	01
Service area: South Bronx-Fort Apache	03
Service area: Soundview	02
Service area: Southwest Bronx	01
Service area: Tremont	01

PRIMARY CARE: New York—Continued

County Listing

County name	Degree of shortage group
Service area: West Central Bronx	02
Facility: NYC correctional fac./Riker's Island	02
Broome:	
Service area: Deposit	03
Cattaraugus:	
Service area: Arcade	02
Service area: Randolph/Ellicottville	02
Cayuga:	
Service area: Aurora	02
Service area: Cato	01
Chautauqua:	
Service area: Westfield	02
Chenango:	
Service area: Greene	04
Service area: Hamilton/Sherburne	02
Facility: Chenango Mem. Hosp. out-patient dept.	02
Columbia:	
Service area: Northern Columbia	04
Service area: Blue Stores	01
Cortland:	
Service area: Marathon/Cincinnatus	02
Delaware:	
Service area: Deposit	03
Duchess:	
Facility: Green Haven correctional facility	01
Erie:	
Service area: Lower West Side	02
Service area: P.S. 84 health service area	02
Population group: Med. ind. of Ellicott (Buffalo)	02
Essex:	
Service area: Essex/Warren	01
Service area: East Central Essex	04
Fulton:	
Service area: Barkersville	01
Genesee:	
Service area: Bergen	02
Greene:	
Service area: Western Greene Co	04
Hamilton:	
Service area: Central Adirondack	01
Service area: South Hamilton	01
Herkimer:	
Service area: Central Adirondack	01
Service area: Remsen	03
Service area: West Winfield	01
Jefferson:	
Service area: Adams	02
Service area: Alexandria Bay	01
Service area: Gouverneur	02
Kings:	
Service area: Bedford/Stuyvesant	02
Service area: Brooklyn	01
Service area: Bushwick	02
Service area: Coney Isl/Brighton Beach/W. Brighton	01
Service area: East N.Y. section of Brooklyn	01
Service area: Gowanus/Park Slope	01
Service area: South Williamsburg	04
Service area: Southwest Brooklyn	01
Service area: Sunset Park	01
Lewis:	
Service area: Boonville	03
Service area: Camden	02
Livingston:	
Service area: Geneseo	02
Service area: Letchworth	02
Madison:	
Service area: Hamilton/Sherburne	02
Monroe:	
Service area: Bergen	02
Service area: Jordan (Rochester)	02
Service area: Westside of Rochester	03
Montgomery:	
Service area: Western Montgomery Co	01
New York:	
Service area: Cental Harlem	01
Service area: Chelsea	01
Service area: Chinatown	02
Service area: East Harlem	02
Service area: Inwood	02
Service area: Lower East side	02
Service area: Upper West side	02
Service area: West Central Harlem	01
Population group: Homeless youth of Times Square	02
Facility: Bellevue Hospital Center	02
Oneida:	
Service area: Boonville	03

PRIMARY CARE: New York—Continued

County Listing

County name	Degree of shortage group
Service area: Camden	02
Service area: Cornhill (Utica)	02
Service area: Hamilton/Sherburne	02
Service area: Remsen	03
Onondaga:	
Service area: Baldwinville	03
Service area: Southern Onondaga Co	02
Service area: Syracuse CHC target area	01
Orange:	
Service area: Warwick	02
Orleans:	
Service area: Oak Orchard	02
Oswego:	
Service area: Central Square	03
Service area: Pulaski	04
Otsego:	
Service area: Cherry Valley	01
Service area: Southeast Otsego Co	01
Service area: Southwest Otsego Co	01
Service area: Western Otsego	01
Queens:	
Service area: Rockaway	02
Service area: South Jamaica (South)	02
Service area: South Jamaica (North)	01
Facility: Mary Immaculate Hospital	01
Rensselaer:	
Service area: Berlin	02
Richmond:	
Service area: Mariner's Harbor	01
Rockland:	
Service area: Northern Rockland	01
St. Lawrence:	
Service area: Alexandria Bay	01
Service area: Gouverneur	02
Service area: Starlake	04
Saratoga:	
Service area: Barkersville	01
Service area: Luzerne	01
Schenectady:	
Service area: Hamilton Hill/Mont Pleasant	01
Schoharie:	
Service area: Cherry Valley	01
Schuyler	02
Seneca:	
Service area: South Seneca	02
Steuben:	
Service area: Andover	04
Service area: Elkland (NY/PA)	02
Suffolk:	
Service area: Southold/Shelter Island	03
Service area: S. Hampton (S. Fork)/E. Hampton	03
Sullivan:	
Service area: Cochecton	02
Tioga	03
Ulster:	
Service area: Modena	02
Warren:	
Service area: Essex/Warren	01
Service area: Luzerne	01
Wayne:	
Service area: Sodus	04
Westchester:	
Service area: Peekskill	02
Population group: Med ind pop. of Mt. Vernon	02
Wyoming:	
Service area: Arcade	02
Service area: Letchworth	02
Facility: Attica correctional facility	02

PRIMARY CARE: New York

Service Area Listing

Service area name	Degree of shortage group
Adams	02
County—Jefferson:	
Parts of county:	
Adams Twn.	
Ellisberg Twn.	
Henderson Twn.	
Lorrains Twn.	
Rodman Twn.	
Wisth Twn.	

PRIMARY CARE: New York—Continued

Service Area Listing

Service area name	Degree of shortage group
Alexandria Bay	01
County—Jefferson:	
Parts of county:	
Alexandria Twn.	
Cape Vincent Twn.	
Clayton Twn.	
Lyme Twn.	
Orleans Twn.	
Philadelphia Twn.	
Teresa Twn.	
County—St. Lawrence	
Parts of county:	
Hammond Twn.	
Andover	04
County—Allegany:	
Parts of county:	
Almond	
West Almond	
Ward	
Wellsville	
Willing	
Independence	
Andover	
Alfred	
County—Steuben:	
Parts of county:	
Hartsville	
Greenwood	
West Union	
Jasper	
Troupsburg	
Arcade	02
County—Allegany:	
Parts of county:	
Centerville	
Rushford	
County—Cattaraugus:	
Parts of county:	
Farmersville	
Freedom	
Machias	
Yorkshire	
County—Wyoming:	
Parts of county:	
Arcade	
Eagle	
Java	
Aurora	02
County—Cayuga:	
Parts of county:	
Genoa	
Ledyard	
Locke	
Moravia	
Niles	
Scipio	
Sempronious	
Springport	
Summerville	
Venice	
Baldwinville	03
County—Oondaga:	
Parts of county:	
C.T. 114–119	
Barkersville	01
County—Fulton:	
Parts of county:	
Broadalbin Twp.	
County—Saratoga:	
Parts of county:	
Galway Twp.	
Providence Twp.	
Bedford/Stuyvesant	02
County—Kings:	
Parts of county:	
C.T. 201	
C.T. 227	
C.T. 229	
C.T. 231	
C.T. 233	
C.T. 235	
C.T. 237	
C.T. 239	
C.T. 241	
C.T. 243	
C.T. 245	
C.T. 247	
C.T. 249	

PRIMARY CARE: New York—Continued

Service Area Listing

Service area name	Degree of shortage group
C.T. 251	
C.T. 253	
C.T. 255	
C.T. 257	
C.T. 259.01	
C.T. 261	
C.T. 263	
C.T. 265	
C.T. 267	
C.T. 269	
C.T. 271.01	
C.T. 273	
C.T. 275	
C.T. 277	
C.T. 279	
C.T. 281	
C.T. 285.01	
C.T. 285.02	
C.T. 287	
C.T. 289	
C.T. 291	
C.T. 293	
C.T. 295	
C.T. 297	
C.T. 299	
C.T. 301	
C.T. 303	
C.T. 307	
C.T. 309	
C.T. 311	
C.T. 365.01	
C.T. 365.02	
C.T. 367	
C.T. 369	
C.T. 371	
C.T. 373	
C.T. 375	
C.T. 377	
C.T. 379	
C.T. 381	
C.T. 383	
C.T. 385	
C.T. 387	
Bergen	02
County—Genesee:	
Parts of county:	
Bergen	
Byron	
County—Monroe:	
Parts of county:	
Riga	
Berlin	02
County—Rensselaer:	
Parts of county:	
Berlin Twn.	
Hoosick Twn.	
Petersburg Twn.	
Stephentown Twn.	
Blue Stores	01
County—Columbia:	
Parts of county:	
Clermont Twp.	
Germantown Twp.	
Livingston Twp.	
Boonville	03
County—Lewis:	
Parts of county:	
Lewis	
Leyden	
Lyonsdale	
West Turin	
County—Oneida:	
Parts of county:	
Ava	
Boonville	
Forestport	
Brooklyn	01
County—Kings	
Parts of county:	
C.T. 916	
C.T. 918	
C.T. 920	
Bushwick	02
County—Kings:	
Parts of county:	
C.T. 259.02	
C.T. 389	
C.T. 891	

PRIMARY CARE: New York—Continued

Service Area Listing

Service area name	Degree of shortage group
C.T. 393	
C.T. 395	
C.T. 397	
C.T. 399	
C.T. 415	
C.T. 417	
C.T. 419	
C.T. 421	
C.T. 423	
C.T. 425	
C.T. 427	
C.T. 429	
C.T. 431	
C.T. 433	
C.T. 435	
C.T. 437	
C.T. 439	
C.T. 441	
C.T. 443	
C.T. 445	
C.T. 447	
Camden	02
County—Lewis:	
Parts of county:	
Osceola	
County—Oneida:	
Parts of county:	
Annsville	
Camden	
Florence	
Vienna	
Cato	
County—Cayuga:	
Parts of county:	
Cato	
Conquest	
Ira	
Sterling	
Victory	
Central Harlem	
County—New York:	
Parts of county:	
C.T. 186	
C.T. 190	
C.T. 197.02	
C.T. 200	
C.T. 201.02	
C.T. 207.02	
C.T. 209.02	
C.T. 213.02	
C.T. 216	
C.T. 217.02	
C.T. 218	
C.T. 220	
C.T. 222	
Central Adirondack	01
County—Hamilton:	
Parts of county:	
Indian Lake Twp.	
Inlet	
Long Lake Twp.	
County—Herkimer:	
Parts of county:	
Webb	
Central Southwest Bronx	01
County—Bronx:	
Parts of county:	
C.T. 31	
C.T. 35	
C.T. 71	
C.T. 73	
C.T. 75	
C.T. 77	
C.T. 79	
C.T. 83	
C.T. 85	
Central Square	03
County—Oswego:	
Parts of county:	
C.T. 204 (Part)	
C.T. 205 (Parish & Amboy Twns.)	
C.T. 206 (Constantia Twn.)	
C.T. 207.01 (W. Monroe Twn.)	
C.T. 207.02 (Central Square)	
C.T. 207.03 (Hastings Twn.)	
C.T. 208 (Potsmo Twn.)	
C.T. 209.02 (Part)	

PRIMARY CARE: New York—Continued

Service Area Listing

Service area name	Degree of shortage group
Chelsea	01
County—New York:	
Parts of county:	
C.T. 87	
C.T. 89	
C.T. 91	
C.T. 93	
C.T. 95	
C.T. 97	
C.T. 99	
C.T. 101	
C.T. 103	
Cherry Valley	01
County—Otsego:	
Parts of county:	
Cherry Valley	
Roseboom	
Springfield	
County—Schoharie	
Parts of county:	
Sharon	
Chinatown	02
County—New York:	
Parts of county:	
C.T. 7	
C.T. 8 (Part)	
C.T. 9	
C.T. 13	
C.T. 15.01	
C.T. 15.02	
C.T. 16	
C.T. 21	
C.T. 25	
C.T. 27	
C.T. 29	
C.T. 31	
C.T. 33	
C.T. 39	
C.T. 41	
C.T. 43	
C.T. 45	
C.T. 47	
C.T. 49	
C.T. 51	
C.T. 53	
Cochecton	02
County—Sullivan:	
Parts of county:	
Cochecton	
Delaware	
Fremont	
Highland	
Tusten	
Coney Isl/Brighton Beach/W. Brighton	01
County—Kings:	
Parts of county:	
C.T. 325	
C.T. 328	
C.T. 330	
C.T. 338	
C.T. 340	
C.T. 342	
C.T. 348.01	
C.T. 348.02	
C.T. 350	
C.T. 352	
C.T. 354	
C.T. 356	
C.T. 360.01	
C.T. 360.02	
C.T. 362	
C.T. 364	
Cornhill (Utica)	02
County—Oneida:	
Parts of county:	
C.T. 204	
C.T. 207.01	
C.T. 208.03	
C.T. 210	
C.T. 212.01	
C.T. 215	
Deposit	03
County—Broome:	
Parts of county:	
Colesville	
Sanford	
Windsor	
County—Delaware:	
Parts of county:	

PRIMARY CARE: New York—Continued

Service Area Listing

Service area name	Degree of shortage group
Deposit	
Tompkins	
East Central Essex	04
County—Essex:	
Parts of county:	
Elizabeth Twn.	
Essex	
Keene	
Lewis	
Moriah	
North Hudson	
Westport	
Wilsboro	
East Harlem	02
County—New York:	
Parts of county:	
C.T. 162	
C.T. 164	
C.T. 166	
C.T. 168	
C.T. 170	
C.T. 172.01	
C.T. 172.02	
C.T. 174.01	
C.T. 174.02	
C.T. 178	
C.T. 180	
C.T. 182	
C.T. 184	
C.T. 188	
C.T. 192	
C.T. 194	
C.T. 196	
C.T. 198	
C.T. 202	
C.T. 204	
C.T. 206	
C.T. 210	
East N.Y. Section of Brooklyn	01
County—Kings:	
Parts of county:	
C.T. 401	
C.T. 403	
C.T. 405	
C.T. 407	
C.T. 409	
C.T. 411	
C.T. 413	
C.T. 437	
C.T. 904	
C.T. 906	
C.T. 908	
C.T. 910	
C.T. 912	
C.T. 914	
C.T. 1040	
C.T. 1058	
C.T. 1070	
C.T. 1078	
C.T. 1100	
C.T. 1102	
C.T. 1106	
C.T. 1110	
C.T. 1112	
C.T. 1114	
C.T. 1118	
C.T. 1120	
C.T. 1122	
C.T. 1124	
C.T. 1128	
C.T. 1129	
C.T. 1130	
C.T. 1132	
C.T. 1134	
C.T. 1138	
C.T. 1140	
C.T. 1142.01	
C.T. 1142.02	
C.T. 1146	
C.T. 1148	
C.T. 1150	
C.T. 1152	
C.T. 1154	
C.T. 1156	
C.T. 1158	
C.T. 1160	
C.T. 1162	
C.T. 1164	

PRIMARY CARE: New York—Continued

Service Area Listing

Service area name	Degree of shortage group
C.T. 1166	
C.T. 1168	
C.T. 1170	
C.T. 1172	
C.T. 1174	
C.T. 1176	
C.T. 1180	
C.T. 1182	
C.T. 1184	
C.T. 1186	
C.T. 1188	
C.T. 1190	
C.T. 1192	
C.T. 1194	
C.T. 1196	
C.T. 1200	
C.T. 1202	
C.T. 1208	
C.T. 1210	
C.T. 1214	
C.T. 1220	
Elkland (New York/Penn)	02
County—Steuben:	
Parts of county:	
Tuscarora Twn.	
Woodhill Twn.	
Essex/Warren	01
County—Essex:	
Parts of county:	
Minerva	
County—Warren:	
Parts of county:	
Chester	
Horicon	
Johnsburg	
Thurman	
Warrensburg	
Geneseo	02
County—Livingston:	
Parts of county:	
Avon	
Caledonia	
Geneseo	
Groveland	
Leicester	
Lima	
Livonia	
York	
Gouverneur	02
County—Jefferson:	
Parts of county:	
Antwerp Twn.	
County—St. Lawrence:	
Parts of county:	
Dekalb	
Depeyster	
Edwards	
Fowler	
Gouverneur	
Harrison	
Macomb	
Rossie	
Gowanus/Park Slope	01
County—Kings:	
Parts of county:	
C.T. 71	
C.T. 127	
C.T. 131	
C.T. 133	
Greene	04
County—Chenango:	
Parts of county:	
German Twn.	
Greene Twn.	
McDonough Twn.	
Smithville Twn.	
Hamilton Hill/Mont Pleasant	01
County—Schenectady:	
Parts of county:	
C.T. 209	
C.T. 210.02	
C.T. 211.03	
C.T. 214–217	
Hamilton/Sherburne	02
County—Chenango:	
Parts of county:	
Columbus Twn.	
Otselic Twn.	

PRIMARY CARE: New York—Continued

Service Area Listing

Service area name	Degree of shortage group
Sherburne Twn.	
Smyrna Twn.	
County—Madison:	
Parts of county:	
Brookfield	
De Ruyter Town	
Eaton	
Georgetown	
Hamilton	
Lebanon	
Madison	
County-Oneida:	
Parts of county:	
Sangerfield	
Hunts Point	01
County—Bronx:	
Parts of county:	
C.T. 5	
C.T. 81	
C.T. 81.99	
C.T. 91	
C.T. 97	
C.T. 99	
C.T. 105	
C.T. 115.02	
Inwood	02
County—New York:	
Parts of county:	
C.T. 277	
C.T. 279	
C.T. 281	
C.T. 283	
C.T. 285	
C.T. 287	
C.T. 289	
C.T. 291	
C.T. 293	
C.T. 295	
C.T. 303	
C.T. 307	
Jordan (Rochester)	02
County—Monroe:	
Parts of county:	
C.T. 6-8	
C.T. 13-15	
C.T. 39	
C.T. 43-45	
C.T. 47-53	
C.T. 55-58	
C.T. 79-80	
C.T. 91	
Letchworth	02
County—Allegany:	
Parts of county:	
Allen	
Caneadea	
Granger	
Humo	
County—Livingston:	
Parts of county:	
Portage	
County—Wyoming:	
Parts of county:	
Castile	
Gainesville	
Genesee Falls	
Pike	
Lower East Side	02
County—New York:	
Parts of county:	
C.T. 10.02	
C.T. 12	
C.T. 14.02	
C.T. 18	
C.T. 20	
C.T. 22.01	
C.T. 22.02	
C.T. 24	
C.T. 26.01	
C.T. 26.02	
C.T. 28	
C.T. 30.01	
C.T. 30.02	
C.T. 32	
C.T. 38	
Lower West Side	02
County—Erie:	
Parts of county:	

PRIMARY CARE: New York—Continued

Service Area Listing

Service area name	Degree of shortage group
C.T. 66	
C.T. 71.01	
C.T. 71.02	
C.T. 72.02	
Luzerne	01
County—Saratoga:	
Parts of county:	
Corinth	
Day	
Edinburg	
Hadley	
County—Warren:	
Parts of county:	
Lake Luzerne	
Stony Creek	
Marathon/Cincinnatus	02
County—Cortland:	
Parts of county:	
Taylor Town	
Cincinnatus Town	
Willet Town	
Freetown Town	
Marathon Town	
Lapeer Town	
Harford Town	
Mariner's Harbor	01
County—Richmond:	
Parts of county:	
C.T. 223	
C.T. 231	
C.T. 239	
C.T. 319.01	
C.T. 319.02	
Martin Luther King Area	04
County—Bronx:	
Parts of county:	
C.T. 87	
C.T. 89	
C.T. 119	
C.T. 121.01	
C.T. 121.02	
C.T. 123	
C.T. 125	
C.T. 127.01	
C.T. 127.02	
C.T. 129.01	
C.T. 129.02	
C.T. 131	
C.T. 133	
C.T. 135	
C.T. 137	
C.T. 139	
C.T. 145	
C.T. 147	
C.T. 149	
C.T. 151	
C.T. 153	
C.T. 175	
C.T. 177	
C.T. 179	
C.T. 187	
C.T. 189	
C.T. 193	
C.T. 197	
C.T. 199	
C.T. 201	
C.T. 211	
C.T. 213.01	
C.T. 213.02	
C.T. 219	
C.T. 221	
Modena	02
County—Ulster:	
Parts of county:	
Gardiner	
Lloyd	
Marlborough	
Plattekill	
Shawangunk	
Mott Haven	01
County—Bronx:	
Parts of county:	
C.T. 11	
C.T. 17	
C.T. 23	
C.T. 25	
C.T. 27.01	
C.T. 27.02	

PRIMARY CARE: New York—Continued

Service Area Listing

Service area name	Degree of shortage group
C.T. 33	
C.T. 39	
C.T. 41	
C.T. 43	
Northeast Albany	03
County—Albany:	
Parts of county:	
C.T. 1-2	
C.T. 7-8	
C.T. 11	
Northeast Bronx	01
County—Bronx:	
Parts of county:	
C.T. 276	
C.T. 302	
C.T. 356	
C.T. 358	
C.T. 364	
C.T. 368	
C.T. 378	
C.T. 380	
C.T. 382	
C.T. 386	
C.T. 388	
C.T. 390	
C.T. 392	
C.T. 394	
C.T. 396	
C.T. 398	
C.T. 404	
C.T. 406	
C.T. 408	
C.T. 458	
C.T. 460	
C.T. 462.02	
C.T. 484	
C.T. 502	
C.T. 504	
Northern Columbia	04
County—Columbia:	
Parts of county:	
Austerlitz	
Canaan	
Chatham	
Ghent	
Kinderhook	
New Lebanon	
Stuyvesant	
Northern Rockland	01
County—Rockland:	
Parts of county:	
C.T. 101-107	
Oak Orchard	02
County—Orleans:	
Parts of county:	
Carlton	
Gaines	
Albion	
Barre	
Clarendon	
Murray	
Kendall	
P.S. 84 Health Service Area	02
County—Erie:	
Parts of county:	
C.T. 27.02	
C.T. 32.01	
C.T. 32.02	
C.T. 33.01	
C.T. 33.02	
C.T. 34-36	
C.T. 39-42	
C.T. 52.02	
Peekskill	02
County—Westchester:	
Parts of county:	
C.T. 141-145	
Pulaski	04
County—Oswego:	
Parts of county:	
Albion	
Boylston	
Mexico (Part)	
Orwell	
Redfield	
Richland	
Sandy Creek	
Williamstown	

PRIMARY CARE: New York—Continued

Service Area Listing

Service area name	Degree of shortage group
Randolph/Ellicottville	02
County—Cattaraugus:	
Parts of county:	
Cold Spring Twn.	
Conewango Twn.	
Ellicottville Twn.	
Mansfield Twn.	
Napoli Twn.	
New Albion Twn.	
Randolph Twn.	
South Valley Twn.	
Little Valley Twn.	
Remsen	03
County—Herkimer:	
Parts of county:	
Ohio	
Russia	
County—Oneida:	
Parts of county:	
Remsen	
Steuben	
Trenton	
Rockaway	[illegible]
County—Queens:	
Parts of county:	
C.T. 916.01	
C.T. 916.02	
C.T. 916.99	
C.T. 918	
C.T. 922	
C.T. 928	
C.T. 934	
C.T. 938	
C.T. 942.01	
C.T. 942.02	
C.T. 942.03	
C.T. 952	
C.T. 962	
C.T. 964	
C.T. 972	
C.T. 992	
C.T. 995	
C.T. 1006	
C.T. 1010	
C.T. 1032	
S. Hampton (S. Fork)/E. Hampton	03
County—Suffolk:	
Parts of county:	
C.T. 1904–1906	
C.T. 1907.01	
C.T. 1907.02	
C.T. 1908	
C.T. 2009–2010	
Southeast Otsego Co.	01
County—Otsego:	
Parts of county:	
Decatur	
Maryland	
W. Ford	
Worcester	
Southwest Bronx	01
County—Bronx:	
Parts of county:	
C.T. 47	
C.T. 49	
C.T. 53	
C.T. 57	
C.T. 59.01	
C.T. 59.02	
C.T. 61	
C.T. 65	
C.T. 67	
C.T. 69	
C.T. 141	
C.T. 143	
C.T. 179	
C.T. 181	
C.T. 183	
C.T. 195	
Southwest Brooklyn	01
County—Kings:	
Parts of county:	
C.T. 55	
C.T. 57	
C.T. 59	
C.T. 85	

PRIMARY CARE: New York—Continued

Service Area Listing

Service area name	Degree of shortage group
Sodus	04
County—Wayne:	
Parts of county:	
C.T. 201 (Ontario)	
C.T. 204 (Williamson)	
C.T. 208–209 (Sodus)	
C.T. 215–216	
Soundview	02
County—Bronx:	
Parts of county:	
C.T. 2	
C.T. 4	
C.T. 16	
C.T. 20	
C.T. 24	
C.T. 28	
C.T. 36	
C.T. 38	
C.T. 40.01	
C.T. 40.02	
C.T. 44	
C.T. 46	
C.T. 48	
C.T. 50	
C.T. 52	
C.T. 54	
C.T. 56	
C.T. 58	
C.T. 60	
C.T. 62	
C.T. 64	
C.T. 66	
C.T. 68	
C.T. 70	
C.T. 72	
C.T. 74	
C.T. 78	
C.T. 84	
C.T. 86	
C.T. 98	
C.T. 102	
South Bronx-Fort Apache	[illegible]
County—Bronx:	
Parts of county:	
C.T. 155	
C.T. 161	
C.T. 359	
C.T. 361	
C.T. 363	
C.T. 365.01	
C.T. 365.02	
C.T. 367	
C.T. 369.01	
C.T. 369.02	
C.T. 371	
C.T. 373	
South Hamilton	01
County—Hamilton:	
Parts of county:	
Arietta	
Benson	
Hope	
Lake Pleasant	
Morehouse	
Wells	
South Jamaica (South)	02
County—Queens:	
Parts of county:	
C.T. 44.01	
C.T. 50	
C.T. 54	
C.T. 56	
C.T. 86	
C.T. 88	
C.T. 94	
C.T. 96	
C.T. 100	
C.T. 102	
C.T. 104	
C.T. 166	
C.T. 168	
C.T. 170	
C.T. 172	
C.T. 174	
C.T. 176	
C.T. 178	
C.T. 180	
C.T. 182	
C.T. 184.01	

PRIMARY CARE: New York—Continued

Service Area Listing

Service area name	Degree of shortage group
C.T. 184.02	
C.T. 186	
C.T. 188	
C.T. 190	
C.T. 192	
C.T. 274	
C.T. 276	
C.T. 278	
C.T. 280	
C.T. 282	
C.T. 284	
C.T. 288	
C.T. 292	
C.T. 304	
C.T. 304.01	
C.T. 320	
C.T. 328	
C.T. 330	
C.T. 334.02	
C.T. 352	
C.T. 358	
C.T. 366	
C.T. 368	
C.T. 376	
C.T. 384	
C.T. 394	
C.T. 426	
C.T. 432	
C.T. 618	
C.T. 620	
C.T. 624	
C.T. 626	
C.T. 630	
C.T. 632	
C.T. 646	
C.T. 650	
C.T. 660	
C.T. 682	
C.T. 690	
C.T. 694	
C.T. 766	
C.T. 768	
C.T. 786	
C.T. 790	
C.T. 792	
C.T. 814	
C.T. 818	
C.T. 838	
C.T. 840	
C.T. 846	
C.T. 846.01	
C.T. 846.02	
C.T. 864	
C.T. 878	
South Jamaica (North)	01
County—Queens:	
Parts of county:	
C.T. 194.01	
C.T. 194.02	
C.T. 196	
C.T. 198	
C.T. 202	
C.T. 204	
C.T. 206	
C.T. 208	
C.T. 212	
C.T. 244	
C.T. 246	
C.T. 248	
C.T. 250	
C.T. 252	
C.T. 258	
C.T. 260	
C.T. 262	
C.T. 264	
C.T. 266	
C.T. 270	
C.T. 398	
C.T. 400	
C.T. 402	
C.T. 404	
C.T. 410	
C.T. 414	
C.T. 420	
C.T. 422	
C.T. 424	
C.T. 434	
C.T. 440	

PRIMARY CARE: New York—Continued

Service Area Listing

Service area name	Degree of shortage group
C.T. 442	
C.T. 502.01	
C.T. 502.02	
C.T. 504	
C.T. 506	
C.T. 508	
C.T. 510	
C.T. 512	
C.T. 516	
C.T. 518	
C.T. 520	
C.T. 522	
C.T. 524	
C.T. 526	
C.T. 528	
C.T. 530	
C.T. 532	
C.T. 534	
C.T. 536	
C.T. 538	
C.T. 540	
C.T. 566	
C.T. 578	
C.T. 580	
C.T. 588	
C.T. 590	
C.T. 592	
C.T. 594	
C.T. 596	
C.T. 598	
C.T. 600	
C.T. 602	
C.T. 604	
C.T. 606	
C.T. 608	
C.T. 610	
C.T. 612	
C.T. 614	
C.T. 616.01	
South Seneca	02
County—Seneca:	
Parts of county:	
Covert	
Lodi	
Ovid	
South Williamsburg	04
County—Kings:	
Parts of county:	
C.T. 507	
C.T. 509	
C.T. 525	
C.T. 529	
C.T. 531	
C.T. 533	
C.T. 535	
C.T. 537	
C.T. 539	
C.T. 545	
C.T. 547	
C.T. 549	
Southern Onondaga Co.	02
County—Onondaga:	
Parts of county:	
Lafayette	
Fabius	
Pompey	
Tully	
Otisco	
Onondaga Indian Reservation	
Southold/Shelter Island	03
County—Suffolk:	
Parts of county:	
Shelter Island Town	
Southold Town	
Southwest Otsego Co.	01
County—Otsego:	
Parts of county:	
Butternuts Twp.	
Morris Twp.	
Starlake	04
County—St. Lawrence:	
Parts of county:	
Clare Twn.	
Clifton Twn.	
Pine Twn.	
Pitcairn Twn.	
Russell Twn.	
South Colton	

PRIMARY CARE: New York—Continued

Service Area Listing

Service area name	Degree of shortage group
Sunset Park	01
County—Kings:	
Parts of county:	
C.T. 2	
C.T. 18	
C.T. 20	
C.T. 22	
C.T. 76	
C.T. 78	
C.T. 80	
C.T. 82	
C.T. 84	
C.T. 86	
C.T. 88	
C.T. 90	
C.T. 92	
C.T. 94	
C.T. 96	
C.T. 98	
C.T. 100	
C.T. 101	
C.T. 145	
Syracuse CHC Target Area	01
County—Onondaga:	
Parts of county:	
C.T. 30	
C.T. 40–42	
C.T. 53	
Tremont	01
County—Bronx:	
Parts of county:	
C.T. 163	
C.T. 165	
C.T. 167	
C.T. 169	
C.T. 171	
C.T. 205	
C.T. 215.01	
C.T. 215.02	
C.T. 217.01	
C.T. 217.02	
C.T. 223	
C.T. 225	
C.T. 227.01	
C.T. 227.02	
C.T. 227.03	
C.T. 229.01	
C.T. 229.02	
C.T. 231	
C.T. 233.01	
C.T. 233.02	
C.T. 235.01	
C.T. 237.01	
C.T. 237.02	
C.T. 239	
C.T. 241	
C.T. 243	
C.T. 245	
C.T. 247	
C.T. 249	
C.T. 251	
C.T. 253	
C.T. 255	
C.T. 257	
C.T. 334	
C.T. 375.01	
C.T. 375.02	
C.T. 375.03	
C.T. 377	
C.T. 379	
C.T. 381	
C.T. 389	
C.T. 391	
C.T. 393	
C.T. 397	
Upper West Side	02
County—New York:	
Parts of county:	
C.T. 177	
C.T. 179	
C.T. 181	
C.T. 183	
C.T. 185	
C.T. 187	
C.T. 189	
C.T. 191	
C.T. 193	
C.T. 195	

PRIMARY CARE: New York—Continued

Service Area Listing

Service area name	Degree of shortage group
Warwick	02
County—Orange:	
Parts of county:	
Florida	
Greenwood Lake	
Pine Island	
Warwick	
West Central Bronx	02
County—Bronx:	
Parts of county:	
C.T. 253	
C.T. 263	
C.T. 265	
C.T. 267	
C.T. 269	
C.T. 273	
C.T. 277	
C.T. 279	
C.T. 281	
C.T. 383	
C.T. 385	
C.T. 387	
C.T. 391	
C.T. 393	
C.T. 399.01	
C.T. 399.02	
C.T. 401	
C.T. 403.01	
C.T. 403.02	
C.T. 405	
C.T. 407.01	
C.T. 407.02	
C.T. 411	
C.T. 413	
C.T. 415	
West Central Harlem	01
County—New York:	
Parts of county:	
C.T. 213.01	
C.T. 217.01	
C.T. 219	
C.T. 221.01	
C.T. 223	
C.T. 225	
C.T. 227.01	
C.T. 227.02	
C.T. 229	
C.T. 231.01	
C.T. 233	
C.T. 235.01	
C.T. 237	
C.T. 241	
West Winfield	01
County—Herkimer:	
Parts of county:	
C.T. 101	
C.T. 102.01	
C.T. 102.02	
Bridgewater Town (Part)	
Western Greene Co.	04
County—Greene:	
Parts of county:	
Ashland	
Hunter	
Jewett	
Lexington	
Prattsville	
Windham	
Western Montgomery Co.	01
County—Montgomery:	
Parts of county:	
Canajoharie	
Minden	
Palatine	
Root	
St. Johnsville	
Western Otsego	01
County—Cortland:	
Parts of county:	
Cuyler Town	
County—Otsego:	
Parts of county:	
Burlington Division	
Edmeston Division	
New Lisbon Division	
Pittsfield Division	
Plainfield Division	
Westfield	02

PRIMARY CARE: New York—Continued

Service Area Listing

Service area name	Degree of shortage group
County—Chautauqua:	
Parts of county:	
Chautauqua Twp.	
Ripley Twp.	
Sherman Twp.	
Westfield Twp.	
Westside of Rochester	03
County—Monroe:	
Parts of county:	
C.T. 1–4	
C.T. 16–27	
C.T. 40–42	
C.T. 62–75	
C.T. 86 (Part)	
C.T. 87–88	

PRIMARY CARE: New York

Population Group Listing

Population group	Degree of shortage group
Ellicott Neighborhood of Buffalo	02
County—Erie:	
Parts of county:	
C.T. 12 (Med. Indigent)	
C.T. 13.01 (Med. Indigent)	
C.T. 13.02 (Med. Indigent)	
C.T. 14.01 (Med. Indigent)	
C.T. 14.02 (Med. Indigent)	
C.T. 15 (Med. Indigent)	
C.T. 25.01 (Med. Indigent)	
C.T. 25.03 (Med. Indigent)	
C.T. 26 (Med. Indigent)	
C.T. 27.01 (Med. Indigent)	
C.T. 31 (Med. Indigent)	
Homeless Youth of Times Square Area	02
County—New York:	
Parts of county:	
C.T. 113	
C.T. 115	
C.T. 117	
C.T. 119	
C.T. 121	
C.T. 125	
C.T. 127	
C.T. 129	
Med Indigent Pop. of Mt. Vernon	02
County—Westchester:	
Parts of county:	
C.T. 25–45 (Med. Indigent)	

PRIMARY CARE: New York

Facility Listing

Facility	Degree of shortage group
Attica Correctional Facility	02
County—Wyoming	
Bellevue Hosp. Center	02
County—New York	
Chenango Mem. Hosp. Out-Pat. Dept	02
County—Chenango	
Green Haven Corr. Facility	01
County—Duchess	
Mary Immaculate Hosp.	01
County—Queens	
NYC Corr. Fac./Riker's Island	02
County—Bronx	

PRIMARY CARE: North Carolina

County Listing

County name	Degree of shortage group
Alexander	02
Alleghany	04
Anson	01
Ashe	03
Beaufort:	
Service area: Chocowinity/Richland	02
Bertie	02
Bladen	01
Brunswick	01
Buncombe:	
Service area: Bat Cave	01
Service area: Swannanoa Valley	04
Caldwell:	
Service area: Northwestern Caldwell	01
Camden	01
Caswell	01
Chatham	03
Clay	02
Columbus	03
Cumberland:	
Service area: Cedar Creek	01
Service area: South Cumberland	01
Currituck	04
Dare	01
Davie	03
Duplin	03
Durham:	
Facility: Lincoln Comm. Health Center	01
Edgecombe	02
Franklin	02
Gaston	04
Gates	01
Graham	01
Granville	03
Greene	01
Halifax	04
Harnett:	
Service area: Western Harnett	01
Henderson:	
Service area: Bat Cave	01
Hoke	01
Hyde	01
Jackson	04
Johnston:	
Service area: Benson	01
Population group: Mig/Sess Frmwkrs of Johnston Co.	01
McDowell	03
Macon	04
Madison	02
Martin	04
Mecklenburg:	
Service area: Central Charlotte	03
Mitchell:	
Service area: Tipton Hill	01
Montgomery	02
Nash:	
Population group: Mig Pop. of Nash/Wilson	01
Northampton	01
Onslow	03
Orange:	
Service area: North Orange	02
Pender	01
Perquimans	02
Person	02
Randolph	03
Richmond	04
Robeson:	
Service area: Parkton/St. Paul	02
Service area: Rowland	02
Population group: Med Ind Pop. of Pembroke	01
Population group: Pov Pop. of Maxton/Stewartsville	01
Scotland:	
Population group: Pov Pop. of Maxton/Stewartsville	01
Stokes:	
Service area: Westfield	01
Surry:	
Service area: Elkin	04
Service area: Westfield	01

PRIMARY CARE: North Carolina—Continued

County Listing

County name	Degree of shortage group
Swain	02
Transylvania:	
Service area: Balsam Grove	01
Tyrrell	01
Union	03
Warren	01
Washington	04
Wilkes	03
Wilson:	
Population group: Mig Pop. of Nash/Wilson	01
Yadkin	02
Yancy:	
Service area: Tipton Hill	01

PRIMARY CARE: North Carolina

Service Area Listing

Service area name	Degree of shortage group
Balsam Grove	01
County—Transylvania:	
Parts of county:	
Gloucester	
Hog Back	
Bat Cave	01
County—Buncombe:	
Parts of county:	
E.D. 204–207	
County—Henderson:	
Parts of county:	
E.D. 1–5	
E.D. 7	
Benson	01
County—Johnston:	
Parts of county:	
Banner Twp	
Elevation Twp	
Meadow Twp	
Pleasant Grove Twp	
Cedar Creek	01
County—Cumberland:	
Parts of county:	
Cedar Creek	
Eastover Twp	
Central Charlotte	03
County—Mecklenburg:	
Parts of county:	
C.T. 1–8	
C.T. 25	
C.T. 26	
C.T. 35–37	
C.T. 49	
C.T. 52	
Chocowinity/Richland	02
County—Beaufort:	
Parts of county:	
Chocowinity Twp	
Richland Twp	
Elkin	04
County—Surry:	
Parts of county:	
Bryon	
Dobson	
Elkin	
Marsh	
Rockford	
Lincoln CHC Target Area	01
County—Durham:	
Parts of county:	
C.T. 8.01	
C.T. 8.02	
C.T. 9	
C.T. 10.01	
C.T. 11	
C.T. 12.01	
C.T. 12.02	
C.T. 13.01	
C.T. 13.02	
C.T. 14	

PRIMARY CARE: North Carolina—Continued

Service Area Listing

Service area name	Degree of shortage group
Northwestern Caldwell	01
County—Caldwell:	
Parts of county:	
Globe	
Johns River	
Mulberry	
Patterson	
Wilson Creek	
North Orange	02
County—Orange:	
Parts of county:	
Cedar Grove Twp	
Cheeks Twp	
End Twp	
Hillsborough Twp	
Little River Twp	
Parkton/St. Paul	02
County—Robeson:	
Parts of county:	
Parkton Twp	
St. Paul Twp	
Rowland	02
County—Robeson:	
Parts of county:	
Allensville Twp	
Biddy Twp	
Rowland Twp	
Thompson Twp	
Union Twp	
South Cumberland	01
County—Cumberland:	
Parts of county:	
C.T. 30	
Swannanda Valley	04
County—Buncombe:	
Parts of county:	
Black Mountain	
Swannanda	
Tipton Hill	01
County—Mitchell:	
Parts of county:	
Popular	
Bradshaw	
Red Hill	
Harrell	
County—Yancey:	
Parts of county:	
Ramsey Town	
Green Mountain	
Brush Creek	
Jack's Creek	
Western Harnett	01
County—Harnett:	
Parts of county:	
Anderson Creek	
Barbecue	
Johnsonville	
Lillington	
Stewarts Creek	
Upper Little River	
Westfield	01
County—Stokes:	
Parts of county:	
Quaker Gap	
County—Surry:	
Parts of county:	
Westfield	
South Westfield	

PRIMARY CARE: North Carolina

Population Group Listing

Population group	Degree of shortage group
Med Indigent Pop. of Pembroke	01
County—Robeson:	
Parts of county:	
Burnt Twp (Med. Ind. Pop.)	
Pembroke Twp (Med. Ind. Pop.)	

PRIMARY CARE: North Carolina—Continued

Population Group Listing

Population group	Degree of shortage group
Philadelphus Twp (Med. Ind. Pop.)	
Smiths Twp (Med. Ind. Pop.)	
Swamp Twp (Med. Ind. Pop.)	
Migrant Pop. of Nash/Wilson	01
County—Nash	
County—Wilson	
Mig/Seas Farmworkers of Johnston Co	01
Poverty Pop. of Maxton/Stewartsville	01
County—Robeson:	
Parts of county:	
Maxton	
County—Scotland:	
Parts of county:	
Stewartsville	

PRIMARY CARE: North Dakota

County Listing

County name	Degree of shortage group
Benson	01
Billings	01
Bowman	03
Burke	01
Cavalier	02
Divide	02
Dunn	01
Emmons	01
Foster	01
Grant	01
Griggs	01
Hettinger	01
Kidder	01
La Moure	01
Logan	01
McHenry	03
McIntosh	01
McKenzie	01
Mercer	02
Service area: Mercer/Oliver	
Morton	03
Oliver	02
Service area: Mercer/Oliver	
Ransom	03
Service area: Lisbon	
Sargent	03
Service area: Lisbon	
Sheridan	01
Sioux	01
Slope	01
Steele	04
Ward	01
Service area: Kenmare	
Wells	04

PRIMARY CARE: North Dakota

Service Area Listing

Service area name	Degree of shortage group
Kenmare	01
County—Ward:	
Parts of county	
Des Lacs Valley Div.	
Kenmare Div.	
Lisbon	03
County—Ransom	
County—Sargent	
Mercer/Oliver	02
County—Mercer	
County—Oliver	

PRIMARY CARE: North Dakota—Continued

Service Area Listing

Service area name	Degree of shortage group

PRIMARY CARE: Ohio

County Listing

County name	Degree of shortage group
Adams	04
Allen:	
Service area: New Matamoras	04
Ashtabula:	
Service area: Geneva/Madison	04
Brown	02
Butler:	
Service area: Hamilton	03
Service area: Middletown	04
Carroll	02
Clark:	
Service area: Rocking Horse	02
Columbiana:	
Service area: East Liverpool (Ohio/Penn/W.Va)	02
Coshocton	03
Cuyahoga:	
Service area: Cleveland	02
Service area: Collingwood	03
Service area: Cortlett/Lee Miles/Mt. Pleas	02
Service area: Glenville	01
Service area: Hough/Norwood	02
Service area: Jefferson/Puritas-Bellaire	03
Darke	03
Defiance:	
Service area: Hicksville	01
Geauga:	
Service area: Geneva/Madison	04
Hamilton:	
Service area: East End (Cincinnati)	02
Service area: Lincoln Heights (Cincinnati)	02
Service area: Price Hill-Fairmont (Cincinnati)	01
Service area: Winton Hills (Cincinnati)	01
Harrison	03
Henry	02
Highland:	
Service area: Greenfield	01
Hocking:	
Service area: Chillicothe	03
Holmes	04
Jackson	02
Jefferson:	
Service area: East Liverpool (Ohio/Penn/W.VA)	02
Lake:	
Service area: Geneva/Madison	04
Lawrence	02
Lucas:	
Service area: Center City/Dorr-Toledo	01
Service area: Downtown East Side Toledo	02
Service area: Near South Side Toledo	01
Service area: North Toledo	02
Service area: Old West End Toledo	01
Service area: Western Lucas Co	02
Mahoning:	
Service area: Eastside	02
Medina:	
Service area: New Matamoras	04
Meigs	04
Monroe	02
Montgomery:	
Service area: Dayton	03
Morgan	02
Morrow	02
Perry	02
Pickaway:	
Service area: Chillicothe	03
Pike	04
Putnam	02
Ross	03
Service area: Chillicothe:	
Sandusky	02
Tuscarawas	03
Vinton	01
Warren	02
Washington:	
Service area: New Matamoras	01
Wood:	
Service area: Southern Wood Co	03

PRIMARY CARE: Ohio—Continued

Service Area Listing

Service area name	Degree of shortage group
Cleveland	02
County—Cuyahoga:	
Parts of county:	
C.T. 1012	
C.T. 1015–1019	
C.T. 1022–1029	
C.T. 1031–1039	
C.T. 1041–1049	
C.T. 1051–1056	
C.T. 1079	
C.T. 1087–1089	
C.T. 1091–1099	
C.T. 1101–1103	
C.T. 1129	
C.T. 1131–1139	
C.T. 1141–1146	
Center City/Dorr-Toledo	01
County—Lucas:	
Parts of county:	
C.T. 27	
C.T. 28	
C.T. 31–37	
C.T. 39	
Chillicothe	03
County—Hocking:	
Parts of county:	
Perry Township	
Salt Creek Township	
County—Pickaway:	
Parts of county:	
Deer Creek Township	
Pickaway Township	
Salt Creek Township	
Wayne Township	
County—Ross	
Collingwood	03
County—Cuyahoga:	
Parts of county:	
C.T. 1169	
C.T. 1171–1179	
C.T. 1261	
Corlett/Lee Miles/Mt. Pleas	02
County—Cuyahoga:	
Parts of county:	
C.T. 1156	
C.T. 1198	
C.T. 1199	
C.T. 1201–1209	
C.T. 1211–1219	
C.T. 1221–1223	
Dayton	03
County—Montgomery:	
Parts of county:	
C.T. 19–23	
C.T. 25	
C.T. 26	
C.T. 28	
C.T. 29	
Downtown East Side Toledo	02
County—Lucas:	
Parts of county:	
C.T. 48	
C.T. 49	
C.T. 51	
C.T. 52	
East End (Cincinnati)	02
County—Hamilton:	
Parts of county:	
C.T. 13	
C.T. 43	
C.T. 44	
C.T. 47	
East Liverpool (Ohio/Penn/W.Va.)	02
County—Columbiana:	
Parts of county:	
Center Twp	
Elk Run Twp	
Franklin Twp	
Hanover Twp (S. E.)	
Liverpool Twp	
Madison Twp	
Middleton Twp	

PRIMARY CARE: Ohio—Continued

Service Area Listing

Service area name	Degree of shortage group
St. Clair Twp	
Washington Twp	
Wayne Twp	
Wellsville Twp	
Yellow Creek Twp	
Grant District	
County—Jefferson	
Parts of county:	
Brus Creek Twp	
Saline Twp	
Eastside	02
County—Mahoning:	
Parts of county:	
C.T. 8001–8008	
Geneva/Madison	04
County—Ashtabula:	
Parts of county:	
Geneva Twp	
Harpersfield Twp	
County—Geauga:	
Parts of county:	
Thompson Twp	
County—Lake:	
Parts of county:	
Madison Twp	
Glenville	01
County—Cuyahoga:	
Parts of county:	
C.T. 1114	
C.T. 1161–1168	
C.T. 1181–1185	
Greenfield	01
County—Highland:	
Parts of county:	
Paint Twp	
Madison Twp	
Fairfield Twp	
Hamilton Target Area	03
County—Butler:	
Parts of county:	
C.T. 2–4	
Hicksville	01
County—Defiance:	
Parts of county:	
Hicksville Twp	
Mark Twp	
Milford Twp	
Hough/Norwood	02
County—Cuyahoga:	
Parts of county:	
C.T. 1112	
C.T. 1113	
C.T. 1115–1119	
C.T. 1121	
C.T. 1123–1128	
Jefferson/Puritas-Bellaire	03
County—Cuyahoga:	
Parts of county:	
C.T. 1014 (Jefferson)	
C.T. 1021 (Jefferson)	
C.T. 1233 (Jefferson)	
C.T. 1235 (Jefferson)	
C.T. 1239 (Jefferson)	
C.T. 1241–1246	
Lincoln Heights (Cincinnati)	02
County—Hamilton:	
Parts of county:	
C.T. 60 (Hartwell)	
C.T. 225 (Woodlawn)	
C.T. 227 (Lincoln Heights)	
C.T. 228 (Lockland)	
C.T. 229 (Arlington Heights)	
C.T. 231 (Evandale)	
Middletown Target Area	04
County—Butler:	
Parts of county:	
C.T. 128–132	
C.T. 140 (Part)	
Near South Side-Toledo	01
County—Lucas:	
Parts of county:	

PRIMARY CARE: Ohio—Continued

Service Area Listing

Service area name	Degree of shortage group
C.T. 38	
C.T. 40	
C.T. 41	
C.T. 42	
C.T. 54	
New Matamoras	
County—Allen:	
Parts of county:	
C.T. 102 (Richland Twp)	
County—Medina	
Parts of county:	
Spencer	
County—Washington:	
Parts of county:	
Grandview Twp	
Independence Twp	
Liberty Twp	
Ludlow Twp	
Newport Twp	
North Toledo	02
County—Lucas:	
Parts of county:	
C.T. 9–12	
C.T. 17	
C.T. 18–20	
C.T. 29	
C.T. 30	
Old West End-Toledo	01
County—Lucas:	
Parts of county:	
C.T. 8	
C.T. 14–16	
C.T. 21–23	
C.T. 24.01	
C.T. 24.02	
C.T. 25	
C.T. 26	
Price Hill/Fairmont (Cincinnati)	01
County—Hamilton:	
Parts of county:	
C.T. 87 (Fairmont—South)	
C.T. 89 (Fairmont—South)	
C.T. 90 (Price Hill—East)	
C.T. 91 (Price Hill—Tower)	
C.T. 93 (Price Hill—East)	
C.T. 96 (Price Hill—East)	
C.T. 103 (Riverside—Solamsville)	
Rocking Horse	02
County—Clark	
Parts of county:	
C.T. 1–5	
C.T. 8	
C.T. 9.01	
C.T. 9.02	
C.T. 10	
C.T. 12	
C.T. 17	
Southern Wood Co	03
County—Wood:	
Parts of county:	
C.T. 211–216	
C.T. 219–224	
Western Lucas Co	02
County—Lucas:	
Parts of county:	
C.T. 87	
C.T. 88	
C.T. 89.01	
C.T. 90 (Part)	
C.T. 91	
C.T. 93–96	
Winton Hills (Cincinnati)	01
County—Hamilton	
Parts of county:	
C.T. 73 (Winton Hills)	
C.T. 80 (Winton Hills)	
C.T. 257 (Elmwood Place)	

PRIMARY CARE: Oklahoma

County Listing

County name	Degree of shortage group
Adair	02
Alfalfa	04
Atoka	02
Blaine:	
Service area: Western Oklahoma	03
Caddo	03
Canadian	04
Choctaw	02
Cimarron	05
Comanche	03
Cotton	04
Custer:	
Service area: Western Oklahoma	03
Delaware	02
Dewey	03
Service area: Western Oklahoma	
Ellis	03
Service area: Western Oklahoma	
Grant	04
Greer:	
Facility: Oklahoma St. Penitentiary (Granite)	03
Harmon	02
Jackson	03
Jefferson	03
Johnston	02
Kay:	
Service area: Blackwell (Oklahoma/Kansas)	04
Latimer	02
Service area: Clayton	
Le Flore:	
Service area: Clayton	02
Logan	01
McClain	02
McCurtain	03
McIntosh	03
Marshall	01
Mayes:	
Service area: Chelsea/New Alluwe	01
Noble	04
Nowata:	
Service area: Chelsea/New Alluwe	01
Okfuskee	04
Oklahoma:	
Service area: Del City	03
Service area: Oklahoma	02
Osage	03
Pittsburg:	
Facility: Oklahoma St. Penitentiary (McAlester)	02
Pushmataha:	
Service area: Clayton	02
Roger Mills	03
Service area: Western Oklahoma	
Rogers:	
Service area: Chelsea/New Alluwe	01
Seminole	02
Sequoyah	03
Texas:	
Service area: Panhandle (Oklahoma/Texas)	01
Tillman	01
Tulsa:	
Service area: Northeast Tulsa	03
Service area: North Central Tulsa	01
Service area: West Central Tulsa	01
Service area: West Tulsa	03
Washita	03
Woods	03
Woodward	
Service area: Western Oklahoma	03

PRIMARY CARE: Oklahoma

Service Area Listing

Service area name	Degree of shortage group
Blackwell (Oklahoma/Kansas)	04
County—Kay:	
Parts of county:	
Blackwell CCD	
Braman CCD	
Tonkawa CCD	
West Newkirk CCD	
Chelsea/New Alluwe	01

PRIMARY CARE: Oklahoma—Continued

Service Area Listing

Service area name	Degree of shortage group
County—Mayes:	
Parts of county:	
Adair (E.D. 12)	
County—Nowata:	
Parts of county:	
New Alluwe (E.D. 14 and 15)	
County—Rogers:	
Parts of county:	
Chelsea (E.D. 1–4)	
Clayton	02
County—Latimer	
County—Le Flore:	
Parts of county:	
E.D. 37–38 (Heavener)	
E.D. 45	
E.D. 47	
E.D. 48–49 (Talihina)	
E.D. 50–52	
County—Pushmataha:	
Parts of county:	
No. Push/Mata Division	
Del City	03
County—Oklahoma:	
Parts of county:	
C.T. 1078.01	
C.T. 1078.02	
C.T. 1078.03	
C.T. 1078.04	
C.T. 1078.05	
C.T. 1078.06	
North Central Tulsa	01
County—Tulsa:	
Parts of county:	
C.T. 2–15	
C.T. 57	
C.T. 62	
C.T. 79	
C.T. 80	
C.T. 91.01	
C.T. 91.02	
C.T. 91.03	
Northeast Tulsa	03
County—Tulsa:	
Parts of county:	
C.T. 1	
C.T. 16	
C.T. 59–61	
C.T. 81	
C.T. 82	
Oklahoma	02
County—Oklahoma:	
Parts of county:	
C.T. 1037–1040	
C.T. 1047–1049	
C.T. 1053	
C.T. 1054	
C.T. 1072.07	
C.T. 1072.09	
C.T. 1073.01	
C.T. 1073.02	
Panhandle (Oklahoma/Texas)	01
County—Texas:	
Parts of county:	
West Texas CCD	
West Central Tulsa	01
County—Tulsa:	
Parts of county:	
C.T. 26–30	
C.T. 88	
West Tulsa	03
County—Tulsa:	
Parts of county:	
C.T. 46–49	
C.T. 63.01	
C.T. 63.02	
C.T. 64.01	
C.T. 64.02	
C.T. 65.01	
C.T. 65.02	
C.T. 66	
C.T. 67.01	
Western Oklahoma (Oklahoma/Texas)	03
County—Blaine:	
Parts of county:	
E.D. 4, 5, 7	
County—Custer:	
Parts of county:	
E.D. 6, 7	

PRIMARY CARE: Oklahoma—Continued

Service Area Listing

Service area name	Degree of shortage group
County—Dewey	
County—Ellis	
County—Roger Mills	
County—Woodward:	
Parts of county:	
E.D. 14, 15, 16	

PRIMARY CARE: Oklahoma

Facility Listing

Facility	Degree of shortage group
Oklahoma St. Penitentiary (Granite)	03
County—Greer	
Oklahoma Sta. Penitentiary (McAlester)	02
County—Pittsburg	

PRIMARY CARE: Oregon

County Listing

County name	Degree of shortage group
Baker:	
Service area: Halfway	01
Benton	
Service area: Blodgett/Eddyville	01
Service area: Monroe/Alsea	01
Clackamas:	
Service area: Estacada	04
Population group: Mig pop. of Woodburn/Marion	01
Columbia:	
Service area: Vernonia	01
Coos:	
Service area: Powers	01
Curry:	
Service area: Powers	01
Deschutes:	
Service area: La Pine	02
Gilliam	01
Jackson:	
Service area: Applegate-Williams	01
Service area: Butte Falls/Prospect	01
Service area: Rogue River-Gold Hill	02
Josephi:	
Service area: Applegate-Williams	01
Klamath:	
Service area: Bly	01
Service area: Chiloquin	01
Service area: La Pine	02
Lake:	
Service area: La Pine	02
Lane:	
Service area: McKenzie	01
Service area: Oakridge	04
Service area: Vernita	02
Lincoln:	
Service area: Blodgett/Eddyville	01
Linn:	
Service area: Brownville	01
Service area: Detroit-Idanha	01
Service area: Harrisburg	01
Malheur:	
Service area: Jordan Valley	01
Service area: Nyssa (Oregon/Idaho)	03
Population Group: Mig pop. of Treasure Valley—Area 2	01
Marion:	
Service area: Detroit-Idanha	01
Service area: West Salem	01
Population group: Med ind pop. of Marion	01
Population group: Mig pop. of Woodburn/Marion	01
Multnomah:	
Service area: Northeast Portland	01
Polk:	
Service area: Willamina	01

PRIMARY CARE: Oregon—Continued

County Listing

County name	Degree of shortage group
Population group: Mig pop. of Woodburn/Marion	01
Union:	
Service area: Cone/Union	01
Wallowa:	
Service area: Cone/Union	02
Washington:	
Population group: Mig pop. of Washington Co.	04
Wheeler	01
Yamhill:	
Service area: Willamina	01
Population group: Mig pop. of Woodburn/Marion	02

PRIMARY CARE: Oregon

Service Area Listing

Service area name	Degree of shortage group
Applegate/Williams	01
County—Jackson:	
Parts of County:	
Applegate	
County—Josephi:	
Parts of County:	
Williams	
Blodgett/Eddyville	01
County—Benton:	
Parts of County:	
Blodgett CCD	
County—Lincoln:	
Parts of County:	
Eddyville CCD	
Bly	01
County—Klamath:	
Parts of County:	
Langell CCD	
Brownsville	01
County—Linn:	
Parts of County:	
Brownsville CCD	
Butte Falls-Prospect	01
County—Jackson:	
Parts of County:	
Butte Falls CCD	
Prospect CCD	
Chiloquin	01
County—Klamath:	
Parts of County:	
Chiloquin CCD	
Cone/Union	01
County—Union:	
Parts of County:	
Cone Div.	
Union Div.	
Detroit/Idanha	01
County—Linn:	
Parts of County:	
Cascadia CCD (Part A)	
County—Marion:	
Parts of County:	
Brietenbush	
Detroit	
Forks	
Idanha	
Marion	
Estacada	04
County—Clackamas:	
Parts of County:	
Highland CCD	
Mt. Hood CCD	
Estacada CCD	
Halfway	01
County—Baker:	
Parts of County:	
Halfway CCD	
Eagle Valley CCD	
Harrisburg	01
County—Linn:	
Parts of County:	
Harrisburg CCD	
Jordan Valley	01

PRIMARY CARE: Oregon—Continued

Service Area Listing

Service area name	Degree of shortage group
County—Malheur:	
Parts of County:	
Jordan CCD	
La Pine	02
County—Deschutes:	
Parts of County:	
Sisters-Mulligan CCD South of Sunriver	
County—Klamath:	
Parts of County:	
Crescent Lake CCD	
County—Lake:	
Parts of County:	
Silver Lake-Ft Rock CCD	
McKenzie	01
County—Lane:	
Parts of County:	
C.T. 1 (McKenzie)	
Monroe/Alsea	01
County—Benton:	
Parts of County:	
Monroe	
Alsea CCD	
Northeast Portland	01
County—Multnomah:	
Parts of County:	
C.T. 33.01	
C.T. 33.02	
C.T. 34.01	
C.T. 34.02	
C.T. 35.01	
C.T. 35.02	
C.T. 36.01	
C.T. 37.01	
C.T. 37.02	
C.T. 38.01	
C.T. 38.02	
C.T. 38.03	
C.T. 39.01	
C.T. 39.02	
C.T. 40.01	
C.T. 40.02	
Nyssa (Oregon/Idaho)	03
County—Malheur:	
Parts of County:	
Adrian Div.	
Nyssa Div.	
Owyhee Div.	
Oakridge	04
County—Lane:	
Parts of County:	
Oakridge Div.	
Powers	01
County—Coos:	
Parts of County:	
Powers Div.	
County—Curry:	
Parts of County:	
Agness Div.	
Rogue River/Gold Hill	02
County—Jackson:	
Parts of County:	
Evans Valley CCD	
Foots Creek CCD	
County—Wallowa:	
Parts of County:	
Town of Minam in Wallowa CCD	
Veneta	02
County—Lane:	
Parts of County:	
E.D. 5	
E.D. 8 (W. ½)	
E.D. 9.02	
Veneta City	
Vernonia	01
County—Columbia:	
Parts of County:	
Vernonia CCD	
West Salem	01
County—Marion:	
Parts of County:	
C.T. 51	
C.T. 52	
Willamina	01
County—Polk:	
Parts of County:	
C.T. 204 (Willamina Division)	
County—Yamhill:	

PRIMARY CARE: Oregon—Continued

Service Area Listing

Service area name	Degree of shortage group
Parts of County:	
Willamina CCD	

PRIMARY CARE: Oregon

Population Group Listing

Population group	Degree of shortage group
Med Indigent Pop. of Marion	01
County—Marion	
Parts of county	
C.T. 1–23	
Migrant Pop. of Washington Co	04
Migrant Pop. of Woodburn/Marion	02
County—Clackamas	
County—Marion	
County—Polk	
County—Yamhill	

PRIMARY CARE: Pennsylvania

County Listing

County name	Degree of shortage group
Adams:	
Service area: North Adams	03
Allegheny:	
Service area: Arlington Heights/St. Clair	01
Service area: Beltzhoover/Knoxville	03
Service area: Hill District	01
Service area: Homewood-Brushton	04
Service area: Manchester	01
Service area: McKees Rocks-Stowe	01
Service area: Southwest Pittsburgh	02
Service area: Terrace Village II	02
Armstrong:	
Service area: Armstrong-Clarion	01
Service area: Dayton Rural Valley	01
Service area: Kiski Valley	02
Service area: Punxsutawney	02
Beaver:	
Service area: East Liverpool (Penn/Ohio/W. Va)	02
Bedford:	
Service area: Hyndman	01
Service area: Broad Top	02
Bradford:	
Service area: Towanda	04
Butler:	
Service area: Butler—NE Portion	02
Cambria:	
Service area: Central Cambria (West)	02
Service area: Central Cambria (East)	02
Service area: North Cambria	02
Carbon:	
Service area: Kidder	01
Centre:	
Service area: Bellefonte/Howard	01
Service area: Penns Valley	02
Service area: Snow Shoe	02
Chester:	
Service area: South Western Chester	03
Clarion:	
Service area: Armstrong-Clarion	01
Service area: Forest-Clarion	01
Clearfield:	
Service area: Snow Shoe	02
Service area: S. Central Clearfield	02
Clinton:	
Service area: Bellefonte-Howard	01
Service area: Renovo	02
Columbia:	
Service area: Benton-Millville	04
Crawford:	
Service area: East Crawford County	01
Dauphin:	
Service area: Williamstown	01
Delaware:	
Service area: City of Chester	03

PRIMARY CARE: Pennsylvania—Continued

County Listing

County name	Degree of shortage group
Erie:	
Service area: North East Erie	01
Service area: Southern Erie	02
Population Group: Low Inc Pop. of Erie City	01
Fayette:	
Service area: Greensboro	01
Service area: Markleysburg	01
Forest:	
Service area: Forest-Clarion	01
Franklin:	
Service area: Valleys Community	01
Fulton:	01
Greene:	
Service area: Greensboro	01
Service area: West Greene	01
Huntingdon:	
Service area: Broad Top	02
Service area: Cromwell	01
Indiana:	
Service area: Indiana—N Portion	01
Service area: Punxsutawney	02
Service area: Southern Indiana	02
Jefferson:	
Service area: Punxsutawney	02
Juniata:	
Service area: Juniata	03
Service area: Millerstown	01
Service area: Mt. Pleasant Mills—Middleburg	04
Lackawanna:	
Service area: Moscow	02
Lancaster:	
Population Group: Sp Spkg Pop. of S.E. Lancaster City	02
Service area: Welsh Mountain	01
Lebanon:	
Service area: Northern Lebanon Co.	01
Luzerne:	
Service area: Benton-Millville	04
Service area: Exeter	03
Service area: Freeland	01
Service area: Kidder	04
Service area: Mountaintop	01
Service area: Pittston	01
Lycoming:	02
Service area: Benton-Millville	02
Service area: Picture Rocks/Hugheaville/Muncy	
McKean:	01
Service area: Central McKean County	01
Service area: Shinglehouse	02
Mercer:	02
Population Group: Low Inc Pop. of Sharon/Farrell	02
Mifflin:	
Service area: Big Valley	01
Monroe:	02
Service area: Kidder	01
Montour:	04
Service area: Picture Rocks/Hugheaville/Muncy	04
Northumberland:	02
Service area: Herndon-Mandata	02
Service area: Picture Rocks/Hugheaville/Muncy	04
Perry:	02
Service area: Eastern Perry County	04
Service area: Millerstown	01
Service area: Western Perry County	03
Philadelphia:	01
Service area: Casa Del Carmen	02
Service area: Covenant House Area	02
Service area: Mantua/Belmont	04
Service area: North Philadelphia	03
Service area: South Philadelphia	04
Pike	01
Potter:	01
Service area: Galeton	04
Service area: Shinglehouse	01
Service area: Westfield	03
Schuylkill:	02
Service area: Herndon-Mandata	02
Service area: Shenandoah/Mahoning City Area	04
Service area: Tremont/Pine Grove	01
Snyder:	01
Service area: Pleasant Mills-Middleburg	02
Somerset:	01
Service area: Boswell	03
Service area: Confluence	
Service area: Hyndman	
Sullivan	

PRIMARY CARE: Pennsylvania—Continued

County Listing

County name	Degree of shortage group
Susquehanna:	
Service area: Barnes-Kasson	02
Service area: Montrose	02
Tioga:	
Service area: Blossburg	02
Service area: Elkland (NY/Pa)	02
Service area: Mansfield	02
Service area: Westfield	03
Washington:	
Service area: Burgettstown	02
Wayne:	
Westmoreland:	
Service area: Kiski Valley	02
Wyoming:	
Service area: Exeter	01
York:	
Service area: York	01

PRIMARY CARE: Pennsylvania

Service Area Listing

Service area name	Degree of shortage group
Arlington Heights/St. Clair	01
County—Allegheny:	
Parts of county	
C.T. 316.04	
C.T. 316.05	
Armstrong-Clarion	01
County—Armstrong:	
Parts of county:	
Brady's Bend Township	
Madison Township	04
Perry Township	01
Pine Township	03
Sugarcreek Township	01
Washington Township	02
County—Clarion:	03
Parts of county:	
Brady Township	04
East Brady Township	04
Madison Township	
Barnes-Kasson	02
County—Susquehanna:	01
Parts of county:	
C.T. 301	
C.T. 302	02
C.T. 307	
Bellefonte/Howard	04
County—Centre:	01
Parts of county:	
Bellefonte Boro	
Howard Boro	
Milesburg Boro	
Boggs Twp (½)	04
Curtin Twp (½)	01
Howard Twp	03
Liberty Twp	
Marion Twp	
Spring Twp	01
Walker Twp (½)	03
County—Clinton:	01
Parts of county:	01
Beech Creek Boro	03
Beech Creek Twp	04
Beltzhoover/Knoxville	01
County—Allegheny:	04
Parts of county:	
C.T. 318.04	04
C.T. 318.05	01
C.T. 330.01	03
Benton-Millville	04
County—Columbia:	02
Parts of county:	04
Benton Borough	03
Benton Township	
Fishing Creek Township	
Madison Township (Northern ½)	04
Millville Borough	
Mt. Pleasant Township	02
Orange Township (Northern ½)	02
Pine Township	01
Stillwater Borough	01

PRIMARY CARE: Pennsylvania—Continued

Service Area Listing

Service area name	Degree of shortage group
Sugarloaf Township	
County—Luzerne:	
Parts of county:	
Fairmont Township	
Huntington Township	
New Columbus Borough	
County—Lycoming:	
Parts of county:	
Franklin Township (Southern ½)	
Jordan Township	
Big Valley	04
County—Mifflin:	
Parts of county:	
Brown Twp	
Menno Twp	
Union Twp	
Blossburg	02
County—Tioga:	
Parts of county:	
Blossburg Boro	
Bloss Twp	
Covington Twp	
Duncan Twp	
Hamilton Twp	
Liberty Boro	
Liberty Twp (Eastern ½)	
Putnam Boro	
Union Twp	
Ward Twp	
Boswell	02
County—Somerset:	
Parts of county:	
Boswell Boro	
Hooversville Boro	
Jennerstown Boro	
Jenner Twp	
Quemahoning Twp	
Stoystown Boro	
Broad Top	02
County—Bedford:	
Parts of county:	
Broad Top Twp	
Coaldale Boro	
Hopewell Boro	
Liberty Twp	
Saxton Boro	
County—Huntingdon:	
Parts of county:	
Broad Top City Boro	
Carbon Twp	
Cass Twp	
Cassville Boro	
Coalmont Boro	
Dudley Boro	
Hopewell Twp	
Todd Twp	
Wood Twp	
Burgettstown	02
County—Washington:	
Parts of county:	
Hanover Twp	
Robinson Twp	
Smith Twp	
Mt Pleasant Twp	
Jefferson Twp	
Cross Creek Twp	
Independence Twp	
Hopewell Twp	
Burgettstown Borough	
Midway Borough	
McDonald Borough	
West Middletown Borough	
Butler-NE Portion	02
County—Butler:	
Parts of county:	
Venango Twp	
Allegheny Twp	
Washington Twp	
Parker Twp	
Concord Twp	
Fairview Twp	
Oakland Twp	
Donegal Twp	
Cherry Valley Borough	
Eau Claire Borough	
Bruin Borough	
Fairview Borough	
Petrolia Borough	

PRIMARY CARE: Pennsylvania—Continued

Service Area Listing

Service area name	Degree of shortage group
Kane City Borough	
Chicora Borough	
Casa Del Carmen	01
County—Philadelphia:	
Parts of county:	
C.T. 176	
C.T. 195	
Central Cambria (West)	02
County—Cambria:	
Parts of county:	
Blacklick Twp	
Cambria Twp	
Ebensburg Boro	
Jackson Twp	
Nanty-Glo Boro	
Vintondale Boro	
Central Cambria (East)	02
County—Cambria:	
Parts of county:	
Cassandra Boro	
Cresson Boro	
Cresson Twp	
Lilly Boro	
Munster Twp	
Portage Boro	
Portage Twp	
Sankertown Boro	
Washington Twp	
Central McKean County	02
County—McKean:	
Parts of county:	
Keating Township	
Otto Township	
Hamlin Township	
Sergeant Township	
Norwich Township	
City of Chester	03
County—Delaware:	
Parts of county:	
C.T. 4048	
C.T. 4049.01	
C.T. 4049.02	
C.T. 4050–4057	
C.T. 4058.01	
C.T. 4058.02	
C.T. 4059–4080	
Confluence	02
County—Somerset:	
Parts of county:	
Addison Boro	
Addison Twp	
Casselman Boro	
Confluence Boro	
Lower Turkeyfoot Twp	
Upper Turkeyfoot Twp	
Covenant House Area	01
County—Philadelphia:	
Parts of county:	
C.T. 248–254	
Cromwell	01
County—Huntingdon:	
Parts of county:	
Clay Twp	
Cromwell Twp	
Dublin Twp	
Orbisonia Boro	
Rockhill Boro	
Saltillo Boro	
Shade Gap Boro	
Springfield Twp	
Tell Twp	
Three Springs Boro	
Dayton Rural Valley	01
County—Armstrong:	
Parts of county:	
Redbank Twp (S Western portion)	
Wayne Township	
Cowanshannock Township	
Dayton Borough	
Rural Valley Borough	
Atwood Borough	
East Crawford County	01
County—Crawford:	
Parts of county:	
Athens Township	
Bloomfield Township	
Rockdale Township	
Rome Township	

PRIMARY CARE: Pennsylvania—Continued

Service Area Listing

Service area name	Degree of shortage group
Sparta Township	
Steuben Township	
Centerville Borough	
Townville Borough	
Spartansburg Borough	
Richmond Twp	
East Liverpool (Penn/Ohio/W. VA)	02
County—Beaver:	
Parts of county:	
Georgetown Boro	
Glasgow Boro	
Greene Twp (Western ½)	
Hookstown Boro	
Ohioville Boro (Western ½)	
Eastern Perry County	04
County—Perry:	
Parts of county:	
Buffalo Twp	
Duncannon Boro	
Howe Twp	
Marysville Boro	
Miller Twp	
New Buffalo Boro	
Newport Boro	
Oliver Twp	
Penn Twp	
Rye Twp	
Watts Twp	
Wheatfield Twp	
Elkland (Penn/New York)	02
County—Tioga:	
Parts of county:	
Deerfield Twp	
Elkland Boro	
Elkland Twp	
Farmington Twp	
Knoxville Boro	
Nelson Twp	
Osceola Twp	
Exeter	01
County—Luzerne:	
Parts of county:	
Exeter Borough	
West Wyoming	
Franklin Township	
Exeter Township	
County—Wyoming:	
Parts of county:	
Exeter Township	
Falls Twnship	
Forest-Clarion	01
County—Clarion:	
Parts of county:	
Farmington Twp	
Washington Twp	
Knox Twp	
County—Forest	
Freeland	03
County—Luzerne:	
Parts of county:	
Butler Twp (E. portion)	
Foster Twp (W. portion)	
Freeland Boro	
Hazel Twp	
Jeddo Boro	
Galeton	04
County—Potter:	
Parts of county:	
Galeton Borough	
Pike Township	
Ulysses Township	
West Branch Township	
Abbott Township	
Stewardson Township	
Greensboro	01
County—Fayette:	
Parts of county:	
Masontown Borough	
Point Marion Borough	
German Township	
Nicholson Township	
Springhill Township	
County—Greene:	
Parts of county:	
Dunkard Township	
Greene Township	
Monongahela Township	
Greensboro Borough	

PRIMARY CARE: Pennsylvania—Continued

Service Area Listing

Service area name	Degree of shortage group
Herndon-Mandata	02
County—Northumberland:	
Parts of county:	
Jackson Township	
Herndon Borough	
Jordon Township	
Lower Mahanoy Township	
Little Mahanoy Twnship	
Washington Twnship	
Upper Mahanoy Twnship	
West Cameron Twnship	
County—Schuylkill:	
Parts of county:	
Eldred Twnship	
Upper Mahantango Twnship	
Hill District	01
County—Allegheny:	
Parts of county:	
C.T. 303.01	
C.T. 303.03	
C.T. 303.04	
C.T. 305.01	
C.T. 305.02	
C.T. 305.05	
C.T. 305.06	
Homewood-Brushton	04
County—Allegheny:	
Parts of county:	
C.T. 1207	
C.T. 1601–1305	
Hyndman	01
County—Bedford:	
Parts of county:	
Harrison Twp	
Hyndman Boro	
Juniata Twp	
Londonderry Twp	
County—Somerset:	
Parts of county:	
Allegheny Twp	
Fairhope Twp	
Indiana—N portion	01
County—Indiana:	
Parts of county:	
South Mahoning Twp	
East Mahoning Twp	
Grant Twp	
Montgomery Twp	
Washington Twp	
Rayne Twp	
Green Twp	
Pine Twp	
Glen Campbell Borough	
Cherry Tree Borough	
Marion Center Borough	
Plumville Borough	
Clymer Boro	
Juniata	03
County—Juniata:	
Parts of county:	
Lack Township	
Tuscarora Township	
Beale Township	
Spruce Hill Township	
Mifflin Borough	
Mifflintown Borough	
Port Royal Borough	
Fayette Township	
Fermanagh Township	
Millard Township	
Turbett Township	
Walker Township	
Kidder	01
County—Carbon:	
Parts of county:	
East Side Boro	
Kidder Twp	
Penn Forest Twp	
Lausanne Twp	
Lehigh, Twp	
County—Luzerne:	
Parts of county:	
White Haven Borough	
Buck Twp	
Foster Twp (E. portion)	
County—Monroe:	
Parts of county:	
Coolbough Township	

PRIMARY CARE: Pennsylvania—Continued

Service Area Listing

Service area name	Degree of shortage group
Tobyhanna Township	
Tunkhannock Township	
Kiski Valley	02
County—Armstrong:	
Parts of county:	
Apollo Borough	
Bethel Township	
Burrel Township	
Gilpin Township	
Kiskiminetas Township	
Leechburg Borough	
North Apollo Borough	
Parks Township	
South Bend Township	
County—Westmoreland:	
Parts of county:	
Allegheny Township	
Avonmore Borough	
Bell Township	
East Vandergrift Borough	
Hyde Park Borough	
Vandergrift Borough	
Washington Township	
West Leechburg Borough	
Oklahoma Borough	
Manchester	01
County—Allegheny:	
Parts of county:	
C.T. 321.01	
C.T. 321.02	
C.T. 321.03	
C.T. 321.04	
Mansfield	02
County—Tioga:	
Parts of county:	
Jackson Twp	
Lawrence Twp	
Lawrenceville Boro	
Mansfield Boro	
Richmond Twp	
Roseville Boro	
Rutland Twp	
Sullivan Twp	
Tioga Boro	
Tioga Twp	
Manlua/Belmont	03
County—Philadelphia:	
Parts of county:	
C.T. 108–110	
Markleysburg	01
County—Fayette:	
Parts of county:	
Henry Clay Twp	
Markleysburg Boro	
Ohiopyle Boro	
Steward Twp	
Wharton Twp	
McKees Rocks-Stowe	01
County—Allegheny:	
Parts of county:	
C.T. 4621–4625	
C.T. 4631–4636	
Millerstown	01
County—Juniata:	
Parts of county:	
Greenwood Township	
Delaware Township	
Thompsontown Borough	
County—Perry:	
Parts of county:	
Tuscarora Township	
Greenwood Township	
Liverpool Township	
Liverpool Borough	
Millerstown Borough	
Montrose	02
County—Susquehanna:	
Parts of county:	
Auburn Twp	
Bridgewater Twp	
Brooklyn Twp	
Dimock Twp	
Forest Lake Twp	
Franklin Twp	
Harford Twp	
Hop Bottom Boro	
Jessup Twp	
Lathrop Twp	

PRIMARY CARE: Pennsylvania—Continued

Service Area Listing

Service area name	Degree of shortage group
Lenox Twp	
Liberty Twp	
Montrose Boro	
Push Twp	
Silver Lake Twp	
Springville Twp	
Moscow	02
County—Lackawanna:	
Parts of county:	
C.T. 118	
C.T. 129	
Mountaintop	02
County—Luzerne:	
Parts of county:	
Dennison Township	
Wright Township	
Fairview Township	
Rice Township	
Dorrance Township	
Slocum Township	
Nuangola Boro	
Mt. Pleasant Mills-Middleburg	04
County—Juniata:	
Parts of county:	
Monroe Township	
Susquehanna Twp	
County—Snyder:	
Parts of county:	
Beaver Township	
Beavertown Borough	
Chapman Township	
Franklin Township	
Centre Township	
Middleburg Borough	
Perry Township	
Washington Township	
West Perry Township	
Union Township	
Freeburg Borough	
North Adams	03
County—Adams:	
Parts of county:	
Menallen Township	
Tyrone Township	
Huntington Township	
Butler Township	
Arendtsville Borough	
Bendersville Borough	
Biglerville Borough	
York Springs Borough	
North Cambria	02
County—Cambria:	
Parts of county:	
Allegheny Twp	
Ashville Boro	
Barnesboro Boro	
Barr Twp	
Carrolton Boro	
Chest Spring Boro	
Chest Twp	
Clearfield Twp	
Dean Twp	
East Carroll Twp	
Elder Twp	
Gallitzen Boro	
Gallitzen Twp	
Hastings Boro	
Loretto Boro	
Patton Boro	
Reade Twp	
Spangler Boro	
Susquehanna Twp	
Tunnelhill Boro	
West Carroll Twp	
White Twp	
North East Erie	01
County—Erie:	
Parts of county:	
C.T. 116 (North East Borough)	
C.T. 117 (North East and Greenfield Town)	
North Philadelphia	04
County—Philadelphia:	
Parts of county:	
C.T. 131–133	
C.T. 135–141	
C.T. 145–149	
C.T. 151–155	
C.T. 155–159	

PRIMARY CARE: Pennsylvania—Continued

Service Area Listing

Service area name	Degree of shortage group
C.T. 171–174	
Northern Lebanon Co.	01
County—Lebanon:	
Parts of county:	
Cold Spring Twp	
East Hanover Twp	
Union Twp	
Swatara Twp	
Bethel Twp	
Jonestown, Boro	
County—Tioga:	
Parts of county:	
Elk Township	
Morris Township	
Liberty Township (Western ½)	
Penns Valley	02
County—Centre:	
Parts of county:	
Center Hall Borough	
Gray Township	
Haines Township	
Miles Township	
Millheim Borough	
Penn Township	
Potter Township	
Picture Rocks/Hughesville/Muncy	04
County—Lycoming:	
Parts of county:	
Clinton Twp (E. ½)	
Franklin Twp (N. ½)	
Hughesville Boro	
Mill Creek Twp	
Montgomery Boro	
Moreland Twp	
Muncy Boro	
Muncy Creek Twp	
Muncy Twp	
Penn Twp	
Picture Rocks Boro	
Plunketts Creek Twp (S. ½)	
Shrewsbury Twp	
Wolf Twp	
County—Montour:	
Parts of county:	
Anthony Twp	
County—Northumberland:	
Parts of county:	
Lewis Twp	
Turbotville Boro	
Pittston	03
County—Luzerne:	
Parts of county:	
C.T. 101–109	
C.T. 117	
Punxsutawney	02
County—Armstrong:	
Parts of county:	
Redbank Township (Eastern ½)	
County—Indiana:	
Parts of county:	
Banks Township (Northern ½)	
Canoe Township (Northern ½)	
Northern Mahoning (Northern ½)	
Smicksburg Borough	
West Mahoning Township (Northern ½)	
County—Jefferson:	
Parts of county:	
Bell Township	
Beaver Township (Southern ½)	
Big Run Borough	
Gaskill Township	
Henderson Township	
Oliver Township	
Perry Township	
Porter Township	
Punxsutawney Borough	
Riggold Township	
Timblin Borough	
Worthville Borough	
Young Township	
Renovo	02
County—Clinton:	
Parts of county:	
East Keating Township	
Renovo Borough	
South Renovo Borough	
Leidy Township	
Chapman Township	

PRIMARY CARE: Pennsylvania—Continued

Service Area Listing

Service area name	Degree of shortage group
Noyes Township	
Grugan Twp	
South Central Clearfield	02
County—Clearfield:	
Parts of county:	
Beccaria Twp	
Bigler Twp	
Chest Twp	
Coalport Boro	
Glen Hope Boro	
Gulich Twp	
Irvona Boro	
Jordan Twp	
Ramey Boro	
Westover Boro	
Shenandoah/Mahoning City	04
County—Schuylkill:	
Parts of county:	
Delano Twp	
East Union Twp	
Gilberton Boro	
Kline Twp	
McAdoo Boro	
Mahanoy City Boro	
Mahanoy Twp	
North Union Twp	
Ringtown Boro	
Ryan Twp	
Shenandoah Boro	
Union Twp	
West Mahanoy Twp	
Shinglehouse	01
County—McKean:	
Parts of county:	
Ceres Township	
Eldred Township	
County—Potter:	
Parts of county:	
Shinglehouse Borough	
Sharon Township	
Oswayo Township	
Oswayo Borough	
Genesee Township	
Pleasant Valley Township	
Clara Township	
Snow Shoe	02
County—Centre:	
Parts of county:	
Snow Shoe Township	
Snow Shoe Borough	
Burnside Township	
Boggs Township (Southern ½)	
Union Township (Southern ½)	
Curtin Twp (Eastern ½)	
Unionville Borough	
County—Clearfield:	
Parts of county:	
Cooper Township (Northern ½)	
Covington Township	
Karthaus Township	
South Philadelphia	04
County—Philadelphia:	
Parts of county:	
C.T. 13-14	
C.T. 19-22	
C.T. 93	
South Western Chester	03
County—Chester:	
Parts of county:	
C.T. 3061-3062	
C.T. 3077-3082	
Southern Erie	02
County—Erie:	
Parts of county:	
Conneaut Township	
Elk Creek Township	
Franklin Township	
Springfield Township	
Cranesville Borough	
Albion Borough	
Platea Borough	
Southern Indiana	02
County—Indiana:	
Parts of county:	
Armagh Boro	
Black Lick Twp	
Blairsville Boro	
Burrell Twp	

PRIMARY CARE: Pennsylvania—Continued

Service Area Listing

Service area name	Degree of shortage group
Conemaugh Twp	
East Wheatfield Twp	
Jacksonville Boro	
Saltsburg Boro	
West Wheatfield Twp	
Young Twp	
Southwest Pittsburgh	02
County—Allegheny:	
Parts of county:	
C.T. 2001-2009	
C.T. 2801-2803	
C.T. 2806	
Terrace Village II	02
County—Allegheny:	
Parts of county:	
C.T. 904.01	
C.T. 905.04	
Towanda	04
County—Bradford:	
Parts of county:	
Albany Twp	
Asylum Twp	
Burlington Boro	
Burlington Twp	
Franklin Twp	
Herrick Twp	
Monroe Boro	
Monroe Twp	
New Albany Boro	
North Towanda Twp	
Orwell Twp	
Overton Twp	
Rome Boro	
Rome Twp	
Standing Stone Twp	
Terry Twp	
Towanda Boro	
Towanda Twp	
Wilmont Twp	
Wysox Twp	
Tremont/Pine Grove	03
County—Schuylkill:	
Parts of county:	
Tremont Borough	
Tremont Twnship	
Frailey Twnship	
Porter Twnship	
Pine Grove Borough	
Washington Twnship	
Pine Grove Twnship	
Hegins Twnship	
Barry Twnship	
Hubley Twnship	
Tower City Borough	
Valleys Community	01
County—Franklin:	
Parts of county:	
Fannet Twnship	
Metzi Twnship	
Welsh Mountain	01
County—Lancaster:	
Parts of county:	
Salisbury Twp	
Caernarvon Twp	
Earl Twp	
East Earl Twp	
West Greene	01
County—Greene:	
Parts of county:	
Aleppo Twp	
Gilmore Township	
Gray Township	
Jackson Township	
Richhill Township	
Springhill Township	
Center Township	
Freeport Township	
Morris Township	
Washington Township	
Wayne Township	
Western Perry County	03
County—Perry:	
Parts of county:	
Elain Boro	
Bloomfield Boro	
Carroll Twp	
Centre Twp	
Jackson Twp	

PRIMARY CARE: Pennsylvania—Continued

Service Area Listing

Service area name	Degree of shortage group
Juniata Twp	
Landisbury Boro	
N.E. Madison Twp	
Saville Twp	
S.W. Madison Twp	
Spring Twp	
Toboyne Twp	
Tyrone Twp	
Westfield	03
County—Potter:	
Parts of county:	
Harrison Twp (½)	
Hector Twp (½)	
County—Tioga:	
Parts of county:	
Brookfield Twp	
Chatham Twp	
Clymer Twp	
Westfield Boro	
Westfield Twp	
Williamstown	01
County—Dauphin:	
Parts of county:	
Upper Paxton Township	
Millersburg Borough	
Mifflin Township	
Berrysburg Borough	
Washington Township	
Elizabethville Borough	
Jackson Township	
Jefferon Township	
Wayne Township	
Reed Township	
Halifax Township	
Halifax Borough	
Williamstown Borough	
Williams Township	
Lykens Twp	
Gratz Borough	
Wiconisco Township	
Lykens Borough	
York	01
County—York:	
Parts of county:	
C.T. 1-3	
C.T. 5	
C.T. 7	
C.T. 10	
C.T. 15-16	

PRIMARY CARE: Pennsylvania

Population Group Listing

Population Group	Degree of shortage group
Low Inc. Pop. of Erie City	01
County—Erie	
Low Income Pop. of Sharon-Farrell	02
County—Mercer	
Span. Spk. Pop. of S.E. Lancaster City	02
County—Lancaster:	
Parts of county:	
C.T. 8	
C.T. 9	
C.T. 15	
C.T. 16	

PRIMARY CARE: Rhode Island

County Listing

County name	Degree of shortage group
Bristol:	
Population Group: Med Ind Pop. of Bristol/E. Prov	01
Kent:	
Population-Group: Med Ind Pop. of Kent Co	01
Facility: Conimicut Health Center	01

PRIMARY CARE: Rhode Island—Continued

County Listing

County name	Degree of shortage group
Newport:	
Population Group-Low Inc. Pop. of South R.I.	01
Providence:	
Service area: Central Falls	02
Service area: Oneyville	02
Service area: Northwest Woonsocket	01
Service area: Woodlawn	02
Population Group: Med Ind Pop. of Bristol/E. Prov.	01
Facility: Med/Max Securities Inst.	03
Washington:	
Service area: Hope Valley	02
Population Group-Low Inc Pop. of South R.I.	01

PRIMARY CARE: Rhode Island

Service Area Listing

Service area name	Degree of shortage group
Central Falls	02
County—Providence:	
Parts of county:	
C.T. 106–111	
Hope Valley	02
County—Washington:	
Parts of county:	
Charlestown	
Exeter	
Hopkinton	
Richmond	
Northwest Woonsocket	01
County—Providence	
Parts of county:	
C.T. 172	
C.T. 174	
C.T. 176	
C.T. 178–183	
Oneyville	02
County—Providence:	
Parts of county:	
C.T. 16–22	
Woodlawn	02
County—Providence	
Parts of county:	
C.T. 151	
C.T. 161	
C.T. 164	

PRIMARY CARE: Rhode Island

Population Group Listing

Population group	Degree of shortage group
Low Income Pop. of South R.I.	01
County—Newport:	
Parts of county:	
Jamestown Twn (Low Inc. Pop)	
County—Washington:	
Parts of county:	
Narragansett Twn (Low Inc. Pop)	
North Kingstown Twn (Low Inc. Pop)	
South Kingstown Twn (Low Inc. Pop)	
Med Indigent Pop. of Kent Co.	01
Med. Ind. Pop. (Bristol/E. Prov.)	01
County—Bristol	
County—Providence:	
Parts of county:	
C.T. 101.01	
C.T. 101.02	
C.T. 102–104	
C.T. 105.01	
C.T. 105.02	
C.T. 106	
C.T. 107.01	
C.T. 107.02	

PRIMARY CARE: Rhode Island

Facility Listing

Facility	Degree of shortage group
Conimicut Health Center	01
County—Kent	
Med/Max Securities Inst.	03
County—Providence:	
Parts of county:	
Cranston	

PRIMARY CARE: South Carolina

County Listing

County name	Degree of shortage group
Abbeville:	
Service area: Iola	01
Allendale	02
Anderson:	
Service area: Iola	01
Bamberg	04
Barwell	04
Beaufort:	
Service area: St. Helena	02
Berkeley	01
Calhoun	01
Charleston:	
Service area: Sea Island	01
Service area: McClellanville	02
Cherokee	04
Chester:	
Service area: Richburg	03
Chesterfield	04
Clarendon	01
Dillon	02
Dorchester	02
Edgefield:	
Service area: Johnston/Meriwether	02
Fairfield	02
Florence:	
Service area: Lake City	03
Service area: Britions Neck	01
Greenwood:	
Service area: Hodges/Princeton	04
Horry:	
Service area: Little River	01
Jasper	04
Kershaw:	
Service area: Bethune/Mt. Pisgah	01
Service area: Heath Springs	01
Lancaster:	
Service area: Heath Springs	01
Laurens:	
Service area: Hodges/Princeton	04
Lee	04
Lexington:	
Service area: Batesburg	02
Service area: Chapin	02
McCormick	02
Marion:	
Service area: Britions Neck	01
Marlboro	03
Orangeburg:	
Service area: Orangeburg	01
Richland:	
Service area: Richland	02
Facility: Central Correctional Institution	02
Facility: Kirkland Correctional Institution	03
Facility: Manning Correctional Institution	03
Facility: Women's Correctional Institution	02
Saluda	01
Williamsburg	03
York:	
Service area: Western York Co.	01

PRIMARY CARE: South Carolina

Service Area Listing

Service area name	Degree of shortage group
Batesburg	02
County—Lexington:	
Parts of county:	
Batesburg-Leesville CCD	
Gilbert CCD	
Bethune/Mt. Pisgah	01
County—Kershaw:	
Parts of county:	
E.D. 1 (Bethune CCD)	
E.D. 2 (Bethune CCD)	
E.D. 3 (Bethune CCD)	
E.D. 5 (Mt. Pisgah CCD)	
E.D. 6 (Mt. Pisgah CCD)	
Britions Neck	01
County—Marion:	
Parts of county:	
Britions Neck	
Centenary	
Chapin	02
County—Lexington:	
Parts of county:	
E.D. 7 (Chapin Division)	
E.D. 8 (Chapin Division)	
E.D. 9 (Chapin Division)	
Heath Springs	01
County—Kershaw:	
Parts of county:	
Thorn Hill Division	
County—Lancaster:	
Parts of county:	
Heath Spring Division	
Kershaw Division	
Hodges/Princeton	04
County—Greenwood:	
Parts of county:	
E.D. 1–6	
County—Laurens	
Parts of county:	
E.D. 29 (Princeton)	
E.D. 30 (Princeton)	
E.D. 31 (Princeton)	
Iola	01
County—Abbeville:	
Parts of county:	
Antreville-Lowndesville	
Calhoun Falls	
County—Anderson:	
Parts of county:	
Iva	
Starr	
Johnston/Meriwether	02
County—Edgefield:	
Parts of county:	
E.D. 9–17	
Lake City	03
County—Florence:	
Parts of county:	
Coward Division	
Lake City Division	
Olanta Division	
Scranton Division	
Little River	01
County—Horry:	
Parts of county:	
Little River Division	
Longs Division	
McClellanville	02
County—Charleston:	
Parts of county:	
McClellanville Division	
Orangeburg	01
County—Orangeburg:	
Parts of county:	
Bowman Division	
Elloree Division	
Eutawville Division	
Holly Hill Division	
Vance Division	
Richburg	03
County—Chester:	
Parts of county:	
E.D. 397 Part Chester Division	
E.D. 398 Part Chester Division	
E.D. 402 Part Chester Division	
E.D. 406 Part Chester Division	
Great Falls Division	
Lancaster Division	
Richburg Division	

PRIMARY CARE: South Carolina—Continued

Service Area Listing

Service area name	Degree of shortage group
Richland	02
County—Richland:	
Parts of county:	
C.T. 118	
C.T. 119.02	
C.T. 120	
Sea Island	01
County—Charleston:	
Parts of county:	
C.T. 19.01	
C.T. 19.02	
C.T. 20.01	
C.T. 20.02	
C.T. 20.03	
C.T. 20.04	
C.T. 21.01	
C.T. 21.02	
C.T. 22–25	
St. Helena	02
County—Beaufort:	
Parts of county:	
St. Helena	
Western York Co	01
County—York:	
Parts of county:	
C.T. 14–16	
C.T. 17 (E.D. 9 Part)	
C.T. 19	

PRIMARY CARE: South Carolina

Facility Listing

Facility	Degree of shortage group
Central Correctional Inst	02
County—Richland	
Kirkland Correctional Inst	03
County—Richland	
Manning Correctional Inst	02
County—Richland	
Women's Correctional Inst	02
County—Richland	

PRIMARY CARE: South Dakota

County Listing

County name	Degree of shortage group
Aurora	01
Bennett	02
Service area: Martin (S.D./Neb.)	
Bon Homme	03
Brule	02
Service area: Chamberlain	
Buffalo	01
Service area: Buffalo/Jerauld	
Campbell	01
Charles Mix:	
Service area: Lake Andes	02
Clarke	01
Corson	01
Custer	01
Day	02
Deuel:	
Service area: Canby (S.D./Minn.)	04
Service area: Deuel	01
Dewey	01
Douglas	02
Edmunds	01
Fall River:	
Service area: Edgemont	02
Faulk	05
Grant	04
Gregory:	
Service area: Lake Andes	02
Haakon	01
Service area: Philip	
Hamlin	01

PRIMARY CARE: South Dakota—Continued

County Listing

County name	Degree of shortage group
Hanson	01
Harding	01
Hyde	01
Jackson:	
Service area: Martin (S.D./Neb.)	02
Service area: Philip	01
Jerauld	01
Service area: Buffalo/Jerauld	
Jones	01
Lincoln	04
Service area: Turner/Lincoln	
Facility: South Dakota State Penitentiary	02
Lyman	02
Service area: Chamberlain	
McCook	03
McPherson	01
Marshall	01
Meade	04
Mellette	01
Miner	02
Minnehaha:	
Population Group: Med Ind Pop. of Minnehaha	01
Moody	01
Pennington:	
Service area: Philip	01
Perkins	01
Roberts	01
Sanborn	01
Shannon	01
Spink:	
Facility: Redfield State Hospital & School	01
Stanley	01
Sully	01
Todd	01
Tripp	03
Turner	04
Service area: Turner/Lincoln	
Union:	
Service area: Akron (S. Dakota/Iowa)	04
Washabaugh	01
Yankton:	
Facility: Human Services Center	03
Ziebach	01

PRIMARY CARE: South Dakota

Service Area Listing

Service area name	Degree of shortage group
Akron (S. Dakota/Iowa)	04
County—Union:	
Parts of county:	
Alcester (Pt)	
Elkford (Pt)	
Elk Point (Pt)	
Jefferson (Pt)	
Sioux Valley (Pt)	
Spink (Pt)	
Buffalo/Jerauld	01
County—Buffalo	
County—Jerauld	
Canby (S.D./Minn.)	04
County—Deuel:	
Parts of county:	
Garry City	
Glenwood Town	
Herrick Town	
Chamberlain	02
County—Brule	
County—Lyman	
Deuel	01
County—Deuel:	
Parts of county:	
Altamont Town	
Altamont Twnshp	
Antelope Valley Twnshp	
Astoria Town	
Blom Twnshp	
Brandt Town	
Brandt Twnshp	
Clear Lake City	
Clear Lake Twnshp	
Glenwood Twnshp	
Goodwin Town	
Goodwin Twnshp	
Grange Twnshp	
Havana Twnshp	
Hidewood Twnshp	
Lowe Twnshp	
Portland Twnshp	
Rome Twnshp	
Scandinavia Twnshp	
Toronto Twnshp	
Edgemont	02
County—Fall River:	
Parts of county:	
Argentine Twp	
Cottonwood Twp	
Dudley Twp	
Edgemont City	
Provo Twp	
Unorganized Terr.	
Lake Andes	02
County—Charles:	
Parts of county:	
Lake Andes City	
Dante Twp	
Geddes City	
Kennedy Twp	
White Swan Twp	
Plain Center Twp	
Wagner City	
Choteau Creek Twp	
Highland Twp	
Lawrence Twp	
Wahehe Twp	
Hamilton Twp	
Signal Twp	
Rhoda Twp	
Moore Twp	
Jackson Twp	
Goose Lake Twp	
Howard Twp	
Lone Tree Twp	
Ree Twp	
Rouse Twp	
County—Gregory:	
Parts of county:	
Fairfax Twp	
Pleasant Valley Twp	
Whetstone Twp	
Schriever Twp	
Star Valley Twp	
Unorg. Terr. S. E. Gregory	
St. Charles Twp	
Unorg. Terr. E. Gregory	
Elston Twp	
Martin (S. Dakota/Neb.)	02
County—Bennett	
County—Jackson:	
Parts of county:	
S. Jackson Co. (Formerly Washabaugh)	
Philip	01
County—Haakon	
County—Jackson:	
Parts of county:	
Unorg. Terr. of NW Jackson	
Unorg. Terr. of E. Jackson	
Unorg. Terr. of Brady	
Grandview Twp	
Jewett Twp	
Cottonwood Twp	
Indian Creek Twp	
Big Buffalo Twp	
Little Buffalo Twp	
Kadoka City	
Kadoka Twp	
Belvidere Twp	
Belvidere Town	
County—Pennington:	
Parts of county:	
Peno Twp	
Cowanka Twp	
Wasta Twp	
Lake Flat Twp	
Lake Hill Twp	
Lake Creek Twp	
Consta Twp	
Wall Town	
Quinn Twp	
Imley Twp	

PRIMARY CARE: South Dakota—Continued

Service Area Listing

Service area name	Degree of shortage group
Wasta Town	
Quinn Town	
Unorg. Terr. of N. E. Pennington	
Unorg. Terr. of Delzell Canyon	
Unorg. Terr. of Badlands	
Flat Butte Twp	
Cheyenne Twp	
Rainy Creek Twp	
Sunnyside Twp	
Ash Twp	
Shyne Twp	
Crooked Creek Twp	
Castle Butte Twp	
Cedar Butte Twp	
Turner—Lincoln	04
County—Lincoln	
County—Turner	

PRIMARY CARE: South Dakota

Population Group Listing

Population Group	Degree of shortage group
Med Ind Pop. of Minnehaha Co	01

PRIMARY CARE: South Dakota

Facility Listing

Facility	Degree of shortage group
Human Services Center	03
County—Yankton	
Redfield State Hosp. & School	01
County—Spink	
South Dakota State Penitentiary	02
County—Lincoln	

PRIMARY CARE: Tennessee

County Listing

County name	Degree of shortage group
Benton	03
Bledsoe	02
Campbell	04
Carter	03
Cheatham	02
Chester	02
Claiborne	03
Clay	04
Cocke	01
Crockett	03
Davidson:	
Population Group: Med Ind Pop. of Dividson	01
Decatur	01
Fayette	02
Fentress	05
Grainger	01
Grundy	02
Hamilton:	
Population Group: Med Ind. Pop. of Alton Pk/Dodson Ave	02
Hancock	04
Hardeman	03
Hardin	02
Service area: Shiloh Pickwick (Tenn/Miss)	
Hawkins	04
Haywood	02
Henderson	04
Hickman	02
Jackson	02
Lake	02

PRIMARY CARE: Tennessee—Continued

County Listing

County name	Degree of shortage group
Lauderdale	04
Loudon	05
McNairy	02
Service area: Shiloh Pickwick (Tenn/Miss)	
Macon	01
Meigs	01
Monroe	03
Morgan	01
Overton	02
Pickett	02
Polk:	
Service area: West Polk	01
Rhea	04
Scott	02
Sevier	04
Stewart	01
Tipton	04
Unicoi	04
Union	01
Van Buren	02
Warren	02
Wayne	02
Weakley	03

PRIMARY CARE: Tennessee

Service Area Listing

Service area name	Degree of shortage group
Shiloh Pickwick (Tenn/Miss)	02
County—Hardin	
County—McNairy	
West Polk	01
County—Polk:	
Parts of county:	
Benton Div. (E.D. 1–4)	
Parksville Div. (E.D. 5–7)	

PRIMARY CARE: Tennessee

Population Group Listing

Population group	Degree of shortage group
Med. Indigent Pop. of Alton Pk/Dodson Ave	02
County—Hamilton:	
Parts of county:	
C.T. 1–4	
C.T. 10–16	
C.T. 18–27	
C.T. 114.01	
C.T. 115	
C.T. 120	
C.T. 121	
Med. Indigent Pop. of Davidson	01
County—Davidson:	
Parts of county:	
C.T. 118–126	
C.T. 128–131	
C.T. 133	
C.T. 135–149	
C.T. 160–164	
C.T. 168–171	

PRIMARY CARE: Texas

County Listing

County name	Degree of shortage group
Anderson:	
Facility: Beto Prison	03
Facility: Coffield Prison	02
Archer	04

PRIMARY CARE: Texas—Continued

County Listing

County name	Degree of shortage group
Armstrong	01
Atascosa	04
Bandera	02
Bee	04
Bexar:	
Service area: East Side (San Antonio)	02
Service area: Southern Rural Bexar (San Antonio)	01
Service area: South Side (San Antonio)	01
Service area: West Side (San Antonio)	01
Blanco	02
Borden	01
Bowie:	
Service area: De Kalb	01
Brazoria:	
Facility: Clemons Prison	03
Facility: Darrington Prison	03
Facility: Ramsey I Prison	02
Facility: Ramsey II Prison	02
Facility: Retrieve Prison	02
Cameron	01
Carson	01
Castro	01
Crane	02
Crosby	04
Culberson	03
Dallas:	
Service area: Fair Park/White Rock Creek	01
Service area: Lisbon	01
Service area: Simpson Stuart	01
Service area: South Dallas	02
Service area: Trinity	01
Service area: West Dallas	01
Population Group: Indian Pop. of Dallas/Ft. Worth	01
Dawson	04
Deaf Smith	04
Dickens	02
Service area: Dickens/King	
Donley	04
Duval	04
Ellis	04
El Paso:	
Service area: Southeast El Paso	02
Service area: South El Paso	03
Fort Bend:	
Facility: Jester II Prison	02
Galveston:	
Service area: Bolivar Penninsula	01
Service area: Highland Bayou	04
Glasscock	01
Gonzales:	
Service area: Nixon	04
Hale:	
Population Group: Mig Pop. of Hale Co	01
Hardin	02
Henderson:	
Service area: Cedar Creek	02
Service area: Trinidad	01
Hidalgo	04
Hockley	04
Houston:	
Facility: Eastham Prison	02
Hudspeth	01
Hunt	04
Jackson	02
Jeff Davis	01
Service Area: Presidio/Jeff Davis	
Jefferson:	
Service area: Beaumont Inner City	01
Service area: Port Arthur Inner City	01
Jim Hogg	02
Kaufman:	
Service area: Cedar Creek	02
King	03
Service area: Dickens/King	
Kleberg	04
La Salle	02
Liberty	04
Lipscomb:	
Service area: Western Oklahoma	03
Live Oak	04
Llano	01
Loving	01
Lubbock:	
Service area: East Lubbock	01
Lynn	01

PRIMARY CARE: Texas—Continued

County Listing

County name	Degree of shortage group
Madison:	
Facility: Ferguson Prison	02
Marion	04
Mason	01
Maverick	03
Medina	04
Mills	04
Service area: San Saba/Mills	
Montgomery	03
Motley	01
Newton	04
Oldham	01
Parmer	01
Polk	04
Presidio	01
Service area: Presidio/Jeff Davis	
Raine	01
Red River:	
Service area: De Kalb	01
Reeves	04
Sabine	03
San Jacinto	01
San Saba	04
Service area: San Saba/Mills	
Sherman	01
Service area: Panhandle (Texas/Oklahoma)	
Smith:	
Service area: Hawkins	01
Starr	02
Tarrant:	
Service area: Far Northside/Diamond Hill	05
Service area: Poly	01
Service area: Stop Six	04
Population Group: Indian Pop. of Dallas/Ft. Worth	01
Terrell	01
Travis:	
Service area: East Austin	03
Trinity	03
Tyler	03
Upshur:	
Service area: Hawkins	01
Upton	02
Val Verde	02
Van Zandt	04
Walker	02
Facility: Diagnostic Prison	03
Facility: Ellis Prison	02
Facility: Gorse Prison	02
Facility: Wynne Prison	02
Waller	01
Ward	03
Webb	02
Willacy	03
Wilson	02
Wood:	
Service area: Hawkins	01
Yoakum	02
Zapata	01
Zavala	02

PRIMARY CARE: Texas

Service Area Listing

Service area name	Degree of shortage group
Beaumont Inner City	01
County—Jefferson:	
Parts of county:	
C.T. 7	
C.T. 8	
C.T. 10	
C.T. 15–19	
Bolivar Penninsula	01
County—Galveston:	
Parts of county:	
C.T. 1–6	
Cedar Creek	02
County—Henderson:	
Parts of county:	
Cedar Creek Lake	
Eustace	

PRIMARY CARE: Texas—Continued

Service Area Listing

Service area name	Degree of shortage group
County—Kaufman:	
Parts of county:	
Kemp-Mabank	
DeKalb	01
County—Bowie:	
Parts of county:	
C.T. 116–117	
County—Red River:	
Parts of county:	
Annona-Avery	
Dickens/King	02
County—Dickens	
County—King	
East Austin	03
County—Travis:	
Parts of county:	
C.T. 8–10	
C.T. 21.02	
East Lubbock	01
County—Lubbock:	
Parts of county:	
C.T. 8–11	
C.T. 12.01	
C.T. 12.02	
East Side (San Antonio)	02
County—Bexar:	
Parts of county:	
C.T. 1301	
C.T. 1303–1313	
Fair Park/White Rock Creek	01
County—Dallas:	
Parts of county:	
C.T. 23	
C.T. 25	
C.T. 26	
C.T. 27.01	
C.T. 27.02	
C.T. 28	
C.T. 93.02	
C.T. 115	
Far Northside/Diamond Hill	05
County—Tarrant	
Parts of county:	
C.T. 2.01	
C.T. 2.02	
C.T. 3	
C.T. 5.01	
C.T. 5.02	
C.T. 50.01	
Hawkins	01
County—Smith:	
Parts of county:	
Winona	
County—Upshur:	
Parts of county:	
Big Sandy	
County—Wood:	
Parts of county:	
Hawkins	
Highland Bayou	04
County—Galveston:	
Parts of county:	
C.T. 1225	
C.T. 1226	
Lisbon	01
County—Dallas:	
Parts of county:	
C.T. 56	
C.T. 57	
C.T. 59.01	
C.T. 59.02	
C.T. 67.01	
C.T. 67.02	
C.T. 68	
Nixon	04
County—Gonzales	
Parts of county:	
CCD 020	
CCD 025	
Panhandle (Texas/Oklahoma)	01
County—Sherman	
Poly	01
County—Tarrant:	
Parts of county:	
C.T. 14.02	
C.T. 15	
C.T. 35	
C.T. 37.01	

PRIMARY CARE: Texas—Continued

Service Area Listing

Service area name	Degree of shortage group
C.T. 37.02	
C.T. 48.04	
Port Aurthur Inner City	01
County—Jefferson:	
Parts of county:	
C.T. 51–53	
C.T. 57–62	
Presidio/Jeff Davis	01
County—Jeff Davis	
County—Presidio	
San Saba/Mills	04
County—Mills	
County—San Saba	
Simpson Stuart	01
County—Dallas:	
Parts of county:	
C.T. 112–113	
C.T. 114.01	
C.T. 114.02	
C.T. 167.01	
C.T. 167.02	
C.T. 169.01	
C.T. 169.02	
South Dallas	02
County—Dallas:	
Parts of county:	
C.T. 29	
C.T. 30	
C.T. 31.02	
C.T. 32.02	
C.T. 33–38	
C.T. 39.01	
C.T. 39.02	
C.T. 40	
South El Paso	02
County—El Paso:	
Parts of county:	
C.T. 17–21	
South Side (San Antonio)	01
County—Bexar:	
Parts of county:	
C.T. 1501	
C.T. 1503–1507	
C.T. 1510	
C.T. 1601–1605	
Southeast El Paso:	02
County—El Paso:	
Parts of county:	
C.T. 39	
C.T. 40	
C.T. 104	
C.T. 105	
Southern Rural Bexar (San Antonio)	01
County—Bexar:	
Parts of county:	
C.T. 1314–1316	
C.T. 1318	
C.T. 1416–1419	
C.T. 1519–1522	
C.T. 1610–1612	
C.T. 1619–1620	
Stop Six	04
County—Tarrant:	
Parts of county:	
C.T. 36.01	
C.T. 36.02	
C.T. 46.01	
C.T. 46.02	
C.T. 46.03	
C.T. 61.01	
C.T. 61.02	
C.T. 62–64	
Trinidad	01
County—Henderson:	
Parts of county:	
Malakoff CCD	
Trinity	01
County—Dallas:	
Parts of county:	
C.T. 41	
C.T. 49	
C.T. 54	
C.T. 55	
C.T. 66	
C.T. 69	
West Dallas	01
County—Dallas:	
Parts of county:	

PRIMARY CARE: Texas—Continued

Service Area Listing

Service area name	Degree of shortage group
C.T. 43	
C.T. 101–106	
West Side (San Antonio)	01
County—Bexar:	
Parts of county:	
C.T. 1606	
C.T. 1607	
C.T. 1701	
C.T. 1703	
C.T. 1704	
C.T. 1707–1712	
C.T. 1715	
C.T. 1716	
Western Oklahoma (Texas/Oklahoma)	03
County—Lipscomb:	
Parts of county:	
Higgins CCD	

PRIMARY CARE: Texas

Population Group Listing

Population group	Degree of shortage group
Indian Pop of Dallas/Ft. Worth	01
County—Dallas	
County—Tarrant	
Migrant Pop. of Hale Co.	01

PRIMARY CARE: Texas

Facility Listing

Facility	Degree of shortage group
Beto Prison	03
County—Anderson	
Clemons Prison	03
County—Brazoria	
Coffield Prison	02
County—Anderson	
Darrington Prison	03
County—Brazoria	
Diagnostic Prison	03
County—Walker	
Eastham Prison	02
County—Houston	
Ellis Prison	02
County—Walker	
Ferguson Prison	02
County—Madison	
Goree Prison	02
County—Walker	
Jester II Prison	02
County—Fort Bend	
Ramsey I Prison	02
County—Brazoria	
Ramsey II Prison	02
County—Brazoria	
Retrieve Prison	02
County—Brazoria	
Wynne Prison	02
County—Walker	

PRIMARY CARE: Utah

County Listing

County name	Degree of shortage group
Carbon	02
Daggett	01
Service Area: Duchesne	01
Emery:	
Service Area: Castle Dale	02

PRIMARY CARE: Utah—Continued

County Listing

County name	Degree of shortage group
Garfield	01
Juab:	
Service Area: Wendover (Utah/Nevada)	01
Millard:	
Service Area: Fillmore	02
Piute	01
Rich	01
Salt Lake:	
Service Area: N.W./Westside Salt Lake	01
San Juan:	
Service Area: Blanding	04
Service Area: Montezuma Crk/Navajo Mtn	01
Sevier	02
Tooele:	
Service Area: Tooele	01
Service Area: Wendover (Utah/Nevada)	01
Uintah	02
Wayne	01
Weber:	
Service Area: Central and West Ogden	02

PRIMARY CARE: Utah

Service Area Listing

Service Area name	Degree of shortage group
Blanding	04
County—San Juan:	
Parts of County:	
Blanding Div.	
Castle Dale	02
County—Emery:	
Parts of County:	
Castle Dale-Huntington Div.	
Emery-Ferron Div. (N. ½)	
Central and West Ogden	02
County—Weber:	
Parts of County:	
C.T. 3	
C.T. 4	
C.T. 10	
C.T. 11	
C.T. 12	
C.T. 18	
C.T. 19	
Duchesne	01
County—Duchesne:	
Parts of County:	
Altamont Div.	
Duchesne Div.	
Tabiona Div.	
Fillmore	02
County—Millard:	
Parts of County:	
Fillmore City	
Holden Twn	
Kanosh Twn	
Meadow Twn	
Scipio Twn	
Unicorp Area (Scipio Div)	
Montezuma Crk/Navajo Mtn	01
County—San Juan:	
Parts of County:	
Navajo Div.	
N.W./Westside Salt Lake	01
County—Salt Lake:	
Parts of County:	
C.T. 1005	
C.T. 1006	
Tooele	01
County—Tooele:	
Parts of County:	
Onaqui Div.	
Tooele-Grantsville Div.	
Wendover (Utah/Nevada)	01
County—Juab:	
Parts of County:	
West Juab Twp	
County—Tooele:	
Parts of County:	
Dugway-Wendover Div (Western Part)	

PRIMARY CARE: Vermont

County Listing

County name	Degree of shortage group
Bennington:	
Service area: Londonderry	03
Caledonia:	
Service area: Hardwick	02
Service area: Northeast Kingdom	04
Essex:	
Service area: Upper Connecticut Valley	03
Service area: Essex	01
Franklin:	
Service area: Richford/Enosburg	04
Grand Isle	02
Lamoille:	
Service area: Hardwick	02
Service area: Northeast Kingdom	04
Orleans:	
Service area: Hardwick	02
Service area: Northeast Kingdom	04
Rutland:	
Service area: Black River Valley	02
Service area: Route 100	01
Service area: Otter Creek Valley	02
Washington:	
Service area: Hardwick	02
Windham:	
Service area: West River Valley	01
Service area: Londonderry	03
Windsor:	
Service area: Black River Valley	02
Service area: Route 100	01
Service area: Londonderry	03

PRIMARY CARE: Vermont

Service Area Listing

Service area name	Degree of shortage group
Black River Valley	02
County—Rutland:	
Parts of county:	
Mt. Holly Town	
County—Windsor:	
Parts of county:	
Cavendish Twn	
Ludlow Twn	
Reading Twn	
Weathersfield Twn	
Essex	01
County—Essex:	
Parts of county:	
Brighton Twn	
Concord Twn	
East Haven Twn	
Ferdinand Twn	
Granby Twn	
Guildhall Twn	
Lewis Twn	
Lunenburg Twn	
Maidstone Twn	
Victory Twn	
Hardwick	02
County—Caledonia:	
Parts of county:	
Danville Twn	
Hardwick Twn	
Peacham Twn	
Walden Twn	
County—Lamoille:	
Parts of county:	
Elmore Twn	
Wolcott Twn	
County—Orleans:	
Parts of county:	
Craftbury Twn	
Greensboro Twn	
County—Washington:	
Parts of county:	
Cabot Twn	
Calais Twn	
E. Montpelier Twn	
Marshfield Twn	
Plainfield Twn	
Woodbury Twn	
Londonderry	03

PRIMARY CARE: Vermont—Continued

Service Area Listing

Service area name	Degree of shortage group
County—Bennington:	
Parts of county:	
Landgrove Town	
Peru Town	
Winhall Town	
County—Windham:	
Parts of county:	
Londonderry Town	
County—Windsor:	
Parts of county:	
Weston Town	
Northeast Kingdom	04
County—Caledonia :	
Parts of county:	
Newark Twp	
County—Lamoille:	
Parts of county:	
Belvidere Twp	
Eden Twp	
County—Orleans:	
Parts of county:	
Albany Twp	
Barton Twp	
Brownington Twp	
Charleston Twp	
Coventry Twp	
Derby Twp	
Glover Twp	
Holland Twp	
Irasburg Twp	
Jay Twp	
Lowell Twp	
Morgan Twp	
Newport City	
Newport Twp	
Troy Twp	
Westfield Twp	
Westmore Twp	
Otter Creek Valley	02
County—Addison:	
Parts of county:	
Bridport Twn	
Leicester Twn	
Orwell Twn	
Shoreham Twn	
Whiting Twn	
County—Rutland:	
Parts of county:	
Brandon Twn	
Hubbardton Twn	
Pittsford Twn	
Sudbury Twn	
Richford-Enosburg	04
County—Franklin:	
Parts of county:	
Bakersfield Twn	
Berkshire Twn	
Enosburg Twn	
Fairfield Twn	
Franklin Twn	
Montgomery Twn	
Richford Twn	
Sheldon Twn	
Route 100	01
County—Rutland:	
Parts of county:	
Granville Twn	
Hancock Twn	
Pittsfield Twn	
County—Windsor:	
Parts of county:	
Rochester Twn	
Stockbridge Twn	
Upper Connecticut Valley (Vermont/N.H.)	03
County—Essex:	
Parts of county:	
Canaan Twn	
Lexington Twn	
Bloomfield Twn	
Brunswick Twn	
Averill Twn	
Norton Twn	
West River Valley	01
County—Windham:	
Parts of county:	
Jamaica Twn	
Rawsone Twn	
Stratton Twn	
Townshend Twn	
Wardsboro Twn	
Windham Twn	

PRIMARY CARE: Virginia

County Listing

County name	Degree of shortage group
Accomack	01
Albemarle:	
Service area: Southern Albemarle	01
Amelia	01
Augusta:	
Service area: Craigsville	01
Bath:	
Service area: Craigsville	01
Bedford:	
Service area: Big Island	01
Bland	01
Botetourt	02
Brunswick	01
Buckingham	01
Service area: Tri-County (Buck/Fluv/Cumb)	
Caroline	02
Carroll:	
Service area: Hillsville	02
Charlotte:	
Service area: Drakes Branch	01
Charles City	01
Craig	02
Cumberland	01
Service area: Tri-County (Buck/Fluv/Cumb)	
Dickenson	03
Elizabeth City:	
Service area: East End	02
Floyd	01
Fluvanna	01
Service Area: Tri-County (Buck/Fluv/Cumb)	
Giles	03
Grayson:	
Service area: Trout Dale/Independence	02
Greene	01
Halifax:	
Service area: Nathalie	01
Hanover	04
Isle of Wight	02
King and Queen	01
King George	03
King William:	
Service area: Northern King William	01
Lee	01
Louisa	02
Lunenburg	01
Madison	02
Middlesex	04
Nelson	02
New Kent	01
Norfolk:	
Service area: Pungo	01
Service area: Norfolk (Area 1)	01
Service area: Norfolk (Area 2)	01
Service area: Norfolk (Area 3)	01
Northampton:	
Service area: Capeville	01
Page	03
Pittsylvania	01
Powhatan	02
Richmond	02
Rockbridge:	02
Service area: Craigsville	01
Russell	01
Scott	03
Smyth:	
Service area: Saltville Medical	02
Southampton:	
Service area: Capron	01
Service Area: Berlin/Ivor	01
Surry	02
Sussex	03
Westmoreland	03
Chesapeake:	
Service area: Southeast Chesapeake	01

PRIMARY CARE: Virginia—Continued

County Listing

County name	Degree of shortage group
Lynchburg:	01
Population group: Low Inc. Pop. of Lynchburg	01

PRIMARY CARE: Virginia

Service Area Listing

Service area name	Degree of shortage group
Berlin-Ivor	01
County—Southhampton:	
Parts of county:	
Berlin-Ivor	
Big Island	01
County—Bedford:	
Parts of county:	
Center Dist. (N. X)	
Jefferson Dist. (N. X)	
Peaks Dist. (N. X)	
Capville	01
County—Northampton:	
Parts of county:	
Capeville Dist.	
Capron	01
County—Southampton:	
Parts of county:	
Capron Dist.	
Drewryville Dist.	
Newsoms Dist.	
Craigsville	01
County—Augusta:	
Parts of county:	
Craigsville Twn.	
Pastures Dist.	
Riverhead Dist. (portion)	
County—Bath:	
Parts of county:	
Millboro Dist. (portion)	
Williamsville Dist. (portion)	
County—Rockbridge:	
Parts of county:	
Goshen Twn	
Kerrs Creek Dist.	
Walkers Creek Dist. (portion)	
Drakes Branch	01
County—Charlotte:	
Parts of county:	
Bacon Dist.	
Central Dist.	
Roanoke Dist.	
East End	02
County—Elizabeth City:	
Parts of county:	
C.T. 302-308	
Hillsville	02
County—Carroll:	
Parts of county:	
Laurel Fork Dist.	
Hillsville Town	
Fancy Gap Town	
Nathalie	01
County—Halifax:	
Parts of county:	
Meadville Dist.	
Staunton Dist.	
Norfolk Area 1	01
County—Norfolk:	
Parts of county:	
C.T. 32-38	
C.T. 60-61	
Norfolk Area 2	01
County—Norfolk:	
Parts of county:	
C.T. 34	
C.T. 35.01	
C.T. 35.02	
Norfolk Area 3	01
County—Norfolk:	
Parts of county:	
C.T. 50	
C.T. 52-53	
Northern King William	01
County—King William	
Parts of county:	

PRIMARY CARE: Virginia—Continued

Service Area Listing

Service area name	Degree of shortage group
Mongohick Dist.	
Acquilon Dist.	
Pungo	01
County—Norfolk:	
Parts of county:	
Blackwater Boro.	
Pungo Boro.	
Saltville	02
County—Smyth:	
Parts of county:	
North Fork Dist.	
Saltville Dist.	
Southeast Chesapeake	01
County—Chesapeake:	
Parts of county:	
C.T. 210.02	
C.T. 211	
C.T. 212	
Southern Albemarle	01
County—Albemarle:	
Parts of county:	
Scottsville Dist.	
Tri-County	01
County—Buckingham	
County—Cumberland	
County—Fluvanna	
Trout Dale/Independence	02
County—Grayson:	
Parts of county:	
Elk Creek Dist.	
Wilson Creek Dist.	

PRIMARY CARE: Virginia

Population group	Degree of shortage group
Low Income Pop. of Lynchburg City	01

PRIMARY CARE: Washington

County Listing

County name	Degree of shortage group
Adams:	
Service area: Othello	02
Population group: Mig Pop. of Grant/Adams	02
Benton:	
Population group: Mig/Seas Farmworkers	01
Chelan:	
Population group: Service area: Mig Pop. of Chelan/Douglas	01
Clallam:	
Service area: Forks	03
Facility: Washington St. Correctional Institution	03
Clark:	
Facility: Washington St. Correctional Institution	03
Columbia:	
Population group: Mig Pop. of Columbia/Walla Walla	01
Cowlitz:	
Service area: Cowlitz/Lewis	01
Service area: Ryderwood	01
Douglas:	
Service area: Grand Coulee	01
Population group: Mig Pop. of Chelan/Douglas	01
Franklin:	
Population group: Mig/Seas Farmworkers	01
Grant:	
Service area: Grand Coulee	01
Service area: Othello	02
Population group: Mig Pop. of Grant/Adams	02
Grays Harbor	03
Jefferson:	
Service area: Forks	03
King:	
Service area: Pike Market	04
Service area: Seattle-Central	03
Service area: South Seattle	03
Facility: Seattle & King Co. Jails	02
Facility: Washington St. Correctional Institution	03
Kittitas:	
Service area: Cle Elum	03
Klickitat	04
Lewis:	
Service area: Cowlitz/Lewis	01
Service area: Packwood	03
Mason:	
Service area: Grand Coulee	01
Facility: Washington St. Correctional Institution	03
Okanogan:	
Service area: Grand Coulee	01
Service area: Oroville	01
Population group: Mig Pop. of Okanogan Valley	01
Pacific:	
Service area: Naselle/Grays River	01
Service area: Raymond/South Bend	02
Pend Oreille	02
Pierce:	
Service area: Longbranch	01
Population group: Low Inc/Elderly Pop. of Orting	01
Population group: Med Ind Pop. of Pierce	01
San Juan	04
Skagit:	
Service area: Concrete	01
Population group: Mig Pop. of Whatcom/Skagit	04
Skamania	02
Snohomish:	
Service area: Darrington	01
Population group: Tulalip Tribe of Snohomish Co.	01
Facility: Washington St. Correctional Institution	03
Spokane:	
Service area: Medical Lake	01
Population group: Indian Pop. of Spokane Co.	01
Stevens:	
Service area: Chewelah	02
Wahkiakum:	
Service area: Naselle/Grays River	01
Walla Walla:	
Population group: Mig Pop. of Columbia/Walla Walla	01
Facility: Washington St. Correctional Institution	03
Whatcom:	
Population group: Mig Pop. of Whatcom/Skagit	04
Yakima:	
Population group: Mig Pop. of Lower Yakima Valley	02

PRIMARY CARE: Washington

Service Area Listing

Service area name	Degree of shortage group
Chewelah	02
County—Stevens:	
Parts of county:	
CCD #4	
CCD #5	
E.D. 25 (CCD #6)	
E.D. 26 (CCD #6)	
Cle Elum	03
County—Kittitas:	
Parts of county:	
Division 2-6	
Concrete	01
County—Skagit:	
Parts of county:	
Div. 1	
Div. 2	
Cowlitz/Lewis	01
County—Cowlitz:	
Parts of county:	
C.T. 1-3	
County—Lewis:	
Parts of county:	
C.T. 10	
Darrington	01
County—Snohomish:	
Parts of county:	
C.T. 537	
Forks	03
County—Clallam:	
Parts of county:	
Div. 5	
Div. 6	
County—Jefferson:	
Parts of county:	
Div. 4	
Div. 5	
Grand Coulee	01
County—Douglas:	
Parts of county:	
Coulee Dam	
County—Grant:	
Parts of county:	
Div. 1	
Div. 2	
County—Lincoln:	
Parts of county:	
Div. 6	
County—Okanogan:	
Parts of county:	
Div. 16	
Longbranch	01
County—Pierce:	
Parts of county:	
C.T. 728 (E.D. 39/39A)	
Medical Lake	01
County—Spokane:	
Parts of county:	
E.D. 359 (Rural)	
Medical Lake Twn	
Naselle/Grays River	01
County—Pacific:	
Parts of county:	
Division 7 (Naselle CCD)	
County—Wahkiakum:	
Parts of county:	
Division 3 (Grays River)	
Oroville	01
County—Okanogan:	
Parts of county:	
Division 1-4	
Division 11	
Othello	02
County—Adams:	
Parts of county:	
Div. 4 (Southern ½)	
Div. 5	
Div. 8 (Western ½)	
Div. 9	
Div. 10	
County—Grant:	
Parts of county:	
Div. 14	
Div. 16	
Div. 17	
Packwood	03
County—Lewis:	
Parts of county:	
C.C.D. #1	
Pike Market	04
County—King:	
Parts of county:	
C.T. 71	
C.T. 72	
C.T. 80-83	
Raymond/South Bend	02
County—Pacific:	
Parts of county:	
Division 1-4	
Raymond Div.	
Ryderwood	01
County—Cowlitz:	
Parts of county:	
Div. 3	
Seattle-Central	03
County—King:	
Parts of county:	
C.T. 73-79	
C.T. 86-87	
C.T. 90-92	

PRIMARY CARE: Washington—Continued

Service Area Listing

Service area name	Degree of shortage group
South Seattle	03
County—King:	
Parts of county:	
C.T. 100	
C.T. 101	
C.T. 103–112	

PRIMARY CARE: Washington

Population Group Listing

Population group	Degree of shortage group
Indian Pop. of Spokane Co	01
Migrant Pop. of Chelan/Douglas	01
Low-Inc./Elderly Pop. of Orting	01
County—Pierce:	
Migrant Pop. of Lower Yakima Valley	02
County—Yakima:	
Med. Indigent Pop. of Pierce	01
County—Pierce:	
Parts of County:	
Buckley Div. (Med. Ind.)	
Eatonville Div. (Med. Ind.)	
Edgemont Div. (Med. Ind.)	
Fife Div. (Med. Ind.)	
Ft. Lewis/Dupont Div. (Med. Ind.)	
Gig Harbor Penin Div. (Med. Ind.)	
Graham-Thrift Div. (Med. Ind.)	
Lakewood Div. (Med. Ind.)	
Lower Penninsula Div. (Med. Ind.)	
Midland-Summit Div. (Med. Ind.)	
Mt. Ranier Div. (Med. Ind.)	
Parkland Div. (Med. Ind.)	
Puyallup Div. (Med. Ind.)	
Roy Div. (Med. Ind.)	
Spanaway Div. (Med. Ind.)	
Bonney Lake Twn. (Med. Ind.)	
Sumner City (Med. Ind.)	
Tekoma Div. (Med. Ind.)	
University Place Div. (Med. Ind.)	
Migrant Pop. of Columbia/Walla Walla	01
Mig/Seas Farmworkers of Benton/Franklin	01
Migrant Pop. of Grant/Adams	02
Migrant Pop. of Okanogan Co	01
Tulalip Tribe of Snohobish Co	01
Migrant Pop. of Whatcom/Skagit	04

PRIMARY CARE: Washington

Facility Listing

Facility	Degree of shortage group
Seattle and King Co. Jails	02
Washington St. Correctional Institutions	03
County—Clallam:	
Parts of County:	
Forks (Clearwater Corrections Center)	
County—Clark:	
Parts of County:	
Yacolt (Larch Corrections Center)	
County—King:	
Parts of County:	
Seattle (Firland Correctional Center)	
County—Mason:	
Parts of County:	
Shelton (Washington Corrections Center)	
County—Snohomish:	
Parts of County:	
Monroe (Washington State Reformatory)	
County—Walla Walla:	
Parts of County:	
Walla Walla (Wa. St. Pen./Ment. Health Unit)	

PRIMARY CARE: West Virginia

County Listing

County name	Degree of shortage group
Boone	03
Braxton	01
Cabell:	
Service Area: Cabell	01
Calhoun	03
Clay	01
Doddridge	01
Fayette:	
Service Area: Fayetteville	01
Gilmer	01
Grant:	
Service Area: Mt. Storm	01
Service Area: Moorefield	04
Greenbrier:	
Service Area: Greenbrier/Pocahontas	04
Hampshire:	
Service Area: Baker	02
Service Area: Moorefield	04
Service Area: Capon Bridge	01
Hancock:	
Service Area: Capon Bridge	01
Service Area: East Liverpool (Ohio/Penn./W. Va.)	02
Hardy:	
Service Area: Baker	02
Service Area: Moorefield	04
Harrison:	
Service Area: Stinnston	02
Jackson	03
Jefferson	01
Kanawha:	
Service Area: Kanawha	01
Lewis	01
Lincoln	01
Logan:	
Service Area: Man	03
Service Area: Chapmanville	02
McDowell	02
Marion:	
Service Area: Farmington	02
Marshall:	
Service Area: Cameron	01
Facility: West Virginia Penitentiary	02
Mason:	
Service Area: Mason	01
Mercer:	
Service Area: Mercer	01
Mineral:	
Service Area: Moorefield	04
Service Area: Cabin Run	03
Mingo:	
Service Area: Mingo	01
Service Area: Man	03
Monongalia:	
Service Area: Blacksville	01
Monroe	01
Morgan	02
Nicholas	04
Pendleton	01
Pleasants:	
Service Area: Jefferson	01
Pocahontas:	
Service Area: Greenbrier/Pocahontas	04
Preston	01
Putnam:	
Service Area: Teays Valley	02
Raleigh:	
Service Area: Northwest	01
Service Area: Mountaineer	01
Service Area: Gulf	01
Randolph:	
Service Area: Middlefork	01
Facility: Huttonsville Correctional Ctr	02
Ritchie	01
Taylor	01
Tucker	04
Tyler:	
Service Area: Tyler	01
Upshur:	
Service Area: Middlefork	01
Wayne	01
Webster	02
Wetzel	03
Wirt	01
Wyoming	01

PRIMARY CARE: West Virginia

Service Area Listing

Service area name	Degree of shortage group
Baker	02
County—Hampshire:	
Parts of county:	
Capon Dist.	
Romney Dist. (Southern ½)	
Sherman Dist.	
County—Hardy:	
Parts of county:	
Capon Dist.	
Lost River Dist.	
Blacksville	01
County—Monongalia:	
Parts of county:	
Clay	
Bathalie	
Cabell	01
County—Cabell:	
Parts of county:	
McComas	
Union	
Barboursville	
Grant	
Guyandotte	
Cabin Run	03
County—Mineral:	
Parts of county:	
Frankfurt	
Cabin Run	
Cameron	01
County—Marshall:	
Parts of county:	
Cameron	
Capon Bridge	01
County—Hampshire:	
Parts of county:	
Bloomery	
Capon	
Sherman	
Gore	
Chapmanville	02
County—Logan:	
Parts of county:	
Guyan	
East Liverpool (W. Va./Penn./Ohio)	02
County—Hancock:	
Parts of county:	
Grant District	
Farmington	02
County—Marion:	
Parts of county:	
Lincoln District	
Fayetteville	01
County—Fayette:	
Parts of county:	
Fayetteville	
Falls	
Quinnimont	
Sewell Mountain	
Nuttall	
Mountain Cove	
Greenbrier-Pocahontas	04
County—Greenbrier:	
Parts of county:	
Anthony Creek	
Falling Springs	
Frankford	
Williamsburg	
County—Pocahontas:	
Parts of county:	
Little Levels	
Gulf	01
County—Raleigh:	
Parts of county:	
Trap Hill Mod	
Slab Fork Mod	
Jefferson	01
County—Pleasants:	
Parts of county:	
Grant	
Jefferson	
Lafayette	
McKim	
Union	
Kanawha	01
County—Kanawha:	
Parts of county:	
Big Sandy	
Poca	

PRIMARY CARE: West Virginia—Continued

Service Area Listing

Service area name	Degree of shortage group
Cabin Creek	
Malden	
Chesapeake Town	
Marmet Town	
Washington	
Union	
Washington	
Ella	
Man	03
County—Logan	
Parts of county:	
Logan Dist. (Southern Part)	
Trasleiphia Dist.	
County—Mingo:	
Parts of county:	
Stafford Dist. (Northeastern Part)	
Mason	01
County—Mason:	
Parts of county:	
Arbuckle	
Clendenin	
Cologne	
Copper	
Graham	
Hannan	
Robinson	
Union	
Waggener	
Mercer	01
County—Mercer:	
Parts of county:	
Jumping Branch	
Plymouth	
Rock	
Middlefork	01
County—Randolph:	
Parts of county:	
Middlefork	
County—Upshur	
Parts of county:	
Meade	
Banks	
Mingo	01
County—Mingo:	
Parts of county:	
Harvey	
Hardee	
Kermit	
Magnolia	
Lee	
Moorefield	04
County—Grant:	
Parts of county:	
Grant Dist.	
Milroy Dist.	
Petersburg Twn	
County—Hampshire:	
Parts of county:	
Mill Creek Dist (Southern ½)	
Romney Dist (Southwest ½)	
County—Hardy:	
Parts of county:	
Moorefield Dist.	
Moorefield Twn	
South Fork Dist.	
County—Mineral:	
Parts of county:	
Welton Dist.	
Mountaineer	01
County—Raleigh:	
Parts of county:	
Shady Spring Mod	
Richmond Mod	
Mt Storm	01
County—Grant:	
Parts of county:	
Union	
Northwest	01
County—Raleigh:	
Parts of county:	
Clear Fork Mod	
Marsh Fork Mod	
Shinneston	02
County—Harrison:	
Parts of county:	
Clay District	
Eagle District	
Tesye Valley	02

PRIMARY CARE: West Virginia—Continued

Service Area Listing

Service area name	Degree of shortage group
County—Putnam:	
Parts of county:	
Scott District	
Teays Valley District	
Tyler	01
County—Tyler:	
Parts of county:	
Centreville	
Ellsworth	
Mc Elroy	
Meade	
Union	

PRIMARY CARE: West Virginia

Facility Listing

Facility	Degree of shortage group
Hellamsville Corr. Center	02
County—Randolph	
West Virginia Penitentiary	02
County—Marshall	

PRIMARY CARE: Wisconsin

County Listing

County name	Degree of shortage group
Adams	03
Ashland:	
Service area: Park Falls/Phillips	02
Bayfield:	
Service area: Cable/Hayward	02
Brown:	
Service area: Pulaski	01
Facility: Wisconsin State reformatory	02
Buffalo:	
Service area: Durand/Mondovi	02
Service area: Whitehall/Arcadia	01
Burnett	02
Calumet	04
Clark	02
Crawford:	
Service area: Kickapoo Valley	01
Dane:	
Service area: Ft. Atkinson	04
Dodge:	
Service area: Waupun	04
Facility: Wisconsin Correctional Institution	02
Facility: Wisconsin State Prison	02
Door:	
Service area: Northern Door	02
Douglas:	
Service area: Minong	02
Dunn:	
Service area: Durand/Mondovi	02
Eau Claire:	
Service area: Osseo	02
Fond Du Lac:	
Service area: Waupun	04
Grant	04
Green Lake:	
Service area: Waupun	04
Iowa	04
Iron:	
Service area: Park Falls/Phillips	02
Jackson:	
Service area: Osseo	02
Service area: Sparta	02
Jefferson:	
Service area: Ft. Atkinson	04
Service area: Whitewater	02
Juneau:	
Service area: Hillsboro	02
Lafayette	02
Langlade:	
Service area: Elcho	02

PRIMARY CARE: Wisconsin—Continued

County Listing

County name	Degree of shortage group
Lincoln:	
Service area: Athens	01
Service area: Tomahawk	04
Facility: Lincoln Hills School	02
Manitowoc:	
Service area: Reedsville	01
Marathon:	
Service area: Athens	01
Service area: Birnamwood	01
Service area: Edgar	03
Service area: Tigerton	02
Marinette:	
Service area: Pound	01
Menominee	01
Milwaukee:	
Service area: Inner city north (Milwaukee)	01
Service area: Inner city south (Milwaukee)	03
Population group: Med Ind Pop. of Milwaukee (Area 1)	01
Population group: Med Ind Pop. of Milwaukee (Area 2)	03
Monroe:	
Service area: Hillsboro	02
Service area: Sparta	02
Oconto:	
Service area: Mountain	04
Service area: Oconto Falls	03
Service area: Pulaski	01
Oneida:	
Service area: Elcho	02
Service area: Tomahawk	04
Pepin:	
Service area: Durand/Mondovi	02
Pierce:	
Service area: Durand/Mondovi	02
Portage:	
Service area: Amherst/Iola	02
Service area: Tigerton	02
Price:	
Service area: Park Falls/Phillips	02
Service area: Tomahawk	04
Racine:	
Service area: Racine City	04
Population Group: Med Ind Pop. of Racine	04
Richland:	
Service area: Hillsboro	02
Service area: Kickapoo Valley	01
Sauk:	
Service area: Hillsboro	02
Sawyer:	
Service area: Cable/Hayward	02
Service area: Park Falls/Phillips	02
Shawano:	
Service area: Birnamwood	01
Service area: Oconto Falls	03
Service area: Pulaski	01
Service area: Tigerton	02
Sheboygan:	
Facility: Kettle Moraine Correctional Institution	02
Taylor	03
Trempealeau:	
Service area: Whitehall/Arcadia	01
Service area: Osseo	02
Vernon:	
Service area: Western Vernon County	04
Service area: Kickapoo Valley	01
Service area: Hillsboro	02
Walworth:	
Service area: Whitewater	02
Washburn:	
Service area: Cable/Hayward	02
Service area: Minong	02
Washakia:	
Facility: Ethan Allen School	02
Waupaca:	
Service area: Amherst/Iola	02
Service area: Tigerton	02
Waushara	03

PRIMARY CARE: Wisconsin

Service Area Listing

Service area name	Degree of shortage group
Amherst/Iola	02
County—Portage:	
Parts of county:	
Amherst Junction Vil.	
Amherst Twn	
Amherst Vil.	
Nelsonville Vil.	
County—Waupaca:	
Parts of county:	
Helvetia Twn	
Iola Twn	
Iola Vil.	
Scandinavia Twn (Pt)	
St. Lawrence Twn (Pt)	
Athens	01
County—Lincoln:	
Parts of county:	
Corning Twn	
County—Marathon:	
Parts of county:	
Athens City	
Bein Twn	
Halsey Twn	
Hamburg Twn	
Johnson	
Reitbrock Twn (Part)	
Birnamwood	01
County—Marathon:	
Parts of county:	
Norrie Town	
Porter Town	
Hatley Village	
County—Shawano:	
Parts of county:	
Birnamwood Village	
Birnamwood Town	
Eland Village	
Almon Town	
Anima Town	
Anima Village	
Hutchins Village	
Cable/Hayward	02
County—Bayfield:	
Parts of county:	
Barnes Twn (S. ½)	
Cable Twn	
Cable Vil.	
Drummond Twn (S. ½)	
Grandview Twn	
Namakagon Twn	
County—Sawyer:	
Parts of county:	
Brass Lake Twn	
Couderay Twn	
Couderay Vil.	
Hayward Twn	
Hayward Vil.	
Hunter Twn	
Lenroot Twn	
Ojibwa Twn	
Radisson Twn	
Radisson Vil.	
Round Lake Twn	
Sand Lake Twn	
Spider Lake Twn	
County—Washburn:	
Parts of county:	
Bass Lake	
Stinnett Twn	
Stone Lake Twn	
Durand/Mondovi	02
County—Buffalo:	
Parts of county:	
Alma City	
Alma Town	
Belvidere Town	
Buffalo City	
Canton Town	
Cochrane Vil	
Dover Town	
Gilmanton Town	
Lincoln Town	
Maxville Town	
Modena Town	
Mondovi City	
Mondovi Town	
Montana Town	
Naples Town	

PRIMARY CARE: Wisconsin—Continued

Service Area Listing

Service area name	Degree of shortage group
Nelson Town	
Nelson Vil	
County—Dunn:	
Parts of county:	
Eau Galle Town	
County—Pepin	
County—Pierce	
Parts of county:	
Bay City Vil	
Isabella Town	
Maiden Rock Town	
Maiden Rock Vil	
Plum City Vil	
Union Town	
Edgar	03
County—Marathon:	
Parts of county:	
Edgar City	
Reitbrock Twn (S. Part)	
Wein Twn	
Rib Falls Twn	
Cassel Twn	
Fenwood City	
Elcho	02
County—Langlade:	
Parts of county:	
Ainsworth Twn	
Elcho Twn	
Parrish Twn	
Summit Twn	
Upham Twn	
County—Oneida:	
Parts of county:	
Enterprise Twn	
Monico Twn (Part)	
Schopeke Twn	
Ft. Atkinson	
County—Dane:	
Parts of county:	
Cambridge Vil.	
Christiana Twn	
County—Jefferson:	
Parts of county:	
Aztalan Twn	
Cambridge Vil	
Farmington Twn	
Ft. Atkinson City	
Hebron Twn	
Jefferson Twn	
Jefferson City	
Koskkonong Twn	
Lake Mills City	
Lake Mills Twn	
Oakland Twn	
Sullivan Twn	
Sullivan Vil.	
Summer Twn	
Hillsboro	02
County—Juneau:	
Parts of county:	
Wonewoc Twn	
Wonewoc Vil.	
County—Monroe:	
Parts of county:	
Cashton Vil.	
Glendale Twn	
Jefferson Twn	
Kendall Vil.	
Sheldon Twn	
Wellington Twn	
County—Richland:	
Parts of county:	
Bloom Twn	
Henrietta Twn	
Westford Twn	
Yuba Vil.	
County—Sauk:	
Parts of county:	
La Valle Twn	
Woodland Twn	
County—Vernon:	
Parts of county:	
Clinton Twn	
Forest Twn	
Greenwood Twn	
Hillsboro City	
Hillsboro Twn	
Ontario Village	

PRIMARY CARE: Wisconsin—Continued

Service Area Listing

Service area name	Degree of shortage group
Stark Twn	
Union Twn	
Whitestown Twn	
Inner City North (Milwaukee)	01
County—Milwaukee:	
Parts of county:	
C.T. 63–72	
C.T. 79–89	
C.T. 97–107	
C.T. 112–122	
C.T. 138–142	
Inner City South (Milwaukee)	03
County—Milwaukee:	
Parts of county:	
C.T. 155–171	
Kickapoo Valley	01
County—Crawford:	
Parts of county:	
Haney	
Bell Center	
Days Mills	
Scott	
Clayton	
Soldiers Grave Village	
St. Sterling Village	
Utica	
County—Richland:	
Parts of county:	
Viola	
Sylvan	
Forest	
County—Vernon:	
Parts of county:	
Wester	
Liberty	
Viola	
Kickapoo	
Readstown	
Stark	
Lafarge	
Minong	02
County—Douglas:	
Parts of county:	
Dairyland Twn	
Gordon Twn	
Solon Springs Twn	
Solon Springs Village	
Wascott Twn	
County—Washburn:	
Parts of county:	
Frog Creek Twn	
Minong Twn	
Minong Village	
Mountain	01
County—Oconto:	
Parts of county:	
Townsend	
Lakewood	
Doty	
Riverview	
Armstrong	
Breed	
Bagley	
Brazeau	
Northern Door	02
County—Door:	
Parts of county:	
Baileys Harbor Twn	
Gibraltar Twn	
Liberty Grove Twn	
Sister Bay Vil	
Washington Twn	
Oconto Falls	03
County—Oconto:	
Parts of county:	
Abrams Twn (Western ½)	
Gillett City	
Gillett Twn	
How Twn	
Lena Twn	
Lena Village	
Maple Valley Twn	
Morgan Twn	
Oconto Falls City	
Oconto Falls Twn	
Spruce Twn	
Stiles Twn (Western ½)	
Suring Village	

PRIMARY CARE: Wisconsin—Continued

Service Area Listing

Service area name	Degree of shortage group
Underhill Twn	
County—Shawano:	
Parts of county:	
Green Valley Twn	
Osseo	02
County—Eau Claire:	
Parts of county:	
Augusta Twn	
Clear Creek Twn	
Fairchild Twn	
Fairchild Village	
County—Jackson:	
Parts of county:	
Cleveland Twn	
Garfield Twn	
Northfield Twn	
County—Trempealeau:	
Parts of county:	
Hale	
Osseo City	
Pigeon Twn	
Pigeon Falls Village	
Strum Twn	
Sumner Twn	
Unity Twn	
Park Falls/Phillips	02
County—Ashland:	
Parts of county:	
Agend Twn	
Butternut Village	
Chippewa Twn	
Gordon Twn	
Jacobs Twn	
Peeksville Twn	
Shamagolden Twn	
County—Iron:	
Parts of county:	
Sherman Twn	
County—Price:	
Parts of county:	
Catawba Twn & Village	
Eisenstein Twn	
Elk Twn	
Emery Twn	
Fifield Twn	
Flambeau Twn	
Georgetown Twn	
Hackett Twn	
Harmony Twn	
Lake Twn	
Park Falls City	
Phillips City	
Worcester Twn	
Kennan Twn	
Kennan Vil.	
Ogema Twn	
Prentice Twn (West ½)	
Prentice Vil.	
County—Sawyer:	
Parts of county:	
Draper Twn	
Winter Twn	
Pound	01
County—Marinette:	
Parts of county:	
Beaver Twn	
Coleman Village	
Grover Twn	
Lake Twn	
Pound Twn	
Pound Village	
Stephenson Twn	
Pulaski	01
County—Brown:	
Parts of county:	
Pulaski Village	
Pittsfield Twn	
County—Oconto:	
Parts of county:	
Chase Town	
County—Shawano:	
Parts of county:	
Angelica Town	
Maple Grove Town	
Racine (City)	04
County—Racine:	
Parts of county:	
C.T. 2–5	

PRIMARY CARE: Wisconsin—Continued

Service Area Listing

Service area name	Degree of shortage group
Reedsville	01
County—Manitowoc:	
Parts of county:	
Cooperstown Town	
Cato Town	
Rockland Town	
Franklin Town	
Maple Grove Town	
Reedsville Village	
Whitelaw Village	
Maribel Village	
Sparta	02
County—Jackson:	
Parts of county:	
Melrose Town	
Melrose Village	
County—Monroe:	
Parts of county:	
Angelo Town	
Lafayette Town	
Leon Town	
Little Falls Town	
New Lyme Town	
Norwalk Village	
Ridgeville Town	
Sheldon Town	
Sparta Town	
Sparta City	
Wells Town	
Tigerton	02
County—Marathon:	
Parts of county:	
Elderon Village	
Elderon Town	
Franzen Town	
County—Portage:	
Parts of county:	
Rosholt Village	
Alban Town	
County—Shawano:	
Parts of county:	
Whittenberg Village	
Tigerton Village	
Bowler Village	
Bartelme	
Wittenberg Town	
Morris Town	
Seneca Town	
Germania Town	
Fairbanks Town	
Grant Town	
County—Waupaca:	
Parts of county:	
Big Falls Village	
Wyoming Town	
Harrison Town	
Dupont Town	
Marion Village	
Tomahawk	04
County—Lincoln:	
Parts of county:	
Bradley Town	
King Town	
Harrison Town	
Skanawan Town	
Somo Town	
Tomahawk Town	
Tomahawk City	
Wilson Town	
County—Oneida:	
Parts of county:	
Lynne Town	
Little Rice Town	
Nokonus Town	
County—Price:	
Parts of county:	
Knox Town	
Hill Town	
Prentice Twn (Eastern ½)	
Spirit Twn	
Waupun	04
County—Dodge:	
Parts of county:	
Chester Twn	
Leroy Twn	
Trenton Twn	
Waupun City	

PRIMARY CARE: Wisconsin—Continued

Service Area Listing

Service area name	Degree of shortage group
County—Fond du Lac	
Parts of county:	
Alto Twn	
Waupun Twn	
Waupun City	
County—Green Lake:	
Parts of county:	
Kingston Twn	
Mackford Twn	
Manchester Twn	
Marquette Twn	
Kingston Village	
Marquette Village	
Markesan City	
Western Vernon Co	04
County—Vernon:	
Parts of county:	
Bergen	
Berow Town	
Hamburg	
Harmony	
Sterling	
Wheatland	
Chaseburg	
Desoto	
Stoddard	
Genoa Village	
Whitehall/Arcadia	01
County—Buffalo:	
Parts of county:	
Cross	
Glencoe	
Milton	
County—Trempealeau:	
Parts of county:	
Arcadia (City)	
Arcadia (Twn)	
Chimney Rock	
Dodge	
Independence (City)	
Lincoln	
Preston	
Whitehall	
Whitewater	02
County—Jefferson:	
Parts of county:	
Cold Springs Twn	
Palmyra Twn	
Palmyra Village	
Whitewater City	
County—Walworth:	
Parts of county:	
La Grange Twn	
Whitewater City (Pt)	
Whitewater Twn	

PRIMARY CARE: Wisconsin

Population Group Listing

Population group	Degree of shortage group
Med. Indigent Pop. of Milwaukee (Area 1)	01
County—Milwaukee:	
Parts of county:	
C.T. 39	
C.T. 44–48	
C.T. 61–62	
C.T. 90–91	
C.T. 96	
C.T. 108	
C.T. 110–111	
C.T. 123	
C.T. 133–137	
C.T. 143–152	
Med. Indigent Pop. of Milwaukee (Area 2)	03
County—Milwaukee:	
Parts of county:	
C.T. 154	
C.T. 172–180	
Med. Ind. Pop. of Racine	04
County—Racine:	
Parts of county:	
C.T. 1	

PRIMARY CARE: Wisconsin—Continued

Population Group Listing

Population group	Degree of shortage group
C.T. 6–8	
C.T. 10–13	

PRIMARY CARE: Wisconsin

Facility Listing

Facility	Degree of shortage group
Ethan Allen School	02
County—Waukesha	
Kettle Moraine Correctional Inst.	02
County—Sheboygan	
Lincoln Hills School	02
County—Lincoln	
Wisconsin Correctional Inst.	02
County—Dodge	
Wisconsin State Prison	02
County—Dodge	
Wisconsin State Reformatory	02
County—Brown	

PRIMARY CARE: Wyoming

Facility Listing

County name	Degree of shortage group
Albany:	
Service area: Hanna/Rock River	01
Big Horn:	
Service area: Grey Bull	02
Campbell:	
Service area: Wright	01
Carbon:	
Service area: Hanna/Rock River	01
Service area: Saratoga	03
Converse	02
Crook:	
Service area: Upton	01
Freemont:	
Service area: Shoshoni	01
Service area: Sweetwater	01
Service area: Wind River	01
Population Group: Indian Pop./Wind River Reservation	01
Hot Springs:	
Population Group: Indian Pop./Wind River Reservation	01
Lincoln	03
Natrona:	
Service area: Shoshoni	01
Niobrara	04
Platte	04
Sweetwater	04
Uinta	02
Weston:	
Service area: Newcastle	01
Service area: Upton	01

PRIMARY CARE: Wyoming

Service Area Listing

Service area name	Degree of shortage group
Grey Bull	02
County—Big Horn:	
Parts of county:	
Big Horn Central Div	
Big Horn South Div	
Hanna/Rock River	01
County—Albany:	
Parts of county:	
Rock River Div	

PRIMARY CARE: Wyoming—Continued

Service Area Listing

Service area name	Degree of shortage group
County—Carbon	
Parts of county:	
Hanna CCD	
Newcastle	01
County—Weston:	
Parts of county:	
Newcastle Div.	
Saratoga	03
County—Carbon:	
Parts of county:	
Saratoga CCD	
Shoshoni	01
County—Fremont:	
Parts of county:	
Shoshoni Div	
County—Notrona	
Parts of county:	
Hell's Half Acre Div	
Sweetwater	01
County—Freemont:	
Parts of county:	
Sweetwater Div	
Upton	01
County—Crook:	
Parts of county:	
Hulett Div	
Moorcroft Div	
County—Weston	
Parts of county:	
Upton Div	
Wind River	01
County—Freemont:	
Parts of county:	
Dubois Div	
Five Mile Creek Div	
Wind River Div	
Wright	01
County—Campbell	
Parts of county:	
Gillette South CCD	

PRIMARY CARE: Wyoming

Population Group Listing

Population group	Degree of shortage group
Wind River Indian Reservation Population	01
County—Freemont	
County—Hot Springs	

PRIMARY CARE: Puerto Rico

Municipio County Listing

Municipio name	Degree of shortage group
Adjuntas:	
Service area: Guarguao	01
Anasco	02
Service area: Mayaguez	
Arecibo:	
Population group: Med Ind Pop. of Arecibo area	01
Barceloneta:	
Service area: Florida	01
Population group: Pov pop. of Barceloneta	01
Barranquitas:	
Population group: Med Ind Pop. of Barranquitas area	01
Cabo Rojo	02
Service area: Mayaguez	
Camuy:	
Population group: Med Ind Pop. of Arecibo area	01
Catano:	
Population group: Med Ind Pop. of Catano area	04
Cayey:	
Population group: Med Ind Pop. of Cayey	01
Ciales:	
Population group: Med Ind Pop. of Arecibo area	01

PRIMARY CARE: Puerto Rico—Continued

Municipio County Listing

Municipio name	Degree of shortage group
Cidra:	
Population group: Med Ind Pop. of Cidra area	01
Comerio:	
Population group: Med Ind Pop. of Barranquitas area	01
Corozal:	
Population group: Med Ind Pop. of Barranquitas area	01
Dorado:	
Population group: Med Ind Pop. of Catano area	04
Hatillo:	
Population group: Med Ind Pop. of Arecibo area	01
Hormigueros	02
Service area: Mayaguez	
Juana Diaz	02
Jucos	02
Lajas:	
Population group: Med Ind Pop. of San German area	03
Lares:	
Population group: Med Ind Pop. of Arecibo area	01
Las Marias	01
Loiza:	
Population group: Med Ind Pop. of Loiza	01
Manati:	
Population group: Med Ind Pop. of Manati	01
Maricao	04
Manuabo	02
Mayaguez	02
Service area: Mayaguez	
Morovis:	
Population group: Med Ind Pop. of Arecibo area	01
Naranjito:	
Population group: Med Ind Pop. of Barranquitas area	01
Orocovis:	
Population group: Med Ind Pop. of Barranquitas area	01
Patillas	02
Penuelas:	
Service area: Guarguao	01
Ponce:	
Service area: Guarguao	01
Service area: Playa de Ponce	02
Quebradillas:	
Population group: Med Ind Pop. of Quebradillas	01
Rincon	01
Sabana Grande:	
Population group: Med Ind Pop. of San German area	03
San German:	
Population group: Med Ind Pop. of San German area	03
San Juan:	
Service area: Llorens Torres	04
San Sebastian	01
Toa Baja:	
Population group: Med Ind Pop. of Catano area	04
Utuado:	
Population group: Med Ind Pop. of Arecibo area	01
Vega Baja:	
Population group: Med Ind Pop. of Arecibo area	01

PRIMARY CARE: Puerto Rico

Service Area Listing

Service area name	Degree of shortage group
Florida	01
Municipio—Barceloneta:	
Parts of Municipio:	
Florida Adentico	
Florida Afuera	
Guarguao	01
Municipio—Adjuntas:	
Parts of Municipio:	
Portuguez	
Municipio—Penuelas:	
Parts of Municipio:	
Rucio	
Municipio—Guarguao:	
Parts of Municipio:	
Guarguao	

PRIMARY CARE: Puerto Rico—Continued

Service Area Listing

Service area name	Degree of shortage group
Llorens Torres	04
Municipio—San Juan:	
Parts of Municipio:	
Llorens Torres	
Mayaguez	02
Municipio—Anasco	
Municipio—Cabo Rojo	
Municipio—Hormigueros	
Municipio—Mayaguez	
Playa De Ponce	02
Municipio—Ponce:	
Parts of Municipio:	
Playa	

PRIMARY CARE: Puerto Rico

Population Group Listing

Population group	Degree of shortage group
Med Indigent Pop. of Catano Hlth Area	04
Municipio—Catano	
Municipio—Dorado	
Municipio—Toa Baja	
Med Indigent Pop. of Arecibo Area	01
Municipio—Arecibo	
Municipio—Camuy	
Municipio—Ciales	
Municipio—Hatillo	
Municipio—Lares	
Municipio—Morovis	
Municipio—Utuado	
Municipio—Vega Baja	
Med Indigent Pop. of Barranquitas area	01
Municipio—Barranquitas	
Municipio—Comerio	
Municipio—Corozal	
Municipio—Naranjito	
Municipio—Orocovis	
Med Indigent Pop. of Loiza Municipio	01
Med Indigent Pop. of Manati Municipio	01
Med Indigent Pop. of Quebradillas Municipio	01
Med Indigent Pop. of San German area	05
Municipio—Lajas	
Municipio—Sabana Grande	
Municipio—San German	
Med Indigent Pop. of Cayey Municipio	01
Med Indigent Pop. of Cidra Municipio	01
Pov Pop. of Barceloneta Municipio	01

PRIMARY CARE: Virgin Islands

County Listing

County name	Degree of shortage group
St. Croix:	
Service area: Fredericksted	01
St. Thomas:	
Service area: East end St. Thomas	01

PRIMARY CARE: Virgin Islands

Service Area Listing

Service area name	Degree of shortage group
East End St. Thomas	01
County—St. Thomas:	
Parts of county:	
Election Dist. 1-2	
Election Dist. 3-5 (Eastern Parts)	
Fredericksted	01
County—St. Croix:	
Parts of county:	
E.D. 13-14	
E.D. 19-25	

PRIMARY CARE: N. Mariana Is.

County Listing

County name	Degree of shortage group
Agrihan	02
Service area: Commonwealth of N. Mariana Is.	
Alamagan	02
Service area: Commonwealth of N. Mariana Is.	
Pagan	02
Service area: Commonwealth of N. Mariana Is.	
Rota	02
Service area: Commonwealth of N. Mariana Is.	
Saipan	02
Service area: Commonwealth of N. Mariana Is.	
Tinian	02
Service area: Commonwealth of N. Mariana Is.	

PRIMARY CARE: N. Mariana Is.

Service Area Listing

Service area name	Degree of shortage group
Commonwealth of N. Mariana Is.	02
County—Agrihan	
County—Alamagan	
County—Pagan	
County—Rota	
County—Saipan	
County—Tinian	

PRIMARY CARE: Guam

District Listing

District name	Degree of shortage group
Inarajan:	
Service area: Southern Guam	01
Merizo:	
Service area: Southern Guam	01
Talafofo Dist.:	
Service area: Southern Guam	01
Umatac Dist.:	
Service area: Southern Guam	01

PRIMARY CARE: Guam

Service Area Listing

Service area name	Degree of shortage group
Southern Guam	01
District—Inharajan	
District—Merizo	
District—Talafofo	
District—Umatac	

PRIMARY CARE: American Samoa

Service Area Listing

Service area name	Degree of shortage group
Terr. of American Samoa	04

PRIMARY CARE: Trust Territory—Pacific

District Listing

District name	Degree of shortage group
Kosrae District	01
Marshall District	01
Ponape District	03
Truk District	01
Yap District	03

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federal register

Tuesday
June 15, 1982

Part III

Environmental Protection Agency

State and Local Financial Assistance for Continuing Environmental Programs

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[OA-FRL-2081-8]

State and Local Financial Assistance for Continuing Environmental Programs

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule with request for comments.

SUMMARY: EPA has nine programs providing financial assistance to State and local agencies for continuing environmental programs. Each program has separate requirements. EPA is proposing this rule to establish uniform administrative requirements and procedures for all nine programs. The objective of the amendments is to eliminate unnecessary requirements and to develop consistency for as many of the remaining requirements as possible. The proposed rule also contains the assistance provisions uniquely applicable to each program.

DATE: Comments must be received on or before July 15, 1982.

ADDRESSES: Please submit your comments in duplicate to: Central Docket Section (A-130), Docket No. G-82-02, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Comments received may be inspected at the Central Docket Section, West Tower Lobby, Gallery Room 1, between 8:15 a.m. and 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Cynthia Puskar, Grants Administration Division (PM-216), Environmental Protection Agency, Washington, D.C. 20460, (202) 755-0860.

SUPPLEMENTARY INFORMATION: Over the past decade, each newly authorized EPA program has developed its own financial assistance regulations independently. We are proposing this regulation, 40 CFR Part 35, Subpart A—Financial Assistance for Continuing Environmental Programs, to amend the regulations now contained in 40 CFR Part 35, Subparts B, F, and G. Our objective is to eliminate unnecessary requirements and to develop consistency for as many of the remaining requirements as possible.

The proposed Subpart A to Part 35 establishes administrative requirements and procedures for financial assistance awarded by EPA to State, interstate, and local agencies for continuing environmental programs. The financial assistance programs for which EPA anticipates funding in FY 1983 and the substantive program regulations associated with them are identified below.

- Air pollution control (section 105 of the Clean Air Act; *Catalog of Federal Domestic Assistance* (CFDA) No. 66.001); 40 CFR Parts 50–52, 58, 60–62, and 81.
- Water pollution control (section 106 of the Clean Water Act; CFDA No. 66.419); 40 CFR Part 130.
- State administration (section 205(g) of the Clean Water Act; CFDA No. 66.438); 40 CFR Parts 35, Subpart J, and 130.
- Water quality management planning (section 205(j) of the Clean Water Act); 40 CFR Part 130.
- Public water systems supervision (section 1443(a) of the Safe Drinking Water Act; CFDA No. 66.432); 40 CFR Parts 141–143.
- Underground water source protection (section 1443(b) of the Safe Drinking Water Act; CFDA No. 66.433); 40 CFR Parts 122–124 and 146.
- Hazardous waste management (section 3011 of the Solid Waste Disposal Act, as amended; CFDA No. 66.451); 40 CFR Parts 122, Subparts A and B; 123, Subparts A, B, and F; 124, Subparts A and B; and 260–266.
- Pesticide enforcement (section 23(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act; CFDA No. 66.700); 40 CFR Parts 162, 165–167, 169–170, and 172–173 and 19 CFR Part 12.
- Pesticide applicator certification and training (section 23(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act); 40 CFR Parts 162 and 170–171.

The following table shows the relationship between Subparts B, F, and G and the proposed Subpart A and associated program regulations. The "proposed" column indicates the section of 40 CFR Part 35 or other parts of 40 CFR to which EPA proposes to move existing requirements.

Existing	Existing title	Proposed
35.001	Purpose of regulation	35.001.
35.002	Applicability and scope	35.001.
	Subpart B—Program Grants	
35.400	Purpose	35.100.
35.403	Authority	Authority.
35.404	Annual guidance	35.125.
35.405	Criteria for evaluation	35.140.
35.410	Evaluation of agency performance.	35.150.
35.415	Financial status report	Part 30.
35.420	Payment	35.140; Part 30.
35.425	Federal and grantee program support.	Deleted.

Existing	Existing title	Proposed
	Air Pollution Control Program Grants	
35.501	Definitions	35.105.
35.505	Allocation of funds	35.120; 35.155.
35.507	Federal assistance	35.135; 35.200.
35.510	Grant allotment and amount	35.115; 35.140.
35.515	Control program eligibility	35.205; 35.210.
35.520	Criteria for award	35.205; 35.210.
35.526	Agency program preparation	35.130.
35.527	Major program elements and outputs.	35.130.
35.528	Agency program submission	35.140.
35.529	Program approval	35.140.
35.530	Grant conditions	35.205.
35.535	Assignment of personnel	Deleted.
35.536	Agency evaluation and reports	35.150.
	Grants For State Public Water System Supervision Programs	
35.600	Scope and purpose	35.100.
35.603	Definitions	35.105.
35.605	Determination of allotments	35.115; 35.120; 35.155.
35.607	Rate of Federal assistance	35.400.
35.611	Application for grant	35.130; 35.140.
35.613	Limitation on grant award	35.405.
35.620	Allowable costs	Part 30.
35.622	Budget period	35.135.
35.624	Reduction of grant amount	35.150.
35.626	State program plan	35.130; 35.140; 35.150.
35.628	Program limitations	Deleted.
35.630	Assignment of personnel	Deleted.
	State Underground Water Source Protection Program Grants	
35.650	Scope and purpose	35.100.
35.653	Definitions	35.105.
35.655	Determination of allotments	35.115.
35.656	Determination of reallotments	35.155.
35.657	Rate of Federal assistance	35.455.
35.659	Eligibility for grant award	Deleted.
35.660	Limitation on grant award	35.460.
35.661	A-95 Clearinghouse review	Part 30.
35.662	Allowable costs	Part 30.
35.664	Budget period	35.135.
35.666	Reduction of grant amount	35.150.
35.670	Annual State program grant plan	35.130; 35.140; 35.460.
35.675	Assignment of personnel	Deleted.
35.680	Program evaluation and reports	35.150.
	Solid and Hazardous Waste Management Program Support Grants	
35.700	Purpose	35.100.
35.701	Definitions	35.105.
35.702	Summary of program	35.110.
35.706	Allotments	35.115.
35.708	Regional allowances	35.120.
35.710	Grant amount	35.130; 35.155.
35.712	Reduction of grant amount	35.150.
35.716	Budget period	35.135.
35.718	State program development	35.130; 35.140.
35.720	Involvement of agencies	Deleted.
35.722	Program elements	35.130.
35.724	Clearinghouse review	Part 30.
35.726	Public participation	Part 25.
35.728	Program review and approval	35.140.
35.730	Required outputs	Deleted.
35.732	Implementation and substate grants.	Deleted.
35.734	Rural communities assistance	Deleted.
35.736	Special communities	Deleted.
35.738	Limitations on award	Deleted.
35.740	Adherence to budget estimates	Part 30.
35.742	Program changes	Part 30.
35.744	Program evaluation and reporting	35.150.

Existing	Existing title	Proposed
	Assistance for Pesticide Enforcement and Applicator Certification Programs	
35.750	Scope and purpose	35.100.
35.751	Definitions	35.105.
35.752	Eligibility	35.115.
35.753	A-95 Clearinghouse review	Part 30.
35.755	Application submission	35.140.
35.758	Application evaluation	35.140.
35.761	Allotments and distribution of funds.	35.120.
35.762	Enforcement funds	35.115.
35.763	Applicator certification funds	35.115.
35.764	Amount and reallocation	35.140; 35.155.
35.767	Rate of Federal assistance	35.600.
35.769	Reduction of amount	35.150.
35.771	Budget period	35.135.
35.775	Program plan	35.130.
35.778	Program elements	35.130.
35.782	Program evaluation	35.150.
35.786	Reporting	35.150.
	Subpart F—State Management Assistance Grants	
35.1000	Purpose and scope	35.100; 35.300; 35.3000.
35.1005	Policy	35.3005.
35.1010	Application for grant	35.140; Part 30.
35.1015	Eligibility for funding	35.130.
35.1016	Limitations on award	35.310.
35.1020	Grant amount and award	35.115; 35.310.
35.1025	Payment	Part 30.
35.1030	Delegation agreement	35.130; 35.310; 35.3010; 35.3015; 35.3020.
35.1033	Public participation	35.3035; Part 25.
35.1035	Adherence to budget estimates	Part 30.
35.1040	Program evaluation and reporting	35.150; 35.3025.
35.1045	Reduction of grant amount	35.150.
35.1050	Disputes	35.3030; Part 30.
	Subpart G—Grants for Water Quality Planning, Management and Implementation	
35.1500	Purpose and scope	35.100.
35.1501	Applicability	35.100.
35.1502	Definitions	35.105; Part 130.
35.1503	Program summary	35.130; Part 130.
35.1505	Water quality goals	Part 130.
35.1507	Public participation	Part 25.
35.1509	Continuing planning process	Part 130.
35.1511	Assessments and State strategy	Part 130.
35.1513	WQM work program	35.130; 35.135; 35.150.
35.1515	State/EPA Agreement	Deleted.
35.1517	Conflict resolution	Deleted.
35.1519	Selection of § 208 agencies	Part 130.
35.1521	Water quality management planning.	Part 130.
35.1523	Certification of WQM plans	Part 130.
35.1525	Reviewing after approval	Part 130.
35.1527	Evalution of performance	Part 130.
35.1529	Change in agency designation	Part 130.
35.1531	Intergovernmental coordination	Part 130.
35.1533	Implementation	Part 130.
35.1535	Allotments and reallotments	35.115; 35.155.
35.1537	Grant limitations and administration.	35.130; 35.135; 35.140; 35.150; 35.155; 35.250; 35.255; Part 30.
35.1540	Interstate agencies	Deleted.
35.1542	Termination of reporting	Deleted.
35.1550	Water quality standards	Part 131.

Description of Major Changes

EPA developed this regulation in conjunction with associated program regulations to clarify and standardize the procedures for awarding and managing financial assistance to continuing State and local environmental programs. The regulation establishes uniform, simplified requirements and procedures for nine assistance programs. It also identifies requirements unique to each program.

In the process of developing one regulation for all nine programs, EPA made several changes which will make it easier for States and local governments to do business with the Agency. EPA has attempted to make this regulation clear and concise, so that applicants will be able to understand and use it easily. The regulation is also designed to be flexible, so that the Regional Administrator and applicant will be able to develop processes more appropriate to their needs. Finally, the regulation reduces the paperwork required of applicants. The specific changes are described below.

Continuing Environmental Programs

The proposed regulation makes clear in § 35.100 that the financial assistance awarded under the regulation supports environmental programs which are "continuing," that is, which will not be completed during a definable time period. Such programs can receive continuation awards under an application process which is less rigorous than the process for new awards. Most importantly, as explained in § 35.140, a recipient of a continuation award may be reimbursed for allowable costs incurred between the beginning of the budget period and the date of award, if those costs are covered by the approved application. Continuing programs may also receive Federal funding under a continuing budget resolution enacted by Congress.

Definitions

The proposed regulation contains in § 35.105 definitions of various terms relating to financial assistance. Several of the definitions are new, while others are taken from the existing regulations. Since not all of the existing regulations use the same terms in the same ways, the reader should become familiar with the new definitions to avoid misinterpretation.

Summary of Annual Process

The proposed regulation contains in § 35.110 a brief summary of the financial assistance process.

Allotments

The proposed regulation lists in § 35.115 all the factors which the various statutes and regulations require EPA to consider in allotting funds among the States. Congress determines the construction grant allotment, from which the State proposes reserves for State administration and water quality management planning. For the other programs, the regulation will form the basis for determining State allotments.

The proposed regulation does not change EPA's allotment process. As under existing regulations, EPA regional and Headquarters staff, in consultation with State, interstate, and local agencies and affected constituent groups, consider the relevant factors, determine appropriate sources of data and relative weights of the factors, and recommend an allotment for each program in each State. Except in the hazardous waste program, the regulation does not create any changes in the actual allotment distribution (the percentage of each program's budget request or appropriation allotted to each State). For hazardous waste, the proposed regulation no longer contains a requirement for a minimum allotment to each State of one-half of one percent of the sums available. EPA is proposing to eliminate that provision because it is not required by the Solid Waste Disposal Act, as amended.

Planning Targets

After State allotments are determined, the second step in making funding decisions is the development of a planning target for each applicant to use in preparing a work program. The proposed regulation reiterates in § 35.105 the explanation from the existing regulations that "an allotment is not an entitlement" and explains in § 35.120 that an applicant's planning target is also based on judgments about each applicant's ability to use allotted funds effectively. Of course, no Regional Administrator will disrupt any continuing environmental program by arbitrarily issuing planning targets which are significantly less than the allotments.

Program Guidance

The proposed regulation contains in § 35.125 a discussion of program guidance which is currently contained in each of the separate grant regulations. The existing regulations indicate that guidance will be published "in February" or "as soon as practicable after the President submits his budget to Congress." The proposed regulation does not specify the timing for guidance.

because the Agency is still developing a revised guidance process.

EPA is still committed to providing guidance in time for applicants to use in structuring work programs covering agreed upon budget periods. The Agency is currently evaluating the process and timing for producing and disseminating operating guidance for use by applicants. One possibility is to allow applicants for financial assistance to use as a basis for work program development (see discussion below) the most recent guidance EPA has provided them six months before the beginning of the proposed budget period (see discussion below) or when they start developing their work program, whichever is later. This approach retains the same approximate time interval of the present system (guidance in February or March for award in early October) without relying on specific dates. Another alternative is to retain the February date for guidance to be used by applicants for the next budget period. EPA is interested in comments and suggestions on the process and timing of operating guidance for use in work program development.

Work Program Development

The proposed regulation defines "work program" in § 35.105 as "the document which identifies how and when the applicant will use program funds to produce specific outputs." The requirements for an acceptable work program are contained in § 35.130, which also indicates that the work program is part of a complete assistance application.

Although the requirement for a work program is essentially unchanged from the existing regulations, EPA is proposing three revisions which will simplify the paperwork required of applicants and allow each applicant to submit the work program developed for its own use to meet EPA's application requirements.

First, the proposed regulation eliminates the specific program elements required by existing regulations. Instead, EPA will include in annual guidance the program elements which the Agency uses to manage its programs and to justify its budget to OMB and Congress. An applicant will not be required to present its work program in a particular format. Instead, an applicant will be allowed to use its own format, if the Regional Administrator agrees that it contains the information EPA needs.

Second, the proposed regulation simplifies the narrative justification section currently required in Part IV of the assistance application. An applicant will be required to submit only its proposed work program and an evaluation of progress under its current work program to meet the requirements of Part IV. Any other specific information (e.g., strategies) currently required as part of the application may be negotiated as output commitments under the assistance agreement.

Third, the proposed regulation clearly limits the definition of "maintenance of effort" to the applicant's expenditures in an approved program, such as activities funded under section 105 of the Clean Air Act. This will allow the applicant to submit its entire work program in a particular medium without fear of being held to a more broadly defined maintenance of effort requirement. For example, an agency will be able to submit its entire air pollution control work program, and in future years EPA will require the agency to maintain only the level of expenditure associated with its approved section 105 air program. Under the current regulations, the agency is required to maintain a level of expenditure associated with its entire air program. This change does not allow applicants to recompute existing maintenance of effort levels; but, rather, limits what will be considered to increase that level in future years.

Budget Period.

The proposed regulation in § 35.135 authorizes the Regional Administrator to consult with the applicant to establish the budget period for the assistance award. The budget period is the time period covered by the assistance agreement and during which the outputs will be completed. Based on the comments EPA received on an earlier draft of this regulation, the Agency anticipates that many States will want to convert the budget periods for the assistance they receive to their own fiscal year, which for 48 States and Territories is July 1 through June 30.

To make the transition from the Federal to the recipient's fiscal year, the Regional Administrator could award financial assistance for a work program starting October 1 and ending the day before the beginning of the recipient's fiscal year. The Regional Administrator would then reserve the balance of a recipient's planning target for future award to the recipient. For subsequent awards, the recipient will develop a work program based on its own fiscal year. The Regional Administrator will make a partial award from the balance of the previous year's planning target. Once Congress appropriates funds for the next Federal fiscal year, the Regional Administrator will increase the award as necessary to complete the approved work program. The Regional Administrator will again reserve the balance of the recipient's planning target for future award to the recipient.

The Application Process

The proposed regulation substitutes one uniform application process and set of requirements for the separate, differing processes and requirements of the existing regulations. EPA is proposing three revisions which will simplify the paperwork required of applicants.

First, the proposed regulation eliminates the requirement for a preliminary application and allows each applicant and Regional Administrator to develop their own process for reaching agreement on a work program and assistance application. Some applicants will probably continue to submit formal preapplications, while others may prefer face-to-face staff level negotiations early in the process. In either case, the applicant is responsible for early resolution of all issues which could risk delaying approval of the assistance application and award of assistance.

Second, the proposed regulation reflects the Agency's newly adopted State/EPA Agreement (SEA) policy by removing the requirement that a State sign an SEA before receiving EPA financial assistance. However, EPA continues to believe that the SEA is a valuable tool to improve Agency relationships with States and use resources more efficiently. From now on, the Regional Administrators will be responsible for assuring that all States have an opportunity to participate in the SEA process. Any State which wishes to maintain the process may do so.

Third, the proposed regulation eliminates the requirement for an applicant to *document* that the proposed work program is consistent with all applicable EPA-approved State strategies, program plans, and delegation or authorization agreements. Instead, applicants will only have to list such documents and *certify* that the proposed work program is consistent with them. As part of the application review process, the Regional Administrator may require additional explanation or clarification on the consistency of these documents.

Consolidated Assistance

The proposed regulation indicates in § 35.145 that any applicant eligible to receive and administer funds from more than one assistance program may submit an application for consolidated assistance. An applicant for consolidated assistance prepares a single budget and work program

covering all assistance programs included in the application. Although the recipient of consolidated assistance must meet all the statutory requirements governing the use of funds in each assistance program, EPA believes that the consolidated process can save applicants considerable time and money. Consolidation is also allowed under existing regulations. Any applicant interested in consolidated assistance may obtain additional information from the Regional Administrator.

A logical example of the program benefits of consolidation is found in the water quality management (WQM) program. The Clean Water Act provides funding for WQM activities in sections 106, 205(g), and 205(j). By consolidating these work programs and assistance applications in the manner suggested by these regulations, States will be able to coordinate available Federal funding to accomplish their WQM priorities efficiently. A state which wants to address the water quality problems of a priority water body by using 106 funds for monitoring, 205(j) funds for determining total maximum daily loads, and 205(g) funds for permitting may use a consolidated assistance application and related work program to assure that the activities being proposed in the priority water body are completely coordinated.

Management and Evaulation

The proposed regulation retains in simplified form the management responsibilities contained in the existing regulations. As before, each recipient must expend resources according to the approved work program, which may be amended at any time by mutual agreement of the recipient and the Regional Administrator. In the existing regulations, only the State management assistance program provides for recipient participation in developing procedures for evaluating the recipient's performance under the assistance award. The proposed regulation requires the applicant to propose a plan for assessing and reporting periodically the accomplishment or status of outputs conducted under the assistance award. Based on the proposed plan, the Regional Administrator will develop, in consultation with the recipient, a process for evaluating the recipient's performance. The Regional Administrator will limit evaluation to that which is necessary for effective management, with the intervals for evaluation included in the assistance agreement. As in existing regulations, the Regional Administrator may terminate or annul any financial assistance if the recipient's performance under the approved work program is not satisfactory and the situation cannot be resolved through negotiation.

Reallocation

The proposed regulation simplifies and clarifies EPA's policy on use of program funds which have not been obligated. Unused funds reserved under section 205(g) of the Clean Water Act will be returned to the State's construction grant allotment to support eligible construction activities, while unused funds reserved under 205(j) revert to the Administrator for reallotment to the States under § 35.2010 of this subchapter. These funds are not available for reallocation under the proposed regulation. For the other environmental programs, EPA will consider reallocating any funds not obligated to applicants to achieve the objectives for which Congress appropriated them.

Funds remaining in a State's allotment after an initial assistance award and commitment to that State for that year remain in the region for obligation during the year. The Regional Administrator may use such funds to make supplementary awards to that State for that program. The Regional Administrator may also use such funds to supplement awards for that program to other eligible applicants within the region. At the end of the year, funds not obligated by the Regional Administrator revert to the Administrator for reallotment.

Funds remaining in a State's allotment because there is no assistance award to that State in that year may be used in two ways. First, subject to any limitations contained in appropriations acts, the Regional Administrator may use such funds to support a Federal program required by law in that State in the absence of an acceptable State program. Otherwise, the Administrator may redistribute any available program funds to other applicants which need additional funds to accomplish the objectives of that program.

Regulation Development

Under Executive Order 12291, EPA is required to judge whether a regulation is "major" and, therefore, subject to the regulatory impact analysis requirements of the Order. We have determined that this regulation is not "major" as it will not have a substantial impact on the Nation's economy or large numbers of individuals or businesses. There will be no major increase in costs or prices for consumers, individuals, industries, or Federal, State, or local governments. The proposed rule was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* (the Act), the reporting and recordkeeping provisions in this proposed rule will be submitted for approval to the Office of Management and Budget under section 3504(h) of the Act. Any final rule will explain how its reporting or recordkeeping provisions respond to any OMB or public comments.

List of Subjects in 40 CFR Part 35

Air Pollution Control, Grant program—environmental protection, Indians, Pesticides and Pests, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

Dated: June 7, 1982.

Anne M. Gorsuch,

Administrator.

For the reasons set forth in the preamble, EPA is proposing to amend 40 CFR Part 35 as set forth below.

Part 35 is amended by revising § 35.001 and by adding Subpart A to read as follows:

PART 35—FINANCIAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

Sec.

35.001 Applicability.

Subpart A—Financial Assistance for Continuing Environmental Programs

35.100 Purpose.
35.105 Definitions.
35.110 Summary of annual process.
35.115 State allotments and reserves.
35.120 Planning targets.
35.125 Program guidance.
35.130 Work program.
35.135 Budget period.
35.140 Application for assistance.
35.145 Consolidated assistance.
35.150 Evaluation of recipient performance.
35.155 Reallocation policy.

Air Pollution Control (Section 105)

35.200 Purpose.
35.205 Maximum Federal share.
35.210 Maintenance of effort.
35.215 Limitations.

Water Pollution Control (Section 106)

35.250 Purpose.
35.255 Maintenance of effort.
35.260 Limitations.

State Administration (Section 205(g))

35.300 Purpose.
35.305 Maintenance of effort.
35.310 Limitations.

Water Quality Management Planning (Section 205(j))

35.350 Purpose.

Sec.
35.355 Limitations.

Public Water Systems Supervision (Section 1443(a))

35.400 Purpose.
35.405 Maximum Federal share.
35.410 Limitations.

Underground Water Source Protection (Section 1443(b))

35.450 Purpose.
35.455 Maximum Federal share..
35.460 Limitations.

Hazardous Waste Management (Section 3011)

35.500 Purpose.
35.505 Maximum Federal share.
35.510 Limitations.

Pesticide Enforcement (Section 23(a)(1))

35.550 Purpose.

Pesticide Applicator Certification and Training (Section 23(a)(2))

35.600 Purpose.
35.605 Maximum Federal share.

* * * * *

§ 35.001 Applicability.

This part codifies policies and procedures for financial assistance awarded by the Environmental Protection Agency to State, interstate, and local agencies for pollution abatement and control programs. These provisions supplement the EPA general assistance regulations in 40 CFR Part 30.

Subpart A—Financial Assistance for Continuing Environmental Programs

Authority: Secs. 105 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7405 and 7601(a)) secs. 106, 205(g), 205(j), 208, and 501(a) of the Clean Water Act, as amended (33 U.S.C. 1256, 1285(g) 1285(j) 1288, and 1361(a)); secs. 1443 and 1450 of the Safe Drinking Water Act 42 U.S.C. 300j–2 and 300j–9) secs. 2002(a) and 3011 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6912(a), 6931, 6947, 6948, and 6949); and secs. 4, 23, and 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136b, 136u, and 136w(a)).

§ 35.100 Purpose.

This subpart establishes in § 35.100 through § 35.199 uniform administrative requirements and procedures for financial assistance to State, interstate, and local agencies for continuing environmental programs. Sections 35.200 through 35.899 establish the assistance requirements unique to each program and cross reference regulations containing substantive program requirements.

§ 35.105 Definitions.

"Allotment." An amount representing a State's share of funds requested in the President's budget or appropriated by Congress for an environmental program, as EPA determines after considering any factors indicated by this regulation. The allotment is not an entitlement but rather the objective basis for determining the range for a State's planning target.

"Continuation award." Any assistance award after the first to a State, interstate, or local agency for an environmental program which will not be completed within a definite time period.

"Output." An activity or product which the applicant agrees to complete during the budget period.

"Planning target." The amount of financial assistance which the Regional Administrator suggests that an applicant consider in developing its application and work program.

"Program element." One of the major groupings of out-puts of a continuing pollution control program (e.g., administration, enforcement, monitoring).

"Reserve." A portion of the State's construction grant allotment which the State proposes to set aside to use for construction managment or water quality management planning activities.

"Recurrent expenditures." Those expenses associated with the activities of a continuing environmental program. All expenditures are considered recurrent unless justified by the applicant as unique and approved as such by the Regional Administrator in the assistance award.

"Work program." The document which identifies how and when the applicant will use program funds to produce specific outputs.

§ 35.110 Summary of annual process.

(a) EPA considers various factors to allot among the States the funds requested in the President's budget for each financial assistance program, except for those related to construction grants, for which Congress determines the allotments. After consulting with the States in the region and considering each applicant's ability to use allotted funds effectively, the Regional Administrator issues a planning target for each program to each applicant.

(b) Using the planning target and program guidance provided by EPA, each applicant completes a standard EPA application including a proposed work program for each environmental program for which it expects to receive EPA funding. Alternatively, an applicant prepares a consolidated work program to support several individual applications or a single consolidated application. After the applicant submits its application, the Regional Administrator reviews it and, if it meets applicable requirements, agrees to approve the application when funds are available. From funds appropriated by Congress for that purpose, the Regional Administrator awards assistance based on approved applications.

(c) The recipient conducts its activities according to the approved application and assistance award. The Regional Administrator evaluates recipient performance to assure compliance with all conditions of the assistance award.

(d) Except for funds reserved under sections 205(g) and 205(j) of the Clean Water Act, the Administrator or Regional Administrator may use funds not obligated or committed to an applicant to supplement awards to other applicants for that program or to support a Federal program required in the absence of an acceptable State program.

§ 35.115 State allotments and reserves.

Allotments and reserves provide an objective basis for establishing planning targets and funding levels for work programs. Congress determines the construction grant allotment, from which the State proposes reserves for State administration and water quality management planning. EPA determines the allotments for the other financial assistance programs based on the President's budget request to Congress. The factors and limitations considered for each program are as follows.

(a) *Air pollution control allotment* (Clean Air Act, section 105): Population, the extent of actual or potential air pollution problems, and the financial need of each agency to be funded with the State's allotment. However, no State will be allotted less than one-half of one percent or more than ten percent of the total.

(b) *Water pollution control allotment* (Clean Water Act, section 106): The extent of the State's water pollution problem.

(c) *State administration reserve* (Clean Water Act, section 205(g)): Up to four percent of the State's authorized construction grant allotment as determined by Congress or $400,000, whichever is greater.

(d) *Water quality management planning reserve* (Clean Water Act, section 205(j)): Not less than $100,000 nor more than one percent of the State's construction grant allotment as determined by Congress. However, for Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands a reasonable amount shall be reserved for this purpose.

(e) *Public water systems supervision allotment* (Safe Drinking Water Act, section 1443(a)): The State's population, geographic area, numbers of community and noncommunity water systems, and other relevant factors. However, no State except American Samoa, Guam, the Northern Mariana Islands, or the Virgin Islands may be allotted less than one percent of the total.

(f) *Underground water source protection allotment* (Safe Drinking Water Act, section 1443(b)): The State's population, geographic area, extent of underground injection practices, and other relevant factors.

(g) *Hazardous waste management allotment* (Solid Waste Disposal Act, as amended, section 3011: The extent to which hazardous waste is generated, transported, treated, stored, and disposed of in the State and the extent of exposure of human beings and the environment to such waste.

(h) *Pesticide enforcement allotment* (Federal Insecticide, Fungicide, and Rodenticide Act, section 23): The State's population, the numbers of pesticide-producing establishments and certified private and commercial applicators, and the number of farms and their acreage.

(i) *Pesticide applicator certification and training allotment* (Federal Insecticide, Fungicide, and Rodenticide Act, section 23): The number of farms and numbers of private and commercial applicators requiring certification or recertification.

§35.120 Planning targets.

The Regional Administrator develops planning targets to help each applicant develop a work program. A planning target is based on the State's allotment or reserve and the Regional Administrator's judgment about each applicant's ability to use allotted funds effectively.

§35.125 Program guidance.

Program guidance helps State and local agencies establish and maintain effective environmental programs which meet their particular needs and those of the national program. National program managers in Headquarters issue guidance to Regional Administrators, and Regional Administrators issue guidance to applicants.

(a) *Headquarters' guidance to Regional Administrators.* Headquarters' guidance is based on the President's annual budget submission to Congress and the statutory and regulatory requirements for each environmental program. The guidance contains a statement of national objectives and priorities, an explanation of the activities required of the regions, and a list of program elements and associated outputs recommended for State and local environmental programs.

(b) *Regional guidance to applicants.* Regional guidance is based on Headquarters' guidance and the Regional Administrator's judgment about the applicant's ability to carry out the program. The guidance contains EPA's objectives and priorities, the applicant's planning target, the program elements EPA uses for budget justification and management, categories of outputs which should be part of the applicant's work program, and special conditions or limitations relevant to the applicant.

§35.130 Work program.

The work program is part of the application for financial assistance and is the basis for the management and evaluation of performance under the assistance award. The work program must specify the work years and amount and source of funding allocated to each program element, the outputs committed to under each program element, including any outputs required under an authorization agreement or a delegation agreement, a schedule for accomplishment of outputs, and an identification of the agency responsible for each of the elements and outputs.

§35.135 Budget period.

The budget period for each assistance agreement must be established by the Regional Administrator in consultation with the applicant.

§35.140 Application for assistance.

(a) *Submission.* Each applicant should submit a complete application at least 60 days before the beginning of the budget period. In addition to meeting the requirements contained in Part 30, a complete application must contain a discussion of performance to date under the existing award, the proposed work program, a plan for assessing and reporting periodically the accomplishment or status of outputs conducted under the assistance award, and a list of all applicable EPA-approved State strategies, program plans, and delegation or authorization agreements with a statement certifying that the proposed work program is consistent with them.

(b) *EPA action.* The Regional Administrator will review each completed application and approve, conditionally approve, or disapprove it. When funds are available, the Regional Administrator will award assistance based on an approved or conditionally-approved application. For a continuation award made after the beginning of the approved budget period, EPA will reimburse the applicant for allowable costs incurred from the beginning of the budget period, provided that such costs are contained in the approved application and that the application was submitted before the expiration of the prior budget period.

(1) *Approval.* The Regional Administrator will approve the application only if it satisfies the terms, conditions, and limitations of this subpart, 40 CFR Part 30, and relevant statutes and program regulations; if the proposed outputs are compatible with EPA guidance; and if achievement of the proposed outputs is feasible, considering the applicant's existing problems, past performance, program authority, organization, resources, and procedures.

(2) *Conditional approval.* The Regional Administrator may conditionally approve the application, after consulting with the applicant, if only minor changes are required. The Regional Administrator will include in the award the conditions which the applicant must meet to secure final approval and the date by which those conditions must be met.

(3) *Disapproval.* if the application cannot be approved or conditionally approved, the Regional Administrator will negotiate with the applicant to make any changes necessary for approval. If negotiation fails, the Regional Administrator will disapprove the application in writing.

§ 35.145 Consolidated assistance.

Any applicant eligible to receive and administer funds from more than one assistance program may submit an application for consolidated assistance, following the process described in § 35.140. For consolidated assistance, the applicant prepares a single budget and work program covering all programs included in the application. The consolidated budget must identify each assistance program's funds. The consolidated work program must identify the extent to which each assistance program's funds support each program element.

§ 35.150 Evaluation of recipient performance.

The Regional Administrator will oversee each recipient's performance under an assistance agreement. At intervals established in the assistance agreement, the Regional Administrator will evaluate recipient performance and progress toward completing the outputs in the approved work program. The Regional Administrator will provide the evaluation findings to the recipient and

include them in the official assistance file. If the evaluation reveals that the recipient is not achieving one or more of the conditions of the assistance agreement, the Regional Administrator will attempt to resolve the situation through negotiation. If agreement is not reached, the Regional Administrator may impose any of the sanctions in 40 CFR Part 30.

§ 35.155 Reallocation policy.

EPA has responsibility and authority for managing all financial assistance funds effectively. To better achieve the goals of the Clean Water Act, unused 205(g) reserves will be returned to the State's construction grant allotment to support eligible construction activities; unused 205(j) reserves revert to the Administrator for reallotment to the States. These funds are administered under § 35.2010 of this subchapter and are not available for reallocation under this section. For the other environmental programs, EPA will consider reallocating any funds not obligated to applicants to achieve the objectives for which Congress appropriated the funds.

(a) *Funds remaining after initial award.* Funds remaining in a State's allotment after an initial assistance award and commitment to that State for that year remain in the region for obligation during the year. At the end of the year, funds not obligated by the Regional Administrator revert to the Administrator for reallotment.

(1) The Regional Administrator may use such funds to make supplementary awards to that State for that program.

(2) The Regional Administrator may also use such funds to supplement awards for that program to other eligible applicants within the region.

(b) *Funds available because of no award.* Funds remaining in a State's allotment because there is no assistance award to that State in that year may be used in two ways.

(1) First, subject to any limitations contained in appropriations acts, the Regional Administrator may use such funds to support a Federal program required by law in that State in the absence of an acceptable State program.

(2) Otherwise, the Administrator may redistribute any available program funds to other applicants which need additional funds to accomplish the objectives of that program.

Air Pollution Control (Section 105)

§ 35.200 Purpose.

Section 105 of the Clean Air Act authorizes assistance to State, local, interstate, or intermunicipal air pollution control agencies (as defined in section 302 of that Act) to administer programs for the prevention and control of air pollution or implementation of national air quality standards. Associated program regulations are found in 40 CFR Parts 50, 51, 52, 58, 60, 62, and 81.

§ 35.205 Maximum Federal share.

(a) The Regional Administrator may provide single jurisdictional local agencies up to two-thirds of the approved costs of planning, developing, establishing, or improving an air pollution control program and up to one-half of the approved costs of maintaining that program.

(b) The Regional Administrator may provide State, interstate, or intermunicipal agencies which do not have substantial responsibility for carrying out an existing implementation plan in their air quality control region up to two-thirds of the approved costs of planning, developing, establishing, or improving an air pollution control program and up to one-half of the approved costs of maintaining that program.

(c) The Regional Administrator may provide State, interstate, or intermunicipal agencies up to three-fourths of the approved cost of planning, developing, establishing, or improving an air pollution control program and up to three-fifths of the approved cost of maintaining such a program.

§ 35.210 Maintenance of effort.

(a) To receive funds under section 105, an agency must expend annually for recurrent section 105 program expenditures an amount of non-Federl funds at least equal to such expenditures during the preceding fiscal year, unless the Regional Administrator, after notice and opportunity for a public hearing, determines that the reduction is attributable to a non-selective reduction of the programs of all executive branch agencies of the applicable unit of government.

(b) The Regional Administrator will not award section 105 funds unless the applicant provides assurance that the assistance will not supplant non-Federal funds that would otherwise be available for maintaining the section 105 program.

§ 35.215 Limitations.

(a) The Regional Administrator will not award section 105 funds to an interstate or intermunicipal agency which does not provide assurance that it can develop a comprehensive plan for the air quality control region which includes representation of appropriate State, interstate, local, and international interests.

(b) The Regional Administrator will not award section 105 funds to a local, interstate, or intermunicipal agency without consulting with the appropriate official designated by the Governor or Governors of the State or States affected.

(c) The Regional Administrator will not disapprove an application for or terminate or annul an award of section 105 funds without prior notice and opportunity for a public hearing in the affected State or in one of the affected States if several are affected.

Water Pollution Control (Section 106)

§ 35.250 Purpose

Section 106 of the Clean Water Act authorizes assistance to State and interstate agencies (as defined in section 502 of that Act) to administer programs for the prevention, reduction, and elimination of water pollution. Alternatively, some of these activities may be eligible for funding under sections 205(g) and 205(j) of that Act. (See § 35.300 and § 35.350.) Program requirements for water quality management activities are provided in 40 CFR Part 130.

§ 35.255 Maintenance of effort.

To receive funds under section 106, any State or interstate agency must expend annually for recurrent section 106 program expenditures an amount of non-Federal funds at least equal to expenditures during the fiscal year ending June 30, 1971.

§ 35.260 Limitations

(a) The Regional Administrator will not award section 106 funds to any State which does not monitor and compile, analyze, and report water quality data as described in section 106(e)(1) of the Clean Water Act.

(b) The Regional Administrator will not award section 106 funds to any State which does not have authority comparable to that in section 504 of the Clean Water Act and adequate contingency plans to implement such authority.

(c) The Regional Administrator will not award section 106 funds if federally assumed enforcement as defined in section 309(a)(2) of the Clean Water Act is in effect with respect to the agency.

(d) The Regional Administrator will not award section 106 funds unless the work program submitted with the assistance application shows that the activities to be funded are coordinated, as appropriate, with activities proposed for funding under sections 205(g) and 205(j) of the Clean Water Act.

State Administration (Section 205(g))

§ 35.300 Purpose.

Section 205(g) of the Clean Water Act authorizes assistance to States (as defined in section 502 of that Act) for two purposes.

(a) *Construction management assistance.* The 205(g) funds may be used for administering elements of the construction grant program under sections 201, 203, 204, and 212 and for managing waste treatment construction grants for small communities. Construction management assistance funds may also be used for administering elements of a State's construction grant program which are implemented without Federal assistance, if the Regional Administrator determines that those elements are consistent with 40 CFR Part 35, Subpart I. Program requirements for State construction management activities under delegation are provided in 40 CFR Part 35, Subpart J.

(b) *Permit and planning assistance.* The 205(g) funds may be used for administering permit programs under sections 402 and 404 and statewide waste treatment management planning programs under section 208(b)(4) of the Clean Water Act. Alternatively, some of these activities may be eligible for funding under sections 106 and 205(j) of that Act. (See § 35.250 and § 35.350.) Program requirements for water quality management activities are provided in 40 CFR Part 130.

§ 35.305 Maintenance of effort.

To receive funds under section 205(g) of the Clean Water Act, a State agency must expend annually for recurrent section 106 program expenditures an amount of non-Federal funds at least equal to such expenditures during fiscal year 1977, unless the Regional Administrator determines that the reduction is attributable to a non-selective reduction of expenditures in State executive branch agencies.

§ 35.310 Limitations.

(a) The Regional Administrator will not award section 205(g) funds for construction management assistance unless there is a signed agreement delegating responsibility for administration of those activities to the State.

(b) The Regional Administrator will not award section 205(g) permit and planning assistance before awarding funds which provide for the management of a substantial portion of the construction grants program. The maximum amount of permit and planning assistance a State may receive is the amount remaining in its reserve after the Regional Administrator allows for full funding of the management of the construction grant program under full delegation.

(c) The Regional Administrator will not award section 205(g) permit and planning assistance unless the work program submitted with the assistance application shows that the activities to be funded are coordinated, as appropriate, with activities proposed for funding under sections 106 and 205(j) of the Clean Water Act.

Water Quality Management Planning (Section 205(j))

§ 35.350 Purpose.

Section 205(j) of the Clean Water Act authorizes assistance to States (as defined in section 502 of that Act) to carry out water quality management planning activities. Alternatively, some of these activities may be eligible for funding under sections 106 and 205(g) of that Act. (See §§ 35.250 and 35.300.) Program requirements for water quality management activities are provided in 40 CFR Part 130. The purpose of 205(j) funds includes, but is not limited to, the following.

(a) Identification of the most cost-effective and locally acceptable facility and nonpoint measures to meet and maintain water quality standards.

(b) Development of an implementation plan to obtain State and local financial and regulatory commitments to implement measures developed under (a) above.

(c) Determination of the nature, extent, and causes of water quality problems in various areas of the State and interstate region.

(d) Determination of those publicly owned treatment works which should be constructed with Federal assistance, in which areas and in what sequence, taking into account the relative degree of effluent reduction attained, the relative contributions to water quality of other point or nonpoint sources, and the consideration of alternatives to such construction.

(e) Implementation of section 303(e) of the Clean Water Act.

§ 35.355 Limitations.

(a) The Regional Administrator will not award section 205(j) funds to a State agency unless in his judgment the agency develops its work program jointly with local, regional, and interstate agencies and gives funding priority to such agencies and designated or undesignated public comprehensive planning organizations to carry out portions of that work program.

(b) The Regional Administrator will not award section 205(j) funds to a State agency which does not report annually on the nature, extent, and causes of water quality problems in various areas of the State and interstate region.

(c) The Regional Administrator will not award section 205(j) funds unless the work program submitted with the assistance application shows that the activities to be funded are coordinated, as appropriate, with activities proposed for funding under section 106 and 205(g) of the Clean Water Act.

Public Water Systems Supervision (Section 1443(a))

§ 35.400 Purpose.

Section 1443(a) of the Safe Drinking Water Act authorizes assistance to States (as defined in section 1401 of that Act) to implement public water system supervision programs. Associated program regulations are found in 40 CFR Parts 141, 142, and 143.

§ 35.405 Maximum Federal share.

The Regional Administrator may provide up to seventy-five percent of the approved work program costs.

§ 35.410 Limitations.

(a) The Regional Administrator will not make an initial award of section 1443(a) funds unless the applicant has a public water systems supervision program or will establish one within a year of the award and will assume primary enforcement responsibility for the State's public water systems within that year.

(b) The Regional Administrator will not award section 1443(a) funds after the initial award unless the applicant has primary enforcement responsibility for the State's public water systems.

Underground Water Source Protection (Section 1443(b))

§ 35.450 Purpose.

Section 1443(b) of the Safe Drinking Water Act authorizes assistance to States (as defined in section 1401 of that Act) to implement underground water source protection programs. Associated program regulations are found in 40 CFR Parts 122, 123, 124, and 146.

§ 35.455 Maximum Federal share.

The Regional Administrator may provide up to seventy-five percent of the approved work program costs.

§ 35.460 Limitations.

The Regional Administrator will not award section 1443(b) funds unless the applicant has primary enforcement responsibility for the State's

underground water source protection program.

Hazardous Waste Management (Section 3011)

§ 35.500 Purpose.

Section 3011(a) of the Solid Waste Disposal Act, as amended, authorizes assistance to States (as defined in section 1004 of that Act) for the development and implementation of authorized State hazardous waste programs. Associated program regulations are found in 40 CFR Parts 122, Subparts A and B; 123, Subparts A, B, and F; 124, Subparts A and B; and 260–266.

§ 35.505 Maximum Federal Share.

The Regional Administrator may provide up to seventy-five percent of the approved work program costs.

§ 35.510 Limitations.

The Regional Administrator will not award section 3011(a) funds in a State with interim or final hazardous waste authorization unless the applicant is the lead agency designated in the authorization agreement.

Pesticide Enforcement (Section 23(a)(1))

§ 35.550 Purpose.

Section 23(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act authorizes assistance to States (as defined in section 2 of that Act) and Indian tribes to implement pesticide enforcement programs. Associated program regulations are found in 40 CFR Parts 162, 165–167, 169–170, and 172–173 and 19 CFR Part 12.

Pesticide Applicator Certification and Training (Section 23(a)(2))

§ 35.600 Purpose.

Section 23(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act authorizes assistance to States (as defined in section 2 of that Act) and Indian tribes to implement programs to train and certify applicants of restricted use pesticides. Associated program regulations are found in 40 CFR Parts 162 and 170–171.

§ 35.605 Maximum Federal share.

The Regional Administrator may provide up to fifty percent of the approved work program costs.

§§ 35.002, 35.400 through 35.786 (Subpart B), 35.1000, 35.1010, 35.1015, 35.1016, 35.1020, 35.1025, 35.1033, 35.1035, 35.1040, 35.1045, 35.1050, 35.1501, 35.1513, 35.1515, 35.1517, 35.1535, 35.1537, 35.1540, 35.1542 [Removed]

Part 35 is amended by removing § 35.002; all of Subpart B; §§ 35.1000, 35.1010, 35.1015, 35.1016, 35.1020, 35.1025, 35.1033, 35.1035, 35.1040, 35.1045, and 35.1050 of Subpart F; and §§ 35.1501, 35.1513, 35.1515, 35.1517, 35.1535, 35.1537, 35.1540, and 35.1542 of Subpart G.

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Tuesday
June 15, 1982

Part IV

Department of the Interior

Fish and Wildlife Service

Migratory Bird Hunting; Supplemental Proposals for Early and Late Season Migratory Bird Hunting Regulations Frameworks

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Supplemental Proposals for Early and Late Season Migratory Bird Hunting Regulations Frameworks.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Supplemental proposed rule.

SUMMARY: This document supplements Federal Register Document 82-10568 published on April 19, 1982, which notified the public that the U.S. Fish and Wildlife Service proposes to establish hunting regulations for certain migratory game birds during 1982-83, and provided information on certain proposed regulations.

This proposed rulemaking provides supplemental proposals and minor corrections for both the "early" and "late" season migratory bird hunting regulations frameworks. The early hunting seasons open prior to October 1 and include mourning doves; white-winged doves; band-tailed pigeons; woodcock; common snipe; rails and gallinules; September teal; sea ducks; early duck seasons in Florida, Iowa, Kentucky, and Tennessee; some sandhill crane seasons; migratory bird hunting seasons in Alaska, Puerto Rico, and the Virgin Islands; and extended faconry seasons. Late seasons open about October 1 or later and include most waterfowl and sandhill crane seasons, and those not previously selected for other species. The Service annually prescribes hunting regulations frameworks within which the States select specific seasons. The effect of this proposed rule is to facilitate establishment of early and late season migratory bird hunting regulations for the 1982-83 season.

DATES: The comment period for proposed migratory bird hunting season frameworks for Alaska, Puerto Rico, and the Virgin Islands will end on June 23, 1982; that for other early season proposals will end on July 16, 1982; and that for late season proposals on August 23, 1982. A Public Hearing on the proposed early season frameworks will be held on June 23, and one on late season frameworks will be held August 3, 1982, both starting at 9 a.m.

ADDRESS: Comments to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. The Public Hearing will be held in the Auditorium of the Department of the Interior Building on C Street, between 18th and 19th Streets, N.W., Washington, D.C. Notice of intention to participate in this hearing should be sent in writing to the Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Comments received on the supplemental proposed rulemaking will be available for public inspection during normal business hours in Room 525-B, Matomic Building, 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202-254-3207).

SUPPLEMENTARY INFORMATION: The annual process for developing migratory game bird hunting regulations deals with regulations for early and late seasons. Early seasons include those which open before October 1, while late seasons open about October 1 or later. Regulations are developed independently for early and late seasons. The early season regulations cover mourning doves; white-winged doves; band-tailed pigeons; rails; gallinules; woodcock; common snipe; sea ducks in the Atlantic Flyway; teal in September in the Central and Mississippi Flyways; early duck seasons in Florida, Iowa, Kentucky, and Tennessee; sandhill cranes in North Dakota and South Dakota; doves in Hawaii; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; and some special falconry seasons. Late seasons include the general waterfowl seasons; special seasons for scaup and goldeneyes; extra scaup and teal in regular seasons; most sandhill crane seasons in the Central Flyway; coots, gallinules, and snipe in the Pacific Flyway; and other special falconry seasons.

Certain general procedures are followed in developing regulations for both the early and the late seasons. Initial regulatory proposals are announced in a **Federal Register** document published in April and opened to public comment. Following termination of the comment period and after a public hearing, the Service develops and publishes the proposed frameworks for times of seasons, season lengths, shooting hours, daily bag and possession limits, and other regulatory elements. Following another public comment period, and after consideration of additional comments, the Service publishes the final frameworks in the **Federal Register.** Using these frameworks, State conservation agencies then select hunting season dates and options. States may prescribe more restrictive seasons and options than those offered in the Service's frameworks. The final regulations, reflected in amendments to Subpart K of 50 CFR Part 20, then appear in the **Federal Register,** becoming effective upon publication.

The regulations schedule for this year is as follows. On April 19, 1982, the Service published for public comment in the **Federal Register** (47 FR 16718) a proposal to amend 50 CFR 20, with comment periods ending as noted earlier. The proposal dealt with establishment of seasons, limits and shooting hours for migratory birds under §§ 20.101 through 20.107 and 20.109 of Subpart K. This document is the second in a series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations and deals specifically with supplemental proposed frameworks for early season migratory bird hunting regulations from which, when finalized, States may select season dates, shooting hours, and daily bag and possession limits for the 1982-83 season. All comments on the April 19 proposal received through May 14, 1982, have been considered in developing this document. In addition, new proposals for certain late season regulations are provided for public comment. Comment periods on this second document are specified above under DATES. Final regulatory frameworks for migratory game bird hunting seasons for Alaska, Puerto Rico, and the Virgin Islands are scheduled for **Federal Register** publication on or about July 2, 1982, and those for early seasons for other areas of the United States on July 27, 1982.

On June 23, 1982, a public hearing will be held in Washington, D.C., as announced in the **Federal Register** of April 19, 1982 (47 FR 16718), to review the status of mourning doves, woodcock, band-tailed pigeons, white-winged doves, and sandhill cranes. Proposed hunting regulations will be discussed for these species and for common snipe; rails; gallinules; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; mourning doves in Hawaii; September teal seasons in the Mississippi and Central Flyways; special September duck seasons in designated States; special sea duck seasons in the Atlantic Flyway; and extended falconry seasons. Statements or comments are invited.

This supplemental proposed rulemaking document describes a number of changes which have been proposed by commentors on the original framework proposals published on April

19, 1982, in the Federal Register. Several minor errors are also corrected.

Review of Public Comments and the Service's Response

Written Comments Received.

Twenty-two respondents commented by May 19, 1982, on the Service's initial proposals in the Federal Register dated April 19, 1982 (47 FR 16718). These include correspondence from 4 individuals, 1 national organization, 12 State agencies, 1 local government, and 4 communications from waterfowl flyway councils. The responses represent a broad spectrum of public interest. In some instances, the communications did not specifically mention the open comment period or regulatory proposals. However, because they were received or sent during the comment period and generally relate to migratory bird hunting regulations, they are treated as comments. Where the Service indicates acceptance of a new recommendation, it becomes a supplemental proposal subject to public comment.

A few other comments related to specific hunting season dates within the proposed season framework. Inasmuch as the season dates are selected by State conservation agencies, such comments were excluded.

Comments Received at Public Hearing.

The comments received at the June 23, 1982, public hearing will be addressed in the next supplemental proposal to be published in the Federal Register.

Supplemental Proposals

The following comments, proposals, modifications, and minor clarifications or corrections are numbered to correspond with the numbered items published in the Federal Register dated April 19, 1982. To facilitate review, early season regulations include items 1, 16, 20, 23, and 27, while late season regulations include items 1, 2, 12, 13, 14, 15, 16, and 27. In a number of cases, the Service responds to the public comments but proposes no changes.

1. *Shooting hours.* A Virginia hunter suggested modifying the shooting hours so that wood ducks could be hunted until one-half hour after sunset. He stated that wood ducks in his area do not fly until after sunset.

Response. The Service has addressed proposed changes in shooting hours frequently in the past and has issued an environmental assessment on the topic. These elaborate on reasons for retaining the existing shooting hours. Copies of the EA are available upon request. The Service is of the view that changes in existing shooting hours are inadvisable and proposes no changes at this time.

2. *Framework dates for ducks and geese in the continental United States.* Massachusetts requested an extension of its Canada goose season to 90 days as a means of reducing the size of locally breeding, non-migratory Canada geese, and to reduce crop depredations and other complaints. Massachusetts noted that 10 to 16 thousand Canada geese now winter in the State, and that they cause damage to crops, including cranberry plants and berries. The State indicated that it would rescind its request for the longer season if other Atlantic Flyway States having similar goose problems reduce their seasons from 90 to 70 days as an effort to re-establish more geese in the southern part of the flyway.

Michigan repeated its request that the framework opening date for waterfowl in the Upper Peninsula be advanced into September, e.g., September 26, 1982. A State analysis of duck harvest data indicating that only 10 percent of the statewide harvest occurs in the Upper Peninsula was cited as evidence that the change would have little impact on Michigan overall duck harvest. Michigan noted that local goose flocks creating a public nuisance in the semi-urban environment in the Southeast Goose Management Area justify extending the framework closing date to February 15. Harvest opportunities for these geese are related to the presence of snow cover and reduced temperatures which commonly occur in late January and early February.

The Upper Region Regulations Committee of the Mississippi Flyway Council disapproved Michigan's request for a waterfowl framework opening on September 26, endorsed Michigan's request for an extension of the goose season framework to February 15, 1983, and endorsed Wisconsin's request for an October 1 framework opening date for waterfowl (instead of the Saturday closest to October 1, as has been generally proposed for the Mississippi Flyway).

The Lower Region Regulations Committee of the Mississippi Flyway Council recommended that framework closing dates for ducks, geese, and coots in all its member States be extended from January 20 to January 31. The group also recommended that September duck seasons be allowed in member States "at the earliest opportunity," with provisions being similar to the experimental seasons underway in Kentucky and Tennessee.

The Waterfowl Habitat Owners' Alliance and several California hunters suggested that the California waterfowl season framework be extended through January.

The County Board of Supervisors of Green Lake County, Wisconsin, submitted a resolution requesting that in Green Lake County the daily bag limit for Canada geese be increased to 2 birds, and that the season be extended into December. These measures are requested to alleviate local problems arising from increased numbers of these geese.

Response. Based on a review of the information provided and considering the Flyway Council recommendations, the Service concurs with the Michigan request relating to the Southeast Goose Management Area, and with the Wisconsin request to adopt a standard October 1 season opening, and proposes to implement these changes. On the other hand, the Service does not favor additional earlier or later frameworks until evaluations of the Iowa, Florida, Kentucky, Mississippi and Tennessee experimental seasons have been completed, and does not propose any change at this time. The request for regulatory changes for Canada geese in Green Lake County, Wisconsin, will be considered in conjunction with the management of the Mississippi Valley Population to which these geese belong, and the views of interested States and the Mississippi Flyway Council.

12. *Canvasbacks and redheads.* The Upper Region Regulations Committee, Mississippi Flyway Council, recommended Service endorsement of its canvasback and redhead management guidelines. The guidelines provide:

* * * That we recognize a breeding population level and habitat index for both species which would require the area closure concept and restrictive bag limits (1 or 1/100 pt.). For example, a canvasback breeding population of 550,000 or less (three-year average) and a redhead breeding population of 600,000 or less (three-year average) coupled with a May pond figure of 2.0 million or less would require restrictive bag limits (1 or 1/100 point each) and area closure. Any two consecutive years of such poor habitat conditions would require complete closure of hunting on each species for that year as would any three-year average breeding population of 400,000 canvasbacks and 500,000 or less redheads.

Breeding populations and habitat values above these minimums would allow for modest increase in bag limits (1 and 1/70 points each) and modest changes in the area closure concept (drop county closures and retain true key area closures such as La Crosse, Wisconsin and Keokuk Pool plus others as deemed necessary). Key concentration areas could be closed during peak migratory periods rather than throughout the season.

Further increases in bag limits would be influenced by how well each population is growing toward the long-term goals of 650,000 breeding canvasbacks and one million breeding redheads as well as improved habitat conditions on the principal breeding grounds. Current long-term goals for each species are ambitious and may require modification in future years.

Wisconsin again proposed that its area closures for canvasbacks be terminated. The Upper Region Regulations Committee recommended abolishment of canvasback closure areas in Michigan, Ohio, and Wisconsin on the basis that these traditional canvasback use areas no longer attract substantial numbers of canvasbacks. The Lower Region Regulations Committee, Mississippi Flyway Council, made a similar recommendation for area closures in Alabama, Louisiana, and Tennessee, further recommending that a point value of 100 be established for the species throughout the region whenever point system regulations apply.

The Central Flyway Council recommended that the Service similarly abolish remaining canvasback closures in North Dakota and South Dakota.

Response. The proposed guidelines for managing canvasback harvests include criteria which appear to be too inflexible for practical application, and do not appear to provide significant improvement over present strategies based on average breeding population trends, productivity forecasts, minimal bag limits, and area closures.

The Service notes that shifts in distribution during migration or on wintering areas may have nullified the intended benefits of closing specific areas to canvasback hunting. If the absence of canvasbacks on areas presently closed is adequately documented, or it can be demonstrated that closures are ineffective, the Service will reconsider its present proposal to retain existing canvasback closed areas.

13. *Zoning.* Michigan repeated its request that it be permitted to establish 3 waterfowl hunting zones in lieu of the two in effect in recent years. It also requested a minor change in the present boundary; this involves shifting a few hundred acres of the Manistee River State Game Area from the South to North Zone. The Upper Region Regulations Committee of the Mississippi Flyway Council recommended that Ohio be permitted to continue setting waterfowl regulations by zones during 1982–83 pending completion of the final report for the 1979–81 study. The Committee supported Michigan's request for a minor change in its existing zone boundaries but opposed Michigan's proposal to establish three hunting zones. The Committee also opposed Indiana's request to split its waterfowl hunting seasons within zones, and Iowa's request to establish zones for setting waterfowl seasons. The Central Flyway Council indicated its support of zoning proposals submitted to it by Montana, New Mexico, and Oklahoma.

The following zone descriptions were provided by the three new States proposing to initiate zoning studies.

Montana—The Central Flyway portion of the State would be divided as follows:

Zone 1. Bighorn, Blaine, Carbon, Daniels, Fergus, Garfield, Golden Valley, Judith Basin, McCone, Musselshell, Petroleum, Phillips, Richland, Roosevelt, Sheridan, Stillwater, Sweetgrass, Valley, Wheatland, and Yellowstone Counties.

Zone 2. Carter, Custer, Dawson, Fallon, Powder River, Prairie, Rosebud, Treasure, and Wibaux Counties.

New Mexico—The Central Flyway portion of the State would be divided as follows:

Zone 1. That area lying north of Interstate 40 from the Continental Divide east to Tucumcari and thence northeast on U.S. Highway 54 to the Texas line, including portions of Bernalillo, Cibola, Guadalupe, McKinley, Quay, and Rio Arriba Counties and all of Colfax, Harding, Los Alamos, Mora, Sandoval, San Miguel, Santa Fe, Taos, and Union Counties.

Zone 2. That area, not in Zone 1, including portions of Bernalillo, Cibola, Guadalupe, and Quay Counties and all of Chaves, Curry, De Baca, Dona Ana, Eddy, Lea, Lincoln, Luna, Otero, Roosevelt, Sierra, Socorro, Torrance, and Valencia Counties.

Oklahoma—The Low Plains portion of the State would be divided as follows:

Zone 1. That area lying north of Interstate 40 and west of Interstate 35 excluding the panhandle and portions of Roger Mills and Custer Counties and all of Grant County.

Zone 2. The remainder of Oklahoma excluding the panhandle.

Response. The Service concurs with the requests noted above for Ohio, Montana, New Mexico, and Oklahoma, and the minor boundary change for Michigan. Acceptance of the new zoning studies in Montana, New Mexico, and Oklahoma is contingent upon their fulfilling criteria published in the **Federal Register** dated April 19, 1982, at 47 FR 16725. On the other hand, the Service does not favor Michigan's request for 3 zones because it also involves a change in the framework opening. The Service does not propose any changes for Indiana and Iowa at this time.

14. *Goose and brant seasons.* Delaware noted that a 70-day snow goose season was erroneously proposed in the framework published in the **Federal Register** dated April 19, 1982, at 47 FR 16726.

Response. The intended season length for the Atlantic Flyway is 90 days, the same that was in effect during 1981–82. The proposed framework is corrected below to read 90 days.

The Service further notes that described portions of the Atlantic Flyway where Canada goose season framework ending dates of January 20, 1983, and January 31, 1983, apply contain certain errors (47 FR 16726). The corrected description follows:

Between October 1, 1982, and January 20, 1983, Maine, New Hampshire, Vermont, Massachusetts, Pennsylvania, West Virginia, Maryland, and Virginia (excluding those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17) may select 70-day seasons on Canada geese; the daily bag and possession limits are 3 and 6 geese, respectively. However, in the area comprised of New York (including Long Island), Rhode Island, Connecticut, New Jersey, Delaware, the Delmarva Peninsula portions of Maryland and Virginia, and that portion of Pennsylvania lying east and south of a boundary beginning at Interstate Highway 83 at the Maryland border and extending north to Harrisburg, then east on U.S. Highway 22 to the New Jersey border, the Canada goose season length may be 90 days with the closing framework date extended to January 31, 1983. The daily bag limit within this area (except New York, Rhode Island, and Connecticut) will be 4 birds with a possession limit of 8 birds. The daily bag and possession limits in New York, Rhode Island, and Connecticut will be 3 and 6, respectively. North Carolina and those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17 in Virginia may select 50-day seasons on Canada geese within the October 1, 1982, to January 20, 1983, framework; the daily bag and possession limits are 2 and 4 Canada geese, respectively. South Carolina may select a 50-day season on Canada geese within the October 1, 1982, to January 20, 1983, framework; the daily bag and possession limits are 1 and 2 Canada geese, respectively. The season will be closed on Canada geese in Florida and Georgia. States may, in lieu of zoning, split their goose season into two or three segments.

Between October 1, 1982, and January 31, 1983, States in the Atlantic Flyway may select 90-day seasons on snow geese (including blue geese); the daily bag and possession limits are 4 and 8 geese, respectively.

Michigan proposed that the uniform statewide Canada goose daily and possession limits be 2 and 4 birds,

respectively, except in special management areas where higher limits may be justified.

Response. Action on this request is deferred pending additional population and production information, and recommendations from the Mississippi Flyway Council.

The Upper Region Regulations Committee, Mississippi Flyway Council, endorsed Michigan's request for extending the goose season to 107 days ending February 15 in the Southeastern Goose Management Area as a means of limiting the population growth of giant Canada geese, and also Michigan's request for lengthening the goose season to 60 days in the Saginaw County Goose Management Area, but rejected the proposal to allow the taking of brant with other geese. The Committee also approved Illinois' plan to establish a Canada goose harvest quota area in Fulton, Henry, and Knox Counties.

Response. The revised proposed frameworks will include the requested changes for Southeastern and Saginaw Goose Management Areas in Michigan and the new Canada goose quota area in Illinois.

New Mexico and the Central Flyway Council recommended that in New Mexico, a distinction be made in the frameworks between light and dark geese. The Central Flyway Council proposed that "dark" geese be redefined for the purpose of setting hunting regulations.

Response. The Service concurs with these recommendations and proposes to make the changes requested.

16. *Sandhill cranes.* Wyoming requested a combination special sandhill crane and Canada goose season in portions of Lincoln County as a means of reducing populations and alleviating crop depredations. The proposed season would occur during September 1–14, a time when whooping cranes would still be at Grays Lake, Idaho. Hunting would be by State permit, with 125 each being issued in the Bear River drainage and Star Valley. Each permittee would be allowed to take two sandhill cranes and three Canada geese. As a measure to control hunting, should a whooping crane appear, and to collect better harvest data, hunters would be required to check in and out of the hunting areas daily through two check stations. Wyoming's request was endorsed by the Pacific Flyway Council, and recommended to the Service.

A number of changes were proposed for sandhill crane hunting frameworks by the Central Flyway Council. It recommended that in North Dakota a season not to exceed 9 days, to occur during September 1–20, be permitted in Benson, Burleigh, Emmons, Kidder, Logan, McHenry, Pierce, and Stutsman Counties, and that in McLean and Sheridan Counties a 16-day season within the same framework be permitted. A season framework not to exceed 58 days within September 1-February 28 was proposed for Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, and Wyoming. Within these States some additional changes were proposed; these include establishing a statewide season in Kansas, including Sheridan County as a hunting area in Montana, changing the hunting area in South Dakota from 5 counties to statewide, and adding Campbell and Converse Counties to the Wyoming hunting area. No season is proposed at this time for Nebraska.

For New Mexico, Oklahoma, and Texas, a season not to exceed 93 days to be selected within the period September 1-February 28 was proposed. The hunting areas would remain the same as in the 1981–82 season except in Oklahoma where an area between U.S. 81 and Interstate 35 would be added.

New Mexico and the Central Flyway Council endorsed an experimental hunting season for a limited area in southwestern New Mexico.

Response. The Service addressed most of these request and provided more detailed information about them in the **Federal Register** dated April 19, 1982, at 47 FR 16727. At that time the Service stated:

> Various sandhill crane population management plans are nearing completion in the Central and Pacific Flyways. These plans should be completed before regulatory changes are considered. In addition, there is a need to address hunting and harvest levels for sandhill cranes in a more comprehensive way than appears to be the case now. This should be done with a view to providing guidelines to the overall harvest of cranes as well as the harvest of particular populations or populations segments that may need special consideration. Where different State harvest proposals are directed to the same sandhill crane population, it is important that the proposed regulations be assessed in light of overall crane population objectives, estimated allowable harvests, and expected subspecific composition of birds to be subjected to additional harvest. The Service will consider these requests further as additional information becomes available. Wyoming's request concerns both sandhill cranes and Canada geese and would entail a major change in framework dates for hunting geese, so as to permit hunting in Septmber. The Service proposes to defer consideration of such a change pending further information and the completion of a management plan for these geese.

20 *White-winged doves.* The Pacific Flyway Council recommended that the season framework for white-winged doves, except in Arizona, be increased to 70 days, the same as for mourning doves, with not more than 10 white-winged doves daily and 20 in possession within the limits allowed for mourning doves.

Response. The revised frameworks will include the above proposals.

23. *Mourning doves.* Two errors exist in the Central Management Unit mourning dove framework published at 47 FR 16728. The first is the omission of the season length of 60 days. Second, a typographical error identifies the possession limit under the 45-day, 15 dove daily bag limit alternative as 20 doves. The correct possession limit under the alternative is 30 doves.

In the **Federal Register** dated April 19, 1982 (at 47 FR 16728), the Service noted that it was considering the desirability of applying generally uniform mourning dove frameworks to the 3 management units in the United States. No specific proposal was made pending additional review and comment.

In response to this notice, South Carolina suggested that the mourning dove bag limit in the Eastern Management Unit be increased from 12 to 18 birds in States selecting half-day shooting. This was justified on the grounds that hunting accounts for only about 11 percent of the 70 percent total mortality of doves, the average hunter in South Carolina bagged 5.9 doves per trip during the early season and 3.1 per trip during the last part of the split season, belief that the increased bag limit would have little impact upon the overall harvest, and call-count survey data which suggested that breeding doves are increasing in South Carolina and the entire United States.

The Central Flyway Council recommended that the basic mourning dove season in the Central Management Unit be increased from 60 to 70 days. The Pacific Flyway Council recommended that the basic framework in the Western Management Unit be changed from 50 days and 10 doves daily to 70 days and 12 doves daily, with and option for a 45-day season with 15 doves daily and 30 in possession.

Response. The Service is considering these recommendations but defers action on them pending receipt and consideration of additional comments.

27. *Migratory game bird seasons for falconers.* The Mississippi Flyway Council endorsed Michigan's request that the framework within which states are permitted to set special falconry hunting seasons for waterfowl be altered to include September.

Response. The Service is of the view that different means of taking do not necessarily justify setting different frameworks within which seasons may be selected and proposes to retain present falconry hunting season frameworks.

Public Comment Invited

Based on the results of migratory game bird studies now in progress and having due consideration for any data or views submitted by interested parties, the possible amendments resulting from this supplemental rulemaking will specify open seasons; shooting hours; and bag and possession limits for designated migratory game birds in the United States, including Alaska, Puerto Rico, and the Virgin Islands.

The Director intends that finally adopted rules be as responsive as possible to all concerned interests. He therefore desires to obtain the comments and suggestions of the public, other concerned governmental agencies, and private interests on these proposals and will take into consideration the comments received. Such comments, and any additional information received, may lead the Director to adopt final regulations differing from these proposals.

Special circumstances are involved in the establishment of these regulations which limit the amount of time which the Service can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: the need, on the one hand, to establish final rules at a point early enough in the summer to allow affected State agencies to appropriately adjust their licensing and regulatory mechanisms, and, on the other hand, the unavailability before mid-June of specific, reliable data on this year's status of some migratory shore and upland game bird populations. Therefore, the Service believes that to allow a comment periods past the dates specified earlier is contrary to the public interests.

Comment Procedure

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may participate in the rulemaking process by submitting written comments to the Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments received will be available for public inspection during normal business hours at the Service's office in Room 525 B, Matomic Building, 1717 H Street, NW., Washington, D.C.

All relevant comments on proposals for Alaska, Puerto Rico, and the Virgin Islands received no later than June 23, 1982; on early season proposals (except Alaska, Puerto Rico, and the Virgin Islands) received no later than July 16, 1982; and those on late season proposals received by August 23, 1982, will be considered. The Service will attempt to acknowledge comments, but substantive response to individual comments may not be provided.

Recommendation To Change Process for Establishing Migratory Bird Hunting Regulations

In the **Federal Register** dated April 19, 1982 (at 47 FR 16721), the Service presented a recommendation received from the Office of Management and Budget. Because of the importance and implications of the proposal, it is again described.

The Office of Management and Budget (OMB), as part of its program to eliminate unnecessary, burdensome or counterproductive regulations, has urged the Service to consider not publishing final rules (regulations) on hunting season dates and options selected by State conservation agencies from annual frameworks. Under this arrangement there would be no Federal regulations showing hunting season dates and options selected by each State. Instead, the final regulatory action taken by the Service would be the promulgation of frameworks. Season selections and other selected options would be finalized only in State regulations. The Service would continue to review State selections for consistency with Federal frameworks, and would compile them for informational purposes.

Acceptance of the OMB recommendation would shift the focus of the Federal regulations from individual hunters to State conservation agencies, with the latter being required to make proper selections from the Federal frameworks, and formalize the selections as State regulations.

The Service emphasizes its desire to receive comments on the proposal from all interested parties. All written comments received through August 3, 1982, will be taken into consideration. In addition, opportunity will be afforded at the June 23, 1982, early season regulations public hearing and the August 3, 1982, late season regulations public hearing for interested parties to provide statements regarding the proposal.

Flyway Council Meetings

The Service published a final rule in the **Federal Register** dated December 22, 1981 (46 FR 62077) which established certain procedures in the development of the annual migratory bird hunting regulations. This rule took effect on January 21, 1982. One provision is to publish notification of meetings of waterfowl flyway councils where Department officials will be in attendance. In this regard, Departmental representatives will be present at the following summer meetings of the various flyway councils:

Atlantic Flyway—Charleston, SC (Charleston Sheraton), July 29–30
Mississippi Flyway—Mobile, AL (Quality Inn), July 29–30
Central Flyway—Colorado Springs, CO (Four Seasons Motor Inn), July 28–29
Pacific Flyway—Reno, NV (Sahara Hilton), July 28.

Although agendas are not yet available, these meetings usually commence at 8:30 to 9 a.m. on the days indicated.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 25241). In addition, several environmental assessments have been prepared on specific matters which serve to supplement the material in the Final Environmental Statement. Copies of these documents are available from the Service.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act," and "by taking such action necessary to insure that any action authorized, funded, or carried out . . . is not likely to jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of habitat of such species . . . which is determined to be critical."

Section 7 consultations are presently under way regarding both the early and late season regulatory proposals. It is possible that the findings from the consultation, which will be included in a biological opinion, may cause modification of some of the regulatory measures proposed in this document. Any modifications that may be desirable will be reflected in the final frameworks for Alaska, Puerto Rico, and the Virgin Islands, scheduled for publication in the **Federal Register** on or about July 2, 1982; those for other early seasons on or about July 27, 1982; and for late seasons on or about September 1, 1982.

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species and their habitats. Examples of such consideration include areas closed to dove and pigeon hunting for protection of the Puerto Rican plain pigeon and the Puerto Rican parrot, both of which are classified as endangered. Also, an area in Alaska and 2 California counties are closed to Canada goose hunting for protection of the endangered Aleutian Canada goose.

The Service's biological opinions resulting from its consultation under Section 7 are considered public documents and are available for public inspection in or available from the Office of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Regulatory Flexibility Act and Executive Order 12291

In the **Federal Register** dated April 19, 1982 (at 47 FR 16722), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. All this information is included in the present document by reference. As noted in the early **Federal Register** publication, the Service plans to issue its Memorandum of Law for the migratory bird hunting regulations at the same time the first of the annual hunting rules is finalized.

Authorship

The primary author of this proposed rulemaking is Henry M. Reeves, Office of Migratory Bird Management, working under the direction of John P. Rogers, Chief.

List of Subjects in 50 CFR Part 20

Hunting, Wildlife, Exports, Imports, Transportation.

Dated: June 1, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-16108 Filed 6-14-82; 8:45 am]

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federal register

Tuesday
June 15, 1982

Part V

Department of Transportation

National Highway Traffic Safety Administration

Uniform Tire Quality Grading; Consumer Tire Quality Grading; Interim Final Rule and Request for Comments

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 575

[Docket No. 25; Notice 46]

Consumer Information Regulations; Uniform Tire Quality Grading

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Interim final rule and request for comments.

SUMMARY: This notice makes several technical amendments to the test procedures in the regulation on Uniform Tire Quality Grading (UTQG). The UTQG regulation specifies that the tire rim size and tire loading used in testing individual tires are to be determined by using Table 1, Appendix A of Federal Motor Vehicle Safety Standard No. 109, New pneumatic tires. Since the portion of Table 1, Appendix A relied upon by the UTQG regulation was deleted in a previous agency rulemaking, effective June 15, 1982, reliance upon that Appendix will no longer be appropriate after that date. This notice replaces the references to Appendix A with equivalent methods for determining rim size and tire loading.

DATES: This amendment is effective June 15, 1982. Comments must be received on or before August 16, 1982.

ADDRESS: Comments should refer to the docket number set forth above and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Docket hours are 8 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dr. F. Cecil Brenner, Office of Automotive Ratings, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–1740).

SUPPLEMENTARY INFORMATION: The Uniform Tire Quality Grading (UTQG) regulation (49 CFR 575.104) requires that manufacturers and brand name owners of passenger car tires provide consumers with information on the treadwear, traction and temperature resistance of their tires. This information is to be generated in accordance with procedures specified in the regulation.

Two parameters specified in the test procedures are the proper test rim width for each tire, and the load under which the tire is to be tested. The UTQG regulation refers to Appendix A of Federal Motor Vehicle Safety Standard No. 109 (FMVSS 109) for the determination of rim size to be used for testing purposes. Table I of Appendix A provides a complete listing of tire sizes available in this country and for each size indicates the proper test rim size and maximum loads at various tire pressures.

The UTQG regulation also refers to Appendix A of FMVSS 109 for the determination of tire load. The tire load for temperature resistance testing is the load specified in Appendix A of FMVSS 109 for the tire pressure listed in Table I of the UTQG regulation. Thus, load is currently determined by obtaining the tire pressure from Table I of the UTQG regulation and finding the load for that pressure level in Appendix A. The tire load for treadwear and traction testing is determined in the same way, except that the load level found in Appendix A is multiplied by 85 percent.

Beginning on June 15, 1982, reliance upon Appendix A of FMVSS 109 to determine rim size and tire load for UTQG testing will no longer be possible. On that date, the agency's amendment (December 17, 1981; 46 FR 61473) deleting Table I of Appendix A will become effective. As FMVSS 109 is currently written, the tire manufacturers and brand name owners must submit the rim size information to NHTSA for incorporation in Table I. Under the amendment, they will be able to satisfy FMVSS 109 by either securing the incorporation of the information in a publication of a standardization organization like the Tire and Rim Association or one of its foreign counterparts or by submitting it to the agency, their dealers, and others who request it, without the need for the information's incorporation in any other document.

As to tire load information, the tire manufacturers and brand name owners must currently calculate loads for pressure levels ranging from 16 to 40 pounds per square inch in most cases and submit the information to NHTSA for incorporation in Table I. After June 14, they need determine the load only for a single pressure level, the maximum one. The responsibilities of the manufacturers and brand name owners under amended FMVSS 109 regarding load information may be satisfied in the same fashion as their responsibilities regarding rim size.

The deletion of Table I of Appendix A was intended to reduce an unnecessary regulatory burden placed by FMVSS 109 on the tire industry and the agency. The action was not intended to make any change in the UTQG test procedures. However, the deletion of Table I of Appendix A necessitates amending the UTQG regulation so that rim size and tire load can be determined without reference to that appendix.

This notice provides the means for making those determinations. The rim size to be used for UTQG testing is the same size specified by the tire manufacturer or brand name owner in a publication of a standardization association or in a submission directly to the agency. This provision does not in any way change the rim size used for UTQG testing. Instead, it simply changes the source of obtaining the rim size information.

As to tire loading, the UTQG testing will henceforth rely upon mathematical calculation involving a tire's maximum load, as molded on its sidewall, instead of relying upon information submitted by the manufacturer or brand name owner to any organization or agency. Under the new procedure, the maximum load is multiplied by a factor, ranging from .851 to .887 depending on the tire's maximum inflation pressure, and the result is rounded. The rounded result is used for temperature resistance testing. For treadwear and traction testing, the rounded result is multiplied by 85 percent. In most instances, this procedure produces the same load as is currently obtained by reference to Table I of Appendix A. In those instances in which the load is different, the degree of difference is so slight that the difference will not have any practical effect on the UTQG test results.

The agency finds good cause for issuing these amendments without prior notice and comment. The agency believes that prior notice and comment are unnecessary. The revisions are technical and editorial in nature. In most instances, the revisions produce no changes in the procedures under which tires are tested for UTQG purposes. In the few instances in which there will be a change, the change is so slight as to be substantively insignificant. Although the agency has concluded that prior notice and comment are unnecessary, it has decided to go beyond the minimum requirements of the Administrative Procedures Act and provide a 60-day comment period on these amendments. For the same reasons set forth above and to permit continued implementation of the UTQG regulation, the agency finds good cause for making the revisions effective immediately.

Since this proceeding is merely intended to allow the continued implementation of the UTQG regulation without any change in the manner of implementation, NHTSA has determined that this proceeding does not involve a major rule within the meaning of Executive Order 12291 or a significant

rule within the meaning of the Department of Transportation regulatory procedures. Further, there are virtually no economic impacts of this action so that preparation of a full regulatory evaluation is unnecessary.

The Regulatory Flexibility Act does not require the preparation of flexibility analyses with respect to rulemaking proceedings, such as this one, for which prior notice and comment is not required by the Administrative Procedures Act. If the requirement for preparation of such analyses were applicable, the agency would certify that this action would not have a significant economic impact on a substantial number of small entities. As noted above, this action will make essentially no change in the implementation of the UTQG regulation.

NHTSA has concluded that this action will have essentially no environmental consequences and therefore that there will be no significant effect on the quality of the human environment.

Interested persons are invited to submit comments on the agency's action announced above and on any other topics relevant to this notice. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary argument in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. section 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is required is in fact confidential within the meaning of section (b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items have previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, it is recommended that interested persons continue to examine the docket for new material. Those persons desiring to be notified upon receipt of their comments in the rulemaking docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 575

Consumer protection, Labeling, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

(Secs. 103, 112, 119, 201, 203, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407, 1421, 1423); delegations of authority at 49 CFR 1.50)

Issued on June 11, 1982.

Raymond A. Peck, Jr.,

Administrator.

PART 575—CONSUMER INFORMATION REGULATIONS

In consideration of the foregoing, 49 CFR 575.104 is amended as follows:

1. Section 575.104(e)(1)(v) is revised to read as follows:

§ 575.104 Uniform tire quality grading standards.

* * * * *

(e) * * *

(1) * * *

(v) On each convoy vehicle, all tires are mounted on identical rims of design or measuring rim width specified for tires of that size in accordance with 49 CFR 571.109, § 4.4.1 (a) or (b), or a rim having a width within −0 to +0.50 inches of the width listed.

* * * * *

2. Section 575.104(e)(2)(iii) is revised to read as follows:

* * * * *

(e) * * *

(2) * * *

(iii) Load each vehicle so that the load on each course monitoring and candidate tire is 85 percent of the test load specified in § 575.104(h).

* * * * *

3. The first sentence of § 575.104(f)(2)(i)(B) is revised to read as follows:

* * * * *

(f) * * *

(2) * * *

(i) * * *

(B) Mount each tire on a rim of design or measuring rim width specified for tires of its size in accordance with 49 CFR 571.109, § 4.4.1 (a) or (b), or a rim having a width within −0 to +0.50 inches of the width listed.

* * * * *

4. The first sentence of § 575.104(f)(2)(viii) is revised to read as follows:

* * * * *

(f) * * *

(2) * * *

(viii) Prepare two candidate tires of the same construction type, manufacturer, line, and size designation in accordance with paragraph (f)(2)(i) of this section, mount them on the test apparatus, and test one of them according to the procedures of paragraph (f)(2)(ii) through (v) of this section, except load each tire to 85% of the test load specified in § 575.104(h).

* * * * *

5. Section 575.104(g)(1) is revised to read as follows:

* * * * *

(g) * * *

(1) Mount the tire on a rim of design or measuring rim width specified for tires of its size in accordance with 49 CFR 571.109, § 4.4.1 (a) or (b) and inflate it to the applicable pressure specified in Table 1 of this section.

* * * * *

6. Section 575.104(g)(6) is revised to read as follows:

* * * * *

(g) * * *

(6) Press the tire against the test wheel at the load specified in § 575.104(h).

* * * * *

7. Section 575.104 is amended by adding a new paragraph (h) immediately after Table 1 in paragraph (g), reading as follows:

* * * * *

(h) *Determination of test load.* (1) To determine test loads for purposes of paragraphs (e)(2)(iii), (f)(2)(viii) and (g)(6), follow the procedure set forth in paragraphs (2) through (5) below.

(2) Determine the tire's maximum inflation pressure and maximum load

rating both as specified on the tire's sidewall.

(3) Determine the appropriate multiplier corresponding to the tire's maximum inflation pressure, as set forth in Table 2.

(4) Multiply the tire's maximum load rating by the multiplier determined in paragraph (3). This is the tire's calculated load.

(5) Round the product determined in paragraph (4) (the calculated load) to the nearest multiple of ten pounds or, if metric units are used, 5 kilograms. For example, 903 pounds would be rounded to 900 and 533 kilograms would be rounded to 535. This figure is the test load.

TABLE 2

Maximum inflation pressure	Multiplier
32 psi	.851
36 psi	.870
40 psi	.883
240 kPa	.866
260 kPa	.857
300 kPa	.864

[FR Doc. 82-16290 Filed 6-14-82; 10:23 am]
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DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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Postal Service

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Rules and Regulations

Federal Register
Vol. 47, No. 116
Wednesday, June 16, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

Tobacco Publications; Establishment of Fees and Charges

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule.

SUMMARY: The Tobacco Inspection Act of 1935 authorizes the Secretary to collect, publish, and distribute, without cost to growers, timely information relating to the marketing of tobacco. Pursuant to Section 1121 of the Agriculture and Food Act of 1981 which authorizes the Department to collect reasonable fees for the distribution, upon request, of copies of publications which report economic research and statistical information, the Department promulgates these regulations as an interim final rule establishing fees and charges to cover the cost of postage, printing and handling of tobacco publications requested by the general public, except that no fee will be charged to other government agencies who cooperate in the collection of market data for the requested publication, growers, and the news media.

EFFECTIVE DATES: July 1, 1982. Comments due on or before July 16, 1982.

ADDRESS: Send comments to J. T. Bunn, Deputy Director, Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, Room 502, Annex Building, Washington, D.C. 20250. Comments will be available for public inspection at this location during the hours of 8:00 am to 4:30 pm, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Larry L. Crabtree, Assistant Branch Chief, Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-3489.

SUPPLEMENTARY INFORMATION: The Tobacco Inspection Act (7 U.S.C. 511-511(q)) authorizes the Secretary to collect and distribute tobacco market data "without cost to growers." Since passage of the Act in 1935, the Department has distributed tobacco publications through the mail, without cost to anyone requesting them. The Agriculture and Food Act of 1981 (7 U.S.C. 2242a) authorizes the Department to collect fees for the reporting of economic research and statistical data. In accordance with this legislative authorization, the Department promulgates these regulations by this interim final rule to establish and collect reasonable fees for the distribution of tobacco publications to the general public, except that no fees will be charged to other government agencies who cooperate in the collection of market data for the respective publications, growers, and the news media. A limited distribution list will be established with other bureaus within USDA for copies of publications under the principle of data exchange to complement the various responsibilities of those organizations. The Department's decision to collect fees for tobacco publications is consistent with both the Department's goal of reducing its cost of distributing publications and the Congressional policies which placed the tobacco inspection program under user fees. In furtherance of this policy, the Department has requested Congress to amend the Tobacco Inspection Act to give the Secretary authority to also collect fees from growers for publications distributed through the mail. This legislation is now before Congress. The Agriculture and Food Act of 1981, establishes authority for the Department to promulgate regulations to establish and collect fees and charges to cover the Department's cost for the printing, handling, and mailing of tobacco publications. Fees for individual publications will vary according to the number of pages, frequency of issues, length of marketing season for the crop, number of subscribers, cost of equipment, personnel, and other factors affecting printing and distribution. With the expected fluctuating costs of printing, handling, and postage, it has been determined that it would be inappropriate for the fees to be specified in the regulations where any changes would require time consuming and expensive rulemaking procedures. Therefore, the fees will be computed and announced annually by the Director of the Tobacco Division. Any modification in the fees will simply reflect changing costs incurred by USDA for the duplication, handling, and distribution of the publications. Based on estimates of current costs and activity level, fees during the initial subscription period for surface mail, effective July 1, 1982, for the United States, Canada, and Mexico are as follows:

(1) Flue-cured type 11—$8.00—consisting of weekly and season issues.

(2) Flue-cured type 12—$8.00—consisting of weekly and season issues.

(3) Flue-cured types 11 and 12—$14.00—combined mailing of these types.

(4) Flue-cured type 13—$8.00—consisting of weekly and season issues.

(5) Flue-cured type 14—$6.00—consisting of weekly and season issues.

(6) Flue-cured types 11-14—$25.00—consisting of weekly and season issues for each type.

(7) Annual Flue-cured Market Review—first copy $2.00, with additional copies $1.00 each.

(8) Virginia fire-cured type 21—$6.00—consisting of weekly and season issues.

(9) Virginia sun-cured type 37—$4.00—consisting of weekly and season issues.

(10) Virginia fire and sun-cured types 21 and 37—$8.00—combined mailing of these types.

(11) Kentucky—Tennessee fire-cured—types 22 and 23—$6.00—consisting of weekly and season issues.

(12) One-Sucker—type 35—$4.00—consisting of weekly and season issues.

(13) Green River—type 36—$4.00—consisting of weekly and season issues.

(14) Kentucky—Tennessee fire-cured, One-sucker and Green River dark air-cured types 22, 23, 35, and 36—$10.00—combined mailing of these types.

(15) Annual Fire and Dark air-cured Market Review—first copy $2.00, with additional copies $1.00 each.

(16) Burley type 31—$10.00—consisting of weekly and season issues.

(17) Annual burley Market Review—first copy $2.00, with additional copies $1.00 each.

An additional fee of $2.00 will be charged for requests for surface mailing outside of the United States, Canada, or Mexico. Charges for air mail service outside of the United States, Canada, and Mexico will vary depending on the type of service requested. Weekly issues will continue to be available to growers, without charge, in auction warehouses during the marketing season. The Department recognizes the importance of the function served by the news media such as wire services, newspapers, news magazines, and broadcast news outlets, in the dissemination of information to the general public, and the Department will not charge a fee for the distribution of market news reports to these organizations. However, based on the extensive number of existing trade journals and trade association publications aimed at organizational memberships, the Department has determined that it would not be appropriate to provide tobacco publications free of charge to these numerous organizations which service limited audiences.

Requests for file copies, large volumes of issues, or requests which require special handling, shall be assessed fees sufficient to cover the actual cost of the requested service. Subscription fees will be prorated for requests arriving after the end of the application period, but may be subject to an additional fee to cover the Department's handling costs.

The authority for these regulations is contained in the Tobacco Inspection Act (49 Stat. 7 U.S.C. 511–511(q)) and the Agriculture and Food Act of 1981 (Pub. L. 97–98).

In anticipation of the collection of fees for tobacco publications from the general public, the tobacco market news program budget for the 1983 fiscal year, effective October 1, has been correspondingly reduced. The Department has determined that the expected start up costs associated with the implementation of a fee system including any possible adjustments in the market news systems brought about by the implementation of subscription fees, and the necessity of having the system in full operation prior to October 1, 1982, necessitates proceeding now with an interim final rule.

Accordingly, it is found upon good cause shown that notice and other public procedures, with respect to this action are impracticable, unnecessary and contrary to the public interest, and good cause is found for publishing this interim final rule at this time with opportunity for public comments after publication.

The Administration has also determined that the comment period in this interim final rule will end 30 days after publication hereof, and such comment period is adequate to provide all interested parties an opportunity to file views and comments.

This interim final rule has been reviewed under U.S.D.A. procedures established to implement Executive Order 12291 and the Secretary's Memorandum 1512–1 and has been determined to be a "non-major" rule because it does not meet any of the criteria established for major rules under the executive order.

Additionally, in conformance with the provisions of the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601) full consideration has been given to the potential economic impact upon small businesses. All tobacco warehousemen and producers and some tobacco buyers fall within the confines of "small business", as defined in the Regulatory Flexibility Act. A substantial number of buyers on auction markets who use the publications do not meet the definition of small businesses either because of their individual size or because of their dominant position in one or more marketing areas. The Deparment has informally advised all segments of the tobacco industry of the anticipated implementation of charges for publications and that these publications and information would remain available. It has been determined that the economic impact upon all entities, small and large, will not be adverse and will in no way affect normal competition in the market place.

List of Subjects in 7 CFR Part 29

Tobacco publications, Subscription fees, Tobacco.

PART 29—TOBACCO INSPECTION

Accordingly Part 29, Subpart B, Title 7, Code of Federal Regulations, is amended as follows:

Section 29.131 is revised to read as follows:

§ 29.131 Tobacco publications.

The regulations in this section are issued to implement a subscription fee system for publications issued by the Tobacco Division, Agricultural Marketing Service. All other means of dissemination of market data currently in use, such as commercial and public wire service, telephone answering devices, radio and television will continue without charge to the recipient. Publications under the Act and this section shall be distributed in whatever manner and form and for whatever purpose the Director may choose, and will be available for distribution as follows:

(a) Publications consisting of timely information on the market supply and demand, location, disposition, quality, condition, and market prices for tobacco shall be available on an annual subscription through the mail upon written application and payment of a fee, except that no fee will be charged to other government agencies who cooperate in the collection of market data for the respective publication, growers, and the news media. There shall be an application period during the months of: (1) April and May for the flue-cured and Virginia fire and sun-cured types of tobacco: *Except* that the 1982 application period for flue-cured, Virginia fire and sun-cured types of tobacco will begin upon publication of these regulations and (2) August and September for burley and the dark fire and air-cured types of tobacco in Kentucky and Tennessee.

(b) Subscription fees for publications shall be calculated by the Director annually to recover costs of printing (including machinery, paper, ink, and miscellaneous supplies) postage, and handling (including the accounting system, fee collection, and personnel with necessary supervision), and released prior to the application periods. In order to keep subscription fees to a minimum level, the Director may choose to combine the data of two or more types of tobacco into a single publication.

(c) Requests involving research of records, file copies, large volumes of issues, or requests which require additional handling, shall be assessed fees sufficient to cover the actual cost of the requested service to the Department.

(d) Subscription fees will be prorated for requests arriving after the end of the application period, but may be subject to an additional handling charge to cover additional costs incurred by the Department.

(e) Information concerning tobacco publications and subcription fees may be obtained from the Director, Tobacco Division, Agricultural Marketing Service, Room 502, Annex Building, United States Department of Agriculture, Washington, D.C. 20250.

Dated: June 11, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-16294 Filed 6-15-82; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 905

[Orange, Grapefruit, Tangerine and Tangelo Reg. 6, Amdt. 10]

Oranges, Grapefruit, Tangerines and Tangelos Grown in Florida; Amendment of Grade Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This action lowers the minimum grade requirement for domestic and export shipments of Florida Valencia oranges, including other late type oranges, from U.S. No. 1 to U.S. No. 2 Russet. This change recognizes current and prospective demand for such oranges and is consistent with the remaining crop in the interest of growers and consumers.

EFFECTIVE DATE: June 14, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

The regulation with respect to Florida Valencia and other late type oranges is issued under the marketing agreement and Order No. 905 (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida.

The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendation and information submitted by the Citrus Administrative Committee and upon other information.

The minimum grade requirements specified herein reflect the Committee's and the Department's appraisal of the need to revise the grade requirements applicable to Florida Valencia and other late type oranges in recognition of diminishing available supplies of such fruit. The committee reports an increased market demand for the remaining late orange supply. Specification of these requirements will assure that the available supply of marketable fruit reaches the consumer. It is hereby found that this regulation will tend to effectuate the declared policy of the Act.

It is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the Act to make this regulatory provision effective as specified. This amendment relieves restrictions on shipments of Florida Valencia and other late type oranges.

List of Subjects in 7 CFR Part 905

Agricultural Marketing Service, Marketing Agreements and Orders, Florida Grapefruit, Oranges, Tangelos, Tangerines.

Accordingly, it is found that the provisions of § 905.306 Orange, Grapefruit, Tangerine and Tangelo Regulation 6 (46 FR 60170; 60411; 61441; 47 FR 580; 5912; 5699; 6248; 7203; 10065; 21755), should be and are amended by revising Table I paragraph (a), applicable to domestic shipments, and Table II paragraph (b), applicable to export shipments, to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine and Tangelo Regulation 6.

(a) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (in)
(1)	(2)	(3)	(4)
Oranges:			
Valencia and Other Late Type	Jan. 14, 1982 to Sept. 12, 1982	U.S. No. 2 Russet	2-6/16
	On and after Sept. 13, 1982	U.S. No. 1	2-6/16

(b) * * *

TABLE II

Variety	Regulation period	Minimum grade	Minimum diameter (in)
(1)	(2)	(3)	(4)
Oranges:			
Valencia and Other Late Type	June 14, 1982 to Sept. 12, 1982	U.S. No. 2 Russet	2-4/16
	On and after Sept. 13, 1982	U.S. No. 1	2-4/16

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 11, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-16293 Filed 6-15-82; 8:45 am]

BILLING CODE 3410-02-M

CIVIL AERONAUTICS BOARD

14 CFR Part 298

[Economic Reg. ER-1295, Amdt. No. 22 to Part 298, Docket 34030]

Exemption for Air Taxi Operations

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: In a separate rulemaking (ER-1295), the CAB adopted rules prohibiting discrimination by airlines against disabled travelers and implementing the Rehabilitation Act of 1973. In this rule, which applies to certificated carriers and to commuters that are paid a subsidy by the Board, the CAB conforms the air taxi exemption to these new rules.

DATES: Adopted: June 3, 1982. Effective: June 15, 1982.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825

Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION: In SPR–189, issued simultaneously, the Board has adopted a new rule (Part 382) prohibiting airlines from discriminating against the handicapped. This rule applies to certificated carriers and to commuters that are paid a subsidy by the Board. One of the statutory bases of this rule is section 404 of the Federal Aviation Act, from which these commuters are exempted by 14 CFR 298.11. We are therefore amending this section to make clear that these commuters are subject to section 404 to the extent that it prohibits them from discriminating against the handicapped and requires them to comply with the new 14 CFR Part 382. We are also taking this opportunity to reorganize § 298.11(c) for clarity.

Since this amendment is interpretative in nature and merely conforms one part of our rules to another, the Board finds that notice and public procedures thereon are unnecessary.

List of Subjects in 14 CFR Part 298

Air taxis, Alaska, Antitrust, Consumer protection, Insurance, Reporting requirements.

PART 298—CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

Accordingly, the Board amends 14 CFR Part 298, Classification and Exemption of Air Taxi Operators, as follows:

1. The authority for Part 298 is:

Authority: Secs. 204, 401, 404, and 416 of Pub. L. 85–726, as amended, 72 Stat. 743, 754, 760, 771; 49 U.S.C. 1324, 1371, 1374 and 1386.

2. Paragraphs (c) and (d) of § 298.11 are amended to read:

§ 298.11 Exemption authority.

* * * * *

(c) Subsection 404(a), except for the requirements that air taxi operators shall—

(1) Provide safe service, equipment, and facilities in connection with air transportation;

(2) Provide adequate service insofar as that requires them to comply with Parts 252 and 382 of this chapter;

(3) Observe and enforce just and reasonable joint rates, fares, and charges, and just and reasonable classifications, rules, regulations and practices as provided in tariffs filed jointly by air taxi operators with certificated air carriers or with foreign air carriers; and

(4) Establish just, reasonable, and equitable divisions of such joint rates, fares, and charges as between air carriers participating therein which shall not unduly prefer or prejudice any of such participating air carriers;

(d) Subsection 404(b), except that the requirements of that subsection shall apply to through service provided pursuant to tariffs filed jointly by air taxi operators with air carriers or with foreign air carriers and to transportation of the handicapped to the extent that that is required by Part 382 of this chapter;

* * * * *

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–16000 Filed 6–15–82; 8:45 am]

BILLING CODE 6320–01–M

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14 CFR Part 382

[Special Reg. SPR–189, Enactment of Part 382; Dockets: 34030, 39963]

Nondiscrimination on the Basis of Handicap

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is adopting new rules to prohibit unlawful discrimination against disabled air travelers and to implement section 504 of the Rehabilitation Act of 1973. The purpose of the rules is to ensure that handicapped persons receive adequate air transportation service, without unjust discrimination based on handicap.

DATES: Adopted: June 3, 1982. Effective: Subpart A on June 15, 1982. Subparts B and C on September 13, 1982, except for §§ 382.11, 382.12, and 382.15 which will take effect on December 12, 1982.

FOR FURTHER INFORMATION CONTACT: About this rule—David Schaffer, Office of the General Counsel, Rules and Legislation Division, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202–673–5442; about a specific instance of discrimination—Consumer Assistance Division, Office of Congressional, Community, and Consumer Affairs, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202–673–6047.

SUPPLEMENTARY INFORMATION: By SPDR–70, 44 FR 32401, June 6, 1979, the Board proposed rules to ensure that handicapped travelers have adequate access to air transportation and to prohibit unjust discrimination against them. These rules implement section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, which prohibits discrimination against otherwise qualified handicapped persons in activities or programs receiving Federal financial assistance. In SPDR–70, the Board proposed general rules prohibiting discrimination, and specific rules to limit air carriers' discretion to refuse to carry disabled passengers or to require them to be attended, to require airlines to provide certain services and assistance to handicapped travelers on request, and to establish compliance procedures. The notice also requested comment on whether the Board should require low-cost structural modifications of aircraft to increase their accessibility.

We received a large number of comments from airlines, groups representing disabled people, government agencies, flight crew unions, and others. In addition, many individuals commented on the proposed rule. After reviewing the comments, we have decided to adopt the basic framework of the proposed rules, but to make changes in several of its provisions. The following discussion covers both general jurisdictional issues raised by the commenters and changes in individual provisions.

Jurisdictional Issues

Section 504 of the Rehabilitation Act applies only to air carriers that receive Federal financial assistance. In SPDR–70, however, the Board proposed, in the alternative, to apply this rule to all subsidized and unsubsidized certificated air carriers and air taxis, or to all these carriers in their operations with aircraft of more than 30 seats. The Board relied on section 404 of the Federal Aviation Act as authority for the broader coverage. That section requires carriers to provide "adequate service" and prohibits them from engaging in unjust discrimination.

The Air Transport Association (ATA) and several individual airlines objected to the Board's adoption of rules on the handicapped. They contended that the Board should not adopt such a rule because the regulations of the Federal Aviation Administration (FAA) in this area are adequate. Dual regulation, in their view, would be redundant, confusing, and, in some cases, conflicting. If such a rule were adopted by the Board, the carriers argued that it should apply only to subsidized airlines, because section 504 of the Rehabilitation Act applies only to airlines that receive subsidies directly from the Board. They also oppose the broader coverage of the proposal because the basis for that approach (section 404) is slated to expire when the Board sunsets. Citing *Continental*

Airlines v. CAB, 522 F.2d 107 (D.C. Cir. 1974), some carriers argued that the Board's adoption of the proposed regulations would violate section 401(e)(4) of the Federal Aviation Act.

Other commenters, however, disagreed. In joint comments, the Disability Rights Center and several other groups representing the disabled (hereinafter the DRC commenters) argued that all airlines receive direct and indirect Federal financial assistance in the form of air traffic control services, airport development grants, operating certificates giving exclusive domain over valuable air routes, and tax subsidies (special investment tax credit treatment under 26 U.S.C. 46(a)(8)), and therefore should all be subject to this rule. The U.S. Architectural and Transportation Barriers Compliance Board, a Federal agency responsible for promoting accessibility for the handicapped, agreed with this position. Although the Civil Aeronautics Board is not the source of this assistance, the DRC commenters stated that the Department of Health, Education and Welfare (now Health and Human Services), in its role as coordinator of administrative implementation of section 504, has designated the Board as the agency responsible for government-wide implementation of the statute with respect to airlines, and argued that Board rules should govern their activities.

The DRC commenters also defended the Board's jurisidiction to apply the rule to all airlines under the Federal Aviation Act. They pointed out that the Board relied on the adequate-service provision of section 404(a), as well as the nondiscrimination provision in section 404(b). The requirement that airlines provide adequate service is not scheduled to expire. They stated that Congress intended the Board to regulate until its sunset, and that Congress has yet to consider the issue of whether various consumer protection functions of the Board will transfer to its successor agencies. While acknowledging that section 401(e)(4) of the Act limits the Board's authority to restrict carrier discretion in changing schedules, equipment, accommodations, and facilities, the DRC commenters distinguished the *Continental case* from the situation here. In Continental, they argued, the Board's action in establishing fare differentials based on seating configurations did not further any statutory goals. Here, in contrast, section 401(e)(4) must be balanced against section 404, as the court did in *Capital Airlines v. CAB*, 281 F.2d 48 (D.C. Cir. 1960), holding that the Board could order airlines to operate more flights in order to provide adequate service.

After considering the comments of the DRC, we have decided that we cannot accept their very broad definition of "Federal financial assistance." In our view, only subsidy paid under either sections 406 or 419 of the Federal Aviation Act qualifies. While an operating certificate may be of some value, it no longer gives airlines exclusive domain over routes, see section 1601(a)(1)(C) of the Act. It therefore presents a situation similar to *Gottfried v. Federal Communications Commission*, 655 F.2d 297 (D.C. Cir. 1981), where it was held that broadcast licenses do not count as financial assistance within the meaning of section 504. Although airports may be recipients of Federal financial assistance and therefore subject to the rules of the Department of Transportation issued under section 504, this does not mean that airlines serving those airports are also covered. In *Angel v. Pan American World Airways, Inc.*, 519 F.Supp. 1173, 1178 (D.C. 1981), the court stated that to "hold that commercial airlines fall within section 504 merely because of assistance provided to airports would expand improperly the accepted proposition that section 504 is limited to direct recipients of Federal funds." It is the position of the FAA, with which we concur, that its air traffic control services and other programs are not financial assistance to airlines. Rather, they are services provided to the public generally to ensure flight safety.

Some commenters cited cases involving Title VI of the Civil Rights Act of 1964 as justification for a broad reading of "Federal financial assistance" in the Rehabilitation Act. They noted that both are civil rights statutes and therefore should be given a broad interpretation, *Griffith v. Breckenridge*, 403 U.S. 88 (1971). While section 504 was modeled on section 601 of Title VI, the Civil Rights Act viewed as a whole has a broader remedial purpose than the Rehabilitation Act. This may call for a narrower interpretation of financial assistance as employed in the latter statute. See *Cook v. Budget Rent-A-Car Corporation*, 502 F.Supp. 494 (S.D.N.Y. 1980). Even accepting the broad reading, however, the "indirect assistance" cited by the DRC does not qualify as "Federal financial assistance." In congressional hearings and floor debates prior to the adoption of the Civil Rights Act, speakers interpreted that term as referring to "funds" expended by the Federal government (*Civil Rights: Hearings before the House Judiciary Committee)*, 88th Cong., 1st Sess. 2731 (1963) (statement of Attorney General Kennedy) and "public moneys out of the Federal Treasury," 110 Cong. Rec. 6430, March 26, 1964 (statement of Senator Humphrey) rather than to the type of indirect assistance cited by the DRC. A Justice Department study completed at the request of Congress in anticipation of the debate on Title VI listed the programs that would qualify as Federal financial assistance. The only CAB program listed was the section 406 subsidy program. See 110 Cong. Rec. 13380–13382, June 10, 1964. Section 419 was not listed because it was not enacted until 1978. While the Justice Department admitted that this list may not be exhaustive, it indicates that there are limits to the term "Federal financial assistance."

We also do not concur with the restrictive reading of our jurisdiction put forth by the airlines. Enactment of the Rehabilitation Act reflects a national policy to ensure that disabled people have a reasonable opportunity to participate in the activities that others take for granted. Accommodating this group of potential travelers is an important element of providing adequate service, as required by section 404(a) of the Act. Unnecessary or arbitrary distinctions among passengers on the basis of handicap constitute unjust discrimination in violation of section 404(b) of the Act. It is our position that the prohibition of section 404(b) encompasses discrimination against handicapped passengers, that the Rehabilitation Act is the best source of interpretative guidance as to what is allowed and not allowed in this area as a matter of national policy, and that therefore the principle of that Act should be considered incorporated into section 404(b). Although section 404(b) sunsets on January 1, 1983, the adequate-service provision in section 404(a) continues.

We are adopting an approach to the jurisdictional question that represents a compromise between applying the rule to all carriers and having no rule at all. Relying on section 504 of the Rehabilitation Act and the requirements of section 404 of the Federal Aviation Act, we find the requisite authority to apply general provisions in Subpart A of this rule prohibiting discrimination against handicapped passengers to all certificated air carriers and to those commuter carriers that receive a subsidy from the Board. The specific requirements in subparts B and C of this rule, however, will apply only to those carriers receiving subsidy from the Board under sections 406 or 419 of the

Act, in recognition of the limited jurisdictional basis of section 504. Those carriers subject only to the general provisions of Subpart A should look to the specific requirements of Subpart B as guidance for meeting their general obligation not to discriminate.

Having decided to limit Subparts B and C of this rule to carriers receiving subsidy from the Board, a question remains as to which carriers will be covered. Both the local service carriers (Frontier, Ozark, Piedmont, Republic and Republic West) as well as the other carriers receiving subsidy under section 406 of the Act (Air Midwest, Skywest, Alaska Airlines, Wien Air Alaska, and Kodiak Western) are covered. Any carrier receiving subsidy under section 419(a)(5) or (b)(6) of the Act for providing essential air service to a small community must comply with the specific provisions of this rule. Also, any carrier that receives assistance through one of these carriers is subject to Subparts B and C. See § 85.3(d) of the HEW guidelines.

Some carriers receive compensation for losses under section 419(a)(7) of the Act when the Board orders them to continue providing essential air service that they wish to terminate. These carriers must continue to provide that service until the Board finds another carrier to provide it and allows the incumbent carrier to terminate as planned. The question whether payments to these carriers constitutes Federal financial assistance has been the subject of several comments in Docket 39963. Motions to file late, to intervene, and to file otherwise unauthorized documents were submitted in that docket, all of which we are granting here.

Docket 39963 was initiated by a letter dated July 15, 1981, from the Board's General Counsel to all carriers that received payments under section 419. This letter was required by an order of the U.S. District Court of the Central District of California in *Paralyzed Veterans of America, et al., v. William French Smith, et al.*, No. 79–1979 WPG. The Court ordered the Board to inform all subsidized carriers within 10 days that they were obligated to comply with section 504 of the Rehabilitation Act even though the Board had not yet issued its final section 504 rules. Due to the short time in which to act, the General Counsel sent the letter to all carriers that had received any payments under section 419 without attempting to decide whether all those payments constituted financial assistance under the Rehabilitation Act.

After receiving this letter, Delta Air Lines petitioned for review. It argued that the compensation for the losses it incurred after being required to continue service in the Boston-Preque Isle market did not constitute financial assistance such as to subject it to section 504. United filed an answer in support of Delta's petition. USAir filed a similar petition in connection with the forced service of one of its Allegheny commuters at six upstate New York and Vermont communities. The Air Transport Association of America, on behalf of 13 airlines, also filed a petition calling for a narrow reading of financial assistance. On the other side, Neil Jacobsen and the Paralyzed Veterans of America filed in support of a broad definition of financial assistance. They renewed the argument, disposed of above, that all airlines are recipients of indirect subsidies in addition to the direct subsidies under section 419.

Compensation for losses is typically paid to carriers only for the short time (about 6 months) that they are being required to continue the essential air service. It is often not clear whether the carrier has suffered any losses that would entitle it to compensation until it has been permitted to end that service. The short-term and after-the-fact nature of this compensation makes it impractical for these carriers to comply with the specific requirements of Subparts B and C of this rule. The Board has therefore decided not to apply these subparts to carriers receiving payments under section 419(a)(7).

In light of this decision, it is unnecessary to determine whether compensation for losses constitutes Federal financial assistance under section 504. Recipients of these payments will have to comply only with the general prohibition against discrimination in Subpart A of this rule. This is no more than would be required of them under section 404 of the Federal Aviation Act in any event.

The Commuter Airline Association of America (CAAA) now the Regional Airline Association of America, and Air Atlantic, a commuter carrier, argued that the rule should not apply to any commuters as they are already facing increasing regulatory burdens. CAAA stated that rules requiring provision of equipment at each airport or modification of aircraft would have a disproportionate effect on commuters. According to CAAA, surface transportation is a viable alternative to most commuter flights, which average 111 miles.

We do not agree that commuter airlines have no obligation to serve handicapped travelers, especially when they receive public money to provide service. Many of the rules adopted here do not impose affirmative costs and burdens, but merely prohibit unreasonable limitations on travel by the handicapped. To the extent that costs are imposed, these can be taken into account in establishing the commuter's subsidy rate.

We recognize, however, that rules requiring the provision of special services and equipment may be proportionally more burdensome on commuter airlines than on larger carriers. These rules may impose costs on commuters that outweigh their benefits. For that reason we have decided to apply this rule only to commuters receiving subsidy from the Board. That is the minimum requirement of the Rehabilitation Act. This approach is consistent with the Regulatory Flexibility Act, Pub. L. 96–354, which requires agencies to consider flexible approaches to the regulation of small businesses.

We do not agree with the airlines that the authority of the FAA over travel by the disabled is exclusive. We of course recognize the FAA's jurisdiction over flight safety issues, and our rules defer to that agency's expertise in several respects. In any event, the Rehabilitation Act and Executive Orders 11914 and 12250 call for us to issue regulations governing carriage of the handicapped by carriers that we subsidize.

Our rules do not merely duplicate existing FAA regulations. While one purpose of the FAA rules (14 CFR Part 121) is to prevent arbitrary refusals of service to disabled passengers, their primary goals is to ensure that airline procedures for carrying the handicapped are safe. The aim of the Board's rule, on the other hand, is not simply to ensure that the disabled are carried safely, but to ensure that they face no unreasonable, nonsafety-related obstacles to travel. To that end, this rule covers issues, such as provision of services and boarding assistance and limits on the airline's right to require a passenger to be attended, that are not reached by the FAA rules.

Nor do our rules conflict with those of the FAA or the Department of Transportation (DOT) generally. Where the potential for conflict is greatest, we have explicitly deferred to the DOT or FAA rules. Where DOT, in its comments, suggested areas of potential overlap or conflict, we have made changes. DOT did not raise any objection to the Board's general exercise of jurisdiction in this area.

Finally, we agree with the DRC that these rules do not violate section 401(e)(4) of the Act. In our view, the

impact they will have on airlines' facilities or accommodations is clearly justified by the other statutory goals to be achieved. *Capital Airlines v. CAB*, supra.

Specific Provisions

The rule contains three subparts covering general provisions, specific requirements, and compliance. Each subpart is further broken down into several sections.

Purpose. Section 382.1 describes the purpose of the rule. Several commenters suggested that the purpose clause include an explicit reference to section 404 of the Act. An explicit reference is not necessary, but we have revised the provision slightly to make clear that the carriers' obligation to provide adequate service is among the jurisdictional bases of this rule.

DOT suggested deleting the word "unjust" from the phrase "unjust discrimination," since discrimination is unjust by law, and using the word "handicap" instead of "handicapping condition" for the sake of consistency. We have not adopted the first change. Usage differs on whether "discrimination" includes only improper practices; in the Federal Aviation Act the phrase "unjust discrimination" is used to distinguish from benign forms of discrimination. Because the phrase "unjust discrimination" in this section refers to the Federal Aviation Act, we will continue to use it here. We have made the second change suggested.

The National Federation of the Blind and the Paralyzed Veterans of America objected to the statement that transportation of handicapped persons should be integrated into the overall air transportation system "as much as possible." They argued that this phrase weakens the principle of section 504. We have deleted this phrase although the fact remains that it may be impossible to always ensure total integration and accessibility.

Definitions. Proposed § 382.3 defined five terms: Carrier, conditions for air transportation, facility, handicapped person, and qualified handicapped person. Some comments were received on each of these.

We have deleted the definition of "carrier." The purpose that was served by that definition is now met by the addition of new applicability sections in each of the three subparts.

Disabled groups and individuals contended that the proposed definition of "conditions for air transportation" was too vague and permitted too much carrier discretion. They expressed particular concern about what might "endanger flight safety" and what would be "reasonable requests" of airline personnel. The Minnesota State Council on the Handicapped suggested that those requests the Board would not consider reasonable should include those "inconsistent with this part and beyond standard practices." The National Federation of the Blind proposed that the conditions for air transportation be considered met by a person who tenders payment and can be carried in accordance with FAA regulations. Several commenters also said the rule should state who may decide whether the conditions are met.

ATA also objected to the definition, contending that it omitted valid carrier-imposed conditions related to fleet, cabin configurations, and similar factors. ATA found "absence of any indication" of a danger to flight safety too subjective and, like the disabled groups, questioned who would make this determination.

We do not accept ATA's position that the "conditions for air transportation" should include conditions imposed for operational convenience. The phrase is intended to denote the criteria that make a passenger flightworthy as a general matter. Those restrictions a carrier may wish to impose on a passenger, such as seating assignments, will, if reasonable, be encompassed by the provision permitting "reasonable requests." Problems with carrying certain handicapped passengers on particular aircraft should be dealt with either by exemption or by supplemental rulemaking in response to detailed, specific carrier requests, not by creating broad gaps in the general coverage of the rules.

We agree, however, that the definition as proposed is imprecise and too subjective. A clearer, more efficient approach to setting forth the factors that qualify a person for air transportation is to do so in the definition of "qualified handicapped person," defined in the proposal as "a handicapped person who has satisfied all the conditions for receiving air transportation services ('conditions for air transportation') that are required of the nonhandicapped." The latter definition also elicited objections from disabled groups, who proposed deletion of the phrase "that are required of the nonhandicapped."

Accordingly, we have defined a "qualified handicapped person" as one who tenders payment for air transportation, whose carriage will not violate FAA rules and who will not, in the reasonable expectation of the designated carrier personnel, jeopardize the safe completion of the flight or the health or safety of other pasengers, and who is willing and able to comply with reasonable requests of airline personnel. This approach removes the subjective aspects of the standard to the maximum extent possible consistent with our need to defer in the first instance to the reasonable judgment of carrier personnel on safety questions. It incorporates the suggestion of the National Federation of the Blind, modified to reflect our view that there are some legitimate grounds for declining to carry a passenger, handicapped or otherwise, that are not explicitly covered by FAA rules. For example, FAA rules do not specifically require airlines to decline to carry passengers with conditions that may necessitate immediate treatment or an emergency landing, yet such action may sometimes be warranted.

We have added a phrase to the sentence concerning reasonable requests of airline personnel in the definition of "qualified handicapped person." This phrase adopts the suggestion that requests "beyond standard practices," as well as requests inconsistent with the regulations, be considered unreasonable. This does not mean that airline personnel could not make requests of handicapped passengers that they do not make of every passenger. It may, for example, be a standard practice, and a reasonable one, to ask some handicapped passengers, along with children and others who might have trouble opening an emergency exit, not to sit in exit rows, while permitting able-bodied passengers to sit there. Such requests must be based on reasonable company policies related to the provision of air transportation, rather than on an arbitrary or impulsive reaction of a particular employee to a particular passenger.

We have also added a phrase to clarify that some passengers who are unqualified for air transportation when traveling alone may become qualified by traveling with another person. Persons who are severely disabled by mental illness, extreme mental retardation or certain neurological disorders, for example, may themselves be unable or unwilling to comply with reasonable requests, but can travel without difficulty in the company of someone familiar with their condition who sees that the requests are complied with.

Both ATA and DOT argued that the proposed definition of "facility" is too broad. DOT observed that it overlapped with the requirements in its regulations implementing section 504 with respect to Federally assisted airports. Airlines, ATA stated, do not control roads and parking areas, and the rules should

cover only planes and attendant facilities.

We agree that the term can be more precisely defined. We are hesitant, however, to be too specific. The facilities used by airlines at various airports, and the amount of control exercised by the airlines over their design and construction, vary greatly. At some locations, an airline may have only a standard boarding gate and a single ticket position. The design of these facilities is unlikely to be controlled by the airline. At other locations, a single airline may have its own terminal building. In such cases, the design of most of the facilities, perhaps even including parking facilities, may well be under the airline's control, even if the property is leased from an airport authority. To avoid a definition that is either under- or over-inclusive, therefore, we have refrained from enumerating specific covered facilities. We have, however, clarified that "facilities" includes only carrier-owned facilities and non-owned facilities to the extent that the carrier exercises control over their selection, design, construction, or alteration.

The Airline Pilots Association suggested that the Board's definition of "handicapped person" explicitly include the elderly. We do not consider this necessary. Those elderly persons who are handicapped are covered by this rule regardless of whether their disabilities are caused by old age or other factors. Those elderly persons who are not handicapped should not be considered so on the basis of their age alone. Any non-handicapped elderly person is protected from unjust discrimination on account of age by section 404 of the Act and, in the case of Board-subsidized airlines, by the Age Discrimination Act of 1975. See SPDR–74, 44 FR 55383, September 26, 1979, for the Board's proposed rule governing age discrimination.

General anti-discrimination provisions: Proposed §§ 382.4 and 382.5 set forth the general anti-discriminatory principles of the rule. A few commenters favored strengthening these principles by stating that different treatment must be "absolutely necessary" to provide a handicapped person with service rather than "reasonably necessary." The IFFA considered the principles too strong and urged the Board to give more weight to the convenience of non-handicapped passengers.

Most of the comments on these provisions dealt with their applicability to carriers' seating policies. In SPDR–70, the Board stated that § 382.5 would prevent carriers from insisting that handicapped passengers sit in special seats unless the carrier policy were reasonably designed to ensure safety or to provide access to air transportation, and were applied in a nondiscriminatory manner. Several groups of the disabled asserted that the rules should contain a specific provision on seating leaving the seating decision to the passenger or, at a minimum, requiring any seating rules to be based on functional limitations ("not strong enough to open window exit") rather than status as a handicapped passenger. Other commenters, however, filed comments supporting the retention of carrier discretion to assign seats.

We consider the rule to be acceptable as proposed, although §§ 382.4 and 382.5 has been redrafted for clarity. Airlines are responsible for the safety of all their passengers, and it may be reasonable for them to exercise some control over which passengers sit in exit rows or where accompanied nonambulatory passengers who will need emergency exit assistance should sit. As noted in SPDR–70, §382.5 would limit such rules to nondiscriminatory ones, based on ability rather than status, with a reasonable basis. Thus, carriers could not restrict handicapped passengers to specific seating areas unless the restriction were reasonably designed to provide access to air transportation.

Accessibility: Several commenters, including groups of disabled people and the Architectural and Transportation Barriers Compliance Board, argued that the Board's proposed rule does not go far enough to discharge the Board's responsibilities under Section 504. These commenters objected to the use of the phrase "reasonably accessible" in §§ 382.1 and 382.11 of the proposal, citing HEW's guideline, 14 CFR 85.57(a), that provides that programs operated by recipients of Federal financial assistance shall be "readily accessible to and usable by" handicapped persons. They also contended that the Board must order structural modifications to both new and existing aircraft to achieve this standard of accessibility. Noting, for example, that boarding and aisle chairs are often uncomfortable, many recommended wider aircraft aisles. Others suggested installation of movable arm rests on aisle seats and grab bars in the lavatories. As an alternative, some suggested that the Board require airlines to seat nonambulatory passengers in first class for the price of a coach ticket.

Since the proposal was issued and comments received, the HEW guidelines have been suspended with respect to mass transportation, 46 FR 40667, August 11, 1981. We are therefore free to adopt the accessibility standard most appropriate to the airline industry. In our view, the "reasonable accessibility" standard is sounder than one of "ready accessibility" as we understand the term. In *Southeastern Community College v. Davis*, 442 U.S. 397 (1979), the Supreme Court ruled that section 504 does not require substantial program modification by recipients of Federal funds. In a more closely analogous case, the court remanded DOT rules that would have required extensive and expensive modifications of existing public transit systems, *American Public Transit Association v. Lewis*, No. 79–1697 (D.C. Cir. 1981). The court stated that burdensome modifications are "beyond the scope of section 504." Some of the structural modifications suggested to make airlines readily accessible present similar problems.

Unlike many other entities that are subject to section 504, Federally subsidized airlines are private, for-profit companies. Moreover, the Federal government's role as a backstop for airlines that are unprofitable systemwide is lessening as the Board's section 406 subsidy program, designed to promote air service by underwriting some airlines' overall operations, is phased out in favor of route-by-route section 419 subsidies for particular essential air services. In this economic environment, it is important that Federal regulatory requirements not be so burdensome that airlines will be discouraged from volunteering to provide essential air service to small communities or be forced out of business altogether. Yet the type of modifications that might make aircraft "readily accessible" in the sense that a building is readily accessible could, by substantially increasing carrier costs and reducing passenger capacity, have that effect.

The Board is therefore requiring aircraft to be reasonably accessible for those with mobility impairments. In all other respects, a carrier's aircraft, services, and facilities must be readily accessible, as this is the standard of the HEW (HHS) guidelines (§ 85.57).

The reasonable accessibility standard should not be taken to mean that, for example, airlines may refuse to transport disabled passengers because their aisles are too narrow to permit standard wheelchair traffic. Rather, it is an acknowledgement that disabled travelers may have to accept some inconveniences, such as transfer to an aisle chair, when using air transportation.

The final rule requires airlines to consider the accessibility of their existing facilities. It does not require airlines to make specific structural

changes. Among the suggestions for modification we received, there were several that airlines might well consider implementing on their own initiative in order to better accommodate their handicapped passengers.

Information. Section 382.11 of the proposal (now § 382.12) covered the provision of information to deaf passengers in emergencies and at other times, using written materials, flashing lights, or other means. It would also have required that Braille emergency cards be made available. The ATA objected to this section generally as an interference with carriers' discretion to decide how to get information to their disabled passengers and noted that the FAA's regulation on emergency pre-briefing already covers this topic.

Most airlines and the ATA objected to the Braille card requirement on the grounds that it would be expensive and that few blind people read Braille. Several commenters, however, including Frontier Airlines, the Association of Flight Attendants, the Architectural and Transportation Barriers Compliance Board (which noted that over half of the blind passengers surveyed by United Airlines did read Braille), and several groups of the disabled supported the requirement. DOT said blind passengers should have the choice of either Braille or oral information. Some disabled groups and individuals, however, including the National Federation of the Blind, said Braille cards were unnecessary. NFB went on to object to oral pre-briefing, describing them as humiliating. Other groups suggested cassettes for the blind and large-print cards for the visually impaired.

The ATA and Frontier also objected to the provision on information for the deaf, stating that flashing lights would be confusing. The Architectual and Transportation Barriers Compliance Board, on the other hand, said visual emergency signals more elaborate than the seat belt and smoking signs now used should be installed over seats and in lavatories. The Minnesota State Council for the Handicapped, as well as some individuals, stated that the rules should make specific provision for giving the deaf important non-emergency information, such as scheduling changes and other ground and inflight announcements. Finally, some disabled groups contended the rules should provide for the information needs of the illiterate deaf, non-Braille-reading blind, and nonverbal passengers (such as some with cerebral palsy).

We cannot agree with ATA that the information section is unnecessary, since it covers non-emergency information that is not covered by the FAA rules, as well as any necessary communications during an emergency. Our list of methods for informing deaf passengers, moreover, was intended to be suggestive rather than exclusive. Airlines would have the option not to use flashing lights if they considered them impractical. While the Compliance Board recommended flashing lights specifically, we are not sure that less expensive alternatives would not be just as effective. Lavatories, moreover, already contain a light which, when appropriate, advises passengers to return to the cabin.

We have redrafted this provision in light of the comments received. The section now clearly states the airlines' obligation to provide both emergency and important non-emergency information to blind or deaf passengers, but allows more flexibility in choosing methods for providing it. The regulation, for example, no longer requires the provision of information specifically in Braille, though airlines may find that maintaining a few Braille cards is the easiest way of meeting their obligation to provide information to the vision-impaired. With respect to ground information, such as schedule delays or gate changes, the rule would require only that carrier personnel use common sense. If the primary means of communicating such information is oral, for example, the deaf passenger should be told whom to check with or where to find a visual monitor for information. Gate agents who have been informed of the presence of a deaf passenger can personally advise the passenger of a delay or other important information. Blind passengers, on the other hand, will probably need no extra assistance at all if the primary means of communication is oral, but may need to know where they can get information orally if the primary mode is visual.

One commenting airline stated that deaf passengers often do not identify themselves to airline personnel. In such a case, the airline would have no obligation to ascertain the handicap and provide extra information services. Similarly, the wishes of blind travelers should be respected to the extent possible. The pre-briefings to which the National Federation of the Blind objected are provided under FAA rules, and it is up to that agency, rather than the CAB, to determine whether blind travelers are among those who must be pre-briefed. The information rule adopted here, however, does not require the provision of "special" information services to passengers who do not need or want them.

The requirements described above concern the flow of information from airline to passenger. For people with handicaps affecting speech, the problem may be with communications in the other direction. We do not consider it necessary to impose a specific requirement that airlines facilitate communications with these passengers because we assume they will do so as a matter of courtesy and common sense. A passenger may not be considered as unable to comply with carrier requests, and thus refused or required to be accompanied, solely because of an inability to respond orally to questions. Carriers will be expected to make reasonable efforts to accommodate communications handicaps.

Some commenters suggested that we require airlines to provide telecommunications equipment for the deaf, for use in making reservations, checking flight schedules by phone, etc. The reservations system is certainly among the services and facilities that must be readily accessible under § 382.11, and the provision of telecommunications equipment would be one way to achieve this. We have no information, however, on how many would be likely to use such equipment if it were installed, or the extent to which the lack of this equipment actually hinders deaf people in using air transportation. In view of the fact that most of the subsidized airlines to which this requirement will apply are relatively small, the Board would like to take a closer look at the actual and potential usage of this specialized equipment, its costs and its benefits, before deciding the extent to which the "readily accessible" standard will require its use.

DOT suggested that airlines be required to inform passengers of the availability and location of accessible facilities and services. We do not know exacly what form such information should take and do not consider such a requirement to be necessary. In the typical reservations transaction, the passenger who needs special assistance, such as boarding help, will ask whether it is available.

Refusal To Transport, General. Proposed § 382.12 (now § 382.13) proposed to limit the airlines' authority to refuse transportation to handicapped passengers or to require them to travel with attendants. The Board received extensive comments on both aspects of the provision.

The first part of the proposed rule listed those circumstances, such as contagious disease, intoxication, or disruptive behavior, that would justify an airline's refusal to carry a passenger. The passenger would be presumed

flightworthy unless an airline reasonably believed the contrary. The passenger's presentation of a medical certificate would overcome all but compelling evidence that the passenger should not fly.

Almost all commenters opposed this provision. Several objected to the listing of conditions for refusal in a regulation applying only to handicapped persons, because of the discriminatory implication that only the handicapped might be refused for these reasons. Some commenters argued that terms like "contagious disease" or "disruptive behavior" are to vague. In addition, some conditions, like cerebral palsy, may make a person seem intoxicated to an untrained observer. Both disabled groups and some airlines noted that the conditions listed in the rule are already grounds for refusal to carry, under either FAA rules or the common law, and need not be listed here at all.

Out intent was to set explicit limits on carriers' discretion to refuse service, not to imply that carriers may exclude only handicapped travelers for these reasons. We have therefore redrafted the rule to clarify that airlines may refuse service to disabled travelers only when they are not "qualified" to fly as defined in § 382.3. This does not require airlines to carry stretcher passengers.

Both airlines and disabled groups also strongly objected to the standards for deciding whether a passenger can fly, especially the medical cetificate requirement. Commenters argued that terms like "reasonable belief" and "compelling evidence" are vague, and that the rules should state who has responsibility for making these determinations. Airlines contended that passengers' doctors are generally inexpert in aerospace medicine and, therefore, unqualified to determine whether the passenger can fly. These decisions, they argued, should be left entirely to the discretion of the airlines. Disabled groups, on the other hand, considered the traveler to be the best judge of his/her own ability to fly and viewed the medical certificate requirement as a needless burden. They also doubted that the requirement will be effective in practice. Under the proposed rules, the request for a medical certificate would be triggered by an airline staff determination that the traveler may not be flightworthy. Thus, those most likely to be affected will be the visibly handicapped, who are usually in a stable, flightworthy condition. Those with invisible handicaps, like heart disease, may face greater health risks in flight, but are likely to escape the attention of airline staff.

Where the risks involved are to the passenger's own health, travelers should generally be allowed to judge their own ability to fly. They have the greatest incentive to avoid risks to themselves and will be most familiar with their own conditions. If travelers have questions about their ability to fly, they can seek advice from their own doctors or from the airline. In these circumstances, the medical certificate requirement would serve no purpose.

Where risks to other passengers are involved, however, whether by a direct risk to their health (such as a highly contagious disease) or by the likelihood that aggravation of the passenger's condition will cause an in-flight emergency or unscheduled landing, the determination of flightworthiness becomes the responsibility of the airline. In these cases, the airline itself may decide that a medical certificate is useful. Accordingly, we have redrafted the rule to eliminate the reference to medical certificates, and to state that airlines must make determinations of flightworthiness on the basis of standards clearly related to flight safety, applied in a nondiscriminatory manner by personnel who are assigned specific responsibility for this task.

In sum, therefore, there are basically three situations where an airline may refuse service to a handicapped person. These are—when the handicapped person is unwilling or unable to comply with the reasonable requests of airline personnel (§§ 382.13(a) and 382.3(c)(3)), when carriage of that person would violate safety requirements (§§ 382.13(a) and 382.3(c)(2)), and when that person fails to comply with advance notice requirements (§ 382.13(d)). The third point is discussed further below.

Refusal To Transport, Attendants. Paragraphs (b) and (c) of proposed § 382.12 (now § 382.13) identified two situations where an airline may require passengers to travel with attendants. These were: (1) when a passenger will need nursing or other extensive personal care during flight, and (2) when a passenger would need assistance to exit in an emergency and the structure of the plane prevents seating the passenger so as not to block the exit of other passengers. The provision specifically provides that deaf, blind, or nonambulatory persons who could deplane using their arms in an emergency may not be required to travel attended, and that persons who would need feeding or toileting assistance but elect to forego meals or make their own arrangements for waste disposal may not be required to travel attended for those reasons. An attendant requirement represents a substantial logistical and financial barrier to travel. The proposal's intent was to prohibit this barrier except when required for flight safety or for the most compelling considerations of airline needs.

Most commenters who discussed these provisions found the nursing or personal care provision acceptable. Some suggested, however, that the rules should make clear that minor assistance with meals, such as opening silverware packages or telling a blind passenger what is being served and where each item is located on the tray, should not be considered feeding assistance requiring a passenger to travel attended or forego food. We agree with this position and have redrafted the rule accordingly. AFA asked that we define nursing and personal care more precisely, to avoid disputes. With the exception just mentioned, however, we do not believe this is necessary. The normal range of flight attendant services, including the occasional modest extra efforts provided for some passengers—escorting them to seats, providing games for restless children, soothing first-flight anxieties—can be easily distinguished from the kind of time-consuming attention or specialized services (such as administering injections or assisting a passenger in the lavatory) that passengers would not expect as a matter of course. We have redrafted the section to make that clearer.

Commenters generally did not agree with the provisions permitting airlines to require attendants for passengers who will need substantial assistance in deplaning during an emergency. Some disabled groups and individuals contended that, given the physical structure of planes, all handicapped passengers would have to be attended. They also argued that in emergencies injured or panicked passengers would block others as much as or more than the disabled passengers. The decision whether to protect against the risk of emergency by traveling attended, they argued, should be the passenger's. The flight attendants' unions, on the other hand, argued that all nonambulatory passengers should be attended to ensure efficient emergency evacuation. Frontier contended that travelers should choose whether to travel with an attendant or sign a liability waiver. British Airways described its own elaborate rules for deciding who may fly alone. DOT, which through the FAA has jurisdiction to make a flight safety determination on this issue, had no comment on the proposal.

In our view, the rule as proposed does present a problem because the standard is not precise. Under a narrow interpretation, there is no aspect of the physical structure of the plane itself that prohibits the seating of disabled passengers so as not to block others. If the language is interpreted broadly, however, it could prohibit the seating of any unattended nonambulatory passenger in an aisle seat. Yet aisle seats are often the safest and most easily used for these passengers. According to an FAA study, disabled passengers seated in window seats use nearly 50 percent of their total evacuation time in moving from seat to aisle. *Emergency Escape of Handicapped Air Travelers*, FAA Civil Aeromedical Institute, FAA–AM–77–11, July, 1977.

Developing an alternate standard, however, is difficult. While we continue to believe that passengers should make their own decisions about risks to their own safety, the FAA, not the CAB, has primary responsibility for making regulatory decisions about flight safety generally. The Board does not have the expertise to determine when carriage of an unattended nonambulatory passenger becomes a potential danger to the safety of other passengers.

The FAA has not made a conclusive determination on this issue. In the 1977 study mentioned above, the Civil Aeromedical Institute (CAMI) ran simulated evacuation drills and reviewed aircraft accident reports to determine whether handicapped passengers had caused significant evacuation delays. Finding that 96 percent of the ambulatory handicapped subjects and 37 percent of the nonambulatory handicapped subjects could exit at an acceptable rate of speed (1 ft. per second), the study concluded that most nonambulatory passengers would need assistance from other passengers or the crew in an emergency. CAMI's review of aircraft accident reports revealed no concrete evidence, however, that evacuation of disabled passengers had been a signifiant problem. Based on this study, the FAA stated that "the potential for handicapped passengers delaying aircraft evacuations would appear minimal." 42 FR 18392, 18393, April 7, 1977. Nevertheless, the agency concluded it had insufficient information to make a definitive finding on this issue.

In adopting a rule here, the Board cannot ignore safety concerns that have not been resolved to the satisfaction of the FAA. Our rules must leave room for any future FAA efforts to develop more specific standards for determining when airlines may reasonably require a passenger to be attended. Accordingly, we have revised the rule to permit airlines to require attendants when reasonably necessary for the safety of other passengers, in accordance with the regulations and policies of the FAA. See 14 CFR 121.586. As with decisions on refusing service, decisions requiring attendants must be made by designated personnel. The name of the designated person must be made known to any person that requests it. Additionally, we will expect airlines to be able to provide specific justifications for their determinations that safety requires a passenger to be attended.

Some commenters suggested that passengers who elect not to eat in order to travel unattended should get a discount. Most airlines, however, treat food service as a complementary item, charging no less for flights without food and offering no discounts to passengers who choose not to eat for other reasons. We will not require them to apply a different standard in this case.

In revising the rule on attendants, for consistency we have added those who need an attendant to satisfy the definition of "qualified handicapped person," as set forth in § 382.3, to the passengers who may be required to be attended in flight.

Airlines will thus be able to require attendants in basically three situations. These are—when an attendant is necessary for the safety of other passengers under the rules of the FAA (§ 382.13(b)), when the handicapped person needs extraordinary personal care during flight, (§ 382.13(b)), and when an attendant is needed to help the handicapped person comply with the reasonable requests of airline personnel (§§ 382.13(b) and 382.3(c)(3)).

Refusal To Transport, Limit on Number of Disabled Passengers. In SPDR–70, the Board asked for comments on whether it is reasonable for airlines to limit the number of handicapped passengers accommodated per flight. Disabled commenters objected to such limits, branding them discriminatory and purposeless. Flight crew unions urged broad limits for safety reasons. Considering that the goal of limits is to promote flight safety, there seems to be no reason to limit the numbers of attended passengers, who have effectively provided their own evacuation assistance, or of fully ambulatory disabled passengers, who have not significantly delayed simulated evacuation tests. But a large number of unattended nonambulatory passengers on a single flight might unduly hamper an emergency evacuation if one were necessary. We view this situation as one which, like seating policies, can best be resolved by application of the general principles of nondiscrimination. An airline wishing to apply a per-flight limitation would have to be able to justify it, and the particular limit imposed would have to be reasonable, given the aircraft and the standard crew complement involved.

Guide dogs and personal equipment. Section 382.13 of the proposed rules (now § 382.14) would have prescribed the extent to which airlines must accommodate passengers' use of their own aids, including wheelchairs, canes, crutches, and guide dogs. The section would have required airlines to carry guide dogs with their owners, to keep passengers' canes and crutches near them, and to store passengers' folding wheelchairs on board to the extent permitted by FAA rules, and to carry as baggage battery-operated wheelchairs and personal oxygen equipment to the extent permitted by DOT regulations governing the transportation of hazardous materials.

With a couple of exceptions, commenters generally found the guide dog provision acceptable. Air Atlantic suggested that on small aircraft dogs should be kenneled or, if with the passenger, should be muzzled. While there may be occasional instances in which small aircraft size would make on-board carriage of a guide dog difficult, Air Atlantic has not provided us with any specific information. In view of the dog's importance to the passenger, we are reluctant to create any such exception unless it is absolutely necessary. Accordingly, we will not change the rule but will consider exceptions if a good case for one is made. As for muzzling, we see no need for a CAB rule on this subject. Whether muzzling is justified will depend on the circumstances of each case.

British Airways reported that it accepts no guide dogs on its flights, in accordance with British health laws. We acknowledge that applicable laws of other countries may sometimes bar U.S. carriers from accepting guide dogs on international flights, and we have modified the rule to reflect this.

The Board received a great deal of correspondence from blind travelers on the provision concerning canes. These letters, along with many formal comments, urged the Board to require airlines to allow passengers to keep their canes with them at all times. The FAA has the primary authority to make that determination, and that agency has considered the air safety implications of

such a policy. 45 FR 75138, November 13, 1980. It determined that the stowage of travel canes under passenger seats is consistent with its safety mandate provided that the cane is placed flat on the floor and does not protrude into an aisle or exit row. Based on that decision, § 382.14(b) now requires carriers to permit the on-board stowage of travel canes when the FAA's conditions for such stowage can be met. See Amendment No. 121–174, 46 FR 38048, July 23, 1981.

Section 382.13(d) of the proposal required airlines to carry battery-operated wheelchairs in the baggage compartment to the extent permitted by DOT rules on the carriage of hazardous materials (49 CFR Parts 172, 173, and 175). The ATA suggested as a further limitation that an airline should not be required to carry these wheelchairs in its baggage compartment if it would be contrary to its tariff rules on file with the Board. These tariff rules are often more restrictive than the DOT regulations. Although carriers have an obligation to ensure the safety of all their passengers, once the minimum hazardous materials requirements established by the government are met, there is a strong countervailing interest in the ready availability of transportation for passengers and their belongings—in this case, extremely important belongings. We will adopt this requirement as proposed. If carriers subject to this provision have more restrictive tariffs, they must file new ones conforming to this rule. It should be noted that DOT has proposed to simply and clarify its rules pertaining to the transportation of wet cell batteries, HM–173, 46 FR 29968, June 4, 1981.

The Board's proposal that airlines be required to carry folding wheelchairs in the passenger compartment if permissible under FAA and DOT regulations was praised by handicapped commenters and strongly criticized by the airlines, flight attendants' unions, and the Aerospace Industries Association. The DRC comments, for example, noted that passenger-compartment stowage would decrease passenger discomfort by permitting use of a personal chair for the longest possible time and would also reduce damage to the chairs. They suggested that the Board establish a specific chair collapsibility standard to identify the chairs that must be so carried. The objecting parties contended that wheelchair storage would take too much of the airlines' limited passenger-area storage space. Several airlines suggested that "doortagging procedures" (tagging the wheelchair for belly carriage near the cargo door) would be sufficient. They would permit the passenger to obtain the wheelchair at the bottom of the stairs when leaving the plane.

As a general matter, passenger-compartment storage of hanging bags and items too large to be carried under the seat is not a guaranteed feature of air service. Depending on individual plane configuration and load, an airline may not be able to accommodate all the requests it receives for such storage. For some passengers, storing luggage in storage closets is an important convenience. Passenger-area storage of a folding wheelchair may prevent the carrier from being able to accommodate some of the bags of other travelers. For the wheelchair user, however, the ready availability of the chair provides mobility and independence, reduces the time spent deplaning, and reduces the risk that the chair will be damaged in the baggage compartment. Aisle chairs supplied by carriers are often uncomfortable and awkward for many wheelchair users. In view of the wheelchair users' strong interest in having their personal chairs readily available, it is not reasonable to give priority to other baggage.

We are not able to set standard dimensions of wheelchairs that must be accepted, since different aircraft sizes and configurations provide different amounts of storage space. The proposed rules would have required airlines to carry chairs in the passenger compartment whenever they could do so in conformance with FAA regulations. In light of the comments, we have decided that airlines need more flexibility than the proposed rules would have allowed. We have modified the rule to require carriers to make reasonable efforts to provide passenger-area storage, and otherwise to doortag, except where compliance with hazardous materials regulations makes this impracticable. We expect airlines to develop procedures that reflect good faith efforts to accommodate folding wheelchairs in the passenger compartment when possible.

Provision of special services and equipment. Section 382.14 of the proposal (now § 382.15) identified services and equipment airlines would have to make available to handicapped passengers on request, set limits on the extent to which airlines could require advance notice for the provision of these services and the carriage of passengers needing them, and provided that airlines might impose reasonable, nondiscriminatory charges for such services if they chose.

Each of these aspects of the provision prompted extensive comment. Airlines generally contended that they should retain discretion to decide whether to make various services and equipment available. Most objected to the requirements that medical oxygen and boarding lifts be made available and urged deletion of the reference to life-support systems other than oxygen. Several also objected to the inclusion of assistance with baggage or ground connections (on grounds that these responsibilities are the passenger's, or the airport's) and some to inclusion of assistance moving to restrooms. Transamerica Airlines noted that at its charter locations, it frequently has no permanent station from which to provide equipment. DOT urged close coordination of the rule's special assistance requirements with those of DOT's airport accessibility rules, and both DOT and the Architectural and Transportation Barriers Compliance Board asked the Board to specify that mechanical lifts be designed for passenger use, not freight use.

We agree that "life support systems such as oxygen" in paragraph (a)(1) is too vague. This phrase has been deleted from the rule. The requirement to make oxygen available, however, remains. FAA safety regulations prohibit passengers from using their own oxygen equipment in flight. Consequently, the passenger with even a slight chance of needing oxygen will be unable to travel if an airline does not provide the equipment.

PSA argued that provision and servicing of oxygen equipment will be burdensome for an airline whose operation is based on short turnaround times, and that assisting with the equipment and enforcing FAA rules concerning its use (such as prohibiting smoking within 10 feet of the equipment) will unduly burden flight attendants. The ATA contended that it would be difficult to comply with FAA oxygen requirements on some routes. Frontier accepted the oxygen requirement but asked that it not have to meet abnormal demand for such equipment. These problems are largely resolved by the advance notice provision in § 382.15(c). With sufficient notice, an airline should be able to obtain suitable equipment or borrow it from another airline.

Mechanical lifts drew even stronger objections than oxygen equipment. Airlines argued that the lifts are costly (around $35,000, according to American Airlines) and that alternate methods, such as hand-carrying passengers, are adequate. Groups of the disabled, on the other hand, strongly supported the

mechanical lift requirement. They asserted that hand-carried-boarding procedures are uncomfortable and substantially increase the risk of injury.

In our view, airlines should make boarding and deplaning assistance available to passengers, and the method used should be safe and convenient for the passengers. Holding individual airlines responsible for the provision of expensive lift equipment, however, may well lead to needless purchase of lifts and to costs far in excess of the benefits to passengers. While airlines could enter sharing arrangements for lift equipment, these might be difficult to arrange, especially for the smaller operations that would most need them. Moreover, at least one airline (TWA) voluntarily provides boarding lift equipment.

A DOT rule (49 CFR 27.71(b)(4)) requires Federally-assisted airports to make boarding lifts or ramps available. Rather than require airlines to invest in expensive boarding assistance equipment, which will probably be used only occasionally, we consider it preferable to rely on DOT's rule. Airlines will therefore be required to employ the boarding lifts, ramps, or other suitable devices that airports make available under the DOT rule. That rule states that these lifts or devices may not be those normally used for movement of freight. Since, under § 382.15(c) of our rule, carriers may require advance notice of the need for boarding assistance, they should be able to ensure that the equipment is available when it is needed.

Carriers objected to the provisions governing baggage assistance and help in making ground connections. These objections may have been based on a misunderstanding of what was proposed. The rule requires little more than what is routinely provided at most airports by skycaps. Where skycaps are airline employees, the airline need only ensure that they are performing adequately and not, as some disabled groups charge, avoiding handicapped passengers. Where skycaps are not provided by individual airlines, the rule requires airline personnel to aid the passenger if necessary. Although some disabled groups have asked that we require that baggage assistance be provided by airline personnel other than skycaps, we find it sufficient to rely on airlines' general responsibility to ensure that services are available.

The DOT rule also addresses this problem. Section 27.71(b)(5) states that airports shall assure that there are provisions for assisting handicapped passengers in moving throughout the terminal and in handling their baggage. This responsibility is properly shared by the airport and the airline. Primary responsibility rests on the party that controls the skycaps or other service personnel at the facility.

DOT's regulation refers to movement into and out of the terminal rather than "making ground connections." This is a clearer way to describe the services to be provided, and we have substituted similar language in § 382.15(a)(3). We did not intend to imply that airlines must help passengers purchase bus tickets, board subways, or otherwise arrange for ground transportation, but only that they ensure that a passenger who, because of handicap, needs help exiting the terminal or locating the taxi stand or bus stop receives that help. DOT's regulation also refers to movement "within the terminal." We do not consider all such movement to be an airline's responsibility, and we will leave this to the airports. Disabled groups, however, have urged us to assign to airlines responsibility for assistance in making connections to other flights. We agree that the airlines are in the best position to provide this service, and we have added it to § 382.15(a)(3). When connections involve more than one airline, the airlines may work out the division of responsibility as they choose. In the first instance, however, the airline deplaning the passenger at the connecting point will have the responsibility to see that suitable arrangements are made.

Airlines and flight attendants' unions also objected to the requirement that airlines provide assistance moving to restrooms on board. The AFA suggested that passengers who need this assistance be accompanied by attendants who will provide it, but that the airlines should provide aisle chairs to assist in this process. On longer flights, and especially on widebody aircraft with more than one aisle, it may be fairly easy for flight attendants to provide the needed assistance. Those passengers who are able to use the restroom by themselves once they reach it (under the rules, airlines need not provide assistance in the restroom) will presumably be able to move from seat to aisle chair reasonably expeditiously without a great deal of assistance. Airlines might reasonably ask those passengers to sit fairly near the restrooms if they plan to use them, so the aisle will be blocked and the flight attendant's attention required for only a short time. On short flights, however, the flight attendants are often very busy, and the aisle may be blocked with a refreshment cart for much of the flight. In these circumstances, assisting even a strong nonambulatory passenger to the restroom could be extremely burdensome. Since aircraft, crew complement, flight length, and load factor will all influence the practicability of providing this assistance, we cannot set precise standards for when assistance must be provided. Instead, we will require airlines to make reasonable efforts to provide this assistance.

ATA asserted that the rule appears to require airlines to provide assistance even to attended passengers. To the extent that the assistance involves special equipment, such as boarding lifts, the rule does require this. With respect to personal services, however, the rule requires only that airlines assure their availability. Where the attendant can provide it the airline's responsibility is satisfied.

Neither airlines nor groups of disabled persons supported the proposal's provision permitting reasonable notice requirements of up to 48 hours for the provision of extensive special assistance, including the provision of oxygen, boarding and deplaning assistance, and ground wheelchairs. Airlines argued that all disabled passengers should give advance notice, and that 48 hours would frequently not be adequate to prepare for the passenger's needs. The disabled commenters, on the other hand, felt the advance notice limits should be substantially reduced or eliminated, and should not apply to ground wheelchairs or to boarding assistance.

Carriers cannot be expected to provide on demand extensive boarding assistance or equipment such as oxygen. This would require carriers to have available an oversupply of equipment and might significantly delay takeoff while necessary preparations were being made. We also consider the 48-hour maximum to be a reasonable one. While some carriers now provide such services on 24 hours' notice, many, especially smaller carriers, may not be able to do so. On the other hand, more than 48 hours' notice should seldom be necessary. Commenters suggested that obtaining necessary extra staff at small locations could take more than 48 hours. If so, carriers at these few locations might be eligible for an exemption from the maximum notice rules. But travelers in big cities where travel by the handicapped is a relatively common event should not have to meet lengthy notice requirements tailored to the problems of very small communities, where a traveler's request for special assistance may be a rare occurrence.

Disabled groups and individuals strongly opposed including ground wheelchairs in the category of

"extensive special assistance." Where wheelchairs are readily available, providing them does not require the kind of planning or preparation that providing boarding lifts or oxygen might. Since failure to provide advance notice may justify a refusal to carry a passenger, we agree that ground wheelchairs should not be considered "extensive special assistance" as a general rule. Passengers who will need wheelchairs should notify the carrier in advance, however, if they expect to be served promptly, and a carrier could certainly recommend this practice to its passengers.

Many commenters objected vehemently to the provision permitting airlines to impose reasonable, nondiscriminatory charges for special services. Under section 504, they contended, the cost of equipment and services necessary to ensure accessibility must be borne by the airlines, not the handicapped passengers. Moreover, they considered the Board's concept of "nondiscriminatory" charges to be illusory. They were concerned that airlines would charge for those services most often used by handicapped travelers, such as escort service to a connecting flight, while offering free services that may cost carriers just as much, such as special kosher or vegetarian meals. Many of these services are commonly provided free now, and commenters did not want the Board to invite airlines to begin charging for them.

Since airlines are not social programs supported largely by government funds but for-profit businesses offering services for purchase, the question is not properly whether airlines or the handicapped will pay the cost of accessibility. Rather, it is whether the cost will be paid by handicapped travelers or by all air travelers. Even many disabled commenters admit that it seems unreasonable to impose some particularly high or unusual costs, such as the cost of carrying passengers who must occupy more than one seat or of providing special medical oxygen equipment, on air travelers as a whole.

Even for more routine services, we are unwilling to prohibit airlines from imposing extra charges if they so choose. A particular extra charge that may be unreasonable and discriminatory for an airline that generally provides a wide range of complimentary services for the price of a standard ticket may be reasonable when imposed by an airline that provides low-cost, no-frills service with special charges for any extras (such as meals). Any charges for services will be subject to review through the Board's tariff process as long as we retain authority over carrier tariffs, and we have revised the language of § 382.15(d) to clarify that the charges must be reasonable and nondiscriminatory. On the basis of our experience with this rule, we will determine whether there is a need for specific regulations governing review and approval of charges for special services after the Board's tariff authority expires.

The Board is, however, making one change. Airlines will be prohibited from charging mobility-impaired passengers for services that are necessary because their aircraft are not readily accessible. This is called for as compensation for adopting the lesser accessibility standard for such passengers as explained above.

Carrier liability: Proposed § 382.15 of the rules would have prohibited carriers from imposing on handicapped passengers stricter limits or waivers of liability for personal injury or damage to baggage, including wheelchairs, than are imposed on all passengers, with one exception. If a passenger's handicap makes traveling extraordinarily hazardous, a carrier would have been permitted to require a waiver of liability for injuries resulting from the handicap that occur despite the exercise of due care by the carrier. Several commenters suggested that the provision, especially the exception, was ambiguous. ATA stated that the Board should remain silent on the subject of liability, leaving passengers and carriers to their common law claims and defenses. Other commenters agreed. The common law, they asserted, may require more of airlines than "due care," and the airlines may apply the "extraordinary hazard" exception overbroadly. At a minimum, these commenters suggested that the conditions permitting waivers be specifically identified and the actual waiver forms be subject to Board review.

Our reason for including the exception permitting some waivers was to permit a passenger whose condition makes flying especially dangerous to choose whether or not to accept the risk. We were concerned that carriers' fear of liability might lead them to discourage or refuse the potential passenger.

As a general matter, however, the Board has left to the common law the question of personal injury liability. We need not set the exact substantive liability standard in this area. In addition, the process of obtaining these waivers would suffer from defects similar to those of the medical certificate scheme. It encourages scrutiny of handicapped persons as a class and may lead to arbitrary and erroneous judgments about who can be required to sign a waiver. The waiver provision is unnecessary to ensure carriage of the passenger since no passenger may be refused transportation except in accordance with § 382.13, described above. We are therefore not adopting this provision.

With respect to baggage, the Board has historically taken a more active role in determining reasonable limits of liability. The Board has issued several orders establishing minimum levels for baggage liability in domestic travel and rules covering responsibility for fragile articles, the handling of claims, and other items. *E.G.*, Order 77-2-9 (February 2, 1977); Order 77-4-94 (April 20, 1977); Order 77-9-80 (September 20, 1977); EDR-438, 47 FR 5232, February 4, 1982.

As a general matter, of course, handicapped passengers' baggage should be subject to the same limits as that of other passengers. In our view, this is required by the section establishing general principles of nondiscrimination. The primary concern in this area involves wheelchairs. Under existing rules, airlines may deny responsibility for items they designate as fragile, with certain exceptions, and many airlines have included passengers' personal wheelchairs in this category. Because of the wheelchair's importance to the passenger, damage to it can be extremely burdensome. Much of this damage could be avoided by storing the chairs on board or using a little extra care in handling them with the baggage. To give the airlines an incentive to provide that extra care, they should be as liable for wheelchairs, and offer the same excess valuation coverage as for ordinary baggage. We have retained this provision, moving it to § 382.14(e).

Compliance. The compliance procedures of proposed Subpart C included assurances of compliance, Board review of airline employee manuals on carriage of handicapped passengers, carrier self-evaluations, designation of employees responsible for coordinating compliance efforts, and adoption of procedures for handling consumer grievances. Proposed § 382.25 provided that aggrieved persons may file complaints with the airline or the Board, and that the Board would inform the Secretary of Transportation of the complaints it receives. Proposed § 382.26 stated that the Board might respond to noncompliance by withdrawing financial assistance or use any other means authorized by law. That section

also ensured the carrier's right to a hearing before financial assistance was withdrawn.

The airlines considered these procedures superfluous and an unwarranted intrusion into day-to-day operations. They criticized the reporting requirements in particular as burdensome and purposeless. Frontier, however, acknowledged the possible value of Board review of employee manuals. ATA also objected to the evaluation provision, contending that it implied that carriers would not voluntarily comply with the rules.

While we do not agree with the carriers' overall assessment of the compliance subpart, the requirements can be simplified. Adoption of a complaint resolution plan, a procedure which is included in HEW's guidelines for agencies implementing section 504, seems unnecessary for airlines. As consumer service businesses, airlines generally already have customer relations departments that deal with passenger complaints. While these departments may vary in the extent and formality of the review and assistance they provide, they do serve the primary function of a complaint resolution plan. They permit the passenger to give the airline notice of the complaint and an opportunity to resolve it. A passenger who is dissatisfied with the airline's internal procedures or who declines to use them may seek relief at the Board in any event. We are therefore not requiring airlines to adopt a separate complaint resolution plan for the handicapped.

Similarly, we do not consider it necessary for airlines to file with the Board the name of an employee designated to coordinate compliance with these regulations. The Board's existing methods of contacting airlines when it receives complaints or has questions about regulatory compliance will serve for these regulations as well as for others.

Also, it is not necessary for airlines to maintain and file copies of their employee manuals with the Board as a general rule. Most airlines already have employee manuals that they submit to the FAA. It will be sufficient to require that these manuals be available to the Board upon request. They may be relevant to an investigation of a complaint from a handicapped passenger concerning the reasonableness of a carrier practice.

We are retaining, however, the requirements concerning assurances of compliance and a modified version of the self-evaluation requirement. The assurances are a useful means of reminding subsidized airlines of their obligations. The self-evaluation is required by HHS's rule at 45 CFR 85.5(b). Board review of the manuals and carrier self-evaluation may be important because many of the regulations' provisions are, necessarily, very general.

This approach allows for Board oversight to ensure that carriers' efforts are reasonable and adequate, while retaining the flexibility necessary for carriers with different characteristics to comply with this rule and meet the needs of handicapped travelers. We have, however, simplified the self-evaluation section. Since carriers are to file a description of the evaluation with the Board, a separate requirement for forwarding the names of those responsible for the evaluation is unnecessary. Also, while the initial self-evaluation is important, it is not necessary to require that it be updated. This requirement has been deleted.

Other commenters suggested that the rule should state more clearly the procedures for handling complaints. We have revised the rule to make clear that individual complaints will be processed according to the Board's standard enforcement procedures, and that the Board may assess civil penalties or issue an order to cease and desist rather than withdraw financial assistance. These are substantially the same procedures as would be used in Title VI cases involving racial discrimination complaints. In withdrawing financial assistance, the Board is limited to a suspension or termination of financial assistance to the particular program or activity with respect to which there has been a finding of noncompliance. In the case of a carrier receiving separate subsidies under section 419 of the Act for serving several eligible points, we view this limitation as permitting us to withdraw the subsidy only for the route or routes where the violation occurred. Carriers receiving subsidy under section 406 of the Act would not benefit from this limitation to the same extent because the financial assistance they receive is intended to aid their entire system. Thus, a violation in any part of their subsidy-eligible system may justify the withdrawal of the section 406 subsidy.

In response to comments, we have required carriers to consult with handicapped persons, and to include a summary of those consultations in their self-evaluation description, but have eliminated the requirement that carriers consult with experts. We have also eliminated the statement that we will forward complaints to the Secretary of Transportation. This caused confusion about who has responsibility for enforcing the rules. For similar reasons, we will not adopt a suggestion by the Architectural and Transportation Barriers Compliance Board that we refer all complaints to it. Informal arrangements can be made to meet the needs of interested agencies.

Employment

The Board did not propose provisions governing employment because it did not consider employment to be covered by section 504. This position was based on two circuit court decisions, *Trageser v. Libbie Rehabilitation Center, Inc.*, 590 F.2d 87 (4th Cir. 1978), *cert denied*, 442 U.S. 947 (1979), *Carmi v. Metropolitan St. Louis Sewer District*, 620 F.2d 672 (8th Cir. 1980). A recent decision by the Supreme Court, *North Haven Board of Education v. Bell*, Docket 80–986 (decided May 17, 1982) has, however, caused the Board to reverse this view. Although it now appears that the Board's rule may have to contain provisions on employment, they cannot be included in the rule at this time because a notice of proposed rulemaking on the subject must first be issued. The Board will institute such a rulemaking proceeding, but in the meantime the employment practices of subsidized airlines will be governed by the Justice Department (formerly HEW) guidelines at 28 CFR 41.52 through 41.55.

Effective Dates

Finally, commenters have asked that the rules include an explicit timetable for compliance with their various provisions. Ordinarily, the Board issues rules with a single effective date 30 days after publication. Since a Federal judge of the Central District of California has ordered the CAB and other agencies to begin enforcing the provisions of the Rehabilitation Act immediately (No. CV 79–1979, May 26, 1981), we find good cause to make the general provisions of Subpart A effective upon publication in the **Federal Register**. Implementing the provisions regarding refusal of service, attendant requirements, handling of passenger aids, and nondiscrimination will take longer. These provisions will take effect 90 days after publication. This will allow carriers time to brief their personnel on the new regulations and make any necessary arrangements. The requirements in §§ 382.11, 382.12, and 382.15 may require more planning and preparation. These provisions will take effect 6 months after publication in the **Federal Register**.

Regulatory Impact Analysis

Executive Order 12291 requires agencies to prepare a Regulatory Impact

Analysis in connection with every major rule. We do not consider this to be a major rule because, particularly in light of the accessibility standard adopted, it will not have an annual effect on the economy of 100 million dollars, cause a major increase in costs for airlines or prices for passengers, or have a significant adverse impact on competition, investment, productivity or the other factors listed in section 1(b) of the Executive Order. In any event, the Office of Management and Budget has waived the Regulatory Impact analysis requirement but has requested some information to help it evaluate this rule. This information (the rationale for the rule and the alternatives considered) is discussed above.

This rule is being published in accordance with the order of the court in *Paralyzed Veterans of America v. Smith*, No. 79-1979 C.D. Cal. The HEW guidelines on which it is based are being reviewed by the Department of Justice in accordance with Executive Order 12250. If those guidelines are revised, we will revise this rule as necessary. If those revisions cause this rule to become a major rule as defined in Executive Order 12291, we will perform a Regulatory Impact Analysis at that time. In order to aid in any revisions or analysis that may be necessary, we are leaving this rulemaking docket open for further comments on possible changes and on the economic impacts of the regulation. Comments should be sent to the CAB's Docket Section and reference Docket 34030.

List of Subjects in 14 CFR Part 382

Air carriers, Civil Rights, Grant programs—transportation, Handicapped, Hazardous materials transportation.

Accordingly, the Civil Aeronautics Boards adds to Chapter II of Title 14 of the Code of Federal Regulations, a new Part 382, *Nondiscrimination on the Basis of Handicap*, as follows:

PART 382—NONDISCRIMINATION ON THE BASIS OF HANDICAP

Subpart A—General Provisions

Sec.

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Authority: Section 504, Pub. L. 93-112, 87 Stat. 394, 29 U.S.C. 794; Secs. 204, 401, 404, 406, 407, 416, 419, Pub. L. 85-726, as amended, 72 Stat. 743, 754, 760, 763, 766, 771, 92 Stat. 1732, 49 U.S.C. 1324, 1371, 1374, 1376, 1377, 1386, 1389; E.O. 11914, 41 FR 17871.

Subpart A—General Provisions

§ 382.1 Purpose.

The purpose of this part is to ensure that handicapped persons receive adequate air transportation service, without unjust discrimination based on handicap, and to implement section 504 of the Rehabilitation Act of 1973, which is designed to eliminate discrimination on the basis of handicap in any program or activity receiving Federal financial assistance. The part establishes regulations to prohibit discrimination in air transportation against qualified handicapped persons, and to ensure: (a) That handicapped persons receive reasonable access to commercial air transportation, (b) that certain specific practices are prohibited, and (c) that certain specific changes in service are made. The part is designed to ensure that transportation of handicapped persons is integrated into the overall air transportation system.

§ 382.2 Applicability.

(a) This subpart applies to all certificated air carriers, and to all commuter air carriers that receive subsidy or compensation for losses directly or through another recipient from the Board under section 406 or section 419 (a)(5), (a)(7), or (b)(6) of the Federal Aviation Act of 1958, as amended.

(b) This subpart shall take effect on June 15, 1982.

§ 382.3 Definitions.

As used in this part:

(a) "Facility" means all or any portion of a carrier's aircraft, buildings, structures, equipment, roads, walks, parking lots, and other real or personal property, normally used by passengers or prospective passengers, or any interest in such property to the extent the carrier exercises control over the selection, design, construction, or alteration of the property.

(b) "Handicapped person" means a person who (a) has a physical or mental impairment that substantially limits one or more major life activities, (b) has a record of such an impairment, or (c) is regarded as having such an impairment.

(c) "Qualified handicapped person" means a handicapped person—

(1) Who tenders payment for air transportation;

(2) Whose carriage will not violate the requirements of the Federal Aviation Regulations (Chapter I of this title) or, in the reasonable expectation of carrier personnel designated under § 382.13(a), jeopardize the safe completion of the flight or the health or safety of other persons; and

(3) Who is willing and able to comply with reasonable requests of airline personnel or, if not, is accompanied by a responsible adult passenger who can ensure that the requests are complied with. Any request by airline personnel that is inconsistent with this part or beyond standard practices will not be considered reasonable for purposes of this part.

§ 382.4 Prohibition against discrimination.

Carriers subject to this part shall not discriminate against any qualified handicapped person because of that person's handicap.

§382.5 General discriminatory practices.

A carrier subject to this part shall not, directly or through contractual, licensing, or other arrangement, on the basis of handicap—

(a) Exclude a qualified handicapped person from or deny that person the benefit of any air transportation or related services that are available to other passengers, even if there is separate or different services available for handicapped persons; or

(b) Provide to a qualified handicapped person air transportation or related services that are separate or different from those provided to others, unless that action is reasonably necessary to provide the person with access to air transportation or related services or is requested by the person.

Subpart B—Specific Requirements

§ 382.10 Applicability.

(a) This subpart applies to all air carriers that receive a subsidy directly or through another recipient from the Board under section 406 or section 419 (a)(5) or (b)(6) of the Act.

(b) Except as otherwise noted, the provisions of this subpart shall take effect on September 13, 1982.

§ 382.11 Accessibility.

(a) Except as specified in paragraph (b) of this section, each carrier's facilities, services, and reservation

system, when viewed in their entirety, shall be readily accessible to and usable by handicapped persons. It is not required that every facility or every part of the facilities for each flight be made accessible to or usable by handicapped persons.

(b) Each carrier's aircraft shall be reasonably accessible to handicapped persons with mobility impairments.

(c) This section shall take effect on December 12, 1982.

§ 382.12 Availability of information.

(a) Carriers shall ensure that deaf persons and blind persons have timely access to important information, including but not limited to, information on flight delays, schedule changes, or gate changes, information about emergency procedures, and necessary information during actual emergencies.

(b) This section shall take effect on December 12, 1982.

§382.13 Refusal of service.

(a) A handicapped person shall be presumed to be a qualified handicapped person unless a carrier has a reasonable, specific basis for doubting those qualifications. A carrier shall not refuse transportation to the handicapped person unless an agent or employee designated by the carrier to make such determinations and familiar with the carrier's standards and procedures for such determinations reasonably believes on the basis of available information, including any presented by the handicapped person, that the person is not a qualified handicapped person.

(b) A carrier may require a handicapped person to be accompanied by an attendant if that person needs extraordinary personal care during flight (feeding, assistance in the the lavatory, or nursing services), or if that person must be attended in order to meet the definition of a qualified handicapped person. Minor assistance with meals, such as opening silverware packages or describing the type and location of foods on a tray, is not "feeding" for the purpose of this section. A carrier shall not require an attendant for any other handicapped person, except when reasonably necessary for flight safety in accordance with the regulations or policies of the Federal Aviation Administration. All decisions to require a passenger to be accompanied by an attendant shall be made by an agent or employee designated by the carrier to make such determinations and familiar with the carrier's standards and procedures for such determinations.

(c) A carrier shall not refuse transportation to, or require attendants for, persons because they are unable to feed themselves, if they elect not to eat during the flight. A carrier shall not refuse transportation to, or require attendants for, persons because they are incontinent or are unable to use the restrooms without assistance, if they have made adequate alternative arrangements for waste disposal.

(d) A carrier may refuse transportation to a person who will need extensive special assistance from the carrier if the person fails to comply with advance notice requirements established by the carrier in accordance with § 382.15(c), and the necessary equipment or personnel cannot, by reasonable efforts, be made available without delaying the flight.

(e) The name of the employee designated by the carrier to refuse service or require an attendant under this section shall be made known to ticket and reservation agents, who shall inform any person who requests that name.

§ 382.14 Guide dogs and personal equipment.

(a) Carriers shall allow blind and deaf passengers to be accompanied on aircraft by guide dogs on all flights in interstate and overseas air transportation and on all flights in foreign air transportation where such carriage is not prohibited by the laws of the other country.

(b) Carriers shall allow passengers using canes or crutches to keep those aids near them at all times to the extent permitted by § 121.589(e) of this title.

(c) Carriers shall make reasonable efforts to permit handicapped persons to take folding wheelchairs aboard and to stow those wheelchairs in the passenger compartment if such carriage will not violate § 121.589 of this title or Department of Transportation regulations for the transportation of hazardous materials in 49 CFR 172, 173, and 175. When passenger compartment stowage is not provided, carriers shall provide for the checking and prompt return of passengers' wheelchairs at the door of the aircraft, so that pasengers may use their own wheelchairs to the extent possible in boarding and deplaning, except when this practice would be inconsistent with Department of Transportation regulations governing the transportation of hazardous materials.

(d) Carriers shall accept as baggage battery-powered wheelchairs and personal oxygen supplies of handicapped passengers to the extent permitted by Department of Transportation regulations governing the transportation of hazardous materials.

(e) In determining carrier liability for loss, delay, or damage to baggage and personal effects, passengers' personal wheelchairs shall not be treated as fragile articles. Carriers shall assume the same liability, and offer the same excess valuation coverage, for personal wheelchairs that they do for ordinary baggage.

§ 382.15 Availability of service and equipment.

(a) Subject to the advance notice requirements of paragraph (c) of this section, carriers shall ensure the availability of:

(1) Medical oxygen for on-board use;

(2) Assistance in boarding and deplaning, using as necessary personnel, ground wheelchairs, aisle chairs, and, if available, the ramps or mechanical lifts required by 49 CFR 27.71; and

(3) Personnel and equipment to assist in moving into and out of the airport terminal, in handling baggage, and in making flight connections.

(b) Carriers shall make reasonable efforts to assist passengers in moving to and from restrooms on board the aircraft.

(c) Carriers shall not establish advance notice requirements for the carriage of handicapped passengers who will not need extensive special assistance from the carrier. Carriers may establish reasonable advance notice requirements of up to 48 hours for the provision of extensive special assistance. For the purposes of this paragraph, extensive special assistance includes—

(1) Medical oxygen for on-board use;

(2) Boarding and deplaning assistance using mechanical boarding lifts, aisle chairs, other special equipment, or requiring the presence of more than the usual complement of personnel; and

(3) Ground wheelchairs at facilities where they are not usually available.

(d) Carriers may impose reasonable, nondiscriminatory charges on individuals using special assistance. Carriers shall not charge handicapped passengers for any special assistance unless all other passengers using the assistance are also charged for it. Carriers shall not charge handicapped passengers for any assistance required because their aircraft are not readily accessible.

(e) Carriers shall not insist upon providing special assistance to a handicapped person who does not request it, unless the assistance is reasonably necessary for the passenger

to meet the definition of qualified handicapped person.

(f) This section shall take effect on December 12, 1982.

Subpart C—Compliance

§ 382.20 Applicability.

(a) This subpart applies to all air carriers that receive a subsidy directly or through another recipient from the Board under section 406 or section 419 (a)(5) or (b)(6) of the Act.

(b) The provisions of this subpart, except § 382.23, shall take effect on September 13, 1982.

§ 382.21 Assurance of compliance.

Each carrier applying for Federal financial assistance from the Board shall, as a condition to approval of its application and payment of any claims, include in any application or claim an assurance that it will comply with this part.

§ 382.22 Carrier manuals.

(a) Each carrier shall, upon request, submit to the Board any employees' manual that it maintains, containing company rules for accommodating handicapped passengers.

(b) If the Board finds that any company rule set forth in the manual is at variance with any provision of this part, the Board may by order modify that rule to the extent necessary to conform it to this part.

§ 382.23 Evaluation of practices and facilities.

(a) Each carrier shall, within 1 year after the effective date of Subpart A, evaluate its current policies and practices, and their effects, for compliance with this part and review its services and facilities to determine whether they are reasonably accessible to and usable by handicapped persons.

(b) In conducting the evaluation and in making any necessary modifications of its policies, services, or facilities, each carrier shall consult with and obtain the views of handicapped persons.

(c) Each carrier shall provide to the Board a description of the evaluation required by paragraph (a) of this section, including areas examined, problems identified, remedial steps taken or planned, and a summary of its consultations with handicapped persons. Each carrier shall, for at least 3 years after completing the evaluation, maintain on file and make available for public inspection a copy of this description.

§ 382.24 Complaints.

Any person who believes that he or she has been the victim of discriminatory action in violation of this part or applicable tariff rules may file a complaint with the Board under § 302.201 of this chapter. The complaint will be processed under the procedures set forth in Part 302 of this chapter.

§ 382.25 Procedures for noncompliance.

(a) If a carrier fails to comply with this part, the Board may order suspension or termination of, or refuse to grant or continue, Federal financial assistance, or may use any other means authorized by law to ensure compliance, including assessment of civil penalties or the issuance of a cease and desist order pursuant to the enforcement procedures of Part 302 of this chapter.

(b) No order suspending, terminating, or refusing to grant or continue Federal financial assistance shall become effective until the Board has:

(1) Informed the carrier of the failure to comply and determined that compliance cannot be accomplished by voluntary means,

(2) Granted the carrier an opportunity for a hearing, and

(3) Found a failure by the carrier to comply with a requirement of this part.

(c) The Deputy General Counsel is authorized to institute proceedings for the enforcement of this part.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-16091 Filed 6-15-82; 8:45 am]

BILLING CODE 6320-01-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FAP 1H5314/T91; PH-FRL 2148-1]

Tolerances for Pesticides in Food; Metalaxyl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a food additive regulation related to the experimental use of the fungicide metalaxyl in or on tomatoes. This regulation to permit the marketing of processed tomato products was requested by Ciba-Geigy Corp.

EFFECTIVE DATE: Effective on June 16, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Henry M. Jacoby, Product Manager (PM-21), Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 229, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the Federal Register of May 26, 1982 (47 FR 23020) which announced that Ciba-Geigy Corp., P.O. Box 11422, Greensboro, NC 27409, had filed a food additive petition (FAP 1H5314) with the EPA. This petition proposed that 21 CFR 193 be amended by establishing a regulation permitting the residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl)alanine, methyl ester] and its metabolites containing the 2,6 dimethylaniline moiety, each expressed as metalaxyl resulting from application of metalaxyl to growing tomatoes in a proposed experimental use program with a tolerance limitation in processed tomato products at 3.0 parts per million (ppm).

No comments were received in response to this notice of filing.

This food additive regulation is being established to permit the testing, obtain additional data, and permit the marketing of the food commodity.

Scientific data reported and other relevant material have been evaluated and it has been determined that the pesticide may be safely used in accordance with the provisions of the experimental use permit (100 EUP-71) which is being established under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

The data submitted in support of the petition and other relevant material have been evaluated. The toxicological data considered in support of the regulation included a 3-month dietary study in rats with a no-observed-effect level (NOEL) of 250 ppm; a 90-day dietary study in dogs with an NOEL of 350 ppm; a teratology study in rats which was negative at doses up to 120 mg/kg/day; a rabbit teratology study which was negative at doses up to 20 mg/kg/day; a 3-generation rat reproduction study with a NOEL of 1,250 ppm; a 6-month dog study with a NOEL of 250 ppm; a *Salmonella*/mammalian microsome mutagenicity study that was negative for mutagenic effects, and a mouse dominant lethal mutagenicity study that was also negative for

mutagenic effects. Based on the 6-month dog feeding study with NOEL of 6.25 mg/kg/day and using a 1,000 fold safety factor the acceptable daily intake for humans is 0.00625 mg/kg/day.

The metabolism of metalaxyl is adequately understood for this use, and an adequate analytical method is available for enforcement purposes. No actions are currently pending against the continued registration of metalaxyl, nor are there any other relevant considerations involved in establishing the regulation.

The fungicide is considered useful for the purpose for which the regulation is sought, and it is concluded that the fungicide may be safely used in accordance with the prescribed manner when such uses are in accordance with the label and labeling registered pursuant to FIFRA as amended (86 Stat. 973, 89 Stat. 751, U.S.C. 135(a) *et seq.*). Therefore, the regulation is established as set forth below.

Any person adversely affected by this regulation may, on or before July 16, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this regulation from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new food or feed additive levels, or conditions for safe use of additives, or raising such food or feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24945).

Effective on: June 16, 1982.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1))).

List of Subjects in 21 CFR Part 193

Food additives, Pesticides and pests.

Dated: June 4, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 193—TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Therefore, 21 CFR Part 193 is amended by adding a new § 193.277 to read as follows:

§ 193.277 Metalaxyl.

A regulation is established permitting the combined residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl)alanine, methyl ester] and its metabolites containing the 2,6 dimethylaniline moiety, each expressed as metalaxyl in processed tomato products at 3.0 parts per million resulting from application of metalaxyl to growing tomatoes under an experimental use program. This regulation expires January 1, 1984.

[FR Doc. 82-16806 Filed 6-15-82; 8:45 am]

BILLING CODE 6560-50-M

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21 CFR Part 193

[FAP 1H5324/R111; PH-FRL 2147-3]

Tolerances for Pesticides in Food; O,O,-Diethyl O-(2-Isopropyl-6-Methyl-4-Pyrimidinyl)Phosphorothioate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a food additive regulation in conjucntion with the use of the insecticide *O,O*-diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl)phosphorothioate in microencapsulated formulations in spot and/or crack and crevice treatments in food handling establishments, including food service, manufacturing, and processing establishments, such as restaurants, cafeterias, supermarkets, bakeries, breweries, dairies, meat slaughtering and packing plants, and canneries where food and food products are held, processed, and served. This regulation was requested by Pennwalt Corp.

EFFECTIVE DATE: Effective on June 16, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: George T. LaRocca, Product Manager (PM) 15, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 204, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2400).

SUPPLEMENTARY INFORMATION: EPA issued a notice in the Federal Register of December 16, 1981 (46 FR 61328) which announced that Pennwalt Corp., Agchem Division, Three Parkway, Philadelphia, PA 19102, had filed a food additive petition (FAP 1H5324) with the EPA proposing that 21 CFR 193.142(a)(1) be amended by adding the following sentence: "The spray concentration limit of 1 percent shall include, but not be limited to, encapsulated formulations of the additive utilizing the encapsulating polymer formed from the reaction of sebacoyl chloride, polymethylene polyphenylisocyanate, ethylenediamine and/or diethylenetriamine."

No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. Residue chemistry data from meal residue studies conducted in edible product areas indicate that no detectable residues are expected from this use. Establishment of this rule does not result in the utilization of any percentage of the average daily intake since food served in treated establishments is not expected to have detectable residues. Tolerances have previously been established (40 CFR 180.153) for this insecticide on a variety of raw agricultural commodities at levels ranging from 0.1 to 60 parts per million.

A related document (FAP 1H5324/R112) establishing a regulation for feed handling establishments appears elsewhere in this issue of the Federal Register.

No actions are pending against continued registration of the pesticide, nor are any other relevant considerations involved in establishing this regulation.

The insecticide is considered useful for the purpose for which the regulation is sought, and it is concluded that the insecticide may be safely used in accordance with the prescribed manner when such uses are in accordance with the label and labeling registered pursuant to FIFRA as amended, (86 Stat. 973, 89 Stat. 751, U.S.C. 135(a) *et seq.*). Therefore, the regulation is established as set forth below.

Any person adversely affected by this regulation may, on or before July 16, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify

the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new food or feed additive levels, or conditions for safe use of additives, or raising such food or feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

Effective on: June 16, 1982.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

List of Subjects in 21 CFR Part 193

Food additives, Pesticides and pests.

Dated: June 4, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 193—TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Therefore, 21 CFR 193.142(a)(1) is revised to read as follows:

§ 193.142 O,O-Diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothiate.

* * * * *

(a) * * *

(1) Spray and dust concentrations shall be limited to a maximum of 1 percent and 2 percent, respectively, of active ingredient by weight. The spray concentration limit of 1 percent shall include, but not be limited to, encapsulated formulations of the additive utilizing the encapsulating polymer formed from the reaction of sebacoyl chloride, polymethylene polyphenylisocyanate, ethylenediamine and/or diethylenetriamine.

* * * * *

[FR Doc. 82-16202 Filed 6-15-82; 8:45 am]

BILLING CODE 6560-50-M

21 CFR Part 561

[FAP 1H5314/T92; PH FRL 2147-8]

Tolerances for Pesticides in Animal Feeds; Metalaxyl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a feed additive regulation related to the experimental use of the fungicide metalaxyl in or on soybeans and tomatoes. This regulation to permit the marketing of feed commodities was requested by Ciba-Geigy Corp.

EFFECTIVE DATE: Effective on June 16, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Henry M. Jacoby, Product Manager (PM–21), Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 229, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of May 26, 1982 (46 FR 23020) which announced that Ciba-Geigy Corp., P.O. Box 11422, Greensboro, NC 27409, had filed a feed additive petition (FAP 1H5314) with the EPA. This petition proposed that 21 CFR 561 be amended by establishing a regulation permitting the residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl)alanine, methyl ester] and its metabolites containing the 2,6 dimethylaniline moiety, each expressed as metalaxyl resulting from application of metalaxyl to growing tomatoes and soybeans in a proposed experimental use program with a tolerance limitation in or on wet tomato pomace at 5.0 parts per million (ppm); dry tomato pomace at 20.0 ppm; soybean hulls, meal and soapstock at 1.0 ppm.

No comments were received in response to this notice of filing.

This feed additive regulation is being established to permit the testing, obtain additional data, and permit the marketing of the commodities.

The scientific data reported and other relevant material have been evaluated and it has been determined that the pesticide may be safely used in accordance with the provisions of the experimental use permit (100–EUP–71) which is being established under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

The data submitted in support of the petition and other relevant material have been evaluated and discussed in a related document [FAP 1H5314/T91] establishing a food regulation for metalaxyl in or on processed tomato products appearing elsewhere in this issue of the **Federal Register.**

No actions are currently pending against the continued registration of metalaxyl nor are there any other relevant considerations involved in establishing the regulation.

The fungicide is considered useful for the purpose for which the regulation is sought, and it is concluded that the fungicide may be safely used in accordance with the prescribed manner when such uses are in accordance with the label and labeling registered pursuant to FIFRA as amended (86 Stat. 973, 89 Stat. 751, U.S.C. 135(a) *et seq.*). Therefore, the regulation is established as set forth below.

Any person adversely affected by this regulation may, on or before July 16, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this regulation from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new food or feed additive levels, or conditions for safe use of additives, or raising such food or feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

Effective on: June 16, 1982.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

List of Subjects in 21 CFR Part 561

Animal feeds, Pesticides and pests.

Dated: June 4, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Therefore, 21 CFR Part 561 is amended by adding a new § 561.273 to read as follows:

§ 561.273 Metalaxyl.

A regulation is established permitting the combined residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl)alanine, methyl ester] and its metabolites containing the 2,6 dimethylaniline moiety each expressed as metalaxyl in or on wet tomato pomace at 5.0 parts per million (ppm), dry tomato pomace at 20.0 ppm, soybean hulls at 1.0 ppm soybean meal at 1.0 ppm, and soybean soapstock at 1.0 ppm resulting from application of metalaxyl to growing tomatoes and soybeans under an experimental use program. This regulation expires January 1, 1984.

[FR Doc. 82-16206 Filed 6-15-82; 8:45 am]

BILLING CODE 6560-50-M

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21 CFR Part 561

[FAP 1H5324/R112; PH-FRL 2147-2]

Tolerances for Pesticides in Animal Feeds O,O,-Diethyl O-(2-Isopropyl-6-Methyl-4-Pyrimidinyl) Phosphorothioate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a feed additive regulation in conjunction with the use of the insecticide *O,O*-diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate in microencapsulated formulations in spot and/or crack and crevice treatments in animal feed handling establishments, including feed manufacturing and processing establishments, such as, stores, supermarkets, dairies, meat slaughtering and packing plants, and canneries where feed and feed products are held, processed, and sold. This regulation was requested by Pennwalt Corp.

EFFECTIVE DATE: Effective on June 16, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

George T. LaRocca, Product Manager (PM) 15, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2400).

SUPPLEMENTARY INFORMATION: EPA issued a notice in the **Federal Register** of December 16, 1981 (46 FR 61328) which announced that Pennwalt Corp., Agchem Division, Three Parkway, Philadelphia, PA 19102, had filed a feed additive petition (FAP 1H5324) with the EPA proposing that 21 CFR 561.415(a)(1) be amended by adding the following sentence: "The spray concentration limit of 1 percent shall include, but not be limited to, encapsulated formulations of the additive utilizing the encapsulating polymer formed from the reaction of sebacoyl chloride, polymethylene polyphenylisocyanate, ethylenediamine and/or diethylenetriamine."

No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated and discussed in a related document (FAP 1H5324/R111) which establishes a food additive regulation in conjunction with the use of the insecticide in food handling, processing, and manufacturing establishments and appears elsewhere in this issue of the **Federal Register.**

The insecticide is considered useful for the purpose for which the regulation is sought, and it is concluded that the insecticide may be safely used in accordance with the prescribed manner when such uses are in accordance with the label and labeling registered pursuant to FIFRA as amended, (86 Stat. 973, 89 Stat. 751, U.S.C. 135(a) *et seq.*). Therefore, the regulation is established as set forth below.

Any person adversely affected by this regulation may, on or before July 16, 1982 file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this regulation from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new food or feed additive levels, or conditions for safe use of additives, or raising such food or feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

Effective on: June 16, 1982.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

List of Subjects in 21 CFR Part 561

Animal feeds, Pesticides and pests.

Dated: June 4, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Therefore, 21 CFR 561.415(a)(1) is revised to read as follows:

§ 561.415 O,O-Diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothiate.

* * * * *

(a) * * *

(1) Spray and dust concentrations shall be limited to a maximum of 1 percent and 2 percent, respectively, of active ingredient by weight. The spray concentration limit of 1 percent shall include, but not be limited to, encapsulated formulations of the additive utilizing the encapsulating polymer formed from the reaction of sebacoyl chloride, polymethylene polyphenylisocyanate, ethylenediamine and/or diethylenetriamine.

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[FR Doc. 82-16203 Filed 6-15-82; 8:45 am]

BILLING CODE 6560-50-M

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21 CFR Part 561

[FAP 1H5308/R109; PH-FRL 2143-4]

Tolerances for Pesticides in Animal Feed Administered by the Environmental Protection Agency; Thidiazuron

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a feed additive regulation to permit the combined residues of the defoliant thidiazuron and its metabolites in or on the feed commodity cottonseed hulls.

This regulation to establish the maximum permissible level for residues of the defoliant in or on the feed commodity was requested by Nor-Am Agricultural Products, Inc.

EFFECTIVE DATE: Effective on June 16, 1982.

ADDRESS: Written objections may be submitted to the Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3798, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of August 5, 1981 (46 FR 39885) which announced that Nor-Am Agricultural Products, Inc., 350 West Shuman Blvd., Naperville, IL 60566, had submitted a feed additive petition (FAP 1H5308) proposing that 21 CFR 561.385 be amended by the establishment of a regulation permitting the combined residues of the defoliant thidiazuron (*N*-phenyl-*N'*-1,2,3-thiadiazol-5-ylurea) and its aniline containing metabolites in cottonseed hulls at 0.8 part per million (ppm).

There were no comments received in response to the notice of filing.

The data submitted in the petition and other relevant material have been evaluated and discussed in a related document [PP 1F2527/R439] establishing tolerances on a variety of raw agricultural commodities which appears elsewhere in today's issue of the **Federal Register.**

It is concluded that the pesticide may be safely used in accordance with the prescribed manner when such uses are in accordance with the label and labeling registered pursuant to FIFRA as amended (86 Stat. 973, 89 Stat. 751, U.S.C. 135(a) et seq.). Therefore, 21 CFR 561.385 is amended as set forth below.

Any person adversely affected by this regulation may, on or before July 16, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this regulation from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new food or feed additive levels, or conditions for safe use of additives, or raising such food or feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

Effective on: June 16, 1982.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

List of Subjects in 21 CFR Part 561

Animal feeds, Pesticides and pests.

Dated: May 27, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Therefore, 21 CFR 561.385 is revised to read as follows:

§ 561.385 Thidiazuron.

A regulation is established for the combined residues of the defoliant thidiazuron (*N*-phenyl-*N'*-1,2,3-thiadiazol-5-ylurea) and its aniline containing metabolites in cottonseed hulls at 0.8 ppm when present therein as a result of the application of the pesticide to the growing crop.

[FR Doc. 82–15846 Filed 6–15–82; 8:45 am]
BILLING CODE 6560–50–M

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21 CFR Part 561

[PH–FRL 2148–2; FAP 2H5326/R110]

Chlorpyrifos; Tolerances for Pesticides in Animal Feeds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a feed additive regulation to permit the combined residues of the insecticide chlorpyrifos and its metabolite in or on sunflower seed hulls. This regulation to permit the combined residues in or on sunflower seed hulls was requested by Dow Chemical Co.

EFFECTIVE DATE: Effective on June 16, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Jay S. Ellenberger, Product Manager (PM) 12, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice in the **Federal Register** of December 16, 1981 (46 FR 61331) which announced that Dow Chemical Co., PO Box 1706, Midland, MI 48640, had submitted feed additive petition 2H5328 to the EPA proposing that 21 CFR 561.98 be amended by the establishment of a regulation permitting the combined residues of the insecticde chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl)phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on sunflower seed hulls at 0.5 part per million (ppm).

No comments were received in response to this notice of filing.

The scientific data and other relevant material considered in support of this regulation are contained and discussed in a related document (PP 2F2588/R440) which appears elsewhere in this issue of the **Federal Register.**

The insecticide is considered useful for the purpose for which the regulation is sought, and it is concluded that the insecticide may be safely used in accordance with the prescribed manner when such uses are in accordance with the label and labeling registered pursuant to FIFRA as amended, (86 Stat. 973, 89 Stat. 751, U.S.C. 135(a) *et seq.).* Therefore, the regulation is established as set forth below.

Any person adversely affected by this regulation may, on or before July 16, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this regulation from the

requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new food or feed additive levels, or conditions for safe use of additives, or raising such food or feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

Effective on: June 16, 1982.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

List of Subjects in 21 CFR Part 561

Animal feeds, Pesticides and pests.

Dated: June 4, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Therefore, 21 CFR 561.98(a) is amended by adding and alphabetically inserting the feed item sunflower seed hulls to read as follows:

§ 561.98 Chlorpyrifos.

(a) * * *

Feed	Parts per million
Sunflower seed hulls	0.5

[FR Doc. 82-16197 Filed 6-15-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

Approval of the State of Maryland Abandoned Mine Land Reclamation Plan Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: On March 8, 1982, the State of Maryland submitted to OSM its proposed Abandoned Mine Land Reclamation Plan (Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of this submission is to demonstrate the State's intent and capability to assume responsibility for administering and conducting the Abandoned Mine Land Reclamation Program established by Title IV of SMCRA and regulations adopted by OSM (30 CFR Chapter VII, Subchapter R, 43 FR 49932-49952, October 25, 1978). After opportunity for public comment and review of the plan submission, the Assistant Secretary for Energy and Minerals of the Department of the Interior has determined that the Maryland Reclamation Plan meets the requirements of SMCRA and the Secretary's regulations. Accordingly, the Assistant Secretary has approved the Maryland Plan.

EFFECTIVE DATE: July 16, 1982.

ADDRESSES: Copies of the full text of the Maryland Plan are available for review during regular business hours at the following locations: State of Maryland, Bureau of Mines, 69 Hill St., Frostburg, Maryland 21532, Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25311, Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5315, 1100 "L" Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Don Willen, Chief, Division of Abandoned Mine Land Reclamation, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone (202) 343-7951.

SUPPLEMENTARY INFORMATION:

General Background of the Abandoned Mine Land Program

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*, establishes an abandoned mine land reclamation program for the purpose of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation under the program are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or Federal law.

Each State, having within its borders coal mined lands eligible for reclamation under Title IV of SMCRA, may submit to the Secretary a State reclamation plan demonstrating its capability for administering an abandoned mine reclamation program. Title IV provides that the Secretary may approve the plan once the State has an approved regulatory program under Title V of SMCRA. If the Secretary determines that a State has developed and submitted a program for reclamation and has the necessary State legislation to implement the provisions of Title IV, the Secretary shall grant the State exclusive responsibility and authority to implement the provisions of the approved plan. Section 405 of SMCRA (30 U.S.C. 1235) contains the requirements for State reclamation plans.

The Secretary has adopted regulations that specify the content requirements of a State reclamation plan and the criteria for plan approval (30 CFR Part 884, 43 FR 49932-48847, October 25, 1978). Under those regulations, the Director of the Office of Surface Mining is required to review the plan and solicit and consider comments of other Federal agencies and the public. If the State plan is disapproved, the State may resubmit a revised reclamation plan at any time.

Upon approval of the State reclamation plan, the State may submit to the Office on an annual basis an application for funds to be expended in that State on specific reclamation projects which are necessary to implement the State reclamation plan as approved. Such annual requests are reviewed and approved by OSM in compliance with the requirements of 30 CFR Part 888.

To codify information applicable to individual States under SMCRA, including decisions on State reclamation plans, OSM has established a new Subchapter T of 30 CFR Chapter VII. Subchapter T consists of parts 900 through 950.

Provisions relating to Maryland are found in 30 CFR Part 920.

Background on the Maryland Reclamation Plan Submission

Public meetings were held on the Maryland Plan as follows: Garrett Community College (February 21, March 21, May 16, and June 18, 1979); Frostburg State College (February 22, May 17, and June 19, 1979); and Allegany Community College (March 22, 1979). On March 8, 1982, the State of Maryland submitted its proposed Reclamation Plan to OSM. OSM published a notice of proposed rulemaking and requested public comment on April 1, 1982 (47 *FR* 13836).

On May 10, 1982, representatives of the Maryland Bureau of Mines and OSM met to discuss amendments and modifications to the proposed Plan. On

May 24, 1982, the Maryland Bureau of Mines submitted revised pages to the Maryland Reclamation Plan. These pages contained several amendments and modifications to the original Plan. The Department has determined that these additions and revisions were insignificant in nature and, accordingly, required no further public comment.

The necessary changes have been incorporated into the Plan. All of the documents mentioned above are available for public inspection at the offices of OSM and at the Maryland Bureau of Mines listed above under "Addresses." On June 1, 1982, OSM's State Office Director and on June 4, 1982, the Assistant Director for Program Operations and Inspection recommended to the Director that the Assistant Secretary approve the Maryland Reclamation Plan.

The administrative record on the Maryland Plan is available for review during regular business hours at the Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25301.

Assistant Secretary's Findings

1. In accordance with section 405 of SMCRA the Assistant Secretary finds that Maryland has submitted a Plan for reclamation of abandoned mine lands and has the ability and necessary State legislation to implement the provisions of Title IV of SMCRA.

2. The Assistant Secretary has determined, pursuant to 30 CFR 884.14, that:

(a) the Maryland Bureau of Mines has the legal authority, policies and administrative structure necessary to carry out the Plan;

(b) the Plan meets all the requirements of 30 CFR Chapter VII, Subchapter R;

(c) the State has an approved regulatory program; and

(d) the Plan is in compliance with all applicable State and Federal laws and regulations.

3. The Assistant Secretary has solicited and considered the views of other Federal agencies having an interest in the plan as required by 30 CFR 884.14(a)(2). These agencies include the U.S. Forest Service (USFS), U.S. Fish and Wildlife Service (FWS), the U.S. Bureau of Mines (USBOM), the U.S. Geological Survey (USGS), the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (COE).

Disposition of Comments

The following comments received on the Maryland Abandoned Mine Land Reclamation Plan during the public comment period were considered in the Assistant Secretary's evaluation of the Maryland Plan as indicated.

1. The FWS expressed concern that the Maryland Plan does not describe procedures to: (1) Identify the potential presence of listed or proposed endangered and threatened species in areas affected by proposed reclamation activities; (2) evaluate potential impacts (adverse or beneficial) of proposed abandoned mine reclamation projects on endangered and threatened species; and (3) when potential impacts are identified to modify projects or resolve problems so as to prevent significant adverse effects on endangered or threatened species. The FWS concluded that, in order for the abandoned mine reclamation program to operate smoothly, Maryland "needs a mechanism to carry out" the above listed functions including close coordination between the Maryland Bureau of Mines and the Maryland Wildlife and Fishery Administration. OSM's response is that Maryland has amended Chapter 9 of its Plan (Policy on Coordination) to provide coordination between Maryland's Bureau of Mines and the Maryland Wildlife and Fishery Administration on matters pertaining to endangered and threatened species on abandoned mine land reclamation sites. OSM is satisfied that this coordination will provide for protection of endangered and threatened species and their habitats on abandoned mine land reclamation sites.

2. The FWS commented that it is essential that Federally listed endangered and threatened species be distinguished from those which are listed by the State of Maryland because legal requirements under the Endangered Species Act of 1973 apply only to Federally listed species. The FWS suggested that this distinction could be made by the use of an asterisk in front of any species that is on the Federal list in the Maryland Plan's list of Rare and Endangered Flora and Fauna (Appendix G, p. 4). OSM's response is that Maryland has accepted this suggestion.

3. The USBOM commented that it did not understand why Maryland set burning or water-impounding gob piles as the third priority for abandoned mine reclamation above landslides and subsidence or underground mine fires but reported the problem did not exist in Maryland. OSM's response is that, while there are no known burning or water-impounding gob piles presently in Maryland, if such problems should occur in the future Maryland has the authority under Title IV to place such problems at a higher reclamation priority than existing identified abandoned mine land sites. Therefore, no modification of the Maryland Plan is necessary.

4. The USBOM questioned Maryland's low priority ranking for underground mine fires because such fires can:

(1) induce subsidence and/or landslides;

(2) can significantly contribute to acid mine drainage;

(3) may result in a serious depletion of the natural resource; and

(4) may prevent mining operations to continue or develop where an underground fire exists.

OSM's response is that if any particular abandoned mine land site deteriorates into a more serious problem than originally anticipated, Maryland has the authority under its program and Title IV of the Act to raise the project's priority ranking. Therefore, no modification of the Maryland Plan is necessary.

Additional Findings

The Office of Surface Mining has examined this rulemaking under section 1(b) of Executive Order No. 12291 (February 17, 1981), and has determined that, based on available quantitative data, it does not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval will not have an effect on costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; and

2. Approval will not have adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., and the Office of Surface Mining has determined that the rule will not have a significant economic effect on a substantial number of small entities. The reason for this determination is that approval will not have demographic effects, direct costs, information collection and recordkeeping requirements, indirect costs, nonquantifiable costs, or competitive effects on small entities.

The Assistant Secretary has determined that the Maryland Abandoned Mine Land Reclamation Plan will not have a significant effect on the quality of the human environment because the decision relates only to policies, procedures and organization of the State's Abandoned Mine Land Reclamation Program. Therefore, under the Department of Interior Manual (DM) 516.2.2(A)(1), the Assistant Secretary's decision on the Maryland Plan is

categorically excluded from the National Environmental Policy Act requirements. As a result, no environmental assessment or environmental impact statement (EIS) has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjunction with the implementation of Title IV. Also, an environmental analysis or an EIS will be prepared for the approval of grants for the abandoned mine land reclamation projects under 30 CFR Part 886.

List of Subjects in 30 CFR Part 920

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: June 7, 1982.

J. R. Harris,

Director, Office of Surface Mining.

Dated: June 10, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

Therefore, Part 920 is amended by adding § 920.20 to read as follows:

PART 920—MARYLAND

§ 920.20 Approval of Maryland Abandoned Mine Plan.

The Maryland Abandoned Mine Plan, as submitted on March 8, 1982, is approved.

Copies of the approved program are available at:

Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25301

State of Maryland Bureau of Mines, 69 Hills Street, Frostburg, Maryland 21532

The Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5315, 1100 L Street, NW., Washington, D.C. 20240.

[FR Doc. 82-16257 Filed 6-15-82; 8:45 am]
BILLING CODE 4310-05-M

POSTAL SERVICE

39 CFR Part 111

Express Mail Next Day Service Acceptance Times

AGENCY: Postal Service.

ACTION: Final regulations.

SUMMARY: By notice published in the June 11, 1982, issue of the **Federal Register** (47 FR 25432), the Postal Service announced the amendment of the Domestic Mail Classification Schedule concerning the acceptance time for Express Mail Next Day Service. Under this change, Express Mail Next Day Service articles can be accepted at the time or times prescribed by the Postal Service, instead of the former 5:00 p.m. acceptance time. The change became effective at 12:01 p.m. on June 8, 1982. In order to fully implement this revision to the Domestic Mail Classification Schedule, the Postal Service announces the adoption on a permanent basis of a revision of the Domestic Mail Manual, also effective June 8, 1982.

EFFECTIVE DATE: 12:01 p.m., June 8, 1982.

FOR FURTHER INFORMATION CONTACT: Buford L. Knowles, (202) 245–5624.

SUPPLEMENTARY INFORMATION: By notice published on March 4, 1982, (47 FR 9311), the Postal Service announced the establishment of a temporary change to the Domestic Mail Classification Schedule concerning Express Mail Next Day Service acceptance times under the authority of 39 U.S.C. 3641(e). Interim regulations amending 224.1 of the Domestic Mail Manual (DMM), which were published in the March 10, 1982 issue of the **Federal Register** (47 FR 10206), became effective on March 14, 1982. Written comments concerning the interim regulations were requested, but only two persons submitted comments, and their comments did not concern the substance of the regulations.

On June 4, 1982, the Postal Rate Commission issued a recommended decision which recommended that the Governors of the Postal Service adopt on a permanent basis the revision of the Domestic Mail Classification Schedule proposed by the Postal Service. On June 8, 1982, the Governors of the Postal Service, pursuant to 39 U.S.C. 3625, approved the Commission's recommended decision and ordered the change in the Domestic Mail Classification Schedule into effect on a permanent basis. Those changes, which are identical to the changes previously implemented on a temporary basis, became effective at 12:01 p.m., on June 8, 1982.

Since the change in the Domestic Mail Classification Schedule has been adopted on a permanent basis, the interim regulations adopted on a temporary basis as a revision of 224.1 of the DMM must also be made permanent. No changes in the interim regulations are being made. Accordingly, the Postal Service is adopting, effective 12:01 p.m. June 8, 1982, the changes to 224.1 of the DMM exactly as published in the **Federal Register** of March 10, 1982 (47 FR 10206).

List of Subjects in 39 CFR Part 111

Postal Service.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to transcribers automatically. Notice of these changes will be published in the **Federal Register** as provided in 39 CFR 111.3.

(39 U.S.C. 401, 403, 404, 3621, 3623)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 82-16256 Filed 6-15-82; 8:45 am]
BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 1F2527/R439; PH-FRL 2143-3]

Thidiazuron; Tolerances for Residues

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the defoliant thidiazuron and its metabolites in or on certain raw agricultural commodities. This regulation to establish the maximum permissible level for residues of the defoliant in or on the commodities was requested by Nor-Am Agricultural Products, Inc.

EFFECTIVE DATE: Effective on June 16, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of August 5, 1981 (46 FR 39885) which announced that Nor-Am Agricultural Product, Inc., 350 West Shuman Blvd., Naperville, IL 60566, had submitted a pesticide petition (PP 1F2527) proposing that 40 CFR Part 180 be amended by the establishment of tolerances for the combined residues of the defoliant thidiazuron (*N*-phenyl-*N*'-1,2,3,-thiadiazol-5-ylurea) and its aniline containing metabolites in or on the raw agricultural commodities cottonseed at 0.4 part per million (ppm); milk at 0.05 ppm; eggs at 0.1 ppm; and meat, fat, and

meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.2 ppm.

There were no comments received in response to the notice of filing.

The toxicity data considered in support of the proposed tolerances included: radiotracer metabolism studies in cotton plants, lactating goats and laying hens; rat and mouse acute oral toxicity studies with a median lethal dose (LD_{50}) of >4 grams (g)/kilogram (kg) body weight (bw) and 5 g/kg bw respectively; a 90-day dog feeding study with a no-observed effect level (NOEL) of 300 parts per million ppm; a 90-day rat feeding study with a NOEL of 200 ppm; a 2-year rat chronic feeding/oncogencity study considered supplementary because of inadequate histopathology examinations; a mouse oncogencity study with no observed oncogenic potential at 1,000 ppm, the highest dose tested; a 3-generation rat reproduction study with a NOEL of 200 ppm; a rat teratology study with a NOEL of 100 mg/kg for fetotoxic effects and no teratogenic effects observed at the highest dose tested (300 mg/kg); a rabbit teratology study with a NOEL of 25 mg/kg for fetotoxic effects and no teratogenic effects observed at the highest dose tested (250 mg/kg); and Ames assay (negative); and a mouse micronucleus test (negative).

Data lacking and considered desirable are: a repeat of the 2-year rat oncogencity/chronic feeding study; a subchronic non-rodent (dog) feeding study of at least 1 year duration; and an *in vitro* cytogenetic test conducted in a mammalian system.

Tolerances have not previously been established for thidiazuron. Based on a NOEL of 300 ppm in the 90-day dog feeding study, and a 2000 fold safety factor, the acceptable daily intake (ADI) has been set at 0.0038 mg/kg/day with a maximal permissible intake (MPI) of 0.228 mg/day for a 60-kg person. These tolerances utilize 30.25 percent of the ADI.

A related document establishing a feed additive regulation for thidiazuron in cottonseed hulls [FAP 1H5308/R109] appears elsewhere in today's issue of the Federal Register.

There are no regulatory actions pending against the registration of this chemical. The metabolism of thidiazuron in plants and animals is adequately understood and an analytical (gas-liquid chromatography) is available for enforcement purposes.

The pesticide is considered useful for the purpose for which the tolerances are sought, and it is concluded that the tolerances for residues in or on the commodities will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, on or before July 16, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

Effective on June 16, 1982.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Raw agricultural commodities, Pesticides and pests.

Dated: May 5, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR Part 180 is amended by adding a new § 180.403 to read as follows:

§ 180.403 Thidiazuron; tolerances for residues.

Tolerances are established for the combined residues of the defoliant thidiazuron (N-phenyl-N'-1,2,3-thiadiazol-5-ylurea) and its aniline containing metabolites in or on the following raw agricultural commodities:

Commodities	Parts per million
Cattle, fat	0.2
Cattle, meat	0.2
Cattle, mbyp	0.2
Cottonseed	0.4
Eggs	0.1
Goat, fat	0.2
Goats, meat	0.2
Goat, mbyp	0.2
Hogs, fat	0.2
Hogs, meat	0.2
Hogs, mbyp	0.2
Horses, fat	0.2
Horses, meat	0.2
Horses, mbyp	0.2
Milk	0.05
Poultry, fat	0.2
Poultry, meat	0.2
Poultry, mbyp	0.2
Sheep, fat	0.2
Sheep, meat	0.2
Sheep, mbyp	0.2

[FR Doc. 82-15845 Filed 6-15-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 9E2140/R442; PH-FRL 2148-8]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; 2-Chloro-N-isopropylacetanilide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the herbicide 2-chloro-*N*-isopropylacetanilide and its metabolites (calculated as 2-chloro-*N*-isopropylacetanilide) in or on the raw agricultural commodity pumpkins. This regulation to establish a maximum permissible level for residues of the herbicide in or on the commodity was requested by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on June 16, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7700).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking in the Federal Register of April 28, 1982 (47 FR 18154) which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment

Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition number 9E2140 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Station of Illinois.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the herbicide 2-chloro-*N*-isopropylacetanilide and its metabolites (calculated as 2-chloro-*N*-isopropylacetanilide) in or on the agricultural commodity pumpkins at 0.1 part per million (ppm).

No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The data submitted in the petition and all other relevant material have been evaluated and discussed in the notice of proposed rulemaking (47 FR 18154, April 28, 1982). The pesticide is considered useful for the purpose for which the tolerance is sought.

Based on the information considered by the Agency, it is concluded that the tolerance established by amending 40 CFR Part 180 will protect the public health. Therefore, the tolerence is established as set forth below.

Any person adversely affected by this regulation may, on or before July 16, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in qtintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Effective on: June 16, 1982.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: June 4, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.211 is revised to read as follows:

§ 180.211 2-Chloro-N-isopropylacetanilide; tolerances for residues.

Tolerances are established for residues of the herbicide 2-chloro-*N*-isopropylacetanilide and its metabolites (calculated as 2-chloro-*N*-isopropylacetanilide) in or on the following raw agricultural commodities:

Commodities	Parts per million
Beets, sugar, roots	0.2
Beets, sugar, tops	1.5
Cattle, fat	0.02(N)
Cattle, mbyp	0.02(N)
Cattle, meat	0.02(N)
Corn, forage	1.5
Corn, grain	0.1(N)
Corn, sweet (K + CWHR)	0.1(N)
Cottonseed	0.1(N)
Eggs	0.02(N)
Goats, fat	0.02(N)
Goats, mbyp	0.02(N)
Goats, meat	0.02(N)
Hogs, fat	0.02(N)
Hogs, mbyp	0.02(N)
Hogs, meat	0.02(N)
Horses, fat	0.02(N)
Horses, mbyp	0.02(N)
Horses, meat	0.02(N)
Milk	0.02(N)
Peas (with pods, determined on peas after removing any pod present when marketed)	0.2
Peas, forage	1.5
Poultry, fat	0.02(N)
Poultry, mbyp	0.002(N)
Poultry, meat	0.02(N)
Pumpkins	0.1
Sheep, fat	0.02(N)
Sheep, mbyp	0.02(N)
Sheep, meat	0.02(N)
Sorghum, forage	3.0
Sorghum, grain	0.25

[FR Doc. 82–16201 Filed 6–15–82; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PH–FRL 2148–5; PP OE2388/R449]

O,O-Diethyl O-(2-Isopropyl-6-Methyl-4-Pyrimidinyl) Phosphorothioate; Tolerances and Exemptions From Tolerances For Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide *O,O*-diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate in or on the raw agricultural commodities wheat forage, grain and straw. This regulation to establish a maximum permissible level for residues of the insecticide in or on these commodities was requested by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: Effective on June 16, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Emergency Response Section, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7700).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking in the Federal Register of May 5, 1982 (47 FR 19382) which announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition number OE2388 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of California, Illinois, Kansas, Oklahoma, Texas, and Washington.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for residues of the insecticide *O,O*-diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate in or on the raw agricultural commodities wheat forage, wheat grain, and wheat straw at 0.05 part per million (ppm).

No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The data submitted in the petition and all other relevant material have been evaluated and discussed in the notice of proposed rulemaking (47 FR 19382, May 5, 1982). The pesticide is considered useful for the purpose for which the tolerances are sought.

Based on the information considered by the Agency, it is concluded that the tolerances established by amending 40 CFR Part 180 will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, on or before July 16, 1982, file written objections with the

Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Effective on: June 16, 1982.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e))).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: June 7, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.153 is amended by adding and alphabetically inserting the raw agricultural commodities wheat forage, wheat grain, and wheat straw to read as follows:

§ 180.153 0,0-Diethyl 0-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate; tolerances for residues.

* * * * *

Commodities	Parts per million
• • • • •	
Wheat, forage	0.05
Wheat, grain	0.05
Wheat, straw	0.05

[FR Doc. 82-16196 Filed 6-15-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PH-FRL 2148-4; PP 1E2497, 1E2498/R443]

Carbaryl; Tolerances and Exemptions From Tolerances For Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the insecticide carbaryl and its hydorlysis product 1-naphthol, in or on certain raw agricultural commodities. This regulation to establish a maximum permissible level for residues of the insecticide in or on the commodities was requested by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on June 16, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7700).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking in the **Federal Register** of April 28, 1982 (47 FR 18125) which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petitions numbers 1E2497 and 1E2498 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of North Dakota.

These petitions requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for the combined residues of the insecticide carbaryl (1-naphthyl *N*-methylcarbamate), including its hydrolysis product 1-naphthtol, calculated as 1-naphthyl *N*-methylcarbamate, in or on the agricultural commodities proso millet grain at 3 parts per million (ppm), proso millet straw at 100 ppm, flax seed at 5 ppm, and flax straw at 100 ppm.

No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The data submitted in the petitions and all other relevant material have been evaluated and discussed in the notice of proposed rulemaking (47 FR 18152, April 28, 1982). The pesticide is considered useful for the purpose for which the tolerances are sought.

Based on the information considered by the Agency, it is concluded that the tolerances established by amending 40 CFR Part 180 will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, on or before July 16, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. Effective on: July 16, 1982.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e))).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: June 4, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.169(a) is amended by adding and alphabetically inserting the raw agricultural commodities proso millet grain and straw, flax seed, and flax straw to read as follows:

§ 180.169 Carbaryl; tolerances for residues.

(a) * * *

Commodities	Parts per million
• • • • •	
Flax, seed	5
Flax, straw	100
• • • • •	
Millet, proso, grain	3
Millet, proso, straw	100
• • • • •	

[FR Doc. 82-16196 Filed 6-15-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PH-FRL 2148-3; PP 2F2588/R440]

Chlorpyrifos; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the insecticide chlorpyrifos and its metabolite in or on the raw agricultural commodity sunflower seeds. This regulation to establish the maximum permissible level for the combined residues of the insecticide in or on the commodity was requested by Dow Chemical Co.

EFFECTIVE DATE: Effective on June 16, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Jay S. Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice in the Federal Register of December 16, 1981 (46 FR 61331) which announced that Dow Chemical Co., PO Box 1706, Midland, MI 48640, had filed pesticide petition 2F2588 with the EPA proposing that a tolerance be established for the combined residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodity sunflower seeds at 0.2 part per million (ppm).

The petition was subsequently amended in the Federal Register of April 21, 1982 (47 FR 17112) to increase the proposed tolerance from 0.2 ppm to 0.25 ppm.

No comments were received in response to these notices of filing.

The data submitted in the petition and all other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included a 2-year rat feeding/oncogenicity study and a dog feeding study with a no-observed-effect level (NOEL) of 0.1 milligram (mg)/kilogram (kg) of body weight (bw) per day based on RBC cholinesterase activity; a mouse oncogenicity study which was negative at 15 ppm (highest dose); and a mouse teratology study which was negative at 25 mg/kg. Studies on delayed neurotoxicity and reproduction showed negative potential. Based on the 2-year chronic rat feeding study with a NOEL of 0.1 mg/kg of bw/day, and using a safety factor of 10, the acceptable daily intake (ADI) for humans is 0.01 mg/kg of bw/day. The theoretical maximum residue contribution (TMRC) in the human diet from this tolerance and previously established tolerances for residues of chlorpyrifos on a variety of raw agricultural commodities at levels ranging from 0.01 ppm to 3.0 ppm does not exceed the ADI.

The metabolism of chlorpyrifos is adequately understood for this use, and an adequate analytical method (gas chromatography) is available for enforcement purposes. No regulatory actions are currently pending against continued registration of chlorpyrifos, nor are there any other relevant considerations involved in establishing this tolerance.

The existing meat, milk, and egg tolerances are adequate to cover any secondary residues resulting in these commodities from the proposed use.

Desirable data which are considered lacking from this petition include a 2-generation rat reproduction study and a teratology study in a second species. In a letter dated February 11, 1982, the petitioner indicated that these studies would be submited to the Agency by June 1983. The petitioner also agreed to voluntarily delete the use on sunflowers from the label should the studies be found to exceed the risk criteria for unreasonable adverse effects.

The pesticide is considered useful for the purpose for which the tolerance is sought, and it is concluded that the establishment of this tolerance will protect the public health; therefore, the tolerance is established as set forth below.

A related document (FAP 2H5326/R110) establishing a feed additive regulation for the combined residues of chlorpyrifos and its metabolite in or on sunflower seed hulls at 0.5 ppm appears elsewhere in this issue of the Federal Register.

Any person adversely affected by this regulation may, on or before July 16, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

Effective on: June 16, 1982.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2))).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Raw agricultural commodities, Pesticides and pests.

Dated: June 4, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.342 is amended by adding and alphabetically inserting the raw agricultural commodity sunflower seeds to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Sunflower, seeds	0.25
* * * * *	

[FR Doc. 82-16199 Filed 6-15-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PH-FRL-2148-6; PP 2F2587/R446]

Cyano(3-Phenoxyphenyl)Methyl 4-Chloro-Alpha-(1-Methylethyl)Benzeneacetate; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide cyano(3-phenoxyphenyl)methyl 4-chloro-alpha-(1-methylethyl)benzeneacetate in or on certain raw agricultural commodities. This regulation to establish the maximum permissible level for the insecticide in or on these commodities was requested by Shell Oil Company.

EFFECTIVE DATE: Effective on June 16, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA issued a notice in the **Federal Register** of December 16, 1981 (46 FR 61330) which announced that Shell Oil Co., 1025 Connecticut Ave., NW., Suite 200, Washington, D.C. 20036, had filed a pesticide petition (PP 2F2587) with the EPA. The petition proposed that 40 CFR 180.379 be amended by establishing tolerances for residues of the insecticide cyano(3-phenoxyphenyl)methyl 4-chloro-alpha-(1-methylethyl)-benzeneacetate in or on the raw agricultural commodities broccoli at 2.0 parts per million (ppm), cauliflower at 0.5 ppm, and peaches at 4.0 ppm.

No comments were received in response to this notice of filing.

The petition was subsequently amended to increase the tolerance level for peaches from 4.0 ppm to 10.0 ppm.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included: an acute oral rat toxicity study with median lethal dose (LD_{50}) of 1-3 grams (g)/kilogram (kg) of body weight (bw) (water vehicle) and 450 milligrams (mg)/kg of bw (dimethylsulfoxide (DMSO) vehicle); a 90-day dog feeding study with a no-observed-effect level (NOEL) of 500 ppm (highest dose tested); a 90-day rat feeding study with a NOEL of 125 ppm; an 18-month mouse feeding study with a NOEL of less than 100 ppm with no oncogenic effects at the highest level fed (3,000 ppm); a 24-month mouse feeding study with a NOEL of 10-50 ppm for males and 50-250 ppm for females (no oncogenic effects were noted at 1,250 ppm, the highest dose tested); a 24-month rat feeding study that demonstrated no oncogenic effects at 1,000 ppm (only level tested—significantly decreased body weight was observed at this dose level); a 2-year rat feeding study with a NOEL of 250 ppm (highest level fed)—no oncogenic effects were observed; a 3-generation rat reproduction study with a NOEL of 250 ppm (highest level fed); teratology studies (in mice and rabbits, both negative at the highest dose of 50 mg/kg of bw/day); and the following mutagenicity studies: mouse dominant lethal (negative at 100 mg/kg of bw, which was the highest level fed); mouse host-mediated bioassay (negative at 50 mg/kg of bw, which was the highest level fed); AMES test in vitro (negative); and bone marrow cytogenic study in the Chinese hamster (negative at 25 mg/kg of bw). The following studies assessing neurological effects were performed: a hen study negative at 1.0 g/kg of bw for 5 days, repeated at 21 days; a rat (8-day) acute study with a NOEL of 200 mg/kg of bw; a 15-month rat feeding study which resulted in a systemic NOEL of 500 ppm and a NOEL of 1,500 ppm with respect to nerve damage.

The acceptable daily intake (ADI) is calculated to be 0.1250 mg/kg/day based on the 2-year rat feeding study and using a 100-fold safety factor. The maximum permissible intake (MPI) has been calculated to be 7.5000 mg/day (60 kg). Approval of the tolerances for broccoli, cauliflower, and peaches would result in a theoretical maximum residue contribution (TMRC) of 0.8911 mg/day (1.5 kg) and utilize 11.88 percent of the ADI.

The metabolism of the insecticide is adequately understood for this use, and an adequate analytical method (gas chromatography) is available for enforcement purposes. There are currently no regulatory actions pending against the continued registration of this insecticide. Since no feed items are involved with this use there will be no problem of secondary residues in meat, milk, poultry, and eggs.

The pesticide is considered useful for the purpose for which the tolerances are sought, and it is concluded that establishment of the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, on or before July 16, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Effective on: June 16, 1982.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Raw agricultural commodities, Pesticides and pests.

Dated: June 4, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.379 is amended by adding and alphabetically inserting the raw agricultural commodities broccoli, cauliflower, and peaches to read as follows:

§ 180.379 Cyano(3-phenoxyphenyl)methyl 4-chloro-alpha-(1-methylethyl) benzeneacetate; tolerances for residues.

* * * * *

Commodities	Parts per million
Broccoli	2.0
Cauliflower	0.5
Peaches	10.0

[FR Doc. 82-16199 Filed 6-15-82; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 180

[PH-FRL 2148-7; PP 00000/R450]

F.D. & C. Blue No. 1; Tolerances and Exemptions From Tolerances For Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for F.D. & C. Blue No. 1 when used as an aquatic plant control agent. This regulation to eliminate the need to establish a permissible level for residues of the chemical was requested by Aquashade Inc.

EFFECTIVE DATE: Effective on June 16, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Peter Gray, Process Coordination Branch, Registration Division (TS-767C), Offices of Pesticide Programs, Environmental Protection Agency, Rm. 716D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-7700).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking in the **Federal Register** of May 13, 1982 (47 FR 20328) which announced that at the request of Aquashade, Inc. PO Box 198, Eldred, NY 12732, the Administrator proposed to amend 40 CFR Part 180 by establishing an exemption from the requirement of a tolerance for residues of F.D. & C. Blue No. 1 when used as an aquatic plant control agent.

No comments or request for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The data submitted in the petition and all other relevant material have been evaluated and discussed in the notice of proposed rulemaking (47 FR 20328, May 13, 1982). The pesticide is considered useful for the purpose for which the exemption from the requirement of a tolerance is sought.

Based on the information considered by the Agency, it is concluded that this amendment to 40 CFR Part 180 will protect the public health. Therefore, the exemption from the requirement of a tolerance is established as set forth below.

Any person adversely affected by this regulation may, on or before July 16, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. In a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of the Executive Order 12291.

Effective on: June 16, 1982.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: June 4, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR Part 180 is amended by establishing a new § 180.1074 to read as follows:

§ 180.1074 F.D. & C Blue No. 1; exemption from the requirement of a tolerance.

F.D. & C. Blue No. 1 is exempted from the requirement of a tolerance when used as an aquatic plant control agent.

[FR Doc. 82-16200 Filed 6-15-82; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 125

[WH-FRL 2150-3]

Modification of Secondary Treatment Requirements for Discharges into Marine Waters; Public Meetings

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meetings.

SUMMARY: This notice sets forth the time and locations for public meetings to be conducted by the Environmental Protection Agency (EPA) regarding section 301(h) of the Clean Water Act which provides for variances from secondary treatment requirements. Congress has amended section 301(h) and final and proposed amendments to the 301(h) regulations have recently been published in the **Federal Register**. The Public meetings will provide information on these statutory and regulatory changes.

DATES: The dates for the public meetings are set forth in the supplementary information below.

ADDRESSES: The addresses for the public meetings are set forth in the supplementary information below.

FOR FURTHER INFORMATION CONTACT: Robert W. Zeller, PhD, Policy Advisor, Office of Marine Discharge Evaluation, WH-546, U.S. Environmental Protection Agency, 401 M Street, S.W. Washington, D.C. 20460, (202) 755-9231.

SUPPLEMENTARY INFORMATION: Section 301(h) of the Clean Water Act, 33 U.S.C. 1311(h), authorizes the Administrator of EPA, with State concurrence, to issue National Pollutant Discharge Elimination System (NPDES) permits which modify the secondary treatment requirements of section 301(b)(1)(B), 33 U.S.C. 1311(b)(1)(B), for publicly owned treatment works. On December 29, 1981, section 301(h) was amended by Pub. L. 97-117, 95 Stat. 1623. As a result of this statutory amendment, publicly owned treatment works discharging or proposing to discharge to marine waters may not apply for a section 301(h) variance from the Act's secondary treatment requirements. The statutory amendment establishes a new deadline of December 29, 1982, for filing such applications.

EPA has recently published proposed and final amendments to the regulations implementing section 301(h), 40 CFR Part 125, Subpart G (47 FR 24918, June 8, 1982). The final amendments respond to the statutory changes and the results of a lawsuit involving the 301(h) regulations. The proposed amendments are intended to simplify and clarify the 301(h) regulations and include the proposed requirements for new and revised 301(h) applications. Copies of these regulatory amendments and accompanying draft revised Technical Support Document may be obtained by writing to the Office of Marine Discharge Evaluation at the address given above.

EPA will be conducting public meetings in order to explain the recent statutory changes and the proposed and final regulatory amendments. The meetings are open to all interested members of the public and will include a description of the statutory and regulatory amendments affecting section 301(h), together with an opportunity for questions seeking clarification of these changes. The public meetings will be held in accordance with the schedule below.

(1) July 7, 1982, 1:00–4:00 pm; Conference Room 12A, EPA, Region X, 1200 6th Avenue, Seattle, WA 98101

(2) July 8, 1982, 1:00–4:00 pm, American Samoa and Guam Room, EPA, Region IX, 215 Fremont Street, San Francisco, CA 94105

(3) July 13, 1982, 1:00–4:00 pm; Room 120, Mathematics & Science Bldg., Montclair State College, Upper Montclair, NJ 07043 (Contact Ed Santoro, EPA Region II (212) 264–3522 for directions and information on parking restrictions)

(4) July 14, 1982, 1:00–4:00 pm; Room 208, J. W. McCormick Federal Courthouse & Post Office Bldg., Post Office Square, Boston, MA 02109

(5) July 15, 1982, 1:00–4:00 pm; Room 221, Federal Bldg., 51 Southwest First Avenue, Miami, FL 33130

The authority citation for 40 CFR part 125, Subpart G, reads as follows:

Authority: Clean Water Act, Secs. 301, 304, 501, Pub. L. 92–500, 86 Stat. 816, *as amended by* Pub. L. 95–217, 91 stat. 1566, *as amended by* Pub. L. 97–117, 95 Stat. 1623 (33 U.S.C. 1311, 1314, 1361).

Dated: June 13, 1982.

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water.

[FR Doc. 82-16446 Filed 6-15-82; 8:56 am]

BILLING CODE 6560-50-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

41 CFR Parts 7-1, 7-6, 7-7, and 7-30

(AIDPR Notice 82-4)

Miscellaneous Revisions to the AID Procurement Regulations

AGENCY: Agency for International Development, IDCA.

ACTION: Final rule.

SUMMARY: This AIDPR notice makes miscellaneous changes to the AID Procurement Regulations: to provide an additional five working days leadtime for review of proposed deviations; to revise AID procedures for ratification of unauthorized contract awards to conform to FPR procedures, and to designate an AID official who may ratify such awards; to amend AID's contract clauses concerning source, origin, and nationality, and local cost financing to conform to current AID policy; to correct obsolete and incorrect cross-references in various contract clauses; to revise AID's contract clause concerning abortion related activities to conform with current requirements of the Foreign Assistance Act; to increase the amounts allowed for training of AID-sponsored participants, and for AID's contribution towards the cost of medical examinations for contractor employees or dependents serving overseas; to conform AID's procedures for Federal Reserve Letters of Credit with recommendations made by the Department of the Treasury; and to amend Appendix F to clarify the limitation on use of a personal services contractor to assist AID in making planning, budgeting, programming and policy decisions.

EFFECTIVE DATE: This AIDPR notice is effective June 7, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. J. M. Kelly, M/SER/CM/SD/POL, Agency for International Development, Washington, D.C. 20523. Telephone (703) 235–9107.

SUPPLEMENTARY INFORMATION: This AIDPR notice is a procurement regulation, and has been exempted from the requirements of Executive Order 12291 of February 17, 1981, pursuant to section 8(b) of the order, by the Director, OMB, in a letter dated April 8, 1981, as amended December 2, 1981. The determination required by paragraph 4a of OFPP Policy Letter 80–5, and the certification required by the Regulatory Flexibility Act have been made and are included in the body of this AIDPR notice.

List of Subjects in 41 CFR Parts 7–1, 7–6, 7–7, 7–30

Government procurement.

PART 7–1—GENERAL

Subpart 7–1.1—Introduction

§ 7–1.707–3 [Amended]

1. Section 7–1.107–3, *Procedure*, is amended by removing the reference to "* * * five working days * * *", and by removing the reference to "* * * ten working days * * *" in paragraph (a)(2), in its place inserting "* * * ten working days * * *" in paragraph (b)(3)(i), in its place inserting "* * * fifteen working days * * *".

Subpart 7–1.4—Procurement Responsibility and Authority

2. Section 7–1.405 is revised as follows:

§ 7–1.405 Ratification of unauthorized contract awards.

The Director, Office of Contract Management (M/SER/CM) is the official within AID who may ratify unauthorized contract awards in accordance with FPR 1–1.406.

PART 7–6—FOREIGN PURCHASES

Subpart 7–6.51—Source, Origin and Nationality

3. Section 7–6.5103 is amended by changing the date which follows the title of the contract clause from "(May 1981)" to "(May 1982)", and by revising paragraph (d) of the contract clause as follows:

§ 7–6.5103 Contract clause—source and nationality requirements.

* * * * *

Source and Nationality Requirements for Procurement of Goods and Services (May 1982).

* * * * *

(d) *Nationality.* Except as specified in paragraph (c) of this clause, in order to be eligible for AID financing under this contract suppliers or subcontractors must fit one of the following categories:

(1) *Suppliers of commodities.* A supplier providing goods under this contract must fit one of the following categories to be eligible for AID financing:

(i) An individual who is a citizen or, except as provided in paragraph (d)(7) of this clause, a legal resident of a country or area included in the authorized geographic code;

(ii) A corporation or partnership organized under the laws of a country or area included in the authorized geographic code;

(iii) A controlled foreign corporation, i.e., any foreign corporation of which more than 50 percent of the total combined voting power of all classes of stock is owned by United States shareholders within the meaning of Section 957 et seq. of the Internal Revenue Code, 26 U.S.C. 957; or

(iv) A joint venture or unincorporated association consisting entirely of individuals, corporations, or partnerships which are eligible under any of the foregoing categories.

(2) *Privately owned commercial suppliers of services.* An individual or a privately owned commercial firm is eligible for financing by AID under this contract as a subcontractor providing services only if the criteria in paragraphs (d)(2)(i), (ii), or (iii) of this clause are met and, in the case of the categories described in paragraphs (d)(2)(ii) and (iii), the certification requirements in paragraph (d)(2)(iv) are met.

(i) The supplier is an individual who is a citizen of and whose principal place of business is in a country or area included in the authorized geographic code or a non-U.S.

citizen lawfully admitted for permanent residence in the United States whose principal place of business is in the United States;

(ii) The supplier is a privately owned commercial (i.e., for profit) corporation or partnership that is incorporated or legally organized under the laws of a country or area included in the authorized geographic code, has its principal place of business in a country or area included in the authorized geographic code, and meets the criteria set forth in either subparagraph (A) or (B) below:

(A) The corporation or partnership is more than 50% beneficially owned by individuals who are citizens of a country or area included in the authorized geographic code. In the case of corporations, "more than 50% beneficially owned" means that more than 50% of each class of stock is owned by such individuals; in the case of partnerships, "more than 50% beneficially owned" means that more than 50% of each category of partnership interest (e.g., general, limited) is owned by such individuals. (With respect to stock or interest held by companies, funds or institutions, the ultimate beneficial ownership by individuals is controlling.)

(B) The corporation or partnership:

(*1*) Has been incorporated or legally organized in the United States for more than 3 years prior to the issuance date of the invitation for bids or request for proposals, and

(*2*) Has performed within the United States similar administrative and technical, professional, or construction services under a contract or contracts for services and derived revenue therefrom in each of the 3 years prior to the issuance date of the invitation for bids or request for proposals, and

(*3*) Employs United States citizens in more than half its permanent full-time positions in the United States, and

(*4*) Has the existing capability in the United States to perform the contract.

(iii) The supplier is a joint venture or unincorporated association consisting entirely of individuals, corporations, partnership, or nonprofit organizations which are eligible under paragraphs (d)(2)(i), (d)(2)(ii), or (d)(3) of this clause.

(iv) A duly authorized officer of a firm or nonprofit organization shall certify that the participating firm or non-profit organization meets either the requirements of paragraphs (d)(2)(ii) or (d)(3) of this clause. In the case of corporations, the certifying officer shall be the corporate secretary. With respect to the requirements of paragraph (d)(2)(ii)(A), the certifying officer may presume citizenship on the basis of the stockholder's record address, provided the certifying officer certifies, regarding any stockholder (including any corporate fund or institutional stockholder) whose holdings are material to the corporation's eligibility, that the certifying officer knows of no fact which might rebut that presumption.

(3) *Nonprofit organizations.* Nonprofit organizations, such as educational institutions, foundations, and associations, are eligible for financing by AID under this contract as subcontractors for services if they meet all of the criteria listed in paragraphs (d)(3)(i), (ii), and (iii) below, and the certification requirement in paragraph (d)(2)(iv) of this clause is met. (International agricultural research centers and such other international research centers as may be, from time to time, formally listed as such by the Senior Assistant Administrator, Bureau for Science and Technology, are considered to be of U.S. nationality.) Any such organizations must:

(i) Be organized under the laws of a country or area included in the authorized geographic code; and

(ii) Be controlled and managed by a governing body, a majority of whose members are citizens of countries or areas included in the authorized geographic code; and

(iii) Have its principal facilities and offices in a country or area included in the authorized geographic code.

(4) *Government-owned organizations.* Firms operated as commercial companies or other organizations (including nonprofit organizations other than public educational institutions) which are wholly or partially owned by governments or agencies thereof are not eligible for financing by AID as subcontractors.

(5) *Joint ventures.* A joint venture or unincorporated association is eligible only if each of its members is eligible in accordance with paragraphs (d)(2), (3), or (4) of this clause.

(6) *Construction services from local firms.* When the host country is an authorized source for services, and the estimated cost of the construction services is $5 million or less, a corporation or partnership which is determined by AID to be an integral part of the local economy is eligible. A corporation or partnership is an integral part of the local economy provided:

(i) It has done business in the host country on a continuing basis for not less than three years prior to the issuance date of invitations for bids or requests for proposals;

(ii) It has a demonstrated capability to undertake the proposed activity;

(iii) All, or substantially all, of its directors of local operations, senior staff and operating personnel are resident in the host country;

(iv) Most of its operating equipment and physical plant are in the host country.

(7) *Ineligible suppliers.* Citizens of any country or area, and firms and organizations located in or organized under the laws of any country or area, which is not included in Geographic Code 935 are ineligible for financing by AID as suppliers of services or as agents acting in connection with the supply of services, except that non-U.S. citizens lawfully admitted for permanent residence in the United States are eligible regardless of such citizenship.

(8) *Special restrictions on procurement of construction or engineering services.* Section 604(g) of the Foreign Assistance Act provides that AID funds may not be used for "procurement of construction or engineering services from advanced developing countries, eligible under the Geographic Code 941, which have attained a competitive capability in international markets for construction services or engineering services." In order to insure eligibility of a Code 941 subcontractor for construction or engineering services, obtain the AID contracting officer's approval for any such subcontract.

4. Section 7–6.5104 is amended by revising paragraph (a) as follows:

§ 7–6.5104 Contract clause—authorization of local cost financing.

(a) Local cost financing requires specific authorization under paragraph 18A1c of Chapter 18, AID Handbook 1, Supplement B. Such authorization must specify the U.S. Dollar amount which may be used for local cost financing.

* * * * *

PART 7–7—CONTRACT CLAUSES

Subpart 7–7.1—Fixed-Price Supply Contracts

§ 7–7.103–50 [Amended]

5. Section 7–7.103–50, *Mandatory use of visa eligibility Form DSP 66A by participants,* is amended by removing the reference to "* * * AIDPR 7–7.5201–5 * * *"; and inserting in its place "* * * AIDPR 7–7.5301–5 * * *".

Subpart 7–7.6—Fixed-Price Construction Contracts

§ 7–7.603–50 [Amended]

6. Section 7–7.603–50, *Mandatory use of visa eligibility Form DSP 66A by participants,* is amended by removing the reference to "* * * AIDPR 7–7.5201–5 * * *", and inserting in its place "* * * AIDPR 7–7.5301–5 * * *".

Subpart 7–7.50—Clauses for Cost Reimbursement Contracts

§ 7–7.5001–5 [Amended]

7. Section 7–7.5001–5, *Travel and transportation expenses,* is amended by changing the clause date from "(DECEMBER 1970)" to "(MAY 1982)"; and by deleting the reference to "* * * the Standardized Government Travel Regulations * * *" appearing in paragraphs (a) and (b), inserting in its place "* * * the Federal Travel Regulations * * *".

§ 7–7.5001–26 [Amended]

8. Section 7–7.5001–26, *Disputes,* is amended by deleting the reference to "* * * FPR Temporary Regulation 55* * *", and inserting in its place "* * * FPR 1–7.102–12 * * *".

9. Section 7–7.5003–3 is amended by adding a clause title and date, and by revising paragraph (b)(1) as follows:

§ 7–7.5003–3 Family planning and population assistance activities.

* * * * *

Family Planning and Population Assistance Activities (May 1982).

* * * * *

(b) *Prohibition on Abortion-related Activities.* (1) No funds made available under this Contract shall be used to finance, support, or be attributed to the following activities: (i) Procurement or distribution of equipment intended to be used for the purposes of inducing abortions as a method of family planning; (ii) special fees or incentives to women to coerce or motivate them to have abortions; (iii) payments to persons to perform abortions or to solicit persons to undergo abortions; (iv) information, education, training, or communication programs that seek to promote abortion as a method of family planning; (v) any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning (epidemiologic or descriptive research to assess the incidence, extent or consequences of abortion is not precluded); or (vi) lobbying for abortion.

* * * * *

§ 7-7.5003-6 [Amended]

10. Section 7-7.5003-6, *Mandatory use of visa eligibility Form DSP 66A by participants,* is amended by removing the reference to "* * * AIDPR 7-7.5201-5 * * *" and inserting in its place "* * * AIDPR 7-7.5301-5 * * *".

§ 7-7.5003-11 [Amended]

11. Section 7-7.5003-11 is amended by changing the clause date from "(AUGUST 1980)" to "(MAY 1982)", and by revising paragraph (c) as follows:

Participant Training (May 1982).

* * * * *

(c) *Reporting requirement.* Once each month the Contractor shall submit three copies of AID Form 1380-9, Monthly Report of Participants Under Grant, Loan, or Contract Programs to the Office of International Training, AID, Washington, D.C. 20523.

* * * * *

Subpart 7-7.53—Contracts for Participant Training

12. Section 7-7.5301-5 is revised as follows:

§ 7-7.5301-5 Mandatory use of visa eligibility Form DSP 66A by participants.

Mandatory Use of Visa Eligibility Form DSP 66A by Participants (MAY 1977).

The Contractor shall insure that any foreign student brought to the United States for training under this contract uses Visa Eligibility Form DSP 66A (AID version) to obtain a visa.

§ 7-7.5301-14 [Amended]

13. Section 7-7.5301-14, *Disputes,* is amended by deleting the reference to "* * * FPR Temporary Regulation 55 * * *", and inserting in its place "* * * FPR 1-7.102-12 * * *".

Subpart 7-7.54—Clauses for Fixed Price Contracts for Technical Services

§ 7-7.5401-12 [Amended]

14. Section 7-7.5401-12, *Disputes,* is amended by removing the reference to "* * * FPR Temporary Regulation 55 * * *" and inserting in its place "* * * FPR 1-7.102-12 * * *".

§ 7-7.5403-7 [Amended]

15. Section 7-7.5403-7, Mandatory use of visa eligibility Form DSP 66A by participants, is amended by deleting the reference to "* * * AIDPR 7-7.5003-6 * * *" and inserting in its place "* * * AIDPR 7-7.5301-5 * * *".

Subpart 7-7.55—Clauses for Cost Reimbursement Contracts With Educational Institutions

16. Section 7-7.5501-15 is amended by changing the clause date from "(JULY 1977)" to "(MAY 1982)", and by revising paragraphs (b)(2) and (c) as follows:

§ 7-7.5501-15 Training of foreign country nationals.

* * * * *

(b) * * *

(2) The Contractor shall prepare and submit to the Office of International Training, three copies of AID Form 1380-9, "Monthly Report of Participants Under Grant, Loan, or Contract Programs", on the last day of each month.

* * * * *

(c) For participants assigned to the contractor for whom specifically designed courses not otherwise covered in paragraph (a)(1) of this clause are authorized, the contractor shall be paid the following in lieu of the costs authorized in paragraph (a)(1) of this clause.

(1) For not exceeding 20 instructional days (days on which such courses are scheduled to meet and are actually conducted):

(i) One participant: $150 for the first day, and $50 per day for each additional day, up to 19 days.

(ii) Groups up to and including 10 participants: for the first day, $150 for the first participant, and $50 for each additional participant. For each additional day, up to 19 days, $50 for each participant.

(2) For more than 20 instructional days, or more than 10 participants: The contractor shall submit a proposal including supporting cost and pricing data to the Contracting Officer for approval.

* * * * *

§ 7-7.5501-20 [Amended]

17. Section 7-7.5501-20, *Disputes,* is amended by removing the reference to "* * * FPR Temporary Regulation 55 * * *", and inserting in its place "* * * FPR 1-7.102-12 * * *".

§ 7-7.5502-3 [Amended]

18. Section 7-7.5502-3, *Personnel,* is amended to change the clause date from "* * * (SEPTEMBER 1975) * * *" to "* * * (MAY 1982) * * *"; to remove the figure "* * * $85 * * *" in paragraph (d)(3)(i), inserting in its place "* * * $100 * * *"; and to remove the figure "* * * $25 * * *" in paragraph (d)(3)(i), inserting in its place "* * * $40 * * *".

§ 7-7.5502-3 [Amended]

19. Section 7-7.5503-3, *Federal Reserve letter of credit,* is amended by removing the reference to "* * * AIDPR 7-30.4502 * * *", and inserting in its place "* * * AIDPR 7-30.5002 * * *".

PART 7-30—CONTRACT FINANCING

Subpart 7-30.50—Federal Reserve Letter of Credit Method of Disbursing Advances to Non-profit Institutions

20. Section 7-30.5002 is amended by changing the contract clause date from "* * * (MAY 1981) * * *" to"* * * (MAY 1982) * * *", and by revising paragraphs (d)(4)(i) and (d)(5) of the contract clause as follows:

§ 7-30.502 Contract clause-Federal Reserve Letter of Credit.

* * * * *

Federal Reserve Letter of Credit for Advance Payment (May 1982).

* * * * *

(d) * * *

(4) * * *

(i) Periodically prepare payment vouchers (Form TFS 5401) in an original and three copies.

* * * * *

(5) Each drawdown should be initiated at approximately the same time that checks are issued by the organization in payment of program liabilities including those for allowable indirect costs, and in an amount approximately equal to the Federal share of such payments.

* * * * *

21. Appendix F is amended by revising Paragraph 4(b) as follows:

Appendix F—Direct AID Contracts with U.S. Citizens or U.S. Residents for Personal Services Abroad

* * * * *

4. *Policy*

* * *

(b) Limitations on Personal Services Contracts—A personal services contract with an individual may be used when adequate supervision is available and for nearly any type of work except:

(1) Negotiating on behalf of the United States with AID recipient countries, organizations or entities.

(2) Making planning, budgeting, programming and policy decisions which determine the allocation of resources available to AID, or establish AID policy.

(3) Supervising the execution of functions performed by U.S. Government personnel of AID or other Government agencies.

(4) Performance of internal functions such as personnel selection and administration, agency management, and congressional presentation.

(5) Contracts entered into pursuant to this authority may not exceed 5 years.

* * * * *

Determination

As required by paragraph 4a of OFPP Policy Letter 80–5, I hereby determine that this AIDPR Notice has been reviewed against the policies set forth in paragraphs (1) through (8) of section 2 of the Office of Federal Procurement Policy Act (Pub. L. 93–400 as amended by Pub. L. 96–83, hereinafter referred to as the Act), and policy directives issued by OFPP under Section 6(h) of the Act.

Based on this review, I hereby determine that this AIDPR Notice is not inconsistent with the policies set forth in paragraphs (1) through (8) of section 2 of the Act, and policy directives issued by OFPP under section 6(h) of the Act.

Certification

Pursuant to the Regulatory Flexibility Act, I hereby certify as head of the Agency, under AIDPR 7–1.204, that this regulation will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units and small governmental jurisdictions.

Authority: This AIDPR Notice is issued under 41 CFR 7–1.104–4.

Dated: June 7, 1982.

John F. Owens,

Deputy Assistant to the Administrator for Management.

[FR Doc. 82–16180 Filed 6–15–82; 8:45 am]

BILLING CODE 8116–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Circular No. 2505]

43 CFR Part 3300

Outer Continental Shelf Minerals and Rights-of-Way Management, General; Amendments to Streamline and Clarify Existing Provisions

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking streamlines and clarifies provisions of the existing regulations on Outer Continental Shelf Minerals and Rights-of-Way Management, General, and makes them easier to understand. In addition, it makes a few changes needed to update the existing provisions.

EFFECTIVE DATE: July 16, 1982.

ADDRESS: Any recommendations or suggestions should be sent to: Director (621), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Robert Samuels, (202) 343–5121.

SUPPLEMENTARY INFORMATION: The proposed rulemaking on streamlining and clarifying the Outer Continental Shelf Minerals and Rights-of-Way Management, General, regulations was published in the **Federal Register** on November 30, 1981 (46 FR 58284). It invited comments to be submitted until December 28, 1981. During that period, a total of 27 comments were received and considered, with 10 coming from companies with interest in Outer Continental Shelf leasing, 8 from State and local government, 4 from Federal agencies, 2 from environmental interest groups, 1 from an oil and gas industry interest group, 1 from a fishing industry interest group and 1 from a bank interested in the payments procedure.

Several comments objected on the basis that the proposed rulemaking did not follow the procedures prescribed for approval of the 5-year Outer Continental Shelf Oil and Gas Leasing Schedule in section 18 of the Outer Continental Shelf Lands Act, as amended; or raised questions about the relation between the two processes and the negative determinations that accompanied the proposed rulemaking. This rulemaking is designed to accommodate policy options for streamlining the existing regulations. It is not intended to implement those policy options. The implementation of the policy options will be accomplished through the approval process for the 5-year Outer Continental Shelf Oil and Gas Leasing Schedule. Indeed, one of the objects of this final rulemaking is to provide enough flexibility in Part 3300 to accommodate a wider variety of policy options. Consequently, the elaboration of and response to comments on the policy choices involved in streamlining the Outer Continental Shelf leasing procedures appear as part of the revision of the 5-year Outer Continental Shelf Oil and Gas Leasing Schedule published in the **Federal Register** on March 19, 1982 (47 FR 11980), in compliance with section 18 of the Outer Continental Shelf Lands Act, as amended, and will not be repeated in this preamble. The negative determinations reflect the fact that revisions made to the existing regulations by this final rulemaking only accommodate the possible choice of policy options in connection with streamlining, but do not effect such choices. This action is the same as that followed in connection with revisions to accommodate net profit share bidding, discussed below.

The effective date of this final rulemaking is designed to coincide with the issuance of an approved Final 5-year Outer Continental Shelf Oil and Gas Leasing Schedule in order to accommodate the policy choices incorporated in the 5-year Schedule.

The discussion of the comments is arranged under the following topics:

I Streamlining
II Payment
III Requirements for Non-Energy Mineral Leasing
IV The New Variable Net Profit Share Bidding System
V Reduction of Filing Burdens
VI Minor Technical Changes.

I. Streamlining

A. Call for Information on Areas Replaces Call for Nominations and Comments on Tracts

One comment expressed an interest in greater company control over release of indications of interest data. Since the final rulemaking makes no change in the existing regulations which provide that indications of interest be treated as privileged information, the issue of greater company control over release of indications of interest data is moot.

One comment suggested that the final rulemaking state whether Bureau of Land Management Resource Reports are to be retained or not and that specific information needs from each agency be detailed in the regulation. The Bureau of Land Management plans to retain Resource Reports, as set forth in the existing regulations. The content of specific Resource Reports is best left to the needs of each occasion and should not be set out in regulations, so that suggestion has not been adopted by the final rulemaking.

Several comments made suggestions concerning the format for responses to Calls for Information. These suggestions have not been adopted in the final rulemaking because determinations as to format are better left to individual Calls rather than being mandated in regulations.

One comment called for changing the word "may" to "shall" in reference to the responsibilities of the Director set forth in § 3313.1 (a) and (b). Section 3313.1(a) refers to minerals generally, rather than to oil and gas in particular. The provisions of § 3313.1(a) enable the Director to respond to indications of interest in leasing non-energy minerals as a way of administering the authority

granted by section 8(k) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1337(k)). Since this process is not governed by the 5-year Outer Continental Shelf Oil and Gas Leasing Schedule, the issuance of a Call for Information is not required. Consequently, the final rulemaking retains the word "may", which is more appropriate to non-energy leasing. In § 3313.1(b), the existing regulations require that "the Director shall issue Calls * * *" in connection with oil and gas leasing on the Outer Continental Shelf. However, it is not necessary to change the word "may" to "shall" with reference to what comments are to be requested in a Call because there should be sufficient flexibility to allow for the solicitation of the broadest possible scope of information in a Call. The final rulemaking does not adopt the suggested changes in § 3313.1 (a) and (b).

One comment expressed concern that a formal procedure be maintained for obtaining and considering State comments (including "negative nominations"). This concern is answered by the fact that the Call for Information provides a procedure for obtaining State comments and § 3314.1(a) requires the consideration of State comments. No change has been made in these sections by the final rulemaking.

One comment suggested that a series of changes be made in the existing regulations to distinguish the area of the Call from the areas treated in response to the Call. Since responses to a Call will, of course, specify a particular area, the suggested changes are not necessary and have not been adopted by the final rulemaking.

One comment suggested that language be added to § 3313.1 allowing the Director, Bureau of Land Management, to request the specification of relative levels of interest. Since the existing regulations currently permit such action by the Director, no change has been made in the final rulemaking.

One comment suggested that the area described in § 3313.2(a) be clarified by the addition of the word "seaward" after the phase "3 geographical miles." This change has been adopted by the final rulemaking.

Several comments objected to replacing the phrase "nomination of tracts" in sections 3313 and 3314 with the phrase "information on areas" or "indications of interest in areas" citing the use of the term "nominations" in sections 8(g)(1) and (2) and 18(f)(1) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1337(g)(1) and (2) and 1344(f)(1)). The latter section appears in section 18 of the Act, which describes the process of issuing a 5-year Outer Continental Shelf Oil and Gas Leasing Schedule, rather than the sale-specific process covered in 43 CFR Parts 3313 and 3314. The specific language of the other sections of the Act, is not "nominations of tracts," but rather "nominations for the leasing of lands * * *" (43 U.S.C. 1337(g)(1)) and "nominations for any area of the Outer Continental Shelf * * * " (43 U.S.C. 1337(g)(2)). The tract-specific basis for nominations is not to be found in the Outer Continental Shelf Lands Act, as amended. The change in terminology from "nominations" to "information" or "indications of interest" in no way contravenes the statutory language and no change has been made in final rulemaking.

B. Area Identification Replaces Tentative Tract Selection

One comment suggested that in § 3314.1(a) the authority of the Director, Bureau of Land Management, to include in his/her Area Identification recommendations area in which interest has not been indicated, be restricted by the requirements that: (1) The Director justify such a recommendation in writing; and (2) such justification be sent to the States for review. The suggestion has not been adopted in the final rulemaking for two reasons: first, existing procedures make the suggested change unnecessary; and second, since States are afforded the opportunity to comment on the entire Call for Information area, a requirement for State(s) review at this point is unnecessary.

One comment suggested that the public hearings called for in § 3314.1(b) of the proposed rulemaking and the existing regulations be made mandatory. The flexibility in the existing regulations allows the Director, Bureau of Land Management, to hold a public hearing or not, as is deemed appropriate. No change has been made on this point by the final rulemaking.

Several comments objected to replacing the term "tentative tract selection" with the term "area identification" made by the proposed rulemaking on the basis that the change interfered with the process for formulation of mitigating measures, the assessment of cost-benefit trade-offs, environmental impact statement detail or the receipt of fair market value. The merits of streamlining policy choices, as noted earlier in this preamble, are considered in connection with the 5-year Outer Continental Shelf Oil and Gas Leasing Schedule revision process and there is no need to repeat them here. The final rulemaking adopts the language of the proposed rulemaking.

C. Notice of Sale May Contain or Reference Description of Areas, Terms and Stipulations

The final rulemaking makes a change in §§ 3315.4 and 3315.1, redesignated § 3315.3 by the final rulemaking, that will enable the Department of the Interior to facilitate its program of offering larger numbers of tracts in each lease sale. Under the change, the blocks being offered could be depicted, along with their terms and stipulations, on maps referenced in the Notice of Sale. When this referencing procedure is used, the Final Notice of Sale would be published in the **Federal Register** earlier than 30 days prior to the sale date to allow sufficient time for bidders to obtain the referenced maps from the appropriate regional OCS office at least 30 days prior to the sale.

D. Period for Acceptance/Rejection Decision Extended From 60 to 90 Days, and Request for Reconsideration Procedure Specified

A large number of comments objected to the extension of the bid consideration period, particularly in the absence of any requirement to pay interest on bid money held by the United States. One comment also suggested that if Bureau of Land Management sales were to overlap within the 120 day period, then the bid acceptance process should be expedited. Under the phased streamlining bid acceptance procedures, all of the high bids should be processed within three weeks after a sale and the bonus moneys, if the bid is rejected, would be available for use in other sales. Only the 20 percent of the bonus submitted with a high bid might have to be held for a longer period, and then only in connection with tracts receiving relatively low bids. It is not anticipated that this will present a significant capital constraint. For the past ten sales, this amounted to an average of $5.5 million per sale. The existing regulations provide flexibility on the payment of interest on bid money and the final rulemaking makes no change on this point, leaving the issue to a final policy determination. In order to ensure that the acceptance process progresses at an appropriate pace, the period of 120 days for acceptance/rejection of bids provided in the proposed rulemaking has been reduced to 90 days in the final rulemaking.

One comment suggested that language be added to the existing regulations specifying the procedural steps to be taken regarding the money submitted

with bids, other than that accompanying the apparent high bid. Section 3316.5(f) of the existing regulations provides that "Deposits * * * shall be refunded on rejected bids." This provision assures the unsuccessful bidder of the return of a deposit. The specific procedure used in carrying out that mandate is not appropriately a part of the regulations and the final rulemaking makes no change in this provision.

One comment suggested that the regulations specify that when payments fall due on a weekend or other day when the Bureau Outer Continental Shelf offices are closed, the next business day should become the due day. This concern is addressed in § 1821.2–2(g) of Title 43 of the Code of Federal Regulations and no change is needed in the final rulemaking.

Additional changes have been made by the final rulemaking in § 3316.5(e) to provide a clarification as to the actions available to a bidder whose apparent high bid has been rejected by the authorized officer. To streamline the process, the change provides for a simplified process for reconsideration of a rejection by the Secretary of the Interior. The change goes on to negate specifically the applicability of the regulations in Part 4 of Title 43 of the Code of Federal Regulations with respect to acceptance/rejection of bids for Outer Continental Shelf leases.

E. Appendix A Revised To Accommodate Bidding by Map and Block

The revision of Appendix A made by the final rulemaking was determined necessary to facilitate the offering of large numbers of blocks and the reading of bids.

II. Payment

Numerous comments opposed the requirement of the proposed rulemaking that payments accompanying the executed lease be made by Federal Reserve Check alone, on the grounds that it would unduly burden bidders, certain banks and the United States. In recognition of these objections, while at the same time serving the objective of accelerating the availability of funds to the United States, the final rulemaking provides an alternative means of payment in addition to the use of Federal Reserve Checks. The final rulemaking allows payment by commercial check, provided that it is drawn on a commercial bank in the same city as the Federal Reserve Bank or Branch serving the city in which the Bureau of Land Management Outer Continental Shelf field office conducting the sale is located and provided that the check is presented not later than the 14th day after receipt of the lease by the successful bidder. The change made concerning the presentation of a commercial check not later than the 14th day required a change be made in § 3316.5(f), in the final rulemaking. In response to a comment requesting announcement of the timing of the initiation of this new payment system, successful bidders are advised that they will be notified of the payment system to be used at the time that leases are transmitted for execution.

One comment requested clarification of the payment procedures used in connection with the submission of the one-fifth bonus that is submitted with cash bonus bids. This area is adequately covered by the provisions of § 3316.4(b) of the existing regulations.

III. Requirements for Non-Energy Mineral Leasing

One comment called stating the metric equivalent of 5,760 acres (i.e., 2331 hectares) in § 3314.2. The final rulemaking has not adopted this suggestion as not being an appropriate inclusion in the regulations.

A second comment called for larger tract size in Alaska frontier areas and in deep Outer Continental Shelf areas. The final rulemaking makes no change on this point because the existing regulations allow the selection of a larger lease size if a sufficient showing of need is made.

Finally, one comment suggested that the regulations specify the minerals, other than oil and gas, that are subject to lease. This recommendation has not been accepted because the definition in § 3300.0–5(k) of the existing regulations is sufficient for this purpose.

IV. The New Net Profit Share Variable Bidding System

One comment recommended that all references to segregated leases be deleted, since a proposed rulemaking of the Minerals Management Service published in the **Federal Register** on August 25, 1981 (46 FR 42287), provides for an end to the authority to require segregation of nonupitized portions of a lease. Since the existing regulations provide other methods by which leases can be segregated (See §§ 3319.2(c) and 3320.1), this recommendation cannot be adopted by the final rulemaking.

One comment proposed that language be added to the existing regulations providing that if rental or royalty payments fall due on a weekend or other day when the Bureau of Land Management Outer Continental Shelf field office is closed, then payment should not be due until the next business day. As discussed earlier in this preamble, the provisions of § 1821.2–2 of Title 43 of the Code of Federal Regulations are applicable to this situation and no change has been made in the final rulemaking.

One comment objected to the provisions in the proposed rulemaking providing for use of the variable net profit share bidding system on the grounds it is not needed, and flies in the face of the recent court decision which held that the Secretary of the Interior is not required to implement the system (*Watt, et al.* v. *Energy Action Educational Foundation, et al.*, 102 Supreme Court 205(1981). As was made clear earlier in this preamble with respect to changes made in order to accommodate policy options for streamlining leasing on the Outer Continental Shelf, this rulemaking is designed to provide the Department of the Interior with the appropriate regulatory framework for carrying out the broadest possible policy options. The rulemaking is not intended to affect the choice of options.

V. Reduction of Filing Burdens

One comment recommended the extension of the revision of corporate qualification requirements to associations (including partnerships). This suggestion has been adopted by the final rulemaking.

Section 3315.3 is being removed by the final rulemaking in order to bring the existing regulations in line with the Congressional action (Pub. L. 97–100) repealing section 303(c) of the Department of Energy Organization Act (42 U.S.C. 7153(c)) which required that all terms and conditions of Federal leases be submitted to the Department of Energy for review.

VI. Minor Technical Changes

One commenter suggested that "other persons" who wish to comment on the proposed 5-year Outer Continental Shelf Oil and Gas Leasing Schedule be required to justify their standing to comment. This suggestion has not been adopted by the final rulemaking because it goes beyond the authority granted the Secretary of the Interior by existing statutes.

The final rulemaking makes a minor administrative change in § 3316.3–2 which reflects the realignment of staff functions in the Bureau of Land Management's Washington office.

Where reference is made in this final rulemaking to U.S. Geological Survey, those references have been changed to "Minerals Management Service," where appropriate, to reflect the recent

reorganization within the Department of the Interior.

Editorial and grammatical changes, as needed, have been made.

The principal authors of this final rulemaking are Robert Samuels, Division of Offshore Resources and Robert C. Bruce, Office of Legislation and Regulatory Management, Bureau of Land Management.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The revisions made by this final rulemaking are primarily concerned with providing greater administrative flexibility to the Department of the Interior in the selection of options in connection with the Outer Continental Shelf oil and gas leasing program and affect all participants in the program equally. There is no direct effect on small entities other than the same reduction in requirements that affects all participants.

The information collection requirements contained in 43 CFR Part 3300 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned number 1004–0071.

Subject Listings for 43 CFR Part 3300

Administrative practice and procedure, Continental shelf, Environmental protection, Government contracts, Mineral royalties, Oil and gas exploration, Oil and gas reserves, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting requirements, Surety bonds.

Under the authority of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.), Part 3300, Group 3300, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

James G. Watt,

Secretary of the Interior.

May 21, 1982.

PART 3300—OUTER CONTINENTAL SHELF MINERALS AND RIGHTS-OF-WAY MANAGEMENT; GENERAL

Note.—The information collection requirements contained in Part 3300 of Group 3300 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004–0071. The information is being collected if the applicant filing for a lease or right-of-way on the Outer Continental Shelf is qualified to hold such lease or right-of-way. This information will be used in making this determination. The obligation to respond is required to obtain a benefit.

1. Section 3300.2 is amended by:

(a) Revising paragraph (a) to read:

§ 3300.2 Information to States.

(a) The information covered in this section is prepared by or directly obtained by the Director. Such information is typically not considered to be proprietary or privileged, with the primary exception of specific indications of interest in an area by industry received in response to a Call for Information issued by the Secretary. All other proprietary and privileged information is obtained by or under the control of the Geological Survey and Minerals Management Service which are responsible for its release in accordance with their regulations (See 30 CFR Parts 250, 251 and 252); and

* * * * *

(b) Revising paragraph (d) to read:

* * * * *

(d) Upon request, the Director shall provide relative indications of interest in areas as well as any comments filed in response to a Call for Information for a proposed sale. However, no information transmitted shall identify any particular area with the name of any particular party so as not to compromise the competitive position of any participants in the process of indicating interest.

2. Section 3300.4 is revised to read:

§ 3300.4 Payment.

(a) Payment of the balance of the bonuses, including deferred bonuses, and the first year's rental shall be by a payment instrument, payable to the Bureau of Land Management, that shall make funds immediately available to the Department of the Treasury. Instruments which may be used in providing immediate availability include:

(1) Federal Reserve Checks which are instruments that originate at Federal Reserve Bank member banks and represent a charge against their Federal Reserve Bank reserve account. These checks are to be drawn on the Federal Reserve Bank or Branch in or serving the city in which the Bureau OCS field office conducting the particular lease sale is located. Cut-off times for presentation of the Federal Reserve Checks to the Bureau OCS field office and the required Federal Reserve Bank or Branch against which they shall be drawn shall be detailed at the time
leases are transmitted to
successful bidders for execution.

(2) Commercial Checks which are instruments drawn on a commercial bank located in the same city as the Federal Reserve Bank or Branch serving the city in which the Bureau OCS field office conducting the particular lease sale is situated. Cut-off times for presentation of commercial checks to the Bureau OCS field office shall be detailed as the leases are transmitted to successful bidders for execution. Presentation of commercial checks shall be made to the Bureau OCS field office not later than the 14th day after receipt of the lease by the successful bidder.

(b) Other payments, such as filing charges and fees, and annual rentals and costs for grants of pipeline rights-of-way shall be made to the Manager of the appropriate Bureau OCS field office by cash, check or bankdraft payable to the Bureau of Land Management unless otherwise directed by the Secretary.

(c) All other payments required by a lease or the regulations in this part shall be payable to the Minerals Management Service

3. The title of Subpart 3310 is revised to read:

Subpart 3310—Oil and Gas Leasing Program

§ 3310.2 [Amended]

4. Section 3310.2 is amended by:

(a) Revising the title of the section to read:

§ 3310.2 Review by State and local governments and other persons; and

(b) Amending paragraph (b) by inserting in the third sentence after the phrase "or local government" the phrase "or other persons".

5. Subpart 3313 is amended by revising the title to read:

Subpart 3313—Call for Information

6. Section 3313.1 is revised to read:

§ 3313.1 Information on areas.

(a) The Director may receive and consider indications of interest in areas for mineral leasing.

(b) In accordance with an approved program and schedule for the leasing of OCS lands which may contain oil and gas, the Director shall issue Calls for Information on areas for leasing of such minerals in specified areas. The Call for Information shall be published in the **Federal Register** and may be published in other publications as desirable. Information on areas shall be addressed to the Manager of the appropriate OCS office, with a copy to the appropriate Regional Minerals Manager of the Minerals Management Service and to any other office which may be specified in the Call. The Director shall also request comments on areas which should receive special concern and

analysis. For an oil and gas lease sale Call area, the Director may request comments concerning geological conditions, including bottom hazards; archeological or cultural sites on the seabed or nearshore; multiple uses of the proposed leasing area, including navigation, recreation and fisheries; and other socioeconomic, biological and environmental information.

§ 3313.2 [Amended]

7. Section 3313.2 is amended by:

(a) Revising the title to read:

§ 3313.2 Areas near Coastal States.

* * * * *

(b) Revising paragraphs (a) and (b) to read:

* * * * *

(a) At the time information is solicited for leasing of areas within 3 geographical miles seaward of the seaward boundary of any coastal State, the Secretary shall provide the Governor of that State information required under section 8(g)(1) of the Act. The Director shall furnish information identifying the areas for leasing as well as all relevant available environmental data for such areas (See 30 CFR 251.14).

(b) After receipt of information on areas within the area described in paragraph (a) of this section, the Secretary shall inform the Governor of those areas that are to be given further consideration for leasing. The Secretary shall enter into consultation with the Governor to determine whether the area may contain oil or gas pools or fields underlying both the OCS and lands subject to the jurisdiction of the State.

* * * * *

8. The title of Subpart 3314 is revised to read:

Subpart 3314—Area Identification and Tract Size.

9. Section 3314.1 is revised to read:

§ 3314.1 General.

(a) The Director, in consultation with the Director, Minerals Management Service and other appropriate Federal agencies, shall recommend to the Secretary areas identified for environmental analysis and consideration for leasing. The Director, on his/her own motion, in consultation with the Minerals Management Service, may include in the recommendation areas in which interest has not been indicated in response to a Call. In making a recommendation, the Director shall consider all available environmental information, multiple-use conflicts, resource potential, industry interest and other relevant information. Comments received from States and local governments and interested parties in response to Calls for Information shall be considered in making recommendations.

(b) The Director shall evaluate fully the potential effect of leasing on the human, marine and coastal environments, and develop measures to mitigate adverse impacts, including lease stipulations. The views and recommendations of Federal agencies, State agencies, local governments, organizations, industries and the general public shall be used as appropriate. The Director may hold public hearings on the environmental analysis after appropriate notice.

(c) In general, the Director shall seek to inform the public as soon as possible of additions or deletions that occur after the identification of areas.

10. Section 3314.2 is revised to read:

§ 3314.2 Tract size.

(a) A tract selected for oil and gas leasing shall consist of a compact area not exceeding 5,760 acres, unless the authorized officer finds that a larger area is necessary to comprise a reasonable economic production unit.

(b) The tract size for the leasing of other minerals shall be specified in the notice of sale.

§ 3315.1 [Amended]

11. Section 3315.1(a) is amended by inserting in the last sentence after the word "contained" the phrase "or referenced".

§ 3315.3 [Removed]

12. Section 3315.3 is removed in its entirety.

§ 3315.4 Redesignated as § 3315.3

13. Section 3315.4 is redesignated section 3315.3 and is amended by:

(a) Amending paragraph (a) by inserting in the last sentence after the word "contain" the phrase "or reference"; and

(b) Revising paragraph (b) to read:

* * * * *

(b) Tracts shall be offered for lease by competitive sealed bidding under conditions specified in the notice of lease sale and in accordance with all applicable laws and regulations. A suggested format for bidder submissions appears in Appendix A of this part.

* * * * *

§ 3316.3-2 [Amended]

14. Section 3316.3–2 is amended by:

(a) Amending paragraph (a) by removing the figure "541" and replacing it with the figure "621"; and

(b) Amending paragraphs (c) and (d) by removing the figure "3316.4(h)" and replacing it with the figure "3316.4(g)".

§ 3316.3-3 [Amended]

15. Sections 3316.3–3(e) (1) and (2) are amended by removing the figure "3316.4(h)" and replacing it with the figure "3316.4(g)".

§ 3316.3-4 [Amended]

16. Section 3316.3–4(b) is amended by removing the figure "3316.4(h)" and replacing it with the figure "3316.4(g)".

17. Section 3316.4 is amended by:

(a) Revising paragraphs (d) and (e) to read:

§ 3316.4 Submission of bids.

* * * * *

(d) If the bidder is an association (including a partnership), the bid shall be accompanied by a certified statement indicating the State in which it is registered and that it is authorized to hold mineral leases on the OCS, or appropriate reference to statements or records previously submitted to a Bureau OCS office (including material submitted in compliance with prior regulations).

(e) If the bidder is a corporation, the following information shall be submitted with the bid:

(1) A statement certified by the corporate Secretary or Assistant Secretary over the corporate seal showing the State in which it was incorporated and that it is authorized to hold mineral leases on the OCS, or appropriate reference to statements or records previously submitted to a Bureau OCS office (including material submitted in compliance with prior regulations).

(2) Evidence of authority of persons signing to bind the corporation. Such evidence may be in the form of either a certified copy of the minutes of the board of directors or of the bylaws indicating that the person signing has authority to do so; or a certificate to that effect signed by the Secretary or Assistant Secretary of the corporation over the corporate seal, or appropriate reference to statements or records previously submitted to a Bureau OCS office (including material submitted in compliance with prior regulations). Bidders are advised to keep their filings current.

(3) The bid shall be executed in conformance with corporate requirements.

* * * * *

(b) Removing paragraph (g) in its entirety.

(c) Redesignating paragraph (h) as paragraph (g) and amending it by removing the phrase "and paragraph (g) of this section"; and

(d) Redesignating paragraph (i) as paragraph (h).

18. Section 3316.5 is amended by:

(a) Revising paragraph (e) to read:

§ 3316.5 Award of leases.

* * * * *

(e)(1) The decision of the authorized officer on bids shall be the final action of the Department, subject only to reconsideration by the Secretary, pursuant to a written request, of the rejection of the high bid. The delegation of review authority to the Office of Hearings and Appeals shall not be applicable to decisions on high bids for leases on the Outer Continental Shelf. If the authorized officer fails to accept the highest valid bid for a lease within 90 days after the date on which bids are opened, all bids shall be considered rejected.

(2) Any high bidder whose bid is rejected by the authorized officer may, within 15 days of such rejection, file with the Secretary, with a copy to the authorized officer, a written request for reconsideration accompanied by a statement of reasons. The Secretary shall respond in writing either affirming or reversing the decision of the authorized officer.

* * * * *

(b) Amending paragraph (f) by revising the third sentence to read "Except as provided in § 3300.4(a)(2) of this title, the bidder shall, not later than the 15th day after receipt of the lease, execute the lease, pay the first year's rental, pay the balance of the bonus bid, unless deferred, and file a bond as required in § 3318.1 of this title."

19. Section 3316.6 is revised to read:

§ 3316.6 Lease form.

Oil and gas leases and leases for sulphur shall be issued on forms approved by the Director. Other mineral leases shall be issued on such forms as may be prescribed by the Secretary.

§ 3317.1 [Amended]

20. Section 3317.1 is amended by:

(a) Amending paragraph (a) by removing the word "fixed";

(b) Amending paragraph (b) by removing from the first sentence the word "fixed"; and

(c) Amending paragraph (e) by removing the word "fixed" in the two places it appears.

21. Section 3317.2 is amended by adding a new paragraph (c) to read:

§ 3317.2 Royalties.

* * * * *

(c) Royalties on other minerals shall be at the rate specified in the notice of sale.

22. Appendix A is revised to read:

Appendix A—Oil and Gas Cash Bonus Bid

The following bid is submitted for an oil and gas lease on the area of the Outer Continental Shelf specified below:

Tract No.*	Total amount bid	Amount per acre (or per hectare)	Amount of cash submitted with bid

*Or, if tract numbers are not used, Protraction Diagram or Leasing Map and block number.

Bidder qualification No.	Proportionate interest of company(ies) submitting bid	Name and address of bidding company
—— Misc. No.		

Authorized Signatory's Name and Title.

Appendix B [Removed]

23. Appendix B is removed in its entirety.

[FR Doc. 82-16277 Filed 6-15-82; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 13

Commercial Radio Operators; Removal of Outdated Notes and a Redundant Provision

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Two outdated notes and one redundant rule section are being removed from 47 CFR Part 13 in order to contribute to the Commission's objective to eliminate unnecessary FCC rules, regulations and policies.

EFFECTIVE DATE: June 15, 1982.

ADDRESS: FCC, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: B. C. "Jay" Jackson, Jr., Regional Services Division, Field Operations Bureau, FCC, (202) 632-7240.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 13

Commercial radio operator licenses.

In the matter of amendment of Part 13 of the Commission's Rules to Remove Outdated Notes and a Redundant Section. Order.

Adopted: May 28, 1982.

Released: June 1, 1982.

1. We are amending Part 13 of the Commission's rules to remove two outdated notes and a section which is totally duplicated within Part 13. The two notes described interim Commission operator licensing procedues which were followed prior to the full implementation of the Fourth Report and Order in Docket No. 20817, which occurred on January 4, 1982. These notes have no further effect or informational value. We are also removing § 13.6, which is redundant with § 13.74.

2. Authority for this action is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.231(d) of the Commission's rules. Since the amendments are editorial in nature, the public notice, procedure and effective date provisions of 5 U.S.C. 553 do not apply.

3. In view of the above, it is ordered, That §§ 13.2, 13.6, and 13.28 of the rules are amended in accordance with the appendix below, effective June 15, 1982.

4. Regarding questions on matters covered in this document contact B. C. "Jay" Jackson, Jr. (202) 632-7240.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154, 303))

Federal Communications Commission.

Edward J. Minkel,

Managing Director.

Appendix

PART 13—COMMERCIAL RADIO OPERATORS

Part 13 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

§ 13.2 [Amended]

1. The note immediately following paragraph (a) of § 13.2 is removed.

§ 13.6 [Removed]

2. Section 13.6 is removed.

§ 13.28 [Amended]

3. The note immediately following paragraph (d) of § 13.28 is removed.

[FR Doc. 82-16271 Filed 6-15-82; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1125

[Ex Parte No. 293 (Sub-2)]

Standards for Determining Rail Service Continuation Subsidies in the Northeast-Midwest Region of the United States

AGENCY: Rail Services Planning Office, Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: On February 24, 1982, the Rail Services Planning Office (RSPO) published a Notice of Proposed Rulemaking (NPR) seeking comments on a proposed method for apportioning locomotive fuel to branch lines under § 1125.8(c)(17)(ii) of the Standards for Determining Rail Services Continuation Subsidies (Standards). RSPO is now adopting the Standards as final to apportion locomotive fuel on the basis of fuel cost per locomotive unit hour. The fuel cost per hour figure, which is derived from the Repairs and Supplies portion of the rental rate for locomotives published by the General Manager's Association (GMA), is multiplied by the actual locomotive unit hours for the branch line.

DATE: The amendment is effective on July 16, 1982.

FOR FURTHER INFORMATION CONTACT: Winston Warner, 202–275–0841.

SUPPLEMENTARY INFORMATION: At 47 FR 8031, February 24, 1982, RSPO published a Notice of Proposed Rulemaking seeking comments on a proposed method for apportioning locomotive fuel. This notice was prompted by a petition filed by the New York Department of Transportation (NYDOT) seeking (1) inclusion of a methodology in the Standards which would calculate branch line locomotive unit hours on the basis of train mileage and (2) the assignment of fuel cost to the branch line on the basis of a fuel consumption rate per locomotive unit hour. Section 1125.8(c)(1)(ii) of the Standards currently assigns these costs on the "ratio of road diesel locomotive unit hours on the branch to the total system road diesel locomotive unit hours."

Comments on the Notice of Proposed Rulemaking published February 24, 1982 were received from NYDOT, Conrail, Burlington Northern Railroad (BN) and New Jersey Department of Transportation (NJDOT). Their principal areas of concern pertained to (1) the methodology for apportioning locomotive fuel based on a fuel cost per hour by locomotive horsepower class adapted from GMA rental rates and (2) the retroactivity of the new allocation methodology.

New Methodology for Apportioning Locomotive Fuel

NYDOT supports the calculation of fuel cost per hour on the basis of the fuel portion of the Repairs and Supplies Expenses of the GMA rental rate per hour for different horsepower classes of locomotives (GMA Rate). NJDOT also concurs in the use of the GMA rate to determine branch line fuel costs.

Conrail supports RSPO in trying to apply variable rates for fuel consumption but they feel it falls short of the mark because locomotive operation has too many variables. The efficiency of high horsepower versus medium or low horsepower, the effects on fuel consumption by repetitive starting and stopping versus straight running of locomotives, varying trailing weight being pulled, and actual track conditions and existing grades are factors which offset fuel consumption.

Conrail believes that reliable data is available in various publications which might be used to modify the deficiencies in the GMA rate proposal. Conrail also states that the rulemaking could be amended to allow the carrier, at its option, to use the GMA rate methodology subject to correction for the deficiencies noted. Such a calculation would be established in accordance with the carrier's expenses as reported in the preceding year's R–1. They feel that it is improper to impose a fuel rate which is a composite of expenses submitted by many carriers because the rate will not result in making the carrier "whole" in subsidized operations.

The BN also expressed their disapproval of the proposed methodology for allocation of locomotive fuel. The BN notes that while GMA rates were formulated to establish uniform cost factors, they only reflect industry-wide averages designed to permit uniform billing for operating carriers. They also state that the use of GMA rates for the purpose of determining avoidable branch line fuel costs would be deficient for several reasons. First, the GMA rates are not timely nor reflective of current costs. The locomotive repair and supply rates are always one year behind. Second, the GMA locomotive repair and supply rates reflect industry-wide average costs. Third, GMA rates include costs for freight and passenger for both road and yard. Fourth, GMA rates are formulated to be used only for reciprocal billing and, therefore, contain some compromises which are unacceptable for computing avoidable costs.

We will first address Conrail's concerns over the use of the GMA Rate. Their argument that this rate does not reflect the variables discussed above is a valid one. But Conrail's proposal of basing the calculation in accordance with the carrier's preceding year's R–1 will not reflect the variables listed above. First, the use of the branch locomotive unit hours times the system fuel cost per hour will not compensate for the variables of operating locomotives under various conditions. Second, this methodology is basically the same as the currently used allocation procedure, which fails to distinguish between classes of horsepower.

With respect to BN's position, we appreciate their concerns regarding the use of GMA rates to allocate locomotive fuel costs to branch line operations. However, RSPO believes that the new methodology is more equitable and accurate than the present methodology.

First, we believe that the present method is not timely or reflective of current costs because the use of the preceding year's R–1 to develop branch fuel costs reflects system costs which are 12 to 15 months old. Second, the GMA locomotive repair and supply rates do reflect industry-wide average costs, but are on a horsepower category basis which is more equitable than a system-average basis. Third, according to GMA, those rates include only repair and supply expenses for freight operations. The problem of the designation between yard and road locomotive fuel costs is alleviated by the use of horsepower classes of locomotives. The smaller horsepower units are used in yard operations while the larger horsepower units are used in road operations. Also, in the case of branch line operations, multipurpose units are used which are adaptable to both road and yard operations. Fourth, GMA rates are used for reciprocal billing of locomotive lease rentals. Since only the fuel portion of the rental rate is used, the avoidable portion of the locomotive cost is very attainable. Therefore, the case for the rates being unacceptable for avoidable costs is not relevant.

Specifically, RSPO will amend the regional standards to allocate locomotive fuel (accounts with xx–31–67 designation) based on a fuel cost per locomotive unit hour for each applicable GMA group multiplied by the branch locomotive unit hours incurred in serving the branch by locomotives of that GMA horsepower classification

group. The branch line costs for the year are calculated by simply multiplying the fuel cost per hour for the horsepower classification of the locomotive serving the branch line, as derived from the most recent GMA schedule, by the total number of branch line locomotive unit hours. The fuel cost per hour figure is determined by first identifying which GMA horsepower classification group applies to the locomotive serving the branch line. The amount for Repairs and Supplies expense per hour, contained in the applicable classification group, is then multiplied by the most recent percentage issued by the GMA for the fuel portion of the Repairs and Supplies expense.

Retroactivity of the New Allocation Methodology

In the NPR, we stated that any amendment to the method for calculating branch line fuel costs would not be retroactive to subsidy years prior to January 1, 1981. Conrail agrees with this position. NYDOT, however, still wants any change in the basis of apportionment to be retroactive to April 1, 1977.

NYDOT states that they contested the allocation of Locomotive Fuel to methodology relating the audit of the first subsidy year operations. They also state that they had considerable discussions and correspondence with Conrail over a two year period in an effort to agree on a modification that would resolve their difference over fuel cost calculations. Finally, they sought a resolution by RSPO. They feel that Conrail's past use of "inflated" engine hours, translated into inflated fuel costs and thereby resulted in improper use of taxpayer's money. This has been challenged by NYDOT since 1977.

RSPO sees no basis for changing our position on retroactivity. To permit retroactive application would be inconsistent with prior decisions in which amendments to the regional standards have not been made retroactive to prior subsidy years. Also, we do not want to establish a precedent whereby calculations on which parties relied in prior subsidy years can be subject to challenge. The contracts entered into during prior subsidy periods were based on the then current methodology for calculating locomotive fuel costs. In the instant case, retroactive application would not only affect the parties involved in this proceeding, but also operators and State DOT's in all the Northeastern and Midwestern States. Therefore the allocation of locomotive fuel will not be retroactive to subsidy years beginning prior to January 1, 1981.

This is not a major Federal act significantly affecting the quality of the human environment or the conservation of energy resources.

Final Regulatory Flexibility Analysis as required by 5 U.S.C. 601.

This action will alter the basis for the assignment of locomotive fuel for all rail lines operated under a subsidy agreement pursuant to the regional standards. All shippers located on these subsidized lines will be affected. However, we certify that there will be no increase or changes to the present requirements of businesses located on these lines. We also certify that amending the basis for determining locomotive fuel could reduce the overall subsidy amount. However, any reduction would be minimal because this category of expense accounts for a very small portion of the total cost associated with the operation of a branch line. As a result, we find that this action will not have a significant economic impact on a substantial number of small entities.

Copies of our analysis of the impact of this action are available from the Section of Rail Services Planning, Room 4414, Interstate Commerce Commission, Washington, D.C. 20423.

This notice is issued under the authority of 49 U.S.C. 10362.

List of Subjects in 49 CFR Part 1125

Railroads.

Issued June 11, 1982 by William R. Southard, Director, Rail Services Planning Office.

By the Commission.

James H. Bayne,

Acting Secretary.

PART 1125—STANDARDS FOR DETERMINING RAIL SERVICES CONTINUATION SUBSIDIES

1. Section 1125.8(c)(1)(ii) of 49 CFR Part 1125 is revised to read as follows:

§ 1125.8 Apportionment rules for the assignment of expenses to on-branch costs.

* * * * *

(c) *Transportation—(1) Train Operations:*

* * * * *

(ii) *Locomotive Fuel.* All accounts designated xx–31–67 shall be assigned to the branch line in accordance with the following procedure. The dollar amounts used in the determination of locomotive fuel costs shall be based on data contained in the most recent publication issued by the General Managers Association (GMA) relating to the rental of locomotives. The total number of locomotive unit hours incurred by the locomotive(s) shall then be categorized according to the applicable GMA horsepower classification group. The fuel cost is derived from the Repairs and Supplies Expenses element of the locomotive rental rates published by the GMA. The fuel cost per locomotive unit hour shall be determined for each GMA horsepower classification group by multiplying the latest GMA fuel cost percentage by the Repairs and Supplies Expense per hour included in each group. The fuel cost per locomotive unit hour for each applicable GMA group shall be multiplied by the number of locomotive unit hours incurred in serving the branch by locomotives of that GMA horsepower classification group. The total cost developed under this procedure for each horsepower classification shall be the locomotive fuel cost assignable to the branch line.

* * * * *

[FR Doc. 82-16342 Filed 6-15-82; 8:45 am]
BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 47, No. 116
Wednesday, June 16, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 177

Proposed Customs Regulations Amendments Relating To Country-of-Origin Determinations

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document reproposes, based on comments received, amendments to the Customs Regulations first published at 46 FR 21194, April 9, 1981. These regulations reflect the Government procurement provisions of the "Trade Agreements Act of 1979." the proposed amendments establish a procedure whereby any party-at-interest to a Government procurement may request the issuance of country-of-origin advisory rulings and final determinations relating to Government procurement for the purpose of granting waivers of certain "Buy American" restrictions for products of eligible countries.

DATES: Comments must be received on or before August 16, 1982.

ADDRESS: Written comments should be addressed to the commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Benjamin Mahoney, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5778).

SUPPLEMENTARY INFORMATION:

Background

The "Trade Agreements Act of 1979," Pub. L. 96–39, 93 Stat. 144 (the "Act"), approves and implements the trade agreements negotiated by the United States in the Tokyo Round of Multilateral Trade Negotiations. The Act consists of 11 separate titles. This document relates only to those aspects of Titles III of the Act, "Government Procurement," which affect Customs activities (section 301 *et seq.*, 93 Stat. 236 *et seq.*, 19 U.S.C. 2511 *et seq.*)

Title III of the Act, which implements the Agreement on Government Procurement, permits the President to waive those portions of U.S. law or practice, most notably the Buy American Act (41 U.S.C. 10a *et seq.*) which discriminate against the procurement of products of designated countries. Designated countries are those which are parties to the Agreement on Government Procurement, which provide reciprocal procurement benefits to the United States, or which are least developed countries. The Act permits the President to prohibit Federal Government procurement of products from non-designated countries. Furthermore, the Act authorizes the President to withdraw or to limit waivers or designations previously granted.

A waiver can only apply to goods which are the products of a country designated by the President under section 301(b) of the Act. In order to implement this provision, section 305(b) of the Act provides that the Secretary of the Treasury shall provide country-of-origin advisory rulings and final determinations on whether a product is or would be a product of a designated country. The rule of origin to be applied is specified in section 308(4)(B) of the Act. Judicial review of these final determinations is provided for in section 1001 of the Act (28 U.S.C. 1581 (e)).

On April 9, 1981, Customs published a notice in the **Federal Register** (46 FR 21194), proposing to amend Part 177, Customs Regulations (19 CFR Part 177), to implement Title III of the Act. In response to the notice Customs received only one comment from the embassy of a foreign government. During the course of the interagency evaluation of this comment, the United States Trade Representative (USTR) raised questions which necessitated significant changes to the proposed rule. Because of these substantial modifications, Customs has determined that the proposed rule should be republished thereby providing another opportunity for public comment. The comment received and the changes made as a result are discussed below.

Discussion of Public Comment and Changes

Who May Request Rulings and Determinations

The commenter objected to proposed § 177.24 which would have limited the parties who could file a ruling request to "a foreign manufacturer, producer, or exporter, or a United States importer of merchandise, or by a duly authorized attorney or agent on their behalf." The commenter believed that the proposed rule should be broadened to include interested parties so that a foreign embassy could intervene on behalf of one of its nationals.

It was Customs position that the phrase "duly authorized attorney or agent" used in proposed § 177.24 was broad enough in scope to include an embassy acting on behalf of one of its nationals and that no change was necessary.

The USTR was of the opinion that proposed §§ 177.23 and 177.24 were too narrow in their coverage and should be amended to include all "parties-at-interest" as defined in section 1001(b)(4)(B) of the Act. Section 1001(b)(4)(B) (codified at 28 U.S.C. 1581(e), 2631(e), and 2631(k)(2)) relates to the jurisdiction of the Court of International Trade to review final determinations made under the provisions of section 305(b)(1) of the Act. Section 1001(b)(4)(B) in pertinent part states that:

> * * * The Customs Court (the Court of International Trade was substituted by the "Customs Courts Act of 1980," Pub. L. 96–417) shall have exclusive jurisdiction of any civil action brought by a party-at-interest to review a final determination made under section 305(b)(1) of the Trade Agreements Act of 1979. For purposes of this subsection, the term "party-at-interest" means—
>
> (1) A foreign manufacturer, producer, or exporter, or a United States importer of merchandise which is the subject of a final determination under section 305(b) of the Trade Agreements Act of 1979,
>
> (2) A manufacturer, producer, or wholesaler in the United States of a like product,
>
> (3) United States members of a labor organization or other association of workers whose members are employed in the manufacture, production, or wholesale in the United States of a like product, and
>
> (4) A trade or business association a majority of whose members manufacture, produce, or wholesale a like product in the United States.

In drafting the first proposed rule, Customs reviewed the provisions of Title III of the Act, Senate Report 96–249, House Report 96–317, and the Statements of Administrative Action (House Document 96–153, Part II) in an effort to determine which parties could request a country-of-origin determination. None of the foregoing shed any light on the matter.

Since publication of the proposed rule, the USTR has advised Customs that section 1001 was intended to cover any party-at-interest. Although Customs was originally of the opinion that the limitation in subsection (1) of the definition of party-at-interest precluded the parties listed in subsections (2), (3), and (4) from requesting a final determination, Customs now believes that the better interpretation is that the limitation is subsection (1) of the definition merely bars a foreign manufacturer, producer, or exporter or a U.S. importer from seeking judicial review unless it was an actual foreign manufacturer, producer, or exporter, or a United States importer of merchandise which was the subject of the final determination. Customs does not believe the limitation on who can seek judicial review under subsection (1) of the definition bars other parties-at-interest from requesting a final determination. This interpretation is consistent with the language in section 1001(b)(4)(B) that any party-at-interest, not just those listed in subsection (1) of the definition, may seek judicial review of a final determination. Accordingly, the proposed rule has been modified to conform to USTR's position and the above interpretation. Before adopting the foregoing as a final rule, however, Customs specifically requests further public comment on this issue.

Fraudulent Claims

Traditionally, Customs has not gone beyond the facts presented in a ruling request to verify the truth of the claims presented therein. Customs does not intend to alter this procedure for country-of-origin final determinations. Although Customs recognizes that disputes may arise as a result of allegations or complaints that certain processing or manufacturing claimed to have been performed in a designated country is not, in fact, being done there, it will be Customs position that a party raising such a claim is not requesting a final determination within the meaning of the Act but is alleging a fraudulent practice. Customs authority under the Act relates only to issuing rulings and not to investigating complaints of a factual nature such as verifying that processing or manufacturing is or is not being done in a designated foreign country. Accordingly, alleged claims of fraudulent practices will be referred to the procuring agency involved for appropriate processing.

Issuance of Rulings—Time Period

In addition, Customs will issue a final determination only when the requester has identified an actual (existing) product for importation.

The commenter also noted that proposed § 177.28, relating to advisory rulings, and proposed § 177.29, relating to appeals, provided that the failure of the Director, Entry Procedures and Penalties Division, Headquarters, U.S. Customs Service, to issue an advisory ruling withing 25 days or to render a final determination on an appeal within 30 days, would automatically result in a decision that the article is not or would not be considered to be a product of the claimed country. The commenter concluded that such a procedure would leave the party requesting a ruling or appeal with no knowledge of why the request or appeal had been denied. The commenter believed that in some cases the requester could be subject to an adverse ruling as a result of delay or oversight on the part of Customs. The commenter felt that a written response outlining the specific reasons why Customs does not consider the merchandise to be a product of the foreign country would provide the requester with an opportunity to make adjustments in its process of manufacture so that a favorable ruling could be obtained. The USTR echoed the commenters views and suggested that the time frames set forth in the proposed rule be deleted.

Since international obligations of the U.S. do not require the time constraints Customs originally proposed, and current budgetary limitations would render them unrealistic in any event, Customs has deleted the time constraints in the revised proposed rule. However, public comments are solicited on both approaches.

Oral Presentations

The commenter noted that there was no provision for an oral presentation. Customs always is willing to discuss matters which are the subject of its ruling with the requesting party and will do so on country of origin matters. All rulings, however, will be based upon the written submissions made by the requesting party and not oral presentations. This being the case, Customs could see no reason for including a formal oral discussion provision in the initial proposed rule. However, to insure that the public is aware that oral presentations can be made, Customs has included a section on oral presentations of issues in the revised proposed rule.

Additional Revisions

Commenters should be aware of certain additional matters relating to the proposed regulations. The original proposed rule provided for a sequential ruling process whereby the requested advisory ruling would become a final determination after certain events or the passage of a set period of time. Customs has abandoned this sequential process in favor of a nonsequential ruling process whereby a party can request either an advisory ruling or a final determination.

The important consequence of this nonsequential ruling process is that Customs will create a class of non-binding, non-appealable, non-judicially reviewable advisory rulings. The public is requested to comment on this procedure as opposed to that originally proposed or to suggest additional alternatives.

The proposed regulations have been further revised to provide that Customs has an affirmative duty to issue advisory rulings and final determinations in the specific area of procurement related country-of-origin determinations. Furthermore, a new proposed § 177.28 has been added to provide that Customs will promptly issue advisory rulings and final determinations on request unless there is insufficient information to issue a final determination. In the latter case, Customs will issue an advisory ruling or inform the requester that no final determination will be issued. Both a final determination and a Customs decision not to issue such a determination are appealable. In addition, proposed § 177.28 provides that Customs will consider, on a priority basis, those requests which indicate that the final determination is needed for a specific procurement.

Advisory Rulings

In the specific area of procurement related country-of-origin determinations, an advisory ruling is defined as a non-binding, non-reviewable written statement which calls attention to a well established interpretation or principle of law relating to the country-of-origin, without applying it to a particular set of facts. For purposes of judicial review such an advisory ruling is not the equivalent of a ruling granted prior to importation under 28 U.S.C. 1581(h). An advisory ruling is merely an attempt on Customs part to supply requesters with

relevant general information. Customs will issue an advisory ruling in response to a request for a final determination if: (1) The request suggests that general information, rather than a final determination is actually being sought, (2) the request is incomplete or otherwise fails to meet the requirements set forth in proposed § 177.25 or (3) the final determination cannot be issued for some other reason, and (4) it is believed by Customs that the advisory ruling may be of some benefit to the party making the request.

Final Determinations

In the specific area of procurement related country-of-origin determinations, a final determination is defined as a binding, judicially reviewable statement that interprets or applies the provisions of law and regulation relating to country-of-origin determinations to a specific set of facts. Customs will provide a final determination to a party-at-interest prior to actual entry of the merchandise. In this context, because it is required by this particular statute, a final determination differs from the normal use of the phrase in connection with the liquidation of an entry. A final determination as used herein is similar to a ruling issued by the Secretary of the Treasury prior to importation (see 19 CFR Part 177). Although judicial review of such rulings would normally be covered in 28 U.S.C. 1581(h), judicial review of determinations under section 305(b)(1) is exclusively provided for in 28 U.S.C. 2631(e)(k) and 2636(f), and not in 28 U.S.C. 1581.

In the normal sequence of events the party bidding on a government contract will self-certify that his product satisfies the country-of-origin requirements of law and regulations (see for example Defense Acquisition Regulations in 32 CFR 7.2003.5). The bidder will only have to request a country of origin final determination from Customs if he has a question regarding the country of origin of his product or if the government contracting officer requests the bidder to obtain such a ruling.

Finally, under the Act the period for initiating judicial review of a final determination is limited to 30 days after Customs has published a final determination in the **Federal Register**. Customs is concerned that foreign manufacturers will secure a number of final determinations well in advance of any procurement. Such final determinations may not come to the attention of potentially affected domestic sellers, thereby, as a practical matter, denying U.S. industry any opportunity to question the determinations. Customs has included a procedure whereby it will expeditiously (within five working days of receipt of the request) reexamine a previous final determination. Customs will issue a new final determination only where the requester identifies the previous final determination, the facts are identical, the previous final determination has not been the subject of judicial review, and the merchandise at issue was not the subject of a competitive procurement for which a contract has been let. Judicial review of the new final determination may be sought within 30 days after publication of the new final determination in the **Federal Register**.

With the changes discussed above, it proposed to redesignate the present provisions of Part 177, Customs Regulations (19 CFR Part 177), as Subpart A and to add a new Subpart B to provide a procedure whereby any party-at-interest may request and receive an advisory ruling or final determination as to the country or origin of imported merchandise.

Authority

These amendments are proposed under the authority of R.S. 251, as amended (19 U.S.C. 66), section 624, 46 Stat. 759 (19 U.S.C. 1624); Pub. L. 96–39, 93 Stat. 144.

Comments

Before adopting this proposal, consideration will be given to any written comments, preferably in triplicate, submitted timely to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Headquarters, U.S. Customs Service, 1301 Constitution Avenue NW., Room 2426, Washington, D.C. 20229.

Drafting Information

The principal author of this document was John E. Elkins, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices, the Treasury Department, and the USTR participated in its development.

Executive Order 12291

The proposed regulation is not a major regulation as defined in section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. Any economic impact flows directly from the Trade Agreement Act of 1979 and not the proposed implementation regulations. The proposal is not expected to: have significant secondary or incidental effects on a substantial number of small entities; impose, or otherwise caused a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities; or generate significant interest or attention from entities through comments, either formal or informal.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The proposed regulation is not subject to the Paperwork Reduction Act of 1980, Pub. L. 96–511.

Federal Register Thesaurus

On January 22, 1981, the Office of the Federal Register published a final rule (47 FR 7162) which requires agencies to identify major topics and categories of persons affected in their regulations by using standard terms established in the Federal Register Thesaurus of Indexing Terms.

Accordingly, the index terms listed below are applicable to this regulatory project:

List of Subjects in 19 CFR Part 177

Administrative practices and procedures, Country-of-origin rulings, Government procurement.

Proposed Amendments

It is proposed to amend Part 177, Customs Regulations (19 CFR Part 177), in the following manner:

PART 177—ADMINISTRATIVE RULINGS

1. It is proposed to amend Part 177 by adding a subpart designation before § 177.1 to read as follows:

Subpart A—General Ruling Procedure

2. It is proposed to add a new Subpart B to Part 177 to read as follows:

Subpart B—Government Procurement; Country-of-Origin Determinations

Sec.
177.21 Applicability.
177.22 Definitions.
177.23 Who may request a country-of-origin advisory ruling of final determination.
177.24 By whom request is filed.
177.25 Form and content of request.
177.26 Where request filed.
177.27 Oral discussion of issues.
177.28 Issuance of advisory rulings and final determinations.
177.29 Publication of notice of final determinations.
177.30 Review of final determinations.
177.31 Reexamination of final determinations.

Authority: R.S. 251, as amended (19 U.S.C. 66), sec. 624, 46 Stat. 759 (19 U.S.C. 1624); Pub. L. 96–39, 93 Stat. 144.

§ 177.21 Applicability.

This subpart applies to the issuance of country-of-origin advisory rulings and final determinations relating to Government procurement under Title III, "Trade Agreements Act of 1979," Pub. L. 96–39, 93 Stat. 144, for the purpose of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products for eligible countries. This subpart is intended to be applied consistent with the Federal Procurement Regulations (41 CFR Part 1–6) and the Defense Acquisition Regulation (32 CFR Section VI).

§ 177.22 Definitions.

(a) *Country of origin.* For the purpose of this subpart, an articile is a product of a country or instrumentality only if (1) it is wholly the growth, product, or manufacture of that country or instrumentality, or (2) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed. The term "instrumentality" shall not be construed to include any agency or division of the government of a country, but may be construed to include such arrangements as the European Economic Community.

(b) *Advisory ruling.* An advisory ruling is a non-binding, non-reviewable written statement issued by the Director, Entry Procedures and Penalities Division, Headquarters, U.S. Customs Service, which does no more than call attention to a well established interpretation or principal of law relating to the country of origin, without applying it to a particular set of facts. Customs will issue an advisory ruling in response to a request for a final determination if:

(1) The request suggests that general information, rather than a final determination, is actually being sought,

(2) The request is incomplete or otherwise fails to meet the requirements set forth in § 177.25(a), or

(3) The ruling requested cannot be issued for any other reason, and

Customs believes that the general information supplied by an advisory ruling may be of some benefit to the party making the request. An advisory ruling is not a ruling issued prior to importation under 28 U.S.C. 1581(h).

(c) *Final determination.* A final determination is a binding judicially reviewable statement issued by the Director, Office of Regulations and Rulings, Headquarters, U.S. Customs Service, in response to a written request submitted under the provisions of this subpart that interprets and applies the provisions of law and reguation relating to the country of origin to a specific set of facts. A final determination may be issued to a party-at-interest prior to actual entry of the merchandise.

(d) *Party-at-interest.* For purposes of this subpart the term party-at-interest means—

(1) A foreign manfacturer, producer, or exporter, or a United State importer of merchandise which is the subject of a final determination under this subpart,

(2) A manufacturer, producer, or wholesaler in the United States of a like product,

(3) United States members of a labor organization or other association of workers whose members are employed in the manufacture, production, or wholesale in the United States of a like product, and

(4) A trade or business association a majority of whose members manufacture, produce, or wholesale a like product in the United States.

§ 177.23 Who may request a country-of-origin advisory ruling or final determination.

A country-of-origin advisory ruling or final determination may be requested by:

(a) A foreign manufacturer, producer, or exporter, or a United States importer of merchandise,

(b) A manufacturer, producer, or wholesaler in the United States of a like product,

(c) United States members of a labor organization or other association of workers whose members are employed in the manufacture, production, or wholesale in the United States of a like product, or

(d) A trade or business association a majority of whose members manufacture, produce, or wholesale a like product in the United States.

§ 177.24 By whom request is filed.

A request may be filed by an individual or organization listed in § 177.23 or by a duly authorized attorney or agent on behalf of the individual or organization. A request filed by a corporation shall be signed by a corporate officer, and a request filed by a partnership shall be signed by a partner.

§ 177.25 Form and content of request.

(a) A request for an advisory ruling shall be in writing and shall contain such information as will enable Customs to provide the requester with the applicable principle of law or well established interpretation relating to the particular country of origin.

(b) A request for a final determination shall be in writing and shall contain the following information:

(1) The name of the requester, the requester's principal place of business, and a statement that the requester is authorized to file the request under the provisions of § 177.24;

(2) A description of the existing article for which a country-of-origin determination is requested;

(3) The country or instrumentality an article is claimed to be the product of;

(4) Such further information as will enable Customs to determine if an article is a product of a specific country or instrumentality, and;

(5) If applicable, the specific procurement for which the final determination is requested.

§ 177.26 Where request filed.

The request shall be filed with the Director, Office of Regulations and Rulings, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

§ 177.27 Oral discussion of issues.

Any party authorized to request a ruling under the provisions of § 177.23 may request an opportunity for oral discussion of the issues presented in the request. The oral discussion of issues will be governed by the provisions of § 177.4.

§ 177.28 Issuance of advisory rulings and final determinations.

(a) Pursuant to a request for an advisory ruling which meets the

requirements of this subpart, Customs will issue an advisory ruling.

(b) Pursuant to a request for a final determination which meets the requirements of this subpart, Customs will issue a final determination. If the request does not meet the requirements of this subpart Customs may decline to issue a final determination or may issue instead an advisory ruling.

(c) Requests for final determinations which include the information set forth in § 177.25(b)(5) (relating to a specific procurement) will be considered by Customs before all other requests (advisory rulings and final determinations).

§ 177.29 Publication of notice of final determinations.

Notice of all final determinations shall be published in the **Federal Register** within 60 days of the date the final determination is issued.

§ 177.30 Review of final determinations.

Any party-at-interest listed in § 177.22(d) may seek judicial review of a final determination within 30 days after publication of such determination in the **Federal Register**, and may seek judicial review of a refusal to issue a final determination within 30 days after such refusal. The Court of International Trade shall have exclusive jurisdiction to review a final determination or a refusal to issue a final determination made under this subpart.

§ 177.31 Reexamination of final determinations.

A party-at-interest, other than the party-at-interest which requested and received the initial final determination, may ask Customs to consider the matter anew and issue, on an expedited basis, a new final determination. Such a request shall specifically identify the previous final determination. Upon receipt of such a request. Customs will issue a new final determination within five working days of receipt of the request unless (a) the previous final determination was the subject of a contested lawsuit timely filed in the Court of International Trade under 28 U.S.C. 1581 (e) or, (b) the merchandise at issue in the initial final determination was tendered and deemed responsive to the request for proposals or an invitation for bids in a competitive procurement subject to the Buy American Act (41 U.S.C. 10a *et seq.*) and a contract under such procurement was let. Any new final determination issued under this section shall be published in accordance with § 177.29 and is reviewable under § 177.30.

William von Raab,
Commissioner of Customs.

Approved: May 28, 1982.
John M. Walker, Jr.,
Assistant Secretary of the Treasury.

[FR Doc. 82-16186 Filed 6-15-82; 8:45 am]
BILLING CODE 4820-02-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 906

Reopening of Public Comment Period on Modified Portions of the Colorado Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Reopening of public comment period.

SUMMARY: OSM is reopening the period for review and comment on the substantive adequacy of certain program amendments submitted by Colorado as modifications to the Colorado program. OSM is reopening the comment period to allow the public sufficient time to consider and comment on additional amendments submitted by Colorado not considered in the February 25, 1982, **Federal Register** notice (47 FR 8207–8212).

DATE: Written comments must be received on or before 4:00 p.m., July 6, 1982 to be considered.

ADDRESS: Written comments should be mailed or hand delivered to: Robert H. Hagen, Director, New Mexico State Office, Office of Surface Mining, Suite 216, 219 Central Avenue, NW., Albuquerque, New Mexico 87102.

FOR FURTHER INFORMATION CONTACT: Robert H. Hagen, Director, New Mexico State Office, Suite 216, 219 Central Avenue, NW., Albuquerque, New Mexico 87102, Telephone: (505) 766–1486.

SUPPLEMENTARY INFORMATION: On February 25, 1982, at 47 FR 8207–8212, OSM published notice of the public hearing and the public comment period on the adequacy of program amendments submitted by Colorado (1) to satisfy conditions imposed by the Secretary of the Interior on the approval of the Colorado program, and (2) as further amendments to the Colorado program. The public hearing wa scheduled for March 23, 1982, but was cancelled when no person contacted OSM to express an interest in participating in the hearing. The public comment period ended March 29, 1982. Subsequent to the close of the public comment period, it became apparent that certain other proposed amendments to the Colorado program had been omitted from the February 25, 1982, notice.

OSM is reopening the public comment period to allow the public sufficient time to review and comment on the amendments described below. This announcement is made in keeping with OSM's commitment to public participation as a vital component in fulfilling the purposes of the Surface Mining Control and Reclamation Act of 1977.

A. Amendments Unrelated to Conditions

On January 11 and February 25, 1982, OSM received from the State of Colorado 39 revisions, additions and deletions to the Colorado Regulations for Coal Mining (2CCR 407–2) not described in the February 25, 1982, **Federal Register** notice as follows:

1. Revision to rule 1.03.3(2) to clarify the procedures and contents of the published monthly agenda.

2. Revision to rule 1.03.4(2)(a) to delete the phrase, "any person in this state," and to replace it with the phrase, "any person contemplating opening a surface coal mining operation in this state."

3. Addition of rule 2.02.2(3) to include the following: "The determination of substantial disturbance shall be made with reference to 1.04(127)."

4. Revision to rule 2.03.4(3) to change the spelling of "principles" to "principals."

5. Addition to rule 2.05.3(6) to include the following: "Permanent excess spoil and underground development waste disposal structures shall comply with 2.05.3(6)(b). Temporary overburden and underground development disposal (storage) structures shall comply with the applicable performance standards of Rule 4; information to demonstrate such compliance shall include, if applicable, location, geometry, and method of material placement."

6. Revision to rule 2.05.4(2)(c) to require a plan for stream channel reconstruction in accordance with rule 4.05.4.

7. Revision to rule 2.05.6 clarifying the title of the section.

8. Revision to rule 2.05.6(3)(a) to change the word "plan" to the word "application."

9. Revision to rule 2.05.6(3)(c) to delete the phrase, "Each underground mine plan," and replace it with, "For underground mining activities, the

application * * * " in its submission to OSM, Colorado mis-cited this rule as 2.05.3(3)(c).

10. Revision to rule 2.05.6(4) to change the phrases as follows:

(a) Delete the phrase, "each plan shall" and replace it with the phrase, "each application shall * * * "

(b) Delete the reference to rule 2.07.4(2)(e)(ii) and replace it with a reference to rule 2.07.6(2)(e).

11. Revision to rule 2.05.6(6)(f)(iii) to delete "4.19.3" and replace it with "4.20.3."

12. Addition of rule 2.06.12 which provides the requirements of Surface Coal Mining and Reclamation operations involving the removal of coal from coal refuse piles.

13. Revision to rule 2.06.5(1) clarifying the title of the section and including the following phrase: "non-mountaintop removal, steep slope surface."

14. Revision to rule 2.06(2)(j) changing it to 2.06(2)(h).

15. Revision to rule 2.06.8(3)(b) to change the word "application" to "applicant" in the last sentence of the rule.

16. Revision to rule 2.06.8(5) to provide guidance for submission of applications for areas that include alluvial valley floors.

17. Deletion of rule 2.07.6(3).

18. Revision to rule 2.06.4(1)(f) to delete "1.04(72)" and to replace it with "1.04(73)."

19. Revisions to rule 2.06.4(5)(b)(ii) as follows:

(a) Replace the word "revised" with the word "raised" in the fourth sentence.

(b) Delete the phrase, "and state whether the requestor desires to have the hearing conducted in the locality of the proposed surface coal mining operations," in the fourth sentence.

(c) Replace "2.06.4(3)" with the phrase, "under the provisions of this subsection," in the fifth sentence.

(d) Replace the phrase, "within 10 days of said request," with the phrase, "at the next regularly scheduled Board meeting," in the fifth sentence.

20. Revision to rule 2.06.4(5)(c)(i) relieving the Division of the requirement of publishing minor revisions in a local newspaper, and providing guidance for posting notice of minor revisions for public inspection.

21. Revision to rule 2.06.4(5)(c)(ii) to delete the phrase "30 days" and to replace it with the phrase "10 days." The revision also relieves the Division of the requirement of publishing minor revisions in a local newspaper, and provides guidance for posting notice of minor revisions for public inspection.

22. Deletion of rule 2.06.4(5)(c)(iii).

23. Revision to rule 3.02.1(5)(b) clarifying the procedures for bonding sequence, release and bond amount for the first bond increment.

24. Revision to rule 3.05.1(1)(a) to delete "1.04(21) " and to replace it with "1.04(22)."

25. Revision to rule 3.05.1(7) to delete "60 days" and replace it with "180 days."

26. Revision to rule 4.05.2(2) requiring that sedimentation ponds and treatment facilities for surface drainage be maintained until the herbaceous cover of the revegetated area is at least 90% of the cover of the reference area or other standard approved pursuant to 4.15.7(2), and the untreated drainage from the disturbed area ceases to contribute additional suspended solids above the natural conditions. The untreated drainage must meet applicable State and Federal water quality standards, if any, for receiving streams.

27. Revision to rule 4.05.2(7) to delete the table of effluent limitations and to replace it with the following: "Discharges of water from areas disturbed by surface coal mining and reclamation operations shall be made in compliance with all applicable Federal and State water quality standards."

28. Addition to rule 4.05.3(5) to include the following: "If the temporary diversion were for an ephemeral stream, the channel shall be reestablished to functionally blend with the undisturbed drainage above and below the area to be reclaimed."

29. Revision to rule 4.05.3(6)(a) to delete the design for channel riprapping and to include the following: "Channel linings, including channel riprap, shall be designed using standard engineering practices to pass safely the design velocities."

30. Revision to rule 4.05.4 clarifying the title and including the following phrase: "and stream channel reconstruction."

31. Addition to rule 4.05.6(3)(c) to include the word "maximum" in the sentence, "The dewatering device shall not be located at a lower elevation than the maximum sediment storage volume."

32. The addition of rule 4.05.6(9) explaining when the final pond can be removed in the reclamation process.

33. Revision to rule 4.06.5 deleting the word "redistributed" in the second sentence.

34. Revision to rule 4.15.7(2)(d) to delete the word "plan" and replace it with the word "plant."

35. Revision to rule 4.15.8(7) to replace the phrase, "U.S. Fish and Wildlife Service and Colorado Division of Wildlife," with the phrase, "Division in consultation with the U.S. Fish and Wildlife Service and Colorado Division of Wildlife," in the fourth sentence.

36. Revision to rule 4.15.8(8) to delete the word "annual."

37. Revision to rule 4.16.2(1) to clarify the basis for determination of the post mining land use for land that has been previously mined.

38. Revision to rule 4.21.2(1) to delete the phrase: "250 tons or more," and to replace it with the phrase: "250 tons or less."

39. Revision to rule 4.21.2(2) to delete the phrase: "250 tons or more," and to replace it with the phrase: "more than 250 tons."

The Secretary seeks public comment on these additional proposed amendments to the Colorado program. If these amendments are approved, they will become part of the Colorado program.

B. Amendments to Satisfy Conditions

On January 11 and February 25, 1982, OSM received from the State of Colorado 2 revisions, additions and deletions to the Colorado Regulations for coal mining (2CCR 407–2) not described in the February 25, 1982, Federal Register notice as follows:

1. For condition (y), Colorado has adopted rule 3.03.1(2)(b).

2. For condition (ii), Colorado has adopted rule 5.04.3(5)(c), and has deleted rule 5.04.(5)(d).

The Secretary seeks public comment on whether the above provisions, together with the provisions described in the February 25, 1982, Federal Register notice for conditions (y) and (ii), correct the deficiencies for these 2 conditions. If the program amendments are approved, conditions (y) and (ii) in 30 CFR 906.11 will be removed.

Additional Information

Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no Environmental Impact Statement need be prepared on this proposed rule. On August 28, 1981, the Office of Management and Budget (OMB) granted OSM exemption from Sections 3, 4, 6 and 8 of Executive Order 12291 for all actions taken to approve or conditionally approve State regulatory programs, actions or amendments. Therefore, these proposed program amendments are exempt from the preparation of a Regulatory Impact Analysis and regulatory review by OMB.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 30 CFR Part 906

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: June 11, 1982.

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 82-16256 Filed 6-15-82; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 910

Cancellation of Public Hearing on Surface Mining and Reclamation Operations Under a Federal Program for Georgia

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Cancellation of Public hearing.

SUMMARY: The Office of Surface Mining (OSM) is announcing the cancellation of a public hearing because there had been no request received to testify at a public hearing by June 11, 1982. Therefore, the Director of the Office of Surface Mining has determined that no hearing is necessary, and is cancelling the hearing which was scheduled for June 18, 1982 in Atlanta, Georgia.

This notice cancels the public hearing but does not alter the time for location at which the Georgia program is available for public inspection, or the comment period during which interested persons may submit written comments on the proposed program.

DATE: The following hearing is cancelled: The public hearing on the proposed Georgia Federal Program, June 18, 1982.

ADDRESS: Written comments should be mailed or hand delivered to: John T. Davis, State Office Director, Alabama State Office, Office of Surface Mining, Reclamation and Enforcement, 228 West Valley Avenue, Homewood, Alabama 35209.

Copies of the Georgia program, and all written comments are available for review at the OSM Offices listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining, Reclamation and Enforcement, Room 5315, 1100 "L" Street, NW., Washington, D.C.

Alabama State Office, Office of Surface Mining, Reclamation and Enforcement, 228 West Valley Avenue, Homewood, Alabama 35209.

FOR FURTHER INFORMATION CONTACT: John T. Davis, State Office Director, Alabama State Office, 228 West Valley Avenue, Office of Surface Mining, Homewood, Alabama 35209, Telephone: (205) 254-0890.

SUPPLEMENTARY INFORMATION: On April 21, 1982 the Office of Surface Mining published a proposed Georgia Federal program in the **Federal Register** which would revise the existing Federal Program. The revised program proposed to cross-reference the permanent regulation regulations. The use of this method reduces considerably the number of pages needed in the **Federal Register** to publish a Federal program for a State. Furthermore, when the permanent program regulations are changed, the Federal program for the State of Georgia will be similarly revised. No separate rulemaking would be undertaken or necessary for revision of this program, unless OSM determines that special conditions are necessary for Georgia.

While there is no public hearing, interested persons may still submit written comments on the proposed program elements. Written comments must be received on or before 4:00 p.m., on June 23, 1982, to be considered.

Dated: June 14, 1982.

Carl C. Close,

Deputy Assistant Director, Program Operation and Inspection, Office of Surface Mining.

[FR Doc. 82-16347 Filed 6-15-82; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 125

[WH-FRL 2151-8]

Modification of Secondary Treatment Requirements for Discharges into Marine Waters

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meetings.

SUMMARY: See the Final Rules section of this issue of the **Federal Register** for the text of the document that announces public meetings on final and proposed amendments to the Environmental Protection Agency regulations regarding section 301(h) of the Clean Water Act. Section 301(h) provides for variances from secondary treatment requirements for municipal discharges to marine waters.

FOR FURTHER INFORMATION CONTACT: Robert W. Zeller, PhD, Policy Advisor, Office of Marine Discharge Evaluation, WH-546, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-9231.

Dated: June 15, 1982.

Robert W. Zeller,

Policy Advisor, Office of Water.

[FR Doc. 82-16486 Filed 6-15-82; 10:26 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 1E2566/P225; PH-FRL 2145-2]

Oxamyl; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for residues of the insecticide oxamyl in or on the raw agricultural commodity eggplants. The proposed amendment to establish a maximum permissible level for residues of the insecticide in or on the commodity was submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before July 16, 1982.

ADDRESS: Written comments to: Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-7700) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition number 1E2566 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Florida, Hawaii, Maryland, and New Jersey.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the insecticide oxamyl (methyl-*N'*, *N'*-dimethyl-*N*-[(methylcarbamoyl)oxy]-1-thiooxamimidate) in or on the raw agricultural commodity eggplants at 2 parts per million (ppm).

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance include a 2-year rat feeding study with no-observed-effect-level (NOEL) of 50 ppm and negative oncogenic potential; a 2-year dog feeding study with a NOEL of 100 ppm; a

3-generation rat reproduction study with a NOEL of 50 ppm; a mouse oncogenic feeding study showing negative oncogenic potential; a rat teratology study negative at 300 ppm; a rabbit teratology study negative at 4 mg/kg/day; and mutagenicity studies (Ames assay, Recessive assay, Host-mediated assay), all negative.

The acceptable daily intake (ADI), based on the 2-year rat feeding study (NOEL of 2.5 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.025 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 1.5 mg/day. The theoretical maximum residue contribution (TMRC) from published and proposed tolerances for a 1.5 kg daily diet is calculated to be 0.5663 mg/day; the current action will increase the TMRC by 0.0009 mg/day (0.16 percent). Published and proposed tolerances utilize 37.75 percent of the AOI; the current action will utilize an additional 0.06 percent.

The nature of the residues is adequately understood and an adequate analytical method (gas-liquid chromatography utilizing a flame photometric detector with a sulfur filter) is available for enforcement purposes. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.303 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request on or before July 16, 1982 that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number "[PP 1E2566/P225]". All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m. Monday through Friday except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agricultural commodities, Pesticides and pests.

Dated: June 4, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR 180.303 be amended by adding and alphabetically inserting the raw agricultural commodity eggplants to read as follows:

§ 180.303 Oxamyl; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Eggplants	2.0
* * * * *	

[FR Doc. 82-15937 Filed 6-15-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[Docket No. 80-739; Report No. 16094]

Proposed Rule Revisions To Facilitate the Implementation of the 1979 WARC Final Acts

AGENCY: Federal Communications Commission.

ACTION: Public notice regarding advanced proposed rule (fifth notice of inquiry).

SUMMARY: The Commission is soliciting public comments, through a series of documents in this proceeding (Docket 80-739), on national implementation of the Final Acts of the 1979 World Administrative Radio Conference. This Fifth Notice of Inquiry considers the technical standards for transmitters authorized by the Commission. This action is taken to ensure the incorporation of the Final Acts into the Commission's Rules in a timely manner.

DATES: Comments on the Notice of Inquiry are due by July 7, 1982 and replies by July 22, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Yates, Office of Science and Technology (202) 653-6288.

SUPPLEMENTARY INFORMATION:

Rules Revisions Proposed To Facilitate Implementation of 1979 WARC Final Acts

May 14, 1982.

The Commission has begun an inquiry looking toward amending its rules in preparation for national implementation of the Final Acts of the 1979 World Administrative Radio Conference (1979 WARC).

The Commission said that by taking this action now, it would be able to incorporate the Final Acts into its rules in a timely manner if the WARC Treaty is ratified by the U.S. Senate.

This is the fifth notice of inquiry adopted in this docket. Its primary purpose is to obtain public comments concerning revisions to particular service rule sections regarding emission designators, frequency tolerance, emission limitations and other technical rules.

The Final Acts became effective internationally on January 1, 1982, for those administrations that have ratified the Treaty. The U.S. Senate has not acted on this matter yet. If and when it is ratified, however, the Commission noted, it will have the force of law in the U.S. and the FCC rules must reflect the Treaty requirements.

For more information contact Daniel Yates at (202) 653-6288.

Action by the Commission May 13, 1982, by Fifth Notice of Inquiry (FCC 82-213). Commissioners Fowler (Chairman), Quello, Washburn, Fogarty, Jones, Dawson and Rivera.

Note.—Due to the continuing effort to minimize printing costs, the Fifth Notice of Inquiry will not be published herein. However, copies may be obtained from any of the various distribution centers listed in the FCC Office of Public Affairs, Room 202, 1919 M St., N.W., Washington, D.C. 20554, Tel. No. (202) 254-7674.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-15632 Filed 6-15-82; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 47, No. 116
Wednesday, June 16, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Forms Under Review by Office of Management and Budget

June 11, 1982.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commenting on a form but find that preparation time will prevent you from submitting comments promptly, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Richard J. Schrimper, Statistical Clearance Officer, (202) 447–6201.

New

• Statistical Reporting Service
Production Input and Cropping Practice Survey
Annually
Farms: 580 responses; 290 hours; not applicable under 3504(h)
Lee Sandberg (202) 447–6820

Revised

• Rural Electrification Administration
Electric Loan Application Packet
REA Form 740a, 740c, 740g, Bulletin 60–2
On occasion
Businesses or other institutions: 3,165 responses; 7,800 hours; not applicable under 3504(h)
Charles Weaver (202) 382–1400

Extension

• Agricultural Stabilization and Conservation Service
Report of Acreage
ASCS–578
Annually
Farms: 2,000,000 responses; 1,500,000 hours; not applicable under 3504(h)
H. Woodrow Jones (202) 447–3472

• Forest Service
Application for Transportation and Utility Systems and Facilities of Federal Lands
SF–299
Nonrecurring
Individuals or households; State or local governments; farms; businesses or other institutions; 2,050 responses; 6,150 hours; not applicable under 3504(h)
James Dear (703) 235–2410

• Forest Service
Request for Termination of and Application for Special Use Permit
FS–2700–3A
Nonrecurring
Individuals or households; State or local governments; farms; businesses or other institutions: 1,000 responses; 250 hours, not applicable under 3504(h)
James Dear (703) 235–2410

Reinstatement

• Food and Nutrition Service
Pilot Retailer/Bank Food Stamp Redemption Certificate
FNS–278
On occasion
Businesses or other institutions: 709,668 responses; 9,857 hours; not applicable under 3504(h)
Victor Riche (703) 756–3800

Richard J. Schrimper,
Statistical Clearance Officer.

[FR Doc. 82–16222 Filed 6–15–82; 8:45 am]
BILLING CODE 3410–01–M

Forest Service

Lomex Prospecting; Los Padres National Forest, San Luis Obispo County, California; Environmental Impact Statement Cancellation Notice

Dated: June 7, 1982.

Lomex Corporation, now the Caithness Corporation of New York, has withdrawn its proposal for mineral exploration for uranium and other minerals in the Navajo area of San Luis Obispo County.

Therefore, the Notice of Intent, published in the **Federal Register** of August 15, 1980 is hereby rescinded (45 FR 54386).

For further information contact: Christine A. Rose, Environmental Coordinator, Los Padres National Forest, 42 Aero Camino, Goleta, CA 93117; telephone 805–968–1578 or 8–960–7578.

Frederik G. deHoll,
Forest Supervisor.

[FR Doc. 82–16184 Filed 6–15–82; 8:45 am]
BILLING CODE 3410–11–M

Vegetation Management Program for Siuslaw National Forest in Benton, Douglas, Lane, Lincoln, Tillamook, and Yamhill Counties, Oregon; Environmental Assessment

An environmental assessment that discusses the Siuslaw National Forest Vegetation Management Program for site preparation, conifer release, roadside vegetation management, and control of noxious weeds, on the Alsea, Hebo, Mapleton, and Waldport Ranger Districts has been prepared. The assessment is available for public review at the Forest Service District Offices in Alsea, Hebo, Mapleton, and Waldport, Oregon, and the Supervisor's Office in Corvallis, Oregon.

Due to substantial changes in the Forest's site preparation needs, the original Vegetation Management Program decision made on March 19, 1982 was rescinded on May 3, 1982. The environmental analysis re-assessed the public issues, management concerns, opportunities, and the current program needs. The evaluation criteria used to evaluate alternative treatments were: Potential for achieving treatment objectives; potential for exposing the public to herbicides; opportunity for

immediate employment; and effects on non-target plants and animals.

Seven alternative treatments were considered in the analysis. These alternatives were: (1) No treatment; (2) mechanical treatment by manual means; (3) mechanical treatment by machine; (4) biological treatment; (5) direct application of herbicides to individual plants; (6) broadcast application of herbicides from the ground; and (7) broadcast application of herbicides from helicopters.

Based on the analysis and evaluation described in the environmental assessment, it is my decision to implement the preferred alternative for each unit and/or project recommended by the Forest interdisciplinary team. This Forest Vegetation Management Program is considered environmentally preferable since each treatment area will insure optimum vegetation management with respect to environmental concerns, physiological effectiveness, and public concerns, while achieving the current Forest resource management objectives.

Under the implemented Forest program, the maximum acres to be treated by alternative and chemical(s) available for those relevant chemical alternatives are displayed below.

Alternative treatments	Purpose	Size	Chemicals
1	None	907 acres	N/A.
2	Release	1,041 acres.	N/A.
3	Site Preparation	10 acres	N/A.
4	Noxious Weeds	0	N/A.
5	Release	1,570 acres.	Tordon, 2,4-D.
6	Noxious Weeds	77 acres	Banvel, 2,4-D.
	Roadside Management.	831 miles	2,4-D.
7	Site Preparation	789 acres	Roundup.
	Release	1,719 acres.	Krenite, Roundup.

I have determined, based on the environmental analysis, that this is not a major Federal action that would significantly affect the quality of the human environment. Therefore, an environmental impact statement is not needed. This determination was made considering the following: (1) Management requirements, constraints, mitigation measures, and monitoring insure against the potential of significant adverse effects; (2) there are no apparent adverse cumulative or secondary effects; (3) there is no irretrievable loss of timber production; (4) no known threatened or endangered plants or animals are within the affected area; (5) there will be no adverse effects, loss, or destruction of any cultural or historical resources; (6) all chemicals included are approved by EPA for the proposed uses, and the application of these chemicals will comply with pertinent EPA labels, State and Federal laws, and Forest Service policies; and (7) the program is in accordance with the requirements and direction in the R-6 FEIS on the Methods of Managing Competing Vegetation, Forest 10-Year Timber Resource Plan, higher-order unit plans, and the Oregon Coastal Management Programs.

Project implementation will take place immediately. This decision is subject to administrative (Appeal) pursuant to 36 CFR 211.19. A notice of appeal must be filed with the Forest Supervisor within 45 days from the date of this decision.

Donald H. James,

Acting Forest Supervisor.

June 3, 1982.

[FR Doc. 82-16229 Filed 6-15-82; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

[Order No. 41-1, Amdt. 3; D.O.O. Reference 10-3, 40-1]

International Trade Administration; Statement of Organization and Function and Delegation of Authority

Effective date: May 18, 1982.

This order further amends ITA Organization and Function Order 41-1 of February 15, 1982 (47 FR 14205) to reflect the transfer of export compliance functions relating to national security, foreign policy, and antiboycott programs from the Deputy Assistant Secretary for Export Administration to the newly established Deputy Assistant Secretary for Export Enforcement.

1. The first phrase of the introductory paragraph to section 2 of Part VI is amended to read:

"The *Assistant Secretary for Trade Administration* directs the activities of the Deputy Assistant Secretaries for Import Administration, Export Administration, and Export Enforcement;"

2. The lead paragraph of section 2.02 of Part VI is revised to read:

".02 The *Deputy Assistant Secretary for Export Administration* carries out the Department's responsibilities for regulating exports of U.S. goods and technology for purposes of national security, foreign policy, and short supply, and ensuring industrial mobilization and resource administration for the national defense. The DAS directs the following offices:"

3. The second phrase of Part VI, section 2.02a, relating to enforcement of the Export Administration Act of 1979, is removed.

4. Subparagraph c of section 2.02 of Part VI is relettered as "b" and the reference to "Office of Export Administration" in the last phrase is amended to read "Office of Export Compliance."

5. Section 2.03 is added to Part VI to read:

".03 The *Deputy Assistant Secretary for Export Enforcement* carries out, in consultation with the Office of General Counsel, a compliance program to enforce the Export Administration Regulations relating to foreign boycotts against countries friendly to the United States and to exports of U.S. goods and technology for purposes of national security and foreign policy, and administers programs for opposing such boycotts. The DAS directs the following offices:

a. The *Office of Export Compliance*, in consultation with the Office of General Counsel, enforces the Export Administration Regulations relating to exports of U.S. goods and technology for purposes of national security and foreign policy."

6. Subparagraph b of section 2.02 of Part VI is renumbered as "Section 2.03b."

7. The attached organization chart [1] supersedes the chart attached to Amendment 1 to ITA Organization and Function Order 41-1 of March 22, 1982.

Lionel H. Olmer,

Under Secretary for International Trade.

[FR Doc. 82-16226 Filed 6-15-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Public Hearing on the Hudson River Estuarine Sanctuary: Draft Environmental Impact Statement

AGENCY: Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Public hearing notice.

SUMMARY: Notice is hereby given that the Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold public hearings for the purpose of receiving comments on the Draft Environmental Impact Statement (DEIS) prepared on the proposed Hudson River Estuarine Sanctuary.

[1] Filed as part of the original document.

The hearings will be held at the following times and places:

Monday, July 19, 1982 at 7:00 p.m.—Piermont Village Hall (comments on Piermont and Iona Island).

Tuesday, July 20, 1982 at 7:00 p.m.—Red Hook Town Hall (comments on Tivoli).

Wednesday, July 21, 1982 at 7:00 p.m.—Stockport Town Hall at Stottville (comments on Stockport).

The views of interested persons and organizations on the adequacy of the impact statement and the proposed Hudson River Estuarine Sanctuary are solicited, and may be expressed orally or in written statements. Presentations will be scheduled on a first-come, first-heard basis, and may be limited to a maximum of 5 minutes. The time allotment may be extended before the hearing when the number of speakers can be determined. No verbatim transcript of the hearing will be prepared, but the OCZM/NOAA hearing staff will record and summarize the comments for the Final Environmental Impact Statement (FEIS). All comments received at the hearing and those submitted in writing will be considered in the preparation of the FEIS.

The comment period for this draft environmental impact statement will end on Monday, August 2, 1982. All written comments received by OCZM prior to the deadline will be included in the FEIS.

Copies of the DEIS may be obtained from the NEPA Compliance Coordinator Office of Coastal Zone Management, 3300 Whitehaven Street, NW., Washington, D.C. 20235 (Telephone: 202/634–4120).

(Federal Domestic Assistance Catalog No. 11.420 Coastal Zone Management Estuarine Sanctuaries)

Dated: June 11, 1982.

William Matuszeski,

Acting Assistant Administrator for Coastal Zone Management.

[FR Doc. 82-16244 Filed 6-15-82; 8:45 am]

BILLING CODE 3510-08-M

New York Coastal Management Program; Draft Environment Statement; Public Hearing

AGENCY: Office of Coastal Zone Management (OCZM), Commerce.

ACTION: Public Hearing Notice on the New York Coastal Management Program—Draft Environmental Impact Statement.

Notice is hereby given that the Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold public hearings for the purpose of receiving comments on the Draft Environmental Impact Statement (DEIS) prepared on the proposed New York Coastal Management Program.

The hearings will be held at the following times and places:

Monday, July 12, 1982 at 2:00 p.m.—Gen'l Donovan State Office Bldg., Hearing Room 1, 125 Main Street, Buffalo, NY

Tuesday, July 13, 1982 at 2:00 p.m.—Legislative Office Bldg., Hearing Room A, State Street, Albany, NY

Wednesday, July 14, 1982 at 5:30 p.m.—Hearing Room G, 6th Floor, 270 Broadway, New York, NY

The views of interested persons and organizations on the adequacy of the impact statement and the proposed New York Coastal Management Program are solicited, and may be expressed orally or in written statements. Presentations will be scheduled on a first-come, first-heard basis, and may be limited to a maximum of 5 minutes. This time allotment may be extended before the hearing when the number of speakers can be determined. No verbatim transcript of the hearing will be prepared, but the OCZM/NOAA hearing staff will record and summarize the comments for the Final Environmental Impact Statement (FEIS). All comments received at the hearing and those submitted in writing will be considered in the preparation of the FEIS.

The comment period for this DEIS will end on Monday, July 26, 1982. All written comments received by OCZM prior to the deadline will be included in the FEIS.

Copies of the DEIS may be obtained from the NEPA Compliance Coordinator, Office of Coastal Zone Management, 3300 Whitehaven Street, N.W., Washington, D.C. 20235 (Telephone: (202) 634–4120).

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Dated: June 11, 1982.

William Matuszeski,

Acting Assistant Administrator for Coastal Zone Management.

[FR Doc. 82-16243 Filed 6-15-82; 8:45 am]

BILLING CODE 3510-08-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Additional Import Controls on Certain Cotton and Man-Made Fiber Textile Products from Thailand; Correction

June 11, 1982.

On June 3, 1982, there was published in the **Federal Register** (47 FR 24172) a letter dated May 28, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established import controls on cotton and man-made fiber textile products in Categories 314, 336, and 647/648, produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1982. Paragraph 3 of the letter to the Commissioner of Customs should be corrected to read as follows:

Textile products in Categories 314, 336, and 647/648 which have been exported to the United States prior to January 1, 1982 shall not be subject to this directive.

The letter which follows this notice amends the letter of May 28, 1982 to include this change.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

June 11, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This letter amends, but does not cancel, the letter of May 28, 1982 which directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, of cotton and man-made fiber textile products in Categories 314, 336, and 647/648, produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1982, in excess of designated levels of restraint.

Paragraph 3 of that letter should be corrected to read as follows: Textile products in Categories 314, 336, and 647/648 which have been exported to the United States prior to January 1, 1982 shall not be subject to this directive.

This letter will be published in the **Federal Register.**

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-16250 Filed 6-15-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; Amendments to Systems of Records

AGENCY: Department of the Army, DOD.

ACTION: Proposed deletions of and amendments to notices concerning systems of records.

SUMMARY: The Department of the Army proposes to delete three and amend six system notices for systems of records subject to the Privacy Act. Following identification of changes proposed, notices being amended are printed in their entirety.

DATE: Actions shall be effective July 16, 1982 unless public comments are received which result in a contrary determination.

ADDRESS: Comments may be submitted to Headquarters, Department of the Army, Attn.: DAAG–AMR–R, Room 1146, Hoffman Building 1, Alexandria, VA 22331.

FOR FURTHER INFORMATION CONTACT: Mrs. Dorothy Karkanen, Office of the Adjutant General, Department of the Army at the above address; telephone: (703) 325–6163.

SUPPLEMENTARY INFORMATION: The Department of the Army's inventory of systems of records subject to the Privacy Act of 1974 appears in the following editions of the **Federal Register**:

FR Doc 79–37052 (44 FR 73729), December 17, 1979
FR Doc 81–897 (46 FR 6460), January 21, 1981
FR Doc 82–674 (47 FR 2544), January 18, 1982
FR Doc 82–5277 (47 FR 8610), March 1, 1982
FR Doc 82–11002 (47 FR 17324), April 22, 1982
FR Doc 82–12993 (47 FR 20854), May 13, 1982

System notices being amended do not require a report of an altered system pursuant to 5 U.S.C. 552a(o), as implemented by Transmittal Memoranda 1 and 3 to OMB Circular A–108.

M. S. Healy,
OSD Federal Register Liaison Officer, Department of Defense.
June 11, 1982.

DELETIONS

AO907.02DASG

System name:

US Army Reserve Office Training Corps Medical Examination Files (44 FR 73923), December 17, 1979.

Reason:

Records are described in system notice AO903.07DASG being amended in this **Federal Register**.

AO907.04DASG

System name:

US Military Academy Medical Qualifications Files (44 FR 73924), December 17, 1979.

Reason:

Records are described in system notice AO903.07DASG being amended in this **Federal Register**.

AO924.02DASG

System name:

Family Index Files (44 FR 73941), December 17, 1979.

Reason:

Records are described in system notice AO924.01DASG being amended in this **Federal Register**.

AMENDMENTS

AO508.17aDAPE

Changes:

System name:

After "Police", insert "Law Enforcement".

System location:

Delete entries and substitute the following: "The Army installation which created the Military Police (MP) report retains a copy; original of special categories of MP investigations—determined by type of crime and identified in Army Regulation 190–45—is forwarded to the Crime Records Center, Ft Holabird, MD.

"A cross-reference index in either manual or automated media may exist at intermediate and higher command levels.

"Statistical data are derived from individual reports and stored in automated media at major Army commands and HQDA for the purposes of (1) developing crime trends by major categories (i.e., rape and sex, blackmarketing, drugs, crimes of violence, crimes against property, other crimes of misconduct), and (2) making comparative analyses within crime categories by rank, sex, race, and type offender (i.e., first-time, repeat), organizational or geographic determinant. Such statistics, however, are not used to make determinations about the rights, benefits, or entitlements of individuals."

Categories of individuals covered by the system:

Delete entries and add the following: "Any individual who is the subject, victim, complainant, witness, or suspect in a criminal, civil, or traffic offense."

Categories of records in the system:

Delete entry; substitute therefor: "Alleged or founded criminal information directed against or involving the Army, which may be related to local criminal investigative files, and comprising the following: MP reports or similar reports containing investigative data, supporting or sworn statements, affidavits, provisional passes, receipts for prisoners or detained persons, commanders reports of disciplinary action taken, and disposition of cases. Personal information includes individual's name, grade/rank, organization, affiliation, social security account number, category of offense, involvement, and case number."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry and substitute the following: "Purpose of this system is to provide detailed information necessary for Army officials, commanders, and civil/criminal justice agencies to discharge their responsibilities for maintaining discipline, law and order through investigation of complaints and incidents and possible criminal prosecution, civil court action, or regulatory order. Statistical information is compiled for determining crime trends and making comparative analyses.

"May be disclosed to criminal justice agencies for investigation and prosecution when cases are either within their jurisdiction or when concurrent jurisdiction applies. These include: Federal Bureau of Investigatioin, Drug Enforcement Administration, US Customs Service, Bureau of Alcohol, Tobacco, and Firearms , US District Courts, US Magistrates, State and local law enforcement agencies; local wildlife conservation agencies, and, in overseas areas, host government law enforcement agencies."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Retrievability:

Delete entry; add the following: "By case number, individual's name, date of birth, Social Security Number."

System manager(s) and address:

Delete second entry.

Notification procedure:

Delete entry; add the following: "Individuals wishing to inquire whether this system contains information about

them should write to the commander of the installation where incident occurred; if more than five years have elapsed since occurrence of incident, inquiry may be made of the Crime Records Center, Ft Holabird, MD. Individual should provide full name, SSN, and details as to date and place of incident about which inquiry is made."

Record access procedures:

Delete entry; substitute the following: "Individual desiring access to his/her records should follow the requirements in "Notification procedure", sign the request and have it notarized."

Contesting record procedures:

Delete entry; substitute the following: "The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505)."

Systems exempted from certain provisions of the act:

Delete entry and substitute therefor: "All portions of this system which fall within 5 U.S.C. 552a(j)(2) are exempt from the following provisions of Title 5 U.S.C. 552a: (c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(8), (f), and (g)."

A0706.06aUSAREC

System name:

Armed Forces Examining and Entrance Station Reporting System (44 FR 73864), December 17, 1979.

Changes:

System ID:

Change to read: "A0704.04bMEPCOM".

System name:

Delete "706.06 Armed Forces Examining and Entrance Station"; insert "Military Entrance Processing * * * *".

System location:

After "Primary system", delete entry and insert: "US Military Enlistment Processing Command, US Naval Training Center, Great Lakes, IL 60088"

Delete "Decentralized Segments * * * AFEES" and insert: "Secondary: 73 locations at MEPCOM sector headquarters and individual Military Entrance Processing Stations (MEPS) located in the United States. (Addresses can be obtained from MEPCOM.)

Categories of individuals covered by the system:

Delete entry; substitute therefor: "All individuals who report to a Military Entrance Processing Station to be aptitudinally tested and/or physically examined to determine their fitness for entry into one of the Armed Services."

Categories of records in the system:

Delete entry; substitute: "Individual's name, Social Security Number, date and place of birth, home address and telephone number; results of aptitude tests, physical examinations, and relevant documentation concerning individuals's acceptance/rejection for military service."

Authority for maintenance of the system:

Delete entry and substitute therefor: "10 U.S.C. 505, 511; 50 U.S.C. 451–473."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete all information and insert the following: "By the US Military Enlistment Processing Command for determining qualifications of applicants for the Armed Forces through aptitude testing, medical examination, and administrative processing. Information is used also for statistical analyses within the Department of Defense to determine patterns and trends in the military population.

"Information from this system is disclosed to the Selective Service System to update the SSS registrant data base."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Before information now listed, insert: "Paper records;"

Safeguards:

Delete information; substitute the following: "All data are retained in locked rooms/compartments with access limited to designated personnel having an official need to know. Access to computerized data is by use of a valid site ID number assigned to the individual terminal and by a valid user ID and password code assigned to the individual user, changed periodically to avoid compromise. Data entry is on-line using a dial-up terminal. Physical access to computer files is controlled by keys known only to MEPCOM and MEPS personnel assigned to work on the data base."

Retention and disposal:

Delete entry and insert: "Each MEPS retains a copy of coding sheets for each applicant, plus a copy of the Application for Enlistment on accepted applicants for 6 months after which they are destroyed. For applicants who are not accepted, each MEPS retains a copy of the Report of Medical Examination with supporting documents, the Report of Medical History, and the Coding Sheets for a period not to exceed 2 years after which they are destroyed. Original or copy of documents is filed permanently in the Official Military Personnel File for acceptable applicants and transferred to the gaining Armed Service. All information is transferred to magnetic tapes at the primary site and retained for 7 years, after which it is erased.

System manager(s) and address:

Delete entry and substitute therefor: "Commander, US Military Enlistment Processing Command, US Naval Training Center, Great Lakes, IL 60088."

Notification procedure:

Delete entry and substitute: "Individuals desiring to know whether this sytsem of records contains information on them should write to the System Manager, furnishing their full name, Social Security Number, date and location of the Military Enlistment Processing Station (MEPS) (formerly named Armed Forces Examining and Entrance Stations (AFEES)) where the testing or examination occurred, and signature."

Record access procedures:

Delete entry; substitute: "Individuals desiring access to records concerning them should write to the system manager furnishing information identified under "Notification procedure". On personal visits, individual should provide acceptable identification such as valid driver's license, employer identification card, building pass, etc."

Contesting record procedures:

After "determinations", delete remainder; insert: "are contained in Army Regulation 340–21 (32 CFR Part 505)".

Record source categories:

Delete entry; substitute: "From the individual, physicians, results of tests, Federal/State/local law enforcement activities/agencies."

A0708.02cDAPC

System name:

Officer Personnel Management Information System (OPMIS) (44 FR 73871), December 17, 1979.

Changes:

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Add the following: "Smithsonian Institution (The National Museum of American History): Copy of the US Army Active Duty Register, for historical research purposes (not authorized for public display)."

A0708.02dDAPC

System name:

Enlisted Personnel Management Information System (EPMIS) (47 FR 2561), January 18, 1982.

Changes:

System location:

Add: "The Enlisted Evaluation System is maintained at US Army Enlisted Records Evaluation Center, Ft. Benjamin Harrison, IN 46249."

Category of records in the system:

Add the following paragraph: "Enlisted Evaluation System contains selected information from the EMF and the Soldiers' Primary and Career Progression Military Occupational Specialties, Skill Qualification Test data, enlisted evaluation scores used to create the Enlisted Evaluation Report Weighted Average, and other enlisted evaluation report data."

Notification procedures:

Change period to comma and add:" * * * except that information regarding the enlisted evaluation system should be obtained from the Commmander, US Army Enlisted Records Evaluation Center, Ft. Benjamin Harrison, IN 46249; (317) 542–3282."

Record access procedures:

After "Visits are limited to MILPERCEN * * * 22332", change period to comma and add: "* * * except that information from the enlisted evaluation system should be obtained from either the servicing military personnel office, the headquarters of the individual's organizational station, or US Army Enlisted Records Evaluation Center."

AO903.07DASG

System name:

Entrance Medical Examination Files (44 FR 73919), December 17, 1979.

Changes:

System location:

Delete entries; substitute therefor: "Primary: Army medical examining facilities or Military Enlistment Processing Stations (for enlistees);

"Secondary location:

Department of Defense Medical Review Board, US Academy, CO 80840 (except for reservists)."

Categories of individuals covered by the system:

Delete entry; substitute therefor: "Individuals who (a) enroll in the ROTC program, (b) enlist or are appointed in the US Army or US Army Reserves, or (c) are appointed as a cadet to the US Military Academy."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete information and substitute therefor: "Used by the Department of the Army to determine medical acceptance of applicant for military service and thereafter to properly assign and utilize individual. Management data are derived and used by Health Services Command to evaluate effectiveness of procurement medical standards.

"Used by the Department of Defense Medical Review Board to insure the application of uniform DOD medical standards."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Change period to semicolon and add: "selected management data are stored on word processing or ADP disks to tapes."

Retrievability:

Delete entry; substitute therefor: "By individual's surname".

Retention and disposal:

Delete all information; substitute therefor: "Original SF 88 and 93 become permanent documents in individual's Health Record; 1 copy of these forms and supporting documentation is retained by the Army or Military Enlistment Processing Station examining facility for 1 year; 1 copy is forwarded to the DOD Medical Review Board where it is retained for 5 years.

"Records of individuals rejected for military service are retained for statistical analyses, but for no longer than 2 years, after which they are destroyed."

Notification procedure:

Change entry to read: "Individuals wishing to know whether or not this system contains information on them should write to the Commander of the medical examining facility where physical examination was given; individual should furnish his/her full name, Social Security Number, home address, approximate date of the examination, and signature."

Record access procedures:

Change entry to read: "Individuals who desire access to records pertaining to them should furnish the information required under "Notification procedure" above."

Contesting record procedures:

After "determinations", delete remainder and add: "are contained in Army Regulation 340–21 (32 CFR Part 505)."

Record source categories:

Delete information; substitute therefor: "From the individual; from physicians and other medical personnel."

AO924.01DASG

System name:

Health Nursing Case Files (44 FR 73941), December 17, 1979.

Changes:

System name:

Delete present name; substitute therefor: "Army Community Health Nursing Records—Family Records".

Authority:

Delete reference to "Title 44 U.S.C. 3101".

Contesting record procedures:

After "determinations", delete remainder and substitute therefor: "are contained in Army Regulation 340–21 (32 CFR Part 505)."

Record source categories:

Change entry to read: "From the individual, family members, other persons having information relevant to health of family members; educational institutions; civilian health, welfare, and recreational agencies; civilian law enforcement agencies."

AO508.17aDAPE

SYSTEM NAME:

Military Police Law Enforcement Reporting System

SYSTEM LOCATION:

The Army installation which created the Military Police (MP) report retains a copy; original of special categories of MP investigations—determined by type of crime and identified in Army Regulation 190–45—is forwarded to the Crime Records Center, Ft. Holabird, Md.

A cross-reference index in either manual or automated media may exist at intermediate and higher command levels.

Statistical data are derived from individual reports and stored in automated media at major Army commands and HQDA for the purposes of (1) developing crime trends by major categories (i.e., rape and sex, blackmarketing, drugs, crimes of violence, crimes against property, other crimes of misconduct), and (2) making comparative analyses within crime categories by rank, sex, race, and type offender (i.e., first-time, repeat), organizational or geographical determinant. Such statistics, however, are not used to make determinations about the rights, benefits, or entitlements of individuals.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual who is the subject, victim, complainant, witness, or suspect in a criminal, civil, or traffic offense.

CATEGORIES OF RECORDS IN THE SYSTEM:

Alleged or founded criminal information directed against or involving the Army which may be related to local criminal investigative files and comprising the following: MP reports or similar reports containing investigative data, supporting or sworn statements, affidavits, provisional passes, receipts for prisoners or detained persons, commanders reports of disciplinary action taken, and disposition of cases. Personal information includes individual's name, grade/rank, organization, affiliation, social security account number, category of offense, involvement, and case number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012(g).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose of this system is to provide detailed information necessary for Army officials, commanders, and civil/criminal justice agencies to discharge their responsibilities for maintaining discipline, law and order through investigation of complaints and incidents and possible criminal prosecution, civil court action, or regulatory order. Statistical information is compiled for determining crime trends and making comparative analyses.

May be disclosed to criminal justice agencies for investigation and prosecution when cases are either within their jurisdiction or when concurrent jurisdiction applies. These include: Federal Bureau of Investigation; Drug Enforcement Administration; US Customs Service; Bureau of Alcohol, Tobacco and Firearms; US District Courts; US Magistrates; State and local law enforcement agencies; local wildlife conservation agencies; and, in overseas areas, host government law enforcement agencies.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; microfiche; magnetic tapes and disc; punched cards; and computer printouts.

RETRIEVABILITY:

By case number; individual's name, date of birth, SSN.

SAFEGUARDS:

Distribution controls are specified by Army Regulation 190–45; only authorized personnel have access to information in this system. Physical security measures include locked containers/storage areas, controlled personnel access, and continuous presence of authorized personnel.

RETENTION AND DISPOSAL:

Information is destroyed after 5 years except for that required by Army Regulation 190–45 to be sent to the Crime Records Center which is retained 40 years following final action.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff for Personnel, Headquarters, Department of the Army, Washington DC 20310.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system contains information about them should write to the commander of the installation where incident occurred; if more than five years have elapsed since occurence of incident, inquiry may be made of the Crime Records Center, Ft. Holabird, MD. Individual should provide full name, SSN, and details as to date and place of incident about which inquiry is made.

RECORD ACCESS PROCEDURES:

Individual desiring access to his/her records should follow the requirements in "Notification procedures", sign the request and have it notarized.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual; witnesses; victims; subjects; Military Police; US Army Criminal Investigation Command special agents; informants; investigative and law enforcement persons of Federal, state, local, and foreign government agencies; any source which may supply pertinent information.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All portions of this system which fall within 5 U.S.C. 552a(j)(2) are exempted from the following provisions of Title 5 U.S.C. 552a: (c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(8), (f), and (g).

AO704.04bMEPCOM

SYSTEM:

Military Entrance Processing Reporting System (MEPRS)

SYSTEM LOCATION:

Primary: US Military Enlistment Processing Command, US Naval Training Center, Great Lakes, IL 60088.

Secondary: 73 locations at Military Enlistment Processing Command sector headquarters and individual Military Entrance Processing Stations located in the United States. (Addresses can be obtained from MEPCOM.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals who report to a Military Entrance Processing Station to be aptitudinally tested and/or physically examined to determine their fitness for entry into one of the Armed Services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number, date and place of birth, home address and telephone number, date and place of birth, results of aptitude tests, physical examinations, and relevant documentation concerning individual's acceptance/rejection for military service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 505, 511; 50 U.S.C. 451–473.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the US Military Enlistment Processing Command for determining qualifications of applicants for the Armed Forces through aptitude testing, medical examination, and administrative processing. Information is used also for statistical analyses within the Department of Defense to

determine patterns and trends in the military population.

Information from this system is disclosed to the Selective Service System to update the SSS registrant data base.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, computer magnetic tape.

RETRIEVABILITY:

By Social Security Number.

SAFEGUARDS:

All data are retained in locked rooms/compartments with access limited to designated personnel having an official need to know. Access to computerized data is by use of a valid site ID number assigned to the individual terminal and by a valid user ID and password code assigned to the individual user, changed periodically to avoid compromise. Data entry is on-line using a dial-up terminal. Physical access to computer files is controlled by keys known only to MEPCOM and MEPS personnel assigned to work on the data base.

RETENTION AND DISPOSAL:

Each MEPS retains a copy of coding sheets for each applicant, plus a copy of the Application for Enlistment on accepted applicants for 6 months after which they are destroyed. For applicants who are not accepted, each MEPS retains a copy of the Report of Medical Examination with supporting documents, the Report of Medical History, and the Coding Sheets for a period not to exceed 2 years after which they are destroyed. Original or copy of documents is filed permanently in the Official Military Personnel File for acceptable applicants and transferred to the gaining Armed Service. All information is transferred to magnetic tapes at the primary site and retained for 7 years, after which it is erased.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Military Enlistment Processing Command, US Naval Training Center, Great Lakes, IL 60088.

NOTIFICATION PROCEDURE:

Individuals desiring to know whether this system of records contains information on them should write to the System Manager, furnishing their full name, Social Security Number, date and location of the Military Enlistment Processing Station (MES) (formerly named Armed Forces Examining and Entrance Stations (AFEES)) where the testing or examination occurred, and signature.

RECORD ACCESS PROCEDURES:

Individuals desiring access to records concerning them should write to the system manager furnishing information identified under "Notification procedure". On personal visits, individual should provide acceptable identification such as valid driver's license, employer identification card, building pass, etc.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual, physicians, results of tests, Federal/State/local law enforcement activities/agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AO706.02cDAPC

SYSTEM NAME:

Officer Personnel Management Information System (OPMIS)

SYSTEM LOCATION:

US Army Military Personnel Center (MILPERCEN), 200 Stovall Street, Alexandria, VA 22332.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals projected for entrance into the Army officer corps; Army officer and warrant officer personnel projected to enter on active duty, on active duty, separated, or in retired status; individuals, civilian and military, who serve as senior rating officials on the officer evaluation reports (OERs) of Army officers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Officer Master File (OMF) contains name, social security number (SSN), grade and date of rank, appointment and service agreement, service data and date, promotion, assignment, qualifications, specialties, efficiency, education and training, occupation, language, career pattern, awards and badges, physical location, separation, retirement, date and place of birth, race, religion, ethnic group, dependents, sex, citizenship, marital status, and mailing address.

Officer Accession Suspense Information System (OASIS) contains selected information from the OMF, date of entry on active duty, temporary duty data, and permanent change of station data.

Officer Evaluation Reporting System (OERS) contains selected information from the OMF; selection board status; OER suspense indicator for action being taken to obtain mission or erroneous OER; selected information for each of the last ten OERs; and the name, SSN, and rating history of each individual, military and civilian, who has served as the senior rating official for an active duty Army officer.

Assignments and Training Selection for ROTC graduates contains selected information from the OMF, the cadet's preference statement for specialty (branch), duty and initial training; Reserve Forces duty or delay selection, Regular Army selection, and branch selection.

Officer Personnel Utilization System (OPUS) contains selected information from the OMF, projected assignment information for accessions and officers or warrant officers who are being reassigned.

Reserve Officer Training Corps (ROTC) Instructor File contains selected information from the OMF and the following information pertaining to ROTC instructors; ROTC detachment, duty station, date assigned to ROTC detachment, date projected to be reassigned.

Officer Fully Funded Civil School File contains selected information from the OMF and the following information concerning officer and warrant officer personnel participating or who have participated in the Army sponsored degree completion program; school attended, start and completion dates, degree level and discipline, and Army Education Requirements Board (AERB) positions.

Officer Partially Funded Civil School File contains the same type information maintained in the Fully Funded Civil School File for officer and warrant officer personnel participating or who have participated in the Army partially sponsored degree completion program.

Army Education Requirements Board (AERB) File contains selected information from the OMF for officer and warrant officer personnel who are serving or are projected to serve in an AERB appoverd position requiring graduate level education.

Distribution Management File contains selected information from the OMF and summary manner of performance data for MILPERCEN managed officers.

USMA Potential Instructor File contains selected information from the OMF and the following information

pertaining to previous, current, and potential instructors for the US Military Academy teaching staff; academic department and projected availability for USMA instructor duty.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 10 U.S.C. 3012.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the Department of the Army: For personnel management, strength accounting, manpower management, accessioning and determing basic entry specialty (branch) and initial duty assignments; tracking OER; monitoring actions to obtain missing, late, erroneous OER; tracking the rating history of senior rating officials; posting of the senior rating official's rating history on individual OER; producing reports on active duty officers who have served as senior rating officials for inclusion in their Official Military Personnel File; managing instructor population at ROTC detachments and USMA; tracking information relating to the Army Degree Completion Civil School Program; transmitting necessary assignment instructions.

By the Department of Defense: for interdepartmental actions and personnel management.

By Social Security Administration: to verify SSNs.

By General Services Administration: to publish US Army Registers as authorized by 10 U.S.C. 122.

By the Smithsonian Institution (The National Museum of American History): Copy of the US Army Active Duty Register, for historical Research purposes (not authorized for public display).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer magnetic tapes and disks.

RETRIEVABILITY:

By SSN, name, or other individual identifying characteristics.

SAFEGUARDS:

Physical security devices, guards, computer hardware and software safeguard features, and personnel clearances. Magnetic tape is maintained in an area accessible only to authorized personnel Automated media protected by authorized password for system, controlled access to operator rooms, and controlled output distribution.

RETENTION AND DISPOSAL:

Records are retained on the active OMF files for 4 months after separation. Historical OMF records are retained dating back to FY 1970. Accessions in OASIS are retained on active file until effective date of accession and are then placed on a history file for a period of 6 months. Records in the ROTC Graduate Assignment and Training Selection File are retained for approximately 400 days after the file is created (approximately December each year). Historic files for the OER system are retained for the life of the system. All other records are retained for active duty only until the individual is released from active duty and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332.

NOTIFICATION PROCEDURE:

Information may be obtained from US Army Military Personnel Center (DAPC-MSO-S), 200 Stovall Street, Alexandria, VA 22332; telephone: (202) 325–9305.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to US Army Military Personnel Center (DAPC-MSO-S), 200 Stovall Street, Alexandria, VA 22332. Written requests should contain the individual's full name, social security number, whether awaiting active duty, active, retired, or separated; return address; and must identify the specific category of record involved. Blanket requests against this consolidated system will not be accepted. If separated, individual must state date of separation; if awaiting active duty, specify date thereof.

Visits are limited to US Army Military Personnel Center, 200 Stovall Street, Alexandria, VA. Individual must provide acceptable identification and verbal information that can be verified with his/her record.

CONTESTING RECORD PROCEDURES:

The Army's rules for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

Information is obtained in document and computer readable form from other DA Staff and commands, other Federal agencies and departments, and indivudals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0708.02dDAPC

SYSTEM NAME:

Enlisted Personnel Management Information System (EPMIS).

SYSTEM LOCATION:

US Army Military Personnel Center (MILPERCEN), 200 Stovall Street, Alexandria, VA 22332. (The Enlisted Evaluation System is maintained at US Army Enlisted Records Evaluation Center, Ft Benjamin Harrison, IN 46249.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Army enlisted personnel on active duty, non-prior service and prior service personnel who either have or indicate a desire to enlist in the US Army, US Army National Guard, or US Army Reserves, initial active duty training personnel undergoing basic training or advanced individual training, former military personnel who are applicants for enlistment in grades E–1 to –9.

CATEGORIES OF RECORDS IN THE SYSTEM:

Enlisted Master File (EMF) contains name, Social Security Number (SSN), sex, race, citizenship, religion, marital status, dependents, date and place of birth, residence, assignments, physical profile, ethnic group, grade/date of rank, enlistment and service promotion, qualifications, Military Occupational Skill code, education and training, aptitude, separation, retirement, and mailing address.

Recruit Quota System (REQUEST) contains selected information from the EMF and soldier's educational level achieved and school subjects, driver's license, color perception, aptitude battery scores, audio perception score, defense language aptitude battery score, motor vehicle battery test score, type of enlistment and date, term, and option; initial processing and training assignments, types, locations, and dates; unit of assignment identification, system identification of location that created accession record, recruiter identification and recruiting area credit code.

Enlisted Training Base contains selected information from EMF and the soldier's enlistment and service, assignment, enlistment commitments by MOS and type, college subjects, civilian acquired skills, advanced or basic individual training start and graduation date, location, and MOS, follow-on MOS, location training recommended versus preferred, aptitude area scores and categories.

Enlisted Year Group Management File (RETAIN) contains selected information from the EMF and control number, reclassification/enlistment action, type

of enlistment basic active service date, estimated termination of service, reenlistment date, civilian education, career management field, primary military occupational specialty code and date of award, source of new primary occupational specialty code, personnel charged to school code, status of application, assignment code, date of last status change, current location, year group, security investigation status, and term reenlisted.

Enlisted Linquist Data Base contains selected information from EMF and foreign language code, listening and reading proficiency, ratings and scores, dates of evaluation test or interview, how each language capability was acquired with the principal type, highest level and date of recency for each foreign language in which proficient.

Enlisted Evaluation System contains selected information from the EMF and the soldiers' primary and career progression military occupational specialties, skill qualification test data, enlisted evaluation scores used to create the Enlisted Evaluation Report Weighted Average, and other enlisted evaluation report data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. section 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the Department of the Army: for personnel management, strength accounting, and manpower management. Within the Department of Defense, information is used for interdepartmental actions and personnel management.

By Social Security Administration: to verify SSNs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer magnetic tapes and disks; hard copy computer printouts.

RETRIEVABILITY:

SSN, name, or other individually identifying characteristics.

SAFEGUARDS:

Information is protected by physical security devices, guards, computer hardware and software safeguard features, personnel clearances and passwords.

RETENTION AND DISPOSAL:

Records are retained 5 years after separation except enlisted singuist data base records which are retained 6 months after separation.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332.

NOTIFICATION PROCEDURE:

Information may be obtained from Commander, US Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332, except that information regarding the Enlisted Evaluation System should be obtained from the Commander, US Army Enlisted Records Evaluation Center, Ft Benjamin Harrison, IN 46249; (317) 542–3262.

RECORD ACCESS PROCEDURES:

Written requests for information should contain the name of the individual Social Security Number, whether awaiting active duty, active, or separated, return address, and must identify the specific category of records involved. Blanket requests against this consolidated system will not be accepted. Visits are limited to US Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332, except that information from the Enlisted Evaluation System should be obtained from either the servicing military personnel office, the headquarters of the individual's organizational station, or US Army Enlisted Records Evaluation Center. For personal visits, the individual must be able to provide acceptable identification and give verbal information that can be verified with his/her record.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual, from documents and computer readable output, other DA Staff agencies and commands, other Federal agencies and departments.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AO903.07DASG

SYSTEM NAME:

Entrance Medical Examination Files

SYSTEM LOCATION:

Primary: Army medical examining facilities or Military Enlistment Processing Stations (for enlistees);

Secondary location: Department of Defense Medical Review Board, US Academy, CO 80840 (except for reservists.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who (a) enroll in the ROTC program, (b) enlist or are appointed in the US Army or US Army Reserves, or (c) are appointed as a cadet to the US Military Academy.

CATEGORIES OF RECORDS IN THE SYSTEM:

Entrance medical examination and resulting documentation such as SF 88, Report of Medical Examination, and SF 93, Report of Medical History, together with relevant and supporting documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the Department of the Army to determine medical acceptance of applicant for military service and thereafter to properly assign and utilize individual. Management data are derived and used by Health Services Command to evaluate effectiveness of procurement medical standards.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; selected management data are stored on word processing or ADP disks and tapes.

RETRIEVABILITY:

By individual's surname.

SAFEGUARDS:

Records are maintained in buildings using security guards, accessible only to authorized personnel having official need for the information who are properly screened and trained.

RETENTION AND DISPOSAL:

Original SF 88 and 93 become permanent documents in individual's Health Record; 1 copy of these forms and supporting documentation is retained by the Army or Military Enlistment Processing Station examining facility for 1 year; 1 copy is forwarded to the DOD Medical Review Board where it is retained for 5 years.

Records of individuals rejected for military service are retained for statistical analyses, but for no longer than 2 years, after which they are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

The Surgeon General, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether or not this system contains information on them should write to the Commander of the medical examining facility where physcial examination was given; individual should furnish his/her full name, Social Security Number, home address, approximate date of the examination, and signature.

RECORD ACCESS PROCEDURES:

Individuals who desire access to records pertaining to them should furnish the information required under "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulations 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual; from physician and other medical personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AO924.01DASG

SYSTEM NAME:

Army Community Health Nursing Records—Family Records.

SYSTEM LOCATION:

Army Medical Centers and hospitals, world-wide. (Official mailing addresses are in the appendix to the Army's inventory of system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals eligible for Army medical care.

CATEGORIES OF RECORDS IN THE SYSTEM:

Family Record Form (DA Form 3762) and Case Referral Form (DA Form 3763).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 10 U.S.C. 1071.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the Department of the Army to identify family members who receive Army community health nursing care. Information includes the source of referral, medical diagnosis, observations, socio-economic data, plans and goals for nursing care, and summarization of consultations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders retained in the Army Community Health Nursing Office; copy of DA Forms 3762 and 3763 filed in individual's outpatient medical record.

RETRIEVABILITY:

By surname of eligible military member or sponsor.

SAFEGUARDS:

Records are maintained in areas accessible only to authorized personnel having official need for the information. Facilities are locked during non-duty hours.

RETENTION AND DISPOSAL:

Records are destroyed 3 years after case is closed.

SYSTEM MANAGER(S) AND ADDRESS:

The Surgeon General, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether or not this system contains information on them should inquire of the Patient Administration Office of Army Medical Treatment Facilities which provided the health nursing care.

RECORD ACCESS PROCEDURES:

Individuals who desire access to records pertaining to them should write to the Army Medical Treatment Facility where the record is believed to exist and furnish their full name, Social Security Number; name and SSN of sponsor, if applicable; relationship to military member; current address and telephone number. Written requests must bear signature of the requester. For personal visits, individual must provide acceptable identification, i.e., military or dependent ID, driver's license, etc., and verbal information that can be verified with appropriate health nursing records.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual, family members, other persons having information relevant to health of family members; educational institutions; civilian health, welfare, and recreational agencies; civilian law enforcement agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 82-16238 Filed 6-15-82; 8:45 am]

BILLING CODE 3710-08-M

National Board for the Promotion of Rifle Practice; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, announcement is made of the following committee meeting:

Name of Committee: Executive Committee of the National Board for the Promotion of Rifle Practice (NBPRP)

Date of meeting: July 2, 1982.

Place: Secretary of the Army Conference Room, 2E687, The Pentagon

Time: 0900 Hours

Proposed Agenda:

1. Recommendations on Board appointments and terms.
2. Accuracy Improvement of 7.62mm Rifle Match Ammunition.
3. Appointment Procedures and Terms of Service for Board.
4. NBPRP Support for Development of Automatic Target System.
5. Proposed Smallbore Distinguished Award.
6. Junior Shooters Sponsored by DCM to US International Championships.
7. Change of Requirements for Purchase of M–1 Rigles from DCM.
8. Competitive Shooting Program for Carbines.
9. New Shooter Rule for Whistler Boy Matches.
10. Request from Mr. Krenzke to Address the Camp Perry Meeting of this Committee.
11. NBPRP/DCM Support for Biathlon.

This meeting is open to the public.

Note.—This is a two part meeting, the agenda items not covered in the 2 July 1982 meeting will be continued at a meeting set for 0900 hours, 8 August 1982, at Camp Perry, Ohio. Notice about the meeting at Camp Perry will be announced in the Federal Register at a later date.

Persons desiring to attend the meeting 2 July should contact the Director of Civilian Marksmanship (202) 272–0810, prior to 2 July 1982 to arrange admission to the Pentagon.

Persons unable to make prior arrangements should call ext. 54025 upon arrival at the Pentagon.

Lawrence E. Enterkin,

LTC, USA (Ret.), Assistant Executive Officer.

[FR Doc. 82-16252 Filed 6-15-82; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

National Advisory Council on Adult Education; Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES: July 7, 1982, 5:30 to 8:00 p.m.; July 8, 1982, 9:00 a.m. to 3:00 p.m., Committee Meetings 3:00 to 5:00 p.m. and 8:00 to 10:00 p.m.; July 9, 1982, 9:00 a.m. to 3:30 p.m.

ADDRESS: Council Offices, July 7, 1982; Hotel Washington, 15th & Pennsylvania Ave., NW., Washington, D.C., July 8–9, 1982; Council Offices, 8:00 to 10:00 p.m., July 8, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Ventura, Executive Director, National Advisory Council on Adult Education, 425 13th St., N.W., Washington, D.C. 20004 (202/376–8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under section 313 of the Adult Education Act (20 U.S.C. 1201). The Council is established to:

Advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council is open to the public. The proposed agenda includes:

Election of Council Officers
Council Committee Structure
Council Budget
Council Committee Meetings
Department of Education Report on State Grant Appropriations; FY–83 Legislation

Records are kept of all Council proceedings, and are available for public inspection at the office of the National Advisory Council on Adult Education, 425 13th St., NW., Suite 323, Washington, D.C. 20004, from the hours of 8:00 a.m. to 4:30 p.m.

Signed at Washington, D.C. on June 9, 1982.

Rick Ventura,

Executive Director, National Advisory Council on Adult Education.

[FR Doc. 82–16170 Filed 6–15–82; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP82–315–000]

Algonquin Gas Transmission Co.; Notice of Application

June 10, 1982.

Take notice that on May 6, 1982, Algonquin Gas Transmission Company (Applicant), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP82–315–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the modification of its Taunton, Massachusetts, meter station so as to enable Applicant to increase the pressure at which deliveries of gas are made to Bay State Gas Company (Bay State), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Bay State has informed Applicant that it plans to serve natural gas to the Taunton Municipal Lighting Plant (TMLP) within its existing contract entitlements from Applicant. It is stated that in order to provide service to TMLP, however, Bay State must receive gas at a pressure higher than that now in effect at the Taunton meter station. Accordingly, Applicant proposes herein to modify its Taunton meter station by replacing the present regulator and meter runs with runs capable of receiving Applicant's line pressure, as available, from which runs Bay State would then be able to deliver to TMLP at the appropriate pressure. It is stated that Bay State would also further regulate the gas received at line pressure from Applicant for general use in Bay State's distribution system.

Applicant also states that all sales service to Bay State would be rendered within existing, authorized levels and that Bay State would regulate any gas receipts from line pressure.

The cost of modifying the Taunton meter station is estimated at $145,500. It is stated that Applicant would undertake the modification but that Bay State would fully reimburse Applicant for all costs actually incurred.

It is stated that Applicant and Bay State would re-execute Bay State's F–1, WS–1, and SNG–1 service agreements to reflect the changes brought about by the modification of the Taunton meter station. Specifically, Applicant states that the precise point of delivery at Taunton would change from the outlet side of the meter station to the downstream header connected to the meter tubes which would recognize the reallocation to Bay State of all responsibilities for the regulation and any necessary heating of the gas stream.

Applicant states that with respect to the WS–1 service agreement the maximum daily delivery obligation would be restated to reflect an increment of 881 million Btu which was authorized in 1969 and which would be delivered *pro rata* among four of Bay State's delivery points so that the maximum daily delivery obligation would then agree with Bay State's authorized maximum daily quantity.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rule of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if

the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16135 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-132-000]

Alternative Energy Decisions, Inc.—Stratton; Application for Commission Certification of Qualifying Status of a Small Power Production Facility; Erratum Notice

Correction

June 9, 1982.

In Docket No. QF82-132-000 appearing in the **Federal Register** issue of May 19, 1982 on page 21578, make the following correction: On page 21578, in the first column, in the first paragraph, lines one, two and three:

"On April 29, 1982, Alternative Energy Decisions, Inc., 84 Harlow Street, Stratton, Maine 04401" is corrected to read "On April 29, 1982. Alternative Energy Decisions, Inc., 84 Harlow Street, Bangor, Maine 04401".

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16136 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-133-000]

Alternative Energy Decisions, Inc.—Greenville; Application for Commission Certification of Qualifying Status of a Small Power Production Facility; Erratum Notice

Correction

June 9, 1982.

In Docket No. QF82-133-000 appearing in the **Federal Register** issue of May 19, 1982 on page 21577, make the following correction: On page 21577, in the second column, in the first complete paragraph, lines one, two and three:

"On April 29, 1982, Alternative Energy Decisions, Inc., 84 Harlow Street, Greenville, Maine 04401" is corrected to read "On April 29, 1982. Alternative Energy Decisions, Inc., 84 Harlow Street, Bangor, Maine 04401".

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16137 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-134-000]

Alternative Energy Decisions, Inc.—Pittston Farm; Application for Commission Certification of Qualifying Status of a Small Power Production Facility; Erratum Notice

Correction

June 9, 1982.

In Docket No. QF82-134-000 appearing in the **Federal Register** issue of May 19, 1982 on page 21577, make the following correction: On page 21577, in the third column, in the first complete paragraph, lines one, two and three:

"On April 29, 1982, Alternative Energy Decisions, Inc., 84 Harlow Street, Pittston Farm, Maine 04401" is corrected to read "On April 29, 1982, Alternative Energy Decisions, Inc., 84 Harlow Street, Bangor, Maine 04401".

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16138 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP82-27-000]

Amoco Production Co.; Informal Public Conference

June 9, 1982.

Pursuant to the request of Amoco Production Company (Amoco), an informal public conference with the Staff of the Federal Energy Regulatory Commission (Commission Staff will be held in this proceeding in Room No. 6200, 825 North Capitol Street, NE., Washington, D.C. 20426, at 10:00 a.m. June 24, 1982. Amoco states that the purpose of this conference is to permit it to clarify and explain its response to a data request made by Staff concerning Amoco's petition for waiver of certain portions of the Commission's regulations in 18 CFR 271.704. For further information, contact:

Scott E. Koves, Office of General Counsel, (202) 357-8569

or

Marilyn Rand, Office of Pipeline and Producer Regulation, (202) 357-8674

Kenneth F. Plumb,

Secretary

[FR Doc. 82-16121 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6207-000]

Stephen E. and George S. Austin; Application for Preliminary Permit

June 8, 1982.

Take notice that Stephen E. and George S. Austin (Applicant) filed on April 13, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for Project No. 6207 to be known as the Friend Hydroelectric Power Project located on the Moose River in Caledonia County, Vermont. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Stephen E. and George S. Austin, Box 20, Concord, Vermont 05824.

Project Description—The proposed project would consist of: (1) A new 22-foot high concrete dam; (2) a proposed reservoir with a surface elevation of 617 feet NGVD and a storage capacity of 84.6 acre-feet; (3) a new powerhouse containing one or more generating units with a total rated capacity of 346 kW; (4) a 100-foot long tailrace; (5) new 200-foot long transmission line; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 1,505,000 kWh. The most likely market for the energy derived at the proposed project would be the Central Vermont Public Service Corporation. The existing facilities are owned by Leonard, Robert, and Martin Friend of Fairfield, Connecticut. The owners of adjacent property are: (1) Peck Company, of St. Johnsbury Vermont; (2) Maple Grove, Inc., of St. Johnsbury, Vermont; (3) St. Johnsbury School District, St. Johnsbury, Vermont; (4) Maine Central Railroad Company, St. Johnsbury, Vermont.

Purposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 24 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impact. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed uder the preliminary permit would be $28,198.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 10, 1982, the competing application itself, or

a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 6, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than October 15, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 6, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16139 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CI73-293-001 and CI79-653-001]

Belco Petroleum Corp., Agent; Petition to Amend Certificate of Public Convenience and Necessity

June 10, 1982.

Take notice that June 1, 1982, Belco Petroleum Corporation, Agent (Belco), One Dag Hammarskjold Plaza, New York, New York 10017, filed a petition pursuant to § 1.7 of the Commission's Rules of Practice and Procedure requesting a modification of the certificate of public convenience and necessity issued it in Opinion No. 659, as amended, Docket No. CI73-293. Specifically, Belco requests that Ordering Paragraph (H) of that opinion be amended to permit Belco a period of 12 years rather than 10 years to fulfill its plowback obligation.

Any person desiring to be heard or to protest this petition should file a petition to intervene a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 28, 1982. All protests filed with the Commission will be considered but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16123 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-411-000]

Central Vermont Public Service Co.; Order Accepting for filing and Suspending Rates and Granting Motion to Collect Alternative Interim Settlement Rates

Issued: May 28, 1982.

On March 30, 1982, Central Vermont Public Service Company (Central Vermont) tendered for filing revised rates applicable to five wholesale customers. The rates, for which Central Vermont requests a May 31, 1982 effective date, would increase jurisdictional revenues by approximately $422,000 (19.3%) based on the calendar year 1982 test period. Notice of the filing was issued on April 7, 1982, with responses due on or before April 21, 1982. No protests or petitions were received in response to that notice.

Subsequently, on May 11, 1982, Central Vermont filed a settlement agreement executed by the affected customers, together with a motion to collect the settlement rates as of June 1, 1982, on an interim basis, pending Commission action on the proposed settlement. The motion is supported by Central Vermont's customers and the settlement reflects rates about $87,000 lower than those originally proposed.

Discussion

The Commission has not yet had an opportunity to thoroughly review Central Vermont's recent officer of settlement and the final date for comments with respect to that offer is June 10, 1982. 18 CFR 1.18. Nonetheless, action is required on the company's original rate filing prior to May 31, 1982, in order to ensure that the Commission retains suspension and refund authority.

Our preliminary review indicates that Central Vermont's originally filed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. However, we further find that the rates may not produce substantially excessive revenues as defined in *West Texas Utilities Company*, Docket No. ER82-23-000 (February 26, 1982). Accordingly, we shall supsend the originally filed rates for one day from the proposed effective date, to become effective subject to refund on June 1, 1982. However, given the unanimous customer concurrence to the interim settlement rate motion and the reduction in rate increase associated with the proposed settlement, we find that good cause exists to grant the motion and to permit Central Vermont to collect the proposed settlement rates in lieu of the filed rates from June 1, 1982, until such time as the Commission takes final action on the settlement agreement. While we shall initiate hearing procedures in this order, all procedural dates will be deferred pending consideration of the proposed settlement. In the event that the settlement is ultimately rejected by the

Commission, the originally filed rates may become effective prospectively only from the date of a final order disapproving the settlement. This order shall be without prejudice to the Commission's consideration of the merits of the filed settlement agreement.

The Commission orders:

(A) Central Vermont's originally filed rates in this docket are hereby accepted for filing and suspended for one day from the proposed effective date to become effective, subject to refund, on June 1, 1982.

(B) Good cause having been found, Central Vermont is hereby permitted to collect the proposed settlement rates contained in its May 11, 1982 filing as of June 1, 1982, subject to refund, pending a final Commission order on the settlement proposal. In the event that the settlement is ultimately rejected, the orginally filed rates may become effective prospectively only and subject to the refund from the date of a final order rejecting the settlement.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the DOE Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of Central Vermont's rates. Such hearing shall be deferred pending Commission disposition of the settlement agreement among the parties.

(D) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16122 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-563-000]

Central Vermont Public Service Corp.; Notice of Filing

June 10, 1982.

Take notice that on June 1, 1982, the Central Vermont Public Service Corporation (CVPS) tendered for filing as an initial rate schedule a System Power Exchange-Agreement (The "Agreement") between The Connecticut Light and Power Company (CL&P), The Hartford Electric Company (HELCO), Western Massachusetts Electric Company (WMECO), (the NU Companies); and Central Vermont Public Service Corporation. The Agreement, dated July 1, 1981, provides for CVPS to exchange capacity from its system for gas turbine capacity from the NU Companies.

The Agreement provides that the parties will determine prior to 12:01 AM on the day preceding a contemplated daily or weekly exchange cycle whether it is economically advantageous to the parties that an exchange, pursuant to the Agreement take place during that day or week.

During the hours of an exchange, CVPS will receive gas turbine capacity from the NU Companies and the NU Companies will receive an equal amount of system power capacity from CVPS. No charges for capacity exchanges are contemplated under the terms of this Agreement. CVPS will purchase energy from the NU units at average cost of providing such energy. The NU Companies will pay CVPS for its system power energy at a rate which shall be the average annual energy marginal cost as calculated and updated from time to time.

In order to permit the NU Companies and CVPS to achieve the mutual benefits of this Agreement, CVPS hereby requests that the Commission, pursuant to § 35.11 of its regulations, waive the sixty-day notice period and permit the rate schedule filed herewith to become effective on July 1, 1981. The waiver, if granted, will have no effect upon purchasers under any other rate schedule. If said waiver is not granted, the parties to the Agreement will have to defer receiving the benefits accruing from the Agreement, i.e. their respective systems will be compelled to operate at less than optimum economic efficiency.

This Agreement shall be beneficial to CVPS insofar as it permits the company to more effectively utilize its base load capacity during periods when it has excess base load type capacity. It shall be beneficial to the NU Companies insofar as it provides them with a source of power which when the exchange is in effect, is less expensive than the oil fired capacity on their system that they would otherwise be required to employ.

Copies of the filing were served upon the respective jurisdictional customers of the parties hereto, as well as their respective Public Service Boards. CVPS further states that the filing is in accordance with Section 35 of the Commission's Regulations.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the said Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16140 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-12-000]

Distrigas Corp., Distrigas of Massachusetts Corp.; Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

June 10, 1982.

Take notice that Distrigas Corporation (Distrigas) on May 28, 1982 tendered for filing Eleventh Revised Sheet No. 1 to its FERC Gas Tariff and Distrigas of Massachusetts Corporation (DOMAC) on the above date tendered for filing Eleventh Revised Sheet No. 3A.

Eleventh Revised Sheet No. 1 and Eleventh Revised Sheet No. 3A are being filed pursuant to Distrigas' and DOMAC's purchased LNG cost adjustment provision set forth in their respective tariffs. The Distrigas rate change is being filed to reflect in its sales rate to DOMAC a redetermination (decrease) of the price paid for the purchase of LNG from its supplier SONATRACH in accordance with the Distrigas-SONATRACH Agreement for Sale and Purchase of Liquefied Natural Gas together with demurrage and amortization over the six-month period, July 1, 1982 through December 31, 1982 of the balance of the unrecovered purchased LNG cost account.

The DOMAC rate change is being filed to reflect the Distrigas rate change in DOMAC's rates for resale to its distribution customer companies and the amortization over the six-month period July 1, 1982 through December 31, 1982 of the balance in DOMAC's unrecovered purchased LNG cost account and the GRI Surcharge.

Distrigas and DOMAC request that the proposed tariff sheets become effective July 1, 1982 to coincide with the change in LNG costs from SONATRACH.

A copy of this filing is being served on all affected parties and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16124 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP82-356-000 and ST82-322-000]

Dow Intrastate Gas Co.; Notice of Application

June 10, 1982.

Take notice that on June 1, 1982, Dow Intrastate Gas Company (Applicant), Route 1, Box 35, Plaquemine, Louisiana 70764, filed in Docket Nos. CP82-356-00 and ST82-322-000 an application pursuant to §§ 284.127 and 284.123(b)(2) of the Commission's Regulations for authorization to render transportation service on behalf of Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is an intrastate pipeline company operating within the State of Louisiana.

It is submitted that by order issued August 12, 1981, in Docket No. CP81-302-000, Natural was authorized to make an off system sale of up to 15,000,000 Mcf of natural gas to Dow Chemical Company (Dow) for a term ending July 31, 1982, which gas was to be delivered by Natural to Dow's chemical manufacturing plant in Plaquemine, Louisiana, utilizing the transportation services of Texas Gas Transmission Corporation and Applicant. Applicant states that by a companion order issued August 12, 1981, in Docket No. ST81-286-000, it was authorized to perform its leg of the overall transportation service pursuant to Section 311(a)(2) of the Natural Gas Policy Act (NGPA).

It is submitted that on March 12, 1982, Natural and Dow executed Amendment No. 1 to their gas sales agreement of March 30, 1982, so as to provide for the sale by Natural to Dow of an additional 30,000,000 Mcf of natural gas over a 363-day period commencing with the later of the expiration of the term of service authorized in Docket No. CP81-302-000, or the receipt and acceptance by Natural (and, by implication, Natural's agents, including Applicant) of all necessary regulatory approval. Such amendment, it is submitted, also provided for an additional transportation agreement whereby the additional volumes of gas would be delivered by Natural to Dow.

Applicant asserts that in order to track the changes contained in Amendment No. 1 to the sales agreement between Natural and Dow, Applicant and Natural have executed Amendment No. 1 to their gas transportation agreement of April 23, 1981, under which Applicant has been rendering service for Natural. Such amendment, it is stated, incorporates the 30,000,000 Mcf sales level for the extended term, as well as the alternative delivery point to be established between Natural and Applicant in or near Section 45, T13S, R4E, Vermilion Parish, Louisiana.

Applicant states that it would assume specific responsibility for the construction, ownership, and operation of all pipeline and related facilities necessary to complete the proposed interconnection between its system and that of Natural (exclusive of the sidetap and valve which Natural would construct, own, and operate at its end of the interconnection). Applicant anticipates that such proposed interconnection would cost about $250,000, which cost would be reimbursed to Applicant directly by Dow.

For such transportation service, Applicant proposes to charge Natural a rate of 15.0 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16141 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-2-000 (PGA82-2, IPR82-2)]

East Tennessee Natural Gas Co.; Notice of Rate Filing Pursuant to Tariff Rate Adjustment Provisions

June 10, 1982.

Take notice that on May 28, 1982, East Tennessee Natural Gas Company (East Tennessee) tendered for filing Third Revised Sheet Nos. 4, 5, and 6 to Original Volume No. 1 of its FERC Gas Tariff to be effective July 1, 1982.

East Tennessee states that the purpose of these tariff sheets is to reflect various rate adjustments pursuant to the General Terms and Conditions of its tariff as follows:

(1) A PGA Rate Adjustment pursuant to Section 22; and

(2) Estimated Incremental Pricing Surcharges pursuant to Section 26.

East Tennessee states that copies of this filing have been mailed to all affected customers and affected state regulatory commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16112 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-99-000]

East Tennessee Natural Gas Co.; Tariff Filing

June 10, 1982.

Take notice that on May 28, 1982, East Tennessee Natural Gas Company (East Tennessee) tendered for filing Second

Revised Sheet No. 122 to Original Volume No. 1 of its FERC Gas Tariff to be effective July 1, 1982.

East Tennessee states that the revised tariff sheet reflects the proper treatment of exchange transactions in the accounting of unrecovered purchased gas costs and a clarification of the treatment of storage injections and withdrawals and gas costs capitalized in determining East Tennesse's actual purchased gas costs.

East Tennesee states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16128 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-552-000]

Eastern Edison Co.; Notice of Filing

June 9, 1982.

The filing Company submits the following:

Take notice that on May 10, 1982, the Eastern Edison Company (Eastern) tendered for filing a Notice stating that on August 1, 1979, the crockton Edison Company and the Fall River Electric Light Company were merged, and the corporation was charged to Eastern Edison Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 25, 1982. Protects will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16131 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-33-010]

El Paso Natural Gas Co.; Revised Purchased Gas Cost Adjustment Filing

June 10, 1982.

Take notice that on May 28, 1982, El Paso Natural Gas Company ("El Paso") tendered for filing, pursuant to Part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Act and in compliance with ordering paragraphs (C)(1) and (C)(2) of the Commission's "Order Accepting for Filing and Suspending Proposed Tariff Sheets Subject to Refund and Conditions and Setting Matter for Hearing," issued March 31, 1982 at Docket No. TA82-2-33-000 (PGA82-2)(IPR82-2)(AP82-2) and (TT82-2) and the letter of the Director of the Office of Pipeline and Producer Regulation dated May 13, 1982 at Docket No. TA82-2-33-006, the following *primary* first and third substitute revised tariff sheets[1] to become effective April 1, 1982 and September 1, 1982 respectively, as part of its FERC Gas Tariff, Original Volume No. 1, Third Revised Volume No. 2 and Original Volume No. 2A:

Original Volume No. 1

First Substitute Thirtieth Revised Sheet No. 3-B
Third Substitute Thirtieth Revised Sheet No. 3-B

Third Revised Volume No. 2

First Substitute Twenty-first Revised Sheet No. 1-D
Third Substitute Twenty-first Revised Sheet No. 1-D

Original Volume No. 2A

First Substitute Twenty-second Revised Sheet No. 1-C
Third Substitute Twenty-second Revised Sheet No. 1-C

[1] El Paso will file Second Substitute Thirtieth Revised Sheet No. 3-B of its Original Volume No. 1 Tariff, Second Substitute Twenty-first Revised Sheet No. 1-D of its Third Revised Volume No. 2 Tariff and Second Substitute Twenty-second Revised Sheet No. 1-C of its Original Volume No. 2A Tariff on June 1, 1982 as part of its Restatement of Rates with said tariff sheets to be made effective as of June 1, 1982.

In addition, El Paso is tendering *alternative* first and third substitute revised tariff sheets. As more fully described below, the *primary* first and third substitute revised tariff sheets differ from their *alternative* counterparts to the extent that the *primary* sheets reflect an implementation of the very recent decision in *El Paso Natural Gas Co. v. FERC*, No. 81-4295 (5th Cir., May 24, 1982). The *alternative* first and third substitute revised tariff sheets do not reflect an implementation of that decision.

Within both the *primary* and *alternative* sets of tariff sheets are first and third substitute revised tariff sheets. The first and third substitute revised tariff sheets differ to the extent they reflect an implementation of the decision in *Mid-Louisiana Gas Co. v. FERC*, No. 80-3804 (5th Cir., December 23, 1981) hereinafter referred to as *Mid-Louisiana*. The first substitute tariff sheets are submitted in substitution for their respective counterparts, referred to in said March 31, 1982 order as the "alternative" or "lower proposed tariff sheets," tendered as a part of El Paso's notice of change in rates filed March 1, 1982, in the captioned proceeding. Such tariff sheets, like their counterparts, exclude the impact of the implementation of the decision in *Mid-Louisiana*. The third substitute tariff sheets tendered in substitution for their respective counterparts, referred to in the Commission's March 31, 1982 order as "higher proposed revised tariff sheets," include the impact of *Mid-Louisiana*.

The Commission's order issued March 31, 1982, among other things, conditionally accepted, effective April 1, 1982 and September 1, 1982, respectively, subject to refund, the lower and higher proposed revised tariff sheets tendered as a part of El Paso's March 1, 1982 notice of change in rates. In ordering paragraph (C) of the Commission's March 31, 1982 order, El Paso was directed, among other things, to file within thirty (30) days of the issuance of said order, revised tariff sheets to become effective April 1, 1982 and September 1, 1982, reflecting:

"(1) A correct Account 191 surcharge based on the appropriate subaccounts as required by the Commission's Regulations; and

(2) A correct interperiod tax allocation for computing carrying charges on refunds included in Account 191."

On April 30, 1982 at Docket No. TA82-2-33-006 El Paso filed, as directed by the Commission, revised tariff sheets to become effective April 1, 1982 and September 1, 1982, respectively, and other data responsive to the

Commission's March 31, 1982 order. Subsequently, by letter dated May 13, 1982 at Docket No. TA82–2–33–006, the Director of the Office of Pipeline and Producer Regulation advised El Paso that its revised tariff sheets were rejected as not being in compliance with the Commission's March 31, 1982 order. The letter directed El Paso to file reduced rates within fifteen (15) days to be effective April 1, 1982 and September 1, 1982, respectively, which reflect a correct Account 191 surcharge adjustment based on the appropriate subaccounts and the correct carrying charges reflecting the correct interperiod tax effect of refunds included in Account 191. Said letter went on to state that the other data filed by El Paso on April 30, 1982 responsive to the Commission's March 31, 1982 order was still being reviewed by the Commission and would be the subject of another order to be issued by the Commission.

El Paso states that the *alternative* first and third substitute revised tariff sheets incorporate the aforementioned adjustments and result in an overall revised net adjustment of 45.75¢ and 58.01¢ per Mcf, respectively. The rates for jurisdictional gas service rendered to customers served from El Paso's interstate transmission system reflected on the *alternative* first and third substitute revised tariff sheets tendered herewith have been decreased by 4.38¢ as compared with the rates reflected on their counterparts tendered as part of El Paso's March 1, 1982 notice of change in rates.[2]

Again, the *primary* first and third substitute revised tariff sheets differ from the *alternative* set of sheets because the *primary* sheets reflect an implementation of the Fifth Circuit's very recent decision in *El Paso Natural Gas Co. v. FERC.* That decision reversed Commission orders directing El Paso to exclude accrued but unpaid purchased gas costs from Account 191. The case was remanded to the Commission with directions that the Commission amend its order to prohibit El Paso only the calculation and collection of carrying charges on the unpaid accrual balance in Account 191.

The *primary* tariff sheets tendered by El Paso propose to implement the Fifth Circuit's decision by continuing in effect the 52.01¢ per Mcf rate adjustment filed by El Paso on April 30, 1982, and reflected in El Paso's customer billings for April, 1982. By continuing in effect the 52.01¢ per Mcf rate adjustment, rather than reducing the rate adjustment to 45.75¢ per Mcf as reflected on the *alternative* first substitute revised tariff sheets, El Paso will reflect in its rates for the six (6) months beginning April 1, 1982, a majority of the unpaid purchased gas costs accrued to El Paso's Account 191 as of the end of December, 1981.

El Paso respectfully requests that the *primary* first substitute revised tariff sheets reflecting implementation of the Fifth Circuit's decision regarding unpaid accruals be substituted for their respective counterparts tendered by El Paso on March 1, 1982, at Docket No. TA82–2–33–000 and be made effective on April 1, 1982 as directed by the Commission. Further, El Paso respectively requests that the *primary* third substitute revised tariff sheets reflecting also the implementation of *Mid-Louisiana* be made effective on September 1, 1982, or an earlier date, as may be directed by the Commission, in lieu of their respective counterpart sheets.

El Paso further states that copies of the instant tender have been served upon all parties of record in Docket No. TA82–2–33–000, and, otherwise, upon all interstate pipeline system customers of El Paso and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before June 23, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–16125 Filed 6–15–82; 8:45 am]

BILLING CODE 6717–01–M

[2] The *alternative* first and third substitute tariff sheets reflect a 6.26¢ per Mcf reduction from their counterparts filed by El Paso on April 30, 1982.

[Project No. 6160–000]

Energenics Systems Inc.; Application for Preliminary Permit

June 10, 1982.

Take notice that Energenics Systems, Inc. (Applicant) filed on April 2, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6160 to be known as the Monongahela Lock and Dam No. 2 located on the Monongahela River in Allegheny County, Pennsylvania. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Granville J. Smith, II, Energenics Systems, Inc., 1717 K Street, N.W., Suite 706, Washington, D.C. 20006.

Project Description—The proposed project would utilize the existing existing Corps of Engineers' Monongahela Lock and Dam No. 2 and would consist of: (1) A new powerhouse containing six generating units with a total rated capacity of 18,480 kW; (2) 4 miles of 138-kV transmission line; and (3) appurtenant facilities. The Applicant estimates that the average annual energy output would be 42.6. GWh. The most likely market for the energy derived at the proposed project would be the Duquesne Light Company.

Purposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit is $50,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 20, 1982, the competing application itself [see 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 23, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981)], as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 23, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION","COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16142 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6269-000]

Energenics Systems Inc. Application for Preliminary Permit

June 10, 1982.

Take notice that Energenics Systems Inc. (Applicant) filed on April 28, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6269 to be known as the Chatfield Lake Dam Project located on the South Platte River in Douglas County, Colorado. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Granville J. Smith II, Energenics Systems Inc., 1717 K Street, NW., Suite 706, Washington, D.C. 20006.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' Chatfield Lake Dam and Reservoir and would consist of: (1) A proposed 250-foot long, 10-foot diameter penstock; (2) a proposed powerhouse containing one turbine-generator unit with a rated capacity of 2170 kW; (3) a proposed 100-foot long tailrace; (4) a proposed 2-mile long, 230-kV transmission line; and (5) appurtenant facilities. Applicant estimates that the average annual energy output would be 8,550 MWh and plans to sell the power to the Public Service Company of Colorado.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $35,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 13, 1982, the competing application itself [see 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 16, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 16, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16143 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-152-000]

Federal Paper Board Co., Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

June 10, 1982.

On May 26, 1982, Federal Paper Board Company, Inc., 75 Chestnut Ridge Road, Montvale, New Jersey 07645, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The facility will be located in the city of Commerce, California. The facility

will be a topping-cycle congeneration unit, which will produce electricity to be sold to a local utility and will supply steam to Federal Paper Board Company, Inc.'s manufacturing plant. Some of the electricity will be repurchased by Federal. Installation of the facility will begin in June 1982. The facility's primary energy source will be natural gas, with oil as its primary back-up fuel. The power production capacity of the facility will be approximataely 23,500 to 24,500 kilowatts. No electric utility, electric utility holding company, or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before July 16, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16127 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-151-000]

David Goodman and George Oliver; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

June 10, 1982.

On May 26, 1982, David Goodman and George Oliver, c/o 80 Eighth Avenue, New York, New York 10011, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The hydroelectric small power production facility will be located on the Fishkill Creek in Beacon, Dutchess County, New York. The electric power production capacity of the facility will be 750 kilowatts. There are no other facilities located within one mile of the facility which use the same energy source and are owned by the Applicant. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before July 16, 1982, and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16128 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-4-000 (PGA82-2, IPR82-2)]

Granite State Gas Transmission, Inc.; Notice of Proposed Changes in Rates Pursuant to Purchase Gas Cost Adjustment Provisions

June 10, 1982.

Take notice that Granite State Gas Transmission, Inc. (Granite State), 120 Royall Street, Canton, Massachusetts 02021, on May 28, 1982, tendered for filing First Revised Sheet Nos. 7 and 9 in its FERC Gas Tariff, First Revised Volume No. 1, containing proposed changes in rates for effectiveness on July 1, 1982.

According to Granite State, the instant rate adjustments reflect an increase in its cost of gas purchased from Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) which Tennessee proposes to make effective July 1, 1982, and the amortization of Unrecovered Purchased Gas Costs. It is stated that Granite State's filing is made pursuant to the purchase gas cost adjustment provision in Section XIX of the General Terms and Conditions of its tariff.

Granite State further states that its rate adjustments are applicable to its wholesale sales to its two affiliated distribution company customers: Bay State Gas Company and Northern Utilities, Inc. According to Granite State, the effect of the proposed rates in its filing is an increase of approximately $13,771,730 annually, based on purchases and sales for the twelve months ended March 31, 1982.

According to Grantie State, copies of the filing were served upon its customers and the regulatory commissions of the States of Maine, Massachusetts, and New Hampshire.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16113 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-562-000]

Illinois Power Co.; Notice of Filing

June 10, 1982.

The filing Company submits the following:

Take notice that Illinois Power Company ("the Company") on June 1, 1982 tendered for filing proposed changes in the following rate schedules:

Rate Schedule FPC No. 52, applicable to Clinton County Electric Cooperative, Inc.

Rate Schedule FPC No. 53, applicable to Corn Belt Electric Cooperative, Inc.

Rate Schedule FPC No. 54, applicable to Farmers Mutual Electric Company

Rate Schedule FPC No. 55, applicable to Illinois Valley Electric Cooperative, Inc.

Rate Schedule FPC No. 56, applicable to McDonough Power Cooperative

Rate Schedule FPC No. 57, applicable to Monroe County Electric Cooperative, Inc.

Rate Schedule FPC No. 58, applicable to Southwestern Electric Cooperative, Inc.

Rate Schedule FPC No. 59, applicable to Tri-County Electric Cooperative, Inc.

Rate Schedule FPC No. 60, applicable to Western Illinois Power Cooperative, Inc.

The proposed changes would increase revenues from jurisdictional sales and service by approximately $2,206,429 based on the twelve month period ended December 31, 1981.

The Company states that with the present rates it earned an inadequate rate of return on electric sales to these customers during the tweleve months ended December 31, 1981. Continuing increases in cost of capital, labor and materials and supplies are expected to further reduce the Company's earnings. The Company states that the electric rate changes made by this filing are necessary to more fully provide compensation for these increasing costs. The Company proposes the increased rates become effective on June 1, 1982 as agreed to by the Company and each of its nine electric cooperative customers.

Copies of the filing were served upon the Company's electric cooperative customers, the Association of Illinois Electric Cooperatives, and the Illinois Commerce Commission, Springfield, Illinois.

Any person desiring to be heard or to protest said application should fire a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16144 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-550-000]

Indiana & Michigan Electric Co.; Notice of Filing

June 10, 1982.

The filing Company submits the following:

Take notice that Indiana & Michigan Electric Company, on May 28, 1982, tendered for filing proposed changes in its FERC Electric Tariffs MRS and WS For Municipal Resale Electric Service, Original Volumes No. 1. The proposed changes would increase annual revenues from jurisdictional sales and service in two steps or by approximately $6,416,179 in the first step and an additional increase in the amount of approximately $8,069,105 in the second step or a total increase of approximately $14,485,284 based on the 12-month period ending December 31, 1982. Indiana & Michigan Electric Company proposes that the rates and charges and the terms and conditions of service revised by this filing become effective July 28, 1982 but requests that the Commission exercise its authority under the Federal Power Act and suspend the effective date of the proposed second step for five months or until December 28, 1982.

Copies of the filing were served upon the affected municipal customers, the Public Service Commission of Indiana and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 24, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16152 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-555-000]

Indiana & Michigan Electric Co.; Notice of Filing

June 9, 1982.

The filing Company submits the following:

Take notice that Indiana & Michigan Electric Company, on May 28, 1982, tendered for filing proposed changes in its FERC Electric Tariff No. 25 for service to Michigan Power Company. The proposed changes would increase annual revenues from jurisdictional sales and service in two steps or by approximately $2,923,965 in the first step and an additional increase in the amount of approximately $3,729,124 in the second step or a total increase of approximately $6,653,089 based on the 12-month period ending December 31, 1982. Indiana & Michigan Electric Company proposes that the rates and charges and the terms and conditions of service revised by this filing become effective July 28, 1982 but requests that the Commission exercise its authority under the Federal Power Act and suspend the effective date of the proposed second step for five months or until December 28, 1982.

Copies of the filing were served upon Michigan Power Company and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16153 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-556-000]

Indiana and Michigan Electric Co.; Notice of Filing

June 9, 1982.

The filing Company submits the following:

Take notice that Indiana & Michigan Electric Company, on May 28, 1982, tendered for filing proposed changes in its FERC Electric Tariff No. 22 for service to Northern Indiana Public Service Company. The proposed changes would increase annual revenues from jurisdictional sales and service in two steps or by approximately $13,995,470 in the first step and an additional increase in the amount of approximately $12,417,297 in the second step or a total increase of approximately $26,412,767 based on the 12-month period ending December 31, 1982. Indiana & Michigan Electric Company proposes that the rates and charges and the terms and conditions of service revised by this filing become effective July 28, 1982 but requests that the Commission exercise its authority under the Federal Power Act and suspend the effective date of the proposed second step for five months or until December 28, 1982.

Copies of the filing were served upon Northern Indiana Public Service Company and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16154 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-557-000]

Indiana & Michigan Electric Co.; Notice of Filing

June 9, 1982.

The filing Company submits the following:

Take notice that Indiana & Michigan Electric Company (I&M), on May 28, 1982, tendered for filing proposed changes in Schedule A—Firm Power which is part of the Interconnection Agreement between I&M and the City of Richmond, Indiana. The proposed changes would increase annual revenues from jurisdictional sales and service in two steps or by approximately $888,985 in the first step and an additional increase in the amount of approximately $714,674 in the second step or a total increase of approximately $1,603,859 based on the 12-month period ending December 31, 1982. Indiana & Michigan Electric Company proposes that the rates and charges and the terms and conditions of service revised by this filing become effective July 28, 1982 but requests that the Commission exercise its authority under the Federal Power Act and suspend the effective date of the proposed second step for the five months or until December 28, 1982.

Copies of the filing were served upon Richmond and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16155 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-559-000]

Indiana & Michigan Electric Co.; Notice of Filing

June 9, 1982.

The filing Company submits the following:

Take notice that Indiana & Michigan Electric Company (I&M), on May 28, 1982, tendered for filing proposed changes in its FERC Electric Tariff REC-1, applicable to service to rural electric cooperative wholesale for resale customers. The proposed changes would increase annual revenues from jurisdictional sales and service in two steps or by approximately $3,063,162 in the first step and an additonal increase in the amount of approximately $4,017,301 in the second step or a total increase of approximately $7,080,463 based on the 12-month period ending December 31, 1982. I&M proposes that the rates and charges and the terms and conditions of service revised by this filing become effective July 28, 1982 but requests that the Commission exercise its authority under the Federal Power Act and suspend the effective date of the proposed second step for the finve months or until December 28, 1982.

Copies of the filing were served upon the affected cooperative customers, the Public Commission of Indiana and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 4, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16156 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4198-001]

Indiana Municipal Power Agency; Surrender of Preliminary Permit

June 10, 1982.

Take notice that Indiana Municipal Power Agency, (IMPA) Permittee for the U.S. Army Corps of Engineers' Cagles Mill Dam and Reservoir, Project No. 4198 has requested that its preliminary permit be terminated. The preliminary permit was issued June 5, 1981 and would have expired on November 1, 1982. The project would have been located on the Mill Creek in Putnam County, Indiana. IMPA cites that after extensive investigations, "the Cagles Mill Dam and Reservoir is not economically attractive to the Indiana Municipal Power Agency".

IMPA filed its request on May 19, 1982, and the surrender of its permit for Project No. 4198 has been deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16157 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-560-000]

Kanawha Valley Power Co.; Notice of Filing

June 10, 1982.

The filing company submits the following:

Take notice that Kanawha Valley Power Company (Kanawha) on May 28, 1982, tendered for filing modifications to its 1935 and 1937 Agreements with Appalachian Power Company (Appalachian) providing for the supply of power and energy from Kanawha's Marmet in London (Project No. 1175) and Winfield (Project No. 1290) hydro-electric plants, respectively, to be effective August 1, 1982.

The modifications would increase annual revenues to Kanawha for sales to Appalachian by $226,496 based on the 12-month period ending July 31, 1982.

The proposed changes are required due to increases in the cost of providing

service under the 1935 and 1937 Agreements since the last rate modification in 1980. Kanawha states that its calendar 1981 operations for sales of power and energy to Appalachian resulted in a rate of return of 2.31%. The rates under the proposed modification are designed to provide Kanawha with the opportunity to earn a 11.82% overall return. Both Kanawha and Appalachian are affiliates of the American Electric Power System. The proposed rate increase is also requested in order for the Company to achieve sufficient revenues to meet the normalization requirements of the Economic Recovery Tax Act of 1981.

Kanawha states that a copy of the filing has been provided to the West Virginia Public Service Commission, the State Corporation Commission of Virginia and Appalachian Power Company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16158 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-551-000]

Kentucky Power Co.; Notice of Filing

June 9, 1982.

The filing Company submits the following:

Take notice that on May 27, 1982, Kentucky Power Company (Kentucky) tendered for filing proposed changes in its electric resale rate schedules presently on file with the Commission which are applicable to the City of Vanceburg, Kentucky and the City of Olive Hill, Kentucky. Based on test period 12 months endings September 30, 1981 conditions, Kentucky estimates that the proposed changes in resale rates will increase annual revenues from the City of Vanceburg by $84,622, or 13.1%, and from the City of Olive Hill by $104,644, or 24.2%.

Kentucky states that the increase in wholesale rates is needed to compensate the Company for increased costs of doing business and to achieve a reasonable rate of return of 13.18%.

Kentucky requests an effective date of July 27, 1982.

Copies of the filing were served upon the City of Vanceburg, the City of Olive Hill and the Kentucky Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16150 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-100-000]

Midwestern Gas Transmission Co.; Tariff Filing

June 10, 1982.

Take notice that on May 27, 1982, Midwestern Gas Transmission Company (Midwestern) tendered for filing the following tariff sheets to Original Volume No. 1 of its FERC Gas Tariff to be effective July 1, 1982.

Third Revised Sheet No. 6
First Revised Sheet No. 163
Second Revised Sheet No. 168

Midwestern states that the purpose of the revised tariff sheets is (1) to correct the base gas tariff rate for Midwestern's Northern System and (2) to reflect the proper treatment of exchange transactions in the accounting of unrecovered purchased gas costs and a clarification of the treatment of storage injections and withdrawals and gas costs capitalized in determining Midwestern's actual purchased gas costs.

Midwestern states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16129 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CS69-4-000]

Moran Exploration Inc. (Hytech Energy Corp.; Applications for "Small Producer" Certificates[1]

June 9, 1982.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 25, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will duly be given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No.	Date filed	Applicant
CS69-4-000	[1] 5/21/82	Moran Exploration Inc. (Hytech Energy Corporation), Three Greenspoint Plaza P.O. Box 4502, 233 Benmar Drive, Houston, Texas 77210.
CS71-697-000	[2] 3/16/82	Burk Royalty Co. (Burk Gas Corp.), P.O. Box BRC, 1000 Petroleum Bldg, Wichita Falls, Texas 76307.
CS72-208-001	[3] 5/24/82	Darrow Family Partnership (Ann W. Darrow), P.O. Box 4145, Albuquerque, New Mexico 87106.
CS82-63-000	5/10/82	Swift Energy Company, Two Greenbriar Place, 652 E. North Belt, Suite 200, Houston, Texas 77060.
CS82-64-000	5/10/82	High Plains Exploration, Inc., 3100 North "A" Bldg., B-200, Midland, Texas 79701.
CS82-65-000	5/12/82	John C. Court, 2205 Park Ave., Cincinnati, Ohio 45206.

[1] Effective March 7, 1979 Hytech Energy Corporation changed its name to Moran Exploration Inc.
[2] Effective January 1, 1982 Burk Gas Corp. changed its name to Burk Royalty Co.
[3] Effective March 1, 1982 The Darrow Family Partnership was legally formed, and changed its name from Ann W. Darrow.

[FR Doc. 82-16145 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-553-000]

Ohio Power Co.; Notice of Filing

June 9, 1982.

The filing Company submits the following:

Take notice that Ohio Power Company, on May 28, 1982, tendered for filing proposed changes in its FERC Electric Tariff MRS For Municipal Resale Electric Service, Original Volume No. 1. The proposed changes would increase revenues from jurisdictional sales and service by $1,599,000 based on the 12-month period ending December 31, 1982. Ohio Power Company proposed that the rates and charges and terms and conditions of service revised by this filing become effective July 28, 1982.

Copies of the filing were served upon the affected municipal customers and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16160 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-554-000]

Ohio Power Co.; Notice of Filing

June 9, 1982.

The filing Company submits the following:

Take notice that on May 28, 1982, Ohio Power Company (Ohio) tendered for filing proposed changes in its FERC Electric Service Rate Schedule No. 18, Applicable to service to Wheeling Electric Company. The proposed changes would increase revenues from jurisdictional sales and service by $9,962,000 based on the 12-month period ending December 31, 1982.

Ohio requests an effective date of July 28, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon Wheeling Electric Company and the Public Service Commission of West Virginia.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16161 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-565-000]

Orange and Rockland Utilities Inc.; Notice of Filing

June 10, 1982.

The filing Company submits the following:

Take notice that Orange and Rockland Utilities, Inc. (Orange and Rockland) on June 1, 1982, tendered for filing proposed changes to its FPC Rate Schedule No. 21, Supplement No. 6. The proposed changes would decrease revenues from Rockland Electric Company by $903,073 based on the 12 month period ending December 31, 1981.

Orange and Rockland is also proposing the following changes in the tariff:

(1) To allocate the capital expended on coal conversion facilities and the property taxes and insurance costs associated with these facilities on an energy rather than demand basis and to charge AFUDC on a net of tax basis for such capital expenditures;

(2) To allocate distribution expenses and associated payroll costs;

(3) To modify the formula for determining the cash working fund requirement by using a lead/lag study for fuel and purchased power costs;

(4) To increase the return on equity to 16 percent and to eliminate the ceiling on the equity component of capitalization;

(5) To allocate fuel inventory on an energy rather than demand basis;

(6) To allocate deferred taxes attributable to investment tax credit;

(7) To include specified amortization expenses in the monthly bills;

(8) To modify the rate at which interest will be accrued on unpaid bills; and

(9) To modify the effective date of the tariff and the address of Orange and Rockland as appropriate.

The above changes have been proposed to provide Orange and Rockland with a reasonable return on equity from sales to jurisdictional customers and to allow for the proper

allocation of costs among jurisdictional customers.

Orange and Rockland proposes an effective date of August 1, 1982.

Copies of the filing were served upon the public utility's jurisdictional customers, the Public Service Commission of the State of New York, and the Board of Public Utilities of the State of New Jersey.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16146 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC82-39-000]

Panhandle Eastern Pipe Line Co.; Notice of Tariff Filing

June 10, 1982.

Take notice that on June 1, 1982, Panhandle Eastern Pipe Line Company, P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. TC82-39-000, Fifth Revised Sheet Nos. 2 through 38 to its FERC Gas Tariff, Original Volume No. 1-A, to reflect adjustments in monthly base period volumes of Priority 1 gas requirements of certain Small Customers, all as more fully set forth in the revised tariff sheets.

The revised tariff sheets are proposed to be effective July 1, 1982.

Any person desiring to be heard or to make any protest with reference to said filing should on or before June 25, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16114 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-149-001]

The Pond Lily Great Falls Co.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

June 10, 1982.

On May 21, 1982, The Pond Lily Great Falls Co., c/o Michael Corn, Energy Engineer, 200 Main Street, Sommersworth, New Hampshire 03878, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility is located in Summersworth, New Hampshire. The primary energy source of the facility is Fuel Oil #6. The electric power production capacity of the facility is 900 kilowatts. Waste steam is available for use in textile processes at a rate of 7,200 to 18,500 lbs/hr. Installation of the facility was completed in 1949. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before July 16, 1982, and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are availble for public inspection

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16162 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-143-000]

Rockfish Corp. Woolen Mills Hydroelectric Facility; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

June 10, 1982.

On May 13, 1982, Rockfish Corporation located at Rt. 1, Box 413, Afton, Va. 22920, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be a 525 kilowatt hydroelectric installation located on the Rivanna River in Charlottesville, Virginia. There are no other such facilities located at the same site. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16163 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3807-000]

City of Rocky Mount; Surrender of Preliminary Permit

June 10, 1982.

Take notice that the City of Rocky Mount (Rocky Mount), Permittee for the Rocky Mount Tar River Dam and Reservoir Project No. 3807, has requested that its preliminary permit be terminated. The preliminary permit was issued April 9, 1981 and would have

expired on October 1, 1982. The project would have been located on the Tar River in Nash County, North Carolina. Rocky Mount cites that it cannot satisfy the requirements of the preliminary permit due to a lack of funding.

Rocky Mount filed its request on May 17, 1982, and the surrender of its permit for Project No. 3807 has been deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16130 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-561-000]

San Diego Gas & Electric Co.; Filing

June 10, 1982.

The filing Company submits the following:

Take notice that San Diego Gas & Electric Company (SDG&E) on May 28, 1982, tendered for filing a FERC Electric Tariff under which SDG&E will sell and deliver nonfirm energy to any electric utility for resale in accordance with SDG&E's Service Schedule, SDG&E-2.

SDG&E requests that the filing be made effective on July 25, 1982. Due to the nature of this rate for nonfirm energy, it cannot be predicted when sales will be initiated.

Copies of the filing were served on potential resale customers of SDG&E, and on the State Regulatory Commissions of California and New Mexico.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16164 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5728-001]

Sandy Hollow Hydro Associates; Application for License Less Than 5 MW

June 10, 1982.

Take notice that Sandy Hollow Hydro Associates (Applicant) filed on March 1, 1982, and supplemented on May 17, 1982, an application for license (pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)) for construction and operation of a water power project to be known as the Sandy Hollow Hydroelectric Project No. 5728. The project would be located on the Indian River in Jefferson County, New York. Correspondence with the Applicant should be directed to: Brooke J. Pennypacker, c/o Ware River Power, Inc., P.O. Box 275, Valley Road, South Barre, Massachusetts 01074.

Project Description—The proposed run-of-the-river project would consist of existing project works including: (1) a main concrete dam, about 106 feet long and 14 feet high; (2) three small upstream diversion dams about 3 feet high and having lengths of 18 feet, 22 feet and 28 feet, respectively; (3) a reservoir of negligible storage capacity at an average surface elevation of 411.5 feet m.s.l.; (4) intake structures; (5) a 6-foot diameter and 15-foot long penstock; (6) a powerhouse containing a turbine to be rehabilitated and connected to a new 125 kW alternator. In addition, the Applicant will install three turbine-generator units for a total installed capacity of 515 kW; (7) a transmission line, 300 feet long, and (8) other appurtenances. Applicant estimates an annual average generation of 2,611,254 kWh. Applicant leases the existing facilities from John and Julia Kazak.

Purpose of Project—Project energy would be sold to Niagara Mohawk Power Corporation.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before August 6, 1982, either the competing application itself (See 18 CFR §4.33(a) and (d)) or a notice of intent (See 18 CFR §4.33(b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 6, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST", or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16147 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-6-001]

Sea Robin Pipeline Co.; Notice of Filing of Revised Tariff Sheets

June 10, 1982.

Take notice that on May 28, 1982, Sea Robin Pipeline Company (Sea Robin) tendered for filing Thirtieth Revised Sheet No. 4 to its FERC Gas Tariff, Original Volume No. 1. This tariff sheet and supporting information is being filed pursuant to the Purchased Gas Cost Adjustment provisions set out in Sections 1 and 3 of Sea Robin's Tariff with a proposed effective date of July 1, 1982. In addition, Sea Robin submits Eleventh Revised Sheet No. 4–A to become effective July 1, 1982, in compliance with Federal Energy Regulatory Commission (Commission) orders issued May 11, 1978, and July 12, 1978, at Docket No. RP77–6; and Original Sheet No. 4–B which reflects the estimated incremental pricing surcharges for the period July 1, 1982 through December 31, 1982.

Sea Robin states that these revised tariff sheets and supporting data are being mailed to Sea Robin's jurisdictional customers and interested state commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16116 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-6-000]

Sea Robin Pipeline Co.; (Vermilion Block 22 System); Notice of Filing of Revised Tariff Sheets.

June 10, 1982.

Take notice that on May 28, 1982, Sea Robin Pipeline Company (Sea Robin) tendered for filing as a part of its FERC Gas Tariff, Original Volume No. 2, Fourteenth Revised Sheet Nos. 127–D amd 135–C to become effect July 1, 1982. These revised tariff sheets are being filed pursuant to Section 4 of Sea Robin's Tariff and reflect Sea Robin's cost of gas delivered at Pecan Island, Louisiana, for the six (6) month period beginning July 1, 1982.

Copies of the revised tariff sheets and supporting data are being mailed to Sea Robin's jurisdictional customers and interested state commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16118 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-101-000]

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.; Notice of Tariff Filing

June 10, 1982.

Take notice that on May 28, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) tendered for filing Third Revised Sheet No. 201 to Original Volume No. 1 of its FERC Gas Tariff to be effective July 1, 1982.

Tennessee states that the revised tariff sheet reflects the proper treatment of exchange transaction in the accounting of unrecovered purchased gas costs and a clarification of the treament of storage injections and withdrawals and gas costs capitalized in determining Tennessee's actual purchased gas costs.

Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16117 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-96-000]

Southwest Gas Corp.; Proposed Changes in FERC Gas Tariff

June 10, 1982.

Take notice that Southwest Gas Corporation ("Southwest") on May 28, 1982, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1. The proposed changes would increase revenues from jurisdictional sales and service by $16,055,866 based on the twelve-month period ending March 31, 1982, as adjusted.

The reason for the proposed increase in rates is to compensate Southwest for increases in various items of cost, such as capital, labor, materials and supplies, taxes, and including a claimed rate of return of 15.81 percent.

Copies of the filing were served upon Southwest's jurisdictional customers, Sierra Pacific Power Company and CP National, including the California Public Utilities Commission and the Public Service Commission of Nevada.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16130 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-98-000]

Texas Gas Transmission Corp.; Petition for Waiver of Regulations and Tariff Provisions

June 10, 1982.

Take notice that on May 28, 1982, Texas Gas Transmission Corporation (Texas Gas) filed a petition for waiver of Section 154.38(d)(4) of the Commission's regulations (18 CFR 154.38(d)(4)) and section 23 of the General Terms and Conditions of Texas Gas' currently effective FERC Gas Tariff. The waivers are sought in order to enable Texas Gas to recover, on a reasonably concurrent basis, an estimated $40 million in retroactive payments to be made by Texas Gas to independent producers pursuant to Order Nos. 93 and 93-A, issued in Docket No. RM80-33.

Texas Gas states that pursuant to Order Nos. 93 and 93-A, it is now obligated to make retroactivce payments to producers which, under normal circumstances, would be recorded in Account 191 and recovered in the PGA filing to be made effective February 1, 1983. Due to the magnitude of these payments, deferral on these amounts until Texas Gas' February 1, 1983, PGA filing will have serious detrimental effects on Texas Gas' cash flow, it is stated. Texas Gas therefore requests authority to establish a separate surcharge, to be effective August 1, 1982, through July 31, 1983 in order to recover the retroactive Order No. 93 payments on a basis reasonably concurrent with payment to the producers.

Texas Gas proposes accounting for the payments actually made and amounts collected through a separate subaccount of Account 191. The details concerning the estimated level of payments will be provided, in conjunction with Texas Gas' August 1, 1982 PGA filing. Texas Gas proposes to file a report on or about September 1, 1983, detailing all information concerning the application of the surcharge, including the actual retroactive payments made to producers and the actual amounts recovered through the surcharge. Texas Gas further proposes to apply any overcollections or undercollections to its September 30, 1983, balance in Account 191.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests must be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16131 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CI63-1196-000, et al.]

Texaco Inc., et al.; Applications for Certificates, Abandonment of Service and Petitions to Amend Certificates [1]

June 8, 1982.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 28, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft.[2]	Pressure base
CI63-1196-000, May 24, 1982	Texaco Inc., P.O. Box 2100, Denver, Colorado 80201.	Colorado Interstate Gas Company, Table Rock Field, Sweetwater County, Wyoming.	(3)	14.65
CI78-180-002, May 24, 1982	do	Colorado Interstate Gas Company, Delaney Rim Field, Sweetwater County, Wyoming.	(3)	14.65
CI78-181-005, May 24, 1982	do	Colorado Interstate Gas Company, Delaney Rim Field, Sweetwater County, Wyoming.	(3)	14.65
CI78-182-005, May 24, 1982	do	Colorado Interstate Gas Company, Delaney Rim Field, Sweetwater County, Wyoming.	(3)	14.65
CI78-1203-001, D, June 1, 1982	Sun Exploration and Production Company, formerly Sun Oil Company P.O. Box 20, Dallas Texas 75221.	Colorado Interstate Gas Company, Great Divide Creek Field, Moffat County, Colorado.	(3)	

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft.[3]	Pressure base
CI82-257-000, May 14, 1982 [1]	Northern Gas Products Company, 2223 Dodge Street, Omaha, Nebraska 68102.	Northern Natural Gas Company, Fran Glass; LaCaff; Sale Ranch; Spraberry; and Hutex Fields, Martin County, Texas.	(4)	14.73
CI82-264-000, A, May 21, 1982	Pogo Producing Company, Post Office Box 2504, Houston, Texas 77001.	United Gas Pipe Line Company, Block A-499, High Island Area, Offshore Texas.	(5)	14.73
CI82-265-000, A, May 24, 1982	Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, Oklahoma 73125.	Transcontinental Gas Pipe Line Corporation, Ship Shoal Block 236, Offshore Louisiana.	(5)	14.73
CI82-266-000 (G-9224), B, May 24, 1982.	Texaco Inc., P.O. Box 3109, Midland, Texas 79702	Phillips Petroleum Company-Northern Natural Gas Company, certain acreage in Midway Abo Field, Lea County, New Mexico.	(6)	
CI82-267-000, B, May 24, 1982	MGF Oil Corporation, 1126 Vaughn Building, Midland, Texas 79701.	Pyro Energy Corporation, (originally R. L. Burns), certain acreage in Nolan County, Texas.	(7)	
CI82-268-000 (CI68-1191), B, May 24, 1982.	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Cities Service Gas Company, Northeast Waynoka Field, Woodward County, Oklahoma.	(8)	
CI82-269-000 (CI71-875), B, May 24, 1982.	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Mississippi River Transmission Corporation, Woodlawn Field, Harrison County, Texas.	(9)	
CI82-270-000, A, May 25, 1982	Diamond Shamrock Corporation, P.O. Box 631, Amarillo, Texas 79173.	Panhandle Eastern Pipe Line Company, Block 220, East Cameron Area, Offshore (Federal) Louisiana.	(10)	14.73
CI82-271-000, A, May 25, 1982	Texaco Inc., P.O. Box 60252, New Orleans, Louisiana 70150.	Transco Gas Supply Company, High Island Area, Blocks 545, 546, 547, and 548 OCS, Offshore Texas.	(11)	14.73
CI82-272-000, A, May 26, 1982	Pogo Producing Company, Post Office Box 2504, Houston, Texas 77001.	United Gas Pipe Line Company, Blocks A-545, A-546, A-547, A-548, High Island Area, Offshore Texas.	(5)	14.73
CI82-273-000, E, May 25, 1982 [12]	Pennzoil Company (Successor In Interest To W. E. Burchett et al), P.O. Box 1588, Parkersburg, West Virginia 26101.	Columbia Gas Transmission Corporation, Mingo and McDowell Counties, West Virginia.	(5)	14.65
CI82-274-000, E, May 25, 1982 [13]	Pennzoil Company (Successor In Interest To R. H. Adkins doing business as Kroll Gas Company), P.O. Box 1588, Parkersburg, West Virginia 26101.	Columbia Gas Transmission Corporation, Hull Creek District, Wyoming County, West Virginia.	(5)	14.65
CI82-275-000, B, May 21, 1982	An-Son Corporation, 3814 N. Santa Fe, Oklahoma City, Oklahoma 73118.	Aminoil, North Okarche Field, Kingfisher County, Oklahoma.	(14)	14.65
CI82-276-000, F, May 27, 1982	Oneok Exploration Company (Par. Successor in Interstate To Shell Oil Company), Post Office Box 871, Tulsa, Oklahoma 74102.	Panhandle Eastern Pipeline Company, Southeast Keenan Field, Woodward County, Oklahoma.	(15)	14.65
CI82-277-000, B, May 28, 1982	Phillips Petroleum Company, 336 Home Saving and Loan Bldg., Bartlesville, Oklahoma 74004.	Warren Petroleum Company, Section 7, T4N, R3W, Garvin County, Oklahoma.	(16)	
CI82-278-000, A, June 1, 1982	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001.	Transwestern Pipeline Company, Bell Lake Field, Lea County, New Mexico.	(17)	14.65

[1] Applicants is filing to change delivery point.
[2] Gas reserves were depleted and the wells were plugged and abandoned.
[3] Applicant is willing to render the proposed service and to conform to the provisions of the Natural Gas Act, the Natural Gas Policy Act and the Commission's Rules and Regulations thereunder.
[4] Applicant is willing to accept a certificate of public convenience and necessity conditioned in price to the applicable ceiling rates as established by the Natural Gas Policy Act of 1978.
[5] Applicant is filing under Gas Purchase Contract dated May 21, 1982.
[6] Reserves depleted, lease released.
[7] Present purchaser is unable to pay at least the minimum rate prescribed by Opinion No. 749, or such higher prices as may be authorized under the NGPA. Therefore, abandonment is necessary because it is not in the public interest to require the continuation of an uneconomic sale.
[8] Lease dedicated to contract expired when production ceased.
[9] All acreage surrendered and economical recoverable reserves depleted.
[10] Applicant is filing under Gas Purchase and Sales Agreement dated April 16, 1982.
[11] Applicant if filing under Gas Purchase Contract dated May 19, 1982.
[12] On March 29, 1982 Pennzoil acquired certain assets and property rights of Burchett *et al.*
[13] On March 29, 1982 Pennzoil acquired certain assets and property rights of Kroll Gas Company.
[14] Well is no longer capable of producing and continuation of service is unwarranted and unfeasible.
[15] Applicant acquired this acreage from Shell Oil Company by Farmout Agreement dated December 15, 1980.
[16] Formations dedicated to contract have been plugged.
[17] Applicant is filing under Gas Purchase Agreement dated October 12, 1960 as amended.
[18] Residue Gas Purchase Contract dated November 9, 1970 has been assigned by Alphine Oil Company to Applicant and the same service and sale authorized by the Commission under Alphine's small producer authorization in Docket No. CS71-165 shall be continued without change in amendment effective April 1, 1982.
Filing Code: A—Initial Service, B—Abandonment, C—Amendment to add acreage, D—Amendment to delete acreage, E—Total Succession, F—Partial Succession.

[FR Doc. 82-16148 Filed 6-15-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA82-2-9-000 (PGA82-2, IPR82-2, DCA82-2 and R&D82-2)]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Notice of Rate Change Under Tariff Rate Adjustment Provisions

June 10, 1982.

Take notice that on May 28, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) tendered for filing Third Revised Sheet Nos. 23 through 30, Fourth Revised Sheet No. 21, and Fifth Revised Sheet Nos. 20 and 22 to Original Volume No. 1 of its FERC Gas Tariff to be effective July 1, 1982.

Tennessee states that the purpose of the revised tariff sheets is to adjust Tennessee's rates pursuant to Article XXIII, XXIV, XXV, XXVII and XXIX of the General Terms and Conditions of its FERC Gas Tariff, consisting of a PGA rate adjustment, rate adjustments to reflect curtailment credits, an R&D rate adjustment, and Estimated Incremental Pricing Surcharges. The revised tariff sheets also reflect a special surcharge to recover, over a twelve-month period, estimated retroactive payments to producers pursuant to Commission Order Nos. 93 and 93-A.

Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not service to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16116 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-10-000]

Tennessee Natural Gas Lines, Inc.; Notice of PGA Tariff Filing

June 10, 1982.

Take notice that on May 28, 1982, Tennessee Natural Gas Lines, Inc. ("TNGL"), tendered for filing a rate change, pursuant to the purchased gas cost adjustment ("PGA") provisions of its F.E.R.C. Gas Tariff, First Revised Volume No. 1, and pursuant to §282.602 of the Commission's regulations under the Natural Gas Policy Act of 1978 ("NGPA"), consisting of the following tariff sheets:

Thirty-Ninth Revised Sheet No. PGA-1
Fifth Revised Sheet No. PGA-1-A

TNGL requests that such tariff sheets be allowed to become effective on July 1, 1982.

TNGL states that the purposes of its filing are: to reflect in its rates the changed rates of its sole supplier Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. ("TGP"), which will become effective on July 1, 1982; and, to set forth the estimated Maximum Absorption Capabilities ("MSAC") of its customers as required by § 282.602 of the Commission's regulations under the NGPA.

TNGL states that copies of the filing were served upon its jurisdictional customer, the interested state regulatory commission, its non-jurisdictional customers estimated to be billed for NGPA incremental pricing surcharges, and are available for public inspection at TNGL's offices in Nashville, Tennessee.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426., in accordance with §§ 1.8 or 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings.

Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16119 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5925-000]

Town of Lyons, Colorado; Application for Preliminary Permit

June 10, 1982.

Take notice that the Town of Lyons, Colorado (Applicant) filed on January 29, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 5925 to be known as the Coffintop Project located on South St. Vrain Creek in Boulder County, Colorado. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Hon. L. C. Roberts, Mayor, Town of Lyons, Town Hall, P.O. Box 49, Lyons, Colorado 80540.

Project Description.—The proposed project would consist of: (1) a proposed 235-foot long and 365-foot high zoned earth/rockfill dam to be constructed by the St. Vrain and Left Hand Water Conservancy District as part of their Coffintop Reservoir Pumped Storage Project, FERC Project No. 5076-000; (2) a proposed 800-acre reservoir with a storage capacity of 115,000 acre-feet at a maximum surface elevation of 5,740 M.S.L.; (3) a proposed penstock; (4) a proposed powerhouse containing one 1.36 MW turbine-generator unit operating under a head of 270 feet; (5) a proposed tailrace; (6) a proposed 2-mile long, 115-kV transmission line; and (7) appurtenant facilities. Estimated annual generation would be 3,510,000 kWh, and project energy is proposed to be utilized by the Applicant.

Purposed Scope of Studies Under Permit.—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time the Applicant, as a joint effort the St. Vrain and Left Hand Water Conservancy District, would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and projected power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with the application for FERC license. Applicant estimates that the cost of the studies under permit would be $115,000.

Competing Applications.—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 6, 1982, the competing application itself, or a notice of intent to file a such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 6, 1982, and should specify the type of application forthcoming. Any applications for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than October 15, 1982.

Agency Comments.—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene.—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 6, 1982.

Filing and Service of Responsive Documents.—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal

Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16140 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC82-38-000]

Trunkline Gas Co.; Notice of Tariff Filing

June 10, 1982.

Take notice that on June 1, 1982, Trunkline Gas Company, P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. TC 82-38-000, Fifth Revised Sheet No. 21 C.8 to its FERC Gas Tariff, Original Volume No. 1, to reflect adjustments in monthly base period volumes of Priority 1 gas requirements of certain Small Customers, all as more fully set forth in the revised tariff sheet.

The revised tariff sheet is proposed to be effective July 1, 1982.

Any person desiring to be heard or to make any protest with reference to said filing should on or before June 25, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16120 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-564-000]

Tucson Electric Power Co.; Cancellation

June 10, 1982.

The filing Company submits the following:

Take notice that on June 1, 1982, Tucson Electric Power Company ("Tucson" tendered for filing a Notice of Cancellation of Rate Schedule FERC No. 37, which became effective on July 1, 1980.

Tucson states that the aforementioned Rate Schedule is identified as the "Tucson-Community Public Service Company 1980 Nonfirm Energy Agreement" between Texas-New Mexico Power Company (formerly Community Public Service Company) and Tucson. Tucson requests an effective date of May 31, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16132 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-97-000]

United Gas Pipe Line Company; Filing of Revised Tariff Sheets

June 10, 1982.

Take notice that on May 28, 1982, United Gas Pipe Line Company tendered for filing with the Federal Energy Regulatory Commission (Commission) the tariff sheets listed below to its FERC Gas Tariff, Original Volume No. 2:

Tariff Sheet and Proposed Effective Date

Second Revised Sheet No. 923—July 1, 1982
Third Revised Sheet No. 954—July 1, 1982
Second Revised Sheet No. 1051—July 1, 1982
Third Revised Sheet No. 1068—July 1, 1982
Second Revised Sheet No. 1087—July 1, 1982
Second Revised Sheet No. 1153—July 1, 1982
Second Revised Sheet No. 1170—July 1, 1982
Second Revised Sheet No. 1193—July 1, 1982
First Revised Sheet No. 1232—July 1, 1982
First Revised Sheet No. 1254—July 1, 1982
First Revised Sheet No. 1271—July 1, 1982
First Revised Sheet No. 1293—July 1, 1982
First Revised Sheet No. 1316—July 1, 1982
First Revised Sheet No. 1338—July 1, 1982
First Revised Sheet No. 1356—July 1, 1982
First Revised Sheet No. 1410—July 1, 1982
First Revised Sheet No. 1428—July 1, 1982
First Revised Sheet No. 1477—July 1, 1982
First Revised Sheet No. 1539—July 1, 1982
First Revised Sheet No. 1569—July 1, 1982
First Revised Sheet No. 1604—July 1, 1982
First Revised Sheet No. 1620—July 1, 1982
First Revised Sheet No. 1656—July 1, 1982
First Revised Sheet No. 1672—July 1, 1982
First Revised Sheet No. 1688—July 1, 1982
First Revised Sheet No. 1711—July 1, 1982
First Revised Sheet No. 1755—July 1, 1982
First Revised Sheet No. 1805—July 1, 1982
First Revised Sheet No. 1842—July 1, 1982
First Revised Sheet No. 1864—July 1, 1982
First Revised Sheet No. 1884—July 1, 1982

The purpose of this filing is to show increased volume for fuel and unaccounted for gas as provided in Article II of certin of United's transportation agreements.

United states that copies of these tariff sheets have been mailed to Amoco Production Company, Arkansas Louisiana Gas Company, Chevron Chemical Company, Columbia Gas Transmission Corporation, First Energy Corporation, Florida Gas Transmissioner Company, Michigan Wisconsin Pipe Line Company, Mid Louisiana Gas Company, Mississippi River Transmission Corporation, Mississippi Valley Gas Company, Natural Gas Pipeline Company of America, Shell Oil Company, Southern Natural Gas Company, Tenneco Oil

Company, Tennessee Gas Pipeline Company and Transcontinental Gas Pipe Corporation.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16133 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST82-330-000]

Valero Transmission Co.; Application for Waiver

June 10, 1982.

Take notice that on June 10, 1982, Valero Transmission Company ("Valero") tendered for filing a request that the Commission or its Staff waive certain requirements found in §§ 284.124 and 284.126 of the regulations implementing Section 311(a)(2) of the Natural Gas Policy Act of 1978.

Valero's request for waiver concerns seven transportation arrangements conducted under Section 311(a)(2) on behalf of Texas Eastern Pipeline Company (ST82-331) and Tennessee Gas Pipe Line Company (ST82-332 and 333), United Gas Pipe Line Company (ST82-334 through 337). Valero seeks a waiver to permit reports of these transactions after the time specified in the regulations.

Any person desiring to be heard or protest the affiliation should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 16, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16165 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-105-000]

Victoria Hospital; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

June 10, 1982.

On April 2, 1982, Victoria Hospital, Inc., 955 N.W., 3rd Street, Miami, Florida 33128, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying congeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle congeneration facility will be located in Miami, Florida. The primary energy source of the facility will be natural gas. The electric power production capacity of the facility will be 2500 kilowatts and exhaust gas from the turbine will drive a 450 ton absorption chiller. Installation of the facility will begin in October 1982. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C.20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedures. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16134 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of March 29 through April 2, 1982

During the week of March 29 through April 2, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

June 10, 1982.

Appeals

Bracewell & Patterson, 4/1/82, HFA-0038, HFA-0039

Bracewell and Patterson filed a consolidated Appeal from determinations issued to it by the Acting Assistant Director for Petroleum Analysis of the Office of Program Operations of the Economic Regulatory Administration (ERA) and the Director of the ERA Office of Fuels Regulations (the Director). These determinations were in response to requests for information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE determined that the matter should be remanded to the Director for an adequate description and justification of the subject matter of each document withheld pursuant to Exemption 4 alone, and that the remaining documents were properly withheld under Exemption 5. Accordingly, the Bracewell and Patterson Appeal was granted in part.

Lake Shore, Inc., 3/30/82, HFA-0042

Lake Shore, Inc. filed an Appeal from a denial by the Assistant Manager for Administration of the Oak Ridge Operations Office of a request for information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that information which the Assistance Manager had deleted from technical proposals submitted in response to a DOE Request for Proposals was properly withheld pursuant to Exemption 4. In addition, the DOE released certain previously deleted portions of one proposal sought by Lake Shore on the basis that the submitter

had no objections to their disclosure. Accordingly, the Lake Shore Appeal was granted in part.

Requests for Exception

Commonwealth Oil & Refining Company, 4/1/82, BXE–1575, naphtha

Commonwealth Oil and Refining Co. filed an Application for exception from the provisions of 10 CFR § 211.67(d)(5) (the Naphtha Entitlements Program) in which the firm sought an extension of relief which the DOE has previously granted. In considering the request, the DOE found that the firm had failed to demonstrate that it was continuing to suffer a gross inequity from the provisions of the Naptha Entitlements Program, as modified by regulatory amendments issued in January 1981. Accordingly, exception relief was denied.

Hatcher & Arthur Production Co., 4/2/82, BEE–1687, crude oil

Hatcher & Arthur Production Company filed an Application for Exception from the provisions of 10 C.F.R. § 212.131 in which the firm sought to recertify retroactively certain volumes of crude oil as "newly discovered crude oil." In considering the request, the DOE found that the firm failed to certify its production in a timely manner. Furthermore, the firm never demonstrated that any external circumstances frustrated its attempt to comply with the certification requirements. Accordingly, exception relief was denied.

ICG Vista Petroleums, Inc. (Thunderbird Resources, Inc.), 3/30/82, BEE–0638, crude oil

ICG Vista Petroleums, Inc. (ICG) filed an Application for Exception from the provisions of 10 C.F.R. § 211.65 (the Entitlements Program) or alternatively, 10 C.F.R. § 211.67 (the Buy/Sell Program). The firm requested relief designed to equalize its cost of crude oil with the costs of its principal competitors. This Application was tentatively denied in a proposed Decision and Order issued to ICG. In the final Decision and Order, the DOE considered the Statement of Objections filed by Thunderbird Resources, Inc. (Thunderbird), a division of Flying J, Inc. (Flying J). Thunderbird comprises the domestic refining and marketing operations that previously were operated by ICG but which were acquired by Flying J during the pendency of ICG's Application for Exception. In considering the ICG request and Thunderbird Statement of Objections the DOE found that exception relief was not warranted. With respect to Thunderbird's request for relief beginning with Flying J's acquisition of the ICG operations, the DOE found that exception relief would be inappropriate since any financial difficulties experienced by Flying J would be the result of its discretionary business decision to acquire the ICG operations in full knowledge of the regulatory and operating posture of those operations. With respect to Thunderbird's request for relief for earlier periods, the DOE determined that the firm had failed to show that the DOE regulations, and not the firm's slate of refined products, were responsible for any financial difficulties the firm might have encountered. Accordingly, exception relief was denied.

Remedial Orders

Barbaria Shell Service, BRO–1478
Chip's Chevron Service, BRO–1474
Frank's Airport Chevron, BRO–1472
Half Moon Bay Exxon, BRO–1477
Kent Brooks Chevron, BRO–1473
Lee Kreger's Chevron, BRO–1470
Lombard Chevron Service, BRO–1471
San Bruno Shell, BRO–1475
Steve's Exxon, 3/29/82, BRO–1476, Motor Gasoline

Nine retailers objected to Proposed Remedial Orders that were issued to the firms by the DOE Office of Enforcement. In the Proposed Remedial Orders, the Office of Enforcement found that the objecting firms had charged prices higher than those permitted by 10 CFR 212.93(a)(2). After considering the firms' objections, the DOE determined that the Proposed Remedial Orders should be issued as final Remedial Orders. The DOE also determined that the retailers should be required to make restitution by payment to the U.S. Treasury. The important issues discussed in the Decision include: (i) whether charging a combined cents-per-gallon price for gasoline and service in excess of the maximum lawful selling price permitted by DOE regulations violates 10 CFR 212.93(a)(2), and (ii) the procedural and substantive validity of 10 CFR 210.62(d)(1).

Hassie Hunt Exploration Co., 3/31/82, BRO–1240, crude oil

Hassie Hunt Exploration Co. objected to a Proposed Remedial Order (PRO) which the Economic Regulatory Administration of the Department of Energy (DOE) issued to the firm on May 23, 1980. After considering the firm's objections, which concerned only the remedial provisions of the PRO, the DOE concluded that the PRO should be issued in final form.

The important issues discussed in this Decision and Order include: (i) the PRO recipient's right to contest proposed alternative remedial provisions in the PRO proceeding; and (ii) the DOE's authority to charge interest on overcharges refunded pursuant to a Remedial Order proceeding.

Motions for Discovery and Evidentiary Hearing

Crown Central Petroleum Corporation, 3/31/82, BRD–0108, petroleum products

Crown Central Petroleum Corporation (Crown) filed a Motion for Supplemental Discovery in connection with its Statement of Objections to a Proposed Remedial Order issued to it by the Office of Special Counsel for Compliance of August 31, 1978. In considering Crown's motion, the DOE determined that the majority of Crown's interrogatories and admission requests sought information that Crown could have requested in its initial discovery motion. Such requests were denied. A small number of Crown's requests were granted because they sought to follow up, particularize, or refine information Crown obtained in response to the initial discovery motion. Accordingly, Crown's Motion for Supplemental Discovery was granted in part.

General Petroleum Products, Inc., 4/1/82, BRD–1319; BRH–1319, motor gasoline, heating oil

General Petroleum Products filed a Motion for Discovery and a Motion for an Evidentiary Hearing in connection with a Statement of Objections to a Proposed Remedial Order issued to the firm on September 12, 1980. In its Motion for Discovery the firm sought discovery of (1) all records of any written or oral communications between ERA personnel and non-agency persons regarding General; (2) all computational material contained in the ERA's audit file; and (3) all documents reflecting the basis for the class of purchaser determinations set forth in the PRO. With respect to item 1 above, the DOE found that General had failed to demonstrate that discovery was warranted. However, the DOE ruled that the firm was entitled to obtain copies of audit workpapers and class of purchaser documents that reflect the factual basis for the findings set forth in the PRO. Accordingly, the Motion for Discovery was granted in part.

In its Motion for an Evidentiary Hearing, General sought to present testimony disputing the class of purchaser structure and maximum lawful selling prices set forth in the PRO. General also requested that it be permitted to present testimony regarding equitable and procedural defenses raised in the firm's Statements of Objections. In considering the Motion, the DOE found that an evidentiary hearing would not be the proper forum in which to address the equitable and procedural issues. The DOE further concluded that it should defer consideration of whether an evidentiary hearing should be convened with respect to the class of purchaser and price issues until after the firm has examined the workpapers that the ERA produces as a result of the discovery decision. Accordingly, portions of General's Motion for Evidentiary Hearing were denied and other portions were dismissed without prejudice.

Davis & Forbes, 3/30/82, BRH–0004, BRD–0004, crude oil

Davis & Forbes filed Motions for Evidentiary Hearing and Discovery in connection with its Statement of Objections to a Proposed Remedial Order issued to it by the Economic Regulatory Administration on August 27, 1979. The PRO alleges that the firm improperly treated two contiguous leased premises as one "property" and improperly sold the crude oil produced therefrom pursuant to the stripper well lease exemption. Davis & Forbes claimed that an evidentiary hearing would assist the Office of Hearings and Appeals in determining (1) whether certain water wells produced any crude oil and whether they could therefore be counted in determining the applicability of the stripper well lease exemption; (2) whether the economic characteristics of the two premises constitute a "bona fide reason" for aggregation under Ruling 1977–1; and (3) whether the state production reports accurately reflect the volumes of crude oil produced from the individual properties. In considering the Motion for Evidentiary

Hearing the DOE found that the question of oil production from the water wells could be a material issue only if the two premises were treated as one property; however, the DOE ruled that they were in fact two "properties" irrespective of the firm's intent to treat them as one. The DOE also found that, according to *Sauder v. DOE*, 648 F.2d 1341 (Temp. Emer. Ct. App. 1978), the two properties were not aggregated. Finally, the DOE determined that the firm did not proffer sufficient evidence to raise any doubt over the accuracy of the state production records. Accordingly, the DOE denied the Davis & Forbes Motion for Evidentiary Hearing. Since the firm had received the information it requested in its Motion for Discovery, that Motion was dismissed.

Interlocutory Order

Office of Enforcement, 3/30/82, BRZ–0057, crude oil

The Office of Enforcement of the Economic Regulatory Administration (ERA) filed a Motion to Join Gulf Oil Corporation as a party to an enforcement proceeding. The motion related to a Proposed Remedial Order (PRO) issued by the ERA Southeast District Office on November 2, 1979, to William P. Johnson, trustee for former shareholders of the Ancora-Citronelle Corporation (Ancora). ERA sought Gulf's joinder so it could compel Gulf, the present operator of the East Citronelle Unit, to serve as an agent for the collection of $519,121.26 in alleged overcharges received during the PRO audit period by unit working interest owners other than Ancora, the operator of and substantial working interest owner in the unit during the audit period. In considering the ERA motion, the DOE first determined that Gulf's joinder would not be permitted under the Federal Rules of Civil Procedure. The DOE also determined that Gulf's joinder would not promote the efficient conduct of the enforcement proceeding. In this regard, the DOE observed that ERA could have held Ancora itself liable for the $1.1 million in alleged overcharges received by all working interest owners on the East Citronelle Unit during the audit period had ERA officials not reduced Ancora's contingent liability in the proceeding from $1.2 million to $692,000. Additionally, the DOE found that it was uncertain whether the refund scheme ERA sought to have Gulf administer would serve its intended purpose of disgorging any unjust gains received by working interest owners other than Ancora during the audit period. Accordingly, the ERA Motion to Join Gulf was denied.

Protective Order

The following firm filed an Application for Protective Order. The application, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following application and issued the requested Protective Order as an Order of the Department of Energy:

Name and Case No.

Gulf Oil Corp., HRJ–0008

Dismissals

The following submissions were dismissed without prejudice:

Name and Case No.

Newsday, HFA–0047
Sierra Club Legal Defense Fund, Inc., HFA–0048.

[FR Doc. 82–16235 Filed 6–15–82; 8:45 am]
BILLING CODE 6450–01–M

Issuance of Decisions and Orders; Week of April 26 Through April 30, 1982

During the week of April 26 through April 30, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

June 10, 1982.

Appeals

Charles V. Gorsey, 4/29/82, HFA–0050

Charles V. Gorsey filed an Appeal from a response issued by the Director of the Division of FOI and Privacy Acts Activities to a request for access to records under the Privacy Act of 1974. In his Appeal, Mr. Gorsey contended that the Director's response failed to identify and release a responsive document. In considering the Appeal, the DOE found that the right of access under the Privacy Act is limited to records within a "system of records." The DOE further found that the document was not within a system of records and, therefore, the document sought by Mr. Gorsey was not responsive to a Privacy Act request. Accordingly, the Appeal was denied.

Terry F. Lenzner, 4–28–82, BFA–0511

Terry F. Lenzner filed an Appeal from a partial denial by the Deputy Assistant Secretary for International Resources of a request for information which he had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that certain portions of the documents which were initially withheld under Exemptions 1 and 5 should be released to the public. Accordingly, the Appeal was granted in part.

Remedial Orders

Name and Number

Alameda Chevron Service, BRO–1480
Alemany Chevron Service, BRO–1481
Grapevine Shell, BRO–1460
Peninsula Avenue Shell, BRO–1479
Ron's Shell, BRO–1515
Terry McGovern's Shell, BRO–1512

4–27–82

Alemeda Cheveron *et al.* objected to Proposed Remedial Orders that were issued to the firms by the DOE Office of Enforcement. In the Proposed Remedial Orders, the Office of Enforcement found that the objecting firms has charged prices higher than those permitted by 10 CFR 212.93(a)(2). After considering the firms' objections, the DOE determined that the Proposed Remedial Orders should be issued as final Remedial Orders. The DOE also determined that the Proposed Remedial Orders should be modified to require that payment of the overcharges be deposited into the U.S. Treasury. The important issues discussed in the Decision include: (i) whether charging a combined cents-per-gallon price for gasoline and service in excess of the maximum lawful selling price permitted by DOE regulations violates 10 CFR 212.93(a)(2), and (ii) the procedural and substantive validity of 10 CFR 210.62(a)(1).

Requests for Exception

Raypak, Inc., Teledyne Laars, 4–26–82, HXE–0012, HXE–0013

Raypak, Inc. and Teledyne Laars filed an Application for Exception from the provisions of 10 CFR Part 430 (the Energy Conservation Program for Consumer Appliances) in which the firms requested that they be relieved of their obligations to test the energy efficiency and fuel utilization of the finned copper tube type boilers (FCT boilers) they manufacture, extending the exception granted to the firms in *Raypak, Inc.*, 7 DOE 81,098 (1980). The firms also requested an order directing DOE officials responsible for amending the applicable test procedures to commence a rulemaking proceeding within the specified period of time. In considering the requests, the DOE found that the current test procedures did not accurately measure the efficiency of the FCT boilers manufactured by the firm. The DOE further determined that requiring the firms to test their FCT boilers in accordance with the current test procedures would contravene national energy policy objectives and result in a gross inequity to the firms. Accordingly, exception relief was granted that would relieve the firms of their obligations to test the efficiency of the FCT boilers they manufacture. However, the DOE rejected the firms' request for an order that would influence the rulemaking agenda.

Tosco Corporation, 4–28–82, BEE–1640

Tosco Corporation filed an Application for Exception from the provisions of 10 CFR 211.67 (the entitlements program) in which the firm sought additional entitlements to reduce the post entitlements cost of the crude oil the firm purchased. In considering the request, the DOE found that the firm did not meet the standards for retroactive exception

relief, and failed to show that it suffered a gross inequity as a result of the operation of the entitlements program. Accordingly, exception relief was denied.

Supplemental Order

Vickers Energy Corp./Riess Ford Sales, Inc., Vickers Energy Corp./Smith Service Center, Vickers Energy Corp./Paul Palmer, 4–29–82, HFX–0023

On July 17, 1981, the DOE issued a Decision and Order implementing special refund procedures with respect to a $2,850,000 fund obtained by the DOE through a consent order with Vickers Energy Corporation. *See Office of Enforcement (Vickers),* 8 DOE ¶ 82,597 (1981). The July 17 Decision stated that the DOE would accept applications for refund filed by purchasers of Vickers motor gasoline from other than company-operated retail outlets. The April 29 Decision addresses 3 applications for refund filed in connection with the Vickers proceeding. Each of the applications was denied because it failed to meet one of the requirements set forth in previous proceedings with respect to the Vickers escrow fund. One application stated that the applicant purchased motor gasoline that was refined by a firm other than Vickers. The second application was filed by the operator of a company-operated outlet. The third application claimed a refund for an amount less than the $15 minimum amount necessary for a claim to be paid. Accordingly, the applications were denied.

Protective Orders

The following firms filed Applications for Protective Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Orders submitted by the firms. The DOE granted the following applications and issued the requested Protective Orders as Orders of the Department of Energy:

Name and Case No.

Marathon Oil Company, HRJ–0017
Growmark, Inc., HRJ–0018

Dismissals

The following submissions were dismissed without prejudice:

Name and Case No.

Demenno/Kerdonn, BEA–0180, BEA–0181
Gene's Chevron (McGrady), BRO–1491
Joe Oil, Inc., DRO–0404

[FR Doc. 82–16236 Filed 6–15–82; 8:45 am]
BILLING CODE 6450–01–M

Objection to Proposed Remedial Orders Filed; Week of April 26 through April 30, 1982

During the week April 26 through April 30, 1982, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 on or before July 6, 1982. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

June 10, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

Western Avenue Properties, Los Angeles, California, HRO–0047, Crude Oil

On April 29, 1982, Western Avenue Properties located in Los Angeles, California filed a Notice of Objection to a Proposed Remedial Order which the DOE Los Angeles District Office of Enforcement issued to the firm on March 26, 1982. In the PRO, the Los Angeles District found that during the period April 1, 1975 to January 27, 1981, Western Avenue miscertified crude oil that it produced to an improper tier category.

According to the PRO, the Western Avenue violation resulted in $151,114.20 of overcharges.

Crystal USA Oil, Inc., Mountain Brook, Alabama, HRO–0046, Motor Gasoline

On April 29, 1982, Crystal USA Oil, Inc., 3928 Montclair Rd., Suite 218, Mountain Brook, Alabama 35213, filed a Notice of Objection to a Proposed Remedial Order which the DOE Southeast District Office of Enforcement issued to the firm on March 23, 1982. In the PRO, the Southeast District found that during the period January 1979 to April 1980, Crystal USA Oil Inc. sold motor gasoline to its customers at prices in excess of those permitted by 10 CFR 122.93.

According to the PRO, the Crystal USA Oil Co. violation resulted in $301,057.12 of overcharges.

[FR Doc. 82–16239 Filed 6–15–82; 8:45 am]
BILLING CODE 6450–01–M

Issuance of Proposed Decisions and Orders; Period of May 24 Through June 4, 1982

During the period of May 24 through June 4, 1982, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

June 10, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

Golden Eagle Refining Co., Washington, D.C., BEE–1313 Crude Oil

Golden Eagle Refining Company filed an Application for Exception from the provisions of 10 CFR 211.67. The exception request, if granted, would result in Golden Eagle being issued additional entitlements to sell in order to reduce the firm's monthly per barrel post-entitlements crude oil costs to a level approximating the costs of the average domestic refiner. The firm requested such relief for all Entitlements Notices starting with the Notice issued in October 1979. On June 3, 1982, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Southwest Petrorefining Co., Donna, Texas, BEE–1513, Crude Oil

On October 23, 1980, Southwest Petrorefining Company (SWP) filed an Application for Exception from the provisions of 10 CFR 212.94, as modified by Special Rule No. 2. The exception request, if granted, would designate a selected refiner-seller to sell SWP the volumes of crude oil allocated to the firm under the Buy/Sell program for the October 1980 through March 1981 allocation period. This allocated crude oil would be sold at the weighted average cost incurred by that refiner-seller for all of its crude oil, rather than at the seller's weighted average cost for its imported low sulfur crude oil. On June 2,

1982, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 82-16240 Filed 6-15-82; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PF-277; PH-FRL 2144-4]

Certain Companies; Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide petitions relating to the establishment and amendment of tolerances for residues of certain pesticide chemicals in or on certain raw commodities.

ADDRESS: Written comments to the product manager (PM) cited in each specific petition at the address below: Registration Division (TS-767C), Office of Pesticide Programs, 401 M St. SW., Washington, DC 20460.

Written comments may be submitted while the petitions are pending before the Agency. The comments are to be identified by the document control number "[PF-277]" and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each petition at the telephone number provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide petitions (PP) relating to the establishment and amendment of tolerances for residues of certain pesticide chemicals in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

PP-1F2500. In the **Federal Register** of June 9, 1981 (46 FR 30563), EPA announced that Ciba Geigy Corp., P.O. Box 11422, Greensboro, NC 27409, had submitted PP 1F2500 proposing to amend 40 CFR 180 by establishing tolerances for residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl)alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety each expressed as metalaxyl in or on the following commodities: spinach at 10.0 parts per million (ppm); soybean forage and fodder at 7.0 ppm; green onions at 5.0 ppm; wheat forage and straw at 2.0 ppm; tomatoes at 1.0 ppm; dry bulb onions at 1.0 ppm; kidney of cattle, goats, hogs, horses, poultry and sheep at 1.0 ppm; broccoli, cabbage, and cauliflower at .6 ppm; cucumbers, head lettuce, potatoes and soybean grain at .5 ppm; melons at .3 ppm; liver of cattle, goats, hogs, horses, poultry, and sheep at .3 ppm; wheat grain at .2 ppm; cottonseed at .1 ppm; eggs and meat of poultry (excluding liver and kidney) at .05 ppm; fat, meat, and meat by-products (excluding liver and kidney) at .05 ppm; and milk at .02 ppm.

Ciba Geigy Co. has amended the petition as follows:

a. Increase the tolerance levels for the raw commodities cucumbers from .5 ppm, to 1.0 ppm; green onions from 5.0 ppm to 10.0 ppm; and melons from .3 ppm, to 1.0 ppm.

b. Delete spinach, soybean forage and fodder, wheat forage and straw, broccoli, cabbage, cauliflower, head lettuce, soybean grain, and wheat grain. The proposed analytical method for determining residues is by gas chromatography with flame ionization detector or mass spectrometry. (Henry Jacoby, PM 21, 703-557-1900).

PP 2F2673. Nor-Am Agricultural Product Inc., 350 West Shuman Boulevard, Naperville, IL 60566. Proposes amending 40 CFR 180.353 by establishing tolerances for residues of herbicide desmedipham (ethyl-*m*-hydroycarbanilate carbanilate) in or on the raw agricultural commodity sunflower seeds at 0.2 ppm. The proposed analytical method for determining residues is gas chromatography with a Ni63 electron capture detector. (Robert Taylor, PM 25, 703-557-1800).

FAP 2H5345. Chevron Chemical Co., 940 Hensley St., Richmond, CA 94804. Proposes amending 21 CFR 561.289 by establishing a regulation permitting residues of herbicide paraquat (1,1'-dimethyl-4,4'-bipyridinium-ion) derived from application of either the dichloride or bis (methyl sulfate) salt, (both calculated as the cation) in or on the commodity soybean hulls at 1.0 ppm. (Robert Taylor, PM 25, 703-557-1800).

PP 2F2672. Chevron Chemical Co. Proposes amending 40 CFR 180.205 by increasing the tolerance for the residues of the herbicide paraquat in or on soybeans from 0.05(N) ppm to 0.2 ppm. The proposed analytical method for determining residues is freeing of the paraquat cation with ammonium chloride, reduction by sodium dithionite and determination by spectrophotometry. (Robert Taylor, PM 25, 703-557-1800).

PP 2F2670. BASF Wyandotte Corp., P.O. Box 181, Parsippany, NJ 07054. Proposes amending 40 CFR 180 by establishing tolerances for residues of herbicide 2-(1-ethoxyimino)butyl]-5-(2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one and its metabolites containing the 5-(2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one moiety and the 5-(2-(ethylthio)propyl]-3,5-dihydroxy-2-cyclohexen-1-one moiety and their several thioxidation products (calculated as the herbicide) in or on the raw commodities soybeans at 20 ppm; fat, meat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 20 ppm; eggs and milk at 0.05(N) ppm. The proposed analytical method for determining residues is gas chromatography using sulfur-specific FDP detector. (Robert Taylor, PM 25, 703-557-1800).

PP 2F2666. PPG Industries, Inc., P.O. Box 31, Barberton, OH 44203. Proposes amending 40 CFR 180 by establishing an exemption from the requirement of tolerance for residues of the herbicide PPG-1292 [2,2-dichloro-*N*-(1,3-dioxolan-2-ylmethyl)-*N*-2-propenyl-acetomide] when used in formulations of the herbicides butylate (*S*-ethyl diisobutylthiocarbamate); EPTC (*S*-ethyl dipropylthiocarbamate) and vernolate (*S*-propyl dipropylthiocarbamate) when applied to corn fields before the corn plants emerge from the soil and according to the following restrictions: the inert ingredient PPG-1292, is used as a crop injury protectant and is limited to 7.25 percent of the herbicide formulation with a maximum application rate of 0.5 lb PPG-1292 per acre. The proposed analytical method for determining residues is gas chromatography equipped with an electron capture detector. (Robert Taylor, PM 25, 703-557-1800).

PP 2F2679. Union Carbide Corporation, T.W. Alexander Dr., Research Triangle Park, NC 27709. Proposes amending 40 CFR 180.269 by establishing tolerances for the residues of insecticide/nematocide aldicarb (2-methyl-2(methylthio) propionaldehyde *O*-(methylcarbamoyl)oxime and its cholinesterase-inhibiting metabolites 2-methyl 2-(methylsulfinyl)proprionaldehyde *O*-(methylcarbamoyl)oxime and 2-methyl-2-(methylsulfonyl) propionaldehyde *O*-(methylcarbamoyl)oxime in or on the commodities field corn, fodder and forage at 0.6 ppm and field corn grain at 0.05 ppm. The proposed analytical method for determining residues is by gas chromatography using a flame

photometric detector. (Jay Ellenberger, PM 12, 703–557–2386).

FAP 2H5347. Union Carbide Corp. Proposes amending 21 CFR 561.30 by establishing a regulation permitting residues of insecticide/nematocide aldicarb in or on the commodity tomato pomace at 0.4 ppm. (Jay Ellenberger, PM 12, 703–557–2386).

PP 2F2675. Proposes amending 40 CFR 180.378 by establishing tolerances for the residues of permethrin ((3-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate) in or on the raw commodities almonds at 0.05 ppm and almond hulls at 19.0 ppm. The proposed analytical method for determining residues is gas chromatography with a Ni63 electron capture. (Franklin D.R. Gee, PM 17, 703–557–2690).

(Sec. 408(d)(1), 68 Stat. 512 (7 U.S.C. 136))
(Sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348))

Dated: June 4, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-15630 Filed 6-15-82; 8:45 am]
BILLING CODE 6560-50-M

[OPP-00157; pH-FRL 2144-3]

State FIFRA Issues Research and Evaluation Group (SFIREG); Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a two-day meeting of the State FIFRA Issues Research and Evaluation Group (SFIREG). The meeting will be open to the public.

DATES: Wednesday, July 14, and Thursday, July 15, 1982, beginning at 8:30 a.m. on July 14 and ending prior to 12 noon on July 15.

ADDRESS: The meeting will be held at: Environmental Protection Agency, Waterside Mall, Rm. 3906–3908, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: P.H. Gray, Jr., Office of Pesticide Programs (TS–766C), Environmental Protection Agency, Rm. 1115B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–7086).

SUPPLEMENTARY INFORMATION: This will be the twelfth meeting of the full Group. The tentative agenda thus far includes the following topics:

1. Action items from the March 1982 meeting of the SFIREG.
2. Regional reports.
3. Working Committee reports.
4. Other topics which may arise.

Dated: June 4, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 82-15640 Filed 6-15-82; 8:45 am]
BILLING CODE 6560-50-M

[PP 1G2441/T379; PH-FRL 2145-1]

American Hoechst Corp.; Extension of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended a temporary tolerance for the combined residues of the insecticide [1R[1(S*)3(RS*)]]–2,2-dimethyl-3-(1,2,2,2-tetrabromoethyl)cyclopropanecarboxylic acid alpha-cyano-(3-phenoxyphenyl)methyl ester, and its metabolite in or on the raw agricultural commodity cottonseed.

DATE: This temporary tolerance expires July 1, 1983.

FOR FURTHER INFORMATION CONTACT: Franklin Gee, Product Manager (PM) 17, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 207 CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–2690).

SUPPLEMENTARY INFORMATION: EPA issued a notice, that was published in the Federal Register of December 16, 1981, (46 FR 61319), announcing the establishment of a temporary tolerance for the combined residues of the insecticide [1R[1(S*)3(RS*)]]–2,2-dimethyl-3-(1,2,2,2-tetrabromoethyl)cyclopropanecarboxylic acid alpha-cyano-(3-phenoxyphenyl)methyl ester, and its metabolite (1R, 3R)3–(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylic acid (S) alpha-cyano-(3-phenoxyphenyl)methyl ester in or on the raw agricultural commodity cottonseed at 0.02 part per million (ppm). This temporary tolerance was issued in response to pesticide petition (PP 1G2441), submitted by American Hoechst Corporation, Agricultural Division, Route 202–206 North, Sommerville, NJ 08876.

This temporary tolerance has been extended to permit the continued marketing of the raw agricultural commodity named above when treated in accordance with the provisions of experimental use permit 8340–EUP–6, which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that the extension of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. American Hoechst Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires July 1, 1983. Residues not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981, (46 FR 24950)

(Sec. 40(j), 68 Stat. 518, (21 U.S.C. 346a(j)))

Dated: June 4, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-15647 Filed 6-15-82; 8:45 am]
BILLING CODE 6560-50-M

[PP 9G2230/T376; PH-FRL 2144-8]

Ciba-Geigy Corp.; Extension of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended temporary tolerances for residues of the insecticide N-cyclopropyl-1,3,5-triazine-2,4,6-triamine in or on certain raw agricultural commodities.

DATE: These temporary tolerances expire May 16, 1984.

FOR FURTHER INFORMATION CONTACT: Franklin Gee, Product Manager (PM) 17, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA issued a notice, that was published in the **Federal Register** of June 13, 1980 (45 FR 46221), announcing the renewal of temporary tolerances for residues of the insecticide N-cyclopropyl-1,3,5-triazine-2,4,6-triamine in or on the raw agricultural commodities eggs, meat, fat, and meat byproducts of poultry at 0.2 part per million (ppm); and meat, fat, and meat byproducts of beef cattle, sheep, and hogs at 0.1 ppm. These tolerances were issued in response to pesticide petition PP 9G2230, submitted by Ciba-Geigy Corporation, Agricultural Division, Greensboro, NC 27409.

These temporary tolerances have been extended to permit the continued marketing of the raw agricultural commodities named above when treated in accordance with the provisions of experimental use permits (100-EUP-66) and (100-EUP-65), which are being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that the extension of these temporary tolerances will protect the public health. Therefore, the temporary tolerances have been extended on the condition that the pesticide be used in accordance with the experimental use permits and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permits.

2. Ciba-Geigy Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire May 16, 1984. Residues not in excess of this amount remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permits and temporary tolerances. These tolerances may be revoked if the experimental use permits are revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the pubic health.

The Office of Management and Budget has exempted this notice from the Requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishng new tolerances or raising tolerance levels or establishing expemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981, (46 FR 24950).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: June 4, 1982.

Douglas D. Campt,

Director Registration Division, Office of Pesticide Programs.

[FR Doc. 82-15945 Filed 6-15-82; 8:45 am]

BILLING CODE 6560-50-M

[PP 1G2520/T377; (PH-FRL 2144-7)]

Zoecon Corp.; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for residues of the insecticide N-[2-chloro-4-(trifluoromethyl)phenyl]-*D*-Valine (±)-alpha-cyano(3-phenolxyphenyl)methyl ester in or on certain raw agricutural commodities. These temporary tolerances were requested by Zoecon Corporation.

DATE: These temporary tolerances expire May 15, 1984.

FOR FURTHER INFORMATION CONTACT: Franklin Gee, Product Manager (PM) 17, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-2690).

SUPPLEMENTARY INFORMATION: Zoecon Corporation, P.O. Box 10975, 975 California Ave., Palo Alto, CA 94304, has requested, in pesticide petition PP 1G2520, the establishment of temporary tolerances for residues of the insecticide N-[2-chloro-4-(trifluromethyl)phenyl]-*D*-Valine (±)alpha-cyano(3-phenoxyphenyl) methyl ester in or on the raw agriculutral commodities cottonseed at 0.2 part per million (ppm); milk at 0.01 ppm; and meat, fat and meat byproducts of cattle, goats, hogs, horses and sheep at 0.01 ppm.

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 20954-EUP-19 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quanity authorized by the experimental use permit.

2. Zoecon Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire May 15, 1984. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 610–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: June 4, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-15946 Filed 6-15-82; 8:45 am]

BILLING CODE 6560-50-M

[OPP 00158; PH-FRL 2150-8]

Pesticide Registration Guidelines; Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of a public meeting.

SUMMARY: There will be a two-day meeting, open to the public, to discuss the draft pesticide registration guidelines. The availability of the guidelines and procedures for providing written and oral comments were described in the **Federal Register** of May 24, 1982 (47 FR 22405). The Agency requests that comments be limited to substantive technical topics, such as the data needed to conduct pesticide hazards assessments and adequacy of recommended protocols.

DATES: The meeting will be held on Wednesday, July 7, and Thursday, July 8, 1982, from 8:30 a.m. to 5:00 p.m. each day. Written comments must be submitted by July 5, 1982.

ADDRESS: The meeting will be held at: Twin Bridges Marriott Hotel, 333 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Philip H. Gray, Jr., Office of Pesticide Programs (TS–766C), Rm. 1115B, Crystal Mall, Building No. 2, Arlington, VA 22202, (703–557–7096).

SUPPLEMENTARY INFORMATION: Interested persons wishing to file written statements or present oral statements at the public meeting, to the extent that time permits, must contact Philip H. Gray, Jr. at the address or phone listed above and submit comments on or before July 5, 1982. Comments, identified by the control number OPP 30064, in triplicate, should be submitted to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460.

All statements will be made a part of the record and will be taken into consideration by EPA before publication of the guidelines by the National Technical Information Service (NTIS).

Dated: June 9, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

[FR Doc. 82-16494 Filed 6-15-82; 11:11 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 81-351; Transmittal No. 13663]

American Telephone & Telegraph Co.; Order

Adopted June 2, 1982.

Released: June 8, 1982.

In the matter of American Telephone & Telegraph Co.; Revisions to Tariff F.C.C. Nos. 258 and 260, and the Establishment of Tariff F.C.C. No. 269, for Series 7000 Terrestrial Television Transmission Services; (May 5, 1982, 47 FR 19447).

By the Deputy Chief, Common Carrier Bureau:

1. Before the Bureau is a joint motion filed by many of the parties participating in the investigation of American Telephone & Telegraph Company's ("AT&T") rates and rate structure for Series 7000 television transmission service.[1] The movants ask that we require AT&T to clarify certain aspects of its comments prior to the submission of comments by other parties.

2. Earlier this year the Commission concluded, following investigation in this proceeding, that major elements of the new rate structure which AT&T proposed in its recent Series 7000 tariff filing were unreasonable, or at least not properly justified. *American Telephone and Telegraph Company*, 88 FCC 2d 1656 (1982). Nevertheless, the Commission believed that much information had been gathered in the proceeding which could aid in developing a lawful rate structure for AT&T's terrestrial television transmission service. It therefore proposed revised rate structures for comment and possible interim prescription.

3. On April 9, 1982, AT&T commented on the Commission's interim Series 7000 proposal and raised certain new issues. In general, AT&T stated that it did not object, in principle, to the interim rates proposed by the Commission, but that if more recent cost and market studies were used, the rates proposed by the Commission would have to be revised upward to some extent. It further proposed several additions or changes to the existing tariff which it believed would minimize "anticipated adverse consequences" of the rate changes. These include revised cancellation and special construction charges.

4. The parties filing the joint motion are users of Series 7000 service. They contend that meaningful comment on AT&T's filing can only be had if AT&T is required to elaborate its proposal in several critical areas. For that purpose they have presented a set of questions for submission to AT&T. They request that AT&T be given 45 days to respond to these questions and that interested parties be allowed a like period to file comments thereafter.

5. We have examined the proposed questions and believe that many of them may well help to clarify AT&T's comments so that parties will be in a better position to comment on how the interim tariff would work on practice. These questions are listed in the Appendix. On the other hand, some of the questions are either not relevant to the current stage of this proceeding or are unnecessary. The request for details of work functions covered by the IXC service charge (Question 1–l) involves rate questions which we have deferred until further studies are completed under an interim tariff. The requests for studies of special construction arrangements in the past and associated costs (Question 3–a) as well as projections of future demand (Question 3–a) as well as projections of future demand (Question 3–d) would seem to be of little value to the present inquiry

[1] The parties jointly filing are Hughes Television Network ("Hughes"); American Broadcasting Companies, Inc. ("ABC"), CBS, Inc. ("CBS"), and National Broadcasting Company, Inc. ("NBC"); Cable News Network, Inc.; Entertainment and Sports Programming Network, Inc.; Association of Independent Television Stations, Inc.; Storer Broadcasting Company; The Commissioner of Baseball; and Midwestern Relay Company. ABC, CBS and NBC had jointly filed two earlier information requests and a motion to compel but withdrew the motion to compel without prejudice by letter attached to the present motion. Hughes had submitted a counterproposal to the Networks' requests (see Order Mimeo No. 3958, released May 11, 1982, n. 1) and the present motion is stated to be in furtherance of Hughes' counterproposal. We assume that the present motion supersedes Hughes' counterproposal.

since special construction is carried out and tariffed on a case-by-case basis; it could also unnecessarily delay this proceeding. The detailed information on local channel facilities and common equipment pooling arrangements (Question 3–f–(i–v)) may be useful for purposes of developing final local channel rates, but are not relevant to the current interim proposals. The AT&T Tariff Filing Reference Package (TFRP) requested in Question 4–a is on file with the Common Carrier Bureau and available to the public; it is also voluminous and we think it unnecessary that AT&T be required to provide copies to the parties. We will ask AT&T to explain the reported increases in investments as requested in Question 4–b, but for the present we do not believe that studies are necessary. We may request the submission of relevant studies if AT&T's explanation of the worksheets is inadequate. With these exceptions, we will direct AT&T to answer the questions in the Appendix, as requested in the joint motion.

7. As an addititional aid to clarifying AT&T's proposal and avoiding further delays and disputes, we also request that AT&T submit an illustrative tariff which would implement the proposals in its comments. AT&T should answer the questions by reference to the provisions in its illustrative tariff. Finally, we request that AT&T submit a customer impact statement so that the public and the Commission will be better able to assess the effects of AT&T's proposal as compared with the present rate structure.

8. We will allow 45 days for AT&T's response and 45 days thereafter for comments, as requested in the joint motion.

9. Accordingly, it is ordered, That the joint motion is granted to the extent indicated herein, but is otherwise denied.

10. It is further ordered, That the American Telephone and Telegraph Company submit answers to the questions in the Appendix, and illustrative tariff and a customer impact statement within 45 days of the adoption of this Order.

11. It is further ordered, That the date for the filing of replies by interested parties in this proceeding is extended until 45 days thereafter.

12. It is further ordered, That the Secretary shall cause this Order to be published in the **Federal Register.**

13. It is further ordered, That this Order is effective upon adoption.

Federal Communications Commission.

Leon M. Kestenbaum,

Deputy Bureau Chief, Policy Common Carrier Bureau.

[FR Doc. 82–16172 Filed 6–15–82: 8:45 am]

BILLING CODE 6712–01–M

[FCC 82–209; BC Docket No. 82–245, File No. BR 810601C9; BC Docket No. 82–246, File No. BP–810724AI]

Montgomery County Broadcast Co., Inc. and Community Airwaves, Inc.; Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In re Applications of Montgomery County Broadcast Company, Inc., Has: 1600 KHz, 500 W, 1 Kw–LS, DA–N, U, For Renewal of License of Station WINX, Rockville, Maryland, (BC Docket No. 82–245, File No. BR 810601C9); Community Airwaves, Inc., Rockville, Maryland, Req: 1600 KHz, 500 W, 1 Kw–LS, DA–N, U, (BC Docket No. 82–246, File No. BP–810724AI) For Construction Permit; Memorandum Opinion and Order designating applications for consolidated hearing on stated issues.

Adopted: April 29, 1982.

Released: May 17, 1982.

By the Commission: Chairman Fowler not participating.

1. The Commission has under consideration the license renewal application of Montgomery County Broadcast Company, Inc. (Montgomery) for AM radio Station WINX in Rockville, Maryland, and a timely file construction permit applicatjon by Community Airwaves, Inc. (Community). Because the application are mutually exclusive, they must be designated for a comparative hearing.

2. *Montgomery.* According to its 1981 renewal application for Station WINX, Montgomery is wholly owned by United Broadcasting Company (United). Until recently, United was wholly owned by Richard Eaton.[1]

3. Over the past several years, the Commission has denied or revoked four of United's Licenses.[2] Recently, in *United Broadcasting Co. (Wook(FM)),* 86 FCC 2d 452 (1981), the Commission held that these prior adverse determination reflected a pattern of serious misbehavior by United and thereby raised a *prima facie* question about its qualifications to operate WOOK (FM). In designating a qualifications issue, we noted that, although we lacked sufficient evidence to determine whether Richard Eaton was personally responsible for United's misconduct, even if Eaton were removed from United's ownership, a serious question would still remain regarding the soundness and reliability of the licensee's operations. *Id.* at 458 n.24.

4. In designating these applications for hearing, we are again confronted with the question whether United's past misconduct should reflect adversely on its qualifications to remain the licensee of WINX. Our decision is that it is unnecessary to add a basic qualifications issue to this proceeding at this time.[3] The question of which individuals were responsible for United's prior misconduct is being explored fully in the WOOK(FM) proceeding. After the Administrative Law Judge issues an initial decision in WOOK(FM), the parties to this proceeding may then argue to the Administrative Law Judge whether issues should be added to consider the significance that the findings there have on Montgomery's qualifications. A final determination as to WINX's qualifications will therefore be conditioned on the outcome of the WOOK(FM) proceeding. Whether Richard Eaton's death has any effect on the resolution of any qualification issue, or the addition of any issues, is a matter,

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[1] On April 16, 1981, the Circuit Court for Montgomery County, Maryland, appointed Suburban Trust Company to act as temporary guardian of the property of Richard Eaton. As a result of this appointment, applications were filed with the Commission on May 18, 1981, for consent to the involuntary transfer of control of United and its various licensee subsidiaries. On June 1, 1981, Richard Eaton died, and his property was transferred, pursuant to the terms of his will, to his Personal Representatives, Suburban Trust Company and Dennison L. Mitchell. As a result of this transfer, and prior to any Commission action on the May 18, 1981, applications, new applications for consent to the involuntary transfer of control of United and its various licensee subsidiaries to Richard Eaton's Personal Representatives were filed on July 1, 1981. On August 24, 1981, the Commission granted simultaneously both the May 18 and July 1, 1981, applications, with the result that control of United and its various licensee subsidiaries has been transferred to Suburban Trust Company and Dennison L. Mitchell, Personal Representatives.

[2] *United Television Co.,* 46 FCC 2d 698 (1974) (WFAN–TV) and *United Television of New Hampshire,* 46 FCC 2d 702 (1974) (WMET), aff'd. 514 F. 2d 279 (D.C. Cir. 1975); *United Broadcasting of Florida,* 55 FCC 2d 832 (1975), *recon. denied* 60 FCC 2d 816 (1976) (WFAB); *United Television Co.,* 55 FCC 2d 416 (1975), *recon. denied* 59 FCC 2d 663 (1976), *aff'd. sub nom. United Broadcasting Co.* v. *FCC,* 569 F. 2d 699 (D.C. Cir. 1977), *cert. denied* 434 U.S. 1076 (1978) (*Wook (AM)).* In the first two decisions, we revoked two of United's television stations because they had been dark for more than two years, thereby depriving viewers of service over those frequencies. In the latter two, we denied two radio station renewals, finding that United was unfit to operate those broadcast facilities.

[3] See Our similar decisions in *Intercontinental Radio, Inc.,* 88 FCC 2d 819 (1981), and *Tele-Broadcasters of California, Inc.,* FCC 82–18, released February 1, 1982.

of course, for the Administrative Law Judge to decide initially.

5. Except as limited by our discussion above, a review of Montgomery's license renewal application indicates that it is qualified to be a Commission licensee. In the interest of administrative efficiency, we believe that the Chief Administrative Law Judge should assign this matter to the same judge currently presiding in the WOOK(FM) proceeding.

6. *Community.* Applicant estimates that it will require $390,840 to construct its proposed station and operate it for three months. In order to meet that requirement, each of its four principals is to loan the corporation a *pro rata* share of the funds. Their agreement, however, states that the "terms and conditions of these loans will be determined when the FCC grants or denies the company's application." Since the agreement fails to state the terms of repayment and the security required, or otherwise indicate that none will be required, it cannot be accepted. In addition, the financial statements of two of the principals, Neil D. Cohen and Laurance Levitan, do not show sufficient liquid assets to meet their share of the commitment.[4] An appropriate financial issue will be specified. Otherwise, a review of Community's application indicates that it is qualified to be a licensee.

7. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications of Montgomery Broadcast Company, Inc. and Community Airwaves, Inc. are designated for cosolidated hearing, at a time and place to be specified in a subsequent Order, upon the following issues: [5]

1. To determine, with respect to Community Airwaves, Inc.:

(a) The source and availability of sufficient funds to meet anticipated costs; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine in light of the evidence adduced pursuant to the foregoing issues, which of the applications, if either, should be granted.

8. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

9. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give local notice of the hearing (either individually, or if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

10. It is further ordered, That this case be assigned to the same Administrative Law Judge presently presiding in the United Broadcasting Co. (WOOK(FM)) proceeding.

11. It is further ordered, That this Secretary of the Commission shall send, by Certified Mail—Return Receipt Requested, a copy of this Memorandum Opinion and Order to each of the parties named herein.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-16173 Filed 6-15-82; 8:45 am]

BILLING CODE 6712-01-M

[4] Both have failed to demonstrate that their real and personal property can be relied upon to provide a readily available source of funds. In addition, Levitan has not properly described or shown the ready marketability of his other non-cash assets.

[5] Our determination that Mongomery possesses the basic qualifications to remain a Commission licensee is conditioned upon the outcome of the WOOK(FM) proceeding. See paragraphs 2-4, *supra*.

[Report No. 1357]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

June 10, 1982.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to 47 CFR § 1.429(e). Oppositions to such petitions for reconsideration must be filed on or before July 1, 1982. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Parts 89, 91, 93 and 95 of the Commission's Rules and Regulations to Adopt New Practices and Procedures for Cooperative Use and Multiple Licensing of Stations in the Private Land Mobile Radio Services. (Docket No. 18921, RM's 1197, 1218 and 1330)

Filed by: Robert M. Johnson, Manager, Government Agency Liaison for General Electric Co., on 6-2-82. Daniel J. Rooks, President for General Electric on 6-3-82.

Subject: An Inquiry into the Future Role of Low-Power Television Broadcasting and Television Translators in the National Telecommunications System. (BC Docket No. 78-253)

Filed by: Marianne McDermott, Attorney for American Women In Radio and Television, Inc., on 5-26-82.

Subject: Interconnection Arrangements Between and Among the Domestic and International Record Carriers. (CC Docket No. 82-122)

Filed by: Steven A. Levy, Attorney for International Relay, Inc., on 6-2-82. Stanford B. Weinstein, Attorney for Graphnet, Inc., on 6-2-82. Lloyd D. Young, Attorney for TRT Telecommunications Corporation on 6-2-82. Robert Michelson & Gary M. Fereno, Attorneys for Western Union International, Inc., on 6-2-82. Martin W. Bercovici, Attorney for Mobile Marine Radio, Inc., on 6-2-82. Alexander P. Humphrey, for RCA Global Communications, Inc., on 6-2-82. H. Richard Juhnke, Attorney for Western Union Telegraph Company on 6-3-82.

Federal Communications Commission

William J. Tricarico,

Secretary,

Federal Communications Commission.

[FR Doc. 82-16171 Filed 6-15-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket No. FEMA-REP-5-IL-2]

Illinois Plan for Radiological Accidents Site-Specific for the LaSalle Nuclear Power Station; Certification of FEMA Findings and Determination

In accordance with FEMA Rule 44 CFR 350 (proposed) on March 31, 1981, the State of Illinois submitted its plans relating to the LaSalle Nuclear Power Station to the Director of FEMA Region V for review and approval. The Regional Director forwarded his evaluation to the Associate Director for State and Local Programs and Support in accordance with § 350.11 of the proposed rule. Included in this evaluation were a review of the State and local plans around the LaSalle facility; a critique of the exercise conducted on December 4, 1980, in accordance with § 350.9; and a report of the public meeting held on December 5, 1980, to discuss the site specific aspects of the State and local plans in accordance with § 350.10 of the proposed rule. In the latest LaSalle joint exercise conducted on April 14, 1982, it was demonstrated that the remaining outstanding deficiencies were corrected with the exception of the prompt alerting and notification systems.

Based on the evaluation by the Regional Director and the review by the

FEMA Headquarters staff, I find and determine that, subject to the condition stated below, the State and local plans and preparedness for the LaSalle Nuclear Power Station are adequate to protect the health and safety of the public living in the vicinity of the station. The plans and preparedness are assessed as providing reasonable assurance that appropriate protective measures can and will be taken off-site in the event of a radiological emergency and are capable of being implemented. The condition for the above approval is that the adequacy of the public alerting and notification system already installed and operational must be verified as meeting the standards set forth in Appendix 3 of the Nuclear Regulatory Commission (NRC)/FEMA Criteria of NUREG–0654/FEMA–REP–1, Revision 1.

FEMA will continue to review the status of plans and preparedness of the State and localities associated with the LaSalle Nuclear Power Station in accordance with § 350.13 of the proposed rule.

For further details with respect to this action, refer to Docket File FEMA–REP–5–IL–2 maintained by the Regional Director, FEMA Region V at the Federal Center, Battle Creek, Michigan 49016.

Dated: June 4, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–16216 Filed 6–15–82; 8:45 am]

BILLING CODE 6718–01–M

[FEMA–600–DR]

Illinois; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Illinois (FEMA–660–DR), dated June 5, 1982, and related determinations.

DATED: June 5, 1982.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0501.

SUPPLEMENTARY INFORMATION: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148, effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of June 5, 1982, the President declared a major disaster as follows:

> I have determined that the damage in certain areas of the State of Illinois resulting from severe storms and tornadoes beginning on May 29, 1982, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93–288. I therefore declare that such a major disaster exists in the State of Illinois.
>
> In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93–288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area except for technical assistance which will be funded at 100 percent.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under the Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Ronald Buddecke of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Illinois to have been affected adversely by this declared major disaster:

> Williamson County and the Townships of Road Districts 4 and 5–3 in Perry County for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance. Billing Code 6718–02.)

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–16218 Filed 6–15–82; 8:45 am]

BILLING CODE 6718–02–M

National Emergency Training Center; Board of Visitors for the National Fire Academy; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name: Board of Visitors for the National Fire Academy
Dates of Meeting: june 24–25, 1982
Place: National Fire Academy, Emmitsburg, Maryland
Time: 9:00 a.m. to 5:00 p.m.

Proposed Agenda:

June 24, 1982: Introductory remarks; Introduction of Guests; Approval of Minutes from previous meeting; Subcommittee Reports; Report of Associate Director for Training and Education; Open Learning Briefing; Certification Briefing; Possible Committee Considerations; Five-Year Plan; Facilities; Miscellaneous Considerations; Establishment of Proposed Future Meeting Dates.

June 25, 1982: Uncompleted Agenda Items; Tour of Facilities; Administrative Details.

The meeting will be open to the public with approximately 20 seats available on a first-come, first-serve basis. Members of the general public who plan to attend the meeting should contact Mr. Joseph L. Donovan, Superintendent, National Fire Academy, 16825 S. Seton Avenue, Emmitsburg, Maryland 21727 (telephone 301/447–6771) on or before June 18, 1982.

Minutes of the meeting will be prepared by the Board and will be available for public viewing in the Associate Director's Office, Building N, National Emergency Training Center, Emmitsburg, Maryland. Copies of the minuets will be available upon request 30 days after the meeting.

Dated: June 7, 1982.

Fred J. Villella

Associate Director for Training and Education, National Emergency Training Center.

[FR Doc. 82–16217 Filed 6–15–82; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate [Casualty]

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons or Voyages pursuant to the provisions of Section 2, Pub. L. 89–777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Alaska Tour & Marketing Services, Inc., Great Rivers Boat Company, Robert

Giersdorf, Jack D. Ott, Orion C. Shockley, David Hartman and Joseph Schocken c/o Exploration Holidays and Cruises, 1500 Metropolitan Park Building, Olive Way & Boren Ave., Seattle, Washington 98101.

Dated: June 11, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-16175 Filed 6-15-82; 8:45 am]

BILLING CODE 6720-01-M

GENERAL SERVICES ADMINISTRATION

Performance Review Board

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of the members of the GSA Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Gregory Knott, Director, Executive Resources Division, General Services Administation, Office of Organization and Personnel, Executive Resources Division, Office of Personnel, 18th and F. Streets, NW., Washington, D.C., 20405 (202) 566-1207.

SUPPLEMENTARY INFORMATION: Sec. 4314(c)(1) through (5) of Title 5, U.S.C. requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The board shall review the performance rating of each senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive.

The members of the Performance Review Board are:

1. Charles Davis, III, Associate Administator for Policy and Management Systems
2. Bond Faulwell, Director of Organization and Personnel [1]
3. Jerald Fox, Associate Administrator for Administration
4. Steven Hammer, Associate Administrator for Operations
5. Carroll Jones, Acting Commissioner, Federal Property Resources Service
6. Saul Katz, Special Counsel to the Administrator for Ethics
7. Arlene Schley, Deputy Administrator, National Capital Region

[1] Non-voting Executive Secretary.

Dated: June 10, 1982.

Gerald P. Carmen,

Administrator of General Services.

[FR Doc. 82-16230 Filed 6-15-82; 8:45 am]

BILLING CODE 6820-34-M

Report of Employment Under Commercial Activities (CA) Contracts

AGENCY: General Services Administration.

ACTION: Notice of information collection.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration proposes to request the Office of Management and Budget to review and approve a new information collection requirement.

DATE: Comments on the proposed information collection must be submitted on before June 30, 1982.

FOR FURTHER INFORMATION CONTACT: Anthony Artigliere, Acting Chief, Directives, Reports, and Publications Branch (202-566-0666).

ADDRESSES: Send comments to Franklin S. Reeder, OMB Desk Officer, Room 3208, NEOB, Washington, DC 20503, and to Anthony Artigliere, GSA Clearance Officer, General Services Administration (ORAI), Washington, DC 20405.

SUPPLEMENTARY INFORMATION: The purpose of this information collection is to provide Government agencies with necessary information on former Federal employees hired by contractors to ensure the proper distribution of severance pay by the Government under 5 CFR 550.701(b)(6). A copy of the information collection proposal may be obtained from the Directives, Reports, and Publications Branch (ORAI), Room 3011, GS Building, Washington, DC 20405, telephone 566-1164.

Dated: June 7, 1982.

Clarence A. Lee, Jr.,

Director of Administrative Services.

[FR Doc. 82-16224 Filed 6-15-82; 8:45 am]

BILLING CODE 6820-34-M

General Services Administration Advisory Board; Meeting

Notice is hereby given that the GSA Advisory Board will meet on June 29, 1982 from 8:00 a.m. to 3:30 p.m., in Room 6120, 18th and F Streets, N.W., Washington, DC 20405. This session will be open to the public and will include meetings of the Board's subcommittees on Supply and Distribution, Contracting, and Computer Systems and Information Management. Specific locations for these sessions will be posted outside of Room 6120.

For further information, contact Roger C. Dierman, Deputy Associate Administrator on (202) 523-1141.

Charles S. Davis, III,

Associate Administrator.

[FR Doc. 82-16234 Filed 6-15-82; 8:45 am]

BILLING CODE 6820-26-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of Health Research, Statistics, and Technology; Assessment of Medical Technology

The Public Health Service (PHS) through the Office of Health Research, Statistics, and Technology (OHRST) announces that it is coordinating an assessment of what is known of the safety and clinical effectiveness of Thermography for the Diagnosis of Breast Lesions. The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal Government.

PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide OHRST with information relevant to this assessment should do so in writing no later than September 14, 1982. The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published controlled clinical trials and other well designed clinical studies, and other information related to the clinical acceptability and relative utility of this technology. Proprietary information is not being sought.

Written material should be submitted to: Medical and Scientific Evaluation Staff, Office of Health Research, Statistics, and Technology, Room 17A55, Parklawn Building, 5600 Fishers Lane, Rockvill, Maryland 20857.

For further information contact: Dennis J. Cotter, Health Science Analyst, at the above address or by telephone (301) 443-4990.

Dated: June 10, 1982.

Harold Margulies,

Acting Deputy Assistant Secretary for Health Research, Statistics, and Technology.

[FR Doc. 82-16211 Filed 6-15-82; 8:45 am]

BILLING CODE 4110-17-M

President's Committee on Mental Retardation; Meeting

The President's Committee on Mental Retardation was established by Executive Order to provide advice and assistance in the area of mental retardation to the President including evaluation of the adequacy of the national effort to combat mental retardation; coordination of activities of Federal agencies; provision of adequate liaison between foundations and other private organizations; and development of information designed for dissemination to the general public.

The Committee will meet on June 24–25, 1982, at the Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Room 800 (Penthouse), Washington, D.C. 20201, from 9:00 a.m. to 5:00 p.m. At the meeting the Committee will discuss full citizenship rights, humane service systems, trends in residential facilities, public awareness and prevention of mental retardation.

These meetings are open to the public. A translator for the Deaf will be available upon advance request. The Penthouse is barrier free.

Further information on the President's Committee on Mental Retardation may be obtained from Mr. Fred J. Krause, Executive Director, Room 4025, ROB 3, 7th & D Streets, S.W., Washington, D.C. telephone (202) 245–7634.

Dated: June 14, 1982.

Mr. Fred J. Krause,

Executive Director, President's Committee on Mental Retardation

[FR Doc. 82-16167 Filed 6-15-82; 8:45 am]

BILLING CODE 4150-04-M

Discriminating Against the Handicapped by Withholding Treatment or Nourishment; Notice of Health Care Providers

May 18, 1982.

There has recently been heightened public concern about the adequacy of medical treatment of newborn infants with birth defects. Reports suggest that operable defects have sometimes not been treated, and instead infants have been allowed to die, because of the existence of a concurrent handicap, such as Down's syndrome.

This notice is intended to remind affected parties of the applicability of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). Section 504 provides that "No otherwise qualified handicapped individual * * * shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance * * *" Implementing regulations issued by the Department of Health and Human Services make clear that this statutory prohibition applies in the provision of health services (45 CFR 84.52) and that conditions such as Down's syndrome are handicaps within the meaning of section 504 (45 CFR 84.3(j)).

Under section 504 it is unlawful for a recipient of Federal financial assistance to withhold from a handicapped infant nutritional sustenance or medical or surgical treatment required to correct a life-threatening condition, if:

(1) The withholding is based on the fact that the infant is handicapped; and

(2) The handicap does not render the treatment or nutritional sustenance medically contraindicated.

For example, a recipient may not lawfully decline to treat an operable life-threatening condition in an infant, or refrain from feeding the infant, simply because the infant is believed to be mentally retarded.

We recognize that recipients of Federal financial assistance may not have full control over the treatment of handicapped patients when, for instance, parental consent has been refused. Nevertheless, a recipient may not aid or perpetuate discrimination by significantly assisting the discriminatory actions of another person or organization. 45 CFR 84.4(b)(1)(v). Recipients must accordingly insure that they do not violate section 504 by facilitating discriminatory conduct.

In fulfilling its responsibilities, a Federally assisted health care provider should review its conduct in the following areas to insure that it is not engaging in or facilitating discriminatory practices:

- Counseling of parents should not discriminate by encouraging parents to make decisions which, if made by the health care provider, would be discriminatory under section 504.
- Health care providers should not aid a decision by the infant's parents or guardian to withhold treatment or nourishment discriminatorily by allowing the infant to remain in the institution.
- Health care providers are responsible for the conduct of physicians with respect to cases administered through their facilities.

The failure of a recipient of Federal financial assistance to comply with the requirements of section 504 subjects that recipient to possible termination of Federal assistance. Moreover, section 504 does not limit the continued enforcement of State laws prohibiting the neglect of children, requiring medical treatment, or imposing similar responsibilities.

Betty Lou Dotson,

Director, Office for Civil Rights.

[FR Doc. 82-16258 Filed 6-15-82; 8:45 am]

BILLING CODE 4150-04-M

Health Services Administration

Health Resources Administration

Health Professions and Nursing Student Loans; "Low Income Levels" for Loan Repayment, Health Careers Opportunity Grants and Nursing Special Project Grants

This Notice updates the income levels that are used to define a "low income family" for purposes of repayment of educational loans and for the support of training for individuals from disadvantaged backgrounds as provided for under sections 787 and 798, Health Careers Opportunity Grants; and section 820, Nursing Special Project Grants of the Public Health Service Act.

Under sections 741(1) and 836(j) and the applicable program regulations, the Secretary of Health and Human Services may repay all or part of an individual's educational loan made after November 17, 1971, to meet the costs of attending a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, or nursing if the Secretary determines that the individual meets all of the following:

(1) Failed, after Novermber 17, 1971, to complete the health professions studies leading to the individual's first professional degree or to complete the specified nursing studies for which the loan(s) was made;

(2) Is in exceptionally needy circumstances;

(3) Is from a low income or disadvantaged family; and

(4) Has not resumed or cannot reasonably be expected to resume the course of study within 2 years following the date the individual ended the studies.

Sections 57.214(c) and 57.317(c) of the applicable program regulations (42 CFR Part 57, Subparts C and D) require the Secretary to publish annually in the **Federal Register** the low income levels which will be used in determining an applicant's eligibility for this repayment program. Aside from their use in determining whether an individual comes from a "low income family," these income levels, together with other relevant factors such as value of assets, unusual expenses, income available to the individual, etc., are also considered in determining whether an individual is "in exceptionally needy circumstances" or is from a "disadvantaged family".

The income figures below were taken from low income levels, published by the U.S. Bureau of Census, using an index adopted by a Federal Interagency Committee for use in a variety of Federal Programs, then multiplied by as factor of 1.3 for adaptation to the Health Professions and Nursing Student Loan Programs and other designated grant programs for which training for individuals from disadvantaged backgrounds is supported. The income figures have been updated to reflect increases in the Consumer Price Index through December 31, 1981.

Size of parents' family (includes only dependents listed on Federal income tax forms):	Income Level [1]
1	$5,100
2	7,900
3	9,400
4	12,100
5	14,300
6	16,000

[1] Adjusted gross income for calendar year 1981, rounded to $100.

Dated: May 26, 1982.

John H. Kelso,

Acting Administrator, Health Services Administration.

Dated: June 3, 1982.

Robert Graham,

Acting Administrator, Health Resources Administration.

[FR Doc. 82-16179 Filed 6-15-82; 8:45 am]

BILLING CODE 4160-16-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Irrigation Operation and Maintenance Charges; Water Charges and Related Information on the Flathead Irrigation Project, Montana

This notice of operation and maintenance rates and related information is published under the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs in 209 DM8 and redelegated by the Assistant Secretary—Indian Affairs to the Area Directors in 10 BIAM 3, and by authority delegated to the project Engineer and to the Superintendents by the Area Director in 10 BIAM 7.0, Sections 2.70–2.75. The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and Sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9), and also under 25 CFR 191.1(e).

Pursuant to final rule published on June 14, 1977, in 42 FR 30361, this notice sets forth changes to the operation and maintenance charges and related information applicable to the Flathead Irrigation Project, St. Ignatius, Montana. These charges were proposed pursuant to the authority contained in the Acts of August 1, 1914, and March 7, 1928, (38 Stat. 583, 25 U.S.C. 382; 45 Stat. 210, 25 U.S.C. 387).

Interested persons were given 30 days in which to submit written comments, views or arguments regarding the proposed rates and related provision. No comments were received during the 30 day period.

In compliance with the above, the operation and maintenance charges for the lands under the Flathead Irrigation Project, Montana, for the season of 1982 and 1983 and subsequent years until further notice are hereby fixed as follows:

For the season of 1982 for lands not included in an Irrigation District but including lands held in trust for Indians, the rate per acre for the various divisions are as follows:

Jocko	$6.86
Mission Valley	5.26
Camas	6.77

For the season of 1983 for lands included in an Irrigation District, the Project charge per acre is as follows:

Jocko Valley Irrigation District	$9.09
Mission Irrigation District	5.17
Flathead Irrigation District	5.59

E. M. Axtell,

Project Engineer, Flathead Irrigation Project.

[FR Doc. 82-16178 Filed 6-15-82; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Land Management

[Serial Nos. A-17865; A-17866]

Arizona; Realty Action—Noncompetitive Leases—Public Land in Yavapai County, Arizona

The following described land has been determined to be suitable for residential and commercial lease by non-competitive means under section 302 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1732:

Township 8 North, Range 2 West, G&SRM.
Section 28, W½NE¼SW¼NE¼.
Containing 5 acres.

Purpose of the lease is to legalize a residential and commercial use on public land. The lessee will be Mr. and Mrs. Walter M. Sterne.

The lands involved are an integral part of a long-established ranching operation and will serve as the ranch headquarters. A secondary use will be for a guest ranch operation. The analysis required by 43 CFR Part 1600 has been done in reports prepared specifically for this action.

Provisions in 43 CFR 2920.5–4(b) provide where prior use of the land exists that land use authorizations may be offered on a non-competitive basis. An appraisal will be completed and a fair-market rental will be charged for use of the land.

Detailed information concerning this lease is available for review at the Phoenix District Office, Bureau of Land Management, 2929 West Clarendon Avenue, Phoenix, Arizona.

For a period of 45 days, interested parties may submit comments to the Phoenix District Manager, 2929 West Clarendon Avenue, Phoenix, Arizona 85017. Any adverse comments will be evaluated by the Secretary of the Interior, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the Secretary, this realty action will become the final determination of the Department of the Interior, and the required payment plus the cost of publishing this notice will be requested of Mr. and Mrs. Walter M. Sterne.

Dated: June 8, 1982.

William K. Barker,

District Manager.

[FR Doc. 82-16185 Filed 6-15-82; 8:45 am]

BILLING CODE 4310-84-M

Carson City District Grazing Advisory Board; Meeting

The Board will meet July 22, 1982, at 10:00 a.m. in the Carson City district BLM Office. The agenda will include discussion of the Draft Reno Grazing Environmental Impact Statement, grazing applications, State water policy, Lahonta Resource Area allotment classifications, range improvement, and other matters pertaining to the District range management program.

The Board is composed of five members elected to represent grazing permittees in the Carson City District in advising the District Manager on the rangeland management program. Any person is welcome to attend the meeting and appear before the Board at 11:00 a.m.

FOR FURTHER INFORMATION CONTACT: Stephen A. Weiss, Public Affairs Officer, Bureau of Land Management, Carson City District Office, 1050 E. William St., Suite 335, Carson City, Nevada 89701 (702) 882–1631.

Dated: June 8, 1982.

Thomas J. Owen,

District Manager.

[FR Doc. 82–16182 Filed 6–15–82; 8:45 am]

BILLING CODE 4310–84–M

Uinta-Southwestern Utah Coal Region Coal Leasing; Change in Regional Coal Team Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Change in the date of the previously announced regional coal team meeting (second change).

SUMMARY: Federal Register notices on May 12 and June 1, 1982 announced a Regional Coal Team (RCT) meeting in the Uinta-Southwestern Utah Coal Region. It has become necessary to again change the date of the scheduled RCT meeting. Notice of intent to rank an additional coal tract is provided.

DATES: The Regional Coal Team will now meet on July 22–23, 1982, starting at 9:00 a.m.

ADDRESS: The Regional Coal Team meeting will be in the Hotel Utah, Bonneville III Room, Main at South Temple, Salt Lake City, Utah.

FOR FURTHER INFORMATION CONTACT: Max Nielson, Coal Project Manager, Uinta-Southwestern Utah Region, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah, telephone (801) 524–5326.

SUPPLEMENTARY INFORMATION: The Regional Coal Team will meet on July 22–23, 1982, at 9:00 a.m. in the Hotel Utah, Salt Lake City, Utah. The Regional Coal Team will discuss, rank, and select the coal lease tracts that will be considered for Round II of potential leasing in the Uinta-Southwestern Utah Coal Production Region. Opportunity will be provided for public comment during the course of the meetings.

Due to the fact the North Horn Mountain tract received no bids on May 27, 1982, this tract will again be ranked and reconsidered for potential leasing in Round II. The tract is located 7 miles west of Castle Dale, Utah in T. 18 and 19 S., R. 6 and 7 E. SLM. The approximate acreage is 11,000 and the estimated in-place reserves are 249 million tons. All other data in the May 12 and June 1 announcements pertaining to the RCT meeting still apply.

Dated: June 9, 1982.

Dean Stepanek,

Associate State Director.

[FR Doc. 82–16183 Filed 6–15–82; 8:45 am]

BILLING CODE 4310–84–M

[M 044785, et. al.]

Montana and North Dakota; Partial and Total Terminations of Classifications for Multiple Use Management

June 4, 1982.

1. Pursuant to authority delegated by Bureau Order No. 701 dated July 23, 1964 (29 FR 10526), as amended, the Bureau of Land Management Multiple Use Classification Orders described below are hereby terminated except for those orders which continue to be partially or totally segregated from the public land laws, generally, and from location and entry under the general mining laws. (Asterisk denotes classifications that contain lands which remain segregated—Serial Nos. M 1361, M 1598, M 7991, M 8905, M 11512, and M 12770.)

M 044785, 35 FR 18985 (December 15, 1970), containing 82.11 acres in Richland County, Montana;

M 073705, 31 FR 11239 (August 25, 1966), aggregating 614,700 acres in Valley County, Montana;

M 1353, 32 FR 12856 (September 8, 1967), aggregating 396,432.99 acres in Garfield County, Montana;

*M 1361, 32 FR 8625 (June 15, 1967), aggregating 121,546 acres in Powell, Granite, Missoula, and Lewis and Clark Counties, Montana, except for the land described in Paragraph Two (706.83 acres) which will remain segregated;

*M 1598, 32 FR 8623–8625 (June 15, 1967), aggregating 664,420 acres in Beaverhead County, Montana, excpet for Amendment, 34 FR 1970 (February 11, 1969), containing 5 acres, known as Road Agents Rock, which will remain segregated;

M 1626, 32 FR 11577 (August 10, 1967), aggregating 490,588 acres in Carter County, Montana;

M 1688, 32 FR 12857–12858 (September 8, 1967), aggregating 236,552 acres in Madison and Gallatin Counties, Montana;

M 1689, 32 FR 12858 (September 8, 1967), aggregating 81,160 acres in Jefferson County, Montana;

M 2146, 32 FR 12858–12859 (September 8, 1967), aggregating 57,311.09 acres in Prairie County, Montana;

M 2147, 33 FR 8354 (June 5, 1968), aggregating 22,600 acres in Granite County, Montana;

M 2309, 32 FR 12859–12860 (September 8, 1967), aggregating 267,000 acres in Chouteau, Blaine and Phillips Counties, Montana;

M 5887, 33 FR 6747–6748 (May 2, 1968), aggregating approximately 204,763 acres in Powder River County, Montana;

*M 7991, 33 FR 9714–9715 (July 4, 1968), aggregating 205,719.95 acres in Carbon County, Montana, except for the 14,271.81 arces described in Paragraph Five of this order and Amendment 35 FR 19527–19528 (December 23, 1970), aggregating 11,634.05 acres, known as the Pryor Mountain Wild Horse Range, which will remain segregated;

*M 8905, 33 FR 12387–12388 (September 4, 1968), aggregating 252,990 acres in Fergus, Chouteau, and Judith Basin Counties, Montana, except for Amendment, 35 FR 19132 (December 17, 1970), aggregating 1,946.53 acres in Chouteau County, known as Square Butte Natural Area, which will remain segregated;

M 10468, 34 FR 14742 (September 24, 1969), containing 120 acres in Carbon County, Montana;

M 10484, 35 FR 5126–5128 (March 26, 1970), aggregating 12,881.41 acres in Richland and Roosevelt Counties, Montana and Mountrail and Williams Counties, North Dakota;

M 10577, 34 FR 873 (January 18, 1969), aggregating 520 acres in Carter County, Montana;

*M 11512, 35 FR 10040 (June 18, 1970), aggregating 8,361.54 acres in Gallatin County, Montana, except for lots 2, 3, 7, 10, and 13, section 6, T. 2 S., R. 2 E., P.M.M., containing 157.18 acres, which will remain segregated;

M 12079, 35 FR 10733 (July 2, 1970), aggregating 181,089 acres in Garfield and McCone Counties, Montana;

M 12081, 35 FR 10785 (July 2, 1970), aggregating 225,887 acres in Custer County, Montana;

M 12764, 35 FR 13322 (August 20, 1970), aggregating 26,553.51 acres in Garfield and Golden Valley Counties, Montana;

M 12769, 35 FR 10466 (June 26, 1970), aggregating 48,353 acres in Broadwater County, Montana;

*M 12770, 35 FR 11062 (July 9, 1970), aggregating 48,440 acres in Silver Bow and Deer Lodge Counties, Montana, except Amendment, 35 FR 19133 (December 17, 1970), containing 7041.23 acres, designated as Humbug Spires, which will remain segregated; and

M 12993, 35 FR 10385–10387 (June 25, 1970), aggregating 707,672 acres in Phillips and Blaine Counties, Montana.

The lands above aggregate approximately 4,875,742.60 acres of which approximately 35,762.63 acres remain segregated from the public land laws generally, and from location and entry under the general mining laws.

2. The lands listed in Paragraph One will be open to the Public Land Laws generally and to location and entry under the general mining laws except for the following described lands which remain segregated: M 1361—Land described as follows:

Principal Meridian

T. 11 N., R. 8 W.,
Sec. 25, lots 1, 2, 20, and 21.
T. 14 N., R. 9 W.,
Sec. 30, lot 2, N½ lot 3, and lots 5 thru 15, S½NE¼NW¼, SE¼NW¼, N½NE¼SW¼, and N½N½SE¼.
T. 14 N., R. 11 W.,
Sec. 18, lots 1 and 2, NE¼NW¼, and SE¼NW¼ (incorrectly described in original publication as SW¼NW¼);
Sec. 23, lots 7, 8, and 9;
Sec. 26, lot 4, SE¼NE¼ (incorrectly described in original publication as SW¼NE¼), and NE¼SE¼.
T. 11N., R. 14 W.,
Sec. 14, Lot 1, NW¼NE¼.
T. 13 N., R. 14 W.,
Sec. 33, S½SW¼SW¼SE¼.
Aggregating 706.83 acres.

M 1598—Land known as Road Agents Rock, described in Amendment 34 FR 1970 (February 11, 1969):

Principal Meridian

T. 7 S., R. 11 W.,
Sec. 29, W½SE¼SE¼NE¼.
Containing 5 acres.

M 7991—Land described in Paragraph Five of Notice of Classification, 33 FR 9714–9715 (July 4, 1968), aggregating 14,271.81 acres, and all lands described in Amendment 35 FR 19527–19528 (December 23, 1970), known as the Pryor Mountain Wild Horse Range, containing 11,634.05 acres for a total of 25,905.86 acres;

M 8905—Land known as Square Butte Natural Area, described in Amendment 35 FR 19132 (December 17, 1970), aggregating approximately 1,946.53 acres;

M 11512—Land in Notice of Classification, 35 FR 10040 (June 18, 1970), described as:

Principal Meridian

T. 2 S., R. 2 E.,
Sec. 6, lots 2, 3, 7, 10, and 13.
Containing 157.18 acres.

M 12770—Land designated as Humbug Spires Primitive Area, described in Amendment 35 FR 19133 (December 17, 1970), aggregating 7,041.23 acres.

The above areas, aggregating 35,762.63 acres, will be reviewed separately.

3. At 8 a.m. on July 9, 1982, the lands of Paragraph One, except for those described in Paragraph Two, shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8 a.m. on July 9, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. Except for the lands described in Paragraph Two, all lands in Paragraph One which were segregated from the mining laws will be open to location and entry under the general mining laws at 8 a.m. on July 9, 1982.

The lands described in Paragraph One have been and continue to be open to application and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Kannon Richards,

Acting State Director.

[FR Doc. 82-16181 Filed 6-15-82; 8:45 am]

BILLING CODE 4310-84-M

[CA 12028]

Notice of Geothermal Resources Lease Sale, Geysers, Knoxville, and Witter Springs KGRA's

Notice is hereby given that approximately 64,443.19 acres of land in 41 parcels in Lake, Mendocino, Napa Sonoma, and Yolo Counties, California, will be offered competitively for lease under the Geothermal Steam Act of 1970 through sealed bids to the qualified responsible bidder of the highest cash amount per parcel. Bids will be received until 10:00 a.m. on July 20, 1982.

For further information contact the California State Office, Division of Operations, Room E–2605, 2800 Cottage Way, Sacramento, California 95825, (916) 484–4492.

Dated: June 9, 1982.

Walter F. Holmes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-16225 Filed 6-15-82; 8:45 am]

BILLING CODE 4310-84-M

Rawlins District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Rawlins District Grazing Advisory Board will be held on July 21, 1982.

The meeting will begin at 9:00 a.m., in the conference room of the Bureau of Land Management Office at 1300 Third Street, Rawlins, Wyoming 82301.

The agenda items will be: (1) Election of Officers; (2) District Implementation of the Range Improvement Policy; (3) FY 83 Range Improvement Project Proposals; (4) Divide Allotment Categorization and Consultations; (5) Green Mountain EIS Status Report; (6) Rawlins District Rangeland Monitoring Program; (7) Proposed FY 83 Wild Horse Roundups.

The meeting is open to the public. Interested persons may make oral statements to the Board or may file written statements for the Board's consideration. Anyone wishing to make an oral statement may do so at 1:30 p.m., but must notify the District Manager, Bureau of Land Management, 1300 Third Street, Rawlins, Wyoming 82301 by July 21st, 1982.

Summary minutes of the Board meeting will be maintained in the district office and be available during regular business hours for public inspection. Copies may be obtained for the cost of duplication.

David J. Walter,

District Manager.

[FR Doc. 82-16227 Filed 6-15-82; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Hearings on Determining for Royalty Purposes the Fair Market Value of OCS Gas

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of Hearings.

SUMMARY: The Minerals Management Service hereby announces the schedule and location for the forthcoming hearings on determining for royalty purposes the fair market value of gas on the Outer Continental Shelf (OCS) lands.

DATE: June 24, 1982, from 8:00 a.m. to 4:30 p.m.

ADDRESS: Department of the Interior, Auditorium, 18th and C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Donald L. Roedl, (703) 860-7311 (FTS 928-7311).

SUPPLEMENTARY INFORMATION: The Minerals Management Service (MMS) published in the **Federal Register** of April 16, 1982 (47 FR 16423), a notice of opportunity for hearings on the subject of determining for royalty purposes the fair market value of OCS gas. Several interested parties have indicated in writing to MMS their interest in presenting orally their comments, evidence, and legal arguments. Therefore, MMS will conduct hearings on this subject on June 24, 1982, from 8:00 a.m. to 4:30 p.m. in the Department of the Interior's Auditorium, 18th and C Streets, NW., Washington, D.C. 20240. These hearings are open to the public.

In order for interested parties to attend these hearings and then prepare or add to their written comments, an extension to the original comment period is being published in the **Federal Register.**

The period for written comments will now close on July 12, 1982.

Dated: June 11, 1982.

Robert E. Boldt,

Acting Associate Director for Royalty Management.

[FR Doc. 82-16193 Filed 6-15-82; 8:45 am]

BILLING CODE 4310-MR-M

Notice on Administration of Regulations at 43 CFR Part 3300

AGENCY: Minerals Management Service, Interior.

ACTION: Notice on Administration of Regulations at 43 CFR Part 3300.

The revision of regulations at 43 CFR Part 3300, as published in today's **Federal Register**, was prepared prior to the issuance on May 10, 1982, of Secretarial Order No. 3071, Amendment No. 1, which incorporated Outer Continental Shelf (OCS) functions into the Minerals Management Service (MMS). Pursuant to Secretarial Order No. 3071, as amended, the regulations at 43 CFR 3300 will be revised to reflect the consolidation of OCS functions under MMS. In the interim, the regulations which appear at 43 CFR 3300 will be administered in accordance with the provisions of Secretarial Order No. 3071, Amendment No. 1, which states that "The Minerals Management Service shall exercise all of the functions of the Conservation Division [of the U.S. Geological Survey, and] * * * all functions related to the management of offshore energy and minerals administered by the Bureau of Land Management * * *." Since the Minerals Management Service still relies for certain administrative support on the Bureau of Land Management, including financial services, payments which were previously due payable to the Bureau of Land Management should still be submitted payable to the Bureau of Land Management, until further notice.

David C. Russell,

Deputy Director, Minerals Management Service.

June 11, 1982.

[FR Doc. 82-16278 Filed 6-15-82; 8:45 am]

BILLING CODE 4310-84-M

Hearings on Determining for Royalty Purposes the Fair Market Value of OCS Gas; Extension of Comment Period

AGENCY: Minerals Management Service, Interior.

ACTION: Extension of comment period.

SUMMARY: In response to requests for an extension of time to comment on determining for royalty purposes the fair market value of gas from Outer Continental Shelf Lands (OCS) lands as published in the **Federal Register** on April 16, 1982 (47 FR 16423), a 15-day extension is hereby granted. This extension will give interested lessees more time to comment on the above subject.

DATE: Comments must be received by July 12, 1982.

ADDRESS: Written comments may be mailed or delivered to Mr. Robert E. Boldt, Associate Director for Royalty Management, Minerals Management Service—MS660, 12203 Sunrise Valley Drive, Room 6A216, Reston, VA. 22091.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond A. Hicks, (703) 860-7311 (FTS 928-7311).

Dated: June 11, 1982.

Robert E. Boldt,

Acting Associate Director for Royalty Management.

[FR Doc. 82-16194 Filed 6-15-82; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier; Temporary Authority Application

The following are notices of filing of applications for temporary authority under section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-177

The following applications were filed in Region I. Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 125547 (Sub-1-1TA), filed June 3, 1982. Applicant: C.R.B. MOTOR LINES, INC., P.O. Box 1397, 50 Executive Avenue, Edison, NJ 08817. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Such merchandise as is dealt in by wholesale and retail grocery houses,* between Edison, NJ, on the one hand, and, on the other, points in NY. Supporting shipper(s): Ultimate Distribution, Inc., 50 Executive Avenue, Edison, NJ 08817; Confectionery Consolidators, Inc., P.O. Box 708, 32 Mae Bell Drive, Clark, NJ 07066.

MC 133858 (Sub-1-2TA), filed May 28, 1982. Applicant: THE COTTER GARAGE CORPORTATION, 66 Granby

Street; Bloomfield, CT 06002. Representative: James T. Graham, One Constitution Plaza, 18th Floor, Hartford, CT 06103. *Contract carrier:* Irregular routes: *Passengers and their baggage and newspapers in eight (8) passenger vehicles of Connecticut General Corporation* from Bloomfield and Hartford, CT to New York City, NY and return under continuing contract(s) with Connecticut General Corporation, Bloomfield, CT. Supporting shipper: Connecticut General Corporation, Cottage Grove Road, Bloomfield, CT 06002.

MC 162336 (Sub-1–1TA), filed June 4, 1982. Applicant: BARBARA W. DE LUE, d.b.a. DE LUE HAULERS, 384 N. Creek, Palmyra, NY 14522. Representative: James E. Brown, 36 Brunswick Road, Depew, NY 14043. *Motorcycles and related commodities* from Newark, Edison, Camden and Pennsauken, NJ to Spencerport, Canandaigua and West Bloomfield, NY. Supporting shippers: Ontario Cycle Center, 30 Muar Street, Canandaigua, NY 14424; Cycle Enterprises, West Bloomfield, NY 14585; Hart-Taylor Lincoln Mercury, 386 So. Union, Spencerport, NY 14559; Robinson Cycles, 5570 Ridge Road W., Spencerport, NY 14559.

MC 161801 (Sub-1–1TA), filed June 2, 1982. Applicant: EASTERN BUS COMPANY, INC., 1808 Kennedy Blvd., Jersey City, NJ 07305. Representative: Harold Sacks, Esq., 19 West 44th Street, New York, NY 10036. *Passengers and their baggage in roundtrip charter operations* beginning and ending at New York, NY and Jersey City, NY and extending to points in ME, MA, CT, VT, RI, NY, NJ, NH, PA, DE, MD, VA, NC, SC, GA, FL, DC, KY, WV, & TN. Supporting shippers: Pentecostal Church Ark of Salvation of E.N.Y. Inc., Marvin Road, Bayshore, NY 11706; 3rd Alpha Omega Church, 4 Fleming Avenue, Newark NJ 07105; Balle DeCedron, 661 Blake Avenue, New York, NY 11207; Medina Temple #19 (A.E.A.O.N.M.S.), 454 West 155th Street, New York City, NY 10032.

MC 124905 (Sub-1–5TA), filed May 28, 1982. Applicant: GARY W. GRAY TRUCKING, INC., P.O. Box 48, Delaware, NJ 07823. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. *Contract carrier:* Irregular routes: *Petroleum and petroleum products,* (1) between Linden, Elizabeth, Newark Piscataway, and Bayonne, NJ on the one hand, and, on the other, Monroe County, PA; (2) between Macungie and Fullerton, PA, on the one hand and, on the other, Bloomsbury, NJ, under continuing contract(s) with Union Oil Company of California, Schaumburg, IL. Supporting shipper: Union Oil Company of California, 1650 East Golf Road, Schaumburg, IL 60196.

MC 124905 (Sub-1–6TA), filed June, 1982. Applicant: GARY W. GRAY TRUCKING, INC., P.O. Box 48, Delaware, NJ 07833. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. *Contract carrier:* Irregular routes: *Cement,* between Northampton and Lehigh Counties, PA on the one hand, and, on the other, points in NJ, under continuing contract(s) with Best Block Co., Inc., Metuchen, NJ. Supporting shipper: Best Block Co, Inc., 1025 U.S. Rt. #1, Metuchen, NJ 08840.

MC 162245 (Sub-1–1TA), filed May 28, 1982. Applicant: GROFF TRUCKING, INC., R.D. #1, Box 112A, Troy, NY 12180. Representative: Earl F. Groff (same as applicant). *Contract carrier:* Irregular routes: *Soft drink products* from Scotia, NY to points in NJ, NH, ME, PA, VT, CT and Boston, MA, under continuing contract(s) with Bev Pak Incorporated, Scotia, NY. Supporting shipper: Bev Pak Incorporated, 701 Patent Parkway, Scotia, NY 12302.

MC 123274 (Sub-1–3TA), filed June 3, 1982. Applicant: MARSHALL SERVICE, INC., Pearl Street, Newfield, NJ 08344. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier:* Irregular routes: *Petroleum products,* between Philadelphia, PA, on the one hand, and, on the other, points in ME, NH, VT, RI, MA, CT, NJ, NY, PA, DE, MD, VA, OH, GA, NC, SC, and DC under continuing contract(s) with Pennsylvania Petroleum Products, Philadelphia, PA. Supporting shipper(s): Pennsylvania Petroleum Products, Front and Shunk Streets, Philadelphia, PA 19100.

MC 162337 (Sub-1–1TA), filed June 4, 1982. Applicant: MILES TRUCKING & HAULING COMPANY, 17 Price Lane, Sicklerville, NJ 08081. Representative: James L. Miles (same as applicant). *Contract carrier:* Irregular routes: (1) *Commodities used in the manufacture and sale of hardware, plumbing and houseware articles* from points in PA, CT, NY, MD and OH to Windsor, NJ under continuing contract(s) with Hancock-Gross (subsidiary of Stanley Tools), at Windsor, NJ. (2) *Hardware, plumbing and houseware articles* from the facilities of Hancock-Gross at Windsor, NJ to points in PA, CT, NY, MD and OH under continuing contract(s) with Hancock-Gross (subsidiary of Stanley Tools), Windsor, NJ. Supporting shipper: Hancock-Gross (subsidiary of Stanley Tools), P.O. Box 1069, Main Street, Windsor, NJ 08561.

MC 3647 (Sub-1–3TA), filed June 4, 1982. Applicant: NJ TRANSIT BUS OPERATIONS, INC., 180 Boyden Avenue, Maplewood, NJ 07040. Representative: Irwin I. Kimmelman, Attorney General of New Jersey by John F. Ward, Deputy Attorney General; McCarter Highway and Market Street, P.O. Box 10009, Newark, NJ 07101. *Common Carrier:* Regular Route: *Passengers and their baggage, and express, in the same vehicle with passengers,* (1) Between Somerville, NJ, and Newark, NJ, serving all intermediate points: From junction East Main Street and Grove Street, then over Grove Street, to junction East High Street, then over East High Street, to junction North Gaston Avenue, then over North Gaston Avenue to junction Union Avenue, (NJ Highway 28) via Bridgewater and Bound Brook, to junction Bound Brook Road, Middlesex, then over Bound Brook Road to North Avenue, Dunellen, then over Bound Brook Road to junction Madison Avenue, then over Madison Avenue to junction Grove Street, then over Grove Street to junction New Market Road, then over New Market Road to junction Vail Avenue, Piscataway, then over Vail Avenue to junction West Seventh Street, then over West Seventh Street, South Plainfield, to junction Park Avenue, Plainfield, then over Park Avenue to junction West Front Street, then over West Front Street to junction East Front Street, then over East Front Street to junction Terrill Road, then over Terrill Road to junction Midway Avenue, Fanwood, then over Midway Avenue to junction North Avenue, (NJ Highway 28), then over North Avenue, Scotch Plains, Westfield, Garwood, Cranford, to junction Westfield Avenue, Roselle Park, then over Westfield Avenue to junction Chestnut Street, then over Chestnut Street to junction Salem Road, Union, then over Salem Road to junction Liberty Avenue, Hillside, then over Liberty Avenue to junction Bloy Street, then over Bloy Street to junction U.S. Highway #22, then over U.S. Highway #22, Hillside, to junction U.S. Highway #1, Newark. Return from U.S. Highway #1, Newark to junction U.S. Highway #1 and U.S. Highway #22, then over U.S. Highway #22 to junction Bloy Street, Hillside, then over Bloy Street to junction Leo Street, then over Leo Street to junction U.S. Highway #22 overpass, then over U.S. Highway #22 overpass to junction Bloy Street, then over Bloy Street to junction Liberty Avenue, then over Liberty Avenue to junction Salem Road, Union, then over Salem Road to junction Chestnut Street, then over Chestnut Street to junction Westfield Avenue, then over Westfield Avenue to

junction North Avenue (NJ Highway 28) then over North Avenue to junction Midway Avenue, Fanwood, then over Midway Avenue to junction Terrill Road, then over Terrill Road to junction East Front Street, then over East Front Street to junction Watchung Avenue, then over Watchung Avenue to junction West Seventh Street, Plainfield then over West Seventh Street to junction Vail Avenue, then over Vail Avenue to junction New Market Road, then over New Market Road to junction Grove Street, then over Grove Street to junction Madison Avenue then over Madison Avenue to junction North Avenue, then over North Avenue to junction Bound Brook Road, then over Bound Brook Road to junction Union Avenue, then over Union Avenue to junction North Gaston Avenue, then over North Gaston Avenue to junction East Main Street, then over East Main Street to Grove Street, Somerville.

(2) Between Plainfield, N.J. and Carteret, N.J. serving all intermediate points: From junction West Seventh Street and Park Avenue, Plainfield, then over Park Avenue to junction Oak Tree Road, then over Oak Tree Road to junction Wood Avenue, then over Wood Avenue to junction New Dover Road, then over New Dover Road to junction Chain-O-Hills Road, then over Chain-O-Hills Road to junction Avenel Street, then over Avenel Street to junction Rahway Avenue, then over Rahway Avenue to junction Homestead Avenue, then over Homestead Avenue to junction Blair Road, then over Blair Road to junction Randolph Avenue and Roosevelt Avenue at the Woodbridge-Carteret boundary line and return over the same route. (3) Between Dunellen, N.J. and Plainfield, N.J. serving all intermediate points: From junction Madison Avenue and North Avenue, Dunellen, then over North Avenue to junction W. Front Street, Plainfield, then over W. Front Street to junction Watchung Avenue, Plainfield and return over the same route. (4) Between Plainfield, N.J. and Hillside, N.J. serving all intermediate points: From junction Park Avenue and West Seventh Street, Plainfield, then over West Seventh Street to junction East Seventh Street, then over East Seventh Street to junction Watchung Avenue, Plainfield, then over Watchung Avenue to junction Mountain Avenue, North Plainfield, then over Mountain Avenue to junction U.S. Highway #22 (Mountain Avenue) then over U.S. Highway #22 to junction Terrill Road, then over Terrill Road to junction Front Street, then over Front Street to junction Park Avenue, then over Park Avenue to junction Mountain Avenue, then over Mountain Avenue to junction U.S. Highway #22, then over U.S. Highway #22 to junction Bloy Street, Hillside, and return over the same route. (5) Between Plainfield, N.J. and Westfield, N.J. serving all intermediate points: From junction West Seventh Street and Watchung Avenue, then over Watchung Avenue to junction West Fifth Street, then over West Fifth Street, to junction South Avenue, then over South Avenue to junction West Broad Street, then over West Broad Street to junction North Avenue, Westfield, and return over the same route. (6) Between Westfield, N.J. and Mountainside, N.J. serving all intermediate points: From junction North Avenue and Elm Street, Westfield, then over Elm Street to junction Quimby Street, then over Quimby Street to junction Central Avenue, then over Central Avenue to junction Mountain Avenue, then over Mountain Avenue to junction U.S. Highway #22, Mountainside. Return from junction U.S. Highway #22 to junction Mountain Avenue, then over Mountain Avenue to junction East Broad Street, Westfield, then over East Broad Street to junction Elm Street, and then over Elm Street to junction North Avenue in Westfield. (7) Between Mountainside, N.J. and Union, N.J. serving all intermediate points: From junction U.S. Highway #22 and Mountain Avenue, Mountainside, then over Mountain Avenue to junction Morris Avenue, (N.J. Highway 82), Springfield, then over Morris Avenue, (N.J. Highway #82) to junction North Avenue, Union, and return over the same route. (8) Between points in Elizabeth, N.J., serving all intermediate points: From junction U.S. Highway #1 (Spring Street) and North Avenue, then over North Avenue to junction Elmora Avenue, then over Elmora Avenue to junction U.S. Highway #1, (Spring Street) at the Bayway Circle and return over the same route. From junction Elmora Avenue and Rahway Avenue, then over Rahway Avenue to junction Pearl Street, then over Pearl Street to junction Broad Street, then over Broad Street to junction West Jersey Street. Return from junction West Jersey Street and Broad Street then over Broad Street to junction Rahway Avenue then over Rahway Avenue to junction Elmora Avenue. (9) Between Roselle Park, N.J. and Elizabeth, N.J. serving all intermediate points: From junction Chestnut Street and Westfield Avenue, Roselle Park, then over Westfield Avenue to junction Broad Street, then over Broad Street, to junction Newark Avenue, then over Newark Avenue to junction North Avenue, Elizabeth, and return over the same route. (10) Between Fanwood, N.J. and Newark, N.J. serving all intermediate points: From junction Midway Avenue and Martine Avenue, (Park Avenue, then over Martine Avenue to junction Lake Avenue, then over Lake Avenue to junction Raritan Road, then over Raritan Road to junction Drapkin Avenue, then over Drapkin Avenue, to junction Wood Avenue, Linden, then over Wood Avenue to junction Amsterdam Avenue, then over Amsterdam Avenue to junction First Avenue, Roselle, then over First Avenue to junction Laurel Street, then over Laurel Street to junction Second Avenue, then over Second Avenue to junction Sheridan Avenue, then over Sheridan Avenue to junction Third Avenue, then over Third Avenue to junction Jersey Avenue, then over Jersey Avenue to junction West Jersey Street, then over West Jersey Street to junction Broad Street, Elizabeth, then over Broad Street to junction Elizabeth Avenue, then over Elizabeth Avenue to junction Meeker Avenue, then over Meeker Avenue to junction Empire Street, then over Empire Street to junciton Victoria Street, then over Victoria Street, to junction Frelinghuysen Avenue, then over Frelinghuysen Avenue to junction U.S. Highway #22, then over U.S. Highway #22 to junction U.S. Highway #1, Newark, and return over the same route. Applicant proposes to join the above described authority with its present operations to and from New York, NY. Application is based on termination of service by present carrier.

MC 151193 (Sub-1–32TA), filed June 3, 1982. Applicant: PAULS TRUCKING CORPORATION, P.O. Drawer D, 286 Homestead Avenue, Avenel, NJ 07001. Representative: Michael A. Beam, (same as applicant) *Contract carrier:* Irregular routes: *Toys*, between points in NJ, NV, CA, OR, UT, TX, IL, OH, WI, GA, KY, FL, MA and CO under continuing contract(s) with Knickerbocker Toy Co., Inc., Edison, NJ. Supporting shipper: Knickerbocker Toy Co., Inc., 10 Clearview Road, Edison, NJ 08837.

MC 142114 (Sub-1–12TA), filed June 3, 1982. Applicant: RETAIL EXPRESS, INC., 9 Stuart Road, Chelmsford, MA 01826. Representative: Frank M. Cushman, 36 South Main Street, Sharon, MA 02067. *Contract carrier:* Irregular routes: *General commodities, restricted to freight being transported on behalf of the customers of Harbor Warehouse Company, Inc. (except classes A and B explosives, hazardous waste, household goods as defined by the Commission, commodities in bulk and those requiring*

special equipment) between all points in the U.S. (excluding AK and HI), under continuing contract(s) with Harbor Bay Warehouse Company, Inc., Jersey City, NJ 07305. Supporting shipper: Harbor Bay Warehouse Company, Inc., 104 Harbor Drive, Jersey City, NJ 07305.

MC 148387 (Sub-1–9TA), filed June 3, 1982. Applicant: S.M.P., INC., 166 Sitgreaves Street, Phillipsburg, NJ 08865. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *(1) Paper and paper products, and (2) materials, equipment, and supplies used in the manufacture and sale of (1) above,* between Riegelsville, PA, on the one hand, and, on the other, points in CT, NJ, NY and PA. Supporting shipper(s): Durham Mills, Inc., Routes 611 and 12, Riegelsville, PA 18077.

MC 162247 (Sub-1–1TA), filed May 28, 1982. Applicant: SABER TRANSPORT, INC., Travelers Plaza, Borelli, Boulevard, P.O. Box 18, Paulsboro, NJ 08066. Representative: Dixie C. Newhouse, 1329 Pennsylvania Avenue, P.O. Box 1417, Hargerstown, MD 21740. *Contract carrier:* Irregular routes: (1) *Lighting fixtures and equipment, including materials and supplies used in the manufacture, sale and distribution thereof, between points in the U.S. (excluding AK and HI), under continuing contract(s) with Keystone Lighting Corporation of Bristol, PA, and (2) Cleaning and scouring compounds and chemicals, including materials, equipment and supplies* between Cinnaminson, NJ, and its commerical zone, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, KS, OK, and TX, under continuing contract(s) with Certified Brands, Inc., A Division of Certified Chemical, Inc., of Cinnaminson, NJ. Supporting shipper: Keystone Lighting Corporation, Route 13 and Beaver Street, Bristol, PA 19007; Certified Brands, A Division of Certified Chemical, Inc., 2200 Garry Road, Cinnaminson, NJ 08077.

MC 145288 (Sub-1–1TA), filed June 1, 1982. Applicant: SPECIALIZED HAULING CORPORATION, Box 488, Barre, VT 05641. Representative: John P. Monte, Box 686, Barre, VT 05641. *Treated utility poles, cross-arms and railroad ties,* From points in the States of FL, GA, MD, NC and SC to points in the states of CT, MA, MD, ME, NH, PA, RI and VT. Supporting shipper: Southern Wood Piedmont Company, P.O. Box 5447, Spartanburg, SC 29304.

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center. Room 300, 1776 Peachtree Street, N.E. Atlanta, GA 30309.

MC 162194 (Sub-3–1TA), filed June 7, 1982. Applicant: VERLON E. DRAINE, 2001 Bedford Street, Scottsboro, AL 35768. Representative: Verlon E. Draine, (same as above). *Passengers, no baggage, in special and charter operations,* from Scottsboro, AL to Knoxville, TN; Nashville, TN and Atlanta, GA and return, Supporting shipper: Scottsboro Christian Broadcasting, Inc., P.O. Box 759, Scottsboro, AL 35768.

MC 119917 (Sub-3–10TA), filed June 7, 1982. Applicant: DUDLEY TRUCKING CO., INC., 724 Memorial Drive S.E., Atlantic, GA 30316. Representative: Tom Gramling (same as above). *Printed matter and related items,* between Gainsville GA, (including commercial zone) and all points in the US, except AK and HI. Supporting shipper: Moreno Press, 470 Woodsmill Rd., Gainesville, GA 30501.

MC 157371 (Sub-3–1TA), filed June 8, 1982. Applicant: CHEM-WASTE INCORPORATED, 4435 Washington Road, Post Office Box 250, Evans, GA 30809. Representative: Robert M. Haynie, (same address as applicant). *Hazardous waste* from points in Union and Davidson Counties, NC to points in Sumter County, AL and Sumter County, SC. Supporting shippers: Duracell, U.S.A., 305 New Highway 64 East, Lexington, NC 27292; Teledyne Allvac, 2020 Ashcraft Avenue, Monroe, NC 28110.

Note.—Applicant intends to tack with existing authority held under docket MC–157371.

MC 143183 (Sub-3–2 TA), filed June 8, 1982. Applicant: D&L TRUCKING, INC., P.O. Box 1741, Wilmington, NC. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415. *Contract,* irregular: transporting (1) *shredded scrap metal* from Elizabeth, NJ and Baltimore, MD, to the facilities of Hercules, Inc., located at or near Pulaski, VA, and (2) *ferrous sulphate* form Sayreville, NJ and York, PA, to the facilities of Hercules, Inc., located at or near Pulaski, VA, under account with Hercules, Inc. of Wilmington, DE. Supporting shipper: Hercules, Inc. 910 Market St., Wilmington, DE 19899.

MC 162372 (Sub-3–1TA), filed June 7, 1982. Applicant: LUSK TRANSPORTATION SERVICE, P.O. Box 3567, 306 Bell Crest Drive, Cleveland, TN 37311. Representative: Charles R. Lusk, Jr., (Same address as applicant). *Such commodities as are used, dealt in, or distributed by a manufacturer and distributor of paper and paper products* between the facilities of Bowater Southern Paper Company, and points in the US in and east of ND, SD, NB, KS, OK, and TX. Supporting shipper: Bowater Southern Paper Company, US Hwy 11, Calhoun, TN 37309.

MC 157204 (Sub-3–2TA), filed June 7, 1982. Applicant: SUR-WAY TRANSPORT, INC., 1506 Radium Springs Road, Albany, GA 31705. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Contract,* irregular; *General Commodities (except classes A & B explosives, household goods as defined by the Commission, commodities in bulk and hazardous commodities)* between points in the U.S. (except AK and HI) under a continuing contract with Metalux Corporation of Americus, GA. Supporting shipper: Metalux Corporation, P.O. Box 1227, Americus, GA 31709.

MC 138184 (Sub-3–3TA), June 8, 1982. Applicant: WALLACE TRUCKING COMPANY, Route 4, Box A–71, Laurinburg, NC 28352. Representative: F. Kent Burns, P.O. Box 2479, Raleigh, NC 27602. *Medical and health care products and all materials and supplies necessary for the manufacture, distribution and sale thereof* between all points in the US. Supporting shipper: Abbott Laboratories, Inc., 1400 Sheridan Road, North Chicago, IL. 60064.

The following applications were filed in Region 4. Send Protest to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 2844 (Sub-4–1TA), filed June 4, 1982. Applicant: ROBINSON BUS SERVICE, INC., 1528 Emerson, Evanston, IL 60201. Representative: Allan C. Zuckerman, 29 South LaSalle Street, Suite 905, Chicago, IL 60603. *Passengers and their baggage,* in special and charter operations, beginning and ending at points in Cook County, IL, and extending to points in the U.S. (except AK and HI). There are 15 supporting shippers.

MC 128409 (Sub-4–4TA), filed June 3, 1982. Applicant: HAROLD MILLER TRUCKING, INC., P.O. Box 623, Moorhead, MN 56560. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108, (701) 237–4223. *Contract:,* Irregular; *food and related products,* between the facilities of General Nutrition Corporation at Fargo, ND on the one hand, and, on the other, points in the U.S. (except AK and HI), under a continuing contract(s) with General Nutrition Corporation of Pittsburg, PA. Supporting shipper: General Nutrition Corporation, 1301 Fargo, ND 58102.

MC 140276 (Sub-4–7TA), filed June 4, 1982. Applicant: LARRY SCHEFUS

TRUCKING, INC., Route 1, Box 202, Redwood Falls, MN 56283. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., Minneapolis, MN 55402. *Contract* Irregular: *Lumber and wood products,* from Bonner County, ID; Stevens County, WA; Clatsop County, OR and Humboldt County, CA, to Lake County, SD and the MN counties of Becker, Douglas, Hennepin and Ramsey, under contract with Midwest Pacific Corporatioin, Minneapolis, MN. Supporting shipper: Midwest Pacific Corporation, 6950 France Ave. S., Minneapolis, MN 55435.

MC 159040 (Sub-4–1TA), filed June 3, 1982. Applicant: K.I.S.S. EXPRESS CO., 4820 West Belmont Avenue, Chicago, IL 60641. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., NW, Washington, DC 20006. *Contract;* irregular: *General commodities,* (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk), under continuing contract(s) with Schnadig Corporation, of Chicago, IL, Cole Sewell Corporation, of St. Paul, MN, Genie Toys, of St. Louis, MO, Pettibone-Chicago, Inc., of Chicago, IL, St. Charles Manufacturing Company, of St. Charles, IL, Adams Foam Rubber Company, Inc. of Chicago, IL, and Lee Rowan Company, of St. Louis, MO, for 270 days. Supporting shippers: There are 7 supporting shippers.

MC 161286 (Sub-4–2TA), filed June 4, 1982. Applicant: IRISH & LaCOUNT TRUCKING, INC., Route 2, Box 19A, Krakow, WI 54137. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Contract;,* irregular: *meat and packinghouse products and materials, equipment and supplies used in the manufacture, sale or distribution of such commodities* between Brown County, WI on the one hand, and, on the other, points in IA, IL, IN, LA, MA, MI, MN, NJ, NY and PA. Restriction: restricted to transportation performed under continuing contract(s) with Fox Valley Beef, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Fox Valley Beef, Inc., Box 3520, Green Bay, WI 54303.

MC 161615 (Sub-4–4TA), filed June 3, 1982. Applicant: SONN LINE TRANSPORT CO., INC., 4320 North 126th Street, Brookfield, WI 53005. Representative: Daniel R. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. *Machinery and metal products* between the facilities of Telsmith Division-Barber-Greene Co., at Milwaukee, WI, on the one hand, and, on the other, Baltimore, MD. An underlying ETA seeks 120 days authority. Supporting shipper: Telsmith Division-Barber-Greene Co., 532 East Capitol Drive, Milwaukee, WI, 53213.

MC 162329 (Sub-4–1TA), filed June 3, 1982. Applicant: RICHARD D. HANSON d.b.a. D & A TRUCKING, P.O. Box 97, Karlstad, MN 56732. Representative: Richard D. Hanson (same as above). *Common;* Regular: *Dry fertilizer,* (potash) from the international boundary line at the Noise port of entry to points in ND (Park River) and points in MN (Brooks, Karlstad, Lake Bronson, Gully, Grygla) Supporting shipper: Farmer's Union Oil Co., Brooks, MN 56715.

MC 162331 (Sub-4–1TA), filed June 3, 1982. Applicant: MARIANA CORPORATION, P.O. Box 728, New Albany, IN 47150. Representative: John F. Wickes, Jr., Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Contract* irregular: *Industrial sand, in bulk, in pneumatic tank vehicles,* between Bridgman, MI and Troy Grove and Wedron, IL, on the one hand, and, on the other, Montgomery, Clark, and Greene Counties, OH and Cincinnati, OH, Cleveland, OH, and Louisville, KY and their commercial zones. Supporting shipper: Keener Sand & Clay Company, 330 Dering Avenue, Columbus, OH.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105

MC 162349 (Sub-6–1TA), filed June 4, 1982. Applicant: AFFORDABLE TOURS, INC., Rt. 1, Box 189–A Portland, OR 97231. Representative: Dona L. Huson (Same address as applicant). *Passengers and day luggage* in round trip charter and special operations between Vancouver, WA, and points in OR, for 180 days. Supporting shipper: Leisure Travel Group, 1418–D Brandt Road, Vancouver, WA 98661.

MC 162346 (Sub-6–1TA), filed June 3, 1982. Applicant: BREAK BULK SERVICE, INC. d.b.a. BBST, 2211 Wood St., Oakland, CA 94607. Representative: Albert Lau (same as applicant). *General Commodities* (except household goods as defined by the Commission, those of unusual value, class A and B explosives, commodities in bulk, those requiring special equipment, automobiles, and hazardous waste materials), between Alameda County and San Francisco, CA, on the one hand, and, on the other, points in Butte, Colusa, Fresno, Kings, Lake, Madera, Mendocino, Merced, Napa, Placer, San Benito, Santa Clara, Shasta, Solano, Sonoma, Suter, Tehama, Tulare, Glenn, Yolo, Yuba, Marin, Monterey, Sacramento, San Mateo, Santa Cruz, Amador, Contra Costa, Kern, San Joaquin, and Stanislaus Counties, VA, restricted to the transportation of traffic having a prior or subsequent movement by rail, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Golden State Shippers Association, Inc., 1345C Doolittle Drive, San Leandro, CA 94577.

MC 155793 (Sub-6–2TA), filed June 3, 1982. Applicant: CALIFORNIA/NEVADA BIG VALLEY EXPRESS, INC., A California Corporation d.b.a. BIG VALLEY EXPRESS, 2201 Branstetter Lane, Redding, CA 96001 Representative: M. D. Burrows (same as applicant). *General Commodites* (except Class A and B explosives, households goods, hazardous waste, and commodities in bulk) 1. Between points and places in Sacramento and Placer Counties, CA on the one hand, and points and places in Lassen, Modoc, Plumas, Shasta, Siskiyou, Tehama and Trinity Counties, CA on the other. 2. Between points in Washoe County, NV on the one hand and on the other points in Siskiyou County, CA, for 270 days. There are eight (8) shippers. Their statements may be examined at the Regional office listed above.

MC 150917 (Sub-6–1TA), filed June 4, 1982. Applicant: FOOD EXPRESS INC., 4325 Fruitland Ave., Los Angeles, CA 90058. Representative: Michael L. Springer (same as applicant). *Contract* carrier, irregular routes, *Food products,* between points in AZ, CA, ID, NV, and UT, under a continuing contract with Yoplait USA, for 270 days. Supporting shipper(s): Yoplait USA, Inc., P.O.B. 9329, Minneapolis, MN 55440.

MC 150756 (Sub-6–9TA), filed June 4, 1982. Applicant: GUTHMILLER, TRUCKING, INC., P.O. Box 206 Union City, CA 94587. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, *Video games, cartridges, storage consoles, and related products,* from Santa Clara County, CA, to points in WA, OR, ID, MT, WY, NV, UT, CO, AZ, NM, and TX, for 270 days. Supporting shipper: Imagic, 20665 Fourth Street, Saratoga, CA.

MC 162370 (Sub-6–1zTA), filed June 7, 1982. Applicant: INTERNATIONAL FUNWAY, CLUB, 2025 Caspian Ave., Long Beach, CA 90810. Representative: D. Michael Trainotti, 555 E. Ocean Blvd., Ste. 716, Long Beach, CA 90802. *Passengers and their baggage in special or charter* between points in Los Angeles County, CA, on the one hand, and, on the other, to Las Vegas, Lake Tahoe, and Reno, NV; Salt Lake City, UT; and Grans Canyon, AZ, for 180

days. Supporting shippers: There are 14 shippers. Their statements may be examined at the regional office listed above.

MC 150787 (Sub-6–2TA), filed June 3, 1982. Applicant: LAKE TAHOE TRANSPORTATION SYSTEMS, INC., 1000 Emerald Bay Road, South Lake Tahoe, CA 95731. Representative: Raymond J. LeBlanc (same as applicant). *Passengers and their baggage, and express,* between points and places in El Dorado, Placer, Nevada, Alpine and Calaveras Counties, CA, and Douglas, Washoe, Storey and Carson City Counties, NV, for 180 days. Supporting shipper: "There are 19 shippers. Their statements may be examined at the Regional Office listed."

MC 162236 (Sub-6–1TA), filed June 7, 1982. Applicant: LITTLE DONKEY ENTERPRISES, INC., P.O. Box 822, Estacada, Oregon 97023. Representative: Philip G. Skofstad, 529 S.E. Grand Avenue, Portland, Oregon 97214. *Contract Carrier,* Irregular routes: (1) *Lumber, fabricated wooden "I" beams, wooden blocking panels, web stiffeners* and *end-joined chord stock, pre-cut plywood panels, plywood edge blocking* and *metal joist hangers* and *"X" bridging* between Tualatin, OR and Cucamonga, CA on the one hand, and, on the other, points in OR, WA, CA, MT, ID, WY, NV, UT, CO, AZ, NM and TX for the account of Timjoist, Inc.; (2) *Steel bar* and *tubing* and *aluminum bar* and *tubing,* between Portland, OR on the one hand, and, on the other, Cerritos, Santa Clara, Fresno, National City, San Diego, Irwindale, Santa Fe Springs, Pico Rivera, Milpitas, Hayward, Los Angeles, and Cucamonga, CA, Phoenix, AZ, Dallas, San Antonio and Houston, TX and Salt Lake City, UT, for the account of Foucar Steel and Aluminum, Inc. For 270 days. Supporting shipper: Timjoist, Inc., 21235 S.W. 108th, Tualatin, OR 97062. Foucar Steel and Aluminum, Inc., 2224 N.E. Argyle, Portland, OR 97211.

MC 8457 (Sub-6–1TA), filed June 7, 1982. Applicant: MILWAUKIE TRANSFER & FUEL CO., P.O.B. 522, Clackamas, OR 97015. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210. *Farm supplies,* between points in OR and WA, on the one hand, and, on the other, points in OR, WA, ID, UT, NV, CA, WY, TX, AZ and NM, for 270 days. Supporting shippers: Webfoot Fertilizer Company, Inc., 201 SE Washington St., Portland, OR 97214; H. J. Stoll & Sons, Inc., 2320 SE Grand Ave., Portland, OR 97214; Full Circle, Inc., 185 SW Main, Hillsboro, OR 97123; Farmcraft, Inc. 8900 S W Commerical, Tigard, OR 97223.

MC 162354 (Sub-6–1TA), filed June 3, 1982. Applicant: ORRISON TRANSPORTATION CO., INC., P.O. Box 3282, Cheyenne, WY 82001. Representative: Richard C. Orrison (same as applicant). *Contract Carrier;* Irregular Routes: *Beer,* not in bulk, between points in TX, WY and CO for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Orrison Distributing, Inc., P.O. Box 3282, Cheyenne, WY 82001.

MC 151471 (Sub-6–18TA), filed June 4, 1982. Applicant: STEINBECKER BROS., INC., P.O. Box 852, Greeley, CO 80632. Representative: Charles M. Williams, 1600 Sherman St., #665, Denver, CO 80203. *(1) Malt beverages and related advertising materials,* from Seattle, WA and St. Louis, MO and points in their commercial zones, to points in Fremont and Natrona Counties, WY, and *(2) empty malt beverage containers,* from points in Fremont and Natrona Counties, WY to points in Seattle, WA and St. Louis, MO and points in their commercial zone, for 270 days. Supporting shippers: Casper Beverage, Inc., P.O. Box 897, Casper, WY 82601, and Fremont Distributors, 425 North Broadway, Riverton, WY 82501.

MC 162299 (Sub-6–1TA), filed June 1, 1982. Applicant: SYMONS TIRE, INC., 1264 N. Main St., Bishop, CA 93514. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701. *Contract Carrier;* Irregular Routes: *Pneumatic Tires, Tubes and Related articles,* between points in Washoe County, NV and Inyo County, CA for the account of BF Goodrich, for 270 days. Supporting shipper: BF Goodrich Co., 500 S. Main St., Akron, OH 44318.

MC 159725 (Sub-6–1TA), filed June 4, 1982. Applicant: TESKEY TRANSPORTATION CO., 501 S. Stimson Ave., City of Industry, CA 91745. Representative: Patricia M. Schnegg, 707 Wilshire Blvd., Ste. 1800, Los Angles, CA 90017. *Contract,* irregular, *Printed matter and materials, supplies and equipment used in the distribution and sale of printed matter* between all points in the U.S. under continuing contract from Waldenbooks, for 270 days. Supporting shipper: Waldenbooks, 201 Highridge Rd., Stanford, CT 06904.

James H. Bayne,
Acting Secretary.

[FR Doc. 82–16191 Filed 6–15–82; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 346 (Sub-11)]

Chicago & North Western Transportation Co.; Petition for Exemption; Tariff Notice and Posting Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption from regulation.

SUMMARY: In response to a petition filed by Chicago and North Western Transportation Company (CNW), the Commission has decided to exercise its authority under 49 U.S.C. 10505 and exempt the commuter service CNW provides to and from Kenosha, WI, from certain notice and posting requirements.

DATES: Effective date: July 16, 1982; Comment cate: July 6, 1982.

ADDRESS: An original and, if possible, 15 copies of comments should be sent to: Room 5340, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., (202) 275–7656.

SUPPLEMENTARY INFORMATION: On February 5, 1982, Chicago and North Western Transportation Company (CNW) requested relief from the 49 U.S.C. 10762 statutory notice and the posting requirements (49 CFR 1303.34(j) for changes in its suburban commuter passenger fares between Kenosha, WI, and stations in Illinois. CNW argues that this relief is appropriate under the standards of 49 U.S.C. 10505 and 10762(d)(1). The Regional Transportation Authority for Northern Illinois (RTA) supports CNW's request.

CNW provides suburban (commuter) rail passenger service in the greater Chicago metropolitan area. All of the 62 stations involved, except Kenosha, are located in Illinois. The Illinois RTA prescribes fares, rules, and regulations governing transportation between all the Illinois stations.

CNW notes that, in the past, after the RTA has granted various fare increases and reductions, implementation of fare changes applicable to Kenosha have been delayed because an interstate fare is involved. Accordingly, changes for Kenosha must be authorized by this Commission. Revenues are lost by CNW and ultimately by RTA, as commuters from Kenosha and nearby Illinois stations but the less expensive Kenosha tickets until the interstate rate change is effective. CNW also points out that the delay obstructs RTA's uniform implementation of its zone fare structure. CNW further argues that our posting regulation, which requires the posting of proposed fare changes for

Kenosha at all stations on the line, is unnecessary. It proposes to post fare changes for Kenosha only at that station.

CNW contends that the prerequisites of § 10505 are met because the exemption is of limited scope (applying only to Kenosha passenger fares some 56 miles from Chicago and a daily ridership of approximately 209 persons), and is intended solely to enable CNW to implement Kenosha fare changes simultaneously with all other Chicago area stations. CNW further argues that the posting and notice requirements are not necessary to carry out the transportation policy of 49 U.S.C. 10101a and that the resulting time lag causes unnecessary accounting and administrative confusion and expense.

The partial exemption pursuant to section 10505 is warranted. First, we find that the limited scope criterion is met. Second, we are of the opinion that regulation in the areas discussed by CNW is not necessary to carry out the goals of 49 U.S.C. 10101a. Illinois fares are regulated by the RTA, which balances the carrier's and the users' interests in determining the appropriate fare changes. The interstate fare to Kenosha is constructed on the same formula but is subject to our jurisdiction. We have previously changes in the Kenosha fare, and have consistantly declined to investigate or suspend them despite the filing, in certain cases, of protests by Kenosha commuters. Moreover, to our knowledge, no complaint has been filed subsequent to an adjustment in the fare.

Finally, we conclude that the exemption from the notice and posting requirements will not cause an abuse of market power. As stated, RTA established a formula for fare application throughout the Illinois area, and the Kenosha fares are based on it. Furthermore, although the exemption would diminish the ability to file a protest, it would not affect the right of Kenosha commuters to reasonable fares, since the complaint provisions of 49 U.S.C. 11701 remain available.

In light of these factors, we will approve the exemption subject to the following conditions: (1) CNW must continue to base Kenosha fares on the Illinois RTA's zone ratemaking system; and (2) CNW must inform Kenosha commuters of this action and the conditions attached. We conclude that these conditions will protect the Kenosha commuters from any possible abuse of market power by CNW, and also avoid unnecessary loss of revenues to CNW. Accordingly, as long as the conditions imposed above are met, we conclude that CNW should be authorized to adjust the Kenosha interstate fare upon less than statutory notice (i.e., one day's notice), and CNW should not be required to be subject to the full range of posting requirements contained in 49 CFR 1303.34(j).

The Staggers Act amended 49 U.S.C. 10505 to eliminate the requirements for a proceeding prior to granting exemptions in appropriate cases. This proposal affecting an insignificant amount of rail traffic, is such a case and we are exercising our authority to make this exemption effective without further proceedings. However, we will review any problems that may develop, and reconsider the exemption. This procedure comports with Congress' intention in the legislative history of the Staggers Act that particular abuses of market power under an exemption will be reviewed by us and, if necessary, corrected after the fact.

This action does not significantly affect either the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10505, 5 U.S.C. 553)

Dated: June 9, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham, Sterrett, Andre and Simmons.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-16215 Filed 6-15-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 362N)

Conrail Abandonment of the Carlisle Secondary Track

AGENCY: Interstate Commerce Commission

ACTION: Notice of exemption.

SUMMARY: The Commission has exempted Germantown Rail Siding Company, a wholly-owned subsidiary of the Dupps Company, from 49 U.S.C. Subtitle IV in connection with a line it proposes to purchase in the above-title abandonment proceeding.

DATES: This exemption became effective on June 11, 1982. Petitions to reopen must be filed no later than July 6, 1982.

ADDRESSES: This exemption became effective on June 11, 1982. Petitions to reopen must be filed no later than July 6, 1982.

ADDRESSES: Send petitions to:
(1) Interstate Commerce Commission, Section of Finance, Room 5417, Washington, DC 20423
(2) Petitioner's representative: Marshall Kragen, 1919 Pennsylvania Avenue NW., Suite 300, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Louise E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: For additional information, see the Commission's decision in Docket No. AB-167 (Sub-No. 362N). To purchase copies of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Avenue NW., Washington, DC 20423, or call toll free 800-424-5403 outside the D.C. area, or call (202) 289-4357 D.C. Metropolitan Area.

Dated: June 9, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons.

Agatha L. Mergenovich

Secretary.

[FR Doc. 82-16213 Filed 6-15-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-147)]

Denver & Rio Grande Western Railroad Co.; Exemption for Contract Tariffs ICC-DRGW-C-0018, 0020, and 0021

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariffs to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The Denver and Rio Grande Western Railroad Company (DRGW) filed a petition on May 25, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit contracts ICC-DRGW-C-0018, 0020, and 0021 filed on May 13, 1982, to become effective on one day's notice. The contract involve the movement of canned goods.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. However, the Commission has granted relief under our

section 10505 exemption authority in exceptional situations.

The petition shall be granted. By reducing the shippers' transportation costs, short notice effectiveness of the contracts will give the shipper an opportunity to increase its position in the marketplace as well as to keep down the consumer's cost of canned goods. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Petitioners contracts ICC–DRGW–C–0018, 0020, and 0021 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(e) if protests are filed within 15 days of publication in the **Federal Register.**

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Dated: June 10, 1982.

By the Commission, Division 1, Commissioners Sterrett, Gilliam, and Andre.

James H. Bayne,

Acting Secretary.

[FR Doc. 82–16214 Filed 6–15–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 82–13370 appearing in the issue for Tuesday, May 18, 1982, make the following correction:

On page 21316, column one, paragraph four line 9, the word "except" should be inserted before the word "household" to read "(except household goods) * * *".

BILLING CODE 1505–01–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–155 through 163 (Preliminary)]

Certain Steel Products From Spain

Determinations

On the basis of the record[1] developed in the subject investigations, the Commission determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the following products which are alleged to be subsidized by the Government of Spain:

Hot-rolled carbon steel plate[2] (investigation No. 701–TA–155 (Preliminary));[3]

Cold-rolled carbon steel sheet[4] (investigation No. 701–TA–157 (Preliminary));[5]

Galvanized carbon steel sheet[6] investigation No. 701–TA–158 (Preliminary));[7 8]

Carbon steel structural shapes[9] (investigation No. 701–TA–159 (Preliminary));[10]

Hot-rolled carbon steel bar[11] (investigation No. 701–TA–160 (Preliminary));[12] and

Cold-formed carbon steel bar[13] (investigation No. 701–TA–162 (Preliminary)).[10]

The Commission determines that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports of the following products which are alleged to be subsidized by the Government of Spain:

Hot-rolled carbon steel sheet[14] (investigation No. 701–TA–156 (Preliminary));

Hot-rolled alloy steel bar[15] (investigation No. 701–TA–161 (Preliminary));[16] and

Cold-formed alloy steel bar[17] (investigation No. 701–TA–162 (Preliminary)).[16]

Background

On January 11, 1982, petitions were filed with the Deparment of Commerce by the United States Steel Corp. and by counsel for Republic Steel Corp., Inland Steel Co., Jones & Loughlin Steel, Inc., National Steel Corp., and Cyclops Corp. alleging that producers, manufacturers, or exporters in Spain of certain steel products receive bounties or grants within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303). Although Commerce subsequently initiated countervailing duty investigations on such merchandise under section 303, Spain was not at that time a "country under the Agreement" within the meaning of section 701(b) of the Act (19 U.S.C. 1671(b)), and there was no requirement for the Commission

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[1] The record is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] For purposes of these investigations, hot-rolled carbon steel plate is provided for in items 607.6615, 607.9400, 608.0710, and 608.1100 of the Tariff Schedules of the United States Annotated (TSUSA).

[3] Chairman Alberger and Commissioners Frank and Haggart determine that there is a reasonable indication that an industry in the United States is materially injured by reason of the subject imports.

[4] For purposes of these investigations, cold-rolled carbon steel sheet is provided for in items 607.8320 and 607.8344 of the TSUSA.

[5] Chairman Alberger and Commissioner Eckes and Haggart determine that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of the subject imports. Commissioner Frank determines that there is a reasonable indication that an industry in the United States is materially injured by reason of the subject imports.

[6] For purposes of these investigations, galvanized carbon steel sheet is provided for in items 608.0730 and 608.1300 of the TSUSA.

[7] Chairman Alberger, Vice Chairman Calhoun, and Commissioner Stern dissenting.

[8] Commissioners Frank and Haggart determine that there is a reasonable indication that an industry in the United States is materially injured by reason of the subject imports.

[9] For purposes of these investigations, carbon steel structural shapes are provided for in items 609.8005, 609.8015, 609.8035, 609.8041, and 609.8045 of the TSUSA.

[10] Chairman Alberger and Commissioners Frank and Haggart determine that there is a reasonable indication that an industry in the United States is materially injured by reason of the subject imports.

[11] For purposes of these investigations, hot-rolled carbon steel bar is provided for in items 606.8310, 606.8330, and 606.8350 of the TSUSA.

[12] Chairman Alberger and Commissioners Eckes and Haggart determine that there is a reasonable indications that an industry in the United States is threatened with material injury by reason of the subject imports. Commissioner Frank determines that there is a reasonable indication that an industry in the United States is materially injured by reason of the subject imports.

[13] For purposes of these investigations, cold-formed carbon steel bar is provided for in items 606.8805 and 606.8815 of the TSUSA.

[14] For purposes of these investigations, hot-rolled carbon steel sheet is provided for in items 607.6610, 607.6700, 607.0320, 607.8342, and 607.9400 of the TSUSA.

[15] For purposes of these investigations, hot-rolled alloy steel bar is provided for in item 606.9700 of the TSUSA.

[16] Commissioner Frank dissenting.

[17] For purposes of these investigations, cold-formed alloy steel bar is provided for in item 606.9900 of the TSUSA.

to conduct preliminary injury investigations pursuant to section 703(a).

On April 14, 1982, the United States Trade Representative announced that Spain had become a "country under the Agreement" (47 FR 16697). On April 26, 1982, Commerce notified the Commission that it was terminating its investigations under section 303 and commencing investigations under section 702. Accordingly, effective April 26, 1982, the Commission, pursuant to section 703(a) of the Act (19 U.S.C. 1671b(a)), instituted preliminary countervailing duty investigations to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Spain of the merchandise which is the subject of the investigations by the Department of Commerce.

Notice of the institution of the Commission's investigations and of a conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the Federal Register of May 5, 1982 (47 FR 19486). The conference was held in Washington, D.C., on May 24, 1982, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Views of the Commission

I. Introduction

The following constitute our views on the nine countervailing duty investigations involving certain carbon and alloy steel products from Spain. First, we summarize the standards for our determinations, and then we define the domestic industries against which the impact of the imports under investigation is to be assessed. Finally, in each investigation, we examine the conditions of the industry and then evaluate the causal relationship between the allegedly subsidized imports and this condition.

Standards for Determinations

In preliminary countervailing duty investigations the Commission must determine whether there is a reasonable indication that an industry in the United States is materially injured or is threatened with material injury, or the establishment of an industry in the United States is materially retarded,[18] by reason of imports of the merchandise that is the subject of the investigation.[19] "Material injury" is defined as "harm which is not inconsequential, immaterial, or unimportant."[20] In making determinations, the Commission must consider, among other factors, (1) the volume of imports of the merchandise which is the subject of the investigation, (2) the effect of imports of that merchandise on prices in the United States for like products, and (3) the impact of imports of such merchandise on domestic producers of like products.[21]

In making a determination as to whether there is a threat of material injury the Commission considers, among other factors, (1) the rate of increases of subsidized imports into the U.S. market, (2) the capacity in the exporting country to generate exports, and (3) the availability of other export markets.[22] Findings of a reasonable indication of threat of material injury must be based on a showing that the likelihood of harm is real and imminent, and not on mere supposition, speculation, or conjecture.[23]

Definition of the Domestic Industries

The domestic industry is defined in section 771(4)(A) of the Tariff Act of 1930 as "the domestic producers as a whole of a like product or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product."[24] "Like product" is defined in section 771(10) as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation * * *."[25]

These investigations concern allegedly subsidized imports from Spain of nine different types of steel products. These nine types are: (1) Hot-rolled carbon steel plate; (2) hot-rolled carbon steel sheet; (3) cold-rolled carbon steel sheet; (4) galvanized carbon steel sheet; (5) carbon steel structural shapes (angles, shapes and sections); (6) hot-rolled carbon steel bar; (7) hot-rolled alloy steel bar; (8) cold-formed carbon steel bar; and (9) cold-formed alloy steel bar.

These same products were the subject of the recent preliminary investigations involving certain steel products from Belgium, Brazil, France, Italy, Luxembourg, the Netherlands, Romania, the United Kingdom, and West Germany.[26] In those cases, the Commission found that each of the nine product categories constituted a separate like product and noted:

> Each [product category] has physical characteristics of size, shape, or composition that are unlike those of the others. Moreover, they have varying uses, and products of one type generally do not compete with products of another type. As noted in the Commission determination in the 1980 steel products antidumping investigations, "Although raw steel constitutes much of the value of each of the * * * product groups under investigation, competition in the U.S. market between domestically produced steel products and the alleged LTFV [and subsidized] imports occurs in each of the * * * separate and distinct product groups." In these investigations the domestic producers have been able to identify production and profitability data in terms of each of the nine groups, allowing the Commission ot examine the impact of imports on each group separately.[27]

The Commission recognized that within each of the nine product categories there may have been somewhat different characteristics and uses for articles having different specifications, but it lacked sufficient information to make any meaningful distinctions among them. In the absence of "clear dividing lines among the products in each group", each was treated in its entirety as a separate like product.[28] Thus, the Commission determined that there were nine industries corresponding to the nine product groups.

The record developed in these investigations contains no new information that would suggest a revision of the definitions. Additionally, no party has argued for a significant revision. We, therefore, find it appropriate to use the same industry definitions for purposes of the present preliminary investigations.[29]

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[18] Material retardation of an industry is not an issue in these investigations.

[19] 19 U.S.C. 1671b, 1673b.

[20] 19 U.S.C. 1677(7)(A).

[21] 19 U.S.C. 1677(7)(B).

[22] 19 CFR 207.26(d).

[23] S. Rep. No. 96-249, 96th Cong., 1st Sess. 88-89 (1979); S. Rep. No. 1298, 93d Cong., 2d Sess. 180 (1974); Alberta Gas Chemicals, Inc. v. United States, 515 F. Supp. 780, 790 (Ct. Int'l Trade 1981).

[24] 19 U.S.C. 1677(4)(A).

[25] 19 U.S.C. 1677(10).

[26] Investigations Nos. 701-TA-80 to 144, 701-TA-146, and 701-TA-147 (Preliminary), and Investigations Nos. 731-TA-53 to 66 (Preliminary), USITC Pubs. 1221 and 1228 (1982). Specific descriptions of the products, their characteristics and uses, and methods of manufacture may be obtained by reference to the Commission's Views and the Report in these investigations.

[27] *Id.* at 14-15 [footnote omitted].

[28] *Id.* at 15-18.

[29] Commissioners Stern and Haggart emphasize that the definitions of the industries at this preliminary stage are based on information now available; they do not preclude the possibility of defining the domestic industries differently in any final investigation if the record developed supports a revision of the definitions of the industries.

Cumulation

Our determinations in these investigations have been made on a case-by-case basis, without aggregation of import data for each product category with the import data derived in earlier investigations regarding the same products imported from other counties.[30] [31] In the event that final investigations are conducted in these cases, however, we do not rule out cumulation if the record developed demonstrates its is appropriate.[32]

II. Hot-Rolled Carbon Steel Plate

With respect to hot-rolled carbon steel plate from Spain, we find that there is a reasonable indication of material injury or threat of material injury to the affected domestic industry by the subject imports.[33] We have made this determination in part on the basis of the substantial levels of Spanish imports that have entered during a period of decline in the domestic industry as well as indications that these imports may have caused price suppression or depression in the U.S. market and resulted in significant lost sales.

Condition of the Domestic Industry

The domestic industry producing hot-rolled carbon steel plate has suffered a serious decline in recent years. Domestic production has declined steadily from 5,897,000 tons in 1979 to 5,564,000 tons in 1980 and 5,161,000 tons in 1981.[34] Production again turned sharply downward in the first quarter of 1982, amounting to only 971,000 tons as compared to 1,542,000 tons in the same period of 1981.[35] Total domestic shipments of the product have similarly fallen.[36]

Annual production capacity in this steel sector has dropped from 9,713,000 tons in 1979 to 9,051,000 tons in 1981.[37] Utilization of this capacity, though, has fallen at a much sharper pace. Capacity utilization in 1978 stood at 62 percent and declined steadily to 57 percent in 1981. The first quarter of 1982 recorded a precipitous decline to 41.8 percent from 66.3 percent in the corresponding period of 1981.[38] Employment trends have followed the trends in production and shipments, declining steadily from 1979 to 1981, then falling drastically in January–March 1982 from the already depressed level of January–March 1981.[39]

Information on the profitability of this industry provides the most striking picture of its condition. The ratio of operating profit to net sales has decreased from 4 percent in 1978 to 3.9 percent in 1979, 1.4 percent in 1980, and 2.3 percent in 1981. The industry suffered losses in the first quarter of 1982, with an operating loss of $40 million and a ratio of operating losses to net sales of 7.8 percent.[40]

Reasonable Indication of Material Injury by Reason of Spanish Imports[41]

While declining domestic demand has surely had an adverse effect on the industry,[42] there is a reasonable indication that imports from Spain have caused material injury. Although absolute imports and imports as a percentage of apparent domestic consumption have generally declined over the period of investigation, they have remained at significant levels.[43]

Two instances indicative of possible price suppression or depression were confirmed, involving price reductions necessary to meet competition from lower-priced Spanish products. There are also ample indications that sales of domestic products have been lost to imports from Spain. Six instances of lost sales have been confirmed.[44] In all these cases, the principal reason cited was the lower price of the imports, which may have been as much as $40 to $140 below comparable domestic products. The latter figure corresponds to an underselling margin of 27 percent.[45]

Vice Chairman Calhoun and Commissioners Stern and Eckes base their finding on the above factors as well as on the following information. The United States is an increasingly major target for Spanish exports of plate, with exports to the United States rising from 20 percent of total exports in 1979 to 32.8 percent in 1981.[46] Data on Spanish capacity for the production of plate is available only for 1981, but that data suggests that some additional capacity may be devoted to producing exports for the U.S. market. Additionally, although U.S. importers' inventories of Spanish plate are down from the peak levels of 1980 and early 1981, they remain substantial.[47]

III. Hot-Rolled Carbon Steel Sheet

We determine that there is no reasonable indication that imports of hot-rolled carbon steel sheet from Spain have resulted in material injury or threat of material injury to the domestic industry. Among other factors, we have relied in our determination on the consistently low import penetration and the lack of substantial evidence of price suppression, price depression or lost sales caused by Spanish imports.

Condition of the Domestic Industry

The industry producing hot-carbon steel sheet, like other sectors of the overall steel industry, has suffered reverses in recent years. Production fell from 12,623,000 tons in 1979 to 9,855,000 tons in 1980, rebounded to 11,438,000 tons in 1981, then slumped to 1,916,000 tons in the first quarter of 1982 as compared to 2,975,000 tons in the first quarter of 1981.[48] Data on shipments are

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[30] See additional views of Vice Chairman Calhoun.

[31] Commissioner Frank has cumulated fn certain cases. See his additional views and his discussion on cumulation in certain Carbon Steel Products from Belgium, Brazil, France, Italy, Luxembourg, the Netherlands, Romania, the United Kingdom, and West Germany. Invs. Nos. 701–TA–86 to 144, 701–TA–146, and 701–TA–147 (Preliminary), and Invs. Nos. 731–TA–53 to 86 (Preliminary), USITC Pubs. 1221 and 1226 (1982), at 127–129.

[32] Chairman Alberger and Commissioner Stern refer readers to their respective discussions of the practice of cumulation in Certain Carbon Steel Products from Belgium, the Federal Republic of Germany, France, Italy, Luxembourg, the Netherlands, and the United Kingdom, Invs. Nos. 731–TA–16–24 (Preliminary), USITC Pub. 1084 (1980), at 14–15 and 64–67, respectively.

See also our joint views in Certain Stee Products from Belgium, Brazil, France, Italy, Luxembourg, the Netherland, Romania, the United Kingdom, and West Germany, Invs. Nos. 701–TA–86 to 144, 701–TA–146, and 701–TA–147 (Preliminary), and Invs. Nos. 731–TA–53 to 86 (Preliminary), USITC Pubs. 1221 and 1226 (1982). The record developed in those investigations has been incorporated into the records of the present investigations. *See* Notice of Investigation, 47 FR 19486 (May 5, 1982).

Finally, *see* our views in Prestressed Concrete Steel Wire Strand from Brazil, France, and the United Kingdom, Invs. Nos. 701–TA–152 and 153 (Preliminary), and Inv. No. 731–TA–89, USITC Pub. 1240 (1982), at 3; Carbon Steel Wire Rod from Brazil, Belgium, France, and Venezuala, Invs. Nos. 701–TA–148 to 150 (Preliminary), and Inv. No. 731–TA–88 (Preliminary), USITC Pub. 1230 (1982).

[33] Chairman Alberger and Commissioners Frank and Haggart determine only that there is a reasonable indication of material injury, and therefore do not reach the issue of reasonable indication of threat of material injury.

[34] Report at A–12. All references to tonnage are to short tons.

[35] *Id.*

[36] *Id.* at A–9 and A–12.

[37] *Id.* at A–12.

[38] *Id.*

[39] *Id.* at A–14.

[40] *Id.* at A–21.

[41] Commissioner Frank has cumulated. See his separate views.

[42] Consumption fell from 8,452,000 tons in 1978 to 7,444,000 tons in 1981, and dropped 32 percent in the first quarter of 1982 compared to the same period in 1981. *Id.* at A–8 to A–9.

[43] Chairman Alberger and Commissioner Stern note that imports, although declining, are still a presence in the market at lower prices at a difficult time for the domestic industry, and appear to be a contributing factor to the injury. These imports might be appropriately cumulated with those from other countries in a final determination.

[44] Report at A–50. Another purchaser was alleged to have bought an additional quantity of Spanish plate, but the origin of the products purchased could not be verified.

[45] *Id.* at A–53.

[46] *Id.* at A–27.

[47] *Id.* at A–24.

[48] *Id.* at A–12.

similar.[49] While domestic capacity for manufacture of these products fluctuated, utilization of capacity fell from 65.7 percent in 1978 to 65 percent in 1979, 52.5 percent in 1980, and rose to 59 percent in 1981. In the first quarter of 1982, it dropped sharply to 40.5 percent as production fell.[50]

Employment of production and related workers declined from 25,400 in 1979 to 20,432 in 1980 and increased to 22,404 in 1981. With the drop in production in early 1982, employment fell sharply to 17,456.[51]

This industry has experienced substantial recent losses. Operating profits fell from $162 million in 1978 to $95 million in 1979. The industry then suffered operating losses totalling $232 million in 1980, $139 million in 1981, and a further $136 million in the first quarter of 1982. The ratio of operating losses to net sales went from 7.5 percent in 1980 to 3.5 percent in 1981, then jumped to 18.3 percent in the first quarter of 1982.[52]

No Reasonable Indication of Material Injury by Reason of Spanish Imports[53]

The record developed in this investigation demonstrates no reasonable indication that the depressed condition of the domestic industry is attributable to imports from Spain. Imports are presently at insignificant levels, having fallen from 33,000 tons in 1978 to 5,000 tons in 1979, 1,000 tons in 1980, and 5,000 tons in 1981. Imports in January–March 1982 were only 2,000 tons.[54] As a percentage of domestic consumption these imports were only 0.2 percent in the peak year of 1978, falling to less than 0.05 percent in the three years 1979–81. Imports in the first quarter of 1982 reached a market penetration level of only 0.1 percent.[55]

One purchaser of hot-rolled carbon steel sheet confirmed that it had obtained a price discount on the domestically produced product in order to meet price competition from Spanish imports.[56] No instances of sales lost to Spanish imports, however, could be confirmed.[57]

No Reasonable Indication of Threat of Material Injury by Reason of Spanish Imports

We find that there is no reasonable indication of a threat of material injury to the domestic industry by reason of Spanish imports. As noted above, imports have consistently remained at low levels since 1979. Moreover, total Spanish exports to all countries have accounted for only a small percentage of Spanish production of this product, almost all production being devoted to domestic Spanish consumption.[58]

IV. Cold-Rolled Carbon Steel Sheet

We find a reasonable indication of threat of material injury to the domestic industry due to imports of cold-rolled carbon steel sheet.[59] This conclusion is based primarily on the rapidly rising level of Spanish imports of this product.

Condition of the Domestic Industry

As is true of other segments of the steel industry, the portion producing cold-rolled carbon steel sheet is in a severely weakened condition.

Production fell to 11,195,000 tons in 1981 from 13,225,000 tons in 1979. The first quarter of 1982 showed an even greater decline to 1,931,000 tons from 3,039,000 tons in the same quarter of 1981.[60] Shipments exhibited similar trends.[61] While production capacity fluctuated slightly between 1978 and 1981, utilization of that capacity declined irregularly from 84.7 percent in 1978 to 70.4 percent in 1981. It then plunged to 45.1 percent in January–March 1982, compared to 71 percent in the corresponding period in 1981.[62]

The decline in production negatively affected employment levels. Employment fell from a high of 39,223 workers in 1979 to 32,050 in 1980, but increased to 35,303 in 1981. It then dropped precipitously in the first quarter of 1982 to 23,859 workers.[63]

Financial losses in this industry have been severe. Operating profits declined from $114 million in 1978 to $53 million in 1979, then turned to losses of $383 million in 1980 and $293 million in 1981. Further losses of $170 million were recorded in the first quarter of 1982. As a ratio of net sales, these losses amounted to 9.2 percent in 1980, 5.9 percent in 1981, and 18.4 percent in the first quarter of 1982.[64]

Reasonable Indication of Threat of Material Injury by Reason of Spanish Imports[65]

During 1978, 1979, and 1980, imports from Spain have steadily decreased in both absolute terms and in relation to apparent U.S. consumption. Imports of cold-rolled carbon steel sheet from Spain declined from 90,000 tons in 1978 to 48,000 tons in 1979 and to 8,000 tons in 1980.[66] Import penetration exhibited a similar trend dropping from 0.4 percent in 1978 to 0.3 percent in 1979 and to 0.1 percent in 1980.[67] There is thus no visible relationship between these imports and the past problems associated with the domestic industry.

The period of 1981 and the first quarter of 1982, however, stands out in sharp contrast to the years 1978–80. Imports increased nearly eightfold in 1981 compared to he previous year and nearly fourfold in the first quarter of 1982 over the first quarter of 1981. In absolute terms imports jumped from 8,000 tons in 1980 to 62,000 tons in 1981 and from 7,000 tons in the first quarter of 1981 to 26,000 tons in the first quarter of 1982.[68] The import penetration figures from 1981 to the present show a similar upsurge in imports. The 1981 figure of 0.4 percent matched the prior peak set in 1978 and penetration in the first quarter of 1982 claimbed to 0.9 percent in contrast to a figure of 0.2 percent in the first quarter of 1981.[69] There are indications that these recent sharp increases in the levels of imports are contributing to the accelerating downturn in the industry's performance and thus threaten material injury.

V. Galvanized Carbon Steel Sheet

Views of Commissioners Alfred Eckes, Eugene Frank, and Veronica Haggart

We determine that there is a reasonable indication that imports of galvanized carbon steel sheet from Spain are causing material injury to the domestic industry.[70]

The galvanized carbon steel sheet industry has experienced a downturn since 1979. Production fell from 4,698,000 tons in 1979 to 3,749,000 tons in 1980. Although production rose to 4,400,000

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[49] *Id.* at A–9 and A–12.
[50] *Id.* at A–12.
[51] *Id.* at A–14.
[52] *Id.* at A–21.
[53] See Commissioner Frank's separate views.
[54] *Id.* at A–30.
[55] *Id.* at A–32.
[56] *Id.* at A–56.
[57] *Id.* at A–53.
[58] *Id.* at A–27.
[59] The vote language of Vice Chairman Calhoun and Commissioner Stern reflects a determination of material injury or threat of material injury. Section 703(a) of the Tariff Act of 1930, 19 U.S.C. 1673(a). Commissioner Frank determined that there is a reasonable indication of present material injury to the domestic injury with respect to the investigation on cold-rolled carbon steel sheet and did not reach the issue of threat. See his separate views.
[60] Report at A–12.
[61] *Id.* at A–9 and A–12.
[62] *Id.* at A–12.
[63] *Id.* at A–14.
[64] *Id.* at A–21.
[65] Commissioner Frank found a reasonable indication of present material injury and cumulated. See his separate views.
[66] *Id.* at A–30.
[67] *Id.* at A–32.
[68] *Id.* at A–30.
[69] *Id.* at A–32.
[70] Commissioner Eckes finds a reasonable indication of material injury or threat of material injury. Chairman Alberger, Vice Chairman Calhoun, and Commissioner Stern, as discussed in their separate views, find no reasonable indication of material injury or threat of material injury.

tons in 1981, a sharp drop in production occurred in the the first 3 months of 1982, with only 865,000 tons being produced, in contrast to the 1,289,000 tons produced in the same period in 1981.[71] Shipments have similarly decreased.[72] While capacity for producing galvanized sheet has remained roughly constant since 1978, capacity utilization fell from 72.7 percent in 1978 to 59.4 percent in 1980. After rebounding to 70.7 percent in 1981, it fell to its lowest pont, 55.4 percent, in the first quarter of 1982.[73] Employment of production and related workers, which had peaked at 13,819 in 1981, fell to 11,266 by the first quarter of 1982 as production declined.[74]

From operating profits of $135 million in 1979, the industry declined to losses of $91 million in 1980, $29 million in 1981, and $66 million in the first quarter of 1982 (compared to a loss of only $6 million in the same period in 1981). The first quarter 1981 loss was more than double that for the entire previous year. The ratio of operating losses to net sales was 4.8 percent in 1980, 1.2 percent in 1981, and 14.5 percent in the first quarter of 1982.[75]

Reasonable Indication of Material Injury by Reason of Spanish Imports[76]

We find a reasonable indication that imports from Spain have contributed to the decline in the health of the domestic industry. Although they fell steadily from their peak level of 82,000 tons in 1978 to 19,000 tons in 1981, Spanish imports increased significantly to 25,000 tons in the first quarter of 1982 alone, an influx that was substantially in excess of that in the entire year 1981.[77] The import penetration level for the first quarter of 1982 of 1.8 percent of total domestic consumption was the highest level during the period of investigation.[78]

The significant increase in Spanish imports coincided with the serious downturn in domestic production, capacity utilization, and profitability in early 1982. This link is sufficient to indicate causation of injury to the industry.

Other information also strongly supports our conclusion of a reasonable indication of injury. Of four allegations of sales lost be domestic firms to imports of galvanized sheet, two were confirmed.[79] In addition, five transactions were confirmed in which a domestic firm lost revenues by lowering its prices in order to meet price competition by Spanish imports.[80] Thus, there is a reasonable indication that imports from Spain are a factor in causing the problems the industry is experiencing.

V. Galvanized Carbon Steel Sheet

Views of Chairman Bill Alberger, Vice Chairman Michael J. Calhoun, and Commissioner Paula Stern

We find no reasonable indication of material injury or threat of material injury to the domestic industry producing galvanized carbon steel sheet. Although we agree with our colleagues that the domestic industry is experiencing severe problems, we are not convinced that those problems are causally related to imports for Spain or any other country previously investigated by the Commission.[81] As noted in our views regarding galvanized carbon steel sheet in the recent steel investigations,[82] it is our judgment, based upon the best information available to the Commission, that factors other than imports are responsible for the present condition of the domestic galvanized carbon steel industry. Among the causes of the decline in the domestic industry were a sharp decline in domestic consumption, low labor productivity, and high labor costs.

Although domestic production, shipments, employment, and profitability have declined during the period under investigation, imports have also declined. There is no evidence of excessive inventories of Spanish imports during the entire period. Except for the first quarter in 1982 when imports of galvanized carbon steel sheet from Spain reached their highest market penetration level of 1.8 percent, they have maintained a consistently low level and have been insignificant as a share of overall imports during the period of this investigation. From 1979 to 1981, imports from Spain declined as a ratio of imports to consumption from 0.5 percent to 0.3 percent. During this period, overall imports declined sharply at the same time that domestic profitability fell. A first quarter increase in imports coinciding with a further drop in profits during a major recession hardly seems to us to call for a continuation of an investigation.

Even during the first quarter of 1982 when Spanish imports reached their highest level, as a share of overall imports, they represented less than 10 percent of the 21 percent market share for all imports of galvanized carbon steel sheet. We do not find this increase in imports sufficient to establish a pattern of imports which warrants a finding of a reasonable indication of threat of material injury.

VI. Carbon Steel Structural Shapes

We determine that there is a reasonable indication of material injury or threat of material injury to the domestic industry producing carbon steel structural shapes by reason of imports from Spain.[83] This determination is based primarily on the substantial levels of Spanish imports and multiple confirmed instances of sales lost to Spanish imports during a period of decline in the domestic industry.

Condition of the Domestic Industry

Production in this industry has declined since 1979, falling from 4.1 million tons to 3.8 million tons in 1980 and 3.6 million tons in 1981. A further decline was registered in the first quarter of 1982, as production fell to 590,000 tons from 827,000 tons in the same period in 1981.[84] Data on shipments fell similarly.[85] Although total capacity for the production of structural shapes changed little over the period studied, capacity utilization fell in the latter part of the period, from 60.8 percent in 1980 to 58.2 percent in 1981 and then to 43.8 percent in the first quarter of 1982.[86] Employment matched the downward trend in production, falling from 13,058 workers in 1979 to 12,269 in 1980, 11,667 in 1981, and 7,125 in the first quarter of 1982.[87]

Most significantly, the industry has suffered losses in every year covered by this investigation, with the losses accelerating toward the end of the period. Operating losses were 2.2 percent and 0.3 percent of net sales in 1978 and 1979, respectively, then increased to 4.7 percent in 1980 and 4.9 percent in 1981. The losses grew again in the first quarter of 1982 to 12.7 percent,

[71] Report at A–12.
[72] *Id.* at A–9 and A–12.
[73] *Id.* at A–12.
[74] *Id.* at A–14.
[75] *Id.* at A–21.
[76] Commissioner Frank cumulated. See his separate views.
[77] Report at A–30.
[78] *Id.* at A–32.
[79] *Id.* at A–53.
[80] *Id.* at A–56.
[81] Investigations Nos. 701–TA–86 to 144, 701–TA–146, and 701–TA–147 (Preliminary), and Investigations No. 751–TA–53 to 86 (Preliminary), USITC Pubs. 1221 and 1226 (1982), at 54–57.
[82] *Id.*
[83] Chairman Alberger and Commissioners Frank and Haggart determine only that there is a reasonable indication of material injury, and therefore do not reach the issue of reasonable indication of threat of material injury.
[84] Report at A–12.
[85] *Id.* at A–9 and A–12.
[86] *Id.* at A–12.
[87] *Id.* at A–14.

compared to 4.9 percent in the same period of 1981.[88]

Reasonable Indication of Material Injury by Reason of Imports From Spain [89]

There is ample information in the record to support a reasonable indication that the industry's troubles are causally connected to Spanish imports. Imports from Spain have steadily increased as the fortunes of the industry have turned downward. Imports grew from 56,000 tons in 1978 to 238,000 tons in 1981, accounting for an increased share of the U.S. market from 1 percent in 1978 to 4.1 percent in 1981. Although imports dropped somewhat in the first quarter of 1982, they still amounted to 3.7 percent of total consumption during the quarter.[90]

Information shows that the industry has lost sales to Spanish imports on the basis of price. A number of purchasers stated that they had bought Spanish steel and had done so primarily because of its lower price. Only one company stated that it would continue to purchase Spanish steel even if the prices of domestic products were competitive.[91]

Reasonable Indication of Threat of Material Injury by Reason of Spanish Imports

Vice Chairman Calhoun and Commissioners Stern and Eckes base their finding on the above factors as well as on the following information. There are indications that imports of structural shapes from Spain will continue to cause material injury to the U.S. industry. As noted above, these imports account for a significant portion of domestic consumption of the products. Additionally, U.S. importers were reported as holding a very substantial level of inventories of the imported products in the first quarter of this year.[92] Moreover, Spanish production of structural shapes is highly dependent on export sales, with about half of production in the years 1979–81 being exported to other countries.[93]

VII. Hot-Rolled Carbon Steel Bar

With respect to the investigation on hot-rolled carbon steel bar, we find that there is a reasonable indication of threat of material injury [94] by reason of allegedly subsidized imports from Spain. We base this determination on a finding of increases in the ratio of imports from Spain to apparent U.S. consumption, the deteriorating condition of the domestic industry, and the percentage of total Spanish exports to the United States.

Condition of Domestic Industry

The domestic hot-rolled carbon steel bar industry's production, capacity utilization, employment, and profitability have all declined in the last two years. The most dramatic decreases have been in the figures for the first quarter of 1982.

During this quarter, production dropped to 759,000 tons from 1,088,000 tons in the comparable 1981 period.[95] This decrease was a continuation of the irregular annual production decline from 5,493,000 tons in 1978 to 4,089,000 tons in 1981. Shipment data show similar trends.[96] Although capacity remained relatively constant since 1980, capacity utilization decreased from 56.5 percent in January–March 1981 to 39.6 percent in January–March 1982.[97]

Employment statistics reflect a parallel pattern. Workers engaged in production of hot-rolled carbon steel bar went from 20,272 in 1978 to 14,579 in 1981. The most decisive drop again was in the January–March quarter when the number of workers went from 12,983 in 1981 to 9,788 in 1982.[98]

Profit-and-loss records have consistently shown an operating loss since 1980. In that year, the loss was $114 million. Although the loss was less substantial in 1981 at $35 million, it grew radically in the first quarter of 1982. In the 1982 January–March period the operating loss was $71 million compared to $8 million in the 1981 January–March period.[99] This almost eightfold increase has resulted in a ratio of operating loss to net sales of 21 percent for the first quarter of 1982 compared to 1.6 percent for the first quarter of 1981.[100]

Reasonable Indication of Threat of Material Injury by Reason of Spanish Imports[101]

Imports of hot-rolled carbon steel bar from Spain increased from 24,000 tons in 1980 to 34,000 tons in 1981, and have continued to rise during the first quarter of 1982.[102] The ratio of Spanish imports to apparent U.S. consumption has increased from 0.5 percent in 1978 to 0.7 percent in 1981.[103] This increase was more dramatic in the first quarter of 1982 when the imports more than doubled from 5,000 tons in January-March 1981 to 11,000 tons in the comaprable 1982 period.[104] The same ratio for the quarterly period tripled from 0.4 percent for the first quarter of 1981 to 1.2 percent for 1982.[105]

Although total Spanish exports of hot-rolled carbon steel bar decreased from 1980 to 1981, exports to the United States more than doubled. The percentage of exports to the U.S. went from 2.3 percent of total exports in 1980 to 6.7 percent in 1981.[106]

Very little information on lost sales or price reductions to meet competition is available at this time. However, an instance of a lost sale because of lower priced imports from Spain was confirmed,[107] as was a price concession because of a purchaser's threat to buy a less expensive Spanish import.[108]

Imports from Spain have become particularly significant in the first quarter of 1982. The recent upsurge in imports coincides with the dramatic decreases in the industry's production, capacity utilization, employment and profitability in the first quarter of 1982. U.S. importers' 1981 yearend inventories of hot-rolled carbon steel bar were 11,549 tons. Although end of March inventories have declined slightly, they still remain near peak levels.[109] Therefore, we find sufficient information to conclude that there is a reasonable indication of threat of material injury to the domestic industry due to Spanish imports.

VIII. Hot-Rolled Alloy Steel Bar

We determine that there is no reasonable indication of material injury or threat thereof to a domestic industry by reason of imports from Spain.[110] This finding is primarily based on the healthy condition of the domestic industry and on the decline in Spanish imports of this product.

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[88] *Id.* at A–21.
[89] Commissioner Frank cumulated. See his separate views.
[90] Report at A–30, A–32.
[91] *Id.* at A–54.
[92] *Id.* at A–24.
[93] *Id.* at A–27, A–30.
[94] The vote language of Vice Chairman Calhoun and Commissioner Stern reflects a determination of material injury or threat of material injury. Section 703(a) of the Tariff Act of 1930, 19 U.S.C. § 1673b(a). Commissioner Frank finds a reasonable indication of present material injury and did not reach the issue of threat.
[95] Report at A–13.
[96] *Id.* at A–10 and A–13.
[97] *Id.* at A–13.
[98] *Id. at A–15.*
[99] *Id. at A–22.*
[100] *Id.*
[101] Commissioner Frank cumulated. See his separate views.
[102] Report at A–31.
[103] *Id.* at A–33.
[104] *Id.* at A–31.
[105] *Id.* at A–33.
[106] *Id.* at A–27.
[107] *Id.* at A–54.
[108] *Id.* at A–57.
[109] *Id.* at A–24.
[110] Commissioner Frank dissents. See his separate views.

Condition of the Domestic Industry

Production, capacity utilization, shipments, employment, and profit-and-loss ratios all rose in 1981 after a decline in the three preceding years.

In 1981, domestic production of hot-rolled alloy steel bar rose to 1,412,000 tons from the previous year's level of 1,151,000 tons.[111] Because production increased and capacity remained constant, capacity utilization also rose from 53.1 percent in 1980 to 65.1 percent in 1981.[112] Shipments grew from 1,179,000 tons in 1980 to 1,402,000 tons in 1981.[113] Employment also increased, rising from 5,761 in 1980 to 6,250 in 1981.[114]

The most dramatic jump, however, was in the profit-and-loss experience of the domestic producers. The ratio of operating profit to net sales almost doubled from 4.8 percent in 1980 to 8.6 percent in 1981, while the operating profit went from $37 million in 1980 to $87 million in 1981.[115]

No Reasonable Indication of Material Injury by Reason of Spanish Imports

During the same period of time when this U.S. industry was growing, Spanish imports were declining. These Spanish imports increased in the first quarter of 1982. Although domestic production, capacity utilization, employment, and profits declined in the first quarter of 1982 compared with the first quarter of 1981, there is no reasonable indication that these declines are related to imports from Spain.

Imports of this product from Spain have not followed a consistent pattern. The volume of imports was 11,000 tons in 1978; less than 500 tons in 1979; 1,000 tons in 1980; 5,000 tons in 1981; 1,000 tons in the first quarter of 1981 and 4,000 tons in the first quarter of 1982.[116] The penetration level was 0.4 percent in 1978; less than 0.05 percent in 1979; less than 0.05 percent in 1980; 0.2 percent in 1981; 0.1 percent in the first quarter of 1981; and 0.7 percent in the first quarter of 1982.[117]

Further, the Commission was not able to confirm any lost sales. The purchasers involved in the allegations stated that they had bought imports from other countries, but denied ever buying imports of this product from Spain.[118] No information indicating either price suppression or depression has been provided or developed.

No Reasonable Indication of Threat of Material Injury by Reason of Spanish Imports

In 1982, U.S. importers' end-of-period inventories for the January-March period increased to 5,493 tons compared to 1,629 tons for the comparable 1981 period. Even more important were the substantial decreases between 1980–1981 in both total exports and exports to the United States.[119] Furthermore, no other information such as Spanish capacity utilization or intent to increase exports to the U.S. was presented. Thus, there is no reasonable indication of threat of material injury by reason of Spanish imports of hot-rolled alloy steel bar.

IX. Cold-Formed Carbon Steel Bar

The Commission determined that there is a reasonable indication of material injury or threat of material injury [120] to a domestic industry by reason of imports of cold-formed carbon steel bar from Spain. This determination is based on dramatically increased imports, consistent underselling, and confirmed lost sales.

Condition of the Domestic Industry

The domestic cold-formed carbon steel bar industry has experienced financial losses as well as a decline in capacity utilization and employment during the past two years. Although production rose slightly in 1981, it did not offset the decline experienced in 1980.[121]

The domestic industry sustained an operating loss of $7 million for 1980, $5 million for 1981, and $13 million for the first quarter of 1982. This resulted in a ratio of operating loss to net sales of 14.5 percent for the January-March 1982 period.[122]

Although capacity has increased slightly in the past year, capacity utilization has decreased since 1979.[123] Capacity utilization went from a high of 80.5 percent in 1979 to 56 percent in 1981. This decline has resulted from an irregular decrease in production from 1,051,000 tons in 1979 to 738,000 tons in 1980 and 796,000 tons in 1981.[124] Shipment data essentially mirror the production figures.[125]

Employment figures show a similar decline since 1979. Persons working in the production and related areas of cold-formed carbon steel bar were 3,724 in 1979, 2,841 in 1980 and 2,731 in 1981.[126]

Reasonable Indication of Material Injury by Reason of Spanish Imports [127]

Imports, both in absolute terms and as a ratio of apparent U.S. consumption, rose dramatically in 1981. The quantity more than tripled from 5,000 tons in 1980 to 17,000 tons in 1981. This high level is expected to continue since the January-March 1982 import figure is the same as it was for those months in 1981, 4,000 tons.[128] This substantial increase in Spanish imports has meant that the penetration level of imports has tripled.[129] The ratio of Spanish imports to apparent U.S. consumption increased from 0.4 percent in 1980 to 1.2 percent in 1981.

Price data reveal that importers have consistently undersold domestic producers since the second quarter of 1980.[130] Although price comparisons were made on the basis of only one importer, this importer accounted for almost all imports of the product.[131] The Commission also confirmed two lost sales of about 4,000 tons on which quotations of $2.8 million had been made.[132]

Reasonable Indication of Threat of Material Injury by Reason of Spanish Imports

Vice Chairman Calhoun and Commissioners Stern and Eckes base their finding on the above factors as well as the following information. Although data on Spain's capacity were not available, information on the increased percentage of exports was provided. This information showed that, although exports to the U.S. feel 50 percent in 1980, they more than tripled in 1981. In that year, exports to the U.S. accounted for 40 percent of Spain's total exports.[133] In quantity, the increase has been from 4 tons in 1980 to 14 tons in 1981.[134] End-of-period inventories of U.S. importers also rose from 1,500 tons in 1980 to 5,390 tons in 1981. This level has

[111] Report at A–13.
[112] *Id.*
[113] *Id.*
[114] *Id.* at A–15.
[115] *Id.* at A–22.
[116] *Id.* at A–31.
[117] *Id.* at A–33.
[118] *Id.* at A–33.
[119] *Id.* at A–27.
[120] Chairman Alberger and Commissioners Frank and Haggart determine only that there is a reasonable indication of material injury, and therefore do not reach the issue of reasonable indication of threat of material injury.
[121] *Id.* at A–13.
[122] *Id.* at A–22.
[123] *Id.* at A–13.
[124] *Id.*
[125] *Id.* at A–10 and A–13.
[126] *Id.* at A–15.
[127] Commissioner Frank cumulated. See his separate views.
[128] *Id.* at A–31.
[129] Report at A–33.
[130] Id. at A–13.
[131] *Id.* at A–45.
[132] *Id.* at A–55.
[133] *Id.* at A–27.
[134] *Id.*

already been exceeded in the first quarter of 1982 at 5,454 tons.[135]

X. Cold-Formed Alloy Steel Bar

We have determined that there is no reasonable indication of material injury or threat thereof to a domestic industry by reason of imports of cold-formed alloy steel bar from Spain.[136] Spanish imports account for a small proportion of total domestic consumption, and there is no indication that they have had a meaningful effect on prices or sales of domestic products.

Condition of the Domestic Industry.

Even though its production levels have declined during the period covered by this investigation, the industry producing cold-formed alloy steel bar has remained in a relatively healthy condition. Production irregularly declined from a high of 159,000 tons in 1979 to 122,000 tons in 1981 and declined slightly again in the first quarter of 1982.[137] Shipments declined in a like manner. Although production capacity has remained almost static, capacity utilization has fallen from 71 percent in 1978 to 57.3 percent in 1981, with a further decrease to 47.8 percent in the first quarter of 1982.[138] Employment also has declined from its high point of 931 workers in 1979 to 701 in 1981 and 666 in the first quarter of 1982.[139]

Profitability in this industry, however, has not suffered to the same extent that it has in other segments of the overall steel industry. Operating profits have declined from $17 million in 1978 to $11 million in 1981. Profits were less than $500,000 in the first quarter of 1982, down from $4 million in the first quarter of 1981. The ratio of operating profit to net sales, although down from 1978 levels, has generally remained high during the period studied. It was 16.2 percent in 1978, 12.1 percent in 1979, 10.4 percent in 1980, and 9.9 percent in 1981. In the first quarter of 1982 it dropped to 0.7 percent.[140]

No Reasonable Indication of Material Injury by Reason of Spanish Imports

Although the economic indicators applicable to this industry have declined during the period under investigation, we find no reasonable indication of a causal relationship between this decline and the present of Spanish imports in the U.S. market. Spanish imports have never totalled more than 2,000 tons in any year between 1978 and the present, and were less than 500 tons in 1980 and 1981. Spanish import penetration levels ranged from lows of 0.1 percent in 1980 and 1981 to a high of only 0.5 percent in 1979. The first quarter of 1982 showed a 0.5 percent penetration figure for that period.[141] Moreover, no lost sales were confirmed and no information supporting a finding of price suppression or depression was provided or developed.

No Threat of Material Injury by Reason of Imports From Spain

We also find no threat of material injury to be present in this case. As noted above, Spanish imports have remained very low for the last several years. The United States does not appear to be a principal export market for Spain in this product. While total exports have remained relatively constant since 1979, exports to the United States have fallen, amounting to only 5.8 percent of total exports in 1981, compared with 17.4 percent in 1980 and 47.1 percent in 1979.[142]

Additional Views of Vice Chairman Michael J. Calhoun

In reaching my determinations in these investigations, I have assessed the impact of the Spanish imports under investigation in the context of the corresponding imports from Belgium, Brazil, Italy, France, Luxembourg, the Netherlands, Romania, the United Kingdom and West Germany which were the subject of the Commission's preliminary investigations 701–TA–86 through 144, 701–TA–146 through 147, and 731–TA–53 through 86. As was the case in the previous investigations, I have not included imports from South Africa in my aggregate assessment. (See Additional Views of Vice Chairman Calhoun, ITC Publication 1221, February 1982, p. 95).

In analyzing the impact of Spanish imports in the context of the imports previously investigated, I recognize that the statute requires a finding of material injury with regard only to the imports under investigation by the Department of Commerce. Thus it is possible to construe the statute as proscribing the cumulation of the impact of certain imports with the impact of those investigated in previous Commission investigations. Because these imports are still under investigation by Commerce, my action is consistent with the statute.

In my view, our authority for aggregating the impact of imports from different countries and under different investigations, whether the investigations are undertaken concurrently or at different times, arises under section 771(7)(B) which provides that in making our material injury assessments we shall consider the delineated factors "among other factors." And under section 771(7)(C)(iii), in assessing the impact of imports on the industry we are, by similar implication, given equally broad discretion. This view of our broad discretion in assessing the impact of imports on domestic producers seems well enough established so as not to warrant lengthy discussion here. The gist of this broad discretion plainly goes to our ability to relate the behavior of imports to realities in the marketplace.

Consistent with this view, I understand our task under the Trade Agreements Act of 1979, in its most basic expression, to be that of identifying whether imported products are adversely impacting in a material way the producers of those domestic products with which they are the most competitive. In this regard, then, whether a particular product is coming from only one country or from several is of little significance to the impact suffered by the domestic industry.

If imports from various countries are present in the marketplace at the same time and meet the other criteria we have used, it is most likely in their cumulative effect that their impact is most significant. Therefore, it has been the practice of this body to aggregate, on occasion, the impact of products from various countries when those imported products have been before us all at one time. In the absence of compelling reasons to the contrary, it is becoming my usual practice to aggregate in such circumstances.

Quite simply, in the present case, my cumulating the impact of Spanish imports with the impact of imports assessed in recent but previous Commission investigations is based on the same sound reasons underlying cumulation in investigations conducted concurrently. It seems to me that the timing of the filing of a petition before us ought not, in and of itself, be a basis for finding that the impact of a category of imports in the marketplace is somehow unrelated to that of similar imports whose impact has been recently assessed. If imports unequivocally interact in the market concurrently or with a hammering effect and all the other considerations underlying cumulation are met, it seems unaccountably arbitrary to assess impact separately simply on the basis of

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[135] *Id.* at A–24.

[136] Commissioner Frank dissents. See his separate views.

[137] *Report* at A–51.

[138] *Id.*.

[139] *Id.* at A–15.

[140] *Id.* at A–22.

[141] *Id.* at A–33 and A–30.

[142] *Id.* at A–27.

the date on which the case arises. Admittedly, this view provides little incentive for petitioners to be diligent in bringing complete and comprehensive cases before us in the first instance. However, as this particular case demonstrates, factors beyond the diligence of petitioners can result in subsequent and related allegations of harm by imports from additional sources.

For these reasons, I have evaluated the impact of Spanish imports in the context of the aggregate impact of imports analyzed in the previous steel cases.

Separate Views of Commissioner Eugene J. Frank

I. Introduction

These views are to be considered in conjunction with my views with respect to the carbon and alloy steel 92 steel product preliminary investigations before the Commission in January 1982,[143] and made an integral part of this opinion.

Since those preliminary cases, the condition of the U.S. steel industry has suffered further significant deterioration by all recognized indicia of economic distress which does not bear recitation here. Some mention is warranted however. The American Iron and Steel Institute reported for the week ended June 5, 1982, industry capacity utilization of 42.5 percent and last weeks raw steel production was 49.3 percent below output produced a year earlier. Since mid-1981 about 105,000 steelmakers have either lost their jobs permanently or are on indefinite layoff. This does not even consider the effects on indirect employment which are of great magnitude. Some steel executives are predicting industry total shipment levels for 1982 as low as 70 million tons, compared with 87 million tons shipped last year. And steel imports have risen to more than 20 percent of this depressed domestic market since last year.

Although statutory considerations prescribe a like product and definition of industry approach as set forth by my colleagues for these cases, in my views in the January cases, I stated therein: "I believe, in ascertaining injury to the domestic industry affected in the conduct of these investigations it is appropriate to consider as a relevant factor in all these investigations, the basic, commonsense economic reality of the impact of such imports on the domestic steel industry in general."[144]

For these preliminary investigations, I cumulated the impact of alleged unfairly traded imports of comparable articles on the domestic industry from countries whose preliminary cases have been continued (including South Africa, not a signatory to the Subsidies Code) consistent with my approach and position on cumulation.[145] In this respect, I depart from the approach taken by some of my colleagues who have approached these preliminary investigations on a case-by-case basis.

Finally, I would reiterate here my oft-stated position that the statute and legislative history in Title VII investigations require the Commission in its preliminary determinations for both antidumping and countervailing duty investigations to exercise only a low-threshold test based upon the best information available that the facts reasonably indicate that an industry in the United States could *possibly* be suffering material injury, threat thereof, or material retardation.[146]

The following represent my determinations on these preliminary investigations, stating, where applicable, points of departure from my colleagues in analyses and dissent.[147]

II. Hot-Rolled Carbon Steel Plate

I find that there is a reasonable indication of material injury to the affected domestic industry by subject imports and do not reach the issue of threat. While otherwise concurring in general with my colleagues, I cumulated the impact on the pertinent domestic industry of subject imports from Spain along with Belgium, The United Kingdom, West Germany, Brazil, Romania, and South Africa, which indicates a general increase in overall levels of imports since 1978 to significant levels with a marked degree of domestic market penetration of 12.7 percent with respect to apparent domestic consumption the first quarter 1982.

III Hot-Rolled Carbon Steel Sheet

I find that there is no reasonable indication that imports of hot-rolled carbon steel sheet from Spain have resulted in material injury or threat of material injury to the domestic industry. While I generally concur with the observations of my colleagues, I amplify my position to indicate that I did not believe cumulation of subject imports from Spain with those countries for which the Commission made an affirmative preliminary determination, and South Africa, was appropriate. This was primarily in view of the historically miniscule levels and insignificant market presence of such Spanish imports (less than 0.05 percent in 1979–1981) only reaching a level worthy of some note in the first quarter 1982 of 0.1 percent. Further, I note that Spain's imports of hot-rolled carbon steel sheet substantially exceeded exports during 1979–1981, attributable to problems with a fairly new cold-reduction mill put in by Altos Hornos del Mediterraneo.

IV. Cold-Rolled Carbon Steel Sheet

I find a reasonable indication of material injury to the affected domestic industry by subject imports and do not reach the issue of threat. I concur with my colleagues in their observations relative to the severely weakened condition of the domestic industry. However, in cumulating the impact of subject imports on the domestic industry along with France, Italy, Netherlands, West Germany, and South Africa imports, it is readily apparent that imports have increased significantly from 1979 to 1981, registering a dramatic surge in the comparable 1981–1982 January–March quarter, and attained a significant market penetration of 5.5 percent for 1981 and 7.3 percent the first quarter 1982 compared with 1.7 percent the first quarter 1981. Although pricing data and lost sales information is insufficient or inconclusive, I would anticipate such information would be available in a final investigation for Commission consideration should the case return.[148]

V. Galvanized Carbon Steel Sheet

I find a reasonable indication of material injury to the affected domestic industry by subject imports and did not reach the issue of threat. Although I generally concur with the observations of Commissioners Eckes and Haggart in their views on this investigation, I cumulated the impact of subject imports from Spain with those from South Africa. Although such imports declined in absolute levels and with respect to market share from 1979–1981, they registered a substantial increase in the

[143] Investigation Nos. 701–TA–86 to 144, 701–146,a dn 701–TA–147 (Prel.), and Investigations Nos. 731–TA–53 to 86 (Prel.) USITC Pubs. 1221 and 1226, February 1982, *Certain Steel Products from Belgium, Brazil, France, Italy, Luxembourg, The Netherlands, Romania, The United Kingdom, and West Germany* Views of Commissioner Eugene J. Frank, pp. 121–165.

[144] Views of Commissioner Eugene J. Frank, *Certain Steel Products from Belgium, p.136*

[145] See *Id.* pp. 127–129.

[146] H.R. Report No. 96–317, 96th Cong., 1st Sess., p. 52 (1979).

[147] All data are derived from the accompanying Report unless otherwise indicated. First quarter January–March 1982 and January–December 1981 data on imports from South Africa were obtained by direct inquiry from staff on June 1 and June 2, 1982.

[148] See my views on the January cases, pp. 125–127 in which I cite my concerns about these areas.

first quarter of 1982, comprising two-thirds of imports for the entire 1981 period in this quarter, and attained a market penetration of 2.3 percent of domestic consumption.

VI. Carbon Steel Structural Shapes

I find a reasonable indication of material injury to the affected domestic industry by subject imports and do not reach the issue of threat. Although I generally concur with the observations of my colleagues in this case, I cumulated the impact of subject imports from Spain with those from South Africa, Belguim/Luxembourg, France, the United Kingdom, and West Germany. Such imports increased substantially from 850,000 tons in 1979 to 1,046,000 tons in 1981, accounting for an 18 percent share of the U.S. market in 1981. Although such imports dropped somewhat the first quarter 1982, they still amounted to 15.5 percent of domestic consumption during that period.

VII. Hot-Rolled Carbon Steel Bar

I find a reasonable indication of material injury to the affected domestic industry by subject imports and do not reach the issue of threat. Although I generally concur with the observations of my colleagues, I cumulated the impact of subject imports from Spain with those from the United Kingdom and South Africa. Such imports increased from 95,000 tons in 1980 to 153,000 tons in 1981, and comparable January to March 1981–1982 quarters similarly reflect a substantial increase. Additionally, market penetration of such imports increased from 1.9 percent in 1979 to 3.4 percent in 1981; and although it abated somewhat in the first quarter 1982 to 2.3 percent, it still represents significant penetration. I would anticipate more thorough scrutiny of pricing data and lost sales information in a final investigation should the Commission be called upon to conduct one.

VIII. Hot-Rolled Alloy Steel Bar

I find a reasonable indication of material injury to the affected domestic industry by subject imports and do not reach the issue of threat. I therefore dissent from my colleagues in this determination and analyses herein. Relevant indications of the health of the domestic industry such as production, capacity, capacity utilization, shipments, employment, paid hours worked and inconsistent profitability as I had stated in my views on the previous January cases [149] for this product have shown declines albeit irregular during the 1978–1981 period. Moreover, in the instant investigation it is germane to note for the first quarter 1982 marked further declines in shipments, production, employment and hours paid, and capacity utilization rate of 52.3 percent. Further, relevant profit and loss data for U.S. producers in January-March 1982 showed aggregate gross profits of only $1 million compared with $32 million for the comparable 1981 period, and an aggregate operating loss of $10.0 million for the 1982 first quarter—negative 5.0 percent with respect to negative 5.0 percent with respect to net sales—compared with $23 million operating profit or 9.9 percent of sales for the comparable 1981 quarter.

I cumulated subject imports from Spain with those from South Africa. Such imports posted a 532 percent increase in 1981 to 5,058 short tons, 0.2 percent of the market, form 800 short tons in 1980; more strikingly, such imports evidended a marked surge, looking at comparable January-March 1981–1982 data, registering a 286 percent increase form 980 tons to 3,785 tons, and jumped to 0.7 percent of apparent domestic consumption while domestic industry indicators declined substantially. I would anticipate that the Commission would be able to develop further and more comprehensive data on pricing patterns and lost sales in a final investigation. I note that importers did not provide data on average prices of this product according to the Staff Report and that lost sales information is inconclusive. [150]

I believe on the basis of the available information that there is a reasonable indication that the affected domestic industry in the United States *could possibly* be suffering material injury, and that this investigation should continue.

IX. Cold-Formed Carbon Steel Bar

I find that there is a reasonable indication of material injury to the affected domestic industry by subject imports and do not reach the issue of threat. While otherwise concurring in general with my colleges, I cumulated the impact on the pertinent domestic industry of subject imports from Spain along with the United Kingdom and South Africa. Such imports increased 266 percent in 1981 to 48,827 tons from 1980 levels and, as a percent of domestic consumption, also climbed markedly from 1 percent to 3.4 percent. Although first quarter 1981–1982 data show some decline in absolute levels, market penetration of 2.7 percent is still significant contrasted with 2.3 percent in January-March 1981.

X. Cold-Formed Alloy Steel Bar

I find that there is a reasonable indication of material injury to the affected domestic industry by subject imports and do not reach the issue of threat. I therefore dissent from my collegues in this determination and analyses herein. I believe relevant indicia of industry condition evidence overall a decline in its health during the 1978–1981 period manifested by decreases, albeit irregular in production, capacity utilization, shipments employment and paid hours worked and flattened operating profits. [151] Moreover, first quarter 1982 figures show further deterioration in these areas witnessed, for example, by capacity utilization rate of 47.8 percent (compared with 58.2 percent the comparable 1981 quarter), further declines in employment, and substantial decreases in gross and operating profits, especially operating profit margins which plummeted from 14.3 percent to 0.7 percent. One must note the most recent first quarter surge of imports for the entire 1981 period with penetration climbing from 0.1 percent to 0.5 percent of consumption, coupled with a decline in industry fortunes in considering a reasonable indication of the domestic industry possibly suffering for this product, which would more likely be developed in a final investigation should the Commission be called upon to conduct one.

I believe on the basis of available information that there is a reasonable indication that the affected domestic industry in the United States *could possibly* be suffering material injury and that this investigation should continue.

By order of the Commission.

Issued: June 10, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-16204 Filed 6-15-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-113]

Certain Log Splitting Pivoted Lever Axes; Amendment of Notice of Investigation to Add Respondent

AGENCY: International Trade Commission.

ACTION: Amendment of notice of investigation to add one new respondent pursuant to § 210.22(a) of the

[149] See my views on the January cases, pp. 173–175.

[150] See my views on the January cases, pp. 125–127 relative to my concerns about these areas.

[151] See my views on the January cases, pp. 181–184.

Commission's rules of practice and procedure (19 CFR 210.22(a)).

SUMMARY: On June 10, 1982, the Commission granted a motion (Motion No. 113–16) to amend the notice of investigation in this investigation to add Formosa Forges Corp. as an additional respondent.

SUPPLEMENTARY INFORMATION: On March 24, 1982, complainant Chopper Industries, Inc., moved (Motion No. 113–16) to amend the complaint and the notice of investigation to add as a new respondent Formosa Forges Corp. Formosa Forges Corp. is alleged by complainant to be engaged in contributory patent infringement with respect to the axehead component of the axes under investigation. On April 12, 1982, the administrative law judge (ALJ) issued a recommended determination that the motion be granted (Order No. 13). After consideration of Motion No. 113–16 and the ALJ's recommended determination, the Commission determined to amend its notice of investigation to add Formosa Forges Corp., 8 Tsu-Li, 1st Road, Nan Kung Industrial Park, Nan Tou, Taiwan 540, as a respondent in this investigation.

Copies of the Commission's Action and Order and all other nonconfidential documents filed in connection with this investigation are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Sheila J. Landers, Esq., Office of the General Counsel, telephone 202–523–0421.

By order of the Commission.

Issued: June 11, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–16263 Filed 6–15–82; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–103]

Certain Stabilized Hull Units and Components Thereof and Sonar Units Utilizing Said Stabilized Hull Units; Termination of Investigation

AGENCY: International Trade Commission.

ACTION: Termination of investigation upon a finding of no violation of section 337 of the Tariff Act of 1930.

SUPPLEMENTARY INFORMATION: On the basis of a complaint filed on April 29, 1981, the Commission on June 10, 1981, published in the **Federal Register** (46 FR 30737) a notice of institution of an investigation pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). The Commission's investigation covered alleged unfair methods of competition and unfair acts in the unauthorized importation and sale of certain stabilized hull units and components thereof alleged to infringe certain claims of U.S. Letters Patent 3,553,638, owned by complainant Western Marine Electronics, Inc.

On May 20, 1982, the Commission unanimously determined that there was no violation of section 337 in investigation No. 337–TA–103 in the importation or sale of the stabilized hull units and components thereof in question.

Copies of the Commission's Action and Order, the Commission Opinion, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: William E. Perry, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0359.

By order of the Commission.

Issued: June 9, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–16267 Filed 6–15–82; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–108]

Certain Vacuum Bottles and Components Thereof; Termination of Respondent

AGENCY: International Trade Commission.

ACTION: Termination of investigation as to respondent World Wide, Inc.

SUMMARY: The Commission has terminated the above-captioned investigation as to respondent World Wide, Inc. (World Wide), on the basis of a joint motion filed by complainant Union Manufacturing Co., respondent World Wide, and the Commission investigative attorneys.

SUPPLEMENTARY INFORMATION: This investigation is being conducted under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and concerns alleged unfair trade practices in the importation into and sale in the United States of certain vacuum bottles and components thereof. The joint motion to terminate the investigation as to World Wide included an affidavit executed by Mr. Ronald A. Ericken, chief executive officer of World Wide. In the affidavit, Mr. Erickson stated that World Wide had imported 10,000 vacuum bottles from a company in Taiwan and that World Wide would not import or sell any of the allegedly infringing vacuum bottles unless and until such time as there is a final decision by the Commission that the vacuum bottles in question do not infringe Union's alleged trademark.

Copies of the Commission's Action and Order and all other nonconfidential documents filed in connection with this investigation are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: William E. Perry, Exq., Office of the General Counsel, telephone 202–523–0359.

By order of the Commission.

Issued: June 9, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–16266 Filed 6–15–82; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 603–TA–8]

Certain Stainless Steel Shears; Termination of Investigation

AGENCY: International Trade Commission.

ACTION: Termination of preliminary investigation.

SUMMARY: On February 8, 1982, at the request of the Division of Unfair Import Investigations, the Commission voted to institute a preliminary investigation purusant to section 603 of the Trade Act of 1974 (19 U.S.C. 2482) into the possible existence of unfair methods of competition and unfair acts with respect to the importation into the United States and sale of certain stainless steel shears and the effects, if any, of such methods and acts. Notice of this investigation was issued on February 22, 1982, and published in the **Federal Register** on March 3, 1982 (47 FR 9113).

The investigation, as set forth in the Notice, was to cover:

1. False and deceptive advertising for the purpose of furthering the belief on the part of the consumers that the stainless steel shears manufactured by

K.R. Witte Co. and imported by K.R. Witte Solingen-U.S.A. are forged and ice-tempered shears, the effect or tendency of which may be to destroy or substantially injure the efficiently and economically operated stainless steel shears industry in the United States.

2. Trade libel, product disparagement, and tortious interference with contractual relations by K.R. Witte Co. or K.R. Witte Solingen-U.S.A., the effect or tendency of which may be to destroy or substantially injure the efficiently and economically operated stainless steel shears industry in the United States.

Deadline

The Commission's Unfair Import Investigations Division was directed to submit its report and recommendation to the Commission no later than 60 days from the date of publication of this notice in the **Federal Register**.

Having conducted an investigation into these matters, and received the report and recommendation from the Unfair Import Investigations Division with respect thereto, the Commission has determined that no further investigatory activity need take place at this time. In reaching this determination pursuant to 19 CFR 211.10 (a) and (b), the Commission has concluded that the public interest will be fully safeguarded.

FOR FURTHER INFORMATION CONTACT: Juan Cockburn, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–1272.

Issued: June 7, 1982.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–16369 Filed 6–15–82; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 104–TAA–9]

Termination of Countervailing Duty Investigation Concerning Michelin X-Radial Steel-Belted Tires From Canada

AGENCY: United States International Trade Commission.

ACTION: Termination of countervailing duty investigation under section 104(b)(1) of the Trade Agreements Act of 1979, with regard to Michelin X-radial steel-belted tires from Canada.

EFFECTIVE DATE: June 7, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Schechter, Office of Investigations, telephone number (202) 523–0300.

SUPPLEMENTARY INFORMATION: The Trade Agreements Act of 1979, subsection 104(b)(1), requires the Commission in the case of a countervailing duty order issued under section 303 of the Tariff Act of 1930, upon the request of a government or group of exporters of merchandise covered by the order, to conduct an investigation to determine whether an industry in the United States would be materially injured, or threatened with material injury, or whether the establishment of such an industry would be materially retarded, if the order were to be revoked. On January 2, 1980, and January 3, 1980, the Commission received a request from the Canadian Embassy and Michelin Tire Corp., respectively, for the review of the outstanding countervailing duty order on Michelin X-radial steel-belted tires from Canada (T.D. 73–10).

The Commission instituted an investigation on Michelin X-radial steel-belted tires from Canada on March 11, 1982 and published notice of the investigation in the **Federal Register** of March 16, 1982 (47 FR 11341). On April 21, 1982, the Commission was notified by letter that the Rubber Manufacturers Association, the original and only petitioner for the countervailing duty order, wished to withdraw its petition on Michelin X-radial steel-belted tires, with the express proviso that the withdrawal be considered without prejudice to the filing of any future petition or petitions.

There is no provision in the Trade Agreements Act of 1979, or in its legislative history, specifically permitting termination of a section 104(b) investigation. However, authority to terminate such investigations is implied under section 704(a) of the Tariff Act of 1930. Section 704(a) permits termination of countervailing duty investigations properly instituted under Title VII of the Tariff Act of 1930. Section 704(a) directs the Commission to solicit public comment prior to termination and approve termination only if it is in the public interest.

On April 27, 1982, the Commission published a notice in the **Federal Register** (47 FR 18073) requesting public comment on May 27, 1982 on the proposed termination of the Commission's investigation on Michelin X-radial steel-belted tires from Canada. No adverse comments were received in response to the Commission's notice. Thus, the Commission deems it to be in the public interest to terminate this investigation in light of the withdrawal of the petition by the original petitioner and lack of interest in the continuance of the investigation by any interested parties.

The Commission is therefore terminating its investigation (Inv. No. 104–TAA–9) under section 104(b)(1) of the Trade Agreements Act of 1979 on Michelin X-radial steel-belted tires from Canada (T.D. 73–10). The termination of this investigation has the same effect as a determination that an industry in the United States would not be materially injured or threatened with material injury, nor would the establishment of such an industry be materially retarded, if the countervailing duty order were to be revoked.

In addition to publishing this **Federal Register** notice, the Commission is serving a copy of this notice on all persons who have written the agency in connection with this investigation and is also notifying the Department of Commerce of its action in this case.

Issued: June 8, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–16270 Filed 6–15–82; 8:45 am]

BILLING CODE 7020–02–M

Sugar; Report to the President on Investigation No. 22–45

June 8, 1982.

Determination

On the basis of the information developed during the investigation, the Commission determines that sugars, sirups, and molasses, derived from sugar cane or sugar beets, provided for in items 155.20 and 155.30 of the Tariff Schedules of the United States, are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price support program of the U.S. Department of Agriculture for sugar cane and sugar beets.[1]

Background

On December 29, 1981, the Commission received a letter from the President directing the Commission to determine, pursuant to section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), whether sugars, sirups, and molasses provided for in items 155.20 and 155.30 of the TSUS are being or are practically certain to be imported into

[1] Vice Chairman Michael J. Calhoun determines that the described products are practically certain to be imported into the United States under such conditions and in such quantities as to materially interfere with the price support program of the U.S. Department of Agriculture for sugar cane and sugar beets.

the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price support program of the U.S. Department of Agriculture for sugar cane and sugar beets. Accordingly, the Commission instituted the present investigation, No. 22–45, on January 15, 1982.

Notice of the Commission's investigation was published in the **Federal Register** of January 20, 1982 (47 FR 2956). A public hearing was held on April 6, 1982, in Washington, D.C., at which all interested parties were afforded an opportunity to be present, to present evidence, and to be heard.

The information for this report was obtained from information presented at the public hearing, interviews by members of the Commission's staff, other Federal agencies, responses to Commission questionnaires, briefs submitted by interested parties, the Commission's files, and other sources.

Recommendation

We recommend that the President:

(1) Maintain the current fee system set forth in Proclamation 4940;

(2) Maintain the duties set forth in Proclamation 4888;

(3) Maintain the quota system set forth in Proclamation 4941 until such time as duties and fees, which are preferred to a restrictive quota, are once again adequate to protect the price support program; and

(4) Establish guidelines for the orderly transition between reliance on a quota and reliance on duties and fees.

Statement of the Commission

Introduction

The President asked us to determine, pursuant to section 22 of the Agricultural Adjustment Act, whether sugars, sirups, and molasses, derived from sugarcane or sugar beets,[2] are being, or are practically certain to be, imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price-support program of the U.S. Department of Agriculture (USDA) for sugarcane and sugar beets. With an affirmative determination, the Commission makes appropriate recommendations concerning actions the President should take to protect the integrity of the program.[3]

Pending submission of our findings and recommendations, the President issued two emergency proclamations, Proclamation 4887 of December 23, 1981 (46 FR 62641) and Proclamation 4940 of May 5, 1982 (47 FR 19657), imposing fees on imports of the articles described above pursuant to his section 22(b) authority.[4] Further, the President issued two additional proclamations, Proclamation 4888 of December 23, 1981 (46 FR 62645) and Proclamation 4941 of May 5, 1982 (47 FR 19661), raising duties and modifying quotas, respectively, on such imports pursuant to separate authority set forth in Headnote 2, Subpart A, Part 10, Schedule 1 of the TSUS (19 U.S.C. 1202).[5]

After considering all of the information before us, including the arguments of the interested parties presented at the public hearing and in briefs and other submissions, we have determined that imports of sugars, sirups, and molasses, in the absence of recent Presidential action, would materially interfere with the USDA price-support program for sugarcane and sugar beets.[6]

We therefore recommend that the President:

(1) Maintain the current fee system set forth in Proclamation 4940;

(2) Maintain the duties set forth in Proclamation 4888;

(3) Maintain the quota system set forth in Proclamation 4941 until such time as duties and fees, which are preferred to a restrictive quota, are once again adequate to protect the price support program; and

(4) Establish guidelines, as outlined below, for the orderly transition between reliance on a quota and reliance on duties and fees.

The USDA Price-Support Program for Sugar

The purpose of the USDA's sugar program is to provide price support to domestic sugarcane and sugar beet growers by guaranteeing that the Commodity Credit Corporation (CCC) buys processed sugar from processors at the support price.[7] The processors are thus able to buy sugar from the growers at a specified price with the knowledge that subsequently they can choose to sell the sugar to the CCC at the support price or on the market at a higher price. If sugar imports are allowed to drive the market price below the support price, it is more profitable for the processors to sell the sugar to the CCC rather than in the marketplace.

The current USDA support program for sugar is governed by the provisions of the Agriculture and Food Act of 1981.[8] This new law requires the Secretary of Agriculture to support, through purchases, the price of sugar processed from domestically grown sugarcane and sugar beets from December 22, 1981, the date of enactment of the legislation, through March 31, 1982, at a level appropriate to approximate a raw sugar price of 16.75 cents per pound.

The 1981 law also requires the Secretary to support the price of the 1982–85 domestic sugarcane crops through nonrecourse loans at such level as he determines appropriate, but not less than 17 cents per pound for the 1982 crop, 17.5 cents per pound for the 1983 crop, 17.75 cents per pound for the 1984 crop, and 18 cents per pound for the 1985 crop. The Secretary is to support the price of domestically grown sugar beets through nonrecourse loans at a level that is fair and reasonable in relation to the level of loans for sugarcane.

In its report accompanying the 1981 act, the Senate Committee on Agriculture, Nutrition, and Forestry, the primary author of the sugar provision,

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[2] These articles are provided for in items 155.20 and 155.30 of the Tariff Schedules of the United States (TSUS).

[3] Under sec. 22 the Commission is to advise the President about the measures needed to protect the existing domestic price support program for sugar from import interference. It is not the Commission's responsibility to review policy issues, such as the necessity for a sugar program and the proper support price for sugar. The Commission could not anticipate all developments that might complicate administration of the domestic price-support program. Such factors include the possibility that high support prices could spur domestic production, or that the demand for sugar, both in the United States and abroad, could decline significantly in the years ahead. Developments such as these may require further policy consideration by Congress and the Executive Branch.

[4] Proclamation 4887 is reprinted in Appendix C of the report at A–72–75; Proclamation 4940 is reprinted in Appendix D at A–78–82. These proclamations are discussed at A–8–11 of the attached report.

[5] Proclamation 4888 is reprinted in Appendix C of the report at A–70–71; Proclamation 4941 is reprinted in Appendix D at A–83–88. These proclamations are discussed at A–7–8 and A–11.

[6] The determination of Vice Chairman Calhoun is limited to a finding that imports are practically certain to be imported into the United States under such conditions and in such quantities as to materially interfere with the USDA price-support program for sugarcane and sugar beets. He finds that material interference does not presently exist because of the recent actions taken by the President. As a result of these actions, none of the usual indicia of material interference exist—e.g., there have been no purchases by the CCC, thus there are no significant CCC loan stocks or CCC outlays to purchase the product. Rather, the circumstances discussed in this opinion lead the Vice Chairman to the conclusion that, absent some action under sec. 22, the folume and price of imports will be such as to cause the CCC to purchase very large quantities of the 1982 crop, and possible subsequent crops, at considerable expense to the Government.

[7] Report at A–4.

[8] Pub. L. 97–98, § 901, 95 Stat. 1213 (1981). The new sugar support prices are set forth in title IX of the 1981 law. Title IX amended sec. 201(h) of the Agriculture Act of 1949 (7 U.S.C. 1446), which sets forth the basic price support provisions.

urged the President to make timely use of his authorities under both section 22 and the TSUS headnote to avoid the adverse budgetary consequences of situations where the market price for sugar falls below the price objective and loan level specified in the sugar program.[9]

The Imported Products

The United States imported 51 percent of its sugar needs in calendar year 1981.[10] The imported sugars, sirups, and molasses enter primarily in four different forms—raw sugar, refined sugar, liquid sugar, and invert sugar sirup.[11] Raw sugar, which consists of large sucrose crystals coated with molasses, is the principal sugar shipped in world trade. It accounted for 99.9 percent of U.S. sugar imports in 1981.[12] Raw sugar is an intermediate product, generally brown in color, derived principally from sugarcane. Refined sugar is the pure white sugar of commerce, derived from processing raw sugar and sugar beets. Sugar beets generally are converted to refined sugar in one operation. Liquid sugar is a solution of refined sugar in water. Invert sugar sirup is a combination of equal parts of glucose and fructose formed from sucrose and water by the action of acids or certain other chemicals.

The Sweetener Market

Sugar derived from sugarcane and sugar beets is the primary sweetener in the U.S. market. The principal alternatives to sugar are noncaloric sweeteners and cornstarch derivatives, including glucose, glucose sirup, dextrose, and high fructose corn sirup (HFCS).[13] HFCS, the most important of these alternative, is a liquid form of fructose which can be used as a direct sugar substitute for most sweetener uses that do not specifically require dry crystals. In 1981, HFCS accounted for 25–30 percent of the total industrial sweetener use and 50 percent of beverage sweetener use.[14]

As a result of the increased use of sugar substitutes, U.S. per capita consumption of sugar has declined in recent years. While non-HFCS sweetener consumption has increased moderately during the last 5 years, HFCS use has more than doubled in this period.[15] This trend is expected to continue.

Material Interference

In past section 22 investigations, the Commission has found material interference to exist when the interference is "more than slight interference but less than major interference."[16] The Commission has considered such factors as import levels, inventories held by the CCC under the particular program, changes in the cost to the Government in running the program, price differences between the domestic and imported products, world stocks of the imported product, and whether objectives of the program are being met. Basic objectives of a program may be satisfied, but a program may nevertheless be materially interfered with if imports are causing increases in domestic stocks under loan or significant expenditures by the CCC.

In the absence of the President's recent actions, the CCC would have to purchase much of the domestic 1981 sugar crop and would be expected to acquire most of the domestic 1982 crop. This is the case because world sugar prices have fallen substantially in recent months and are now considerably below the U.S. support price. Whenever the world price, as adjusted for U.S. import duties and fees and transportation and other costs, falls below the domestic support price, domestic sugar is likely to be displaced in the marketplace by imports. U.S. processors, wishing to sell at the highest price, will sell to the CCC.

World prices for sugar have fluctuated widely in recent years. Only a relatively small amount of sugar enters the world market (22 percent in 1981) and demand for sugar in most consuming countries is relatively inelastic. As a result, fluctuations in the amount of sugar produced can have an important effect on world prices.[17] This was demonstrated during the period 1975–81 when the world price for sugar (f.o.b., Caribbean, No. 11 spot price) varied widely, averaging 20.50 cents per pound in 1975, 11.60 cents per pound in 1976, 8.10 cents per pound in 1977, 7.81 cents per pound in 1978, 9.59 cents per pound in 1979, 29.00 cents per pound in 1980, and 16.85 cents per round in 1981.[18] The monthly average world price ranged from 41.09 cents per pound in October 1980, to 6.43 cents per pound in July 1978. Dramatic price changes can occur over a brief time span. For example, in the 11-month period October 1980–September 1981, the world price fell by 72 percent, from 41.09 cents per pound to 11.66 cents per pound. Domestic sugar prices tend to follow world prices.

The intent of the emergency section 22 fees and higher duties imposed by the President on December 23, 1981, was to ensure that the price received by U.S. processors for sugar was above the support price, thereby avoiding sales to the CCC.[19] However, during the first 4 months of 1982, world sugar prices continued to fall, requiring additional increases in the level of fees up to the maximum allowed by law. By April 23, the world price had fallen to 8.58 cents per pound, and the maximum duties and fees were not sufficient to raise the world price to the effective market stabilization price (MSP).[20] To remedy this situation, on May 5, 1982, the President issued two new emergency proclamations pursuant to section 22 and the headnote authority. Quarterly import quotas allocated on a country-by-country basis were imposed in place of the previous global quota under the headnote, and the section 22 fees were adjusted.

The world price continued to fall, in part because of the new U.S. actions. The world price was 7.85 cents per pound on May 18, 1982, less than one half the support price of 16.75 cents per pound.[21]

As of May 12, 1982, the CCC has entered into purchase agreements with U.S. processors for about 863,000 short tons of sugar. This amount was expected to exceed 1 million short tons by May 31, 1982, the deadline for entering into such agreements.[22] Processors have through September 30, 1982, to give notice of their intent to sell this sugar to the CCC. Some, if not most, of this sugar can be expected to be sold to the CCC if the U.S. market price is below the support price on that day.[23]

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[9] S. Rept. No. 126, 97th Cong., 2nd Sess. 100 (1981). Commissioner Frank notes the emergency actions taken by the President are in accord with the intent of Congress.

[10] Report at A–21.

[11] Id. at A–2.

[12] Id.

[13] Id. at A–15.

[14] Id. at A–17.

[15] *Id.* at A–23.

[16] *See.* Certain Tobacco, Inv. No. 22–43, USITC Pub. No. 1174 (1981), p. 3; and Casein, Mixtures in Chief Value of Casein, and Lactalbumin, Inv. No. 22–44, USITC Pub. No. 1217 (1982), p. 3.

[17] Report at A–27. The United States has been the largest open market for sugar imports since 1974 when the Sugar Act quotas were terminated (report at A–21).

[18] Id. at A–32–34, table 11.

[19] Id. at A–10.

[20] Id. The MSP is the minimum market price required to discourage sale or forfeiture of sugar to the CCC. The MSP equals the sum of the support price, a transportation factor, and an incentive factor. The import fee, pursuant to Proclamation 4940, is based on the difference between the MSP and the No. 12 domestic contract price for sugar.

[21] By June 7, 1982, the world price had fallen to 7.05 cents per pound.

[22] Report at A–8. The deadline was later extended to June 14, 1982.

[23] The USDA is strongly opposed to the CCC becoming a large purchaser of domestic sugar. Hearing transcript at 68–69.

In the absence of the actions which the President has taken since December, imports of low-priced sugar would be materially interfering with the USDA's price-support program by forcing the CCC to purchase large amounts of domestically grown sugar. To prevent this, it is necessary that a system of duties, fees, and quotas be maintained.

Recommendations[24]

Section 22(b) permits the President to impost such fees (up to 50 percent ad valorem) or such quantitative restrictions (up to 50 percent of the imported articles entered or withdrawn from warehouse during a representative period) as are necessary in order that the imported articles will not render or tend to render ineffective, or materially interfere with, the subject program. In addition, the sugar headnote requires the President to impose a duty of between 0.6625 and 2.98125 cents per pound and a quota on imports of the sugars, sirups, and molasses provided for in TSUS items 155.20 and 155.30. The headnote imposes no limits on the President's authority to set quotas.

Our remedy recommendation in this investigation is a flexible system designed to ensure that imports do not materially interfere with the price-support program. We have taken into account the fact that only one measure, either a system of fees and duties or a quota, is the primary restraint at any given time. Therefore, we have designed a remedy which shifts the primary restraint between a system of fees and duties, which is preferable when effective, and a restrictive quota,[25] when necessary. To prevent severe dislocation of the market during a shift, fees and duties should be adjusted to achieve the MSP.

Flexible system.—In the present case, we recommend that the President continue to impose a system of fees pursuant to section 22 and duties and restrictive quotas pursuant to the headnote authority. In general, a system of fees and duties is to be preferred over a restrictive quota, provided that there is authority to raise fees and duties to a level sufficient to close the gap between the world price and the MSP. Fees and duties are likely to have a less distortive effect on the marketplace than are restrictive quotas.[26] However, when the gap between the world price and the MSP exceeds the amount by which fees and duties can be raised, as in the present case, a restrictive quota must be imposed and maintained.[27] When the world price rises to a level high enough to allow the fees and duties once again to bridge the gap between the world price and the MSP, the quota should be relaxed in order to allow the fees and duties to be the effective import constraint.[28]

A restrictive quota should continue in effect until the world price of imported sugar is higher than the level at which the maximum possible duties and fees, added to the cost of shipping sugar to U.S. ports, are capable of attaining the price objective, the MSP. Under current price-support levels, the world price must be at least 10.32 cents per pound for maximum duties and fees and shipping costs to achieve the MSP of 19.88 cents per pound.[29] Based on current market conditions, we suggest that the restrictive quotas be relaxed when the world price rises to two cents per pound above this level, or 12.32 cents per pound.

The restrictive quota would be relaxed and duties and fees would become the primary import constraint only after this price level (i.e., currently 12.32 cents per pound) has been reached or exceeded for 20 consecutive market days. This length of time and two-cent price rise are necessary to establish the difference between a price trend and a temporary fluctuation.[30] During periods when duties and fees are the primary constraint, we recommend that they be adjusted so the market price does not exceed the MSP solely because of the duties and fees. We therefore recommend that provision be made for adjustment of fees and duties to minimize costs to consumers.

When quotas are not restrictive and the world price has fallen sufficiently, the quota should be tightened and again become the primary constraint. To avoid CCC purchases, this shift must occur before the world price drops below the level at which maximum fees and duties become inadequate. We therefore recommend that quotas be tightened when the world price falls to within one cent per pound of the price below which maximum fees and duties are ineffective and remains below this level for 5 consecutive days.[31]

Under current price-support levels, the restrictive quota system would go into effect if the world price falls to 11.32 cents per pound and remains at or below that level for 5 consecutive days. Duties and fees would remain at levels necessary to achieve the MSP in order to avoid disrupting the market when prices approach the transition point.

Quota on raw sugar.—Because present world sugar prices are considerably below 10 cents per pound, the Commission recommends that quarterly quotas be established for raw sugar. Under the headnote authority, the President has already acted to constrain sugar imports in the period May 11–June 30 to 220,000 short tons. The quota level of 220,000 short tons was based on a USDA estimate that imports would total 877,000 short tons during the first 4 months of 1982, and 110,000 short tons under the Proclamation's exemption clause.[32] Imports during the first 4 months of 1982 were 861,000 short tons, or 16,000 short tons less than the USDA estimate. However, the amount of sugar imported under the exemption clause is now estimated to be two or three times more than the 110,000 short tons initially anticipated by USDA. As a result of this underestimation, it is likely that the amount of sugar imported for the first half of the year may exceed the USDA estimates by as much as 110,000 to 220,000 short tons. Because of the uncertainties with respect to import quantities during the first half year, we think it is more prudent to accept the

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[24] We have relied extensively on data and estimates provided by USDA for our assumptions and calculations. Because the sugar market is highly volatile, the specifics or our recommendations must be adjusted for any significant changes in USDA's data and estimates.

[25] A restrictive quota is one set at a level which is expected to be filled and constrain imports. A nonrestrictive quota is one set at a level above the expected demand for imports. Quotas may be set on a global or country-by-country basis. For example, the quota in effect on sugar under the headnote prior to May 11, 1982, was a global nonrestrictive quota of 6.9 million short tons per year. Imports have never exceeded 6.2 million short tons.

[26] Report at A–45.

[27] Id. at A–46–47.

[28] Retaining the fee and duty structure along with the restrictive quota provides an orderly transition period until the quota has its intended effect. If for any reason the President is precluded from imposing a restrictive quota under the headnote authority at the same time that a fee system is in place pursuant to sec. 22, and world prices continue to be below the level which we recommend for relaxing the quotas then we recommend that the restrictive quota be continued pursuant to sec. 22, thereby necessitating elimination of the fee structure until such time as prices permit the maximum fees and duties to achieve the MSP.

[29] The USDA estimates shipping costs from Caribbean ports to U.S. ports north of Cape Hatteras at 1.6 cents per pound.

[30] See data in the report at A–32–34, table 11.

[31] The 5-day period should protect against the system responding to temporary aberrations. If before the 5-day time limit expires, the world price should plummet to a level below which fees and duties (added to transportation costs) can raise it to the MSP level, the quota should be tightened as soon as possible.

[32] The quantitative limitations imposed by Proclamation 4941 do not apply to sugar entered or withdrawn from warehouse for consumption prior to July 1, 1982, if the sugar was exported on a through bill of lading to the United States from the country of origin prior to April 23, 1982. Also, the quota does not apply to sugar imported between the date the proclamation was issued, May 5, 1982, and the date it went into effect, May 11, 1982.

220,000 short ton amount as a basis for determining the third quarter quota.

In its preliminary quota plan, the USDA recommended quarterly quotas during the last half of 1982 of 825,000 short tons and 990,000 short tons for the third and fourth quarters, respectively. The most critical test for the quota occurs at the end of September when the USDA purchase program ends and the CCC might be required to purchase large quantities of sugar. Hence, the effect of greater-than-anticipated imports at the beginning of the year will have to be balanced by cuts in the third quarter quota. Therefore, we recommend a third quarter quota of 605,000 short tons. If this level should raise the domestic price above the MSP, we recommend that adjustments be made in the fourth quarter quota.

We understand that the third and fourth quarter quotas may require further adjustment if the levels of domestic production, consumption, or stocks vary considerably from current USDA estimates. Our recommendations are based on USDA estimates of a 1982 domestic harvest of 5.8 million short tons and consumption of 9.6 million short tons. Furthermore, USDA estimates stocks at the beginning of January 1982, at 3.4 million short tons. We believe that stocks can be reduced to the 1.1 million short ton level by September 1982, as proposed by USDA and thus maintain the domestic price at the MSP level. However, we recommend that the Secretary of Agriculture have the authority to adjust the quotas to compensate for these uncertainties.[33]

If it is necessary to continue the restrictive quotas beyond 1982, we recommend a quota of 3.4 million short tons for 1983. In reaching this recommendation, we assume that USDA has accurately estimated 1982 production at 5.8 million short tons; that consumption will fall to 9.2 million short tons as sugar users continue to substitute HFCS for sugar; that domestic stocks will be adjusted to normal levels by the beginning of 1983; and that exempted imports will not be a factor in 1983. Therefore, a quota of 3.4 million short tons should be sufficient to allow the available supply to meet expected demand. In 1984, production is expected to continue at the same level, but we estimate consumption will continue to fall by another 400,000 short tons to 8.8 million short tons. Hence, we recommend that the quota for 1984 be reduced to 3.0 million short tons.

We recognize that uncertainties in this market make accurate predictions difficult and have consequently recommended a flexible system that requires the continued attention of the Secretary.[34]

Quota on refined sugar.—U.S. imports of refined sugar historically have been very small relative to imports of raw sugar. In the period 1975–79, annual imports of refined sugar averaged 122,547 short tons, less than 2 percent of total sugar imports.[35] In recent years, imports of refined sugar entered principally from Canada and the European Community; however, imports from these sources have been made subject to countervailing and antidumping duties as a result of three proceedings in 1978–80.[36] In 1980 and 1981, annual imports of refined sugar averaged only 6,450 short tons.[37]

At the hearing, USDA requested that the Commission comment on the fee differential between raw and refined sugar necessary to ensure that refined sugar is not imported to circumvent the restrictions on imports of raw sugar. At that time, the quarterly established fee for refined sugar, pursuant to Proclamation 4887, was the fee for raw sugar plus 15 percent of the amount by which the MSP exceeded the 20-day average world spot price for raw sugar. Under Proclamation 4940, the differential was set at one cent per pound.

Because a restrictive quota on raw sugar will encourage imports of refined sugar and we do not believe the one-cent differential is sufficient to prevent circumvention when such a quota is in effect, we recommend that a separate restrictive quota be established for refined sugar when a restrictive quota on raw sugar is in effect. Separate quotas for raw and refined sugar were imposed under the Sugar Act of 1948. We recommend that the quota for refined sugar be set at 10,000 short tons per year, an amount somewhat larger than the level of such imports in 1980 or 1981. Such a quota will, in our view, ensure that importers of specialty sugars have access to sufficient supplies.

When fees and duties are the effective constraint on raw sugar imports, the cents-per-pound differential must be high enough that imports of refined sugar will not be encouraged. In each year during the period 1976–81, the average cost to refiners after refining loss exceeded the domestic raw sugar price by more than one cent per pound.[38] Before fees and duties again become the primary constraint, we recommend that USDA re-examine the one-cent-per-pound differential to assess its adequacy.[39]

By order of the Commission.

Issued: June 8, 1982.

Kenneth R. Mason,

Secretary.

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[33] Chairman Alberger, noting that changes in domestic production, consumption, stocks, or first half 1982 imports from USDA estimates may require adjusting second half 1982 quotas, recommends that the third quarter quota be set more conservatively. Since it is essential that prices be at or above the MSP at the end of September, extra care should be taken to handle all possible contingencies. To significantly reduce the likelihood of CCC sugar purchases, he recommends that third quarter imports not exceed 400,000 short tons and that any changes in actual figures for production, consumption, or stocks which would allow for increased imports be reflected by adjusting the fourth quarter quota.

[34] If at any point the price objectives are met so as to permit relaxation of the restrictive quota, the possibility of its being tightened without a further sec. 22 investigation should serve as a deterrent to sudden large influxes of imported sugar which would once again threaten to disrupt the market and materially interfere with the support program.

[35] Report at A–24.

[36] Countervailing duty on sugar from the European Communities, Treas. Dec. 78–253 (1978), 19 CFR Annex III, Part 335; and antidumping duties on sugar from France, the Federal Republic of Germany, and Italy, Treas. Dec. 79–107 (1979), and sugar and sirups from Canada, 45 F.R. 24127 (1980), 19 CFR Annex I, Part 353.

[37] Report at A–24.

[38] Report at A–32–34, table 11.

[39] Chairman Alberger does not believe that a cents-per-pound differential can be found that will adequately address the problem of limiting imports of refined sugar. It is his view that either imports of refined sugar will be encourage when the differential is inadequate, or that it will be excessive. He recommends a fixed annual quota of 40,000 short tons of refined sugar to be in effect whether fees and duties or quotas are the primary restraint on raw sugar.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 81–12]

Joseph Henry Pritchett, M.D.; Denial of Application

On March 20, 1981 the Administrator of the Drug Enforcement Administration (DEA) directed to Joseph Henry Pritchett, M.D. (Respondent) an Order to Show Cause proposing to deny Respondent's application dated August 4, 1980 for authority to possess, dispense and distribute controlled substances under section 303 of the Controlled Substances Act (21 U.S.C. 823) at an address in Georgia. The statutory predicate for the Order was Respondent's conviction on May 19, 1980 in the State of Alabama Circuit Court for Madison County of one (1) count of unlawfully prescribing a controlled substance, a felony violation

of the Alabama Uniform Controlled Substances Act.

In a letter dated March 31, 1981, Respondent stated that he was permitted to practice medicine in Alabama by the Alabama Board of Medical Examiners at the Partlow State School and Hospital, Tuscaloosa, Alabama. The Administrator directed Administrative Law Judge Francis L. Young to proceed to hearing, and this matter was then placed on DEA's administrative docket. The hearing on the issues raised in the Order to Show Cause and in subsequent pleadings was held in Homewood, Alabama on January 12, 1982. Respondent appeared *pro se*.

Between the issuance of the Order and the time of the hearing, it developed that Respondent was practicing medicine in Alabama, not in Georgia as indicated in his application for DEA registration. The Alabama Board of Medical Examiners had restricted Respondent's practice to that of a staff physician at the Partlow State School and Hospital and had permitted Respondent to apply for DEA registration in Schedules III, IV and V only. The Georgia State Composite Board of Medical Examiners suspended Respondent's Georgia medical license but stayed the suspension so long as Respondent practiced medicine subject to the restrictions imposed by the Alabama Board.

On March 23, 1982 Judge Young certified the record of the proceedings in this matter, together with his recommended findings of fact, conclusions of law, and a recommended decision, to the Acting Administrator under 21 CFR 1316.65. Based upon the findings of fact and conclusions of law set forth below, the Acting Administrator publishes his Final Order in this proceeding pursuant to 21 CFR 1316.67.

Judge Young found that on May 19, 1980 Respondent pled guilty in the State of Alabama Circuit Court for Madison County to one (1) count of unlawfully prescribing a controlled substance, for which he was sentenced to two years in the state penitentiary, sentence suspended. An agent of the Alabama Bureau of Investigation, who was formerly employed by the Alabama Department of Public Health, Diversion Investigation Unit (DIU), testified at the January 12, 1982 hearing. The following findings of fact are based on the agent's testimony.

Respondent's controlled substances prescribing practices first came to the attention of the Alabama authorities in 1973 when the Alabama Board of Medical Examiners and Respondent entered into a "gentlemen's agreement" that Respondent would limit his prescribing of Schedule II narcotic and nonnarcotic controlled substances to hospitalized patients. Respondent was then in the general practice of medicine in Huntsville, Alabama. Respondent did not keep that agreement.

In 1976, the Board of Medical Examiners received a complaint that Respondent was prescribing controlled substances outside of the terms of the "gentlemen's agreement." The agent who testified, working for the DIU in 1976, went to Huntsville to investigate. At pharmacies close to Respondent's office he found eight prescriptions for Schedule II controlled substances written by Respondent between August 30, 1975 and March 4, 1976.

Respondent again came to the attention of the DIU in March, 1979 when a State Pharmacy Board investigator told the DIU agent that Dr. Pritchett was prescribing Dilaudid (hydromorphone) to his son-in-law. The agent knew Respondent's son-in-law to be a drug addict and abuser. He sent another DIU agent to Huntsville to investigate these allegations. The second agent found several Dilaudid prescriptions in area pharmacies written by Respondent for his son-in-law. One such prescription stated that the son-in-law was admitted to the U.S. Public Health Service facility at Lexington, Kentucky for treatment when in fact he had not been admitted. When interviewed on March 15, 1979, Respondent acknowledged writing the prescriptions for his son-in-law. He told the agent that he knew his son-in-law was an addict and was attempting to help him until he could receive some kind of treatment; however, Respondent could produce nothing to show that his son-in-law had sought or received any treatment for drug addiction. During this interview Respondent and the agent discussed the street value of Dilaudid. Within one 31 day period Respondent prescribed 492 Dilaudid tablets, with an approximate street value of $19,680, for his daughter and son-in-law. At this same interview, Dr. Pritchett voluntarily surrendered his Alabama controlled substances registration, thus terminating his authority to possess, prescribe, dispense, distribute or otherwise handle controlled substances in Alabama.

On April 20, 1979 the DIU received information that Respondent was still prescribing Dilaudid for his son-in-law, and that either his son-in-law or daughter were picking up the prescriptions from pharmacies in the Huntsville area. From March 24 to April 25, 1979 Respondent wrote prescriptions for 194 Dilaudid tablets to his daughter (often under a ficitious name) and son-in-law. When a DIU agent confronted Respondent with these prescriptions, Dr. Pritchett identified his signature and stated he would not prescribe any more controlled substances for anyone since he lacked the authority to do so.

In the 22 day period from April 25, 1979 to May 14, 1979 Respondent wrote additional prescriptions for 132 dosage units of Dilaudid for his daughter and son-in-law. He subsequently told the DIU that he had forgotten that he wrote those prescriptions. On May 15, 1979 Respondent's daughter and son-in-law were arrested in Haleyville, Alabama and charged with obtaining drugs by fraud. Haleyville, Alabama is approximately one hour fifteen minutes, to one hour and a half driving time from Huntsville, Alabama, where Respondent maintained his practice. DIU investigation revealed prescriptions written by Respondent for controlled substances in various Alabama locations up to an hour and a half automobile drive from Huntsville.

By July, 1979 Huntsville area pharmacies had learned that Dr. Pritchett was no longer authorized to prescribe controlled substances. DIU agents learned that two pharmacies in the area had received prescriptions written by Respondent for Nembtual, a Schedule II controlled substance. Both prescriptions stated that another Huntsville physician would countersign the prescriptions for Respondent. When DIU agents discussed this with the other physician, he angrily denied that he had agreed, or would ever agree, to countersign a prescription for Respondent.

The Alabama Bureau of Investigation had developed intelligence concerning sources of controlled substances in the Huntsville area. Informants of demonstrated reliability often mentioned that during the period between 1975 and 1979, the Respondent had a reputation among addicts and drug users for being a source for illegally obtaining controlled substances in the Huntsville area.

Respondent is currently assigned to the Warrior Center at Partlow State School and Hospital. Partlow State School and Hospital is registered with DEA as a hospital/clinic, but the Warrior Center itself is not so registered. Partlow State School is a home and school for the mentally retarded operated by the State of Alabama Department of Mental Health. The hospital at which Respondent works provides medical treatment only for students at the school. Judge Young found that the school and hospital were

not affected by the fact that Respondent was not registered with DEA.

Respondent has been hospitalized three times for psychiatric problems, once in 1973 and twice in 1979. He has not been hospitalized since. Respondent's case in mitigation consisted of a letter from the Medical Director of the Partlow School. The Medical Director stated that Respondent's work was excellent and the that facility feels fortunate to have him there. The Alabama Board of Medical Examiners has terminated Respondent's probationary status. Respondent submitted a three page filing entitled "Applicant's Conclusions" on March 22, 1982 almost one month after the date for filing proposed findings of fact and conclusions of law set by Judge Young. The Administrative Law Judge and the Acting Administrator have considered the contents of this paper and of Respondent's entire case in mitigation.

Based on the facts set out above, the Administrative Law Judge concluded that the facts compel the Acting Administrator to deny Respondent's application in all schedules. The Acting Administrator fully concurs, and adopts the Administrative Law Judge's findings of fact, conclusions of law and recommended ruling and decision. The Acting Administrator adopts the Administrative Law Judge's conclusion that Respondent knew that at least some of the drugs he was prescribing for his daughter and son-in-law were being sold on the street and that he made no genuine effort to obtain help for them in overcoming their addiction. Given Respondent's demonstrated inability to responsibly handle controlled substances, the Acting Administrator concludes that the record presented does not give him a reasonable basis for granting Respondent even a limited registration.

The Administrative Law Judge and Acting Administrator are mindful of the fact that Respondent has been practicing his profession to the apparent satisfaction of his superiors at the Partlow State School and Hospital. The provisions of 21 CFR 1301.76(a) would prevent Partlow State School and Hospital from continuing to employ Respondent once his application for registration is denied. On the recommendation of the Administrative Law Judge, the Acting Administrator waives application of 21 CFR 1301.76(a) to permit Respondent's continued employment at Partlow State School and Hospital even though his application for DEA registration is denied. The Acting Administrator grants this waiver with the understanding that even though Respondent may have physical "access" to controlled substances, he is not authorized to prescribe, administer, possess or dispense any controlled substances himself in the course of his employment. This Administration has granted similar waivers of 21 CFR 1301.76(a). *In the Matter of David Frank Micci, M.D.*, 45 FR 71448 (October 28, 1980) and 45 FR 74795 (November 12, 1980); *In the Matter of Charles J. Burks, M.D.*, Docket No. 79-4, 44 FR 61466 (October 25, 1979).

Respondent has timely submitted exceptions to the findings of fact, conclusions of law and recommended decision of the Administrative Law Judge under 21 CFR 1316.66. Government counsel has replied to these exceptions. The Acting Administrator has considered the exceptions and the response thereto and concludes that Respondent has not presented evidence sufficient to disturb the findings, conclusions and recommended decision of the Administrative Law Judge.

The Acting Administrator concludes that there is a lawful basis for the denial of the application for DEA registration filed by Respondent and that under the facts and circumstances presented in this case the application should be denied. Therefore, under the authority vested in him by 21 U.S.C. 823 and 824 and 21 CFR 0.100(b), the Acting Administrator of the Drug Enforcement Administration hereby denies the application for DEA registration executed August 4, 1980 by Respondent Joseph Henry Pritchett, M.D., c/o Partlow State School and Hospital, P.O. Box 1730, Tuscaloosa, Alabama 35493, and waives application of 21 CFR 1301.76(a) to the extent set forth above, both effective July 16, 1982.

June 9, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-16232 Filed 6-15-82; 8:45 am]

BILLING CODE 4410-09-M

Office of Juvenile Justice and Delinquency Prevention National Institute for Juvenile Justice and Delinquency; Prevention Announcement of the National Juvenile Justice Standards Resource and Demonstration Program

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Announcement of Draft Solicitation for Applications for the National Juvenile Justice Standards Resource and Demonstration Program.

SUMMARY: Notice is hereby given that the National Institute for Juvenile Justice and Delinquency Prevention, Office of Juvenile Justice and Delinquency Prevention, pursuant to the Juvenile Justice and Delinquency Prevention Act of 1974, as amended (JJDP Act), 42 U.S.C. 5601 et seq., is issuing a draft Solicitation for Applications for the National Juvenile Justice Standards Resource and Demonstration Program. The program announcement is being issued in draft and will be made final subject to the advice of the National Advisory Committee for Juvenile Justice and Delinquency Prevention pursuant to its statutory responsibilities set forth in section 207 of the JJDP Act (42 U.S.C. 5617). Any revisions to the draft Solicitation will be announced in the Federal Register by July 7, 1982.

FOR FURTHER INFORMATION CONTACT: Barbara Allen-Hagen, National Institute for Juvenile Justice and Delinquency Prevention (NIJJDP), Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, N.W., Washington, D.C. 20531. Telephone 202/724-7573.

SUPPLEMENTARY INFORMATION: The National Institute for Juvenile Justice and Delinquency Prevention (NIJJDP) is sponsoring the National Standards Resource and Demonstration Program which is designed to encourage the adoption of nationally developed standards for the administration of juvenile justice. Through cooperative efforts with selected State and local jurisdictions and national public and private organizations, the OJJDP hopes to demonstrate the utility of national juvenile justice standards as effective tools for generating and maintaining improvements in the administration of juvenile justice, consistent with the mandates and policies of the JJDP Act. A corrolary goal is to promote national awareness of the utility of standards through the development of resources to respond to the information, training and technical assistance needs of the selected sites and other jurisdictions interested in adopting national juvenile justice standards.

A. Program Objectives:

Consistent with the OJJDP Policy on Juvenile Justice Standards, the purposes of the JJDP Act and the goals of the program, the following objectives have been identified for the overall program:

(1) To complete a standards adoption process within twelve months in at least six jurisdictions that will result in the development or revision of administrative policies, court rules, or state or local codes, as appropriate, to

reflect specific policies of the JJDP Act and relevant national standards, with the expectation of demonstrating measurable changes in practices within an additional twelve months;

(2) To develop a better understanding of the process of standards adoption and implementation in selected sites and how they can be used in improving the performance of the juvenile justice system;

(3) To identify and respond to the information, training and technical assistance needs of State legislators, judges, program administrators and practitioners involved in the adoption of standards in the selected sites and in other jurisdictions interested in the adoption of standards;

(4) To compile and develop the necessary support materials to assist in the process of consideration and adoption of national juvenile justice standards, including information, training and technical assistance packages for drafting appropriate policies, legislation, and court rules;

(5) To incorporate the products of this program into all training and technical assistance activities of the Office related to improving the operations of the juvenile justice system;

(6) To develop a national network of resources comprised of individuals and organizations who can provide the most current, comprehensive information, training and technical assistance on the state-of-the-art of standards adoption and implementation;

(7) To provide information and recommendations to the National Advisory Committee for Juvenile Justice and Delinquency Prevention (NAC) for refining the NAC *Standards for the Administration of Juvenile Justice.*

B. Summary of Program Design

The program consists of two components: a Demonstration Component and a National Standards Resource Coordinator.

It should be emphasized that while only a limited number of sites will be selected for grant awards under this program, the information, training, and technical assistance resources developed by the National Standards Resource Coordinator will be made available to those jurisdictions who have not been selected either directly by the National Standards Resource Coordinator or in cooperation with other OJJDP Technical Assistance Contractors, as appropriate.

The following statement summarizes the basic elements that will be used in selecting jurisdiction as demonstration sites. Each of the underlined terms is discussed in detail in the Solicitation.

Six to eight jurisdictions will be selected as demonstration sites to receive $25,000–$50,000 of financial assistance on the basis of their commitment to institute a *process of standards adoption* that within 12 months of initiation will result in the *adoption of standards appropriate to their jurisdiction* and within another 12 months will yield *measurable results* in achieving one or more of the *priority objectives of the JJDP Act.*

Grant applications are invited from officials of State and local governments, including juvenile justice or law enforcement agencies, courts and legislative bodies. In addition, State advocacy organizations or advisory groups, such as a State Advisory Group established pursuant to the JJDP Act are eligible to apply.

The JJDP Act was used as a basis for identifying specific areas for improving the administration of juvenile justice which will be considered for this program. In addition to the mandates of the legislation, those provisions which were designed in the Act as areas of "special emphasis," or "advanced techniques" and which are addressed by national juvenile justice standards are listed below:

(a) Deinstitutionalization of status offenders and non-offenders (section 223(a)(12)(a));

(b) Separation of juveniles from incarcerated adults (section 223(a)(13));

(c) Removal of juveniles from adult jails and lockups (sections 223(a)(14), 223(a)(10)(H)(i), 224(a)(5)(A) and 102(a)(8));

(d) Diversion of juveniles from the traditional juvenile justice system; (sections 224(a)(3), 223(a)(10)(C) and 102(b)(2));

(e) Improving the juvenile justice system's handling of serious and violent juvenile offenders with special attention to improving sentencing and dispositional alternatives for youth who commit serious crimes (sections 224(a)(12) and 101(a)(8));

(f) Reducing the use of secure detention and incarceration of non-serious juvenile offenders (sections 223(a)(12)(B), and 223(a)(10)(H)(iv));

(g) Development of community-based alternatives to incarceration (sections 223(a)(10)(A)–(C), 224(a)(12));

(h) Establishing due process/procedural safeguards for juveniles affected by the juvenile justice system (Sections 223(a)(10)(D), 224(a)(9) and 102(b)(3)); and

(i) Advocacy for services (Sections 223(a)(10)(D), 224(a)(7)).

Although the scope of these issues is less comprehensive than the range of topics covered by the various sets of national standards, the list provides a set of policy objectives on which there is substantial agreement among these various standards groups. While their particular approaches may vary in terms of how a certain objective is achieved, this variation reflects the need to have a number of options or models that can be effectively adopted in the States to achieve the same objective. *Therefore, in the selection of demonstration sites, careful attention will be paid to choosing those sites in which there is a strong mutual interest in furthering the purposes and policies of the JJDP Act through the adoption of juvenile justice standards.*

A secondary rationale for selecting these areas of emphasis is that the actual implementation of the standards will not receive financial support directly from this program, but rather must rely on available state or local resources, including formula grant funds which should be used to support the priorities of the Act and the designated "advanced techniques." Although some system changes will require additional resources, any of the standards applicable to these issues can be implemented with litle or no major new costs. Assistance will be provided to demonstration sites during phase I to identify resources to accomplish the objectives in the most cost effective manner. It is anticipated that supplemental awards will be made to the demonstration sites to support monitoring and training efforts associated with the implementation of the standards, subject to availability of funds and successful performance of grantees.

The National Standards Resource Coordinator will be awarded a 12 month competitive cooperative agreement of up to $500,000 to perform three major program support functions: (1) Technical support to the demonstration sites; (2) development of information, training and technical assistance materials and resources to support the process of standards adoption and implementation; and (3) assessment of the standards development and implementation process in the demonstration sites. Details on specific objectives and program support services and tasks are provided in the draft Solicitation.

Applications are invited from public and private non-profit organizations (and private profit-making organizations that agree to waive their profit fee) that have extensive knowledge and experience in the development and utilization of juvenile justice standards in legislation, litigation, and policy and program development. Collaboration

among organizations with specialized expertise is encouraged.

Interested parties are encouraged to call (202) 724–7573 to receive copies of the draft Solicitation for Applications for the National Juvenile Justice Standards Resource and Demonstration Program.

Charles A. Lauer,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 82-16233 Filed 6-15-82; 8:45 am]

BILLING CODE 4410-18-M

NATIONAL SCIENCE FOUNDATION

Committee on Equal Opportunities in Science and Technology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Women in Science & Technology

Place: Room 523, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550

Date: Tuesday & Wednesday, July 13–14, 1982

Time: 9:00–5:00, July 13; 9:00–3:00, July 14

Type of meeting: Open

Contract person: Mrs. Mary Poats, Executive Secretary of the Committee, National Science Foundation, Rm. 537, 1800 G Street, N.W., Washington, D.C. 20550 Telephone: 202/357–9571

Purpose of subcommittee: Responsible for all Committee matters relating to the participation in and opportunities for education, training, and research for women in science and technology, and the impact of science and technology on women.

Summary minutes: May be obtained from the contact person at the above stated address.

Agenda: The Subcommittee is asked to consider mechanisms to increase participation of women in Foundation programs and research projects; to provide advice to the Director for the modification of NSF policies and procedures relating to women appointments on advisory committees, as well as to suggest a modification of the internal distribution of funds to implement this program.

M. Rebecca Winkler,

Committee Management Coordinator.

June 11, 1982.

[FR Doc. 82-16102 Filed 6-15-82; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–237 and 50–249]

Commonwealth Edison Co. (Dresden Station, Units 2 and 3); Hearing

June 9, 1982.

Notice is hereby given of a Hearing to be held in the above entitled matter beginning at 10:00 AM Tuesday, July 13, 1982, in the Nuclear Regulatory Commission Hearing Room, Room No. 550 in the East-West Tower Building, 4350 East-West Highway, Bethesda, Maryland. The Hearing will continue on July 14, 1982, in the same Courtroom, if necessary.

By mail, dated May 28, 1982, the NRC Staff served the parties in this case with a Supplementary Safety Evaluation Report. The Report attempts to resolve the issue as to whether or not the spent fuel pool floors can withstand the loads which could be imposed by the new high density fuel racks during a seismic event. Evidence relevant to this issue will be heard at the hearing, notice of which is given above.

The public is invited to attend. No personal appearances will be heard at this hearing. However, written statements, relevant to the issue in question, will be accepted and will ride with the record.

Dated and issued at Bethesda, Maryland this 9th day of June 1982.

For the Atomic Safety and Licensing Board.

John F. Wolf,

Chairman, Administrative Judge.

[FR Doc. 82-16272 Filed 6-15-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–423]

Northeast Nuclear Energy Co., et al.[1] (Millstone Nuclear Power Station, Unit 3); Issuance of Amendment to Construction Permit

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 9 to Construction Permit No. CPPR–113. The amendment reflects the reduction in ownership shares to be transferred from Public Service Company of New Hampshire (PSNH) to the Connecticut Municipal Electric Energy Cooperative (CMEEC) from 1.7391% (20 MW), as previously authorized in Amendment No. 7 to CPPR–113, to 1.0435% (12 MW). The transfer of ownership shares as authorized in Amendment No. 7 never took place.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment, dated May 11, 1982; (2) Amendment No. 9 to Construction Permit CPPR–113; and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection in the Commission's Public Document Room 1717 H Street, NW., Washington, D.C. 20555 and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford Connecticut, 06385. Item (2) may be requeted by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Director, Technical Information and Document Control.

Dated at Bethesda, Maryland, this 9th day of June 1982.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 82-16273 Filed 6-15-82; 8:45 am]

BILLING CODE 7590-01-M

International Atomic Energy Agency Draft Safety Guide; Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is completing

[1] The following are the holders of Construction Permit No. CPPR–113; Ashburnham Municipal Light Plant, Boylston Municipal Lighting Plant, Central Main Power Company, Central Vermont Public Service Corporation, Chicopee Municipal Lighting Plant, City of Burlington, Vermont, City of Holyoke, Connecticut Municipal Electric Energy Cooperative, Massachusetts Gas and Electric Department, The Connecticut Light and Power Company, Fitchburg Gas and Electric Light Company, Green Mountain Power Corporation, The Hartford Electric Light Company, Marblehead Municipal Light Department, Massachusetts Municipal Wholesale Electric Company, Middleton Municipal Light Department, Montaup Electric Company, New England Power Company, North Attleborough Electric Department, Northeast Nuclear Energy Company, Paxton Municipal Light Department, Peabody Municipal Light Plant, Public Service Company of New Hampshire, Shrewsbury Light Plant, Templeton Municipal Lighting Plant, Town of South Hadley Electric Light Department, The United Illuminating Company, Vermont Electric Cooperative, Inc., Vermont Electric Power Company, Inc., The Village of Lyndonville Electric Department, Wakefield Municipal Light Department, West Boylston Municipal Lighting Plant, Western Massachusetts Electric Company, Westfield Gas and Electric Light Department, Vermont Electric Generation and Transmission Cooperative, Inc., Vermont Public Power Supply Authority and Washington Electric Cooperative, Inc.

development of a number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides are in the following five areas: Government Organization, Design, Siting, Operation, and Quality Assurance. All of the codes and most of the proposed safety guides have been completed. The purposes of these codes and guides is to provide guidance to countries beginning nuclear power programs.

The IAEA codes of practice and safety guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries in a specified safety area. Using this collation as a starting point, an IAEA working group of a few exports develops a preliminary draft of a code or safety guide which is then reviewed and modified by an IAEA Technical Review Committee corresponding to the specified area. The draft code of practice or safety guide is then sent to the IAEA Senior Advisory Group which reviews and modifies as necessary the drafts of all codes and guides prior to their being forwarded to the IAEA Secretariat and thence to the IAEA Member States for comments. Taking into account the comments received from the Member States, the Senior Advisory Group then modifies the draft as necessary to reach agreement before forwarding it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide SG–D12, "Design of the Reactor Containment Systems in Nuclear Power Plants," has been developed. An IAEA working group, consisting of Mr. S. V. Inamdar from Canada, Mr. J. Czech from the Federal Republic of Germany, and Mr. J. Thiesing from the U.S.A. (Bechtel Power Corporation), developed this guide from an IAEA collation. The working group draft was modified by the IAEA Technical Review Committee, and we are now soliciting public comment on this draft (Rev. 2, 10/19/81). Comments received by the Director, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, by July 26, 1982, will be particularly useful to the U.S. representatives to the Technical Review Committee and the Senior Advisory Group in developing their positions on its adequacy prior to their next IAEA meetings.

Single copies of this draft Safety Guide may be obtained by a written request to the Director, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a))

Dated at Washington, D.C., this 10th day of June 1982.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 82-16274 Filed 6-15-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-361 OL and 50-362 OL]

Southern California Edison Co. et al. (San Onofre Nuclear Generating Station, Units 2 and 3); Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of June 10, 1982, oral argument on the application of intervenor Guard, Carstens, *et al.*, for a stay of full power license will be heard at 9:30 A.M. on Friday, June 25, 1982, in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

Dated: June 10, 1982.

For The Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 82-16276 Filed 6-15-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and of the full Committee, the following preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published May 19, 1982 (47 FR 21645). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. Those Subcommittee meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the July 1982 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634–3267, ATTN: Barbara Jo White) between 8:15 a.m. and 5:00 p.m., Eastern Time.

ACRS Subcommittee Meetings

**Emergency Core Cooling Systems (ECCS),* June 16 and 17, 1982 Idaho Falls, ID. The Subcommittee will discuss General Electric Company's request for a change in 10 CFR Part 50, Appendix K requirements. The Subcommittee will also review selected portions of the Research programs on LOCA/ECCS research for the ACRS Report on the FY 1984 and FY 1985 Long-Range Research Program. Notice of this meeting was published June 2 (47 FR 24000).

**Reactor Radiological Effects,* June 23, 1982, Washington, DC. The Subcommittee will discuss the NRC Staff proposed revision to 10 CFR Part 20 and the use of potassium iodine for thyroid blocking in the event of a radiation accident. Notice of this meeting was published June 3 (47 FR 24238).

**Clinch River Breeder Reactor (CRBR) and Site Suitability,* June 24 and 25, 1982, Washington, DC. The Subcommittee will discuss the site suitability review for the Clinch River Breeder Reactor. Notice of this meeting was published June 8 (47 FR 24894).

**Perry Nuclear Power Plant Units 1 and 2,* June 28 and 29, 1982, Cleveland, OH. The Subcommittee will continue the review of the application of Cleveland Electric Illuminating Company for an operating license for the Perry Nuclear Power Plant Units 1 and 2. Notice of this meeting was published June 3 (47 FR 24238).

**Systematic Evaluation Program,* June 30, 1982, Washington, DC. The Subcommittee will review the completion of the Systematic Evaluation Program review on Ginna.

**Electrical Systems and Qualification Programs for Safety-Related Equipment,* July 1, 1982, Washington, DC. The Joint Subcommittees will discuss the NRC-sponsored research programs, proposed research funding for FY 1984 and FY 1985, and those parts of the Long-Range Research Plan which relate to the areas

for which these two Subcommittees are responsible.

*Grand Gulf, July 1, 1982, Washington, DC—POSTPONED.

*Human Factors, July 6, 1982, Washington, DC. The Subcommittee will review the Nuclear Regulatory Commission's proposed FY 1984 and FY 1985 Research Programs and budget and will develop specific comments on the NRC's Long-Range Research Plan as each relates to the area of Human Factors. Notice of this meeting was published May 28 (47 FR 23605).

*Safety Research Program, July 7, 1982, Washington, DC. The Subcommittee will review the NRC Safety Research Program and budget for FY 1984 and FY 1985.

*Reactor Radiological Effects, July 20, 1982 (TENTATIVE), Washington, DC. The Subcommittee will review the PWR occupational radiation exposure histories and recent experiences in exposure reduction at several plants, discuss the status of requirement of "Radiation Protection Plan" for nuclear power plants, and discuss findings of Health Physics Appraisals (Tentative).

*Fluid Dynamics, July 29 and 30, 1982, San Jose, CA. The Subcommittee will discuss potential safety issues related to the BWR Mark III containment design raised by Mr. J. Humphrey.

*Watts Bar, August 10, 1982 (TENTATIVE), Washington, DC. The Subcommittee will continue the review of the application of Tennessee Valley Authority for an operating license for the Watts Bar Nuclear Power Plant Units 1 and 2.

*Regulatory Activities, August 10, 1982, Washington, DC. The Subcommittee will review proposed Regulatory Guides and Regulations.

*Safety Research Program, August 11, 1982, Washington, DC. The Subcommittee will continue its review of the NRC Safety Research Program and budget for FY 1984 and FY 1985.

*Clinch River Breeder Reactor Working Group on Structures and Materials, August 18 and 19, 1982, Washington, DC. The Subcommittee will discuss elevated temperature design (N-47), "leak before break" criteria, overall leakages, leak detection, inservice inspection, and overall structural integrity of transition joints.

*Reactor Operations, August 25, 1982, Washington, DC. The Subcommittee plans to discuss NRC's enforcement policy, the Inspection and Enforcement (IE) performance appraisal team inspectioin program and the IE regionalization program.

*Washington Public Power Supply System Unit 2 (WPPSS), Date to be determined (late August), Hanford, WA. The Subcommittee will review the applilcation of Washington Public Power Supply System for an operating license for the WPPSS Nuclear Project Unit 2.

*Transportation of Radioactive Materials, Date and location to be determined. The Subcommittee will continue its review of the adequacy of the NRC procedures for certifying packages for transporting radioactive materials.

*Metal Components, Date to be determined, Washington, DC. The Subcommittee will continue the review of pressurized thermal shock.

ACRS Full Committee Meeting

July 8–10, 1982: Items are *tentatively* scheduled.

*A. *Perry Nuclear Power Plant Unit 1*—Operation License review.

*B. *Ginna Nuclear Plant*—Systematic Evaluation Report/Integrated Reliability Assessment review.

*C. *Grand Gulf Nuclear Plant* (Tentative)—Outstanding Operating License issues.

*D. *Clinch River Breeder Reactor*—Site suitability review.

*E. *NRC Safety Research Program*—Review of proposed FY 1984 and 1985 budget.

*F. *ACRS Subcommittee activity*—Reports regarding safety related activities including proposed changes to 10 CFR Part 50, Appendix K—Emergency Core Cooling System Evaluation Models; resolution of steam generator tube integrity problems; proposed DOE program for siting and assessment of high level radioactive waste repositories; proposed changes in 10 CFR Part 20—Standards for Protection Against Radiation and use of radioiodine blocking agents.

G. *Appointment of ACRS Members*—Nominees for appointment to the Committee will be discussed.

*H. Future ACRS Activities—Anticipated Subcommittee activity and proposed full Committee activities will be discussed.

*I. *Decay Heat Removal Systems.*—Discuss proposed NRC plan for NRC Task Action Plan A-45, Evaluation of Alternate Decay Heat Removal Systems.

*J. *High Level Waste Disposal*—Discuss proposed NRC rule 10 CFR Part 61—Criteria for High Level Waste Disposal.

August 12–14, 1982: Agenda to be announced.

September 9–11, 1982: Agenda to be announced.

Dated: June 10, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-16275 Filed 6-15-82; 8:45 am]
BILLING CODE 7590-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Conservation Subcommittee; Meeting

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

STATUS: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of the Conservation Subcommittee of its Scientific and Statistical Advisory Committee.

DATE: Monday and Tuesday, June 21 and 22, 1982. 8:30 a.m.

ADDRESS: The meeting will be held at the Hilton Hotel, 921 Sixth Avenue, Portland, Oregon. Room to be announced.

FOR FURTHER INFORMATION CONTACT: Tom Eckman, (503) 222-5161.

DISCUSSION: This is a workshop. The primary discussion item is the development of the conservation program.

Edward Sheets,

Executive Director.

[FR Doc. 82-16221 Filed 6-15-82; 8:45 am]
BILLING CODE 0000-00-M

Resource Assessment Subcommittee; Meeting

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

STATUS: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of the Resource Assessment Subcommittee of its Scientific and Statistical Advisory Committee.

DATE: Friday, June 18, 1982. 9:00 a.m.

ADDRESS: The meeting will be held at the Council Suite of the Hilton Hotel, 921 Sixth Avenue, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Tom Foley, (503) 222-5161.

DISCUSSION: Financial Parameters, Capital Availability, Transparency of Production Costing Models.

Edward Sheets,

Executive Director.

[FR Doc. 82-16220 Filed 6-15-82; 8:45 am]

BILLING CODE 0000-00-M

Fish and Wildlife Subcommittee; Meeting

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

STATUS: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of the Fish and Wildlife Subcommittee of its Scientific and Statistical Advisory Committee.

DATE: Friday June 18, 1982. 9:00 a.m.

ADDRESS: The meeting will be held at the Council's Central Office located at 700 S.W. Taylor Street, Suite 200, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Ms. Torlan Donohoe, (503) 222-5161.

Edward Sheets,

Executive Director.

[FR Doc. 82-16219 Filed 6-15-82; 8:45 am]

BILLING CODE 0000-00-M

POSTAL SERVICE

Notice Concerning Proposal for Selling Advertising Space

AGENCY: Postal Service.

ACTION: Notice of disposition of proposal for selling advertising space.

SUMMARY: This is a summary of comments received by the Postal Service concerning the selling of advertising space on postal vehicles, in postal lobbies and on certain philatelic items. The Service announces its conclusion that any benefits which could accrue from an advertising program would not outweigh the problems such a program would create.

SUPPLEMENTARY INFORMATION: On August 27, 1981, the Postal Service published for comment a proposal it had under consideration to sell adversitising for display at postal facilities, on postal equipment, and on stamp booklets and other products, but not in the design of postage stamps or postal indicia on aerogrammes or embossed envelopes [46 FR 43338-9]. The Postal Service received 1,026 comments on the published proposal. Thirty-eight percent, or 380, supported the concept, saying any method of increasing postal revenues should be followed. Twenty-nine percent, or 303, opposed the idea on the ground that it would subject Americans to more commercialism and would be an affront to the dignity of the Postal Service and government in general. The remaining 343 responses, or 33 percent of the total, supported the concept only if it would help minimize future postage increases and if certain conditions are observed. For example, it was argued that ads promoting cigarettes, liquor, or personal products as well as religious and political messages, should be avoided, while all others should be required to exhibit "good taste." Other commenters who conditionally accepted the idea stressed the need for a fair rate schedule and an equitably administered program.

Most of the comments came from individuals, with only about five percent coming from businesses. None of the comments expressed any interest or potential future interest in purchasing advertising space. Several advertising brokers, however, offered to manage various parts of a postal advertising program for a fee.

In reviewing these comments and examining the feasibility of a postal advertising program, the Postal Service concentrated on three forms of advertising: postal vehicles, postal lobbies, and postal stationery items.

Advertising on Vehicles

As no professional advertisers responded to the **Federal Register** document, five of the nation's largest advertising agencies were contacted and asked for their views on vehicle advertising, considered the most likely form of postal advertising. Their views were not encouraging. Not one expressed in interest in purchasing display space on postal vehicles for clients. One indicated that it did not regard "truck" advertising as being very successful compared to other possibilities. The Postal Service was warned to expect litigation if it tried to refuse product and service categories of advertisements or even controversial subject matter, and told that approximately 30 percent of "transit-type" advertising revenues are derived from potentially unacceptable products such as tobacco, beer, and liquor. Furthermore, the agencies indicated that advertisers more than likely would not want to produce their ads in the several sizes dictated by the available space on various postal vehicles. In any case, the Postal Service was advised that only the right-hand side of trucks—the street side—could effectively convey a message. The Postal Service was also told it could count on retaining only about half the advertising fees collected as the rest would go to ad agencies, brokers and poster servicing contractors.

As for determining the fees to charge advertisers, since the Postal Service could not guarantee the precise timing, routing, or geographical area each vehicle would cover, it appears that the truck-advertising industry's "cost per 1,000 exposures" method for establishing competitive rates would not be readily applied in the Postal Service.

The Postal Service is familiar with some of the logistics required for truck advertising because of its experience in using promotional posters on postal trucks. We have found that only the more expensive heavy vinyl poster can be used successfully in all kinds of weather without detracting from the appearance of postal vehicles. The time required to change this type of poster, along with the fact that postal trucks are not centrally located, would make frequent changing of advertising copy an expensive proposition. Use of available space for commercial posters also would limit the space available for our own posters, such as those promoting Express Mail.

Advertising in Postal Lobbies and on Collection Boxes

At first impression, the Postal Service's network of post offices, located throughout America's urban and rural neighborhoods, has a considerable advertising potential. Upon closer inspection, however, that potential appears to be limited. In many lobbies display space is limited. Accepting commercial advertisments would require the removal of information relating to postal and other governmental services. In effect, the Postal Service would be trading revenues derived from promoting and selling its own products and services for fees obtained from the display of non-postal advertisements. But there would be no guarantee that the Postal Service would come out ahead. For example, philatelic sales, which are largely promoted through lobby displays, generated $121 million in revenues in Fiscal Year 1981; the sale of stamps alone to collectors provides the Postal Service with a return of 99 per cent over variable costs. It is unlikely that advertising revenues could approach such a return margin, especially when the Postal Service might have to contract for costly private advertising brokerage services to administer a lobby program to avoid diverting postmasters

from the primary task of moving the mail.

Acceptance of ads for display on collection boxes also poses several serious obstacles. Due to the size, shape and construction of the boxes, only an area approximately 15 by 15 inches would be available for potential advertisers. It is doubtful that such a small display space could be sold at a large enough return to cover the costs to the Postal Service of maintaining ads on approximately 287,777 collection boxes scattered throughout the country.

Adverting on Philatelic Items

Stamps booklets, postal cards, embossed envelopes and aerogrammes were the only philatelic items examined for possible use as advertising mediums. Since postal operations depend upon the timely production and distribution of these items, any delays due to accommodating advertisers would not be justifiable. Furthermore, as philatelic items are so closely associated with the post office, the Postal Service is concerned that the public may perceive an implied endorsement for the non-postal services or products advertised on philatelic items. In addition, several prominent stamp collectors expressed their concern that philatelic ads could seriously hurt philately as a hobby. Since collectors generally feel compelled to acquire each item produced, flooding the market with many different items could force some to pursue other interests.

Conclusions

Careful evaluation of these three forms of advertising, both separately and in combination, has led the Postal Service to conclude that a commercial program is too doubtful an undertaking to warrant the Postal Service becoming involved in it. The comments did show that a majority of the public apparently does not oppose the idea in principle. The comments also showed, however, that such a program would be strongly opposed by many citizens, and that majority support for it would depend on the Postal Service succeeding in acting as a censor to accept certain types and sources of advertising and to refuse others. Such a role would undoubtedly involve the program in ongoing controversy.

While the likelihood of substantial public controversy is not sufficient reason to shy away from a program which could make a noticeable contribution toward holding down postage rates, our investigation suggests that a commercial advertising program simply does not have the potential for the level of economic return which would noticeably affect postage rates. To save a penny in the First-Class postage rate requires offsetting revenues or cost savings of $600 million or more per year. Even our most optimistic evaluation of the economic potential of an advertising program could not hope to come anywhere near that level of revenues. In fact, the only business interest we have found has come from those who would like to charge the Postal Service to help market the advertising, not from those who buy advertising for themselves or for their advertising clients. We are also convinced that an advertising program necessarily would compete with other activities which the Postal Service now finds useful, such as the promotion of our own services.

For all of these reasons, we have concluded, with regret, that the commercial advertising idea would unfortunately not prove helpful in practice, and that the Postal Service should direct its efforts to hold down and offset postal costs in other directions.

W. Allen Sanders,

Associated General Counsel, Office of General Law and Administration

[FR Doc. 82-16207 Filed 6-15-82; 8:45 am]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12477; (812-5172)]

Automated Cash Management Trust; Filing of Application

June 10, 1982.

Notice is hereby given that Automated Cash Management Trust ("Applicant"), 421 Seventh Avenue, Pittsburgh, PA 05219, an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on April 19, 1982, requesting an order of the Commission, pursuant to section 6(c) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant's assets to be valued at amortized cost. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market fund" designed as an investment vehicle for investors with temporary cash balances or cash reserves, and to provide stability of principal and current income consistent with stability of principal. Cash Management Services, Inc. ("Adviser"), currently a wholly-owned subsidiary of Federated Investors, Inc., acts as investment adviser to Appliant.

The application states that Applicant's portfolio may be invested in a variety of money market instruments, including United States Government obligations, instruments of banks and savings and loans associations which are members of the Federal Deposit Insurance Corporation ("FDIC") or the Federal Savings and Loan Insurance Corporatioin ("FSLIC"), and other money market instruments maturing in one year or less. Applicant will not invest in instruments issued by banks and savings and loan institutions unless: (a) at the time of investment they have capital, surplus and undivided profits in excess of $100,000,000 at the date of their most recently published financial statements; or (b) the principal amount of the investment is insured in full by the FDIC or FSLIC. It is asserted that commercial paper investments are limited to commercial paper rated A-1 by Standard and Poor's Corporation, Prime 1 by Moody's Investor Service or F-1 by Ficth Investors Services.

As is more fully set forth in its prospectus, Applicant states that, prior to the beginning of the public offering of its shares, Applicant adopted a Distribution Plan ("Plan"), among itself, its Adviser and its Distributor, Federated Securities Corporation. It is asserted that the Plan is designed to stimulate participating financial institutions (including depository institutions such as banks) ("Administrators"), to provide administrative support services to Applicant and its shareholders. Administrators will receive fees with respect to shares owned from time to time by their clients. Applicant represents that Administrators may arrange to have subaccounts automatically invested in shares of Applicant ("swept"). Cash accumulations in accounts of Administrators (such as checking accounts of customers of banks) may be swept on a pre-designated day such as the first business day of each week or when the checking account reaches a selected dollar amount such as $5,000. Applicant further maintains that no preference will be shown in the selection of investments for the instruments of depository institutions acting as Administrators under the Plan.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2)

with respect to other securities and assets, fair value as determined in good faith by an investment company's board of directors. Rule 22c–1 provides, in part, that no registered investment company or principal underwriter thereof issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security.

Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other se curities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things: (1) Raule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in part, that the Commission upon application may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

The application states that, by not purchasing any instrument for its portfolio with a remaining maturity of greater than one year and by maintaining a dollar-weighted average portfolio maturity not exceeding 120 days, Applicant believes it can achieve its objectives of stability of principal and steady flow of investment income satisfactory to its investors and yet afford investors adequate protection under the Federal securities laws. Applicant asserts that its board of directors ("Board") had determined in good faith that the amortized cost method of valuation of portfolio instruments is appropriate and preferable. The application states that the Board has further determined that it will continually monitor valuations indicated by other methods and has directed the Executive Committee to make reports to the Board so that the Board may make any changes in method which may be necessary to assure that the method of valuation being used is a fair approximation of fair value in view of all pertinent factors. Finally, Applicant maintains that operation of Applicant under the management policies described above and under the conditions set forth below is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that it has agreed to the following conditions to any order granting the application:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the Board undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the Board shall be the following:

(a) Review by the Board, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and maintenance of records of such review. To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the Board in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds one-half of one percent, a requirement that the Board will promptly consider what action, if any, should be initiated by the Board.

(c) Where the Board believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or reduce to the extent reasonably practicable such dilution or unfair results which may include: redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten the average portfolio maturity of Applicant; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days. In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above; and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board's considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the Board's meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States

dollar denominated instruments which the Board determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than July 5, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above.

Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–16288 Filed 6–15–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12479; (812–5148)]

E.W. Axe & Co., Inc. et al.; Filing of an Application

June 10, 1982.

Notice is hereby given that E. W. Axe & Co., Inc. ("Adviser"), Axe Securities Corporation ("Distributor"), and Axe-Houghton Stock Fund, Inc., Axe-Houghton Income Fund, Inc. and Axe-Houghton Fund B, Inc. (the "Funds" and jointly with the Adviser and Distributor, the "Applicants"), 400 Benedict Avenue, Tarrytown, New York 10591, filed an application on March 30, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act"), exempting them from the provisions of section 22(d) of the Act and Rule 22d–1 thereunder to the extent necessary to permit the Funds to offer their shares at prices which reflect reductions in the usual schedule of sales charges disclosed in the prospectus of each of the Funds. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that the Funds, which are all registered under the Act as open-end diversified management investment companies, currently offer their shares to the public at net asset value plus sales charges in accordance with the schedule of charges set forth in the prospectus of each Fund. Applicants state that each of the Funds is managed by the Adviser and has a different investment objective and that the Distributor, a wholly-owned subsidiary of the Adviser, acts as the principal underwriter for each of the Funds, pursuant to underwriting agreements which provide that the Distributor, as agent, will use its best efforts to sell shares of the Funds.

Applicants assert that the Funds' shares may be acquired in connection with an Individual Retirement Account ("IRA"), pursuant to section 408(a) of the Internal Revenue Code ("Code"), and established with one of the Funds. Applicants assert further that a prototype IRA plan is available through each of the Funds or the Distributor and that the IRA plan generally permits qualified to defer income taxes on that portion of income which is contributed to the IRA, up to a specified maximum contribution in any one year. Applicants maintain that the Economic Recovery Tax Act of 1981 ("Tax Act") permits individuals who are participants in employer sponsored retirement plans to establish IRA accounts and that it is estimated that millions of individuals who are participants in employer sponsored retirement plans and thus were previously ineligible to establish IRAs, are now eligible to do so. Applicants submit that as a result of the changes in the Code brought about by the Tax Act, a number of employers, many of whom also sponsor traditional retirement or pension programs, have instituted plans to facilitate the establishment of IRAs by their employees.

Applicants represent that in order to encourage purchases of shares of the Funds under such programs, the Funds have, pursuant to Rule 22d–1(f) of the Act, adopted a schedule of reduced sales charges which apply to purchases of the Funds' shares made by participants in "Eligible Retirement Programs." As defined in the prospectus of each of the Funds, an Eligible Program is a retirement program (i) in which 50 persons or more are eligible to participate and (ii) that is established either by a tax-exempt organization qualified pursuant to section 403(b)(7) of the Internal Revenue Code or by a single employer or two or more affiliated employers as a means to facilitate the establishment of IRAs by their employees, provided that economies of scale are realized by one or more of the following: a payroll deduction or other periodic payment plan to invest in Fund shares; bulk distribution to employees of sales literature, prospectuses, disclosure statements, applications, shareholder reports, and other information regarding employee investments in the Fund furnished by the Fund or its underwriter; opportunities for group presentations by dealers and/or Fund representatives; or remittances from a single source. In addition, a further reduction in applicable sales charges is available to participants in Eligible Retirement Programs in which 10,000 or more individuals are eligible to participate.

Applicants represent that the National Rural Electric Cooperative Association ("NRECA") is a non-profit association whose membership is comprised of over 1,000 rural electric cooperatives throughout the nation ("Member Systems"). Applicants represent further that the Member Systems employ, in the aggregate, over 80 thousand persons and that NRECA, which currently administers a number of traditional employee benefit programs for the benefit of employees of its Member Systems, has implemented a program to encourage and facilitate the establishment of IRAs by employees, officers and directors of NRECA and its Member Systems, and their spouses and children under 21 years of age ("Program Participants").

Applicants state that section 22(d) of the Act prohibits a registered investment company and its principal underwriter from selling mutual fund shares "to any person except a dealer, a principal underwriter or the issuer,

except at a current public offering price described in the prospectus." Applicants further state that Rule 22d–1 provides certain exemptions from section 22(d) which under certain circumstances permit the sale of mutual fund shares at prices which reflect reductions in, or eliminations of, a sales charge that usually is applied to such purchases. Applicants state that, in particular, subparagraph (f) of Rule 22d–1 provides, in pertinent part, that an open-end investment company may sell its shares at a reduced sales load, "* * * pursuant to a uniform offer described in the prospectus and made to employee benefit plans not qualified under section 401 of [the Code] provided that such non-qualified plans satisfy uniform criteria relating to the realization of economies of scale in sales effort and sales related expense selected by the issuer and described in the prospectus. As used in this paragraph 'employee benefit plan' shall mean any plan or arrangement which provides a means for employees or an employer on behalf of employees to purchase shares of a registered open-end investment company or companies by means of periodic payroll deductions or otherwise and 'employer' shall mean a single employer or two or more employers each of which is an affiliated person of the other under section 2(a)(3)(C) of [the Act]." Section 2(a)(3)(C) of the Act provides, in relevant part, that any person directly or indirectly controlling, controlled by, or under common control with another person is an affiliate of such other person.

Applicants state that, as presently organized, NRECA is not affiliated with its Member Systems as that term is defined in section 2(a)(3)(C) of the Act, nor are the Member Systems affiliated with one another and thus, absent a Commission order permitting it, sales of shares of the Funds to employees, officers and directors of the Member Systems and members of their families at reduced sales charges may be deemed in violation of section 22(d) of the Act.

Applicants submit that the legislative purpose of section 22(d) of the Act was to prevent discriminatory pricing in connection with the sale of mutual fund shares. In giving the Commission rulemaking authority under this provision, however, it is asserted that Congress recognized that under circumstances where cost savings can be realized in the distribution of mutual fund shares, it might be appropriate to pass such cost savings along to individual investors. Rule 22d–1 specifies a number of circumstances in which the Commission has determined that such costs savings may be realized. Applicants submit that the nature of the NRECA program described in the application, together with the services NRECA will undertake under the terms of the Funds' prospectuses will all but eliminate the need for individual investors associated with NRECA to be contacted by a salesman as part of a sales effort, and thus, that significant economies of scale and sales effort will be realized in connection with the distribution of shares of the Funds.

In addition to the question of whether actual economies may be achieved in connection with any distribution or sales plan, Applicants further assert that one of the Commission's chief concerns in applying the provisions of section 22(d) and Rule 22d–1 and in considering application for exemptive relief therefrom, is that relief from such provisions not be made available to members of groups with so little in common that sales efforts directed to the group as whole would not reduce the need for sales efforts to be directed to its individual members. (Cf. Investment Company Act Release Nos. 2718 and 2798, dated May 29, 1955 and December 2, 1958, respectively.) Applicants do not believe that such a concern is applicable under the circumstances of the application. Although not within the precise definition of the rule, the unique character of NRECA demonstrates that NRECA is not a mere trade organization nor is the bond among its Member Systems comparable to the very loose relationship which exists among customers of a bank or customers of a brokerage house. Rather, the Member Systems are organized for common business purposes vital to the operation of each Member System. As a group, they control NRECA by electing its board of directors. NRECA also performs for its Member Systems many of the same functions that a parent stock corporation provides to affiliated subsidiary companies and their employees and provides the kind of cooperative management and policy development that is characteristic of that which may be found among companies of a single corporate family.

Section 6(c) of the Act authorizes the Commission to grant exemptive relief to any person or transaction from any provisions of the Act or any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

Notice is further given that any interested person may, no later than July 2, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–16210 Filed 6–15–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12478; 812–5197]

Massachusetts Cash Management Trust; Filing of an Application

June 10, 1982.

Notice is hereby given that Massachusetts Cash Management Trust ("Applicant"), 200 Berkeley Street, Boston, MA 02116, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on May 13, 1982, requesting an order of the Commission amending in the manner described below in earlier order of the Commission dated July 1, 1980 (Investment Company Act Release No. 11240, the "Original Order"). The Original Order, pursuant to section 6(c) of the Act, exempted Applicant from the provisions of section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to

the extent necessary to value its then-existing portfolio of money market securities using the amortized cost method of valuation. All persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, Applicant was established under Massachusetts law as a Massachusetts business trust under a declaration of trust dated September 8, 1975. Applicant represents that its investment objective is to seek as high a level of current income as is considered consistent with the preservation of capital and liquidity. Applicant further represents that at the time the Original Order was issued, Applicant consisted of a single portfolio investing in short-term money market instruments including United States securities, obligations of banks, prime commercial paper and high grade corporate obligations. By favorable vote on October 21, 1981, of a majority of the shares outstanding and entitled to vote, Applicant's shareholders authorized its trustees to establish two or more series of shares. By instrument dated November 18, 1981, the trustees established two series of shares, namely the Prime Series, representing the existing portfolio and the Government Series representing a portfolio consisting only of money market securities issued or guaranteed by the United States Treasury or agencies or instrumentalities of the United States Government. Applicant now seeks to amend the Original Order to the extent necessary to permit it to value its Prime Series and Government Series using the amortized cost method of valuation.

As here pertinent, section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by an investment company's board of directors. Rule 22c–1 provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a–4 provides, as here relevant, that the current net asset value of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by an investment company's board of directors. Prior to the filing of the application, the Commisson expressed its view that, among other things, Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and it would be inconsistent generally with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in part, that upon application the Commisson may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of its request, Applicant submits that many of its investors require an investment vehicle that offers a constant net asset value per share and a relatively smooth stream of investment income. Applicant argues that use of the amortized cost method of valuation permits it to provide investment vehicles with those features.

In addition, Applicant represents that its board of trustees has determined that, absent unusual circumstances, amortized cost represents the fair value of its portfolio securities.

Applicant has consented to the imposition of the following conditions to any order granting the application:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the board of trustees of Applicant undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share for each series, as computed for the purpose of distribution, redemption and repurchase at $1.00 per share.

2. Included with the procedures to be adopted by the board of trustees of Applicant shall be the following:

(a) Review by the board of trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share of each series, and maintenance of records of such review. [1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of trustees will promptly consider what action, if any, should be initiated by it.

(c) Where the board of trustees believes the extent of any deviation from the $1.00 amortized cost price per share for any series may result in material dilution or other unfair result to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair result, which action may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of portfolio instruments; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity for each series appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days. [2]

[1] To fullfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the board of trustees in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its board of trustees' considerations and actions taken in connection with the discharge of their reponsibilities, as set forth above, to be included in the minutes of the board of trustees' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those Untied States dollar-denominated instruments which its board of trustees determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by its board of trustees.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than July 5, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–16200 Filed 6/15–82; 8:45 am]

BILLING CODE 8010–01–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 116
Wednesday, June 16, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Tuesday, June 22, 1982.

PLACE: 2033 K Street, N.W., Washington, D.C., 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Proposed Rules on Options on Physicals.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–888–82 Filed 6–14–82; 11:34 am]

BILLING CODE 6351–01–M

2

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., June 22, 1982.

PLACE: Hearing Room One—1100 L Street, N.W., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Monthly report of actions taken pursuant to delegated authority.
2. Report on Notation Items disposed of during May 1982.
3. Report of the Secretary on times shortened for submitting comments on section 15 agreements pursuant to delegated authority during May 1982.
4. Report of the Secretary on Applications for Admission to Practice approved during May 1982, pursuant to delegated authority.
5. Docket No. 80–54: Time/Volume Rate Contracts—Tariff Filing Regulations Applicable to Carriers and Conferences in the Foreign Commerce of the United States—Consideration of comments submitted in response to notice of proposed rulemaking and proposed final rule.
6. Discussion of terminal handling charges of Conferences serving East and Gulf Coast trades.
7. Filing and Service Fees—Notice of Proposed Rulemaking.
8. Discussion of Executive Order No. 769 of the Government of the Philippines.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523–5725.

[S–880–82 Filed 6–14–82; 2:28 pm]

BILLING CODE 6730–01–M

3

POSTAL SERVICE (BOARD OF GOVERNORS)

Addition of Item to the Agenda of June 8, 1982 Meeting

During its June 8, 1982, meeting, the Board of Governors of the United States Postal Service voted to add to its agenda consideration of the Opinion and Recommended Decision in Docket No. MC 82–1 issued by the Postal Rate Commission on June 4, 1982. The Opinion and Recommended Decision concerned a change in the Domestic Mail Classification Schedule, pursuant to Chapter 36, title 39, United States Code, to permit the acceptance of Express Mail Next Day Service shipments at the time or times prescribed by the Postal Service.

By unanimous vote the Board determined, in accordance with 5 U.S.C. 552b(e)(2), that Postal Service business required that the recommended decision be considered at this meeting even though the decision had not been on the agenda of the meeting as originally announced in the **Federal Register** (see 47 FR 24017–24031 (June 2, 1982)), and no earlier announcement of the change was possible.

Requests for information concerning the meeting should be addressed to Secretary of the Board, Louis A. Cox, at (202) 245–4632.

Louis A. Cox.

[S–886–82 Filed 6–14–82; 2:25 pm]

BILLING CODE 7710–12–M

4

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the Week of June 21, 1982, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, June 22, 1982, at 11:00 a.m. and on Thursday, June 24, 1982, following the 10:00 a.m. open meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Shad and Commissioners Evans and Thomas voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, June 22, 1982, at 11:00 a.m., will be:

Settlement of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Settlement of injunctive action.
Formal orders of investigation.
Litigation matter.
Institution of administrative proceedings of an enforcement nature.

The subject matter of the closed meeting scheduled for Thursday, June 24, 1982, following the 10:00 a.m. open meeting, will be:

Institution of administrative proceeding of an enforcement nature.

The subject matter of the open meeting scheduled for Thursday, June 24, 1982, at 10:00 a.m., will be:

1. Consideration of a request for a "no-action" letter from savings and loan associations that propose to permit a registered broker-dealer, Savings Association Investment Securities, Inc. to offer brokerage services on their premises without registering as broker-dealers under Section 15 of the Securities Exchange Act of 1934. For further information, please contact Colleen C. Harvey at (202) 272–2826.
2. Consideration of whether to propose for comment amendments to Rule 6a–2 and Forms 1 and 1–A under the Securities Exchange Act of 1934, regarding the form of application for or exemption from registration as a national securities exchange, and the form for amendments to and/or supplementation of such registration or exemption statements. For further information, please contact Judith W. Axe at (202) 272–2398.
3. Consideration of whether to propose rules which would (1) amend the requirements for oil and gas disclosures to conform with the provisions of an Exposure Draft recently issued by the Financial Accounting Standards Board, and (2) eliminate other requirements for oil and gas

disclosures set forth in Industry Guide 2. For further information, please contact James D. Hall at (202) 272–2133.

4. Consideration of whether to issue a release which amends Regulation S–X by establishing instructions for the presentation and preparation of pro forma financial information, and revising the rules governing the filing of financial statements of businesses acquired or to be acquired. The Commission will also consider amendments to Form 8–K to reflect the above amendments. For further information, please contact David F. Martin at (202) 272–2130.

5. Consideration of whether to grant the Freedom of Information Act Appeal of Joe and Mary Love, from the determination of the FOIA Officer to withhold certain documents concerning the Kilauea Township Consortium pursuant to 5 USC 552(b)(7)(C). For further information, please contact Gilles Attia at (202) 272–2448.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul J. Siegebaum at (202) 272–2468.

June 11, 1982.

[S–867–82 Filed 6–11–82; 4:28 pm]

BILLING CODE 8010–01–M

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federal register

Wednesday
June 16, 1982

Part II

Department of the Interior

Minerals Management Service

Alaska Outer Continental Shelf; Intent To Prepare Environmental Impact Statements for Proposed OCS Oil and Gas Lease Sale Nos. 83 and 87; Diapir Field Proposed Oil and Gas Lease Sale No. 71

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Alaska Outer Continental Shelf; Intent To Prepare an Environmental Impact Statement for Proposed OCS Oil and Gas Lease Sale No. 83, Navarin Basin

Pursuant to § 1501.7 of the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act of 1969, the Minerals Management Service is announcing its intent to prepare an Environmental Impact Statement (EIS) on the offshore oil and gas leasing proposal known in OCS Sales No. 83. This proposed sale is tentatively scheduled for March 1984.

The May 21, 1982 **Federal Register** (47 FR 99), pages 22336 through 22338, contained a Call for Nominations and Comments for the entire Navarin Basin planning area and included a map and description of the planning area. Following public response to the Call for Nominations and Comments, the Department of the Interior will identify the area proposed for leasing. The EIS analysis will focus on the area having oil and gas potential and analyze the potential environmental effects of leasing there. Possible alternatives to be considered in the environmental impact statement include options to modify, delay, or withdraw the proposed lease offering. The EIS will also include a description of the environment covering the entire planning area in order to provide the best and most complete information available for decisionmaking.

The scoping process for this EIS is underway with scoping meetings planned for the following locations:

June 16, 1982, 7:00 p.m., Unalaska, City Council Chambers
July 6, 1982, 7:00 p.m., Bethel, KVNA Building
July 7, 1982, 7:00 p.m., Nome, City Council Chambers
July 8, 1982, 7:00 p.m., Savoonga, City Council Conference Room

Questions concerning this proposed action, the environmental impact statement or scoping should be addressed to Judith Gottlieb, Chief, Environmental Assessment Division, Alaska Outer Continental Shelf Office, P.O. Box 1159, Anchorage, Alaska 99510, telephone (907) 276–2955, or Ralph Ainger, Minerals Management Service, 18th & C Streets, N.W., Washington, D.C. 20240, telephone (202) 343–6264.

Harold E. Doley, Jr.,
Director, Minerals Management Service.
June 10, 1982.

[FR Doc. 82–16188 Filed 6–15–82; 8:45 am]
BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Alaska Outer Continental Shelf; Intent To Prepare an Environmental Impact Statement for Proposed OCS Oil and Gas Lease Sale No. 87, Diapir Field

Pursuant to § 1501.7 of the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act of 1969, the Minerals Management Service is announcing its intent to prepare an Environmental Impact Statement (EIS) on the offshore oil and gas leasing proposal in the Diapir Field region of Alaska, known as OCS Scale No. 87. This proposed sale is tentatively scheduled for June 1984.

A Call for Information for the Diapir Field planning area is tentatively scheduled for late 1982. Following public response to the Call for Information, the Department of the Interior will identify the area proposed for leasing. The EIS analysis will focus on the area having oil and gas potential and analyze the potential environmental effects of leasing there. Possible alternatives to be considered in the environmental impact statement include options to modify, delay, or withdraw the proposed lease offering. The EIS will also include a description of the environment covering the planning area in order to provide the best and most complete information available for decisionmaking.

Federal, State and local agencies, intrested groups and individuals with questions concerning this proposed action, or those wishing to assist the Mineral Management Service in determining the scope of the environmental impact statement, should contact: Judith Gottlieb, Chief, Environmental Assessment Division, Alaska Outer Continental Shelf Office, P.O. Box 1159, Anchorage, Alaska 99510, telephone (907) 276–2955, or Ralph Ainger, Minerals Management Service, 18th & C Streets, N.W., Washington, D.C. 20240, telephone (202) 343–6264.

Harold E. Doley, Jr.,
Director, Minerals Management Service.
June 10, 1982.

[FR Doc. 82–16189 Filed 6–15–82; 8:45 am]
BILLING CODE 4310–84–M

PROPOSED NOTICE OF SALE
4310–84

4310-84

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Outer Continental Shelf
Diapir Field

Proposed Oil and Gas Lease Sale No. 71

With regard to oil and gas leasing on the Outer Continental Shelf (OCS), the Secretary of the Interior, pursuant to Sec. 19 of the OCS Lands Act, as amended, provides the affected States the opportunity to review the proposed sale notice. The following is a proposed sale notice for Sale No. 71 in the waters offshore the Beaufort Sea area. This notice is hereby published as a matter of information to the public.

Harold E. Daley, Jr.
Director, Minerals Management Service

Approved:

JUN 8 1982

(Sgd) James G. Watt
Secretary of the Interior

Certified to be a true copy of the original.

Certifying Officer

PROPOSED NOTICE OF SALE

1. Authority. This notice is published pursuant to the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331-1343), as amended (92 Stat. 629), and the regulations issued thereunder (43 CFR Part 3300).

2. Filing of Bids. Sealed bids will be received by the Minerals Manager, Alaska Outer Continental Shelf (OCS) Region, 620 East 10th Avenue, P.O. Box 1159, Anchorage, Alaska 99510. Bids may be delivered, either by mail or in person, to the above address until 4:30 p.m., September , 1982; or by personal delivery to the sale site in Anchorage, Alaska (to be annnounced) between the hours of 8:30 a.m., a.h.s.t., and 9:30 a.m., a.h.s.t., September , 1982. Bids received by the Manager later than the times and dates specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Manager prior to 9:30 a.m., a.h.s.t., September , 1982. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR Part 3300. The list of restricted joint bidders which applies to this sale was published in 47 FR 14785, April 6, 1982.

3. Method of Bidding. A separate bid in a sealed envelope, labeled, "Sealed Bid for Oil and Gas Lease (insert number of tract), not to be opened until 10 a.m., a.h.s.t. September , 1982," must be submitted for each tract. A suggested form appears in 43 CFR Part 3300, Appendix A. Bidders are advised that tract numbers are assigned solely for administrative purposes and are not the same as block numbers found on official protraction diagrams. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus in cash or by cashier's check, bank draft, or

certified check, payable to the order of the Bureau of Land Management. No bid for less than a full tract as described in paragraph 12 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to no more than five decimal places after the decimal point, e.g., 50.12345 percent as well as submit a sworn statement that the bidder is qualified under 43 CFR Subpart 3316. The suggested form for this statement to be used in joint bids appears in 43 CFR Part 3300, Appendix B. Other documents may be required of bidders under 43 CFR 3316.4. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. Bidding Systems. All leases awarded for this sale will provide for a yearly rental payment of $5 per hectare or fraction thereof and a minimum royalty of $5 per hectare or fraction thereof. The following systems will be utilized:

(a) Bonus Bidding with a 12-1/2 Percent Royalty. Bids on tracts 71-1, 71-2, 71-3, 71-4, 71-17, 71-18, 71-19, 71-34, 71-35, 71-36, 71-51, 71-52, 71-53, 71-54, 71-55, 71-97, 71-98, 71-99, 71-100, 71-116, 71-117, 71-118, 71-119, 71-134, 71-135, 71-136, 71-137, 71-151, 71-152, 71-153, 71-251, 71-252, 71-253, 71-254, 71-255, 71-256, 71-257, 71-258, 71-259, 71-260, 71-261, 71-262, 71-263, 71-264, 71-265, 71-266, 71-267, 71-268, 71-269, 71-270, 71-271, 71-272, 71-273, 71-274, 71-275, 71-276, 71-282, 71-283, 71-299, 71-300, and 71-310 must be submitted on a cash bonus basis with a fixed royalty of 12-1/2 percent.

(b) Bonus Bidding with a Fixed Sliding Scale Royalty. Bids on tracts 71-277, 71-278, 71-279, 71-280, 71-281, 71-284, 71-285, 71-286, 71-287, 71-288, 71-289, 71-290, 71-291, 71-292, 71-293, 71-294, 71-295, 71-296, 71-297, 71-298, 71-301, 71-302, 71-303, 71-304, 71-305, 71-306, 71-307, 71-308, 71-309, 71-311, 71-312, 71-313, 71-314, 71-315, 71-316, 71-317, 71-318, 71-319, 71-320, 71-321, 71-322, 71-323, 71-324, 71-325, 71-326, 71-327, 71-328, 71-329, 71-330, 71-331, 71-332, 71-333, 71-335, 71-336, 71-337, 71-339, 71-340, 71-341, 71-342, 71-343, 71-344, 71-345, 71-346, 71-347, 71-348, 71-349, 71-350, and 71-351 must be submitted on a cash bonus basis with the percent royalty due in amount or value of production fixed according to the sliding scale formula described below. This formula fixes the percent royalty at a level determined by the value of lease production during each calendar quarter. For purposes of determining the royalty percent due on production during a quarter, the value of production during the quarter will be adjusted for inflation as described below. The determination of the value of the production on which royalty is due will be made pursuant to 30 CFR 250.64.

The fixed sliding scale formula operates in the following way: when the quarterly value of production, adjusted for inflation, is less than or equal to $28.109193 million, a royalty of 16.66667 percent in amount or value of production will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $28.109194 million, but less than or equal to $11822.537759 million, the royalty percent due on the unadjusted value or amount of production is given by

$$Rj = h[Ln\ (Vj/5)]$$

where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production in quarter j

b = 8.0

Ln = natural logarithm

Vj = the value of production in quarter j, adjusted

monthly in the Survey of Current Business by the Bureau of Economic Analysis, U.S. Department of Commerce. The percent royalty will be due and

Ln = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 3.50

When the adjusted quarterly value of production is equal to or greater than $11822.537760 million, a royalty of 65.00000 percent in amount or value of production will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 55.00000 percent in amount or value of quarterly production.

In determining the quarterly percent royalty due, Rj, the calculation will be carried to five decimal places (for example, 18.56224 percent). This calculation will incorporate the adjusted quarterly value of production, Vj, in millions of dollars, rounded to the sixth digit, i.e., the nearest dollar (for example, 35.624831 millions of dollars).

The form of the sliding scale royalty schedule is illustrated in Figure 1. Note that the effective quarterly royalty rate depends upon the inflation adjusted quarterly value of production. However, this rate is applied to the unadjusted quarterly value of production to determine the royalty payments due.

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding the issuance of the lease. The GNP fixed weighted price index is published monthly in the Survey of Current Business by the Bureau of Economic Analysis, U.S. Department of Commerce. The percent royalty will be due and payable on the actual amount or value of production as determined pursuant to 30 CFR 250.64. The timing of procedures for inflation adjustments and determinations of the royalty due will be specified at a later date. Table 1 provides hypothetical examples of quarterly royalty calculations using the sliding scale formula just described under two different values for the quarterly price index.

(c) Bonus Bidding with a 16-2/3 Percent Royalty. Bids on the remaining tracts to be offered at this sale must be submitted on a cash bonus basis with a fixed royalty of 16-2/3 percent.

5. Equal Opportunity. Each bidder must have submitted by 9:30 a.m., a.h.s.t., September , 1982, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Exective Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (November 1973), and the Affirmative Action Representation Form, Form 1140-7 (December 1971). See item 14, "Information to Lessees."

6. Bid Opening. Bids will be opened on September , 1982, beginning at 10 a.m., a.h.s.t., at the second address stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing bids received and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, September , 1982, that bid will be returned unopened to the bidder, as soon thereafter as possible.

7. Deposit of Payment. Any cash, cashier's checks, certified checks or bank drafts submitted with a bid may be deposited in a suspense

Figure 1
Form of the Sliding Royalty Schedule

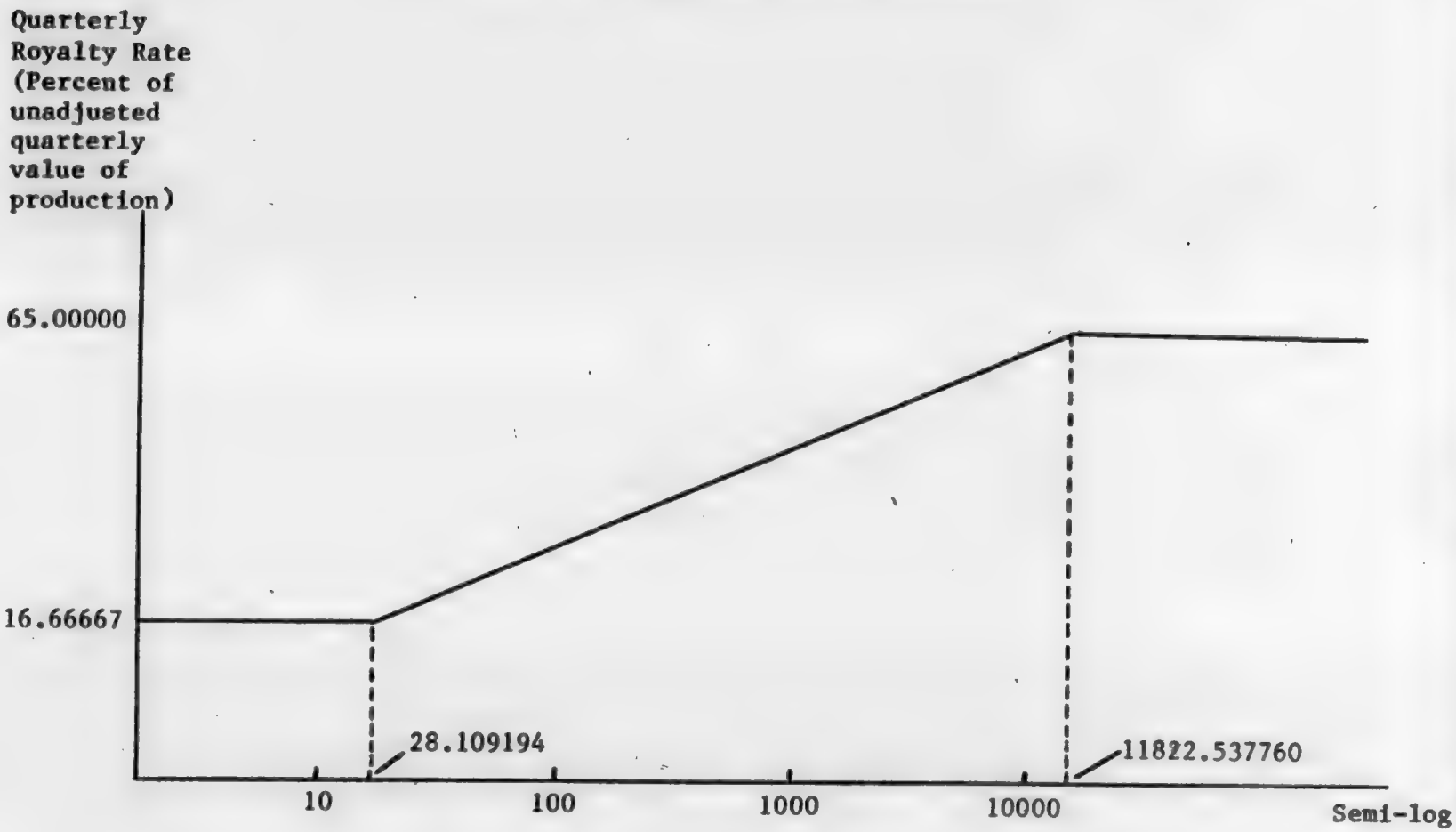

TABLE 1. HYPOTHETICAL QUARTERLY ROYALTY CALCULATIONS

TABLE 1. HYPOTHETICAL QUARTERLY ROYALTY CALCULATIONS

(A) Actual Value of Quarterly Production (Millions of Dollars)	(B) GNP Fixed Weighted Price Index	(C) Inflation Factor[1]	(D) Adjusted Value of Quarterly Production[2] (Vj, Millions of $)	(E) Percent Royalty Rate (Rj)	(F) Royalty Payment[3] (Millions of Dollars)
10.000000	200.0	4/3	7.500000	16.66667	1.666667
30.000000	200.0	4/3	22.500000	16.66667	5.00000
90.000000	200.0	4/3	67.500000	23.67492	21.30743
270.000000	200.0	4/3	202.500000	32.46382	87.65231
810.000000	200.0	4/3	607.500000	41.25271	334.14695
10.000000	250.0	5/3	6.000000	16.66667	1.666667
30.000000	250.0	5/3	18.000000	16.66667	5.00000
90.000000	250.0	5/3	54.000000	21.88977	19.70079
270.000000	250.0	5/3	162.000000	30.67867	82.83241
810.000000	250.0	5/3	486.000000	39.46757	319.68732

1 Column (B) divided by 150.0 (assumed value of GNP fixed weighted price index at time leases are issued).

2 Column (A) divided by Inflation Factor.

3 Column (A) times Column (E) divided by 100. All values are rounded for display purposes only.

account in the U.S. Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. Withdrawal of Tracts. The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid for that tract.

9. Acceptance or Rejection of Bids. The United States reserves the right to reject any and all bids for any tract. In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

a. The bidder has complied with all requirements of this notice and applicable regulations;

b. The bid is the highest valid cash bonus bid; and

c. The amount of the bid has been determined to be adequate by the Secretary of the Interior.

No bid will be considered for acceptance unless it offers a cash bonus in the amount of $62 or more per hectare or fraction thereof.

10. Successful Bidders. Each person who has submitted a bid accepted by the Secretary of the Interior will be required to execute copies of the lease specified below, pay the balance of the cash bonus bid together with the first year's rental and satisfy the bonding requirements of 43 CFR Subpart 3318 within the time provided in 43 CFR Subpart 3316.5.

11. Official Protraction Diagrams. Tracts offered for lease may be located on the following official protraction diagrams which are available from the Minerals Manager, Alaska Outer Continental Shelf Region, at the first address stated in paragraph 2, at a cost of $2 each:

a. Outer Continental Shelf Official Protraction Diagram NR 5-1, Demse Inlet (approved June 3, 1976).

b. Outer Continental Shelf Official Protraction Diagram NR 5-2, (approved June 3, 1976).

c. Outer Continental Shelf Official Protraction Diagram NR 5-3, Tashapuk (approved June 3, 1976).

d. Outer Continental Shelf Official Protraction Diagram NR 5-4, Harrison Bay (approved April 29, 1975).

e. Outer Continental Shelf Official Protraction Diagram NR 6-3, Beechey Point (approved April 29, 1975).

f. Outer Continental Shelf Official Protraction Diagram NR 6-4, Flaxman Island (approved April 29, 1975).

12. Tract Descriptions. Note: There may be gaps in the numbers of the tracts listed. Some of the blocks identified in the final environmental impact statement may not be included in this notice. The tracts offered for bid are as follows:

TENTATIVE TRACT LIST
PROPOSED SALE NO. 71

OCS OFFICIAL PROTRACTION DIAGRAM NR 5-2
(Approved 6/5/76)

TENTATIVE TRACT LIST
PROPOSED SALE NO. 71

OCS OFFICIAL PROTRACTION DIAGRAM, DEASE INLET NR 5-1
(Approved 6/3/76)

Tract	Block	Designation	Hectares
71-1	877	All	2304.00
71-2	878	All	2304.00
71-3	879	All	2304.00
71-4	880	All	2304.00
71-5	921	All	2304.00
71-6	922	All	2304.00
71-7	923	All	2304.00
71-8	924	All	2304.00
71-9	965	All	2304.00
71-10	966	All	2304.00
71-11	967	All	2304.00
71-12	968	All	2304.00
71-13	1009	All	2304.00
71-14	1010	All	2304.00
71-15	1011	All	2304.00
71-16	1012	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM NR 5-2
(Approved 6/5/76)

Tract	Block	Designation	Hectares
71-17	749	All	2304.00
71-18	793	All	2304.00
71-19	837	All	2304.00
71-20	881	All	2304.00
71-21	882	All	2304.00
71-22	883	All	2304.00
71-23	884	All	2304.00
71-24	885	All	2304.00
71-25	886	All	2304.00
71-26	887	All	2304.00
71-27	888	All	2304.00
71-28	889	All	2304.00
71-29	890	All	2304.00
71-30	891	All	2304.00
71-31	892	All	2304.00
71-32	893	All	2304.00
71-33	894	All	2304.00
71-34	895	All	2304.00
71-35	896	All	2304.00
71-36	897	All	2304.00
71-37	925	All	2304.00
71-38	926	All	2304.00
71-39	927	All	2304.00
71-40	928	All	2304.00
71-41	929	All	2304.00
71-42	930	All	2304.00
71-43	931	All	2304.00
71-44	932	All	2304.00
71-45	933	All	2304.00
71-46	934	All	2304.00
71-47	935	All	2304.00
71-48	936	All	2304.00
71-49	937	All	2304.00
71-50	938	All	2304.00
71-51	939	All	2304.00
71-52	940	All	2304.00
71-53	941	All	2304.00
71-54	942	All	2304.00
71-55	943	All	2304.00
71-56	969	All	2304.00
71-57	970	All	2304.00
71-58	971	All	2304.00
71-59	972	All	2304.00

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OCS OFFICIAL PROTRACTION DIAGRAM NR 5-2
(Approved 6/5/76)

Tract	Block	Designation	Hectares
71-60	973	All	2304.00
71-61	974	All	2304.00
71-62	975	All	2304.00
71-63	976	All	2304.00
71-64	977	All	2304.00
71-65	978	All	2304.00
71-66	979	All	2304.00
71-67	980	All	2304.00
71-68	981	All	2304.00
71-69	982	All	2304.00
71-70	983	All	2304.00
71-71	984	All	2304.00
71-72	985	All	2304.00
71-73	986	All	2304.00
71-74	987	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, TESHEKPUK NR 5-3
(Approved 6/3/76)

Tract	Block	Designation	Hectares	Total Tract (Leasing Unit) Hectares
71-75	41	All	2304.00	
71-76	42	1/	1807.33	
71-77	43	1/	1239.55	
71-78	44	Federal Portion	1349.30	
71-79	85	1/	687.95	
	86	1/	13.94	701.89

OCS OFFICIAL PROTRACTION DIAGRAM, HARRISON BAY NR 5-4
(Approved 4/29/75)

OCS OFFICIAL PROTRACTION DIAGRAM, HARRISON BAY NR 5-4
(Approved 4/29/75)

OCS OFFICIAL PROTRACTION DIAGRAM, HARRISON BAY NR 5-4
(Approved 4/29/75)

Tract	Block	Designation	Hectares	Total Tract (Leasing Unit) Hectares
71-80	3	All	2304.00	
71-81	4	All	2304.00	
71-82	5	All	2304.00	
71-83	6	All	2304.00	
71-84	7	All	2304.00	
71-85	8	All	2304.00	
71-86	9	All	2304.00	
71-87	10	All	2304.00	
71-88	11	All	2304.00	
71-89	12	All	2304.00	
71-90	13	All	2304.00	
71-91	14	All	2304.00	
71-92	15	All	2304.00	
71-93	16	All	2304.00	
71-94	17	All	2304.00	
71-95	18	All	2304.00	
71-96	19	All	2304.00	
71-97	20	All	2304.00	
71-98	21	All	2304.00	
71-99	22	All	2304.00	
71-100	23	All	1751.37	
71-101	49	1/	2045.73	
71-102	50	All	2304.00	
71-103	51	All	2304.00	
71-104	52	All	2304.00	
71-105	53	All	2304.00	
71-106	54	All	2304.00	
71-107	55	All	2304.00	
71-108	56	All	2304.00	
71-109	57	All	2304.00	
71-110	58	All	2304.00	
71-111	59	All	2304.00	
71-112	60	All	2304.00	
71-113	61	All	2304.00	
71-114	62	All	2304.00	
71-115	63	All	2304.00	
71-116	64	All	2304.00	
71-117	65	All	2304.00	
71-118	66	All	2304.00	
71-119	67	All	1865.49	
71-120	93	1/	28.58	
	94	1/	784.55	813.13
71-121	95	1/	1897.28	
71-122	96	All	2304.00	
71-123	97	All	2304.00	
71-124	98	All	2304.00	
71-125	99	All	2304.00	
71-126	100	All	2304.00	
71-127	101	All	2304.00	
71-128	102	All	2304.00	
71-129	103	All	2304.00	
71-130	104	All	2304.00	
71-131	105	All	2304.00	
71-132	106	All	2304.00	
71-133	107	All	2304.00	
71-134	108	All	2304.00	
71-135	109	All	2304.00	
71-136	110	All	2304.00	
71-137	111	All	1979.38	
71-138	139	1/	124.93	
	140	1/	2132.98	2257.91
71-139	141	All	2304.00	
71-140	142	All	2304.00	
71-141	143	All	2304.00	
71-142	144	All	2304.00	
71-143	145	All	2304.00	
71-144	146	All	2304.00	
71-145	147	All	2304.00	
71-146	148	All	2304.00	
71-147	149	All	2304.00	
71-148	150	All	2304.00	
71-149	151	All	2304.00	
71-150	152	All	2304.00	

1/That portion seaward of the three geographical mile line.

OCS OFFICIAL PROTRACTION DIAGRAM, HARRISON BAY NR 5-4
(Approved 4/29/75)

1/That portion seaward of the three geographical mile line.

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OCS OFFICIAL PROTRACTION DIAGRAM, HARRISON BAY NR 5-4
(Approved 4/29/75)

Tract	Block	Designation	Hectares	Total Tract (Leasing Unit) Hectares
71-151	153	All	2304.00	
71-152	154	All	2304.00	
71-153	155	All	2093.64	
71-154	184	1/	1171.93	
71-155	185	All	2304.00	
71-156	186	All	2304.00	
71-157	187	All	2304.00	
71-158	188	All	2304.00	
71-159	189	All	2304.00	
71-160	190	All	2304.00	
71-161	191	All	2304.00	
71-162	192	All	2304.00	
71-163	193	All	2304.00	
71-164	194	All	2304.00	
71-165	195	All	2304.00	
71-166	196	All	2304.00	
71-167	197	All	2304.00	
71-168	198	All	2304.00	
71-169	199	All	2207.67	
71-170	228	1/	44.91	
	229	1/	1833.68	
	273	1/	357.06	2235.65
71-171	230	All	2304.00	
71-172	231	All	2304.00	
71-173	232	All	2304.00	
71-174	233	All	2304.00	
71-175	234	All	2304.00	
71-176	235	All	2304.00	
71-177	236	All	2304.00	
71-178	237	All	2304.00	
71-179	238	All	2304.00	
71-180	239	All	2304.00	
71-181	240	All	2304.00	
71-182	241	All	2304.00	
71-183	242	All	2304.00	
71-184	243	All	2297.22	
	244	All	24.45	2321.67
71-185	274	1/	2213.92	
71-186	275	All	2304.00	

1/That portion seaward of the three geographical mile line.

OCS OFFICIAL PROTRACTION DIAGRAM, HARRISON BAY NR 5-4
(Approved 4/29/75)

Tract	Block	Designation	Hectares	Total Tract (Leasing Unit) Hectares
71-187	276	All	2304.00	
71-188	277	All	2304.00	
71-189	278	All	2304.00	
71-190	279	All	2304.00	
71-191	280	All	2304.00	
71-192	281	All	2304.00	
71-193	282	All	2304.00	
71-194	283	All	2304.00	
71-195	284	All	2304.00	
71-196	285	All	2304.00	
71-197	286	All	2304.00	
71-198	287	All	2304.00	
71-199	318	1/	959.44	
	362	1/	7.32	966.76
71-200	319	All	2304.00	
71-201	320	All	2304.00	
71-202	321	All	2304.00	
71-203	322	All	2304.00	
71-204	323	All	2304.00	
71-205	324	All	2304.00	
71-206	325	All	2304.00	
71-207	326	All	2304.00	
71-208	327	All	2304.00	
71-209	328	All	2304.00	
71-210	329	All	2304.00	
71-211	330	All	2304.00	
71-212	331	All	2304.00	
71-213	363	1/	1644.50	
71-214	364	All	2304.00	
71-215	365	All	2304.00	
71-216	366	All	2304.00	
71-217	367	All	2304.00	
71-218	368	All	2304.00	
71-219	369	All	2304.00	
71-220	370	All	2304.00	
71-221	371	All	2304.00	
71-222	372	All	2304.00	

1/That portion seaward of the three geographical mile line.

OCS OFFICIAL PROTRACTION DIAGRAM, HARRISON BAY NR 5-4
(Approved 4/29/75)

OCS OFFICIAL PROTRACTION DIAGRAM, HARRISON BAY NR 5-4
(Approved 4/29/75)

OCS OFFICIAL PROTRACTION DIAGRAM, HARRISON BAY NR 5-4
(Approved 4/29/75)

Tract	Block	Designation	Hectares	Total Tract (Leasing Unit) Hectares
71-223	409	All	2304.00	
71-224	410	All	2304.00	
71-225	411	All	2304.00	
71-226	412	All	2304.00	
71-227	413	All	2304.00	
71-228	414	1/	2298.51	
71-229	415	1/	2201.55	
	459	1/	3.27	2204.82
71-230	455	All	2304.00	
71-231	456	1/	2300.82	
71-232	457	1/	1170.40	
	458	1/	90.65	1261.05
71-233	1	Federal Portion	1684.78	
71-234	2	Federal Portion	2107.81	
	46	Federal Portion	24.66	2132.47
71-235	47	Federal Portion	519.67	
	48	Federal Portion	1214.38	1734.05
71-236	373	Federal Portion	2235.57	
71-237	374	Federal Portion	1379.59	
71-238	375	Federal Portion	1006.34	
	376	Federal Portion	117.06	1123.40
71-239	407	1/	189.05	
	408	Federal Portion	1640.01	
	452	Federal Portion	6.27	1835.33
71-240	416	Federal Portion	1764.04	
	417	Federal Portion	413.25	2177.29
71-241	453	Federal Portion	882.02	
71-242	454	Federal Portion	2150.28	
71-243	498	Federal Portion	221.94	
	499	Federal Portion	747.65	
	500	1/	303.74	1273.33
71-244 (NR 5-3)	44	Disputed Portion	152.77	
	1	Disputed Portion	271.88	
	2	West Disputed Portion	0.12	424.77
71-245	2	East Disputed Portion	4.32	
	46	Disputed Portion	56.23	
	47	Disputed Portion	426.88	
	48	Disputed Portion	16.09	503.52

1/That portion seaward of the three geographical mile line

OCS OFFICIAL PROTRACTION DIAGRAM, HARRISON BAY NR 5-4
(Approved 4/29/75)

Tract	Block	Designation	Hectares	Total Tract (Leasing Unit) Hectares
71-246	373	Disputed Portion	13.11	
	374	West Disputed Portion	0.01	
	416	Disputed Portion	41.47	
	417	Disputed Portion	425.80	480.39
71-247	408	Disputed Portion	112.26	
	452	Disputed Portion	878.64	
	496	Disputed Portion	1165.06	2155.96
71-248	453	Disputed Portion	1421.98	
	454	Disputed Portion	153.72	1575.70
71-249	497	Disputed Portion	2017.01	
71-250	498	Disputed Portion	1486.38	
	499	Disputed Portion	38.39	1524.77

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OCS OFFICIAL PROTRACTION DIAGRAM, BEECHEY POINT NR 6-3
(Approved 4/29/75)

Tract	Block	Designation	Hectares	Total Tract (Leasing Unit) Hectares
71-251	22	All	1751.37	
71-252	23	All	2304.00	
71-253	24	All	2304.00	
71-254	25	All	2304.00	
71-255	26	All	2304.00	
71-256	27	All	2304.00	
71-257	66	All	1865.49	
71-258	67	All	2304.00	
71-259	68	All	2304.00	
71-260	69	All	2304.00	
71-261	70	All	2304.00	
71-262	71	All	2304.00	
71-263	110	All	1979.58	
71-264	111	All	2304.00	
71-265	112	All	2304.00	
71-266	113	All	2304.00	
71-267	114	All	2304.00	
71-268	115	All	2304.00	
71-269	116	All	2304.00	
71-270	154	All	2093.64	
71-271	155	All	2304.00	
71-272	156	All	2304.00	
71-273	157	All	2304.00	
71-274	158	All	2304.00	
71-275	159	All	2304.00	
71-276	160	All	2304.00	
71-277	198	All	2207.67	
71-278	199	All	2304.00	
71-279	200	All	2304.00	
71-280	201	All	2304.00	
71-281	202	All	2304.00	
71-282	203	All	2304.00	
71-283	204	All	2304.00	
71-284	241	All	24.45	
	242	All	2297.22	2321.67
71-285	243	All	2304.00	
71-286	244	All	2304.00	
71-287	245	All	2304.00	
71-288	246	All	2304.00	

1/That portion seaward of the three geographical mile line

OCS OFFICIAL PROTRACTION DIAGRAM, BEECHEY POINT NR 6-3
(Approved 4/29/75)

Tract	Block	Designation	Hectares	Total Tract (Leasing Unit) Hectares
71-289	247	All	2304.00	
71-290	248	All	2304.00	
71-291	286	All	2304.00	
71-292	287	All	2304.00	
71-293	288	All	2304.00	
71-294	289	All	2304.00	
71-295	290	All	2304.00	
71-296	291	All	2304.00	
71-297	292	All	2304.00	
71-298	293	All	2304.00	
71-299	294	All	2304.00	
71-300	295	All	2304.00	
71-301	330	All	2304.00	
71-302	331	All	2304.00	
71-303	332	All	2304.00	
71-304	333	All	2304.00	
71-305	334	All	2304.00	
71-306	335	All	2304.00	
71-307	336	All	2304.00	
71-308	337	All	2304.00	
71-309	338	All	2304.00	
71-310	339	All	2304.00	
71-311	380	All	2304.00	
71-312	381	All	2304.00	
71-313	382	All	2304.00	
71-314	383	All	2304.00	
71-315	426	All	2304.00	
71-316	427	All	2304.00	
71-317	285	All	245.58	
	329	All	131.64	
(NR 5-4)	288	All	131.64	
(NR 5-4)	332	All	245.58	754.44
71-318	373	Federal Portion	112.98	
	374	Federal Portion	762.86	
	375	Federal Portion	639.56	1515.40
71-319	376	Federal Portion	682.57	
	377	Federal Portion	1162.52	1845.09
71-320	378	Federal Portion	1850.24	
71-321	379	Federal Portion	2303.91	
71-322	423	Federal Portion	446.45	
	424	Federal Portion	1369.12	1815.57

1/That portion seaward of the three geographical mile line

OCS OFFICIAL PROTRACTION DIAGRAM, BEECHEY POINT NR 6-3
(Approved 4/29/75)

OCS OFFICIAL PROTRACTION DIAGRAM, FLAXMAN ISLAND NR 6-4

OCS OFFICIAL PROTRACTION DIAGRAM, BEECHEY POINT NR 6-3
(Approved 4/29/75)

Tract	Block	Designation	Hectares	Total Tract (Leasing Unit) Hectares
71-323	425	Federal Portion	2203.03	
71-324	469	Federal Portion	152.20	
	470	Federal Portion	1096.95	1249.15
71-325	475	Federal Portion	1161.96	
71-326	476	Federal Portion	1012.52	
	477	Federal Portion	906.43	1918.95
71-327	478	Federal Portion	1731.54	
71-328	522	Federal Portion	12.25	
	523	Federal Portion	952.96	965.21
71-329	524	Federal Portion	2188.12	
71-330	568	Federal Portion	279.82	
	569	Federal Portion	1665.97	1945.79
71-331	613	Federal Portion	2.34	
	614	Federal Portion	720.29	722.63
71-332	615	Federal Portion	1957.14	
71-333	659	Federal Portion	44.20	
	660	Federal Portion	972.04	1016.24
71-334	373	Disputed Portion	61.05	
	374	West Disputed Portion	68.61	
(NR 5-4)	374	East Disputed Portion	4.51	
(NR 5-4)	375	Disputed Portion	529.42	
(NR 5-4)	376	Disputed Portion	100.75	764.34
71-335	374	East Disputed Portion	12.23	
	375	Disputed Portion	100.36	
	376	West Disputed Portion	0.01	112.60
71-336	376	East Disputed Portion	1.63	
	377	Disputed Portion	13.10	14.73
71-337	378	Disputed Portion	22.97	
	379	Disputed Portion	0.09	
	422	Disputed Portion	5.50	
	423	Disputed Portion	89.87	
	424	West Disputed Portion	28.68	147.11
71-339	424	East Disputed Portion	16.39	
	425	Disputed Portion	66.69	
	469	Disputed Portion	436.69	
	470	West Disputed Portion	149.44	669.21
71-340	613	Disputed Portion	2.64	
	614	Disputed Portion	557.96	
	615	Disputed Portion	332.89	893.49

OCS OFFICIAL PROTRACTION DIAGRAM, FLAXMAN ISLAND NR 6-4
(Approved 4/29/75)

Tract	Block	Designation	Hectares	Total Tract (Leasing Unit) Hectares
71-341	617	Federal Portion	2112.45	
71-342	618	All	2304.00	
71-343	661	Federal Portion	127.93	
	662	Federal Portion	990.45	1118.38
71-344	663	Federal Portion	1747.74	
71-345	664	Federal Portion	2282.30	
71-346	708	Federal Portion	215.48	
	709	Federal Portion	938.48	1153.96
71-347	710	Federal Portion	1657.21	
71-348	711	Federal Portion	2233.32	
71-349	755	Federal Portion	98.15	
	756	Federal Portion	554.32	652.47
71-350	617	Disputed Portion	88.55	
(NR 6-3)	659	Disputed Portion	1115.39	
(NR 6-3)	660	Disputed Portion	957.07	2161.01
71-351	661	Disputed Portion	21.53	
	662	Disputed Portion	427.39	
	663	Disputed Portion	556.26	
	706	Disputed Portion	78.48	
	707	Disputed Portion	1101.76	2185.42

13. Lease Terms and Stipulations.

a. All leases issued as a result of this sale will be for an initial term of 10 years. Leases issued as a result of this sale will be on Form 3300-1 (September 1978), available from the Minerals Manager, Alaska Outer Continental Shelf Region, at the first address stated in paragraph 3.

b. Except as otherwise noted, the following stipulations will be included in each lease resulting from this sale. In the following stipulations the term OMMOFO refers to the Regional Deputy Minerals Manager, Offshore Field Operations, Minerals Management Service, formerly Deputy Conservation Manager, Field Operations, U.S. Geological Survey, and the term Manager refers to the Minerals Manager of the Alaska Outer Continental Shelf (OCS) Region, formerly Manager of the Alaska Outer Continental Shelf Office.

c. For leases resulting from this sale for tracts offered on a cash bonus basis with fixed sliding scale royalty, listed in paragraph 4(b), Form 3300-1 will be amended as follows:

Sec. 6. Royalty on Production. The lessee agrees to pay the lessor a royalty of that percent in amount or value of production from the leased area as determined by the sliding scale royalty formula as follows. When the quarterly value of production, adjusted for inflation, is less than or equal to $28.109193 million, a royalty of 16.66667 percent in amount or value of production will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $28.109194 million, but less than or equal to $11822.537759 million, the royalty percent due on the unadjusted value or amount of production is given by

$$Rj = b[Ln\ (Vj/S)]$$

where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of production in quarter j

b = 8.0

Ln = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 3.50

When the adjusted quarterly value of production is equal to or greater than $11822.537760 million, a royalty of 65.00000 percent in amount or value of production will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production.

In determining the quarterly percent royalty due, Rj, the calculation will be carried to five decimal places (for example, 18.56224 percent). This calculation will incorporate the adjusted quarterly value of production, Vj, in millions of dollars, rounded to the sixth digit, i.e., to the nearest dollar (for example, 35.628631 millions of dollars). Gas of all kinds (except helium) is subject to royalty. The lessor shall determine whether production royalty shall be paid in amount or value.

Stipulation No 1.

To be included only in the leases resulting from this sale for the fixed sliding scale royalty tracts identified in paragraph 4(b) of this notice.

(a) The royalty rate on production from this lease is subject to consideration for reduction under the same authority that applies to all other oil and gas leases on the Outer Continental Shelf (30 CFR 250.21).

The Director, Minerals Management Service may grant a reduction for only one year at a time and reduction of royalty rates will not be approved unless

resource which may be adversely affected by such operation is sufficiently

The Director, Minerals Management Service may grant a reduction for only one year at a time and reduction of royalty rates will not be approved unless production has been under way for one year or more.

(b) Although the royalty rate specified in section 6(a) of this lease or as subsequently modified in accordance with applicable regulations and stipulations is applicable to all production under this lease, not more than 16-2/3 percent of the production from the lease area may be taken as royalty in amount, except as provided in sec. 15(d); the royalty on any portion of the production from the lease in excess of 16-2/3 percent may only be taken in value of the production from the lease area.

Stipulation No. 2.

To be included only in leases resulting from this sale for tracts 71-17, 71-18, 71-22 through 71-36, 71-71 through 71-73, 71-93 through 71-95, 71-112 through 71-114, 71-296, 71-305 through 71-307, 71-318, 71-322, 71-324, 71-335, 71-337, and 71-339.

If the DMMOFO has reason to believe that a site, structure or object of historical or archeological significance, hereinafter referred to as "cultural resource" may exist in the lease area, and gives the lessee written notice that the lessor is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements:

Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including but not limited to, well drilling and pipeline and platform placement, hereinafter in this stipulation referred to as "operation", the lessee shall conduct remote sensing surveys to determine the potential existence of any cultural resource that may be affected by such operations. All data produced by such remote sensing surveys as well as other pertinent natural and cultural environmental data shall be examined by a qualified marine survey archaeologist to determine if indicators are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of this survey and assessment prepared by the marine survey archaeologist shall be submitted by the lessee to the DMMOFO for review.

If such cultural resource indicators are present the lessee shall: (1) locate the site of such operation so as not to adversely affect the identified location; or (2) establish, to the satisfaction of the DMMOFO, on the basis of further archaeological investigation conducted by a qualified marine survey archaeologist or underwater archaeologist using such survey equipment and techniques as deemed necessary by the DMMOFO, either that such operation shall not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

A report of this investigation prepared by the marine survey archeologist or underwater archeologist shall be submitted to the DMMOFO for his review. Should the DMMOFO determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the DMMOFO has given directions as to its preservation.

The lessee agrees that if any site, structure, or object of historical or archeological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the DMMOFO and make every reasonable effort to preserve and protect the cultural resource from damage until the DMMOFO has given directions as to its preservation.

Stipulation No. 3.

The lessee shall include in his exploration and development plans, submitted under 30 CFR 250.34, a proposed environmental training program for all personnel involved in exploration or development activities (including personnel of the lessee's contractors and subcontractors) for review and approval by the DMMOFO. The program shall be designed to inform each person working on the project of specific types of environmental, social, and cultural concerns which relate to the individual's job. The program shall be formulated by qualified instructors experienced in each pertinent field of study, and shall employ effective methods to insure that personnel are informed of archaeological, geological, and biological resources, including bird colonies and sea mammal concentration areas, to insure the importance of avoidance and non-harassment of wildlife resources is understood. The program shall be designed to increase the sensitivity and understanding of personnel to the community values, customs, and lifestyles in areas in which such personnel will be operating.

The lessee shall also submit for review and approval a continuing technical environmental briefing program for supervisory and managerial personnel of the lessee and its agents, contractors, and subcontractors.

Stipulation No. 4.

Pipelines will be required: (a) if pipeline rights-of-way can be determined and obtained; (b) if laying such pipelines is technologically feasible and environmentally preferable; and (c) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. In selecting the means of transportation, consideration will be given to any recommendation of the intergovernmental planning program for assessment and management of transportation of Outer Continental Shelf oil and gas with participation of Federal, State, and local governments and the industry.

All pipelines, including both flow lines and gathering lines for oil and gas, shall be designed and constructed to provide for adequate protection from water currents, storms and ice scouring, subfreezing conditions, and other hazards as determined on a case-by-case basis.

Following the development of sufficient pipeline capacity, no crude oil production will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the DMMOFO.

Where the three criteria set forth in the first sentence of this stipulation are not met and surface transportation must be employed, all vessels used for carrying hydrocarbons to shore from the leased area will conform with all standards established for such vessels, pursuant to the Ports and Waterways Safety Act of 1972 (46 U.S.C. 391a), and the Port and Tanker Safety Act of 1978, as amended (33 U.S.C. 1221).

Stipulation No. 5.

This stipulation applies to the following tracts resulting from this lease sale: 71-1 through 71-119, 71-131 through 71-137, 71-149 through 71-153, 71-167 through 71-169, 71-183, 71-184, 71-233 through 71-235, 71-244, 71-245, 71-251 through 71-290, 71-295 through 71-300, 71-306 through 71-316, 71-321 through 71-333, 71-337 through 71-351.

Exploratory drilling and testing and other downhole exploratory activities will be prohibited during the period September 1 through October 31, unless the DMMOFO determines that continued operations are necessary to prevent a loss of well control or to ensure human safety. This stipulation will remain in effect until termination or modification by the Department of the Interior after consultation with the National Marine Fisheries Service.

Stipulation No. 6.

This stipulation applies to the following tracts: 71-221 through 71-232, 71-239 through 71-243, 71-246, 71-247, 71-249, and 71-250.

Discharge of drilling muds, cuttings, and formation waters under sea ice is prohibited. Discharge of drilling muds and cuttings on top of sea ice is subject to approval by the EPA. Such approval maybe granted if discharges are shown to be adequately dispersed and non-toxic to overwintering fishes and benthic infaunal organisms.

Stipulation No. 7.

If biological populations or habitats which may require additional protection are identified by the DMMOFO on any tracts in the leasing area, the DMMOFO may require the lessee to conduct environmental surveys to determine the extent and composition of biological populations or habitats which might require additional protective measures. The DMMOFO will give written notification to the lessee of his decision to require such surveys.

Based on any surveys which the DMMOFO may require of the lessee, or other information available to the DMMOFO on special biological resources, the DMMOFO may require the lessee to: (1) relocate the site; (2) establish to the satisfaction of the DMMOFO, on the basis of a site-specific survey, either that such operation will not have a significant adverse effect upon the resource identified or that a special biological resource does not exist; (3) operate during those periods of time that do not adversely affect the biological resources as established by the DMMOFO; and/or (4) modify operations to ensure that significant biological populations or habitats deserving protection are not adversely affected.

The lessee agrees that if any area of biological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the DMMOFO, and make every reasonable effort to preserve and protect the biological resource from damage until the DMMOFO has given the lessee directions with respect to its protection.

The lessee will submit all data obtained in the course of such surveys to the DMMOFO, with the locational information for drilling or other activity. The lessee may take no action that might affect the biologic populations or habitats surveyed, until the DMMOFO provides written directions to the lessee, with regard to permissible actions.

Stipulation No. 8.

(To be included in all leases on disputed lands)

This lease is subject to the terms in the "Agreement Between the United States and State of Alaska Pursuant to Section 7 of the Outer Continental Shelf Lands Act, and Alaska Statutes 38.05.137" (signed on October 26, 1979, and commonly referred to as the "Interim Agreement"), and the lessee hereby consents to every term of that agreement.

Any loss incurred or sustained by the lessee as a result of obtaining validation and recognition of this lease pursuant to the "Interim Agreement," and in particular any loss incurred or sustained by the lessee as a result of conforming this lease with any and all provisions of all applicable laws of the party prevailing in United States of America vs. State of Alaska, United States Supreme Court No. 84, Original, shall be borne exclusively by the lessee.

No taxes payable to the State of Alaska will be required to be paid with respect to this lease until such time as ownership of or jurisdiction over the lands subject to this lease is resolved. In the event that the lands subject to this lease or any portion of them, are judicially determined to be State lands, the lessee shall pay to the State a sum equivalent to the State taxes which would have been imposed under Alaska law if the lands, or portion thereof determined to be State lands, had been undisputed State lands from the date the lease was executed, plus interest at the rate of 10 percent per year accruing from the date the taxes would have become due under Alaska law. Such payment shall be in lieu of, and in satisfaction of the actual State taxes.

Stipulation No. 9.

(To be included in all leases on disputed lands)

This lease is subject to the terms of the "Agreement Regarding Unitization for the Proposed Joint Federal/State Beaufort Sea Lease Sale" executed by the United States and State of Alaska on October 26, 1979, and the lessee is bound by terms of that agreement.

For protection of bowhead whales in specific blocks, operators of fixed-wing aircraft or helicopters should maintain a 1,500-foot altitude

Proposed Joint Federal/State Beaufort Sea Lease Sale" executed by the United States and State of Alaska on October 26, 1979, and the lessee is bound by terms of that agreement.

14. Information to Lessees.

Bidders are advised that during the conduct of all activities related to leases issued as a result of this lease sale, the lessee and its agents, contractors, and subcontractors will be subject to the provisions of the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, and International Treaties.

The lessee or its contractors should be aware that disturbance of wildlife could be determined to constitute harassment, and thereby be in violation of existing laws. Violations under these Acts and Treaties may be reported to the National Marine Fisheries Service or U.S. Fish and Wildlife Service, as appropriate. Behavioral disturbance of most birds and mammals found in or near the proposed Sale 71 area would be unlikely if ocean vessels and aircraft maintained at least a 1-mile distance from observed wildlife or known wildlife concentration areas such as bird colonies or marine mammal concentrations. Therefore, in concurrence with the U.S. Fish and Wildlife Service, it is recommended that aircraft or vessels operated by lessees maintain at least a 1-mile distance from observed wildlife or known wildlife concentrations.

To reduce potential impacts to bowhead whales from effects of noise and disturbance in specific blocks (see map on seasonal drilling restriction, Figure II.B.1.e. - 1, Final Environmental Impact Statement) lessees are encouraged to reduce, minimize, or reroute marine vessel operations to and from the leasehold by tugs, supply ships, hovercraft, or other self-propelled surface vessels during the period September 1 through October 31.

For protection of bowhead whales in specific blocks, operators of fixed-wing aircraft or helicopters should maintain a 1,500-foot altitude (except during take-off and landing) when in transit over the specific blocks during the period September 1 through October 31.

Maps locating major wildlife concentration areas are available for route planning from the DMMOFO and appropriate resource agencies. Human safety will take precedence at all times over these provisions.

Lessees are advised that oil and gas exploration and production operations should be conducted so as to minimize interference with subsistence harvests.

Bidders are advised that the Arctic Peregrine Falcon (Falco perigrinus tundrius) is officially listed as an endangered species by the U.S. Department of the Interior. It is protected by the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et, seq.). This law provides, in part, that "it is unlawful for any person subject to the jurisdiction of the United States to . . . take any such [listed] species . . . ." The term "take" has been defined in that law to mean "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct." It has been determined that there is a potential for conflict in this region between the onshore and aerial support of OCS exploration and development activities, and the Arctic Peregrine Falcon. No such conflict is anticipated if onshore support facilities are located within the corporate limits of Barrow or Kotzebue, the immediate vicinity of Cape Lisburne, or within the existing facility at Prudhoe Bay, and aerial support flight paths are 1,500 feet above ground level except over the aforementioned areas.

The U.S. Fish and Wildlife Service reviews exploration plans submitted by lessees to the Minerals Management Service. Bidders are advised that if, as a result of this review, it is determined that onshore support facilities or aerial support flight paths are planned for areas other than those four listed above, an illegal taking of the Arctic Peregrine Falcon may result. Bidders are further advised that the U.S. Fish and Wildlife Service has determined that the following actions would prevent such illegal taking: Annual surveys of habitat suitable for nesting Peregrine Falcons for all onshore areas (except as exempted above) which will be used in support of offshore exploration, production, or development activities (including gravel mining and aircraft flight corridors). Any documented nesting site not surveyed in any given year shall receive the full protection afforded to sites known or suspected to be occupied. Specific details of each survey should be coordinated through the U.S. Fish and Wildlife Service Endangered Species staff in Anchorage. Within one (1) mile of nest sites: aircraft may be required to maintain minimum altitudes of 1,500 feet above nest level from April 15 through August 31; all ground level activity may be prohibited from April 15 through August 31, except on existing thoroughfares; and habitat alterations or the construction of permanent facilities may be prohibited. Within two (2) miles of nest sites: activities having high noise levels, including but not limited to gravel mining and its associated activities, may be prohibited from April 15 through August 31, and permanent facilities having high noise levels, sustained human activities, or altering limited, high quality habitat (e.g., ponds, lakes, wetlands, and riparian habitats), including but not limited to airfields and supply bases, may be prohibited. Within fifteen (15) miles of nest sites: alteration of limited, high quality habitat which could detrimentally and significantly reduce prey availability (in particular ponds, lakes, wetlands, and riparian habitats) may be prohibited; and use of pesticides shall be prohibited--the only exception may be the limited, non-aerial application of approved non-persistent insecticides at supply bases.

Human safety would take precedence at all times over distances indicated herein for avoidance or disturbance of wildlife. Further, these restrictions may not be appropriate under all circumstances and in all situations, and exceptions may be granted on a case-by-case basis. It is anticipated that affected operators and lessees will establish regular communication with the U.S. Fish and Wildlife Service Endangered Species staff in Anchorage.

Lessees are advised that, after identifying potential OCS-related facility sites, they may wish to consult with the local planning agencies in the North Slope Borough and state agencies involved in coastal zone area review in order to provide coordination on coastal zone development and the siting of energy facilities. Lessees should realize that the North Slope Borough Coastal Management Program (CMP) is being prepared and should be completed in 1983. Early coordination with the North Slope Borough may assist in the identification of suitable facility siting.

Operations on some of the tracts offered for lease may fall in areas which may be included in fairways, precautionary zones, or traffic separation schemes which might be established, among other reasons, for the purpose of protecting commercial fisheries. Bidders are advised that the United States reserves the right to designate necessary fairways through lease tracts pursuant to the Port and Tanker Safety Act of 1978

this notice contain language that would be superseded by the revised

through lease tracts pursuant to the Port and Tanker Safety Act of 1978 (33 U.S.C. 1221).

Corps of Engineers permits are required for construction of any artificial islands, installations and other devices permanently or temporarily attached to the seabed located on the Outer Continental Shelf in accordance with section 4(a) of the Outer Continental Shelf Lands Act of 1953, as amended.

Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding, dated May 6, 1976, concerning the design, installation, operation and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

Bidders are also advised that in accordance with Sec. 16 of each lease offered at this sale, the lessor may require a lessee to operate under a unit, pooling or drilling agreement, and that the lessor will give particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases with either a different royalty rate or a royalty rate based on a sliding scale.

Revisions of Department of Labor regulations on Affirmative Action requirements for Government Contractors (including lessees) have been deferred, pending review of those regulations (see Federal Register of August 25, 1981, at 46 F.R. 42865 and 42968). Should those changes become effective at any time before the issuance of leases resulting from this sale, Section 18 of the lease form, Form 3300-1 (September 1978), would be deleted from leases resulting from this sale. In addition, existing stocks of the Affirmative Action Forms described in Section 5 of this notice contain language that would be superseded by the revised regulations at 41 CFR 60-1.5(a)(1) and 60-1.7(a)(1).

Pending the issuance of revised versions of Forms 1140-7 and 1140-8 by the Bureau of Land Management, submission of Form 1140-7 (December 1971) and Form 1140-8 (November 1973) will not invalidate an otherwise acceptable bid, and the revised regulations' requirements will be deemed to be part of the existing Affirmative Action Forms.

Bidders are advised that the State of Alaska will be consulted by the MMS throughout the stages of OCS development. In addition to State involvement in the Intergovernmental Planning Program (IPP), the Scientific Committee of the OCS Advisory Board, and the review of exploration and development plans, the DMMOFO may involve the State in the implementation of Stipulation 7.

As an element of national strategic minerals policy, the Secretary of the Interior announced in January approval of competitive leasing for non-energy minerals on the Outer Continental Shelf on a case-by-case basis. The initial phase will focus on manganese nodules in the South Atlantic and sand and gravel in the Arctic for artificial islands to support oil and gas development in the Beaufort Sea. The initial sale for the latter is proposed for May 1983, covering the Sales BF and 71 areas plus buffer.

Easements for the use of sand and gravel on oil and gas leases, however, may be granted by the Secretary. The appropriate vehicle for this is approval of exploration plans and development and production plans requiring these easements. These easements may extend across tract boundaries to any leasehold covered by a plan. Such plans may apply to

more than one lease held by a lessee or by a group of lessees acting under a unitization, pooling, or drilling agreement.

Where sand and gravel sources exist on tracts not leased for oil and gas or not appropriately included in an exploration plan or development and production plan, the transportation of sand and gravel from these tracts can only be accomplished through competitive leasing under Section 8(k) of the OCS Lands Act, as amended.

On tracts where the oil and gas lessee and the sand and gravel lessee are not the same, the correlative rights of the holder of an easement to use sand and gravel in connection with an oil and gas lease, and a lessee of the sand and gravel itself, have yet to be determined. Either the regulations concerning easements, or the Notice of Sale for a sand and gravel lease sale, or both, could define the rights of those parties.

In addition to the protection offered by the stipulation prohibiting exploratory drilling during certain periods on certain tracts, lessees are advised that the DMMOFO has the authority to suspend operations on any lease in the lease sale area whenever bowhead whales are present in the area or near enough to be subject to disturbance from offshore oil and gas activities. This authority is not limited to the time period of restricted drilling activities, or the leases subject to the restriction. The Department of the Interior will have in place a monitoring program to determine the timing and location of bowhead whales as they migrate through or adjacent to the Diapir Field lease sale area. If it is determined that whales are present, the DMMOFO shall initiate a prescribed course of action for cessation of drilling activities, until such time that it is determined that the whales are no longer subject to potential disturbances, or are outside the zone of influence.

Lessees and/or MMS permittees are advised that permits for seismic exploration will be subject to the authority of the DMMOFO to prohibit seismic operations when bowhead whales are present in the sale area or near enough to be subject to disturbance from seismic exploratory activity. The Department of the Interior will have in place a monitoring program to determine when whales are present in or adjacent to the area, or if they are being disturbed. A determination that whales are present or subject to potential disturbance shall result in the initiation of a prescribed course of action for cessation of seismic/geophysical activities, until such time that it is determined that the whales are no longer being disturbed, or outside the zone of influence.

Lessees are advised that certain geologic conditions and processes exist that are potentially hazardous to offshore oil and gas operations. Ice gouging, wave and current reworking, and over-ice flooding affect the seabed throughout the sale area and could lead to damage to pipelines and other seafloor installations. Ice gouging occurs in the entire sale area. Potential ice hazards with gouge microrelief of at least 2 meters are indicated on the tracts listed below.

In nearshore areas, wave and current reworking processes exist, indicated by rapidly eroded ice gouges and redistributed sediment. In the offshore shoals along the shoreward edges of the grounded ice ridges, there are indications of frequent high current velocities, including strong intermittent bottom currents in addition to active ice gouging. Over-ice flooding and associated circular drainage exist seaward of the Colville River delta, out to approximately the 7-meter isobath.

Portions of the following tracts may contain shallow gas deposits:

15. OCS Orders. Operations on all leases resulting from this sale

Portions of the following tracts may contain shallow gas deposits: 71-82, 71-83, 71-90, 71-120 through 71-123, 71-138 through 71-140, 71-154 through 71-156, 71-170 through 71-172, 71-181, 71-183 through 71-186, 71-192, 71-196 through 71-232, 71-236 through 71-243, 71-246 through 71-250, 71-278, 71-279, 71-284 through 71-298, 71-301 through 71-305, 71-317, 71-318, 71-325 through 71-335, and 71-340 through 71-351.

Portions of the following tracts may contain shallow faults: 71-3, 71-17 through 71-19, 71-21 through 71-26, 71-43 through 71-46, 71-63 through 71-66, 71-86, 71-89, 71-105, 71-108 through 71-112, 71-125, 71-127, 71-128, 71-142, 71-145, 71-161, 71-162, 71-176 through 71-179, 71-192, 71-194, 71-195, 71-207, 71-208, 71-222, 71-236, and 71-237.

Portions of the following tracts are subject to potential ice hazards, to both surface and seabed structures, with gouge microrelief of at least 2 meters: 71-1 through 71-12, 71-17 through 71-42, 71-45 through 71-55, 71-69 through 71-74, 71-92 through 71-100, 71-113 through 71-119, 71-131 through 71-137, 71-147 through 71-153, 71-165 through 71-169, 71-251 through 71-285, 71-287, 71-289, 71-290, 71-295 through 71-300, 71-306 through 71-310, 71-325 through 71-333, and 71-340 through 71-351.

Bidders are advised that pursuant to 30 CFR 250.34-1(a)(3), the lessee shall submit to Minerals Management Service either an exploration plan or a general statement of exploration intentions prior to the end of the ninth lease year.

Bidders are advised that certain of the tracts indicated in paragraph 12 as disputed will not be offered for sale unless the Agreement of October 26, 1979, is extended to them or unless an otherwise acceptable agreement can be reached under section 7 of the OCS Lands Act.

15. OCS Orders. Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Arctic OCS Orders, as of their effective date, and any other applicable OCS Order as it becomes effective.

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federal register

Wednesday
June 16, 1982

Part III

Department of Health and Human Services

Office of the Secretary

Consolidation of Grants to the Insular Areas

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 97

Consolidation of Grants to the Insular Areas

AGENCY: Office of the Secretary, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Health and Human Services proposes to adopt a rule authorizing the consolidation of certain formula and block grants to the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands. This rule would also waive all requirements for matching that are imposed upon an insular area under any of those block or formula grant programs that are included in a consolidated grant. Previous regulations allowing for consolidations of grants of the Public Health Service (42 CFR Part 50, Subpart F) and the Office of Human Development Services (45 CFR Part 1300) would be repealed. The proposed rule is based on the premise that it is in the public and insular area interest to provide the insular areas with the maximum flexibility allowed by the statute in order to minimize their administrative burden and ensure that federal funds are available for use in a manner determined most appropriate by the insular area.

DATE: Comments on this proposed rule must be received on or before July 16, 1982.

ADDRESSES: Comments should be mailed to Matthias Lasker, Director, Procurement and Assistance Policy, Office of the Secretary, Room 517 D, Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201, or delivered to the same location between 8:30 a.m. and 5:30 p.m. on weekdays, federal holidays excepted. Comments received may be inspected at Room 517 D between 8:30 a.m. and 5:30 p.m. on weekdays, federal holidays excepted.

FOR FURTHER INFORMATION CONTACT: Matthias Lasker; Phone: 202/245–7565.

SUPPLEMENTARY INFORMATION: Section 501 of Pub. L. 95–134, the Omnibus Territories Act, as amended, 48 U.S.C. 1468a, authorizes federal agencies to consolidate grants to the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Mariana Islands ("insular areas"). Specifically, section 501 permits:

(a) A federal agency to consolidate any or all grants to each of these insular areas except those grants used to make direct payments to individuals;

(b) A federal agency to waive requirements for matching funds, applications, and reports with respect to the consolidated grants;

(c) An insular area to use the consolidated grant funds for any purpose or purposes authorized under any of the grant programs that have been consolidated; and

(d) An insular area to determine the amount of funds to allocate to each program or purpose authorized under the consolidated grant.

The proposed rule is based on the premise that it is in the public and insular area interest to provide the insular areas with the maximum flexibility allowed by the statute in order to minimize their administrative burden and ensure that federal funds are available for use in a manner determined most appropriate by the insular area. The proposed rule has two purposes: (1) To set out rules permitting consolidation of grants; and (2) to waive matching requirements for the programs included in a consolidation.

Consolidation

The Department previously issued regulations allowing insular areas to consolidate certain formula grant programs of the Public Health Service (42 CFR Part 50, Subpart F) and certain programs of the Office of Human Development Services (45 CFR Part 1300). The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) replaced many of those programs with block grant programs. Therefore, for the insular areas to take advantage of the consolidation authority of the Omnibus Territories Act, the Department is proposing to issue a rule providing for consolidation of these newly authorized programs as well as of other formula grant programs.

The proposed rule would allow consolidation of grants authorized by the following programs: the Preventive Health and Health Services Block Grant, the Alcohol and Drug Abuse and Mental Health Services Block Grant, the Primary Care Block Grant, the Maternal and Child Health Services Block Grant, the Social Services Block Grant, the Community Services Block Grant, the Low-income Home Energy Assistance program, Child Welfare Services, Developmental Disabilities, Aging Supportive Services and Senior Centers, Congregate Meals for the Elderly, Home Delivered Meals for the Elderly, State Agency Administration (Aging) and Child Abuse and Neglect State Grants.

In addition to the grant programs included in this proposal, the Department is interested in suggestions for additional categorical programs that commenters believe should be included in the list of programs eligible for consolidated funding. The Department intends to consider carefully any suggestions for extending the consolidation provisions of Pub. L. 95–134 to additional grant programs.

An insular area may apply for a consolidated grant that would allow the insular area to use any of the funds to which the insular area is entitled under one or more of the eligible programs for any purpose(s) authorized by any of these programs. The insular area would have to submit an application that indicates the amount of funds that it is requesting to be consolidated, the program authorities that are the sources of those funds, and the program authorities under which it will expend the funds made available under the consolidated grant. The insular must comply with the application, reporting and other administrative requirements applicable to the program(s) under which it will expend the funds.

An insular area may submit one application for each group of eligible programs that it intends to consolidate. An insular area may choose to consolidate the funding of as many of the eligible programs as it wishes and as few as two. For example, an application could provide for spending all funds derived from all eligible programs on a single program. Alternatively, it could provide for expenditure of funds derived from only one of the eligible programs on another program. The consolidation of grants is at the option of the insular area. An insular area need not seek consolidation of grants under any of the eligible programs, but may choose to receive grant funds separately under each of those programs.

Section 501 of Pub. L. 95–134 authorizes Federal agencies to waive reporting requirements for those programs included in a consolidated grant. The regulations as proposed do not provide for the waiver of these requirements. However, we are interested in receiving comments on the advisability and utility of a process by which the Secretary could, upon application by an insular area, waive or simplify any or all reporting requirements. As drafted, the regulations do not impose any reporting requirements for the seven block grant programs eligible for consolidation beyond those in each block grant statute. However, the regulations do impose for other programs eligible for consolidation, those reporting requirements that are already codified

in regulations specifically governing those programs.

The Primary Care Block Grant authority does not become effective until October 1, 1982, and thus it cannot be consolidated with other grants until that date. For all other eligible programs, the regulations permit an insular area to apply for, and receive, a consolidated grant for FY 1982 to the extent that there are funds eligible for consolidation which have not been expended by the insular area. Thus, even though an insular area has received FY 1982 award for an eligible program, all unexpended funds under that award may be included in a consolidated grant.

Waiver of Matching Requirements

A second purpose of the proposed rule is to waive all matching requirements imposed upon an insular area government by any of the statutes authorizing the programs eligible for consolidation.

Under Pub. L. 95–134, a federal agency may waive matching requirements with respect to a consolidated grant. The Department has determined that it is in the public interest to waive these requirements. Matching requirements are included in programs to ensure that State governments commit a portion of their own resources to federally supported services. In the case of the insular areas, the local tax bases are extremely limited and therefore matching requirements are not effective ways to increase aggregate spending. Under the proposed rules, the matching requirements for any program included in a consolidated grant would be waived automatically.

Further Assistance

An insular area requiring further information or assistance in matters relating to consolidated funding and Pub. L. 95–134 should contact Stephen Page, Special Assistant to the Deputy Under Secretary for Intergovernmental Affairs (202) 245–6156.

Repeal of Existing Regulations

The Office of Human Development Services and the Public Health Service previously issued regulations allowing for consolidation of certain grants to the insular areas (45 CFR Part 1300 and 42 CFR Part 50, Subpart F, respectively). The Public Health Service regulations were removed effective October 1, 1982, by a notice in the **Federal Register** of October 1, 1981 (46 FR 48592). We are proposing to remove the HDS regulations, and change the effective date of the removal of the PHS regulations to coincide with the effective date of these regulations.

Regulatory Flexibility Act of 1980

We do not believe that the proposed rule will have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, Pub. L. 96–354, because the rule applies to a limited number of recipients of federal financial assistance which are not within the statutory definition of "small entities".

Executive Order 12291

We do not believe that the proposed rule is a "major rule" under Executive Order 12291 and thus a regulatory impact analysis is not required. This determination is based on our assessment that the rule would not:

(1) Have an annual effect on the economy of $100 million or more;

(2) Impose a major increase in costs or prices for consumers, individual industries, federal, state or local government agencies, or geographic regions; or

(3) Result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 45 CFR Part 97

Administrative practice and procedure, Aged, Alcoholism, Child welfare, Community action programs, Drug abuse, Energy, Grant programs-energy, Grant programs-health, Grant programs-social programs, Health care, Maternal and child health, Mental health programs, Public health.

For the reasons set forth in the preamble, the Department proposes to amend the Code of Federal Regulations as follows:

PART 1300—GENERAL REGULATIONS [REMOVED]

1. 45 CFR Part 1300 would be removed.

2. 45 CFR Part 97 would be added to read as follows:

PART 97—CONSOLIDATION OF GRANTS TO THE INSULAR AREAS

Sec.

97.10 What is a consolidated grant?
97.11 Which jurisdictions may apply for a consolidated grant?
97.12 Which grants may be consolidated?
97.13 How does an insular area apply for a consolidated grant?
97.14 How will grant awards be made?
97.15 For what purposes can grant funds be used?
97.16 What fiscal, matching and administrative requirements apply to grantees?

Authority: Sec. 501, Pub. L. 95–134, 91 Stat. 1164, amended, Sec. 9, Pub. L. 95–348, 92 Stat. 495, Sec. 601, Pub. L. 96–205, 94 Stat. 90 (48 U.S.C. 1469a)

§ 97.10 What is a consolidated grant?

As used in this Part, a "consolidated grant" means a grant award to an insular area, the funds of which are derived from the allocations under two or more of the programs specified in section 97.12.

§ 97.11 Which jurisdictions may apply for a consolidated grant?

The Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands ("insular areas") may apply for a consolidated grant under this Part.

§ 97.12 Which grants may be consolidated?

These regulations apply to the consolidation of grants under the following programs:

Title and Statutory Citation

Block Grants

(a) Preventive Health and Health Services, 42 U.S.C. 300w–300w–8.

(b) Alcohol and Drug Abuse and Mental Health Services, 42 U.S.C. 300x–300x–9.

(c) Primary Care, 42 U.S.C. 300y–300y–11.

(d) Maternal and Child Health Services, 42 U.S.C. 701–709.

(e) Social Services, 42 U.S.C. 1397–1397f.

(f) Community Services, 42 U.S.C. 9901–9912.

(g) Low-Income Home Energy Assistance, 42 U.S.C. 8621–8629.

Formula Grants

(h) Child Welfare Services, 42 U.S.C. 620, et seq.,

(i) Developmental Disabilities, 42 U.S.C. 6061–6068.

(j) Aging Supportive Services and Senior Centers, 42 U.S.C. 3030d.

(k) Congregate Meals for the Ederly, 42 U.S.C. 3030e.

(l) Home Delivered Meals for the Elderly, 42 U.S.C. 3030f.

(m) State Agency Administration (Aging), 42 U.S.C. 3028.

(n) Child Abuse and Neglect State Grants, 42 U.S.C. 5103(b).

§ 97.13 How does an insular area apply for a consolidated grant?

(a) An insular area may apply for a consolidated grant in lieu of filing an individual application for any of the programs listed in § 97.12.

(b) The chief executive officer or his designee may submit a consolidated grant application at any time prior to expenditure of the funds proposed for consolidation. An application shall be submitted to the Deputy Under Secretary for Intergovernmental Affairs, 200 Independence Avenue, SW., Washington, D.C. 20201. The application must specify the amount of funds proposed for consolidation, the titles of the programs that are the sources of funds that are to be consolidated and the titles of the programs under whose statutory authority the funds are to be expended.

(c) The application must contain the assurances, certifications, and other information required by the statutes and regulations applicable to those programs under which funds will be expended. If any of the requirements for these latter programs are substantially the same, they may be met by a single assurance, certification, or narrative, as appropriate. The application need not meet the application or other requirements for programs which are sources of funds for the consolidated grant but under whose authority no funds will be expended.

(d) If after receiving a consolidated grant, an insular area wishes to use funds for a purpose authorized by an eligible program that is not included in the consolidated grant, or by an eligible program that was included in the grant but was not intended as a program under which funds would be expended, the insular area must submit an amended application indicating the proposed change and containing the assurances, certifications and other information applicable to that program.

§ 97.14 How will grant awards be made?

The Secretary, or his designee, will award a consolidated grant to each insular area that applies for a consolidated grant and meets the requirements of this Part and of the statutes and regulations applicable to the programs under whose authority the consolidated grant funds will be expended. As long as the amount requested does not exceed the amount for which the insular area is eligible under the programs that are being consolidated, the amount of the award will equal the amount requested in the application.

§ 97.15 For what purposes can funds be used?

Funds awarded under a consolidated grant must be used for purposes authorized by the statutes and regulations of the programs included in the consolidated grant. In its application for a consolidated grant the insular area is to indicate the amount of funds that are to be allocated to the eligible programs.

§ 97.16 What fiscal, matching, and administrative requirements apply to grantees?

(a) An insular area receiving a consolidated grant must comply with the statutes and regulations applicable to the programs under which the funds are to be used, except as otherwise provided in this Part.

(b) In regard to programs included in a consolidated grant, an insular area need not comply with any of the statutory or regulatory provisions requiring recipients to match federal funds with their own or other funds.

(c) A single report may be submitted in lieu of any individual reports that may be required under the programs included in a consolidated grant.

Dated: May 13, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-16174 Filed 6-15-82; 8:45 am]

BILLING CODE 4150-04-M

federal register

Wednesday
June 16, 1982

Part IV

Department of Education

Discretionary Grant Programs; Application Notice Establishing Closing Dates for Transmittal of Certain Fiscal Year 1983 Applications

DEPARTMENT OF EDUCATION

Discretionary Grant Programs; Application Notice Establishing Closing Dates for Transmittal of Certain Fiscal Year 1983 Applications

AGENCY: Education Department.

ACTION: Application notice establishing closing dates for transmittal of certain Fiscal Year 1983 applications.

SUMMARY: The purpose of these application notices is to inform potential applicants of fiscal and programmatic information and closing dates for transmittal of applications for new grants under certain programs administered by the Department of Education.

ORGANIZATION OF NOTICE: This notice contains two parts. Part I includes, in chronological order, the list of all closing dates covered by this notice. Part II consists of the individual application announcements for each program. These announcements are in the same order as the closing dates listed in Part I.

The budget estimates in the individual application notices are based on the President's budget request for Fiscal Year 1983 and are subject to enactment by the Congress.

INSTRUCTIONS FOR TRANSMITTAL OF APPLICATIONS: Applicants should note specifically the instructions for the transmittal of applications included below:

Transmittal of Applications: Applications must be mailed or hand delivered on or before the closing date given in the individual program announcements included in this document.

Applications Delivered by Mail: Applications must be addressed to the Department of Education Application Control Center, *Attention:* (insert appropriate CFDA Number), Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, The Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: Hand-delivered applications must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:30 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted by the Application Control Center after 4:30 p.m. on the closing date.

PART I.—PROGRAMS LISTED IN CHRONOLOGICAL ORDER

CFDA No.	Program	Closing date
84.023C	Handicapped Field Initiated Research—New Projects.	Aug. 2, 1982.
84.023A, B, 84.025A.	Handicapped Student Initiated Research—New Projects—First Cycle.	Sept. 1, 1982.
84.023B	Handicapped Student Initiated Research—New Projects—Second Cycle.	Mar. 17, 1983.
84.023L	Handicapped Technology Projects—New Projects.	Sept. 15, 1982.
84.023P	Handicapped Parent Projects—New Projects.	Sept. 15, 1983.
84.023J	Handicapped School Based Research Projects—New Projects.	Sept. 5, 1982.

84.023C—Field Initiated Research

Closing Date: August 2, 1982—New Projects.

Authority for this program is contained in Sections 641 and 642 of Part E of the Education of the Handicapped Act. (20 U.S.C. 1441, 1442)

The purpose of this program is to provide a source of support for a broad range of research and development projects which fall outside areas of interest identified by the Education Department as priorities for directed research activities. The appropriate areas of interest for projects are limited only by the mission of the Research program—support of applied research relating to education of the handicapped.

Applications Delivered by Mail: Applications must be addressed to the Department of Education Application Control Center, *Attention:* 84.023C, Washington, D.C. 20202.

Available Funds: The total amount of funds awarded under this grant program for Fiscal year 1981 was $900,000. At this time the Fiscal Year 1983 appropriation is undetermined. The average grant will be $80,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages are available and may be obtained by writing to the Research Projects Branch Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Donohoe, 3165), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges that the narrative portion of the application not exceed thirty (30) pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Research in the Education of the Handicapped (34 CFR Part 324).

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further Information: Max Mueller, Research Projects Branch, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Room 3165 Donohoe Building), Washington, D.C. 20202. Telephone (202) 245-9836. (20 U.S.C. 1442)

84.023 A, B—Student Initiated Research Projects

Closing Date: A—September 1, 1982—First Cycle

Closing Date: B—March 17, 1983—Second Cycle

Authority for this program is contained in Sections 641 and 642 of Part E of the Education of the Handicapped Act. (20 U.S.C. 1441, 1442). The Secretary announces the selection of Student Research as one of the priority areas for funding for Fiscal Year 1983 research awards under Part E. This selection was made in accordance with applicable program regulations (34 CFR 324.9(h), 324.10, and 324.11) and the Education Department regulations governing the selection of priorities (34 CFR 75.105(b)).

Awards are made under this program to institutions of higher education on

behalf of postsecondary students who initiate and direct research projects concerned with educational programs for the handicapped.

The purpose of this program is to provide support to students, usually at the doctoral level, for the costs incurred in initiating, directing, and completing research projects concerned with educational programs for the handicapped. Content of the research projects is limited only by the research program mission, which is the support of applied research relating to the education of the handicapped.

Applications Delivered by Mail: Applications must be addressed to the Department of Education Application Control Center, *Attention:* 84.023A, or 84.023B, Washington, D.C. 20202.

Available Funds: The total amount of funds awarded under this grant program in Fiscal Year 1981 was $250,000. At this time the Fiscal Year 1983 appropriation is undetermined. The average grant will be $8,333. Typically, student applications are for amounts under $10,000 and the award period is within an 18 month time period. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages are available and may be obtained by writing to the Research Projects Branch, Special Education Programs, Department of Education, 400 Maryland Avenue SW, (Donohoe, 3165), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Secretary strongly urges that the narrative portion of the application not exceed twenty (20) pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Research in the Education of the Handicapped (34 CFR Part 324).

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further Information: Max Mueller, Research Projects Branch, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Room 3165 Donohoe Building), Washington, D.C. 20202. Telephone (202) 245–9836. (20 U.S.C. 1441–1442)

84.023L—Technology Projects

Closing Date: September 15, 1982—New Projects.

Authority for this program is contained in Sections 641 and 642 of Part E of the Education of the Handicapped Act. (20 U.S.C. 1441, 1442). The Secretary announces the selection of Technology Research as one of the priority areas for funding for Fiscal Year 1983 research awards under Part E. This selection was made in accordance with applicable program regulations (34 CFR 324.9(h), 324.10, and 324.11) and the Education Department regulations governing the selection of priorities (34 CFR 75.105(b)).

The purpose of this program is to provide support for projects on the use of technological devices and systems in schools and by handicapped students.

Applications Delivered by Mail: Applications must be addressed to the Department of Education Application Control Center, *Attention:* 84.023L, Washington, D.C. 20202.

Available Funds: The total amount of funds awarded under this grant program in Fiscal Year 1981 was $200,000. At this time the Fiscal Year 1983 appropriation is undetermined. The average grant of these one-year projects will be $50,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages are available and may be obtained by writing to the Research Projects Branch, Special Education Programs, Department of Education, 400 Maryland Avenue, SW (Donohoe, 3165), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges that the narrative portion of the application not exceed twenty (20) pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Research in the Education of the Handicapped (34 CFR Part 324).

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further Information: Max Mueller, Research Projects Branch, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Room 3165 Donohoe Building), Washington, D.C. 20202. Telephone (202) 245–9836. (20 U.S.C. 1441–1442)

84.023P—Parent Projects

Closing Date: September 15, 1982—New Projects.

Authority for this program is contained in Sections 641 and 642 of Part E of the Education of the Handicapped Act. (20 U.S.C. 1441, 1442). The Secretary announces the selection of Parent Projects as one of the priority areas for funding the Fiscal Year 1983 research awards under Part E. This selection was made in accordance with applicable program regulations (34 CFR 324.9(h), 324.10, and 324.11) and the Education Department regulations governing the selection of priorities (34 CFR 75.105(b)).

The purposes of this program is to support projects relating to the role of parents and the family in the education of the handicapped.

Applications Delivered by Mail: Applications must be addressed to the Department of Education Application Control Center, *Attention:* 84.023P, Washington, D.C. 20202.

Available Funds: At this time the Fiscal Year 1983 appropriation is undertermined. The average grant of these one-year projects will be $50,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages are available and may be obtained by writing to the Research Projects Branch, Special Education Programs, Department of Education, 400 Maryland Avenue, SW (Donohoe, 3165), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges that the narrative portion of the application not exceed twenty (20) pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Research in the Education of the Handicapped (34 CFR Part 324).

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further Information: Max Mueller, Research Projects Branch, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Room 3165 Donohoe Building), Washington, D.C. 20202. Telephone (202) 245–9836. (20 U.S.C. 1441–1442)

04.023J—School Based Research Projects

Closing Date: September 15, 1982—New Projects.

Authority for this program is contained in Sections 641 and 642 of Part E of the Education of the Handicapped Act. (20 U.S.C. 1441, 1442). The Secretary announces the selection of School Based Research as one of the priority areas for funding for Fiscal Year 1983 research awards under Part E. This selection was made in accordance with applicable program regulations (34 CFR 324.9(h), 324.10, and 324.11) and the Education Department regulations governing the selection of priorities (34 CFR 75.105(b)).

The purpose of this program is to support research based upon data available from school records focusing upon issues related to the education of handicapped children.

Applications Delivered by Mail: Applications must be addressed to the Department of Education Application Control Center, *Attention:* 84.023J, Washington, D.C. 20202.

Available Funds: The total amount of funds awarded under this grant program for Fiscal Year 1981 was $200,000. At this time the Fiscal Year 1983 appropriation is undetermined. The average grant of these one-year projects will be $45,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages are available and may be obtained by writing to the Research Projects Branch Special Education Programs, Department of Education, 400 Maryland Avenue, SW (Donohoe, 3165), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges that the narrative portion of the application not exceed twenty (20) pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Research in Education of the Handicapped (34 CFR Part 324).

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further Information: Max Mueller, Research Projects Branch, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Room 3165 Donohoe Building), Washington, D.C. 20202. Telephone (202) 245–9836. (20 U.S.C. 1441–1444)

Dated: June 10, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82-16260 Filed 6-15-82; 8:45 am]

BILLING CODE 4000-01-M

federal register

Wednesday
June 16, 1982

Part V

Department of Transportation

Federal Aviation Administration

Special Federal Aviation Regulation No. 44-3; Air Traffic Control System; Interim Operations Plan

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 22050; Notice No. 82-8]

Special Federal Aviation Regulation No. 44-3; Air Traffic Control System; Interim Operations Plan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend Special Federal Aviation Regulation (SFAR) No. 44-3 to establish certain procedures for the operation of the National Air Traffic Control (ATC) System, including procedures to be used in the allocation of additional system capacity as it becomes available, to provide for the safe and efficient operation of the air traffic control system. The Administrator has determined that a situation still exists which requires reduces ATC capacity and that the continuation of special air traffic provisions is necessary to provide for the efficient and safe movement of air traffic. This notice proposes several alternative allocation procedures to be used by the FAA to distribute slots among the carriers so as to provide for more efficient movement of air carrier traffic. It also requests comments on continuation of the existing SFAR 44-3 slot allocation procedure.

DATE: Comments must be received on or before June 29, 1982.

ADDRESSES: Mail comments on the proposal in duplicate to:

Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 22050, Washington, D.C. 20591.

or deliver them to:

Room 915G, 800 Independence Avenue, SW., Washington, D.C.

Comments may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Donald R. Segner, Associate Administrator for Policy and International Aviation, 202-426-3030

or

Edward P. Faberman, Deputy Chief Counsel, 202-426-3775;

Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impacts that might result from adoption of the proposals contained in this notice are invited. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with the rulemaking will be filed in the docket. Commenters wishing to have the FAA acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 22050." The postcard will be dated, time stamped, and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular 11-2, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

Background and Discussion

On February 22, 1982, the FAA published Special Federal Aviation Regulation (SFAR) No. 44-3 (47 FR 7616) which modified the previously established special air traffic rules that had been adopted in response to the reduced air traffic control capacity caused by the illegal actions of certain air traffic controllers. Under SFAR 44-3, random drawings have been held to determine the priority order for the allocation of additional arrival capacity at all airports within the contiguous United States in place of the first come-first served procedures formerly used. SFAR 44-3 also provides "new entrants" priority treatment in the drawings. "New entrants" are defined in the SFAR as carriers that applied for operating authority from the CAB prior to August 3, 1981, but had not initiated operations by February 17, 1982. They are given the first priority in each round of drawings for slots. Drawings have been held under SFAR 44-3 for the additional Air Route Traffic Control Center (ARTCC) and controlled airport capacity which will become available for the scheduling periods through October 1982.

On March 18, 1982, the FAA issued Notice No. 82-5 (47 FR 12320) which requested public comments on a possible change to SFAR 44-3 involving a redefinition of the term "new entrant" as used therein. The notice was issued at the request of the CAB and proposed that "new entrant" be defined as any carrier that has commenced or will commence operations with aircraft having more than 60 seats on or after October 24, 1978. Notice 82-5 would also limit the time period a carrier could be considered a "new entrant" and the number of airports at which new entrants could request slots under the SFAR. Comments on Notice 82-5 will be considered in connection with this rulemaking.

Based on the comments received on SFAR 44-3 and Notice 82-5, the FAA believes that SFAR 44-3 may be improved. (Summaries of the slot allocation procedure suggestions received by the FAA to date and the comments received on Notice 82-5 have been prepared and included in the docket.) One suggestion would be to divide the additional slots at controlled airports in a 70 percent—30 percent proportion. It has been argued that providing 70 percent of the available slots to incumbents is justified in view of the large number of slots taken from them when ATC services had to be reduced. Under the 70 percent—30 percent proposal, the slots would be distributed in three phases, first at a New Entrant Random Lottery, then at an Impacted Incumbent Ranked Drawing and finally at a General Random Lottery.

1. *New Entrant Random Lottery.* Thirty percent of the slots would be distributed by random lottery to new entrants—carriers that did not operate at any controlled airport before January 1, 1981. Any slots not distributed during this New Entrant Random Lottery are added to the total, if any, to be

distributed during the General Random Lottery.

2. *Impacted Incumbent Ranked Drawing.* The remaining 70 percent of the slots are allocated between an Impacted Incumbent Ranked Drawing and a General Random Lottery. Impacted incumbents are defined as those carriers who, on the date the drawing is held, hold fewer slots at that airport than they did on September 1, 1981. The slots are allocated to impacted incumbents in the following manner. First, the percentage of slots that the impacted carriers held on September 1, 1981, is determined. The impacted incumbents then receive that percentage of the slots remaining after the New Entrant Random Lottery. Finally, the impacted incumbents who lost the most slots are given priority in the selection process. Any remaining slots are added to the total, if any, to be distributed during the General Random Lottery. Impacted incumbents can choose slots during this drawing only until their total number of slots (those chosen plus those held before the drawing started) equals the number of slots they held on September 1, 1981. Any slots available to a carrier after it reaches that level are also added to the slots to be distributed during the General Random Lottery.

3. *General Random Lottery.* The remainder of the 70 percent not allocated in the Impacted Incumbent Ranked Drawing plus any slots not distributed during that drawing or the New Entrant Random Lottery are then distributed during a General Random Lottery. This lottery could be restricted to the airport from which the slots were obtained or, in the alternative, could be held on a national basis with the slots from all the airports obtained under the above-described system being distributed in one lottery. We specifically invite comments on these two alternatives. We also are interested in receiving comments on who should be permitted to participate in the General Random Lottery. The three basic alternatives for participants are:

1. Only the non-impacted incumbent carriers. These are the carriers who, on the date the lottery is held, hold the same number—or a greater number—of slots at that airport as they did on September 1, 1981.

2. Only the incumbent carriers. This would include the impacted as well as the non-impacted carriers.

3. All of the carriers. This would include the incumbents as well as the new entrants.

In the drawing and the lotteries, each carrier would select two slots during each turn it received.

The following example is provided to illustrate the above proposal.

Assumptions

- Metropolis Airport had 1000 slots on September 1, 1981.
- There are two impacted incumbent carriers at Metropolis Airport; each had 200 slots on September 1, 1981, one is presently allocated 180 slots, the other 190.
- There are two non-impacted incumbent carriers at Metropolis Airport; each had 300 slots on September 1, 1981, and are presently allocated 300 each.
- There are 100 new slots available for allocation.

Allocation

- The new entrants would choose up to the first 30 slots.
- The impacted incumbents would then choose from the remaining 70 slots. The one with 180 chooses first. Each would normally choose a maximum of 14 slots

$$\frac{[200\times 70]}{1{,}000}$$

however, because the carrier with 190 would reach its "ceiling" with ten picks, its remaining four possible picks would be added to the General Random Lottery.
- The remaining 42 slots, plus any slots not taken by the new entrants or the impacted incumbents (the four described above, plus any not chosen) would be allocated in the General Random Lottery.

We would also like to receive comments on the following alternative. The slots that would be allocated under the General Random Lottery would, instead, be distributed in the following manner: All of the carriers at the airport—including new entrants and incumbents—would receive a percentage of the remaining slots; the percentage would be determined by dividing the total number of slots the carrier currently holds at that airport by the number currently allocated to all carriers at the airport. Amendatory language for one approach to a 70–30 percent proposal, is set forth below, and provides more detail.

Another suggestion would be to conduct a single lottery to allocate slots at the 22 controlled airports instead of conducting lotteries for each airport. Under this proposal, the additional slots at the 22 controlled airports would be placed in a pool. Each carrier would be ranked for selections from the pool. Ranking could be accomplished using a lottery, SFAR 44–3 procedures, or those procedures modified as proposed in Notice 82–5. This unified lottery approach could also be used in conjunction with the 70 percent—30 percent mechanism for slot allocation. One lottery would be held for 70 percent of the additional slots at the 22 controlled airports for incumbents and a second lottery would be held for the remaining 30 percent of these slots for all other carriers. Under this proposal, carriers would be permitted, in rank order, to select two arrival slots from the pool at the 22 controlled airports. Selections would continue in rank order until all slots had been selected.

In addition to requesting comments on the proposals discussed above, the FAA is interested in the public's views on the continuation of the current procedures of SFAR 44–3, as well as any other suggested modifications to these procedures that would not compromise the safety of the ATC system. The agency is particularly interested in any allocation proposal generally acceptable to the air carrier industry. To date, the agency has not received such a proposal.

After October 31, 1982, new capacity, including that made available through unforeseen circumstances, would be allocated under procedures developed in this rulemaking. This Notice does not, however, propose adjustments to the existing operating bases of the carriers. Thus, any slots distributed under the new procedures for the October 31 through December 31, 1982, period would be added to the FAA-approved August 1 through October 30 operating bases.

List of Subjects in 14 CFR Part 91

Air traffic control.

The Proposed Amendment

PART 91—GENERAL OPERATING AND FLIGHT RULES

Accordingly, the Federal Aviation Administration proposes to amend Appendix A in Part 91 of Special Federal Aviation Regulation No. 44–3, as follows:

SFAR 44–3

Arrival Approvals for Designated Airports

1. For operations after October 31, 1982—

(a) Each air carrier shall submit a schedule (including nonscheduled flights such as charters and training and ferry operations to the extent they are known) for the period October 31, 1982 through December 31, 1982, and each subsequent scheduling period to the Official Airline Guide (OAG) by a date to be announced at a later time by API–1. The number of daily arrival operations an air carrier may submit to the OAG at a controlled airport (as identified in this appendix) shall not exceed its FAA approved

daily and hourly allocation total at that airport for the previous schedule period. The number of daily arrival operations an air carrier may submit to the OAG at all other airports shall not exceed its FAA-approved daily allocation total at those airports for the previous schedule period.

(b) Each air carrier seeking authority for flights in excess of its current approved operational levels at an airport, new entrants, and requests by air carriers to initiate service must be separately identified and submitted in writing to the Associate Administrator for Policy and International Aviation, API–1, 800 Independence Avenue, SW., Washington, D.C. 20591; Telephone No.: (202) 426–3030; Telex No.: 892562 FAA WSH (for API–1) and ARINC No.: DCAYAXD (for API–1) in accordance with time schedules established by API–1 for each schedule period. The flight requests should be listed in order of priority so that capacity authorization determined in accordance with paragraph 2 of this appendix will be based upon the individual carrier's needs. If additional capacity is available, authority for these operations will be given. If capacity is not available for all such requests, priority consideration will be given in accordance with paragraph 2 of this Appendix.

2. Additional capacity allocation.

(a) Unless directed by CAB in cases of essential air service or for some other CAB requirement or unless it is determined that the carrier has exceeded the number of operations allowed by this regulation, a carrier will not be required to involuntarily give up slot allocations for another carrier's use. Slot allocations that a carrier does not actually use at least 70 percent of the schedule period will be automatically revoked.

(b) For the purposes of special allocations under this SFAR, (1) an air carrier that was operating at one of the 22 controlled airports on August 3, 1981, is an "incumbent" at that airport; and (2) an air carrier that did not operate at any controlled airport before January 1, 1981, is a new entrant.

(c) A random drawing will be held under paragraph (d) of this appendix for each of the 22 controlled airports (identified in this Appendix) for special allocations to new entrants. A special allocation will be made for certain incumbents at the 22 controlled airports under paragraphs (e) and (f) of this Appendix. Random drawings will be held under paragraph (g) of this Appendix for all carriers, including new entrants and incumbents, for any slots not allocated under paragraphs (d), (e) and (f) of this Appendix at the 22 controlled airports. Finally, one random drawing will be held for all other airports. At each airport, new entrants will be allocated additional capacity first. No carrier will receive more slots than requested.

(d) *New Entrant Special Allocation.* The number of slots specially allocated to all new entrants at any controlled airport will be limited to 30 percent of the total additional air carrier capacity at that airport. Where there is more than one new entrant, the order in which slots will be allocated to each new entrant will be determined by random draw. Each new entrant will receive two slots each time its turn comes up in the drawing. Any slots not selected by a new entrant will be placed in the pools of slots to be allocated under paragraph (g) of this Appendix.

(e) Following special allocations to new entrants, incumbents will be allowed to select 70 percent of the additional capacity at each of the 22 controlled airports by special allocation pursuant to paragraph (f) of this Appendix.

(f) *Incumbent Carrier Special Allocation.* Each incumbent carrier will receive the total number of slots determined under the following formulas (to the extent that slots are available) rounded to the nearest whole number:

$$X = \frac{B \times T}{Y}$$

Where:

X is the total number of slots to be selected at that airport by the carrier.

B is the number of slots in that carrier's September 1, 1981, OAG base.

Y is the total number of arrival slots at that airport for all current incumbent carriers in the September 1, 1981, OAG.

T is the total number of slots available to incumbent carriers in the instant overall special allocation.

A is the sum of each carrier's slots at that airport in its most recent FAA-approved operating base and its net loss of slots resulting from transfer or relinquishment.

However, whenever X+A for any incumbent carrier would be equal to or greater than B, the number of slots in excess of B will not be allocated to the carrier but will be placed in the pool for allocation pursuant to paragraph (g) of this Appendix. Those incumbent carriers selecting slots pursuant to this paragraph will select two slots (one, if only one is left) each time its turn to select comes up until it has selected its X slots (or the number of total slots available to it, if X+A is greater than B or there are insufficient slots for all incumbent carriers). Incumbent carriers at each of the 22 controlled airports will be ranked for slot allocation at each airport based on their number of B−A slots at that airport. Carriers with higher number of B−A slots will receive an allocation before one with a lower number.

(g) Each slot not selected by a new entrant pursuant to paragraph (d) of this Appendix and each slot not allocated to an incumbent pursuant to paragraph (f) of this Appendix will be placed in slot pools for each of the 22 controlled airports. An allocation will be held for each pool with all carriers requesting slots at that airport under this paragraph ranked by random draw. Each carrier will select two slots each time its turn comes up in the selection sequence. (Note: Other options to this paragraph are discussed in the preamble.)

(h) After additional capacity has been allocated at each airport, requests for one-time charter operations, hourly slides, origin changes and other changes will be processed as capacity permits.

(i) Air Route Traffic Control Center (ARTCC) capacity allocations will be made first for the 22 controlled airports located within ARTCC areas, without regard to the above distinctions between classes of carriers. Remaining additional ARTCC capacity will be allocated to carriers who have requested slots at other airports within particular ARTCC areas to the extent that such capacity can be accommodated. If there is more demand for a particular flight segment than can be safely accommodated, the allocation will be made in accordance with priority determined by random draw for all noncontrolled airports. After the additional ARTCC capacity has been allocated, requests for one-time charters within an ARTCC, origin changes, hourly slides, and other changes will be processed as capacity permits.

3. No additional flight requests for changes will be accepted by the FAA between schedule periods. However, the FAA will process changes to flight schedules between schedule periods for—flight number changes, within-hour changes at the same controlled airport (as identified in this Appendix) and hourly changes within the allocated daily total at all other airports.

4. Charter, emergency, ferry pilot training, and mechanical repair checkout flight requests may be made to the FAA Central Flow Control Facility.

5. No person shall operate an air carrier flight unless approval for the operation has been received prior to the flight from API–1 as part of the particular air carrier's approved schedule or under this Appendix.

6. Airports and Air Route Traffic Control Centers (ARTCC) at which some constraints are necessary are listed below. Constraints may also be imposed at airports other than those listed if any changes in the current status of an airport cannot be safely and efficiently handled by the controller work force at the ATC facilities involved. Schedule reductions in effect at an airport may be revised and will be removed to the extent the controller work force at the ATC facilities involved can accommodate those changes.

ARTCC's

Albuquerque	Los Angeles
Atlanta	Memphis
Boston	Miami
Chicago	Minneapolis
Cleveland	Jacksonville
Denver	Oakland
Ft. Worth	New York City
Houston	Salt Lake City
Indianapolis	Seattle
Kansas City	Washington

Controlled Airports

Atlanta	Kansas City
Boston	Kennedy
Chicago (O'Hare, Midway)	La Guardia
Cleveland	Las Vegas
Dallas/Fort Worth (DFW, Love)	Los Angeles
Denver	Miami
Detroit	Minneapolis
Ft. Lauderdale	Newark
Houston (Intercontinental, Hobby)	Philadelphia
	Pittsburgh
	St. Louis
	San Francisco
	Washington National

(Secs. 307(a) and (c), 313(a), and 601(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a) and (c), 1354(a), and 1421(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this proposal, if adopted, would expand the number of carriers eligible for a limited number of priority slots at various airports within the contiguous United States without affecting the number of slots currently held by any carrier. There are no apparent direct or indirect (nonindustry) costs associated with the proposal, and the FAA is unaware of any specific data to indicate that these proposals would have more than a minimal economic impact. Therefore, the preparation of a full regulatory evaluation at this time is unnecessary.

Note.—Based on the above, it has been determined that this is not a major regulation under Executive Order 12291 and I certify that, under the criteria of the Regulatory Flexibility Act, the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. In addition, the FAA has determined that this proposed amendment is not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Washington, D.C., on June 15, 1982.

J. Lynn Helms,

Administrator.

[FR Doc. 82-16534 Filed 6-16-82; 12:18 pm]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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Federal Aviation Administration
Bridges
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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Presidential Documents

Title 3—

The President

Proclamation 4947 of June 15, 1982

National Peach Month, 1982

By the President of the United States of America

A Proclamation

Peaches are a refreshing and nutritious addition to our Nation's diet.

Peaches are a $365 million cash crop that bolsters the economies of 32 States.

The United States is the world's largest peach producer, providing more than 20 percent of the world's peaches and exporting approximately 250 million pounds each year.

In recognition of the role peaches play in our food supply and our economy, the Congress by Joint Resolution approved March 16, 1982 (96 Stat. 12), has requested the President to designate July 1982 as "National Peach Month."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim July 1982 "National Peach Month" and call upon the people of the United States to incorporate this nutritious fruit into their diets, and call upon interested groups to celebrate this month with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of June, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-16829
Filed 6-16-82; 11:05 am]
Billing code 3195-01-M

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Presidential Documents

Executive Order 12367 of June 15, 1982

President's Committee on the Arts and the Humanities

By the authority vested in me as President of the United States, and to establish, in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), an advisory committee to assist in efforts to increase private sector support for the arts and the humanities, it is hereby ordered as follows:

Section 1. *Establishment.* (a) There is established the President's Committee on the Arts and the Humanities. The Committee shall be composed of the Chairman of the National Endowment for the Arts; the Chairman of the National Endowment for the Humanities; the Secretary of the Treasury; the Secretary of the Interior; the Secretary of Education; the Administrator of General Services; the Director of the Institute of Museum Services; the Director of the International Communication Agency; a member designated by the Secretary of State; and not more than twenty persons who are not full-time officers or employees of the Federal Government ("non-Federal members"), who shall be appointed by the President and shall be selected from among private individuals and State and local public officials who have a demonstrated interest in and commitment to support for the arts or the humanities. In addition, the Majority Leader of the Senate and the Speaker of the House of Representatives are each invited to designate a member of the Committee for appointment by the President, and the Librarian of Congress, the Secretary of the Smithsonian Institution and the Director of the National Gallery of Art are invited to serve as members of the Committee.

(b) The President shall designate a Chairman or Co-Chairmen from among the non-Federal members of the Committee, and may also designate Vice Chairmen from among members of the Committee.

Sec. 2. *Functions.* The Committee shall analyze, and make recommendations to the President and to the National Endowment for the Arts and the National Endowment for the Humanities with respect to, (i) ways to promote private sector support for the arts and the humanities, especially at the State and local levels; (ii) the effectiveness of Federal support for the arts and the humanities in stimulating increased private sector support, taking into account the economic needs and problems of the arts and the humanities and their relationship with the private sector; (iii) the planning and coordination of appropriate participation (including productions and projects) in major and historic national events; and (iv) ways to promote the recognition of excellence in the fields of the arts and the humanities. In performing these functions, the Committee shall collect, maintain and make available for appropriate distribution data on the sources and levels of public and private sector support for the arts and the humanities, and on the availability of cultural resources locally. The Committee's functions shall not conflict with the responsibilities of the National Council on the Arts and the National Council on the Humanities.

Sec. 3. *Administration.* (a) Members of the Committee shall serve without additional compensation for their work on the Committee. However, members of the Committee who are not full-time officers or employees of the Federal Government may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5701–5707), to the extent funds are available therefor.

(b) Any administrative support or other expenses of the Committee shall be paid, to the extent permitted by law, from funds available to the National Endowment for the Arts.

Sec. 4. *General.* (a) Notwithstanding any other Executive Order, the responsibilities of the President under the Federal Advisory Committee Act, as amended, except that of reporting annually to the Congress, which are applicable to the Committee, shall be performed by the Chairman of the National Endowment for the Arts, in accordance with guidelines and procedures established by the Administrator of General Services.

(b) The Committee shall terminate on December 31, 1982, unless sooner extended.

Ronald Reagan

THE WHITE HOUSE,
June 15, 1982.

[FR Doc. 82-16830
Filed 6-16-82; 11:06 am]
Billing code 3195-01-M

Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 82-321]

Mediterranean Fruit Fly

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: The Mediterranean fruit fly quarantine and regulations quarantine California and impose restrictions on the movement of regulated articles from regulated areas in California. This document amends the quarantine and regulations by deleting portions of Santa Clara and Santa Cruz Counties from the list of regulated areas. The effect of this action is to delete restrictions on the interstate movement (movement from California into or through any other State, Territory, or District of the United States) of regulated articles from such portions of Santa Clara and Santa Cruz Counties. This action is warranted because such restrictions are no longer necessary for the purpose of preventing the artificial spread of the Mediterranean fruit fly.

DATES: Effective date of amendment June 17, 1982. Written comments concerning this rule must be received on or before August 16, 1982.

ADDRESSES: Written comments should be submitted to Thomas Lanier, Assistant Director, Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 643 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 641 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: B. Glen Lee, Emergency Programs Coordinator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 610 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-6365.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This interim rule is issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this proposed rule would have an annual effect on the economy of less than $50,000; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and would not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291. Also, the Assistant Secretary for Marketing and Inspection Services has waived the requirements of Secretary's Memorandum 1512-1.

Certification Under the Regulatory Flexibility Act

Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action affects the interstate movement of regulated articles from areas in Santa Clara and Santa Cruz Counties in California. There are thousands of small entities that move such articles interstate from California and many more thousands of small entities that move such articles interstate from other States. However, based on information compiled by the U.S. Department of Agriculture, it has been determined that fewer than 25 small entities move such articles interstate from the previously regulated areas in Santa Clara and Santa Cruz Counties. Further, the overall economic impact from this action is estimated to be less than $50,000.

Emergency Action

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication of this document without opportuity for a public comment period because otherwise there would be unnecessary restrictions imposed on the interstate movement of certain articles. This situation requires immediate action to delete such unnecessary restrictions.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this action effective less than 30 days after publication of this document in the **Federal Register**. Comments have been solicited for 60 days after publication of this document, and a final document discussing comments received and any changes required will be published in the **Federal Register** as soon as possible.

Background

Because of infestations of the Mediterranean fruit fly found in areas in California, the Mediterranean fruit fly quarantine and regulations were made effective on July 20, 1981 (46 FR 37706-37713), and amendments to the quarantine and regulations were made effective on August 7, August 19, September 2, 1981, and June 1, 1982 (46 FR 40203-40205, 42072-42073, 44144-44145; 47 FR 23682-23683). The quarantine and regulations are set forth in 7 CFR 301.78 through 301.78-10.

For the purpose of preventing the artificial spread of the Mediterranean fruit fly to noninfested areas in the United States, the quarantine and regulations restrict the interstate movement (movement from California into or through any other State, Territory, or District of the United States) of articles designated as regulated articles from areas designated as regulated areas. The quarantine and regulations currently list as regulated

areas all of Alameda and San Mateo Counties. Also, prior to the effective date of this document, the quarantine and regulations listed as regulated areas all of Santa Clara and Santa Cruz Counties.

Based on trapping and sampling surveys conducted by inspectors of the U.S. Department of Agriculture and State agencies of California, it has now been determined that the Mediterranean fruit fly has been eradicated from Santa Clara and Santa Cruz Counties, except for the following portions of Santa Clara and Santa Cruz Counties:

Santa Clara County. That portion of the county beginning at a point where the western boundary line of Ed R. Levin County Park intersects the Alameda-Santa Clara County line; then southerly along said boundary line to Calaveras Road; then westerly on Calaveras Road to Old Piedmont Road; then southerly on Old Piedmont Road to Sierra Road; then westerly on Sierra Road to Capitol Avenue; then southeasterly on Capitol Avenue to Berryessa Road; then southwesterly on Berryessa Road to U.S. 101; then northwesterly on U.S. 101 to De La Cruz Boulevard; then southerly on De La Cruz Boulevard to Central Expressway; then westerly on Central Expressway to Fair Oaks Avenue; then southerly on Fair Oaks Avenue to El Camino Real; then northwesterly on El Camino Real to Hollenbeck Avenue; then southerly on Hollenbeck Avenue to Fremont Avenue; then westerly on Fremont Avenue to Foothill Expressway; then northwesterly on Foothill Expressway to El Monte Avenue; then southerly on El Monte Avenue to Interstate 280; then northwesterly on Interstate 280 to the San Mateo-Santa Clara County line; then northerly and easterly along said county line to the Alameda-Santa Clara County line; then easterly along said line to the point of beginning. Also, that portion of the county beginning at a point where Old Santa Cruz Highway intersects the Santa Cruz-Santa Clara County line; then northeasterly along an imaginary line from said intersection to Mt. Thayer; then southeasterly along an imaginary line from Mt. Thayer to the north end of Loma Prieta Road; then southerly along Loma Prieta Road to its intersection with the Santa Cruz-Santa Clara County line; then northerly along said line to the point of beginning.

Santa Cruz County. That portion of the county north and west of a line beginning at a point where Loma Prieta Road intersects the Santa Clara-Santa Cruz County line; then southerly along an imaginary line from said intersection to the northeast corner boundary line of the Forest of Nisene Marks State Park; then southerly along the eastern boundary of said State park to its intersection with Aptos Creek Road; then southerly along Aptos Creek Road to its intersection with Soquel Drive; then westerly along Soquel Drive to its intersection with State Route 1; then westerly along State Route 1 to its intersection with Swift Street; then southerly along Swift Street to the Pacific Ocean where the line ends.

Under these circumstances there is no longer a basis for imposing restrictions on the movement of articles from Santa Clara and Santa Cruz Counties, except for those portions described above. Therefore, in order to relieve unnecessary restrictions on the interstate movement of articles, it is necessary as an emergency measure to delete from the list of regulated areas those areas in Santa Clara and Santa Cruz Counties that are not included in the descriptions set forth above.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant pests, Plants (agriculture), Quarantine, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, § 301.78–3(c) of the Mediterranean fruit fly quarantine and regulations (7 CFR 301.78–3(c)) is revised to read as follows:

§ 301.78–3 Regulated areas.

* * * * *

(c) The areas described below are designated as regulated areas:

California

Alameda County. The entire county.

Santa Clara County. That portion of the county beginning at a point where the western boundary line of Ed R. Levin County Park intersects the Alameda-Santa Clara County line; then southerly along said boundary line to Calaveras Road; then westerly on Calaveras Road to Old Piedmont Road; then southerly on Old Piedmont Road to Sierra Road; then westerly on Sierra Road to Capitol Avenue; then southeasterly on Capitol Avenue to Berryessa Road; then southwesterly on Berryessa Road to U.S. 101; then northwesterly on U.S. 101 to De La Cruz Boulevard; then southerly on De La Cruz Boulevard to Central Expressway; then westerly on Central Expressway to Fair Oaks Avenue; then southerly on Fair Oaks Avenue to El Camino Real; then northwesterly on El Camino Real to Hollenbeck Avenue; then southerly on Hollenbeck Avenue to Fremont Avenue; then westerly on Fremont Avenue to Foothill Expressway; then northwesterly on Foothill Expressway to El Monte Avenue; then southerly on El Monte Avenue to Interstate 280; then northwesterly on Interstate 280 to the San Mateo-Santa Clara County line; then northerly and easterly along said county line to the Alameda-Santa Clara County line; then easterly along said line to the point of beginning. Also, that portion of the county beginning at a point where Old Santa Cruz Highway intersects the Santa Cruz-Santa Clara County line; then northeasterly along an imaginary line from said intersection to Mt. Thayer; then southeasterly along an imaginary line from Mt. Thayer to the north end of Loma Prieta Road; then southerly along Loma Prieta Road to its intersection with the Santa Cruz-Santa Clara County line; then northerly along said line to the point of beginning.

Santa Cruz County. That portion of the county north and west of a line beginning at a point where Loma Prieta Road intersects the Santa Clara-Santa Cruz County line; then southerly along an imaginary line from said intersection to the northeast corner boundary line of the Forest of Nisene Marks State Park; then southerly along the eastern boundary of said State park to its intersection with Aptos Creek Road; then southerly along Aptos Creek Road to its intersection with Soquel Drive; then westerly along Soquel Drive to its intersection with State Route 1; then westerly along State Route 1 to its intersection with Swift Street; then southerly along Swift Street to the Pacific Ocean where the line ends.

San Mateo County. The entire county.

(Secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); 37 FR 28464, 28477, as amended; 38 FR 19141.)

Done at Washington, D.C., this 14th day of June 1982.

Kenneth R. Hook,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 82-16408 Filed 6-16-82; 8:45 am]
BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 695; Valencia Orange Reg. 694, Amdt. 1]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period June 18–June 24, 1982, and increases the quantity of such oranges that may be so shipped during the period June 11–June 17, 1982. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective June 18, 1982, and the amendment is effective for the period June 11–June 17, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under Secretary's Memorandum 1512–1, and Executive Order 12291 and has been designated a "non-major" rule. This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on February 5, 1982. The committee met again publicly on June 15, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for Valencia oranges is steady.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of Valencia oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 908

Agricultural marketing service, Marketing agreements and orders, California, Arizona, Oranges (Valencia).

1. Section 908.995 is added as follows:

§ 908.995 Valencia Orange Regulation 695.

The quantities of Valencia oranges grown in Arizona and California which may be handled during the period June 18, 1982, through June 24, 1982, are established as follows:

(a) District 1: 259,000 cartons;
(b) District 2: 291,000 cartons;
(c) District 3: Unlimited cartons.

2. Section 908.994, Valencia Orange Regulation 694 (47 FR 25133), is hereby amended to read:

§ 908.994 Valencia Orange Regulation 694.

* * * * *

(a) District 1: 329,000 cartons;
(b) District 2: 371,000 cartons;
(c) District 3: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: June 16, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-16649 Filed 6-16-82; 11:34 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 82–AWA–7]

Revocation of Prohibited Area P–26; Special Use Airspace

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This action revokes Prohibited Area P–26 located in the Denver, CO, area specifically over the Rocky Mountain Arsenal toxic storage area and toxic munitions production facilities. With the removal of the "Weteye" bombs and bulk name agent, "GB", in August 1981 and bulk choking agent (CG Phosgene) in March 1982, there is no longer a potential for a chemical agent release hazard in the event of an aircraft crash within P–26.

Furthermore, the Department of the Army has no plans, short of total mobilization to produce or store significant amounts of toxic chemical agents at the Rocky Mountain Arsenal. Therefore, the Department of the Army's request that P–26 be eliminated, is granted, thereby returning the airspace to public use.

EFFECTIVE DATE: August 5, 1982.

Comments must be received on or before July 19, 1982.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA Northwest Mountain Region, Attention: Chief, Air Traffic Division, Docket No. 82–AWA–7, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, WA 98108.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW, Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (ATT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves the revocation of P–26 in the Denver, CO, area and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulations. After the review, if the FAA finds the changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are

specifically invited on the overall regulatory, aeronautical, economic and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 73.92 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is to revoke Prohibited Area P–26, Denver, CO, as requested by the Department of the Army. Section 73.92 of Part 73 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3 dated January 29, 1982.

Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to revoke P–26, thereby returning that airspace for public use. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is contrary to the public interest and that good cause exists for making this amendment effective August 5, 1982.

List of Subjects in 14 CFR Part 73

Prohibited area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 73.92 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) effective 0901 G.m.t., August 5, 1982, is amended as follows:

P–26 Denver, CO [Revoked]

By revoking the title and text.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C. on June 9, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-16289 Filed 6-16-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing

24 CFR Parts 203, 207, and 220

[Docket No. R–82–996]

Debenture Interest Rate

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, (HUD).

ACTION: Final rule.

SUMMARY: This rule change provides for a revised debenture interest rate applicable to all home and project mortgages and loans under the National Housing Act (the Act), as amended, except for debentures issued under the Act's Section 221(g)(4) provisions, committed or endorsed on or after January 1, 1982. The rule also changes the format and method of announcing changes in the debenture interest rates. The Secretary of the Treasury determines debenture interest rates in accordance with established procedure and the Act. Since these changes are of a routine nature, henceforth the Department will publish a Notice of interest rate change in the Federal Register.

EFFECTIVE DATE: August 4, 1982. The amendments made by this rule shall apply retroactively from January 1, 1982.

FOR FURTHER INFORMATION CONTACT: Arnold H. Diamond, Director, Office of Financial Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6166, Washington, D.C. 20410 (202) 426–4325. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Debenture interest rates are set by the Secretary of the Treasury in accordance with a procedure established by statute, and HUD bases its changes on a notification from the Secretary of the Treasury. Because these changes do not reflect the exercise of administrative discretion by HUD, public procedure would provide no practical benefit and is unnecessary. Moreover, because these changes are not regulatory in nature, the Secretary will announce future changes in a different manner. Henceforth, HUD will publish them in a general notice in the Federal Register twice each year. There will be no notice and public procedure on the change to general notice form since the change is one of procedure under the exception provided by 5 U.S.C. 553(b)(A) and 24 CFR 10.1. These notices will state the applicable rate for the prospective six-month period; they will also contain the chart of historical rates applicable to mortgages committed or endorsed in prior years as a convenient reference. Because the changes are urgently needed, good cause exists for forgoing the deferral in effective date required by 5 U.S.C. 553(d) and for making the rule effective as soon as permitted by the legislative review provisions of Section 7(o) of the Department of Housing and Urban Development Act.

The Secretary of the Treasury has determined in accordance with the provisions of section 224 of the National Housing Act, as amended, that the interest rate for the month of November 1981 is 12¾% and has approved the establishment of debenture interest rates at 12¾% to be effective as of January 1, 1982; thus the interest rates applicable after these dates are:

	On or after—	Prior to—
Effective rate (percent):		
6¾	July 1, 1974	July 1, 1975.
7	July 1, 1975	Jan. 1, 1976.
7¼	Jan. 1, 1976	July 1, 1976.
7	July 1, 1976	Jan. 1, 1977.
6¾	Jan. 1, 1977	July 1, 1977.
7¼	July 1, 1977	Jan. 1, 1978.
7¾	Jan. 1, 1978	July 1, 1978.
7¾	July 1, 1978	Jan. 1, 1979.
8	Jan. 1, 1979	July 1, 1979.
8¼	July 1, 1979	Jan. 1, 1980.
9¾	Jan. 1, 1980	July 1, 1980.
9¾	July 1, 1980	Jan. 1, 1981.
11¾	Jan. 1, 1981	July 1, 1981.
12¾	July 1, 1981	Jan. 1, 1982.
12¾	Jan. 1, 1982	

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in sec. 1(b) of the Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of enterprises based in the United States to compete with foreign-

based enterprises in domestic or export markets.

Pursuant to 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on August 17, 1981 (46 FR 41708) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program numbers are 14.117, 14.118, 14.122, 14.127, 14.134 and 14.139.

List of Subjects

24 CFR Part 203

Home improvement, Loan programs-housing and community development, Mortgage insurance, Solar energy.

24 CFR Part 207

Mortgage insurance, Rental housing, Mobile home parks.

24 CFR Part 220

Home improvement, Mortgage insurance, Urban renewal, Projects, Rental housing, Loan programs-housing and community development.

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

Accordingly, 24 CFR Chapter II is amended as follows:

(1) In Part 203, § 203.405 is revised to read as follows:

§ 203.405 Debenture interest rate.

Debentures shall bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the day the commitment was issued, or as of the date the mortgage was endorsed for insurance, whichever rate is higher. The applicable rates of interest will be published twice each year as a notice in the **Federal Register.**

(2) Section 203.479 is revised to read as follows:

§ 203.479 Debenture interest rate.

Debentures shall bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued, or as of the date the loan was endorsed for insurance, whichever rate is higher. The applicable rates of interest will be published twice each year as a notice in the **Federal Register.**

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

(3) In Part 207, § 207.259 is amended by revising paragraph (e)(6) to read as follows:

§ 207.259 Insurance benefits.

* * * * *

(e) Issuance of debentures. * * *

(6) Bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued, or as of the date of initial insurance endorsement of the mortgage, whichever rate is higher. The applicable rates of interest will be published twice each year as a notice in the **Federal Register.**

* * * * *

PART 220— URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

(4) In Part 220, § 220.830 is revised to read as follows:

§ 220.830 Debenture interest rate.

Debentures shall bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued or as of the date the loan was endorsed for insurance, whichever rate is higher. The applicable rates of interest will be published twice each year as a notice in the **Federal Register.**

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 220, 68 Stat. 596, as amended; 12 U.S.C. 1715k)

Dated: June 10, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

[FR Doc. 82-16477 Filed 6-16-82; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 05-82-021]

Drawbridge Operation Regulations; Genesee River, N.Y.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the County of Monroe, New York, the Coast Guard is revising the regulations governing the operation of the Stutson Street bridge, mile 1.21, across the Genesee River, Rochester, New York, by permitting the draw of this bridge to remain closed for extended periods of time during the navigation season. This change is being made in an effort to relieve vehicular traffic tie-ups caused by an increase in both land and water traffic. This action will accommodate the needs of vehicular traffic and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment becomes effective on July 19, 1982.

FOR FURTHER INFORMATION CONTACT: Robert W. Bloom, Jr., Chief, Bridge Branch, 1240 East Ninth Street, Cleveland, Ohio 44199. (216) 522-3993.

SUPPLEMENTARY INFORMATION: On March 22, 1982, the Coast Guard published a Proposed Rule in the **Federal Register** (FR 12194) concerning this amendment. The Commander, Ninth Coast Guard District, also published this proposal as a Public Notice dated April 12, 1982. Interested parties were given until May 6, 1982, and May 12, 1982, respectively, to submit comments.

Drafting Information

The principal persons involved in drafting this Final Rule are: Robert W. Bloom, Jr., Chief, Bridge Branch, Ninth Coast Guard District, and Project Attorney, LCDR Michael D. Gentile, Assistant Legal Officer, Ninth Coast Guard District.

Discussion of Comments

No comments were received from the **Federal Register** or Ninth Coast Guard District Public Notice.

This final regulation has previously been determined to be non-major under Executive Order 12291, and also to be nonsignificant under the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80). The final regulation has previously been certified under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), at 47 FR 12194 (March 22, 1982). No information has been received which changes those determinations and certification. An economic evaluation has not been conducted. Since this rule only reduces the number of bridge openings during periods of time when vehicle traffic using the Stutson Street bridge is heaviest, small entities in the area will not be economically impacted.

List of Subjects in 33 CFR Part 117

Bridges, Coast Guard.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.709 to read as follows:

§ 117.709 Genesee River, Rochester, N.Y., Stutson Street and ConRail bridges.

(a) The draw of the ConRail bridge shall open on signal from April 1 through December 15.

(b) The draw of the Stutson Street bridge shall open on signal from April 1 through December 15 except that:

(1) From 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m., Monday through Friday, except Federal holidays, the draw need not open.

(2) From 9 a.m. to 4 p.m. and 6 p.m. to 11 p.m., Monday through Friday, and 7 a.m. to 11 p.m., Saturdays, Sundays and Federal holidays the draw need open on signal only on the hour and half-hour.

(c) From December 16 through March 31 the draws of both bridges shall open on signal if at least 12 hours advance notice is given.

(d)(1) Public vessels of the United States, vessels in distress, state or local government vessels used for public safety and vessels seeking shelter from rough weather shall be passed through the draws of these bridges as soon as possible even though the closed periods of paragraph (b)(1) and (2), and (c) of this section are in effect.

(2) Commercial vessels shall be passed through the draw of the Stutson Street bridge even though the closed periods of paragraph (b)(2) are in effect.

(e) The owner of or agency controlling these bridges shall keep conspicuously posted on both the upstream and downstream sides of the bridges, in such a manner that it can be easily read at all times, a copy of the regulations in this section, together with a notice stating exactly how the representative may be reached during times specified in paragraph (c) of this section.

(f) Clearance gauges, of a type approved by the Commander, Ninth Coast Guard District, shall be installed on the upstream and downstream sides of each drawbridge by and at the expense of the owner of or agency controlling the bridge and such gauges shall be kept in good repair and legible condition.

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: June 7, 1982.

J. R. Kirkland,

Captain, U.S. Coast Guard, Commander, Ninth Coast Guard District, Acting.

[FR Doc. 82-16411 Filed 6-16-82; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD3 (79-014)]

Drawbridge Operating Regulations; Great Channel, N.J.

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: At the request of Cape May County, NJ, the Coast Guard is changing the regulations governing the Stone Harbor Boulevard Bridge across Great Channel at Mile 102.0 of the New Jersey Intracoastal Waterway. This change is being made because frequent bridge openings cause vehicular traffic to be severely congested during peak boating periods (weekends and holidays from Memorial Day to Labor Day). The action is expected to relieve congested traffic during peak boating periods and still provide for reasonable navigational needs.

EFFECTIVE DATE: This amendment becomes effective on July 19, 1982.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, Third Coast Guard District (oan–br), Governors Island, NY 10004, (212–668–7165).

SUPPLEMENTARY INFORMATION: Cape May County requested that they be allowed to open the bridge only on the hour and half-hour during peak boating periods. The Coast Guard also investigated openings spaced 20 minutes apart, beginning on the hour. The Coast Guard published a notice of proposed rulemaking (for openings spaced 20 minutes apart) in the **Federal Register** on 24 May 1979 (44 FR 30114). Interested persons were requested to submit comments. Three comments were received. The following public notices were issued concerning these regulations: Number 3–347 (June 1978)—implemented temporary (less than 60 day) regulations for openings on the hour and half-hour, for evaluation. No comments received.

Number 3–380 (9 May 1979)—implemented temporary regulations for openings spaced 20 minutes apart beginning on the hour, for evaluation. No comments received.

Number 3–382 (13 June 1979)—identical to the proposed rule. One comment received.

Number 3–416 (22 July 1979)—implemented temporary regulations for openings 20 minutes apart for further evaluation. Two responses were received.

Drafting Information

The principal persons drafting this rule are Ernest J. Feemster, Project Manager and LCDR Frank E. Couper, Project Attorney, Third Coast Guard District Aids to Navigation Branch and Legal Office, respectively.

Discussion of Comments

Two of the three comments on the proposed rule requested we consider hourly and half-hourly openings instead of openings spaced 20 minutes apart because temporary regulations issued in 1978 provided for openings every half-hour. The two comments also stated that the Stone Harbor Boulevard Bridge was accommodating added traffic and was the only feasible access to and from the barrier island for emergency vehicles. This situation resulted from a fire in May 1979 that temporarily closed the nearby North Wildwood Bridge. The latter two issues were not considered in this action since the North Wildwood Bridge was restored to normal operations in the summer of 1979, shortly after receipt of the above comments. The other comment on the proposed rule supported it but expressed reservations about 20 minute openings rather than half-hourly ones. The comment on Public Notice 3–382 offered no objection. Of the two comments received on Public Notice 3–416, one supported the temporary regulations, while the other restated reservations (stated in response to the proposed rule) about 20 minute openings rather than half-hourly ones. The Coast Guard decided to issue these regulations after considering all comments. The temporary regulations issued in 1978 for evaluation of half-hourly openings created no problems for either land or marine traffic. Subsequent temporary regulations for openings spaced 20 minutes apart have similarly created no observed problems, even when vehicular traffic was greatly increased in 1979 due to a fire at the North Wildwood Bridge. Evaluation of the 20 minute spaced openings has shown that they adequately relieve traffic congestion without being restrictive to either land or marine navigation. They are therefore determined to be acceptable for adoption.

Summary of Final Evaluation

These regulations have been reviewed under the provisions of Executive Order

12291 and have been determined not to be a major rule. In addition, the regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80). An economic evaluation has not been conducted since for the reasons discussed above, their impact is expected to be minimal. In accordance with section 605(b) of The Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by adding a new subparagraph (r) immediately after § 117.220(q) to read as follows:

§ 117.220 [Amended]

* * * * *

(r) Stone Harbor Boulevard Bridge across Great Channel. The draw shall open for a waiting vessel only on the hour, 20 minutes after the hour, and 20 minutes before the hour on Saturday, Sunday and holidays from Memorial Day through Labor Day between 8 a.m. and 6 p.m. The draw shall open on signal at all other times, and shall open on signal for vessels with tows and for public vessels of the United States at all times.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, Sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.45(c)(5); 33 CFR 1.051(g)(3))

Dated: June 1, 1982.

J. L. Fear,

Captain, U.S. Coast Guard, Acting Commander, Third Coast Guard District.

[FR Doc. 82-16410 Filed 6-16-82; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD3 03-82-02]

Drawbridge Operation Regulations; Lemon Creek, N.Y.

AGENCY: Coast Guard, DOT.

ACTION: Final rule—Revocation.

SUMMARY: This amendment revokes the regulations for the Bayview Avenue drawbridge across Lemon Creek, mile 0.1 at Staten Island, New York. Notice and public procedure have been omitted from this action due to the removal of the bridge concerned. The U.S. Army Corps of Engineers previously approved the retention of the south bridge abutment as a breakwater structure. This abutment is the only portion of the bridge that remains.

EFFECTIVE DATE: This amendment becomes effective on July 19, 1982.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, Commander (oan-br), Third Coast Guard District, Bldg. 135A, Governors Island, NY 10004 (212-668-7165).

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this revocation of regulations are: Isadore Stillman, Project Manager and LCDR Frank E. Couper, Project Attorney, Third Coast Guard District Aids to Navigation Branch and District Legal Office, respectively.

This action has no economic consequences. It merely revokes regulations that are now meaningless because they pertain to a drawbridge that no longer exists. Consequently, this action cannot be considered a major rule under Executive Order 12291. Furthermore, it has been found to be nonsignificant under the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-2-80), and does not warrant preparation of an economic evaluation. Because no notice of proposed rulemaking is required under 5 U.S.C. 553, this action is exempt from the Regulatory Flexibility Act (94 Stat. 1164). However, the requirements of the Act were taken into consideration, and this action will not have a significant effect on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended as follows:

§ 117.215 [Amended]

1. By removing § 117.215(j)(1).

2. By renumbering § 117.215(j)(2) and § 117.215(j)(2-a) as § 117.215(j)(1) and (2), respectively.

3. In new paragraph § 117.215(j)(1)(ii) change "paragraph (j)(2)(iii)" to read "paragraph (j)(1)(iii)".

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: May 26, 1982.

J. L. Fear,

Captain, U.S. Coast Guard, Acting Commander, Third Coast Guard District.

[FR Doc. 82-16404 Filed 6-16-82; 8:45 am]

BILLING CODE 4910-14-M

VETERANS ADMINISTRATION

41 CFR Part 8-2

Procurement by Formal Advertising

AGENCY: Veterans Administration.

ACTION: Final rule.

SUMMARY: Recent Comptroller General Decisions (B-200616 and B-200845) indicate a need to amend the Aggregate Award clause in order that multiple award on an item basis be allowed. The revision to the clause allows award on either the aggregate or item by item, based upon the relative costs.

The Comptroller General has also determined that contracting officers may be acting improperly when rejecting a sole offer on the basis of nonconformance with the bid acceptance time set forth in the solicitation (B-204053). The decision concludes that nonconformance with bid acceptance time generally cannot be the basis for rejection when only one bid is received, since other bidders are not unfairly disadvantaged.

In compliance with the Contract Disputes Act, the contracting officer is given authority to resolve mistakes in bid alleged after award with the prior approval of the General Counsel and the Assistant Deputy Administrator for Procurement and Supply. The Assistant Deputy Administrator for Procurement and Supply will maintain the agency record of mistakes in bid after award.

EFFECTIVE DATE: This rule is effective June 11, 1982.

FOR FURTHER INFORMATION CONTACT: Chris A. Figg, Policy and Interagency Service, Office of Procurement and Supply, 810 Vermont Avenue, NW, Washington, DC 20420, Telephone (202) 389-2334.

SUPPLEMENTARY INFORMATION: The Administrator hereby certifies that this final rule, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), this final rule is therefore exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604. The reason for this certification is because this rule is not likely to result in

a major increase in costs to consumers or others, or to have other significant adverse effects.

It is the general policy of the VA to allow time for interested persons to participate in the rulemaking process (38 CFR 1.12). Since this amendment only implements existing rules and establishes internal procedures, the rulemaking process is considered unnecessary in this instance.

List of Subjects in 41 CFR Part 8–2

Advertising, Government procurement.

Approved: June 11, 1982.

Robert P. Nimmo,

Administrator.

PART 8–2—PROCUREMENT BY FORMAL ADVERTISING

41 CFR Part 8–2 is amended as follows:

1. § 8–2.201, paragraph (f)(2) is revised to read as follows:

§ 8–2.201 Preparation of invitations for bids.

* * * * *

(f) * * *

(2) Solicitations for supplies and services, other than construction, will contain the following provision:

Aggregate Award

The Veterans Administration reserves the right to make an award to the responsible bidder quoting the lowest aggregate price for all items, for any group of items, or on an item basis, whichever is more advantageous to the Government. Bids will be evaluated on the basis of additional cost to the Government that might result from making multiple awards. For this purpose, the cost of awarding and administering each additional contract is estimated to be $———.[1]

* * * * *

§ 8–2.203–3 [Amended]

2. § 8–2.203–3 is amended by removing the words "Director, Supply Service" and inserting the words "Assistant Deputy Administrator for Procurement and Supply (93)".

§ 8–2.301 [Amended]

3. § 8–2.301 is amended by removing the words "Director, Supply Service (134G)" and inserting the words "Assistant Deputy Administrator for Procurement and Supply (93)".

§ 8–2.403 [Amended]

4. § 8–2.403 is amended by removing the words "VA Form 07–1286, 07–2232, or 08–6103" and inserting the words "VA Forms 90–1286, 90–2232 (or 60–2232), or 08–6103".

5. In § 8–2.404–2 paragraph (b) is amended and is redesignated as paragraph "(c)" and a new paragraph (b) is added to read as follows:

§ 8–2.404–2 Rejection of individual bids.

* * * * *

(b) When a single bid is received in response to a solicitation, the offer shall not be rejected simply because it specifies a bid acceptance time which is shorter than that contained in the solicitation, unless a compelling reason exists for rejecting such a bid. Insufficient time to properly evaluate an offer shall be considered a compelling reason for rejection; however, the contracting officer will first request the offeror to extend the acceptance date of the bid to allow for a proper evaluation.

Note.—In those cases where more than one bid is received, an individual bid which is not in compliance with the Government's bid acceptance time shall be rejected as nonresponsive since consideration of such an offer would unfairly disadvantage other bidders.

(c) Questions involving the responsiveness of a bid which cannot be resolved by the contracting officer may be submitted directly to the Comptroller General, accompanied by a copy of the pertinent documents. A copy of each submission will be forwarded to the Assistant Deputy Administrator for Procurement and Supply (93).

§ 8–2.406–3 [Amended]

6. In § 8–2.406–3, paragraphs (a), (b) and (c) are amended by removing the words "Director, Supply Service" and inserting the words "Assistant Deputy Administrator for Procurement and Supply (93)".

7. § 8–2.406–4 is revised to read as follows:

§ 8–2.406–4 Disclosure of mistakes after award.

(a) When a contracting officer corrects a mistake in bid pursuant to FPR 1–2.406–4(a), a copy of the contract amendment or supplemental agreement together with a copy of the contracting officer's determination will be forwarded to the Assistant Deputy Administrator for Procurement and Supply (93).

(b) For mistakes in bid other than those specified in paragraph (a) of this section, the contracting officer's proposed determination, prepared in accordance with FPR 1–2.406–4, will be forwarded to the General Counsel (025) through the Assistant Deputy Administrator for Procurement and Supply (93). The approval and/or recommendations of the General Counsel and the Assistant Deputy Administrator for Procurement and Supply will be transmitted to the contracting officer by the Assistant Deputy Administrator for Procurement and Supply. The contracting officer will make the final determination as directed by the Assistant Deputy Administrator for Procurement and Supply. The contracting officer will transmit a copy of the signed final decision letter to the Assistant Deputy Administrator for Procurement and Supply (93).

(c) The Assistant Deputy Administrator for Procurement and Supply (93) will maintain the agency records of mistakes in bids after award, as required by FPR 1–2.406–4.

§ 8–2.407–1 [Amended]

8. In § 8–2.407–1, the introductory portion of paragraph (a), and paragraph (b) are amended by removing the words "Director, Supply Service" and inserting the words "Assistant Deputy Administrator for Procurement and Supply (93)".

9. § 8–2.407–8 is revised to read as follows:

§ 8–2.407–8 Protests against award.

(a) *General.* When a protest against the award of a contract or a request from the General Accounting Office for an agency report relative to a protest against an award lodged with that agency is received in Central Office, the protest or request will be immediately forwarded to the Assistant Deputy Administrator for Procurement and Supply (93). Protests or requests concerning Central Office architect-engineer or construction contracts will be forwarded to the Assistant Deputy Administrator for Construction. The Assistant Deputy Administrator for Construction or Assistant Deputy Administrator for Procurement and Supply, whichever is appropriate, will immediately notify the contracting officer, furnish him/her a copy of the protest, and request him/her to furnish the information required by FPR 1–2.407–8(a)(2). Should the circumstances warrant, the contracting officer will be advised to notify all parties involved in or affected by the protest and to secure from them their views as provided in FPR 1–2.407–8(a)(3), (b)(2), and (c).

(b) *Protest before award.* When a written protest has been lodged with the contracting officer, and he/she considers it desirable to do so, he/she may obtain the views of the Comptroller General. The submission will be made direct to the Comptroller General and

[1] Insert a dollar amount between $100 and $500, the exact amount to be determined by the contracting officer based upon the anticipated workload that would result from administering an additional contract.

will include the material indicated in FPR 1.2–407–8(a)(2). Simultaneous with the submission of a protest to the Comptroller General by a contracting officer under authority of this paragraph, the Assistant Deputy Administrator for Procurement and Supply (93) will be furnished a complete copy of the submission. The contracting officer will notify the protesting individual or firm promptly in writing of the decision of the Comptroller General. A copy of the decision and notification will be furnished the Assistant Deputy Administrator for Procurement and Supply (93).

(1) While a case involving a protest before award is pending in the Office of the Comptroller General, no award may be made except when, in the opinion of the contracting officer, the needs of his/her station will not permit delay in awarding the contract. He/she will document the specific reasons why the award must be made and submit a request for approval to the Assistant Deputy Administrator for Procurement and Supply (93) or the Assistant Deputy Administrator for Construction, whichever is appropriate.

(2) The Assistant Deputy Administrator for Procurement and Supply or the Assistant Deputy Administrator for Construction, whichever is appropriate, will file a notice of intent to make the award with the Comptroller General and request advice as to the status of the case. Upon receipt of this advice, the Assistant Deputy Administrator for Procurement and Supply or the Assistant Deputy Administrator for Construction will approve the request or advise the contracting officer as to the action to be taken.

(c) *Protest after award.* When a written protest is lodged with the contracting officer, he/she will review the basis for award.

(1) If the contracting officer determines that the award was proper, he/she will furnish the protester a written explanation of the basis for the award which is responsive to the allegations of the protest. The contracting officer will advise the protester that he/she may appeal the determination to the Assistant Deputy Administrator for Procurement and Supply (93) (or the Assistant Deputy Administrator for Construction in the case of a Central Office architect-engineer or construction contract) or the Comptroller General.

(2) If the contracting officer determines that the award is questionable he/she will advise the contractor of the protest and invite him/her to submit his/her views and relevant information. At the same time, the contracting officer will seek to obtain a mutual agreement with the contractor to suspend performance on a no-cost basis. Whether or not the contractor agrees, the case will be submitted promptly to the Assistant Deputy Administrator for Procurement and Supply (93) (or the Assistant Deputy Administrator for Construction in the case of a Central Office architect-engineer or construction contract), who will either advise the contracting officer of the appropriate action to take, or submit the case to the Comptroller General for his/her decision.

10. In § 8–2.502, paragraphs (a), (b) and (c) are amended to read as follows:

§ 8–2.502 Conditions for use.

* * * * *

(a) Director, Veterans Administration Marketing Center, for contracts entered into by a Marketing Division.

(b) Assistant Deputy Administrator for Procurement and Supply for contracts entered into by field stations and the Procurement Service, Office of Procurement and Supply, Central Office.

(c) Director, Office of Administration, for contracts entered into by the Building and Supply Service, Central Office.

* * * * *

(38 U.S.C. 210(c); 40 U.S.C. 486(c))

[FR Doc. 82-16403 Filed 6-10-82; 8:45 am]

BILLING CODE 6820-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6255

[OR-21583]

Oregon; Partial Revocation of Executive Order

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive order in part as to 92.78 acres of land withdrawn for lighthouse purposes. The lands will not be open to location under the mining laws unless and until appropriate rules and regulations are issued to allow mineral location on lands conveyed pursuant to the Recreation and Public Purposes Act.

EFFECTIVE DATE: June 17, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of May 28, 1889, which withdrew certain lands for use by the U.S. Coast Guard for lighthouse purposes is hereby revoked insofar as it affects the following described lands:

Willamette Meridian

T. 1 S., R. 11 W.,
Sec. 13, lots 2 and 5.

The area described contains 92.78 acres in Tillamook County.

2. The surface estate of the above described lands has been conveyed from United States ownership pursuant to the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869, 869–4); therefore, unless and until appropriate rules and regulations are issued, the lands will not be open to location under the United States mining laws. The lands have been and continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
June 7, 1982.

[FR Doc. 82-16336 Filed 6-10-82; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Order 6256

[OR-22231 (WASH)]

Washington; Revocation of Public Land Order No. 619

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a public land order which withdrew 1.15 acres of land for lighthouse purposes. This action restores the land to operation of the mineral leasing laws. The land will not be open to location under the mining laws unless and until appropriate rules and regulations are issued on land conveyed pursuant to the Recreation and Public Purposes Act.

EFFECTIVE DATE: July 13, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management

Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 619 of December 2, 1949, which withdrew the following described land for use by the U.S. Coast Guard for lighthouse purposes is hereby revoked:

Willamette Meridian

T. 37 N., R. 4 W.,
Sec. 34, lot 1.

The area described contains 1.15 acres in San Juan County.

2. The surface estate of the above described land has been conveyed from United States ownership pursuant to the Recreation and Public Purposes Act of June 14, 1926, as amended, (43 U.S.C. 869, 869–4); therefore, unless and until appropriate rules and regulations are issued, the land will not be open to location under the United States mining laws.

3. At 7:30 a.m., on July 13, 1982, the land will be open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 7, 1982.

[FR Doc. 82-16339 Filed 6-16-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6257

[OR-22098 (WASH)]

Washington; Revocation of Executive Order of May 8, 1889

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order which withdrew 33 acres of land for use by the Department of the Army for military purposes. The surface was conveyed out of Federal ownership with minerals reserved to the United States. Since the minerals have been declared excess Federal property, they are not subject to operation of the mining and mineral leasing laws. Thus, the effect of this order is record-clearing only.

EFFECTIVE DATE: July 13, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of May 8, 1889, which withdrew the following described land for use by the Department of the Army for military purposes is hereby revoked:

Willamette Meridian

T. 9 N., R. 10 W.,
Sec. 22, lot 9.

The area described contains 33 acres in Pacific County.

2. The land described above has been conveyed out of United States ownership under authority of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377) and will not be restored to operation of the public land laws, including the mining and mineral leasing laws.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 7, 1982.

[FR Doc. 82-16340 Filed 6-16-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6258

[Nev-051745]

Nevada; Partial Revocation of Reclamation Project Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes two Secretarial orders which withdrew lands for the Bureau of Reclamation to utilize for the Colorado River Storage Project. This action will restore 1,280 acres to operation of the public land laws generally including the mining laws. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: July 13, 1982.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office 702–784–5703.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Orders dated January 31, 1903 and October 16, 1931, which withdrew land to be used by the Bureau of Reclamation for the Colorado River Storage Project are hereby revoked insofar as they affect the following described lands:

Mount Diablo Meridian

T. 32 S., R. 66 E.,
Sec. 14, All;
Sec. 15, All.

The area described aggregates approximately 1,280 acres in Clark County, Nevada.

2. At 10 a.m. on July 13, 1982, the lands described above shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on July 13, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m. on July 13, 1982, the lands described above will be open to location and entry under the United States mining laws.

Inquiries concerning the land should be addressed to Chief, Division of Technical Services, Nevada State Office, Branch of Lands and Minerals Operations, 300 Booth Street, P.O. 12000, Reno, Nevada 89520.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 7, 1982.

[FR Doc. 82-16341 Filed 6-16-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6259

[M-41589]

Montana; Partial Revocation of Executive Order Designating Public Water Reserve No. 51

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will partially revoke an Executive order dated November 10, 1917, designating Public Water Reserve No. 51. This action will restore 1,280 acres of land to full operation of the public land laws, including nonmetalliferous mining. All lands affected by this order have been and will remain open to metalliferous mining and mineral leasing.

EFFECTIVE DATE: July 13, 1982.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, 406–657–6291.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior, by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Those portions of the public water reserve withdrawals granted to BLM by Executive order of November 10, 1917,

are hereby revoked so far as they affect the following described lands:

Principal Meridian

T. 7 S., R. 11 W.,
Sec. 18, NE¼NE¼, S½NE¼;
Sec. 19, NE¼.
T. 8 S., R. 20 E.,
Sec. 25, S½.
T. 9 S., R. 20 E.,
Sec. 2, SW¼;
Sec. 26, E½.
T. 9 S., R. 21 E.,
Sec. 2, SW¼NE¼, S½NW¼.
T. 5 S., R. 45 E.,
Sec. 22, N½NE¼.

The areas described aggregate 1,280 acres in Carbon, Powder River and Beaverhead Counties.

2. At 7:45 a.m. on July 13, 1982, the lands described in paragraph one of this order will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 7:45 a.m. on July 13, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The described lands will also be open to the location of nonmetalliferous minerals under the United States mining laws, at 7:45 a.m. on July 13, 1982. The lands have been and continue to be open to the location of metalliferous minerals and applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Federal Building, Box 30157, Billings, Montana 59107.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
June 7, 1982.
[FR Doc. 82-16342 Filed 6-16-82; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6260

[OR-22051 (WASH)]

Washington; Revocation of Former Military Reservation Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive Order which withdrew 623.93 acres of land for military purposes. This action will permit 376.76 acres of land to remain closed to operation of the mining laws pursuant to the Recreation and Public Purposes Act. The balance of 247.20 acres of land is excess property and has been conveyed from United States ownership. This land, with the exception noted, has been and continues to be open to applications and offers under the mineral leasing laws.

EFFECTIVE DATE: July 13, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of January 29, 1859, as modified by the Executive Orders of April 1, 1895, and April 30, 1896, which withdrew the following described land for use by the Department of the Army for military purposes is hereby revoked:

Willamette Meridian

T. 30 N., R. 1 W.,
Sec. 21, lot 6;
Sec. 22, lot 6;
Sec. 27, lot 5;
Sec. 28, lots 12, and 13, and those portions of sections 28 and 33 described as follows:
Beginning at the southeast corner of the Fort Townsend Military Reservation, T. 30 N., R. 1 W., W.M., Washington; thence North, 58.50 chains distant, more or less, to the east and west centerline of sec. 28; thence westerly, along the east and west centerline, 17.50 chains distant, more or less, to the west boundary of the reservation; thence South, 28.50 chains distant, more or less; thence West, 32.50 chains distant; thence South, 29.20 chains distant; thence East, 50.00 chains distant to the point of beginning.

The area described contains 623.93 acres in Jefferson County.

2. The surface estate of the land in lot 6 of section 21, lot 6 of section 22, lot 5 of section 27, and lot 11 of section 28, has been conveyed from United States ownership pursuant to the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869; 869-4); and will not be opened to location under the United States mining laws. The land has been and will remain open to applications and offers under the mineral leasing laws.

3. The land described in paragraph 1, except as provided in paragraph 2, has been conveyed from United States ownership and will not be restored to operation of the public land laws, including the mining and mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
June 7, 1982.
[FR Doc. 82-16343 Filed 6-16-82; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6261

[CA-3192]

California; Revocation of National Forest Administrative Site Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes Public Land Order No. 1461 dated August 6, 1957 which withdrew public lands for protection of a forest service administrative site. This action will restore the lands to operation of the public land laws generally, including the mining laws.

EFFECTIVE DATE: July 13, 1982.

FOR FURTHER INFORMATION CONTACT: Marie M. Getsman, California State Office, 916-484-4431.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 1461 of August 6, 1957, which withdrew the following described lands for use by the Department of Agriculture as an administrative site in connection with administration of the Toiyabe National Forest, is hereby revoked:

Mount Diablo Meridian

T. 9 N., R. 22 E.,
Sec. 11, N½SW¼NE¼, SW¼SW¼NE¼, N½SE¼SW¼NE¼, N½S½SE¼SW¼NE¼, N½S½S½SE¼SW¼NE¼.

The area described aggregates 38.75 acres in Mono County.

2. At 10 a.m. on July 13, 1982, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on July 13, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The lands will be open to location under the United States mining laws at 10 a.m. on July 13, 1982. They have been open to application and offers under the mineral leasing laws.

Inquiries concerning the lands shall be addressed to the Bureau of Land Management, U.S. Department of the Interior, Room E–2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 7, 1982.

[FR Doc. 82–16344 Filed 6–16–82; 8:45 am]

BILLING CODE 4310–84–M

43 CFR Public Land Order 6262

[U–47669]

Utah; Revocation of Reclamation Withdrawal

AGENCY: Bureau of Land Managment, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Secretarial Order which withdrew 1,314 acres of Forest Service land for reclamation purposes. This action will restore 963 acres to mining location. The remaining lands are within a developed campground and recreation area and are closed to mining location. The lands have been and continue to be open to applications and offers under the leasing laws.

EFFECTIVE DATE: July 13, 1982.

FOR FURTHER INFORMATION CONTACT: Ken Latimer, Utah State Office, 801–524–4245.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is hereby ordered as follows:

1. The Secretarial Order of October 20, 1964, which withdrew lands for the China Meadows Reservoir, Lyman Project are hereby revoked insofar as they affect the following described lands:

Salt Lake Meridian

T. 2 N., R. 14 W.,
Secs. 6 and 7.

The area described aggregates 1,314 acres in Summit County.

2. At 10 a.m. on July 13, 1982, the lands shall be open to such forms of disposition as may by law be made of national forest lands including mining location subject to the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on July 13, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The lands have been and continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 7, 1982.

[FR Doc. 82–16345 Filed 6–15–82; 8:45 am]

BILLING CODE 4310–84–M

43 CFR Public Land Order 6263

[OR–18995, OR–19007, OR–20235]

Oregon; Revocation and Partial Revocation of Public Water Reserve Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes two Executive Orders and partially revokes a third affecting 640 and 280 acres respectively. The lands were withdrawn for public water reserve purposes. This action will restore the lands to surface entry and nonmetalliferous mining. The lands have been and will remain open to metalliferous mining and mineral leasing.

EFFECTIVE DATE: July 13, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Orders of December 22, 1927, and April 23, 1929, that created Public Water Reserve Nos. 112 and 122 and withdrew the following described lands for public water reserve purposes are hereby revoked in their entirety:

Willamette Meridian

Public Water Reserve No. 112

T. 35 S., R. 32½ E.,
Sec. 8, S½;
Sec. 17, NE¼.

Public Water Reserve No. 122

T. 25 S., R. 23 E.,
Sec. 26, W½SW¼;
Sec. 34, NE¼NE¼;
Sec. 35, NW¼NW¼.

The areas described aggregate 640 acres in Harney and Lake Counties.

2. The Executive Order of November 21, 1923, which created Public Water Reserve No. 68 and withdrew certain lands for public water reserve purposes is hereby revoked as to the following described lands:

Willamette Meridian

Public Water Reserve No. 68

T. 15 S., R. 26 E.,
Sec. 23, S½SE¼;
Sec. 26, NW¼NE¼;
T. 31 S., R. 33 E.,
Sec. 28, NW¼NW¼;
Sec. 29, NE¼NE¼ and S½NE¼.

The areas described aggregate 280 acres in Grant and Harney Counties.

3. At 10 a.m. on July 13, 1982, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on July 13, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 10 a.m. on July 13, 1982, the lands shall be opened to nonmetalliferous mineral location under the United States mining laws. The lands have been and will continue to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 7, 1982.

[FR Doc. 82–16346 Filed 6–16–82; 8:45 am]

BILLING CODE 4310–84–M

43 CFR Public Land Order 6264

[LA–01155887]

California: Public Land Order 5791; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order will correct certain errors in the lands described and status of Public Land Order No. 5791 which partially revoked reclamation withdrawals in Imperial County, California.

EFFECTIVE DATE: June 17, 1982.

FOR FURTHER INFORMATION CONTACT: Walter F. Holmes, California State Office, 916–484–4431.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the

Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 5791 of December 18, 1980, in FR Doc. 80-39804 appearing at page 84788 in the issue for Tuesday, December 23, 1980, is corrected as follows:

2. In the second column, paragraph numbered 1, the Secretarial Order of February 6, 1918, is corrected to read February 16, 1918.

3. In the third column under T. 12 S., R. 16 E., Sec. 10, "SE¼NE¼" is hereby corrected to read "SW¼NE¼," the "SE¼NE¼SW¼" is hereby corrected to read "SW¼NE¼SW¼," and the "SW¼NW¼SE¼" is hereby corrected to read "SE¼NW¼SE¼."

4. The first sentence in paragraph 4, reading "All of the lands described herein are classified for multiple use management, which segregates them from Indian Allotment and desert land entry" is erroneous and is hereby deleted.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 7, 1982.

[FR Doc. 82-16335 Filed 6-16-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6265

[NM-51869-OKLA]

Oklahoma; Public Land Order No. 6200: Correction

AGENCY: Bureau of Land Management, Interior.

ACTION. Public land order.

SUMMARY: This document will correct a typographical error in a metes and bounds description of lands contained in a public land order which restored 56.13 acres to ownership of the Wichita and Affiliated Bands of Indians.

EFFECTIVE DATE: June 17, 1982.

FOR FURTHER INFORMATION CONTACT: Evelyn Tauber, Washington, D.C., 202-343-6486.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

A description of lands by metes and bounds in Public Land Order No. 6200 of March 8, 1982, in FR Doc. 82-7041 appearing at page 11282 in the issue of Tuesday, March 16, 1982, in the third column under Indian Meridian, on line 26, thence N. 35°13'05 "E." The designation "E." should be corrected to read "W.".

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 7, 1982

[FR Doc. 82-16337 Filed 6-16-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6266

[CA-7790 WR]

California; Revocation of Proclamation No. 1245

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Proclamation affecting 40 acres of public land. This action will restore 10 acres to operation of the public land laws generally, including nonmetalliferous mineral location under the mining laws. The balance of the lands remain withdrawn for a Forest Service Administrative Site.

EFFECTIVE DATE: July 13, 1982.

FOR FURTHER INFORMATION CONTACT: Ronald Morrison, California State Office, 916-484-4431.

SUPPLEMENTARY INFORMATION: By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Proclamation No. 1245 of May 27, 1913, which withdrew the following described lands for classification, is hereby revoked.

San Bernardino Meridian

T. 4 N., R. 9 W.,
Sec. 8, S½NW¼SW¼, N½N½S½SW¼.

The area contains 40 acres in Los Angeles County.

2. Of the lands described in paragraph 1, the S½NW¼SW¼ and N½N½ SW¼SW¼ are withdrawn for a Forest Service Administrative Site by Secretarial Order dated November 25, 1907, and are not subject to disposition under the public land laws, including the mining and mineral leasing laws.

3. At 10 a.m. on July 13, 1982, the following land shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on July 13, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

San Bernardino Meridian

T. 4 N., R. 9 W.,
Sec. 8, N½N½SE¼SW¼.

The area described contains 10 acres.

4. At 10 a.m. on July 13, 1982, the land will be open to location for nonmetalliferous minerals under the United States mining laws. The land has been and continues to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the Bureau of Land Management, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 7, 1982.

[FR Doc. 82-16336 Filed 6-16-82; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6337]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESS: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 3429, Bethesda, Maryland 20034, Phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (200) 287-0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program

(NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance—flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
West Virginia: Putnam and Kanawha	Nitro, city of	5400618	Apr. 21, 1975, emergency, Apr. 15, 1982, regular, Apr. 15, 1982, suspended, May 18, 1982, reinstated.	Mar. 15, 1974, and Oct. 17, 1975.
Minnesota: Freeborn	Albert Lea, city of	2701358	Oct. 17, 1974, emergency, May 3, 1982, regular, May 3, 1982, suspended, May 19, 1982, reinstated.	June 19, 1974, and Feb. 20, 1976.
Texas: Parker	Unincorporated areas	480520	Jan. 22, 1976, emergency, May 11, 1982, withdrawn.	Dec. 27, 1977.
Iowa: Black Hawk	Janesville, city of	190023B	May 28, 1982, emergency	Dec. 28, 1973, Jan. 16, 1976, and Oct. 31, 1978.
Maryland: Wicomico	Willards, town of	240082A	do	Jan. 21, 1977.
Michigan:				
Huron	Caseville, village of	260677A	do	Aug. 5, 1977.
Macomb	Center Line, city of	260724 new	do	
Saginaw	Chesaning, township of	260500	do	Oct. 8, 1976.
Ottawa	Coopersville, city of	260491	do	Sept. 26, 1975.
Clinton	Elsie, village of	260725 new	do	Do.
Wayne	Huron, township of	26545A	do	June 30, 1978.
Clinton	St. Johns, city of	260726 new	do	Do.
Shiawassee	Vernon, village of	260524	do	July 11, 1975.
Pennsylvania:				
Westmoreland	Cook, township of	422186A	do	Sept. 20, 1974, and Nov. 19, 1976.
Do	Bell, township of	422185A	do	Sept. 13, 1974, and Sept. 24, 1976.
Tennessee: Robertson	Unincorporated areas	470158A	do	Jan. 6, 1978.
Texas: Brazoria	Bailey's Prairie, town of	480066A	do	Nov. 8, 1974.
Kansas: Sedgwick	Park City, city of	200953 new	do	Do.
Michigan: St. Joseph	Mendon, township of	260513A	do	Mar. 25, 1977.
Minnesota: Freeborn	Albert Lea, city of	270135B	Oct. 17, 1974, emergency, May 3, 1982, regular, May 3, 1982, suspended, May 19, 1982, reinstated.	June 7, 1974, and Feb. 20, 1976.
Texas:				
Baylor	Unincorporated areas	481207	May 28, 1982, emergency	Do.
Denton	Double Oak, town of	481516A	do	June 19, 1979.
California:				
Tehama	Red Bluff, city of	065053D	May 17, 1982, suspension withdrawn	June 7, 1974, June 11, 1976, Dec. 28, 1979, and Dec. 28, 1979.
San Mateo	Redwood City, city of	060325B	do	June 28, 1974, and Jan. 2, 1976.
Siskiyou	Unincorporated areas	060362B	do	Nov. 15, 1977.
Yuba	do	060427B	do	Sept. 6, 1974, and Sept. 6, 1977.
Connecticut: Hartford	Marlborough, town of	090148B	do	July 19, 1974, and Dec. 3, 1976.
Florida:				
Hendry	Unincorporated areas	120107B	do	July 21, 1978.
Citrus	Inverness, city of	120348B	do	Jan. 13, 1978.
Taylor	Perry, city of	120303C	do	Mar. 15, 1974, June 4, 1976, and Mar. 11, 1977.
Gulf	Wewahitchka, city of	120100B	do	Aug. 9, 1974, and Jan. 9, 1976.
Georgia: Liberty	Flemington, city of	130124B	do	Oct. 18, 1974, and Oct. 17, 1975.
Illinois:				
Whiteside	Fulton, city of	170690B	do	May 31, 1974, and Feb. 14, 1975.
Scott	Naples, village of	170609B	do	Apr. 2, 1976, and Jan. 9, 1974.
Indiana: Warrick	Newburgh, town of	180276B	do	Nov. 2, 1973, and June 11, 1976.
Iowa:				
Crawford	Denison, city of	190099C	do	May 10, 1974, Feb. 6, 1976, and Dec. 24, 1976.
Mills	Glenwood, city of	190203B	do	June 28, 1974, and Dec. 6, 1975.
Shelby	Kirkman, city of	190200A	do	Aug. 22, 1975.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Massachusetts:				
Plymouth	Bridgewater, town of	250260B	do	July 19, 1974, and Sept. 24, 1976.
Worcester	Templeton, town of	250339B	do	Aug. 2, 1974, and Sept. 10, 1976.
Michigan:				
Shiawassee	Caledonia, township of	260300A	do	Jan. 3, 1975.
Clinton	Watertown, charter township of	260291B	do	Oct. 18, 1974, and May 28, 1976.
Minnesota:				
Hennepin	Brooklyn Park, city of	270152B	do	Apr. 12, 1974, and July 25, 1975.
Faribault	Unincorporated areas	270899B	do	July 22, 1977.
Anoka	Lino Lakes, city of	270015B	do	Dec. 13, 1974, and May 28, 1976.
Rock	Luverne, city of	270411B	do	Feb. 15, 1974, and May 28, 1976.
Washington	Unincorporated areas	270499B	do	June 3, 1977.
Missouri: Perniscot	do	290779B	do	Apr. 14, 1981.
New Jersey: Bergen	Rockleigh, borough of	340071A	do	Jan. 3, 1975.
New Hampshire: Rockingham	Portsmouth, city of	330139B	do	July 19, 1974, and July 23, 1976.
New York: Monroe	Rush, town of	360432B	do	Mar. 8, 1974, and July 9, 1976.
Ohio:				
Licking	Granville, village of	390330B	do	June 7, 1974, and May 28, 1976.
Do	Johnstown, village of	390334B	do	Apr. 12, 1974, and Apr. 2, 1976.
Oregon: Linn	Tangent, city of	410147B	do	June 25, 1976, and June 6, 1978.
Pennsylvania:				
Beaver	Beaver Falls, city of	420105B	do	Feb. 22, 1974, and Feb. 20, 1976.
Do	Big Beaver, borough of	422307B	do	Jan. 31, 1975, and Dec. 26, 1975.
Chester	Coatesville, city of	420274B	do	May 31, 1974, and Apr. 30, 1976.
Montgomery	Upper Salford, township of	421918A	do	Dec. 6, 1974.
Tennessee: Wilson	Mt. Juliet, city of	470290A	do	July 18, 1975.
Texas:				
Tarrant	Dalworthington Gardens, town of	481013A	do	Aug. 6, 1976.
Webb	Laredo, city of	480651B	do	Feb. 4, 1977.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: June 1, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-16231 Filed 6-16-82; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 385

[BMCS Docket No. MC-102; Amdt. No. 81-4]

Federal Motor Carrier Safety Regulations; Motor Carrier Safety Ratings

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This regulation anounces the criteria used by the FHWA in determining a motor carrier's safety rating. The basic criteria in the regulations have been in effect since 1967. Incorporating these criteria in the Federal Motor Carrier Safety Regulations is intended to provide full disclosure to the motor carrier industry and other interested parties. In addition, this regulation provides carriers and other parties access to the safety ratings and establishes an appeal procedure by which carriers may attempt to have their ratings changed.

EFFECTIVE DATE: July 19, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. James R. Jeglum, Bureau of Motor Carrier Safety (BMCS), (202) 426–1724; or Mr. Gerald M. Tierney, Office of the Chief Counsel, (202) 426–0346, Federal Highway Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration (FHWA) is required by law to investigate and report the safety status of each applicant seeking operating authority before the Interstate Commerce Commission (ICC).

In response to a petition from a motor carrier, a Notice of Proposed Rulemaking (NPRM) which was published on November 23, 1979, at 44 FR 67193, presented the factors used by the FHWA in determining the motor carrier safety ratings that are reported to the ICC in connection with applications for operating authority. The NPRM asked for comments concerning the factors being used by the FHWA. Comments on the NPRM were filed by nine parties.

The commenters raised a number of issues concerning the factors and procedures used by FHWA's Bureau of Motor Carrier Safety (BMCS) in rating carriers. The major criticisms were the lack of objectivity in the factors, the lack of notice to the carriers of their safety ratings, and the lack of a procedure through which a carrier could appeal its safety rating and present evidence to have that safety rating changed. Other issues addressed involved the insufficient information classification, the confidentiality of the ratings assigned to carriers, and the use of State reports in determining a carrier's rating.

Several commenters stated that the proposed regulation was not specific enough in defining the factors that would be used to establish a safety rating. Most of the commenters would prefer more precise and objective standards for evaluating a carrier's safety rating. Examples suggested include considering the carrier's accident record based on the number of miles driven, the amount of dollars in property damage, and the determination of whether the accidents were preventable. They would also like to see such factors as size of carrier and geographic area of operation considered by the BMCS in arriving at a carrier's safety rating.

In response to these comments, the final rule explains the factors considered in determining a safety rating. The factors in § 385.3 of the final rule include identification of the

documents that will be considered in the evaluation process and the rule explains how the BMCS will use that data in judging the carrier's safety fitness. For example, in considering violations discovered during safety management audits in the past 5 years, the regulation explains that the safety record of the carrier under consideration will be compared to the records of similar carriers. The same is true of the factor based upon the number of violations discovered during driver equipment compliance reviews in the past 5 years. In selecting carriers for comparison with the carrier under consideration, the regulation requires the BMCS to utilize certain factors in determining which carriers are comparative. The factors considered are similarity of commodity being transported, type of operation, geographic area served, size of the carrier by number of power units operated or drivers used, or regular/irregular route. In determining comparative carriers, the BMCS will attempt to utilize as many of these factors as possible. In some cases, however, it may be necessary to use less than all of these factors because of the lack of comparative carriers that would be identified if all factors were utilized. Comparative data will also be utilized in evaluating a carrier's accident record over the past 5 years.

A new section dealing with the falsification of safety records has been created. A separate category was created for this type of violation because of the seriousness of such falsification. Compliance with the Federal Motor Carrier Safety Regulations is monitored through the recordkeeping requirements in the regulations. A carrier who fails to keep accurate and complete records can easily conceal violations that it is committing. For example, a carrier who permits or requires the falsification of logs usually is concealing hours of service violations by its drivers.

The final rule requires the BMCS to consider falsification on the basis of the ratio of documents falsified to the number of documents checked for falsification and the extent of the carrier's operations covered by the investigation. In this way, the carrier would not be automatically given an unsatisfactory safety rating because of a few isolated falsification violations.

The rating process can be hindered if a carrier fails to submit a report required by regulation. The regulation also addresses this potential problem by making this a separate factor for evaluation. Refusal to submit records for inspection and copying when lawfully requested makes it impossible for the FHWA to assess the carrier's compliance.

This regulation, by providing a comparative basis in the evaluation, makes the evaluation process as objective as possible.

The various factors listed in the regulation must be weighed by the BMCS in arriving at the carrier's safety rating. The publication of these factors along with the review process provided in the regulation will ensure that carriers are treated equally, and that the BMCS rationale for the assignment of a safety rating is fully explained and documented.

The issue of a procedure for reviewing the safety ratings assigned to carriers was raised by several of those who commented on the NPRM. The BMCS agrees with those commenters that there should be a procedure whereby a carrier could question its safety rating and be allowed to introduce additional evidence in an attempt to have the safety rating changed. The regulation contains two sections dealing with notification and review of ratings.

The first section states that a carrier may obtain its safety rating by writing to the BMCS. It would be impracticable for the BMCS to notify a carrier each time a safety rating is sent to the ICC because of the thousands of applications that are received each year. The notification procedure allows a carrier to write the BMCS to find out what its rating is at the time the request is made.

The second section allows a carrier to petition the Director, BMCS, for a review of its rating. The petition may be accompanied by any evidence the carrier has to show that its safety rating should be changed. The Director may request the carrier to attend a conference to discuss the safety rating or to submit additional data.

One commenter expressed concern about the procedure by which the BMCS reports safety ratings; another commenter requested that safety ratings be kept confidential; and one commenter alleged that the safety rating procedures were too secretive.

The BMCS has decided that it is in the best interest of all carriers and the general public to make safety ratings available to anyone who requests a rating in writing. The regulations specifies how a rating may be obtained.

The final rule also provides that the ICC will be permitted access to the automated BMCS Management Information System to obtain safety ratings.

This system enables the ICC to obtain a rating through remote computer terminals by entering the ICC-assigned docket number. Written confirmation of all "unsatisfactory," "conditional," or "insufficient information" ratings will be supplied to the ICC upon telephone request.

Several commenters addressed the "insufficient information" rating. One alleged that BMCS often does not have sufficient information to assign a rating while two others contended that the insufficient information rating should be deleted. The Bureau will have sufficient information, either in the form of Federal or State records, about an applicant in most cases. In these instances where there is not enough information for a rating the Bureau must have a means of communicating that fact. The "insufficient information" rating provides that. In order to eliminate a situation where a carrier would be rated "insufficient information" for a prolonged period, the Bureau will change the rating to "satisfactory" after one year if no adverse information about that carrier is received.

Two commenters expressed concern about the use of State reports in evaluating a carrier's safety performance. Those commenters pointed out the possibility of varying degrees of enforcement activity among the States and concluded that a rating based on State reports may not be accurate.

The BMCS does not agree with the premise that State safety data should not be used. Carriers operating in the same geographical areas are subject to the enforcement policies of the same States. The carriers would be treated equally because their safety records would be compared with similar carriers operating in the same geographic area. In several safety related areas, State data are the only reliable sources of information, and this information will be considered in the rating process.

Many States have adopted, in whole or in part, regulations relating to driver qualification, hours of service, or standards of equipment that are similar or identical to Federal safety requirements. At the present time, a demonstration project funded by the Federal Government is underway in Alaska, Idaho, Michigan, and Utah. These States are using State enforcement personnel trained by BMCS personnel to perform driver and vehicle safety inspections.

The results of these inspections are made available to the BMCS and will be used in formulating safety ratings for carriers operating in or through those States. Data from other States will be used as it becomes available.

One of the commenters requested that the same criteria be applied to applications for permanent authority as are applied to applications for emergency temporary or temporary authority. The BMCS agrees that this should be the case and will utilize these criteria in determining whether to intervene before the ICC on applications for permanent authority. The definition of a "conditional" rating has been slightly changed to further define the circumstances when that rating, rather than an "unsatisfactory" rating, should be given. This change reflects current practice and does not introduce a material change to the definition.

The question of economic impact of this regulation was raised by one of the commenters. The BMCS has had a motor carrier safety rating procedure in effect since 1967. This regulation places no new or additional burdens upon carriers. This regulation formalizes and clarifies the factors considered and procedures that have been used to notify the ICC and the general public concerning the reports of the safety fitness of carriers. Recordkeeping and reporting requirements under this regulation apply solely to the BMCS.

For the foregoing reasons, the BMCS has determined that this action is neither a major rule under Executive Order 12291 nor a significant regulation under the Department of Transportation's regulatory policies and procedures. Under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation is available for inspection in the public docket and may be obtained by contacting Mr. Gerald J. Davis of the Program Office at the above address.

List of Subjects in 49 CFR Part 385

Motor carriers—safety ratings.

In consideration of the foregoing, Title 49, Code of Federal Regulations, Subtitle B, Chapter III is amended by establishing a new Part 385 as set forth below.

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on: June 7, 1982.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety.

PART 385—SAFETY RATINGS

Sec.

385.1 Definition of motor carrier safety rating.
385.3 Factors to be considered in determining ratings.
385.5 Determination of safety ratings.
385.7 Notification of safety ratings.
385.9 Review of safety ratings.

Authority: 49 U.S.C. 304, 1653, 1655; 49 CFR 1.48 and 301.60.

§ 385.1 Definition of motor carrier safety rating.

(a) This part prescribes procedures that apply to the Federal Highway Administration's Bureau of Motor Carrier Safety (BMCS) when assigning a safety rating to a motor carrier seeking operating authority before the Interstate Commerce Commission (ICC).

(b) The motor carrier will be assigned one of the following ratings:

(1) Satisfactory—Records indicate no evidence of substantial noncompliance with safety requirements.

(2) Unsatisfactory—Records indicate evidence of substantial noncompliance with safety requirements.

(3) Conditional—Records indicate that the carrier was recently determined to have been in noncompliance with one or more safety requirements, but has had a satisfactory safety record in the past, or has agreed to take steps to bring its operations into compliance. Failure to improve compliance with safety requirements will result in an unsatisfactory rating.

(4) Insufficient information—There is no current information available to BMCS upon which to base a rating. This rating will be changed to satisfactory after one year from the date the rating is assigned if it has not, within that time, been changed to unsatisfactory or conditional.

§ 385.3 Factors to be considered in determining ratings.

In determining a carrier's safety rating, the following factors will be considered:

(a) Violations discovered during BMCS safety management audits in the past 5 years. In considering this factor, the BMCS will base its evaluation on the ratio of violations discovered to the extent of the carrier's operation audited and the number of drivers and vehicles checked for compliance, and on comparisons of the applicant's record with the records of similar carriers and national data.

(b) Violations discovered during BMCS driver equipment compliance reviews in the past 5 years. In considering these violations, the BMCS will determine and consider the number of violations per inspection and the number of out-of-service violations per inspection, in comparison with the records of similar carriers and the national average.

(c) The carrrier's improvement or lack of improvement over the last 5 years. In considering the improvement, the BMCS will consider the carriers' performance and the evaluation factors listed in paragraphs (a) and (b) of this section.

(d) Federal violations involving falsification of required safety records. The BMCS will evaluate such violations on the basis of the ratio of documents falsified to the number of documents checked for falsification and the extent of the carrier's operations checked.

(e) Federal violations involving failure to submit required reports or records.

(f) The recommendation of the FHWA field staff based on their consideration of factors (a) through (e) of this section.

(g) The carrier's accident record during the previous 5 years. In considering this factor, the BMCS will examine the carrier's accident ratio per million miles in comparison to the accident ratios of similar carriers.

(h) Violations of State safety-related statutes or regulations when the State has identical or similar safety requirements to the Department of Transportation's safety and hazardous materials regulations.

§ 385.5 Determination of safety ratings.

(a) Ratings will be determined by the Director, Bureau of Motor Carrier Safety.

(b) In determining comparative carriers, the Director will pick carriers based on one or more of the following identifiers: commodity transported, type of operation (ICC-Common, ICC-Contract, exempt, private), geographic area served, and size of carrier by number of power units operated or drivers used on regular/irregular route.

§ 385.7 Notification of safety ratings.

(a) Ratings will be available to the ICC by remote computer terminals through entry of the motor carrier's ICC assigned docket number. If the rating is "satisfactory" no written confirmation will be furnished. If the ratings is "conditional," "unsatisfactory," or "insufficient information," written confirmation will be furnished to the ICC upon request.

(b) Carriers will not be furnished notices of their safety ratings from the BMCS, except as provided by paragraph (c) of this section.

(c) Anyone wishing to obtain a carrier's safety rating from the BMCS must submit a written request to the BMCS identifying the carrier by name, principal office address, and ICC-assigned docket number. The BMCS will provide a written response to each request within ten business days. The BMCS will not respond to nonwritten requests for carriers' safety ratings.

Requests must be addressed to the Director, Bureau of Motor Carrier Safety, Federal Highway Administration, HMC-12, Washington, D.C. 20590.

§ 385.9 Review of safety ratings.

(a) Any carrier may petition the Director, BMCS, for a review of its safety rating. The petition for review must be accompanied by any data the carrier is relying on as the basis for its petition for a change in safety rating.

(b) The Director shall notify the carrier in writing of a decision on a petition for review of the safety rating.

(c) In reviewing the carrier's safety rating, the Director may request the carrier to submit additional data and attend a conference to discuss the safety rating. Failure to provide information in response to any reasonable or lawful request, or failure to atttend the conference will result in dismissal of the petition for a change in the carrier's safety rating.

[FR. Doc. 82-16178 Filed 6-16-82; 8:45 am]
BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 70-07; Notice 14]

Federal Motor Vehicle Safety Standards; Fields of Direct View

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: In response to a petition for reconsideration from the Center for Auto Safety, the agency sought comments on its June 22, 1981 decision (46 FR 32254) to revoke Standard No. 128, *Fields of Direct View*. Based on its reconsideration of the issue, the agency has concluded that its decision to revoke the standard was necessary and appropriate.

DATE: The decision announced in this notice is effective June 17, 1982.

FOR FURTHER INFORMATION CONTACT: Courtney M. Price, Associate Administrator for Rulemaking, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-1810).

SUPPLEMENTARY INFORMATION: On June 22, 1981 (46 FR 32254), the agency revoked Standard No. 128, *Fields of Direct View* in response to nine petitions for reconsideration. On September 21, 1981 (46 FR 46804), in response to a July 22, 1981, petition for reconsideration from the Center for Auto Safety (CFAS) and in the exercise of its administrative discretion, the agency announced it was reconsidering its June 22 decision and sought public comment on the CFAS petition.

This notice reaffirms the agency's June 22, 1981 decision revoking Standard No. 128. The agency's decision is based on its evaluation of all the data and comments submitted to the rulemaking dockets for Standard No. 128 and data contained in NHTSA testing and research. Significant comments submitted in response to the September 21 notice are addressed below.

Procedural Issues

In its comments on the agency's September 1981 notice, CFAS did not challenge the procedural validity of that notice, but did once again question the procedural validity of the agency's June 1981 notice revoking Standard No. 128. NHTSA regards this question to be moot.

CFAS originally questioned the validity of the June 1981 revocation in its July 1981 petition for reconsideration. In August 1981, CFAS sued the agency alleging that the procedure followed in the revocation of the standard violated the Vehicle Safety Act and the APA. Subsequent to issuance of the September notice, CFAS voluntarily requested and the court granted a dismissal of the suit. CFAS said in its October 1981 motion to dismiss the suit that it sought dismissal because the procedural issues it raised concerning the revocation of Standard No. 128 were rendered moot by the September notice.

Revocation of Standard

Six parties filed comments in response to the agency's current notice. Each of the commenters, except for CFAS, supported the agency's decision to revoke Standard No. 128. CFAS contends that the agency has provided no "satisfactory explanation" for its decison to revoke Standard No. 128. It claims that the agency merely "recited petitioner's objection to several aspects of the final rule," objections which the Center said the agency had previously rebutted in the final rule.

Contrary to CFAS's claims, the agency's June 22, 1981 notice revoking the standard discussed each of the issues raised in the nine original petitions for reconsideration and explained the decision in terms of the new data and information provided in those petitions. CFAS presented no new data or information in its comments urging the agency to reinstate the standard. All of the material presented by CFAS in the present proceeding has been previously considered by the agency in deciding to revoke the standard.

As discussed in the June notice, the agency has always recognized that the safety benefits of the final rule were minimal; in part, because most vehicles already meet many of the requirements set in the standard. The agency originally believed that promulgation of the standard was appropriate because the concededly minor benefits potentially attributable to the standard could be achieved with minimal societal costs. The information provided in the nine petitions seeking revocation of the standard indicated that the benefits predicted by the agency were either incorrect or were not supported by sufficient research. In addition, the agency's assumptions were alleged to understate actual costs. Finally, the agency had determined that some of the objectives of the standard could be achieved in other ways. As explained more fully below, the agency decided to revoke the standard based on all these considerations.

Forward Obstructions

The purpose of the requirement on forward obstructions was to reduce obstructions to the driver's field of view caused by such vehicle structure as overly large "A" pillars, the forwardmost roof supports in a car. The limits adopted in the standard, based on surveys of vehicles conducted in 1971, 1974, and 1978, were designed to adopt current design practices. Since, based on those surveys, the agency believed that most vehicles met the limits adopted in the standard, it concluded that the safety benefits of the forward obstruction requirements would be minor and the costs required to meet the standard also would be small.

In their petitions for reconsideration, manufacturers presented information indicating that the agency's conclusions about the current level of compliance and the cost of the standard were invalid. Their information showed that the difficulty of meeting the obstruction limits is especially acute in smaller, fuel-efficient vehicles. The use of more aerodynamic designs to improve fuel efficiency results in the "A" pillar being slanted back, which increases the apparent width of the obstruction. The manufacturers also said that because of production line variations, they would have to incur substantial expense to redesign more vehicles than anticipated by the agency. The manufacturers, however, indicated that they are designing or intend to design their passenger cars in general compliance with the limits set on forward

obstructions. In most cases, the manufacturers are using, or intend to use, a design criterion of 6 degrees, the requirement adopted by the agency, as the maximum obstruction limit for the "A" pillar.

CFAS objects that without a standard in place, there is no inducement for manufacturers to design vehicles meeting the obstruction limits of the standard. In addition, CFAS argues that the need to provide adequate visibility is particularly important for the growing number of smaller vehicles, which are less crashworthy than larger vehicles. Finally, CFAS argues that the cost of redesigning can be reduced by providing additional leadtime.

One important consideration in the agency's decision to rescind the standard was that the limits on forward obstruction were based on existing vehicle designs. The amount of obstruction in those vehicles does not seem to present an unreasonable risk.

As previously mentioned, manufacturers are already meeting or voluntarily adopting the forward obstruction limits set by the agency. Contrary to the CFAS claim, reliance on manufacturer intentions for future design is a reasonable policy in this instance. Manufacturers have already demonstrated by the prior practice that they are closely adhering to obstruction limits set by the standard. Since manufacturers already meet or are voluntarily moving toward meeting the requirements of the standard, there is no need to impose unnecessary regulatory burdens on them by keeping the standard in place.

Rearward Obstruction

The purpose of the rearward obstruction limit was to prevent obstructions to the driver's field of view caused by such vehicle structures as overly large "C" pillars, the rearmost roof support in a car. In setting the requirement, the agency knew that although most vehicles already complied, a few vehicles would have to be redesigned. In their petitions for reconsideration, Ford, General Motors and Volkswagen said that the limit would require substantial and costly redesign that was not anticipated by the agency.

To achieve the goal of providing adequate visual information, while minimizing costs to consumers and manufacturers, the agency decided to address the issue of providing adequate rearward visual information during its consideration of proposed changes to Standard No. 111, *Rearview Mirrors* (43 FR 51657). Use of a convex mirror, which provides a much wider field of view than a conventional plane mirror, on the passenger side of the vehicle apparently can produce many of the same benefits as the proposed "C" pillar obstruction limits. Several manufacturers voluntarily have been using passenger side convex mirrors, either as optional or standard equipment, on many of their vehicles.

Luminous Transmittance

The purpose of the luminous transmittance requirement was to increase the amount of light transmitted through the vehicle's windshield so that the driver can more easily see objects on the roadway ahead. As CFAS correctly pointed out, the agency believes that inadequate light transmittance resulting from windshield tinting may be a factor in nighttime crashes. The unresolved issues raised by the original petitions for reconsideration are what is the precise effect of tinted windshields on nighttime accident rates and what effect, if any, would the light transmittance requirements adopted by the agency have on reducing those accidents.

Accident data and research results presented by GM and others in their petitions for reconsideration questioned the relationship between accidents and tinted windshields. In addition, they argued that the small difference in light transmittance between current tinted windshields and tinted windshields meeting the standard would not aid drivers in spotting dangers earlier. Based on its review of the information presented by the manufacturers, the agency concluded that additional research was necessary to resolve the questions about the safety benefits and therefore it decided to withdraw the requirement.

Cost Information

CFAS criticized the agency's analysis of the manufacturers' information on the costs of complying with Standard No. 128. CFAS alleged that the agency did not make an assessment of whether the costs were incremental redesign costs attributable to the standard. In commenting on CFAS's statement, GM and Ford both reaffirmed their prior cost estimates and stated that the cost estimates were incremental redesign costs solely attributable to the requirements of the standard.

Contrary to CFAS's statement, the agency's analysis was based on an examination of the accuracy of the manufacturer's claims concerning the costs attributable to redesigning their vehicles to comply with the standard. The analysis examined the tooling costs associated with design changes to the A and C pillars needed to meet the standard. Based on publicly available cost data developed for the agency, the agency verified that the average worst case cost for modifying the A and C pillars and adjacent components was slightly over $20 million per vehicle line, the approximate estimate provided by GM and Ford. CFAS presented no cost data or other information to indicate that the agency's assessment of the tooling cost is inaccurate. The agency therefore reaffirms its prior evaluation which found that the manufacturer estimates of the cost attributable to the standard appear reasonable.

Conclusion

For the reasons stated above, the agency concludes that its decision to rescind Standard No. 128 was necessary and appropriate. The CFAS request to reinstate the standard is therefore denied.

List of Subjects in 49 CFR Part 571:

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on June 1, 1982.

Raymond A. Peck, Jr.,

Administrator.

[FR Doc. 82-16279 Filed 6-16-82; 8:45 am]

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49 CFR Part 575

[Docket No. 25; Notice 46]

Consumer Information Regulations Uniform Tire Quality Grading

Note.—This document originally appeared in the **Federal Register** of June 15, 1982. It is reprinted in this issue to meet requirements for publication on the Monday/Thursday schedule assigned to the Department of Transportation.

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Interim final rule and request for comments.

SUMMARY: This notice makes several technical amendments to the test procedures in the regulation on Uniform Tire Quality Grading (UTQG). The UTQG regulation specifies that the tire rim size and tire loading used in testing individual tires are to be determined by using Table 1, Appendix A of Federal Motor Vehicle Safety Standard No. 109, New pneumatic tires. Since the portion of Table 1, Appendix A relied upon by the UTQG regulations was deleted in a

previous agency rulemaking, effective June 15, 1982, reliance upon that Appendix will no longer be appropriate after that date. This notice replaces the references to Appendix A with equivalent methods for determining rim size and tire loading.

DATES: This amendment is effective June 15, 1982. Comments must be received on or before August 16,1982.

ADDRESS: Comments should refer to the docket number set forth above and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Docket hours are 8 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dr. F. Cecil Brenner, Office of Automotive Ratings, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–1740).

SUPPLEMENTARY INFORMATION: The Uniform Tire Quality Grading (UTQG) regulation (49 CFR 575.104) requires that manufacturers and brand name owners of passenger car tires provide consumers with information on the treadwear, traction and temperature resistance of their tires. This information is to be generated in accordance with procedures specified in the regulation.

Two parameters specified in the test procedures are the proper test rim width for each tire, and the load under which the tire is to be tested. The UTQG regulation refers to Appendix A of Federal Motor Vehicle Safety Standard No. 109 (FMVSS 109) for the determination of rim size to be used for testing purposes. Table I of Appendix A provides a complete listing of tire sizes available in this country and for each size indicates the proper test rim size and maximum loads at various tire pressures.

The UTQG regulation also refers to Appendix A of FMVSS 109 for the determination of tire load. The tire load for temperature resistance testing is the load specified in Appendix A of FMVSS 109 for the tire pressure listed in Table I of the UTQG regulation. Thus, load is currently determined by obtaining the tire pressure from Table I of the UTQG regulation and finding the load for that pressure level in Appendix A. The tire load for treadwear and traction testing is determined in the same way, except that the load level found in Appendix A is multiplied by 85 percent.

Beginning on June 15, 1982, reliance upon Appendix A of FMVSS 109 to determine rim size and tire load for UTQOG testing will no longer be possible. On that date, the agency's amendment (December 17, 1981; 46 FR 61473) deleting Table I of Appendix A will become effective. As FMVSS 109 is currently written, the tire manufacturers and brand name owners must submit the rim size information to NHTSA for incorporation in Table I. Under the amendment, they will be able to satisfy FMVSS 109 by either securing the incorporation of the information in a publication of a standardization organization like the Tire and Rim Association or one of its foreign counterparts or by submitting it to the agency, their dealers, and others who request it, without the need for the information's incorporation in any other document.

As to tire load information, the tire manufacturers and brand name owners must currently calculate loads for pressure levels ranging from 16 to 40 pounds per square inch in most cases and submit the information to NHTSA for incorporation in Table I. After June 14, they need determine the load only for a single pressure level, the maximum one. The responsibilities of the manufacturers and brand name owners under amended FMVSS 109 regarding load information may be satisfied in the same fashion as their responsibilities regarding rim size.

The deletion of Table I of Appendix A was intended to reduce an unnecessary regulatory burden placed by FMVSS 109 on the tire industry and the agency. The action was not intended to make any change in the UTQG test procedures. However, the deletion of Table I of Appendix A necessitates amending the UTQG regulation so that rim size and tire load can be determined without reference to that appendix.

This notice provides the means for making those determinations. The rim size to be used for UTQG testing is the same size specified by the tire manufacturer or brand name owner in a publication of a standardization association or in a submission directly to the agency. This provision does not in any way change the rim size used for UTQG testing. Instead, it simply changes the source of obtaining the rim size information.

As to tire loading, the UTOQ testing will henceforth rely upon mathematical calculation involving a tire's maximum load, as molded on its sidewall, instead of relying upon information submitted by the manufacturer or brand name owner to any organization or agency. Under the new procedure, the maximum load is multiplied by a factor, ranging from .851 to .867 depending on the tire's maximum inflation pressure, and the result is rounded. The rounded result is used for temperature resistance testing. For treadwear and traction testing, the rounded result is multiplied by 85 percent. In most instances, this procedure produces the same load as is currently obtained by reference to Table I of Appendix A. In those instances in which the load is different, the degree of difference is so slight that the difference will not have any practical effect on the UTQG test results.

The agency finds good cause for issuing these amendments without prior notice and comment. The agency believes that prior notice and comment are unnecessary. The revisions are technical and editorial in nature. In most instances, the revisions produce no changes in the procedures under which tires are tested for UTQG purposes. In the few instances in which there will be a change, the change is so slight as to be substantively insignificant. Although the agency has concluded that prior notice and comment are unnecessary, it has decided to go beyond the minimum requirements of the Administrative Procedures Act and provide a 60-day comment period on these amendments. For the same reasons set forth above and to permit continued implementation of the UTQG regulation, the agency finds good cause for making the revisions effective immediately.

Since this proceeding is merely intended to allow the continued implementation of the UTQG regulation without any change in the manner of implementation, NHTSA has determined that this proceeding does not involve a major rule within the meaning of Executive Order 12291 or a significant rule within the meaning of the Department of Transportation regulatory procedures. Further, there are virtually no economic impacts of this action so that preparation of a full regulatory evaluation is unnecessary.

The Regulatory Flexibility Act does not require the preparation of flexibility analyses with respect to rulemaking proceedings, such as this one, for which prior notice and comment is not required by the Administrative Procedures Act. If the requirement for preparation of such analyses were applicable, the agency would certify that this action would not have a significant economic impact on a substantial number of small entities. As noted above, this action will make essentially no change in the implementation of the UTQG regulation.

NHTSA has concluded that this action will have essentially no environmental consequences and therefore that there will be no significant effect on the quality of the human environment.

Interested persons are invited to submit comments on the agency's action announced above and on any other

topics relevant to this notice. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary argument in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. section 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is required is in fact confidential within the meaning of section (b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items have previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, it is recommended that interested persons continue to examine the docket for new material. Those persons desiring to be notified upon receipt of their comments in the rulemaking docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 575

Consumer protection, Labeling, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

(Secs. 103, 112, 119, 201, 203, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407, 1421, 1423); delegations of authority at 49 CFR 1.50)

Issued on June 11, 1982.

Raymond A. Peck, Jr.,
Administrator.

PART 575—CONSUMER INFORMATION REGULATIONS

In consideration of the foregoing, 49 CFR 575.104 is amended as follows:

1. Section 575.104(e)(1)(v) is revised to read as follows:

§ 575.104 Uniform tire quality grading standards.

* * * * *

(e) * * *
(1) * * *

(v) On each convoy vehicle, all tires are mounted on identical rims of design or measuring rim width specified for tires of that size in accordance with 49 CFR 571.109, § 4.4.1 (a) or (b), or a rim having a width within −0 to +0.50 inches of the width listed.

* * * * *

2. Section 575.104(e)(2)(iii) is revised to read as follows:

* * * * *

(e) * * *
(2) * * *

(iii) Load each vehicle so that the load on each course monitoring and candidate tire is 85 percent of the test load specified in § 575.104(h).

* * * * *

3. The first sentence of § 575.104(f)(2)(i)(B) is revised to read as follows:

* * * * *

(f) * * *
(2) * * *
(i) * * *

(B) Mount each tire on a rim of design or measuring rim width specified for tires of its size in accordance with 49 CFR 571.109, § 4.4.1 (a) or (b), or a rim having a width within −0 to +0.50 inches of the width listed.

* * * * *

4. The first sentence of § 575.104(f)(2)(viii) is revised to read as follows:

* * * * *

(f) * * *
(2) * * *

(viii) Prepare two candidate tires of the same construction type, manufacturer, line, and size designation in accordance with paragraph (f)(2)(i) of this section, mount them on the test apparatus, and test one of them according to the procedures of paragraph (f)(2)(ii) through (v) of this section, except load each tire to 85% of the test load specified in § 575.104(h).

* * * * *

5. Section 575.104(g)(1) is revised to read as follows:

* * * * *

(g) * * *

(1) Mount the tire on a rim of design or measuring rim width specified for tires of its size in accordance with 49 CFR 571.109, § 4.4.1 (a) or (b) and inflate it to the applicable pressure specified in Table 1 of this section.

* * * * *

6. Section 575.104(g)(6) is revised to read as follows:

* * * * *

(g) * * *

(6) Press the tire against the test wheel at the load specified in § 575.104(h).

* * * * *

7. Section 575.104 is amended by adding a new paragraph (h) immediately after Table 1 in paragraph (g), reading as follows:

* * * * *

(h) *Determination of test load.* (1) To determine test loads for purposes of paragraphs (e)(2)(iii), (f)(2)(viii) and (g)(6), follow the procedure set forth in paragraphs (2) through (5) below.

(2) Determine the tire's maximum inflation pressure and maximum load rating both as specified on the tire's sidewall.

(3) Determine the appropriate multiplier corresponding to the tire's maximum inflation pressure, as set forth in Table 2.

(4) Multiply the tire's maximum load rating by the multiplier determined in paragraph (3). This is the tire's calculated load.

(5) Round the product determined in paragraph (4) (the calculated load) to the nearest multiple of ten pounds or, if metric units are used, 5 kilograms. For example, 903 pounds would be rounded to 900 and 533 kilograms would be rounded to 535. This figure is the test load.

TABLE 2

Maximum inflation pressure	Multiplier
32 psi	.951
36 psi	.970
40 psi	.983
240 kPa	.966
280 kPa	.987
300 kPa	.994

[FR Doc. 82-16200 Filed 6-14-82; 10:23 am]
BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1136

[Ex Parte MC 122 (Sub-1)]

Implementation of Intercorporate Hauling Reform Legislation

AGENCY: Interstate Commerce Commission.

ACTION: Rule related notice; notice of court action.

SUMMARY: This document gives notice of court action and adjustments in application of Compensated Intercorporate Hauling (CIH) regulations required by court action. *American Trucking Ass'n., Inc.* v. *I.C.C.*, affirmed in all major aspects the Commission's decision in Ex Parte No. MC 122 (Sub-No. 1), *Implementation of Intercorporate Hauling Reform Legislation*, to allow parent corporations to establish transportation-only corporate subsidiaries which would be exempt from Commission regulation under 49 U.S.C. 10524(b), but remanded the proceeding on the issue of whether non-incorporated entities may engage in unregulated compensated intercorporate hauling, after finding that they may not. Consequently, the Commission no longer will accept CIH filings from non-corporate entities. Non-corporate entities that previously have filed CIH notices cannot operate exempt from Commission jurisdiction unless they incorporate, or have incorporated, and file appropriate notices.

FOR FURTHER INFORMATION CONTACT: Howell I. Sporn, (202) 275–7691; or Andrew L. Lyon, (202) 275–7805.

SUPPLEMENTARY INFORMATION: Section 9 of the Motor Carrier Act of 1980 amended 49 U.S.C. 10524 by adding new subsections (b) and (c), which removed from Commission jurisdiction compensated intercorporate hauling (CIH) upon satisfaction of simple notice requirements. This section of the 1980 Act was intended to overrule existing prohibitions against intercorporate hauling. Upon passage of the 1980 Act, the Commission adopted interim rules governing CIH notice provisions. 45 FR 45526, July 3, 1980. In addition, in this interim notice, the Commission addressed one "substantive" issue—the lawfulness of CIH operations where subsidiaries are set up specifically to provide transportation for their parent or corporate affiliates. 45 FR at 45527.

After notice and comment, the Commission issued its final rules. 132 M.C.C. 469 (1980). 45 FR 86761, December 31, 1980. These final rules amended the procedures for filing CIH notices, and addressed the substantive issues raised by the comments. The Commission affirmed its earlier position that transportation-only subsidiaries are permissible for CIH purposes, and also found that there is no prohibition against CIH by "organizations structured so that an individual or partnership is the owner." The American Trucking Associations, Inc., and the Georgia Motor Trucking Association, Inc., sought review in the Fifth (now Eleventh) Circuit.

In its decision the court affirmed the Commission's policy regarding transportation-only subsidiaries, but also found that the Commission's policy of allowing other than corporate entities to engage in CIH was not permitted by the statute.

The purpose of this notice is to acknowledge the Eleventh Circuit's decision in *ATA* v. *ICC, supra* (672 F. 2d 850 (11th Cir. 1982)), and announce the following:

(1) The Commission no longer will accept CIH filings from non-corporate entities.

(2) Existing non-corporate entities that previously have filed CIH notices cannot oparate exempt from Commission jurisdiction. Such entities will be able to operate exempt from Commission jurisdiction if they incorporate and file CIH notices. Entities that incorporated subsequent to filing CIH notices can continue to operate exempt from Commission jurisdiction if they file updated CIH notices.

No modification of the rules at 49 CFR 1136 is necessary.

This action will not have a significant economic impact upon a substantial number of small entities, and will not significantly affect either the quality of the human environment or conservation of energy resources.

List of Subjects in 49 CFR Part 1136

Motor carriers, Notice requirements.

Dated: June 8, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons. Commissioner Simmons did not participate.

James H. Bayne,

Acting Secretary.

[FR Doc. 82–16508 Filed 6–16–82; 8:45 am]

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Proposed Rules

Federal Register
Vol. 47, No. 117
Thursday, June 17, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 430

[Docket No. CE-RM-82-130]

Energy Conservation Program for Consumer Products; Test Procedures for Dishwashers; Public Hearing

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Proposed rule.

SUMMARY: The Department of Energy hereby proposes to amend its test procedures for dishwashers in order to accurately determine the estimated annual operating cost and the energy factor for "warm water" dishwashers that operate with 120°F inlet water and to revise the representative average-use cycle to reflect current consumer use. These test procedures are a part of the energy conservation program for consumer products established pursuant to the Energy Policy and Conservation Act, as amended by the National Energy Conservation Policy Act. Among other program elements, the legislation requires that standard methods of testing be prescribed for covered products.

DATE: Written comments in response to this notice by August 16, 1982; requests to speak at the public hearing by July 14, 1982; speakers to be notified by July 15, 1982; statements by July 16, 1982; public hearing to be held on July 21, 1982, at 9:00 a.m.

ADDRESSES: Written comments, requests to speak at the public hearing, and 15 copies of statements to: U.S. Department of Energy, Office of Conservation and Renewable Energy, Office of Hearings and Dockets, Dishwasher Test Procedure, Docket No. CE-RM-82-130, Mail Station 6B-025, Room 5F-078, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

PUBLIC HEARING TO BE HELD AT: Room 1E-245, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585 at 9:00 a.m.

FOR FURTHER INFORMATION CONTACT:

Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Test and Evaluation Branch, Room GH-068, Mail Station CE-113.1, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-9127.

U.S. Department of Energy, Office of Conservation and Renewable Energy, Office of Hearings and Dockets, Mail Station 6B-025, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-9319

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Room 6B-128, Mail Station GC-33, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-9510.

SUPPLEMENTARY INFORMATION:

A. Background

On October 1, 1977, the Department of Energy (DOE) assumed the authority of the Federal Energy Administration (FEA) for the energy conservation program for consumer products, under Section 301 of the Department of Energy Organization Act (DOE Act) (Pub. L. 95-91). The energy conservation program for consumer products was established by FEA pursuant to Title III, Part B of the Energy Policy and Conservation Act (Act) (Pub. L. 94-163). Subsequently, the Act was amended by the National Energy Conservation Policy Act (NECPA) (Pub. L. 95-619). References in this notice to "the Act", or to sections of the Act, refer to the Energy Policy and Conservation Act as amended by NECPA. Section 323 (42 U.S.C. 6293) of the Act requires that standard methods of testing be prescribed for covered products. Test procedures appear at 10 CFR Part 430, Subpart B.

Test procedures for dishwashers were prescribed on August 3, 1977 (42 FR 39964, August 8, 1977). DOE amended the energy conservation program for consumer products by notice issued September 18, 1980 (45 FR 64108, September 26, 1980) so that the Assistant Secretary for Conservation and Solar Energy (now called Conservation and Renewable Energy) can temporarily waive test procedure requirements for a particular covered product. Waivers can be granted when design characteristics for the particular product either prevent testing of the product according to prescribed test procedures, or lead to results so unrepresentative of the product's true energy consumption characteristics as to provide materially inaccurate comparative data to consumers. Accordingly, 10 CFR 430.27(h) states:

> Within one year of the granting of any waiver, the Department of Energy will publish in the **Federal Register** a notice of proposed rulemaking to amend its regulations so as to eliminate any need for the continuation of such waiver. As soon thereafter as practicable, the Department of Energy will publish a final rule. Such waiver will terminate on the effective date of such final rule.

Dishwashers are generally designed to operate with 140°F inlet water. The test procedures prescribed by DOE are dased on dishwashers using 140°F inlet water. Three manufacturers, who make "warm water" dishwashers, i.e., dishwashers that use 120°F inlet water, requested DOE to exclude these dishwashers from the prescribed test procedures. The Hobart Corporation (Hobart) filed an application for exception with the DOE Office of Hearings and Appeals (OHA) on September 5, 1979 for its Model KD-19 dishwasher. Hobart claimed: (1) The Model KD-19 dishwasher has unique design features so that 120°F inlet water can be used; and (2) testing this dishwasher with 120°F inlet water would reduce the estimated annual operating cost from $71 to $84. OHA granted an exception to Hobart on February 26, 1980.

Norris Industries (Norris) applied to the Assistant Secretary for Conservation and Renewable Energy for a test waiver and on July 2, 1981 the Secretary granted the waiver for its LER Series dishwasher (46 FR 35719, July 10, 1981). The dishwasher is designed to use 120°F inlet water, too. The General Electric Company (GE) applied for a test waiver for its "T" series dishwasher which uses 120°F inlet water. DOE published the GE "Petition for Waiver" in the **Federal Register** on March 2, 1982 (47 FR 8613).

Upon receiving the petitions from Hobart, Norris, and GE, DOE directed the National Bureau of Standards (NBS) to investigate the manufacturers' claims that the prescribed test procedures do

not properly determine the energy consumption for warm water dishwashers which use 120°F inlet water. NBS has provided its recommendations to DOE.

The Association of Home Appliance Manufacturers (AHAM) and the Procter & Gamble Company (P&G) presented data to DOE that showed that dishwashers are currently being used about 322 times annually. They requested that DOE consider changing the representative annual use cycle from 416 cycles per year to 322 cycles per year. The representative annual use cycle is used to determine the estimated annual operating cost. DOE has evaluated the available usage factor data.

NBS documents relevant to this proposed rule and the letters from AHAM and P&G petitioning that DOE consider changing the representative annual use cycle are available for inspection at the DOE Freedom of Information Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. The documents are:

1. Final report, *Household Appliance Usage Data*, NBSIR 80-1994, March 1980.
2. Milestone report, "Dishwashers with Low Temperature Inlet Water and Water Heater Savings", August 8, 1980.
3. Milestone report, "Test Results for a Dishwasher with Reduced Inlet Water Temperature", February 1981.
4. Letter from Robert L. Holding, Vice President—Federal Relations, of AHAM to Joseph J. Tribble, Assistant Secretary, Conservation and Renewable Energy, of DOE, dated July 20, 1981.
5. Letter from A. J. Fuchs, Product Development Department, of P&G to James A. Smith, Office of Conservation & Renewable Energy, of DOE, dated August 10, 1981.

DOE is today proposing to amend the test procedures for dishwashers.

B. Discussion

1. 120°F inlet water temperature

Hobart Corporation. In its application for exception to the DOE Office of Hearings and Appeals, Hobart claimed that measuring the energy use of its Model KD-19 dishwasher according to the prescribed test procedures would result in a significant overstatement of the dishwasher's estimated annual operating cost and misrepresent its true energy cost to consumers.

The prescribed test procedures base the estimated annual operating cost on dishwashers using 140°F inlet water. This determines the temperature rise, provided by the water heater, to be 90°F. Hobart claimed that because of certain unique technological innovations incorporated into its Model KD-19 dishwasher, the dishwasher can operate satisfactorily with inlet water of 120°F. A feature of the dishwasher is a thermostatically controlled water heating element. Thus, Hobart contended that in computing the estimated annual operating cost for dishwashers which use 120°F inlet water, the temperature rise should be set at 70°F and the actual water supply temperature should be maintained at 120°F.

A hearing was conducted by OHA on October 25, 1979 to discuss the relative merits of Hobart's application. Representatives of GE, Norris, Whirlpool Corporation (Whirlpool), and The Maytag Company (Maytag), all dishwasher manufacturers, presented arguments regarding Hobart's application. Representatives of the Federal Trade Commission (FTC) and the DOE Consumer Products Efficiency Branch also participated in the hearing.

On April 28, 1981, (45 FR 31343, June 15, 1981), OHA granted Hobart's request for exception for its Model KD-19 dishwasher.

Provisions in the exception included:

1. Hobart shall test the Model KD-19 dishwasher with the water inlet temperature maintained at 120°F.
2. The derived results shall be based on a 70°F temperature rise.
3. Hobart is required to disclose, in making representations respecting measures of energy consumption, the amount the estimated annual operating cost would increase if the Model KD-19 dishwasher would be operated at the 140°F inlet water temperature rather than 120°F, in addition to being permitted to use the results of a test using 120°F water inlet temperature.

Norris Industries. In its petition, Norris contended that its LER Series dishwasher cannot be adequately tested by the prescribed test procedures. The LER Series dishwasher has a "steam generator" design feature which is not covered in the prescribed test procedures. Norris claimed that this feature allows the LER Series dishwasher to operate at a lower inlet water temperature than the 140°F temperature prescribed. Thus, the existing test procedures misrepresent the energy cost to consumers by overestimating the estimated annual operating cost. DOE received comments from the following manufacturers of dishwashers: GE, Hobart, Whirlpool, and Maytag.

In consideration of the Norris petition, DOE, by decision and order prescribed on July 2, 1981 (46 FR 35719, July 10, 1981), excluded the LER Series diswasher from the prescribed test procedures. This waiver remains in effect until DOE prescribes final test procedures suitable to the LER Series dishwasher and, in any event, expires one year from issuance. Furthermore, within one year from issuance, DOE must publish in the Federal Register a notice of proposed rulemaking appropriate to the Norris LER Series dishwasher. Today's proposed test procedures for dishwashers satisfies this requirement.

General Electric Corporation. GE has filed a petition for waiver for its "T" Series dishwashers because the prescribed test procedures result in materially inaccurate estimates of the dishwashers' energy consumption. The "T" Series dishwasher is designed to operate with 120°F inlet water temperature. GE claims that the test procedure requirement of 140°F inlet water, which results in a 90°F temperature rise, tends to overestimate the estimated annual operating cost of the "T" Series and other dishwashers which can use 120°F inlet water. DOE published the GE petition in the Federal Register on March 2, 1982 (47 FR 8813) to solicit information to assist DOE in determining whether a test procedure waiver should be granted. Comments form Hobart and Norris were received. A final decision and order in the matter has not been issued at this time.

Rationale for proposed rule. DOE has directed NBS to recommend proposed test procedures that are applicable to warm water dishwashers using 120°F inlet water. Today's proposed amendments incorporates NBS's recommendations and allow a 50 percent credit for dishwashers that can use 120°F inlet water. The 50 percent credit is analogous to the 50 percent credit allowed for dishwashers with a power-dry feature.

Hobart, Norris and GE advocates that a 100 percent credit be allowed for dishwashers using 120°F inlet water temperature. These dishwashers can save energy if consumers will reduce the thermostat setting on their water heaters. However, DOE does not have any data to indicate that consumers will reduce the water heater thermostat setting.

DOE is interested in receiving comments, data and viewpoints concerning whether a 100 percent credit or a credit of lesser amount should be prescribed in the test procedures. Of particular interest is statistically valid survey data indicating the percentage of the consumers who have purchased

"warm water" dishwashers that have lowered the thermostat setting of the water heater to 120°F.

Maytag opposed a 100 percent credit, contending that unless a lower average water heater thermostat setting is actually known to be used by consumers, no waiver should be granted. However, Maytag conceded that if a waiver were to be granted, a 50 percent credit should be allowed.

Maytag further contends that a 140°F water heater temperature is required in a significant number of residences that regularly wash heavily soiled laundry. Maytag stated that the survey data which was used to determine the temperature-use factors in the clothes washer test procedures showed that about 30 percent of all consumers regularly wash laundry in hot water, requiring a 140°F thermostat setting on the water heater. Similar data were also reported in the NBS final report, *Household Appliance Usage Data.*

Norris responded by stating that a 50 percent credit was applied to consumer selected options for which actual usage was unknown. Norris contended that a 100 percent credit should be used because the rationale used to apply a 50 percent credit for consumer selected options is not relevant to dishwashers that use 120° inlet water.

Hobart conducted a survey that showed that 39 percent of consumers use the power-dry feature all the time and that 29 percent use the power-dry feature part of the time. (See the NBS final report, *Household Appliance Usage Data,* March 1980, p. C–2.) Based on this data, DOE prescribed a 50 pecent credit for the power-dry feature for dishwashers. Similar features in other consumer products have also received a 50 percent credit. These features include:

—The anti-sweat switch for refrigerators, refrigerator-freezers, and freezers.

—The suds-saver feature for clothes washers.

—The vacation switch or master on/off switch for television sets.

NBS reported to DOE that there were no survey data available showing the number of consumers who purchased dishwashers using 120°F water or the number of those purchasers who set thier water heater thermostat at 120°F after buying the dishwasher. NBS recommended either that no credit be allowed until DOE has statistically valid data or that DOE propose a 50 percent credit, based on precedents for similar features on other appliances in the past.

The information available to DOE indicates that the credit for dishwashers using 120°F inlet water should not be greater than 70 percent because of the number of households that regularly use hot water to clean their clothes. Further, the data indicates that roughly one-half of the consumers, who can use consumer selected options, do so. Taken together, these statements support a credit of one-half of 70 percent, or 35 percent. However, NBS and Maytag recommend that a 50 percent credit be allowed since it is likely that 50 percent of the consumers who purchase "warm water" dishwashers may reduce the thermostat setting of their water heater from 140°F to 120°F. Thus, today's amended dishwasher test procedure proposes a 50 percent credit. DOE is particularly interested in receiving statistically valid survey data to support these views—or other data which would support alternative views.

Dishwashers that use 120°F inlet water are to be tested twice; once the 140°F inlet water and once with 120°F inlet water. The measure of energy use is to be the arithmetic mean value from the two tests. DOE is interested in obtaining additional comments, data, and other relevant information concerning whether the 50 percent credit should be prescribed in the final test procedures for dishwashers.

A major concern of DOE in proposing a credit is a means to distinguish between dishwashers using 120° F water from those using 140° F water. Credits have not been a problem in the past because they applied only to consumer selected options during operation of the appliance. There are no similar controls for dishwashers that use 120° F water. The consumer makes a selection when the dishwasher is installed, not during its operation.

During the OHA hearing, Hobart stated that they were not aware of any dishwasher, other than its Model KD–19 dishwasher, which is able to heat inlet water during the normal cycle. The Model KD–19 dishwasher has a thermostatically controlled, internal heater that heats water during the normal cycle. In the subsequent decision and order, OHA stated that there were two critical distinctions between the Model KD–19 and other dishwashers. These are:

—Other dishwashers generally require that individual consumers actively select the option which employes the internal booster heater. Several manufacturers, such as Maytag, offer a "Sani-Wash" cycle or similar cycle type which activates the internal booster heater during a cycle. The normal cycle does not activate the internal heater. No such consumer intervention is needed with the Model KD–19 dishwasher.

—The Model KD–19 dishwasher operates in a relatively efficient manner with 120° F inlet water in that dishwashing performance is still acceptable to consumers. The dishwashing performance of other dishwashers with 120° F water may be degraded and unacceptable to consumers.

In response to comments from other manufacturers, Norris made the following statements during their application for a test waiver:

—Dishwashers that use 120° F water must have a water heating capability during the normal cycle.

—Dishwashers with water heating capability in cycles other than the normal cycle do not satisfy this requirement.

—The Hobart Model KD–19 and the Norris LER Series dishwashers were the only marketed dishwashers, at that time, with the water heating capability during the normal cycle.

DOE believes the features that distinguish dishwashers using 120° F inlet water from those using 140° F water are: (1) The dishwasher must provide internal water heating during the normal cycle; and (2) no consumer interaction is needed to activate the internal water heaters. Today's test amendments propose such a definition to be used for dishwashers using 120° F inlet water.

—It is possible that some manufacturers may modify their current dishwashers by inserting a control device to activate the internal boost heater in order to qualify for the 50 percent credit. This may result in the degradation of dishwashing performance. DOE does not believe this is a serious problem because market forces and consumer reaction will insure dishwashers to be manufactured to their highest performance and quality.

—DOE is interested in receiving comments, views, and other statements on the need to positively distinguish between dishwashers using 120° F inlet water from those using 140° F water; additional features that may be used to identify dishwashers that use 120° F inlet water; whether the proposed definition for dishwashers using 120° F inlet water is proper; and whether such a definition should be included in the final amended test procedure.

It is also possible that some firms may manufacture dishwashers designed to operate at inlet water temperatures other than 120° F and 140° F. The Norris petition for a waiver was based on a

design which allows the dishwasher to operate at varying inlet water temperatures, including household cold tap water. However, Norris designed its LER Series dishwasher to use an inlet water temperature of 120° F. DOE is not aware of any company which has manufactured dishwashers to operate at temperatures other than 120° F and 140° F. DOE is interested in receiving comments, views, and other statements, regarding dishwashers which use inlet water temperatures other than 120° F and 140° F.

2. Representative Average-Use Cycle

The Association of Home Appliance Manufacturers requested that DOE initiate a rulemaking proceeding to change the representative average-use cycle of 416 cycles per year to 322 cycles per year. The **Federal Register** notice prescribing final test procedures for dishwashers (42 FR 39964, August 8, 1977) stated that no data was presented to DOE to support the claim that 416 cycles per year is too high or that the use of 416 cycles per year is not representative of typical consumer use. The notice went on to state:

> If statistically valid survey data becomes available which reveals that purchasers of 12 or more place setting dishwashers use their dishwashers less frequently than purchasers of eight or less place setting dishwashers, then FEA and NBS will review the determination that 416 cycles is the representative average usage of dishwashers, regardless of size.

The principal source used by NBS and the Federal Energy Administration (FES) to determine 416 cycles per year to be the representative average-use cycle was data furnished by the Procter & Gamble Company. The data were based on consumer surveys conducted in 1973 and were considered to be the most reliable and valid data avilable at that time.

A more recent survey was conducted by P&G in 1979. P&G informed DOE of a new survey result by letter dated August 10, 1981. The average-use of dishwashers was determined to be 6.2 times per week, or 322 cycles per year. P&G requested that the representative average-use cycle be lowered to 322 cycles per year.

DOE is today proposing that 322 cycles per year be the representative average-use cycle for dishwashers, based on data supplied by P&G. Changing the representative average-use cycle of dishwashers from 416 cycles per year to 322 cycles per year will reduce the estimated annual operating cost by 23 percent. DOE is interested in receiving comments, viewpoints, and data concerning whether 322 cycles per year, or some other usage figure should be prescribed in the final amended test procedures. DOE is also interested in receiving comments on the P&G data.

C. Comment Procedure

1. Written Comment

Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposed amendments set forth in this notice to the address indicated at the beginning of the notice.

Comments should be identified on the outside of the envelope and on documents submitted to DOE with the designation "Dishwasher Test Procedure (Docket No. CE–RM–82–130)." Fifteen copies are requested to be submitted. All comments received by the date specified at the beginning of this notice, and all other relevant information, will be considered by DOE before final action is taken on the proposed regulation. Pursuant to the provisions of 10 CFR 1004.11, any person submitting information which he or she believes to be confidential and exempt by law from public disclosure should submit one complete copy of the document, and fifteen copies, if possible, from which the information believed to be confidential has been deleted. DOE will make its own determination with regard to the confidential status of the information and treat it according to its determination.

2. Public Hearing

a. *Request Procedure.* The time and place of the public hearing are indicated at the beginning of this notice. DOE invites any person who has an interest in today's proposed rule amendments, or who is a representative of a group or class of persons that has an interest in the proposed amendments, to make a written request for an opportunity to make an oral presentation. Such requests should be directed to the address indicated at the beginning of this notice and must be received by the time specified at the beginning of this notice. Requests may be hand delivered to such address, between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday. Requests should be labeled "Dishwasher Test Procedure (Docket No. CE–RM–82–130)" both on the document and on the envelope.

The person making the request should briefly describe the interest concerned and, if appropriate, state why he or she is a proper representative of the group or class of persons that has such an interest, and give a telephone number where he or she may be contacted. Each person requesting an opportunity to speak should give a concise summary of the proposed oral presentation.

DOE will notify, by the date indicated at the beginning of this notice, each person selected to be heard at the hearing. Each person selected to be heard is requested to submit 15 copies of his or her statement to the address and by the date given in the beginning of this notice. In the event any person wishing to testify cannot meet this requirement, alternative arrangements can be made with the Office of Hearings and Dockets in advance of the hearing by so indicating in the letter requesting to make an oral presentation.

b. *Conduct of hearings.* DOE reserves the right to select the persons to be heard at this hearing, to schedule the respective presentations, and to establish the procedures governing the conduct of the hearing. Each presentation shall be limited to 20 minutes.

A DOE official will be designated to preside at the hearing. The hearing will not be a judicial or an evidentiary-type hearing, but will be conducted in accordance with 5 U.S.C. 553 and section 366 of the Act. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person who wishes to ask a question at the hearing may submit the question in writing to the presiding officer to be asked of any person making a statement at the hearing. The presiding officer will determine whether the question is relevant and whether time limitations permit it to be presented for answer.

Any further procedural rules regarding proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Reading Room, Room 1E–152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday. For information concerning the availability of records at the Freedom of Information Reading Room, call (202) 252–5969. In addition, any person may purchase a copy of the transcript from the reporter.

D. Environmental Review

Pursuant to section 7(c)(2) of the Federal Energy Administration Act of 1974, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment.

Since test procedures under the energy conservation program for consumer products will be used only to standardize the measurement of energy usage and will not affect the quality or distribution of energy usage, prescribing test procedures will not result in any environmental impacts. On this basis, DOE has determined that prescribing test procedures under the energy conservation program for consumer products is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. Consequently, neither an Environmental Impact Statement nor an Environmental Assessment is required for the proposed rule.

E. Review Under E.O. 12291

The proposed rule has been reviewed in accordance with Executive Order 12291 which directs that all regulations achieve their intended goals without imposing unnecessary burdens on the economy, on individuals, on public or private organizations, or on State and local governments. The Executive Order also requires that regulatory impact analyses be prepared for "major rules." The Executive Order defines "major rule" as any regulation that is likely to result in:

(1) An annual effect on the economy of $100 million or more; (2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) Significant diverse effects on competition, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rule would only make minor changes in the test procedures for dishwashers to allow for more accurate determinations of estimated annual operating cost and energy factor. Therefore, DOE has determined that this proposed rule does not come within the definition of "major rule."

F. Regulatory Flexibility Act

The Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601–612), requires that an agency prepare an initial regulatory flexibility analysis to be published at the time the proposed rule is published. This requirement (which appears in section 603) does not apply if the agency "certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." This rule only affects manufacturers dishwashers. There are not a substantial number of small entites that manufacture dishwashers. Moreover, as discussed above, the changes being proposed would not have significant economic impacts, but rather would simply improve the test procedures. Therefore, DOE certifies that this proposed rule, if promulgated, would not have a "significant economic impact on a substantial number of small entities."

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Energy conservation, Household appliances.

In consideration of the foregoing, it is proposed to amend Part 430 of Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., May 27, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

Provisions of 10 CFR Part 430, § 430.22 and Appendix C are amended as follows:

Authority: Sect. 323, Pub. L. 94–163, 89 Stat. 917 as amended by Pub. L. 95–619, 92 Stat. 3266 (42 U.S.C. 6293).

§ 430.22 [Amended]

1. Section 430.22 paragraph (c) is amended by removing the words "416 cycles per year" and inserting, in their place, the words "322 cyles per year" in the following places:

(a) Section 430.22(c)(1)(i);
(b) Section 430.22(c)(1)(ii);
(c) Section 430.22(c)(2)(i); and
(d) Section 430.22(c)(2)(ii).

2. Appendix C to Subpart B of Part 430 is revised to read as follows:

Appendix C to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Dishwashers

1. *Definitions.*—1.1 "Cycle" means a sequence of operations of a dishwasher which performs a complete dishwashing operation, and may include variations or combinations of the functions of washing, rinsing and drying.

1.2 "Cycle type" means either any complete sequence of operations capable of being preset on the diswasher prior to the initiation of machine operation.

1.3 "Normal cycle" means the cycle type recommended by the manufacturer for completely washing a full load of normally soiled dishes, including the power-dry feature.

1.4 "Power-dry feature" means that function in a cycle in which electrically generated heat is introduced into the washing chamber for the purpose of improving the drying performance of the dishwasher.

1.5 "Truncated normal cycle" means the normal cycle interrupted to eliminate the power-dry feature after the termination of the last rinse operation.

1.6 "Warm water dishwasher" means a dishwasher that operates at nominal inlet water temperature of 120°F which provides internal water heating during the normal cycle without consumer interaction being required to activate the internal water heaters.

2. *Testing conditions.*—2.1 *Installation.* Install the dishwasher in accordance with the manufacturer's instruction, except that undercounter dishwashers need not be installed under a counter.

2.2 *Electrical supply.* Maintain the electrical supply to the dishwasher within two percent of 115 volts and within one percent of its nameplate frequency as specified by the manufacturer.

2.3 Water temperature.

2.3.1 Dishwashers to be tested at a nominal 140°F inlet water temperature. Maintain the water supply temperature between 135°F and 145°F.

2.3.2 Dishwashers to be tested at a nominal 120°F inlet water temperature. Maintain the water supply temperature between 115°F and 125°F.

2.4 *Water pressure.* Maintain the pressure of the water supply between 32.5 and 37.5 pounds per square inch.

2.5 *Ambient and machine temperature.* Maintain the room ambient air temperature between 70° F and 85° F, and assure that the dishwasher is at room ambient temperature at the start of each test cycle.

2.6 *Load.* The dishwasher shall be tested on the normal cycle and the truncated normal cycle without a test load.

3. *Test cycle and measurements.* 3.1 *Test cycle.* Perform a test cycle by establishing the testing conditions set forth in 2 of this Appendix, setting the dishwasher to the cycle type to be tested, initiating the cycle and allowing the cycle to proceed to completion.

3.2 *Machine electrical energy consumption.*

3.2.1 *Dishwashers that operate with a nominal 140° F inlet water temperature, only.* Measure the machine electrical energy consumption. M_e, specified as the number of kilowatt-hours of electrical energy consumed during the entire test cycle using a water supply temperature as set forth in 2.3.1 of this Appendix. Use a kilowatt-hour meter having a resolution no larger than 0.001 kilowatt hours and a maximum error no greater than one percent.

3.2.2 *Dishwashers that operate at nominal inlet water temperature of 120° F.* Measure the machine electrical energy consumption, M_e, specified as the number of kilowatt-hours of electrical energy consumed during the entire

test cycle using a water supply temperature as set forth in 2.3.1 of this Appendix. Measure the machine electrical energy consumption, Me_2, specified as the number of kilowatt-hours of electrical energy consumed during the entire test cycle using a water supply temperature as set forth in 2.3.2 of this Appendix. Use a kilowatt-hour meter having a resolution no larger than 0.001 kilowatt-hours and a maximum error no greater than one percent.

3.3 *Water consumption.* Measure the water consumption, specified as the number of gallons delivered to the dishwasher during the entire test cycle, using a water meter having a resolution no larger than 0.1 gallon and a maximum error no greater than 1.5 percent for all water flow rates from one to five gallons per minute and for all water temperatures encountered in the test cycle.

3.4 *Report values.* State the reported values of machine electrical energy consumption and water consumption as measured.

4. *Calculation of derived results from test measurements.*—4.1 *Per-cycle water energy consumption using electrically heated water.*

4.1.1 Dishwashers that operate with a nominal 140°F inlet water temperature, only. Calculate for the cycle type under test the per-cycle water energy consumption using electrically heated water, W_e, expressed in kilowatt-hours per cycle and defined as:

$$W_e = VxTxK,$$

where

V = reported water consumption in gallons per cycle for the cycle type under test.

T = nominal water heater temperature rise = 90.°F.

K = specific heat of water in kilowatt-hours per gallon per degree Fahrenheit = 00240.

4.1.2 Dishwashers that operate at nominal inlet water temperature of 120°F. Calculate for the cycle type under test the per cycle water energy consumption using electrically heated water, W_e, expressed in kilowatt-hours per cycle and defined as:

$$W_e = VxKx(T+T')/2$$

where

V.K and T are defined in 4.1.1 of this Appendix and T ' = nominal water heater temperature rise = 70°F.

4.2 *Per cycle water energy consumption using gas-heated or oil-heated water.* 4.2.1 Dishwashers that operate with a nominal 140°F inlet water temperature, only. Calculate for the cycle type under test the per cycle water energy consumption using gas-heated or oil-heated water. W_e, expressed in Btu's per cycle and defined as:

$$W_e = VxTxC/e,$$

where

V and T are defined in 4.1.1 of this Appendix, and

C = specific heat of water in Btu's per gallon per degree fahrenheit = 8.1966.

e = nominal gas or oil water heater efficiency = 0.75.

4.2.2 Dishwashers that operate at nominal inlet water temperature of 120°F. Calculate for the cycle type under test the percycle water energy consumption using gas-heated or oil-heated water, W_e, expressed in Btu's per cycle and defined as:

$$W_e = V \times (T+T') \times C/2e$$

where

V and T are defined in 4.1.1 of this Appendix, T' is defined in 4.1.2 of this Appendix, and C and e are defined in 4.2.1 of this Appendix.

4.3 *Per-cycle machine electrical energy consumption.*

4.3.1 Dishwashers that operate with a nominal 140°F inlet water temperature, only. Use the measured value recorded in 3.2.1 as the per cycle machine electrical energy consumption, M, expressed in kilowatt-hours per cycle.

4.3.2 Dishwashers that operate at nominal inlet water temperature of 120°F. Calculate for the cycle type under test the per cycle machine electrical energy consumption, Me, expressed in kilowatt-hours per cycle and defined as:

$$Me = (Me_1 + Me_2)/2$$

where

Me_1 and Me_2 are defined in 3.2.2 of this Appendix.

4.4 *Total per-cycle energy consumption.* Calculate for the cycle type under test the total per-cycle energy consumption, E, expressed in kilowatt-hours per cycle, and defined as the sum of the per-cycle machine electrical energy consumption, M, plus the per-cycle water energy consumption of electrically-heated water, W, calculated for the cycle type, determined according to 4.3 and 4.1 respectively.

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BILLING CODE 6450-01-M

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10 CFR Part 456

[Docket No. CAS-RM-81-130]

Residential Conservation Service Program; Passive Solar Measures

AGENCY: Conservation and Renewable Energy Office, Energy.

ACTION: Proposed rule—amendments.

SUMMARY: The Department of Energy (DOE or Department) is amending its proposed rule revising the Residential Conservation Service (RCS) Program regulations (10 CFR Part 456). The RCS Program is mandated by Federal law and requires large electric and natural gas utilities to perform energy audits of their customer's homes upon request and to provide certain other services to their residential customers.

As part of the Administration's efforts to reduce Federal regulations which are unduly burdensome for individuals, business, or other affected parties, the Department proposed amendments to the RCS program regulations on November 12, 1981. The November 12th proposal, however, reserved the decision on the inclusion of passive solar measures in the RCS program until the necessary research to support their inclusion, where appropriate, could be completed by the Department. After completing the necessary research, DOE today issues amendments to the proposed rule specifying the passive solar measures to be included in the RCS program.

DATES: Written comments on this proposed rule (Docket No. CAS-RM-81-130) must be received by July 19, 1982, 4:30 p.m., E.S.T. in order to insure their consideration.

ADDRESSES: All written comments should be addressed to the Office of Conservation and Renewable Energy, Office of Hearings and Dockets, Mail Station 6B-025, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9319.

FOR FURTHER INFORMATION CONTACT:

Mark D. Friedrichs, Building Services Division, Conservation and Renewable Energy, Department of Energy, 1000 Independence Avenue, SW., Room 5F-064, Mail Stop CE-115, Washington, D.C. 20585, (202) 252-1650.

Daniel Ruge, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 65-114, Washington, D.C. 20585, (202) 252-9519.

SUPPLEMENTARY INFORMATION:

I. Background
II. Amendments
III. Procedural Requirements

I. Background

The Residential Conservation Service (RCS) Program was established by Part 1 of Title II of the National Energy Conservation Policy Act (NECPA), 42 U.S.C. 8211 *et seq., as amended.*

The RCS Program, as mandated by the statute, requires large electric and natural gas utilities to inform their residential customers of the benefits of certain energy conservation and renewable resource measures and to offer to arrange for the installation and financing of such measures. Implementation of the Program was begun November 7, 1979, with publication of a final rule (the November 7th rule), 44 FR 64602.

As part of the Administration's efforts to reduce Federal regulations which are unduly burdensome for individuals, business, or other affected parties, the Department proposed amendments to the RCS Program regulations on November 12, 1981, 46 FR 55836 (the November 12th proposal). These amendments proposed to make the RCS Program as simple and flexible as possible, consistent with existing law.

In the November 12th proposal, however, the Department reserved the decision on all passive solar measures because the necessary research to support their inclusion in the RCS

Program had not been completed at that time. Public comment was solicited on the cost-effectiveness and applicability of each of the passive solar measures when applied to existing homes, as these factors vary by climate and category of fuel use.

The Department has now completed the necessary research and analysis. Today's issuance amends the proposed rule to include the following described passive solar measures in the RCS Program.

II. Amendments

In the November 7th rule, DOE defined passive solar space heating and cooling systems to include direct heat gain glazing systems, indirect gain systems, solaria/sunspace systems, and window heat gain or loss retardants. Additionally, in the November 7th rule DOE specified that these passive measures were RCS program measures for all building categories in all climate zones throughout the country.

The definition of passive solar used in today's amendment closely approximates that used in the November 7th rule. A few technical improvements have been made. For instance, in today's amendment window heat gain and heat loss retardants are given separate treatment. This change was made in recognition of the differing applications of the two materials depending on climatic zone and energy cost. DOE hopes that this proposed change will be more easily understood than the November 7th rule in those areas where both measures are covered by the program.

Today's issuance amends the proposed measures list (Appendix I) to include those passive solar measures that DOE has determined, pursuant to further research and analysis, are appropriate. This further research has resulted in the deletion of passive solar measures in many areas. Consistent with the approach taken in the November 12th proposal, DOE has clearly designated in Appendix I whether a passive solar measure is a program measure if installed on a do-it yourself basis (R), by a contractor (C), or both (RC). DOE solicits comments on whether its assumptions regarding resident and contractor installation of measures accurately reflects common practice in the marketplace.

In accordance with the analysis performed for the energy conservation and other renewable measures published in the November 12th proposal, the following criteria were used in the passive solar analysis:

1. To qualify as a program measure, the passive measure must meet a 7 year simple payback.

2. Federal and State income tax credits were included in the payback analysis.

3. Projected 1981 State fuel and energy prices were used.

4. The costs of each measure (resident and contractor-installed) were based on an accurate estimate of the national average cost of material purchase or contractor installation including material.

5. The energy savings calculation procedure is based on the RCS model audit.

Input from the above criteria and assumptions were applied to the simple payback formula to arrive at years to payback. Calculations were prepared for resident-installed and contractor-installed measures. When the years to payback was 7 years or less the measure was included in the table. The payback formula is:

$$P=\frac{F-T}{S},$$

where

P=simple payback in years
F=installed first cost of the passive solar measure
T=Federal and state tax credits where applicable
S=first year dollar savings due to energy savings

In using the payback formula DOE took into account the currently applicable 40 percent Federal income tax credit and state income tax credits, where applicable. The following table lists the Federal and State income tax credits used in determining payback periods. DOE solicits comments on the completeness of this list and on the use of state income tax incentives in the development of the passive solar measures lists for the RCS audit.

PERCENT AND MAXIMUM PASSIVE SOLAR INCOME TAX CREDITS[1]

[Direct Gain, Indirect Gain, Window Heat Gain Retardants, Window Heat Loss Retardants, and Solaria/Sunspace]

	Direct gain		Indirect gain		WHGR		WHLR		Sunspace	
	Percent	Maximum	Percent	Maximum	Percent	Maximum	Percent	Maximum	Percent	Maximum
Alabama	10	$1,000	20	$1,600	10	$1,000	10	$1,000	10	$1,600
Arizona	35	1,000	35	1,000	25	100	0	0	35	1,000
California	55	3,000	55	3,000	40	1,500	40	1,500	15	3,000
Colorado	50	3,000	50	3,000	0	0	0	0	50	3,000
Hawaii[2]	0	0	0	0	10	[3]99,999	0	0	0	0
Indiana	25	3,000	25	3,000	0	0	0	0	25	3,000
Kansas	30	1,500	30	1,500	0	0	0	0	15	1,500
Maine	25	100	20	100	0	0	0	0	25	100
Massachusetts	0	0	0	0	0	0	0	0	21	1,000
Michigan[4]	20	1,200	19	1,200	0	0	0	0	19	1,200
Minnesota	20	2,000	20	2,000	0	0	0	0	20	2,000
Montana[5]	5	125	5	125	0	0	0	0	5	125
New Mexico	25	4,000	25	4,000	0	0	0	0	25	4,000
North Dakota	0	0	5	[3]99,999	0	0	5	[7]99,999	0	0
Ohio	10	1,000	10	1,000	0	0	0	0	10	1,000
Oklahoma	0	0	0	0	0	0	0	0	32	10,000
Oregon	25	1,000	25	1,000	0	0	25	1,000	25	1,000
Utah	10	1,000	10	1,000	0	0	0	0	10	1,000
Vermont	25	1,000	25	1,000	0	0	0	0	25	1,000
Wisconsin[6]	10	1,500	10	1,500	0	0	[7]0	[7]0	10	1,500
Federal	0	0	0	0	0	0	0	0	[8]40	[8]4,000

[1]This table covers Federal tax credits and the tax credits for the 50 states, Puerto Rico, and the District of Columbia.
[2]Since Hawaii has no heating load, it was assumed that "passive" referred to methods of reducing cooling loads.
[3]$99,999 is recorded as the maximum tax credit allowed in those areas where there is no maximum or where the maximum is not defined.
[4]Michigan's tax credit equals 20% of the first $2,000 plus 10% of the next $8,000. The percentages in the table are based on the average percent credit, based on the estimated cost of a nominal installation of each measure.
Average % tax credit = Tax credit for resident-installed/Resident-installed cost + Tax credit for contractor-installed/Contractor-installed cost÷2
[5]Montana's tax credit equals 5% of the first $1,000 plus 2.5% of the amount over $1,000 ($125 maximum).
The percentages in the table are based on the average percent credit for each measure, based on the costs for the measures which are summarized in the cost section of this document.
[6]1982 figure, credit decreases each year.
[7]Credit is only given for measures which cost more than $400. If window heat loss retardants had cost more than $400, then the credit should have been 15% with a $1,800 maximum credit.
[8]A solaria/sunspace can only receive a federal tax credit if it is solely used for space heating and should not be used as an addition to the living space or as a greenhouse. The burden of proof rests on the homeowner to prove that the *only* function of the sunspace is heating.

In the case of indirect gain measures, DOE took into account the cost and performance of only thermosyphon air panels (TAPS). TAPS were chosen for the analysis because they are most easily applicable to the majority of houses and represent the least expensive indirect gain measure. However, DOE acknowledges that trombe walls and water walls are also indirect gain measures. Therefore, DOE is proposing to continue to allow States and nonregulated utilities to decide which indirect measure(s) to include in their RCS audit.

A Technical Report "Passive Solar Measures Analysis for the Reproposed RCS Program," (Draft Report), December, 1981 has been prepared which provides a detailed explanation of the methodology used and further information on the tax credits, fuel/energy prices and cost of measures. Copies of the document are available by writing the Building Services Division, at the address provided at the beginning of this notice.

III. Procedural Requirements

As noted in the November 12th proposal, OMB has waived the Executive Order 12291 requirement to prepare a preliminary Regulatory Impact Analysis for the proposed revisions to the RCS program. The OMB waiver covers this notice, which represents only a minor part of the overall proposed revisions to the RCS program.

Additionally, DOE certified in the November 12th notice that the proposal would not have a significant economic impact on a substantial number of small entities and therefore the Department need not prepare an initial regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). In accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), DOE prepared an Environmental Impact Statement for the entire Residential Conservation Service Program (DOE/EIS–0050). The notice of availability was published in the **Federal Register** on November 7, 1979. The subject matter of this proposed rulemaking is within the scope of this programmatic Environmental Impact Statement and the impacts of the proposed rulemaking were adequately addressed in the EIS. Copies may be obtained by writing the Building Services Division, at the address provided at the beginning of this notice or the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Subsection (c)(1) of Section 501 of the Department of Energy Organization Act (42 U.S.C. 7191) requires DOE to provide an opportunity for oral presentation (public hearing) of comments if DOE determines that a substantial issue of fact or law exists, or that a rule is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Inasmuch as this rule represents little more than the technical results of the application of a formula, which was the subject matter of several previous public hearings across the country, DOE does not believe that further public hearings are required.

(Part I of Title II of the National Energy Conservation Policy Act as amended (42 U.S.C. 8211 *et seq.*) Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*)

List of Subjects in 10 CFR Part 456

Energy audits, Energy conservation, Housing, Insulation, Reporting requirements, Solar energy, Utilities.

In consideration of the foregoing, the Department of Energy amends its proposed amendments to Part 456 of Chapter II, Title 10 of the Code of Federal Regulations (45 FR 55836, November 12, 1981), as set forth below.

Issued in Washington, D.C., May 26, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

PART 456—RESIDENTIAL ENERGY CONSERVATION PROGRAM

1. Section 456.105, as proposed on November 12, 1981 (46 FR 55836, at 55851) is amended by adding new paragraph (w)(6) to read as follows:

§§ 456.105 Definitions.

* * * * *

(w) *Renewable resource measure.*

* * *

(6) *Passive solar space heating and cooling systems.* The term "passive solar space heating and cooling systems" means systems that make most efficient use, or enhance the use of, natural forces—including solar insolation, winds, night time coolness and opportunity to lose heat by radiation to the night sky—to heat or cool living space by the use of conductive, convective or radiant energy transfer. Passive solar systems include only:

(i) *Direct gain glazing systems.* The term "direct gain glazing systems" means the use of south-facing (+ or −45° of True South) panels of glass, fiberglass, or other similar transparent or translucent materials that admit sunlight into the living space where the heat is retained. Glazing is either double-paned, or single-paned equipped with movable insulation.

(ii) *Indirect gain systems.* The term "indirect gain systems" means the use of panels of glass, fiberglass or other transparent or translucent materials that transmit sunlight onto thermal walls, ceilings, rockbeds, or containers of water and is stored for later use or transferred directly to the living space.

(iii) *Solaria/sunspace systems.* The term "solaria/sunspace systems" means a structure of glass, fiberglass or similar transparent or translucent material which is attached to the south-facing (+ or −45° of the True South) wall of a structure which allows for air circulation to bring heat into the residence and which is able to be closed off from the residential structure at night and during periods of low insulation.

(iv) *Window heat loss retardants.* The term "window heat loss retardants" means those mechanisms which significantly reduce winter heat loss through windows by use of external or internal devices, such as insulated rollup shades or movable rigid insulation, that cover the windows during the winter both at night and when no appreciable amount of sunlight is entering the window during the day.

(v) *Window heat gain retardants.* The term "window heat gain retardants" means those mechanisms which significantly reduce summer heat gain through windows in the summer by use of devices such as awnings, solar screens or insulated rollup shades (external or internal).

§ Appendix I [Amended]

2. Paragraph (d)(11) of Appendix I, as proposed on November 12, 1981 (46 FR 55836 at 55860) is removed.

3. Paragraph (e) of Appendix I, as proposed on November 12, 1981 (46 FR 55836, at 55860) is amended by adding the following program measures to the Table of Program Measures by State:

State	HUD regulation	Fuel category	Direct gain		Indirect gain	Solaria sunspace		Window heat loss	Loss/gain	Retentions gain	
AL	2	elec								R	C
		gas								R	C
		oil						R		R	C
		H.P.								R	C
AL	3	elec				R		R		R	C
		gas								R	C
		oil	R			R		R		R	C
		H.P.								R	C
AK	8	elec						R	C	R	C
		gas								R	
		oil						R	C	R	C
		H.P.						R		R	C
AZ	1	elec	R		R					R	C
		gas								R	C
		oil								R	C
		H.P.								R	C
AZ	2	elec	R	C	R	R	C	R		R	C
		gas	R			R				R	C
		oil	R			R				R	C
		H.P.	R			R				R	C
AZ	3	elec	R	C	R	R	C	R		R	C
		gas	R	C		R		R		R	C
		oil	R	C		R	C	R		R	C
		H.P.	R	C		R		R		R	C
AZ	4	elec	R	C	R	R	C	R	C	R	C
		gas	R			R	C	R		R	C
		oil	R			R	C	R		R	C
		H.P.	R			R	C	R		R	C
AZ	5	elec	R	C	R	R	C	R	C	R	C
		gas	R			R	C	R		R	C
		oil	R			R	C	R		R	C
		H.P.	R			R	C	R		R	C
AZ	6	elec	R	C	R	R	C	R	C	R	C
		gas	R			R	C	R		R	C
		oil	R			R	C	R		R	C
		H.P.	R			R	C	R		R	C
AZ	7	elec	R			R	C	R	C	R	C
		gas	R			R	C	R		R	C
		oil	R			R	C	R		R	C
		H.P.	R			R	C	R	C	R	C
AR	3	elec	R			R		R		R	C
		gas								R	C
		oil	R			R		R		R	C
		H.P.						R		R	C
AR	4	elec	R			R		R	C	R	C
		gas								R	
		oil				R		R		R	C
		H.P.				R		R		R	C
CA	2	elec	R		R	R		R		R	C
		gas								R	C
		oil	R			R		R		R	C
		H.P.								R	C
CA	3	elec	R	C	R	R		R	C	R	C
		gas	R					R		R	C
		oil	R	C		R		R	C	R	C
		H.P.	R					R		R	C
CA	4	elec	R	C	R	R		R	C	R	C
		gas	R					R		R	C
		oil	R	C		R		R	C	R	C
		H.P.	R	C		R		R		R	C
CA	5	elec	R	C	R	R		R	C	R	C
		gas	R					R		R	C
		oil	R	C		R		R	C	R	C
		H.P.	R	C		R		R	C	R	C
CA	6	elec	R	C	R	R		R	C	R	C
		gas	R					R		R	C
		oil	R	C		R		R	C	R	C
		H.P.	R	C		R		R	C	R	C
CA	7	elec	R	C		R		R	C	R	C
		gas	R			R		R	/	R	C
		oil	R	C		R		R	C	R	C
		H.P.	R	C		R		R	C	R	C
CA	8	elec	R	C		R	C	R	C	R	C
		gas	R			R		R	C	R	C
		oil	R	C		R		R	C	R	C
		H.P.	R	C		R		R	C	R	C
CO	6	elec	R			R	C	R	C	R	C
		gas				R				R	C
		oil	R			R	C	R		R	C
		H.P.	R			R	C	R		R	C
CO	7	elec	R			R	C	R	C	R	C
		gas				R		R		R	C
		oil	R			R	C	R		R	C
		H.P.	R			R	C	R		R	C
CO	8	elec	R			R	C	R	C	R	C
		gas				R		R		R	C
		oil	R			R	C	R	C	R	C
		H.P.	R			R	C	R	C	R	C
CT	8	elec	R			R		R	C	R	C
		gas						R		R	C
		oil						R		R	C
		H.P.						R	C	R	C

State	HUD regulation	Fuel category	Direct gain		Indirect gain	Solaria sunspace		Window heat loss	Loss/gain	Retardants gain	
DE	4	elec.						R	C	R	C
		gas						R		R	C
		oil						R		R	C
		H.P.						R		R	C
DC	4	elec.	R			R		R		R	C
		gas						R		R	C
		oil				R		R		R	C
		H.P.						R		R	C
FL	1	elec.								R	C
		gas								R	C
		oil								R	C
		H.P.								R	C
FL	2	elec.								R	C
		gas								R	C
		oil								R	C
		H.P.								R	C
GA	2	elec.								R	C
		gas								R	C
		oil								R	C
		H.P.								R	C
GA	3	elec.				R		R		R	C
		gas								R	C
		oil				R		R		R	C
		H.P.								R	C
GA	4	elec.						R		R	C
		gas								R	C
		oil				R		R		R	C
		H.P.						R		R	C
HI	1	elec.								R	C
		gas								R	C
		oil								R	C
		H.P.								R	C
ID	3	elec.						R		R	C
		gas				R		R		R	C
		oil				R		R		R	C
		H.P.								R	C
ID	6	elec.						R		R	C
		gas						R		R	C
		oil				R		R	C	R	C
		H.P.						R		R	C
IL	4	elec.				R		R		R	C
		gas								R	C
		oil						R		R	C
		H.P.						R		R	C
IL	5	elec.				R				R	C
		gas						R		R	C
		oil				R		R		R	C
		H.P.						R		R	C
IL	7	elec.				R		R	C	R	C
		gas						R		R	C
		oil				R		R		R	C
		H.P.						R		R	C
IN	4	elec.				R		R		R	C
		gas								R	C
		oil				R		R		R	C
		H.P.						R		R	C
IN	5	elec.				R				R	C
		gas						R		R	C
		oil				R		R		R	C
		H.P.						R		R	C
IN	6	elec.				R		R		R	C
		gas						R		R	C
		oil				R		R		R	C
		H.P.						R		R	C
IN	7	elec.				R		R		R	C
		gas						R		R	C
		oil				R		R		R	C
		H.P.						R		R	C
IA	6	elec.				R		R	C	R	C
		gas								R	C
		oil						R		R	C
		H.P.						R		R	C
IA	7	elec.				R		R	C	R	C
		gas						R		R	C
		oil						R		R	C
		H.P.						R		R	C
IA	8	elec.	R			R		R	C	R	C
		gas						R		R	C
		oil						R	C	R	C
		H.P.				R		R	C	R	C
KS	4	elec.	R			R		R		R	C
		gas								R	C
		oil	R			R		R		R	C
		H.P.						R		R	C
KS	5	elec.	R			R	C	R		R	C
		gas								R	C
		oil	R			R		R		R	C
		H.P.				R		R		R	C

State	HUD regulation	Fuel category	Direct gain		Indirect gain	Solaria sunspace		Window heat loss	Loss/gain	Retardants gain	
KS	6	elec	R			R	C	R	C	R	C
		gas								R	C
		oil	R			R		R		R	C
		H.P	R			R		R		R	C
KS	7	elec	R			R	C	R	C	R	C
		gas								R	C
		oil	R			R	C	R		R	C
		H.P	R			R		R		R	C
KY	4	elec				R		R		R	C
		gas								R	C
		oil						R		R	C
		H.P								R	C
KY	5	elec						R		R	C
		gas								R	C
		oil						R		R	C
		H.P								R	C
KY	6	elec						R		R	C
		gas								R	C
		oil						R		R	C
		H.P						R		R	C
LA	2	elec								R	C
		gas								R	C
		oil								R	C
		H.P								R	C
LA	3	elec	R			R		R		R	C
		gas								R	C
		oil	R			R		R		R	C
		H.P								R	C
ME	1	elec	R			R		R	C	R	C
		gas						R		R	C
		oil				R		R	C	R	C
		H.P	R			R		R	C	R	C
MD	4	elec	R			R		R		R	C
		gas						R		R	C
		oil				R		R		R	C
		H.P						R		R	C
MD	5	elec						R		R	C
		gas						R		R	C
		oil						R		R	C
		H.P						R		R	C
MD	6	elec				R		R	C	R	C
		gas						R		R	C
		oil				R		R		R	C
		H.P						R		R	C
MA	5	elec	R			R	C	R	C	R	C
		gas						R		R	C
		oil				R		R		R	C
		H.P				R		R	C	R	C
MA	7	elec	R			R	C	R	C	R	C
		gas				R		R		R	C
		oil				R		R	C	R	C
		H.P				R	C	R	C	R	C
MI	1	elec				R		R	C	R	C
		gas						R		R	C
		oil				R		R		R	C
		H.P						R		R	C
MI	3	elec				R		R	C	R	C
		gas						R		R	C
		oil				R		R	C	R	C
		H.P				R		R	C	R	C
MN	5	elec				R		R	C	R	C
		gas						R		R	C
		oil				R		R	C	R	C
		H.P				R		R		R	C
MS	1	elec								R	C
		gas								R	C
		oil								R	C
		H.P								R	C
MS	3	elec				R		R		R	C
		gas								R	C
		oil				R				R	C
		H.P								R	C
MO	4	elec				R		R		R	C
		gas								R	C
		oil				R		R		R	C
		H.P						R		R	C
MO	5	elec				R		R		R	C
		gas								R	C
		oil				R		R		R	C
		H.P						R		R	C
MD	6	elec				R		R	C	R	C
		gas						R		R	C
		oil				R		R		R	C
		H.P						R		R	C
MT	6	elec			R	R		R		R	C
		gas						R		R	C
		oil				R		R	C	R	C
		H.P				R		R		R	C
NB	6	elec				R		R		R	C
		gas						R		R	C
		oil				R		R		R	C
		H.P						R		R	C

State	HUD regulation	Fuel category	Direct gain		Indirect gain	Solaria sunspace		Window heat loss	Loss/gain	Retentania gain	
NB	7	elec.						R		R	C.
		gas						R		R	C.
		oil						R		R	C.
		H.P.						R		R	C.
NB	8	elec.				R		R	C	R	C.
		gas						R		R	C.
		oil				R		R	C	R	C.
		H.P.				R		R		R	C.
NV	2	elec.	R					R		R	C.
		gas						R		R	C.
		oil	R					R		R	C.
		H.P.						R		R	C.
NV	3	elec.	R			R		R		R	C.
		gas						R		R	C.
		oil	R			R		R		R	C.
		H.P.						R		R	C.
NV	4	elec.				R		R		R	C.
		gas				R		R		R	C.
		oil				R		R		R	C.
		H.P.				R		R		R	C.
NV	5	elec.	R			R		R		R	C.
		gas				R		R		R	C.
		oil				R		R		R	C.
		H.P.				R		R		R	C.
NV	6	elec.	R			R		R		R	C.
		gas				R		R		R	C.
		oil	R			R		R		R	C.
		H.P.				R		R		R	C.
NV	7	elec.	R			R		R	C	R	C.
		gas				R		R		R	C.
		oil	R			R		R		R	C.
		H.P.				R		R		R	C.
NV	8	elec.	R			R		R	C	R	C.
		gas				R		R		R	C.
		oil	R			R		R	C	R	C.
		H.P.	R			R		R	C	R	C.
NH	7	elec.	R			R		R	C	R	C.
		gas				R		R		R	C.
		oil				R		R		R	C.
		H.P.				R		R	C	R	C.
NH	8	elec.	R			R		R	C	R	C.
		gas				R		R		R	C.
		oil				R		R	C	R	C.
		H.P.				R		R	C	R	C.
NJ	2	elec.	R			R		R	C	R	C.
		gas				R		R		R	C.
		oil				R		R		R	C.
		H.P.				R		R	C	R	C.
NJ	3	elec.	R			R		R	C	R	C.
		gas				R	C	R		R	C.
		oil	R			R		R		R	C.
		H.P.	R			R	C	R		R	C.
NM	4	elec.	R	C	R	R	C	R	C	R	C.
		gas				R		R		R	C.
		oil	R			R		R		R	C.
		H.P.	R			R		R		R	C.
NM	5	elec.	R	C	R	R		R	C	R	C.
		gas				R	C	R		R	C.
		oil	R			R	C	R		R	C.
		H.P.	R			R	C	R		R	C.
NM	6	elec.	R	C	R	R	C	R	C	R	C.
		gas				R		R		R	C.
		oil	R			R	C	R		R	C.
		H.P.	R	C		R	C	R	C	R	C.
NM	7	elec.	R	C	R	R	C	R	C	R	C.
		gas				R		R		R	C.
		oil	R			R	C	R		R	C.
		H.P.	R	C		R	C	R	C	R	C.
NM	8	elec.	R	C		R	C	R	C	R	C.
		gas				R		R		R	C.
		oil	R			R	C	R	C	R	C.
		H.P.	R			R	C	R	C	R	C.
NY	6	electric	R			R		R	C	R	C.
		gas								R	C.
		oil						R		R	C.
		H.P.				R		R	C	R	C.
NY	7	electric	R			R		R	C	R	C.
		gas						R		R	C.
		oil						R	C	R	C.
		H.P.						R	C	R	C.
NY	8	electric	R			R		R	C	R	C.
		gas						R		R	C.
		oil				R		R	C	R	C.
		H.P.				R		R	C	R	C.
NC	2	electric								R	C.
		gas								R	C.
		oil								R	C.
		H.P.								R	C.

State	HUD regulation	Fuel category	Direct gain		Indirect gain	Solaria sunspace		Window heat loss	Loss/gain	Reradiants gain	
NC	3	electric				R		R		R	C
		gas								R	C
		oil				R		R		R	C
		H.P.								R	C
NC	4	electric						R		R	C
		gas								R	C
		oil						R		R	C
		H.P.						R		R	C
NC	5	electric						R		R	C
		gas								R	C
		oil						R		R	C
		H.P.						R		R	C
ND	3	electric				R		R	C	R	C
		gas						R		R	C
		oil				R		R	C	R	C
		H.P.				R		R	C	R	C
OH	5	electric						R		R	C
		gas								R	.
		oil						R		R	.
		H.P.						R		R	.
OH	6	electric				R		R	C	R	C
		gas						R		R	.
		oil						R		R	.
		H.P.						R		R	.
OH	7	electric				R		R	C	R	C
		gas						R		R	C
		oil				R		R		R	C
		H.P.						R		R	C
OK	3	electric	R			R	C	R		R	C
		gas				R		R		R	C
		oil				R	C	R		R	C
		H.P.				R		R		R	C
OK	4	electric	R			R	C	R		R	C
		gas				R				R	C
		oil				R	C	R		R	C
		H.P.				R		R		R	C
OK	5	electric	R			R	C	R	C	R	C
		gas				R				R	C
		oil				R	C	R		R	C
		H.P.				R	C	R		R	C
OK	6	electric	R			R	C	R	C	R	C
		gas				R				R	C
		oil				R	C	R		R	C
		H.P.				R	C	R		R	C
OR	4	electric						R		R	C
		gas						R		R	C
		oil	R			R		R	C	R	C
		H.P.								R	
OR	5	electric						R		R	C
		gas						R		R	C
		oil	R			R		R	C	R	C
		H.P.								R	
OR	6	electric				R		R		R	C
		gas				R		R		R	C
		oil	R			R		R	C	R	C
		H.P.						R		R	C
OR	7	electric				R		R		R	C
		gas	R			R		R	C	R	C
		oil	R			R		R	C	R	C
		H.P.						R		R	C
OR	8	electric				R		R		R	C
		gas	R			R		R	C	R	C
		oil	R			R	C	R	C	R	C
		H.P.				R		R		R	C
PA	5	electric						R		R	C
		gas						R		R	C
		oil						R		R	C
		H.P.						R		R	C
PA	6	electric						R	C	R	C
		gas						R		R	C
		oil						R		R	C
		H.P.						R		R	C
PA	7	elec.				R		R	C	R	C
		gas						R		R	C
		oil				R		R	C	R	C
		H.P.						R		R	C
PA	8	elec.				R		R	C	R	C
		gas						R		R	C
		oil				R		R	C	R	C
		H.P.				R		R	C	R	C
RI	3	elec.	R			R		R	C	R	C
		gas						R		R	C
		oil						R		R	C
		H.P.				R		R	C	R	C
SC	3	elec.								R	C
		gas								R	C
		oil								R	C
		H.P.								R	C
SC	3	elec.				R		R		R	C
		gas								R	C
		oil				R		R		R	C
		H.P.								R	C

State	HUD region	Fuel category	Direct gain		Indirect gain	Solaria sunspaces		Window heat loss	Loss/gain	Retardants gain	
SC	4	elec.						R		R	C
		gas								R	C
		oil				R		R	C	R	C
		H.P.						R		R	C
SD	7	elec.				R		R	C	R	C
		gas						R		R	C
		oil				R		R	C	R	C
		H.P.						R		R	C
SD	II	elec.				R		R	C	R	C
		gas						R		R	C
		oil				R		R	C	R	C
		H.P.				R		R	C	R	C
TN	3	elec.						R		R	C
		gas								R	C
		oil				R		R		R	C
		H.P.								R	C
TN	4	elec.						R		R	C
		gas								R	C
		oil				R		R		R	C
		H.P.								R	C
TN	5	elec.						R		R	C
		gas								R	C
		oil						R		R	C
		H.P.								R	C
TX	I	elec.								R	C
		gas								R	C
		oil								R	C
		H.P.								R	C
TX	II	elec.				R		R		R	C
		gas								R	C
		oil								R	C
		H.P.								R	C
TX	3	elec.	R			R		R		R	C
		gas								R	C
		oil				R		R		R	C
		H.P.						R		R	C
TX	4	elec.	R			R	C	R	C	R	C
		gas						R		R	C
		oil	R			R		R		R	C
		H.P.				R		R		R	C
TX	5	elec.	R			R	C	R	C	R	C
		gas				R		R		R	C
		oil				R		R		R	C
		H.P.				R		R		R	C
UT	5	elec.	R			R		R	C	R	C
		gas								R	C
		oil				R		R		R	C
		H.P.				R		R		R	C
UT	II	elec.	R			R	C	R	C	R	C
		gas								R	C
		oil				R	C	R		R	C
		H.P.				R	C	R		R	C
UT	7	elec.	R			R		R	C	R	C
		gas								R	C
		oil	R			R		R		R	C
		H.P.	R			R		R		R	C
UT	II	elec.	R			R		R	C	R	C
		gas								R	C
		oil	R			R		R	C	R	C
		H.P.	R			R		R	C	R	C
VT	7	elec.	R			R	C	R	C	R	C
		gas				R		R		R	C
		oil				R	C	R		R	C
		H.P.				R	C	R		R	C
VT	8	elec.	R			R	C	R	C	R	C
		gas				R		R		R	C
		oil				R		R	C	RT	C
		H.P.	R			R	C	R	C	R	C
VA	3	elec.				R		R		R	C
		gas								R	C
		oil				R		R		R	C
		H.P.								R	C
VA	4	elec.				R		R		R	C
		gas						R		R	C
		oil						R		R	C
		H.P.						R		R	C
VA	5	elec.				R		R		R	C
		gas						R		R	C
		oil						R		R	C
		H.P.						R		R	C
VA	II	elec.						R		R	C
		gas						R		R	C
		oil						R		R	C
		H.P.						R		R	C
WA	II	elec.								R	C
		gas						R		R	C
		oil						R		R	C
		H.P.								R	C
WA	7	elec.								R	C
		gas						R		R	C
		oil				R		R		R	C
		H.P.								R	C

State	HUD regulation	Fuel category	Direct gain		Indirect gain	Solarie sunspace		Window heat loss	Loss/gain	Retardants gain	
WA	8	elec								R	C
		gas						R		R	C
		oil						R	C	R	C
		H.P								R	C
WV	5	elec						R		R	C
		gas								R	C
		oil						R		R	C
		H.P						R		R	C
WV	6	elec						R		R	C
		gas								R	C
		oil						R		R	C
		H.P						R		R	C
WI	7	elec				R		R		R	C
		gas						R		R	C
		oil				R		R		R	C
		H.P				R		R		R	C
WI	8	elec				R		R	C	R	C
		gas						R		R	C
		oil				R		R	C	R	C
		H.P				R		R		R	C
WY	7	elec				R		R		R	C
		gas						R		R	C
		oil				R		R		R	C
		H.P						R		R	C
WY	8	elec				R		R		R	C
		gas						R		R	C
		oil				R		R	C	R	C
		H.P				R		R		R	C
PR	1	elec								R	C
		gas								R	C
		oil								R	C
		H.P								R	C

[FR Doc. 82-16254 Filed 6-10-82; 8:45 am]
BILLING CODE 6560-01-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 29

[Docket No. 82-11]

Adjustable-Rate Mortgages; Extension of Comment Period

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of extension of comment period.

SUMMARY: This notice announces that the closing date for comments on the Comtroller of the Currency's proposed revisions to its adjustable-rate mortgage regulation, published at 47 FR 23944, is hereby postponed to August 2, 1982.

DATE: The comment period is extended to August 2, 1982.

ADDRESS: Comments should be sent to Docket No. 82-9, Communications Division, Office of the Comptroller of the Currency, Washington, DC 20219, Attn: Marie Giblin, telephone (202) 447-1800. Comments will be available for public inspection and photocopying.

FOR FURTHER INFORMATION CONTACT: Judith Naiman, Industry and Public Affairs, (202) 447-0934, David Nebhut, Economic and Policy Analysis Division, (202) 447-1825, or Francis S. Rath, Legal Advisory Services Division, (202) 447-1880, Office of the Comptroller of the Currency, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: On June 2, 1982, at 47 FR 23944, the Office of the Comptroller of the Currency proposed revisions to its adjustable-rate mortgage regulation (12 CFR Part 29). That regulation was published on March 27, 1981 and amended on April 1, 1982. The proposed revisions would increase the flexibility of national banks to design ARM instruments by eliminating (1) limits on the frequency of payment and interest rate adjustments and (2) limits on the magnitude of interest rate adjustments. The proposal would replace the requirement that the monthly payment be reset at a fully amortizing level at least once every five years with a requirement that the monthly payment be reset at a level sufficient to begin reducing the outstanding debt no later than during the 21st year. The proposal would retain (1) the requirement that changes in the ARM interest rate be tied to changes in an interest rate index and (2) most of the existing disclosure requirements. The revised regulation would result in freer flow of bank funds into home mortgage lending and would eliminate the reporting requirement associated with payment-capped mortgage plans.

Interested persons are invited to submit written comments on the proposed regulation. The closing date for written comments on the Comptroller of the Currency's proposed rule, initially set at July 2, 1982, is hereby postponed to August 2, 1982.

Dated: June 11, 1982

Doyle L. Arnold,

Acting Comptroller of the Currency.

[FR Doc. 82-16291 Filed 6-10-82; 8:45 am]
BILLING CODE 4810-33-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 82-ASO-24]

Proposed Alteration of Certain Control Zones in Alabama, Florida, Georgia, Kentucky, Mississippi, Puerto Rico and Tennessee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter certain control zones in Alabama, Florida, Georgia, Kentucky, Mississippi, Puerto Rico and Tennessee by including in the descriptions a provision that will permit use of the FAA's Notice to Airmen (NOTAM) system and the Airport/Facility Directory (A/FD) to publicize the hours during which the control zones are effective. No change in airspace is intended by this action which is directed towards standardizing the descriptions of Control Zones within the FAA's Southern Region.

DATE: Comments must be received on or before: August 1, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn.: Chief, Airspace and Procedures Branch, ASO–530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763–7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views of arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82–ASO–24." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Chief, Airspace and Procedures Branch (ASO–530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that will add a provision to the descriptions of certain control zones which will permit future notification of changes in effective hours through use of the Notice to Airmen (NOTAM) system. After issuance of appropriate NOTAM's, the effective hours of each control zone would thereafter be listed in the Airport/Facility Directory (A/FD), thus providing a single source reference for all pertinent data relating to specific airports. If future aeronautical activities should indicate a change in effective hours is necessary, such changes could be publicized in a rapid and effective manner to airspace users. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Aviation Safety, Airspace, Control zone.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by adding the following words at the end of the text of each of the control zones listed below:

"* * * This Control Zone is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory * * *"

Albany, Georgia
Anniston, Alabama
Bowling Green, Kentucky
Dothan, Alabama
Gainesville, Florida
Greenwood, Mississippi
Macon, Georgia
Paducah, Kentucky
Roosevelt Roads, Puerto Rico
Tri-City, Tennessee

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Ga., on June 7, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82–16288 Filed 6–16–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 91

[Docket No. 22050; Notice No. 82–8]

Special Federal Aviation Regulation No. 44–3; Air Traffic Control System; Interim Operations Plan

Note.—This document originally appeared in the Federal Register for Wednesday, June 16, 1982. It is reprinted in this issue to meet requirements for publication on the Monday/Thursday schedule assigned to the Federal Aviation Administration.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend Special Federal Aviation Regulation (SFAR) No. 44–3 to establish certain procedures for the operation of the National Air Traffic Control (ATC) System, including procedures to be used in the allocation of additional system capacity as it becomes available, to provide for the safe and efficient operation of the air traffic control system. The Administrator has determined that a situation still exists which requires reduces ATC capacity and that the continuation of special air traffic provisions is necessary to provide for the efficient and safe movement of air traffic. This notice proposes several alternative allocation procedures to be used by the FAA to distribute slots among the carriers so as to provide for more efficient movement of air carrier traffic. It also requests comments on continuation of the existing SFAR 44–3 slot allocation procedure.

DATE: Comments must be received on or before June 29, 1982.

ADDRESSES: Mail comments on the proposal in duplicate to:

Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Docket No. 22050, Washington, D.C. 20591.

or deliver them to:

Room 915G, 800 Independence Avenue, SW., Washington, D.C.

Comments may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT:
Donald R. Segner, Associate Administrator for Policy and International Aviation, 202–426–3030
or
Edward P. Faberman, Deputy Chief Counsel, 202–426–3775;
Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impacts that might result from adoption of the proposals contained in this notice are invited. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with the rulemaking will be filed in the docket. Commenters wishing to have the FAA acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 22050." The postcard will be dated, time stamped, and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular 11–2, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

Background and Discussion

On February 22, 1982, the FAA published Special Federal Aviation Regulation (SFAR) No. 44–3 (47 FR 7816) which modified the previously established special air traffic rules that had been adopted in response to the reduced air traffic control capacity caused by the illegal actions of certain air traffic controllers. Under SFAR 44–3, random drawings have been held to determine the priority order for the allocatiton of additional arrival capacity at all airports within the contiguous United States in place of the first come-first served procedures formerly used. SFAR 44–3 also provides "new entrants" priority treatment in the drawings. "New entrants" are defined in the SFAR as carriers that applied for operating authority from the CAB prior to August 3, 1981, but had not initiated operations by February 17, 1982. They are given the first priority in each round of drawings for slots. Drawings have been held under SFAR 44–3 for the additional Air Route Traffic Control Center (ARTCC) and controlled airport capacity which will become available for the scheduling periods through October 1982.

On March 18, 1982, the FAA issued Notice No. 82–5 (47 FR 12320) which requested public comments on a possible change to SFAR 44–3 involving a redefinition of the term "new entrant" as used therein. The notice was issued at the request of the CAB and proposed that "new entrant" be defined as any carrier that has commenced or will commence operations with aircraft having more than 60 seats on or after October 24, 1978. Notice 82–5 would also limit the time period a carrier could be considered a "new entrant" and the number of airports at which new entrants could request slots under the SFAR. Comments on Notice 82–5 will be considered in connection with this rulemaking.

Based on the comments received on SFAR 44–3 and Notice 82–5, the FAA believes that SFAR 44–3 may be improved. (Summaries of the slot allocation procedure suggestions received by the FAA to date and the comments received on Notice 82–5 have been prepared and included in the docket.) One suggestion would be to divide the additional slots at controlled airports in a 70 percent—30 percent proportion. It has been argued that providing 70 percent of the available slots to incumbents is justified in view of the large number of slots taken from them when ATC services had to be reduced. Under the 70 percent—30 percent proposal, the slots would be distributed in three phases, first at a New Entrant Random Lottery, then at an Impacted Incumbent Ranked Drawing and finally at a General Random Lottery.

1. *New Entrant Random Lottery.* Thirty percent of the slots would be distributed by random lottery to new entrants—carriers that did not operate at any controlled airport before January 1, 1981. Any slots not distributed during this New Entrant Random Lottery are added to the total, if any, to be distributed during the General Random Lottery.

2. *Impacted Incumbent Ranked Drawing.* The remaining 70 percent of the slots are allocated between an Impacted Incumbent Ranked Drawing and a General Random Lottery. Impacted incumbents are defined as those carriers who, on the date the drawing is held, hold fewer slots at that airport than they did on September 1, 1981. The slots are allocated to impacted incumbents in the following manner. First, the percentage of slots that the impacted carriers held on September 1, 1981, is determined. The impacted incumbents then receive that percentage of the slots remaining after the New Entrant Random Lottery. Finally, the impacted incumbents who lost the most slots are given priority in the selection process. Any remaining slots are added to the total, if any, to be distributed during the General Random Lottery. Impacted incumbents can choose slots during this drawing only until their total number of slots (those chosen plus those held before the drawing started) equals the number of slots they held on September 1, 1981. Any slots available to a carrier after it reaches that level are also added to the slots to be distributed during the General Random Lottery.

3. *General Random Lottery.* The remainder of the 70 percent not allocated in the Impacted Incumbent Ranked Drawing plus any slots not distributed during that drawing or the New Entrant Random Lottery are then distributed during a General Random Lottery. This lottery could be restricted to the airport from which the slots were obtained or, in the alternative, could be held on a national basis with the slots from all the airports obtained under the above-described system being distributed in one lottery. We specifically invite comments on these two alternatives. We also are interested in receiving comments on who should be

permitted to participate in the General Random Lottery. The three basic alternatives for participants are:

1. Only the non-impacted incumbent carriers. These are the carriers who, on the date the lottery is held, hold the same number—or a greater number—of slots at that airport as they did on September 1, 1981.

2. Only the incumbent carriers. This would include the impacted as well as the non-impacted carriers.

3. All of the carriers. This would include the incumbents as well as the new entrants.

In the drawing and the lotteries, each carrier would select two slots during each turn it received.

The following example is provided to illustrate the above proposal.

Assumptions

- Metropolis Airport had 1000 slots on September 1, 1981.
- There are two impacted incumbent carriers at Metropolis Airport; each had 200 slots on September 1, 1981, one is presently allocated 180 slots, the other 190.
- There are two non-impacted incumbent carriers at Metropolis Airport; each had 300 slots on September 1, 1981, and are presently allocated 300 each.
- There are 100 new slots available for allocation.

Allocation

- The new entrants would choose up to the first 30 slots.
- The impacted incumbents would then choose from the remaining 70 slots. The one with 180 chooses first. Each would normally choose a maximum of 14 slots

$$\frac{(200\times 70)}{1{,}000}$$

however, because the carrier with 190 would reach its "ceiling" with ten picks, its remaining four possible picks would be added to the General Random Lottery.
- The remaining 42 slots, plus any slots not taken by the new entrants or the impacted incumbents (the four described above, plus any not chosen) would be allocated in the General Random Lottery.

We would also like to receive comments on the following alternative. The slots that would be allocated under the General Random Lottery would, instead, be distributed in the following manner: All of the carriers at the airport—including new entrants and incumbents—would receive a percentage of the remaining slots; the percentage would be determined by dividing the total number of slots the carrier currently holds at that airport by the number currently allocated to all carriers at the airport. Amendatory language for one approach to a 70–30 percent proposal, is set forth below, and provides more detail.

Another suggestion would be to conduct a single lottery to allocate slots at the 22 controlled airports instead of conducting lotteries for each airport. Under this proposal, the additional slots at the 22 controlled airports would be placed in a pool. Each carrier would be ranked for selections from the pool. Ranking could be accomplished using a lottery, SFAR 44–3 procedures, or those procedures modified as proposed in Notice 82–5. This unified lottery approach could also be used in conjunction with the 70 percent—30 percent mechanism for slot allocation. One lottery would be held for 70 percent of the additional slots at the 22 controlled airports for incumbents and a second lottery would be held for the remaining 30 percent of these slots for all other carriers. Under this proposal, carriers would be permitted, in rank order, to select two arrival slots from the pool at the 22 controlled airports. Selections would continue in rank order until all slots had been selected.

In addition to requesting comments on the proposals discussed above, the FAA is interested in the public's views on the continuation of the current procedures of SFAR 44–3, as well as any other suggested modifications to these procedures that would not compromise the safety of the ATC system. The agency is particularly interested in any allocation proposal generally acceptable to the air carrier industry. To date, the agency has not received such a proposal.

After October 31, 1982, new capacity, including that made available through unforeseen circumstances, would be allocated under procedures developed in this rulemaking. This Notice does not, however, propose adjustments to the existing operating bases of the carriers. Thus, any slots distributed under the new procedures for the October 31 through December 31, 1982, period would be added to the FAA-approved August 1 through October 30 operating bases.

List of Subjects in 14 CFR Part 91

Air traffic control.

The Proposed Amendment

PART 91—GENERAL OPERATING AND FLIGHT RULES

Accordingly, the Federal Aviation Administration proposes to amend Appendix A in Part 91 of Special Federal Aviation Regulation No. 44–3, as follows:

SFAR 44–3

Arrival Approvals for Designated Airports

1. For operations after October 31, 1982—

(a) Each air carrier shall submit a schedule (including nonscheduled flights such as charters and training and ferry operations to the extent they are known) for the period October 31, 1982 through December 31, 1982, and each subsequent scheduling period to the Official Airline Guide (OAG) by a date to be announced at a later time by API–1. The number of daily arrival operations an air carrier may submit to the OAG at a controlled airport (as identified in this appendix) shall not exceed its FAA approved daily and hourly allocation total at that airport for the previous schedule period. The number of daily arrival operations an air carrier may submit to the OAG at all other airports shall not exceed its FAA-approved daily allocation total at those airports for the previous schedule period.

(b) Each air carrier seeking authority for flights in excess of its current approved operational levels at an airport, new entrants, and requests by air carriers to initiate service must be separately identified and submitted in writing to the Associate Administrator for Policy and International Aviation, API–1, 800 Independence Avenue, SW., Washington, D.C. 20591; Telephone No.: (202) 426–3030; Telex No.: 892562 FAA WSH (for API–1) and ARINC No.: DCAYAXD (for API–1) in accordance with time schedules established by API–1 for each schedule period. The flight requests should be listed in order of priority so that capacity authorization determined in accordance with paragraph 2 of this appendix will be based upon the individual carrier's needs. If additional capacity is available, authority for these operations will be given. If capacity is not available for all such requests, priority consideration will be given in accordance with paragraph 2 of this Appendix.

2. Additional capacity allocation.

(a) Unless directed by CAB in cases of essential air service or for some other CAB requirement or unless it is determined that the carrier has exceeded the number of operations allowed by this regulation, a carrier will not be required to involuntarily give up slot allocations for another carrier's use. Slot allocations that a carrier does not actually use at least 70 percent of the schedule period will be automatically revoked.

(b) For the purposes of special allocations under this SFAR, (1) an air carrier that was operating at one of the 22 controlled airports on August 3, 1981, is an "incumbent" at that airport; and (2) an air carrier that did not operate at any controlled airport before January 1, 1981, is a new entrant.

(c) A random drawing will be held under paragraph (d) of this appendix for each of the 22 controlled airports (identified in this Appendix) for special allocations to new entrants. A special allocation will be made for certain incumbents at the 22 controlled airports under paragraphs (e) and (f) of this Appendix. Random drawings will be held

under paragraph (g) of this Appendix for all carriers, including new entrants and incumbents, for any slots not allocated under paragraphs (d), (e) and (f) of this Appendix at the 22 controlled airports. Finally, one random drawing will be held for all other airports. At each airport, new entrants will be allocated additional capacity first. No carrier will receive more slots than requested.

(d) *New Entrant Special Allocation.* The number of slots specially allocated to all new entrants at any controlled airport will be limited to 30 percent of the total additional air carrier capacity at that airport. Where there is more than one new entrant, the order in which slots will be allocated to each new entrant will be determined by random draw. Each new entrant will receive two slots each time its turn comes up in the drawing. Any slots not selected by a new entrant will be placed in the pools of slots to be allocated under paragraph (g) of this Appendix.

(e) Following special allocations to new entrants, incumbents will be allowed to select 70 percent of the additional capacity at each of the 22 controlled airports by special allocation pursuant to paragraph (f) of this Appendix.

(f) *Incumbent Carrier Special Allocation.* Each incumbent carrier will receive the total number of slots determined under the following formulas (to the extent that slots are available) rounded to the nearest whole number:

$$X = \frac{B \times T}{Y}$$

Where:

X is the total number of slots to be selected at that airport by the carrier.
B is the number of slots in that carrier's September 1, 1981, OAG base.
Y is the total number of arrival slots at that airport for all current incumbent carriers in the September 1, 1981, OAG.
T is the total number of slots available to incumbent carriers in the instant overall special allocation.
A is the sum of each carrier's slots at that airport in its most recent FAA-approved operating base and its net loss of slots resulting from transfer or relinquishment.

However, whenever X+A for any incumbent carrier would be equal to or greater than B, the number of slots in excess of B will not be allocated to the carrier but will be placed in the pool for allocation pursuant to paragraph (g) of this Appendix. Those incumbent carriers selecting slots pursuant to this paragraph will select two slots (one, if only one is left) each time its turn to select comes up until it has selected its X slots (or the number of total slots available to it, if X+A is greater than B or there are insufficient slots for all incumbent carriers). Incumbent carriers at each of the 22 controlled airports will be ranked for slot allocation at each airport based on their number of B−A slots at that airport. Carriers with higher number of B−A slots will receive an allocation before one with a lower number.

(g) Each slot not selected by a new entrant pursuant to paragraph (d) of this Appendix and each slot not allocated to an incumbent pursuant to paragraph (f) of this Appendix will be placed in slot pools for each of the 22 controlled airports. An allocation will be held for each pool with all carriers requesting slots at that airport under this paragraph ranked by random draw. Each carrier will select two slots each time its turn comes up in the selection sequence. (Note: Other options to this paragraph are discussed in the preamble.)

(h) After additional capacity has been allocated at each airport, requests for one-time charter operations, hourly slides, origin changes and other changes will be processed as capacity permits.

(i) Air Route Traffic Control Center (ARTCC) capacity allocations will be made first for the 22 controlled airports located within ARTCC areas, without regard to the above distinctions between classes of carriers. Remaining additional ARTCC capacity will be allocated to carriers who have requested slots at other airports within particular ARTCC areas to the extent that such capacity can be accommodated. If there is more demand for a particular flight segment than can be safely accommodated, the allocation will be made in accordance with priority determined by random draw for all noncontrolled airports. After the additional ARTCC capacity has been allocated, requests for one-time charters within an ARTCC, origin changes, hourly slides, and other changes will be processed as capacity permits.

3. No additional flight requests for changes will be accepted by the FAA between schedule periods. However, the FAA will process changes to flight schedules between schedule periods for—flight number changes, within-hour changes at the same controlled airport (as identified in this Appendix) and hourly changes within the allocated daily total at all other airports.

4. Charter, emergency, ferry pilot training, and mechanical repair checkout flight requests may be made to the FAA Central Flow Control Facility.

5. No person shall operate an air carrier flight unless approval for the operation has been received prior to the flight from API-1 as part of the particular air carrier's approved schedule or under this Appendix.

6. Airports and Air Route Traffic Control Centers (ARTCC) at which some constraints are necessary are listed below. Constraints may also be imposed at airports other than those listed if any changes in the current status of an airport cannot be safely and efficiently handled by the controller work force at the ATC facilities involved. Schedule reductions in effect at an airport may be revised and will be removed to the extent the controller work force at the ATC facilities involved can accommodate those changes.

ARTCC's

Albuquerque	Los Angeles
Atlanta	Memphis
Boston	Miami
Chicago	Minneapolis
Cleveland	Jacksonville
Denver	Oakland
Ft. Worth	New York City
Houston	Salt Lake City
Indianapolis	Seattle
Kansas City	Washington

Controlled Airports

Atlanta	Kansas City
Boston	Kennedy
Chicago (O'Hare, Midway)	La Guardia
Cleveland	Las Vegas
Dallas/Fort Worth (DFW, Love)	Los Angeles
Denver	Miami
Detroit	Minneapolis
Ft. Lauderdale	Newark
Houston (Intercontinental, Hobby)	Philadelphia
	Pittsburgh
	St. Louis
	San Francisco
	Washington National

(Secs. 307(a) and (c), 313(a), and 601(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a) and (c), 1354(a), and 1421(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this proposal, if adopted, would expand the number of carriers eligible for a limited number of priority slots at various airports within the contiguous United States without affecting the number of slots currently held by any carrier. There are no apparent direct or indirect (nonindustry) costs associated with the proposal, and the FAA is unaware of any specific data to indicate that these proposals would have more than a minimal economic impact. Therefore, the preparation of a full regulatory evaluation at this time is unnecessary.

Note.—Based on the above, it has been determined that this is not a major regulation under Executive Order 12291 and I certify that, under the criteria of the Regulatory Flexibility Act, the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. In addition, the FAA has determined that this proposed amendment is not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Washington, D.C., on June 15, 1982.

J. Lynn Helms,
Administrator.

[FR Doc. 82-16534 Filed 6-15-82; 12:18 pm]
BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-18801, File No. S7-931]

Beneficial Ownership Disclosure Requirements

AGENCY: Securities and Exchange Commission.

ACTION: Proposed amendment.

SUMMARY: The Commission is publishing for comment a proposed amendment to its beneficial ownership disclosure rules which would eliminate the requirement to file an annual amendment to a Schedule 13G (17 CFR 240.13d-102) when no changes have

occurred in the information contained therein. The Commission believes that the proposed amendment will reduce the costs of compliance on persons subject to the beneficial ownership disclosure rules.

DATE: Comments should be submitted on or before August 16, 1982.

ADDRESSES: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comment letters should refer to File No. S7-931. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Arthur H. Miller, (202) 272-2589, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is publishing for comment an amendment to Rule 13d-2(b) (17 CFR 240.13d-2(b)), which currently requires that any person who has filed a Schedule 13G must amend such statement within forty-five days after the end of each calendar year to reflect, as of the end of the calender year, any changes in the information reported in the previous filing on that Schedule, or if there are no changes from the previous filing, a signed statement to that effect under cover of Schedule 13G. If adopted, the proposed amendment would delete that part of Rule 13d-2(b) that requires a person to file a statement when no changes have occurred in the information contained in the previously filed Schedule 13G. The proposed amendment is based on the Commission's assessment that the current requirement to file such a statement when there are no changes in information imposes an unnecessary burden on persons required to file a Schedule 13G.

I. Background

In its Report to Congress on Beneficial Ownership Reporting Requirements,[1] the Commission noted that it was in the process of reviewing the amendment procedures with respect to reports filed on Schedule 13G.[2] As a result of that review, the Commission is publishing for comment a proposed amendment to Rule 13d-2(b), which sets forth the amendment requirements for persons who have filed a Schedule 13G.

Reports on Schedule 13G are filed by two classes of persons. First, pursuant to Rule 13d-1(b) (17 CFR 240.13d-1(b)), a person who whould otherwise be required to file a Schedule 13D (17 CFR 240.13d-101) [3] may file, in lieu thereof, a Schedule 13G if the following conditions are met: (1) The securities were acquired in the ordinary course of the filing person's business and without the purpose or effect of changing or influencing control of the issuer, and (2) the filing person is among the class of institutional-type investors specified in the Rule.[4] Second, pursuant to Rule 13d-1(c) (17 CFR 240.13d-1(c)), certain beneficial owners of more than five percent of a class of securities who are not subject to section 13(d) must file a Schedule 13G. Generally, such persons are those who: (1) Acquire beneficial ownership or their securities prior to December 22, 1970; or (2) are not required to make an initial filing on Schedule 13D because of section 13(d)(6)(A) or (B) of the Exchange Act.

Once a person has filed a Schedule 13G, Rule 13d-2(b) requires the annual filing of an amendment to the schedule to reflect all changes in the information previously reported. In addition, if there have been no changes in the information contained in a previously filed Schedule 13G, Rule 13d-2(b) requires the filing of a signed statement reporting that fact. It is this latter requirement that the Commission proposes to delete.

II. Proposed Amendment to Rule 13d-2(b)

The requirement to file an annual statement even though there have been no changes in a previously filed Schedule 13G was adopted to serve two purposes. First, the requirement reminds persons who have filed a Schedule 13G that they must report, at the end of each year, whether or not there were any changes in their holdings. Second, the requirement performs a verification function since the annual filing of a statement reporting that no changes have occurred serves to confirm the continued accuracy of the information contained in the previously filed Schedule 13G.

The Commission believes that the requirement to file an amendment when no changes have occurred imposes an unnecessary burden on persons subject to the Rule. The purposes sought to be achieved by this requirement are met, for the most part, by the continued requirement to report changes in holdings. Under the proposed amendment, persons who have filed a Schedule 13G would still have to determine at the end of each year whether there were any changes in their holdings—only if there are no changes would the filing person not be required to file an amendment. Further, the proposed rule would continue to perform a verification function. Under the proposal, the absence of a filed amendment would mean that no change had occurred since the most recent filing on Schedule 13G and that such disclosure was still current. However, the Commission specifically invites comment on whether the deletion would adversely affect the accuracy of information contained in the beneficial ownership disclosure system.

In addition to the issues raised above, the Commission requests comment on whether the proposed amendment, if adopted, would have an adverse effect on competition or would impose a burden on competition which is neither necessary nor appropriate in furthering the purposes of the Exchange Act.

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[1] Report of the Securities and Exchange Commission on Beneficial Ownership Reporting Requirements Pursuant to section 13(h) of the Securities Exchange Act of 1934, 96th Cong., 2d Sess. 53 (Comm. Print 1980).

[2] Schedule 13G was adopted, in part, pursuant to the authority granted to the Commission in section 13(g) of the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a *et seq.*). Enacted as part of the Domestic and Foreign Investment Improved Disclosure Act of 1977, Pub. L. No. 95-213, Title I, section 102, Title II, sections 202, 203, 91 Stat. 1494, 1498, 1499, section 13(g) requires that a person who owns more than five percent of a class of securities described in section 13(d)(1) of the Exchange Act shall disclose to the Commission and to the affected issuer certain specified information in such form and at such times as the Commission may by rule specify. Although the language of section 13(g) is quite broad, the principal purpose of the section is to provide the authority necessary to close the gaps that existed in the beneficial ownership disclosure requirements under section 13(d). At the time section 13(g) was enacted, three principal disclosure gaps existed under section 13(d) as a result of the following acquisitions being exempted from the reach of section 13(d): (1) Persons who acquired not more than two percent of a class of securities within a 12-month period were exempted by section 13(d)(6)(B) from the initial filing under section 13(d); (2) persons who acquired their ownership prior to the enactment of the five-percent threshold on December 22, 1970 were not subject to the reporting requirements of section 13(d) since that section is keyed to making an "acquisition" of the requisite amount of securities; and (3) acquisitions of securities through a stock-for-stock exchange that is registered under the Securities Act of 1933 ("Securities Act") (15 U.S.C. 77a *et seq.*) were exempted by section 13(d)(6)(A).

[3] Under Rule 13d-1(a) (17 CFR 240.13d-1(a)), a person who makes an acquisition of certain equity securities that results in that person becoming the beneficial owner of more than five percent of a class of securities is required to file a Schedule 13D with the Commission and to send to the issuer and to each exchange where the security is traded a copy of the schedule within ten days of such acquisition.

[4] The institutional investors specified include: Certain brokers, dealers, banks, insurance companies, investment companies, investment advisers, employee benefit plans, pension funds, parent holding companies, and groups comprised of such investors.

Comments on this inquiry should include, to the extent feasible, detailed empirical and evidentiary material in support of any conclusions, opinions or positions. Comment on this inquiry will be considered by the Commission in complying with its responsibilities under section 23(a)(2) of the Exchange Act.

III. Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the Commission has certified that the amendment proposed herein will not, if adopted, have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefore, is attached to this release.

List of Subjects in 17 CFR Part 240

Reporting requirements, Securities.

Text of Proposal

In accordance with the foregoing, Part 240 of Chapter II, Title 17 of the Code of Federal Regulations is proposed to be amended as follows: (Attention—The text of the following proposed amendment uses arrows ► ◄ to indicate additions and [ ] brackets to indicate deletions.)

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. Section 240.13d–2 is proposed to be amended by revising paragraph (b) to read as follows:

§ 240.13d–2 Filing of Amendments to Schedules 13D or 13G.

* * * * *

(b) Schedule 13G—Notwithstanding paragraph (a) of this rule, and provided that the person or persons filing a statement pursuant to Rule 13d–1(b) continues to meet the requirements set forth therein, any person who has filed a short form statement on Schedule 13G shall amend such statement within forty-five days after the end of each calendar year ►if◄ [to reflect], as of the end of [the] ►such◄ calendar year, ►there are◄ any changes in the information reported in the previous filing on that Schedule, [, or if there are no changes from the previous filing, a signed statement to that effect under cover of Schedule 13G]. Six copies of such amendment, including all exhibits, shall be filed with the Commission and one each sent, by registered or certified mail, to the issuer of the security at its principal executive office and to the principal national securities exchange where the security is traded. Once an amendment has been filed reflecting beneficial ownership of five percent or less of the class of securities, no additional filings are required unless the person thereafter becomes the beneficial owner of more than five percent of the class and is required to file pursuant to Rule 13d–1 (§ 240.13d–1).

Note.—For persons filing a short form statement pursuant to Rule 13d–1(b), See also Rule 13d–1(b) (2), (3) and (4).

Authority

This amendment is being proposed pursuant to sections 13(g) and 23(a) of the Securities Exchange Act of 1934.

(Sec. 23, 48 Stat. 901; sec. 203(a), 49 Stat. 704; sec. 8, 49 Stat. 1379; sec. 10, 78 Stat. 580; sec. 18, 89 Stat. 155; secs. 102, 202, 203, 91 Stat. 1494, 1498, 1499; 15 U.S.C. 78m(g), 78w(a))

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

June 10, 1982.

Regulatory Flexibility Act Certification

I, John S. R. Shad, Chairman of the Securities and Exchange Commission, hereby certify, pursuant to 5 U.S.C. 605(b), that the proposed amendment to Rule 13d–2(b) published in Securities Exchange Act Release No. 34–18801 (June 10, 1982) will not, if promulgated, have a significant economic impact on a substantial number of small entities. The reasons for this certification are that the proposed amendment (1) will remove certain disclosure burdens, and (2) is expected to result in a minor net reduction in costs to persons required to file a Schedule 13G.

Dated: June 10, 1982.

John S. R. Shad,

Chairman.

[FR Doc. 82–16479 Filed 6–16–82; 8:45 am]
BILLING CODE 8010–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79–76–123 (Colorado–26)]

High-Cost Gas Produced From Tight Formations; Dakota-Lakota Formation, Colo.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Colorado that the Dakota-Lakota Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on July 12, 1982.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on June 28, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION:

Issued: June 11, 1982.

I. Background

On June 4, 1982, the State of Colorado Oil and Gas Conservation Commission (Colorado) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Dakota-Lakota Formation located in Boulder County, Colorado, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Colorado's recommendation that the Dakota-Lakota Formation be designated a tight formation should be adopted. Colorado's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formation underlies certain lands in Boulder County, Colorado, between the cities of Denver and Boulder, with the town of Louisville in the approximate center of the area. The recommended area is approximately 34,560 acres and consists of Township 1 North, Range 69 West, 6th P.M., Sections 25 through 36; Township 1 South, Range 69 West, 6th P.M., Sections 3 through 10, 15 through 22, and 27 through 34; Township 1 South, Range 70

West, 6th P.M., Sections 1 through 3, 10 through 15, 22 through 27 and 34 through 36. There is no federal land within the recommended area.

The average depth to the top of the Dakota-Lakota Formation is 9,100 feet and the thickness of such formation is approximately 175 feet to 185 feet.

III. Discussion of Recommendation

Colorado claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. NG–30 convened by Colorado on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Colorado further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Colorado that the Dakota-Lakota Formation, as described and delineated in Colorado's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before July 12, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–123 (Colorado–26), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than June 28, 1982.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978 (15 U.S.C. 3301–3432))

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Colorado's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703(d) is revised by adding new subparagraph (122) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(89) through (121) [Reserved]

(122) *Dakota-Lakota Formation in Colorado. RM79–76–123 (Colorado–26)*—(i) *Delineation of formation.* The Dakota-Lakota Formation is located in Boulder County, Colorado, in Township 1 North, Range 69 West, 6th P.M., Sections 25 through 36; Township 1 South, Range 69 West, 6th P.M., Sections 3 through 10, 15 through 22, 27 through 34; and Township 1 South, Range 70 West, 6th P.M., Sections 1 through 3, 10 through 15, 22 through 27, and 34 through 36. The producing interval is approximately 175 to 185 feet in thickness and begins at the base of the Skull Creek Formation and extends to the top of the Morrison Formation.

(ii) *Depth.* The average depth to the top of the Dakota-Lakota Formation is 9,100 feet.

[FR Doc. 82–16004 Filed 6–16–82; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 925

Cancellation of Public Hearing on Modified Portions of the Missouri Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Cancellation of public hearing.

SUMMARY: OSM is announcing the cancellation of a public hearing on the adequacy of proposed amendments to the Missouri permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977. This notice cancels the public hearing but does not alter the time and location at which the Missouri program and proposed amendments are available for public inspection, or the comment period during which interested persons may submit written comments on the proposed program elements.

DATE: The following hearing is cancelled: the public hearing on the proposed amendments to the Missouri program scheduled for June 21, 1982, at 7:00 p.m.

ADDRESS: Written comments should be mailed or hand-delivered to: Richard Rieke, Director, Missouri State Office, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, Telephone: (816) 374–3920.

FOR FURTHER INFORMATION CONTACT: Richard Rieke, Director, Missouri State Office, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, Telephone: (816) 374–3920.

SUPPLEMENTARY INFORMATION: On June 1, 1982, notice of opportunity for a public hearing on the proposed amendments to the Missouri program was published in the **Federal Register** (47 FR 23767–23768). The notice stated that any person interested in making an oral or written presentation at the hearing should contact Richard Rieke by June 11, 1982, and that if no person contacted Mr. Rieke to express an interest in participating in the hearing by the above date, the hearing would be cancelled. Because no one expressed an interst in attending the hearing, the hearing has been cancelled.

While there is no public hearing, interested persons may still submit written comments on the proposed amendments. Written comments must

be received on or before 4:00 p.m. on July 1, 1982, to be considered in the Director's decision on whether to approve or disapprove the amendments. Written comments should be mailed or hand-delivered to the address listed above under "Address".

Dated: June 14, 1982.

William Schmidt,

Assistant Director, Program Operations and Inspection.

[FR Doc. 82-16480 Filed 6-16-82; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 916

Cancellation of Public Hearing on Modified Portions of the Kansas Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Cancellation of public hearing.

SUMMARY: OSM is announcing the cancellation of a public hearing on the adequacy of proposed amendments to the Kansas permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977. This notice cancels the public hearing but does not alter the time and location at which the Kansas program and proposed amendments are available for public inspection, or the comment period during which interested persons may submit written comments on the proposed program elements.

DATE: The following hearing is cancelled: The public hearing on the proposed amendments to the Kansas program scheduled for June 23, 1982, at 7:00 p.m.

ADDRESS: Written comments should be mailed or hand-delivered to: Richard Rieke, Director, Missouri State Office, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, Telephone: (816) 374-3920.

FOR FURTHER INFORMATION CONTACT: Richard Rieke, Director, Missouri State Office, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, Telephone: (816) 374-3920.

SUPPLEMENTARY INFORMATION: On June 1, 1982, notice of opportunity for a public hearing on the proposed amendments to the Kansas program was published in the Federal Register (47 FR 23786-23787). The notice stated that any person interested in making an oral or written presentation at the hearing should contact Richard Rieke by June 11, 1982, and that if no person contacted Mr. Rieke to express an interest in participating in the hearing by the above date, the hearing would be cancelled. Because no one expressed an interest in attending the hearing, the hearing has been cancelled.

While there is no public hearing, interested persons may still submit written comments on the proposed amendments. Written comments must be received on or before 4:00 p.m. on July 1, 1982, to be considered in the Director's decision on whether to approve or disapprove the amendments. Written comments should be mailed or hand-delivered to the address listed above under "**ADDRESS**".

Dated: June 14, 1982.

William Schmidt,

Assistant Director, Program Operations and Inspection.

[FR Doc. 82-16487 Filed 6-16-82; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD 09-82-06]

Special Anchorage Area Lake Betsie, City of Frankfort, Mich.

AGENCY: Coast Guard, DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard at the request of the City of Frankfort, Michigan, is proposing to amend the Anchorage Regulations by establishing a Special Anchorage Area at Lake Betsie, Frankfort, Michigan.

The City of Frankfort, Michigan, has requested this Special Anchorage Area in order to reduce harbor congestion and improve navigation.

Establishment of this Special Anchorage Area will eliminate the necessity for displaying anchor lights on vessels of less than 65 feet in length while anchored within the area.

DATE: Comments must be received on or before August 2, 1982.

ADDRESSES: Comments should be mailed to Commander, Marine Port Safety Branch, Ninth Coast Guard District, 1240 East 9th Street, Cleveland, OH 44199. The comments and other materials referenced in this notice will be available for inspection or copying at Marine Port Safety Office, room 2019, 1240 East 9th Street, Cleveland, OH 44199. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Ensign Steven J. Boyle, Marine Port Safety Branch, Ninth Coast Guard District, 1240 East 9th Street, Cleveland, OH 44199 phone number (216) 522-3918 or 522-7084.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Each person submitting a comment should include their name and address, identify this notice (CGD 09-82-06), and the specific section of the proposal to which their comment applies, and give reasons for the comment. Persons desiring acknowledgement that their comments have been received should enclose a stamped self-addressed postcard or envelope. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal persons involved in drafting this proposal were Ensign Steven J. Boyle, Port Safety Branch, and Lieutenant M. Eric Reeves, Project Attorney, District Legal Office.

Discussion of Proposed Rule

The City of Frankfort, Michigan, has requested that an existing area in which pleasure crafts are mooring be designated a Special Anchorage Area. The mooring area will accommodate thirty (30) vessels. The size of these vessels will not exceed forty-five (45) feet due to the design of the anchorage area. The City of Frankfort, Michigan, understands and accepts the principle that this mooring area is available for use of the general public. No restrictions on the use of the general public have been established nor contemplated.

An environmental review of the proposal has been performed by the Ninth Coast Guard District Planning Staff who determined that the proposed action will have no significant impact. Preparation of an environmental assessment was not required since the action was found to be catergorically excluded in accordance with 2-B-3(g) CONDTINST M16475.1A (National Environmental Policy Act). Also, the establishment of such special anchorage is not a matter on which there is substantial public interest or controversy, nor does it involve impacts on business competition, State or local

government, or the regulations of other programs and agencies.

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 22 May 1980). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601, et. seq.), it is also certified that these rules, if promulgated, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

PART 110—ANCHORAGE REGULATIONS

In consideration of the foregoing, it is proposed that Part 110 of Title 33 of the Code of Federal Regulations be amended by adding § 110.81a to read as follows:

§ 110.81a Lake Betsie, Frankfort, Michigan.

The area within the following boundaries: Beginning at latitude 44°37'46" North, longitude 86°13'46" West; thence 180° 80 yards; thence 277° 167 yards; thence 298° 217 yards; thence 35°30'133 yards; thence 120° 317 yards to point of beginning.

(33 U.S.C. 2071; 49 CFR 1.46(n)(14), 33 CFR 1.05-1(g))

Dated: June 2, 1982.

Henry H. Bell,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 82-16403 Filed 6-16-82; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Parts 126, 154, and 156

[CGD 77-128]

Waterfront Facilities; Withdrawal of Advance Notice of Proposed Rulemaking

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of Advance Notice of Proposed Rulemaking.

SUMMARY: This action withdraws the advance notice of proposed rulemaking (ANPRM) published in the **Federal Register** on April 10, 1978 (43 FR 15108) which contains a preliminary draft of proposed regulations which would apply to all waterfront facilities and concerns matters relating to waterfront safety and environmental protection. After reviewing the comments received and reevaluating the proposal the Coast Guard has determined that further study is required to determine the need for such regulations.

EFFECTIVE DATE: This withdrawal is effective on June 17, 1982.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Gary L. Gregory, Port and Environmental Safety Division (G-WPE-3), Room 1611, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, (202) 755-1354.

SUPPLEMENTARY INFORMATION: Public hearings on the ANPRM were held in New York NY; Long Beach, CA; and Houston, TX. More than 280 written comments were received on the ANPRM in addition to the oral comments received at the public hearings. In addition, the Coast Guard consulted with and received valuable information from the Chemical Transportation Advisory Committee (CTAC).

The comments received and the input from CTAC proved to be very useful in evaluating the ANPRM. However upon review of this proposal the Coast Guard has determined that inadequate data was used in determining the need for the proposed rules. As a result, the Coast Guard is commencing a project to develop a proper data based system to determine regulatory need. Since it is not known at this time the direction the analysis will lead, the Coast Guard has decided to withdraw the ANPRM.

Accordingly, the ANPRM docket number CGD 77-128, published in the **Federal Register** on April 10, 1978 (43 FR 15108), is hereby withdrawn.

B. F. Hollingsworth,

Rear Admiral, U.S. Coast Guard Chief, Office of Marine Environment and Systems.

June 11, 1982.

[FR Doc. 82-16401 Filed 6-16-82; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 161

[CGD-80-093]

Prince William Sound Vessel Traffic Service Loran-C Position Transmitting System (LPTS); Withdrawal of Advance Notice of Proposed Rule

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of advance notice of proposed rule.

SUMMARY: This action withdraws an advance notice of proposed rulemaking published in the **Federal Register** on October 26, 1981 (46 FR 52131). This advance notice requested public comments on a contemplated rule requiring self-propelled vessels of more than 10,000 gross tons operating within the Prince William Sound Vessel Traffic Service Area to have an operating Loran-C Position Transmitting System (LPTS) on board. Upon review of the comments and data received, the Coast Guard has determined that further rulemaking action is inappropriate at this time.

EFFECTIVE DATE: This withdrawal is effective on June 17, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Whittum, Office of Marine Environment and Systems (G-WWM-1), Room 1608, Department of Transportation, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, (202) 426-1940.

SUPPLEMENTARY INFORMATION: On Monday, October 26, 1981 (46 FR 52131), the Coast Guard published an advance notice of proposed rulemaking, followed by a minor correction published on November 5, 1981 (46 FR 54973). The advance notice sought public comment, information, and data concerning a contemplated rule requiring all tankships over 20,000 dead weight tons, and other self-propelled vessels over 10,000 gross tons, operating within the Prince William Sound Vessel Traffic Service to have an Automatic Position Transmitting System installed and programmed to respond to a Vessel Traffic Center (VTC) "all call" signal. This would enable the VTC to take frequent position updates on all subject vessels operating within the Vessel Traffic Service.

Thirteen comments were received. Ten commentors disapproved of the system, each of whom indicated that vessel traffic safety would not be enhanced. One commentor approved of the system predicting an enhancement in safety. Two commentors stated that the system is technically feasible, but failed to approve or disapprove of the system.

Specific criticism of the system includes: No improvement in traffic safety; voice response is not a burden; failure to equip all users, especially foreign vessels, might create a hazard to navigational safety; the Coast Guard's economic analysis failed to account for reduced operating flexibility costs; the system places an unnecessary burden on the target user group; and, that the system is not cost effective.

Upon review of these comments, the Coast Guard has determined that further development of this project is

inappropriate. Therefore, the Prince William Sound Vessel Traffic Service Loran-C Position Transmitting System advance notice of proposed rulemaking is withdrawn.

Dated: June 11, 1982.

B. F. Hollingsworth,

Rear Admiral, U.S. Coast Guard Chief, Office of Marine Environment and Systems.

[FR Doc. 82-16412 Filed 6-16-82; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 167

[CGD 81-080]

Traffic Separation Scheme

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is proposing to establish a traffic separation scheme (TSS) for the approaches to Galveston Bay. The TSS is designed to increase navigation safety in the approaches by separating opposing lands of vessel traffic. The United States will seek international recognition of the TSS by applying to have it adopted by the International Maritime Organization (IMO) [formerly IMCO].

The proposed new Part 167 also contains general rules which will apply to future offshore TSS's developed for U.S. ports.

DATE: Comments must be received on or before August 16, 1982.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/44) (CGD 81-080), U.S. Coast Guard, Washington, D.C. 20593. Comments may be delivered to and will be available for inspection and copying at the Marine Safety Council, U.S. Coast Guard Headquarters, Room 4402, 2100 2nd St., S.W. Washington, D.C., between the hours of 8 a.m. and 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Young, Project Manager, or Commander Guy Clark, Assistant Chief, Short Range Aids to Navigation Division, Office of Navigation (G-NSR-3), room 1418, U.S. Coast Guard Headquarters, 2100 Second St., S.W., Washington, D.C. 20593. Mr. Young can be reached at (202) 245-0108; CDR Clark can be reached at (202) 426-0980.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each person submitting a comment should include his or her name and address, identify this notice as CGD 81-080, and give the reasons for the comment. Persons desiring acknowledgment of receipt should enclose a stamped, self-addressed postcard or envelope.

All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned; but one may be held if written requests for a hearing are received and the Coast Guard determines that the opportunity to make oral presentations will be beneficial to this rulemaking.

Drafting Information

The principal persons involved in drafting this rulemaking are: Mr. Christopher Young, Project Manager, Office of Navigation, and Lieutenant Michael Tagg, Project Attorney, Office of Chief Counsel.

List of Subjects in 33 CFR Part 167

Navigation (water), Vessels, Traffic seperation scheme.

Discussion of Proposed Regulations

An offshore traffic separation scheme (TSS) is an internationally recognized routing measure which is intended to separate opposing streams of vessel traffic by the establishment of charted traffic lanes. It can be compared to a highway for vessels. Although a vessel can often approach a port without entering a TSS, once a vessel is within the parameters of a scheme it is governed by Rule 10 of the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS).

Rule 10 imposes several operating requirements on a vessel. For instance, a vessel must "proceed in the appropriate traffic lane in the general direction of traffic flow for that lane." Also, a vessel must join or leave a lane either at the termination of the lane or "at as small an angle to the general direction of traffic flow as practicable." If a vessel must cross through a TSS, it is to cross "as nearly as practicable at right angles to the general direction of traffic flow." A TSS receives international recognition when it is adopted by the International Maritime Organization (IMO) [formerly IMCO], and Rule 10 then becomes compulsory within the TSS designation for both U.S. and foreign flag vessels.

In 1978, the Ports and Waterways Safety Act was amended to permit the Coast Guard to establish traffic separation schemes, after a determination of need (Pub. L. 95-474(4)(c); 33 U.S.C. 1223(c)). A study of need for offshore approaches to Houston and Galveston was initiated through a notice in the **Federal Register** in April 1979 (44 FR 22543, modified by 45 FR 7027). The study results for the ports along the Gulf coast were published as a notice on October 8, 1981 (46 FR 49989). The study determined that "because of the increase in traffic flow, the increase in ship size, and the increase in volume of hazardous cargoes being transported into the ports of Houston and Galveston" a TSS is needed for the approach to Galveston Bay (46 FR 49991).

While the Port Access Route Study was being performed, a Coast Guard Board of Inquiry was convened in February 1980, to analyze factors relating to a series of vessel casualties which had occurred in the Galveston area over the previous 14 months. Many of the recommendations of that Board were addressed by the Port Access Route Study. In particular, the study confirmed the need for a TSS at the Galveston approach.

The geographic scope of the area of concern to the Board of Inquiry included the Galveston Bay Entrance Channel and the Fairway approaches. Within this area, between January 1979 and March 1980, there were 14 collisions between vessels, one platform ramming, and three groundings. Four of the collisions occurred in the offshore approach area (seaward of the Entrance Channel), including the major collision between two Liberian flag vessels, the outbound M/V MIMOSA and the inbound M/T BURMAH AGATE on November 1, 1979, a loss of both vessels and 32 lives.

According to the Board of Inquiry, Galveston Bay approach acts as a "funnel" for vessel traffic enroute to the port facilities of Galveston and Texas City; and to the facilities of Houston, Baytown, Bayport and others via the Houston Ship Channel. Information collected by the Board indicated that in 1979 the Houston and Galveston/Texas City pilots (who board vessels to advise masters on the details of navigating a particular port area) directed the passage of about 15,000 ocean-going vessels through the Galveston Bay Entrance, an average of approximately 2 per hour. Once a vessel is within the Entrance Channel and Galveston Bay Entrance, it has available the assistance of Vessel Traffic Service (VTS) Houston-Galveston which acts as a "vessel movement reporting system" by relaying information between participating vessels. Currently, participation by vessels in the VTS is voluntary; but approximately 95% of the vessel operators participate in the service by reporting information on their intended routes and progress through the VTS. A proposed rule concerning the mandatory use of VTS Houston-Galveston was published September 18,

1980 (45 FR 62158). The VTS does not, at this time, extend past the Entrance Channel to the fairway approaches.

The Board of Inquiry reached the following observations regarding the approach area: "Vessel traffic congestion in the immediate vicinity of the seaward end of the Galveston Bay Entrance Channel is the single greatest factor contributing to collisions in the approach area." The congestion of heavy vessel traffic is aggravated by weather conditions and pilot boarding practices which tend to concentrate vessels at the entrance, both in anchoring during low visibility and in maneuvering to be first in line in the "first-come-first-served" system for taking on pilots. The Board noted that it is common to find many vessels anchored "in the fairway proper," and concluded as follows:

"This virtual absence of discipline in vessel traffic movements in this relatively small area and the seeming insufficiency of compliance with the Rules of the Road (72 COLREGS) under these conditions indicated that more advanced levels of traffic management are required."

With the objective of ensuring a minimum safe distance between vessels in this congested area, the Board made several recommendations concerning communication and coordination among vessels, including the following:

(a) A precautionary area in the vicinity of the seaward approach to Galveston Bay Entrance Channel.

(b) A traffic separation scheme (TSS) for the Galveston Entrance Safety Fairway.

The Commandant of the Coast Guard concurred with these recommendations and they were examined in more detail by the Port Access Route Study in the Eighth District. A meeting was held in Galveston on 11 February 1981, to involve a wide spectrum of interested parties in determining the specifics of a Galveston TSS. Attendees included representatives of pilots' groups, shippers' associations and officials from government agencies. A draft plan was circulated for additional comments. The study report was published in the **Federal Register** on October 8, 1981, and contains a description of the proposed TSS.

The traffic separation scheme (TSS) proposed for the approach to Galveston is located within the boundaries of the existing Galveston Entrance Safety Fairway. This Fairway was originally established by the Corps of Engineers to indicate an area where structures or other obstructions to navigation would not be permitted. It was adopted by the Coast Guard on May 13, 1982 (47 FR 20580) as 33 CFR Part 166(d)(10). The alignment of the TSS is skewed to the southwest of the center of the safety fairway to overlay the Galveston deep channel which is being proposed by developers: an approximately 1,000 foot wide separation zone would overlay the proposed 600 foot wide deep water channel. If the channel is completed, the separation zone could be modified to identify a deep water route. The Coast Guard intends to install aids to navigation in the separation zone.

A precautionary area is proposed for each end of the TSS. The shoreward area, near the anchorage areas and the Entrance Channel, is approximately three miles square. The seaward area, where several fairways feed into the TSS, is approximately four miles square.

In order to establish international recognition of this TSS, the proposed designations are also being submitted for adoption by the International Maritime Organization (IMO) [formerly IMCO]. This will obligate operators of foreign flag vessels using the TSS to comply with Rule 10 of 72 COLREGS. In order to ensure that the TSS created by U.S. regulations is identical to that proposed to IMO and to those already in place in approaches to U.S. ports, Rule 10 is made applicable to the TSS in proposed § 167.10, as authorized by the Ports and Waterways Safety Act (33 U.S.C. 1223 4(c)(5)(A)). The proposed rules will not apply to any greater or lesser degree to U.S. than to foreign vessels because the TSS will only become effective after it has been adopted by IMO. The proposed date of effectiveness for the TSS into Galveston is October 1, 1983.

Proposed § 167.15, which is concerned with the modification of TSS's, is intended to insure that the process of amending or adjusting this TSS conforms to the process adopted by IMCO in Resolution A.378(X), as amended by A.428(XI), "General Provisions in Ships' Routeing" (sic). The proposed regulation distinguishes between an "amendment" and an "adjustment" to account for different purposes. A TSS can be permanently amended to improve it for navigation safety and to allow for long-term operations which would otherwise create a hazard to navigation in a traffic lane. On the other hand, a TSS can be temporarily adjusted to allow for short-term operations which would otherwise contravene Rule 10, such as an exploratory drilling, or cable-laying operations.

The proposed Rules are divided into two Subparts. Subpart A "General" (§ 167.01 to § 167.15) will include the definitions, operating requirements, and methods by which schemes can be modified. Subpart A will apply to future offshore TSS's when they are proposed for U.S. port approaches. Subpart B will contain the geographical descriptions of specific TSS's and precautionary areas.

Regulatory Analysis

Neither the establishment of, nor compliance with, the proposed TSS in the approach to Galveston Bay is expected to have an economic impact on industry, small entities, consumers, or the ability of U.S. enterprises to compete with foreign interests. Also, the only environmental impact will be positive, from a lower risk of environmental damage resulting from vessel accidents.

Vessels will not be required to use the TSS lanes during an approach to Galveston Bay. A vessel can enter the Galveston Entrance Channel from an anchorage area without entering a designated traffic lane. However, due to the funnelling-effect of the fairway into Galveston Entrance Channel, and the convenience of following a directional flow of traffic, vessel operators are expected to prefer using the TSS. Once a vessel is within the designated TSS, it will be governed by the operating rules of Rule 10 (72 COLREGS) as made applicable by proposed section 167.10.

Although existence of a TSS can affect the operations of fishing vessels, no negative economic impact or controversy is expected in the Galveston area because of the proposed TSS. By making Rule 10 applicable in the TSS, the proposed rules (§ 167.10) require a fishing vessel in a traffic lane, like any other vessel, to proceed in the "general direction of traffic flow" [Rule 10(b)(i)]. Also, "a vessel engaged in fishing shall not impede the passage of any vessel following a traffic lane" [Rule 10(h)(i)]. In other words, a fishing vessel will not be permitted to pull its nets or trawl against the flow of a traffic in a lane. However, while vessels are normally not to enter the separation zone between the lanes, a fishing vessel is specifically permitted to enter a separation zone to engage in fishing [Rule 10(h)(ii)]. Shrimping and fishing vessel operators in the area of Galveston are not expected to be affected by having a TSS in the approach fairway. Fishing activity has already been limited by the heavy vessel traffic in the fairway.

The proposed traffic separation scheme will overlay an existing shipping safety fairway. Therefore, it will create no new interferences with drilling operations and it will not interfere with access to offshore resources.

For the above reasons, these proposed regulations are considered non-significant and non-major under guidelines set out in "Policies and Procedures for Simplification, Analysis and Review of Regulations" (DOT Order 2100.5 of 22 May 1980) and in Executive Order 12291. These rules will not impose reporting requirements and will not have an annual effect on the economy of 100 million dollars. The new TSS will not result in a major increase in costs or prices for consumers, individual industries or geographic regions; and it will not have an adverse effect on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It is hereby certified, pursuant to section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164, Pub. L. 96-354), that this action will not have a significant economic impact on a substantial number of small entities.

In consideration of the foregoing, the Coast Guard proposes to amend Subchapter P of Chapter 1 of Title 33 of Code of Federal Regulations by adding Part 167, to read as follows:

PART 167—OFFSHORE TRAFFIC SEPARATION SCHEMES

Subpart A—General

Sec.
167.01 Purpose.
167.05 Definitions
167.10 Operating rules.
167.15 Modification of schemes.

Subpart B—Description of Traffic Separation Schemes and Precautionary Areas

167.100 In the approach to Galveston Bay.

Authority: Sec. 4, 92 Stat. 1473 (33 U.S.C. 1223); 49 CFR 1.46(n).

Subpart A—General

§ 167.01 Purpose.

The purpose of the regulations in this part is to establish and designate traffic separation schemes and precautionary areas to provide access routes for vessels proceeding to and from U.S. ports.

§ 167.05 Definitions.

(a) "Traffic separation scheme" (TSS) means a designated routing measure which is aimed at separating opposing streams of traffic. The elements of a TSS include traffic lanes, a separation zone or line, and, often, precautionary areas.

(b) "Traffic lane" means a defined areas of a TSS in which a one-way flow of traffic is established.

(c) "Separation zone or line" means a line or area located between the traffic lanes to separate vessels proceeding in opposite or nearly opposite directions.

(d) "Precautionary area" means a defined area associated with the termination of one or more traffic lanes, in which vessels must navigate with particular caution.

§ 167.10 Operating rules.

The operator of a vessel in a TSS shall comply with Rule 10 of the International Regulations for Preventing Collisions at Sea, 1972.

§ 167.15 Modifications of schemes.

(a) A traffic separation scheme or precautionary area may be permanently amended in accordance with 33 U.S.C. 1223 (92 Stat. 1473), and with international agreements.

(b) A traffic separation scheme or precautionary area may be temporarily adjusted by the Coast Guard to accommodate operations which would create an undue hazard for vessels using the scheme or which would contravene Rule 10 of the International Regulations for Preventing Collisions at Sea, 1972. Adjustment may be in the form of a temporary traffic lane shift, a temporary suspension of a section of the scheme, a temporary precautionary area overlaying a lane, or other appropriate measure. Adjustments will only be made where, in the judgment of the Coast Guard, there is no reasonable alternative means of conducting an operation and navigation safety will not be jeopardized by the adjustment. Notice of adjustments will be made in the appropriate Notice to Mariners.

Subpart B—Description of Traffic Separation Schemes and Precautionary Areas

§ 167.100 In the approach to Galveston Bay.

(a) An inshore precautionary area bounded by a line connecting the following geographical positions:

Latitude	*Longitude*
29°18'06" N.	94°39'12" W.
29°16'06" N.	94°37'00" W.
29°18'00" N.	94°34'54" W.
29°19'24" N.	94°37'06" W.
29°19'48" N.	94°38'06" W.

(b) An offshore precautionary area bounded by a line connecting the following geographical positions:

Latitude	*Longitude*
29°07'42" N.	94°27'48" W.
29°06'23" N.	94°26'12" W.
29°06'23" N.	94°23'54" W.
29°09'06" N.	94°20'36" W.
29°11'12" N.	94°24'00" W.

(c) A traffic separation zone bounded by a line connecting the following geographical positions:

Latitude	*Longitude*
29°17'09.5" N.	94°35'48.1" W.
29°09'10.2" N.	94°26'14.2" W.
29°03'03.0" N.	94°26'22.0" W.
29°17'02.4" N.	94°35'55.8" W.

(d) A traffic lane for inbound (northwesterly heading) traffic between the separation zone and a line connecting the following geographical positions:

Latitude	*Longitude*
29°16'00" N.	94°34'54" W.
29°11'12" N.	94°24'00" W.

(e) A traffic lane for outbound (southeasterly heading) traffic between the separation zone and a line connecting the following geographical positions:

Latitude	*Longitude*
29°16'06" N.	94°37'00" W.
29°07'42" N.	94°27'48" W.

(92 Stat. 1473, section 4(c); 33 U.S.C. 1223(4)(c); 49 CFR 1.46(n))

Dated: May 19, 1982.

Peter J. Rots,

Captain, U.S. Coast Guard, Acting Chief, Office of Navigation.

[FR Doc. 82-16400 Filed 6-16-82; 8:45 am]
BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[A-4-FRL 2053-5]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Georgia Plan To Control Total Reduced Sulfur From Existing Kraft Pulp Mills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes to approve a major portion of Georgia's plan for controlling total reduced sulfur (TRS) from existing kraft pulp mills. Georgia's plan was submitted to EPA by the Governor's designee on January 8, 1982, to comply with the requirements of section 111(d) of the Clean Air Act. Section 111(d) requires States to develop plans to control emissions of designated pollutants from certain existing sources. EPA invites interested persons to comment on the plan, in particular its consistency with the requirements of the Clean Air Act.

DATE: To be considered, comments must be submitted on or before July 19, 1982.

ADDRESSES: Written comments should be addressed to Barry Gilbert of EPA Region IV's Air Programs Branch (see

EPA Region IV address below). Copies of the materials submitted by Georgia may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365

Georgia Department of Natural Resources, Environmental Protection Division, 270 Washington Street, SW., Atlanta, Georgia 30334

FOR FURTHER INFORMATION CONTACT: Barry Gilbert, EPA Region IV, Air Programs Branch, at the above listed address and phone 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: EPA evaluated Georgia's plan by comparing it with the requirements for State plans for designated facilities, as set forth in Subpart B of 40 CFR Part 60, Adoption and Submittal of State Plans for Designated Facilities, and with the EPA Guidelines Document, Kraft Pulping—Control of TRS Emissions from Existing Mills (EPA-450/2-78-003b). EPA is proposing to approve a major portion of the plan because it is consistent with the requirements of Part 60, and the guidelines.

In accordance with section 111 of the Clean Air Act (amended August 1977, Pub. L. 95-95), "Standards of Performance for New Stationary Sources," EPA has promulgated standards of performance for certain source categories. These standards include emission limits for criteria (pollutants for which National Ambient Air Quality Standards have been published) and non-criteria pollutants, and apply to "new" sources (i.e., new, modified, or reconstructed sources) which commenced construction after the date on which EPA proposed standards for that particular category.

Paragraph (d) of section 111 requires States to develop plans for the control of emissions of the same non-criteria, or designated, pollutants from "existing" sources, as are regulated from new sources. "Existing" sources are defined as those which were present prior to the date on which EPA proposed new source performance standards for that particular source category. The requirements for such plans are set forth in Subpart B of 40 CFR Part 60 (November 17, 1975; 40 FR 53346).

Subpart B states that EPA will publish a guidelines document for each source category for which a State plan is required. Once a guideline document is published, and a notice of its availability published in the **Federal Register**, States have nine months to adopt and submit a plan for the control of emissions of the designated pollutant from existing sources. The Guideline Document for the control of total reduced sulfur from existing (kraft pulp) mills was published in March 1979.

Designated pollutants which may contribute to the endangerment of public health are called "health related pollutants" while those that do not are called "welfare related pollutants." This distinction determines the closeness with which the States must follow the Federal guidelines in developing their plans. While States have limited flexibility in developing plans for the control of health related pollutants, greater flexibility is allowed in the control of welfare related pollutants. EPA has classified total reduced sulfur as a welfare related pollutant.

On May 22, 1979 (44 FR 29828), EPA announced the availability of a final guideline document for the control of TRS from existing kraft pulp mills. The notice initiated the requirement that States submit plans on or before February 22, 1980, and on April 14, 1980, the Georgia Environmental Protection Division (GEPD) submitted a plan. However, on February 17, 1981, GEPD requested EPA to return their plan for reevaluation and on March 24, 1981, EPA returned the plan.

GEPD submitted a revised plan on January 8, 1982, which modified the compliance schedule submitted with the April 14, 1980, plan. The revised plan differs from EPA's guideline in several respects. The GEPD emission limits are based on a 24-hour average and not a 12-hour average as recommended by EPA. The GEPD emission limit for lime kilns is 40 parts per million (ppm) as compared to 20 ppm recommended by EPA. These differences are acceptable within the latitude allowed for welfare pollutants; therefore, EPA proposes to approve these regulations.

The method used to calculate the start date is inconsistent with EPA requirements. The GEPD rule requires sources to begin on compliance schedules after notification by the Director. This notification is to take place "* * * when ten (10) states have U.S. EPA approved TRS Plans covering at least 25% of the applicable kraft mills in the country and the Director has determined that their implementation schedule is consistent with Georgia's implementation schedule."

The regulation notification date is vague as to when it will occur. In addition, if other states choose such language, the regulation may never have an effective date. Any person should be able to determine when the sources must begin meeting the conditions of the compliance schedules. Normally air pollution control agencies use specific dates in compliance schedules. This prevents any misunderstanding on the part of the public or the affected sources as to the compliance status of the source and prevents time-consuming and expensive court suits. EPA's requirements call for both a firm date in compliance schedules and regulations enforceable by EPA.

EPA proposes to approve Georgia's 111(d) plan, except for the procedure for starting compliance schedules discussed above. EPA proposes to take no action on this portion of the plan. When GEPD adopts specific dates for compliance schedules, EPA will take action on this portion of the plan.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA and any response are available for public inspection at the EPA Region IV office (see address above).

List of Subjects in 40 CFR Part 62

Administrative practice and procedure, air pollution control, fluoride, intergovernmental relations, reporting and recordkeeping requirements, sulfur.

(Secs. 111 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411 and 7601(a)))

Dated: March 10, 1982.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 82-16864 Filed 6-16-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 123

[SW-4-FRL 2149-2]

Hazardous Waste Management Program; Mississippi Application for Interim Authorization, Phase II, Components A and B

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of a public hearing.

SUMMARY: Today EPA is announcing the availability for public review of the

Mississippi application for Phase II, Components A and B, Interim Authorization, Hazardous Waste Management Program inviting public comment, and giving notice that if significant public interest is expressed, EPA will hold a public hearing on the application.

DATE: If significant public interest is expressed in holding a hearing, a public hearing is scheduled for August 2, 1982 at 7:00 p.m. EPA reserves the right to cancel the public hearing if significant public interest in holding a hearing is not communicated to EPA by telephone or in writing by July 19, 1982. EPA will determine by July 22, 1982, whether there is significant interest to hold the public hearing. All written comments on the Mississippi interim authorization application must be received by the close of business on July 19, 1982.

ADDRESSES: If significant public interest is expresed, EPA will hold a pulbic hearing on Mississippi's application for interim authorization on August 2, 1982, at 7:00 p.m. at the Metro Center—Ramada Inn, Ellis Avenue and I–20 West, Jackson, Mississippi.

Written comments on the application and written or telephoned communication of interest in EPA's holding a public hearing on the Mississipi application must be sent to: James H. Scarbrough, Chief, Residuals Management Branch, U.S. EPA, 345 Courtland St. NE., Atlanta, Georgia 30365, 404/881–3016.

If you wish to find out whether or not EPA will hold a public hearing on the Mississippi application based upon EPA's decision that there was significant public interest in such a hearing, write or telephone after July 19, 1982, the EPA contact person listed below or telephone Mr. Jack McMillan, Director, Division of Solid/Hazardous Waste Management, Mississippi Department of Natural Resources, Post Office Box 10385, Jackson, Mississippi 39209, 601/961–5062.

Copies of the Mississippi Phase II interim authorization application are available during normal business hours at the following addresses for inspection and copying:

Division of Solid/Hazardous Waste Management, Mississippi Department of Natural Resources, Post Office Box 10385, Jackson, Mississippi 39209, Telephone: 601/961–5171

Environmental Protection Agency, Regional Office Library, Room 121, 345 Courtland Street, NE., Atlanta, Georgia 30365, Telephone: 404/881–4216

Written comments should be sent to: James H. Scarbrough, Chief, Residuals Management Branch, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365, Telephone: 404/881–3016.

The public hearing will be held at: Metro Center, Ramada Inn, Ellis Avenue and I–20 West, Jackson, Mississippi.

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residuals Management Branch, Environmental Protection Agency, 345 Courtland Street, NE., Telephone: 404/881–3016.

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, as maneded, to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect.

The State of Mississippi received interim authorization for Phase I on January 7, 1981.

In the January 26, 1981 **Federal Register** (46 FR 7965), the Environmental Protection Agency announced the availability of portions or components of Phase II of interim authorization. Component A, published in the **Federal Register** January 12, 1981 (46 FR 2802), contains standards for permitting containers, tanks, surface impoundments and waste piles. Component B, published in the **Federal Register** January 23, 1981 (46 FR 7666), contains standards for permitting hazardous waste incinerators.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 123, Subpart F (45 FR 33479).

As noted in the May 19, 1980 **Federal Register**, copies of complete State submittals for Phase II interim authorization are to be made available for public inspection and comment. In addition, a public hearing is to be held on the submittal.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Dated: June 8, 1982.

John A. Little,

Deputy Regional Administrator.

[FR Doc. 82-16354 Filed 6-16-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 158

[OPP-250035; PH-FRL 2149-3]

Pesticide Guidelines; Notification to the Secretary of Agriculture of Proposed Regulation Specifying the Data Requirements for Registration of Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule-related notice.

SUMMARY: Notice is given that the Administrator of EPA has forwarded to the Secretary of the U.S. Department of Agriculture a proposed regulation specifying the data requirements for the registration of pesticide products under the Federal Insecticide, Fungicide, and Rodenticide Act.

FOR FURTHER INFORMATION CONTACT: Fred S. Betz, Hazard Evaluation Division (TS–769), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, Room 821A, Arlington, Virginia 22202 (Tel. 703–557–7351).

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 92–516, 86 Stat. 973; Pub. L. 94–140, 89 Stat. 753; 7 U.S.C. 136 *et seq.*) provides that the Administrator shall provide the Secretary of Agriculture with a copy of any proposed regulation at least 60 days prior to signing it for publication in the **Federal Register.** If the Secretary comments in writing to the Administrator regarding any such proposed regulation within 30 days after receiving it, the Administrator shall publish in the **Federal Register** (with the proposed regulation) the comments of the Secretary, if requested by the Secretary, and the response of the Administrator concerning the Secretary's comments. If the Secretary does not comment in writing to the Administrator within 30 days after receiving it, the Administrator may sign such regulation for publication in the **Federal Register** at any time after such 30-day period notwithstanding the foregoing 60-day time requirement. The time requirements may, however, be waived or modified to the extent agreed

upon by the Administrator and the Secretary.

In accordance with section 25(a)(3) of FIFRA, EPA has also furnished a copy of this final regulation to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate.

This regulation is designated as Part 158 of 40 CFR, and is titled "Data Requirements for Registration".

List of Subjects in 40 CFR Part 158

Administrative practice and procedures, Pesticides and pest, Data requirements, Recordkeeping and reporting requirements.

(Sec. 25 [Pub. L. 92–515, 86 Stat. 973; Pub. L. 94–140, 89 Stat. 753 (7 U.S.C. 136 et seq.)])

Dated: June 3, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 82–16369 Filed 6–16–82; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 173 and 178

[Docket No. HM–181, Advance Notice No. 82–3]

Performance-Oriented Packaging Standards; Corrections; Notice of Industry Meeting

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Advance notice of proposed rulemaking, correction.

SUMMARY: This document corrects the advance notice of proposed rulemaking (47 FR 16268, April 15, 1982) relating to preformance-oriented packaging standards for hazardous materials. Notice is also given of an industry sponsored meeting to discuss this proposal. This action is necessary to correct editorial and typographical errors.

FOR FURTHER INFORMATION CONTACT: Thomas J. Charlton, Chief, Standards Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–2075).

SUPPLEMENTARY INFORMATION: In FR Docket 82–10170 appearing on page 16268 in the issue of Thursday, April 15, 1982 make the following corrections:

1. On page 16271, the first sentence of the second full paragraph, first column, should read: "The following is a description of the five non-bulk Packing Methods found in § 173.119".

2. On the same page, middle column, first paragraph, the sixth sentence should read: "Should a shipper elect not to use Packing Group III performance tested packagings . . .".

3. On page 16281, § 173.24(c)(2) should read: "Is marked NRC as required by Part 178 of this subchapter and has previously contained any material".

4. On that same page, in § 173.119(a)(1), the reference to identification code 1A4 for a steel drum should be removed.

5. In the same paragraph, the identification codes for fiber drum, 1G1, 1G2 and 1G3, should be replaced with 1G.

6. On the same page, § 173.119(a)(2), the identification code associated with steel jerrican should be 3A not 3A1.

7. On the same page, § 173.119(a)(3)(i), the identification code associated with reconstituted wood box in the table should be 4F and not 4F1.

8. On page 16282, § 173.119(c)(1), the identification codes for fiber drum, 1G1, 1G2, and 1G3, should be replaced with 1G.

9. On the same page, § 173.119(c)(2), the identification code for steel jerrican, 3A1, should be replaced with 3A, and the identification code for plastic jerricans, 3H1, should be replaced with 3H.

10. On the same page, § 173.119(c)(3)(i), the identification code for reconstituted wood box, 4F1, should be replaced with 4F.

11. On the same page, § 173.119(c)(3)(ii), the identification code for steel jarrican, 3A1, should be replaced with 3A.

12. On page 16283, § 173.119(e)(1), the identification codes for fiber drum, 1G1, 1G2 and 1G3, should be replaced with 1G.

13. On the same page, § 173.119(e)(2), the identification code for steel jerrican, A1, should be replaced with 3A, and the identification code for plastic jerrican, 3H1, should be replaced with 3H.

14. On the same page, § 173.119(e)(3)(i), the identification code for reconstituted wood box, 4F1, should be replaced with 4F.

15. On page 16284, § 173.119(i) and 173.119(j) should be deleted. The Hazardous Materials Table should be amended to authorize the transportation of acrylonitrile and propylene oxide in the tank cars and cargo tanks specified in § 173.119(f).

16. On the same page, § 173.119(m)(1) should be deleted. Tank cars are not authorized for the transportation of methylhydrazine.

17. On the same page, in § 173.119(n)(1), an additional sentence will be added to authorize bottom washouts and Specification 105 tank cars with test pressures greater than 100 psig when restencilled and equipped as 105A100W tank cars.

18. On page 16288, § 178.501, the reference in the definition of "Combination packagings" should be changed from § 173.24(c)(5) to § 173.24(b)(3).

19. On page 16292, § 178.518(b)(3), the first sentence should be read: "Manufacturing joints in the body of boxes shall be taped, lapped and glued, or lapped and stitched with metal staples."

In addition to these corrections, MTB wishes to advise the interested public that on September 14, 1982, the Hazardous Materials Advisory Council (HMAC) will conduct a meeting in St. Louis, Missouri, concerning the packaging performance standards system proposed under Docket HM–181. MTB has agreed to participate fully in the meeting to discuss various aspects of the ANPRM and to respond to questions. A transcript of that portion of the meeting involving MTB participation will be placed in the public docket. Persons interested in attending the meeting should contact HMAC, 1100 17th Street, NW., Suite 908, Washington, D.C. 20036, (202) 223–1271, for further details.

Issued in Washington, D.C., on June 9, 1982.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82–16050 Filed 6–16–82; 8:45 am]

BILLING CODE 4910–60–M

Federal Highway Administration

49 CFR Part 396

[Docket No. MC–48–1; Notice No. 82–5]

Inspection, Repair, and Maintenance

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FHWA is proposing to amend Part 396 of the Federal Motor Carrier Safety Regulations (FMCSR) to exempt lightweight vehicles from the paperwork requirements of this part, to eliminate the special inspection required for vehicles leased less than 30 days, and to eliminate the requirement for drivers to sign a vehicle inspection report, showing no defects, following its review. The primary effect of these proposed rule changes is to reduce the

paperwork burden imposed upon the motor carrier industry.

DATE: Comments must be submitted on or before August 16, 1982.

ADDRESS: All comments should refer to the docket number and notice number that appears at the top of this document and should be submitted, preferably in triplicate, to room 3402, Bureau of Motor Carrier Safety (BMCS), 400 Seventh, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Bureau of Motor Carrier Safety, (202) 426–9767; or Mrs. Kathleen S. Markman, Office of the Chief Counsel, (202) 426–0346, Federal Highway Administration, Department of Transportation, 400 7th St., SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Regulatory Background

Part 396, Inspection, Repair, and Maintenance, of the FMCSR requires every motor carrier that conducts operations in interstate or foreign commerce to systematically inspect, repair, and maintain or cause to be systematically inspected, repaired, and maintained, all motor vehicles subject to its control.

Part 396 was initially issued as part of the FMCSR in 1939 by the Interstate Commerce Commission (ICC) pursuant to section 204 of Part II of the Interstate Commerce Act. This Act authorized the ICC to prescribe regulations with respect to qualifications and maximum hours of service of employees, and safety of operation and equipment of motor carriers engaged in interstate or foreign commerce. In 1967, the Bureau of Motor Carrier Safety (BMCS) was transferred from the ICC to the FHWA, and the FMCSR, including Part 396, became the responsibility of the FHWA.

In response to increasing evidence from several sources (i.e., results of roadside vehicle inspections, accident investigation reports, and complaints by truck and bus drivers) suggesting that inadequate motor carrier maintenance practices were becoming a serious problem, the BMCS, in 1973, published an Advance Notice of Proposed Rulemaking (ANPRM) (38 FR 7127). The ANPRM invited comments on (1) a petition for rulemaking to amend Part 396 which was received from the Professional Driver Safety and Health Organization (PROD) and (2) a number of specific questions on the merits of modifying the inspection and maintenance regulations. In 1977, the BMCS issued a Notice of Proposed Rulemaking (NPRM) to amend Part 396 (42 FR 18103). The NPRM was based on the comments received from the ANPRM and from the results of a study conducted in 1974–1975 for the BMCS by the Highway Safety Research Institute of the University of Michigan which concluded, among other things, that proper inspection and maintenance would reduce the incidence of mechanical defect-related truck accidents. [1] The BMCS in 1979 analyzed all the comments received in response to the ANPRM and the NPRM, and considered the historical trend in terms of the increasing roadside vehicle inspection out-of-service rate (30% out-of-service rate in 1974 to 41% out-of-service rate in 1979). In response to the analysis, the BMCS issued a final rule which amended Part 396 by, among other things, (1) reducing the retention period of certain inspection, repair, and maintenance records, (2) requiring that the motor carrier certify that the items listed on the daily driver vehicle inspection report that would likely affect the safety of operation of the vehicle had been repaired, and (3) requiring that the last driver vehicle inspection report or a copy thereof be carried on the power unit.

In October 1980 (45 FR 70289), in response to a petition for a rule change, the BMCS issued a NPRM proposing to amend Part 396 by exempting vehicles controlled by a motor carrier for less than 30 days from the required vehicle inspection if both carriers involved in the lease are commonly controlled and jointly administer a uniform safety program. Elements of the 1980 NPRM have been incorporated in this notice. Paperwork requirements associated with this regulation have been submitted to the Office of Management and Budget for its review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

The FHWA Task Force Review

On April 13, 1981 (46 FR 21620), the FHWA issued a Notice of Review of Regulations and Request for Public Comments to inform the public of its intent to review certain of its regulations. Those regulations contained in 49 CFR 396 were specifically identified for review. Consequently, a FHWA Task Force was formed and instructed to: (1) Study the background of the existing inspection, repair and maintenance regulations, (2) investigate the costs, benefits, and controversies associated with the existing regulations, and (3) consider less costly alternatives to the existing regulations. Emphasis was placed on finding ways to reduce unnecessary reporting and recordkeeping requirements.

Each requirement of part 396 was reviewed and those which had a direct burden associated with them were isolated. These requirements were then examined to determine if they could be eliminated or modified to reduce the burden. The impact of these modifications on the effectiveness of the regulation was also assessed so that recommendations could be made. Several modifications to the regulations which did not diminish safety were developed and subsequently recommended for implementation. They include:

1. Exempting lightweight vehicles from the paperwork requirements of Part 396.
2. Eliminating the inspection requirement for vehicles leased less than 30 days.
3. Eliminating the requirement for drivers to sign a vehicle inspection report, showing no defects, following its review.

Each of the modifications recommended by the Task Force are described in more detail below.

1. *Exempt lightweight vehicles from the paperwork requirements of Part 396.*

Part 396, as it is presently structured, has only two general exemptions. They are:

"(1) Intracity operations. The rules in this part do not apply to a driver or vehicle wholly engaged in exempt intracity operation. * * *

(2) Lightweight mail trucks. The rules in this part do not apply to a motor carrier or driver engaged in transporting mail under contract with the U.S. Postal Service in motor vehicles having a manufacturer's gross vehicle weight rating of 4,535 kg (10,000 pounds) or less."

Other than these two general exemptions, Part 396 applies to, "Every motor carrier, its officers, drivers, agents, representatives, and employees directly concerned with the inspection and maintenance of motor vehicles * * *." There are, however, several specific exemptions from various sections of Part 396, including the exemption of lightweight vehicles from § 396.11, which deals with the driver vehicle inspection reports. As a point of clarification, the term lightweight vehicle may be generally defined as a vehicle with a gross vehicle weight rating (GVWR) of 10,000 pounds or less, which is not used to transport passengers or hazardous materials

[1] A copy of the report, "Effect of Commercial Vehicle Systematic Preventive Maintenance on Specific Causes of Accidents," PB–248379, is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, telephone (703) 487–4650, at a cost of $12.50.

requiring placarding. See § 390.17 of Title 49 for a complete definition.

The Task Force recommended that the lightweight vehicle exemption be extended to all of the recordkeeping requirements of Part 396. The result would be a reduction in the inspection, repair, and maintenance recordkeeping now imposed on motor carriers. The exempted vehicles would include automobiles, small pick-up trucks, small panel trucks, and small vans.

The BMCS estimates that there would be a burden relief of approximately 1,555,500 hours associated with such a change in the regulations.

Since the major portions of this rule have been in force for many years, there is no reasonable way to estimate with complete accuracy what effect such an exemption would have on highway safety. The Task Force, however, concluded that lightweight vehicles do not represent any unusual safety hazard. In addition, lightweight vehicle inspection, repair, and maintenance records are generally not given priority review during management safety audits conducted by FHWA personnel at the motor carrier's place of business. So, while the lightweight vehicles operated by motor carriers must meet the recordkeeping requirements of Part 396, the BMCS currently places little emphasis in this area. Therefore, this proposed exemption is not expected to diminish safety.

2. *Eliminate the special inspection requirement provided for in § 396.3(c) for vehicles leased less than 30 days.*

Section 396.3(c) states that, "For vehicles controlled by a motor carrier for less than 30 days, the motor carrier shall, before taking possession of the vehicle, inspect the vehicle in order to ensure that the vehicle complies with Part 393 and all parts and accessories necessary for safe operations are in good operating condition. The person making the inspection shall certify the results of the inspection."

The Task Force examined this requirement of Part 396 and considered the ramifications of eliminating it. The BMCS estimates that 7 percent of all motor vehicles used by carriers are leased for less than 30 days and would, therefore, fall under this portion of the regulation. The annual burden associated with this section of the regulations has been estimated to be approximately 63,325 hours.

While the burden of 63,325 hours does not appear to be very large, it should be noted that it is comprised of large blocks of time (15 minutes).

These leased vehicles must meet every other inspection, repair, and maintenance requirement imposed by Part 396. In addition, there is neither evidence nor reason to believe that these leased vehicles are likely to be operated under conditions that necessitate further assurances of their safe condition.

3. *Eliminate the requirement for drivers to sign a vehicle inspection report, showing no defects, following its review.*

Section 396.13 requires the driver to review the last vehicle inspection report required to be carried on the power unit and to sign each report to indicate that the review has taken place. The FHWA estimates that approximately two-thirds of all vehicle inspection reports do not report suspected defects or deficiencies. Therefore, there is no reasonable need for a driver to sign a report that indicates no defects or deficiencies have been discovered. The review requirements, would however, still remain. A rule change requiring the reviewing driver's signature only when defects or deficiencies have been noted, would result in a burden relief of approximately 992,628 hours.

List of Subjects in 49 CFR Part 396

Motor carriers, Motor vehicle safety, Motor vehicle maintenance, Reporting requirements.

PART 396—INSPECTION, REPAIR, AND MAINTENANCE

In accordance with the foregoing and under the authority of 49 U.S.C. 304, 49 U.S.C. 1655, 49 CFR 1.48, and 49 CFR 301.60, it is proposed that the requirements contained in 49 CFR 396.3, and 396.13 be revised as follows:

1. Section 396.3 is amended by removing the present paragraph (c) and inserting a new paragraph (c) to read as follows:

§ 396.3 Inspection, repair, and maintenance.

* * * * *

(c) *Exemption.* The record requirements contained in paragraph (b) of this section do not apply to lightweight motor vehicles, as defined in § 390.17 of this subchapter.

* * * * *

2. Section 396.13(c) is revised to read as follows:

§ 396.13 Driver inspection.

* * * * *

(c) Sign the report, only if defects or deficiencies were noted by the driver who prepared the report, to acknowledge that the driver has reviewed it and that there is a certification that the required repairs have been performed. The signature requirement does not apply to listed defects on a towed unit which is no longer part of the vehicle combination.

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or a significant regulation under the regulatory policies and procedures of the Department of Transportation. In a continuing effort to reduce costs imposed upon the motor carrier industry, the FHWA is proposing to eliminate certain paperwork requirements associated with Part 396. This rulemaking action would result in approximately 2,611,453 hours of burden reduction for the motor carrier industry. Although certain paperwork requirements would be eliminated, a high level of care in the area of vehicle inspection, repair, and maintenance would remain.

A draft regulatory evaluation/initial regulatory flexibility analysis has been prepared and is available for review in the public docket. A copy may be obtained by contacting Mr. Neill L. Thomas at the address provided above under the heading "For further information contact." Due to the preliminary nature of this proposal, the FHWA has not been able to determine that this action will have a significant economic impact on a substantial number of small entities based upon the draft evaluation prepared as of this date. Comments and supporting data and analyses are solicited on the economic impact which may result from this action.

(49 U.S.C. 304; 49 CFR 1.48 and 301.60)

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on: June 14, 1982.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety.

[FR Doc. 82-16986 Filed 6-16-82; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

49 CFR Part 571

Denial of Petition for Rulemaking

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice records the denial of a petition for rulemaking to allow the installation of speed control devices on motorcycles. The agency interprets Standard No. 123 as allowing such devices and denied the petition as moot.

FOR FURTHER INFORMATION CONTACT:
Mr. Arturo Y. Casanova, Accident Avoidance Division, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–1715).

SUPPLEMENTARY INFORMATION: Mr. Thomas R. Lamia, a Washington attorney, petitioned the agency on December 16, 1981, for rulemaking to amend Federal Motor Vehicle Safety Standard No. 123 *Motorcycle Controls and Displays*. Mr. Lamia believed that the standard's requirement that the manual twist-grip throttle be self-closing after its release prohibits the installation of speed control devices on motorcycles. He pointed out that such devices are "permitted" in motor vehicles covered by Standard No. 124 *Accelerator Control Systems*.

NHTSA review of both standards indicates that each neither prohibits nor permits speed control devices. The self-closing requirement of Standard No 123 is conceptually identical to Standard No. 124's requirement that the throttle return to idle after removal of "the opposing actuating force." NHTSA interprets this as a requirement to be met under the implied condition that the speed control device is disengaged. The same interpretation is extended to Standard No. 123; speed control devices are allowable and the throttle must return to idle after manual release when the device is not engaged. On February 11, 1982, Mr. Lamia was informed that his petition was denied on grounds of mootness.

(Sec. 124, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1410a); delegation of authority at 49 CFR Part 1050 and 501.8)

Issued on June 8, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82–16281 Filed 6–16–82; 8:45 am]

BILLING CODE 4910–59–M

Notices

Federal Register
Vol. 47, No. 117
Thursday, June 17, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Privacy Act of 1974; Systems of Records; Annual Publication

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of Systems of Records maintained under the Privacy Act.

SUMMARY: Pursuant to 5 U.S.C. 552a(e)(4), the Advisory Council on Historic Preservation (the Council) publishes those systems of records subject to the Privacy Act that the Council maintains.

FOR FURTHER INFORMATION CONTACT: Administrative Officer, Advisory Council on Historic Preservation, 1522 K Street NW., Suite 430, Washington, D.C. 20005.

Dated at Washington, D.C. on June 11, 1982.

Robert R. Garvey, Jr.,
Executive Director.

ACHP-1

SYSTEM NAME:

Employee Personnel Data Files—Advisory Council on Historic Preservation. This system is covered by the Office of Personnel Management Governmentwide System, OPM/GOVT–1, 45 FR 78415.

SYSTEM LOCATION:

Department of the Interior (DOI), Office of the Secretary, Washington, D.C. 20240. Copies held by ACHP (DOI holds the Council's official records under contract).

ACHP-2

SYSTEM NAME:

Member Personnel Data Files—Advisory Council on Historic Preservation. This system is covered by the Office of Personnel Management Governmentwide System, OPM/GOVT–1, 45 FR 78415.

SYSTEM LOCATION:

Advisory Council on Historic Preservation, 1522 K Street NW., Washington, D.C. 20005.

ACHP-3

SYSTEM NAME:

Member and employee confidential statements of Employment and Financial Interest. This system is covered by the Office of Personnel Management Governmentwide System, OPM/GOVT–8, 45 FR 78427, and OPM/GOVT–4, 45 FR 78420.

SYSTEM LOCATION:

Advisory Council on Historic Preservation, 1522 K Street NW., Washington, D.C. 20005.

ACHP-4

SYSTEM NAME:

Candidates' applications for training at International Center, Rome.

SYSTEM LOCATION:

Advisory Council on Historic Preservation, 1522 K Street NW., Washington, D.C. 20005.

CATEGORIES OF INDIVIDUALS COVERDED BY THE SYSTEM:

Individual applicants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical data, resumes, curriculum vitae.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

16 U.S.C. 470n, 5 U.S.C. 301.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are kept by the Staff Assistant to the Executive Director.

RETRIEVABILITY:

Records are indexed by surname.

SAFEGUARDS:

Stored in file cabinets of the Staff Assistant to the Executive Director; released only to authorized personnel.

RETENTION AND DISPOSAL:

Records are destroyed seven years after application is received.

SYSTEM MANAGER AND ADDRESS:

Staff Assistant to the Executive Director, 1522 K Street NW., Washington, D.C. 20005.

NOTIFICATION PROCEDURE:

Contact the Staff Assistant to the Executive Director.

RECORD ACCESS PROCEDURES:

Contact the Staff Assistant to the Executive Director.

CONTESTING RECORD PROCEDURES:

Contact the Staff Assistant to the Executive Director.

RECORD SOURCE CATEGORIES:

All candidates applying for training at the International Center, Rome.

[FR Doc. 82-16402 Filed 6-16-82; 8:45 am]
BILLING CODE 4310-10-M

CIVIL AERONAUTICS BOARD

[Docket 40603]

Air Niagara Fitness Investigation, Hearing

Notice is hereby given that a hearing in the above-entitled proceeding is assigned to be held on June 22, 1982, at 10 a.m. (local time), Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., June 11, 1982

Ronnie A. Yoder,
Administrative Law Judge.

[FR Doc. 82-16377 Filed 6-16-82; 8:45 am]
BILLING CODE 6320-01-M

Commuter Fitness Determination

The Board is proposing to find the following carriers fit, willing, and able to provide commuter air carrier service under section 419 (c) (2) of the Federal Aviation Act, as amended, and that aircraft used in this service conform to applicable safety standards.

Order	Applicant	Response date
82-6-20	Omniflight Airways, Inc., d.b.a. Chesapeake & Potomac Airways, Inc.	June 23, 1982.
82-6-24	Great Lakes Aviation, Ltd.	June 23, 1982.

Order	Applicant	Response date
82-6-73	Skyway of Ocala	June 27, 1982.

All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed in Attachment A of the respective orders and file response or additional data with the Special Authorities Division, Room 915; 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

The complete text of the orders is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request to the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Anne Stockvis, (202) 673-5198; Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C. 20428.

By the Civil Aeronautics Board: June 11, 1982

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-16390 Filed 6-16-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 37392; Order 82-6-63]

Order Concerning Mail Rates; Eastern Air Lines, Inc.

Order 82-6-63, June 11, 1982, Docket 37392, establishes final service mail rates for Eastern Air Lines, Inc. in the Latin American rate area.

Copies of this order are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-16379 Filed 6-16-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40462]

Sea Coast Airways Fitness Investigation; Assignment of Proceeding

This preceeding has been assigned to Chief Administrative Law Judge Elias C. Rodriguez. Future communications should be addressed to him.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82-16378 Filed 6-16-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 36595; Order 82-6-54]

Investigation Into the Competitive Marketing of Air Transportation—Agreements Phases

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 9th day of June 1982.

Order

On June 1, 1982 Administrative Law Judge Ronnie A. Yoder issued his initial decision in this proceeding. In Order 79-9-64, September 13, 1979 we indicated our intention to take review of his decision. We adopt the following timetable for further procedures:

Initial Briefs, July 28, 1982
Reply Briefs, August 25, 1982
Oral Argument, September 15, 1982

Accordingly:

1. Initial briefs in this proceeding are due by July 28, 1982; replies are due by August 25, 1982; and oral argument will be held on September 15, 1982; and
2. We will publish this order in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-16400 Filed 6-16-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget

DOC has submitted to OMB for clearance the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: Census coverage Evaluation Research
Type of request: New
Burden: 5,200 respondents; 1,300 reporting hours
Needs and uses: The Census Coverage Evaluation Research Studies are experiments by the Census Bureau to improve its ability to evaluate future censuses. Independent lists will be compared to estimate the rate of Census coverage with each other and with other estimation methods in order to determine the best combination of methods for evaluating coverage in the 1990 Decennial Census. This questionnaire will be used to gather information to determine match status.
Frequency: Nonrecurring
Respondent's obligation: Mandatory
OMB desk officer: Timothy Sprehe 395-7313

Agency: Bureau of the Census
Title: October 1982 School Enrollment Supplement
Type of request: Reinstatement
Burden: 58,000 respondents; 8,200 (FY 83)
Needs and uses: This supplement provides basic data on school enrollement for individuals 5 years old and over who are enrolled in elementary, high school, college, and special schools as well as for persons 3 and 4 years of age enrolled in nursery schools and kindergarten.
Frequency: Annually
Respondent's obligation: Voluntary
OMB desk officer: Timothy Sprehe 395-7313

Agency: Bureau of the Census
Title: July 1982 Follow-up of Unemployed Persons
Type of request: New
Burden: 1,600 respondents; 128 reporting hours
Needs and uses: These questions will provide data on whether persons who are reported as on layoff in the Current Population Survey (CPS) expect to be called back to the job from which they were laid off and on whether they have actively searched for a job to help assess the impact of modifications to a redesigned CPS labor force questionnaire.
Frequency: Nonrecurring
Respondent's obligaion: Voluntary
OMB desk officer: Timothy Sprehe 395-7313

Agency: Bureau of Economics Analysis
Title: Public Assistance Payments Estimates by County
Type of request: Extension
Burden: 50 respondents; 300 reporting hours
Needs and uses: Secures annual data obtained by states and counties for selected public assistance payments. Required for the preparation of the regional accounts of the United States.
Frequency: Annually
Respondent's obligation: Voluntary
OMB desk officer: Timothy Sprehe 395-7313

Agency: International Trade Administration
Title: Basic Rules of the Defense Material System and Defense Priorities System
Type of request: Reinstatement
Burden: 25,000 respondents; 16,667 reporting hours
Needs and uses: The recordkeeping is required for the enforcement and administration of the delegated authority of the Defense Production Act of 1950 as amended (50 U.S.C. App. 2061, *et seq.*). Any person who receives a defense rated contract or order is subject to the implementing Defense Materials System/ Defense Priorities System regulations and is required to retain records of the transaction for at least three years.
Frequency: On occasion
Respondent's obligation: Mandatory
OMB desk officer: Ken Allen 395-3785

Agency: International Trade Administration
Title: Statement of Controlled Material Requirements for Class "A" Products-Constitution
Type of request: Extension
Burden: 200 respondents; 100 reporting hours
Needs and uses: The information collected is required for the enforcement and administration of the delegated authority of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 *et seq.*) to manage the consumption and use of controlled materials.

Frequency: On occasion
Respondent's obligation: Mandatory
OMB desk officer: Ken Allen 395–3785
Agency: International Trade Administration
Title: Statement of Controlled Materials Requirements for Class "A" Products-Production or Research and Development.
Type of request: Extension
Burden: 500 respondents; 250 reporting hours
Needs and uses: The information collected is required for the enforcement and administration of the delegated authority of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 *et seq.*) to manage the consumption and use of controlled materials.
Frequency: On occasion
Respondent's obligation: Mandatory
OMB desk officer: Ken Allen 395–3785
Agency: International Trade Administration
Title: Detailed Breakdown of Controlled Materials Requirements
Type of request: Extension
Burden: 200 respondents; 400 reporting hours
Needs and uses: The information collected is required for the enforcement and administration of the delegated authority of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 *et. seq.*) to manage the consumption and use of controlled materials.
Frequency: On occasion
Respondent's obligation: Mandatory
OMB desk officer: Ken Allen 395–3785
Agency: International Trade Administration
Title: Shipments of Primary Nickel
Type of request: Extension
Burden: 21 respondents; 14 reporting hours
Needs and uses: The information collected is required for the enforcement and administration of the delegated authority of the Defense Production Act of 1950, as amended (50 U.S.C. Appl. 2061 *et seq.*) to manage the consumption and use of primary nickel.
Frequency: Quarterly
Respondent's obligation: Mandatory
OMB desk officer: Ken Allen 395–3785
Agency: International Trade Administration
Title: Steel Producer's Production Directive Report
Type of request: Extension
Burden: 100 respondents; 1,200 reporting hours
Needs and uses: The information collected is required for the enforcement and administration of the delegated authority of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 *et seq.*) to manage the consumption and use of iron and steel.
Frequency: Quarterly
Respondent's obligation: Mandatory
OMB desk officer: Ken Allen
395–3785
Agency: International Trade Administration
Title: Marketing Data Form
Type of request: Extension
Burden: 4,000 respondents; 3,000 burden hours
Needs and uses: This form was created as a convenient means for participants in U.S. export promotion exhibitioins overseas to provide the exhibition management staff with an outline of the firm's marketing structure, interests and needs. This information is also used by the Washington staff in assisting the company and the exhibition managers.
Frequency: On occasion
Respondent's obligation: Voluntary
OMB desk officer: Ken Allen
395–3785
Agency: National Oceanic and Atmospheric Administration
Title: Application for Fishing Vessel Obligation Guarantee
Type of request: Extension
Burden: 1,785 respondents; 14,280 reporting hours
Needs and uses: Completion of application form is required to obtain benefits of Fishing Vessel Obligation Guarantee program. The American Fisheries Promotion Act extended eligibility for program to fisheries shoreside facilities.
Frequency: On occasion
Respondent's obligation: Required to obtain or retain benefits
OMB desk officer: Ken Allen
395–3785
Agency: National Oceanic and Atmospheric Administration
Title: Oil Spill Tracking Studies Drift Card Deployment
Type of request: New
Burden: 250 respondents; 38 reporting hours
Needs and uses: Drift cards are used to track the movement of ocean currents and to predict the landfall of shoreward moving oil slicks. The cards are thus used for research purposes as well as to meet operational requirements during major spills.
Frequency: On occasion
Respondent's obligation: Voluntary
OMB desk officer: Ken Allen
395–3785
Agency: National Oceanic and Atmospheric Administration
Title: Vessel Inventory—II. Verification/Classification
Burden: 8,570 respondents; 600 burden hours
Needs and uses: Phase I established a vessel inventory for the Central and Western Pacific Fishery Conservation Zone by assembling records from the U.S. Coast Guard and the Hawaii Department of Transportation. Phase II will (1) verify accuracy of key data on existence of boats, and (2) classify as nonfishing or by various fishing categories. Existing record is not sufficiently accurate or detailed in order for the Fishery Management Council on the National Marine Fisheries Service to describe the fishery or conduct socio-economic studies.
Frequency: Nonrecurring
Respondent's obligation: Voluntary
OMB desk officer: Ken Allen
395–3785
Agency: National Oceanic and Atmospheric Administration
Title: National Ocean Survey (NOS) User Questionnaire-Nautical Products
Type of request: New
Burden: 5,000 respondents; 250 reporting hours
Needs and uses: The purpose of this questionnaire is to identify users of various NOS products so that resources may be directed toward those areas where the greatest benefits may be realized by the majority of the users.
Frequency: Nonrecurring
Respondent's obligation: Voluntary
OMB desk officer: Ken Allen
395–3785

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk Officer, Room 3201, New Executive Office Building, Washington, D.C. 20503.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 82-16071 Filed 6-16-82; 8:45 am]
BILLING CODE 3510-CW-M

International Trade Administration

Utah State University; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 81–00386. Applicant: Utah State University, Department of Range Science, UMC 52, Logan, UT 84322. Article: Root Length Scanner. Manufacturer: Commonwealth Aircraft Corp., Ltd., Australia. Intended use of article: See Notice on page 51627 in the Federal Register of October 21, 1981.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purpose as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article analyzes original root samples with an accuracy of plus or minus five percent for a 15 to 60 meter sample range. The Department of Health and Human Services advises in its memorandum dated January 19, 1982 that (1) the capability of the foreign

article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the Unites States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-16386 Filed 6-16-82; 8:45 am]

BILLING CODE 3510-25-M

Yale University; Decision on Application For Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 82–00037. Applicant: Yale University, Dept. of Engineering & Applied Science, P.O. Box 2159, Yale Station, New Haven, CT 06520. Article: Optically Contacted Fabry Perot Assembly. Manufacturer: IC Optical Systems Ltd., United Kingdom. Intended use of article: See Notice on page 60867 in the **Federal Register** of December 14, 1981.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The application relates to an accessory for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used and is pertinent to the applicant's purposes.

The Department of Commerce knows of no similar accessory being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-16388 Filed 6-16-82; 8:45 am]

BILLING CODE 3510-25-M

Thomas S. Clarkson Memorial College of Technology; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 81–00270. Applicant: Thomas S. Clarkson Memorial College of Technology, Potsdam, New York 13676. Article: NMR Spectrometer, Model JNM/FX–90Q with Accessories. Manufacturer: JEOL, Japan. Intended use of article: See Notice on page 41125 in the **Federal Register** of August 14, 1981.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: This application is a resubmission of Docket No. 80–00361 which was denied without prejudice to resubmission on March 5, 1981 for informational deficiencies. The foreign article operates at a magnet field strength in the region of 1.9–2.1 Tesla. The National Bureau of Standards advises in its memorandum dated April 21, 1982 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended us.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-16387 Filed 6-16-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration Pacific Fishery Management Council's, Anchovy Subpanel; Public Meeting

AGENCY: National Marine Fisheries Service, Commerce.

SUMMARY: The Pacific Fishery Management Council, established by section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), has established an Anchovy Subpanel which will meet to discuss the preliminary biomass estimate and anchovy quota for the 1982–83 fishing season. Representatives of the Council, the Council's technical advisory bodies, California Department of Fish and Game and the National Marine Fisheries Service (NMFS), will discuss the method used for deriving the preliminary biomass estimate which will be available for review by July 1, 1982.

DATE: The public meeting will convene on Thursday, July 8, 1982, at approximately 10 a.m., and will adjourn at approximately 5 p.m., and will take place at the U.S. Customs Building, 300 South Ferry Street, Conference Room 2032, Terminal Island, California.

FOR FURTHER INFORMATION CONTACT:

Pacific Fishery Management Council, 526 SW Mill Street, Portland, Oregon 97201, (503) 221–6352

or

National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731, (213) 548–2575.

SUPPLEMENTARY INFORMATION: Section 8.10 of the Fishery Management Plan for the Northern Anchovy Fishery states that the Regional Director of the Southwest Region, NMFS, with the assistance of the Southwest Fisheries Center, NMFS, and the California Department of Fish and Game, will determine and announce preliminary estimates of the spawning biomass,

optimum yield and associated harvest quotas for different sectors of the anchovy fishery. This is done annually in consultation with the Council and prior to the final establishment of harvest quotas by August 1 of each new fishing season.

A preliminary determination of estimated spawning biomass, optimum yield and harvest quotas for the 1982–83 fishing season will be announced by July 1. The July 8 meeting will begin with an explanation and discussion of the scientific and statistical methods used to derive the preliminary estimate of the anchovy spawning mass. Information developed at this meeting will enable the Anchovy Subpanel to formulate a recommendation to the Council. Commercial and recreational fishermen, the California Fish and Game Commission and other interested persons are invited to participate in the discussions.

Dated: June 14, 1982.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82-16479 Filed 6-16-82; 8:45 am]
BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Summer on Training and Training Technology: Notice of Advisory Committee Meeting

The Defense Science Board Summer Study Panel on Training and Training Technology will meet in closed session on 13–14 and 19–20 July 1982 in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

At these meetings, the Summer Study Panel on Training and Training Technology will discuss the technology and mission impact of training on the readiness of our forces.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. I, 1976), it has been determined that these Defense Science Board Panel meetings concern matters listed in 5 U.S.C. 552b(1) (1976), and that accordingly these meetings will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

June 11, 1982.

[FR Doc. 82-16298 Filed 6-16-82; 8:45 am]
BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

National Board of the Fund for the Improvement of Postsecondary Education; Meeting

AGENCY: National Board of the Fund for the Improvement of Postsecondary Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the National Board of the Fund for the Improvement of Postsecondary Education. This notice also describes the functions of the Board. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463, Section 10(a)(2)).

DATE: July 8, 1982 at 5:00 p.m. through July 10, 1982 at 2:00 p.m.

ADDRESS: Hampton Institute, Science Center, Hampton, Virginia.

FOR FURTHER INFORMATION CONTACT: Sven Groennings, Director, Fund for the Improvement of Postsecondary Education, 7th & D Streets, SW, Washington, D.C. 20202 (202–245–8091).

SUPPLEMENTARY INFORMATION: The National Board of the Fund for the Improvement of Postsecondary Education is established under Section 1003 of the Higher Education Amendments of 1980, Title X (20 U.S.C. 1135a–1). The National Board of the Fund is established to "advise the Secretary and the Director of the Fund for the Improvement of Postsecondary Education * * * on the selection of projects under consideration for support by the Fund in its competitions."

The meeting of the National Board will be open to the public. The proposed agenda includes:

(a) Reviewing and recommending possible program directions for fiscal year 1982–83.

(b) MISIP and science education.

Records shall be kept of all Board proceedings, and shall be available for public inspection at the Fund for the Improvement of Postsecondary Education, 7th and D Streets, SW, Room 3100, Washington, D.C. 20202 from the hours of 8:00 a.m. to 4:30 p.m. weekdays, except Federal Holidays.

Dated: June 8, 1982.

Thomas P. Melady,

Assistant Secretary for Postsecondary Education.

[FR Doc. 82-16361 Filed 6-16-82; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Alderwood Area Service Project; Finding of No Significant Impact

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of a finding of no significant impact (FONSI) for BPA's proposed Alderwood Area Service project.

SUMMARY: The Alderwood Area Service Environmental Assessment evaluates BPA's proposal to build a new 115–kV transmission line and 115–12.5–kV, 25–MW substation in the Alderwood, Oregon, area. The proposed action will solve overload problems at Junction City and Alderwood Substations and line voltage problems, and will reduce distribution losses. The proposed transmission line will be built mainly in an exiting State highway right-of-way. The transmission line crosses the Long Tom River, requiring that the line be built within its 100-year floodplain.

Alternatives considered by BPA include no action, conservation, other plans of service including upgrading equipment and tapping another line, and other line locations.

The proposed route is 9.5 miles (15 km) long. All but about 2 miles (3.2 km) of the proposed route is on existing right-of-way. The poles from these lines will be removed and the new taller poles put in approximately the same locations. The highway right-of-way crosses 2.2 miles (3.5 km) of 100-year floodplain designated by the Federal Emergency Management Agency. Some drainage ditches along the highway support wetland vegetation and are considered wetlands. The line will cross 4.7 miles (8 km) of prime farmland. The rest of the line will pass through the town of Cheshire and cross gently rolling hills of pastureland, cropland, and woodlots.

Construction will cause a temporary increase in noise, engine exhaust, and dust. Soil disturbance and vegetation removal may damage some crops and trees. An area of 175 feet by 185 feet (53 by 56 m) will be taken out of crop production. Wildlife will be temporarily dispersed, and there may be some bird collisions with the line. Operation of the

transformer will increase noise, but levels will be within State limits. With the taller poles and the new substation, visual quality will be reduced. No access road construction will be necessary.

The proposed action will not affect any listed or proposed endangered or threatened species or their habitats, properties eligible for inclusion on the National Register of Historic Places, or other protected resources. The proposed project, if undertaken, would be consistent and compatible with local plans and programs, including zoning ordinances and land use plans. Transmission lines over 75 kV and substations are a conditional use in all zones affected by the project.

Alternatives to crossing prime farmland are no action, and two line locations through timber and residential land. No action would not solve the overland problem. Crossing large areas of timerland would create greater impacts involving clearing the right-of-way and constructing access roads than the proposed route.

Because the Junction City Substation and the service area are on opposite sides of the Long Tom River, and because the floodplain is too wide to span, no action is the only alternative to locating transmission poles within the floodplain. However, no action is not practicable because it would not solve the overload problem.

A floodplain/wetlands assessment is included in the Environmental Assessment. Actions within the floodplain involve removing the present poles and placing the new poles in about the same locations. With the exception of the visual impact of the taller poles, the natural and beneficial values of the floodplain/wetlands will not be affected. This action would conform to all local and State floodplain protection standards. To minimize potential harm to and within the floodplain and wetlands, BPA will:

1. Not disturb existing vegetative buffer zones along stream banks.
2. Cover no large areas of soil with impermeable material which could increase runoff.
3. Create no large structures which could block flow of floodwaters.
4. Revegetate all disturbed soil areas after construction.

BPA has prepared an Environmental Assessment in conjunction with local, State, and other Federal agencies. Public meetings were held on August 20, 1981, and December 3, 1981, in the Alderwood area.

Based on the Environmental Assessment, and for reasons outlined above, DOE has determined that BPA's action will not have a significant effect on the quality of the human environment. An environmental impact statement, therefore, will not be prepared. DOE also finds that there is no practicable alternative to locating part of BPA's action within the floodplain.

FOR FURTHER INFORMATION CONTACT: Copies of the Environmental Assessment are available from the Environmental Manager, Bonneville Power Administration, P.O. Box 3621–SJ, Portland, Oregon 97208, telephone (503) 230–5136.

BPA may implement the proposed action 15 days after publication of this notice.

Date issued: May 27, 1982.

William A. Vaughan,

Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness.

[FR Doc. 82–16375 Filed 6–16–82; 8:45 am]

BILLING CODE 6450–01–M

Office of Assistant Secretary for International Affairs

International Atomic Energy Agreements; Proposed Subsequent Arrangements; European Atomic Energy Community (EURATOM)

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreement involve approval of the following sales:

Contract Number S–EU–736, to the Universitat Munchen, Federal Republic of Germany, 100 milligrams of thorium-230 for use in coulomb exitation to study the movement, spin, and energy of thorium-230.

Contract Number S–EU–737, to the Federal Republic of Germany, 5 grams of uranium-238, to be used in the production of neptunium-237 for experiments to determine activity release of a nuclear fuel melting condition.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: June 11, 1982.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82–16374 Filed 6–16–82; 8:45 am]

BILLING CODE 6450–01–M

International Atomic Energy Agreement; Proposed Subsequent Arrangement; Switzerland

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the Government of the United States of America and the Government of Switzerland Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the supply of 889.6 grams of uranium depleted in U–235 to the Swiss Federal Institute for Nuclear Research, for use in development of mixed plutonium carbide and uranium carbide fuels, under Contract Number WC–SD–12.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: June 11, 1982.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82–16373 Filed 6–16–82; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Agency Forms Submitted to the Office of Management and Budget for Review

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: Under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), Department of Energy

(DOE) notices of proposed collections under review will be published in the **Federal Register** on the Thursday of the week following their submission to the Office of Management and Budget (OMB). Following this notice is a list of DOE proposals sent to OMB for approval between May 27, 1982, and June 16, 1982.

Each entry contains the following information and is listed by the DOE sponsoring office: (1) The form number; (2) Form title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (6) Type of respondent; (7) An estimate of the number of respondents; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to fill out the forms; and (9) A brief abstract describing the proposed collection.

DATE: Last Notice published Thursday, June 10, 1982 (47 FR 25179).

FOR FURTHER INFORMATION CONTACT:

John Gross, Director, Forms Clearance and Burden Control Division, Energy Information Administration, M.S. 7413 Federal Building, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461, (202) 633–9464.

Jefferson B. Hill, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503, (202) 395–7340.

Vartkes Broussalian, Federal Energy Regulatory Commission Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503, (202) 395–3087.

SUPPLEMENTARY INFORMATION: Copies of proposed collections and supporting documents may be obtained from Mr. Gross. Comments and questions about the items on this list should be directed to the OMB reviewer; comments should also be provided Mr. Gross. If you anticipate commenting on a form, but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer of your intent as early as possible.

Issued in Washington, D.C., June 11, 1982.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

BILLING CODE 6450-01-M

DOE FORMS UNDER REVIEW BY OMB

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DOE FORMS UNDER REVIEW BY OMB

FORM NUMBER (1)	FORM TITLE (2)	TYPE OF REQUEST (3)	RESPONSE FREQUENCY (4)	RESPONSE OBLIGATION (5)	RESPONDENT DESCRIPTION (6)	ESTIMATED NUMBER OF RESPONDENTS (7)	ANNUAL RESPONDENT BURDEN (8)	ABSTRACT (9)
EIA								
EIA-782A[1/]	Monthly Petroleum Product Sales Report	New	Monthly	Mandatory	Petroleum Refiners/ Gas Plant Operators	380	63,600	Form will collect state level sales data for petroleum products. Data will be collected on petroleum product supply, price and market distribution. Data will be used as input to the State Energy Data Series, as input to the Short Term Integrated Forecasting System and various DOE publications.
EIA-782B[1/]	Monthly No. 2 Distillate Sales Report	New	Monthly	Mandatory	No. 2 Distillate Resellers/ Retailers	1600	38,400	Form will collect data on sales of No. 2 distillate from a sample of retailers/ resellers. Data will be used as input to the Short Term Integrated Forecasting System and various DOE publications.
EIA-782C[1/]	Monthly Report of Petroleum Products Sold into States for Consumption	New	Monthly	Mandatory	Refiners/ Prime Suppliers	340	13,500	Form will collect state sales data for 13 products from all refiners and prime suppliers. Data will be used as input to the State Energy Data Series, the Short Term Integrated Forecasting System and for analysis of State energy supplies.

DOE FORMS UNDER REVIEW BY OMB

FORM NUMBER (1)	FORM TITLE (2)	TYPE OF REQUEST (3)	RESPONSE FREQUENCY (4)	RESPONSE OBLIGATION (5)	RESPONDENT DESCRIPTION (6)	ESTIMATED NUMBER OF RESPONDENTS (7)	ANNUAL RESPONDENT BURDEN (8)	ABSTRACT (9)
EP								
EP-51 2/	Monthly Foreign Oil Transaction Report	Extension	Monthly	Mandatory	Importers of Crude Oil	69	5732	The EP-51 is designed to collect crude oil import volumes, FOB and landed average prices, as well as crude stream and transportation data. Data are used to monitor international oil trends.
ERA								
ERA-329R	Regulatory Reporting and Recordkeeping Requirements Pursuant to 10 CFR 500, 501, 503, and 504	Revision	On Occasion	Required to Obtain Benefit	Electric powerplants and major fuel burning installations	58	51,570	Data are required to meet evidentiary requirements for petitions for exemptions of the Powerplant and Industrial Fuel Use Act. Data are also needed to verify requests for prohibition orders under amendments contained in the Omnibus Budget Reconciliation Act.
FERC								
FERC-512	Application for Preliminary Permit	Extension-No Change	On Occasion	Mandatory	Potential Developers of hydro-electric projects	1200	90,000	Data are used by the Federal Energy Regulatory Commission to determine the qualifications of an applicant to hold a preliminary permit, to to analyze the feasibility of hydro development and to issue notices to the public to solicit comments on the proposed application.

DOE FORMS UNDER REVIEW BY OMB

DOE FORMS UNDER REVIEW BY OMB

ORM UMBER (1)	FORM TITLE (2)	TYPE OF REQUEST (3)	RESPONSE FREQUENCY (4)	RESPONSE OBLIGATION (5)	RESPONDENT DESCRIPTION (6)	ESTIMATED NUMBER OF RESPONDENTS (7)	ANNUAL RESPONDENT BURDEN (8)	ABSTRACT (9)
-789R 3/	Contractor's Invention Recordkeeping/Reporting Procedures	New	On Occasion	Mandatory	DOE Contractors	5,000	5,000	Data will be used to evaluate and determine the effectiveness of a contractor's procedures in identifying and reporting conception or first actual reduction to practice of inventions.
-790R 3/	Invention Disclosure Report	New	On Occasion	Mandatory	DOE Contractors	1,000	500	Provides essential information for each invention conceived or first actually reduced to practice under a contract, subcontract or other arrangement with DOE in order to establish priority of inventorship.
-791R 3/	Petition for Waiver of Waiver of Patent Rights and Related Reporting Requirements	New	On Occasion	Mandatory	DOE Contractors	100	250	A contractor may petition for a waiver of the Government's rights to inventions. If the petition is granted, the petitioner must report its use of the waived invention, provide a notice of sale, public use, or public disclosure of waived inventions and provide a notice of filing of foreign patent applications.
C-792	Patent Certification Form (Interim/Final)	New	On occasion	Mandatory	DOE Contractors	5,000	2,500	Data are required to attest to compliance with patent provisions of a contract, identify inventions made thereunder and facilitate the acquisition of formal instruments of convenience for any rights accruing to the Government.

1/ These requests are revisions to proposed forms EIA-782 and EIA-783. These forms underwent extensive public review, including an EIA public hearing on May 5 and May 6, 1982.

2/ A one year extension of EP-51 has been requested in order to give DOE time to develop a consolidated oil imports reporting system that will replace several forms that collect imports data with a system of forms that is less burdensome to industry.

3/ These forms supersede form GC-765R previously cleared by OMB. OMB number 1901-0246.

[FR Doc. 82-16660 Filed 6-16-82; 8:45 am]
BILLING CODE 6450-01-C

Federal Energy Regulatory Commission

Oil Pipeline Tentative Valuation

June 14, 1982.

Notice:

The Federal Energy Regulatory Commission by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to section 19a of the Interstate Commerce Act.

Notice is hereby given that a tentative valuation is under consideration for the common carrier by pipeline listed below:

1978 Annual Report

Valuation Docket No. PV–1451–000, Okie Pipe Line Company, P.O. Box 2256, Wichita, Kansas 67201.

On or before July 22, 1982, persons other than those specifically designated in section 19a(h) of the Interstate Commerce Act having an interest in this valuation may file, pursuant to rule 70 of the Interstate Commerce Commission's "General Rules of Practice" (49 CFR 1100.70), an original and three copies of a petition for leave to intervene in this proceeding.

If the petition for leave to intervene is granted the party may thus come within the category of "additional parties as the FERC may prescribe" under section 19a(h) of the Act, thereby enabling it to file a protest. The petition to intervene must be served on the individual company at its address shown above and an appropriate certificate of service be attached to the petition. Persons specifically designated in section 19a(h) of the Act need not file a petition; they are entitled to file a protest as a matter of right under the statute.

Francis J. Connor,

Administrative Officer, Oil Pipeline Board.

[FR Doc. 82-16313 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-1-000]

Alabama-Tennessee Natural Gas Co.; Proposed PGA Rate Adjustment

June 11, 1982.

Take notice that on June 1, 1982, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), P.O. Box 918, Florence, Alabama 35631, tendered for filing as part of its FPC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets:

Thirty-Seventh Revised Sheet No. 3–A

Fourth Revised Sheet No. 3–B

These tariff sheets are proposed to become effective July 1, 1982.

Alabama-Tennessee states that the purpose of this filing is to adjust its rates to conform to the proposed changes in the rates of its suppliers, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., and Sun Gas Company. Alabama-Tennessee states that the changes have been made in conformity with the PGA and related provisions of its tariff.

The tariff sheets provide for the following rates:

Rate schedule	Rates after current adjustment
G–1:	
Demand	$6.37
Commodity	397.29¢
SG–1 Commodity	425.82¢
I–1 Commodity	401.21¢

Fourth Revised Sheet No. 3–B shows that there are no incremental pricing surcharges which Alabama-Tennessee anticipates charging its customers for the six months commencing July 1, 1982.

Alabama-Tennessee states that copies of the tariff filing have been mailed to all of its jurisdictional customers and affected State Regulatory Commissions.

Any person desiring to be heard or to protest such filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16417 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6237-000]

American Hydro, Inc.; Application for Preliminary Permit

June 16, 1982.

Take notice that American Hydro, Inc. (Applicant) filed on April 20, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6237 to be known as the Echo Lake Waterpower Project located on Echo Lake near the town of Meyers in El Dorado County, California. The proposed project would affect U.S. lands in El Dorado National Forest. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Donald Coffin, 1091 Bollinger Canyon Road, Moraga, California 94556.

Project Description—The proposed project would consist of: (1) Repairing the existing 6-foot-high Cascade diversion structure located 90 feet downstream of the spillway of the existing Echo Lake Dam owned and operated by the Pacific Gas and Electric Company; (2) an intake structure; (3) a 2500-foot-long, 18-inch-diameter penstock; (4) a powerhouse with a total installed capacity of 300 kW; (5) a tailrace discharging water to the creek; (6) a transmission line interconnecting with an existing 12-kV PG&E transmission line. Applicant estimates that the average annual output of the project would be 1.97 GWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Appliant seeks issuance of a preliminary permit for period of 24 months during which it would conduct engineering, environmental and economic studies and prepare an FERC license application. The cost of conducting these studies is estimated by the Applicant to be $40,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 28, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 30, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application.

(A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedures, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petiton to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatiory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16482 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-333-000]

Arkansas Louisiana Gas Company, a Division of Arkla, Inc.; Application

June 11, 1982.

Take notice that May 18, 1982, Arkansas Louisiana Gas Company, a division of Arkla, Inc. (Applicant), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP82-333-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a tap and related facilities on Applicant's jurisdictional gas pipeline 2-C-2 in Caddo County, Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate a tap and related facilities on its jurisdictional 2-C-2 pipeline for the purpose of effecting deliveries of natural gas for fuel use to Oklahoma Gasohol, Inc.'s ethanol distillation plant in Caddo County, Oklahoma, in accordance with the terms of a gas service agreement between Applicant and Oklahoma Gasohol, Inc. dated March 29, 1982. Pursuant to the gas service agreement, Applicant proposes to sell to Oklahoma Gasohol, Inc. up to a daily maximum of 450 Mcf of gas for a term commencing on June 1, 1982, and continuing until terminated by either party upon thirty days written notice. It is estimated that the volumes delivered would average approximately 350 Mcf per day.

It is stated that the proposed sale would be from Applicant's general system supply and that the impact on Applicant's gas supply would be negligible. The cost of the proposed tap and related facilities is estimated at $15,400 which would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 2, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a paryt in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16432 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-336-000]

Arkansas Louisiana Gas Company, a Division of Arkla, Inc.; Application

June 16, 1982.

Take notice that on May 19, 1982, Arkansas Louisiana Gas Company, a division of Arkla, Inc. (Applicant), P.O. Box 21734, Shreveport, Louisiana 71161, filed in Docket No. CP82-336-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a sale of natural gas for resale, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this application is to allow Applicant to deliver the natural gas into its own distribution facilities. It is stated that Rimrock Gas Company (Rimrock) is now in bankruptcy and that the Bankruptcy Judge ordered the sale of all of Rimrock's distribution properties to Harmon County Gas Company (Harmon County). It is stated that subsequent to Harmon County's purchase of the Rimrock distribution properties, Applicant agreed to take over the distribution properties that Harmon County had acquired from Rimrock. Applicant states that the delivery would no longer be to another party for resale, but rather into Arkla's own distribution facilities that it is acquiring from Harmon County. Hence, the instant application requests authorization to abandon the sale for resale service to Rimrock by Arkla.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 6, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will

not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16447 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4550-001]

Belgrade Development Corp.; Surrender of Preliminary Permit

June 14, 1982.

Take notice that Belgrade Development Corporation, Permittee for the proposed Belgrade Project No. 4550, requested on May 20, 1982, that its preliminary permit be terminated. The preliminary permit was issued on October 15, 1982, and would have expired on April 1, 1983. The project would have been located at a series of dams on the Belgrade Lakes in Kennebec County, Maine. Permittee cites that the project would not be an economic source of energy under present economic conditions.

The surrender of the permit is in the public interest and the surrender of the preliminary permit for Project No. 4550 is effective as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16433 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1764-002]

Earl A. Borgmann; Application

June 15, 1982.

The filing individual submits the following:

Take notice that on June 2, 1982, Earl A. Borgmann filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Senior Vice President and Director, Union Light, Heat & Power Company
Senior Vice President, Miami Power Corporation
Senior Vice President and Director, Cincinnati Gas & Electric Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16448 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1614-000]

William H. Dickhonor; Application

June 15, 1982.

The filing individual submits the following:

Take notice that on June 2, 1982, William H. Dickhonor filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director and President, Union Light, Heat & Power Company
Director and President, Miami Power Corporation
Director and President, Cincinnati Gas & Electric Company
Director, Ohio Valley Electric Corp.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16449 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-332-000]

Columbia Gas Transmission Corp.; Application

June 16, 1982.

Take notice that on May 17, 1982, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP82-332-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the account of International Harvester Company (IH), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a transportation agreement dated April 30, 1982, Applicant proposes to transport up to 1,000 dekatherms (dt) equivalent of natural gas per day for IH from a point of receipt in Lawrence County, Ohio, to five IH plants located in Springfield, Columbus, and Shadyside, Ohio. Applicant states that additional facilities would not be required to transport the natural gas as Applicant would redeliver the gas at existing points of delivery to Columbus Gas of Ohio, Inc.

It is asserted that IH would pay Applicant 30.97 cents per dt equivalent. It is also asserted that Applicant would retain for company use and unaccounted for gas 2.56 percent of the total quantity of gas received for the account of IH. Applicant asserts that the term of the transportation agreement is for one year. It is indicated that the gas to be transported would be supplied to IH by Southern Ohio Energy Company, a wholly-owned subsidiary of IH, and would be produced from wells owned and operated by Southern Ohio Energy Company.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 6, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16493 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6200-000]

Cripple Creek Hydro Associates; Application for Short Form License (Minor)

June 14, 1982.

Take notice that Cripple Creek Hydro Associates (Applicant) filed on April 8, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as the Cripple Creek Project No. 6200. The project would be located on Cripple Creek in the Mt. Hood National Forest in Clackamas County near the City of Estacada, Oregon. Correspondence with the Applicant should be directed to: Mr. Philip B. Rettger, Cripple Creek Hydro Associates, Room 1211 Oregon Bank Building, 319 S.W. Washington, Portland, Oregon 97204.

Project Description—The proposed project would consist of: (1) A 4-foot-high 20-foot-long wood and concrete diversion struction on Cripple Creek at elevation 2,880 feet; (2) a 6,800-foot-long, 18-inch-diameter steel penstock; (3) a powerhouse at elevation 1,600 feet containing a single 1.2-MW generating unit; and (4) associated electrical and transmission equipment. Applicant estimates that the project would have an average annual output of 7,000 MWh and would cost $2,500,000.

Purpose of Project—Project energy would be sold to the Portland General Electric Company or the Bonneville Power Administration.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before August 19, 1982, either the competing application itself [See 18 CFR 4.33(a) and (d)] or a notice of intent [See 18 CFR 4.33(b) and (c)] to file a competing application. Submissin of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedures, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 19, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intevene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16494 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP81-141-001 & RP82-33-001]

El Paso Natural Gas Co.; Tariff Filing

June 11, 1982.

Take notice that on June 1, 1982, El Paso Natural Gas Company ("El Paso") tendered for filing, pursuant to Part 154 of the Federal Energy Regulatory Commission ("Commission") Regulations Under the Natural Gas Act and in compliance with the Commission's letter order dated July 20, 1979 at Docket No. RP79-12, as clarified by order issued April 14, 1982 at Docket No. RP82-33-000,[1] and the Commission's order issued November 25, 1981 at Docket No. RP81-141-000, as modified by order issued April 30, 1982 at Docket No. RP82-33-000,[2] the following revised tariff sheets to its FERC Gas Tariff:

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[1] By letter order dated July 20, 1979 at Docket No. RP79-12, as clarified by order issued April 14, 1982 at Docket No. RP82-33-000, the Commission directed El Paso to file, with its restated Base Tariff Rates filing to become effective June 1, 1982, revised tariff sheets providing for reinstitution of the methodology for determining rate adjustments under its Purchased Gas Cost Adjustment Provisions ("PGAC") in effect prior to adoption of certain modifications authorized at Docket No. RP79-12.

[2] By order issued November 25, 1981 at Docket No. RP81-141-000, the Commission directed El Paso

Original Volume No. 1

Second Substitute Thirtieth Revised Sheet No. 3–B
Sixth Revised Sheet No. 67–B
Fifth Revised Sheet No. 67–C
Eighth Revised Sheet No. 67–D
Second Revised Sheet No. 67–D.1

Third Revised Volume No. 2

Second Substitute Twenty-first Revised Sheet No. 1–D

Original Volume No. 2A

Second Substitute Twenty-second Revised Sheet No. 1–C

El Paso states that the tendered revised tariff sheets, when accepted for filing and permitted to become effective, will (i) restate El Paso's Base Tariff Rates, effective June 1, 1982; and (ii) revise the PGAC contained in Original Volume No. 1 of El Paso's FERC Gas Tariff to reinstate, effective June 1, 1982, the methodology for determining PGAC rate adjustments in effect prior to adoption of certain modifications approved by the Commission as part of El Paso's rate settlement at Docket No. RP79–12. Revised Sheet Nos. 3–B, 1–D, and 1–C tendered by El Paso to restate its Base Tariff Rates reflect, in the Currently Effective Tariff Rates set forth thereon, a partial implementation of the recent decision in *El Paso Natural Gas Company v. FERC*, No. 81–4295 (5th Cir., May 24, 1982) regarding inclusion of accrued but unpaid purchased gas costs in the calculation of El Paso's surcharge adjustment. El Paso also tendered alternative Revised Sheet Nos. 3–B, 1–D and 1–C which do not reflect implementation of the Fifth Circuit's decision.

El Paso requested, pursuant to Section 154.51 of the Commission's Regulations, that waiver of the notice requirements of Section 154.22 of the Commission's Regulations be granted so as to permit the tendered revised tariff sheets to become effective on June 1, 1982 as directed by the Commission.

El Paso further states that copies of the instant filing have been served upon all of its interstate transmission system customers and interested state regulatory commissions.

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to file a restatement of its Base Tariff Rates and appropriate cost of service study, in compliance with Section 154.38(d)(4)(vi) of the Commission's Regulations, by June 1, 1982 to be effective on that date. However, by order issued April 30, 1982 at Docket No. RP82–33–000, the Commission granted waiver of that portion of its November 25, 1981 order and Section 154.38 of its Regulations requiring El Paso to file a separately prepared cost study to permit El Paso to support its restated Base Tariff Rates by supplemental data to be furnished in its ongoing Section 4 rate proceeding at Docket No. RP82–33.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before June 23, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice (18 CFR 1.8, 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–16413 Filed 6–16–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 3816–001]

Energenics Systems, Inc., Application for License (5 NM or Less)

June 15, 1982.

Take notice that Energenics Systems, Inc.(Applicant) filed on April 23, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as Southside Canal Project No. 3816. The project would be located from Station 199+90 to Station 171+90 on the Southside Canal in Mesa County, Colorado. The application was filed during the term of Applicant's preliminary permit for Project No. 3816. Correspondence with the Applicant should be directed to: Mr. Granville J. Smith II, President, Energenics Systems, Inc., 1717 K Street, N.W., Suite 706, Washington, D.C. 20006.

Project Description—The proposed project would consist of:(1) A proposed intake structure at an existing check structure in the canal which is owned by the U.S. Bureau of Reclamation and is operated by the Collbran Water Conservancy District; (2) a proposed 2,800-foot-long, 50-inch diameter steel penstock; (3) a proposed powerhouse containing one turbine-generator unit with a rated capacity of 3,950-kW; (4) a proposed 75-foot-long concrete tailrace; (5) a proposed 4.16/kV/12.47-kV step-up transformer station; (6) a proposed 7.8-mile long 12.47-kV transmission line; and (7) appurtenant facilities. Applicant estimates that average annual energy generation would be 8,000,000 kWh.

Purposed of Project—Project energy would be sold to Public Service Company of Colorado.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before August 27, 1982, either the competing application itself [see 18 CFR 4.33 (a) and (d)] or a notice of intent [See 18 CFR 4.33 (b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 27, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street,

NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16600 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6357-000]

Energenics Systems, Inc.; Application for Preliminary Permit

June 15, 1982.

Take notice that Energenics Systems, filed (Applicant) filed on May 20, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6357 to be known as the Dewey Lake Dam Project located on Johns Creek in Floyd County, Kentucky. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Granville J. Smith II, Energenics Systems, Inc., 1717 K Street, N.W., Washington, D.C. 20006

Project Description—The proposed project would utilize the existing Corps of Engineers' Dewey Lake Dam and would consist of: (1) A new powerhouse containing one generating unit with a rated capacity of 2.3 MW; (2) 5 miles of 138-kV transmission line; and (3) appurtenant facilities. Applicant estimates that the average annual energy output would be 5.3 GWh. The most likely market for energy produced would be the Kentucky Power Company.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $35,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 27, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 27, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 27, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16601 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6356-000]

Energenics Systems, Inc.; Application for Preliminary Permit

June 15, 1982.

Take notice that Energenics Systems, Inc. (Applicant) filed on May 20, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6356 to be known as the Hulah Lake Project located on the Caney River in Osage County, Oklahoma. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Granville J. Smith II, Energenics Systems, Inc., 1717 K Street, NW., Suite 706, Washington, D.C. 20006.

Project Description—The proposed project would utilize the existing Corps of Engineers' Hulah Lake Dam and would consist of: (1) A new powerhouse containing one generating unit with a rated capacity of 1,640 kW; (2) 5 miles of 138-kV transmission line; and (3) appurtenant facilities. The Applicant estimates that the average annual energy output would be 2.5 Gwh. The most likely market for the energy derived at the proposed project would be The Oklahoma Power and Light Company.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $30,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 27, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice

of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 27, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 27, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16467 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1696-001]

Frank J. Ficadenti; Application

June 15, 1982.

The filing individual submits the following:

Take notice that on May 20, 1982, Frank J. Ficadenti filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Senior Vice President, Atlantic City Electric Company
Director, Deepwater Operating Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16468 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-567-000]

Florida Power & Light Co.; Filing

June 14, 1982.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FPL), on June 1, 1982, tendered for filing documents entitled Agreement to Provide Specified Transmission Service Between Florida Power & Light Company and City of Lakeland and Amendment Number One to Agreement to Provide Specified Transmission Service Between Florida Power & Light COmpany and City of Lakeland.

FPL states that under the Agreement to Provide Specified Transmission Service Between Florida Power & Light Company and City of Lakeland FPL will transmit power and energy for the City of Lakeland (Lakeland) as is required by Lakeland in the implementation of its interchange agreements with Jacksonville Electric Authority, Utilities Commission of the City of New Smyrna Beach, Lake Worth Utilities Authority, City of Vero Beach and Fort Pierce Utilities Authoriy.

Amendment Number One updates the rates for transmission service provided by FPL, bringing them in accord with the increased rates filed by the Commission on July 1, 1981, in *Florida Power & Light Company*, Docket No. ER81-588-000.

FPL requests that waiver of § 35.3 of the Commission's Regulations be granted and the proposed Agreement and Amendment be made effective immediately. FPL states that copies of the filing were served on the Superintendent—Planning & Engineering, City of Lakeland.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16419 Filed 6-16-2; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-571-000]

Florida Power & Light Co.; Filing

June 14, 1982.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FPL), on June 3, 1982, tendered for filing documents entitled Amendment Number Five, Amendment Number Six and Amendment Number Seven to Agreement to Provide Specified Transmission Service Between Florida Power & Light Company and City of Vero Beach.

FPL states that under Amendment Number Five FPL will transmit power and energy for the City of Vero Beach (Vero Beach) as is required by Vero

each in the implementation of its interchange agreements with Florida Power Corporation and Tampa Electric Company.

Under Amendment Number Six FPL will transmit power and energy for Vero Beach as is required by Vero Beach in the implementation of its interchange agreement with the City of St. Cloud.

Amendment Number Seven updates the rates for transmission service provided by FPL, bringing them in accord with the increased rates filed by the Commission on July 1, 1981, in *Florida Power & Light Company*, Docket No. ER81-588-000.

FPL requests that waiver of § 35.3 of the Commission's Regulations be granted and that the proposed Amendments be made effective immediately. FPL states that copies of the filing were served on the City Manager, City of Vero Beach.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with §§ 1.8 and 1.10). All such petitions or protests should be filed on or before June 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16130 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-570-000]

Florida Power & Light Co.; Filing

The filing Company submits the following:

Take notice that Florida Power & Light Company (FPL), on June 3, 1982, tendered for filing document entitled Agreement to Provide Specified Transmission Service Between Florida Power & Light Company and City of Tallahassee and Amendments Number One and Number Two to Agreement to Provide Specified Transmission Service Between Florida Power & Light Company and City of Tallahassee.

FPL states that under the Agreement to Provide Specified Transmission Service Between Florida Power & Light Company and City of Tallahassee FPL will transmit power and energy for the City of Tallahassee (Tallahassee) as is required by Tallahassee in the implementation of its interchange agreement with Lake Worth Utilities Authority.

Under Amendment Number One FPL will transmit power and energy for Tallahassee as is required by Tallahassee in the implementation of its interchange agreement with Fort Pierce Utilitis Authority, Utilities Commission, City of New Smyrna Beach, City of Vero Beach and City of Homestead.

Amendment Number Two updates the rates for transmission service provided by FPL, bringing them in accord with the increased rates filed by the Commission on July 1, 1981, in *Florida Power & Light Company*, Docket No. ER81-588-000.

FPL requests that waiver of § 35.3 of the Commission's Regulations be granted and that the proposed Agreement and Amendments be made effective immediately. FPL states that copies of the filing were served on the Superintendent—Transmission & Distribution, City of Tallahassee.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16131 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-102-000]

Gas Research Institute; Annual Application

June 10, 1982.

Take notice that on June 1, 1982, Gas Research Institute (GRI) filed herein an application requesting advance approval of its 1983-1987 Five-Year R&D Plan and 1983 R&D Program and the funding thereof pursuant to the Natural Gas Act and the Commission's Regulations thereunder, particularly 18 CFR 154.38(d)(5).

GRI states that its application demonstrates compliance with the Commission's Regulations, the requirements of Opinion No. 131, Opinion and Order Amending and Approving Gas Research Institute's 1982 Research Development Program and Related Five-Year Plan for 1982-1986, Docket No. RP81-72-000 issued September 28, 1981, and the ongoing provisions of a Stipulation and Agreement reached by the parties to the proceedings in Docket No. RM77-14 and approved by the Commission in Opinion No. 11, Opinion and Order Approving the Initial Research Development and Demonstration Program of Gas Research Institute, Docket No. RM77-14, issued March 28, 1978. GRI's application seeks approval of its 1983 R&D Program which proposes that $124,366,000 be collected through jurisdictional and non-jurisdictional rates and charges during the twelve (12) months ending December 31, 1983 to support the R&D activities detailed in GRI's application. Applicant states that its application was filed in accordance with the provision of Order No. 566 which requires "RD&D organizations" to submit, annually a five-year program plan at least 180 days prior to the commencement of the five-year period of the plan, which is scheduled to commence on January 1, 1983.

GRI states that the proposed unit cost of GRI's 1983 Program is 917 mills per Mcf or equivalent to become effective January 1, 1983. This Annual R&D Funding Unit is proposed to be applied to the services included in GRI's Program Funding Service in 1982 which include jurisdictional, direct sale and intrastate volumes of GRI's members and which are estimated to be 12,798 Bcf.

GRI's filing was accompanied by workpapers providing detail about its application. These workpapers are available for inspection in the Commission's Office of Public Information. The Appendix to the filing contains a list of GRI members and state regulatory commissions which were served with a copy of GRI's application on June 1, 1982. Such members and commissions are hereby permitted to participate in this proceeding as intervenors and need *not* file formal petitions to intervene or notices of intervenation.

Any person desiring to be heard or to make any protest with reference to said application should, on or before June 28, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a comment, protest, or petition to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure and the Regulations under the Natural Gas Act (18 CFR 157.70). All comments or

protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceedings or to participate as a party in any hearing therein other than those listed in the Appendix who are automatically entitled to participate, must file a petition to intevene in accordance with the Commission's Rules.

Additionally, take notice that a Commission Staff report on GRI's filing will be served on all parties and filed with the Commission as a public document on July 30, 1982. Additional comments by all parties may be filed concurrently with the Staff report on July 30, 1982. Comments on the Staff report by all parties except GRI shall be filed by August 16, 1982, and reply comments by GRI shall be filed by August 30, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16435 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6294-000]

Goldenwest Power; Application for Preliminary Permit

June 14, 1982.

Take notice that Goldenwest Power (Applicant) filed on May 4, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6294 to be known as the Pilot Creek Power Project located on Pilot Creek in Humboldt County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. E. H. Ochinero, 2811 Bechelli Lane, Redding, California 96002.

Project Description—The proposed project would consist of: (1) A 50-foot-long, 5-foot-high diversion structure; (2) a 10,400-foot-long, 60-inch-diameter diversion pipeline; (3) a 800-foot-long, 48-inch-diameter penstock; (4) a powerhouse with a total installed capacity of 1,300 kW; and (5) a 2.5-mile long, 12-kV transmission line from the powerhouse to an existing Pacific Gas and Electric Company transmission line. The Applicant estimates that the average annual energy production would be 11.4 million Kwh.

Purposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which it would conduct the technical, environmental and economic studies, and also prepare an FERC license application. The Applicant estimates that the cost of undertaking these studies would be $45,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 19, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 19, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than October 18, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 19, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION","COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

FR Doc. 82-16469 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6283-000]

G&B Water Users; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

June 16, 1982.

Take notice that on May 3, 1982, G&B Water Users (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 6283) would be located on Twin Lakes, Goose Lake, Brundage Reservoir, and Goose Creek in Payette National Forest, in Adams County near New Meadows, Idaho. Correspondence with the Applicant should be directed to: Mr. Robert Butts, P.O. Box 361, New Meadow, ID 83654, with a copy to Mr. G. William Ross, Drawer K, New Meadows, ID 83654.

Project Description—The proposed project would consist of four developments. Powerhouse No. 1 development would consist of: (1) A 4-foot-high by 24-foot-long concrete diversion structure; (2) an inlet structure; (3) a 1250-foot-long earthen canal; (4) a 4300-foot-long, 21-inch-diameter buried steel penstock; and (5) a powerhouse with a proposed rated capacity of 490 kW. Powerhouse No. 2 development would consist of: (1) A 4-foot-high by 24-foot-long concrete diversion structure; (2) an inlet structure; (3) a 1000-foot-long earthen canal; (4) a 500-foot-long, 30-inch-diameter buried steel penstock; and (5) a powerhouse with a proposed rated capacity of 250 kW. Powerhouse No. 3

development would consist of: (1) An inlet structure to be constructed at the outlet of the existing Brundage Water Users Association's Brundage Reservoir dam; (2) a 3500-foot-long, 30-inch-diameter buried steel penstock; and (3) a powerhouse with a proposed rated capacity of 550 kW. Powerhouse No. 4 development would consist of : (1) A 4-foot-high by 24-foot-long concrete diversion structure; (2) an inlet structure; (3) a 7500-foot-long earthen canel; (4) a 7900-foot-long, 39-inch diameter buried steel penstock; and (5) a powerhouse with a proposed rated capacity of 3.7 MW. Approximately six miles of new transmission line would be included in the project to connect the powerhouse to an existing Idaho Power Company line.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protests the Exemptee from permit or license applicants that would seek to take or development the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Idaho Department of Fish and Game are requested, for the purpose set forth in section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 9, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 9, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16681 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2006-000]

Arthur A. Hatch; Application

June 15, 1982.

The filing individual submits the following:

Take notice that on May 24, 1982, Arthur A. Hatch filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Blackstone Valley Electric Company
Vice President, Eastern Edison Company
Vice President, Montaup Electric Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16680 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1990-002]

George F. Head; Application

June 15, 1982.

The filing individual submits the following:

Take notice that on June 1, 1982, George F. Head filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Georgia Power Company
Director, Southern Electric Generating Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to

intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16461 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4776-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit

June 14, 1982.

Take notice that Homestake Consulting and Investments, Inc., Permittee for the proposed Experimental Forest Hydroelectric Project No. 4776, has requested that its preliminary permit be terminated. The permit was issued on January 27, 1982, and would have expired June 30, 1983. The project would have been located on the Canyon Creek in Bonner County, Idaho.

The Permittee filed its request on June 1, 1982, and the surrender of the preliminary permit for Project No. 4776 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16436 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4772-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit

June 14, 1982.

Take notice that Homestake Consulting and Investments, Inc., Permittee for the proposed Chicopee Hydroelectric Project No. 4772, has requested that its preliminary permit be terminated. The permit was issued on January 29, 1982, and would have expired June 30, 1983. The project would have been located on the Chicopee Creek in Bonner County, Idaho.

The Permittee filed its request on June 1, 1982, and the surrender of the preliminary permit for Project No. 4772 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16437 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4778-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit

June 14, 1982.

Take notice that Homestake Consulting and Investments, Inc., Permittee for the proposed Morris Creek Hydroelectric Project No. 4778, has requested that its preliminary permit be terminated. The permit was issued on January 27, 1982, and would have expired June 30, 1983. The project would have been located on the Morris Creek in Bonner County, Idaho.

The Permittee filed its request on June 1, 1982, and the surrender of the preliminary permit for Project No. 4778 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16438 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1611-002]

Ernest D. Huggard; Application

June 15, 1982.

The filing individual submits the following:

Take notice that on May 20, 1982, Ernest D. Huggard filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Senior Vice President, Atlantic City Electric Company

Director and Vice President, Deepwater Operating Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16462 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3195-003]

Joseph M. Keating; Application for Short-Form License (5 MW or Less)

June 16, 1982.

Take notice that Joseph M. Keating (Applicant) filed on April 29, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as the Sayles Flat Project No. 3195. The project would be located on the South Fork American River, near Twin Bridges, in El Dorado County, California, and affect U.S. lands within Eldorado National Forest. Correspondence with the Applicant should be directed to: Mr. Joseph M. Keating, 847 Pacific Street, Placerville, California 95667.

Project Description—The proposed project would consist of: (1) A 130-foot-long, 5-foot-high diversion structure with a Bascule gate; (2) a small 2.3-acre reservoir with 6 acre-feet of usable capacity; (3) an intake structure; (4) a 4,000-foot-long, 42-inch-diameter steel penstock; (5) a powerhouse containing two generating units, one unit rated at 950 kW and one mobile unit rated at 2,000 kW; (6) a 1,200-foot-long transmission line; and appurtenant facilities. The Applicant estimates the average annual energy generation to be 7.5 million kWh.

Purpose of Project—The energy generated by the project would be sold to the Pacific Gas and Electric Company.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments directly from the Applicant. If an agency does not file comments within the time set below, it will presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before August 9, 1982, either the competing application itself [See 18 CFR 4.33(a) and (d)] or a notice of intent

[(See 18 CFR 4.33(b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intevene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before August 9, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16470 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1896-001]

Richard J. Kelly; Application

June 15, 1982.

The filing individual submits the following:

Take notice that on June 1, 1982, Richard J. Kelly filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Senior Vice President—Georgia Power Company

Director—Southern Edison Generation Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16453 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. GP80-39-000 and GP80-39-002]

Kentucky West Virginia Gas Company; Third-Party Protest

June 14, 1982.

On June 2, 1982, the Staff of the Federal Energy Regulatory Commission (Commission Staff) filed a protest in accordance with § 154.94(j) of the Commission's regulations to the assertion by J.W. Kinzer, Allen, Kentucky 41601 (Kinzer) that his natural gas sales contract No. 282 with Kentucky West Virginia Gas Company (Kentucky West) in effect for the period December 1, 1978, through December 4, 1979, when it was eventually amended, provided contractual authorization to charge prices under the Natural Gas Policy Act of 1978 (NGPA). Staff's protest was filed in the captioned docket in a document styled "Reply Of The Commission Staff To Responses Submitted To The Presiding Judge And Third-Party Protest Pursuant To § 154.94(j)."

Staff stated that its protest is based on, *inter alia*, the statements of Kentucky West made in its now-withdrawn protests of April 30, and August 13, 1979 respecting the subject original contract. In these protests, Kentucky West stated its position that the subject original contract did not authorize collection of NGPA prices. Staff requests a hearing on the issue of whether original contract No. 282 constituted contractual authorization to charge and collect NGPA rates. Kinzer made its assertion of contractual authorization in a letter dated March 22, 1982, and appended to the Presiding Administrative Law Judge's "Notice Concerning Responses Submitted To The Presiding Judge" issued on May 21, 1982, in Docket No. GP80-39-000 and GP80-39-002.

Any person, other than the pipeline and the seller, desiring to be heard or to make any response with respect to this protest should file on or before July 2, 1982, a petition to intervene in accordance with 18 CFR 1.8. The seller need not petition to intervene because, under 18 CFR 154.94(j)(4)(ii), the seller in the first sale is automatically joined as a party.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16422 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3509-002]

Little Falls Hydroelectric Associates; Application for License (Over 5 MW)

June 15, 1982.

Take notice that Little Falls Hydroelectric Associates (Applicant) filed on April 13, 1982, an application for license [pursaunt to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as Little Falls Project No. 3509. The project would be located on the Mohawk River and New York State Barge Canal in Herkimer County, Little Falls, New York. Correspondence with the Applicant should be directed to: Mr. David Goodman, Little Falls Hydroelectric Associates, 60 Eighth Avenue, New York, New York 10011.

Project Description.—The proposed project would consist of: (1) The addition of 1-foot-high flashboards and flow control gates to two existing dams joined together by Hansen Island. The dams are owned by the New York State Department of Transportation (NYSDOT) and are 594 feet long (total) and 6.23 feet high; (2) an existing 45-foot-wide, 300-foot-long, and 54.5-foot deep Navigation Lock 17, owned and operated by the NYSDOT; (3) a portion of the New York State Barge Canal; (4) an existing reservoir with a storage capacity of 800 acre-feet at a normal surface elevation of 362.8 feet M.S.L.; (5) a proposed reinforced concrete intake structure; (6) two proposed 90-foot-long steel penstocks with diameters of 14 feet; (7) a proposed 3,650 square-foot powerhouse containing two turbine-generator units, operating under a 40.5-foot-head, each with a capacity of 6,800 kW; (8) a proposed 100-foot-long, 4.10-

kV transmission line with a 4.16/46-kV step-up transformer; and (9) appurtenant facilities. Applicant estimates that the average annual generation would be 49,400,000 kWh.

Purpose of Project—The power generated by this project will be sold to Niagara Mohawk Power Corporation, the local utility, for distribution over their existing grid.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before August 27, 1982, either the competing application itself [See 18 CFR 4.33(a) and (d)] or a notice of intent [See 18 CFR 4.33(b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 27, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16471 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1994-001]

Darrow R. McLeod; Application

June 15, 1982.

The filing indivisual submits the following:

Take notice that on June 1, 1982, Darrow R. McLeod filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President—Engineering and Division Administration—Central Vermont Public Service Corporation
Vice President—Central Vermont Public Service Corporation—Bradford Hydroelectric, Inc.
Vice President Central Vermont Public Service Corporation—East Barnet Hydroelectric, Inc.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16464 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP80-15]

Michigan Wisconsin Pipeline Co.; Two-Party Protest

June 14, 1982.

In accordance with the procedures established by the Federal Energy Regulatory Commission (Commission) in Order No. 23-B [1] and Order on Rehearing of Order No. 23-B [2] the Michigan Wisconsin Pipeline Company (Michigan-Wisconsin) filed protests on April 2, 1982, to assertions by natural gas producers of their contractual authority to charge and collect certain maximum lawful prices under the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301 *et seq.* (Supp. IV 1980). The protests appear in Supplemental Schedule C-4 to Michigan-Wisconsin's Tenth Supplemental Evidentiary Submission filed under 18 CFR 154.94(j) of the Commission's regulations. Michigan-Wisconsin is located at 5075 Westheimer, Suite 1100, Galleria Towers West, Houston, Texas 77056.

Michigan-Wisconsin protests the contractual authority of certain producers to charge and collect NGPA section 103 maximum lawful prices on the basis that the contracts do not contain area rate clauses. Protests by Michigan-Wisconsin on this basis are made under § 154.94(i)(3) of the Commission's regulations to interim collection filings made by Forest Oil Corporation and Tema Oil Company pursuant to § 273.202 of the regulations. In addition, Michigan-Wisconsin protests the contractual authority of John F. Riddell, Jr., to charge and collect NGPA section 108 maximum lawful prices on the basis that the contract cited by Riddell specifically prohibits the collection of the maximum lawful prices under NGPA section 108. Specifically, Michigan-Wisconsin protests, under § 157.40(c)(1)(v)(B) of the Commission's regulations which relates to small producers, the interim collection filing made by Riddell pursuant to § 273.202 of the regulations.

The actual language of the contracts at issue herein is contained in Michigan-Wisconsin's protests, copies of which are contained in the Commission's public files and available for inspection by any member of the public.

Any person desiring to be heard or to make any protests concerning Michigan-Wisconsin's protests filed in this docket should, on or before 30 days after publication of this notice in the Federal Register, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken herein, but will not serve to make the

[1] Order Adopting Final Regulations Establishing Protest Procedures Regarding Blanket Affidavit Filings and Interim and Retroactive Collection Filings, Docket No. RM79-22, 44 FR 38634 (July 2, 1979).

[2] Docket No. RM79-22, 44 FR 46174 (August 17, 1979).

protestants parties to this proceeding. Any person desiring to become a party to this proceeding, or to participate as a party in any hearing herein, must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16424 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-5-000]

Midwestern Gas Transmission Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

June 11, 1982.

Take notice that on May 28, 1982, Midwestern Gas Transmission Company (Midwestern) tendered for filing the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1 to be effective January 1, 1982:

Third Revised Sheet Nos. 5, 7, and 8
Fourth Revised Sheet No. 6
Alternate Third Revised Sheet No. 5.

Midwestern states that the sole purpose of the revised tariff sheets is to reflect adjustments to its rates pursuant to rate adjustment provisions of the General Terms and Conditions of its tariff as follows:

(1) PGA Rate Adjustment for the Southern System pursuant to Sections 2 and 3 of Article XVII;

(2) PGA Rate Adjustment for the Northern System pursuant to Section 3 of Article XVIII;

(3) Estimated Incremental Pricing Surcharges for the Southern System pursuant to Section 2 of Article XXII; and

(4) Estimated Incremental Pricing Surcharges for the Northern system pursuant to Section 2 of Article XXIII.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16423 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1568-000]

James H. Miller, Jr.; Application

June 15, 1982.

The filing individual submits the following:

Take notice that on June 1, 1982, James H. Miller, Jr., filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director and Executive Vice President—Georgia Power Company
Director—Southern Electric Generating Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16455 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP76-91-013 and TC82-37-000]

Montana-Dakota Utilities Co.; Tariff Filing

June 11, 1982.

Take notice that on May 24, 1982, Montana-Dakota Utilities Co. (Montana-Dakota), 400 North Fourth Street, Bismark, North Dakota 58501, tendered for filing in Docket Nos. RP76-91-013 and TC82-37-000, pursuant to Part 154 of the Commission's Regulations under the Natural Gas Act and the Order Approving Settlement issued November 30, 1979, in Docket No. RP76-91-013, the following revised tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, proposed to be effective July 1, 1982:

Fifth Revised Sheet No. 100
Fifth Revised Sheet No. 101
Fifth Revised Sheet No. 102
Sixth Revised Sheet No. 103
Fifth Revised Sheet No. 104
Fifth Revised Sheet No. 105
Fifth Revised Sheet No. 106
Fourth Revised Sheet No. 107
Fourth Revised Sheet No. 108
Third Revised Sheet No. 109
Fifth Revised Sheet No. 110

Montana-Dakota states that the volume changes on the proposed tariff sheets reflect changes in requirements for essential agricultural use and are based on affidavits submitted by each agricultural user. Montana-Dakota requests permission to make the necessary changes without the need to call a Date Verification Committee meeting since all the changes are said to be in conformance with the approved stipulation and agreement. Montana-Dakota asserts that it has lifted curtailment on its system and that the subject filings are conformance filings only. Further, Montana-Dakota states that there would be no volume limitations imposed on industrial customers during the 1982-83 supply year and that a Data Verification Committee meeting would serve no useful purpose.

Montana-Dakota indicates that it was discovered that Transbas, Inc., of Billings, Montana, listed on Sheet No. 102, is an essential agricultural user and that such customer has filed an affidavit certifying its essential agricultural use status and that the appropriate change has been made in the Index of Requirements to classify properly such customer's usage.

Any person desiring to be heard or to make any protest with reference to said tariff filings should on or before June 23, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16425 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP76-91-013 and TC82-4-002]

Montana-Dakota Utilities Co.; Proposed Change in FERC Gas Tariff

June 11, 1982.

Take notice that on May 21, 1982, Montana-Dakota Utilities Company (MDU) tendered for filing the following revised tariff sheets for filing and inclusion in its FERC Gas Tariff, First Revised Volume No. 1:

First Revised Sheet No. 100
Fifth Revised Sheet No. 101
Fifth Revised Sheet No. 102
Sixth Revised Sheet No. 103
Fifth Revised Sheet No. 104
Fifth Revised Sheet No. 105
Fifth Revised Sheet No. 106
Fourth Revised Sheet No. 107
Fourth Revised Sheet No. 108
Third Revised Sheet No. 109
Fifth Revised Sheet No. 110

The proposed effective date is July 1, 1982.

MDU filed these revised tariff sheets pursuant to the Commission's "Order Approving Settlement" issued in this proceeding on November 30, 1979, and pursuant to Part 154 of the Commission's Regulations under the Natural Gas Act.

MDU states that the volume changes on the attached tariff sheets reflect changes in requirements for essential agricultural use and are based on affidavits submitted to MDU by each agricultural user.

In addition, MDU requests permission to make the necesary charges without the need to call a Data Verification Committee meeting, since all the changes are in conformance with the Stipulation and Agreement approved by the Commission. MDU states that it has lifted curtailment on its system and this filing is a conformance filing only; moreover, MDU alleges that there will be no volume limitations imposed on MDU's industrial customers during the 1982–83 Supply Year and a Data Verification Committee meeting would serve no useful purpose.

Furthermore, MDU states that during the course of the year it was discovered that Transbas, Inc. of Billings, Montana, listed on Sheet No. 102 is in fact an essential agricultural user. Transbas is a manufacturer of agricultural chemicals and pesticides and is classified under SIC Code No. 2879.

Copies of this filing have been submitted to all customers and persons listed on the official service list.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N. E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-16428 Filed 6-16-82; 8:45 am]
BILLING CODE 6717-01-M

[Project Nos. 4569-001, 4570-001, and 4571-001]

City of Montrose, Colo.; Surrender of Preliminary Permits

June 14, 1982.

Take notice that the City of Montrose, Colorado, Permittee for the proposed Shavano Falls Project No. 4569, South Canal (Sites 2, 5 and 7) Project No. 4570, and South Canal (Sites 1, 3 and 4) Project No. 4571, requested by letter dated April 30, 1982, that its aforementioned preliminary permits be surrendered. The preliminary permits were issued on October 28, 1981, August 19, 1981, and October 28, 1981, and would have expired on April 1, 1983, February 1, 1983, and October 1, 1983, respectively. The projects would have been located on the Montrose and Delta Canal and the South Canal in Montrose County, Colorado. The City states that the unavailability of private capital on reasonable terms makes this action necessary.

The surrender of the permits is in the public interest. Therefore, the surrender of preliminary permits for Project Nos. 4569, 4570, and 4571 is accepted as of the date of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-16434 Filed 6-16-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ID-1655-000]

William J. Moran; Application

June 15, 1982.

The filing individual submits the following:

Take notice that on June 2, 1982, William J. Moran filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President and General Counsel—Union Light, Heat & Power Company
Vice President and General Counsel—Miami Power Corporation
Vice President and General Counsel—Cincinnati Gas & Electric Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-16450 Filed 6-16-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ID-1935-001]

Paul W. Murrill; Application

June 15, 1982.

The filing individual submits the following:

Take notice that on May 24, 1982, Paul W. Murrill filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Chairman of the Board of Directors and Chief Executive Officer, Gulf States Utilities Company
Director, The Foxboro Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are

on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16457 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4346-000]

New England Hydro; Surrender of Preliminary Permit

June 14, 1982.

Take notice that New England Hydro, Permittee for the Technical Tape Hydro Project No. 4346 located on the Fishkill Creek in Dutchess County, New York, has requested that its preliminary permit be terminated. The preliminary permit was issued on July 9, 1981, and would have expired on December 31, 1982.

New England Hydro's request was dated February 23, 1982. The surrender of the permit for Project No. 4346 is in the public interest and is accepted as of the date of issuance of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16440 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP68-75-009]

Northern Natural Gas Company, Division To InterNorth, Inc.; Petition of Amend

June 16, 1982.

Take notice that on May 24, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Petitioner), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP68-75-009 a petition to amend the order issued May 10, 1968 in Docket No. CP68-75,[1] pursuant to Section 7(c) of the Natural Gas Act so as to authorize the establishment of an additional delivery point for the exchange of natural gas, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by order issued May 10, 1968, it was authorized, *inter alia*, to construct and operate certain measuring stations and to exchange with and transport natural gas for Phillips Petroleum Company (Phillips).

Pursuant to an amendment to the gas exchange agreement dated February 24, 1981, Petitioner seeks to establish the wellhead meter facilities on the Search Drilling Company, Flock No. 1-20 well, in Beaver County, Oklahoma as an additional point of delivery of exchange gas by Petitioner to Phillips.

It is stated that Petitioner would deliver and Phillips would receive into its low-pressure gathering system 100 percent of Petitioner's 12.5 percent dedicated interest in all gas volumes produced from said well.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 6, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16458 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket No. ST80-334-001]

Oasis Pipeline Co.; Extension Reports

June 14, 1982.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The Commission's regulations provide that the transportation or sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146.

Any person desiring to be heard or to make any protest with reference to said extension report should on or before July 10, 1982 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protest filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No.	Transportation/seller	Recipient	Date filed	Part 284 Subpart	Effective date
ST80-394-101	Oasis Pipe Line Co., P.O. Box 1188, Houston, TX 77001	Transwestern Pipeline Co	5/21/82	C	6/22/82
ST81-336-001	Houston Pipe Line Co., P.O. Box 1188, Houston, TX 77001	Transwestern Pipeline Co	5/21/82	C	6/22/82
ST81-290-001	Seagull Pipeline Corp., 1100 Louisiana, Houston, TX 77002	United Gas Pipe Line Co	5/17/82	C	6/10/82

[FR Doc. 82-16427 Filed 6-16-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 4129-001]

Olcese Water District; Application for License (Over 5 MW)

June 15, 1982.

Take notice that Olcese Water District (Applicant) filed on April 9, 1981, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for construction and operation of a water power project to be know as the Rio Bravo Project No. 4129. The project would be located on the Kern River, near Bakersfield, in Kern County, California. Correspondence with the Applicant should be directed to: Owen Goodman, Olcese Water District, 1518—18th Street, Room 307 Bakersfield, California 93301.

Project Description.—The proposed project would consist of: (1) An 8-foot-high, 300-foot-long concrete diversion dam; (2) an intake structure; (3) an 8,300-foot-long, 8-foot-wide trapezoidal canal; (4) a concrete-lined forebay; (5) two 270-foot-long, 6-foot-diameter steel penstocks; (6) a powerhouse containing two generating units, each rated at 3.56 MW; (7) a 1,050-foot-long tailrace; (8) a 2,400-foot-long transmission line; (9) an access road; and appurtenant facilities. The average annual energy generation is estimated to be 31 million kWh.

Purpose of Project—The energy generated by the project would be sold to the Pacific Gas and Electric Company.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before August 26, 1982, either the competing application itself [See 18 CFR 4.33(a) and (d)] or a notice of intent [See 18 CFR 4.33(b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et. seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 26, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-16472 Filed 6-16-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-586-000]

Orange & Rockland Utilities, Inc.; Filing

June 14, 1982.

The filing Company submits the following:

Take notice that on June 1, 1982, Orange and Rockland Utilities, Inc. (Orange and Rockland) tendered for filing proposed changes to its FPC Rate Schedule No. 24, Supplement No. 5. The proposed changes would increase revenues from Pike County Light and Power Company $81,956 based on the 12 month period ending December 31, 1981.

Orange and Rockland is also proposing the following changes in the tariff:

(1) To allocate the capital expend on coal conversion facilities and the property taxes and insurance costs associated with these facilities on an energy rather than demand basis and to charge AFUDC on a net of tax basis for such capital expenditures;

(2) To allocate distribution expenses and associated payroll costs;

(3) To modify the formula for determining the cash working fund requirement by using a lead/lag study for fuel and purchased power costs;

(4) To increase the return on equity to 16 percent and to eliminate the ceiling on the equity component of capitalization;

(5) To allocate fuel inventory on an energy rather than a demand basis;

(6) To allocate deferred taxes attributable to investment tax credit;

(7) To include specified amortization expenses in the monthly bills;

(8) To modify the rate at which interest will be accrued on unpaid bills; and

(9) To modify the effective date of the tariff and the address of Orange and Rockland as appropriate.

The above changes have been proposed to provide Orange and Rockland with a reasonable return on equity from sales to jurisdictional customers to allow for the proper allocation of costs among jurisdictional customers.

Orange and Rockland proposes an effective date of August 1, 1982.

Copies of the filing were served upon the public utility's jurisdictional customers, the Public Service Commission of the State of New York, and the Public Service Commission of the Commonwealth of Pennsylvania.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to

intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16428 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-568-000]

Pacific Power & Light Co.; Filing

June 14, 1982.

The filing Company submits the following:

Take notice that on June 1, 1982, Pacific Power & Light Company (PP&L) tendered for filing a letter objecting to Bonneville Power Administration's (Bonneville) Adjustments and a revised reconciliation that reflects the Average System Cost after Pacific's adjustments.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16429 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6330-000]

Perry Logging Co.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

June 15, 1982.

Take notice that on May 13, 1982, Perry Logging Company (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended),* for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 6330) would be located on the Mud Creek, near Chico, in Butte County, California. Correspondence with the Applicant should be directed to: Mr. Ronald T. Moser, Project Manager, 1365 Hawthorne Avenue, Chico, California 95926.

Project Description—The proposed project would consist of: (1) An existing 11-foot-high concrete diversion dam; (2) a 1,450-foot-long, 24-inch-diameter steel penstock; (3) a powerhouse containing one generating unit rated at 300 kW; and (4) a 1,500-foot-long transmission line. The average annual energy generation is estimated to be 1.3 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 5, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules and Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 5, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc 82-16473 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP82-39-000]

Railroad Commission of Texas NGPA Section 108 Determination; Phillips Petroleum Co.; Petition To Reopen and Vacate Well Category Determination

June 14, 1982.

On May 20, 1982 Phillips Petroleum Company (Phillips) 336 Home Savings & Loan Building, Bartlesville, Oklahoma 74004 filed with the Federal Energy Regulatory Commission (Commission) a petition to reopen well category determinations for thirty-seven wells pursuant to the Commission's authority

under the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301–3432 (Supp. IV 1980). Phillips is the operator of all the wells listed in the petition and owns either all or part of the working interest in each well.

As grounds for its request to reopen and vacate the NGPA section 108 well category determinations, Phillips states that an "inaccurate 'allowable' method for determination of compliance with the permissable crude oil and gas production limits under § 271.803(b) of the Commission's regulations was used in qualifying the wells for stripper status."

With respect to the questions of refunds arising out of Phillips' request to reopen and vacate the well category determinations, notice is hereby given that whether refunds will be required is a matter subject to the review and final decision of the Commission.

Any person desiring to be heard or to protest this petition should file, within 30 days after publication of this notice in the **Federal Register**, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a protest or a petition to intervene in accordance with §§ 1.8 or 1.10 of the Commission's Rules of Practice and Procedure. All protests filed with the Commission will be considered, but will not make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

Exhibit A to Petition for Reopening

Well name and No.	Jurisdictional agency Docket No.	FERC JD control No.
1. Deson #4	F-10-036202	82-16836
2. Clay #7	F-10-083614	82-05202
3. Clay #78	F-10-011661	80-47295
4. Clay #103	F-10-012962	80-45836
5. Clay #82-11	F-10-039321	81-42836
6. Clay #82-8	F-10-014154	80-37806
7. Jordon D #20	F-10-014176	80-58769
8. Phil Pampa Unit #21-1	F-10-030448	81-19852
9. Phil Pampa Unit #17-2	F-10-015677	80-58841
10. Phil Pampa Unit #13-7	F-10-014184	80-37812
11. Phil Pampa Unit #6-6	Not Available	81-07834
12. Phil Pampa Unit #9-13	Not Available	81-02541
13. Phil Pampa Unit #7-13	F-10-019524	81-20840
14. Phil Pampa Unit #9-6	F-10-012918	80-37874
15. Phil Pampa Unit #3-4	F-10-021673	80-58861
16. Phil Pampa Unit #7-6	F-10-014181	81-02455
17. Phil Pampa Unit #3-6	F-10-015296	80-54377
18. Harvey Unit #8-11	F-10-014166	80-37810
19. Cooper C #7	F-10-014137	80-37800
20. Cooper C #8	F-10-014136	80-37799
21. Timms E T #6	F-10-013080	81-47326
22. Greenlee #6	F-10-021672	81-31312
23. Pritchard #2	F-10-023776	81-33907
24. Phil Pampa Unit #1-1	F-10-029547	81-42824
25. Jelis #1	F-7C-024098	81-07335
26. N. Pembrook SU #5-12	F-7C-013984	80-47391
27. N. Pembrook SU #5-13	F-7C-014837	80-40370
28. N. Pembrook SU #5-30	F-7C-014873	80-45380
29. N. Pembrook SU #39-05	F-7C-022115	81-01352
30. N. Pembrook SU #55-01	F-7C-026203	81-15660
31. N. Pembrook SU #78-03	F-7C-022114	81-01351
32. N. Pembrook SU #85-01	F-7C-016726	81-02500
33. N. Penwell U #8	F-06-022131	81-03213
34. N. Penwell U #46	F-06-022178	81-01349
35. Zulette #14	F-7C-029039	81-45452
36. Zulette #15	F-7C-030673	81-21209
37. Turner-Harris #1	F-10-030505	81-19666

All wells disqualify due to excessive oil production.

[FR Doc. 82-16430 Filed 6-16-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA 82-2-8-000]

South Georgia Natural Gas Co.; Revision To Tariff

June 11, 1982.

Take notice that on June 1, 1982, South Georgia Natural Gas Company (South Georgia) tendered for filing Eighteenth Revised Sheet No. 4 and Alternate Eighteenth Revised Sheet No. 4 to its FERC Gas Tariff, First Revised Volume No. 1.

Eighteenth Revised Sheet No. 4 reflects no change in the cost of gas from its January 1, 1982 PGA filing because South Georgia's sole supplier of gas, Southern Natural Gas Company, has requested a change in the dates of its semi-annual PGA adjustment from January 1 and July 1 to October 1 and April 1. Alternate Eighteenth Revised Sheet No. 4 reflects a change in gas costs that will become effective July 1, 1982 if the Commission does not accept Southern's request to change the effective dates of Southern's PGA filings. This rate change will increase the cost of purchased gas to jurisdictional customers by $2,769,323.

Also reflected on Eighteenth and Alternate Eighteenth Revised Sheet No. 4 is a Surcharge Adjustment as provided for by Section 14.3 of the General Terms and Conditions of South Georgia's FERC Gas Tariff. The debit balance in the Unrecovered Purchased Gas Cost Account of $29,175 will be amortized over the estimated sales for the six-month period commencing July 1, 1982 by a surcharge adjustment rate of 0.37¢ per MMBtu.

Additionally, South Georgia is filing Second Revised Sheet No. 31 and Sixth Revised Sheet No. 32. This is a modification suggested by the FERC during their audit of South Georgia's PGA accounts. South Georgia has also reflected in this filing the sub-accounting for Account 191 as required by the Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D. C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a part must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-16431 Filed 6-16-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6286-000]

Sunny M Ranch Inc.; Application for Preliminary Permit

June 16, 1982.

Take notice that Sunny M Ranch Incorporated (Applicant) filed on May 3, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 6286 to be known as the Little Wolf

Creek Hydroelectric Project located on Little Wolf Creek, partially within Okanogan National Forest in Okanogan County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. John M. Lester, P.O. Box 1000, Winthrop, Washington 98862.

Project Description—The proposed project would consist of: (1) A screened intake structure placed in the streambed; (2) an 18-inch-diameter penstock 2,500 feet long; (3) a powerhouse on the shore of Lake Patterson containing a single turbine generator with a 100-kW capacity; and (4) a transmission line 300 feet long. Project output would be sold to the Okanogan County Electric Cooperative.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a term of 36 months, during which engineering, economic and environmental studies will be conducted to ascertain project feasibility and to support application for a license to construct and operate the project. The estimated cost of permit activities is $10,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 30, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 19, 1981, 46 FR 55245, November 9, 1981).

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 30, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than October 29, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20428. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16362 Filed 6-16-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-150-001]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Petition To Amend

June 16, 1982.

Take notice that on May 5, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP82-150-001 a petition to amend the order issued April 13, 1982, in Docket No. CP82-150-000, pursuant to Section 7(c) of the Natural Gas Act and Subpart F of Part 284 of the Commission's Regulations so as to authorize the extension of the term of the transportation service therein authorized for an additional sixty days, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that the order issued April 13, 1982, Authorized Petitioner to transport for Consolidated Edison Company of New York, Inc. (Con Ed) up to 75,836 Mcf of natural gas per day that Con Ed arranged to purchase from Equitable Gas Company. It is stated that on April 13, 1982, Tennessee received certificate authorization to transport such gas, which is used by Con Ed to displace fuel oil, for a term of sixty days. Petitioner states that it commenced service on March 4, 1982, pursuant to a temporary certificate issued February 25, 1982.

It is now asserted that Con Ed has requested Petitioner to continue service for an additional sixty day period. Petitioner therefore requests authority to extend service for Con Ed for an additional sixty days. Petitioner estimates that it would transport up to 9,100,320 Mcf for Con Ed.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 6, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16360 Filed 6-16-82; 8:45 am]
BILLING CODE 6717-01-M

Docket No. CP81-378-002]

Texas Eastern Transmission Corp.; Petition To Amend

June 11, 1982.

Take notice that on May 17, 1982, Texas Eastern Transmission Corporation (Petitioner), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP81-378-002 a petition to amend the order issued March 17, 1982, in Docket No. CP82-378-000 pursuant to Section 7(c) of the Natural Gas Act so as to authorize an extension of the

transportation service presently being provided to Public Service Electric and Gas Company (Public Service), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that by order issued March 17, 1982, Petitioner was authorized to transport for the account of Public Service up to 20,000 dekatherms (dt) equivalent of natural gas per day which Public Service purchases from National Gas and Oil Corporation (National). It is stated that such gas is used for the purpose of electric generation.

Petitioner states that the terms of the transportation agreement between Petitioner and Public Service and the Commission order issued March 17, 1982, provide that the transportation service terminate on May 31, 1982. Petitioner explains that Public Service is purchasing natural gas from National under a gas purchase agreement which would remain in effect until May 31, 1982 and that prior to the expiration of such agreement Public Service and National would enter into a new gas purchase agreement which would provide for a term of one year commencing on June 1, 1982, and terminating on May 31, 1983.

It is stated that Petitioner and Public Service have entered into a gas transportation agreement dated May 5, 1982, which provides that Petitioner would continue transportation of up to 20,000 dt equivalent of natural gas per day for Public Service for a period terminating on November 15, 1982. Accordingly, Petitioner requests that the Commission amend the March 17, 1982, order to authorize an extension of the transportation service which Petitioner provides for Public Service allowing such service to terminate on November 15, 1982.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 2, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16441 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-334-000]

Texas Gas Transmission Corp.; Application

June 16, 1982.

Take notice that on May 18, 1982, Texas Gas Transmission Corporation (Applicant), P.O. Box 1160, Owensboro, Kentucky 42302, filed in Docket No. CP82-334-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of three segments of pipeline in Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant submits that the first segment, 12.51 miles of 20-inch pipeline, would extend in a southwesterly direction from the Eunice Compressor Station in Acadia Parish, along the Eunice-Roanoke System. The Second segment, 4.92 miles of 12¾-inch loop pipeline, would, it is stated, extend from the Roanoke-Grand Cheniere 12¾-inch and 20-inch system to Cameron Parish. The third segment, 9.93 miles of 10¾-inch pipeline, would extend from Vermilion Parish to a point of interconnection in Cameron Parish, it is explained.

Applicant states that the proposed facilities are necessary to connect new reserves of natural gas purchased from Union Oil Company of California with Applicant's system. Applicant estimates that total deliverability would be 24,000 Mcf of natural gas per day.

It is asserted that the cost of the facilities proposed herein would be $12,706,780 which would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 6, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in the subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16474 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4794-001]

Robert I. Thompson; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

June 16, 1982.

Take notice that on May 7, 1982, Robert I. Thompson (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 4794) would be located on Hat Creek near Burney, in Shasta County, California. Correspondence with the Applicant should be directed to: Mr. Robert I. Thompson, Route 2, Box 655, Hat Creek, California 96040.

Project Description—The proposed project would consist of: (1) An 8-foot-high concrete diversion structure containing three 10-foot-sections with stop logs; (2) a stiling basin; (3) a 1,000-foot-long concrete channel; (4) a 60-foot-long, 5-foot-diameter penstock; (5) a powerhouse containing a single generating unit with a rated capacity of 420 kW; and (6) a 600-foot-long transmission line connecting the project to an existing Pacific Gas and Electric

Company's 12-kV transmission line, west of the project.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 2, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 2, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16388 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5761-001]

Trinity Meadows, Inc.; Application for Preliminary Permit

June 14, 1982.

Take notice that Trinity Meadows, Inc. (Applicant) filed on April 21, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] or Project No. 5761 to be known as the Trinity Meadows Project located on Whitney Creek in Shasta County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: David Hull, P.O. Box 5 C, French Gulch, California 96033.

Project Description—The proposed project would consist of: (1) An existing 4-foot-high diversion structure owned by Applicant on Whitney Creek at elevation 1,700 feet; (2) a new 12-inch-diameter, 1/2-mile-long penstock; (3) a powerhouse containing a single 160-kW generating unit at elevation 1,450 feet; and (4) associated electrical and transmission equipment. Applicant estimates that the project would have an average annual output of 270 MWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. During the term of the permit Applicant would study the economic, engineering, and environmental feasibility of the project. Applicant estimates that the studies would cost $5,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 20, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 19, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 19, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO

INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16475 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-57-004]

United Gas Pipe Line Co.; Proposed Changes in FERC Gas Tariff

June 11, 1982.

Take notice that United Gas Pipe Line Company (United), on June 1, 1982, tendered for filing an amendment to proposed changes in its FERC Gas Tariff, First Revised Volume No. 1. The proposed changes would amend portions of United's Docket No. RP82-57 filing of March 31, 1982, which, as amended, would increase annual jurisdictional sales and transportation revenues by $537,454,251.

United states that the amended changes reflect the inclusion of Canadian gas costs pursuant to the Federal Energy Regulatory Commission's April 30, 1982 suspension order in Docket No. RP82-57.

Copies of the filing have been served upon United's jurisdictional customers and the public service commission of the states of Alabama, Florida, Louisiana and Mississippi, and the Texas Railroad Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16442 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6216-000]

Western Hydro Electric, Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

June 15, 1982.

Take notice that on April 15, 1982, Western Hydro Electric, Inc. (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 6216) would be located on Troublesome Creek in Snohomish County, near Darrington, Washington. Correspondence with the Applicant should be directed to: Mr. Donald J. White, Vice President, Western Hydro Electric, Inc., Commercial Security Bank Building, Suite 600, 50 S. Main Street, Salt Lake City, Utah 84144.

Project Description—The proposed project would consist of: (1) A new 5-foot-high by 70-foot-long reinforced concrete diversion structure; (2) an inlet structure; (3) a 10,000-foot-long, 48-inch-diameter penstock; and (4) a powerhouse with a proposed rated capacity of 2.07 NW. Annual energy production is estimated to be 10.0 GWhs.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Washington Departments of Game and Fisheries are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and is resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 6, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 6, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb,

Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary

[FR Doc. 82-16476 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1792-000]

Robert P. Wiwi; Application

June 15, 1982.

The filing individuals submits the following:

Take notice that on June 2, 1982, Robert P. Wiwi filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Union Light, Heat & Power Company
Vice President and Director, Miami Power Corporation
Vice President, Cincinnati Gas & Electric Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16480 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2007-000]

Alan Zamansky; Application

June 15, 1982.

The filing individual submits the following:

Take notice that on May 28, 1982, Alan Zamansky filed an appliction pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Comptroller, Asst. Treasurer and Asst. Clerk, Eastern Edison Company
Comptroller, Asst. Treasurer and Asst. Clerk, Montaup Electric Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16461 Filed 6-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Volume 665]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: June 11, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION									
-AMOCO PRODUCTION CO				RECEIVED:	05/19/82	JA: KS			
8233795	K 82-0082	1518720338	103			KANSAS UNIV ENDOWMENT ASSOC #1	PANOMA	60.0	CITIES SERVICE GA
-F G HOLL				RECEIVED:	05/19/82	JA: KS			
8233796	K 82-0116	1504720806	102-4			EMBRY "A" #2-23	EMBRY	7.3	NORTHERN NATURAL
-HERNDON OIL & GAS CO				RECEIVED:	05/19/82	JA: KS			
8233794	K81-1248	1504720849	103			ZUERCHER #3	EMBRY	90.0	NORTHERN NATURAL
-K R M PETROLEUM CORPORATION				RECEIVED:	05/19/82	JA: KS			
8233791	K 82-0118	1503320473	102-4			SELZER #5-2	COLLIER FLATS SOUTH	70.0	NORTHERN NATURAL
8233792	K 82-0120	1503320474	102-4			SELZER #7-2	COLLIER FLATS SOUTH	80.0	NORTHERN NATURAL
8233793	K 82-0121	1503320497	102-4			SELZER #8-2	COLLIER FLATS SOUTH	175.0	NORTHERN NATURAL
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-AMOCO PRODUCTION CO				RECEIVED:	05/17/82	JA: NM			
8233558		3004524736	103			GALLEGOS CANYON UNIT #"I" #101E	BASIN DAKOTA	12.5	EL PASO NATURAL G
8233580		3004524737	103			GALLEGOS CANYON UNIT #197E	BASIN DAKOTA	6.8	EL PASO NATURAL G
8233559		3004524868	103			GALLEGOS CANYON UNIT COM "D" #160E	BASIN DAKOTA	5.0	EL PASO NATURAL G
8233535		3004525223	103			GALLEGOS CANYON UNIT COM "F" #162E	BASIN DAKOTA	36.6	EL PASO NATURAL G
8233534		3004524873	103			MCCOY GAS COM "D" #1E	BASIN DAKOTA	41.8	EL PASO NATURAL G
8233529		3002527387	102-4			STATE HS COM #1	WILDCAT BONE SPRINGS	108.0	PHILLIPS PETROLEU
-ANADARKO PRODUCTION COMPANY				RECEIVED:	05/17/82	JA: NM			
8233564		3001523546	102-4			GLASS #1	BOYD	30.0	NATURAL GAS PIPEL
-ARCO OIL AND GAS COMPANY				RECEIVED:	05/17/82	JA: NM			
8233527		3001521673	108			STATE BT COM #1	AVALON MORROW GAS	0.0	GAS CO OF NEW MEX
-EL PASO NATURAL GAS COMPANY				RECEIVED:	05/17/82	JA: NM			
8233578		3001525897	102-4			JURNEGAN STATE COM #2	BALDRIDGE CANYON MORR	292.0	EL PASO NATURAL G
8233583		3003907857	108			SAN JUAN 30-6 UNIT #24	BLANCO - MESA VERDE	13.0	EL PASO NATURAL G
-ENSERCH EXPLORATION INC				RECEIVED:	05/17/82	JA: NM			
8233549		3004120565	102-2			PEARL JORDAN #1	NORTH PETERSON	13.0	TRANSWESTERN PIPE
8233548		3004120593	102-2			PEARL JORDAN #3	PETERSON N	62.0	TRANSWESTERN PIPE
-GULF OIL CORPORATION				RECEIVED:	05/17/82	JA: NM			
8233552		3002527523	103			J F JANDA (NCT-D) #2	HARDY DRINKARD	0.0	PHILLIPS PETROLEU
8233542		3002527443	103			LEA "LL" STATE #1	MALJAMAR GARYBURG SAN	0.0	CONTINENTAL OIL C
-HNG OIL COMPANY				RECEIVED:	05/17/82	JA: NM			
8233532		3001500000	102-2			KELLY "5" COM #1	NORTH LOVING MORROW	0.0	UNITED GAS PIPELI
-INTEGRATED ENERGY INC				RECEIVED:	05/17/82	JA: NM			
8233530		3004320386	102-2			STATE 36-22-6 #1	CHACRA	24.8	SOUTHWEST GAS COR
-KENAI OIL AND GAS INC				RECEIVED:	05/17/82	JA: NM			
8233537		3004525274	103			STATE OF NEW MEXICO #36-24	LYBROOK-GALLUP	27.0	GAS CO OF NEW MEX
-MARBOB ENERGY CORPORATION				RECEIVED:	05/17/82	JA: NM			
8233538		3001523712	103			AURORA STATE #1	TURKEY TRACK SEVEN RI	10.0	PHILLIPS PETROLEU

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-MARBOB ENERGY CORPORATION				RECEIVED:	05/17/82	JA: NM			
8233539		3001523713	103			AURORA STATE #2	TURKEY TRACK SEVEN RI	10.0	PHILLIPS PETROLEU
-MERIDIAN OIL INC				RECEIVED:	05/17/82	JA: NM			
8233555		3004524736	103			GALLEGOS CANYON UNIT #"I" #101E	BASIN DAKOTA	12.5	EL PASO NATURAL G
8233581		3004524737	103			GALLEGOS CANYON UNIT #197E	BASIN DAKOTA	6.8	EL PASO NATURAL G
8233556		3004524868	103			GALLEGOS CANYON UNIT COM "D" #160E	BASIN DAKOTA	5.0	EL PASO NATURAL G
8233536		3004525223	103			GALLEGOS CANYON UNIT COM "F" #162E	BASIN DAKOTA	36.6	EL PASO NATURAL G
8233533		3004524873	103			MCCOY GAS COM "D" #1E	BASIN DAKOTA	41.8	EL PASO NATURAL G
8233528		3002527387	102-4			STATE HS COM #1	WILDCAT BONE SPRINGS	108.0	PHILLIPS PETROLEU
-MERIDIAN OIL INC				RECEIVED:	05/17/82	JA: NM			
8233557		3004524736	103			GALLEGOS CANYON UNIT #"I" #101E	BASIN DAKOTA	12.5	EL PASO NATURAL G
8233582		3004524737	103			GALLEGOS CANYON UNIT #197E	BASIN DAKOTA	6.8	EL PASO NATURAL G
8233560		3004524868	103			GALLEGOS CANYON UNIT COM "D" #160E	BASIN DAKOTA	5.0	EL PASO NATURAL G
8233561		3004525223	103			GALLEGOS CANYON UNIT COM "F" #162E	BASIN DAKOTA	36.6	EL PASO NATURAL G
8233562		3004524873	103			MCCOY GAS COM "D" #1E	BASIN DAKOTA	41.8	EL PASO NATURAL G
8233563		3002527387	102-4			STATE HS COM #1	WILDCAT BONE SPRINGS	108.0	PHILLIPS PETROLEU
-MERIDIAN OIL INC				RECEIVED:	05/17/82	JA: NM			
8233554		3004524736	103			GALLEGOS CANYON UNIT #"I" #101E	BASIN DAKOTA	12.5	EL PASO NATURAL G
8233584		3004524737	103			GALLEGOS CANYON UNIT #197E	BASIN DAKOTA	6.8	EL PASO NATURAL G
8233553		3004524868	103			GALLEGOS CANYON UNIT COM "D" #160E	BASIN DAKOTA	5.0	EL PASO NATURAL G
8233585		3004525223	103			GALLEGOS CANYON UNIT COM "F" #162E	BASIN DAKOTA	36.6	EL PASO NATURAL G
8233586		3004524873	103			MCCOY GAS COM "D" #1E	BASIN DAKOTA	41.8	EL PASO NATURAL G
8233587		3002527387	102-4			STATE HS COM #1	WILDCAT BONE SPRINGS	108.0	PHILLIPS PETROLEU
-MERIDIAN OIL INC				RECEIVED:	05/17/82	JA: NM			
8233588		3004524736	103			GALLEGOS CANYON UNIT #"I" #101E	BASIN DAKOTA	12.5	EL PASO NATURAL G
8233589		3004524737	103			GALLEGOS CANYON UNIT #197E	BASIN DAKOTA	6.8	EL PASO NATURAL G
8233590		3004524868	103			GALLEGOS CANYON UNIT COM "D" #160E	BASIN DAKOTA	5.0	EL PASO NATURAL G
8233591		3004525223	103			GALLEGOS CANYON UNIT COM "F" #162E	BASIN DAKOTA	36.6	EL PASO NATURAL G
8233592		3004524873	103			MCCOY GAS COM "D" #1E	BASIN DAKOTA	41.8	EL PASO NATURAL G
8233593		3002527387	102-4			STATE HS COM #1	WILDCAT BONE SPRINGS	108.0	PHILLIPS PETROLEU
-MERIDIAN OIL INC				RECEIVED:	05/17/82	JA: NM			
8233594		3004524736	103			GALLEGOS CANYON UNIT #"I" #101E	BASIN DAKOTA	12.5	EL PASO NATURAL G
8233595		3004524737	103			GALLEGOS CANYON UNIT #197E	BASIN DAKOTA	6.8	EL PASO NATURAL G
8233596		3004524868	103			GALLEGOS CANYON UNIT COM "D" #160E	BASIN DAKOTA	5.0	EL PASO NATURAL G
8233597		3004525223	103			GALLEGOS CANYON UNIT COM "F" #162E	BASIN DAKOTA	36.6	EL PASO NATURAL G
8233598		3004524873	103			MCCOY GAS COM "D" #1E	BASIN DAKOTA	41.8	EL PASO NATURAL G
8233599		3002527387	102-4			STATE HS COM #1	WILDCAT BONE SPRINGS	108.0	PHILLIPS PETROLEU
-MERIDIAN OIL INC				RECEIVED:	05/17/82	JA: NM			
8233600		3004524736	103			GALLEGOS CANYON UNIT #"I" #101E	BASIN DAKOTA	12.5	EL PASO NATURAL G
8233601		3004524737	103			GALLEGOS CANYON UNIT #197E	BASIN DAKOTA	6.8	EL PASO NATURAL G
8233602		3004524868	103			GALLEGOS CANYON UNIT COM "D" #160E	BASIN DAKOTA	5.0	EL PASO NATURAL G
8233603		3004525223	103			GALLEGOS CANYON UNIT COM "F" #162E	BASIN DAKOTA	36.6	EL PASO NATURAL G
8233604		3004524873	103			MCCOY GAS COM "D" #1E	BASIN DAKOTA	41.8	EL PASO NATURAL G
8233605		3002527387	102-4			STATE HS COM #1	WILDCAT BONE SPRINGS	108.0	PHILLIPS PETROLEU
-MERIDIAN OIL INC				RECEIVED:	05/17/82	JA: NM			
8233606		3004524736	103			GALLEGOS CANYON UNIT #"I" #101E	BASIN DAKOTA	12.5	EL PASO NATURAL G
8233607		3004524737	103			GALLEGOS CANYON UNIT #197E	BASIN DAKOTA	6.8	EL PASO NATURAL G
8233608		3004524868	103			GALLEGOS CANYON UNIT COM "D" #160E	BASIN DAKOTA	5.0	EL PASO NATURAL G
8233609		3004525223	103			GALLEGOS CANYON UNIT COM "F" #162E	BASIN DAKOTA	36.6	EL PASO NATURAL G
8233610		3004524873	103			MCCOY GAS COM "D" #1E	BASIN DAKOTA	41.8	EL PASO NATURAL G
8233611		3002527387	102-4			STATE HS COM #1	WILDCAT BONE SPRINGS	108.0	PHILLIPS PETROLEU
-MERIDIAN OIL INC				RECEIVED:	05/17/82	JA: NM			
8233612		3004524736	103			GALLEGOS CANYON UNIT #"I" #101E	BASIN DAKOTA	12.5	EL PASO NATURAL G
8233613		3004524737	103			GALLEGOS CANYON UNIT #197E	BASIN DAKOTA	6.8	EL PASO NATURAL G
8233614		3004524868	103			GALLEGOS CANYON UNIT COM "D" #160E	BASIN DAKOTA	5.0	EL PASO NATURAL G
8233615		3004525223	103			GALLEGOS CANYON UNIT COM "F" #162E	BASIN DAKOTA	36.6	EL PASO NATURAL G
8233616		3004524873	103			MCCOY GAS COM "D" #1E	BASIN DAKOTA	41.8	EL PASO NATURAL G
8233617		3002527387	102-4			STATE HS COM #1	WILDCAT BONE SPRINGS	108.0	PHILLIPS PETROLEU
-MERIDIAN OIL INC				RECEIVED:	05/17/82	JA: NM			
8233618		3004524736	103			GALLEGOS CANYON UNIT #"I" #101E	BASIN DAKOTA	12.5	EL PASO NATURAL G
8233619		3004524737	103			GALLEGOS CANYON UNIT #197E	BASIN DAKOTA	6.8	EL PASO NATURAL G
8233620		3004524868	103			GALLEGOS CANYON UNIT COM "D" #160E	BASIN DAKOTA	5.0	EL PASO NATURAL G
8233621		3004525223	103			GALLEGOS CANYON UNIT COM "F" #162E	BASIN DAKOTA	36.6	EL PASO NATURAL G
8233622		3004524873	103			MCCOY GAS COM "D" #1E	BASIN DAKOTA	41.8	EL PASO NATURAL G
8233623		3002527387	102-4			STATE HS COM #1	WILDCAT BONE SPRINGS	108.0	PHILLIPS PETROLEU
-MERIDIAN OIL INC				RECEIVED:	05/17/82	JA: NM			
8233624		3004524736	103			GALLEGOS CANYON UNIT #"I" #101E	BASIN DAKOTA	12.5	EL PASO NATURAL G
8233625		3004524737	103			GALLEGOS CANYON UNIT #197E	BASIN DAKOTA	6.8	EL PASO NATURAL G
8233626		3004524868	103			GALLEGOS CANYON UNIT COM "D" #160E	BASIN DAKOTA	5.0	EL PASO NATURAL G
8233627		3004525223	103			GALLEGOS CANYON UNIT COM "F" #162E	BASIN DAKOTA	36.6	EL PASO NATURAL G
8233628		3004524873	103			MCCOY GAS COM "D" #1E	BASIN DAKOTA	41.8	EL PASO NATURAL G
8233629		3002527387	102-4			STATE HS COM #1	WILDCAT BONE SPRINGS	108.0	PHILLIPS PETROLEU
-MERIDIAN OIL INC				RECEIVED:	05/17/82	JA: NM			
8233630		3004524736	103			GALLEGOS CANYON UNIT #"I" #101E	BASIN DAKOTA	12.5	EL PASO NATURAL G
8233631		3004524737	103			GALLEGOS CANYON UNIT #197E	BASIN DAKOTA	6.8	EL PASO NATURAL G
8233632		3004524868	103			GALLEGOS CANYON UNIT COM "D" #160E	BASIN DAKOTA	5.0	EL PASO NATURAL G
8233633		3004525223	103			GALLEGOS CANYON UNIT COM "F" #162E	BASIN DAKOTA	36.6	EL PASO NATURAL G
8233634		3004524873	103			MCCOY GAS COM "D" #1E	BASIN DAKOTA	41.8	EL PASO NATURAL G
8233635		3002527387	102-4			STATE HS COM #1	WILDCAT BONE SPRINGS	108.0	PHILLIPS PETROLEU
-MERIDIAN OIL INC				RECEIVED:	05/17/82	JA: NM			
8233636		3004524736	103			GALLEGOS CANYON UNIT #"I" #101E	BASIN DAKOTA	12.5	EL PASO NATURAL G
8233637		3004524737	103			GALLEGOS CANYON UNIT #197E	BASIN DAKOTA	6.8	EL PASO NATURAL G
8233638		3004524868	103			GALLEGOS CANYON UNIT COM "D" #160E	BASIN DAKOTA	5.0	EL PASO NATURAL G
8233639		3004525223	103			GALLEGOS CANYON UNIT COM "F" #162E	BASIN DAKOTA	36.6	EL PASO NATURAL G
8233640		3004524873	103			MCCOY GAS COM "D" #1E	BASIN DAKOTA	41.8	EL PASO NATURAL G
8233641		3002527387	102-4			STATE HS COM #1	WILDCAT BONE SPRINGS	108.0	PHILLIPS PETROLEU
-MERIDIAN OIL INC				RECEIVED:	05/17/82	JA: NM			
8233642		3004524736	103			GALLEGOS CANYON UNIT #"I" #101E	BASIN DAKOTA	12.5	EL PASO NATURAL G
8233643		3004524737	103			GALLEGOS CANYON UNIT #197E	BASIN DAKOTA	6.8	EL PASO NATURAL G
8233644		3004524868	103			GALLEGOS CANYON UNIT COM "D" #160E	BASIN DAKOTA	5.0	EL PASO NATURAL G
8233645		3004525223	103			GALLEGOS CANYON UNIT COM "F" #162E	BASIN DAKOTA	36.6	EL PASO NATURAL G
8233646		3004524873	103			MCCOY GAS COM "D" #1E	BASIN DAKOTA	41.8	EL PASO NATURAL G
8233647		3002527387	102-4			STATE HS COM #1	WILDCAT BONE SPRINGS	108.0	PHILLIPS PETROLEU
-MERIDIAN OIL INC				RECEIVED:	05/17/82	JA: NM			
8233648		3004524736	103			GALLEGOS CANYON UNIT #"I" #101E	BASIN DAKOTA	12.5	EL PASO NATURAL G
8233649		3004524737	103			GALLEGOS CANYON UNIT #197E	BASIN DAKOTA	6.8	EL PASO NATURAL G
8233650		3004524868	103			GALLEGOS CANYON UNIT COM "D" #160E	BASIN DAKOTA	5.0	EL PASO NATURAL G
8233651		3004525223	103			GALLEGOS CANYON UNIT COM "F" #162E	BASIN DAKOTA	36.6	EL PASO NATURAL G
8233652		3004524873	103			MCCOY GAS COM "D" #1E	BASIN DAKOTA	41.8	EL PASO NATURAL G
8233653		3002527387	102-4			STATE HS COM #1	WILDCAT BONE SPRINGS	108.0	PHILLIPS PETROLEU
-MERIDIAN OIL INC				RECEIVED:	05/17/82	JA: NM			
8233654		3004524736	103			GALLEGOS CANYON UNIT #"I" #101E	BASIN DAKOTA	12.5	EL PASO NATURAL G
8233655		3004524737	103			GALLEGOS CANYON UNIT #197E	BASIN DAKOTA	6.8	EL PASO NATURAL G
8233656		3004524868	103			GALLEGOS CANYON UNIT COM "D" #160E	BASIN DAKOTA	5.0	EL PASO NATURAL G
8233657		3004525223	103			GALLEGOS CANYON UNIT COM "F" #162E	BASIN DAKOTA	36.6	EL PASO NATURAL G
8233658		3004524873	103			MCCOY GAS COM "D" #1E	BASIN DAKOTA	41.8	EL PASO NATURAL G
8233659		3002527387	102-4			STATE HS COM #1	WILDCAT BONE SPRINGS	108.0	PHILLIPS PETROLEU
-MERIDIAN OIL INC				RECEIVED:	05/17/82	JA: NM			
8233660		3004524736	103			GALLEGOS CANYON UNIT #"I" #101E	BASIN DAKOTA	12.5	EL PASO NATURAL G
8233661		3004524737	103			GALLEGOS CANYON UNIT #197E	BASIN DAKOTA	6.8	EL PASO NATURAL G
8233662		3004524868	103			GALLEGOS CANYON UNIT COM "D" #160E	BASIN DAKOTA	5.0	EL PASO NATURAL G
8233663		3004525223	103			GALLEGOS CANYON UNIT COM "F" #162E	BASIN DAKOTA	36.6	EL PASO NATURAL G
8233664		3004524873	103			MCCOY GAS COM "D" #1E	BASIN DAKOTA	41.8	EL PASO NATURAL G
8233665		3002527387	102-4			STATE HS COM #1	WILDCAT BONE SPRINGS	108.0	PHILLIPS PETROLEU
-MERIDIAN OIL INC				RECEIVED:	05/17/82	JA: NM			
8233666		3004524736	103			GALLEGOS CANYON UNIT #"I" #101E	BASIN DAKOTA	12.5	EL PASO NATURAL G
8233667		3004524737	103			GALLEGOS CANYON UNIT #197E	BASIN DAKOTA	6.8	EL PASO NATURAL G
8233668		3004524868	103			GALLEGOS CANYON UNIT COM "D" #160E	BASIN DAKOTA	5.0	EL PASO NATURAL G
8233669		3004525223	103			GALLEGOS CANYON UNIT COM "F" #162E	BASIN DAKOTA	36.6	EL PASO NATURAL G
8233670		3004524873	103			MCCOY GAS COM "D" #1E	BASIN DAKOTA	41.8	EL PASO NATURAL G
8233671		3002527387	102-4			STATE HS COM #1	WILDCAT BONE SPRINGS	108.0	PHILLIPS PETROLEU
-MERIDIAN OIL INC				RECEIVED:	05/17/82	JA: NM			
8233672		3004524736	103			GALLEGOS CANYON UNIT #"I" #101E	BASIN DAKOTA	12.5	EL PASO NATURAL G
8233673		3004524737	103			GALLEGOS CANYON UNIT #197E	BASIN DAKOTA	6.8	EL PASO NATURAL G
8233674		3004524868	103			GALLEGOS CANYON UNIT COM "D" #160E	BASIN DAKOTA	5.0	EL PASO NATURAL G
8233675		3004525223	103			GALLEGOS CANYON UNIT COM "F" #162E	BASIN DAKOTA	36.6	EL PASO NATURAL G
8233676		3004524873	103			MCCOY GAS COM "D" #1E	BASIN DAKOTA	41.8	EL PASO NATURAL G
8233677		3002527387	102-4			STATE HS COM #1	WILDCAT BONE SPRINGS	108.0	PHILLIPS PETROLEU
-MERIDIAN OIL INC				RECEIVED:	05/17/82	JA: NM			
8233678		3004524736	103			GALLEGOS CANYON UNIT #"I" #101E	BASIN DAKOTA	12.5	EL PASO NATURAL G
8233679		3004524737	103			GALLEGOS CANYON UNIT #197E	BASIN DAKOTA	6.8	EL PASO NATURAL G
8233680		3004524868	103			GALLEGOS CANYON UNIT COM "D" #160E	BASIN DAKOTA	5.0	EL PASO NATURAL G
8233681		3004525223	103			GALLEGOS CANYON UNIT COM "F" #162E	BASIN DAKOTA	36.6	EL PASO NATURAL G
8233682		3004524873	103			MCCOY GAS COM "D" #1E	BASIN DAKOTA	41.8	EL PASO NATURAL G
8233683		3002527387	102-4			STATE HS COM #1	WILDCAT BONE SPRINGS	108.0	PHILLIPS PETROLEU
-MERIDIAN OIL INC				RECEIVED:	05/17/82	JA: NM			
8233684		3004524736	103			GALLEGOS CANYON UNIT #"I" #101E	BASIN DAKOTA	12.5	EL PASO NATURAL G
8233685		3004524737	103			GALLEGOS CANYON UNIT #197E	BASIN DAKOTA	6.8	EL PASO NATURAL G
8233686		3004524868	103			GALLEGOS CANYON UNIT COM "D" #160E	BASIN DAKOTA	5.0	EL PASO NATURAL G
8233687		3004525223	103			GALLEGOS CANYON UNIT COM "F" #162E	BASIN DAKOTA	36.6	EL PASO NATURAL G
8233688		3004524873	103			MCCOY GAS COM "D" #1E	BASIN DAKOTA	41.8	EL PASO NATURAL G
8233689		3002527387	102-4			STATE HS COM #1	WILDCAT BONE SPRINGS	108.0	PHILLIPS PETROLEU
-MERIDIAN OIL INC				RECEIVED:	05/17/82	JA: NM			
8233690		3004524736	103			GALLEGOS CANYON UNIT #"I" #101E	BASIN DAKOTA	12.5	EL PASO NATURAL G
8233691		3004524737	103			GALLEGOS CANYON UNIT #197E	BASIN DAKOTA	6.8	EL PASO NATURAL G
8233692		3004524868	103			GALLEGOS CANYON UNIT COM "D" #160E	BASIN DAKOTA	5.0	EL PASO NATURAL G
8233693		3004525223	103			GALLEGOS CANYON UNIT COM "F" #162E	BASIN DAKOTA	36.6	EL PASO NATURAL G
8233694		3004524873	103			MCCOY GAS COM "D" #1E	BASIN DAKOTA	41.8	EL PASO NATURAL G
8233695		3002527387	102-4			STATE HS COM #1	WILDCAT BONE SPRINGS	108.0	PHILLIPS PETROLEU
-MERIDIAN OIL INC				RECEIVED:	05/17/82	JA: NM			
8233696		3004524736	103			GALLEGOS CANYON UNIT #"I" #101E	BASIN DAKOTA	12.5	EL PASO NATURAL G
8233697		3004524737	103			GALLEGOS CANYON UNIT #197E	BASIN DAKOTA	6.8	EL PASO NATURAL G
8233698		3004524868	103			GALLEGOS CANYON UNIT COM "D" #160E	BASIN DAKOTA	5.0	EL PASO NATURAL G
8233699		3004525223	103			GALLEGOS CANYON UNIT COM "F" #162E	BASIN DAKOTA	36.6	EL PASO NATURAL G
8233700		3004524873	103			MCCOY GAS COM "D" #1E	BASIN DAKOTA	41.8	EL PASO NATURAL G
8233701		3002527387	102-4			STATE HS COM #1	WILDCAT BONE SPRINGS	108.0	PHILLIPS PETROLEU
-MERIDIAN OIL INC				RECEIVED:	05/17/82	JA: NM			
8233702		3004524736	103			GALLEGOS CANYON UNIT #"I" #101E	BASIN DAKOTA	12.5	EL PASO NATURAL G
8233703		3004524737	103			GALLEGOS CANYON UNIT #197E	BASIN DAKOTA	6.8	EL PASO NATURAL G
8233704		3004524868	103			GALLEGOS CANYON UNIT COM "D" #160E	BASIN DAKOTA	5.0	EL PASO NATURAL G
8233705		3004525223	103			GALLEGOS CANYON UNIT COM "F" #162E	BASIN DAKOTA	36.6	EL PASO NATURAL G
8233706		3004524873	103			MCCOY GAS COM "D" #1E	BASIN DAKOTA	41.8	EL PASO NATURAL G
8233707		3002527387	102-4			STATE HS COM #1	WILDCAT BONE SPRINGS	108.0	PHILLIPS PETROLEU
-MERIDIAN OIL INC				RECEIVED:	05/17/82	JA: NM			
8233708		3004524736	103			GALLEGOS CANYON UNIT #"I" #101E	BASIN DAKOTA	12.5	EL PASO NATURAL G
8233709		3004524737	103			GALLEGOS CANYON UNIT #197E	BASIN DAKOTA	6.8	EL PASO NATURAL G
8233710		3004524868	103			GALLEGOS CANYON UNIT COM "D" #160E	BASIN DAKOTA	5.0	EL PASO NATURAL G
8233711		3004525223	103			GALLEGOS CANYON UNIT COM "F" #162E	BASIN DAKOTA	36.6	EL PASO NATURAL G
8233712		3004524873	103			MCCOY GAS COM "D" #1E	BASIN DAKOTA	41.8	EL PASO NATURAL G
8233713		3002527387	102-4			STATE HS COM #1	WILDCAT BONE SPRINGS	108.0	PHILLIPS PETROLEU
-MERIDIAN OIL INC				RECEIVED:	05/17/82	JA: NM			
8233714		3004524736	103			GALLEGOS CANYON UNIT #"I" #101E	BASIN DAKOTA	12.5	EL PASO NATURAL G
8233715		3004524737	103			GALLEGOS CANYON UNIT #197E	BASIN DAKOTA	6.8	EL PASO NATURAL G
8233716		3004524868	103			GALLEGOS CANYON UNIT COM "D" #160E	BASIN DAKOTA	5.0	EL PASO NATURAL G
8233717		3004525223	103			GALLEGOS CANYON UNIT COM "F" #162E	BASIN DAKOTA	36.6	EL PASO NATURAL G
8233718		3004524873	103			MCCOY GAS COM "D" #1E	BASIN DAKOTA	41.8	EL PASO NATURAL G
8233719		3002527387	102-4			STATE HS COM #1	WILDCAT BONE SPRINGS	108.0	PHILLIPS PETROLEU
-MERIDIAN OIL INC				RECEIVED:	05/17/82	JA: NM			
8233720		3004524736	103			GALLEGOS CANYON UNIT #"I" #101E	BASIN DAKOTA	12.5	EL PASO NATURAL G
8233721		3004524737	103			GALLEGOS CANYON UNIT #197E	BASIN DAKOTA	6.8	EL PASO NATURAL G
8233722		3004524868	103			GALLEGOS CANYON UNIT COM "D" #160E	BASIN DAKOTA	5.0	EL PASO NATURAL G
8233723		3004525223	103			GALLEGOS CANYON UNIT COM "F" #162E	BASIN DAKOTA	36.6	EL PASO NATURAL G
8233724		3004524873	103			MCCOY GAS COM "D" #1E	BASIN DAKOTA	41.8	EL PASO NATURAL G
8233725		3002527387	102-4			STATE HS COM #1	WILDCAT BONE SPRINGS	108.0	PHILLIPS PETROLEU
-MERIDIAN OIL INC				RECEIVED:	05/17/82	JA: NM			
8233726		3004524736	103			GALLEGOS CANYON UNIT #"I" #101E	BASIN DAKOTA	12.5	EL PASO NATURAL G
8233727		3004524737	103			GALLEGOS CANYON UNIT #197E	BASIN DAKOTA	6.8	EL PASO NATURAL G
8233728		3004524868	103			GALLEGOS CANYON UNIT COM "D" #160E	BASIN DAKOTA	5.0	EL PASO NATURAL G
8233729		3004525223	103			GALLEGOS CANYON UNIT COM "F" #162E	BASIN DAKOTA	36.6	EL PASO NATURAL G
8233730		3004524873	103			MCCOY GAS COM "D" #1E	BASIN DAKOTA	41.8	EL PASO NATURAL G
8233731		3002527387	102-4			STATE HS COM #1	WILDCAT BONE SPRINGS	108.0	PHILLIPS PETROLEU
-MERIDIAN OIL INC				RECEIVED:	05/17/82	JA: NM			
8233732		3004524736	103			GALLEGOS CANYON UNIT #"I" #101E	BASIN DAKOTA	12.5	EL PASO NATURAL G
8233733		3004524737	103			GALLEGOS CANYON UNIT #197E	BASIN DAKOTA	6.8	EL PASO NATURAL G
8233734		3004524868	103			GALLEGOS CANYON UNIT COM "D" #160E	BASIN DAKOTA	5.0	EL PASO NATURAL G
8233735		3004525223	103			GALLEGOS CANYON UNI

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8233550		3001523984		103		GILLESPIE ST #2	RED LAKE QN GRBG SA	26.0	PHILLIPS PETROLEU
8233551		3001523842		103		JENNINGS #1	ARTESIA QUEEN GRAYBUR	1.5	PHILLIPS PETROLEU
8233536		3001523740		103		WEST CONOCO ST #1	GRBG JACKSON SR QN GR	5.0	PHILLIPS PETROLEU
8233541		3001523918		103		WEST CONOCO ST #2	GRBG JACKSON SR QN GR	5.0	PHILLIPS PETROLEU
-MESA PETROLEUM CO				RECEIVED:	05/20/82	JA: NM			
8233798		3004507627		108		STATE COM AA #23	AZTEC PICTURED CLIFFS	21.0	EL PASO NATURAL G
-MTS LTD PARTNERSHIP				RECEIVED:	05/17/82	JA: NM			
8233565		3000560991		102-3		BLANCO #1	UNDESIGNATED ABO	144.0	TRANSWESTERN PIPE
-PETROLEUM CORP OF DELAWARE				RECEIVED:	05/17/82	JA: NM			
8233567		3001523107		103		PARKWAY WEST UNIT #3	UNDESIGNATED PARKWAY	1095.0	EL PASO NATURAL G
8233566		3010523109		103		PARKWAY WEST UNIT #9	UNDESIGNATED PARKWAY	1460.0	EL PASO NATURAL G
-POGO PRODUCING CO				RECEIVED:	05/17/82	JA: NM			
8233531		3001500000		102-4		URQUIDEZ COM #1	UND NORTH LOVING	364.0	LLANO INC
-SOUTHLAND ROYALTY CO				RECEIVED:	05/17/82	JA: NM			
8233582		3004520704		108		BRUINGTON #3	BLANCO	14.0	SOUTHERN UNION GA
8233581		3004520705		108		RANDLEMAN #2	BLANCO	16.0	SOUTHERN UNION GA
8233579		3004520543		108		TURNER #2	BLANCO	10.0	SOUTHERN UNION GA
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	05/17/82	JA: NM			
8233573		3002500000		108		STATE "A" A/C 1 #43	LANGLIE MATTIX 7 RVRS	3.0	PHILLIPS PETROLEU
8233575		3002500000		108		STATE "A" A/C 1 #60	LANGLIE MATTIX 7 RVRS	5.0	PHILLIPS PETROLEU
8233574		3002500000		108		STATE "A" A/C 1 #63	LANGLIE MATTIX 7 RVRS	12.0	PHILLIPS PETROLEU
8233576		3002500000		108		STATE "A" A/C 1 #67	LANGLIE MATTIX 7 RVRS	3.0	PHILLIPS PETROLEU
8233572		3002500000		108		STATE "A" A/C 1 #70	LANGLIE MATTIX 7 RVRS	3.0	PHILLIPS PETROLEU
8233585		3002500000		108		STATE "A" A/C 1 #74	LANGLIE MATTIX 7 RVRS	11.0	PHILLIPS PETROLEU
8233570		3002500000		108		STATE "A" A/C 1 #79	LANGLIE MATTIX 7 RVRS	9.0	PHILLIPS PETROLEU
8233569		3002500000		108		STATE "A" A/C 1 #80	LANGLIE MATTIX 7 RVRS	3.0	PHILLIPS PETROLEU
8233571		3002500000		108		STATE "A" A/C 1 #99	LANGLIE MATTIX 7 RVRS	5.0	PHILLIPS PETROLEU
8233584		3002500000		108		STATE "A" A/C 3 #4	LANGLIE MATTIX 7 RVRS	7.0	PHILLIPS PETROLEU
8233568		3004100000		108		STATE C V #1	CHAVEROO SAN ANDRES	4.0	CITIES SERVICE CO
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	05/17/82	JA: NM			
8233577		3002500000		108		STATE "A" A/C 1 #77	LANGLIE MATTIX 7 RVRS	16.0	PHILLIPS PETROLEU
-THRESHOLD DEVELOPMENT CO				RECEIVED:	05/17/82	JA: NM			
8233560		3001523693		103		CONOCO "7" STATE #2	E MILLMAN QUEEN GRAYB	3.0	CONOCO INC
8233557		3001523694		103		CONOCO "7" STATE #3	E MILLMAN QUEEN GRAYB	5.0	CONOCO INC
8233554		3001523919		103		CONOCO "7" STATE #4	E MILLMAN QUEEN GRAYB	12.0	CONOCO INC
8233555		3001523921		103		CONOCO "7" STATE #6	E MILLMAN QUEEN GRAYB	3.0	CONOCO INC
8233556		3001523930		103		CONOCO "7" STATE #7	E MILLMAN QUEEN GRAYB	71.0	CONOCO INC
-VIKING PETROLEUM CORP				RECEIVED:	05/17/82	JA: NM			
8233562		3000500000		107-TF		GRYNBERG 14 STATE #1	UNDESIGNATED ABO	0.0	TRANSWESTERN PIPE
8233561		3000500000		107-TF		GRYNBERG 16 STATE #2	UNDESIGNATED ABO	0.0	TRANSWESTERN PIPE
8233563		3000500000		107-TF		GRYNBERG 16 STATE #4	UNDESIGNATED ABO	0.0	TRANSWESTERN PIPE
8233546		3000500000		107-TF		GRYNBERG 32 STATE #2	UNDESIGNATED ABO	0.0	TRANSWESTERN PIPE
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	05/17/82	JA: NM			
8233540		3002527529		103		H T MATTERN (NCT-C) #15	DRINKARD	0.0	EL PASO NATURAL G
8233539		3002527530		103		H T MATTERN (NCT-C) #16	DRINKARD	0.0	EL PASO NATURAL G
-YATES PETROLEUM CORP				RECEIVED:	05/17/82	JA: NM			
8233528		3001524063		102-4		RALPH "SJ" COM #1	MORROW	0.0	TRANSWESTERN PIPE
8233533		3001523716		102-4		DAVIS NC #2	WILDCAT MORROW	0.0	TRANSWESTERN PIPE
8233547		3000561225		107-TF		FINLEY "RV" COM #1-Y	PECOS SLOPE - ABO GAS	0.0	TRANSWESTERN PIPE
8233553		3001523038		103		NORTH MILLMAN UNIT #3	MILLMAN STRAWN	0.0	TRANSWESTERN PIPE
8233545		3000561050		107-TF		ROOK RK STATE #1	UND ABO	0.0	TRANSWESTERN PIPE
8233543		3000561271		107-TF		SACRA "SA" COM #1	PECOS SLOPE-ABO GAS	0.0	TRANSWESTERN PIPE
8233544		3000561331		107-TF		SHERNOFF "NL" STATE #3	PECOS SLOPE-ABO GAS	0.0	TRANSWESTERN PIPE

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
********** NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION **********									
-BEREA OIL AND GAS CORPORATION			RECEIVED:	05/19/82		JA: NY			
8233653	2572	3101315362	D	107-DV		CLAUDE HALLER UNIT #2	WILDCAT	0.0	COLUMBIA GAS TRAN
-ECLIPSE MANAGEMENT ASSOCIATES INC			RECEIVED:	05/17/82		JA: NY			
8233588	1772	3101314609		108		BROWN #3155	LAKE SHORE	6.0	NATIONAL FUEL GAS
8233590	1776	3101314607		108		BROWN #4 #3153	LAKE SHORE	5.0	NATIONAL FUEL GAS
8233591	1777	3101314608		108		BROWN #5 #3154	LAKE SHORE	0.0	NATIONAL FUEL GAS
8233593	3057	3101314792		103		ROCKEY #3161	LAKE SHORE	0.0	COLUMBIA GAS TRAN
-ENVIROGAS INC			RECEIVED:	05/17/82		JA: NY			
8233607	1879	3101315723		107-DV		A FIRSTEN #1	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8233612	1878	3101315724		107-DV		A FIRSTEN #2	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8233633	2287	3101315858		107-DV		A ROSATI #1	CHAUTAUQUA	16.0	COLUMBIA GAS TRAN
8233587	1872	3101315180		107-DV		C BANK #1	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8233613	1876	3101314821		107-DV		C CARLSON #1	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8233599	1871	3101315331		107-DV		C DENGENFELDER #1	LAKESHORE	18.0	COLUMBIA GAS TRAN
8233604	1890	3101315341		107-DV		C DINSBIER #1	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8233600	1874	3101315489		107-DV		CHAUTAUQUA INSTITUTION #6	CHAUTAUQUA	18.0	COLUMBIA GAS TRAN
8233605	1873	3101315200		107-DV		CHAUTAUQUA LAKE SNOWMOBILE CLUB #1	LAKESHORE	18.0	COLUMBIA GAS TRAN
8233597	1877	3101315232		107-DP		D CANFIELD #	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8233606	1880	3101315231		107-DV		D CANFIELD #1	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8233598	1875	3101315215		107-DV		D CANFIELD #3	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8233623	2286	3101315542		107-DV		E HARPER #1	CHAUTAUQUA	18.0	COLUMBIA GAS TRAN
8233625	2278	3101316213		107-DV		E OONK #1	CLYMER	18.0	COLUMBIA GAS TRAN
8233608	1887	3101314654		107-DV		G HEWES #2	WILDCAT	18.0	COLUMBIA GAS TRAN
8233617	2276	3101315778		107-DV		G NECKERS #1	CLYMER	18.0	COLUMBIA GAS TRAN
8233621	2289	3101315771		107-DV		H WASSINK #1	CLYMER	18.0	COLUMBIA GAS TRAN
8233618	2274	3101315807		107-DV		H WHITE #4	CLYMER	18.0	COLUMBIA GAS TRAN
8233601	1883	3101315186		107-DV		J BOWEN #2	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8233611	1884	3101315025		107-DV		J BRIGHTMAN #1	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8233602	1892	3101315033		107-DV		J BRIGHTMAN #2	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8233603	1881	3101315003		107-DV		J BRIGHTMAN #3	STEBBIN CORNERS	18.0	COLUMBIA GAS TRAN
8233594	1889	3101314777		107-DV		J J BAKER #1	CHAUTAUQUA	18.0	COLUMBIA GAS TRAN
8233595	1888	3101314778		107-DV		J J BAKER #2	WILDCAT	18.0	COLUMBIA GAS TRAN
8233630	2281	3101316081		107-DV		J LEGTERS #1	CLYMER	18.0	COLUMBIA GAS TRAN
8233624	2280	3101315755		107-DV		LEGTERS BROTHERS #4	CLYMER	18.0	COLUMBIA GAS TRAN
8233629	2283	3101315779		107-DV		LEGTERS BROTHERS #5	CLYMER	18.0	COLUMBIA GAS TRAN
8233610	1885	3101315250		107-DV		M BOEHM #1	LAKESHORE	18.0	COLUMBIA GAS TRAN
8233609	1886	3101315251		107-DV		M BOEHM #2	LAKESHORE	18.0	COLUMBIA GAS TRAN
8233622	2288	3101315721		107-DV		NEW YORK STATE REF AREA 3 #1	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8233627	2282	3101315892		107-DV		P GRAVINK #3	CLYMER	18.0	COLUMBIA GAS TRAN
8233628	2279	3101316034		107-DV		R BAKERINK #1	CLYMER	18.0	COLUMBIA GAS TRAN
8233586	1862	3101315641		107-DV		R DAVIS #1	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8233616	2277	3101315610		107-DV		R WASSINK #2	WILDCAT	18.0	COLUMBIA GAS TRAN
8233626	2275	3101315669		107-DV		R WASSINK #4	CLYMER	18.0	COLUMBIA GAS TRAN
8233589	2018	3101315694		107-DV		W PIHL #1	CHAUTAUQUA	18.0	COLUMBIA GAS TRAN
8233632	2285	3101315859		107-DV		X WASSINK #2	CLYMER	18.0	COLUMBIA GAS TRAN
8233631	2284	3101315860		107-DV		X WASSINK #3	CLYMER	18.0	COLUMBIA GAS TRAN
-SUNRISE RESOURCES INC			RECEIVED:	05/17/82		JA: NY			
8233615	2247	3101316529		107-DV		RICHTER #3	LAKESHORE	20.0	NATIONAL FUEL GAS
-TRAHAN PETROLEUM INC			RECEIVED:	05/17/82		JA: NY			
8233614	1649	3101312538		107-DV		D E SCHIMEK-CHAUTAUGUA3	3101312538 CHERRY CREEK	36.0	COLUMBIA GAS TRAN

JD NO	DA CAT	API NO	C SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8233596	2194	3101315631	102-2		DONALD JAMES #1 31-013-15631	HARMONY	36.0	COLUMBIA GAS TRAN
8233592	2192	31-1315926	102-2		DONALD JAMES #2 31-013-15826	LAKEWOOD	36.0	COLUMBIA GAS TRAN
8233620	2193	3101315865	102-2		THOMAS POTTER #1 31-013-15865	LAKEWOOD	36.0	NATIONAL FUEL GAS
8233619	2196	3101315541	102-2		W & L SEELEY - VV #72 31-013-15541	PANAMA	36.0	COLUMBIA GAS TRAN

OKLAHOMA CORPORATION COMMISSION

-ANDOVER OIL COMPANY — RECEIVED: 05/19/82 JA: OK

8233750	14266	3501721534	103		SIEGRIST #9-4		0.0	DELHI GAS PIPELIN
8233758	14296	3505320483	103		STORMONT #10-1		25.0	CITIES SERVICE GA
8233759	14297	3509322364	103		THOMAS #24-1		75.0	PANHANDLE EASTERN

-BEARD OIL COMPANY — RECEIVED: 05/19/82 JA: OK

8233741	14324	3507323263	103		LILLIERIDGE #2	DOVER-EAST	180.0	PHILLIPS PETROLEU
8233742	14325	3510920536	103		WARD #1	CHOCTAW	350.0	OKLAHOMA NATURAL

-BRACKEN EXPLORATION CO — RECEIVED: 05/19/82 JA: OK

8233776	17088	3504321407	102-4		FINCH 1-5	W HUCMAC	150.0	PHILLIPS PETROLEU

-COOK OPERATING CO — RECEIVED: 05/19/82 JA: OK

8233748	13641	3511720563	108		BREWER B-25 (FRANK WHITE)	SKINNER	27.9	H J D CATTLE CO

-CULPEPPER OIL CO — RECEIVED: 05/19/82 JA: OK

8233709	04718	3501721225	103		HINTON 28-3	WEST YUKON	0.0	PHILLIPS PETROLEU
8233708	04717	3501721237	103		RUBES 28-4	WEST YUKON	0.0	PHILLIPS PETROLEU

-DEMINEX US OIL COMPANY — RECEIVED: 05/19/82 JA: OK

8233778	14193	3501321597	103		JORDON-HACKLER #1	S W PAOLI "A"	185.0	WARREN PETROLEUM

-DLB ENERGY CORP — RECEIVED: 05/19/82 JA: OK

8233736	14313	3501721964	103		HENTHORN & HULL #1	NORTHEAST OF PIEDMONT	0.0	CONOCO INC

-DOME PETROLEUM CORP — RECEIVED: 05/19/82 JA: OK

8233770	14177	3501121546	103		GILCHRIST #1		592.1	EL PASO NATURAL G

-DYCO PETROLEUM CORPORATION — RECEIVED: 05/19/82 JA: OK

8233787	10481	3512920641	107-DP		BAKER-FLENNER #1-20		500.0	PANHANDLE EASTERN

-ECC OIL CO — RECEIVED: 05/19/82 JA: OK

8233785	17093	3510523917	102-2		ALTER #2 SW/4 SW/4 NE/4 10-28N-15E	OENAPAH	0.0	OKAN GAS CO
8233786	17094	3510523918	102-2		ALTER #3 C W/2 SW/4 11-28N-15E		23.0	OKAN GAS CO
8233784	14388	3510523870	102-2		GLASS #6A NW/4 NE/4 NE/4 14-28N-15E	LENAPAH	5.0	OKAN GAS CO

-ENSERCH EXPLORATION INC — RECEIVED: 05/19/82 JA: OK

8233733	12383	3509360000	103		WICHERT #1	RED FORK	224.3	

-F C D OIL CORP — RECEIVED: 05/19/82 JA: OK

8233783	13992	3509322305	103		KOEHN 1-24A	NORTH OKEENE	127.8	PIONEER GAS PRODU

-FLINT & ASSOCIATES — RECEIVED: 05/19/82 JA: OK

8233749	14034	3510720670	103		MARGIE #1	GREGORY	73.0	PUBLIC SERVICE CO

-FOSSIL OIL & GAS INC — RECEIVED: 05/19/82 JA: OK

8233756	14287	3501721867	103		PIVNTSKA #1-341	NW YUKON	100.0	PHILLIPS PETROLEU

-FUNK EXPLORATION INC — RECEIVED: 05/19/82 JA: OK

8233764	14072	3507323282	103		POPE #2	S REEDING	0.0	

-GETTY OIL COMPANY — RECEIVED: 05/19/82 JA: OK

8233767	14142	3503722812	103		DOAK UNIT #6 (SYCAMORE)	SHO-VEL-TUM	400.0	OKLAHOMA NATURAL

-HADSON PETROLEUM CORP — RECEIVED: 05/19/82 JA: OK

8233772	15965	3506120488	102-2	103	ADDITION 1-15	NORTH ENTERPRISE	365.0	ARKANSAS LOUISIAN
8233771	14382	3503221145	103		DRAKE 1-33	SW VICI	600.0	PANHANDLE EASTERN

-HARPER OIL COMPANY — RECEIVED: 05/19/82 JA: OK

8233768	14142	3507323295	103		FERRIL #2	SOONER TREND	73.0	EXXON CORP

-HILLIARD OIL & GAS INC — RECEIVED: 05/19/82 JA: OK

8233760	13961	3501321086	103		KENNEDY #1	SOUTH CESTOS	378.0	TRANSCONTINENTAL

-HUC CO — RECEIVED: 05/19/82 JA: OK

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8233762	13979	3511100000		103		COWAN #1 56163
8233763	13981	3511100000		103		COWAN #3 57531
8233761	13978	3511100000		103		JAMISON 2-A 56164
-INFINITE INVESTMENTS INC				RECEIVED:		05/19/82 JA: OK
8233731	12214	3514320831		103		MONGOOSE #1
-JAN OIL CO				RECEIVED:		05/19/82 JA: OK
8233747	14387	3510321397		103		BODE #1-26
-JERRY CHAMBERS EXPLORATION CO				RECEIVED:		05/19/82 JA: OK
8233773	17045	3501520676		102-2		GARY HOWK #1-18
8233774	17046	3501520650		102-2		VELMA COX #1-6
-L & T OIL & GAS INC				RECEIVED:		05/19/82 JA: OK
8233775	17061	3507323513		102-4		POPE #1
-LAR-MIE PETROLEUM INC				RECEIVED:		05/19/82 JA: OK
8233779	14195	3507122220		103		MOYER #1
8233780	14196	3507122291		103		RONCK #1
-NATIONAL COOP REFINERY ASSOC				RECEIVED:		05/19/82 JA: OK
8233782	14198	3509322302		103		RATZLAFF #4
-NEW TREND RESOURCES INC				RECEIVED:		05/19/82 JA: OK
8233777	14189	3506321379		103		BLOOM #1-A
-NIXON-DAVIS ENERGY CO INC				RECEIVED:		05/19/82 JA: OK
8233732	12331	3508300000		103		CARLA #1
-NOBLE OPERATING INC				RECEIVED:		05/19/82 JA: OK
8233766	14135	3501121626		102-2		WESTFAHL #2
-ONEOK EXPLORATION INC				RECEIVED:		05/19/82 JA: OK
8233738	14328	3512120819		103		DAVENPORT #2
-P-T LTD 80				RECEIVED:		05/19/82 JA: OK
8233746	14329	3509322261		103		MALONE 28-2
-P-T LTD 81				RECEIVED:		05/19/82 JA: OK
8233744	14327	3504722519		103		BULLIS 31-2
8233743	14326	3509322334		103		HAND 33-1
8233745	14328	3504722667		103		WEHLING 12-1
-PAUL WALKER				RECEIVED:		05/19/82 JA: OK
8233748	14323	3503320343		103		SCHOOL LAND #1
-PETRA PETROLEUM CORP				RECEIVED:		05/19/82 JA: OK
8233754	14282	3511721840		102-2		STATE 16-3
-PETROMARK EXPLORATION INC				RECEIVED:		05/19/82 JA: OK
8233739	14321	3507322998		103		ANNA 26-1
-PREMIER RESOURCES LTD				RECEIVED:		05/19/82 JA: OK
8233757	14288	3505920862		103		HOWARD #1 A02702
-R L BURNS CORP				RECEIVED:		05/19/82 JA: OK
8233753	14209	3509322265		103		C ELLISON "31" #1
-RICHARD WHEELER JR				RECEIVED:		05/19/82 JA: OK
8233730	11927	3508321483		103		HENKE #2
-SEAGULL OPERATING CO INC				RECEIVED:		05/19/82 JA: OK
8233752	14268	3511122570		103		SHREWSBURY #1
-SOUTHLAND ROYALTY CO				RECEIVED:		05/19/82 JA: OK
8233737	14319	3509322016		103		KEETON #1-32
8233769	14175	3504321305		103		STAMBAUGH #7-32
-SUN OIL COMPANY (DELAWARE)				RECEIVED:		05/19/82 JA: OK
8233751	14267	3501720756		103		E R STEELE #2
-TENNECO OIL COMPANY				RECEIVED:		05/19/82 JA: OK
8233781	14197	3501520741		103		FANNIE DAVISON #1-8
-TEXAS AMERICAN OIL CORP				RECEIVED:		05/19/82 JA: OK

FIELD NAME	PROD	PURCHASER
NORTHWEST POLYANNA	21.5	PHILLIPS PETROLEU
NORTHWEST POLLYANNA	27.0	PHILLIPS PETROLEU
NORTHWEST POLLYANNA	90.0	PHILLIPS PETROLEU
SOUTH WEKIWA	80.0	COLORADO GAS COMP
SOUTH LONE ELM	11.0	AMINOIL USA INC
N W SICKLES	0.0	RIMROCK GAS CO
LIBBIE	0.0	RIMROCK GAS CO
NORTH OKARCHE	16.0	PHILLIPS PETROLEU
UNKNOWN	730.0	CITIES SERVICE CO
UNKNOWN	800.0	CITIES SERVICE CO
ORIENTA	140.0	UNION TEXAS PETRO
GREASY CREED	120.0	
	0.0	EASON OIL CO
NW OKEENE	0.0	DELMI GAS PIPELIN
FEATHERSTON	50.0	SOUTHEAST TRANSMI
SOONER TREND	35.0	WELLHEAD ENTERPRI
SOONER TREND	0.0	WELLHEAD ENTERPRI
SOONER TREND	35.0	WELLHEAD ENTERPRI
SOONER TREND	35.0	WELLHEAD ENTERPRI
N WALTERS	17.0	NATURAL GAS OPERA
GREENEY	9.0	COLORADO GAS COMP
SOONER TREND	100.0	DALCO PETROLEUM U
E SELMAN	100.0	MICHIGAN-WISCONSI
WEST CHEYENNE VALLEY	120.4	TENNESSEE GAS PIP
SOUTH ELKHORN	30.0	EASON OIL CO
SLICK	70.0	PHILLIPS PETROLEU
ORION	182.0	PHILLIPS PETROLEU
ORION	164.0	MICHIGAN WISCONSI
CALUMET	290.0	OKLAHOMA GAS & EL
NORTH SICKLES	50.0	RIMROCK GAS CO

JD NO	JA JKT	PFT NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8233755	14286	35°7322925		103		LEE YOUNG #1	SOONER TREND	69.4	CITIES SERVICE GA
-TEXAS OIL & GAS CORP				RECEIVED:	05/19/82	JA: OK			
8233734	14301	35 1121602		103		MONSEES #2	E FAY	34.0	
8233735	14302	35°5921084		103		WHEELER "A" #1	LAVERENE	207.0	
-WHITMAR EXPLORATION CO				RECEIVED:	05/19/82	JA: OK			
8233765	14034	35°7920431		103		WILLIAMS #1-33	CEDARS	250.0	ARKLA GAS CO

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WEST VIRGINIA DEPARTMENT OF MINES

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-ASHLAND EXPLORATION INC				RECEIVED:	05/17/82	JA: WV			
8233640		47.3903705		107-DV		EASTERN GAS & FUEL #73 - 091222	PAINT CREEK	20.0	
-BLUE CREEK GAS COMPANY				RECEIVED:	05/17/82	JA: WV			
8233647		47°1501918		103		CANNEL #2	HENRY	22.0	COLUMBIA GAS TRAN
-CONTINENTAL PETROLEUM CO				RECEIVED:	05/17/82	JA: WV			
8233635		47°2103836		103		A MESSENGER #1	GLENVILLE NORTH	50.0	CONSOLIDATED GAS
8233638		47.0701711		103		GILLESPIE #1	CHAPEL-GERMAN	20.0	CONSOLIDATED GAS
8233639		47°2103764		103		J MESSENGER #2-A	GLENVILLE NORTH	45.0	COLUMBIA GAS TRAN
8233637		4700701722		103		RATLIFF #1	HEATERS	16.0	CONSOLIDATED GAS
8233636		47°2103835		103		STELLA LOWTHER #2-A	GLENVILLE NORTH	28.0	CONSOLIDATED GAS
-FERRELL L PRIOR				RECEIVED:	05/17/82	JA: WV			
8233649		4707303931		107-DV		MCCULLOUGH #1	SHULTZ	6.0	CONSOLIDATED GAS
8233652		47°7301122		107-DV		MCCULLOUGH #2	SHULTZ	0.0	CONSOLIDATED GAS
8233650		47°7301089		107-DV		MCCULLOUGH #3	SHULTZ	0.0	CONSOLIDATED GAS
8233651		4707301116		107-DV		MCCULLOUGH #4	SHULTZ	0.0	CONSOLIDATED GAS
8233648		47°7301159		107-DV		TAYLOR #1	GRANT	0.0	CONSOLIDATED GAS
-FMF OIL & GAS PROPERTIES				RECEIVED:	05/17/82	JA: WV			
8233634		47°8300327	D	102-2		KING #1C	ROARING CREEK DISTRIC	122.0	COLUMBIA GAS TRAN
-KIOWA PETROLEUM CORP				RECEIVED:	05/17/82	JA: WV			
8233644		47°7301298		107-DV		C M SCADDEN #1	MCKIM DISTRICT ST MAR	100.0	COLUMBIA GAS TRAN
8233643		47°8505234		107-DV		D W CUNNINGHAM #1	CLAY DISTRICT ELLENBO	75.0	COLUMBIA GAS TRAN
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	05/17/82	JA: WV			
8233646		47 4102915		103		OLETA TURNER #2	ASPINALL - FINSTER	84.0	CONSOLIDATED GAS
-SENECA-UPSHUR PETROLEUM CO				RECEIVED:	05/17/82	JA: WV			
8233642		47°5903966		107-DV		C-9	HARDEE	35.0	COLUMBIA GAS TRAN
-SPARTAN GAS COMPANY				RECEIVED:	05/17/82	JA: WV			
8233641		47.1100689		107-DV		F W MCCULLOUGH #2	GRANT DISTRICT	3.6	COLUMBIA GAS TRAN
-TEN-A-COAL CO				RECEIVED:	05/17/82	JA: WV			
8233645		4700101555		103		CUNNINGHAM #4	PLEASANT DIST	30.0	CONSOLIDATED GAS

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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, ALBUQUERQUE,NM

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-AMERADA HESS CORPORATION				RECEIVED:	05/19/82	JA: NM 4			
8233722	NM-0264-82	3003925951		108		J APACHE "F" #7 (COAL GAS)	OTERO	21.6	EL PASO NATURAL G
-AMOCO PRODUCTION CO				RECEIVED:	05/19/82	JA: NM 4			
8233726	NM 0283-82	3004525234		103		GALLEGOS CANYON UNIT #133E	BASIN DAKOTA	44.0	AMOCO GAS CO
8233728	NM 0285-82	3004524429		103		GALLEGOS CANYON UNIT #166E	BASIN DAKOTA	24.0	EL PASO NATURAL G
8233727	NM 0284-82	3004524862		103		GALLEGOS CANYON UNIT #167E	BASIN DAKOTA	30.0	EL PASO NATURAL G
8233725	NM 0281-82	3003922521		103		JICARILLA CONTRACT 146 #33	GONZALES-MESAVERDE	21.0	NORTHWEST PIPELIN
8233729	NM 0286-82	3003922521		103		JICARILLA CONTRACT 146 #33	OTERO - CHACRA	30.0	NORTHWEST PIPELIN
8233718	NM-0280-82	3003922521		103		JICARILLA CONTRACT 146 #39	OTERO-CHACRA	23.0	NORTHWEST PIPELIN
-BILLY J KNOTT				RECEIVED:	05/19/82	JA: NM 4			
8233683	NM-0490-81	3004523987		108		JK #1	WAW FRUITLAND	5.6	EL PASO NATURAL G
-C W STUMHOFFER				RECEIVED:	05/19/82	JA: NM 4			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8233708	NM-0287-82	3002527434		103		FEDERAL C5 #1
-DOME PETROLEUM CORP				RECEIVED:	05/19/82	JA: NM 4
8233724	NM C277-82	3004523528		103		FREW FEDERAL #16
-DUGAN PRODUCTION CORP				RECEIVED:	05/19/82	JA: NM 4
8233684	NM-0811-81	3004524235		108		KING FISH #1
-EL PASO NATURAL GAS COMPANY				RECEIVED:	05/19/82	JA: NM 4
8233694	NM-1662-81	3003905632		108		CANYON LARGO UNIT #120
8233719	NM-0233-82	3003905441		108		CANYON LARGO UNIT #8? GL & NP DK
8233692	NM-1815-81	3004520493		108		DAY #4
8233693	NM-1819-81	3004511785		108		HEATON #20
8233687	NM-1476-81	3004508920		108		HOWELL #5
8233655	NM 0002-82ER	3004521770		108-ER		HOWELL D #3?
8233715	NM-C177-82	3004505743		108		HUERFANO UNIT NP #22
8233654	NM-0001-82ER	3004521192		108-ER		JONES #
8233666	NM 0033-82PB	3003920383		108-PB		S J 27-4 UNIT #57
8233680	NM 0048-82PB	3003907171		108-PB		SAN JUAN 27-4 UNIT #18
8233659	NM 0023-82PB	3003920484		108-PB		SAN JUAN 27-4 UNIT #60
8233660	NM 0024-82PB	3003920733		108-PB		SAN JUAN 27-4 UNIT #61
8233661	NM 0025-82PB	3003920685		108-PB		SAN JUAN 27-4 UNIT #67
8233668	NM 0036-82PB	3003920827		108-PB		SAN JUAN 27-4 UNIT #88
8233669	NM C037-82PB	3003906964		108-PB		SAN JUAN 27-5 UNIT #16
8233670	NM C038-82PB	3003920869		108-PB		SAN JUAN 27-5 UNIT #173
8233673	NM0041-82 PB	3003906878		108-PB		SAN JUAN 27-5 UNIT #66
8233686	NM-1189-81	3003982363		108		SAN JUAN 27-5 UNIT #80
8233664	NM 0029-82PB	3003920175		108-PB		SAN JUAN 28-4 UNIT #33
8233656	NM 0020-82PB	3003920674		108-PB		SAN JUAN 28-4 UNIT #36
8233662	NM 0027-82PB	3003920187		108-PB		SAN JUAN 28-5 UNIT #81
8233658	NM 0022-82PB	3003920608		108-PB		SAN JUAN 28-6 UNIT #172
8233672	NM0048-82 PB	3003920603		108-PB		SAN JUAN 28-6 UNIT #174
8233665	NM 0031-82PB	3003920863		108-PB		SAN JUAN 28-6 UNIT #202
8233676	NM0044-82 PB	3003907167		108-PB		SAN JUAN 28-6 UNIT #26
8233704	NM-0085-82	3003907175		108		SAN JUAN 28-6 UNIT #37
8233689	NM-1680-81	3003920381		108		SAN JUAN 28-7 UNIT #158
8233703	NM-0084-82	3003907355		108		SAN JUAN 28-7 UNIT #25
8233691	NM-1805-81	3003907265		108		SAN JUAN 28-7 UNIT #7
8233657	NM 0021-82PB	3003920732		108-PB		SAN JUAN 29-4 UNIT #62
8233675	NM 0043-82PB	3003907808		108-PB		SAN JUAN 30-4 UNIT #14
8233674	NM C042-82PB	3003907866		108-PB		SAN JUAN 30-6 UNIT #34
8233702	NM-0077-82	3004510958		108		SAN JUAN 32-9 UNIT #14
8233698	NM 1932-81	3004511407		108		SAN JUAN 32-9 UNIT NP #78
8233663	NM 0028-82PB	3003907206		108-PB		SJ 27-4 UNIT #19 PC & MV
8233671	NM C039-82PB	3003907191		108-PB		SJ 27-5 UNIT #61
8233667	NM 0034-82PB	3003907342		108-PB		SJ 28-5 UNIT #46
-HOLLY ENERGY INC				RECEIVED:	05/19/82	JA: NM 4
8233714	NM-0164-82	3001523845		103		NELSON #7
-HONDO OIL & GAS COMPANY				RECEIVED:	05/19/82	JA: NM 4
8233705	NM-0102-82	3001510438		108		HONDO "B" FEDERAL #1
-JOHN YURONKA				RECEIVED:	05/19/82	JA: NM 4
8233696	NM 1924-81	3002527447		103		DONNA FEDERAL #1
-MARATHON OIL COMPANY				RECEIVED:	05/19/82	JA: NM 4
8233681	NM-1788-80	3004524395		103		OHIO "C" GOVERNMENT #2-E
-MERRION OIL & GAS CORP				RECEIVED:	05/19/82	JA: NM 4
8233716	NM-0187-82	3003922021		108		EAST LINDRITH #1

FIELD NAME	PROD	PURCHASER
E-K YATES-SEVEN RIVER	14.0	CONOCO INC
WAW-FRUITLAND PICTURE	52.6	EL PASO NATURAL G
WAW FIELD-FRUITLAND P	25.0	EL PASO NATURAL G
BALLARD - PICTURED CL	23.0	EL PASO NATURAL G
DEVILS FORK GALLUP/BA	21.0	EL PASO NATURAL G
BLANCO/PICTURED CLIFF	22.0	EL PASO NATURAL G
AZTEC-PICTURED CLIFFS	20.0	EL PASO NATURAL G
BLANCO PICTURED CLIFF	23.0	EL PASO NATURAL G
BLANCO - MESA VERDE	6.0	EL PASO NATURAL G
HUERFANO - PICTURED C	16.0	EL PASO NATURAL G
BLANCO PICTURED CLIFF	20.0	EL PASO NATURAL G
BASIN-DAKOTA GAS	20.0	EL PASO NATURAL G
BLANCO-MESAVERDE GAS	11.0	EL PASO NATURAL G
BASIN DAKOTA	17.0	EL PASO NATURAL G
TAPACITO-PICTURED CLI	14.2	EL PASO NATURAL G
TAPACITO-PICTURED CLI	21.0	EL PASO NATURAL G
TAPACITO-PICTURED CLI	20.0	EL PASO NATURAL G
BLANCO-MESAVERDE	14.0	EL PASO NATURAL G
TAPACITO-PICTURED CLI	14.0	EL PASO NATURAL G
BLANCO - MESAVERDE	15.0	EL PASO NATURAL G
TAPACITO - PICTURED C	19.0	EL PASO NATURAL G
BASIN - DAKOTA	6.0	EL PASO NATURAL G
BASIN DAKOTA	14.0	EL PASO NATURAL G
BASIN - DAKOTA GAS	20.0	EL PASO NATURAL G
BLANCO SOUTH-PICTURED	20.0	EL PASO NATURAL G
BLANCO SOUTH-PICTURED	16.0	EL PASO NATURAL G
BLANCO SOUTH-PICTURED	9.0	EL PASO NATURAL G
BLANCO - MESAVERDE GA	16.0	EL PASO NATURAL G
BLANCO - MESA VERDE	16.0	EL PASO NATURAL G
BASIN - DAKOTA	23.0	EL PASO NATURAL G
BLANCO - MESA VERDE	22.0	EL PASO NATURAL G
BLANCO MESAVERDE	18.0	EL PASO NATURAL G
TAPACITO-PICTURED CLI	15.0	EL PASO NATURAL G
EAST BLANCO - PICTURE	22.0	EL PASO NATURAL G
BLANCO-MESAVERDE GAS	10.0	EL PASO NATURAL G
BLANCO - MESA VERDE	23.0	EL PASO NATURAL G
BLANCO - MESA VERDE	20.0	EL PASO NATURAL G
TAPACITO - PICTURED C	18.0	EL PASO NATURAL G
BLANCO-MESAVERDE GAS	12.0	EL PASO NATURAL G
BLANCO-MESAVERDE GAS	12.0	EL PASO NATURAL G
GRAYBURG-SAN ANDRES-L	20.0	CONOCO INC
RED LAKE GRAYBURG (SA	2.6	AMOCO PRODUCTION
JALMAT	42.0	EL PASO NATURAL G
KUTZ CANYON	212.0	EL PASO NATURAL G
SOUTH BLANCO PICTURED	14.2	NORTHWEST PIPELIN

JD NO	JA DAT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8233717	NM-0188-82	3003922023		106		EAST LINDRITH #3	SOUTH BLANCO PICTURED	12.3	NORTHWEST PIPELIN
-MOBIL PRDG TEXAS & NEW MEXICO INC		RECEIVED: 05/19/82 JA: NM 4							
8233711	NM-0182-82	3003921288		108-SA		JICARILLA C #3-A	BLANCO MESAVERDE GAS	180.2	NORTHWEST PIPELIN
-MESA PETROLEUM CO		RECEIVED: 05/19/82 JA: NM 4							
8233709	NM-0117-82	3000561209		102-2	107-TF	COYOTE FEDERAL #6	UNDESIGNATED ABO	550.0	TRANSWESTERN PIPE
8233707	NM-0115-82	3000561150		102-2	107-TF	SAVAGE FEDERAL #3	UNDESIGNATED ABO	600.0	TRANSWESTERN PIPE
-RTS LTD PARTNERSHIP		RECEIVED: 05/19/82 JA: NM 4							
8233710	NM-0118-82	3000561131		102-2	107-TF	ALKALI FEDERAL #3	UNDESIGNATED ABO	600.0	TRANSWESTERN PIPE
8233706	NM-0114-82	3000561065		102-2	107-TF	ALKALI FEDERAL COM #2	UNDESIGNATED ABO	550.0	TRANSWESTERN PIPE
8233708	NM-0116-82	3000561176		102-2	107-TF	STEWART FEDERAL #3	UNDESIGNATED ABO	285.0	TRANSWESTERN PIPE
-NORTHWEST PIPELINE CORPORATION		RECEIVED: 05/19/82 JA: NM 4							
8233686	NM-1539-81	3004524526		108		BLANCO #2	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8233679	NM 1047-B2PB	3003907965		108-PB		ROSA UNIT #25	BLANCO	16.0	NORTHWEST PIPELIN
8233712	NM-0155-82	3003907981		108		ROSA UNIT #41	BLANCO MESAVERDE	25.0	EL PASO NATURAL G
8233677	NM 0045-B2PB	3003907835		106-PB		SAN JUAN 30-5 UNIT 25	BLANCO MESAVERDE	0.0	EL PASO NATURAL G
8233678	NM0046-82 PB	3003907907		108-PB		SAN JUAN 31-6 #14	BLANCO MESAVERDE	0.0	EL PASO NATURAL G
8233723	NM 265-82	3004525284		103		SAN JUAN 32-7 UNIT 28A	BLANCO MESAVERDE	116.8	NORTHWEST PIPELIN
-PIONEER PRODUCTION CORPORATION		RECEIVED: 05/19/82 JA: NM 4							
8233682	NM-0223-81	3004508708		103		GUSTIN #1-E	BASIN DAKOTA	0.7	PIONEER NATURAL G
-SUPRON ENERGY CORPORATION		RECEIVED: 05/19/82 JA: NM 4							
8233721	NM 0859-82	3004525042		103		USA #4	BLANCO MESA VERDE	834.0	SOUTHERN UNION GA
8233720	NM 0258-82	3004525194		103		ZACHRY #8	WILDCAT GALLUP	2.1	
-TENNECO OIL COMPANY		RECEIVED: 05/19/82 JA: NM 4							
8233685	NM-0960-81	3004508083		108		GAGE COM #1	BASIN DAKOTA	20.0	EL PASO NATURAL G
-WESTERN RESERVES OIL COMPANY		RECEIVED: 05/19/82 JA: NM 4							
8233701	NM-0323-82	3000561292		103	107-TF	BEAVMOR 29 FEDERAL #2	UNDESIGNATED (ABO)	56.0	TRANSWESTERN PIPE
-YATES PETROLEUM CORPORATION		RECEIVED: 05/19/82 JA: NM 4							
8233697	NM 1929-81	3001523591		102-4		AMOCO "QT" FEDERAL #1	SIEGREST DRAW	0.0	TRANSWESTERN PIPE
8233699	NM-1955-81	3001523662		102-4		EASTERN SHORE "QL" FEDERAL #1	WILDCAT MORROW	0.0	TRANSWESTERN PIPE
8233698	NM-1777-81	3001521523		102-4		MOSS "FG FEDERAL COM #1	WILDCAT STRAWN	0.0	TRANSWESTERN PIPE
-ZIA ENERGY INC		RECEIVED: 05/19/82 JA: NM 4							
8233695	NM 1888-81	3002500000		102-4		FEDERAL #3	EUNICE SAN ANDRES SOU	73.0	EL PASO NATURAL G
-AMOCO PRODUCTION CO		RECEIVED: 05/19/82 JA: OK 4							
8233713	OKA-0160-82	3515330019		108		USA-CURTIS UNIT #1	WAYNOKA NE (COTTAGE G	21.0	CITIES SERVICE GA

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission July 2, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
- 102–2: New well (2.5 mile rule)
- 102–3: New well (1000 ft rule)
- 102–4: New onshore reservoir
- 102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
- 107–GB: Geopressured brine
- 107–CS: Coal seams
- 107–DV: Devonian shale
- 107–PE: Production enhancement
- 107–TF: New tight formation
- 107–RT: Recompletion tight formation.

Section 108: Stripper well
- 108–SA; Seasonally affected
- 108–ER: Enhanced recovery
- 108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–16443 Filed 6–16–82; 8:45 am]

BILLING CODE 6717-01-M

[Volume 666]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 19

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
CALIFORNIA DEPARTMENT OF CONSERVATION									
-ANCHOR PETROLEUM CORP				RECEIVED:	05/21/82	JA: CA			
8233881	82-6-0004	0411320615		102-4		HUDSON #1	MERRITT ISLAND GAS	365.0	
-BUTTES RESOURCES CO				RECEIVED:	05/21/82	JA: CA			
8233880	81-6-0067	0401120170		102-4		POUNDSTONE 29-1	GRIMES	0.0	PACIFIC GAS & ELE
-CASEX CO				RECEIVED:	05/21/82	JA: CA			
8233875	82-6-0005	0409520479		102-4		SEAHAWK CALIF 1-1	LINDSEY SLOUGH	1575.0	TOSCO CORP
-CHALLENGER MINERALS INC				RECEIVED:	05/21/82	JA: CA			
8233873	82-4-0080	0402962329		102-4		D L WILLIAMS - 73X-32	WEST BELLEVUE	0.0	PACIFIC LIGHTING
8233882	82-4-0086	0402961250		102-4		HOUGHTON 13X-33	WEST BELLEVUE	0.0	PACIFIC LIGHTING
8233883	82-4-0084	0402964424		102-4		JOHNSON 54-32	WEST BELLEVUE	0.0	PACIFIC LIGHTING
8233872	82-4-0077	0402964169		102-4		JOHNSON 63X-32	WEST BELLEVUE	32.5	PACIFIC LIGHTING
8233884	82-4-0085	0402965147		102-4		JOHNSON 64X-32	WEST BELLEVUE	0.0	PACIFIC LIGHTING
8233871	82-4-0079	0402962832		102-4		KLIEWER-MESSENGER - 23X-33	WEST BELLEVUE	5.0	PACIFIC LIGHTING
8233877	82-4-0078	0402963269		102-4		PAUL - 82X-32	WEST BELLEVUE	31.7	PACIFIC LIGHTING
-CHEVRON U S A INC				RECEIVED:	05/21/82	JA: CA			
8233876	82-6-0003	0401120177		102-4		ARBUCKLE ROAD #7	GRIMES	240.0	PACIFIC GAS & ELE
-MCFARLAND ENERGY INC				RECEIVED:	05/21/82	JA: CA			
8233878	81-6-0072	0401320177		102-4		CALPLANS TAYLOR SLOUGH-2		1095.0	SHELL OIL CO
-TENNECO OIL COMPANY				RECEIVED:	05/21/82	JA: CA			
8233885	82-4-0087	0402962724		102-4		EAGLE REST 52X-15	EAGLE REST	16.0	
8233874	81-6-0069	0410120174		102-4		MATSUMURA-STADERMANN #1	BUTTES SLOUGH	146.0	PACIFIC GAS & ELE
-TXO PRODUCTION CORP				RECEIVED:	05/21/82	JA: CA			
8233879	81-6-0063	0406720180		102-4		DH & P 30-1	GRAND ISLAND GAS	180.0	PACIFIC GAS & ELE
LOUISIANA OFFICE OF CONSERVATION									
-AMERADA HESS CORPORATION				RECEIVED:	05/21/82	JA: LA			
8233966	81-2568	1705721488		103		J P MOORE #12	RACELAND	365.0	TRANSCONTINENTAL
-AMOCO PRODUCTION CO				RECEIVED:	05/21/82	JA: LA			
8233912	81-2759	1702321381		103		GULF LAND A R/A B #215	EAST HACKBERRY	37.0	VALLEY GAS TRANSM
8233947	81-2594	1709920729		103		P H MARAIST "C" #1	SECTION 28 DOME	559.0	GAS GATHERING COR
-DELTA ENERGY RESOURCES INC				RECEIVED:	05/21/82	JA: LA			
8233914	81-2761	1701921018		103		LOUISIANA FARM & LIVESTOCK #1	EAST MOSS LAKE	0.0	LOUISIANA GAS SYS
-DEWEY WHITE				RECEIVED:	05/21/82	JA: LA			
8233964	81-2954	1708320486		108		J R RATCLIFF #8	RICHLAND	8.9	MID LOUISIANA GAS
-EXCALIBUR RESOURCES INC				RECEIVED:	05/21/82	JA: LA			
8233938	81-2583	1703121341		103		CONTINENTAL CAN A #1	RED RIVER BULL BAYOU	75.0	LOUISIANA INTRAST
-FIFTY-THIRD CORP				RECEIVED:	05/21/82	JA: LA			
8233946	81-2948	1711121929		108		ANNIE J FORD #1	MONROE	4.0	IMC PIPELINE CO I
8233963	81-2951	1707321004		108		WILLIAMS #1	MONROE	4.0	IMC PIPELINE CO I
-GOLDKING PRODUCTION COMPANY				RECEIVED:	05/21/82	JA: LA			

JD NO	JA DKT	AFI NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8233929	81-2586	1702321445	103		MIAMI CORP "D" #2	CHENIERE PERDUE	219.0	MICHIGAN-WISCONSI
8233961	81-2740	1712120131	103		WILBERTS "A" #2	PORT ALLEN	38.0	LOUISIANA INTRAST
-GUERNSEY PETROLEUM CORPORATION		RECEIVED:	05/21/82		JA: LA			
8233932	81-2593	1703121430	103		INTERNATIONAL PAPER CO # "B" 1	BENSON	150.0	LOUISIANA INTRAST
-GULF OIL CORPORATION		RECEIVED:	05/21/82		JA: LA			
8233917	81-2753	1705721725	103		S L 1772 #12[illegible] TD D-19 RA SU	TIMBALIER BAY	100.0	TENNESSEE GAS PIP
8233933	81-2595	1707522753	103		SL 195 GG #309	QUARANTINE BAY	250.0	UNITED GAS PIPELI
8233940	81-2596	1707522750	103		SL 195 GG #98	WEST BLACK BAY	1.5	SOUTHERN NATURAL
8233910	81-2755	1705721772	103		STATE LEASE PP 192 #283	TIMBALIER BAY	21.5	TENNESSEE GAS PIP
8233928	81-2597	1705721770	103		STATE LEASE 1772 #125	TIMBALIER BAY	124.0	TENNESSEE GAS PIP
-IMC EXPLORATION COMPANY		RECEIVED:	05/21/82		JA: LA			
8233965	81-2962	1707321722	108		COLE T #33	MONROE	8.0	IMC PIPELINE CO I
-JEEMS BAYOU PRODUCTION CORP		RECEIVED:	05/21/82		JA: LA			
8233951	81-2780	1703121486	103		CROWN ZELLERBACH #1	GROGAN 4319	238.0	TENNESSEE GAS PIP
-JOHNSON OIL & GAS CORP		RECEIVED:	05/21/82		JA: LA			
8233930	81-2588	1700320204	103		LABOKAY #1 SERIAL #172501	HARMONY CHURCH	300.0	SOUTH TEXAS GATHE
-KERR-MCGEE CORPORATION		RECEIVED:	05/21/82		JA: LA			
8233962	81-2741	1772620230	103		S L 123[illegible] #4-D	BRETON SOUND BLOCK 36	269.0	SOUTHERN NATURAL
-LOUISIANA LAND & EXPLORATION CO		RECEIVED:	05/21/82		JA: LA			
8233913	81-2761	1710922384	103		LLEE U[illegible] #1 VUG	BAY JUNOP	365.0	TEXAS GAS TRANSMI
-MARSHALL EXPLORATION INC		RECEIVED:	05/21/82		JA: LA			
8233942	81-2943	1703121128	108		CLARA FOSHEE #1 FBG SA SU14	LOGANSPORT	14.0	ARKANSAS-LOUISIAN
-MID LOUISIANA GAS COMPANY		RECEIVED:	05/21/82		JA: LA			
8233952	81-2941	1711122601	108		MLGC FEE GAS #535	MONROE GAS FIELD	10.6	MID LOUISIANA GAS
8233954	81-2942	1711122604	108		MLGC FEE GAS #538	MONROE GAS FIELD	12.2	MID LOUISIANA GAS
-MURPHY OIL CORPORATION		RECEIVED:	05/21/82		JA: LA			
8233958	81-2728	1706120272	102-2		PALMER #1 171325	SIMSBORO	91.0	ARKANSAS LOUISIAN
-NICHOLS OIL & GAS CO C/O BRADCO OIL		RECEIVED:	05/21/82		JA: LA			
8233936	81-2576	1705721734	103		R C PLATER JR #1	ROUSSEAU	1095.0	
-PETRO-LEWIS CORPORATION		RECEIVED:	05/21/82		JA: LA			
8233915	81-2751	1708720213	103		STATE LEASE 4909 #3-D	STUARD'S BLUFF	722.0	SOUTHERN NATURAL
-PICKENS CO INC		RECEIVED:	05/21/82		JA: LA			
8233955	81-2598	1705320680	103		R A ROUSEAU #2	WEST TEPETATE	216.5	LOUISIANA GAS SYS
-PLACID OIL COMPANY		RECEIVED:	05/21/82		JA: LA			
8233960	81-2734	1701320507	103		IPR LBN LUC #2 VUG	LUCKY	375.0	TEXAS EASTERN TRA
8233959	81-2729	1701320377	102-2		VUG BODCAW #4	LUCKY	200.0	TEXAS EASTERN TRA
-REMUDA OIL & GAS CO		RECEIVED:	05/21/82		JA: LA			
8233924	81-2538	1703120694	103		ADAMS #1	GROGAN	62.7	LUMAR GAS GATHERI
8233921	81-2535	1703120850	103		CONTINENTAL CAN #2	GROGAN	53.2	LUMAR GAS GATHERI
8233922	81-2536	1703120740	103		CONTINENTAL CAN CO #1	GROGAN	6.4	LUMAR GAS GATHERI
8233908	81-2540	1703120679	103		HESSER #1	GROGAN	20.8	LUMAR GAS GATHERI
8233953	81-2541	1703120796	103		HUGHES #2	GROGAN	72.2	LUMAR GAS GATHERI
8233941	81-2542	1703120726	103		KINNEBREW #1	GROGAN	68.9	LUMAR GAS GATHERI
8233919	81-2533	1703120667	103		RAMBIN #1	GROGAN	8.0	LUMAR GAS GATHERI
8233918	81-2531	1703120797	103		RAMBIN #5	CHEMARD LAKE	7.3	LUMAR GAS GATHERI
8233920	81-2534	1703121178	103		SAMUELS #1	GROGAN	7.6	LUMAR GAS GATHERI
8233949	81-2539	1703121020	103		SUN INTERNATIONAL PAPER CO	GROGAN	4.6	LUMAR GAS GATHERI
8233923	81-2537	1703121793	103		WHITAKER #1	GROGAN	101.4	LUMAR GAS GATHERI
-SAND HILL LTD (LA)		RECEIVED:	05/21/82		JA: LA			
8233943	81-2944	1711122311	108		CLARK #2	MONROE	37.0	PETRO-LEWIS FUNDS
8233944	81-2945	1711122394	108		SPEARS #1	MONROE	57.2	PETRO-LEWIS FUNDS
-SHELL OIL CO		RECEIVED:	05/21/82		JA: LA			
8233911	81-2756	1772520199	103		MP 69 SL 1357 #51	MAIN PASS BLOCK 69	420.0	TENNESSEE GAS PIP

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JD NO	JA DKT	API NO	C	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-SUN OIL COMPANY (DELAWARE)				RECEIVED: 05/21/82		JA: LA			
8233925	81-2552	1703121420		103		H C REDING #1	GROGAN	65.0	TENNESSEE GAS PIP
8233950	81-2770	1703121389		102-2		LELONG #3	RED RIVER BULL BAYOU	110.0	LOUISIANA INTRAST
8233937	81-2582	1711122428		103		LUTCHER MOORE LBR CO #14	SHOATS CREEK	82.0	TRUNKLINE GAS CO
-TEXACO INC				RECEIVED: 05/20/82		JA: LA			
8233886	81-2076	1710121210		102-4		SL 340 ATCHAFALAYA BAY #39	BELLE ISLE	1277.0	UNITED GAS PIPE L
-TEXACO INC				RECEIVED: 05/21/82		JA: LA			
8233967	81-2777	1710121080		103		BAL SU SL 341 #9	BATEMAN LAKE	345.3	CITY OF MORGAN CI
8233916	81-2752	1709720496		103		BOTANY BAY LBR CO MIN FEE TR-4 #156	PORT BARRE	18.0	CAJUN ELECTRIC PO
8233907	81-2569	1705721269		103		CITY OF NEW ORLEANS #42	LEEVILLE	166.0	KAISER ALUMINUM &
8233926	81-2553	1710922470		103		CONTINENTAL LD & FUR TR 1 #19	BAYOU PENCHANT	256.0	TENNESSEE GAS PIP
8233957	81-2600	1705721620		103		LATERRE CO INC #267	GOLDEN MEADOW	101.0	KAISER ALUMINUM &
8233939	81-2763	1710922279		103		LP U-13 #73 VUM	LAKE PELTO	34.0	KAISER ALUMINUM &
8233909	81-2774	1710922323		103		LP U-13 #76 VUM	LAKE PELTO	85.0	KAISER ALUMINUM &
8233956	81-2599	1710922207		103		LP U-13 72 VUM	LAKE PELTO	56.0	KAISER ALUMINUM &
8233940	81-2746	1770720096		103		SL 340 MOUND POINT #62	MOUND POINT	1460.0	TEXAS GAS TRANSMI
8233931	81-2591	1770720093		103		SL 340 MOUND POINT #72	MOUND POINT	1752.0	TEXAS GAS TRANSMI
8233934	81-2745	1770720102		103		SL 340 MOUND POINT #8C-D	MOUND POINT	1277.0	KAISER ALUMINUM &
8233927	81-2560	1705721385		103		SL 378 CATFISH LAKE 110	GOLDEN MEADOW	5.0	KAISER ALUMINUM &
-TOCE OIL COMPANY INC				RECEIVED: 05/21/82		JA: LA			
8233935	81-2570	1704720560		103		W J KURZWEG JR #2	BAYOU DES GLAISES	736.0	GAS GATHERING COR
-W H WEGMAN JR				RECEIVED: 05/21/82		JA: LA			
8233945	81-2947	1711102328		108		HODGE #1	MONROE	4.3	

MISSISSIPPI OIL & GAS BOARD

-BERT J ROSSON & DEE W LAYMAN				RECEIVED: 05/20/82		JA: MS			
8233828	27-82-8	2306120343		107-DP		NATHANIEL JONES #1	HEIDELBERG	425.0	
-CALLON PETROLEUM COMPANY				RECEIVED: 05/20/82		JA: MS			
8233821	16-82-372	2312720068		102-4	103	VIRGIL BERRY GAS UNIT-#1	OAK GROVE	0.9	SYSTEM FUELS INC
-COASTAL EXPL INC & EARL R WILSON				RECEIVED: 05/20/82		JA: MS			
8233819	17-82-486	2306520194		107-DP		ALLAR UNIT 19-13 #1	WEST OAKVALE FIELD	900.0	
-GULF OIL CORPORATION				RECEIVED: 05/20/82		JA: MS			
8233818	19-82-11	2307320235		103		MALCOLM COOPER #3	BAXTERVILLE	0.0	UNITED GAS PIPE L
8233825	21-82-8	2306120329		103		MRS L P THORNTON 35-9-4	WEST HEIDELBERG	18.0	UNITED GAS PIPE L
-HUNT ENERGY CORPORATION ET AL				RECEIVED: 05/20/82		JA: MS			
8233827	26-82-546	2304520075		107-DP		RHODA LEE BROWN #1	WILDCAT	3000.0	
-LOUISIANA LAND & EXPLORATION CO				RECEIVED: 05/20/82		JA: MS			
8233824	4-82-480(1)	2301720032		102-2		BOBBIE LEE ALLEN #1	BACON	365.0	TEXAS EASTERN TRA
8233823	5-82-527	2309520342		102-2		C P COGGIN #2	COMPENNA CREEK	0.0	TEXAS EASTERN TRA
-MARSHALL R YOUNG OIL CO				RECEIVED: 05/20/82		JA: MS			
8233838	34-82-224	2304520781		103		ZENGARLING 26-14	WAVELAND	803.0	UNITED GAS PIPELI
-PLACID OIL COMPANY				RECEIVED: 05/20/82		JA: MS			
8233826	22-82-549	2314920818		107-DP		UNIT 8-3 #1	BOVINA	1131.0	
-SHELL OIL CO				RECEIVED: 05/20/82		JA: MS			
8233822	9-82-522	2306320324		102-4		FOX UNIT #1	ALCORN	75.0	
-SOUTH LOUISIANA PRODUCTION CO INC				RECEIVED: 05/20/82		JA: MS			
8233820	18-82-91	2304520079		102-2		INTERNATIONAL PAPER #1	ANSLEY	0.0	
-SYSTEM FUELS INC				RECEIVED: 05/20/82		JA: MS			
8233829	29-82-470	2306520196		107-TF		GAS UNIT 19-13 #1	HOLIDAY CREEK	750.0	

NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION

-VILLANOVA NATURAL GAS CORP				RECEIVED: 05/21/82		JA: NY			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8233968	2591	31[illegible]4356	D	107-DV		GEO&ELMER BURBULES #2 31-013-04356	WESTFIELD-LAKESHORE	0.5	COLUMBIA GAS TRAN
	OKLAHOMA CORPORATION COMMISSION								
-INTER-TRIBAL INDUSTRIES INC		RECEIVED: 05/24/82 JA: OK							
8233976	18684	3510500000	103			SHOATE WEBSTER #1	SHOATE WEBSTER	0.0	RH OPERATING
8233977	18685	3510500000	103			SHOATE WEBSTER #1-A	SHOATE WEBSTER	0.0	RH OPERATING
8233978	18686	3510500000	103			SHOATE WEBSTER #2	SHOATE WEBSTER	0.0	RH OPERATING
8233979	18687	3510500000	103			SHOATE WEBSTER #2-A	SHOATE WEBSTER	0.0	RH OPERATING
8233980	18688	3510500000	103			SHOATE WEBSTER #3	SHOATE WEBSTER	0.0	RH OPERATING
8233981	18689	3510500000	103			SHOATE WEBSTER #4	SHOATE WEBSTER	0.0	RH OPERATING
8233975	18683	3510525759	103			WEBSTER #4	WEBSTER	0.0	NATURAL GAS PRODU
8233969	18677	3510525808	103			WEBSTER #4-A	WEBSTER	0.0	NATURAL GAS PRODU
8233970	18678	3510525761	103			WEBSTER #5	WEBSTER	0.0	NATURAL GAS PRODU
8233971	18679	3510525834	103			WEBSTER #5-A	WEBSTER	0.0	NATURAL GAS PRODU
8233972	18680	3510525770	103			WEBSTER #6	WEBSTER	0.0	NATURAL GAS PRODU
8233973	18681	3510525835	103			WEBSTER #7-A	WEBSTER	0.0	NATURAL GAS PRODU
8233974	18682	3510525836	103			WEBSTER #8-A	WEBSTER	0.0	NATURAL GAS PRODU
	WEST VIRGINIA DEPARTMENT OF MINES								
-ASHLAND EXPLORATION INC		RECEIVED: 05/20/82 JA: WV							
8233835		4710900647	108			W M RITTER LUMBER CO #311	LOGAN-WYOMING	21.0	CONSOLIDATED GAS
-BAISDEN GAS CO		RECEIVED: 05/20/82 JA: WV							
8233834		47[illegible]321178	108			ELBERT BAISDEN #1	HARTS CREEK DISTRICT	17.0	ROARING FORK GAS
-CABOT OIL & GAS CORP		RECEIVED: 05/20/82 JA: WV							
8233838		4703903573	103			ALLEN #I	WASHINGTON	27.0	TENNESSEE GAS PIP
8233836		47[illegible]901040	103			J L MCLEAN A-94	UNION	33.0	TENNESSEE GAS PIP
8233837		4710900858	103			POCAHONTAS I-34	BARKERS RIDGE	56.0	CONSOLIDATED GAS
8233847		4703903747	103			SILER COAL A-15	WASHINGTON	60.0	TENNESSEE GAS PIP
8233865		4703903753	103			SILER COAL A-14	WASHINGTON	9.0	TENNESSEE GAS PIP
8233839		4703903653	103			SILER COAL A-17	WASHINGTON	26.0	TENNESSEE GAS PIP
-CABOT OIL & GAS CORP		RECEIVED: 05/21/82 JA: WV							
8233893		47[illegible]901043	103			AMHERST #1	POCATALICO	12.0	TENNESSEE GAS PIP
8233898		47[illegible]901043	107-DV			AMHERST #1	POCATALICO	12.0	TENNESSEE GAS PIP
8233891		47[illegible]901018	103			FRYE #1	UNION	23.0	TENNESSEE GAS PIP
8233894		47[illegible]901018	107-DV			FRYE #1	UNION	23.0	TENNESSEE GAS PIP
8233889		47[illegible]900982	103			J L MCLEAN A-51	UNION	14.0	TENNESSEE GAS PIP
8233899		47[illegible]900982	107-DV			J L MCLEAN A-51	UNION	14.0	TENNESSEE GAS PIP
8233892		47[illegible]901039	103			J L MCLEAN A-97	BUFFALO	18.0	TENNESSEE GAS PIP
8233896		47[illegible]901039	107-DV			J L MCLEAN A-97	BUFFALO	18.0	TENNESSEE GAS PIP
8233890		47[illegible]901008	103			MCLEAN A-29	UNION	25.0	TENNESSEE GAS PIP
8233895		47[illegible]901008	107-DV			MCLEAN A-29	UNION	25.0	TENNESSEE GAS PIP
8233888		4703901020	103			PUTNAM B-24	UNION	37.0	TENNESSEE GAS PIP
8233900		47[illegible]901020	107-DV			PUTNAM B-24	UNION	37.0	TENNESSEE GAS PIP
8233887		47[illegible]901021	103			PUTNAM B-25	UNION	14.0	TENNESSEE GAS PIP
8233897		47[illegible]901021	107-DV			PUTNAM B-25	UNION	14.0	TENNESSEE GAS PIP
-CARTER JONES LUMBER CO		RECEIVED: 05/21/82 JA: WV							
8233903		47[illegible]900776	108			BUCK 1	LINCOLN DISTRICT	5.0	CONSOLIDATED GAS
8233901		47[illegible]900793	108			HEINTZMAN 1	LINCOLN DISTRICT	14.0	CONSOLIDATED GAS
8233906		4709900685	108			KIMBLE 1	ELLSWORTH DISTRICT	2.0	CONSOLIDATED GAS
8233905		4709900690	108			KIPBLE 2	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233902		47[illegible]900779	108			TUTTLE 2	LINCOLN DISTRICT	7.0	CONSOLIDATED GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8233907		4709900691	108			KIPBLE 3	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233908		4709900692	108			KIPBLE 4	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233909		4709900693	108			KIPBLE 5	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233910		4709900694	108			KIPBLE 6	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233911		4709900695	108			KIPBLE 7	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233912		4709900696	108			KIPBLE 8	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233913		4709900697	108			KIPBLE 9	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233914		4709900698	108			KIPBLE 10	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233915		4709900699	108			KIPBLE 11	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233916		4709900700	108			KIPBLE 12	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233917		4709900701	108			KIPBLE 13	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233918		4709900702	108			KIPBLE 14	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233919		4709900703	108			KIPBLE 15	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233920		4709900704	108			KIPBLE 16	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233921		4709900705	108			KIPBLE 17	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233922		4709900706	108			KIPBLE 18	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233923		4709900707	108			KIPBLE 19	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233924		4709900708	108			KIPBLE 20	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233925		4709900709	108			KIPBLE 21	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233926		4709900710	108			KIPBLE 22	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233927		4709900711	108			KIPBLE 23	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233928		4709900712	108			KIPBLE 24	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233929		4709900713	108			KIPBLE 25	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233930		4709900714	108			KIPBLE 26	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233931		4709900715	108			KIPBLE 27	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233932		4709900716	108			KIPBLE 28	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233933		4709900717	108			KIPBLE 29	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233934		4709900718	108			KIPBLE 30	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233935		4709900719	108			KIPBLE 31	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233936		4709900720	108			KIPBLE 32	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233937		4709900721	108			KIPBLE 33	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233938		4709900722	108			KIPBLE 34	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233939		4709900723	108			KIPBLE 35	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233940		4709900724	108			KIPBLE 36	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233941		4709900725	108			KIPBLE 37	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233942		4709900726	108			KIPBLE 38	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233943		4709900727	108			KIPBLE 39	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233944		4709900728	108			KIPBLE 40	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233945		4709900729	108			KIPBLE 41	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233946		4709900730	108			KIPBLE 42	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233947		4709900731	108			KIPBLE 43	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233948		4709900732	108			KIPBLE 44	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233949		4709900733	108			KIPBLE 45	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233950		4709900734	108			KIPBLE 46	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233951		4709900735	108			KIPBLE 47	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233952		4709900736	108			KIPBLE 48	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233953		4709900737	108			KIPBLE 49	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233954		4709900738	108			KIPBLE 50	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233955		4709900739	108			KIPBLE 51	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233956		4709900740	108			KIPBLE 52	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233957		4709900741	108			KIPBLE 53	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233958		4709900742	108			KIPBLE 54	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233959		4709900743	108			KIPBLE 55	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233960		4709900744	108			KIPBLE 56	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233961		4709900745	108			KIPBLE 57	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233962		4709900746	108			KIPBLE 58	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233963		4709900747	108			KIPBLE 59	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233964		4709900748	108			KIPBLE 60	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233965		4709900749	108			KIPBLE 61	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233966		4709900750	108			KIPBLE 62	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS
8233967		4709900751	108			KIPBLE 63	ELLSWORTH DISTRICT	1.0	CONSOLIDATED GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8233804		4709500723		108		VANCAMP 1	ELLSWORTH DISTRICT	2.0	CONSOLIDATED GAS
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	05/20/82	JA: WV			
8233866		4709702207		103		JAY A SAMPLES WN-12752	MEADE	85.6	GENERAL SYSTEM PU
-DEVON CORPORATION				RECEIVED:	05/20/82	JA: WV			
8233831		4704500152		107-DV		DINGESS RUM COAL CO #538	STOLLINGS	40.0	COLUMBIA GAS TRAN
-FOX DRILLING CO INC				RECEIVED:	05/20/82	JA: WV			
8233848		4700101254		107-DV		A THORN #1	BELINGTON	3.0	COLUMBIA GAS TRAN
8233869		4700101121		107-DV		R K TALBOTT #2	BELINGTON	3.0	COLUMBIA GAS TRAN
8233849		4700101135		107-DV		STURM #1-B	BELINGTON FIELD	1.0	COLUMBIA GAS TRAN
-J & J ENTERPRISES INC				RECEIVED:	05/20/82	JA: WV			
8233861		4700101495		103		B-309	PLEASANT	0.0	CONSOLIDATED GAS
8233857		4703324290		103		B-318	EAGLE	0.0	CONSOLIDATED GAS
8233855		4703323390		103		B-346	SARDIS	0.0	CONSOLIDATED GAS
8233862		4700101491		103		B-388	PHILIPPI	0.0	CONSOLIDATED GAS
8233860		4700101466		103		B-391	PLEASANT	0.0	CONSOLIDATED GAS
8233859		4700101467		103		B-392	PLEASANT	0.0	CONSOLIDATED GAS
8233856		4703324710		103		B-401	SARDIS	0.0	CONSOLIDATED GAS
8233858		4703325110		103		B-414	SIMPSON	0.0	CONSOLIDATED GAS
8233846		4701725660		107-DV		J-20	NEW MILTON	0.0	COLUMBIA GAS TRAN
8233841		4701702507		107-DV		J-21 (JJ-2#2)	NEW MILTON	0.0	COLUMBIA GAS TRAN
8233854		4701702625		107-DV		J-232	CENTRAL	0.0	COLUMBIA GAS TRAN
8233843		4701702636		107-DV		J-235	CENTRAL	0.0	COLUMBIA GAS TRAN
8233840		4701702740		107-DV		J-241	NEW MILTON	0.0	COLUMBIA GAS TRAN
8233852		4701702741		107-DV		J-242	NEW MILTON	0.0	COLUMBIA GAS TRAN
8233864		4701702703		107-DV		J-243	NEW MILTON	0.0	COLUMBIA GAS TRAN
8233851		4701726560		107-DV		J-264	CENTRAL	0.0	COLUMBIA GAS TRAN
8233832		4701702960		103		J-422	WEST UNION	0.0	COLUMBIA GAS TRAN
8233833		4703326060		103		J-487	SARDIS	0.0	CONSOLIDATED GAS
8233845		4701703017		103		J-510	WEST UNION	0.0	CONSOLIDATED GAS
8233853		4701702503		107-DV		J-62 (K-26#1)	WEST UNION	0.0	COLUMBIA GAS TRAN
8233844		4701725800		107-DV		J-74	CENTRAL	0.0	COLUMBIA GAS TRAN
8233842		4701724720		107-DV		J-75	NEW MILTON	0.0	COLUMBIA GAS TRAN
8233863		4701702767		107-DV		J-97	WEST UNION	0.0	COLUMBIA GAS TRAN
8233850		4701725000		107-DV		J-98	WEST UNION	0.0	COLUMBIA GAS TRAN
-PEAKE OPERATING COMPANY				RECEIVED:	05/20/82	JA: WV			
8233868		4708100568		103		WELCHLANDS #1-AW	SLAB FORK	5.0	CONSOLIDATED GAS
8233867		4710900855		103		WELCHLANDS #7-AW	SLAB FORK	5.0	CONSOLIDATED GAS
-SENECA-UPSHUR PETROLEUM CO				RECEIVED:	05/20/82	JA: WV			
8233870		4708300450		102-4		J M HUBER #73	MIDDLE FORK	35.0	EQUITABLE GAS CO
**********									
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, DENVER,CO									
**********									
-CIG EXPLORATION INC				RECEIVED:	05/20/82	JA: CO 1			
8233817	CD 0139-82	0504506095		108		FEDERAL 5-15-8-104	JIM CANYON	16.0	COLORADO INTERSTA
-DAVIS OIL COMPANY				RECEIVED:	05/20/82	JA: CO 1			
8233797	CD 0109-82	0503306045		103		SQUAW CANYON FEDERAL #2	PAPOOSE CANYON	60.0	MOUNTAIN FUEL SUP
-EQUITY OIL COMPANY				RECEIVED:	05/20/82	JA: CO 1			
8233798	CD 0057-82	0510300000		103	107-TF	EQUITY FEDERAL 298-13-1	RIO BLANCO UNIT	110.0	COLORADO INTERSTA
-JEROME P MCHUGH				RECEIVED:	05/20/82	JA: CO 1			
*8233799	COA 1698-81	0506706023		108		UTE #2	IGNACIO BLANCO DAKOTA	21.0	NORTHWEST PIPELIN
-KOCH INDUSTRIES INC				RECEIVED:	05/20/82	JA: CO 1			
8233810	CD 0150-82	0507708155		102-2		HANCOCK GULCH #1	WILDCAT	75.0	NORTHWEST PIPELIN
8233811	CD 0178-82	0507708382		103		HORSESHOE CANYON UNIT #2-34	ROBERTS CANYON-SHIRE	110.0	NORTHWEST PIPELIN

JD NO	JA DKT	API NO	D	SECTN	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-SOHIO PETROLEUM CO				RECEIVED:	05/20/82	JA: CO 1			
8233812	CD 0131-82PB	0506705017		108-PB		SOUTHERN UTE #8	IGNACIO BLANCO	0.0	EL PASO NATURAL G
8233813	CD0093-82PB	0506705017		108-PB		SOUTHERN UTE #8	IGNACIO BLANCO	0.0	EL PASO NATURAL G
-TWIN ARROW INC				RECEIVED:	05/20/82	JA: CO 1			
8233802	CD 0098-82	0510308578		107-TF		CONTINENTAL 3-16	CATHEDRAL	0.0	NORTHWEST PIPELIN
8233800	CD 0108-82	0510308540		107-TF		CONTINENTAL 6-22	CATHEDRAL	0.0	NORTHWEST PIPELIN
8233801	CD 0138-82	0510308124		108		MOUNTAIN FUEL 5-34	CATHEDRAL	14.9	IGC PRODUCTION CO
-BELCO PETROLEUM CORPORATION				RECEIVED:	05/20/82	JA: UT 1			
8233815	UD 0110-81	4304730627		108		DUCK CREEK 10-16	DUCK CREEK	0.0	NORTHWEST PIPELIN
8233814	UD 0430-81	4304730769		103		NATURAL DUCK 10-21	NATURAL DUCK	0.0	NORTHWEST PIPELIN
8233816	VD0018-81	4304730780		103		NORTH DUCK CREEK 40-30	DUCK CREEK (NORTH)	0.0	NORTHWEST PIPELIN
-COASTAL OIL & GAS CORP				RECEIVED:	05/20/82	JA: UT 1			
8233804	UD 0140-82	4304730884		107-TF		NBU 56-N2	NATURAL BUTTES	752.0	COLORADO INTERSTA
8233803	UD 0132-82	4304730444		108		NBU 64-24B	NATURAL BUTTES UNIT	0.0	COLORADO INTERSTA
-WP ENERGY CORP				RECEIVED:	05/20/82	JA: UT 1			
8233806	UD 0053-82	4301930882		103		FEDERAL 11-2	GREATER CISCO AREA	360.0	NORTHWEST PIPELIN
8233807	UD 0054-82	4301930884		103		FEDERAL 11-3	GREATER CISCO AREA	360.0	NORTHWEST PIPELIN
8233805	UD 0026-82	4301930636		103		FEDERAL 15-2	GREATER CISCO AREA	180.0	NORTHWEST PIPELIN
-TXO PRODUCTION CORP				RECEIVED:	05/20/82	JA: UT 1			
8233808	UD 0137-82	4301930893		103		BENNION FEDERAL #1	BRYSON CANYON	432.0	
8233809	UD 0136-82	4304731094		102-2		MEADOW CREEK UNIT #1	MEADOW CREEK UNIT	85.0	

OTHER PURCHASERS VOLUME NO : 56

8233799 EL PASO NATURAL GAS C'

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before July 2, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–16444 Filed 6–16–82; 8:45 am]

BILLING CODE 6717–01–M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KENTUCKY DEPARTMENT OF MINES & MINERALS									
-ASHLAND EXPLORATION INC				RECEIVED:	05/21/82	JA: KY			
8234074	502622	1615943678	103			ARTHUR KIRK #3 - 092091	EASTERN KENTUCKY GAS	14.0	COLUMBIA GAS TRAN
8234075	502623	1615943678	107-DV			ARTHUR KIRK #3 - 092091	EASTERN KENTUCKY GAS	14.0	COLUMBIA GAS TRAN
8234068	502616	1615944090	103			JAMES M CASSELL #2 - 092241	EASTERN KENTUCKY GAS	12.0	COLUMBIA GAS TRAN
8234069	502617	1615944090	107-DV			JAMES M CASSELL #2 - 092241	EASTERN KENTUCKY GAS	12.0	COLUMBIA GAS TRAN
8234066	502614	1615944089	103			JAMES M CASSELL #3 - 092251	EASTERN KENTUCKY GAS	36.0	COLUMBIA GAS TRAN
8234067	502615	1615944089	107-DV			JAMES M CASSELL #3 - 092251	EASTERN KENTUCKY GAS	36.0	COLUMBIA GAS TRAN
8234076	502624	1615944376	103			KIRK & MAYNARD #2 - 092261	EASTERN KENTUCKY GAS	12.0	COLUMBIA GAS TRAN
8234077	502625	1615944376	107-DV			KIRK & MAYNARD #2 - 092261	EASTERN KENTUCKY GAS	12.0	COLUMBIA GAS TRAN
8234078	502626	1619544448	103			MASON COAL & COKE #14 - 091821	EASTERN KENTUCKY GAS	40.0	COLUMBIA GAS TRAN
8234079	502627	1619500000	107-DV			MASON COAL & COKE #14 - 091821	EASTERN KENTUCKY GAS	40.0	COLUMBIA GAS TRAN
8234070	502618	1619542873	103			REPUBLIC STEEL #61 - 091741	EASTERN KENTUCKY GAS	51.0	COLUMBIA GAS TRAN
8234071	502619	1619542873	107-DV			REPUBLIC STEEL #61 - 091741	EASTERN KENTUCKY GAS	51.0	COLUMBIA GAS TRAN
8234072	502620	1619544817	103			REPUBLIC STEEL #65 - 092571	EASTERN KENTUCKY GAS	17.0	COLUMBIA GAS TRAN
8234073	502621	1619544817	107-DV			REPUBLIC STEEL #65 - 092571	EASTERN KENTUCKY GAS	17.0	COLUMBIA GAS TRAN
8234064	502612	1619542795	103			SOUTH SHELBY LAND CO #6 - 091721	EASTERN KENTUCKY	28.0	COLUMBIA GAS TRAN
8234065	502613	1619542795	107-DV			SOUTH SHELBY LAND CO #6 - 091722	EASTERN KENTUCKY GAS	26.0	COLUMBIA GAS TRAN
-BOB HURT DRILLING CO				RECEIVED:	05/21/82	JA: KY			
8234041	502588	1619500000	103			COWDEN #8	EASTERN KENTUCKY-PIKE	5.0	COLUMBIA GAS TRAN
-CITIES SERVICE COMPANY				RECEIVED:	05/21/82	JA: KY			
8233988	502529	1619541224	107-DV			HATCHER "B" #21	CANADA SE	14.4	COLUMBIA GAS TRAN
8234037	502582	1619541930	107-DV			LAW HEIRS "A" #40	CANADA	129.6	COLUMBIA GAS TRAN
-COLUMBUS HOBBS/OPERATOR				RECEIVED:	05/21/82	JA: KY			
8234029	502570	1615900000	108			AMY PAULEY LEASE #6	MARTIN COUNTY GAS FIE	15.2	COLUMBIA GAS TRAN
8234030	16159 502571	1615900000	108			AMY PAULEY LEASE #7	MARTIN COUNTY GAS FIE	15.2	COLUMBIA GAS TRAN
8234019	502560	1615900000	108			MINNIE MESSICK LEASE #1	MARTIN COUNTY GAS FIE	14.1	COLUMBIA GAS TRAN
8234020	502561	1615900000	108			MINNIE MESSICK LEASE-#2	MARTIN COUNTY GAS FIE	14.1	COLUMBIA GAS TRAN
-COMPASS PETROLEUM INDUSTRIES INC				RECEIVED:	05/21/82	JA: KY			
8234080	502628	1608502000	107-DV			HARLEY DAVIS #4	SHREWSBURY	10.0	EQUITABLE LIFE AS
8234042	502593	1608502000	103			WILMUTH DEWEESE #1	SHREWSBURY	7.3	EQUITABLE LIFE AS
-E C WARE				RECEIVED:	05/21/82	JA: KY			
8234008	502549	1615900000	108			CASSADY HEIRS A	MARTIN COUNTY GAS FIE	11.9	KENTUCKY WEST VIR
8234009	502550	1615900000	108			CASSADY HEIRS B	MARTIN COUNTY GAS FIE	11.9	KENTUCKY WEST VIR
8234010	502551	1615900000	108			F M DAVIS LEASE	MARTIN COUNTY GAS FIE	7.7	COLUMBIA GAS TRAN
8234017	502558	1611900000	108			FARRIS HAYES LEASE	MARTIN COUNTY GAS FIE	5.8	COLUMBIA GAS TRAN
8234012	502553	1615900000	108			FLOYD PARSLEY LEASE	MARTIN COUNTY GAS FIE	14.8	COLUMBIA GAS TRAN
8234021	502562	1615900000	108			FRANCIS HARDIN LEASE #1	MARTIN COUNTY GAS FIE	7.2	COLUMBIA GAS TRAN
8234022	502563	1615900000	108			FRANCIS HARDIN LEASE #2	MARTIN COUNTY GAS FIE	7.2	COLUMBIA GAS TRAN
8234031	502572	1619500000	108			HIRAM BAILEY LEASE #2	MARTIN COUNTY GAS FIE	6.0	COLUMBIA GAS TRAN
8234032	502573	1619500000	108			HIRAM BAILEY LEASE #3	MARTIN COUNTY GAS FIE	6.0	COLUMBIA GAS TRAN
8234013	502554	1615900000	108			J H MAYNARD #1	MARTIN COUNTY GAS FIE	4.3	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8234014	502555	1615900000	108			J H MAYNARD #2	MARTIN COUNTY GAS FIE	4.3	COLUMBIA GAS TRAN
8234015	502556	1615900000	108			J H MAYNARD #3	MARTIN COUNTY GAS FIE	4.3	COLUMBIA GAS TRAN
8234016	502557	1615900000	108			J H MAYNARD #4	MARTIN COUNTY GAS FIE	4.3	COLUMBIA GAS TRAN
8234018	502559	1615900000	108			J H MAYNARD #5	MARTIN COUNTY GAS FIE	4.3	COLUMBIA GAS TRAN
8234023	502564	1615900000	108			JAMES HARDIN LEASE #1	MARTIN COUNTY GAS FIE	7.2	COLUMBIA GAS TRAN
8234024	502565	1615900000	108			JAMES HARDIN LEASE #2	MARTIN COUNTY GAS FIE	7.2	COLUMBIA GAS TRAN
8234025	502566	1615900000	108			JAMES HARDIN LEASE #3	MARTIN COUNTY GAS FIE	7.2	COLUMBIA GAS TRAN
8234026	502567	1615900000	108			JAMES HARDIN LEASE #4	MARTIN COUNTY GAS FIE	7.2	COLUMBIA GAS TRAN
8234027	502568	1615900000	108			JAMES HARDIN LEASE #5	MARTIN COUNTY GAS FIE	7.2	COLUMBIA GAS TRAN
8234028	502569	1615900000	108			JAMES HARDIN LEASE #6	MARTIN COUNTY GAS FIE	7.2	COLUMBIA GAS TRAN
8234033	502574	1619500000	108			JOHN HARDIN LEASE #1	MARTIN COUNTY GAS FIE	6.0	COLUMBIA GAS TRAN
8234034	502575	1619500000	108			JOHN HARDIN LEASE #2	MARTIN COUNTY GAS FIE	6.0	COLUMBIA GAS TRAN
8234035	502576	1619500000	108			JOHN HARDIN LEASE #3	MARTIN COUNTY GAS FIE	6.0	COLUMBIA GAS TRAN
8234036	502577	1619500000	108			JOHN HARDIN LEASE #4	MARTIN COUNTY GAS FIE	6.0	COLUMBIA GAS TRAN
-EAGLE PRODUCTION CO				RECEIVED:	05/21/82	JA: KY			
8234060	502608	1615900000	103			ARTHUR KIRK #1 - 092091	EASTERN KENTUCKY GAS	14.0	COLUMBIA GAS TRAN
8234061	502609	1615900000	107-DV			ARTHUR KIRK #1 - 092091	EASTERN KENTUCKY GAS	14.0	COLUMBIA GAS TRAN
8234062	502610	1615900000	103			ARTHUR KIRK #2 - 092091	EASTERN KENTUCKY GAS	14.0	COLUMBIA GAS TRAN
8234063	502611	1615900000	107-DV			ARTHUR KIRK #2 - 092091	EASTERN KENTUCKY GAS	14.0	COLUMBIA GAS TRAN
-EQUITABLE RESOURCES EXPLORATION				RECEIVED:	05/21/82	JA: KY			
8234053	502601	1619500000	103			ADAMS #1	EASTERN KENTUCKY-PIKE	5.0	COLUMBIA GAS TRAN
8234054	502602	1619500000	107-DV			ADAMS #1	EASTERN KENTUCKY-PIKE	5.0	COLUMBIA GAS TRAN
8234055	502603	1619500000	103			ADAMS #2	EASTERN KENTUCKY-PIKE	5.0	COLUMBIA GAS TRAN
8234056	502604	1619500000	107-DV			ADAMS #2	EASTERN KENTUCKY-PIKE	5.0	COLUMBIA GAS TRAN
8234057	502605	1619500000	103			ADAMS #3	EASTERN KENTUCKY-PIKE	5.0	COLUMBIA GAS TRAN
8234058	502606	1619500000	107-DV			ADAMS #3	EASTERN KENTUCKY-PIKE	5.0	COLUMBIA GAS TRAN
8234059	502607	1619500000	103			ADAMS #4	EASTERN KENTUCKY-PIKE	5.0	COLUMBIA GAS TRAN
-HOWARD ENERGY CORP				RECEIVED:	05/21/82	JA: KY			
8234043	502590	1619500000	103			BOWLING #1	EASTERN KENTUCKY-PIKE	5.0	COLUMBIA GAS TRAN
8234044	502591	1619500000	107-DV			BOWLING #1	EASTERN KENTUCKY-PIKE	5.0	COLUMBIA GAS TRAN
-KENTUCKY WEST VIRGINIA GAS CO				RECEIVED:	05/21/82	JA: KY			
8234045	502592	1619500000	103			BOWLING #2	EASTERN KENTUCKY-PIKE	5.0	COLUMBIA GAS TRAN
8234046	502594	1619500000	107-DV			BOWLING #2	EASTERN KENTUCKY-PIKE	5.0	COLUMBIA GAS TRAN
8234047	502595	1619500000	103			BOWLING #3	EASTERN KENTUCKY-PIKE	5.0	COLUMBIA GAS TRAN
8234048	502596	1619500000	107-DV			BOWLING #3	EASTERN KENTUCKY-PIKE	5.0	COLUMBIA GAS TRAN
8234049	502597	1619500000	103			BOWLING #4	EASTERN KENTUCKY-PIKE	5.0	COLUMBIA GAS TRAN
8234050	502598	1619500000	107-DV			BOWLING #4	EASTERN KENTUCKY-PIKE	5.0	COLUMBIA GAS TRAN
8234051	502599	1619500000	103			BOWLING #5	EASTERN KENTUCKY-PIKE	5.0	COLUMBIA GAS TRAN
8234052	502600	1619500000	107-DV			BOWLING #5	EASTERN KENTUCKY-PIKE	5.0	COLUMBIA GAS TRAN
-MAGNUM PETROLEUM INC				RECEIVED:	05/21/82	JA: KY			
8234039	502586	1619500000	103			COWDEN #6	EASTERN KENTUCKY-PIKE	5.0	COLUMBIA GAS TRAN
8234040	502587	1619500000	107-DV			COWDEN #6	EASTERN KENTUCKY-PIKE	5.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8234014	502555	1615900000		108		J H MAYNARD #3	MARTIN COUNTY GAS FIE	4.3	COLUMBIA GAS TRAN
8234011	502552	1615900000		108		J W GOBLE LEASE	MARTIN COUNTY GAS FIE	15.6	COLUMBIA GAS TRAN
8234018	502559	1612700000		108		JESSE CORDLE LEASE	MARTIN COUNTY GAS FIE	1.0	KENTUCKY WEST VIR
8234035	502577	1615900000		108		JIM HORN LEASE	MARTIN COUNTY GAS FIE	4.6	COLUMBIA GAS TRAN
8234016	502557	1615900000		108		M T DAVIS LEASE	MARTIN COUNTY GAS FIE	17.3	COLUMBIA GAS TRAN
8234034	502576	1615900000		108		MARY L THOMAS LEASE	MARTIN COUNTY GAS FIE	5.7	COLUMBIA GAS TRAN
8234026	502567	1615900000		108		MCGEE BRANCH LEASE #1	MARTIN COUNTY GAS FIE	10.4	COLUMBIA GAS TRAN
8234027	502568	1615900000		108		MCGEE BRANCH LEASE #2	MARTIN COUNTY GAS FIE	10.4	COLUMBIA GAS TRAN
8234028	502569	1615900000		108		MCGEE BRANCH LEASE #3	MARTIN COUNTY GAS FIE	10.4	COLUMBIA GAS TRAN
8234015	502556	1615900000		108		ROBERT CRUM	MARTIN COUNTY GAS FIE	4.3	COLUMBIA GAS TRAN
8234033	502575	1615900000		108		SHAYDE CHAPMAN LEASE	MARTIN COUNTY GAS FIE	5.7	COLUMBIA GAS TRAN
8234036	502578	1615900000		108		SUSIE BREWER LEASE	MARTIN COUNTY GAS FIE	0.0	KENTUCKY WEST VIR
8234024	502565	1615900000		108		T J HARDIN LEASE #1	MARTIN COUNTY GAS FIE	0.0	COLUMBIA GAS TRAN
8234023	502564	1615900000		108		T J HARDIN LEASE #2	MARTIN COUNTY GAS FIE	7.2	COLUMBIA GAS TRAN
8234025	502566	1615900000		108		T J HARDIN LEASE #3	MARTIN COUNTY GAS FIE	7.2	COLUMBIA GAS TRAN
-INLAND GAS CO INC				RECEIVED:	05/21/82	JA: KY			
8234057	502605	1611900000		108		BECKHAM BATES 363	BIG SANDY	0.1	
8234050	502598	1611900000		108		C M HAYES 414	BIG SANDY	2.0	
8234062	502608	1615300000		108		CALVIN CORP 553	BIG SANDY	1.7	
8234052	502602	1611900000		108		ELIZA NICKLES 254	BIG SANDY	7.9	
8234047	502595	1611900000		108		GIRLIE WALLEN 512	BIG SANDY	2.5	
8234056	502604	1611900000		108		GREEN SLONE 121	BIG SANDY	13.0	
8234045	502593	1611900000		108		HENRY J SCHMIDT 555	BIG SANDY	1.9	
8234044	502592	1611900000		108		HENRY J SCHMIDT 564	BIG SANDY	1.4	
8234054	502602	1611900000		108		HENRY J SCHMIDT 575	BIG SANDY	4.0	
8234043	502591	1611900000		108		HENRY J SCHMIDT 593	BIG SANDY	7.4	
8234048	502596	1611900000		108		J M ALLEN 423	BIG SANDY	0.3	
8234059	502607	1615300000		108		J M HAMMONDS 243	BIG SANDY	4.3	
8234055	502603	1615300000		108		J M HAMMONDS 268	BIG SANDY	4.9	
8234049	502597	1611900000		108		JETHRO AMBURGEY 417	BIG SANDY	15.4	
8234058	502606	1615300000		108		JOHN J HOWARD HEIRS 536	BIG SANDY	6.4	
8234046	502594	1601900000		108		L O WHITE HEIRS 529	ASHLAND	8.7	
8234051	502599	1611900000		108		LUCY J AMBURGEY 392	BIG SANDY	1.0	
8234053	502601	1601900000		108		O M PAISLEY 540	ASHLAND	8.6	
-KENTUCKY WEST VA GAS COMPANY				RECEIVED:	05/21/82	JA: KY			
8233982	502523	1619500000		108		BLAIR FORK COAL CO #1668	KENTUCKY EAST	18.3	
8233983	502524	1619500000		108		BLAIR FORK COAL CO #1690	KENTUCKY EAST	8.1	
8233985	502526	1619500000		108		BLAIR FORK COAL CO #1699	KENTUCKY EAST	6.1	
8233986	502527	1619500000		108		BLAIR FORK COAL CO #1712	KENTUCKY EAST	9.5	
8234004	502545	1611900000		107-DV		DORA DOBSON #1704	KENTUCKY EAST	13.7	KENTUCKY WEST VIR
8233997	502538	1619300000		107-DV		FORDSON COAL CO - #1658	KENTUCKY EAST	19.4	KENTUCKY WEST VIR
8234000	502541	1613300000		107-DV		FORDSON COAL CO - #1670	KENTUCKY EAST	8.8	KENTUCKY WEST VIR
8234007	502548	1611900000		107-DV		GABRIEL HUDSON-#7286	KENTUCKY EAST	17.4	KENTUCKY WEST VIR
8233987	502528	1619500000		108		H K MORRIS - #7273	KENTUCKY EAST	4.4	
8233996	502537	1619300000		107-DV		KENTUCKY RIVER COAL CORP - #1132	KENTUCKY EAST	26.7	
8233998	502539	1613100000		107-DV		KYCOGA LAND CO - #1663	KENTUCKY EAST	7.8	KENTUCKY WEST VIR
8234001	502542	1613100000		107-DV		KYCOGA LAND CO #1678	KENTUCKY EAST	39.8	KENTUCKY WEST VIR
8234002	502543	1613100000		107-DV		KYCOGA LAND CO #1679	KENTUCKY EAST	19.4	KENTUCKY WEST VIR
8234003	502544	1613100000		107-DV		KYCOGA LAND CO #1683	KENTUCKY EAST	15.0	KENTUCKY WEST VIR
8233999	502540	1613100000		107-DV		KYCOGA LAND COMPANY - #1667	KENTUCKY EAST	13.7	KENTUCKY WEST VIR
8234006	502547	1619300000		107-DV		NATHANIEL NEACE #7285	KENTUCKY EAST	19.4	KENTUCKY WEST VIR
8234005	502546	1619300000		107-DV		NICHOLAS COMBS #7239	KENTUCKY EAST	10.4	KENTUCKY WEST VIR
8233995	502533	1619500000		107-DV		POMPEY COAL & COKE CO #1610	KENTUCKY EAST	14.0	KENTUCKY WEST VIR

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8233984	502525	1619500000		108		ROBERT WILLIAMS #1691	KENTUCKY EAST	9.9	
-KEPCO INC				RECEIVED:	05/21/82	JA: KY			
8234061	502609	1611900000		103		AMIO CORP - #K332-1736	KENTUCKY EAST	17.4	KENTUCKY WEST VIR
8233993	502534	1611900000		107-DV		DORIS B COMBS - #K78-1725	KENTUCKY EAST	17.4	KENTUCKY WEST VIR
8233994	502535	1619500000		107-DV		J M TAYLOR - #K79-1730	KENTUCKY EAST	8.8	KENTUCKY WEST VIR
8234063	502611	1611900000		107-DV		JASPER STEWART - #K326-7351	KENTUCKY EAST	26.1	KENTUCKY WEST VIR
8234062	502610	1611900000		107-DV		JOHN CALHOUN - #K325-7349	KENTUCKY EAST	15.0	KENTUCKY WEST VIR
8233992	502533	1611900000		107-DV		PAUL C COMBS - #K316-1734	KENTUCKY EAST	16.4	KENTUCKY WEST VIR
8233989	502530	1613100000		107-DV		WILLIAM CRESS - #K70-7316	KENTUCKY EAST	8.8	KENTUCKY WEST VIR
8233990	502531	1613100000		107-DV		WILLIAM CRESS - #K71-7317	KENTUCKY EAST	8.8	KENTUCKY WEST VIR
8233991	502532	1613100000		107-DV		WILLIAM CRESS - #K73-7310	KENTUCKY EAST	15.0	KENTUCKY WEST VIR
-THE WISER OIL COMPANY				RECEIVED:	05/21/82	JA: KY			
8234038	502583	1601300000		102-2		GREASY BRUSH COAL #8	KAYJAY	0.0	COLUMBIA GAS TRAN
8234081	502637	1601300000		102-2		GREASY BRUSH COAL CO #2	KAY JAY	0.0	COLUMBIA GAS TRAN
8234039	1601350 2584	1601300000		102-2		GREASY BRUSH COAL CO #7	KAYJAY	0.0	COLUMBIA GAS TRAN
8234040	502585	1601300000		102-2		ROBERT CENTERS-RICHFIELD COAL CO #1	KAYJAY	0.0	COLUMBIA GAS TRAN

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The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before July 2, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1,000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16445 Filed 6-16-82; 8:45 am]

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[Docket Nos. ER82-200-001 and ER82-200-002]

Maine Public Service Co.; Order Granting and Denying Motions for Rehearing

Issued: June 10, 1982.

On December 31, 1981, Maine Public Service Company (MPSC) tendered for filing revised rates for its wholesale customers proposed to become effective February 1, 1982. MPSC also applied for permission to include 58% of its construction work in progress (CWIP) in rate base under the severe financial difficulty provisions of § 2.16(b) of the Commission's regulations. By order issued March 1, 1982, the Commission accepted the rates for filing granted waiver of the notice provisions to permit the rates to become effective within 30 days of filing, and suspended the non-CWIP rates for one day, to become effective on February 1, 1982, subject to refund. The Commission set the section 2.16(b) CWIP application for hearing, but phased the hearing until after completion of the CWIP rulemaking in Docket No. RM81–38.

On March 30, 1982, MPSC filed a motion requesting limited rehearing of the Commission's order of March 1, 1982. MPSC asks the Commission to reconsider its decision to deny its request for waiver of the prospective-only provision of § 2.16(b) of the Commission's regulations and its deferral of the company's application for inclusion of CWIP in rate base until completion of the Commission's current CWIP rulemaking proceeding.

On March 31, 1982, the Wholesale Customers also filed a motion requesting rehearing of the Commission's order of March 1, 1982. The Wholesale Customers ask the Commission to reconsider its decision to waive the notice requirement and to suspend the non-CWIP rates for only one day.

Discussion

Under the Commission's existing standards, a utility seeking to include CWIP in rate base[1] must demonstrate clearly and convincingly that it is experiencing severe financial difficulty which cannot be alleviated by traditional forms of rate relief without materially increasing the cost of electricity.[2] However, as noted in our order of March 1, 1982, we have initiated a rulemaking proceeding on the CWIP issue in order to reassess the current standards. To maintain the *status quo ante* and avoid any prejudice to rate case participants pending further Commission action on the rulemaking, we have, as noted, set for hearing several CWIP applications which would otherwise have been disposed of summarily under existing precedent, but we have phased the CWIP issue to follow the rulemaking proceeding.[3]

The first question, then, is whether MPSC has made a threshhold showing of severe financial hardship sufficient to warrant setting MPSC's CWIP request for an immediate hearing under the current standards of § 2.16 rather than phasing the hearing to follow the rulemaking.[4]

In Order No. 555,[5] which established § 2.16, the Commission addressed certain circumstances which it envisioned as constituting a showing of "severe financial difficulty which cannot be otherwise alleviated without materially increasing the cost of electricity to consumers":

> In particular, we envision a situation in which the rate of return necessary to enable the utility to maintain its credit and attract capital in accordance with the standards of the *Bluefield* decision would be materially in excess of the cost of capital for otherwise similar utilities. Such a circumstance might arise, for example, where the exigencies of the utility's construction program are such as to reduce its interest coverage to such an extent that additional capital cannot be raised at reasonable rates and that an amount of earnings sufficient to attract capital would require a rate of return on equity substantially in excess of the cost of equity capital to otherwise similar electric utilities. Under such circumstances, it would be to the benefit of the consumer if the additional earnings necessary to attract capital were permitted by way of a return on CWIP rather than by way of an inflated return on the traditional rate base since the former treatment would eventually be reflected in a lower rate base by way of reduced AFUDC allowance, while the latter would not. 56 FPC 2946.

In *Montaup Electric Company*, Docket No. ER82–325–000, order issued April —, 1982, we found that Montaup had made such a showing.

We believe that MPSC has stated an analogous claim, *viz.*, that its preclusion from issuing any new long-term debt, because it does not have sufficient earnings to meet the interest coverage ratios required by existing debenture indentures, results in a situation in which capital cannot be raised at reasonable rates or in which other resulting regulatory relief would be less beneficial to the consumer than the allowance of some portion of CWIP in rate base. We find that MPSC's preclusion from issuing any new long term debt, along with other financial indicators

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[1] Other than pollution control and fuel conversion CWIP.

[2] 18 CFR 2.16(b)(3).

[3] *El Paso Electric Company*, 15 FERC ¶ 61,318, p. 61,693 (June 30, 1981). Those cases in which the *El Paso* procedures have been applied include: *Oklahoma Gas & Electric Company*, Docket No. ER82–256–000, issued March , 1982; *Maine Public Service Company of Oklahoma*, 16 FERC ¶ 61,011 (January 8, 1982); *Florida Power & Light Company*, 16 FERC ¶ 61,072 (July 27, 1981).

[4] The Commission recognizes that where good cause exists, it may waive its regulations. We also recognize that in *Louisiana Power and Light*, Opinion No. 110, 14 FERC ¶ 61,075, p. 61,114 (January 28, 1981), this Commission stated that "Order No. 555 is a general statement of policy" which "does not establish a binding norm." We are also mindful that an administrative agency has a right to change a given policy when it finds that such change is in the public interest. *Consolidated Gas Supply Corp.* v. *F.P.C.*, 520 F. 2d 1176 (D.C. Cir. 1975); *Greater Boston Television Corp.* v. *FCC*, 444 F. 2d 841, 852 (D.C. Cir. 1970), *cert. denied*, 403 US 923 (1971). Indeed, "within the limits imposed by the requirement of reasoned decisionmaking, the Commission is free to modify or even reverse its established policy." *Id.*

[5] Docket No. RM75–13, "Order Adopting in Part Construction Work in Progress Rulemaking and Terminating Proceedings," issued November 8, 1976, 56 FPC 2939.

such as MPSC's low internal cash flow (23%), low market to book ratio (49.8%), high percentage of CWIP to net plant in service (115.63%) and of AFUDC to total earnings (over 108%), constitute a preliminary showing of severe financial stress under § 2.16(b).

Because of the combination of all of these factors, we find on rehearing that MPSC has made a threshhold showing sufficient to warrant a hearing under the existing standards of § 2.16. We shall therefore get the CWIP rates for immediate hearing.*

The second question before us on rehearing is whether we should waive the prospective-only requirement of § 2.16(b) and allow MPSC to collect its proposed CWIP rates subject to refund, in advance of a final Commission determination on the merits.

In Order No. 555, the Commission stated that, since financial relief CWIP was an extraordinary remedy that would rarely be granted, it could only be collected prospectively from the date of an order on rehearing of a Commission order granting CWIP relief. In RM81-38, the Commission is reevaluating this prospective-only provision. Without predicting the outcome of the rulemaking on this question, we find that the particular facts and circumstances of MPSC's situation do not warrant an exception to the current policy of granting prospective-only CWIP relief.

In *Montaup Electric Company*, Docket No. ER82-325-000, order issued April ——, 1982, we found that waiver of the prospective-only requirement of § 2.16(b) was necessary to prevent an imminent downgrading of the bonds of Montaup's parent company. In the instant case however, the relief sought is remedial rather than preventive. Thus, there is not the same urgency with respect to the timing of the relief sought which necessitated the exception made with respect to Montaup. In addition, we considered the fact that Montaup was 100% jurisdictional and that no construction-related rate relief could be forthcoming at the retail level. In contrast, MPSC is only 16% jurisdictional and has a pending CWIP request before the Maine Public Utilities Commission. These facts lessen the urgency of MPSC's request and distinguish it from Montaup. In addition, we note that Montaup requrested inclusin of only 16% of its average CWIP whereas MPSC has requested immediate inclusion of 58%.

The inclusion of CWIP in rate base under § 2.16(b) can only be granted prospectively from a final order of the Commission on rehearing. In order that the Commission may expeditiously resolve this matter, we will order the proceedings to be phased. Phase I will deal with the evidence required to substantiate MPSC's financial hardship claim for CWIP in rate base and evidence on the issue of the allowable rate of return. Phase II will deal with all remaining issues.

With respect to the motion for rehearing filed by the Wholesale Customers, we find that no new matters of fact or law have been raised. In particular, the Customers have not contradicted the statement by MPSC, upon which the Commission relied, that they have been able to flow through MPSC's rate increase to their retail customers. Upon consideration of the request for rehearing, the Commission finds that no basis exists to warrant reconsideration of its earlier order on this question.

The Commission orders:

(A) MPSC's motion for rehearing is hereby granted to the extent discussed above.

(B) MPSC's motion for rehearing of denial of its request for waiver of the prospective-only provision of section 2.16(b) is hereby denied.

(C) The hearing on the CWIP filing shall be phased as discussed in the body of this order.

(D) The administrative law judge previously designated to preside in this docket shall convene a conference at the earliest convenience of the parties for purposes of establising a procedural schedule which will allow a Commission decision to be reached on the CWIP phase of this case as discussed above.

(E) The Wholesale Customer's motion for rehearing is hereby denied.

(F) The Secretary shall promptly publish this order in the Federal Register.

By Commission. Commissioner Hughes concurred in part and dissented in part with a separate statement attached.

Kenneth F. Plumb,

Secretary.

HUGHES, COMMISSIONER, *concurring in part and dissenting in part:*

The Commission has voted to grant rehearing to allow Maine Public Service Company an immediate hearing on its CWIP application under 18 CFR 2.16 but to deny a waiver of that section to permit immediate collection of CWIP revenues. Confronted with the circumstances of the Company's current financial situation, as set forth in the Commission's decision and in light of our recent action in *Montaup Electric Company* (*1*), I fully agree with the Commission's action in this respect.

I disagree with my colleagues' decision to deny the request of Eastern Maine Electric Cooperative, Inc., the Houlton Water Company, and the Van Buren Light and Water District for rehearing which object to our earlier grant of a waiver of the statutory 60-day notice period. I would grant rehearing on this point because our earlier decision changes our prior practice without an adequate explanation of the reasons for the change and because the change stretches our waiver power well beyond what is prudent and perhaps beyond what is lawful.

To be sure, the statute permits us to allow rates to become effective on less than 60 days notice (*2*) and the courts have affirmed broad exercise of that power in compelling cases. (*3*) We have looked to the reasons given by the utility (*4*), and the consent (*5*) or objection (*6*) of the customers in determining whether good cause exists to support a waiver. And where the waiver allows rates to become effective retroactively (*7*), the customer's consent has been a critical factor. (*8*)

A proper explanation might have been possible here. The customer's original objection recited the reasons for the 60-day period to allow customers to respond to or adjust retail rates as well as for the Commission to review the filing for purposes of its suspension decision. The utility then informed us that the Maine Public Service Commission had made provision for adjustments in the wholesale customers' retail rates to track any wholesale rate increase. Thus it appeared that the reason for the customers' earlier objections had been removed. Our March 3 order was made with that understanding, and might have validly adopted a new norm, distinction, or exception to accommodate such facts.

The customers' rehearing petition makes it clear, however, they did not consent, did not withdraw their objection to the waiver and still oppose it. According to the standards developed in our prior cases, that is their prerogative and we should respect it. Nowhere in the Commission's orders in this docket is there a recognition that this standard is being altered or an explanation of reasons why it should be changed.

[A]n agency changing its course must supply a reasoned analysis indicating that prior policies and standards are being deliferately changed, not casually ignored, and if an agency glosses over or swerves from prior precedents without discussion it

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* *Cf., Montaup Electric Company*, Docket No. ER82-325-000, order issued April ?, 1982.

may cross the line from tolerably terse to intolerably mute.

Greater Boston Television Corp. v. FCC, 444 F.2d 841, 852 (D.C. Cir. 1970), *cert. denied*, 403 U.S. 923 (1971).

For its deviation from the rule of consent, the Commission has given no reasons, although we have been reminded quite recently that we are required to state reasons for modification of previously announced standards. *Hatch v. FERC*, 654 F.2d 825 (D.C. Cir. 1981). There the court found the Commission's treatment of its prior decisions "almost cavalier", 654 F.2d at 834 n.20. Nor does the Commission's decision indicate the extent of its departure from its prior norms. As stated in *Atchison, Topeka & Santa Fe Railway Co. v. Wichita Board of Trade*, 412 U.S. 800, 808 (1973):

> The agency may flatly repudiate those norms, deciding, for example, that changed circumstances mean that they are no longer required in order to effectuate congressional policy. Or it may narrow the zone in which some rule will be applied, because it appears that a more discriminating invocation of the rule will best serve congressional policy. Or it may find that, although the rule in general serves useful purposes, peculiarities of the case before it suggest that the rule not be applied in that case. Whatever the ground for the departure from prior norms, however, it must be clearly set forth so that the reviewing court may understand the basis of the agency's action and so may judge the consistency of that action with the agency's mandate.

While the case before us may not be a particularly compelling one, it serves to point up the values of the now-rejected consent rule. As a result of the FERC's decision, the ultimate consumers, who are the customers of Eastern Maine Electric Cooperative, the Houlton Water Company and the Van Buren Light and Water District have been obliged to pay, perhaps during April and May, perhaps in some other period, a surcharge to cover the retroactive February increase, since the increase could not lawfully have been billed in February. Of course, the April and May rates also included the full increased rates. Rate fluctuations of this sort lead to customer confusion, annoyance and worse. If the surcharges are based on usage during the later period, Maine Public Service Company will almost certainly not recover the surcharge from customers in exact proportion to their February usage and, in some situations, the disparity might reach a significant level of unfairness. And these fluctuations undoubtedly tend to diminish the effectiveness of the economic signals projected to the ultimate consumers and to intermediate suppliers like these wholesale customers. While the importance of any particular economic signal may not be readily ascertainable, we must not continue to regulate as though electricity usage is not responsive to its price. We know that it is [9] and that the price that controls economic decisions is the price that must be currently paid.

When we allow Maine Public Service or its customers to go back to the ultimate consumer for additional payment for February's service, we are permitting the signals to be changed after the decisions have been made. February's consumption levels were based on the price levels then in effect. Subsequent money damages, through any refunds we may order, are an imperfect form of relief, since customers cannot react to these price levels either.

Alongside my view that it would be better policy to avoid these waivers, I am uncertain of the acceptance of nonconsensual retroactive waivers by the courts. The proposition that the Commission may not alter rates retroactively is treated as black letter law.

> Not only do the courts lack authority to impose a different rate than the one approved by the Commission, but the Commission itself has no power to alter a rate retroactively.[8]
> . . .
> [8] Although the Commission may not impose a retroactive rate alteration and, in particular, may not order reparations, *see, e.g., FPC v. Sunray DX Oil Co.*, 391 U.S. 9, 24 (1968), it may "for good cause shown", 15 U.S.C. 717c(d), waive the usual requirement of timely filing of an alteration in a rate. Assuming, *arguendo*, that waiver is available for retroactive collection of a higher rate than the one on file, we note that in this case, the Commission has expressly found that respondents have not demonstrated that good cause exists for waiving the filing requirements on their behalf.

Arkansas Louisiana Gas Co. v. Hall, 453 U.S. 571, 578 (1981). Accord, *East Tennessee Natural Gas Company v. FERC*, 631 F.2d 794, 796 (n.4) and 799–800, (D.C. Cir. 1980), and *Maine Public Service Company v. FERC*, 579 F.2d 659, 667 (1st Cir. 1978).

While cases like *City of Piqua, supra*, n.3, leave the application of this maxim in doubt in particular cases, it is probable that a reviewing court would find on the facts of this case that the Commission has retroactively imposed a rate alteration on unwilling customers. As these wholesalers have pointed out, the 60-day statutory period serves the planning needs of wholesalers and consumers as well as the administrative convenience of the Commission. In an order which denies immediate extraordinary relief through CWIP, (*i.e.*, the Company may be strapped, but it is not truly desperate) the Commission finds "good cause" to waive a statutory provision over the customers' objection, after the fact, without special circumstances, and supported by no more than a doubtful assertion that the wholesaler will not be hurt by the rate change. If good cause means so little in this proceeding, I expect to see much less justification of it in future cases.

J. David Hughes,
Commissioner.

Footnotes

(1) 19 FERC ¶ 61,062, Docket Nos. ER81–749–001 and ER 82–325–000, April 20, 1982.

(2) Section 205(d) of the Federal Power Act, 16 U.S.C. 824d(d), provides: Unless the Commission otherwise orders, no change shall be made by any public utility in any such rates, charges, classification, or service, or in any rule, regulation, or contract relating thereto, except after sixty days' notice to the Commission and to the public. . . The Commission, for good cause shown, may allow changes to take effect without requiring the sixty days' notice herein provided for by an order specifying the changes so to be made and the time when they shall take effect and the manner in which they shall be filed and published.

(3) E.g., *City of Piqua v. FERC*, 610 F.2d 950 (D.C. Cir. 1979), *City of Cleveland v. FPC*, 525 F.2d 845, 856 (D.C. Cir. 1976).

(4) Selected instances of circumstances where the 60-day notice requirement has been waived:

(a) to allow a utility to begin providing serice. *Alabama Power Company*, 13 FERC ¶ 61,059 (1980); *Arkansas Power and Light Company*, 12 FERC ¶ 61,295 (1980); *CP National*, 12 FERC ¶ 61,109 (1980).

(b) to establish a concurrent effective date with retail rates. *Consolidated Edison Company of New York, Inc.*, 13 FERC ¶ 61,136 (1980).

(c) to establish concurrent effective rates for interconnected systems. *Appalachian Power System*, 13 FERC ¶ 61,046 (1980).

(d) to permit passthrough of a supplier's rate increase. *Union Light, Heat and Power Company*, 10 FERC, ¶ 61,160 (1980).

(e) to give effect to a rate formula contract. *Public Service Company of Oklahoma*, 12 FERC ¶ 61,261 (1980).

(f) where the utility had satisfied the customers' objection. *New England Power Company*, 11 FERC ¶ 61,051 (1980).

(g) to replace rates inconsistent with Commission policy. *Pennsylvania-New Jersey-Maryland Interconnection*, 12 FERC ¶ 61,183 (1980).

(h) to implement a new ratemaking methodology under a new statute. *Puget Sound Power & Light Co.*, 17 FERC ¶ 61,185 (1981).

(i) where interchange service was based on a split-savings approach, rather than a formula. *Alabama Power Company*, 12 FERC ¶ 61,210 (1980).

(j) where the customers had purchased ownership and the prior agreements were inapplicable. *Arkansas Power and Light Company*, 12 FERC ¶ 61,117 (1980).

Interestingly, waiver was denied as to rates filed in substitution for rejected CWIP rates. *Kansas City Power and Light Company*, 12 FERC ¶ 61,116 (1980).

(5) The customers' expressed consent has been specifically mentioned as a basis for grant of waiver. *Mississippi Power Company*, 12 FERC ¶ 61,191 (1981); *Southern Indiana Gas and Electric Corporation*, 12 FERC ¶ 61,313 (1980); *Arkansas Power & Light Company*, 12 FERC ¶ 61,295 (1980); *Georgia Power Company*, 11 FERC ¶ 61,034 (1980); *Public Service Company of New Hampshire*, 10 FERC ¶ 61,117 (1980).

Consent has been implied from contractural relationships. *Public Service Company of Oklahoma*, 12 FERC ¶ 61,261 (1980); and *Central Power & Light Company*, 11 FERC ¶ 61,102 (1980).

(6) Customers' express objection to waiver has been cited as a basis for denial. *Central Power & Light Company*, 15 FERC ¶ 61,191 (1981); *Indiana & Michigan Electric Company*, 14 FERC ¶ 61,018 (1981); and ¶ 61,241 (1980); *Kansas Power and Light Company*, 12 FERC ¶ 61,298 (1980); *Long Island Lighting Company*, 12 FERC ¶ 61,066 (1980); *Central Telephone and Utilities Corporation, 10 FERC ¶61, 213 (1980); Central Illinois Public Service Company*, 10 FERC ¶ 61,110 (1980).

The objection can be implied, *Florida Power & Light Company*, 14 FERC ¶ 61,127 (1981).

(7) Retroactivity is clearly present in this case. The filed rate, that is, the rate on file and in effect, throughout February and up until the date of our first order (March 3, 1982), was the prior rate. The March 3 order retroactively put the new rates into effect for the month of February by making the increased rate applicable to electric service after it had been provided and consumed. It would be otherwise had we acted on the waiver before the requested effective date of February 1.

(8) *Consolidated Edison Company of New York, Inc.*, 13 FERC ¶ 61,136 (1980); *Alabama Power Company*, 16 FERC ¶ 61,023 (1981); ¶ 61,210 (1980); and *CP National*, 12 FERC ¶ 61,103 (1980).

Such consent can be implied. *Central Power & Light Company*, 11 FERC ¶ 61,102 (1980).

(9) Taylor, *The Demand for Electricity: a Survey*, 6 Bell J. Econ. 74 (Spring 1975). Attempts to quantify elasticity of demand for electricity continue. See, e.g., Kershner and Kenney, *How Industry Responds to Higher Electric Rates: Some Survey Results*, Pub. Util. Fort., May 27, 1982, at 24; Fitzgerald, *The Load Research Process Above and Beyond PURPA*, Pub. Util. Fort., March 18, 1982, at 51.

[FR Doc. 82-16439 Filed 6-16-82; 8:45 am]
BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed; Week of May 21 through May 28, 1982

During the week of May 21, 1982 through May 28, 1982, the appeals and applications for exception or other relief listed in the appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: June 10, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

List of Cases Received by the Office of Hearings and Appeals

[Week of May 21 through May 28, 1982]

Date	Name and location of applicant	Case No.	Type of submission
May 21, 1982	Commonwealth of Pennsylvania Harrisburg, Pa	HEG-0014 and HES-0014.	Petition for Special Redress and Request for Stay. If granted: The Office of Hearings and Appeals would review actions taken by the Economic Regulatory Administration regarding a Proposed consent Order with Quaker State Oil Refining Corporation which might affect the interests of the Commonwealth of Pennsylvania and its citizens.
May 24, 1982	Commonwealth Oil Refining Company, Inc. Washington, D.C.	HEA-0004	Appeal of an ERA Order. If granted: The March 11, 1982 Order issued by the Economic Regulatory Administration, regarding Commonwealth Oil Refining Company, Inc.'s entitlement purchase obligations under the Puerto Rico Naphtha Entitlements Program, would be rescinded.
May 24, 1982	New York State Energy Office, Albany, New York	HEE-0030	Exception to the Energy Conservation Program. If granted: The State of New York would receive an exception to the Energy Conservation Program regarding the State's Cycle IV grant applications.
May 24, 1982	Phillips Puerto Rico Core, Inc. Washington, D.C.	HEA-0003	Appeal of an ERA Order. If granted: The March 11, 1982 Order issued by the Economic Regulatory Administration, regarding Phillips Puerto Rico Core, Inc.'s entitlement purchase obligations under the Puerto Rico Naphtha Entitlement Program, would be rescinded.
May 25, 1982	Commonwealth Oil Refining Co., Inc. Washington, D.C.	HEG-0015	Petition for Special Redress. If granted: The March 11, 1982, Order issued by the Economic Regulatory Administration regarding the firm's entitlements purchase obligations would be rescinded.
May 25, 1982	Union Carbide Caribe, Inc. Washington, D.C.	HEA-0002	Appeal of an ERA Order. If granted: The March 11, 1982 Decision and Order issued by the Economic Regulatory Administration, regarding Union Carbide Caribe, Inc.'s entitlement purchase obligations under the Puerto Rico Naphtha Entitlements Program, would be rescinded.
May 27, 1982	Electronic Space Systems Corp. Washington, D.C.	HEG-0016	Petition for Special Redress. If granted: The Office of Hearings and Appeals would review the selection procedures used to determine the successful proposal in connection with the DOF Program Opportunity Notice No. DE-PN04-81AL16333, to determine whether Electronic Space Systems Corp. was prejudiced in that proceeding.

Notices of Objection Received

[Week of May 21, 1982 to May 28, 1982]

Date	Name and location of applicant	Case No.
May 24, 1982	Standard Oil Company of Indiana, Chicago, Illinois	HEE-0002

[FR Doc. 82-16237 Filed 6-16-82; 8:45 am]
BILLING CODE 6450-01-M

Cases Filed; Week of May 28 Through June 4, 1982

During the week of May 28 through June 4, 1982, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: June 10, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of May 28 through June 4, 1982]

Date	Name and location of applicant	Case No.	Type of submission
June 1, 1982	Sound Hudson Against Atomic Development Alliance (SHAD), New York, New York.	HFA-0059	Appeal of an Information Request Denial. If granted: The May 13, 1982, Information Request Denial issued by the Office of Safeguards and Security Defense Programs would be rescinded and the Sound Hudson Against Atomic Development Alliance would receive access to DOE information regarding the SHAD Alliance.
June 2, 1982	Dorchester Gas Corporation, Dallas, Texas	HRD-0052, HRH-0045	Motion for Discovery, Motion for Evidentiary Hearing. If granted: Discovery would be granted to Dorchester Gas Corporation (Dorchester) and an evidentiary hearing would be convened in connection with the Statement of Objections that Dorchester submitted in response to the Proposed Remedial Order (Case No. HRO-0045) issued to that firm.
June 2, 1982	Economic Regulatory Administration/Olympian Exploration Co., Washington, D.C.	HRR-0021	Motion for Modification/Rescission. If granted: The March 14, 1979, Remedial Order (Case No. DRO-0128) issued to Olympian Exploration Company by the Office of Hearings and Appeals would be modified with respect to its remedial provisions calling for a direct refund by the firm.

REFUND APPLICATIONS RECEIVED

[Week of May 28 to June 4, 1982]

Date	Name of refund proceeding/name of refund applicant	Case No.
June 4, 1982	Pennzoil/Wiksl Express	RF10-13.
June 3, 1982	Pennzoil/Miller Oil Company	RF10-14.
June 2, 1982	Pennzoil/Arkansas Best Freight Systems	RF10-15.
June 4, 1982	OKC Corporation/Chemical Express Carriers, Inc.	RF13-1.
June 1, 1982	Olin Corporation/Phillips Petroleum Company	RF11-1.
June 1, 1982	Anadarko Production Company/Cities Service Company	RF12-1.

NOTICES OF OBJECTION RECEIVED

[Week of May 28 to June 4, 1982]

Date	Name of location of applicant	Case No.
June 1, 1982	Big Muddy Oil Processors, Inc. Casper, Wyoming	BXE-1436.
June 2, 1982	Jordan Gas Company Centre, Alabama	BEE-1542.

[FR Doc. 82-16298 Filed 6-16-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 2149-5]

Science Advisory Board, Clean Air Scientific Advisory Committee; Open Meeting

Under Pub. L. 92-463 notice is hereby given of a meeting of the Clean Air Scientific Advisory Committee (CASAC) of the Science Advisory Board. The meeting will be held July 6-7, 1982 starting at 1:00 p.m. on July 6 in Rooms 3906-3908 Mall at EPA Headquarters, 401 M Street, SW., Washington, D.C.

A major purpose of the meeting is to allow the Committee and the public to review and provide its advice to EPA on several issues related to the proposed revision of the ambient air quality standards for carbon monoxide. Revisions to the existing standards for carbon monoxide were formally proposed by EPA in the **Federal Register** on August 18, 1980, Vol. 45, No. 161, pp. 55066-55084. At the July 6 meeting of the CASAC EPA will solicit additional comment from CASAC the and public on the following issues relating to final promulgation of the revised standards for carbon monoxide: (1) The 1981 study published by Dr. Wilbert S. Aronow entitled "Aggravation of Angina Pectoris by 2% Carboxyhemoglobin," American Heart Journal, February, 1981; (2) setting a revised eight-hour carbon monoxide standard that includes five allowable exceedances; (3) sensitivity analysis predictions of carboxyhemoglobin levels associated with alternative carbon monoxide standards; and (4) estimated exposure to ambient carbon monoxide concentrations under alternative air quality standards.

Copies of documents pertaining to these issues can be obtained by writing or calling Mr. Michael Jones, Office of Air Quality Planning and Standards, EPA, Research Triangle Park, N.C. 27711, (919) 541-5531.

Additional issues on the CASAC agenda for this meeting include: Discussion of research needs for gases and particles; status report on the Critical Assessment Document for Acidic Deposition; and a briefing and discussion of the relationship between

automobile emission controls and attainment of ambient air quality standards.

The meeting is open to the public. Any member of the public wishing to attend, submit a statement, make a presentation, or obtain further information should contact Terry F. Yosie, Acting Director, Science Advisory Board by close of business July 1, 1982.

Dated: June 9, 1982.

Terry F. Yosie,

Acting Director, Science Advisory Board.

[FR Doc. 82-16351 Filed 6-16-82; 8:45 am]

BILLING CODE 6560-50-M

[FRL 2149-7]

Science Advisory Board, Environmental Health Committee; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a meeting of the Environmental Health Committee of the Science Advisory Board will be held on July 7, 1982 in Conference Room S353, U.S. Environmental Protection Agency, 401 M Street, Southwest, Washington, D.C. The meeting will start at 9:00 a.m. The estimated time of adjournment will be approximately 4:30 p.m.

A major purpose of the meeting is to allow the Agency to discuss with the Committee plans for the scientific review of draft health assessment documents at future meetings of the Committee. The Agency has prepared documents for nine pollutants to evaluate the available health effects information. Notice of the availability and solicitation for public comment on these documents appeared in the **Federal Register** on April 26, 1982, pp. 17880-17881.

The titles and publication numbers of the draft health assessment documents are:

Title	EPA No.
Carcinogen Assessment of Coke Oven Emissions	600/6-82-003
Health Assessment Document for Carbon Tetrachloride	600/8-82-001
Health Assessment Document for 1,1,2-Trichloro-1,2,2-Trifluoroethane (Chlorofluorcarbon FC-113)	600/8-82-002
Health Assessment Document for 1,1,1-Trichloroethane (Methyl Chloroform)	600/8-82-003
Health Assessment Document for Dichloromethane (Methylene Chloride)	600/8-82-004
Health Assessment Document for Tetrachloroethylene (Perchloroethylene)	600/8-82-005
Health Assessment Document for Trichloroethylene	600/8-82-006
Health Assessment Document for Acrylonitrile	600/8-82-007
Health Assessment Document for Toluene	600/8-82-008

For further information on how to obtain copies of these documents contact Mr. Mark Greenberg, Environmental Criteria Assessment Office, EPA, Research Triangle Park, NC. 27711 (919) 541-4156.

The Agency also plans to brief the Committee on public health impacts associated with the lead in gasoline phasedown program, and to discuss plans for the Committee's future review of draft health advisories for safe drinking water.

The meeting will be open to the public. Any member of the public wishing to attend, submit a statement, or obtain further information should contact the Science Advisory Board by close of business July 1, 1982. Please ask for Mr. Ernst Linde or Mrs. Patricia Howard, Environmental Health Committee (202) 382-2552, or Dr. Terry F. Yosie, Acting Director, Science Advisory Board (202) 755-0696.

Dated: June 10, 1982.

Terry F. Yosie,

Acting Director, Science Advisory Board.

[FR Doc. 82-16350 Filed 6-16-82; 8:45 am]

BILLING CODE 6560-50-M

[FR 2149-6]

Science Advisory Board, Executive Committee, Open Meeting

Under Pub. L. 92-463, notice is hereby given of a meeting of the Executive Committee of the Science Advisory Board. The meeting will be held July 8-9, 1982, starting at 9:15 a.m. on July 8 in Room 1101 West Tower, EPA Headquarters, 401 M Street, SW., Washington, D.C.

A major purpose of the meeting is to allow the Committee to review and provide its advice to EPA on *Research Outlook*, the five year plan for research and development. Copies of this document may be obtained by calling Mr. Richard Laska, Research Outlook Project Officer, Office of Research and Development, at (202) 755-0468.

Additional issues on the Committee's agenda include a briefing on the Office of Research and Development's peer review process and the status of its peer review grants program; a discussion of the Agency's efforts to develop a toxics integration program; organization of future SAB review of the radiofrequency health effects document; SAB review of the radiofrequency health effects document; SAB committee reports; and other issues of member interest.

The meeting will be open to the public. Any member of the public wishing to attend, submit a statement, or obtain further information should contact Dr. Terry F. Yosie, Acting Director, Science Advisory Board at (202) 755-0696 before close of business July 1, 1982.

Dated: June 9, 1982.

Terry F. Yosie,

Acting Director, Science Advisory Board.

[FR Doc. 82-16353 Filed 6-16-82; 8:45 am]

BILLING CODE 6560-50-M

[TSH-FRL 2150-6; OPTS-51418]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of thirteen PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 82-418 & 82-419—September 2, 1982.

PMN 82-421 & 82-422—September 5, 1982.

PMN 82-423, 82-424 & 82-425—September 6, 1982.

PMN 82-426, 82-427, 82-428, 82-429 & 82-430—September 7, 1982.

PMN 82-431—September 8, 1982.

Written comments by:

PMN 82-418 & 82-419—August 3, 1982.

PMN 82-421 & 82-422—August 6, 1982.

PMN 82-423, 82-424 & 82-425—August 7, 1982.

PMN 82-426, 82-427, 82-428, 82-429 & 82-430—August 8, 1982.

PMN 82-431—August 9, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-51418]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460, (202-382-3532)

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460, (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the public reading room E-107.

PMN 82-418

Importer. Ricoh Electronics, Inc.

Chemical. (G) Hydrogen bis[1-[(3,5-disubstituted-2-hydroxyphenyl)azo]-3-(N-monosubstituted)-2-naphthalenolate (2-)]chromate (1-).

Use/Import. (S) Copier toner. Import range: 2,000–8,000 kg/yr.

Toxicity Data. Acute oral: >5.0 g/kg; Ames Test: Nonmutagenic; BOC_{ss}: 16 parts per million (ppm).

Exposure. Processing, use and disposal: 1 hr/da, 240 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air 10 hrs/da, 240 da/yr with 10–100 kg/yr to water. Disposal by publicly owned treatment works (POTW).

PMN 82-419

Manufacturer. American Cyanamid Company.

Chemical. (G) Acrylamide-acrylate copolymer.

Use/Production. (G) Textile resin. Prod. range: Confidential.

Toxicity Data. Acute oral: >5.39 g/kg; Acute dermal: >2.0 g/kg; Skin irritation: Mild; Eye irritation: None.

Exposure. Manufacture and use: Dermal, a total of 27 workers, up to 24 hrs/da, up to 200 da/yr.

Environmental Release/Disposal. Minimal release. Disposal by on-site water treatment plant.

PMN 82-421

Manufacturer. The Upjohn Company.

Chemical. (S) 1-(cyclohexen-1-yl) piperidine.

Use/Production. (G) Industrial intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: >500 mg/kg; Acute dermal: 1, 273 mg/kg; Skin irritation: Primary irritant; Eye irritation: Corrosive.

Exposure. Manufacture and use: Dermal and inhalation, a total of 6 workers, up to 8 hrs/da, up to 200 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to water 8 hrs/da, 50 da/yr. Disposal by approved landfill.

PMN 82-422

Manufacturer. Confidential.

Chemical. (G) Tetrasubstituted benzisoxazole.

Use/Production. (G) Site-limited intermediate. Prod. range: 500-1,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: Dermal, a total of 10 workers, up to 2 hrs/da, up to 5 da/yr.

Environmental Release/Disposal. No release. Disposal by incineration.

PMN 82-423

Manufacturer. Confidential.

Chemical. (G) Polyhaloalkoxyalkylphenone.

Use/Production. (S) Intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: >0.5 ml/kg; Acute dermal: >0.5 ml/kg; Skin irritation: Slight; Eye irritation: Slight; Inhalation: >7.3 1/1; Ames Test: Non-mutagenic.

Exposure. Manufacture: dermal and inhalation, a total of 2 workers, up to 24 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. Negligible. Disposal by incineration.

PMN 82-424

Manufacturer. Confidential.

Chemical. (S) Polymer of: Hexanediol, dantocol, trimethylol propane, isophthalic acid, adipic acid.

Use/Production. (G) Open use. Prod. range: 10,000–120,000 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and disposal: Dermal and inhalation, a total of 10 workers, up to 4 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air 16 hrs/da, 20 da/yr. Disposal by approved landfill.

PMN 82-425

Manufacturer. Confidential.

Chemical. (G) Polyester of a substituted alkanoic ester, alkanoic diols and a carbomonocyclic diacid.

Use/Production. (G) Open use. Prod. range: 0–11,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: Dermal, inhalation and eye, a total of 58 workers, up to 6 hrs/da, up to 200 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 10–10,000 kg/yr to land. Disposal by incineration.

PMN 82-426

Manufacturer. Confidential.

Chemical. (G) Substituted cyclopentadiene.

Use/Production. (G) Monomer for binder/adhesive products. Prod. range: Confidential.

Toxicity Data. Confidential.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 82-427

Manufacturer. Diamond Shamrock Corporation.

Chemical. (G) Alkoxylated aliphatic glycol.

Use/Production. (S) Site-limited intermediate. Prod. range: 2,000–80,000 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and processing: Dermal and inhalation, a total of 6 workers, up to 2 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air 1–4 hrs/da, 20 da/yr with 10–100 kg/yr to water 1 hr/da, 20 da/yr. Disposal by navigable waterway.

PMN 82-428

Manufacturer. Diamond Shamrock Corporation.

Chemical. (G) Acrylated alkoxylated aliphatic glycol.

Use/Production. (S) Curable coatings and inks. Prod. range: 3,000–100,000 kg/yr.

Toxicity Data. Skin irritation: Minimal irritant; Ames Test: Negative.

Exposure. Manufacture and processing: Dermal and inhalation, a total of 8 workers, up to 4 hrs/da, up to 48 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air 4 hrs/da, 48 da/yr with 10–100 kg/yr to water 1 hr/da, 48 da/yr and 1,000–10,000 kg/yr to land. Disposal by POTW and navigable waterway.

PMN 82-429

Importer. Confidential.

Chemical. (G) Ethoxylated molybdenum amine.

Use/Import. Confidential. Import range: Confidential.

Toxicity Data. Acute oral: Males-4.1 g/kg, Females-3.0 g/kg; Acute dermal: >3.2 g/kg; Skin irritation: Severe irritant; Eye irritation: Severe irritant.

Exposure. None.

Environmental Release/Disposal. No release.

PMN 82-430

Manufacturer. Confidential.

Chemical. (G) Tetrasubstituted benzisoxazole.

Use/Production. (G) Site-limited intermediate. Prod. range: 700–1, 600 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: Dermal and inhalation, a total of 10 workers, up to 1 hr/da, up to 5 da/yr.

Environmental Release/Disposal. Minimal release. Disposal by incineration.

PMN 82-431

Manufacturer. Confidential.

Chemical. (G) Isocyanic acid, polymethylene polyphenylene ester polymer with modified polyalkylene glycol.

Use/Production. (S) Component of molded articles. Prod. range: Confidential.

Toxicity Data. Acute oral: >15,000 mg/kg; Skin irritation: Mild to moderate irritant; Eye irritation: Mild to moderate irritant; Inhalation: No effect; Ames Test: Negative; TLV (C): .02 ppm or 0.2 mg/m³.

Exposure. Manufacture and processing: Dermal, inhalation and eye, a total of 36 workers, up to 8 hrs/da, up to 260 da/yr.

Environmental Release/Disposal. No release.

Dated: June 11, 1982.

Paul Fuschini,

Acting Director, Management Support Division.

[FR Doc. 82-16349 Filed 6-16-82; 8:45 am]

BILLING CODE 6560-50-M

[TSH-FRL 2150-7; OPTS-59091]

Certain Chemicals Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the Federal Register of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of three applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by: July 2, 1982.

ADDRESSES: Written comments, identified by the document control number "[OPTS-59091]" and the specific TME number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E-401, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M Street, SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the public reading room E-107.

TME 82-23

Close of Review Period. July 23, 1982.

Manufacturer. Confidential.

Chemical. (G) Substituted alkyl polyalkylene oxy quaternary ammonium chloride compound.

Use/Production. (G) Oilfield chemical. Prod. range: 9,091 kg/9 mos.

Toxicity Data. Acute oral: Not relatively toxic based on range finding work; Acute dermal: < 2 g/kg; Skin irritation: Mild irritant (3.27/8/0); Eye irritation: Irrigated—mild to moderate irritation, no corneal injury; non-irrigated—servere occular damage.

Exposure. Manufacture and processing: Dermal, a total of 35 workers, 8 hrs/da, 9 mo/yr. Use: Dermal, 2 to 4 workers, 2 hrs/da, 10 da/9 mos.

Environmental Release/Disposal. No release.

TME 83-24

Close of Review Period. July 25, 1982.

Manufacturer. Agfa-Gevaert, Inc.

Chemical. Further clarification needed before information may be released to the public files.

Use/Production. (S) Photographic processing compound. Prod. range: 1982-2 kg; 1983-20 kg.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

TME 82-25

Close of Review Period. July 25, 1982.

Manufacturer. Agfa-Gevaert, Inc.

Chemical. Further clarification needed before information may be released to the public files.

Use/Production. (S) Photographic processing compound. Prod. range: 1982-2 kg; 1983-20 kg.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Dated: June 11, 1982.

Paul Fuschini,

Acting Director, Management Support Division.

[FR Doc. 82-16340 Filed 6-16-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

Security Pacific Corp.; Proposed Acquisition of Postal Financial Corporation

Security Pacific Corporation, Los Angeles, California, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire, through SP Postal Holdings Inc., a newly formed and wholly-owned subsidiary of Applicant, voting shares of Postal Financial Corporation, Sioux City, Iowa.

Applicant states that the proposed subsidiary would engage in the following activities: (i) Making or acquiring, for its own account or for the account of others, and servicing, loans and other extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company; (ii) making, acquiring, and servicing loans and other extensions of credit and selling and issuing investment certificates in the manner authorized for an industrial bank or thrift company in the States of Colorado, Iowa and Nebraska; (iii) acting as agent or broker for the sale of credit life insurance and credit accident and health insurance which is related to the making or acquiring of such loans and extensions of credit; (iv) acting as agent or broker for the sale of credit property insurance which is related to the making or acquiring of such loans and extensions of credit; (v) acting as underwriter and reinsurer, through its subsidiaries, Central Plains Life Insurance Co. Inc., and General Fidelity Life Insurance Company, of credit life insurance and credit accident and health insurance which is directly related to extensions by credit by Postal Financial Corporation and Security Pacific Corporation, and their subsidiary companies; and (vi) making loans and other extensions of credit and acting as

agent or broker for the sale of credit life insurance which is related to the making of such loans and extensions of credit by mail.

The activities described in items (i) and (iii) above will be conducted by the following subsidiary corporations from offices in the following cities, serving, except where otherwise indicated, the states in which they are located: (1) Postal Industrial Bank (Colorado subsidiary), Aurora, Colorado; (2) Postal Thrift Loans, Inc. (Iowa subsidiary), Burlington, Council Bluffs, Davenport, Des Moines, Marion, Marshalltown, Muscatine, Newton, Sioux City, and Waterloo, Iowa; (3) Postal Savings Company (Nebraska subsidiary), Lincoln, Nebraska; (4) Postal Finance Company (Arizona subsidiary), Phoenix and Tucson, Arizona; (5) Postal Executive Financial Services, Inc. (Colorado subsidiary), Denver, Colorado; (6) Postal Finance Company, Inc. (Kansas subsidiary), Overland Park and Wichita, Kansas; (7) Postal Finance Company (Indiana subsidiary), Clarksville, Columbus, Highland, Indianapolis, Kokomo, Lafayette, and Marion, Indiana, serving the States of Indiana and Kentucky; (8) Postal Finance Company (Kentucky subsidiary), Louisville, Kentucky; (9) Postal Thrift Loans, Inc. (Kentucky subsidiary), Louisville, Kentucky; (10) The Mariner Corporation (Massachussetts subsidiary), Seekonk, Massachusetts; (11) Postal Finance Company (Massachusetts subsidiary), Brockton and Burlington, Massachusetts; (12) Postal Finance Company (Minnesota subsidiary), Bloomington, Minnesota; (13) Postal Thrift Loans, Inc. (Minnesota subsidiary), Anoka, Burnsville, Bloomington and St. Paul, Minnesota; (14) Postal Finance Company (Nebraska subsidiary), Columbus, Fremont, Grand Island, Hastings, Kearney, Lincoln, Norfolk, North Platte, and Omaha, Nebraska, serving the States of Iowa and Nebraska; (15) Postal Finance Company, Inc. (Oklahoma subsidiary), Del City, Moore, Oklahoma City, and Tulsa, Oklahoma; (16) Providence Professional Fund, Inc. (Rhode Island subsidiary), West Warwick, Rhode Island; (17) Postal Finance Company (South Dakota subsidiary), Sioux Falls and Yankton, South Dakota; and (18) Postal Finance Company, Inc. (Wisconsin subsidiary), Hudson, Wisconsin, serving the States of Minnesota and Wisconsin.

The activities described in item (ii) above will be conducted by the following subsidiary corporations from offices in the following cities, serving the states in which they are located: (1) Postal Industrial Bank (Colorado subsidiary), Aurora, Colorado; (2) Postal Thrift Loans, Inc. (Iowa subsidiary), Burlington, Council Bluffs, Davenport, Des Moines, Marion, Marshalltown, Muscatine, Newton, Sioux City, and Waterloo, Iowa; and (3) Postal Savings Company (Nebraska), Lincoln, Nebraska.

The activities described in item (iv) above will be conducted by the following subsidiary corporations from offices in the following cities, serving, except where otherwise indicated, the states in which they are located: (1) Postal Thrift Loans, Inc., (Iowa subsidiary), Burlington, Cedar Rapids, Council Bluffs, Davenport, Des Moines, Marshalltown, Muscatine, Newton, Sioux City, and Waterloo, Iowa; (2) Postal Finance Company (Arizona subsidiary), Phoenix and Tucson, Arizona; (3) Postal Finance Company (Indiana subsidiary), Clarksville, Columbus, Highland, Indianapolis, Kokomo, Lafayette, and Marion, Indiana, serving the States of Indiana and Kentucky; (4) Postal Finance Company, Inc. (Kansas subsidiary), Overland Park and Wichita, Kansas; (5) Postal Finance Company (Kentucky subsidiary) Louisville, Kentucky; (6) Postal Thrift Loans, Inc. (Kentucky subsidiary), Louisville, Kentucky; (7) Postal Finance Company (Minnesota subsidiary), Bloomington, Minnesota; (8) Postal Thrift Loans, Inc. (Minnesota subsidiary), Anoka, Burnsville, Bloomington, and St. Paul, Minnesota; (9) Postal Finance Company, Inc. (Oklahoma subsidiary), Del City, Moore, Oklahoma City, and Tulsa, Oklahoma; (10) Providence Professional Fund, Inc. (Rhode Island subsidiary), West Warwick, Rhode Island; (11) Postal Finance Company (South Dakota subsidiary), Sioux Falls and Yankton, South Dakota; and (12) Postal Finance Company, Inc. (Wisconsin subsidiary), Hudson, Wisconsin, serving the States of Minnesota and Wisconsin.

The activities described in item (v) above will be conducted by Central Plains Life Insurance Co., Inc., and General Fidelity Life Insurance Company with executive offices located in San Diego, California, both subsidiary corporations of Security Pacific Corporation, as follows: (1) Central Plains Life Insurance Co., Inc., serving the States of Colorado, Nebraska, and Oklahoma; and (2) General Fidelity Life Insurance Company, serving the States of Indiana, Iowa, Kentucky, Massachusetts, Minnesota, Rhode Island, South Dakota and Wisconsin.

The activities described in item (vi) above will be conducted by the following subsidiary corporations from offices in the following cities, serving the United States: (1) Postal Executive Financial Services, Inc. (Colorado subidiary), Denver, Colorado; (2) The Mariner Corporation (Massachusetts subsidiary), Seekonk, Massachusetts; and (3) Providence Professional Funds, Inc. (Rhode Island subsidiary), West Warwick, Rhode Island.

Such activities have generally been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b). Certain of these activities, as currently conducted, involve practices that would not be legally permissible upon consummation of the proposal. Applicant has made several commitments with regard to these practices that are designed to ensure the permissibility of the activities involved.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than July 7, 1982.

Board of Governors of the Federal Reserve System, June 11, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-16312 Filed 6-16-82; 8:45 am]

BILLING CODE 6210-01-M

BankEast Corp.; Proposed Establishment of de Novo Branch Office

BankEast Corporation, Manchester, New Hampshire, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to open a *de novo* branch office of BankEast Guaranty Savings Bank, Salem, New Hampshire, in Pelham, New Hampshire.

Applicant states that the branch office would engage in the activities of a New Hampshire guaranty savings bank including the following: accepting time and savings deposits, including NOW accounts; investing in residential and commercial mortgages; investing in U.S. government securities and other investments permitted by applicable laws; making secured and unsecured loans; providing safe deposit services; and servicing mortgages and other loans. These activities would be performed from the branch office in Pelham, New Hampshire, and the geographic area to be served is Pelham, New Hampshire, and surrounding communities.

Although the operation of a guaranty savings bank has not been specified by the Board in § 225.4(a) of Regulation Y as permissible generally for bank holding companies, the Board has, by orders, approved the acquisition of New Hampshire guaranty savings banks by New Hampshire bank holding companies, determining that the operation of savings banks was closely related to banking in New Hampshire. *Profile Bankshares, Inc.*, 61 Federal Reserve Bulletin 901 (1975); *Heritage Banks, Inc.*, 66 Federal Reserve Bulletin 590 (1980); The Board has approved the acquisition by Applicant of Bank-East Guaranty Savings Bank, *First Financial Group of New Hampshire, Inc.*, 66 Federal Reserve Bulletin 594 (1980). *Heritage Banks, Inc.*, 66 Federal Reserve Bulletin 917 (1980); *BankEast Corporation* (Rochester Savings Bank and Trust Company), 68 Federal Reserve Bulletin 116; (1982); and *BankEast Corporations* (Portsmouth Trust Company), 68 Federal Reserve Bulletin, issue of June 1982.

Interested persons may express their views on the question whether the proposed activity is so closely related to banking or managing or controlling banks as to be a proper incident thereto. Interested persons may also express their view on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any request for a hearing on either of these questions must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than July 11, 1982.

Board of Governors of the Federal Reserve System, June 11, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-16308 Filed 6-16-82; 8:45 am]

BILLING CODE 6210-01-M

Citibank International; Establishment of U.S. Branch of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

Citibank International, Miami, Florida, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the Board's approval under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish a branch in San Diego, California. Citibank International operates as a subsidiary of Citibank, N.A., New York, New York.

The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than July 11, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 11, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-16309 Filed 6-16-82; 8:45 am]

BILLING CODE 6210-01-M

Citicorp; Proposed Acquisition of Drum Savings and Investment Co.

Citicorp, New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Drum Savings and Investment Company of Douglas County Inc., Omaha, Nebraska.

Applicant states that the proposed subsidiary would engage in the activity of operating as an industrial loan company. Drum Savings will not make commercial loans or offer NOW accounts. These activities would be performed from offices of Applicant's subsidiary in Omaha, Nebraska, and the geographic areas to be served are the area surrounding Omaha, Nebraska. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received no later than July 11, 1982.

Board of Governors of the Federal Reserve System, June 11, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-16310 Filed 6-16-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *OMB Financial, Inc.*, Clarksburg, West Virginia; to become a bank holding company by acquiring 80 percent of the voting shares of The Oak Mound Bank, Clarksburg, West Virginia. Comments on this application must be received not later than July 11, 1982.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *DeKalb Bancorp, Inc.*, DeKalb, Illinois; to become a bank holding company by acquiring 100 percent (less director's qualifying shares) of the voting shares of the successor by merger to The DeKalb Bank, DeKalb, Illinois. Comments on this application must be received not later than July 7, 1982.

C. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Dumas Bancshares, Inc.*, Dumas, Arkansas; to become a bank holding company by acquiring 80 percent of the voting shares of Dumas State Bank, Dumas, Arkansas. Comments on this application must be received not later than July 11, 1982.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Lakeshore Bancshares*, Inc., Oklahoma City, Oklahoma; to become a bank holding company by acquiring 80 percent of the voting shares of Lakeshore Bank, N.A. Oklahoma City, Oklahoma. Comments on this application must be received not later than July 11, 1982.

E. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *First Bancorp*, Malad City, Idaho; to become a bank holding company by acquiring 100 percent (less director's qualifying shares) of the voting shares of First Bank and Trust of Idaho, Malad City, Idaho. Comments on this application must be received not later than July 11, 1982.

Board of Governors of the Federal Reserve System, June 11, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-16311 Filed 6-16-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Frederick Cancer Research Facility Advisory Committee; Meeting

Pursuant to Pub. L. 92-436, notice is hereby given of the meeting of the Frederick Cancer Research Facility Advisory Committee, National Cancer Institute, June 28-July 1, 1982. The open portions of the meeting will be held at the Frederick Cancer Research Facility, Building 42, Frederick, Maryland 21701. The closed portions of the meeting will be held at the Sheraton Inn, Interstate 270 and Route 85, Frederick, Maryland 21701. This meeting will be open to the public from 8:30 a.m. on June 29 to approximately 10:30 a.m. on July 1 for presentations by scientists for Contract Research Projects and for review of administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 28, from 8:00 p.m. to adjournment, and on July 1, from approximately 11:00 to approximately 2:00 p.m. for the discussions of individual research projects for scientific merit. These discussions could reveal personal information concerning individuals associated with the projects, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Berge Hampar, Executive Secretary, Frederick Cancer Research Facility Advisory Committee, National Cancer Institute, Frederick Cancer Research Facility, Building 427, Frederick, Maryland 21701 (301/695-1108) will furnish substantive program information.

Dated: June 9, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82-16286 Filed 6-16-82; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Health Maintenance Organizations

AGENCY: Public Health Service, HHS.

ACTION: Notice, April/May—qualified health maintenance organizations.

SUMMARY: This notice sets forth the names, addresses, service areas, and dates of qualification of entities determined by the Secretary to be qualified health maintenance organizations (HMOs). In addition, this notice reports that a qualified HMO surrendered its qualification status as another entity achieved that status and took over its operations. Also, service area expansions and a model redesignation of previously qualified HMOs are reported at the end of the list.

FOR FURTHER INFORMATION CONTACT: Frank H. Seubold, Ph.D., Director, Office of Health Maintenance Organizations, Park Building—Third Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION: Regulations (42 CFR 110.605(b)) issued under Title XIII of the Public Health Service Act require that a list and description of all newly qualified HMOs be published on a monthly basis in the **Federal Register**. The following entities have been determined to be qualified HMOs under section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d)):

(Operational Qualified Health Maintenance Organizations: 42 CFR 110.603(a))

1. INA Healthplan of Washington, Inc. (Medical Group Model, see section 1310(b)(1) of the Public Health Service Act), P.O. Box 204, Spokane, Washington 99210. Service area: Spokane County, Washington. Date of qualification: April 9, 1982. (NOTE: INA Healthplan of Washington, Inc., took over the operations of Cooperative Health Plan of Greater Spokane, a qualified HMO. When INA Healthplan of Washington, Inc., became a qualified HMO, Cooperative Health Plan of Greater Spokane surrendered its qualification status.)

2. HMO Colorado, Inc., (Individual Practice Association Model, see section 1310(b)(2)(A) of the Public Health Service Act), 700 Broadway, Denver, Colorado 80273. Service area: Zip codes as follows:

80002-5,	80214-37
80010-17,	80239-41
80020	80271
80022	80295
80024	80301-3
80026-7	80306
80030	80401
80033	80425
80104	80433
80110-16	80439
80120-5	80441
80127	80453-4
80131	80457
80134-5	80465
80201-7	80501
80209-12	80544

Date of qualification: April 30, 1982.

3. Multi-Group Health Plan, (Medical Group Model, see section 1310(b)(1) of the Public Health Service Act), 20 Walnut Street, Wellesley, Massachusetts 02181. Service area: Zip codes in the following cities and towns in Massachusetts:

Abington	02351
Acton	01720
Arlington	02174
Ashland	01721
Ayer	01433-3
Bedford	01730
Belmont	02178
Berlin	01503
Bolton	01740
Boston	02105-11
	02210
Boxboro	01719
Braintree	02184
Bridgewater	02324
Brookline	02147
Cambridge	02138-41
Canton	02021
Carlisle	01741
Carver	02330
Chelmsford	01824
Cohasset	02025
Concord	01742
Dedham	02026
Dover	02030
Duxbury	02332
East Bridgewater	02333
Farmingham	01701
Groton	01450
Halifax	02338
Hanover	02339
Hanson	02341
Harvard	01451
Hingham	02043
Holbrook	02343
Holliston	01746
Hopkinton	01748
Hudson	01749
Hull	02045
Kingston	02364
Lexington	02173
Lincoln	02173
Littleton	01460
Marlboro	01752
Marshfield	02050
Maynard	01754
Medfield	02053
Medford	02155
Milford	01757
Millis	02054
Milton	02186
Natick	01760
Needham	02192
Newton	02158-62
	02164-6
	02196
Northboro	01532
Norwell	02061
Norwood	02062
Pembroke	02359
Plymouth	02360
Plympton	02367
Quincy	02169-70
Randolph	02368
Rockland	02370
Scituate	02066
Sharon	02067
Sherborn	01770
Somerville	02143
Southboro	01772
Stow	01775
Sudbury	01776
Walpole	02081
Waltham	02154
Watertown	02172
Wayland	01778
Wellesley	02181
West Bridgewater	02379
Westboro	01581
Westford	01886
Weston	02193
Westwood	02090
Weymouth	02188-91
Whitman	02382
Winchester	01890

Date of qualification: April 30, 1982.

Service Area Expansions

1. Fallon Community Health Plan, Inc., 630 Plantation Street, Worcester, Massachusetts 01605. Service area: Add to the service area published on 7/1/81, in the Federal Register, 46 FR 34516, the following municipalities in Worcester County, Massachusetts:

Blackstone,	East Brookfield,	Southbridge,
Brookfield,	Hopedale,	Sturbridge,
Charlton,	Mendon,	Uxbridge,
Douglas,	Milliville,	West Brookfield
Dudley,	North Brookfield,	

Effective date: April 1, 1982.

2. TakeCare Corporation, 1950 Franklin Street, Oakland, California 94659. Service area: Zip codes as follows:

Stanislaus Regional Component (Calif.)

95230	95334
95303	95336
95307	95350-6
95312-3	95360-1
95315-8	95363
95319-20	95366-8
95323-4	95376
95326	95380
95328	95384-7

Effective Date: March 31, 1982.

Sacramento Regional Component (Calif.)

95813-42	95682
95815-6	95690
95828	95877-8
95652	95695
95670	95810
95691	95824
95605	95845
95630	95852
95655	95811
95673	95838
95693	95850
95606	95868
95620	95883

Effective Date: March 31, 1982.

Model Redesignation

1. Rutgers Community Health Plan, 57 U.S. Highway 1, New Brunswick, New Jersey 08901. Change from *Staff* Model HMO to a *Medical Group* Model HMO (see Section 1310(b)(1) of the Public Health Service Act).

Effective Date: April 30, 1982.

Files containing detailed information regarding qualified HMOs will be available for public inspection between the hours of 8:30 a.m. and 4:30 p.m. on Tuesdays and Thursdays, except for Federal holidays, in the Office of Health Maintenance Organizations, Office of the Assistant Secretary for Health, Department of Health and Human Services, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857.

Questions about the qualification review process or requests for information about qualified HMOs should be sent to the same office.

Dated: June 9, 1982.

Frank H. Seubold,

Director, Office of Health Maintenance Organizations.

[FR Doc. 82-16300 Filed 6-16-82; 8:45 am]
BILLING CODE 4160-17-M

Privacy Act of 1974; Notification of New System of Records

AGENCY: Public Health Service; HHS.

ACTION: Notification of New System of Records: 09-30-0041, "Subject-Participants in a Drug Abuse Research Study on Naltrexone," HHS/ADAMHA/NIDA.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing a notice of a new system of records entitled "Subject-Participants in a Drug Abuse Research Study on Naltrexone," HHS/ADAMHA/NIDA, in the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), National Institute on Drug Abuse (NIDA). We are also proposing routine

uses for this system of records. PHS invites interested parties to submit comments on the proposed routine uses on or before July 19, 1982.

DATES: PHS has sent a Report of New System to the Congress and the Office of Management and Budget (OMB) on June 1, 1982. PHS has requested that OMB grant a waiver of the usual requirement that a system of records not be put into effect until 60 days after the report is sent to OMB and the Congress. If this waiver is granted, PHS will publish a notice to that effect in the Federal Register.

ADDRESS: Please address comments to: Privacy Act Officer, Office of Extramural Policy and Project Review, National Institute on Drug Abuse, Alcohol, Drug Abuse, and Mental Health Administration, 5600 Fishers Lane, Room 10–42, Rockville, Maryland 20857. Comments received will be available for inspection at the same address, from 8:00 a.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Harold M. Ginzburg, M.D., M.P.H., Project Officer, National Institute on Drug Abuse, Alcohol, Drug Abuse, and Mental Health Administration, 5600 Fishers Lane, Room 9–21, Rockville, Maryland 20857. Telephone: 301–443–6420.

SUPPLEMENTARY INFORMATION: Although the essential elements of this system of records have been in place since 1977, NIDA has recently discovered that these records constitute a "found" system under the Privacy Act. The Department of Health and Human Services (DHHS) is reexamining the applicability of the Privacy Act to records maintained by organizations under contract with the DHHS and may subsequently find that the application of the provisions of the Privacy Act to these records provides broader coverage than is required by the Act.

The purpose of the system is to compile information (data base) required by the Food and Drug Administration (FDA) in the development and approval of a new drug application for naltrexone, an antagonist. An antagonist is a drug which negates the effect of an opiate. A new drug application is a notice to FDA that a pharmaceutical company believes it has enough data to demonstrate the safety and efficacy of a substance to satisfy the requirements of FDA for marketing the substance. Also, NIDA will analyze aggregate data to determine the effectiveness of naltrexone in various treatment environments and modalities in order to assess the effectiveness of this drug on drug abusers' behavior and characteristics. The proposed system of records will record examination of the pattern of life events of drug abusers during the period of time (up to one year) they are enrolled in the participating drug abuse treatment program.

Because some of the data collected in the Naltrexone Study, such as data on drug use, are sensitive and confidential, special safeguards have been established. A Certificate of Confidentiality has been issued under 42 CFR Part 2a. This authorization enables persons engaged in research on mental health, including research on the use and effect of psychoactive drugs, to protect the privacy of research subjects by withholding the names or other identifying characteristics from all persons not connected with the conduct of the research, including any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings. In addition, these records are subject to 42 CFR Part 2 the Confidentiality of Alcohol and Drug Abuse Patient Records Regulations. The system notice discusses the protections afforded by these regulations in more detail.

The contractor will maintain records in this system in a secure manner described in the system notice, until termination of the contract, at which time the System Manager will authorize destruction of individual identification and data match-up information by shredding or burning. For the duration of the contract, the contractor will use individually identified information only to identify and match data to the correct subject-participant in all of the scheduled interviews. The contractor will not provide individually identified information to the Federal Government.

The stringent requirements for collection and maintenance of the data were designed to protect the privacy of research subjects and the confidentiality of the data. We believe that, with these safeguards, the potential benefits to the public in terms of improved drug abuse treatment programs and better understanding of the interrelationships among clients, clinic, and community, outweight the minimal, if any, possibility of adverse effects to the privacy or other personal or property rights of any individual caused by potential record disclosure.

NIDA proposes routine uses for the system. One routine use provides for disclosure in aggregate form only for specific research that is compatible with the purpose of the system. The other routine use provides for possible disclosure to a subsequent ADAMHA contractor in order to conduct followup or continuation studies in order to accomplish the research purpose for which the records are collected. Use and/or disclosure under a routine use will be limited by, and permitted only in accordance with, the protections provided by the statutory and regulatory restrictions for the confidentiality of records of drug and alcohol patients and research subjects.

Dated: June 3, 1982.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations and Director, Office of Management.

Notice of New System of Records

09-30-0041

SYSTEM NAME:

Subject-Participants in a Drug Abuse Research Study on Naltrexone, HHS/ADAMAHA/NIDA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Endo Laboratories, Inc., 1000 Stewart Avenue, Garden City, New York 11530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Voluntary adult clients of federally-funded and other drug abuse treatment programs who have requested to receive naltrexone as part of their treatment. Data collection began in 1977 and will continue through 1983.

CATEGORIES OF RECORDS IN THE SYSTEM:

Demographic data, treatment outcome data, treatment process data, client locator information, and personal identifiers (name and assigned numerical identifier).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Drug Abuse Prevention, Treatment and Rehabilitation Act, section 503 (21 U.S.C. 1193); Public Health Service Act, section 301(a) (42 U.S.C. 241(a)).

PURPOSES:

1. To provide data required by the Food and Drug Administration (FDA) for a new drug application for naltrexone. FDA may also use the records in a form which does not identify individuals in routine inspections FDA conducts in accordance with its responsibilities to develop standards on the composition, quality, safety, and efficacy of drugs administered to humans, and to monitor experimental usage of drugs.

2. To record the changes in the behavior and characteristics of drug abusers who receive naltrexone as part

of their treatment regimen, in order to compile information on the effectiveness of naltrexone in various treatment environments and modalities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Within the restrictions set forth in HHS regulations concerning the confidentiality of alcohol and drug abuse patient records (42 CFR Part 2.56), the contractor may disclose records only in aggregate form to other Federal agencies for a research purpose.

2. Endo Laboratories, an ADAMHA contractor, uses the records in the system in order to accomplish the research purposes for which the records were collected. in the event of a followup study or continuation study because the contract has been terminated for convenience by the Government, the contractor may disclose records in this system to a subsequent ADAMHA contractor. The new contractor would be required to maintain Privacy Act safeguards with respect to such records and to comply with the confidentiality restrictions of 42 CFR Part 2.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Interview forms, magnetic tapes and disks in closed cabinets in a locked room with limited accessibility.

RETRIEVABILITY:

The records are indexed and retrieved by subject-participant's name and unique numerical identifier. In order to relate the data collected to specific individuals, however, the contractor uses the link file discussed under Safeguards.

SAFEGUARDS:

The safeguards which follow are in accordance with the HHS ADP Systems Manual, Part 6, "Systems Security"; and the HHS General Administration Manual, Chapters 45–13 and PHS.hf: 45–13.

Physical Security: The contractor stores individually identified forms in a locked room with controlled entry; i.e., only on the written authority of the professional staff member in charge of data handling and processing operations. The contractor staff enter the collected information onto computer tape or disks as soon after contact with the subject-participant as possible, and store the computerized records in a secured area with access limited as above.

Another safeguard is that the forms containing subject identification information do not include any reference to the purpose of the study. The contractor keeps identification information separate from any information that would suggest that the respondent is or has been in a drug abuse treatment program. In addition, the computer center being utilized has developed an extensive security system to protect computer account codes and data.

Technical Security: Access to the computerized records is protected by a computerized password routine which is changed periodically. In addition, the project staff complies with the contractor's (Endo Laboratories, Inc.) standard procedures for safeguarding data.

The link file system that identifies individuals with personal data has three components: (1) identification information, (2) data base information, and (3) the link file, which contains identifying number pairs which match data with individuals. The advantage of this system is that one may use the baseline data directly for report generation, etc., without using the subroutines or accessing the personal information or link files.

Administrative Security: The data management task leader, the project leader, or the project director provide technical supervision of all data collection and processing activities. Only authorized contract staff have access to the records (computerized and hard copy files) in the system. The contractor provides only aggregate data in reports to NIDA, FDA, or the public.

A Certificate of Confidentiality has been issued under 42 CFR part 2a, Protection of Identity—Research Subjects. This authorization enables persons engaged in research on mental health, including research on the use and effect of psychoactive drugs, to protect the privacy of research subjects by withholding the names or other identifying characteristics from all persons not connected with the conduct of the research. Persons so authorized may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals. These regulations do not prohibit voluntary disclosure by the researcher. However, the records also are subject to 42 CFR Part 2, the Confidentiality of Alcohol and Drug Abuse Patient Records Regulations (42 CFR 2.56), which state:

"Where the content of patient records has been disclosed pursuant to [these regulations] for the purpose of conducting scientific research * * * information contained therein which would directly or indirectly identify any patient may not be disclosed by the recipient thereof either voluntarily or in response to any legal process whether Federal or State."

The contractor's Institutional Review Board has reviewed and approved the safeguards described above in accordance with 45 CFR Part 46 on the protection of human subjects.

RETENTION AND DISPOSAL:

The contractor staff destroys interview forms by shredding or burning immediately after they complete direct entry on magnetic tape or disk storage and verify the information. The contractor will destroy individual identification and link files by shredding or burning at the termination of the study in 1983 under the explicit written authorization of the System Manager. NIDA will retain the aggregate data tapes for research purposes. These tapes will not have any individually identifiable information. In accordance with the ADAMHA Records Control Schedule, the aggregate tapes will be retained for five years after the completion of the project. At that time, the tapes will be retired to the Federal Records Center and destroyed when they are 10 years old or when they are no longer needed for research purposes.

SYSTEM MANAGER(S) AND ADDRESS:

Project Officer, Naltrexone Study, Clinical-Behavioral Branch, Division of Research, National Institute on Drug Abuse, Alcohol, Drug Abuse, and Mental Health Administration, 5600 Fishers Lane, Room 9–21, Rockville, Maryland 20857.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the System Manager at the address above. The following information should be included, if known: subject-participant's full name and a letter of request with notarized signature of the subject-participant of the record, any alias used, subject-participant's identification number, name of the researcher, and approximate date of study participation.

An individual who requests notification of a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURES:

Same as Notification Procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES: Contact the official at the address specified under Notification Procedures above and reasonably identify the record, specify the information being contested, and state the corrective action sought, with supporting justification.

RECORD SOURCE CATEGORIES:

Research subject-participant, staff in the participating drug abuse treatment programs, written clinical evaluations, private psysicians, counselors, psychiatrists, phychotherapists, family members, research assistants, and hospital records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 82-16410 Filed 6-16-82; 8:45 am]
BILLING CODE 4160-20-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Sauk-Suiattle, Washington; Establishment of Reservation

May 27, 1982.

This notice is published in the exrecise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1

Notice is hereby given that under the authority of section 7 of the Act of June 18, 1934 (25 U.S.C.A. 467; 48 Stat. 984), the hereinafter described tracts of land, located in Snohomish County, Washington, were proclaimed to be an Indian reservation, effective May 27, 1982, for the use and benefit of the Sauk-Suiattle Indian Tribe.

Willamette Meridian

TSE 121–C

T. 32 N., R. 10 E.,
Sec. 5, S½NW¼NW¼SE¼, SW¼NE¼NW¼SE¼ and the SE¼NE¼NW¼SE¼, except the East 240 feet of the SE¼NE¼NW¼SE¼ containing 8.00 acres more or less.

TSE 121–E

T. 32 N., R. 10 E.,
Sec. 5, Commencing at the NE corner of the south 30.00 feet of the north 750.00 feet of the west 250.00 feet of the east 270 feet of the S½NE¼NW¼SE¼ and of the SE¼NW¼SE¼, as surveyed and recorded under Auditor's File No. 8004015011, records of Snohomish County, Washington; thence south 87°01'10" west along the north line of said parcel for 20.00 feet to True Point of Beginning; thence continuing south 87°01'10" west along said line for a distance of 128.96 feet; thence south 42°39'34" east for a distance of 204.81 feet to a point on the east line of the west 30.00 feet of the east 50.00 feet of the south 270.00 feet of the SE¼NW¼SE¼ of said section 5; thence north 3°37'53" west along said east line for a distance of 157.64 feet to the Point of Beginning containing .23 acre more or less.

Subject to all valid rights, reservations, rights-of-way, and easements of record.

Roy H. Sampsel,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 82-16297 Filed 6-16-82; 8:45 am]
BILLING CODE 4310-02-M

Bureau of Land Management

[A 997]

Arizona; Partial Cancellation of Withdrawal Application and Opening of Land

The Bureau of Reclamation, Department of the Interior, filed withdrawal application A 997 on May 12, 1967, which was published July 18, 1967 as FR Doc. 67–8213 on Pages 10518 and 10519. This application is hereby cancelled insofar as it affects the following described lands:

Gila and Salt River Meridian, Arizona

T. 9 N., R. 18 W.,
Sec. 17, W½.

The area described contains 320 acres in Yuma County, Arizona.

The N½N½NW¼, S½NE¼NW¼, N½SE¼NW¼ sec. 17, T. 9 N., R. 18 W., is currently under State Selection Application (A 17000–J), filed by the State of Arizona. The land will continue to be segregated from settlement, sale, locations, or entries under the public land laws, including the mining laws (30 U.S.C. Ch. 2).

In accordance with the regulations contained in 43 CFR 2310.2–1(c) at 10:00 a.m. on July 20, 1982, the remainder of the land described as the S½NW¼NW¼, SW¼NW¼, S½SE¼NW¼ and SW¼ sec. 17, T. 9 N., R. 18 W., shall be relieved of the segregative effect and open to operation of the public lands laws, including the United States mining laws, subject to valid existing rights.

All valid applications received at or prior to 10:00 a.m. on July 20, 1982, shall be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

Any questions concerning these lands should be directed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Mildred C. Koslow,

Acting Chief, Branch of Lands and Minerals Operations.

June 11, 1982.

[FR Doc. 82-16295 Filed 6-16-82; 8:45 am]
BILLING CODE 4310-84-M

Colorado; Proposed Withdrawal and Opportunity for Public Hearing

On June 8, 1982, a petition was approved allowing the Bureau of Reclamation to file an application to withdraw the following described national forest lands from location and entry under the mining laws, subject to valid existing rights:

Uncompahgre National Forest

New Mexico Principal Meridian

T. 46 N., R. 6 W.,
Sec. 16, S½SW¼NW¼, SW¼SE¼NW¼, N½NW¼SW¼, W½NE¼SW¼, SE¼NW¼SW¼, E½SW¼SW¼, SW¼SE¼SW¼;
Sec. 21, NW¼NE¼NW¼, W½SE¼NE¼NW¼, E½SE¼NW¼, N½NW¼SE¼, SE¼NW¼SE¼, NE¼SW¼SE¼, W½NW¼SE¼SE¼.

The lands aggregate 190 acres in Gunnison County.

The purpose of the withdrawal is to permit the construction of recreation facilities in connection with the Silver Jack Reservoir, Bostwick Park Project.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

In accordance with section 204(h) of the Federal Land Policy and Management Act of 1976, notice is given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the undersigned at the address shown below. Upon determination by the authorized officer that a public hearing will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

This application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be

segregated from location and entry under the mining laws as specified above unless the application is denied or canceled, or the withdrawal is approved prior to that date. The temporary use which will be permitted during this segregative period is grazing.

The temporary segregation of the lands in connection with a withdrawal application or proposal shall not affect administrative jurisdiction over the lands, and the segregation shall not have the effect of authorizing any use of the lands by the Bureau of Reclamation.

All communications in connection with this proposed withdrawal should be addressed to the Chief, Branch of Adjudication, Bureau of Land Management, Department of the Interior, 1037 20th Street, Denver, Colorado 80202.

Robert D. Dinsmore,

Chief, Branch of Adjudication.

June 8, 1982.

[FR Doc. 82-16293 Filed 6-16-82; 8:45 am]

BILLING CODE 4310-84-M

[M 55033]

Montana; Realty Action, Modified Competitive Sale of Public Land in Power River County, Mont.

June 9, 1982.

The following described lands have been examined and identified as suitable for disposal by sale pursuant to Sec. 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 (1976), at no less than the fair market value:

Principal Meridian

T. 6 S., R. 46 E.,
Sec. 5, lot 1;
Sec. 8, SW¼NW¼SW¼NW¼.

The area described contains 42 acres.

The land will be offered for sale by sealed bid utilizing modified competitive bidding procedures. Mr. Marcus Stevens, the owner of the surrounding private land and the grazing lessee of the federal parcel, is the proposed designated bidder and will be offered the right to meet the highest bid. Refusal or failure to meet the highest bid shall constitute a waiver of such bidding provisions.

The subject land is located 24 miles west of State highway 312 and Broadus, Montana, the county seat of Powder River County, The land is isolated, with no legal access, is unusable by the general public, and is difficult and uneconomic to manage as part of the public lands system.

The proposed sale is consistent with the Bureau's planning system and has been discussed with the Powder River County government officials. Since the land has very little resource value, the transfer of the tract into private ownership will benefit the public interest and provide for better land management.

The terms and conditions applicable to the sale are as follows:

1. All minerals will be reserved to the United States. Such minerals shall be subject to the right to explore, prospect for, mine, and remove them under applicable law and regulations;

2. A right-of-way for ditches and canals will be reserved to the United States; and

3. The sale of these lands will be subject to all valid existing rights and reservations of record.

Detailed information concerning the sale, including the planning documents, environmental assessment, and the record of public discussions, is available for review at the Miles City District Office, West of Miles City, P.O. Box 940, Miles City, Montana 59301.

The bid opening for the modified competitive sale of the above-described public land in Powder River County, Montana, will be held at the Montana State Office, 222 North 32nd Street, Billing, Montana, on Wednesday, August 25, 1982, at 10 a.m.

Bidding Information and Instructions

Bidder Qualifications: The Federal Land Policy and Management Act requires that bidders be U.S. citizens or, in the case of a corporation, subject to the laws of any state of the U.S. A State, State instrumentality or political subdivision submitting a bid must be authorized to hold property. Any other entity submitting a bid must be legally capable of conveying and holding lands or interests therein under the laws of the State of Montana.

Bids must be made by the principal or his agent.

Bid Standards: No bid will be accepted for less than the appraised value of $4,200, and bids must include all of the land identified in this sale notice.

Method of Bidding: The land will be sold by sealed bid only. Bids delivered or sent by mail will be considered only if received by the Bureau of Land Management, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107, prior to 10 a.m. on August 25. Each bid must be in a sealed envelope accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Bureau of Land Management for not less than one-fifth of the amount of the bid. The sealed bid envelope must be marked in the lower left-hand corner as follows:

Public Land Sale M 55033
August 25, 1982

If two or more envelopes containing valid bids of the same amount are received, the determination of which is to be considered the highest bid shall be by drawing. The drawing, if required, shall be held immediately following the opening of the sealed bids. The highest qualifying sealed bid shall then be publicly declared.

Modified Bidding: For a period of 30 days following the date of the sale, Mr. Marcus Stevens, the owner of the private land surrounding the sale parcels, will be offered the right to meet the highest bid. If he meets the highest bid, the land will be sold to him, and the other bid will be returned. His refusal to meet the highest bid shall constitute a waiver of such bidding provisions.

Final Details: Once a high bid is accepted, the successful bidder shall submit the remainder of the full bid price within the time period designated by the authorized officer. Failure to submit the required amount within the allotted time will result in cancellation of the sale and the deposit will be forfeited.

All bids will be either returned, accepted, or rejected within 60 days of the sale date.

For a period of 45 days from the date of this notice, interested parties may submit comments to the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination of the Department of the Interior.

Kannon Richards,

Acting State Director.

[FR Doc. 82-16294 Filed 6-16-82; 8:45 am]

BILLING CODE 4310-84-M

[INT DEIS 82-33]

Proposed Livestock Grazing Management Program for Clark County, Las Vegas District, Nevada; Availability of Draft Environmental Impact Statement

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Availability of the Draft Environmental Impact Statement (DEIS).

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the BLM Las Vegas District

has prepared a DEIS on a proposed livestock grazing management program for BLM-administered lands in Clark County.

SUPPLEMENTARY INFORMATION: The Clark County Grazing EIS analyzes the effects of implementing a livestock grazing management program on 3.6 million acres of BLM-administered lands in Clark County in the Las Vegas District in southern Nevada. This program involves evaluation of proposed levels of rangeland management intensity on livestock grazing allotments, potential reclassification of selected allotments for ephemeral-perennial grazing, alternative methods of protecting of crucial resource areas, and range improvements. Four alternatives are considered along with the Proposed Action. They are: No Action, No Livestock Grazing, Livestock Production, and Natural Resource Protection. A discussion of the affected environment is briefly summarized and the environmental consequences occurring from the Proposed Action and each alternative are documented in the EIS.

FOR FURTHER INFORMATION CONTACT: Kemp Conn, District Manager, Attn: EIS Team Leader, Bureau of Land Management, P.O. Box 26569, Las Vegas, NV 89126, (702) 385–6403 or 385–6463.

Copies of the DEIS are available for review at the following BLM offices:

Office of Public Affairs, 18th and C Streets, NW, Washington, D.C. 20240
Nevada State Office, 300 Booth Street, Reno, NV 89520
Battle Mountain District Office, North 2nd and Scott Streets, Battle Mountain, NV 8920
Carson City District Office, 1050 E. William Street, Carson City, NV 89701
Elko District Office, 2002 Idaho Street, Elko, NV 89801
Ely District Office, Star Route 5, Box 1, Ely, NV 89301
Las Vegas District Office, 4765 W. Vegas Drive, Las Vegas, NV 89126
Arizona Strip District Office, 8916 East Tabernacle, St. George, UT 84770
Cedar City District Office, 1579 North Main, Cedar City, UT 84720
Riverside District Office, 1695 Spruce Street, Riverside, CA 92507

Also, Copies are available for review at the following public libraries:

Boulder City Library, 539 California Ave., Boulder City, NV 89005
Bunkerville Library, Bunkerville, NV 89007
Charleston Heights Library 800 Brush St., Las Vegas, NV 89107
Clark County Community College, Learning Resource Center, 3200 E. Cheyenne Ave., North Las Vegas, NV 89030
Clark County Library, 1401 E. Flamingo Rd., Las Vegas, NV 89109
Las Vegas Public Library, 1702 E. Charleston Blvd., Las Vegas, NV 89104
Moapa Valley Library, Overton, NV 89040
North Las Vegas Library, 2300 Civic Center Dr., North Las Vegas, NV 89030
Searchlight Library, Searchlight, NV 89046
James Dickinson Library, Documents Division, University of Nevada, 4505 Maryland Parkway, Las Vega, NV 89154
Getchell Library, Government Publications Department, University of Nevada, Reno, NV 89507
Virgin Valley Library, Mesquite, NV 89024
Nevada State Library, Library Building, Carson City, NV 89710

A copy of the Draft EIS will be sent to all individuals, agencies, and groups who have expressed an interest in the Clark County planning process, and a limited number of copies are available upon request to the District Manager.

DATES: Written comments concerning issues pertinent to the Clark County Grazing EIS will be accepted for 60 days following the publication of this notice of availability (July 19, 1982). A public hearing on the DEIS had been scheduled for Thursday, July 15, 1982, at 7:00 p.m. in the Natchez Room of the Showboat Hotel, 2800 E. Fremont, in Las Vegas, Nevada. Interested individuals, representatives of organizations, and public officials wishing to testify are requested to contact the District Manager for advance registration at the above address or phone number, by 4:15 p.m., July 14, 1982. Oral testimony will be limited to 10 minutes.

Dated: June 9, 1982.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 82-16286 Filed 6-16-82; 8:45 am]

BILLING CODE 4310-84-M

Battle Mountain District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Grazing Advisory Board Meeting.

SUMMARY: In accordance with Pub. L. 94–579 that a meeting of the Battle Mountain District Grazing Advisory Board will be held.

DATE: July 23, 1982, begin at 9:00 a.m. in the Battle Mountain District Office conference room at North 2nd and Scott Streets, Battle Mountain, Nevada.

FOR FURTHER INFORMATION CONTACT: H. James Fox, District Manager, P.O. Box 194, Battle Mountain, Nevada 89820 or phone 702–635–5181.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include: (1) The expenditure of range betterment funds for 1982–84 range improvement projects, (2) discussion of the Tonopah Experimental Stewardship Program and Allotment Management Plans, (3) changes in BLM grazing regulations and policies, (4) recommendations from the grazing board concerning BLM's rangeland management program.

The meeting is open to the public. Interested persons may make oral statements to the board between 3:30 and 4:30 p.m. on July 23, 1982 or file written statements for the Board's consideration. If you wish to make oral comments please contact H. James Fox by July 16, 1982. Minutes of the board meeting will be maintained in the district office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: June 9, 1982.

H. James Fox,

District Manager, Battle Mountain, Nevada.

[FR Doc. 82-16288 Filed 6-16-82; 8:45 am]

BILLING CODE 4310-84-M

Moab District Grazing Advisory Board; Meeting

June 10, 1982.

AGENCY: Bureau of Land Management, Interior.

ACTION: Moab District Grazing Advisory Board Meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Moab District Grazing Advisory Board will be held July 29, and 30, 1982. The meeting will be consist of a Field trip to the Buckhorn Allotment in the San Rafael Resource Area and a meeting in Price River—San Rafael Resource Area Office which is located at 900 N. 700 E., Price, Utah.

The Field trip will leave the Resource Area office at 10:00 A.M., July 29, 1982. Participants should bring their own lunch. The purpose of the tours is to observe grazing allotment conditions, review the grazing system and evaluate Management and Range Improvement Recommendations. The tour will end at 5:00 P.M.

The Formal Advisory Board Meeting will be held at 9:30 A.M., July 30, 1982 in the Price River—San Rafael Resource Area (BLM) Office in Price, Utah.

The agenda is as follows:

—Review the Price River Draft Grazing Environmental Impact Statement
—Review District Monitoring Progress
—Review Progress District's Range Improvement Maintenance Policy
—Review proposed Range Improvements needing maintenance during FY 1983
—Review proposed Range Improvements to be constructed during FY 1983
—Presentation on the principals of the Savory Grazing System
—Report on the Utah Cattlemans Convention
—Make arrangements for the next meeting

The meeting is open to the public. Interested persons may make oral statements to the board between 2:00 P.M. and 3:00 P.M. on July 30, 1982 or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, Box 970, Moab, Utah 84532 by July 26, 1982. Persons desiring to make the field trip must provide their own transportation.

Summary minutes of the board meeting will be maintained in the District Office and will be available within 30 days following the meeting.

Kenneth V. Rhea,

Associate District Manager.

[FR Doc. 82-16394 Filed 6-16-82; 8:45 am]

BILLING CODE 4310-84-M

[N-7653]

Nevada; Termination of Proposed Withdrawal

June 10, 1982.

Notice of an application (N-7653) filed by the Department of Agriculture, U.S. Forest Service, for withdrawal and reservation of public lands was published as **Federal Register** Document 73-14783 on pages 19256 and 19257 of the July 19, 1973 issue. The U.S. Forest Service has cancelled its application. The following described 80 acres in Clark County, Nevada is affected:

Mount Diablo Meridian, Nevada

T. 19 S., R. 57 E.,
Sec. 27, NE¼SW¼, NW¼SE¼.

The land will be relieved of the segregative effect of the above-mentioned application at 7:30 a.m. on July 15, 1982.

Wm. J. Malencik,

Acting Chief, Division of Operations.

[FR Doc. 82-16396 Filed 6-16-82; 8:45 am]

BILLING CODE 4310-84-M

[W-80234]

Wyoming; Invitation for Coal Exploration License, Northwestern Resources Co.

June 4, 1982.

Northwestern Resources Co. hereby invites all interested parties to participate on a pro rata cost sharing basis in its coal exploration program concerning Federally owned coal underlying the following described land in Hot Springs County, Wyoming:

Sixth Principal Meridian, Wyoming

T. 44 N., R. 95 W.,
Sec. 7, NE¼NE¼, SE¼NE¼;
Sec. 8, SW¼NW¼.
T. 45 N., R. 98 W.,
Sec. 6, lot 7, NE¼SE¼, SW¼SE¼.
T. 45 N., R. 98 W.,
Sec. 1, lot 1, SW¼SW¼, NE¼SW¼, E½SE¼;
Sec. 11, NE¼NE¼;
Sec. 12, NE¼NE¼, NE¼NW¼.
Containing 559.19 acres.

All of the coal in the above lands consists of unleased Federal coal. The purpose of the exploration program is to determine the quality and quantity of the coal within the boundaries of the above described area.

A detailed description of the proposed drilling program is available for review during normal business hours in the following offices (under Serial Number W-80234): Bureau of Land Management, 2515 Warren Avenue, Cheyenne, Wyoming 82001, and the Bureau of Land Management, 1700 Robertson Avenue, Worland, Wyoming 82401.

This notice of invitation will be published in this newspaper once each week for two consecutive weeks beginning the week of June 21, 1982, and in the **Federal Register**. Any party electing to participate in this exploration program must send written notice to both the Bureau of Land Management and Northwestern Resources Co. no later than thirty days after publication of this invitation in the **Federal Register**. The written notices should be sent to the following addresses: Northwestern Resources Co., c/o Thomas L. Loberg, P.O. Box 1899, Billings, Montana 59103, and the Bureau of Land Management, Wyoming State Office, Attention: Lands and Mining Section, P.O. Box 1828, Cheyenne, Wyoming 82001.

The foregoing notice is published in the **Federal Register** pursuant to Title 43 of the Code of Federal Regulations, § 3410.2-1(d)(1).

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-16397 Filed 6-16-82; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Application; New York Zoological Society

Applicant: New York Zoological Society, Bronx, NY

The applicant requests a permit to import 3 captive-bred Przewalskiis horses (*Equus przewalskii*) from the Askaniya Nova Zoo, USSR.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with its application are available to the public during normal business hours in room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2-9248. Interested persons may comment on this application on or before July 19, 1982, by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: June 14, 1982.

Larry LaRochelle,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82-16405 Filed 6-16-82; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Applications; Ray Aldrich, et al.

The applicants listed below wish to conduct certain activities with endangered species:

Applicant: Ray Aldrich, Rapid City, SD, PRT 2-9262

The applicant requests a permit to take (cull) one male bontebok (*Damaliscus dorcas dorcas*) from the Black Eagle Lodge, South Africa for the purpose of enhancement of survival of the species.

Applicant: USFWS/Athens Field Station, Athens, GA, PRT 2-9263

The applicant requests a permit take (harass) the following endangered bats for scientific research: Indiana bat (*Myotis sodalis*), gray bat (*M. grisescens*), Ozark big-eared bat (*Plecotus townsendii ingens*) and the Virginia big-eared bat (*P.t. virginianus*).

Applicant: San Diego, Zoo, San Diego, CA, PRT 2-6737

The applicant requests an amendment to PRT-6737 to import an additional two male captive-bred pampas deer

(*Ozotoceras bezvarticus*) from the West Berlin Zoo, West Germany.

Humane care and treatment during transport, if applicable, has been indicated by the applicants.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: June 11, 1982.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82-16407 Filed 6-16-82; 8:45 am]

BILLING CODE 4310-55-M

Marine Mammals; Receipt of Application for Permit; Izu-Mito Sea Paradise.

Notice is hereby given that an applicant has applied in due form for a permit to take sea otters as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the regulations governing the taking and importing of Marine Mammals (50 CFR Part 18).

1. Applicant:

a. Name: Izu-Mito Sea Paradise.

b. Address: 3–1 Uchiura-Nagahama, Numazu, Shizuoka-Pref., M. Japan.

2. Type of permit: Public display.

3. Name and number of animals: Northern Sea Otter (*Enhydra lutris*)—6.

4. Type of Activity: Capture.

5. Location of Activity: Prince Edward Sound, Green Island or other area as may be designated by Alaska Department of Fish and Game.

6. Period of Activity: August 1, 1982 to December 31, 1983.

The purpsoe of this application is to capture six sea otters and transport them to Izo-Mito Sea Paradise for the purpose of public display.

Concurrent with the publication of this notice in the Federal Register the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

The application has been assigned file number PRT 2–8941. Written data or views, or requests for copies of the complete application or for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203, on or before July 19, 1982. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this notice are summaries of those of the applicant and do not necessarily reflect the views of the United States Fish and Wildlife Service.

Documents submitted in connection with the above application are available for review during normal business hours in Room 605, 1000 North Glebe Road, Arlington, Virginia.

Dated: June 14, 1982.

Larry LaRochelle,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82-16406 Filed 6-16-82; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

New Mexico; Known Geothermal Resources Area

Pursuant to the authority vested in the Secretary by Sec. 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, Geological Survey Manual 220.2.3, Conservation Division Supplement (Geological Survey Manual 220.2.1. G, and subsequent redelegations under Secretarial Order 3071 to the Director, Minerals Management Service, the following described lands are hereby revoked as the San Ysidro known geothermal resources area, effective May 3, 1982:

(31) New Mexico

San Ysidro Known Geothermal Resources Area, New Mexico Principal Meridian, New Mexico

T. 15 N., R. 1 E.,
- Sec. 8, lots 1, 2, and 3, NE¼NE¼, S½NE¼, S½, and that portion of the Ojo Del Espiritu Santo Grant in the N½ of the section;
- Sec. 10, lots 1 to 4, inclusive, W½E½, and W½;
- Sec. 14.

The described area aggregates 1,315.16 acres, more or less, and constitutes all of the San Ysidro Known Geothermal Resources Area.

Dated: June 8, 1982.

James W. Sutherland,

Minerals Manager, South Central Region.

[FR Doc. 82-16307 Filed 6-16-82; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Chevron U.S.A., Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This Notice announces that Chevron U.S.A. Inc., Unit Operator of the Main Pass Block 40 Federal Unit Agreement No. 14–08–001–3847, submitted on June 4, 1982, a proposed supplemental plan of development/production describing the activities it proposes to conduct on the Main Pass Block 40 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837–4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: June 8, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-16306 Filed 6-16-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Exxon Co., U.S.A.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Exxon Company, U.S.A. has submitted a

Development and Production Plan describing the activities it proposes to conduct on Lease OSC–G 4261, Block 330, Vermilion Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837–4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: June 10, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82–16305 Filed 6–16–82; 8:45 am]

BILLING CODE 4310–31–M

Oil and Gas and Sulphur, Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Shell Offshore Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS 016 and 0367, Blocks 31 and 32, West Delta Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: June 9, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82–16306 Filed 6–16–82; 8:45 am]

BILLING CODE 4310–31–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC–43]

Lease and Interchange of Vehicles by Motor Carriers

Decided: June 8, 1982.

National Freight, Inc. (No. MC–2860 and No. MC–148941) and TLX Inc. (No. MC–149473) (under common control) petition for waiver of Subpart B, §§ 1057.11 (except for paragraph (b)) and 1057.12, and paragraph (d) of § 1057.22 of Subpart C of the Lease and Interchange of Vehicles Regulations (49 CFR Part 1057) with respect to equipment augmented between them.

Findings

1. Petitioners are under common control and jointly administer a common safety program.

2. Petitioners have acceptable fitness records.

3. Greater efficiency and economy would result from the waiver.

It is ordered

1. That petition of National Freight, Inc., and TLX, Inc., for waiver of Subpart B or § 1057.11 (except paragraph (b)) and § 1057.12, and paragraph (d) of § 1057.22 of Subpart C is granted with respect to equipment leased between them, provided petitioners comply with paragraph (c) of § 1057.11 and petitioners or their authorized representatives agree in writing that control and responsibility for operating the equipment shall be that of the lessee from the time the lessee acquires the equipment, and a receipt as required by paragraph (b) of § 1057.11 is furnished to the lessor until possession is returned to lessor or the equipment is interchanged with another authorized carrier, and that a copy of the agreement is carried on the vehicle while in the lessee's possession, and, further provided that petitioners remain under common control.

2. The waiver granted in this decision does not affect the application of the leasing regulations in a lease between an owner-operator and the lessor carrier.

By the Motor Carrier Leasing Board, Board Members J. Warren McFarland, Bernard Gaillard and John H. O'Brien. Board Member J. Warren McFarland not participating.

James H. Bayne,

Acting Secretary.

[FR Doc. 82–16318 Filed 6–16–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decision; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those application involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is niether a major Federal action significantly affecting the quality of the

human environmental nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsmans's Office, (202) 275-7326.

Volume No. OP2-118

Decided: June 9, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 106603 (Sub-4), filed May 17, 1982. Applicant: NEEL TRANSPORTATION CO., INC., R.D. #6, P.O. Box 516, Washington, PA 15301. Representative: Sally A. Davoren, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222, 412-471-3300. Transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S. in and east of MN, IA, MO, AR, and LA, and (2) *metal products*, between points in Washington County, PA, on the one hand, and, on the other, points in OH, KY, WV, VA, and MD.

MC 142723 (Sub-12), filed May 27, 1982. Applicant: BRISTOL CONSOLIDATORS, INC., 108 Riding Trail Lane, Pittsburgh, PA 15215. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219-2383, 412-471-1800. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Calig Steel Drum Co., of McKees Rocks, PA.

MC 145482 (Sub-3), filed May 25, 1982. Applicant: INNER CIRCLE QONEXIONS, INC., 57 County Ave., Secaucus, NJ 07094. Representative: Peter Palluzi (same address as applicant) 201-866-4919. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, between points in the U.S., on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S., and Canada.

MC 148153 (Sub-4), filed May 10, 1982. Applicant: WALBON & COMPANY, INC., 3242 Old Highway 8, Minneapolis, MN 55418. Representative: Stanley C. Olsen, Jr., 5200 Wilson Rd., Suite 307, Edina, MN 55424 612-927-8855. Transporting *meats and meat products*, between points in the U.S., on the one hand, and, on the other, those points in the U.S., in and east of ND, SD, NE, KS, OK, and TX.

MC 151173 (Sub-14), filed May 25, 1982. Applicant: HAR-BET, INC., 7209 Tara Blvd., P.O. Box 855, Jonesboro, GA 30236. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., Suite 520, Atlanta, GA 30326, 404-262-7855. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 161442, filed May 17, 1982. Applicant: GUTIERREZ BROS., INC., 51 N. Trenton, Tulsa, OK 74120. Representative: C. L. Philips, Rm. 248, Clossen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106, 405-528-3884. Transporting *bananas*, between Mobile, AL, Gulfport, MS, and Galveston, TX, on the one hand, and, on the other, Van Buren, AR, Joplin, MO, and points in OK.

Volume No. OP2-120

Decided: June 10, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 2202 (Sub-681), filed May 26, 1982. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 4716, Akron, OH 44309. Representative: William O. Turney, 7101 Wisconsin Ave., Suite 1010, Washington, DC 20014, 301-986-1410. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with California Cartage Company, Inc., of Compton, CA.

MC 107012 (Sub-770), filed May 28, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same address as applicant), 219-429-2224. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Carson, Pirie Scott and Co., Wholesale Floor Covering Division, of Chicago, IL.

MC 107403 (Sub-1350), filed May 24, 1982. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr., (same address as applicant), 215-259-9800. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contact(s) with Shell Oil Company, of Houston, TX.

MC 153622 (Sub-1), filed May 25, 1982. Applicant: McDANIEL HAULING, INC., P.O. Box 908, Centreville, MS 39631. Representative: John A. Crawford, 17th Fl., Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205, 601-948-5711. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, AR, FL, GA, LA, MS, TN, and TX.

MC 160753, filed May 24, 1982. Applicant: ROLAND ACOSTA, d.b.a. ACOSTA FRUIT & VEGETABLE CO., 1903 S. Closner St., Edinburg, TX 78539. Representative: James R. Boyd, 1000 Perry Brooks Bldg., Austin, TX 78701, 512-476-8066. Transporting *food and related products*, between points in TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161972, filed May 12, 1982. Applicant: BLUE RIBBON BUS SERVICE, INC., 1618 Olive St., N.E., Washington, DC 20019. Representative: Sidney Gray, (same address as applicant), 202-396-2388. Transporting *passengers and their baggage*, in the same vehicle with passengers in charter and special operations, between Washington, D.C., on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162153, filed May 24, 1982. Applicant: MJM YOUR TRAVEL AGENT, 1000 West Apache Trail, Apache Junction, AZ 85220.

Representative: Jerry Michaels (same address as applicant), 602–982–8310. As a *broker*, at points in Maricopa and Pinal Counties, AZ, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, between points in AZ, on the one hand, and, on the other, points in the U.S.

MC 162172, filed May 25, 1982. Applicant: NOBLE BROTHERS, INC., P.O. Box 529, Gibson City, IL 60936. Representative: Douglas G. Brown, 913 South Sixth St., Springfield, IL 62703, 217–753–3925. Transporting *soya flour, lecithin, feed and feed ingredients*, and machinery, between points in the U.S. (except AK and HI).

MC 162192, filed May 25, 1982. Applicant: G & R SPADY TRUCKING, LTD., Box 697, Carstairs, Alberta, CD TOM 1NO. Representative: Jack R. Davis, 1100 IBM Bldg., Seattle, WA 98101, (206) 624–7373. Transporting (1) *such commodities* as are dealt in or used by manufacturers and distributors of fiberboard manufacturing equipment, between ports of entry on the International Boundary Line between the U.S. and Canada, on the one hand, and on the other points in the U.S., under continuing contract(s) with Tetratech Fiber Processing Systems Ltd., of Calgary, Alberta, Canada; and (2) *lumber and wood products*, between ports of entry on the International Boundary Line between the U.S. and Canada, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with Water Valley Forest Products Ltd., of Calgary, Alberta, Canada.

Volume NO. OP2–121

Decided: May 27, 1982.

By the Commission, Division 1, Acting as an Appellate Division, Commissioners Sterrett, Gilliam, and Andre.

MC 71902 (Sub-101), filed February 8, 1982. Applicant: UNITED TRANSPORTS, INC., P.O. Box 16547, Oklahoma City, OK 73154. Representative: Robert B. Walker, 915 Pennsylvania Bldg., 425–13th St., NW, Washington, DC 20004, 202–737–1030. Transporting *motor vehicles*, between points in the U.S., under continuing contract(s) with persons as defined in Section 10923 of the Motor Carrier Act of 1980 who are engaged in business as manufacturers, distributors, or dealers of motor vehicles.

Volume No. OP4–204

Decided: June 8, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 59247 (Sub-21), filed May 27, 1982. Applicant: LINDEN MOTOR FREIGHT COMPANY, INC., 1300 Lower Rd., Linden, NJ 07036. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Shell Oil Company, of Houston, TX.

MC 119637 (Sub-28), filed May 27, 1982. Applicant: OZARK MOTOR LINES, INC., 27 W. Illinois, Memphis, TN 38106. Representative: Ralph D. Golden, Suite 2348, 100 N. Main, Memphis, TN 38103, (901) 526–1122. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with U.S. Freight Forwarder Co., Inc., of Memphis, TN.

MC 143427 (Sub-4), filed May 3, 1982. Applicant: WINSTON LIMOUSINE SERVICE, INC., 1650 Sycamore St., Bohemia, NY 11716. Representative: Sidney J. Leskin, 3 E. 54th St., New York, NY 10022, (212) 750–3700. Transporting *passengers and their baggage*, between points in Fairfield County, CT, and Putnam and Westchester Counties, NY, and the Newark International Airport, at Newark, NJ. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to Team Four, Room 2410.

MC 147727 (Sub-6), filed May 27, 1982. Applicant: SCOTT DAVIS TRANSPORT, INC., 611 N. Front St., Yakima, WA 98901. Representative: John G. McLaughlin, 1800 One Main Pl., 101 SW Main St., Portland, OR 97204, (503) 224–5525. Transporting *liquid foods and liquid food products*, between points in OR, WA, CA, ID, UT, CO, and AZ.

MC 152517 (Sub-3), filed June 2, 1982. Applicant: RO-MAR TERMINAL & WAREHOUSE CO., INC., 3858 S. Ashland Ave., Chicago, IL 60609. Representative: Ronald N. Cobert, 1730 M St., NW., Suite 501, Washington, DC 20036, (202) 296–2900. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Gooch Foods, Inc., and Gooch Feed Mill Corp., both of Lincoln, NE, and ADM Milling Company, of Shawnee Mission, KS.

MC 155377 (Sub-2), filed May 27, 1982. Applicant: PGT TRUCKING, INC., P.O. Box 197, Rt. 66, Industry, PA 15052. Representative: Jon F. Hollengreen, 1020 Pennsylvania Bldg., Pennsylvania Ave. and 13th St., NW., Washington, DC 20004, (202) 628–4600. Transporting *fabricated metal products*, between points in PA and OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159747 (Sub-1), filed May 27, 1982. Applicant: MAGIC VALLEY DELIVERY SERVICE, INC., P.O. Box 841, Twin Falls, ID 83301. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343–3071. Transporting *general commodities* (except household goods, classes A and B explosives, and commodities in bulk), between those points in ID south of Idaho County, ID and points in NV and UT.

MC 162297, filed June 1, 1982. Applicant: STEPHEN J. TRIMM, Rt. #1, Winthrop, NY 13697. Representative: Eugene L. Nicandri, 57 E. Orvis St., Massena, NY 13662, (315) 764–0559. Transporting *fertilizer*, between points on the International Boundary line between the U.S. and Canada in New York and points in Clinton, Essex, Franklin, St. Lawrence, Jefferson, Oneida, Oswego, Lewis, Madison, Chenango, Onondaga, Cortland and Broome Counties, NY, under continuing contract(s) with Nutrite, Inc., of Cornwall, Ontario, Canada.

Volume No. OP4–205

Decided: June 7, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 27617 (Sub-178), filed June 3, 1982. Applicant: H. C. GABLER, INC., 1580 Gabler Rd., P.O. Box 229, Chambersburg, PA 17201. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. Transporting *Foodstuffs*, (1) between points in Cumberland County, ME, on the one hand, and, on the other, points in AL, GA, MO, WI, and MN, and (2) between points in Marion County, MO, on the one hand, and, on the other, points in AL, CT, DE, GA, IL, IN, KY, ME, MD, MA, MN, MO, NJ, NH, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI, and DC.

MC 34647 (Sub-3), filed May 20, 1982. Applicant: TAYLOR-EDWARDS WAREHOUSE & TRANSFER COMPANY OF SPOKANE, INC., 600 North Hamilton, Spokane, WA 99202. Representative: Henry C. Winters, 12600 S.E. 38th, Suite 200, Bellevue, WA 98006, (206) 644–2100. Transporting *general*

commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in Spokane County, WA, on the one hand, and, on the other, points in ID, in and north of Idaho County, and points in MT.

MC 79737 (Sub-22), filed June 1, 1982. Applicant: BERTA BROS. TRANSPORTATION, INC., P.O. Box 429, Canon City, CO 81212. Representative: Jack B. Wolfe, 601 E. 18th Ave., #107, Denver, CO 80203, (303) 861-8046. Transporting *ores and minerals*, between points in the U.S., under continuing contract(s) with Dorchester Coal Company of Florence, CO.

MC 116227 (Sub-30), filed June 1, 1982. Applicant: POLMAN TRANSFER, INC., Rt. 3, Box 470, Wadena, MN 55121. Representative: Robert P. Sack, P.O. Box 21-307, Eagan, MN 55121, (612) 452-8770. Transporting *such commodities* as are dealt in or used by agricultural cooperatives, between points in IA, ND, SD, MN, IL, NE, WI and MI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 128837 (Sub-52), filed June 1, 1982. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62626. Representative Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544-5468. Transporting *alcoholic liquors*, between points in the U.S. (except AK and HI).

MC 148187 (Sub-7), filed June 2, 1982. Applicant: VIERON, INC., 1700 Cherry Hill Rd., Baltimore, MD 21230. Representative: Walter T. Evans, 4304 EW Highway, Bethesda, MD 20814, (301) 657-2636. Transporting *petroleum products*, between points in the U.S. (except AK and HI), under continuing contract (s) with Amerada Hess Corporation of Woodbridge, NJ, and H. M. Stauffers & Sons, Inc. of Lancaster, PA.

MC 151787 (Sub-2), filed June 1, 1982. Applicant: IROQUOIS REFRIGERATED TRANSPORT, INC., Route 1, Box No. 28, Clifton, IL 60927. Representative Edward D. McNamara, Jr., 907 S Fourth St., Springfield, IL 62703, (217) 528-8476. Transporting *such commodities* as are dealt in or used by retail grocery chain and food business houses, between points in the U.S. (except AK and HI), under continuing contract(s) with The Kroger Co., of Cincinnati, OH.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-16629 Filed 6-16-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the qualify of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (of, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in fully effect only as long as the applicant maintains appropriate compliance. The unoppose applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the ombudsman's Office, (202) 275-7326.

Volume No. OP1-80

Decided: June 8, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 162271, filed June 1, 1982. Applicant: CATTELL ENTERPRISES, INC., 303 East Third Street, Mount Vernon, NY 10553. Representative: Joseph M. Shanks (same address as applicant), (914) 668-6177. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 162281, filed June 1, 1982. Applicant: CHARLES C. DERDZINSKE, d.b.a. COBY TRANSPORTATION, P.O. Box 3777, San Clemente, CA 92672. Representative: Charles J. Kimball, 665 Capitol Life Center, 1600 Sherman St., Denver, CO 80203, (303)-839-5856. Transporting *food and other edible and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and other soil conditioners, and agricultural fertilizers*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162301, filed June 1, 1982. Applicant: HENRY THEODORE EURICK, JR., 24141 So. Upper Highland Road, Colton, OR 97017. Representative: Henry Theodore Eurick, Jr. (same address as applicant), (503) 630-6094. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP2-117

Decided: June 9, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 161992, filed May 13, 1982. Applicant: TERRANCE J. SMITH, 503 South "B" St., P.O. Box 1045 (Mailing), Phoenix, OR 97535. Representative: Terrance J. Smith (same address as applicant), 503–535–6063. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162043, filed May 17, 1982. Applicant: CONSOLIDATED RAIL AND TRUCK BROKERS, INC., 3000 East Grauwyler Rd., Irving, TX 75061. Representative: Sam Hallman, 4555 First National Bank Bldg., Dallas, TX 75202, 214–741–6263. As a *broker of general commodities* (except household goods), between points in the U.S. (including AK, but excluding HI).

Volume No. OP2-118

Decided: June 10, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 143553 (Sub-13), filed May 17, 1982. Applicant: CONTINENTAL TRANSPORT SYSTEMS, INC., 35 Main St., Versailles, CT 06383. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, 212–239–4610. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP4-206

Decided: June 8, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 34647 (Sub-4), filed June 2, 1982. Applicant: TAYLOR-EDWARDS WAREHOUSE AND TRANSFER COMPANY OF SPOKANE, INC., 800 N Hamilton, Spokane, WA 99202. Representative: Henry C. Winters, 12600 SE 38th, Suite 200, Bellevue, WA 98006, (206) 644–2100. As *a broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 159027 (Sub-2), filed June 1, 1982. Applicant: EXPRESSWAY, INC., P.O. Box 697, Greer, SC 29652. Representative: Mitchell King, Jr., P.O. Box 5711, Greenville, SC 29606, (803) 288–6000. Transporting, (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), and (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 162087, filed May 20, 1982. Applicant: ROBERT G. CHAPMAN, d.b.a. POWER PAK'S TRUCKING, 9755 130th Ave., NE, Kirkland, WA 98033. Representative: Robert G. Chapman, (same address as applicant), (206) 827–1871. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 162267, filed June 1, 1982. Applicant: NEILSEN ENTERPRISES, Brandon, IA 52210. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114 (402) 397–9800. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

James H. Bayne,

Acting Secretary.

[FR Doc. 82-16326 Filed 6-16-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP4-207]

Motor Carriers; Republications of Grants of Operating Rights; Authority Prior to Certification; Permanent Authority Decision-Notice

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this Federal Register notice. Such pleading shall address specifically the issue(s) indicated as the purpose for republication. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 145906 (Sub-7) (republication), filed November 2, 1981; published in the Federal Register issue of November 16, 1981; and republished this issue. Applicant: GENERAL TRUCKING COMPANY, INC., P.O. Box 269, 1107 Santa Fe Pike, Columbia, TN 38401. Representative: Edward C. Blank II, P.O. Box 1004, 805 South Garden Street, Columbia, TN 38401. In a decision by the Commission, Division 1, Acting as an Appellate Division, decided May 3, 1982, and finds that performance by the applicant as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over *irregular routes*, transporting *lumber and wood products, and building materials*, (1) between points in Alabama, Mississippi, Tennessee, Kentucky, Georgia, and Louisiana; and (2) between points in Tennessee, on the one hand, and, on the other, points in Missouri, North Carolina, South Carolina, Virginia, West Virginia, Arkansas, Illinois, Indiana, Ohio, and Pennsylvania; will serve a useful public purpose, responsive to a public demand or need. Applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements.

Note.—The purpose of this republication is to include part (1) above in the scope of authority actually granted.

MC 159047 (republication), filed March 11, 1982; published in the Federal Register issue of March 20, 1982; and republished this issue. Applicant: D & D CYCLE WORKS, INC., Hwys 16 and 65 East, Albert Lea, MN 56007. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402, Phone: (612) 333–1341. In a decision by the Commission, Review Board Number 3, decided May 20, 1982, and finds that performance by the applicant as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over *irregular routes*, transporting (1) *motorcycles, mopeds, snowmobiles, and machinery*, between Chicago, IL, and Lincoln, NE, on the one hand, and, on the other, points in Dane County, WI, and Steele, Freeborn, and Mower Counties, MN; and (2) *motorcycles*, between points in Milwaukee County, WI, on the one hand, and, on the other, points in Steele County, MN; will serve a useful public purpose, responsive to a public demand or need. Applicant is fit, willing, and able properly to perform such service and to conform to statutory and administrative requirements.

Note.—The purpose of this republication is to include part (2) above in the scope of authority granted.

By the Commission.

James H. Bayne,

Acting Secretary

[FR Doc. 82-16324 Filed 6-16-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub-No. 88)]

Railroads; Illinois Central Gulf Railroad Co.; Abandonment in Jefferson County, AL; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number 3, has issued a certificate authorizing the Illinois Central Gulf Railroad Company to abandon operations over a portion of its Bessemer District, extending from railroad milepost 729.28 at Pratt City, AL to milepost 740.16 at Bessemer, AL, a distance of 10.88 miles, all in Jefferson County, AL, subject to certain conditions. Since no investigation was instituted, the requirement of § 1121.38(b) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-16323 Filed 6-16-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29934]

Conagra, Inc.; Exemption From 49 U.S.C. Subtitle IV

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts ConAgra, Inc., from 49 U.S.C. Subtitle IV.

DATES: Exemption effective on June 17, 1982. Petitions to reopen this proceeding must be filed on or before July 7, 1982.

ADDRESSES: Send pleadings to: (1) Section of Finance, Room 5414, Interstate Commerce Commission, Washington, D.C. 20423; (2) Petitioner's Representative, Peter A. Greene, Esq., 1920 N Street, NW., Suite 700, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, D.C. 20423 (202) 289-4357—D.C. Metropolitan Area (800) 424-5403—Toll free for outside D.C. area

Dated: June 9, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-16310 Filed 6-16-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-No. 152)]

Railroads; Chicago and North Western Transportation Co.; Exemption for Contract Tariff ICC-CNW-C-0165

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon (202) 275-7277.

SUPPLEMENTARY INFORMATION: The Chicago and North Western Transportation Company (CNW) filed a petition on June 2, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC-CNW-C-00165 filed on May 28, 1982, to become effective on one day's notice. The contract involves the movement of blister copper and copper bullion.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. The shipper is in a weak financial posture created by a downturn in the copper market and an exemption is necessary to avert a possible production shutdown. Moreover, any curtailment of shipments from the shipper would adversely affect the petitioner. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Petitioner's contract ICC-CNW-C-0165 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests are filed within 15 days of publication in the **Federal Register**.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Dated: June 11, 1982.

By the Commission, Division 2, Commissioners Gresham, Taylor, and Simmons. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this

matter, Commissioner Taylor did not participate.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-16321 Filed 6-16-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-No. 151)]

Railroads; Seaboard Coast Line Railroad Co.; Exemption for Contract Tariff ICC-SCL-C-0030

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275-7278

SUPPLEMENTARY INFORMATION: The Seaboard Coast Line Railroad Company (SCL) filed a petition on June 1, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC-SCL-C-0030 filed on May 28, 1982, to become effective on one day's notice. The contract involves the storage of pulpboard in railroad cars.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. However, the Commission has granted relief under section 10505 exemption authority in exceptional situations.

The petition shall be granted. Because sales of pulpboard are down, the shipper requires additional storage capacity on an immediate basis. The cars used as storage will not later be used to generate line-haul revenue when the pulpboard is shipped. Granting this petition will resolve shipper's storage problems and provide additional revenue to the carriers. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Petitioner's contract ICC-SCL-C-0030 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 01713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests are filed within 15 days of publication in the **Federal Register.**

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Dated: June 11, 1982.

By the Commission, Division 1, Commissioners Sterrett, Gilliam, and Andre.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-16322 Filed 6-16-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-No. 149)]

Railroads; Southern Pacific Transportation Co.; Exemption for Contract Tariff ICC-SP-C-0088

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Tom Smerdon (202) 275-7277.

SUPPLEMENTARY INFORMATION: The Southern Pacific Transportation Company (SP) filed a petition on May 24, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC-SP-C-0088 filed on May 24, 1982, to become effective on one day's notice. The contract involves the movement of sanitary paper products, holders, and advertising matter. The shipper submitted a letter in support of the petition.

As a preliminary matter, we grant petitioner's request under 49 CFR 1100.99 for an order protecting the information contained in the shipper's separately submitted supporting letter. This letter contains proprietary information which supplements the petition, and it need not, and will not, become part of the record.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. The contract is with an American lumber and paper manufacturer which, due to recent difficulty in marketing its product, has accumulated inventories that exceed its warehouse capacity. Consequently, the shipper may be forced to shut down its mill. Such a shutdown would have a heavy financial impact on the shipper, its employees and the community in which the mill is located. Short notice effectiveness of the contract will enable the shipper to expand its market and thus reduce its inventories. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Petitioner's contract ICC-SP-C-0088 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 1010(a) and is not needed to protect revoking this exemption under 49 U.S.C. 10505(d) if protests are filed within 15 days of publication in the **Federal Register.**

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Dated: June 10, 1982.

By the Commission, Division 1, Commissioners Sterrett, Gilliam, and Andre.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-16320 Filed 6-16-82; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Africa Delegation of Authority No. 140, Rev.]

Africa Bureau Field Posts: Delegation of Authority

Section 1. Purpose

The purpose of this redelegation of authority is to delegate a series of operating authorities to Africa Bureau Mission Directors and other principal officers of Africa Bureau field posts. The authorities delegated hereby are principal authorities vested in the Assistant Administrator for Africa for the administration of the United States foreign assistance programs for Africa. This particular delegation of authority reflects revisions of prior field post authorities based on past experience, changes in A.I.D. policy concerning authorities redelegated to field posts and the staffs available to the various field posts for the effective exercise of authorities.

Section 2. Issuance Authority

This delegation is issued pursuant to A.I.D. Delegation of Authority Numbers 5, 38, 96, 99, 100 and 133 and A.I.D. Handbooks, Manual Orders, airgrams and other directives and memoranda.

Section 3. Definitions

A. "Project", for purposes of this delegation, includes project and non-project assistance.

B. "Project Assistance Completion Date" (PACD) is the estimated date by which all AID-financed goods are to have been delivered or all services performed under the Project Agreement. In nonproject assistance, the equivalent date is the terminal date for requests for disbursement authorizations.

C. "Life of Project" is the planning length of the project as determined in project preparation. The life of project runs from the estimated date of signature of the Project Agreement or other obligating document to the PACD.

D. "Act" means the Foreign Assistance Act of 1961, as amended.

Section 4. Project Authorization Authority

A. The following authorities are hereby delegated to the Directors of the field posts set forth in Schedule A for their respective countries of areas of responsibility:

(1) The authority to authorize a project, if the project.

a. Does not exceed $20 million over the approved life project (except as provided in subparagraph (2) below):

b. Does not present significant policy issues;

c. Does not require issuance of waivers that may only be approved by the Assistant Administrator for Africa or the Administrator, or if such waivers are approved prior to authorization; and

d. Does not have a life of project in excess of ten years.

(2) The authority to amend project authorizations executed by any A.I.D. official, except that:

a. An amendments may not exceed a cumulative amount equal to 10 percent of the original life of project funding of $2 million, whichever is less;

b. Amendments increasing life of project funding up to a cumulative amount equal to 50 percent (not to exceed $10 million) may be authorized subject to the prior concurrence of the Assistant Administrator;

c. If an amendment presents significant policy issues or deviates from the original project purpose, such amendment will be referred to the Assistant Administrator for approval; and

d. An amendment may not include waivers that may be approved only by the Assistant Administrator or the Administrator, unless such waivers are approved prior to authorization of the amendment.

(3) The authority to approve extensions of the life of a project, provided that the extension does not result in a total life of project (from point of initial obligation to revised PACD) of more than ten years.

B. The following authorities are hereby delegated to the principal officers of the field posts set forth in Schedules B and C for their respective countries or areas of responsibility. The exercise of these authorities is subject to the concurrence of the appropriate REDSO Director:

(1) The authority to authorize a project, if the project:

a. Does not exceed $10 million over the approved life of project (except as provided in subparagraph (2) below);

b. Does not present significant policy issues;

c. Does not require issuance of waivers that may only be approved by the Assistant Administrator or Administrator, or if such waivers are required, such waivers are approved prior to authorization; and

d. Does not have a life of project in excess of ten years.

(2) The authority to amend project authorizations executed by any A.I.D. official, except that:

a. An amendment or amentments may not exceed a cumulative amount equal to 10 percent of the original life of project funding or $1 million, whichever is less;

b. Amendments increasing life of project funding up to a cumulative amount equal to 50 percent (not to exceed $5 million) may be authorized subject to the prior concurrence of the Assistant Administrator;

c. If an amendment presents significant policy issues of deviates from the original project purpose, such amendment will be referred to the Assistant Administrator for approval; and

d. An amendment may not include waivers that may be approved only by the Assistant Administrator or Administrator unless such waivers are approved prior to authorization of the amendment.

(3) The authority to approve extensions of the life of a project: *Provided,* That the extension does not result in a total life of project (from point of initial obligation to revised PACD) of more than ten years.

Section 5. Project Implementation Authorities

The following authorities are hereby delegated to the principal officers of all Africa Bureau field posts for their respective countries or areas of responsibility, except that the concurrence of the appropriate REDSO Director is required with respect to the exercise of the authorities by the principal officers of the posts listed in Schedule B:

A. *Negotiation and Execution.* Authority to negotiate and execute loan and grant agreements, and amendments or modifications thereto, with respect to loans and grants authorized under the Act in accordance with the terms of the authorization of such loan or grant. Grant agreements purposes of this section shall mean agreements with foreign governments, foreign government agencies, and international organizations having a membership consisting primarily of such foreign governments.

B. *Implementation.* Authority to implement loan and grant agreements with respect to loans and grants authorized under the Act and loans authorized by the Board of Directors of the Corporate Development Loan Fund, including the following:

(1) Authority to prepare, negotiate, sign and deliver letters of implementation;

(2) Authority to review and approve documents and other evidence

submitted by borrowers or grantees in satisfaction of conditions precedent to financing under such loan or grant agreements;

(3) Authority to negotiate, execute and implement all agreements and other documents ancillary to such loan or grant agreements;

(4) Authority to sign or approve Project Implementation Orders; and

(5) Authority to approve contractors, review and approve the terms of country contracts, amendments and modifications thereto, and requests for proposals and invitations for bids with respect to such contracts financed by funds made available under such loan and grant agreements.

C. *Extension of Terminal Dates.* Authority to extend the following terminal dates, in accordance with AIDTO Circular A–24 dated December 16, 1977, amendments thereto or successor regulations, provided that this authority shall be exercised in writing, including a justification therefor and an analysis of the steps that might be taken to accelerate implementation, and a copy shall be forwarded to the Director, AFR/DR:

(1) The terminal date for signing a Project Agreement for a cumulative period not to exceed six months;

(2) The terminal date for meeting initial conditions precedent for a cumulative period not to exceed six months.

D. *Procurement Waivers.* Authority to waive and grant special exceptions, in accordance with Supplement B of Handbook 1, of source, origin or nationality requirements to permit the procurement of goods and services (exclusive of transportation services) in countries included in A.I.D. Geographic Codes 941, 899 or 935 subject to the following:

(1) All such waivers shall be in writing, including the justification therefor and the certification required herein, signed by the Director and a copy of each waiver shall be forwarded to the Director, AFR/DR and to M/SER;

(2) Each waiver to Code 935 or 899 for goods shall contain a certification signed by the Director that "exclusion of procurement from free world countries other than the cooperating country and countries included in Code 941 would seriously impede attainment of U.S. foreign policy objectives and objectives of the foreign assistance program" and additionally with respect to motor vehicles, a finding that "special circumstances exist to waive the requirements of Section 636(i) of the Act";

(3) Each waiver of the nationality requirement for suppliers of services to Code 899 or 935 shall contain a certification signed by the Director that "the interests of the U.S. are best served by permitting the procurement of services from free world countries other than the cooperating country and countries included in Code 941";

(4) Each waiver shall be made after consultation with a Regional Legal Advisor of GC/AFR, as appropriate, and waivers for goods shall be made after consultation with a Commodity Management Adviser or M/SER/COM, as appropriate, and for services, the Regional Contracting Officer or M/SER/CM, as appropriate;

(5) The amount of such waivers for goods and services shall not exceed $1 million per transaction except for motor vehicles which shall not exceed $50,000 per transaction;

(6) Waivers or exceptions made under this redelegation shall be based upon the appropriate criteria set forth in Handbook 1 (Supplement B), as may be amended from time to time, except that this redelegation shall not apply to any waiver based upon the criteria "impelling political considerations" or "such other circumstances as are determined to be critical to the success of project objectives". Waivers based upon these specific criteria shall be referred to the Assistant Administrator for Africa for approval upon the recommendation of the Director.

E. *Host Country Assurances.* The authority to receive and determine the adequacy of assurances with respect to projects as required under Section 110(a) of the Act.

F. *Competitive Procurement Waiver.* The authority to waive, in accordance with the terms and provisions of Handbook 1, Supplement B, Chapter 12C4a, competition in the procurement of goods and services and to authorize a single-source negotiated contract except that the estimated procurement authorized pursuant to this authority may not exceed $100,000 for services or $25,000 (exclusive of transportation costs) for commodities.

G. *CBD Publication Waiver.* The authority to waive the requirement of publication of procurement notices in the *Commerce Business Daily* or an A.I.D. publication, pursuant to the terms and provisions of Handbook 1, Supplement B, Chapter 12C4b, except that such waiver authority is limited to contracts which are less than $500,000 in estimated value.

H. *Other.* The authority delegated to Mission Directors or principal heads of field posts in A.I.D. Handbooks, Manual Orders, regulations (published or otherwise), policy directives, policy determinations, memoranda, and other instructions as they may be amended, supplemented or superseded from time to time.

Section 6. Miscellaneous

A. *Limitations and Guidance.* The authorities redelegated herein shall be exercised in accordance with A.I.D. Handbooks, policies, regulations (published or otherwise) and procedures as they may be amended, supplemented or superseded from time to time.

B. *Technical Review.* Prior to the exercise of the authorities delegated herein, appropriate technical review, including legal, shall be undertaken.

C. *Concurrence Responsibility Procedures.* REDSO concurrence responsibilities will be exercised in accordance with written procedures, jointly established by the appropriate REDSO and each field post.

D. *Subsequent Redelegation.* The authorities delegated to the Directors of field posts listed in Schedules A and C may be exercised by persons performing the functions of the Director on an "Acting" basis and may be redelegated by the Director to the Principal Deputy of the Director. The authorities delegated to principal officers of field posts listed in Schedule B may be exercised by persons performing the functions of the Principal A.I.D. Officer on an "acting" basis but may not be redelegated.

E. *Concurrent Authority and Instructions.* I retain for myself concurrent authority to exercise any of the functions herein delegated, and such authorities shall be exercised subject to instructions otherwise by me or my designee.

F. *Redelegations of Authority Affected.* The Africa Bureau Delegations of Authority, Numbers 140 and 141, dated October 18, 1978 and February 2, 1979 respectively and both as subsequently amended, are hereby rescinded.

G. *Effective date and Ratification.* This Redelegation of Authority is effective immediately and includes ratification of all acts taken prior hereto which are consistent with the terms and scope of this Redelegation of Authority.

Dated: June 9, 1982.

F. S. Ruddy,

Assistant Administrator for Africa.

Africa Bureau Delegation of Authority No. 140

Schedule A

Botswana	Kenya
Cameroon (Including Equatorial Guinea and Central African Republic)	Liberia
	Mali
	Mauritania
	Niger

Senegal	REDSO/EA (Including Comoros, Madagascar, Mauritius and Seychelles)
Somalia	
Sudan	
Tanzania	
Upper Volta	REDSO/WA (Including Sao Tome E Principe)
Zaire (Including Congo (B))	

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Schedule B

Burundi	Malawi
Djibouti	Rwanda
Gambi	Sierra Leone
Guinea	Togo
Guinea-Bissau/Cape Verde	Uganda
	Zambia

Africa Bureau Delegation of Authority No. 140'

Schedule C

Ghana	Swaziland
Lesotho	Zimbabwe

[FR Doc. 82-16306 Filed 6-16-82; 8:45 am]

BILLING CODE 6116-01-M

Privacy Act of 1974; System of Records Amendment

AGENCY: Agency for International Development, IDCA.

ACTION: System of Records Amendment.

SUMMARY: The Agency for International Development is amending its System of Records AID–22, "Congressional Relations, Inquiries, and Travel Records", to make the system hybrid and update all other categories associated with this change.

DATE: This amendment becomes effective June 17, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Rhea Johnson, Area Code (202) 632–9614.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 552a(e)(11), Pub. L. 93–579 the Agency is amending its System of Records AID–22, "Congressional Relations, Inquiries, and Travel Records" to change it from manual to hybrid. The full text of the System appeared at 42 FR 47384 and FR 47385 of September 20, 1977. Changes associated with the amendment are, Storage, Retrievability, Safeguards, Retention and disposal and Notification procedure.

Because no substantive changes have been made that would significantly affect the public at large, we are asking that the sixty day notification period be waived. However, comments are invited and may be sent to James Harper, Public Information Specialist, Agency for International Development, Washington, D.C. 20523.

For easy reference, we are publishing the full text of the revised system below.

Rhea Johnson,

Acting Chief, Public Inquiries Staff, Office of Public Affairs.

A.I.D.–22

SYSTEM NAME:

Congressional Relations, Inquiries, and Travel Records.

SYSTEM LOCATION:

a. Principal files are maintained in the Office of Legislative Affairs, A.I.D., 320 21st Street, NW., Washington, D.C. 20523

b. Records of Congressional inquiries concerning employees of and applicants for employment with the Office of the General Counsel are maintained in the Office of the General Counsel, A.I.D., 320 21st Street, N.W., Washington, D.C. 20523.

c. Related files are maintained in certain areas of the field offices listed at Appendix A.

d. Retired files are maintained in the Washington National Records Center, 4205 Suitland Road, Suitland, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of Congress, members of their personal staffs and of Congressional Committee staffs; employees of A.I.D. or applicants for employment who are or have been the subject of Congressional inquiries and recommendations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Congressional correspondence and memoranda of Congressional telephone calls covering (1) requests for information and assistance on matters related to foreign assistance; (2) requests for assistance from the Agency in arranging official travel overseas by Members of Congress, their staffs or committee staffs to inspect and observe foreign assistance programs abroad, and (3) inquiries about A.I.D. employees and recommendations concerning employees or applicants for employment. Also includes information about individual members of Congress derived from public media sources, including biographic records, and extracts from the Congressional Record.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Foreign Assistance Act of 1961 as amended, especially section 634(b); 5 U.S.C. 301; 44 U.S.C., Chapters 31 and 33.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To law enforcement agencies, U.S. Government agencies, courts, the Department of State, foreign governments and international agencies, Members of Congress, and individuals' medical advisers for the purposes set forth in the Statement of General Routine Uses immediately preceding these specific notices of systems of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper copy in file folders. Automated records on magnetic discs and permanently on line at the computer center.

RETRIEVABILITY:

By name of Congressman. Access will be limited to individuals with a need to know and have the proper password.

SAFEGUARDS:

Except for material completely in the public domain, located in a secure space or secured premises with access limited to those whose official duties require the information. The Resources Allocation Control Facility, in use on our computer system, lessens the potential for unauthorized use.

RETENTION AND DISPOSAL:

Except for correspondence involving matters of policy, records are destroyed by burning after no more than 15 years; files related to individual Congressmen are retired at the end of each session of Congress. Records involving policy matters are retained permanently in archival files. The computerized records are deleted from the system when no longer needed for daily operations.

SYSTEM MANAGER(S) AND ADDRESS:

a. For records maintained at Location (a): Director for Legislative Affairs, A.I.D., 320 21st Street, NW., Washington, D.C. 20523.

b. For records maintained at Location (b): Office of the General Counsel, A.I.D., 320 21st Street, NW., Washington, D.C. 20523.

c. For records maintained at Location (c): Executive Office of the appropriate A.I.D. office listed at Appendix A.

NOTIFICATION PROCEDURE:

Requests by individuals concerning the existence of a record may be addressed to: Director, Office of Public Affairs, Attn.: Privacy Liaison Officer, Agency for International Development,

320 21st Street NW., Washington, D.C. 20523, or presented in person at 320 21st Street, NW., Washington, D.C. 20523.

For offices abroad, to the Privacy Liaison Officer at the applicable address in Appendix A.

Information Required: Individual's name. For records of Congressional correspondence, include name of Congressman and appropriate session of Congress. The determination as to the existence of a record will be facilitated by the provision of the individual's Social Security Account Number and dates and places of service.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed or presented in person to the same addresses as stated in the Notification Section above.

Requests should be accompanied by information sufficient to identify the individual pursuant to Sec. 215.4 (c) or (d) of the Agency's Regulations as published in this issue of the Federal Register.

CONTESTING RECORD PROCEDURES:

Written requests from individuals to amend their record should be mailed or presented in persons the same addresses as stated in the Notification Section above.

Requests for review of a refusal to amend a record should be made in writing and mailed or delivered to: Administrator, Agency for International Development, 320 21st Street, NW., Washington, D.C. 20523.

Attention: Executive Secretary—Privacy Review Request. Both the envelope and the letter should be clearly marked Attention: Executive Secretary, Privacy Review Request.

RECORD SOURCE CATEGORIES:

Members of Congress and their staffs; Congressional Committee Members; A.I.D. employees; Congressional Directory, Congressional Quarterly, and Congressional Record; newspapers, magazines, and other public media.

[FR Doc. 82-16414 Filed 6-16-82; 8:45 am]
BILLING CODE 8116-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-118]

Certain Sneakers With Fabric Upper and Rubber Soles; Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference will be held in this case at 9:00 a.m. on July 19, 1982, in the Waterfront Center, Room 201, 1010 Wisconsin Avenue, NW., Washington, D.C., and the hearing will commence immediately thereafter.

The purpose of the prehearing conference is to review the trial memoranda submitted by the parties, to stipulate exhibits into the record, and to discuss any questions raised by the parties relating to the hearing.

The Secretary shall publish this notice in the Federal Register.

Issued: June 10, 1982.

Janet D. Saxon,
Administrative Law Judge.

[FR Doc. 82-16399 Filed 6-16-82; 8:45 am]
BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Justice—Treasury Advisory Committee on State and Local Law Enforcement Training

The Justice—Treasury Advisory Committee on State and Local Law Enforcement Training will meet from 9:00 a.m. until 4:30 p.m. on Friday, July 9, 1982 in the Tom Steed Building, Room S-9, at the Federal Law Enforcement Training Center, Glynco, Georgia.

The meeting will concern the review of law enforcement training to be provided by the Federal Law Enforcement Training Center and participating federal agencies to state and local enforcement personnel. Also, the Committee will discuss and recommend methods for marketing the selected training courses to state and local law enforcement officials, trainers and personnel. In addition, the Committee will be given a formal presentation of a draft certification process being considered to standardize and certify the training.

The meeting will be open to the public. Approximately 150 seats will be available for the public and the media representation on a first-come first-served basis.

Inquiries or comments may be addressed to the Committee Management Liaison Officer, Justice—Treasury State and Local Law Enforcement Training Program, Office of the Associate Attorney General, U.S. Department of Justice, Room 4119, Washington, DC 20530. (Committee Management Liaison Officer's telephone number is 202/376-0805 or the FLETC Coordinators' telephone Number is 912/267-2226.)

George H. Bohlinger III,
Executive Director, Justice—Treasury Advisory Committee.

[FR Doc. 82-16301 Filed 6-16-82; 8:45 am]
BILLING CODE 4410-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (82-35)]

NASA Advisory Council (NAC), Life Sciences Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Avisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Life Sciences Advisory Committee (LSAC).

DATE AND TIME: July 9, 1982, 8 a.m. to 4:30 p.m.; July 10, 1982, 8 a.m. to 4:30 p.m.

ADDRESS: NASA Headquarters, Room 5026, 400 Maryland Ave. SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Donald L. DeVincenzi, Code EBT-3, National Aeronautics and Space Administration, Washington, DC 20546 (202/755-3732).

SUPPLEMENTARY INFORMATION: The Life Sciences Advisory Committee consults with and advises the Council and NASA on the accomplishments and plans of NASA's Life Sciences Programs.

This meeting will be closed to the public from 8 a.m. to 10 a.m. on July 10 for a discussion of candidates being considered for Committee membership. During this session, the qualifications of proposed new members will be candidly discussed and appraised. Since this session will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that this session should be closed to the public. The remainder of the meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including committee members and other participants).

Type of meeting: Open—except for a closed session as noted in the agenda below.

Agenda

July 9, 1982

8 a.m.—Introductory Remarks (Open session).
8:30 a.m.—Biomedical Research Program (Open session).
1 p.m.—Space Biology Research Program (Open session).
1 p.m.—Space Biology Research Program (Open session).
4 p.m.—Supporting Research and Technology Program Review (Open session).

July 10, 1982

8 a.m.—Proposed New LSAC Members (Closed session).
10 a.m.—LSAC Recommendations (Open session).
10:30 a.m.—Plan for Accelerated Vestibular Research (Open session).
1 p.m.—(Second Dedicated Spacelab Planning (Open session).
2:30 p.m.—Life Sciences' Platform Study Status (Open session).

Robert F. Allnutt,

Acting Associate Administrator for External Relations.

June 11, 1982.

[FR Doc. 82-16285 Filed 6-16-82; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Reports, Recommendations, Responses; Availability

Reports Issued

Highway Accident Report—Collision of North America Van Lines Tractor-Semitrailer and Ford Van, in Construction Zone, Ohio Turnpike, near Cleveland, Ohio, July 22, 1981 (NTSB–HAR–82–1).

Recommendations to

Federal Aviation Administration, Jun. 7, A–82–46 and –47: Issue an Airworthiness Directive about preventing flexing and breakage of landing gear downlock switch electrical wires on Shorts SD3–30 aircraft; require Short Brothers Ltd. to modify the design of the Shorts SD3–30 landing gear downlock switches to prevent flexing and breakage of the electrical wires to the switch and require the retrofit of all SD3–30 aircraft registered in the United States. *Jun. 8, A–82–48 through –50:* Revise Airworthiness Directive 68–04–04 pertaining to the Brantly B2 model helicopter (1) to emphasize that the tail rotor bearing set must be removed from the rotor blade spar's inner diameter and that both exterior and interior surfaces of the blades must be cleaned thoroughly before the dye penetrant inspection is performed; and (2) to require that the inspection area of the blade's exterior surface be left unpainted to facilitate daily visual inspections; require a one-time visual inspection of the tail rotor blades installed on the Brantly B2 model helicopters to verify whether the PN 111–11 or the PN 111–11A blades are installed, and require that this information be recorded in the appropriate maintenance log; require the manufacturer to revise the Brantly B2 Illustrated Parts Catalog to include the PN 111–11A tail rotor blade as an acceptable replacement blade for the PN 111–11 blade.

Nassau County (New York) Executive, Jun. 7, H–82–15: Evaluate the feasibility of traffic divisional islands being used to deter vehicles from going around lowered gates on the Herricks Road approaches to the grade crossing of the main line of the Long Island Railroad, and if the evaluation is favorable, construct an appropriately designed installation.

Santa Fe Pipeline Co., Jun. 8, P–82–17: Support efforts to formulate and implement a "one-call" notification system in Texas.

Jet Oil Co., Jun. 8, P–82–18: Establish a procedure to assure that the location of any pipeline potentially in conflict with a drilling location be determined before initiating any activities which may affect the existing grade.

American Gas Assoc., and Interstate Natural Gas Assoc. of America, Jun. 8, P–82–19: Urge member companies to participate in the current effort to establish a "one-call" notification system in Texas.

American Congress on Surveying and Mapping, and National Society of Professional Engineers, Jun. 8, P–82–20: Advise members of the circumstances of the Sept. 27, 1981, accident in Ackerly, Texas, and urge them to include in the service of staking drilling locations the location of pipelines which may be affected by the drilling location.

Independent Petroleum Assoc., Jun. 8, P–82–21: Advise exploration and production companies of the circumstances of the Sept. 27, 1981, accident in Ackerly, Texas, and urge them to adopt procedures for determining the location of any pipelines which may be in conflict with their drilling activities.

Railroad Commission of Texas, Jun. 8, P–82–22 and –23: Revise its Oil and Gas Division's Rule 37 to require that survey plats also include the location of any hazards within a prescribed distance of a drilling location; support efforts to formulate and implement a "one-call" notification system in Texas.

American Petroleum Institute, Jun. 8, P–82–24 through –27: Advise member exploration and production companies of the circumstances of the Sept. 27, 1981, accident in Ackerly, Texas, and urge them to adopt procedures for determining the location of any pipelines which may be in conflict with their drilling activities; urge member companies to participate in the current effort to establish a "one-call" notification system in Texas; amend the model form drilling contract and ancillary documents to require that the location of any pipeline which potentially may be conflict with the drilling location and access roads be identified; amend Recommended Practices Nos. 52 and 54 to include consideration for the location of pipelines in staking a drilling site.

Recommendation Responses From

Federal Aviation Administration, Jun. 1, A–82–6: Issued Change 28 to FAA Order 8430.17, Air Carrier Operations Bulletins, Chapter 8, Weather Operations and Instrument Systems, paragraph 845, which transmits ACOB No. 7–82–2, Cold Weather Procedures. *Jun. 4, A–81–43:* Issued Airworthiness Directive 81–21–03 on Sept. 25, 1981, requiring a modification to the wing leading edge access doors (to prevent closure without the locking mechanism being engaged) on British Aerospace Corp. (formerly deHavilland) DH–114 Heron Series 1B and all Series 2 airplanes which have been modified in accordance with Modification 154 or 469. *A–80–113:* Results of initial phase of a study initiated in Feb. 1981 are: (1) deicing fluids in use today should not be considered to have anti-icing qualities during precipitation; (2) the only method of assuring that the deicing process has been effective and that the aircraft is clean of adhering ice, snow, or frost formations is by close inspection just before takeoff; a test program to ascertain the effectiveness of deicing fluid strictly as an anti-icing agent does not appear productive at this time because of the many operational variables that could invalidate finite results; to date, the second phase of the study which will include a review of current U.S. air carrier ground deicing and inspection procedures and guidelines; a review of recent studies on the effects of ice and frost formations on aircraft performance, stability and control; and development of additional advisory information has determined that limited testing is needed and planning is in progress to verify analytical and empirical estimates of ice/snow formations under various atmospheric conditions combined with different deicing mixtures and to verify analytical techniques for estimation of fluid film thickness as a function of selected variables. *A–73–66:* Exceptions have been issued to allow additional time for certain operators to achieve full compliance with FAR Sections 25.785 and 121.311 regarding flight attendant seat requirements. *A–79–63:* Issued Technical Standard Order C100, Child Restraint Systems, on May 28, 1982. *Jun. 7, A–62–6:* Issued Air Carrier Operations Bulletin No. 7–82–2, Cold Weather Operations, on Mar. 11, 1982. *A–62–7 and 8:* Asked all regional flight standards division chiefs on Jan. 29, 1982, to have their inspectors review the manuals and guidance on cold weather operations of operators. *A–62–13:* Will add the following to Handbook 7110.65C, paragraph 972b: "Aircraft taxiing behind jet aircraft in freezing conditions may experience aggravated engine and airframe icing. For planning purposes, be alert to pilot advisories that increased taxi intervals may be used." *A–62–14:* Expects to publish information on the hazards associated with aircraft structural and engine icing in the Sept. or Oct. 1982 issue of the Air Traffic Service Bulletin. *A–80–70:* Continues to believe that there are sufficient provisions, both in 14 CFR Part 135 and Order 8430.1B, to ensure adequate operational control; the addition of another regulatory requirement specific to another employee of the certificate holder does not relieve management's responsibility in this area. *A–81–115:* Does not concur in recommendation because (1) the FAA requires certification to the full icing envelope expected in nature as defined in 14 CFR Part 25, Appendix C, and to allow certification with operating limitations in terms of parameters such as liquid water content, droplet size, and outside air temperature, which are not controllable by the pilot and which may change rapidly, would degrade the level of safety established by the present rules and could prove hazardous for an aircraft with only a limited capability to operate safely in icing conditions; (2) accident statistics do not indicate a problem with the present certification philosophy and criteria; and (3) implementation of the recommended action would be expensive with little or no tangible

benefit. *A–81–116:* Will consider Safety Board comments regarding making freezing rain, freezing drizzle, and mixed conditions mandatory rather than elective parts of the normal icing certification. *A–81–117:* Icing R&D effort is projected to continue for several years. *A–81–118:* Has determined that the definition of severe icing, as it now apears in the Airman's Information Manual should be amended to be more compatible with the requirements in 14 CFR Part 91, 14 CFR Part 135, and 14 CFR Part 25. *A–78–136 and –137:* Does not plan to make certain portions of AC 150/5320–12 mandatory because there is no consensus within the aviation community on correlating data from friction measuring devices with aircraft performance; currently revising AC 150/5320–12 based on the recommendations of the National Runway Friction Measurement Program, and on tests which are being and have been run on the Mu Meter and the SAAB friction tester. *A–74–119 through –121 and A–75–125:* Believes that minimizing hydroplaning conditions, rather than promulgating regulations and limitations intended for operations in hydroplaning conditions, is the preferred course of action; at U.S. airports served by air carriers, 274 runways have been grooved and 92 have received porous friction course (PFC) treatment; all remaining air carrier airports subject to weather conditions causing low friction conditions will be treated as rapidly as possible; will consider for operational usage methodology which will credibly relate runway friction measuring and reporting systems to airplane performance.

U.S. Coast Guard, May 26, M–81–65: Concurs; has initiated a program to amend license examinations to emphasize questions about emergencies.

New Orleans-Baton Rouge Steamship Pilots Association, May 31, M–82–14: Has distributed the information to members.

Mississippi State Highway Department, May 28, H–82–10: Will install advance warning signs to alert motorists to the potential hazard from trucks turning into Industrial Park Road from U.S. 45, south of Waynesboro, Mississippi.

Arkansas Highway Safety Program, Jun. 7, H–82–13: Arkansas is not experiencing a problem with log trucks.

National Fire Protection Association, May 28, I–82–6: Recommendation will be considered by the NFPA Committee on the Storage of Flammable Liquids and will be discussed in a meeting of representatives of that committee, the committee responsible for ANSI Standard K–61.1, the Safety Board, and the Association of American Railroads. *Jun. 4, R–81–28:* Is developing a standard (No. 130) for all fire safety aspects of rapid transit, including safety equipment, which will be available to any transit system operator for guidance and to any transportation authority for adoption as a requirement; the NFPA has not been consulted by the Urban Mass Transportation Administration in the development of UMTA guidelines on general safety of transit systems.

American Consulting Engineers Council, May 27, P–82–11: Executive Committee has referred recommendation to the Public Safety Committee; may publish it in the ACEC NEWSLINE which is distributed to engineers nationwide.

Note.—Reports may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, for a fee covering the cost of printing, mailing, handling, and maintenance. For information on reports call 703–487–4650 and to order subscriptions to reports call 703–487–4630. Single copies or recommendation letters (identified by recommendation number) and response letters are free on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

June 17, 1982.

[FR Doc. 82–16287 Filed 6–16–82; 8:45 am]

BILLING CODE 4910–58–M

NORTHERN MARIANA ISLANDS COMMISSION ON FEDERAL LAWS

Meeting

The Northern Mariana Islands Commission on Federal Laws, established pursuant to Section 504 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Pub. L. 94–241, 48 U.S.C. 1681 note), will meet on Wednesday, July 7, 1982, in room 103C of the Marianas High School on Saipan in the Northern Mariana Islands.

The purpose of the Commission is "to survey the laws of the United States and to make recommendations to the United States Congress as to which laws of the United States not applicable to the Northern Mariana Islands should be made applicable and to what extent and in what manner, and which applicable laws should be made inapplicable and to what extent and in what manner."

The intended agenda for this meeting is a review of the Commission's work to date, adoption of a format for the Commission's final report to Congress, and consideration of views of persons in the Northern Mariana Islands with respect to the application of particular federal laws in the Northern Mariana Islands.

The meeting will be open to the public. Attendance by the public will be limited to space available.

For further information about this meeting contact Daniel H. MacMeekin, Executive Director, Northern Mariana Islands Commission on Federal Laws, Washington, D.C. 20240, (202) 343–5617, or Jose S. Dela Cruz, Liaison Attorney, Northern Mariana Islands Commission on Federal Laws, P.O. Box 326 (3rd Floor, Nauru Building) Saipan, CM 96950 (telephone number 6692).

Interested persons may make oral presentations to the Commission or file written statements with respect to particular federal laws. Persons desiring to make oral presentations should make arrangements with Mr. Dela Cruz at least seven days prior to the meeting.

Dated: June 1, 1982.

James A. Joseph,

Chair.

[FR Doc. 82–16300 Filed 6–16–82; 8:45 am]

BILLING CODE 4710–93–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–254 and 50–265]

Commonwealth Edison Co. and Iowa-Illinois Gas and Electric Co.; Issuance of Amendments to Operating Licenses and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 79 to Facility Operating License No. DPR–29, and Amendment No. 73 to Facility Operating License No. DPR–30, issued to Commonwealth Edison Company and Iowa-Illinois Gas and Electric Company, which revised the Technical Specifications for operation of the Quad-Cities Nuclear Power Station, Unit Nos. 1 and 2, located in Rock Island County, Illinois. The amendments are effective as of the date of issuance.

The amendments authorize changes to the Technical Specifications to allow an increase in the spent fuel storage capacity from 2920 to a maximum of 7684 assemblies by use of neutron absorbing spent fuel storage racks.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Notice of Proposed Issuance of Amendments to Facility Operating Licenses was published in the Federal Register on April 30, 1981 (46 FR 47135). Requests for leave to intervene were filed by several citizens groups, and were later withdrawn.

The Commission has prepared an environmental impact appraisal for this action and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action.

For further details with respect to this action, see (1) the application for amendments dated March 26, 1981, as supplemented, (2) Amendment No. 79 to License No. DPR–29, and Amendment No. 73 to License No. DPR–30, (3) the Commission's related Safety Evaluation dated April 9, 1982, and (4) the Commission's Environmental Impact Appraisal dated April 9, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Moline Public Library, 504—17th Street, Moline, Illinois. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 9th day of June 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-16390 Filed 6-16-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-331]

Iowa Electric Light & Power Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 74 to Facility Operating License No. DPR–49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revises the License for operation of the Duane Arnold Energy Center located in Linn County, Iowa. The amendment is effective as of its date of issuance and is to implemented in accordance with the provisions of 10 CFR 73.55(b)(4).

The amendment adds a license condition to include the Commission approved Guard Training and Qualification Plan as a part of the license.

The licensee's filings, which have been handled by the Commission as an application, comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of the amendment.

The licensee's filings dated January 29, 1982, as revised April 1, 1982, are being withheld from public disclosure pursuant to 10 CFR 73.21. The withheld information is subject to disclosure in accordance with the provisions of 10 CFR 9.12.

For further details with respect to this action, see (1) Amendment No. 74 to License No. DPR–49 and (2) the Commission's related letter to the licensee dated June 9, 1982. Items (1) and (2) are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Cedar Rapids Public Library, 426 Third Avenue, SE., Cedar Rapids, Iowa 52401. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 9th day of June 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-16391 Filed 6-16-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-331]

Iowa Electric Light & Power Co., et al.; Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 75 to Facility Operating License No. DPR–49 issued to Iowa Electric Light & Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revises the Technical Specifications for operation of the Duane Arnold Energy Center (DAEC), located in Linn County, Iowa. The amendment is effective as of its date issuance.

The amendment modifies the Technical Specifications to incorporate revisions to the tables of containment isolation valves to reflect modifications made to satisfy the requirements of NUREG–0737 Item II.B.3 "Post Accident Sampling."

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 23, 1982, (2) Amendment No. 75 to License No. DPR–49, and (3) the Commission's letter to Iowa Electric Light & Power Company dated June 9, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Cedar Rapids Public Library, 426 Third Avenue, SE., Cedar Rapids, Iowa 52401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 9th day of June 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-16392 Filed 6-16-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40-8027]

Kerr-McGee Nuclear Corp. Sequoyah Uranium Hexafluoride Facility, Gore, Oklahoma; Negative Declaration on Proposed Amendments for use of Raffinate

The U.S. Nuclear Regulatory Commission (the Commission) is considering amending Source Material License No. SUB–1010 to allow (1) broad use of treated raffinate containing ammonium nitrate produced at the Sequoyah Facility as fertilizer for crops not used directly for human food, and (2) use of forage grown on pasture fertilized with treated raffinate as animal feed.

The Commission's Division of Fuel Cycle and Material Safety has prepared

an environmental impact appraisal for the proposed license amendments. On the basis of this appraisal, the Commission has concluded that the environmental impact created by the proposed amendment actions would not be significant and does not warrant the preparation of an environmental impact statement and, accordingly, it has been determined that a Negative Declaration is appropriate. The environmental impact appraisal is available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Fuel Cycle and Material Safey.

Dated at Silver Spring, Maryland this 11th day of June, 1982.

For the Nuclear Regulatory Commission.

R. G. Page,

Chief, Uranium Fuel Licensing Branch, Division of Fuel Cycle and Material Safety, NMSS.

[FR Doc. 82-16393 Filed 6-16-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-220]

Niagara Mohawk Power Corp. Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 48 to Facility Operating License No. DPR-63 issued to Niagara Mohawk Power Corporation (the licensee) which revised the license for operation of the Nine Mile Point Nuclear Station, Unit No. 1 (the facility), located in Oswego County, New York. The amendment is effective as of the date of issuance and is to be implemented in accordance with the provisions of 10 CFR 73.55(b)(4).

The amendment adds a license condition to include the Commission-approved Guard Training and Qualification Plan as a part of the license.

The licensee's filings, which have been handled by the Commission as an application, comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of the amendment.

The licensee's filings dated August 17, 1979, June 26 and December 26, 1981, are being withheld from public disclosure pursuant to 10 CFR 73.21. The withheld information is subject to disclosure in accordance with the provisions of 10 CFR 9.12.

For further details with respect to this action, see (1) Amendment No. 48 to License No. DPR-63 and (2) the Commission's related letter to the Licensee dated June 9, 1982. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W. Washington, D.C. and at the State University College at Oswego, Penfield Library—Documents, Oswego, New York 13126. A copy of items (1) and (2) may be obtained upon request adressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 9th day of June 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-16394 Filed 6-16-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 74 to Facility Operating License No. NPF-1, issued to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power and Light Company (the licensees), which revised the Technical Specifications for operation of the Trojan Nuclear Plant (the facility) located in Columbia County, Oregon. The amendment is effective as of the date of issuance.

The amendment deletes from the Technical Specifications certain requirements for pump and valve testing which are now covered under the Codes and Standards Rule, 10 CFR 50.55a. This rule requires that certain tests on pumps and valves to verify operational readiness be conducted in accordance with Section XI of the ASME Code, "Rules for Inservice Inspection of Nuclear Power Plant Components".

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a sigfnificant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 28, 1982, (2) Amendment No. 74 to License No. NPF-1 and (3) the Commission's letter dated June 10, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the local public document room located at the Multnomah County Library, Social Science and Science Department, 801 SW., 10th Avenue, Portland, Oregon 97205. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 10th day of June, 1982.

For the Nuclear Regulatory Commission.

Charles M. Trammell, III,

Acting Branch Chief Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-16395 Filed 6-16-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 30-19102 (50-259, -260 and -296)]

Low-Level Radioactive Waste Storage at Tennessee Valley Authority Browns Ferry Nuclear Plant; Environmental Review and Evaluation

The U.S. Nuclear Regulatory Commission (the Commission) has completed its environmental review and evaluation for the issuance of Materials License No. 01-21075-01. Application for storage of low-level radioactive waste at the Browns Ferry Nuclear Plant near

Athens, Alabama was made by the Tennessee Valley Authority as amendments to the Facility Operating License Nos. DPR–33, DPR–52 and DPR–68. Notice of receipt of the application and offering an opportunity for public participation in connection with the action was published in the Federal Register on December 11, 1980 (45 FR 81697). For administrative purposes the application has been reviewed under 10 CFR Part 30.

The Commission's Office of Nuclear Material Safety and Safeguards, Division of Fuel Cycle and Material Safety has issued an environmental appraisal in accordance with 10 CFR Part 51. The document, "Environmental Impact Appraisal of Low-Level Radioactive Waste Storage at Tennessee Valley Authority Browns Ferry Nuclear Plant" concluded that the issuance of the proposed license will not significantly affect the quality of the human environment and that there will be no significant environmental impact from the issuance of the proposed license. The Staff therefore concluded that an environmental impact statement for this proposed license is not warranted.

The Environmental Impact Appraisal, dated June 1982, is available for public inspection and copying at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Local Public Document Room established at the Athens Public Library, South and Forrest Streets, Athens, Alabama 35611, under the Browns Ferry Nuclear Plant Dockets Nos. 50–259, –260 and –296.

Dated at Silver Spring, Maryland this 9th day of June 1982.

For the Nuclear Regulatory Commission.

Leland C. Rouse,

Chief, Advanced Fuel and Spent Fuel Licensing Branch, Division of Fuel Cycle and Material Safety.

[FR Doc. 82–16396 Filed 6–16–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–271]

Vermont Yankee Nuclear Power Corp. Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 71 to Facility Operating License No. DPR–28 issued to Vermont Yankee Nuclear Power Corporation which revises the Technical Specifications for operation of the Vermont Yankee Nuclear Power Station located in Windham County, Vermont. The amendment is effective as of the date of its issuance, and is to be implemented in accordance with the provisions of 10 CFR 73.55(b)(4).

The amendment adds a license condition to include the Commission-approved Guard Training and Qualification Plan as a part of the license.

The licensee's filing, which has been handled by the Commission as an application, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of the amendment.

The licensee's filing dated March 19, 1982 is being withheld from public disclosure pursuant to 10 CFR 73.21. The withheld information is subject to disclosure in accordance with the provisions of 10 CFR 9.12.

For further details with respect to this action, see (1) Amendment No. 71 License No. DPR–28 and (2) the Commission's related letter to the Licensee dated June 9, 1982. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 9th day of June 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No 2, Division of Licensing.

[FR Doc. 82–16397 Filed 6–16–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–305]

Wisconsin Public Service Corp. et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 45 to Facility Operating License No. DPR–43, issued to Wisconsin Public Service Corporation, Wisconsin Power and Light Company, and Madison Gas and Electric Company (the licensees), which revised Technical Specifications for operation of the Kewaunee Nuclear Plant (the facility) located in Kewaunee, Wisconsin. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications in respect to "Adjustment to the Nuclear Flux Trip Set Point," "Pressurizer Heaters," and "Auxiliary Feedwater Pumps."

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10. CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated February 20, 1981 and August 7, 1981. (2) Amendment No. 45 to License No. DPR–43 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Kewaunee Public Library, 314 Milwaukee Street, Kewaunee, Wisconsin 54216. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 2nd day of June 1982.

For the Nuclear Regulatory Commission.

Joseph D. Neighbors,

Acting Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82–16398 Filed 6–16–82; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittees on Electrical Systems and Qualification Programs for Safety-Related Equipment; Meeting

The ACRS Combined Subcommittees on Electrical Systems and Qualification Programs for Safety-Related Equipment will hold a meeting on July 1, 1982 in room 1046, 1717 H Street, NW., Washington, D.C. The Subcommittees will discuss the NRC-sponsored research programs, proposed research funding for FY 84–85, and those parts of the Long Range Research Plan which relate to the areas for which these Subcommittees are responsible.

In accordance with the procedures outlined in the Federal Register on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions which will be closed to protect proprietary information (Sunshine Act Exemption 4). One or more closed sessions may be necessary to discuss such information. To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows: *Thursday, July 1, 1982, 8:30 a.m. until the conclusion of business.*

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Raichard Savio (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EDT.

I have determined, in accordance with subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close sessions of this meeting to public attendance to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: June 11, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-16390 Filed 6-16-82; 8:45 am]

BILLING CODE 7590-01-M

PANAMA CANAL COMMISSION

Agency Form Submitted to the Office of Management and Budget for Clearance

AGENCY: Panama Canal Commission (PCC).

ACTION: Notice of form submitted to OMB for review.

Title of Information Collection

Panama Canal Transit Booking System Questionnaire

Background

In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the PCC hereby gives notice that it has submitted to the Office of Management and Budget an SF–83, "Request for OMB Review," for the information collection identified above.

ADDRESS: Written comments may be sent to Mr. Michael Rhode, Jr., Secretary, Panama Canal Commission, Suite 312, Pennsylvania Building, 425 13th Street NW., Washington, D.C. 20004 or to Anita Ducca, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3228, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the Panama Canal Transit Booking System Questionnaire and supporting statement, contact Mr. Michael Rhode, Jr., Telephone: 202–724–0104.

SUMMARY: This document gives notice that the PCC has submitted to OMB a request for approval of Panama Canal Transit Booking System Questionnaire. The questionnaire will be issued to vessel operators whose vessels use the Panama Canal. The proposed rule concerning the test of that system was submitted to OMB in September 1981, and approved on October 5, 1981, in accordance with Executive Order 12291. The proposed rule was published on December 8, 1981 (43 FR 60013). On December 24, 1981, OMB approved an information collection proposal submitted by the Panama Canal Commission, which included the "Request for Transit Booking or Cancellation" form. The OMB control number assigned was 3207–0001. The interim rule which commenced the test was published on January 21, 1982 (47 FR 2991). The proposed Panama Canal Transit Booking System Questionnaire will be used in the evaluation of the Booking System test. The results will assist the Panama Canal Commission in determining whether to implement the Panama Canal Transit Booking System permanently.

Dated: June 14, 1982.

Michael Rhode, Jr.,

Secretary, Panama Canal Commission.

[FR Doc. 82-16370 Filed 6-16-82; 8:45 am]

BILLING CODE 3640-01-M

PEACE CORPS

Advisory Council; Meeting

AGENCY: Peace Corps.

ACTION: Peace Corps Advisory Council; Meeting.

SUPPLEMENTARY INFORMATION: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), notice is hereby given that an open meeting of the Peace Corps Advisory Council will be held on July 12 from 9:00 a.m. to 5:00 p.m. and on July 13 from 9:00 a.m. to 4:00 p.m. in Room 414 of the Peace Corps, 806 Connecticut Avenue, NW., Washington, D.C.

The purposes of the meeting are to conduct ongoing discussions of Peace Corps programs and meet with Peace Corps staff.

Further information on the meeting may be obtained by calling David Scotton, Executive Assistant to the Director, at (202) 254–7970.

Signed this 10th day of June 1982 in Washington, D.C.

Loret Miller Ruppe,

Director.

[FR Doc. 82-16360 Filed 6-16-82; 8:45 am]

BILLING CODE 5051-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 12485; 812-5186]

Exxon Finance N.V.; Filing of an Application

June 11, 1982.

Notice is hereby given that Exxon Finance N.V. ("Applicant") c/o Donald C. Walkovik, Esq., Sullivan & Cromwell, 125 Broad Street, New York, NY 10004, a Netherlands Antilles corporation which is a wholly-owned subsidiary of Exxon Corporation ("Exxon"), a Delaware corporation, filed an application on May 10, 1982, and an amendment thereto on June 7, 1982, for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant represents that it was incorporated under the laws of the Netherlands Antilles in May, 1968, and that its registered office is located at Washington Mall, Church Street, Hamilton, Bermuda. Applicant further represents that all its outstanding shares of capital stock are owned by Exxon. According to the application Exxon is one of the world's largest business corporations with divisions, subsidiaries and affiliated companies operating in the United States and nearly 100 other countries. Applicant further states that Exxon's principal business is energy, involving exploration for, and production of, crude oil and natural gas; manufacturing of petroleum products; transportation and sale of crude oil, natural gas and petroleum products; exploration for, and mining and sale of, coal; and fabrication of nuclear fuel. For the year ended December 31, 1981, Exxon's consolidated net income was $5,567,000,000. Total consolidated revenues for that period were $115,148,321,000, of which $113,196,747,000 was from sales and other operating revenue and $1,951,574,000 were earnings from equity interests and other revenue.

Applicant states that its sole business will be the provision of funds to Exxon, its affiliates or subsidiaries, and, accordingly, substantially all of its assets will consist of amounts receivable from Exxon, its affiliates or subsidiaries. To this end, Applicant intends to undertake, on behalf of Exxon, the issuance and sale of long-term, intermediate-term or short-term debt securities ("Securities") in the United States and worldwide. Payment of principal of, and premium (if any) and interest on, Securities would be unconditionally guaranteed by Exxon. Applicant would advance to, or deposit with, Exxon, affiliates of Exxon, or subsidiaries of Exxon, substantially all of the proceeds of sales of Securities made by the Applicant. Applicant represents that the terms of the advances or deposits would allow it to make timely payments of principal of, and premium (if any) and interest on, the Securities.

Applicant represents that its offerings of Securities would be limited to offerings of debt securities. Such offerings would either take the form of a public offering of securities registered under the Securities Act of 1933 (the "1933 Act") or a sale of securities by means of transactions exempt from the registration requirements of the 1933 Act.

Applicant represents that it and Exxon would file a registration statement under the 1933 Act with the Commission prior to any public offering of Securities in the United States not exempt from the registration requirements of the 1933 Act and that they would not sell the Securities until the registration statement was declared effective by the Commission and the related Indenture was qualified under the Trust Indenture Act of 1939. Applicant and Exxon would also comply with the prospectus delivery requirements of the 1933 Act in connection with the offering and sale of the Securities.

Applicant further represents that, in the case of an offering of Securities in the United States not requiring registration under the 1933 Act, it and Exxon would undertake to provide to any offeree to whom they offer such Securities in the United States a memorandum at least as comprehensive as memoranda customarily used in offerings of such securities in the United States. In the event of subsequent offerings, the memorandum would be updated at the time thereof, as necessary, to reflect material changes in the financial position of Exxon. The Applicant consents to having any order granting the relief requested under Section 6(c) of the 1940 Act expressly conditioned upon its compliance with the undertakings regarding disclosure memoranda.

Applicant also undertakes that, in connection with any issuance of Securities, it would appoint an agent to accept service of process in any action based on the Securities and instituted in any state or Federal court located in New York City by any holder thereof, and the Applicant would accept jurisdication in any state or Federal court located in the City of New york in any action based on any Securities instituted by any holder. Such appointment and consent would be irrevocable until the amounts due or to become due on such Securities have been paid. No authorized agent for service of process would be a trustee for the holders of Securities or have any responsibilitiess or duties to act for such holders as would a trustee.

The Applicant further represents that prior to any issuance of the Securities, the Securities shall have received one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization and that the Applicant shall have certified to its United States counsel that such rating has been received. No such rating shall be required to be obtained, however, if, in the opinion of United States counsel for the Applicant, an exemption from registration is available with respect to such issue under Section 4(2) of the 1933 Act.

As here pertinent, Section 3(a)(3) of the Act defines "investment company" as an issuer which is engaged, or proposes to engage, in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis. Section 3(a)(3) provides, with three exceptions not partinent to the application, that any security is an "investment security." The definition of "security" in Section 2(a)(36) of the Act includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest, transferable share, investment contract, voting trust certificate, certificate of deposit for a security or, in general, any interest or instrument commonly known as a security. Applicant states that it may be deemed an investment company under Section 3(a)(3) of the Act on the ground that its proposed advances to, or deposits with, Exxon may be deemed "investment securities" and would constitute more than 40% of its total assets. However, having been organized solely for the purpose of financing operations of Exxon, Applicant does not view itself as an investment company. Accordingly, in order to eliminate any doubt that it would be entitled, without registration under the Act, to issue and sell the Securities, Applicant is seeking an

exemption from all provisions of the Act.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the exemption relief requested, Applicant represents that, at the times of issuance and sale of Securities and for so long as any of the Securities are outstanding, Applicant will remain a wholly-owned subsidiary of either Exxon or of one of Exxon's other subsidiaries and Applicant will own or hold no equity securities other than those of Exxon or its other subsidaries. In addition, Applicant asserts that the Securities will be guaranteed unconditionally by Exxon, with the effect that the holders of the Securities will be looking to Exxon as the ultimate obligor. Applicant further represents that the terms of the Exxon guarantees will be such that, in the event of a default with respect to a Security, legal proceedings may be instituted directly against Exxon to enforce the guarantee of that Security without first proceeding against the Applicant. For these reasons, Applicant assets that the purchase of Securities issued and sold by the Applicant will be the equivalent of purchasing obligations of Exxon. Since Exxon is not an investment company within the meaning of the Act and would not be required to register under the Act prior to issuing its debt securities directly, Applicant asserts that that it is appropriate that it should be exempted from all provisions of the Act.

Notice is further given that any interested person may, not later than July 6, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley, E. Hollis,

Assistant Secretary.

[FR Doc. 82-16486 Filed 6-16-82; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. 12486; 812-5036]

Fort Washington Money Market Fund, (Formerly Money Market Obligations Trust); Filing of Application

June 11, 1982.

Notice is hereby given that Fort Washington Money Market Fund ("Applicant") 421 Seventh Avenue, Pittsburgh, Pennsylvania 15219 filed an application on December 4, 1981, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to compute its net asset value per share using the amortized cost method of valuing portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant is organized as a business trust under the laws of the Commonwealth of Massachusetts, and is registered under the Act as an open-end, diversified, management investment company. Empire Research Corp., currently a wholly-owned subsidiary of Federated Investors, Inc., and DBT Investment Advisers, Inc., currently a wholly-owned subsidiary of Detroit Bank Corporation, act as investment advisers to the Applicant.

Applicant is a "money market fund" designed as an investment vehicle for investors with temporary cash balances or cash reserves, offering shares to customers, agency accounts, affiliates, correspondents, officers, directors, and employees of Detroit Bank and Trust Company. Applicant states that it may invest in a variety of money market instruments, including U.S. Government obligations, instruments of banks and savings and loan associations, and other money market instruments maturing in one year or less.

Applicant states that it invests in instruments issued by banks and savings and loan associations only if (a) at the time of the investment they have capital, surplus and undivided profits in excess of $100,000,000 at the date of their most recently published financial statements; or (b) the principal amount of the instrument is insured in full by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation. Commercial paper investments are limited to commercial paper rated A–1 by Standard & Poor's Corporation, Prime 1 by Moody's Investors Service or F–1 by Fitch Investors Service. Applicant states in its prospectus, a copy of which is attached as an exhibit to the application, that it may also purchase U.S. Government obligations on a "when-issued" or "delayed delivery" basis. Applicant has represented that such securities will be carried and treated on Applicant's books in accordance with all the conditions set forth in Investment Company Act Release No. 10666 (April 18, 1979).

Applicant seeks an order of the Commission pursuant to Section 6(c) of the Act exempting it from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant's assets to be valued according to the amortized cost valuation method. As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) With respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the investment company. Prior to the filing of the application, the Commission expressed its view that, among other things, (1) Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that it has been the experience of its board of trustees that in order to attract investors and retain shareholders, Applicant should have a stable net asset value and a steady flow of investment income. Applicant states that its trustees have determined in good faith that in light of the characteristics of the Applicant as described above the amortized cost method of valuing portfolio securities is appropriate and preferable for Applicant and reflects the fair value of such securities.

Applicant has agreed that the following conditions may be imposed in any order of the Commission granting the exemptive relief requested:

1. In supervising the operations of Applicant and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's board of trustees undertakes—as a particular responsibility within its overall duty of care owed to Applicant's shareholders—to establish procedures reasonably designed, taking into account current market conditions and the Applicant's investment objectives, to stabilize the Applicant's net asset value per share, as computed for the purposes of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of trustees shall be the following:

(a) Review by the board of trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and maintainence of records of such review.[1]

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of trustees will promptly consider what action, if any, should be initiated.

(c) Where the board of trustees believes that the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair result, which action may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[1]

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of trustees' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of trustees' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those U.S. dollar-denominated instruments which the board of trustees determines present minimal credit risks, and which are of high quality as determined by any major rating service, or, in the case of any instrument that is not rated, of comparable quality as determined by the board of trustees.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) was taken during the preceding fiscal quarter, and, if any action was taken, will describe the nature and circumstances of such action.

Applicant submits that granting its requested exemptive order is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than July 6, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communications should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such

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[1] To fulfill this condition, Applicant states that it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of trustees in the exercise of its discretion to be appropriate indicators of value, which may include among others, (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[1] In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-16483 Filed 6-16-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 12468; 812-5142]

Money Asset Fund; Filing of Application

June 11, 1982.

Notice is hereby given that Money Asset Fund ("Applicant"), 82 Devonshire Street, Boston, Massachusetts 02109, an open-end, diversified, management investment company registered under the Investment Company Act of 1940 (the "Act") filed an application on March 19, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit its use of the amortized cost method to value its portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it was organized and is presently legally existing as a business trust under the laws of the Commonwealth of Massachusetts and that it is a "series" money market fund offering to individuals, corporations, fiduciaries and institutions a means to invest in a professionally managed portfolio of certain money market instruments with the objective of seeking as high a level of current income as is consistent with the preservation of capital and liquidity within the standards prescribed for each of two portfolios. Applicant submits that its shares will be sold without a sales charge and that Fidelity Management & Research Company will serve as investment adviser to Applicant and will receive a fee at an annual rate of .25% of the average net assets of Applicant. Applicant states further that Fidelity Distributors Corporation will serve as general distributor for shares of Applicant.

Applicant asserts that it consists of two portfolios—a U.S. Government Portfolio and a Money Market Portfolio and that the former will invest exclusively in obligations issued or guaranteed as to principal and interest by the U.S. Government, its agencies or instrumentalities and the latter in obligations of major banks, including U.S. dollar-denominated obligations of foreign branches of U.S. banks and U.S. branches of foreign banks, prime commercial paper and obligations of the U.S. Government, its agencies or instrumentalities. Applicant states that it may also enter into repurchase agreements involving any security in which it is permitted to invest, and may purchase new issues of government securities on a "when-issued" basis. Applicant states that all of its investments will consist of obligations maturing within one year from the date of acquisition and the dollar-weighted average portfolio maturity of all of its investments will be 120 days or less.

Applicant maintains that Citizens & Southern National Bank ("Citizens & Southern" or the "Bank") will serve as administrator for Applicant, performing services as custodian of its assets and as transfer, dividend disbursing and shareholders' servicing agent for Applicant and that the Bank will receive a fee at an annual rate of .25% of Applicant's average net assets for performing these services. Applicant asserts that it is anticipated that its shares will be offered by Fidelity Distributors to prospective investors who have an existing relationship with Citizens & Southern. Applicant submits that such prospective investors are expected to include those with a custody or agency relationship with the Bank, investors for whom the Bank serves as Trustee, and checking account customers of the Bank. Applicant asserts that Citizens & Southern may provide cash management services to such customers by, for example, entering into agreements pursuant to which the Bank would automatically invest excess cash balances of such customers in shares of Applicant or redeem shares to provide cash to such customers when needed. Applicant submits that such services would be undertaken by the Bank on behalf of a customer in accordance with pre-established parameters and pursuant to express instructions contained in an agency or other agreement with the customer and that the Bank may charge a fee for providing this service. Applicant maintains that under its Administrator contract with Citizens & Southern, Applicant may purchase securities from or through the Bank, may engage in repurchase transactions with the Bank and may place funds on deposit in accounts with the Bank subject to receipt of interest at currently available market rates. Applicant states that with respect to any such transaction, no special consideration or preference will be given to the Bank in the investment decision making process.

Section 2(a)(41) of the Act, as here pertinent, defines "value" with respect to portfolio assets to mean: (1) With respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22/–1(a) adopted under Section 22 of the Act provides, in pertinent part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Rule 2a–4 promulgated under the Act provides that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption should be an amount which reflects calculations made substantially in accordance with the provisions of the Rule. The Rule further provides that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company.

In a May 31, 1977, interpretative release (IC No. 9786), the Commission stated that (1) Rule 2a–4 requires that portfolio instruments of "money market" funds be valued with reference to market factors and (2) it would prospectively consider the use by a money market fund of the amortized cost basis for valuing its portfolio securities (except those having

maturities of 60 days or less) to be inconsistent with Rule 2a–4.

Section 6(c) of the Act provides, in part, that the Commission upon application may conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that it has been management's experience that in order to attract and retain investments Applicant must have a stable net asset value (preferably at $1.00 per share) and a constant and steady flow of investment income. Applicant believes that the valuation of its portfolio securities on the amortized cost basis will benefit shareholders by enabling it to maintain a constant $1.00 per share purchase and redemption price, while at the same time providing shareholders with a steady flow of investment income through daily dividends which reflect Applicant's net income as earned. Applicant states that its Trustees have determined in good faith that in light of its characteristics as described above and absent unusual or extraordinary circumstances, the amortized cost method of valuing portfolio securities is appropriate and preferable for Applicant and reflects the fair value of such securities. It is Applicant's experience that given the nature of Applicant's policies and operations, there will be relatively negligible discrepancy between prices obtained by market value methods and amortized cost. It is submitted in the application that Applicant's use of the amortized cost method of valuing its portfolio securities, subject to the conditions enumerated below, will benefit shareholders by enabling Applicant to more effectively maintain the $1.00 per share purchase and redemption price while simultaneously providing the opportunity for a steadier flow of investment income to shareholders. Applicant believes that the granting of the requested exemptions by the Commission is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant expressly consents to the imposition of the following conditions in any order granting the relief it requests:

1. In supervising Applicant's operations and in delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's Board of Trustees undertakes—as a particular responsibility within the overall duty of care owed to shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included with the procedures to be adopted by Applicant's Board of Trustees shall be the following:

(a) Review by the Board of Trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and the maintenance of records of such review. To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its Board of Trustees in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1%, a requirement that the Board of Trustees will promptly consider what action, if any, should be initiated.

(c) Where the Board of Trustees believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redemption of shares in kind; the sale of portfolio instruments prior to maturity to realize capital gains or losses or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share; *Provided*, however, that Applicant will neither (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity that exceeds 120 days. In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its Board of Trustees' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of its Board of Trustees' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which its Board of Trustees determines present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board of Trustees.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement indicating whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter, and, if any such action was taken, Applicant will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than July 6, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission,

Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82–16484 Filed 6–16–82; 8:45 am]
BILLING CODE 8010–01–M

[Rel. No. 12487; 812–5141]

Rodney Square Fund; Filing of Application

June 11, 1982.

Notice is hereby given that Rodney Square Fund ("Applicant") 82 Devonshire Street, Boston, Massachusetts 02109, a Massachusetts business trust registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on March 10, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value its portfolio securities according to the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "series" money market fund that offers to individuals, corporations, fiduciaries, and institutions a means to invest in a professionally-managed portfolio of certain money market instruments with the objective of seeking as high a level of current income as is consistent with the preservation of capital and liquidity. The application states that Applicant has only one series, but may add other series in the future. Applicant states that it presently consists of one portfolio—a Domestic Money Market Portfolio, which will invest in obligations of major U.S. banks, prime commercial paper, and U.S. government and agency obligations. Applicant also states that it may enter into repurchase agreements involving any security in which it is permitted to invest, and it may purchase new issues of government securities on a when-issued basis. Applicant states that all of its investments will consist of obligations that mature within one year from the date of acquisition, and the dollar-weighted average portfolio maturity of such obligations will be 120 days or less.

The application states that Fidelity Management & Research Company will serve as investment adviser to Applicant. Fidelity Distributors Corporation will serve as general distributor for shares of Applicant. The application further states that Wilmington Trust Company (the "Bank") will serve as administrator for Applicant, performing services as custodian of the assets of Applicant and as transfer, dividend disbursing and shareholders' servicing agent for Applicant. The Applicant represents that it is anticipated that its shares will be offered by Fidelity Distributors primarily to prospective investors who have an existing relationship with the Bank, who are expected to include those Bank customers with a custody or agency relationship with the Bank or investors for whom the Bank serves as trustee. The application states that the Bank may provide cash management services to such customers, including automatic investment of customers' excess cash balances in shares of Applicant and redemption of customers' shares. The Applicant states that such services would be undertaken by the Bank on behalf of a customer in accordance with preestablished parameters and pursuant to express instructions contained in an agency or other agreement between the Bank and its customer. The application states that the Bank may charge a fee for such services.

Applicant further states that under its contract with the Bank, Applicant may purchase securities from or through the Bank, may engage in repurchase transactions with the bank, and may place funds on deposit in accounts with the Bank subject to receipt of interest at currently available market rates. Applicant represents that with respect to any such transaction, no special consideration or preference will be given to the Bank in the investment decision-making process.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 states further that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and other securities and assets shall be valued at fair value as determined in good faith by an investment company's board of directors. Prior to the filing of this application, the Commission expressed its view that, among other things: (1) Rule 2a–4 under the Act requires portfolio instruments of "money market" funds which have more than 60 days remaining to maturity be valued with reference to market factors and (2) it would be inconsistent with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments with over sixty-day maturities on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

In support of the relief requested, Applicant states its belief that the valuation of its portfolio securities on the amortized cost basis will benefit shareholders by enabling Applicant to maintain a constant $1.00 per share purchase and redemption price, while at the same time providing shareholders with a steady flow of investment income through daily dividends which relfect Applicant's net income as earned. Applicant further asserts that its Trustees have determined in good faith that in light of the characteristics of Applicant as described above and absent unusual or extraordinary

circumstances, the amortized cost method of valuing portfolio securities is appropriate and preferable for Applicant and reflects the fair value of such securities. The application states that given the nature of Applicant's policies and operations, there will be relatively negligible discrepancy between prices obtained by market value methods and amortized cost.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant expressly consents that the following conditions may be imposed in any order of the Commission granting the exemption it has requested:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's Board of Trustees undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share for each portfolio, as computed for the purposes of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the Board of Trustees shall be the following:

(a) Review by the Board of Trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share of each portfolio as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share for each of the portfolios exceeds ½ of 1%, a requirement that the Board of Trustees will promptly consider what action, if any, should be initiated.

(c) Where the Board of Trustees believes that the extent of any deviation from the Applicant's $1.00 amortized cost price per share for each of the portfolios may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redemption of shares in kind; the sale of portfolio instruments prior to maturity to realize capital gains or losses or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share in each of the portfolios; provided, however, that Applicant will not in any portfolio (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity in excess of 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the proedures (and any modification thereto) described in condition 1 above, and Applicant will include in the minutes of the Board of Trustees' meetings and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board's considerations and actions taken in connection with the discharge of its responsibilities, as set forth above. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. In each of the portfolios, Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which the Board of Trustees determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board of Trustees.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter and, if any action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than July 6, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his or her interest, the reason for such request, and the issues if any, of fact or law proposed to be controverted, or such person may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549.

A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, and order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-16682 Filed 6-16-82; 8:45 am]

BILLING CODE 8010-01-M

[1] Applicant states that to fulfill this condition, it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its Board of Trustees in the exercise of its discretion to be appropriate indicators of value, which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments furnished by reputable sources.

[2] In fulfilling this condition, Applicant agrees that if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days for each of the portfolios, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

SMALL BUSINESS ADMINISTRATION

[License No. 09/09-0184]

Grocers Capital Co., Inc.; Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Grocers Capital Company (Grocers) 2601 S. Eastern Avenue, Los Angeles, California 90040, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application with the Small Business Administration pursuant to § 107.1004 of the Regulations governing small business investment companies (13 CFR 107.1004 (1982)) for approval of a conflict of interest transaction.

Grocers propose to loan $128,800 to Goodwin's Market, 1699 Lake-Drive, Crestline, California 92325. The proceeds of the loan will be used to purchase equipment or inventory from Grocers Equipment Company (G.E.C.) and/or Certified Grocers of California, Ltd. (Certified), Associates of the Licensee.

All of Grocers' stock is owned by subsidiaries of Certified, a retailer owned grocery cooperative. G.E.C., a subsidiary of Certified, is a 41 percent shareholder of Grocers and is defined as an Associate by § 107.3 of the SBA Rules and Regulations.

As a result, Grocers' financing to Goodwin's Market fall within the purview of §§ 107.3 and 107.1004 (b)(5) of the SBA Regulations. Grocers' loan to Goodwin's Market requires prior written approval of SBA.

Notice is hereby given that any person may not later than June 28, 1982, submit written comments to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A similar Notice shall be published in a newspaper of general circulation in the Crestline, California area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: June 11, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-16460 Filed 6-16-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 10/10-0178]

Seattle Trust Capital Corp.; Issuance of License To Operate as a Small Business Investment Company

On March 3, 1982, a notice was published in the Federal Register (47 FR 9131), stating that an application had been filed by Seattle Trust Capital Corporation, 804 Second Avenue, Seattle, Washington 98104, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1981)), for a license to operate as a small business investment company (SBIC).

Interested parties were given until the close of business March 18, 1982, to submit their written comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, and after having considered the application and all other information, SBA issued License No. 10/10-0178, on May 10, 1982, to Seattle Trust Capital Corporation to operate as an SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 11, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-16461 Filed 6-16-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. S-716]

Atlantic Richfield Co.; Application

Notice is hereby given that Atlantic Richfield Company (Arco) filed two applications with the Maritime Administration on April 26, 1982, for permission to repay the unamortized construction-differential subsidy (CDS) applicable to its owned vessels, ARCO INDEPENDENCE and ARCO SPIRIT, with appropriate interest, if any, in return for the permanent removal of the vessels' domestic trading restrictions. The ARCO INDEPENDENCE and ARCO SPIRIT are 262,376 deadweight ton tankers built pursuant by Title V Contract Nos. MA/MSB-261 and MA/MSB-278 and were delivered into service in 1977.

The ARCO INDEPENDENCE and ARCO SPIRIT are restricted to Title V contract Nos. MA/MSB-261 and MA/MSB-278, respectively, to operation in the U.S. foreign trade, except as may be permitted under section 506 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1156). If Arco's applications are approved, the ARCO INDEPENDENCE and ARCO SPIRIT will be allowed to operate permanently in the domestic trade.

The applications may be inspected during normal business hours in the Office of the Secretary, Martime Subsidy Board/Maritime Administration, Room 7300-B, Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590.

Interested parties who operate a vessel(s) in the domestic trade, and who believe that approval of Arco's applications would subject them to a significant adverse competitive effect, may submit their views thereon to the Secretary, Maritime Subsidy Board, in triplicate, on or before July 19, 1982. All timely responses will be considered in MarAd's evaluation of these applications.

(Catalog of Domestic Assistance Program No. 11.500 Construction-Differential Subsidy (CDS))

By Order of the Maritime Subsidy Board/ Maritime Administration.

Dated: June 11, 1982.

Georgia P. Stamas,

Assistant Secretary.

[FR Doc. 82-16327 Filed 6-16-82; 8:45 am]

BILLING CODE 4910-81-M

National Highway Traffic Safety Administration

[Docket No. IP82-11; Notice 1]

Firestone Tire & Rubber Co.; Receipt of Petition for Determination of Inconsequential Noncompliance

The Firestone Tire & Rubber Co. of Akron, Ohio has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for two noncompliances with 49 CFR 571.109, Motor Vehicle Safety Standard No. 109, *New Pneumatic Tires—Passenger Cars.* The basis of the petition is that the noncompliances are inconsequential as they relate to motor vehicle safety.

This notice of receipt of a petition for a determination of inconsequentiality is published in accordance with section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

The noncompliances exist on approximately 9,100 155-13/6.15-13 Firestone Special Spare tires manufactured by Ohtsu Tire & Rubber Co. of Osaka, Japan, and used as spare tires on Plymouth Champ and Dodge Colt passenger cars.

Paragraph S4.3 requires, in part, that the tire size designation and the descriptive word "tubeless" shall be

permanently molded into both sidewalls, and located, on at least one sidewall, "in an area between the maximum section width and bead of the tire." On the tires in question, this information is located one-half inch above the maximum section width. With respect to the second noncompliance, paragraph S4.3.2 requires the sidewall to be labeled with the tire identification number in the manner specified in 49 CFR Part 574, *Tire Identification and Recordkeeping.* Figure 1 of this regulation establishes a maximum spacing of three-quarters of an inch between the symbols designating size and those designating type (fourth and fifth symbol). This maximum was exceeded by three-sixteenths of an inch on the tires in question.

Firestone argues that the first noncompliance is inconsequential because the tires are clearly marked for temporary use and the warning "not for retreading", so that "the concern regarding loss of identification prior to or after retreading would not be applicable." Firestone also believes that the spacing noncompliance "will not cause any likelihood of misreading or misinterpreting the TIN".

Interested persons are invited to submit written data, views and arguments on the petition of Firestone Tire & Rubber Co. described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the **Federal Register** pursuant to the authority indicated below.

The engineer and attorney primarily responsible for this notice are Art Neill and Taylor Vinson, respectively.

Comment closing date: July 19, 1982.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on June 8, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82–16281 Filed 6–16–82; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. IP82–12; Notice 1]

Uniroyal Tire Co.; Receipt of Petition for Determination of Inconsequential Noncompliance

Uniroyal Tire Company of Troy, Michigan, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for a noncompliance with 49 CFR 571.109, Motor Vehicle Safety Standard No. 109, *New Pneumatic Tires—Passenger Cars.* The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition for a determination of inconsequentiality is published in accordance with section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraphs S4.3 (b) and (c) of Standard No. 109 require that the sidewall of each passenger car tire be labeled with the maximum permissible inflation pressure and maximum load rating. Uniroyal has manufactured a maximum of 660 L78–15 Snowplow tires with all information correctly stated on the serial side of the tire. On the opposite side, however, appears "Load Range B MAX LOAD 1970 lbs at MAX INFL 32 psi". The correct information is "Load Range C MAX LOAD 2100 lbs at MAX INFL 36 psi". The tires are Load Range C in construction and Uniroyal believes the error is inconsequential "since the load range C load and inflation values totally embrace the load and inflation range of load range B, no misuse can occur in the field. * * *"

Interested persons are invited to submit written data, views and arguments on the petiton of Uniroyal Tire Company described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the **Federal Register** pursuant to the authority indicated below.

The engineer and attorney primarily responsible for this notice are Art Neill and Taylor Vinson, respectively.

Comment closing date: July 19, 1982.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on June 8, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82–16281 Filed 6–16–82; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 112 (Rev. 8)]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: This Delegation Order authorizes certain key district personnel to issue determination and revocation letters, to allow amendment of employee plans after the expiration of the remedial amendment period and to issue examination reports relating to employee plans.

EFFECTIVE DATE: June 16, 1982.

FOR FURTHER INFORMATION CONTACT: Bob Pennington, OP:E:EP:T:7, 1111 Constitution Avenue NW., Room 6702, Washington, D.C. 20024, (202) 566–3662 (Not toll free).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

Robert E. Withers,

Assistant Director, Employee Plans Division.

Delegation Order

Date of issue: June 16, 1982.

Effective Date: June 16, 1982.

Subject: Authority to Issue Determination and Revocation Letters, to Allow Amendment of Employee Plans After the Expiration of the Remedial Amendment Period and to Issue Examination Reports Relating to Employee Plans

Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150–37, authority with respect to issuance of determination and revocation letters, to allow amendment of plans after the expiration of the remedial amendment period and to issuance of examination reports pertaining to employee plans and related matters is delegated as follows:

1. The District Director of each Employee Plans and Exempt organizations key district is authorized, subject to paragraph 3, to:

(a) Issue determination and revocation letters involving the provisions of sections 401, 403(a), 405, 409A, 501(a) and 4975(e)(7) of the Internal Revenue Code of 1954 with respect to:

(1) Qualification of stock bonus, pension, profit sharing, employee stock ownership, annuity, and bond purchase plans, and cash or deferred arrangements;

(2) Exemption from federal income tax under section 501(a) of trusts forming a part of such plans, provided that the determination does not involve application of section 502 (feeder organizations) or section 511 (unrelated business income), or the question of whether a proposed transaction will be a prohibited transaction under section 4975(c)(1) or section 503 with respect to plans described in 4975(g)(2) or (3);

(3) Compliance with the applicable requirements of foreign situs trusts as to taxability of beneficiaries (section 402(c)) and deductions for employer contributions (section 404(a)(4)); and

(4) Amendments, (including those relating to section 414(1) of the Code), partial terminations or terminations of such plans and trusts.

(b) Issue examination reports with respect to:

(1) Continued qualification under sections 401, 403(a), 405, 409A, and 4975(e)(7) of plans and continued exemption under section 501(a) of the related trust;

(2) Imposition of tax under sections 1, 511 through 514, 641 and Chapter 43; and

(3) Imposition of penalties under Chapter 68 of the Internal Revenue Code of 1954.

(c) Issue determination letters with respect to whether a plan constitutes an employee stock ownership plan that is not intended to qualify under section 401 of the Internal Revenue Code of 1954 for taxable years beginning before January 1, 1979.

(d) Issue modification or revocation of determination letters described above in accordance with currently applicable appeal procedures. If the revocation involves collectively-bargained plans, or plans for which the Internal Revenue Service is proposing to issue a revocation letter because certain fiduciary actions subject to Part 4, Subtitle B or Title I of the Employee Retirement Income Security Act (ERISA) have violated the exclusive benefit rule of section 401(a), the plan must have been submitted for technical advice and the Assistant Commissioner (OP:E) must have concurred with the revocation.

(e) Redelegate this authority as follows:

(1) With respect to issuance and modification of favorable determination letters or examination reports, other than a report issued with a proposed revocation letter, not below Internal Revenue Agent and Tax Law Specialist, GS-12, and then only if such individual is a person other than the initiator.

(2) With respect to issuance of proposed and final adverse determination letters or proposed revocation letters and related examination reports, not below Chief, EP/EO Division.

(3) With respect to issuance of final revocation letters, this authority may not be redelegated.

2. In each region, the Regional Counsel, the Regional Director of Appeals, Chiefs and Associate Chiefs, Appeals Office, are authorized to:

(a) Issue final determination or final revocation letters on appeals from proposed adverse determination and proposed revocation letters issued by key district offices under this delegation.

(b) Issue letters as to the decision on appealed examination reports or statutory notices as provided in Delegation Order No. 77.

(c) This authority may not be redelegated.

3. The Assistant Commissioner (Employee Plans and Exempt Organizations), with concurrence of the Chief Counsel, is authorized to require preissuance review of final adverse determination and final revocation letters covered by section 7476(a) of the Internal Revenue Code of 1954.

4. The District Director of each Employee Plans and Exempt Organizations key district is authorized to:

(a) allow a plan to be amended after the expiration of its remedial amendment period described in section 401(b) of the Code for any plan year in which a request for a determination letter is made or is pending with the Service, and for the plan year prior to the plan year in which the plan is submitted for a determination letter if the plan is submitted by the end of the time for filing the tax return of the employer (including extensions) for the taxable year of the employer beginning with or within that prior plan year, provided that two conditions are met:

(1) the plan is retroactively amended to comply with the qualification requirements as of the time the defect in the plan arose, and

(2) employee benefit rights are retroactively restored to the levels they would have been had the plan been in compliance with the qualification requirements from the date the defect in the plan arose.

(b) redelegate this authority but not below Assistant Chief, EP/EO Division.

Delegation Order No. 112 (Rev. 7) issued March 21, 1962, is hereby superseded.

James I. Owens,

Acting Commissioner.

[FR Doc. 82-16389 Filed 6-16-82; 8:45 am]

BILLING CODE 4830-01-M

Office of the Secretary

Debt Management Advisory Committee; Meeting

Notice is hereby given, pursuant to Section 10 Pub. L. 92-463, that a meeting will be held at the U.S. Treasury Department in Washington, D.C. on July 27 and 28, 1982 of the following debt management advisory committee:

Public Securities Association
U.S. Government and Federal Agencies Securities Committee

The agenda for the Public Securities Association U.S. Government and Federal Agencies Securities Committee meeting provides for a working session on July 27 and the preparation of a written report to the Secretary of the Treasury on July 28, 1982.

Pursuant to the authority placed in Heads of Departments by section 10(d) of Pub. L. 92-463, and vested in me by Treasury Department Order 101-5 (January 7, 1981), I hereby determine that this meeting is concerned with information exempt from disclosure under section 552b(c)(4) and (9)(A) of Title 5 of the United States Code, and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. The Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community, which committees have been utilized by the Department at meetings called by representatives of the Secretary. When so utilized, such a committee is recognized to be an advisory committee under Pub. L. 92-463. The advice provided consists of commerical and financial information given and received in confidence. As such debt management advisory committee activities concern matters which fall within the exemption covered by section 552b(c)(4) of Title 5 of the United Stats Code for matters which are "trade secrets and commercial or financial information obtained from a person and privileged or confidential."

Although the Treasury's final announcement of financing plans may or may not reflect the recommendations provided in reports of an advisory committee, premature disclosure of these reports would lead to significant financial speculation in the securities market. Thus, these meetings also fall within the exemption covered by 552b(c)(9)(A) of Title 5 of the United States Code.

The Assistant Secretary (Domestic Finance) shall be responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 522b.

Dated: June 11, 1982.

Roger W. Mehle,

Assistant Secretary (Domestic Finance).

[FR Doc. 82-16350 Filed 6-16-82; 8:45 am]

BILLING CODE 4810-25-M

UNITED STATES RAILWAY ASSOCIATION

[Docket No. 211-35]

Consolidated Rail Corp.; Application for a Loan

Subsection (h) of section 211 of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 721) (the Act), authorizes the United States Railway Association (Association) to enter into loan agreements with the Consolidated Rail Corporation (Conrail), the National Railroad Passenger Corporation, and any profitable railroad to which rail properties are transferred or conveyed pursuant to section 303(b)(1) of the Act under conditions and for purposes set forth in this Subsection. Subsection (b) of section 211 requires that the Association publish notice of the receipt of any application thereunder in the **Federal Register** and afford interested parties an opportunity to comment thereon.

Conrail submitted a Borrowing Application dated April 22, 1982 requesting new borrowings of $17,449.48. Conrail states that it will use the funds to pay the following obligation of the Central Jersey Industries, Inc. (successor to the Central Railroad Company of New Jersey), Federal Employees' Liability Act claim. The Borrowing Application includes the certification and exhibits required by the Loan Procedures.

Interested parties are invited to submit written comments relevant to this application. Any such submissions must identify by its Docket No., the application to which it relates, and must be filed with the Office of General Counsel, United States Railway Association, 955 L'Enfant Plaza North, SW., Washington, D.C. 20595, on or before June 28, 1982 to enable timely consideration by USRA. The docket containing the original application shall be available for public inspection at that address Monday through Friday (holidays excepted) between 8:30 a.m. and 5:00 p.m.

Dated at Washington, D.C., this 11th day of June 1982.

Peter J. Gallagher,

Secretary, United States Railway Association.

[FR Doc. 82-16363 Filed 6-16-82; 8:45 am]

BILLING CODE 8240-01-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 117
Thursday, June 17, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CONSUMER PRODUCT SAFETY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 25651.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., June 16, 1982.

CHANGES IN THE MEETING: Previous item 1 concerning CB antennas deleted. It has been rescheduled for June 18, 1982.

[S-896-82 Filed 6-15-82; 11:40 am]

BILLING CODE 6355-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 25651.

PREVIOUSLY ANNOUNCEMENT TIME AND DATE OF THE MEETING: 10 a.m., June 17, 1982.

CHANGES IN THE MEETING: The following item is added to the agenda:

CB Antennas—The Commission will consider the issuance of a final consumer product safety standard for omnidirectional citizens band base station antennas.

[S-897-82 Filed 6-15-82; 11:39 am]

BILLING CODE 6355-01-M

3

FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission will hold a Closed Meeting on the subjects listed below on Thursday, June 17, 1982, following the Open Meeting which is scheduled to commence at 9:30 A.M., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

Hearing—1—Joint Application for Review of the Hearing Designation Order in the San Diego, California, comparative television proceeding (BC Docket Nos. 82-66 through 82-73).

This item is closed to the public because it concerns adjudicatory matters (See 47 CFR 0.603(j)).

The following persons are expected to attend:

Commissioners and their Assistants
General Counsel and members of his staff
Managing Director and members of his staff
Chief, Office of Public Affairs and members of his staff

Action by the Commission June 7, 1982. Commissioners Fowler, Chairman; Quello, Washburn, Fogarty, Jones, Dawson and Rivera voting to consider this item in Closed Session.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: June 10, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-894-82 Filed 6-15-82; 11:23 am]

BILLING CODE 6712-01-M

4

FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, June 17, 1982, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No. and Subject

Aural—1—*Title:* Requests for dual-city identification authority filed by Thomas Radio Co. (WOAY), Oak Hill, West Virginia, and Island Broadcasting Corporation (WHOY), Salinas, Puerto Rico. *Summary:* The Commission considers Thomas' petition for reconsideration and Island's application for review of Bureau actions denying the requests.

Television—1—*Title:* Application for Review of Bureau action reinstating dismissed application of Joel J. Kinlow for CP for new TV station on channel 49, Racine, Wisconsin. *Summary:* Competing applicant for CP for new TV station on channel 49, Racine, Wisconsin, filed application for review of Broadcast Bureau action reinstating dismissed application of Joel J. Kinlow. The Commission will decide whether Kinlow's application was so incomplete as to be unacceptable for filing and, if so, whether the Bureau erred in reinstating it.

Television—2—*Title:* Application of Pyramid Broadcasting Corporation for a construction permit for a new commercial television station to operate on Channel 13 in Mount Vernon, Illinois. *Summary:* The Commission will consider a petition to deny Pyramid's application filed by the Citizens Committee for Independent Local Television in Southern Illinois and a petition filed by William Burns to reopen the proceeding for acceptance of new applications for the Mount Vernon allocation.

Broadcast—1—*Title:* Labeling of Television Programs with Regard to Location of Production and Date of Production or Initial Broadcast. RM-3906 *Summary:* The Commission will consider whether to adopt a Notice of Proposed Rule Making on the above-titled subject.

Broadcast—2—*Title:* Amendment of Part 73 of the Commission's Rules and Regulations in Regard to Section 73.642(a)(3) and Other Aspects of the STV Service (Docket No. 21502). *Subject:* The Commission will consider four of the five issues raised in the *Further Notice of Proposed Rule Making*, 88 F.C.C. 2d 213 (1981). First, whether the rule restricting STV operation to communities within the Grade A contour of at least five commercial television stations, including that of the STV operator, should be modified or deleted. Second, whether the requirement that an STV station broadcast at least 28 hours of conventional programming per week should be modified or deleted. Third, whether the Commission should allow the purchase of decoders by STV subscribers or should retain the present system of permitting only the leasing of such equipment. Fourth, whether the requirement that an applicant for STV authorization ascertain the needs and interests of the community, specifically with regard to subscription programming, should be deleted.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: June 10, 1982
William J. Tricarico,
Secretary, Federal Communications Commission.
[S-895-82 Filed 6-15-82; 11:23 am]
BILLING CODE 6712-01-M

5

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, June 22, 1982 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Thursday, June 24, 1982 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C. (Fifth Floor).

STATUS: This meeting will be open to the public.

MATTER TO BE CONSIDERED: Setting of dates for future meetings, correction and approval of minutes, advisory opinions:

Draft AO 1982–38 Thomas J. Schwarz, Counsel, Committee to Re-Elect Senator Moynihan.
Draft AO 1982–39 Marvin S. Shapiro, Treasurer, Cranston for Senate Committee and Cranston for Senate Committee—1986.
Appropriations and budget
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; Telephone: 202–523–4065.

Marjorie W. Emmons,
Secretary of the Commission.
[S-896-82 Filed 6-15-82; 1:28 pm]
BILLING CODE 6715-01-M

6

FEDERAL HOME LOAN BANK BOARD

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Vol. No. 47, Page No. 25434, Date Published, Friday, June 11, 1982.

PLACE: Board Room, 6th Floor, 1700 G St., N.W., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6679).

CHANGES IN THE MEETING: The Bank Board meeting previously scheduled Thursday, June 16, 1982 has been cancelled.

No. 41, June 15, 1982.
[S-899-82 Filed 6-15-82; 2:59 pm]
BILLING CODE 6720-01-M

7

FEDERAL TRADE COMMISSION

TIME AND DATE: 10 a.m., Thursday, June 24, 1982.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

STATUS: Open.

MATTER TO BE CONSIDERED: Discussion of Care Labeling Trade Regulation Rule.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information: (202) 523–1892; Recorded Message: (202) 523–3806.
[S-892-82 Filed 6-15-82; 9:52 am]
BILLING CODE 6750-01-M

8

NUCLEAR REGULATORY COMMISSION

DATE: Week of June 14, 1982 (Revised).

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open/Closed.

MATTERS TO BE CONSIDERED: *Monday, June 14:*

10:30 a.m.:
Discussion and Possible Vote on Requirements for Emergency Response Capability (public meeting) (day and time change)

Wednesday, June 16:

10:00 a.m.:
Discussion of Management-Organization and Internal Personnel Matters (as announced)
2:00 p.m.:
Meeting with Cincinnati Gas & Electric/Government Accountability Project on OA/QC and Related Matters at Zimmer (as announced)

Thursday, June 17:

2:00 p.m.:
Affirmation/Discussion Session (public meeting) (time change; items revised)
Affirmation and/or Discussion and Vote:
a. Amendments to 10 CFR Chapter I Parts 19, 30, 40, 50, 60, 70, 72, and 150 with Respect to Employees who Provide Information

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Gary M. Gilbert (202) 634–1410.

Gary M. Gilbert,
Office of the Secretary.
June 11, 1982.
[S-891-82 Filed 6-15-82; 9:16 am]
BILLING CODE 7590-01-M

9

PAROLE COMMISSION

[2P0401]

Parole Commission, National Commissioners (the Commissioners presently maintaining offices at Chevy Chase, Maryland, Headquarters).

TIME AND DATE:
2 p.m., Friday, June 25, 1982.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 2 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission, (301) 492–5987.
[S-893-82 Filed 6-15-82; 11:20 am]
BILLING CODE 4410-01-M

10

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1292]

TIME AND DATE: 10:15 a.m. (EDT), Tuesday, June 22, 1982.

PLACE: Conference Room B–32 in the West Tower of TVA's Knoxville Office Complex, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

RATEMAKING ACTIONS:[1]
Conclusions on matters involving time-of-day rates and policy statement on allocation of benefits of low-cost power sources to residential consumers.

OLD BUSINESS ITEMS:
1. Project Authorization No. 3606—Installation of automated testing system in the central computer center's network control center located in Chattanooga, Tennessee.

NEW BUSINESS ITEMS:

A—Project Authorization
1. Project Authorization No. 3392.2—Amendment to project authorization for pilot-plant production of granular fertilizer by the pipe-cross granulation process.
2. Project Authorization No. 3619—Rebuild the Franklin-Portland and Gallatin-Portland 69-kV transmission lines for 161-kV service.

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[1] Item approved by individual Board members. This would give formal ratification to the Board's action.

B—Purchase Awards
1. Negotiation 30-636529—Construction management services for a 5,000-tons-per-day coal gasification plant for the coal gasification project at Murphy Hill, Alabama.
2. Negotiation 38-630863—Boiler bypass system modification at the Cumberland Fossil Plant units 1 and 2.
3. Negotiation 67-195377—Delegation of authority to purchase excess nuclear property insurance policies for Browns Ferry and Sequoyah nuclear plants.
4. Requisition 65—Term coal for Johnsonville Steam Plant.

C—Power Items
1. Lease and amendatory agreement with the Electric Plant Board of The City of Paducah, Kentucky, covering arrangements for 161-kV delivery at TVA's Paducah 161-kV Substation.
2. Lease and amendatory agreement with North Alabama Electric Cooperative covering arrangements for lease of TVA's Lim Rock 161-kV Substation:
3. Lease and amendatory agreement with Ripley, Tennessee, covering arrangements for lease of TVA's Ripley 161-kV Substation.
4. Deed and bill of sale covering conveyance of section of Summer Shade-Oakland 69-kV Transmission Line to Warren Rural Electric Cooperative Corporation.
5. Deed and bill of sale covering conveyance of TVA's Old Hollis Chapel Microwave Repeater Station to Cumberland Electric Membership Corporation.
6. Letter agreement with Mississippi Power & Light Company providing for a delivery point to TVA from Company's Pelahatchie-Carthage 115-kV Transimission Line to serve Central Electric Power Association.
7. Contract providing for a cooperative effort between TVA and Gesellschaft fur Nuklear Service to demonstrate cask storage of spent nuclear fuel at TVA's Browns Ferry Nuclear Plant.

D—Personnel Items
1. Renewal of consulting contract with Sargent & Lundy, Engineers, of Chicago, Illinois, for advice and assistance in connection with the Bellefonte Nuclear Plant, requested by the Office of Engineering Design and Construction.

E—Real Property Transactions
1. Filing of condemnation suits.

F—Unclassified
1. Supplemental agreement with the Department of the Army for TVA to make transmission line alterations for the Tennessee-Tombigbee Waterway project near Waverly, Mississippi.
2. Sale of surplus steel shapes and reinforcing steel located at Hartsville, Phipps Bend and Yellow Creek nuclear plants.
3. Sale of surplus Amdahl 470 V/8 central processing unit available from the Computing Operations Branch in Chattanooga, Tennessee.
4. New TVA policy code relating to farmland preservation.

4DATED: June 15, 1982.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

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June 17, 1982

Part II

Department of Commerce

International Trade Administration

Preliminary Affirmative Countervailing Duty Determinations; Certain Steel Products From Belgium, Brazil, France, Federal Republic of Germany, Italy, Luxembourg, Netherlands, South Africa, and United Kingdom

DEPARTMENT OF COMMERCE

International Trade Administration

Preliminary Affirmative Countervailing Duty Determinations; Certain Steel Products From Belgium

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary Affirmative Countervailing Duty Determinations.

SUMMARY: We preliminarily determine certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Belgium of certain steel products, as described in the "Scope of the Investigations" section of this notice. The estimated net subsidy for each firm and for each product is indicated under the "Suspension of Liquidation" section of this notice. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of the products subject to these determinations which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on these products in the amount equal to the estimated net subsidy. If these investigations proceed normally, we will make our final determination by August 24, 1982.

EFFECTIVE DATE: June 17, 1982.

FOR FURTHER INFORMATION CONTACT: Michael J. Altier, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377–1785.

SUPPLEMENTARY INFORMATION:

Preliminary Determinations

Based upon our investigations, we preliminarily determine that there is reason to believe or suspect certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended ("the Act"), are being provided to manufacturers, producers, or exporters in Belgium of certain steel products, as described in the "Scope of the Investigations" section of this notice. For purposes of these investigations, the following programs are preliminary found to be subsidies: "interest rebates," capital grants, loan guarantees, exemptions from real property tax, exemptions from capital registration tax, loans to uncreditworthy companies, equity participation by the government of Belgium ("GOB"), assumption of financing costs, labor assistance, preferential loans, industrial investment loans from the European Coal and Steel Community ("ECSC"), and research and development aid. We estimate the net subsidy to be the amount indicated for each firm and for each product in the "Suspension of Liquidation" section of this notice.

Case History

On January 11, 1982, we received petitions from United States Steel Corporation; counsel for Bethlehem Steel Corporation; and counsel for Republic Steel Corporation, Inland Steel Company, Jones & Laughlin Steel, Inc., National Steel Corporation, and Cyclops Corporation ("the Five"), filed on behalf of the U.S. industry producing carbon steel structural shapes, hot-rolled carbon steel plate and hot-rolled carbon steel sheet and strip. The petitions alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in Belgium of the steel products listed above. Counsel for Bethlehem Steel Corporation and counsel for the Five alleged that "critical circumstances" exist, as defined in section 703(e) of the Act. We found the petitions to contain sufficient grounds upon which to initiate countervailing duty investigations, and on February 1, 1982, we initiated countervailing duty investigations (47 FR 5744). We stated that we expected to issue preliminary determinations by April 6, 1982. We subsequently determined that the investigations are "extraordinarily complicated," as defined in section 703(c) of the Act, and postponed our preliminary determination for 65 days until June 10, 1982 (47 FR 11738).

Since Belgium is a "country under the Agreement" within the meaning of section 701(b) of the Act, injury determinations are required for these investigations. Therefore, we notified the U.S. International Trade Commission ("ITC") of our initiations. On February 26, 1982, the ITC preliminarily determined that there is a reasonable indication that these imports are materially injuring a U.S. industry.

We presented questionnaires concerning the allegations to the Delegation of the Commission of the European Communities and to the government of Belgium in Washington, D.C. On April 30, 1982, we received the responses to the questionnaires. Supplemental responses were received on May 17, 1982.

Scope of the Investigations

The products covered by this investigation are:

- Carbon steel structural shapes
- Hot-rolled carbon steel plate
- Hot-rolled carbon steel sheet and strip

The products are fully described in Appendix A which follows this notice. The product definition of hot-rolled carbon steel sheet and strip has been amended since the initiation of these investigations (47 FR 5739–40).

Cockerill Sambre ("Cockerill"), Siderurgie Maritime ("Sidmar"), Forges de Calabecq ("Calabecq"), Fabrique de Fer de Charleroi ("Febfer"), and Usines Gustave Boel ("Boel") are the only known producers and exporters in Belgium of the subject products which were exported to the United States.

Cockerill Sambre is a company which resulted from the merger in June, 1981 of Cockerill, which itself is a merger of several steel mills, and Hainaut-Sambre. Hainaut-Sambre was composed of three major components: Carlam, a flat products mill built in 1976; Thy-Mercinelle et Providence (TMP), which resulted from a merger of a Providence mill of the former Cockerill company with Thy-Mercinelle et Monceau in 1979; and the old Hainaut-Sambre Company. TMP merged with Hainaut-Sambre in 1980.

The fiscal year for which we are measuring subsidization is calendar year 1981 for Cockerill and Sidmar, while the fiscal year for Fabfer and Clabecq is July 1, 1980 to June 30, 1981. We received no response from Boel and, for purposes of these preliminary determinations, we are applying to Boel the highest subsidy rate found in Belgium for each product under these investigations.

Analysis of Programs

In their responses, GOB and the Delegation of the Commission of the European Communities provided data for the applicable periods. Additionally, we received information from Clockerill, Sidmar, Clabecq and Fabfer. These companies produced and exported carbon steel structural shaped (Cockerill), hot-rolled carbon steel plate (Cockerill, Sidmar, Clabecq, and Fabfer), and hot-rolled carbon steel sheet and strip (Cockerill and Sidmar) which were exported to the United States during 1981.

Throughout this notice, general principles applied by the Department of Commerce ot the facts of the current investigations concerning certain steel products are described in detain in Appendix B, which follows this notice.

Appencis C, which also follows this notice, is a description of programs administered by organizations of the European Communities. Unless otherwise noted, one subsidy rate is calculated for each company for all products under investigation produced by that company. Where benefits were provided to specific products, they were allocated over the value of production of those products only in calculating the subsidy rate. Based upon our analysis to date of the petitions and responsed to our questionnaires, we preliminarily determine the following.

I. Programs Preliminarily Determined To Be Subsidies

We preliminarily determine subsidies are being provided to manufacturers, producers, or exporters in Belgium of carbon steel structural shapes, hot-rolled carbon steel plate and hot-rolled carbon steel sheet and strip under the programs listed below.

A. Program Administered Under the Law of December 30, 1970, on Economic Expansion

The Law of December 30, 1970 on economic expansion (the "1970 law") provided for regional assistance to companies located in certain development areas to promote activities which contribute to the establishment, expansion, conversion or modernization of industrial enterprises. We have determined that the benefits provided under this law are countervailable because they are targeted to companies in specific areas.

1. "*Interest Rebates*". "Interest rebate" programs are administered by the Ministry of Economic Affairs. The rebates may be given on investment loans for tangible and intangible assets. The law also provides for "interest rebates" on interest payable to the companies to holders of bonds and convertible debentures. Rebates are variable depending upon the degree to which the investment projects meet the objectives of the 1970 law.

We preliminarily determine that these "interest rebates" are grants; and, in accordance with the methodology described in Appendix B, we have allocated the benefits over the average life of capital assets, 15 years.

Cockerill responsed that certain "interest rebates" received under this program benefited a division not involved in the production of steel. We will seek additional information. An "interest rebate" received by Carlam in 1980 amounted to a subsidy rate for Cockerill of 0.040 percent *ad valorem* for hot-rolled carbon steel plate and hot-rolled carbon steel sheet and strip.

Sidmar received "interest rebates" amounting to as subsidy rate of 0.110 percent *ad valoreum.*

Fabfer responded that they did not receive any interest rebates.

Clabecq received "interest rebates" amounting to a subsidy rate of 0.091 percent *ad valoreum.*

2. *Capital Grants.* To the extent that investments are financed by "up to at least" 50 percent of a company's own funds, a grant may be given which totally or partially replaces the"interest rebate" for which the investment is otherwise eligible. The methodology for calculating the subsidy value of grants is described in Appendix B. The benefits are allocated over the average useful life of capital assets, 15 years.

Cockerill received several grants for less than $50 million, some of which were "tied" to (*i.e.*, given expressly to purchase) capital equipment. The grants received amounted to a subsidy rate of 0.253 percent *ad valorem* for hot-rolled carbon steel plate and hot-rolled carbon steel sheet and strip, and 0.141 percent *ad valorem* for carbon steel structural shapes. Sidmar, Clabecq and Fabfer received grants, each valued under $50 million and "tied" to plant and equipment. The subsidy rates for the individual companies are 0.128, 0.212 and 1.846 percent *ad valorem,* respectively.

3. *Loan Guarantees.* The Belgian government may guarantee total or partial repayment of loans and debentures. When the loan or debenture is not granted by a public institution, the guarantee may not exceed 75 percent of the difference between the amount of the loan outstanding and the value of any collateral offered by the investor. Companies must pay fees of 0.75 percent of the principal for guarantees of capital investment loans and 1.5 percent for guarantees of working capital loans. The fees are paid into a fund managed by the Ministry of Finance. Government loan guarantees benefit the loan recipients when they enable them to obtain loans at lower rates than might otherwise be available.

Cockerill, Sidmar and Clabecq received loan guarantees under this program. Fabfer received no loan guarantees. Since these guaranteed loans were subject to payment holidays (moratoria) and in some cases were provided to companies determined to be uncreditworthy, our calculations of the subsidies from this program are subsumed in the sections entited "Loans to Uncreditworthy Companies" and "Assumption of Financing Costs."

4. *Exemption from Real Property Tax.* Qualifying investments may be granted an exemption from the real property tax levied by the state, province, or local community on the estimated rental income from fixed assets. The exemption may be granted for a period of up to five years, depending on the degree to which the investment program achieves the objectives of the 1970 law. The tax is levied at an average rate of 1.25 percent by the state, 4.46 percent by the province and 17.38 percent by the local community. We treated exemptions received by companies as grants in the year received and followed the quantification methodology outlined in Appendix B.

The subsidy rate for Cockerill under this program amounted to 0.145 percent *ad valorem* for hot-rolled carbon steel plate and hot-rolled carbon steel sheet and strip; and 0.074 percent *ad valorem* for carbon steel structural shapes.

The subsidy rates calculated for Sidmar, Clabecq and Fabfer are 0.037, 0.011 and 0.123 percent *ad valorem,* respectively.

5. *Exemptions from Capital Registration Tax.* Assets transferred to a company through investments assisted by the 1970 law may be exempted from the one percent capital registration tax. We treated exemptions under this program as grants in the year received and followed the quantification methodology set forth in Appendix B.

Cockerill received exemptions amounting to a subsidy rate of 0.474 percent *ad valorem.*

Sidmar, Clabecq and Fabfer did not receive exemptions from the capital registration tax in 1981.

B. Restructuring Plan Programs

The GOB has mandated a reorganization of the steel industry in Belgium under the following enactments and agreements:

- The Reorganization Plan of 1978 (Hanzinelle Agreement)
- Council of Ministers decision of November 23, 1978
- Royal Decree of December 15, 1978
- Council of Ministers decision of May 15, 1981
- Related and additional agreements between the government and the individual steel companies

These are intended to assist the modernization of the steel industry. Specific programs include loans to uncreditworthy companies, equity participation by the GOB, assumption of financing costs and labor assistance. We find these programs to provide countervailable benefits.

1. *Loans to Uncreditworthy Companies.* Petitioners allege that Cockerill, Hainaut-Sambre (now merged

with Cockerill), Sidmar and Clabecq were uncreditworthy at the time loans were made to them. For reasons set forth below, we determine these companies were uncreditworthy.

We preliminarily determine Cockerill to be uncreditworthy from 1978 on. First, the company sustained net losses ranging from 2.4 to 7.0 billion BF in each of the last four years, prior to its merger with Hainaut-Sambre in 1981. Second, certain financial ratios for this company indicate an uncreditworthy situation. Third, Cockerill has apparently lost access to loans from independent commercial sources. Fourth, government-directed moratoria on Cockerill's debt service, coupled with equity participation by the GOB in the company, are further indications of uncreditworthiness.

Since Cockerill received a private loan in 1977, we will, for purposes of these preliminary determinations, consider the company as creditworthy in that year. We will seek additional information concerning this loan to see if it was made without government direction and on commercial terms.

We preliminarily determined Hainaut-Sambre to be uncreditworthy from 1977 on. First, the company sustained not losses ranging from 2.7 to 5.5 billion BF in three out of the last five years (and smaller losses in the other two), preceding its merger with Cockerill in 1981. Second, certain financial ratios for this company indicate an uncreditworthy situation. Third, government-directed moratoria on Hainaut-Sambre's debt service, coupled with equity participation by the GOB in the Company, are further indications of uncreditworthiness.

We preliminarily determine Sidmar to be uncreditworthy from 1976 on. First, the company sustained net losses ranging from 1.1 to 1.8 billion BF in three out of the last six years. Second, certain financial ratios for this company indicate an uncreditworthy situation. Third, Sidmar has apparently lost access to loans from independent commercial sources. Fourth, government-directed moratoria on Sidmar's debt service, coupled with equity participation in the company, are further indications of uncreditworthiness.

Since Sidmar grouped loans together and did not submit detailed loan information, we will seek additional information on the sources of these loans.

We preliminarily determine Clabecq to be uncreditworthy from 1976 on. First, the company sustained losses ranging from 300 to 580 million BF in each of the last six years. Second, certain financial ratios for this company indicate an uncreditworthy situation. Third, Clabecq has apparently lost access to loans from independent commercial sources. Fourth, government-directed moratoria on Clabecq's debt service, coupled with government loan guarantees, are further indications of uncreditworthiness.

Because we consider Cockerill (and before its acquisition, Hainaut-Sambre), Sidmar and Clabecq to have been uncreditworthy, loans and loan guarantees issued by the GOB during the period of uncreditworthiness are treated essentially as equity investments. We calculated the subsidy value of these loans using the equity methodology for loans to uncreditworthy companies described in Appendix B. The countervailable benefit from each loan was allocated over its total steel production. Loans actually converted to equity or convertible debentures are treated separately under the section entitled "Equity Participation by the GOB."

The benefit to Cockerill, Sidmar and Clabecq under this program amounted to subsidy rates of 8.016, 2.902 and 4.689 percent *ad valorem*, respectively.

2. *Equity Participation by the GOB.* The GOB has purchased equity in certain steel companies and has converted "medium" and long-term debt to equity. Equity infusions by the GOB took place as follows:

- Cockerill
  - 1979—Conversion of debt to equity and convertible debentures.
  - 1981—Conversion of debt to equity and convertible debentures; purchases of equity to cover "cash drains"
- Hainaut-Sambre
  - 1979—Conversion of debt to equity and convertible debentures.
- TMP
  - 1979—Conversion of debt to equity and convertible debentures.
- Sidmar
  - 1979—Direct equity purchase

As indicated in Appendix B, equity participation by the government is not a subsidy *per se*. Petitioners allege, however, that goverment infusions of equity in Belgian steel companies were made at a time when these infusions did not represent sound commercial investments. Under the methodology described in Appendix B, the treatment of government equity in a company hinges essentially on analysis of the soundness of the investment. If such an investment was not reasonably sound at the time made, we will consider it as giving rise to a potential subsidy.

All the companies listed above recorded persistent losses over the last several years. Cockerill sustained losses for the last five years. Hainaut-Sambre sustained losses in each of the five years prior to its merger with Cockerill, and TMP incurred losses in each of the three years prior to its merger with Hainaut-Sambre.

Similarily, Sidmar has incurred net losses in three of the last six years. Under normal business or financial criteria, companies exhibiting a pattern of deep or significant continuing losses would not be regarded as sound investments. In view of these histories of losses and other factors already considered in the preceding section entitled "Loans to Uncreditworthy Companies," we do not regard these Belgian steel companies as representing sound commercial investments at the time the GOB acquired equity positions in them; and, therefore, preliminarily determined that the equity infusions were inconsistent with commercial considerations.

Since the stocks of Cockerill, Hainaut-Sambre and TMP were traded on Belgian markets during the time span covering the government's equity infusions (see equity section in Appendix B), we looked to the market to determine the value of the benefit by comparing the market value of the equity infusions in these stocks at the beginning of the month of the equity infusions to the actual value of the equity infusions in the companies. If the value paid by the GOB was greater than the market value, we found the difference to be a grant and allocated it over the average useful life of capital assets, 15 years (see grants methodology in Appendix B).

In 1979 and 1981 the GOB entered into arrangements with Cockerill whereby it converted the company's debt into convertible debentures. Because these debentures are repayable only at such time as the company makes sufficient profits to overcome its present heavy debt burden, we treated these conversions as purchases of equity in amounts equal to the value of the debentures. Convertible debentures obtained in this arrangement in 1979, and apparently converted to equity in 1981 were treated as equity purchased in the latter year.

In addition, Cockerill received a payment from the GOB to cover 1981 "cash drains." This payment was also treated as an equity purchase.

Since the terms of this transaction did not permit identification of a per-share price, we used the per-share price for previous GOB purchases of Cockerill's equity as the best information available for comparison in our calculations.

Allocated over all of Cockerill's steel production, the benefit for equity purchases amounted to a subsidy rate of 8.651 percent *ad valorem.*

In early 1979, the GOB made a direct purchase of Sidmar shares and acquired 21.97 percent of the company. Using the methodology described in Appendix B, we compared the rate of return the government received on its equity investment in Sidmar with the average rate of return on equity investment in Belgium, since Sidmar does not have traded shares on the market. Comparing the average national market return with Sidmar's return yielded a 1981 subsidy exceeding the subsidy we would have calculated had we treated the equity purchases as outright grants rather than as equity. Consequently, we limited the subsidy to the 1981 amount which would have been found, if the equity investments were treated as grants. (See grants methodology described in Appendix B.) Allocated over total Sidmar steel production, the benefit for equity amounted to a subsidy rate of 1.157 percent *ad valorem.*

It was alleged by petitioners that Clabecq issued participating debentures to the GOB to cover interest payments. However, Clabecq stated that the GOB did not purchase any convertible debentures from it. We will seek further information.

3. *Assumption of Financing Costs.* For the years 1979–83, the GOB has assumed all financing costs for Cockerill, Sidmar and Clabecq on "medium" and long-term borrowing. This assumption took the form of issuance of convertible debentures in the amount of the interest charges and the postponement of principal repayments. We calculated the benefit from these deferred principal and interest payments as loan holidays (moratoria) in accordance with the methodology described in Appendix B. Where the original loans or guaranteed loans were provided at preferential rates, these benefits were included in our calculation of benefits stemming from the moratoria.

To determine whether respondent's loans were preferential, we compared the interest rates for loans and guaranteed loans with "benchmark" rates. For benchmark rates, we used the lending rates of the Societe Nationale de Credit a l'Industrie ("SNCI") for capital investment loans exceeding 5 years in maturity. The SNCI is a lending institution created by the GOB which makes loans both at generally available rates and special rates. We added 0.25 percent to our benchmark rate, which represents the fee that is often charged by lending banks to borrowers, to the benchmark rate.

The information provided by Cockerill on certain loans subject to moratoria was incomplete, necessitating the following assumptions based on the best information available. Where the term of the loan was missing, we assumed a 20-year life, the average life of those loans for which information was complete. We increased the estimated loan life to 25 years for loans that should have expired before the moratoria, but which in fact were still outstanding when the moratoria occurred. Where the original loan amount was missing, we calculated an estimated amount based on the 1981 balance and assumed constant repayment of principal. The benefit to Cockerill under this program amounted to a subsidy rate of 3.245 percent *ad valorem* for hot-rolled carbon steel plate and hot-rolled carbon steel sheet and strip, and 2.523 percent *ad valorem* for carbon steel structural shapes.

Information on certain Sidmar loans was also incomplete, necessitating the following assumptions based on the best information available. First, in some cases, a series of loans received over a set period of years was reported as a group with no indication when each loan was given. In this case we assumed the original date of the entire sum of the loans to be the latest year in which any one of them was received. Second, the original life of the loans was not always given. Because we lacked this information, we assumed that the original life of the loans was an average of 20 years for long-term loans or until 1993, whichever came first. The year 1993 was selected as an alternate maturity date based on the fact that it is the new post-moratoria maturity date for all of Sidmar's loans subject to moratoria. Finally, we received several pre-moratoria interest rates for all of the groups of loans in question, but it was not always clear which interest rate applied to which portion of the group of loans. Where our information did not provide the exact interest rate for a given loan or group of loans, we used an average of the interest rates given for that loan or loan group.

For purposes of these preliminary determinations, we assume the government's acquisition of convertible debentures to represent the benefit to Sidmar from the government's assumption of interest charges on all its loans. We will seek further informaton. The benefit to Sidmar under this program amounted to a subsidy rate of 0.532 percent *ad valorem.*

Although Clabecq's loans were subject to moratoria from 1979 to 1983, we treated all of Clabecq's loans after 1975 essentially as equity because of the company's uncreditworthy status. Loans outstanding prior to 1976 were refinanced in 1979 and the refinanced loans were treated essentially as equity. Clabecq's benefit from these loans is shown in the section entitled "Loans to Uncreditworthy Companies."

Fabfer did not participate in this program.

4. *Labor Assistance.* In order to avoid a massive lay-off of surplus workers because of the government-mandated restructuring of the steel industry, companies entered into agreements with the unions for the early retirement of certain workers. The government has assumed portions of the costs for this program. We have determined that this government assumption of a obligation of the companies is a countervailable benefit. The assistance given to the companies is in the form of government-guaranteed loans with deferred interest and principal payments for the first five years. The loans to Cockerill and Clabecq were treated essentially as equity because they were provided at a time after these two companies had become uncreditworthy. We utilized the equity methodology for loans and loan guarantees to uncreditworthy companies described in Appendix B.

Cockerill and Clabecq received subsidies rates of 0.565 and 0.211 percent *ad valorem,* respectively.

Since Fabfer was not determined to have been an uncreditworthy company, the single loan received under this program was treated as a loan with a deferral of repayment, in accordance with the methodology for loans contained in Appendix B. Fabfer received a subsidy rate for this program amounting to 0.021 percent *ad valorem.*

Sidmar reported that no labor assistance has been received.

C. Preferential Loans.

These loans were given by the SNCI at interest rates lower than those commercially available. There is evidence that these are loans to a specific enterprise, rather than the loans made by SNCI at generally available rates. Therefore, a subsidy was provided to the loan recipients. The only loans that are included in this section are those preferential loans which were received by companies at a time when they were creditworthy that were not subject to moratoria. For calculation of the subsidy rate, we followed the methodology outlined in Appendix B.

Cockerill failed to provide complete information on certain loans. Where the year of loan receipt was missing, we considered it to be a loan received in 1980. Where the term of the loan was

missing, we assumed it to be 20 years, as explained in the section entitled "Assumption of Financing Costs." Where no interest rate was provided, we assumed it to be equal to the lowest preferential interest rate of any loan in the response.

The subsidy rate to Cockerill for this program was 0.131 percent *ad valorem* for hot-rolled carbon steel plate and hot-rolled carbon steel sheet and strip, and 0.082 percent *ad valorem* for carbon steel structural shapes.

Sidmar, Clabecq and Fabfer did not receive benefits under this program.

D. Industrial Investment Loans From the ECSC (Article 54)

For the reasons described in Appendix C, we preliminarily determine that ECSC industrial investment loans (under Article 54 of the Treaty of Paris) provide countervailable benefits. Using the appropriate methodology described in Appendix B, we calculated the benefits from these loans made to Cockerill and Sidmar, and included the amounts in the sections entitled "Assumption of Financing Costs" and "Loans to Uncreditworthy Companies."

Clabecq and Fabfer did not benefit from such loans.

E. Research and Development (R. & D.) Aid From the Institute for Scientific Research in Industry and Agriculture (IRSIA) and the Center for Metallurgical Research (CRM)

The GOB provides funds for applied research conducted by IRSIA and the CRM. Both organizations perform research that benefits the iron and steel industry. The results do not benefit all Belgian steel companies and are not publicly available. Under these circumstances, we preliminarily determine government assistance for R&D is countervailable. We treated assistance received under this program as a grant and used the quantification methodology described in Appendix B.

Cockerill reported funding for certain research projects but provided no detail on the terms or use. We countervailed these funds in their full amount as grants allocated in the year received. We will seek additional information as to whether additional research projects were conducted by the CRM that benefited Cockerill but were not included in the response. The subsidy rate to Cockerill from this program is 0.253 percent *ad valorem* for hot-rolled carbon steel plate and 0.076 percent *ad valorem* for hot-rolled carbon steel sheet and strip and carbon steel structural shapes.

Sidmar did not report receipt of any research aid from the GOB.

Clabecq acknowledged that it does receive funds for R&D from CRM and IRSIA but did not provide details on the funds received. Consequently, we used the benefit to Cockerill as the best information available and allocated it over Clabecq's production to calculate a subsidy rate of 0.620 percent *ad valorem*. We intend to seek additional information.

Fabfer received one advance for R&D, used principally for products (alloy steels) not covered by these investigations. We intent to verify that this R&D is for allow steels. Preliminarily, we determine this advance provided no countervailable benefits to the products under investigtion.

II. Programs Preliminarily Determined Not To Be Subsidies

We preliminarily determine subsidies are not being provided to manufacturers, producers, or exporters in Belgium of carbon steel structural shapes, hot-rolled carbon steel plate and hot-rolled carbon steel sheet and strip under the following programs.

A. Environmental Incentives

The GOB provides funding for certain environmental projects. Once a company's request for an environmental grant is approved, the company arranges for a loan in the amount of the grant. The grant is not paid directly to the company but is used to pay the interest and principal payments on behalf of the company. Certain Belgian steel companies received relatively small grants under this program. The GOB responded that benefits under this program are available to all industries. Therefore, we preliminarily determine that this program does not provide subsidies to the steel industry. We will seek additional information to determine whether or not the program provides benefits to "a specific enterprise or industry or group of enterprises or industries." (Section 771(5)(B) of the ACT.)

B. Employment Premiums for New Workers and Trainees

The "De Wulf Plan" (Royal Decree of October 15, 1979) grants employment premiums of BF 62,500 for each new permanent worker hired under certain conditions. Under another plan, BF 30,000 may be paid for each trainee in excess of a number equaling one percent of the workforce of a company in 1980 and 1981. Some of the companies under investigation participate in this program. However, we preliminarily determine that these programs are not countervailable since they do not benefit "a specific enterprise or industry, or group of enterprises or industries."

C. Reimbursement of Worker Training Costs

The National Employment Office in Belgium reimburses firms for various in-plant and outside professional training costs. Cockerill, a recipient of these grants, claims that these benefits are available to all Belgian industries. We preliminarily determine that this program is not countervailable since it does not benefit "a specific enterprise or industry, or group of enterprises or industries."

D. Assistance to the Coal Industry

We requested information from the GOB and the steel companies in order to determine whether or not aid given to the coal industry could be considered an indirect subsidy to the steel industry.

Most of the aid serves to bring the cost of Belgian coal down to but not lower than competitive prices. Belgium does not restrict the importation of coal, and the steel industry purchases more than half of its coal from sources outside Belgium, including the United States. The assistance to the coal industry at most only equalizes the prices of domestic and foreign coal, putting them both on the same commercial level.

The Belgian government provides assistance to producers of all types of coal, not just that used by the steel industry, and thus does not, through assistance to coal producers, provide to the Belgian steel producers a subsidy "provided * * * to a specific enterprise or industry, or group of enterprises or industries."

Regarding the allegation that the Belgian steel industry benefits from government assistance provided to the coal industry in the Federal Republic of Germany, we do not consider such assistance to confer a countervailable benefit on the Belgian steel industry for the reasons outlined in Appendix B.

The ECSC provides various production and marketing grants to EC coal and coke producers; however, we do not consider this assistance to confer a countervailable benefit on the Belgian steel industry for the reasons described in Appendix C.

E. Reduction of Capital Gains Tax

Capital gains on the sales of tangible property may be exempt from corporate taxes for a minimum of five years if receipts are reinvested in Belgium within three years. The provision is contained in the GOB Income Tax Code, and we believe that it is generally

available on equal terms to all companies in Belgium. We therefore preliminarily determine that this program does not provide a subsidy to the steel industry. We will seek additional information concerning the applicability of this program.

F. Programs Contained in the Law of July 17, 1959 for Economic Expansion

The Law of July 17, 1959 (the "1959 law") for economic expansion contains programs which are designed to promote economic expansion and modernization. The 1959 law provides for interest rebates, grants for capital investments, government loan guarantees, exemptions from property taxes on investments approved under the law and grants for R&D. We preliminarily determine that the programs contained in the 1959 law are not countervailable, since they are generally available and do not benefit "a specific enterprise or industry, or group of enterprises or industries." We will seek additional information concerning the application of the 1959 law.

G. ECSC Interest Rebates and R&D Grants

We have preliminarily determined that ECSC interest rebates and R&D grants for the Belgian steel industry are not countervailable benefits. For our treatment of these programs in general, see Appendic C.

III. Programs Preliminarily Determined Not To Be Utilized

We preliminarily determine that the following programs which were described in the notice of "Initiation of Countervailing Duty Investigations" are not used by the manufacturers, producers, or exporters in Belgium of carbon steel structural shapes, hot-rolled carbon steel plate, and hot-rolled carbon steel sheet and strip.

A. Accelerated Depreciation

Companies that receive investment benefits provided for by the 1970 law may take twice the normal annual straight-line depreciation for assets acquired as the result of the investment. The benefit of such a program is reduced taxable income. With the exception of Fabfer, the Belgium steel companies had losses during 1981 greater than the amounts that could be offset by accelerated depreciation. Although depreciating at a slightly accelerated rate, Fabfer depreciated its assets at rates that could be considered within the generally accepted accounting principles for Belgium. We will seek additional information.

B. Employment Premiums

Article 14 of the 1970 law provides for employment premiums for investments that create new jobs. The assistance may be given for new enterprises or for the expansion of existing enterprises. Nonrepayable premiums may be paid for as long as five years depending on the rate at which new jobs are created and filled. The companies under these investigations stated that they did not participate in this program.

C. Exemption From Income Tax on Capital Grants.

Grants provided under the 1970 law are exempted from income taxes. In calculating depreciation, the amount of such grants is deducted from the cost or value of the financed investments. The companies under these investigations stated that they did not participate in this program.

D. Contractual Aid

The 1970 law provides for aid in realizing specific objections related to certain long-term, large scale investments. The government and an enterprise negotiate the specific terms of the program and enter into a "progress contract." Companies may also receive aid for reorganizations. Under "management contracts," the government may grant interest-free aid, to be repaid within three years, for up to 75 percent of management advisory fees. The responses stater that the steel companies did not receive any aid under this program; however, we will seek additional information.

E. Export Assistance

Certain export assistance programs, such as export financing and commercial risk guarantees, are provided by the Office National du Ducroire. The companies under investigation have indicated that they have received no assistance under this program.

F. The European Regional Development Fund ("ERDF")

Our preliminary investigation leads us to conclude that no company under investigation in Belgium receives ERDF funds (see Appendix C).

G. European Investment Bank ("EIB")

The responding companies in Belgium indicated that they did not carry loans from the EIB in 1981 (see Appendix C).

H. Loan Guarantees From the ECSC

All of the responding Belgian companies have indicated that they have not used this program (see Appendix C).

IV. Programs for Which Additional Information Is Needed

The following programs were alleged by the petitioners to be subsidies: Readaptation and retraining assistance and GOB advances for R & D. At this time, we do not have sufficient information upon which to determine whether these programs are providing manufacturers, producers, or exporters in Belgium of carbon steel structural shapes, hot-rolled carbon steel plate and hot-rolled carbon steel sheet and strip with benefits which constitute subsidies within the meaning of the countervailing duty law. We will seek additional information regarding these programs before reaching final determinations.

A. Readaptation and Retraining Assistance

The GOB finances a portion of readaptation and retraining assistance to laid-off employees under Article 56 of the ECSC Treaty. It is unclear at this time whether or not this program provides countervailable benefits to the steel industry. We will seek additional information concerning the obligations of the steel companies to laid-off workers. If the government assumes a portion of the obligation of the steel companies, the assistance may constitute a subsidy. In addition, we are seeking information concerning the types of training and readapation being performed. If laid-off workers or potentially laid-off workers are being retrained to assume jobs in the steel industry (to take the place of early retirees, for instance) then the assistance may well be a subsidy to the steel companies. If, however, the government is assuming the cost of training a laid-off worker for a non-steel related job (and the government was not assuming a portion of the steel company's obligation), then the assistance would not be a subsidy to the steel industry.

B. GOB Advances for R & D

Interest-free advances can be provided under the 1970 law up to a maximum of 80 percent of the expense incurred for the R & D of prototypes. The advances are repayable if the research leads to a profitable industrial or commercial activity. The results of the research become the property of the recipient companies. Under such circumstances, the assistance may convey a subsidy. The GOB responded that it has provided aid under this program during 1980–81, but we are unable to determine from the company responses which company or companies received such aid. We are seeking

additional information concerning this program to determine the type of research, the recipients and the amount of aid in order to determine whether or not such aid constitutes a subsidy.

Negative Determination of Critical Circumstances

Counsel for Bethlehem Steel Corporation and counsel for the Five alleged that imports of all steel products under investigation present "critical circumstances." Under section 703(e)(1) of the Act, critical circumstances exist when the alleged subsidy is inconsistent with the Subsidies Code of the General Agreement on Tariffs and Trade and "there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period."

Since these investigations were initiated, U.S. imports of carbon steel structural shapes from Belgium/Luxembourg were 24,053 net tons in February, 13,418 net tons in March, and 12,702 net tons in April, the most recent month for which import statistics are available. U.S. hot-rolled carbon steel plate imports from Belgium/Luxembourg were 17,473 net tons in February, 20,487 net tons in March, and 12,428 net tons in April. U.S. imports of hot-rolled carbon steel sheet and strip from Belgium/Luxembourg were 1,589 net tons in Februry, 4,130 tons in March and 5,338 net tons in April (import statistics available to the Department of Commerce are combined for Belgium/Luxembourg). In the context of this industry, these products have not recently been massively imported from Belgium/Luxembourg over a relatively short period.

Therefore, critical circumstances do not exist for carbon steel structural shapes, hot-rolled carbon plate and hot-rolled carbon steel sheet and strip.

Verification

In accordance with section 776(a) of the Act, we will verify data used in making our final determinations.

Suspension of Liquidation

In accordance with section 703 of the Act, we are directing the U.S. Customs Service to suspend, the liquidation of all entries of carbon steel structural shapes, hot-rolled carbon steel plate and hot-rolled carbon steel sheet and strip which are entered, or withdrawn from warehouse, for consumption, on or after June 17, 1982, and to require a cash deposit or bond for each such entry of the merchandise in the amounts indicated below.

Manufacturer/Producer/Exporter	Ad valorem rate (percent)
Nama:	
Cockerill Sambre:	
Carbon steel structural shapes	20.802
Hot-rolled carbon steel plate	21.773
Hot-rolled carbon steel sheet and strip	21.596
Siderurgie Maritime:	
Hot-rolled carbon steel plate	4.866
Hot-rolled carbon steel sheet and strip	4.866
Forges de Clabecq:	
Hot-rolled carbon steel plate	5.834
Fabrique de Fer de Charleroi:	
Hot-rolled carbon steel plate	1.090
All Other Manufacturers/Producers/Exporters	
Carbon steel structural shapes	20.802
Hot-rolled carbon steel plate	21.773
Hot-rolled carbon steel sheet and strip	21.596

Where a company specifically listed above has not exported a particular product during the period for which we are measuring subsidization, the cash deposit or bond amount should be based on the highest rate for products that were exported by that company.

This suspension will remain in effect until further notice.

ITC Notifications

In accordance with section 703(f) of the Act, we will notify the ITC of our determinations. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to these investigations. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on these preliminary determinations at 1:00 p.m. on July 13, 1982, at the U.S. Department of Commerce, Room 6802, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by July 6, 1982. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, on or before July 19, 1982, at the above address and in at least ten copies.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

June 10, 1982.

Appendix A—Description of Products

For purposes of these investigations:

1. The term *"carbon steel structural shapes"* covers hot-rolled, forged, extruded, or drawn, or cold-formed or cold-finished carbon steel angles, shapes, or sections, not drilled, not punched, and not otherwise advanced, and not conforming completely to the specifications given in the headnotes to Schedule 6, Part 2 of the *Tariff Schedules of the United States Annotated ("TSUSA")*, for blooms, billets, slabs, sheet bars, bars, wire rods, plates, sheets, strip, wire, rails, joint bars, tie plates, or any tubular products set forth in the *TSUSA*, having a maximum cross-sectional dimension of 3 inches or more, as currently provided for in items 609.8005, 609.8015, 609.8035, 609.8041, or 609.8045 of the *TSUSA*. Such products are generally referred to as structural shapes.

2. The term *"hot-rolled carbon steel plate"* covers hot-rolled carbon steel products, whether or not corrugated or crimped; not pickled; not cold-rolled; not in coils; not cut, not pressed, and not stamped to non-rectangular shape; 0.1875 inch or more in thickness and over 8 inches in width; as currently provided for in items 607.8615, or 607.94, of the *Tariff Schedules of the United States Annotated ("TSUSA")*; and hot- or cold-rolled carbon steel plate which has been coated or plated with zinc including any material which has been painted or otherwise covered after having been coated or plated with zinc, as currently provided for in items 608.0710 or 608.11 of the TSUSA. Semifinished products of solid rectangular cross section with a width at least four times the thickness in the as cast condition or processed only through primary mill hot rolling are not included.

3. The term *"hot-rolled carbon steel sheet and strip"* covers the following hot-rolled carbon steel products. Hot-rolled carbon steel sheet is a hot-rolled carbon steel product, whether or not corrugated or crimped and whether or not pickled; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; over 8 inches [1] in width and in coils or if not in coils under 0.1875 inch in thickness and over 12 inches in width; [2] as currently provided for in items 607.8610, 607.8700, 607.8320, 607.8342, or 607.9400 of the *Tariff Schedules of the United States Annotated ("TSUSA")*. *PLEASE NOTE THAT THE DEFINITION OF HOT-ROLLED CARBON STEEL SHEET INCLUDES SOME PRODUCTS CLASSIFIED AS "PLATE" IN THE TSUSA (ITEMS 607.8610 AND 607.8320).*

[1] Amended from 12 inches in the initiation notice.

[2] Initiation notice amended by adding after thickness "and over 12 inches in width."

Hot-rolled carbon steel strip is a flat-rolled steel product, whether or not corrugated or crimped and whether or not pickled; not cold-rolled, not cut, not pressed, and not stamped to non-rectangular shape; under 0.1875 inch in thickness and not over 12 inches in width; as currently provided for in items 608.1920, 608.2120, or 608.2320 of the *TSUSA*. Hot-rolled carbon steel strip originally rolled less than 12 inches in width and containing over 0.25 percent carbon is not included.

4. The term *"cold-rolled carbon steel sheet and strip"* covers the following cold-rolled carbon steel products. Cold-rolled carbon steel sheet is a cold-rolled carbon steel product, whether or not corrugated or crimped and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; over 12 inches in width and in coils or if not in coils under 0.1875 inch in thickness as currently provided for in items 607.8320 or 607.8344 of the *Tariff Schedules of the United States Annotated ("TSUSA")*. *PLEASE NOTE THAT THE DEFINITION OF COLD-ROLLED CARBON STEEL SHEET INCLUDES SOME PRODUCTS CLASSIFIED AS "PLATE" IN THE TSUSA (ITEM 607.8320).* Cold-rolled carbon steel strip is a flat-rolled carbon steel product; cold-rolled, whether or not corrugated or crimped and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; under 0.1875 inch in thickness and over 0.50 inch in width but not over 12 inches in width; as currently provided for in items 608.1940, 608.2140, or 608.2340 of the *TSUSA*. Cold-rolled carbon steel strip originally rolled less than 12 inches in width and containing over 0.25 percent carbon is not included.

5. The term *"galvanized carbon steel sheet"* covers hot- or cold-rolled carbon steel sheet which has been coated or plated with zinc including any material which has been painted or otherwise covered after having been coated or plated with zinc, as currently provided for in items 608.0710, 608.0730, 608.11 or 608.13 of the *Tariff Schedules of the United States Annotated ("TSUSA")*. *NOTE THAT THE DEFINITION OF GALVANIZED CARBON STEEL SHEET INCLUDES SOME PRODUCTS CLASSIFIED AS "PLATE" IN THE TSUSA (ITEMS 608.0710 and 608.11).* Hot or cold-rolled carbon steel sheet which has been coated or plated with metal other than zinc is not included.

6. The term *"hot-rolled carbon steel bars"* covers hot-rolled carbon steel products of solid section which have cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons, or octagons, not cold-formed, and not coated or plated with metal, as currently provided for in items 606.8310, 606.8330, or 606.8350 of the *Tariff Schedules of the United States Annotated*.

7. The term *"hot-rolled alloy steel bars"* covers hot-rolled alloy steel products, other than those of stainless or tool steel, or solid section which have cross sections in the shape of circles segments of circles, ovals, triangles, rectangles, hexagons, or octagons, not cold-formed, and not coated or plated with metal, as currently provided for in item 606.97 of the *Tariff Schedules of the United States*.

8. The term *"cold-formed carbon steel bars"* covers cold-formed carbon steel products of solid section which have cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons, or octagons, and not coated or plated with metal, currently provided for in items 606.8805 or 606.8815 of the *Tariff Schedules of the United States Annotated*.

9. The term *"cold-formed alloy steel bars"* covers cold-formed alloy steel products, other than those of stainless or tool steel, of solid section which have cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons, or octagons, and not coated or plated with metal, as currently provided for in item 606.99 of the *Tariff Schedules of the United States*.

Appendix B

Several basic issues are common to many of the countervailing duty investigations of certain steel products, initated by the Department of Commerce (the "Department") on February 1, 1982; *e.g.*, government assistance through grants, loans, equity infusions, and research and development projects. This Appendix describes in some detail the general principles applied by the Department when dealing with these issues as they arise within the factual contexts of these cases.

Grants

Petitioners allege that respondent foreign steel companies have received numerous grants for various purposes. Under section 771(5) (B) of the Tariff Act of 1930, as amended ("the Act") (19 U.S.C. 1677(5)(B)), domestic subsidies are countervailable where they are "provided or required by government action to a *specific* enterprise or industry, or group of enterprises or industries" (emphasis added).

The legislative history of Title VII of the Act states that where a grant is "tied" to—that is, bestowed expressly to purchase—costly pieces of captial equipment, the benefit flowing from the grant should be allocated over the useful life of that equipment. A subsidy for capital equipment should also be "front loaded" in these circumstances; that is, allocated more heavily to the earlier years of the equipment's useful life, reflecting its greater commercial impact and benefit in those years.

In the past we have allocated the face value of the grant, in equal increments, over the appropriate time period. For Large capital equipment, we used a period of half the useful life of the equipment purchased with the grant. In each year we countervailed only that year's allocated portion of the total grant. For example, a hypothetical grant of $100 million used to purchase a machine with a 20-year life would have been countervailed at a rate of $10 million per year (allocated over the appropriate product group) for 10 years, beginning in the year of receipt.

This allocation technique has often been criticized for not capturing the entire subsidy by ignoring the time value of money. It has been argued that $10 million today is much more valuable to a grant recipient than $100 million per year for the next 10 years, since the present value of the latter is considerably less than $100 million. We agree, and are now changing our methodology of grant subsidy calculation to reflect this agreement. So long as the present value (in the year of grant receipt) of the amounts allocated over time does not exceed the face value of the grant, we are consistent with both our domestic law and international obligations because the amount countervailed will not exceed the total net subsidy.

Present value is calculated using a discount rate. We considered using each company's weighted cost of capital at the time of the grant receipt as the appropriate measure of the time value of its funds. However, we lacked sufficient information to do so for these preliminary determinations. Instead we used the national cost of long-term corporate debt as a substitute measure of a company's discount rate. We welcome additional information or comments on this estimate between the preliminary and final determinations.

For costly pieces of capital equipment, we believe that the appropriate time period over which to allocate the subsidy is its entire useful life. In the past, we allocated the subsidy over only half the useful life in order to front load the countervailing duties in order to comply with the legislative intent of the Act. However, so long as we allocate the subsidy in equal nominal increments over the entire useful life, it will still be effectively front loaded in real terms since money tomorrow is less valuable than money today.

For these steel investigations we have allocated a grant over the useful life of equipment purchased with it when the value of that grant was large (in these investigations, greater than $50 million), and specifically "tied" to pieces of capital equipment.

Where the grant was small (less than one percent of the company's gross revenues or, where we do not know gross revenues, less than one percent of the company's total value of 1981 steel production) and "tied" to items generally expensed in the year purchased (*e.g.*, wages, purchases of materials), we have allocated the subsidy solely to the year of the grant receipt.

All other grants—the vast majority of those involved in these investigations—will be allocated over 15 years, a period of time reflecting the average life of capital assets in integrated steel mills in the U.S. The 15-year figure is based on Internal Revenue Service studies of actual experience in integrated mills in the U.S. Furthermore, we understand that a 15-year period is also used in some of the countries involved in these investigations. We are using this time period as the best available estimate of the average steel asset life worldwide. We could not calculate the average life of capital assets on a company-by-company basis, since different accounting principles, extraordinary write-offs, and corporate reorganizations yielded extremely inconsistent results. For example, the average life of one steel company's assets, as indicated on its books, increased from 3 years to 22 years within 3 years.

We do not distinguish grants bestowed expressly to cover operating losses from other "untied" grants. Since grants used to cover operating losses often keep the company in business and are frequently quite

large, their real effects extend for a considerable period of time. It is appropriate to allocate them over a number of years.

Loans and Loan Guarantees for Companies Considered Creditworthy

In these investigations, various loan activities give rise to subsidies. The most common practice is the extension of a loan at a preferential interest rate where the government is either the actual lender or directs a private bank to lend at a preferential rate. The subsidy is computed by comparing what a company would pay a normal commercial lender in principal and interest in any given year with what the company actually pays on the preferential loan in that year. We determine what a company would pay a normal commercial lender by constructing a comparable commercial loan at the appropriate market rate (the "benchmark"). If the preferential loan is part of a broad, national lending program, we use a national average commercial rate as our benchmark. If the loan program is not generally available—like most large loans to respondent steel companies—the benchmark used instead, where available, is the company's actual commercial credit experience (*e.g.*, a contemporaneous loan to the company from a private commercial lender). If there were no similar loans, the national commercial rate is used as a second-best alternative.

For loans denominated in a currency other than the currency of the country concerned in an investigation, the brenchmark is selected from interest rates (either national or company-specific, as appropriate) applicable to loans denominated in the same currency as the loan under consideration.

After calculating the payment differential in each year of the loan, we then calculated the present value of this stream of benefits in the year the loan was made, using a national cost of long-term corporate debt in that year as the discount rate. In other words, we determine the subsidy value of a preferential loan as if the benefits had been bestowed as a lump-sum grant in the year the loan was given. We determine how much less valuable money tomorrow is than money today by applying a discount rate. We are using the national cost of long-term corporate debt for the year in which the loan was given as this discount rate. This amount is then allocated evenly over the life of the loan, with one exception. Where the loan was given expressly for the purchase of a costly piece of capital equipment, the present value of the payment differentials is allocated over the useful life of the capital equipment concerned.

For loans not tied to capital equipment with mortgage-type repayment schedules, this methodology results in annual subsidies equivalent to those calculated under the previous Department policy of considering the difference in total repayments in each year of a loan's lifetime to be the subsidy *in that year*. For loans with constant principal repayments (*i.e.*, declining total repayments), loans with deferral of repayments, and loans for costly capital equipment, the present value method results in even allocations of the subsidy over the relevant period. This effectively front loads countervailing duties on these loan benefits in the same manner as grants are front loaded.

A loan guarantee by the government constitutes a subsidy to the extent the guarantee assures more favorable loan terms than for an unguaranteed loan. The subsidy amount is quantified in the same manner as for a preferential loan.

If a borrowing company preferentially received a payment holiday from a government lending institution or from a private lender at government direction, an additional subsidy arises that is separate from and in addition to the preferential interest rate benefit. The subsidy value of the payment holiday is measured in the same manner as for preferential loans, by comparing what the company pays versus what it would pay on a normal commercial loan in any given year. A payment holiday early in the life of a loan can result in such large loan payments near the end of its term that during the final years the loan recipient's annual payments on the subsidized loan may be greater than they would have been on an unsubsidized loan. By reallocating the benefit over the entire life of the loan through the present value methodology described above, we avoid imposing countervailing duties in excess of the net subsidy.

Loans and Loan Guarantees for Companies Considered Uncreditworthy

In a number of cases petitioners have alleged that certain respondent steel companies were uncreditworthy at the time they received preferential loans or guarantees, and that they could not have obtained any commercial loan without government intervention.

When the company under investigation has a history of deep or significant continuing losses, and diminishing (if any) access to private lenders, we generally agree with petitioners. In these situations neither national nor company-specific market interest rates provide an appropriate benchmark since, by definition, an uncreditworthy company could not receive loans on these terms without government intervention. Nor have we been able to find any reasonable and practical basis for selecting a risk premium to be added to a national interest rate in order to establish an appropriate benchmark for companies considered uncreditworthy. Therefore, we have treated loans to an uncreditworthy company as an equity infusion by the government. We believe this treatment is justified by the treat risk, very junior status, and low probability of repayment of these loans. To the extent that principal and/or interest is actually paid on these loans, however, the subsidy (which is calculated using our equity methodology, *infra*) is reduced dollar for dollar in the year of repayment. Moreover, in no case do we countervail a loan subsidy to a creditworthy or uncreditworthy company more than if the government gave the principal as an outright grant.

Equity

Petitioners allege that government purchases of equity in respondent steel companies constitute a countervailable subsidy equal to the entire amount of the equity purchased. Many respondents claim that such equity purchases are investments on commercial terms, and thus are not subsidies to these companies.

It is well settled that government equity ownership *per se* is not a subsidy. Such ownership is a subsidy only when it is on terms inconsistent with commercial considerations. An equity subsidy potentially arises when the government makes equity infusions into a company which is sustaining deep or significant continuing losses. If such losses have been incurred, then we consider from whom the equity was purchased and at what price.

If the government buys previously issued shares on the market and not directly from the company, there is no subsidy to the company. This is true no matter what price the government pays, since any overpayment benefits only the prior shareholders and not the company.

If the government buys shares directly from the company (either a new issue or corporate treasury stock) and similar shares are traded in a market, a subsidy arises if the government pays more than the prevailing market price. To avoid any effect on the market price resulting from the government's purchase or speculation in anticipation of such purchase, we used for comparison a market price on a date sufficiently preceding the government's action. Any amount of overpayment is treated as a grant to the company.

It is more difficult to judge the possible subsidy effects of direct government infusions of equity where there is no market price for the shares since they were untraded (as where, for example, the government is already sole owner of the company). As a matter of principle, government equity participation can be a legitimate commercial venture. Often, however, as in many of these steel cases, equity infusions follow massive or sustained losses and are part of national government programs to sustain or rationalize an industry which otherwise would be noncompetitive. We respect the government's characterization of its infusion as equity in a commercial venture. However, to the extent in any year that the government realizes a rate of return on its equity investment less than the average rate of return on equity investment for the country as a whole (thus including returns on both successful and unsuccessful investments), its equity infusion is considered a subsidy. Under no circumstances do we countervail an amount greater than that which is calculated treating the government's equity infusion as an outright grant.

Forgiveness of Debt

Where we have found that the government has forgiven an outstanding debt obligation, we have treated this as a grant to the company equal to the outstanding principal at the time of forgiveness. Where outstanding debt has been converted into equity (*i.e.*, the government receives shares in the company in return for eliminating debt obligations of the company), a subsidy may result. The

existence and extent of such subsidies are determined by treating the conversions as an equity infusion in the amount of the remaining principal of the debt. We then calculated the value of the subsidy by using our equity methodology, *supra*.

Coal Assistance

Petitioners alleged that respondent steel companies outside the Federal Republic of Germany that buy German coal benefit from assistance given by the German government to German producers of coking coal. The issue of indirect subsidization of German steelmakers through the German government's assistance to German coking coal is considered separately in the "Notice of Preliminary Affirmative Countervailing Duty Determinations; Certain Steel Products from the Federal Republic of Germany," appearing in this issue of the Federal Register.

In the absence of special circumstances, a party receiving a benefit on the production of its merchandise is not assumed to share that benefit with an unrelated purchaser. It is in the commercial interest of a firm receiving a subsidy not to share the benefits with customers, but rather to pass it on to its shareholders in the form of greater net earnings. This view has previously been expressed by the Department in the "Preliminary Affirmative Countervailing Duty Determination; Sodium Gluconate from the European Community" (46 FR 45975).

Moreover, the German government's assistance to its coking coal industry does not reduce the price of German coking coal *below* the world price. So long as non-German coal can be purchased more cheaply, we see no measurable benefit to non-German steelmakers who purchase German coal, whether or not it is subsidized.

Petitioners argue that German assistance ot its coking coal industry exerts downward pressure on the price of coal in all markets in which German coking coal is sold. If so, we believe that such downward pressure would affect the price of coal worldwide, and thus benefit all steelmakers everywhere. Similarly, if the German coking coal assistance were eliminated and if German coal mine operations consequently were reduced or ceased, and consequent rise in the price of coking coal would likely have worldwide effects and thus affect steelmakers everywhere. Therefore we do not accept petitioners' contention that the FRG's assistance to its coking coal industry during 1981 had a significant downward effect on the price of coking coal which preferentially steelmakers purchasing German coal.

Research and Development Grants and Loans

Grants and preferential loans awarded by a government to finance research that has broad application and yields results which are made publicly available are not subsidies. Programs of organizations or institutions established to finance research on problems affecting only a particular industry or group of industries (*e.g.*, metallurgical testing to find ways to make cold-rolled sheet easier to galvanize) and which yield results that are available only to producers in that country (or a limited number of countries) confer a subsidy on the products which benefit from the results of the research and development ("R&D"). On the other hand, programs which provide funds for R&D in a wide range of industries are not countervailable even when a portion of the funds is provided to the steel sector.

Once we determine that a particular program is countervailable, we calculate the value of the subsidy by reference to the form in which the R&D was funded. An R&D grant is treated as an "untied" grant; a loan for R&D is treated as any other preferential loan.

Labor Subsidies

To be countervailable, a benefit program for workers must give preferential benefits to workers in a particular industry or in a particular region. Whether or not the program benfits specifically some workers and not others is determined by looking at both program eligibility and participation. Even where provided to workers in specific industries, social welfare programs are countervailable only to the extent that they relieve the firm of costs it would ordinarily incur—for example, the government's assumption of a firm's obligation partially to fund worker pensions.

Labor-related subsidies are generally conferred in the form of grants and are treated as untied grants for purposes of subsidy calculation. Where they are quite small and expensed by the company in the year received, we likewise allocated them only to the year received. However, where they were more than one percent of gross revenues (or, where we do not know gross revenues, one percent of the value of 1981 steel production), we allocated them over five years.

APPENDIX C.—PROGRAMS ADMINISTERED BY ORGANIZATIONS OF THE EUROPEAN COMMUNITIES

I. The ECSC

On April 8, 1965, the three separate European communities—the European Coal and Steel Community ("ECSC"), the European Economic Community ("EEC"), and the European Atomic Energy Community ("EURATOM")—signed a treaty to merge into the European Communities ("EC"). Article 9 of the merger treaty established the Commission of the European Communities as the High Authority of each of the formerly independent institutions. The merger became effective in 1967.

The ECSC itself was established by the Treaty of Paris in 1951 to modernize production, improve quality, and assure a supply of coal and steel to the member countries. The Treaty of Paris governs all programs intended directly to affect the steel industry. Funds for these programs flow from two sources: (1) ECSC borrowings on international capital markets, and (2) the ECSC budget, substantially derived from producer-generated funds.

A. ECSC Programs Preliminarily Determined To Be Subsidies

With respect to ECSC borrowings, the ECSC enjoys a very high credit rating because of its quasi-governmental nature. It is therefore able to raise funds at interest rates lower than those which would be available to European steel companies. When the ECSC re-lends these borrowed funds to a company without increasing the interest rate, any difference between the lower interest rate passed on and the rate otherwise available to the steel company in the commercial financial market (the "benchmark") is a benefit to the company. For this reason we preliminarily determine that ECSC loans raised through capital market funding are countervailable insofar as they offer preferential interest rates to steel companies.

Consequently any loan involving ECSC funds borrowed on international capital markets, provided under an ECSC assistance program, confers countervailable benefits if the loan is at a preferential interest rate.

1. *ECSC Industrial Investment Loans.* Article 54 of the Treaty of Paris authorizes the ECSC to provide loans to steel companies in member countries for reducing production costs, increasing production, or facilitating product marketing. Loans provided under this program are funded exclusively from ECSC borrowings on world capital markets. For the reasons discussed above, we preliminarily determine that this program confers countervailable benefits to loan recipients to the extent that the interest rates are preferential (as determined using the appropriate loan methodology described in Appendix B).

2. *ECSC Housing Loans for Workers.* Article 54(2) of the Treaty of Paris authorizes the ECSC to provide loans for residential housing for steel workers. In some cases these loans are provided directly to steel companies. In other cases, they are administered through financial institutions or housing authorities. These loans for the construction or purchase of homes are at highly concessionary one percent interest rates.

The preferential ECSC housing loans provide benefits directly to steel workers. We believe they also indirectly benefit the employer steel companies by relieving them of certain labor wage costs. That is, if steel workers were unable to obtain housing loans at these highly advantageous rates, the companies which employ them would be required to pay higher wages.

Our information to date indicates that ECSC funding for housing loans derives from both its budget and funds borrowed on international capital markets. To the extent that the loans derive from the budget, we preliminarily determine that they are not countervailable for the reasons indicated below in section B of this Appendix. To the extent they derive from ECSC borrowings on world capital markets, they confer a subsidy if the loan recipient could not have obtained a commercial loan on comparable terms. The proportion of total ECSC housing loans funded from borrowed money rather than from the budget in a given year is considered the preferential housing loan amount received in that year.

In 1980, the most recent year for which data are available, the portion of new ECSC housing loans financed by borrowings

amounted to 42.24 percent. In 1979 the same portion was 17.94 percent; in 1978, 7.8 percent; and in 1977, 13.95 percent. For 1981 we are using as the best information available the 1980 information. Where these loans are not given directly to a steel company or are given to a steel company which merely serves as a disbursing agent, they yield a benefit to steel workers to the extent that the workers need not obtain a mortgage at the going commercial rate. The subsidy in these cases is the difference between what the workers pay on the ECSC housing loans and what they would have paid on a non-subsidized loan. In the absence of country-specific information on unsubsidized mortage rates, we are estimating this rate by using as our benchmark the national long-time corporate debt rate. We believe this entire benefit is a subsidy on all steel production of the employer firm, allocated as described in Appendix B for labor subsidies.

On the other hand, where these loans are given directly to company which disburses only a small portion of them, the subsidy value is calculated using the appropriate methodology for preferential loans as described in Appendix B.

3. *ECSC Loan Guarantees.* Under Article 54 of the Treaty of Paris, the ECSC is authorized to gurante loans from commercial lenders to coal and steel companies. Since these guarantees are intended specifically for the steel industry, we find the resulting benefits to be countervailable. The countervailable benefit is based on the difference between the interest rate charged by private lenders to commercial customers in the ordinary course of business and the rates available with an ECSC loan guarantee.

B. ECSC Programs Preliminarily Determined Not To Be Subsidies

The ECSC budget for assistance to coal and steel producers is funded by levies on coal and steel producers within the ECSC member states. We examined the ECSC financial statements for 1971–1980, inclusive, and found that, for those years, the amount of funds generated by levies on producers exceeded the total amount of ECSC assistance provided through budget-funded programs. Therefore, we preliminary determine that any ECSC assistance provided from the ECSC budget does not provide a countervailable benefit. We will seek further information concerning the extent to which producer-generated funds are appropriately earmarked for these forms of program assistance.

1. *ECSC Industrial Reconversion Loans.* Under Article 56 of the Treaty of Paris, the ECSC provides loans to companies or public authorities for investments in new non-steel ventures in regions of declining steel industry activity. The goal of the loan program is to provide employment for former steel workers in new industries. This program does not appear to benefit steel companies. Therefore, we preliminarily determine that it does not confer subsidies on steel.

2. *ECSC Labor Assistance and Rehabilitation Aids.* Under Article 56 of the Treaty of Paris, the ECSC provides matching grants to member states for programs that assist former steelworkers presently unemployed or in training for a new trade. The program must be aimed specifically at steel industry workers, and at least 50 percent of its funding must be provided by the member state. The ECSC portion of the program is funded from its budget. For the reasons discussed above, we preliminarily determine that this program does not confer countervailable benefits.

3. *ECSC R&D Grants.* Article 55 of the Treaty of Paris provides funding in the form of grants for up to 60 percent of an R&D project's cost. The projects must be for improvements in the production and use of coal and steel. The results of the project become the property of the ECSC and are made available to all members.

These grants are funded exclusively from the ECSC budget. Therefore, for the reasons discussed above, we preliminarily determine that this program does not confer countervailable benefits.

4. *ECSC Interest Rebates.* Certain Article 54 loans qualify for further interest reductions depending on whether they are for environmental projects, removal of industrial bottlenecks, promotion of steel industry competitiveness, or stabilization of coal production. The rebates generally reduce the interest expense for the first five years of the loan repayment schedule by three percentage points. The interest rebates are paid out of the ECSC's budget. For the reasons discussed above with respect to all budget-financed programs, we preliminarily determine that this program does not confer countervailable benefits.

5. *ECSC Coal and Coke Aids.* Petitioners have alleged that ECSC assistance to coal producers in EC countries constitutes an indirect benefit to steel producers purchasing that coal. However, the ECSC coal aids are bestowed on all types of coal. Therefore the ECSC aids on coal cannot be intended to benefit, and do not benefit, the steel industry in particular. Under section 771(5)(B) of the Act, there is no subsidy to steel in these circumstances, even though steel producers in EC countries purchase some ECSC coal.

In addition, we have found that non-repayable coal and coke aids from the ECSC are paid out of the ECSC's budget. For the reasons discussed above, they are therefore not considered to confer countervailable benefits.

C. ECSC Programs for Which Additional Information Is Needed

1. *ECSC Research and Development ("R&D") Loans.* R&D loans confer countervailable benefits on recipients if: (1) The research benefits a product under investigation; (2) the funding source is countervailable (e.g., from ECSC borrowings on capital markets rather than from the ECSC budget); (3) the results are not generally available; and (4) the recipient could not have obtained a commercial loan on comparable terms without government intervention.

Based upon information available to date, it is unclear how widely available the results of research are, and from which source the funds derive. We will seek more information upon which to base a determination.

II. The European Investment Bank

The European Investment Bank ("EIB") was created by the Treaty of Rome establishing the EEC to fund projects that serve regional needs in Europe. Article 130 of the Treaty of Rome authorizes the EIB to make loans and guarantee finance projects in all sectors of the economy. These projects include the provision of funds to further the development of low income regions. Funds are drawn from debt instruments floated on world capital markets and from investment earnings. Because EIB loans are designed by charter to serve regional needs, we find them to be countervailable where the interest rate is less than the rate which would have been available commercially from a private lender without government intervention.

The EIB also provides loan guarantees to companies in EC member countries. Again, because this guarantee was available in some but not all regions, it is regarded as a countervailable benefit.

III. The European Regional Development Fund

The European Regional Development Fund was established by the EEC to provide funding in the form of low-interest loans for industrial projects designed to correct regional imbalances within the EEC. The fund also awards interest subsidies on EIB loans.

We preliminarily determine that this program was not utilized by any of the manufacturers, producers or exporters for any of the products from countries under investigation.

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Preliminary Affirmative Countervailing Duty Determination; Carbon Steel Plate From Brazil

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary affirmative countervailing duty determination.

SUMMARY: We preliminarily determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Brazil of carbon steel plate. The estimated net subsidy is indicated in the "Suspension of Liquidation" section of this notice. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of carbon steel plate from Brazil which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on this product in the amount equal to the estimated net subsidy.

If this investigation proceeds normally, we will make our final determination by August 24, 1982.

EFFECTIVE DATE: June 17, 1982.

FOR FURTHER INFORMATION CONTACT:

Paul J. McGarr, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377–1167.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine there is reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended ("the Act"), are being provided to manufacturers, producers, or exporters in Brazil of carbon steel plate. For purposes of this investigation, the following programs are preliminarily found to be subsidies:

- IPI Rebates for Capital Investment.
- IPI Export Credit Premium.
- Preferential Working Capital Financing For Exports

We estimate the net subsidy to be the amount indicated in the "Suspension of Liquidation" section of this notice.

Case History

On January 11, 1982, we received petitions from the United States Steel Corporation, and counsel for Republic Steel Corporation, Inland Steel Company, Jone & Laughlin Steel, Inc., National Steel Corporation, and Cyclops Corporation ("the Five"), filed on behalf of the U.S. industry producing carbon steel plate. The petitions alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in Brazil of carbon steel plate. Counsel for the Five also alleged that "critical circumstances" exist, as defined in section 703(e) of the Act.

We found the petitions to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on February 1, 1982, we initiated a countervailing duty investigation (47 FR 5751). We stated that we expected to issue a preliminary determination by April 6, 1982. We subsequently determined that the investigation is "extraordinarily complicated", as defined in section 703(c) of the Act, and postponed our preliminary determination for 65 days until June 10, 1982 (47 FR 11738).

Since Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the U.S. International Trade Commission ("ITC") or our initiation. On Februray 26, 1982, the ITC preliminarily determined that there is a reasonable indication that these imports are materially injuring a U.S. industry.

We presented a questionnaire concerning the allegations to the government of Brazil in Washington, D.C. on April 22, 1982, we received the response to that questionnaire. A supplemental response was received on June 7, 1982.

Scope of the Investigation

The product covered by this investigation is hot-rolled carbon steel plate. The product is fully described in Appendix A which appears with the notice of "Preliminary Affirmative Countervailing Duty Determinations, Certain Steel Products from Belgium", in this issue of the **Federal Register**.

Companhia Siderurgica Paulista (COSIPA) and Usinas Siderurgicas de Minas Gerais S.A. (USIMINAS) are the only known exporters in Brazil of carbon steel plate to the United States. The period for which we are measuring subsidization is calendar year 1981.

Analysis of Programs

In its responses, the government of Brazil provided data for the applicable periods. Throughout this notice, general principles applied by the Department of Commerce to the facts of the current investigations concerning certain steel products are described in detail in Appendix B which appears with the notice of "Preliminary Affirmative Countervailing Duty Determinations, Certain Steel Products from Belgium", in this issue of the **Federal Register** (hereinafter Appendix B). Based upon our analysis to date of the petitions and the responses to our questionnaire, we preliminarily determine the following.

I. Programs Preliminarily Determined To Be Subsidies

We preliminarily determine that subsidies are being provided to manufacturers, producers, or exporters in Brazil of carbon steel plate under the following programs.

A. IPI Rebates for Capital Investment

Decree Law 1547 (April 1977) provides funding for the expansion of the Brazilian steel industry through a rebate of the Industrialized Products Tax ("IPI") the Brazilian federal excise tax. Under this tax system, a company determines its liability for the tax at the end of each month. The net tax owed is calculated as the difference between the total IPI the company paid on purchases and the total IPI it collected on domestic sales. Normally, within five months after the end of each month, a company must pay the amount of the net tax owed directly to the Brazilian government. This net IPI tax is the basis for calculating the rebate for investment. A Brazilian steel company may deposit 95 percent of the net IPI tax in a special account with the Banco do Brasil. The amounts deposited are to be applied to steel expansion projects, and when rebated to the firms constitute tax-free capital reserves which must eventually be converted into subscribed capital. We consider the amount rebated each year as an united grant received in that year. As such, we have applied the methodology described in Appendix B. The grants were amortized over 15 years and the total benefit for 1981 was divided by each company's total sales for 1981. The *ad valorem* benefit of this subsidy is 1.47 percent.

COSIPA and USIMANAS received benefits under this program from 1977 to 1981. With the enactment of Decree Law 1843 (December 1980), COSIPA and USIMINAS must now pay the IPI tax to the government which in turn rebates 95 percent to SIDERBRAS, the government holding company to which COSIPA and USIMINAS belong, to increase its capital.

B. IPI Export Credit Premium

The IPI export credit premium has been found to be a subsidy in previous countervailing duty investigations involving Brazilian products. After having suspended this program in December 1979, the government of Brazil reinstated it on April 1, 1981. Currently, the program is scheduled to be phased out in several steps, ending on April 1, 1983.

Exporters of carbon steel plate are eligible for the maximum IPI export credit premium. During the applicable period, 15 percent of the "adjusted" f.o.b. invoice price of the exported merchandise was reimbursed in cash to the exporter through the bank involved in the export transaction.

In calculating the amount the exporter is to receive, several deductions are made to the invoice price to obtain the "adjusted" f.o.b. value. These adjustments include: any agent commissions, rebates or refunds resulting from quality deficiencies or damage during transit, contractual penalties, and the value of imported inputs. In order to receive the maximum export credit premium, the exported product must consist of a minimum of 75 percent value added in Brazil. If this minimum limit is not met, there is a specific calculation to reduce the f.o.b. invoice price when calculating the base upon which the IPI export credit

premium is paid. Since the companies involved in this investigation import large quantities of slab, which is approximately 65 percent of the value of the exported product, they do not receive the maximum available benefit.

To calculate the *ad valorem* subsidy, we relied on information provided by the government of Brazil. It provided us with the amount of the IPI credit received by COSIPA and USIMINAS for the period July 1, 1981 to December 31, 1981 (dating from when the companies began to receive payments), as well as the value of exports of carbon steel plate for the same time period. By dividing the IPI credits received by the value of their exports, we calculated an *ad valorem* export subsidy of 5.40 percent.

This *ad valorem* rate is premised on an IPI export credit premium of 15 percent. The government of Brazil reduced the benefit to 14 percent on March 31, 1982 and is scheduled to reduce it again to 12.5 percent on June 30, 1982. Accordingly, the Brazilian government asserts that a downward adjustment in the rate for this program is appropriate to reflect the current availability of the benefit.

We have made such an adjustment because we must still resolve two matters. First, the receipt of the IPI credit occurs sometime after the merchandise is exported; therefore, the figures we relied on in making our calculation may understate the benefit. Exports reported for the last part of 1981 probably do not completely correspond to the IPI credits for those exports in the 1981 figures we received. If this is so, we will adjust the rate accordingly. Second, the use of imported slab was a major factor in the relatively low level of the benefit. We will seek to ascertain whether this is a temporary situation.

C. Preferential Working Capital Financing for Exports: Resolution 674

Under this program, companies are declared eligible to receive working capital loans by CACEX (the Department of Foreign Commerce of the Banco Central do Brasil). These loans may have a duration of up to one year. Firms in the steel industry can obtain this preferential financing for up to 20 percent of the net f.o.b. value of the previous year's experts. We preliminarily determine that such financing is an export subsidy.

This net export value is calculated by taking numerous deductions from the export value of the merchandise, including agent commissions, contractual penalties or refunds, exports denominated in cruzeiros, imported inputs over 20 percent of the export value, and a deduction for the company's trade deficit as a percentage of the value of its exports. Since both COSIPA and USIMINAS have trade deficits (due primarily to the importation of coal) the sum of these deductions is substantial, thus reducing the maximum level of financing available. In addition, any growth in the cruzeiro value of exports over the previous year will reduce the value of the benefit as a percentage of the current year's exports.

To determine the value of loans in existence under this program during 1981, we prorated any loans that straddled other years. For loans taken out in 1980, only that portion extending into 1981 was included in our calculation. Any 1981 loans extending into 1982 were similarly adjusted. We than divided the total value of these loans by the total value of exports for these two companies in 1981 to calculate the amount of preferential financing they received.

As in previous Brazilian countervailing duty cases, we are looking to the rate established by the Banco do Brasil for discounting sales of accounts receivable as the commercial rate for the acquisition of short-term working capital. Although we are comparing the terms of a loan with the terms of sale of an asset, we have used this comparison because information provided by the government of Brazil indicates that, within the Brazilian financial system, working capital is normally raised through the sale of accounts receivable. Currently, the rate for discounting sales of accounts receivable is 59.6 percent plus a 6.9 percent tax on financial transactions (IOF). The subsidy is the difference between the interest rate available under Resolution 674 and the commercial rate.

The interest rate on loans under Resolution 674 is 40 percent, with interest payable semiannually and the principal fully payable on the due date of the loan. The effective rate of interest for these loans is 44 percent. These loans are also exempt from the IOF. Therefore, the differential between these two types of financing is 22.5 percent. When multiplying this differential by the amount of preferential financing received as a percant of exports, we determined an *ad valorem* export subsidy of 1.71 percent.

The Brazilian government claims that Resolution 674 financing provides no countervailable benefit because COSIPA and USIMINAS have the ability to obtain working capital at lower rates either by discounting accounts receivable in hard currency or by borrowing hard currency on international markets, and in the absence of Resolution 674 financing they would utilize these options more frequently. Despite the claim, there is no comparability between these two procedures and Resolution 674 financing. Resolution 674 is a program to provide working capital in cruzeiros, and the loans are payable in cruzeiros. The interest rate for cruzeiros, even when subsidized, may be sustantially higher than rates for hard currency because of the high inflation rate in Brazil. When a company sells a hard-currency receivable to a bank to obtain working capital in cruzeiros, the bank is paid in the currency of the receivable and discounts it accordingly. After reducing the value of the receivable by the discount rate, the company receives the current cruzeiro value of the receivable. Any gain from the appreciation of the receivable against the cruzeiro, which can be considerable, is passed on to the bank. To compare this method of raising working capital with Resolution 674 financing would require adding the exchange loss by the company to the discount rate. As for hard currency loans, a company would not use them domestically because of the considerable exchange risk involved and thus such loans would not serve the same purpose as Resolution 674 loans.

The government of Brazil also claims that the IOF is an indirect tax on the production of goods for export, that the exemption of loans under Resolution 674 from this tax is not a subsidy, and that if we determine that Resolution 674 financing provides a subsidy we should not consider this exemption as part of that subsidy. The IOF is an indirect tax and it is paid on domestic financial transactions. However, this fact is not relevant. Since we are considering the discounting of a cruzeiro-denominated account receivable, a transaction upon which the IOF is paid, as the commerical alternative to Resolution 674 loans, it is entirely appropriate that we include the exemption of Resolution 674 loans from the IOF as part of the subsidy, in order to measure the full benefit provided under this program.

II. Programs Preliminarily Determined Not To Be Subsidies

We prelimniarily determine subsidies are not being provided to manufacturers, producers, or exporters in Brazil of carbon steel plate under the following programs.

A. Government Purchase of Equity

The government of Brazil has owned a portion of the equity in USIMINAS and COSIPA since they were established in

the 1950's and 1960's, respectively. This ownership takes several institutional forms but consists chiefly of shares owned by SIDERBRAS and the National Development Bank ("BNDE"). Currently, COSIPA is 99.9 percent owned by such entities (81.5 percent SIDERBRAS, 12.4 percent BNDE) and USIMINAS is 80.7 percent owned by them (34.3 percent SIDERBRAS, 46.4 percent BNDE). Nippon Steel has owned shares in USIMINAS since it was established and currently holds 17.3 percent of the equity. Neither company's stock is freely traded.

Between the years 1977–1981, COSIPA made a profit in only one year, 1978. USIMINAS has made a profit in all but one of these years, 1979, which was a difficult year financially for COSIPA, USIMINAS and any other company with substantial foreign currency debt, because of a 30 percent devaluation of the cruzeiro in December 1979.

In the 1977–81 period, both companies experienced significant growth financed largely through debt, but also by government equity infusions. COSIPA's growth has been more substantial, and it has been the greater beneficiary of the government equity purchases. Most of this equity funding has come from government purchases of SIDERBRAS' equity, which in turn has purchased equity in its subsidiaries.

The petitioners alleged that these equity infusions are capital grants which constitute subsidies, in that they are investments in unprofitable companies without expectations of a reasonable return. They further alleged that prudent investors would not invest in COSIPA and USIMINAS, that government investment is "on terms inconsistent with commerical considerations," and that the government purchase of equity is "the grant of funds * * * to cover operating losses." As set forth in Appendix B, where such allegations were made, we look to see whether the companies concerned appeared to present sound investment opportunities when an investment was made.

USIMINAS has a history of being profitable. For the one year in the recent past when it was not, 1979, that failure was largely attributable to the cruzeiro devaluation.

For COSIPA, the losses have been frequent in recent years, but the government of Brazil states that this is largely because of the strain placed on the company's resources by expansion. To support its claim that COSIPA is a commerically sound investment, the Brazilian government cited a 1975 feasibility study prepared by the World Bank regarding COSIPA's Phase III expansion project, which included a financial and commerical analysis of the project. Some of the conclusions of that analysis were as follows: (1) "the project provides a * * * rate of return (after taxes) of 10.7 percent in constant terms;" (2) "the company's financial position is expected to allow reasonable dividends after project completion;" and (3) "by 1982, the first full year of Stage III production, net profits * * * as a percentage of average equity * * * would be about 12 percent." In the context of its analysis, the World Bank report noted the substantial increase in steel consumption in Brazil during the previous two decades, particularly for flat products. In addition, COSIPA has been able to attract loans from numerous foreign private banks from the 1970's to the present.

Beause of USIMINAS' record of profits in recent years and the returns reasonably expected by the government of Brazil when COSIPA's expansion project began, we preliminarily determine that the purchase of equity in these companies by the government is not "inconsistent with commercial considerations."

B. Investment Subsidy From Credit to the Corporate Income Tax

COSIPA and USIMINAS have taken part in this program, but not during the applicable period. Brazilian tax law allows any corporation that owes corporate income taxes to elect to apply up to 51 percent of its corporate income taxes owed to the government to specified investment funds. The investment funds generally are for the economic development of certain regions, industries or national interests (e.g., the Amazon, the Northeast, fisheries, tourism and reforestation). The steel industry is not among the targeted sectors. If a corporation elects to direct the taxes it owes to the government into one or more of the specified investment funds, it receives stock for its investment in those funds. Upon receipt of the stock, which must be held at least five years, the investment is included in the equity holdings of the corporation. We preliminarily determine that election to participate in this program does not constitute a subsidy since all corporations which pay corporate income taxes are eligible to participate in the program on equal terms.

C. Export Financing Under Communication 331

Communication 331 is a set of rules and regulations established by the Brazilian government to govern foreign exchange contracts for export transactions. Beyond establishing these rules, the government has no further involvement. Banks that act as intermediaries in export transactions operate under these rules but are free to choose whether they will discount an account receivable denominated in foreign currency, the type of transaction at issue in this program.

The government of Brazil states that it provides no resources to banks to enable them to perform these operations nor does it establish the discount rates. The rate of discount reflects commercial considerations such as the bank's relationship with its customer, its own circumstances, and market rates of interest, which generally track LIBOR rates. As such, we preliminarily determine that the discounting of foreign exchange accounts receivable under these conditions is not a subsidy.

D. Transportation Subsidies

The Brazilian government, in its response to our questionnaire, states that COSIPA and USIMINAS receive no preferential rates when using railroads and ports. We have no evidence that any programs exist which given preferential freight or insurance rates to steel exporters.

E. Purchase of Inputs From A Related Company

Companhia Siderurgica Nacional (CSN) is a member of the SIDERBRAS group and both COSIPA and USIMINAS have purchased slab from CSN. The petitioners alleged that CSN received the same types of subsidies from the government as COSIPA and USIMINAS and that subsidies to CSN are consequently indirect subsidies to COSIPA and USIMINAS.

The government of Brazil states that COSIPA and USIMINAS used the slab purchased from CSN exclusively for producing hot-rolled strip and that the specifications and dimensions of this slab preclude its use in producing carbon steel plate.

III. Programs Preliminarily Determined Not To Be Utilized

We preliminarily determine that the following programs which were described in the notice of "Initiation of Countervailing Duty Investigation" were not utilized by the manufacturers, producers, or exporters in Brazil of carbon steel plate.

A. Income Tax Exemption for Export Earnings

Exporters of carbon steel plate are eligible to participate in this program, under which the percentage of their profit attributable to export revenue is

exempt from income tax. To arrive at this percentage, export revenue is divided by total revenue. The amount of profit exempt from the income tax is then multiplied by the 35 percent corporate income tax rate to determine the amount of the benefit.

In a program of this kind, benefits cannot be determined with finality until the books are closed sometime in the following year. Therefore, we must look at fiscal year 1980 to determine if any benefit was received in fiscal year 1981. Since neither COSIPA nor USIMINAS had a taxable profit in fiscal year 1980, neither company was eligible to receive benefits under this program.

B. The Commission for the Granting of Fiscal Benefits for Special Export Programs ("BEFIEX")

BEFIEX grants several types of benefits to companies that are part of certain targeted industries and that sign contracts that include specific export commitments. These benefits include the following: A reduction of between 70 percent and 90 percent of the import duties and the IPI tax on the import of machinery, equipment, apparatus, instruments, accessories and tools necessary to meet the approved export commitment; an extension of the period for carrying tax losses forward from four to six years, provided no dividends are paid during that time; and amortization of pre-operational expenses of BEFIEX projects at the discretion of the company rather than the normal straight-line amortization over ten years. As a general rule, companies that sign BEFIEX contracts guaranteeing these and any other benefits must make an export commitment that over the life of the project it will generate export earnings of at least three times the value of imports for the project. The government of Brazil states that since the steel industry in Brazil has been developed primarily to supply the domestic market and COSIPA and USIMINAS have large trade deficits, they are effectively ineligible for this program and did not receive any benefits in 1981.

C. Preferential Financing for the Storage of Merchandise Destined for Export: Resolution 330

This program prpvides financing for up to 80 percent of the value of merchandise placed in a warehouse and destined for export. Interest rates for such loans are 40 percent per annum, with interest payable semiannually. The government of Brazil states that neither COSIPA nor USIMINAS used this program, since both companies' exports are manufactured to order and there is no need to warehouse their merchandise.

D. Industrial Development Council ("CDI") Program

This program allowed an exemption of 80 percent of the customs duties and 80 percent of the IPI tax on certain imported machinery for projects approved by the CDI. Decree Law 1726 repealed this program in 1979 and no new projects are eligible for these benefits. However, companies with projects approved prior to repeal may still receive these benefits pending the completion of the project. Neither COSIPA nor USIMINAS received benefits during 1981.

E. Accelerated Depreciation for Capital Goods Manufactured in Brazil

This program allows companies that purchase Brazilian-made capital equipment as part of an approved CDI expansion project to depreciate this equipment at twice the rate normally permitted under tax laws. The government of Brazil states that neither COSIPA nor USIMINAS utilized the accelerated depreciation provisions to reduce its tax liabilities in 1981.

F. Export Financing Under Resolution 68

This program provides financing for the export of Brazilian goods for a period of 181 days up to one year. Such financing is granted on a transaction-by-transaction basis and may cover up to 85 percent of the f.o.b. invoice price of the merchandise (plus freight and insurance). To be eligible, the exporter must show that the foreign purchaser has prepaid 15 percent of the invoice price. Neither COSIPA nor USIMINAS used Resolution 68 to finance exports of carbon steel plate to the United States in 1981.

IV. Program Preliminarily Determined to Be no Longer in Existence

We preliminarily determine that the following program which was described in the notice of "Initiation of Countervailing Duty Investigation" is no longer in existence.

Merchandise Circulation Tax (ICM) Export Credit Premium

This program, which provided Brazilian companies an overrebate of a state value-added tax on goods destined for export, was eliminated by Convention 01–79, published January 12, 1979.

V. Program for Which Additional Information Is Needed

The provision of long-term loans to COSIPA and USIMINAS was alleged by the petitioners to be a subsidy.

COSIPA and USIMINAS have long-term loans from various sources in both domestic and foreign currencies. The loans in foreign currencies come from such sources as the World Bank, the Inter-American Development Bank, the U.S. Export-Import Bank, the Bank of America, Morgan Guaranty Trust and others, with interest rates ranging from 6 percent to around 2 percent above LIBOR. The government of Brazil states that long-term financing in cruzeiros is generally available only through government-controlled financial institutions. Both companies have received substantial loans from BNDE and FINAME for project investments and the purchase of capital equipment. These loans have real interest rates ranging from 5 and 8 percent, with the principal fully adjusted by the indexing factor.

At this time, we do not have sufficient information upon which to determine whether these loans are providing manufacturers, producers, or exporters in Brazil of carbon steel plate benefits which constitute subsidies within the meaning of the countervailing duty law. We will seek additional information regarding these loans before reaching a final determination.

Negative Determination of "Critical Circumstances"

Counsel for the Five alleged that imports of carbon steel plate form Brazil present "critical circumstances". Under section 703(e)(1) of the Act, critical circumstances exist when the alleged subsidy is inconsistent with the Subsidies Code of the General Agreement on Tariffs and Trade *and* "there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period."

Since this investigation was initiated, U.S. imports of carbon steel plate from Brazil amounted to 16,442 net tons in February, 11,514 net tons in March, and 3,318 net tons in April, the most recent month for which import statistics are available. In the context of this industry, this product has not recently been massively imported from Brazil over a relatively short period of time. Therefore, critical circumstances do not exist for carbon steel plate.

Verification

In accordance with section 776(a) of the Act, we will verify data used in making our final determination.

Suspension of Liquidation

In accordance with section 703 of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of carbon steel plate from Brazil which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register** and to require a cash deposit or bond for each such entry of this merchandise in the amount of 8.58 percent *ad valorem*. This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivieged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 A.M. on July 16, 1982, at the U.S. Department of Commerce, Room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistanat Secretary by July 9, 1982. Oral presentations will be limited to issues raised in the briefs.

All written views should be filed in accordance with 19 CFR 355.34, on or before July 19, 1982, at the above address and in at least ten copies.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration

June 10, 1982.

[FR Doc. 82-16246 Filed 6-14-82; 9:30 am]

BILLING CODE 3510-25-M

Preliminary Affirmative Countervailing Duty Determinations, Certain Steel Products From France

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary affirmative countervailing duty determinations.

SUMMARY: We preliminarily determine certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in France of certain steel products, as described in the "Scope of the Investigations" section of this notice. The estimated net subsidy for each firm is indicated in the "Suspension of Liquidation" section of this notice. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of the products subject to these determinations which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on these products in the amount equal to the estimated net subsidy. If these investigations proceed normally, we will make our final determinations by August 24, 1982.

EFFECTIVE DATE: June 17, 1982.

FOR FURTHER INFORMATION CONTACT: Nicholas C. Tolerico, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: 202–377–4036.

SUPPLEMENTARY INFORMATION:

Preliminary Determinations

Based upon our investigations, we preliminarily determine there is reason to believe or suspect certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended ("the Act"), are being provided to manufacturers, producers, or exporters in France of certain steel products, as described in the "Scope of the Investigations" section of this notice. For purposes of these investigations the following programs are preliminarily found to be subsidies:

- Export credit insurance.
- Preferential financing including equity infusions.
- Regional development incentives.
- Certain labor-related aid.
- Assistance for plant operating expenses.
- Research and development.

We estimate the net subsidy to be the amount indicated for each firm in the "Suspension of Liquidation" section of this notice.

Case History

On January 11, 1982 we received petitions from the United States Steel Corporation; counsel for Bethlehem Steel Corporation; and counsel for Republic Steel Corporation, Inland Steel Company, Jones & Laughling Steel. Inc., National Steel Corporation, and Cyclops Corporation ("the Five"), filed on behalf of the U.S. industry producing carbon steel structural shapes, hot-rolled carbon steel sheet and strip and cold-rolled carbon steel sheet and strip. The petitions alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in France of the steel products listed above. Counsel for Bethlehem Steel Corporation and counsel for the Five also alleged that "critical circumstances" exist, as defined in section 703(e) of the Act.

We found the petitions to contain sufficient grounds upon which to initiate countervailing duty investigations, and on February 1, 1982, we initiated countervailing duty investigations (47 Fed. Reg. 5739). We stated that we expected to issue preliminary determinations by April 6, 1982. We subsequently determined that the investigations are "extraordinarily complicated", as defined in section 703(c) of the Act, and postponed our preliminary determinations for 65 days until June 10, 1982 (47 FR 11738).

Since France is a "country under the Agreement" within the meaning of section 701(b) of the Act, injury determinations are required for these investigations. Therefore, we notified the U.S. International Trade Commission ("ITC") of our initiations. On February 26, 1982, the ITC preliminarily determined that there is a reasonable indication that these imports are materially injuring a U.S. industry.

We presented questionnaires concerning the allegations to the Delegation of the Commission of the European Communities and to the government of France at its embassy in Washington, D.C. On April 28 and 30, 1982 we received the responses to the questionnaires. Supplemental responses were received on May 14 and 17, 1982.

Scope of the Investigations

The products covered by these investigations are:

- Carbon steel structural shapes
- Hot-rolled carbon steel sheet and strip
- Cold-rolled carbon steel sheet and strip

The products are fully described in Appendix A which appears with the notice of "Preliminary Affirmative Countervailing Duty Determinations, Certain Steel Products from Belgium", in this issue of the **Federal Register** (the product definition of hot-rolled carbon steel sheet and strip has been amended since the initiation of these investigations (47 FR 5739)).

Societe des Acieries et Laminoirs de Lorraine ("Sacilor"), Societe Metallurgique de Normandie ("Normandie"), and Union Siderurgigue dr Nord et de l'Est de la France ("Usinor") are the only known producers and exporters in France of the subject products which were exported to the United States. The period for which we are measuring subsidization is the 1981 calendar year.

Analysis of Programs

In their responses, the government of France and the Delegation of the Commission of the European Communities provided data for the applicable periods. Additionally, we received information from Sacilor and Usinor, which produced and exported to the U.S. in 1981 carbon steel structural shapes and hot- and cold-rolled carbon steel sheet and strip. Responses for Societe Lorraine de Laminage Continu ("Sollac"), of which Sacilor owns 64.29 percent, and Societe Lorraine et Meridionale de Laminage Continu ("Solmer"), of which Sollac owns 47.5 percent, have been incorporated into Sacilor's response. Normandie did not submit a response to the questionnaire.

Throughout this notice, general principles applied by the Department of Commerce to the facts of the current investigations concerning certain steel products are described in detail in Appendix B, which appears with the notice of "Preliminary Affirmative Countervailing Duty Determinations, Certain Steel Products from Belgium", in this issue of the **Federal Register** (hereinafter, Appendix B). Appendix C, which also appears with the above cited Belgium **Federal Register** notice, is a description of programs administered by organizations of the European Communities ("EC") (hereinafter, Appendix C). Based upon our analysis to date of the petitions and responses to our questionnaires, we preliminarily determine the following.

I. Programs Preliminarily Determined To Be Subsidies

We preliminarily determine subsidies are being provided to manufacturers, producers, or exporters in France of carbon steel structural shapes, hot-rolled carbon steel sheet and strip and cold-rolled carbon steel sheet and strip under the programs listed below.

A. Export Credit Insurance

The Compagnie Francaise d'Assurance pour le Commerce Exterieur ("COFACE") is a government corporation that provides export insurance to cover commercial, political, exchange rate fluctuation and inflation risks. In reviewing the 1980 annual report (the most recent report available) we found that, while the company showed an overall profit, its insurance activities operated at a deficit. Revenues from financial and real estate investments allowed COFACE to offset the operating deficit on insurance. Our preliminary review of the annual reports for 1976–1979 revealed a pattern of yearly operating deficits on insurance activities that were offset by revenues from investments. This pattern of operating deficits on insurance activities indicates that COFACE does not charge premiums sufficient to cover long-term operating costs and losses. This is an export subsidy within the meaning of the countervailing duty law.

Based on the information currently available, Usinor is the only company in these investigations insuring its exports to the U.S. through COFACE. A portion of Usinor's U.S. accounts receivable is insured against commercial risk. From data contained in COFACE's 1980 profit and loss statement, we calculated the 1980 operating deficit on COFACE's insurance activities as a percentage of net premiums received. By applying this percentage to the premiums paid by Usinor in 1980, we calculated the total benefit to Usinor on insured exports to the U.S. We then allocated the benefit received by Usinor over the value of their insured U.S. accounts receivable for 1980 and found a subsidy of 0.078 percent *ad valorem* on exports to the United States of the products under investigation. We used this 1980-based figure as the best available information for the value of this subsidy to Usinor in 1981.

B. Preferential Financing Including Equity Infusions

Petitioners alleged preferential financing in the form of low-interest loans and loan guarantees, and the conversion of accumulated debt.

A number of French government and EC organizations have issued loans and/or loan guarantees to the French steel industry. The majority of these loans were provided by the following institutions:

- *Fonds de Developpement Economique et Social ("FDES").*

Created by Parliament in 1955, FDES lends funds to government-owned and privately held corporations for industrial development or relocation of facilities to further the government's regional development objectives. Loan applications are filed with the Ministry of the Economy and Finance, but the decision to issue a loan rests with the FDES Board, which is composed of government ministers whose agencies are involved in economic policy. Usually, loans are secured by a mortgage or a pledge. The source of FDES loan funds is a line item in the national budget. Because FDES provides loans on a regional basis, we consider these loans to be subsidies within the meaning of the countervailing duty law.

- *Credit National.*

Credit National is a government credit institution with special legal status, which issues loans to French industry, particularly the steel industry. Loan funds are raised by offering bonds in the public marketplace. Credit National also acted as the conduit through which FDES loans were granted to the steel industry. In addition, the French government, either directly or through Credit National, guarantees some loans to the steel companies. Until 1979, a yearly guarantee fee averaging 0.5 percent of the principal was paid by the company receiving loan guarantee. The current charge is 0.25 percent of the principal of the loan. Because Credit National loans and loan guarantees are industry-specific, they are considered to be subsidies within the meaning of the countervailing duty law.

- *European Coal and Steel Community ("ECSC") and European Investment Bank ("EIB") Loans and Loan Guarantees.*

A description of ECSC and EIB loans and loan guarantees, and the reasons we consider them countervailable, are presented in Appendix C.

Both Sacilor and Usinor received loans and loan guarantees through these institutions. Our treatment of these loans and loan guarantees is outlined in parts (1) through (4) below.

Additionally, the Groupement de l'Industrie Siderurgique ("GIS") and other specialized financial institutions have issued loans to the French steel

industry. Because of events described below, the question of whether these loans originally conferred a countervailable benefit does not need to be addressed. Our treatment of them is discussed in parts (3) and (4).

• *Groupement de l'Industrie Siderurgique (GIS).*

GIS was founded in 1946 as a corporation whose sole shareholders were 45 steel companies. The purpose of GIS was to raise money for capital projects of the steel companies. By floating debt instruments in the public marketplace, GIS raised monies to lend to the companies at a rate equal to the rate being paid on bonds issued to the public, plus operating expenses. Five percent of the funds received were left on deposit with GIS to cover individual steel company defaults. Funds were raised in France, other EC countries, and abroad. GIS bonds are backed by unconditional guarantees of the companies, with each company being liable to the bondholders for the sums loaned to it by GIS. No loans have been issued by GIS since 1978.

• *Specialized Financial Institutions.*

A number of financial institutions were created after World War II to raise capital for various sectors of French industry. By floating bond issues, these institutions raised capital and made loans to various companies, including steel companies. Since 1978, none of these institutions has floated bonds or loaned funds to the steel industry. These institutions included:

—Groupement Interprofessionnel Financier Antipollution ("BIFIAP"): Environment protection;

—Groupement pour le Financement de la Region de Fos ("GIFOS"): Development of the Fos area near Marseille;

—Groupement des Industries de Materiaux de Construction ("GIMAT"): Construction materials;

—Groupement pour le Financement des Economies d'Energie ("GENERCO"): Energy conservation;

—Groupement d'Equipement pour le Traitement des Minerais de Fer ("GETRAFER"): Processing of iron ore.

For a number of years, the French steel industry has been experiencing financial difficulties. Petitioners alleged that both Sacilor and Usinor are uncreditworthy. Based on information in the responses and subsequent submissions, and our analysis of each company's financial statements, we have concluded that by the end of 1975, both Sacilor and Usinor were uncreditworthy. In a supplemental submission to its response, Usinor included an evaluation of its financial situation. This evaluation paraphrases a speech by the President of Usinor stating that "* * * indeed, the financial results which were already qualified as disastrous at the end of fiscal 1975 further seriously deteriorated during the second half of 1977, thus cornering Usinor in a dramatic situation." Our review of Usinor's financial statements revealed significant operating losses in each year since 1975. Between 1976 and 1980 (the most recent year for which an annual report was available), Usinor's operating losses ranged from a low of FF 833 million in 1979 to a high of FF 2.6 billion in 1977. Coupled with the operating losses, Usinor has consistently experienced high debt/equity ratios which in this case indicate an uncreditworthy situation.

Sacilor has also recorded significant operating losses since 1975 (from a low of FF 1.1 billion in 1979 to a high of FF 2.4 billion in 1977), and has had increasingly high debt/equity ratios in each year since 1975. Therefore, Sacilor's financial position can also be considered uncreditworthy. Although both companies have received loans from commercial sources since 1975, the majority of commercial banking institutions in France have been nationalized since the late 1940s. Consequently, it would be difficult to consider these loans as conclusive proof of the creditworthiness of the companies.

Beginning in 1978, the government of France instituted a major recapitalization and restructuring program for the steel industry, hereinafter referred to as the "Rescue Plan". Under this plan, the government converted loans made by the institutions identified above, as well as loans from other sources, into Loans of Special Characteristics (Prets a Caracteristiques Speciales or "PACS"). The government also granted new loans and loan guarantees through FDES, Credit National and other governmental agencies. Additionally, the government made a series of equity infusions in Sacilor and Usinor through which it became a shareholder in both companies.

Preferential loans and loan guarantees, PACS, and equity infusions have been treated in the following four ways:

1. *Preferential Loans and Loan Guarantees Issued Prior to the End of 1975.* The subsidy rates for loans and loan guarantees from FDES, Credit National and EIB that were made prior to the end of 1975 for which principal was still outstanding in 1981, and which were made at rates below the commercial benchmark for a comparable loan in the year it was issued, are calculated according to the general methodology for loans and loan guarantees outlined in Appendix B. For France we used as the commercial benchmark the average annual yield to maturity of newly issued corporate bonds on the Paris securities market. Using the method outlined in Appendix B, we computed a subsidy of 0.036 percent *ad valorem* for Sacilor and 0.140 percent *ad valorem* for Usinor.

2. *Preferential Loans and Loan Guarantees Made After 1975.* Because we consider Sacilor and Usinor as uncreditworthy after 1975, loans and loan guarantees issued since then by French government organizations, the ECSC, and the EIB, with principal still outstanding during 1981, are treated as loans to companies considered to be uncreditworthy. To prevent countervailing a higher amount than if the loan had been an outright grant to the company, we compared the 1981 benefit of these loans under the equity methodology used for loans to uncreditworthy companies, with the result under the grant methodology described in Appendix B. We then calculated a subsidy of 9.767 percent *ad valorem* for Sacilor and 4.953 percent *ad valorem* for Usinor.

3. *Loans and Loan Guarantees Converted into Loans of Special Characteristics (PACS).* By 1978, the debt of Sacilor and Usinor to FDES, Credit National, the ECSC, the EIB, the GIS, specialized financial institutions such as GIFIAP, and banks had become exceedingly large. The companies, stockholders, government and other creditors agreed that the burden of servicing this debt must be reduced. The result was the "Rescue Plan" described above.

Most of the debt owed by each company to government agencies and specialized financial institutions was converted into PACS, which carry an interest rate of 0.1 percent, with no obligation to repay principal unless the companies become profitable again. In addition to the initial 1978 conversions, PACS were also issued to both companies between 1978 and 1981. The benefits of these PACS were calculated using the equity methodology for loans to uncreditworthy companies outlined in Appendix B. Without exceeding the subsidy amount had these PACS been grants, we calculated a subsidy of 7.517 percent *ad valorem* for Sacilor and 8.064 percent *ad valorem* for Usinor. In calculating the benefit of the loans that were converted into PACS, we did not include those PACS that were subsequently cancelled in exchange for

stock. These are discussed in part (4) below.

4. *Equity Infusions.* Between 1978 and 1981, the government of France made the following equity infusons in Sacilor and Usinor:

- investment of capital in both companies in exchange for shares of their stock,
- advances of capital to Sacilor in 1979 and 1981, and
- cancellation of PACS at the end of 1981 in exchange for additional shares.

At the end of this period, the government's share of ownership in each company reached approximately 90 percent. As stated above, both Sacilor and Usinor have recorded significant and persistent losses in each year since 1975, ranging from FF 1.1 billion to FF 2.4 billion for Sacilor and from FF 833 million to FF 2.6 billion for Usinor. Therefore, it is doubtful that the government's equity infusions were consistent with commercial considerations.

Since both Sacilor's and Usinor's stock was traded on the Paris Bourse during the time span covering the government's equity infusions (see equity section in Appendix B), we calculated average stock prices for the period preceding each of the government's actions. We then compared the market value of the new stock issued to the government with the actual value to the company of the government's equity infusions. If the actual value was greater than the market value, we found the difference to be a grant and amortized it over the average useful life of capital assets (see grants section in Appendix B). We then computed a subsidy of 10.372 percent *ad valorem* for Sacilor and 6.180 percent *ad valorem* for Usinor.

Under the Rescue Plan, Usinor also received refunds for interest on loans that were not converted into PACS. Because this interest was refunded, it was not captured in our calculations on loans and loan guarantees in parts (1) and (2) above. These refunds are grants to specific companies and are therefore countervailable. The 1981 benefit of these grants was calculated according to the grant methodology outlined in Appendix B, using the average useful life of capital assets. By allocating the 1981 benefit over the total value of Usinor's 1981 steel production, we found a subsidy of 0.202 percent *ad valorem.* There is evidence that Sacilor also received this type of assistance under the Rescue Plan; however, we were not supplied with the exact amounts received by Sacilor. Therefore, we used Usinor's 1981 benefit as the best information available to calculate Sacilor's subsidy of 0.254 percent *ad valorem.*

C. Regional Development Incentives

The government of France provides a series of tax and non-tax regional incentives to French and foreign businesses to establish new, or to expand existing, businesses in certain French regions. The Delegation a l'Amenagement du Territoire et a l'Action Regionale ("DATAR") coordinates the programs of various government agencies and ministries. For incentive purposes, France is divided into four zones. Each zone, or part of a zone, is eligible for different types or levels of assistance. The assistance includes development grants, non-industrial grants, research and development grants, decentralization indemnities, and job training subsidies. Job training assistance is provided through individual agreements with the Fonds National de l'Emploi ("FNE"). These agreements are available to reimburse training expenses for establishing facilities in certain zones and for converting declining facilities.

We consider the regional incentives provided through these programs to be subsidies within the meaning of the U.S. countervailing duty law because each zone is eligible for only certain types of assistance.

Based on information currently available, the only regional incentive program utilized during 1981 was labor assistance provided through FNE and AFOREST, a regional training organization. The benefits received by Sacilor and Usinor from these labor assistance programs are outlined below.

1. *Sacilor.* Sacilor received grants from FNE and AFOREST for relocation and moving costs, and for worker training and retraining. We were not informed as to the types of jobs for which workers were retrained. For purposes of these preliminary determinations, we assume they were for jobs within the steel industry. Therefore, we consider them to be subsidies. We are seeking additional information as to the types of jobs for which workers were retrained.

The ECSC contributed a portion of the FNE grants to Sacilor. That portion, where known, has been factored out of the allocation of net benefits received in 1981 by Sacilor. (For a discussion of ECSC grants for labor assistance, see Appendix C).

By allocating the payments received by Sacilor from FNE and AFOREST in 1981 over total value of steel production, as specified in Appendix B, we calculated a subsidy of 0.078 percent *ad valorem.*

2. *Usinor.* We have no indication that Usinor received FNE funds during 1981 under regional incentive programs. We are seeking further information on Usinor's possible use of these regional development incentives.

In 1980, Sacilor also received an ECSC loan for relocating employees to Solmer's plant at Fos. Since this ECSC loan was not financed from producer-generated funds (see Appendix C), and since this loan was provided for the relocation of workers within the steel industry, we consider it to be countervailable. Because the loan was awarded after 1975, the year in which we concluded Sacilor became uncreditworthy, we have treated the entire amount as a loan to an uncreditworthy company, as described in Appendix B. The benefit of this loan was calculated using the equity methodology for loans to uncreditworthy companies outlined in Appendix B. Without exceeding the subsidy amount had this loan been a grant, we found an *ad valorem* subsidy for this benefit of 0.00184 percent.

D. Certain Labor-Related Aid

French corporations have statutory and contractual obligations to their employees in case of interruption or cessation of employment. Under the Rescue Plan for the steel industry, the government reimbursed Sacilor and Usinor for compensating laid-off workers and implementing early and voluntary retirement programs. Because this assistance relieves the steel companies on a preferential basis of labor-related obligations under the law, it is a subsidy. At this time, we are not fully aware of the extent or duration of the companies' responsibilities under the law. We are seeking more complete information on the companies' legal obligations. The unique circumstances of the individual companies are addressed below.

1. *Usinor.* Under the Convention de Protection Sociale of June 1977 and the Convention Generale de Protection Sociale of July 1979 (social welfare protection agreements), Usinor paid indemnities to workers in cases of early retirement and layoffs. The government made direct payments to the laid-off or retired workers. These payments covered both the employer's and the wage-earners' dues paid in to the Retirement Compensation and Unemployment Compensation Funds. The government's payment to the workers of the employer's share of dues implies exoneration of Usinor's legal obligation for fund contributions, which companies generally are required to pay.

Therefore, we consider that portion of the government's payments to workers that constitutes Usinor's share to be countervailable.

Since we were not supplied with the exact amount of Usinor's share, the countervailable benefit is the total amount received in 1981 for laid-off workers who were placed in early retirement. This benefit is considered to be a grant to the company and is calculated according to the methodology in Appendix B for grants of less than one percent of production value that are used for items normally expensed in one year. We find the subsidy to be 0.444 percent *ad valorem.*

2. *Sacilor.* Under the agreement concluded between Sacilor and the government, Sacilor disburses the funds to the workers and is then reimbursed by the government. We considered this reimbursement to be a grant to the company. Because the reimbursement was greater than one percent of the total value of 1981 steel production, but was not tied to capital assets, we calculated the subsidy by amortizing the grant over five years. We amortized the grant over five years because the French government's expectation in 1978 was that it would take the companies targeted by the Rescue Plan five years to return to profitability. We then allocated the 1981 benefit over the total value of Sacilor's 1981 steel production and calculated a subsidy of 1.998 percent *ad valorem.*

Labor-related aid was also provided to Sacilor and Usinor by the ECSC. Both companies were allocated loans for the housing of workers. Based on current information, it appears that Sacilor received the entire loan which it then passed on to its employees; on the other hand, Usinor indicated that its employees receive the loans directly from the ECSC. Our reasons for determining that the ECSC assistance for worker housing loans constitutes a subsidy are presented in Appendix C. Although Sacilor received a loan in 1981 for employee housing, the monies actually passed on to its employees were less than one percent of the loan amount.

As we do not know the percentage of the ECSC's 1981 budget financed by borrowings (see Appendix C), we applied the 1980 percentage to the 1981 loans in order to derive that portion of ECSC housing loan that is countervailable. That loan is then treated as a loan to an uncreditworthy company because it was made after 1975, which is the year we concluded the firm became uncreditworthy. The benefit of this loan was calculated using the equity methodology for loans to uncreditworthy companies outlined in Appendix B. Without exceeding the subsidy amount had this loan been a grant, we divided the 1981 benefit by the total value of steel production, and found a subsidy of 0.0047 percent *ad valorem.*

At this time, we have insufficient information to calculate a subsidy on ECSC worker housing loans to Usinor. We will seek additional information on ECSC worker housing loans as they apply to Usinor.

E. Assistance for Plant Operating Expenses

Under the restructuring plan, three of Usinor's plants were scheduled to be shut down. In 1980 and 1981, the French government made payments to Usinor in order to postpone the closings. The government payments reimbursed Usinor for certain of the expenses incurred as a result of the government's postponing the closings. Two of the plants have since been completely closed and the third shut down its steel melting operations. The monies received constitute a countervailable grant to Usinor because the plants continued to produce steel. Because the payments from the government reimbursed operating expenses, we are allocating the benefits to the year in which the payments were received, as explained in Appendix B. According to this method, we found a subsidy of 0.036 percent *ad valorem* on the total value of Usinor's 1981 steel production.

F. Research and Development ("R&D")

Research and development directed at the French steel industry is provided through the Institut de Recherches de la Siderurgie Francaise ("IRSID"). IRSID was established by the French steel companies, and they underwrite a major portion of IRSID's budget. However, the government contributes at least three percent of IRSID's yearly budget. Because IRSID's research is industry-specific and because there is no evidence at this time that the results of the research are publicly available, we find that portion of IRSID's budget funded by the government to be countervailable. However, we have insufficient information both on IRSID's budget and on R&D assistance that may have been provided to the companies on the products under investigation to calculate an *ad valorem* subsidy rate. We have asked for additional information regarding IRSID.

II. Programs Preliminarily Determined Not To Be Subsidies

We preliminarily determine subsidies are not being provided to manufacturers, producers, or exporters in France of carbon steel structural shapes, hot-rolled carbon steel sheet and strip and cold-rolled carbon steel sheet and strip, under the following programs.

A. Assistance on Purchase of Land and Tax Exemptions

Petitioners alleged that Solmer (Sacilor) purchased the land for its Fos plant at reduced prices, and received exemptions from value-added taxes on the purchase of the land and equipment. The Fos industrial complex was developed by the Marseille Port Authority and is part of Europort South. Besides Solmer (Sacilor), a number of other companies are located at Fos. Based on the evidence currently available, it appears that Solmer (Sacilor) purchased the land at Fos at a price competitive with other parcels of land in the area and at the then current market rate. However, we will seek further information on the land purchase.

Regarding tax exemptions, our information indicates that Solmer (Sacilor) did not benefit from any value-added tax advantages on the purchase of land and equipment not available to all manufacturers constructing new plants. As with the alleged assistance to Sacilor for purchase of land at Fos, we will seek further clarification of these tax provisions.

B. Funding for Infrastructure

Allegations were made in the petitions that the French government provided funding for infrastructure such as road, port, rail and communication facilities, at Usinor's Dunkirk plant and Solmer's (Sacilor) Fos plant. Regarding the Dunkirk facilities, we have received information that Usinor paid the French government for constructing and improving the infrastructure. At Fos, Sacilor's plant is only one of a number of companies located there, all of which share port, road, rail and communication facilities. Since we have no evidence that these facilities exclusively benefit the Sacilor plant, we preliminarily determine that no subsidy exists. However, we will seek additional information as to whether or not the French government funded any facilities at Dunkirk or Fos that are exclusively used by Sacilor and Usinor.

C. Assistance to Coal Suppliers

The government of France, which directly or indirectly owns all French coal producers, makes available to Charbonnages de France ("CDF") such assistance as may be necessary to equalize the selling price of coal

produced in France with the world market price for each type of coal. Even though the French coal industry appears to be subsidized, we do not consider this assistance to confer a countervailable benefit on the French steel industry for the following reasons. The apparently subsidized coal companies are unrelated to the steel companies, and their coal transactions are conducted at arm's length. Moreover, the French steel companies purchase coal at similar or even lower prices without regard to French government assistance to the coal industry. Over 75 percent of the French steel industry's coal requirements during 1981 were supplied by non-French sources, including the United States, which accounted for 25 percent of all coking coal and coke utilized.

With regard to allegations that Sacilor and Usinor indirectly benefited from German federal and state assistance to coal producers, refer to Appendix B.

ECSC provides various production and marketing grants to EC coal and coke producers; however, we do not consider this assistance to confer a countervailable benefit on the French steel industry for the reasons given in Appendix C.

D. ECSC Labor Assistance

Under Article 56 of the Treaty of Paris, the ECSC makes two forms of assistance available to companies for the benefit of steel workers: (a) Industrial reconversion loans, and (b) rehabilitation aid. Both of these programs, and the reasons why they are not considered countervailable, are discussed in Appendix C. Both Sacilor and Usinor received such ECSC labor assistance.

E. Research and Development Grants From the ECSC

This program, and the reasons why it is not considered countervailable, are described in Appendix C. At this time, we have no evidence that Sacilor or Usinor received R&D grants from the ECSC.

III. Programs Preliminarily Determined Not To Be Utilized

We preliminarily determine that the following programs which were described in the notice of "Initiation of Countervailing Duty Investigations" are not utilized by the manufacturers, producers, exporters in France of carbon steel structural shapes, hot-rolled carbon steel sheet and strip, and cold-rolled carbon steel sheet and strip.

A. Export Financing

In France, exports may be financed or guaranteed through the Commission Interministerielle des Garanties et du Credit au Commerce Exterieur and the Banque Francaise du Commerce Exterieur ("BFCE"). At this time, we have no evidence that Sacilor and Usinor availed themselves of any of these programs.

B. Special Fund for Industrial Adaptation

Petitioners alleged that French steel companies received grants and preferential loans through the Fonds special d'Adaptation Industrielle ("FSAI"). FSAI was established in 1978 to promote job creation and industrial diversification in the steel, textile, shipbuilding and coal regions of France. At this time, we have no evidence that the respondents received benefits from FSAI.

C. Loan Guarantees From the ECSC

At this time, we have found no evidence that ECSC loan guarantees, as described in Appendix C, were provided to the French steel companies under investigation.

D. European Regional Development Funds ("ERDF")

This program is explained in Appendix C. Our preliminary analysis leads us to conclude that no company under investigation receives ERDF funds.

IV. Programs for Which Additional Information Is Needed

The programs listed below were alleged by the petitioners to be subsidies. At this time, we do not have sufficient information upon which to determine whether these programs are providing manufacturers, producers, or exporters in France of carbon steel structural shapes, hot-rolled carbon steel sheet and strip and cold-rolled carbon steel sheet and strip, benefits which consitute subsidies within the meaning of the countervailing duty law. We will seek additional information regarding these programs before reaching final determinations.

A. Research and Development Assistance

Three government organizations provided a small amount of R&D funding to Sacilor and Usinor: (1) Agence Nationale de Valorisation de la Recherche (ANVAR); (2) Direction Generale de la Recherche Scientifique et Technique (DGRST); and (3) Agence pour l'Informatique. We are seeking additional information because we are not aware of whether these programs are industry- or sector-specific, and whether the results of this assistance are publicly available (see Appendix B).

B. Energy Assistance

Both Sacilor and Usinor received a few small grants from the Agence pour les Economies d'Energie ("AEE"). The AEE is a government agency, created in 1974, that provides grants to foster energy efficiency. Grants received from the agency may have to be repaid if target efficiency levels are not met. Because of the absence of evidence that this organization provides benefits on other than a country-wide basis, we need additional information before making a determination.

C. Regional Development/Regional Anti-Pollution Agencies

Created by Law No. 64–1245 of 1964, these regional agencies provide incentives for the installation of anti-pollution devices. The agencies collect dues for their operation and in return award "bonuses" and loans to combat pollution. Usinor has received a number of small loans from these agencies with outstanding principal due during 1981.

Due to insufficient information both on the availability of this assistance within and across regions, and on the operating income and expenses of these agencies, we are unable to determine if the loans received by Usinor are countervailable at this time.

In addition, Usinor's response contained information on a few small grants received from regional and national agencies, such as Agence du Bassin Artois-Picardie and Agence Nationale pour l'Amelioration des Conditions de Travail, about which we have insufficient information to make determinations.

D. French Government Assistance to Iron Ore Suppliers

In its response, the government of France stated that neither it nor any government-controlled institution has provided assistance to French iron ore producers. Sacilor and Usinor also indicated that no aid was supplied. As quoted from the questionnaire responses:

(Sacilor) "Lormines has not received any grants or other aids from the Government of France. Aside from Lormines, Sacilor purchases rich iron ore from unrelated Swedish suppliers at world market prices."

"Sollac purchases iron ore from Lormines pursuant to a long term contract entered into in 1977."

"Solmer purchases all its iron ore from unrelated suppliers at world market prices."

(Usinor) "To the best of Usinor's knowledge, no assistance is provided to any . . . iron ore supplier to Usinor's steel production in which Usinor has a common ownership interest."

The respondents claim that French or foreign corporations may purchase iron ore from French producers at the same price as the French steel producers, but do not state at what price. We will seek additional information as to whether government assistance is provided to the French steel industry through French iron ore suppliers.

E. Caisse des Depots et Consignations ("CDC")

CDC is a government agency that invests funds deposited in the Caisses d'Epargne (the French savings banks). CDC makes both short- and long-term loans to various industries, including steel. Any loans made by CDC to the respondents after 1975 that were converted into PACS or cancelled have been included in parts (2), (3), and (4) of the preferential financing section. For CDC loans made prior to the end of 1975 with principal still outstanding during 1981, we will seek additional information as to whether or not they were given to the French steel industry on a preferential basis.

F. Research and Development Loans From the ECSC

In its response, Usinor indicated that it had received an ECSC research and development loan. At this time we have insufficient information, both on the ECSC loans for R&D and on the specific terms of the loan to Usinor, upon which to determine whether this program is providing benefits which constitute a subsidy within the meaning of the U.S. countervailing duty law. We will seek additional information regarding these programs before reaching final determinations.

Negative Determination of Critical Circumstances

Counsel for Bethlehem Steel Corporation and counsel for the Five alleged that imports of all steel products under investigation present "critical circumstances." Under section 703(e)(1) of the Act, critical circumstances exist when the alleged subsidy is inconsistent with the Subsidies Code of the General Agreement on Tariffs and Trade *and* "there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period."

Since these investigations were initiated, U.S. imports of carbon steel structural shapes from France amounted to 608 net tons in February, 1,401 net tons in March, and 3,266 net tons in April, the most recent month for which import statistics are available. U.S. imports of hot-rolled carbon steel sheet and strip were 24,256 net tons in February, 10,423 net tons in March, and 930 net tons in April. U.S. imports of cold-rolled carbon steel sheet and strip amounted to 9,556 net tons in February, 7,630 net tons in March, and 6,082 net tons in April.

In the context of this industry, these products have not recently been massively imported from France over a relatively short period of time. Therefore, critical circumstances do not exist for carbon steel structural shapes, hot-rolled carbon steel sheet and strip, and cold-rolled carbon steel sheet and strip.

Verification

In accordance with section 776(a) of the Act, we will verify all the information used in making our final determinations.

Suspension of Liquidation

In accordance with section 703 of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of carbon steel structural shapes, hot-rolled carbon steel sheet and strip, and cold-rolled carbon steel sheet and strip which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**, and to require a cash deposit or bond, for each such entry of the merchandise in the amounts indicated below:

Manufacturer/Producer/Exporter and Ad Valorem Rate

Sacilor—30.029 percent
Usinor—20.097 percent
All Others—30.029 percent

This suspension will remain in effect until further notice.

ITC Notification

In accordance with Section 703(f) of the Act, we will notify the ITC of our determinations. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to these investigations. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on these preliminary determinations at 10:00 a.m. on July 12, 1982 at the U.S. Department of Commerce, Room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by July 6, 1982. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, on or before July 19, 1982 at the above address and in at least ten copies.

Gary N. Horlick,
Deputy Assistant Secretary for Import Administration.
June 10, 1982.

[FR Doc. 82-16347 Filed 6-14-82; 8:30 am]
BILLING CODE 3510-25-M

Preliminary Affirmative Countervailing Duty Determinations; Certain Steel Products From the Federal Republic of Germany

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary affirmative countervailing duty determinations.

SUMMARY: We preliminarily determine certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in the Federal Republic of Germany ("FRG") of certain steel products, as described in the "Scope of Investigations" section of this notice. The estimated net subsidy for each firm is indicated in the "Suspension of Liquidation" section of this notice. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of the products subject to these determinations which are entered, or withdrawn from warehouse, for consumption, and to require a cash

deposit or bond on these products in the amount equal to the estimated net subsidy. We are excluding from these preliminary affirmative determinations two producers in the FRG receiving subsidies in amounts preliminarily determined to be *de minimis*.

If these investigations proceed normally, we will make our final determinations by August 24, 1982.

EFFECTIVE DATE: June 17, 1982.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377–2438.

SUPPLEMENTARY INFORMATION:

Preliminary Determinations

Based upon our investigations, we preliminarily determine there is reason to believe or suspect certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended ("the Act"), are being provided to manufacturers, producers, or exporters in the FRG of certain steel products, as described in the "Scope of Investigations" section of this notice.

For purposes of these investigations, the following programs are preliminarily found to be subsidies:

- FRG government grants
- State government grants
- Federal research and development ("R & D") assistance
- ECSC loans and loan guarantees
- ECSC housing loans
- Capital infusions by the FRG
- Regional development programs

We estimate the net subsidy to be the amount indicated for each firm in the "Suspension of Liquidation" section of this notice.

Case History

On January 11, 1982 we received petitions from United States Steel Corporation; counsel for Bethlehem Steel Corporation; and counsel for Republic Steel Corporation, Inland Steel Company, Jones & Laughlin Steel, Inc., National Steel Corporation, and Cyclops Corporation ("the Five"), filed on behalf of the U.S. industry producing carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet and strip and cold-rolled carbon steel sheet and strip. The petitions alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in the FRG of the steel products listed above. Counsel for Bethlehem Steel Corporation and counsel for the Five also alleged that "critical circumstances" exist, as defined in section 703(e) of the Act.

We found the petitions to contain sufficient grounds upon which to intitiate countervailing duty investigations, and on Feburary 1, 1982 we initiated countervailing duty investigations (47 FR 5741). We stated that we expected to issue preliminary determinations by April 6, 1982. We subsequently determined that the investigations are "extraordinarily complicated," as defined in section 703(c) of the Act, and postponed our preliminary determinations for 65 days until June 10, 1982 (47 FR 11738).

Since the FRG is a "country under the Agreement" within the meaning of section 701(b) of the Act, injury determinations are required for these investigations. Therefore, we notified the U.S. International Trade Commission ("ITC") of our initiations. On February 26, 1982 the ITC preliminarily determined that there is a reasonable indication that these imports are materially injuring a U.S. industry.

We presented questionnaires concerning the allegations to the Delegation of the Commission of the European Communities and to the government of the FRG in Washington, D.C. On April 30, 1982 we received the responses to the questionnaires. Supplemental responses were received on May 17, 1982.

Scope of Investigations

The products covered by these investigations are:

- Carbon steel structural shapes.
- Hot-rolled carbon steel plate.
- Hot-rolled carbon steel sheet and strip.
- Cold-rolled carbon steel sheet and strip.

The products are fully described in Appendix A which appears with the notice of "Preliminary Affirmative Countervailing Duty Determinations, Certain Steel Products from Belgium," in this issue of the **Federal Register**. (The product definition of hot-rolled carbon steel sheet and strip has been amended since the initiation of these investigations (47 FR 5739–40).) AG der Dillinger Hüttenwerke ("Dillinger"), Thyssen AG ("Thyssen"), Stahlwerke Peine-Salzgitter AG ("P & S"), Klockner-Werke AG ("Klockner"), Stahlwerke Rochling-Burbach GmbH ("Rochling"), Estel Hoesch-Werke AG ("Hoesch"), Fried. Krupp Hüttenwerke AG ("Krupp"), and Otto Wolff AG ("Otto Wolff") are the only known producers and exporters in the FRG of the subject products which were exported to the United States. The period for which we are measuring subsidization is the calendar year 1981.

Analysis of Programs

In their responses, the government of the FRG and the Delegation of the Commission of the European Communities provided data for the applicable periods. Additionally, we received information from the following firms, which produced and exported the following products under investigation, which were exported to the United States:

Firms and Carbon Steel Products

Dillinger—Hot-rolled carbon steel plate, hot-rolled carbon steel sheet and strip, and cold-rolled carbon steel sheet and strip

Thyssen—Carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet and strip, and cold-rolled carbon steel sheet and strip

P & S—Carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet and strip, and cold-rolled carbon steel sheet and strip

Klockner—Hot-rolled carbon steel plate, hot-rolled carbon steel sheet and strip, and cold-rolled carbon steel sheet and strip

Hoesch—Carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet and strip, and cold-rolled carbon steel sheet and strip

Krupp—Carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet and strip, and cold-rolled carbon steel sheet and strip

Otto Wolff—Cold-rolled carbon steel sheet and strip

Rochling did not submit a response but is known to be a producer and exporter of the carbon steel structural shapes under investigation, which were exported to the United States.

Throughout this notice, general principles applied by the Department of Commerce to the facts of the current investigations concerning certain steel products are described in detail in Appendix B, which appears with the notice of "Preliminary Affirmative Countervailing Duty Determinations, Certain Steel Products from Belgium" in this issue of the **Federal Register** (hereinafter Appendix B). Appendix C, which also appears with the above cited Belgium **Federal Register** notice, is a description of programs administered by organizations of the European

Communities (hereinafter Appendix C). Based upon our preliminary analysis of the petitions and responses to our questionnaires, we have preliminarily determined the following.

I. Programs Preliminarily Determined To Be Subsidies

We preliminarily determine that subsidies are being provided to manufacturers, producers, or exporters in the FRG of the certain steel products included in these investigations under the programs listed below.

A. FRG Government Investment Grants

1. *Regional Incentive Programs.* Domestic investors establishing new plants or involved in the modernization or expansion of existing operations in certain regions of the FRG receive cash grants as a percentage of capital investment costs. These incentives are available to industries situated in regions in which unemployment levels are high or in which industrial development, rationalization, enlargement, or restructuring is underway.

The grants may come from several government ministries but must conform to the guidelines set in the Investment Premium Act of 1969. Because that Act targets relief for economically depressed areas, there is a regional preference, and the grants are therefore countervailable.

Subsidy amounts were determined by using the grants methodology described in Appendix B and a 15 year average useful life of capital assets. Benchmarks used in the calculations were based on the average commercial lending interest rates as reported by the Deutsche Bundesbank. Calculated subsidies were then divided by the value of total steel production in 1981 to calculate the *ad valorem* subsidy.

Companies Receiving Benefits:

Krupp. Under the Investment Premium Act, Krupp received grants in 1980 and 1981. We calculated an *ad valorem* subsidy of 0.013 percent for these grants.

Klockner. Under the Investment Premium Act, Klockner received grants in 1980 and 1981. We calculated an *ad valorem* subsidy of 0.005 percent for these grants.

Dillinger. Under the Investment Premium Act, Dillinger received grants from 1977 through 1981. We calculated an *ad valorem* subsidy of 0.011 percent for these grants.

Hoesch. Under the Investment Premium Act, Hoesch received grants from 1977 through 1981. We calculated an *ad valorem* subsidy of 0.063 percent for these grants.

Otto Wolff. Under the Investment Premium Act, Otto Wolff received grants from 1974 through 1981. We calculated an *ad valorem* subsidy of 0.037 percent for these grants.

P & S. Under the Investment Premium Act, P & S received grants from 1977 through 1981. We calculated an *ad valorem* subsidy of 0.276 percent for these grants.

2. *Improvement of Regional Trade Program.* This program provides federal and state government investment funding through loans and grants to regional projects. The investments are aimed at promoting safe working conditions. Since this program provides subsidies for specific regions of the FRG, we find it to be countervailable.

The loan and grants given under this program were treated according to the appropriate methodologies described in Appendix B. The calculation of the benefit from the loan was based on a benchmark interest rate, the average commercial lending interest rate as reported by the Deutsche Bundesbank. The calculation of the benefit from grants was based on a 15 year average useful life of capital assets.

The benchmarks used in the calculations were based on the average commercial lending interest rates as reported by the Deutsche Bundesbank. The resulting subsidies were allocated across the value of total steel production for the company.

Company Receiving Benefits:

Krupp. Under the Improvement for Regional Trade Program, we calculated *ad valorem* subsidies of 0.006 percent for the loan and 0.020 percent for the grants.

B. State Government Grants

Some state governments provide grants to the steel industry in their states independently of federal government programs. These grants are directed at specific industries, including the steel industry, within the state. For this reason we find these grants to be countervailable.

To calculate the subsidies we used the grant methodology described in Appendix B and a 15 year average life of capital assets. We allocated the resulting subsudies across the value of total steel production for the company in 1981.

Companies Receiving Benefits:

Thyssen. The state of North Rhine-Westphalia gave Thyssen a grant to be used for emissions control. The grant was given in installments from 1976 through 1981. We calculated an *ad valorem* subsidy of 0.038 percent for this grant.

Klockner. As a result of investments made in connection with the "KS Method," a new technological process developed by Klockner, the company received grants in 1980 and 1981 from the state of Niedersachsen. We calculated an *ad valorem* subsidy of 0.002 percent for these grants.

C. FRG/State Investment Grants

The Umweltbundesamt (Department of Environmental Protection) of the FRG and the various states, including North Rhine-Westphalia, provide grants for improvements and equipment to protect the environment in specified areas of the FRG. The programs are not confined to the steel industry. Emphasis is placed on combating pollution in the highly populated Ruhr area.

We preliminarily determine the subsidies to these companies under these programs are countervailable because they are targeted at specific regions. We used the grants methodology described in Appendix B and a 15 year average useful life of capital assets. We allocated the resulting subsidies across the value of total steel production for the company in 1981.

The benchmarks used in the calculations are based on the average commercial lending interest rate as reported by the Deutsche Bundesbank.

Companies Receiving Benefits:

Klockner. We calculated an *ad valorem* subsidy of 0.044 percent for these grants.

Krupp. We calculated an *ad valorem* subsidy of 0.011 percent for these grants.

Hoesch. We calculated an *ad valorem* subsidy of 0.024 percent for these grants.

D. Research and Development Grants

1. *Federal Ministry of Research and Technology ("BMFT").* This Ministry provides funds for long-term R & D projects with high research and technology risks. The BMFT has targeted its research funds on several specific focal points such as iron and steel research, energy and reactor safety, and marine research and technology. Funds provided are a certain percentage of the estimated R & D costs with an obligation on the part of the recipients to turn R & D results over to the BMFT. The BMFT then makes these results available to German industry upon request.

We note that the BMFT generally intends to support all industrial activities. In practice, however, the BMFT allocates its funds to specific industrial sectors, one of which is iron and steel. Inasmuch as the BMFT sets funds aside specifically for use by the iron and steel industry, we find the R & D grants to be countervailable.

In our R & D subsidy calculations we allocated the total amount of each grant in 1981 across the value of total German steel production for that year because the results of an R & D project become the property of the BMFT, which makes the results available to all other German steel companies. Each grant was used for an item which is relatively small and is normally expensed in the year received (see Appendix B).

We calculated an *ad valorem* subsidy of 0.089 percent to all companies for these grants.

2. *Federal/State R & D Grants.* Krupp received R & D grants from the Ministry of Economics and the state of North Rhine-Westphalia for further development of a particular technology. These grants generally are designed to support all industrial activities. As implemented, these programs allocate funds to specific industrial sectors, including the steel industry, and are therefore countervailable.

In calculating subsidies we took into account the fact that the results of the R & D project become the property of the Ministry and the state, who then make the results available to all other German steel companies. Consequently we allocated the subsidies across the value of all German steel production in 1981. We allocated the total amount of the grants for 1981 directly across all steel production for that year because we considered that the grant was used for an item which is relatively small and is normally expensed in the year received (as described in Appendix B).

We calculated an *ad valorem* subsidy of 0.004 percent to all companies for these grants.

E. Regional Labor Program

On July 12, 1979 the federal government promulgated a program under section 91 of the Labor Promotion Act of 1969 applicable to regions with special employment problems. Funding provided by this section goes to the employing company to reimburse its expenses for training unemployed workers sent to it for that purpose by public employment offices. Because this program is regional in its application and there is administrative preference, we preliminarily determine that such subsidies are countervailable.

To determine the subsidy for each company, we used the labor subsidy methodology described in Appendix B. The resulting subsidy was allocated across the value of total steel production of each company. Because we considered that the grant was used for an item which is relatively small and is normally expensed in the year received, we allocated the entire amount to the year of receipt (as described in Appendix B).

Companies Receiving Benefits:

We calculate *ad valorem* subsidies of 0.050 percent for Krupp, 0.028 percent for Thyssen, and 0.011 percent for Otto Wolff under this program.

F. Capital Infusion

Through the infusion of capital into the free reserve account and the purchase of newly issued share capital of Salzgitter AG ("SAG"), the FRG government has provided assistance to P & S, a wholly-owned subsidiary of SAG. SAG itself is wholly-owned by the FRG government through the Ministry of Finance.

Total govenment assistance received by SAG over the period is as follows:

Fiscal year	Amount	Form of assistance
1977	DM 37,500,000	Equity purchase.
1977	DM 12,500,000	Capital infusion.
1978	DM 37,500,000	Equity purchase.
1978	DM 162,500,000	Capital infusion.
1979	DM 250,000,000	Capital infusion.

Under a profit transfer agreement, P & S is obligated to transfer its profits to SAG, and in turn, SAG is required to cover the losses of P & S. SAG's other subsidiaries operate under a similar arrangement. The recent losses for P & S are listed below:

Fiscal year ending	Losses transferred to SAG
Sept. 30, 1977	DM (148,504,446).
Sept. 30, 1978	DM (145,535,132).
Sept. 30, 1981	DM (172,579,506).

Since SAG is wholly owned by the FRG government and since it covers the losses incurred by P & S, we are preliminarily determining that this loss coverage is a direct pass through of funds from the FRG government through SAG to P & S. We therefore find the transfer of losses from P & S to SAG to be a countervailable subsidy on the products.

We applied the grants methodology in Appendix B and a 15 year average useful life of capital assets to the P & S losses which SAG absorbed while receiving FRG government funds. The benchmark used in the calculations is based on the average commercial lending interest rate as reported by the Deutsche Bundesbank. We then divided the total subsidy by the company's 1981 value of steel production and calculated an *ad valorem* subsidy of 2.702 percent.

G. Loan Guarantees From the ECSC

For a full explanation of this program refer to Appendix C.

To calculate the subsidy we used the loan guarantees methodology in Appendix B and allocated the subsidy across all of the company's steel production. The benchmark used in the calculation is the average commercial lending interest rate as reported by the Deutsche Bundesbank.

Company Receiving Benefits:

P & S. According to the calculation method described above, P & S received subsidies in 1981. We calculated an *ad valorem* subsidy of 0.058 percent for these loan guarantees.

H. Loans From the ECSC

For a full explanation of this program refer to Appendix C.

To calculate the subsidy we used the loans methodology described in Appendix B. The benchmark used in the calculations is the average commercial lending interest rate as reported by the Deutsche Bundesbank. We allocated the subsidies to the value of each company's total steel production.

Companies receiving benefits	Ad valorem subsidy (percent)
Krupp	0.194
Hoesch	.041
P & S	.385
Dillinger	.453
Thyssen	.005
Klockner	.531
Otto Wolff	.527

I. ECSC Housing Loans for Workers

For a full explanation of this program refer to Appendix C.

To calculate the subsidies we used the loans methodology described in Appendix B and allocated the subsidies to all of the company's steel production. The benchmark used in the calculations is based on the average commercial lending interest rate as reported by the Deutsche Bundesbank. For Hoesch and P & S we determined an *ad valorem* subsidy of 0.003 percent.

J. Special Case: Rochling

Rochling did not respond to our questionnaire. We preliminarily determine therefore that all of the above programs, from which the petitioners alleged that Rochling benefited, are subsidies to Rochling. Subsidies were calculated on the basis of the best information available. In calculating these subsidies we used the highest rate calculated for each program which was utilized by other companies under these investigations. Where programs were specific to Rochling, we calculated subsidies on the basis of publicly available company data. The ministry of

Defense R & D program, alleged to be a subsidy to Rochling, most resembled BMFT R & D projects; therefore we used the same rate.

The programs and *ad valorem* subsidies are:

	Percent
Investment Premium Act	0.276
BMFT	.091
Ministry of Defense R & D	.063
ECSC Loan Guarantees	.050
ECSC Loans	.031

The programs specific to Rochling were loans that were conditionally repayable, depending on future profits. Because profits were unlikely, we regarded the benefits as grants and calculated subsidies using the grants methodology in Appendix B and a 15 year average useful life of capital assets. We allocated the resulting subsidies across the total value of steel production of the company. The benchmark used in the calculations is based on the average commercial lending interest rate as reported by the Deutsche Bundesbank. We determined an *ad valorem* subsidy of 7.500 percent on these conditionally repayable loans.

II. Programs Preliminarily Determined Not To Be Subsidies

We preliminarily determine that the FRG government is not providing subsidies to manufacturers, producers, or exporters of certain steel products under the following programs.

A. R & D Grants From the ECSC

For a full explanation of this program refer to Appendix C.

B. Federal Loan Guarantees

The FRG guarantees loans made by commercial lenders to industrial firms. They are provided according to budgetary legislation and are meant to serve national social and economic objectives not realizable without such financial guarantees. Such guarantees enable steel companies to borrow at rates lower than they would otherwise pay. Since the loan guarantees are available on equal terms to all industrial borrowers in the FRG, and since we have no indication that a specific industry or group of industries is the main beneficiary of these guarantees, we preliminarily determine that these loan guarantees are not countervailable. We will seek additional information.

C. European Recovery Program ("ERP")

This program which developed out of American postwar rehabilitation assistance in Western Europe is reserved exclusively for industrial rehabilitation and promotion. Since ERP loans are available to all branches of industry on equal terms, and since we have no indication that a specific industry or group of industries is the main beneficiary of these loans, we preliminarily determine that this program is not countervailable. We will seek additional information.

D. Coal Programs

Petitioners cite three programs that they believe reduce the cost of producing coking coal and claim these cost reductions are passed on to steel users in the form of lower prices. The programs are: (1) Federal and state government payments to coal producers for the difference between the actual cost of production and a lower price, meant to reflect a world market price (i.e., delivered to Rotterdam), at which the coal is sold to steel companies; (2) reimbursement by coal companies to "distant-point" steel companies for a portion of their higher than average coal freight costs; and (3) an "extraction subsidy" which is some form of government compensation to coal producers to cover certain mining costs on which we will seek additional information.

1. *Price Support Program.* Because German coal seams were no longer sufficiently profitable, their owners—which included German steel producers—had sought to close down many of them about 1967. Such closures conflicted with the FRG's policy of maintaining jobs for miners and fostering relative energy independence. The FRG intervened and required the coal owners—including steel producers—to maintain the operation of mines through Ruhrkohle, a joint venture coal company formed in 1969. Simultaneously the FRG agreed to provide financial assistance to German coal production so as to lessen (but *not* eliminate) the difference between German and world market prices, and to severely limit the importation of coal into Germany. As a result, German steel producers cannot buy significant amounts of coking coal at world market prices but are forced to pay higher prices for apparently subsidized German coal.

The cost compensation benefit conferred by the FRG government on coking coal could constitute a countervailable subsidy on steel, if it were a benefit to a specific enterprise or industry. Although a slight majority of German coking coal is used by the German iron and steel industry, a significant portion (about 45 percent in 1980) is used in the FRG for purposes other than steelmaking (e.g., by the chemical and non-ferrous metal industries and for home heating). Since German coking coal is generally available on equal terms and used for purposes other than steelmaking, the FRG assistance to the coking coal industry is not a subsidy to the German steel industry.

2. *Reimbursement of Freight Costs.* The coal companies reimburse a portion of the higher-than-average cost of hauling coal to distant steel mills. The funds for reimbursement come from contributions by all the FRG steel companies, most of whom do not receive any reimbursement.

We preliminary determine that the industry as a whole supports the freight reimbursement program from its own contributions, and that there is no subsidy for a collective cost of doing business which the industry pays for itself.

3. *ECSC Coal.* The ECSC provides various production and marketing grants to EC coal and coke producers; however, we do not consider this assistance to confer a subsidy on the FRG steel industry for the reasons given in Appendix C.

E. FRG Labor Assistance

Steel companies participate in various federal and state programs meant to assist workers dislocated by changes in the job market. These programs are discussed below:

1. *Federal.* The Labor Promotion Act of 1969 provided assistance for labor under the following sections:

a. *Article 54.* Under this article the Federal Employment Institute (Bundesanstalt Fur Arbeit) ("BA") provides employers with loans or "subsidies" to help defray the cost to the employer of carrying a hard-to-place employee who is in training on the job.

b. *Article 49.* This program is similar to that of Article 54, except that it applies to workers already hired who need retraining in new skills because their old skills have become redundant to the company.

c. *Articles 41 and 47.* These programs resemble Articles 49 and 54, except that they provide for training assistance which is paid directly to workers who take part in training that will enable them to move to another job.

d. *Article 97.* Under this article the Federal Employment Institute provides grants to employers for the wage costs of older employees who are additionally taken on and employed in order to relieve unemployment among older employees. Such grants are available for employees who could not be placed in a job in the near future.

Conclusions

All of the above programs administered by BA under the Labor Promotion Act of 1969 are part of a national manpower policy. Because these programs are available to all industries on equal terms and because we have no indication that a specific industry or group of industries is the main beneficiary of these labor programs, we preliminarily determine that they are not countervailable. However, we will seek further information on the Articles 41 and 47 programs.

2. *State.* a. *Government of North Rhine-Westphalia.* The government of North Rhine-Westphalia provides funds to companies to assist those groups in the population which have particular difficulties in finding a job, especially young people. Funds can be applied to training or to the creation of additional positions.

b. *Jobs for Disabled Persons.* Investment grants from the Landschaftsverbank Westfalen-Lippe and Landschaftsverbank Rheinland are intended as an extra incentive to all suitable firms voluntarily to make available more jobs for the disabled.

Conclusions

Our preliminary examination indicates that the state labor assistance programs are available on equal terms to all industries in the relevant political subdivision and are not specific to the steel industry. For this reason we preliminarily determine that state labor assistance is not countervailable.

F. Labor Assistance from the ECSC Rehabilitation Aids

For a full explanation of this program refer to Appendix C.

G. ECSC Industrial Reconversion Loans

For a full explanation of this program refer to Appendix C.

III. Programs Preliminarily Determined Not To Be Utilized

We preliminarily determine that the following programs which were described in the notice of "Initiation of Countervailing Duty Investigations" are not utilized by the manufacturers, producers, or exporters of the products subject to these investigations.

A. The European Regional Development Fund (("ERDF")

This is a European Economic Community ("EEC") institution whose purpose is to provide funding for industrial projects that are designed to correct regional imbalances within the EEC. The fund also awards "interest subsidies" on European Investment Bank loans. Based upon our investigation to date, we preliminarily determine that no company under investigation receives ERDF funds.

B. European Investment Bank ("EIB")

The EIB was established by the Treaty of Rome to fund projects that serve regional needs in the Community. Funds are drawn from debt instruments floated on the capital markets and from investment earnings. In the case of the FRG, none of the responding companies indicated that they carried any loans from the EIB. Therefore, we preliminarily determine that this program has not been utilized.

C. State Government Loan Guarantees

State governments provide guarantees to commercial lenders on loans to industry. Information on the specific purposes of loans receiving guarantees and on the types of firms whose loans qualify for the guarantees is not immediately available. None of the respondents indicated that they carry any loans guaranteed by state governments. Therefore, we preliminarily determine that this program has not been utilized.

D. State Government Loans

State governments lend directly to industrial firms on concessionary terms such as preferential interest rates. Loans are granted generally to finance specific social programs or area rehabilitation projects. We have no evidence that any respondents obtained such loans. Therefore, we preliminarily determine that this program has not been utilized.

Negative Determination of Critical Circumstances

Counsel for Bethlehem Steel Corporation and counsel for the Five alleged that imports of certain carbon steel products from the FRG present "critical circumstances." Under section 703(e)(1) of the Act, critical circumstances exist when the alleged subsidy is inconsistent with the Subsidies Code of the General Agreement on Tariffs and Trade *and* "there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period."

Since these investigations were initiated, U.S. imports of carbon steel structural shapes from the FRG amounted to 5,169 net tons in February, 7,583 net tons in March, and 8,832 net tons in April (the most recent month for which import statistics are available). U.S. imports of hot-rolled carbon steel plate were 3,245 net tons in February, 2,374 net tons in March, and 2,143 net tons in April. U.S. imports of hot-rolled carbon steel sheet and strip were 20,836 net tons in February, 23,902 net tons in March, and 19,742 net tons in April. U.S. imports of cold-rolled carbon steel sheet and strip were 32,314 net tons in February, 16,067 net tons in March, and 9,493 net tons in April.

In the context of this industry, these products have not recently been massively imported from the FRG over a relatively short period. Therefore, critical circumstances do not exist for carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet and strip or cold-rolled carbon steel sheet and strip from the FRG.

Verification

In accordance with section 776(a) of the Act, we will verify all data used in making our final determinations.

Suspension of Liquidation

In accordance with section 703 of the Act, we are directing the U.S. Customs Service to suspend liquidation of entries of carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet and strip, and cold-rolled carbon steel sheet and strip which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**, and to require a cash deposit or bond for each such entry of the merchandise in the amounts indicated below:

	Ad valorem rate (percent)
Manufacturer/producer/exporter:	
AG der Dillinger Huttenwerke	0.561
Stahlwerke Peine-Salzgitter AG	3.503
Klockner-Werke AG	0.769
Stahlwerke Rochling-Burbach GmbH	8.623
Fried. Krupp Huttenwerke AG	0.640
Otto Wolff AG	0.751
All other FRG manufacturers/producers/exporters:	
Carbon Steel Structural Shapes	8.623
All Other Products: hot-rolled carbon steel plate, hot-rolled carbon steel sheet and strip, and cold-rolled carbon steel sheet and strip	3.503

Where a company specifically listed above has not exported a particular product during the period for which we are measuring subsidization, the cash deposit or bond amount should be based on the highest rate for products that were exported by that company.

Entries of these products produced and exported by Estel Hoesch-Werke AG and Thyssen AG are excluded from the suspension of liquidation.

This suspension will remain in effect until further notice.

Exclusions From the Preliminary Affirmative Countervailing Duty Determinations

Two of the firms investigated, Hoesch and Thyssen, received subsidies in amounts we have preliminarily determined are *de minimis*. The subsidies to Hoesch and Thyssen are 0.349 and 0.178 percent *ad valorem*, respectively. We have preliminarily excluded these firms from these preliminary affirmative countervailing duty determinations. No cash deposit or bond shall be required on entries of the subject merchandise produced and exported by these companies from the FRG.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determinations. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with section 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on these preliminary determinations at 10:00 a.m. on July 8, 1982 at the U.S. Department of Commerce, Room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by July 1, 1982. Oral presentations will limited to issues raised in the briefs.

All written views should be filed in accordance with 19 CFR 355.34, on or before July 19, 1982, at the above address and in at least ten copies.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

June 10, 1982.

[FR Doc. 82-16248 Filed 6-14-82; 9:30 am]

BILLING CODE 3510-25-M

Preliminary Affirmative Countervailing Duty Determinations; Certain Steel Products From Italy

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary affirmative countervailing duty determinations.

SUMMARY: We preliminarily determine certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Italy of certain steel products, as described in the "Scope of the Investigations" section of this notice. The estimated net subsidy is indicated in the "Suspension of Liquidation" section of this notice. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of the products subject to these determinations which are entered, or withdrawn from warehouses, for consumption, and to require a cash deposit or bond on these products in the amount equal to the estimated net subsidy.

If these investigations proceed normally, we will make our final determinations by August 24, 1982.

EFFECTIVE DATE: June 17, 1982.

FOR FURTHER INFORMATION CONTACT: Charles E. Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377–5288.

SUPPLEMENTARY INFORMATION:

Preliminary Determinations

Based upon our investigations, we preliminarily determine there is reason to believe or suspect certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended ("the Act"), are being provided to manufacturers, producers, or exporters in Italy of certain steel products, as described in the "Scope of the Investigations" section of this notice. For purposes of these investigations, the following programs are preliminarily found to be subsidies.

- Recapitalizations and conversion of debt to equity.
- Preferential loans.
- Capital grants.
- Social security payment exemptions.

We estimate the net subsidy to be the amount indicated in the "Suspension of Liquidation" section of this notice.

Case History

On January 11, 1982 we received petitions from the United States Steel Corporation; counsel for Bethlehem Steel Corporation; and counsel for Republic Steel Corporation, Inland Steel Company, Jones & Laughlin Steel, Inc., National Steel Corporation, and Cyclops Corporation ("the Five"), filed on behalf of the U.S. industry producing hot-rolled carbon steel sheet and strip and cold-rolled carbon steel sheet and strip. The petitions alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in Italy of the steel products listed above. Counsel for Bethlehem Steel Corporation and counsel for the Five also alleged that "critical circumstances" exist, as defined in section 703(e) of the Act.

We found the petitions to contain sufficient grounds upon which to initiate countervailing duty investigations, and on February 1, 1982, we initiated countervailing duty investigations (47 FR 5746–47). We stated that we expected to issue preliminary determinations by April 6, 1982. We subsequently determined that the investigations are "extraordinarily complicated", as defined in section 703(c) of the Act, and postponed our preliminary determinations for 65 days until June 10, 1982 (47 FR 11738–39).

Since Italy is a "country under the Agreement" within the meaning of section 701(b) of the Act, injury determinations are required for these investigations. Therefore, we notified the U.S. International Trade Commission ("ITC") of our initiations. On February 26, 1982, the ITC preliminarily determined that there is a reasonable indication that these imports are materially injuring a U.S. industry.

We presented questionnaires concerning the allegations to the Delegation of the Commission of the European Communities and the government of Italy in Washington, D.C. On April 30, 1982, we received the responses to the questionnaires.

Scope of the Investigations

The products covered by these investigations are:

- Hot-rolled carbon steel sheet and strip.

• Cold-rolled carbon steel sheet and strip.

The products are fully described in Appendix A which appears with the notice of "Preliminary Affirmative Countervailing Duty Determinations, Certain Steel Products from Belgium", in this issue of the **Federal Register**. The product definition of hot-rolled carbon steel sheet and strip has been amended since the initiation of these investigations (47 FR 5739–40).

Italsider S.p.A., now reorganized as Nuova Italsider S.p.A. ("Italsider"), Teksid S.p.A. and Falck S.p.A. are the only known producers and exporters in Italy of the subject products which were exported to the United States. The period for which we are measuring subsidization is the calendar year 1981, which coincides with Italsider's fiscal year.

Analysis of Programs

In their responses, the government of Italy and the Delegation of the Commission of the European Communities provided data for the applicable periods. Additionally, we received information from Italsider, which produced and exported hot-rolled carbon steel sheet and strip and cold-rolled carbon steel sheet and strip which were exported to the United States during 1981.

Throughout this notice, general principles applied by the Department of Commerce to the facts of the current investigations concerning certain steel products are described in detail in Appendix B which appears with the notice of "Preliminary Affirmative Countervailing Duty Determinations, Certain Steel Products from Belgium", in this issue of the **Federal Register** (hereinafter Appendix B). Appendix C which also appears with the above cited Belgium **Federal Register** notice is a description of programs administered by organizations of the European Communities (hereinafter Appendix C). Based upon our analysis to date of the petitions and responses to our questionnaires, we preliminarily determine the following.

I. Programs Preliminarily Determined to be Subsidies

We preliminarily determine subsidies are being provided to manufacturers, producers, or exporters in Italy of hot-rolled carbon steel sheet and strip and cold-rolled carbon steel sheet and strip under the following programs.

A. Equity Infusions

From 1977 through 1981 Italsider, an indirectly government-owned steel producer, received five equity infusions, including a conversion of debt to equity in 1977. The funding flowed directly from Italsider's government-controlled parent and holding company, Finsider, or indirectly from Finsider's government-owned parent, the Institute of Industrial Reconstruction (IRI).

As described in more detail in Appendix B, we do not consider equity infusions by the government or, in this case, a government-controlled company, as subsidies *per se*. In this case, however, a government-controlled entity directed the infusion of capital in the form of equity shares into a company which had sustained a succession of massive losses (see section below on preferential loans). Since we have preliminarily concluded that the investments were inconsistent with commercial considerations at the time made, a subsidy potentially exists.

Since Italsider's shares were traded, we compared the price the Italian government paid per share when it bought Italsider's stock through Finsider with the average price of Italsider's stock on the market the month before the equity infusion was announced. We compared the difference in the stock prices and multiplied this figure by the additional number of shares the government received. We found this overpayment to be a subsidy and treated it as a grant in the year it was received, assuming a fifteen year average useful life of capital assets (according to the grant methodology in Appendix B). We then totaled the 1981 allocations of each of these equity infusions to determine the total benefit from the program in 1981.

Based on information available to us to date, the equity infusions do not appear earmarked for specific products. we allocated the subsidies arising from the capital infustions over all Italsider steel products, which resulted in an *ad valorem* subsidy value of 5.15 percent for each of the two products under investigation.

B. Preferential Loans

We preliminarily determine that Italsider has received benefits from several types of preferential loans. We considered all preferential loans countervailable. We included loans for reconstruction and reconversion of certain Italsider steel facilities that produce the products under investigation, because we were unable to determine from the information furnished to us which, if any, loans were from programs which might be generally available and, therefore, not countervailable.

We did not, however, include loans made for disaster relief since this was general assistance available to anyone in affected areas. Although not all areas would be eligible at any one time, disaster relief is not selective in the same manner as other regional programs since there is no predetermination of eligible areas and no part of the country is excluded from eligibility in principle.

For loans made to Italsider before 1975 with principal outstanding in 1981, we compared the repayment schedule of the actual loan with a repayment schedule of a commercial loan made at the benchmark interest rate (the rate for a similar loan made consistent with commercial considerations). Because of a lack of data on comparable commercial loans, for purposes of this preliminary determination we used average corporate bond rates, by month, as the benchmark. Where we found loans from special credit institutions with interest rates below the benchmark or preferential repayment schedules, we have considered these loans preferential and calculated the subsidy using the methodology described in Appendix B.

Loans to Italsider made through the Cassa per il Mezzogiorno, a regional development fund for southern Italy, were of two kinds: those with preferential interest rates, and those where part of the interest payments was paid by Casmez, a government agency. The former we treated as we have other preferential loans, determining a benchmark interest rate and comparing the repayment schedule of a loan using this rate with the repayment schedule of the preferential loan for loans made in years before 1975. For loans before 1975 with partial interest paid by Casmez, we treated the government's partial interest payment in 1981 as a grant in that year. These amounts were each less than one percent of gross revenues and normally expensed in one year (see Appendix B). If those loans contained preferential repayment terms as well, we used the general loan methodology and found both provisions to be countervailable.

Petitioners alleged that Italsider has been uncreditworthy. Italsider has lost money consistently in recent years, losing 72 billion lire in 1975, 130 billion lire in 1976, 395 billion lire in 1977, 349 billion lire in 1978, 258 billion lire in 1979, 747 billion lire in 1980, and 1,688 billion lire in 1981. In light of the fact that Italsider's revenues have not covered its costs for several years, we concur with the petitioners that Italsider should be considered uncreditworthy for the years 1975 through 1981. Therefore, loans made during these years with principal outstanding in 1981 were treated as loans to uncreditworthy companies as described in Appendix B.

Essentially we treated the loans as equity investments (for reasons described in Appendix B) and compared Italsider's rate of return in 1981 with the average rate of return on investment in Italy less 1981 principal and interest payments on the loan. The average rate of return on investment in Italy was based on an average earnings yield on industrial shares. Where the subsidy calculated for 1981, using this methodology, exceeds the subsidy amount which would be calculated for 1981 if the loans were treated as outright grants of the principal in the year received, we used the grant methodology described in Appendix B, for reasons described therein.

Loans were also granted to Italsider for housing aid from the European Coal and Steel Community ("ECSC"). Our reasons for preliminarily determining that the ECSC assistance for housing loans constitutes a subsidy are presented in Appendix C.

To determine the subsidy value of these housing loans, lacking information on which Italian loans were paid through ECSC borrowings and which were from producer-generated funds, we have determined the percentage of total ECSC funds which came from borrowings each year and considered that portion of each housing loan in that year to be a subsidy. For Italsider, all housing loans attributable to the products under investigation were made in years after 1974 and, therefore, we calculated the value of the subsidy essentially as though it were an equity infusion in the year given, minus any principal and/or interest paid on these loans in 1981 (see uncreditworthy loan methodology in Appendix B). If this methodology resulted in a subsidy for 1981 exceeding the amount which would be calculated for 1981 if the loans were treated as outright grants, we used the grants methodology (see Appendix B).

Italsider claimed that one loan was given under Article 54 of the ECSC for environmental purposes and that this was not a subsidy. According to the methodology in Appendix C, we preliminarily determine that the interest rebate portion of this loan is not a subsidy. Since the loan itself was given under Article 54, we preliminarily determine that this is countervailable (see Appendix C). When calculating the amount as an uncreditworthy loan (see Appendix B), the result was an amount greater than if we had treated the principal as an outright grant. Therefore, we used the grant methodology as described in Appendix B.

We received information regarding a preferential loan for research and development given to Italsider which then shared the results with the Finsider group of steel producers. Thus, we allocated the 1981 subsidy benefit from this loan over all Finsider steel production for 1981.

For all Italsider preferential loans specifically targeted to facilities procducing the products under investigation,we determine the *ad valorem* subsidy by dividing the total benefit, in lire, by Italsider's value of production of hot-and cold-rolled sheet and strip in 1981. For any loans not specifically targeted to such facilities for which we received information, we determined the *ad valorem* subsidy by dividing the total benefit, in lire, by Italsider's total value of production of all products in 1981. We have determined that the net subsidy due to preferential loans for hot-rolled sheet and strip and cold-rolled sheet and strip is 8.39 percent *ad valorem*.

C. Capital Grants

Italsider received grants from the Cassa per il Mezzogiorno as well as loans, described above. Firms locating in the Mezzogiorno (southern Italy) are eligible for special incentives. These grants were awarded from 1967 through 1981 for the general construction and expansion of its facilities. We have information only about grants received for Italsiders plants which produce the products under investigation. We find these grants to be countervailable because they are available only to plants located in this region.

To determine the amount of the subsidy, we used the grant methodology in Appendix B. We allocated the grants over 15 years and, to obtain an *ad valorem* subsidy, divide by Italsider's total value of production of hot- and cold-rolled carbon steel sheet and strip. Based on these calculations, we preliminarily determine the subsidy on hot- and cold-rolled sheet and strip to be 1.48 percent *ad valorem*.

D. Social Security Payments Exemption

Under the Cassa per il Mezzogiorno regional development program, the government of Italy allows exemptions from social security payments (normally paid to the Istituto Nazionale Previdenza Sociale) for companies which operate plants in the south of Italy. We preliminarily determine these exemptions to be countervailable. Italsider operates a plant in this area which produces the products under investigation and received exemptions in 1981 from these payments. Therefore, we calculated the *ad valorem* subsidy by dividing the amount of the exemption granted by the total value of Italsider's production of hot- and cold-rolled sheet and strip. For the products under investigation this subsidy is 3.28 percent *ad valorum*.

II. Programs Preliminarily Determined Not To Be Subsidies

We preliminarily determine subsidies are not being provided to manufacturers, producers, or exporters in Italy of the products under investigation under the following programs.

A. ECSC Restructuring Loan

Petitioners alleged that ECSC loans for restructuring are subsidies. Italsider claims that, under Article 56, it has received one such loan, relevant in 1981, for the products under investigation, but that this is not an assist to steel products. As discussed in Appendix C, we preliminarily determine that this program does not confer countervailable benefits.

B. Italian Government Labor Assistance

Petitioners alleged that the Italian steel industry benefits from labor assistance programs where the government of Italy assumes such costs as redundancy payments, housing allowances and special assistance to support employment. Italsider has received such assistance. We have determined that these programs are not countervailable because our information indicates that these programs are generally available on equal terms to all firms in Italy.

C. Assistance to Coal Suppliers

Petitioners alleged that Italsider received a subsidy through its purchases of subsidized German coking coal. Italsider claims that all of its coal is brought at world prices from various suppliers, including purchases from companies in the United States. For the reasons described in Appendix B, Italsider does not receive a countervailable benefit from its purchases of German coking coal which might be subsidized.

D. Research and Development ("R&D") Aid

Petitioners alleged that the EC and the government of Italy provided funds for R&D. We have evidence that an ECSC grant was given to Italsider for the products mentioned in the "Scope of the Investigations" section. For the reasons elaborated in Appendix C, we preliminarily determine this ECSC progam does not confer countervailable benefits. We have no knowledge of any R&D grants given by the Italian government.

Following the receipt of responses by the Italian government and Italsider, petitioner urged that the Department obtain additional information regarding ECSC funding to Italsider through the Centro Sperimentale Metallurgico, an Italian research organization. We will seek such information.

III. Programs Preliminarily Determined Not To Be Utilized

We preliminarily determine subsidies are not being provided to manufacturers, producers, or exporters in Italy of hot- and cold-rolled carbon steel sheet and strip under the following programs because they have not been utilized.

A. Preferential Bond Issuances

Petitioners alleged that Italsider has received benefits from bond issuances containing preferential provisions Italsider has no outstanding bonds.

B. Tax Incentives

Petitioners alleged that under the Cassa per il Mezzogiorno regional development program the Italian steel industry receives exemptions from national and local income taxes. To be eligible for any decreased national income taxes under this program a company must be headquartered in the south of Italy. Since Italsider is headquartered in Genoa which is not in southern Italy, we preliminary determine that it receives no exemption from national income taxes under this program. As regards exemption from local income taxes, Italsider claims that it has not applied for these exemptions recently, and stated that there are no carry forward provisions. We will seek additional information regarding this program.

C. Forgiveness of Utility Payments

One of the petitioners alleged that the Italian government excused Italsider from paying several of its utility bills for the first half of 1981. Italsider claims that this forgiveness was not during the period of time for which we had requested information and also that the assistance did not relate to the products under investigation. We will seek further information.

IV. Programs for Which Additional Information Is Needed

The following programs were alleged by the petitioners to be subsidies. At this time, we do not have sufficient information to determine whether these programs are providing manufacturers, producers, or exporters in Italy of hot-rolled carbon steel sheet and strip and cold-rolled carbon steel sheet and strip benefits which constitute subsidies within the meaning of the countervailing duty law. We will seek additional information regarding these programs before reaching final determinations.

A. Labor Assistance

Italsider states that EC labor aid is channelled through the European Social Fund and that the programs funded are not the legal responsibility of the company. We will seek further clarification regarding the operation of this fund and any assistance thus provided to Italsider.

One petitioner also asserted that the Italian government paid Italsider's monthly payroll costs for part of 1981. At present, we have insufficient data about this alleged assistance. We will seek further information.

B. Preferential Export Financing

Petitioners alleged that the Italian steel industry benefits from prefential export financing. Italsider replies that such aid does not apply to it.

C. Preferential Transportation Rates

Petitioners alleged that Italian steel companies receive preferential transportation rates for their products. Italsider states this program was not applicable to it. We have reason to believe that some firms located in southern Italy can benefit from reduced transportation fees through the Cassa per il Mezzogiorno. We will seek further information.

Negative Determination of Critical Circumstances

Counsel for Bethlehem Steel Corporation and counsel for the Five alleged that imports of all steel products under investigation present "critical circumstances". Under section 703(e)(1) of the Act, critical circumstances exist when the alleged subsidy is inconsistent with the Subsidies Code of the General Agreement on Tariffs and Trade *and* "there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period."

Since these investigations were initiated, U.S. imports of hot-rolled carbon steel sheet and strip from Italy amounted to 13,525 net tons in February, 15,716 net tons in March, and 1,994 net tons in April, the most recent month for which import statistics are available. U.S. imports of cold-rolled carbon steel sheet and strip from Italy averaged 626 net tons in February, 11,583 net tons in March, and 1,399 net tons in April.

In the context of this industry, these products have not recently been massively imported from Italy over a relatively short period of time. Therefore, critical circumstances do not exist for hot-rolled carbon steel sheet and strip and cold-rolled carbon steel sheet and strip from Italy.

Verification

In accordance with section 776(a) of the Act, we will verify data used in making our final determinations.

Suspension of Liquidation

In accordance with section 703 of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of hot-rolled carbon steel sheet and strip and cold-rolled carbon steel sheet and strip which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register** and to require a cash deposit or bond for each such entry of the merchandise in the amounts indicated below:

Manufacturer/producer/exporter	Ad valorem rate (percent)
Italsider	16.30
All others	16.30

This suspension will remain in effect until further notice.

ITC Notifications

In accordance with section 703(f) of the Act, we will notify the ITC of our determinations. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on these preliminary determination at 3:00 p.m. on July 15, 1982, at the U.S. Department of Commerce, Room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address,

and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by July 8, 1982. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, on or before July 19, 1982, at the above address and in at least ten copies.

June 10, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-16340 Filed 6-14-82; 8:30 am]
BILLING CODE 3510-25-M

Preliminary Affirmative Countervailing Duty Determination; Carbon Steel Structural Shapes From Luxembourg

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary Affirmative Countervailing Duty Determinations.

SUMMARY: We preliminarily determine certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Luxembourg of carbon steel structural shapes, as described in the "Scope of the Investigation" section of this notice. The estimated net subsidy is indicated in the "Suspension of Liquidation" section of this notice. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of the product subject to this determination which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on this product in the amount equal to the estimated net subsidy.

If this investigation proceeds normally, we will make our final determination by August 24, 1982.

EFFECTIVE DATE: June 17, 1982.

FOR FURTHER INFORMATION CONTACT: Michael J. Altier, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-1785.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine there is reason to believe or suspect certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended ("the Act"), are being provided to manufacturers, producers, or exporters in Luxembourg of carbon steel structural shapes, as described in the "Scope of the Investigation" section of this notice. For purposes of this investigation, the following programs are preliminarily found to be subsidies:

- Capital grants
- Preferential loans
- Government equity participation

We estimate the net subsidy to be the amount indicated in the "Suspension of Liquidation" section of this notice.

Case History

On January 11, 1982, we received petitions from United States Steel Corporation; counsel for Bethlehem Steel Corporation; and counsel for Republic Steel Corporation, Inland Steel Company, Jones & Laughlin Steel, Inc., National Steel Corporation, and Cyclops Corporation ("the Five"), filed on behalf of the U.S. industry producing carbon steel structural shapes. The petitions alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in Luxembourg of carbon steel structural shapes. Counsel for Bethlehem Steel Corporation and counsel for the Five alleged that "critical circumstances" exist, as defined in section 703(e) of the Act.

We found the petitions to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on February 1, 1982, we initiated a contervailing duty investigation (47 FR 5750). We stated that we expected to issue a preliminary determination by April 6, 1982. We subsequently determined that the investigation is "extraordinarily complicated", as defined in section 703(c) of the Act, and postponed our preliminary determination for 65 days until June 10, 1982 (47 FR 11738).

Since Luxembourg is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the U.S. International Trade Commission ("ITC") of our initiation. On February 26, 1982, the ITC preliminarily determined that there is a reasonable indication that these imports are materially injuring a U.S. industry.

We presented questionnaires concerning the allegations to the Delegation of the Commission of the European Communities and to the government of Luxembourg in Washington, D.C. On April 30, 1982, we received the responses to the questionnaires.

Scope of the Investigation

The product covered by this investigation is carbon steel structural shapes and is fully described in Appendix A which appears with the notice of "Preliminary Affirmative Countervailing Duty Determinations, Certain Steel Products from Beligium", in this issue of the **Federal Register**.

Acieries Reunies de Burbach-Eich-Dudelange S.A. ("ARBED") is the major steel producer and exporter in Luxembourg of carbon steel structural shapes which are exported to the United States. It owns 25.09 percent of Metallurgique et Miniere de Rodange-Athus S.A. ("MMRA"). MMRA is the only other known producer of steel, including carbon steel structural shapes, in Luxembourg. In view of the relationship between these companies and since they both produce the product under investigation, we are treating ARBED as the sole respondent for Luxembourg in this investigation. Benefits to MMRA are treated as benefits to ARBED. We will apply the same subsidy rate to both companies for purposes of this preliminary determination. The period for which we are measuring subsidization is the calendar year 1981, which is ARBED's fiscal year.

Analysis of Programs

In their responses, the government of Luxembourg ("GOL") and the Delegation of the Commission of the European Communities provided data for the applicable periods. Additionally, we received information from ARBED, which produced and exported carbon steel structural shapes which were exported to the United States during 1981.

Throughout this notice, general principles applied by the Department of Commerce to the facts of the current investigation concerning certain steel products are described in detail in Appendix B, which appears with the notice of "Preliminary Affirmative Countervailing Duty Determinations, Certain Steel Products from Belgium", in this issue of the **Federal Register** (hereinafter, Appendix B). Appendix C, which also appears with the above cited Beligium **Federal Register** notice, is a description of programs administered by organizations of the European Communities (hereinafter, Appendix C). Based upon our analysis to date of the petitions and responses to our questionnaires, we preliminarily determine the following.

I. Programs Preliminarily Determined To Be Subsidies

We preliminarily determine subsidies are being provided to manufacturers, producers, or exporters in Luxembourg of carbon steel structural shapes under the programs listed below:

A. Capital Grants

The Steel Industry Three-Party Conference Agreement of March 19, 1979 on the Restructuring of the Luxembourg Steel Industry (the "Tripartite Agreement"), its Codicil dated January 22, 1981, the Supplement to the Agreement of the Tripartite Conference on the Restructuring of the Luxembourg Steel Industry approved on January 15, 1981, and the Law of July 1, 1981 pertaining to the restrucurting and modernization of the steel industry set forth programs which have been used to provide specific assistance to the steel industry. The Tripartite Agreement, as supplemented, and the 1981 law constitute the basis for the plan to restructure and modernize the steel industry in Luxembourg.

The restructuring plan calls for the granting of aid under previous laws, primarily the Law of July 28, 1973 for economic expansion, which the government claims is not limited to a specific enterprise or industry, or group of enterprises or industries. The plan, however, obligated the government to provide benefits to the steel industry. Prior to the plan the government had the discretion to consider and reject applications from the steel industry. The plan also increased the range and the limits of the benefits provided under the earlier law in order to benefit specifically the steel industry. Therefore, we preliminarily determine that the programs under the plan provide countervailable benefits to the steel industry.

Under the plan, the GOL may grant an amount equivalent to 15 percent of the investment made by a steel company between January 1, 1980, and December 31, 1984. Under unspecified conditions, an additional amount equivalent to 10 percent of "extraordinary and temporary aid" may be provided.

ARBED stated that between 1978 and 1981 it received four major investment grants fro the GOL. Three of the four grants were awarded expressly for buildings and equipment used exclusively for the production of products not under investigation. Consequently, we are not considering these grants as countervailable benefits to the production of the product under investigation. The remaining grant was awarded expressly for (i.e., "tied" to) the construction of a blast furnace at Esch-Belval and, according to the GOL, was received in 1981. We find this grant to be a subsidy. We allocated the benefit over total ARBED steel production since it was for a blast furnace which produces pig iron, and input common to steel production.

In addition, the GOL response provides information on several small government grants which were awarded on an "ad hoc" basis and provided to ARBED between 1977 and 1978 for the purposes of employing surplus labor in investment projects within the steel plants. Although the GOL responded that certain labor programs were not preferential to steel, it was not clear from the response that these grants meet that description. In light of the GOL's statement that measures specific to the steel industry were taken at this time, we preliminarily determine that these grants provide countervailable benefits. We have allocated the benefit of the grants over total ARBED steel production.

The GOL response also shows several government grants to MMRA for unspecified investments between 1979 and 1980. We preliminarily determine these grants to provide countervailable benefits. We have allocated the benefit over total ARBED steel production.

The amount of each of the above grants was less than one percent of ARBED's gross revenue ("turnover"). The grant for the blast furnace was tied to a specific purchase of capital equipment. The other grants (the "ad hoc" and MMRA type) are treated as untied, since we did not receive specific information on their uses and do not know whether they were used for items expensed in one year. All of these grants are allocated over a 15-year period, which is an estimate of the average life of steel assets. We calculated the benefit of these grants according to the methodology described in Appendix B.

The subsidy rate with respect to this program is 0.231 percent *ad valorem*.

B. Preferential Loans

The GOL, GOL-controlled financial institutions, and the European Coal and Steel Community ("ESCS") have provided a number of investment loans to ARBED and MMRA. The petitioners alleged that ARBED was uncreditworthy. ARBED has sustained losses ranging from 1.6 to 4.9 billion BF in six out of the last seven years. Further, certain financial ratios for this company indicate an uncreditworthy situation. It is not clear whether ARBED has in the past seven years obtained a loan from a private commercial source under arm's length conditions. The capital subsidies received by ARBED from the GOL are embedded in the company's financial statements and may distort the financial ratios and the extent of losses. Therefore, the financial condition of ARBED may be even more tenuous than our preliminary analysis indicates.

The petitioners alleged that MMRA was uncreditworthy. The substantial losses suffered by the firm from 1975 to the present are a major indication of uncreditworthiness. The necessity for large capital infusions by the Societe Nationale de Credit et d'Investissement ("SNCI") and other participants in the MMRA rescue plan provides additional evidence of MMRA's uncreditworthy position.

On the basis of the foregoing, we determine ARBED and MMRA to be uncreditworthy companies after 1975. We have treated loans awarded after 1975, with principal still outstanding during 1981, essentially as equity investments. The subsidy value was calculated using the equity methodology for loans to uncreditworthy companies described in Appendix B. We have used the Belgian nationwide average rate of return on equity as our average return for comparison in the equity calculation, because Luxembourg's debt and equity instruments are generally traded in Belgium. We limited the subsidy to the subsidy which would exist if the equity investments were treated as grants. Concerning preferential loan programs, we preliminarily determine the following.

1. *Loans from GOL and GOL-Controlled Institutions.* ARBED received several loans between 1977 and 1981 from the GOL, the SNCI and the Caisse d'Epargne de l'Etat ("CEE") to finance construction of two six-strand continuous casting installation at Each-Schifflange. Since the casters do not provide inputs for the production of carbon steel structural shapes, we are not treating these loans as countervailable benefits in our preliminary determination. We will seek additional information.

ARBED received substantial short-term credit from the CEE in 1981. Since we have not received specific information on this loan, we will assume that this short-term credit is connected with the restructuring plan and preliminarily treat it as countervailable.

The GOL response stated that MMRA received four loans from the SNCI in 1981 for investments and for the "settlement of previous charges." We preliminarily determine these loans are countervailable because they were made under specific provisions of the

steel restructuring plan. Since we do not know the specific purpose of these investments, we allocated the benefits of the loans over total ARBED steel production.

2. *Industrial Investment Loans from the ECSC (Article 54).* According to the ARBED response, the ECSC provided ARBED with a series of loans to assist in the financing of six different investments in capital and capital equipment. We preliminarily determine five of these investments are for plant and equipment used exclusively for the production of products not under investigation. We will seek additional information on all of these loans. The remaining ECSC loans financed the blast furnace project at Esch-Belval, which provides pig iron, an input common to steel production. We preliminarily determine these loans provide a countervailable benefit since they are specific to steel production. We have allocated the benefit over total ARBED steel production. (For additional information regarding Article 54 loans from the ECSC, see Appendix C.) All of the above ECSC loans were guranteed by the GOL. We have not calculated a separate benefit for these GOL loan guarantees because the benefit of the guarantees is already included in the calculation of benefits for the ECSC loans.

3. *Conclusion.* We preliminarily determine the subsidy rate on the above programs to be 0.574 percent *ad valorem.*

C. Equity Participation

The GOL and other concerned parties in Luxembourg and Belgium formulated the MMRA rescue plan, beginning in 1977, in response to MMRA's critical financial situation. In 1978, under the rescue plan, the SNCI purchased a substantial portion of MMRA shares. The SNCI acquired additional shares in 1981.

As described in Appendix B, the treatment of government equity investment in a company hinges initially on whether the government equity participation appears to be on terms consistent with commercial considerations.

ARBED and MMRA have suffered successive, substantial losses in each of the fiscal years since 1975 (see discussion in the section of Preferential Loans). Under normal business or financial criteria, deep or significant continuing losses by a company would raise doubts as to the commercial soundness of further investment in that company. Considering the magnitude of the losses and the length of time over which they occurred, the Department of Commerce regards equity investments by the government in ARBED and MMRA during the period beginning with fiscal year 1976 until the present as inconsistent with commercial considerations.

Consequently, we must examine the government's equity infusions during this period to determine whether a subsidy is actually bestowed on ARBED/MMRA. As described in greater detail in Appendix B, we compared the rate of return the government received on its equity investment in ARBED/MMRA with the average market rate of return on equity investment in Luxembourg for a given year as estimated by the average earnings yield. Since we do not have specific figures for the MMRA of return on equity, we used ARBED's figures as best available information.

ARBED's return was measured by its net earnings (or losses) divided by owners' equity. During this period ARBED/MMRA losses were significant, resulting in large negative returns on owners' equity. Since no Luxembourg figures were available on the average market rate of return on equity, we adopted the Belgian rate because debt and equity instruments from Luxembourg are generally traded in Belgium.

The comparison of the market return with ARBED/MRA's large negative return yielded a 1981 subsidy exceeding what the subsidy would have been had we treated the SNCI equity purchases as outright grants. Consequently, we limited the subsidy to the subdsidy which would exist if the equity investments were treated as grants, as explained in Appendix B. The subsidy rate with respect to this program is 0.961 percent *ad valorem.*

II. Programs Preliminarily Determined not to be Subsidies

We preliminarily determine subsidies are not being provided to manufactures, producers, or exporters in Luxembourg of carbon steel structural shapes under the following programs.

A. Infrastructure

The GOL has committed large sums of money for the creation of new industrial zones. The money is spent on installation of roads, water and electricity in selected areas. Dudelange-Bettembourg is one such zone. ARBED is planning to occupy approximately 50 percent of this zone with a new cold rolling mill. The plan has not yet been approved by the Commission of the European Communities.

The mere provision of public roads, water and electricity is not a subsidy. Further, since ARBED has not yet utilized the government-funded infrastructure of this zone for production purposes, there can be no countervailable benefits to ARBED at this time.

B. Coal/Coke Assistance for ARBED's Subsidiary Eschweiler Berwerks-Verein ("EBV")

Petitioners alleged that ARBED indirectly benefited from German federal and state assitance to EBV, a German coal/coke producer. ARBED indirectly owns 97 percent of EBV through a 100 percent owned ARBED subsidiary, ARBED-Finanz Deutschland GmbH. ARBED (Luxembourg) purchased 100 percent of its coke supply from EBV.

We preliminarily determine that assistance from the Federal Republic of Germany ("FRG") and the state of North Rhein-Westphalia to EBV does not confer a countervailable benefit to ARBED. For a further explanation of our treatment of such FRG assistance, see Appendix B.

C. Coal and Coke Aid From the ECSC

We preliminarily determine this program not to be countervailable, as outlined in Appendix C.

D. Interest Rebates and Research and Development (R&D) Grants from the ECSC

ARBED indicates that it received both R&D grants and interest rebates from the ECSC. We preliminarily determine that these programs funded from the ECSC budget are not countervailable. Appendix C explains our treatment of these programs.

III. Programs Preliminarily Determined not to be Utilized

We preliminarily determine that the following programs which were described in the notice of "Initiation of Countervailing Duty Investigations" are not utilized by the manufacturers, producers, or exporters in Luxembourg of carbon steel structural shapes.

A. Interest Rebates

The Law of July 28, 1973 for economic expansion provided that the GOL could disburse funds to reduce the interest rates of a qualitied firm's investment borrowings. This interest rebate measure was incorporated into the Tripartite Agreement. However, the GOL has to date neither granted any interest rebates to ARBED or provided funds to banks for reduced interest loans to ARBED.

B. European Investment Bank ("EIB")

ARBED stated that it had no outstanding debt to the EIB. For further details regarding the EIB, see Appendix C.

C. Convertible Bonds

Petitioners alleged that the GOL agreed to make a purchase of convertible bonds from ARBED. The GOL has stated in its response that it has not acquired bonds issued by either ARBED or MMRA. We will seek additional information.

IV. Programs for Which Additional Information is Needed

The following programs were alleged by the petitioners to be subsidies: labor aid supplied to the Anti-Crisis Division, rail transportation rates, preferential tax programs, and loans from affiliated companies. At this time, we do not have sufficient information upon which to determine whether these programs are providing to manufacturers, producers, or exporters of carbon steel structural shapes in Luxembourg benefits which constitute subsidies within the meaning of the countervailing duty law. We will seek additional information regarding these programs before reaching a final determination.

A. Anti-Crisis Division ("DAC")

The DAC is an organization managed by ARBED which employs surplus steel employees. Under the restructuring plan, the GOL agreed to pay a varying percentage of the DAC expenses. It is unclear from the GOL and ARBED responses what sort of tasks are performed by the DAC. We will seek additional information regarding the DAC to determine if a countervailable benefit is conferred on ARBED's production or export of carbon steel structural shapes by government assistance to this organization.

B. Rail Transportation Rates

ARBED responded that rail rates are set according to the rates offered by the most competitive waterway carriers, but did not clarify whether the rates available to ARBED applied to other users. The GOL stated that ARBED's rail rates take into account the firm's proximity to the French border, but did not explain how this affected the rates. Neither the GOL nor ARBED provided a table of comparable rates or clarified whether the waterway and French border rates are generally available to all shippers. We have been unable to determine from information received to date whether rail rates are preferential to the steel industry. We will seek additional information.

C. Preferential Tax Programs

Luxembourg tax provisions permit certain firms to carry forward indefinitely losses equal to 50 percent of annual depreciation. This option is available to any company belonging to a sector of the economy determined by the GOL to be undergoing a structural crisis. We will seek additional information on these tax provisions and what use, if any, has been made of them by ARBED or MMRA.

D. Loans from Affiliated Companies

A large portion of ARBED's finances was covered by loans from subsidiary companies. In the questionnaire we requested information on all government aid to related companies. We have obtained limited information on EBV and ARBED Finanz Deutschland GmbH, but insufficient information on ARBED's receipt of loans from these companies or other related companies. The petitioners were unable to supply much information on ARBED Finanz and on ARBED Finance Luxembourg. We will seek additional information on these loans from related companies.

Negative Determination of Critical Circumstances

Counsel for Bethlehem Steel Corporation and counsel for the Five alleged that imports of carbon steel structural shapes present "critical circumstances." Under section 703(e)(1) of the Act, critical circumstances exist when the alleged subsidy is inconsistent with the Subsidies Code of the General Agreement on Tariffs and Trade and "there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period."

Since these investigations were initiated, U.S. imports of carbon steel structural shapes from Belgium/Luxembourg were 24,053 net tons in February, 13,418 net tons in March, and 12,701 net tons in April, the most recent month for which import statistics are available. (Import statistics available to the Department of Commerce are combined for Belgium/Luxembourg.) In the context of this industry, these products have not recently been massively imported from Belgium/Luxembourg over a relatively short period. Therefore, critical circumstances do not exist for carbon steel structural shapes.

Verification

In accordance with section 776(a) of the Act, we will verify data used in making our final determination.

Suspension of Liquidation

In accordance with section 703 of the Act, we are directing the U.S. Customs Service to suspend the liquidation of all entries of carbon steel structural shapes which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**, and to require a cash deposit or bond for each such entry of the merchandise in the amounts indicated below:

Manufacturer/producer/exporter	Ad valorem rate (percent)
ARBED (including MMRA)	1.766
All others	1.766

This suspension will remain in effect until further notice.

ITC Notifications

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on July 13, 1982, at the U.S. Department of Commerce, Room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address on or before June 28, 1982. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by July 6, 1982. Oral presentations will be limited to issues raised in the briefs.

All written views should be filed in accordance with 19 CFR 355.34, on or before July 19, 1982, at the above address and in at least ten copies.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

June 10, 1982.

[FR Doc. 82-16250 Filed 6-14-82; 9:30 am]

BILLING CODE 3510-25-M

Preliminary Affirmative Countervailing Duty Determinations; Certain Steel Products From the Netherlands

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary affirmative countervailing duty determinations.

SUMMARY: We preliminarily determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to the manufacturers, producers, and exporters in the Netherlands of certain steel products, as described in the "Scope of Investigations" section of this notice. The estimated net subsidy is indicated under the "Suspension of Liquidation" section of this notice. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of the products subject to these determinations which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on these products in the amount equal to the estimated net subsidy.

If these investigations proceed normally, we will make our final determinations by August 24, 1982.

EFFECTIVE DATE: June 17, 1981.

FOR FURTHER INFORMATION CONTCAT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-2438.

SUPPLEMENTARY INFORMATION:

Preliminary Determinations

Based upon our investigations, we preliminarily determine there is reason to believe or suspect certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended ("the Act"), are being provided to the manufacturers, producers, and exporters in the Netherlands of certain steel products, as described in the "Scope of Investigations" section of this notice. For purposes of these investigations, the following programs are preliminarily found to be subsidies:

- Program For Introducing New Technology
- ECSC Loans
- ECSC Housing Loans

We estimate the net subsidies to be the amount indicated in the "Suspension of Liquidation" section of this notice.

Case History

On January 11, 1982, we refeived petitions from United States Steel Corporation; counsel for Bethlehem Steel Corporation; and counsel for Republic Steel Corporation, Inland Steel Company, Jones & Laughlin Steel, Inc., National Steel Corporation, and Cyclops Corporation ("the Five"), filed on behalf of the U.S. industry producing hot-rolled carbon steel sheet and strip and cold-rolled carbon steel sheet. The petitioners alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to the manufacturers, producers, and exporters in the Netherlands of the steel products listed above. Counsel for Bethlehem Steel Corporation and counsel for The Five also alleged that "critical circumstances" exist, as defined in section 703(e) of the Act.

We found the petitions to contain sufficient grounds upon which to initiate countervailing duty investigations, and on February 1, 1982, we initiated countervailing duty investigations (47 FR 5743). We stated that we expected to issue preliminary determinations by April 6, 1982. We subsequently determined that the investigations are "extraordinarily complicated," as defined in section 703(c) of the Act, and postponed our preliminary determinations for 65 days until June 10, 1982 (47 FR 11738).

Since the Netherlands is a "country under the Agreement" within the meaning of section 701(b) of the Act, injury determinations are required for these investigations. Therefore, we notified the U.S. International Trade Commission ("ITC") of our initiations. On February 26, 1982 the ITC preliminarily determined that there is a reasonable indication that these imports are materially injuring a U.S. industry.

We presented questionnairies concerning the allegations to the Delegation of the Commission of the European Communities and the government of the Netherlands on February 22, 1982. On April 20, 1982, we received the responses to the questionnaires. Supplemental responses were received on May 19, 1982.

Scope of the Investigations

The products covered by these investigations are:

- Hot-rolled carbon steel sheet and strip
- Cold-rolled carbon steel sheet

The products are fully described in Appendix A which appears with the notice of "Preliminary Affirmative Countervailing Duty Determinations, Certain Steel Products from Belgium," in this issue of the **Federal Register**. The product definition of hot-rolled carbon steel sheet and strip has been amended since the initiation of these investigations (47 FR 5739-40).

Estel Hoogovens B. V. ("Hoogovens") is the only known producer and exporter in the Netherlands of the subject products which were exported to the United States. The period for which we are measuring subsidization is the calendar year 1981.

Analysis of Programs

In their responses, the government of the Netherlands and the Delegation of the Commission of the European Communities provided data for the applicable periods. Additionally, we received information from Hoogovens, which produced and exported hot-rolled carbon steel sheet and strip and cold-rolled carbon steel sheet which were exported to the United States during 1981. Throughout this notice, general principles applied by the Department of Commerce to the facts of the current investigations concerning certain steel products are described in detail in Appendix B which appears with the notice of "Preliminary Affirmative Countervailing Duty Determinations, Certain Steel Products from Belgium," in this issue of the **Federal Register** (hereinafter Appendix B). Appendix C which appears with the above cited Belgium **Federal Register** notice is a description of programs administered by organizations of the European Communities (hereinafter Appendix C). Based upon our analysis to date of the petitions and responses to our questionnairies, we have preliminarily determined the following.

I. Programs Preliminarily Determined To Be Subsidies

We preliminarily determine subsidies are being provided to the manufacturers, producers, and exporters in the Netherlands of the certain steel products included in these investigations under the programs listed below.

A. Program for Introducing New Technology

The government of the Netherlands provides assistance for the introduction of technology new to the Netherlands. Projects must be consistent with

government policies on such matters as energy conservation, improved utilization of raw materials, increased employment, and improvement in the quality of the workplace.

There is a schedule establishing the maximum amount of government assistance in the total project investment. The higher rate in this schedule is applicable to those projects which also achieve government policy objectives in the areas of energy conservation, pollution control, recycling, or development cooperation.

Hoogovens received assistance of dfl 45–52 million over a four year period (dfl 25 million in 1980/1981) for the installation of a continuous caster. In 1981, Hoogovens received dfl 4.5–5.0 million for the rebuilding and renovation of its coking plant.

Although this program nominally is generally available, it appears that grants are not available to all applicants on the same terms. In view of the probability that approval of these grants is discretionary and that in practice comparable benefits are not generally provided on a country-wide basis, we have preliminarily determined that this grant is specific to Hoogovens within the meaning of 771(5)(b) of the Act and therefore is countervailable.

Subsidy values were determined by using the grant quantification methodology described in Appendix B which assumes a 15 year average useful life of capital assets. Because the grants were not tied to a particular product under investigation we divided by the value of the total steel produced to calculate the *ad valorem* subsidy. Hoogovens received an *ad valorem* benefit of 0.257 percent under this program.

B. ECSC Loans

For a full explanation of this program refer to Appendix C.

To calculate the countervailable rate, we used the preferential loan methodology described in Appendix B. That is, we performed individual calculations for each loan reported by Hoogovens. In 1981, the subsidy benefit of these preferential loans equaled the difference between what the company would have paid on a comparable commercial loan (based on the Netherlands Bank's discount rate on promissory notes) in principal and interest charges for that year and what they actually paid on the preferential loans. We then allocated these benefits across all steel produced during 1981 by Hoogovens since the loans were not clearly limited to any particular type of steel.

Pursuant to the methodology described in Appendix B we calculated an *ad valorem* benefit of 0.393 percent for Hoogovens.

C. ECSC Housing Loans

For a full explanation of this program refer to Appendix C.

In 1980, the most recent year for which data are available, the portion of the ECSC budget financed by borrowings amounted to 42 percent of the total. In the Netherlands, Hoogovens received ECSC loans for the housing of workers. As we do not know the percentage of the ECSC's 1981 budget financed by borrowings, we applied the 1980 percentage to the 1981 loans in order to derive that portion of ECSC housing loans that is countervailable. We then found the benefit of the loan for 1981 and divided it by the total value of production, and determined an *ad valorem* benefit of 0.001 percent for Hoogovens.

II. Programs Preliminarily Determined Not To Be Subsidies

We preliminarily determine subsidies are not being provided to the manufacturers, producers, and exporters in the Netherlands of the certain steel products included in these investigations under the following programs.

A. Loans/Loan Guarantees

The National Institute Investment Bank (NIB) and Hoogovens entered into a subordinated loan agreement on December 29, 1980 and a subordinated, guaranteed loan agreement on January 15, 1981. The NIB is owned jointly by the Dutch government and private entities specializing in long-term credit instruments for industrial purposes. The NIB can operate in cooperation with the government or as an independent bank.

The loan and loan guarantee by the NIB were used to help finance the rebuilding and modernization of Hoogovens' coke facilities. Both the loan and the loan guarantee were found to be at rates which fully reflected the commercial market rates in the Netherlands. Additionally, payment of bank and guarantee fees is required, and the repayment of the principal is consistent with commercial practices in the Netherlands.

Based on the information available to the Department, we have preliminary determined that the terms of the loan and loan guarantee are no more beneficial to the recipient than those that would have been available to the recipient absent this government involvement. Thus there is no countervailable benefit.

B. Deferral of Interest

ESTEL NV ("ESTEL"), a management company, controls Estel Hoogovens and Estel Hoesch. Kominklyke Nederlandsche Hoogovens en Staalfabrieken NV ("KNHS") and Hoesch AG are holding companies of ESTEL. At the time ESTEL was formed, KNHS retained the portion of Hoogovens' assets which were in excess of the value of the assets of Hoesch, a German steel company in the ESTEL group. These funds were kept in the accounts of KNHS, rather than in those of ESTEL. In 1972, KNHS lent this money directly to Hoogovens at commercial interest rates. This interest was paid until 1980 when KNHS deferred interest payments while maintaining the right to demand interest payments. Interest continues to accrue and is to be fully repaid.

Government ownership of KNHS shares dates back to 1919. Currently the Netherlands government owns 24.8 percent and the City of Amsterdam owns 8.6 percent of KNHS shares. There is no evidence that the deferral of interest was a result of government direction. Further, the Dutch government reported that no direct or indirect financial assistance has been provided toward the settlement of any corporate debt for the Dutch steel industry.

In the absence of evidence of governmental financial assistance or direction, an intra-corporate transfer of funds is not countervailable. We found the deferral of interest is not a countervailable benefit to Hoogovens.

C. Research and Development

1. *Research Centers.* a. *Slichting Staaleentrum Nederland ("SSN").* SSN is a privately supported institution. Its activities appear to be limited to promoting the use of steel in the Netherlands and therefore are not directly related to the manufacture, production, or export of steel. SSN performs no research and development and receives no government assistance. Hoogovens' contributions provide a substantial portion of the organization's annual budget.

b. *Centre de Recherches Metallurgique ("CRM").* CRM is a privately funded research organization located in Belgium. Hoogovens is an associated member of CRM and participates in CRM's technology research. In recent years, Hoogovens participated in research on certain aspects of coking facilities, plate surfacing, and development of new measurement methods. CRM research is very basic and is not directly applicable

to production processes. Further development by Hoogovens' research and development department is necessary before the results of CRM projects can be utilized.

c. *Nederlandse Centrale Organisatie voor toegepast natuurwetenschappelijk onderzoek ("TNO").* TNO is the Dutch Organization for Applied Scientific Research which conducts and organizes applied scientific research. The government of the Netherlands supports TNO in part; however research for the private sector (both domestic and foreign) must be funded by the requesting entity. The fees charged appear to cover all costs. Usually TNO provides research services for small firms which, unlike Hoogovens, have no significant in-house research and development capabilities. In the past five years, TNO has received payment for performance of a limited amount of research for Hoogovens.

Conclusion

With respect to the above research and development programs, it does not appear that Hoogovens has received any governmental-derived benefit. Two of the institutions are privately supported in their entirety (in part by Hoogovens) and the third charges fees which appear to fully cover costs. Moreover, SSN's activities are not directly related to the manufacture, production, or export of steel, and CRM's research is not directly applicable to production processes. We have therefore found no countervailable benefit received by Hoogovens from these programs.

D. Labor

1. *Cooperative Government and Undertaking Program.* The Cooperative Government and Undertaking program is a mutual schooling arrangement between the government and industry, open to all industries which elect to participate. Its purpose is to retrain workers to meet the changing circumstances in the labor markets in the Netherland. The objective is to provide workers with new or increased skills. During 1980/81, Hoogovens received government contributions for the retraining of workers in various skills.

2. *Vocational Training for School-leavers.* The Vocational Training for School-leavers program is a government program open to all industries which is designed to assist young people in obtaining the training needed to fill available jobs. In 1980, the program applied only to unemployed school-leavers. On August 1, 1981, the program was abolished and was replaced by "Bijdrageregeling vakopleiding jeugdigen" which included anyone under 23 years of age. Trainee-contracts are for the first year of primary training. The target group in 1981 was early school-leavers seeking and apprenticeship after holding other jobs. In 1980, Hoogovens received funds under this program for the retraining of workers. Data for 1981 is not yet available.

3. *Subsidy for Improvement of Labor Circumstances Program.* The Government of the Netherlands assists Dutch industry with projects designed to improve the quality of the work environment. This is done by controlling the effects of heat, dust, dirt, water or water vapor, fumes and gases, drafts, noise and vibration, etc. Participation by industry is voluntary and assistance is *not* available for projects normally undertaken by the company or required by law. New facility construction is ineligible under this program. The cost savings in the first three years must be less than the cost of the project. The government will provide one half of the cost of these projects with a maximum allotment per project. Companies with more than 25 employees must contribute a minimum amount to the project. Hoogovens received government assistance under this program in 1980/81.

Conclusion

All of the above labor programs apply to any industry that participates in projects which promote the objectives of government labor programs. We will seek additional information to determine whether or not these programs actually are effectively selective in granting funds. Because these programs appear to be generally available on equal terms to all Dutch industry we have preliminary determined them not to be countervailable.

E. Energy Programs

1. *Energy Demonstration Project.* The government of the Netherlands provides assistance for projects which demonstrate energy-saving technology of general application. The systems and techniques under this program must be new to the Netherlands and the project's results must be made available to the government and anyone in the Netherlands. Government assistance is given in order to stimulate further economic research and serves to limit the economic risks borne by companies willing to attempt new methods of conserving energy. The assistance provided is in the form of a grant, limited to a set percentage of the total cost of the project and a loan of an equal amount. All projects must be approved and monitored by a committee of energy experts to assure consistency with program objectives.

In February 1980, Hoogovens received a grant of approximately dfl 160,000–175,000 and an additional loan of dfl 160,000–175,000 under this national energy demonstration project to build and install a computerized conrol unit which would control energy and gas use at its mill in Ijmuiden.

Further information will be sought to confirm the potential for broad applicability of this monitoring device. With the information at hand, we have preliminary determined that this project does not confer a countervailable benefit on the products under investigation.

2. *Energy Conservation Program.* This program was designed to stimulate energy-saving investments and was in effect from 1976 until the end of 1978. During 1980/81, Hoogovens received government assistance of dfl 1.5–1.75 million for capital investments initiated during 1977/78 under this program. The program specifies that investments must exceed a predetermined amount and the project must produce energy savings in the use of natural gas. Further, criteria for the relationship between investment and energy-savings must be achieved. Project results are made available to the Dutch government and to the private sector without limitation.

Conclusion

According to information given to the Department, both of these programs are unrelated to export performance and are generally available on equal terms to all industries in the Netherlands. In addition, their objective is the development of energy-saving methods of general utility by all Dutch industries. Therefore we have preliminarily determined these programs not be countervailable.

3. *Preferential Gas and Utility Rates.*

a. *Gas.* Gasunie NV is the only supplier of natural gas in the Netherlands and is owned in part by the Dutch government. Petitioners allege that Hoogovern has benefited from a temporary reduction on industrial gas prices offered by Gasunie NV to its large scale customers. Gas rates for domestic consumption in the Netherlands are set quarterly by the Central Bureau of Statistics. The formula is based on the average price of heavy fuel oil used in the Netherlands. Consumers are divided into five rate groups with residential consumers at one extreme and users of 50 million cubic meters or more at the other. (Hoogovens uses approximately 475–510

million cubic meters a year.) Gas tariffs are uniformly applied to all large industrial customers.

Hoogovens pays rates appropriate for major consumers. Those rates were reported to be above the cost of the supply entity and are comparable to or above the rates charged to users of similar size. There is no evidence that Hoogovens receives rates not available to other companies with similar usage patterns. Based on the information available, we have preliminarily determined that no countervailable benefit is being received by Hoogovens with regard to gas rates.

b. *Electricity.* Electricity charges to Hoogovens, the largest consumer of electricity in the Netherlands, by the Provincial Electric Company of North Holland ("PEN") are reportedly calculated on a cost basis. These charges take into consideration three elements: Fixed costs, wages and maintenance costs, and fuel costs. Hoogovens' response states that it has no agreement with PEN to barter its coke gas for reduce electricity rates as alleged by petitioners. Hoogovens is charged the rate established for large consumers. Therefore, we have preliminarily determined that no countervailable benefit has been received by Hoogovens with regard to electricity rates.

F. Environmental Programs

1. *Development of Clean Technology—Demonstration Project.* All industries in the Netherlands are eligible for government assistance relating to projects of general applicability which utilize new technology to reduce or eliminate pollution or reuse waste water in the production process. These projects must involve an element of economic risk, and must contribute to other government policies such as modernization of industry or conservation of energy. The government will provide up to half the cost of such projects. The company must repay the government for this assistance plus 5 percent interest from any income generated by the project.

In 1981, Hoogovens received aid of dfl 335,000–370,000 for a pilot study of techniques for reducing particulate waste products under this program. Since this program is available to all industries on equal terms and the results are publicly available, this aid is not countervailable.

2. *Air and Water Pollution Control.* The *Air Pollution Act of 1972* and the *Surface Water Pollution Act of 1970* provides the framework for governmental regulation of air and water pollution. These laws establish normal levels for various pollutions in air emissions and water discharge, and delegate enforcement and administration to provincial authorities. These statutes and the regulations implementing them apply to all Dutch industry.

This regulatory framework also provides government assistance for firms which undertake investment in plant and equipment to comply with environmental standards. Factors considered in determining the amount of compensation received for these investments and increased operating costs include the conditions imposed by the environmental licensing procedure, and the extent to which the results of environmental investments exceed the minimal standards set by law.

In 1980/81, Hoogovens did receive partial compensation for investment in plant and equipment to comply with environmental standards. Additional assistance was given to Hoogovens in 1981 for building a blast furnace waste water pulp thickener.

Conclusion

The above environmental assistance programs are totally funded from a revolving fund created and maintained by environmental control charges on all industries in the Netherlands. These programs are self-financing and, therefore, we preliminarily determine that they do not convey any countervailable benefits.

G. Investment Incentives—WIR

The Wet op de Investeringsrekening (WIR), effective May 24, 1978, consists of two programs, one of which is regional in nature, which provide investment tax credits and incentives for commercial investments in the Netherlands.

Payments are based on WIR returns for the preceding years and apply to eligible property acquired, ordered, or constructed during the tax year. These benefits are allocated over the productive life of the assets as determined by Dutch law.

During 1980/81, Hoogovens received WIR payments which were based on WIR returns for the preceding years and applied to eligible property acquired, ordered, or constructed during the tax year.

Assistance received by Hoogovens under this WIR program is not a countervailable benefit since these investment tax credits are available on all commerical investments. Preference is neither given to exports nor to specific industries or enterprises nor to particular regions. The provisions of WIR which include regional incentives are for investment in underdeveloped areas in the Netherlands. Hoogovens is located in the Randstad, the most heavily industrialized and populated region in the Netherlands, and is not eligible for such regional incentive benefits.

Financial assistance conferred under the WIR regional program to a Dutch exporter of corn starch and/or derivatives, Cooperatieve Verkoop-en Produktieverening van Aardappelmeel en Derivaten AVEBE G.A. ("AVEBE"), was deemed a subsidy because of its regional nature and is thus distinguished from the present case. (For information on the AVEBE case see "Dextrines and Soluble or Chemically Treated Starches Dervied from Corn Starch from the European Community, 45 FR 1814.)

H. Indirect Benefits from Aid Given to German Coal Mining Companies

Hoogovens has no ownership or control of any German coal mining company and it appears that Hoogovens purchases German coal in arms-length transactions without government direction. Therefore any benefits which may be bestowed on German coal do not accrue to Hoogovens. Moreover, Hoogovens purchases coal from numerous sources (including the United States). Hoogovens purchases German coal from Ruhrkohole to maintain an alternative source of supply, even though the cost to Hoogovens is somewhat higher than its average cost of coal. There is no countervailable benefit to Hoogovens from German government benefts to German coal mines, since Hoogovens could get equivalent coal at equal or lower prices in the absence of the German government program of support for the German coal industry.

III. Programs Preliminarily Determined Not to be Utilized

We have preliminarily determined that the following programs which were described in the notice of "Initiation of Countervailing Duty Investigations" were not utilized by the manufacturer, producer, and exporter in the Netherlands investigated of hot-rolled carbon steel sheet and strip and cold-rolled carbon steel sheet under the programs listed below:

A. Regional Development

Information provided to the Department indicates that no benefits have been received by Hoogovens from any industrial incentive programs designed to stimulate economic development in priroity zones in the Netherlands. On the contrary,

Hoogovens' steel mill at Ijmuiden is located in the Randstad, a densely populated and over-developed part of the country in which investment is discouraged. Hoogovens' investments during the period May 1978 to September 1981 were subject to levies under the Industrial Deconcentration Act.

B. Dutch Energy Development Corporation

Information provided to the Department indicates that no assistance was received by Hoogovens from this program.

C. Employment of Workers from Surinam and Netherlands Antilles

Information provided to the Department indicates that no assistance was received under this regulation during 1981.

D. Export Loans/Credits

- Matching Funds
- Export Financing Arrangement
- Subordinated Loans for Exporting Companies

None of these Netherlands export incentive programs provided export credits to Hoogovens. Neither the government of the Netherlands nor any agency or institution controlled or directed by the government has guaranteed or insured Hoogovens' accounts receivable for exports of steel products.

E. European Communities Programs

1. *Loan Guarantees.* Hoogovens did not receive loans guaranteed by the ECSC or any other entity of the European Community in 1981.

2. *Grants.* According to Hoogovens, it received no grants in 1981 from the ECSC or any other entity in the European Community.

3. *General.* Hoogovens reports it has not received any assistance directly or indirectly in any form from the European Regional Development Fund (ERDF), the European Investment Bank (EIB), or the New Community Instrument (NCI).

IV. Program for Which Additional Information is Needed

The following program was alleged by the petitoners to be a subsidy:

ECSC Research and Development (R&D)

Article 55 of the Treaty of Paris provides funding in the form of grants for up to 60 percent of an R&D project's cost. The projects should be for the improvement of the production and use of coal and steel. The results of the project become the property of the ECSC and are made available to the members.

At this time, we do not have sufficient information upon which to determine whether this program is providing the manufacturers, producers, and exporters in the Netherlands of hot-rolled carbon steel sheet and strip and cold-rolled carbon steel sheet benefits which constitutes subsidies within the meaning of the countervailing duty law. As described in Appendix C, we will seek additional information on the projects and the source of funding before reaching final determinations.

Negative Determination of Critical Circumstances

Counsel for Bethlehem Steel and counsel for the Five alleged that imports of certain steel products from the Netherlands present "critical circumstances." Under section 703(e)(1) of the Act, critical circumstances exist when the alleged subsidy is inconsistent with the Subsidies Code of the General Agreement on Tariffs and Trade *and* "there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period."

Since these investigations were initiated, U.S. imports of hot-rolled carbon steel sheet and strip from the Netherlands amounted to 1,244 net tons in Feburuary; 3,578 net tons in March and 3,184 net tons in April, the most recent month for which import statistics are available. U.S. imports of cold-rolled carbon steel sheet from the Netherlands were 1,525 net tons in February; 3,298 net tons in March and 958 net tons in April.

In the context of this industry, these products have not recently been massively imported from the Netherlands over a relatively short period of time. Therefore, critical circumstances do not exist for hot-rolled carbon steel sheet and strip or cold-rolled carbon steel sheet.

Verification

In accordance with section 776(a) of the Act, we will verify data used in making our final determinations.

Suspension of Liquidation

In accordance with section 703 of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of hot-rolled carbon steel sheet and strip and cold-rolled carbon steel sheet which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register** and to require a cash deposit or bond for each such entry of the merchandise in the amounts indicated below:

Manufacturer/producer/exporter	Ad valorem rate (percent)
Estel Hoogovens BV	9.65
All others	9.65

This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determinations. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to these investigations. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with section 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on these preliminary determinations at 10:00 a.m. on July 8, 1982, at the U.S. Department of Commerce, Room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by July 1, 1982. Oral presentations will be limited to issues raised in the briefs.

All written views should be filed in accordance with 19 CFR 355.34, on or before July 19, 1982, at the above address and in at least ten copies.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

June 10, 1982

[FR Doc. 82-16251 Filed 6-14-82; 9:30 am]

BILLING CODE 3510-25-M

Preliminary Affirmative Countervailing Duty Determinations; Certain Steel Products From South Africa

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary affirmative countervailing duty Determinations.

SUMMARY: We preliminarily determine certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in South Africa of certain steel products, as described in the "Scope of Investigations" section of this notice. The estimated net bounty or grant for each firm and for each product is indicated in the "Suspension of Liquidation" section of this notice. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of the products subject to these determinations which are entered, or withdrawn from warehouse, for consumption and to require a cash deposit or bond on these products in the amount equal to the estimated net bounty or grant.

If these investigations proceed normally, we will make our final determinations by August 24, 1982.

EFFECTIVE DATE: June 17, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph A. Black, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377–1774.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigations, we preliminarily determine there is reason to believe or suspect certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended ("the Act"), are being provided to manufacturers, producers, or exporters in South Africa of certain steel products, as described in the "Scope of Investigations" section of this notice. For the purposes of these investigations, the following programs are preliminarily found to be bounties or grants:

- Railroad rate differential
- Export incentive program—Category D
- Government benefits to ISCOR

We estimate the net bounties or grants to be the amount indicated for each firm and for each product in the "Suspension of Liquidation" section of this notice.

Case History

On January 11, 1982, we received petitions from United States Steel Corporation; and counsel for Republic Steel Corporation, Inland Steel Company, Jones & Laughlin Steel, Inc., National Steel Corporation, and Cyclops Corporation ("the Five"), filed on behalf of the U.S. industry producing carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet, cold-rolled carbon steel sheet, galvanized carbon steel sheet, hot-rolled carbon steel bars, hot-rolled alloy steel bars and cold-formed carbon steel bars. The petitions alleged that certain benefits which constitute bounties or grants within the meaning of section 303 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in Sough Africa of the steel products listed above.

We found the petitions to contain sufficient grounds upon which to initiate countervailing duty investigations, and on February 1, 1982, we initiated countervailing duty investigations (47 FR 5751). We stated that we expected to issue preliminary determinations by April 6, 1982. We subsequently determine that the investigations are "extraordinarily complicated", as defined in section 703(c) of the Act, and postponed our preliminary determinations for 65 days until June 10, 1982 (47 FR 11733).

Since South Africa is not a "country under the Agreement" within the meaning of section 701(b) the Act, and the certain steel products at issue here are dutiable, the domestic industry is not required to allege that, and the U.S. International Trade Commission (ITC) is not required to determine whether, imports of these products cause or threaten material injury to the U.S. industry in question.

We presented a questionnaire concerning the allegations to the government of South Africa in Washington, D.C. on February 18, 1982. On April 27, 1982 we received the response to the questionnaire.

Scope of the Investigations

The products covered by these investigations are:

- Carbon steel structural shapes
- Hot-rolled carbon steel plate
- Hot-rolled carbon steel sheet
- Cold-rolled carbon steel sheet
- Galvanized carbon steel sheet
- Hot-rolled carbon steel bars
- Hot-rolled allow steel bars
- Cold-formed carbon steel bars

The products are fully described in the Appendix A, which appears with the notice of "Preliminary Affirmative Countervailing Duty Determinations, Certain Steel Products from Belgium", in this issue of the **Federal Register**. The product definition of hot-rolled carbon steel sheet has been amended since the initiation of these investigations (47 FR 5739–40). Although the amendment expands slightly the original product description, it does not have any effect on the Department's preliminary determination. No additional importations of the product are involved.

The South African Iron and Steel Industrial Corporation ("ISCOR") and the Highveld Steel and Vanadium Corporation ("Highveld") are the only known producers and exporters in South Africa of the subject products which were exported to the United States. However, both companies stated that they did not produce or export to the United States either hot-rolled alloy steel bars or cold-formed carbon steel bars. For hot-rolled alloy steel bars and cold-formed carbon steel bars we used the best information available, the benefit to hot-rolled carbon steel bars.

The period for which we are measuring subsidization is corporate fiscal year 1981, which runs from July 1, 1980 through June 30, 1981 for both companies.

Analysis of Programs

In its response, the government of South Africa provided data for the applicable periods. Additionally, we received information from ISCOR, which produced and exported carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet, cold-rolled carbon steel sheet, galvanized carbon steel sheet, and hot-rolled carbon steel bars which were exported to the United States during 1981; and Highveld, which produced and exported carbon steel structural shapes and hot-rolled carbon steel plate which were exported to the United States during 1981. Throughout this notice, general principles applied by the Department of Commerce to the facts of the current investigations concerning certain steel products are described in detail in Appendix B which appears with the notice of "Preliminary Affirmative Countervailing Duty Determinations, Certain Steel Products from Belgium", in this issue of the **Federal Register** (hereinafter Appendix B). Based upon our analysis to date of the petitions and responses to our questionnaires, we have preliminarily determined the following.

I. Programs Preliminarily Determined To Be Bounties or Grants

We preliminarily determine bounties or grants are being provided to manufacturers, producers or exporters in South Africa of carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet, cold-rolled carbon steel sheet, galvanized carbon steel sheet, hot-rolled carbon steel bars, hot-rolled alloy steel bars and cold-formed carbon steel bars under the programs listed below.

A. Railroad Rate Differential

The South African Transport Services ("SATS"), a government-owned corporation, maintains a rate schedule that generally provides preferential railroad rates for shipments destined for export. SATS publishes a tariff book with 15 rates for various merchandise. SATS rates depend both on distance railed and on whether the merchandise is intended for export or domestic destinations. We found that the export rate is approximately 50 percent of the domestic rate. Both ISCOR and Highveld benefit from this program.

Highveld provided figures for the f.o.b. value and volume of its exports of the subject merchandise to the United States. To calculate the value of the bounty or grant, we divided the differential in rail rates for export and domestic shipments over the same distances by the average price per ton for each product.

For ISCOR the calculation was more complicated. First, ISCOR ships some of its products through two different ports, Durban and Port Elizabeth. Congestion in Durban is the reason given for this procedure. The products affected are shapes, plate and sheet. The distances from ISCOR's works to each port are unequal, so the rate differentials are also unequal. ISCOR estimated the export volume at 70% for Port Elizabeth and 30% for Durban. With the use of these percentages, we found the differential between the weighted-average export rates and the weighted-average domestic rates for the same distance.

Second, ISCOR provided figures for the c&f value and volume of its exports of the subject merchandise to the United States. ISCOR estimated the shipping costs to be 11 percent of the stated value. Therefore, we reduced the average price per ton for ISCOR's export by 11 percent to obtain an estimate of the f.o.b. price per ton.

The resulting estimated f.o.b. value for each product was then divided into the appropriate rate differential. The quotient is the weighted-average value of the bounty or grant. We found the bounties or grants to be:

Manufacturer/producer/exporter	Ad valorem rate (percent)
ISCOR:	
Carbon steel structural shapes	10.2
Hot-rolled carbon steel plate	8.1
Hot-rolled carbon steel sheet	9.7
Cold-rolled carbon steel sheet	8.1
Galvanized carbon steel sheet	8.7
Hot-rolled carbon steel bars	8.4
Hot-rolled alloy steel bars	8.4
Cold-formed carbon steel bars	8.4
Highveld:	
Carbon steel structural shapes	7.8
Hot-rolled carbon steel plate	8.0

SATS maintains that its export rail rates are cost justified, that the difference between the domestic and export rates reflect the difference in the cost of handling the two types of traffic. We will examine SATS' claim, and may adjust our calculation of the *ad valorem* benefit if the rail rates reflect different cost experience rather than export preference; provided that any such differential does not result from discriminatory regulation of export rail carriage.

B. Export Incentive Program

The South African Department of Industries, Commerce, and Tourism has a four-part general export incentive program, one part of which Highveld utilized in 1981. It is described below. ISCOR did not utilize any of the parts of this program.

Category D (Export Marketing Assistance Program). The response indicates that this program consists of a deduction from taxable income of between 175 and 200 percent of export market development expenses. Highveld provided us with figures for benefits received under the program for exports to the United States of each product under investigation. The bounties or grants for Highveld were calculated by dividing the value of the benefits received in 1981 by the total value of exports of each product to the United States for the same period. The results are benefits of 2.1 percent *ad valorem* for carbon steel structural shapes and 1.6 percent *ad valorem* for hot-rolled carbon steel plate.

C. Government Benefits to ISCOR

The government of South Africa owns over 99 percent of the outstanding shares of ISCOR. The remaining shares are not publicly traded. The petitioners have alleged that the purchase of equity by the government represents a bounty or grant. The firm did not make a profit from 1974 to 1979. It has not paid taxes since 1972, nor has it paid dividends on the government's shares since 1972. ISCOR had significant growth during that period which was financed by debt and infusions of equity through shares purchases by the government. In view of this history, we have found that the government infusion of equity from 1974 to the present is inconsistent with commercial consideration and may result in a bounty or grant. Based on our methodology, described in Appendix B, we have found that the government's equity participation in ISCOR since 1974 results in a bounty or grant equal to 3.7 percent *ad valorem* for each of the products under investigation. We calculated this rate by multiplying the government equity infusion since 1974 by the difference between ISCOR's rate of return in 1981 and the national average rate of return on equity in South Africa during 1981.

In 1977 the government of South Africa assumed 70 million Rand of ISCOR's finance charges, for which it received no consideration. We are treating this action as a grant under our methodology (see Appendix B) amortized over the estimated average useful life of assets in the steel industry, 15 years. The resulting value for 1981 was then divided by total sales. The benefit of this grant to ISCOR is 0.5 percent *ad valorem* for each of the products under investigation.

The petitioners have also alleged that the South African government's ownership of ISCOR allows the company to receive loans at rates lower than if the company were privately held. The law which governs the operations of ISCOR provides that the government "may * * * guarantee due performance by (ISCOR) of any contractual obligation incurred by (ISCOR) * * *". ISCOR has been unwilling to provide the Department with all of the loan information necessary to analyze this allegation properly. ISCOR gave us what it characterized as the weighted-average interest rate for all new loans over the last five years. Therefore, based on the best information available, the ISCOR-provided rate and the corporate loan security rate in South Africa in 1981, we have assumed that the government has guaranteed loans resulting in a lower interst rate. We have found the benefit to be 1.9 percent *ad valorem* for each of the products under investigtion. Our estimate of the benefit was found by multiplying the difference between the ISCOR-supplied rate and the commercial rate in 1981 by the outstanding loan balance in 1981. The result was divided by total sales.

II. Programs Preliminarily Determined not to be Bounties or Grants

Based upon the responses received in these investigations, and our verification conducted during the recent countervailing duty investigation of prestressed concrete steel wire strand from South Africa (47 FR 16060), we preliminarily determine bounties or grants are not being provided to manufacturers, producers, or exporters in South Africa of carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet, cold-rolled carbon steel sheet, galvanized carbon steel sheet, hot-rolled carbon steel bars, hot-rolled alloy steel bars and cold-formed carbon steel bars under the following programs.

A. Export Credit Insurance

The Credit Guarantee Insurance Company ("CGIC") offers export credit insurance to qualifying export companies. No other insurance company is known to provide similar coverage. According to its annual reports, CGIC has made a profit every year for the past 5 years. Since there is no evidence that CGIC rates are preferential, and the Company makes a profit, we have found that the program does not constitute a bounty or grant.

B. Employee Training Programs

The South African Department of Manpower certifies training programs to the taxing authority which allows businesses to deduct 200 percent of qualified traning expenses. The Department of Manpower has demonstrated that all qualified training programs are available to all companies and industries and that they are neither restricted to certain sectors of the economy nor preferential to exporters. Therefore, we have found the tax benefits from the training programs not to be bounties or grants.

C. Reduced Ocean Freight Rates

The petitions alleged that South African shippers benefited from reduced ocean freight rates. We could find no evidence of such a program. We did find evidence of rate negotiation between shippers and carriers; however, this does not constitute a bounty or grant under the Act.

III. Programs Preliminarily Determined not to be Utilized

We preliminarily determine that the following programs which were described in the notice of "Initiation of Countervailing Duty Investigations" are not utilized by the manufacturers, producers, or exporters in South Africa of carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet, cold-rolled carbon steel sheet, galvanized carbon steel sheet, hot-rolled carbon steel bars, hot-rolled alloy steel bars and cold-formed carbon steel bars.

A. Pre- and Post-Shipment Financing

The Industrial Development Corporation (IDC) is a state-owned corporation that extends loans at reduced rates to domestic manufacturers and producers. IDC also finances, at reduced rates, expansion programs aimed at increasing foreign exchange earnings. We have found no evidence to indicate that either ISCOR or Highveld utilized this program during the period of investigation.

B. Export Incentive Program—Category A and B

Category A is a tax deduction for 50 percent of the import tariffs applying to inputs used for exports. Category B is a tax deduction equal to 10 percent of the value-added component of export goods. ISCOR paid no taxes during 1981; it was unable to utilize these programs. Highveld stated that the benefits they would have received under the program did not justify the costs of recordkeeping and reporting required to utilize them. Therefore, they did not participate in the programs.

C. Beneficiation Allowances for Base Mineral Processing

Businesses processing or reprocessing base minerals for export are eligible to receive a maximum investment allowance of 20 percent on plant and equipment. Recouped allowances are alleged not to be subject to taxation. Neither firm is eligible for this benefit under the terms of the program since they do not export beneficiated minerals.

D. Homeland Development

Under South African tax laws, businesses may apply for income tax deductions for conducting operations in certain development areas. Neither firm has facilities manufacturing the products under investigation in any of the development areas.

E. Iron/Steel Export Promotion Scheme

The South African Department of Commerce, Industries, and Tourism, through ISCOR, rebates a fixed percentage of the f.o.b. value of exports containing rolled, drawn or forged steel if the product meets a value-added criterion. This program, by its terms, does not apply to the exports of merchandise subject to these investigations.

IV. Programs Preliminarily Determined to be no Longer in Existence

We preliminarily determine that the following programs which were described in the notice of "Initiation of the Countervailing Duty Investigations" are no longer in existence.

A. Export Incentive Program—Category C (Finance Charges Aid Scheme)

The South African government provided for a tax-free rebate to certain firms increasing the value of their exports of manufactured goods. The rebate was equal to 25 percent of the interest costs for financing exports. We calculated the benefit to be 1.2 percent *ad valorem* for ISCOR and 1.9 percent *ad valorem* for Highveld. As this program was terminated on April 1, 1982, our estimated countervailing duty rate will not reflect this benefit for exports after that date.

B. Central Government Rebate

The government of South Africa offered an additional "Central Government Rebate" of up 25 percent of the railroad charges on products shipped in open railway cars for export. We calculated the benefits under this program to be:

Manufacturer/Producer/Exporter	Ad valorem rate (percent)
ISCOR:	
Carbon steel structural shapes	2.4
Hot-rolled carbon steel plate	2.2
Hot-rolled carbon steel sheet	2.3
Cold-rolled carbon steel sheet	1.9
Galvanized carbon steel sheet	1.5
Hot-rolled carbon steel bars	1.6
Hot-rolled alloy steel bars	1.8
Cold-formed carbon steel bars	1.6
Highveld:	
Carbon steel structural shapes	1.9
Hot-rolled carbon steel plate	2.0

As this program was terminated on April 1, 1982, our estimated countervailing duty rate will not reflect this benefit for exports after that date.

Verification

In accordance with section 776(a) of the Act, we will verify data used in making our final determinations.

Suspension of Liquidation

In accordance with section 703 of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet, cold-rolled carbon steel sheet, galvanized carbon steel sheet, hot-rolled carbon steel bars, hot-rolled alloy steel bars and cold-formed

carbon steel bars which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register** and to require a cash deposit or bond in these products in the amounts indicated below.

For Products Exported Before April 1, 1982 and Entered, or Withdrawn from Warehouse, for Consumption on or after the Date of Publication of This Notice

Manufacturer/producer/exporter	Ad valorem rate (percent)
ESCOR:	
Carbon steel structural shapes	19.0
Hot-rolled carbon steel plate	18.6
Hot-rolled carbon steel sheet	19.3
Cold-rolled carbon steel sheet	17.3
Galvanized carbon steel sheet	15.6
Hot-rolled carbon steel bars	15.3
Hot-rolled alloy steel bars	15.3
Cold-formed carbon steel bars	15.3
Highveld:	
Carbon steel structural shaped	13.7
Hot-rolled carbon steel plate	13.5
All others:	
Carbon steel structural shapes	19.0
Hot-rolled carbon steel plate	18.6
Hot-rolled carbon steel sheet	19.3
Cold-rolled carbon steel sheet	17.3
Galvanized carbon steel sheet	15.6
Hot-rolled carbon steel bars	15.3
Hot-rolled carbon steel bars	15.3
Cold-formed carbon steel bars	15.3

For Products Exported on or after April 1, 1982 and Entered, or Withdrawn from Warehouse, for Consumption on or after the Date of Publication of This Notice

Manufacturer/producer/exporter	Ad valorem rate (percent)
ESCOR:	
Carbon steel structural shapes	16.3
Hot-rolled carbon steel plate	15.2
Hot-rolled carbon steel sheet	15.8
Cold-rolled carbon steel sheet	14.2
Galvanized carbon steel sheet	12.8
Hot-rolled carbon steel bars	12.5
Hot-rolled alloy steel bars	12.5
Cold-formed carbon steel bars	12.5
Highveld:	
Carbon steel structural shapes	9.8
Hot-rolled carbon steel plate	9.6
All others:	
Carbon steel structural shapes	16.3
Hot-rolled carbon steel plate	15.2
Hot-rolled carbon steel sheet	15.8
Cold-rolled carbon steel sheet	14.2
Galvanized carbon steel sheet	12.8
Hot-rolled carbon steel bars	12.5
Hot-rolled alloy steel bars	12.5
Cold-formed carbon steel bars	12.5

Where a company specifically listed above has not exported a particular product during the period for which we are measuring subsidization, the cash deposit or bond amount should be based on the highest rate for products that were exported by that company.

This suspension will remain in effect until further notice.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on these preliminary determinations at 10:00 a.m. on July 19, 1982, at the U.S. Department of Commerce, Room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain (1) the party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by July 12, 1982. Oral presentations will be limited to issues raised in the briefs.

All written views should be filed in accordance with 19 CFR 355.34, on or before July 19, 1982, at the above address and in at least ten copies.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

June 10, 1982.

[FR Doc. 82-16252 Filed 6-14-82; 9:30 am]

BILLING CODE 3510-25-M

Preliminary Affirmative Countervailing Duty Determinations; Certain Steel Products From the United Kingdom

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary Affirmative Countervailing Duty Determinations.

SUMMARY: We preliminarily determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in the United Kingdom of certain steel products, as described in the "Scope of Investigations" section of this notice. The estimated net subsidy for each firm is indicated in the "Suspension of Liquidation" section of this notice. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of the products subject to these determinations which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on these products in an amount equal to the estimated net subsidy. For purposes of these preliminary determinations, we are excluding from these preliminary affirmative determinations certain steel producers in the United Kingdom receiving no subsidies or subsidies in amounts preliminarily determined to be *de minimis*. If these investigations proceed normally, we will make our final determinations by August 24, 1982.

EFFECTIVE DATE: June 17, 1982.

FOR FURTHER INFORMATION CONTACT: Vincent P. Kane or Clearance Light, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-5414 or 4036.

SUPPLEMENTARY INFORMATION:

Preliminary Determinations

Based upon our investigations, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended ("the Act"), are being provided to manufacturers, producers, or exporters in the United Kingdom of certain steel products, as described in the "Scope of Investigations" section of this notice. For purposes of these investigations, the following programs are preliminarily found to be subsidies:

- Public dividend capital and new capital
- National Loans Fund loans and loan forgivenesses
- Government guaranteed loans
- Regional development grants

We estimate the net subsidy to be the amount indicated for each firm in the "Suspension of Liquidation" section of this notice.

Case History

On January 11, 1982, we received petitions from United States Steel Corporation; counsel for Bethlehem Steel Corporation; and counsel for Republic Steel Corporation, Inland Steel Company, Jones & Laughlin Steel, Inc., National Steel Corporation, and Cyclops Corporation ("the Five"), filed on behalf of the U.S. industry producing carbon steel structural shapes and hot-rolled carbon steel plate. The Five also filed on behalf of the U.S. industry producing hot-rolled carbon steel bars and cold-formed carbon steel bars. The petitions alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters

in the United Kingdom of the steel products listed above. Counsel for Bethlehem Steel Corporation and counsel for the Five also alleged that "critical circumstances" exist, as defined in section 703(e) of the Act.

We found the petitions to contain sufficient grounds upon which to initiate countervailing duty investigations, and on February 1, 1982, we initiated countervailing duty investigations (47 FR 5748). We stated that we expected to issue preliminary determinations by April 6, 1982. We subsequently determined that the investigations are "extraordinarily complicated", as defined in section 703(c) of the Act, and postponed our preliminary determinations for 65 days until June 10, 1982 (47 FR 11739). Since the United Kingdom is a "country under the Agreement" within the meaning of section 701(b) of the Act, injury determinations are required for these investigations. Therefore, we notified the U.S. International Trade Commission ("ITC") of our initiations. On February 26, 1982, the ITC preliminarily determined that there is a reasonable indication that these imports are materially injuring a U.S. industry.

We presented questionnaires concerning the allegations to the Delegation of the Commission of the European Communities and the government of the United Kingdom in Washington, D.C. on February 19, 1982. On April 30, 1982, we received the responses to the questionnaires. Supplemental responses were received on May 17, 1982.

Scope of the Investigations

The products covered by these investigations are:

- Carbon steel structural shapes
- Hot-rolled carbon steel plate
- Hot-rolled carbon steel bars
- Cold-formed carbon steel bars

The products are fully described in Appendix A, which appears with the notice of "Preliminary Affirmative Countervailing Duty Determinations, Certain Steel Products from Belgium", in this issue of the **Federal Register**.

British Steel Corporation ("BSC"); Bar Bright Usam; Bedford Steels, Ltd.; Brasway Bright Bar; Bright Steels, Ltd.; Darlington & Simpson Rolling Mills, Ltd.; The Dudley Port Rolling Mills, Ltd.; Eaton & Booth, Ltd.; Flather Bright Steels, Ltd.; Glynwed Steels, Ltd.; Kiveton Park Steel & Wireworks, Ltd.; Lee of Sheffield, Ltd.; London Works Steel Company, Ltd.; and Round Oak Steel Works, Ltd., are the only known producers and exporters in the United Kingdom of the subject products which were exported to the United States. The period for which we are measuring subsidization is the fiscal year April 1980 through March 1981 for BSC and the most recent fiscal year for which information was available for the other prodcuers.

Analysis of Programs

In their responses, the government of the United Kingdom and the Delegation of the Commission of the European Communities provided data for the applicable periods. Additionally, we received information from the following firms, which produced and exported the products under investigation which were exported to the United States as indicated below.

BSC produced and exported hot-rolled carbon steel plate, carbon steel structural shapes and hot-rolled carbon steel bars. Eaton & Booth, Ltd., and The Dudley Port Rolling Mills, Ltd., produced and exported carbon steel structural shapes and hot-rolled carbon steel bars. Darlington & Simpson Rolling Mills, Ltd., produced and exported carbon steel structural shapes. Bedford Steels, Ltd., Round Oak Steel Works, Ltd., and Glynwed Steels, Ltd., produced and exported hot-rolled carbon steel bars and cold-formed carbon steel bars. Bright Steels, Ltd., Lee of Sheffield, Ltd., Kiveton Park, Steel and Wireworks, Ltd., Brasway Bright Bar, Bar Bright Usam, and Flather Bright Steels, Ltd., produced and exported cold-formed carbon steel bars. London Works Steel Company, Ltd., produced and exported hot-rolled carbon steel bars.

Throughout this notice, general principles applied by the Department of Commerce to the facts of the current investigations concerning certain steel products are described in detail in Appendix B, which appears with the notice of "Preliminary Affirmative Countervailing Duty Determinations, Certain Steel Products from Belgium", in this issue of the **Federal Register** (hereinafter, Appendix B), Appendix C, which also appears with the above cited Belguim **Federal Register** notice, (hereinafter, Appendix C), is a description of programs administered by organizations of the European Communities.

Based upon our analysis to date of the petitions and responses to our questionnaires, we have preliminarily determined the following:

I. Programs Preliminarily Determined to be Subsidies

We preliminarily determine subsidies are being provided to manufacturers, producers, or exporters in the United Kingdom of carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel bars and cold-formed carbon steel bars under the programs listed below.

A. Public Dividend Capital

BSC was established by an Act of Parliment on March 22, 1967, under the provisions of the Iron and Steel Act of 1967. The 1967 Act combined 14 steel companies, creating the new nationalized company known as BSC. The British government reimbursed stockholders of record at the time the companies were merged and absorbed the substantial debts of the individual companies. The bulk of the debt was converted to government equity under the provisions of the Iron and Steel Act of 1969, which also authorized government payments to BSC.

Authority for the government to make payments to BSC was renewed in the Iron and Steel Act of 1975. Section 18(1) of this Act provided that "the Secretary of State may, with the approval of the Treasury, pay to the British Steel Corporation such sums as he thinks fit." In 9 of the 15 years of its existence, the corporation has received such payments, known as public dividend capital or new capital, from the government. In 1972 and 1981 Parliament provided that amounts of public dividend capital be written off. Despite the write-offs on BSC's books, we are not altering our valuation of the government's equity ownership in BSC or the countervailable benefits which flow from such ownership.

As described in Appendix B, the treatment of government equity investment in a company hinges essentially on the soundness of the investment. If the government investment was reasonably sound at the time it was made, we do not consider it a subsidy. If, on the contrary, the investment appears unsound, a subsidy may result.

Despite net losses in its early years, BSC's operating income from March 1967 through March 1972 was relatively strong. In the next three years, from April 1972 through March 1975, BSC posted operating profits sufficient to meet interest costs and to generate positive net after-tax income. Therefore, during the period from March 1967 through March 1975, we do not have substantial evidence to conclude that BSC was not a sound investment.

By the end of the 1974/75 fiscal year, however, BSC was operating at no more than the break even point. The company sustained heavy losses in each of the next six fiscal years. Net losses in fiscal 1975/76 were £254.9 million, in 1976/77 £95 million, in 1977/78 £443.4 million, in

1978/79 £309.4 million, in 1979/80 £544 million, and in 1980/81 £668 million.

Under normal business or financial criteria, a company sustaining successive, heavy losses would not be regarded as a sound investment. Considering the magnitude of the losses and the length of time over which they occurred, we regard BSC as both no longer a sound investment and uncreditworthy—for purposes of measuring potential subsidies from equity infusions and loans in these investigations—during the six-year period beginning with fiscal year 1975/76 until the present.

Since we have determined that BSC was no longer a sound investment from April 1975 through March 1981, we must examine the government's equity infusions during this period to determine whether they bestow a subsidy. As described in greater detail in Appendix B, we compared the rate of return the government received on its equity investment in BSC with the average rate of return on equity investment in the United Kingdom for a given year, as estimated by the average earnings yield on industrial shares. BSC's return was measured by its net earnings (or losses) dividend by owner's equity. During this period BSC's losses were quite large resulting in large negative returns on owner's equity.

Comparing the market return with BSC's large negative return yielded a 1980/81 subsidy exceeding the subsidy we would have calculated had we treated the public divided capital or new capital payments as outright grants rather than as equity. Consequently, we limited the subsidy to the 1980/81 amount which would have existed, if the equity investments were treated as grants. (See grants methodology described in Appendix B.) Allocated over all BSC steel production, the subsidy amount for public dividend capital and new capital in the 1980/81 fiscal year was found to be 30.928 percent *ad valorem.*

B. The National Loans Fund ("NLF")

The National Loans Act of 1968 established the NLF, a depository of money raised by the creation of government debt. The NLF replaced the Consolidated Fund, which served as the depository of government funds prior to 1968. Lending from the NLF is not generally available but is limited to nationalized companies in the United Kingdom. BSC was authorized to borrow from the Consolidated Fund by the Iron and Steel Act of 1967 and from the NLF by the Iron and Steel Act of 1975. British Independent Steel Producer Association members ("BISPA producers") do not qualify for NLF loans.

During the period from July 1967 through March 1978, BSC received loans in substantial amounts from the NLF. A large portion of these amounts was repaid by BSC in the normal course of debt servicing.

Outstanding loans from the NLF were forgiven twice by authority of the U.K. Secretary of State. The Iron and Steel Act of 1972 released BSC from an obligation to repay certain amounts of NLF debt. The Iron and Steel Act of 1981 released BSC from its obligation to repay amounts of NLF debt outstanding at the end of the 1980/81 fiscal year. As a result of this last forgiveness of debt, BSC's entire outstanding indebtedness to the NFL was forgiven. BSC has not received additional funds from the NLF to date. For purposes of calculating the subsidy amount of this forgiveness, we treated the amounts as grants and used the grant methodology described in Appendix B. This methodology resulted in a subsidy of 4.146 percent *ad valorem.*

With respect to BSC's receipt of loans, petitioners have alleged that BSC was uncreditworthy. For the reasons described above in our discussion of public dividend capital, we are not treating BSC as uncreditworthy for the period from March 1967 through March 1975. For loans received during this period, we used the loan methodology described in Appendix B. The commerical rate selected for comparison with the interest rate on NLF loans (the terms of which range from 5 to 21 years) was an average rate on 20-year industrial debentures.

Using this metholology we calculated a subsidy in the amount of 0.147 percent for 1980/81. Since the loans were not tied to large capital asset acquisitions, we did not reallocate the subsidy amount of 0.147 percent for 1980/81. Since the loans were not tied to large capital asset acquisitions, we did not reallocate the subsidy amount over a time period different from the life of the loan.

Likewise for the reasons described above in our discussion of public dividend capital, we are treating BSC as uncreditworthy for the period from April 1975 to date. For loans received during these years, we used the methodology for loans to uncreditworthy companies described in Appendix B. Essentially, we treated the loans as equity investments (for reasons described in Appendix B) and calculated the subsidy by comparing BSC's rate of return in a given year with the average rate of return on investment in the United Kingdom, less principal and interest payments on the loan. The average rate of return on investment in the United Kingdom was based on an average earnings yield on industrial shares. On this basis we calculated a subsidy for 1980/81 which exceeds the subsidy amount which would be calculated for 1980/81 if the loans were treated as outright grants of the principal in the year received. Therefore, we used the grant methodology described in Appendix B and found a subsidy for BSC of 2.404 percent *ad valorem.* We note that the *ad valorem* subsidy amounts shown in the "Suspension of Liquidation" section of this notice, do not reflect the 0.147 percent and the 2.404 percent benefits arising from preferential NLF loans, since these loans are no longer outstanding at this time.

C. Industrial Investment Loans from the European Coal and Steel Community ("ECSC")

For the reasons described in Appendix C, we preliminarily determine that ECSC industrial investment loans are countervailing insofar as they offer preferential interest rates to European steel companies. Two respondent steel companies, BSC and Eaton & Booth, Ltd., have received industrial investment loans from the ECSC.

For BSC, we quantified the amount of the subsidy on loans prior to April companies considered creditworthy. The commercial rate selected for comparison with the interest rate on ECSC loans (the terms of which ranged from 5 to 20 years) was an average rate on 20-year industrial debentures. For loans on and after April 1, 1975, we quantified the subsidy to BSC using the methodology described in Appendix B for loans to uncreditworthy companies. For purposes of calculating the subsidy to Eaton & Booth, Ltd., we used the methodology described in Appendix B for loans to companies considered creditworthy. The commercial rate selected for comparison with the interest rate on ECSC loans to Eaton & Booth, Ltd., was an average rate on 20-year industrial debentures. For the 1980/81 fiscal year, the subsidy amounted to 2.243 percent *ad valorem* for BSC and 0.004 percent *ad valorem* for Eaton & Booth, Ltd.

D. Loans from the European Investment Bank ("EIB")

For the reasons described in Appendix C, we preliminarily determine the EIB loans are countervailable, because by charter they are regional in character and are thus preferential.

From October 1973 through December 1977, BSC received eighteen EIB loans. Since we are not treating BSC as

uncreditworthy from March 1967 through March 1975, we have quantified the benefit to BSC from EIB loans made using the methodology described in Appendix B for loans prior to April 1975 to creditworthy companies. The commercial rate selected for comparison with the rates on EIB loans (the terms of which ranged from 5 to 18 years) was an average rate on 20-year industrial debentures. For loans on and after April 1, 1975, we calculated the benefit from EIB loans using the methodology described in Appendix B for loans to uncreditworthy companies. On these bases we calculated a subsidy amount of 1.115 percent for fiscal 1980/81.

The BISPA producers did not receive EIB loans.

E. Dollar Bond Issues

Bonds in U.S. currency issued by BSC were sold on the world market during 1974. The bonds were guaranteed by the British government. BSC was able to issue these bonds at lower rates than would have been possible without the British government's guarantee. Therefore, we preliminarily determine that these bonds have resulted in the payment or bestowal of a subsidy.

Since these dollar bonds were issued during the period for which we are not treating BSC as uncreditworthy, we quantified the benefit to BSC using the methodology in Appendix B for loans to creditworthy companies. The commercial rate selected for comparison with the rates on dollar bonds (the terms of which ranged from 10 to 15 years) was an average yield on U.S. long term corporate bonds. On this basis we calculated a subsidy amount of 0.171 percent *ad valorem* for fiscal 1980/81.

F. BSC Loans to Flather Bright Steels, Ltd., and London Works Steel Company, Ltd.

BSC used part of its public dividend capital and new capital to make interest-free loans to Flather Bright Steels, Ltd., and London Works Steel Company, Ltd., companies which are 99 percent owned by BSC. Since BSC is government-owned, we preliminarily determine that these interest-free loans confer a countervailable benefit on Flather Bright Steels, Ltd., and London Works Steel Company, Ltd., to the extent that such loans are at preferential rates. We calculated this benefit using the methodology for loans to creditworthy companies described in Appendix B. The commercial rate selected for comparison with these interest-free loans was an average rate on 20 year industrial debentures. On this basis the loans resulted in a subsidy of 2.445 percent *ad valorem* for Flather Bright Steels, Ltd., and of 4.779 percent *ad valorem* for London Works Steel Company, Ltd.

G. Regional Development Grants ("RDG")

The Industry Act of 1972 established an RDG incentive program with the goals of eliminating industrial, economic, and social disadvantages in specified regions of the United Kindom. The Secretary of State, with the approval of the Treasury, is authorized to determine the activities which qualify for grants and the conditions of each grant. The grants are made towards the cost of capital expenditures on new buildings or works in development areas, the adaptation of existing buildings on qualifying premises in development areas, and new machinery and plants for use in qualifying premises in development areas. The grants pay for a fixed percentage of the cost for specific capital assets depending on the type of region for which they are designated. The amount of a grant in a development area is 15 percent and in a special development area the grant is 22 percent of the capital asset. Grants are provided only after the asset has been purchased or the expenditure on it is defrayed. We find these grants to be grants "tied" to (i.e., bestowed expressly to purchase) specific capital assets.

We preliminarily determine that the regional development grants are subsidies. They are not made generally available in the United Kingdom, but rather are available only to designated manufacturing sectors (*e.g.*, metals manufacture) and to "special development" and "development" regions. Therefore, we find the grants received under the RDG program to be subsidies within the meaning of section 771(5)(B)(iv) of the Act.

In each case the individual grants were for less than $50 million. In accordance with the methodology described in Appendix B, we are therefore allocating them over 15 years. We calculated subsidy amounts for fiscal 1980/81 as follows:

Company	Percent *ad valorem*
BSC	1.759
Bright Steels, Ltd	0.260
Darlington & Simpson Rolling Mills, Ltd	0.049
Eaton & Booth, Ltd	0.035
Glynwed Steels, Ltd	0.015
Kiveton Park Steel and Wireworks, Ltd	0.063
Lee of Sheffield, Ltd	0.251

II. Programs Preliminarily Determined not to be Subsidies

We preliminarily determine subsidies are not being provided to manufacturers, producers, or exporters in the United Kingdom of carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel bars and cold-formed carbon steel bars under the following programs.

A. Transportation Assistance

BSC and BISPA producers appear to contract with British Rail on an arm's length basis and to pay commercial rates on steel shipments. The government in its response indicates that no rate differentials exist between public transport provided to the concerned companies and general users. The government also indicates that it has made no payments to privately held transport firms for services to the companies concerned in these investigations. BSC's use of the inland waterways for steel transport appears to be negligible. Since there appears to be no preferential treatment accorded to BSC or the BISPA producers on shipments by rail, we preliminarily determine that the rail freight charges on steel shipments are not preferential and do not result in the payment or bestowal of a subsidy.

B. The British Government Redundancy Fund

Redundant workers in the United Kingdom (*i.e.*, those who have been laid off) receive a redundancy payment normally amounting to several thousand pounds sterling per worker. Fifty-nine percent of the payment is borne by the employer and forty-one percent by the government. Payments are implemented by the employer initially paying one hundred percent to the employee and recovering forty-one percent from the Redundancy Fund. The fund is, in principl, established from compulsory social security contributions paid by all employers. BSC has been contributing to the fund since its formation in 1967. The BISPA producers also contribute to this fund.

Since the Redundancy Fund appears to be available for the benefit of all employees who lose jobs and since it is not restricted to particular sectors of the economy or regions of the country, we preliminary determine that payments from the fund do not constitute a subsidy.

Certain petitioners allege that the ECSC has made the fifty-nine percent share of the payment on behalf of BSC for many laid-off BSC workers. We will seek additional information to

determine to what extent, if any, the ECSC made Redundancy Fund payments on BSC's behalf.

C. The Iron and Steel Industry Training Board

The Iron and Steel Industry Training Board sponsors various training programs aimed at maintaining the nation's pool of skills and increasing employee job versatility in the event that present employment is terminated. The Board receives annual levies of up to one percent of payroll from iron and steel producers and makes grants to those companies required by the government to conduct training programs. The grants normally are insufficient to cover the costs incurred by the companies providing the training. BSC received several training grants under this program. In November of 1981, the government announced that it would discontinue the Iron and Steel Industry Training Board during the 1982/83 fiscal year.

Since the training programs are not oriented to train employees on their present jobs and do not appear to be geared to meeting the training needs of the recipient companies, and also since the Board appears to be supported entirely by the producer levy income it collects, we preliminarily determine that training grants from the Iron and Seel Industry Training Board do not result in the bestowal of a subsidy.

We will seek additional information on the nature of the training sponsored by the Board.

D. Temporary Short-Time Working Compensation Scheme

When employees in any industry are forced to work less than full time because of cutbacks in production, they may receive compensation from the government on a temporary basis for hours not worked through the Temporary Short-Time Working Compensation Scheme. The scheme encourages employers to place workers on short time rather than make them redundant. The scheme appears to have general applicability and is not restricted to workers in a particular sector. Consequently, we preliminarily find that the scheme does not result in a subsidy. The possibility that the steel companies may be required by union contract to employ workers for a minimum number of hours and therefore may derive a benefit from the scheme will be examined prior to our final determination. We shall also attempt to determine whether this is truly a universal program or one favoring the British steel industry in the United Kingdom.

E. National Coal Board ("NCB")

The NCB is a wholly government-owned industry whose goal is to be able to meet the nation's long-term coal requirements and to attain an efficient, competitive, financially viable coal industry.

Even though the U.K. coal industry appears to be subsidized, we preliminarily determine that assistance to the U.K. coal industry by the government would not confer a countervailable benefit on the U.K. steel industry. Our reasons are that the U.K. steel companies buy coal on the overseas market at similar or even lower prices without regard to the U.K. government's assistance to its coal industry, moreover, the steel companies and the allegedly subsidized coal companies are unrelated, and their coal transactions are conducted at arm's length.

F. Electricity Generating Boards

The electricity generating boards operate without government assistance. BSC and the BISPA producers purchase electric power from the boards on an arm's length basis, paying the same rates as other large industrial users. Therefore, we preliminarily determine that no subsidies are being conferred on steel production through preferential electric power rates.

G. Research and Development Grants From the ECSC

BSC and Round Oak Steel Works, Ltd., received research and development grants from the ECSC. As described in the Appendix C, we preliminarily determine that ECSC research and development grants are not countervailable.

III. Programs Preliminarily Determined Not to Be Utilized

We have preliminarily determined that the following programs which were described in the notice of "Initiation of Countervailing Duty Investigations" are not utilized by the manufacturers, producers, or exporters in the United Kingdom of carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel bars, and cold-formed carbon steel bars.

A. Research and Development Grants From the British Government

In its response the British government indicated that no research and development funds have been granted in respect to the products currently under investigation. BSC and the BISPA producers indicated that they received no research and development loans or grants from the government.

B. Export Credit Guarantee Department ("ECGD")

The ECGD encourages exports by insuring exports against non-payment by overseas buyers and by guaranteeing bank loans needed to finance export sales on credit. Premium payments are collected for these services and the ECGD is required to operate at no cost to public funds. The ECGD also administers a fixed rate export financing scheme which does not have used ECGD services.

C. Manpower Services Commission

The Manpower Services Commission provides employment services for the entire working population. Its services include activities such as aid for the employed who must relocate to find work. The Manpower Services Commission also provides a range of training courses under the Training Opportunities Scheme for the unemployed. Arrangements can be made under the scheme to allow workers faced with redundancy to begin training for a new job before they have been discharged. BSC and the BISPA producers have indicated that they have received no finanical aid under Manpower Services Commission programs.

D. ECSC Loan Guarantees

Neither BSC nor the BISPA producers received loan guarantees from the ECSC.

IV. Programs for Which Additional Information is Needed

The programs listed below were alleged by the petitioners to be subsidies. At this time, we do not have sufficient information upon which to determine whether these programs are providing manufacturers, producers, or exporters in the United Kingdom of carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel bars, and cold-formed carbon steel bars benefits which constitute subsidies within the meaning of the countervailing duty law. We will seek additional information regarding these programs before reaching final determinations.

ECSC Labor Assistance

As described in Appendix C, Article 54(2) of the Treaty of Paris authorizes the ECSC to provide loans for residential housing for steel workers. Articles 56 of the Treaty of Paris authorizes ECSC to provide matching grants to member states for programs that assist unemployed steelworkers. We are seeking information as to

whether and to what extent BSC or the BISPA producers or their employees received aid under these programs.

Negative Determination of Critical Circumstances

Counsel for Bethlehem Steel Corporation and counsel for the Five alleged that imports of all steel products under investigation present "critical circumstances." Under section 703(e)(1) of the Act, critical circumstances exist when the alleged subsidy is inconsistent with the Subsidies Code of the General Agreement on Tariffs and Trade *and* "there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period."

Since these investigations were initiated, U.S. imports of carbon steel structural shapes from the United Kingdom amounted to 9,697 net tons in February, 5,998 net tons in March, and 93 tons in April, the most recent month for which import statistics were available. U.S. imports of hot-rolled carbon steel plate were 698 net tons in February, 301 net tons in March, and 177 net tons in April. U.S. imports of hot-rolled carbon steel bars amounted to 4,407 net tons in February, 4,498 net tons in March, and 660 net tons in April. U.S. imports of cold-formed carbon steel bars where 1,048 net tons in February, 1,360 net tons in March, and 1,125 net tons in April.

In the context of this industry, these products have not recently been massively imported from the United Kingdom over a relatively short period of time. Therefore, critical circumstances do not exist for carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel bars, and cold-formed carbon steel bars from the United Kingdom.

Verification

In accordance with section 776(a) of the Act, we will verify data used in making our final determinations.

Suspension of Liquidation

In accordance with section 703 of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel bar, and cold-formed carbon steel bar which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register** and to require a cash deposit or bond for each such entry of the merchandise in the amounts indicated below:

Manufacturer/producer/exporter	Ad valorem rate
British Steel Corporation	40.362
Flather Bright Steels, Ltd.	2.445
London Works Steel Company, Ltd	4.779
Round Oak Steel Works, Ltd.	0.000
All other producers, not excluded from these determinations, of cold-formed carbon steel bars	2.445
All other producers, not excluded from these determinations, of carbon steel structural shapes, hot-rolled carbon steel plate, and hot-rolled carbon steel bars	40.362

We note that Round Oak Steel Works, Ltd., was found to receive no direct government subsidies. To exclude Round Oak Steel Works, Ltd., from these preliminary affirmative determination, however, would be to invite possible circumvention of these determinations, since Round Oak Steel Works, Ltd., is 99.5 percent owned by BSC and produces and exports many of the same products as BSC. We are therefore including Round Oak Steel Works, Ltd., in these preliminary affirmative determinations but establishing a zero rate for cash deposit or bonding purposes for this company.

Where a company specifically listed above has not exported a particular product during the period for which we are measuring subsidization, the cash deposit or bond amount should be based on the highest rate for products that were exported by that company.

However, as Flather Bright Steels, Ltd., London Works Steel Company, Ltd., and Round Oak Steel Works, Ltd., are related to BSC, they must meet the BSC cash deposit or bonding rate if they export any product other than those for them in the "Analysis of Programs" section of this notice.

This suspension will remain in effect until further notice.

Exclusion from the Preliminary Affirmative Countervailing Duty Determinations

Several of the firms investigated received either no subsidies or subsidies in amounts which we preliminarily determine are *de minimis*. These firms are Bar Bright Usam, Bedford Steels, Ltd., Brasway Bright Bar, Bright Steels, Ltd., Darlington & Simpson Rolling Mills, Ltd., The Dudley Port Rolling Mills, Ltd., Eaton & Booth, Ltd., Glynwed Steels, Ltd., Kiveton Park Steel and Wireworks, Ltd., and Lee of Sheffield, Ltd. We preliminarily exclude these firms from the preliminary affirmative countervailing duty determinations. No cash deposit or bond shall be required on entry of the subject merchandise produced and exported by these companies from the United Kingdom.

ITC Notifications

In accordance with section 703(f) of the Act, we will notify the ITC of our determinations. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to these investigations. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on these preliminary determinations at 10:00 a.m. on July 15, 1982, at the U.S. Department of Commerce, Room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy (for Policy) to the Deputy Assistant Secretary for Import Administration, Room 3073B, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy (for Policy) to the Deputy Assistant Secretary by July 8, 1982. Oral presentations will be limited to issues raised in the briefs.

All written views should be filed in accordance with 19 CFR 355.34, on or before July 19, 1982, at the above address and in at least ten copies.

Judith Hippler Bello,

Deputy (for Policy) to the Deputy Assistant for Import Administration.

June 10, 1982.

[FR Doc. 82-16253 Filed 6-14-82; 9:30 am]

BILLING CODE 3510-25-M

federal register

Thursday,
June 17, 1982

Part III

Department of Housing and Urban Development

Office of Community Planning and Development

Announcement of Second Round of the Rental Rehabilitation Program Demonstration

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Community Planning and Development

[Docket No. N-82-1133]

Announcement of Second Round of the Rental Rehabilitation Program Demonstration

AGENCY: Housing and Urban Development.

ACTION: Notice of solicitation of proposals from eligible applicants to participate in the second round of the rental rehabilitation program demonstration.

SUMMARY: HUD is soliciting proposals from States and local governments to participate in a second round of the Rental Rehabilitation Program Demonstration. This Demonstration formerly was called the Small Rental Property Rehabilitation Demonstration Program. The name was changed to coincide with the Administration's 1983 legislative proposal for a Rental Rehabilitation Program. The Department is interested in promoting the rehabilitation of rental properties which require moderate amounts of rehabilitation (approximately $10,000 per unit) and public subsidies which do not exceed 50 percent of the cost of rehabilitation. The Demonstration is jointly administered by the Assistant Secretary for Housing and the Assistant Secretary for Community Planning and Development.

FOR FURTHER INFORMATION CONTACT: Either Robert I. Dodge, III, Director, Office of Urban Rehabilitation, Room 7168, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, telephone (202) 755-5970 or 755-5685, or Gerald J. Benoit, Director, Existing Housing Division, Room 4208, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C., telephone (202) 755-5353. These are not toll free numbers.

Proposal Due Date

Applications must be received by 5:00 p.m. on Firday, July 16, 1982. The original proposal is to be sent to the appropriate HUD Area Office, Attention CPD Division Director, and two copies to HUD Headquarters, at: Rental Rehabilitation Program Demonstration, Office of Urban Rehabilitation, Room 7168, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 29410.

SUPPLEMENTARY INFORMATION: The Demonstration is the precursor of the proposed Rental Rehabilitation Program and embodies its basic precepts including the separation of the subsidy to the property from the tenant subsidy, reliance on the private sector, local flexibility and discretion and minimum Federal involvement.

The purpose of the Demonstration is to help States and local governments to develop the capacity and experience to administer streamlined, cost-effective rental property rehabilitation programs as part of their overall community development and revitalization strategies, and to prepare them to assume responsibility for the administration of the proposed Rental Rehabilitation Program in Fiscal Year 1983. Twenty-three localities were selected to participate in the first round of the Demonstration in the Summer of 1981. HUD wants to expand the number of participants through a second round of the Demonstration.

In the second round, participating local governments may provide Community Development Block Grant (CDBG) funds or other forms of public rehabilitation assistance. Recognizing that States cannot directly undertake activities with nonentitlement CDBG funds, participating State agencies may nonetheless provide State rehabilitation funds available for rental rehabilitation activities. Alternatively, States may serve a coordination and support role with their small cities, to stimulate the development of local rental rehabilitation programs which are consistent with Demonstration precepts, and to provide technical assistance, with participating local governments providing the public subsidy from their sources of funds.

HUD will provide, to the maximum extent feasible, technical assistance by HUD staff and private consultants, to assist participating State and local governments in designing effective rental rehabilitation programs. If available and to the extent feasible, the Department will also provide PHAs within States and units of local government selected for participation with Section 8 Existing Housing contract authority to be used as part of the Demonstration.

The Department is interested in promoting the rehabilitation of rental properties which require moderate amounts of rehabilitation (approximately $10,000 per unit) and public subsidies which do not exceed 50 percent of the cost of rehabilitation.

This Notice affects the following Federal programs listed in the Catalog of Federal Domestic Assistance at the specified numbers: Community Development Block Grant in Entitlement Cities (14.218), Community Development Block Grant/Small Cities (14.219), and Low Income Housing Assistance Programs (Section 8) (14.156).

The reporting requirements contained in this Notice have been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act under OMB No. 2506-0051, approved for use through April 30, 1984.

The text of the Notice follows.

1. Background

Since the late 1970's, local governments have been actively involved in property rehabilitation programs. Although an average $1.1 billion in CDBG funds has been budgeted annually for publicly financed rehabilitation programs in recent years, most of these funds have been directed to rehabilitating owner occupied, 1-4 unit properties. And yet, small rental properties represent a significant portion of the deteriorating housing stock in many localities and comprise a major source of housing for low- and moderate-income people. This Demonstration offers States and localities the opportunity to develop efficient, locally appropriate rental rehabilitation strategies to address these properties.

There are two essential precepts of the Demonstration. First, the program separates financial subsidies for property rehabilitation from subsidies to lower income tenants. Second, the market is permitted to operate freely without any rent restrictions or similar controls imposed by HUD or the State or local government which differ from those applicable to structures undergoing comparable rehabilitation without assistance. Under the Demonstration, local governments may use CDBG or other State or local public funds and States may use public (non-CDBG) funds within their control to provide front-end subsidies to projects so that operating costs, debt amortization and reasonable profit can be achieved at market rentals. Certain Section 8 Existing Housing regulations (see paragraph 3.3 below) will be waived by HUD to permit lower income tenants in these properties to receive Section 8 Existing Housing certificates and thus remain in occupancy of the rehabilitated units, or find alternative housing, subject to all other Section 8 Existing Housing regulations.

The 23 localities in the first round of the Demonstration committed a total of $7.5 million of their community Development Block Grant funds to subsidize conventional rehabilitation

financing of rental properties. The first round is supported by a special allocation of approximately 715 Section 8 Existing Housing certificates. The 23 localities are well underway in implementing their programs, and experience has been gained in program design and the mechanics of operating rental rehabilitation programs. This experience will provide useful information to State and local governments selected to participate in the second round of the Demonstration.

2. Purpose of Demonstration

The overall purpose of the Rental Rehabilitation Program Demonstration is to expand the number of States and local governments with the capacity to carry out effective rental rehabilitation programs, to prepare as many State and local governments as possible to carry out the Department's Proposed Rental Rehabilitation Program in Fiscal Year 1983, and to expand that state of the art in cost effective rental rehabilitation methods.

Specific objectives of the Demonstration include the development of:

(a) Appropriate subsidy mechanisms that make it feasible, practical and cost effective to rehabilitate small rental properties for market rate rental;

(b) Rental rehabilitation programs which will permit the increased availability of standard rental units that are affordable to low- and moderate-income tenants;

(c) Effective strategies to leverage private monies to subsidize financing for the rehabilitation of rental properties;

(d) Incentives for property owners to provide strong management and long term maintenance of rental properties which have received rehabilitation subsidies;

(e) Strategies to minimize displacement and to provide for the housing needs of tenants, including targeting Section 8 Existing Housing certificates to eligible lower income residents to provide them with the opportunity to remain in the rehabilitated units;

(f) State and local government capacity to administer rental rehabilitation programs.

3. Resources for the Demonstration To Be Committed by Participants and HUD

3.1 Each participating unit of general local government must budget Community Development Block Grant (CDBG) funds or other State or local public funds and States must budget public (non-CDBG) funds within their control to the Demonstration to leverage private rehabilitation financing. The principal use of public rehabilitation funds will be to subsidize the cost of private rehabilitation financing to the level required to make a project feasible at market rents. Where CDBG funds are used, any form of rehabilitation financial assistance for privately-owned properties allowed under Section 105 of the Housing and Community Development Act of 1974, as amended, for the State-administered nonentitlement program; or CDBG program regulations (24 CFR Part 570) for localities funded by HUD, is eligible.

3.2 If available and the extent feasible, HUD will provide a special allocation of Section 8 Existing Housing contract authority for use by PHAs within States and units of local government selected for participation.

3.3 The Assistant Secretary for Housing will issue waivers of 24 CFR Section 882.207(a) and the last sentence of § 882.209(a)(3) to permit participating PHAs to target Section 8 Existing Housing Contract authority under Annual Contributions Contract (ACC) to eligible tenants in properties undergoing rehabilitation under the Demonstration. Prior to the granting of waivers, however, the PHA will be required to submit modifications to its administrative plan identifying the procedures for selecting tenants residing in properties to be rehabilitated under the Demonstration.

3.4 To the maximum extent feasible, using resources available, HUD will provide technical assistance at no cost to participating States and localities from HUD Headquarters, Regional and Area Office staff, from staff of localities participating in the first round, and from private technical consultants.

4. Local Rental Rehabilitation Program Design

Each participant will have the flexibility to design a Demonstration program to meet local needs, priorities and management structures, within basic parameters of the Demonstration. Program components which are required in all locally adopted designs are outlined in the following paragraphs.

4.1 *Neighborhood Selection.* All applicants must tentatively designate one or more neighborhoods for participation in the Demonstration. Appropriate neighborhoods are those where there is a need for rehabilitation of rental properties principally occupied, or to be occupied, by lower income tenants, where the rental housing market is reasonably stable and where after rehabilitation market rents, including utilities, generally are affordable to low- and moderate-income renters, and are within Section 8 Existing Housing Fair Market Rents for the area (See 4.8). Localities should be aware that the use if CDBG funds will be governed by the anticipated revised CDGB entitlement city regulations when they become effective. It is, therefore, advisable that the Area Offices be contacted by applicants to discuss benefit characteristics of the selected neighborhoods where CDBG funds will be used.

4.2 *Property Selection.* Small rental properties of less than thirty (30) units per building are the focus of this Demonstration, although larger properties may be assisted where appropriate. Occupied and partially occupied properties are the primary target of the Demonstration.

4.3 *Eligible Property Owners.* To be eligible for rehabilitation assistance under the Demonstration, the property must be owned by private, for-profit owners. Non-profit organizations, defined as any public or private legal entities that are organized on a not-for-profit basis under applicable State law, may perform any appropriate function with regard to the Demonstration with the exception that they may not participate as the property owner.

4.4 *Rehabilitation Standards.* After rehabilitation, all properties assisted through the Demonstration must at a minimum meet the performance requirements set forth in 24 CFR §882.109 (Section 8 Existing Housing Quality Standards (HQS)). In addition, all such properties shall meet HUD's Cost Effective Energy Conservation Standards, published in 24 CFR Part 39.

4.5 *Relocation/Anti-Displacement Strategy.* Participants will develop their own relocation/anti-displacement strategies that are consistent with local needs and neighborhood characteristics. Minimum levels of protection for lower income tenants shall be developed by the participating State or locality in conjunction with the Department.

4.6 *Affirmative Fair Housing Marketing.* All States and units of general local government and individual property owners participating in the Demonstration must agree to the following conditions in addition to all other requirements under applicable statutes, Executive Orders, or regulations. Specifically, all State, units of general local government and property owners assisted through this program shall comply with Affirmative Fair Housing Marketing requirements. The property owner assisted through this program shall ensure that rehabilitated units will be marketed for rental or sale in a manner to affirmatively further fair housing in the

same manner as described in 24 CFR 200.620(a)–(f). If a rehabilitated unit is advertised for rental or sale, it will be done in a manner to inform persons who would otherwise be least likely to apply for the unit. The "Equal Opportunity" logo shall be displayed in all advertising.

4.7 *Rehabilitation Financing.* Private financing is an essential element of the Demonstration. All projects included in this Demonstration must be structured so that operating costs, debt service and reasonable profit can be supported by market rents. For the purposes of this Demonstration, the term "market rent" means the highest rent including utilities that the owner can reasonably expect to achieve for the unit in the given location, time and circumstance from an unassisted tenant. CDBG or State or local public funds are used to leverage private financing in any manner that the locality finds appropriate to achieve its purpose. Given the economics of rehabilitating rental properties, projects requiring only moderate levels of rehabilitation (approximately $10,000 per unit) are appropriate for the demonstration. Except in special cases, public funds should not exceed 50 percent of the cost of rehabilitation. The appropriate subsidy to achieve these objectives is some form of reduction of the privately-financed cost of rehabilitating the project. The amount and type of subsidy will be dependent upon the Demonstration program design and upon the economics of the rental rehabilitation market for the neighborhood or for specific projects. The State or locality shall require a substantial equity investment by the property owner in connection with each rehabilitation project. Examples of possible public rehabilitation financing mechanisms are:

(a) a direct front-end capital grant or a deferred payment loan in an amount sufficient to provide the subsidy necessary to make the project economically feasible at market rate rents;

(b) an interest-rate buy-down of a private rehabilitation loan.

Guaranteed artificially high rental incomes to property owners and/or public guarantees to protect an investor against market risks are *not* permitted as part of the Demonstration.

4.8 *Rental Subsidies.* In keeping with the preceding paragraph, the credit analysis and subsidy determination for all projects must separate the subsidy to lower income tenants administratively, financially and conceptually from the subsidy for property rehabilitation. Demonstration projects must be feasible at market rents since the rent stream is *not* guaranteed by the public sector. Tenants with Section 8 Existing Housing certificates may move out at any time leaving the unit to be freely rented without any guarantee of rent subsidy. Thus, appropriate neighborhoods and properties are those in which after-rehabilitation market rents, including utilities, are affordable to lower income tenants with Section 8 Existing rental assistance (i.e., rents do not exceed Section 8 Existing Housing FMR's). Fair Market Rents for properties assisted by the Demonstration shall be governed by applicable regulations.

4.9 *Private Sector Participation.* In addition to requiring conventional financing, each Demonstration program shall encourage delegation of appropriate responsibilities to the private sector. For example, lenders might perform loan origination, underwriting and/or servicing. Contractors might be required to prepare work write-ups, and architects to develop plans and specifications. Each program design shall also simplify all procedures to streamline the entire rehabilitation process from application through construction close-out.

4.10 *Future Assistance to Projects.* It shall be made clear to all property owners that no additional future public assistance will be provided to projects that subsequently develop financial difficulties.

4.11 *Property Owner Certification.* Participating States and localities shall secure for all properties rehabilitated under the Demonstration a certification signed by property owners that they shall adhere to the following conditions:

(a) Property owners, as a condition of participation in the Demonstration, and not as a Section 8 Existing Housing Program requirement, shall not refuse to rent to tenants holding Section 8 Existing Housing certificates except for good cause such as refusal to rent to tenants who previously failed to pay their rents, and/or to maintain their apartment, or to those who otherwise were in violation of the terms and conditions of the tenancy.

(b) Property owners renting to tenants with Section 8 Existing Housing certificates shall comply with all Section 8 Existing Housing regulations.

(c) Property owners shall exercise affirmative marketing of the units whenever units become vacated, in accordance with paragraph 4.6, above.

(d) Property owners shall rent their properties at market rates as defined in paragraph 4.7, that is, the highest rent the owners can reasonably expect to achieve for the unit in the given location, time and circumstance from an unassisted tenant.

4.12 *Program Requirements.* States and localities participating in this Demonstration program must comply with all applicable CDBG and Section 8 Existing Housing regulations. In addition, if funds, including rehabilitation financing, are provided through any other Federal assistance, loan, guarantee, or insurance program, regulations and requirements applicable to such programs must be followed.

5. Selection and Approval Procedures

5.1 Applications will be reviewed, rated and ranked by Area and Regional Offices and by a selection board of senior HUD Headquarters staff from the Housing and the Community Planning and Development Offices, according to the factors set forth in provision 6.6 below. Preliminary selection of applicants will be made by the Assistant Secretaries for Housing and for Community Planning and Development, in consultation with Regional Administrators, based on staff recommendations. The Secretary of HUD shall make the final selection.

5.2 Applications must be received by 5:00 p.m. on Friday, July 16, 1982.

6. Application Requirements

The application shall utilize Standard Form 424 (sample attached). The application should be brief—not more than 10 pages if possible, and provide the following information:

6.1 A two-page narrative on why a rental rehabilitation program is needed by the State or locality and why this Demonstration is particularly appropriate to address these needs. The narrative should also state the objectives of the applicant State or locality and expected accomplishments as a result of participation.

6.2 A preliminary selection of a neighborhood(s) for the Demonstration with available demographic and property data and a discussion of why the neighborhood is appropriate. The discussion should address such items as size and percentage of rental properties, percentage of low- and moderate-income residents, property condition and estimate of rehabilitation costs, market rents vis-a-vis Fair Market Rents (FMR), vacancy rate, and the like.

6.3 A brief description of the State or local organizational framework for implementing the Demonstration including the administrative and managerial relationship between the agency administering the community development program and the Public Housing Agency.

6.4 A brief description of past and current rehabilitation activity of the applicant locality or State.

6.5 Where the applicant is a unit of local government, a statement by the Chief Executive Officer certifying the willingness of the locality and the CD agency (a) to comply with the Demonstration precepts set forth in Provision 4 of this Notice, and (b) to commit CDBG or other local public funds to the Demonstraton. The statement should include an estimate of the CDBG or other public funding to be committed. The PHA must certify its willingness to cooperate with the CDBG agency on the Demonstration.

Where the applicant is a State, the Governor or authorized State agency official shall submit statements as described above.

6.6 The Department will attempt to achieve diversity in its selection of participants, including geographical distribution, population and type of applicant (State, city or urban county). Factors to be taken into consideration in assessing each applicaton will include the following:

- Extent of commitment to the development of an investor-owned rental rehabilitation program;
- Degree of understanding and incorporation of key elements of the Demonstration;
- Quality and past performance of State or local rehabilitation programs; and
- Ability to implement the program within a reasonable amount of time from date of approval.

Authority: Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 *et. seq.*), United States Housing Act of 1937 (42 U.S.C. 1437, *et seq.*).

Dated: June 8, 1982.

Stephen J. Bollinger,

Assistant Secretary for Community Planning and Development.

Philip Abrams,

General Deputy Assistant Secretary for Housing/Deputy Federal Housing Comissioner.

BILLING CODE 4210-29-M

OMB Approval No. 29–R0218

FEDERAL ASSISTANCE

SECTION I—APPLICANT/RECIPIENT DATA

1. TYPE OF ACTION (Mark appropriate box) ☐ PREAPPLICATION ☐ APPLICATION ☐ NOTIFICATION OF INTENT (Opt.) ☐ REPORT OF FEDERAL ACTION

2. APPLICANT'S APPLICATION — a. NUMBER; b. DATE Year month day 19

3. STATE APPLICATION IDENTIFIER — a. NUMBER; b. DATE ASSIGNED Year month day 19

Leave Blank

4. LEGAL APPLICANT/RECIPIENT
a. Applicant Name :
b. Organization Unit :
c. Street/P.O. Box :
d. City : e. County :
f. State : g. ZIP Code:
h. Contact Person (Name & telephone No.) :

5. FEDERAL EMPLOYER IDENTIFICATION NO.

6. PROGRAM (From Federal Catalog) — a. NUMBER; b. TITLE

7. TITLE AND DESCRIPTION OF APPLICANT'S PROJECT

8. TYPE OF APPLICANT/RECIPIENT
A–State; B–Interstate; C–Substate District; D–County; E–City; F–School District; G–Special Purpose District; H–Community Action Agency; I–Higher Educational Institution; J–Indian Tribe; K–Other (Specify):
Enter appropriate letter ☐

9. TYPE OF ASSISTANCE
A–Basic Grant; B–Supplemental Grant; C–Loan; D–Insurance; E–Other
Enter appropriate letter(s) ☐☐

10. AREA OF PROJECT IMPACT (Names of cities, counties, States, etc.)

11. ESTIMATED NUMBER OF PERSONS BENEFITING

12. TYPE OF APPLICATION
A–New; B–Renewal; C–Revision; D–Continuation; E–Augmentation
Enter appropriate letter ☐

13. PROPOSED FUNDING

a. FEDERAL	$	.00
b. APPLICANT		.00
c. STATE		.00
d. LOCAL		.00
e. OTHER		.00
f. TOTAL	$	.00

14. CONGRESSIONAL DISTRICTS OF: a. APPLICANT; b. PROJECT

15. TYPE OF CHANGE (For 12c or 12e)
A–Increase Dollars; B–Decrease Dollars; C–Increase Duration; D–Decrease Duration; E–Cancellation; F–Other (Specify):
Enter appropriate letter(s) ☐☐

16. PROJECT START DATE Year month day 19

17. PROJECT DURATION Months

18. ESTIMATED DATE TO BE SUBMITTED TO FEDERAL AGENCY ▶ Year month day 19

19. EXISTING FEDERAL IDENTIFICATION NUMBER

20. FEDERAL AGENCY TO RECEIVE REQUEST (Name, City, State, ZIP code)

21. REMARKS ADDED ☐ Yes ☐ No

SECTION II—CERTIFICATION

22. THE APPLICANT CERTIFIES THAT ▶ a. To the best of my knowledge and belief, data in this preapplication/application are true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is approved.

b. If required by OMB Circular A–95 this application was submitted, pursuant to instructions there'n, to appropriate clearinghouses and all responses are attached:

	No response	Response attached
(1)	☐	☐
(2)	☐	☐
(3)	☐	☐

23. CERTIFYING REPRESENTATIVE — a. TYPED NAME AND TITLE; b. SIGNATURE; c. DATE SIGNED Year month day 19

SECTION III—FEDERAL AGENCY ACTION

24. AGENCY NAME

25. APPLICATION RECEIVED Year month day 19

26. ORGANIZATIONAL UNIT

27. ADMINISTRATIVE OFFICE

28. FEDERAL APPLICATION IDENTIFICATION

29. ADDRESS

30. FEDERAL GRANT IDENTIFICATION

31. ACTION TAKEN ☐ a. AWARDED ☐ b. REJECTED ☐ c. RETURNED FOR AMENDMENT ☐ d. DEFERRED ☐ e. WITHDRAWN

32. FUNDING

a. FEDERAL	$	.00
b. APPLICANT		.00
c. STATE		.00
d. LOCAL		.00
e. OTHER		.00
f. TOTAL	$	.00

33. ACTION DATE ▶ Year month day 19

34. STARTING DATE Year month day 19

35. CONTACT FOR ADDITIONAL INFORMATION (Name and telephone number)

36. ENDING DATE Year month day 19

37. REMARKS ADDED ☐ Yes ☐ No

38. FEDERAL AGENCY A–95 ACTION — a. In taking above action, any comments received from clearinghouses were considered. If agency response is due under provisions of Part 1, OMB Circular A–95, it has been or is being made.

b. FEDERAL AGENCY A–95 OFFICIAL (Name and telephone no.)

STANDARD FORM 424 PAGE 1 (10–75)
Prescribed by GSA, Federal Management Circular 74–7

[FR Doc. 82–16166 Filed 6–16–82; 8:45 am]
BILLING CODE 4210–25–C

federal register

Thursday
June 17, 1982

Part IV

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Amendment of Procedures for Submission, Review, Approval or Disapproval and Maintenance of State Programs and for Substituting Federal Enforcement and Establishing a Federal Program in a State

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 730, 731, 732, 733 and 736

Amendment of Procedures for Submission, Review, Approval or Disapproval and Maintenance of State Programs and for Substituting Federal Enforcement and Establishing a Federal Program in a State

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rules.

SUMMARY: The Office of Surface Mining (OSM) is amending its rules which set forth the procedures for the submission, review, approval or disapproval, and maintenance of State programs, for substituting Federal enforcement of State programs and for establishing a Federal program in a State. The purpose of these rules is to provide greater editorial clarity and to remove or amend certain burdensome or counter-productive requirements to achieve a more streamlined set of regulations.

EFFECTIVE DATE: June 17, 1982.

ADDRESS: A transcript of the hearing held on January 5, 1982, and copies of all comments received are on file in the OSM Administrative Record located in Room 5315, 1100 L Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Chief, Division of State Program Assistance, Program Operations and Inspection, Office of Surface Mining, Room 210, South Interior Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone: (202) 343–5351.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A draft of the proposed rule was made available to State regulatory authorities and groups representing industry and citizens. On December 4, 1981, OSM published proposed rules to amend 30 CFR Parts 730, 731, 732, 733 and 736 (46 FR 59482–59492). Public comments were invited for 45 days ending January 18, 1982, and a public hearing was held in Washington, D.C. on January 5, 1982. Three speakers offered testimony at the public hearing and written comments were received from seventeen (17) individuals or groups. All testimony and comments were analyzed.

A transcript of the public hearing and copies of all comments received are on file in the OSM Administrative Record at the address listed above under "**ADDRESSES.**"

II. Background

Section 503 of the Surface Mining Control and Reclamation Act of 1977 (the Act) provides for a State to assume primary jurisdiction for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating its capability to do so by submitting a proposed State program to the Secretary of the Interior for approval. Section 504 of the Act directs the Secretary to prepare and implement a Federal program for a State if the State does not elect to submit a program, if the State's submitted or resubmitted program is disapproved, or if the State fails to implement, enforce or maintain its approved State program. To implement the provisions of sections 503 and 504 and to insure a balance among the competing mandates of the Act, the Secretary promulgated Parts 730–736 in the permanent regulatory program (44 FR 15323–15332, March 13, 1979). Under the current regulations, a State must submit its proposed permanent program to OSM under procedures contained in 30 CFR Part 731 to assume primary jurisdiction under the Act for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders. OSM reviews the proposal and recommends approval or disapproval to the Secretary of the Interior of each State program according to procedures contained in 30 CFR Part 732. Part 733 establishes requirements for the maintenance of approved State programs and procedures for substituting Federal enforcement of State programs and withdrawing approval of State programs. Part 736 establishes standards and procedures for the promulgation, implementation and administration of a Federal program for a State.

Since the current regulations were promulgated in March 1979, twenty-four (24) States have submitted regulatory programs for review. Of that number, seventeen (17) have received full or conditional approval of their programs, and seven (7) are presently undergoing review by the Department.

Based upon its experience in processing these programs and monitoring those that have been approved, and based upon comments and suggestions from the States and others, OSM proposed on December 4, 1981, to modify the existing regulations, streamline the regulations, and make needed changes.

III. Amendments

The amendments to Parts 730, 731, 732, 733 and 736 will be discussed below by part and section number, together with the relevant public comments on each amendment. Comments on general topics or those not addressed to a specific section, will be discussed last.

Part 730—General Requirements

1. *Section 730.2 Objectives* and *§730.4 Responsibilities.*

These sections and other similar ones are being removed for editorial clarity. These sections contain no substantive requirements and are merely explanatory of requirements which follow. Three commenters, the Appalachian Research and Defense Fund of Kentucky (ARDF), the Tug Valley Recovery Center (TVRC), and the Northern Great Plains Office of the Sierra Club and Friends of the Earth (Sierra Club), objected to removing such sections and recommended retaining them. The Sierra Club stated that there would be no legal effect as a result of removing these sections, and that, therefore, the intent of the deletions must be to provide the appearance of change. OSM agrees that these sections have no legal effect. One of OSM's stated intentions in proposing these amendments was to streamline the rules by removing unnecessary provisions. The other two commenters stated that removing these sections would make the respective obligations of the States and the Federal government less clear. OSM does not agree that removal of these sections would have this effect. The substantive requirements of the regulations delineate with specificity the respective obligations of the States and the Federal government.

2. *Section 730.5 Definitions.*

Sections 730.5(b) and 732.15 were amended and § 731.13 removed in a separate rulemaking action. 46 FR 53376–53384 (October 28, 1981). The Sierra Club asked for additional clarification of those amendments. The rationale for those amendments is discussed at considerable length in the notice of final rulemaking published October 28, 1981 (46 FR 53376–53384). Any further discussion of those amendments is outside the scope of this rulemaking.

3. *Section 730.11 Inconsistent and more stringent State laws and regulations.*

Three amendments were proposed to § 730.11(a), which requires the Director to publish in the **Federal Register** any State law or regulation determined to be inconsistent with the Act or the

provisions of 30 CFR Chapter VII. The first proposed amendment, which is being adopted today, is necessary to make § 730.11(a) consistent with the change to § 730.5(b). (See discussion above at § 730.5.) The amendment incorporates the term "inconsistent with" as used in section 505(a) of the Act. Under amended § 730.11(a), no State law or regulation would be superseded by any provision of the Act or the regulations, except to the extent that the State law or regulation is inconsistent with the requirements of the Act or Chapter VII of 30 CFR.

The Sierra Club objected to this amendment and asserted the wording is vague. OSM believes that the term "consistent with" was adequately defined in the rulemaking for § 730.5 (see discussion and references above) and that § 730.11(a) is written with sufficient clarity.

A second proposed amendment, adopted today with additional changes, would require the Director to provide an opportunity for comment by interested parties prior to a final determination to set aside as inconsistent any State law or regulation. The Commonwealth of Kentucky supported the proposed amendment. The Sierra Club and ARDF objected to the proposed amendment on the grounds that section 505 does not provide for a comment period and that it would lead to unnecessary delays. ARDF also suggested that if a comment period is provided, that it be for a time certain, in order to avoid delays. While OSM agrees that section 505 does not specifically provide for a comment period, it believes that such a comment period provides a State with the opportunity to explain its provision and would diminish the likelihood of a decision which sets aside a State provision on the basis of a misunderstanding. OSM agrees that the comment period should be for a time certain, and the final rule has been revised to provide that the Director shall publish a notice of proposed action in the **Federal Register** and provide 30 days for public comment.

The third proposed amendment, which is adopted today, provides that the Director may publish either the complete text or a summary of the State law or regulation. If a summary of the provision is published, the notice will indicate where copies of the complete text will be available for inspection and how copies of it may be obtained free of charge. ARDF objected to the proposed amendment and stated that a summary of the provision is not sufficient to afford interested parties an opportunity to comment. As stated in the preamble to the proposed rule, the Director will publish the complete text when the material to be printed is brief. Only in cases where the material is voluminous will the Director publish a summary, and in those cases the Director will provide free copies of the complete text upon request. The amendment will insure adequate public notice in the most cost-effective manner available.

Part 731—Submission of State Programs

4. *Section 731.11 Eligibility.*

Section 731.11 is being removed for editorial clarity. The rationale for this change is the same as that provided under the preceding discussion of §§ 730.2 and 730.4

5. *Section 731.12 Submission of State programs.*

Amendments were proposed to § 731.12 to eliminate any reference to dates by which a State shall submit a State program, and to clarify that a State may submit a proposed program at any time. Although no comments were received which objected to removing the reference to dates, a number of commenters, including ARDF, the Sierra Club, and the Environmental Policy Institute (EPI), objected to the amendment clarifying that a State may submit a proposed program at any time. These commenters argued that section 504 of the Act precludes a State which has failed to obtain approval of its program from submitting another State program until after a Federal program is implemented. OSM believes that these commenters may have misinterpreted the proposed amendment. Sections 731.12 and 732.14 were amended in a final rulemaking action on October 8, 1981 (46 FR 50018–50019) to provide that a State whose program has been disapproved by a final decision may submit a proposed program *at any time*. In that rulemaking notice, OSM disagreed with similar comments regarding the interpretation of section 504(e) of the Act. As the preamble to the October 8, 1981, final rule concluded, OSM interprets the language in section 504(e) to be permissive in that a State *may* submit a new program after a Federal program is implemented. This issue was disposed of in the October 8, 1981, notice and was never within the scope of the present rulemaking. What the October 8, 1981, final rule did was to amend § 731.12(b) to provide that:

(b) States may submit a proposed program at any time, if:

(1) By a final decision, the State program submitted under 30 CFR 731.12(a) is disapproved; or

(2) Implementation of a Federal program under 30 CFR Part 736 has been completed; or

(3) There have been no surface coal mining and reclamation operations since August 3, 1977, but coal exploration or surface coal mining operations are anticipated; or

(4) A State program has been enjoined by a court of competent jurisdiction, in which case the requirements of 30 CFR 730.12 shall apply.

The December 4, 1981, notice proposed to further amend the October 8, 1981, final rule to provide simply that a State may submit a proposed program at any time. The purpose of the proposed amendment was to clarify the awkward construction of § 731.12(b) which makes it appear that there are only four limited categories of States which may submit proposed programs at any time. In reality, these four categories comprise the entire universe of possible situations in which a State could find itself. Since no comments were received on this specific proposed amendment, it is being adopted today without any change from the proposed rule.

Two comments were received on § 731.12 regarding the December 4 preamble discussion of the consequences if a State chooses not to resubmit (under 30 CFR 732.13(g)), if the resubmitted program is disapproved pursuant to § 732.13(f), or if an injunction extends beyond the period stipulated in section 503(d) of the Act. Section 502(f) of the Act and § 771.13(a) of OSM's regulations provide that following the final disapproval of a State program, and prior to promulgation of a Federal program, the interim program of section 502 continues in effect and during this period *"no new permits shall be issued* by the State whose program has been disapproved" (emphasis added). The preamble to the December 4 proposed rules also put the States on notice that under these circumstances, OSM will take immediate action to develop and implement a Federal program for such a State. Both commenters, the Mining and Reclamation Council of America (MARC) and the Joint NCA/AMC Committee on Surface Mining Regulations (the Joint Committee), expressed concern about the impact on operators who will be unable to continue mining unless renewals, extensions or revisions are made to interim program permits during this period and requested a clarification of the "no new permits" language in section 502(f) of the Act and 30 CFR 771.13(a). Both section 502(f) and 30 CFR 771.13(a) provide that permits which lapse during this period may continue in full force and effect until promulgation of a Federal program. This provision

indicates that Congress did not intend for existing operations to cease. Therefore, OSM believes that "new permits" does not include renewals, revisions or extensions of existing interim program permits. "No new permits" does mean, however, that no new operations will be allowed until a Federal program is implemented. The Joint Committee also requested clarification that the "no new permits" language of section 502(f) means that no new permits shall be issued *under the interim program* of section 502. The Joint Committee pointed out that section 502(b) requires that operations which commence operations on or after six months from the date of enactment of the Act must obtain an interim permit and that operations in existence prior to six months after enactment may operate without interim permits and are not covered by section 502(f). OSM agrees that such operations may continue in effect under applicable State laws (some of which required no permits) as they did before the Act, until a Federal program is implemented.

6. *Section 731.14 Content requirements for program submissions.*

A number of changes were proposed to § 731.14, which establishes content requirements for program submissions, to consolidate or eliminate certain requirements. All of the proposed changes were discussed in the preamble to the December 4 proposed rules. Only those proposed changes which elicited public comment will be discussed further today. Those proposals not discussed are adopted today unchanged from the proposed rules.

The Commonwealth of Kentucky generally supported all the proposed changes. EPI objected to the proposed amendment to § 731.14(c) which would allow preparation of the section-by-section comparison of the State's laws and regulations with the Act and the Secretary's regulations by some qualified entity other than the State Attorney General. EPI asserted that only the chief legal officer of the State can explain the *legal* effect of any differences. OSM notes that the existing regulation already allows preparation of the legal opinion by either the Attorney General *or* the chief legal officer of the State regulatory authority. The intent of the proposed amendment was to relieve the Attorney General of the very time-consuming task of preparing the section-by-section comparison. The legal staff of the regulatory authority may be in a better position to explain the legal differences when an Attorney General's office has not been actively involved in the program. Therefore, the final rule is being adopted as proposed.

ARDF objected to the proposed amendment to § 731.14(h) which requires statistical information concerning coal mining operations in the State. The amendment, adopted today, eliminates paragraphs (h)(1)–(h)(8) which list suggested types of information which might be included in a State's submission. ARDF asserted that these examples of types of information which may be submitted are helpful to the State and necessary to support a finding of capability on the State's part. OSM agrees that these suggestions might be helpful, but since they are not requirements, it is not appropriate to include them in regulations, and the final rule reflects this.

An amendment was proposed to § 731.14 to eliminate paragraphs (n), (o) and (p) as duplicative of information already available. These subsections require, respectively, information concerning special environmental performance standards, a brief description of other programs administered by the regulatory authority, and such other information as the director may require.

ARDF and EPI objected to eliminating paragraph (p) and ARDF also objected to eliminating paragraph (n) and (o). The commenters stated that paragraph (p) gives the Director general authority to require additional information and is a necessary catch-all for items that cannot be anticipated. OSM disagrees that this provision is necessary. The Secretary cannot approve a State program unless he finds that the program includes all necessary provisions. It is in the State's best interest to provide whatever information the Director may require. ARDF objected to the deletion of paragraph (o) regarding other programs administered by the regulatory authority. OSM does not believe this requirement is necessary. Under proposed § 731.14(e), being adopted today, the State must describe the organization of the regulatory authority and provide a description of how the staffing will be adequate to carry out the functions. In addition, under § 732.15(d), the Secretary cannot approve a State program unless he finds that the State regulatory authority and other agencies having a role in the State program have sufficient legal, technical and administrative personnel and funding to carry out the provisions of the program. ARDF also objected to the deletion of paragraph (n), but offered no specific argument. Paragraphs (n), (o) and (p) are therefore deleted for the reasons stated above.

Part 732—Procedures and Criteria for Approval or Disapproval of State Program Submissions

7. *Section 732.4 Responsibilities.*

Section 732.4 is being removed for editorial clarity. The rationale for this change is the same as that provided under the preceding discussion of §§ 730.2 and 730.4.

8. *Section 732.11 Review by the Regional Director* and *§732.12 Notice and public hearing requirements.*

The current regulations provide for two review periods conducted in series, the first one for completeness, including a public meeting, and the second for substantive adequacy, requiring a public hearing. The amendments proposed on December 4 provided instead for a single review period for both completeness and substance, to include just one required public hearing. The proposed rules are being adopted today, but with considerable modification based on the public comments received.

The Joint Committee, MARC and Kentucky supported the proposed rule. Kentucky also suggested clarifying proposed § 732.11(b)(2) so that additions as well as revisions to the State program may be made. The Office has adopted this suggestion and revised the final rule accordingly.

ARDF, TVRC and EPI did not object to the general concept of the proposed amendments, but did take issue with compressing the time periods available for public review. The Office did not intend by the proposed amendments to shorten the time available for public review and comment. The final rule has been revised to provide that the public hearing will be held no sooner than 40 days following publication of the notice.

The total time allowed for public comment will vary from 45 to 60 days and will be set on a case-by-case basis, depending on the circumstances. The Sierra Club objected to publishing only a summary of the contents of the State program. No amendment was proposed to this provision. The Office has always published a summary of the program and made copies of the full text available to interested persons. Therefore, no change is being made to this provision. EPI suggested that the proposed rules be clarified to require that the **Federal Register** notice state the specific OSM and State office locations where copies of the program shall be available. The Sierra Club and the State of Illinois suggested that the requirements for maintaining a file of comments for public inspection and

sending these comments to the State agency be retained in the final rules. The Office has adopted both of these suggestions in the final rules.

Finally, OSM proposed to amend existing § 732.12(b)(2) to allow States to submit revisions to State laws and regulations up to the date of the Secretary's decision, provided that adequate notice and an opportunity to comment on the revisions is provided to the public. EPI stated that there was no objection to this procedure so long as it is clear that the public is fully apprised of the specific language of a provision and afforded an opportunity to comment on it. It is the Department's policy to provide full public participation in the review of State programs and the public will be afforded notice and an opportunity to comment on any changes to the State program.

9. *Section 732.13 Decision by the Secretary.*

Section 732.13(f) contains procedures for the submission of a revised program to the Secretary within 60 days following an initial disapproval. This section was proposed to be amended, by reference to proposed §732.11(b)(2), to establish the same requirements for enactment of laws and regulations in program resubmissions as were proposed for program submissions. (See discussion above under §§ 732.11 and 732.12.) This proposal is being adopted today without further changes. Only one comment was received on § 732.13(f). The Sierra Club objected to the short time period for comment on a resubmitted program. Existing § 732.13(f) provides for a minimum 15-day public review and comment period. No change was proposed to this requirement. The Office notes that 15 days is the *minimum* time for comment. This period can be lengthened, and has been expanded when a longer period seemed necessary. Therefore, no change to the time period allowed for public review and comment has been made to § 732.13(f).

Further changes to § 732.13 were proposed to redesignate the last two sentences of § 732.13(f) as § 732.13(g) and to redesignate existing paragraph (g) as paragraph (h). No comments were received on these proposals and they are being adopted today as proposed.

Section 732.13(h) [proposed to be redesignated § 732.13(i)] provides that an approved State program becomes effective on the date of publication of the Secretary's decision in the **Federal Register.** This Section was proposed to be amended to allow the Secretary to specify a different effective date for administrative convenience. The Joint Committee, MARC and Kentucky supported the proposed amendment, and EPI did not object, but requested clarification of two points. First, EPI noted that approvals should not be made retroactive as this would have the effect of invalidating OSM enforcement actions taken under the interim program. Second, EPI suggested that a prospective approval be limited to a short period of time and that during such period until the State program is effective, OSM's authority to inspect and enforce under the interim program must be assured. As to the commenter's first point, no approval will be made retroactive. The effective date will be either the date of publication or a later date. On the second point, the Secretary intends to limit use of this provision to specifying an effective date within one to four months of the date of publication. After the approval and during the period until the program becomes effective, OSM enforcement of the interim program will continue.

Section 732.13(i) (to be redesignated as paragraph (j)) provides that a conditionally approved program terminates if the deficiencies have not been corrected by the dates set forth in the Secretary's decision. This subsection was proposed to be amended to provide that the Director must notify the Secretary that the State has failed to meet the conditions and must take any one or more of three actions available to him. Three commenters objected to the proposed amendment. The Joint Committee objected that the proposed procedures unfairly invade the province of the States by sanctioning Federal enforcement or interference with the State program. TVRC and EPI objected to the proposed amendments, asserting that the proposed procedures violate the intent of section 503 of the Act, are cumbersome, and will invite bureaucratic delays on the part of OSM and the States. These commenters suggested that if despite their objections the proposed amendment is adopted, it should be revised to require the Director to take action within a specific period of time, such as 10 days. OSM has adopted this suggestion and the final rule provides that the Director must initiate some action within 30 days. OSM does not agree with the comment that these procedures constitute unwarranted Federal interference in a State program. The Secretary is required by section 521(b) of the Act to enforce any permit condition and issue permits if after public notice and hearing, he finds that the State has failed to enforce all or part of its program effectively and has not demonstrated its intent and capability to do so. Further discussion of this point is provided under § 733.12

OSM does not agree that the options available to the Director are cumbersome or will result in delays. The purpose of providing the Director with alternative actions is to allow the flexibility to address a particular set of circumstances and avoid the unnecessarily harsh result of an automatic termination of the State's program. OSM believes that requiring the Director to notify the Secretary and take some action within 30 days assures that OSM is taking seriously its responsibility to see that the deficiencies are corrected promptly. Accordingly, the proposed rule is adopted as final today with the one change of providing a time period within which the Director must act.

10. *Section 732.14 Resubmission of State programs.*

Section 732.14 was recently amended in a separate rulemaking action (46 FR 50018–50019, October 8, 1981) as discussed in the preamble to § 731.12. As with § 731.12, OSM is amending § 732.14 to make it clear that there are no limitations on when a program may be submitted. The rationale for this amendment and response to comments addressing it are provided in the discussion above under § 731.12.

11. *Section 732.15 Criteria for approval of State programs.*

Section 732.15(b)(10) requires that State programs contain provisions for public participation "consistent with the public participation requirements of the Act and this chapter." In the December 4, 1981 proposed rules, OSM proposed to amend this provision so that State programs need not provide for citizen suits in State courts nor require that citizens have the right to accompany State inspectors onto the mine site when the inspection is the result of the citizen's request. These proposed amendments and others dealing with the award of costs were also included in proposed amendments to Subchapter L (Inspection and Enforcement), published on December 1, 1981 (46 FR 58464–58479). On April 21, 1982, OSM published a Notice of Intent (47 FR 17269) in which it announced its decision (1) to retain without change the citizens' rights provisions of 30 CFR 732.15(b)(10) and the preamble (44 FR 14965) to the existing rule, and (2) to defer final rulemaking action on two issues raised as a result of a petition by several western States regarding attorneys' fees. Similarly, OSM decided in that notice not to adopt the corresponding citizens' participation changes proposed for Subchapter L. OSM has decided that the discussion of its decisions and comments received on

both sets of proposed amendments concerning citizens' participation are better addressed in the context of the Subchapter L rulemaking. The preamble to the Subchapter L final rule will contain a further explanation of these decisions.

Section 732.15(b)(14) requires that a State "Provide for the protection of State employees of the regulatory authority in accordance with the protection afforded Federal employes under section 704 of the Act." Section 732.15 was proposed to be amended to remove this requirement as section 704 appears to be a requirement which Congress intended to impose only on the Federal government and not on the States. ARDF and EPI objected to removing this requirement from State programs. Both commenters noted that, contrary to OSM's assertion in the December 4 preamble that section 704 on its face addresses only Federal employees, section 704 is entitled "Protection of Government Employees." This, the commenters stated, is meant to apply the requirement in a generic sense to all "government" employees, both State and Federal. Second, the commenters argued that section 503 requires the inclusion in State programs of all provisions of the Act and of sanctions which meet the requirements of the Act, including the sanctions of section 704. On the commenters' first point, OSM disagrees that because section 704 is titled "Protection of Government Employees" it is intended to apply to States as well as the Federal government. Section 704 amends the United States Code to make murder of a Department of Interior employee punishable as a Federal crime and provides for criminal penalties for any person who interferes with *the Secretary or any of his agents.* The provision is clearly directed at Federal, not State, employees.

In regard to the commenters' second point, section 503(a)(2) requires State programs to provide sanctions "for violations of State laws, regulations, or conditions of permits concerning surface coal mining and reclamation operations, which sanctions shall meet the minimum requirements of this Act, including civil and criminal actions, forfeiture of bonds, suspensions, revocations, and withholding of permits, and the issuance of cease-and-desist orders by the State regulatory authority or its inspectors." Section 503 nowhere requires specifically that the State program include a provision similar to section 704. Those sanctions which are required to be included are enumerated in section 503(a)(2) and in section 521. Furthermore, all States have criminal codes which make murder, assault, and battery crimes punishable under State law. OSM believes that it was Congress' intent in enacting section 704 to provide for protection of Federal employees already available to State employees under existing State law. Therefore, the final rule published today removes this requirement.

Section 732.15(b)(15) was proposed to be amended to provide that judicial review of State program actions be in accordance with State law, as provided in section 526(e) of the Act. Four commenters, including ARDF, TVRC and EPI, objected to the proposed amendment. Six commenters, including MARC, Illinois and the Joint Committee, supported the proposed rule on the basis of the plain language of the Act. One of these commenters, the Sierra Club, also suggested that the final rule should specify, as does section 526(e), that judicial review in accordance with State law shall not be construed to limit the operation of the rights established in section 520 of the Act (Citizen suits).

In the preamble to the proposed rule, OSM specifically invited public comment on whether the proposed rule would be inconsistent with the requirement of section 521(d) of the Act that a State program include enforcement provisions which shall "incorporate sanctions no less stringent than those set forth in this section, and shall contain the same or similar procedural requirements relating thereto." One commenter who supported the proposed rule argued that the correct interpretation of section 521(d) is that it requires State programs to contain the same or similar procedures only for sanctions. Those commenters objecting to the proposed rule did so based on the interpretation that section 526(e) does not act as a limitation on the other substantive judicial review provisions of section 526. Rather, the commenters argued, section 526(e) was intended simply to preserve the State's authority to designate a court or courts of competent jurisdiction in accordance with State law to conduct such review. One commenter pointed to the legislative history of the Act, including the words of the primary sponsor, Representative Morris Udall, that the intent of Congress was to establish State programs, including specifications for "enforcement, administrative *and judicial* review * * *" 123 Cong. Rec. H7585 (1977) (emphasis added).

One commenter noted that this issue has already been considered in the litigation on the permanent program rules. In *In re: Permanent Surface Mining Regulation Litigation,* 14 ERC 1083 (D.D.C. 1980), the court considered a challenge by the Commonwealth of Virginia to the Secretary's rule requiring that States incorporate the judicial review provisions of section 526 into their programs. Specifically, Virginia challenged OSM's statement in the preamble that discourages trial *de novo* following administrative hearings on penalties and sanctions. Virginia argued that section 526(e) "allows a State to determine the form of judicial review appurtenant to enforcement actions." 14 ERC 1109. The court noted that section 526(b) requires that judicial review of administrative enforcement proceedings be based "solely on the record," and because section 521(d) requires State enforcement provisions to contain procedural requirements "the same or similar" to the Federal procedures, this language arguably prohibits *de novo* review. The court found that the Secretary had adopted a reasonable and flexible approach consonant with the Act in that if a State can demonstrate that its trial *de novo* review procedure does not unduly interfere with expeditious review and other values attendant to the enforcement program, then the Secretary will allow the procedure.

OSM believes that State programs must provide for judicial review of State *enforcement* actions in accordance with section 526, including review on the record in section 526(b) and the standards for granting temporary relief contained in section 526(c). OSM also believes that State programs are required to provide for judicial review of *other* State program actions (such as permitting, bonding, etc.) in accordance with State law. Accordingly, the final rule published today provides that judicial review of State program actions shall be in accordance with State law, except that judicial review of State enforcement actions shall be in accordance with section 526 of the Act. The final rule further provides that judicial review in accordance with State law shall not be construed to limit the operation of the "citizen suit" rights established in section 520 of the Act.

12. *Section 732.17 State program amendments.*

Section 732.17 establishes procedures for amending approved State programs. Existing § 732.17(f) requires the State regulatory authority to submit a written amendment within 60 days after notification by the Director that an amendment is required. Because of the difficult administrative burden this may impose on the States, § 732.17(f) was proposed to be amended to allow the State to submit either a proposed

written amendment, or in the case of a complex or lengthy amendment, a description of the proposed amendment, together with a timetable for enactment that is consistent with established administrative or legislative procedures in the State. Only one comment, from the State of Illinois, was received on this proposal and it supported the proposed rule. The final rule adopted today is thus unchanged from the proposed rule.

Section 732.17(g) provides that whenever the State wishes to initiate changes to the approved State program, the State shall submit the proposed changes to the Director for approval as an amendment. Several States suggested that this Section be amended to provide for some form of automatic approval if the proposed amendments involve only minor changes to State programs or are in response to changes in the corresponding Federal provisions. The December 4 proposed rule provided that proposed amendments shall be considered approved by the Director unless the Director notifies the State in writing within 60 days of receipt of the amendments that the amendments should be subject to the usual notice and comment procedures for processing State program amendments. Four commenters, the States of Wyoming, Illinois, Texas and Kentucky, supported the proposed rule and two of them suggested further changes. The Joint Committee supported the proposed rule provided it is limited to automatic approval of amendments which correspond to newly amended Federal regulations. Six commenters, including MARC, EPI, the Sierra Club, TVRC and ARDC, objected strenuously to the proposed rule.

Those commenters supporting the proposed rule who suggested further changes stated that 60 days is too long a time for the Director to decide whether the proposed amendments should be subject to the normal procedures. One commenter suggested a limit of 30 days. One of these commenters also suggested that the rule be amended to require the Director to notify the State in all cases whether or not the proposed amendments are minor. This concept was also endorsed by a number of those opposed to the proposed rule who stated that if the proposed rule should be adopted despite their objections, it should at least provide that all State program amendments must go through the normal process *unless* the Director affirmatively notifies the State that they are minor (an affirmative waiver process).

Those commenters objecting to the proposed rule did so on the following grounds. First, commenters objected that the proposed rule is contrary to section 503 of the Act which requires affirmative review and approval of State programs. Second, one commenter stated that allowing changes to a State program by means other than an approved program amendment subverts the goal of nationwide uniformity woven throughout the Act. Third, the commenters stated that the proposed rule violates the Act's public participation requirements of notice and an opportunity to comment. One noted that section 102(i) states that one of the chief purposes of the Act is to "assure that appropriate procedures are provided for the public participation in the * * * revision * * * of * * * programs established by * * * any State under this Act." Fourth, the commenters pointed out the ambiguity inherent in the word "minor" and how difficult it would be to define the word and reach any consensus on the definition. Two commenters pointed out that even some "minor amendments" could present issues or problems in a given State or in a particular situation which should be subject to public comment. Some commenters suggested how the word "minor" might be defined. These suggestions included: (1) Typographical errors, (2) tracking the language of a Federal statute or regulation, (3) changes in administrative designations or delegations of authority within a State's program, (4) amendments to the program narrative where there are no corresponding changes in the Act or rules, and (5) changes in the rules which yield the same or similar result as either the existing State or Federal rule. Finally, several commenters asserted that the existing procedures are not burdensome and stated that if the proposed State amendments are truly insignificant, simple notice and comment procedures should take no longer than the 60 days alloted under the proposed rule. These commenters agreed that there will be relatively routine amendments proposed in State programs which may not attract much public interest and for which the full panoply of established procedures may not be necessary. MARC urged that instead of adopting the proposed rule, the Office should consider a modified comment period with a shorter deadline.

OSM has carefully reviewed all of the comments received on this proposed rule and has determined that the public participation requirements of the Act and the rulemaking requirements of the Administrative Procedure Act preclude approval of amendments without some procedure for public notice and comment. OSM is mindful that the States may find the amendment process cumbersome or too lengthy. However, as discussed in the preamble to the proposed rules, § 732.17 was revised on January 23, 1981 (46 FR 7906–7909) to streamline, shorten and simplify the State program amendment process, partly in response to a petition from Governor Ed Herschler of Wyoming. The existing rules require the Office to publish in the **Federal Register** a notice of receipt of the amendment within ten days after receiving it. The notice must include a schedule for review and action, and provide a minimum public comment period of 30 days, except that a 15-day period may be provided where an amendment concerns changes in State law, regulations or the procedures contained in the approved program that are analogous to changes in the Act or the implementing regulations. The Director must approve or disapprove the amendment request within 30 days after the close of the public comment period and the decision approving or disapproving the program amendments must be published in the **Federal Register** within 10 days after the date of the Director's decision. This regulation thus provides for amendment processing in 65 to 80 days. OSM believes that these procedures are realistic time-frames for processing amendments given the necessity for public involvement. Accordingly, no amendments are being made to the amendment process in § 732.17(g).

EPI commented that OSM proposed to amend § 732.17(h)(6) to require action on an amendment request within 30 days after the close of the public comment period and suggested that OSM clarify that this requirement is a "directory" rather than a "mandatory" provision. No amendment was proposed to § 732.17(h)(6), except to remove the reference to the Regional Director. Accordingly, no further change is being made today.

Part 733—Maintenance of State Programs and Procedures for Substituting Federal Enforcement of State Programs and Withdrawing Approval of State Programs

13. *Section 733.4 Responsibilities.*

Section 733.4 is being removed for editorial clarity. The rationale for this change is the same as that provided under the preceding discussions of §§ 730.2 and 730.4.

14. *Section 733.12 Procedures for substituting Federal enforcement of State programs or withdrawing approval of State programs.*

A number of changes were proposed to the procedures for substituting Federal enforcement or withdrawing approval. The proposed regulations provided for:

(1) Inserting the word "any" before the phrase "necessary remedial actions" in § 733.12(b)(3) to make it clear that remedial action may not always be necessary;

(2) Amending § 733.12(c) to clarify that the informal conference may be used to discuss both the facts supporting the Director's assertions and the time period provided by the Director for the State to take any necessary remedial actions;

(3) In § 733.12(c), clarifying that the conference may be requested at any time, but not later than 15 days after the expiration of the time period for any remedial action;

(4) In § 733.12(d), amending the last line by adding the phrase "or as modified at the informal conference held under paragraph (c) of this section," to allow for possible modification of the time period for the State to complete remedial actions;

(5) Revising the language of § 733.12(e) to clarify when Federal enforcement of a State program or the withdrawal of approval of a State program becomes necessary;

(6) Further defining the broad use of the word "enforcement" in § 733.12(f)(2); and

(7) In § 733.12(f)(2)(ii), specifying that the Office would become the regulatory authority for purposes of administering and implementing the permit requirements of the State program in the event the Director issues new regulations affecting existing or new permits.

The Sierra Club objected to the lack of effective time limits in the existing Section and the possibilities for delay or failure to remedy defects if, as a result of the informal conference, an extension of time is granted. OSM disagrees that specific time limits are necessary and believes that the regulation should provide sufficient flexibility to enable resolution of problems before resorting to the public hearing procedures in § 733.12(d). The intent of the December 4 proposed amendment to § 733.12(c) was to clarify the somewhat confusing language concerning when an informal conference may be requested. The preamble to the permanent program rules (44 FR 14968, March 13, 1979) provided that an informal conference may be held within 15 days of a receipt of notification and a second informal conference may be held within 15 days after the time period for remedial action expires. The rule which is finalized today provides that an informal conference may be requested at any time after receipt of notification, but in no case later than 15 days after the time period for remedial action expires.

TVRC objected to the clarification of § 733.12(e) and stated that it impermissibly changes the meaning of the paragraph. The commenter pointed out that under section 521(b) of the Act, the State must demonstrate its capability to enforce and its intent to do so. OSM agrees with this comment and the final rule has been revised to use the language from section 521(b) suggested by the commenter.

TVRC supported the clarification in § 733.12(f)(2)(ii) of OSM's permitting authority when OSM assumes enforcement of a State program. The Joint Committee, Illinois, and MARC objected to the proposed amendment. The Joint Committee stated that the Office has confused Federal enforcement of a State program with institution of a Federal program for a State, and asserted that the Act distinguishes between Federal enforcement of an adequate and approved State program, and the substitution of a Federal program for a State program which is found to be *substantively inadequate* during Federal oversight of the State's administration of its program. The commenters contend that for OSM to take over the entire permitting process under the guise of substituting Federal enforcement is in effect an illegal implementation of a Federal program. The commenters also argue that, unless a Federal program is implemented, the Office has no authority to promulgate regulations for an individual State nor does it have the authority to issue permits.

OSM agrees that the Act distinguishes between Federal enforcement of a State program and the withdrawal of approval and substitution of a Federal program. After careful consideration of the points raised by the commenters, OSM has concluded that the proposed amendments do not clarify the language of § 733.12(f)(2)(ii). Accordingly, the proposed amendments are not being adopted today. OSM believes that the existing regulation provides sufficient clarity in the event of substituted Federal enforcement. Moreover, such enforcement would not be instituted until after completion of the thorough procedures for public notice and hearing and a final determination by the Director pursuant to § 733.12(b)–(e).

Part 736—Federal Program for a State

15. *Section 736.2 Objectives, § 736.3 Responsibility and § 736.4 Authority.*

Sections 736.2, 736.3 and 736.4 are being removed for editorial clarity. The rationale for this change is the same as that provided in the discussion above for §§ 730.2 and 730.4.

16. *Section 736.11 General procedural requirements.*

This Section was proposed to be amended to remove the reference to June 3, 1980, the original date by which the Director was to promulgate a Federal program for a State which had failed to submit a program or resubmit an acceptable program. The Sierra Club objected to the proposed change, stating that it allows the Secretary to indefinitely postpone or abdicate his obligation to implement Federal programs where necessary. OSM disagrees that this is the intent or that such a result will occur. OSM has reiterated on numerous occasions, most recently in the preamble to the December 4 rules (See 46 FR 59484), its commitment to timely implementation of the permanent program and its intent to develop and implement Federal programs for States not wishing or failing to assume jurisdiction. Therefore, the proposed rule is adopted today without further change.

17. *Section 736.12 Public notice requirements and § 736.13 Public comment.*

These Sections were proposed to be amended to provide that for a revision to a Federal program, holding a public hearing would be discretionary. The language of the proposed rule provided that a hearing would be held "if sufficient interest is demonstrated." The preamble to the proposed rule explained that the opportunity to request a public hearing would be provided and if such a request were made, a public hearing would be held.

TVRC and EPI suggested that while the preamble is clear, the wording of the proposed regulation is ambiguous and should be clarified. OSM has adopted this suggestion and the final rule specifies that a public hearing will be held if one is requested.

18. *Section 736.22 Contents of a Federal program.*

This Section was proposed to be amended to provide that Federal programs covering only coal exploration could be limited to only those provisions necessary for an effective program. Both the Joint Committee and MARC supported the proposed amendment and it is being adopted today without further amendment.

19. *Section 736.23 Federal program effect on State law or regulations.*

The existing regulation provides that State statutes or regulations shall be

preempted and superseded by the Federal program insofar as they are "inconsistent, less stringent or preclude compliance with the Act and the Federal program." This provision, which is based on section 504(g) of the Act, was proposed to be amended to be consistent with changes at §§ 730.5 and 730.11, as discussed above under those Sections. The amendment would reflect the requirement of section 504(g) that State statutes or regulations shall be superseded "insofar as they interfere with the achievement of the purposes and the requirements of the Act and the Federal program."

TVRC and EPI objected to the proposed amendment, with EPI commenting that the proposed language is too vague. EPI asserted that the preamble explanation that the amendment was proposed to make the rules consistent with changes at 30 CFR 730.5 and 780.11 makes no sense, since the new definition of "consistent with" is not reflected in the proposed change. EPI also questioned why the proposed wording of § 736.23 is not identical to the proposed wording of § 730.11.

The language proposed for § 736.23 exactly tracks the language of section 504(g) of the Act. However, as noted in the preamble to the proposed rule, section 504(g) must be read in light of section 505(a) of the Act which further requires that no State law or regulation be superseded except insofar as the State law or regulation *is inconsistent* with the provisions of the Act (emphasis added). OSM believes that there is only one standard for superseding a State provision, set forth in section 505(a), and is therefore adopting EPI's suggestion that the language be clarified to apply the "consistent with" standard. The final rule for § 736.23 provides, as does § 730.11, that no State law or regulation shall be superseded except to the extent that the law or regulation is inconsistent with the requirements of the Act or this Chapter.

General Comments.

20. The Illinois South Project (ISP) objected to the proposed deletion of all references to the Regional Director or Regional Office wherever appropriate to reflect the reorganization of OSM ordered by the Secretary on May 20, 1981. ISP contends that such a deletion would be at odds with testimony given by the OSM Deputy Director before the House Subcommittee on Energy and the Environment that the Regional Offices would not be abandoned or eliminated until all the States in a particular region receive primacy. ISP asked the following four specific questions: (1) Regardless of State program approvals, are Regional Offices being closed and reorganization taking place? (2) Does the proposed rule indicate that pending State program submittals have been predisposed as approvable? (3) If the rule becomes final prior to a given State receiving primacy, will the Secretary ignore all comments submitted to and by a Regional Director? and (4) If a State does not receive primacy, will this proposed rule be abandoned so that OSM can comport with the assurances given the House Subcommittee?

OSM has, through timely communications and briefings, kept the Subcommittee and its staff informed of all planned changes well ahead of their execution. The proposed deletion of references to Regional Offices in no way violates the commitments made by OSM during the course of previous hearings.

The purpose of the proposed language changes was to reflect more accurately the organizational structure of OSM set out in the reorganization plan approved by the Secretary and to provide for an orderly transition to the new structure. The plan calls for the establishment of State Offices and the phasing out of Regional Offices. However, a Regional Office will not be abolished until the substantive review of all State programs in that Region is completed. All Regional personnel assigned to review State programs will remain in their current assignments until the review is complete. All comments to and by a Regional Director will be considered by the Director before formulating his recommendation to the Secretary for a final decision. The Secretary is not predisposed to either approve or disapprove any of the seven State programs currently under review. Should a State program be disapproved, the Office is required to develop and implement a Federal program for that State. If the State wishes to submit another program, it may do so under the final rules as amended today.

21. TVRC and EPI commented that these proposed regulations, together with other proposed changes to the permanent program regulations, constitute a major Federal action under the National Environmental Policy Act and section 702(d) of the Act requiring preparation of a new environmental statement or a supplement to the existing statement prepared on the original permanent program regulations in 1979.

OSM has prepared a draft and final environmental assessment (EA) on this rulemaking which concludes that this rule will not significantly affect the quality of the human environment. In addition, OSM is preparing an environmental assessment of the cumulative effects of this rulemaking and other related rulemakings.

IV. Procedural Matters

Federal Paperwork Reduction Act

The information collection requirements in existing 30 CFR Subchapter C were approved by the Office of Management and Budget (OBM) under 44 U.S.C. 3507 and assigned clearance numbers 1029–0022, 1029–0023, 1029–0024 and 1029–0025. Those approvals were identified in "notes" at the introductions to 30 CFR Parts 730, 731, 732 and 733 under the old numbers R0591, R0592, R0593 and R0594 (all under Number B–190462).

OSM is deleting those "notes" and codifying the OMB approvals under a new section 10 in each of those parts that contain the information collection requirements. OSM requested OMB reapproval of the information collection requirements in Parts 732 and 733. OSM did not request reapproval of the information collection requirements in Parts 730 and 731 because the information will not be required of more than 10 respondents.

The information required by 30 CFR Part 732 is needed to afford a State the opportunity to resubmit, modify or amend its State program and will be used by OSM to determine whether the program meets the provisions of the Act. The information required by 30 CFR Part 733 is needed by OSM to verify the allegations in a citizen request to evaluate a State program and to determine whether an evaluation should be undertaken. The obligation to provide the information required by 30 CFR Parts 732 and 733 is mandatory.

National Environmental Policy Act

OSM has prepared a final environmental assessment (EA) on this rule that reaches the conclusion that this rule should not significantly affect the quality of the human environment. The EA and the Finding of No Significant Impact are on file in the OSM Administrative Record Office, at the address listed above under "ADDRESSES." OSM has also prepared an EA on the cumulative impacts on the human environment of this rulemaking and related rulemakings that reaches the same conclusion with respect to this rule.

Executive Order 12291

The Department of the Interior (DOI) has examined these proposed rules according to the criteria of Executive Order 12291 (February 17, 1981). OSM has determined that these are not major

rules and do not require a regulatory impact analysis because they are amendments to established procedures that all coal-producing States must follow in submitting State programs that meet certain minimum Federal Standards. The amendments do not significantly change any substantive requirements.

Regulatory Flexibility Act

The DOI has also determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that these rules will not have a significant economic impact on a substantial number of small entities. The rules are procedural requirements for submission of State regulatory programs and as such impact only State regulatory agencies and OSM.

Justification for Immediate Effective Date

The Department of the Interior finds, in accordance with section 553(d)(3) of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), that good cause exists to make this final rule effective upon publication. Seven States have resubmitted programs which are currently being reviewed by OSM. OSM wants to avoid any delay in reviewing State programs and these seven States could benefit immediately from the final rules which remove certain requirements and amend others dealing with the review process.

List of Subjects

30 CFR Parts 730, 731, and 736

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

30 CFR Parts 732 and 733

Coal mining, Intergovernmental relations, Reporting requirements, Surface mining, Underground mining.

For the reasons set forth in the preamble, Parts 730, 731, 732, 733 and 736 of Chapter VII, Title 30 of the Code of Federal Regulations are amended as set forth herein.

Dated: June 10, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

PART 730—GENERAL REQUIREMENTS

1. The authority for Part 730 is revised to read as follows:

Authority: Secs. 501(b), 503, 504, 505 and 521 of Pub. L. 95–87 (30 U.S.C. 1251(b), 1253, 1254, 1255 and 1271).

2. Part 730 is amended by removing the "Note" paragraph following the Source note.

§ 730.2 [Removed]

3. Part 730 is amended by removing § 730.2.

§ 730.4 [Removed]

4. Part 730 is amended by removing § 730.4.

5. Section 730.11 is amended by revising paragraph (a) to read as follows:

§ 730.11 Inconsistent and more stringent State laws and regulations.

(a) No State law or regulation shall be superseded by any provision of the Act or the regulations of this chapter, except to the extent that the State law or regulation is inconsistent with, or precludes implementation of, requirements of the Act or this chapter. The Director shall publish a notice of proposed action in the **Federal Register** setting forth the text or a summary of any State law or regulation initially determined by him to be inconsistent with the Act or this chapter. The notice shall provide 30 days for public comment. Following the close of the public comment period, the Director shall make a final determination which shall be published in the **Federal Register.**

* * * * *

PART 731—SUBMISSION OF STATE PROGRAMS

6. The authority for Part 731 is revised to read as follows:

Authority: Secs. 501(b) and 503 of Pub. L. 95–87 (30 U.S.C. 1251(b) and 1253).

7. Part 731 is amended by removing the "Note" paragraph following the source note.

§ 731.11 [Removed]

8. Part 731 is amended by removing § 731.11.

9. Section 731.12 is revised to read as follows:

§ 731.12 Submission of State programs.

Each State that wishes to regulate coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands within its boundaries shall submit three copies of a proposed program to the Director. A State may submit a proposed program at any time. The State shall retain sufficient copies of the program for public inspection under § 732.11(a).

10. Section 731.14 is amended by revising paragraphs (c), (e), the introductory text to paragraph (g), paragraphs (g)(16), (h) and (i), and removing paragraphs (j)–(p) to read as follows:

§ 731.14 Content requirements for program submissions.

* * * * *

(c)(1) A legal opinion from the Attorney General of the State or chief legal officer of the State regulatory authority stating that the State has the legal authority under existing laws and regulations, or will have authority under amendments to laws and regulations which are in the process of enactment, to implement, administer and enforce the program and to regulate coal exploration and surface coal mining and reclamation operations in accordance with the Act and consistent with this chapter.

(2) A section-by-section comparison of the State's law and regulations and amendments which are in the process of enactment with the Act and this chapter, explaining any differences and their legal effect;

* * * * *

(e)(1) A description, including appropriate charts, of the existing and proposed structural organization of the agency designated as the regulatory authority and of other agencies or applicable divisions or departments of those agencies which will have duties in the State program. The description must indicate the coordination system between these agencies and lines of authority and the staffing functions within each agency and between agencies.

(2) A summary table of the existing and proposed State program staff, showing job functions, title and required job experience and training, and a description of how the staffing proposed for the State program will be adequate to carry out the functions, including permitting, inspection and legal actions for the projected workload to ensure that coal exploration and surface coal mining and reclamation operations will be regulated in accordance with the requirements of the Act and this chapter;

* * * * *

(g) Narrative descriptions, flow charts or other appropriate documents of the proposed systems for * * *

(16) Providing a small operator assistance program.

(h) Statistical information describing coal exploration and surface coal mining and reclamation operations in the State, adequate to demonstrate that the provisions of the State program and the resources available to it are sufficient when compared to the current and

projected coal mining activities in the State;

(i) A description of the actual capital and operating budget, including source of funds, used or proposed to be used to administer the State program for the prior and current fiscal years, and the projected annual budget for each of the next two fiscal years, assuming supplemental funding pursuant to an approved State program and grants under 30 CFR Part 735; and a description of the existing and proposed physical resources for use in the program.

PART 732—PROCEDURE AND CRITERIA FOR APPROVAL OR DISAPPROVAL OF STATE PROGRAM SUBMISSIONS

11. The authority for Part 732 is revised to read as follows:

Authority: Secs. 501(b), 503, 504, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 521, and 522 (30 U.S.C. 1251(b), 1253, 1254, 1256, 1257, 1258, 1259, 1260, 1261, 1262, 1263, 1264, 1265, 1266, 1267, 1268, 1269, 1271 and 1272).

12. Part 732 is amended by removing the "Note" paragraph following the Source note.

§732.4 [Removed]

13. Part 732 is amended by removing § 732.4.

14. Part 732 is amended by adding a new § 732.10 as follows:

§ 732.10 Information collection.

The information collection requirements contained in 30 CFR 732.16(a) and 732.17(b) have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0024. The information is needed to afford a State the opportunity to modify or amend its State program and will be used by OSM to determine whether the amendment meets the provisions of the Act.

15. Section 732.11 is revised to read as follows:

§ 732.11 Review by the Director.

(a) Immediately upon receipt of a proposed State program, the Director shall publish in the **Federal Register** and in a newspaper of general circulation in the State a notice meeting the following requirements:

(1) The notice shall include the date of the submission of the program and a summary of the program's contents. It shall also indicate that the full text of the program submission is available for review during regular business hours at the OSM State Office and at the central office and each field office of the State agency responsible for the submission.

(2) The notice shall afford interested persons an opportunity to submit written comments. The comment period shall end on a date following the public hearing scheduled to be held under paragraph (b) of this section and that date shall be specified in the notice.

(3) The notice shall identify the time and location within the State at which the Office will hold the public hearing under paragraph (b) of this section.

(b) A public hearing shall be held by the Director no sooner than 40 days following the publication of the notice required by paragraph (a) of this section. The hearing shall be informal and follow legislative procedures.

(1) The format and the rules of procedure for each hearing shall be determined by the Director and published in the **Federal Register** notice required by paragraph (a).

(2) When the program is submitted, State laws and regulations must be submitted in their final form or in the form in which they are expected to become final. Should revisions to any of the laws or regulations be necessary during the public comment period or before the Secretary's decision, OSM will give notice and provide an opportunity for review and comment. State laws and regulations must be enacted by the date of program approval.

(c) Copies of written comments shall be available for public inspection and copying at the OSM State Office and the offices of the State agency responsible for submitting the program.

(d) The Director shall consider all relevant information, including information obtained from public hearings and comments, and shall recommend to the Secretary that the program be approved or disapproved, in whole or in part. The recommended decision shall specify the reasons for the recommendation.

§ 732.12 [Removed]

16. Part 732 is amended by removing § 732.12.

17. Section 732.13 is amended by revising paragraphs (f), (g), (h), and (i), and adding paragraph (j) to read as follows:

§ 732.13 Decision by the Secretary.

* * * * *

(f) If the Secretary disapproves a program, in whole or in part, the State shall have 60 days from the date of publication of the **Federal Register** notice to submit a revised program to the Director for reconsideration. The procedures of § 732.11 will then apply to the revised State program, except that the time allowed between publication of notice and the public hearing for public review and comment may be shortened to not less than 15 days.

(g) The Secretary shall either approve or disapprove the revised program within 60 days from the date of submission of the revised program and publish that decision and reasons for the decision in the **Federal Register**. A decision disapproving the revised program constitutes the final decision by the Department disapproving that program in its entirety.

(h) If a revised State program is not submitted by a State within 60 days of an initial disapproval under paragraph (a) of this section, the Secretary shall disapprove the initial program submission in its entirety. This decision shall constitute the final decision by the Secretary. This decision and the basis for it shall be published in the **Federal Register**.

(i) A decision by the Secretary approving a program submission establishes a State program for the State which submitted it and constitutes the final decision by the Department. The State program becomes effective on the date of publication of the decision in the **Federal Register** unless otherwise specified by the Secretary. The Secretary shall not give his approval unless the program submission can be approved in whole, except as provided in paragraph (j) of this section.

(j) The Secretary may conditionally approve a State program where the program is found to have minor deficiencies, provided:

(1) The deficiencies are of such a size and nature so as to render no part of a proposed State program incomplete;

(2) The State has initiated and is actively proceeding with steps to correct the deficiencies;

(3) The State agrees in writing to correct such deficiencies within a time established by the Secretary and stated in the conditional approval; and

(4) If the deficiencies have not been corrected by the date set forth in the Secretary's decision under paragraph (j)(3) of this section, the Director shall notify the Secretary that the deficiencies have not been corrected and shall within 30 days—

(i) Withdraw approval of the State program in whole or in part, and specify the extent to which approval of the State program is being withdrawn;

(ii) Substitute direct Federal enforcement of those portions of the permanent regulatory program that the State has failed to implement;

(iii) Initiate procedures in accordance with Parts 733 and 736 of this chapter to withdraw State program approval and

implement a Federal program for the State, including specifying necessary remedial actions to correct continued deficiencies; or

(iv) Take any combination of actions under paragraphs (j)(4) and (i) through (iii) of this section.

18. Section 732.14 is revised to read as follows:

§ 732.14 Resubmission of State programs.

If, by a final decision, the program is disapproved, the State may submit another proposed State program to the Director at any time. Resubmitted State programs must meet the requirements of § 731.14 and will be acted upon pursuant to §§ 732.11–732.16.

19. Section 732.15 is amended by revising paragraphs (b)(14) and (b)(15) to read as follows:

§ 732.15 Criteria for approval or disapproval of State programs.

* * * * *

(b) * * *

(14) Provide for administrative review of State program actions, in accordance with section 525 of the Act and Subchapter L of this chapter;

(15) Provide for judicial review of State program actions in accordance with State law, as provided in section 526(e) of the Act, except that judicial review of State enforcement actions shall be in accordance with section 526 of the Act. Judicial review in accordance with State law shall not be construed to limit the operation of the rights established in section 520 of the Act, except as provided in that section.

* * * * *

20. Section 732.17 is amended by revising paragraphs (f), (h)(5) and (h)(6) to read as follows:

§ 732.17 State program amendments.

* * * * *

(f)(1) If the Director determines that a State program amendment is required, the State regulatory authority shall, within 60 days after notification of that decision, submit to the Director either a proposed written amendment or a description of an amendment to be proposed that meets the requirements of the Act and this chapter, and a timetable for enactment which is consistent with established administrative or legislative procedures in the State.

(2) If the State regulatory authority does not submit the proposed amendment or description and the timetable for enactment within 60 days from the receipt of the notice, or does not subsequently comply with the submitted timetable, or if the amendment is not approved under this Section, the Director shall begin proceedings under 30 CFR Part 733 to either enforce that part of the State program affected or withdraw approval, in whole or in part, of the State program and implement a Federal program.

* * * * *

(h) * * *

(5) Upon the close of the public comment period, the transcript, written presentations, exhibits and copies of all comments shall be transmitted to the Director.

(6) The Director shall consider all relevant information, including any information obtained from public hearings and comments, and shall approve or disapprove the amendment request within 30 days after the close of the public comment period established in accordance with § 732.17(h)(3).

* * * * *

PART 733—MAINTENANCE OF STATE PROGRAMS AND PROCEDURES FOR SUBSTITUTING FEDERAL ENFORCEMENT OF STATE PROGRAMS AND WITHDRAWING APPROVAL OF STATE PROGRAMS

21. The authority for Part 733 is revised to read as follows:

Authority: Secs. 501(b), 503, 504, 517 and 521 of Pub. L. 95–87 (30 U.S.C. 1251(b), 1253, 1254, 1267 and 1271).

22. Part 733 is amended by removing the "NOTE" paragraph following the Source note.

§ 733.4 [Removed]

23. Part 733 is amended by removing § 733.4.

24. Part 733 is amended by adding a new § 733.10 as follows:

§ 733.10 Information collection.

The information collection requirement contained in 30 CFR 733.12(a)(2) has been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0025. The information required is needed by OSM to verify the allegations in a citizen request to evaluate a State program and to determine whether an evaluation should be undertaken.

25. Section 733.12 is amended by revising paragraphs (b)(3), (c), and (d) and the introductory text of paragraph (e) to read as follows:

§ 733.12 Procedures for substituting Federal enforcement of State programs or withdrawing approval of State programs.

* * * * *

(b) * * *

(3) Specify the time period for the State regulatory authority to accomplish any necessary remedial actions.

(c) The Director shall provide the State regulatory authority an opportunity for an informal conference if the State requests an informal conference within 15 days after the expiration of the time period specified in paragraph (b)(3) of this section. The informal conference may pertain to the facts or the time period for accomplishing remedial actions as specified by the Director's notification.

(d) If an informal conference is not held under paragraph (c) of this section, or if, following such a conference, the Director still has reason to believe that the State is failing to adequately implement, administer, maintain or enforce a part or all of a State program, the Director shall give notice to the State and to the public, specifying the basis for that belief and shall hold a public hearing in the State within 30 days of the expiration of the time period specified in paragraph (b)(3) of this section or as modified at the informal conference held under paragraph (c) of this section.

(e) The State will continue to enforce its approved program unless upon completion of the hearing under paragraph (d) of this section and based upon the review of all available information, including the hearing transcript, written presentations and written comments, the Director finds that the State has failed to implement, administer, maintain or enforce effectively all or part of its approved State program. If the Director finds further that the State has not demonstrated its capability and intent to administer the State program, the Director shall either—

* * * * *

26. Section 733.13 is amended by revising the section heading to read as follows:

§ 733.13 Factors to be considered in deciding whether to substitute Federal enforcement for State programs or to withdraw approval of State programs.

* * * * *

PART 736—FEDERAL PROGRAM FOR A STATE

27. The authority for Part 736 is revised to read as follows:

Authority: Secs. 501, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 521, 522, 525 and 705 of Pub. L. 95–87 (30 U.S.C. 1251, 1253–1269, 1271, 1272, 1275 and 1295).

§ 736.2 [Removed]

28. Part 736 is amended by removing § 736.2.

§ 736.3 [Removed]

29. Part 736 is amended by removing § 736.3.

§ 736.4 [Removed]

30. Part 736 is amended by removing § 736.4.

31. Section 736.11 is amended by revising paragraph (a)(1)(i) to read as follows:

§ 736.11 General procedural requirements.

(a) *Promulgation.* (1) The Director shall promulgate and, subject to the provisions of this part, implement a Federal program for a State if the Director reasonably expects coal exploration or surface coal mining and reclamation operations to exist on non-Federal and non-Indian lands within the State at any time before June 1985, and the State fails to—

(i) Submit a State program for regulation of coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands within that State to the Director as provided in 30 CFR 731.12; or

* * * * *

32. Section 736.12 is amended by revising paragraphs (a)(4) and (a)(5) to read as follows:

§ 736.12 Public notice requirements.

* * * * *

(a) * * *

(4) The location of the OSM office and the public office in the capital city of the State where the text of the proposed program or revision and any supporting information may be reviewed or copied;

(5) If applicable, the date, time and location in the State where the Office will hold at least one public hearing under the supervision of the Director;

* * * * *

33. Section 736.13 is amended by revising paragraphs (c), (e) and (f) to read as follows:

§ 736.13 Public comment.

* * * * *

(c) Before promulgation of a Federal program for a State, the Director shall hold at least one public hearing within the State for the purpose of affording interested persons an opportunity to submit data and comments on the proposed Federal program. In the case of a revised Federal program for a State, the opportunity to request a hearing will be provided and if one is requested, a public hearing will be held. The hearings shall follow legislative procedures and include a presentation of the proposed program or revision by the Director and the compilation of an open record of the hearing.

* * * * *

(e) Upon completion of the hearings, the hearing transcripts, exhibits submitted, written presentations and copies of all public comments shall be transmitted to the Director.

(f) Copies of all written comments received and the transcripts of the public hearing shall be made available for public inspection and copying at the appropriate OSM office and at a public office in the capital city of the State.

34. Section 736.22 is amended by revising paragraph (b) to read as follows:

§ 736.22 Contents of a Federal program.

* * * * *

(b)(1) Any Federal program for a State, including appropriate portions of a partial Federal program which is promulgated or revised by the Director, shall provide for Federal regulation of coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands within the State in accordance with the requirements of the Act and this Chapter, including, at a minimum, the following provisions: Parts 700, 701, 707, 760, 761, 762, 764, 765, 842, 843, 845, Subchapters G, J, K, and M.

(2) An exception to these requirements may be made where there is exploration but no mining in the State. In such a case, the Federal program which is promulgated must regulate coal exploration, but not mining, and shall include, at a minimum, the applicable sections of the following provisions: Parts 700, 701, 761, 762, 764, 770, 776, 787, 815, 842, 843 and 845.

* * * * *

35. Section 736.23 is amended by revising paragraph (a) to read as follows:

§ 736.23 Federal program effect on State law or regulations.

(a) Whenever a Federal program is promulgated or revised for a State, any statutes or regulations of the State regulating coal exploration or surface coal mining and reclamation operations subject to the Act shall be preempted and superseded by the Federal program insofar as they are inconsistent with the requirements of the Act and the Federal program. In promulgating or revising a Federal program for a State, the Director shall set forth in the **Federal Register** any State statute or regulation which is preempted and superseded by the Federal program.

* * * * *

§§ 732.13, 732.17, and 736.13 [Amended]

36. Parts 732 and 736 are amended by removing the words "Regional Director" and inserting in their place the word "Director" in the following paragraphs:

(a) Section 732.13(d);

(b) Section 732.17(h)(1), (h)(2) and (h)(4);

(c) Section 736.13 (b) and (d).

[FR Doc. 82-16490 Filed 6-16-82; 8:45 am]

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Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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Rules and Regulations

Federal Register
Vol. 47, No. 118
Friday, June 18, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

MERIT SYSTEMS PROTECTION BOARD

5 CFR Parts 1260 and 1261

Freedom of Information Act and Privacy Act Fees and Appeals

AGENCY: Office of the Special Counsel, MSPB.

ACTION: Final rule.

SUMMARY: These amendments to regulations of the Office of the Special Counsel set forth realistic charges for photocopy and search fees incurred in granting Freedom of Information Act requests and for photocopy fees incurred in granting Privacy Act requests, limit the time period within which an initial denial may be appealed, refer to addresses of field offices and make other technical changes.

EFFECTIVE DATE: June 15, 1982.

FOR FURTHER INFORMATION: Carolyn E. Galbreath, Office of the Special Counsel (202–653–7305).

SUPPLEMENTARY INFORMATION: Proposed amendments to the regulations of the Special Counsel concerning charges for photocopy and search fees incurred in granting Freedom of Information Act requests and for photocopy fees incurred in granting Privacy Act requests, limiting the time period within which an initial denial may be appealed and making other technical changes were published in the **Federal Register** on February 26, 1982, (47 FR 8367).

Comments were received from one federal employee union. The union objected to the $0.50 per page photocopying charge "where copies of records have already been available to an individual in the course of agency proceedings or from any other source." We have concluded that such additional charge where copies have previously been provided is unnecessary. Accordingly, we have deleted the $0.50 per page photocopying charge from these final regulations.

The federal employee union also expressed concern that no records were to be released prior to payment of fees on the basis that some requesters can guarantee payment but must follow time-consuming administrative procedures to pay such fees. This concern is met by a new provision for delayed payment of fees and waiver of fees in § 1260.4(d).

The union further objected to the imposition of a 30-day time limit for filing an appeal from an initial denial on the basis that a time limit would not enable an individual to fully exercise his rights. Many agencies have a similar time limit for filing an appeal. Such a time limit is fair, reasonable, efficient and administratively necessary. Further, we believe setting a time limit for filing an appeal will encourage the prompt exercise of individual rights by discouraging procrastination. The 30-day time limit for filing an appeal has been retained. However, these rules require advising the requester of his right to appeal a denial.

Additional technical changes have been made. The authority citation in Part 1260 has been corrected to reflect the Freedom of Information Act, 5 U.S.C. 552, as the authority for issuance of the regulations in Part 1260. The procedures for filing FOIA requests have been refined by adding the position of the person to whom such requests should be addressed in writing and referring to the office addresses listed in § 1253.1.

Regulatory Flexibility Act

Pursuant to 5 U.S.C. 605(b), the Special Counsel certifies that he has determined that regulations of the Office of the Special Counsel do not have a significant impact on a substantial number of small entities, including small businesses, small organizations and small governmental jurisdictions.

Accordingly, Parts 1260 and 1261 of Subchapter B of Chapter II of Title 5, Code of Federal Regulations, are amended as follows:

PART 1260—PUBLIC INFORMATION

1. The authority citation for Part 1260 is revised to read as follows:

Authority: 5 U.S.C. 552.

2. Section 1260.3 of Part 1260 is revised to read as follows:

§ 1260.3 Procedures for obtaining records.

Requests for records shall be made in writing. Except in unusual circumstances, a determination shall be made on a request within 10 working days. Requests should be addressed to Office of the Special Counsel at the appropriate address as listed in § 1253.1. Requests must be clearly and prominently marked "Freedom of Information Act Request" on both the envelope and the letter.

3. Paragraphs (a) and (c) of § 1260.4 of Part 1260 are revised and a new paragraph (d) is added to read as follows:

§ 1260.4 Service charge for information.

(a) Requests for records of the Office of the Special Counsel are subject to the following fees for search and duplication:

Photocopies per page, $0.25. Manual record search: $2.50 per quarter hour if conducted by a clerical employee; $5.00 per quarter hour if conducted by a professional or managerial employee.

* * * * *

(c) Records will not be released until the fees have been received unless delayed payment or waiver of fees is authorized in accordance with paragraph (d) of this section.

(d) The Associate or Assistant Special Counsel, Prosecution Division, or the Associate or Assistant Special Counsel in a field office may permit delayed payment of fees or waiver of fees in exceptional circumstances when he determines good cause exists for delaying payment or that a waiver of fees will primarily benefit the general public.

4. Section 1260.5 of Part 1260, relating to appeals under the Freedom of Information Act, is revised to read as follows:

§ 1260.5 Appeals.

Any denial, in whole or in part, of a request for records of the Office of the Special Counsel shall advise the requester of his right to appeal the denial to the Special Counsel or his designee. The requester shall submit his appeal in writing within 30 days of the denial. The appeal shall be addressed to the Special Counsel at 1120 Vermont Avenue, NW., Washington, D.C. 20419. Except in unusual circumstances, the Special Counsel or his designee shall

make a determination on the appeal within 20 working days after it is received. When a request is denied on appeal, the requester shall be advised of his right to seek judicial review.

PART 1261—PRIVACY

5. Section 1261.5 of Part 1261, relating to appeals under the Privacy Act, is revised to read as follows:

§ 1261.5 Appeals.

When a request for access or amendment has been denied, in whole or in part, the requester shall be advised of his right to appeal to the Special Counsel or his designee. The requester shall submit his appeal in writing within 30 days of the denial. A final determination on the appeal shall be issued within 30 days (excluding Saturdays, Sundays and legal holidays) after receipt. Where unusual circumstances prevent a determination within that time period, the time for a determination may be extended an additional 30 working days after the requesting individual has been advised in writing of the reasons for the extension and the estimated date a determination will be made. Where the final determination denies a request for amendment, the requesting individual shall be notified of his right to file a concise statement of reasons for disagreeing with the final determination. A copy of the statement shall be appended to the disputed record and provided to persons to whom the record is disclosed and to prior known recipients of the record. The Office of the Special Counsel may also attach to the statement a concise account of its reasons for not making the amendments requested. The final determination shall contain a notice of the right to judicial review.

Dated: June 14, 1982

Alex Kozinski,

Special Counsel.

[FR Doc. 82-16415 Filed 6-17-82; 8:45 am]
BILLING CODE 7400-02-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 364]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period June 20–26, 1982. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: June 20, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 7, 1981. The committee met again publicly on June 15, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is moderate.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Agricultural Marketing Service, Marketing Agreements and Orders, California, Arizona, Lemons.

Section 910.664 is added as follows:

§ 910.664 Lemon Regulation 364.

The quantity of lemons grown in California and Arizona which may be handled during the period June 20, 1982, through June 26, 1982, is established at 280,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: June 17, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-16756 Filed 6-17-82; 11:39 am]
BILLING CODE 3410-02-M

7 CFR Part 1040

Milk in the Southern Michigan Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This action suspends for the months of June through August 1982 the requirement in the Southern Michigan milk order that a cooperative association deliver to pool distributing plants at least 50 percent of its members' producer milk in order to qualify its supply plants as pool plants under the order. The suspension was requested by a cooperative association that represents producers supplying milk to the fluid market. The action is needed to ensure that dairy farmers who have been historically associated with the Southern Michigan market will continue to share in the market's Class I milk sales.

EFFECTIVE DATE: June 16, 1982.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202–447–7311).

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of proposed suspension: Issued May 25, 1982; published May 28, 1982 (47 FR 23462).

It has been determined that this action is not a major rule under the criteria set forth in Executive Order 12291.

It also has been determined that the need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order

12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the issuance of the suspension on the timely basis that is necessary to make the suspension effective for the month of June 1982. The initial request for the action was received on May 17, 1982. A notice of proposed suspension was issued on May 25, 1982, inviting interested parties to comment on the proposed action by June 4, 1982.

It has been determined that this action will not have a major economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Southern Michigan marketing area.

Notice of proposed rulemaking was published in the **Federal Register** (47 FR 23462) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon. All comments received favored the suspension of the provisions.

After consideration of all relevant information, including the proposal in the notice, the comments received, and other available information, it is hereby found and determined that for the months of June through August 1982 the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In § 1040.7(b)(2) the words "if transfers from such supply plant to plants described in paragraph (b)(5) of this section and by direct delivery from the farm to plants qualified under paragraph (a) of this section are:"

2. In § 1040.7(b)(2), subdivisions (i) and (ii).

Statement of Consideration

This action makes inoperative for June through August 1982 the provisions requiring a cooperative association to deliver at least 50 percent of its members' producer milk to pool distributing plants, either through its supply plants or directly from farms, in order to qualify the supply plants as pool plants. The suspension was requested by Michigan Milk Producers Association and was supported by two other cooperative associations and by a proprietary handler. In total, the suspension was supported by a substantial proportion of the producers who supply milk to the market.

This action is needed because of increased deliveries of producer milk in the Southern Michigan market at a time when Class I use is declining. April 1982, the most recent month for which data are available, was the 36th consecutive month of increased milk production in the market and also was the 18th consecutive month of declining Class I sales.

For the first four months of 1982, producer receipts for the market increased 2.3 percent from a year ago, while Class I sales decreased 5.2 percent. The increase in milk production has resulted from increased cow numbers and greater production per cow, and the declining sales are attributable to the depressed economy in Michigan.

The suspension is needed also to accommodate petitioner's recent loss of milk sales to a major distributor in the market.

If the provisions cited are not suspended for the months of June through August 1982, Michigan Milk Producers Association expects to encounter considerable difficulty in pooling certain supply plants and the milk of producers who have had a long history of association with the Southern Michigan fluid market. This could be expected to disrupt the orderly marketing of milk in the Southern Michigan marketing area.

In view of the circumstances, the aforesaid provisions should be suspended to ensure the orderly marketing of milk supplies. This action will eliminate the possibility that producers who are regular suppliers of milk for the fluid market would lose their producer status because of the present pooling provisions and thus not have their milk priced under the order.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions in the marketing area in that substantial quantities of milk of producers who regularly supply the market otherwise could be excluded from the marketwide pool, thereby causing a disruption in the orderly marketing of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning the suspension. There were no comments filed in opposition to the proposed suspension.

Therefore good cause exists for making this order effective upon publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1040

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the months of June through August 1982.

Effective date: June 18, 1982.

(Secs. 1–29, 48 Stat. 31 as amended; 7 U.S.C. 601–674)

Signed at Washington, D.C., on June 14, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Service.

[FR Doc. 82-16823 Filed 6-17-82; 8:45 am]

BILLING CODE 3410-02-M

Food Safety and Inspection Service

9 CFR Parts 317, 318, and 319

[Docket No. 82-006F]

Approval of Use of Whey and Whey Products in Sausages, Bockwurst, Chili Con Carne, and Pork and Beef With Barbecue Sauce

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Federal meat inspection regulations to permit the use of whey and certain modified whey products as direct human food ingredients in sausages, bockwurst, chili con carne, and pork and beef with barbecue sauce. This action completes a rulemaking proceeding initiated by the Department in 1976 and responds to petitions submitted as a consequence of a related final rule published by the Food and Drug Administration (FDA) on September 4, 1981. By that regulation, FDA affirmed that whey and certain modified whey products are generally recognized as safe (GRAS) as direct human food ingredients and also established a common or usual name for these ingredients. Approval of whey and whey products for use in sausages, bockwurst, chili con carne, and pork and beef with barbecue sauce is expected to benefit both industry and consumers by lowering production costs while at the

same time maintaining traditional protein levels in these products. The 1976 proposal also contained certain actions with regard to the use of isolated soy protein and sodium caseinate. However, this rule finalizes only provisions for whey products.

EFFECTIVE DATE: August 17, 1982.

FOR FURTHER INFORMATION CONTACT:
Dr. Daniel Jones, Chief, Standards Branch, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-7503.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule is issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule will permit the industry to use whey and certain modified whey products as binders and thickeners in sausage and bockwurst and as thickening agents in chili con carne, and pork and beef with barbecue sauce. It will effect a reduction in costs to industry and consumers: (1) Due to the increased use of a relatively low-priced protein source as a binder and thickener in these products and (2) by providing certain environmental benefits from utilization of a byproduct often discarded by the cheese industry.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601). This rule will provide for the use of whey and certain modified whey products as binders and thickeners in sausage and bockwurst, and as thickening agents in chili con carne, and pork and beef with barbecue sauce and will permit a potential cost reduction to small entities in producing those products.

Background

The Proposal

On February 18, 1975, the Whey Products Institute requested that USDA amend the standard for frankfurters and other cooked sausage products to add modified whey to the permitted list of binders already used in these meat food products.

In response to the Whey Products Institute, the Animal and Plant Health Inspection Service (APHIS) (predecessor Agency to the Food Safety and Inspection Service (FSIS)), published a proposal in the April 30, 1976, Federal Register (41 FR 18092). The proposal would have allowed the use of sodium caseinate and modified whey as binders and thickeners in sausages and bockwurst and as thickening agents in chili con carne, pork with barbecue sauce, and beef with barbecue sauce without affecting the characteristic of the products. Their use, respectively, would be consistent with the use of other approved binders permitted by the standards for those products (9 CFR 319.140, 319.281, 319.300 and 319.312). The proposal also would have expanded certain other uses of both sodium caseinate and isolated soy protein. The proposal relied upon results from an Agency taste panel which indicated that sausages containing modified whey products could not be differentiated from similar products prepared with previously approved binders at the same level of use. The 30 comments received on the proposal are addressed below.

The Department subsequently learned that the Food and Drug Administration (FDA) had embarked on rulemaking to establish specifications and common or usual names for whey and whey products. The Department consequently decided to defer final action on the proposed use of whey and whey products in sausages, bockwurst, chili con carne, and pork and beef with barbecue sauce until the FDA had completed its rulemaking on whey.

The Department also has learned that FDA intends to issue proposals on the GRAS status of isolated soy protein and sodium caseinate. Therefore, although the Department is now proceeding with its final listing of whey products for use in sausage, bockwurst, chili con carne, and pork and beef with barbecue sauce, the Department has decided to defer final action on the use of isolated soy protein and sodium caseinate as set forth in the April 30, 1976, proposal until FDA has completed its evaluation of these latter substances.

FDA Rulemaking on Whey Products

In 1976, the FDA received several petitions to affirm the Generally Recognized as Safe (GRAS) status of whey and modified whey and to establish common or usual names for these products. On June 22, 1979, the FDA published a proposed regulation (44 FR 36416) listing prospective common or usual names and definitions for the whey products, descriptions of the manufacturing processes, approximate compositions, and proposed good manufacturing practices (GMP) and levels of use in foods.

On September 4, 1981, FDA issued a final rule on whey and modified whey products (46 FR 44434). This regulation stated that whey, dried whey, reduced lactose whey, reduced minerals whey and whey protein concentrate are descriptive names for whey products and may be used on finished food labels and on intermediate mixes sold to food manufacturers. The regulation defined "whey" as a byproduct of cheesemaking, and whey protein concentrate, reduced minerals whey, and reduced lactose whey as substances manufactured from whey that are considered as food ingredients. The definition of whey included only whey from cheesemaking because no petitions were submitted on casein whey. The regulation indicated that FDA approval of casein whey would require the submission of a separate GRAS affirmation petition or food additive petition under the procedures outlined in 21 CFR 170.35 or 21 CFR 171.1.

Comments on the 1976 Proposal

The Agency received 30 comments in response to its 1976 proposal. Twenty-three were from industry, 4 were from consumers and 3 were from State governments. The 23 comments from industry supported the proposal. Four commenters opposed it. Three other commenters expressed concern about related issues as described below. Several commenters submitted data on the nutritional and organoleptic qualities of whey as compared to those binders which had already been approved by the Agency for use in meat and poultry products.

1. Two comments from consumers opposed the use of whey products in foods without giving any specific reasons. One commenter noted that whey may contain sodium and could affect the health of consumers. One commenter had no objection to the use of whey products in food if the safety issues involving these products are resolved.

FSIS has no reason to believe that the use of whey and whey products in sausages, bockwurst, chili con carne, and pork and beef with barbecue sauce contributes any more sodium than other binders of dairy origin presently being used. Furthermore, the Administrator considers the question of the safety of whey and whey products to have been satisfactorily resolved by the completion of the FDA rulemaking on whey (46 FR 44434).

2. Two comments from State governments supported the proposal as published in 1976. One comment from a State government raised the issue of adulteration that could be caused by the absorption of excessive amounts of water resulting from addition of whey to food products.

The 1976 proposal for approval of whey in sausages, bockwurst, chili con carne, and pork and beef with barbecue sauce encompassed only dried whey and modified whey (41 FR 18092) as does this final rule. Furthermore, the FDA final rule, with which the Agency concurs, described the modified wheys as dry products (46 FR 44434). Current moisture limitations for finished sausages will remain in effect when whey or whey products are added to these products. The bockwurst standard does not specify a moisture restriction, but it does specify a minimum meat content and a maximum binder content. The Agency concludes that these provisions will provide adequate protection against water adulteration in sausages and bockwurst to which whey and whey products are added.

3. One commenter requested the inclusion of "milk albuminate" under the approval for whey and whey products.

The Department has conducted a separate rulemaking on a product called "milk albuminate." A proposal on "milk albuminate" was published in the Federal Register of February 15, 1977 (42 FR 9182). Nine comments were received in response to that proposal all of which were negative. Consequently, the Agency formally withdrew the "milk albuminate" proposal in the Federal Register of September 5, 1978 (43 FR 39394). However, the issues concerning "milk albuminate" as a different product other than whey products was resolved by the FDA. It was decided if such a product exists, the analytical data on its composition and functionality must be provided in order to confirm its technical effects.

4. One commenter requested that the words "dry whey" be used in place of "dried whey."

The Agency notes that the FDA final rule included both the terms "dry whey" and "dried whey." The Agency concludes that it is appropriate to do likewise in this final rule.

5. One commenter requested that calcium caseinate also be included under the approval for whey and whey products.

The Agency notes that the FDA is in the process of reviewing the safety of caseinates, including sodium caseinate and calcium caseinate. The Agency, therefore, concludes that it is appropriate to defer final action on calcium caseinate until the FDA rulemaking is completed.

6. One commenter expressed concern that modified whey cannot be distinguished from nonfat dry milk when their protein and lactose contents are in the same range. According to this commenter, modified whey could be substituted for nonfat dry milk in meat food products. It was asserted that the inability to detect such substitution analytically could result in misbranding. The commenter also suggested that mixtures of modified whey and other dairy binders be accurately defined and methods of identification be provided that will permit an accurate analysis of their presence in sausage products.

The Agency acknowledges the current lack of analytical methods for distinguishing between such products as nonfat dry milk and modified whey. Moreover, the Agency is supportive of efforts to develop analytical methods for improved analysis of modified whey and other dairy binders. However, the Agency has established inspection procedures which, when performed at the time of formulation, are capable of assuring that meat food products containing these ingredients are properly labeled.

7. One commenter opposed the proposal on various technical and economic grounds that whey products are not as safe, nutritious, or economical as other approved dairy binders such as nonfat dry milk. The commenter also questioned the adequacy of FSIS inspection control of the manufacturing of whey products.

The Agency contends that the question of the safety of whey and whey products as food ingredients was adequately addressed by the FDA final rule (46 FR 44434). In the absence of new information to the contrary, the Agency considers the safety of whey and whey products as food ingredients to be resolved by the FDA rulemaking. The safety of meat and poultry products containing these ingredients is the statutory responsibility of the Secretary of Agriculture. This responsibility is carried out through the development and implementation of inspection and analytical procedures. These inspection procedures are published in the Agency's Meat and Poultry Inspection Manual [1] which also includes provision for the inspection and certification of whey (section 18.20(c)(2)). From a nutritional standpoint, whey has a protein efficiency ratio (PER) comparable to that of other binders of dairy origin such as nonfat dry milk. The economic viability of whey and whey products is subject to the supply and demand considerations of the marketplace.

Industry Petitions

Since the FDA's publication of a final rule affirming whey and certain modified whey products as GRAS for use as direct human food ingredients, and establishing common or usual names for such ingredients, the Agency has received petitions from The Ettlinger Corporation, Northbrook, Illinois; Pacific Coast Meat Association, Inc., San Francisco, California; and the Whey Products Institute, Chicago, Illinois. The petitioners maintained that, based on the FDA final rule, it is now appropriate for FSIS to finalize the 1976 proposal to allow the use of whey and whey products in sausage and bockwurst.

The Agency recognizes that a significant amount of time has passed since the publication of the proposal in 1976. However, USDA was not in a position to take further action on this issue until FDA's completion of their rulemaking proceeding which served to resolve basic issues regarding the safety and proper labeling of these substances. Comments from interested parties on the safety and proper handling issues were solicited and obtained through the 1976 proposal, as discussed earlier. In addition, the 1976 proceeding provided parties with an opportunity to comment upon the safety and suitability of these substances in specific meat food products. Based upon the Agency's review of this rulemaking record, the FDA proceeding and the data contained in the recent petitions, the Administrator has concluded that ample opportunity has been offered for comments on these issues and that it is now appropriate and in the public interest to finalize the 1976 proposal.

In this regard it should be noted that this final rule permitting the new uses of these substances does not become effective until 60 days after this publication. During this period of time, the Agency will accept for consideration

[1] A copy of the Meat and Poultry Inspection Manual is on file and available for public inspection in the office of the FSIS Hearing Clerk, Regulations Office, Room 2637, South Building, Washington, DC 20250.

any new and pertinent data on this matter and, if necessary, consider withholding or postponing the effective date and/or reproposing any part of the regulation.

The Final Rule

The Agency, after reviewing the conclusion of FDA on the GRAS status of whey and modified whey products, has determined that certain provisions of the FDA final rule should be adopted in this final order. This final rule amends the Federal meat inspection regulations to permit the use of dried whey, reduced lactose whey, reduced minerals whey, and whey protein concentrate as binders and thickeners in sausage and bockwurst at levels up to 3½ percent of the finished product, and in chili con carne and pork or beef with barbecue sauce in amounts up to 8 percent of the final products. These use levels are consistent with the levels permitted by the standards for those products under Part 319 of the regulations, although it should be noted that the standard for pork or beef with barbecue sauce (9 CFR 319.312) does not specify the 8 percent limit on whey binders provided for by this regulation. This final rule requires that dried whey, reduced lactose whey, reduced minerals whey, and whey protein concentrate be listed in the ingredients statement by their common or usual names and that the product name be qualified to indicate the presence of the whey ingredient as required for other binders.

Provisions for the use of liquid whey and concentrated liquid whey are not included in this final rule. Neither substance was included in the 1976 proposal and none of the other approved binders or extenders are in the liquid form. The reason for this is that compliance with water restrictions is usually determined by weight loss during processing rather than by analytical methods that are specific for water. Absent additional data to the contrary, the Agency remains concerned that the use of these liquid binders and extenders could result in adulteration of products under section 1(m)(8) of the Federal Meat Inspection Act (21 U.S.C. 601(m)(8)).

List of Subjects

9 CFR Part 317

Food labeling, Meat inspection.

9 CFR Part 318

Food additives, Meat inspection.

9 CFR Part 319

Standards of identity, Meat inspection.

Accordingly, the Federal meat inspection regulations are revised as follows:

PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

Part 317 of the Federal meat inspection regulations (9 CFR Part 317) is amended as follows:

1. The authority citation for Part 317 reads as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254.

§ 317.8 [Amended]

2. Section 317.8(b)(16) (9 CFR 317.8(b)(16)) is amended by inserting the words "dry or dried whey, reduced lactose whey, reduced minerals whey, whey protein concentrate," immediately following the first reference to "nonfat dry milk."

3. Section 317.8(b)(33) (9 CFR 317.8(b)(33)) is amended by inserting the words "dry or dried whey, reduced lactose whey, reduced minerals whey, whey protein concentrate," immediately following the first reference to "soy protein concentrate."

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

Part 318 of the Federal meat inspection regulations (9 CFR Part 318) is amended as follows:

4. The authority citation for Part 318 reads as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254.

§ 318.7 [Amended]

5. The chart in § 318.7(c)(4) (9 CFR 318.7(c)(4)) is revised under the class of substance "binders" immediately after the entries for sodium caseinate to read as follows:

Class of substance	Substance	Purpose	Products	Amount
•	•	•	•	•
.....	Dry or dried whey	To bind or thicken	Sausage as provided in Part 319, Bockwurst.	3½ percent individually or collectively.
.....	Reduced lactose whey	....do.....	....do.....	Do.
.....	Reduced minerals whey	....do.....	....do.....	Do.
.....	Whey protein concentrate.	....do.....	....do.....	Do.
.....	Dry or dried whey	....do.....	Imitation sausage soups, stews, nonspecific loaves.	Sufficient for purpose.
.....	Reduced lactose whey	....do.....	....do.....	Do.
.....	Reduced minerals whey	....do.....	....do.....	Do.
.....	Whey protein concentrate.	....do.....	....do.....	Do.
.....	Dry or dried whey	....do.....	Chili con carne; pork or beef with barbecue sauce.	8 percent individually or collectively with other binders.
.....	Reduced lactose whey	....do.....	....do.....	Do.
.....	Reduced minerals whey	....do.....	....do.....	Do.
.....	Whey protein concentrate.	....do.....	....do.....	Do.
•	•	•	•	•

PART 319—DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION

Part 319 of the Federal meat inspection regulations (9 CFR Part 319) is amended as follows:

6. The authority citation for Part 319 reads as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254.

§ 319.140 [Amended]

7. The second sentence of § 319.140 (9 CFR 319.140) is amended by inserting the words "dry or dried whey, reduced lactose whey, reduced minerals whey, whey protein concentrate," immediately following the reference to "nonfat dry milk."

§ 319.180 [Amended]

8. Sections 319.180(e) (9 CFR 319.180(e)) and 319.181 (9 CFR 319.181) are amended by inserting the words "dry or dried whey, reduced lactose whey, reduced minerals whey, whey protein concentrate," immediately after "nonfat dry milk."

§ 319.281 [Amended]

9. Section 319.281(b)(9) (9 CFR 319.281(b)(9)) is amended by inserting the words "dry or dried whey, reduced lactose whey, reduced minerals whey, whey protein concentrate," immediately following the reference to "soy protein concentrate."

§ 319.300 [Amended]

10. Section 319.300 (9 CFR 319.300) is amended by inserting the words "dry or dried whey, reduced lactose whey,

reduced minerals whey, whey protein concentrate," immediately following the reference to "nonfat dry milk."

§ 319.312 [Amended]

11. Section 319.312 (9 CFR 319.312) is amended by inserting the words "dry or dried whey, reduced lactose whey, reduced minerals whey, whey protein concentrate," immediately following the reference to "nonfat dry milk."

Done at Washington, D.C., on June 4, 1982.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 82-16628 Filed 6-17-82; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 12, 13, 14, 15, and 16

[Docket No. 76P-0126]

Administrative Practices and Procedures; Reimbursement for Participation; Conforming Amendments

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing conforming amendments to the final rule that removed regulations that established a pilot program for reimbursement of public participants in certain FDA administrative proceedings.

EFFECTIVE DATE: March 26, 1982.

FOR FURTHER INFORMATION CONTACT: Theodore Herman, Regulations Policy Staff (HFC-10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 26, 1982 (47 FR 12951), FDA issued a final rule that amended 21 CFR Part 10 by removing Subpart C--Reimbursement for Participation in Administrative Proceedings. FDA inadvertently failed to amend those sections of Parts 12, 13, 14, 15, and 16 that referred to Subpart C of Part 10. This document amends those sections in Parts 12, 13, 14, 15, and 16 as set forth below.

Because these are merely conforming amendments that remove references to material that was removed by a final rule that became effective March 26, 1982, notice and public procedure are unnecessary in accordance with 5 U.S.C. 553(b)(B).

List of Subjects

21 CFR Part 12

Administrative practice and procedure.

21 CFR Part 13

Administrative practice and procedure.

21 CFR Part 14

Administrative practice and procedure; Advisory committees; Color additives; Drugs; Radiation protection.

21 CFR Part 15

Administative practice and procedure.

21 CFR Part 16

Administrative practice and procedure.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 12, 13, 14, 15, and 16 are amended as follows:

PART 12—FORMAL EVIDENTIARY PUBLIC HEARING

§ 12.35 [Amended]

1. In Part 12, § 12.35 *Notice of hearing; stay of action* is amended by removing paragraph (a)(10).

PART 13—PUBLIC HEARING BEFORE A PUBLIC BOARD OF INQUIRY

§ 13.5 [Amended]

2. In Part 13, § 13.5 *Notice of hearing before a Board* is amended by removing paragraph (c).

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

§ 14.20 [Amended]

3. In Part 14, § 14.20 *Notice of hearing before an advisory committee* is amended by removing paragraph (b)(11).

PART 15—PUBLIC HEARING BEFORE THE COMMISSIONER

§ 15.20 [Amended]

4. In Part 15, § 15.20 *Notice of a public hearing before the Commissioner* is amended by removing paragraph (a)(3).

PART 16—REGULATORY HEARING BEFORE THE FOOD AND DRUG ADMINISTRATION

§ 16.24 [Amended]

5. In Part 16, § 16.24 *Regulatory hearing required by the act or a regulation* is amended by removing paragraph (b) and designating it "reserved."

Effective date: March 26, 1982.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: June 11, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-16329 Filed 6-17-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 510

New Animal Drugs; Change of Sponsor Address

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Franklin Laboratories providing for a change of sponsor address.

EFFECTIVE DATE: June 18, 1982.

FOR FURTHER INFORMATION CONTACT: David L. Gordon, Bureau of Veterinary Medicine (HFV-238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

SUPPLEMENTARY INFORMATION: Franklin Laboratories, 2620 S. Parker Rd., Suite 240, P.O. Box 441470, Aurora, CO 80044, filed supplemental NADA 101-715 providing for a change of sponsor address.

This action concerns a change of sponsor address, and does not involve any changes in manufacturing facilities, equipment, procedures, or production personnel. Under the Bureau of Veterinary Medicine's supplemental approval policy (see 42 FR 64367; December 23, 1977), this is a Category I change which does not require reevaluation of the safety and effectiveness data in the parent application. The supplemental NADA for the change of sponsor address is approved and the regulations are amended to reflect the approval.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive

Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure; Animal drugs; Reporting requirements.

PART 510—NEW ANIMAL DRUGS

§ 510.600 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 510 is amended in § 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* in paragraph (c)(1) for the entry "Franklin Laboratories" and (c)(2) for "010290" under the "Firm name and address" heading by revising the address to read "P.O. Box 441470, Aurora, CO 80044."

Effective date: June 18, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: June 10, 1982.

Max L. Crandall,

Associate Director for Surveillance and Compliance.

[FR Doc. 82-16529 Filed 6-17-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 510 and 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Diethylcarbamazine Citrate Capsules; Sponsors of Approved Applications

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by R. P. Scherer North America, providing for safe and effective use of diethylcarbamazine citrate capsules for prevention of heartworm disease and as an aid in the treatment of ascarid infections in dogs.

EFFECTIVE DATE: June 18, 1982.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: R. P. Scherer North America, P.O. Box 5600, Clearwater, FL 33518, filed an NADA (123-116) providing for use of 12.5-, 50-, 200-, and 400-milligram (mg) diethylcarbamazine citrate capsules for prevention of heartworm disease in dogs caused by *Dirofilaria immitis*, and as an aid in the treatment of ascarid infections in dogs caused by *Toxocara canis* and *Toxascaris leonina*.

The product is similar to a tablet that was the subject of a National Academy of Sciences/National Research Council (NAS/NRC) review which was published in the Federal Register of January 8, 1969 (34 FR 275). The NAS/NRC review stated, and the agency concurred, that diethylcarbamazine is probably not effective as a treatment against filariasis, that more information is needed regarding the dosage level to support claims for prevention of filariasis, and that the drug is effective as an aid in the treatment of ascarid infections in dogs and cats when administered at 25 to 50 mg per pound of body weight as a single dose with a repeat dose given after 10 to 20 days. Sponsors of NADA's for products which did not reflect the conclusions of the notice were required to update their applications by submitting revised labeling or adequate documentation to support the labeling used. Those sponsors whose NADA's satisfied the requirements of the NAS/NRC notice or were found equivalent to the NAS/NRC reviewed products are codified in the regulations in 21 CFR 520.620 and 520.622.

A NAS/NRC review of another dosage form, diethylcarbamazine medicated premix, was published in the Federal Register of June 16, 1970 (35 FR 9869). The review concluded that the product is probably effective, and the agency concluded that it is effective, as an aid in the prevention and elimination of large roundworms (ascarids) in dogs when given as directed. The review established the effectiveness of the drug for use in the prevention of ascarid infections.

R. P. Scherer submitted data from a controlled artificial challenge study and reprints from published scientific literature to demonstrate that diethylcarbamazine is safe and effective for use, as labeled, in prevention of heartworm disease. The agency granted a waiver from the requirements of 21 CFR 514.111(a)(5)(ii) for further studies to provide substantial evidence of effectiveness for that claim. The claim for treatment of ascarid infections is approved on the basis of the NAS/NRC reviews. The NADA is approved and the regulations are amended to reflect the approval. The regulations are also amended to add the firm's name to the list of sponsors of approved applications.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects

21 CFR Part 510

Administrative practice and procedure; Animal drugs; Labeling; Reporting requirements.

21 CFR Part 520

Animal drugs, oral use.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR Part 5.83), Parts 510 and 520 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. In Part 510, § 510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2) to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
R. P. Scherer North America, P.O. Box 5600, Clearwater, FL 33518	015014
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
011014	R. P. Scherer North America, P.O. Box 5600, Clearwater, FL 33518.

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

2. In Part 520, by adding a new § 520.622d to read as follows:

§ 520.622d Diethylcarbamazine citrate capsules.

(a) *Specifications.* Each capsule contains either 12.5, 50, 200, or 400 milligrams of diethylcarbamazine citrate.

(b) *Sponsor.* See 011014 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Amount/indications for use.* 3 milligrams per pound of body weight daily for prevention of heartworm disease (*Dirofilaria immitis*) in dogs; 25 to 50 milligrams per pound of body weight in a single dose as an aid in the treatment of ascarid infections in dogs (*Toxocara canis* and *Toxascaris leonina*).

(2) *Limitations.* Administer orally directly or added to the daily ration. For ascarid infections, repeat treatment in 10 to 20 days to remove immature worms that may enter the intestine from the lungs after the first dose. Do not treat dogs with established heartworm infections until they have been converted to a negative status by the use of adulticidal and microfilaricidal drugs. Inadvertent administration to heartworm-infected dogs may cause adverse reactions due to pulmonary occlusion or shock. Overdosage may cause emesis. For prevention of heartworm disease in heartworm-endemic areas, administration of the drug should begin 1 month before and continue 2 months after the mosquito season. Dogs receiving prophylactic therapy should be examined every 6 months for the presence of microfilariae. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date: June 18, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: June 11, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-16382 Filed 6-17-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Praziquantel Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplement to a new animal drug application (NADA) filed by Bayvet Division of Cutter Laboratories, Inc., providing for the safe and effective use of praziquantel tablets for removal of certain cestodes from breeding or pregnant cats.

EFFECTIVE DATE: June 18, 1982.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: Bayvet Division of Cutter Laboratories, Inc., P.O. Box 390, Shawnee Mission, KS 66201, filed a supplement to NADA 111-798 providing for the safe and effective use of praziquantel tablets (Droncit Tablets) for removal of certain cestodes in breeding or pregnant cats. Bayvet submitted results of a reproduction study which showed all the males remained fertile and that the females to which they were mated conceived and delivered normal kittens. Based on the data and information submitted, the supplement is approved and the regulations are amended to remove the restriction against use of praziquantel tablets in breeding or pregnant cats.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 520

Animal drugs, oral use.

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended by revising § 520.1870(c)(2)(iii) to read as follows:

§ 520.1870 Praziquantel tablets.

* * * * *

(c) * * *

(2) * * *

(iii) *Limitations.* Administer directly by mouth or crumbled and in feed. Not intended for use in kittens less than 6 weeks of age. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date: June 18, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: June 10, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82-16316 Filed 6-17-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject to Certification; Gentamicin Sulfate, Betamethasone Valerate Ointment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Schering Corp., providing for topical use of gentamicin sulfate, betamethasone valerate ointment in dogs for the treatment of canine otitis externa and canine infected superficial lesions caused by bacteria susceptible to gentamicin.

EFFECTIVE DATE: June 18, 1982.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: Schering Corp., Galloping Hill Rd., Kenilworth, NJ 07033, is sponsor of NADA 113-231 providing for use of gentamicin sulfate, betamethasone valerate ointment. Each gram of the ointment contains 3 milligrams of gentamicin base and betamethasone valerate equivalent to 1 milligram of betamethasone. The ointment is recommended for topical use in dogs for the treatment of acute and chronic canine otitis externa and canine infected superficial lesions caused by bacteria susceptible to gentamicin. This approval is supported by safety and effectiveness studies, including data establishing that the drug combination is more effective than either gentamicin or betamethasone alone for the intended uses. The application is approved, and the regulations are amended accordingly.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Director's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption (pursuant to 21 CFR 25.1(f)(1)(ii)(*b*)), may be seen in the Dockets Management Branch (address above).

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 524

Animal drugs, *topical.*

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(*i*))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 28052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 524 is amended by adding new § 524.1044d, to read as follows:

§ 524.1044d Gentamicin sulfate, betamethasone valerate ointment.

(a) *Specifications.* Each gram of ointment contains gentamicin sulfate equivalent to 3 milligrams of gentamicin base and betamethasone valerate equivalent to 1 milligram of betamethasone.

(b) *Sponsor.* See No. 000085 in § 510.600(c) of this chapter.

(c) *Conditions of use.* (1) The drug is used or indicated for use in dogs in the treatment of acute and chronic canine otitis externa and canine infected superficial lesions caused by bacteria sensitive to gentamicin.

(2)(i) For the treatment of acute and chronic canine otitis externa the drug is administered by instillation of 3 to 8 drops into the ear canal twice daily for 7 days. The external ear and ear canal should be properly cleaned and dried before treatment. Remove foreign material, debris, crusted exudates, etc., with suitable nonirritating solutions. Excessive hair should be clipped from the treatment area of the external ear.

(ii) For the treatment of canine infected superficial lesions, the lesion and adjacent area should be properly cleaned before treatment. Excessive hair should be removed. A sufficient amount of the drug should be applied to cover the treatment area. The drug should be administered twice daily for 7 to 14 days.

(3) If hypersensitivity to any of the components occurs, treatment should be discontinued and appropriate therapy instituted. Concomitant use of drugs known to induce ototoxicity should be avoided. Observe patients for signs of adrenocorticoid overdosage. The antibiotic susceptibility of the pathogenic organism should be determined prior to use of this preparation. Administration of recommended doses beyond 7 days may result in delayed wound healing. Animals treated longer than 7 days should be monitored closely.

(4) For use by or on the order of a licensed veterinarian.

Effective date: June 18, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: June 11, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-16831 Filed 6-17-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Hygromycin B

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) for Nutra-Blend Corp., providing for use of a 0.6-gram-per-pound hygromycin B premix for making complete swine feeds for control of large roundworms, nodular worms, and whipworms and for making complete chicken feeds for control of large roundworms, cecal worms, and capillary worms.

EFFECTIVE DATE: June 18, 1982.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: Nutra-Blend Corp., P.O. Box 485, Neosho, MO 64850, is sponsor of NADA 129-160 providing for use of a 0.6-gram-per-pound hygromycin B premix for making complete swine and chicken feeds. The complete swine feed is used as an aid in the control of large roundworms, nodular worms and whipworms. The complete chicken feed is used as an aid in the control of large roundworms, cecal worms, and capillary worms. The NADA was filed by Elanco Products Co. for the sponsor. Elanco authorized use of the safety and effectiveness data contained in their approved NADA's 10-918 and 11-948 to support approval of this application. Additionally, satisfactory chemistry, manufacturing, and control information was submitted.

This approval does not change the approved use of the drug. Consequently, approval of the NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of NADA 129-160 does not require reevaluation of the safety and effectiveness data in NADA's 10-918 and 11-948. NADA 129-160 is approved, and the regulations are amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and

information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 558

Animal drugs; Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.274 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.274 *Hygromycin B* by adding, in numerical sequence, drug sponsor code "050568" to paragraph (a)(4) and to the "sponsor" column in paragraph (e)(1)(i) and (ii).

Effective date: June 18, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: June 11, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82–16830 Filed 6–17–82; 8:45 am]
BILLING CODE 4160–01–M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Pyrantel Tartrate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Custom Feed Blenders Corp., providing for safe and effective use of 9.6- and 19.2-gram-per-pound pyrantel tartrate premixes for making complete swine feeds.

EFFECTIVE DATE: June 18, 1982.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Bureau of Veterinary Medicine (HFV–138), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3410.

SUPPLEMENTARY INFORMATION: Custom Feed Blenders Corp., 540 Hawkeye Ave., Fort Dodge, IA 50501, is the sponsor of NADA 129–415 submitted on its behalf by Pfizer, Inc. The NADA provides for use of premixes containing 9.6 and 19.2 grams of pyrantel tartrate per pound for making complete swine feeds used as an aid in prevention of migration and establishment of large roundworm (*Ascaris suum*) infections, and aid in prevention of establishment of nodular worm (*Oesophagostomum*) infections, and for removal and control of large roundworm (*Ascaris suum*) infections.

Approval of this application relies on safety and effectiveness data contained in Pfizer's approved NADA 43–290. Use of the data in NADA 43–290 to support this application has been authorized by Pfizer. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), the approval of this NADA has been treated as would approval of a Category II supplement and does not require reevaluation of the safety and effectiveness data in NADA 43–290.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 558

Animal drugs; Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.485 by adding new paragraph (a)(12) to read as follows:

§ 558.485 Pyrantel tartrate.

(a) * * *

(12) To 046987: 9.6 and 19.2 grams per pound, paragraph (e)(1) and (2) of this section.

* * * * *

Effective date: June 18, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: June 11, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82–16832 Filed 6–17–82; 8:45 am]
BILLING CODE 4160–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–9–FRL 2142–1]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: Revisions to rules of the Colusa County, Glenn County, Great Basin Unified, Humboldt County, Lake County, Mendocino County, Modoc County, Placer County, Plumas County, Shasta County, Sierra County, Siskiyou County, and Yolo-Solano Air Pollution Control Districts (APCDs) were forwarded to EPA by the State of California. These revisions generally are administrative and concern permitting procedure. EPA reviewed these rules with respect to section 110 of the Clean Air Act and determined that they should be approved.

EFFECTIVE DATE: This action will be effective on August 17, 1982, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the revisions are available for public inspection during normal business hours at the following locations:

Public Information Reference Unit, Environmental Protection Agency, Library, 401 "M" Street, SW., Room 2404, Washington, D.C. 20460.
Office of the Federal Register, 1100 "L" Street, NW., Room 8401, Washington, D.C. 20408.
California Air Resources Board, 1102 "Q" Street, Sacramento, CA 95812.
Colusa County Air Pollution Control District, 751 Fremont Street, Colusa CA 95932.
Glenn County Air Pollution Control District, 720 North Colusa Street, Willows, CA 95988.
Great Basin Unified Air Pollution Control District, 873 North Main Street, Suite 213, Bishop, CA 93514.
Humboldt County Air Pollution Control District, 5600 South Broadway, Eureka, CA 95501.
Lake County Air Pollution Control District, 255 North Forbes Street, Lakeport, CA 95453.
Mendocino County Air Pollution Control District, Courthouse Square, Ukiah, CA 95482.
Modoc County Air Pollution Control District, 202 West Fourth Street, Alturas, CA 96101.
Placer County Health and Medical Services, 11491 B Avenue, Auburn, CA 95603.
Plumas County Air Pollution Control District, Courthouse Annex, Quincy, CA 95971.
Shasta County Air Pollution Control District, 1855 Placer Street, Redding, CA 96001.
Sierra County Air Pollution Control District, County Courthouse, Downieville, CA 95936.
Siskiyou County Air Pollution Control District, 525 South Foothill Drive, Yreka, CA 96097.
Yolo-Solano Air Pollution Control District, 323 First Street, Suite 5, Woodland, CA 95695.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, State Implementation Plan Section, Air Management Division, Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105, (415) 974–8058.

SUPPLEMENTARY INFORMATION: The State of California submitted the following rules and regulations on the indicated dates:

Colusa County

February 25, 1980
Rule 2.7A—Standards for Granting Applications
Rule 2.7B.—Conditional Approval

Glenn County

February 25, 1980
Section 51.1—Standards for Granting Applications
Section 51.2—Conditional Approval

Great Basin Unified

December 17, 1979
Rule 203—Applications
Rule 209–A—Standards for Authorities to Construct
Rule 209–B—Standards for Permits to Operate
Rule 212—Additional Information (Deletion)
Rule 213—Implementation Plans

Humboldt County

March 23, 1981
Rule 130—Definitions
Rule 200—Permit Requirements
Rule 210—Environmental Assessment
Rule 220—New Source Review Standards
Rule 230—Action on Applications
Rule 240—Permit to Operate
Rule 250—Appeals
Rule 260—Exclusions

Lake County

March 1, 1982
Rule 655—Performance

Mendocino County

April 17, 1980
Rule 130—Definitions
Rule 200—Permit Requirements
Rule 210—Environmental Assessment
Rule 220—New Source Review Standards
Rule 230—Action on Applications
Rule 240—Permit to Operate
Rule 250—Appeals
Rule 260—Exclusions

Modoc County

December 17, 1979
Rule 2:8–e—Standards for Permits to Construct

Placer County

August 21, 1979 (Lake Tahoe Air Basin portion)
Rule 502—Permit Exceptions
Rule 503—Transfer
Rule 504—Applications
Rule 505—Cancellation of Authority to Construct
Rule 506—Action on Applications
Rule 511—Revocation of a Permit
Rule 512—Appeals
Rule 513—Reinstatement
October 15, 1979 (Mountain Counties Air Basin portion)
Rule 501B—Permit to Operate
Rule 502—Exemptions
Rule 504—Applications
Rule 506—Action on Applications
Rule 512—Appeals
Rule 513—Reinstatement

Plumas County

June 22, 1981
Rule 501—Permit Required
Rule 502—Exemptions to Rule 501
Rule 503—Applications
Rule 504—Action on Applications
Rule 505—Conditional Approval
Rule 506—Denial of Application
Rule 507—Responsibility
Rule 508—Posting of Permit to Operate
Rule 509—Authority to Inspect
Rule 510—Separation of Emissions
Rule 511—Combination of Emissions
Rule 517—Transfer
Rule 518—Revocation of a Permit to Operate
Rule 519—Appeals
Rule 520—Reinstatement
Rule 521—Annual Renewal

Shasta County

February 25, 1980
Rule 1:2.—Definitions
Rule 2:1A.—Permits Required

Sierra County

June 22, 1981
Rule 501—Permit Required
Rule 502—Exemptions to Rule 501
Rule 503—Applications
Rule 504—Action on Applications
Rule 505—Conditional Approval
Rule 506—Denial of Application
Rule 507—Responsibility
Rule 508—Posting of Permit to Operate
Rule 509—Authority to Inspect
Rule 510—Separation of Emissions
Rule 511—Combination of Emissions
Rule 517—Transfer
Rule 518—Revocation of a Permit to Operate
Rule 519—Appeals
Rule 520—Reinstatement
Rule 521—Annual Renewal

Siskiyou County

October 15, 1979
Rule 2.14—Standards for Permit to Construct
Rule 2.15—Standards for Permit to Operate
Rule 2.16—State Ambient Air Quality Standards

Yolo-Solano

February 25, 1980
Rule 3.4.1—Standards for Granting Applications
Rule 3.4.2—Conditional Approval
Rule 3.13—Public Review and Comment for Application for Authority to Construct

Under section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove these regulations as State Implementation Plan (SIP) revisions. All the rules listed above have been evaluated and found in accordance with EPA policy and 40 CFR Part 51. Detailed evaluation reports are available for public inspection at the EPA Library in Washington, D.C. and the EPA Region 9 Office.

This notice approves all the rules revisions listed above and incorporates them into the California SIP. EPA's approval of the above revisions to the California SIP is being done without prior proposal because the revisions are not controversial. The public is advised that this approval action will be effective August 17, 1982. However, if notice is received by EPA within 30 days that someone wishes to submit adverse or critical comments, the approval action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will indefinitely postpone the effective date, modify the final action to a proposed action, and establish a comment period.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 17, 1982. This action may not be challenged later in proceedings to enforce its requirements.

Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1981.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110, and 301(a), Clean Air Act, as amended (42 U.S.C. 7410 and 7601(a)))

Dated: June 14, 1982.

Ann M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart F of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraphs (c)(52) (xiii)(D) and (xxi), (54)(iv)(C), (x), (xi), and (xii), (58)(iii)(B) and (ix), (80)(i)(C), (93)(iii), and (iv), (95)(vi), (119)(ii), and (121)(iii) to read as follows:

§ 52.220 Identification of plan.

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(c) * * *

(52) * * *

(xiii) * * *

(D) New or amended Rules 501B, 502, 504, 506, 512, and 513.

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(xxi) Siskiyou County APCD.

(A) New or amended Rules 2.14–2.16.

* * * * *

(54) * * *

(iv) * * *

(C) New or amended Rules 3.13, 3.4.1, and 3.4.2.

* * * * *

(x) Colusa County APCD.

(A) New or amended Rules 2.7 A and B.

(xi) Glenn County APCD.

(A) New or amended Rules 51.1 and 51.2.

(xii) Shasta County APCD.

(A) New or amended Rules 1:2 (Best Available Control Technology, Stationary Source and Precursor) and 2:1 A.

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(58) * * *

(iii) * * *

(B) New or amended Rules 203, 209–A and B, 212, and 213.

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(ix) Modoc County APCD.

(A) New or amended Rule 2:8–e.

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(80) * * *

(i) * * *

(C) New or amended Rules 502–506 and 511–513.

* * * * *

(93) * * *

(iii) Plumas County APCD.

(B) New or amended Rules 501–511 and 517–521.

(iv) * * *

(B) New or amended Rules 501–511 and 517–521.

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(95) * * *

(vi) Humboldt County APCD.

(A) New or amended Rules 130, 200, 210, 220, 230, 240, 250, and 260.

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(119) * * *

(ii) Mendocino County APCD.

(A) New or amended Rules 130, 200, 210, 220, 230, 240, 250, and 260.

* * * * *

(121) * * *

(iii) Lake County APCD.

(A) New or amended Rule 655.

* * * * *

[FR Doc. 82–16492 Filed 6–17–82; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[A–3–FRL 2137–7]

Approval of Revision of the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The purpose of this notice is to approve a revision to the Maryland State Implementation Plan (SIP) which was submitted on August 11, 1981. The public hearing on these changes, which include new iron and steel industry regulations, was held on July 15, 1981. This revision consists of new iron and steel regulations. This notice also approves complementary changes to the definitions, the general emission regulations, and technical memoranda relating to test procedures. In addition, the notice approves a new technical memorandum specifying the procedures for observing and evaluating visible emissions and a new Amended Plan for Compliance (PFC) for the Bethlehem Steel Corporation's Sparrows Point, Maryland plant. These amendments satisfy a condition of approval of the Part D plan for attainment of the primary total suspended particulate standard.

EFFECTIVE DATE: July 19, 1982.

ADDRESSES: Copies of this SIP revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Programs Branch, Curtis Building, Tenth Floor, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106, ATTN: Patricia Sheridan

Maryland Department of Health & Mental Hygiene, Air Management Administration, 201 W. Preston Street, Baltimore, Maryland 21201, ATTN: George P. Ferreri

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Mr. Harold A. Frankford (3AW12), U.S. Environmental Protection Agency, Region III, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106, telephone: 215/597–8392.

SUPPLEMENTARY INFORMATION:

Background

On August 11, 1981, the Governor of the State of Maryland submitted amended regulations as a revision to the Maryland State Implementation Plan. This revision, identified by Maryland as Revision 81–03, includes State-initiated changes as well as new Code of Maryland Air Regulations (COMAR 10.18.10) and a new Amended Plan for Compliance (PFC) for the Bethlehem Steel Corporation, Sparrows Point Plant. The State adopted these regulations to satisfy a condition of approval of the Part D plan (46 FR 45341, Sept. 11, 1981). A public hearing on the PFC and the amended regulations was held on July 15, 1981 in Baltimore, Maryland. The regulations were adopted on August 11, 1981 and became effective State regulations on October 10, 1981. These amendments and the PFC have been developed and submitted in accordance

with the requirements of Title 40, Code of Federal Regulations, Part 51.

Description of Revision/Solicitation of Public Comments

The February 2, 1982 notice of proposed rulemaking, 47 FR 4704, describes the major elements of the State's SIP revision as well as the chronology of events leading up to the State's August 11, 1981 submittal.

This notice also solicited public comments on EPA's proposed rulemaking action. However, during the comment period provided by this notice and a February 9, 1982 correction notice, 47 FR 5912, no comments were received.

EPA Evaluation

EPA has reviewed the revision submitted by Maryland and finds that it satisfies the condition of the approval of the Part D SIP. During the review of the revision, EPA identified four items which required clarification by the State of Maryland. The State responded to these items in a letter dated October 28, 1981. These issues are discussed below:

1. EPA requested that the State of Maryland clarify whether the intent underlying COMAR 10.18.10.03 is that the no visible emission standard applies to argon-oxygen decarbonization vessels.

Maryland responded that it is the intent of the State of Maryland that COMAR 10.18.10.03A(1), which requires no-visible emissions other than water in an uncombined form, applies to the two buildings in Area III of the State which contain argon-oxygen decarbonization vessels.

2. EPA, in its review, questioned if the "reasonable control methods" required in COMAR 10.18.10.04B(2) (a), (b), (e), and (h) were in place and being employed and, if so, were the standards in COMAR 10.18.10.03B (1), (2), (4), and (5) effective and enforceable immediately.

Maryland responded that the Bethlehem Steel Corporation, Sparrows Point Plant is presently in compliance with COMAR 10.18.10.04B(2) (a), (b), (e) and (h). The "reasonable control methods" required by these regulations are in place, and the visible emission requirements of COMAR 10.18.10.03B (1), (2), (4), and (5) were in effect as of October 10, 1981 the regulation's effective date.

3. EPA noted that the PFC delays enforceability of the mass emission standard for coke oven combustion stacks due to problems with the current test method. The Agency requested that Maryland assure EPA in writing that alternate testing procedures developed for the particulate sampling method be submitted as a SIP revision no later than December 31, 1982.

Maryland pointed out that the PFC calls for an alternative test procedure for the particulate sampling method at the coke oven combustion stacks to be finalized by December 31, 1982. The State of Maryland anticipates no problem at the present time complying with this requirement and intends to submit the final test procedures to EPA as a SIP revision as soon as the procedure is finalized. This is expected to be prior to December 31, 1982.

4. EPA's review revealed that the PFC allows the development of an alternate visible emission standard for the Basic Oxygen Furnaces (BOF) when reasonable controls are in place. It also indicates that the installation may occur in two stages. The Agency has informed the State that an interim visible emission standard must be developed for the first stage.

Maryland stated that the PFC provides that the Department could require additional controls at the BOF Shop, beyond those presently required in the PFC, to be utilized by December 31, 1982. Should this occur, the State of Maryland commits to develop an interim visible emission standard for the BOF Shop and to submit it to EPA as a SIP revision no later than December 31, 1983.

EPA Actions

Based upon the above evaluations, the Administrator approves the new iron and steel regulation (COMAR 10.18.10), the new Technical Memorandum AMA-TM 81-04, the new Method 13 to be added to AMA-TM 73-116, the amended COMAR 10.18.01 and COMAR 10.18.06, and the Amended Plan for Compliance (considering the above necessary changes) for the Bethlehem Steel Corporation's Sparrows Point, Maryland plant. Accordingly, this notice amends 40 CFR 52.1070 (Identification of Plan) of Subpart V (Maryland) to incorporate the documents submitted by Maryland as part of Revision 81-03 into the Maryland SIP. This notice also removes 40 CFR 52.1075 (Conditional Approvals) as the State of Maryland has now satisfied all of the conditions under which EPA had approved Maryland's 1979 Part D SIP.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), I have certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 17, 1982. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2))

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: June 14, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Maryland was approved by the Director of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, Part 52, Subpart V, of the Code of Federal Regulations is amended as follows:

Subpart V—Maryland

1. In § 52.1070, paragraph (c)(67) is added to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(67) Code of Maryland Air Regulations (COMAR) 10.18.10 (Control of Iron and Steel Production Installations); Technical Memorandum AMA-TM 81-04: Amendment to AMA-TM 73-116; Amendments to COMAR 10.18.01.01 (General Administrative Regulations—Definitions) and COMAR 10.18.06.02 (General Emission Standards, Prohibitions and Restriction); and a New Amended Plan for Compliance for the Bethlehem Steel Corporation's Sparrows Point, Maryland Plant; submitted on August 11, 1981 by the Governor.

§ 52.1075 [Removed and reserved]

2. Section 52.1075 is removed and reserved.

[FR Doc. 82-16544 Filed 6-17-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 52

[A-9-FRL 2139-7]]

Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision

AGENCY: Environmental Protection Agency.

ACTION: Notice of final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve revisions to the Arizona Revised Statutes and the Maricopa County Rules and Regulations. These revisions were submitted by the Arizona Department of Health Services (ADHS) for incorporation into the Arizona State Implementation Plan (SIP). These revisions define general State requirements, specify responsible implementing agencies, and include minor changes to Maricopa County rules. EPA reviewed these revisions with respect to the Clean Air Act and determined that they should be approved.

DATE: This action is effective August 17, 1982.

ADDRESSES: Copies of the revisions and the technical support documents are available for public inspection during normal business hours at the EPA Region 9 office and at the following locations:

Public Information Reference Unit, Environmental Protection Agency, Library, 401 "M" Street, SW., Room 2404, Washington, D.C. 20460

Office of the Federal Register, 1100 "L" Street, NW., Room 8401, Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, State Implementation Plan Section, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974–8058.

SUPPLEMENTARY INFORMATION: The ADHS submitted the following revisions on the indicated dates for incorporation into the Arizona SIP:

Arizona Revised Statutes

July 13, 1981

36–770 Declaration of Policy.
36–771 Definitions.
36–772 Department of Health Services; Studies.
36–773 Board of Supervisors.
36–774 County Control Boards.
36–775 Powers and Duties.
36–776 Authorization to Accept Funds or Grants.
36–777 Advisory Council.
36–778 Hearing Board.
36–779 Rules and Regulations; Hearing; Limitations.
36–779.01 Permits; Exceptions; Applications; Fees.
36–779.02 Grant or Denial of Applications.
36–779.03 Appeals to Hearing Board.
36–779.04 Permit Nontransferable.
36–779.05 Expiration of Permit.
36–779.06 Posting of Permit.
36–779.07 Notice by Building Permit Agencies.
36–780 Classification and Reporting; Production of Records; Confidentiality of Records; Violation; Penalty.
36–780.01 Special Inspection Warrant.
36–781 Violations; Order of Abatement; Time for Compliance.
36–782 Hearings on Orders of Abatement.
36–783 Repealed.
36–784 Conditional Permit; Standards.
36–784.01 Petition for Conditional Permit; Publication; Public Hearing.
36–784.02 Decisions on Petitions for Conditional Permit; Terms and Conditions of Conditional Permit.
36–784.03 Term of Conditional Permit.
36–784.04 Suspension and Revocation of Conditional Permit.
36–785 Decisions of Hearing Board; Subpoenas; Effective Date.
36–785.01 Judicial Review; Grounds; Procedures.
36–786 Notice of Hearing; Publication; Service.
36–787 Injunctive Relief.
36–788 Precedence of Actions.
36–789 Unlawful Open Burning; Exceptions; Violation; Penalty.
36–789.01 Misdemeanor; Penalty.
36–789.02 Defenses.
36–790 Limitations.
36–791 Preservation of Rights.
36–1700 Declaration of Policy.
36–1701 Definitions.
36–1702 Powers.
36–1704 Hearing Board.
36–1705 Duties of Department.
36–1706 State and County Control.
36–1707 Rules and Regulations; Hearing; Limitations.
36–1707.01 Permits; Exceptions; Applications; Fees.
36–1707.02 Grant or Denial of Application.
36–1707.03 Appeals to Hearing Board.
36–1707.04 Permit Nontransferable Exception.
36–1707.05 Posting of Permit.
36–1707.06 Notice by Building Permit Agencies.
36–1708 Classification and Reporting; Production of Records; Confidentiality of Records; Violation; Penalty.
36–1720.02 Defenses.
36–1751 Definition.
36–1752 Inspection Facilities; Location; Operation; Additional Inspections and Assistance; Definition.
36–1753 Vehicle Inspection Fund; Composition; Authorized Expenditures; Exemptions.

August 5, 1981

36–1771 Definitions.
36–1772 Annual Emissions Inspection Program; Powers and Duties of the Director; Administration; Periodic Inspection; Minimum Standards; Rules and Regulations; Limitation on Repair Costs.
36–1773 Emissions Inspection Fees; Composition and Disposition.
36–1774 Emissions Inspection Fund; Composition; Authorized Expenditures; Exemptions; Investment.
36–1775 Agreement with Independent Contractor; Qualifications of Contractor.
36–1708.01 Special Inspection Warrant.
36–1709 Violations; Order of Abatement; Time for Compliance.
36–1710 Hearings on Orders of Abatement.
36–1711 Temporary Conditional Permits.
36–1712 Conditional Permits; Standards.
36–1712.01 Petition for Conditional Permit; Publication; Public Hearing.
36–1712.02 Decisions on Petitions for Conditional Permit; Terms and Conditions.
36–1712.03 Term of Conditional Permit.
36–1712.04 Suspension and Revocation of Conditional Permit.
36–1713 Decisions of Hearing Board; Subpoenas; Time Limitations; Revocation.
36–1713.01 Judicial Review; Grounds; Procedures.
36–1714 Notice of Hearing; Publication; Service.
36–1715 Injunctive Relief.
36–1716 Precedence of Actions.
36–1717 Motor Vehicle and Combustion Engine Emissions; Standards.
36–1718 Limitations.
36–1718.01 Preservation of Rights.
36–1719 Air Pollution Emergency.
36–1720 Violation; Classification; Agreement Provisions.
36–1776 Fleet Emissions Inspection Stations; Certificates of Inspection; Dealer's Inventory; Investigations; Revocation of Permit.
36–1777 Authority of Director to Acquire Enforcement Equipment; Random Vehicle Tests.
36–1778 Improper Representation.
36–1779 False Certificates.
36–1780 Violation; Classification.

Maricopa County

March 8, 1982

Rule 2 Definitions.
Rule 28 Permit Fees.
Rule 33 Storage and Handling of Petroleum Products.

Under section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove these regulations as SIP revisions. All rules submitted have been evaluated and found to be in accordance with EPA policy and 40 CFR Part 51. EPA's detailed evaluation of the submitted rules is available at the EPA Library in Washington, D.C. and the Region 9 office.

It is the purpose of this notice to approve all the rule revisions listed above and to incorporate them into the Arizona SIP. This is being done without prior proposal because the revisions are noncontroversial, have limited impact, and no comments are anticipated. The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, the approval will be withdrawn and a subsequent notice will be published before the effective date.

The subsequent notice will indefinitely postpone the effective date, modify the final action to a proposed action, and establish a comment period.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 17, 1982. This action may not be challenged later in proceedings to enforce its requirements.

Incorporation by reference of the State Implementation Plan for the State of Arizona was approved by the Director of the Federal Register on July 1, 1981.

(Secs. 110, 172 and 301(a), Clean Air Act, as amended (42 U.S.C. 7410, 7502 and 7601(a)))

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: June 14, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart D of Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart D—Arizona

1. Section 52.120, paragraph (c) is amended by adding subparagraphs (50)(ii), (52)(ii), and (53) to read as follows.

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(50) * * *

(ii) Arizona Revised Statutes.

(A) Arizona County: Chapter 6, Article 8. Air Pollution, Sections 36–770 to 36–778, 36–779 to 36–779.07, 36–780, 36–780.01, 36–781 to 36–783, 36–784 to 36–784.04, 36–785, 36–785.01, 36–786 to 36–788, 36–789 to 36–789.02, 36–790, and 36–791.

(B) Arizona State: Chapter 14, Air Pollution, Article 1. State Air Pollution Control, Sections 36–1700 to 36–1702, 36–1704 to 36–1706, 36–1707 to 36–1707.06, 36–1708, 36–1720.02, and 36–1751 to 36–1753.

* * * * *

(52) * * *

(ii) Arizona Revised Statutes.

(A) Inspection and Maintenance—Chapter 14, Article 3. Annual Emissions Inspection of Motor Vehicles, Sections 36–1771 to 36–1775, 36–1708.01, 36–1709 to 36–1711, 36–1712 to 36–1712.04, 36–1713, 36–1713.01, 36–1714 to 36–1717, 36–1718, 36–1718.01, 36–1719, 36–1720, and 36–1776 to 36–1780.

* * * * *

(53) The following amendments to the plan were submitted on March 8, 1982, by the Governor's designee.

(i) Maricopa County Bureau of Air Pollution Control Rules and Regulations.

(A) Rules 2 (Nos. 11 and 33, and deletion of Nos. 18, 49, 50, 52, and 54), 28 and 33.

* * * * *

[FR Doc. 82-16547 Filed 6-17-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-9-FRL 2142-7]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Joaquin Valley

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: Revisions to rules of the Kings, Madera, Merced San Joaquin, Stanislaus, and Tulare County Air Pollution Control Districts (APCDs) were forwarded to EPA by the State of California. These revisions generally are administrative and retain equivalent emission control requirements. In addition, this action approves five new rules controlling emissions of volatile organic compounds. EPA reviewed these rules with respect to the Clean Air Act and determined that they should be approved.

EFFECTIVE DATE: August 17, 1982.

ADDRESSES: Copies of the revisions are available for public inspection during normal business hours at the EPA Region 9 office and the following locations:

Public Information Reference Unit, Environmental Protection Agency, Library, 401 "M" Street, SW., Room 2404, Washington, D.C. 20460

Library, Office of the Federal Register, 1100 "L" Street, NW., Room 8401, Washington, D.C. 20408

California Air Resources Board, 1102 "Q" Street, Sacramento, CA 95812

Kings County Air Pollution Control District, 330 Campus Drive, Hanford, CA 93230

Madera County Air Pollution Control District, 135 West Yosemite Avenue, Madera, CA 93637

Merced County Department of Public Health, 210 East 13th Street, Merced, CA 95340

San Joaquin County Air Pollution Control District, 1601 East Hazelton Street, P.O. Box 2009, Stockton, CA 95201

Stanislaus County Air Pollution Control District, 1030 Scenic Drive, Modesto, CA 95350

Tulare County Air Pollution Control District, Health Building, County Civic Center, Visalia, CA 93277

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, State Implementation Plan Section, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974–8058.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted the following rules on the indicated dates:

KERN		
Rule 410.6	Perchloroethylene Dry Cleaning Systems.	June 22, 1981.
KINGS		
Rule 111(c)	Breakdown Provisions	Oct. 15, 1979.
Rule 417.1	Agricultural Burning	Dec. 15, 1980.
Rule 519	Emergency Variances	Oct. 15, 1979.
MADERA		
Rule 111(c)	Breakdown Provisions	Oct. 15, 1979.
Rule 201	Permits Required	Dec. 15, 1980.
Rule 202	Exemptions	Do.
Rule 301	Permit Fee	Do.
Rule 402(f)	Exceptions	Oct. 15, 1979.
Rule 417.1	Agricultural Burning	Dec. 15, 1980.
Rule 519	Emergency Variances	Oct. 15, 1979.
MERCED		
Rule 109(c)	Equipment Breakdown	Oct. 15, 1979.
Rule 202	Exemptions	July 25, 1980.
Rule 409.6	Can and Coil Coating Operations.	July 14, 1981.
Rule 416.1	Agricultural Burning	July 25, 1980.
Rule 519	Emergency Variances	May 7, 1979.
SAN JOAQUIN		
Rule 102	Definitions	May 23, 1979.
Rule 106.2	Source Test Methods	Do.
Rule 110(c)	Equipment Breakdown	Do.
Rule 202	Exemptions	Sept. 5, 1980.
Rule 209.4	Implementation Plans	Oct. 15, 1979.
Rule 302	Authority to Construct Air Quality Impact Analysis Fee.	May 23, 1979.
Rule 401	Visible Emissions	Do.
Rule 409.7	Graphic Arts	July 14, 1981.
Rule 409.8	Perchloroethylene Dry Cleaning Systems.	Do.
Rule 416.1	Agricultural Burning	Sept. 5, 1980.
Rule 521	Emergency Variances	May 23, 1979.
STANISLAUS		
Rule 110(c)	Equipment Breakdown	May 23, 1979.
Rule 202	Exemptions	July 25, 1980.
Rule 301	Permit Fee	Mar. 23, 1981.
Rule 409.8	Perchloroethylene Dry Cleaning Systems.	June 22, 1981.
Rule 416.1	Agricultural Burning	July 25, 1980.
Rule 519	Emergency Variances	May 23, 1979.
TULARE		
Rule 108	Stack Monitoring	May 23, 1979.
Rule 111(c)	Equipment Breakdown	Do.

Rule 201	Permits Required	Dec. 15, 1980.
Rule 202	Exemptions	Dec. 15, 1980.
Rule 410	Organic Solvents	May 23, 1979.
Rule 417.1	Agricultural Burning	Dec. 15, 1980.
Rule 519	Emergency Variances	May 23, 1979.

Under section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove these regulations as State Implementation Plan (SIP) revisions.

All the above rules have been evaluated and found in accordance with 40 CFR Part 51. Further, EPA has evaluated the rules listed below and determined that the Part D requirement for reasonably available control technology for Group II Control Techniques Guidelines sources is satisfied:

a. Kern, San Joaquin and Stanislaus rules for Perchloroethylene Dry Cleaning Systems.

b. San Joaquin rule for Graphic Arts.

Since the above rules for Perchloroethylene provide equivalent or better requirements than the federal regulation 52.246, "Control of dry cleaning solvent vapor losses," that regulation is being rescinded for the three Districts.

Detailed evaluation reports are available for public inspection at the EPA Library in Washington, D.C. and the EPA Region 9 Office.

This notice approves all the rule revisions listed above and incorporates them into the California SIP. EPA's approval of the above revisions to the California SIP is being done without prior proposal because the revisions are not controversial. The public is advised that this approval action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received by EPA within 30 days that someone wishes to submit adverse or critical comments, the approval action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will indefinitely postpone the effective date, modify the final action to a proposed action, and establish a comment period.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 17, 1982. This action may not be challenged later in proceedings to enforce its requirements.

Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the **Federal Register** on July 1, 1981.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbon.

Dated: June 14, 1982.

Anne M. Gorsuch.

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart F of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220(c) is amended by adding subparagraphs (50)(vi)(B), (51)(viii)(C), (ix)(C), and (x)(C), (52)(iv)(C), (v)(C), (vi)(C), and (vii)(C), (85) (i)(C), (ii)(B), and (ix)(A), (87)(iii)(B), (88)(i)(C), and (v)(B), (93)(i)(B), and (v)(A), (95)(v)(B) and (102)(ii)(B) and (iii)(A) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(50) * * *

(vi) * * *

(B) New or amended Rule 519.

* * * * *

(51) * * *

(viii) * * *

(C) New or amended rules 102, 108.2, 110(c), 302, 401, and 521.

(ix) * * *

(C) New or amended Rules 110(c) and 519.

(x) * * *

(C) New or amended Rules 108, 111(c), 201, 410 and 519.

* * * * *

(52) * * *

(iv) * * *

(C) New or amended Rules 111(c), and 519.

(v) * * *

(C) New or amended Rules 111(c) 402(f) and 519.

(vi) * * *

(C) New or amended Rule 109(c).

(vii) * * *

(C) New or amended Rule 209.4.

* * * * *

(85) * * *

(i) * * *

(C) New or amended Rules 201 and 417.1.

(ii) * * *

(B) New or amended Rules 201, 202, 301, and 417.1.

* * * * *

(ix) Kings County APCD.

(A) New or amended Rule 417.1.

* * * * *

(87) * * *

(iii) * * *

(B) New or amended Rules 202 and 416.1.

* * * * *

(88) * * *

(i) * * *

(C) New or amended Rules 202 and 416.1.

* * * * *

(v) * * *

(B) New or amended Rules 202 and 416.1.

* * * * *

(93) * * *

(i) * * *

(B) New or amended Rule 409.8.

* * * * *

(v) Kern County APCD.

(A) New or amended Rule 410.6.

* * * * *

(95) * * *

(v) * * *

(B) New or amended Rule 301.

* * * * *

(102) * * *

(ii) * * *

(B) New or amended Rules 409.7 and 409.8.

(iii) Merced County APCD.

(A) New or amended Rules 409.6.

* * * * *

2. Section 52.246 is amended by adding subparagraphs (b)(3)(i)–(iii) to read as follows:

§ 52.246 Control of dry cleaning solvent vapor losses.

* * * * *

(b) * * *

(3) In the following portions of the San Joaquin Valley Intrastate Region, this section is rescinded:

(i) San Joaquin County APCD.

(ii) Stanislaus County APCD.

(iii) Tulare County APCD.

* * * * *

[FR Doc. 82-16545 Filed 6-17-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-4-FRL 2136-7]

Approval and Promulgation of Implementation Plans; Florida; Miscellaneous Revisions

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today announces its approval of a number of minor revisions in Florida's air pollution control regulations. The changes were made in connection with a recent reformatting of the regulations. They were submitted for EPA's approval on August 11, 1981.

EFFECTIVE DATE: This action will be effective on August 17, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments should be addressed to William Voshell, of EPA Region IV's Air Programs Branch (see EPA Region IV address below). Copies of the materials submitted by Florida may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460
Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365
Library, Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20005
Florida Department of Environmental Regulation, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301.

FOR FURTHER INFORMATION CONTACT: William Voshell, EPA Region IV Air Programs Branch, at the Atlanta address given above, phone 404/881-3286 (FTS 257-3286).

SUPPLEMENTAL INFORMATION: On August 11, 1981, the Florida Department of Environmental Regulation (DER) submitted a number of implementation plan revisions for EPA's approval. EPA has already acted on portions of the submittal—namely, the deletion of the State's indirect source rules (approved at 47 FR 15793 on April 13, 1982), a general reformatting of the Florida air pollution control regulations (approved at 47 FR 13336 on March 30, 1982), and a variance for unit 4 of Florida Power & Light Company's Sanford plant (approved at 46 FR 53140 on October 28, 1981). A bubble action for General Portland in Tampa will be dealt with in another **Federal Register** notice. The remainder of the submittal of August 11, 1981, is approved today. These revisions are minor in nature. They are now listed.

Section 17-2.100—Definitions. Seven new definitions are added: (1) Air pollution, (2) air pollution control equipment, (3) air quality control region, (4) ambient air quality standard, (5) emission point or discharge point, (6) stack, and (7) unconfined emissions. Also, the following definitions are amended: (1) Air pollutant, (2) emission limiting standard, (3) existing source, and (4) new source.

Section 17-2.290—Effective Date. The new effective date of the Florida regulations is November 11, 1981.

Section 17-2.300—Ambient Air Quality. The Florida DER has adopted by reference the ambient monitoring requirements of 40 CFR Part 58.

Section 17.2.600—Emission Limiting and Performance Standards. No substantive change is made except for the deletion of § 17.2.05 (6) Table II, C.(4), relating to phosphate plants. The affected process is already regulated under the process weight rate table for manufacturing processes.

Section 17-2.610—A section on applicability is added to the process weight table. The fugitive particulate rule is amended and expanded. The visible emission standard is made generally applicable.

Section 17.2.640—Language is added on phased construction projects.

Section 17.2.650—The test method for can coating is changed.

Section 17.2.660—The New Source Performance Standards (NSPS) for ammonium sulfate manufacture and auto and light duty truck coating are added.

EPA is approving these regulatory changes without prior proposal because they are of a minor and noncontroversial nature and EPA anticipates no comments on its approval action. The public should be advised that this action will be effective 60 days from the date of this Federal Register notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 17, 1982. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), I have previously certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Incorporation by reference of the State Implementation Plan for the State of Florida was approved by the Director of the Federal Register on July 1, 1981.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110 of the Clean Air Act, as amended (42 U.S.C. 7410))

Dated: June 14, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart K—Florida

In § 52.520, paragraph (c) is amended by adding subparagraph (46) as follows:

§ 52.520 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified. * * *

(46) Miscellaneous regulation changes, submitted on August 11, 1981, by the Florida Department of Environmental Regulation.

[FR Doc. 82-16542 Filed 6-17-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-9-FRL 2141-8]

Approval and Promulgation of Implementation Plans; Nevada State Implementation Plan Revision

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: Revisions to rules of the Clark County Health District and the State of Nevada were submitted to EPA by the Governor. These revisions

generally are administrative and retain equivalent emission control requirements. EPA reviewed these rules with respect to the Clean Air Act and determined that they should be approved.

EFFECTIVE DATE: August 17, 1982.

ADDRESSES: Copies of the revisions are available for public inspection during normal business hours at the following locations:

Public Information Reference Unit, Environmental Protection Agency, Library, 401 M Street SW., Room 2404, Washington, D.C. 20460
Library, Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408
Clark County Health District, 625 Shadow Lane, Las Vegas, NV 89106
Nevada Department of Conservation and Natural Resources, 201 South Fall Street, Capitol Complex, Carson City, NV 89710.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, State Implementation Plan Section, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont St., San Francisco, CA 94105, (415) 974–8058.

SUPPLEMENTARY INFORMATION: The Governor of Nevada submitted the following rules and regulations on the indicated dates:

	Nevada State
	December 29, 1978
Article:	
1	Definitions (Colemanite Processing Plant, Colemanite, and Ore).
7.2.8.1 to 7.2.8.3	Particulate Matter, Industrial Sources.
16	Standards of Performance for New Stationary Sources.
16.3.1.2 to 16.3.3	Portland Cement Plants.
16.15.1 to 16.15.4	Primary Lead Smelters.
	July 24, 1979
Article:	
12	Ambient Air Quality Standards Nevada Standards, Lead (Pb).
	November 5, 1980
Article:	
7.2.5, 7.2.5.1, 7.2.9.	Particulate Matter, Industrial Sources.
8.3.4	Sulfur Emissions, Other Sulfur Emitting Processes.
	Clark County
	November 17, 1981
Section:	
4.7.3	Control Officer.
7	Hearing Board.
9.1	Administrative Fines.
16	Operating Permits.
17.2.1, 17.6.1	Permission to Disturb Topsoil.
18.1 to 18.5.2	Registration/Permit Fees.
23.2.1 to 23.3.1.2, 23.3.4 to 23.3.5.	Continuous Monitoring by Fossil Fuel-Fired Steam Generators.
27	Particulate Matter From Process Weight Rate.
30.4, 30.8	Incinerators.
52.4.2.3, 52.7.2	Handling of Gasoline.
60.4.3	Evaporation and Leakage.

Under section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove these regulations as State Implementation Plan (SIP) revisions. All the rules listed above have been evaluated and found in accordance with EPA policy and 40 CFR Part 51. EPA's detailed evaluation of the submitted rules is available at the EPA Library in Washington, D.C., and the Region 9 Office.

This notice approves all the rule revisions listed above and incorporates them into the Nevada SIP. EPA's approval of the above revisions to the Nevada SIP is being done without prior proposal because the revisions are not controversial. The public is advised that this approval action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received by EPA within 30 days that someone wishes to submit adverse or critical comments, the approval action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will indefinitely postpone the effective date, modify the final action to a proposed action, and establish a comment period.

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Incorporation by reference of the State Implementation Plan for the State of Nevada was approved by the Director of the Federal Register on July 1, 1981.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110 and 301(a), Clean Air Act, as amended (42 U.S.C. 7410 and 7601(a)).

Dated: June 14, 1982.

Anne M. Gorsuch,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart DD of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart DD—Nevada

1. Section 52.1470 is amended by adding paragraphs (c)(14)(viii), (16)(x), (22)(ii), and (24)(iv) as follows:

§ 52.1470 Identification of plan.

* * * * *

(c) * * *

(14) * * *

(viii) Amendments to the Nevada Air Quality Regulations: Article 1; Article 7, Rules 7.2.8.1–7.2.8.3; Article 16, Rules 16.3.1.2–16.3.3 and Rules 16.15.1–16.15.4.

* * * * *

(16) * * *

(x) Amendments to the Nevada Air Quality Regulations: Article 12, Lead (Pb).

* * * * *

(22) * * *

(ii) Amendments to the Nevada Air Quality Regulations: Article 7, Rules 7.2.5, 7.2.5.1, 7.2.9; and Article 8, Rule 8.3.4.

* * * * *

(24) * * *

(iv) Amendments to the Clark County District Board of Health Air Pollution Control Regulations: Section 4, Rule 4.7.3; Section 7; Section 9, Rule 9.1; Section 16; Section 17, Rules 17.2.1 and 17.6.1; Section 18, Rules 18.1–18.5.2; Section 23, Rules 23.2.1–23.3.1.2 and Rules 23.3.4–23.3.5; Section 27; Section 30, Rules 30.4 and 30.8; Section 52, Rules 52.4.2.3 and 52.7.2; and Section 60, Rule 60.4.3.

* * * * *

[FR Doc. 82-16548 Filed 6-17-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 52

[EPA Action KS 276; FRL-2137-6]

Revision to State Implementation Plan; State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: In order to satisfy the requirements of Part D of the Clean Air Act, as amended, the State of Kansas submitted revisions to its State

Implementation Plan (SIP) in 1979 and 1980. On April 3, 1981, EPA took final action to approve certain elements of the Kansas plan and to conditionally approve certain other portions. On September 15, 1981, the Kansas Department of Health and Environment submitted a revision to fulfill one of these conditions. The condition required the state to submit additional information to substantiate its determination that those sources of particulate listed in the state particulate plan which have no air pollution control equipment meet the requirements of reasonably available control technology (RACT).

On March 5, 1982, EPA proposed in the **Federal Register** (47 FR 9481) to remove the applicable condition on the Kansas SIP and solicited public comments on the action. No comments were received as a result of the March 5 proposal.

The purpose of this notice is to advise the public that EPA is taking final action to remove the applicable condition on approval of the Kansas SIP. Until all conditions are met, conditional approval of the SIP will continue.

EFFECTIVE DATE: This action is effective July 19, 1982.

ADDRESSES: Copies of the state submission are available for inspection during normal business hours at the following locations: Environmental Protection Agency, Air Branch, 324 East 11th Street, Kansas City, Missouri 64106; Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460; and Kansas Department of Health and Environment, Bureau of Air Quality and Occupational Health, Forbes Field, Topeka, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Mary C. Carter at (816) 374–3791 (FTS 758–3791).

SUPPLEMENTARY INFORMATION: On April 3, 1981 (46 FR 20164), EPA took final action with regard to the requirements of part D of the Clean Air Act, as amended, to approve certain portions of the Kansas SIP and to conditionally approve certain other portions.

In its original SIP submittal in 1979, the state certified that all major point sources of particulate in the Kansas City, Kansas, nonattainment area were required to meet regulations representing RACT. However, the submittal indicated that some of the sources had no control equipment. Therefore, one of the conditions promulgated by EPA on April 3, 1981, required the state to submit additional information to substantiate its determination of RACT for those point sources of particulate listed in the state plan which are not equipped with control equipment. In addition, the state was required to implement any recommended control measures which might be identified and to submit acceptable compliance schedules for completing the actions which may be necessary to control these sources at the RACT level, so that Kansas City attains the particulate standard by the December 31, 1982 deadline.

On September 15, 1981, the Kansas Department of Health and Environment (KDHE) submitted a revision which included a study carried out by the local agency, the Kansas City-Wyandotte County Department of Health which, EPA believes, does not adequately address all of the uncontrolled sources listed in the state particulate plan. However, EPA learned through further communication with the local agency that some of the uncontrolled sources which are not addressed in the report, either no longer exist, have not been operating for the last year, or have undergone process modifications to reduce particulate emissions. The remaining point sources which do not have control equipment represent only two percent of the Wyandotte County particulate emission inventory. In addition, for at least one of these uncontrolled sources there is no reasonably available control equipment.

EPA has reviewed the September 15, 1981, submission from KDHE and has determined that it does not meet the requirements of the April 3, 1981 condition on approval of the Kansas SIP because the submission only addresses some of those uncontrolled sources listed in the state particulate plan. However, because of recent information as discussed above, EPA finds that the condition is no longer appropriate. On March 5, 1982, EPA proposed to remove this condition on the Kansas SIP. The reader is referred to the **Federal Register** notice published on that date (47 FR 9481) for further information. There were no comments received as a result of the proposal.

Action: EPA removes the condition on approval of the Kansas SIP identified earlier in this notice. Until all the conditions identified in the April 3, 1981 notice are removed, conditional approval of the Kansas SIP will continue.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, as amended, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2), this action may not be challenged later in proceedings to enforce its requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur dioxide, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

This notice of final rulemaking is issued under the authority of section 110 of the Clean Air Act as amended.

Dated: June 14, 1982.

Ann M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Kansas was approved by the Director of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart R—Kansas

1. Section 52.870 is amended by adding a new paragraph (c)(13) to read as follows:

§ 52.870 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(13) Letter and supporting documents submitted on September 15, 1981, from the Director of Air Quality and Occupational Health relating to reasonably available control technology for certain particulate matter sources in the Kansas City, Kansas area.

§ 52.875 [Amended]

2. Section 52.875, *General Requirements*, is amended by removing paragraph (a)(3)(ii).

[FR Doc. 82-16543 Filed 6-17-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-9-FRL 2141-6]

California State Implementation Plan Revisions

AGENCY: Environmental Protection Agency.

ACTION: Notice of final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve revisions to rules of the Sacramento San Luis Obispo, Santa Barbara, and Ventura County Air Pollution Control Districts submitted by the California Air Resources Board (ARB) as revisions to the California State Implementation Plan (SIP). These revisions generally are administrative and retain equivalent emission control requirements. EPA reviewed these rules with respect to the Clean Air Act and determined that they should be approved.

DATE: This action is effective August 17, 1982.

ADDRESSES: Copies of the revisions and the technical support documents are available for public inspection during normal business hours at the EPA Region 9 office and at the following locations:

Public Information Reference Unit, Environmental Protection Agency, Library, 401 M Street SW., Room 2404, Washington, D.C. 20460

Library, Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, State Implementation Plan Section, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974–8058.

SUPPLEMENTARY INFORMATION: The ARB submitted as SIP revisions the following rules on the indicated dates:

San Luis Obispo County

October 23, 1981

Rule 301 Fees
Rule 302 Schedule of Fees
Rule 411 Surface Coatings of Manufactured Metal Parts

December 17, 1979

Rule 407 Organic Material Emission Standards, Limitations and Prohibitions

Sacramento County

October 23, 1981

Rule 50 Permits Required
Rule 70 Stationary Source Permit Fees Subject to Regulation 5
Rule 14 Transfer of Gasoline into Vehicle Fuel Tanks

September 5, 1980

Rule 74 Agricultural Burning Permit Fees
Reg. VII Agricultural Burning (Definitions)
Rule 90 Agricultural Burning Permits
Rule 92 "No Burn" Days
Rule 93 Preparation of Agricultural Waste
Rule 94 Limitation on Daily Burning Rate
Rule 95 Other Burning Limitations
Rule 96 Special Permits
Rule 98 Issuance of Agricultural Burning Permits

October 15, 1979

Rule 1 Title

Santa Barbara County

December 15, 1980

Rule 210 Fees

Ventura County

October 23, 1981

Rule 2 Definitions
Rule 12 Statement by Engineer or Application Preparer
Rule 16 Permit Contents
Rule 23 Exemption from Permits
Rule 41 Hearing Board Fees
Rule 42 Permit Fees (except Paragraph L.3)
Rule 74.2 Architectural Coatings

March 23, 1981

Rule 21 Expiration of Applications and Permits
Rule 29 Conditions on Permits
Rule 30 Permit Renewal
Rule 64 Sulfur Content of Fuels

March 17, 1980

Rule 10 Permits Required
Rule 25 Action on Applications
Rule 27 Suspension of Permits

September 5, 1980

Rule 2 Definitions
Rule 55 Exceptions from Emission Standards

June 2, 1980

Rule 59 Oxides of Nitrogen Emissions

February 25, 1980

Rule 17 Changes in Equipment (deleted)
Rule 56 Open Fires
Rule 80 Permits (for Orchard Heaters)
Rule 81 Condition of Heaters
Rule 151 Air Monitoring Stations (deleted)
Rule 163 Advisory Committee (deleted)
Rule 164 Emergency Action Board (deleted)

May 23, 1979

Rule 6 Severability
Rule 8 Access to Facilities
Rule 9 Arrest Authority
Rule 13 Statement by Applicant
Rule 24 Source Recordkeeping and Reporting
Rule 40 Permit Fees—General
Rule 63 Separation and Combination of Emissions
Rule 75 Circumvention
Rule 102 Source Tests
Rule 103 Stack Monitoring
Rule 110 General—Hearing Board Procedures
Rule 111 Filing Petitions
Rule 112 Content of Petitions
Rule 113 Petitions for Variances
Rule 114 Appeal from Denial, Suspension, Conditional Approval or Fees Assessed
Rule 120 Notice of Hearing
Rule 121 Evidence
Rule 123 Findings, Variance or Abatement Order
Rule 124 Decision
Rule 125 Abatement Order
Rule 126 Effective Date of Decision
Rule 127 Lack of Permit
Rule 130 Variance Order Conditions

May 7, 1979

Rule 11 Application Contents

Under section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove these regulations as State Implementation Plan revisions. All rules submitted have been evaluated and found to be in accordance with EPA policy and 40 CFR Part 51. EPA's detailed evaluation of the submitted rules is available at the EPA Library in Washington, D.C., and the Region 9 Office.

In 40 CFR 52.255, *Gasoline transfer vapor control,* the language in paragraph (b) is condensed to remove "reserved" listings. This action does not change or replace any SIP requirements.

It is the purpose of this notice to approve all the rule revisions listed above and to incorporate them into the California SIP. This is being done without prior proposal because the revisions are noncontroversial, have limited impact, and no comments are anticipated. The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received by EPA within 30 days that someone wishes to submit adverse or critical comments, the approval action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will indefinitely postpone the effective date, modify the final action to a proposed action and establish a comment period.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements.

Note.—Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1981.

(Secs. 110, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601(a)))

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Lead.

Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

Dated: June 14, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart F of Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraphs (c)(50)(ix)(B), (51)(xx), (52)(xx), (54)(i)(C), (56)(ii)(B), (58)(viii), (79)(iii)(B), (85)(vii), (87) (vi) and (vii), (95)(ii)(B), and (103)(iv)(B), (v)(B) and (xii) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(50) * * *

(ix) * * *

(B) New or amended Rule 11.

* * * * *

(51) * * *

(xx) Ventura County APCD.

(A) New or amended Rules 6, 8, 9, 13, 24, 40, 63, 75, 102, 103, 110, 111, 112, 113, 114, 120, 121, 123, 124, 125, 126, 127, and 130.

* * * * *

(52) * * *

(xx) Sacramento County APCD.

(A) New or amended Rule 1.

* * * * *

(54) * * *

(i) * * *

(C) New or amended Rules 56, 80, 81, and deletion of Rules 17, 151, 163, and 164.

* * * * *

(56) * * *

(ii) * * *

(B) New or amended Rules 10, 25, and 27.

* * * * *

(58) * * *

(viii) San Luis Obispo County APCD.

(A) New or amended Rule 407.

* * * * *

(79) * * *

(iii) * * *

(B) New or amended Rule 59.

* * * * *

(85) * * *

(vii) Santa Barbara County APCD.

(A) New or amended Rule 210.

* * * * *

(87) * * *

(vi) Sacramento County APCD.

(A) New or amended Rules 74, 90, 92, 93, 94, 95, 96, 98, and Regulation VII.

(vii) Ventura County APCD.

(A) New or amended Rules 2 and 55.

* * * * *

(95) * * *

(ii) * * *

(B) New or amended Rules 21, 29, 30, and 64.

* * * * *

(103) * * *

(iv) * * *

(B) New or amended Rules 2, 12, 16, 23, 41, 42, and 74.2.

(v) * * *

(B) New or amended Rules 50, 70, and 14.

* * * * *

(xii) San Luis Obispo County APCD.

(A) New or amended Rules 301, 302, and 411.

* * * * *

2. In § 52.255, paragraph (b) is amended by adding subparagraphs, (1)(i) and (2) as follows:

§ 52.255 Gasoline transfer vapor control.

* * * * *

(b) * * *

(1) * * *

(i) Ventura County APCD.

(2) The control requirements of this section are rescinded in the following air pollution control districts.

(i) South Coast AQMD.

(ii) Santa Barbara County APCD.

(iii) Placer County APCD (Mountain Counties Air Basin portion.

(iv) Sacramento County APCD.

(v) Yolo-Solano County APCD.

(vi) Butte County APCD.

(vii) Glenn County APCD.

* * * * *

[FR Doc. 82-16469 Filed 6-17-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF ENERGY

Office of the Secretary

41 CFR Ch. 9

Amendments to the DOE Procurement Regulations

AGENCY: Office of the Secretary, DOE.

ACTION: Correction notice.

SUMMARY: This document corrects a final rule amending the DOE Procurement Regulations published at 47 FR 21539 on May 19, 1982.

ADDRESS: Comments, if any, should be addressed to the Department of Energy, Procurement Policy Branch, MA931.1, Forrestal Building, Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Richard B. Langston, Procurement Policy Branch, Procurement and Assistance Management Directorate, Department of Energy, (202) 252-6188.

The following corrections are made.

1. On page 21541, as part of Change 5.2, "§ 9-1355" appearing before the clause "Contracts conditioned upon the availability of funds" is corrected to read "§ 9-1.355."

2. On page 21544, as part of Change 5.11, "§ 9-7.203-58" appearing before the clause "Cost and schedule control systems" is corrected to read "§ 9-7.203-59."

3. On page 21544, as part of Change 5.11, "§ 9-7.403-75" appearing before the second clause entitled "Cost and schedule control systems" is corrected to read "§ 9-7.403-76."

Issued in Washington, D.C., June 11, 1982.

Hilary J. Rauch,

Director, Procurement and Assistance Management Directorate.

[FR Doc. 82-16372 Filed 6-17-82; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 2, 4 and 2650

Hearings and Appeals Procedures

AGENCY: Office of Hearings and Appeals, Bureau of Land Management, Interior.

ACTION: Interim rule.

SUMMARY: This interim rule amends the regulations governing hearings and appeals to implement Secretarial Order No. 3078, dated April 29, 1982, abolishing the Alaska Native Claims Appeal Board (ANCAB) and consolidating the functions of that Board under the jurisdiction of the Interior Board of Land Appeals (IBLA) effective June 30, 1982. This action was taken to achieve greater economy in the use of Office of Hearings and Appeals (OHA) resources. The effect of these amendments is to ensure that uniform procedures apply to all appeals submitted to IBLA and to eliminate regulations made duplicative by the consolidation of functions within IBLA.

EFFECTIVE DATES: Interim rule effective June 30, 1982; comments must be received on or before August 30, 1982.

ADDRESS: Comments should be sent to: Director, Office of Hearings and Appeals, Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Comments will be available for public review in Room 1111 at the above address during regular

business hours (8:30 a.m. to 5:30 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT:
Julia A. Barrows, (703) 235–3750.

SUPPLEMENTARY INFORMATION:
Secretarial Order No. 3078 abolished ANCAB and transferred all of the functions and responsibilities delegated to ANCAB with respect to appeals arising under the Alaska Native Claims Settlement Act (ANCSA), as amended (43 U.S.C. 1601–1628), to IBLA effective June 30, 1982. To implement this internal organization change, the jurisdictional statement for ANCAB in 43 CFR 4.1 is being removed and that for IBLA revised. The specific regulations in 43 CFR Part 4, Subpart J, now applicable to appeals brought under ANCSA also are being revoked. The procedural regulations in 43 CFR Part 4, Subpart E, applicable to public lands matters generally will now govern ANCSA land selection appeals as well. References to "ANCAB" and "Subpart J" in 43 CFR Part 2560 are being changed to "IBLA" and "Subpart E."

A comparison of Subparts E and J has been undertaken to identify any substantive or procedural differences in the two sets of regulations which require special attention in undertaking these regulatory changes. Generally the procedural requirements and practices of the two appeals boards are similar. This organization change therefore has no significant impact on appellants. Several differences in the existing requirements applicable to ANCSA land selection appeals have been identified. These differences and the effect of this interim rule with respect to these differences are as follows:

1. The regulations in Subpart J state a specific basis for standing to appeal which differs from the standing requirement in public land appeals under Subpart E. In order that all appellants bringing appeals relating to ANCSA land selections will be treated the same, 43 CFR 4.410 and related sections are being amended to incorporate the current standing requirement for such appeals. No substantive change is being made to the existing IBLA standing requirement.

2. The current regulations require that all hearings held in connection with ANCSA land selection appeals be conducted within the State of Alaska. This requirement is being retained by amendment to 43 CFR 4.431 and 4.452–2. Further, if IBLA, in its discretion, grants an opportunity for oral argument pursuant to 43 CFR 4.25 in a case relating to an ANCSA land selection, it will be the policy of IBLA to hear such argument in Alaska for good cause shown.

3. Subpart J currently requires the filing of notices of appeal with ANCAB which is located in Anchorage, Alaska. A copy must also be served on the official making the decision. 43 CFR 4.903(a). In Subpart E, 43 CFR 4.411(a) requires filing a notice of appeal "in the office of the officer who made the decision (not the Board [of Land Appeals])." This interim rule makes no change in the place of filing specified in 43 CFR 4.411. Thus, on and after June 30, 1982, persons appealing matters involving land selections arising under ANCSA must file notices of appeal in the office of the officer who made the decision, *not* with ANCAB or IBLA. Since the deciding official in such appeals is the Director, Alaska State Office, Bureau of Land Management (BLM), who is located in Anchorage, this requirement will not be burdensome because appellants will still file notices of appeal in Anchorage and will not have to file with IBLA in Arlington, Virginia.

4. In determining the time of filing of documents with the Board, IBLA applies the general Office of Hearings and Appeals rule in 43 CFR 4.22(a); that is, filing is accomplished when a document is received in the proper office. The current rule applicable to ANCSA land selection appeals states that documents are considered filed on the "date of postmark, except when there is no postmark * * * the date of receipt in the proper office." 43 CFR 4.907(c). No special provision for such appeals is being retained. Since 43 CFR 4.401(a) in Subpart E provides for a 10-day grace period for documents transmitted on or before their due date, there is no significant difference in the current requirements and thus there should be no undue burden on appellants to comply with the general rule in 43 CFR 4.22(a).

5. The requirements for service of documents in 43 CFR 4.401(c) does not provide for service by first class mail as do those now applicable to ANCSA land selection appeals. The Subpart E requirement is not being modified as it does not appear to have created any undue difficulty for other appellants in Alaska appealing to IBLA.

This interim rule implements an internal organization change and creates no substantive change in the basic right of appeal afforded to persons from decisions by Departmental officials concerning matters related to land selection under ANCSA. It simply changes the appeals board to which the appeal is directed, without substantial modifications of existing procedures and practices. This interim rule eliminates regulations which are repetitious in view of the consolidation of functions under IBLA, and ensures uniformity of treatment for all appellants before IBLA. It makes no changes in the procedures applicable to current IBLA appellants. We know of no additional burden that will be imposed on the public as a result of the issuance of this interim rule. In view of the above, good cause exists to implement these changes in an interim rule effective June 30, 1982. The public was previously informed of the change by publication of Secretarial Order No. 3078 in the **Federal Register** on May 25, 1982, and delay of the effective date would result in harm to the public by causing confusion as to the appropriate office to file appeals of decisions relating to land selections under ANCSA. Since May 17, 1982, all such decisions have contained a statement directing that notices of appeal filed on or after June 30, 1982, must be filed in the office of the officer making the decision. Nevertheless, the public is requested to comment on the provisions of this rule. Comments received will be studied and considered prior to issuance of a final rule.

The author of this interim rule is Julia A. Barrows, Office of Hearings and Appeals.

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

It is hereby determined that this rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)) is required. Further, section 910 of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1638) provides that the National Environmental Policy Act shall not be construed as requiring such statement for regulations which lead to conveyances to Natives or Native Corporations pursuant to ANCSA.

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

List of Subjects

43 CFR Part 4

Administrative practice and procedure, Lawyers, Public lands.

43 CFR Part 2650

Administrative practice and procedure, Alaska, Public lands—Grants.

Under the authority of R.S. 2478, as amended, 43 U.S.C. 1201; sec. 25 of the Alaska Native Claims Settlement Act, as amended, 43 U.S.C. 1601–1628; and the Administrative Procedure Act, 5 U.S.C. 551 et seq., Appendix B, Part 2, and Part 4 of Subtitle A and Part 2650, Chapter 11, of Subtitle B of Title 43, Code of Federal Regulations, are amended as set forth below.

Dated: June 14, 1982.

Donald Paul Hodel,

Under Secretary.

PART 2—RECORDS AND TESTIMONY

1. Appendix B of Part 2 is amended by removing the following address from the list under 3. *Office of Hearings and Appeals—Field Offices:*

Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, AK 99510

PART 4—DEPARTMENT HEARINGS AND APPEALS PROCEDURES

2. In § 4.1, paragraph (b)(3) is revised to read as follows:

§ 4.1 Scope of authority; applicable regulations.

* * * * *

(b) * * *

(3) *Board of Land Appeals.* The Board decides finally for the Department appeals to the head of the Department from decisions rendered by Departmental officials relating to (i) the use and disposition of public lands and their resources, including land selections arising under the Alaska Native Claims Settlement Act, as amended, and (ii) the use and disposition of mineral resources in certain acquired lands of the United States and in the submerged lands of the Outer Continental Shelf. Special procedures for hearings, appeals and contests in public land cases are contained in Subpart E of this part.

3. In § 4.1, paragraph (b)(5) is removed and paragraph (b)(6) is redesignated as paragraph (b)(5).

4. Section 4.402 is amended by adding a new paragraph (d) to read as follows:

§ 4.402 Summary dismissal.

* * * * *

(d) If the statement of standing required by § 4.412(b) is not filed with the Board or is not served upon adverse parties within the time required.

5. Section 4.410 is revised to read as follows:

§ 4.410 Who may appeal.

(a) Any party to a case who is adversely affected by a decision of an officer of the Bureau of Land Management or of an administrative law judge shall have a right to appeal to the Board, except—

(1) As otherwise provided in Group 2400 of Chapter II of this title,

(2) To the extent that decisions of Bureau of Land Management officers must first be appealed to an administrative law judge under § 4.470 and Part 4100 of this title,

(3) Where a decision has been approved by the Secretary, and

(4) As provided in paragraph (b) of this section.

(b) For decisions rendered by Departmental officials relating to land selections under the Alaska Native Claims Settlement Act, as amended, any party who claims a property interest in land affected by the decision, an agency of the Federal Government or a regional corporation shall have a right to appeal to the Board.

6. In § 4.411, paragraph (a) is revised to read as follows:

§ 4.411 Appeal; how taken, mandatory time limit.

(a) A person who wishes to appeal to the Board must file in the office of the officer who made the decision (not the Board) a notice that he wishes to appeal. The notice of appeal must give the serial number or other identification of the case and must be transmitted in time to be filed in the office where it is required to be filed within 30 days after the person taking the appeal is served with the decision from which he is appealing, or if publication of the decision in the **Federal Register** is made, within 30 days after publication of the decision in the **Federal Register**, whichever shall occur first. The notice of appeal may include a statement of the reasons for the appeal, a statement of standing if required by § 4.412(b), and any arguments the appellant wishes to make.

* * * * *

7. Section 4.412 is revised to read as follows:

§ 4.412 Statement of reasons, statement of standing, written arguments, briefs.

(a) If the notice of appeal did not include a statement of the reasons for the appeal, the appellant shall file such a statement with the Board (address: Board of Land Appeals, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203) within 30 days after the notice of appeal was filed. In any case, the Board will permit the appellant to file additional statements of reasons and written arguments or briefs within the 30-day period after the notice of appeal was filed.

(b) Where the decision being appealed relates to land selections under the Alaska Native Claims Settlement Act, as amended, the appellant also shall file with the Board a statement of facts upon which the appellant relies for standing under § 4.410(b) within 30 days after filing of the notice of appeal. The statement may be included with the notice of appeal filed pursuant to § 4.411 or the statement of reasons filed pursuant to paragraph (a) of this section or may be filed as a separate document.

(c) Failure to file the statement of reasons and statement of standing within the time required will subject the appeal to summary dismissal as provided in § 4.402, unless the delay in filing is waived as provided in § 4.401(a).

8. Section 4.431 is revised to read as follows:

§ 4.431 Fixing of place and date for hearing; notice.

The administrative law judge shall fix a place and date for the hearing and notify all parties and the Bureau. All hearings held in connection with land selection appeals arising under the Alaska Native Claims Settlement Act, as amended, shall be conducted within the State of Alaska, unless the parties agree otherwise.

9. Section 4.452–2 is revised to read as follows:

§ 4.452–2 Notice of hearing.

The administrative law judge shall fix a place and date for the hearing and notify all parties and the Bureau at least 30 days in advance of the date set, unless the parties and the Bureau request or consent to an earlier date. The notice shall include (a) the time, place, and nature of the hearing, (b) the legal authority and jurisdiction under which the hearing is to be held, and (c) the matters of fact and law asserted. All hearings held in connection with land selection appeals arising under the Alaska Native Claims Settlement Act, as amended, shall be conducted within the state of Alaska, unless the parties agree otherwise.

§§ 4.900—4.913 (Subpart J) [Removed]

10. Part 4 of this title is amended by removing and reserving Subpart J.

PART 2650—ALASKA NATIVE SELECTIONS

11. In addition to the amendments set forth above, in 43 CFR Part 2650—Alaska Native Selections, all references

to "Alaska Native Claims Appeal Board" are changed to read "Board of Land Appeals" and all references to "Subpart J" are changed to read "Subpart E."

[FR Doc. 82-16619 Filed 6-17-82; 8:45 am]
BILLING CODE 4310-10-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[FCC 82-245]

Amendment of the Commission's Rules Pertaining to Acceptable Paper Size

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission is revising its procedural rules to eliminate the use of legal size paper. Beginning January 1, 1983, the Federal Communications Commission will only accept pleadings and other documents that are submitted on 8½ x 11 inch size paper. This action is being taken to conserve file space and eliminate the need for maintaining separate filing systems for both standard and legal size paper.

DATE: Effective date: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Randy Thomas, Office of General Counsel, (202) 632-6990.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

Adopted: May 25, 1982.

Released: May 27, 1982.

In the matter of Amendment of § 1.49 of the Commission's rules and regulations.

1. The Commission, *sua sponte*, has reexamined § 1.49 of its Rules and Regulations pertaining to the acceptable size of paper for documents filed with the Commission. The Commission finds that the maintenance of dual filing systems for standard and legal size paper is uneconomical. In accordance with the decision of the Administrative Conference of the United States Courts [1] to eliminate legal size paper in the Federal court system, the Federal Communications Commission hereby directs discontinuation of the use of legal size paper in Commission proceedings.

2. It is ordered that effective January 1, 1983, 8½ x 11 inch size paper will be the only size accepted for the filing of pleadings and other documents with the Commission.

3. It is further ordered that between the effective date of this notice and January 1, 1983, any size paper specified in § 1.49 of the Commission's Rules and Regulations may be used, although the Commission encourages the use of 8½ x 11 inch size paper.

4. It is further ordered that pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 CFR 1.49 be amended in accordance with the provisions set forth in the Appendix below.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 1—PRACTICE AND PROCEDURE

§ 1.49 [Amended]

The first sentence of 47 CFR 1.49 is hereby amended to read as follows:

All pleadings and documents filed in any proceeding shall be on 8½ x 11 inch size paper. * * *

[FR Doc. 82-16613 Filed 6-17-82; 8:45 am]
BILLING CODE 6712-01-M

[1] *See* 46 FR 60864, December 14, 1981.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

Atlantic Tuna Fisheries; Closure

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of closure.

SUMMARY: This notice closes the incidental fishery for Atlantic bluefin tuna conducted by longline vessels. Closure of this fishery is necessary because the annual catch quota has been attained. Upon closure, longline vessels will be prohibited from retaining any Atlantic bluefin tuna captured incidentally in the regulatory area.

EFFECTIVE DATE: 0001 hours EDT June 18, 1982.

FOR FURTHER INFORMATION CONTACT: William C. Jerome, Jr., 617-281-3600, extension 325, or David S. Crestin, 617-281-3600, extension 253.

SUPPLEMENTARY INFORMATION: Regulations, promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971-971h), regulating the take of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction were published in the **Federal Register** on June 11, 1982 (47 FR 25350).

Section 285.30(d)(1) of the regulations provides for an annual quota of 44 short tons (st) of Atlantic bluefin tuna to be taken by vessels permitted in the Incidental Category, and fishing with longline gear in the Regulatory Area. The Assistant Administrator is authorized under § 285.29(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the total catch of Atlantic bluefin tuna will equal any quota under § 285.30. The Assistant Administrator, further, is authorized under § 285.29(b)(1) to prohibit the fishing for, or retention of, Atlantic bluefin tuna by the type of vessels subject to the quotas. The Assistant Administrator has determined, based on the reported catch of Atlantic bluefin tuna, that the incidental catch of Atlantic bluefin tuna allowable by longline vessels has been taken and that fishing for, and retention of, Atlantic bluefin tuna by these vessels must cease at 0001 EDT on June 18, 1982.

Notice of this action has been mailed to all Atlantic bluefin tuna dealers and vessel owners holding a valid vessel permit for this fishery. This action is taken under the authority of 50 CFR 285.29, and is taken in compliance with Executive Order 12291.

(16 U.S.C. 971-971h)

(NBI 3000—No. 63—ca bftclosure)

Dated: June 15, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

FR Doc. 82-16618 Filed 6-15-82; 5:00 pm]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 47, No. 118
Friday, June 18, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultual Marketing Service

7 CFR Part 932

[Docket No. AO-352-A4]

Olives Grown in California; Decision on Proposed Further Amendment of the Marketing Agreement and Order

AGENCY: Agriculture Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision would amend the Federal marketing agreement and order for olives grown in California. Olive producers will be given the opportunity to vote in a referendum to determine if they favor the proposed changes in the maketing order.

DATE: The representative period for purposes of the referendum herein ordered is September 1, 1981, through February 28, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Room 2532-S, Washington, D.C. 20250, telephone (202) 447-5975.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing, issued November 13, 1981, published November 18, 1981 (46 FR 56620); and Notice of Recommended Decision—issued May 7, 1982, published May 13, 1982 (47 FR 20593).

This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code, and therefore is excluded from the requirements of Executive Order 12291 and Secretary's Memorandum 1512-1.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the regulated handlers.

List of Subjects in 7 CFR Part 932

Marketing agreements and orders, Olives, California.

Preliminary Statement

A public hearing was held upon proposed further amendment of the marketing agreement, as amended, and Order No. 932, as amended (7 CFR Part 932), regulating the handling of olives grown in California. The hearing was held, pursuant to the provisions of the Argicultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900), in Fresno, California, on December 8 and 9, 1981, pursuant to notice thereof.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, on May 12, 1982, filed with the Hearing Clerk, U.S. Department of Agriculture, the recommended decision containing the notice of the opportunity to file written exceptions thereto. No exceptions were received.

The material issues, findings, and conclusions, rulings and general findings of the recommended decision set forth in the May 13, 1982 issue of the Federal Register (47 FR 20593; FR Doc. 82-13008) are hereby incorporated herein and made a part hereof, subject to the following corrections:

Page	Column	Line	Change
20594	1	4	Omit "of"
20595	2	57	"one" to "more"
20595	2	62	"recess" to "process"
20596	1	53	After "dissenting" insert "vote rule. There have been occasions when one dissenting vote has prevented adoption of a proposition submitted by mail ballot. In recent years, all propositions submitted to a mail ballot which failed because of one or more dissenting"
20596	2	36	"of" to "or"
20597	1	31	omit "and"
20596	3	15	"is" to "it"
20596	3	18	"olives" to "olive"
20599	1	62	After "in" insert "the"
20599	2	6	"carring" to "carrying"
20601	2	33	"." to "."

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement, as Further Amended, Regulating the Handling of Olives Grown in California", and *"Order amending the order, as amended, regulating the handling of olives grown in California"*, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the annexed marketing agreement, be published in the Federal Register. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the annexed order which is published with this decision.

Referendum order. It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR 900.400 *et seq.*), to determine whether the issuance of the annexed order, as amended, and as hereby proposed to be further amended, regulating the handling of olives grown in California is approved or favored by producers, as defined under the terms of the order, who during the representative period were engaged in the production area of the regulated commodity for market.

The representative period is hereby determined to be September 1, 1981, through February 28, 1982.

The agent of the Secretary to conduct such referendum is hereby designated to be Richard Van Diest, Fruit and Vegetable Division, Agricultural Marketing Service, 1130 "O" Street, Fresno, California 93721.

Signed at Washington, D.C., on June 14, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

Order[1] *amending the order, as amended, regulating the handling of olives grown in California.*

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon proposed amendment of the marketing agreement, as amended, and Order No. 932, as amended (7 CFR Part 932), regulating the handling of olives grown in California.

Upon the basis of the record it is found that:

(1) The order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The order, as amended, and as hereby further amended, regulates the handling of olives grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

(4) There are no differences in the production and marketing of olives grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of olives grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Order Relative to Handling

It is therefore ordered, that on and after the effective date hereof the handling of olives grown in California shall be in conformity to and in compliance with the terms and conditions of the order, as hereby amended.

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator on May 7, 1982, and published in the **Federal Register** on May 13, 1982 (47 FR 20593), shall be and are the terms and provisions of this order amending the order, and are set forth in full herein.

PART 932—OLIVES GROWN IN CALIFORNIA

1. Section 932.18 is revised to read:

§ 932.18 Committee.

"Committee" means the California Olive Committee established pursuant to § 932.25.

2. Section 932.19 is revised to read:

§ 932.19 Crop year and fiscal year.

(a) "Crop year" means the 12-month period beginning on August 1 of each year and ending on July 31 of the following year or such other period that may be recommended by the committee and approved by the Secretary.

(b) "Fiscal year" means the 12-month period beginning on January 1 and ending on December 31 of each year or such other period that may be recommended by the committee and approved by the Secretary.

§ 932.23 [Amended]

3. Section 932.23 is amended by removing "932.51(a)(2)" and substituting "932.51(a)(3) in lieu thereof.

4. Section 932.23a is revised to read:

§ 932.23a Limited use.

"Limited use" means the use of processed olives in the production of packaged olives of the halved, segmented (wedged), sliced, or chopped styles, as defined in the U.S. Standards for Grades of Canned Ripe Olives (7 CFR Part 52) or subsequent amendments thereto, including modifications of the requirements for such styles pursuant to this part, and such additional styles (and the requirements applicable thereto) as may be specified pursuant to § 932.52(a)(7).

5. Section 932.25 is revised to read:

§ 932.25 Establishment and membership.

A California Olive Committee consisting of 16 members, is hereby established to administer the terms and provisions of this part. Each member shall have an alternate who meets the same qualifications as the member. Eight of the members and their alternates shall be producers or officers or employees of producers, and eight of the members and their alternates shall be handlers or directors, officers, or employees of handlers. The eight members of the committee who are producers or officers or employees of producers are referred to in this subpart as "producer members" of the committee; and the eight members of the committee who are handlers or directors, officers, or employees of handlers are referred to in this subpart as "handler members" of the committee. The committee may be increased by one public member who shall not be a producer or handler of olives nor an officer or employee or director of any producer or handler of olives. District representation of the producer members shall be two from District 1, four from District 2, and two from District 3. Allocation of the handler members shall be four members to represent cooperative marketing organizations, herein referred to as "cooperative handlers", and four members to represent handlers who are not cooperative marketing organizations, herein referred to as "independent handlers": *Provided,* That whenever during the crop year in which nominations are made and in the preceding crop year, the cooperative handlers or the independent handlers handled as first handler 65 percent or more of the total quantity of olives so handled by all handlers, allocation shall be five members to represent the group which so handled 65 percent or more of such olives and three members to represent the group which handled 35 percent or less. The public member and alternate public member shall be selected from any place within the area. The committee may, with the approval of the Secretary, provide such other allocation of producer or handler membership, or both, as may be necessary to assure equitable representation.

6. Section 932.28 is revised to read:

§ 932.28 Eligibility.

Each producer member of the committee shall, at the time of selection and during the member's term of office, be a producer in the district for which selected, and except for producers who are members of cooperative handlers shall not be engaged in the handling of olives either in a proprietary capacity, or as a director, officer, or employee. Each handler member of the committee shall, at the time of selection and during the member's term of office, be a handler in the group that the member represents or a director, officer, or employee of such handler. The public member and alternate public member of the committee shall not at the time of selection and during the term of office be engaged in or have a financial interest in the commercial production, marketing, buying, grading, or processing of olives, nor shall such member or alternate be an officer, director, member, or employee of any firm engaged in such activities.

7. Section 932.29 is amended by revising paragraph (a) and adding a new paragraph (c) to read:

§ 932.29 Nominations.

(a) *Producer members.* (1) Nominations for producer members of the committee, and their respective alternates, may be conducted according to the following procedures, or other procedures recommended by the committee and approved by the Secretary:

(i) Meeting shall be held in each producer district for the purpose of selecting candidates for the member and alternate member nominations;

(ii) Those candidates selected at the producer meetings shall be nominated by mail balloting of producers in that district;

(iii) The committee shall adopt, with approval of the Secretary, appropriate procedures to be observed for conducting producer nominations by mail: *Provided,* That the names of nominees shall be submitted to the Secretary prior to April 16 of the year in which nominations are made.

(2) Only producers, including duly authorized officers or employees of producers, shall participate in the nomination of producer members and alternate members. Each producer shall be entitled to cast only one vote for each nominee to be selected in the district in which the producer produces olives. No producer shall participate in the selection of nominees in more than one district. If a producer produces olives in more than one district, such producer shall select the district in which such producer will so participate and notify the committee of such choice.

* * * * *

(C) *Public member.* Nominations for the public member and alternate public member of the committee shall be submitted to the Secretary prior to April 16 of the year in which nominations are made. The committee shall prescribe procedures for the selection and voting for each candidate.

8. Section 932.30 is revised to read:

§ 932.30 Alternates.

An alternate for a member of the committee shall act in the place and stead of such member (a) during such member's absence, and (b) in the event of such member's removal, resignation, disqualification or death, until a successor for such member's unexpired term has been selected and has qualified. Except as otherwise specifically provided in this subpart, the provisions of this part applicable to members also apply to alternate members. The committee or the chairman of the committee may request one or more alternates to attend any or all meetings notwithstanding the expected or actual attendance of the respective member or members.

9. Section 932.35 is amended by revising paragraphs (g) and (h) to read:

§ 932.35 Duties.

The committee shall have, among others, the following duties:

* * * * *

(g) To submit to the Secretary, prior to the beginning of each fiscal year and not later than December 15, a budget of the anticipated expenses of the committee and the proposed assessment rate for such fiscal year, together with a report thereon.

(h) To cause the books of the committee to be audited by one or more certified public accountants at least once each fiscal year, and at such other times as the committee may deem necessary or as the Secretary may request. The report of each such audit shall show, among other things, the receipts and expenditures of funds, and at least two copies of each such audit report shall be submitted to the Secretary.

* * * * *

10. Section 932.36 is revised to read:

§ 932.36 Procedure.

Decisions of the committee shall be by majority vote of the members present and voting, and a quorum must be present: *Provided,* That decisions requiring a recommendation to the Secretary on matters pertaining to grade and size regulations shall require at least 10 affirmative votes, at least 5 of which must be from producer members and at least 5 of which must be from handler members and, if the committee is increased by the addition of a public member, at least 11 affirmative votes shall be required, at least 5 of which must be from producer members and at least 5 of which must be from handler members. A quorum shall consist of at least 10 members of whom at least 5 shall be producer members and at least 5 shall be handler members and, if the committee is increased by the addition of a public member, a quorum shall consist of at least 11 members of which at least 5 shall be producer members and at least 5 shall be handler members. Except in case of an emergency, a minimum of 5 days advance notice shall be given with respect to any meeting of the committee. In case of an emergency, to be determined within the discretion of the chairman of the committee, as much advance notice of a meeting as is practicable in the circumstances shall be given. The committee may vote by mail or telegram upon due notice to all members, but any proposition to be so voted upon first shall be explained accurately, fully, and identically by mail or telegram to all members. When voted on by such method, at least 14 affirmative votes, of which seven shall be producer member votes and seven shall be handler member votes, shall be required for adoption and, if the committee is increased by the addition of a public member, votes by mail or telegram shall require at least 15 affirmative votes, of which at least 7 shall be producer member votes and at least 7 shall be handler member votes. The committee may recommend for the Secretary's approval changes in the number of affirmative votes required for adoption of any proposition voted upon by means of a mail or telegram ballot: *Provided,* That the number of affirmative votes required for adoption shall not be less than ten, and in any case an equal number of producer member and handler member votes shall be required for adoption and, if the committee is increased by the addition of a public member, the number of affirmative votes required for adoption shall be increased by one.

11. Section 932.37 is revised to read:

§ 932.37 Compensation and expenses.

The members of the committee and alternates when acting as members or at the request of the committee or its chairman shall serve without compensation, but shall be reimbursed for necessary expenses, as approved by the committee, incurred by them in the performance of their duties under this part.

12. Section 932.39 is amended by revising paragraphs (a) and (b) and adding a new paragraph (c) to read:

§ 932.39 Assessments.

(a) As the handler's pro rata share of the expenses which the Secretary finds are reasonable and likely to be incurred by the committee during a fiscal year, each handler who first handles olives during the current crop year shall pay to the committee, upon demand, assessments on all olives to be used in the production of packaged olives, including "olives to be used in canned ripe olives of the tree-ripened" type or green olives when such are regulated as packaged olives pursuant to § 932.52. The payment of assessments for maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) The Secretary shall fix the rate of assessment to be paid by each such handler during a fiscal year in an amount designed to secure sufficient funds to cover the expenses which may be incurred during such period. At any time during or after the fiscal year, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses which may be incurred. Such increase shall be applied to all olives handled during the applicable crop year. In order to provide funds for the administration of the provisions of this part during the first part of a fiscal year before sufficient operating income is available from assessments, the committee may accept the payment of assessments in advance, and may also borrow money for such purposes.

(c) Any assessment not paid by a handler within a period of time prescribed by the committee may be subject to an interest or late payment charge, or both. The period of time, rate of interest and late payment charge shall be as recommended by the committee and approved by the Secretary. Subsequent to such approval, all assessments not paid within the prescribed period of time shall be subject to an interest or late payment charge or both.

13. Section 932.40 is amended by revising paragraph (a) to read:

§ 932.40 Accounting.

(a) If, at the end of a fiscal year, the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:

(1) If such excess is not retained in a reserve as provided in paragraph (a)(2) of this section, the committee shall refund or credit to handler accounts the aforesaid excess. Each handler's share of such excess funds shall be the amount of assessments such handler has paid in excess of such handler's pro rata share of the actual net expenses of the committee for such fiscal year. Excess funds may be used temporarily by the committee to defray expenses of the subsequent fiscal year: *Provided,* That each handler's share of such excess shall be made available to the handler by the committee within five months after the end of the fiscal year.

(2) The committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal years as a reserve: *Provided,* That funds already in the reserve do not exceed approximately one fiscal year's expenses. Such reserve funds may be used for any expenses authorized pursuant to § 932.38 and for necessary expenses of liquidation in the event of termination of this part. Upon such termination, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided,* That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

* * * * *

14. Section 932.45 is amended by revising paragraphs (d) introductory text and (e) to read:

§ 932.45 Production research and marketing research and development projects.

* * * * *

(d) If the committee should conclude that a program of production research, marketing research, or development should be undertaken or continued pursuant to this section in any fiscal year, it shall submit the following for the approval of the Secretary:

* * * * *

(e) The committee shall, as soon as practicable, prepare and mail reports on current production research and marketing research and development projects to the Secretary and make a copy of such reports available at the committee office for examination by producers, handlers, or other interested parties.

15. Section 932.50 is amended by revising the first sentence to read:

§ 932.50 Report of marketing policy.

At least 14 days prior to the start of each crop year (except that this period may be shortened by the committee not more than 5 days if warranted), the committee shall hold a meeting for the purpose of formulating a marketing policy for the coming crop year: *Provided,* That with respect to the 1982–83 crop year the committee shall hold a meeting for such purpose as soon as practicable. * * *

16. Section 932.51 is amended by revising paragraph (a)(1)(ii); redesignating paragraphs (a)(2), (a)(3), and (a)(4) as paragraphs (a)(3), (a)(4), and (a)(5), respectively, adding a new paragraph (a)(2); and revising redesignated paragraphs (a)(4)and (a)(5) as follows:

§ 932.51 Incoming regulations.

(a) Minimum standards for natural condition olives.

(1) * * *

(i) * * *

(ii) Size-graded, either by sample or by lot, under the supervision of any such inspection service and classified into separate size designations and a certification issued with respect thereto by such inspection service. Such size designations shall be in accordance with those set forth in the U.S. Standards for Grades of Canned Ripe Olives (7 CFR Part 52) or subsequent amendments thereto, or such sizes as may be recommended by the committee and established by the Secretary: *Provided,* That, for the purpose of this part, the size designations in said standards shall be deemed to include the following additional size designations.

Designation(s)	Approximate count (per lb.)	Average count range (per lb.)
Subpetite		181 and up.
Petite	160	141–180, inclusive.
Extra Large Sevillano "L".	82	76–86, inclusive.
Extra Large Sevillano "C".	70	65–75, inclusive.

Provided Further, That the additional size designations may be renamed and/or modified as recommended by the committee and approved by the Secretary. Such certification shall show, in addition to the quantities by weight of the olives in the lot that are classified as being in each size or size designation the quantity of olives classifed as culls by the handler: *Provided,* That when the Secretary, upon the recommendation of the committee, issues a definition of and classification for "culls", the aforesaid quantity of culls shall be determined on the basis of such definition and in accordance with such classification.

(2) Each handler may satisfy the incoming and outgoing size requirements for any lot of olives under the conditions set forth in subdivisions (i), (ii), and (iii) of this paragraph: *Provided,* That any such lot shall be kept intact under surveillance by the inspection services:

(i) When the Secretary authorizes use of limited size olives for limited use styles during any crop year, any lot of limited use size olives may be used in the production of packaged olives for limited use styles without an outgoing inspection if such olives are within the following average count range for that variety group, and meet such further size requirements as recommended by the committee with the approval of the Secretary:

Variety	Average count range (per lb.)
Group 1, except Ascolano, Barouni, and St. Agostino.	76–86, inclusive.
Group 1, Ascolano, Barouni, and St. Agostino.	86–140, inclusive.
Group 2, except Oblica	141–180, inclusive.
Group 2, Oblica	126–140, inclusive.

Provided, That the varietal groupings and/or average count ranges may be changed, and additional size certification procedures and requirements may be established as recommended by the committee and approved by the Secretary;

(ii) When limited use size olives are not authorized for limited use styles during any crop year, any lot of the minimum canning size olives may be used in the production of packaged olives for limited use styles without an outgoing inspection for size if such olives are within the following average count range for that variety group, and meet such further size requirements as recommended by the committee with approval of the Secretary:

Variety	Average count range (per lb.)
Group 1, except Ascolano, Barouni, and St. Agostino.	65–75, inclusive.
Group 1, Ascolano, Barouni, and St. Agostino.	55–65, inclusive.
Group 2, except Obliza	126–140, inclusive.
Group 2, Obliza	106–121, inclusive.

Provided, That for whole and whole pitted styles of olives an additional size grading is required after processing, prior to canning, and those olives that fail to meet the requirements in § 932.52 may be used in limited use styles. *Provided Further,* That the varietal groupings, average count ranges, and/or other size requirements may be changed or modified as recommended by the committee and approved by the Secretary;

(iii) The committee may recommend, subject to approval by the Secretary, size certification procedures for olives used in the production of canned whole or pitted styles of olives: *Provided,* That if size certification for canned whole or pitted styles is implemented, marketing order sizes shall be adopted and size requirements in the U.S. Grade Standards shall not apply. Size certification of such styles shall be applicable to any or all sizes of olives recommended by the committee and approved by the Secretary pursuant to § 932.52(a)(2). Size certification procedures recommended to the Secretary may include but are not limited to the establishment of average count ranges, acceptable count ranges, and approximate counts (midpoints) for each variety or variety group.

(3) Each handler shall, under the supervision of any such inspection service, dispose of into noncanning use an aggregate quantity of olives, comparable in size and characteristics and equal to the quantities shown on the certification for each lot to be:

(i) Variety Group 1 olives, except the Ascolano, Barouni, and St. Agostino varieties, of a size which individually weigh less than $\frac{1}{50}$ pounds;

(ii) Variety Group 1 olives of the Ascolano, Barouni, and St. Agostino varieties of a size which individually weigh less than $\frac{1}{140}$ pound;

(iii) Variety Group 2 olives, except the Obliza variety, of a size which individually weigh less than $\frac{1}{100}$ pound;

(iv) Variety Group 2 olives of the Obliza variety of a size which individually weigh less than $\frac{1}{140}$ pound;

(v) Such other sizes for the foregoing variety groups as are not authorized for limited use pursuant to § 932.52; and

(vi) Olives classified as culls.

(4) Notwithstanding the provisions of paragraph (a)(3) of this section, a handler may (i) meet any deficit in such handler's undersize obligation in one variety by disposing of, under supervision of the inspection service, as other than canned ripe olives, and equal quantity of undersize olives, or any other variety, or by so disposing of an equal quantity of olives of that or any other variety of sizes larger than undersize of a quality better than culls, and (ii) meet any deficit in such handler's cull obligation in one variety by so disposing of an equal quantity of cull olives of any other variety, or by so disposing of an equal quantity of olives of any variety of sizes larger than undersize of a quality better than culls.

(5) Each handler shall hold at all times a quantity of olives equal to the quantities required in paragraph (a)(3) of this section, less any quantity previously disposed of as specified in such subparagraph.

* * * * *

17. Section 932.52 is amended by revising paragraphs (a)(1), (a)(2), (a)(2)(i), (a)(2)(ii), (a)(2)(iii), (a)(3) introductory text, (a)(6), and paragraphs (b)(1) and (b)(2) to read:

§ 932.52 Outgoing regulations.

(a) Minimum standards for packaged olives. * * *

(1) Canned ripe olives, other than those of the "tree-ripened" type, shall grade at least U.S. Grade C as such grade is defined in the U.S. Standards for Grades of Canned Ripe Olives (7 CFR Part 52) or subsequent amendments thereto, or as modified by the committee, with approval of the Secretary, for purposes of this part.

(2) Except as provided in § 932.51(a)(1) and (2), canned whole ripe olives, other than those of the "tree-ripened" type, shall conform to the single size designations set forth in the U.S. Standards for Grades of Canned Ripe Olives (7 CFR Part 52) or subsequent amendments thereto, or as modified by the committee, with the approval of the Secretary, and shall be of a size not smaller than the following applicable size requirements, tolerances and percentage: *Provided,* That the Secretary, on the basis of a recommendation of the committee or other available information, may change such sizes, tolerances or percentages:

(i) With respect to variety group 1 olives, except the Ascolano, Barouni, and St. Agostino varieties, the individual fruits shall each weigh not less than $\frac{1}{75}$ pound, except that (a) for olives of the extra large size designation, not more than 25 percent, by count, of such olives may weigh less than $\frac{1}{75}$ pound each including not more than 10 percent, by count, of such olives that weigh less than $\frac{1}{82}$ pound each; and (b) for olives of any designation except the extra large size, not more than 5 percent, by count, of such olives may weigh less than $\frac{1}{75}$ pound each;

(ii) With respect to variety group 1 olives of the Ascolano, Barouni and St. Agostino varieties, the individual fruits shall each weigh not less than $\frac{1}{88}$ pound except that (a) for olives of the extra large size designation, not more than 25 percent, by count, of such olives may weigh less than $\frac{1}{88}$ pound each including not more than 10 percent, by count, of such olives that weigh less than $\frac{1}{96}$ pound each, and (b) for olives of any size designation, except the extra large size, not more than 5 percent, by count, of such olives may weigh less than $\frac{1}{88}$ pound each;

(iii) With respect to variety group 2 olives, except the Obliza variety, the individual fruits shall each weigh not less than $\frac{1}{140}$ pound except that (a) for olives of the small size designation, not more than 35 percent, by count, of such olives may weigh less than $\frac{1}{140}$ pound each including not more than 7 percent, by count, of such olives that weigh less than $\frac{1}{160}$ pound each; and (b) for olives of any size designation, except the small size, not more than 5 percent, by count, of such olives may weigh less than $\frac{1}{140}$ pound each; and

(iv) * * *

(3) Subject to the provisions set forth in paragraph (a)(4) of this section and § 932.51(a) (1) and (2), processed olives to be used in the production of canned pitted ripe olives, other than those of the "tree-ripened" type, shall meet the same

requirements as prescribed pursuant to paragraph (a)(2) of this section: *Provided,* That olives smaller than those so prescribed, as recommended annually by the committee and approved by the Secretary, may be authorized for limited use but any such limited use size olives so used shall be not smaller than the following applicable minimum size: *Provided further,* That each such minimum size may also include a size tolerance (specified as a percent) as recommended by the committee and approved by the Secretary.

* * * * *

(4) * * *

(5) * * *

(6) The size designations used in this section mean the size designations described in (a)(1)(ii) of § 932.51.

(7) * * *

(b) Disposition requirements for limited use size olives.

(1) The requirements of this paragraph are in addition to and not in substitution of the requirements of § 932.51(a)(5).

(2) Each handler shall, under the supervision of the Processed Products Branch, USDA, or the Federal or Federal-State Inspection Service, dispose of limited use size olives into limited use or into noncanning use: *Provided,* That whenever a handler's use of limited use size olives is restricted pursuant to § 932.52(a)(4), such handler shall dispose of into noncanning use that quantity of such limited use size olives which is in excess of the quantity permitted for limited use.

(3) * * *

(4) * * *

18. Section 932.53 is revised by amending paragraph (a) to read:

§ 932.53 Inspection and certification.

(a) Each handler shall have the olives such handler handles inspected and certified as for conformance with all applicable requirements pursuant to §§ 932.51 and 932.52 with respect to such handling. Inspection and certification for conformance with the requirements of § 932.51 shall be by the Federal or Federal-State Inspection Service, including certification as to size, and inspection for conformance with the requirements of § 932.52 shall be by the Processed Products Branch, USDA, except that the disposition of olives, other than as canned ripe olives, in accordance with the requirements of § 932.51(a)(3) may be under the supervision of any of such inspection services. A copy of each certification by the said inspection services, pursuant to the provisions of this section, shall be furnished to the committee.

* * * * *

§ 932.54 [Amended]

19. Section 932.54 is amended by removing "932.51(a)(2)" and substituting "932.51(a)(3)" in lieu thereof.

20. Section 932.68 is amended by revising paragraph (c) and removing paragraph (d) to read:

§ 932.68 Termination.

* * * * *

(c) The Secretary shall terminate the provisions of this subpart at the end of any crop year whenever the Secretary finds that such termination is favored by a majority of producers who, during a representative period determined by the Secretary, have been engaged in the area in the production of olives for market as packaged olives: *Provided* That such majority have during such representative period produced for market more than 50 percent of the volume of such olives produced for market, but such termination shall be effective only if announced on or before July 15 of the then current crop year.

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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 240

[Notice No. 413]

Materials and Processes for the Production and Treatment of Wine, Juice, and Distilling Material

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) proposes to amend the regulations pertaining to materials and processes which are authorized for use in the production and treatment of standard wine, juice, and distilling material. These amendments would update the listings of authorized materials and processes and would amend the procedure for making additions and other changes.

DATE: Comments must be received on or before August 17, 1982.

ADDRESS: Send comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385 (Notice No. 413).

FOR FURTHER INFORMATION CONTACT: Michael J. Breen, Rulings Branch, 202-566-7532.

SUPPLEMENTARY INFORMATION:

Background

For nearly fifty years, ATF and its predecessors in the Internal Revenue Service have regulated the use of materials and processes in the production and treatment of wine. A list of authorized treating materials first appeared at 26 CFR 240.529 in December 1954. In July 1960, this list was expanded into a separate subpart, Subpart ZZ, now at 27 CFR 240.1051. A notice procedure, amplified by ATF Proc. 77-1, 1977 C.B. 198, is provided in 27 CFR 240.1052 to enable interested winemakers to apply for the use of new treating materials and processes.

The last significant update of the list prescribed in 27 CFR 240.1051 was effected by Treasury Decision ATF-3, dated March 13, 1973. With the exception of activated carbon which was addressed specifically in Treasury Decision ATF-83, dated May 8, 1981, treating materials and processes which have been approved since March 13, 1973, have been acknowledged by private letter rulings and formal ATF rulings.

There are approximately 110 treating materials and processes listed in 27 CFR 240.1051 and ATF Rul. 79-12 (1979-2 ATF Q.B. 6). Since publication of ATF Rul. 79-12 in June 1979, the Bureau had received approximately 30 applications from winemakers either for new treating materials and processes or for increased usage levels for previously approved treating materials and processes. ATF has issued private letter rulings either granting or denying approval of the proposed treating materials, processes, or usage levels. In most instances where a proprietor's notice has received approval, the Bureau subsequently has issued a formal ATF ruling.

This notice results from ATF's recognition of (1) a need to update the list of wine treating materials and processes and (2) the need for a more formal public process for approving or disapproving applications for wine treating materials and processes.

Most of the treating materials and all the processes currently authorized are listed in the proposed revision of 27 CFR 240.1051 and newly proposed §§ 240.1051a and 240.1051b. ATF proposes to delete certain materials which are no longer in use in the production and treatment of standard wine as well as those materials which over the years have been listed in 27 CFR 240.1051 but which do not have application in standard wine. In addition, pursuant to section 5382(c) of the Internal Revenue Code of 1954, as

amended, ATF proposes the deletion of sodium compounds since the use of such materials is no longer considered to be acceptable in good commercial practice.

With respect to the remaining treating materials, ATF proposes to delete all references by brand names and to relist the materials by component ingredients under generic designation. The following is a summary of the materials proposed for deletion and a brief explanation of the proposed action:

Material	Use	Reason(s) for proposed action
Acetic acid	To correct natural deficiencies in grape wine	Used in flavored wine only; use authorized by submission and approval of a formula.
Acidex	To reduce excess natural acidity in wine	Brand name—now listed under component ingredients by generic designations.
Actiferm (Roviferm)	Fermentation adjunct	Brand name—no longer manufactured.
Aferrin	To reduce trace metals from wine	Brand name—no longer manufactured.
Albumen (egg white)	Fining agent for wine	Albumen may continue to be used (See 27 CFR 240.1051) but may not be prepared in a brine (sodium) solution.
AMA special gelatine solution	To clarify wine	Brand name—now listed under component ingredients by generic designations.
Amber ByF and/or Amberex 1003	Yeast nutrient in fermentation of grape and fruit wine	Brand name—now listed under component ingredients by generic designations.
Antifoam "A"; Antifoam AF emulsion; Antifoam C	Defoaming agent in production of wine	Brand name—now listed under component ingredients by generic designations.
Atmos 300	Antifoaming agent	Brand name—now listed under component ingredients by generic designations.
Bentonite compound (Bentonite, activated carbon, and copper sulphate).	To clarify and to stabilize wine	Component ingredients listed separately in 27 CFR 240.1051.
Benzoic acid	To preserve wine	Ineffective treating material for intended use.
Bone charcoal	To clarify wine	Obsolete term.
Carbon	To clarify and to purify wine	Obsolete term.
Clari/Preme	To clarify and to stabilize wine	Brand name—no longer manufactured.
Cold Mix Spartolloid	To clarify unfermented juice and/or wine	Brand name—now listed under component ingredients by generic designations.
Combustion product gas	To maintain pressure during filtering and bottling of sparkling wines.	Obsolete term.
Compressed air	Aeration of sherry wine	Listed in 27 CFR 240.1051 under "Oxygen."
Cufex	To remove trace metal from wine	Brand name—now listed under component ingredients by generic designations.
Diammonium monohydrogen phosphate	In honey wine production, the amount used shall not exceed 0.15 gram per 100 mls. of wine.	Use in honey wine, i.e., agricultural wine, covered by formula approval. Use covered by reference to "ammonium phosphate" in 27 CFR 240.1051.
Egg yolk	To clarify wine	Used in flavored wine; use authorized by submission and approval of a formula.
Fermcozyme Vin	To clarify and to stabilize wine	Brand name—now listed under component ingredients by generic designations.
Fermcozyme Vin XX	To clarify and to stabilize wine	Brand name—now listed under component ingredients by generic designations.
Ferrix	To remove trace metal from wine	Brand name—no longer manufactured.
Freon (C–318 octafluorocyclobutane)	Propellant in aerosol containers of vermouth	Not in use in winemaking.
Fuigur (aluminum silicate and albumen)	To clarify wine	Brand name—no longer in use in winemaking.
Klerzyme H. T	To clarify and to stabilize wine and to facilitate separation of fruit from juice.	Brand name—now listed under component ingredients by generic designations.
Koldone	A fining agent for cold stabilization and/or acid reduction.	Brand name—now listed under component ingredients by generic designations.
Metafine	To remove trace metal from wine	Brand name—now listed under component ingredients by generic designations.
Promine–D	To clarify and to stabilize wine	Brand name—no longer manufactured.
Protovac PV–7916	To clarify wine	Brand name—no longer manufactured.
Ridex-High	To stabilize wine	Brand name—no longer manufactured.
Sodium benzoate	To preserve wine	Sodium compound.
Sodium bisulfite	As a sterilizing or preserving agent	Sodium compound.
Sodium carbonate	To reduce excess natural acidity in wine	Sodium compound.
Sodium caseinate	To clarify wine	Sodium compound.
Sodium citrate	pH control agent and sequestrant in treatment of citrus wines.	Sodium compound.
Sodium isoascorbate (sodium erythorbate)	pH control and smoothing agent in grape wines	Sodium compound.
Sodium metabisulphite	Antioxidant	Sodium compound.
Sodium sorbate	Sterilizing and preserving wine	Sodium compound.
Sparkolloid No. 1	As a sterilizing and preservative agent and to inhibit mold growth and secondary fermentations.	Sodium compound.
Sparkolloid No. 2	To clarify wine	Brand name—now listed under component ingredients by generic designations.
Sulfex	To clarify wine	Brand name—now listed under component ingredients by generic designations.
Takamine cellulase 4,000	To remove objectionable levels of sulfide and mercaptans from wine.	Brand name—now listed under component ingredients by generic designations.
Tansul clays Nos. 7, 710, and 711	To clarify wine	Brand name—now listed under component ingredients by generic designations.
Tartaric acid	To increase the acidity of honey wine	Obsolete term.
Uni-Loid type 49 B (pure U.S.P. agar-agar and standard superose).	To clarify and to stabilize wine	Erroneous approval. No justification for use in honey wine.
Veltol (maltol)	As a stabilizing and smoothing agent	Brand name—now listed under component ingredients by generic designations.
Veltol Plus (Ethyl maltol)	For smoothing and stabilizing wine	Used in flavored wine; use authorized by submission and approval of a formula.
Wine clarifier (containing agar-agar and standard superose).	To clarify wine	Used in flavored wine; use authorized by submission and approval of a formula.
Wine clarifier (Clari-Vine B) (containing locust bean gum, carrageen, alginate, bentonite, agar-agar, and diatomaceous earth).	To clarify wine	Brand name—no longer manufactured.
Yeastex	To facilitate fermentation	Brand name—no longer manufactured.

Material	Use	Reason(s) for proposed action
Yeastex 61	To facilitate fermentation	Brand name—now listed under component ingredients by generic designations.

In addition to revision of the listings of wine treating materials and processes, ATF proposes to amend 27 CFR 240.361, 240.365, 240.401 and 240.405, to provide for the addition of water in the rehydration of dry activated yeast and to revise 27 CFR 240.361 and 240.365 to provide for the use of patented strains of malo-lactic bacteria in the production of wine.

Under the Internal Revenue Code of 1954, as amended (26/U.S.C. 5382(a), 5385(b), 5386(b), and 5387(a)), proper cellar treatment of standard wine constitutes those practices and procedures in the United States and elsewhere, whether historical or newly developed, of using various methods and materials to correct or to stabilize the wine so as to produce a finished product acceptable in good commercial practice.

Section 5382(c) authorizes the Secretary of the Treasury to prescribe regulations limiting the preparation and use of clarifying, stabilizing, preserving, fermenting, and corrective methods or materials, to the extent that such preparation or use is not acceptable in "*good commercial practice.*" AFT is particularly interested in comments on whether the materials and processes proposed for listing in amended regulations should be considered as acceptable in good commercial practice.

The Bureau will study the comments submitted in response to this notice to determine what materials and processes constitute "*good commercial practice*" in the production and treatment of standard wine in the United States. Although this notice proposes the specific terms and substance of the amendments to the regulations, we invite comments as to any modifications which should be made prior to final adoption.

The proposed regulatory changes in Subpart ZZ represent materials and processes which are presently authorized under 27 CFR 240.1051, ATF Rul. 79–12, 1979–2 ATF Q.B. 6, ATF Rul. 80–2, 1980–1 ATF Q.B. 17, ATF Rul. 81–5, 1981–3 ATF Q.B. 75, AFT Rul. 81–9, 1981–4 ATF Q.B. 25, and ATF Rul. 82–1, 1982–1 ATF Q.B. 16, as well as several unpublished private letter rulings.

Compliance with Executive Order 12291

It has been determined that this proposed regulation is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or import markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal is not expected to: have significant secondary or incidental effects on a substantial number of small entities; or impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Disclosure of Comments

Comments on this notice may be inspected in the ATF Reading Room, Office of Public Affairs and Disclosure, Room 4405, 12th and Pennsylvania Avenue, NW; Washington, DC, during normal business hours.

ATF will not recognize comments or data as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comments. The name of the person submitting comments is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing on the proposed regulations should submit his or her request, in writing, to the Director within the 60-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing should be held.

Drafting Information

The principal author of this document is Specialist Michael J. Breen of the Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms. Chemist Randolph H. Dyer, Inspector Richard M. Gahagan, and International Relations Advisor Gale Guinand, of the Bureau of Alcohol, Tobacco and Firearms, have provided significant chemical, technical, and enological assistance in the preparation of this document. Personnel from other offices of the Bureau also participated in developing this notice, both in matters of substance and style. The GRAS Review Branch of the United States Food and Drug Administration (USFDA) has provided a preliminary review of the references to Title 21, Code of Federal Regulations, Parts 172, 173, 182, and 184 and has furnished ATF with the dates of USFDA advisory letters for unpublished GRAS ingredients.

List of Subjects in 27 CFR Part 240

Administrative practice and procedure, Authority delegations, Claims, Electronic funds transfers, Excise taxes, Exports, Food additives, Fruit juices, Labeling, Liquors, Packaging and containers, Reporting requirements, Research, Scientific equipment, Spices and flavorings, Surety bonds, Transportation, Warehouses, Wine and vinegar.

PART 240—WINE

Accordingly, under the authority in 26 U.S.C. 5382 (72 Stat. 1383, as amended) and 26 U.S.C. 7805 (68A Stat. 917, as amended), the Director proposes the following amendments:

Paragraph 1. The table of contents in 27 CFR Part 240, Subpart ZZ is amended to add two new sections, §§ 240.1051a and 240.1051b, and to revise the subpart heading, and the headings of §§ 240.1051 and 240.1052 as follows:

* * * * *

Subpart ZZ—Materials and Processes Authorized for Treatment of Wine, Juice, and Distilling Material

Sec.

240.1051 Materials authorized for treatment of wine and juice.
240.1051a Materials authorized for treatment of distilling material.
240.1051b Processes authorized for treatment of wine, juice, and distilling material.
240.1052 Petition for use of new treating material or process.

Subpart P—Production and Treatment of Natural Grape Wine

Par. 2. Section 240.361 is amended to provide for the addition of water to dry activated yeast and for the use of malo-lactic bacteria. Section 240.361 is amended by revising paragraph (b) and redesignating paragraph (c) and new paragraph (d) and by adding a new paragraph (c) to read as follows:

§ 240.361 Materials.

* * * * *

(b) Yeast or east cultures grown in grape juice, to any extent desired, provided that where dry activated yeast has been rehydrated by the addition of water, the increase in volume of the juice may not exceed 0.26 percent by volume;

(c) Patented strains of malo-lactic bacteria; and,

(d) Yeast nutrients, sterilizing agents, or other fermentation adjuncts under the provisions of subpart ZZ of this part.

(72 Stat. 1383, 1384; 26 U.S.C. 5361, 5362, 5363)

Par. 3. Section 240.365 is amended to provide for the addition of water to dry activated yeast and for the use of malo-lactic bacteria. Section 240.365 is amended by revising paragraph (a) and redesignating paragraph (b) as new paragraph (c) and adding new paragraph (b) to read as follows:

§ 240.365 Materials.

* * * * *

(a) Yeast or yeast cultures grown in grape juice, to any extent desired, provided that where dry activated yeast has been rehydrated by the addition of water, the increase in volume of the juice may not exceed 0.26 percent by volume;

(b) Patented strains of malo-lactic bacteria; and,

(c) Yeast nutrients, sterilizing agents, or other fermentation adjuncts under the provisions of Subpart ZZ of this part.

(72 Stat. 1384; 26 U.S.C. 5383)

Subpart Q—Production and Treatment of Natural Fruit Wine

Par. 4. Section 240.401 is amended to provide for the addition of water to dry activated yeast. Section 240.401 is amended by revising paragraph (a) to read as follows:

§ 240.401 Materials.

* * * * *

(a) Yeast or yeast cultures grown in juice of the same kind of fruit, to any extent desired, provided that where dry activated yeast has been rehydrated by the addition of water, the increase in volume of the juice may not exceed 0.26 percent by volume; and,

* * * * *

Par. 5. Section 240.405 is amended to provide for the addition of water to dry activated yeast. Section 240.405 is amended by revising paragraph (a) to read as follows:

§ 240.405 Materials.

* * * * *

(a) Yeast or yeast cultures grown in juice of the same kind of fruit, to any extent desired, provided that where dry activated yeast has been rehydrated by the addition of water, the increase in volume of the juice may not exceed 0.26 percent by volume; and,

* * * * *

Par. 6. The title and text of § 240.1051 is revised to read as follows:

§ 240.1051 Materials authorized for treatment of standard wine and juice.

The materials listed in this section are approved, as being consistent with good commercial practice, for use by proprietors of bonded wine cellars in the production, cellar treatment, or finishing of standard wine, and where applicable in the treatment of juice, within the general limitations of § 240.524 or the specific limitations in this section: *Provided,* (1) that when any approved material on this list is determined to be unacceptable for use in foods and beverages by the U.S. Food and Drug Administration, the Director may cancel the approval for use in the production, cellar treatment, or finishing of standard wine; and (2) that where water is added to facilitate the solution of a material, the volume of water added by means of a water-based slurry, used singly or in combination with other water-based slurries, must not total more than 1% of the volume of wine and/or juice so treated.

Materials	Use	Reference of limitation
Acacia (gum arabic)	To clarify and to stabilize wine	The amount used shall not exceed 0.024 gm per 100 ml of wine. 21 CFR 184.1330 (GRAS).
Activated carbon	To assist precipitation during fermentation	27 CFR 240.361, 240.365, 240.401, 240.405. GRAS per USFDA advisory opinion of 1/26/79.
	To clarify and to purify wine	The amount used to clarify and to purify wine shall be included in the total amount of activated carbon used to remove excessive color in wine. 27 CFR 240.524, 240.527 and 240.527a (GRAS).
	To remove excessive color in white wine	The amount used shall not exceed 0.106 gram per 100 mls of wine. If the amount used exceeds 0.016 gram per 100 mls, a notice is required pursuant to 27 CFR 240.527a (GRAS).
	To remove excessive color in pale dry sherry or cocktail sherry.	The amount used shall not exceed 0.3 gram per 100 mls of wine. 27 CFR 240.527 (GRAS).
	To reduce color in the juice obtained from the crushing of red and black grapes.	The amount used to reduce color must not exceed 0.048 gram per 100 mls of juice. Wine made from juice so treated shall have a total color of not more than 95% transmittance of AOAC Method 11.003–11.004 (13th Ed.)
Agar-agar (with or without carrageenan)	To filter and to clarify wine	21 CFR 172.620 and 182.7115 (GRAS); 27 CFR 240.528 (GRAS).
Albumen (egg white)	Fining agent for wine	
Ammonium carbonate	Yeast nutrient to facilitate fermentation in wine and to reduce the excess natural acids in high acid wine.	The natural fixed acids shall not be reduced below 5 parts per thousand. The amount used shall not exceed 0.024 gram per 100 mls of wine. 21 CFR 182.1137 and 184.1137 (GRAS).
Ammonium hydroxide	To adjust pH of water to dissolve casein for slurry preparation.	Ammonia must be completely removed from the casein solution prior to its addition to wine. 21 CFR 182.1139.
Ammonium phosphate (mono- and dibasic)	Yeast nutrient in wine production and to start secondary fermentation in the production of champagne and sparkling wines.	As a yeast nutrient in wine production, the amount shall not exceed 0.020 gram per 100 mls. In the production of champagne and sparkling wines, the amount used shall not exceed 0.1 gram per 100 mls of wine. 21 CFR 182.1141 (GRAS).
Anti-foaming and defoaming agents: (polyoxyethylene-40-monostearate and silicon dioxide), (sorbic acid, sodium carboxymethyl cellulose, dimethyl polysiloxane, polyoxyethylene (40) monostearate, and sorbitan monostearate).	To control foaming	Anti-foaming and defoaming agents which are 100 percent active may be used in amounts not exceeding 0.0018 gram per 100 ml of wine. Anti-foaming and defoaming agents which are 30 percent active may be used in amounts not exceeding 0.006 gm per 100 ml of wine. Silicon dioxide shall be completely removed by filtration. The amount of silicone remaining in the wine shall not exceed 10 parts per million and no soluble residue in excess of 25 parts per million shall remain in the wine. 21 CFR 173.340, 182.1745, 182.2089, 184.1089, and 184.1745 (GRAS).

Materials	Use	Reference of limitation
Ascorbic acid, iso-ascorbic acid (erythorbic acid)	To prevent darkening of color and deterioration of flavor in wines and wine materials, and the overoxidation of other wines.	May be added to fruit, grapes, berries, and other materials used in wine production, to the juice of such materials, or to the wine, within limitations which do not alter the class or type of the wine. 21 CFR 182.3013 and 182.3041 (GRAS).
Autolyzed yeast	Yeast nutrient to facilitate fermentation in the production of grape or fruit wine.	21 CFR 172.896, 184.1983. GRAS per USFDA advisory opinion of 10/06/59.
Bentonite (Wyoming Clay)	To clarify wine	21 CFR 182.1155 and 184.1155 (GRAS).
Calcium carbonate (with or without calcium salts of tartaric and malic acids).	To reduce the excess natural acids in high acid wine	The natural or fixed acids shall not be reduced below 5 parts per thousand. 21 CFR 182.119 and 184.1191 (GRAS).
Calcium sulphate (gypsum)	A fining agent for cold stabilization	The amount used shall not exceed 0.36 gram per 100 ml of wine.
Carbon dioxide	Yeast nutrient in production of wine and to lower pH in sherry wine.	Finished wine shall not contain more than 0.2 gram of calcium sulphate per 100 milliliters of wine. 27 CFR 240.385. 21 CFR 184.1230 (GRAS).
	To stabilize and to preserve wine	27 CFR 240.531 through 240.535. 21 CFR 182.1240 (GRAS).
	To maintain counterpressure during the transfer of finished sparkling wines.	The carbon dioxide content of the finished wine shall not be increased by more than 0.009 gram per 100 milliliters during the transfer operation. 27 CFR 240.510.
Casein, potassium salt of casein, and milk powder (nonfat dry milk).	To clarify wine	GRAS per USFDA opinions of 2/23/60 and 8/25/61. The amount of milk powder shall not exceed 0.036 gram per 100 mls of wine. 27 CFR 240.526.
Cellulose (food grade)	To clarify wine	27 CFR 240.526; 21 CFR 172.870, 172.872, and 172.874 (GRAS).
Citric acid	To increase the acidity of wine	27 CFR 240.364, 240.404; 21 CFR 182.1033 (GRAS).
	To stabilize grape wine	27 CFR 240.526, 240.536; 21 CFR 182.6033 (GRAS).
Copper sulphate	To clarify and to stabilize wine	The quantity of copper sulphate added (calculated as copper) shall not exceed 6.5 part copper per million parts of wine with the residual level of copper not to be in excess of 0.2 part per million. USFDA advisory letter of 7/23/69. 21 CFR 172.620, 172.870, 172.872, 172.874, and 184.1115. GRAS per USFDA advisory letter of 1/11/63. 27 CFR 240.526.
Diatomaceous earth (with or without agar-agar, and/or carrageenan).	For filtering and clarifying juice and/or wine	The pectolytic enzymes used shall be derived from nonpathogenic and nontoxic strains of *Aspergillus niger*. GRAS per USFDA advisory opinion of 2/9/60.
Enzymes Pectolytic	To clarify and to stabilize wine and to facilitate separation of the juice from the fruit.	The enzymes shall be derived from nonpathogenic and nontoxic strains of microorganisms. GRAS per USFDA advisory opinion of 2/9/60.
Glucose oxidase and catalase	To clarify and to stabilize wine	No insoluble or soluble residue in excess of one part per million shall remain in the finished wine and the basic character of the wine shall not be changed by such treatment. USFDA correspondence dated 6/1/59.
Ferrocyanide compounds (sequestered complexes)	To remove trace metal from wine and to remove objectionable levels of sulfide and mercaptans from wine.	The amount used shall not exceed 0.0022 gm per 100 mls of wine. 21 CFR 182.8315 (GRAS).
Ferrous sulphate	To clarify and to stabilize wine	The amount used shall not exceed 0.3 gm per 100 mls of wine. The fumaric acid content of the finished wine shall not exceed 0.3 percent. 27 CFR 240.364, 240.404.
Fumaric acid	To stabilize grape and fruit wine and to correct natural deficiencies in grape and fruit wine.	21 CFR 184.1318 (GRAS).
Gelatin (food grade)	To clarify juice and/or wine	This amount used shall not exceed 0.12 gram per 100 mls of wine (GRAS).
Granular cork	For treatment of wine	Amount used shall not exceed 3 parts per million. The finished wine shall contain no residual hydrogen peroxide (GRAS).
Hydrogen peroxide	To facilitate secondary fermentation in the production of sparkling wine.	The amount used shall not exceed 500 parts per million. The use of hydrogen peroxide is limited to oxidizing color pigment in the juice of red and black grapes. Wine produced by fermentation of such juice is limited solely to blending with white wines and red wines derived from juice not subjected to such treatment. 27 CFR 182.1366 (GRAS).
	To remove color from the juice of red and black grapes.	(GRAS).
Isinglass	To clarify wine	27 CFR 240.364, 240.404, and 240.526; 21 CFR 184.1081 (GRAS).
Lactic acid	To stabilize wine and to correct natural deficiencies in wine.	27 CFR 240.364, 240.404; 21 CFR 184.1069 (GRAS).
Malic acid	To increase acidity of wine and to correct natural deficiencies.	Patented strains of the bacteria *Leuconostoc oenos*. 27 CFR 240.361 and 240.365 (GRAS).
Malo-lactic bacteria (patented)	To stabilize wine	The oil shall not remain in the finished wine when marketed. 21 CFR 172.878.
Mineral oil (white)	On surface of wine in storage tanks to prevent the access of air to the wine.	The gas shall not remain in sparkling or still wine. 21 CFR 182.1540 (GRAS).
Nitrogen gas	To maintain pressure during filtering and bottling of sparkling wine and to prevent oxidation of wine.	The finished product, after addition of oak chips, shall have the flavor and color of Spanish type blending sherry commonly obtained by storage of sherry wine in properly treated used charred oak whisky barrels. 21 CFR 172.510.
Oak chips, Charred	To treat Spanish type blending sherry	21 CFR 172.510.
Uncharred and untreated	To treat wines	21 CFR 172.510
Sawdust, uncharred and untreated	To treat wines	May be used provided it does not cause changes in the wine other than those occurring during the usual storage in wooden cooperage over a period of time. Application must be filed (GRAS).
Oxygen and compressed air	In baking or maturing wine and aeration of sherry	Use, separately or in combination with one another, must not exceed 0.1 percent by weight (w/w). Use of n-heptyl-paraben must not exceed 12 parts per million. 21 CFR 172.145, 1,84.1490 and 184.1670 (GRAS).
Parabens (n-alkyl esters of 4/hydroxy-benzoic acid: n-heptyl-, propyl-, and methylparaben.	To preserve wine	The amount used shall not exceed 0.072 gram per 100 mls of wine. Material shall be removed during filtration. 21 CFR 173.50.
Polyvinyl-polypyrrolidone (PVPP)	To clarify and to stabilize wine	The residual level of PVP in the finished wine will not exceed 60 ppm. 21 CFR 173.55.
Polyvinyl-pyrrolidone (PVP)	To clarify wine	The amount used shall not exceed 0.048 gram potassium bitartrate per 100 mls of grape wine. 21 CFR 182.1077 (GRAS).
Potassium bitartrate	Stabilization of grape wine	The natural or fixed acids shall not be reduced below 5 parts per thousand. 21 CFR 182.1619 and 184.1619 (GRAS).
Potassium carbonate	To reduce excess natural acidity in wine	The amount of potassium citrate shall not exceed 0.3 gram per 100 mls of finished wine. 27 CFR 240.404; 21 CFR 182.1625 and 182.6625 (GRAS).
Potassium citrate	pH control agent and sequestrant in treatment of citrus wines.	The sulfur dioxide content of the finished wine shall not exceed limits prescribed in 27 CFR Part 4. 21 CFR 182.3637 (GRAS).
Potassium metabi-sulphite	Sterilizing and preserving wine	The amount used shall not exceed 40 parts per million in wine. 21 CFR 182.1666 (GRAS).
Propylene glycol	Solvent for parabens	The amount used shall not exceed 0.24 gram per 100 mls of wine. Silicon dioxide shall be completely removed by filtration (GRAS).
Silica gel (colloidal silicon dioxide—30%)	To clarify wine	Not more than 0.1% (w/w) of sorbic acid or salts thereof shall be used in wine or in materials for the production of wine. 21 CFR 182.3089, 182.3640, 184.1089 and 184.1640 (GRAS).
Sorbic acid and potassium salt of sorbic acid	As a sterilizing and preservative agent and to inhibit mold growth and secondary fermentations.	The amount used shall not exceed 0.024 gram per 100 mls of wine (GRAS).
Soy flour (defatted)	Yeast nutrient to facilitate fermentation of wine	27 CFR 240.523; 27 CFR Part 4; 21 CFR 182.3862 (GRAS).
Sulfur dioxide	Sterilizing and preserving agent in wine	27 CFR 240.525 (GRAS).
Tannin	Clarifying grape wine	The finished apple wine may not contain more than 0.3 gram of tannin per 100 ml of wine (GRAS).
	For the adjustment of the tannin content in apple wine (cider).	27 CFR 240.364; 21 CFR 182.1099 (GRAS).
Tartaric acid	To increase acidity of grape wine	

Materials	Use	Reference of limitation
Urea	Yeast nutrient to facilitate fermentation of wine	GRAS per USFDA opinion of 4/12/61. The amount used shall not exceed 0.024 gram per 100 mls of wine.

(72 Stat. 1383; 26 U.S.C. 5381, 5382, 5385, 5386, and 5387)

Par. 8. A new § 240.1051a is added and reads as follows:

§ 240.1051a Materials authorized for treatment of distilling material.

The materials listed in this section are approved, as being consistent with good commercial practice, for use by proprietors of bonded wine cellars in the production and cellar treatment of distilling material within the specific limitations of this section or given in the sections referred to: *Provided,* That when any approved material on this list is determined to be unacceptable for use in foods and beverages by the U.S. Food and Drug Administration, the Director may cancel the approval for use in the production and cellar treatment of distilling material.

Materials	Use	Reference or limitation
Ammonium phosphate (mono- and dibasic)	Yeast nutrient in distilling material	As a yeast nutrient in distilling material, the amount shall not exceed 0.12 gram per 100 mls. 21 CFR 182.1141 (GRAS).
Amylase enzyme	To convert starches to fermentable carbohydrates	The amylase enzyme shall be derived from nonpathogenic and nontoxic strains of *Aspergillus oryzae*. GRAS per USFDA advisory opinion of 2/9/60.
Copper sulphate	To eliminate hydrogen sulfide and mercaptans	Not more than 2 parts per million may be contained in the finished brandy or wine spirits. GRAS per USFDA advisory opinion of 7/23/69.
Hydrogen peroxide	To reduce aldehydes in distilling material	The amount used shall not exceed 200 parts per million. 21 CFR 182.1366 (GRAS).
Potassium permanganate	Oxidizing agent	The finished brandy or wine spirits produced from distilling material to which potassium permanganate has been added must be free of chemical residue resulting from such treatment.
Sodium hydroxide	Acid neutralizing agent	The finished brandy or wine spirits produced from distilling material to which sodium hydroxide has been added must be free of chemical residue resulting from such treatment. 21 CFR 182.1763 and 184.1763 (GRAS).
Sulphuric acid	To effect favorable yeast development in distilling material; to prevent fermentation of the sugar in special natural wine being accumulated as distilling material; to lower pH to 2.5 to prevent putrefaction and/or ethyl acetate development.	27 CFR 240.486; 21 CFR 184.1095 (GRAS.)

(72 Stat. 1383; 26 U.S.C. 5381, 5382, 5385, 5386, and 5387)

Par. 9. A new § 240.1051b is added and reads as follows:

§ 240.1051b Processes authorized for the treatment of wine, juice, and distilling material.

The processes listed in this section are approved, as being consistent with good commercial practice, for use by proprietors of bonded wine cellars in the production, cellar treatment, or finishing of standard wine, juice, and distilling material, within the general limitations of § 240.524 or the specific limitations shown in this section or given in the sections referred to: *Provided,* That when any approved process on this list is determined to be unacceptable for use in foods and beverages by the U.S. Food and Drug Administration, the Director may cancel the approval for use in the production, cellar treatment, or finishing of standard wine, juice, and distilling material.

Processes	Use	Reference or limitation
Ion exchange resins	Various applications in the treatment of wine.	Anion, cation, and non-ionic resins, except those anionic resins in the mineral acid state, may be used in batch or continuous column processes as total or partial treatment of wine, provided that after complete treatment: 1. The vinous character of the wine has not been altered. 2. The color of the wine has not been reduced to less than that normally contained in such wine. 3. The inorganic anions in the wine have not been increased by more than 10 mg. per liter. 4. The metallic cation concentration in the wine has not been reduced to less than 300 mg. per liter. 5. The natural or fixed acid in grape wine has not been reduced below 4 parts per thousand for red table wines, 3 parts per thousand for white wines, or 2.5 parts per thousand for all other grape wines; and the natural or fixed acid in wine, other than grape wine, has not been reduced below 4.0 parts per thousand. 6. The pH of the wine has not been reduced below pH 3 nor increased above pH 4.5. 7. The resins used have not imparted to the wine any material or characteristics (incidental to the resin treatment) which may be prohibited under any other section of the regulations in this part. Conditioning and/or regenerating agents consisting of water, fruit acids common to the wine being treated, and inorganic acids, salts and/or bases may be employed, provided the conditioned or regenerated resin is rinsed with water until the resin and container are essentially free from unreacted (excess) conditioning or regenerating agents prior to the introduction of the wine. 21 CFR 173.25 (GRAS).
Thin-film evaporation under reduced pressure, e.g., centrifugal film evaporator and vacuum still flashpan.	To reduce the volume of alcohol in wine.	Wine so treated must retain the color, flavor and other vinous characteristics.

(72 Stat. 1383; 26 U.S.C. 5381, 5382, 5385, 5386, and 5387)

Par. 10. The title and text of § 240.1052 is revised to read as follows:

§ 240.1052 Petition for use of new treating material or process.

If the proprietor desires to use a material or process which is not specifically authorized in §§ 240.1051, 240.1051a, 240.1051b, or elsewhere in this part, the proprietor shall file a petition with the regional regulatory administrator of the region in which the bonded winery or bonded wine cellar is located. The petition will include the following: (a) The name and description of the material or process; (b) The purpose, the manner, and the extent to which the material or process is to be used together with any technical bulletin or other pertinent information relative to the material or process; (c) A sample, if a proposed material; (d) Any documentary evidence of the U.S. Food and Drug Administration's approval of the material for its intended purpose in the amounts proposed for the particular treatment contemplated; (e) The test results of any laboratory-scale pilot study conducted by the winemaker in testing the material and an evaluation of the product and of the treatment including the results of tests of the shelf life of the treated wine; (f) A tabulation of pertinent information derived from the testing program conducted by the chemical manufacturer demonstrating the function of the material or process; (g) A list of all chemicals used in compounding the product and the quantity of each component; and, (h) The recommended maximum and minimum amounts, if any, of the material proposed to be used in the treatment and a statement as to whether water is used to prepare a slurry to facilitate the addition of the material. The regional regulatory administrator will forward the petition to the Director. After submission of the petition, a notice of proposed rulemaking (NPRM) will be published to allow winemakers and other interested parties to comment on the proposed material or process. A Treasury decision will be printed in the **Federal Register** if the new treating material or process is approved.

(72 Stat. 1383 (26 U.S.C. 5381, 5382, 5385, 5386, and 5387))

Signed: May 24, 1982.

Stephen E. Higgins,

Acting Director.

Approved: June 4, 1982.

John M. Walker, Jr.,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 82-13283 Filed 6-16-82; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Ch. VII

Availability of Draft Supplemental Environmental Impact Statement and Public Hearings

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of availability of draft supplemental environmental impact statement (EIS) and of public hearings.

SUMMARY: The Office of Surface Mining (OSM) is making available for public review and comment a draft supplement to OSM–EIS–1. This supplemental EIS would cover those revised rules proposed under Title V of the Surface Mining Control and Reclamation Act of 1977 (the Act), 30 U.S.C. 1201 *et seq.*, that may or would significantly affect the quality of the human environment or for the impacts of which public controversy exists. OSM will conduct five public hearings and accept written comments on this draft supplemental EIS.

DATES: *Comment period.* The comment period for the EIS will extend until 5:00 p.m. (eastern time) on August 25, 1982.

Public hearings. The public hearings will be held on the following dates:

July 27, 1982, 9:00 a.m. at Pittsburgh, Pa.
July 28, 1982, 9:00 a.m. at Indianapolis, Ind.
July 29, 1982, 7:00 p.m. at Lexington, Ky.
July 30, 1982, 9:00 a.m. at Denver, Colo.
August 2, 1982, 9:00 a.m. at Washington, D.C.

ADDRESSES: *Written comments: Hand-deliver* to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record, Room 5315, 1100 L Street, NW., Washington, D.C.; or *mail* to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record, Room 5315 L, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

Public hearings: Public hearings will be held at the following locations:

Pittsburgh, Pa.—William S. Moorehead Federal Building, Rooms 2212–2218, 1000 Liberty Avenue (telephone: 414–644–4462).
Lexington, Ky.—Harley Hotel, Ballroom, 2143 North Broadway (telephone: 606–233–7327).
Denver, Colo.—Brooks Towers, Room 2010, 1020 15th Street (telephone: 303–837–5421).
Indianapolis, Ind.—Federal and Courthouse Building, Room 402, 46 East Ohio Street (telephone: 317–269–2600).
Washington, D.C.—Main Interior Building, Auditorium, 18th and C Street, NW., (telephone: 202–343–5854).

Availability of copies: Copies are available at the following OSM offices:

Office of Surface Mining, U.S. Department of the Interior, Interior South Building, Room 134, 1951 Constitution Avenue, NW., Washington, DC 20240 (telephone: 202–343–5854).
Office of Surface Mining, U.S. Department of the Interior, Administrative Record, 1100 L Street, NW., Room 5315, Washington, DC 20240 (telephone: 202–343–7896).
Office of Surface Mining, Eastern Technical Service Center, Deputy Administrator's Office, Ten Parkway Center, Pittsburgh, PA 15220 (telephone: 414–644–4462).
Office of Surface Mining, Western Technical Service Center, Administrator's Office, Brooks Towers, 1020 15th Street, Denver, CO 80202 (telephone: 303–837–5421).

FOR FURTHER INFORMATION CONTACT: Dr. Mark Boster, Acting Chief, Division of Environmental and Economic Analysis, Office of Surface Mining, Room 134, 1951 Constitution Avenue, NW., Washington, DC 20240 (telephone: 202–343–5854).

SUPPLEMENTARY INFORMATION: *Written comments.* Written comments should be as specific as possible. OSM appreciates all comments, but those most useful and likely to influence decisions in the preparation of the final supplement to OSM–EIS–1 are those which will provide facts and analyses to support any recommendations or conclusions. OSM cannot assure that written comments received after the time indicated under "Dates" or at locations other than the Washington, D.C., address of the Administrative Record will be considered or included in the preparation of the final supplemental EIS.

Public hearings. Filing of a written statement by commenters at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions.

Public hearings will continue on the specified date until all persons who are present in the audience and wish to comment have been heard.

Background. Background information was published in the **Federal Register** notice of intent to prepare a

supplemental EIS on May 3, 1982 (47 FR 18920). The Federal Register citations to the proposed rule changes which form the basis of the supplemental EIS are set forth in table A–1 of the supplemental EIS.

Dated: June 15, 1982.

J. R. Harris,

Director, Office of Surface Mining.

[FR Doc. 82–16602 Filed 6–17–82; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 914

Public Disclosure of Comments Received From Federal Agencies on the Indiana Proposed State Permanent Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Announcement of public disclosure.

SUMMARY: Before the Secretary of the Interior may approve permanent State regulatory programs submitted under section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain Federal agencies must be solicited and disclosed. The Secretary has solicited comments of these agencies on the Indiana proposed program, and is today announcing their public disclosure.

ADDRESSES: Copies of the comments received are available for public review during regular business hours at:

Indiana Department of Natural Resources, Division of Reclamation, 309 West Washington Street, Suite 201, Indianapolis, Indiana 46204, Phone: (317) 232–1555

Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, Fifth Floor, 46 East Ohio Street, Indianapolis, Indiana 46204, Phone: (317) 269–2600

Office of Surface Mining Reclamation and Enforcement, Room 5315, 1100 L Street, NW., Washington, D.C. 20240, Phone: (202) 343–7896.

FOR FURTHER INFORMATION CONTACT: Mr. Richard D. McNabb, Indiana State Office Director, Federal Building and U.S. Courthouse, Room 524, 46 East Ohio Street, Indianapolis, Indiana 46204, Phone: (317) 269–2600.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is reevaluating the permanent regulatory program submitted by Indiana for his review on March 3, 1980, and the revisions thereto. See 45 FR 15580, 45 FR 78482, 46 FR 47467, and 47 FR 22974. In accordance with section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1), the Indiana program may not be approved until the Secretary has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following Federal agencies were invited to comment on the Indiana program:

Advisory Council on Historic Preservation
Department of Agriculture
- Agriculture Stabilization and Conservation Service
- Farmers Home Administration
- Forest Service
- Agricultural Research Service
- Soil Conservation Service

Department of Energy
Department of the Interior
- Bureau of Indian Affairs
- Bureau of Land Management
- Bureau of Mines
- Bureau of Reclamation
- Fish and Wildlife Service
- Geological Survey
- National Park Service

Department of Labor
- Mine Safety and Health Administration

Environmental Protection Agency
Ohio River Basin Commission
U.S. Army Corps of Engineers.

Of those agencies invited to comment, OSM received comments from the following offices:

U.S. Army Corps of Engineers
Environmental Protection Agency
Department of Agriculture
- Soil Conservation Service

Department of the Interior
- Fish and Wildlife Service
- Geological Survey
- Bureau of Mines
- Bureau of Land Management

Department of Labor
- Mine Safety and Health Administration.

These comments are available for review and copying during regular business hours at the locations listed above under "**ADDRESSES.**"

Dated: June 15, 1982.

Wm. Schmidt,

Assistant Director, Program Operations and Inspection, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 82–16604 Filed 6–17–82; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 935

Public Disclosure of Comments Received From Federal Agencies on the Ohio Proposed Program

AGENCY: Surface Mining Reclamation and Enforcement Office (OSM), Interior.

ACTION: Disclosure of comments.

SUMMARY: Before the Director, OSM, may approve State regulatory programs submitted under section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain Federal agencies must be solicited and disclosed. The Director has solicited comments from these agencies on the Ohio proposed program and is today announcing their public disclosure.

ADDRESSES: Copies of the comments received are available for public review during business hours at:

Office of Surface Mining, Reclamation and Enforcement, 46 East Ohio Street, Indianapolis, Indiana 46204, Telephone: (317) 269–2600

Office of Surface Mining, Reclamation and Enforcement, Room 5315, 1100 L Street NW., Washington, D.C. 20240, Telephone: (202) 343–7896

Ohio Division of Reclamation, Department of Natural Resources, Fountain Square, Building B, Columbus, Ohio 43224, Telephone: (614) 265–6633.

FOR FURTHER INFORMATION CONTACT: William Schmidt, Assistant Director, Program Operations and Inspection, Office of Surface Mining, Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone: (202) 343–4225.

SUPPLEMENTARY INFORMATION: The Director, OSM, is evaluating the proposed regulatory program resubmitted by Ohio for his review on January 22, 1982. See the January 26, 1982, **Federal Register** (47 FR 3571–3573). In accordance with section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1), Ohio's program may not be approved until the Director has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following Federal agencies were invited to comment on the Ohio program:

Department of Agriculture:
- Soil Conservation Service
- Forest Service
- Agricultural Stabilization and Conservation Service

Farmers Home Administration
Advisory Council on Historic Preservation
Department of Labor:
Mine Safety and Health Administration
Environmental Protection Agency
Water Resources Council
Department of Energy
Department of the Interior:
Bureau of Indian Affairs
Bureau of Land Management
Bureau of Mines
Bureau of Reclamation
Fish and Wildlife Service
Mineral Management Service
National Park Service
Geological Survey
Ohio River Basin Commission
U.S. Army Corps of Engineers

Of those agencies invited to comment, OSM received comments from the following offices:

Environmental Protection Agency
Department of the Interior:
Fish and Wildlife Service
Mineral Management Service
Department of Agriculture:
Farmers Home Administration
Forest Service
Department of Labor:
Mine Safety and Health Administration
U.S. Army Corps of Engineers.

These comments are available for review and copying during business hours, at the locations listed above under "**ADDRESSES.**"

Dated: June 15, 1982.

Wm. Schmidt,

Assistant Director, Program Operations and Inspection Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 82-16856 Filed 6-17-82; 8:45 am]
BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[Docket No. OAQPS 79-7; AD-FRL-2151-3]

Revisions to the National Ambient Air Quality Standards for Carbon Monoxide

AGENCY: Environmental Protection Agency.

ACTION: This notice announces the availability of materials related to the review of the carbon monoxide standards and solicits additional public comment.

SUMMARY: Proposed Rule; additional public comment requested. On August 18, 1980 EPA proposed revisions to the existing primary national ambient air quality standards (NAAQS) for carbon monoxide (CO) and revocation of the existing secondary standard (45 FR 55066). EPA has recently announced that the Clean Air Science Advisory Committee is scheduled to discuss the proposed revisions at a meeting on July 6, 1982. Today, EPA is providing information on issues to be addressed and soliciting additional public comment.

DATE: Comments must be postmarked by August 6, 1982.

ADDRESSES: Submit comments (duplicate copies are preferred) to: Central Docket Section (A-130), Environmental Protection Agency, Attn: Docket No. OAQPS 79-7, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Jones, Strategies and Air Standards Division (MD-12), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, Telephone (919) 541-5531 (FTS 629-5531).

SUPPLEMENTARY INFORMATION: In 1971 identical primary and secondary standards for CO were promulgated (36 FR 8186) at levels of 9 parts per million (ppm), 8-hour average, and 35 ppm, 1-hour average, neither to be exceeded more than once per year. Subsequently, in accordance with sections 108 and 109 of the Clean Air Act, 42 U.S.C. 7408, 7409, EPA has reviewed and proposed revisions to the criteria upon which the existing NAAQPS for carbon monoxide are based. On August 18, 1980, EPA proposed (45 FR 55066) (1) retaining the existing primary 8-hour standard level at 9 ppm, (2) lowering the primary 1-hour standard level to 25 ppm, (3) revoking the existing secondary CO standard, and (4) changing the form of the standards from deterministic to statistical (i.e., EPA proposed to state allowable exceedances as expected values rather than explicit values).

EPA has reviewed and discussed the proposed revisions to the CO standards at meetings of the Clean Air Scientific Advisory Committee (CASAC) held on November 14, 1980, and on November 17, 1981. Transcripts of these two meetings are available in the public docket. A third meeting of the CASAC to discuss the proposed revisions is scheduled for July 6, 1982 in Washington, D.C., as announced in a separate **Federal Register** notice.

Specific issues on which EPA is soliciting comments from the public and from CASAC are briefly described below. The relevant documents have been transmitted to the CASAC and are available in the public docket for this rulemaking.

Role of Aronow (1981) Study

Prior to the August, 1980 proposal, EPA received an unpublished draft copy of a new CO human exposure study conducted by Dr. Wilbert Aronow. In this study, Dr. Aronow reports a statistically significant decrease in the time to onset of angina for 15 subjects exposed to 50 ppm CO for 1 hour compared to a control exposure of the same subjects to compressed air. On a group mean basis the final COHb was 2.0 percent after the CO compared with an initial mean COHb value of 1.1 percent prior to CO exposure. The COHb level at which effects were reported is below the level of 2.7 to 3.0 percent COHb which the CASAC identified as the lowest level at which adverse health effects have been convincingly shown (45 FR 55068). However, the decrease in time to onset of angina was significantly less than in previous studies conducted at higher group mean COHb levels. This study suggests that there may not be a clear threshold effect level for CO or COHb levels which represents the onset of health effects.

In the proposal notice (45 FR 55081) EPA stated its view that this study should not be considered in the CO rulemaking, except perhaps as a factor in establishing an adequate margin of safety, unless it first had been peer reviewed and judged significant enough to warrant incorporation in the criteria document. At the time of proposal, EPA placed the unpublished manuscript in the docket (OAQPS 79-7, II-A-2), submitted a copy to CASAC for its review, and solicited comments from the general public on the study (45 FR 55801).

Dr. Aronow's study (OAQPS 79-7, IV-C-6a(11)) has now been published in a peer reviewed journal (Aronow, W. S., Aggravation of Angina Pectoris by Two Percent Carboxyhemoglobin, American Heart Journal, 101: 154-156, 1981). EPA is soliciting comment from the public on the study and its role, if any, in the final rulemaking.

A Multiple Exceedance Standard

EPA is considering changing the proposed 9 ppm, 8-hour standard from a single allowable day of exceedances to 5 allowable days of exceedances per year on average. This modification of the standard is under consideration because it offers several practical advantages to State and local agency control officials in designing and

implementing pollution control programs. The principal advantage of the multiple exceedance standard is that it focuses control strategy decisions on a CO air quality value that is more predictable than the highest or second highest value expected in a year. Peak values are often related to unusual meterological events and may vary widely over time and from location to location even if emission rates are constant. A standard which focuses on a more stable value, such as the fifth highest expected 8-hour concentration, would tend to reduce the impact of unusual meterological events on air quality values used to establish control programs.

A possible disadvantage of moving to a multiple exceedance standard is the uncertainty it introduces into assessing the health impacts associated with allowable excursions of the standard concentration value. The EPA staff has attempted to estimate the health impacts associated with an 8-hour, 9 ppm, 5 allowable exceedance standard and has concluded that on average, such a standard is approximately equivalent to a 12 ppm, 8-hour, 1 allowable exceedance standard. A 12 ppm standard is judged to provide adequate protection from elevated blood COHb levels in sensitive persons. While this estimate is probably an accurate average equivalency, the 9 ppm, 5 exceedances standard may permit several peaks per year which are higher than those associated with a 12 ppm, 1 exceedance standard. EPA is interested in public comment on the merit of arguments for changing to a multiple exceedance standard and on the health risks that would accompany a 9 ppm, 5 exceedances 8-hour standard.

Sensitivity Analysis on Coburn Model Predictions of Carboxyhemoglobin Levels

A model known as the Coburn equation is used to estimate carboxyhemoglobin (COHb) levels resulting from varying CO exposures as a function of time and various physiological factors (e.g., blood volume, exercise level). As discussed in the proposal preamble (45 FR 55066), EPA prepared a draft sensitivity analysis (OAQPS 79–7, II–A–1) using the Coburn model to examine the impact of fluctuating CO concentrations and variations in physiological parameters on COHb estimates. Since proposal, EPA has revised the sensitivity analysis document to include multiple exceedance standards and to address public comments. A draft version of the revised document, "Sensitivity Analysis on Coburn Model Predictions of Carboxyhemoglobin Levels Associated with Alternative Carbon Monoxide Standards" (OAQPS 79–7, IV–C–6a(6)), is one of the analyses which provides useful information in judging the possible health impact of alternative CO standards.

Exposure Analysis

Prior to proposal, EPA prepared a draft exposure analysis which was placed in the docket (OAQPS 79–7, II–A–7). Since proposal, EPA has made considerable improvements in the methodology and has produced a new draft exposure analysis document, "The NAAQS Exposure Model (NEM) Applied to Carbon Monoxide" (OAQPS 79–7, IV–C–6a(7)). The document provides estimates of the number of person-hours of exposure to CO concentrations and COHb levels in excess of specified values upon attainment of alternative CO standards; these estimates are provided on a nationwide basis and for four specific cities. Since this document provides some estimates of the number of sensitive individuals who might be exposed to various COHb levels for alternative standards. EPA is considering using the analysis as one input in the final rulemaking for the CO NAAQS. EPA is soliciting public comment on the technical adequacy of the document for this purpose.

Availability of Documents and Related Information

Documents expected to be of primary interest at the July 6 CASAC meeting such as the Sensitivity Analysis, Exposure Analysis, and Aronow (1981) Study are available in the public docket (OAQPS 79–7). They can also be obtained by calling or writing Mr. Michael Jones, Strategies and Air Standards Division (MD–12), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, Telephone (919) 541–5531 (FTS 629–5531). In addition, other information (such as the CO Staff Paper, Cost and Economic Assessment (draft), Regulatory Impact Analysis (draft), and Final Environmental Impact Statement, submitted to the CASAC and placed in the public docket (AQPS 79–7, IV–C–6) can also be obtained from the same address.

The final revised criteria document, *Air Quality Criteria for Carbon Monoxide* (EPA–600/8–79–022, October 1979) is available from: U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161 (PB 81–244840 $17.00 paper copy and $4.50 microfiche).

List of Subjects in 40 CFR Part 50

Air pollution control, Carbon monoxide, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Hydrocarbons.

Dated: June 11, 1982.

Kathleen M. Bennett,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 82–16658 Filed 6–17–82; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82–186; RM 3655]

FM Broadcast Station Blanketing Interference; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment/reply comment period.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in a proceeding which proposes to amend the Commission's rules to establish a specific signal level defining the "blanketed" areas around an FM broadcast station's antenna. The proposed rule changes also would state the applicant's responsibility when interference occurs. This action is being taken in response to a request from the Association of Federal Communications Consulting Engineers for additional time to collect data and to prepare an appropriate submission.

DATES: Comments must be filed on or before September 29, 1982, and reply comments must be filed on or before October 29, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Albert S. Jarratt, Sr., Broadcast Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION:

Adopted: June 7, 1982.
Released: June 9, 1982.

1. On April 1, 1982, the Commission adopted a *Notice of Proposed Rulemaking*, 47 FR 18936 (published May 3, 1982) in the above entitled proceeding. The dates for filing comments and reply comments are June 29, and July 29, 1982, respectively.

2. On May 20, 1982, the Association of Federal Communication Consulting Engineers ("AFCCE") submitted a Motion for Extension of time for filing

comments. AFCCE states that the additional time is needed to allow the Association to gather data and prepare an appropriate response, as well as permit its individual members to provide comments from their clients.

3. We are of the view that additional time is warranted. Such extension will permit development of a sound and comprehensive record of which to base a decision in this proceeding.

4. Accordingly, it is ordered, that the dates for filing comments and reply comments in BC Docket No. 82–186 (RM–3655) are extended to and including September 29, and October 29, 1982, respectively.

5. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82–16541 Filed 6–17–82; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1032

[Ex Parte No. 137]

Contracts for Protective Services

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed removal of regulations.

SUMMARY: The Commission is proposing to eliminate the existing regulations at 49 CFR Part 1032, which govern contracts for protective services against heat or cold provided to or on behalf of rail carriers and express companies pursuant to 49 U.S.C. 11105. If these matters are exempted from the requirements of 49 U.S.C. 11105, the current regulations governing protective service contracts would be unnecessary. In a separate decision published elsewhere in this issue, the Commission also proposes to exempt contracts for protective services from the requirements of section 11105.

DATE: Comments are due July 19, 1982.

ADDRESS: An original and, if possible, 15 copies of comments should be sent to: Ex Parte No. 137, Interstate Commerce Commission, Room 5340, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7277.

SUPPLEMENTARY INFORMATION: If these matters are exempted from the requirements of 49 U.S.C. 11105, the current regulations governing protective service contracts would be unnecessary. For further information on the exemption issue see the notice published with the same docket number elsewhere in this issue.

List of subjects in 49 CFR Part 1032

Railroads.

(49 U.S.C. 11105, 5 U.S.C. 553)

Decided: June 11, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons.

James H. Bayne,

Acting Secretary.

[FR Doc. 82–16530 Filed 6–17–82; 8:45 am]

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Notices

Federal Register
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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Marketing Agreement 146]

Peanuts, 1982 Crop; Incoming and Outgoing Quality Regulations and Indemnification

Pursuant to the provisions of sections 5, 31, 32, 34 and 36 of the marketing agreement regulating the quality of domestically produced peanuts heretofore entered into between the Secretary of Agriculture and various handlers of peanuts (30 FR 9402) and upon recommendation of the Peanut Administrative Committee established pursuant to such agreement and other information it is hereby found that the appended "Incoming Quality Regulation—1982 Crop Peanuts", "Outgoing Quality Regulation—1982 Crop Peanuts", and the "Terms and Conditions of Indemnification—1982 Crop Peanuts", which modify or are in addition to the provisions of sections 5, 31, 32 and 36 of said agreement will tend to effectuate the objectives of the Agricultural Marketing Agreement Act of 1937, as amended, and of such agreement and should be issued.

The Peanut Administrative Committee has recommended that the appended regulations and the Terms and Conditions of Indemnification be issued to implement and effectuate the provisions of the aforementioned sections of the marketing agreement. The peanut crop year begins July 1 and procedures and regulations for operations under the agreement should be established thereby affording handlers maximum time to plan their operations accordingly. The handlers of peanuts who will be affected hereby have signed the marketing agreement authorizing the issuance hereof, they are represented on the Committee which has prepared and recommended these quality regulations and terms and conditions of indemnification for approval.

This action has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the regulated handlers.

Information collection requirements contained in these regulations and terms and conditions of indemnification have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB No. 0581–0067.

Upon consideration of the Committee recommendation and other available information the appended "Incoming Quality Regulation—1982 Crop Peanuts", "Outgoing Quality Regulation—1982 Crop Peanuts", and the "Terms and Conditions of Indemnification—1982 Crop Peanuts", are hereby approved.

Dated: June 14, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

Incoming Quality Regulation—1982 Crop Peanuts

The following modify section 5 of the peanut marketing agreement and modify or are in addition to the restrictions of section 31 on handler receipts or acquisitions on peanuts:

(a) *Modification of section 5, paragraphs (b), (c), and (d).* Paragraphs (b), (c), and (d) of section 5 of the peanut marketing agreement are modified as to farmers stock peanuts to read respectively as follows:

(b) *Segregation 1.* "Segregation 1 peanuts" means farmers stock peanuts with not more than 2 percent damaged kernels nor more than 1.00 percent concealed damage caused by rancidity, mold or decay and which are free from visible *Aspergillus flavus.*

(c) *Segregation 2.* "Segregation 2 peanuts" means farmers stock peanuts with more than 2 percent damaged kernels or more than 1.00 percent concealed damage caused by rancidity, mold or decay and which are free from visible *Aspergillus flavus.*

(d) *Segregation 3.* "Segregation 3 peanuts" means farmers stock peanuts with visible *Aspergillus flavus.*

(b) *Moisture.* Except as provided under paragraph (e) *Seed Peanuts,* no handler shall receive or acquire peanuts containing more than 10 percent moisture: *Provided,* That peanuts of a higher moisture content may be received and dried to not more than 10 percent moisture prior to storing or milling. On farmers stock, such moisture determinations shall be rounded to the nearest whole number; on shelled peanuts, the determinations shall be carried to the hundredths place and shall not be rounded to the nearest whole number.

(c) *Damage.* For the purpose of determining damage, other than concealed damage, on farmers stock peanuts, all percentage determinations shall be rounded to the nearest whole number.

(d) *Loose shelled kernels.* Handlers may separate from the loose shelled kernels received with farmers stock peanuts, those sizes of kernels which ride screens with the following slot openings: Runner—$^{13}/_{64}$ X $^{3}/_{4}$ inch; Spanish and Valencia—$^{13}/_{64}$ X $^{3}/_{4}$ inch; Virginia—$^{13}/_{64}$ X 1 inch. If so separated, those loose shelled kernels which do not ride such screens, shall be removed from the farmers stock peanuts and shall be held separate and apart from other peanuts and disposed of for inedible use as provided in paragraph (g) of the Outgoing Quality Regulation. If the kernels which ride the prescribed screen are not separated, the entire amount of loose shelled kernels shall be removed from farmers stock peanuts and shall be so held and so delivered or disposed of. The loose shelled kernels which ride the screens may be included with shelled peanuts prepared by the handler for inspection and sale for human consumption. For the purpose of this regulation, the term "loose shelled kernels" means peanut kernels or portions of kernels completely free of their hulls and found in deliveries of farmers stock peanuts.

(e) *Seed Peanuts.* A handler may acquire and deliver for seed purposes farmers stock peanuts which meet the requirements of Segregation 1 peanuts. If the seed peanuts are produced under the auspices of a State agency which

regulates or controls the production of seed peanuts, they may contain up to 3 percent damaged kernels and have visible *Aspergillus flavus*, and, in addition, the following moisture content, as applicable:

(1) For seed peanuts produced in the Southeastern and Virginia-Carolina areas, they may contain up to 11 percent moisture except Virginia type peanuts which are not stacked at harvest time may contain up to 12 percent moisture; and (2) for seed peanuts produced in the Southwestern area, they may contain up to 10 percent moisture.

However, any such seed peanuts with visible *Aspergillus flavus* shall be stored and shelled separate from other peanuts, and any residual not used for seed shall not be used or disposed of for human consumption unless it is determined to be wholesome by chemical assay for aflatoxin. A handler whose operations may include custom seed shelling, may receive, custom shell, and deliver for seed purposes farmers stock peanuts and such peanuts shall be exempt from the Incoming Quality Regulation requirements and therefore shall not be required to be inspected and certified as meeting the Incoming Quality Regulation requirements and the handler shall report to the Committee as requested the weight of each lot of farmers stock peanuts received on such basis on a form furnished by the Committee. However, handlers who acquire seed peanut residuals from their custom shelling of uninspected (farmers stock) seed peanuts, or from another sheller or producer who has or has not signed the marketing agreement shall hold and/or mill such residuals separate and apart from other receipts or acquisitions of the handler and such residuals which meet Outgoing Quality Regulation requirements may be disposed of by sale to human consumption outlets and any portion not meeting such requirements shall be disposed of by sale as peanuts failing to meet human consumption requirements pursuant to paragraph (i) of the Outgoing Quality Regulation.

(g) *Oilstock.* Handlers may acquire for disposition to domestic crushing or export, to countries other than Canada and Mexico, farmers stock peanuts of a lower quality than Segregation 1 or grades or sizes of shelled peanuts or cleaned inshell peanuts which fail to meet the requirements for human consumption. The provision of section 31 of the marketing agreement restricting acquisitions of such peanuts to handlers who are crushers is hereby modified to authorize all handlers to act as accumulators and acquire, from other handlers or non-handlers, Segregation 2 or 3 farmers stock peanuts. Handlers may also acquire from other handlers shelled or fragmented peanuts originating from Segregation 2 or 3 farmers stock, or the entire mill production of shelled or fragmented peanuts from Segregation 1 farmers stock, or lots of shelled peanuts, originating from Segregation 1 peanuts and which have been positive lot identified as specified in paragraph (d) of the Outgoing Quality Regulation, which failed to meet the requirements for human consumption pursuant to paragraph (a) of the Outgoing Quality Regulation: *Provided,* That all such acquisitions are held separate from Segregation 1 peanuts acquired for milling or from edible grades of shelled or milled peanuts. Handlers may commingle the Segregation 2 and 3 peanuts or keep them separate and apart as provided in paragraph (j) of the Outgoing Quality Regulation. Further disposition or commingling of such peanuts shall be only as provided in paragraph (1) of the Outgoing Quality Regulation. Handlers who acquire farmers stock peanuts of a lower quality than Segregation 1 or grades or sizes of shelled peanuts or cleaned inshell peanuts which fail to meet the requirements for human consumption shall report such acquisitions as prescribed by the Committee. To be eligible to receive or acquire Segregation 2 or 3 farmers stock peanutes and shelled or "fragmented" peanuts originating therefrom, a handler shall pay to the Area Association a fee for the purpose of covering cost of supervision of the disposition of such peanuts.

(g) *Segregation 2 and 3 control.* To assure the removal from edible outlets of any lot of peanuts determined by Federal or Federal-State Inspection Service to be Segregation 2 or Segregation 3, each handler shall inform each employee, country buyer, commission buyer or like person through whom he receives peanuts, of the need to receive and withhold all lots of Segregation 2 and Segregation 3 peanuts from milling for edible use. If any lot of Segregation 2 or Segregation 3 farmers stock peanuts is not withheld but returned to the producer, the handler shall cause the Inspection Service to forward immediately a copy of the inspection certificate on the lot to the designated office of the handler and a copy to the Committee which shall be used only for information purposes.

(h) *Farmers Stock Storage and Handling Facilities.* Handlers shall report to the Committee, on a form furnished by the Committee, all storage facilities or contract storage facilities which they will use to store acquisitions of current crop Segregation 1 farmers stock peanuts and all such storage facilities must be reported prior to storing of any such handler acquisitions. Handlers shall also report to the Committee, the locations at which they will receive or acquire current crop farmers stock peanuts. All such storage facilities shall have reasonable and safe access to allow for inspection of the facility and its contents. All such storage facilities must be of sound construction, in good repair, built and equipped so as to provide suitable storage and sufficient safeguards to prevent moisture condensation and provide adequate protection for farmers stock peanuts. All breaks or openings in the walls, floors or roofs of the facilities shall have been repaired so as to keep out moisture. Elevator pits and wells must be kept dry and free of moisture at all times. Insect control procedures must be carried out in such a manner as to prevent undesirable moisture in the storage facilities. Any conditions in warehouse, elevators, pits, and other farmers stock handling equipment conducive to the growth or spread of *Aspergillus flavus* mold shall be corrected to the satisfaction of the Committee. The Committee may make periodic inspections of farmers stock storage and handling facilities and farmers stock peanuts stored in such facilities to determine if handlers are adhering to these requirements.

(i) *Shelled peanuts.* Handlers may acquire from other handlers, for remilling and subsequent disposition to human consumption outlets, shelled peanuts (which originated from "Segregation 1 peanuts") that fail to meet the requirements specified for human consumption in paragraph(a) of the Outgoing Quality Regulation. Any lot of such peanuts must be accompanied by a valid inspection certificate for grade factors, an aflatoxin assay certificate and must be positive lot identified. Transactions made in this manner shall be reported to the Committee by both the buyer and seller on a form provided by the Committee. Peanuts acquired pursuant to this paragraph shall be held and milled separate and apart from other receipts or acquisitions of the receiving handler and further disposition shall be regulated by paragraph(h)(1) of the Outgoing Quality Regulation.

Outgoing Quality Regulation—1982 Crop Peanuts

The following modify or are in addition to the peanut marketing

agreement restrictions of section 32 on handler disposition of peanuts:

(a) *Shelled peanuts.* No handler shall ship or otherwise dispose of shelled peanuts for human consumption unless appropriate samples for pretesting have been drawn in accordance with paragraph(c) of this regulation, or which if of a category not eligible for indemnification are not certified "negative" as to aflatoxin, or which contain more than (1) a total of 1.50 percent unshelled peanuts and damaged kernels; (2) a total of 3.00 Percent unshelled peanuts and damaged kernels and minor defects; (3) 9.00 percent moisture in the Southerstern and Southwestern areas; or 10.00 percent moisture in the Virginia-Carolina area; or (4) 0.10 percent foreign material in peanuts "with splits" And peanuts of U.S. grade, other than U.S. splits, or 0.20 percent foreign material in U.S. splits and other edible quality peanuts not of U.S. grade. The lot size of such peanuts in bulk or bags shall not exceed 200,000 pounds. Fall through in such peanuts shall not exceed 4 percent except that in peanuts other than "No. Two Virginia" fall through consisting of either split and broken kernels or whole kernels shall not exceed 3 percent and fall through of whole kernels in Runners or Virginias "with splits" shall not exceed 3 percent or 2 percent on Spanish "with splits". The term "fall through" as used herein, shall mean sound split and broken kernels and whole kernels which pass through specified screens. Screens used for determining fall through in peanuts covered by this paragraph (a) shall be as follows:

Type	Screen openings	
	Split and broken kernels	Whole kernels
Runners	17/64 inch round.	14/64 × 3/4 inch slot.
Spanish and Valencia	16/64 inch round.	13/64 × 3/4 inch slot.
Virginia except "No. 2 Virginia".	17/64 inch round.	14/64 × 1 inch slot.
"No. 2 Virginia"	17/64 inch round only for split, broken and whole kernels.	

("No. Two Virginia" means Virginia type peanuts that meet requirements of U.S. No. 2 Virginia grade peanuts except for tolerances for: (1) damage or unshelled peanuts and minor defects; and (2) sound peanuts and portions of peanuts which pass through the prescribed screen. Such tolerances shall be the same as those listed heretofore in this paragraph. Runners, Spanish or Virginia "with splits" means shelled peanuts which do not contain more than (a) 15 percent splits, (2) for Spanish 2.00 percent whole kernels which will pass through 15/16 x 3/4 slot screen; for Runners 3.00 percent whole kernels which will pass through 16/64 x 3/4 inch slot screen; and for Virginias 3.00 percent whole kernels which will pass through 15/64 x 1 inch slot screen, and (c) otherwise meet specification of U.S. No. 1 grade.)

(b) *Cleaned inshell peanuts.* No handler shall ship or otherwise dispose of cleaned inshell peanuts for human consumption: (1) With more than 1.00 percent kernels with mold present unless a sample of such peanuts, drawn by an inspector of the Federal or Federal-State Inspection Service, was analyzed chemically by laboratories approved by the Committee or by a U.S. Department of Agriculture laboratory (hereinafter referred to as "USDA laboratory") and found to be wholesome relative to aflatoxin; (2) with more than 2.00 percent peanuts with damaged kernels; (3) with more than 10.00 percent moisture; or (4) with more than 0.50 percent foreign material. The lot size of such peanuts in bags or bulk shall not exceed 200,000 pounds.

(c) *Pretesting shelled peanuts.* Each handler shall cause appropriate samples of each lot of edible quality shelled peanuts to be drawn by an inspector of the Federal or Federal-State Inspection Service. The gross amount of peanuts drawn shall be large enough to provide for a grade analysis, for a grading check-sample, and for three 48-pound samples for aflatoxin assay. The three 48-pound samples shall be designated by the Federal or Federal-State Inspection Service as "Sample H1", "Sample H2", and "Sample H3" and each sample shall be placed in a suitable container and "positive lot identified" by means acceptable to the Inspection Service and the Committee. Sample H1 may be prepared for immediate testing or Sample H1, Sample H2, and Sample H3 may be returned to the handler for testing at a later date. However, before shipment of the lot to the buyer (receiver), the handler shall cause Sample H1 to be ground by the Federal or Federal-State Inspection Service or a USDA or designated laboratory in a "subsampling mill" approved by the Committee. The resultant ground subsample from Sample H1 shall be of a size specified by the Committee and be designated as "Subsample 1–AB" and at the handler's or buyer's option, a second subsample may also be extracted from Sample H1. It shall be designated as "Subsample 1–CD". Subsample 1–CD may be sent as requested by the handler or buyer, for aflatoxin assay, to a laboratory listed on the most recent Committee list of approved laboratories that can provide analyses results on such samples in 36 hours. Subsample 1–AB shall be analyzed only in USDA or designated laboratories. Both Subsamples 1–AB and 1–CD shall be accompanied by a notice of sampling signed by the inspector containing, at least identifying information as to the handler (shipper), the buyer (receiver) if known, and the positive lot identification of the shelled peanuts. A copy of such notice covering each lot shall be sent to the Committee office.

The samples designated as Sample H2 and Sample H3 shall be held as aflatoxin check-samples by the Inspection Service or the handler and shall not be included in the shipment to the buyer until the analyses results from Sample H1 are known. Upon call from the USDA or designated laboratory or the Committee, the handler shall cause Sample H2 to be ground by the Inspection Service in a "Subsampling mill". The resultant ground Subsample from Sample H2 shall be of the size specified by the Committee and it shall be designated as "Subsample 2–AB". Upon call from the USDA or designated laboratory or the Committee, the handler shall cause Sample H3 to be ground by the Inspection Service in a "Subsampling mill". The resultant ground subsample from Sample H3 shall be of the size specified by the Committee and it shall be designated as "Subsample 3–AB". Subsamples 2–AB and 3–AB shall be analyzed only in USDA or designated laboratories and each shall be accompanied by a notice of sampling. A copy of each such notice shall be sent to the Committee office and the cost of delivery of Subsamples 2–AB and 3–AB to the laboratory and the cost of assay on them shall be at the Committee's expense.

All costs involved in sampling and testing Subsample 1–CD shall be for the account of the buyer of the lot and at his expense. The cost of assay on Subsample 1–AB and a portion of the cost (specified by the Committee) of drawing the three 48-pound samples, grinding of Sample H1 and preparation and delivery of Subsample 1–AB to the laboratory shall be for the account of the buyer. However, if the handler elects to pay for these costs, he shall charge the buyer the amount specified by the Committee when he invoices the peanuts and, if more than one buyer, on a pro rata basis. Any remaining costs of drawing the three 48-pound samples, grinding of Sample H1 and preparation and delivery of Subsample 1–AB shall be for the account of the handler and shall be shown on the grade analysis

certificate covering the lot. When any of the samples of subsamples have been lost, misplaced, of spoiled and replacement samples are needed, the entire cost of drawing the replacement samples shall be for the account of the handler. The results of each assay shall be reported to the buyer listed on the notice of sampling and, if the handler desires, to the handler. If a buyer is not listed on the notice of sampling, the results of the assay shall be reported to the handler who shall promptly cause notice to be given to the buyer, of the contents thereof, and such handler shall not be required to furnish additional samples for assay.

(d) *Identification.* Each lot of shelled or cleaned inshell peanuts shipped or otherwise disposed of for human consumption shall be identified by positive lot identification procedures. For the purpose of this regulation, "positive lot identification" of a lot of shelled or inshell peanuts is a means of relating the inspection certificate to the lot covered so that there can be no doubt that the peanuts delivered are the same ones described on the inspection certificate. The crop year that is shown on the positive lot identification tags, or other means of positive lot identification shall accurately describe the crop year in which the peanuts in the lot were produced. Such procedure on bagged peanuts shall consist of attaching a lot numbered tag bearing the official stamp of the Federal or Federal-State Inspection Service to each filled bag in the lot. The tag shall be sewed (machine sewed if shelled peanuts) into the closure of the bag except that in plastic bags the tag shall be inserted prior to sealing so that the official stamp is visible. Any peanuts moved in bulk or bulk bins shall have their lot identity maintained by sealing the conveyance and if in other containers by other means acceptable to the Federal or Federal-State Inspection Service and to the Committee. All lots of shelled or cleaned inshell peanuts shall be handled, stored, and shipped under positive lot identification procedures.

(e) *Reinspection.* Whenever the Committee has reason to believe that peanuts may have been damaged or deteriorated while in storage, the Committee may reject the then effective inspection certificate and may require the owner of the peanuts to have a reinspection to establish whether or not such peanuts may be disposed of for human consumption.

(f) *Inter-plant transfer.* Any handler may transfer peanuts from one plant owned by him to another of his plants or to commercial storage, without having such peanuts positive lot identified and certified as meeting quality requirements, but such transfer shall be only to points within the same production area and ownership shall have been retained by the handler. Upon any transferred peanuts being disposed of for human consumption, they shall meet all the requirements applicable to such peanuts.

(g) *Lose shelled kernels, fall through and pickouts.*

(1) Loose shelled kernels which do not ride screens with the following slot openings: Runner—$^{13}/_{64}$ x $^{3}/_{4}$ inch; Spanish and Valencia—$^{16}/_{64}$ x $^{3}/_{4}$ inch; Virginia—$^{13}/_{64}$ x 1 inch; and fall through and pickouts shall be disposed of only by sale as domestic oil stock, by crushing, or as specified in paragraph (g)(3) hereinafter. For the purpose of this regulation: the term "non-edible quality peanuts" described in this paragraph means loose shelled kernels, fall through, and pickouts; the term "loose shelled kernels" means peanut kernels or portions of kernels completely free of their hulls, either as found in deliveries of farmers stock peanuts or those which fail to ride the screens (U.S. No. 1 screens) in removing whole kernels; the term "fall through" has the same meaning as in paragraph (a) of this regulation; and the term "pickouts" means those peanuts removed at the picking table, by electronic equipment, or otherwise during the milling process.

(2) All loose shelled kernels, fall through, and pickouts shall be kept separate and apart from other milled peanuts that are to be shipped into edible channels. Such categories may be kept separate or be commingled in the same lot and shall be bagged in suitable new or clean, used bags or placed in bulk containers acceptable to the Committee. Such peanuts shall be identified by positive lot identification procedures set forth in paragraph (d) but using a red tag, and such peanuts shall be inspected by the Federal or Federal-State Inspection Service and a certification made on each lot as to moisture and foreign material content. Such lot size, whether in bags or bulk, shall not exceed 200,000 pounds.

(3) In addition to disposition outlets specified in paragraph (g)(1), fall through that has been sampled and determined negative as to aflatoxin content may be disposed of for use as wild-life feed or bait for rodents in labeled containers approved by the Committee. Each category of nonedible quality peanuts described in paragraph (g)(1) and identified as prescribed in paragraph (g)(2) may be exported in bulk or bags to countries other than Mexico or Canada pursuant to the provisions prescribed for such disposition in paragraph (l)(1) or (l)(2) of this regulation or they may be moved to another handler for such disposition. Sales or transfer of such peanuts, to exporters who are not handlers under the marketing agreement, shall be made only to exporters who agree to procedures acceptable to the Committee and are approved by the Committee to do such exporting. Such peanuts may be disposed of to domestic crushing as "unrestricted" if they are certified negative as to aflatoxin content and may be commingled at the crusher with any other categroy of peanuts determined by paragraph (l)(1) of this regulation to be eligible for such "unrestricted" crushing. Non-edible quality peanuts described in paragraph (g)(1) which have been certified negative as to aflatoxin are not eligible for "unrestricted" crushing but may be disposed of to domestic crushing as "restricted" and may be commingled at the crusher with any other category of peanuts described in paragraph (l)(2). Such non-edible quality peanuts may be disposed of to domestic crushing or export without supervision by the Area Association if they are held separate and apart from peanuts on which supervision is required. However, if non-edible quality peanuts described in paragraph (g)(1) are exported or crushed in commingle with peanuts on which supervision is required, the handler shall cause the Area Association to supervise the commingling and fragmenting for disposition to export and the commingling and domestic crushing on all categories of peanuts included in such commingling. All movement and disposition of such inedible quality peanuts shall be reported by the handler as prescribed by the Committee.

Meal produced from peanuts which are disposed of to crushing as "restricted" shall be used or disposed of as fertilizer or other non-feed use. To prevent use of restricted meal for feed, handlers shall either denature it or restrict its sales to licensed or registered U.S. fertilizer manufacturers or firms engaged in exporting who will export such meal for non-feed use or sell it to the aforesaid fertilizer manufacturers. However, loose shelled kernels, fall through and pickouts and meal from such peanuts, in specifically identified lots not exceeding 200,000 pounds may be sampled by Federal or Federal-State Inspection Service or by the Area Association if authorized by the Committee, and tested for aflatoxin by laboratories approved by the Committee or by a USDA laboratory, at handler's or

crusher's expense, and if such meet Committee standards, the meal may be disposed of for feed use.

(4) Notwithstanding any other provisions of this regulation or of the Incoming Quality Regulation, a handler may transfer non-edible quality peanuts described in paragraph (g)(1) to another plant within his own organization or transfer or sell such peanuts to a crusher for crushing. Sales or transfer or restricted peanuts to domestic crushers who are not handlers under the agreement shall be made only on the condition that they agree to comply with the terms of this paragraph (g) and all other applicable requirements of this regulation, including the reporting requirements.

(h) *Peanuts failing quality requirements.*

(1) Handlers may sell to or contract with other handlers, for further handling, shelled peanuts (which originated from Segregation 1 peanuts) that fail to meet the requirements for disposition to human consumption outlets heretofore specified in paragraph (a). Lots of peanuts disposed of in this manner must be accompanied by a valid grade inspection certificate, and aflatoxin assay certificate and must be positive lot identified. Tranactions made in this manner shall be reported to the Committee by both the seller and buyer on a form provided by the Committee. Any such peanuts acquired by handlers pursuant to paragraph (i) of the Incoming Quality Regulation shall be held and milled separate and apart from other receipts or acquisitions of the receiving handler and further disposition shall be regulated by the requirements specified heretofore or pursuant to paragraph (h)(3) hereinafter.

(2) Handlers may blanch or cause to have blanched positive identified shelled peanuts (which originated from Segregation 1 peanuts) that fail to meet the requirements of paragraph (a) of this regulation because of excessive damage, minor defects, moisture, or foreign material or are positive as to aflatoxin. Handlers who move such peanuts to a blancher shall report, to the Committee on a form furnished by the Committee, movement of each such lot and the title shall be retained by the handler until the peanuts are blanched and certified by an inspector of the Federal or Federal-State Inspection Service as meeting the requirements for disposal into human consumption outlets. To be eligible for disposal into human consumption outlets, such peanuts after blanching, must meet specifications for unshelled peanuts, damaged kernels, minor defects, moisture, and foreign material as listed in paragraph (a) of this regulation and be accompanied by an aflatoxin certificate determined to be negative by the Committee. Blanching under the provisions of this paragraph shall be performed only by those firms who agree to procedures acceptable to the Committee and who are approved by the Committee to do such blanching.

(3) Handlers may dispose of positive identified shelled peanuts (which originated from "Segregation 1 peanuts") which fail to meet the requirements of paragraph (a) of the Outgoing Quality Regulation: (a) To domestic crushing, (b) to export to countries other than Canada and Mexico, provided they meet fragmented requirements, (c) to crushers who are not handlers but are approved by the Committee, or (d) to other handlers for crushing or fragmenting and exportation. Sales or transfer of such peanuts to exporters who are not handlers under the marketing agreement shall be made only to exporters who agree to procedures acceptable to the Committee and are approved by the Committee to do such exporting. Each lot of such peanuts shall have been positive lot identified as prescribed in paragraph (d). Handlers may dispose of such peanuts as "unrestricted": *Provided,* That each lot has been sampled and assayed for aflatoxin as specified in paragraph (c) and determined to be negative as to aflatoxin by the Committee. Handlers who have acquired any such unrestricted peanuts from another handler or from their own operations may commingle such peanuts with those from their own operations at the crusher, or during the fragmenting operation or after fragmenting for further disposition as "unrestricted" pursuant to the provisions of paragraph (l)(1) of this regulation. Lots of peanuts covered by the provisions of this paragraph (h)(3), which have not been assayed for aflatoxin content or which have been assayed and determined to be unwholesome as to aflatoxin by the Committee, are not eligible for disposition as "unrestricted".

Therefore, the disposition of such peanuts to export or domestic crushing shall be as "restricted". However, handlers who have acquired such restricted peanuts from another handler may commingle such peanuts with those from his own operations at the crusher, or during the fragmenting operation, or after fragmenting for further disposition as restricted pursuant to the provisions of paragraph (l)(2). Peanuts regulated by this paragraph (h)(3) may be disposed of to domestic crushing or export without supervision by the Area Association if they are held separate and apart from peanuts on which supervision is required. However, if any such peanuts are commingled with peanuts on which supervision is required, the handler shall cause the Area Association to supervise the commingling and fragmenting for dispostion to export and the commingling and domestic crushing on all categories of peanuts included in such commingling. All movement and disposition of peanuts covered by the provisions of this paragraph shall be reported by the handler as prescribed by the Committee.

(4) Handlers may contract with PAC approved remillers for remilling shelled peanuts (which originated from Segregation 1 peanuts) that fail to meet the requirements for disposition to human consumption outlets heretofore specified in paragraph (a) of the Outgoing Quality Regulation: *Provided,* That such lots of peanuts contain not in excess of 8 percent damage and minor defects combined or 10 percent fall through or 2 percent foreign material. Lots of peanuts moved under these provisions must be accompanied by a valid grade inspection certificate and an aflatoxin assay certificate and must be positive lot identified. Handlers who move such peantus to an approved remiller shall report to the Committee, on a form furnished by the Committee, the movement of each such lot. The title of such peanuts shall be retained by the handler until the peanuts have been remilled and certified by the Federal or Federal-State Inspection Service as meeting the requirements for disposition to human consumption outlets specified in paragraph (a), and be accompanied by an aflatoxin certificate determined to be negative by the Committee. Remilling under the provisions may include composite remilling of more than one such lot of peanuts owned by the same handler. However, such peanuts owned by one handler shall be held and remilled separate and apart from all other peanuts. The residual peanuts resulting from remilling under these provisions shall be bagged and red-tagged and disposed of to domestic crushing by the approved remiller or they may be returned to the handler for disposition under the provisions of paragraph (g)(3) of the Outgoing Quality Regulation. Remilling under the provisions of this paragraph shall be performed only by those firms who agree to procedures acceptable to the Committee and who are approved by the Committee to do such remilling.

(i) *Residuals from seed peanuts.* Handlers who receive and custom shell for seed purposes farmers stock peanuts (which have not been inspected and certified as meeting the Incoming

Quality Regulation) shall hold and mill peanuts acquired as residuals from such operations separate and apart from peanuts acquired as Segregation 1 farmers stock. Likewise, any such residuals received or acquired from a handler or non-handler, shall be held and milled separate and apart in the same manner. Residuals that meet requirements of the Outgoing Quality Regulation may be disposed of by sale to human consumption outlets or to another handler and any portion in positive indentified lots not meeting such requirements: (1) may be handled and disposed of pursuant to the provisions of paragraph (h) of this regulation; or (2) shall be disposed of to domestic crushing or export pursuant to the provisions of paragraph (g).

(j) *Segregation 2 and 3 farmers stock disposition.* (1) Handlers who have acquired Segregation 2 and 3 farmers stock peanuts pursuant to paragraph (f) of the Incoming Quality Regulation may commingle such peanuts or keep them separate and apart. The Segregation 3 farmers stock peanuts or commingled Segregation 2 and 3 farmers stock peanuts may be moved or disposed of in bags or bulk: (a) to other handlers for shelling, fragmenting, or crushing, or (b) to crushers who are not handlers but are approved by the Committee. Handlers may shell such peanuts and move or dispose of the shelled peanuts in bulk or bags: (a) to other handlers for fragmenting or crushing, or (b) to crushers who are not handlers but are approved by the Committee and further disposition shall be as provided hereinafter in paragraph (l)(2) for "restricted" export to countries other than Canada and Mexico, or for "restricted" domestic crushing. Prior to exportation, the shelled peanuts shall be certified by a Federal of Federal-State Inspection Service as meeting the requirements specified for "fragmented" peanuts in paragraph (l)(1) and shall be assayed for aflatoxin by a USDA laboratory or a laboratory approved by the Committee. Shelling, fragmenting, and crushing of Segregation 3 peanuts or commingled Segregation 2 and 3 peanuts shall be done only under the supervision of the Area Association and any such peanuts may be commingled with other categories of shelled peanuts for disposition to export or domestic crushing. However, if such further commingled occurs, the handler shall cause the Area Assoicatlon to supervise the futher commingling and fragmenting for disposition to export or the further commingling and domestic crushing. All movement and disposition of Segregation 3 peanuts or commingled Segregation 2 and 3 peanuts and shelled or fragmented peanuts originating therefrom shall be reported by the handler as prescribed by the Committee.

(2) Handlers who have acquired Segregation 2 farmers stock peanuts pursuant to paragraph (f) of the Incoming Quality Regulation and held them separate and apart from Segregation 3 peanuts may commingle the Segregation 2 farmers stock with Segregation 1 farmers stock for disposition to domestic crushing or export as inedibles. The Segregation 2 farmers stock peanuts or commingled Segregation 1 and 2 farmers stock peanuts may be moved or disposed of in bulk or bags: (a) To other handlers for shelling, fragmenting, or crushing, or (b) to crushers who are not handlers but are approved by the Committee. Handlers may shell the Segregation 2 or commingled Segregation 1 and 2 peanuts and move or dispose of the shelled peanuts: (a) to another handler for fragmenting or crushing; or (b) to crushers who are not handlers but are approved by the Committee and further disposition shall be as provided in paragraph (l)(1) of this regulation. Prior to exportation the shelled peanuts shall be certified by a Federal or Federal-State Inspection Service as meeting the requirments specified for fragmented peanuts also in paragraph (l)(1). If the shelled peanuts from Segregation 2 peanuts or commingled Segregation 1 and 2 peanuts are held separate and apart from Segregation 3 peanuts and any restricted categories of shelled peanuts, no aflatoxin assay shall be required. Shelling, fragementing, and crushing of Segregation 2 peanuts or commingled Segregation 1 and 2 peanuts shall be done only under the supervision of the Area Association. The shelled peanuts from Segregation 2 peanuts or commingled Segregation 1 and 2 peanuts may be further commingled with other categories of shelled peanuts for disposition to export or domestic crushing. However, if such further commingling occurs, the handler shall cause the Area Association to supervise the further commingling and fragmenting. All movement and disposition of Segregation 2 peanuts or commiingled Segregation 1 and 2 peanuts and shelled or fragmented peanuts originating therefrom shall be reported by the handler as prescribed by the Committee.

(k) *Segregation 1 farmers stock disposition.*

(1) In addition to milling (shelling, cleaning etc.) Segregation 1 farmers stock peanuts for disposition to human consumption or seed outlets, handlers may dispose of Segregation 1 farmers stock peanuts to export or to other handlers for such disposition. All such dispositions to export shall be reported by the handler as requested by the Committee.

(2) In addition to the disposition outlets specified in paragraph (k)(1), handlers may dispose of Segregation 1 farmers stock peanuts in bags or bulk to other handlers for shelling, fragmenting, or crushing. Such peanuts may also be disposed of to crushers who are not handlers but are approved by the Committee. Handlers may commingle Segregation 1 farmers stock peanuts with Segregation 2 farmers stock peanuts or keep them separate and apart, and may shell such peanuts and move or dispose of the shelled peanuts in bulk or bags to other handlers for fragmenting or crushing. Such peanuts may also be disposed of to crushers who are not handlers but are approved by the Committee. However, the shelling, fragmenting and disposition of such Segregation 1 farmers stock peanuts shall be done only under the supervision of the Committee and the Area Association and all peanuts handlers under the provisions of this paragraph (k)(2), for disposition to export or domestic crushing, shall be milled and disposed of pursuant to paragraph (j)(2) in lieu of the provisions specified in paragraphs (a), (b), (c), (d), (g), (h), and (i) of this regulation. The movement and disposition of all peanuts handled under the provisions of this paragraph (k)(2), shall be reported by the handler as prescribed by the Committee.

(l) *Handling, commingling, and disposition of shelled peanuts not meeting quality requirements for human consumption.* (1) The following categories of shelled peanuts may be disposed of to domestic crushing or to export as "unrestricted":

(a) The entire mill production of shelled peanuts from Segregation 1 farmers stock; pursuant to paragraph (k)(2).

(b) The entire mill production of shelled peanuts from Segregation 2, or commingled Segregation 1 and 2 farmers stock pursuant to paragraph (j)(2).

(c) Positive Lot Identified lots of shelled "peanuts failing quality requirements" determined negative as to aflatoxin pursuant to paragraph (h)(3).

(d) Positive Lot Identified lots of loose shelled kernels, fall through, or pickouts determined negative as to aflatoxin pursuant to paragraphs (g)-(1), (2), and (3).

(e) Positive Lot Identified lots of loose shelled kernels, fall through, and pickouts commingled and determined

negative as to aflatoxin pursuant to paragraphs (g) (2), and (3).

(f) Positive Lot Identified lots of seed peanut residuals determined negative as to aflatoxin pursuant to paragraph (i).

Handlers who acquire from other handlers or from their own operations any of the categories of shelled peanuts described heretofore in this paragraph may commingle such peanuts while fragmenting them or after they have been fragmented: (1) with any other category of peanuts described in this paragraph, and (2) with any category of "unrestricted" shelled peanuts acquired from CCC and determined by CCC to be eligible for such commingling for disposition to export to countries other than Canada and Mexico. However, such peanuts, prior to exportation, shall be certified as meeting fragmented requirements. For the purpose of this regulation, the term "fragmented" means that not more than 20 percent of the peanuts shall be whole kernels that ride the following screens, by type: Spanish 13/64 x ¾ inch slot; Runner 13/64 x ¾ inch slot; and Virginia 13/64 x 1 inch slot. Sales or transfer of such peanuts to exporters who are not handlers under the marketing agreement shall be made only to exporters who agree to procedures acceptable to the Committee and are approved by the Committee to do such exporting. Handlers who acquire from other handlers or from their own operations any of the categories of shelled peanuts described heretofore in this paragraph may commingle such peanuts at the crusher: (1) with any other category of peanuts described in this paragraph, and (2) with any category of unrestricted shelled peanuts acquired from CCC and determined by CCC to be eligible for such commingling and the resultant meal may be disposed of without restriction. To be eligible for such unrestricted dispositions (crushing or export), such peanuts, before commingling and after commingling, shall be kept separate and apart from all "restricted" peanuts. Shelling, fragmenting, and crushing of Segregation 2 peanuts or commingled Segregation 1 and 2 peanuts shall be done only under the supervision of the Area Association and if any shelled peanuts originating therefrom are commingled with any of the other categories of shelled peanuts described heretofore in the paragraph, the handler shall cause the Area Association to supervise the commingling and fragmenting and the commingling and crushing on all categories of peanuts included in such commingling. All movement and disposition of the categories of peanuts described heretofore in this paragraph shall be reported by the handler as prescribed by the Committee.

(2) The following categories of shelled peanuts may be disposed of to domestic crushing or to export as "restricted":

(a) The entire mill production of shelled peanuts from Segregation 1 farmers stock pursuant to paragraph (k)(2) of the Outgoing Quality Regulation.

(b) The entire mill production of shelled peanuts from Segregation 2 or commingled Segregation 1 and 2 farmers stock pursuant to paragraph (j)(2).

(c) The entire mill production of shelled peanuts from Segregation 3 or commingled Segregation 2 and 3 farmers stock pursuant to paragraph (j)(1).

(d) Positive Lot Identified lots of shelled "peanuts failing quality requirements" pursuant to paragraph (h)(3).

(e) Positive Lot Identified lots of loose shelled kernels, fall through, or pickouts pursuant to paragraphs (g) (1), (2), and (3).

(f) Positive Lot Identified lots of loose shelled kernels, fall through and pickouts commingled pursuant to paragraphs (g) (2), and (3).

(g) Positive Lot Identified lots of seed peanut residuals pursuant to paragraph (i).

Handlers who acquire, from other handlers, or from their own operations, any of the categories of shelled peanuts described heretofore in this paragraph (l)(2) may commingle such peanuts while fragmenting them or after they have been fragmented with any other category of peanuts described in this paragraph and with any category of shelled peanuts acquired from CCC and determined by CCC to be eligible for such commingling with disposition to export to counties other than Canada and Mexico as "restricted". Prior to such exportation, the peanuts shall be certified as meeting the fragmented requirements and shall be assayed for aflatoxin by a USDA laboratory or a laboratory approved by the Committee. The handler's "in-land" bill of lading and his invoice covering the shipment shall include the following statement: "The peanuts covered by this bill of lading (or invoice) are limited to crushing only and may contain aflatoxin". Sales or transfer of such peanuts to exporters who are not handlers under the marketing agreement shall be made only to exporters who agree to procedures acceptable to the Committee and are approved by the Committee to do such exporting. Handlers who acquire, from other handlers or from their own operations, any of the categories of shelled peanuts described heretofore in this paragraph may commingle such peanuts at the crusher with any other category of peanuts described in this paragraph (l)(2) and with any category of shelled peanuts acquired from CCC and determined by CCC to be eligible for such commingling for "restricted" domestic crushing. Meal produced from peanuts disposed of to crushing as "restricted" shall be used or disposed of as fertilizer or other non-feed use, pursuant to the provisions of paragraph (g)(3). Shelling, fragmenting, and crushing of Segregation 2 peanuts, Segregation 3 peanuts and the entire mill production of Segregation 1 peanuts handled pursuant to paragraph (k), shall be done only under supervision of the Area Association and if any of such categories of peanuts are commingled with any of the other categories of shelled peanuts described heretofore in this paragraph, the handler shall cause the Area Association to supervise the commingling and fragmenting on all categories of peanuts included in such commingling. All movement and disposition of the categories of peanuts described heretofore in this paragraph shall be reported by the handler as prescribed by the Committee.

Terms and Conditions of Indemnification—1982 Crop Peanuts

For the purpose of paying indemnities on a uniform basis pursuant to section 36 of the peanut marketing agreement effective July 12, 1965, each handler shall promptly notify or arrange for the buyer to notify the Manager, Peanut Administrative Committee, of any lot of cleaned inshell or shelled peanuts, milled to the outgoing quality requirements and into one of the categories listed in the final paragraph of these terms and conditions, on which the handler has withheld shipment or storage or the buyer, including the user division of a handler, has withheld usage due to a finding as to aflatoxin content as shown by the results of chemical assay. To be eligible for indemnification, such a lot of peanuts shall have been inspected and certified as meeting the quality requirements of the agreement, shall have met all other applicable regulations issued pursuant thereto, including the pretesting requirements in (a) and (c) of the Outgoing Quality Regulation and the lot identification shall have been maintained. If the Committee concludes, based on assays to date or further assays, that the lot is so high in aflatoxin that it should be handled pursuant to these Terms and Conditions, and such is concurred in by the

Agricultural Marketing Service, the lot shall be accepted for indemnification. If the lot is covered by a sales contract, the lot may be rejected to the handler.

In an effort to make such eligible peanuts suitable for human consumption, and to minimize indeminification costs, the Committee and the Agricultural Marketing Service shall, prior to disposition for crushing cause all suitable lots to be remilled or custom blanched or both.

"Custom blanching" means the process which involves blanching peanuts, and the subsequent removal of damaged peanuts for the purpose of eliminating aflatoxin from the lot. The process may be applied to either and original lot or the new lot which results from remilling. Custom blanching shall be performed only by those firms determined by the Committee to have the capability to remove the aflatoxin and who agree to such terms, conditions and rates of payment as the Committee may find to be acceptable.

If the Committee and the Agricultural Marketing Service conclude that such lot is not suitable for remilling or custom blanching, the lot shall be declared to crushing and shall be disposed of by delivery to the Committee at such point as it may designate. The indemnification payment for peanuts in such a lot shall be the indemnification value of the peanuts, as hereinafter provided, less five cents per pound. Transportation expenses (excluding demurrage, loading and unloading charges, custom fees, border re-entry fees, etc.) from the handler's plant or storage to the point within the Continental United States or Canada where the rejection occurred and from such point to a delivery point specified by the Committee shall be included in the indemnification payment if the lot is found by the Committee to be unwholesome as to aflatoxin after such lot had been certified negative as to aflatoxin prior to being shipped or otherwise disposed of for human consumption by the handler pursuant to requirements of the Outgoing Quality Regulation. Payment shall be made to the handler as soon as practicable after delivery of the peanuts to the Committee. The salvage value for peanuts declared for crushing shall be paid to, and retained by, the Committee to offset indemnification expenses.

If it is concluded that the lot should be remilled or custom blanched, expenses shall be paid by the Committee on those lots which, on the basis of the inspection occuring prior to shipment, contained not more than 1.00 percent damaged kernels other than minor defects. Lots with damage in excess of 1.00 percent on such inspection shall be remilled without reimbursement from the Committee for milling or freight, but otherwise shall be indemnifiable the same as lots with not more than 1.00 percent damage.

The indemnification value of peanuts delivered to the Committee for indemnification shall be as listed in the next to last paragraph of these terms and conditions.

The indemnification payment on peanuts declared for remilling, and which contain not more than 1.00 percent damaged kernels other than mnor defects, shall be the indemnification value referable to the weights of peanuts lost in the remilling process and not cleared for human consumption, plus an allowance for remilling of two and one-half cents per pound on the original weight. Transportation expenses (excluding demurrage, loading and unloading charges, custom fees, border re-entry fees, etc.) from the handler's plant or storage to the point within the Continental United States or Canada where the rejection occurred and from such point to a delivery point specified by the Committee shall be included in the indemnification payment if the lot is found by the Committee to be unwholesome as to aflatoxin after such lot had been certified negative as to aflatoxin prior to being shipped or otherwise disposed of for human consumption by the handler pursuant to requirement of the Outgoing Quality Regulation. On lots on which the remilling is not successful in making the lot wholesome as to aflatoxin and such lots of peanuts are declared for custom blanching after remilling, the indemnification payment shall be the blanching cost, plus the transportation costs from origin (whether handler or buyer premises) to point of blanching and on unsold lots from point of blanching to handler's premises and the indemnification value of the weight of reject peanuts removed from the lot. On lots which are custom blanched without remilling, the indemnification payment shall be determined in the same manner. However, no indemnification payments shall be paid on any lot of peanuts where the Committee determines that the custom blanched peanuts from such a lot have been sold at a price lower than the indemnification value on the original red skin lot at the time the indemnification claim was filed with the Committee.

Claims for indemnification on current crop year peanuts may be filed by any handler sustaining a loss as a result of a buyer withholding from human consumption a portion or all the product made from a lot of peanuts which has been determined to be unwholesome due to aflatoxin. The Committee shall pay, to the extent of the raw peanut equivalent value of the peanuts used in the product so withheld, such claims as it determines to be valid.

Payment shall be made to the handler claiming indemnification or receiving the rejected lot as soon as practicable after receipt by the Committee of such evidence of remilling or custom blanching and clearance of the lot for human consumption as the Committee may require and the delivery of the peanuts not cleared for human consumption to the delivery point designated by the Committee. If a suitable reduction in the aflatoxin content is not achieved on any lot which is remilled or custom blanched or both, the Committee shall declare the entire lot for indemnification, and the indemnification payment on such lot shall be the indemnification value of the peanuts in the original lot, less five cents per pound, plus other applicable costs authorized heretofore. However, the Committee shall refuse to pay indemnification on any lot(s) where it has reason to believe that the rejection of the peanuts arises from failure of the handler to use reasonable measures to receive and withhold from milling for edible use those Segregation 3 peanuts tendered to him either directly by a producer or by a country buyer, commission buyer or other like person. Further, any misrepresentation by a handler in reporting acquisition, composition or disposition of any lot or lots of peanuts by such handler shall cause indemnification payments with respect to any such claim filed with the Committee by the handler on current crop year peanuts to be withheld unless the Committee finds that such action was inadvertent.

Remilling may occur on the premises of any handler signatory to the marketing agreement or at such other plant as the Committee may determine. However, if the Committee orders remilling of a lot which has been found to contain aflatoxin prior to shipment from the locality of original milling, the Committee shall not pay freight costs should the handler move said lot to another locality for remilling.

Notice of claims for indemnification on peanuts of the current crop year shall be filed with the Committee no later than November 1, following the end of the current crop year.

Each handler shall include, directly or by reference, in his sales contract the following provisions:

Should buyer find peanuts subject to indemnification under this contract to be so

high in aflatoxin as to provide possible cause for rejection, he shall promptly notify the seller and Manager, Peanut Administrative Committee, Atlanta, Georgia. Upon a determination of the Peanut Administrative Committee, confirmed by the Agricultural Marketing Service, authorizing rejection, such peanuts, and title thereto, if passed to the buyer, shall be returned to the seller and such peanuts shall be reoffered to the buyer to satisfy the covering contract, pending successful remilling and/or blanching. Or, if the buyer's or receiver's name is shown on the certificates covering a lot which, upon the pretesting sampling procedure prescribed in paragraph (c) of the Outgoing Quality Regulation, exceeds Committee requirements for wholesomeness as to aflatoxin, such peanuts shall be offered to the buyer to satisfy the existing applicable contract, pending successful remilling and/or blanching. Alternatively, seller may replace any rejected lot of peanuts with another lot, if he elects to do so.

Seller shall, prior to shipment of a lot of shelled peanuts covered by this sales contract, cause appropriate samples to be drawn by the Federal or Federal-State Inspection Service from such lot, shall cause the sample(s) to be sent to a USDA laboratory or if designated by the buyer, a laboratory listed on the most recent Committee list of approved laboratories to conduct such assay, for an aflatoxin assay and cause the laboratory, if other than the buyer's to send one copy of the results of the assay to the buyer. The laboratory costs shall be for the account of the buyer and buyer agrees to pay them when invoiced by the laboratory or, in the event the seller has paid them, by the seller.

Any handler who fails to include such provisions in his sales contract shall be ineligible for indemnification payments with respect to any claim filed with the Committee on current crop year peanuts covered by the sales contract.

In addition, should any handler enter into any oral or written sales contract which fixes the level of aflatoxin at which rejection may be made and hence conflicts with these terms and conditions, the handler doing so will not be eligible for indemnification payments with respect to any claim filed with the Committee on current crop year peanuts on or after the filing date of a claim under such contract, except upon the Committee's finding that acceptance of such contract was inadvertent; and for purposes of this provision a claim shall be deemed to be filed when notice of possible rejection is first given to the Committee.

Any handler who fails to conform to the requirements of paragraph (h) of the Incoming Quality Regulation shall be ineligible for any indemnification payments until such condition or conditions are corrected to the satisfaction of the Committee. Also any handler who fails to cause positive lot identification on any lot of peanuts to accurately reflect the crop year in which such peanuts were produced, pursuant to paragraph (d) of the Outgoing Quality Regulation, shall be ineligible for any indemnification payments until such violation is corrected to the satisfaction of the Committee. Categories eligible for indemnification are as follows:

Cleaned inshell peanuts

(1) U.S. Jumbos.
(2) U.S. Fancy Handpicks.
(3) Valencia—Roasting stock.[1]

U.S. Grade shelled peanuts

(1) U.S. No. 1.
(2) U.S. Splits.
(3) U.S. Virginia Extra-Large.
(4) U.S. Virginia Medium.

Shelled peanuts "with splits"

(1) Runners with splits which do not contain more than 15 percent splits or 3 percent whole kernels which will pass through a $^{13}/_{64}$ x $^{3}/_{4}$ slot screen.
(2) Spanish with splits which do not contain more than 15 percent splits or 2 percent whole kernels which will pass through a $^{13}/_{64}$ x $^{3}/_{4}$ slot screen.
(3) Virginias with splits which do not contain more than 15 percent splits or 3 percent whole kernels which will pass through a $^{13}/_{64}$ x 1 slot screen.

However, peanuts in any of the above categories shall not be eligible for indemnification if such peanuts: (1) were milled from seed peanut residuals as referred to in the last sentence of paragraph (e) of the Incoming Quality Regulation and paragraph (i) of the Outgoing Quality Regulation; (2) failed the Outgoing Quality Regulation due to excessive damage and minor defects and such peanuts were subsequently blanched to remove such excess damage and minor defects pursuant to paragraph (h) of such regulation; (3) when shipped for human consumption outlets contained more than a total of 1.25 percent unshelled peanuts and damaged kernels or a total of 2.00 percent unshelled peanuts, damaged kernels and minor defects; and (4) were received or acquired from another handler pursuant to paragraph (i) of the Incoming Quality Regulation and were milled to meet requirements of the Outgoing Quality Regulation pursuant to paragraph (h) of such regulation.

For the purpose of paying indemnification beginning August 1, of the current crop year, the domestic market price for each category of peanuts shall be determined by averaging the price(s) listed in the Peanut Market News, per category, during the most recent four week period. Such weekly price calculations shall extend to May 31, of the current crop year and the average price per category as of May 31, 1983, shall be applied during the remainder of the crop year.

The indemnification value for each category of peanuts eligible for indemnification shall be the domestic market price, established during the averaging period, less two cents per pound (on the pounds indemnified) or the most recent price per category listed in the Peanut Market News, whichever is lower.

The grade categories to which the indemnification values shall be applied are as follows:

Runners*	Virginias	Spanish
Jumbo	U.S. Extra Large	U.S. No. 1 (or larger).
Medium	U.S. Medium	Spanish with Splits.
Select	U.S. No. 1	U.S. Splits.
No. 1 (−18+16 screens).	Virginias with Splits.	
Mill run with or without Splits.	U.S. Splits	
U.S. Splits		

*Southeastern Peanut Association grades.

[FR Doc. 82-16697 Filed 6-17-82; 8:45 am]
BILLING CODE 3410-02-M

[1] Inshell peanuts with not more than 25 percent having shells damaged by discoloration, which are cracked or broken, or both.

Commodity Credit Corporation

1982 Crop Price Support Rates—Flue Cured Tobacco

AGENCY: Commodity Credit Corporation (CCC), USDA.

ACTION: Notice of determination of 1982 crop flue-cured tobacco price support rates.

SUMMARY: This notice of determination sets forth the price support rates which are applicable to eligible grades of 1982-crop flue-cured tobacco. Price support is made available to eligible producers of such grades of tobacco in accordance with Section 106 of the Agricultural Act of 1949, as amended (hereinafter referred to as the "1949 Act").

DATE: June 18, 1982.

FOR FURTHER INFORMATION CONTACT: Thomas R. Burgess, (202) 447-2715 or Betty Lucas, (202) 447-2716. This notice of determination sets forth the rates at which eligible grades of 1982-crop flue-cured tobacco will be supported. These rates reflect a support level which has been determined in accordance with the formula prescribed in Section 106 of the 1949 Act. Since price support is mandatory at the level prescribed by statute, there are no options to be considered in connection with this determination.

SUPPLEMENTARY INFORMATION: This notice of determination has been reviewed under USDA procedures

established in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified "not major". It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or a geographic region; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with Foreign-based enterprises in domestic or export markets.

The title and number of the federal assistance program to which this notice applies as set forth in the Catalog of Federal Domestic Assistance are: Title:—Commodity Loan and Purchases; Number: 10.051. This action will not have a significant impact specifically on area and community development. Therefore, review as established by Office of Management and Budget (OMB) Circular A–95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of determination since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

Growers of flue-cured tobacco need to know immediately the support rates applicable to 1982-crop flue-cured tobacco so they can make plans for marketing their tobacco. Since the Secretry of Agriculture has no discretion in determining the level of support for 1982-crop flue-cured tobacco and must establish such level in accordance with the formula prescribed by Section 106 of the 1949 Act it has been determined that no further public rulemaking is required with respect to the price support rates specified herein.

The support rates determined by the Secretary for the various grades of 1982-crop flue-cured tobacco reflect the required support level.

Price support for flu-cured tobacco is made available by the Commodity Credit Corporation (CCC) through loans to a cooperative marketing association which makes available price support by means of advances to producers through auction warehouses. Price support advances are based upon specified loan rates for each grade of tobacco which average the required level of support when weighted by the anticipated grade percentages of the entire crop.

Price support is mandatory at the level determined in accordance with Section 106 of the 1949 Act. Under this provision, the level of support for the 1982 crop of tobacco is determined by multiplying the support level for the 1959 crop of such kind of tobacco by the ratio of the average of the index of prices paid by farmers, including wage rates, interest, and taxes, for the three calendar years 1979–81 [which is 944] to the average index of prices paid by farmers, including wage rates, interest, and taxes, for the 1959 calendar year [which is 298]. The resulting ratio is 3.17. Therefore, the support level for the 1982 crop of flue-cured tobacco is 317 percent of the 1959 level [55.5 cents per pound] or $1.759 per pound.

Accordingly, I have determined that the following price support rates will be in effect for the 1982-crop of flue-cured tobacco:

DETERMINATIONS, 1982 CROP FLUE-CURED TOBACCO PRICE SUPPORT RATES [1]

(Dollars per pound, farm sales weight)

Grade	Rate
A1F	2.27
A1L	2.27
B1L	2.17
B2L	2.13
B3L	2.10
B4L	2.05
B5L	1.98
B6L	1.90
B1F	2.17
B2F	2.13
B3F	2.10
B4F	2.05
B5F	1.98
B6F	1.90
B1FR	2.15
B2FR	2.11
B3FR	2.08
B4FR	2.04
B5FR	1.96
[illegible]	1.88
B6FR	1.78
B5R	1.70
B5K	1.98
B4K	1.94
B5K	1.86
B6K	1.78
B3V	1.97
B4V	1.90
B5V	1.81
B3S	1.87
B4S	1.82
B5S	1.77
B3KL	1.82
B4KL	1.76
B5KL	1.72
B6KL	1.62
B3KF	1.82
B4KF	1.76
B5KF	1.72
B6KF	1.62
B3KM	1.86
B4KM	1.83
B5KM	1.78
B6KM	1.68
B3KR	1.97

DETERMINATIONS, 1982 CROP FLUE-CURED TOBACCO PRICE SUPPORT RATES [1]—Continued

(Dollars per pound, farm sales weight)

Grade	Rate
B4KR	1.92
B5KR	1.86
B4KV	1.72
B5KV	1.62
B6KV	1.52
B4G	1.65
B5G	1.58
B6G	1.48
B5GR	1.48
B4GK	1.63
B5GK	1.56
B6GK	1.47
B6GG	1.33
H3L	2.13
H4L	2.10
H5L	2.02
H6L	1.97
H1F	2.20
H2F	2.16
H3F	2.13
H4F	2.10
H5F	2.02
H6F	1.97
H4FR	2.06
H5FR	1.98
H6FR	1.91
H4K	1.95
H5K	1.88
H6K	1.81
C1L	2.20
C2L	2.17
C3L	2.14
C4L	2.10
C5L	2.00
C1F	2.20
C2F	2.17
C3F	2.14
C4F	2.10
C5F	2.00
C4V	1.96
C4S	1.92
C4KL	1.86
C4KM	1.82
C4KR	1.86
C4G	1.74
C4GK	1.68
X1L	2.14
X2L	2.08
X3L	2.00
X4L	1.82
X5L	1.66
X1F	2.14
X2F	2.08
X3F	2.03
X4F	1.82
X5F	1.66
X3V	1.86
X4V	1.78
X3S	1.82
X4KL	1.82
X4KF	1.82
X4KV	1.69
X3KR	1.86
X4KR	1.78
X3KM	1.73
X4KM	1.66
X4G	1.65
X5G	1.56
X4GK	1.57

DETERMINATIONS, 1982 CROP FLUE-CURED TOBACCO PRICE SUPPORT RATES [1]—Continued

[Dollars per pound, farm sales weight]

Grade	Rate
P2L	1.62
P3L	1.54
P4L	1.40
P2F	1.62
P3F	1.54
P4F	1.40
P4G	1.30
M4F	1.67
M5F	1.62
M4KR	1.59
M4KM	1.54
M5KM	1.49
M4GK	1.52
M5GK	1.45
N1K	1.36
N1R	1.26
N1GF	1.26
N1GR	1.20
N1KV	1.25
N1GG	1.17
N1BO	1.20

[1] The rates listed are applicable to tied and untied flue-cured tobacco which is eligible tobacco as defined in 7 CFR 1464.8 and which is identified by a marketing card which does not bear the notation "Discount Variety-Limited Support." Price support rates for eligible tobacco identified by a marketing card, which bears the notation "Discount Variety-Limited Support," are 50 percent of the rate listed herein plus fifty cents ($0.50) per hundred pounds. Any grade to which the special factor "sand" or "dirt" is added (denoting a moderate amount of sand or dirt in excess of normal) may be accepted at 90 percent, rounded to the nearest dollar, of the rate listed. An amount to be used to defray the association's overhead costs may be deducted from the advances paid to the producer. Tobacco graded "W" (doubtful keeping order), "U" (unsound), "N2," "No-G," "No-G-F," "No-G-F-sand," "No-G-F dirt," P5F, P5L, P5G, N4GL, N0XO, N1PO, N1L, N0XL, or "scrap" will not be accepted for price support.

(Secs. 4 and 5, 62 Stat. 1070 as amended (15 U.S.C. 714b, 714c); Secs. 101, 106, 401, 63 Stat. 1051, as amended, 1054, 74 Stat. 6 (7 U.S.C. 1441, 1445, 1421, 1423))

Signed at Washington, D.C. on June 11, 1982.

Richard E. Lyng,

Acting Secretary of Agriculture.

[FR Doc. 82-16556 Filed 6-17-82; 8:45 am]

BILLING CODE 3410-05-M

Rural Electrification Administration

Arizona Electric Power Cooperative, Inc., Benson, Arizona; Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65), and in conformance with the applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $38,500,000 to Arizona Electric Power Cooperative, Inc., (AEPCO) of Benson, Arizona. This loan guarantee will be used to finance the construction of 9 miles of 230 kV and 6 miles of 115 kV transmission line, one substation and transmission and generation system improvements.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed program, including the engineering and economic feasibility studies and the proposed schedule for the advance to the borrower of the guaranteed loan funds from Mr. J. B. Flanders, Manager, P.O. Box 670, Benson, Arizona 85602.

In order to be considered, proposals must be submitted by July 19, 1982 to Mr. Flanders. The right is reserved to give such consideration and to make such evaluation or other disposition if all proposals received as AEPCO and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Public Information Office, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 11th day of June, 1982.

Harold V. Hunter,

Administrator, Rural Electrification Administration.

[FR Doc. 82-16557 Filed 6-17-82; 8:45 am]

BILLING CODE 3410-15-M

Office of the Secretary

Sugar Import Quotas; Determination of Import Quotas on Sugar

AGENCY: USDA.

ACTION: Notice.

SUMMARY: Presidential Proclamation No. 4941 of May 5, 1982, requires the Secretary of Agriculture to establish, for each calendar quarter the total amount (expressed in terms of raw value) of sugars, syrups, and molasses described in items 155.20 and 155.30, the products of all foreign countries which may be entered or withdrawn from warehouse for consumption during such calendar quarter. This notice sets that amount for the third calendar quarter of 1982.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: James Truran, Foreign Agricultural Service, Department of Agriculture, Washington, D.C. 20250, (202) 447-2916.

An impact analysis for this action is being prepared and will be available from the above named individual.

SUPPLEMENTARY INFORMATION: Presidential Proclamation No. 4941, dated May 5, 1982, amended Headnote 3 of subpart A, part 10, schedule 1 of the Tariff Schedules of the United States to establish a quarterly system of import quotas for foreign sugar coming into the United States. Under the terms of Headnote 3, the Secretary of Agriculture is directed to establish such quotas for each calendar quarter beginning with the third calendar quarter of 1982. The Secretary is also authorized to establish quantitative limitations for periods of time other than calendar quarters if he determines such action is appropriate to achieve the objectives of the Proclamation.

The third quarter quota is based on the Department's estimate of present stock levels, of imports in May and June, and estimated consumption levels through September of 1982. This determination has also taken into account projected production and consumption levels for the fiscal year beginning October 1, 1982. Based on these projections, import requirements for the 1982/83 year starting on October 1, 1982 are estimated to be 3,300,000 short tons. This figure will be reviewed before that year commences.

Notice

Notice is hereby given that, in accordance with the requirements of Headnote 3 of subpart A, part 10, schedule 1 of the TSUS, the Secretary has determined that a quota of 420,000 short tons of sugar as described in items 155.20 and 155.30 of the TSUS may be entered or withdrawn from warehouse for consumption during the period July 1, 1982 through September 30, 1982. The Secretary has also determined that this amount gives due consideration to the interests in the United States sugar market of domestic producers and materially affected contracting parties to the General Agreement on Tariffs and Trade.

Signed at Washington, D.C., June 15, 1982.

John R. Block,

Secretary of Agriculture.

[FR Doc. 82-16580 Filed 6-15-82; 3:42 pm]

BILLING CODE 3410-01-M

Soil Conservation Service

Bluefield Roadside Critical Area Treatment R.C. & D. Measure, Va., Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Bluefield Roadside Critical Area Treatment RC&D Measure, Tazewell County, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Manly S. Wilder, State Conservationist, Soil Conservation Service, 400 North Eighth Street, P.O. Box 10026, Richmond, Virginia, 23240, telephone 804–771–2455.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Manly S. Wilder, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area stabilization.

The planned works of improvement include seeding and mulching.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Manly S. Wilder.

No administrative action on implementation of the proposal will be taken until July 19, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: June 10, 1982.

Manly S. Wilder,

State Conservationist.

[FR Doc. 82–16302 Filed 6–17–82; 8:45 am]

BILLING CODE 3410–16–M

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Closed Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the U.S. Arms Control and Disarmament Agency announces the following meeting:

Name: General Advisory Committee on Arms Control and disarmament, meeting of nominees
Date: July 8 and 9, 1982
Time: 9:00 a.m. each day
Place: ACDA Conference Room, 5941, 320–21st Street, NW., Washington, D.C. 20451
Type of meeting: Closed
Contact person: Dr. Charles M. Kupperman, Executive Director of the General Advisory Committee, Room 5927, U.S. Arms Control and Disarmament Agency, Washington, D.C. 20451, telephone (202) 632–5176.

Purpose of advisory committee: to advise the Director of the U.S. Arms Control and Disarmament Agency (ACDA) on arms control and disarmament policy and activities, and from time to time to advise the President and the Secretary of State respecting matters affecting arms control, disarmament and world peace.

Agenda: Will include the following discussions and presentations:

July 8

A.M.—Overview of Arms Control and U.S. START/INF Positions.
P.M.—START and INF U.S. Foreign Policy and Defense Implications of START and INF.

July 9

A.M.—Soviet Strategic and Intermediate Range Forces and Programs; and U.S. Verification Capabilities.

Reason for closing: The GAC nominees will be reviewing and discussing matters specifically required by Executive Order to be kept secret in the interest of national defense and foreign relations (collectively referred to as national security).

Authority to close meeting: These matters are within exemption 1 of 5 U.S.C. 552b(c) Government in the Sunshine Act. The closing of the meeting is in accordance with the determination by the Director of the U.S. Arms Control and Disarmament Agency, dated June 8, 1982, pursuant to the provision of Section 10(d) of Pub. L. 92–463.

John E. Graeale,

Committee Management Officer.

[FR Doc. 82–16571 Filed 6–17–82; 8:45 am]

BILLING CODE 8820–32–M

CIVIL RIGHTS COMMISSION

Idaho Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Idaho Advisory Committee to the Commission will convene at 12 Noon and will end at 5:00 p.m., on July 10, 1982, at the Red Lion Inn, 1800 Fairview Avenue, Boise, Idaho 83702. The purpose of this meeting is to elect vice-chair and secretary; and to discuss civil rights issues within the State.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Rudy M. Pena, 2410 Joretta, Boise, Idaho 83704, (208) 334–3993; or the Northwestern Regional Office, 915 Second Avenue, Room 2852, Seattle, Washington 98174, (206) 399–1246.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., June 15, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82–16551 Filed 6–17–82; 8:45 am]

BILLING CODE 6335–01–M

New Jersey Advisory Committee, Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the New Jersey Advisory Committee to the Commission originally scheduled for June 24, 1982, at East Brunswick, New Jersey (FR Doc. 82–14777, on page 23787) has been changed.

The meeting will now be held on June 23, 1982. The time and location will remain the same.

Dated at Washington, D.C., June 14, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82–16580 Filed 6–17–82; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Certain Electric Motors From Japan; Preliminary Results of Administrative Review of Antidumping Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping duty order on certain electric motors from Japan. The review covers the three known exporters of this merchandise to the United States, generally for the period from April 1, 1980 through November 30, 1980.

As a result of this review, the Department has preliminarily determined to assess dumping duties for these exporters equal to the calculated differences between United States price and foreign market value on each of their shipments during the periods of review. To the extent that one firm's information was incomplete, the Department used the best information available for the missing information. For another firm which provided an inadequate response the Department has based assessment completely on the best information available.

The Department is considering a change in the criteria used for determining motor similarity.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: June 18, 1982.

FOR FURTHER INFORMATION CONTACT: Linda L. Pasden or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–3601).

SUPPLEMENTARY INFORMATION:

Background

On December 24, 1980, the Department of Commerce ("the Department") published in the **Federal Register** (45 FR 84994) the antidumping duty order on certain electric motors from Japan.

The Department published in the **Federal Register** of March 16, 1981 (46 FR 16921) a notice of intent to conduct administrative reviews of certain outstanding antidumping duty orders, including this order. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has conducted an administrative review of that order.

Scope of the Review

The motors covered by this review are AC, polyphase electric motors of not less than 150 HP but not greater than 500 HP, not including submersible well pump motors. The covered motors are currently classifiable under items 682.4545, 682.4600, 682.5020, and 682.5030 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of three Japanese firms engaged in the production and export of these large electric motors to the United States. The review covers all three, generally for the period April 1, 1980 through November 30, 1980.

The response of one of the three firms, Yaskawa Electric Manufacturing Co., Ltd., was adequate for analysis. Toshiba Corporation's response was incomplete. To the extent that certain data for particular motors were absent (including cost information on certain merchandise differences, data on further processing in the United States, and price data on particular sales of two models sold in the home market), the Department used the best information available. Hitachi, Ltd. provided an inadequate response to the Department's questionnaire. For Hitachi, the Department relied completely on the best information available, which is the rate calculated during the original fair value investigation, which is higher than the highest rate for responding firms with shipments in the current period.

United States Price

In calculating United States price the Department used purchase price or exporter's sales price ("ESP"), as defined in sections 772 (b) and (c) of the Tariff Act. Purchase price and exporter's sales price were based on the packed, delivered price to unrelated purchasers in the United States, with deductions, where applicable, for U.S. duty, brokerage, U.S. inland freight forwarder's charges, cash discounts, ocean freight and marine insurance, commissions to unrelated parties, warranties, advertising assumed on behalf of purchasers, delivery costs, and indirect selling expenses, in accordance with § 351.10 of the Commerce Regulations. For ESP transactions, where modifications to the motors were completed in the United States, deductions were made for the total cost of materials, labor, and profit incurred in such manufacture or assembly, in accordance with section 772(e)(3) of the Tariff Act. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act, where sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. Deductions were made for Japanese inland freight, credit costs, warranties, and warehousing costs. Adjustments were also made for differences in packing. We disallowed claimed advertising expenses since they were not directly related to sales. We also made adjustments for physical differences in the merchandise, based on differences in materials and labor costs, in accordance with § 353.16 of the Commerce Regulations.

The Department used third country sales prices (Canada) where there were no or insufficient home market sales, and constructed value where there were also no third country sales, as defined in sections 773(a) and (e) of the Tariff Act. Third country sales prices were based on the CIF delivered price to the first unrelated purchaser in Canada with deductions, where applicable, for Japanese inland freight, forwarder's charges, insurance, warehousing, ocean freight, marine insurance, Canadian duty, brokerage, Canadian inland freight, delivery costs, commissions to unrelated parties, warranties, and advertising assumed on behalf of purchasers.

For exporter's sales price comparisons we made allowances, where applicable, for actual selling expenses incurred up to the amount of selling expenses incurred in the United States, in accordance with § 353.15(c) of the Commerce Regulations.

For those models for which no or insufficient home market and no third country sales existed, unlike the review of the suspension agreement on certain small motors from Japan, we deemed it more appropriate to use constructed value rather than offers for sale (price lists) in Canada.

Constructed values were calculated as the sum of materials, fabrication costs, general expenses, profit, and the cost of packing. In the absence of actual profit figures for sales of such motors in the home market, we calculated profit by subtracting the cost of the production (material, labor, general expenses, and export packing) for each model from the U.S. price for each transaction. That amount was compared with the cost of production figure to produce a profit percentage for each transaction. We multiplied the profit percentage for each transaction by the number of units of that model having that profit, ultimately arriving at a weighted average profit per model. This weighted average rate of profit was applied to the sum of the material, labor, and general expenses for each model to obtain the profit used in the constructed value computation. Where the weighted average profit for a model was less than the statutory minimum of eight percent, we used the statutory minimum.

The amount for general expenses was determined on the basis of the actual general expenses incurred and constituted at least ten percent of the sum of materials fabrication costs. No other adjustments were claimed or allowed.

The methodology employed with respect to the calculation of profit under constructed value is consistent with that employed during the investigation phase of this proceeding. However, for future reviews in this case, the Department will employ the methodology set forth in the "Final Determination of Sales at Less than Fair Value" with respect to strontium nitrate from Italy (46 FR 254976–7).

In determining similarity of motors we used the same five criteria used during the original fair value investigation. One of the five criteria is whether a motor for comparison has a horsepower rating within plus or minus 10 HP of a given U.S. motor. As in the investigation, any non-U.S. motor whose HP rating differs from the rating of a U.S. motor by more than plus or minus 10 HP is not considered such or similar merchandise to the U.S. motor and is not selected for comparison. The petitioner contends that this particular criterion has no factual basis and that we should change from plus or minus 10 HP to plus or minus 10 *percent* of the horsepower rating of the motor.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value we preliminarily determine that the following margins exist:

Manufacturer	Time period	Margin (percent)
Hitachi	4/1/80 to 11/30/80	8.70
Yaskawa	4/1/80 to 11/30/80	0.17
Toshiba	4/1/80 to 03/31/81	3.71

Interested parties may submit written comments on these preliminary results on or before July 19, 1982 and may request disclosure and/or a hearing on or before June 28, 1982. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made on or before June 22, 1982. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries made with purchase dates or export dates during the time periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue assessment instructions on each exporter directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based upon the margins calculated above shall be required on all shipments by these firms of electric motors from Japan of not less than 150 HP but not greater than 500 HP entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. Since the margin for Yaskawa Electric Manufacturing Co., Ltd., is less than 0.5 percent and therefore *de minimis*, the Department is waiving the deposit requirement for Yaskawa. These deposit requirements and waiver shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

June 14, 1982.

[FR Doc. 82-16872 Filed 6-17-82; 8:45 am]

BILLING CODE 3510-25-M

Certain Small Motors From Japan; Preliminary Results of Administrative Review of Suspension Agreement

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Suspension Agreement.

SUMMARY: The Department of Commerce has conducted an administrative review of the agreement to suspend the antidumping investigation on certain small motors from Japan. The review covers the period November 6, 1980 through May 6, 1981 for certain small motors and November 6, 1980 through March 31, 1981 for other small motors. As a result of the review, the Department preliminarily determines that Toshiba Corporation and Toshiba International Corporation have complied with the cessation portion of the suspension agreement and that dumping margins exist on one type and *de minimis* margins on the other of the two types of small motors covered by another portion of the agreement. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: June 18, 1982.

FOR FURTHER INFORMATION CONTACT: Linda L. Pasden or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–3601).

SUPPLEMENTARY INFORMATION:

Background

On November 6, 1980, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 73727–7) a notice of suspension of antidumping duty investigation regarding certain small motors from Japan. The Department noted that the suspension agreement between Toshiba Corporation ("Toshiba"), Toshiba International ("TIC"), and the Department met the criteria provided in section 734 of the Tariff Act of 1930 ("the Tariff Act"). In the notice the Department also announced its intent to conduct an administrative review of the suspension agreement, as provide for in section 751 of the Tariff Act. The Department has now conducted that administrative review.

Scope of the Review

The small motors covered by this review are AC, polyphase electric motors of greater than 5 horsepower and less than 150 horsepower, currently classifiable under items 682.4130, 682.4200, 682.4545, and 682.4600 of the Tariff Schedules of the United States Annotated (TSUSA).

Toshiba is the only exporter to the U.S. of these small motors covered by the suspension agreement. This review covers the period November 6, 1980 through May 6, 1981 for the cessation portion of the agreement, and November 6, 1980 through March 31, 1981 for the portion of the agreement pertaining to explosion-proof and oil well pump motors.

Terms of the Suspension Agreement

1. Toshiba agreed to cease exports from Japan to the United States of all small motors except for oil well pump and explosion-proof motors. All other exports were to cease no later than May 6, 1981, 6 months after the effective date of the suspension of the investigation, and the quantity of these motors exported by Toshiba to the United States from the effective date through May 6, 1981 was not to exceed the quantity of Toshiba's exports of such

motors during the 6-month period February 1, 1979 through July 31, 1979.

2. Toshiba agreed to make any necessary price adjustments to eliminate completely any sales at less than fair value of oil well pump and explosion-proof motors.

3. Toshiba agreed to supply on a monthly basis information showing the number and type of each unit sold and the unit price for oil well pump motors and explosion-proof motors (plus flame-proof motors) in the United States, the home market, and to third countries.

4. If there were no sales in Japan or third countries of any of the three types of motors, Or if the Department determined that such sales were insufficient to permit price to price comparisons with the sales of the respective types in the United States, then Toshiba agreed to supply the constructed value data for those motor types. The constructed value data was to be provided at 6-month intervals.

United States Price

In calculating United States price the Department used purchase price or exporter's sales price, as defined in sections 772(b) and (c) of the Tariff Act. Purchase price and exporter's sales price were based on the packed, delivered price to unrelated purchasers in the United States, with deductions, where applicable, for U.S. duty, brokerage, U.S. inland freight, forwarder's charges, cash discounts, ocean freight and marine insurance, commissions to unrelated parties, warranties, advertising assumed on behalf of purchasers, delivery costs, and indirect selling expenses, in accordance with § 35.10 of the Commerce Regulations. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used third country sales prices or offers for sale (price lists) for explosion-proof motors and constructed value for oil well pump motors, as defined in sections 773(a) and (e) of the Tariff Act, since there were no home market sales of these two types of small motors and no third country sales or offers for sale of oil well pump motors. Third country sales prices and offers for sales were based on the CIF delivered price to the first unrelated purchaser in Canada, with deductions, where applicable, for Japanese inland freight, forwarder's charges, insurance, warehousing, ocean freight, marine insurance, Canadian duty, brokerage, Canadian inland freight, delivery costs, commissions to unrelated parties, warranties, and advertising assumed on behalf of purchasers.

For comparisons with models sold in the U.S. by TIC, we made allowances, where applicable, for actual selling expenses incurred up to the amount of selling expenses incurred in the United States, in accordance with § 353.15(c) of the Commerce Regulations.

Constructed values for oil well pump motors were calculated as the sum of materials, fabrication costs, general expenses, profit, and the cost of packing. In the absence of actual profit figures for sales of such motors in the home market, we calculated profit by subtracting the cost of the production (material, labor, general expenses, and export packing) for each model from the exporter's sales price for each transaction. That amount was compared with the cost of production figure to produce a percentage for actual profit for each transaction. We multiplied the profit percentage for each transaction by the number of units of that model sold to arrive at a weighted average profit per model. This weighted average rate of profit was applied to the sum of the material, labor, and general expenses for each model to obtain the profit used in the constructed value computation. Where the weighted average profit for a model was less than the statutory minimum of eight percent, we used the statutory minimum.

The amount for general expenses was determined on the basis of the actual general expenses incurred by Toshiba and constituted at least ten percent of the sum of materials and fabrication costs. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value we preliminarily determine that the following margins exist:

Type motor	Time period	Margin (percent)
Oil well pump	11/06/80-05/31/81	1.60
Explosion-proof	11/06/80-05/31/81	0.01

Compliance with Agreement

We have preliminarily determined that Toshiba has complied with the cessation portion of the suspension agreement. Because the margins calculated for explosion-proof motors are *de minimis* we preliminarily determine that Toshiba has complied with the terms of the agreement with regard to such motors. However, on the basis of the calculated margins for oil well pump motors, the Department has preliminarily advised Toshiba of a possible breach of the suspension agreement, in accordance with § 353.43(b) of the Commerce Regulations.

Interested parties may submit written comments on these preliminary results on or before July 19, 1982 and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first work-day thereafter. Any request for an administrative protective order must be made on or before June 22, 1982. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.35).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration

June 14, 1982.

[FR Doc. 82-16873 Filed 6-17-82; 8:45 am]

BILLING CODE 3510-25-M

Electronic Instrumentation Technical Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

ACTION: The Electronic Instrumentation Technical Advisory Committee was initially established on October 23, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to electronic instrumentation, or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

TIME AND PLACE: July 8, 1982, at 9:30 a.m. The meeting will take place at the Main Commerce Building, Room B841, 14th

Street and Constitution Ave., N.W., Washington, D.C.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 16, 1980, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12065.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, telephone: 202–377–4217.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202–377–2583.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82–16574 Filed 6–17–82; 8:45 am]

BILLING CODE 3510–25–M

National Oceanic and Atmospheric Administration

Richard L. Merrick, School of Oceanography; Modification No. 1 to Permit No. 375 (P299)

Pursuant to Sections 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals and Section C–10 of Permit No. 375 issued to Mr. Richard L. Merrick, School of Oceanography, Oregon State University, Corvalis, Oregon 97331 on April 7, 1982 (47 FR 15823), that permit is modified as follows:

Section B is modified by adding:

"7. In the event of harassment by the Holder of more than 50 animals during the course of normal re-supply operations of the field stations, all activities shall be suspended and the Holder shall submit a report for review as described in Section B–2 of this Permit."

This modification is effective upon publication in the **Federal Register**.

The permit, as modified, and documentation pertaining to the modification are available for review in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Northwest Region, 7600 Sand Point Way, NE, BIN C15700, Seattle, Washington 98115.

Dated: June 11, 1982.

R. B. Brumsted,

Acting Deputy Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82–16607 Filed 6–17–82; 8:45 am]

BILLING CODE 3510–22–M

Oceanarium Jaya Ancol; Issuance of Permit

On April 20, 1982, Notice was published in the **Federal Register** (47 FR 16823), that an application had been filed with the National Marine Fisheries Service by Oceanarium Jaya Ancol of Jakarta Pusat, Indonesia, for a Permit to take six (6) California sea lions (*Zalophus californianus*) for the purpose of public display.

Notice is hereby given that on June 9, 1982, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Permit for the above taking to Oceanarium Jaya Ancol, subject to certain conditions set forth therein.

The Permit is available for review in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: June 9, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species National Marine Fisheries Service.

[FR Doc. 82–16606 Filed 6–17–82; 8:45 am]

BILLING CODE 3510–22–M

Southwest Fishiers Center; Issuance of Permit

On April 22, 1982 Notice was published in the **Federal Register** (46 FR 17322) that an application had been filed with the National Marine Fisheries Service by the Southwest Fisheries Center, National Marine Fisheries Service, for a permit to capture, fit with radio tags and maximum depth recorders, and release fifty Hawaiian monk seals (*Monacnus schauinslandi*) of both sexes and all age classes.

Notice is hereby given that on June 11, 1982, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service issued a Scientific Research Permit for the above taking to the Southwest Fisheries Center, subject to certain conditions set forth therein.

As required by the Endangered Species Act of 1973, issuance of this permit is based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of the permit, and (3) will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973. This Permit was also issued in accordance with, and is subject to, Parts 220 and 222 of Title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits (30 FR 41367, November 27, 1974).

The Permit is available for review in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: June 11, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82–16608 Filed 6–17–82; 8:45 am]

BILLING CODE 3510–22–M

Southwest Fisheries Center; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1, Applicant:

a. Name: Southwest Fisheries Center (P77#4), National Marine Fisheries Service.

b. Address: P.O. Box 271, La Jolla, California 92038.

2. Type of Permit: Scientific Research.

3. Name and Number of Animals: Pacific bottlenose dolphins (Tursiops truncatus) up to 200.

4. Type of Take: Potential harassment while observing and photographing in order to study population levels and stock discreteness.

5. Location of Activity: Coastal California waters.

6. Period of Activity: 2 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, on or before July 19, 1982. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: June 11, 1982.

R. B. Brumsted,

Acting Deputy Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-16606 Filed 6-17-82; 8:45 am]

BILLING CODE 3510-22-M

COMMODITY FUTURES TRADING COMMISSION

Exchange Proposals to Trade Commodity Options

AGENCY: Commodity Futures Trading Commission.

ACTION: Extension of the comment period.

SUMMARY: On April 30, 1982, the Commodity Futures Trading Commission ("Commission") published in the **Federal Register** a notice of availability of a Kansas City Board of Trade ("KCBT") proposal to trade options on Value Line Stock Index futures contracts and of a New York Futures Exchange ("NYFE") proposal to trade options on the New York Stock Exchange Equity Index futures contracts (47 FR 18639). The Commission in that notice requested public comment on those proposals. The comment period expired on May 28, 1982.

The Commission has received a request to extend the comment period with respect to both of these submissions to allow interested parties additional time to submit their comments. This request was based upon the delay experienced by the requestor in obtaining certain documents. Certain portions of the KCBT's application to trade options were subject to a petition for confidential treatment. The Commission subsequently denied this petition after the comment period had expired.

In addition, certain portions of the NYFE submission were released through the Freedom of Information Act during the latter half of the comment period. In order to ensure that all interested parties have an adequate opportunity to submit informed comments, the Commission is extending the period for comment on the KCBT proposal to trade options on Value Line Stock Index futures contracts and on the NYFE proposal to trade options on the New York Stock Exchange Equity Index futures contracts.

DATES: Comments on the NYFE proposal to trade options on New York Stock Exchange Equity Index futures contracts must be submitted by June 28, 1982. Comments on the KCBT proposal to trade options on Value Line Stock Index futures contracts must be submitted by July 6, 1982.

FOR FURTHER INFORMATION CONTACT:

Paul M. Architzel, Esquire, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, (202) 254-6990.

Dated: June 14, 1982.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82-16556 Filed 6-17-82; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Anti-Tactical Missiles: Notice of Advisory Committee Meeting

The Defense Science Board Task Force on Anti-Tactical Missiles (ATM) will meet in closed session on 7 July 1982 in Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

At its meeting on 7 July 1982, the Defense Science Board Task Force on ATM will review the Service requirements and programs for the development of means to counter the Soviet tactical missile threat and will structure the next phase of the Task Force's work.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. I, 1976), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

June 15, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

[FR Doc. 82-16560 Filed 6-17-82; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on International Industry-to-Industry Armaments Cooperation; Notice of Advisory Committee Meeting

The Defense Science Board (DSB) Task Force on International Industry-to-Industry Armaments Cooperation will meet in closed session on July 14, 1982 in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering

policy and to provide long-range guidance to the Department of Defense in these areas.

At its meeting on July 14, 1982 the DSB Task Force on International Industry-to-Industry Armaments Cooperation will continue its review of the Defense Department's policies, plans and procedures which impede or might impede international arms cooperation and thereby have the potential for adversely impacting the collective security of the United States, its friends and Allies. In the context, the Task Force will also analyze the effect current international cooperation policies have on the utility of the U.S., its friends, and Allies to achieve in good order and sustain mobilization capacities.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. I, 1976), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

[FR Doc. 82-16501 Filed 6-17-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

National Communication on Excellence in Education; Hearing

AGENCY: National Commission on Excellence in Education, Commission Education.

ACTION: Notice of hearing.

SUMMARY: This notice amends the announcement of the hearings of the National Commission on Excellence in Education published in the **Federal Register** on March 4, 1982 on page 9271.

DATE: June 23, 1982 (8:30 a.m. until 5:00 p.m.).

LOCATION: Roosevelt University, O'Malley Theater, Room 773 Auditorium building, 430 South Michigan Avenue, Chicago, Illinois.

FOR FURTHER INFORMATION CONTACT: Clifford Adelman or Antoine Garibaldi (202) 254-5555, 1200 19th Street, NW., Washington, D.C. 20208.

On June 23, 1982, the hearing on College Admissions and the Transition from Secondary to Postsecondary Education will be co-chaired by Commission members Norman C. Francis, President Xavier University, New Orleans, Louisiana and Gerald Holton, Mallinckrodt Professor of physics and Professor of the history of science, Harvard University, Cambridge, Massachusetts.

At the open public meeting, Commission members will hear invited testimony from key national experts. Following the presentations of testimony, the invited experts will respond to questions from Commission members. After the luncheon recess, local and regional experts will present invited testimony about their experiences and perspectives. Again, the Commission members will pose questions to those witnesses. At the end of the day, there will be an opportunity for members of the audience to submit testimony on specific examples of educational excellence. These statements may address either the day's topic or other topics related to the pursuit of educational quality.

In addition to the testimony the Commission receives the day of the hearing, individuals and organizations across the country are invited to submit 2-5 pages of written testimony that will assist the Commission in developing recommendations on these topics. The record will remain open for one month following the hearing.

Two hearings on other topics will be held throughout the United States over the next few months.

Dated: June 4, 1982.

Donald J. Senese,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 82-16552 Filed 6-17-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs

International Atomic Energy Agreements; Proposed Subsequent Arrangement; International Atomic Energy Agency

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the International Atomic Energy Agency (IAEA) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the supply of 26.25 grams of plutonium as plutonium-oxide to the Central Control Laboratory, Czechoslovak Socialist Republic, under Contract Number WC-IA-115.

This material is to be utilized in the Safeguards Analytical Laboratory Evaluation (SALE) Program. This program is designed to evaluate the capability of participating laboratories to analyse materials to be safeguarded in the nuclear fuel cycle, and to provide means by which measurement capability may be improved through the interchange of measurement technology.

In accordance with section 131 of the Atomic Energy of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice (July 6, 1982).

For the Department of Energy.

Dated: June 14, 1982.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82-16504 Filed 6-17-82; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements Proposed Subsequent Agreement; International Atomic Energy Agency

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the International Atomic Energy Agency (IAEA) Concerning the Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves supply of the following material to the Nuclear Research Institute, Czechoslovak Socialist Republic through the IAEA.

Contract Number WC-IA-118, 105.6 grams of uranium enriched to 4.30% in U-235.

The above material is to be utilized in the Safeguards Analytical Laboratory Evaluation (SALE) Program. This program is designed to evaluate the capability of participating laboratories to analyze materials to be safeguarded in the nuclear fuel cycle, and to provide means by which measurement capability may be improved through the interchange of measurement technology.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the

furnishing of this material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice. (July 6, 1982).

For the Department of Energy.

Dated: June 14, 1982.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82-16505 Filed 6-17-82; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangements; Korea, Spain and Switzerland

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Agreements for Cooperations between the Government of the United States of America and the Governments of Korea, Spain and Switzerland Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreements involve contractual arrangements under which DOE will consent, if requested, to the assignment of portions of various uranium enrichment services contracts held by U.S. and foreign utilities to the Korea Electric Company, as shown below:

Separative work units	Fiscal year
15,000	1986
75,000	1987
80,000	1991

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice (July 6, 1982).

For the Department of Energy.

Dated: June 14, 1982.

George Bradley,

Principal Deputy Assistant Secretary International Affairs.

[FR Doc. 82-16502 Filed 6-17-82; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale: Contract Number S-JA-320, to the Power Reactor and Nuclear Fuel Development Corp., Japan, 625 grams of natural uranium, 4.005 grams of uranium enriched to 37.2% in U-235, 0.04 grams of uranium-233, and 0.03 grams of plutonium, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice (July 6, 1982).

For the Department of Energy.

Dated: June 14, 1982.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82-16503 Filed 6-17-82; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

The Conservation Panel of the Energy Research Advisory Board; Cancellation of Meeting

This notice is given to advise of the cancellation of the Conservation Panel of the Energy Research Advisory Board meeting originally scheduled to be held June 16, 1982. Notice of meeting was published in the May 11, 1982 issue (47 FR 20176). When the meeting is rescheduled a notice will appear in the **Federal Register.**

Issued at Washington, D.C. on June 16, 1982.

J. Ronald Young,

Director for Management, Office of Energy Research.

[FR Doc. 82-16669 Filed 6-17-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER82-456-000]

Cincinnati Gas & Electric Co.; Order Accepting for Filing and Suspending Revised Phased Rates, Accepting for Filing Settlement Rates, Ordering Summary Disposition, Granting Intervention, and Establishing Prodedures

Issued: June 11, 1982.

On April 14, 1982, Cincinnati Gas & Electric Company (CG&E) submitted for filing a two-phase increase in rates to its Ohio municipal wholesale customers (Villages of Bethel, Blanchester, Georgetown, Hamersville, and Ripley) and its two wholly-owned subsidiaries, Union Light, Heat and Power Company (Union) and West Harrison Gas and Electric Company (West Harrison).[1] On May 26, 1982, CG&E submitted (1) a settlement agreement on behalf of CG&E and the Ohio muncipal customers that includes a single rate increase (settlement rates) to these customers, and (2) a motion for acceptance of the settlement rates. As a result, the Phase I and II rates are now proposed only for Union and West Harrison.[2] The Phase I rates would increase revenues from Union and West Harrision by approximately $11,771,000 (15.85%) during the calendar 1982 test period. The Phase II rates would further increase revenues by about $3,190,500 (4.30%). The proposed settlement rates would increase revenues from the muncipal customers by $681,364 (17.53%) during the same test period. CG&E requests that the Phase I rates become effective on June 14, 1982, and indicates that if those rates are suspended for no more than one day, it would not object to a maximum suspension of the Phase II rates. The proposed settlement with the Municipal customers provides for an August 1, 1982 effective date.

Notice of the filing was issued on April 23, 1982, with comments due on or before May 10, 1982. On May 6, 1982, the Newport Steel Corporation (Newport), an industrial customer of Union, filed a protest and a separate petition to intervene. Newport states that as Union's largest customer which receives all of its energy requirements from Union, it will be directly affected by this

[1] *See* Attachment A for rate schedule designations.

[2] Under the settlement agreement, CG&E and the Ohio municipal customers, *inter alia*, have agreed that, in the event further proceedings result in a lower rate of return for West Harrison and Union, CG&E will lower the settlement rates to reflect approximately the same rate of return.

proceeding. In its protest, Newport requests a five month suspension of both phases and an investigation and hearing, raising a number of cost of service and rate design issues.[3]

On May 10, 1982, Union filed a petition to intervene, requesting full party rights including the right to present evidence and cross examine witnesses in the event the matter of the proposed increase goes to hearing. Also, on May 10, 1982, the Kentucky Public Service Commission filed a notice of intervention. On May 19, 1982, CG&E filed an answer opposing Newport's protest.

Discussion

Initially, we find that participation in this proceeding by Newport and Union is in the public interest. We shall therefore grant their petitions to intervene. Further, the timely notice of intervention filed by the Kentucky Public Service Commission is sufficient to initiate its participation as an intervenor.

We note that CG&E's cost of service includes expenses associated with the company's contributions to EPRI. Recent Commission orders have granted summary disposition with respect to this issue. *See, e.g., Northern States Power Company (Wisconsin),* Docket No. ER81–653–000 (October 2, 1981). However, in *Philadelphia Electric Company,* Docket Nos. ER82–294–000 and ER82–295–000, 19 FERC ¶ 61,017 (April 9, 1982), we acknowledged that the propriety of collecting EPRI expenses from an affiliated customer was an issue appropriate for hearing. Since both Union and West Harrison are wholly-owned subsidiaries of CG&E, we shall permit CG&E to pursue the EPRI issue at hearing.

We further note that CG&E has included the unamortized investment in the cancelled Killen Unit No. 1 generating plant in rate base. The Commission has determined that it is improper to include in rate base the unamortized investment in abandoned generating projects.[4] Accordingly, summary disposition of this issue is appropriate for the rates applicable to Union and West Harrison.

Our review of the filing also reveals that CG&E has not reflected tax normalization for all timing differences as required in Order No. 144–A (February 22, 1982). Consistent with the policy explained in *Wisconsin Electric Power Company,* Docket No. ER82–347–000, 19 FERC ¶ 61.026 (April 13, 1982), we shall require CG&E to file revised rates and cost of service statements (applicable to Union and West Harrison) which reflects the tax normalization procedures required by Order No. 144–A and section 35.25 of the regulations. We shall not upset the settlement agreement between CG&E and the municipal customers by requiring an adjustment to those rates to reflect full normalization, but we take this opportunity to advise CG&E that future rate changes must comport with the Commission's normalization procedures.[5]

CG&E has proposed a revision to its fuel adjustment clause to include a provision for test energy associated with nuclear generation. CG&E seeks in both the settlement rates and the rates applicable to Union and West Harrison, to assign test energy a cost equal to the cost of fuel displaced by the test energy. Such a proposal would require a waiver of section 35.14 of the Commission's regulations. In order to facilitate the voluntary settlement between CG&E and the municipal customers, we shall grant waiver of section 35.14 and accept the proposed fuel clause for service to these customers. However, we believe that CG&E has not filed sufficient support to justify the non-conforming fuel clause in the Phase I and II rates for Union and Harrison. Accordingly, as to these customers, we shall deny waiver of the fuel clause regulations without prejudice to CG&E attempting at hearing to support its position. In the absence of a waiver, the proposed fuel clause will not be permitted to operate.

We find that the proposed settlement between CG&E and the affected municipal customers is just and reasonable and in the public interest. Therefore, we shall accept the settlement rates for filing to become effective on August 1, 1982, consistent with the parties' agreement. Considering the issues raised by the intervenors, we conclude that the non-settled rates for Union and West Harrison have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept those rates for filing, as modified by summary disposition, and we shall suspend them as ordered below.

We recently explained the Commission's suspension policy in *West Texas Utilities Company,* Docket No. ER82–23–000 (February 26, 1982). As noted there, where our preliminary review suggests that increased rates may be unjust and unreasonable, but may not be substantially excessive as described in *West Texas,* we shall suspend the rates for one day. Where, however, preliminary examination indicates that the rates may be substantially excessive, we shall suspend for the maximum period. Our review indicates that while the Phase I rates may not produce excess revenues, the Phase II rates may produce substantially excessive revenues. Accordingly, we shall suspend the Phase I rates for one day to become effective on June 15, 1982, and the Phase II rates for five months to become effective on November 14, 1982, subject to refund.

The Commission orders:

(A) CG&E's settlement rates for service to the five Ohio municipal customers are hereby accepted for filing to become effective on August 1, 1982, without suspension.

(B) CG&E's proposed Phase I and Phase II rates for service to Union and West Harrison are hereby accepted for filing, as amended by Paragraph (C) below, and are suspended as follows: the Phase I rates the suspended for one day to become effective on June 15, 1982, subject to refund, and the Phase II rates are suspended for five months to become effective on November 14, 1982, subject to refund.

(C) CF&E shall file within thirty (30) days of the date of this order revised Phase I and Phase II rates and a revised cost of service which reflect tax normalization procedures consistent with Order No. 144–A and which exclude from rate base the unamortized investment in the Killen Unit No. 1 generating station.

(D) Waiver of the fuel clause requirements contained in section 35.14 of the regulations is granted with respect to the settlement rates for the Ohio Municipal customers and is denied without prejudice as to Union and West Harrison.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal

[3] Newport alleges: (1) an understatement of billing demands for Union which results in substantially higher unit charges; (2) improper allocation of EPRI contributions to Union; (3) unsubstantiated purchased power expenses; (4) improper inclusion of an 85% demand ratchet for service to Union; (5) improper inclusion in rate base of land held for future use for which there are no specific plans for utilization; (6) a working capital allowance in excess of that which would be permitted under the 45-day convention and which is not supported by a lead-lag study; (7) inclusion in rate base of costs associated with the cancellation of the Killen unit; (8) unsubstantiated A&G expenses; (9) inclusion of charitable contributions as an expense item; and (10) use of an excessive return on common equity.

[4] *See, e.g., New England Power Company,* Opinion No. 49,——, FERC ——, (July 17, 1979).

[5] We note, for purposes of the Economic Recovery Tax Act of 1981, that CG&E has used normalization accounting as required by the act, for ACRS benefits.

Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of CG&E's Phase I and Phase II rates.

(F) The petitions to intervene in this proceeding are hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *Provided, however,* That participation by such intervenors shall be limited to the matters set forth in their petition to intervene; and *Provided, Further,* That the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order of the Commission in this proceeding.

(G) The Commission staff shall serve top sheets in this proceeding within ten (10) days of the date of this order.

(H) A presiding administrative law Judge, to be designated by the Chief Administrative Law judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days of the issuance of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(I) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Lois D. Cashell,

Acting Secretary.

ATTACHMENT A.—CINCINNATI GAS & ELECTRIC CO., DOCKET NO. ER82-456-000

Rate Schedule Designations, FPC Electric Tariff

[First Revised Volume No. 1]

Designation	Description	Other party
(1) 5th Revised Sheet No. 4 (Supersedes 4th Revised Sheet No. 4).	Rate WH-I (Phase I).	West Harrison Gas & Electric Co.
(2) 7th Revised Sheet No. 5 (Supersedes 6th Revised).	Rate WS-P (Phase I).	Union Light Heat & Power Co.
(3) 5th Revised Sheet No. 6 (Supersedes 4th Revised Sheet No. 6).	Rate WS-S.....	Bethel. Blanchester. Georgetown. Hamersville. Ripley.

ATTACHMENT A.—CINCINNATI GAS & ELECTRIC CO., DOCKET NO. ER82-456-000—Continued

[First Revised Volume No. 1]

Designation	Description	Other party
(4) 1st Revised Sheet No. 7 (Supersedes Original Sheet No. 7).	Rider F—Fuel Cost Adjustment.	All Tariff Customers.
(5) 6th Revised Sheet No. 4 (Supersedes 5th Revised Sheet No. 4).	Rate WH-I (Phase II).	West Harrison Gas & Electric Co.
(6) 8th Revised Sheet No. 5 (Supersedes 7th Revised Sheet No. 5).	Rate WS-P (Phase II).	Union Light Heat & Power Co.

[FR Doc. 82-16561 Filed 6-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP80-549-002]

Colorado Interstate Gas Co.; Petition To Amend

June 16, 1982.

Take notice that on May 28, 1982, Colorado Interstate Gas Company (Petitioner), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP80-549-002 a petition to amend the order issued December 18, 1981, in Docket No. CP80-549, as amended, pursuant to Section 7(c) of the Natural Gas Act so as to authorize the designation of new sources of supply for natural gas and the revision of pricing terms, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner states that the order issued December 18, 1981, authorized the transportation and exchange of gas with Western Gas Interstate Company (Western) Petitioner received the gas from three wells in Texas County, Oklahoma, and on a best-efforts basis redelivered to Western thermally equivalent volume of natural gas, subject to fuel use, unaccounted-for gas loss, and a 25 percent purchase option by Petitioner on volumes received from Western.

Petitioner herein requests amendment of the order issued December 18, 1981, so as to authorize the use of Western's eastern system as a source of supply for transportation volumes delivered to Petitioner by Western and to revise the pricing terms applicable to sales under the 25 percent purchase option.

It is asserted that such amendment would not alter the nature of services to be rendered under the certificate. Petitioner states that it would accept volumes of up to 5,000 Mcf per day from Western provided Petitioner has adequate capacity at the points of receipt and redelivery of transportation volumes.

Petitioner asserts that the proposed change in source of supply from the three wells would enable Western to increase the volumes of gas nominated for transport. It is stated that this amendment would allow Western to move needed supplies between its service areas to meet the load requirements of its customers regardless of the production abilities of the three wells authorized as the original supply source.

Petitioner asserts that the proposed pricing provision would price all gas purchased by Petitioner at Western's currently effective Rate Schedule G-N and that the effect of this change would be to remove monthly fluctuations from the purchase price paid by Petitioner due to changes in Western's purchase price or weighting of volumes.

Any desiring to be heard or to make any protest with reference to said petition to amend should on or before July 7, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16562 Filed 6-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-44-001]

Columbia Gas Transmission Corp.; Petition To Amend

June 16, 1982.

Take notice that on May 21, 1982, Columbia Gas Transmission Corporation (Petitioner), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP81-44-001 a petition pursuant to Section 7 of the Natural Gas Act to amend the order issued June 10, 1981, in Docket No. CP81-44-000, so as to authorize the acquisition, construction and operation of certain natural gas facilities, and to permit and approve the

abandonment of certain natural gas facilities, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is submitted that by order issued June 10, 1981, in Docket No. CP81–44–000, Petitioner was authorized, *inter alia,* to undertake 38 separate projects on its pipeline system, including Project No. 20. Petitioner states that Project No. 20 consisted of the construction and operation of approximately 2.1 miles 6-inch transmission pipeline replacing 1.8 miles of 6-inch and 10-inch pipeline in Marshall and Ohio Counties, West Virginia, in order to provide for the continuation of adequate service to the markets of Elm Grove, Clifton Heights, and Sherrand, West Virginia.

Petitioner asserts that it has been informed that Columbia Gas of West Virginia, Inc. (CWV), an affiliated wholesale customer, is experiencing a change in operation due to long wall mining in the general area of Petitioner's original proposed Project No. 20, and that the realignment of CWV's system requires that Petitioner establish two new points of delivery in order to serve CWV's requirements.

Petitioner, therefore, proposes to replace the previously authorized Project No. 20 with the proposed Project No. 20R, which would consist of (1) the construction and operation of approximately 2.2 miles of 6-inch pipeline and two new points of delivery to CWV; (2) the acquistion of 0.4 mile of 8-inch pipeline from CWV and (3) the abandonment of 1.1 miles of 6-inch and 10-inch pipeline and three pointsd of delivery to CWV, all located in Marshall and Ohio Counties, West Virginia.

Petitioner estimates the cost of the proposed construction to be $343,300, and states that the facilities proposed for acquisition would be at the estimated net depreciated cost of $34,080.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 7, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to the taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–16583 Filed 6–17–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP79–97–003]

Columbia Gulf Transmission Co. and Columbia Gas Transmission Corp.; Petition To Amend

June 16, 1982.

Take notice on May 25, 1982, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, and Columbia Gas Transmission Corporation (Columbia Gas), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP79–97–003 a joint petition to amend the order issued March 13, 1979, in Docket No. CP79–97 pursuant to Section 7(c) of the Natural Gas Act so as to authorize an additional balancing point for the exchange of natural gas, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that the order issued March 13, 1979, authorized Gulf Oil Exploration and Production Company (Gulf) to deliver to Colubmia Gulf for the account of Columbia Gas up to 15,000 Mcf of natural gas per day in Eugene island Blocks 331 and 314, offshore Louisiana. It is stated that the order also authorized Columbia Gas to deliver or cause to be delivered to Gulf a thermally equal quantity of gas at East Cameron Block 245, offshore Louisiana. Petitioners state that any inbalances in deliveries of exchanged gas were to be corrected by deliveries of gas from Gulf to Colubmia Gulf or from Columbia Gulf to Gulf at Eugene island Block 313, Platform A, offshore Louisiana.

It is asserted that because Gulf's and Columbia Gas' Eugene Island Block 313A and Columbia Gas' gas reserves available for delivery at East Cameron Block 245 have been drastically reduced while Gulf's gas reserves available for delivery at Eugene Island Blocks 331 and 314 have remained stable, there presently exists a serious imbalance in the volumes of gas exchanged. Therefore, Petitioners request authorization to add Venice, Plaquemines Parish, Louisiana, as an additional balancing point.

It is asserted that Gulf has further agreed that for volumes of natural gas delivered at the Venice balancing point, Gulf would pay Columbia Gulf a transportation charge of 17.93 cents per Mcf of natural gas delivered.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 7, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–16584 Filed 6–17–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ES82–60–000]

Gulf States Utilities Co.; Application

June 15, 1982.

Take notice that on June 9, 1982, Gulf States Utilities Company, (Applicant) filed an Application pursuant to Section 204 of the Federal Power Act, authorizing the issuance of intermediate term notes in an aggregate principal amount not to exceed $24,000,000 at any one time outstanding under a loan agreement with certain banks, having a maturity of less than 10 years.

Any person desiring to be heard or to make any protest with reference to said Application should, on or before June 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The Application is on file and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–16585 Filed 6–17–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP82–350–000]

Michigan Wisconsin Pipe Line Co.; Application

June 16, 1982.

Take notice that on May 27, 1982, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket

No. CP82–350–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a measuring station and appurtenant facilities in order to establish a new delivery point, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to construct and operate a new delivery point at Emerald Grove, Wisconsin for Wisconsin Power and Light Company (Wisconsin Power). It is asserted that the new delivery point would enable Wisconsin Power to render natural gas service to certain residential and high priority agricultural end users.

It is asserted that the cost of the facilities proposed herein would be approximately $84,710 and would be financed with funds on hand.

Two of Wisconsin Power's customers in Emerald Grove would use the gas to replace their current use of propane, thus reducing the costs of food and fibre products produced and dryed by these customers, it is explained. Applicant states that the proposed service is within Wisconsin Power's currently effective peak day and annual entitlements.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 7, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulation under the Natufal Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–16586 Filed 6–17–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP82–337–000]

Northwest Pipeline Corp., Complainant and Pacific Interstate Transmission Co., Defendant; Complaint and Motion

June 10, 1982.

Take notice that on May 14, 1982, Northwest Pipeline Corporation (Complainant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP82–337–000 a complaint and motion pursuant to Sections 1.6 and 1.12 of the Commission's Rules of Practice and Procedure (18 CFR 1.6 and 1.12) alleging a violation by Pacific Interstate Transmission Company (Defendant) of an order issued March 12, 1982, in Docket No. CP82–22–000, and moves that the Commission order Defendant to cease and desist from its unlawful activities and to comply with the terms of such order or, in the alternative, revoke the authorization granted Defendant by such order, all as more fully set forth in the complaint which is on file with the Commission and open to public inspection.

It is submitted that by orders issued January 11, 1980, and June 13, 1980, in Docket No. CP78–123, *et al.*, (1) Northwest Alaskan Pipeline Company (Northwest Alaskan) was authorized to import up to 300,000 Mcf of surplus Canadian natural gas per day from Pan-Alberta Gas Ltd., at the United States-Canadian international boundary near Kingsgate, British Columbia, and to resell such volumes of gas to Defendant; (2) Northwest Alaskan was authorized to resell such gas to Defendant; (3) Defendant was authorized to resell such natural gas to its affiliate, Southern California Gas Company (SoCal); (4) Pacific Gas Transmission Company (PGT) was authorized to construct and operate approximately 189 miles of the western leg of the Alaska Natural Gas Transportation System (ANGTS) from Kingsgate to a point of interconnection with the facilities of Complainant near Stanfield, Oregon, for the transport of Defendant's Pan-Alberta gas; (5) Complainant was authorized to construct and operate approximately 350 miles of loop pipeline—owned 70 percent by Complainant and 30 percent by Defendant—on Complainant's existing system for the transportation of Defendant's Pan-Alberta gas to a point of interconnection with the facilities of El Paso Natural Gas Company (El Paso) near Ignacio, Colorado; and (6) El Paso was authorized to transport Defendant's gas through its facilities near Ignacio, Colorado, to a point of interconnection with the facilities of SoCal at the Arizona-California border.

It is further submitted that pursuant to the aforementioned authorizations, Complainant was authorized to install facilities in order to provide firm transportation service to Defendant, and further, that the looping of a portion of Complainant's existing system through construction of the western delivery system (WDS) was based on the representation by Defendant it had obtained or would obtain firm capacity from El Paso to transport gas from Ignacio, Colorado, to the California border. Complainant asserts that because of the configuration of its facilities its ability to maximize use of its available domestic volumes for delivery to its on-system customers is dependent upon the continued flow of Respondent's volumes through the WDS system. It is also asserted that because the Pan-Alberta volumes are transported through both "prebuild" and existing facilities, Complainant's tariff applicable to the Pan-Alberta volumes. Rate Schedule T–1, includes a commodity charge which is credited to Complainant's customers for Defendant's use of Complainant's mainline capacity. Complainant further asserts that if Defendant does not tender volumes for delivery through the WDS, Complainant's customers receive no credit, despite the requirement that Complainant maintain capacity for Defendant's firm service. Complainant states that, concurrently with its instant complaint and motion, it is filing a revision to Rate Schedule T–1 so as to provide for a minimum commodity charge based upon an annual load factor of 60 percent of the 240,000 Mcf of gas per day contract demand and a daily load factor for operational purposes.

It is stated that importation and transportation of the Pan-Alberta gas began on October 1, 1981, through the above-described facilities. It is also stated that on October 15, 1981, Defendant filed in Docket No. CP82–22–000 an application for a certificate of public convenience and necessity authorizing the addition of an alternate

delivery point for the transportation of the Pan-Alberta gas to SoCal at a point on the Oregon-California border near Malin, Oregon.

Complainant avers that by order issued March 12, 1982, in Docket No. CP82–22–000, PGT was authorized to transport natural gas and Defendant was authorized to add the proposed additional point of delivery. Complainant further avers that in such order the Commission said "* * * the Commission expects the WDS delivery route to be utilized to the extent that it is available for the duration of the authorized PIT [Defendant]/SoCal supply arrangement * * *." (Order at 6, n. 10).

Complainant contends that despite the order of March 12, 1982, Defendent has chosen to utilize the PGT alternate delivery point on days when El Paso had sufficient capacity to transport both SoCal's full contract demand and all or a substantial portion of the authorized 300,000 Mcf of Pan-Alberta gas per day.

Complainant also contends that although Defendant has informed Complainant that it was aware that the Pan-Alberta volumes could be delivered to the California border through the WDS Defendant has opted to use PGT's alternate delivery point.

Complainant asserts that Defendant's refusal to utilize the WDS violates the order of March 12, 1982, and would have substantial adverse affects on Complainant's customers. Complainant states that if Defendant does not tender any volumes for transportation through the WDS the remainder of 1982 Complainant's gas supply costs would be increased by approximately $50,000,000, as Complainant would be forced to purchase an additional 20,000,000 Mcf of Canadian gas in lieu of an equivalent quantity of domestic gas; Complainant would incur domestic take-or-pay deficiencies, the carrying charges on which exceed $4,000,000; and the reduction in domestic production would reduce the liquids revenues that are credited to Complainant's cost of service by approximately $5,300,000.

Therefore, Complainant moves that the Commission find Defendant in violation of Section 7(c) of the Natural Gas Act as well as the terms and conditions of the order issed March 12, 1982, in Docket No. CP82–22–000. Complainant further moves that the Commission issue and order requiring Defendant to cease and desist its illegal activities and to mandate use of the WDS on any and all days when sufficient capacity is available to El Paso's system to deliver the Pan-Alberta gas to the California border or, in the alternative, revoking the authorization issued to Defendant in the order issued Marcn 12, 1982, in Docket No. CP82–22–000.

Any person desiring to be heard or to make any protest with reference to said complaint and motion should on or before July 16, 1982, file with the Federal Energy Regulatory Commission Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–16587 Filed 6–17–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP82–192–001]

Northwest Pipeline Corp.; Amendment

June 16, 1982.

Take notice that on June 1, 1982, Northwest Pipeline Corporation (Northwest), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP82–192–001 pursuant to Section 7(c) of the Natural Gas Act an amendment to its application filed February 5, 1982, in the instant docket so as to reflect the construction and operation of a hot tap and valve on a natural gas line, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Northwest states that by its application in this proceeding it requests authority to construct and operate the facilities necessary to effect the delivery to an receipt of natural gas from a gas processing plant being constucted adjacent to Northwest's Foundation Creek Compressor Station in Rio Blanco, Colorado, by NGL Production Company. It is asserted that the cost of these facilities would be $57,500.

Northwest herein amends the application to request authorization to construct and operate a hot tap and valve on the existing 2-inch fuel gas line which runs from Northwest's mainline to its Foundation Creek Compressor Station. Nortwest asserts that the original cost estimate of $57,500 includes funds for the additional hot tap and valve.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before July 7, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–16588 Filed 6–17–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP82–341–000]

Panhandle Eastern Pipe Line Co.; Application

June 16, 1982.

Take notice that on May 21, 1982, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP82–341–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the account of New Jersey Natural Gas Company (New Jersey), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes pursuant to a gas transportation agreement dated December 31, 1981, to transport for New Jersey up to 400 Mcf of gas per day, on a firm basis, less 9 percent fuel. It is stated that New Jersey is purchasing natural gas produced in Woodward County, Oklahoma. Applicant, it is stated, would transport and redeliver the subject gas to East Ohio Gas Company (East Ohio), for the account of New Jersey. Applicant states that the existing point of redelivery would be at the interconnection of Applicant's and East Ohio's facilities in Lucas County, Ohio.

It is stated that New Jersey would pay Applicant $3,048 per month for the transportation service between Woodward County and Lucas County, with an upward or downward adjustment of 25.06 cents per Mcf for any deficiency or excess in quantities taken.

Applicant asserts that as partial consideration for the transportation

service, New Jersey has granted Applicant an option to purchase any surplus gas obtained beyond its need.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 7, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16689 Filed 6-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-10-001 (PGA82-2, IPR82-2) (Revision)]

Tennessee Natural Gas Lines, Inc.; PGA Tariff Filing

June 14, 1982.

Take notice that on June 8, 1982, Tennessee Natural Gas Lines, Inc. (TNGL) tendered for filing a revision of its PGA rate change filing made on May 28, 1982, and consisting of the following sheet to its FERC Gas Tariff, First Revised Volume No. 1: Substitute Thirty-Ninth Revised Sheet No. PGA-1.

TNGL requests that such tariff sheet be allowed to become effective on July 1, 1982.

TNGL states that the reason for its tendered revision is that, on May 28, 1982, but after TNGL filed its PGA rate change, it was advised by its sole supplier, Tennessee Gas Pipeline Company (TGP), a Division of Tenneco, Inc., that TGP would fill a rate slightly lower than that which it had advised would be filed. TNGL states that it tendered revision reflects the revised rate of TGP.

TNGL states that copies of the filing were served upon its jurisdictional customer and the interested state regulatory commission, and are available for public inspection at TNGL's offices in Nashville, Tennessee.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 18 and 1.10 of the Commission's Rules of Practice and Procedure (1.8 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16690 Filed 6-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP79-14-000]

Texas Eastern Transmission Corp. and Consolidated Gas Supply Corp.; Motion to Vacate

June 16, 1982.

Take notice that on May 24, 1982, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77001, and Consolidated Gas Supply Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301 filed in Docket No. CP79-14 a motion pursuant to Section 1.12 of the Commission's Rules of Practice and Procedure (18 CFR 1.12) requesting that the Commission vacate the order issued April 4, 1979, in the instant docket, all as more fully set forth in the motion which is on file with the Commission and open to public inspection.

It is submitted that by order issued April 4, 1979, in the instant docket, Texas Eastern and Consolidated were authorized to transport for the Fruehauf Corporation (Fruehauf) up to 400 Mcf of natural gas per day for a limited term of two years from the date of initial deliveries, pursuant to Section 2.79 of the Commission's General Policy and Interpretations. It is further submitted that such quantities of gas were to be purchased and utilized by Fruehauf for high priority industrial uses at its plant in Utica, New York, and were to replace curtailed volumes.

Texas Eastern and Consolidated assert that over three years have elapsed since the issuance of such order, and the transportation service authorized thereunder has never commenced. It is also asserted that since the issuance of the April 4, 1979 order, Texas Eastern's and Consolidated's gas supply has increased substantially, and their curtailment level is currently at zero, thus obviating the need for the authorized transportation service. Accordingly, Texas Eastern and Consolidated now move that the Commission vacate the order issued April 4, 1979, in the instant docket, and terminate this proceeding.

Any person desiring to be heard or to make any protest with reference to said motion should on or before July 7, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestant parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16691 Filed 6-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-339-000]

Transcontinental Gas Pipe Line Corp., and Southern Natural Gas Co.; Application

June 16, 1982.

Take notice that on May 20, 1982, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251 and Southern

Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP82-339-000 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline and appurtenant facilities offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to construct and operate approximately 6.01 miles of 12-inch pipeline, along with metering, regulating and other appurtenant facilities, in the Eugene Island Area, offshore Louisiana. It is stated that such pipeline would extend from a production platform in Block 108 to a junction platform on Transco's Southeast Louisiana Gathering System in Block 129. It is asserted that such facilities are required to attach new gas supplies which will be available from Block 108 commencing in the winter of 1982-83.

Applicants assert that the proved reserves in Block 108, all of which are dedicated to Applicants, are estimated to be 84,800,000 Mcf of gas, while the deliverability is estimated to average 55,608 Mcf of gas per day during 1983, the first full year of operation. Applicants state that Transco has contracted to purchase InterNorth's 41 percent of the Block 108 reserves, Felmont Oil Corporation's 20 percent and Case-Pomeroy Oil Corporation's 5 percent, while Southern has contracted to purchase Texasgulf, Inc.'s 34 percent.

It is submitted that the proposed facilities would be owned 66 percent by Transco and 34 percent by Southern. It is further submitted that Transco would construct such facilities and operate them on behalf of both parties.

The cost of the proposed facilities is estimated to be $6,701,400 which would be financed initially with revolving credit arrangements, short-term loans or funds on hand, with permanent financing to be undertaken as part of Applicants' respective overall long-term financing programs at later dates.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 7, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Natual Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16502 Filed 6-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-347-000]

Trunkline Gas Co. and Michigan Wisconsin Pipe Line Co.; Application

June 16, 1982.

Take notice that on May 26, 1982, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, and Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP82-347-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline facilities necessary to connect gas to be purchased from certain producers in the High Island Area, offshore Texas.

Applicant proposes herein to construct and operate approximately 5.2 miles of 8-inch pipeline and appurtenant facilities. The proposed 8-inch pipeline would originate at a side tap on the west leg of High Island Offshore System's pipeline facilities in High Island Block A-526, offshore Texas, and would extend to the producer platform in High Island Block A-542. Applicants estimate that approximately 12,800,000 Mcf of natural gas reserves would be available from High Island Block A-542 for delivery through the proposed facilities. Total deliverability from such area would be, it is asserted, approximately 15,000 Mcf of natural gas per day.

It is asserted that because the cost, ownership, and capacity entitlement of the proposed facilities would be based on the relative ownership interests of the Applicant's dedicated gas supplies, Trunkline would own 81.25 percent and Michigan Wisconsin would own the remaining 18.75 percent of said lateral and appurtenant facilities.

Applicants estimate that the total cost of the proposed facilities would be $3,992,000 which cost would be financed initially with funds on hand, borrowings under revolving credit arrangements or short-term financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 7, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upn the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16600 Filed 6-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-335-000]

United Gas Pipe Line Co.; Application

June 10, 1982.

Take notice that on May 19, 1982 United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP82-335-000 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(c) of the Regulations thereunder (18 CFR 157.7(c)) for a certificate of Public convenience and necessity authorizing the construction, during a given 12-month period, and operation of facilities to make miscellaneous rearrangements on its system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in making miscellaneous rearrangements which would not result in any material change in the service presently rendered by Applicant.

Applicant estimates that the cost of the proposed facilities would not exceed $300,000, which cost would be financed from funds on hand.

Any person, desiring to be heard or to make any protest with reference to said application should on or before July 7, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 of 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participants as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16594 Filed 6-17-82; 8:45 am]

BILLING CODE 6717-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: June 14, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
MONTANA BOARD OF OIL & GAS CONSERVATION									
-D A S RESOURCE VENTURES INC				RECEIVED:	05/13/82	JA: MT			
8232469	5-81-88	2518121818		102-2		BENJAMIN #1 SW NE SW 21 T31N R2E	NOT DESIGNATED	116.8	MONTANA POWER CO
8232471	5-81-86	2510121959		102-2		BENJAMIN 1-31 SW NE NE 31 T31N R2E	NOT DESIGNATED	29.2	MONTANA POWER CO
8232467	5-81-90	2510121935		102-2		BENJAMIN 6-28 C SE NW 28 T31N R2E	NOT DESIGNATED	87.6	MONTANA POWER CO
8232472	5-81-91	2510121912		102-2		FOSSUM 10-8 NE NW SE 8 35N 1E	WILDCAT	55.0	MONTANA POWER CO
8232468	5-81-89	2510121853		102-2		STATE 3-29 SW NE SW 29 T31N R2E	NOT DESIGNATED	58.4	MONTANA POWER CO
-SHELL OIL CO				RECEIVED:	05/13/82	JA: MT			
8232470	6-81-103	2508321456		102-2		FIRST NATIONAL BANK 14-28	EAGLE	42.0	MONTANA DAKOTA UT
8232464	6-81-105	2508321423		102-4		HOLLY SUGAR 31-34	MONDAK WEST	5.0	MONTANA DAKOTA UT
8232459	5-81-84	2502521159		103		UNIT 13X-28B	PENNEL	1.0	MONTANA DAKOTA UT
8232465	6-81-104	2502521161		103		UNIT 21XA-20	CABIN CREEK	10.5	MONTANA DAKOTA UT
-TRICENTROL UNITED STATES INC				RECEIVED:	05/13/82	JA: MT			
8232466	5-81-92	2504121801		108-SA		HERRON 533-13-T31N-R15E	TIGER RIDGE	6.0	NORTHERN NATURAL
-WESTERN NATURAL GAS COMPANY				RECEIVED:	05/13/82	JA: MT			
8232463	5-81-97	2504122062		103		KAFKA 10-14 T32N R14E SEC 14	TIGER RIDGE	12.0	NORTHERN NATURAL
8232461	5-81-95	2504122178		103		MALSAM 1-30 T33N R14E SEC 30	FRESNO	20.0	NORTHERN NATURAL
8232462	5-81-94	2504122177		103		ORDWAY 1-25 T33N R13E SEC 25	FRESNO	12.0	NORTHERN NATURAL
8232460	5-81-96	2504122169		103		PHILLIPS 1-14 T32N R14E SEC 14	TIGER RIDGE	50.0	NORTHERN NATURAL
NEBRASKA OIL & GAS CONSERVATION COMMISSION									
-MARATHON OIL COMPANY				RECEIVED:	05/13/82	JA: NB			
8232458		2603322102		103		CRUISE "A" #11	HUNTSMAN	6.0	KANSAS NEBRASKA N
OHIO DEPARTMENT OF NATURAL RESOURCES									
-ALTHEIRS OIL INC				RECEIVED:	05/24/82	JA: OH			
8234083		3412725540		103		D BARTOW #1	SALT LICK	15.0	
8234082		3412725484		103		RODGERS HEIRS/ALTHEIRS OIL #1A	MONROE TOWNSHIP	6.0	
-AMERICAN PETROEL INC				RECEIVED:	05/24/82	JA: OH			
8234084		3416726437		107-DV		WILLIAM W WEHR #1	NEWPORT	19.8	
-AUSTIN DEVELOPMENT CO				RECEIVED:	05/24/82	JA: OH			
8234099A		3407523396		103		HAWKINS #1	RICHLAND	50.0	COLUMBIA GAS TRAN
8234099B		3407523396	D	107-TF		HAWKINS #1	RICHLAND	50.0	COLUMBIA GAS TRAN
8234098A		3403124209		103		SIMMONS #5	TIVERTON	50.0	COLUMBIA GAS TRAN
8234098B		3403124209	D	107-TF		SIMMONS #5	TIVERTON	50.0	COLUMBIA GAS TRAN
-BELDEN & BLAKE & CO #79				RECEIVED:	05/24/82	JA: OH			
8234103		3416120114		103		BEATRICE BOWERS - 2-341145	CONVOY	36.5	
8234104		3416120115		103		KALM INC - 1-341156	CONVOY	36.5	
8234102		3416120113		103		KENNETH THORNELL - 1-341143	CONVOY	36.5	
8234101		3416120112		103		RUTH L FAUST - 1-341139	CONVOY	36.5	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-BELDEN & BLAKE & CO L P NO 76				RECEIVED: 05/24/82		JA: OH			
8234100		3415320906		103	107-TF	W & C LAUGHLIN #1-1017	BATH	36.5	COLUMBIA GAS TRAN
-BRIDGE OIL DEVL (QUILD) PTY LTD				RECEIVED: 05/24/82		JA: OH			
8234105		3416923248		107-DV		L MARTY #3	RITTMAN	27.0	COLUMBIA GAS TRAN
-BROWN PETROLEUM CORP				RECEIVED: 05/24/82		JA: OH			
8234108		3411926004		103	107-TF	KILPATRICK #5	LICKING	250.0	COLUMBIA GAS TRAN
8234109		3411926006		103	107-TF	KILPATRICK #7	LICKING	250.0	COLUMBIA GAS TRAN
8234110		3411926007		103	107-TF	KILPATRICK #8	LICKING	250.0	COLUMBIA GAS TRAN
8234107		3407522658		103	107-TF	MARTIN #3	KILLBUCK	10.0	EAST OHIO GAS
8234106		3403124696		103	107-TF	ROSS #1B	BEDFORD	500.0	COLUMBIA GAS TRAN
-CLAY COUNTY PRODUCTION CO INC				RECEIVED: 05/24/82		JA: OH			
8234111		3412724568	D	108		GRACE BARNES #1		18.3	COLUMBIA GAS TRAN
-CLINTON OIL CO				RECEIVED: 05/24/82		JA: OH			
8234112		3408924405		103		AL LIPFERT #4-637	GRATIOT	18.8	
-CLOVER OIL CO				RECEIVED: 05/24/82		JA: OH			
8234113		3410322504		103	107-TF	F SCHRITZ #1	SPENCER	0.0	
-CUYAHOGA EXPLORATION & DEVELOPMENT				RECEIVED: 05/24/82		JA: OH			
8234114		3411122630		103		MARY DECKER #2	GRAYSVILLE	5.5	
-DART OIL COMPANY				RECEIVED: 05/24/82		JA: OH			
8234115		3415721306		108		JAMES & JAMES NO 1		5.4	BUCKEYE-FRANKLIN
-DERBY OIL & GAS CORP				RECEIVED: 05/24/82		JA: OH			
8234116		3411926216		103	107-TF	CHRISTOPHER WOODS #1	HOPEWELL	12.0	COLUMBIA GAS TRAN
-DOLPHA ANDERSON				RECEIVED: 05/24/82		JA: OH			
8234094		3416723547		108		BARDOS #1	FLEMING	5.0	GAS TRANSPORT INC
8234096		3416724223		108		COLE #2	FLEMING	1.3	GAS TRANSPORT INC
8234095		3416723623		108		DEMING #1	WATERTOWN	0.5	GAS TRANSPORT INC
8234090		3416722740		108		HAROLD NELSON #1	WATERTOWN	1.1	GAS TRANSPORT INC
8234091		3416723292		108		HUCK #1	WATERTOWN	1.8	GAS TRANSPORT INC
8234088		3416722667		108		JAMES WOODRUFF #1	WATERTOWN	1.7	GAS TRANSPORT INC
8234085		3416720647		108		MARVIN HANGER #3	WATERTOWN	6.3	GAS TRANSPORT INC
8234097		3416725263		108		MAST #2	WATERTOWN	3.1	GAS TRANSPORT INC
8234087		3416722630		108		MC DOUGLE #1	WATERTOWN	3.2	GAS TRANSPORT INC
8234092		3416723525		108		MORGAN #1	FLEMING	1.8	GAS TRANSPORT INC
8234093		3416723535		108		RIGGENBACH #1	FLEMING	1.2	GAS TRANSPORT INC
8234089		3416722702		108		SANFORD #1	WATERTOWN	3.5	GAS TRANSPORT INC
8234086		3416722570		108		W C HANGER #2	WATERTOWN	3.2	GAS TRANSPORT INC
-DOME DRILLING CO				RECEIVED: 05/24/82		JA: OH			
8234117		3403521144		107-TF		SHADY-SPRAGUE MAURER #2	OLMSTED	29.2	COLUMBIA GAS TRAN
-EDCO DRILLING & PRODUCING INC				RECEIVED: 05/24/82		JA: OH			
8234118		3403124529		103	107-TF	HART WB-1A	BETHLEHEM	18.0	
-ENNEY OILFIELD RENTAL CO				RECEIVED: 05/24/82		JA: OH			
8234119		3415721241		108		WHEELEY-LORENZ UNIT #1	SECTION 17 - JEFFERSO	8.9	EAST OHIO GAS CO
-GASEARCH INC				RECEIVED: 05/24/82		JA: OH			
8234128		3415522107		103	107-TF	NATIONAL NORTHERN INC #1	LIBERTY	20.0	AMERICAN ENERGY S
-GEO ENERGY INC				RECEIVED: 05/24/82		JA: OH			
8234121		3411925700		103	107-TF	WILLIAM COWDEN #21-1A	MONROE	8.5	
-HOPEWELL OIL AND GAS DEVELOPMENT CO				RECEIVED: 05/24/82		JA: OH			
8234143		3411924838		107-RT		A MARSH #1	WASHINGTON	5.0	COLUMBIA GAS TRAN
8234126		3411121135		107-DV		ALFRED DOUGHERTY #1	FRANKLIN	12.0	COLUMBIA GAS TRAN
8234122		3408923979		103	107-TF	DANIEL V VAN ALLEN #1	PERRY	8.5	COLUMBIA GAS TRAN
8234134		3411122128		107-DV		DAVID BLACKSTONE #1	SENECA	12.0	COLUMBIA GAS TRAN
8234127		3411121943		107-DV		EARL ANDERSON #1	SUMMIT	10.0	COLUMBIA GAS TRAN
8234130		3411121948		107-DV		FLOYD DEEBOW #1	WAYNE	12.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8234137		3411122252		107-DV		HARLEY PRATT #1	SUMMIT	12.0	COLUMBIA GAS TRAN
8234142		3411122280		107-DV		HARRY FOWLER ETAL #1	SENECA	1.0	COLUMBIA GAS TRAN
8234135		3411122136		107-DV		J BAKER #2	FRANKLIN	27.0	COLUMBIA GAS TRAN
8234133		3411121958		107-DV		JAMES BAKER #1	SUMMIT	1.0	COLUMBIA GAS TRAN
8234139		3411122271		107-DV		JERRY & BECKY HUFFMAN	SENECA	12.0	COLUMBIA GAS TRAN
8234129		3411121947		107-DV		JOHN DAVIS #1	WAYNE	10.0	COLUMBIA GAS TRAN
8234136		3411122248		107-DV		KILZER #1	BETHEL	9.0	COLUMBIA GAS TRAN
8234132		3411121957		107-DV		KUHN #2	SENECA	1.0	COLUMBIA GAS TRAN
8234125		3411121934		107-DV		MANSEL C HINES #1	FRANKLIN	12.0	COLUMBIA GAS TRAN
8234144		3412122552		107-DV		MARY CIBRA #1	STOCK	12.0	COLUMBIA GAS TRAN
8234123		3411121929		107-DV		R WILHELM #1	FRANKLIN	1.0	COLUMBIA GAS TRAN
8234131		3411121755		107-DV		RAYMOND BETZ #1	SUMMIT	10.0	COLUMBIA GAS TRAN
8234124		3411121931		107-DV		RICHARD ROUCH #1	WAYNE	0.5	COLUMBIA GAS TRAN
8234138		3411122260		107-DV		ROY A RING #1	SUMMIT	10.0	COLUMBIA GAS TRAN
8234128		3411121945		107-DV		THOMAS ANDEARS #1	WAYNE	12.0	COLUMBIA GAS TRAN
8234141		3411122278		107-DV		TONKOVICH #1	SENECA	10.0	COLUMBIA GAS TRAN
8234140		3411122272		107-DV		W LUMBATES #1	SUMMIT	15.0	COLUMBIA GAS TRAN
-J D DRILLING CO				RECEIVED: 05/24/82 JA: OH					
8234145		3410522339		103		ARNOLD WEBSTER #1	POMEROY	4.0	COLUMBIA GAS TRAN
8234146		3410522340		103		ARNOLD-WEBSTER #2	POMEROY	7.0	COLUMBIA GAS TRAN
-JOHN F WILLIAMS				RECEIVED: 05/24/82 JA: OH					
8234288		3407521353		108		MILLER #1		10.0	COLUMBIA GAS TRAN
-K S T OIL & GAS CO INC				RECEIVED: 05/24/82 JA: OH					
8234147		3415320919		103	107-TF	DEVAN VALE ACRES INC #1	NORTHAMPTON	8.0	
-KENOIL				RECEIVED: 05/24/82 JA: OH					
8234150		3416921929		108		CARLOS SHUY #1		5.0	COLUMBIA GAS TRAN
8234153		3416921972		108		HOWARD GRABER #1		2.5	COLUMBIA GAS TRAN
8234154		3416921982		108		LESLIE SMELLER #1		2.5	COLUMBIA GAS TRAN
8234149		3416921901		108		MADGE FETZER #1		3.0	COLUMBIA GAS TRAN
8234152		3416921947		108		MILDRED GOEMBEL #1		3.0	COLUMBIA GAS TRAN
8234151		3416921898		108		RICHARD REAM #1		6.0	COLUMBIA GAS TRAN
8234148		3416921881		108		ROY BLOUGH #1		4.0	COLUMBIA GAS TRAN
-KING DRILLING CO				RECEIVED: 05/24/82 JA: OH					
8234155		3410322957		107-TF		RALPH COOK #1	SEVILLE	10.0	COLUMBIA GAS TRAN
-L & M PETROLEUM INC				RECEIVED: 05/24/82 JA: OH					
8234156		3412725089		107-TF		CLAY VAN ALLEN #1	DEAVERTOWN	10.0	COLUMBIA GAS TRAN
-LAKE REGION OIL INC				RECEIVED: 05/24/82 JA: OH					
8234157		3407523654		103	107-TF	BEN COBLENTZ #1	BERLIN	10.0	COLUMBIA GAS TRAN
-LARRY M WRIGHT INC				RECEIVED: 05/24/82 JA: OH					
8234289		3400922095		108		LOWE #1		3.0	COLUMBIA GAS TRAN
-LAUDERMAN OIL & GAS DRILLING				RECEIVED: 05/24/82 JA: OH					
8234159		3416725479		103		GLENNA BUCHANAN #1	BARLOW	7.3	COLUMBIA GAS TRAN
8234158		3416724733		103		KOON #1	ROBERT KOON	4.8	COLUMBIA GAS TRAN
-LEADER EQUITIES INC				RECEIVED: 05/24/82 JA: OH					
8234160		3411926154		103	107-TF	DINGESS #4	CASS	14.0	
-M B OPERATING CO INC				RECEIVED: 05/24/82 JA: OH					
8234161		3415123457		103	107-TF	BROOKSIDE FARMS #1	CANTON EAST	14.6	
-MARAM ENERGY COO				RECEIVED: 05/24/82 JA: OH					
8234162		3408322636		108		TEMPLE #1		0.3	COLUMBIA GAS TRAN
-MORELAND OIL & GAS				RECEIVED: 05/24/82 JA: OH					
8234163		3405922762		107-TF		LEONARD CAROTHERS #1	KIMBOLTON	15.0	EAST OHIO GAS CO
-NOBLE OIL CORP				RECEIVED: 05/24/82 JA: OH					
8234222		3413322814		107-TF		BAKER #2	PALMYRA	20.0	GENERAL ELECTRIC

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8234164		3413320514		107-TF		BALLAS #2	EDINBURG	20.0	GENERAL ELECTRIC
8234198		3413322168		107-TF		BALLAS #3	EDINBURG	20.0	GENERAL ELECTRIC
8234184		3413322126		107-TF		BALLAS-COLEMAN #1	EDINBURG	20.0	GENERAL ELECTRIC
8234183		3413322125		107-TF		BALLAS-COLEMAN #2	EDINBURG	20.0	GENERAL ELECTRIC
8234206		3413322376		107-TF		BEDNAR #2	PALMYRA	20.0	GENERAL ELECTRIC
8234179		3413322061		107-TF		CANTER #1	EDINBURG	20.0	GENERAL ELECTRIC
8234180		3413322062		107-TF		CANTER #2	EDINBURG	20.0	GENERAL ELECTRIC
8234185		3413322128		107-TF		COY #1	EDINBURG	20.0	GENERAL ELECTRIC
8234182		3413322124		107-TF		COY UNIT #2	EDINBURG	20.0	GENERAL ELECTRIC
8234220		3413322723		107-TF		DAVIS #2	PALMYRA	20.0	GENERAL ELECTRIC
8234188		3413322131		107-TF		E VILLERS #1	EDINBURG	20.0	GENERAL ELECTRIC
8234187		3413322130		107-TF		E VILLERS #2	EDINBURG	20.0	GENERAL ELECTRIC
8234175		3413322004		107-TF		FEDORCHAK #1	EDINBURG	20.0	GENERAL ELECTRIC
8234176		3413322005		107-TF		FEDORCHAK #2	EDINBURG	20.0	GENERAL ELECTRIC
8234170		3413321968		107-TF		FOSTER #2	EDINBURG	20.0	GENERAL ELECTRIC
8234165		3413321109		107-TF		GOURLEY-ELLIOTT #1	EDINBURG	20.0	GENERAL ELECTRIC
8234166		3413321110		107-TF		GOURLEY-ELLIOTT UNIT #2	RAVENNA	20.0	GENERAL ELECTRIC
8234205		3413322347		107-TF		HANNA HILLS #4	RAVENNA	20.0	GENERAL ELECTRIC
8234186		3413322129		107-TF		HARGETT #1	EDINBURG	20.0	GENERAL ELECTRIC
8234203		3413322291		107-TF		HUTCHINSON UNIT #1	EDINBURG	20.0	GENERAL ELECTRIC
8234204		3413322292		107-TF		HUTCHISON UNIT #2	EDINBURG	20.0	GENERAL ELECTRIC
8234201		3413322280		107-TF		KAINRAD #1	PALMYRA	20.0	GENERAL ELECTRIC
8234194		3413322150		107-TF		KING #1	PALMYRA	20.0	GENERAL ELECTRIC
8234171		3413321971		107-TF		KUHN #1	EDINBURG	20.0	GENERAL ELECTRIC
8234199		3413322171		107-TF		MANN-VILLERS #1	PALMYRA	20.0	GENERAL ELECTRIC
8234214		3413322588		107-TF		MICHAEL-CLIMES #1	RAVENNA	20.0	GENERAL ELECTRIC
8234221		3413322769		107-TF		PARIS RESORTS #2	PARIS	20.0	GENERAL ELECTRIC
8234173		3413321973		107-TF		PATTON #1	EDINBURG	20.0	GENERAL ELECTRIC
8234172		3413321972		107-TF		PATTON #2	EDINBURG	20.0	GENERAL ELECTRIC
8234223		3413322831		107-TF		PATTON #6	EDINBURG	20.0	GENERAL ELECTRIC
8234209		3413322380		107-TF		PATTON #7	EDINBURG	20.0	GENERAL ELECTRIC
8234200		3413322271		107-TF		PETRY-GOTTSCHALK #2	EDINBURG	20.0	GENERAL ELECTRIC
8234196		3413322152		107-TF		POTESTA #1	PALMYRA	20.0	GENERAL ELECTRIC
8234195		3413322151		107-TF		POTESTA #2	PALMYRA	20.0	GENERAL ELECTRIC
8234197		3413322153		107-TF		POTESTA #3	PALMYRA	20.0	GENERAL ELECTRIC
8234207		3413322377		107-TF		REAGAN #1	PALMYRA	20.0	GENERAL ELECTRIC
8234208		3413322378		107-TF		REAGAN #2	PALMYRA	20.0	GENERAL ELECTRIC
8234213		3413322532		107-TF		REAGAN TRUCK SERVICES #1	PALMYRA	20.0	GENERAL ELECTRIC
8234217		3413322624		107-TF		ROOSA #2	PALMYRA	20.0	GENERAL ELECTRIC
8234193		3413322149		107-TF		RUGGLES #1	PALMYRA	20.0	GENERAL ELECTRIC
8234168		3413321956		107-TF		SAFFELS #1	EDINBURG	20.0	GENERAL ELECTRIC
8234169		3413321957		107-TF		SAFFELS #2	EDINBURG	20.0	GENERAL ELECTRIC
8234192		3413322145		107-TF		SONDEREKER #1	EDINBURG	20.0	GENERAL ELECTRIC
8234190		3413322143		107-TF		SONDEREKER #2	EDINBURG	20.0	GENERAL ELECTRIC
8234191		3413322144		107-TF		SONDEREKER #3	EDINBURG	20.0	GENERAL ELECTRIC
8234181		3413322063		107-TF		STATE-HARGETT #1	EDINBURG	20.0	GENERAL ELECTRIC
8234218		3413322636		107-TF		STEAGALL #2	PALMYRA	20.0	GENERAL ELECTRIC
8234216		3413322606		107-TF		STEGH-BROWN #3	PORTAGE	20.0	GENERAL ELECTRIC
8234215		3413322605		107-TF		STEGH-BROWN #4	EDINBURG	20.0	GENERAL ELECTRIC
8234202		3413322283		107-TF		THOMAS-NOVAK UNIT #1	EDINBURG	20.0	GENERAL ELECTRIC
8234224		3415521663		107-TF		VIETS #2	SOUTHINGTON	20.0	COLUMBIA GAS TRAN
8234178		3413322046		107-TF		VOGEL #1	EDINBURG	20.0	GENERAL ELECTRIC
8234177		3413322044		107-TF		VOGEL #2	EDINBURG	20.0	GENERAL ELECTRIC

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8234211		3413322417		107-TF		VOGEL #3	EDINBURG	20.0	GENERAL ELECTRIC
8234210		3413322415		107-TF		VOGEL #4	EDINBURG	20.0	GENERAL ELECTRIC
8234212		3413322419		107-TF		VOGEL #5	EDINBURG	20.0	GENERAL ELECTRIC
8234189		3413322132		107-TF		WASS #1	EDINBURG	20.0	GENERAL ELECTRIC
8234219		3413322709		107-TF		WEISEL #1	PALMYRA	20.0	GENERAL ELECTRIC
8234174		3413321974		107-TF		WILLEY #1	EDINBURG	20.0	GENERAL ELECTRIC
8234167		3413321955		107-TF		YAROLYN #1	EDINBURG	20.0	GENERAL ELECTRIC
-OXFORD OIL CO		RECEIVED: 05/24/82 JA: OH							
8234225		3407523255		103		CLIFFORD FISHER #1	GLENMONT	11.0	
8234226		3411924271		107-RT		ROBERT CHANEY #4	PERRY	10.0	COLUMBIA GAS TRAN
-POI ENERGY INC		RECEIVED: 05/24/82 JA: OH						10.5	
8234233		3415320613		108		BEDELL #1			
8234227		3407523667		103		CROSKEY #2	RICHLAND	5.0	COLUMBIA GAS TRAN
8234230		3413322718		103	107-TF	HUFFMAN #1	AURORA	36.0	
8234231		3413322719		103	107-TF	HUFFMAN #2	AURORA	35.0	
8234232		3413322720		103	107-TF	HUFFMAN #3	AURORA	35.0	
8234228		3407523679		103		LONDON #2	RICHLAND	15.0	COLUMBIA GAS TRAN
8234229		3413322710		103	107-TF	SCHEFFEL #2	STREETSBORO	32.0	
-RIMCO OPERATING INC		RECEIVED: 05/24/82 JA: OH							
8234238		3416922441		103	107-TF	B HARTMAN #1	CHESTER	12.0	COLUMBIA GAS TRAN
8234244		3416922714		103	107-TF	B HARTMAN #2	CHESTER	12.0	COLUMBIA GAS TRAN
8234241		3416922459		107-TF		CHANCE #1	PLAIN	12.0	COLUMBIA GAS TRAN
8234237		3416922419		103	107-TF	HINES #1	CHESTER	12.0	COLUMBIA GAS TRAN
8234239		3416922442		103	107-TF	HOWMAN #1	CHESTER	12.0	COLUMBIA GAS TRAN
8234236		3416922410		107-TF		MANN #1	FRANKLIN	12.0	COLUMBIA GAS TRAN
8234235		3416922408		103	107-TF	MYKRANTZ #2	PLAIN	12.0	COLUMBIA GAS TRAN
8234242		3416922681		103	107-TF	SHRIVER #3	CLINTON	12.0	COLUMBIA GAS TRAN
8234240		3416922445		103	107-TF	SPRING LAKE #1	WAYNE	12.0	COLUMBIA GAS TRAN
8234243		3416922683		103	107-TF	WELLS #3	CLINTON	12.0	COLUMBIA GAS TRAN
8234234		3416922260		103	107-TF	ZIMMERMAN #3	WAYNE	12.0	COLUMBIA GAS TRAN
-RIVERLAND-KRABILL #7		RECEIVED: 05/24/82 JA: OH							
8234246		3416921995		107-RT		R & H KRABILL #1	CANAAN-WAYNE POOL	16.0	COLUMBIA GAS TRAN
-RIVERLAND-KRABILL #8		RECEIVED: 05/24/82 JA: OH							
8234246		3416922113		107-RT		R & H KRABILL #1	CANAAN - WAYNE POOL	0.0	COLUMBIA GAS TRAN
-ROVI RESOURCES CORP		RECEIVED: 05/24/82 JA: OH							
8234264		3411522048	D	108		C DAILEY #2		9.0	TENNESSEE GAS PIP
8234263		3411522047	D	108		C DAILEY #3		9.0	TENNESSEE GAS PIP
8234265		3411522049	D	108		C DAILEY #4		9.0	TENNESSEE GAS PIP
8234262		3411522044	D	108		CORY #1		9.0	TENNESSEE GAS PIP
8234261		3411522043	D	108		CORY #2		9.0	TENNESSEE GAS PIP
8234258		3411521932	D	108		L & M HANSON #1		9.0	TENNESSEE GAS PIP
8234256		3411521930	D	108		L & M HANSON #2		9.0	TENNESSEE GAS PIP
8234255		3411521929	D	108		L & M HANSON #3		9.0	TENNESSEE GAS PIP
8234254		3411521928	D	108		L & M HANSON #4		9.0	TENNESSEE GAS PIP
8234257		3411521931	D	108		L & M HANSON #5		9.0	TENNESSEE GAS PIP
8234249		3411521800	D	108		L KNOX #1		9.0	TENNESSEE GAS PIP
8234252		3411521811	D	108		NEEDHAM #1		9.0	TENNESSEE GAS PIP
8234253		3411521812	D	108		NEEDHAM #2		9.0	TENNESSEE GAS PIP
8234259		3411521938	D	108		NEEDHAM #3		9.0	TENNESSEE GAS PIP
8234260		3411521939	D	108		NEEDHAM #4		9.0	TENNESSEE GAS PIP
8234247		3411521799	D	108		R ALLEN #1		9.0	TENNESSEE GAS PIP
8234248		3411521798	D	108		R ALLEN #2		9.0	TENNESSEE GAS PIP
8234250		3411521808	D	108		R ALLEN #3		9.0	TENNESSEE GAS PIP

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8234251		3411521809	D	108		R ALLEN #4		9.0	TENNESSEE GAS PIP
-ROYAL LEVERAGED LTD 81-I				RECEIVED:	05/24/82	JA: OH			
8234266		3410522259		103		CAMPBELL-MASSAR #1	POMEROY	5.0	COLUMBIA GAS TRAN
8234267		3410522260		103		CAMPBELL-MASSAR #2	BEDFORD	5.0	COLUMBIA GAS TRAN
8234268		3410522261		103		CAMPBELL-MASSAR #3	BEDFORD	5.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM '81 - II				RECEIVED:	05/24/82	JA: OH			
8234270		3410522285		103		R MOORE #1	BEDFORD	5.0	COLUMBIA GAS TRAN
8234271		3410522286		103		R MOORE #2	BEDFORD	5.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 81-III LTD				RECEIVED:	05/24/82	JA: OH			
8234269		3405320709		103		HALLIDAY-SHEETS #7	CHESHIRE	5.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 81-IV LTD				RECEIVED:	05/24/82	JA: OH			
8234272		3410522306		103		GAUL-CARMAN-CARMAN #1	SALISBURY	5.0	COLUMBIA GAS TRAN
8234273		3410522307		103		GAUL-CARMAN-CARMAN #1A	POMEROX	5.0	COLUMBIA GAS TRAN
8234274		3410522308		103		GAUL-CARMAN-CARMAN #2	SALISBURY	5.0	COLUMBIA GAS TRAN
8234275		3410522309		103		GAUL-CARMAN-CARMAN #3	SALISBURY	5.0	COLUMBIA GAS TRAN
-RUSSELL E SNIDER				RECEIVED:	05/24/82	JA: OH			
8234280		3412725554		103		JAMES SATTERFIELD - #2	SOMERSET	4.0	NATIONAL GAS & OI
-RYDER RESOURCES INC				RECEIVED:	05/24/82	JA: OH			
8234276		3416726093		103		HUCK #1	CATS CREEK ALLOTMENT	4.0	
-SANDHILL ENERGY INC (OH)				RECEIVED:	05/24/82	JA: OH			
8234277		3416726396		103		LLOYD MILLER #2B	SALEM	21.9	
-SANTA FE DRILLING CO INC				RECEIVED:	05/24/82	JA: OH			
8234278		3416726408		107-DV		FRANK MC ALARNEY #2	SALEM	50.0	
8234279		3416726357		107-DV		ROBERT AND DORIS BROWN #1	SALEM	50.0	
-TIGER OIL INC				RECEIVED:	05/24/82	JA: OH			
8234281		3412122801		107-DV		SCHOEPPNER-SCHRAMM #1	ELK	2218.1	COLUMBIA GAS TRAN
-VESCORP INDUSTRIES INC				RECEIVED:	05/24/82	JA: OH			
8234282		3413320701		108		ALEXANDER G #1		15.0	TINKEN CO
-VIKING RESOURCES CORP				RECEIVED:	05/24/82	JA: OH			
8234284		3413320994		108		G DICKEY #2		8.0	EAST OHIO GAS CO
8234283		3413320993		108		G DICKEY #3		8.0	EAST OHIO GAS CO
8234287		3413321216		108		R WELLING #1		5.0	EAST OHIO GAS CO
8234285		3413321001		108		SMITH/DICKEY UNIT #1		6.0	EAST OHIO GAS CO
8234286		3413321208		108		WELLING UNIT #1		7.0	EAST OHIO GAS CO
-ZENITH OIL & GAS INC				RECEIVED:	05/24/82	JA: OH			
8234290		3411925816		103		BASIL & DOROTHY NORRIS JR #1	HOPEWELL	2.0	NATIONAL GAS & OI
**********									
WEST VIRGINIA DEPARTMENT OF MINES									
**********									
-ALLEGHENY LAND & MINERAL COMPANY				RECEIVED:	05/13/82	JA: WV			
8232474		4708308459		123		A - 1021	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
8232475		4704103064		103		A- 1025	SKIN CREEK DISTRICT	0.0	CONSOLIDATED GAS
8232476		4704103116		103		A- 1054	FREEMANS CREEK DISTRI	0.0	CONSOLIDATED GAS
8232477		4702103762		103		A- 943	CENTER DISTRICT	0.0	CONSOLIDATED GAS
-L & M PETROLEUM INC				RECEIVED:	05/13/82	JA: WV			
8232473		4707321076		107-DV		J FRANKLIN CARPENTER #6	WASHINGTON	11.8	COLUMBIA GAS TRAN

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16605 Filed 6-17-82; 8:45 am]

BILLING CODE 6717-01-C

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: June 14, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
ALABAMA OIL & GAS BOARD									
-BISHOP PETROLEUM INC				RECEIVED:	05/24/82	JA: AL			
8234297	5-14-823PD	0105320158		107-DP		ST REGIS PAPER CO #35-1	FANNY CHURCH	190.0	FLORIDA GAS TRANS
-BROWNING & WELCH				RECEIVED:	05/24/82	JA: AL			
8234295	4-16-8214-PD	0105720270		102-A		EDNA M BRANYON 5-4 #1	MCCRACKEN MOUNTAIN	298.6	CORONADO TRANSMIS
-CARLESS RESOURCES INC				RECEIVED:	05/24/82	JA: AL			
8234296	5-14-822PD	0112520072		102-2		J R TIERCE 12-3	LEXINGTON	0.0	SOUTHERN NATURAL
-EXXON CORPORATION				RECEIVED:	05/24/82	JA: AL			
8234294	4-16-8210PD	0105320161		107-DP		SCOTT PAPER CO G U 2-7 #1	FLOMATON	886.0	FLORIDA GAS TRANS
-GRACE PETROLEUM CORPORATION				RECEIVED:	05/24/82	JA: AL			
8234293	4-16-824PD	0105720179		102-4		GRIMSLEY 34-15	NORTHEAST DAVIS CHAPE	0.0	TENNESSEE GAS PIP
8234292	3-5-8214PD	0105720260		102-4		HUBBERT 30-10	NORTH FAYETTE	0.0	CORONADO TRANSMIS
-SOUTHLAND ROYALTY CO				RECEIVED:	05/24/82	JA: AL			
8234291	10-3-805PD	0107520261		102-2		A A CHANDLER 2-6 #1	STAR	95.0	TENNESSEE GAS PIP
LOUISIANA OFFICE OF CONSERVATION									
-ACADIANA RESERVES INC				RECEIVED:	05/21/82	JA: LA			
8234405	81-2830	1705320667		103		H B TICTJC #1	CHINA	0.0	
-AMOCO PRODUCTION CO				RECEIVED:	05/21/82	JA: LA			
8234386	82-0262	1711920274		103		INT'L PAPER CO A #2 SMK B RB SUD	NORTH SHONGALOO - RED	375.0	TEXAS GAS TRANSMI
-BAYLES & WHITE				RECEIVED:	05/21/82	JA: LA			
8234366	81-2987	1711123157		108		MT ARARAT #1	MONROE GAS	4.0	MID LOUISIANA GAS
-CHEVRON U S A INC				RECEIVED:	05/21/82	JA: LA			
8234360	82-0623	1720020164		103		S L 6698 #1	WEST CAMERON BLOCK #1	365.0	LOUISIANA RESOURC
-D B BRADDOCK				RECEIVED:	05/21/82	JA: LA			
8234391	81-2783	1703121451		103		USA #1 SERIAL 172278	GROGAN	180.0	TENNESSEE GAS PIP
-DESPOT EXPLORATION INC				RECEIVED:	05/21/82	JA: LA			
8234383	82-1581	1702300008		102-4		BOUDOIN #2	EAST CHENIER PERDUE	274.0	LOUISIANA INTRAST
-DON WHITE				RECEIVED:	05/21/82	JA: LA			
8234371	81-2981	1708320497		108		L E JOHNSTON #2	RICHLAND	11.1	MID LOUISIANA GAS
-ERGON INC				RECEIVED:	05/21/82	JA: LA			
8234357	81-2994	1711123326		103		CLARA SAVAGE #2	MONROE (6824)	11.8	TEXAS GAS TRANSMI
8234373	81-2995	1711123354		103		L B KING #2	MONROE (6824)	14.9	TEXAS GAS TRANSMI
-EXXON CORPORATION				RECEIVED:	05/21/82	JA: LA			
8234355	81-2771	1704520683		103		PETIT ANSE CO #61 AI UL-2 RA SU	AVERY ISLAND	100.0	COLUMBIA GAS TRAN
-FIFTY-THIRD CORP				RECEIVED:	05/21/82	JA: LA			
8234406	81-2952	1711102155		108		DUMAS #1	MONROE	1.0	IMC PIPELINE CO I
8234407	81-2950	1707321005		108		WILLIAMS #2	MONROE	4.0	IMC PIPELINE CO I
8234404	81-2949	1707321007		108		WILLIAMS #3	MONROE	4.0	IMC PIPELINE CO I
-GETTY OIL COMPANY				RECEIVED:	05/21/82	JA: LA			
8234375	81-2965	1703100000		108		PACE "A" #1 WAL PXY SU C	LOGANSPORT	11.0	TENNESSEE GAS PIP

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8234376	81-2966	1703100003		108		PACE "B" #1	LOGANSPORT	10.9	TENNESSEE GAS PIP
-GLENDA PETROLEUM CORP				RECEIVED:	05/21/82	JA: LA			
8234367	81-2988	1707321754		103		SHAVER A #1 S/N 175144	MONROE	14.0	UNITED GAS PIPELI
8234368	81-2989	1707321755		103		SHAVER A #2 S/N 175145	MONROE	16.0	UNITED GAS PIPELI
8234369	81-2990	1707321756		103		SHAVER A #3 S/N 175146	MONROE	15.0	UNITED GAS PIPELI
8234356	81-2991	1707321757		103		SHAVER A #4 S/N 175147	MONROE	15.0	UNITED GAS PIPELI
-GUERNSEY PETROLEUM CORPORATION				RECEIVED:	05/21/82	JA: LA			
8234393	81-2793	1703121213		103		DILL #1	RED RIVER-BULL BAYOU	108.0	TEXAS EASTERN TRA
8234394	81-2794	1703121427		103		GEORGE FAIR #1	WILDCAT	54.0	TEXAS EASTERN TRA
8234370	81-2791	1703121286		103		LAFFITTE #1	WILDCAT	108.0	TEXAS EASTERN TRA
8234392	81-2792	1703121302		103		ROBERTSON #1	RED RIVER-BULL BAYOU	72.0	TEXAS EASTERN TRA
-GULF OIL CORPORATION				RECEIVED:	05/21/82	JA: LA			
8234399	81-2744	1707522282		103		SL 195 GG #279	QUARANTINE BAY	54.8	UNITED GAS PIPELI
8234398	81-2743	1707522478		103		SL 195 GG #285	QUARANTINE BAY	1.4	UNITED GAS & PIPE
8234397	81-2742	1707522478		103		SL 195 GG #285-D	QUARANTINE BAY	10.1	UNITED GAS PIPELI
-IMC EXPLORATION COMPANY				RECEIVED:	05/21/82	JA: LA			
8234408	81-2955	1707321273		108		COLE HEIRS A #16	MONROE	6.0	IMC PIPELINE CO I
8234361	81-2960	1707321720		108		COLE T #30	MONROE	11.0	IMC PIPELINE CO I
8234381	81-2959	1707321718		108		COLE T #31	MONROE	9.0	IMC PIPELINE CO I
8234380	81-2961	1707321721		108		COLE T #32	MONROE	8.0	IMC PIPELINE CO I
8234351	81-2958	1711123108		108		EXXON 31 #10	MONROE	17.0	IMC PIPELINE CO I
8234349	81-2957	1711123106		108		EXXON 31 #9	MONROE	17.0	IMC PIPELINE CO I
8234350	81-2956	1707321602		108		MYHRE #2	MONROE	10.0	UNITED GAS PIPELI
-KERR-MCGEE CORPORATION				RECEIVED:	05/21/82	JA: LA			
8234358	82-6614	1772623225		103		S L 2603 #59-D	BRETON SOUND BLOCK 20	190.0	SOUTHERN NATURAL
-KILROY CO OF TEXAS				RECEIVED:	05/21/82	JA: LA			
8234378	81-2968	1704923073		108		C Z CORP A #1 L HOSS RA SUA	CHATHAM	15.0	TENNESSEE GAS PIP
-MARSHALL EXPLORATION INC				RECEIVED:	05/21/82	JA: LA			
8234385	82-2812	1703120898		103		WALLACE #1 FEE RA SU 132	LOGANSPORT	60.0	TENNESSEE GAS PIP
-MAY PETROLEUM INC				RECEIVED:	05/21/82	JA: LA			
8234359	82-8622	1705520196		103		M C MCDONNELL #3 (168573)BOL MEX 3	DUSON	365.0	TRANSCONTINENTAL
-MID LOUISIANA GAS COMPANY				RECEIVED:	05/21/82	JA: LA			
8234396	81-2936	1711123026		108		MLGC FEE GAS #1009	MONROE GAS FIELD	8.1	MID LOUISIANA GAS
8234395	81-2937	1711122571		108		MLGC FEE GAS #926	MONROE GAS FIELD	12.4	MID LOUISIANA GAS
8234401	81-2938	1711123585		108		MLGC FEE GAS #928	MONROE GAS FIELD	6.8	MID LOUISIANA GAS
8234400	81-2939	1711122588		108		MLGC FEE GAS #931	MONROE GAS FIELD	13.1	MID LOUISIANA GAS
8234402	81-2940	1711122589		108		MLGC FEE GAS #932	MONROE GAS FIELD	14.4	MID LOUISIANA GAS
-PAR EXPLORATION CO				RECEIVED:	05/21/82	JA: LA			
8234365	81-2985	1706721642		103		MARY MCENERY #11	MONROE	6.8	MID LOUISIANA GAS
8234362	81-2982	1706721131		103		MARY MCENERY #3	MONROE	0.0	MID LOUISIANA GAS
8234363	81-2983	1706721145		103		MARY MCENERY #6	MONROE	0.0	MID LOUISIANA GAS
8234364	81-2984	1706721537		103		MARY MCENERY #8	MONROE	0.0	MID LOUISIANA GAS
-PAR OIL CORPORATION				RECEIVED:	05/21/82	JA: LA			
8234379	81-2963	1715220504		108		MUSLOW #2	SLIGO FIELD	0.0	UNITED GAS PIPE L
-PETRO-LEWIS FUNDS INC				RECEIVED:	05/21/82	JA: LA			
8234389	81-2773	1705120524		103		JOHN WATT #2	MANILA VILLAGE	1825.0	SOUTHERN NATURAL
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	05/21/82	JA: LA			
8234374	81-2964	1703100003		108		STARK "B" #2 HILL SU Y	ADA	16.0	SOUTHWESTERN ELEC
-PIONEER PRODUCTION CORPORATION				RECEIVED:	05/21/82	JA: LA			
8234388	81-2722	1708120381		102-2		JUSTIN L TEER #1 (TROY LIME)	WILDCAT	0.0	
-PLACID OIL COMPANY				RECEIVED:	05/21/82	JA: LA			
8234377	81-2967	1713225319		108-ER		BODCAN #1 HOSS RA SU15	CASTOR	0.0	UNITED GAS P L CO
-SAND HILL LTD (LA)				RECEIVED:	05/21/82	JA: LA			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROL	PURCHASER
8234403	81-2946	1711122390		108		SPEARS #2	MONROE	58.0	PETRO-LEWIS FUNDS
-SHELL OIL CO				RECEIVED:	05/21/82	JA: LA			
8234352	81-2568	1772120286		103		SP 27 SL 1612 #280	SOUTH PASS BLOCK 27 F	11.2	TENNESSEE GAS PIP
-SOUTHERN NATURAL GAS COMPANY				RECEIVED:	05/21/82	JA: LA			
8234384	82-0255	1710121147		103		A B ZENOR F 1-D DB-2B RA SUA	PATTERSON	1000.0	SOUTHERN NATURAL
-SUGAR CREEK PRODUCING COMPANY				RECEIVED:	05/21/82	JA: LA			
8234348	81-2953	1702702423		108		BROWN A-1	SUGAR CREEK	8.3	UNITED GAS PIPE L
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	05/21/82	JA: LA			
8234387	81-2545	1708320438		103		DELHI #147-2 DELHI HOLT BRYANT SUD	DELHI	58.0	TEXAS EASTERN TRA
8234372	81-2587	1700320195		103		STOUT REALTY CO #2	KINDER	19.0	TRANSCONTINENTAL
-TEXACO INC				RECEIVED:	05/21/82	JA: LA			
8234353	81-2766	1709920763		103		CITIES SERVICE #1 VUA	FAUSSE POINTE	853.0	
8234354	81-2764	1710922196		103		LB U-38 29 LB UP MS RD SU	LAKE BARRE	98.0	KAISER ALUMINUM &
8234398	81-2778	1710121111		103		SL 341 BATEMAN LAKE #7	BATEMAN LAKE	105.0	CITY OF MORGAN CI
-TEXAS INTERNATIONAL PET CORP				RECEIVED:	05/21/82	JA: LA			
8234382	82-0624	1708700000		103		STATE LEASE 2220 #58	ELOI BAY	140.0	SOUTHERN NATURAL

NEW MEXICO DEPARTMENT OF ENERGY & MINERALS

-BOBBY F ABERNATHY				RECEIVED:	05/24/82	JA: NM			
8234299		3002527699		103		STATE "36" #1	TOWNSEND WOLFCAMP	26.6	TIPPERARY CORP
-KENAI OIL AND GAS INC				RECEIVED:	05/24/82	JA: NM			
8234304		3004525198		103		STATE OF NEW MEXICO #36-12	LYBROOK-GALLUP EXT	25.0	GAS CO OF NEW MEX
8234302		3004525272		103		STATE OF NEW MEXICO #36-13	LYBROOK-GALLUP EXT	25.0	GAS CO OF NEW MEX
8234303		3004525273		103		STATE OF NEW MEXICO #36-14	LYBROOK-GALLUP EXT	25.0	GAS CO OF NEW MEX
-MARBOB ENERGY CORPORATION				RECEIVED:	05/24/82	JA: NM			
8234300		3001523736		103		N6 PHILLIPS ST #27	ARTESIA QUEEN GRAYBUR	15.0	PHILLIPS PETROLEU
8234301		3001523742		103		N6 PHILLIPS ST #28	ARTESIA QUEEN GRAYBUR	15.0	PHILLIPS PETROLEU
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	05/24/82	JA: NM			
8234308		3002502932		108		E VACUUM GB/SA TR 2944 #049	VACUUM GB/SA	0.0	EL PASO NATURAL G
8234307		3002523814		108		E VACUUM GB/SA TRACT 0434 #001	VACUUM GB/SA	1.0	EL PASO NATURAL G
8234305		3002521651		108		E VACUUM GB/SA UNIT TR 0524 #112	VACUUM GB/SA	5.0	EL PASO NATURAL G
8234306		3002502879		108		EAST VACUUM GB/SA UNIT TR 2622 #30	VACUUM GB/SA	1.0	EL PASO NATURAL G
8234298		3002527732		103		MEXCO A #6	MALJAMAR GB/SA	0.0	EL PASO NATURAL G
-YATES PETROLEUM CORPORATION				RECEIVED:	05/24/82	JA: NM			
8234310		3000561415		102-2	107-TF	DEE "OD" STATE #4	PECOS SLOPE-ABO GAS	0.0	TRANSWESTERN PIPE
8234309		3000561417		102-2	107-TF	PAULETTE "PV" STATE #4	PECOS SLOPE-ABO GAS	0.0	TRANSWESTERN PIPE
8234311		3000561432		102-2	107-TF	REDMAN "OY" ST #4	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8234314		3000561447		102-2	107-TF	ROOK "RK" STATE #3	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8234315		3000561353		102-2	107-TF	SACATON "SN" STATE #1	UND ABO	0.0	TRANSWESTERN PIPE
8234313		3000561433		102-2	107-TF	SPRINGER "TK" STATE #1	PECOS SLOPE-ABO GAS	0.0	TRANSWESTERN PIPE
8234312		3000561393		102-2	107-TF	THUNDERHEAD "TD" STATE #1	UND ABO	0.0	TRANSWESTERN PIPE

OKLAHOMA CORPORATION COMMISSION

-BEARD OIL COMPANY				RECEIVED:	05/20/82	JA: OK			
8234338	14263	3511921547		103		BUSH #1	SOUTHEAST PARADISE	10.0	CITIES SERVICE GA
-BOBBY J DARNELL				RECEIVED:	05/20/82	JA: OK			
8234345	14248	3508320939		103		ADAMS #1	W LAURIE	0.2	EASON OIL CO
8234347	14250	3508321630		103		CARTHILL #1	SE LOVELL	73.0	EASON OIL CO
8234346	14249	3508320936		103		LAMONICA #3	NW LUSSE	0.1	EASON OIL CO
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	05/20/82	JA: OK			
8234334	14258	3507370000		103		N D CAIN #2	DOVER-HENNESSEY	15.0	MUSTANG FUEL CORP

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-CLARK RESOURCES INC				RECEIVED:	05/20/82	JA: OK			
8234336	14266	3504700000		103		FARBER 4-1	SOONER TREND	125.0	CITIES SERVICE GA
*8234335	14259	3504722737		103		HICKMAN 21-1	SOONER TREND	150.0	PANHANDLE EASTERN
-CLIFFORD RESOURCES INC				RECEIVED:	05/20/82	JA: OK			
8234317	14188	3509300000		103		HENRY #1-28	HENO	29.0	UNION OF TEXAS PE
8234318	14179	3509300000		103		KOEHN #1-33	HENO	29.0	UNION OF TEXAS PE
8234316	14181	3510900000		103		LOOFBOURROW #1-1	WILDCAT	47.0	CHAMPLIN PETROLEU
8234319	14178	3507300000		103		WILLMS #2-28	SOONER TREND	46.0	PHILLIPS PETROLEU
-COOK OPERATING CO				RECEIVED:	05/20/82	JA: OK			
8234326	13632	3511700000		108		BREWER #2	NORTH TERLTON	25.1	H J D CATTLE CO
8234327	13633	3511700000		108		BREWER #7 (COTTON)	NORTH TERLTON	31.4	H J D CATTLE CO
8234328	13634	3511700000		108		BREWER #8 (COTTON)	NORTH TERLTON	25.7	H J D CATTLE
8234329	13635	3511700000		108		BREWER B-10 (FRANK WHITE)	NORTH TERLTON	42.5	H J D CATTLE CO
8234330	13636	3511720326		108		BREWER B-11 (FRANK WHITE)	NORTH TERLTON	28.2	H J D CATTLE CO
-DOME PETROLEUM CORP				RECEIVED:	05/20/82	JA: OK			
8234333	14256	3504321126		103		JOHNSON FARMS #1	UNNAMED	1401.6	TRANSWESTERN PIPE
-EDWARD P O BRIEN				RECEIVED:	05/20/82	JA: OK			
8234321	14187	3508321769		103		DETWILER #1		0.0	EASON OIL CO
8234337	14261	3510321212		103		VICKI VAN BEBBER #1		3.7	AMINOIL USA INC
-F HOWARD WALSH JR				RECEIVED:	05/20/82	JA: OK			
8234342	18542	3501521135		107-DP		STEPHENS TRUST #1		384.0	TENNESSEE GAS PIP
-HADSON PETROLEUM CORP				RECEIVED:	05/20/82	JA: OK			
8234322	07930	3505120929		103		HUGHES 1-10	CHITWOOD	170.0	TRANSOK PIPELINE
-HILL OIL CO				RECEIVED:	05/20/82	JA: OK			
8234325	08401	3511921117		103		STATE #1 SEC 36 19N 2E	LOST CREEK	20.0	SUN GAS CO
-KABARD EXPLORATION & DRILLING CO				RECEIVED:	05/20/82	JA: OK			
8234332	14254	3510120979		103		BARDWELL 81-6	HASKELL	9.0	PHILLIPS PETROLEU
-KLINE & PITTENGER EXPLORATION				RECEIVED:	05/20/82	JA: OK			
8234340	14265	3509322252		103		WATROUS #1	RINGWOOD	150.0	AMINOIL USA INC
-LONG ROYALTY CO				RECEIVED:	05/20/82	JA: OK			
8234324	08134	3501700680		103		BORNEMAN #3	NORTH MUSTANG	8.8	MOBIL OIL CO
-NEWBOURNE OIL COMPANY				RECEIVED:	05/20/82	JA: OK			
8234344	14206	3504520966		103		STATE 1-16		80.0	
-NIXON-DAVIS ENERGY CO INC				RECEIVED:	05/20/82	JA: OK			
8234323	8060	3508300000		103		WEBB #1	WEST MULHALL	58.0	EASON OIL CO
-PIONEER PRODUCTION CORPORATION				RECEIVED:	05/20/82	JA: OK			
8234341	18554	3512900000		107-DP		ELSIE ALEXANDER #1-33		0.0	
-RED EAGLE OIL CO				RECEIVED:	05/20/82	JA: OK			
8234343	14204	3509322195		103		FRED #1	CHEYENNE VALLEY	73.0	PHILLIPS PETROLEU
-TREPEL PETROL EXPLOR & DEV CORP				RECEIVED:	05/20/82	JA: OK			
8234320	14184	3511921549		103		DRAKE #1	S E RIPLEY	57.0	SUN GAS CO
-VULCAN ENERGY CORP				RECEIVED:	05/20/82	JA: OK			
8234331	14253	3507322676		103		POPE #1	SOONER TREND	58.4	ARKANSAS - LOUISI
-WILLIAM MOSS PROPERTIES INC				RECEIVED:	05/20/82	JA: OK			
8234339	14264	3507322999		103		STORM #7-2	SOONER TREND	36.5	CITIES SERVICES G
-EXXON CORPORATION				RECEIVED:	05/24/82	JA: LA 0			
8234429	61-2460	1760817401		102-5		OCS-G 2970 #A-8	MISSISSIPPI CANYON	1278.0	SOUTHERN NATURAL
**********									
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, METAIRIE,LA									
**********									
-ARCO OIL AND GAS COMPANY				RECEIVED:	05/24/82	JA: LA 3			
8234434	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8234433	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234435	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234436	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234437	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234438	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234439	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234440	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234441	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234442	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234443	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234444	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234445	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234446	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234447	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234448	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234449	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234450	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234451	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234452	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234453	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234454	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234455	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234456	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234457	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234458	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234459	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234460	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234461	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234462	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234463	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234464	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234465	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234466	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234467	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234468	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234469	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234470	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234471	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234472	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234473	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234474	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234475	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234476	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234477	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234478	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234479	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234480	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234481	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234482	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234483	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234484	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234485	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234486	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234487	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234488	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234489	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234490	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234491	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234492	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234493	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234494	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234495	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234496	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234497	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234498	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234499	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234500	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234501	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234502	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234503	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234504	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234505	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234506	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234507	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234508	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234509	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234510	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234511	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234512	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234513	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234514	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234515	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234516	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234517	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234518	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234519	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234520	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234521	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234522	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234523	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234524	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234525	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234526	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234527	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234528	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234529	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234530	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234531	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234532	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234533	62-2537	1772100653		102-5		OCS-G-1611 C-36A	SOUTH PASS BLOCK 61 F	55.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: LA 3			
8234534	62-2537	1772100653		102-5		OCS-G-1611

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8234419	G1-2044	1772540214		102-5		OCS-G-1295 #6
8234449	G1-2475	1770740357		102-5		OCS-G-2316 #CB-2
8234458	G1-2466	1770640306		102-5		OCS-G-3187 #A-5
	-CNG PRODUCING COMPANY			RECEIVED:	05/24/82	JA: LA 3
8234417	G1-2449	1771240079		102-5		A-352
	-EXXON CORPORATION			RECEIVED:	05/24/82	JA: LA 3
8234454	G2-2653	1771540457		102-1		OCS-G 4237 #F-6
	-FOREST OIL CORPORATION			RECEIVED:	05/24/82	JA: LA 3
8234413	G1-2389	1770840210		102-5		SOUTH MARSH ISLAND BLK 142 A-7E
	-GULF OIL CORPORATION			RECEIVED:	05/24/82	JA: LA 3
8234440	G1-2446	1770940458		102-5		EUGENE IS BLK 252 OCS-G 0983 G-18
8234444	G1-2445	1770940457		102-5		EUGENE IS BLK 252 OCS-G 0983 #H-16
	-MARATHON OIL COMPANY			RECEIVED:	05/24/82	JA: LA 3
8234430	G1-2459	1770440512		102-5		EAST CAMERON BLOCK 321 A-29
8234445	G1-2402	1772440174		102-5		MAIN PASS BLOCK 306 WELL F-13
	-MOBIL OIL EXPLORATION & PROD S E			RECEIVED:	05/24/82	JA: LA 3
8234414	G2-2656	1770940366		102-1		OCS-G-3779 #2B EUGENE ISLAND 39
8234428	G1-2453	1770540304		102-5		VERMILION BLK 23 #12-C(ALT TO 12-B)
	-PLACID OIL COMPANY			RECEIVED:	05/24/82	JA: LA 3
8234415	G2-2665	1770740366		107-DP		OCS-G-2600 #E-13
	-SHELL OIL CO			RECEIVED:	05/24/82	JA: LA 3
8234420	G1-2301	1770920008		102-5		OCS-G 1220 B-9B
8234439	G1-2443	1770640079	D	102-5		OCS-G 2088 A-1C
8234426	G2-2554	1770840262		102-5		OCS-G 2280 A-34A
8234456	G2-2580	1770840199		102-5		OCS-G 2280 B-9A
8234431	G2-2555	1770840455		102-5		OCS-G 2280 D-5
8234412	G2-2516	1770840246		102-5		OCS-G 2281 B-19
8234455	G2-2566	1770840249		102-5		OCS-G 2281 B-20A
8234443	G1-2444	1770840285		102-5		OCS-G 2281 B-24A
	-TENNECO OIL COMPANY			RECEIVED:	05/24/82	JA: LA 3
8234438	G2-2636	1773140016		102-1		SABINE PASS 11 #A-1
8234437	G2-2637	1773140028		102-1		SABINE PASS 11 #A-3
8234436	G2-2638	1773140033		102-1		SABINE PASS 8 A-4
	-TRANSCO EXPLORATION COMPANY			RECEIVED:	05/24/82	JA: LA 3
8234433	G1-2427	1770840481		102-5		NO A-16 SIDETRACK #1
	-UNION OIL COMPANY OF CALIF			RECEIVED:	05/24/82	JA: LA 3
8234418	G2-2677	1770540466		107-DP		OCS 0297 #43
	-AMINOIL USA INC			RECEIVED:	05/24/82	JA: TX 3
8234432	G1-2161	4270940446		102-5		OCS-G-2712 #A-6
8234435	G1-2162	4270940446		102-5		OCS-G-2712 #A-6D
	-MCMORAN OFFSHORE EXPLORATION CO			RECEIVED:	05/24/82	JA: TX 3
8234446	G2-2545	4270940583		102-5		OCS-G 2359 #A-10
8234453	G2-2524	4270940587		102-5		OCS-G 2359 #A-11
8234425	G2-2562	4270940609		102-5		OCS-G 2359 #A-14
8234451	G2-2553	4270940623		102-5		OCS-G 2359 #A-16
*8234457	G1-2475	4270940560		102-5		OCS-G 2359 #A-3
*8234418	G1-2490	4270940563		102-5		OCS-G 2359 #A-4
*8234411	G2-2515	4270940577		102-5		OCS-G 2359 #A-5
*8234489	G1-2503	4270940567		102-5		OCS-G 2359 #A-6
*8234427	G2-2519	4270940574		102-5		OCS-G 2359 #A-8
8234447	G2-2523	4270940602		102-5		OCS-G 2359 #A-9
8234452	G2-2532	4270940613		102-5		OCS-G 2359 A-15
	-MONSANTO COMPANY			RECEIVED:	05/24/82	JA: TX 3

FIELD NAME	PROD	PURCHASER
MAIN PASS	1200.0	MISSISSIPPI POWER
SOUTH MARSH ISLAND	4.4	NATURAL GAS PIPEL
VERMILION	1296.0	COLUMBIA GAS TRAN
SHIP SHOAL	400.0	CONSOLIDATED GAS
SOUTH TIMBALIER	1825.0	TRUNKLINE GAS CO
SOUTH MARSH ISLAND	1620.0	COLUMBIA GAS TRAN
EUGENE ISLAND	1080.0	SEA ROBIN PIPELIN
EUGENE ISLAND	9000.0	SEA ROBIN PIPELIN
EAST CAMERON SOUTH AD	214.0	TEXAS EASTERN TRA
MAIN PASS	22.7	SOUTHERN NATURAL
EUGENE ISLAND	2370.0	MICHIGAN WISCONSI
VERMILION	1095.0	TRUNKLINE GAS CO
SOUTH MARSH ISLAND	346.0	TRUNKLINE GAS CO
EUGENE ISLAND	200.0	MICHIGAN WISCONSI
VERMILION	400.0	NATURAL GAS PIPEL
SOUTH MARSH ISLAND	9.0	TRANSCONTINENTAL
SOUTH MARSH ISLAND	150.0	TRANSCONTINENTAL
SOUTH MARSH ISLAND	55.0	TRANSCONTINENTAL
SOUTH MARSH ISLAND	175.0	TRANSCONTINENTAL
SOUTH MARSH ISLAND	76.0	TRANSCONTINENTAL
SOUTH MARSH ISLAND	70.0	TRANSCONTINENTAL
SABINE PASS	330.0	TENNESSEE GAS PIP
SABINE PASS	330.0	TENNESSEE GAS PIP
SABINE PASS	1320.0	TENNESSEE GAS PIP
SOUTH MARSH ISLAND	180.0	TRANSCONTINENTAL
VERMILION	9150.0	TRUNKLINE GAS CO
HIGH ISLAND BLOCK A-5	484.0	COLUMBIA GAS TRAN
HIGH ISLAND BLOCK A-5	493.0	COLUMBIA GAS TRAN
HIGH ISLAND	125.0	TRANSCONTINENTAL
HIGH ISLAND	132.0	TRANSCONTINENTAL
HIGH ISLAND	115.0	TRANSCONTINENTAL
HIGH ISLAND	76.0	TRANSCONTINENTAL
HIGH ISLAND	256.0	TRANSCONTINENTAL
HIGH ISLAND	111.0	TRANSCONTINENTAL
HIGH ISLAND	126.0	TRANSCONTINENTAL
HIGH ISLAND	146.0	TRANSCONTINENTAL
HIGH ISLAND BLOCK	76.0	TRANSCONTINENTAL
HIGH ISLAND	104.0	TRANSCONTINENTAL
HIGH ISLAND	259.0	TRANSCONTINENTAL

VOLUME 669 PAGE 006

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8234441	G2-2686	4270940488		102-1		OCS-G 3755 A-1	HIGH ISLAND	0.0	COLUMBIA GAS TRAN
8234442	G2-2687	4270940663		102-1		OCS-G 3755 A-1 121	HIGH ISLAND	0.0	COLUMBIA GAS TRAN
8234422	G2-2688	4270940673		102-1		OCS-G 3755 A-3	HIGH ISLAND	0.0	COLUMBIA GAS TRAN
8234421	G2-2689	4270940683		102-1		OCS-G 3755 A-4	HIGH ISLAND	0.0	COLUMBIA GAS TRAN
-TENNECO OIL COMPANY				RECEIVED:	05/24/82	JA: TX 3			
8234423	G1-2067	4271140378		102-5		HIGH ISLAND A-270 #B-2	HIGH ISLAND	2433.0	TENNESSEE GAS PIP
8234448	G1-2068	4271140466		102-5		HIGH ISLAND A-270 #B-5	HIGH ISLAND	2433.0	TENNESSEE GAS PIP
8234424	G1-2065	4271140480		102-5		HIGH ISLAND A-270 #B-6	HIGH ISLAND	2433.0	TENNESSEE GAS PIP
8234416	G1-2064	4271140484		102-5		HIGH ISLAND A-270 #B-7	HIGH ISLAND	2433.0	TENNESSEE GAS PIP
				-5					

OTHER PURCHASERS VOLUME NO :669

8234335	EXXON CORP
8234409	COLUMBIA GAS TRANSMISSION CORP
8234410	COLUMBIA GAS TRANS CORP
8234411	COLUMBIA GAS TRANS CORP
8234427	COLUMBIA GAS TRANS CORP
8234457	COLUMBIA GAS TRANS CORP

BILLING CODE 6717-01-C

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Kenneth[illegible]
Secretary

[FR Doc. [illegible]]
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[Docket Nos. CP82-[illegible] and CP82-[illegible]]

Northwest Pipeline Corp.; Continuation of Hearing; Request for Preparation of Environmental Impact Statement of Those Portions of Proposed Facilities

June 17, 1982

The Federal Energy Regulatory Commission's current policy is to prepare a significant impact statement associated with the Northwest Pipeline Corp. (Northwest) and Transwestern Pipeline Co. (Transwestern) general rate increase subsidiary filings in Docket

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before July 6, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1,000 ft. rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–16096 Filed 6–17–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP82–175–000, CP82–176–000 and CP82–174–000]

Northwest Pipeline Corp. and Continental Divide Pipeline Co.; Request for Comments on Environmental Issues and the Scope of Those Issues for Proposals To Construct Pipeline Transportation Facilities

June 17, 1982.

The staff of the Federal Energy Regulatory Commission (FERC) is currently evaluating the scope and significance of environmental impact associated with applications by Northwest Pipeline Corporation (Northwest) and the Continental Divide Pipeline Company (Continental), a general partnership comprised of subsidiaries of Northwest and Transwestern Pipeline Company (Transwestern), for certificates of public convenience and necessity.[1] The applications are filed pursuant to sections 3 (Docket No. CP82–175–000) and 7(c) (Docket Nos. CP82–174–000 and CP82–176–000) of the Natural Act. The certificates would authorize an increase in natural gas volumes currently imported from Canada (Northwest, Docket No. CP82–175–000), an upgrading of existing natural gas transmission facilities in Washington, Colorado, and Utah (Northwest, Docket No. CP82–176–000), and construction of new natural gas transmission facilities in Colorado and New Mexico (Continental, Docket No. CP82–174–000).

The applicants specifically seek authorizations to (1) increase the natural gas which Northwest is currently authorized to import at Sumas, Washington, from 809 million cubic feet per day (cfd) to 869 million cfd, (2) construct and operate approximately 243 miles of 30- and 36-inch diameter pipeline looping predominately along existing rights-of-way and up to 5,830 horsepower of new and additional compression on Northwest's and Utah, and (3) construct and operate approximately 162 miles of new 30-inch diameter pipeline along a new right-of-way and up to 12,000 horsepower of new compression between the southern terminus of Northwest's mainline system in La Plata County, Colorado, and Transwestern's Compressor Station No. 5 in McKinley County, New Mexico. Further authority is sought to transfer imported gas from Sumas to Kingsgate, Idaho, to transport up t0 111.4 million cfd on a firm basis for existing Northwest customers, and for construction and operation of appurtenant facilities related to these interstate transportation facilities.[2]

The 243 miles of pipeline proposed by Northwest in Docket No. CP82–176–000 would be constructed in two sectons. Except for a portion of the northern section approximately 66 miles long immediately south of the Rangely Compressor Station in Rio Blanco County, Colorado, both sections would loop (i.e., be constructed adjacent and parallel to) Northwest's existing mainline transmission system.[3] Because of historically unstable soil conditions along its existing system through Douglas Pass, Northwest proposes to route its pipeline loop through Baxter Pass, Colorado. The new loop would therefore traverse Rio Blanco, Garfield, and Mesa Counties, Colordao, before rejoining the route of the existing mainline just north of the Bar "X" Compressor Station tie-in in the southeast quarter of Section 21, T 9 S, R 104 W. The new loop would then continue for approximately 36 miles south through Mesa County, Colorado, and Grand County, Utah, terminating just north of Arches National Monument.[3]

The southern section of the proposed loop would begin approximately 38 miles downstream of the northern section's terminus and extend for about 139 miles through San Juan County, Utah, and San Miguel, Dolores, Montezuma, and La Plata Counties, Colorado. This section would terminate at Northwest's existing Ignacio Compressor Station.

Compression facilities proposed as part of Northwest's application include adding up to 2,000 horsepower at its existing Chehalis Compressor Station in Lewis County, Washington, and constructing a new compressor station in the vicinity of Cortez (Montezuma County), Colorado, to house up to 3,830 horsepower. Northwest also proposes to modify compressor cylinders at its existing Baker (Baker County, Washington) and Ignacio (La Plata County, Colorado) Compressor Stations and to construct a new meter station in the vicinity of its Ignacio Compressor Station at an interconnection with the proposed Continental pipeline facilities. The estimated cost of the facilities proposed to upgrade Northwest's mainline system is $209,260,000; such facilities would be designed to deliver up to 325 million cfd of natural gas to Continental at the proposed interconnection

The 162 miles of new 30-inch diameter pipeline and appurtenant facilities proposed by Continental in Docket No. CP82–174–000 would extend from the

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[1] The Department of the Interior, Bureau of Land Management (BLM), has also received applications, from Northwest and Continental for right-of-way permits. BLM has indicated an interest in cooperating with the FERC environmental staff in preparing the necessary environmental analysis for these proposals; the FERC will act as the "lead agency" for National Environmental Policy Act review.

[2] Subject to approval by Canada's National Energy Board and appropriate governmental bodies in the United States, Northwest anticipates amending its contract with Canada's Westcoast Transmission Company Limited to provide for certain natural gas volumes to be transferred from Sumas to Kingsgate as current Kingsgate imports decline.

[3] Approximately two thirds of the 66-mile long deviation south of the Rangeley Compressor Station would parallel the Mapco Rocky Mountain Liquid Hydrocarbons Pipeline corridor.

[3] Pipeline looping proposed between Northwest's Rangley Compressor Station and Bar "X" Compressor Station tie-in would be 36 inches in diameter. The remaining looping proposed for Northwest's system would be 30 inches in diameter.

proposed interconnection with Northwest's mainline system south to Transwestern's existing Compressor Station No. 5 near Thoreau in McKinley County, New Mexico. Construction would traverse La Plata County, Colorado, and San Juan and Sandoval Counties, New Mexico. A new compressor station housing up to 12,000 horsepower is also proposed for construction approximately 6 miles south of the proposed Northwest-Continental interconnection in La Plata County, Colorado. The estimated cost of the new facilities proposed by Continental is $125,635,000; the facilities would be designed to deliver up to 396.6 million cfd of natural gas to Transwestern's system.

Alternatives which the staff will consider include no project, alternative pipeline facilities on Northwest's existing mainline system, alternative pipeline routes to connect Northwest's system with Transwestern's system, and alterantive pipeline networks to transport the gas from Canada to the pipeline customers (Transwestern and Texas Eastern Transmission Corporation).

A copy of this notice, additional technical information about the proposals, and general maps of the routes have been distributed to Federal, state, and local agencies, parties to the proceedings, and the public. These groups are invited to comment on anticipated environmental problems associated with the proposals. These comments will be used by the FERC staff to identify the issues which require in-depth environmental analysis and to determine whether an environmental impact statement should be prepared. Comments should be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Recommendations that the staff's evaluation address specific issues or alternatives should be supported by detailed rationale or a showing of the need to consider those issues or alternatives. Written comments should be submitted by July 19, 1982.

Additionally, the FERC and BLM staffs intend to hold public meetings to gather information and seek assistance in defining the range of environmental issues and concerns to be addressed in the analysis. BLM has cooperated by arranging these meetings which will be held at various locations along the proposed route during the latter two weeks of July 1982. The attached schedule lists the locations, dates, and times of these meetings. Participation in this scoping process is solicited.

Further information about the proposals is available from Mr. Laurence J. Sauter, Jr., Project Manager, Environmental Evaluation Branch, Office of Pipeline and Producer Regulation, room 7102 at the same address or by telephone at (202) 357-8881.

Kenneth F. Plumb,

Secretary.

Schedule of Public Scoping Meetings

July 19, 1982—7 p.m.—Colorado Northwestern Community College, Kramer Building, Rangley, Colorado
July 20, 1982—7 p.m.—BLM District Office, 3rd Floor Conference Room, 674 Horizon Drive, Grand Junction, Colorado
July 21, 1982—7 p.m.—BLM District Office, 125 West 2nd, South, Moab, Utah
July 22, 1982—7 p.m.—La Plata County Fair Grounds, North Room, Extension Building, Highway 160, Durango, Colorado
July 26, 1982—7 p.m.—Civic Center, Room A, Farmington, New Mexico
July 27, 1982—1 p.m.—Chapter House, Crownpoint, New Mexico
July 28, 1982—7 p.m.—Holiday Inn, Grants, New Mexico

[FR Doc. 82-16734 Filed 6-17-82; 10:58 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2152-3]

Availability of Environmental Impact Statements Filed June 7 Through June 11, 1982, Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, Ms. Kathi Wilson (202) 382-5074; Procedural Inquiries General Information 382-5075 or 382-5073.

Corps of Engineers:
- EIS No. 820387, Draft, COE, IN, Burns Waterway Small Boat Harbor Improvements, Porter County; Due: Aug. 2, 1982
- EIS No. 820381, Final, COE, AL, Village Creek Flood Control Plan; Birmingham, Jefferson County; Due: July 19, 1982
- EIS No. 820394, Final Supplement, COE, TX, Corpus Christi Ship Channel Inner Harbor Reach, Disposal Sites; Due: July 19, 1982

Department of Commerce:
- EIS No. 820385, Draft, NOA, NY, Hudson River Estuarine Sanctuary, Grant, Columbia and Dutchess Cos.; Due: Aug. 2, 1982
- EIS No. 820391, Final, NOA, SEV, ATL, Atlantic Groundfish Interim Fishery Management Plan; Due: June 28, 1982
- EIS No. 820392, Final, NOA, SEV, PAC, TT, HI, Spiny Lobster Fishery Management Plan, Pacific; Due: July 19, 1982

Department of Energy:
- EIS No. 820380, Final Supplement, DOE, SEV, PRO, Liquid Metal Fast Breeder Reactor Program; Due: July 19, 1982

Department of Interior:
- EIS No. 820386, Draft, BLM, NV, Clark County Livestock Grazing Management Program; Due: Aug. 13, 1982
- EIS No. 820378, Draft, BLM, UT, Ashley Creek Livestock Grazing Management Program; Due: Aug. 2, 1982
- EIS No. 820382, Final, BLM, ID, Ellis-Pahsimerol Grazing Management Plan, Lemhi and Custer Counties; Due: July 19, 1982

Department of Transportation:
- EIS No. 820388, Draft, FAA, MN, St. Paul Downtown Airport Improvements, Ramsey County; Due: Aug. 2, 1982
- EIS No. 820384, Draft, FHW, FL, FL-820/ Hollywood Boulevard Upgrading, I-75 to FL-7, Broward County; Due: Aug. 6, 1982
- EIS No. 820389, Draft, FHW, GA, I-420 Extension, I-75/I-85 to I-20, Fulton and DeKalb Counties; Due: Aug. 2, 1982
- EIS No. 820393, Final, FHW, OR, Beaverton-Tigard Highway Interchange/ U.S. 26-OR-217 Reconstruction; Due: July 19, 1982

Department of Housing and Urban Development:
- EIS No. 820379, Draft, HUD, NM, High Range Subdivision, Mortgage Insurance, Dona Ana County; Due: Aug. 2, 1982
- EIS No. 820377, Draft, HUD, OR, Multnomah County Areawide Study; Due: Aug. 2, 1982
- EIS No. 820383, Final, HUD, VA, Countryside Development, Mortgage Insurance, Loudoun County; Due: July 19, 1982
- EIS No. 820375, Draft, CDB, AL, Macon County Sanitary Sewerage Facilities, CDBG; Due: Aug. 16, 1982
- EIS No. 820374, Final, CDB, PA, New Market Flood Control Project, Fairview Township, York County; Due: July 19, 1982

Department of Agriculture:
- EIS No. 820376, Draft, AFS, AK, Chugach National Forest Land and Resource Management Plan; Due: Sept. 30, 1982
- EIS No. 820390, Final, AFS, CA, Grider Area Fire Salvage Sale, Klamath National Forest, Siskiyou County; Due: July 19, 1982
- EIS No. 820373, Final, SCS, HI, Waimanalo Watershed Water Resources Plan, Honolulu County; Due: July 19, 1982

Amended Notices:
- EIS No. 820321, Final, FHW, WV, Appalachian Corridor G Construction, Holden/Godby Heights, Logan Co. *Published in **Federal Register** May 28, 1982—Review Reestablished due to noncompletion of distribution. Due: July 19, 1982
- EIS No. 820346, Draft, BLM, ID, Owyhee Wilderness Study Areas Wilderness Designation, Owyhee County. *Published in **Federal Register** June 4, 1982—incorrect due date; Due: *Aug. 9, 1982
- EIS No. 820372, Final, FHW, GA, North Thomasville Bypass Construction U.S. 84 to U.S. 319, Thomas County. *Published in **Federal Register** June 11, 1982—incorrect due date; Due: *July 12, 1982

EIS No. 820349, Draft, BLM, CA, Central California Study Areas, Wilderness Recommendations.
*Published in **Federal Register** June 4, 1982—Review extended; Due: *Aug. 4, 1982
EIS No. 820339, Draft, BLM, CA, Western Counties Wilderness Study Project/ Escondido-Border Unit.
*Published in **Federal Register** June 4, 1982—Review extended; Due: *Aug. 4, 1982

Dated: June 15, 1982.

Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 82-16638 Filed 6-17-82; 8:45 am]

BILLING CODE 6560-50-M

[FRL 2116-7]

California State Motor Vehicle Pollution Control Standards; Amendments Within the Scope of Previous Waivers of Federal Preemption; Summary of Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of scope of waiver of Federal preemption.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it has adopted Assembly-Line Test (ALT) Procedures for various classes of new motor vehicles for the 1983 and subsequent model years, and amendments to its New Motorcycle Compliance Test (NMCT) Procedures. Except for some minor ministerial changes, the 1983 and subsequent model year ALT procedures are identical to the 1982 ALT procedures, which are covered by previous waivers of Federal preemption. The amendments to the NMCT procedures do not alter EPA's findings made in the waiver of Federal preemption covering the original NMCT procedures. Therefore, both the new ALT procedures and amended NMCT procedures are included within the scope of their previous respective waivers of Federal preemption. Since these two sets of procedures are included within the scope of previously granted waivers, a public hearing to consider them is not necessary. However, if any party asserts an objection to these findings within 30 days of the date of publication of this notice, EPA will consider holding a public hearing to provide an opportunity to present testimony and evidence to show that there are issues to be addressed through a section 209(b) waiver determination and that I should reconsider my findings. Otherwise, these findings will become final at the expiration of this 30-day period.

DATES: Any objection to the findings in this notice must be filed on or before July 19, 1982; otherwise, at the expiration of this 30-day period these findings will become final. Upon the receipt of any timely objection, EPA will consider scheduling a public hearing in a subsequent **Federal Register** notice.

ADDRESSES: Any objection to the findings in this notice should be filed with Mr. Charles N. Freed, Director, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Copies of the Assembly-Line Test Procedures and New Motorcycle Compliance Test Procedures at issue in this notice, a decision document containing an explanation of my determinations, and documents used in arriving at this determination are available for public inspection during normal working hours (8:00 a.m. to 4:00 p.m.) at the Environmental Protection Agency, Central Docket Section, Gallery I, 401 M Street, SW., Washington, D.C. 20460 (Docket EN-82-02). Copies of the decision document can also be obtained from EPA's Manufacturers Operations Division by contacting Mr. Chernekoff, as noted below.

FOR FURTHER INFORMATION CONTACT: Michael Chernekoff, Attorney/Advisor, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, Washington, D.C. 20460, (202) 382-2521.

SUPPLEMENTARY INFORMATION: I have determined that CARB's 1983 and subsequent model year ALT procedures and CARB's NMCT procedure amendments are included within the scope of waivers of Federal preemption previously granted pursuant to section 209(b) of the Clean Air Act, as amended (Act).[1] The 1983 and subsequent model year ALT procedures are essentially the same as the 1982 model year procedures, except for some minor ministerial changes. The amendments to the NMCT procedures are intended to provide for more effective enforcement of existing standards. The adoption of the new ALT procedures and the amendments to the NMCT procedures neither undermine California's earlier determinations that its standards are, in the aggregate, at least as protective of public health as comparable Federal standards, nor raise any new technological feasibility or other issues.

[1] Notices of the waivers referred to are published at 47 FR 848 (January 7, 1982), 45 FR 54130 (August 14, 1980) and 45 FR 54128 (August 14, 1980) for ALT procedures; 43 FR 998 (January 5, 1978) for NMCT procedures.

A full explanation of my determination is contained in a decision document, which may be obtained from EPA as noted above.

Since the new ALT procedures and amendments to the NMCT procedures are included within the scope of previously granted waivers of Federal preemption, a public hearing to consider them is not necessary. However, if any party asserts an objection to these findings on or before July 19, 1982, EPA will consider holding a public hearing to provide an opportunity to present testimony and evidence to show that there are issues to be addressed through a section 209(b) waiver determination and that I should reconsider my findings. Otherwise, these findings will become final at the expiration of this 30-day period.

Note.—My decision will affect not only persons in California but also the manufacturers located outside the State who must comply with California's standards in order to produce motor vehicles for sale in California. For this reason I hereby determine and find that this decision is of nationwide scope and effect.

Under section 3(b) of Executive Order 12291, 46 FR 13193 (February 19, 1981), EPA must judge whether a regulation is a "major rule" and therefore subject to the requirement for preparation of a Regulatory Impact Analysis. EPA has determined that this action does not constitute a major rule. This action confirms California's authority to enforce regulations which, in one case, are essentially the same as regulations applicable to the previous model year, and in another case, provide for more effective enforcement than regulations applicable to the previous model year. This action will not result in a major cost increase to consumers, Government agencies and industries affected.

This action was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at Public Docket EN-82-02 located in EPA's Central Docket Section (A-130), 401 M Street, S.W., Washington, D.C. 20460.

This action is not a "rule" as defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2), because EPA is not required to undergo "notice and comment" under section 553(b) of the Administrative Procedure Act, or any other law. Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on small business entities.

Dated: June 14, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-16640 Filed 6-17-82; 8:45 am]

BILLING CODE 6560-50-M

[AD-FRL-2150-1]

Control Techniques Guidelines; Density Adjustment for Dibasic Ester Coating Solvent

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice and request for comments.

SUMMARY: E. I. du Pont de Nemours and Company (Du Pont) has petitioned EPA to allow owners or operators of surface coating operations to make an adjustment for the high density of dibasic ester (DBE) coating solvent, when determining compliance with State regulations for volatile organic compound (VOC) emissions. Based upon the information submitted by Du Pont and a review of available data on DBE, the EPA believes Du Pont's request should be approved. Before providing formal guidance to the States, however, the EPA is providing the opportunity for public comment on this matter.

DATE: Comments must be received on or before August 2, 1982.

ADDRESSES: Comments should be submitted (in duplicate if possible) to: Central Docket Section (A–130), Attention Docket Number A–82–25, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

DOCKET: Docket No. A–82–25, containing material relevant to Du Pont's petition is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at the EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. James C. Berry, Chemicals and Petroleum Branch, Emission Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5605.

SUPPLEMENTARY INFORMATION: DBE paint solvent is a mixture of dimethyl adipate, dimethyl glutarate, and dimethyl succinate. Its density is about 9.0 pounds per gallon. The boiling points of the constituents of DBE range from 196° to 225° C. The vapor pressure of DBE is about 0.15 mm Hg at 20° C.

DBE is a relatively low-cost solvent because the raw material from which it is made, dibasic acid (DBA), is a by-product of a Du Pont manufacturing process. DBA is a mixture of adipic acid, glutaric acid, and succinic acid. Du Pont produces about 50 million pounds of DBA each year. The percentage of DBA converted to DBE by Du Pont in recent years were:

Year	Percent converted to DBE
1975	34
1976	40
1977	38
1978	43
1979	50
1980	52

Du Pont disposes of all excess DBA by deep well injection.

DBE is now used as a solvent for lacquer and enamel automotive topcoats, epoxy primers, polyester coil coatings, and can coatings. About 25 million pounds were so used in 1980, mostly in automotive coatings. This contrasts with the total amount of about 4 billion pounds of VOC that are used in coatings annually.

Du Pont believes DBE could potentially be used in any coating which contains organic solvent. This includes the higher-solids coatings which many coaters are, or will soon be, using to comply with State regulations for VOC emissions. Du Pont estimates that DBE could constitute from 10–40 percent, by weight of such higher-solids coatings.

In spite of its low vapor pressure and cost, which Du Pont claims make DBE a very desirable solvent for higher-solids coatings, DBE has not been so used. Du Pont claims this is because State regulations, which limit the mass of VOC emitted from coating operations, have led coating formulators to seek less dense solvents.

Du Pont describes DBE as having relatively low toxicity, and notes several recent studies which they claim make suspect the toxicity of several solvents with which DBE could compete. These solvents are ethylene glycol monomethyl ether, ethylene glycol monoethyl ether, and ethylene glycol ether acetates.

Most States have adopted regulations which limit VOC emissions from industrial surface coating operations. Many were based upon information presented in a series of control technique guidelines (CTG's) published by the EPA in 1977 and 1978. Each CTG contained recommended emission limits. The units used for these recommendations were "pounds of VOC per gallon of coating less water." They were chosen because the best available analytical method for determining the VOC content of coatings was mass-based. Furthermore, the CTG's were developed to assist States plan their emission control strategies. These strategies are founded on VOC emission inventories which are also in mass units.

Each CTG recommendation was based on the use of either low-VOC content coatings, or conventional high-VOC content coatings and an emission control device such as an incinerator. Data on coatings in use were provided to the EPA by coaters and coating manufacturers in terms of volume solids content rather than mass VOC content. An average VOC density of 7.36 pounds per gallon was then used to convert the volume solids data to pounds of VOC per gallon of coating less water.

The EPA believed that the use of 7.36 pounds per gallon as the average paint solvent density would reasonably account for the wide variety of solvent mixtures used in coatings. The average density of all the coating solvents used in 1979 was only about 7.0 pounds per gallon. The use of 7.36 has allowed slightly higher emissions than would have been allowed had 7.0 been used.

Du Pont has petitioned that the EPA provide States with the option of allowing the owners or operators of surface coating operations to make an adjustment for the relatively high density of DBE when determining compliance with State VOC emission regulations. Specifically, Du Pont has requested that an assumed density of 7.36 pounds per gallon be used for calculations regarding the quantity of DBE in a coating rather than its actual density of 9.0 pounds per gallon.

In summary, Du Pont claims that the mass-based (pounds of VOC per gallon of coating less water) surface coating regulations adopted by most States have discouraged coating formulators from using DBE since other lower-density solvents are available. Du Pont has asked that this alleged inequity be removed. In support of their request, Du Pont stated that:

- DBE is a good solvent for higher-solids coatings.
- DBE is a low-cost solvent since it is manufactured from a by-product.
- DBA not converted to DBE is disposed of by deep well injection.
- DBE has relatively low toxicity.
- Recent studies make suspect the toxicity of several solvents with which DBE would compete.

The EPA has evaluated Du Pont's petition and concluded that it should be approved. In the EPA's judgment, approval of the petition would not cause an adverse impact on the environment and would not disrupt the coating solvent market. Before approving Du Pont's petition, the EPA is providing the opportunity for public comment.

Unless comments are received giving sufficient reasons to deny the Du Pont petition, the EPA will notify the States that it would not preclude them from allowing owners or operators of surface coating operations to make a density adjustment for the VOC content of a coating when DBE is used as a coating solvent. The density adjustment would allow the use of 7.36 pounds per gallon rather than the actual density of DBE, 9.0 pounds per gallon.

Dated: June 10, 1982.

Kathleen M. Bennett,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 82-16497 Filed 6-17-82; 8:45 am]

BILLING CODE 6560-50-M

[AD-FRL 2149-8]

National Air Pollution Control Techniques Advisory Committee; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a meeting of the National Air Pollution Control Techniques Advisory Committee will be held on July 21 and 22, 1982, at the First International Building, 29th Floor Conference Room, 1201 Elm Street, Dallas, Texas 75270.

The tentative agenda for the meeting is as follows:

July 21 (Wednesday)—9:00 a.m.

Onshore Natural Gas Production Industry-Sulfur Dioxide Emissions, New Source Performance Standard (Section 111 of the Clean Air Act) Onshore Natural Gas Production Industry—Volatile Organic Compound Fugitive Emissions, New Source Performance Standard (Section 111 of the Clean Air Act) Distillation Operations in Synthetic Organic Chemical Manufacturing—Volatile Organic Compound Emissions, New Source Performance Standard (Section 111 of the Clean Air Act).

July 22 (Thursday)—9:00 a.m.

Continuation of July 21—As Required.

Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels in the Steel Industry—Particulate Matter and Opacity of Visible Emissions, Revision of Standards of Performance for New Stationary Sources (Section 111 of the Clean Air Act).

All meetings are open to the public. Anyone wishing to make a presentation should contact Ms. Mary Jane Clark at the Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, by July 14, 1982. The commercial telephone number is (919) 541-5571, and the FTS number is 629-5571.

The dockets containing material relevant to the onshore natural gas production industry (A-80-20), distillation operations (A-80-25), and electric arc furnaces (A-79-33) are located in the U.S. Environmental Protection Agency, Central Docket Section, West Tower Lobby—Gallery 1, 401 M Street, S.W., Washington, D.C. 20460. The dockets may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays, and a reasonable fee may be charged for copying.

Dated: June 10, 1982.

Kathleen M. Bennett,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 82-16495 Filed 6-17-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51344B; TSH-FRL-2152-1]

Mono-Azo Dye; Premanufacture Notice; Termination of an Extended Review Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is terminating the remaining portion of a 90-day extension of the review period for premanufacture notice (PMN) P-81-559, which was issued pursuant to section 5(c) of the Toxic Substances Control Act (TSCA). The review period will now expire on June 8, 1982. The PMN was submitted for a water-soluble, fiber-reactive, mono-azo dye which will be imported by a company which has claimed its identity to be confidential.

FOR FURTHER INFORMATION CONTACT: Rose Allison, Chemical Control Division (TS-794), Environmental Protection Agency, Rm. E-222, 401 M St., SW., Washington, DC 20460, (202-382-3733).

SUPPLEMENTARY INFORMATION:

Background

Under section 5 of TSCA anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a premanufacture notice (PMN) to EPA 90 days prior to commencement of manufacture or import. Under section 5(c) EPA may extend the notice period for good cause for additional periods, not to exceed an aggregate of 180 days from the date of receipt. EPA issued proposed rules to implement the premanufacture notification program in the **Federal Register** of January 10, 1979 (44 FR 2263). Section 720.35 of the proposed rules addressed the section 5(c) extension authority and provided examples of situations in which the Agency believed there would be good cause to extend the notice period.

Review to Date

On October 29, 1981 EPA received PMN 81-559 from a confidential submitter for the following chemical: 5-acetylamino-4-hydroxy-3-(2-hydroxy-4-(2-hydroxysulfonyloxy)-ethylsulfonyl)-5-methylphenylazo)-2,7-naphthalenedisulfonic acid trisodium salt copper complex. Notice of receipt was published in the **Federal Register** of November 6, 1981 (46 FR 55145). The chemical is a fiber-reactive dye for cellulosic fabrics. Maximum volume to be imported is estimated as 15,000 kg.

The original review period was scheduled to expire on January 26, 1982. On January 29, 1982, EPA published a notice in the **Federal Register** (47 FR 4335) extending the review period for an additional 90 days, to April 26, 1982. On January 27, 1982, the PMN submitter voluntarily suspended the review period.

When the review period was extended, EPA had reason to believe that azo reduction of the substance described in PMN 81-559 would produce a derivative of beta-naphthylamine. Beta-naphthylamine is a known carcinogen. Significant occupational exposure and possible drinking water contamination were expected. While the period has been suspended, EPA has conducted a more detailed analysis of the chemical. As a result, new studies were located on a structurally closer analogue of the expected derivative of the PMN substance than beta-naphthylamine. The new studies did not indicate carcinogenic activity. The Agency has found these studies to be adequate for determining carcinogenic potential.

Termination of the Review Period Extension

Based on a more detailed analysis conducted during the period since the review period was extended, EPA finds that it will not be necessary to regulate PMN 81-559 under section 5(e) of TSCA. Therefore, the Agency no longer requires the additional review time provided by section 5(c), and terminates the remaining portion of the 90-day extension.

Public Record

PMN 81-559 is available for public inspection in Room E-106, at the EPA Headquarters, address given above, from 8:00 a.m. to 4:00 p.m., Monday through Friday. The identity of the submitter has been kept confidential and has been deleted from the documents in the public record.

Dated: June 8, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82-16564 Filed 6-17-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It; Change in Location for Two Task Group Meetings

June 10, 1982.

This document announces changes in location for two task group meetings (Task Group B-1 which was not published in the **Federal Register** and Task Group A-3 published on June 4, 1982; 47 FR 24415) as follows:

Task Group B-1 of Working Group B: Legal Implications
Chairman: Martin Rothblatt (202) 632-5446
Date: Tuesday, June 15, 1982
Time: 1:00-4:00 p.m.
Location: Federal Communications Commission, 2025 M Street, NW., Room 7327; vice 1919 M Street NW., Room 650
Agenda: (1) Review contributions dealing with law relevant to Space WARC, and (2) Begin legal evaluation of orbit/spectrum access methods and planning approaches.

Task Group A-3 of Working Group A: U.S. Interests
Chairman: John Marus (212) 684-4700
Date: Tuesday, June 22, 1982
Time: 1:00-4:00 p.m.
Location: Federal Communications Commission 2025 M Street, NW., Room 7327; vice 1919 M Street, NW., Room 650
Agenda: (1) Welcome and Introductions; (2) Approval of Agenda; (3) Subcommittee A-3 Mandate; (4) Proposed Report Outline for U.S. Interests; (5) Tentative Work Schedule; (6) Other Business; (7) Next Meeting; (8) Adjournment

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-16513 Filed 6-17-82; 8:45 am]

BILLING CODE 6712-01-M

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee);

This notice announces the following meeting of Task Group B-3 of Working Group B:

Task Group B-3 of Working Group B: Interests of Other Users
Chairman: Dr. Carol Lee Hilewick (201) 221-6957
Date: Wednesday, June 16, 1982
Time: 11 a.m.—12 Noon
Location: Lafayette Center, 1120 20th Street, NW., Room 925, Washington, D.C.

Federal Communications Commission.

William J. Tricarico,

Secretary.

June 10, 1982.

[FR Doc. 82-16515 Filed 6-17-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Gulf South Bancshares, Inc.*, Gretna, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of Gulf South Bank and Trust Company, Gretna, Louisiana. Comments on this application must be received not later than July 14, 1982.

2. *UBF Corporation*, Dade City, Florida; to become a bank holding company by acquiring 80 percent of the voting shares of The Bank of Pasco County, Dade City, Florida. Comments on this application must be received not later than July 14, 1982.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Union-Calhoun Investments, Ltd.*, Rockwell City, Iowa; to become a bank holding company by acquiring 80 percent or more of the voting shares of Union State Bank, Rockwell City, Iowa. Comments on this application must be received not later than July 14, 1982.

C. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Citizens National Corporation*, Linton, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens National Bank of Linton, Linton, Indiana. Comments on this application must be received not later than July 14, 1982.

D. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Townco Bancorp*, Seal Beach, California; to become a bank holding company by acquiring 100 percent of the voting shares of Garden Grove Community Bank, Garden Grove, California. Comments on this application must be received not later than July 14, 1982.

Board of Governors of the Federal Reserve System, June 14, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-16510 Filed 6-17-82; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a

statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Tennessee National Bancshares, Inc.*, Maryville, Tennessee; to acquire 21 percent of the voting shares or assets of Tennessee State Bank, Gatlinburg, Tennessee. Comments on this application must be received not later than July 11, 1982.

B. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Victoria Bancshares, Inc.*, Victoria, Texas; to acquire 100 percent of the voting shares or assets of Angleton Bank of Commerce, Angleton, Texas. Comments on this application must be received not later than July 11, 1982.

C. Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551:

1. *First City Bancorporation of Texas, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares or assets of First City Bank-West Belt N.A., Houston, Texas, a proposed new bank. This application may be inspected at the Federal Reserve Bank of Dallas. Comments on this application must be received not later than July 11, 1982.

Board of Governors of the Federal Reserve System, June 14, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-16511 Filed 6-17-82; 8:45 am]

BILLING CODE 6210-01-M

Miles-Advance Bancshares, Inc.; Formation of Bank Holding Company

Miles-Advance Bancshares, Inc., Advance, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The Bank of Advance, Advance, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Miles-Advance Bancshares, Inc., Advance, Missouri, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to directly engage in the activity of acting as agent or broker in the sale of credit life and credit accident and health insurance.

These activities would be performed from offices of Applicant's subsidiary in Advance, Missouri, and the geographic area to be served is Stedland County, Missouri. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than July 11, 1982.

Board of Governors of the Federal Reserve System, June 11, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-16512 Filed 6-17-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Act (12 U.S.C. 1843(c)(8)) and section 215.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than July 12, 1982.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York (consumer finance and insurance activities; Connecticut): To expand the activities and service area of Citicorp Person-to-Person Financial Center of Connecticut, Inc., an indirect subsidiary of Citicorp, located in Westport, Connecticut. The previously approved activities of the subsidiary are as follows; the making of loans to individuals and businesses secured by second mortgage liens; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required the servicing, for any person, of loans and other extensions of credit and the sale of consumer oriented financial management courses. The activities in which the subsidiary proposes to engage *de novo* are: The making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the previously approved and proposed activities shall be comprised of the entire State of Connecticut.

2. *Citicorp*, New York, New York (consumer finance and credit-related insurance activities, Arizona, Nevada

and New Mexico): To expand the activities and service areas of eight existing offices of its subsidiary, Citicorp Person-to-Person Financial Center, Inc., and to establish eight *de novo* offices of Citicorp Homeowners, Inc. at the same locations. The activities to be engaged in by the *de novo* offices of Citicorp Homeowners, Inc. will include: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the making, acquiring, and servicing for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. The proposed service area of the *de novo* offices shall be comprised of the entire states of Arizona, Nevada and New Mexico for all the aforementioned activities. The new activities in which the Citicorp Person-to-Person offices proposed to engage *de novo* are: the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the aforementioned proposed activities shall be comprised of the entire states of Arizona, Nevada and New Mexico. The proposed expanded service areas of the Citicorp Person-to-Person offices shall include the entire states of Arizona, Nevada and New Mexico for a portion of their previously approved activities, specifically, the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. In regard to credit related insurance, the business of a general insurance agency will not be conducted. Credit related decreasing term life insurance and accident and health insurance may be underwritten by Family Guardian Person-to-Person Financial Center, Inc. and Citicorp Homeowners, Inc. The aforementioned activities will be conducted from the following eight locations: 7620 E. Indian School Road, Scottsdale, Arizona; 9861 Metro Parkway West, Phoenix, Arizona; 2077 East Camelback Road, Phoenix, Arizona; 777 E. Missouri Avenue, Phoenix, Arizona; Tri City Mall, 1836 West Main Street, Mesa, Arizona; Thomas Mall, 4421 A East Thomas Road, Phoenix, Arizona; 143 Valley West Mall, 5719 West Northern Avenue, Glendale, Arizona; and Chris Town Shopping Center, 1558 West Montebello. Phoenix, Arizona.

B. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Arkansas Bankstock Corporation,* Little Rock, Arkansas (lending activities; Arkansas and contiguous states): To engage in lending activities, including making, acquiring and servicing loans and other extensions of credit and issuing letters of credit and guarantees. These lending activities will be conducted from Applicant's office in Little Rock, Arkansas, and will serve Arkansas and contiguous states.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Bank Holding Company* and *First Bank Holding Company of Colorado,* Lakewood, Colorado (financing activities; Colorado): To engage in the making of loans and other extensions of credit, including, but not limited to, residential mortgage loans. These activities will be conducted from the Applicants' main office in Lakewood, Colorado. These activities are anticipated to serve the trade areas of the Applicants' subsidiary banks, generally within the boundaries of Denver, Jefferson, Boulder, Douglas, Weld, Arapahoe, Adams, and Eagle counties, Colorado.

D. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Charter National Bancorp,* Encino, California (financing activities; California): To engage through its subsidiary, Charter National Finance Corp., in making or acquiring, for its own account or for the account of others, loans and other extensions of credit (including issuing letters of credit and accepting drafts) such as would be made by a mortgage, finance, credit card or factoring company. These activities would be conducted at an office in Encino, California, serving the State of California.

2. *West Coast Bancorp,* Encino, California (insurance premium financing activities; Southern California): To engage, through its subsidiary, West Coast Premium Financing Company, a California corporation, in operating an insurance premium financing company under the California Industrial Loan Laws. These activities would be conducted from an office in Encino, California, serving Southern California. Comments on this application must be received not later than July 6, 1982.

Board of Governors of the Federal Reserve System, June 14, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-16509 Filed 6-17-82; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[F-82-19]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Kentucky Public Service Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.* (a) Pursuant to the authority contained in the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Kentucky Public Service Commission involving the application of the South Central Bell Telephone Company in Docket No. 8467 for an increase in rates for telecommunications services.

(b) The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

(c) This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

(d) The Department of Defense shall add the General Services Administration to its service list in this case so that GSA will receive copies of testimony, briefs and other Department of Defense filings.

Dated: June 9, 1982.

Francis A. McDonough,

Deputy Commissioner for Government-wide Management, General Services Administration, Automated Data and Telecommunications Service.

[FR Doc. 82-16517 Filed 6-17-82; 8:45 am]

BILLING CODE 6820-25-M

Transportation and Public Utilities Service

[E-82-16]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Illinois Commerce Commission involving electric and natural gas rates, Docket No. 82-0152.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.* (a) Pursuant to the authority vested in the Administrator of General Services by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Illinois Commerce Commission involving the petition of the Illinois Power Company for an increase in its electric and natural gas rates, Docket No. 82-0152.

(b) The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

(c) This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration (GSA), and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

(d) The Department of Defense shall add GSA to its service list in this case so that GSA will receive copies of testimony, briefs, and other Department of Defense filings.

Dated: June 3, 1982.

Allan W. Beres,

Commissioner, Transportation and Public Utilities Service.

[FR Doc. 82-16516 Filed 6-17-82; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 82M-0173]

Kontron Cardiovascular, Inc.; Premarket Approval of Kontron Cutaneous pCO_2 Monitor

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Kontron Cutaneous pCO_2 Monitor sponsored by Kontron Cardiovascular, Inc., Everett, MA. After reviewing the recommendation of the Anesthesiology Device Section of the Respiratory and Nervous System Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for ruse in neonates and infants as recommended in the submitted labeling.

DATE: Petitions for administrative review by July 19, 1982.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, Bureau of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On July 24, 1981, Kontron Cardiovascular, Inc., Everett, MA, submitted to FDA an application for premarket approval of the Kontron Cutaneous pCO_2 monitor, a trend monitor for carbon dioxide tension at the skin surface of neonates, infants, and adults. The Anesthesiology Device Section of the Respiratory and Nervous System Devices Panel, an FDA advisory committee, reviewed the application and recommended approval for the use of this device on neonates and infants. On May 17, 1982, FDA approved the application for the uses recommended by the Section by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices. Use of the device on adults continues to be investigational.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Bureau of Medical Devices. Contact Charles Kyper (HFK-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of the review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before July 19, 1982, file with the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 11, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-16317 Filed 6-17-82; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Notice of Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings: Boston District Office, Chaired by Frederick R. Carlson, District Director.

DATE: Thursday, June 24, 1982, 9:30 a.m. to 12:30 p.m.

ADDRESS: Food and Drug Administration Bldg., Second Floor Conference Room, 585 Commerical St., Boston, MA.

FOR FURTHER INFORMATION CONTACT: Yolan Harsanyi, Consumer Affairs Officer, Food and Drug Administration, 585 Commercial St., Boston, MA 02109, 617-223-5857.

Detroit District Office, Chaired by Alan L. Hoeting, District Director.

DATE: Tuesday, July 13, 1982, 9:30 a.m.

ADDRESS: George Potter Larrick Bldg., Conference Room, 1560 E. Jefferson, Detroit, MI.

FOR FURTHER INFORMATION CONTACT: Diane Place, Consumer Affairs Officer, Food and Drug Administration, 1560 E. Jefferson, Detroit, MI 48207, 313-226-6260.

St. Louis Station, Chaired by Ronald M. Johnson, Chief, St. Louis Station.

DATE: Tuesday, July 27, 1982, 1:30 p.m. to 3:30 p.m.

ADDRESS: Food and Drug Administration, Conference Room, 808 N. Collins, Laclede's Landing, St. Louis, MO.

FOR FURTHER INFORMATION CONTACT: Mary-Margaret Richardson, Consumer Affairs Officer, Food and Drug Administration, 808 N. Collins, St. Louis, MO 63102, 314-425-5021.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance understanding and exchange information between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: June 11, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-16315 Filed 6-17-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82M-0187]

Unilab, Inc.; Denial of Premarket Approval of Kiel Surgibone

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the Bureau of Medical Devices' (BMD) denial of approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Kiel Surgibone, sponsored by Unilab, Inc., Hillside, NJ. After reviewing the recommendation of the Orthopedic Device Section of the Surgical and Rehabilitation Devices Panel and analyzing the data and information submitted in support of the application, BMD notified the sponsor that the application was denied approval on the grounds that the device had not been shown to be safe and effective for use as recommended in the submitted labeling.

ADDRESS: Requests for copies of the letter to the sponsor denying approval of the application and the summary of the safety and effectiveness data may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, Bureau of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On August 20, 1981, Unilab, Inc., Hillside, NJ, submitted to FDA an application, dated August 17, 1981, for premarket approval of Kiel Surgibone, a bovine heterograft intended for use in surgical procedures following the removal of a herniated cervical disc. The application was reviewed by the Orthopedic Device Section of the Surgical and Rehabilitation Devices Panel, an FDA advisory committee, which recommended that the application not be approved. On May 28, 1982, the Acting Director of BMD denied approval of the application by a letter to the sponsor. The letter advised the sponsor of its right to file, within 30 days of its receipt of the letter, a petition for a formal hearing on, or for an independent advisory committee review of, BMD's decision.

After reviewing any petition received from the sponsor, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Copies of BMD's letter denying approval of the application and the summary of the safety and effectiveness data on which BMD's decision is based are on file with the Dockets Management Branch (address above) and are available upon request from that office. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Dated: June 11, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-16314 Filed 6-17-82; 8:45 am]

BILLING CODE 4160-01-M

[FDA-225-82-7000]

Memorandum of Understanding With the United States Department of Agriculture, Animal and Plant Health Inspection Service

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum of understanding with the United States Department of Agriculture, Animal and Plant Health Inspection Service (APHIS). The purpose of the understanding is to set forth the agreement between APHIS and FDA regarding responsibilities for regulating animal biological products as biologicals under the Virus, Serum, and Toxin Act of 1913 or as drugs under the Federal Food, Drug, and Cosmetic Act.

EFFECTIVE DATE: The agreement became effective May 7, 1982.

FOR FURTHER INFORMATION CONTACT: Walter J. Kustka, Intergovernmental and Industry Affairs Staff (HFC-50), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1583.

SUPPLEMENTARY INFORMATION: In accordance with § 20.108(c) (21 CFR 20.108(c) stating that all agreements and memoranda of understanding between FDA and others shall be published in the **Federal Register,** the agency is

publishing the following memorandum of understanding:

Memorandum of Understanding Between the Animal and Plant Health Inspection Service, United States Department of Agriculture and the Food and Drug Administration, Department of Health and Human Services

I. Purpose

This agreement reflects the understanding between the Animal and Plant Health Inspection Service (APHIS) and the Food and Drug Administration (FDA) regarding responsibilities for regulating animal biological products as biologicals under the Virus, Serum, and Toxin Act of 1913 (VSTA) or as drugs under the Food, Drug, and Cosmetic Act (FDCA).

II. Background

Animal biological products generally act through a specific immune process and are intended for use in the treatment (including prevention, diagnosis, or cure) of diseases in animals. Such products include but are not limited to vaccines, bacterins, sera, antisera, antitoxins, toxoids, allergens, diagnostic antigens prepared from, derived from, or prepared with microorganisms, or growth products of microorganisms, animal tissues, animal fluids, or other substances of natural or synthetic origin.

Animal biological products which are prepared or sold in places under exclusive federal jurisdiction or which are shipped interstate are subject to regulation under VSTA. When such products are not produced in an establishment licensed under VSTA but are nevertheless shipped interstate, shippers of such products are subject to sanctions under VSTA. Because animal biological products are "drugs" within the meaning of FDCA, FDA may regulate such products when VSTA does not apply or, as in the case of unlicensed biologicals in interstate commerce, if VSTA does not offer an appropriate remedy at law. Accordingly, FDA may exercise jurisdiction over animal biological products that, although not distributed in interstate commerce, are manufactured from components that are received in interstate commerce. Unlicensed animal biological products delivered for shipment in interstate commerce are also subject to seizure and injunction proceedings under FDCA.

III. Substance of Agreement

A. Referral and Exchange of Information for Purposes of Investigation or Appropriate Legal Action

For the purpose of coordinating investigation and enforcement and avoiding duplication of effort, FDA and USDA agree to provide each other with any information which may come to their attention regarding veterinary products and which may be germane to either agency's enforcement functions under VSTA or FDCA. Such information shall be provided to the liaison officers of the agencies who are named in paragraph V of this agreement. In addition, the liaison officers shall provide information to each other regarding pending investigations and enforcement actions on a regular basis.

B. New Products and Products Which Raise Definitional or Jurisdictional Questions

The development of genetic engineering technology, monoclonal antibodies, and the preparation of synthetic vaccines has introduced a new generation of biological products for use in the treatment of disease in animals. Aspects of these new products may differ significantly from prior products. For example, the immunological and physiological responses to the products may differ. Thus, the procedures used in the past by APHIS and FDA for determining which administrative agency would have responsibility in regulating a given biological product may no longer clearly fit or apply to these new products.

Therefore, APHIS and FDA agree to establish and maintain a standing committee of not less than three persons from each agency to address the status of such new products as well as to consider regulatory responsibilities over them. The standing committee shall meet at least once each year and at such other times as it may be called into session at the request of either agency's liaison officer or designee. Interested persons may contact the liaison officer of either agency regarding the regulatory status of new products or other products which raise questions of a jurisdictional or a definitional nature. The committee's decisions regarding such questions will be subject to both policy and legal reviews by each agency. This agreement is intended to change neither the regulatory responsibilities of the agencies nor the classification of products already licensed, approved, or otherwise regulated by the agencies. Changes may be agreed upon by both parties for orderly and effective regulation.

IV. Name and Address of Participating Agencies

Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 12th St. and Independence Ave. SW., Washington, DC 20250.

Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

V. Liaison Officers

Individuals in the following positions are designated as the liaison officers for the purposes of this agreement and shall be the primary points of contact regarding any matters relevant to the agreement.

A. For the Animal and Plant Inspection Service: Senior Staff Veterinarian, (currently R. J. Price, D.V.M.), Veterinary Biologics Staff, Animal and Plant Health Inspection Service, 301–436–8245.

B. For the Food and Drug Administration: Associate Director for Surveillance and Compliance, (currently Max L. Crandall, D.V.M.), Bureau of Veterinary Medicine, Food and Drug Administration, 301–443–3400.

VI. Period of Agreement

This agreement, when accepted by both parties, will be effective indefinitely. It may be modified by mutual written consent or terminated by either party upon a 30-day written notice to the other.

Approved and Accepted for the Animal and Plant Health Inspection Service:

By: s/Samuel V. Ladd,

Title: *Acting Administrator, Animal and Plant Health Inspection Service.*

Date: May 7, 1982.

Approved and Accepted for Food and Drug Administration:

By: s/Joseph P. Hile,

Title: *Associate Commissioner for Regulatory Affairs.*

Date: April 21, 1982.

Effective date. This Memorandum of Understanding became effective May 7, 1982.

Dated: June 11, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–16500 Filed 6–17–82; 8:45 am]

BILLING CODE 4160–01–M

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on June 11.

PUBLIC HEALTH SERVICE
Health Services Administration
Subject: Grants for Development, Construction, and Operation of Facilities and Services—Indian Health Services—NEW
Respondents: American Indians, Alaskan Native Tribes, and Tribal Organizations
Office of the Assistant Secretary for Health
Subject: Demonstration of Efficiency Payment System for Nursing Homes (0937–0037)—Revision

Respondents: Long-term care facilities and their patients
OMB Desk Officer: Richard Eisinger
Food and Drug Administration
Subject: Quantity and Nature of Patient Interactions with Physicians and Pharmacists re: Prescriptions—NEW
Respondents: Practicing physicians in selected specialities/retail pharmacists
OMB Desk Officer: Fay S. Iudicello
Health Care Financing Administration
Subject: Medicare/Medicaid Laboratory Personnel Qualifications Appraisal (0938–0049)—Extension/No Changes
Respondents: Individuals
OMB Desk Officer: Fay S. Iudicello.

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

J. J. Strand, HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524.F, Washington, D.C. 20201
OMB Reports Management Branch New Executive Office Building, Room 3208, Washington, D.C. 20503, Attn: (name of OMB Desk Officer)

Dated: June 18, 1982.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 82–16662 Filed 6–14–82; 8:45 am]
BILLING CODE 4150–04–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NEV. 057587]

Nevada; Order Providing for Opening of Public Lands; Correction

June 10, 1982.

In the FR Doc. 81–33158, published on Wednesday, November 18, 1981, on page 56661, the second column, the first two paragraphs are hereby deleted and the following inserted:

Beginning at a point 85.00 feet left of the centerline of the Railroad Corridor (Project No. RR–130 (1)) at City Engineer's Station "W" 466+13.70 P.O.C., said point of beginning being further described as bearing S. 81°33'40" W. a distance of 3048.80 feet from the NE corner of said Section 22; Thence N. 37°16'33" W. a distance of 274.49 feet to a point; Thence N. 57°37'27" E. a distance of 187.09 feet to a point; Thence N. 37°16'33" W. a distance of 183.00 feet to a point; Thence N. 57°35'27" E. a distance of 185.25 feet to a point; Thence N. 37°18'33" W. a distance of 100.00 feet to a point; Thence N. 57°35'27" E. a distance of 150.92 feet to a point; Thence S. 37°18'33" E. a distance of 100.00 feet to a point; Thence N. 57°35'27" E. a distance of 50.00 feet to a point; Thence N. 37°18'33" W. a distance of 100.00 feet to a point; Thence N. 57°34'40" E. a distance of 49.99 feet to a point; Thence S. 37°18'34" E. a distance of 455.86 feet to a point; Thence S. 41°03'26" W. a distance of 443.95 feet to a point; Thence S. 37°59'37" E. a distance of 21.58 feet to a point; Thence S. 37°59'34" E. a distance of 146.01 feet to a point; Thence S. 59°26'27" W. a distance of 190.05 feet to a point; Thence N. 37°18'33" W. a distance of 186.41 feet to the point of beginning;

The area described above comprises 6.64 acres in Elko County, Nevada.

This notice was published in accordance with a deed of correction on the land reconveyed to the United States.

Wm. J. Malencik,

Acting Chief, Division of Operations.

[FR Doc. 82–16521 Filed 6–17–82; 8:45 am]
BILLING CODE 4310–84–M

Nevada; Classification Vacated

June 11, 1982.

Pursuant to the authority designated by Bureau Order 701 and amendments thereto, public land sale classification N–3475 is hereby vacated in its entirety. The land affected is described as follows:

Mount Diablo Meridian, Nevada

T. 18 N., R. 24 E.,
Sec. 26, N½NE¼NW¼.

The area described comprises 20 acres in Storey County, Nevada.

The authority under which this classification was accomplished has been repealed.

The segregative effect of the classification order is removed upon publication of this notice in the **Federal Register.**

Edward F. Spang,

State Director, Nevada

[FR Doc. 82–16522 Filed 6–17–82; 8:45 am]
BILLING CODE 4310–84–M

[W–75437]

Realty Action; Noncompetitive Sale of Public Land in Lincoln County, Wyoming

June 10, 1982.

The surface estate of the following described public land has been determined to be suitable for disposal by sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713:

Sixth Principal Meridian, Wyoming

T. 21 N., R. 116 W.,
Sec. 15, lots 1, 2, 3, and 4.
Containing 16.34 acres.
Fair Market Value: $98,000.

The land is to be sold noncompetitively to The Pittsburg and Midway Coal Mining Company for fair market value. The land will not be offered for sale until 60 days after the date of this Notice.

The above public land is an isolated tract, approximately 140 feet wide and 5,000 feet long which Kemmerer Coal Company inadvertently included in the design and survey of their Kemmerer Industrial Park No. 1, a commercial and light industrial complex development at Kemmerer, Wyoming. Kemmerer Coal Company subsequently discovered the land belonged to the United States and asked the Bureau of Land Management to sell the land. Kemmerer Coal Company dissolved December 31, 1981 and was acquired by The Pittsburg and Midway Coal Mining Company.

The authorized officer has determined the land is an integral part of a definitely proposed community expansion project of public importance and direct sale of the land as proposed would best serve the public interest. Sale of the land through competitive bidding could jeopardize timely completion and economic viability of the project. Sale of the land as proposed is consistent with Bureau and local governmental land use planning.

No permits, leases or other authorizations for livestock grazing affect the land.

Conveyance of the land shall be subject to:

1. Reservation to the United States of all mineral deposits in the land, and to it, or persons authorized by it, the right to prospect, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe;

2. Reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States in accordance with 43 U.S.C. 945;

3. All valid existing rights (e.g., rights-of-way, easements, and leases of record).

Detailed information concerning the sale is available for review at the Bureau of Land Management Rock Springs District Office, P.O. Box 1869, Rock Springs, Wyoming 82901.

On or before July 26, 1982, interested parties may submit comments to the State Director, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination of the Department of the Interior.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-16523 Filed 6-17-82; 8:45 am]

BILLING CODE 4310-84-M

Lower Gila North Grazing Management; Intent To Prepare Environmental Impact Statement

IN FR Doc. 82-13551, Vol. 46, No. 87, appearing on pages 25353 and 25354 of the issue for May 6, 1981, the following change should be made:

The Final Environment Statement for the Lower Gila North Planning Area will not contain a draft Rangeland Program Summary. The Rangeland Program Summary is now scheduled to be published in February 1983, and will summarize the planning objectives and decisions for all rangeland uses and set forth those decisions that affect livestock grazing. It will include the forage allocation, by allotment, for livestock and other consumptive uses.

For information concerning the Environmental Impact Statement, contact: Bill Carter, Team Leader, Phoenix District, BLM, 2929 West Clarendon Avenue, Phoenix, Arizona 85017, Telephone FTS 261-2852, Commercial (602) 241-2852.

Dated: June 10, 1982.

Tom Allen,

Acting State Director

[FR Doc. 82-16524 Filed 6-17-82; 8:45 am]

BILLING CODE 4310-84-M

[AA-6698-E]

Alaska Native Claims Selection

Section 1432 of the Alaska National Interest Lands Conservation Act of December 2, 1980 (94 Stat. 2543) (ANILCA), directs the Secretary of the Interior to implement the agreement of August 17, 1979, signed by Salamatof Native Association, Inc. Cook Inlet Region, Inc., and the Secretary of the Interior. The agreement provided for an exchange of all selections or selection rights the corporation for the Native village of Salamatof had, or may have had, within the Kenai National Moose Range (now the Kenai National Wildlife Refuge) for those lands described in the agreement, a portion of which are herein approved for conveyance. (A copy of the agreement of August 17, 1979, is filed in case file AA-6698-E.)

The lands described below do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title. The conveyance shall be considered and treated as a conveyance under ANCSA.

In view of the foregoing, the surface estate of the following described lands, aggregating approximately 15,029.98 acres, will be conveyed, pursuant to Sec. 1432 of ANILCA, to Salamatof Native Association, Inc.

Seward Meridian, Alaska (Partially Surveyed)

T. 4 N., R. 10 W.,
Sec. 1, lots 5, 7, 8, 9, and 11 to 14, inclusive, S½NW¼, NE¼SW¼, and SE¼SE¼;
Sec. 2, lots 7, 8, 9, SE¼NE¼, and those portions of lots 5, 10, 11, 12, W½SW¼, SE¼SW¼, SW¼SE¼, northerly of Funny River Road;
Sec. 3, those portions of S½N½, S½, easterly of Funny River Road;
Sec. 6, lot 4, and those portions of lots 3, 5, 7, and 8, SE¼NW¼, westerly of Sterling Highway;
Sec. 7, those portions of NW¼NW¼, westerly of Sterling Highway;
Sec. 10, those portions of N½ and SE¼, northeasterly of Funny River Road;
Sec. 11, those portions northerly of Funny River Road;
Sec. 12, those portions of lots 1, 2, and NE¼, S½NW¼, S½, northerly of Funny River Road.

Containing approximately 1,976.98 acres.

Seward Meridian, Alaska (Unsurveyed)

T. 4 N., R. 9 W.,
Sec. 5, those portions of NE¼NW¼, S½NW¼, and SW¼, westerly of Funny River Road;
Sec. 6, those portions of S½N½, S½, westerly of Funny River Road;
Sec. 7, those portions northerly of Funny River Road.

Containing approximately 851 acres.

T. 6 N., R. 10 W.,
Secs. 13, 14, and 15;
Secs. 22 to 27, inclusive;
Sec. 28, E½, E½W½;
Sec. 32, W½,E½,W½;
Sec. 33, E½, E½W½;
Secs. 34, 35, and 36.

Containing approximately 9,120 acres.

T. 6 N., R. 11 W.,
Sec. 1, NW¼, N½SW¼, SE¼SW¼;
Sec. 2, NE¼, N½NW¼.

Containing approximately 520 acres.

T. 7 N., R. 11 W.,
Sec. 23;
Sec. 25, W½;
Sec. 26;
Sec. 35;
Sec. 36, W½.

Containing approximately 2,560 acres.
Aggregating approximately 15,029.98 acres.

Excluded from the above-described lands is the Kenai River and any islands

therein and any submerged lands covered by that river as defined by 43 U.S.C. 1301(a).

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)); and

2. Pursuant to the agreement of August 17, 1979 as authorized by Sec. 1432(b) of the Alaska National Interest Lands Conservation Act (94 Stat. 2543), the following public easements are reserved to the United States:

Two easements, one along each bank of the Kenai River, shall be reserved for the use of the public at large to walk upon or along such banks, to fish from such banks or to launch or beach a boat upon such banks; provided, however, that persons will not be permitted to use such easements for purposes of travel by vehicle (except any wheelchair) or for the purpose of constructing any structure other than a structure to provide immediate relief from inclement weather as and when occasionally required, provided that this does not include the right to cut down any bush or tree except in an emergency, and provided further that this shall not be construed to imply that the two easements may be used as a campsite. Each easement along each bank of the Kenai River shall be for the full length of the Kenai River as it traverses the lands conveyed to Salamatof and described in Secs. 6(c) and 6(d) of this agreement; each easement shall be 25 feet in width and shall extend from the edge of the submerged land retained by the United States in the Kenai National Wildlife Refuge pursuant to Sec. 6 of this agreement to a line 25 feet from and upland to such submerged lands and parallel to such submerged lands.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him;

3. The terms and conditions of the agreement of August 17, 1979, a copy of the agreement shall be attached to and become a part of the conveyance document and shall be recorded therewith. A copy of the agreement is located in case file AA–6698–E. Any person wishing to examine this agreement may do so at the Bureau of Land Management, Alaska State Office, 701 C Street, Anchorage, Alaska 99513;

4. The provisions of Sec. 9 of the agreement of August 17, 1979, namely the following covenant, running with the land: Salamatof Native Association, Inc., its successors and assigns, shall not interfere with the right of the public to use the easements reserved to the United States in this conveyance; further, Salamatof Native Association, Inc., shall have the right to build or permit building upon the easements reserved, provided Salamatof provides an easement 25 feet in width around such construction or obstruction and clearly indicates that such detour is for the use of the public and does not use such construction or obstruction for the purpose of interfering with the right of the public to have travel along the side of the Kenai River or to fish in the river from the bank or to have a reasonable opportunity to launch or beach a boat upon the river or bank;

5. A right-of-way, A–051168, for a Federal Aid Highway, located in Secs. 6 and 7, T. 4 N., R. 10 W., Seward Meridian, granted to the State of Alaska, Department of Highways, under the act of August 27, 1958, as amended (23 U.S.C. 317);

6. Any right-of-way interest in the Sterling Highway (FAP Route Number 21) transferred to the State of Alaska by the quitclaim deed dated June 30, 1959, executed by the Secretary of Commerce under the Authority of the Alaska Omnibus Act, Pub. L. 86–70 (73 Stat. 141) located in Secs. 6 and 7, T. 4 N., R. 10 W., Seward Meridian;

7. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section; and

8. The following third-party interests, if valid, created and identified by the U.S. Fish and Wildlife Service, as provided by Sec. 14(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(g)):

a. A right-of-way, E–78–KE, for an electric distribution line forty (40) feet in width, located in Sec. 6, T. 4 N., R. 10 W., Seward Meridian, granted to Homer Electric Association, Inc., under the act of February 15, 1901, as amended (43 U.S.C. 959);

b. A right-of-way, Permit No. R–3, granted to the State of Alaska for highway purposes in Secs. 2, 3, 10, 11, and 12, T. 4 N., R. 10 W., Seward Meridian, and Secs. 5, 6, and 7, T. 4 N., R. 9 W., Seward Meridian.

Salamatof Native Association, Inc., is entitled to 92,160 acres of land selected pursuant to Sec. 12(a) of ANCSA, subject to reduction incurred by relinquishments made by the said corporation in the Lake Clark area as required by Sec. 12(a) of Pub. L. 94–204 (89 Stat. 1151). Pursuant to Sec. 7 of the agreement of August 17, 1979, Salamatof's entitlement will be reduced by 57,480 acres in exchange for the 16,535 acres described in the agreement for conveyance to Salamatof Native Association, Inc., of which 15,029.98 acres are herein approved for conveyance. The remaining entitlement will be conveyed at a later date.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the *Anchorage Daily News*.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board before June 30, 1982, or to the Interior Board of Land Appeals after June 30, 1982; provided, however, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken *before June 30, 1982*, the notice of appeal must be filed with Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

If an appeal is taken *after June 30, 1982*, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960) address given above. Do not send the appeal directly to Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, address given above.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until July 19, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board or the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

The avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Salamatof Native Association, Inc., P.O. Box 2682, Kenai, Alaska 99611
Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509
State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7–005, Anchorage, Alaska 99510

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–16538 Filed 6–17–82; 8:45 am]

BILLING CODE 4310–84–M

Agency Forms Submitted for Review

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Bureau of Forms Submitted for Review.

SUMMARY: The proposal for the collection of information listed below has been submitted to the office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. William T. Adams, at 202–395–7340.

Title: Special Recreation Application and Permit
Bureau Form Number: 8370–1
Frequency: Annual
Description of Respondents: Commercial recreation operators (outfitters and guides), participants in competitive recreation events, and users of special recreation areas on the public lands.
Annual Responses: 1,500
Annual Burden Hours: 750
Bureau Clearance Officer (alternate): Linda Gibbs 202–653–8853

James M. Parker,

Acting Director.

May 21, 1982.

[FR Doc. 82–16548 Filed 6–17–82; 8:45 am]

BILLING CODE 4310–84–M

Minerals Management Service

Approval of Outer Continental Shelf Official Protraction Diagrams

1. Notice is hereby given that, effective with this publication, the following revised OCS Official Protraction Diagrams, approved on the dates indicated, are available at the Minerals Management Service, Alaska Outer Continental Shelf Region, Anchorage, Alaska. In accordance with Title 43, Code of Federal Regulations, these protraction diagrams are the basic record for the description of mineral and oil and gas lease offers in the geographic area represented.

OUTER CONTINENTAL SHELF PROTRACTION DIAGRAMS

Description	Revision date
NR 5–4 Harrison Bay	May 13, 1982.
NR 6–3 Beechey Point	Feb. 25, 1982.

2. Copies of these diagrams are for sale at two dollars ($2.00) per sheet by the Manager, Minerals Management Service, Alaska Outer Continental Shelf Region, P.O. Box 1159, Anchorage, Alaska 99510. The street address is 620 East 10th Avenue, Anchorage, Alaska. Checks or Money Orders should be made payable to the Bureau of Land Management.

Esther C. Wunnicke,

Acting Manager, Alaska Outer Continental Shelf Region.

[FR Doc. 82–16549 Filed 6–17–82; 8:45 am]

BILLING CODE 4310–84–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 137]

Contracts for Protective Services; Proposed Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: The Commission is proposing to exempt contracts for protective services against heat or cold, provided to or on behalf of rail carriers and express companies, from the requirements of 49 U.S.C. § 11105. The proposed exemption is intended to remove burdensome and unnecessary regulation of these contracts. In a separate decision published elsewhere in this issue, the Commission is also proposing the elimination of the regulations which currently govern the contracts.

DATE: Comments are due July 19, 1982.

ADDRESS: An original and, if possible, 15 copies of comments should be sent to: Ex Parte No. 137, Interstate Commerce Commission, Room 5340, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7277.

SUPPLEMENTARY INFORMATION: The Commission is proposing to exempt contracts for protective services against heat or cold, provided to or for rail carriers and express companies,[1] from the requirements of 49 U.S.C. 11105. Section 11105 permits a person to provide protective services to rail carriers only when the Commission finds the arrangement to be reasonable and in the public interest. We are seeking comments on the merits of this proposal.

The Commission's exemption authority for rail services is found in 49 U.S.C. 10505. Section 10505, as amended by the Staggers Rail Act of 1980, states that the Commission shall exempt a person, transaction, or service from regulation if: (1) regulation is not necessary to carry out the Rail Transportation Policy of 49 U.S.C. 10101a; and (2) either the transaction or service is of limited scope, or regulation is not needed to protect shippers from abuse of market power.

We are currently in the process of examining railroad regulation and are proposing to eliminate or reduce regulatory restrictions on railroad rates and services wherever the regulations are found to be no longer necessary or meaningful. Congress has focused on the need to pursue exemptions from economic regulation for railroads where regulatory control appears unnecessary to protect against abuses of market power. It appears that the proposed exemption for protective service contracts is consistent with Congressional intent.

[1] Section 11105 refers to both rail and express carriers. However, no express carriers are currently operating.

For perishable commodities, rail carriers generally provide protection against heat or cold through arrangements with wholly-owned subsidiaries acting as car line companies. The shipper pays two charges, one for transportation and another for protective service, both of whcih are covered by tariffs filed with the Commission. *Southern Ry. Co.* v. *United States*, 412 F. Supp. 1122, 1129 (D.C. 1976).

The Commission sought enactment of § 11105 [former section 1(14)(b)] in 1940, because doubts as to the Commission's jurisdiction over car line companies prevented close scrutiny of their relationship with the parent roads in determining the actual cost of providing protective services. *Id* at 1130. Believing that protective service companies were being paid too much, the Commission argued that this was a matter of public concern, because it affected the prosperity of the carriers. *Contracts for Protective Services*, 246 I.C.C. 145 (1941).

Following enactment of section 11105, there were numerous proceedings concerning various protective service contracts. In 1962, the Commission prescribed regulations for the filing and content of these contracts. *Contracts for Protective Services*, 318 I.C.C. 111 (1962). The regulations define the costs that may be recovered by persons providing protective services, and require that no contract provide for a charge to a nonproprietary railroad different from that to a proprietary railroad for the same service under substantially similar conditions. 49 CFR 1032.

There is reason to believe that protective service contracts may meet section 10505 requirements for exemption from regulation. The service appears to be of limited scope. A relatively small portion of railroad traffic requires protective service. Moreover, to the extent the transportation of perishables is no longer regulated by the Commission either under the exemption for fresh fruits and vegetables or for TOFC/COFC service, the need for scrutiny has diminished. Regulation may also no longer be needed to protect shippers. The statute in section 11105 is concerned with the relationship between rail carriers and companies providing protective services. Shippers' rights to protective service and to reasonable charges are not affected. All but one of the contracts submitted for our approval in the past three years have been found acceptable.

Exemption also appears compatible with the national rail transportation policy, particularly 10101a(2), since it lessens Federal regulatory control in an area where control does not appear to be necessary to protect the public interest. Since contracts are readily approved by the Commission, their continued examination may serve little purpose. Thus, regulation may be a burden that serves no useful purpose. Finally, section 10505 provides persons an opportunity to petition for a revocation of an exemption if problems should develop.

Regulatory Flexibility

Under the Regulatory Flexibility Act of 1980, we must consider whether this proceeding will have a significant impact on a substantial number of small entities. We certify that this proceeding will not have such an impact. This finding is based on the fact that the proceeding affects only the relationship between carriers and protective service companies, a group unlikely to constitute a "substantial number of small entities."

It is also unlikely that this proposal will have a significant environmental or energy impact. However, comments are invited.

Authority: 49 U.S.C. 11105, 10505 and 5 U.S.C. 553.

Decided: June 11, 1982.

By the Commission. Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-16529 Filed 6-17-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte 387 (Sub-153)]

The Denver & Rio Grande Western Railroad Co.; Exemption for Contract Tariff ICC-DRGWP0023

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is grantd a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The Denver and Rio Grande Western Railroad Company (DRGW) filed a petition on June 1, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC-DRGW-C-0023 filed on May 27, 1982 to become effective on one day's notice. The contract involves the storage of lead and zinc concentrates.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. The smelter which purchases the shipper's total output of lead and zinc concentrates has announced a short term shutdown of its facilities beginning around June 20, 1982. In order for the shipper to continue operations, it must be able to begin storing its concentrates by June 15, 1982. The contract provides for such storage in cars normally used to transport the concentrates. Short notice effectiveness of the contract will thus enable the shipper to continue production and will adversely affect car supply. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Petitioner's contract ICC-DRGW-C-0023 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(e) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests are filed within 15 days of publication in the **Federal Register.**

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10505.

Date: June 14, 1982.

By the Commission, Division 1, Commissioners, Sterrett, Gilliam, and Andre.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-16528 Filed 6-17-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29828]

New York State Department of Transportation—Purchase—Consolidated Rail Corporation Between Montgomery and Walden, NY; Intent To Purchase

On June 1, 1982, the New York State Department of Transportation (NYSDOT) filed a notice of its intent to request the Commission to require the sale of trackage. NYSDOT seeks to acquire the Wallkill Valley Ind. Track of the Consolidated Rail Corporation (Conrail) between Montgomery (33.0) and Walden (milepost 28.8), a distance of 4.2 miles, pursuant to the feeder line development provisions of 49 U.S.C. 10910.

NYSDOT's application may be filed after August 30, 1982 (90 days after its notice). When an application is filed, any interested party may submit comments or recommendations to the Commission within 30 days and any financially responsible person may propose to acquire the property through a competing application, also within 30 days. All pleadings should refer to Finance Docket No. 29828 and should be submitted, with 10 copies to the Section of Finance, Room 5417, Interstate Commerce Commission, Washington, DC 20423. A copy should also be sent to Louis Rossi, Director, Rail Division, N.Y.S. Department of Transportation, 1220 Washington Avenue, NY 12232.

For further information contact Wayne A. Michel (202) 275-7657 or Louis E. Gitomer (202) 275-7245 at the Commission.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-16527 Filed 6-17-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29824]

New York State Department of Transportation—Purchase—Consolidated Rail Corporation Between Painted Post and Bath, NY; Notice of Intent To Purchase

On June 8, 1982, the New York State Department of Transportation (NYSDOT) filed a notice of its intent to request the Commission to require the sale of trackage. NYSDOT seeks to acquire the Bath secondary track of the Consolidated Rail Corporation (Conrail) between Painted Post (milepost 267.1) and Bath (milepost 285.6), a distance of 6.26 miles, pursuant to the feeder line development provisions of 49 U.S.C. 10910.

NYSDOT's application may be filed after September 6, 1982 (90 days after its notice). When an application is filed, any interested party may submit comments or recommendations to the Commission within 30 days and any financially responsible person may propose to acquire the property through a competing application, also within 30 days. All pleadings should refer to Finance Docket No. 29824 and should be submitted, with 10 copies to the Section of Finance, Room 5417, Interstate Commerce Commission, Washington, DC 20423. A copy should also be sent to Louis Rossi, Director, Rail Division, N.Y.S. Department of Transportation, 1220 Washington Avenue, Albany, NY 12232.

For further information contact Wayne A. Michel (202) 275-7657 or Louis E. Gitomer (202) 275-7245 at the Commission.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-16526 Filed 6-17-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29829]

New York State Department of Transportation—Purchase—Consolidated Rail Corporation Between Sayre and Milliken, NY; Intent To Purchase

On June 8, 1982, the New York State Department of Transportation (NYSDOT) filed a notice of its intent to request the Commission to require the sale of trackage. NYSDOT seeks to acquire the Ithaca Secondary Track of the Consolidated Rail Corporation (Conrail) between Sayre (milepost 271.0) and Milliken (milepost 321.0), a distance of 5.00 miles, pursuant to the feeder line development provisions of 49 U.S.C. 10910.

NYSDOT's application may be filed after September 6, 1982 (90 days after its notice). When an application is filed, any interested party may submit comments or recommendations to the Commission within 30 days and any financially responsible person may propose to acquire the property through a competing application, also within 30 days. All pleadings should refer to Finance Docket No. 29829 and should be submitted, with 10 copies to the Section of Finance, Room 5417, Interstate Commerce Commission, Washington, DC 20423. A copy should also be sent to Louis Rossi, Director, Rail Division, N.Y.S. Department of Transportation, 1220 Washington Avenue, NY 12232.

For further information contact Wayne A. Michel (202) 275-7657 or Louis E. Gitomer (202) 275-7245 at the Commission.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-16525 Filed 6-16-82; 8:45 am]

BILLING CODE 7035-01-M

Notice of Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the below-named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. The parent corporation: Allied Corporation, a New York Corporation, Columbia Road, Morris Township, N.J. (mailing address P.O. Box 1087R, Morristown, NJ 07960.

2. The wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principle offices are as follow:

(a) Allied Chemical Canada, Ltd., 201 City Center Drive, Mississauga, Ontario, Canada L5B 2T4.

(b) Bunker Ramo-Eltra Corporation, P.O. Box 1013R, Columbia Rd. and Park Ave., Morristown, NJ 07960. State of Incorporation: Delaware.

(c) Union Texas Petroleum Corp., 1 Riverway, Houston, Texas 77001. State of Incorporation: Delaware.

(d) Texgas Corporation, 1 Riverway, Houston, Texas 77001. State of Incorporation: Delaware.

(e) Fisher Scientific Company, 711 Forbes Avenue, Pittsburgh, PA 15219. State of Incorporation: Delaware.

1. Name and address of parent corporation or organization: Bairnco Corporation, 200 Park Ave., New York, NY 10166.

2. Wholly-owned subsidiaries:

a. Keene Corporation (same address as above).

b. Lightolier Incorporated, 346 Claremont Avenue, Jersey City, NJ 07305.

c. Coastal Fast Freight, Inc., P.O. Box 445, Jersey City, NJ 07303.

1. Parent corporation and address of principal office: Fleetwood Enterprises, Inc., 3125 Myers Street, Riverside, California 92523.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

Fleetwood Motor Homes of California, Inc., 5300 Via Ricardo, Riverside, CA 92502.
Fleetwood Motor Homes of Indiana, Inc., 1410 West Patterson Street, Decatur, IN 46733.
Fleetwood Motor Homes of Pennsylvania, Inc., Route 487, R.F.D. #1, Paxinos, PA 17860.
Fleetwood Travel Trailers of Indiana, Inc., 1635 Elmore Street, Crawfordsville, IN 47933.
Fleetwood Travel Trailers of Maryland, Inc., 35 South Street, Hancock, Maryland 21750.
Fleetwood Travel Trailers of Maryland, Inc., Governor Lane Boulevard, Williamsport, Maryland 21795.
Fleetwood Travel Trailers of Texas, Inc., 810 Prowler Drive, Longview, TX 75607.
Fleetwood Travel Trailers of Texas, Inc., 8300 Imperial Drive, Waco, TX 76710.
Fleetwood Travel Trailers of Nebraska, Inc., 13737 Industrial Road, Omaha, Nebraska 68137.
Fleetwood Travel Trailers of Ohio, Inc., 407 W. Railroad Street, Edgerton, Ohio 43517.
Fleetwood Travel Trailers of Oregon, Inc., 121 N.W. 46th Street, Pendleton, Oregon 97801.
Fleetwood Travel Trailers of Oregon, Inc., Pierce Lane, LaGrande, Oregon 97850.
Fleetwood Travel Trailers of California, Inc., 145 S. Larch Avenue, Rialto, CA 92376.
Fleetwood Travel Trailers of California, Inc., 255 S. Pepper Avenue, San Bernardino, CA 92403.
Fleetwood Travel Trailers of Virginia, Inc., Battaile Drive, Winchester, Virginia 22601.
Avion Coach Corporation, 1300 E. Empire Avenue, Benton Harbor, Michigan 49022.
Fleetwood Canada Ltd., 70 Mount Hope Street, Lindsay, Ontario, Canada.
Fleetwood Homes of Idaho, Inc., 112 Industrial Road, Nampa, Idaho 83651.
Fleetwood Homes of Idaho, Inc., 2611 East Comstock Avenue, Nampa, Idaho 83651.
Fleetwood Homes of Washington, Inc., 211 5th Street, Woodland, WA 98674.
Fleetwood Homes of Washington, Inc., 2925 Index Road, Washougal, WA 98671.
Fleetwood Homes of Oregon, Inc., 2655 Progress Way, Woodburn, Oregon 97071.
Fleetwood Homes of California, Inc., 7007 Jurupa Avenue, Riverside, CA 92514.
Fleetwood Homes of California; Inc., 6001 20th Street, Rubidoux, CA 92519.
Fleetwood Homes of California, Inc., 18 North County Road 101, Woodland, CA 95695.
Fleetwood Homes of Texas, Inc., 2801 Gholson Road, Waco, TX 76705.
Fleetwood Homes of Texas, Inc., 2800 East Industrial Road, Waco, TX 76703.
Fleetwood Homes of Texas, Inc., 1101 Foundation Drive, Waco, TX 76710.
Fleetwood Homes of Texas, Inc., 2901 East Industrial Drive, Waco, TX 76703.
Fleetwood Homes of Texas, Inc., Como Street, Sulphur Springs, TX 75482.
Fleetwood Homes of Georgia, Inc., Northside Industrial Park, Douglas, GA 31533.
Fleetwood Homes of Georgia, Inc., Highway 441 North, Douglas, GA 31533.
Fleetwood Homes of Georgia, Inc., Railroad Stfeet, Pearson, GA 31642.
Fleetwood Homes of Florida, Inc., 2433 AZ Park Road, Lakeland, FL 33803.
Fleetwood Homes of Florida, Inc., 1603 Grove Avenue, Haines City, FL 33844.
Fleetwood Homes of Florida, Inc., 700 S. Bartow Road, Auburndale, FL 33823.
Fleetwood Homes of Florida, Inc., 4848 Sydney Airport Road, Plant City, FL 33566.
Fleetwood Homes of Mississippi, Inc., Fleetwood Circle, Lexington, Mississippi 39095.
Fleetwood Homes of Tennessee, Inc., Fleetwood Drive at Hawkins Street, Westmoreland, Tennessee 37186.
Fleetwood Homes of Virginia, Inc., Highway 40 West RFD 4, Rocky Mount, Virginia 24151.
Fleetwood Homes of Alberta, Ltd., 4050 77th Street, Red Deer, Alberta, Canada T4N 5H2.
Gold Shield Interiors, Inc., Federal Way & Apple, Boise, Idaho 83705.
Gold Shield Interiors, Inc., West 4750 Prairie Avenue, Post Falls, Idaho 83854.
Gold Shield Fiberglass, Inc., 11751 Industry Avenue, Fontana, CA 92335.

1. Parent Corporation—Household International, Inc., 2700 Sanders Road, Prospect Heights, Illinois 60070.

2. Wholly-owned subsidiaries of Household International, Inc., which will participate in the operations, and the addresses of their respective principal offices:

A. Household Finance Corporation, 2700 Sanders Road, Prospect Heights, Illinois 60070.
B. Household Merchandising, Inc., 1700 South Wolf Road, Des Plaines, Illinois 60018.
C. Coast-to-Coast Stores (Central Organization) Inc., 10801 Red Circle Drive, Minnetonka, Minnesota 55343.
D. Huffman-Koos Co., Route 4 at Main Street, North Hackensack, New Jersey 07661.
E. T.D.S. Transportation, Inc., 1700 South Wolf Road, Des Plaines, Illinois 60018.
F. T.G. & Y Stores Co., 3815 North Santa Fe, Oklahoma City, Oklahoma 73125.
G. Vons Grocery Co., 10150 Lower Azusa Road, El Monte, California 91731.
H. Wallace Murray Corporation, 299 Park Avenue, New York, New York 10017.
I. Hydrometals, Inc., 299 Park Avenue, New York, New York 10017.
J. Thorsen Tool Co., 299 Park Avenue, New York, New York 10017.
K. Cameron Manufacturing Co., 299 Park Avenue, New York, New York 10017.
L. Peru Mining Co., 299 Park Avenue, New York, New York 10017.
M. Shannon Mining Co., 299 Park Avenue, New York, New York 10017.
N. United States Brass Corporation, 299 Park Avenue, New York, New York 10017.
O. King-Seeley Thermos Co., 2700 Sanders Road, Prospect Heights, Illinois 60070.
P. National Car Rental Systems, Inc., 7700 France Avenue, South, Minneapolis, Minnesota 55437.

1. Parent corporation and address of principal office: RSR Corporation, 1111 West Mockingbird Lane, Dallas, Texas 75247.

2. Wholly-owned subsidiaries which will participate in the operations, and states of incorporation:

(i) Bestolife Corporation, a California corporation.
(ii) Murph Metals Incorporated, a Texas corporation.
(iii) Quemetco, Inc., a Delaware corporation.
(iv) Revere Smelting and Refining Corporation of New Jersey, a Delaware Corporation.
(v) Riteway Trucking, Inc., a Texas corporation.

1. Parent corporation and address of principal office: Tampa Wholesale Liquor Company, Inc., 5515 Anderson Road, P.O. Box 15397, Tampa, Florida 33684.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(a) Florida Specialty Supply, Inc., Florida.
(b) The House of Midulla, Inc., Florida.
(c) The House of Midula of Central Florida, Inc., Florida.
(d) The House of Midulla of Southwest Florida, Inc., Florida.

James H. Bayne,
Acting Secretary.

[FR Doc. 82-16832 Filed 6-17-82; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 29905 (Sub-1)]

Rail Carrier; Centrail Corp.—Control—Enid Central Railway, Inc.; Exemption

Enid Central Railway, Inc. (ECR) is a wholly-owned subsidiary of Centrail Corporation (Centrail). ECR has applied for authority to acquire and operate 70.03 miles of rail line owned by the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) (Rock Island). See Finance Docket No. 29905. Centrail also owns Virginia Central Railway (VCR), which holds permanent authority to operate a one-mile line in the Fredericksburg, VA area. Three other wholly-owned subsidiaries of Centrail are currently providing service pursuant to Service Order No. 1473 on portions of the line formerly operated by the Rock Island, but do not hold any permanent operating authority.

The proposed acquisition of control is included in a class of transactions which is exempt under 49 CFR 1111.2(d)(2). None of Centrail's subsidiaries is a Class I carrier. The line to be acquired by ECR does not connect with the lines operated by any of Centrail's subsidiaries. There is no evidence that the acquisition by Centrail of the ECR line is part of a series of anticipated transactions that could connect the railroads.

The Commission has determined that the employee protective provisions found in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979), satisfy the statutory requirements for the protection of employees involved in control and merger transactions. Accordingly, these conditions will be imposed as a condition to use of the exemption.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-16408 Filed 6-17-82; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 268]

Motor Carriers; Restriction Removal Decision-Notice

Decided: June 11, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian Carrier Applicants

In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC-157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Ewing, and Williams.

James H. Bayne,

Acting Secretary.

MC 19105 (Sub-69)X, filed May 24, 1982. Applicant: FORBES TRANSFER COMPANY, INC., P.O. Box 3544, Wilson, NC 27893. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304. Sub 16, 18, 21, 26, 41, 45, 47, 48, 49, 51, 53, 54, 57, 58, 59, 63, 64, 65, 67X certificates (A) Broaden to (1) "chemicals and related products" from fertilizer and fertilizer materials in sub 16 and 21; from adhesives, paint and paint products in sub 48 and 58; (2) "clay, concrete, glass and stone products" "from gypsum and gypsum products in sub 18, 16, 48 and 58; from lime in sub 48 and 58; from glass containers in sub 49, 53 and 65; from pipe and pipe fittings in sub 54 and 63; (3) "lumber and wood products" from plywood panels and plywood in sub 45; from wood fiber mulch in sub 47 and 58; from lumber in sub 56; (4) "building materials" from composition board and molding in sub 45 and 58; from asbestos board in sub 16 and 18; (5) "metal products" from steel pipe in sub 26; pipe in sub 54 and 63; from iron and steel articles, metal decking, and accessories for steel joists in sub 57; from accessories for glass and plastic containers in sub 65; (6) "furniture and fixtures" from furniture in sub 26; (7) "rubber and plastic products" from plastic articles in sub 45; from pipe and pipe fittings in sub 54 and 63; from plastic containers in sub 65; (8) "food and related products" from malt beverages in sub 51; (9) "pulp, paper and related products" from paper in sub 58; from accessories for glass and plastic containers in sub 65; (10) "ores and minerals" from mineral fiber products in sub 58; (11) general commodities (except those of unusual, value classes A and B explosives, household goods and commodities requiring special equipment and those injurious to other lading) to "general commodities (except classes A and B explosives and household goods)" in sub 67X; (B) replace city with county-wide authority: Kinston, NC, with Lenoir County in sub 21 and 67; Wilmington, NC, with Brunswick, Pender, and New Hanover Counties in sub 21 and 26; Charleston, SC, with Charleston and Berkeley Counties in sub 21; Morehead City, NC, with Carteret County in sub 26; Chamblee, GA, with DeKalb and Guinnett Counties and Murrow, GA, with Fulton, Clayton, and Henry Counties in sub 41; Spring Hope, NC, with Nash and Franklin Counties in sub 47; Wilson, NC, with Wilson County in sub 49, 53, and 67; Charlotte, NC, with Mecklenburg County and Bakers, NC, with Union County in sub 54 and 63; Florence, SC, with Florence and Darlington Counties in sub 57; Charleston Heights, SC, with Charleston and Berkeley Counties, Rocky Mount, NC, with Nash and Edgecombe Counties and Greensville, NC, with Pitt County in sub 67; facilities at Charleston Heights, SC, to Charleston and Berkeley Counties in sub 59; points within 75 miles of Wilson, NC, with Alamance, Beaufort, Bertie, Bladen, Carteret, Chatham, Chawan, Craven, Cumberland, Durham, Edgecombe, Franklin, Gates, Granville, Greene, Halifax, Harnette, Hertford, Hoke, Johnston, Jones, Lee, Lenoir, Martin, Nash, Northhampton, Onslow, Orange, Pamlico, Pender, Person, Pitt, Sampson, Vance, Wake, Warren, Washington, Wayne and Wilson Counties, NC, and Brunswick, Greenville, Halifax, Lunenberg, Mecklenburg, Southampton and Sussex Counties, VA, in sub 67; (C) removing

"in bulk" restrictions in subs 16, 26, 41, 45, 48, 58, 59, and 64; (D) removing plantsite restrictions in subs 41, 45, 48, 53, 54, 59, and 63; (E) remove originating at and destined to restrictions in sub 41, 45, and 48; (F) remove originating at or destined to restriction to authorize service between named facilities at points in several states, on the one hand, and, on the other, points in the several states in sub 58; (G) replacing one-way with round-trip authority in sub 16, 26, 41, 45, 47, 49, 51, 54, 56, 57, 59, 64, and 67; (H) delete the exception against service to: Greensboro, NC, in Sub-No. 21; and Kinston and Wilmington, NC, in sub 21; and (I) delete the dry, in bags, restriction in Sub-21.

MC 88845 (Sub-12)X, filed June 3, 1982. Applicant: PARCEL DELIVERY SERVICE, INC., 600 Belleville Turnpike, Kearny, NJ 07032. Representative: Arthur Liberstein, 888 Seventh Avenue, New York, NY 10016. Sub 2 permit: broaden (1) to "general commodities (except commodities in bulk, household goods, and classed A and B explosives)," from general commodities, in packages not exceeding 36 inches in width, breadth or length, or 100 lbs. in weight; and (2) to "between points in the United States," under continuing contracts).

MC 119700 (Sub-81)X, filed February 8, 1982, previously noticed in the **Federal Register** of March 2, 1982, republished as follows: Applicant: STEEL HAULERS, INC., 306 Ewing Avenue, Kansas City, MO 64125. Representative: Alex M. Lewandowski, Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. Applicant seeks to broaden territrorial points to countywide authority in its lead and Sub-Nos. 9 and 50F certificates, as follows: to Cuyahoga, Medina, Summit, Portage, Geauga, and Lake Counties, OH (Cleveland, OH), and to Tulsa, Rogers, Waggoner, Creek and Osage Counties, OK (Tulsa, OK). The purpose of this republication is to correct the omissions of "Portage County, OH" and "Rogers, Waggoner, Creek and Osage Counties, OK."

MC 121589 (Sub-12)X, filed March 30, 1982, previously published in **Federal Register** of May 7, 1982, republished as follows: Applicant: N & W TRANSFER, INC., P.O. Box 188, Nehawka, NE 68413. Representative: James F. Crosby, Suite 210B, 7363 Pacific St., Omaha, NE 68114. Sub 3 certificate: Notice is hereby given that applicant seeks to expand Kansas City, MO, to "Jackson, Lafayette, Cass, Ray, Clay, Clinton, and Platte Counties, MO, and Wyandotte, Johnson and Leavenworth Counties, KS. The purpose of this republication is to correct the omission of Lafayette, Ray, and Clinton Counties, MO.

MC 126241 (Sub-3)X, filed June 3, 1982. Applicant: PRYOR TRUCKING, INC., 816 Orleans Ave., Keokuk, IA 52632. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Lead and Subs 1 and 2 permits: (1) broaden pulpboard, fiberboard, pulpboard and fiberboard products, machinery, materials and supplies used in the manufacture of paper and boxes, and starch and chemicals used in the manufacture of glue (except commodities in bulk), lead and Sub 2, and pulpboard and fiberboard, pulpboard and fiberboard products, and materials and supplies (except commodities in bulk), Sub 1, to "pulp, paper and related products, chemicals and related products, and machinery"; and (2) change the territorial description to between points in the U.S., under continuing contract(s) with named shipper, lead and Subs 1 and 2.

MC 129849 (Sub-2)X, filed May 11, 1982. Applicant: TRANSPORTS R.P.R., INC., P.O. Box 230, Cowansville, Quebec, Canada J2K 3H6. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St. NW., Washington, DC 20005. Lead certificate and Sub 1 permit, broaden: lead, paper and raw materials for the manufacture of paper, to "pulp, paper and related products", Groveton and Northumberland to Coos County, NH; and to radial authority; Sub 1, limestone, in bags, to "clay, concrete, glass, or stone products", and to between points in the United States under continuing contract(s) with named Canadian shipper.

MC 145044 (Sub-9)X, filed June 3, 1982. Applicant: FOREDECK TRANSPORTATION, INC., P.O. Box 142, Oak Ridge, NJ 07438. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Sub-No. 3F: broaden (1) confectionery to "food and related product"; (2) delete plantsite restrictions at St. Louis, MO and (3) remove originating at or destined to limitations.

[FR Doc. 82-16531 Filed 6-17-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Notes.—All applications are for authority to operate as a motor common carrier in

interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP1–98

Decided: June 8, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 4491 (Sub-24), filed May 27, 1982. Applicant: GREAT COASTAL EXPRESS, INC., 5600 Midlothian Turnpike, Richmond, VA 23225. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229, (804) 282–3809. Transporting *general commodities* (except classes A and B explosives and household goods), (1) between those points in the U.S. in and west of MN, IA, MO, AR, and LA (except AK and HI); and (2) between those points in the U.S. in and west of MN, IA, MO, AR, and LA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 75251 (Sub-25), filed June 3, 1982. Applicant: BOOTHEEL TRANSPORTATION COMPANY, INC., P.O. Box 511, Sikeston, MO 63801. Representative: Frank D. Hall, Suite 202, 1750 Old Springhouse Lane, Atlanta, GA 30338, (404)–451–0401. Transporting (1) *printed matter;* and (2) *pulp, paper and related products,* between points in Scott, Cape Girardeau, and Butler Counties, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 75251 (Sub-26), filed June 3, 1982. Applicant: BOOTHEEL TRANSPORTATION COMPANY, INC., P.O. Box 511, Sikeston, MO 63801. Representative: Frank D. Hall, Suite 202, 1750 Old Springhouse Lane, Atlanta, GA 30338, (404)–451–0401. Transporting *such commodities as are used, sold or dealt in by retail grocery stores,* between Scott and Butler Counties, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 95540 (Sub-1174), filed May 27, 1982. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Lakeland, FL 33802. Representative: K. Edward Wolcott, 235 Peachtree St., N.E., Ste. 1200, Atlanta, GA 30303, (404) 522–2322. Transporting *classes A and B explosives,* between points in the U.S. (except AK and HI). Condition: This certificate shall expire 5 years from date of issuance.

MC 107980 (Sub-14), filed June 1, 1982. Applicant: SUMMERFORD TRUCK LINE, INC., P.O. Box 487, Ashford, AL 36312. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401, (205)–578–3212. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AL, AR, FL, GA, IL, IN, KS, KY, LA, MS, MO, NC, OH, OK, SC, TN, TX, VA, WV and PA.

MC 113271 (Sub-88), filed June 1, 1982. Applicant: TRANSYSTEMS INC., P.O. Box 399, Black Eagle, MT 59414. Representative: Kenneth G. Thomas (same address as applicant), (406) 727–7500. Transporting *metal products,* between Los Angeles, CA, and the ports of entry on the international boundary line between the U.S. and Canada.

MC 119531 (Sub-187), filed April 21, 1982 and previously noticed in **Federal Register** issue of May 7, 1982. Applicant: SUN EXPRESS, INC., P.O. Box 1031, Warren, OH 44482–1031. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215, (614) 228–8575. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

Note.—This republication clarifies the territory description.

MC 121281 (Sub-17), filed June 1, 1982. Applicant: BIG MAC TRUCKING COMPANY, 2400 Augusta Dr., Suite 150, Houston, TX 77057. Representative: Joe G. Fender, 9601 Katy Freeway, Suite 320, Houston, TX 77024, (713) 827–1407. Transporting *concrete products,* between points in Austin and Tarrant Counties, TX, on the one hand, and, on the other, points in AR, LA and OK.

MC 129410 (Sub-32), filed June 3, 1982. Applicant: BONCOSKY TRANSPORTATION, INC., 1301 Industrial Drive, Algonquin, IL 60102. Representative: Carl L. Steiner, 29 South LaSalle St., Chicago, IL 60603, (312) 236–9375. Transporting *chemicals and related products,* between Chicago, IL, Dallas, TX, Atlanta, GA, and points in NJ, McHenry County, IL, Montgomery and Schuykill Counties, PA, Talledega County, AL, Cuyahoga County, OH, Hillsborough County, FL, St. Charles County, MO, Manistee County, MI, Iberia County, LA, Los Angeles County, CA, and Forsyth County, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 140361 (Sub-8), filed June 1, 1982. Applicant: CPS DELIVERY SYSTEM, INC., 1009 Joyce Ave., Columbus, OH 43219. Representative: E. H. van Deusen, P.O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in IL, IN, KY, MI, NY, OH, PA and WV. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to team 1, Room 6358.

MC 144951 (Sub-3), filed May 24, 1982. Applicant: RAYMOND G. AND BARBARA A. CEBULSKI, d.b.a. CEBULSKI TRUCKING, P.O. Box 103, Seeley Lake, MT 59868. Representative: Raymond G. Cebulski, (same address as applicant), (406) 677–2280. Transporting *steel products, lumber and building materials,* between points in AZ, AR, CA, CO, ID, IL, IA, KS, MN, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WI, and WY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146590 (Sub-10), filed May 28, 1982. Applicant: J.R.P., INC., 1300 Island Avenue, McKees Rocks, PA 15136. Representative: Sally A. Davoren, 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222, (412) 471–3300. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Circleville Metal Works, Inc., of Circleville, OH; and Flexion, Inc., of Pittsburgh, PA.

MC 148620 (Sub-17), filed June 1, 1982. Applicant: K.G.L. CONTRACTING SERVICES, INC., P.O. Box 8202, Pembroke Pines, FL 33024. Representative: Robert W. Gerson, 1400 Candler Bldg., 127 Peachtree St., N.W., Atlanta, GA 30303, (404) 658–8045. Transporting *meats, meat products, meat-byproducts and articles distributed by meat-packing houses,* between points in the U.S., under continuing contract(s) with Swift Independent Packing Company, of Chicago, IL.

MC 149481 (Sub-2), filed May 24, 1982. Applicant: RITEWAY-WESTERN, INC., 7701 Wilbur Way, Sacramento, CA 95828. Representative: Frank Culy III (same address as applicant), (916) 682–2146. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) Frys Food Stores of Arizona, Inc. and Associated Grocers of Arizona, Inc., both of Phoenix, AZ.

MC 149581 (Sub-4), filed June 1, 1982. Applicant: LUJO TRUCKING CO., INC., 21 Braley Road, East Freetown, MA 02717. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, (617) 742–3530. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Publishers Shipping Cooperative Association, Inc., of Westwood, NJ.

MC 150571 (Sub-2), filed June 1, 1982. Applicant NORSEMAN TRUCKING, INC., Route 2, Box 37A, Waseca, MN 56093. Representative: John B. Van de North, Jr., 2200 First National Bank Bldg., St. Paul, MN 55101, (612) 291–1215. Transporting (1) *automotive accessories;* and (2) *petroleum products,* between points in MN, on the one hand, and, on the other, points in IL, IN, KS, MT, ND, OK, LA, MO, MI, SD, WY and TX.

MC 150641 (Sub-2), filed June 1, 1982. Applicant: D & R CARTAGE, INC., 5110 Praha, Cleveland, OH 44127. Representative: Ruth Ann Parks (same address as applicant), (216) 271–7530. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in OH, IL, IN, KY, MI, NY, PA and WV.

MC 151791 (Sub-2), filed June 1, 1982. Applicant: LES LINDEMAN & SON, INC., 117 West Main Street, Morenci, MI 49256. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400. Northville, MI 48167, (313) 349–3980. Transporting *chemicals and related products,* between points in Lenawee County, MI, on the one hand, and, on the other, points in KY, under continuing contract(s) with Vulcan Material Co., of Wichita, KS.

MC 152640 (Sub-5), filed June 2, 1982. Applicant: RAPID DISTRIBUTION SERVICE, INC., 2392 N. Dupont Hwy., Dover, DE 19901. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth Street NW., Washington, DC 20005, (202)–296–3555. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with J. R. Simplot Company, of Boise, ID.

MC 155741, filed June 1, 1982. Applicant: J & S, INC., 1111 East 54th St. Indianapolis, IN 46220. Representative: Walter F. Jones, Jr. (same address as applicant), (317)–257–4066. Transporting *general commodities* (except classes A and B explosives), between points in IN, on the one hand, and, on the other, points in AL, CO, IL, KY, MI, MO, OH, PA, TN, TX, IN and WV.

MC 157061 (Sub-1), filed June 1, 1982. Applicant: ATLAS CARRIERS, INC., 800 S. Main St., Searcy, AR 72143. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103, (901) 526–4114. Transporting *such commodities* as are dealt in or used by discount stores, between points in the U.S. (except AK and HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to team 1, Room 6358.

MC 157371 (Sub-2), filed June 3, 1982. Applicant: CHEM-WASTE INCORPORATED, 4435 Washington, Rd., P.O. Box 250, Evans, GA 30809, Representative: Robert M. Haynie (same address as applicant) (404)–863–8685. Transporting *hazardous waste,* between points in Union, Anson, Richmond, Davidson, Stanley and Montgomery Counties, NC, on the one hand, and, on the other, points in Sumter County, AL, and Sumter County, SC.

MC 159000, filed June 1, 1982. Applicant: FLEETWOOD FORWARDING, LTD., 175 Underhill Blvd., Syosset, NY 11791. Representative: Kenneth M. Piken, Queens Office Tower, 95–25 Queens Blvd., Rego Park, NY 11374–4565, (212) 275–1000. Transporting *food and related products,* between points in NJ and NY.

MC 160391 (Sub-1), filed June 1, 1982. Applicant: WILLIAM H. WERTZ, JR., d.b.a. TRANSPORT SPECIALTIES, 9722 E. 6th St., Rancho Cucamonga, CA 91730. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306, (805) 872–1106. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Kern, San Luis Obispo, San Bernardino, Santa Barbara, Ventura, Los Angeles, Orange, San Diego, Riverside and Imperial Counties, CA.

MC 160461, filed June 1, 1982. Applicant: LLOYD HOOD, d.b.a. HOOD ENTERPRISES, Route 1, Jasper, TN 37347. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064, (615) 790–2510. Transporting *metal products,* (1) between points in TN and Jackson County, AL, on the one hand, and, on the other, points in IN, PA, OH, IL and MI; and (2) between points in KY, AL, MO and VA, on the one hand, and, on the other, points in TN.

MC 160521 (Sub-1), filed June 1, 1982. Applicant: TIMBERLINE EXPRESS, INC., 2204 Ohio Ave., Superior, WI 54800. Representative: Robert D. Gisvold, 1600 TCF Tower, Minneapolis, MN 55402, (612) 333–1341. Transporting *petroleum-coke briquets and coal briquets,* between points in Douglas County, WI, on the one hand, and, on the other, points in IA, IL, IN, MI, MN, NE, ND, SD, and WI.

MC 160651 (Sub-1), filed June 1, 1982. Applicant: MOVE AMERICA, INC., 2 Olmstead Place, Norwalk, CT 06855. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, (202) 785–0024. As a broker of *household goods* as defined by the Commission, between points in the U.S. (except AK and HI).

MC 160721 (Sub-1), filed June 1, 1982. Applicant: RICHARD BELLERUD and ORVIN HELGESON, d.b.a. B & H ENTERPRISES, P.O. Box 344, Grafton, ND 58237. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108, (701) 237–4223. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Chef-Reddy Foods Corp.-Midwest, of Clark, SD.

MC 160760, filed May 28, 1982. Applicant: DAV–GLO INTERNATIONAL CO., 3065 S.E. Condor, Gresham, OR 97030. Representative: David L. Lord (same address as applicant), (503) 663–6222. Transporting *malt beverages,* between points in King County, WA, and Multnomah County, OR, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with Manchesters Distributors, Inc., of Gresham, OR.

MC 161170 (Sub-3), filed June 1, 1982. Applicant: TRAFCON SERVICES, INC., 2310 Orange Ave., N.E., Roanoke, VA 24012. Representative: Robert G. Parks, 20 Walnut Street, Suite 101, Wellesley Hills, MA 02181, (617) 235–5571. Transporting *machinery and metal products,* between points in the U.S., under continuing contract(s) with General Electric Company, Medium Turbine Department (E&M), of Lynn, MA.

MC 161771, filed June 2, 1982. Applicant: ROBERT H. HICKS TRUCKING, INC., 65668 Brick Church Rd., Cassopolis, MI 49031. Representative: Paul D. Borghesani, 300 Communicana Bldg., 421 So. Second St., Elkhart, IN 46516, (219) 293–3597. Transporting (1) *furniture and fixtures;* and (2) *food service equipment,* between points in Alameda County, CA, Elkhart County, IN, and Berrien County, MI, on

the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161841, filed May 4, 1982, previously published in the **Federal Register** on May 27, 1982. Applicant: PRMMI TRUCKING, INC., 30 Maritime and Faragate Sts., Jacksonville, FL 32203. Representative: Morris R. Garfinkle, 1054 Thirty-first St., N.W., Washington, DC 20007, (202) 342-5200. Transporting *general commodities* (except classes A and B explosives), (1) between points in the Commercial Zone of Elizabeth, NJ, restricted to traffic having prior or subsequent movement by water; (2) between points in the Commercial Zone of Baltimore, MD, restricted to traffic having prior or subsequent movement by water; (3) between points in the Commercial Zone of Charleston, SC, restricted to traffic having a prior or subsequent movement by water; (4) between points in the Commercial Zone of Jacksonville, FL, restricted to traffic having prior or subsequent movement by water; (5) between points in the Commercial Zone of Miami, FL, restricted to traffic having prior or subsequent movement by water; (6) between points in the Commercial Zone of New Orleans, LA, restricted to traffic having prior or subsequent movement by water; and (7) between points in the Commercial Zone of Houston, TX, restricted to traffic having prior or subsequent movement by water.

Note.—This republication corrects the territorial description.

MC 162110, filed May 20, 1982. Applicant: PORTLAND CORPORATION, 35 Duffield Avenue, Jersey City, NJ 07306. Representative: William F. Cuthbert, 711 E. Main Street, Bridgewater, NJ 08807, (201) 526-8700. Transporting *general commodities* (except household goods, classes A and B explosives and commodities in bulk), between points in CT, DE, MD, MA, NJ, NY, RI, DC, and those points in PA on and east of a line beginning at the MD-PA State line and extending along Interstate Hwy. 81 to Harrisburg, PA, then along U.S. Hwy. 15 to PA-NY State line.

MC 162250, filed May 28, 1982. Applicant: SCOA INDUSTRIES, INC., 155 East Broad Street, 10th Floor, Columbus, OH 43215. Representative: William K. Friend (same address as applicant), (614) 221-7262. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between points in the U.S., under continuing contract(s) with Burroughs Corporation, Office Products Group, of Columbus, OH; Federated Department Stores, Inc., of Cincinnati, OH; and William Brooks Shoe Company, of Nelsonville, OH.

MC 162251, filed May 28, 1982. Applicant: WARD TRUCKING, INC., 2002 Ladoga Road, Crawfordsville, IN 47933. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638-1301. Transporting *printed matter,* between points in IL, IN, KY, OH, and TN.

MC 162261, filed June 1, 1982. Applicant: RICHARD WILLE, d.b.a. WILLE TRANSPORT, P.O. Box 304, Inger Road, Deer River, MN 56636. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402, (612) 333-1341. Transporting *lumber and lumber products,* between points in MN, WI and the Upper Peninsula of MI.

MC 162270, filed June 1, 1982. Applicant: CORNERSTONE TRUCKING, INC., 1760 Industrial Rd., Las Vegas, NV 89101. Representative: Gerald D. Smith, 328 Antelope Way, Las Vegas, NV 89128, (702) 870-2847. Transporting (1) *metal products;* (2) *lumber and wood products;* and (3) wallboard, between points in the U.S., under continuing contract(s) with Century Steel, Inc. and Grove, Inc., each of Las Vegas, NV.

MC 162310, filed June 1, 1982. Applicant: STORER'S PERSONALIZED TOURS, INC., 3519 McDonald Ave., Modesto, CA 95351. Representative: Ronald C. Chauvel, 100 Pine St., Suite 2550, San Francisco, CA 94111, (415) 986-1414. As a *broker,* at Modesto, CA, in arranging for the transportation of *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, between points in CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162311, filed June 1, 1982. Applicant: TERRENCE M. KNAPP, d.b.a. AMERICAN EAGLE MOVERS, 7221 West Touhy Avenue, Chicago, IL 60648. Representative: Joel H. Steiner, 29 South LaSalle, Suite 905, Chicago, IL 60603, (312) 236-9375. Transporting *Household goods and furniture and fixtures,* between points in IL, on the one hand, and, on the other, points in AL, AZ, CA, CO, FL, GA, IN, KY, MA, MI, MN, NV, NY, TX, and WI.

MC 162330, filed June 3, 1982. Applicant: BIG M TRANSPORTATION, INC., 1894 Z Brooks Rd., Memphis, TN 38116. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103, (901)-526-4114. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Memphis, TN, on the one hand, and, on the other, points in GA, IL, IN, KY, LA, MO, and TX.

Volume No. OP1-100

Decided: June 10, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 19311 (Sub-78), filed June 3, 1982. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, MI 48077. Representative: Elmer J. Maue (same address as applicant), (313) 939-7000. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with International Harvester Company, of Chicago, IL.

MC 98391 (Sub-5), filed June 3, 1982. Applicant: JEKEL MOVING & STORAGE CO., 405 36th St. S.E., Grand Rapids, MI 49508. Representative: Tom Mieras same address as applicant), (616) 245-2133. Transporting *coat hangers,* between points in Ottawa County, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with John Thomas Butts, Inc., of Zeeland, MI.

MC 114761 (Sub-16), filed June 7, 1982. Applicant: GETTER TRUCKING, INCORPORATED, 1635 North Frontage Road, Billings, MT 59101. Representative: John R. Davidson, Suite 805, First Bank Bldg., Billings, MT 59101, (406) 248-9156. Transporting *mining and construction materials, equipment, and supplies, building materials, iron and steel articles, farm machinery, and those commodities which because of size or weight require the use of special equipment,* (a) between points in AR, AZ, CA, CO, ID, KS, MT, NE, ND, NM, NV, OK, OR, SD, TX, UT, WA, and WY, and (b) between points in AR, AZ, CA, CO, ID, KS, MT, NE, ND, NM, NV, OK, OR, SD, TX, UT, WA, and WY, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 147411 (Sub-3), filed June 7, 1982. Applicant: LDL TRUCKING, LTD., Box 391, Bancroft, IA 50517. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244-2329. Transporting *machinery, construction materials, metal products, and chemicals and related products,* between points in the U.S., under continuing contract(s) with Bradley Supply Company and Bradley Construction, Inc., both of Burt, IA.

MC 147800 (Sub-4), filed June 7, 1982. Applicant: ABBLEY TRANSPORT, INC., 176 98th Ave., Oakland, CA 94621. Representative: Myron F. Tower, 2257

Bancroft Ave., San Leandro, CA 94577, (415) 352–7246. Transporting *containers and packaging materials,* between points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY.

MC 150911 (Sub-2), filed June 3, 1982. Applicant: ROCKY MOUNTAIN CHARTER COACH COMPANY, 5822 West 56th Avenue, Arvada, CO 80002. Representative: Richard J. Bara, 1155 Sherman Street, Suite 315, Denver, Co 80203, (303) 831–7272. As a broker at Denver and Jefferson County, CO, in arranging for the transportation of *passengers and their baggage* in the same vehicle with passengers, between points in CO, on the one hand, and, on the other, points in the U.S.

MC 151400, filed May 14, 1982. Applicant: M.L. LEWIS DISTRIBUTING, 790 Woodland, El Paso, TX 79922. Representative: Martin L. Lewis (same address as applicant), (915) 584–4720. Transporting (1) *metal products,* (2) *building materials,* and (3) *livestock feed,* between points in El Paso County, TX, on the one hand, and, on the other, points in the U.S., under continuing contract(s) in (1) above with Border Steel Rolling Mills, The Banes Company, Paleon, Inc., and Texas Turning Company, a Division of General Steel and Wire, Inc., in (2) above with Georgia-Pacific Corporation, and O'Malley's Building materials, and in (3) above with Claude Barry & Company, all of El Paso, TX.

MC 162320, filed June 3, 1982. Applicant: BOLES BUS LINES, 160 Gibbs Ave., Greenwood, SC 29646. Representative: Glynn S. Boles (same address as applicant) (803) 223–4426. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in SC and extending to points in FL, GA, NC, VA, MA, MD, NY, PA, LA, TN, WV, OH, AL, MS, DE, KY, and DC.

MC 162321, filed June 3, 1982. Applicant: FLORA B. HARRINGTON TOURS, P.O. Box 579, Sanford, NC 27330. Representative: Flora B. Harrington (same address as applicant) (919) 776–4847. As a *broker,* at Sanford, NC, in arranging for the transportation of *passengers and their baggage,* in the same vehicle with passengers, beginning and ending at points in Lee, Harnett, Moore, Chatham, Cumberland, Wake, Guilford, and Randolph Counties, NC, and extending to points in the U.S.

MC 162340, filed June 4, 1982. Applicant: FLORIDA FOOD PRODUCTS, INC., 845 West 16th St., Chicago, IL 60608. Representative: Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60603 (312) 782–8880. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with J. W. Allen & Company, of Wheeling, IL.

MC 162350, filed June 3, 1982. Applicant: BRISTOL/INTERSTATE MOTOR COACH, INC., West Highway 50, Winter Garden, FL 32787. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103 (413) 781–6205. Transporting *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Charlotte, Collier, Hillsborough, Lake, Lee, Manatee, Orange, Osceola, Pasco, Pinellas, Polk, Sarasota, and Seminole Counties, FL, and extending to points in the U.S. (including AK but excluding HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the applications for common control to team 1, room 6354.

MC 162360, filed June 7, 1982. Applicant: MAVERICK EXPRESS, INC., 832 Wheeler St., Hubbard, OH 44425. Representative: Milan Tatalovich, 11 West Liberty St., Girard, OH 44420, (216) 545–3081. Transporting *metal products, machinery, and transportation equipment,* between points in OH, IN, IL, and PA, on the one hand, and, on the other, points in CT, DE, IL, IN, KY, MA, MD, ME, MI, MO, NH, NJ, NY, OH, PA, RI, VA, VT, WV, and WI.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-16804 Filed 6-17-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

[Order No. 979-82]

Opinion and Order Regarding Application of Seattle Times Co. and Hearst Corp. for Approval of Joint Operating Arrangement

I. Background

On March 27, 1981, the Seattle Times Company, publisher of the Seattle Times, and the Hearst Corporation, publisher of the Seattle Post-Intelligencer ("Applicants"), filed an application for approval of a proposed joint operating arrangement in Seattle pursuant to the Newspaper Preservation Act, 15 U.S.C. 1801 *et seq.* The Act authorizes a limited antitrust exemption for a joint operating arrangement if the parties obtain the prior written consent of the Attorney General.

Before granting approval of a joint operating arrangement, the Attorney General must find that one of the newspapers involved is a "failing newspaper", defined in the statue to mean "a newspaper publication which, regardless of its ownership or affiliations, is in probable danger of financial failure." 15 U.S.C. 1803(b), 1802(5). He must also find that approval of the arrangement would effectuate the policy and purpose of the Act. The applicants have the burden of proving the proposed arrangement satisfies the requirements of the Act. 28 CFR 48.10(a)(4). Here the application alleged that the Seattle Post-Intelligencer was a "failing newspaper."

The term "joint newspaper operating arrangement" is defined to include almost any form of arrangement or joint venture between two or more independently-owned newspapers "pursuant to which joint or common production facilities are established or operated," provided that separate editorial and reportorial staffs are maintained, and "the editorial policies be independently determined." 15 U.S.C. 1802(2). Thus, a joint operating arrangement is a means of preserving the independent editorial voice of a newspaper found to be "failing" within the purview of the Act.

Pursuant to the regulations which govern the review and approval of joint operating arrangements under the Act (28 CFR Part 48) and after a review of the application, the May 29, 1981 Report of the Assistant Attorney General for the Antitrust Division and public comments, I ordered that a hearing be convened in Seattle to resolve material issues of fact. Order No. 953–81 (August 7, 1981). In order to prevent unnecessary delays in the presentation of evidence, Order No. 953–81 required that the hearing record be closed within 60 days of the appointment of an Administrative Law Judge.

On September 29, 1981, I granted the intervention petitions of several groups opposed to the application. Order No. 959–81. These groups included the Committee for an Independence P–I; People Opposed to a One Newspaper Town; Committee for a Free Press; Longview Publishing Co.; Robinson Newspapers, Inc.; Fournier Publishing Co.; and the Northshore Citizen (hereafter referred to collectively as "Intervenors"). The Intervenors were

jointly represented by single counsel and together with the Applicants and the Antitrust Division constituted the parties to the hearing.

On September 30, 1981, Daniel H. Hanscom was appointed Administrative Law Judge and presided over the development of the hearing record, including discovery and the adversarial presentation of documentary and testimonial evidence. During the course of the proceedings the Antitrust Division sought interlocutory review by the Attorney General of a ruling by the Administrative Law Judge which barred discovery or presentation of evidence concerning "incremental analysis," a means of evaluating the economic relationship between the Hearst Corporation and its subsidiary, the Seattle Post-Intelligencer ("P–I"), which the Antitrust Division contends is relevant to the determination of whether the P–I is a "failing newspaper" under the Act. I declined to entertain the Antitrust Division petition on the merits at that time due to its interlocutory character and in view of the need for expedition. However, I expressly reserved judgment on the question whether as a matter of law "incremental analysis" is a relevant area of inquiry under the Act. Order No. 982–81 (November 9, 1981). The Antitrust Division was permitted to make its incremental analysis presentation in the form of an offer of proof.

A voluminous record of testimonial and documentary evidence was developed at the hearing, which concluded with oral argument and the submission by the parties of proposed findings and memoranda of law to the Administrative Law Judge. At that time both the Antitrust Division and the Intervenors opposed approval of the application. On January 14, 1982, the Administrative Law Judge issued a Recommended Decision, including 162 Findings of Fact and a Memorandum Opinion which recommended that the proposed joint operating arrangement be approved. On March 4, 1982, after the parties had filed exceptions to the Recommended Decision and responses to those exceptions, the matter became ripe for my decision.

II. Findings and Conclusions

The Newspaper Preservation Act requires the Attorney General to pass upon the merits of applications by newspapers for limited exemptions from the antitrust laws. Manifestly, unfettered competition in the marketplace should be promoted whenever possible. When the Congress, however, has been fit to provide for exemptions from the procompetitive mandate of the antitrust laws, the legislative purpose must be observed. Moreover, while exemptions from the antitrust laws must be construed narrowly, they must not be construed more narrowly than the express language of the statute and other reliable indicators of legislative purpose permit.

Upon review of the applicable law, the hearing record, the recommendation of the Administrative Law Judge and the exceptions and responses filed with respect to that recommendation, I have decided to adopt the findings and conclusions of the Administrative Law Judge with the exception of that portion of Finding 158 which provides that the P–I could be sold "to a person or firm who could, and would, continue it in operation as an independent metropolitan daily." I cannot find evidentiary support for such a finding in the record upon which my decision must be based. *See* 28 CFR 48.13.

By its plain terms, the Newspaper Preservation Act provides a limited antitrust exemption for newspaper joint operating arrangements if the Attorney General determines that "not more than one of the newspaper publications involved * * * is a publication other than a failing newspaper" and that "approval of such arrangement would effectuate the policy and purpose of [the Act]." 15 U.S.C. 1803(b). The Act defines a "failing newspaper" as "a newspaper publication which, regardless of its ownership or affiliations, is in probable danger of financial failure." 15 U.S.C. 1802(5).

Under well-established canons of statutory construction, I must give effect to the words chosen by Congress. It is apparent from the express language of the statute that the "failing newspaper" analysis under the Act must focus upon the financial condition of the particular publication at issue, and that "danger of financial failure" must be assessed as a matter of probabilities, not certainties. The legislative history, moreover, corroborates this construction. The hearings and House and Senate reports concerning the Act evince a strong congressional concern about the large number of newspaper closings since World War II and an express desire to create a test for newspaper joint operating arrangements "less stringent" than the "failing company" test set forth in *Citizen Publishing Co.* v. *United States*, 394 U.S. 131 (1969). This new test was to provide a special means of ensuring the preservation of editorial voices in individual communities. *See, e.g.*, S. Rep. No. 91–535, 91st Cong., 1st Sess. 4, 6 (1969); H.R. Rep. No. 1193, 91st Cong., 2d Sess. 10 (1969).

In this case, the Administrative Law Judge reviewed in some detail the record evidence, including substantial expert testimony, concerning the P–I's past, present and expected future financial condition in light of evidence concerning the Seattle market and the newspaper industry generally. The Administrative Law Judge found, *iner alia*, that the P–I had lost in excess of $14.3 million since 1969, that its competitive share of newspaper circulation and advertising revenue in Seattle had eroded substantially (and continues to decline), and that new management probably could not, based upon the record, return the P–I to profitability (*See, e.g.*, Finding 109).

Based upon my consideration of the evidentiary record in light of the language and legislative history of the Act, I am satisfied that the Administrative Law Judge's findings concerning the financial condition and prospects of the P–I and conclusion that the P–I is in probable danger of financial failure are supported by the evidence.

The second determination I am required to make is whether approval of the proposed joint operating arrangement would effectuate the "policy and purpose" of the Act, which is "to preserve the publication of newspapers in [the] city, community or metropolitan area" at issue, "[i]n the public interest of maintaining a newspaper press editorially and reportorially independent and competitive in all parts of the United States." 15 U.S.C. 1801. Upon review of the evidence concerning the financial condition of the P–I and the terms of the proposed joint operating arrangement, I have found that the proposed joint operating arrangement will preserve the separate and independent editorial voice of the P–I in Seattle and I agree with the Administrative Law Judge's conclusion that this arrangement will effectuate the policy and purpose of the Act.

A. Incremental Analysis

The Administrative Law Judge reviewed at length the intracorporate financial transactions between the P–I and its parent the Hearst Corporation and found them to be generally reasonale and mutually beneficial. However, the Antitrust Division, joined by Intervenors, contends that the Administrative Law Judge committed an error of law in refusing to admit and fully to consider proferred evidence concerning "incremental analysis" of these transactions.

The proferred evidence was intended to focus upon the financial impact of the P–I's operations upon its parent corporation in order to establish that although the P–I is operating at a loss, its parent, Hearst, can receive a net financial benefit by operating it. This seeming anomaly is resolved through incremental analysis by disregarding certain concededly legitimate depreciation expenses for balance sheet purposes while including depreciation in the computation of tax benefits accruing to Hearst, and by disregarding certain P–I expenses for Hearst news and management services which are provided on comparable terms throughout the Hearst chain.

The Administrative Law Judge found that the express inclusion of the phrase "regardless of ownership or affiliations" in the definition of "failing newspaper," when read in light of the legislative history of the Act, evinces a congressional intent to focus factual inquiry upon the operations and performance of the particular newspaper alleged to be failing, rather than upon the identity, financial resources or other operations of the owner of that newspaper, and that the application of incremental analysis would be inconsistent with such an inquiry. I agree.

As suggested in Order 962–81 (November 9, 1981), financial relationships between parent corporations and their newspaper subsidiaries are not entirely irrelevant to the "failing newspaper" determination. As the legislative history provides, a parent which "create[s] [a] 'failing newspaper' by artificial bookkeeping entries" can not secure the benefit of the limited antitrust immunity provided by the Act. Sen. Rep. No. 91–535, 91st Cong., 1st Sess. at 5 (1969). Here, however, the Administrative Law Judge found based upon the record that the various intracorporate transactions between Hearst and the P–I were reasonable and that no allegation of culpable mismanagement could be supported by the record. (*See, e.g.*, Findings 80, 92, 94, 109). Accordingly, I am satisified that the appropriate review of the financial relationship between Hearst and the P–I was made, and that a more wide-ranging inquiry into Hearst's financial resources and operations is not permitted either by the express language of the Act or its legislative history.

B. The Alternative Purchaser Issue

Both the Intervenors and the Antitrust Division contend that the application must be rejected because Hearst has not offered the P–I for sale and has not made a goodfaith effort to find a purchaser ready, willing and able to operate it as in independent publication. They argue that the P–I cannot be considered a "failing newspaper" under the Act because of this failure on the part of Hearst since, in their view, the definition of "failing newspaper" containes such a *per se* requirement.

The plain language of the definition of "failing newspaper" under the Act does not, in terms, contain the *per se* rule advanced by Intervenors and the Antitrust Division. Neither, when read as a whole and in context, does the legislative history suggest that Congress intended inclusion of such a rule. As previously discussed, a thorough review of that history points to the conclusion that through its definition of "failing newpaper", Congress intended generally to ameliorate the effect of *Citizen Publishing Co. v. United States, supra,* 394 U.S. 131 (1969), on the ability of newspapers to enter into joint operating arrangements. In *Citizen Publishing,* the Supreme Court applied a strict "failing company" test, including a requirement that proponents of a proposed joint operating arrangement prove the nonexistence of other qualified prospective purchasers of the allegedly failing newspaper. I must concur with the Administrative Law Judge that in enacting the Newspaper Preservation Act, Congress intended specifically to eliminate any *per se* rule requiring that a newspaper be offered for sale before it can be found to be a "failing newspaper," and I decline the invitation to engraft such a rule onto the statute.[1]

* * * * *

In view of the foregoing, I conclude from a review of the Act and its legislative history that Congress intended the determination whether a newspaper is "failing" to be made case-by-case, based upon a weighing of all relevant factors and without application of particular *per se* rules. Relevant factors are those which bear upon the financial prospects of the particular newspaper publication alleged to be failing (considered as an independent entity) within the particular market which it serves. These factors must be considered in light of evidence of the economic and competitive realities of the newspaper industry. I am satisfied that the Administrative Law Judge's ultimate conclusion that the Seattle Post-Intelligencer is a failing newspaper under the Act was based upon such a consideration of all relevant factors.

Having considered each factual and legal contention raised by the parties, I hereby adopt the Findings of Fact, with the exception of those portions of Finding 158 indicated above, and Conclusions of Law set forth in the January 14, 1982 Recommended Decision of the Administrative Law Judge.

III. Order

Upon consideration of the entire record and the applicable law, it is hereby ordered that the Application by Seattle Times Company and the Hearst Corporation for Approval of a Joint Operating Arrangement Pursuant to the Newspaper Preservation Act, 15 U.S.C. 1801, *et seq.* is approved, said approval to become effective on the tenth day after the filing of this decision.

Dated: June 15, 1982.

William French Smith,

Attorney General.

[FR Doc. 82–16559 Filed 6–17–82; 8:45 am]

BILLING CODE 4410–01–M

[1] While the Act does not contain a *per se* requirement that applicants establish the absence of qualified purchasers as an element of the "failing company" case, evidence of purchase offers or negotiations may be pertinent in assessing the financial condition and prospects of the allegedly failing newspaper. Here, however, the Administrative Law Judge concluded, based upon the record, that new management probably could not improve the financial prospects of the P–I.

The Administrative Law Judge also concluded that the P–I could be sold "to a person or firm who could, and would, continue it in operation as an independent metropolitan daily." (Finding 158). As noted previously this fairly speculative conclusion is simply without evidentiary support in the hearing record upon which I am constrained to rely exclusively in rendering my decision, 28 CFR 48.13. Nonetheless, I have carefully considered the record evidence of individuals interested in discussing the purchase of the P–I. In light of that evidence, and the evidence of the P–I's financial performance and prospects, I find that the Administrative Law Judge's conclusions both that the new management probably would not improve P–I's financial prospects and that the P–I is a "failing newspaper" under the Act are amply supported by the record.

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on April 26, 1982, Western Fher Laboratories, Inc., Carretera 132, KM. 25.3, P.O. Box 7468, Ponce, Puerto Rico 00732, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Phenmetrazine (1630).

Any other such applicant and any person who is presently registered with DEA to manufacture such substance, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21

CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Acting Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA, Federal Register Representative (Room 1203), and must be filed no later than July 19, 1982.

Dated: June 11, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-16567 Filed 6-17-82; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 81-24]

Marlin A. Thompson, R. Ph., d.b.a. Paramount Drugs, Inc., Springfield, Oregon; Hearing

Notice is hereby given that on August 31, 1981, the Drug Enforcement Administration, Department of Justice, issued to Marlin A. Thompson, R. Ph., d.b.a. Paramount Drugs, Inc., an Order To Show Cause as to why the DEA Certificate of Registration AP9207019 issued to Paramount Drugs, Inc., pursuant to Section 303 of the Controlled Substances Act (21 U.S.C. 823), should not be revoked.

Thirty days having elapsed since the said Order To Show Cause was received by Respondent and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. on Wednesday, July 7, 1982, in the Ninth Floor Hearing Room, 1001 S.W. Fifth Avenue, Portland, Oregon.

Dated: June 11, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-16569 Filed 6-17-82; 8:45 am]

BILLING CODE 4410-09-M

W. F. Merchant Pharmaceutical Co., Inc.; Denial of Application

On March 24, 1982, the Acting Administrator of the Drug Enforcement Administration (DEA) issued an Order to Show Cause proposing to deny the application for reregistration as a manufacturer with authority to repackage and relabel controlled substances in Schedules III, III-N, IV and V executed July 17, 1981 by W. F. Merchant Pharmaceutical Co., Inc., 3704 Otis Street (Rear), Mt. Rainier, Maryland 20712. The statutory predicate for the Order was the apparent continuing relationship of Martin A. Bramson with W. F. Merchant Pharmaceutical Co., Inc. Martin A. Bramson is the brother of Ronald Bramson, D. Pod., the acting President of W. F. Merchant, the husband of Iris Bramson, the assistant secretary treasurer of W. F. Merchant and the son of Norman Bramson, president of the firm. Martin A. Bramson was convicted January 23, 1981 in the United States District Court for the District of Columbia of four (4) counts of knowing and unlawful sale, distribution or dispensing of a controlled substance in violation of 21 U.S.C. 841(a)(1), and two (2) counts of conspiracy to distribute controlled substances in violation of 21 U.S.C. 846, felony convictions related to controlled substances. Since no response was forthcoming to the Order, the Acting Administrator finds pursuant to 21 CFR 1301.54 that W. F. Merchant Pharmaceutical Company has waived its right to a hearing and enters his final order on the record as it appears.

Based upon the record, the Acting Administrator has no choice but to deny the application of W. F. Merchant. The applicant was given the opportunity to come forward with evidence showing that Martin Bramson is not involved in the management of its affairs. It has chosen not to avail itself of that opportunity. For the reasons set forth below, its application must be denied.

DEA has consistently held that persons who are registered with DEA to handle controlled substances hold a public trust. The public expects that individuals or corporations who handle controlled substances are trustworthy and honest, willing to abide by the Controlled Substances Act and its regulations, and cooperative with the agency Congress charged with monitoring compliance with the law. Upon examination of the record, the Acting Administrator concludes that W. F. Merchant is unworthy of that public trust.

The first ground for revocation is the relationship of Martin A. Bramson with W. F. Merchant, 21 CFR 1301.76(a) provides that a registrant shall not employ as an agent or employee having access to controlled substances any person who has had an application for registration denied or has had his registration revoked at any time. The Administrator of DEA revoked the registration of St. Jude Apothecary based upon the controlled substances felony convictions of Martin Bramson, its proprietor and managing pharmacist. The record is replete with the evidence of a long relationship between Martin Bramson and W. F. Merchant. For example, a shareholder of W. F. Merchant stock was the St. Jude Apothecary Employee Benefits Trust Fund. St. Jude Apothecary was Martin Bramson's corporate alter ego and the location from which he sold the controlled substances for which he was convicted. On one occasion DEA personnel encountered Martin Bramson at the W. F. Merchant registered location. W. F. Merchant management told DEA that Martin Bramson was an "unpaid consultant" for the firm. On another occasion DEA personnel telephoned W. F. Merchant to inquire about the firm's security arrangements. The DEA employee asked for "Dr. Bramson", meaning Ronald Bramson, the firm's acting president; the receptionist connected the DEA employee with Martin Bramson, a pharmacist. Martin Bramson conversed knowledgably about W. F. Merchant's security arrangements. Another indication of Martin Bramson's relationship with W. F. Merchant concerned North East Unit Dose, a firm sharing facilities with the applicant. W. F. Merchant management told DEA that North East Unit Dose is an entirely separate research operation of Martin Bramson. However, a Dun & Bradstreet financial report shows that North East Unit Dose is a 60% owned subsidiary of W. F. Merchant and located at the same address. The report states, "Intercompany relations involve similar officers and office space and subsidiary doing packaging for parent." The information for the financial report was furnished by W. F. Merchant management. There is ready access between the facilities of the two firms.

This Administration has consistently held it may look behind a corporate veil to revoke or deny a registration when a responsible official of a corporate registrant has been convicted of violating the laws relating to controlled substances. See *In the Matter of Serling Drug., Inc.* (Docket No. 74-12), 40 FR 11918, aff'd without written opinion by the Sixth Circuit Court of Appeals at 524 F. 2d 1406 (1975); *In the Matter of Nicholas G. Gakidis t/a New Seabury Pharmacy* (Docket No. 76-2), 41 FR 52555 (1976); *In the Matter of Lynnfield Drug, Inc.* (Docket No. 76-6), 42 FR 8435 (1977). As the administrator stated in his Final Order in *S & S Pharmacy*, 46 FR 13052 (1981), the law will not be read to permit corporate registrants to evade a congressionally mandated sanction by permitting a convicted individual to simply shed his various offices and financial interests, by transferring them to a member of his family, and then continue to do business as usual. The Acting Administrator finds that Martin

Bramson had an ongoing relationship with W. F. Merchant and exercised influence and took an active role in the running of the firm through his father, wife and brothers. It is precisely such control that the Administrator addressed in *S & S Pharmacy, Inc.* and the other cases cited. W. F. Merchant management has maintained that Martin Bramson has no relationship with the firm beyond that of advisor concerning sales to pharmacies. The firm has stated that Martin Bramson was never a corporate officer and never received compensation from W. F. Merchant. The Acting Administrator finds that even this advisory function, if such it is, is sufficient to warrant denial of the application. A convicted drug felon need not be an officer or employee to exert influence and control over a corporate registrant, especially if the firm is closely held or family run as is W. F. Merchant.

The second ground for the denial of this application under 21 U.S.C. 824(a)(6) is the way in which W. F. Merchant has conducted itself with DEA. The Acting Administrator seriously questions the sincerity and integrity of the management of W. F. Merchant. The DEA Office of Chief Counsel offered W. F. Merchant management the opportunity to discuss the firm's status with DEA. Two meetings between DEA personnel and W. F. Merchant were scheduled; individuals claiming to represent the firm broke both appointments on the morning of the scheduled meetings. The Acting Administrator concludes that such actions and many others in a similar vein demonstrate a lack of sincerity and desire to deal with DEA in good faith. For example, W. F. Merchant management told DEA that Martin Bramson was an "unpaid consultant" for the firm. On a latter occasion an individual purporting to be Leonard Bramson denied in a telephone conversation that anyone at W. F. Merchant used the term "unpaid consultant" regarding Martin Bramson and intimated that DEA was harassing W. F. Merchant for statistical purposes and that DEA personnel were embellishing facts for their reports. The Acting Administrator finds that DEA has not harassed W. F. Merchant, nor have DEA employees embellished facts concerning the firm for reports to their superiors. The Acting Administrator finds that W. F. Merchant management has been generally uncooperative and even hostile with DEA personnel. Unfortunately W. F. Merchant management is not above bending the truth when it suits its needs. During one of the telephone conversations a representative of W. F. Merchant stated that the firm no longer needed DEA registration since it had disposed of its stock of controlled substances. However, a telephone recording at the firm continued to take orders for controlled substances and asked would-be purchasers for their DEA registration numbers. Clearly this continued order taking is not indicative of a firm without controlled substances stock.

Based on the relationship of Martin Bramson to W. F. Merchant and the way the firm has conducted its controlled substances business, the Acting Administrator finds that the continued registration of W. F. Merchant Pharmaceutical Co., Inc., is not in the public interest. Accordingly, the Acting Administrator hereby denies the application executed by W. F. Merchant Pharmaceutical Co., Inc. for continued registration as a manufacturer with authority to repackage and relabel controlled substances in Schedules III, III-N, IV, and V, effective July 19, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

June 11, 1982.

[FR Doc. 82-16564 Filed 6-17-82; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 82-17]

Northwestern Drug Co., Auburn, Washington; Hearing

Notice is hereby given that on April 14, 1982, the Drug Enforcement Administration, Department of Justice, issued to Northwestern Drug Company an Order To Show Cause as to why the Drug Enforcement Administration should not deny the applications executed by Respondent on November 2, 1979, September 22, 1980 and September 16, 1981 to distribute Schedule II, III, IV and V controlled substances under Section 303 of the Controlled Substances Act (21 U.S.C. 823).

Thirty days having elapsed since the said Order To Show Cause was received by Respondent and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. on Tuesday, July 13, 1982, in Courtroom 514, New Federal Building, 915 Second Avenue, Seattle, Washington.

Dated: June 11, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-16566 Filed 6-17-82; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Registration

By Notice dated January 27, 1982, and published in the **Federal Register** on February 4, 1982, (47 FR 5370), Knoll Pharmaceutical Company, Production Department, 30 North Jefferson Road, Whippany, New Jersey 07981, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Dihydromorphine (9145)	I.
Hydromorphone (9150)	II.

No comments or objections having been received, and pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations Section 1301(54(e), the Acting Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: June 11, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-16570 Filed 6-17-82; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 26, 1982, Ganes Chemicals, Inc., Lessee of Siegfried Chemical, Inc., Industrial Park Road, Pennsville, New Jersey 08070, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Amobarbital (2125)	II.
Pentobarbital (2270)	II.
Secobarbital (2315)	II.
Dextropropoxyphene (6273)	II.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Acting Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than July 19, 1982.

Dated: June 11, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-16586 Filed 6-17-82; 8:45 am]

BILLING CODE 4410-09-M

Bureau of Prisons

Advisory Corrections Council; Meeting

Notice is hereby given that the Advisory Corrections Council in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) will meet in conjunction with the Committee on the Administration of the Probation System of the Judicial Conference of the United States on June 28, 1982, at the Harbor View Hotel, Edgartown, Massachusetts.

The purpose of the meeting is to discuss release notification to law enforcement agencies and other crimimal justice issues.

Signed at Washington, D.C., this 11th day of June 1982.

Norman A. Carlson,

Director, Bureau of Prisons.

[FR Doc. 82-16579 Filed 6-17-82; 8:45 am]

BILLING CODE 4410-05-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 28, 1982.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 28, 1982.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 31st day of May 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Adriatic Original (ILGWU)	Hoboken, NJ	5/18/82	5/13/82	TA-W-13,471	Coats, ladies'.
Aloma Coat Corp. (ILGWU)	Hoboken, NJ	5/18/82	5/13/82	TA-W-13,472	Coats, ladies'.
Arvin Outerwear, Inc. (ILGWU)	Union City, NJ	5/18/82	5/13/82	TA-W-13,473	Coats, ladies'.
Campi Fashions, Inc., (ILGWU)	Hoboken, NJ	5/18/82	5/13/82	TA-W-13,474	Coats, ladies'.
Clara Fashions (ILGWU)	Jersey City, NJ	5/18/82	5/13/82	TA-W-13,475	Coats, ladies'.
Danielle Fashions (ILGWU)	Hoboken, NJ	5/18/82	5/13/82	TA-W-13,476	Coats, ladies'.
Delcor Fashions (ILGWU)	Jersey City, NJ	5/18/82	5/13/82	TA-W-13,477	Coats, ladies'.
Diamond Coat (ILGWU)	Hoboken, NJ	5/18/82	5/13/82	TA-W-13,478	Coats, ladies'.
Elizabeth Fashion, Inc. (ILGWU)	Hoboken, NJ	5/18/82	5/13/82	TA-W-13,479	Coats, ladies'.
Florence Coat Co., Inc. (ILGWU)	Hoboken, NJ	5/18/82	5/13/82	TA-W-13,480	Coats, ladies'.
Fortune Fashions, Inc. (ILGWU)	Jersey City, NJ	5/18/82	5/13/82	TA-W-13,481	Coats, ladies'.
H & P Garment Co. (ILGWU)	Hoboken, NJ	5/18/82	5/13/82	TA-W-13,482	Coats, ladies'.
Italian Fashions (ILGWU)	Hoboken, NJ	5/18/82	5/13/82	TA-W-13,483	Coats, ladies'.
J & M Fashions, Inc. (ILGWU)	Union City, NJ	5/18/82	5/13/82	TA-W-13,484	Coats, ladies'.
John DePinto Enterprises (ILGWU)	West New York, NJ	5/18/82	5/13/82	TA-W-13,485	Coats, ladies'.
Junior Gallery, Ltd (ILGWU)	Secaucus, NJ	5/18/82	5/13/82	TA-W-13,486	Coats—ladies' cutting & shipping.
Lello Fashions (ILGWU)	North Bergen, NJ	5/18/82	5/13/82	TA-W-13,487	Coats, ladies'.
Lucy Rose Anna Coat Co., Inc. (ILGWU)	Hoboken, NJ	5/18/82	5/13/82	TA-W-13,488	Coats, ladies'.
Lunar Fashions (ILGWU)	Hoboken, NJ	5/18/82	5/13/82	TA-W-13,489	Coats, ladies'.
Maria Fashions, Inc. (ILGWU)	Hoboken, NJ	5/18/82	5/13/82	TA-W-13,490	Coats, ladies'.
Mel Coat Fashions, Inc. (ILGWU)	Weehawken, NJ	5/18/82	5/13/82	TA-W-13,491	Coats, ladies'.
Mona Lisa Coat Co. (ILGWU)	Hoboken, NJ	5/18/82	5/13/82	TA-W-13,492	Coats, ladies'.
Natalie Ann Fashions (ILGWU)	Union City, NJ	5/18/82	5/13/82	TA-W-13,493	Coats, ladies'.
Nicoletta Fashions (ILGWU)	Jersey City, NJ	5/18/82	5/13/82	TA-W-13,494	Coats, ladies'.
Stephanie Coat, Inc. (ILGWU)	Hoboken, NJ	5/18/82	5/13/82	TA-W-13,495	Coats, ladies'.
V & A Coat (ILGWU)	Hoboken, NJ	5/18/82	5/13/82	TA-W-13,496	Coats, ladies'.
West New York, Sportswear (ILGWU)	West New York, NJ	5/18/82	5/13/82	TA-W-13,497	Coats, ladies'.
Brisco Manufacturing, Inc. (ILGWU)	Elizabeth, NJ	5/19/82	5/13/82	TA-W-13,498	Uniforms, military robes, ladies.
Bunge Corp. Indiana (workers)	Logansport, Indiana	5/24/82	5/17/82	TA-W-13,499	Meal, lecithin oil, beans.
Champion Spark Plug Corp. (UAW)	Burlington, Iowa	4/2/82	3/30/82	TA-W-13,500	Plug—spark assembly plant.
Champion Spark Plug Corp. (UAW)	Cambridge, Ohio	4/2/82	3/30/82	TA-W-13,501	Insulators—ceramic for spark plugs.
Hellertown Manufacturing Co. (UAW)	Hellertown, PA	4/2/82	3/30/82	TA-W-13,502	Spark plugs.
Donna-Hanna Coke Joint Venture (USWA)	Buffalo, NY	5/25/82	5/24/82	TA-W-13,503	Coke—furnace, blast.
General Instrument Corp., Keyboard Business Section, Computer Products Div. (workers).	Post Falls, Idaho	4/12/82	4/7/82	TA-W-13,504	Keyboards—aircraft switches, indicator.
Hecla Mining Co., Sherman Mine (workers)	Leadville, CO	5/18/82	5/5/82	TA-W-13,505	Zinc, lead, silver ore—mining & milling.
Hecla Mining Co., Star Mine (workers)	Wallace, ID	5/18/82	5/5/82	TA-W-13,506	Zinc, lead, silver ore—mining & milling.

APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Hecla Mining Co., Consolidated Silver Mine (workers).	Osburn, ID	5/18/82	5/8/82	TA-W-13,507	Zinc, lead, silver ore—mining & milling.
Honey Bunch Handbags, Inc. (workers)	Brooklyn, NY	5/25/82	5/22/82	TA-W-13,508	Handbags—ladies' & men's.
Kennecott Corp., Kennecott Minerals Co., Utah Copper Div. (USWA).	Magna, Utah	5/25/82	5/21/82	TA-W-13,509	Copper—mine, refine, smelter, concentrate.
McIndustries, Inc. (company)	Brilliant, AL	5/20/82	5/12/82	TA-W-13,510	Slacks, casual—men's & boys.
Medusa Cement Co., Charlevoix Plant (Cement Lime Gypsum & Allied Workers).	Charlevoix, Mi	5/17/82	5/5/82	TA-W-13,511	Cement, portland.
Mesta Machine Co. (workers)	New Castle, Pa	5/21/82	5/18/82	TA-W-13,512	Rolling mill machinery equipment.
Molded Acoustical Products of Michigan, Inc. (workers).	Marshall, Michigan	5/21/82	5/10/82	TA-W-13,513	Fiberglass, molded—custom.
National Torch Tip Company, Inc. (IUE)	Aspinwall, Pa	5/19/82	5/10/82	TA-W-13,514	Equipment, supplies—welding.
Richton Headwear Co. (IAMAW)	Buffalo, NY	5/27/82	5/24/82	TA-W-13,515	Hats & scarfs.
Rugi Industries, Inc. (workers)	Miami, Fla	4/30/82	4/26/82	TA-W-13,516	Blouses—ladies.
Saxon Industries, Inc., Saxon Business Products Div. (wkrs.).	Miamilakes, Fla	5/21/82	5/17/82	TA-W-13,517	Machines—copy, office assemble.
Taylor & Gaskin, Inc. (workers)	Detroit, Michigan	5/17/82	5/11/82	TA-W-13,518	Conveyor systems & industrial washer fabrication.
Timkin Company (USWA)	Columbus, Ohio	5/19/82	5/14/82	TA-W-13,519	Bearings, steel.
U.S. Steel Corp., Geneva Works (workers)	Provo, Utah	5/26/82	5/20/82	TA-W-13,520	Steel products.
U.S. Steel Corp., Research Laboratory (workers)	Monroeville, Pa	5/26/82	5/24/82	TA-W-13,521	Research, laboratory.

[FR Doc. 82-16085 Filed 6-17-82; 8:45 am]
BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-82-53-C]

Mathies Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Mathies Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Mathies Mine (I.D. No. 36-00963) located in Washington County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return air courses be examined in their entirety by a competent person on a weekly basis.

2. The entries in 17 Face were driven 22 to 27 years ago. Numerous roof falls and deteriorating conditions have resulted and substantial water has accumulated, leaving the return and intake air courses extremely hazardous to travel and examine. These air courses ventilate only worked out areas of the mine and contribute no air to active working sections.

3. Petitioner states that rehabilitation of the air courses would expose miners to extremely hazardous conditions.

4. As an alternative method, petitioner proposes to establish and maintain seven specified checkpoints, where air measurements will be made of the intake and return air courses. Results of these examinations will be recorded as required by the standard.

5. Petitioner states that the proposed alternative method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 19, 1982. Copies of the petition are available for inspection at that address.

Date: June 9, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-16600 Filed 6-17-82; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-82-15-M]

Rio Blanco Oil Shale Co.; Petition for Modification of Application of Mandatory Safety Standard

Rio Blanco Oil Shale Company, 2851 South Parker Road, Suite 500, Aurora, Colorado 80014 has filed a petition to modify the application of 30 CFR 57.21-46 (crosscut intervals) to its Federal Oil Shale Lease Tract C-a (I.D. No. 05-03131) located in Rio Blanco County, Colorado. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that crosscuts be made at intervals not in excess of 100 feet between entries and between rooms.

2. Petitioner seeks a modification of the standard for a single entry ramp upward from C level. The ramp will be driven upward at fifteen percent grade for a distance of approximately 500 feet as a single heading.

3. As an alternate method, petitioner states that during development of the single entry, the quantity of fresh ventilating air coursed through the last open crosscut will be maintained as required by 30 CFR 57.21-33 and 57.21-34. A quantity of air sufficient for the operation of diesel powered equipment and methane dilution will ventilate the face, and the inby end of the ventilation tubing from the blowing fan will be maintained within 30 feet of the face. A second larger auxiliary fan located out of the ramp will exhaust the air from the face area. The capacity of the exhausting fan will be approximately twice that of the blowing fan so that recirculation is prevented and adequate fresh air is available throughout the ramp. The exhausting auxiliary fan will vent directly into a return air course.

4. Petitioner states that the alternate method outlined above will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 19, 1982. Copies of the petition are available for inspection at that address.

Dated: June 9, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-16601 Filed 6-17-82; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Design Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Design Arts Advisory Panel (Communication) to the National Council on the Arts will be held on July 8–9, 1982, from 9:00 a.m.—5:30 p.m. in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 82-16518 Filed 6-17-82; 8:45 am]

BILLING CODE 7537-01-M

Design Arts Advisory Panel (Demonstration); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Design Arts Advisory Panel (Demonstration) to the National Council on the Arts will be held on July 12–13, 1982, from 9:00 a.m.–5:30 p.m. in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

June 11, 1982.

[FR Doc. 82-16520 Filed 6-17-82; 8:45 am]

BILLING CODE 7537-01-M

State Programs Advisory Panel to the National Council on the Arts; Meeting

Pursuant to section 10(a)92) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the State Programs Advisory Panel to the National Council on the Arts will be held on July 8, from 9:00 a.m.–5:30 p.m. and on July 9, from 8:00 a.m.–4:30 p.m. in the first floor conference room of the Shoreham Building, 806 15th St., NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on July 8, from 9:00 a.m.–10:00 a.m. and 12:30 p.m.–5:30 p.m.; on July 9, from 8:00 a.m.–4:30 p.m. to discuss policy and regionalism.

The remaining sessions of this meeting on July 8, from 10:00 a.m.–12:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

June 11, 1982.

[FR Doc. 82-16519 Filed 6-17-82; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

National Science Board; Commission on Precollege Education in Mathematics, Science, and Technology; Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: National Science Board Commission on Precollege Education in Mathematics, Science and Technology.

Date and Time: July 9–10, 1982; 9 a.m.–5 p.m., July 9; 9 a.m.–2 p.m., July 10.

Place: National Science Foundation, 1800 G Street, NW., Room 540 (Board Room), Washington, D.C. 20550.

Type of Meeting: Open.

Contact Person: Dr. Richard S. Nicholson, Executive Director, Commission on Precollege Education in Mathematics, Science and Technology, Room 527, National Science Foundation, Washington, D.C. 20550.

Summary Minutes: Contact Dr. Richard S. Nicholson at the above address.

Purpose of Commission Meeting and Agenda: To come to an agreement on a problem definition statement regarding precollege mathematics and science education, to establish working subgroups within the Commission and to develop an agenda for future activities.

M. Rebecca Winkler,

Committee Management Coordinator.

June 15, 1982.

[FR Doc. 82-16499 Filed 6-17-82; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

I. 1. Type of submission, new, revision or extension: Revision.

2. The title of the information collection: Environmental Qualification of Electrical Equipment, 10 CFR 50.49.

3. The form number if applicable: Not applicable.

4. How often the collection is required: On occasion.

5. Who will be required or asked to report: NRC Power Plant Licensees.

6. An estimate of the number of responses: 340.

7. An estimate of the total number of hours needed to complete the requirement or request: 27,920.

8. An indication of whether Section 3504(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: Licensees are required to qualify essential electrical equipment to assure that the equipment will perform its accident mitigation functions.

II. 1. Type of submission, new, revision or extension: Extension (no change).

2. The title of the information collection: Certificate of Medical History, 10 CFR 55.60.

3. The form number if applicable: NRC Form 396.

4. How often the collection is required: On occasion.

5. Who will be required or asked to report: Individuals or households.

6. An estimate of the number of responses: 3,000.

7. An estimate of the total number of hours needed to complete the requirement or request: 750 hours.

8. An indication of whether Section 3504(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: Provides basic data for agency review of the medical history of applicants' original and renewal requests for operator and senior operator licenses.

III. 1. Type of submission, new, revision or extension: New.

2. The title of the information collection: Three Mile Island-1 Restart, Psychological Stress Survey.

3. The form number if applicable: Not applicable.

4. How often the collection is required: One time only.

5. Who will be required or asked to report: Individuals and households.

6. An estimate of the number of responses: 1,705.

7. An estimate of the total number of hours needed to complete the requirement or request: 853.

8. An indication of whether Section 3504(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: A random telephone survey of the residents within a 20 and 100 mile radius of Three Mile Island will be conducted to assess the psychological stress TMI–1's restart will have on the well-being of the residents of surrounding communities.

Copies of the submittal may be inspected or obtained for a fee from NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer, Gwendolyn W. Pla, (202) 395–6880.

NRC Clearance Officer is R. Stephen Scott, (301) 492–8585.

Dated at Bethesda, Maryland, this 15th day of June 1982.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Acting Director, Office of Administration.

[FR Doc. 82–16597 Filed 6–17–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–440 and 50–441]

Cleveland Electric Illuminating Co., et al.; Availability of Safety Evaluation Report

Notice is hereby given that the Office of Nuclear Reactor Regulation has published its Safety Evaluation Report on the proposed operation of the Perry Nuclear Power Plant, Units 1 and 2, to be located on the southern shore of Lake Erie, about 35 miles northeast of Cleveland, Ohio. Notice of receipt of the application of the Cleveland Electric Illuminating Company, the Duquesne Light Company, the Ohio Edison Company, the Pennsylvania Power Company and the Toledo Edison Company to operate the Perry Nuclear Power Plant, Units 1 and 2 was published in the **Federal Register** on February 13, 1981 (46 FR 12372).

The report is being referred to the Advisory Committee on Reactor Safeguards and is being made available at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at Perry Public Library, 3735 Main Street, Perry, Ohio 44081 for inspection and copying. The report (Document No. NUREG–0887) can also be purchased, at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, and through the NRC GPO sales program by writing to the U.S. Nuclear Regulatory Commission, Attention Sales Manager, Washington, D.C. 20555. GPO deposit holders can call (301) 492–9530.

Dated at Bethesda, Maryland, this 3rd day of June 1982.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 82–16609 Filed 6–17–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–219]

GPU Nuclear Corp. and Jersey Central Power & Light Co.; Issuance of Amendment to Provisional Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 61 to Provisional Operating License No. DPR–16, issued to GPU Nuclear Corporation and Jersey Central Power & Light Company (the licensees), which revised the Technical Specifications for operation of the Oyster Creek Nuclear Generating Station (the facility) located in Ocean County, New Jersey. The amendment is effective as of its date of issuance.

This amendment authorizes a one time only change to Section 1.12, Definition of Refueling Outage, to extend the time between successive tests of surveillances, prior to cycle 10 only, from not exceeding 20 months to not exceeding 30 months.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 28, 1982, (2) Amendment No. 61 to License No. DPR–16, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commisson's Public Document Room, 1717 H Street, N.W., Washington, D.C. and the Local Public Document Room, 101 Washington Street, Toms River, New Jersey 08753. A single copy of items (2) and (3) may be obtained upon

request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 11th day of June, 1982.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 82-16610 Filed 6-17-82; 8:45 am]
BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Extreme External Phenomena; Meeting

The ACRS Subcommittee on Extreme External Phenomena will hold a meeting on July 7, 1982, Room 1167, 1717 H Street, NW, Washington, DC. The Subcommittee will review the Research proposed FY 1984 and FY 1985 research funding and programs in this area for the Long-Range Research Plan.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, July 7, 1982—5:00 p.m. Until the Conclusion of Business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Richard Savio (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: June 14, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-16610 Filed 6-17-82; 8:45 am]
BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Perry Nuclear Power Plant Units 1 and 2; Time Change

The ACRS Subcommittee on Perry Nuclear Power Plant Units 1 and 2 scheduled for June 28th will start at *1:30 p.m.* instead of 2:30 p.m. and June 29th will start at *8:30 a.m.*, at the Marriott Inn, 4277 West 150th Street, Cleveland, OH.

All other items regarding this meeting remain the same as announced in the **Federal Register** published Thursday, June 3, 1982 (47 FR 24238).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Gary Quittschreiber or the Staff Engineer, Mr. Anthony Cappucci (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: June 14, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-16617 Filed 6-17-82; 8:45 am]
BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Reliability and Probabilistic Assessment; Meeting

The ACRS Subcommittee on Reliability and Probabilistic Assessment will hold a meeting on July 7, 1982, Room 1167, at 1717 H Street, NW, Washington, DC. The Subcommittee will review the proposed FY 1984 and FY 1985 research funding and programs for the Risk Analysis Decision Unit.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, July 7, 1982—4:00 p.m. Until the Conclusion of Business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding the topics to be discussed.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Staff Engineer, Mr. J. Michael Griesmeyer (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EDT. The Designated Federal Employee for this meeting is Mr. Gary Quittschreiber.

Dated: June 15, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-16614 Filed 6-17-82; 8:45 am]
BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Safety Research Program; Meeting

The ACRS Subcommittee on the Safety Research Program will hold a meeting on July 7, 1982, Room 1046 at 1717 H Street, NW., Washington, DC. The Subcommittee will continue to discuss the NRC Safety Research Program and budget for FY 1984 and FY 1985; it will discuss also a draft ACRS report to the Commission on the NRC FY 1984 and FY 1985 safety research program and budget.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (45 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only

by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, July 7, 1982—8:30 a.m. Until the Conclusion of Business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this matter. It will then discuss a draft ACRS report to the Commission on the NRC Safety Research Program and budget for FY 1984 and FY 1985.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Sam Duraiswamy (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: June 14, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–16815 Filed 6–17–82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

SES Performance Review Board

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: Notice is hereby given of the name of a new member of the OPM Performance Review Board.

DATE: June 18, 1982.

FOR FURTHER INFORMATION CONTACT: James DeFrance, Chief, Policy Development Branch, Office of Personnel and EEO, Office of Personnel Management, 1900 "E" Street, N.W., Washington, D.C. 20415 (202–632–5430).

SUPPLEMENTARY INFORMATION: Sec. 4314(c) (1) through (5) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more SES performance review boards. The board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive.

Office of Personnel Management.

Donald J. Devine,

Director.

The following Senior Executive Service member has been selected to fill a vacancy on the Performance Review Board of the Office of Personnel Management: Robert E. Matson, Acting Assistant Director, Federal Executive Institute 6325–01.

[FR Doc. 82–16562 Filed 6–17–82; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 22532; 70–6740]

Gulf Power Co.; Proposed Financing of Pollution Control and Waste Disposal Equipment Through County Revenue Bonds; Exception From Competitive Bidding

June 11, 1982.

In the matter of Gulf Power Company, 75 North Pace Boulevard, Pensacola, Florida 32520 (70–6740).

Gulf Power Company, an electric utility subsidiary of The Southern Company, has filed an application-declaration pursuant to Sections 6(a), 7, and 12(d) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 44(b)(3) and 50(a)(5) thereunder.

Gulf proposes that certain pollution control and solid waste disposal facilities ("Facilities") at its Crist and Lansing Smith Steam Plants located, respectively, in Escambia and Bay Counties, Florida, be financed through revenue bonds ("Revenue Bonds") issued by each county ("County") or for both plants by Escambia County. The issuance of such bonds is authorized by the Florida Industrial Development Financing Act, Chapter 159, Florida Statutes ("the Statute").

It is presently estimated that the aggregate principal amount of Revenue Bonds to be issued from time to time by either or both Counties will not exceed $32,000,000 in the aggregate.

Gulf proposes to enter into a separate Loan Agreement with either or both Counties relating to each issue of the Revenue Bonds (the "Agreement"). Under each Agreement, the County will loan to Gulf the proceeds of the sale of the County's Revenue Bonds, and Gulf will issue a non-negotiable promissory note thereof (the "Note"). Such proceeds will be deposited with a Trustee (the "Trustee") under an indenture to be entered into between the County and such Trustee (the "Trust Indenture"), pursuant to which such Revenue Bonds are to be issued and secured, and will be applied by Gulf to payment of the Cost of Construction of the related Project. Each Note will provide for payments thereon to be made at times and in amounts which shall correspond to the payments with respect to the principal of, premium, if any, and interest on the related series of Revenue Bonds whenever and in whatever manner the same shall become due, whether at stated maturity, upon redemption or declaration or otherwise. Each Agreement will provide for the assignment to the Trustee of the County's interest in, and of the moneys receivable by the County under, the Agreement and the Note. Each Agreement will also obligate Gulf to pay the fees and charges of the Trustee and will provide that Gulf may at any time, so long as it is not in default thereunder, prepay the amount due under the Note, including interest thereon, in whole or in part. Such payment would be sufficient to redeem or purchase the related Revenue Bonds outstanding in the manner and to the extent provided in the Trust Indenture.

Each Trust Indenture will provide that the Revenue Bonds will be redeemable. If redemption, in whole or in part, is at Gulf's option and occurs at any time on or after a date not later than 10 years from the date of issuance, the initial premium would be of up to 3% of the principal amount, declining by not less than ½ of 1% annually thereafter. If redeemed in whole, at Gulf's option, because of undue burdens of excessive liabilities imposed with respect to the related Project, its destruction or damage beyond practicable or desirable repairability or condemnation or taking by eminent domain, or if operation of the related plant is enjoined and Gulf determines to discontinue operation thereof, redemption would be at the principal amount thereof plus accrued interest, but without premium. It is proposed that the Revenue Bonds will mature from one to 30 years from the first day of the month in which they are initially issued and may, if they have a maturity of 15 to 30 years and if it is deemed advisable for purposes of the

marketability of the Revenue Bonds, be entitled to the benefit of mandatory redemption sinking funds calculated to retire a portion of the aggregate principal amount of the issues prior to maturity.

Gulf may determine to secure its obligations under each Note by delivering to the Trustee, to be held as collateral, a separate series of its first mortgage bonds (the "Collateral Bonds") in principal amount equal to the principal amount of the related series of Revenue Bonds. Gulf has been advised that such an arrangement would cause the Revenue Bonds to have a rating equivalent to the rating of its first mortgage bonds outstanding under the indenture dated as of September 1, 1941 between Gulf and The Chase Manhattan Bank (National Association), and The Citizens and Peoples National Bank of Pensacola, as Trustees (the "Indenture Trustees"), as supplemented and amended (the "Mortgage"). The Collateral Bonds will be issued under a supplemental indenture to the Mortgage (the "Supplemental Indenture") to be dated as of the first day of the month in which the Collateral Bonds are to be issued and delivered, will bear interest at a rate equal to the interest rate to be borne by the related series of Revenue Bonds, will mature on the maturity date of such Revenue Bonds and will be non-transferable by the Trustee. The Collateral Bonds will be issued on the basis of unfunded net property additions.

The Supplemental Indenture will provide, however, that the obligation of Gulf to make payments with respect to each series of Collateral Bonds will be satisfied to the extent that payments are made under the related Note sufficient to meet payments when due of the related series of Revenue Bonds. The Supplemental Indenture will provide that, upon acceleration by the Trustee of the principal amount of all outstanding Revenue Bonds of any series under a Trust Indenture, such Trustee may demand the mandatory redemption of the related series of Collateral Bonds then held by it as collateral. The redemption price would be equal to the principal amount thereof plus accrued interest, if any, to the date fixed for redemption. The Supplemental Indenture may also provide that, upon optional redemption of a series of Revenue bonds, in whole or in part, at any time after they have been outstanding for a period not longer than 10 years, an equal principal amount of the related series of Collateral Bonds will be redeemed at an initial premium of up to 3%, declining by not less than ½% every year.

The Trust Indenture will provide that, upon deposit with the Trustee of funds sufficient to pay or redeem all or any part of a series of Revenue Bonds, or upon direction of the Trustee by Gulf to so apply funds available therefor, or upon delivery of outstanding Revenue Bonds of such series to the Trustee by or for the account of Gulf, the Trustee will be obligated to deliver to Gulf, or for the account of Gulf, the related Collateral Bonds then held as collateral in an aggregate principal amount equal to the aggregate principal amount of Revenue Bonds for the payment or redemption of which such funds have been deposited or applied or which shall have been so delivered.

As an alternative to or in conjunction with Gulf's securing its obligations through the issuance of the Collateral Bonds as above described, Gulf may cause irrevocable Letters of Credit (the "Letters of Credit") of a bank (the "Bank") to be delivered to the Trustee. The respective Letters of Credit would be irrevocable obligations of the Bank to pay the Trustee, upon request, up to an amount necessary in order to pay principal of and accrued interest on the respective series of Revenue Bonds when due. Pursaunt to a separate agreement with the Bank, Gulf would agree to pay to the Bank on demand all amounts that are drawn under the Letters of Credit, as well as certain fees and expenses. Such delivery of the Letters of Credit to the Trustee would obtain for the Revenue Bonds the benefit of a rating equivalent to the credit rating enjoyed by the Bank. In the event that the Letters of Credit are delivered to the Trustee as an alterantive to the issuance of the Collateral Bonds, Gulf may also convey to the Counties subordinated security interests in the Projects or other property of Gulf as further security for Gulf's obligations under the respective Agreements and Notes. Such subordinated security interests would be assigned by the Counties to the Trustee.

As a further alternative to, or in conjunction with, securing its obligations under each Agreement and Note as above described, and in order to obtain a "AAA" rating for the Revenue Bonds by Standard and Poor's Corporation, Gulf may cause an insurance company to issue separate policies of insurance guaranteeing the payment when due of the principal of and interest on each series of the Revenue Bonds. Each such insurance policy would extend for the term of the related Revenue Bonds and would be non-cancelable by the insurance company for any reason. Non-refundable, one-time insurance premiums for the policies would be fully paid by Gulf at the time the policies are issued. In addition, Gulf may be obligated to make payments of certain specified amounts into separate escrow funds and to increase the amounts on deposit in such funds under certain circumstances. The amount in each escrow fund would be payable to the insurance company as indemnity for any amounts paid pursuant to the related insurance policy in respect of principal of or interest on the related Revenue Bonds.

If, due to insufficiency of coverages or for other reasons, Gulf is unable or determines not to issue the Collateral Bonds or to deliver the Letter of Credit to the Trustee as above described or to cause insurance policies to be issued, the Revenue Bonds would be issued without the benefit of such security. In that event Gulf may convey to the Counties subordinated security interests in the respective Projects or other property of Gulf as security for its obligations under the respective Notes. Such subordinated security interests would be assigned by the Counties to the Trustee.

It is contemplated that the Revenue Bonds will be sold by each County pursuant to an agreement between the County and one or more underwriters. In accordance with the laws of the State of Florida, the interest rate to be borne by the Revenue Bonds will be fixed by the County and will be either a fixed rate or a rate which will fluctuate in accordance with a specified prime or based rate or rates, and, if Collateral Bonds are issued, such a fluctuating rate will not exceed a specified maximum rate or fall below a specified minimum rate. Interest on the Revenue Bonds will be exempt from federal income taxation and the interest rates on such obligations have been and can be expected at the time of issue of the Revenue Bonds, to be approximately three or four percentage points lower than the interest rates on instruments of like tenor and comparable quality, but subject to federal income taxation.

In the event that both Projects are financed through the issuance by Escambia County of its Revenue Bonds, there may be only one Agreement, Trust Indenture, series of Revenue Bonds and series of Collateral Bonds.

Gulf seeks an exception from the competitive bidding requirement of Rule

50 pursuant to subparagraph 50(a)(5) for the issuance of its Notes and Collateral Bonds because such instruments are to be issued and pledged solely to secure Gulf's obligations to the Counties and no public offering is to be made.

The application-declaration and any amendments thereto are available for public inspection through the Commmission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by July 6, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-16578 Filed 6-17-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12482; 812-5127]

Sentinel Group Funds, etc.; Filing of Application

June 11, 1982.

In the matter of Sentinel Group Funds, Inc., One Exchange Place, Jersey City, NJ 07302 and Sentinel Advisors, Inc., Equity Services, Inc., National Life Drive, Montpelier, VT 05602, (812-5127).

Notice is further given that Sentinel Group Funds, Inc. ("Fund"), registered under the Investment Company Act of 1940 ("Act"), as an open-end, diversified, management investment company, and its distributors, Sentinel Advisors, Inc. ("Advisor") and Equity Services, Inc. ("Equity," collectively with the Fund and Advisor, "Applicants"), filed an application on March 8, 1982, and an amendment thereto on May 20, 1982, for an order, pursuant to Section 6(c) of the Act, exempting Applicants from the provisions of Section 22(d) of the Act and Rule 22d-1 thereunder to the extent necessary to permit sales of shares of the Fund at net asset value to the non-employee directors and existing and retired agents and employees of National Life Insurance Company and its subsidiaries (including sales to their spouses and minor children) who are participants in a non-tax qualified employee benefit plan. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, the Fund is a series fund which is engaged in the continuous public offering of each of its four existing classes of stock through Advisor and Equity, as underwriters, at public offering prices equal to net asset value plus a sales charge. Applicants further represent that the sales charge, which is borne by the purchaser, varies from 8.5% of the Fund's offering price for purchases of less than $12,500, to 1% of purchase in excess of $1,000,000. Applicant states that dividends and distributions of capital gains, at the shareholder's election, can be reinvested in the Fund's shares at net asset value without the imposition of a sales charge. The minimum initial purchase is $250 for all classes of the Fund except the Sentinel Bond Fund class, which is $2,500. Applicants further state that the minimum subsequent investment for all classes is $25.00.

As stated in the application, Advisor and Equity are both wholly-owned subsidiaries of National Life Investment Management Company, Inc., which in turn is a wholly-owned subsidiary of National Life Insurance Company, a mutual life insurance company incorporated under the laws of Vermont. Other subsidiaries of National Life Insurance Company, all stock life insurance companies formed in Vermont in December 1981, are: Vermont Life Insurance Company, National Pension Life Insurance Company, and Champlain Life Insurance Company. National Life Insurance Company, which was founded in 1850, is licensed to do business in all 50 states and the District of Columbia with $11,296,384,000 of life insurance in force at December 31, 1981, and $2,567,085,470 of assets at the same date. (The above companies and subsidiaries thereof which now exist or may be formed subsequent to the date of this application are hereinafter referred to as the "National Life Companies.") Applicants represent that as of December 31, 1981, the personnel (including persons who have retired) of the National Life Companies (hereinafter referred to as "National Life Affiliated Personnel") total approximately 2,680, including approximately 934 home office employees, 70 general agents, 947 agents, 351 agency office employees, 14 non-employee directors, 231 retired home office employees, 10 retired general agents, 31 retired agents and 91 retired agency office employees.

Applicants propose to permit National Life Affiliated Personnel to participate in a plan (the "Plan") which would permit National Life Affiliated Personnel, including trustees, custodians and other fiduciaries acting on their behalf, to invest in and purchase shares of the Fund at net asset value without the payment of a sales charge and in addition to permit spouses or minor children of National Life Affiliated Personnel to invest in and purchase shares at net asset value so long as the purchase order is directed by a member of the National Life Affiliated Personnel. Applicants represent that each such purchase would have to meet the Fund's minimum initial purchase and any add-on investment requirements and would be made (1) by direct purchase at any time sent from the participant to the distributors, (2) by regular payroll deduction (except for non-employee directors, retirees, spouses, minor children, custodians or fiduciaries) in the amount of $25 or more for each investment and (3) by automatic periodic bank checking account withdrawal plans in the amount of $25 or more for cash investments. Applicants state that a single check representing all payroll deduction investments will be submitted to the Fund within one or two days after the date of distribution of which the payroll checks from which the deductions are to be made.

According to the application, no individual or in-person group sales solicitation or presentations concerning the Plan will be made. Applicants state that there will be no additional selling effort or literature developed in connection with the Plan; only existing sales brochures will be used. Certificates for shares acquired through participation in the Plan will not be issued and dividends and capital gains distributions with respect to such shares will automatically be invested at net asset value. Applicants represent that all National Life Affiliated Personnel will receive, at least annually, notice from their employers concerning the Plant at the expense of their employers. The notice will describe the Fund and the investment objectives of each of its classes, indicate that investments in any of the classes of the Fund can be made at net asset value and detail the method by which investments can be made. Applicants state that the notice will also indicate that addition information

concerning the Plan and Fund can be obtained from the National Life Companies and will inform the National Life Affiliated Personnel of the availability of prospectuses and application forms from the National Life Companies. In addition, Applicants state that each Plan participant will be furnished a copy of the Fund's prospectus at least annually, which will contain appropriate disclosure concerning the Plan.

Applicants represent that all expenses of administering the Plan, such as those associated with notification of eligible National Life Affiliated Personnel of the existence of the Plan, preparation, review and approval of account applications, and administration of the payroll deduction investments, will be borne by the National Life Companies and not by the Fund.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except either to or through a principal underwriter for distribution or at a current public offering price described in the prospectus, and, if such class or security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person except a dealer, a principal underwriter, or the issuer, except at a current public offering price described in the prospectus. Rule 22d–1 permits reductions in, or eliminations of, the sales load charged upon the sale of shares under certain circumstances.

Applicants submit that the sale of the Fund's shares to National Life Affiliated Personnel at net asset value under the Plan may conflict with the provisions of Section 22(d) of the Act and Rule 22d–1 thereunder. While Rule 22–d(1) permits sales without any sales charge to certain employees of affiliated persons of the Fund, the Applicants assert that this would not be available to National Life Affiliated Personnel except for employees of Advisor or Equity. Applicants further assert that an argument may also be made that purchases of the Fund's shares at net asset value by National Life Affiliated Personnel under the Plan are permitted by Rule 22d–1(f), which permits elimination of sales charges upon the sale pursuant to a "uniform offer" described in the prospectus and made to, *inter alia*, employee benefit plans not qualified under Section 401 of the Internal Revenue Code, provided such non-qualified plans satisfy uniform criteria relating to the realization of economies of scale in sales effort and sales-related expenses. While the Applicants believe that the net asset value sales to the National Life Affiliated Personnel covered by the Plan would meet the "uniform offer" requirements of Rule 22d–1(f) since all such personnel would be eligible to join the Plan, they are not absolutely certain. In addition, there is also uncertainty concerning whether all National Life Affiliated Personnel, and in particular the retirees and non-employee directors, would be deemed to be "employees" under Rule 22d–1(f). Accordingly, to clarify these uncertainties, Applicants week an exemption from Section 22(d) of the Act and Rule 22d–1 thereunder, pursuant to Section 6(c) of the Act.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities, or transactions, from any provision of the Act or any rule thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants assert that investment by or on behalf of National Life Affiliated Personnel in shares of the Fund at net asset value under the Plan should result in demonstrable economies in sales effort and sales related expense as compared with other sales and would not be unjustly discriminatory, and that the grant of the exemption requested by the application is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes of Section 22(d) of the Act. Applicants further assert that the affiliation of the Fund's distributors with the other National Life Companies is the basis for a unique relationship of the National Life Insurance Company to the Fund which can be expected to result in economies of sales effort and sales related expenses that justify elimination of all sales charges on the Fund's shares purchased by National Life Affiliated Personnel in the Plan without discrimination against other employee benefit plans or other purchasers of the Fund's shares. Applicants further represent that sales of the Fund's shares to such persons serve legitimate corporate purposes by promoting incentive, goodwill and loyalty. In addition, Applicants state that under the Plan there would be no adverse effects on the interests of investors and such sales would not involve any of the abuses against which Section 22(d) is directed. Applicants also state that the Fund's prospectus will reflect this special limitation on imposition of the normal sales charge.

Applicants further submit that sales of the Fund's shares to retired personnel and non-employee directors of the National Life Companies as well as to the spouses and minor children of all National Life Affiliated Personnel will result in the same economies of sales effort and sales related expenses as result from sales to the other National Life Affiliated Personnel.

Notice is further given that any interested person may, not later than July 6, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82–16570 Filed 6–17–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12483; 812-5162]

Wingate Housing Partners, Ltd., and Continental Wingate Co., Inc.; Filing of Application

June 11, 1982.

In the matter of Wingate Housing Partners, Ltd., and Continental Wingate Company, Inc., Suite 2020, One Boston Place, Boston, Massachusetts 02108 (812-5162).

Notice is hereby given that Wingate Housing Partners, Ltd. (the "Partnership"), a California limited partnership, and its general partner, Continental Wingate Company, Inc. ("General Partner" and, together with the Partnership, referred to herein as "Applicants"), filed an application on April 13, 1982, and amendments thereto on May 27, 1982, and June 7, 1982, for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting the Partnership from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representatations contained therein, which are summarized below.

Applicants state that the Partnership was formed under the Uniform Limited Partnership Act of the State of California, on April 7, 1982, for the purpose of investing in government-assisted rental housing for low and moderate income persons in accordance with the express determination made by Congress in Title IX of the Housing and Urban Development Act of 1968 ("Title IX"). Applicants represent that the Partnership will operate as a "two-tier" partnership, i.e., the Partnership, a limited partnership, will invest in other limited partnerships ("Local Limited Partnerships"), which, in turn, will be engaged in the development, rehabilitation, ownership and operation of housing for low and moderate income persons ("Housing Developments"). The application states that the Housing Developments will be rehabilitated, financed and/or operated with assistance from federal, state and/or local governments or agencies and will be classified as "Certified Historic Structures" and/or "Low Income Housing" under the Internal Revenue Code of 1954, as amended ("Code"). Applicants represent that the Partnership is organized as a limited partnership because a limited partnership is the only form of organization which provides investors with both (1) the ability to claim on their individual tax return the deductions, losses, credits and other tax items arising from the rehabilitation and operation of the Housing Developments, and (2) liability limited to their capital investment.

The application states that on April 8, 1982, the partnership filed a registration statement on Form S-11 (File No. 2-76932), covering the sale of a minimum of 5,750 and a maximum of 15,000 Interests (not including 1,500 Interests subject to an open-allotment option), to be offered at $1,000 per Interest including selling commissions, with a minimum subscription of 5 units ($5,000). It is asserted that offers to sell and sales of Interests to the public are proposed to be effected, on a best-efforts basis, by Continental Wingate Capital Corporation, a wholly-owned subsidiary of the General Partner, and other registered broker-dealers. Applicants maintain that no subscription for units will be accepted unless it is approved by the General Partner, which approval shall be conditioned upon representations as to the suitability of the investment for each subscriber, including a representation that each subscriber will (1) have a net worth (exclusive of home, furnishings, and automobiles) of $200,000 or more, or (2) have a net worth (exclusive of home, furnishings and automobiles) of $50,000 or more and some part of his income will be subject to a federal income tax rate of 39% or more. The application states that the Partnership anticipates having a minimum of $5,117,500 and a maximum of $14,767,500 available for investment from this offering. It is represented that the Partnership will invest substantially all of its available capital in Local Limited Partnerships which will own, rehabilitate and operate Housing Developments. The application states that the Partnership has agreed to invest approximately 66% of the net proceeds of an offering of 15,000 Interests in three Local Limited Partnerships. Applicants represent that affiliates of the General Partners are codevelopers/general partners of these Local Limited Partnerships.

Applicants represent that the Partnership will invest any net proceeds not immediately utilized to acquire interests in Local Limited Partnerships or for other Partnership purposes (such as the establishment of a reserve equal to 3% of the gross proceeds of the offering), in United States Government securities, including Treasury bills, United States Government guaranteed obligations, securities of governmental agencies if covered by a repurchase agreement, bankers' acceptances, certificates of deposit or time deposits in banks, notes or bonds with maturities not exceeding one year or money market funds (which invest only in United States Government securities and/or certificates of deposit). The application states that it is unlikely that the Partnership will hold temporary investments for more than one year; however, the Partnership will own and hold these securities on a temporary basis pending full investment in interests in Local Limited Partnerships, and it is the Partnership's intention to be engaged, as soon as is reasonably possible, in a business other than that of owning, holding, investing or reinvesting any of these temporary investments.

The application states that the Partnership will be controlled by the General Partner, pursuant to the Partnership Agreement, and that the Limited Partners, consistent with their limited liability status, will not be entitled to participate in the control of the Partnership's business. It is asserted, however, that a majority in interest of the Limited Partners will have the right to dissolve the Partnership, to remove the General Partner, to elect a successor general partner and to approve or disapprove a sale of all or substantially all the assets of the Partnership. Applicants represent that, under the Partnership Agreement, each Limited Partner is entitled to review the records of the Partnership at reasonable times.

Applicants state that, as provided in the Partnership Agreement, annual reports will be distributed to each Limited Partner within 75 days after the end of each fiscal year containing a balance sheet, statement of income, partners' equity and changes in financial position for such fiscal year, all of which will be prepared in accordance with generally accepted accounting principles and accompanied by a report and opinion of a certified public accountant. It is asserted that such annual report shall also include a report of the Partnership's activities during the year and a cash flow statement setting forth distributions to Limited Partners and specifying the sources of such cash. Applicants state that the General Partner will distribute the following interim reports to the Limited Partners: (1) A semi-annual report within 60 days after the end of the first six-month period of each year containing an unaudited balance sheet, statement of income, cash flow statement and other pertinent information concerning the Partnership's activities, and a report setting forth the fees from the Partnership or the Local Limited Partnerships which the General Partner or its affiliates received and the services they rendered; and (2) until 75% of the proceeds of the offering of Interests are

invested, a special report within 30 days of the end of each quarter in which the Partnership acquires or disposes of any Local Limited Partnership interest, detailing the material terms of such transaction and the aggregate investments to that date. The application represents that the Partnership will also file with the Commission, pursuant to Section 15(d) of the Securities and Exchange Act of 1934, all required annual reports, quarterly reports and current reports on Forms 10–K, 10–Q and 8–K, as well as any other reports required by that Act, all of which will be available to Limited Partners at the Commission's offices.

Applicants state that the General Partners and their officers, directors, employees and agents will be indemnified against personal liability for their action or inactions if done on a basis other than bad faith, misconduct, fraud or negligence. It is asserted that, notwithstanding the foregoing, neither the General Partner nor any officer, director, employee or agent of the General Partner will be indemnified from any liability incurred by him in connection with any claim or settlement involving an allegation that federal or state securities laws were violated unless such indemnification is approved by a court.

The application states that, as set forth in the Partnership Agreement, the General Partner and its affiliates will receive substantial reimbursements, fees, and other compensation from the proceeds of the sale of Interests and from the operation of the two Local Limited Partnerships of which affiliates of the General Partner are the Local General Partners. It is asserted that such reimbursements, fees, and other compensation are comparable to those which would be paid to third parties for the services rendered and are competitive with those generally paid or received for similar services in the multi-family, government-assisted housing industry. Applicants believe and represent further that such fees and reimbursements are reasonable and fair, do not involve over-reaching and are competitive from the point of view of the Partnership, the Local Limited Partnerships, and the Limited Partners in the Partnership.

Section 6(c) of the Act provides in part that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction from any provision of the Act and rule thereunder if, and to the extent that, such exemption is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In submitting this application, neither the Partnership nor the General Partner concedes that the Partnership is an investment company, as that term is defined by the Act. Applicants assert that the Partnership does not fit within the several definitions of an investment company contained in the Act. Applicants assert that the Partnership's exemption from the provisions of, and the rules and regulations promulgated pursuant to, the Act is both necessary and appropriate in the public interest.

In support of their request, Applicants assert that, by investing in Limited Partnership interests in Local Limited Partnerships developing government-assisted, low-income housing, the Partnership is emplementing the national policy enunciated by Congress in Section 901 of Title IX. Applicants represent that such investment is not economically suitable for private investors without the tax and organizational advantages of the limited partnership form. Applicants assert that the limited partnership structure is the only way to bring substantial private equity capital into government-assisted housing. The application maintains, however, that the limited partnership form of organization is incompatible with the Act, and that it would be impossible for the Partnership to comply with certain provisions of the Act. Applicants state that to discourage two-tier limited partnership arrangements by the application of the Act would result in the elimination of a prime format with which to attract private equity capital into government-assisted housing, and would frustrate national policy.

Applicants state that the contemplated arrangement is not susceptible to abuses of the sort the Act was designed to remedy. It is asserted that the regulations imposed on each Local Limited Partnership by various state, federal, and municipal agencies, and the Partnership Agreement provide protection to investors comparable to, and in some cases greater than, that provided by the Act. Applicants also note that Interests will be sold only to investors who have special qualifications and who the Applicants expect will have both the ability and incentive to inform themselves concerning their investment and to exercise sound judgment in connection therewith.

Notice is further given that any interested person may, not later than July 6, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82–16577 Filed 6–17–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 22534; 70–6306]

Consolidated Natural Gas Co.; Issuance of Common Stock to ESOP and DRP Plans

June 14, 1982.

The Consolidated Natural Gas Company ("Consolidated"), 100 Broadway, New York, New York 10005, a registered holding company, has filed with this Commission a post-effective amendment to its declaration previously filed and amended pursuant to sections 6(a), 7 and 12(c) of the Public Utilty Holding Company Act of 1935 ("Act") and Rules 42 and 50(a)(5) promulgated thereunder.

By order of June 7, 1979 (HCAR No. 21089), Consolidated was authorized to issue and sell 1,000,000 shares of common stock, $8 par value, from time to time through December 31, 1981, to the agent for Consolidated's common stockholders participating in its dividend reinvestment plan ("DRP Plan") and to the Trustees of the employee stock ownership plan ("ESOP Plan") of Consolidated and its

participating subsidiaries. By order dated February 12, 1982 (HCAR No. 22388) the Commission authorized extension of the period for issuing the remaining 899,978 shares through December 31, 1983. On March 19, 1982, the Commission issued an order (HCAR NO. 22424), authorizing, among other things, Consolidated to solicit proxies for stockholder approval of an amendment to its Certificate of Incorporation by increasing and reclassifying its authorized common stock from 22,000,000 shares, $8 par value, to 50,000,000 shares, $4 par value, primarily for the purpose of effecting a two-for-one stock split. Each share of issued and unissued $8 par value common stock would be changed into two shares of $4 par value common stock. On May 17, 1982, Consolidated issued 58,868 shares of its common stock, $8 par value, to Morgan Guaranty Trust Company of New York, Agent for the DRP Plan, thereby leaving 780,153 shares of those originally authorized by the Commission for issuance to such Agent and to the Trustees of the ESOP unissued. At the close of business on May 18, 1982, the two-for-one stock split became effective, and all shares of the common stock were reclassified as $4 par value.

By post-effective amendment, Consolidated seeks authorization to issue through December 31, 1983, to the Agent for the DRP Plan and to the Trustees of the ESOP Plan, 1,560,306 shares of its common stock, $4 par value, or twice the number of $8 par value shares remaining unissued immediately prior to the stock split.

The declaration as amended by the post-effective amendment and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by July 8, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as amended by the post-effective amendment or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-16821 Filed 6-17-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-18806; File No. SR-NSCC-82-9]

Filing and Immediate Effectiveness of Proposed Rule Change by the National Securities Clearing Corporation

June 14, 1982.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 4, 1982, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

NSCC has published the processing time schedules for both listed and over-the-counter activity and securities processing at its San Francisco clearing center.

In its filing, NSCC stated that the proposed rule change is consistent with the Securities Exchange Act of 1934 and the rules and regulation thereunder because publication of the time schedules will assist NSCC clearing members in the prompt and accurate clearance and settlement of securities transactions.

The foregoing change has become effective, pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission on or before July 8, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-NSCC-82-9.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-16820 Filed 6-17-82; 8:45 am]

BILLING CODE 8010-01-M

[File No.: 81-659]

The Equitable Life Assurance Society of the United States; Application and Opportunity for Hearing

June 14, 1982.

Notice is hereby given that the Equitable Life Assurance Society of the United States ("Applicant"), has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an exemption from the periodic reporting requirements under Sections 13 and 15(d) of the 1934 Act with respect to the operation of Separate Accounts Nos. 4 and 100.

The Application states in part:

In the absence of an exemption, Applicant would continue tob e required to file periodic reports required by sections 13 and 15(d) of the 1934 Act.

Applicant believes that the exemptive order it requests is appropriate in view of the lack of a trading market for the units of participation, the information presently being furnished to participants through prospectuses, annual and semi-annual reports, and the duplicative nature of and the expense involved in filing periodic reports under the 1934 Act.

For a more detailed statement of the information presented, all persons are referred to said application which is on file at the Offices of the Commission, 1100 L Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than July 9, 1982 may submit to the Commission in writing his views or any substantial facts bearing on the application or the

desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-16575 Filed 6-17-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 10/13-5029]

Model Capital Corp.; License Surrender

Notice is hereby given that Model Capital Corporation (Model), 105 14th Avenue, Seattle, Washington 98122, has completed their requirement for surrender of its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Model was licensed by the Small Business Administration on August 18, 1971.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender of the license was accepted on June 3, 1982, and accordingly, all rights, privileges and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 11, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-16611 Filed 6-17-82; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 06/06-0260]

Omega Capital Corp.; Application for License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.)* has been filed by Omega Capital Corporation, 755 South 11th Street, Beaumont, Texas 77704 (applicant) with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1981).

The officers, directors and stockholders of the applicant are as follows:

	Per. cent
T. E. Moor, Jr., President and Director, 755 South 11th Street, Beaumont, Texas 77704	20
Ervin L. Eggleston, Secretary and Treasurer, 7390 Pindo Circle, #156, Beaumont, Texas 77706	0
Donald S. McGregor, Vice-President, 1127 Texas Bank & Trust Tower, Houston, Texas 77036	10
Vivian Hutsoppte, Assistant Secretary, 525 Long Meadow, Beaumont, Texas 77707	.04
Edward Dunn Stedman, Jr., Director, 1360 Audubon Place, Beaumont, Texas 77706	5
T. E. Moor & Co., 755 South 11th Street, Beaumont, Texas 77704	44.2

The applicant, a Texas Corporation, with its principal place of business at 755 South 11th Street, Beaumont, Texas 77704, will begin operations with $530,000 paid-in capital and paid-in surplus.

The applicant will conduct its activities principally in the State of Texas.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Beaumont, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 11, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-16612 Filed 6-17-82; 8:45]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Fiscal Service

Treasury Current Value of Funds Rate

AGENCY: Bureau of Government Financial Operations.

ACTION: Notice of rate for use in Federal cash management operations.

SUMMARY: This notice provides the percentage rate based on the current value of funds to the Treasury. This rate is required by the Treasury Fiscal Requirements Manual (I TFRM 6-8000) to be used in Federal billing, collection, and disbursement operations and is provided here as public notice to assist agencies in their negotiations with affected contractors, organizations, and individuals. The applicable rate is 14.26%.

DATES: The rate will be in effect for the period beginning on July 1, 1982 and ending on September 30, 1982.

FOR FURTHER INFORMATION CONTACT: Inquiries should be directed to the Cash Management Regulations and Compliance Staff, Bureau of Government Financial Operations, Department of the Treasury, Treasury Annex No. 1, (PB-711), Washington, D.C. 20226 (Telephone: 202/634-5707).

SUPPLEMENTARY INFORMATION: Revisions to I TFRM 6-8000 in June 1980, provided that the current value of funds rate would be used in assessing charges for late payments to the Government (except where prohibited by law or where a different rule is prescribed by statute), and in determining whether it is cost-effective for the Government to avail itself of prompt payment discounts. This rate reflects the short-term value of funds to the Treasury and is based on rates set for purposes of Pub. L. 95-147, 91 Stat. 1227. It should be noted that the Federal Claims Collection Standards (4 CFR 102.12) also require that interest be charged on delinquent debts and debts being paid in installments in accordance with I TFRM 6-8000.

Dated: June 11, 1982.

W. E. Douglas,

Commissioner.

[FR Doc. 82-16540 Filed 6-17-82; 8:45 am]

BILLING CODE 4810-35-M

Public Information Collection Requirements Submitted to OMB for Review

During the period June 4 through June 10, 1982, the Department of the Treasury submitted the following public information collection requirements to OMB, for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634–2179. Comments regarding these information collections should be addressed to the Treasury Reports Management Officer, Information Resources Management Division, Room 309, 1625 I St. NW., Washington, D.C. 20220; *and* to the OMB reviewer listed at the end of each entry.

Date Submitted: June 9, 1982.
Submitting Bureau: Alcohol, Tobacco and Firearms.
OMB No.: 1512–0065.
Form No.: ATF F 1450 (5150.13).
Type of Submission: Revision.
Title: Application and Withdrawal Permit to Procure Spirits Free of Tax.
Purpose: The holder of a tax free alcohol user permit submits this application to obtain spirits free of tax. This form acts as a permit which lists the quantity allowed to be withdrawn, and serves as a record of how much was actually withdrawn.
OMB Reviewer: Suzann Evinger (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: June 9, 1982.
Submitting Bureau: Alcohol, Tobacco and Firearms.
OMB No.: 1512–0070.
Form No.: ATF F 1477.
Type of Submission: Revision.
Title: Application and Withdrawal Permit of Bonded Dealer to Procure Specially Denatured Spirits.
Purpose: This application is filed by authorized dealers in order to procure specially denatured spirits. The approved form serves as a permit to list the amount allowed to be withdrawn and also serves to record the quantity actually withdrawn.
OMB Reviewer: Suzann Evinger (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: June 9, 1982.
Submitting Bureau: Alcohol, Tobacco and Firearms.
OMB No.: 1512–0076.
Form No.: ATF F 1485 (5150.12).
Type of Submission: Revision.
Title: Application and Withdrawal Permit of User to Procure Specially Denatured Spirits.
Purpose: In order to control the amount of alcohol which permittees receive and use, they apply for and receive withdrawal permits. These permits limit the amount of alcohol they can receive and helps to ensure that they do not receive more than their bond covers.
OMB Reviewer: Suzann Evinger (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: June 8, 1982.
Submitting Bureau: Internal Revenue Service.
OMB No.: 1545–0425.
Form No.: 6269.
Type of Submission: Revision.
Title: Initial Contact Letter Requesting Verifying Information.
Purpose: Form used to notify taxpayers of examination appointments and informs them of the need to provide verifying records used as a basis for the items requested at the end of the letter. IRS uses this information to determine and recommend an increase, decrease, or no change to the tax liability for a given year.
OMB Reviewer: Michael Abrahams, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date submitted: June 10, 1982.
Submitting Bureau: Internal Revenue Service.
OMB No.: N/A (new Submission).
Form No.: 6671.
Type of Submission: New.
Title: Year 'Round Bounce Back Card Specialized Media Feature Service.
Purpose: The Specialized Media program is the Taxpayer Service Division's means of disseminating print materials, (i.e., features, new releases, etc.) to special media outlets in order to reach targeted audiences. The bounce-back card will provide feedback enabling us to better target our materials to meet the special audiences' needs.
OMB Reviewer: Michael Abrahams, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: June 9, 1982.
Submitting Bureau: Internal Revenue Service.
OMB No.: N/A (new submission).
Form No.: W–3 S&L.
Type of Submission: New.
Title: Transmittal of Income and Tax Statements for State and Local Governmental Employers.
Purpose: Taxpayers report income, tax withholding, and advance EIC payments, if any, on Form W–2, Form W–3 S&L is used by state and local governmental employers to transmit Form W–2 to SSA for processing.
OMB Reviewer: Michael Abrahams, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Joy Tucker,
Departmental Reports Management Officer.
June 14, 1982.

[FR Doc. 82–16553 Filed 6–17–82; 8:45 am]
BILLING CODE 4810–25–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Restrictions; Regarding Machine Tools From Japan Public Comment Period

On May 12, 1982, the USTR published a notice (47 FR 20411) inviting interested parties to submit comments no later than June 30, 1982 on a petition filed pursuant to section 103 of the Revenue Act of 1971 (26 U.S.C. 48(a)(7)(D)) by Houdaille Industries of Fort Lauderdale, Florida.

The USTR is now providing an additional period of time, until c.o.b. July 31, 1982, for further written submissions by interested parties. The primary purpose for providing the additional time is to afford interested parties an opportunity to submit statements of rebuttal to comments received on or before June 30. However, in view of the scope of the material contained in the petition and the fact that many interested parties have not yet received copies of the petition, interested parties who were unable to submit comments before June 30 may do so no later than c.o.b. July 31. Furthermore, interested parties who submit written comments on or before June 30, may supplement those comments on or before July 31.

Interested parties should file their submissions in accordance with the procedures set forth in the **Federal Register** notice of May 12.

Donald E. deKieffer,
General Counsel.

[FR Doc. 82–16507 Filed 6–17–82; 8:45 am]
BILLING CODE 3190–01–M

Services Policy Advisory Committee and Advisory Committee for Trade Negotiations; Meetings and Determination of Closing of Meetings

Meetings of the Services Policy Advisory Committee (SPAC) and the President's Advisory Committee for Trade Negotiations (ACTN) will take place on July 13 and July 14, 1982, respectively. More specific information is as follows:

Services Policy Advisory Committee, Federal Deposit Insurance Corporation, Executive Dining Room, 550 17th Street, N.W., Washington, D.C., Tuesday, July 13, 1982, 2:00 to 5:00 p.m.

President's Advisory Committee, for Trade Negotiations, Federal Home Loan Bank Board, Amphitheater, 1700 G Street, N.W., Washington, D.C., Wednesday, July 14, 1982, 2:00 to 5:00 p.m.

These meetings will involve a review and discussion of current issues involving the trade policy of the United States. The review and discussion will deal with information submitted in confidence by the private sector members of the Committees under Section 135(g)(1)(A) of the Trade Act of 1974, as amended, (the Act); information submitted by government officials under Section 135(g)(2) of the Act the disclosure of which could be reasonably expected to prejudice United States negotiating objectives; information the disclosure of which would be likely to significantly frustrate implementation of proposed government action; and information properly classified pursuant to Executive Order 12065 and specifically required by such Order to be kept secret in the interests of national security (i.e., the conduct of foreign relations) of the United States. All members of the Advisory Committees have all necessary security clearances. Consistent with previous determinations concerning other advisory committees, established under Section 135(c) of the Act, I hereby determine that the meetings of the Advisory Committees will be concerned with matters listed above and with matters listed in Section 552b(c) of Title 5 of the United States Code. Therefore, these meetings will be closed to the public.

More detailed information can be obtained by contacting Phyllis O. Bonanno, Director, Office of Private Sector Liaison, Office of the United States Trade Representative, Executive Office of the President, Washington, D.C. 20506.

William E. Brock,

United States Trade Representative.

[FR Doc. 82-16563 Filed 6-17-82; 8:45 am]

BILLING CODE 3196-01-M

26492-26528

Sunshine Act Meetings

Federal Register
Vol. 47, No. 118
Friday, June 18, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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	Items
Equal Employment Opportunity Commission	1
Federal Energy Regulatory Commission	2
Federal Reserve System	3
Securities and Exchange Commission	4

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 a.m. (eastern time), Tuesday, June 22, 1982.

PLACE: Commission Conference Room 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED: Open to the public:

1. Freedom of Information Act Appeal No. 82-5-FOIA-32-SL, concerning a request for copies of documents contained in an ADEA complaint file.
2. Freedom of Information Act Appeal No. 82-4-FOIA-20-ME, concerning a request for the full copy of a recommended decision on a Federal sector EEO complaint.
3. Proposed Modification to a Contract.
4. Proposed Section 93 of the EEOC Compliance Manual.
5. State and Local Program; Recommended Mid-Year Modification to FY '82 New Charge Resolution Contracts.
6. Proposed Principles of EEOC's Title VII Program for State and Local Fair Employment Practices Agencies for Fiscal Year 1983.
7. Proposed Principles of EEOC's Program for State and Local ADEA Charge Resolution Contracts for Fiscal Year 1983.
8. A Report on Commission Operations by the Executive Director.

Closed to the public:

Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

(In addition to publishing notices on EEOC Commission Meetings in the **Federal Register**, the Commission also provides recorded announcements *a full week in advance* on future Commission sessions. Please telephone (202) 634-6748 at all times for information on the time, place and subject matter of such meetings).

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued June 15, 1982.

[S-901-82 Filed 6-15-82; 4:02 pm]

BILLING CODE 6570-06-M

2

FEDERAL ENERGY REGULATORY COMMISSION

TIME AND DATE: 10 a.m., June 22, 1982.

PLACE: Room 9306, 825 North Capitol Street, NE., Washington, D.C. 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

(1) Docket Nos. RP75-105 and RP75-106, Columbia Gas Transmission Company and Columbia Gulf Transmission Company.
(2) Docket No. RI75-112-000, Certain Pipeline and Producer Respondents.
(3) Docket Nos. AR64-2, *et al.*, Conoco, Inc.
(4) Docket No. CI81-14-000, Inexco Oil Company.
(5) Commission Deliberations Concerning the Conduct of a Private Investigation.
(6) Docket No. CP75-93, Black Marlin Pipeline Company.
(7) Docket No. CP82-203-000, Gas Gathering Corporation.
(8) Docket No. CP82-236-001, Northern Natural Gas Company.
(9) Docket No. ST82-330, Valero Transmission Company.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; Telephone (202) 357-8400.

Kenneth F. Plumb,

Secretary.

[S-904-82 Filed 6-16-82; 3:06 pm]

BILLING CODE 6717-02-M

3

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 10 a.m., Wednesday, June 23, 1982.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTER TO BE CONSIDERED:

1. Personnel actions (appointments, promotion, assignments, reassignments, and salary action) involving individual Federal Reserve System Employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated June 15, 1982.

James McAfee,

Associate Secretary of the Board.

[S-902-82 Filed 6-16-82; 9:20 am]

BILLING CODE 6210-01-M

4

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of June 14, 1982, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Wednesday, June 16, 1982, at 2:30 p.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Shad and Commissioners Loomis, Evans and Longstreth voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Wednesday, June 16, 1982, at 2:30 p.m., will be:

Settlement of administrative proceedings of an enforcement nature.
Formal order of investigation.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: JoAnn Zuercher at (202) 272-2178.

June 15, 1982.

[S-903-82 Filed 6-16-82; 10:43 am]

BILLING CODE 8010-01-M

federal register

Friday
June 18, 1982

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Connecticut:	
CT82-3001	Feb. 5, 1982.
CT81-3032	May 15, 1981.
Iowa:	
IA81-4096	Nov. 27, 1981
IA81-4098	Nov. 27, 1981.
Kansas: KA82-4014	Apr. 16, 1982.
New York: NY80-3054	Sept. 5, 1980.
Massachusetts: MA82-3006	Apr. 30, 1982.
Oregon: OR82-5100	Mar. 12, 1982.
Louisiana:	
LA82-4020	May 7, 1982.
LA82-4021	May 7, 1982.
LA82-4022	May 7, 1982.
LA82-4023	May 7, 1982.
Pennsylvania:	
PA81-3051	Sept. 4, 1981.
PA81-3058	Sept. 25, 1981.
PA81-3059	Sept. 25, 1981.
PA81-3076	Oct. 9, 1981.
PA81-3077	Oct. 9, 1981.
PA79-3020	July 20, 1979.
Texas:	
TX80-4057	Nov. 7, 1980.
TX80-4058	Nov. 7, 1980.
TX81-4009	Jan. 6, 1981.
TX81-4044	June 26, 1981.
TX81-4052	July 10, 1981.
TX82-4001	Jan. 29, 1982.
TX82-4002	Jan. 15, 1982.
TX82-4019	May 7, 1982.
Colorado: CO82-5104	Feb. 26, 1982.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Iowa:	
IA81-4021 (IA82-4032)	Apr. 10, 1981.
IA81-4088 (IA82-4030)	Nov. 13, 1981.
IA81-4089 (IA82-4030)	Nov. 13, 1981.
IA81-4090 (IA82-4030)	Dec. 11, 1981.
IA81-4091 (IA82-4030)	Nov. 13, 1981.
IA81-4092 (IA82-4030)	Nov. 27, 1981.
IA81-4093 (IA82-4030)	Nov. 27, 1981.
IA81-4094 (IA82-4030)	Nov. 27, 1981.
IA81-4097 (IA82-4030)	Nov. 27, 1981.
New Mexico: NM81-4067 (NM82-4031)	Oct. 31, 1981.
Texas:	
TX81-4036 (TX82-4026)	June 5, 1981.

TX81-4074 (TX82-4024)	Oct. 2, 1981.
TX81-4075 (TX82-4033)	Oct. 2, 1981.
TX81-4076 (TX82-4025)	Oct. 2, 1981.
TX81-4078 (TX82-4027)	Oct. 2, 1981.
TX81-4079 (TX82-4029)	Oct. 2, 1981.
TX82-4005 (TX82-4026)	Jan. 29, 1982.

Please note that we are changing the format for **Federal Register** wage decisions to coincide with the provisions of All Agency Memorandum No. 132 dated January 29, 1980, which provides that the Department of Labor will discontinue identifying fringe benefits separately. Rather, they will be stated as a composite figure which is the total hourly equivalent value of fringe benefits found to be prevailing. Fringe benefits which can not be stated in monetary terms will be shown in footnotes. This procedures is being phased in gradually.

Signed at Washington, D.C., this 11th day of June 1982.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-30-M

Modification Page 1

DECISION NO. CT82-3001 - MOD. #7 (47 FR 5621 - February 5, 1982) FAIRFIELD, LITCHFIELD AND WINDHAM COUNTIES, CONN.	Basic Hourly Rates	Fringe Benefits
CHANGE: Heading which reads Mod. #5 and appeared in the Federal Register on June 4, 1982 to read Mod. #6.		
LINE CONSTRUCTION		
Area 2		
Linemen, cable splicers & dynamite man	15.15	1.80+3 3/4%
Heavy equipment operator	13.79	"
Equipment operator, tractor trailer driver, field mechanic	13.01	"
Material man	12.79	"
Groundman truck driver	11.69	"
Groundman	10.34	"
TRAFFIC CONTROL, ILLUMINATION & MAINTENANCE (Litchfield Co.; Windham Co.; and Fairfield Co. except Darien, Greenwich, New Cannan, Stanford and the portion of Norwalk west of Five Mile River)		
Linemen, technicians & cable splicers	14.35	1.80+3 3/4%
Equipment Operator	12.11	"
Driver Groundman	10.69	"
Groundman	9.98	"
PLUMBERS AND PIPEFITTERS		
Area 2	17.82	2.32+ 5%
ADD:		
TRUCK DRIVERS		
CLASS 3	11.46	2.5%+a

DECISION NO. CT81-3032 - MOD. #14 (46 FR 27040 - May 15, 1981) HARTFORD, MIDDLESEX, NEW HAVEN, NEW LONDON AND TOLLAND COUNTIES, CONN.	Basic Hourly Rates	Fringe Benefits
CHANGE: Heading which reads Mod. #9 and appeared in the Federal Register on June 4, 1982 to read Mod. #13.		
LINE CONSTRUCTION		
Linemen, cable splicers & dynamite man	15.15	1.80+3 3/4%
Heavy equipment operator	13.79	"
Equipment operator, tractor trailer driver, field mechanic	13.01	"
Material man	12.79	"
Groundman truck driver	11.69	"
Groundman	10.34	"
TRAFFIC CONTROL AND HIGHWAY LIGHTING		
Linemen, technicians and cable splicers	14.25	"
Equipment Operator	12.11	"
Driver Groundman	10.69	"
Groundman	9.98	"
PLUMBERS:*		
Area 1	18.71	2.69
PLUMBERS; STEAMFITTERS:*		
Area 5	17.17	2.80+r
STEAMFITTERS:*		
Area 1	14.81	3.84

Modification Page 2

DECISION NO. IA81-4096 - MOD. #8 (46 FR 58023 - 11/27/81) Woodbury County, Iowa	Basic Hourly Rates	Fringe Benefits
ADD:		
Glaziers	$15.51	

DECISION NO. IA81-4098 - MOD. #4 (46 FR 58021 - 11/27/81) Scott County, Iowa	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Painters:		
Brush, roller	14.92	3.04
Spray, structural steel	15.42	3.04

DECISION #KS82-4014-MOD. #2 (47FR 16522-April 16, 1982) SEDGWICK COUNTY, KANSAS	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Roofers:		
Roofers	$11.35	.94
Pitch	12.10	.94

Decision No. NY-80-3054-Mod.#3 (45 FR 59104 - September 5, 1980) Jefferson County, New Yurk	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Plumbers, Pipefitters & Steamfitters	14.95	2.02

DECISION NO. MA82-3005 - MOD. #1 (47 FR 18737 - April 30, 1982) BERKSHIRE, FRANKLIN, HAMPDEN AND HAMPSHIRE, MASSACHUSETTS	Basic Hourly Rates	Fringe Benefits
CHANGE:		
LINE CONSTRUCTION:		
Linemen, cable splicers, & dynamite man	15.15	1.80+3 3/4%
Heavy equipment operator	13.79	"
Equipment operator, tractor trailer driver, field mechanic	13.01	"
Material man	12.79	"
Groundman truck driver	11.69	"
Groundman	10.34	"
MARBLE, TILE AND TERRAZZO FINISHERS:		
Berkshire and Hampden Co.	11.45	
SPRINKLER FITTERS	15.80	2.41
TRUCK DRIVERS		
Class I	11.86	2.65+a +b
Class II	12.03	"
Class III	12.10	"
Class IV	12.22	"
Class V	12.32	"
Class VI	12.61	"
Class VII	12.90	"

Modification Page 3

Modification Page 4

Modification Page 3

DECISION NO. OR82-5100 - Mod #6
(47 FR 10954 - March 12, 1982)
Statewide Oregon

CHANGE:	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS; STONEMASONS:		
Area 1	$17.64	3.23
TILE SETTERS:		
Area 1	17.31	3.05
TILE and TERRAZZO HELPERS:		
Area 1	15.70	1.70
LABORERS (Base Rate, Zone I):		
Group 1	12.84	4.30
Group 2	13.19	4.30
Group 3	13.49	4.30
Group 4	13.74	4.30
ZONE DIFFERENTIAL:		
(Add to Base Rate)		
Zone 2 $ .65		
Zone 3 1.15		
Zone 4 1.70		
Zone 5 2.75		
Zone 6 3.55		
POWER EQUIPMENT OPERATORS:		
Group 1 (Base Rate, Zone I):	15.00	4.15
Group 2	15.18	4.15
Group 3	15.33	4.15
Group 4	15.53	4.15
Group 5	15.56	4.15
Group 6	15.67	4.15
Group 7	15.74	4.15
Group 8	15.87	4.15
Group 9	15.96	4.15
Group 10	16.04	4.15
Group 11	16.06	4.15
Group 12	16.15	4.15
Group 13	16.25	4.15
Group 14	16.48	4.15
Group 15	16.67	4.15
Group 16	16.91	4.15
Group 17	17.10	4.15
Group 18	17.34	4.15
Group 19	17.52	4.15
ZONE DIFFERENTIAL :		
(Add to Base Rate)		
Zone 2 $ .65		
Zone 3 1.15		
Zone 4 1.70		
Zone 5 2.75		
Zone 6 3.55		

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS		
(Base Rate, Zone I)		
Group 1	$14.69	3.74
Group 2	14.74	3.74
Group 3	14.79	3.74
Group 4	14.84	3.74
Group 5	14.89	3.74
Group 6	14.99	3.74
Group 7	15.09	3.74
Group 8	15.19	3.74
Group 9	15.29	3.74
Group 10	15.46	3.74
Group 11	15.56	3.74
Group 12	15.66	3.74
Group 13	15.76	3.74
Group 14	15.86	3.74
ZONE DIFFERENTIAL:		
(Add to Base Rate)		
Zone 2 $ .65		
Zone 3 1.15		
Zone 4 1.70		
Zone 5 2.75		
Zone 6 3.55		

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DECISION NO. LA82-4020 - MOD. #2 (47 FR 19880 - 5/7/82) Statewide Louisiana	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$16.35	2.315
Electricians:		
Zone 3 - Electricians	17.70	1.50+3-5/10%
Cable splicers	18.20	"
Zone 8 - Electricians	14.58	.80+3½%
Cable splicers	14.79	.80+3½%
Elevator constructors:		
Zone 2 - Mechanics	13.66	2.46%+a
Helpers	70%JR	2.465+a
Helpers(Frmn.)	50%JR	
Ironworkers - Zone 1	14.20	2.08
Laborers:		
Zone 9:		
Group 1-Laborers,plasterer tender,asphalt rakers & smoothers	8.55	.75
Group 2-Mason tenders	8.65	.75
Group 3-Mortar mixers	8.70	.75
Group 4-Sewer pipe layers & wipers, burners on demolition,mechanical tool ops.(incl. but not limited to jackhammer, tamper,vibrator,chipping hammer,etc.)	8.75	.75
Line construction:		
Zone 3:		
Linemen, equipment ops.	17.70	1.50+3-1/10%
Cable splicers	18.20	"
Groundmen	15.70	"

DECISION NO. LA82-4021 - MOD. #2 (47 FR 19877 - 5/7/82) Bossier & Caddo Pars., Louisiana	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Elevator constructors:		
Mechanics	13.66	2.46%+a
Helpers	70%JR	2.465+a
Helpers (Prob.)	50%JR	
Laborers:		
Group 1-Laborers,plasterer tenders,asphalt rakers & smoothers	8.55	.75

DECISION NO. LA82-4021 MOD. #2 (CONT'D)	Basic Hourly Rates	Fringe Benefits
Laborers (Cont'd):		
Group 2-Mason tenders	$ 8.65	.75
Group 3-Mortar mixers	8.70	.75
Group4-Sewer pipelayer & wipers,burners on demolition,mechanical tool ops.(incl. but not limited to jackhammer,tamper,vibrator chipping hammer,etc.	8.75	.75

DECISION NO. LA82-4022 - MOD. #2 (47 FR 19877 - 5/7/82) Calcasieu Par.,Louisiana	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Electricians:		
Other electricians:		
Electricians	17.70	1.50+3-5/10%
Cable splicers	18.20	"

DECISION NO. LA82-4023 - MOD. #1 (47 FR 19878 - 5/7/82) Allen,Beauregard,Bossier, Caddo,Calcasieu,Cameron, Jefferson,Jefferson Davis,Orleans,Plaquemines,St. Bernard & St. Charles Pars.,Louisiana	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Electricians:		
Zones 3, 4 & 5:		
Electricians	17.70	1.50+3-5/10%
Cable splicers	18.20	"
Line construction:		
Zones 3, 4 & 5:		
Group 1	17.70	1.50+3-1/10%
Group 2	18.20	"
Group 3	15.70	"

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DECISION NO. PA81-3051 - MOD. #5 (46 FR 44653 - Sept. 4, 1981) LUZERNE CO., PA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CEMENT MASONS:		
Pittston, Yatesville, Laflin, Exter Wyoming, Deruea and Avoca	14.00	
ELECTRICIANS:		
That portion east of a line following the Susquehanna River south to the City of Pittston, east & south on the limits of Pittston but excluding it, to U.S. Highway 11, east on 11 to Dupont Borough & Highway 215, and southeast on 215. Also that portion of Luzerne Co. south and east of a line following the Thornhurst Road, southwest to State Highway 115 and southeast on 115 to the Monroe County line.		
Zone A - From 20 to 30 miles from zero milestone marker	14.40	2.75+ 3%
Zone B - All distance beyond 30 miles	14.90	"
STEAMFITTERS	15.09	2.60

DECISION NO. PA81-3068 - MOD. #6 (46 FR 47403 - Sept. 25, 1981) LABABON CO., PA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
GLAZIERS:		
Twps. of Bethel, Jackson, Mill Creek, Lebanon, E. of Rte. 72 Heilberg & Richland	12.79	1.465
PAINTERS:		
East of Rte. 72		
Brush	12.15	2.25
Structural Steel & Spray	13.20	2.25
Highway Bridge	13.60	2.25
PLUMBERS & STEAMFITTERS:		
East of Route 501	18.33	2.64
SHEET METAL WORKERS	15.01	3.04

DECISION NO. PA81-3069 - MOD. #4 (46 FR 47401 - Sept. 25, 1981) BERKS COUNTY, PA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS & STONEMASONS	12.35	2.35
CARPENTERS	13.18	2.22
ELECTRICIANS:		
Herford, Longswamp and Washington Twps., portion of Maxatawney Twps., east of Sacony Creek	14.55	1.84+ 3%
GLAZIERS	12.79	1.465
LABORERS:		
General Laborers	10.70	1.00
Operator of jackhammer, paving breaking and other pneumatic, electrical and mechanical tools coming under the jurisdiction of laborer, laying of all clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe and the making of joints for same, wagon drill operators and concrete power buggies	10.93	1.00
Cofferdam, (below 10') tunnel free air muckers	10.98	1.00
Handling and using cutting or burning torches in the wrecking of buildings, plasterer tenders, scaffold builders and removal for plasterers	11.09	1.00
Mason tenders, scaffold builders, removal for mason and power buggies	11.13	1.00
Blasters	11.15	1.00

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DECISION NO. PA81-3069 - (CONT'D)	Basic Hourly Rates	Fringe Benefits
MILLWRIGHTS	15.92	2.02
PAINTERS:		
Brush	12.15	2.25
Bridge, tower, stacks & tanks	13.60	2.25
Spray & Steel	13.20	2.25
PLUMBERS	18.33	2.64
POWER EQUIPMENT OPERATORS:		
Group 1	14.85	25.6%+ A
Group 2	14.56	"
Group 3	13.69	"
Group 4	12.92	"
Group 5	12.45	"
Group 6	11.54	"
Group 7	15.10	"
Group 7-A	15.35	"
Group 7-B	15.59	"
SHEET METAL WORKERS	15.01	3.04
SPRINKLER FITTERS	16.92	2.83
STEAMFITTERS	17.86	3.11

DECISION NO. PA81-3076 - MOD. #4 (46 FR 50263 - October 9, 1981) SCHUYLKILL COUNTY, PA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
GLAZIERS	12.79	1.465
PAINTERS:		
Remainder of County		
Brush	12.15	2.25
Steel	13.20	2.25
Spray	13.20	2.25

DECISION NO. PA81-3077 - MOD. #4 (46 FR 50265 - October 9, 1981) LANCASTER COUNTY, PA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS & STONEMASONS	12.35	1.20
PAINTERS:		
Remainder of County		
Brush	12.15	2.25
Steel	13.20	2.25
Spray	13.20	2.25
Roller	12.15	2.25
SHEET METAL WORKERS	15.01	3.04

DECISION NO. PA79-3020 MOD. NO. 8 (44 FR 42880 - July 20, 1979) Carbon, Monroe County, including Tobyhanna Army Depot, and Pike County, Pennsylvania	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Electricians:		
Monroe County: Polk, Eldred, Chestnut Hill, Ross, Hamilton, Jackson, Pocono, Stroud, Smithfield and Middle Smithfield Townships	$16.00	2.69+3%
Monroe County: Barrett, Coolbaugh, Pardise and Price Townships, and that portion of Tobyhanna and Tunkhannock Townships east of State Highway 115.		
Zone A- From 20 to 30 miles from Zero Milestone marker	14.40	2.75+3%
Zone B- All distance beyond 30 miles	14.90	2.75+3%
Pike County:		
Porter, Delaware and Lehman Twps. in their entirety	16.00	2.69+3%
Remainder of County:		
Zone A - From 20 to 30 miles from Zero milestone marker	14.40	2.75+3%
Zone B- All distances beyond 30 miles from Zero marker	14.90	2.75+3%
Glaziers:		
Zone 1	12.79	1.465
Marble Setters		
Zone 1	12.50	3.00
Laborers:		
Zone 2		
Class 1	9.44	1.81
Class 2	9.69	1.81
Class 3	9.94	1.81
Class 4	10.44	1.81
Class 5	10.19	1.81
Painters: Zone 3: Brush	14.70	2.28
Spray	15.70	2.28
Steel	15.00	2.28
Roofers: Zone 3:		
Composition & Kettlemen	13.32	2.13

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DECISION NO. TX80-4087 - MOD. #1 (46 FR 47403 - Sept. 25, 1981) HARRIS COUNTY, TX	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELECTRICIANS:		
Power Equipment Operator	14.00	2.00
Wireman	13.00	2.00
Lineman	14.00	2.00
Cable Splicer	14.00	2.00
Groundman	10.00	2.00
Truck Driver	12.00	2.00
Tree Trimmer	10.00	2.00
Tree Trimmer Groundman	8.00	2.00
Cable Splicer Helper	12.00	2.00
Apprentice	10.00	2.00
Instrument Man	13.00	2.00
Meterman	13.00	2.00
Relayman	13.00	2.00
Substation Operator	13.00	2.00
Substation Helper	12.00	2.00
Substation Groundman	10.00	2.00
Substation Apprentice	10.00	2.00
Substation Electrician	13.00	2.00
Substation Electrician Helper	12.00	2.00
Substation Electrician Groundman	10.00	2.00
Substation Electrician Apprentice	10.00	2.00
Substation Electrician Instrument Man	13.00	2.00
Substation Electrician Meterman	13.00	2.00
Substation Electrician Relayman	13.00	2.00
Substation Electrician Substation Operator	13.00	2.00
Substation Electrician Substation Helper	12.00	2.00
Substation Electrician Substation Groundman	10.00	2.00
Substation Electrician Substation Apprentice	10.00	2.00
Substation Electrician Substation Electrician	13.00	2.00
Substation Electrician Substation Electrician Helper	12.00	2.00
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Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Operator	13.00	2.00
Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Helper	12.00	2.00
Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Groundman	10.00	2.00
Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Electrician Substation Apprentice	10.00	2.00
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	Basic Hourly Rates	Fringe Benefits
DECISION NO. TX80-4087 - MOD. #7 (45 FR 74365 - 11/7/80) Gregg County, Texas		
CHANGE:		
Boilermakers	$16.35	2.315
Electricians:		
Electricians	13.90	.80+3%%
Cable splicers	14.25	.80+3%%
DECISION NO. TX80-4088 - MOD. #8 (45 FR 74364 - 11/7/80) Harrison County, Texas		
CHANGE:		
Boilermakers	16.35	2.315
Electricians:		
Electricians	13.90	.80+3%%
Cable splicers	14.25	.80+3%%
DECISION NO. TX81-4089 - MOD. #7 (46 FR 1549 - 1/5/81) Taylor County, Texas		
CHANGE:		
Boilermakers	16.35	2.315
Electricians:		
Electricians	12.50	1.30+3%%
Cable splicers	12.75	"
Line construction:		
Lineman	12.50	1.30+3%%
Cable splicers	12.75	"
Groundman	9.33	"
Equipment operators	10.21	"
Flat bed truck driver	7.67	"
Plumbers & pipefitters	12.48	1.45
DECISION NO. TX81-4044 - MOD. #7 (46 FR 33194 - 6/26/81) Bowie County, Texas		
CHANGE:		
Boilermakers	16.35	2.315
DECISION NO. TX81-4052 - MOD. #5 (46 FR 35903 - 7/10/81) Cameron, Hidalgo, Starr & Willacy Cos., Texas		
CHANGE:		
Boilermakers	16.35	2.315

	Basic Hourly Rates	Fringe Benefits
DECISION NO. TX82-4001 - MOD. #3 (47 FR 4463 - 1/29/82) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos. Texas		
CHANGE:		
Boilermakers	$16.35	2.315
Ironworkers - Zone 1	13.59	2.85
DECISION NO. TX82-4002 - MOD. #2 (47 FR 2472 - 1/15/82) Wichita County, Texas		
CHANGE:		
Boilermakers	16.35	2.315
DECISION NO. TX82-4019 - MOD. #2 (47 FR 19935 - 5/7/82) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos., Texas		
CHANGE:		
Boilermakers	16.35	2.315
Carpenters:		
Zone 2 - Carpenters	15.26	1.78
Millwrights	14.76	2.93
Electricians:		
Zone 1:		
Electricians	15.15	.80+8%
Cable splicers	15.40	.80+8%
Zone 2:		
Electricians	16.15	.80+9%
Cable splicers	17.77	.80+9%
Lathers	15.42	1.54

	Basic Hourly Rates	Fringe Benefits
DECISION NO. CO82-5104 - Mod. #5 (47 FR 8497-February 26, 1982) El Paso County, Colorado		
Change:		
Carpenters:		
Zone 1	$13.57	$3.36
Zone 2	14.07	3.36
Zone 3	14.32	3.36
Electricians	16.12	2.06+3%
Roofers	12.71	1.64
Sheet Metal Workers	17.03	3.26+3%
Tile Setters	15.53	3.79
Drywall Installers	14.87	2.31
Tile, Marble, and Terrazzo Finishers:		
Finishers	10.75	3.80
Floor Grinders	10.75	3.80
Base Grinders	11.45	3.80
Power Equipment Operators:		
Zone 1:		
Group 3	13.60	2.97
Group 4	13.75	2.97

SUPERSEDEAS DECISION

STATE: Iowa COUNTIES: Statewide (except Cerro Gordo, Scott & Webster Cos.)

DECISION NO.: IA82-4032 DATE: Date of Publication

Supersedes Decision No. IA81-4021, dated 4/10/81 in 46 FR 21560.

DESCRIPTION OF WORK: Heavy & Highway Projects (does not include building structures in rest area projects & work on or pertaining to the Mississippi & Missouri Rivers & not to be used for Water & Sewer Treatment Plants in Black Hawk, Clinton, Des Moines, Dubuque, Johnson, Linn, Polk & Pottawattamie Cos.)

	Basic Hourly Rates	Fringe Benefits
CARPENTERS & PILEDRIVERMEN		
ZONE 1	$10.71	1.65
ZONES 2 & 3	11.12	1.00
ZONE 4	8.78	.90
ZONE 5	8.53	
ZONES 6 & 7	7.92	
ZONE 8	7.66	
CEMENT MASONS:		
ZONE 1	10.30	1.27
ZONES 2 & 3	11.12	1.00
ZONE 4	8.78	.90
ZONE 5	8.53	
ZONE 6	7.92	
ZONE 7	7.78	
ZONE 8	7.66	
LABORERS:		
ZONE 1 - GROUP 1	9.64	1.55
GROUP 2	9.76	1.55
GROUP 3	9.87	1.55
GROUP 4	9.93	1.55
GROUP 5	9.99	1.55
GROUP 6	10.22	1.55
GROUP 7	10.37	1.55
ZONES 2 & 3 - GROUP 1	9.76	1.20
GROUP 2	9.46	1.20
GROUP 3	9.26	1.20
ZONE 4 - GROUP 1	7.00	.95
GROUP 2	6.70	.95
GROUP 3	6.50	.95
ZONE 5 - GROUP 1	7.00	.82
GROUP 2	6.35	.40
GROUP 3	5.90	.40
ZONES 6, 7 & 8 - GROUP 1	6.05	.95
GROUP 2	5.75	.95
GROUP 3	5.55	.95
POWER EQUIPMENT OPERATORS:		
ZONE 1 - GROUP 1	11.66	1.90
GROUP 2	11.16	1.90
GROUP 3	10.56	1.90
ZONE 2 - GROUP 1	11.91	2.00
GROUP 2	11.26	2.00
GROUP 3	10.56	2.00
ZONE 3 - GROUP 1	11.40	2.13
GROUP 2	9.79	2.13
GROUP 3	8.94	2.13
ZONE 4 - GROUP 1	9.64	1.10
GROUP 2	9.64	1.10
GROUP 3	9.25	1.10
GROUP 4	8.84	1.10
POWER EQUIP. OPS. (CONT'D):		
ZONE 5 - GROUP 1	$9.03	.70
GROUP 2	8.54	.70
GROUP 3	8.11	.70
GROUP 4	7.31	.70
ZONE 6 - GROUP 1	8.35	.70
GROUP 2	7.93	.70
GROUP 3	7.31	.70
GROUP 4	6.57	.70
ZONE 7 - GROUP 1	7.95	.70
GROUP 2	7.52	.70
GROUP 3	6.90	.70
GROUP 4	6.16	.70
ZONE 8 - GROUP 1	7.69	.70
GROUP 2	7.25	.70
GROUP 3	6.64	.70
GROUP 4	5.90	.70
TRUCK DRIVERS:		
ZONE 1:		
Single axle	7.73	1.00
Tandem axle;euclids; power lift form truck	7.79	1.00
Three axle tandem	7.84	1.00
Lowboys;tractor trailers;water pulls	7.92	1.00
Tandem dump with aux. end dump trailer	7.97	1.00
Lumber carrier	8.09	1.00
ZONES 2 & 3	10.18	.75
ZONE 4	8.35	.65
ZONE 5	7.02	.35
ZONE 6	6.15	.35
ZONE 7	6.27	.30
ZONE 8	6.00	.30

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

DECISION NO.IA82-4032 PAGE 2

ZONE DEFINITIONS

ZONE 1 - City of Council Bluffs

ZONE 2 - Black Hawk, Linn & Polk Cos.; Cities of Ames, Dubuque & Iowa City

ZONE 3 - Cities of Burlington (including Burlington Ordnance Plant) & Clinton

ZONE 4 - Pottawattamie Co. (area west of the eastern boundaries of Minden, York, Washington & Silver Creek Townships); Benton, Boone, Buchanan, Cedar, Clinton, Dallas, Delaware, Dubuque, Jackson, Jasper, Johnson, Jones, Madison, Marion, Marshall, Story, Warren Cos.; the Cities of Fort Madison, Keokuk, Muscatine & their abutting Municipalities (excluding the Cities of Ames, Clinton, Council Bluffs, Dubuque & Iowa City & their abutting municipalities

ZONE 5 - Des Moines, Louisa & Muscatine Cos. (excluding Cities of Burlington (including Burlington Ordnance Plant), Muscatine & abutting municipalities)

ZONE 6 - Allamakee, Appanoose, Bremer, Butler, Chickasaw, Clayton, Davis, Fayette, Floyd, Franklin, Grundy, Hamilton, Hancock, Hardin, Henry, Howard, Iowa, Jefferson, Keokuk, Lee, Mahaska, Mitchell, Monroe, Poweshiek, Tama, Van Buren, Wapello, Washington, Winnebago, Winneshiek, Worth & Wright Cos. (excluding Cities of Keokuk, Fort Madison & abutting municipalities)

ZONE 7 - Adair, Adams, Audubon, Calhoun, Carroll, Cass, Clarke, Crawford, Decatur, Fremont, Greene, Guthrie, Harrison, Ida, Lucas, Mills, Monona, Montgomery, Page, Ringgold, Sac, Shelby, Taylor, Union, Wayne & Woodbury Cos. & Pottawattamie Co. (east of Minden, York, Washington & Silver Creek Townships)

ZONE 8 - Buena Vista, Cherokee, Clay, Dickinson, Emmet, Humboldt, Kossuth, Lyon, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas & Sioux Cos.

LABORERS CLASSIFICATION DEFINITIONS - ZONE 1

GROUP 1 - Common Laborer

GROUP 2 - Towboat & dredge deckhands

GROUP 3 - Form setter tender

GROUP 4 - Pipelayer; concrete saw operator

GROUP 5 - Chain saw op.; raker and screedman on asphalt; mortar mixer

GROUP 6 - Tunnelers, free air

GROUP 7 - Form setter & precast manhole setter; inlet builders & manhole setter

LABORERS CLASSIFICATION DEFINITIONS - ZONES 2 thru 8

GROUP 1 - Sandblasters;Powderman & blaster;Powderman tender;Pipelayer,sewer, water,telephone conduits,etc.; Sewer utility topman & laser op.;Gunnite nozzleman;Diamond & core drills,powered by air;All work performed by Laborers working from a bos'n chair,swinging stage,tag line or block & tackle;Drill ops. of air trace,wagon drills & similar drillings;Tree climber; Form setters;Rakers;Automatic asphalt & concrete power curbing machines; Potmen,not mechanical;Timbermen;Underpinning & shoring;Caissons over 12' depth; Grade checker & cutting torches on demolition work;Trencher;Self-propelled vibrating compactors;Farm type tractors;Safety boat ops.

GROUP 2 - Power buggymen;Concrete & paving sawmen;Form liner;Expansion joint assembler;Bottom man;Caulker,jointer & painter;Timber & chair-sawman;Mechanical grouters;Stresser or stretcherman on post tension or prestressed concrete on or off the job;Form tamper;Air gas,electric tool ops.;Vibrator, barco hammer,paving breakers,spaders,tampers,electric drills,hammer & jack hammers;Tree groundman;Chuck tender;Drill tender;Tool room men & checkers; Sandblaster tender;Concrete precessing material & monitors;Cement finisher tenders;Stringman or paving work & power broom op.

GROUP 3 - Fence erectors;Handling & placing of metal mesh,dowel bars,reinforcing bars & chairs;Dumpmen & spotters;Carrying reinforcing rods;Corrugated culvert pipe; Stake chaser,seeding & mulching & planting of trees, shrubs & flowers;Mechanic tenders;Group greaser tender;Water pumps;Compressors;Common Labor;Carpenter tender & hot asphalt labor

DECISION NO.IA82-4032 PAGE 3

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS - ZONES 1, 2 & 3

GROUP 1 - Power Shovel, Crane,Backhoe & Dragline;Central Mix Plant;Dredge

SUPERSEDEAS DECISION

STATE: Iowa COUNTIES: ZONE 1-Black Hawk; ZONE 2-Cerro Gordo; ZONE 3-Clinton; ZONE 4-Des Moines

DECISION NO. IA82-4032 PAGE 3

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS - ZONES 1, 2 & 3

GROUP 1 - Power Shovel, Crane, Backhoe & Dragline; Central Mix Plant; Dredge Engineer; Dredge Leverman; Paver or Spreader; Hoisting Engineer (steel erection); Motor Patrol; Piledriver Machine; Concrete Mixer; Tow or Push Boat; Master Mechanic; CMI Paver; CMI Subgrader (or equivalent); Asphalt Plant; Front Endloader; Scraper; Bulldozer; Push Cat; Tractor Pulling Scraper; Sideboom Tractor; Churn or Rotary Drill; Trenching Machine (Cleveland 80 or similar capacity); Asphalt Laydown; Asphalt Screed; Asphalt Heater-Planer Unit; Asphalt Roller; Self-propelled Elevating Grader or similar machine; Spreader (Concrete); Horizontal Boring Machine; Mechanics-Welders; Group Equip. Greaser; Concrete Pump; Self-propelled Curb Machine

GROUP 2 - Concrete Curb Breaking Machine; Concrete Widening Machine; Paving Breaker; Barber Greene, Haiss Loader or similar machine; Tractor-pulling ripper, disc, sheepsfoot or flat roller; Self-propelled Sheepsfoot Roller; Self-propelled Roller (other than asphalt); Distributor; Screening & Washing Plant; Self-propelled Vibrating Compactor; Trenching Machine (other than above); Steel Placing Machine; Conveyor; Finishing Machine (on concrete); Flexplane; Bullfloat; Form Grader; Water Wagon on Compaction

GROUP 3 - Boiler; Mechanical Broom; Oiler; Farm-type Tractor (pulling disc, harrow or roller); Welding Machine; Pump (other than dredge); Boom & Winch Truck; Compressor; Tank Car Heater (combination boiler & booster); Pumps on Well Points & Deep Wells for dewatering; Truck Crane Combination Driver-Oiler; Concrete Curbing Machine; Safety Boat; Batch Plant, dry; Light Plants; Compressors; Mechanical Heaters; Pumps; Welding Machines; Conveyors

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS - ZONES 4, 5, 6, 7 & 8

GROUP 1 - Power Shovel; Crane; Backhoe (3/4 cu. yd. or larger); Dragline; Dredge Engineer & Leverman; Hoisting Engineer (steel erection); Motor Patrol (finish); Piledriver; Master Mechanic; Sideboom Tractor; Horizontal Boring Machine

GROUP 2 - Central Mix Plant; Paver or Self-propelled Spreader; Tow or Push Boat; CMI Paver, Subgrader or equivalent; Asphalt Plant; Scraper (over 12 cu. yd.); Bulldozer (finish); Push Cat; Mechanics-Welders; Churn or Rotary Drill; Trenching Machine (Cleveland 80 or similar capacity); Asphalt Laydown; Asphalt Screed; Asphalt Heater-Planer; Concrete Pump; Self-propelled Curb Machine

GROUP 3 - Motor Patrol (rough); Front End Loader (3 cu. yd. or over); Scraper (12 cu. yd. & under); Bulldozer (rough); Backhoe (under 3/4 cu. yd.); Asphalt Roller; Group Equip, Greaser; Concrete Curb Breaking Machine; Concrete Widening Machine; Paving Breaker; Barber Greene, Haiss Loader or similar machine; Crawler Tractor (pulling disc, sheepsfoot, ripper or flat roller); Self-propelled Sheepsfoot Roller; Self-propelled Roller; Distributor; Screening & Washing Plant; Self-propelled Vibrating Compactor; Trenching Machine (other than above); Steel Placing Machine; Conveyor; Finishing Machine (on concrete); Flex Plane Bullfloat; Form Grader

GROUP 4 - Boiler; Mechanical; Boom; Oiler; Farm-type Tractor (pulling disc, harrow or roller); Welding Machine; Pump (other than dredge); Boom & Winch Trucks; Compressor; Tank Car Heater (combination boiler & booster); Pumps on Well Points & Deep Walls for dewatering; Truck Crane Combination Driver-Oiler; Concrete Curbing Machine; Safety Boat; Batch Plant, dry; Spreader attachments; Utility Tractor with attachments

SUPERSEDEAS DECISION

STATE: Iowa

COUNTIES: ZONE 1-Black Hawk; ZONE 2-Cerro Gordo; ZONE 3-Clinton; ZONE 4-Des Moines ZONE 5-Dubuque; ZONE 6-Johnson ZONE 7-Linn & ZONE 8-Polk

DECISION NO.: IA82-4030 DATE: Date of Publication

Supersedes Decision Nos. IA81-4088 thru 4094 & 4097, dated 11/13/81, 11/27/81 & 12/11/81 in 46 FR 56121, 58016, 56122, 60752, 56123, 58025, 58018 & 58019.

DESCRIPTION OF WORK: Building (does not include single family homes & apts. up to & including 4 stories). DOES NOT APPLY TO WATER & SEWER TREATMENT PLANTS

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
ZONES 1,3,4,5,6 & 7	$16.21	2.15
ZONES 2 & 8	15.45	2.415
BOILERMAKERS	14.97	2.575
BRICKLAYERS & STONEMASONS:		
ZONE 1	12.93	2.52
ZONE 2	12.92	1.07
ZONE 3	14.03	.52
ZONE 4	15.08	1.57
ZONES 5,6 & 7	13.29	.57
ZONE 8	13.40	2.57
CARPENTERS:		
ZONE 1:		
Carpenters, soft floor layers, piledrivermen	11.89	3.68
Millwrights	12.49	2.68
ZONE 2:		
Carpenter & floor layer	10.91	1.65
Millwright & piledriverman	11.16	1.65
ZONE 3:		
Carpenters	12.73	2.06
Piledrivermen	13.23	2.06
Millwrights	15.00	2.06
ZONE 4:		
Carpenter & floor layer	15.78	2.13
Millwright & piledriverman	16.48	2.13
ZONE 5:		
Carpenters	12.87	1.04
Piledrivermen	13.27	1.04
Millwrights	13.37	1.04
ZONES 6 & 7:		
Carpenter & floor layers	14.59	1.90
Piledrivermen	15.09	1.90
Millwrights	16.29	2.00
ZONE 8:		
Carpenters	12.75	2.20
Millwrights	13.10	2.20
CEMENT MASONS:		
ZONE 1	11.35	2.40
ZONE 2	11.45	
ZONE 3	13.53	.52
ZONE 4	17.55	
ZONE 5	13.93	
ZONES 6 & 7	13.67	.90
ZONE 8	13.28	.94

	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS:		
ZONE 1 - Electricians	$15.64	.65+ 3-3/4%
Cable splicers	16.11	"
ZONE 2	15.26	.65+ 3-3/4%
ZONE 3--Electricians	16.34	.76+8%
Cable splicers	17.34	.76+8%
ZONE 4	15.77	1.40+ 3-3/4%
ZONE 5	14.85	1.25+ 3-3/4%
ZONES 6 & 7	15.52	1.85+ 3-3/4%
ZONE 8	15.18	2.35+ 3-3/4%
ELEVATOR CONSTRUCTORS:		
ZONES 1, 5, 6 & 7:		
Mechanics	14.33	2.465+a
Helpers	70%JR	2.465+a
Helpers (Prob.)	50%JR	
ZONE 8:		
Mechanics	14.21	2.33+a
Helpers	70%JR	2.33+a
Helpers (Prob.)	50%JR	
GLAZIERS:		
ZONES 2 & 8	13.64	1.31+ 4.35%+b
ZONES 3, 4, 5, 6 & 7	15.71	1.77
IRONWORKERS:		
ZONES 1,2 (except SE part of Dubuque Co.), 6 & 7	14.11	1.96
ZONES 2 & 8	13.02	2.24
ZONE 3 & SE Part of Dubuque Co.	16.40	2.375
ZONE 4	16.45	1.91
LABORERS:		
ZONE 1 - GROUP 1	10.17	1.50
GROUP 2	10.32	1.50
GROUP 3	10.42	1.50
ZONE 2 - GROUP 1	7.99	.70
GROUP 2	8.24	.70
GROUP 3	8.49	.70

	Basic Hourly Rates	Fringe Benefits
LABORERS (CONT'D):		
ZONE 3 - GROUP 1	$11.63	1.35
GROUP 2	11.88	1.35
GROUP 3	11.93	1.35
ZONE 4 - GROUP 1	13.40	1.70
GROUP 2	13.56	1.70
GROUP 3	13.66	1.70
GROUP 4	13.77	1.70
GROUP 5	13.87	1.70
ZONE 5 - GROUP 1	10.55	1.08
GROUP 2	10.65	1.08
GROUP 3	10.80	1.08
ZONE 6 - GROUP 1	11.40	1.35
GROUP 2	11.75	1.35
ZONE 7 - GROUP 1	12.46	1.56
GROUP 2	12.81	1.56
ZONE 8 - GROUP 1	11.645	1.42
GROUP 2	11.745	1.42
GROUP 3	11.77	1.42
GROUP 4	11.795	1.42
GROUP 5	11.845	1.42
GROUP 6	11.945	1.42
LATHERS:		
ZONE 8	13.50	2.20
LINE CONSTRUCTION (excluding ZONES 3 & 5)		
GROUP 1 - Lineman; all rigs setting assembled "H" fixtures & steel transmission structures	14.65	.45+ 7½%+c
GROUP 2-Blaster;Special equip. operations(hole digging machs.,all tractors, transmission line pole hauling & setting equip. other than assembled "H" fixtures	11.72	"
GROUP 3-Groundman	9.52	"
GROUP 4-Groundman-truck driver	9.67	"
GROUP 5-Pole treating truck driver	9.38	"
GROUP 6-Pole treating specialist	11.28	"
MARBLE,TILE & TERRAZZO WORKERS:		
ZONE 1 - Tile setters	12.88	.90
ZONE 3 - Marble, tile & terrazzo workers	11.50	1.80
ZONE 5 - Marble, tile & terrazzo workers	10.59	.97
ZONE 6 & 7 - Tile setters	13.93	.80
ZONE 8 - Marble, tile & terrazzo workers	14.79	

	Basic Hourly Rates	Fringe Benefits
PAINTERS:		
ZONE 1:		
Brush; roller	$ 9.51	.33
Tapers	9.62	.33
Spray	10.01	.33
ZONE 2:		
Brush	9.75	.50
Tapers	9.85	.50
Spray	10.25	.50
ZONE 3:		
Brush	14.92	3.04
Spray; structural steel	15.42	3.04
ZONE 4:		
Brush & paperhangers	13.00	.50
Rollers	13.10	.50
Sign	13.50	.50
Structural steel over 25 ft. from the ground or floor, water towers & stage work	13.70	.50
Spray & sandblasting	14.00	.50
ZONE 5:		
Brush or roller epoxy; paperhanging; tapers	11.65	1.60
High work & steel; spraying	12.20	1.60
ZONES 6 & 7:		
Brush & rollers	12.82	.03
Paperhangers	13.07	.03
Sandblasting	13.82	.03
Spray	13.47	.03
ZONE 8:		
Brush, roller, drywall finisher	13.57	.85
Spray; structural steel sandblasting; swing stage	14.07	.85
Paperhangers	13.82	.85
Stack; tower work over 100 ft.	14.67	.85
PLASTERERS:		
ZONE 1	11.75	.45
ZONE 2	9.00	
ZONE 3	14.03	.52
ZONE 4	17.18	
ZONE 5	13.50	
ZONES 6 & 7	16.47	
ZONE 8	13.355	.90
PLUMBERS & PIPEFITTERS:		
ZONE 1	14.96	2.95
ZONE 2	14.29	1.65
ZONE 3	16.65	2.32
ZONE 4	15.15	2.40
ZONE 5	14.42	1.98
ZONES 6 & 7	15.85	1.60
ZONE 8	14.99	2.80

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
ZONES 1, 2, 5, 6, 7 & 8:		
GROUP 1	$13.12	2.10
GROUP 2	12.865	2.10
GROUP 3	11.47	2.10
GROUP 4	10.645	2.10
ZONES 3 & 4:		
GROUP 1	14.80	1.98
GROUP 2	13.40	1.98
GROUP 3	12.35	1.98
ROOFERS:		
ZONE 1	12.15	
ZONE 2	9.52	
ZONE 3	14.30	1.50
ZONE 4	14.13	
ZONE 5:		
City of Dubuque & 30 mile radius from city limits	12.16	.50
Remainder of County	12.00	.50
ZONES 6 & 7	11.95	
ZONE 8	11.79	1.85

	Basic Hourly Rates	Fringe Benefits
SHEET METAL WORKERS:		
ZONE 1	$15.56	1.66
ZONE 2	12.43	1.86
ZONES 3, 4 & 5	14.45	2.61
ZONES 6 & 7	17.20	1.11
ZONE 8	16.05	2.49
SPRINKLER FITTERS	16.47	2.83
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.		

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

FOOTNOTES
a - Employer contributes 8% of basic hourly rate for over 5 yrs. service & 6% of basic hourly rate for 6 mos. to 5 yrs. service as Vacation Pay Credit. Also Seven Paid Holidays A thru G
b - Six Paid Holidays A thru F
c - Seven Paid Holidays A thru G

PAID HOLIDAYS - A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

LABORERS CLASSIFICATIONS DEFINITIONS - ZONE 1
GROUP 1 - Common laborers; carpenter tenders; moving, wrecking & demolition
GROUP 2 - Mason tenders; hod carriers; machine & air tool operators
GROUP 3 - Powderman

LABORERS CLASSIFICATION DEFINITIONS - ZONE 2
GROUP 1 - Construction laborers; Tenders; Power tools, barco ops.; Mortar mixers; Concrete saw; Sand point setter
GROUP 2 - Caissons, after 6 ft. depth; Dynamite men; Gunniting-nozzleman & backup man; laborers working on swinging stage work, wood hoist, towers, scaffolds or ladders at a height of 35 ft. or over
GROUP 3 - Laborers working on swinging stage work, wood hoist, towers, scaffold or ladders at a height of 75 ft. or over

LABORERS CLASSIFICATION DEFINITIONS - ZONE 3
GROUP 1 - Common laborers
GROUP 2 - Op. on air or power tools; mortar mixer man; any work 35 ft. high or over; cement dumper, puddlers or vibrator man & men working with concrete pump hose; ditch work 8 ft. below ground level; any man working with creosote materials
GROUP 3 - Cutting torch burner; caisson & cofferdam workers

LABORERS CLASSIFICATION DEFINITIONS - ZONE 4

POWER EQUIPMENT OPERATORS CLASSIFICATIONS DEFINITIONS

LABORERS CLASSIFICATION DEFINITIONS - ZONE 4
GROUP 1 - Common laborers, wrecking, deckhand
GROUP 2 - Plaster tender, mortar mixer, mason tender, stone & marble setter tender, drill op., air tamper, air spade (electric or pneumatic spraying equip.), & all mechanically operated tools, excavation over 6 ft. deep below ground level or basement level
GROUP 3 - Tile layers (sewer); Jackhammer & pavement breaker 80 lbs. & over, on side walls & overhead
GROUP 4 - Gunniting & sandblasting
GROUP 5 - Tunnel & sewer mucker & miner over 6 ft. deep, powderman

LABORERS CLASSIFICATION DEFINITIONS - ZONE 5
GROUP 1 - Common laborers
GROUP 2 - All air operated tools; bricklayer tenders; caisson workers; carpenter tenders; handling & cleaning of all steel floor pans & wall forms; mortar mixers; plasterers tenders; tile setters (4"-6"-8")
GROUP 3 - Tile setters (10" & up)

LABORERS CLASSIFICATIONS DEFINITIONS - ZONE 6
GROUP 1 - Common laborers
GROUP 2 - Mason mortar mixers; all jack & chipping hammers; all water & sewer tile layers; chain saw; cutting torches; power buggies; Rock drills; tampers; vibrators; well point work

LABORERS CLASSIFICATION DEFINITIONS - ZONE 7
GROUP 1 - Common laborers
GROUP 2 - Machine rock drills, vibrators, air, electric or gasoline powered jackhammers, tampers, chipping hammers, power driven buggies, cutting torches, chain saws, sewer tile layers, mason mortar mixers

LABORERS CLASSIFICATION DEFINITIONS - ZONE 8
GROUP 1 - General laborers
GROUP 2 - Mortar mixers; motor buggies, when pouring concrete; power tool ops. (air tools, concrete, vibrator, gunnite nozzlemen, electric drills & hammers)
GROUP 3 - Plasterers' tenders
GROUP 4 - Powderman
GROUP 5 - Air tool, power tampers & other similar self-powered tools weighing 50 lbs. & over
GROUP 6 - Paving breakers weighing 50 lbs & over

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS - ZONES 1, 2, 5, 6, 7 & 8
GROUP 1 - Cranes,incl. those being used as backhoe,dragline,clamshell,etc.; tower cranes;truck cranes & cherry pickers 12-1/2 ton & over rated capacity;derricks;piledrivers & extractors; caisson rigs;sideboom & winch truck used for erection of structural steel & moving & setting of heavy machinery; 3 drum hoist;welders;mechanics;locomotive;dredge (leverman)
GROUP 2 - 1 & 2 drum hoists;air & electric tuggers (on power plants or setting & grating); economobiles; plant mixers;farm type tractors(with loaders,backhoes,attachments,etc.); scrapers(tournapull,etc.);endloaders;dredge(engineer);sideboom & winch truck other than Group No. 1;motor patrol;bulldozers;push cat;truck cranes & cherry pickers(under 12-1/2 ton); concrete mixers(1 yd. & over);ditching machines (8" & over);fork lifts(on steel erection & machinery moving or hoisting above one complete story);concrete pump;dewatering pumps; temporary hoist cage operated; second man on locomotive; vibrating concrete spreader(Gomco, C-450 or equal)
GROUP 3 - Tractors(under 35 HP) with or without attachments;endloaders(under 35 HP) with or without attachments;air compressors(one or a combination of 250 cfm or more);pumps 3" or over; welding machine 600 amps or combination thereof;conveyors;firemen(boiler);generator (75 KW & over);fork lifts (other than above Group No. 2);gunnite machine;self-propelled rollers; stump chippers;self-propelled tampers;air & electric tuggers(other than above);ditching machine under 8"
GROUP 4 - Oilers;mechanical heaters;truck crane drivers; permanent elevators

POWER EQUIPMENT OPERATORS CLASSIFICATIONS DEFINITIONS - ZONES 3 & 4
GROUP 1 - All hoists or steel erecting equip.; Crane, Shovel, Clamshell, Dragline, Backhoe, Derrick, Tower Crane, Cableway, Concrete Spreader (servicing 2 pavers), Asphalt Spreader, Asphalt Mixer Plant Engineer, Dipper Dredge Op., Dipper Dredge Craneman, Dual Purpose Truck (boom or winch), Leverman or Engineman (hydraulic dredge), Mechanic, Paving Mixer with tower attached (2 ops. required), Piledriver, Boom Tractor, Stationary, Portable or Floating Mixing Plant. Trenching Machine (over 40 HP). Building Hoist (2 drums), Hot Paint Wrapping Machine, Cleaning & Priming Machine, Backfiller (throw bucket), Locomotive Engineer, Qualified Welder, Tow or Push Boat Concrete Paver, Seaman Trav-L-Plant or similar machines, CMI Autograder or similar machines, Slip Form Paver, Caisson Augering Machine, Mucking Machine, Asphalt Heater-Planer Unit, Hydraulic Cranes, Mine Hoists; Athey, Barber-Green, Euclid or Haiss Loader, Asphalt Pug Mill, Fireman & Drier, Concrete Pump, Concrete Spreader (servicing 1 paver). Bulldozer, Endloader, Log Chippers or similar machines, Elevating Grader, Group Equipment Greaser, LeTourneaupull & similar machines, DW-10, Hyster Winch & similar machines, Motor Patrol, Power Blade, Push Cat, Tractor Pulling Elevating Grader or Power Blade, Tractor operating Scoop or Scraper, Tractor with Power Attachments, Roller on Asphalt or Blacktop, Single Drum Hoist, Jaeger Mix & Place Machine, Pipe Bending Machine, Flexaplane or similar machines, Automatic Curbing Machines, Automatic Cement & Gravel Batch Plant (1 stop set-up), Seaman Pulvi-Mixer or similar machines, Blastholer self-propelled Rotary Drill or similar machines, Work Boat, Combination Concrete Finishing Machine & Float, Self-propelled Sheepsfoot Roller or Compactor (used in conjunction with Grading Spread), Asphalt Spreader Screen Op., Aspco Spreader or similar machine, Slusher, Forklift (over 6000 lbs. capacity or working at heights above 28 ft.), Concrete Conveyors
GROUP 2 - Asphalt Booster, Fireman & pump Op. at Asphalt Plant, Mud Jack, Underground Boring Machine, Concrete Finishing Machines, Form Grader with Roller on Earth, Mixers (3 bag to 16 E), Power Operated Bull Float, Tractor without Power attachment, Dope Pot (agitating motor), Dope Chop Machine, Distributor (back end), Straddle Carrier, Portable Machine Fireman, Hydro-Hammer, Power Winch on Paving Work, Self-propelled Roller or Compactor (other than provided for above), Pump Op. (more than 1 well point pump), Portable Crusher, Trench Machine (under 40 HP), Power Subgrader (on forms) or similar machines, Forklift (6000 lbs. or less capacity), Gypsum Pump, Conveyor over 20 HP, Fuller Kenyon Cement Pump or similar machines; Air Compressors (275 CFM or over), Driver on Truck Crane or similar machines, Light Plant, Mixers (1 or 2 bag), Power Batching Machines (Cement Auger or Conveyor), Boiler (Engineer or Fireman), Water Pumps, Mechanical Broom, Automatic Cement & Gravel Batch Plant (2 or 3 stop set-up), Small Rubber-tired Tractors (not including backhoes or endloaders), Self-propelled curing machine
GROUP 3 - Oiler, Mechanical Heater (other than steam boiler), Belt Machine, Small Outboard Motor Boat, Engine Driven Welding Machine

SUPERSEDEAS DECISION

STATE: NEW MEXICO COUNTY: STATEWIDE
DECISION NO. NM82-4031 DATE: Date of Publication
SUPERSEDES DECISION NO. NM81-4087 dated October 31, 1981 in 46FR53940
DESCRIPTION OF WORK: General Building and Heavy Engineering construction shall include the construction, alteration, repair and demolition of buildings, including residential buildings, office buildings, warehouses, industrials and commercial buildings, institutional and public buildings, and all air conditioning, conduit, heating and other mechanical and electrical works and site preparation for building or heavy engineering projects under this classification, stadia; and shall include electrical, gas, water, sewer lines, and other such utility construction which are part of projects under this classification and included within the property line or less than five (5) feet from the building or heavy engineering structure, whichever is closer, provided, however, regard to electrical utilities such construction shall include construction from the first attachment of incoming power source without regard to the property line or proximity to the building or the heavy engineering structure; and include construction, alteration, repair and demolition of heavy engineering work such as power generating plants, pump stations, natural gas compressing stations; covered reservoirs and covered sewage and water treatment facilities; concrete linings for canals, ditches and channels; concrete dams; earth dams of one million (1,000,000) cubic yards or over; radio towers, ovens, furnaces, kilns, silos, shafts and tunnels (other than highway shafts and tunnels), hydro-electric projects; and well drilling, telephone and electrical transmission lines which are part of general building and heavy engineering projects; mining appurtenances such as tipples, washeries and loading and discharfing chutes, and specialized structures for testing, launching and recovering space and other rocket-type missiles, (ALSO INCLUDING RESIDENTIAL PROJECTS IN SANTA FE, BERNALILLO, RIO ARRIBA, TAOS, SANDOVAL AND VALENCIA COUNTIES)

DECISION NO. NM82-4031 PAGE 2

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS - Zone I	$14.91	$2.26
ASBESTOS WORKERS - Zone II	13.60	2.37
BOILERMAKERS	13.75	3.44
BRICKLAYERS-STONEMASONS:		
Zone I-A	12.71	1.47
Zone I-B	14.21	1.47
Zone I-C	14.96	1.47
Zone II	12.80	1.37
Zone III	14.30	1.37
Zone IV	12.91	1.27
Zone V	14.41	1.27
Zone VIA	12.51	1.27
Zone VIB	14.01	1.77
Zone VII	14.13	1.17
Zone VIII	14.13	1.17
Zone IX	12.39	1.17
CARPENTERS (Dwelling houses & apartments not to exceed two stories in height:		
Zone I-A	8.15	2.70
Zone I-B	9.65	2.70
Zone I-C	10.40	2.70
CARPENTERS (Building, Heavy & Residential Construction Dwelling houses and apartments over two stories in height):		
Zone 2-A	12.70	2.70
Zone 2-B	14.20	2.70
Zone 2-C	14.95	2.70
CARPENTERS (San Juan County Only)		
Zone I	12.70	2.70
Zone II	14.20	2.70
Zone III	14.95	2.70
CEMENT MASONS:		
Area I	11.07	1.67
Area II:		
Zone 1	11.07	1.67
Zone 2	12.57	1.67
Zone 3	12.82	1.67
CEMENT MASONS (Residential):		
Sandoval, Bernalillo and Valencia Counties	8.67	1.67
Rio Arriba, Santa Fe and Taos Counties	10.87	1.67
CEMENT MASONS (HEAVY)	11.17	1.67
CEMENT MASONS (COMPOSITION & MACHINE OPERATORS):		
AREA I	$11.32	1.67
AREA II - Zone I	11.32	1.67
Area II - Zone II	12.82	1.67
Area II - Zone III	13.07	1.67
ELECTRICIANS:		
ZONE I		
Area 1-A	14.85	Y
Area 1-B	16.04	Y
Area 1-C	16.93	Y
Area 1-D	18.56	Y
ZONE II	16.93	Y
Y-3-3/4% + $1.80		
ZONE III		
3-A	11.90	Z
3-B	13.35	Z
Z-3-1/10% + $0.60		
ZONE IV		
4-A	14.70	3%+.61
4-B	15.15	3%+.61
4-C	15.30	3%+.61
CABLE SPLICERS:		
ZONE I		
Area 1-A	16.34	K
Area 1-B	17.53	K
Area 1-C	18.42	K
Area 1-D	20.05	K
ZONE II	18.42	K
K - 3-3/4% + $1.80		
ZONE III		
3-A	12.15	M
3-B	13.60	M
M - 3-1/10% + $0.60		
ZONE IV		
4-A	15.05	3%+.61
4-B	15.50	3%+.61
4-C	15.65	3%+.61
4-D	15.90	3%+.61
ELEVATOR CONSTRUCTORS:		
AREA I	13.645	JJ
AREA II	10.82	JJ
JJ - $2.32 + seven paid Holidays; and Employees with 6 to 5 years of service 6%; over 5 yrs. 8% of basic hourly rate.		

DECISION NO. NM82-4031 PAGE 3

	Basic Hourly Rates	Fringe Benefits
ELEVATOR CONSTRUCTORS:		
AREA I	$13.645	JJ
AREA II	10.82	JJ
JJ - $2.32 + seven paid Holidays; and Employees with 6 to 5 years of service 6%; over 5 yrs. 8% of basic hourly rate.		
ELEVATOR CONSTRUCTORS (MECHANICS):		
AREA I	13.645	JJ
AREA II	10.82	JJ
JJ - $2.32 + seven paid Holidays; and Employees with 6 to 5 years of service 6%; over 5 yrs. 8% of basic hourly rate.		
ELEVATOR CONSTRUCTORS (HELPERS):		
AREA I	10.23	JJ
AREA II	8.11	JJ
JJ - $2.32 + seven paid Holidays; and Employees with 6 to 5 years of service 6%; over 5 yrs. 8% of basic hourly rate.		
FENCE ERECTORS	10.00	1.67
GLAZIERS	13.75	3.44
IRONWORKERS:		
Area I	13.60	2.37
Area II:		
Zone 1	13.60	2.37
Zone 2	14.10	2.37
Zone 3	14.35	2.37
LABORERS:		
Area I	10.00	1.67
Area II:		
Zone 1	10.00	1.67
Zone 2	11.50	1.67
Zone 3	11.75	1.67
LABORERS (Residential):		
Sandoval, Bernalillo and Valencia Counties	8.67	1.67
Rio Arriba, Santa Fe and Taos Counties	10.87	1.67
LATHERS	13.75	3.44
MILLWRIGHTS	13.75	3.44
PAINTERS:		
Area I	10.00	1.67
Area II:		
Zone 1	10.00	1.67
Zone 2	11.50	1.67
Zone 3	11.75	1.67
PAINTERS (Residential):		
Sandoval, Bernalillo and Valencia Counties	8.67	1.67
Rio Arriba, Santa Fe and Taos Counties	10.87	1.67
PILEDRIVERMEN	13.75	3.44
PLASTERERS	13.75	3.44
PLUMBERS & PIPEFITTERS:		
Area I	13.75	3.44
Area II:		
Zone 1	13.75	3.44
Zone 2	14.25	3.44
Zone 3	14.50	3.44
POWER EQUIPMENT OPERATORS:		
Area I	13.75	3.44
Area II:		
Zone 1	13.75	3.44
Zone 2	14.25	3.44
Zone 3	14.50	3.44
POWER EQUIPMENT OPERATORS (Residential):		
Sandoval, Bernalillo and Valencia Counties	8.67	1.67
Rio Arriba, Santa Fe and Taos Counties	10.87	1.67
ROOFERS	13.75	3.44
SHEETMETAL WORKERS:		
Area I	13.75	3.44
Area II:		
Zone 1	13.75	3.44
Zone 2	14.25	3.44
Zone 3	14.50	3.44
SHEETMETAL WORKERS (Residential):		
Sandoval, Bernalillo and Valencia Counties	8.67	1.67
Rio Arriba, Santa Fe and Taos Counties	10.87	1.67
SPRINKLER FITTERS	13.75	3.44
TERRAZZO WORKERS	13.75	3.44
TILE SETTERS	13.75	3.44
TRUCK DRIVERS:		
Area I	13.75	3.44
Area II:		
Zone 1	13.75	3.44
Zone 2	14.25	3.44
Zone 3	14.50	3.44
TRUCK DRIVERS (Residential):		
Sandoval, Bernalillo and Valencia Counties	8.67	1.67
Rio Arriba, Santa Fe and Taos Counties	10.87	1.67

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	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS (HEAVY):		
Area I	13.75	3.44
Area II:		
Zone 1	13.75	3.44
Zone 2	14.25	3.44
Zone 3	14.50	3.44
TRUCK DRIVERS (HEAVY) (Residential):		
Sandoval, Bernalillo and Valencia Counties	8.67	1.67
Rio Arriba, Santa Fe and Taos Counties	10.87	1.67
WELDERS	13.75	3.44
WELDERS (Residential):		
Sandoval, Bernalillo and Valencia Counties	8.67	1.67
Rio Arriba, Santa Fe and Taos Counties	10.87	1.67

DECISION NO. NM82-4031 PAGE 3

	Basic Hourly Rates	Fringe Benefits
GLAZIERS:	$11.39	$1.04
IRONWORKERS - Zone I	11.30	2.53
IRONWORKERS - ZONE II:		
Area 1	13.30	2.53
Area 2	14.55	2.53
Area 3	15.30	2.53
Area 4	15.55	2.53
IRONWORKERS - ZONE III	12.55	2.35
IRONWORKERS - ZONE IV	13.45	2.45
LABORERS (BUILDING):		
Group I	8.73	1.53
Group II	9.03	1.53
Group III	9.33	1.53
Group IV	9.48	1.53
LABORERS (BUILDING) FARMINGTON AREA ONLY:		
ZONE I		
Group I	8.73	1.53
Group 2	9.03	1.53
Group 3	9.33	1.53
Group 4	9.48	1.53
ZONE II		
Group I	9.98	1.53
Group 2	10.28	1.53
Group 3	10.58	1.53
Group 4	10.73	1.53
ZONE III		
Group 1	10.48	1.53
Group 2	10.78	1.53
Group 3	11.08	1.53
Group 4	11.23	1.53
LABORERS (HEAVY CONSTRUCTION)		
ZONE I		
Group 1	8.73	1.53
Group 2	9.03	1.53
Group 3	9.13	1.53
Group 4	9.33	1.53
Group 5	9.48	1.53
ZONE II		
Group 1	10.23	1.53
Group 2	10.53	1.53
Group 3	10.63	1.53
Group 4	10.83	1.53
Group 5	10.98	1.53
GROUP III		
Group 1	10.73	1.53
Group 2	11.03	1.53
Group 3	11.13	1.53
Group 4	11.33	1.53
Group 5	11.48	1.53
LABORERS (RESIDENTIAL)		
Group I	5.02	1.53
Group II	5.32	1.53
Group III	5.62	1.53

	Basic Hourly Rates	Fringe Benefits
LATHERS:		
Zone I	12.70	2.70
Zone II	14.20	2.70
Zone III	14.95	2.70
LEAD BURNERS		
Zone I	15.75	3.06
Zone II	16.50	3.06
Zone III	18.00	3.06
Zone IV(Specific Area)	16.55	3.06
COMMERCIAL LINE WORK		
AREA A		
LINEMEN-TECHNICIANS		
Zone I	15.35	P
Zone II	16.58	P
Zone III	17.50	P
Zone IV	19.19	P
CABLE SPLICERS		
Zone I	16.89	P
Zone II	18.12	P
Zone III	19.04	P
Zone IV	20.73	P
EQUIPMENT OPR. (includes helicopter op.)		
Zone I	14.58	P
Zone II	15.81	P
Zone III	16.73	P
Zone IV	18.42	P
EQUIPMENT MECHANIC (include helicopter mech.)		
Zone I	13.35	P
Zone II	14.58	P
Zone III	15.50	P
Zone IV	17.19	P
POWDERMAN		
Zone I	13.35	P
Zone II	14.58	P
Zone III	15.50	P
Zone IV	17.19	P
GROUNDMAN & JACKHAMMER OPRS.		
Zone I	10.90	P
Zone II	12.13	P
Zone III	13.05	P
Zone IV	14.74	P
P - 3½ + $1.30		
AREA B		
LINEMEN-TECHNICIANS		
Zone I	10.15	3½+.60
Zone II	11.60	3½+.60
CABLE SPLICERS		
Zone I	10.40	3½+.60
Zone II	11.85	3½+.60
EQUIPMENT OPR. (includes helicopter oprs.)		
Zone I	9.64	3½+.60
Zone II	11.02	3½+.60

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	Basic Hourly Rates	Fringe Benefits
COMMERCIAL LINE WORK(contd)		
AREA B (cont'd)		
EQUIPMENT MECHANIC (includes helicopter mechanic) and POWDERMAN		
Zone I	8.93	3½+.60
Zone II	10.21	3½+.60
GROUNDMAN-JACKHAMMER OPRS.		
Zone I	7.21	3½+.60
Zone II	8.24	3½+.60
AREA C		
LINEMEN-TECHNICIANS		
Zone I	14.70	3½+.60
Zone II	15.15	3½+.60
Zone III	15.30	3½+.60
Zone IV	15.55	3½+.60
CABLE SPLICERS		
Zone I	15.05	3½+.60
Zone II	15.50	3½+.60
Zone III	15.65	3½+.60
Zone IV	15.90	3½+.60
EQUIPMENT OPR.(includes helicopter opr.)		
Zone I	13.28	3½+.60
Zone II	13.68	3½+.60
Zone III	13.83	3½+.60
Zone IV	14.08	3½+.60
EQUIPMENT MECHANIC (including helicopter mechanic)		
Zone I	13.68	3½+.60
Zone II	13.68	3½+.60
Zone III	13.83	3½+.60
Zone IV	14.08	3½+.60
POWDERMAN		
Zone I	13.23	3½+.60
Zone II	13.23	3½+.60
Zone III	13.38	3½+.60
Zone IV	13.62	3½+.60
GROUNDMAN-JACKHAMMER OPRS.		
Zone I	10.44	3½+.60
Zone II	10.89	3½+.60
Zone III	11.04	3½+.60
Zone IV	11.29	3½+.60
MARBLE, TILE & TERRAZZO WORKERS	12.30	.82
MARBLE, TILE & TERRAZZO FINISHERS	10.34	.82
MILLWRIGHTS-PILEDRIVERMEN:		
Zone 1	13.10	2.70
Zone 2	14.60	2.70
Zone 3	15.35	2.70
PAINTERS (ZONE ?)		
Class-A	10.90	1.25
Class-B	11.40	1.25
Class-C	11.15	1.25
Class D	11.48	1.25
Class E	11.23	1.25

	Basic Hourly Rates	Fringe Benefits
PAINTERS (cont'd)		
PAINTERS (ZONE II)		
Class-A	$ 9.90	1.25
Class-B	10.90	1.25
Class-C	10.55	1.25
Class-D	10.75	1.25
Class-E	11.48	1.25
Class-F	11.23	1.25
PAINTERS (ZONE III)		
Class-A	9.13	.85
Class-B	9.55	.85
Class-C	9.275	.85
Class-D	9.98	.85
PAINTERS (RESIDENTIAL CONSTRUCTION in Santa Fe, Taos & Rio Arriba Cos.:		
Brush & roller	8.60	1.25
Spray & sandblast	9.25	1.25
Paperhangers	8.82	1.25
Drywall finisher	10.63	1.25
Drywall finisher toll	10.88	1.25
PLASTERERS	12.31	1.57
PLUMBERS-PIPEFITTERS:		
Area I	15.25	3.06
Area II	16.00	3.06
Area III	17.50	3.06
Specific Area	16.05	3.06
Residential	9.95	1.42
POWER EQUIPMENT OPERATORS:		
RESIDENTIAL AND GENERAL BUILDING CONSTRUCTION		
Group I	10.53	1.60
Group II	11.62	1.60
Group III	11.65	1.60
Group IV	11.71	1.60
Group V	11.77	1.60
Group VI	11.87	1.60
Group VII	11.97	1.60
Group VIII	13.15	1.60
POWER EQUIPMENT OPERATORS		
HEAVY CONSTRUCTION		
Group I	10.48	1.65
Group II	11.57	1.65
Group III	11.65	1.65
Group IV	11.66	1.65
Group V	11.72	1.65
Group VI	11.82	1.65
Group VII	11.92	1.65
Group VIII	13.10	1.65
ROOFERS(Building Const.)	10.62	.50
ROOFERS (Residential Const)	7.96	.50
SHEET METAL WORKERS:		
Zone IA	15.37	2.12
Zone IB	16.37	2.12
Zone IC	18.22	2.12
Zone ID	17.62	2.12

	Basic Hourly Rates	Fringe Benefits
SHEET METAL WORKERS (cont'd)		
Zone IIA	$12.75	1.45
Zone IIB	14.00	1.45
Zone IIC	15.00	1.45
SPRINKLER FITTERS	16.17	2.83
SOFT FLOOR LAYERS	10.64	1.24
SOUND INSTALLERS:		
SOUNDMAN		
ZONE I	12.15	3½%+.60
Zone II	13.67	3½%+.60
Zone III	16.71	3½%+.60
Zone IV	13.45	3%+.61
TECHNICIANS		
ZONE I	9.72	3½%+.60
Zone II	11.24	3½%+.60
Zone III	14.28	3½%+.60
Zone IV	10.76	3%+.61
SOUND INSTALLERS		
ZONE I	7.90	3½%+.60
Zone II	9.42	3½%+.60
Zone III	12.46	3½%+.60
Zone IV	8.74	3%+.61
TRUCK DRIVERS (BLDG. CONST.)		
ZONE I		
Group I	8.96	1.54
Group II	9.06	1.54
Group III	9.16	1.54
Group IV	9.28	1.54
Group V	9.33	1.54
Group VI	9.43	1.54
Group VII	9.53	1.54
Group VIII	9.67	1.54
Group IX	9.82	1.54
ZONE II		
Group I	10.71	1.54
Group II	10.83	1.54
Group III	10.91	1.54
Group IV	11.03	1.54
Group V	11.08	1.54
Group VI	11.18	1.54
Group VII	11.28	1.54
Group VIII	11.42	1.54
Group IX	11.57	1.54
ZONE III		
Group I	11.21	1.54
Group II	11.33	1.54
Group III	11.41	1.54
Group IV	11.53	1.54
Group V	11.58	1.54
Group VI	11.68	1.54
Group VII	11.78	1.54
Group VIII	11.92	1.54
Group IX	12.07	1.54
TRUCK DRIVERS (cont'd)		
RESIDENTIAL CONSTRUCTION		
Group I	$ 8.66	1.54
Group II	8.78	1.54
Group III	8.86	1.54
Group IV	8.98	1.54
Group V	9.03	1.54
Group VI	9.13	1.54
Group VII	9.23	1.54
Group VIII	9.37	1.54
Group IX	9.52	1.54
TRUCK DRIVERS (HEAVY CONSTRUCTION		
ZONE I		
Group I	9.11	1.54
Group II	9.23	1.54
Group III	9.31	1.54
Group IV	9.43	1.54
Group V	9.48	1.54
Group VI	9.58	1.54
Group VII	9.68	1.54
Group VIII	9.82	1.54
Group IX	9.97	1.54
ZONE II		
Group I	10.66	1.54
Group II	10.73	1.54
Group III	10.81	1.54
Group IV	10.93	1.54
Group V	10.98	1.54
Group VI	11.08	1.54
Group VII	11.18	1.54
Group VIII	11.32	1.54
Group IX	11.47	1.54
ZONE III		
Group I	10.91	1.54
Group II	10.98	1.54
Group III	11.06	1.54
Group IV	11.18	1.54
Group V	11.23	1.54
Group VI	11.33	1.54
Group VII	11.43	1.54
Group VIII	11.57	1.54
Group IX	11.72	1.54

CLASSIFICATIONS' AREA AND ZONE DEFINITIONS

ASBESTOS WORKERS:
ZONE I - Statewide, except Union, Lea, Harding, Curry, Roosevelt and Quay Counties.
ZONE II - Union, Lea, Harding, Curry, Roosevelt and Quay Counties

BRICKLAYERS-STONEMASONS:
ZONE I-A; I-B and I-C - Union, Harding, Santa Fe, Valencia, Torrence, Taos, Socorro, Mora, McKinley, Colfax, Catron, San Miguel, San Juan, Sandoval, Rio Arriba, Bernalillo, Cobila and Los Alamos Counties
FROM BASING POINT OF ALBUQUERQUE MAIN POST OFFICE:
Zone I-A - 0 to 25 road miles
Zone I-B - 25 to 50 road miles
Zone I-C - Over 50 road miles
ZONE II - Curry and Roosevelt Counties
ZONE III - DeBaca, Guadalupe and Quay Counties
ZONE IV - Chaves County
ZONE V - Lincoln County
ZONE VIA - Lee and Eddy Counties (except at Mine and Refinery sites outside Municipal Limits)
ZONE VIB - Lee and Eddy Counties (Employees at Mine and refinery sites outside Municipal Limits
ZONE VII - Otero County
ZONE VIII - Luna and Grant Counties, communities of Silver City, Bayard, Central, Hurley and New town site of Tyrone; Hildago and Sierra Counties
ZONE IX - Dona Ana County

CARPENTERS:
STATEWIDE - From nearest basing points of the following cities or towns; Alamogordo, Albuquerque, Artesia, Bayard, Belen, Carlsbad, Clovis, Deming, Espanola, Eunice, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordsburg. Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Santa Rosa, Silver City, Socorro, Taos and Tucumcari:
ZONES I AND II
Zone I-A and 2-A - 0 to 15 road miles from nearest basing point
Zone 1-B and 2-B - 15 to 35 road mi. from nearest basing point
Zone 1-C and 2-C - Over 35 road mi. from nearest basing point
SAN JUAN COUNTY (ONLY)
Zone I - Within 15 rd. mi. of the City of Farmington
Zone II - Over 15 mi. but less than 35 mi. from Farmington
Zone III - 35 miles ofr more from the City of Farmington

CEMENT MASONS:
AREA I - Statewide except Farmington, San Juan County
AREA II - Farmington, San Juan County
Zone I - 0-15 miles from Farmington City Hall
Zone II - 15-35 miles from Farmington City Hall
Zone III - 35 miles and over from Farmington City Hall

ELECTRICIANS-CABLE SPLICERS:
ZONE I
AREA 1 - Bernalillo, Santa Fe, Torrance, DeBaca, Guadalupe, Quay, San Miguel, Mora, Harding, Union, Colfax, Taos, Rio Arriba, Grant, Sandoval, Valencia, Socorro, Catron, McKinley, Sierra, San Juan, Chaves, Curry, Lincoln, Cibola and Roosevelt Counties

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

ELECTRICIANS-CABLE SPLICERS (Cont'd):
Area 1-A - From nearest basing point cities, towns and mileage from main post office in the following towns:
Albuquerque - 15 miles from main post office
Santa Fe - 10 miles from main post office
Las Vegas - 8 miles from main post office
Farmington - 6 miles from main post office
Raton - 6 miles from main post office
Tucumari - 6 miles from main post office
Aztec - 6 miles from main post office
Roswell - 12 miles from main post office
Ruidoso - 12 miles from main post office
Portales - 12 miles from main post office
Carrizozo - 12 miles from main post office
Clovis - 12 miles from main post office
Gallup - 10 miles from main post office
*Pojoaque - 2 miles from main post office
*All areas adjacent to Pojosque that are over 2 mi. distant from the main post office in that town will be zoned out of Santa Fe.
Area 1-B - extending up to 20 miles beyond Area 1-A
Area 1-C - Extending up to 30 miles from Area 1-A
Area 1-D - anything beyond 30 miles from Area 1-A
ZONE II - Los Alamos County
ZONE III - Dona Ana, Otero, Luna, Hidalgo Counties
Zone 3-A - Within 10 miles radius from the p.o. in Las Cruces & within a 5 mi. radius from the p.o. in Alamogordo
Zone 3-B - Dona Ana, Otero, Luna, and Hidalgo Counties (except that area specified in zone 3-A0
ZONE IV - Eddy and Lea Counties - the following zones shall be designated from the main p.o. in Artesia, Carlsbad, Hobbs and Lovington
Zone 4-A - 0 to 12 miles from main post office
Zone 4-B - 12 - 22 miles from main post office
Zone 4-C - 22 - 40 miles beyond main post office
Zone 4-D - 40 miles and beyond main post office

ELEVATOR CONSTRUCTORS:
AREA I - Bernalillo, Catron, Colfax, Curry, DeBaca, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Socorro, Taos, Torrance, Union, Cibola and Valencia Counties
AREA II - Chaves, Hidalgo, Dona, Ana, Eddy, Grant, Lea, Luna, Otero and Sierra Counties

IRONWORKERS:
ZONE I - Bernalillo, Catron, Colfax, DeBaca, Guadalupe, Lincoln, Los Alamos, McKinley, Mora, Rio Arriba, Sandoval, Santa Fe, Socorro, Taos, Torrance, Cibola and Valencia Counties.
ZONE II - Farmington, San Juan County
Area 1 - Shall extend a distance of 6 road miles inclusive beyond City Hall
Area 2 - Shall extend a distance of 8 road miles inclusive beyond the outer perimeter of area 1

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

IRONWORKERS (Cont'd):
ZONE II - Farmington, San Juan County (cont'd)
Area 3 - Shall extend a distance of 10 road miles inclusive beyond the outer limits of area 2
Area 4 - Shall extend a distance of 27 road miles inclusive beyond the outer limits of area 3
Other areas not within area 1, 2, 3, and 4 shall revert to the $15.00 per day subsistence.
ZONE III - Dona Ana county with the exception of that portion of the county that lies within the White Sands Missile Range; Chaves County, Eddy County except that Potash Basin and defined as the area 10 road miles on Highway 62 and Highway 180, east of Carlsbad.
ZONE IV - Curry, Harding, Quay, Union, Hidalgo, Grant, Lea, Luna, Otero, and Sierra Counties; also Potash Basin, White Sands and McGregor Missile Ranges.

LABORERS BUILDING & HEAVY CONSTRUCTION ZONE DEFINITION (FARMINGTON AREA ONLY)
ZONE I - 0-15 miles from the City Hall in Farmington
ZONE II - 15-35 miles from the City Hall in Farmington
ZONE III - 35 miles and over from the City Hall in Farmington

BUILDING LABORERS CLASSIFICATION DEFINITION
GROUP I - Unskilled; building and common laborers, carpenter tenders, concrete workers, concrete buggy operators
GROUP II - Semi-skilled; air and power tool operator, asphalt rakers, demolition, gunite, rebound men, fog machine operator, power buggy operators, sandblasters (potmen), window washers, wagon core diamond drillers, tender; outside scaler, grade setter
GROUP III - Concrete burner, cement mason tenders, hod carriers, mortar mixers, plaster spreader operators, plaster tenders, gunite nozzlemen, pipelayers, pumporete nozzlemen
GROUP IV - Powdermen and blasteres

HEAVY CONSTRUCTION LABORERS' CLASSIFICATION DEFINITIONS
GROUP I - Unskilled - Construction and general laborers, carpenter tenders, concrete workers, concrete buggy operators
GROUP II - Semi-skilled - Air and power tool operators, asphalt rakers, cutting torch operators demolition, gunite rebound men, grade setters, power buggy operators, sand blasters (pot men), nozzlemen, wagon core and diamond drillers' tenders, outside scalers, fog machine operators
GROUP III - Wagon core, diamond drillers
GROUP IV - Miscellaneous - concrete burner, cement mason tenders, hod carriers, mortar mixers, plaster spreader operators, plaster tenders, gunite nozzlemen, pipelayers, pumpcrete nozzleman
GROUP V - Powdermen and blasters

RESIDENTIAL LABORERS' CLASSIFICATION DEFINITIONS
GROUP I - Unskilled - Building and common laborers, carpentar tenders, concrete workers, concrete buggy operators, hand
GROUP II - Semi-skilled - air and power tool operator, asphalt rakers, demolition, gunnite rebound men, fog machine operator, power buggy

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

RESIDENTIAL LABORERS' CLASSIFICATION DEFINITIONS (Cont'd):
GROUP II (CONT'D)
operator, sand blasterers (pot men), window washers, wagon core and diamond drillers, tender outside
GROUP III - Concrete burner, cement mason tenders, hod carriers, mortar mixers, plaster spreader operators, plaster tenders, gunnite nozzleman, pipelayer, pumpcrete nozzleman

LATHERS BASING POINTS & ZONE DEFINITIONS:
Alamogordo, Albuquerque, Antosia, Bayard, Belen, Carlbad, Clovis, Deming, Espanola, Eunice, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordohango, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Silver City, Socorro, Taos, Tucumcari.
ZONE I - Jobs within 15 miles of Base points
ZONE II - Jobs 15 to 35 miles
ZONE III - Jobs 35 miles and more

LEADS BURNERS BASING POINT & AREA DEFINITIONS
BASING POINT CITIES OR TOWNS:
Albuquerque, Alamorgordo, Anthony, Artesia, Belen, Carlsbad, Clovis, Deming, Espanola, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lovington, Portales, Raton, Socorro, Roswell, Ruidoso, Santa Fe, Silver City, Santa Rosa, Taos, Tucumcari and Truth of Consequence
ZONE I - Shall include a distance of seven road miles inclusive beyond the city or town limits
ZONE II - Shall extended a distance of 4 road miles inclusive beyond the outer perimeter of area I.
ZONE III - Shall apply to all areas not within 1 or 2, or not within the specific areas.
ZONE IV (SPECIFIC AREA) - Los Alamos, White Rock, South Mesa, McGregor Range, White Sands Missile Range, and/or Proving Grounds

COMMERCIAL LINE WORK
AREA A - Bernalillo, Colfax, Catron, Chaves, Curry, DeBaca, Grant, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandova, San Juan, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, Union, Valencia and White Sands Missile Range and that portion of Fort Bliss in New Mexico
ZONE I
Cities and Towns Basing Points - Miles from Main Post Offices

Albuquerque - 15 miles	Ruidoso - 12 miles
Santa Fe - 10 miles	Portales - 12 miles
Las Vegas - 8 miles	Clovis - 12 miles
Farmington - 6 miles	Gallup - 12 miles
Raton - 6 miles	
Tucumcari - 6 miles	
Aztec - 6 miles	
Roswell - 12 miles	

*All areas adjacent to Pojoaque that are over two miles distant from the main post office in that town will be zoned out of Santa Fe.
ZONE II - Extending up to 20 miles beyond zone 1
ZONE III - Extending up to 30 miles beyond zone 1

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

COMMERCIAL LINE WORK (Cont'd)
ZONE IV - Anything beyond 30 miles from zone 1
Las Alamos County - Use ZONE III rates
AREA B - Applies to switching stations and su-stations adjacent to power plants in Zone 1 and Zone 2 in Luna, Dona Ana, Otero, and Hidalgo Counties, exclusive of White Sands Missile Range and that portion of Fort Bliss in New Mexico
ZONE I - That area within 25 miles radius from the downtown Post Office of El Paso, Texas. Fort Bliss and Biggs Field; the area within a five mile radius of any city, town or municipality within which an employer established or maintains his place of business; the area within ten mile radius form the post office in Las Cruces, New Mexico, and within a five mile radius from the post office in Alamogordo, New Mexico.
ZONE II - All other areas of the jurisdiction except those specified in zone 1
AREA C - Applies to switching stations adjacent to power plants in Eddy and Lea Counties; the following zones listed shall be designated from main Post Office of Artesia, Carlsbad, Hobbs & Lovington,
ZONE I - 0 - 12 miles
ZONE II - 12 - 22 miles
ZONE III - 22 to 40 miles
ZONE IV - 40 miles and beyond

MILLWRIGHTS & PILEDRIVERMEN ZONE DEFINITIONS
BASING POINT - FROM ALBUQUERQUE CITY LIMITS:
ZONE 1 - 0 to 15 road miles from basing point
ZONE 2 - 15 to 35 road miles from basing point
ZONE 3 - Over 35 road miles from basing point

PAINTERS' ZONE AND CLASSIFICATION DEFINITION
ZONE I - San Juan, McKinley, Bernalillo, Torance, Guadalupe, Quay, Catron, Socorro, Lincoln, DeBaca, Roosevelt, Chaves, Valencia, Sierrra, Grant, Hidalgo, Curry, Lea, Eddy and Sandoval, Counties, New Mexico.
CLASS A - Painters, roller and hand textures
CLASS B - Painters, spray, sandblasting, painter on steel bridges, tanks towers, pipe and structural
Class C - Paperhanger
CLASS D - Drywall finisher; ames tool operator
CLASS E - Hand finisher machine texture
ZONE II - Colfax, Harding, Los Alamos, Mora, San Miguel, Rio Arriba, Taos, Union and Santa Fe Counties
Class A - Painters and roller
Class B - Paperhangers
Class C - Spray, Sandblast, steel, special coating applicator
Class D - Sing Painters
Class E - Drywall finisher tool and machine texture
Class F - Hand finisher
ZONE III - Luna, Otero, and Dona Ana Counties
Class A - Brush, paperhangers
Class B - Spray, sandblasting, swing stage, striping machine
Class C - Ames tool and steel brush after erection
Class D - Radio towers, water tanks smoke stake 70 - 100 ft.

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

PLUMBERS - PIPEFITTERS' ZONES DEFINITIONS
BASING POINT CITIES OR TOWNS:
Albuquerque, Alamogordo, Anthony, Artesia, Belen, Carlsbad, Clovis, Deming, Espanola, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordsburg, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Silver City, Santa Rosa, Taos, Tucumcary, Truth of Consequence and Socorro, New Mexico.

Area I - Shall include a distance of seven road miles inclusive beyond the city or town limits.
Area II - Shall extend a distance of four road miles inclusive beyond the outer perimeter of area I.
Area III - Shall apply to all areas not within areas 1 or 2 or not within the specific area.
Specific Area - Los Alamos, White Rock, South Meas, McGregor Range, White Sands Missile Range and/or Proving Grounds, Atlas Missile Complex Sites in Chaves and Lincoln Counties, and the Oro Grande Range Camp and Dona Ana and Otero Co.

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
BUILDING, RESIDENTIAL & HEAVY CONSTRUCTION
GROUP I - Fireman, oiler, screedman, scale operator such as bin-a batch, rubber tired farm type tractor, tractors under 50 HP without attachments, breakman, concrete paving curing machine (bridgetype), helper; (mechanic, welder, grease truck)
GROUP II - Rollers, sheepsfoot or pneumatic self propelled w/e dozer, concrete conveyor, service truck operator (head oiler), air compressor (300 CFM & over), pumps (6" and over), screening plants, concrete mixers (under 1 CY), concrete saw or grinder-span type, 1 drum hoist, air tugger, elevating belt type loaders, forklift, lumber stacker, tractor farm type (under 50 HP with attachments) motorman and industrial locomotive operator, winch truck, front end loaders (under 2 CY), power plants which generate over 15 KW, welding machines
GROUP III - Bituminous distributors, boilers, retort and hot oil heaters, concrete mixers (1 CY and over), concrete paver-single drum, drilling equipment; (refrigeration, slusher, jumbo forms), trenching machines (all types), pump crete and gunite machines, slipform paver, mechanical bullfloats, concrete slab spreading machine, concrete slab finishing machine, asphalt plants, bituminous finishing machines, crushing plants
GROUP IV - Front end loaders (2 thru 10 CY), rollers steel wheeled-all types, bulldozers, scrapers (motor or towed), elevating graders, concrete batching plants, self-propelled rollers -- equipped with dozer, twin-bowl scrapers and quad 8 or 9 pushers (35¢ over basic rate, three bowl scraper (60¢ over basic rate)
GROUP V - Hydraulic cranes-with less than 50 feet of boom (20 tons and under), concrete paver-double drum, cat cranes, hysters, side and swingboom cats, 2 drum hoist, auto fine grader
GROUP VI - Mucking machines - all types, motor grader (finish) mechanic - welder
GROUP VII - Steam engineers, loader (front end over 10 CY), concrete pump (Snorkel type)

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
BUILDING, RESIDENTIAL & HEAVY CONSTRUCTION (CONT'D)
GROUP VIII - All shovel type equipment; cranes, draglines, backhoes, derricks, guy & stiff leg, pipemobile (No. 2 operator), piledriver, hydraulic cranes (20 tons & over), mine hoist, belt loader ("C.M.I." Type), boom & jibs 150 ft. through 199 ft. - 25¢ per hour above base pay 200 ft. and over - 50¢ per hour above base pay. Shove (wheel type), boring machine (tunnel or shaft mole), pipe mobile

SHEET METAL WORKERS ZONE & CLASSIFICATION DEFINITIONS
ZONE I - Bernalillo, Catron, Chaves, Colfax, Curry, De Baca, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Socorro, Taos, Torrance, Union, Cibola and Valencia Counties.
ZONE IA - Any area within a five (5) mile radus of the city limits of Albuquerque, Santa Fe, Farmington, Roswell and Kirtland AFB, East and West; Rio Rancho; Paradise Hills; An area including ten (10) miles each direction east and west of interstate Highway 25 and extending north and south, terminating with but including, Santa Fe and Belen; an area identified by corner reference points beginning at and including Pojoaque, to Chimayo, to Velarde, to Abiquiu and back to Pojaque; An area identified by corner reference points beginning at the including Farmington to Aztec, to Bloomfield and back Farmington.
ZONE IB - Los Alamos County
ZONE IC - San Juan (except that area in Zone 1A)
ZONE ID - All area not in Zone iA, IB, or IC.
ZONE II - Dona Ana, Eddy, Grant, Hidalgo, Lea, Luna, Sierra and Otero Counties.
ZONE IIA - Any area within a five (5) mile radus of the city limits of Carlsbad, Las Cruces, Artesia, Alamogordo, Hobbs and Sunland Park.
ZONE IIB - White Sands, Including Mullonan, McGregor and Lyndon B. Johnson.
ZONE IIC - All area not in Zone IIA or IIB.

SOUND INSTALLERS ZONE DEFINITIONS
ZONE I - Thirty mile radius of main post office in Albuquerque
ZONE II - Remainder of Valencia, Sandoval, Santa Fe, Torrance, and Socorro Counties, the hourly rates of pay shall be increased for twelve and one-half (12½) percent of journeymen rate of pay for Zone I.
ZONE III - Chaves, Curry, Roosevelt, Lincoln, Guadalupe, DeBaca, Quay, San Miguel, Mora, Harding, Union, Colfax, Taos, Rio Arribo, Catron, Sierra, Grant, Los Alamos, San Juan, McKinley Counties the hourly rates of pay shall be increased by thirty-seven and one-half (37.5) percent of the journeyman rate of pay for Zone I
ZONE IV - Eddy and Lea Counties

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

TRUCK DRIVERS ZONE PAY BASING POINTS AND DEFINITIONS LISTED BELOW FOR BUILDING AND HEAVY CONSTRUCTION
BASING POINTS ARE AS FOLLOWS:
Alamogordo, Albuquerque, Artesia, Bayard, Belen, Carlsbad, Clovis, Deming, Espanola, Eunice, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordsburg, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Santa Rosa, Silver City, Socorro, Taos, Tucumcari
ZONE I - Shall be jobs or projects within 15 road miles from the starting points listed above
ZONE II - Shall be jobs or projects which are more than fifteen road miles, but less than thirty-five road miles from base points, also, includes all of Los Alamos Co.
ZONE III - Shall be those jobs or projects which are thirty-five road miles or more from the base points.

TRUCK DRIVERS CLASSIFICATION DEFINITIONS (BUILDING, HEAVY AND RESIDENTIAL CONSTRUCTION)
GROUP I - Pickup 3/4 ton and under, lubrication, light tire repair and washer, swamper, 2 or 4 and up.
GROUP II - Dump or batch truck under 8 C.Y.W.L.C.; flat bed (bobtail) 2 ton and under; warehouseman including material checker, fork lift under 5 tons MRC.
GROUP III - Dump trucks (including all highway and off highway) 8 up to 16 C.Y.W.L.C.; water, fuel or oil trucks less than 3,000 gal., flat bed (bobtail) over 2 tons
GROUP IV - Distributor driver, heavy tire repair, lumber carrier driver, young buggy or similar equipment, transit mix or agitator 2 or 3 axle bobtail equipment, scissor truck, bulk cement bobtail 2 or 3 axles, semi-trailer flatbed or van single axle, forklift 5 ton and over M.R.C.
GROUP V - Dumpsters and dumpcrete driver; water, fuel or oil truck 3,000 to 6,000 gal; lowboys and light equipment driver; euclid type tank wagon under 6,000 gal.
GROUP VI - Vacuum truck; dump trucks (including all highway and off-highway 16 up to 22 C.Y.W.L.C.
GROUP VII - Transit mix or agitator semi or 4 axle equipment driver; flaherty truck type spreader box driver; slurry truck driver; bulk cement driver; semi-doubles; 4 axle bobtail; winch truck and "A" frame; dump truck (including all highway and off-highway) 22 CY up to 35 C.Y.W.L.C.
GROUP VIII - Euclid diesel power turnarocker; terra coba-DW20-Le-Tourneau Pulls and similar diesel powered equipment when used to haul materials and assigned to a teamster-lowboy heavy equipment driver; water, fuel or oil trucks 6,000 gal. and over including tank wagon drivers, semi-trailer driver (flat-bed or van tandems); light equipment mechanic; dump trucks (including all highway and off-highway) 35 C.Y.W.L.C. and over; truck and trailer or semi-trailer (flatbed); eject all
GROUP IX - Lowboy (heavy equipment double gooseneck); heavy equipment mechanic; welder (body and fender men)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

DECISION NO. TX82-4026 PAGE 2

STATE: Texas
DECISION NO.: TX82-4026
COUNTY: Lubbock
DATE: Date of Publication

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Lubbock
DECISION NO.: TX82-4026 DATE: Date of Publication
Supersedes Decision No. TX81-4036, dated 6/5/81, in 46 FR 30286.
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes & apartments up to & including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$13.60	2.37
BOILERMAKERS	16.35	2.315
BRICKLAYERS & STONEMASONS	12.02	.33
CARPENTERS	12.15	1.34
CEMENT MASONS	8.15	
ELECTRICIANS:		
Electricians	14.25	.80 + 3-1/10%
Cable splicers	14.50	"
IRONWORKERS:		
Structural, ornamental & reinforcing	12.30	2.35
All ironworkers on jobs 30 miles or more from the city of Lubbock	12.425	2.35
LABORERS:		
GROUP 1 - Construction laborers, including excavation, pouring concrete, carpenter tender, reinforcing, shoring, digging, loading & unloading materials, wrecking bldgs. & all structures & all construction laborers except those named below	7.31	.57
GROUP 2 - Air tool op. (jackhammer, vibrator, tamper, brush hammer, chipping hammer, air or electric), power buggy man, pipelayer (conc. & clay & all non-metallic pipe); handling, laying & cleaning pumpcrete pipe	7.58	.57
GROUP 3 - Mortar mixers, mason tenders, plasterers tenders, cement finisher tender, lather tender	7.51	.57
GROUP 4 - Wagon drill	7.66	.57
GROUP 5 - Blasters & powderman	7.91	.57

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION:		
Linemen	$14.25	.80+ 3-1/10%
Operators	80%JR	"
Groundmen	55%JR	"
Truck drivers	70%JR	"
PAINTERS:		
Brush	10.45	
Spray, sandblasters	11.20	
PLUMBERS & STEAMFITTERS	13.45	1.09
SHEET METAL WORKERS	14.72	1.39
POWER EQUIPMENT OPERATOR:		
GROUP 1	10.025	1.425
GROUP 2	10.925	1.425
GROUP 3	11.325	1.425
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental		

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler-Fireman
GROUP 2 - Air Compressors, Pumps, Welding Machines, Throttle Valves, Light Plants (3 to 6 machines); Conveyor; Wagon Drill; Elevators Building; Form Graders; Hoist, Single Drum; Ford Tractor including blade and mower on rear; Mixers less than 14 cu. ft.; Screening Plants; Crushing Plants; Fork Lifts (short, under 25 ft.); Concrete Pumps (all types); Bobcat type equipment; Ford tractor or like with any attachments (except blade and mower on rear)
GROUP 3 - Backhoe; Drilling Machines (all types); Scoopmobiles; Hoist, two drums or more; Fork Lifts (over 25 ft.); Winch Truck; Six Wheel Truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixer, 14 cu. ft. or over; Blade Graders, self-propelled; Cableways; Cranes - power operated (to 100 ft. of boom); Derricks, power operated, all types; Gradall; Hy-Ho; Hop-To; Paving Mixer (all types); Pile Drivers; Mobile Concrete Mixers over 14 cu. ft.; Bulldozers, Loaders, Tractorvators; Scrapers and Pulls; Welders; Trenching Machines; Roller, ten tons or over; Air Compressors, Pumps, Welding Machines and Light Plants (7 to 12 machines); Air Compressors & Air Tugger; Boilers, two or more fired by one man; Heavy Duty Mechanic

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: TX82-4024
COUNTY: Travis
DATE: Date of Publication
Supersedes Decision No. TX81-4074, dated 10/2/81, in 46 FR 48861.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current Heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$14.70	2.43
BOILERMAKERS	16.35	2.315
BRICKLAYERS & STONEMASONS	13.54	2.21
CARPENTERS:		
Carpenters	14.01	1.57
Millwrights	14.26	1.57
CEMENT MASONS	12.69	1.15
ELECTRICIANS & CABLE SPLICERS	15.60	.80+ 8-8/10%
ELEVATOR CONSTRUCTORS:		
Mechanics	13.06	2.465+a
Helpers	70%JR	2.465+a
Helpers (Prob.)	50%JR	
GLAZIERS	12.06	.52
IRONWORKERS	13.35	2.62
LABORERS:		
GROUP 1 - General laborer & pier hole men	8.43	.72
GROUP 2 - Mason tender; Pipelayer (conc. & clay); Cement finisher tender; Scaffold builder; Gunnite & cement work mixer & power tool op.	8.58	.72
GROUP 3 - Plaster tender; hod carrier; Mortar mixer; lather tender	8.755	.72
GROUP 4 - Gunnite over 1½" thick; Nozzlemen; Machine op.; Powderman & blaster	8.83	.72
LATHERS	11.525	.01
LINE CONSTRUCTION:		
Linemen	16.59	.80 + 1½%
Groundmen	9.12	"
MARBLE, TILE & TERRAZZO WORKERS	11.90	.75
MARBLE, TILE & TERRAZZO FINISHERS:		
Marble, tile, terrazzo	8.62	
Floor machine operator	8.82	
Base machine operator	8.97	
PAINTERS:		
GROUP 1 - Journeyman painters, taping & floating of sheetrock	$11.50	
GROUP 2 - Spray; sand-blasting swing stage	12.00	
PLASTERERS	13.74	1.16
PLUMBERS & PIPEFITTERS	15.40	1.07
ROOFERS:		
Roofers; deckmen	9.24	.50
Kettlemen	8.19	.50
Waterproofers	8.69	.50
SHEET METAL WORKERS	14.87	2.09 + 3%
SOFT FLOOR LAYERS	14.40	1.56
SPRINKLER FITTERS	16.17	2.83
POWER EQUIPMENT OPERATORS:	14.24	.85
GROUP 1	13.07	.85
GROUP 2	11.70	.85
GROUP 3	11.60	.85
GROUP 4		
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.		

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTE FOR ELEVATOR CONSTRUCTORS
a - 1st 6 mos. - none; 6 mos. to 5 yrs. 6%; over 5 yrs. - 8% of basic hourly rate. Also 7 paid holidays A thru G

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

DECISION NO. TX82-4024 PAGE 2

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy duty mechanic; blade grader - self-propelled; Crawler dozers or loaders; derricks, power operated (all types); Dragline; cableway; backhoe; crane, power operated (all types); elevating grader, self-propelled; hoist, motor driven, two drums or more; mix mobile; high-lifts and loaders, over 1/3 cu. yd. capacity; winch truck; locomotive; mixer, 14 cu. ft. or over; paving mixer (all sizes); scraper; trenching maghines (all sizes); gradall; foundation boring machine; scoopmobile; shovel power operated; pump crete machine; rock crusher operated on job; well points including installations; riding compactor; forklift over 1500 lbs. capacity; flat wheel rollers (60" & over); Pneumatic rollers (10 tons & above)
GROUP 2 - Blade grader, towed; flex plane; form grader; mixer, less than 14 cu. ft.; pulsometer; conventional truck crane driver and oiler; combination man; hoist, single drum; pneumatic roller; high-lifts and loaders, 1/3 cu. yd. or less; forklift 1500 lbs. capacity or less
GROUP 3 - Fireman
GROUP 4 - Oiler

SUPERSEDEAS DECISION

STATE: Texas
COUNTIES: Galveston & Harris

DECISION NO. TX82-4033 PAGE 2

SUPERSEDEAS DECISION

DECISION NO. TX82-4033

PAGE 2

STATE: Texas
DECISION NO.: TX82-4033
Supersedes Decision No. TX81-4075, dated 10/2/81, in 46 FR 48863.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current highway general wage determination for Paving & Utilities Incidental to Building Construction For Galveston (excluding Galveston Island) & Harris Counties).

COUNTIES: Galveston & Harris
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.20	2.71
BOILERMAKERS	16.35	2.315
BRICKLAYERS & STONEMASONS	15.95	2.15
CARPENTERS:		
Carpenters		
Piledrivermen	14.90	2.02
Millwrights	15.285	2.02
CEMENT MASONS:		
Galveston County	14.50	1.80
Harris County	15.20	2.13
ELECTRICIANS:		
Galveston County:		
Electricians	16.47	1.39+10%
Cable splicers	17.47	"
Harris County	16.35	1.08+12%
ELEVATOR CONSTRUCTORS:		
Mechanics	15.34	2.465+a
Helpers	70%JR	2.465+a
Helpers (Prob.)	50%JR	
GLAZIERS	13.39	1.575
IRONWORKERS	15.46	2.90
LABORERS:		
GROUP 1 - Common	10.95	1.56
GROUP 2 - Air tool op. (jackhammer-vibrator); mason tender;pipelayer (conc. & clay);Sand blasterer;power buggy	11.135	1.56
GROUP 3 - Lather tender; mortar mixers;plaster tenders & hod carriers	11.245	1.56
GROUP 4 - Well driller	11.54	1.56
GROUP 5 - Well driller tender	11.085	1.56
GROUP 6 - Blaster,powderman	11.405	1.56
LATHERS(Harris Co. only)		
LINE CONSTRUCTION:		
ZONE 1-Galveston Co. & that part of Harris Co. from Loop 610 east to State Hwy. 58,north on State Hwy. 59,Hwy. 1960 west on Hwy 1960 to Hwy. 6,south on Hwy. 6 to State Hwy. 59, southeast on State Hwy. 59 to Loop 610 around Loop 610 to State Hwy. 59 North:		
Linemen & cable splicer	$16.85	.80+3½%
Groundman	9.77	.80+3½%
ZONE 2 - Remainder of Harris Co.:		
Linemen & cable splicer	16.45	.80+3½%
Groundman	9.54	.80+3½%
MARBLE, TILE & TERRAZZO WORKERS: Galveston Co.	13.76	
Harris Co.	15.17	1.85
MARBLE, TILE & TERRAZZO FINISHERS	9.70	1.05
PAINTERS:		
EAST HARRIS COUNTY:		
GROUP 1-All brush,hand rolling & all other work other than that below	18.73	
GROUP 2-All pneumatic & elec. tools & steam cleaning	17.085	
GROUP 3-All tape & float on drywall	16.825	
GROUP 4-All paper & vinyl hanging	16.88	
GROUP 5 - All spray, sandblasting & waterblasting	17.125	
GROUP 6-Steeple jack work,hot materials	17.39	
REMAINDER OF HARRIS CO.		
GROUP 1-All brush,hand roller,steam cleaning, all pneumatic tools	13.095	1.815
GROUP 2-All spray,sandblasting,waterblasting	13.47	1.815
GROUP 3-Tape,float & drywall	13.22	1.815
GROUP 4-Steeple jack work,hot materials	13.72	1.815
PAINTERS (CONT'D):		
GALVESTON COUNTY:		
GROUP 1 - Painters on new work	$14.345	3.05
GROUP 2 - Painters on swinging stage work or using materials injurious to the skin	14.645	3.05
GROUP 3 - Painters on rework & repaint	13.59	3.05
PIPEFITTERS	16.20	2.03
PLASTERERS	15.20	1.69
PLUMBERS	17.51	1.65
ROOFERS:		
Composition	13.86	1.58
Slate & tile	14.61	1.58
Kettlemen	12.90	1.58
SHEET METAL WORKERS	15.26	1.87+3%
SOFT FLOOR LAYERS	14.40	1.56
SPRINKLER FITTERS	16.17	2.83
TRUCK DRIVERS:		
GROUP 1 - Under 1½ tons	$10.79	
GROUP 2 - 1½ thru 2½ tons;dump less 7 yds.	11.21	
GROUP 3 - Over 2½ tons	11.61	
POWER EQUIPMENT OPERATORS:		
GROUP 1	15.09	2.09
GROUP 2	13.23	2.09
GROUP 3	12.60	2.09
GROUP 4	12.39	2.09

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTE FOR ELEVATOR CONSTRUCTORS:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rate. Also Seven Paid Holidays A thru G

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
GROUP 1 - Heavy duty mechanic;blade grader,self-propelled;bull clam;back filler;derrick-powered(all types);clamshell;draglines;push cat;bulldozer & all types cat tractors;cableway;backhoe;shovel,power operated;crane,power operated(all types);elevating grader,self-propelled;hoist,motor-driven,two drums or more;mixmobile;water well drilling machines, used on construction; building elevator, used on construction;tug boat op.,assigned to construction; winch truck;locomotive crane;concrete mixer, 14 cu. ft. or more;paving mixer(all types);piledriver;scraper,heavy type,over 3 cu. yds.; trenching machine(all sizes);gradall;high-lift;foundation boring machine;gasoline or diesel-driven welding machines,7 or more;pumpcrete machine;turnapulls; DW-10 Caterpillar,S-18 euclid & similar tractors;asphalt plant mixer on job;crusher op. on job;scoopmobiles;forklift used on construction (not including warehousing);well point pump;concrete batch plant;pneumatic rollers, self-propelled.
GROUP 2 - Air compressors;blade grader,towed;flex plane;form grader;concrete mixer,less than 14 cu. ft.;pumps;pulsometer;truck crane driver;gasoline or diesel driven welding machines(on 3 or more, up to 6 machines);hoist,single drum;scraper,3 cu. yd. or less;wagon drill;conveyor;generator gasoline or diesel driven, over 1500 watts;rubber tired farm tractor with attachment; a light equipment op. may run 1 or 2 150 cfm compressors
GROUP 3 - Fireman
GROUP 4 - Oiler

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: TX82-4025
COUNTY: Brazos
DATE: Date of Publication in 46 FR 48857.
Supersedes Decision No. TX81-4076, dated 10/2/81,
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.20	2.71
BOILERMAKERS	16.35	2.315
BRICKLAYERS & STONEMASONS	15.95	2.15
CARPENTERS:		
Carpenters	12.80	
Millwrights	15.285	
CEMENT MASONS	15.20	2.13
ELECTRICIANS	14.715	1.08+12%
ELEVATOR CONSTRUCTORS:		
Mechanics	15.34	2.465+a
Helpers	70%JR	2.465+a
Helpers (Prob.)	50%JR	
GLAZIERS	13.39	1.575
IRONWORKERS	15.46	2.90
LABORERS:		
GROUP 1	6.30	1.00
GROUP 2	6.40	1.00
GROUP 3	6.50	1.00
GROUP 4	6.45	1.00
GROUP 5	6.55	1.00
GROUP 6	6.70	1.00
LINE CONSTRUCTION:		
Linemen & cable splicers	15.09	.80+3½%
Groundmen	8.75	.80+3½%
MARBLE, TILE & TERRAZZO WORKERS	15.17	1.65
PAINTERS:		
GROUP 1 - All brush, hand roller, steam cleaning, all pneumatic tools	13.095	1.815
GROUP 2 - All spray, sandblasting, waterblasting	13.47	1.815
GROUP 3 - Tape, float & drywall	13.22	1.815
GROUP 4 - Steeple jack work, hot materials	13.72	1.815
PIPEFITTERS	16.20	2.03
PLASTERERS	15.20	1.69
PLUMBERS	17.51	1.65
POWER EQUIPMENT OPERATORS:		
GROUP 1	15.09	2.09
GROUP 2	13.23	2.09
GROUP 3	12.60	2.09
GROUP 4	12.39	2.09
SHEET METAL WORKERS	$15.26	1.87+3%
SOFT FLOOR LAYERS	14.40	1.56
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.		

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTE FOR ELEVATOR CONSTRUCTORS
a - 1st 6 mos. - none; 6 mos. to 5 yrs 6%; over 5 yrs. - 8% of basic hourly rate; Seven Paid Holidays A thru G

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

DECISION NO. TX82-4025 PAGE 2

LABORERS CLASSIFICATION DEFINITIONS
GROUP 1 - Construction labor, including excavation, concrete work, reinforcing, mason handler & wheeler (stock pile), asphalt ironer & raker, pipe layer (non-metallic), pump crete pipe (handling & laying) & all building construction labor excepting that hereinafter classified;carpenters tender, cement masons tender, vibrator operator, other mechanic tender (except as otherwise classified); dumper & spotter
GROUP 2 - Air tool operator
GROUP 3 - Well driller
GROUP 4 - Cutting torch man; masun tender; mason handler & wheelers handling from first stock pile; concrete pipe (handling & laying); sand blaster; power buggy operator; plasterer tender & hod carrier; lather tender; well driller tender
GROUP 5 - Tool room tender; mortar mixer (hoe or otherwise); blaster, powder man; gunnite worker
GROUP 6 - Gunnite nozzleman
POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
GROUP 1 - Heavy duty mechanic; blade grader, self-propelled; bull clam; back filler; derrick - power operated (all types); clam shell; dragline; push cat; bulldozer & all types cat tractor; cable-way; backhoe; shovel, power operated; crane, power operated (all types); elevating grader, self-propelled; hoist, motor-driven, two drums or more; mix mobile; water well drilling machines, used on construction; building elevator, used on construction; tug boat operator, assigned to construction; winch truck; locomotive crane; concrete mixer, 14 cu. ft. or more; paving mixer (all types); pile driver; scraper, heavy type, over 3 cu. yds.; trenching machine (all sizes); gradall; high-lift; foundation boring machine; gasoline or diesel-driven welding machines, 7 or more; pumpcrete machine; turnapulls; DW-10 Caterpillar, S-18 euclid & similar tractors; asphalt plant mixer operator on job; crusher operator on job; scoopmobiles; forklift used on construction (not including warehousing); well point pump; concrete batch plant; pneumatic rollers, self-propelled
GROUP 2 - Air compressors; blade grader, towed; flex plane; form grader; concrete mixer, less than 14 cu. ft.; pumps; pulsometer; truck crane driver; gasoline or diesel driven welding machines (on 3 or more, up to 6 machines); hoist, single drum; scraper, 3 cu. yds. or less; wagon drill operator; conveyor; generator, gasoline or diesel driven, over 1500 watts; rubber tired farm tractor with attachments; a light equipment operator may run 1 or 2 105 cfm compressors
GROUP 3 - Fireman
GROUP 4 - Oiler

SUPERSEDEAS DECISION

DECISION NO. TX82-4027 PAGE 2

STATE: Texas COUNTY: Bexar

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Bexar
DECISION NO.: TX82-4027 DATE: Date of Publication
Supersedes Decision No. TX81-4078, dated 10/2/81, in 46 FR 48865.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$14.70	2.43
BOILERMAKERS	16.35	2.31+
BRICKLAYERS & STONEMASONS	13.28	1.27
CARPENTERS:		
Carpenters	12.50	2.13
Millwrights	12.80	2.13
CEMENT MASONS	12.72	1.15
ELECTRICIANS:		
Electricians	14.29	.60+6%
Cable splicers	14.54	.60+6%
ELEVATOR CONSTRUCTORS:		
Mechanics	13.43	2.465+a
Helpers	70%JR	2.465+a
Helpers (Prob.)	50%JR	
IRONWORKERS	12.55	2.87
LABORERS:		
GROUP 1 - General laborer	7.77	1.22
GROUP 2 - All power tools & equipment ops.; cutting torch man; power buggy op.; wagon drill; well driller; drilling rig tender; cement finisher tender; handling creosoted materials; scale man on batch plants; asphalt raker; concrete & clay & all non-metallic pipe laying; plasterer tender; brick tender; lather tender	8.02	1.22
GROUP 3 - Mortar mixer; grout machines; pumpcrete machines; gunnite mixing machines; running sand dryer & loading; operating sandblaster; bell hole man; blaster, powderman; gunnite nozzleman	8.27	1.22
LINE CONSTRUCTION:		
Lineman	14.63	.80+3½%
Cable splicer	14.+	"
Groundman	+.05	"

	Basic Hourly Rates	Fringe Benefits
MARBLE, TILE & TERRAZZO WORKERS	$12.2+	1.2+
MARBLE, TILE & TERRAZZO FINISHERS:		
Marble, tile & terrazzo	+.+2	
Floor machine operators	+.+2	
Base machine operators	+.+7	
PAINTERS:		
Brush; paperhanger; taper & floater; roller	10.65	.65
Brush on all structural steel; spray on any other surface other than steel	10.90	.65
PLUMBERS & PIPEFITTERS	15.93	1.73
ROOFERS:		
Roofers; deckman	9.24	.50
Kettlemen	8.19	.50
Waterproofers	8.69	.50
SHEET METAL WORKERS	+.87	2.09+3%
SPRINKLER FITTERS	16.17	2.83
POWER EQUIPMENT OPERATORS:		
GROUP 1	12.52	2.00
GROUP 2	11.15	2.00
GROUP 3	9.40	2.00
GROUP 4	9.02	2.00
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.		

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTE FOR ELEVATOR CONSTRUCTORS
a - 1st 6 mos. - none; 6 mos. to 5 yrs - 6%; over 5 yrs. - 8% of basic hourly rate. Also 7 Paid Holidays A thru G

Unlisted classification needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
GROUP 1 - All foundation drilling rigs; all rollers (5 tons or over); backfiller; backhoe; blade graders (self-propelled); bull clam; bulldozers; cableway; clamshell; crane (power operated, all types); derricks (power operated, all types); draglines; DW-10 caterpillar and similar tractors; elevating graders (self-propelled); euclid; fork lift used on construction; gasoline or diesel-driven welding machines (7 to 12); gradall; heavy duty mechanic; high lifts; hoist (two drums or more); locomotives; mixer (14 cu. ft. or over); mixmobile; paving mixers (all sizes); piledriver; pumpcrete machine; rock crusher on job; scoopmobile; scrapers; shovel, power operated; turnapulls; trenching machines (all sizes); winch truck
GROUP 2 - Air compressor (any time there are three or more attachments operating on a 125 cu. ft. air compressor or less, a light equipment operator shall be employed. Any compressor over 125 cu. ft. shall have a light equipment operator); blade graders (towed); building elevator used on construction; flex planes; form graders; hoist (single drum); mixer (less than 14 cu. ft.); pneumatic roller; pulsometers; pump (2½ or larger shall require a light equipment operator); three to six welding machines or any three pieces of equipment of equal or similar nature
GROUP 3 - Fireman
GROUP 4 - Oiler

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Bell, Bosque, Coryell, Falls, Hill & McLennan

DECISION NO.: TX82-4029

DATE: Date of Publication

Supersedes Decision No. TX81-4079, dated 10/2/81, in 46 FR 48867.

DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories).

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
ZONE 1-Bell,Coryell,Falls	$14.70	2.43
ZONE 2-Bosque,Hill, McLennan	14.71	2.475
BOILERMAKERS	16.35	2.315
BRICKLAYERS	13.45	1.28
CARPENTERS:		
ZONE 1 - Bell & Coryell:		
Carpenters	12.00	
Millwrights	12.25	
ZONE 2 - Remaining Cos.:		
Carpenters	11.42	.66
Millwrights	12.44	.66
CEMENT MASONS	12.69	1.15
ELECTRICIANS:		
ZONE 1-Bell(that part which is nearer to Waco than Austin but excl. that part of Ft. Hood, the boundary which presently is located approx. 2 miles inside the Bell Co. line & City of Killeen), Bosque,Coryell (except that part of Ft. Hood south of Cowhouse Creek),Falls,Hill & McLennan:		
Electricians	14.10	.82+3½%
Cable splicers	15.10	.82+3½%
ZONE 2-Bell(that part which is nearer to Austin than Waco & not to exceed more than 2 miles into Bell Co. from the SE boundary line of Coryell Co., Gray Field & City of Killeen) & Coryell(that part south of Cowhouse Creek):		
Electricians & cable splicers	15.60	.80+ 8-8/10%
ELEVATOR CONSTRUCTORS:		
Mechanics	12.87	2.33+a
Helpers	70%JR	2.33+a
Helpers (Prob.)	50%JR	

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits
GLAZIERS	$ 7.50	
IRONWORKERS	13.35	2.62
LABORERS:		
Unskilled	3.35	
Mason tender,mortar mix	3.55	
LINE CONSTRUCTION:		
ZONE 1-Bell(that part which is nearer to Waco than Austin but excl. that part of Ft. Hood boundary which presently located approx. 2 miles inside the Bell Co. line & City of Killeen),Bosque,Coryell (except part of Ft.Hood south of Cowhouse Creek),Falls,Hill & McLennan:		
Linemen	12.46	.60+8½%
Cable splicers	13.71	.60+8½%
Groundman	8.72	.60+8½%
Operators	13.08	.60+8½%
ZONE 2-Bell(that part which is nearer to Austin that Waco), & Coryell (south of Cowhouse Creek):		
Linemen	14.30	.60+8½%
Cable splicers	15.73	.60+8½%
Groundman	10.01	.60+8½%
Operators	15.02	.60+8½%
PAINTERS:		
GROUP 1 - Brush	9.40	.04
GROUP 2-Boiler pipe & steel,structural steel window jacks,roofs, stage work,smoke stack, water towers,boatswain chair	9.90	.04
GROUP 3-Ames tools for drywall	10.00	.04
GROUP 4-Spray work & self-feeding rollers	10.15	.04
GROUP 5-Steam cleaning sandblasting & hazardous work	10.50	.04
PLASTERERS	13.74	1.16

DECISION NO. TX82-4029 PAGE 2

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits
PLUMBERS & PIPEFITTERS:		
ZONE 1-McLennan Co. basic rate	$12.51	.99
ZONE 2-20 to 45 miles from McLennan Courthouse incl. towns of Temple, Marlin,Clifton,Hillsboro & Belton	13.01	.99
ZONE 3- All other areas	14.01	.99
ROOFERS:		
GROUP 1-Slate,tile,asbestos roofing & siding	6.93	.03
GROUP 2-Composition,built up,damp & waterproofing	6.80	.03
GROUP 3 - Kettlemen	5.10	.03
SHEET METAL WORKERS:		
ZONE 1-Within a radius of 20 miles from the McLennan Courthouse	12.13	1.58+3%
ZONE 2-Over 20 miles up to & incl. 45 miles	12.61	1.58+3%
ZONE 3-Over 45 miles	13.58	1.58+3%
SPRINKLER FITTERS	16.17	2.83
TRUCK DRIVERS	3.35	
POWER EQUIPMENT OPERATORS:		
GROUP 1	14.24	.85
GROUP 2	13.07	.85
GROUP 3	11.70	.85
GROUP 4	11.60	.85

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS

A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTE FOR ELEVATOR CONSTRUCTORS

a - 1st 6 mos.-none; 6 mos. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rate; Also seven paid holidays A thru G

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses(29 CFR, 5.5 (a)(1)(ii)).

INCIDENTAL PAVING & UTILITIES	Basic Hourly Rates
Asphalt Hesterman	$ 4.55
Asphalt Raker	5.55
Carpenter	6.50
Carpenter Helper	5.00
Concrete Finisher (Structures)	5.50
Conc. Finisher Helper(Structures)	4.25
Concrete Rubber	4.70
Electrician	9.00
Electrician Helper	5.90
Form Builder (Structures)	5.50
Form Builder Helper (Structures)	4.50
Form Setter (Structures)	5.00
Form Setter Helper (Structures)	4.40
Laborer, Common	4.10
Laborer, Utility Man	4.45
Mechanic	6.55
Oiler	5.50
Serviceman	4.75
Pipelayer - Bosque,Falls, Hill & McLennan Cos.	6.00
Pipelayer (Conc. & clay) - Bell & Coryell Cos.	6.00
Plumbers (Bell & Coryell):	
Zone 1 - 20 to 45 miles from McLennan Court House including towns of Temple & Belton	14.00
Zone 2 - all area not included in Zone 1	15.00
Reinforcing Steel Setter(Struc.)	5.85
Reinforcing Steel Setter Helper	5.00
Sign Erector	4.65
Spreader Box Man	4.80
Power Equipment Operators:	
Asphalt Distributor	5.65
Asphalt Paving Machine	5.25
Broom or Sweeper Operator	4.65
Bulldozer 150 HP & Less	5.15
Bulldozer over 150 HP	6.00
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	5.25
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY & Over)	6.50
Crusher or Screening Plant Op.	4.60
Front End Loader (2½ CY & Less)	5.15
Front End Loader (Over 2½ CY)	6.15
Motor Grader Operator,Fine Grade	7.00
Motor Grader Operator	5.50
Roller,Steel Wheel(Plant-Mix Pavements)	4.50
Roller, Steel Wheel(Other-Flat Wheel or Tamping)	4.95

DECISION NO. TX82-4029 PAGE 3

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Jefferson & Orange

INCIDENTAL PAVING & UTILITIES	Basic Hourly Rates
Power Equipment Ops. (Cont'd):	
Roller,Pneumatic(Self-Propelled)	$ 4.45
Scrapers (17 CY & Less)	5.10
Scrapers (Over 17 CY)	5.25
Tractor(Crawler Type)150 HP &Less	4.10
Tractor (Pneumatic) 80 HP & Less	4.65
Tractor (Pneumatic) over 80 HP	5.20

INCIDENTAL PAVING & UTILITIES	Basic Hourly Rates
Truck Drivers:	
Single Axle, Light	$ 4.65
Single Axle, Heavy	5.50
Tandem Axle of Semitrailer	5.60

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (BUILDING CONSTRUCTION)

GROUP 1 - Heavy duty mechanic; Blade grader, self-propelled; Crawler dozers or loaders; Derricks, power operated (all types); Dragline, Cableway; Backhoe; Cranes, power operated (all types); Elevating grader, self-propelled; Hoist, motor driven two drums or more; Mixmobile; High-lifts and loaders, over 1/3 cu. yd. capacity; Winch truck; Locomotive; Mixer, 14 cu. ft. or over; Paving mixer (all sizes); Scraper; Trenching machine (all sizes); Gradall; Foundation boring machine; Scoopmobile; Shovel, power operated; Pump crete machine; Rock crusher operated on job; Well points including installations; Riding compactor; Forklift over 1500 lbs. capacity; Flat wheel rollers (60" & over); Pneumatic rollers (10 tons & above)

GROUP 2 - Blade grader, towed; Flex plane; Form grader; Mixer, less than 14 cu ft ; Pulsometer; Conventional truck crane driver and oiler; Combination man; Hoist, single drum; Pneumatic roller; High-lift and loaders, 1/3 cu. yd. or less; Forklift, 1500 lbs. capacity or less

GROUP 3 - Fireman

GROUP 4 - Oiler

SUPERSEDEAS DECISION

STATE: Texas COUNTIES: Jefferson & Orange
DECISION NO.: TX82-4028 DATE: Date of Publication
Supersedes Decision No. TX82-4005, dated 1/29/82 in 47 FR 4465.
DESCRIPTION OF WORK: Building (including Residential) Projects

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
Jefferson County	$16.20	2.71
Orange County	16.75$	2.215
BOILERMAKERS	16.35	2.315
BRICKLAYERS & STONEMASONS	17.28	2.10
CARPENTERS:		
Carpenters - Commercial	15.67	1.765
Carpenters - residential const. of not more than 2 units & condominium townhouses of not more than 10 units excluding all apt. const. & multiple bldgs. for rental purposes	13.69	1.765
Millwrights	15.925	1.75
Piledrivermen	15.81	1.70
CEMENT MASONS	16.12	
ELECTRICIANS	17.70	1.135+3%
ELEVATOR CONSTRUCTORS:		
Mechanics	15.34	2.465+a
Helpers	70%JR	2.465+a
Helpers (Prob.)	50%JR	
GLAZIERS:		
Northern 1/2 Jefferson Co	13.90	.87
Southern 1/2 Jefferson Co & all of Orange Co.:		
Commercial	15.36	.87
Residential	11.95	.65
IRONWORKERS	14.80	2.95
LABORERS:		
GROUP 1	9.71	1.25
GROUP 2	9.91	1.25
GROUP 3	10.01	1.25
GROUP 4	10.16	1.25
LATHERS	15.67	1.765
LINE CONSTRUCTION:		
Linemen & cable splicers	18.24	.80+3-1/2%
Groundmen	13.32	"
PAINTERS:		
Southern 1/2 of Jefferson Co. & all of Orange Co.:		
COMMERCIAL:		
GROUP 1 - Brush,steel wood & wallpaperhanger	15.36	.87
GROUP 2 - Spray, roller,sandblaster, power cleaning,all time spent rigging; hot paint or creosote brush	$15.81	.87
GROUP 1 - Hot paint or creosote spray or roller	16.16	.87
RESIDENTIAL:		
Brush	11.95	.65
Paperhanger	12.20	.65
Spray	12.47	.65
Sandblaster,power cleaning	12.21	.65
North 1/2 Jefferson Co.:		
Brush	13.90	.87
Drywall	13.90	.87
Spray	14.32	.87
Paper & vinyl	14.15	.87
Sign	14.32	.87
Hand cleaning operation	13.90	.87
Power tool operations	14.32	.87
25¢ per hour above the prevailing wage rate when working on window sills or legde, swing stage, bosun chair,cat walks,spider & skates in all classifications		
PIPEFITTERS	16.17	2.02
PLASTERERS	15.20	1.69
PLUMBERS	15.71	.99
POWER EQUIPMENT OPERATORS		
GROUP 1	16.735	.75
GROUP 2	14.11	.75
GROUP 3	12.99	.75
GROUP 4	12.74	.75
ROOFERS:		
Composition	13.86	1.58
Slate & tile	14.61	1.58
Kettlemen	12.90	1.58

	Basic Hourly Rates	Fringe Benefits
SHEET METAL WORKERS:		
Commercial	$14.48	1.87+3%
Work on a single family dwelling or multiple family housing unit less than 3 stories in height where each individual family apt. is individually conditioned by a separate & independent unit or system	9.41	1.87+3%
SPRINKLER FITTERS	16.17	2.83
TILE SETTERS	15.77	2.10
TRUCK DRIVERS:		
GROUP 1 - Under 1-1/2 ton	12.60	.79
GROUP 2 - 1-1/2 tons thru 2-1/2 tons	13.39	.70
GROUP 3 - Dump truck less than 7 yds.	$13.39	.79
GROUP 4 - Over 2-1/2 tons; euclids (not self-loading)	13.68	.79

WELDERS-receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTE FOR ELEVATOR CONSTRUCTORS
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rate; Also seven paid holidays A thru G

LABORERS CLASSIFICATION DEFINITIONS
GROUP 1 - All hand digging & dirt work;backfilling;loading & unloading of material to & from hoist or cages;loading & unloading of tools & equip.; handling of lumber,steel,cement;distribution of materials;wrecking & razing of bldgs. & struc.; storing materials & tools in & out of receiving lots & sheds;dumper;spotter; carpenter tender & all construction work not hereinafter classified
GROUP 2 - Air power tool op.;cutting torch op.;gunnite rebound man;machine ops.; power buggy;sandblaster(potmen);drill tenders;concrete grademen;wagon drill op.; metal pan & steel form men
GROUP 3 - Conc. burner;cement mason tender;hod carrier;mortar mixers,plaster tenders & brick mason tenders;pipelayer,pumpcrete nozzlemen;scaffold builder;water pump op.;tank cleaning;all pipe cleaning & wrapping;mortar & plaster mixing machines,grout machines;pumpcrete machines;gunnite mixing machines,incl. placing & cleaning of all pipe & conduits used in placing of conc.
GROUP 4 - Powdermen & blasters;sandblaster;gunnite workers;terrazzo grinders

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
GROUP 1 - Heavy duty mechanic;Blade grade,self-propelled;Bullclam;Backfiller; Derrick,power operated,all types;Dragline;Push cat;Bulldozer & all types of cat tractors;Cableway;Backhoe;Shovel;Cranes,power operated,all types;Elevating grader,self-propelled;Hoist-motor driven,two drum or more;Mixmobile;Winch truck; Locomotive crane;Mixer,14 cu. ft. or more;Paving mixer,all sizes;Piledrivers; Scraper-heavy type,over 3 cu. yds.;Trench machine,all sizes;Gradeall;High-lift; Foundation boring machines;Gasoline or diesel driven welding machines-7 to 12 machines;Pumpcrete machine;Drill op.-Water well; DW-10 euclid;Tournapulls;Asphalt plants;crushing machine & Batch plants;Scoopmobiles;Fingerlift op.; Elevator when used to haul men or material on const. work;Well point system & operation of similar dewatering devices
GROUP 2 - Air compressor;Blade grade-towed; Flex plane;Form grader;Mixer,less than 14 cu. ft.;Pump,Pulsometer;Truck crane driver;Gasoline or diesel welding mach., 3 to 6 machs.;Hoist,single drum;Scraper,3 cu. yds. or less;Conveyors,power op.
GROUP 3 - Fireman
GROUP 4 - Oiler

[FR Doc. 82-16223 Filed 6-17-82; 8:45 am]
BILLING CODE 4510-30-C

federal register

Friday
June 18, 1982

Part III

Department of Labor

Occupational Safety and Health Administration

Occupational Exposure to Lead; Deferral of Effective Date

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-004G]

Occupational Exposure to Lead; Deferral of Effective Date

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice of deferral of effective date.

SUMMARY: This notice defers the effective date of paragraphs (e)(3)(ii) (B) and (E) of the lead standard (§ 1910.1025) for the primary and secondary lead smelting industries and the battery manufacturing industry, until August 30, 1982. The action is necessary to provide the additional time needed by the Agency to consider the appropriateness of the proposed administrative stay of these provisions pending the reconsideration of the lead standard. The proposed administrative stay appears in today's **Federal Register**.

DATES: The effective date is deferred until August 30, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, Room N–3641, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone: (202) 523–8148.

SUPPLEMENTARY INFORMATION: The lead standard (29 CFR 1910.1025) requires, among other things, that employers establish and implement a written compliance program to reduce employee exposures to or below the permissible exposure limit (or the interim level) by means of engineering and work practice controls in accordance with the implementation schedule found in paragraph (e)(1) of the standard (§ 1910.1025(e)(3)(i)). For three industries, the primary and secondary smelting of lead and battery manufacturing, the date by which the written compliance plan must be completed and available to the Agency is June 29, 1982.

OSHA is currently undertaking a thorough reconsideration of the lead standard which will be directed, among other objectives, at improving the cost-effectiveness of the standard. Aware of the lead reconsideration, several representatives of the primary and secondary smelting and battery manufacturing industries have petitioned OSHA to issue an administrative stay of paragraphs (e)(3) and (r)(7) (B) and (C) pending the outcome of the reconsideration.

In view of OSHA's reconsideration of the lead standard, which may affect the provisions of the standard with respect to the use of engineering controls, the agency agrees that to require the commitment of substantial resources to establish a comprehensive compliance program under the existing standard would not be appropriate and should be deferred pending the outcome of the reconsideration. Therefore, OSHA proposes to stay the requirements of 29 CFR 1910.1025(e)(3)(ii) (B) and (E), which would require costly engineering plans and studies as well as detailed compliance schedules with specific evidence that the schedule is being implemented. However, OSHA also believes that the development of more general compliance plans, which will necessitate an evaluation by employers of their current operations and available data and encourage the development of general options and strategies for compliance, is not premature, will assist both the industry and OSHA in realistically assessing methods for eventual compliance, and will not involve significant resource commitments. A separate document effecting the proposed administrative stay is being published in today's **Federal Register**.

Since some of the requests were received by OSHA as recently as April 26, 1982, since adequate consideration and review of such petitions requires careful examination prior to agency action, and since the compliance date would otherwise be due before the end of the comment period and before the decisionmaking could be completed on the matter, a temporary stay deferring the effective date of these sections is hereby issued until August 30, 1982. This action should allow adequate time for the comment period and for the decisionmaking without frustrating the very purposes of this regulatory effort. Due to the short deferral period, notice and opportunity for public comment on the deferral is impractical and unnecessary under 5 U.S.C. 533 and 29 U.S.C. 655(b).

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, D.C. 20210. It is issued pursuant to sections 6(b) and 8(g) of the Occupational Safety and Health Act (84 Stat. 1593, 1599, 29 U.S.C. 655, 657), 5 U.S.C. 553, Secretary's Order No. 8–76 (41 FR 25059), and 29 CFR Part 1911.

Signed at Washington, D.C. this 15th day of June, 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82-16536 Filed 6-17-82; 8:45 am]

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Friday
June 18, 1982

Part IV

Department of Labor

Occupational Safety and Health Administration

Occupational Exposure to Lead; Proposed Administrative Stay

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-004G]

Occupational Exposure to Lead; Proposed Administrative Stay

AGENCY: Occupational Safety and Health Administration, (Labor).

ACTION: Proposed Administrative Stay.

SUMMARY: OSHA is proposing to administratively stay paragraphs (e)(3)(ii)(B) and (E) of the lead standard (§ 1910.1025) for the primary and secondary lead smelting industries and the battery manufacturing industry. The outcome of the current reconsideration of the lead standard may render unnecessary some or all of the expenditures required by these provisions. A stay pending the reconsideration would prevent such inequities without adversely affecting worker health.

DATES: Data, views, and arguments regarding this proposed stay are invited and must be received by July 19, 1982.

ADDRESSES: Comments should be sent to Docket Officer, Docket H-004G, Room S-6212, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, Room N-3641, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone: (202) 523-8148.

SUPPLEMENTARY INFORMATION: The lead standard (29 CFR 1910.1025) requires, among other things, that employers establish and implement a written compliance program to reduce employee exposures to or below the permissible exposure limit (or the interim level) by means of engineering and work practice controls in accordance with the implementation schedule found in paragraph (e)(1) of the standard (§ 1910.1025(e)(3)(i)).

For three industries, the primary and secondary smelting of lead and battery manufacturing, the date by which the written compliance plan must be completed and available to the Agency is June 29, 1982. The original standard required a much earlier startup date which was delayed by successive judicial stays pending appellate litigation. (*United Steelworkers of America* v. *Marshall*, 647 F. 2d 1189 (1980), *cert. denied*, 101 S. Ct. 3148 (1981).) The lead standard was affirmed for these three industries by the D.C. Circuit and petitions for *certiorari* were denied by the Supreme Court on June 29, 1981, thus lifting the earlier stay which had been granted by the Supreme Court. June 29, 1981, is therefore the "effective date" of the standard for the purpose of calculating startup dates for the portions of the standard that were affected by the Supreme Court stay. Since paragraphs (r)(7)(B) and (C) of § 1910.1025 require compliance plans in the primary and secondary smelting and battery manufacturing industries to be completed within one year of the effective date, the compliance date for these three industries with regard to paragraph (e)(3) of the standard is June 29, 1982.

The purpose of the written plan is summarized in the November 14, 1978, preamble to the lead standard (43 FR 52952):

> This plan is required primarily to promote systematic and rational compliance by employers and to assist OSHA in its enforcement function by enabling compliance personnel to monitor employers' compliance activities. (p. 52991).

In order to comply with this requirement, an employer would need to conduct an industrial hygiene survey, icluding environmental sampling, to identify sources of lead exposure and then devise methods to reduce exposure to within permissible limits. Such a plan must include certain costly elements such as a description of the specific means that will be employed to achieve compliance with the permissible exposure limit, including engineering plans and studies and a detailed schedule for implementation of the program, including documentation such as copies of purchase orders for equipment, construction contracts, etc.

Obviously, completion of these elements involves development of extensive information about specific means of implementing engineering controls. It also necessitates the expenditure of substantial monies to obtain the information through engineering studies, and the likely contractual obligation of even larger sums for construction and implementation of engineering controls under the provisions of paragraph (e)(3)(ii)(B) and (E).

OSHA is currently undertaking a thorough reconsideration of the lead standard which will be directed, among other objectives, at improving the cost-effectiveness of the standard. Cost-effectiveness analysis will be applied to the control technologies to be used by an industry to meet particular health goals. If an outcome of this reconsideration is a modification in the mix of engineering controls and personal protective equipment required to meet the permissible exposure limit, such an action would clearly result in major changes in the employers' compliance programs.

Aware of the lead reconsideration, several representatives of the primary and secondary smelting and battery manufacturing industries have petitioned OSHA to issue an administrative stay of paragraphs (e)(3) and (r)(7)(B) and (C) pending the outcome of the reconsideration. These petitioners and the industries they represent are as follows:

(1) Battery Council International (BCI) representing the battery manufacturing industry;

(2) St. Joe Lead Company (St. Joe) representing the primary lead smelting industry;

(3) Lead Industries Association, Inc. (LIA) representing all three industries;

(4) ASARCO representing the primary and secondary lead smelting industries; and

(5) Secondary Lead Smelters Association (SLSA) representing the secondary lead smelting industry.

Petitioners argue that without such relief they will be compelled to make substantial expenditures to complete projects which OSHA's decision following reconsideration of the lead standard may render totally unnecessary. If such is the case, petitioners argue that it is inefficient and wasteful to require employers to expend a significant amount of their limited resources in an attempt to comply with requirements which may never be applicable. Petitioners further point out that the Agency has already recognized the type of inequities and waste that, absent a stay, would occur. In the Revised Supplemental Statement published December 11, 1981 (46 FR 60758, at 60761) the Agency stated, "If prior to such a reconsideration affected employers are required to implement the policies being reexamined, the purposes of any resulting agency action may be frustrated."

Petitioners further argue that the imposition of such a stay would not adversely affect the health of employees whose blood lead levels have recently been, and continue to be, reduced by a combination of control methods and hygiene practices which will remain in effect pending the reconsideration. Currently, OSHA requires that the PEL of 50 $\mu g/m^3$ be achieved through some combination of engineering, work

practice and respiratory protection controls.

In view of OSHA's reconsideration of the lead standard, which may affect the provisions of the standard with respect to the use of engineering controls, the agency agrees that to require the commitment of sustantial resources to establish a comprehensive compliance program under the existing standard would not be appropriate and should be deferred pending the outcome of the reconsideration. Therefore, OSHA proposes to stay the requirements of 29 CFR 1910.1025(e)(3)(ii) (B) and (E), which would require costly engineering plans and studies as well as detailed compliance schedules with specific evidence that the schedule is being implemented. However, OSHA also believes that the development of more general compliance plans, which will necessitate an evaluation by employers of their current operations and available data and encourage the development of general options and strategies for compliance, is not premature, will assist both the industry and OSHA in realistically assessing methods for eventual compliance, and will not involve significant resource commitments. Additionally, the proposed stay is limited in scope. The stay would not affect the required PEL of 50 $\mu g/m^3$ currently being enforced by OSHA. Industry has been required for over three years to meet the PEL by a combination of engineering work practice and respiratory protection controls. OSHA has much evidence that over this period worker blood leads have declined significantly and continue to decline—a fact that can be attributed to industry compliance and OSHA enforcement efforts. Therefore worker protection will not be adversely affected by such a stay.

Interested parties are invited to submit written data, views, and arguments with respect to this proposed administrative stay, including particularly the scope of the proposed stay and whether other provisions of paragraph (e)(3) should be included. These comments must be received on or before July 19, 1982, and must be submitted in quadruplicate to the Docket Officer, Docket H–004G, Room S–6212, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

All data, views, and arguments that are received will be available for public inspection and copying at the above address. All timely submissions received will be made a part of the record of this proceeding and will be considered in making a determination on this proposed stay.

Since some of the requests were received by OSHA as recently as April 26, 1982, since adequate consideration and review of such petitions requires careful examination prior to agency action, and since the compliance date would otherwise be due before the end of the comment period and before the decisionmaking could be completed on the matter a temporary stay on these sections is being issued until August 30, 1982. This action should allow adequate time for the comment period and for the decisionmaking without frustrating the very purposes of this regulatory effort. A separate document effecting the temporary stay is being published concurrently in the "Rules and Regulations" section of the **Federal Register.**

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, D.C. 20210. It is issued pursuant to sections 6(b) and 8(g) of the Occupational Safety and Health Act (84 Stat. 1593, 1599, 29 U.S.C. 655, 657), 5 U.S.C. 553, Secretary' Order No. 8–76 (41 FR 25059), and 29 CFR Part 1911.

Signed at Washington, D.C. this 15th day of June 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82–16536 Filed 6–17–82; 8:45 am]

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Friday
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Part V

Environmental Protection Agency

Grants and Cooperative Agreements Assistance Programs; General Regulations

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 30

[AAA-FRL-2043-2]

General Regulation for Assistance Programs

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule with request for comments.

SUMMARY: EPA is proposing major changes to its general assistance regulation governing grants and cooperative agreements. The proposed regulation includes only those assistance requirements which are mandated by statute, Office of Management and Budget (OMB) Circulars, or which are necessary for effective program management. The proposed regulation also implements the Federal Grant and Cooperative Agreement Act and Executive Order 12291.

DATE: Comments must be received on or before July 19, 1982.

ADDRESS: You should submit your comments (in duplicate, if possible) to: Central Docket Section (A–130), Environmental Protection Agency, Docket No. G–80–01, 401 "M" Street, SW., Washington, D.C. 20460.

Docket No. G–80–01 contains material relevant to this rulemaking and is located in the U.S. Environmental Protection Agency, Central Docket Section, Room 2902, 401 ""M" SW., Washington, D.C. 20460. You may inspect the docket between 8 a.m. and 4 p.m. on weekdays; we may charge a reasonable fee for copying.

FOR FURTHER INFORMATION CONTACT: John P. Davey, Grants Policy Specialist, Grants Policy and Procedures Branch, Grants Administration Division (PM–216), 401 "M" Street, SW., Washington, D.C. 20460, (202) 755–0860.

SUPPLEMENTARY INFORMATION: On April 8, 1980, 45 FR 23706, EPA published an "Advance Notice of Proposed Rulemaking" (ANPR) in the **Federal Register** and a request for comments on recommended changes to our general regulation governing grants and cooperative agreements. We also announced our intent to modify the regulation to reflect the Federal Grant and Cooperative Agreement Act. At the same time, we intended to make other changes necessary to implement Executive Order 12044 by using plain English and reviewing for unnecessary or burdensome requirements. We therefore requested public comments as to the readability of the regulation and suggestions for areas which require clarification.

Subsequent to the ANPR, President Reagan issued Executive Order 12291 which replaced Executive Order 12044. It required all Federal departments and agencies to review their regulations and to reduce the burden of those regulations. Therefore, this regulation includes only items mandated by law, those required by OMB Circulars, and certain additional minimum requirements that EPA considers necessary for sound and effective financial assistance management. We have eliminated from this regulation most of the detailed procedures directing recipients of EPA assistance how to comply with specific requirements. Also, we have reduced considerably the EPA internal operating procedures. Further, we will not repeat or summarize requirements contained in other EPA regulations. We will simply reference those requirements.

In conjunction with this effort to simplify these requirements, EPA will issue appropriate guidance documents. These guidance documents will not be regulations in disguise. The guidance materials will contain information which is helpful to recipients in managing and carrying out EPA's assistance programs. Use of the information in the guidance documents will be discretionary. That is, other procedures adopted by recipients which are sufficient to meet the requirements of the revised regulation will be acceptable. In your comments, please address priority areas which will require additional guidance.

The following table shows the relationship between the current Part 30 and the revised Part 30. In some cases, the proposed sections will not include all provisions of the current sections.

Current section and current title	Proposed section
30.100 Purpose	30.100.
30.101 Authority	30.101.
30.105 Applicability and scope	30.100.
30.110 Publication	Deleted.
30.115 Copies	Deleted.
30.120 Citation	Deleted.
30.125 Public comment	Deleted.
30.130 Grant information	30.302.
30.135 Definitions	30.200.
30.135–1 Administrator	Deleted.
30.135–2 Agency	Deleted.
30.135–3 Allowable costs	30.200.
30.135–4 Applicant	30.200.
30.135–5 Budget	Deleted.
30.135–6 Budget period	30.200.
30.135–7 Educational institution	Deleted.
30.135–8 Eligible costs	Deleted.
30.135–9 Federal assistance	Deleted.
30.135–10 Grant	Deleted.
30.135–11 Grant agreement	30.200.
30.135–12 Grant approving official	Deleted.
30.135–13 Grant award official	30.200.
30.135–14 Grantee	Deleted.
30.135–15 In-kind contribution	30.200.
30.135–16 Nonprofit organization	Deleted.
30.135–17 Project	30.200.
30.135–18 Project costs	30.200.
30.135–19 Project officer	30.200.
30.135–20 Project period	30.200.
30.135–21 Regional Administrator	Deleted.
30.135–22 Subagreement	30.200
Subpart A—Basic Policies	
30.200 Grant simplification goals and policy	Deleted.
30.205 Role of EPA	30.100.
30.210 Role of the grantee	30.300.
30.215 Records of grant actions	30.500.
30.220 Consolidated grants	30.200.
30.225 Foreign grants	30.200.
30.225–1 Clearance requirements	Deleted.
30.225–2 Criteria for award	Deleted.
30.225–3 Allowability of costs	Deleted.
30.225–4 Payments	Deleted.
30.230 Grants administration review	Deleted.
30.235 Disclosure of information	30.304.
30.245 Fraud and other unlawful or corrupt practices.	30.610
Subpart B—Application and Awards	
30.300 Preapplication procedures	Deleted.
30.305 A–95 procedures	App. A.
30.305–1 Specific areas of clearinghouse evaluation.	Deleted.
30.305–2 Notification of intent (A–95, Part 1)	App. A.
30.305–3 Time limitations	App. A.
30.305–4 EPA processing	Deleted.
30.305–5 Programs requiring state plans and jointly funded projects (A–95, Part III).	App. A.
30.305–6 Coordination of planning in multi-jurisdictional areas (A–95, Part IV).	App. A.
30.305–7 Confidential information	Deleted.
30.305–8 Specific requirements for the Construction Grant Program.	App. A.
30.310 Unsolicited proposal	30.302.
30.315 Application requirements	Deleted.
30.315–1 Signature	30.303.
30.315–2 Forms	Deleted.
30.315–3 Time of submission	Deleted.
30.315–4 Place of submission	Deleted.
30.320 Use and disclosure of information	30.304.
30.325 Evaluation of application	Deleted.
30.330 Supplemental information	Deleted.
30.335 Criteria for award of grant	Deleted.
30.340 Responsible grantee	30.301.
30.340–1 General policy	Deleted.
30.340–2 Standards	30.301.
30.340–3 Determination of responsibility	30.301.
30.345 Award of grant	30.305.
30.345–1 Amount and terms of grant	Deleted.
30.345–2 Federal share	Deleted.
30.345–3 Grant agreement	30.305.
30.345–4 Cost incurred prior to execution	30.306.
30.345–5 Effect of grant award	Deleted.
30.350 Limitation on award	Deleted.
30.355 Continuation grants	30.306
Subpart C—Other Federal Requirements	
30.400 General grant conditions	Deleted.
30.405 Statutory conditions	30.601.
30.405–1 National Environmental Policy Act	30.601(a).
30.405–2 Uniform Relocation Assistance and Real Property Acquisition Policies Act.	30.601(h).
30.405–3 Civil Rights Act of 1964	30.601(e).
30.405–4 Federal Water Pollution Control Act Amendments of 1972, Section 13.	30.601(d).
30.405–5 Title IX of the Education Amendments of 1972.	Deleted.
30.405–6 Hatch Act	30.601(j)
30.405–7 National Historic Preservation Act	30.601(a).
30.405–8 Public Law 93–291	30.601(a).
30.405–9 Demonstration Cities and Metropolitan Development Act.	30.601(b).
30.405–10 Flood Disaster Protection Act	30.601(b).
30.405–11 Clean Air Act, Section 306	30.601(c).
30.405–12 Federal Water Pollution Control Act, Section 508.	30.601(d).
30.410 Executive Orders	30.601.
30.410–1 Executive Order 11246	30.601(e).
30.410–2 Executive Order 11988	30.601(a) & (b).
30.410–3 Executive Order 11514	30.601)(a).
30.410–4 Executive Order 11738	30.601(c) & (d).
30.410–5 Executive Order 11990	30.601(a).
30.415 Additional requirements—federally assisted construction.	30.603.
30.415–1 Davis-Bacon Act	30.603(a).
30.415–2 The Copeland Act	30.603(b).

Current section and current title	Proposed section
30.415–3 The Contract Work Hours and Safety Standards Act.	30.603(c).
30.415–4 Convict labor	Deleted.
30.420 Additional requirements—all EPA grants.	Deleted.
30.420–1 Prohibition against contingent fees	30.611.
30.420–2 Officials not to benefit	30.613.
30.420–3 Prohibition against violating facilities.	30.601.
30.420–4 Conflict of interest	30.612.
30.420–5 Employment practices	Deleted.
30.420–6 Conservation and efficient use of energy.	Deleted.
30.425 Special conditions	30.200(c).
30.430 Noncompliance	30.900
Subpart D—Patents, Data and Copyrights	
30.500 General	30.1100.
30.502 Definitions	Deleted.
30.505 Required provision regarding patent and copyright infringement.	App. B.
30.510 Patents and inventions	30.1101.
30.515 Required patent provision	Deleted.
30.520 Optional patent provision	App. B.
30.525 Data and copyrights	App. C.
30.530 Required data and copyright provision.	Deleted.
30.540 Deviations	30.1104
Subpart E—Administration and Performance of Grants	
30.600 General	Deleted.
30.605 Access	30.502.
30.610 Rebudgeting of funds	Deleted.
30.615 Payment	Deleted.
30.615–1 Method of payment	30.400.
30.615–2 Cash depositories	30.400.
30.615–3 Withholding of funds	30.902.
30.615–4 Assignment	30.405.
30.620 Grant-related income	30.525.
30.620–1 Proceeds from sale of real or personal property.	30.525.
30.620–2 Royalties received from copyrights and patents.	30.525.
30.620–3 Interest earned on grant funds	30.526.
30.625 Grantee publications and publicity	30.515.
30.625–1 Publicity	Deleted.
30.625–2 Publications	30.516.
30.625–3 Signs	30.515.
30.630 Surveys and questionnaires	30.515.
30.635 Reports	30.515.
30.635–1 Interim progress reports	30.505.
30.635–2 Final report	30.505.
30.635–3 Financial reports	30.505.
30.635–4 Invention reports	30.505.
30.635–5 Property reports	30.505.
30.635–6 [reserved]	
30.635–7 Compliance	Deleted.
30.640 Utilization of Government procurement sources.	30.536.
30.645 Force account work	30.520
Subpart F—Project Costs	
30.700 Use of funds	Deleted.
30.705 Allowable costs	30.410.
30.705–1 Payment to consultants	Deleted.
30.710 Federal Cost principles	30.410.
30.715 Direct and indirect costs	30.412.
30.715–1 Direct costs	30.412.
30.715–2 Indirect costs	30.412.
30.720 Cost sharing	30.307.
30.725 Cost and price analysis	Deleted.
30.725–1 Policy	Deleted.
30.725–2 Price analysis	Deleted.
30.725–3 Cost analysis	Deleted.
30.725–4 Requirements	Deleted.
Subpart G—Grantee Accountability	
30.800 Financial management	510.
30.805 Records	30.500.
30.810 Property	30.531.
30.810–1 Definitions	30.200.
30.810–2 Purchase of property	30.530.
30.810–3 Property management standards	30.531.
30.810–4 Title to property	30.530.
30.810–5 Real property	30.535.
30.810–6 Federally-owned nonexpendable personal property.	30.536.
30.810–7 Nonexpendable personal property acquired with Federal funds.	30.532.
30.810–8 Expendable personal property acquired with grant funds.	30.532.
30.810–9 Property reports	Deleted.
30.815 Final settlement	30.802.
30.820 Audit	30.540
Subpart H—Modification, Suspension and Termination	
30.900 Project changes and grant modifications.	30.700.
30.900–1 Formal grant amendments	30.701.
30.900–2 Administrative grants changes	Deleted.
30.900–3 Transfer of grants; change of name agreements.	Deleted.
30.900–4 Grantee project changes	Deleted.
30.915 Suspension of grants—stop-work orders.	30.901.
30.915–1 Use of stop-work orders	Deleted.
30.915–2 Contents of stop-work orders	Deleted.
30.915–3 Issuance of stop-work order	Deleted.
30.915–4 Effect of stop-work order	30.901.
30.915–5 Disputes provision	Deleted.
30.920 Termination of grants	30.903.
30.920–1 Termination agreement	Deleted.
30.920–2 Project termination by grantee	Deleted.
30.920–3 Grant termination by EPA	Deleted.
30.920–4 Effect of termination	30.905.
30.920–5 Annulment of grant	30.904
Subpart I—Deviations	
30.1000 General	Deleted.
30.1000–1 Applicability	30.1100.
30.1000–2 Request for deviation	30.1002.
30.1000–3 Approval od deviation	30.1004
Subpart J—Disputes	
30.1100 Final Disputes decision	30.1200.
30.1105 Grantee appeal	30.1200.
30.1115 Rights of the grantee and the government.	30.1205.
30.1120 Decision of the Administrator	30.1210.
30.1125 Questions of law	Deleted.
30.1130 Delegation of authority	Deleted.
30.1150 Appeal procedures	Deleted.
Appendix A—General Grant Conditions	Deleted.
Appendix B—Patents and Inventions	Deleted.
Appendix C—Rights in Data and Copyrights	App. C

Summary of Major Changes

Federal Grant and Cooperative Agreement Act

Pub. L. 95–224, the Federal Grant and Cooperative Agreement Act of 1977, 41 U.S.C. 501 *et seq.*, and the implementing guidance and study issued by OMB, underline the need for providing uniform and consistent requirements for all assistance programs. A fundamental element of uniform and consistent requirements is clear language and word usage. Therefore, throughout this document, we use the terminology introduced in the Federal Grant and Cooperative Agreement Act; "assistance agreement" is substituted for "grant," and "recipient" is substituted for "grantee."

In line with the recommendations in OMB's report on Pub. L. 95–224, we are also proposing a question/answer format designed to make the regulation more readable and understandable and to lead a new applicant through the entire assistance process. We specifically request public comment as to the readability of the proposed rule and suggestions for areas which need further clarification.

Patent Rights

Public Law 96–517, enacted December 12, 1980, and OMB Circular A–124, (47 FR 7556), permit small business firms and nonprofit organizations, including universities, to elect to retain title to any invention within a reasonable time after disclosure. If the small business firm or nonprofit organization retains title, the Federal Government has a nonexclusive, nontransferable, irrevocable, paid-up license to use the invention throughout the world. These new provisions have been incorporated into the proposed Subpart K of Part 30.

Property Management

Our experiences indicated a need to strengthen our property management standards and to manage better the acquisition of new property and equipment. Therefore, we have added section 30.530 which requires award officials to approve the purchase of all property and equipment with a unit acquisition cost of $5,000 or more. EPA will review those large purchases considering all alternatives, including transferring excess property from one recipient to another.

Peer Review for Publications

EPA Order 2200.4 (December 28, 1981) establishes a peer review process for scientific, informational and educational documents attributable to EPA. The purpose of this review process is to protect the technical and scientific quality of these materials and ensure that they are based on the best scientific and technical evidence available. Section 30.518 requires that recipients of EPA assistance comply with this order. At your request, EPA will provide you a copy of ERA Order 2200.4. Contact John Davey for your copy at (202) 755–0860.

Debarment

EPA has eliminated the provision under which we find a recipient "nonresponsible" for failing to comply with its assistance agreement. We now refer to EPA's proposed debarment regulation, 40 CFR Part 32 (47 FR 7194). Under Part 32, EPA may debar an individual, agency or organization, thereby making them ineligible to receive EPA assistance or contracts under assistance awards.

Regulation Development

Under Executive Order 12291, EPA is required to determine if this is a major rule. EPA has determined that this is not a major rule. This rule will not have a substantial impact on the Nation's economy or large numbers of individuals or businesses. There will be no major

increase in cost or prices for consumers, individuals, industries, Federal, State or local government agencies. This rule was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* (the Act), the reporting and recordkeeping provisions that are included in this proposed rule will be submitted for approval to the Office of Management and Budget under section 3504(h) of the Act. Any final rule will include an explanation of how the reporting or recordkeeping provisions reflect comments from OMB and the public.

The programs listed in the Catalog of Federal Domestic Assistance that must comply with this regulation and all applicable requirements of the OMB Circular A-95 are those found in the Table in Appendix A, paragraph 3.

List of Subjects in 40 CFR Part 30

Administrative practice and procedure, Copyright, Environmental protection, Grant programs—Environmental protection, Inventions and patents, Reporting and recordkeeping requirements.

Dated: June 14, 1982.

Anne M. Gorsuch,

Administrator.

For the reasons set forth in the preamble, EPA proposes to revise 40 CFR Part 30 to read as follows:

PART 30—GENERAL REGULATION FOR ASSISTANCE PROGRAMS

Subpart A—What Is the Purpose and Scope of This Regulation?

Sec.
30.100 What is the purpose of this regulation?
30.101 What is the scope of this regulation?
30.102 What laws authorize EPA to issue this regulation?

Subpart B—What Definitions Apply to This Regulation?

30.200 What definitions apply to this regulation?

Subpart C—How do I Apply for and Receive Assistance?

30.300 What activities does EPA fund?
30.301 To whom does EPA award assistance?
30.302 How do I apply for assistance?
30.303 What steps must I take before I file a standard application?
30.304 Is the information I submit to EPA confidential?
30.306 How do I find out if EPA has approved or disapproved my application?
30.308 How long will I have to complete my project?
30.307 How much must I contribute to the funding of my project?
30.308 When may I begin incurring costs?
30.309 What is the effect of accepting an assistance agreement?

Subpart D—How does EPA Pay Me?

30.400 How does EPA make payments?
30.405 Can I assign my payments to anyone else?
30.410 How does EPA determine allowable costs?
30.412 How are costs categorized?

Subpart E—How do I Manage my Award?

30.500 What records must I maintain?
30.501 How long must I keep these records?
30.502 To whom must my contractors and I show these records?
30.505 What reports must I submit?
30.510 What type of financial management system must I maintain?
30.515 What restrictions on signs, surveys and questionnaires must I observe?
30.518 Are there any restrictions on publishing scientific, informational and educational documents?
30.520 When may I use my own employees ("force account")?
30.525 How should I treat program income?
30.526 How do I treat interest earned on EPA funds?
30.530 May I purchase property or equipment using EPA assistance funds?
30.531 What property management standards must I follow for personal property purchased with an EPA award?
30.532 How do I dispose of personal property?
30.535 May I purchase real property with EPA-awarded funds?
30.536 How do I manage Federally-owned property?
30.538 May I use General Services Administration (GSA) supplies and services?
30.540 Will EPA audit my project?

Subpart F—What Other Federal Requirements Must I Comply With?

30.601 What Federal laws and policies affect my award?
30.603 What additional requirements apply to EPA-assisted construction projects?
30.610 What are my responsibilities for preventing and detecting fraud and other corrupt practices?
30.611 Can I hire a person or agency to solicit EPA assistance for me?
30.612 May an EPA employee act as my representative?
30.613 What is EPA's policy on conflict of interest?
30.615 May I employ a former EPA employee and still receive assistance?

Subpart G—Can an Assistance Agreement Be Changed?

30.700 What changes to my assistance agreement require a formal amendment?
30.705 What changes can I make to my assistance agreement without a formal amendment?
30.710 Can I terminate a part or all of my assistance agreement?

Subpart H—How do I Close out my Project?

Sec.
30.800 What records and reports must I keep after I complete my project?
30.802 Under what conditions will I owe money to EPA?

Subpart I—What Sanctions Will EPA Impose for Noncompliance?

30.900 What are the sanctions for non-compliance?
30.901 What are the consequences of a stop-work order?
30.902 What are the consequences of withholding payments?
30.903 What are the consequences of termination for cause?
30.904 What are the consequences of annulment?
30.905 What are the consequences of debarment?
30.906 May I appeal a termination, annulment, or debarment?

Subpart J—Can I get an Exception ("Deviation") From These Regulations?

30.1001 Will EPA grant any exceptions to these regulations?
30.1002 Who may request a deviation?
30.1003 What information should I include in a deviation request?
30.1004 Who approves/disapproves a deviation request?
30.1005 May I appeal a deviation decision?

Subpart K—What Policies Apply to Patents, Data and Copyrights?

30.1100 What assistance agreements are subject to EPA patent rules?
30.1101 What Federal patent laws or policies govern my assistance agreement?
30.1102 What are my invention rights and my reporting requirements if I am a small business or non-profit organization?
30.1103 What are my invention rights and obligations if I am a profitmaking firm?
30.1104 Can I get a waiver from the President's Statement on Government Patent Policy?
30.1106 Do the patent rules apply to subagreements?
30.1108 Does EPA require any type of licensing of background patents that I own?
30.1112 Are there any other patent clauses or conditions that apply to my award?
30.1130 What rights in data and copyrights does EPA acquire?
30.1131 May I assert copyright protection for data developed using assistance funds?

Subpart L—How Are Disputes Resolved?

30.1200 How can an applicant or recipient appeal an award official's decision?
30.1205 What are my rights in the appeal?
30.1210 What decisions may not be appealed?

Appendix A—A-95 Requirements.
Appendix B—Additional Patents and Copyrights Clauses.
Appendix C—Rights in Data and Copyrights.

Authority: Authorities cited in § 30.102.

Subpart A—What is the Purpose and Scope of This Regulation?

§ 30.100 What is the purpose of this regulation?

(a) The U.S. Environmental Protection Agency (EPA) is responsible for protecting and enhancing the quality of the environment. To achieve these objectives, EPA may award assistance in the form of grants, cooperative agreements or fellowships to support: (1) State and local pollution control programs; (2) research, demonstration, or training projects; and (3) other projects that advance EPA's mission.

(b) This regulation tells how to apply for and manage an EPA project, describes EPA involvement throughout the process, and identifies recipients' responsibilities. Other EPA assistance regulations supplement these. They are found in 40 CFR Part 32 (Debarment), Part 33 (Procurement Under Assistance Agreements), Part 35 (State and Local Assistance), Part 40 (Research and Demonstration), Part 45 (Training) and Part 46 (Fellowships).

(c) This regulation incorporates the requirements of Office of Management and Budget (OMB) Circulars and EPA Orders.

§ 30.101 What is the scope of this regulation?

This regulation covers financial assistance awards made as grants or cooperative agreements under requirements of the Federal Grant and Cooperative Agreement Act (Pub. L. 95–224). It does not cover direct EPA contracts under which EPA acquires property or services for its use.

§ 30.102 What laws authorize EPA to issue this regulation?

Reorganization Plan Number 3 of 1970 and the following statutes authorize the Administrator of the Environmental Protection Agency to issue this regulation.

(a) The Clean Water Act, as amended (33 U.S.C. 1251 *et seq.*);

(b) The Clean Air Act, as amended (42 U.S.C. 7401 *et seq.*);

(c) The Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 *et seq.*);

(d) The Safe Drinking Water Act, as amended (42 U.S.C. 300f *et seq.*);

(e) The Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136 *et seq.*);

(f) The Toxic Substances Control Act (15 U.S.C. 2601 *et seq.*);

(g) The Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601 *et seq*), and

(h) The Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 *et seq.*).

Subpart B—What Definitions Apply to This Regulation?

§ 30.200 What definitions apply to this regulation?

"*Allowable costs.*" Those project costs that are: eligible, reasonable, necessary, and allocable; permitted by the appropriate Federal cost principles, and approved by EPA in the assistance agreement.

"*Applicant.*" Any entity that files an application or unsolicited proposal for EPA financial assistance under this subchapter.

"*Assistance agreement.*" The legal instrument EPA uses to transfer money, property, services, or anything of value to a recipient to accomplish a public purpose. It may be a grant or cooperative agreement that specifies: budget and project periods; the Federal share of eligible project costs; a description of the work to be accomplished, and any special conditions the recipient must meet to assure that the project will be completed.

"*Award official.*" The EPA official with the authority to execute assistance agreements and to take other actions authorized by this subchapter and by EPA Orders.

"*Budget period.*" The length of time EPA specifies in an assistance agreement during which EPA authorizes the recipient to expend, obligate, or commit awarded Federal funds.

"*Consolidated assistance.*" An assistance agreement awarded under more than one EPA program authority or funded together with one or more other Federal agencies. Applicants for consolidated assistance submit only one application.

"*Continuation award.*" An assistance agreement after the initial award, for a project with an approved project period of more than one budget period (see § 30.306).

"*Contractor.*" Any party to whom a recipient awards a subagreement.

"*Cooperative agreement.*" An assistance agreement in which substantial EPA involvement is anticipated during the performance of the project.

"*Cost sharing.*" The portion of project costs that a recipient must contribute toward completing its agreement and is not paid by EPA (i.e., non-Federal share, matching share).

"*Expendable personal property.*" All tangible property other than nonexpendable personal property and real property.

"*Force account work.*" The use of the recipient's own employees or equipment for construction, construction-related activities (including A & E services), or for repair or improvement to a facility.

"*Foreign grants.*" An EPA award of assistance when all or part of the project is performed in a foreign county by (1) U.S. recipient, (2) a foreign recipient, or (3) an international organization.

"*Formal amendment.*" A written modification of an assistance agreement signed by both the authorized representative of the recipient and the award official.

"*Grant agreement.*" An assistance agreement that does not substantially involve EPA in the project and the recipient has the authority and capability to complete all elements of the program.

"*In-kind contribution.*" The value of a non-cash contribution to meet your cost sharing requirements. An in-kind contribution may consist of charges for real property and equipment or the value of goods and services directly benefiting the EPA funded project.

"*Nonexpendable personal property.*" Personal property with a useful life of at least two years and an acquisition cost of $500 or more.

"*Personal property.*" Property other than real property. It may be tangible (having physical existence), or intangible (having no physical existence), such as patents, inventions, and copyrights.

"*Program income.*" Gross income the recipient earns during its project period from charges for the project. This may include income from service fees, royalties on patents or copyrights, sale of commodities or unwanted property, trade-in allowances or usage or rental fees. NPDES and similar application fees are not program income.

"*Project.*" The activities or tasks EPA identifies in the assistance agreement for which the recipient may expend, obligate or commit funds. The term may also refer to a program such as the air pollution control program.

"*Project costs.*" All costs the recipient incurs in carrying out the project that are allowable in computing the final EPA assistance amount.

"*Project officer.*" The EPA official designated in the assistance agreement as EPA's program contact with the recipient. Project officers are responsible for monitoring the project.

"*Project period.*" The length of time EPA specifies in the assistance agreement for completion of all project

work. It may be composed of more than one budget period.

"Real property." Land, including land improvements, and structures and appurtenances, excluding movable machinery and equipment.

"Recipient." Any entity which has been awarded and accepted an EPA assistance agreement.

"Subagreement." A written agreement between an EPA recipient and another party (other than another public agency) or any lower tier of such an agreement for services, supplies, equipment, or construction necessary to complete the project.

"Violating facility." Any facility that is owned, leased, or supervised by an applicant, recipient, contractor or subcontractor that EPA lists under 40 CFR Part 15 as not in compliance with Federal, State or local requirements under the Clean Air Act or Clean Water Act. A facility includes any building, plant, installation, structure, mine, vessel or other floating craft.

"Unsolicited proposal." A written offer to perform EPA-funded work for which EPA did not publish a solicitation; unsolicited proposals need not be submitted on an EPA standard application form.

Subpart C—How Do I Apply for and Receive Assistance?

§ 30.300 What activities does EPA fund?

EPA awards assistance to support various activities that protect the environment and reduce or control pollution. EPA groups these activities into the following types of assistance programs:

(a) State and local pollution control;

(b) Construction of wastewater treatment works;

(c) Research;

(d) Demonstration;

(e) Training;

(f) Fellowships;

(g) Special investigations, surveys or studies; and

(h) Consolidated assistance.

§ 30.301 To whom does EPA award assistance?

(a) EPA awards assistance only to applicants which are eligible under applicable statutes and regulations and which are responsible based on the following criteria:

(1) Financial resources, technical qualifications, experience, organization and facilities adequate to carry out the project, or a demonstrated ability to obtain these;

(2) Resources to meet the project completion schedule contained in the assistance agreement;

(3) A satisfactory performance record for completion of projects and contracts;

(4) Accounting and auditing procedures adequate to control property, funds and assets, as required in Subpart H of this Part;

(5) Procurement standards that comply with Part 33 of this Subchapter;

(6) Property management systems for acquiring, maintaining, safeguarding and disposing of property, as required in Subpart H of this Part; and

(7) Demonstrated compliance or willingness to comply with the civil rights, equal employment opportunity, labor law and other statutory requirements under Subpart C of this part.

(b) EPA considers your submission of an assistance application as your assurance that you can and will meet these standards. If EPA does not question your ability to meet these standards, you are presumed responsible. However, EPA may conduct a preaward audit or other review to determine your capabilities.

(c) EPA must notify you in writing if it finds you unable to meet these standards. The written notice will state the reasons for the finding. You may appeal EPA's findings under the procedures in Subpart L.

§ 30.302 How do I apply for assistance?

(a) You may apply by submitting either a standard application in response to an EPA solicitation or an unsolicited proposal.

(b) If you choose to submit a standard application, you can get information and an application kit with instructions from the EPA grants office which is responsible for administering that program. Regional EPA grants offices provide and review applications and award assistance for State and local pollution control projects. State water pollution control agencies provide and review applications for construction grants. Headquarters offices provide and review applications for research, demonstration, fellowships and training assistance.

(c) If you submit an unsolicited proposal, EPA will apprise you of your proposal's potential for funding before you file a standard application.

§ 30.303 What steps must I take before I file a standard application?

(a) You must complete the forms according to the instructions. At least one copy of the completed application must have an original signature of the person authorized to obligate you or your organization to the terms and conditions of EPA's regulations and assistance agreement.

(b) If you apply for assistance for a demonstration project, a State or local pollution control project, or construction grant, you must have the application evaluated by the State and areawide clearinghouses before you submit it to EPA, as required by OMB Circular A-95. See Appendix A of this Part for details.

§ 30.304 Is the information I submit to EPA confidential?

(a) Generally, the information is not confidential. When EPA receives your assistance application or unsolicited proposal the information you submit becomes part of the agency's records. As such, it is subject to EPA's disclosure of information policy (40 CFR Part 2) which is based on the provisions of the Freedom of Information Act, 5 U.S.C. 552, and on the provision for patents and rights in data and copyrights under Subpart K of this Part.

(b) If you submit data, documents or parts of documents which you consider to be confidential, you should clearly identify them with the words "trade secret," "proprietary" or "business confidential." For further instructions on assertion of confidentiality claims, see 40 CFR Part 2, Subpart B—Confidentiality of Business Information.

§ 30.305 How do I find out if EPA approved or disapproved my application?

(a) If EPA approves your application, the award official will prepare and sign an assistance agreement and send it to you for signature. You or your authorized representative must either sign and return the agreement to EPA within three calendar weeks after you receive it or request EPA to extend the time for acceptance. If you do not sign or request an extension, the assistance agreement is null and void.

(b) If EPA disapproves your application, it will promptly notify you in writing. You may appeal EPA's disapproval under Subpart L.

(c) Sometimes, EPA will defer your application. You will be notified in writing of this decision.

§ 30.306 How long will I have to complete my project?

(a) Your assistance agreement will state the length of your approved project period and budget period(s). Subject to statutory provisions, your approved project period may include more than one budget period. In this case, you must submit a continuation application to EPA to request funding for each budget period after the initial one. EPA makes continuation awards subject to availability of funds and Agency priorities.

(b) The continuation application must include: (1) A detailed progress report for the current budget period; (2) a financial statement for the current budget period that includes estimates of the amount you expect to spend by the end of the current budget period and the amount of any uncommitted funds which you proposed to carry over beyond the term of the current budget period; (3) a budget for the new budget period; (4) a detailed work plan revised to account for your actual accomplishments during the current budget period; (5) an annual invention report, and any other reports that the assistance agreement may require.

(c) If approved by the award official, you may carry over unexpended prior year funds in lieu of new funds, to complete work started in prior years or to supplement the new award. You must meet all program and cost sharing requirements to carry over funds.

(d) If EPA executes a continuation agreement, EPA will reimburse you for allowable costs you incur between the end of a budget period and date of award for the next budget period.

§ 30.307 How much must I contribute to the funding of my project?

(a) Most assistance programs have a specific cost sharing requirement (see 40 CFR Part 35). However, where there is no statutory or regulatory requirement, you must contribute at least a 5 percent share of the total allowable project costs for each budget period.

(b) You may satisfy the requirement for cost sharing with cash or with in-kind contributions when not prohibited by statute or regulations. Your contribution may not be paid with Federal funds, property or services received under another assistance agreement, unless authorized by statute. Additionally, your contributions must be:

(1) Negotiated before and specified in your assistance agreement;

(2) Verifiable from your records;

(3) Used exclusively for a single project; and

(4) Properly allocable to and allowable under the assistance project.

§ 30.308 When may I begin incurring costs?

Except as permitted in § 30.306(d) or other EPA regulations, you and EPA must sign an EPA assistance agreement before you incur costs.

§ 30.309 What is the effect of accepting an assistance agreement?

(a) When the award official signs the assistance agreement, EPA will obligate Federal funds for the amount stated in your assistance agreement for the purposes of the award. EPA is not obligated to provide Federal funds for any costs incurred by you in excess of your approved budget.

(b) The award of an assistance agreement constitutes a public trust. By signing and accepting an assistance agreement, you become responsible for complying with this subchapter and all terms and conditions of your assistance agreement. You must efficiently and effectively manage your project, successfully complete the project according to the schedule and meet all monitoring and reporting requirements. You may not delegate or transfer this responsibility.

Subpart D—How Does EPA Pay Me?

§ 30.400 How does EPA make payments?

(a) Your assistance agreement will specify one of the followsing ways for EPA to pay you. You will receive the appropriate forms and instructions with your assistance agreement.

(1) *By letter-of-credit.* EPA will pay you by the letter of credit method, if you meet the Treasury Department's criteria contained in Treasury Circular No. 1075, as revised. You must establish a separate bank account when payments under a letter of credit are made on a "check-paid" basis.

(2) *By advance.* If you do not qualify for letter of credit, EPA may pay you by the advance payment method. You must negotiate the amount of your initial advance with the award official. The negotiated amount should not exceed the cash you will need for the first three months of operation. You must request the initial advance on Standard Form 270 (SF 270, "Request for Advance or Reimbursement") which is included in your award package. EPA will issue a check for the first three months or one check each month (at EPA's option) to pay the advance. After your initial advance, you must submit an SF 270 at least quarterly, but not more often than monthly, for costs you incur under the assistance agreement.

(3) *By reimbursement.* If you fail to comply with letter of credit or advance requirements, EPA may pay you by reimbursement. Also, EPA will pay you under the reimbursement method if you are receiving assistance under EPA's construction grants program, (see 40 CFR Part 35, Subpart I). When EPA pays by this method, you will be reimbursed for costs which you have incurred and are currently and legally obligated to pay.

§ 30.405 Can I assign my payments to anyone else?

You cannot assign your right to receive payments under your assistance agreement. EPA will make payments only to the payee identified in the assistance agreement.

§ 30.410 How does EPA determine allowable costs?

To be allowable, costs must meet applicable statutory provisions and Federal cost principles. EPA uses the following cost principles in determining allowable costs for all EPA assistance agreements and subagreements under them, except as otherwise provided by statute or this Subchapter:

(a) *State and local governments* must comply with OMB Circular A–87 to determine allowable costs;

(b) *Educational institutions* must comply with: (1) OMB Circular A–21 cost principles for research and development, training and other educational services under grants, cooperative agreements, and subagreements, and (2) OMB Circular A–88 which provides principles for coordinating the establishment of indirect cost rates and the auditing of grants, cooperative agreements, and subagreements;

(c) *Other nonprofit institutions* must use OMB Circular A–122;

(d) *Profitmaking institutions* must use Federal procurement regulations (41 CFR Ch. I, Subpart 1–15.2 and, if appropriate, 1–15.4).

§ 30.412 How are costs categorized?

(a) Costs are categoriezed as being either a direct cost if they support a specific project only or as an indirect cost if they support more than the specific project. To receive payment for indirect costs, you must have an approved indirect cost rate and your assistance agreement must provide for the use of that rate.

(b) You may negotiate and use a special indirect cost rate, if (1) your project is conducted at an off-site location, or (2) your project is a large, one-time project and its costs would distort the normal direct cost base used in computing the indirect cost rate.

Subpart E—How Do I Manage My Award?

§ 30.500 What records must I maintain?

You and your contractors must establish official records for each assistance award you receive and identify them with identification numbers. These records must contain the following information:

(a) Amount received and expended for the project, including all Federal and cost sharing funds;
(b) Program income;
(c) Total cost of the project (both direct and indirect costs);
(d) Property purchased under the award or used as part of your in-kind contribution;
(e) Time records and other supporting data; and
(f) Documentation of compliance with applicable statutes and regulations.

§ 30.501 How long must I keep these records?

(a) Generally you and your contractors must keep all records for three years from the end of the project. Except for your property records, the exact beginning date of your three-year period depends on the type of project you are conducting, as follows:
(1) For research, demonstration, and training programs, the submission date of a final financial status report (SF–269);
(2) For State and local assistance programs, the submission date of the final annual financial status report (SF–269); or
(3) For construction awards, the approval date of EPA's final payment for the project.
(b) If EPA terminated your award, you must keep all records for three years from the final settlement date.
(c) If litigation, a claim, an appeal or an audit is begun before the end of the three-year period, you must keep all records either until the three years have passed or until the litigation, claim or audit is completed and resolved, whichever is longer.
(d) You must keep your property records for nonexpendable property for three years from the date of final disposition.

§ 30.502 To whom must my contractors and I show these records?

You and your contractors must allow the project officer and any authorized representative of EPA, including the Office of Inspector General, the Comptroller General of the United States or the Department of Labor to inspect, copy, and audit records pertinent to the project at any reasonable time during the project period and until the end of the three-year record retention period.

§ 30.505 What reports must I submit?

(a) *Interim and final reports.* You must submit interim and final progress reports if the assistance agreement or EPA regulations require them. See 40 CFR Parts 35, 40, and 45 for specific requirements.

(b) *Financial reports.* Except for fellowships and construction grants, you must submit a financial status report (SF–269) to EPA within 90 days after the end of each budget period, and at project completion or termination. Under the wastewater treatment construction assistance program, your final Outlay Report and Request for Reimbursement for Construction Programs will serve as a final financial statement.
(c) *Invention report.* You must report all inventions (see Subpart K for details). You must submit a final invention statement to the award official within 90 days after completion of a project. If you have a continuation award, you must submit an annual invention statement with your continuation application. Also, if you change your project manager on a research project, you must submit an invention report at that time to the award official.
(d) *Property report.* You must submit an annual inventory of all Federally owned property used on your project. At the end of the project period, you must submit a final inventory of Federally owned property which states the present condition of each item and requests disposition instructions.

§ 30.510 What type of financial management system must I maintain?

You must maintain a financial management system that consistently applies accepted accounting principles and practices and at least includes:
(a) An accurate, current and complete accounting of all financial transactions for your project;
(b) Records together with supporting documents, showing the source and application of all project funds, including assisance awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays and incomes;
(c) Control over, and accountability for, all project funds, property and other assets, and an assurance that you used these solely for their authorized purpose;
(d) A comparison of actual costs versus budgeted object class amounts;
(e) Procedures to ensure prompt disbursement of Federal funds after you receive them;
(f) Procedures for determining allowable, allocable, and reasonable costs;
(g) Audits at least every other year on an organization-wide basis (see § 30.540); and
(h) A systematic method to resolve audit findings and recommendations.

§ 30.515 What restrictions on signs, surveys and questionnaires must I observe?

(a) *Signs.* You must place a visible project identification sign at a construction site. The sign must give project information and credit EPA for funding. Your project officer will give you specifications for sign design, content and placement. The cost of making and erecting the sign is an allowable cost.
(b) *Surveys and questionnaires.* If your survey or questionnaire states that information is being collected for the Federal Government, you must request written approval from EPA to use Agency funds to cover the costs of data collection. To assure compliance with the Paperwork Reduction Act of 1980, Pub. L. 96–511 (44 U.S.C. 3501 et seq.), the project officer can grant approval only with the agreement of the EPA Headquarters reports management officer. You must also receive the project officer's approval to list EPA as a recipient of the survey information.

§ 30.518 Are there any restrictions on publishing scientific, informational and educational documents?

You must comply with EPA's peer and administrative review process on publishing scientific, informational and educational documents attributable to EPA. The process is designed to assure that all documents attributable in any way to EPA are result-oriented, cost effective, consistent with Agency policy, and based on the best scientific and technical evidence available. Documents attributable to EPA that will be released to the general public are subject to this review and include final reports on research and demonstration projects, educational materials, manuals, newsletters and audiovisual materials developed under assistance agreements.
(a) Except for articles published under paragraph (b) of this section, you must submit three copies of all documents to your project officer for EPA's peer and administrative review process. EPA has initial publication rights to print and distribute these documents.
(1) EPA will evaluate the general content, organization and scope, presentation and quality of data, validity of analytical techniques, soundness of conclusions, and consistency of the text, tables, figures, illustrations and maps.
(2) The appropriate Associate, Assistant or Regional Administrator or Staff Office Director in the Office of the Administrator will approve or disapprove all documents for

publication, will determine the most cost effective way to print and distribute all approved documents and ensure that all documents conform to EPA's graphic standards.

(3) All approved documents must include the following statement:

The information in this document has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement number to *(name)*, it has been subject to the Agency's peer and administrative review, and it has been approved for publication. The contents reflect the views and policies of the Agency.

(b) You may choose to publish an article in a scientific journal if the journal has a peer review process in lieu of Agency peer. You must submit a copy of the article to your project officer when you send it for publication.

The article must include the following statement:

Although the research described in this article has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement number to *(name)*, it has not been subjected to the Agency's required peer and administrative review and therefore does not necessarily reflect the view of the Agency and no official endorsement should be inferred.

(c) If EPA does not approve your document for publication by EPA, before printing and distributing the documents you must:

(1) Comply with the Government Printing and Binding Regulations and receive approval to publish from the Joint Committee on Printing;

(2) Fund the publication with your own money. The cost is nonallowable.

(3) Include the following statement in the document:

Although the information in this document has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement number to *(name)*, it has been subjected to the Agency's peer and administrative review process and was not approved for publication and therefore does not necessarily reflect the views or policies of the Agency.

(d) Documents that are not attributable to EPA and are a part of a recipient's regular pollution control activities are not subject to the EPA peer and administrative review process, e.g., state pollution control agency-published newsletters and operation and maintenance manuals under the construction grant program. EPA encourages you to establish a similar peer and administrative review process before publishing any documents. You may publish such documents only if:

(1) The cost is allowable under your project; and

(2) You include the following statement:

This project has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement number to *(name)*. The contents do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.

§ 30.520 When may I use my own employees ("force account")?

If costs will exceed $25,000, you must get written authorization from your project officer to use your own employees or equipment for construction, construction-related activities, or for repairs or improvements to a facility ("force account"). You must demonstrate that (a) your employees can competently and more economically conplete the work than contractors or (b) an emergency circumstance makes "force account" necessary.

§ 30.525 How should I treat program income?

(a) You may use program income to fund additional eligible project activities, or if approved by the award official, to meet your non-federal share of project costs.

(b) If you are not permitted to use program income to meet your non-federal share of project costs, EPA will subtract the income from the total allowable project cost to determine the net cost on which the Federal share will be based.

(c) Unless the assistance agreement provides otherwise, you do not owe EPA any of the royalties you earn on copyrights or patents produced under the assistance agreement. (See Subpart K of this Part for EPA's rights regarding copyrights and patents.)

(d) You must keep complete records showing all receipts and expenditures related to program income.

§ 30.526 How do I treat interest earned on EPA funds?

If you earn interest on an EPA advance, you must return it to EPA unless you are:

(a) A State, or State agency as defined under section 203 of the Intergovernmental Cooperation Act of 1968, (42 U.S.C. 4213), or

(b) A tribal organization as defined under sections 102, 103 or 104 of the Indian Self-Determination Act (25 U.S.C. 450j(b), 450f, 450g, and 450h).

§ 30.530 May I purchase property or equipment using EPA assistance funds?

You may purchase property or equipment with EPA assistance funds. Title will be vested in you, subject to the following conditions:

(a) The award official must approve the purchase of all property and equipment with a unit acquisition cost of $5,000 or more;

(b) EPA may reserve the right to transfer the title for real and non-expendable personal property having a unit acquisition cost of $1,000 or more to the Federal Government or a third party, when the project is completed. EPA must identify such property in the assistance agreement;

(c) You must use the property in the EPA-assisted project for which it was acquired as long as needed, whether or not the project continues to be supported with EPA funds;

(d) You must assure that EPA's interest (the percentage of EPA's participation in the total award) is adequately reflected and protected in compliance with all recordation or registration requirements of the Uniform Commercial Code or other applicable local laws on all real and nonexpendable personal property with a unit acquisition cost of $10,000 or more; and

(e) You must follow the disposition requirements in § 30.532.

§ 30.531 What property management standards must I follow for personal property purchased with an EPA award?

You may use your own property management standards and procedures if your system includes the following:

(a) Accurate records reflecting:

(1) A description of the property;

(2) Manufacturer's serial number, model number, or other identification number;

(3) Source of the property, including assistance identification number;

(4) Whether title is vested in the recipient or the Federal Government;

(5) Unit acquisition date and cost;

(6) Federal share of the cost;

(7) Location, use, condition of property, and date the information was recorded; and

(8) Ultimate disposition data, including sales price or the method used to determine the price, or the method used to determine current fair market value where a recipient compensates EPA for its share under § 30.532 of this Part.

(b) A physical inventory of property, and reconciliation of the results with the property records, at least once every two years. Your inventory must verify the current use and continued need for the property.

(c) A control system to prevent loss, damage or theft. (You must thoroughly

investigate and document any loss, damage or theft of nonexpendable personal property.)

(d) Adequate maintenance procedures that ensure the property is in good condition and that instruments used for precision measurements are periodically calibrated.

(e) Proper sales procedures which provide for competition to the extent resulting in the highest possible return.

(f) Identification of Federally owned property.

§ 30.532 How do I dispose of personal property?

When personal property is no longer needed for the original project, you may use it on other EPA projects or other Federal projects. If you wish to use the property on other activities you must comply with the following requirements:

(a) Generally, if you purchased property for less than $1,000, per unit, you may either keep it or sell it and keep the proceeds. However, if you are a profitmaking organization, you may keep nonexpendable personal property only if you reimbuse EPA for its proportionate share of the current market value of the property.

(b) EPA is entitled to compensation on property you purchased for more than $1,000. You may keep it, provided you compensate EPA for its proportionate share of the current fair market value. If you do not want to keep the property, your project officer will give you instructions for disposition.

§ 30.535 May I purchase real property with EPA-awarded funds?

You may purchase real property subject to the following conditions:

(a) The award official must approve the purchase.

(b) You must use the real property only for the purpose for which it was purchased under the assistance award.

(c) You get approval from your project officer to use the property for other Federally supported projects or programs when it is no longer needed for the original project.

(d) You comply with the requirements in 40 CFR Part 4.

(e) You contact your project officer for instructions on disposing of the property when it is no longer needed for the purposes stated in paragraphs (b) or (c) of this section. The project officer may (i) permit you to retain title to the property provided you compensate EPA for its share; or (ii) direct you to sell the property and to compensate EPA for its share, less your expenses; or (iii) direct you to transfer the title of the property to the Federal Government and to compensate you an amount equal to your percentage of participation in the cost of the project to the current fair market value of the property.

(f) You comply with 40 CFR Part 35, Subpart E, Appendix A if your award is a construction grant.

§ 30.536 How do I manage Federally owned property?

You must negotiate with the award official the use of Federally owned property and comply with your lease agreement and § 30.505(d). You must inform the project officer of the availability of the property when the property is no longer needed for the assistance project or when you have completed the project. EPA will give you instructions on where to return the property.

§ 30.538 May I use General Services Administration (GSA) supplies and services?

You may not use GSA sources of supplies and services, or excess Government property. Excess Government property consists of property under the control of any Federal agency that is not required for its needs.

§ 30.540 Will EPA audit my project?

EPA may perform pre-award or interim audits as well as a final audit of your project. In accordance with Attachment P of Circulars A–102 and A–110, EPA will rely on the recipient's audit (if done in accordance with the Attachment P standards) instead of reauditing the same records. However, EPA will keep audit cognizance over contracts under construction grants.

Subpart F—What Other Federal Requirements Must I Comply With?

§ 30.601 What Federal laws and policies affect my award?

You must comply with the following statutes and Executive Orders.

(a) *National Environmental Policy Act.* You must comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as amended and other related environmental laws and executive orders that require you to assess the environmental impact of your project. See 40 CFR Part 6 for specific requirements.

(b) *Flood Disaster Protection Act.* If your project involves construction in, or acquiring property in, a special flood hazard area, you must comply with the Flood Disaster Protection Act of 1973 (Pub. L. 93–234, December 13, 1973). If your project is located in a community participating in the National Flood Insurance Program (42 U.S.C. 4001–4128), the Act requires you to purchase flood insurance as a condition of receiving EPA assistance. If the community is not participating in the National Flood Insurance Program and the special flood hazard area has been designated by the Federal Insurance Administration of the Federal Emergency Management Agency for at least one year, EPA will not award assistance for your project until the community enters the program and flood insurance is purchased. See 44 CFR Parts 59 through 79 for specific requirements.

(c) *Clean Air Act.* Section 306 of the Clean Air Act (42 U.S.C. 7606), as amended, and Executive Order 11738 prohibit EPA from awarding assistance to you if you intend to use any facility on EPA's List of Violating Facilities to complete work on your agreement. You must include a clause in all subagreements that requires the recipients of those subagreements to comply with the requirements of 40 CFR Part 15.

(d) *Federal Water Pollution Control Act.* Section 508 of the Federal Water Pollution Control Act (33 U.S.C. 1368), as amended, and Executive Order 11738 prohibit EPA from awarding assistance to you if you intend to use any facility on EPA's List of Violating Facilities to complete work on your agreement. You must include a clause in all subagreements that requires the recipients of those subagreements to comply with the requirements of 40 CFR Part 15. Section 13 of the 1972 Amendments to the Act prohibits sex discrimination under any program or activity receiving assistance under the Act. See 40 CFR Part 12 for specific requirements.

(e) *Civil Rights Act.* You must comply with Sec. 602, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), and related non-discrimination laws and Executive Order 11246. These authorities prohibit you from excluding any person from participating in, denying them the benefits of, or discriminating against them on the basis of race, color, or national origin under any program or activity involving Federal financial assistance. See 40 CFR Part 7 for specific requirements.

(f) *Rehabilitation Act.* You must comply with Sec. 504 of The Rehabilitation Act of 1973 (29 U.S.C. 794), as amended, which prohibits discrimination on the basis of handicap in Federally assisted programs.

(g) *Age Discrimination Act.* You must comply with the provisions of the Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*), which prohibits discrimination on the basis of age in Federally assisted programs.

(h) *Title IX of the Education Amendments of 1972.* You must comply with Title IX of the Education Amendments of 1972, (20 U.S.C. 1681 *et seq.*) which prohibits sex discrimination in Federally assisted education programs.

(i) *Uniform Relocation Assistance and Real Property Acquisition Policies Act.* You must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4621 et seq.), if your project involves acquiring interest in real property or any displacement of persons, businesses, or farm operations. See 40 CFR Part 4 for specific requirements.

(j) *The Indian Self-Determination and Education Assistance Act.* You must comply with the Indian Self-Determination and Education Assistance Act of 1975 (Pub. L. 93–638). If your project will benefit Indians, the Act requires you to give Indians preference in training and employment opportunities and in the award of subagreements.

(k) *The Hatch Act.* If you are a State or local government recipient, you must ensure compliance with the Hatch Act, (5 U.S.C. 1501 et seq.), as amended. This Act requires State and local government employees to comply with the restrictions on political activities imposed by the Act if their principal employment activities are funded wholly or in part by Federal assistance. See 5 CFR Part 151 for specific prohibitions and exemptions.

(l) *Safe Drinking Water Act.* Section 1424(e) of the Safe Drinking Water Act (42 U.S.C. 300–h–3(e)) prohibits EPA from awarding assistance to you if EPA determines that your project may contaminate a sole source acquifer so as to result in a significant hazard to public health. See 40 CFR Part 149.

§ 30.603 What additional requirements apply to EPA-assisted construction projects?

If you receive EPA assistance for a project involving construction, you must ensure compliance with the following additional requirements:

(a) *The Davis-Bacon Act.* The Davis-Bacon Act (40 U.S.C. 276a *et seq.*) as amended, and implementing regulations of the Department of Labor under 29 CFR Part 5 require you to ensure that on contracts in excess of $2,000, your contractors and subcontractors pay wages to laborers and mechanics at least equal to the minimum wages specified by the Secretary of Labor.

(b) *The Copeland Act.* The Copeland (Anti-Kickback) Act, and the regulations of the Department of Labor under 29 CFR Part 3 prohibit your contractors and subcontractors from inducing any person involved in your project to give up any part of the compensation to which he/she is entitled under an employment contract.

(c) *The Contract Work Hours and Safety Standards Act.* The Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.) and the regulations of the Department of Labor under 29 CFR Part 5 require your contractors and subcontractors to pay wages to laborers and mechanics on the basis of an 8-hour work day and 40-hour work week and to pay at least time-and-a-half for work performed in excess of these time limitations. Also, the Act prohibits your contractors and subcontractors from requiring laborers and mechanics to work in hazardous, unsanitary or dangerous conditions (see 29 CFR Part 1926).

(d) *Convict labor.* You may not use convict labor unless the convicts are on work release, parole or probation (see 18 U.S.C. 436).

§ 30.610 What are my responsibilities for preventing and detecting fraud and other corrupt practices?

(a) You bear the primary responsibility for preventing, detecting, and prosecuting corrupt practices under your assistance agreement.

(b) If you become aware of allegations, evidence, or the appearance of corrupt practices, you must:

(1) Immediately inform the EPA project officer of this; and

(2) Promptly pursue available State and local legal and administrative remedies.

§ 30.611 Can I hire a person or agency to solicit EPA assistance for me?

You may not employ or retain any person, corporation, partnership, agency or other entity to solicit or secure EPA assistance for you in exchange for a commission, a percentage fee, a brokerage fee, or a contingent fee paid for with EPA funds.

§ 30.612 May an EPA employee act as my representative?

(a) An EPA employee may not represent you as an agent or attorney in any proceeding before EPA or any other Federal agency in which the United States is a party or has a direct or substantial interest unless:

(1) You are a State or local government agency;

(2) The EPA employee is on detail to the agency under the Intergovernmental Personnel Act, 5 U.S.C. 3371–3376; and

(3) The representation takes place in the context of carrying out programs for which EPA and the agency have a joint responsibility under the environmental statutes.

(b) Except as provided for in paragraph (a) an EPA employee must not act as an agent or attorney for a recipient, or for a contractor or subcontractor of a recipient in any claim against the United States.

§ 30.613 What is EPA's policy on conflict of interest?

EPA's policy is to prevent personal or organizational conflict of interest, or the appearance of such conflict of interest in the award and administration of EPA assistance, including subagreements. (For restrictions on EPA employees, see 40 CFR Part 3.)

(a) An official or employee of a recipient may not participate in any activity relating to EPA assistance if any of the following persons or organizations, to the official or employee's knowledge, has a financial interest in the activity:

(1) The official or employee himself;

(2) The official or employee's spouse or minor child;

(3) A partner of the official or employee;

(4) An organization (other than a public agency) in which the official or employee serves as an officer, director, trustee, partner or employee; or

(5) Any person or organization with whom the official or employee is negotiating or has any arrangement concerning prospective employment.

(b) Officials and employees of recipients must avoid any action which might result in, or create the appearance of:

(1) Using official position for private gain;

(2) Giving preferential treatment to any person;

(3) Losing independence or impartiality;

(4) Making an official decision outside official channels; or

(5) Undermining public confidence in the integrity of EPA programs.

§ 30.615 May I employ a former EPA employee and still receive assistance?

You may hire a former EPA employee and still receive assistance provided the former employee complies with the restrictions on post-employment activities established by 18 U.S.C. 207. These restrictions are explained in regulations issued by the Office of Personnel Management under 5 CFR Part 737 and EPA regulations under 40 CFR Part 3.

Subpart G—Can an Assistance Agreement Be Changed?

§ 30.700 What changes to my assistance agreement require a formal amendment?

You must receive from the award official a formal amendment before implementing:

(a) A change of the recipient;

(b) Changes in the objectives or scope of the project;

(c) Changes in the assistance amount;

(d) Substantial changes within the scope of the project; or

(e) A rebudgeting of the following:

(1) Amounts budgeted for either construction or non-construction activities if transferred from one activity to the other;

(2) Amounts budgeted for indirect costs to absorb increases in direct costs; or

(3) Amounts budgeted for training allowances if transferred to other cost categories.

§ 30.705 What changes can I make to my assistance agreement without formal amendment?

Minor changes in the project work that are consistent with the objective of the project and within the scope of the assistance agreement do not require the execution of a formal amendment before the recipient's implementation of the change. However, such changes do not obligate EPA to provide Federal funds for any costs incurred by you in excess of the assistance amount, unless approved in advance under § 30.700.

§ 30.710 Can I terminate a part or all of my assistance agreement?

(a) You and EPA may terminate a part or all of your assistance agreement, when both parties agree that the continuation of the project will not produce beneficial results. You and the award official must agree on the conditions of the termination, the effective date, and in the case of partial termination, the portion to be terminated. EPA may terminate for cause your assistance agreement under Subpart I.

(b) EPA will pay you the federal share of allowable costs incurred up to the date of termination and allowable costs related to commitments you made prior to termination that you cannot cancel.

Subpart H—How Do I Close Out My Project?

§ 30.800 What records and reports must I keep after I complete my project?

You and your contractors must keep all books, records, documents and other evidence (including accounting procedures and practices and subagreement documents) that track the progress of your project in accordance with the requirements under § 30.501.

§ 30.802 Under what conditions will I owe money to EPA?

(a) After you have submitted your final financial status report to EPA, you must reimburse EPA for any unobligated Federal funds. Final settlement is not complete until all claims, audits, apeals and litigation are resolved (see § 30.501). If a final determination is made that you owe additional funds, you must reimburse the Federal government the additional amount before the project is considered closed. EPA will take appropriate legal action to collect the amount you owe the Agency. EPA may offset the debt against funds owed to you under another EPA assistance agreement only where you have already incurred costs under that agreement for which reimbursement is due from EPA.

(b) Interest will be charged if you fail to pay within 30 days from the date you receive notice of the final determination. The interest rate will be the rate established by the Secretary of Treasury in accordance with the Treasury Fiscal Requirements Manual 6–8020.20. The rates are published in the **Federal Register** quarterly. (See § 30.1200(a)(3) for interest charged during an appeal.)

Subpart I—What Sanctions Will EPA Impose for Non-Compliance?

§ 30.900 What are the sanctions for non-compliance?

If you do not comply with all or a portion of the terms of your assistance agreement, the award official may apply any of the following sanctions:

(a) Issue a stop-work order;

(b) Withhold payment;

(c) Suspend or terminate your assistance agreement for cause;

(d) Annul your assistance agreement;

(e) Debar you as an eligible recipient; or

(f) Take other appropriate legal action.

§ 30.901 What are the consequences of a stop-work order?

(a) A stop-work order requires you to immediately stop the work or activities described in the order and to take all reasonable steps to minimize costs incurred on the work. The award official will issue the order in writing. The order will be in effect for forty-five (45) days after you receive it unless cancelled or extended by mutual agreement between you and EPA. If the problem cannot be resolved during the stop-work period and EPA is likely to terminate or annul the agreement, the award official will so inform you.

(b) If the stop-work order is cancelled and it caused any increase in the cost of and/or the time for completing the project, you may request an adjustment in the project period, budget period, or assistance amount. You must submit a request for adjustment to the project officer within sixty (60) days after the stop-work order ended.

§ 30.902 What are the consequences of withholding payments?

(a) The award official may withhold payments when you fail to comply with the tasks, reporting requirements or conditions of your assistance agreement. The award official will provide you reasonable notice in writing before withholding payment.

(b) The award official may withhold only the amount necessary to assure compliance with your assistance agreement.

(c) The award official may withhold payment to the extent you are indebted to the United States, unless the collection of the indebtedness will impair the accomplishment of the project and the continuation of the project is in the best interest of the United States.

§ 30.903 What are the consequences of termination for cause?

(a) The award official may terminate your agreement in whole or in part at any time before the date of completion, whenever he determines that you have failed to comply with the conditions of your agreement. The award official will provide you an opportunity for consultation before issuing a notice of termination.

(b) If EPA terminates your agreement, the award official will notify you in writing of his determination, the reasons for the termination and the effective date. Upon receiving the termination notice, you must stop work immediately and make no new commitments.

(c) EPA will pay you the federal share of allowable costs incurred up to the date of termination and allowable costs related to commitments you made prior to termination that you cannot cancel.

§ 30.904 What are the consequences of annulment?

(a) The award official may unilaterally annul in whole or part your assistance agreement in any of the following cases:

(1) You have made no substantial progress on the project without good cause;

(2) You obtained an assistance agreement by fraud or misrepresentation;

(3) You are found to practice corrupt administrative procedures;

(4) You have inordinately delayed project completion without good cause; or

(5) You have failed to meet the project purpose by ignoring or altering the purpose stated in the agreement.

(b) The award official will provide you an opportunity for consultation before issuing a notice of annulment. If EPA intends to issue an annulment, the award official will inform you of the annulment in writing. You must then return all funds received for the project including those already expended. EPA may pursue other available remedies under Federal, State and local laws.

§ 30.905 What the the consequences of suspension or debarment?

EPA may suspend or debar you in accordance with 40 CFR Part 32. You may not apply for or receive assistance or a subagreement if your name or organization appears on EPA's Master List of Debarred or Suspended Persons.

§ 30.906 May I appeal a termination, annulment, or debarment?

(a) You may appeal EPA's decision to terminate or annul an assistance agreement. Within thirty (30) days after the notice of termination or annulment is issued, you must file a written request for appeal to the award official. Your appeal must follow the procedures under Subpart L of this Part.

(b) You may not appeal a suspension or debarment decision to EPA's Board of Assistance Appeals under Subpart L of this Part.

Subpart J—Can I Get an Exception ("Deviation") From These Regulations?

§ 30.1001 Will EPA grant any exceptions to these regulations?

On a case-by-case basis, EPA will consider requests for exceptions to these regualtions.

(a) EPA may issue a "deviation" from any of its assistance related regulations, except for those that implement statutory and executive order requirements.

(b) The award official may "waive" certain requirements of this subchapter for foreign grants. All provisions waived will be stated in the assistance agreement.

§ 30.1002 Who may request a deviation?

You, your project officer, or an EPA program office may request a deviation from EPA regulations. If you are the initiator, you should send your written request to your project officer who will then forward the request to the Director, Grants Administration Division, with a recommendation for approval or disapproval.

§ 30.1003 What information should I include in a deviation request?

Your request should include the following information:

(a) Your name, the assistance idlentification number, and the dollar value of the application or award;

(b) The section of the regulation from which you need a deviation;

(c) A complete description of what the deviation will do and the circumstances which make it necessary; and

(d) A statement of whether the same or a similar deviation has been previously requested. If such a request has been made previously, explain why it was made and the outcome.

§ 30.1004 Who approvers or disapproves a deviation request?

(a) The Director, Grants Administration Division (GAD), approves or disapproves your deviation request. Assistant Administrators in the affected program areas must review and concur on deviations affecting a class of applicants or recipients.

(b) If EPA approves the deviation before an award, the revised requirement will be included in your assistance agreement. Approval of a deviation before an award does not guarantee an award.

§ 30.1005 May I appeal a deviation decision?

You may not appeal a deviation decision under the procedures in Subpart L of this Part. However, you may request the Director of GAD to reconsider his decision.

Subpart K—What Polices Apply to Patents, Data and Copyrights?

§ 30.1100 What assistance agreements are subject to EPA patent rules?

Except for construction grants, all EPA assistance agreements involving experimentation, development, special investigations, surveys, studies or research are subject to the EPA patent rules.

§ 30.1101 What Federal patent laws or policies govern my assistance agreement?

The nature of your organization will determine which laws and policies govern your assistance agreement:

(a) Small business firms and nonprofit organizations, including educational institutions, must comply with Pub. L. 96–517, (35 U.S.C. 200 *et seq.*) and OMB Circular A–124 (47 FR 7556).

(b) A profitmaking firm that is not defined as a small business, and whose assistance agreement is funded under the Resource Conservation and Recovery Act (RCRA), must comply with section 6891(c) of RCRA.

(c) If you are neither a small business firm nor profitmaking firm with a RCRA award, you are subject to the guidelines in the President's Statement on Government patent policy issued on August 23, 1971, (36 FR 16887). See Federal Procurement Regulations, 41 CFR Part 1–9 for specific requirements.

§ 30.1102 What are my invention rights and my reporting requirements if I am a small business or nonprofit organization?

You must report all inventions to EPA and decide whether you wish to retain domestic and/or foreign rights to your invention. You must notify EPA of your decision within the time period specified in the patent rights clause included in OMB Circular A–124, Attachment A. If you do not decide to retain rights to your invention within the time specified, EPA may acquire title from you. If you retain title, EPA acquires a royalty-free, irrevocable license to use the invention throughout the world by, and on behalf of the Federal Government.

§ 30.1103 What are my invention rights and obligations if I am a profitmaking firm?

If you are not a small business and your assistance agreement does not indicate otherwise, you must comply with the patent rights clause, entitled "Patent Rights Acquisition by the Government," (41 CFR 1–9.107–5(a)) which implements section 1(a) of the President's Statement on Government Patent Policy. Under this clause, EPA normally obtains title to your invention.

§ 30.1104 Can I get a waiver from the President's statement on Government patent policy?

On a case-by-case basis, you may ask EPA for a deviation from the President's Statement. You must follow the procedures in Subpart J.

§ 30.1106 Do the patent rules apply to subagreements?

Yes, if they involve experimentation, development, special investigations, surveys, studies or research, you must include the appropriate patent rights clause in all subagreements. Small Business firms or nonprofit organizations under subagreements are entitled to the benefits of Pub. L. 96–517 and the requirements of OMB Circular A–124.

§ 30.1108 Does EPA require any type of licensing of background patents that I own?

Generally, EPA does not require such licensing. However, in awards subject to

Pub. L. 96–517 the Administrator may approve such a requirement under exceptional circumstances.

§ 30.1112 Are there any other patent clauses or conditions that apply to my award?

Your award is subject to both the Notice and Assistance clause and the Authorization and Consent clause in Appendix B to this Part.

§ 30.1130 What rights in data and copyrights does EPA acquire?

As set forth in Appendix C, the Federal Government has an unrestricted right to use any data or information generated using assistance funds or specified to be delivered to EPA in the assistance agreement. The Federal Government has a royalty-free, irrevocable license to use any copyrighted data in any manner for Federal Government purposes.

Subpart L—How Are Disputes Between the Award Official and Me Resolved?

§ 30.1200 How can an applicant or recipient seek review of a decision of an award official?

(a) Except as limited by § 30.1210, you may request the EPA Board of Assistance Appeals (Board) under a delegation of authority from the Administrator, to review the award official's decision.

(b) To appeal, you must send a notice of appeal by registered mail, return receipt requested to the award official and to the Docket Clerk, EPA Board of Assistance Appeals (A–130), United States Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, within thirty days of your receipt of the written final decision of the award official.

(c) Your notice of appeal must include:

(1) A copy of the award official's written final decision that is signed by the award official and states explicitly that it is a final decision appealable under this subpart;

(2) A statement of the amount in dispute; and

(3) An explanation of the reasons you believe the decision is erroneous.

(d) If you do not appeal a written final decision of an award official within thirty days of your receipt of the decision, it will become final and conclusive, unless the Board extends the thirty-day limit for good cause.

(e) Interest will be accrued on any amounts of money due and payable to EPA beginning thirty days from the date of an award official's written final decision requesting payment.

The interest rate will be the rate established quarterly by the Secretary of the Department of Treasury in accordance with the Treasury Fiscal Requirements Manual 6–8020.20. Your appeal of the award official's decision does not prevent the accrual of interest. Only full payment of the debt or resolution of the appeal in your favor will prevent the accrual of interest on the amount outstanding. If the Board decides that you owe money to EPA, you will be charged the interest accrued on the amount finally determined to be due.

§ 30.1205 What are my rights in the appeal?

(a) Upon receipt by the Board of your notice of appeal, the Board will send you a copy of its procedures. The procedures were publised in the **Federal Register** at 44 FR 46770 (August 8, 1979).

(b) You may be represented before the Board by an attorney or other representative.

(c) You may request a full evidentiary hearing if:

(1) The amount in dispute is over $50,000; or

(2) The issue is a question of compliance with EPA's nondiscrimination rules (40 CFR Parts 7 and 12).

(d) You may submit documentary evidence and briefs for inclusion in the appeal record. You also have the right to examine and object to all evidence submitted by the attorney representing the award official. The Board will decide your appeal solely upon the appeal record, and the record will be available to all parties.

(e) The Board will decide whether the award official's decision was reasonable and in accordance with applicable statutes, regulations, and EPA policies. The Board is required to follow regulations, EPA policies published in the **Federal Register**, and the policy decisions of the EPA Audit Resolution Board. Generally, the Board will issue a written decision explaining the reasons for its decision.

(f) The Board may reconsider appeals if either party demonstrates that there was a clear error of fact or law, or that significant evidence has become available which was not available at the time of the decision.

(g) The Board's decision is final and conclusive unless a court of competent jurisdiction determines it to have been fraudulent, arbitrary, capricious, so grossly erroneous as to imply bad faith, or not supported by substantial evidence.

§ 30.1210 What decisions may not be appealed?

You may not appeal:

(a) Disapprovals of deviations under Subpart J;

(b) Bid protest decisions under Part 33;

(c) National Environmental Policy Act decisions under Part 6;

(d) Advanced wastewater treatment decisions of the Administrator; or

(e) Policy decisions of the EPA Audit Resolution Board.

Appendix A—A–95 Requirements

1. *What is OMB Circular A–95?* A–95 is a procedural circular requiring Federal agencies and Federal assistance applicants to give State and local goverments an opportunity to assess the relationship of proposals to State, areawide, and local plans and programs. EPA's potential applicants must notify State and areawide clearinghouses of intended proposals for planning, demonstration, and construction projects or State and local assistance programs. Clearinghouses having jurisdiction in the proposed project areas must then review these notices to ensure that proposed activities will not conflict with or duplicate other Federally assisted acitivities in their areas.

2. *Are all EPA applicants required to comply with A–95?* You must comply with A–95 unless you are applying for assistance under an EPA research, training, fellowship or special studies or you are a Federally recognized Indian tribe.

3. *What requirements must I meet if I am subject to A–95?* Parts I and III under Attachment A of A–95 set forth required procedures. Part I, "Project Notification and Review System," deals with State and local review of applications. Part III, "State Plans," provides for gubernatorial review of certain assistance programs that require a State plan as part of an application.

The following chart identifies which EPA assistance programs are covered by A–95, and which Parts are applicable to each program.

ENVIRONMENTAL PROTECTION AGENCY

Program description	A–95	
	Part I	Part III
CFDA No. and Title		
66.001 Air Pollution Control Program	X	X
66.003 Air Pollution Control Manpower Training		
66.418 Construction Grants for Wastewater Treatment Works	X	
66.419 Water Pollution Control—State and Interstate Program	X	X
66.420 Water Pollution Control—State and Local Manpower Program Development	X	
66.426 Water Pollution Control—State and Areawide Water Quality Management Planning Agency	X	
66.428 Water Pollution Control—Professional Training		
66.432 State Public Water System Supervision Program	X	X
66.433 State Underground Water Source Protection Program	X	X

ENVIRONMENTAL PROTECTION AGENCY—Continued

Program description	A-95	
	Part I	Part III
66.435 Water Pollution Control—Lake Restoration Cooperative Agreements.	X	
66.438 Construction Management Assistance.	X	
66.451 Solid and Hazardous Waste Management Program Support.	X	X.
66.453 Solid Waste Management Training.		
66.500 Environmental Protection—Consolidated Research.		
66.501 Air Pollution Control Research.		
66.502 Pesticides Contol Research		
66.504 Solid Waste Disposal Research.		
66.505 Water Pollution control—Research, Development, and Demonstration.	X	
66.506 Safe Drinking Water Research and Demonstration.	X	
66.507 Toxic Substances Research		
66.600 Environmental Protection Consolidated Grants—Progam Support.	X	X.
66.602 Environmental Protection Consolidated Grants—Special Purpose.	X	
66.700 Pesticides Enforcement Program Grants.	X	

4. *What does Part I require?*

(a) You must send the State and areawide clearinghouses having jurisdiction over your proposed project location a notice of your intent (NOI) to apply for EPA assistance well before you send EPA your standard application. Your NOI may be either a summary description of your proposed project, a Standard Form 424, if acceptable to the clearinghouse, a NOI form the clearinghouse developed, or a complete application. If your proposed project may impact Statewide rather than locally, you do not need to send a NOI to the areawide clearinghouse.

(b) If you do not receive any comments from the clearinghouses within 30 days after their receipt of your NOI or 60 days after their receipt of your standard application, you may assume there are no issues to be resolved and that you may submit your completed application to EPA. You must include a statement with your application saying that you followed these procedures and that you did not receive clearinghouse comments or recommendations.

(c) If you do receive clearinghouse comments, you must include them in your application along with a statement saying that you considered all of them.

(d) If you are applying for construction grant assistance under 40 CFR Part 35, Subpart I, you must submit the facilities plan to the clearinghouses 30 calendar days or more before you submit the application. This action will be your notice of intent to apply for Step 3, or Step 2 + 3 assistance. If you receive "negative" comments, you must address them in your application and submit your application to the clearinghouse for an additional 30-day review.

5. *What information should I include with my notice of intent?*

(a) You must include the following information in your notice of intent:

(i) The legal name of the agency or individual applying for assistance;

(ii) The geographic location of your project, including a map if appropriate;

(iii) A brief description of your project. Include type, purpose, size or scale, estimated cost, beneficiaries and other characteristics so that the clearinghouses can identify plans, programs or projects of State or local government agencies that your proposal might affect;

(iv) A statement of whether EPA has told you that you must submit environmental impact information in connection with the proposed project;

(v) The Catalog of Federal Domestic Assistance title and number of the EPA program for which you wish to apply. (You should refer to the Table in paragraph 3 of this appendix or contact the appropriate EPA grants administration office if you cannot identify the program.)

(vi) The date you expect to submit a formal application.

(vii) Any other detailed documentation describing the proposed project, such as plans or specifications.

6. *What does Part III require?*

Part III requires applicants for Federal formula grant programs which require a State plan as part of an application to provide a copy of the application to the Governor, or designated agency, for review and comment before submitting an application to the funding agency.

Appendix B

Notice and Assistance Clause

(a) The recipient must report to the Project Officer, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this agreement of which the recipient has knowledge.

(b) In the event of any claim or suit against the Government, on account of any alleged patent or copyright infringement arising out of the performance of this agreement or out of the use of any supplies furnished or work or services performed hereunder, the recipient must furnish to the Government, when requested by the project officer, all evidence and information in possession of the recipient pertaining to such suit or claim. Such evidence and information must be furnished at the expense of the Government except where the recipient has agreed to indemnify the Government.

(c) The recipient must include in each subagreement (including any lower tier subagreement) in excess of $10,000 a clause substantially similar to the foregoing provisions.

Authorization and Consent Clause

EPA gives its authorization and consent for all use and manufacture of any invention described in and covered by a patent of the United States in the performance of an assistance agreement and any subagreement.

Appendix C

Rights in Data and Copyrights

1. The term "Subject Data" as used in this clause includes writing, technical reports, sound recordings, magnetic recordings, computer programs, computerized data bases, data bases in hard copy, pictorial reproductions, plans, drawings, including engineering or manufacturing drawings, specifications, or other graphical representations, and works of any similar nature (whether or not copyrighted) which an applicant submits or which EPA specifies to be delivered under this assistance agreement or which a recipient develops or produces and EPA pays for under this assistance agreement. The term does not include financial reports, cost analyses, and other information incidental to assistance agreement administration.

2. Except as may otherwise be provided in this assistance agreement, when publications, films or similar materials are developed directly or indirectly from a project supported by the Environmental Protection Agency, the author is free to arrange for copyright without approval. However such materials shall be subject to the provisions of 40 CFR 30.515. The recipient agrees to and does hereby grant to the Government, and to its officers, agents, and employees acting within the scope of their official duties, a royalty-free, nonexclusive, and irrevocable license throughout the world for Government purposes to publish, translate, reproduce, deliver, perform, dispose of and to authorize others so to do, all Subject Data, or copyrightable material based on such data, covered by copyright now or in the future.

3. The recipient shall not include in the Subject Data any copyrighted matter without the written approval of the project officer, unless he provides the Government with the written permission of the copyright owner for the Government to use the copyrighted matter in the manner provided in Article 2 above.

4. Nothing contained in this Appendix shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other rights otherwise granted to the Government under any patent.

5. Unless otherwise limited below, the Government may, without additional compensation to the recipient, duplicate, use, and disclose in any manner and for any purpose whatsoever, and have others so do, all Subject Data.

6. Notwithstanding any provisions of this assistance agreement concerning inspection and acceptance, the Government shall have the right at any time to modify, remove, obliterate, or ignore any marking restricting disclosure of Subject Data if the marking is not authorized by the terms of this assistance agreement.

7. Data need not be furnished for standard commercial items or services which are normally or have been sold or offered to the public commercially by any supplier and which are incorporated as component parts in or to be used with the product or process being developed or investigated under this assistance agreement, if in lieu thereof identification of source and characteristics (including performance specifications, when necessary) sufficient to enable the Government to procure the part or practice

the process, or acquire an adequate substitute, are furnished.

8. In addition to any data specified elsewhere in this assistance agreement to be furnished to EPA, the recipient shall retain and upon written request of the project officer at any time during project performance or within two years after project performance is completed, deliver any Subject Data not previously delivered.

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June 18, 1982

Part VI

Department of Health and Human Services

Food and Drug Administration

Food Labeling; Declaration of Sodium Content of Foods and Label Claims for Foods on the Basis of Sodium Content and GRAS Safety Review of Sodium Chloride

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 101 and 105

[Docket No. 80N-0314]

Food Labeling; Declaration of Sodium Content of Foods and Label Claims for Foods on the Basis of Sodium Content

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the food labeling regulations to (1) establish definitions for the terms "sodium free," "low sodium," "moderately low sodium," and "reduced sodium," (2) provide for the proper use of these terms in the labeling of foods, (3) provide for the inclusion of potassium content information in the nutrition labeling format on a voluntary basis, (4) provide for the appropriate use of such terms as "without added salt," "unsalted," and "no salt added," and (5) specify that sodium content of foods be included in nutrition labeling information whenever nutrition labeling appears on foods labels. FDA is also issuing a statement of policy on the appropriate use of comparative labeling statements.

This proposal is a result of FDA's evaluation of the health aspects of sodium chloride as a food ingredient and FDA's investigation of the public health significance of excessive sodium in the diet. This proposal would encourage meaningful label declarations of sodium and potassium.

There has been and continues to be considerable discussion and activity in this area. In the United States House of Representatives there have been several legislative proposals discussed which center on the issue of whether sodium labeling should be mandatory or voluntary. In addition; the food industry has initiated very positive actions to add, as a voluntary matter, sodium labeling. This proposal primarily emphasizes the voluntary addition of sodium information to the food label and provides flexibility on how this information is presented. The definitions discussed herein are only applicable if a manufacturer chooses to promote his product by use of one of the definitions. The only foods, based on this proposal, that must bear sodium labeling are those that must bear nutrition labeling or when the manufacturer chooses to do so voluntarily. Nutrition labeling is provided for public health reasons—to assist people in knowing the nutrition content of foods. Because of the public health importance of sodium, such information would be incomplete if it were not included as part of nutrition labeling. It is important to note that the FDA, through a statement of policy contained in this document, is reaffirming the fact that if a manufacturer voluntarily chooses to put sodium information on the label that act will not trigger full nutrition labeling.

DATES: Written comments by August 17, 1982.

The agency proposes that any final rule that may issue based upon this proposal become effective in accordance with a uniform effective date for compliance with food labeling requirements which is announced by notice in the **Federal Register** and which is not sooner than 1 year following publication of any final rule based upon this proposal. See Supplementary Information for full discussion of proposed effective date.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Edward Scarbrough, Bureau of Foods (HFF-204), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-3117.

SUPPLEMENTARY INFORMATION:

Background

Hypertension is the leading cause of strokes in the United States, and is a major contributor to heart attacks, heart failure, and kidney failure (Ref. 1). There has been considerable scientific discussion about the possible health effects posed by sodium intake in excess of physiological needs (Refs. 2 and 3). The scientific concerns have focused primarily on the possible utility of restricting sodium intake as a supportive measure in treating hypertension (Refs. 4 and 5). Essential hypertension (high blood pressure of unknown origin) is the most prevalent of several disorders or diseases in which restriction of sodium intake is frequently needed, and in which control of potassium intake may be required also (Ref. 6). Edema associated with heart, liver, or kidney disease usually also requires sodium restriction (Ref. 6). Dietary control may need to be lifelong for patients suffering from chronic health problems such as hypertension (Ref. 6).

Sodium is ubiquitous in the food supply—nearly every food contains at least a measurable amount—and it is an essential nutrient in human nutrition (Ref. 7). It is an important electrolyte component of all body fluids. Common salt, sodium chloride, is the single greatest contributor of sodium in the American food supply. Thus, a reduction in sodium intake almost always means reducing one's salt intake.

There is a wide range in the amount of sodium contained in individual foods. Some foods such as certain fruits contain less than 1 milligram (mg) per serving, while other foods such as some smoked fish products contain as much as 5,000 mg per serving (Ref. 8). Drinking water supplies in the United States also vary considerably in sodium content (Refs. 9, 10, and 11). For example, one major study showed the sodium content of water to range from 0 to 402 mg per liter (Ref. 11).

As early as 1904, scientific reports began to implicate excess dietary intake of sodium in the development of hypertension (Ref. 6). Since then many studies on humans and animals have suggested a relationship between sodium intake and hypertension in genetically susceptible subjects (Refs. 2 and 12). A number of other factors including stress, age, body weight, genetic profile, chronic kidney infection, and potassium intake may also be significant in the development of hypertension (Ref. 12).

Data on the prevalence of essential hypertension amply demonstrate that it is among the major health concerns in the United States today. The Hypertension Task Force of the National Heart, Lung, and Blood Institute (NHLBI) has estimated that 23 to 60 million persons in the United States are hypertensive (Ref. 1). NHLBI uses this range because the estimated prevalence depends on the criteria used to define this condition, the age groups included, whether persons on adequate treatment are included, and whether institutionalized persons are included (Refs. 13 and 14). The main source of data supporting these estimates is the first National Health and Nutrition Examination Survey (NHANES-1) of the National Center for Health Statistics (NCHS) (Ref. 13).

Of the estimated 60 million hypertensive people, more than 28 million have definite high blood pressure, that is, 160/95 or higher in conventional medical terms. Another 26 million people have borderline high blood pressure (less than 160/95, but not less than 140/90) (Ref. 13). NHLBI also estimates that more than 5 million hypertensives have achieved normal or borderline blood pressure as a result of antihypertensive drug therapy or other kinds of medical care (Ref. 13). By another hypertension classification

scheme commonly used in the United States (Ref. 4) it is estimated that 30 to 40 million persons have mild hypertension (diastolic pressure between 90 and 104), and the remaining 20 to 30 million persons have either moderate (diastolic pressure between 105 and 114) or severe (diastolic pressure of 115 or greater) hypertension (Ref. 15).

Sodium Intake and Hypertension

Although many epidemiological studies indicate a relationship between sodium intake and the prevalence of hypertension (Refs. 2 and 12), the evidence that sodium consumption is a major factor in causing hypertension is not fully conclusive (Ref. 12). Nevertheless, the evidence is strong enough for most members of the medical and scientific community to conclude that a substantial portion of the U.S. population which is predisposed to hypertension would benefit from a reduction in dietary sodium.

As a result of its safety review of those ingredients heretofore "generally recognized as safe" (GRAS), FDA received a report entitled "Evaluation of the Health Aspects of Sodium Chloride and Potassium Chloride as Food Ingredients" from the Select Committee on GRAS Substances of the Federation of American Societies for Experimental Biology (FASEB) (Ref. 2). The report can be summarized as follows: Sodium chloride is an essential constituent of the body and is present in many foods. For man, the daily requirement of sodium chloride is less than 1 gram, but most diets contain a larger amount as a naturally occurring ingredient. Because the daily requirement of sodium chloride is subject to considerable fluctuation from such conditions as profuse sweating and diarrhea, it is not possible, on the basis of currently available data, to recommend an optimal level of intake.

Because the sodium content of the food and water supply varies so widely, consumer intake of sodium is also quite variable. However, estimates of the "usual" sodium intake indicate that most Americans are consuming in excess of physiological needs (Refs. 2 and 5). The National Academy of Sciences/National Research Council (NAS/NRC) estimates that individuals eat between 2,300 and 6,900 mg of sodium per day (equivalent to 6,000 to 18,000 mg of sodium chloride or common salt) (Ref. 5). FASEB estinates the "average" intake to be about 4,000 to 4,800 mg sodium per day (equivalent to 10,000 to 12,000 mg of sodium chloride) (Ref. 2). By comparison, the latest NAS/NRC estimate of a safe and adequate daily dietary intake of sodium for adults is 1,100 to 3,300 mg in the absence of unusual stresses such as heavy physical activity accompanied by profuse sweating, in which the sodium needs may be transiently higher (Ref. 7).

A number of organizations have recommended that consumers limit their salt intake because of the role of excess dietary sodium in the development of hypertension. Some examples of these recommendations follow.

The Council on Scientific Affairs of the American Medical Association stated in 1979 that "Prudence suggests that moderation in salt intake is desirable for the entire population" (Ref. 16). The Senate Select Committee on Nutrition and Human Needs recommended that Americans limit their daily intake of salt to about 5 grams (g) (5,000 mg) of added salt (Refs. 17 and 18). The Select Committee recommended that the public limit the daily intake of sodium to less than an equivalent of 8 g of salt per day from all sources, assuming a nondiscretionary contribution of 3 g of salt that occurs naturally in foods. Because salt is 40 percent sodium by weight, this recommendation lies within the sodium intake range designated as safe and adequate by NAS/NRC (Ref. 7).

The NHLBI Hypertension Task Force issued a report recommending additional research that would lead to a better understanding of the role of salt in the etiology and treatment of hypertension. The Task Force also reported that it would be prudent for all individuals—both those with normal blood pressure and those with hypertension—to avoid the injudicious use of salt whenever possible, and recommended that the sodium content of commercially available food be declared on the label (Ref. 3).

NAS/NRC prepared a report in 1979 on sodium-restricted diets stating: "In the United States, consumption of sodium in the diet well exceeds metabolic needs." The report also stated: "It now appears that combined use of sodium restriction and of an appropriate diuretic agent is usually the safest and most efficacious approach for treating diseases whose manifestations are related to retention of sodium" (Ref. 5).

Additionally, NAS/NRC in its report "Toward Healthful Diets" recommended that consumers "use salt in moderation; adequate but safe intakes are considered to range between 3 and 8 g of sodium chloride daily" (Ref. 19).

In its report to FDA, FASEB also concluded that 10 to 30 percent of the U.S. population is genetically predisposed to hypertension, and is exposed to a higher risk by ingestion of sodium chloride at current levels. FASEB believes that a reduction in sodium chloride consumption by the population would reduce the frequency of hypertension. The FASEB report also stated that adequate labeling of the sodium content of foods would help meet this objective (Ref. 2).

The Department of Health and Human Services (DHHS), in conjunction with the Department of Agriculture (USDA), has recently issued a pamphlet entitled "Nutrition and Your Health—Dietary Guidelines for Americans" which contains the statement, "The major hazard of excessive sodium is for persons who have high blood pressure * * *. Since most Americans eat more sodium than is needed, consider reducing your sodium intake. Use less table salt. Eat sparingly those foods to which large amounts of sodium have been added" (Ref. 20).

A common theme emerges from these recommendations. Adult intake of sodium in the United States is in excess of physiological needs, and it would be prudent for the general population to reduce sodium intake whenever possible. The role of excess dietary sodium in the development of hypertension needs to be defined more clearly, but there is no evidence that a moderate reduction in sodium intake for the general public would have any adverse health effects, and there is a strong indication that such a reduction would be beneficial to a large segment of the population (Refs. 1, 4, and 21).

FDA's entire sodium program, including this labeling proposal, is properly directed toward the general public. The program is intended to assist individuals in lowering their intake of sodium should they so desire and to assist the medical profession in managing their patients. Thus, the proposal pertains to the nutrition labeling of all food, not just to those for special dietary use (21 CFR 105.69).

Persons already suffering from hypertension or other sodium-related disorders who are advised by their physician to limit their consumption of sodium would be aided in the dietary management of their disorder. In its report on sodium-restricted diets, NAS/NRC suggests that dietary restrictions be classified as mild (2,000 to 3,000 mg/day), moderate (1,000 to 1,500 mg/days), severe (500 to 700 mg/day), or extreme (200 to 300 mg/day) (Ref. 5). Patients restricted to such diets and others wishing to restrict their sodium intake would have much more sodium information available as a result of

FDA's initiatives. Consequently, they would be better able to maintain their sodium intake at the desired level.

FDA Initiatives

To respond to the public health concerns expressed in the FASEB report and in the many other scientific articles dealing with hypertension, FDA developed the following five-point program (Ref. 22):

1. To propose the labeling changes announced in this document.
2. To encourage the food industry to reduce voluntarily the amount of sodium added to processed foods and to market a greater variety of foods with lowered sodium.
3. To encourage consumer education that will explain the relationship between sodium and high blood pressure.
4. To monitor the changes in the nation's sodium consumption through the agency's annual total diet study, labeling surveys, and other programs to determine whether FDA's efforts are meeting the goals the agency has set—less sodium in the food supply and more sodium information on food labels.
5. To consider the need for new legislation—only if the voluntary efforts of the food industry fail.

The Department of Health and Human Services (HHS) and FDA announced this program on April 14, 1981 (Ref. 22). At that time, and in numerous other public forums, both HHS and FDA have stressed that the goals of the sodium program are to provide more sodium information to the public and to reduce the amount of sodium in processed food.

FDA is relying on voluntary action by the food industry to achieve these goals. On June 30, 1981, the Secretary of Health and Human Services and the Commissioner of Food and Drugs met with food industry representatives to enlist their help in reaching these goals. Subsequently, FDA's Bureau of Foods has met individually with firms and trade associations. FDA is encouraged by the industry's cooperation to date, and hopeful that the agency can achieve its goal without any regulatory efforts other than the labeling initiatives in this proposal. It is premature at this point, however, to make that determination.

This proposal is the only element in the agency's program that requires a regulation, and is not meant to supersede or overshadow the emphasis that FDA places on the voluntary efforts of the food industry. Moreover, FDA may determine that parts of this labeling regulation are not necessary after the agency has evaluated the comments received and the level of industry's voluntary effort.

In that respect, private sector activity and voluntary efforts by the food industry have been encouraging to date. Many of the major food companies have advised FDA that they are providing or intend to provide sodium information on their product labels. In addition, many food companies are now actively working on ways to reduce the sodium content of their foods where feasible. Coupled with industry's efforts to reduce sodium content is activity directed towards educating the public with regard to sodium. FDA has cooperated with several trade associations in developing sodium information pamphlets and has worked with consumer groups to disseminate sodium information to the public. FDA has collaborated with the National Institutes of Health, specifically, the National Heart, Lung, and Blood Institute, and the United States Department of Agriculture to provide educational information to the public. A number of professional groups have been actively involved in these efforts as well, most notably the American Medical Association which held a consensus conference on the need for sodium information and how it should be provided on the label.

The proposal has three primary purposes: (1) To define certain terms, some of which are now used in the marketplace, to ensure consistency in their meaning and applicability to the general food supply; (2) to eliminate the requirement that sodium be listed in milligrams per 100 grams and require only listing of sodium in milligrams per serving; and (3) to make certain that sodium appears on nutrition labels. This proposal also reiterates the current agency policy that sodium may be quantitatively listed by itself on the label without triggering full nutrition labeling.

The agency is anxious to receive comments on all aspects of the proposal and on any other means to achieve the goals of the agency's sodium program.

Food Labeling

An FDA marketing study conducted in 1977 of the retail packaged food supply found that 61 percent of the brands sampled listed sodium-containing ingredients in the ingredients statement (Ref. 23). Sales of foods with quantitative sodium information as part of the nutrition label accounted for only 7.5 percent of total packaged food sales, however. Quantitative sodium labeling appeared mainly in the following food groups: cereals, baking mixes, diet and "health" foods, flour, canned juices, dry pasta, salad dressings, shortening/oils, syrups/molasses, frozen breakfast foods, and refrigerated bread/pastry products. That percentage increased to 13.4 percent of total packaged food sales in 1979–1980 (Ref. 24).

The agency has sought information from a variety of sources including industry and consumers before developing its sodium program. FDA, USDA, and the Federal Trade Commission's (FTC) Bureau of Consumer Protection conducted a comprehensive review of food labeling laws and regulations, including a series of tripartite public hearings. A notice requesting comments on food labeling policy was published in the **Federal Register** of December 21, 1979 (44 FR 75990).

One of the issues discussed at the hearings was the declaration of sodium and potassium content of foods on the product label. In preparing this proposal FDA has examined and considered the information pertaining to sodium labeling that it received at the hearings and as comments on the December 21, 1979 notice. Nearly 25 percent of all comments discussed the sodium or potassium content of foods in their written or oral statements, making this labeling issue the second most frequently discussed topic. The results of FDA's Consumer Food Labeling Survey (Ref. 25), like the opinions expressed at the hearings and in written comments on food labeling policy, show the strong public concern about sodium in foods.

The public's concern stems from scientific discussions about the possible health problems posed by dietary intake of sodium in excess of physiological needs. Comments also reflect the view that the sodium and potassium content of foods is important nutrition information and that consumers have a right to be informed about the levels of these nutrients in foods. Other consumers stressed that regardless of the outcome of the scientific debate about the health consequences of increased levels of sodium in the diet, the general public should be provided with enough information about the foods they eat to be able to restrict their sodium intake to levels recommended by physicians and health professionals.

Consumers often used the terms "salt" and "sodium" interchangeably. In fact, these terms are not the same. Sodium chloride or ordinary salt, containing almost 40 percent sodium, is only one of several sources of sodium in the diet. The public should be aware that there are other common sources of sodium. For example, baking powder, monosodium glutamate, baking soda, sodium alginate, and water from many

sources are all ingredients used in food processing that contribute to the sodium content of foods, and thus to the total dietary intake of sodium.

Quantitative Declaration—Nutrition Labeling

Sodium. Currently, FDA requires a label declaration of the sodium content of a food only when a claim is made regarding the usefulness of the food in regulating sodium or salt intake (21 CFR 105.69). Present FDA regulations permit, but do not require, the labels of a food to declare its sodium content either alone (21 CFR 101.9(a)) or as part of complete nutrition labeling (21 CFR 101.9(c)(6)(iv)).

FDA has reexamined these regulations in light of the published views and recommendations of various public and private scientific organizations concerning the impact of sodium consumption on the public health. FDA has also considered the consumer information desires expressed in the record of the food labeling hearings and in FDA's own food surveys.

As a result, FDA is proposing to amend the food labeling regulations in 21 CFR 101.9(c)(6)(iv) to require that the sodium content of foods be included as part of nutrition labeling information, whenever nutrition labeling is required or is provided voluntarily. FDA is not changing the current exemption in 21 CFR 101.9(a) which permits manufacturers to provide information on sodium content alone without triggering a requirement for full nutrition labeling. By so doing, the agency hopes to encourage quantitative sodium labeling.

Current regulations require sodium content, when declared, to be expressed in terms of milligrams per serving and milligrams per 100 grams of food. This dual declaration is inconsistent with the general FDA policy that nutrients be declared only on a per-serving basis. In addition, industry and consumer groups have frequently advised the agency that the dual declaration is confusing and unnecessary. The agency is therefore proposing to amend 21 CFR 105.69 to require a declaration of sodium only in terms of milligrams of sodium per serving.

This proposal requires that the quantitative declaration of sodium content be expressed to the nearest 5-milligram increment. If the serving contains 5 milligrams or less, the proposal would allow the label to bear an appropriate statement to that effect or to declare the sodium content rounded to the nearest 5-milligram increment, that is, 0 or 5 mg/serving. FDA is also proposing to amend 21 CFR 105.69 to provide that the label of a food for special dietary use as a means of regulating one's sodium intake that contains 5 milligrams or less of sodium per serving must bear either of the declarations explained above.

The proposal also amends 21 CFR 101.9(e)(5) to add a compliance standard for sodium labeling. As is the case with calories, carbohydrates, and fats (see 21 CFR 101.9(c)(5)), a food would be deemed to be misbranded unless its sodium content is no greater than 20 percent in excess of the sodium value declared on the label. For example, if a manufacturer labels a product as containing 100 milligrams of sodium per serving and the analysis of several composites of the product shows that the sodium content varies from 90 to 120 milligrams of sodium, the product would be in compliance. If, however, the variation in sodium content from one composite analysis to another is in the range of 100 to 130 milligrams of sodium per serving, some of the product may be found to be misbranded, and the manufacturer would have to revise the label declaration in order for the product to be free of any risk that the agency would consider it misbranded.

Potassium. Potassium is an element chemically similar to sodium. Alone, or in combination with sodium chloride, its salts can provide taste effects similar to salt (Ref. 2). For this reason potassium salts are often used as replacements for sodium chloride by those who are reducing their sodium intake. The biological and physiological functions of these elements are also interrelated.

A number of clinical conditions which require dietary control of sodium, such as hypertension and kidney disease, also may require dietary control of potassium under certain circumstances (Ref. 6). Control of potassium intake can be of particular importance in the presence of severe kidney disease. Label information about both potassium and sodium content would assist patients who have these conditions.

Current nutrition labeling regulations contain no provisions for the quantitative declaration of potassium content. However, health professionals and consumers frequently have requested the inclusion of potassium information in nutrition labeling. In the comments received in response to the 1978 food labeling hearings, the American Medical Association, among others, suggested that both sodium and potassium information on food labels would be of value (Ref. 26).

In light of the concerns discussed above, the agency is also proposing to amend 21 CFR 101.9 to provide for the inclusion of potassium content information on a voluntary basis in nutrition labeling. The agency will monitor the potassium content of common items in the food supply, as well as the presence of potassium declarations in nutrition labeling, and will periodically reexamine the possible need for more extensive potassium labeling.

The agency welcomes comments and suggestions on the proposed labeling initiatives for both sodium and potassium. The agency will consider and respond to all such comments in any final regulation published on this matter.

Nutrient data base. FDA has also concluded that nutrient data bases may be useful for determining the sodium and potassium levels of individual products. Data bases may be generated for segments of a particular industry or for an individual firm's products. A nutrient data base is simply the accumulation of analytical findings about the nutrient content of specific food items. A nutrient data base allows a manufacturer to base quantitative label declarations of nutrient content on information in the data base rather than on repetitive analysis of production lots of the individual products being labeled. In order to use nutrient data base information properly for the declaration of a specific nutrient in nutrition labeling, a firm must select a representative value that reflects both the variation in the level of this nutrient in the specific product and the requirements of nutrition labeling. Interested persons are invited to submit comments on this proposal that include how industry-wide and product-specific nutrient data bases may be established and used for sodium labeling purposes.

In the past, FDA has explored with industry the establishment and utilization of nutrient data bases for nutrition labeling purposes and has worked with industry in developing appropriate nutrient values for milk, ice cream, and several other foods. In addition, the December 21, 1979 notice on food labeling issues stated, "If products bearing nutrition labeling in accordance with properly evaluated nutrient data bases and manufactured in accordance with good manufacturing practices are found not to be in compliance with applicable nutrition labeling regulations, the agencies will work with the firms responsible for the product in question and with the appropriate authorities who are maintaining the applicable nutrient data base to correct the problem * * *" (44 FR 76003). FDA reaffirms these principles. If the manufacturer requests FDA's help, the agency is willing to

review the nutrient values selected for the respective foods, but such a review is not required before a firm may use a scientifically valid nutrient data base.

Sodium in water. The agency recognizes that processed foods that contain large amounts of water may have varying amounts of sodium because of the differences in sodium content of local water supplies. Thus, under some circumstances, manufacturers may have difficulty in setting a uniform level for the sodium content of such foods. Manufacturers may, of course, label such products to reflect the highest levels of sodium that are likely to occur in the food. FDA welcomes suggestions or other comments to address this matter.

Analytical methodology. Sodium and potassium are assayed directly by one of several "wet chemical" or instrumental methods. Sodium is sometime assayed indirectly by analysis of chloride content. FDA does not believe that any indirect method (for example, estimating the sodium content by determining the chloride content) is appropriate for purposes of nutrition labeling and is proposing that only direct methods be used. In addition, instrumental methods such as flame photometry are generally more economical, more sensitive, and more reliable than "wet chemical" methods. Flame photometric analysis of sodium and potassium is perhaps less expensive than analysis for any other food component. FDA is therefore proposing that appropriately adapted, direct instrumental methods for performing sodium and potassium analyses be employed.

Definitions

As discussed earlier, as many as 60 million individuals may have hypertension. Those individuals and people with other chronic diseases may require lifelong sodium restriction. In addition, because of the pervasive nature of the health concerns associated with excessive sodium intake, scientific and health care organizations have urged that the general public consider moderate reductions in sodium intake. FDA believes that label information is a convenient and effective way of helping all consumers monitor their sodium intake, and wishes to encourage manufacturers to include sodium content on all food labels intended for use by the general public, not just on those foods specifically marketed for use by persons on sodium-restricted diets.

In addition to proposing quantitative sodium labeling requirements, this proposal would establish definitions for the terms "sodium free," "low sodium," "moderately low sodium," and "reduced sodium," would provide for the proper use of these terms in the labeling of foods in general, and would provide for the appropriate use of the terms "without added salt," "unsalted," and "no salt added." The agency is also issuing a policy statement on the appropriate use of comparative labeling statements.

FDA is proposing these definitions under sections 201(n) and 403(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(n) and 343(a)). Those sections authorize the agency to prohibit labeling that is false or misleading in that it fails to reveal material facts with respect to consequences which may result from the use of the article. Because many people are concerned about and want to restrict their intake of sodium, it is important that label statements not convey a misleading impression about the sodium content of a food. The agency believes that specific definitions are necessary to standardize the terms used by manufacturers to describe the sodium content of a food. For example, FDA has tabulated the sodium content of a small number of foods currently marketed as "low sodium dietetic foods," and has found that the sodium levels of these foods range between less than 10 mg/serving and 102 mg/serving (Ref. 27). Without clear guidance as to what constitutes a "sodium free," "low sodium," "moderately low sodium ," or "reduced sodium" food, the agency is concerned that manufacturers might use terms that connote varying levels of sodium reduction to different persons.

FDA requests comments on the proposed definitions and any suggestions as to other definitions that might more effectively inform consumers about a food's sodium content. The agency will consider and respond to all such comments in any final regulations published on this matter.

FDA is proposing the definitions in terms of milligrams per serving because (1) current nutrition labeling regulations require nutrient declarations on this basis, (2) sodium and potassium are to be included in the nutrition labeling format as part of this proposal, and (3) sodium-restricted diets are usually prescribed on the basis of the total milligrams of sodium per day in the diet. In addition, labeling claims should relate as simply and directly as possible to consumer experience and understanding. Definitions in terms of 100 kilocalories (kcal) of food or per 100 g of food are less meaningful to the public because these units are not ordinarily used by consumers in the preparation or consumption of food.

This proposal does not distinguish between added sodium and sodium naturally occurring in ingredients, because the total amount of sodium in the finished product, regardless of the source, is the human health concern. The same reasoning applies to quantitative declarations of potassium content.

The agency recognizes that opinions may vary about what constitutes a "low sodium" or "moderately low sodium" food. In an effort to propose reasonable and appropriate definitions, FDA has considered available recommendations of national and international scientific groups, including the American Medical Association (AMA) and the Joint FAO/WHO Codex Alimentarius Commission (Codex), regulations of the Canadian Bureau of Nutritional Sciences, and current policies of the United States Department of agriculture, regarding the definitions for "low" and "moderately low" sodium foods. The agency has also attempted to correlate these definitions with the levels of sodium intake recommended for persons on diets with varying degrees of sodium restriction (Refs. 28, 29, and 30) and has evaluated a number of scientific studies suggesting what levels of sodium restriction will contribute to lowering of blood pressure (Refs. 4, 31, 32, and 33).

The definitions for "sodium free," "low sodium," and "moderately low sodium" consider the number of servings that the average American consumes each day. Data obtained from the first National Health and Nutrition Examination Survey (NHANES–I), which included young children, indicate that the average number of servings (including multiple servings) per sample person was 18 (Ref. 34). Similar data from NHANES–II indicate that the average number of servings per sample person was 17 (Ref. 34). Because some individuals consume multiple servings at one setting, and because young children often have fewer servings than adults, the agency proposes to adopt 20 servings per day as a reasonable average number of servings for adult individuals.

In its recommended standard, the Codex defines two classes of foods with lowered sodium content: "very low sodium" food and "low sodium" food (Ref. 35). According to the Codex definition, a "very low sodium" food may contain no more than 40 mg/100 g, must be processed with no added sodium, and may contain no more than one-half the sodium in a comparable normal product. A Codex "low sodium"

food may contain no more than 120 mg/100 g, must be processed with no added sodium, and may contain no more than one-half of the sodium in a comparable normal product.

The Canadian regulations also define a "low sodium" food and provide that such a food may contain no more than 40 mg sodium/100 g of food (Ref. 36). A Canadian "low sodium" food must be processed with no added salt and may contain no more than one-half of the sodium in a comparable normal product. The regulations provide some exceptions for meat, fish, poultry, and cheddar cheese.

Both of the above-described approaches are based on amounts of nutrients per 100 g of food, while FDA's approach has consistently been based on amounts of nutrients per serving of food. Although many foods have approximately 100 g serving sizes, many do not. Moreover, the Codex and Canadian approaches focus on specially processed foods, while FDA's proposal is aimed at the general food supply.

The definitions that explain the sodium content of foods should be understandable and useful to physicians as well as to those who purchase food. Physicians, prescribing for patients on sodium-restricted diets, may set the patients' diets in terms of milliequivalents (mEq) of sodium. FDA has considered both groups in developing the definitions being proposed herein because the levels for "low sodium" and "moderately low sodium" are readily convertible from milligrams to their milliequivalent counterparts.

FDA is aware that there is some consumer interest in requiring foods containing more than a specified level of sodium per serving to be labeled as "high in sodium" or "highly salted." The agency believes that imposing such a requirement is not justifiable at this time, because there is no general scientific agreement on what "high in sodium" is. Accordingly, the agency is not proposing any definitions for the terms "high in sodium" or "highly salted." FDA advises any persons interested in developing definitions for those terms and including those terms in food labeling to submit their rationale and supporting data as comments to this proposal.

Sodium free. FDA is proposing that the term "sodium free" be defined to apply only to those foods which contain 5 mg or less of sodium per serving. The agency recognizes that no definition for "sodium free" has been provided by either the Codex recommendation or the Canadian regulations. FDA believes, however, that the establishment of a definition for a "sodium free" food would be useful to the consumer and would provide an incentive to industry to make available foods containing trivial amounts of sodium and to further reduce the sodium content of some foods which are already low in sodium. Finally, a definition for "sodium free" foods would assist all patients on sodium-restricted diets.

FDA has historically recognized that less than 10 mg of sodium per serving is, for all practical purposes, dietetically insignificant for all but individuals on severe or extreme sodium restrictions. FDA recognizes that the term "sodium free" may imply that no sodium can be analytically detected in the food. In fact, with modern methodology sodium can be detected and quantified in concentrations of a few parts per million or less. FDA does not want to create any misconceptions about the meaning of the term "sodium free." Accordingly, the definition proposed is below the level of 10 milligrams or less of sodium per serving that the agency has traditionally considered dietetically insignificant.

"Sodium free" foods, as defined by this proposal, would provide a trivial amount of sodium to the total diet for all individuals, except for those on extremely stringent sodium restrictions. Even those persons could consume 20 servings of "sodium free" foods per day and consume no more than 100 mg of sodium per day. The agency recognizes that it would be almost impossible to consume a balanced diet consisting of nothing but "sodium free" foods, but the availability of such foods would be helpful in balancing the sodium intake of foods that necessarily contain larger amounts of sodium.

Low sodium. FDA is proposing that "low sodium" be defined to apply only to those foods which contain 35 mg or less of sodium per serving. This level is similar to that set by the Codex recommendation and the Canadian regulations for "very low" and "low" sodium foods, respectively, and is consistent with the policies of USDA with respect to "low sodium" labeling of meat products. These factors, taken together, persuaded FDA that 35 mg sodium per serving is an appropriate maximum level to propose for "low sodium" foods.

The agency recognizes that it is extraordinarily difficult to plan an adequate diet solely from low sodium foods. For example, animal protein products—poultry, fish, and meat—naturally contain varying amounts of sodium. Most people want to include some animal protein in their diets, however, and the physician will usually try to accommodate this desire by building a sodium-restricted diet around a daily allotment of animal protein and supplementing the diet with low sodium foods. The agency believes that "low sodium" should be defined with this common medical practice in mind. Even with the addition of some animal protein to the diet, the 35 mg/serving level, because it is low, will provide the consumer with a broad safety factor in adhering to sodium restrictions. A person on mild to moderate sodium restrictions can thus consume "low sodium" foods, as FDA proposes to define them, almost at will, without exceeding dietary restrictions. For example, persons on a sodium-restricted diet of 1,000 to 1,500 mg of sodium per day ("Moderate" sodium restrictions, as defined by NAS/NRC) and consuming 20 servings of low sodium foods per day would still be able to consume 300 to 800 mg of sodium derived from drinking water and the addition of modest amounts of sodium during cooking or at the table. The American Heart Association has suggested a sodium-restricted diet plan of this type (Ref. 37).

Finally, physicians, prescribing for patients on sodium-restricted diets, often use the term milliequivalents (mEq) of sodium. As an aid to physicians when they are advising patients, 35 mg approximates the weight of 1.5 mEq of sodium; i.e., foods labeled as "low sodium" foods would contain not more than approximately 1.5 mEq of sodium per serving.

Moderately low sodium. FDA is proposing that "moderately low sodium" be defined to apply only to those foods which contain 140 mg or less of sodium per serving. A daily diet consisting of 20 servings of foods, "moderately low in sodium" would contribute about 2,800 mg of sodium per day. Thus, a person consuming a "mildly" sodium-restricted diet (Ref. 5) could consume 20 servings of foods, "moderately low in sodium," as defined by this proposal. No allowance has been made, however, for sodium in drinking water, or sodium added during cooking or at the table. The agency believes that persons on "mildly" restricted diets are likely to consume a number of "sodium free" or "low sodium" foods. This would give some flexibility to the diet and would permit consumption of sodium from other sources.

In addition, 140 mg approximates the weight of 6 mEq of sodium (138 mg) and more than 50 percent of the foods in the 1979 FDA survey fall below this level (Ref. 27), including nearly all of the currently marketed "low sodium" foods.

Reduced sodium. FDA recognizes that there are many foods, which through special processing, have significantly lower sodium content than those for which the reduced sodium foods serve as direct replacements. Many of these foods are currently labeled as "reduced in sodium." With the establishment of definitions for "low sodium" and "moderately low sodium" the term "reduced sodium" would be especially useful for those situations in which the food, after sodium reduction, still contains more than 140 milligrams of sodium per serving. Because these products would still contain significant amounts of sodium, FDA believes that there must be a substantial reduction in the level of sodium in order to justify a claim. FDA is, therefore, proposing a definition for the term "reduced sodium." That term may be used only on the labels of foods that have achieved, through special processing, at least a 75-percent reduction in sodium content over foods for which the reduced sodium foods serve as direct replacements.

Opinions may differ about what factor constitutes a significant reduction of sodium in a food product. For example, the proposed reduction is substantially less than the 97 percent reduction achieved in low sodium colby and cheddar cheese (21 CFR 133.121 and 133.116). FDA is soliciting comments regarding its choice of 75 percent as the defining criterion. Comments supporting other definitions for this term or alternative terms should include data that demonstrate that some other value more effectively prevents consumers from being misled by the label term.

The agency is also interested in receiving comments about the appropriateness of using four different definitions for sodium claims. Interested persons are encouraged to comment about the need for more or fewer definitions for sodium claims. The comments should include reasons that justify a different approach.

Use of the Defined Terms

The definitions proposed by FDA do not stipulate any conditions other than sodium content in order for a food to qualify as "sodium free," "low sodium," or "moderately low sodium," but the terms must be declared on the label in a manner that is not misleading. The definitions are like claims that describe the sodium content of a food. They are not statements of identity or names for that food. The meaning of these definitions to consumers does not depend on their being appended to and made a part of the name of the food. Moreover, FDA believes that the use of the defined terms in the statement of identity of a food would be misleading, because it might imply to consumers that the low sodium food differs in some way other than lowered sodium content from a food not so labeled, or that only that particular brand is low in sodium, when, in fact, any brand might contain a low level of sodium.

A food may be specially processed to lower its sodium content or it may normally contain small amounts of sodium, and both types of food may use the proposed terms. Accordingly, any food that meets the definition may be labeled as a "sodium free," a "low sodium," or a "moderately low sodium" food, but, to avoid being misleading, these terms must be placed on the label adjacent to or otherwise apart from the statement of identity. For example, canned green beans that have been specially processed and that met the "low sodium" standard should continue to be identified as "green beans," but the label of such a food may include a box or other highlighted portion of the label containing the term "low sodium."

If a salt substitute is used to replace salt in a food that has a standardized or familiar composition, the label of that food must disclose the use of the salt substitute to prevent consumers from being misled. For example, the standards for low sodium cheeses require an additional label statement disclosing the use of salt substitutes.

In order for a food to qualify as a "reduced sodium" food, it may contain only 25 percent as much sodium as the food for which it is a replacement. As is the case for a "low sodium" or "moderately low sodium" food, the "reduced sodium" food must be labeled in a fashion that is not misleading. Thus, to be labeled correctly, the term "reduced sodium" must appear on the label adjacent to or otherwise apart from the statement of identity of a food that achieves a 75 percent reduction in sodium. The label of such a food may include a box or other highlighted device containing the term "reduced sodium." If a food is labeled "reduced sodium", the label must bear information comparing the product's sodium content per serving with that of the food it replaces.

Further, FDA is retaining its policy of permitting manufacturers to truthfully label foods to show the comparative sodium reduction. In order to insure that consumers are not mislead into believing that an inconsequential reduction in sodium content will provide significant health benefits, the agency believes that manufacturers should use comparative labeling statements only in those cases where the sodium level is at least 10 percent lower than the food for which it is a replacement. For example, a manufacturer could truthfully label a product called "Cucumber Pickles" to show that "these pickles contain 20 percent less sodium than our regular pickles." The labeling must also provide quantitative sodium information in conformance with 21 CFR 101.9 or 105.69. The agency wishes to make it clear that it is not establishing any regulations governing these comparative claims, but it merely issuing this statement of policy to provide guidance to manufacturers on the appropriate use of these terms.

A manufacturer that is unsure about how to use any of the proposed terms may request assistance from FDA's Bureau of Foods.

Other Sodium or Salt Claims

Foods may be produced without the addition of sodium chloride. Manufacturers have often labeled such products as having "no salt added" or being "unsalted." Although these claims do advise the consumer that no salt was used in the processing or preparation of the food, they have the potential of being misleading or confusing. These same foods could contain significant amounts of endogenous sodium or sodium contained in food ingredients other than salt that are added during processing. Therefore, FDA is proposing that any food for which a claim is made regarding processing without salt must bear quantitative information on sodium content in accordance with 21 CFR 105.69 or 21 CFR 101.9.

FDA considers the term "salt free" to be false and misleading unless the term is used in labeling products that contain 5 mg or less of sodium per serving and thus meet the test for a "sodium free" product.

References

The following information has been placed in the Dockets Management Branch (address above) and may be seen by interested persons from 9 a.m. to 4 p.m., Monday through Friday.

1. "Report of the Hypertension Task Force, Volume One: General Summary and Recommendations," DHHS Publication No. (NIH) 79–1623, U.S. Department of Health and Human Services, Washington, DC 1979.

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15. Statement of Dr. R. I. Levy, Director, National Heart, Lung, and Blood Institute, *in* "Sodium in Food and High Blood Pressure," Hearings before the Subcommittee on Investigations and Oversight of the Committee on Science and Technology, U.S. House of Representatives, 1st Session, April 13 and 14, 1981, U.S. Government Printing Office, Washington, DC, 1981, pp. 12–28.

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The agency periodically announces by notice in the **Federal Register** uniform effective dates for compliance with food labeling requirements. (See, for example, the **Federal Register** of October 31, 1980 (45 FR 72111).) The agency proposes that any final rule that may issue based upon this proposal become effective in accordance with a uniform effective date for compliance with food labeling requirements which is announced by notice in the **Federal Register** and which is not sooner than 1 year following publication of any final rule based upon this proposal. The final rule would apply to affected products initially introduced or initially delivered for introduction into interstate commerce.

Environmental Impact

The agency has determined pursuant to 21 CFR 25.24(d)(13) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Economic Impact

FDA has examined the economic implications of the proposed regulation in accordance with Executive Order 12291 and the Regulatory Flexibility Act (Pub. L. 96–345, 94 Stat. 1166). The agency concludes that approximately 3,500 food manufacturing firms will incur a total first year cost of as much as $14.7 million and recurring annual costs of $0.5 million to comply with this proposed regulation. These costs are

expected to be passed on through the food distribution chain to consumers in the form of higher retail food costs. The first year cost increase represents about one one-hundredth of one percent (0.01 percent) of consumer expenditures for FDA-regulated food products, or about three one-hundredths of one percent (0.03 percent) of consumer expenditures for the 41 percent of all foods that are nutritionally labeled. The anticipated costs of this proposal are not of sufficient magnitude to warrant designation as a major rule under any of the criteria specified under section (b) of Executive Order 12291.

The agency believes that this proposal has several inherent flexibilities that will moderate any significant burdens on small firms. For example, the proposal permits considerable variability in the accuracy of sodium labeling declarations. It provides for freedom to determine sodium content by means other than testing, and it allows the option of declaring higher than average sodium value to minimize multiple labels. In addition, a majority of firms affected by this proposal may exercise the option of discontinuing voluntary nutrition labeling, if they find disclosure of sodium content to be excessively costly.

The agency has conducted a discretionary Regulatory Flexibility Analysis to confirm that this proposal will not have a significant impact on small businesses. As a result of this analysis, the agency certifies that this proposed rule will not if promulgated have a significant economic impact on a substantial number of small entities. If certain products or sectors of the industry anticipate unique burdens from this proposal, FDA is interested in minimizing these burdens by special provisions. The exemption of very small firms, special labeling variations for certain products, or extension of the effective date are alternatives the agency is willing to consider if information on the need for, and anticipated cost savings of, such flexibilities are reasonably demonstrated.

Copies of the threshold assessment and the regulatory flexibility analysis are on file and available for review in the Dockets Management Branch (address above).

List of Subjects

Part 101

Food labeling; Misbranding; Nutrition labeling; Warning statements.

Part 105

Dietary foods; Food labeling; Infant foods; Nutrition; Vitamins and minerals.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 403, 701, 52 Stat. 1040–1042 as amended, 1047–1048 as amended, 1055 (21 U.S.C. 321, 343, 371)) and under 21 CFR 5.11 (see 47 FR 16010; April 14, 1982), it is proposed that Parts 101 and 105 be amended as follows:

PART 101—FOOD LABELING

1. In Part 101:

a. In § 101.9 by revising the introductory text of paragraph (c), revising the introductory text of paragraph (c)(6), removing paragraph (c)(6)(iv), adding new paragraph (c)(8), and revising paragraph (e)(5), to read as follows:

§ 101.9 Nutrition labeling of food.

* * * * *

(c) The declaration of nutrition information on the label and in labeling shall contain the following information in the following order, except for sodium and potassium which shall follow fat and cholesterol information, using the headings specified, under the overall heading of "Nutrition Information Per Serving (Portion)." The terms "Per Serving (Portion)" are optional and may follow or be placed directly below the terms "Nutrition Information."

* * * * *

(6) "Fat content" or "Fat": A statement of the number of grams of fat in a serving (portion) expressed to the nearest gram, except that if a serving (portion) contains less than 1 gram, the statement "Contains less than 1 gram" or "less than 1 gram" may be used as an alternative. Fatty acid composition and cholesterol content may also be declared in compliance with § 101.25.

* * * * *

(8)(i) "Sodium content" or "sodium": A statement of the number of milligrams of sodium in a specified serving (portion) of food, expressed to the nearest multiple of 5 milligrams shall be placed on the label immediately following the statement on fat content (and fatty acid and/or cholesterol if stated). If the serving (portion) contains 5 milligrams or less of sodium, this fact shall be indicated by an appropriate statement. The label may declare that the food contains 5 milligrams or less of sodium, or it may contain a declaration of sodium content to the nearest 5-milligram increment (0 mg or 5 mg). Sodium content shall be determined by flame photometric or atomic absorption spectrophotometric methods for sodium ion in accordance with applicable methods of analysis of the Association of Official Analytical Chemists (AOAC), 13th ed., 1980, which is incorporated by reference, or, if no AOAC method is applicable, by an equivalent direct instrumental analysis method for sodium ion. Copies are available from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or available for inspection at the Office of The Federal Register, 1100 L St. NW., Washington, DC 20408.

(ii) Potassium may be declared voluntarily on the label. Information on potassium shall be placed on the label immediately following the sodium content and shall include a statement of the number of milligrams of potassium in a specified serving (portion) of food, expressed to the nearest multiple of 5 milligrams. If the serving (portion) contains 5 milligrams or less of potassium, this fact shall be indicated by an appropriate statement. The label may declare that the food "contains 5 milligrams or less" or it may contain a declaration of potassium content to the nearest 5-milligram increment (0 mg or 5 mg). Potassium content shall be determined by flame photometric or atomic absorption spectrophotometric methods for potassium ions in accordance with applicable methods of analysis of the Association of Official Analytical Chemists (AOAC), 13th ed., 1980, which is incorporated by reference, or, if no AOAC method is applicable, by an equivalent direct instrumental analysis method for potassium ion. Copies are available from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

(e) * * *

(5) A food with a label declaration of calories, carbohydrates, fat, or sodium shall be deemed to be misbranded under section 403(a) of the act unless the nutrient content of the composite is no greater than 20 percent in excess of the value for that nutrient declared on the label.

* * * * *

b. By adding new § 101.13, to read as follows:

§ 101.13 Sodium labeling.

(a) Certain descriptive terms about the quantitative sodium content of foods may be used on the label and in labeling provided such statements comply with the following rules:

(1) The term "sodium free" may be used on the label and in labeling of foods that contain 5 milligrams or less of sodium per serving.

(2) The term "low sodium" may be used on the label and labeling of foods that contain 35 milligrams or less or sodium per serving.

(3) The term "moderately low sodium" may be used on the label and in the labeling of foods that contain 140 milligrams or less of sodium per serving.

(4) The term "reduced sodium" may be applied to foods that have been formulated to serve as and are represented as direct replacements for foods containing at least four times the sodium content (75 percent reduction). The label of such a food shall provide information comparing the sodium content per serving with that of the food it replaces.

(5) When any of the definitions set forth in paragraph (a) (1), (2), (3), or (4) of this section are used in labeling or when any other truthful statement about sodium content is used in labeling, quantitative information shall be provided on the label in conformity with § 105.69 or § 101.9 of this chapter.

(b) The term "salt" is not synonymous with "sodium." Salt refers to sodium chloride. References to salt content such as "unsalted," "no salt added," or "without added salt" or an equivalent term may be used on the label and in labeling of food only if:

(1) No salt is added during processing;

(2) The food that it resembles and for which it substitutes is normally processed with salt; and

(3) Sodium content information is provided in conformity with § 105.69 or § 101.9 of this chapter.

PART 105—FOODS FOR SPECIAL DIETARY USE

2. By revising § 105.69 to read as follows:

§ 105.69 Foods used to regulate sodium intake.

If a food purports to be or is represented for special dietary use by man by reason of its use as a means of regulating the intake of sodium or salt (sodium chloride), the label shall bear either nutrition labeling in conformance with § 101.9 of this chapter or a statement of the number of milligrams of sodium in a specified serving of such food. The number of milligrams of sodium shall be declared to the nearest multiple of 5 milligrams, as determined by appropriate analysis, except that, if such food contains not more than 5 milligrams of sodium in a specified serving of the food, the label shall bear a statement to that effect. The label may declare that the food "contains 5 milligrams or less of sodium" or it may contain a declaration of sodium content to the nearest 5-milligram increment (0 mg or 5 mg).

Interested persons may, on or before August 17, 1982, submit to the Dockets Management Branch (address above), written comments regarding this proposal. Three copies of any comments are to be submitted, except that the individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 15, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Dated: April 28, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82-16598 Filed 6-17-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 81N-0234]

GRAS Safety Review of Sodium Chloride; Policy Notice; Solicitation of Views

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Adminstration (FDA) is announcing its decision to defer any revision in the regulatory status of salt (sodium chloride). Salt is currently considered to be generally recognized as safe (GRAS) for use as an ingredient in food. There is considerable health concern about the levels of use of salt in the food supply. FDA is not now proposing any change in the regulatory status of salt, however, because the agency believes that the proposed sodium labeling regulations, published elsewhere in this issue of the **Federal Register**, will respond to those concerns. FDA is also announcing its policy of encouraging food manufacturers to reduce voluntarily the amount of added salt and other sodium-containing substances in processed foods. The agency requests comments on this approach and on the other regulatory options presented in this notice.

DATE: Comments may be submitted until August 17, 1982.

ADDRESS: Written comments and data to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard C. Kraska, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St., SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION:

I. Introduction

Salt occurs abundantly in nature in sea water, salt lakes, mineral springs, and other natural waters, and in the form of large underground deposits in various parts of the world. The mineral form is called halite. Commercially, salt is obtained by direct mining from underground and surface deposits, and by evaporation and crystallization from natural brines and seawater.

Historically, salt has been considered an essential part of the diet and has been used as a preservative and a seasoning agent. The traditional foods of many cultures contain salt. Salt is found in almost every home and restaurant as a condiment. In the food industry, salt is widely employed for a number of different purposes: e.g., as a seasoning agent and flavor enhancer, a preservative and curing agent, a formulating and processing aid, a nutritional supplement, and a dough conditioner.

In this century, excessive sodium consumption has been cited as one of the factors contributing to the development of hypertension. Salt is the principal source of dietary sodium. A number of professional and governmental organizations have expressed the view that salt consumption by Americans far exceeds their nutritional needs, that high salt intake may contribute to hypertension, and that it would be prudent if people reduced their salt intake. Examples of groups supporting this position are the Food and Nutrition Board of the National Academy of Sciences, the Council on Scientific Affairs of the American Medical Association, and the National Heart, Lung, and Blood Institute (NHLBI).

FDA has also been conducting a review of the health implications of salt in the food supply as part of the agency's comprehensive safety review of substances added to food to determine whether they are GRAS for use as food ingredients.

FDA has traditionally regarded salt as GRAS both for direct use in food (21 CFR 182.1) and as a substance that migrates to food from paper and fabric packaging materials (21 CFR 182.70 and 182.90). Salt is an optional or required ingredient in many food standard regulations promulgated by FDA or the U.S. Department of Agriculture (USDA).

As part of the GRAS review, a committee of scientific experts from the Federation of American Societies for Experimental Biology (FASEB) evaluated the safety of salt as a food ingredient, and submitted a tentative report to FDA in 1978. In the **Federal Register** of June 13, 1978 (43 FR 25487), FDA announced that FASEB would provide an opportunity to present at a hearing scientific data, information, and views on the safety of salt. After holding this public hearing on September 25, 1978, FASEB submitted a final report to the agency in 1979. This notice presents FASEB's findings and conclusions, discusses the regulatory options considered by FDA, and explains other factors that affect FDA's decision on an appropriate approach to take in determining the regulatory status of salt. Finally, this notice announces an agency policy encouraging manufacturers to reduce voluntarily the salt and sodium content of processed foods.

II. Salt Usage in Foods

FDA surveyed a representative cross-section of food manufacturers to determine the specific foods in which salt is used and the levels of use. The agency combined that information with information from surveys of consumer consumption to estimate consumer exposure to salt. The total amount of salt used by the U.S. food industry in 1970 was estimated to be greater than 3 billion pounds. Because salt is used extensively as a processing aid and in brines that are often discarded, the per capita use of salt for all purposes in the manufacturing of processed foods is greater than the actual per capita intake of salt.

Many attempts have been made to estimate the total dietary intake of sodium. Available estimates are summarized in the table below, which is taken from FASEB's 1979 final report.

SOURCES OF DIETARY SODIUM AND ESTIMATES OF TOTAL SODIUM INTAKE[1]

Sodium intake (expressed as sodium chloride)	Grams per day	Comment
A. Nondiscretionary sources of sodium:		
1. Naturally occurring sodium in foods	2.5–4.5	Estimated food composition.
	3.0	Chemical analysis (institutional diet).
2. Sodium added by industrial processing.	7.1	1970 NRC estimate (~3200-kcal diet).
a. Salt	8.	1965–70 Bureau of Mines data.
	5.4	Total 1975 usage by food industry.
b. Other sodium-containing ingredients.	1.0	Calculated from 1970 NRC survey.
3. Total nondiscretionary sodium.	12–12.5	Calculated from 1972–73 and 1976 FDA Selected Minerals in Food Survey (~3900-kcal diet).
B. Discretionary addition of salt to foods by the consumer.	3.4	1968 retail sales.
	4.4–6	1965 USDA survey.
	6.5	1965–70
C. Total salt usage	8.0	1977 sales of food-grade salt.
D. Total sodium intake	10–11	Urinary excretion.
	14.5	1965–70 Bureau of Mines data.
	12	Estimated from review of literature in 1978.
	17.1	1976 FDA Selected Minerals in Food Survey (~3900-kcal diet).

[1] These values are not necessarily additive.

Given the diversity of the data and the range of individual intakes, these estimates are rough approximations. Based on these data, the best estimate of sodium intake by adults is an average daily intake, expressed as salt, of about 10 grams (g) to 12 g. Discretionary use by the consumer may account for about one-third of this total; estimates vary from about one-fourth to one-half (3.4 g to 6.5 g). The nondiscretionary intake,

expressed as salt, is about 3 g from sodium occurring naturally in foods and about 4 g to 6 g from salt and other sodium-containing ingredients that are added to foods during commercial processing.

Although the 1970 survey showed that many other sodium-containing ingredients were added to processed foods, salt accounted for about 90 percent of the sodium used by the food industry in 1970. Available data are insufficient to determine the contribution of other sodium-containing ingredients to the sodium content of specific foods. However, on the basis of the total poundage of sodium-containing ingredients used by food processors, FDA estimates that as much as 1 g of sodium might be added daily to the average diet by ingredients other than salt that are used in processed foods.

III. Statutory Background and the GRAS Review

Generally recognized as safe (GRAS) and "prior sanctioned" categories of food substances were established by Congress when it enacted the Food Additives Amendment of 1958 (Pub. L. 85–929, 72 Stat. 1784–1789). In that amendment to the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 *et seq.*), Congress defined the term "food additive" in section 201(s) (21 U.S.C. 321(s)) as follows:

> The term "food additive" means any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use), if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in food prior to January 1, 1958, through either scientific procedures or experience based on common use in food to be safe under the conditions of its intended use; except that such term does not include—
> * * * * *
> (4) Any substance used in accordance with a sanction or approval granted prior to the enactment of this paragraph pursuant to this Act, the Poultry Products Inspection Act (21 U.S.C. 451 and the following) or the Meat Inspection Act of March 4, 1907 (34 Stat. 1260), as amended and extended (21 U.S.C. 71 and the following); * * *

Under the statute, substances that are GRAS, or that are subject to a prior sanction, are not food additives and, thus, are not subject to the premarketing safety review of food additives established by the 1958 amendment (see section 409 of the act (21 U.S.C. 348)). Prior-sanctioned substances remain subject, however, to the general adulteration provisions in section 402 of the act (21 U.S.C. 342) which prohibit, among other things, the use of added substances that "may render [the food] injurious to health."

In order to clarify the food additive status of many substances that were being used in food at the time the 1958 amendment was enacted, and thus facilitate implementation of the new provision requiring premarket approval of food additives, FDA established partial lists of substances that the agency considered to be GRAS (21 Part 182) or subject to a prior sanction (21 CFR Part 181). The regulations establishing the original lists of GRAS and prior-sanctioned substances became final in 1959 and 1960 (see 24 FR 9368; November 20, 1959 and 25 FR 866; February 2, 1960). The statute, however, does not preclude manufacturers from making their own decisions concerning the GRAS status of ingredients before marketing them. If FDA disagrees with a manufacturer's determination that a substance is GRAS (and thus eligible for marketing without the FDA safety review and approval required for food additives), it is FDA's burden to take appropriate action.

FDA's decisions to place substances on the original GRAS lists were based on the data available at the time the lists were established and on the then current state of knowledge in the field of toxicology. Likewise, the pre-1958 approvals by FDA and USDA that qualified substances for prior-sanctioned status reflected the best safety judgments that could be made at the time based on existing knowledge. During the ensuing years, however, as more data became available on the properties of particular substances and as the science of toxicology developed, it became apparent that, in order to ensure the safety of the food supply, the agency's earlier safety determinations should be reviewed and modified where appropriate. Thus, FDA initiated the GRAS review program in 1970.

To implement the GRAS review, FDA conducted surveys of food manufacturers and searched the scientific literature to collect current data on the levels of consumption and toxicity of substances that are listed as GRAS or subject to a prior sanction. Under a contract with FDA, FASEB acting through its Select Committee on GRAS Substances (Select Committee), evaluated the data and made recommendations to the agency concerning the appropriate action to take with respect to each substance under review. In preparing its recommendations on particular substances, FASEB held public hearings to provide an opportunity for interested persons to submit additional information and to express their views about the tentative report. A detailed discussion of the role FASEB plays in the GRAS review is provided in *Federation Proceedings*, Vol. 36, No. 11 (October 1977) (Ref. 1).

FDA reviews FASEB's evaluation of the data and its recommendation and considers any additional information not available to FASEB. The agency then makes its own determination concerning the GRAS status of the substance. The procedures and the criteria that FDA applies in making this determination are set forth in 21 CFR 170.30, 170.35, 184.1, and Part 186.

If FDA concludes that the substance is GRAS it proposes to remove the substance from the original GRAS list (21 CFR Part 182) and proposes a regulation for inclusion in 21 CFR Part 184 or 186 affirming the substance's GRAS status and specifying the conditions of use for which the substance is considered GRAS. That regulation may also establish or prescribe any specific limitation(s) necessary to the safe use of the substance. If the agency concludes that a substance can no longer be considered GRAS, the usual course of action is to propose to remove the substance from the GRAS list, and to declare that the substance is a food additive that cannot be used in food unless approved under section 409 of the act (21 U.S.C. 348). FDA may also permit the continued use of the substance on an interim basis, notwithstanding the safety questions that preclude affirming GRAS status if the agency finds that "* * * there is a reasonable certainty that the substance is not harmful and that no harm to the public health will result from the continued use of the substance for a limited period of time while the question raised is being resolved by further study." (21 CFR 180.1(a).) Substances approved on this basis are referred to as "interm food additives."

As part of the rulemaking process FDA uses to implement the conclusion reached in the GRAS review process, FDA routinely determines whether any prior sanctions exist for the substance under review. If a prior sanction for a particular use is found to exist, then, of course, the substance is exempt from regulation as a food additive.

IV. Scientific Evidence

As part of the GRAS review, FDA searched the scientific literature from 1920 to the present for articles on salt's toxicity and other data. The literature search covered 3,643 abstracts; 181 particularly pertinent reports were summarized in a scientific literature review (Ref. 2).

FASEB considered the scientific literature review and biological studies. In a report entitled "Evaluation of the Health Aspects of Sodium Chloride and Potassium Chloride as Food Ingredients" (Ref. 3), FASEB expressed the following opinion:

> Sodium chloride, an essential constituent of the body and present in many foods, exhibits acute and chronic toxic effects when ingested in excessive amounts. Excess sodium chloride may induce hypertension in rats. There is a strong genetic component in the hypertensive response, and by selective breeding, strains of "spontaneously" hypertensive rats have been developed. Hypertension has been evoked by excess sodium chloride in the food or drinking water of dogs but the effects were reversible and related to osmotic factors.
>
> Salt appetite is an important expression of personal preference in relation to diet, and salt contributes to palatability of foods. For some, salt-containing foods have important cultural values. Foods in which salt is important for preparation or preservation are a prominent component of many diets.
>
> The causes of hypertension in man are related to genetic and environmental factors: race, family history, variations in endocrine and kidney function, degree of obesity, and lifestyle. Although the findings of epidemiological studies suggest a relationship between salt intake and onset of hypertension, the evidence that salt consumption is a major factor in causing hypertension is not conclusive. However, available data suggest that 10 to 30 percent of the U.S. population is genetically predisposed to hypertension and is exposed to a higher risk by ingestion of sodium chloride at current levels. The Select Committee believes that a reduction of sodium chloride consumption by the population will reduce the frequency of hypertension.
>
> For man, the daily requirement of sodium chloride is less than 1 g (17 mg per kg), an amount exceed by that present as a naturally-occurring ingredient of most diets. The daily requirement is subject to considerable fluctuation from such conditions as excessive sweating and diarrhea. It is not possible, on the basis of currently available data, to recommend a level of intake of sodium chloride that could be considered optimal for health. Other dietary sources of sodium, the level of potassium, and the sodium to potassium ratio in the diet need to be considered.
>
> Because of increasing use of processed foods in the diet, individuals who prefer to restrict salt intake find it difficult. The amount of sodium chloride consumed as a result of commercial food processing is about 70 to 100 mg per kg per day. The average daily intake of sodium expressed as sodium chloride from all sources is about 180 mg per kg for an adult (10 to 12 g per day). Such an intake exceeds estimates of the amount (range 2 to 10 g per day) that may elicit hypertension in susceptible individuals. A lower daily consumption of sodium chloride promises health benefits for the proportion of the population susceptible to hypertension.
>
> It is the prevalent judgment of the scientific community that the consumption of sodium chloride in the aggregate should be lowered in the United States. The Select Committee agrees and favors development of guidelines for restricting the amount of salt in processed foods, a major contributor of dietary sodium. Adequate labeling of the sodium content of foods would help meet these objectives.

The Select Committee then concluded that:

> The evidence on sodium chloride is insufficient to determine that the adverse effects reported are not deleterious to the health of a significant proportion of the public when it is used at levels that are now current and in the manner now practiced.

In a study not reviewed by the Select Committee, salt did not exhibit genetic activity in a series of in vitro microbial assays, either with or without metabolic activation (Ref. 4).

Although scientists disagree about the role of salt intake as a basic causative factor in essential hypertension, there is a broad consensus in the scientific community that salt is one of the factors in the development of hypertension in susceptible individuals, and that excessive sodium consumption aggravates hypertension.

V. Regulatory Options

The agency considered five regulatory options in determining a rational response to the current concern about salt intake. These five options are:

1. To propose to revoke the GRAS status of salt, declare it to be a food additive, and propose a food additive regulation that prescribes the permitted uses and use levels of salt in manufactured food.

2. To propose to revoke the GRAS status of salt, declare it to be a food additive, and propose an interim food additive regulation that prescribes the permitted uses and use levels of salt in manufactured foods to current uses and use levels pending the completion of additional safety studies.

3. To defer action on the GRAS status of salt, but to propose a regulation requiring the labels of all manufactured foods containing added salt to declare quantitatively the total sodium content of the food.

4. To propose to affirm salt as GRAS with specific limitations, and to define those limitations as informative labeling that would adequately alert the public to the health risks associated with a high level of sodium intake.

5. To defer any action on the current GRAS status of salt until the agency can assess the impact of the sodium labeling regulations proposed elsewhere in this issue of the **Federal Register** and the efforts by manufacturers to reduce voluntarily the salt and sodium content of their products.

VI. Option Tentatively Selected

For the reasons discussed below, FDA has tentatively selected option five. Although the agency is not acting at this time to revise the GRAS status of salt, it has developed and is implementing a program aimed at alerting the public to the health risks associated with excessive salt consumption and encouraging manufacturers to reduce the amount of salt and other sodium-containing substances in processed foods. As noted above, FDA is publishing elsewhere in this issue of the **Federal Register** proposed changes in the agency's regulations concerning nutrition labeling and definitions for "sodium free," "low sodium," "moderately low sodium," and "reduced sodium" foods. On June 30, 1981, the Secretary of Health and Human Services and the Commissioner of Food and Drugs held a meeting with industry representatives to discuss the agency's pending sodium program and to ask for industry's cooperation. FDA has since begun meeting individually with firms and trade associations to discuss voluntary steps that might lead to a lower sodium content in processed foods. These steps include the use of alternative nonsodium-containing ingredients that perform the same technical effect as salt, reevaluation of the need for that technical effect, and reevaluation of the amount of salt necessary to accomplish the intended technical effect. The agency will continue to monitor the sodium content of the food supply and the extent to which the proposed labeling, if adopted, is used.

VII. Factors Affecting FDA's Decision

The question of the safety of current levels of salt usage was the impetus for FDA's review of the regulatory status of salt. However, a number of other factors had a bearing on FDA's tentative selection of a regulatory approach.

Salt occupies a special place in our food supply. It is used directly by consumers as well as added by food processors. Salt and other sodium compounds occur naturally in food. Salt added to processed food constitutes about one-third to one-half of the total sodium intake of American consumers.

The use of salt as a table condiment adds another dimension to the regulatory issue because the amount used is controlled by the consumer rather than by manufacturers directly subject to FDA's authority. In order to limit the sale of table salt, the agency would have to establish that salt "bears or contains (a) poisonous or deleterious substance" under section 402(a)(1) of the act. These practical considerations further support FDA's decision to seek a reduction of salt intake through voluntary efforts and informative labeling.

As discussed above, scientists do not fully understand the association between sodium and hypertension. Nonetheless, the relationship is suficiently well established that a significant portion of the medical community believes that current levels of American salt consumption may not be healthful, at least for that part of the population that is predisposed to hypertension.

FDA agrees with FASEB that "a reduction of sodium chloride consumption by the population will reduce the frequency of hypertension" (Ref. 3). The issue before the agency is how to accomplish this goal effectively and expeditiously. As the FASEB report makes clear, salt is harmful to hypertensive patients in varying degrees, depending on each patient's genetic make-up, individual diet, and other variables. Hypertensive patients also may be on widely varying degrees of sodium restriction—from 200 to 300mg/day for extreme restrictions to 2,000 to 3,000 mg/day for mild restrictions. Thus, setting some upper level on the amount of salt that can safely be used in a particular food is almost impossible. Most hypertensive patients can eat some salt, and almost everyone would prefer to decide how and from which foods to select a daily allotment of sodium. FDA has decided to address the concerns about sodium consumption and hypertension, announced by FASEB and echoed throughout the scientific literature, by providing the public with information on the sodium content of foods. Thus, consumers can allocate their sodium intake as they choose. The agency believes that the sodium labeling proposals published elsewhere in this issue of the **Federal Register** and the other measures described above will provide the consumer with information on the sodium content of about half of all processed food.

Because FDA believes that information on sodium content and not restrictions on sodium usage is an appropriate approach at this time, FDA is deferring action on the GRAS status of sodium chloride. After publication of the sodium labeling proposal, FDA will assess the market to determine how many processed foods include sodium labeling and the impact of that labeling.

The agency wishes to emphasize that if there is no substantial reduction in the sodium content of processed foods and if information sodium labeling is not adopted after a resonable time period, FDA will consider additional regulatory actions, including proposing a change in salt's GRAS status.

VIII. Options Not Selected

A. *Declaring salt to be a food additive.* Based on the FASEB report, FDA considered revoking salt's GRAS status and declaring it to be a food additive. The agency rejected this option for three reasons. First, FDA believes that informative labeling is more responsive to the health concerns about sodium. Second, it would be extremely difficult to prescribe and enforce fair use limitations for salt that would be safe for all consumers (including those hypertensive patients on severe sodium restrictions). Third, FDA believes that many uses of salt are prior sanctioned. Although the existence of prior-sanctioned uses of salt does not affect FDA's authority to regulate other uses, the practical effect of regulating salt as a food additive might be quite small.

1. *Goal of regulation should be information disclosure.* FDA recognizes the significance of the health concerns associated with sodium. The agency believes, however, that consumers will ultimately have to limit their sodium intake themselves. The American food supply is too diverse and complex for the Federal government to be able to regulate successfully an individual's sodium consumption. FDA encourages the food industry to reduce the amount of sodium added to processed foods and to market a greater variety of foods that are lower in sodium. The agency believes that this effort, coupled with the sodium labeling proposal published elsewhere in this issue of the **Federal Register**, will produce a wider selection of foods that contain low or moderately low amounts of sodium and will also increase consumer awareness of the beneficial aspects of a lower sodium intake.

2. *Difficulty of setting and enforcing limitations.* Although most consumers think of salt principally as a flavoring agent, it has numerous other uses in a wide variety of processed foods, as noted above. Thus, it would be exceptionally difficult to establish limitations for the addition of salt to processed foods. Substances that are food additives or GRAS food ingredients perform 32 different technical functional effects (21 CFR 170.3(o)) in 43 food categories (21 CFR 170.3(n)). FDA would have to establish a limitation for each technical effect for which salt is used in each food category. That difficulty is compounded by the fact that salt may often be used for several different technical effects in a single food.

The promulgation and enforcement of limitations for salt would constitute an extraordinary regulatory burden. Moreover, the risk of excessive salt consumption is associated with high levels of sodium in the total diet and not the level in a particular food. FDA's decision to seek reduction in salt levels in processed foods avoids the difficulties and regulatory burdens posed by mandatory limitations.

3. *Existence of prior sanctions.* Many uses of salt are prior sanctioned. Some food standard promulgated before September 6, 1958, the effective date of the Food Additives Amendment, list salt as an ingredient. For example, 21 CFR Part 133 (Cheeses) (formerly Part 19) was originally promulgated in 1948, and additional sections were incorporated in 1950. Most of these cheese standards list salt either as an optional ingredient or as a required ingredient. Salt is a required ingredient in certain cereal flours (21 CFR 137.180 and 137.270, published in 1948 in 21 CFR Part 15) and in catsup (21 CFR 155.194, published in 1948 in 21 CFR Part 53). The original regulation (21 CFR Part 17, now Part 136) establishing standards for bakery products, bread, rolls, and buns included salt as a mandatory seasoning ingredient. (Since that time, the standard for bakery products has been modified to include salt as an optional rather than mandatory ingredient.) In the period from 1948 to 1951 FDA promulgated a number of food standards that included salt as an optional ingredient. Those standards cover noodle and macaroni products, jellies and preserves, cacao products, margarine, and food dressings and flavorings (21 CFR Parts 139, 150, 155, 156, 161, 163, 166, and 169).

Evidence of approval for a number of uses is contained in correspondence and press releases. For example, in 1924 USDA's Bureau of Chemistry (FDA's predecessor) issued a press release discussing certain specifications for table salt (Ref. 5). The press release in turn refers to a 1915 ruling concerning the quality of salt that may be offered for sale for food purposes. A 1957 letter from FDA to a salt company addresses when iodized salt may be substituted for ordinary salt in food production and the

labeling requirements in the event of such substitution (Ref. 6).

FDA's burden in regulating a prior-sanctioned ingredient is considerably greater than in regulating a food additive. Under section 409 of the act, a food additive may be used only in a manner and under conditions in which it has been shown to be safe. By contrast, FDA may take regulatory action against a prior-sanctioned ingredient only under the general adulteration provisions of the act (21 U.S.C. 342(a)(1)). To establish that the use of salt renders a manufactured food adulterated, FDA would have the burden of showing that salt in food is a "poisonous or deleterious substance." The current uncertainty about the precise role of salt as a basic causative factor in essential hypertension, however, leaves unclear whether the use of salt in a particular food would render that food uniformly injurious to health.

In sum, FDA believes that providing information om sodium content will offer the consumer the opportunity to select foods containing appropriate amounts of sodium. Such an approach offers more public health benefit than attempting the cumbersome job of setting tolerances for the safe use of salt in manufactured food and dealing with those uses of salt that are prior sanctioned.

B. *Interim food additive regulation.* FDA also considered removing salt from GRAS status and permitting its use on an interim basis, under 21 CFR Part 180, while studies are being conducted to resolve the questions about the health concerns associated with sodium chloride. An interim food additive regulation can be issued only for a food additive. As noted above, many uses of salt are prior sanctioned and therefore are not subject to control under an interim food additive regulation. Moreover, if FDA were to regulate salt as an interim food additive when used in processed food, the agency would need to define the nature of the required studies and to monitor their progress. There are already numerous studies planned or in progress to determine the causes of hypertension. It is not clear that any of these studies will resolve the basic questions about whether excess salt consumption causes hypertension, and there is no general agreement that a definitive study could be designed. Instead, additional basic scientific research is required so that eventually the causes of hypertension will become clear. Interim food additive regulations are most appropriately used where specific studies can promptly be undertaken to resolve safety questions, rather than where a general advance in scientific knowledge is necessary. Therefore, FDA has concluded that an interim food additive regulation for sodium chloride is not appropriate.

C. *Sodium content labeling.* The third option considered and rejected by FDA was to defer action on the GRAS status of salt but to promulgate a regulation that proposed to require that the labeling of manufactured foods containing added salt declare quantitatively the total sodium content of the food. Elsewhere in this issue of the **Federal Register**, FDA is proposing a revision of the nutrition labeling regulations to require the declaration of sodium content whenever nutrition labeling is required or is provided voluntarily. The proposal also requires quantitative sodium declaration whenever a food is labeled "sodium free," "low sodium," "moderately low sodium," or "reduced sodium," and it provides definitions for those terms.

In deciding to propose the declaration of sodium content as part of nutrition labeling, FDA considered and rejected mandatory sodium content labeling. FDA believes that the regulatory burden that would be imposed by mandatory sodium labeling is not justified at this time for the reasons discussed in the following section.

D. *Affirm sodium chloride as GRAS with specific limitations.* One of the regulatory options available to FDA is to affirm salt as GRAS with certain specific limitations. Normally, such limitations restrict the amount of a substance that can safely be used in food. Unlike a substance that is generally toxic above certain known level, the threshold level for chronic toxicity of salt in specific segments of the population has not been determined. Moreover, because of the practical difficulties inherent in regulating salt as a food additive and setting fair use levels, the agency has concluded that labeling requirements would be more informative to the consumer and thus more useful in helping individuals restrict salt intake. Thus, FDA considered proposing a regulation in accordance with § 184.1(b)(2) (21 CFR 184.1(b)(2)) affirming sodium chloride as GRAS subject to certain specific limitations on its use. The specific limitations would have consisted of informative labeling, such as including information on sodium in the nutrition labeling.

Although FDA believes that this option would accomplish the desired goals, the agency rejected it at this time because the Commissioner believes that a voluntary program will produce the desired results with less regulatory burden. Moreover, the food industry is in the best position to reduce sodium levels in processed food and to provide more information to consumers. The Commissioner believes that the industry should be given a chance to do so.

FDA is committed to working with industry to accomplish the goal of reducing the amount of sodium in processed foods and in providing more information on sodium to consumers. If no significant progress occurs toward these goals in a reasonable time, the agency will consider additional regulatory actions, including one or more of the options discussed in this notice.

IX. Other Actions

FDA is currently pursuing several other courses of action that may affect the regulatory status of salt.

The agency currently monitors, both qualitatively and quantitatively, the national food supply for certain contaminants, toxins, and nutrients. Sodium is, and will continue to be, one of the elements included in the monitoring, which will be one of the means of monitoring sodium intake that the selected option requires.

The agency intends to continue participating with other public and private groups in education programs that acquaint the public with scientific views about the relationship between sodium usage and hypertension. FDA will also continue to keep the public informed of this topic through its Consumer Affairs Officers in the field and its Public Affairs Office.

X. Request for Comments

To provide for public participation in its decisionmaking process, FDA requests the submission of comments on its tentative decision to defer any revision in the GRAS status of salt and to seek a reduction in salt intake through proposed sodium labeling regulations and voluntary reductions in salt usage by food manufacturers. Comments may suggest options in addition to those presented here, including suggestions for implementation.

As discussed above and in the preamble to the notice of availability of information on the status of review of GRAS and prior-sanctioned direct human food ingredients (38 FR 20054; July 26, 1973), many substances currently considered to be GRAS were approved for specific uses by USDA or by FDA before 1958. Thus, many of these ingredients are subject to specific prior sanctions for specific uses in addition to GRAS status. No

comprehensive list of such prior sanctions exists.

Persons who believe they hold proof of a prior sanction for the use of salt are requested to submit proof of the existence of the prior sanction. Prior-sanctioned status constitutes an exemption from section 409 of the act (21 U.S.C. 348). The agency has therefore concluded that prior-sanctioned status should be construed narrowly and the burden of coming forward with the evidence of the sanction properly rests upon the person who asserts it.

XI. References

The following information has been placed in the Dockets Management Branch (address above) and may be seen by interested persons from 9 a.m. to 4 p.m., Monday through Friday.

1. Siu, R. G. H., et al., "Evaluation of Health Aspects of GRAS Food Ingredients: Lessons Learned and Questions Unanswered," *Federation Proceedings*, 36:11:2519–2562, October 1977.

2. Tracor Jitco, Inc., "Monograph on Sodium Chloride and Potassium Chloride," Submitted under DHEW Contract No. FDA 72–100, Rockville, MD, 1974.

3. FASEB/SCOGS Report (SCOGS–102), "Evaluation of the Health Aspects of Sodium Chloride and Potassium Chloride as Food Ingredients."

4. Mutagenic Evaluation of Compound FDA 71–70, Sodium Chloride Reagent, ACS. LBI Project Number 2468, Submitted to FDA by Litton Bionetics Inc., January 31, 1976.

5. Press release issued by USDA's Bureau of Chemistry, December 24, 1924.

6. Letter from FDA to Morton Salt Company, July 12, 1957.

Copies of the full report of the Select Committee, the scientific literature review, and mutagenic and teratogenic evaluations are also available for review at the Dockets Management Branch, Food and Drug Administration, and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22151, as follows:

Title	Order No.	Price code	Price [1]
Sodium chloride, potassium chloride (scientific literature review).	PB241–973/AS	A13	$15.00
Sodium chloride (mutagenic evaluation).	PB257–870/AS	A04	7.00
Sodium chloride (teratogenic evaluation).	PB234–878/AS	A03	6.00
Sodium chloride, potassium chloride (Select Committee report).	PB296–139/AS	A04	7.00

[1] Price subject to change.

Interested persons may, on or before August 17, 1982, submit to the Dockets Management Branch (address above) written comments regarding this notice. Two copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 8, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Dated: April 28, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82–16501 Filed 6–17–82; 8:45 am]

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federal register

Friday
June 18, 1982

Part VII

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Coal Mine Waste

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701, 816 and 817

Surface Coal Mining and Reclamation Operations Permanent Regulatory Program; Coal Mine Waste

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) proposes to revise the rules covering the disposal of coal mine waste from surface and underground mining activities. The existing rules would be revised to follow the definitions and requirements of the Mine Safety and Health Administration (MSHA) rules regarding coal refuse piles and impounding structures and eliminate any duplication. The proposed rules would allow qualified professional engineers to design coal refuse disposal sites to accomodate site-specific conditions. This gives emphasis to the use of innovative technology and provides more opportunity for increased efficiency and cost-effective operations.

DATES:

Written comments Accepted until further notice.

Public hearings: Held on request only, on August 5, 1982 at 9:00 a.m.

Public meetings: Scheduled on request only.

ADDRESSES: *Written comments: Hand-deliver* to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (TSR 14.20), Room 5315, 1100 L Street, NW., Washington, D.C.; or *mail* to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (TSR 14.20), Room 5315L, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

Public hearings: Washington, D.C.—Department of the Interior Auditorium, 18th and C Streets, NW.; Lexington, KY—Holley Hotel, 2143 North Broadway; and Denver, Colo—Brooks Tower, 2d Floor Conference Room, 1020 15th Street.

Public meetings: OSM offices in Washington, D.C.; Charleston, W. Va.; Knoxville, Tenn.; Indianapolis, Ind.; and Denver, Colo.

FOR FURTHER INFORMATION CONTACT:

Public hearings and information: Jose del Rio, Civil Engineer, Division of Engineering Analysis, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; 202–343–4022.

Public meetings: Jose del Rio, 202–343–4022.

SUPPLEMENTARY INFORMATION:

I. Public Commenting Procedures.
II. Background.
III. Discussion of Proposed Rules.
IV. Procedural Matters.

I. Public Commenting Procedures

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Commenters are requested to submit five copies of their comments (see "Addresses"). Comments received at locations other than Washington, D.C., will not necessarily be considered or be included in the Administrative Record for the final rulemaking. The comment period will remain open until the close of the comment period on the draft supplemental environmental impact statement that will consider this proposed rule.

Public Hearings

Persons wishing to comment at the public hearings should contact the person listed under "For Further Information Contact" by the close of business *three working days* before the date of the hearing. If no one requests to comment at a public hearing at a particular location by that date, the hearing will not be held. If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions.

Public hearings will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment, and persons present in the audience who wish to comment, have been heard.

Public Meetings

Persons wishing to meet with OSM representatives to discuss these proposed rules may request a meeting of any at the OSM offices listed in "Addresses" by contacting the person listed under "For Further Information Contact."

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record room (1100 L St.). A written summary of each public meeting will be made a part of the Administrative Record.

II. Background

The Surface Mining Control and Reclamation Act of 1977 (the Act), 30 U.S.C. 1201 *et seq.*, recognizes the threat posed by improper disposal of coal waste. Congress included in the Act several provisions concerning coal processing waste and underground development waste. The Act mandates that this material be handled and disposed of in a manner which would not threaten the health and safety of the general public or adversely affect the surrounding environment.

For the surface disposal of wastes in areas other than mine workings or excavations, section 515(b)(11) of the Act provides that waste piles are to be stabilized in designated areas through compaction. The final contour of waste pile must also be compatible with the natural surroundings and the site must be revegetated according to this section of the Act. Section 515(b)(13) and 515(f) of the Act provide that all existing and new coal mine waste piles used as dams or embankments must be regulated in accordance with standards and criteria concurred in by the Corps of Engineers. The provision is repeated in section 516(a)(5) of the Act for underground mining operations. In addition, section 515(b)(14) of the Act requires specific treatment or burial for all debris, acid-forming materials, toxic materials, or materials constituting a fire hazard. A court decision, *In re: Permanent Surface Mining Regulation Litigation*, No. 79–1144, D.D.C., on February 26, 1980, held that the Secretary derives authority to regulate dams impounding waste from section 515(b)(10) of the Act.

The authority of the Chief of Engineers in assisting the Secretary to regulate new and existing coal waste piles as dams and embankments is contained in section 515(f) of the Act. The standards and criteria used by OSM must conform to the standards and criteria used by the Corps of Engineers to insure that flood control structures are safe and effectively perform their intended function.

There are three sections in the Act that address coal mine waste produced from underground coal mining operations. First, section 516(b)(3) regulates the return of mine and processing waste and tailings to the mine workings or excavations. Second,

section 516(b)(4) covers the surface disposal of wastes the same as section 515(b)(11). Third, section 516(b)(5) covers all new and existing coal mine waste piles similar to section 515(b)(13), with the same responsibilities for the Corps of Engineers.

To control coal waste disposal practices, the existing rules were proposed on September 13, 1976, 43 FR 41661, and promulgated as final on March 13, 1979, 44 FR 14901. The existing rules in 30 CFR 816.81 through 816.93 cover all types of coal processing waste, coal mine waste and solid waste generated during surface coal mining activities. These rules address the disposal of all types of waste in waste banks, and dams and embankments. The same rules are found in 30 CFR 817.81 through 817.93 for the surface effects of underground mining operations. A plan for the disposal of coal processing waste, whether to be placed in a dam or embankment, is required to be submitted and approved by the regulatory authority under 30 CFR 780.25 for surface mining and 30 CFR 784.25 for underground mining.

Since the promulgation of the permanent program rules on coal mine waste in March 1979, there have been two additions to the rules. In an August 18, 1980, **Federal Register** notice (45 FR 54753) the approval of incorporation by reference of technical material in the coal waste rules in §§ 816.85(c)(2) and 817.85(c)(2) was extended to July 1, 1982, by the Director of the Federal Register.

On November 20, 1980, (45 FR 76932) §§ 816.83(a) and 817.83(a) were revised to provide an exception from the subdrainage requirement for a coal processing waste bank if the operator could demonstrate to the regulatory authority that a subdrainage system is not required to ensure structural integrity and water quality. The change was prompted as a result of litigation challenging the requirement, *In re: Permanent Surface Mining Regulation Litigation*, No. 79–1144, D.D.C. Before the court ruled on the issue, OSM concluded that a subdrainage system may not be necessary in all cases as long as the operator is responsible for assuring the structural integrity of the coal waste bank.

All existing OSM rules on coal mine waste have been reviewed and are proposed to be rewritten to follow the directive of the Secretary of the Interior to remove burdensome and excessive requirements. Review of the existing rules revealed duplication of Mine Safety and Health Administration (MSHA) rules for coal mine refuse piles and water, sediment, or slurry impoundments and impounding structures. The proposed change in OSM rules would eliminate this duplication by cross-referencing MSHA's rules. Portions of OSM's existing rules complement MSHA's rules (30 CFR 77.214–77.216) on coal waste disposal and incorporate standard engineering practices (44 FR 15209, March 13, 1979). All designs, however, would still have to meet the requirements of the Act and be approved by the appropriate regulatory authority.

OSM informally circulated drafts of these proposed rules prior to this publication and all comments received will continue to be considered during the course of this rulemaking.

The disposal of waste from surface coal mining operations is regulated by rules found in 30 CFR 816.81 through 816.93 and a definition of "coal processing waste" is found in 30 CFR 701.5. The rules for coal processing waste disposal are contained in §§ 816.81 through 816.88 and cover nonimpounding structures and the handling of burning and burned coal mine waste. Section 816.89 governs the storage and final disposal of noncoal wastes generated during surface mining activities. If dams and embankments are constructed of coal processing waste or impound coal processing waste, §§ 816.91 through 816.93 cover the design and construction of these structures.

Similarly, §§ 817.81 through 817.93 regulate the disposal of waste from underground coal mining activities. The sections contain the same headings and language used for surface mining activities.

The major provisions of existing §§ 816.81 through 816.93 and 817.81 through 817.93 are presented in the following discussion before introducing the proposed change for each section. For more detailed discussions of the existing rules, the reader is referred to the preamble for the existing rules in 44 FR 15209–15220 (March 13, 1979).

Existing §§ 816.81–816.93 are essentially the same as existing §§ 817.81–817.93. The only difference is that §§ 816.81–816.93 refer to surface mining and §§ 817.81–817.93 refer to underground mining. Under this proposal all the changes to Part 816 would be essentially the same as the Part 817. To simplify this preamble, OSM will discuss changes to §§ 816.81–816.93 with the understanding that the discussion will also apply to proposed §§ 817.81–817.93. The only difference to be noted is that surface mine rules will refer to Part 780—*Surface Mining Permit Applications* and underground mine rules will refer to Part 784—*Underground Mining Permit Applications*.

III. Discussion of proposed rules.

OSM is proposing to revise the rules governing the storage and final disposal of coal mine waste and other solid waste from the coal mining operations (§§ 816.81–816.93 and 817.81–817.93). The proposed rules would eliminate duplication with the Mine Safety and Health Administration (MSHA) rules on refuse piles and impounding structures (30 CFR 77.214–77.217). Where OSM proposes to use provisions from the MSHA rules, there would be a reference to the specific requirement in the MSHA rules. This change would clearly identify the interaction of the two sets of rules regarding coal mine waste placed in refuse piles and dams and embankments. In addition the proposed rules would clarify the relationship between the excess spoil rules (§§ 816.71–816.74 and §§ 817.71–817.74) and the coal waste rules, cited above.

In the proposed rules, the disposal of coal mine waste would be governed by §§ 816.81 through 816.85 which covers nonimpounding structures. Proposed § 816.86 would be a combination of existing §§ 816.91, 816.92 and 816.93 and cover impounding structures—dams and embankments constructed of coal mine waste and impounding water, slurry, sediment, etc. Proposed § 816.87 would govern removal of burned or unburned coal mine waste from a disposal area and include, from existing § 816.86, standards for extinguishing a coal mine waste fire. Proposed § 816.88 would govern the return of coal mine waste to underground workings and proposed § 816.89 would set requirements for disposal of noncoal wastes.

The proposed rules, rather than mandating design criteria, would allow competent professional engineers to design coal refuse disposal sites based on the requirements and topography of specific sites. Approval, supervision, and inspection activities by the regulatory authority would ensure that the performance standards of the Act are met. OSM believes that the additional flexibility will aid engineers in designing more efficient and cost-effective coal refuse disposal sites.

OSM also proposes to revise certain definitions in § 701.5 by adopting the same terminology used by MSHA to clarify the types of waste material from coal mining and processing operations covered by OSM rules. These proposed changes in terminology and section references will be carried through to the permitting portions of the existing rules

when the proposed rules are published as final.

Part 701—Permanent Regulatory Program

Section 701.5 Definitions.

OSM proposes to modify the existing definition of "coal processing waste" by deleting the phrase "combustible, physically unstable, or acid-forming and toxic-forming which are" and the phrase "and slurried or otherwise transported from coal preparation plants, after". The phrases to be removed are descriptive of waste material and do not add anything to the meaning of the definition.

OSM proposes to add three new definitions: "coal mine waste," "impounding structure," and "refuse pile," making them correspond with MSHA rules.

MSHA's rule 30 CFR 77.217(e) defines "refuse pile" as "a deposit of coal mine waste which may contain a mixture of coal, shale, claystone, siltstone, sandstone, limestone, and related materials that are excavated during mining operations or separated from mined coal and disposed of on the surface as waste by-products of either coal mining or preparation operations. 'Refuse pile' (sic) does not mean temporary spoil piles of removed overburden material associated with surface mining operations."

OSM proposes to adopt and revise MSHA's definition for "refuse pile" separating it into three parts:

(1) "Refuse pile", would be defined as a surface deposit of coal mine waste;

(2) "Coal mine waste", would be defined as underground development waste and coal processing waste; and

(3) "Underground development waste", would be defined as a waste rock mixture of coal, shale, claystone, siltstone, sandstone, limestone, or related materials that are excavated, moved, and disposed of in connection with underground operations.

The existing definition of "underground development waste" in § 701.5 includes earthen material removed as part of the surface operations incident to preparation for underground extraction of coal. In a separate rulemaking, a proposed change was made in the rules for excess spoil (§ 816.71) so that the definition of underground development waste would mean only earthen materials removed during underground construction activities including the development of drifts, shafts and adits. The same definition for underground development waste would be used in these proposed rules for coal mine waste.

The last sentence in MSHA's definition for "refuse pile" that states that "refuse pile does not mean temporary spoil piles of overburden material" would be deleted from the definitions proposed by OSM. OSM proposes to use the existing definitions of "coal processing waste" and "underground development waste" to describe the material in a refuse pile, and these definitions clearly exclude overburden materials from a refuse pile.

OSM also proposed to incorporate in § 701.5 a new definition for "impounding structure" to mean a structure of earth or other materials used to impound water, sediment, slurry, or any combination of such materials.

This new definition should not be confused with the existing definition of "impoundment" in § 701.5 which refers to the entire facility including both the impounding structure and the retaining area. Also, an impoundment may be a totally excavated basin with no impounding structure. The MSHA rules use the term "impounding structure" rather than dams or embankments and so OSM's proposal to use the terms discussed above would make the terminology the same for both sets of rules.

Part 816—Surface Mining Activities

Section 816.81 Coal mine waste: General requirements.

Under the existing rules, all coal processing waste is to be placed in new or existing disposal areas that are within the permit area and approved by the regulatory authority. Waste banks must be designed, constructed and maintained to prevent combustion and must meet the requirements of the rules for excess spoil fills and the requirements for waste banks. The regulatory authority may approve the disposal of coal processing waste materials from outside the permit area based on a showing that the materials would not adversely affect the area, create public hazards and cause instability in the disposal area.

Under this proposal, § 816.81 would contain only general requirements that would apply to all methods of coal mine waste disposal.

Proposed § 816.81(a)(1) would retain the requirement that all coal mine waste be placed in new or existing disposal areas approved by the regulatory authority. In this same first sentence, the reference to hauling and conveyance of coal mine waste would be deleted. The Act does not require any particular means of material handling or method of transportation between the coal processing facility and the disposal area. Any material handling technique is acceptable as long as the material is placed in 2-foot lifts and compacted (See proposed § 816.85(a)). The transportation method and placement technique which is used at a particular site is, OSM feels, more appropriately selected during the design of the individual disposal facility.

The second sentence in existing § 816.81(a)—"These (disposal) areas shall be within the permit area."—would be removed as a duplication of rules. Section 771.2 of this chapter already requires that all surface coal mining and reclamation operations be conducted only under permits. So all such operation activities, including disposal of coal mine waste, must be conducted under a permit, which sets the boundaries of the affected area. (See "surface coal mining and reclamation operations" definition in §700.5 and the definition for "permit" and "permit area" in § 701.5.)

The provision in existing § 816.81(a)(1) that references the requirements for excess spoil fills (§§ 816.71 and 816.72) would be deleted from proposed § 816.81(a)(2). In its place for this proposal would be specific provisions from §§ 816.71 and 816.72 that would be used in designing, constructing and maintaining refuse piles. These specific provisions from §§ 816.71 and 816.72 will be discussed in the proposed § 816.85.

The reference to §§ 816.82–816.88 in existing § 816.81(a)(1) would be revised in proposed § 816.81(a)(2) to read §§ 816.82–816.86. Proposed §§ 816.82–816.86 would contain all design and construction requirements for nonimpounding (§§ 816.82–816.85) and impounding structures (§ 816.86). The provisions of existing § 816.86—burning coal waste—would be moved to existing § 816.87 to make room for all the provisions for impounding structures to be moved up from §§ 816.91, 816.92 and 816.93. This change in existing § 816.86 is discussed later in this preamble. The provisions for handling burning and burned coal mine waste, now combined in proposed § 816.87, and for the return of coal mine waste to underground workings in proposed § 816.88, were seen as not applicable to the design and construction standards for coal mine waste structures, thus their deletion from references in proposed § 816.81(a)(2).

It was felt that the standards in existing § 816.81 (b)(1), (b)(2), (b)(3), and (a)(2) should refer to disposal of all coal mine waste, not just that from activities located outside the permit area. There is no tactical basis for limiting these standards. So in proposed § 816.81(a)(3) these four standards would be included as general requirements for coal mine

waste structures. Under this proposal coal mine waste structures would be designed and constructed to: (1) Not adversely affect ground or surface water quality or quantity; (2) not create a public hazard; (3) be stable; and (4) minimize the potential for combustion.

Existing § 816.81(a)(2), which has the provision "to prevent combustion" in the waste bank, would be modified under proposed § 816.81(a)(3)(iv). It would require that coal mine waste be disposed of in a manner that minimizes the potential for combustion rather than the present standard of preventing combustion. To minimize the potential for combustion is a more realistic goal, because prevention is an absolute standard that is difficult to attain.

Existing § 816.81(b) is proposed to be modified in proposed § 816.81(b) by deleting the phrase "such as those activities at other mines or abandoned mine waste piles". Since this only gives an unnecessary explanation of the phrase "activities located outside a permit area," the language would be remove. Also deleted would be the specific engineering analyses which are site specific and best left to the judgement of the design engineer who would be bound by the performance standards of proposed § 816.81(a). The performance standards in existing (b)(1), (b)(2) and (b)(3) would be moved to proposed Paragraph (a) as mentioned above.

Section 816.82 · Coal mine waste: Refuse piles: Site inspection.

Under existing § 816.82(a) a qualified registered engineer or other person approved by the regulatory authority is to inspect each coal processing waste bank at least quarterly until the bank is covered with topsoil. The inspections are to begin 7 days after construction is started on the disposal area and are to ensure that proper construction and maintenance are occurring according to the plan submitted under § 780.25 of this title. The regulatory authority may require more frequent inspections if there is potential danger to the health and safety of the public and potential harm to land, air and water resources. Copies of the inspection report are to be maintained at the mine site.

Existing § 816.82(b) provides for prompt notification to the regulatory authority if a potential hazard exists and also provides for the emergency procedures for public protection and remedial action. If emergency procedures are inadequate, the regulatory authority is to notify the appropriate emergency agencies that other emergency procedures are required to protect the public from the danger posed by the coal processing waste area.

Proposed § 816.82 would be modified slightly from existing § 816.82. Except for the items discussed below, the proposed rule would follow the existing rule.

Proposed § 816.82(a) would modify existing § 816.82(a) by deleting the requirement that the inspection could be performed by "other persons approved by the regulatory authority." Substituted would be a provision that the inspection can be made by a "qualified professional specialist who is under the direct supervision of the responsible qualified registered professional engineer". This change would be made so that the regulatory authority would not be placed in a position of approving the qualifications of the other individuals inspecting the refuse piles. The inspection performed by a qualified specialist would still have to be certified by the responsible engineer.

OSM proposes to add in § 816.82(a)(1) the following critical periods of construction during which the site should be inspected: (i) Removal of all organic material and topsoil, (ii) placement of underdrains and protective filter systems, (iii) installation of surface drainage systems, (iv) placement and compaction of fill materials, and (v) revegetation. OSM has identified these periods for inspection in the belief that they are important to the stability and long-term function of the coal mine waste structure.

Proposed § 816.82(a)(1) would modify existing § 816.82(a)(1) by adding that the operator shall also be required to make more inspections, as well as the regulatory authority requiring more, if a potential danger exists. This would place the responsibility for monitoring a potentially dangerous situation on the operator as well as the regulatory authority.

The topsoil requirement reference to § 816.24 in existing § 816.82(a)(1) would be deleted making this paragraph correspond only to the requirements in proposed § 816.85, which includes reference to §§ 816.21–816.25.

During this review of OSM and MSHA rules, it was discovered that inspection findings under OSM rules could form the basis for the certification that is required by 30 CFR 77.215–3(a) in the MSHA rules for a refuse pile that may be a hazard. An inspection report for MSHA would suffice for OSM if it contained the required information.

Proposed § 816.82(a)(2) would revise existing § 816.82(a)(2), and would remove the requirement that inspections verify removal of all organic material and topsoil as it is now included in proposed § 816.82(a)(1). A more comprehensive statement would be added requiring that observations be conducted which are necessary to evaluate compliance with the regulatory standards and the approved plan. (Proposed § 816.85(d) would require the removal of all vegetation and organic material from the disposal area.)

Existing § 816.82(a)(3) is proposed to be deleted because the requirement that the registered professional engineer or the approved inspector take into consideration steepness of slope, seepage and other visible signs of potential failure which endanger human life and property is only advisory, does not direct that certain action be taken, and does not establish any particular standard.

Existing § 816.82(a)(4) is proposed to be modified and renumbered as proposed § 816.82(a)(3). The modification would consist of adding after "inspection findings" the words "shall be certified by a qualified registered professional engineer * * *". This addition makes it possible for the same engineer who performs the OSM inspection to submit a certification to MSHA as required by § 77.215–3(a) of this title.

Existing § 816.82(b) would be modified to require that if adequate remedial action cannot be started, the regulatory authority and appropriate emergency agencies must be notified immediately. Under the existing rules, the regulatory authority would be notified and then the regulatory authority notifies the emergency agencies asking that appropriate procedures be taken to protect the public. OSM is concerned that such a two-step procedure may result in unnecessary delay in the implementation of the emergency measures needed for public protection. Also, a provision would be added to the rule that would require starting any emergency procedures that are identified in the prepared emergency plan.

Section 816.83 Coal mine waste: Refuse piles: Water control measures.

The provisions for proposed § 816.83 for water control measures for refuse piles follow the requirements in existing § 816.83. The section would be modified to make it easier to understand, but its intent would remain the same.

The provisions in existing § 816.83(a) would not be changed in proposed § 816.83(a). It would require a properly designed subdrainage system to be installed unless the operator satisfactorily demonstrates to the regulatory authority that a system is not

needed for the disposal area. The subdrainage system would have to (1) intercept all ground water sources, (2) be protected by an adequate filter and (3) be covered so as to protect against the entrance of surface water or leachate from the coal mine waste refuse pile.

Proposed § 816.83(b) would be a modification of existing § 816.83(b). The requirement for diverting all the drainage from the area above the refuse pile and from the crest and face of the disposal area in accordance with existing § 816.72(d) would be deleted. In place of the present provisions, the proposed § 816.83(b) would require that all drainage above the refuse pile and from the surface of the refuse pile be controlled to prevent the impoundment of water and to minimize water infiltration and erosion. Rather than specifying that all surface drainage be diverted, the proposed rules would state that the surface drainage must be controlled. The new requirement would allow the qualified registered professional engineer to design a site specific drainage system to protect the refuse pile, which could include the present requirement of diversion ditches around the refuse pile. In addition, selected drainage systems may include lined ditches through the refuse pile, conduits under the fill to carry the water, or some other site the specific design that controls the runofff water in the area of the refuse pile.

These proposed surface drainage requirements would not conflict with or duplicate MSHA drainage requirements in § 77.215 of this title.

Proposed § 816.83(b) would slightly revise and specifically state the applicable provisions of existing § 816.72(d) relating to diversion channels making the reference to § 816.72(d) unnecessary.

Proposed § 816.83(b) would change the 100-year, 24-hour precipitation event requirement referenced from existing § 816.72(d) to a 100-year, 6-hour precipitation event. (This same design storm is used in the proposed revision of excess spoil fill rules.)

The change in storm design criteria would follow the recommendation of MSHA guidlines. (U.S. Mining enforcement and Safety Administration, 1975, pp. 6.65–6.77 and U.S. Mining Safety and Health Administration, 1979, p. 8.) For complete citations see reference material listing at end of preamble. OSM recognizes the 24-hour duration storm generally results in a runoff volume and peak higher than the 6-hour storm for the same area (See 44 FR 15210). However, OSM now believes structures built to accommodate the 100-year, 6-hour design storm provide adequate protection for the coal refuse piles. Where there is no downstream impoundment, the failure or overflow of a diversion ditch is normally not a critical concern. For this reason, OSM believes the storm design can safely be lowered to minimum standards suggested by MSHA.

By deleting the reference to § 816.72(d) in proposed § 816.83(b) the reader would be referred directly to § 816.43 requirements on diversion channels. This would remove one step in the reference sequence.

Proposed § 816.83(c) would clarify that all disturbed areas must be vegetated unless it is a diversion channel in which case it may be riprapped. It would also change the existing § 816.83(c), by adding that diversion channels may be protected by means other than riprap. This change would be effected by adding the phrase "or otherwise protected." The decision to allow use of other lining material, such as asphalt or concrete, is supported in the preamble for existing § 816.43 on diversion channels in 44 FR 15157. This gives the engineer added flexibility in design of the channels.

Proposed § 816.83(d) would modify the existing § 816.83(d) in that reference to §§ 816.42, 816.45, 816.46, 816.52 and 816.55 would be deleted. Reference to § 816.41, which contains the general requirements for hydrologic balance, would be retained and the rule would read that all water discharged shall comply with this section. Existing § 816.41(d)(3) is poorly phrased (to be clarified in a separate rulemaking) but OSM interprets the paragraph to mean that if the requirements in § 816.41 can not be met using the listed acceptable practices the remaining sections on hydrologic balance would apply.

The deleted referenced rules include sediment control measures for the water quality and effluent limitations (§ 816.42), disturbed area (§ 816.45), sedimentation ponds (§ 816.46), surface and ground water monitoring (§ 816.52) and the discharge of water into an underground mine (§ 816.55). These sections, according to OSM interpretation of § 816.41(d)(3), would be applicable if the practices suggested in § 816.41 will not meet the section's performance standards.

Section 816.85 Coal mine waste: Refuse piles: Construction requirements.

Existing § 816.85 sets the construction requirements for coal processing waste banks by—(1) Using the standards of existing §§ 816.71 and 816.72 (Disposal of excess spoil); (2) the compaction requirement of 90 percent of the maximum dry density determined by test procedures of the American Association of State Highway and Transportation Officials (AASHTO); (3) topsoil rules from § 816.22; and (4) revegetation rules from §§ 816.111 and 816.117.

It has been discovered in this review that general reference to §§ 816.71 and 816.72 includes standards that do not apply to coal processing waste, such as returning excess spoil to underground mine workings. To tighten proposed § 816.85 the general reference in § 816.85(a) would be deleted and more specific references and text portions of the excess spoil rules would be added. These will be discussed later in this preamble.

A new proposed § 816.85(a) would require that coal refuse piles be located and constructed in accordance with MSHA rules—30 CFR §§ 77.214 and 77.215(a)–(h). These are not necessarily new requirements as these MSHA rules have always had to be met by the operator. They are inserted here in an effort to further reduce duplication.

Proposed § 816.85(a) would, by reference to 30 CFR § 77.214, include the requirement that the refuse pile be located a safe distance from all underground facilities and surface installations, and that the refuse pile not be located over abandoned mine openings or streams. Also 30 CFR § 77.214 requires clay or inert material to be placed between new refuse piles and old refuse piles or exposed coal beds. Roadways to refuse piles would also be fenced or otherwise guarded to restrict the entrance of unauthorized persons.

Under the proposed change § 816.85(b) would be revised requiring that if the configuration of the refuse pile meets the definition of valley fill, it would have to meet, in addition to the provisions in proposed § 816.85, the requirements in existing § 816.72. Only for a specific type of fill would the operator now be required to refer to the requirements for the construction of excess spoil fills in § 816.72. An upcoming proposed revision to § 816.72 would combine requirements for valley fills with head-of-hollow fills (§ 816.73). Therefore, it is proposed that any final rule adopting proposed § 816.85(b) would refer to the combined section for valley/head-of-hollow fills if such a rule is adopted.

A technical amendment would be made when publishing this as a final rule to reflect the numbering changes that may occur in the excess spoil rules due to their proposed revision.

The minimum static safety factor of 1.5 for coal processing waste banks in existing § 816.85(b) is proposed to be deleted. A fill compacted in 2-foot lifts with slopes of less than 27 degrees will usually be stable, thus the 1.5 static safety factor is not needed to ensure its stability. For this reason the MSHA requirement (30 CFR § 77.215(h)) is adequate that only slopes exceeding 27 degrees or fills constructed in lifts exceeding 2 feet must have the 1.5 minimum safety factor OSM does not need to repeat this in its rules.

The compaction requirements in existing § 816.85(c) require that (1) the waste be spread in layers no thicker than 24 inches and (2) the material be compacted to 90 percent of maximum dry density. The 24-inch layer requirement would be deleted in the proposal. Instead OSM would rely on the MSHA rules, at 30 CFR § 77.215(h), to require these same standards. The MSHA rules specify that the refuse pile be constructed in layers not exceeding 2 feet in thickness and be constructed in compacted layers. The side slopes shall not exceed 2h:1v (approximately 27 degrees). The district manager may approve thicker layers and steeper side slopes where engineering data substantiates that a minimum static safety factor of 1.5 for the refuse pile will be attained.

The requirement of compacting the refuse in 2-foot layers is to minimize air and water infiltration into the refuse pile and reduce the possibility of combustion. Lifts thicker than 2 feet should not be a problem when limited by the 1.5 safety factor because there have been situations where refuse, left in nonstructural, uncompacted lifts five-feet thick, existed for many years without burning problems (U.S. Mining Enforcement and Safety Administration, 1975, p. 8.69).

The 90 percent compaction requirement in existing § 816.85(c) was a test for stability of the waste bank. This test was difficult, but possible when coal processing waste was the only material involved. Now, however, with the inclusion of underground development waste (through the new proposed definition and application of the term "coal mine waste") with its variable characteristics, the test would be even more difficult and probably would not accomplish its goal.

In some cases a waste bank may never reach 90 percent compaction and yet be very stable. Therefore, in these proposed rules the assurance of waste bank stability would be accomplished by the requirement for compacted 2-foot lifts at less than a 27 degree slope or meeting the 1.5 static safety factor. The 90 percent compaction requirement in existing § 816.85(c) would be deleted.

This change in compaction requirements would also follow the recommendation of the Mine Safety and Health Administration in the publication "Design Guidelines for Coal Refuse Piles and Water, Sediment or Slurry Impoundments and Impounding Structures (U.S. Mining Safety and Health Administration, 1979, p. 19). After stating that alternative designs may be used as long as a 1.5 minimum static safety factor is met, it says these safety factors were selected to allow a substantial margin of error because sampling a coal waste embankment and testing these samples in the laboratory is difficult. It is because of this testing difficulty that OSM believes the 90 percent compaction factor should be deleted. The reference to AASHTO in existing § 816.85(c)(2), which explains testing procedures for compaction, would also be deleted.

Three new paragraphs would be added to proposed § 816.85 from existing § 816.71. Proposed § 816.85(c) would include the requirement that the refuse pile be designed using recognized professional standards, certified by a qualified registered professional engineer and approved by the regulatory authority. Proposed § 816.85(d) would cover the removal of vegetative and organic materials and the requirements for topsoil removal and redistribution. The stability of the foundation and abutments and the necessary foundation investigation and laboratory testing would be in proposed § 816.85(e). These three requirements were taken from § 816.71 to replace the general reference to §§ 816.71 and 816.72 in existing § 816.81(a)(1), that would be deleted under this proposal.

The existing requirement that variations may be allowed for the disposal of dewatered fine coal waste (minus 28 sieve size) with approval of the regulatory authority would be retained in the proposed rule as § 816.85(f).

Proposed § 816.85(g) would contain parts of existing § 816.85(d) which provides that following grading of the coal processing waste bank, the site is required to be covered with a minimum of 4 feet of the best available non-toxic and non-combustible material and then revegetated. Under the existing rules the capacity of the subdrainage system must not be impeded by the cover material on the waste bank. If physical and chemical analyses show favorable conditions for revegetation, the depth of cover may be reduced by the regulatory authority. Existing backfilling and grading rules (§ 816.103(a)(1)) contain the same 4-foot topsoil requirement as in existing § 816.85(d). On November 27, 1979, the 4-foot topsoil rule in § 816.103 was suspended by OSM (44 FR 79430) after it was remanded by court decision.

In the proposed revision of the backfilling and grading rules (a separate rulemaking) the topsoil requirement was revised to require that exposed acid and toxic forming materials are to be covered with noncombustible material or treated. No minimum amount of cover was specified. In order to make the two rulemakings correspond, proposed § 816.85(g) would delete the 4-foot depth requirement and specify that the refuse pile be covered with earth material capable of sustaining vegetation in accordance with §§ 816.111 through 816.117. This will ensure that the environmental protection required by Section 515(b)(11) of the Act is fulfilled. By requiring that the amount of cover material be sufficient to sustain vegetation the objective of preventing the exposure of toxic materials is achieved without establishing rigid design specifications.

Section 816.86 Coal mine waste: Impounding structures.

To make room for a new § 816.86, *Impounding structures*, existing § 816.86 would be redesignated as proposed § 816.87(b) thereby putting all rules relating to burning or burned coal mine waste together in one section. This will be discussed later in the preamble for proposed § 816.87.

A new § 816.86 would combine requirements relating to construction of dams made of coal waste or used to impound wastes from existing §§ 816.91, 816.92 and 816.93. This proposed § 816.86 would be offered as two different alternatives. Option 1 would include performance standards from existing §§ 816.91, 816.92 and 816.93. Option 2 would delete the site preparation and diversion ditch requirements and so would include performance standards from only §§ 816.91 and 816.93.

Option 1

Proposed § 816.86(a) would include the requirement from the existing § 816.91(a) that these provisions apply to dams and embankments constructed of coal mine waste or intended to impound coal mine waste. Instead of stating that these rules apply whether the structures were completed before or after adoption of the regulatory program, the proposed rules would apply to all new and existing impounding structures with no change of meaning. Thus, proposed paragraph (a) contains the same

requirements as existing § 816.91(a) except for the terminology changes.

The proposed § 816.86(b) would revise existing § 816.91(b) which concerns the stability of the structure and the downstream detrimental effect of any acid seepage. The portion in existing § 816.91(b) which provides that before waste can be used in the construction of an impounding structure it must be demonstrated to the regulatory authority that the structure is stable and the waste material will not have a detrimental effect on downstream water quality would be deleted.

The demonstration requirements would be deleted because it is unclear as to the extent and type of demonstration. A new provision would be substituted requiring that the potential impact of acid mine seepage through the impounding structure be discussed in detail in the design plan submitted to the regulatory authority in accordance with § 780.25. The stability and water quality requirements would be retained since coal mine wastes can only be used in an impounding structure if they are not detrimental to the environment. They would, however, be set out in specific rules in proposed § 816.86(g).

The clearing and grubbing requirements for the proposed § 816.86(c) would be the same as in existing § 816.92(a) except that the term "coal mine waste" would be used instead of "coal processing waste".

Proposed § 816.86(d) would revise existing § 816.92(b) which requires surface drainage be diverted away from the embankment by diversion ditches that are built according to § 816.43. Under the existing rule diversion ditches are to have adequate outlets and those that are upstream of the embankment are to carry the peak runoff from a 100-year, 24-hour precipitation event. Also, these diversion ditches may not be blocked and they are to include adequate sediment control measures at the discharge points.

The proposed rule would revise the existing requirement that diversion ditches be designed to safely pass a 100-year, 24-hour precipitation event. Instead, a 100-year, 6-hour precipitation event would be set. The same reasoning as applied in the preamble for proposed § 816.83(b) would apply for the design change in this section. The person designing the structure should, however, recognize the water contribution from the area above the diversion ditch to the impoundment in the event of a storm that exceeds the capacity of the diversion ditch.

Proposed § 816.86(e) would follow existing § 816.93(a), which refers to the requirements in existing § 816.49 for the design of permanent and temporary impoundments. Existing § 816.49 is proposed to be revised in a separate rulemaking, but would still incorporate the existing provisions of § 816.49(a)(5) and (e) through (i), although the paragraph labels may be different. Through this reference to § 816.49 the proposed rules for coal mine waste would also be under the requirements of MSHA rules §§ 77.216–77.216–5.

Existing § 816.93(a)(1), which requires at least 3 feet of design freeboard between the lowest point on the embankment crest and maximum water elevation would be deleted. The freeboard distance should be site specific based on considerations that include duration of high water level in the pond, effective wind fetch, water depth potential, wave runup on embankment slope, and the ability of the embankment to resist erosion. (U.S. Mining Safety and Health Administration, 1979, p. 6). There are standard procedures for the design of the freeboard distance that the qualified registered professional engineer would commonly use during design of the structure that would cover this requirement. (Schwab and others, 1966, pp. 311–314). Therefore, the proposed § 816.86(f) would state only that the impoundment is to have adequate freeboard to protect the structure.

Proposed § 816.86(g) would contain all of existing § 816.93(a)(2) stating the minimum safety factors for the impounding structure. The partial pool with steady seepage saturation conditions would have a minimum safety factor of 1.5 and the seismic safety factor would be at least 1.2.

Proposed § 816.86(h) would slightly modify existing § 816.93(a)(3) which requires foundation and abutment stability for the impounding structure and sufficient foundation investigation and laboratory testing. The phrase "or the publication referred to in § 816.49" would be deleted because such documents would not be contained in the revised § 816.49.

Proposed § 816.86(i) would revise the phrasing of existing § 816.93(b) only to clarify that protection against erosion and corrosion is to be designed into the spillways and outlet works. Inlets shall also be protected against blockage.

Proposed § 816.86(j) would retain the requirements of existing § 816.93(c) on designing an impounding structure so that at least 90 percent of the water stored during a design precipitation event would be removed within a 10-day period.

Option 2

Section 816.86 Coal mine waste: Impounding structures.

Option 2 is the same as Option 1 except that the site preparation requirements (proposed paragraph (c)) and the diversion ditch provisions (proposed paragraph (d)) would not be included.

These two provisions would not be included because the requirements contained in these paragraphs can be found in any geotechnical, engineering-related publication. (Havers and Stubbs, 1971; U.S. Bureau of Reclamation, 1974; U.S. Soil Conservation Service, 1975; and Woods and others, 1960.) Since the requirements merely reflect common site preparation and diversion ditch practices, deletion of the two paragraphs would not result in any important change in the method in which embankment sites are prepared. Since construction of each impoundment structure is under the strict inspection rules (§ 816.82) and must be certified by a qualified registered professional engineer, these common practices would be used without a rule defining them.

The proposed paragraphs in Option 2 would be redesignated accordingly.

Section 816.87 Coal mine waste: Burning and burned waste utilization.

Under this proposal all rules relating to burning or burned coal mine waste (existing §§ 816.87 and 816.88) would be combined in proposed § 816.87. Existing § 816.88, *Coal processing waste: Burning*, would be deleted and its provisions would be placed in proposed § 816.87 as Paragraph (a). There would be no change in content for proposed Paragraph (a) and it would provide that when extinguishing coal mine waste fires, the person who conducts the surface mining activities would follow a plan approved by the regulatory authority and MSHA. The plan must ensure that only persons authorized by the operator and who understand the special fire extinguishing procedures shall be involved in extinguishing the fire.

Existing § 816.87, *Coal processing waste: Burned waste utilization*, is proposed to be modified and labeled § 816.87(b). The modification consists of removing the first two sentences and substituting a statement that an approved plan is required for removal of burned or unburned coal mine waste from a disposal area. The change is only minor and the requirements and substance remain the same. All plans, including those for burned waste utilization, must be approved by the

regulatory authority prior to removal of the material from any disposal area. The requirements for consideration of the local community in designing the plan, the certification of the plan by a qualified registered professional engineer and approval by the regulatory authority would remain unchanged.

Section 816.88 Coal mine waste: Return to underground workings.

Existing § 816.88 allows for coal processing waste to be returned to underground mine workings in accordance with a disposal program approved by the regulatory authority and MSHA under § 784.25.

In proposed § 816.88 the wording would be revised to clarify that "coal mine waste may be returned to underground mine workings under a waste disposal program designed according to § 784.25 and jointly approved by the regulatory authority and MSHA." There would also be a terminology change of "coal processing waste" to "coal mine waste." This change to "coal mine waste" would allow both coal processing waste and underground development waste to be returned to underground mine workings.

The reference to § 784.19 in existing § 817.88 is not needed for the return of underground development waste, now "coal mine waste," to underground mine workings and would be deleted.

Section 816.89 Disposal of non coal wastes.

Existing § 816.89 would be slightly modified, but would retain all of the same requirements in the same order.

Under the existing rules, non coal wastes, such as garbage, lumber and other combustibles generated during surface mining activities, are to be placed and stored in a designated portion of the disposal area. The storage of non coal wastes must be handled as to ensure that surface or ground water is not degraded, fires are prevented and that the area is suitable for reclamation and revegetation.

Existing § 816.89 also states that final disposal of non coal wastes is to be in a designated site in the permit area. The site is to be constructed and operated according to sanitary landfill principles which include compacting and covering the waste materials. Operation of the disposal site is to be conducted in accordance with all local, State and Federal requirements. Solid waste materials are not to be deposited at refuse embankments or impoundment sites. Also, no excavation for a solid waste disposal site is to be done within 8 feet of any coal outcrop or coal storage area.

Modifications would consist of deleting the word "suface" from the phrase "generated during surface mining activities" which appears in the first sentence of existing § 816.89(a). Also, the word "mine" would be inserted between the words "non coal" and "waste" in the heading and through the text of existing § 816.89 to make clear what the rule pertains to.

Existing § 816.89(b) and (c) would remain essentially unchanged except for the terminology "solid waste" in Paragraph (c) would be replaced by "coal mine waste" to remain consistent with the preceding paragraph.

Reference Materials

Reference materials used to develop these proposed rules are as follows:

Havers, J.A., and Stubbs, F.W., Jr., editors. 1971. Handbook of heavy construction. Second edition. McGraw-Hill Book Co., New York. Sections 1–31 (various pagings).

Schwab, G.O., Frevert, R.K., and Edminster, T.W. 1966. Soil and water conservation engineering. Second edition. The Ferguson Foundation Agricultural Engineering Series. John Wiley & Sons, New York. 683 pp.

U.S. Bureau of Reclamation. 1974. 1974 Earth manual. U.S. Department of the Interior, Bureau of Reclamation. 710 pp.

U.S. Mining Enforcement and Safety Administration. 1975. Engineering and design manual—coal refuse disposal facilities. (Prepared by D'Appolonia Consulting Engineers, Inc., Pittsburgh, Pa.) U.S. Mining Enforcement and Safety Administration report. Various pagings.

U.S. Mining Safety and Health Administration. 1979. Design guidelines for coal refuse piles and water, sediment or slurry impoundments and impounding structures. U.S. Department of Labor, Mine Safety and Health Administration, IR 1109. 29 pp.

U.S. Soil Conservation Service, 1975. Engineering field manual for conservation practices. U.S. Department of Agriculture, Soil Conservation Service. Various pagings.

U.S. Soil Conservation Service. 1977. Pond. Practice standard 378. U.S. Department of Agriculture, Soil Conservation Service 8 pp.

Woods, K.B., Berry, D.S., and Goetz, W.H. 1960. Highway engineering handbook. McGraw-Hill Book Co., Inc., New York. 28 sections. Various pagings.

IV. Procedural Matters

National Environmental Policy Act

OSM has prepared an Environmental Assessment (EA) of the cumulative impacts on the human environment of this rulemaking and related rulemakings under the Act. This cumulative EA is on file in the OSM Administrative Record Office at the address listed in the "**ADDRESSES**" section of this preamble. OSM is also preparing a Supplemental Environmental Impact Statement that will consider this proposed rule. (See 47 FR 18920, May 3, 1982.)

Federal Paperwork Reduction Act

The information collection requirements in existing 30 CFR Parts 816 and 817 were approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and assigned new clearance numbers 1029–0047 and 1029–0048 on April 1, 1981. This approval was identified in notes at the introduction to 30 CFR Parts 816 and 817 under the old numbers R0618 and R0619 (all under No. B–190462). OSM would delete those notes and codify the OMB approvals under the new §§ 816.10 and 817.10. The information required by 30 CFR Parts 816 and 817 would be used by the regulatory authority in monitoring and inspecting surface and underground mining activities to ensure that they are conducted in a manner which preserves and enhances environmental and other values of the Act. This information required by 30 CFR Parts 816 and 817 is mandatory.

Determinations Under Executive Order 12291 and the Regulatory Flexibility Act

The Department of the Interior (DOI) has examined these proposed rules according to the criteria of Executive Order 12291 (February 17, 1981). OSM has determined that these are not major rules and do not require a regulatory impact analysis because they will impose only minor costs on the coal industry and coal consumers. In addition, the proposed regulations emphasize the use of performance standards instead of design criteria which will allow operators to utilize the most cost-effective means of achieving the performance standards.

The DOI has also determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that these rules will not have a significant economic impact on a substantial number of small entities. The proposed regulations will allow small coal operators increased flexibility in meeting performance standards and should especially ease

the regulatory burden on small coal operators in Appalachia.

List of Subjects

30 CFR Part 701

Coal mining, Surface mining, Underground mining.

30 CFR Part 816

Coal mining, Environmental protection, Reporting requirements, Surface mining.

30 CFR Part 817

Coal mining, Environmental protection, Reporting requirements, Underground mining.

For the reasons set out in the preamble, it is proposed to amend 30 CFR Parts 701, 816 and 817 as set forth herein.

Dated: June 8, 1982.

William P. Pendley,

Acting Assistant Secretary of the Interior.

PART 701—PERMANENT REGULATORY PROGRAM

1. In § 701.5 the definitions listed below are added alphabetically to read as follows:

§ 701.5 Definitions.

* * * * *

Coal mine waste means underground development waste and coal processing waste.

* * * * *

Impounding structure means a structure of earth or other materials used to impound water, sediment, slurry or any combination of these materials.

* * * * *

Refuse pile means a surface deposit of coal mine waste.

* * * * *

2. In § 701.5, the definition of *Coal processing waste* is revised to read as follows:

* * * * *

Coal processing waste means earth materials which are separated and wasted from the product coal during physical or chemical processing, cleaning, or concentrating.

* * * * *

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

3. Section 816.81 is revised to read as follows:

§ 816.81 Coal mine waste: General requirements.

(a) All coal mine waste shall:

(1) Be placed in new or existing disposal areas approved by the regulatory authority;

(2) Be placed in structures designed, constructed, inspected and maintained in accordance with §§ 816.82 through 816.86;

(3) Be placed in structures designed and constructed to:

(i) Not adversely affect ground or surface water quality or quantity;

(ii) Not create a public hazard;

(iii) Be stable; and

(iv) Minimize the potential for combustion.

(b) Coal mine waste material from activities located outside a permit area may be disposed of in the permit area only if approved by the regulatory authority. Approval shall be based upon a showing that such disposal will be in accordance with the standards in paragraph (a) of this section.

4. Section 816.82 is revised to read as follows:

§ 816.82 Coal mine waste: Refuse piles; Site inspection.

(a) All refuse piles shall be inspected, on behalf of the person conducting mining activities, by a qualified registered professional engineer or other qualified professional specialist who is under the direct supervision of the responsible qualified registered professional engineer.

(1) Inspection shall occur at least quarterly, beginning within 7 days after preparation of the disposal area begins. Inspections shall also be made during the following critical construction periods: (i) Removal of all organic material and topsoil, (ii) placement of underdrains and protective filter systems, (iii) installations of surface drainage systems, (iv) placement and compaction of fill materials, and (v) revegetation. The regulatory authority shall require more inspections, and more frequent inspections shall be required to be made by the operator, if a potential danger or harm exists to the health and safety of the public or to the land, air and water resources. Inspections may terminate when the refuse pile has been graded and covered in accordance with § 816.85 or at a later time as required by the regulatory authority.

(2) Inspections shall include such observations as are necessary to evaluate the potential hazard to human life and property and verify that construction and maintenance are occurring in accordance with the standards of this chapter and the plan approved under § 780.25 of this chapter.

(3) Copies of the inspection findings shall be certified by a qualified registered professional engineer and shall be maintained at the mine site.

(b) If any inspection discloses that a potential hazard exists, the regulatory authority shall be informed promptly of the finding, of emergency procedures formulated for public protection, and remedial action. Emergency procedures shall be started according to the prepared emergency plan. If adequate procedures have not been or cannot be formulated or implemented, the regulatory authority and any appropriate emergency agencies shall be immediately notified of any measures necessary to protect the public.

5. Section 816.83 is revised to read as follows:

§ 816.83 Coal mine waste: Refuse piles: Water control measures.

(a) Unless the operator satisfactorily demonstrates to the regulatory authority that a subdrainage system is not required to ensure the structural integrity of a coal mine waste refuse pile and to protect the surface and ground water quality in the immediate vicinity of the disposal area, a properly designed subdrainage system shall be provided, which shall—

(1) Intercept all ground water sources;

(2) Be protected by an adequate filter; and

(3) Be covered so as to protect against the entrance of surface water or leachate from the coal mine waste.

(b) All drainage from the area above, and from the surface of the refuse pile, shall be controlled to prevent the impoundment of water and to minimize water infiltration and erosion. Each diversion channel constructed for water control shall be designed to safely carry the runoff from a 100-year, 6-hour precipitation event and shall meet the diversion channel requirements of § 816.43.

(c) Slope protection shall be provided to minimize surface erosion at the site. All disturbed areas shall be vegetated upon completion of construction. Diversion channels may be riprapped or otherwise protected instead of being vegetated.

(d) All water discharged from a coal mine waste refuse pile shall comply with § 816.41 on controlling and minimizing water pollution.

6. Section 816.85 is revised to read as follows:

§ 816.85 Coal mine waste: Refuse pile construction requirements.

(a) Coal refuse piles shall be located and constructed in accordance with the requirements of §§ 77.214 and 77.215(a)–(h) of this title.

(b) Coal refuse piles that meet the definition of valley fills in § 701.5 of this chapter shall be constructed in accordance with the special requirements of § 816.72 in addition to the requirements in this section.

(c) The pile shall be designed using recognized professional standards, certified by a qualified registered professional engineer, and approved by the regulatory authority.

(d) All vegetative and organic materials shall be removed from the disposal area and the topsoil shall be removed, segregated, and stored or redistributed in accordance with §§ 816.21–816.25. If approved by the regulatory authority, organic material may be used as mulch or may be included in the topsoil to control erosion, promote growth of vegetation, or increase the moisture retention of the soil.

(e) The foundation and abutments of the pile shall be stable under all conditions of construction and operation. Sufficient foundation investigation and laboratory testing of foundation materials shall be performed in order to determine the design requirements for stability of the foundation. Analyses of foundation conditions shall include the effect of underground mine workings, if any, upon the stability of the structure.

(f) Variations may be allowed in these requirements for the disposal of dewatered fine coal waste (minus 28 sieve size) with approval of the regulatory authority.

(g) The final surface of the coal refuse pile shall be covered with materials capable of sustaining adequate vegetation and providing environmental protection in accordance with §§ 816.111 through 816.117.

§ 816.86 [Removed]

7. Part 816 is amended by removing § 816.86.

Option 1 for New § 816.86

8. Sections 816.91, 816.92, 816.93 are combined, redesignated as new § 816.86 and revised to read as follows:

§ 816.86 Coal mine waste: Impounding structures.

(a) This section shall apply to all new and existing impounding structures constructed of coal mine waste or intended to impound coal mine waste.

(b) The use of coal mine waste material for impounding structures shall not have a detrimental effect on downstream water quality or the environment due to acid seepage through the impounding structure. The potential impact of acid mine seepage through the impounding structure shall be discussed in detail in the design plan submitted to the regulatory authority in accordance with § 780.25 of this chapter.

(c) All trees, shrubs, grasses, and other organic materials shall be cleared and grubbed from the site, and all combustibles shall be removed and stockpiled in accordance with the requirements of this part.

(d) Surface drainage that may cause erosion to the embankment area or the embankment features, whether during construction or after completion, shall be diverted away from the embankment by diversion ditches that comply with the requirements of § 816.43. Adequate outlets for discharge from these diversions shall be in accordance with § 816.47. Diversions that are designed to divert drainage from the upstream area away from the impoundment area shall be designed to carry the peak runoff from a 100-year, 6-hour precipitation event. The diversion shall be maintained to prevent blockage and the discharge shall be in accordance with § 816.47. Sediment control measures shall be provided at the discharge of each diversion ditch before entry into natural water courses in accordance with §§ 816.41 and 816.46.

(e) Each coal mine waste impounding structure or a structure intended to impound coal mine waste shall be designed, constructed and maintained in accordance with § 816.49(a)(5) and (e) through (i).

(f) The impoundment shall have adequate freeboard between the lowest point on the embankment crest and the maximum water elevation to protect the structure.

(g) The impounding structure shall have a minimum safety factor of 1.5 for the partial pool with steady seepage saturation conditions, and the seismic safety factor shall be at least 1.2.

(h) The foundation and abutments for the impounding structure shall be designed to be stable under all conditions of construction and operation of the impoundment. Sufficient foundation investigations and laboratory testing shall be performed to determine the safety factors of the impounding structure for all loading conditions appearing in paragraph (g) of this section and for all increments of construction.

(i) Protection against erosion and corrosion shall be designed into the spillways and outlet works. Inlets shall be protected against blockage.

(j) Impounding structures constructed of or impounding waste materials shall be designed so that at least 90 percent of the water stored during the design precipitation event shall be removed within a 10-day period.

Option 2 for New § 816.86

9. Section 816.92 is removed and §§ 816.91 and 816.93 are combined, redesignated as new § 816.86 and revised to read as follows:

§ 816.86 Coal mine waste: Impounding structures.

(a) This section shall apply to all new and existing impounding structures constructed of coal mine waste or intended to impound coal mine waste.

(b) The use of coal mine waste material for impounding structures shall not have a detrimental effect on downstream water quality or the environment due to acid seepage through the impounding structure. The potential impact on acid mine seepage through the impounding structure shall be discussed in detail in the design plan submitted to the regulatory authority in accordance with § 780.25.

(c) Each coal mine waste impounding structure or a structure intended to impound coal mine waste shall be designed, constructed and maintained in accordance with § 816.49(a)(5) and (e) through (i).

(d) The impoundment shall have adequate freeboard between the lowest point on the embankment creast and the maximum water elevation to protect the structure.

(e) The impounding structure shall have a minimum safety factor of 1.5 for the partial pool with steady seepage saturation conditions, and the seismic safety factor shall be at least 1.2.

(f) The foundation and abutments for the impounding structure shall be designed to be stable under all conditions of construction and operation of the impounding structure. Sufficient foundation investigations and laboratory testing shall be performed to determine the safety factors of the impounding structure for all loading conditions appearing in paragraph (e) of this section and for all increments of construction.

(g) Protection against erosion and corrosion shall be designed into the spillways and outlet works. Inlets shall be protected against blockage.

(h) Impounding structures constructed of or impounding waste material shall be designed so that at least 90 percent of the water stored during the design precipitation event shall be removed within a 10-day period.

10. Section 816.87 is revised to read as follows:

§ 816.87 Coal mine waste: Burning and burned waste utilization.

(a) Coal mine fires shall be extinguished by the person who conducts the surface mining activities, in accordance with a plan approved by the regulatory authority and the Mine Safety and Health Administration. The plan shall contain, at a minimum, provisions to ensure that only those persons authorized by the operator, and who have an understanding of the procedures to be used, shall be involved in the extinguishing operations.

(b) No burning or burned coal mine waste shall be removed from a disposal area without an approved removal plan. Consideration shall be given to potential hazards which may be created by removal to persons working or living in the vicinity of the structure. The plan shall be certified by a qualified registered professional engineer and approved by the regulatory authority.

11. Section 816.88 is revised to read as follows:

§ 816.88 Coal mine waste: Return to underground workings.

Coal mine waste may be returned to underground mine workings under a waste disposal program designed according to § 784.25 of this chapter and jointly approved by the regulatory authority and MSHA.

12. Section 816.89 is revised to read as follows:

§ 816.89 Disposal of noncoal mine wastes.

(a) Noncoal mine wastes including, but not limited to grease, lubricants, paints, flammable liquids, garbage, abandoned mining machinery, lumber and other combustible materials generated during mining activities shall be placed and stored in a controlled manner in a designated portion of the permit area. Placement and storage shall ensure that leachate and surface runoff do not degrade surface or ground water, that fires are prevented, and that the area remains stable and suitable for reclamation and revegetation compatible with the natural surroundings.

(b) Final disposal of noncoal mine wastes shall be in a designated disposal site in the permit area. Disposal sites shall be designed and constructed with appropriate water barriers on the bottom and sides of the designated site. Wastes shall be routinely compacted and covered to prevent combustion and wind-borne waste. When the disposal is completed, a minimum of 2 feet of soil cover shall be placed over the site, slopes stabilized, and revegetation accomplished in accordance with §§ 816.111–816.117. Operation of the disposal site shall be conducted in accordance with all local, State, and Federal requirements.

(c) At no time shall any noncoal mine waste be deposited in a refuse pile or impounding structure, nor shall an excavation for a noncoal mine waste disposal site be located within 8 feet of any coal outcrop or coal storage area.

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

13. Section 817.81 is revised to read as follows:

§ 817.81 Coal mine waste: General requirements.

(a) All coal mine waste shall:

(1) Be placed in new or existing disposal areas approved by the regulatory authority;

(2) Be placed in structures designed, constructed, inspected and maintained in accordance with §§ 817.82 through 817.88;

(3) Be placed in structures designed and constructed to:

(i) Not adversely affect ground or surface water quality or quantity;

(ii) Not create a public hazard;

(iii) Be stable; and

(iv) Minimize the potential for combustion.

(b) Coal mine waste materials from activities located outside a permit area may be disposed of in the permit area only if approved by the regulatory authority. Approval shall be based upon a showing that such disposal will be in accordance with the standards in paragraph (a) of this section.

14. Section 817.82 is revised to read as follows:

§ 817.82 Coal mine waste: Refuse piles: Site inspection.

(a) All refuse piles shall be inspected, on behalf of the person conducting mining activities, by a qualified registered professional engineer or other qualified professional specialist who is under the direct supervision of the responsible qualified registered professional engineer.

(1) Inspection shall occur at least quarterly, beginning within 7 days after preparation of the disposal area begins. Inspections shall also be made during the following critical construction periods: (i) Removal of all organic material and topsoil, (ii) placement of underdrains and protective filter systems, (iii) installation of surface drainage systems, (iv) placement and compaction of fill materials, and (v) revegetation. The regulatory authority shall require more inspections, and more frequent inspections shall be required to be made by the operator, if a potential danger or harm exists to the health and safety of the public or to the land, air and water resources. Inspections may terminate when the refuse pile has been graded and covered in accordance with § 817.85 or at a later time as required by the regulatory authority.

(2) Inspections shall include such observations as are necessary to evaluate the potential hazard to human life and property and verify that construction and maintenance are occurring in accordance with the standards of this chapter and the plan approved under § 784.16 of this chapter.

(3) Copies of the inspection findings shall be certified by a qualified registered professional engineer and shall be maintained at the minesite.

(b) If any inspection discloses that a potential hazard exists, the regulatory authority shall be informed promptly of the finding, of emergency procedures formulated for public protection, and remedial action. Emergency procedures shall be started according to the prepared emergency plan. If adequate procedures have not been or cannot be formulated or implemented, the regulatory authority and any appropriate emergency agencies shall be immediately notified of any measures necessary to protect the public.

15. Section 817.83 is revised to read as follows:

§ 817.83 Coal mine waste: Refuse piles: Water control measures.

(a) Unless the operator satisfactorily demonstrates to the regulatory authority that a subdrainage system is not required to ensure the structural integrity of a coal mine waste refuse pile and to protect the surface and ground water quality in the immediate vicinity of the disposal area, a properly designed subdrainage system shall be provided, which shall—

(1) Intercept all ground water sources;

(2) Be protected by an adequate filter; and

(3) Be covered so as to protect against the entrance of surface water or leachate from the coal mine waste.

(b) All drainage from the area above, and from the surface of the refuse pile, shall be controlled to prevent the impoundment of water and to minimize water infiltration and erosion. Each diversion channel constructed for water control shall be designed to safely carry the runoff from a 100-year, 6-hour precipitation event and shall meet the diversion channel requirements of § 817.43.

(c) Slope protection shall be provided to minimize surface erosion at the site.

All disturbed areas shall be vegetated upon completion of construction. Diversion channels may be riprapped or otherwise protected instead of being vegetated.

(d) All water discharged from a coal mine waste refuse pile shall comply with § 817.41 on controlling and minimizing water pollution.

16. Section 817.85 is revised to read as follows:

§ 817.85 Coal mine waste: Refuse pile construction requirements.

(a) Coal refuse piles shall be located and constructed in accordance with the requirements of §§ 77.214 and 77.215(a)–(h) of this title.

(b) Coal refuse piles that meet the definition of valley fills in § 701.5 of this chapter shall be constructed in accordance with the special requirements of § 817.72 in addition to the requirements in this section.

(c) The pile shall be designed using recognized professional standards, certified by a qualified registered professional engineer, and approved by the regulatory authority.

(d) All vegetative and organic materials shall be removed from the disposal area and the topsoil shall be removed, segregated, and stored or redistributed in accordance with §§ 817.21–817.25. If approved by the regulatory authority, organic material may be used as mulch or may be included in the topsoil to control erosion, promote growth of vegetation, or increase the moisture retention of the soil.

(e) The foundation and abutments of the pile shall be stable under all conditions of construction and operation. Sufficient foundation investigation and laboratory testing of foundation materials shall be performed in order to determine the design requirements for stability of the foundation. Analyses of foundation conditions shall include the effect of underground mine workings, if any, upon the stability of the structure.

(f) Variations may be allowed in these requirements for the disposal of dewatered fine coal waste (minus 28 sieve size) with approval of the regulatory authority.

(g) The final surface of the coal refuse pile shall be covered with materials capable of sustaining adequate vegetation and providing environmental protection in accordance with §§ 817.111 through 817.117.

§ 817.86 [Removed]

17. Part 817 is amended by removing § 817.86.

Option 1 for New § 817.86

18. Sections 817.91, 817.92, 817.93 are combined, redesignated as new § 817.86 and revised to read as follows:

§ 817.86 Coal mine waste: Impounding structures.

(a) This section shall apply to all new and existing impounding structures constructed of coal mine waste or intended to impound coal mine waste.

(b) The use of coal mine waste material for impounding structures shall not have a detrimental effect on downstream water quality or the environment due to acid seepage through the impounding structure. The potential impact of acid mine seepage through the impounding structure shall be discussed in detail in the design plan submitted to the regulatory authority in accordance with § 784.16 of this chapter.

(c) All trees, shrubs, grasses, and other organic materials shall be cleared and grubbed from the site, and all combustibles shall be removed and stockpiled in accordance with the requirements of this part.

(d) Surface drainage that may cause erosion to the embankment area or the embankment features, whether during construction or after completion, shall be diverted away from the embankment by diversion ditches that comply with the requirements of § 817.43. Adequate outlets for discharge from these diversions shall be in accordance with § 817.47. Diversions that are designed to divert drainage from the upstream area away from the impoundment area shall be designed to carry the peak runoff from a 100-year, 6-hour precipitation event. The diversion shall be maintained to prevent blockage and the discharge shall be in accordance with § 817.47. Sediment control measures shall be provided at the discharge of each diversion ditch before entry into natural watercourses in accordance with §§ 817.41 and 817.46.

(e) Each coal mine waste impounding structure or a structure intended to impound coal mine waste shall be designed, constructed and maintained in accordance with § 817.49(a)(5) and (e) through (i).

(f) The impoundment shall have adequate freeboard between the lowest point on the embankment crest and the maximum water elevation to protect the structure.

(g) The impounding structure shall have a minimum safety factor of 1.5 for the partial pool with steady seepage saturation conditions, and the seismic safety factor shall be at least 1.2.

(h) The foundation and abutments for the impounding structure shall be designed to be stable under all conditions of construction and operation of the impoundment. Sufficient foundation investigations and laboratory testing shall be performed to determine the safety factors of the impounding structure for all loading conditions appearing in Paragraph (g) of this section and for all increments of construction.

(i) Protection against erosion and corrosion shall be designed into the spillways and outlet works. Inlets shall be protected against blockage.

(j) Impounding structures constructed of or impounding waste materials shall be designed so that at least 90 percent of the water stored during the design precipitation event shall be removed within a 10-day period.

Option 2 for New § 817.86

19. Section 817.92 is removed and §§ 817.91 and 817.93 are combined, redesignated as new § 817.86 and revised to read as follows:

§ 817.86 Coal mine waste: Impounding structures.

(a) This section shall apply to all new and existing impounding structures constructed of coal mine waste or intended to impound coal mine waste.

(b) The use of coal mine waste material for impounding structures shall not have a detrimental effect on downstream water quality or the environment due to acid seepage through the impounding structures. The potential impact of acid and mine sepage through the impounding structures shall be discussed in detail in the design plan submitted to the regulatory authority in accordance with § 784.16.

(c) Each coal mine waste impounding structure or a structure intended to impound coal mine waste shall be designed, constructed and maintained in accordance with § 817.49(a)(5) and (e) through (i).

(d) The impoundment shall have adequate freeboard between the lowest point on the embankment crest and the maximum water elevation to protect the structure.

(e) The impounding structure shall have a minimum safety factor of 1.5 for the partial pool with steady seepage saturation conditions, and the sesimic safety factor shall be at least 1.2.

(f) The foundation and abutments for the impounding structure shall be designed to be stable under all conditions of construction and operation of the impounding structure. Sufficient foundation investigations and laboratory testing shall be performed to determine the safety factors of the

impounding structure for all loading conditions appearing in paragraph (e) of this section and for all increments of construction.

(g) Protection against erosion and corrosion shall be designed into the spillways and outlet works. Inlets shall be protected against blockage.

(h) Impounding structures constructed of or impounding waste materials shall be designed so that at least 90 percent of the water stored during the design precipitation event shall be removed within a 10-day period.

20. Section 817.87 is revised to read as follows:

§ 817.87 Coal mine waste: Burning and burned waste utilization.

(a) Coal mine waste fires shall be extinguished by the person who conducts the underground mining activities, in accordance with a plan approved by the regulatory authority and the Mine Safety and Health Administration. The plan shall contain, at a minimum, provisions to ensure that only those persons authorized by the operator, and who have an understanding of the procedures to be used, shall be involved in the extinguishing operations.

(b) No burning or burned coal mine waste shall be removed from a disposal area without an approved removal plan. Consideration shall be given to potential hazards which may be created by removal to persons working or living in the vicinity of the structure. The plan shall be certified by a qualified registered professional engineer and approved by the regulatory authority.

21. Section 817.88 is revised to read as follows:

§ 817.88 Coal mine waste: Return to underground workings.

Coal mine waste may be returned to underground mine workings under a waste disposal program designed according to § 784.25 of this chapter and jointly approved by the regulatory authority and MSHA.

22. Section 817.89 is revised to read as follows:

§ 817.89 Disposal of noncoal mine wastes.

(a) Noncoal mine wastes including, but not limited to, grease, lubricants, paints, flammable liquids, garbage, abandoned mining machinery, lumber and other combustible materials generated during mining activities shall be placed and stored in a controlled manner in a designated portion of the permit area. Placement and storage shall ensure that leachate and surface runoff do not degrade surface or ground water, that fires are prevented, and that the area remains stable and suitable for reclamation and revegetation compatible with the natural surroundings.

(b) Final disposal of noncoal mine wastes shall be in a designated disposal site in the permit area. Disposal sites shall be designed and constructed with appropriate water barriers on the bottom and sides of the designated site. Wastes shall be routinely compacted and covered to prevent combustion and wind-borne waste. When the disposal is completed, a minimum of 2 feet of soil cover shall be placed over the site, slopes stabilized, and revegetation accomplished in accordance with §§ 817.111–817.117. Operation of the disposal site shall be conducted in accordance with all local, State, and Federal requirements.

(c) At no time shall any noncoal mine waste be deposited in a refuse pile or impounding structure, nor shall any excavation for a noncoal mine waste disposal site be located within 8 feet of any coal outcrop or coal storage area.

(Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*)

[FR Doc. 82–16622 Filed 6–17–82; 8:45 am]

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This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

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DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20405.

List of Public Laws

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202–275–3030).

S. J. Res. 149 / Pub. L. 97–193 To designate the week of June 6, 1982, through June 12, 1982, as "National Child Abuse Prevention Week". (June 15, 1982; 96 Stat. 112) Price: $1.75.

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Rules and Regulations

Federal Register
Vol. 47, No. 119
Monday, June 21, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 1

Administrative Regulations; Procedures Relating to Awards Under the Equal Access to Justice Act

AGENCY: Agriculture Department.

ACTION: Final rule.

SUMMARY: The Equal Access to Justice Act (5 U.S.C. 504) which took effect October 1, 1981, provides for the award of attorney fees and other expenses to parties who prevail over the federal government in certain administrative proceedings. These rules establish procedures for the submission and consideration of applications for such awards.

EFFECTIVE DATE: June 21, 1982.

FOR FURTHER INFORMATION CONTACT: Richard W. Davis, Jr., Office of the General Counsel, United States Department of Agriculture, Washington, D.C., 20250, (202) 447–8041.

SUPPLEMENTARY INFORMATION: These rules are based upon the model rules issued by the Administrative Conference of the United States on June 18, 1981, and, except for modifications necessary to adapt them to the use of this Department and conform them to the provisions of this Department's Uniform Rules of Practice Governing Formal Adjudicatory Proceedings (7 CFR 1.130 *et seq.*), the model rules have been adopted with only a few significant changes.

The wording of the model rules section on Proceedings Covered is modified to clarify that these rules apply only to proceedings required by statute to be conducted under 5 U.S.C. 554. All such proceedings conducted by this Department are listed in § 1.183 of these rules and therefore no provision is made for *ad hoc* designation of other covered proceedings.

The model rules provision for rulemaking regarding the maximum rate for attorney fees is omitted. It is extraneous to these rules and provision is made for petitioning for rulemaking in Departmental regulations at 7 CFR 1.28.

The requirements for documentation of fees and expenses are set out in greater detail than in the model rules. We believe this will expedite disposition of applications.

Except in the circumstance that part of the underlying adversary adjudication is settled before the final decision is issued and a fee award relating to it is agreed upon, there appears to be no occasion for an interim fee award and no provision for such award is made in these rules.

These rules relate to agency procedure and practice. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other related public procedures with respect thereto are impractical and contrary to the public interest. Further, extensive public participation occurred in connection with consideration of the model rules. Because the Equal Access to Justice Act became effective on October 1, 1981, good cause is found to make these rules effective less than 30 days after publication in the **Federal Register.**

This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been determined not to be a "major rule" since it will not have an annual effect on the economy of $100 million or more.

In addition, it has been determined that these rules will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 1

Administrative practice and procedures.

Accordingly, 7 CFR, Subtitle A, Part 1 is amended by adding Subpart J to read as follows:

PART 1—ADMINISTRATIVE REGULATIONS

* * * * *

Subpart J—Procedures Relating to Awards Under the Equal Access to Justice Act in Proceedings Before the Department

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1.201 Payment of award.

Authority: Sec. 203(a)(1), Pub. L. 96–481, 94 Stat. 2325 (5 U.S.C. 504(c)(1)).

Subpart J—Procedures Relating to Awards Under the Equal Access to Justice Act in Proceedings Before the Department

General Provisions

§ 1.180 Definitions.

(a) The definitions contained in Subpart H—Rules of Practice Governing Formal Adjudicatory Proceedings (§ 1.132 of this part) are incorporated into and made applicable to this subpart.

(b) "Agency counsel" means the attorney from the Office of the General Counsel representing the agency of the Department administering the statute involved in the proceeding.

§ 1.181 Purpose of these rules.

The Equal Access to Justice Act, 5 U.S.C. 504 (called "the Act" in this subpart), provides for the award of attorney fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings (called "adversary adjudications") before the Department of Agriculture. An eligible party may receive an award when it prevails over

the Department unless the Department's position in the proceeding was substantially justified or special circumstances make an award unjust. The rules in this subpart describe the parties eligible for awards and the proceedings that are covered. They also explain how to apply for awards, and the procedures and standards that this Department will use to make them.

§ 1.182 When the Act applies.

The Act applies to any adversary adjudication pending before this Department at any time between October 1, 1981, and September 30, 1984. This includes proceedings begun before October 1, 1981, if final Departmental action has not been taken before that date, and proceedings pending on September 30, 1984, regardless of when they were initiated or when final Departmental action occurs.

§ 1.183 Proceedings covered.

(a) These rules apply to adversary adjudications required by statute to be conducted by this Department under 5 U.S.C. 554 in which the position of the Department is presented by an attorney or other representative who enters an appearance and participates in the proceeding. Proceedings before the Department's Board of Contract Appeals are not covered. Any proceeding in which this Department may prescribe a lawful present or future rate is not covered by the Act. Proceedings to grant or renew licenses are also excluded, but proceedings to modify, suspend, or revoke licenses are covered if they are otherwise adversary adjudications. The proceedings covered are adversary adjudications under the statutory provisions listed below.

Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 608c(15)(A))
Animal Welfare Act (7 U.S.C. 2149)
Archaeological Resources Protection Act (16 U.S.C. 470ff)
Beef Research and Information Act (7 U.S.C. 2912)
Capper-Volstead Act (7 U.S.C. 292)
Cotton Research and Promotion Act (7 U.S.C. 2111)
Egg Products Inspection Act (21 U.S.C. 1047)
Egg Research and Consumer Information Act (7 U.S.C. 2713, 2714(b))
Endangered Species Act (16 U.S.C. 1540(a))
Federal Land Policy and Management Act (43 U.S.C. 1768)
Federal Meat Inspection Act (21 U.S.C. 604, 606, 607(e), 608, 671)
Federal Seed Act (7 U.S.C. 1599)
Horse Protection Act (15 U.S.C. 1823(c), 1825)
Packers and Stockyards Act (7 U.S.C. 193, 204, 213, 218d, 221)
Perishable Agricultural Commodities Act (7 U.S.C. 499c(c), 499d(d), 499f(c), 499h(a), 499h(b), 499h(c), 499l, 499m(a))
Potato Research and Promotion Act (7 U.S.C. 2620)
Poultry Products Inspection, Act (21 U.S.C. 455, 456, 457(d), 467)
Swine Health Protection Act (7 U.S.C. 3804(b), 3805(a))
U.S. Cotton Standards Act (7 U.S.C. 51b, 53)
U.S. Grain Standards Act (7 U.S.C. 79(g)(3), 85, 86)
U.S. Warehouse Act (7 U.S.C. 246, 253)
Virus-Serum-Toxin Act (21 U.S.C. 156)
Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3409)

(b) If a proceeding includes both matters covered by the Act and matters specifically excluded from coverage, any award made will include only fees and expenses related to covered issues.

§ 1.184 Eligibility of applicants.

(a) To be eligible for an award of attorney fees and other expenses under the Act, the applicant must be a prevailing party to the adversary adjudication for which it seeks an award. The term "party" is defined in 5 U.S.C. 551(3)). The applicant must show that it meets all conditions of eligibility set out in this section and in §§ 1.188 and 1.189.

(b) The types of eligible applicants are as follows:

(1) An individual with a net worth of not more than $1 million;

(2) The sole owner of an unincorporated business who has a net worth of not more than $5 million, including both personal and business interests, and not more than 500 employees;

(3) A charitable or other tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3) with not more than 500 employees;

(4) A cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) with not more than 500 employees; and

(5) Any other partnership, corporation, association, or public or private organization with a net worth of not more than $5 million and not more than 500 employees.

(c) For the purpose of eligibility, the net worth and number of employees of an applicant shall be determined as of the date the proceeding was initiated.

(d) An applicant who owns an unincorporated business will be considered as an "individual" rather than a "sole owner of an unincorporated business" if the issues on which the applicant prevails are related primarily to personal interests rather than to business interests.

(e) The employees of an applicant include all persons who regularly perform services for remuneration for the applicant, under the applicant's direction and control. Part-time employees shall be included on a proportional basis.

(f) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. Any individual, corporation or other entity that directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or any corporation or other entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interest, will be considered an affiliate for purposes of this subpart, unless the Judge determines such treatment would be unjust and contrary to the purposes of the Act in light of the actual relationship between the affiliated entities. In addition, the Judge may determine that financial relationships of the applicant other than those described in this paragraph constitute special circumstances that would make an award unjust.

(g) An applicant that participates in a proceeding primarily on behalf of one or more other persons or entities that would be ineligible is not itself eligible for an award.

§ 1.185 Standards for awards.

(a) A prevailing applicant may receive an award for fees and expenses incurred in connection with a proceeding, or in a significant and discrete substantive portion of the proceeding, unless the position of the agency over which the applicant has prevailed was substantially justified. The burden of proof that an award should not be made to an eligible prevailing applicant is on the agency counsel, which may avoid an award by showing that its position was reasonable in law and fact.

(b) An award will be reduced or denied if the applicant has unduly or unreasonably protracted the proceeding or if special circumstances make the award sought unjust.

§ 1.186 Allowable fees and expenses.

(a) Awards will be based on the prevailing market rates for the kind and quality of service furnished.

(b) No award for the fee of an attorney or agent under these rules may exceed $75.00 per hour. No award to compensate an expert witness may exceed the highest rate at which this agency pays expert witnesses, which is set out at § 1.150 of this part. However, an award may also include the reasonable expenses of the attorney, agent, or witness as a separate item, if the attorney, agent, or witness ordinarily

charges clients separately for such expenses.

(c) In determining the reasonableness of the fee sought for an attorney, agent or expert witness, the Judge shall consider the following:

(1) If the attorney, agent or witness is in private practice, his or her customary fee for similar services, or, if an employee of the applicant, the fully allocated cost of the services;

(2) The prevailing rate for similar services in the community in which the attorney, agent or witness ordinarily performs services;

(3) The time actually spent in the representation of the applicant;

(4) The time reasonably spent in light of the difficulty or complexity of the issues in the proceeding; and

(5) Such other factors as may bear on the value of the services provided.

(d) The reasonable cost of any study, analysis, engineering report, test, project or similar matter prepared on behalf of a party may be awarded, to the extent that the charge for the service does not exceed the prevailing rate for similar services, and the study or other matter was necessary for preparation of the applicant's case.

§ 1.187 Delegations of authority.

The Secretary of Agriculture delegates to the Judicial Officer authority to take final action on matters pertaining to the Act in proceedings covered by these rules. The Secretary by order may delegate authority to take final action on matters pertaining to the Act in particular cases to other subordinate officials or bodies.

Information Required From Applicants

§ 1.188 Contents of application.

(a) An application for an award of fees and expenses under the Act shall identify the applicant and the proceeding for which an award is sought. The application shall show that the applicant has prevailed and identify the position of this Department in the proceeding that the applicant alleges was not substantially justified and shall briefly state the basis for such allegation. Unless the applicant is an individual, the application shall also state the number of employees of the applicant and describe briefly the type and purpose of its organization or business.

(b) The application shall also include a statement that the applicant's net worth does not exceed $1 million (if an individual) or $5 million (for all other applicants, including their affiliates). However, an applicant may omit this statement if:

(1) It attaches a copy of a ruling by the Internal Revenue Service that it qualifies as an organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) or, in the case of a tax-exempt organization not required to obtain a ruling from the Internal Revenue Service on its exempt status, a statement that describes the basis for the applicant's belief that it qualifies under such section; or

(2) It states that it is a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)).

(c) The application shall state the amount of fees and expenses for which an award is sought.

(d) The application may also include any other matters that the applicant wishes this Department to consider in determining whether and in what amount an award should be made.

(e) The application shall be signed by the applicant or an authorized officer or attorney of the applicant. It shall contain or be accompanied by a written verification under oath or affirmation under penalty of perjury that the information provided in the application and all accompanying material is true and complete to the best of the signer's information and belief.

§ 1.189 Net worth exhibit.

(a) An applicant except a qualified tax-exempt organization or cooperative association must provide with its application a detailed exhibit showing the net worth of the applicant and any affiliates (as defined in § 1.184) when the proceeding was initiated. The exhibit may be in any form convenient to the applicant that provides full disclosure of the applicant's and its affiliates' assets and liabilities and is sufficient to determine whether the applicant qualifies under the standards in this part. The Judge may require an applicant to file additional information to determine its eligibility for an award.

(b) Ordinarily, the net worth exhibit will be included in the public record of the proceeding. However, an applicant that objects to public disclosure of information in any portion of the exhibit and believes there are legal grounds for withholding it from disclosure may submit that portion of the exhibit directly to the Judge in a sealed envelope labeled "Confidential Financial Information," accompanied by a motion to withhold the information from public disclosure. The motion shall describe the information sought to be withheld and explain, in detail, why it falls within one or more of the specific exemptions from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552(b) (1) through (9), why public disclosure of the information would adversely affect the applicant, and why disclosure is not required in the public interest. The material in question shall be served on counsel representing the agency against which the appliant seeks an award, but need not be served on any other party to the proceeding. If the Judge finds that the information should not be withheld from disclosure, it shall be placed in the public record of the proceeding. Otherwise, any request to inspect or copy the exhibit shall be disposed of in accordance with this Department's established procedures under the Freedom of Information Act (§§ 1.1 through 1.16 of this part).

§ 1.190 Documentation of fees and expenses.

(a) The application shall be accompanied by full documentation of the fees and expenses, including the cost of any study, analysis, engineering report, test, project or similar matter, for which an award is sought.

(b) The documentation shall include an affidavit from any attorney, agent, or expert witness representing or appearing in behalf of the party, stating the actual time expended and the rate at which fees and other expenses were computed and describing the specific services performed.

(1) The affidavit shall state the services performed. In order to establish the hourly rate, the affidavit shall state the hourly rate which is billed and paid by the majority of clients during the relevant time periods.

(2) If no hourly rate is paid by the majority of clients because, for instance, the attorney or agent represents most clients on a contingency basis, the attorney or agent shall provide information about two attorneys or agents with similar experience, who perform similar work, stating their hourly rate.

(c) The documentation shall also include a description of any expenses for which reimbursement is sought and a statement of the amounts paid and payable by the applicant or by any other person or entity for the services provided.

(d) The Judge may require the applicant to provide vouchers, receipts, or other substantiation for any expenses claimed.

§ 1.191 Time for filing application.

(a) An application must be filed no later than 30 days after the Department's final disposition of the proceeding.

(b) If review or reconsideration is sought or taken of a decision as to which an applicant believes it has prevailed, proceedings for the award of fees shall be stayed pending final disposition of the underlying controversy.

(c) For the purposes of this subpart, final disposition means the later of (1) the date on which an initial decision of the Judge becomes final as set out in § 1.142(c) of this part; (2) issuance of an order disposing of any petition to rehear or reargue the proceeding or to reconsider an order of the Judicial Officer issued pursuant to § 1.145(i) of this part; (3) if no such petition to rehear, reargue or reconsider is filed, the last date on which such a petition could have been filed as set out in § 1.146 of this part; or (4) issuance of a consent decision as set out in § 1.138 of this part.

Procedures for Considering Applications

§ 1.192 Filing and service of documents.

Any application for an award or other pleading or document related to an application shall be filed and served on all parties to the proceeding in the same manner as other pleadings in the proceeding except as provided in § 1.189 for confidential financial information. The provisions relating to filing, service, extensions of time, and computation of time contained in § 1.147 of this part are incorporated into and made applicable to this subpart except that the statutory 30 day time limit on filing the application as set out in § 1.191 may not be extended.

§ 1.193 Answer to application.

(a) Within 30 days after service of an application, agency counsel may file an answer. If agency counsel fails to timely answer or settle the application, the Judge, upon a satisfactory showing of entitlement by the applicant, may make an award for the applicant's allowable fees and expenses.

(b) If agency counsel and the applicant believe that the issues in the fee application can be settled, agency counsel may file a statement of intent to negotiate a settlement. The filing of this statement shall extend the time for filing an answer for an additional 30 days, and further extensions may be granted by the Judge upon request by agency counsel.

(c) The answer shall explain in detail any objections to the award requested and identify the facts relied on in support of agency counsel's position. If the answer is based on any alleged facts not already in the record of the proceeding, agency counsel shall include with the answer either supporting affidavits or a request for further proceedings under § 1.197.

§ 1.194 Reply.

Within 15 days after service of an answer, the applicant may file a reply. If the reply is based on any alleged facts not already in the record of the proceeding, the applicant shall include with the reply either supporting affidavits or a request for further proceedings under § 1.197.

§ 1.195 Comments by other parties.

Any party to a proceeding other than the applicant and agency counsel may file comments on an application within 30 days after it is served or on an answer within 15 days after it is served. A commenting party may not participate further in proceedings on the application unless the Judge determines that the public interest requires such participation in order to permit full exploration of matters raised in the comments.

§ 1.196 Settlement.

The applicant and agency counsel may agree on a proposed settlement of the award before final action on the application, either in connection with a settlement of the underlying proceeding, or after the underlying proceeding has been concluded. If a prevailing party and agency counsel agree on a proposed settlement of an award before an application has been filed, the application shall be filed with the proposed settlement.

§ 1.197 Further proceedings.

(a) Ordinarily, the determination of an award will be made on the basis of the written record. However, on request of either the applicant or agency counsel, or on his or her own initiative, the Judge may order further proceedings, such as an informal conference, oral argument, additional written submissions or an evidentiary hearing. Such further proceedings shall be held only when necessary for full and fair resolution of the issues arising from the application and shall be conducted as promptly as possible.

(b) A request that the Judge order further proceedings under this section shall specifically identify the information sought or the disputed issues and shall explain why the additional proceedings are necessary to resolve the issues.

(c) In the event that an evidentiary hearing is held, it shall be conducted pursuant to §§ 1.130–1.151 of this part.

§ 1.198 Decision.

The Judge shall issue an initial decision on the application as expeditiously as possible after completion of proceedings on the application. The decision shall include written findings and conclusions on the applicant's eligibility and status as a prevailing party, and an explanation of the reasons for any difference between the amount requested and the amount awarded. This decision shall also include, if at issue, whether the Department's position was substantially justified, whether the applicant unduly protracted the proceedings, or whether special circumstances make an award unjust.

§ 1.199 Department review.

Either the applicant or agency counsel may seek review of the initial decision on the fee application, in accordance with the provisions of §§ 1.145(a) and 1.146(a) of this part. If neither the applicant nor agency counsel seeks review, the initial decision on the fee application shall become a final decision of the Department 35 days after it is served upon the applicant. If review is taken, it will be in accord with the provisions of §§ 1.145 (b) through (i) and 1.146(b) of this part.

§ 1.200 Judicial review.

Judicial review of final agency decisions on awards may be sought as provided in 5 U.S.C. 504(c)(2).

§ 1.201 Payment of award.

An applicant seeking payment of an award shall submit to the head of the agency administering the statute involved in the proceeding a copy of the Department's final decision granting the award, accompanied by a statement that the applicant will not seek review of the decision in the United States courts. The agency will pay the amount awarded to the applicant within 60 days, unless judicial review of the award or of the underlying decision of the adversary adjudication has been sought by the applicant or any other party to the proceeding.

Dated: June 15, 1982.

John R. Block,

Secretary of Agriculture.

[FR Doc. 82-16850 Filed 6-18-82; 8:45 am]

BILLING CODE 3410-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 508

[Docket No. ERA-R-82-1]

Powerplant and Industrial Fuel Use Act of 1978; Electric Utility Conservation Plan

Correction

In FR Doc. 82-16070, at page 25729, in the issue of Tuesday, June 15, 1982, on page 25733, make the following correction to § 508.8(a), line 8, correct "removal" to read "approval".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 82-ASO-28]

Alteration of Transition Area, Memphis, Tennessee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment corrects a deficiency in the description of the Memphis, Tennessee, Transition Area. This is an editorial correction and no change in airspace is intended.

DATES: Effective Date: 0901 GMT, September 2, 1982. Comments must be received on or before August 1, 1982.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, ATTN: Chief, Airspace and Procedures Branch, ASO-530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Request For Comments On The Rule

Although this action is in the form of a final rule, which involves editorial changes to correct a deficiency in the description of the Transition Area, and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The rule

The purpose of this amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the description of the Memphis, Tennessee, Transition Area to correct an error that has gone undetected for several years. In 1977, the Transition Area was amended by deleting two arrival extensions which were no longer required. The amendment (Docket No. 77-SO-42) which was effective December 1, 1977, has not been carried forward in subsequent issuances of the Compilation of Regulations published in the **Federal Register** nor in the current Compilation contained in AC 70-3. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982. Under the circumstances presented, the FAA concludes that there is a need for a regulation to properly describe the Memphis, Tennessee, Transition Area. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is impracticable and that good cause exists for making this amendment effective in less than 60 days after its publication in the **Federal Register**.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition Area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 GMT, September 2, 1982, as follows:

Memphis, TN, Amended

By deleting the words "* * * with 3 miles each side of the Memphis VORTAC 311° radial, extending from the 6.5-mile radius area to 32.5 miles northwest of the VORTAC * * *." wherever they appear in the description.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on June 8, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82-16832 Filed 6-18-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 75

[Airspace Docket No. 82-AAL-1]

Establishment of Alaskan High Altitude Routes and Reporting Points—Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: This action corrects a final rule that altered the description of several Alaskan High Altitude Routes and established a high altitude reporting point as published in the **Federal Register** on May 13, 1982 (47 FR 20589). Inadvertently, the amended description of Area High Route J888R, as published in the proposal, was omitted from the final rule. This action adds J888R to that final rule.

EFFECTIVE DATE: June 21, 1982.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

List of Subjects in 14 CFR Part 75

Area high routes.

Adoption of the correction

Accordingly, pursuant to the authority delegated to me, **Federal Register** Document 82–12900 as published in the **Federal Register** on May 13, 1982 (47 FR 20569) is corrected by adding the following:

[888R AMOTT–RHODE [Amended]

By deleting the word "RHODE" from the title and subsituting for it the word "OZZIE" and by deleting "KULIK" and "RHODE" waypoint names, location and reference facility and substituting for them the following: "OZZIE 59°27'00"N. 163°00'00"W. Bethel, AK"

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510), Executive Order 10854 (24 FR 9565); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on June 15, 1982.

John W. Baier,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82–16633 Filed 6–18–82; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Rescheduling of Mazindol into Schedule IV; Correction

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule; correction.

SUMMARY: This document corrects the final order published on October 27, 1981, (46 FR 52333), which transferred mazindol from Schedule III to Schedule IV of the Controlled Substances Act and inadvertently deleted Pipradrol and SPA from Schedule IV.

EFFECTIVE DATE: November 27, 1981.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, D.C. 20537, Telephone: (202) 633–1366.1

Accordingly, in the rule published October 27, 1981, the amendatory language appearing on p. 52334, column one, paragraph "2" and the text following it are corrected to read as follows:

"2. By revising paragraph (e) of 21 CFR 1308.14 by redesignating subparagraphs (2) through (5) as (3) through (6) and by adding a new subparagraph (2) for mazindol as set forth below:

"§ 1308.14 Schedule IV.

* * * * *

"(e) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

"(1) Diethylpropion	1610
"(2) Mazindol	1605
"(3) Pemoline (including organometallic complexes and chelates thereof)	1530
"(4) Phentermine	1640
"(5) Pipradrol	1750
"(6) SPA ((-)-1-dimethylamino-1,2-diphenylethane)	1635

* * * * *"

Dated: June 11, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82–16566 Filed 6–18–82; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 536

Claims Against the United States

AGENCY: Department of the Army, DOD.

ACTION: Rule.

SUMMARY: Changes are required by Pub. L. 97–124, 29 December 1981 which extends the provisions of the Federal Tort Claims Act (28 U.S.C. 2671–2680) to claims arising on and after this date resulting from negligent and/or wrongful acts or omissions of members of the National Guard while they are performing certain federally funded duty or training.

DATE: Effective July 21, 1982.

FOR FURTHER INFORMATION CONTACT: Germain P. Boyle, Chief, Claims Operations, U.S. Army Claims Service, Office of the Judge Advocate General, Fort George G. Meade, Maryland 20755, (301) 677–7960.

SUPPLEMENTARY INFORMATION: 32 CFR Part 536 is amended to read as follows:

(28 U.S.C. 2671–2680)

List of Subjects in 32 CFR Part 536

Claims, Government employees, Military law, Vessels.

PART 536—CLAIMS AGAINST THE UNITED STATES

1. In § 536.29 paragraph (a) is revised to read as follows:

§ 536.29 Claims based on negligence of military personnel or civilian employees under the Federal Tort Claims Act.

(a) *Authority.* The statutory authority for this chapter is the Federal Tort Claims Act (60 Stat. 842, 28 U.S.C. 2671–2680), as amended by the Act of 18 July 1966 (Pub. L. 89–506; 80 Stat. 306), the Act of 16 March 1974 (Pub. L. 93–253; 88 Stat. 50), and the Act of 29 December 1981 (Pub. L. 97–124), and as implemented by the Attorney General's Regulations (28 CFR 14.1–14.11).

* * * * *

2. In § 536.29 paragraph (d) is revised to read as follows:

* * * * *

(d) *Claims payable.* Unless otherwise prescribed, claims for death, personal injury, or damage to or loss of property (real or personal) are payable under this section when the injury or damage is caused by negligent or wrongful acts or omissions of military personnel or civilian employees of the Department of the Army or civilian employees of the Department of Defense, or members of the Army National Guard while engaged in training or duty under sections 316, 502, 503, 504 or 505 of Title 32, U.S.C. for claims arising on or after 29 December 1981, while acting within the scope of their employment under circumstances in which the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. The Federal Tort Claims Act, pursuant to which this regulation is promulgated is a limited consent to liability without which the United States is immune. See Bigby v. United States, 188 U.S. 400 (1903). Similarly, there is no Federal cause of action created by the Constitution which would permit a

damage recovery because of the Fifth Amendment or any other constitutional provision. Immunity must be expressly waived, as by the Federal Tort Claims Act, supra.

3. Section § 536.29 (e)(1)(ii) is revised to revised as follows:

* * * * *

(e) * * *

(1) * * *

(ii) Members of reserve units during period of inactive duty training and active duty training, including ROTC cadets who are reservists while they are at summer camp.

* * * * *

4. Section 536.140 is revised to read as follows:

§ 536.140 Statutory authority.

The statutory authority for this chapter is contained in the act of 13 September 1960 (74 Stat. 878, 32 U.S.C. 715), commonly referred to as the National Guard Claims Act, as amended by Pub. L. 90–486, 13 August 1968, (82 Stat. 756), Pub. L. 90–525, 26 September 1968 (82 Stat. 877), Pub. L. 91–312, 8 July 1970 (84 Stat. 412), Pub. L. 93–336, 8 July 1974, (88 Stat. 291) the act of 8 September 1961 (75 Stat. 488, 10 U.S.C. 2736) as amended by Pub. L. 90–521, 26 September 1968 (82 Stat. 874), and Pub. L. 97–124, 29 December 1981.

* * * * *

5. Section 536.141 paragraph (c) is revised to read as follows:

§ 536.141 [Amended]

* * * * *

(c) The status of members of the Army National Guard of the various States and Puerto Rico, while engaged in duty of training under Federal law, has been settled by law and by the Federal courts (see 32 U.S.C. 501; 10 U.S.C. 672(d), 3079, 3499, 3500; William v. United States, 189 F.2d 607 (10th Cir. 1951); Maryland for the use of Levin, Johns, et al. v. United States (supra)). These cases held that military members of the Army National Guard, not in active Federal service, were not U.S. employees within the meaning of the Federal Tort Claims Act (see 28 U.S.C. 2671–2680) (see § 536.29). This status remained until changed by Pub. L. 97–124, effective 29 December 1981. Pub. L. 97–124 extended the Federal Tort Claims Act provisions to members of the National Guard while engaged in training or duty under sections 316, 502, 503, 504, or 505 of Title 32 to claims arising on and after 29 December 1981 that are based upon alleged negligent and/or wrongful acts or omissions. This act also provides that the remedy under the Federal Tort Claims Act procedures shall be the exclusive remedy in medical malpractice actions involving members of the National Guard with respect to claims arising on or after 29 December 1981, while such personnel were performing training or duty under the sections referred to above. The Levin case also held that civilian (technician) personnel of the Army National Guard, employed under 32 U.S.C. 709, were not U.S. employees. However, the status of Army National Guard technicians employed under 32 U.S.C. 709 was changed by Pub. L. 90–486 (82 Stat. 755), effective 1 January 1969. That act made them United States civilian employees, and claims arising from their acts or omissions as technicians on or after that date were settled under 536.29. However, claims generated by such employees when they were performing duty or training as military members of the Army National Guard under title 32 U.S.C. 316, 502, 503, 504, or 505 were settled under this chapter (536.140). Pursuant to Pub. L. 97–124, claims based upon negligent acts or omissions of such personnel occurring on or after 29 December 1981, will be processed under § 536.29 if they occur incident to the performance of federally funded training as a member of the Army National Guard. However, claims based upon non-combat activities of persons performing federally funded training under sections 316, 502, 503, 504, or 505 of Title 32 will continue to be settled under § 536.140".

* * * * *

6. Section 536.142 paragraph (a) is revised to read as follows:

§ 536.142 Claims payable.

(a) *General.* Unless otherwise prescribed, a claim for personal injury, death, or damage to or loss of property, real or personal, as provided in § 536.141, is payable under sections 536–140—536–152 when:

(1) Caused by the Act or omission, negligent, wrongful or otherwise involving fault, of Army National Guard personnel acting within the scope of their employment, provided the act or incident(s) generating the claim occurred during the period 3 September 1960 to 28 December 1981 (pursuant to Pub. L. 97–124, 29 December 1981, such claims accruing on or after 29 December 1981 will be processed under § 536.29 et seq.), or

(2) Incident to noncombat activities of the Army National Guard, if the Army National Guard personnel were engaged in duty or training under Title 32, U.S.C. 316, 502, 503, 504, 505, 709 and the incident generating the claim occurred after 13 September 1960.

* * * * *

John O. Roach II,

Liaison Officer with the Federal Register.

[FR Doc. 82–16280 Filed 6–18–82; 8:45 am]

BILLING CODE 3710–08–M

Department of the Air Force

32 CFR Part 806b

[Air Force Reg. 12–35]

Privacy Act of 1974; Air Force Privacy Act Program

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force adopts as a final rule certain exemptions from portions of the Privacy Act of 1974 for a new system of records. This system is identified as F20505 AFIS A, entitled: "Sensitive Compartmented Information Personnel Security Records." The exemption is needed to protect the identity of sources to whom proper promises of confidentiality are made during investigations.

DATE: This final rule is effective June 21, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Jon Updike, Air Force Privacy Act Office, HQ USAF/DAAD(S), the Pentagon, Washington, D.C. 20330; telephone 202/694–3431.

SUPPLEMENTARY INFORMATION: On April 22, 1982, at 47 FR 17307, (FR Doc. 82–41003) the Department of the Air Force published the proposed exemption rule for this system of records. This rule is authorized under the provisions of 5 U.S.C. 552a (k)(2) and (k)(5). The notice for this system of records was published at 44 FR 74381, December 17, 1979. No comments were received on the proposed rule or the system notice and the rule is therefore, adopted as published.

List of Subjects in 32 CFR Part 806b

Privacy.

PART 806b—AIR FORCE PRIVACY ACT PROGRAM

Accordingly, Part 806b of Title 32, CFR is amended by revising § 806b.22(b)(21) to read as follows:

§ 806b.22 General and specific exemptions claimed.

* * * * *

(b) *Specific Exemptions.*

* * * * *

(21) Sensitive Compartmented Information Personnel Security Records (F20505 AFIS A).

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(a)(3); (d); (e)(4)(G), (H), and (I); and (f) but only the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a (k)(2) and (k)(5).

(iii) *Reasons.* To protect the identity of sources to whom proper promises of confidentiality have been made during investigations. Without these promises, sources will often be unwilling to provide information essential in adjudicating access in a fair and impartial manner.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

June 15, 1982.

[FR Doc. 82-16707 Filed 6-18-82; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL-2137-5]

California State Implementation Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: Revisions to rules of the Kern County, Sacramento County, San Bernardino County Desert, San Diego County, and Santa Barbara County Air Pollution Control Districts (APCDs) were forwarded to EPA by the California Air Resources Board. These revisions concern air pollution control contingency plans and generally are equivalent to existing federal regulations. EPA reviewed the submitted rules with respect to the Clean Air Act and determined that they should be approved.

EFFECTIVE DATE: August 20, 1982.

ADDRESSES: Copies of the revisions are available for public inspection during normal business hours at the EPA Region 9 office and the following locations:

Public Information Reference Unit, Environmental Protection Agency, Library, 401 M Street SW., Room 2404, Washington, D.C. 20460.

Library, Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408.

California Air Resources Board, 1102 Q Street, Sacramento, CA 95812.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, State Implementation Plan Section, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-8058.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted the following rules and regulations on the indicated dates:

Kern

July 30, 1981

Rule
603 Episode Criteria Levels
609 Episode Action Stage 1 (Health Advisory-Alert)
610 Episode Action Stage 2 (Warning)
611 Episode Action Stage 3 (Emergency)
613 Stationary Source Curtailment Plans and Traffic Abatement Plans

Sacramento

April 2, 1980

Rule
120 Emergency Episode Levels
121 Notification of an Episode Stage
122 Episode Control Actions

San Bernardino Desert

October 7, 1980

Rule
701 General (Emergencies)
704 Episode Criteria
705 Episode Notifications
707 First Stage Episode Actions
708 Second Stage Episode Actions
709 Third Stage Episode Actions
710 Interdistrict Coordination
711 Termination of Episodes
712 Advisory Council

San Diego

May 28, 1981

Rule
127 Episode Criteria Levels
130 Episode Actions
131 Stationary Source Curtailment Plan
132 Traffic Abatement Plan
134 Source Inspection

Santa Barbara

October 23, 1981

Rule
601 General (Emergencies)
602 Episodes/Disasters
603 Emergency Episode Plans
604 Source Inspection
605 Enforcement
606 Communications Network
607 Air Monitoring Stations
608 Air Monitoring Summaries
609 Interdistrict Coordination

Deletions:
609 Scientific Committee
610 Emergency Action Committee

Under section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove these regulations as State Implementation Plan (SIP) revisions. All rules submitted have been evaluated and found to be in accordance with EPA policy and 40 CFR Part 51. EPA's detailed evaluation of the submitted rules is available at the EPA Library in Washington, D.C., and the Region 9 Office.

The rules approved in this notice concern air pollution control contingency plans required by 40 CFR 51.16, "Prevention of air pollution emergency episodes." In 40 CFR 52.274, "California air pollution emergency plan," EPA supplemented certain District contingency plans with federal regulations required by 51.16. The Kern, San Diego, and Santa Barbara County rule submittals listed above correct previous deficiencies in the Districts' rules and, thus, replace rules in § 52.274. As the Districts' rules are presently in effect, EPA is rescinding those portions of § 52.274 applicable to the above three Districts. These Districts' rules meet all requirements of § 51.16.

It is the purpose of this notice to approve all the rule revisions listed above and to incorporate them into the California SIP. EPA's approval of the above revisions to the California SIP is being done without prior proposal because the revisions are not controversial. The public should be advised that this approval action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received by EPA within 30 days that someone wishes to submit adverse or critical comments, the approval action will be withdrawn and a subsequent notice will indefinitely postpone the effective date, modify the final action to a proposed action and establish a comment period.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 20, 1982. This action may not be challenged later in proceedings to enforce its requirements.

Note.—Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1981.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, and Hydrocarbons.

(Section 110, and 301(a) of the Clean Air Act, as amended (42. U.S.C. § 7410 and 7601(a))

Dated: June 14, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart F of Part 52 of Chapter I, Title 40 of the *Code of Federal Regulations* is amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraphs (c)(67)(iv)(B), (92)(v), (94)(iii), (101)(ii), and (103)(iii)(B and C) as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(67) * * *

(iv) * * *

(B) New or amended rules 120, 121, and 122.

* * * * *

(92) * * *

(v) San Diego County APCD.

(A) New or amended rules 127, 130, 131, 132, and 134.

* * * * *

(94) * * *

(iii) San Bernardino County APCD.

(A) New or amended rules 701, 704, 705, 707–711, and 712. Previously approved Rule 707, "Plans", submitted on June 6, 1977 is retained.

* * * * *

(101) * * *

(ii) Kern County APCD.

(A) New or amended rules 603, 609, 610, 611, and 613.

* * * * *

(103) * * *

(iii) * * *

(B) New or amended rules 601–608 and 609.

(C) Previously approved and now deleted rules 609 (Scientific Committee) and 610 (Emergency Action Committee).

* * * * *

2. In § 52.274 paragraphs (j)–(o), (s), and (t) are removed and reserved as follows:

§ 52.274 California air pollution emergency plan.

* * * * *

(j)–(o) [Reserved]

* * * * *

(s)–(t) [Reserved]

* * * * *

[FR Doc. 82-16711 Filed 6-18-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-5-FRL 2133-2]

Illinois; Satisfaction of State Implementation Plan Approval Conditions Particulate and Ozone Control Strategies

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On February 21, 1980 (45 FR 11472), the Environmental Protection Agency (EPA) conditionally approved a portion of the Illinois Control Strategy for Total Suspended Particulates [1] (TSP) and for Ozone. On March 5, 1982 (47 FR 9480), EPA proposed that the State satisfied its TSP Control Strategy condition in which the State agreed to conduct an analysis of the potential air quality impact from storage piles with uncontrolled emissions of less than 50 tons per year, to submit the results of any analysis to EPA, to submit any necessary regulations to the Illinois Pollution Control Board (IPCB), and promulgate and submit any necessary regulations to EPA in support of Rule 203(f)(3)(A). Also in this notice, EPA proposed that the State satisfied the Ozone Control Strategy condition in which the State agreed to conduct a study to demonstrate that the 3 pound per hour, 15 pound per day exemption for solvent metal cleaners contained in Rule 205(k) represents reasonably available control technology (RACT), to submit the results of the study to EPA, to submit any necessary regulations to the IPCB, and promulgate and submit any necessary regulations to EPA. Public comment was solicited on these two proposals. One comment was received from the legal representative of three steel companies. The purpose of this notice is to discuss the public comment received and to announce EPA's final rulemaking action which determines that these two Control Strategy approval conditions have been satisfied.

DATE: This final rulemaking is effective July 21, 1982.

ADDRESS: Copies of the proposed SIP revision, the public comments received on the Notice of Proposed Rulemaking (47 FR 9480) and response to the comments are available at the following addresses:

U.S. Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6035.

SUPPLEMENTARY INFORMATION: In its February 21, 1980, Final Rulemaking (45 FR 11472), EPA conditionally approved certain Illinois Control strategies for TSP and ozone. On March 5, 1982 (47 FR 9480), EPA proposed that Illinois had satisfied one approval condition for each of these strategies.

TSP Control Strategy

The TSP Control strategy approval condition discussed in today's notice concerns the State's commitment to conduct an analysis of the potential air quality impact from storage piles with uncontrolled emissions of less than 50 tons per year, to submit the results of any analysis to EPA, to submit any necessary regulations to the IPCB and promulgate and submit any necessary regulations to EPA in support of Rule 203(f)(3)(A).

The State submitted its report to EPA on October 1, 1981. The report concluded that TSP emissions from small industrial storage piles represent less than one percent of the industrial TSP emissions in Illinois nonattainment counties and only about five percent of the storage pile emission. According to the report, the spatial distribution of these small storage pile sources is such that their impacts do not have a substantial additive effect on air quality. Based on these findings, the State concluded that there was no need for further regulations. The State considers their October 1, 1981, submittal sufficient for satisfaction of the conditional SIP approval relating to control of industrial related storage pile emissions.

EPA reviewed the State's submittal as well as the report, and agrees that no further regulations are necessary. EPA proposed to find that the State's submittal satisfies the plan approval condition.

One public comment was received from the legal representative of three steel companies. The comment supported the removal of this condition and continued to object to EPA's conditional approval policy. Since no

[1] The rulemaking on February 21, 1980 (45 FR 11472) did not include rules for the control of particulates from iron and steel sources.

adverse comments were received, EPA approves the satisfaction of the TSP Control Strategy.

Ozone Control Strategy

The ozone control strategy approval condition discussed in today's notice concerns the State's commitment to conduct a study to demonstrate that the 3 pound per hour, 15 pound per day exemption for solvent metal cleaners contained in Rule 205(k) represent RACT, to submit the results of the study to EPA, to submit any necessary regulations to the IPCB, and promulgate and submit any necessary regulations to EPA.

EPA Study (EPA 905/4–80–008) *Volatile Organic Compound Emission from Solvent Cleaning Operations in the State of Illinois* was prepared to satisfy the report requirement. The study reached two conclusions: (1) The Illinois rule, as applied in Illinois, is more stringent than the EPA "presumptive norm" contained in the Control Techniques Guidelines (CTG), and (2) the allowable emissions from the Illinois rule are within five percent of those resulting from a rule consistent with the CTG.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 20, 1982. This action may not be challenged later in proceedings to enforce its requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter.

This Notice of Final Rulemaking is issued under the authority of sections 110, 172 of the Clean Air Act, as amended.

Note.—Incorporation by reference of the State Implementation Plan for the State of Illinois was approved by the Director of the Federal Register on July 1, 1981.

Dated: June 14, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations Chapter I, Part 52 is amended as follows:

Subpart O Illinois

Section 52.720(c) is amended by adding paragraphs (33) and (34) to read as follows:

§ 52.720 Identification of the plan.

* * * * *

(c) * * *

(33) On October 1, 1981, the State submitted a report in satisfaction of the Total Suspended Particulate Control Strategy approval condition in which the State agreed to conduct an analysis of the potential air quality impact from storage piles with uncontrolled emissions of less than 50 tons per year, to submit the results of any analysis to EPA, to submit any necessary regulations to the Illinois Pollution Control Board, and promulgate and submit any necessary regulations to EPA. This report concluded that no further regulations were needed.

(34) EPA Study *Volatile Organic Compound Emissions from Solvent Cleaning Operations in the State of Illinois* (EPA 905/4–80–008) was prepared to satisfy the Ozone Control Strategy approval condition in which the State agreed to conduct a study to demonstrate that the three pound per hour, 15 pound per day exemption for solvent metal cleaners contained in Rule 205(k) represents RACT, to submit the results of the study to EPA, to submit any necessary regulations to the Illinois Pollution Control Board and promulgate and submit any necessary regulations to EPA.

The State reviewed this report and in a February 11, 1981, letter to EPA noted their agreement with the findings of the report and indicated that because there was no need for further regulations, this condition is satisfied.

* * * * *

Section 52.725 Control Strategy: Particulates is amended by removing and reserving (a) as follows:

§ 52.725 Control Strategy: Particulates.

(a) [Removed and Reserved]

* * * * *

Section 52.726 Control Strategy: Ozone is amended by removing and reserving paragraph (a)(1) to read as follows:

§ 52.726 Control Strategy: Ozone.

(a) Part D—Conditional Approval—The Illinois plan is approved provided that the following conditions are satisfied:

(1) [Removed and Reserved]

* * * * *

[FR Doc. 82-16710 Filed 6-18-82; 9:45 am]
BILLING CODE 6560-50-M

40 CFR Part 52

[A-9-FRL-2127-4]

Nevada; Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rulemaking.

SUMMARY: On February 18, 1982, EPA proposed action on revisions to the State Implementation Plan (SIP) for Nevada. The revisions were submitted to meet the requirements of Parts C and D of the Clean Air Act for preconstruction review of new and modified major stationary sources of those air pollutants regulated under the Act. Today's notice takes final action under the Clean Air Act to approve these revisions.

EFFECTIVE DATE: This action is effective June 21, 1982.

FOR FURTHER INFORMATION CONTACT: David P. Howekamp, Acting Director, Air Management Division, Region 9, Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105, Attention: Donald Harvey (415) 974–8213.

ADDRESS: A copy of today's revision to the Nevada SIP is located at:

The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408.

Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION:

Background

The Clark County Health District (CCHD) adopted regulations for New Source Review and Prevention of Significant Deterioration. These regulations contain the preconstruction review requirements for new and modified major stationary sources. On November 17, 1981, the State of Nevada submitted these regulations as revisions to its SIP. On February 18, 1982 (47 FR 7267) EPA proposed to approve these revisions.

EPA Actions

EPA is taking final action under section 110 and Parts C and D of the Clean Air Act to approve the CCHD rules submitted on November 17, 1981. No comments were received during the public comment period.

EPA has a responsibility to take final action as soon as possible in order to minimize any delays in the processing of permits. Therefore, EPA finds that good

cause exists for making this action immediately effective.

Regulatory Process

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 20, 1982. This action may not be challenged later in proceedings to enforce its requirements.

Note.—Incorporation by reference of the State Implementation Plan for the State of Nevada was approved by the Director of the Federal Register on July 1, 1981.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sections 110, 129, 160 to 169, 171 to 173 and 301(a) of the Clean Air Act as amended (42 USC 7410, 7429, 7470 to 7479, 7501 to 7503, and 7601(a))

Dated: June 14, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart DD of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart DD—Nevada

1. Section 52.1470, paragraph (c) is amended by adding subparagraph (24)(iii) to read as follows:

§ 52.1470 Identification of plan.

* * * * *

(c) * * *

(24) * * *

(iii) Amendments to the Clark County District Board of Health Air Pollution Control Regulations:

Section 1—Definitions 1.7, 1.13, 1.14, 1.15, 1.32, 1.48, 1.50, 1.52, 1.57, 1.67, 1.72, 1.90 and the addition of the following unnumbered definitions: "Emission Unit," "Criteria Pollutant," "Non-Criteria Pollutant," "Baseline Area," "Begin Actual Construction," "Building, Structure, Facility, or Installation," "Particulate Precursor," "Secondary Emissions," and "Significant."

Section 15—Source Registration, 15.1, 15.1.1, 15.1.2, 15.1.3, 15.1.4, 15.1.5, 15.1.6, 15.1.7, 15.1.8, 15.2; 15.2.1, 15.2.2, 15.3, 15.4, 15.5; Preconstruction Review for New and Modified Sources, 15.6, 15.6.1, 15.6.1.1, 15.6.1.2 (deleted), 15.6.1.6, 15.6.2, 15.6.2.1 (deleted), 15.6.2.2, 15.6.2.3, 15.6.2.4, 15.6.2.5, 15.6.3, 15.6.3.1, 15.6.3.2 to 15.6.3.5 (added), 15.6.6, 15.7, 15.8, 15.9, 15.10, 15.10.1, 15.10.2, 15.10.3, 15.10.4, 15.11, 15.12; Prevention of Significant Deterioration, 15.13 (added); Preconstruction Review Requirements for New or Modified Sources in Areas Exceeding Air Quality Standards ("Offset" Rules), 15.14.1, 15.14.1.2, 15.14.1.3 (added), 15.14.3.1, 15.14.3.2, 15.14.4, 15.14.4.1, 15.14.4.3, 15.14.3.3 (added), 15.14.4.3.4 (added), 15.14.4.3.5 (added) and 15.14.4.4 (deleted).

* * * * *

2. Section 52.1485 is revised to read as follows:

§ 52.1485 Significant deterioration of air quality.

(a) The requirements of sections 160 through 165 of the Clean Air Act are not met, since the plan, except as it applies to the Clark County Health District, does not include approvable procedures for preventing the significant deterioration of air quality.

(b) *Regulation for preventing significant deterioration of air quality.* The provisions of § 52.21(b) through (w) are incorporated and made a part of the applicable State plan for the State of Nevada except for that portion applicable to the Clark County Health District.

[FR Doc. 82-16913 Filed 6-18-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-4-2136-8]

Tennessee: Approval of Implementation Plan Revisions

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is today announcing approval of several State Implementation Plan (SIP) revisions submitted by the State of Tennessee. These revisions involve changes and additions to the regulatory and the non-regulatory parts of the following Tennessee rules: general definitions, visible emissions, process emission standards, construction and operating permits, required sampling, recording and reporting, methods of sampling and anaysis, new source performance standards, volatile organic compounds, and limits on emissions due to malfunctions, startups and shutdowns.

EFFECTIVE DATE: This action will be effective on August 20, 1982, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments should be addressed to Mr. Drew Peake of EPA, Region IV's Air Programs Branch (see address below). Copies of the materials submitted by Tennessee may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Library Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20005

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

Division of Air Pollution Control, Tennessee Department of Public Health, 150 9th Avenue North, Nashville, Tennessee 37203.

FOR FURTHER INFORMATION CONTACT: Mr. Drew Peake, Air Programs Branch, EPA Region IV, at the above listed address and phone 404/881-2864 or FTS 257-2864.

SUPPLEMENTAL INFORMATION: The purpose of this notice is to announce action on a series of revisions and additions to the Tennessee implementation plan dealing with various requirements of the Clean Air Act. EPA today approves the following revisions to the Rules of the Tennessee Department of Public Health as they were adopted by the Tennessee Air Pollution Control Board.

1200-3-2-.01-(vvv) through (cccc) add the following definitions: Primary aluminum reduction plant, potroom, potroom group, roof monitor, total fluorides, center worked prebaked, side worked prebaked, and soda recovery boiler, respectively. (Submitted January 22, 1982)

1200-3-5-.01-(1) concerning general standards was revised to allow for an alternate test method for fuel burning installations with fuel burning equipment of input capacity greater than 600×10^6 BTU per hour. (Submitted December 9, 1981)

1200-3-5-.09 added visible emission standards for kraft mill recovery furnaces. (Submitted January 22, 1982)

1200-3-7-.12 added process emission standards for carbon monoxide emissions from catalytic cracking units at petroleum refineries in Shelby County. (Submitted January 22, 1982)

1200-3-9-.01-(5)-(b)-6.-(i) changed the definition of a major source of sulfur dioxide and volatile organic compounds to a source with potential emissions of more than 100 tons per year and allowable emissions (based on best available control technology) greater than any of the following: 40 tons per year, 1000 pounds per day, or 100

pounds per hour. (Submitted January 22, 1982)

1200–3–10–.02–2–(b)–2 was revised to allow for an alternate test method for fuel burning installations with fuel burning equipment of input capacity greater than 600×10^6 BTU per hour. (Submitted December 9, 1981)

1200–3–12–.04–(2)–(c) was deleted and replaced with a requirement that a continuous in-stack sulfur dioxide monitor must be used for sulfuric acid plants and liquid sulfur dioxide plants located in a Class I county, and further that the type of monitor and its location will be subject to approval by the Technical Secretary. (Submitted December 9, 1981)

1200–3–16–.01–(5)–(g)–19 and 20 added EPA reference methods 19 and 20 (40 CFR Part 60 Appendix A) to the general provisions of the new source performance standards. (Submitted January 22, 1982)

1200–3–18–.02–(m) redefined "existing source" as any process(es) in existence or having a state or local agency's construction permit prior to the "Original rule certified date" for the specified paragraph. (Submitted January 22, 1982)

1200–3–12–.03–(f)–1 corrected a typographical error by changing the date from August 17, 1977 to August 11, 1975. (Submitted January 22, 1982)

1200–3–18–.03–(4), on standards for new sources, exempted new sources from the regulations which only apply to existing sources. (Submitted January 22, 1982)

1200–3–18–.19–(2) expanded the applicability of the volatile organic compound regulations for cutback asphalt from urban counties to statewide. (Submitted December 9, 1981)

1200–3–18–.19–(2)–(d), removed the exemption for cutback asphalt used for base stabilization. (Submitted December 9, 1981)

1200–3–18–.44–(5)–(a) corrected a typographical error in this paragraph. (December 9, 1981)

1200–3–18–.44–(5)–(b)–1.–(ii) and (iii) corrected typographical errors in these subparts. (Submitted December 9, 1981)

1200–3–18–.44–(5)–(b)–2.–(ii) changed the word "convert" to "content". (Submitted December 9, 1981)

1200–3–18–.44–(5)–(b)–3.–(i), (ii) and (iv) corrected typographical errors in these subparts. (Submitted December 9, 1981)

Action: EPA today approves the above listed SIP revisions. This is being done without prior proposal because the SIP revisions are noncontroversial, are based on accepted procedures, are of limited impact, and are expected to elicit no comments. The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 20, 1982. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

Note.—Incorporation by reference of the State Implementation Plan for the State of Tennessee was approved by the Director of the Federal Register on July 1, 1981.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Section 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: June 14, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart RR—Tennessee

In § 52.2220, paragraph (c) is amended by adding subparagraph (46) as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(46) Miscellaneous changes in Chapters 1200–3–5, 10, 12, 18, and 20, submitted on December 9, 1981, and miscellaneous changes in Chapters 1200–3–2, 5, 7, 9, 12, 16, 18, submitted on January 22, 1982, by the Tennessee Department of Public Health.

[FR Doc. 82–16712 Filed 6–18–82; 8:45 am]
BILLING CODE 6560–50–M

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40 CFR Part 52

[A–5–FRL 2132–1]

Wisconsin; Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Final Rulemaking.

SUMMARY: This notice announces final approval of a revision to the Wisconsin Implementation Plan (SIP) for ozone. The revision consists of Wisconsin Administrative Code section NR 154.01, Definitions, and section NR 154.13, Control of Organic Compound Emissions, as amended to control volatile organic compound (VOC) emissions from the industrial source categories covered by the second group of EPA Control Technique Guidelines (CTG). Control of VOC emissions is part of Wisconsin's strategy to attain and maintain the national ambient air quality standard (NAAQS) for ozone.

EFFECTIVE DATE: This final rulemaking becomes effective on July 21, 1982.

FOR FURTHER INFORMATION CONTACT: Sharon Reinders, (312) 886–6034.

SUPPLEMENTARY INFORMATION: Under section 107 of the Clean Air Act (Act), EPA has designated certain areas in each State as not attaining NAAQS for ozone. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). For these areas, Part D of the Act requires that the State revise its SIP to provide for attaining the NAAQS by December 31, 1982. The requirements for approvable SIP are described in a "General Preamble" for Part D rulemaking published at 44 FR 20372 (April 4, 1979), 44 FR 38583 (July 2, 1979), 44 FR 50371 (August 28, 1979) 44 FR 53761 (September 17, 1979), and 44 FR 67182 (November 23, 1979).

On January 15, 1981, the State of Wisconsin submitted to EPA revisions to the ozone SIP that consists of Wisconsin Administrative Code section NR 154.01 Definitions, and section NR 154.13, Control of Organic Compound Emissions, as amended to require control of VOC emissions from the source categories covered by Group II CTGs and other direct sources of VOCs. The amendments to NR 154.01 add the definitions for nine additional Group II

VOC source categories regulated in NR 154.13 and clarify existing definitions. The source categories covered by the present revisions of NR 154.01 and NR 154.13 are: factory surface coating of flatwood paneling, petroleum refinery fugitive emissions (leaks), pharmaceutical manufacture, rubber tire manufacture, surface coating of miscellaneous metal parts and products, graphic arts (printing), dry cleaning (perchloroethylene), gasoline tank trucks—leak prevention, and petroleum liquid storage—floating roof tanks.

On January 12, 1982 (47 FR 1304), the EPA proposed to approve these revisions with the understanding that the State correct the deficiencies noted in the notice of proposed rulemaking. The reader is referred to the notice of proposed rulemaking for further details. In a letter from the Wisconsin Department of Natural Resources (DNR) to the EPA dated March 31, 1982, the State made a commitment to correct the deficiencies in the following manner.

1. Wisconsin has committed to revise NR 154.13(13)(a), which contains a typographial error referencing subsection 3(e), instead of subsection 3(f), transfer of any organic compound. The State confirmed that the correct reference is to subsection 3(f). 2. Wisconsin committed to incorporate a definition of "energy intensive control device" and a procedure to determine what constitutes such a device into the DNR's air pollution control manual codes. 3. Finally, the State made a commitment to use EPA approved test methods, as specified in EPA policy memorandum "VOC Test Methods or Procedures," April 6, 1981, when conducting VOC compliance tests. The State proposes to reference these test methods in an Operations Handbook which the DNR is developing. In the interim, Wisconsin will use section NR 154.06(5)(c) which states that the owner or operator of any VOC source to which NR 154.13 applies shall demonstrate compliance by methods approved by the DNR. EPA approves of Wisconsin's commitment to use EPA approved test methods, to enforce these procedures as part of the SIP using the authority of NR 154.06(5)(c) and to incorporate the test methods in an Operations Handbook.

EPA received one comment from Deere and Company who submitted technical information which supports the Wisconsin determinations that the extended final compliance dates for air dried and extreme performance coatings to December 31, 1985, are appropriate. EPA has reviewed this comment along with the commitment from the State and finally approves the January 15, 1981, submittal.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 20, 1982. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Note.—Incorporation by reference of the State Implementation Plan for the State of Wisconsin was approved by the Director of the Federal Register on July 1, 1981.

This notice is issued under authority of sections 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502).

Dated: June 14, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS—WISCONSIN

Title 40 of the Code of Federal Regulations, Chapter I, Part 52, is amended by adding paragraph (c)(27) to read as follows:

Supart YY—Wisconsin

1. Section 52.2570 is amended by adding paragraphs (c) (25) and (26) as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(27) On January 15, 1981, the Wisconsin Department of Natural Resources submitted revisions to regulations NR 154.01 and NR 154.13 representing reasonably available control technology which are necessary to attain and maintain the ozone standard. A supplemental commitment was submitted March 31, 1982.

[FR Doc. 82-16714 Filed 6-18-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-5-FRL 2133-7]

Approval and Promulgation of Implementation Plans; Minnesota

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: This notice announces EPA's final rulemaking to approve new and amended rules as revisions to the Minnesota State Implementation Plan (SIP). In a March 23, 1982, notice (47 FR 12364), EPA proposed to approve the rules. No public comments were submitted during the thirty day comment period. Therefore, EPA takes final action today to approve the rules as revisions to the Minnesota SIP.

EFFECTIVE DATE: This final rulemaking becomes effective July 21, 1982.

ADDRESSES: Copies of the SIP revision are available for inspection at the following addresses:

Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 24060.

Minnesota Pollution Control Agency, 1935 West County Road B–2, Roseville, Minnesota 55113.

FOR FURTHER INFORMATION CONTACT: Delores Sieja, Regulatory Analysis Section, Air Programs Branch, EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6038.

SUPPLEMENTARY INFORMATION: On January 28, 1972, the State of Minnesota submitted its SIP to EPA for approval pursuant to Section 110 of the Clean Air Act. This submittal included, among other things, State rules APC–1 through APC–16. EPA approved these rules as part of the Federally approved Minnesota SIP on May 31, 1972 (37 FR 10874).

On January 23, 1981, the Minnesota Pollution Control Agency (MPCA) submitted new rules and amendments to some of their previously approved rules. These rules regulate emissions from many source categories within the State. In a May 6, 1982, notice (47 FR 19520) EPA approved some of the rules insofar as they pertained to Minnesota's strategy to control particulates in the primary and secondary nonattainment areas within the Twin Cities Seven County Metropolitan Area and the City of Duluth.

Among the rules approved in the May 6, 1982, notice were those portions of

APC–4, APC–24, and APC–32, and APC–33 which applied to the control of particulates. Today's action approves (1) rules APC–4, APC–24, and APC–32 as they apply to the control of sulfur dioxide, nitrogen dioxide and carbon monoxide; (2) amendments to APC–33; and (3) rules APC–8, APC–12, APC–13, APC–15, APC–16, APC–19 and APC–39 as revisions to the Minnesota SIP. More information concerning these rules is contained in a March 23, 1982 notice of proposed rulemaking (47 FR 12364).

A thirty day public comment period was provided for interested individuals to submit their comments on the proposed revisions to the Minnesota SIP and on EPA's proposed approval. No public comments were received. Therefore, EPA is approving these rules as revisions to the Minnesota SIP. Following is a list of the rules which EPA is acting on today.

Rule	Description	Action
APC–4	Standards of Performance for Fossil Fuel Burning Indirect Heating Equipment.	Sulfur dioxide and nitrogen dioxide limits approved.[1]
APC–8	Open Burning	Approved.
APC–12	Standards of Performance for Motor Vehicles and Stationary Internal Combustion Engines.	Approved.
APC–13	Standards of Performance for Storage Vessels for Petroleum Liquids.	Approved.
APC–15	Standards of Performance for Sulfuric Acid Plants.	Approved.
APC–16	Standards of Performance for Nitric Acid Plants.	Approved.
APC–19	Permits for Indirect Sources	Approved.
APC–24	Standards of Performance for Petroleum Refineries.	Sulfur dioxide and carbon monoxide limits approved.[1]
APC–32	Standards of Performance for Fossil Fuel Burning Direct Heating Equipment.	Sulfur dioxide limits approved.[1]
APC–33	Standards of Performance for Coal Handling Facilities Within Designated Areas.	Amendments approved.[2]
APC–39	Emergency Episodes	Approved.

[1] EPA notes that these rules, as they controlled particulates, were approved on May 6, 1982 (47 FR 19520). With the approval of the remaining portions today, the rules will be approved in their entirety.
[2] This rule was approved on May 6, 1982 (47 FR 19520). Today, EPA is approving amendments to APC–33.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Note.—Incorporation by reference of the State Implementation Plan for the State of Minnesota was approved by the Director of the Federal Register on July 1, 1981.

(Section 110 of the Clean Air Act, as amended (42 U.S.C. 7410))

Dated: June 14, 1982.

Anne M. Gorsuch,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, Chapter I, Part 52 is amended. Section 52.1220(c) is amended by adding new subparagraph (21) to read as follows:

§ 52.1220 Identification of plan.

* * * * *

(c) * * *

(21) On January 23, 1981, the State submitted new rules and amendments to some of their previously approved rules. On November 17, 1981, the State submitted amendments to APC–33. On May 6, 1982 (47 FR 19520), EPA approved some of the rules insofar as they applied to the total suspended particulate strategy for the Twin Cities Seven County Metropolitan Area and the City of Duluth. The remainder of the rules are: (i) Those portions of APC–4, APC–24, and APC–32 which control emissions of sulfur dioxide, nitrogen dioxide, and carbon monoxide; (ii) the amendments to APC–33; and (iii) APC–8, APC–12, APC–13, APC–15, APC–16, APC–19 and APC–39.

[FR Doc. 82–16732 Filed 6–18–82; 8:45 am]
BILLING CODE 6560–38–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81–883; RM–4005]

Radio Broadcast Services, FM Broadcast Station in Palm Desert, Calif., Changes Made in Table of Assignments; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This item corrects an erroneous listing for an amendment to the FM Table of Assignments (§ 73.202(b) of the Commission's Rules) for Indio and Palm Desert, California.

DATE: Effective immediately.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast Stations. (Palm Desert, California); BC Docket No. 81–883, RM–4005.

Released: June 15, 1982.

1. On May 28, 1982, the Commission by its Broadcast Bureau, released a *Report and Order,* in the above captioned proceeding. We indicated that Channel 244A was assigned as a first FM channel to Palm Desert. We also listed Channel 276A (Station KCMS) which is assigned to Indio, California, and licensed to serve Palm Desert pursuant to § 73.202(b) as an assignment at Palm Desert. We neglected to indicate that we have, on our own, reassigned Channel 276A from Indio to Palm Desert to reflect its actual use at that community. Thus, the assignment of Channel 244A will provide a second FM service to Palm Desert. In addition, the correct name of the county in which Palm Desert is located is Riverside.

2. Section 73.202(b) of the Commission's Rules, the FM Table of Assignments, should be amended to read as follows:

City	Channel No.
Indio, Calif.	224A
Palm Desert, Calif.	244A, 276A

Federal Communications Commission.

Roderick K. Porter,
Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82–16686 Filed 6–18–82; 8:45 am]
BILLING CODE 6712–01–M

47 CFR Part 73

[BC Docket No. 80–130; FCC 82–240]

Radio Broadcast Services; Revision of FM Assignment Policies and Procedures

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action adopts new policies and procedures to govern the disposition of rule making petitions to

amend the Table of FM Assignments (Section 73.202(b) of the Commission's Rules).

This action is taken to reduce the burdens on parties filing petitions and to expedite processing.

DATE: Effective June 21, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Jonathan David, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcast.

In the matter of revision of FM assignment policies and procedures BC Docket No. 80-130.

Second Report and Order

Adopted: May 20, 1982.

Released: June 2, 1982.

1. On March 27, 1980, the Commission adopted the *Notice of Inquiry and Notice of Proposed Rule Making*, in this proceeding, 45 FR 26390, published April 18, 1980, designed to explore the various aspects of our treatment of proposals to amend the FM Table of Assignments.[1] The *Notice* proposed to update both the procedures employed as well as the standards used to evaluate proposed changes in the Table. However, it did not propose changes in the technical standards used to govern these assignments.[2] In order to put this subject in better perspective, it is necessary to provide some background on how the current policies were created and have since been applied.

2. The current FM Table of Assignments was the outgrowth of the rule making proceeding in Docket No. 14185 begun on June 21, 1961.[3] The FM Table and the policies and procedures now utilized by the Commission were developed in the early 1960's and have been little changed since then. Not only has the subject not been studied on an overall basis since then, there have been profound changes in the nature of FM broadcasting. In sharp contrast to the situation in the early 1960's when little interest was shown in FM use (and that mostly in major cities) FM channels now are in demand everywhere. Since the old procedures were developed to deal with a far different situation, it made eminently good sense to revisit the subject to see what changes might be required.

3. The FM Table is intended to allow the Commission to meet its obligation under section 307(b) of the Communications Act to provide a "fair, efficient and equitable distribution of radio service" to the various states and the communities within them. As set forth in Docket No. 14185 and repeated in the present Notice, the objectives to be served by the FM Table are:

- Provision of some service of satisfactory signal strength to all areas of the country;
- Provision of as many program choices to as many listeners as possible; and
- Service of local origin to as many communities as possible.[4]

Needless to say, there were and are various ways to go about achieving these objectives. In addition to establishing the methodology, there was a need for continuing surveillance to assess the extent to which these FM practices were achieving the desired objectives. As we pointed out in the present Notice, this has not been possible, as most of our energies have been devoted to day-to-day administration. The present proceeding is designed to remedy this omission and examine each of the component policies which govern FM assignments.[5]

4. To aid commenting parties in focusing on the subject, the Notice set forth the individual policies which were being applied to FM assignments along with their historical background and what appeared to be the consequences of their current use. We believe that it is appropriate to continue use of this format. This separate discussion is not intended to ignore the fact that these policies are interrelated and in fact do overlap. Where appropriate, the discussion notes the common themes and the factual premises that connect the topics.

5. The Notice also distinguished between unopposed petitions and situations where a choice between conflicting proposals is necessary. In the former instance, there is a notably lesser need for extensive filings from the petitioner; and we indicated our desire to avoid burdening the petitioner with filing requirements that serve no useful purpose. Not only are such burdens unfair, they can only serve to delay action on the proposal. In the latter case, more information may be necessary when the Commission must make a 307(b) choice between conflicting proposals.[6] Recognizing that different standards may be required in each situation, the Commission proposed minimal requirements for the "singleton" case which then could be supplemented if a conflict arose. The discussion which follows observes this distinction.

FM Priorities

6. The *FM priorities* set forth the relative importance of the service to be provided from the perspective of section 307(b) of the Communications Act. The original priorities were stated as follows:[7]

(1) Provision for all existing FM stations.

(2) Provision of a first FM service to as much of the population of the United States as possible; particularly that portion of the population which receives no primary AM service nighttime.

(3) Insofar as possible, to provide each community with at least one FM broadcast station, especially where the

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[1] This Table appears as § 73.202(b) of the Commission's Rules and specifies the FM channels assigned to the various communities listed. A party wishing to apply for a channel but finding none vacant at the desired location files a petition to amend the Table by adding the desired channel.

[2] That subject was treated in the *Notice of Proposed Rule Making* in BC Docket No. 80-90, in which the Commission decided to explore such matters as making Class A assignments on Class B/C channels, establishing two new classes of stations and modifying the co-channel and adjacent channel spacing requirements to reflect these changes. The end result of such technical changes would be to make many more FM channels available for assignments than is now possible. This could be expected to lead to an increased number of filings seeking new FM assignments. This, necessarily, would make the matter of updating our procedures an even more important one. While the *Notice of Proposed Rule Making* in BC Docket No. 80-90 referred to this docket as an "associate" item, the action taken today will in no way prejudge action the Commission might deem warranted in BC Docket No. 80-90. Given the substantial savings which will accrue to this Commission as a result of today's action, we see no reason to delay these benefits pending consideration in BC Docket No. 80-90.

[3] *Notice of Inquiry, Notice of Proposed Rule Making and Memorandum Opinion and Order*, FCC 61-833, 26 FR 6130. A *Second Further Notice of Proposed Rule Making* was issued in 1962, 40 F.C.C. 728, and the Table itself was adopted in 1963 in the *Third Report, Memorandum Opinion and Order*, 40 F.C.C. 747.

[4] These were the same objectives which the Commission had used over the years to govern AM 307(b) choices. They were again cited by the Court of Appeals in its recent affirmance of the clear channel decision, *Loyola University* v. *FCC*, Case No. 80-1824; Slip Opinion at 3.

[5] We have already acted to end the procedural step of calling for responses and replies to a petition even before a Notice of Proposed Rule Making issues. Although reconsideration of this action, taken in the *First Report and Order*, 86 F.C.C. 2d 931 (1981), has been sought, those issues are not pertinent to the remaining issues to which we now turn.

[6] As already noted, this requirement about distributing radio service underlies the FM Table concept, but it also applies to the choice which often must be made between conflicting assignment proposals.

[7] The priorities were first set out in the 1962 *Further Notice of Proposed Rule Making* in Docket No. 14185, and were later incorporated by reference in paragraph 25 of the *Third Report, Memorandum Opinion and Order*, the document which adopted the Table (40 F.C.C. 747 (1963)).

community has only a daytime-only or local (Class IV) AM station, and especially where the community is outside of an urbanized area.

(4) To provide a choice of at least two FM services to as much of the population of the United States as possible, especially where there is no primary AM service available.

(5) To provide, in all communities which appear to be of enough size (or to be located in areas with enough population) to support two local stations, two local FM stations, especially where the community is outside of an urbanized area.

(6) To provide a substitute for AM operation which, because they are daytime-only or suffer service interference at night, are marginal from a technical standpoint.

(7) Channels unassigned under the foregoing priorities will be assigned to the various communities on the basis of their size, location with respect to other communities, and the number of outside services available.

7. In the Notice, we proposed a simplification of the priorities as follows:

(1) First full-time aural service.
(2) Second full-time aural service.
(3) First local service.
(4) Other public interest matters.

(Co-equal weight would be given to priorities (2) and (3))

8. Some of the parties filing comments supported the proposed change in priorities. The National Radio Broadcasters Association thought the new priorities would be "sound tools for selecting between conflicting allocation proposals" so long as they are applied sensibly and not rigidly or mechanically. Likewise, the National Telecommunications and Information Administration ("NTIA") supported the proposal generally as did National Public Radio ("NPR"). NTIA, however, did suggest that only the first two priorities were needed. NPR thought attention could be given in the priorities to the need for public radio service, and it suggested that the proposal should be examined in terms of whether the proposed community has or lacks full-time public radio service.

9. Various other parties opposed changing the priorities, arguing that it would lead to giving inadequate attention to local service or the needs of smaller, rural communities. These concerns were reflected in the filings of the National Association of Broadcasters ("NAB"), the General Electric Broadcasting Company, Inc. ("GEBCO"), and the American Broadcasting Companies ("ABC"). NAB argued that the Commission apparently had concluded that smaller communities now have enough FM service so that the focus could shift instead to assigning channels to large urban areas. The NAB argued against any such change of emphasis. They also called for greater cooperation between industry and government and stressed the role of the Government-Industry Advisory Group that meets to consider various issues affecting AM and FM broadcast service authorization. ABC and others expressed a similar concern that the change could lead to a lessened emphasis on local service.

10. We have concluded that changes in the FM priorities are required. The first priority is no longer applicable, as provision has long since been made for all existing stations. Next recognition needs to be given to the fact that AM and FM have become joint components of a single aural medium. Ever since the *Anamosa and Iowa City* case, 46 F.C.C. 2d 520 (1974), the Commission has taken the single aural service concept into account in applying the FM priorities. It is time to formally codify this change.

11. In adopting new priorities, we continue to believe that greatest emphasis needs to be given to assuring the availability of at least one full-time radio service to as many people as possible. New priority one is designed for this purpose. Next in terms of importance are second aural service and first local service. As the Commission pointed out in *Anamosa and Iowa City*, the old system of giving greater priority to first local service could lead to anomalous results, and in fact:

> [A]pplying them literally the result would be that any community, even one of only 100 persons seeking a first channel would automatically succeed in preference to a second channel to a city of 1,000,000 that would bring a second service to 4,000,000 people. 46 F.C.C. 2d 520 (at 525).

In effect, the Commission has dealt with this problem by giving co-equal status to these two priorities. We believe that this approach also should be codified. This is what the new priorities two and three will do. In cases involving a choice between such second aural and first local services, the populations provided each of those services would be compared. Preference would be given depending on whether more persons would receive a second aural service or a first local service. Under this approach we will continue to give emphasis to local service while avoiding the possibility of anomalous results under the old priorities.

12. Finally, we believe it is preferable to employ a single priority for the remaining areas of comparison. It will allow the Commission to compare the benefits offered by the respective proposals without being bound by the rigid sequence of the old priorities.[8]

13. We believe that substantial gains can be obtained through use of the new priorities, including speeding our processes and easing resolution of disputes. Also, reducing the number of priorities has the advantage of avoiding the previous process which required an extra effort to document how a strong preference on one criterion outweighs another party's lesser preference on a higher rated priority. Overall, the new priorities better reflect the current FM situation and the need to concentrate on higher priority services. One final point needs to be emphasized. Since these priorities are used solely to make a choice between proposals, there is no need for a proponent to undertake an engineering study to demonstrate first or second aural service if no choice between proposals is presented. If conflicting proposals already are on file, the Notice of Proposed Rule Making can call for the submission of this information. If the conflict arises in response to the Notice, the material should accompany the new parties' comments. The original party could then supplement its original showing when filing its reply comments. In this way we can avoid delay in processing petitions and can save the Commission and the parties from unnecessary expense.

Reservation Policies

14. In this category are a series of policies which were designed to reserve channels for a future (and theoretically preferable) use. These policies called for rejection of proposed assignments, because of the effect on future assignment possibilities. The decision to employ these policies was based on the awareness that in the then-new FM medium, demand would develop slowly and unevenly. If no restrictions were employed, there would not be an equitable distribution of facilities. In particular, major urban areas would get a disproportionate share of assignments because that is where interest in FM developed first. A system was needed to make sure channels would be available elsewhere as interest in FM grew and spread. Now, of course, FM has become a mature medium and it is time to reexamine these restrictive policies to see if they are still needed. These

[8] This comparison can take into account the number of aural services received in the proposed service area, the number of local services, the need for or lack of public radio service and other matters such as the relative size of the proposed communities and their growth rate.

policies are those involving *preclusion*, use of *population guidelines* and, to a lesser extent, the policy on the *appropriate class of channel* to assign based on the size of the community involved. We will examine these policies individually beginning with preclusion.

15. *Preclusion.* Simply stated, if a channel is assigned to one location, then that assignment precludes use of that channel and adjacent channels elsewhere in the same general area. The policy was adopted as a means of holding channels in reserve for future use when FM interest had grown. Under the policy, the Commission considered the impact of proposed Class B or C assignments on the ability of other communities to obtain an assignment of their own. To do this, it was necessary for both the proponent and the Commission's staff to do extensive engineering work and to prepare full showings. Sometimes other existing assignments already precluded new assignments in this area, so the proposal raised no concern. In other cases, since alternative assignments were available to precluded communities, preclusion was of no concern. At issue here is whether preclusion showings should be required and what should be done if alternative assignments are not possible to communities lacking their own assignment.[9] Since there are 80 commercial FM channels available for use, preclusion in any one case leaves the great majority of channels unaffected. Cumulatively, though, the supply may have been depleted so that a given assignment may preclude the last opportunity for an assignment to a particular locality. If a proposal is received from that locality, the matter is a simple one of a choice between the proposals. The preclusion issue is an effort to deal with cases where interest in the precluded community is not expressed.

16. The approach suggested by the *Notice* involved use of the Commission's computer to study the impact of preclusion and to select the least preclusive channel for assignment. Where preclusion appeared to be significant, we contemplated the possibility of a notification procedure. Under this approach, time would be afforded to interested parties in affected communities to step forward and express interest in having the channel assigned to the otherwise precluded community. In so doing, this party also would need to provide the requisite commitment that it would apply for the channel, if assigned, and would construct it if authorized. It was clear that there would be additional administrative costs involved in use of such an approach. Parties were asked to indicate if they thought the benefits of this approach warranted its increased expense and delay. If they did support it, they were asked to indicate what size community should be used in determining the impact of preclusion.

17. Responses on these points varied. NTIA agreed that if there were a choice of channels it was appropriate to choose the least preclusive channel for assignment. Nonetheless, it saw no need to deny a proposal because of preclusion. Others supported the approach of assigning the least preclusive channel, but they asked the Commission to be more specific about what was meant by "least preclusive" channel. NPR, for example, said it was incumbent on the Commission to define and describe the term for the benefit of affected parties. On the more general point, NPR, GEBCO and others thought concern about preclusion was warranted. They supported the notification concept along the lines set forth in the Notice. In their view, there still is reason to withhold an otherwise acceptable assignment solely because of preclusion. Even though the need for or the interest in a station was not yet manifested, they believed that the opportunity should be protected lest there be no way of responding to the interest if and when it did arise.

18. The Commission's experience clearly demonstrates that the importance of preclusion has greatly diminished. The preclusion policy was adopted at a time when there was a great concern about the need to hold channels in reserve for future need when the medium had developed. Now that the FM medium has matured, the need to continue a reservation approach has diminished greatly. In most cases, it is conjectural at best to think that another year or two or more would result in any substantial changes. In fact, interest may never arise, and service would have been denied for no real reason.

19. The proposed notification approach can deal with this imperfectly at best. It can only offer a brief window in which interest in the precluded community could be expressed. This seems far too short to be of any practical value, and it could raise the possibility of obstructionist tactics. Places not yet in existence would not benefit from the proposed policy since they could not be identified in preclusion studies. As to existing communities, there is no way to know whether interest would ever be expressed. Yet, under the policy, every proposal would be delayed while the subject was studied. Most would be granted anyway, based on our experience in this area. Thus, the policy would likely have few beneficiaries. This is not enough to sustain such a burden.

20. We must also be concerned about the administrative impact of continued use of preclusion and the impact of insistence on the preparation of preclusion studies. The burden involved could only be compounded by a notification process. Notices would have to be sent to all communities and their receipt verified. The end result of this approach could only be a notable increase in the paperwork involved in seeking an assignment as well as the time of the Commission's staff in processing these proposals. Out of this comes delay in processing and thus a postponement of service. All considered, the cost is too high for the rare benefits derived. This is epecially true if the Commission has to deal with the additional assignment proposals arising as a result of the outcome of BC Docket No. 80-90. While notification, at least in the abstract, seemed a fair substitute for the old preclusion policy, it must be regarded as infeasible because of its impact on our processes. Based on the maturation of the FM medium we have decided to end our preclusion policy. It is no longer necessary to hold channels in reserve awaiting development of the medium. This does not mean a lessened concern about these affected localities. Where interest there is shown through the filing of a counterproposal, it will be given careful attention and accorded the full weight it deserves.

21. *Population criteria.* These criteria represented another example of holding channels in reserve. The guidelines were designed to reflect an appropriate apportionment of channels based on the size of the community involved, thus preventing larger cities (where interest in FM had developed) from obtaining a disproportionate share of channels. These criteria were taken into account in creation of the FM Table, and they have been applied ever since to petitions to add assignments to the FM Table. The population criteria are as follows:

- communities under 50,000 population—1 or 2 channels;
- communities between 50,000 and 100,000 population—2 to 4 channels;

[9] In deciding how large a community needs to be before preclusion becomes a matter of concern, the Commission's standard of community size has varied from 1,000 population to 2,000 or on occasion, 2,500.

- communities between 100,000 and 250,000 population—4 to 6 channels;
- communities between 250,000 and 1,000,000 population—6 to 10 channels; and
- communities over 1 million population—10 to 15 channels.[10]

In the Notice we questioned whether it was necessary or appropriate to continue use of these guidelines, especially since they seemed to have accomplished their purpose.

22. Reaction to this proposal varied. Again, the NAB focused on its concern that localism was being given short shrift and that the Commission was now emphasizing assignments for large urban areas at the expense of smaller localities. This position was supported in filings by ABC and GEBCO. All of the opponents (to some degree at least) thought that the population guidelines served to protect opportunities for service in smaller localities and read the Commission's proposal as expressing a lessened concern on this score. On the other hand, several opponents pointed to the fact that the Commission has not applied these guidelines so rigidly as to preclude all assignments in excess of them. They urged a continuation of this approach treating the proposal much like a waiver request, rather than dropping the guidelines entirely. Along this line, ABC thought that the Notice exaggerated the burden involved in overcoming the presumption of the guidelines. In ABC's view, waivers already were being given where appropriate. NPR, on the other hand, supported the Commission's proposal. NRBA wanted the criteria dropped rather than given only lip service through waiver. As NRBA saw it, "* * * (I)t is clearly preferable to abandon these criteria rather than force parties seeking allocations to go through purely formalistic waiver exercises."

23. We agree with NRBA that since waiver has become the general practice, there is little reason to retain the guidelines. The guidelines have served their purpose and have preserved opportunities until interest in FM developed. Now, of course, we are dealing with a matured medium in which many seek to operate in smaller communities. This means that the Commission can now withdraw this barrier and deal with the individual proposals that are filed. We no longer believe it is proper to say that no new service at all is better than allowing an assignment in excess of the limit specified in the criteria. As before, when conflicting proposals are filed, they can still be compared in terms of their 307(b) consequences, and preference given to the smaller community if appropriate.

24. *Appropriate class of channel.* There are two components to this subject. The first relates to the policy of taking into account the size of a community in deciding the class of channel to assign. Under this policy we have assigned Class A channels to smaller communities and Class B/C channels to larger communities. In part, this policy was part of the overall approach of holding channels in reserve, in this case the B or C channels being reserved for larger communities. In the Notice, we questioned whether there was a need to continue a hard and fast policy or whether flexibility was preferable. The second aspect relates to intermixture, our policy against assigning two different classes of channels to the same community.

25. The theoretical advantage of assigning a Class A channel to a small town and a B/C channel to serve larger ones breaks down in many cases. Some small towns are the population center for a sizeable area. Since a Class A channel would not be able to cover this entire area, a Class B or C channel is needed.[11] Also, when no B or C channels are available for a larger city, proposals to assign Class A channels there are received. In these cases, the result of the policy is to require additional work for the petitioner and to introduce unnecessary delay in reviewing the showings on behalf of an exception to the policy. With this in mind we thought that this policy could be eliminated. This aspect of the Notice elicited virtually no response. Nor has the Commission's own experience since suggested a need to continue a policy that either refuses an assignment which fully meets the rules or makes it only after an extensive showing has been filed. Accordingly, we no longer intend to mandate the choice of a channel based on community size.

26. Our policy against intermixing classes of channels in the same community is not based on any concepts of reserving spectrum for future use. Rather, its foundation is the idea that a higher power facility would have a competitive advantage over a lower power one in the same community.[12] Our proposal to end this policy elicited considerable comment. These comments focused separately on the two quite different aspects of the policy. Assigning a Class A channel to a community with B or C assignments was seen as quite different from the reverse situation. Several parties agreed that it was not necessary to have a policy against assigning a Class A channel to a community that already had one or more Class B or C channels. They agreed with the Commission's view, expressed in the Notice, that the party proposing such an assignment could be presumed to have understood and accepted the competitive risk. Although technically a violation of the policy against intermixture, this has been the informal approach taken by the Commission. Supporters of the Commission's proposal, like NRBA, agreed that these parties could protect themselves, but the NAB disagreed. It argued that the Commission should not rely on the willingness of a party to enter into such competition. Instead it urged an in-depth study of a Class A station's ability to compete. The Pennsylvania Association of Broadcasters ("PAB") also was unpersuaded. It referred to a case where it said economic data submitted by the Class B licensee was rejected.[13] PAB charged that the Commission was abandoning all but engineering or technical concerns. In other words, the Commission was advocating a marketplace approach to the making of assignments in which all assignments that met applicable engineering standards would be granted. In PAB's view, this violates the Commission's obligation under Section 307(b) of the Act to allocate frequencies in the public interest and would be in conflict with the Supreme Court's decision in *FCC* v. *RCA Communications*, 346 U.S. 86 (1953), and the Court of Appeals decision in *Hawaiian Telephone Co.* v. *FCC*, 498 F. 2d 771 (D.C. Cir. 1974). In both cases, according to PAB, the Courts held that it is not enough to presume a national policy favoring competition. Rather, it asserts, the Commission must demonstrate the tangible benefits it expects to flow from such competition before taking the action.

27. At most, the cases cited by PAB required the Commission to substantiate the benefits expected to flow from

[10] These are guidelines not guarantees, so that various places, large and small, have not received the specified number of assignments.

[11] The 1 mV/m coverage of a Class A station extends about 15 miles, a Class B station over 30, and a Class C station almost 60 miles. All of this is based on maximum facilities.

[12] As the *Rome, New York* proceeding made clear, this policy prohibited intermixing assignments in a particular community. It did not preclude intermixing channels in the market. See *Notice of Proposed Rule Making and Memorandum Opinion and Order*, 42 FR 59163, adopted October 17, 1977.

[13] This case, *Falmouth, Massachusetts*, BC Docket No. 80-159 *Report and Order*, 46 RR 2d 1673 (1981); *Memorandum Opinion and Order*, 50 RR 2d 377 (1981), is still before the Commission and no comment on its particular facts is appropriate here. Our concern here is with the general standards to apply, not whether special circumstances exist in that or any other particular case.

additional competition, not simply presume that such benefits would flow. Here the benefits are clear. Additional needed service can be provided, thus making it possible for the listener to have additional program choices. Moreover, this view is consistent with the Commission's long held position favoring competition through the authorization of additional broadcast services. In fact, the burden in broadcast cases has been on the party opposing competition. Thus in *Carroll* cases,[14] for example, the party opposing the new competitor on economic grounds must establish how the public would be damaged by competition. For these reasons we cannot accept the applicability of PAB's observations about competition.[15] Consequently, we believe that allowing voluntary Class A competition may be the only way to bring new service, and it appears both unnecessary and wasteful to let the channel lie fallow rather than allow such intermixture. In any event, in the ordinary case, making this assignment has no disruptive effect on existing operations.

28. The assignment of a Class B or C channel to a community having only one or more Class A assignments presents a different situation. Although NTIA and NPR supported allowing this form of intermixture as well, the other commenters either opposed it entirely or asked that the existing Class A station by given a controlling preference in a comparative proceeding over use of the Class B/C channel. These comments were based on a concern over the economic impact of such intermixture. They argued that the Class A operation, with its circumscribed coverage area, could not compete with the newcomer with its greater coverage area. According to some, we should not drop our policy against intermixture without first conducting an extensive review of its implications, particularly in view of the other actions being taken by the Commission to bring new AM and FM service. Others suggested an economic exploration of the situation in the particular market before making the assignment. NRBA called for considering this matter as the equivalent of a *Carroll* case objection to a broadcast authorization, namely that the public would suffer a net loss of service if the additional station were to operate. Noting the fact that *Carroll* showings must meet a high standard before the matter can be placed in issue, NRBA asked us to use a "reasonable" standard to govern showings in assignment cases.

29. What NRBA urges is a complete departure from our regular practice in FM assignment cases. We have repeatedly rejected consideration of *Carroll* objections in rule making and have consistently held that such objections should be raised in connection with the application to use the channel. The rule making proceeding is designed to further the 307(b) objectives to provide a fair, efficient and equitable distribution of radio service. This process is not a suitable one for consideration of the economic questions that underlie the *Carroll* issue. In addition, the mere presence of a channel tells little about how or even just where it would be put to use by a particular licensee. Thus, until an application is filed, the Commission is not in any position to resolve any such issue which might arise. Although we understand the concern expressed by existing Class A licensees, we do not feel that the FM rule making context is the proper place to resolve it. If a question properly arises in any individual instance, it can best be handled in the application context where appropriate consideration can be given to the argument in deciding on use of the channel. Our action here to change the policy against intermixture is not intended to foreclose parties from raising objections to the application when the facts warrant. The standards for considering these objections have been long established and parties can expect that any objections will be given appropriate treatment. As to the policy change itself, we believe it is important to bring new and often much needed service even if it involves intermixture. The willingness of newcomers to use Class A facilities in competition with existing Class B/C stations suggests that the competitive position is not as bleak as it has been painted.[16] Also, the effect of allowing intermixture is not much different from letting an AM broadcaster use a lower frequency, thereby serving a much larger area with the same power. In fact, the difference in coverage area of AM stations in the same market can be as great as the difference between a Class A and a Class B FM station's coverage area. We have not prevented AM stations from having such an advantage in coverage area even if the other existing AM stations had circumscribed service areas because of higher frequency or lower power. We believe that competitive market skills may turn out to be far more important than theoretical service area. After all, it is not service area alone that counts but the size of the audience, and that does not necessarily coincide with the station's class or coverage area.

30. We also need to consider what treatment to afford the application of the Class A licensee to use any newly assigned Class B/C channel.[17] This is a question now before the agency as a result of the Court of Appeals remand in *Julie P. Miner* v. *FCC*, 663 F. 2d 152 (D.C. Cir. 1980). We will address this matter at the time we resolve the *Miner* case.

Demographic Showings

31. In connection with the request to assign an FM channel to a locality, petitioners have been called upon to show not only that the proposed location of the channel assignment in fact is a community, but that it needs the assignment. To establish this the petitioner informs the Commission, often at great length, about such things as industries, major businesses, and tourist attractions. In the Notice, we questioned whether there is any valid reason for the Commission to require the submission of this demographic data. If the petitioner believes that the service is needed and that advertising support for it could be generated, what reason is there for the Commission to question this judgment? In fact, in cases where the place's status as a community is clear, we thought there should be no need to submit demographic data at all.

32. Commenting parties who discussed this issue supported the Commission's proposal in cases where the status of the community is not in issue. They agreed that in such cases demographic showings serve no useful purpose. If the place is a community, why should the Commission care if it is a tourist mecca rather than an industrial center or farming town? Even less is there a need to know all the other demographic facets that have no necessary place in Commission evaluation of the proposal. All the present requirement does is make the petitioner prepare and file unnecessary paperwork which the Commission's staff

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[14] *Carroll Broadcasting* v. *FCC*, 258 F. 2d. 440 (D.C. 1958).

[15] The PAB comments also relied on the Court of Appeals' decisions in the "Format cases", *FCC* v. *WNCN Listeners Guild*, 450 U.S. 582, 67 L. Ed. 521 (1981), but the Supreme Court has reversed the Court of Appeals and held that the Commission does not need to consider changes in the entertainment format of radio stations. Thus, there is no rejection of the Commission's view that it is appropriate to rely on competitive forces to shape station formats.

[16] Recent examples include: *Jacksonville, Illinois*, BC Docket 80-337, 46 Fed. Reg. 34580 (1981); *Killeen, Texas*, BC Docket 80-236, 46 FR 20674 (1981); and *Spokane, Washington*, BC Docket 80-502, 46 FR 36854 (1981). In the *Spokane* case, the Class A operation was to be in competition with seven existing Class C operations.

[17] Where possible, we have assigned additional Class B/C channel for the use of existing Class A licensees, but here we are dealing with cases where that cannot be done.

is required to study and summarize in the rule making documents. No public loss will attend ending this requirement. Terminating this outdated requirement can only bring important gains for all.

33. Only one minor exception needs to be noted. Section 307(b) of the Communications Act speaks in terms of distribution of facilities among the "several states and *communities*" (emphasis supplied). In this regard, we normally have considered any incorporated place or any other place listed in the census reports as a community. However, from time to time a petitioner will specify a place that is neither incorporated nor listed in the census reports, and we required a demographic showing to indicate that the place was in fact a cognizable community under Section 307(b). To obviate this showing, the Notice herein proposed accepting any population grouping as a community. Virtually no attention was given to this proposal in the comments.

34. In considering this matter further, we have come to believe that our proposal would not significantly facilitate the rule making process. Rather, section 307(b) requires that we continue to require assignments to "communities" as geographically identifiable population groupings. For this purpose it is sufficient that the community is incorporated or is listed in the census. However, if a petitioner desires the assignment of a channel to a place that is neither incorporated nor listed in the census reports, it will be required to supply the Commission with information adequate to establish that such a place is a geographically identifiable population grouping and may therefore be considered a community for these purposes. Failure to file such information with the petition for rule making will delay the Commission's processes.

35. Thus, with this infrequently applicable exception, petitioners need not file demographic data with their requests for rule making to amend the FM Table of Assignments. In situations where a conflict between proposals develops, the information necessary to resolve that conflict can be filed either in response to the Notice of Proposed Rule Making or a counterproposal.

Berwick Issue

36. In rule making a *Berwick* issue is said to arise when someone proposes the assignment of a channel to a particular community and it appears that the petitioner's real purpose may be to use this suburban location to serve another larger community nearby.[18] In line with their views in other regards, NPR and NTIA supported deletion of *Berwick* issues at the rule making stage. NRBA also supported deletion, but its support was premised on the opportunity to raise the issue at the application stage. So long as that opportunity was provided, NRBA saw no purpose in raising it in the rule making. GEBCO argued to the contrary, that the Commission needed to know at the rule making stage if the petitioner intended to serve the specified community. It wanted the Commission to consider this matter when properly raised. ABC took a slightly different tack. It felt that the issue should be considered where it was validly raised but that the standard used to judge the objection should be a high one. NAB also wanted the *Berwick* issue used in rule making and cites *Communications Investment Corp.* v. *FCC*[19] for the proposition that the FCC cannot allow *de-facto* reallocation of FM stations from smaller towns to larger ones without hearing. It also refers to language in that opinion about forestalling excessive concentration of facilities in larger cities and the need to insure adequate service to smaller communities and sparsely settled areas.

37. As NAB acknowledges, *Communications Investment Corp.* was not a case dealing with the FM Table. In fact, the Court acknowledged that the Table is not immutable but can be modified through rule making. Nothing in the Court's opinion suggests that the Commission cannot allocate or reallocate channels through rule making. Nor does the Court indicate the need for hearing in such rule making. As to any question about the *bona fides* of the party involved, we believe that it cannot be effectively resolved in rule making where none of the relevant particulars about the actual use of the channel are available.[20] Also, based on our decision to drop the population guidelines and to alter the priorities, the previous incentive to specify a smaller community will diminish. In any event, we do not believe it is appropriate to question the intent of the party seeking an assignment to a particular community in the rule making process.

[18] *Berwick Broadcasting Co.*, 20 F.C.C. 2d 393 (1969).

[19] 206 U.S. App. D.C. 1, 641 F. 2d 954 (1981).

[20] Thus, in the *Berwick* case itself, it was not the community to which the channel was assigned but where it was to be used under the then "25-mile" rule that raised the problem. The continued applicability of this precedent in hearing cases is beyond the scope of this inquiry.

Assigning a Channel to Avoid a Hearing

38. The next point to consider is the Commission's policy of refusing to assign a channel on a showing that it would avoid a hearing over who is to obtain use of a single vacant channel. While this issue does not arise often, when it does, real delay and expense to all concerned can result. If two applicants seek use of a particular channel, a comparative hearing ordinarily is necessary. However, this could be avoided if a second channel could be assigned. The Commission has a policy of refusing to do so merely to avoid a hearing. This means that action is withheld on the rule making proposal and parties are forced to go through years of prosecuting applications for no real purpose. It would seem preferable that a prompt decision be made on adding a channel, thereby saving time and expense for all concerned. Under current policy, the entire hearing process has to be resolved first or the party must relinquish its right to a hearing without even knowing if a channel actually will be added. Under these circumstances, it is no wonder a party would insist on pursuing its hearing rights first. Under our proposal, the parties could now pursue the rule making alternative without sacrificing their hearing rights.

39. The comments generally support a change in current policy. ABC and others do offer a caveat; in its concern to avoid hearings, the Commission should not put itself in the position of assigning more channels than are warranted and should consider the economic impact of two (rather than one) new assignments before making them. GEBCO concurs and also says the Commission should be ready to consider whether the channel is needed more somewhere else. It was not our intention to suggest that special *favorable* treatment *must* be given if a hearing would be avoided. Rather, our goal was to remove impediments that call automatically for *unfavorable* treatment. We believe that the best situation is one in which each proposal is examined on its own merits. If a second assignment can properly be made, there is every reason to decide this promptly and thereby avoid the high cost and great delay in an evidentiary hearing. If it is not to be assigned because another conflicting proposal is more meritorious, this too should be established early, lest unfairness to one or another litigant result. In non-conflicting cases we do not contemplate refusing an assignment on economic or competitive grounds.

40. The policy changes being made can bring needed simplification to an

unnecessarily cumbersome process and make far better use of the Commission's limited resources. Substantively, too, they represent important new departures more in keeping with our deregulatory goals. The old policies have served their purpose but now must be replaced by new standards which are appropriate to the current environment.

41. Therefore, it is ordered, That the new policies are adopted effective June 21, 1982, and as of that date shall be applied to all applicable proceedings in which a Report and Order has not yet been issued.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 82-16630 Filed 6-18-82; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 90

[Docket No. 20646]

Private Land Mobile Radio Services; Policies and Regulations To Govern the Interconnection of Private Land Mobile Radio Systems With the Public Switched Telephone Network in Certain MHz Bands; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Commission issued an Erratum to correct Appendix B, § 90.483(b)(2)(ii) in Docket No. 20646, which was released April 8, 1982. The "alerting signal" mandated by this rule was not intended to apply to systems operating at 800 MHz. However, this exclusionary language was inadvertently left out of the rule. The Erratum amends the rule section to conform with paragraph 59 of the text.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Albert J. Catalano, Private Radio Bureau, (202) 634-2443.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 90

Interconnection.

In the matter of amendment of Part 90 of the commission's rules to prescribe policies and regulations to govern the interconnection of private land mobile radio systems with the public switched telephone network in the Bands 806–821 and 851–866 MHz; Docket No. 20646.

Released: June 1, 1982.

On April 8, 1982, the Commission released a *Second Report and Order* in the above-captioned proceeding (FCC 82–130, Mimeo No. 31028). Appendix B, § 90.483(b)(2)(ii), in the document as released is in error. As discussed in paragraph 59 of the text, the "alerting signal" mandated by this rule was not intended to apply to systems operating at 800 MHz. However, this exclusionary language was inadvertently left out of the rule section. Accordingly, Appendix B, § 90.483(b)(2)(ii) is amended to conform with the text and reads as follows:

§ 90.483 Permissible methods and requirements of interconnecting private and public systems of communications.

* * * * *

(b) * * *

(2) * * *

(ii) Initial access from points within the public switched telephone network shall be limited to transmission of a 3 second tone, after which time the transmitter shall close down. No additional signals shall be transmitted until acknowledgement from a mobile station of the licensee is received. Systems above 800 MHz are exempt from this requirement.

* * * * *

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 82-16701 Filed 6-18-82; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 90

[PR Docket No. 81-1; RM-3365; FCC 82-216]

Geographic Reallocation of Certain Channels in the Detroit Area to the Business Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final Rule.

SUMMARY: On January 26, 1981, the Commission proposed to make available with other private land mobile radio services on a shared basis, five pairs of frequencies in the 450–470 MHz band for use by eligibles in the Business Radio Service within 35 miles of Detroit. Updated information revealed that these five frequency pairs are not actually available for sharing as originally proposed. Therefore, two itinerant use Business channels, have been redesignated for general use in the Detroit area only.

DATES: Effective July 9, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Arthur King, Private Radio Bureau, Washington, D.C. 20554, Phone (202) 632-6497.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 90

Private land mobile radio services, Industrial radio services, Business and industry.

Memorandum Opinion and Order

Adopted: May 13, 1982.

Released: June 2, 1982.

By the Commission: Commissioner Quello concurring in the result.

In the matter of amendment of § 90.555(b) of the Commission's rules to provide for Geographic Reallocation of certain channels in the Detroit area to the Business Radio Service, PR Docket No. 81-1 RM-3365.

1. On January 26, 1981, the Commission released a Notice of Proposed Rule Making (NPRM) in this proceeding to amend Sections 90.75 and 90.555 of the Commission's Rules (47 CFR 90.75 and 90.555) to make available, on a shared basis with other private land mobile radio services, five pairs of frequencies in the 450–470 MHz band for use by eligibles in the Business Radio Service within 35 miles of Detroit. The Commission also proposed to make available two pairs of frequencies presently assigned on an itinerant basis in the Business Radio Service for regular permanent area base station use in Detroit.

Background

2. Our proposal was in response to a petition filed by the National Association of Business and Educational Radio, Inc. (NABER) for amendment of Part 90 of the Commission's Rules to provide for geographic reallocation from other private land mobile radio services to the Business Radio Service of all channels in the bands 150–174 MHz and 450–470 MHz in the Detroit area which showed both zero-measured use and no licensees authorized to use them. NABER's request for reallocation of frequencies was based on the frequency congestion experienced by Business Radio users in the Detroit area and upon the Commission's 1977 Detroit monitoring study which indicated that there was little, if any, use on 76 frequencies (40 in the 150–174 MHz band and 36 in the 450–470 MHz band) in the Detroit area.[1]

[1] See "Land Mobile Spectrum Utilization Detroit, Michigan," FCC Report No. SSB/SMD 78-01, August 1978, (NTIS No. PB 284623).

3. In our Notice of Proposed Rule Making we stated that a review of our data base then indicated that of the 76 frequencies measured as unoccupied in 1977 only 5 channels currently had no base station assignments within 75 miles of Detroit. These 5 channels, all in the 450–470 MHz band, were described as follows: (a) Three Industrial Pool pairs—451.525/456.525, 451.225/456.225, and 451.675/456.675 MHz; and (b) two pairs shared by the Petroleum and Forest Products Radio Services—451.550/456.550 and 451.700/456.700 MHz. We, therefore, proposed to make those 5 channels available on a shared basis with the Business Radio Service within 35 miles of Detroit. Additionally, we proposed to reassign 2 pairs of unused Business frequencies from itinerant to permanent use, in order to aid in the alleviation of unsatisfied business demand.

Comments

4. Comments and reply comments to this Notice were received from eight (8) parties. A list of the commenters is contained at Appendix A attached hereto. Generally speaking, the NPRM received an unenthusiastic response. The parties objecting to the Commission's proposed rule change did so primarily for three reasons. First, such parties' records of frequency assignments indicated most of the channels had been assigned. Second, they claimed that these frequencies are needed for use by future eligibles in the radio services to which they are now allocated. Third, they maintained the proposed rule change would not result in any significant benefit to the Business Radio Service and would only expand the burden of spectrum shortage from the Business Radio Service to other services. Most of the commenters, however, had no objection to designating the two Business Radio Service itinerant UHF pairs for permanent base station operations in Detroit, except one licensee in the Detroit area who operates a temporary base station and mobile units on one of the pairs under consideration for redesignation. This commenter, Adams Distributing Company, requested that the Commission retain itinerant frequencies for those applications and licensees requiring such temporary utilization. We shall amplify these objections in some detail before we turn to our disposition of this matter.

5. Regarding the availability of the five proposed "unused" channels which the Notice of Proposed Rule Making identified, the Manufacturers Radio Frequency Advisory Committee, Inc. (MRFAC) questioned whether two of the three frequency pairs identified in the Industrial Pool are, in fact, available for assignment, and argued that, if they are, present eligibles for the Industrial Pool frequency pairs should have a reasonable opportunity to utilize these frequencies prior to any sharing with the Business Radio Service. Similarly, the Utilities Telecommunications Council (UTC) and the Central Committee on Telecommunications of the American Petroleum Institute (API) maintained that the Industrial Pool channels and the two channels shared by the Petroleum and Forest Products Radio Services are being utilized to a greater extent than evidenced in the NPRM. UTC states that its records reveal that the frequency pair 451.675/456.675 MHz was coordinated for use by the Department of Water Supply of the City of Detroit for a low-power operation on January 9, 1981, and that an application for that channel was filed with the Commission on January 20, 1981. Thus it says the Petroleum Frequency Coordinating Committee's records indicate that in the Detroit area all of the Industrial Pool UHF pairs, including the three pairs at issue in this proceeding, have now been through interservice coordination. As for the two pairs shared by Petroleum and Forest Products eligibles, API states that a Petroleum Radio Service licensee is utilizing the frequency 456.700 MHz in a mobile only mode; and, consequently, it would appear that the channel 451.550–456.550 MHz is the only UHF assignment in the Detroit metropolitan area described in the NPRM that remains unassigned.

6. In response to these objections, in its reply comments, NABER notes that its intention in this proceeding was to request reallocation of "zero used" channels only. In this regard, however, NABER questions API's position that the frequency 456.700 MHz is utilized in Detroit. NABER says its information is that the Petroleum Radio Service licensee on that frequency is authorized for a mobile system in Detroit but, in fact, operates extensively in Ulna, Michigan, approximately 100 miles from Detroit. NABER, therefore, feels that there should be no objection to utilizing the 451.700/456.700 MHz frequency pair within 35 miles of Detroit.[2]

7. API also asserted that the proposed sharing arrangements would be inconsistent with the Commission's recent action in PR Docket No. 79–167, *Inter-Service Frequency Sharing*, 77 FCC 2d 867 (1980). There, the Commission recognized the future growth requirement in the Manufacturers Radio Service and the rule amendment adopted in that proceeding reserved spectrum in specific geographic regions for future use by eligibles in that service. API contends that the same reasoning should be applied here, and that the instant sharing proposal should not be adopted so that provision can be made for the future growth of the Petroleum Radio Service in Detroit.

8. API's strongest objection to the NPRM, however, was centered around its belief that the proposed sharing would simply expand the burden of spectrum exhaustion in Detroit. The reallocation will not solve the problem of the Business Radio Service, it maintains, and will extend congestion to other radio services because Business Radio Service applicants would exhaust the usefulness of the five UHF pairs within a matter of days. NABER's reply is that notwithstanding the limited benefit which would be derived by implementation of the Commission's proposal, even this small step is urgently needed because of the critical shortage of frequencies for users in the Business Radio Service in Detroit.

Decision

9. We are aware of the scarcity of available frequencies in the Detroit area and that is why we proposed the geographic sharing arrangement in the NPRM. As we stated, our proposal was intended only "to provide a small measure of relief," through making available the only 5 frequency pairs our records at the time indicated were unassigned. Now it appears from our current records and from the records of the coordinator groups that one or possibly two channel pairs are unassigned—451.550/456.550 MHz and 451.700/456.700 MHz.

10. Of even greater importance, however, on the issue of the availability of these frequencies is the reaction of Canadian authorities to their use. As we stated in footnote 8 of the NPRM, international coordination with Canada is required prior to actual use of these frequencies.[3] After release of our NPRM, we communicated with the government of Canada regarding use of the 5 frequency pairs. Canada's response was that harmful interference to existing Canadian stations is anticipated from

[2] Our field office monitored frequencies 451.700/456.700 MHz on January 29, 1982, and February 1, 1982, for eight hours each day and no activity was intercepted.

[3] See Arrangement A of Telecommunication Coordination and Use of Radio Frequencies above 30 Megacycles per Second Agreement between the United States of America and Canada, Revising the Technical Annex to the Agreement of October 24, 1962, signed at Ottawa, June 16 and 24, 1965.

further use of all of these frequencies, except the frequency 456.525 MHz, where no harmful interference is anticipated. Thus, the frequency pairs in the Detroit area that appear to be zero loaded (451.550/456.550 MHz and 451.700/456.700 MHz) would cause harmful interference to Canada; and the one frequency that would not cause harmful interference to Canada (456.525 MHz) is not zero-loaded in Detroit. Further, the frequency 456.700 MHz has been successfully coordinated with Canadian authorities in the past, but only for low power uses. The uses of this frequency intended by the NPRM would, unlike the prior uses, cause harmful interference to Canada.

11. It is clear to us then that none of these five frequency pairs are actually available for sharing as we originally proposed for the reasons discussed above. Therefore, the only remaining frequencies in our proposal are the two itinerant use Business channels (464.500/469.500 and 464.550/469.550 MHz) which we proposed to make available to Business eligibles for regular permanent area base station use in the Detroit area. In consideration of the commenter who is already utilizing one of the frequencies for itinerant purposes, and others who may also want to do so in the future, we have decided to redesignate these two frequency pairs for general use in the Detroit area only, rather than itinerant use, which means that they can be used for either itinerant or permanent area base station use. However, Canada has also indicated that it may not be possible to coordinate these frequencies for use in Detroit.

12. Accordingly, it is hereby ordered, that this proceeding is terminated and that pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, Part 90 of the Commission's rules is amended, effective July 9, 1982 as set forth in the attached Appendix B. It is further ordered that the Secretary shall have this decision printed in the **Federal Register.**

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Comments

Utilities Communications Council
Forest Industries Telecommunications
Central Committee on Telecommunications of the American Petroleum Institute
National Association of Business and Educational Radio, Inc.
Manufacturers Radio Frequency Advisory Committee, Inc.
Adams Distributing Company

Reply Comments

National Association of Business and Educational Radio, Inc.
Central Committee on Telecommunications of the American Petroleum Institute

Appendix B

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

47 CFR, Part 90 is amended as follows:

Section 90.75(c)(3) is amended to read as follows:

§ 90.75 Business Radio Service.

* * * * *

(c) * * *

(3) This frequency will be assigned only to stations used in itinerant operations, provided, however, within 35 miles (56 km.) of Detroit this station may be used for either itinerant or permanent area base station operation (general use).

[FR Doc. 82-16741 Filed 6-18-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 173

[Docket No. HM-176; Amdt. Nos. 173-152]

Specification and Usage Requirements for 3AL Seamless, Aluminum Cylinders; Correction

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects final rule (46 FR 62452, December 24, 1981), correction document (47 FR 13816; April 1, 1982) and correction document (47 FR 20591, May 13, 1982) relating to new aluminum cylinders which are designated DOT Specification 3AL. This action is necessary to correct the erroneous inclusion of exemption numbers E7446 and E7477 in § 173.23(c) and an omission.

EFFECTIVE DATE: July 2, 1982. However, shipments may be prepared, offered for transportation, and transported in accordance with these amendments beginning April 1, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur Mallen, Chief, Technical Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590 (202-755-4906).

SUPPLEMENTARY INFORMATION: This correction is necessary because the seamless aluminum cylinders manufactured under E7446 are low pressure cylinders and are made in accordance with the DOT Specification 3B requirements (49 CFR 178.36) for seamless steel cylinders. Cylinders manufactured under E7477, although high pressure seamless aluminum cylinders, require different openings and threadings from those specified under the DOT 3AL cylinder specification. The inclusion of E7446 and E7477 in § 173.23(c) was made in error. In correction document (47 FR 13816) two packaging specifications, DOT-4BA 225 and DOT-4B 225 were erroneously omitted.

In consideration of the foregoing, the following corrections are made in FR Docket No. 82-8405 appearing at page 13816 in the issue of April 1, 1982.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

1. On page 13817 § 173.23(c), the fourth and fifth lines are corrected to read as follows:

§ 173.23 Previously authorized packaging.

* * * * *

(c) * * * DOT exemption E6498, E7042, E8107, E8364, or E8422, * * * (49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1)

Note.—The Materials Transportation Bureau has determined that this document (a) will not result in a "major rule" under the terms of Executive Order 12291; (b) is not a significant regulation under DOT's regulatory policy and procedures (44 FR 11034); and (c) does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation and an environmental assessment are available for review in the docket.

2. In correction document (47 FR 13816) the following entry appearing at page 13817 is corrected to read as follows:

§ 173.304 [Corrected]

* * * * *

Chloropentafluorethane, (R-115), 110, DOT-3A225; DOT-3AA225; DOT-3B225; DOT-4A225; DOT-4BA225; DOT-4B225; DOT-4BW225; DOT-3E1800; DOT-39; and DOT-3AL225.

* * * * *

Issued in Washington, D.C. on June 11, 1982.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 82-16506 Filed 6-18-82; 8:45 am]

BILLING CODE 4910-60-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1039, 1090, and 1300

[Ex Parte No. 230 (Sub-5)]

Improvement of TOFC/COFC Regulation

AGENCY: Interstate Commerce Commission.

ACTION: Clarification of Final Rule (Exemption).

SUMMARY: At 46 FR 14348, February 27, 1981, the Commission published a rule exempting rail and truck service provided by rail carriers in connection with trailer on flatcar (TOFC) and container on flatcar (COFC) service from the Title 49, Subchapter IV of the U.S. Code, relating to antitrust immunity. This document clarifies that rulemaking in response to a petition filed with the Commission.

EFFECTIVE DATE: August 20, 1982.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr. (202) 275-7656

To purchase copies of the complete decision contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Avenue NW., Washington, D.C. 20423, (202) 289-4357—D.C. Metropolitan Area, (800) 424-5403—toll free for outside D.C. area.

In response to a petition filed by the Association of American Railroads for clarification of the decision served February 19, 1981 in Ex Parte No. 230 (Sub-No. 5), the Commission finds that: (1) Antitrust immunity does not continue for per diem and mileage rates agreements for trailers and containers in intermodal service, Section 5b, Application No. 8, *Railroad Per Diem and Mileage Rates—Agreement*, 357 I.C.C. 394 (1977); (2) antitrust immunity for service and interchange rules does not exist, although remedies may be available; and (3) antitrust immunity for rail flat cars used for intermodal service is retained.

Dated: June 11, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons. Commissioner Andre dissented.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-16739 Filed 6-18-82; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1249

[Docket No. 38776]

Revision of Instruction 2-18 for Railroads—Leased Property Improvements and Retirements

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission is revising Instruction 2-18 of Part 1201 in the Code of Federal Regulations (CFR) to correct accounting inconsistencies in the manner that lessees account for the retirement and replacement of lessor's depreciable property when the lessee is not obligated to reimburse the lessor for the retired property other than through the replacement. The present instruction contradicts the texts of accounts 732 and 772. By eliminating the prescribed credit we would correct this accounting inconsistency.

DATES: This rule is effective January 1, 1983.

ADDRESSES: Copies of this rule may be purchased by contacting: TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, D.C. 20423 (202) 289-4357—D.C. Metropolitan Area; (800) 424-5403—toll free for outside D.C. area.

An original and 10 copies of any comments should also be sent to the above address within 45 days.

FOR FURTHER INFORMATION CONTACT: Wayne Howard (202) 275-7448.

SUPPLEMENTARY INFORMATION:

Instruction 2-18 prescribes the lessee's accounting for the retirement and replacement of lessor's depreciable property when the lessee is not obligated to reimburse the lessor for the retired property other than through the replacement. The instruction provides that the lessee shall (1) charge the replacement cost to account 732, Improvements on leased property, and (2) offset such cost by credit to account 732 for the ledger value of the lessor's retired property. Although not specified in the instruction, the contra debits would generally be recorded in accounts 741, Other assets (for salvage value of lessor's property), and 772, Accrued liability: Leased property (for service value of lessor's property), as appropriate.

The amount the lessee spent for the replacement of the retired property should be included in account 732 because it represents the improvement cost to the lessee, and such accounting conforms with the text of this account. However, the prescribed credit for lessor's ledger value is contrary to the intent of the regulations that account 732 shall include only amounts for lessee's improvements. This credit actually becomes a credit balance in account 732 because the contra debit is recorded in the lessor's property account. The net cost (replacement cost less lessor's ledger value) recorded in account 732 will not agree with the actual replacement expenditure which should be used as the depreciation base. Therefore, the related depreciation accruals could exceed the net amount recorded in account 732.

Account 772 is intended to include amounts for lessee's liability when settlement with the lessor is not made currently. Since the replacement is an interim transaction the lessee should not record any entry in account 772. Account 772 should be charged only upon *final settlement* with the lessor. Upon retirement of lessor's property, the lessee should discontinue the associated depreciation accruals as is done for owned property in harmony with Instruction 4-4(a). When recording final settlement, the lessee should jointly consider the amount recorded in account 772 for lessor's retired property, and the respective amounts recorded in accounts 732 and 733 for the new replacement property.

We are revising Instruction 2-18 to conform with the text of accounts 732, 772 and Instruction 4-4. The revision will generally necessitate adjustments to account 732 by affected carriers to clear any existing credit balances in that account representing the cost of lessor's property which was previously retired and replaced. Such credits shall be transferred to account 772 to reverse the original accounting. The compilation of the information needed to record the adjustments should not be burdensome, because it is readily available from the property records required to be maintained by the carriers.

This rule is procedural in nature and the revision eliminates the inconsistencies currently included in Instruction 2-18. Accordingly, the Commission believes that this revision does not require a rulemaking proceeding pursuant to section 553 of the Administrative Procedure Act (5 U.S.C. 553). However, in keeping with our belief that this rule change can benefit from public scrutiny, we are

requesting that the public study the rule and comment within 45 days, concerning any changes which should be made as well as the purpose of the revision.

If the Commission concludes, after reviewing the comments, that it is necessary to change the rule or that the revision should not be adopted, appropriate action will be taken. Otherwise, the revision proposed in this decision will take effect for the year 1982.

List of Subjects in 49 CFR Part 1201

Railroads, Uniform system of accounts.

Regulatory Flexibility Act:

Pursuant to 5 U.S.C. 605(b), the Secretary of the Commission has certified that this Final Rule will not have significant economic impact on a substantial number of small entities. In this proceeding, we do not propose new reporting requirements; rather we seek to eliminate accounting inconsistencies prescribed in our regulations. Thus, we anticipate no adverse economic impact on small businesses, organizations or other entities.

Accordingly, 49 CFR Part 1201 is revised as set forth in the appendix, effective January 1, 1982.

This decision does not significantly affect the quality of the human environment or the conservation of energy resources.

This rule is issued under the authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: June 14, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons.

Agatha L. Mergenovich,

Secretary.

Appendix

PART 1201—RAILROAD COMPANIES

Amend 49 CFR Part 1201 as follows:

Revise the text of 49 CFR Part 1201, Instruction 2–18 as follows:

2–18 Leased property improvements and retirements.

The cost to lessee of structures, facilities, additions and betterments on leased property and for retirement of property the cost of which is included in account 732 "Improvements on leased property", shall be accounted for in conformity with the principles in the instructions for property owned. When lessor's property is retired and replaced and lessee is not obligated to reimburse the lessor for the retired property other than through the replacement, the lessee shall (1) charge the cost of the replacement to account 732, "Improvements on leased property," (2) discontinue accruing depreciation for lessor's retired property, and (3) when recording final settlement with the lessor, consider jointly the amount accrued in account 772, "Accrued liability; Leased property", for lessor's retired property and the respective amounts for the replacement included in accounts 732, "Improvements on leased property", and 733, "Accumulated depreciation; Improvements on leased property". When lessee is obligated to reimburse the lessor currently or at the termination of the lease for property retired other than through replacement, the lessee shall include the amount of the obligation in the appropriate liability account. The lessee shall furnish the lessor such information as is required to enable the lessor to perform necessary accounting. The accounting by the lessee and the lessor shall be consistent with contractual arrangements.

[FR Doc. 82–16700 Filed 6–18–82; 8:45 am]
BILLING CODE 7035–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 91

Migratory Bird Hunting and Conservation Stamp Contest

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; Notice of contest.

SUMMARY: The Service issues several changes in the annual Migratory Bird Hunting and Conservation Stamp Contest. The changes improve clarity of the contest rules so the public can better comprehend requirements, thereby improving administration of the contest and judging process. A $20.00 entry fee has been determined necessary to recover administrative costs for conducting the contest.

DATES: This rule is effective July 1, 1982. This year's contest will be held on Thursday, November 4, 1982, at 9:00 a.m. Entries will be accepted after July 1 and must be received or postmarked no later than midnight, of October 1, 1982.

ADDRESS: Entries should be addressed to Duck Stamp Contest, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. The 1982 contest will be held in the Department of the Interior Auditorium, 18th and C Streets, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. Peter A. Anastasi, Duck Stamp Contest, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, Telephone: (202) 343–5508.

SUPPLEMENTARY INFORMATION: On April 20, 1982 (47 FR 16810), the Service proposed several changes in the annual Migratory Bird Hunting and Conservation Stamp Contest. The changes were explained section by section in the proposed rule.

Discussion of Comments Received: The Service received three comments on the proposed rule. All three comments supported the changes, addressing primarily the new requirement for an entry fee of $20.00. One of the comments also recommended that contestants be allowed multiple entries for the $20.00 fee. Under current rules, contestants are allowed only one entry each year. The Service has not adopted the recommendation for this year, but will consider such a provision when evaluating the impact of the new entry fee on this year's contest. It should be noted that the $20.00 fee would apply to each entry, not several for each contestant.

Statement of Effects and Certification of Effects on Small Entities: The Department has determined that this is not a major rule under Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities, under the Regulatory Flexibility Act. A discussion of the impacts concerning such determination is contained in a "determination of effects" available from the Service at the address listed above.

Information Collection Requirements: The rule does not contain any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980.

Environmental Effects: This rule would have no significant effect on the quality of the human environment and would not involve unresolved conflicts concerning alternative uses of available resources. Therefore, this action is categorically excluded from further compliance and documentation required by the Environmental Improvement Act of 1970 as amended (42 U.S.C. 4371 et seq.).

Announcement of the 1982 Contest: This year's contest will be held on Thursday, November 4, 1982, beginning at 9 a.m., in the Department of the Interior Auditorium, 18th and C Streets, N.W., Washington, D.C. If the number of entries warrants, preliminary screening will be held the preceding day.

Ineligible Species: By operation of 50 CFR 91.14, the following species will not qualify as the dominant feature for the 1982 "Duck Stamp Contest" because

they have been used within the past 5 years: hooded merganser, green-winged teal, mallard, ruddy duck, and canvasback.

Authorship: The primary author of this rule is Peter A. Anastasi, Duck Stamp Contest, Office of Public Affairs.

Effective Date: It has been determined that delaying the effective date of these rules for 30 days from publication would be impracticable, unnecessary, and contrary to the public interest. An effective date which post-dates the commencement of the period for submitting entries (July 1, 1982) would unnecessarily confuse the public as to the applicability of amended rules to early entries. The rule changes were not controversial and a 30-day delay would not advance the interest of the public; which is to have certainty in applicable regulatory requirements at the earliest possible date, so that designs need not be redone to conform to the criteria for eligibility which will govern this year's contest. Therefore, the effective date of this rulemaking will be July 1, 1982.

List of Subjects in 50 CFR Part 91

Wildlife.

PART 91—MIGRATORY BIRD HUNTING AND CONSERVATION STAMP CONTEST

Regulations Promulgation.

Accordingly, the Service amends 50 CFR Part 91 as shown below.

1. Amend the authority citation for Part 91 to read as follows:

Authority: 5 U.S.C. 301, 31 U.S.C. 483a

2. Revise § 91.2 in its entirety to read as follows:

§ 91.2 Definitions.

For the purpose of this part, the following terms shall be construed, respectively, to mean and to include:

"Contest Coordinator" means the contest official responsible for facilitating the judging process and tabulating the Judges' scores for each entry advanced into preliminary or final consideration. The contest coordinator will be named by the Secretary and will not be a past or present employee of the Fish and Wildlife Service.

"Qualifying entry" means each drawing or original work submitted in the contest which satisfies the technical requirements of design and submission procedures, as outlined in Subpart B of this part.

"Reproduction rights agreement" means the agreement that each contestant must sign and submit which certifies the originality of the entry and acknowledges the entrant's acceptance of the terms and conditions governing the right of the Fish and Wildlife Service to use and reproduce the winning design for the purpose set forth in the agreement.

3. Revise § 91.11 in its entirety to read as follows:

§ 91.11 Contest deadlines.

(a) The contest to select the design for the annual Federal Migratory Bird Hunting and Conservation Stamp will officially open on July 1 of each year.

(b) All persons intending to submit an entry in the contest may request a copy of the contest's regulations and Reproduction Rights Agreement by writing to "Migratory Bird Hunting and Conservation Stamp Contest," Fish and Wildlife Service, United States Department of the Interior, Washington, D.C. 20240. Entries accompanied by the non-refundable remittance required by § 91.12 may be received any time after July 1, but must be received or postmarked no later than midnight of October 1.

4. A new sentence has been added to § 91.12 to read as follows:

§ 91.12 Contest eligibility.

* * * * *

To be eligible, all entrants must submit a non-refundable fee of $20.00. Checks and money orders should be made payable to the Fish and Wildlife Service.

5. Revise § 91.13 in its entirety to read as follows:

§ 91.13 Technical requirements for design and submission of entry.

The design must be a horizontal drawing or painting five inches high and seven inches wide. Each entry may be drawn in any medium desired by the contestant and may be in either multicolor or black and white. No scroll work, lettering, signature, or initials may appear on the design. Each entry must be matted, (over or under) with an eight inch by ten inch mat (color optional) and protected by a covering of acetate or cellophane. Entries must not be framed or under glass.

6. Revise the first sentence of § 91.14 to read as follows:

§ 91.14 Restrictions of subject matter of entry.

A portrayal of live, non-extinct North American migratory ducks, geese, or swans (Family Anatidae) must be the dominant feature of the design.

* * * * *

7. Revise § 91.16 in its entirety to read as follows:

§ 91.16 Submission procedures for entry.

(a) Contestants may submit only one entry. Each entry must be accompanied by a non-refundable entrance fee and a completed Reproduction Rights Agreement. The lower detachable portion of the contestant's Reproduction Rights Agreement must be completed and attached to the back of the entry.

(b) Each contestant must sign and clearly print his or her name, and submit the top portion of the Reproduction Rights Agreement.

(c) Each entry should be protectively wrapped and mailed first class registered to: "Migratory Bird Conservation Stamp Contest," Fish and Wildlife Service, United States Department of the Interior, Washington, D.C. 20240.

8. Revise § 91.21 in its entirety to read as follows:

§ 91.21 Section and qualification of contest Judges.

Five Judges will be selected annually by the Secretary. The Judges will be recognized experts in the fields of ornithology, conservation, and/or art, to include waterfowling. Current employees of the Fish and Wildlife Service and their relatives are ineligible to serve as Judges for the contest. The Judges selected by the Secretary will serve without compensation, except for reasonable travel expenses. Identification of the members of the judging panel will be announced on the date that the judging takes place.

9. Revise § 91.31 in its entirety to read as follows:

§ 91.31 Return of entries after contest.

All entries will be returned by certified mail to the participating artists within 90 days of completion of the contest.

Dated: June 4, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-16550 Filed 6-18-82; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 47, No. 119
Monday, June 21, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

Cotton Testing and Standards, Revision of Fees

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service is proposing to revise the schedule of fees for performing cotton fiber and processing tests and for cotton standards. These actions would be taken in order to reflect increased costs of providing testing services and preparing standards.

DATE: Comments must be received on or before September 1, 1982.

ADDRESS: Written comments to: Harvin R. Smith, Chief, Standards and Testing Branch, Cotton Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Harvin R. Smith, Chief, Standards and Testing Branch, Cotton Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202/447-2167).

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under the USDA procedures established in accordance with Executive Order 12291 and has been classified "nonmajor" since the proposed increases in fees are minimal and do not meet the criteria for a "major rule" listed in the Executive Order. William T. Manley, Deputy Administrator, Marketing Program Operations, has determined that this action would not have a significant impact on a substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601) because the fees proposed in this document are not new but merely reflect a minimal increase in the costs currently borne by those entities which elect to utilize certain cotton testing services.

Background

Cotton testing services are provided by a USDA Laboratory in Clemson, S.C., under the authority of the Cotton Statistics and Estimates Act of 1927 (7 U.S.C. 471-476). The tests are available, upon request, to private sources on a fee basis. The Cotton Service Testing Amendment (7 U.S.C. 473d) specifies that the fees for the services are to cover the costs of rendering the services.

Cotton standards are prepared and sold by the Cotton Division offices in Memphis, TN, under the authority of the United States Cotton Standards Act (7 U.S.C. 55). The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) directs that the price for standards will cover, as nearly as practicable, the costs of providing the standards.

Options Analysis

During the Regulatory review process undergone in compliance with E.O. 12291 (46 FR 30073, June 5, 1981) it was determined that the cotton fiber and processing tests involved were being "provided at an optimal level for the industry and the government." It was further determined that any reduction in the level of services provided would "be detrimental to the cotton industry and against the mandates of other programs." The option of reducing services was therefore not recommended as a viable one, while the choice of maintaining service at an optimal level, adjusting the fee to stay in line with actual costs, were recommended. The impact on the industry would be minimal.

The manufacture and provision of cotton standards are essential to the orderly marketing of cotton. Without standards cotton cannot be uniformly classed. Further, the provision of standards is benficial to the U.S. export of cotton through the Universal Cotton Standards Agreement. Therefore, any reduction in the level of services provided would be detrimental to the cotton industry and the positive U.S. agricultural trade balance. The proposed fee increases are not for the standards but for the shipping costs involved.

Fees

During FY 1981, 21,423 cotton fiber and processing tests have been performed for private sources. Since the last fee review, the operating costs involved in providing these tests have increased based on (1) labor costs, up 4.8 percent, (2) cost of supplies, up some 25 percent, (3) utility costs, up some 30 percent, and (4) changes in the mix of tests requested as a reflection of technological changes in the textile industry. The fees have been realigned so that the actual costs of providing each test will be accurately reflected by the fee charged for that test.

Since the last review of the fees charged for practical forms of Universal Cotton Standards the costs involved with the shipping of these standards to overseas clients have exceeded the shipping component of the fee charged. As a result, the fee charged for surface delivered standards needs to be increased. There is no need to increase "FOB Memphis" fees.

The proposal of the Department is to increase the fees listed in § 28.123, cotton fiber and processing tests, and § 28.956 practical forms of standards, so as to cover increased costs.

In addition, the Department is proposing to add a chemical finishing test to the list of fiber and processing tests contained in § 28.956 of the cotton classing, testing, and standards regulations (7 CFR Part 28).

List of Subjects in 7 CFR Part 28

Cotton, grades, samples, standards, testing.

PART 28—COTTON CLASSING, TESTING, AND STANDARDS

1. The authority citation for Parts 28, Subparts A and E reads as follows:

Authority: 42 Stat. 1519, 50 Stat. 62, as amended (7 U.S.C. 61, 7 U.S.C. 473).

Accordingly, it is proposed to amend the cotton classing, testing and standards regulations as follows:

2. Section 28.123 (7 CFR 28.123) would be revised to read as follows:

§ 28.123 Costs of practical form of cotton standards.

The costs of practical forms of the cotton standards of the United States shall be as follows:

Standards	Domestic shipments F.O.B. Memphis, Tenn. (dollars each box)	Shipments delivered outside the continental United States (dollars each box)
GRADE STANDARDS		
American Upland:		
12-sample official boxes (Universal Standards)	$150	$180
6-sample guide boxes	80	105
American Pima:		
6-sample guide boxes	110	135
STANDARDS FOR LENGTH OF STAPLE		
American Upland (prepared in one pounds rolls for each length)	11	14
American Pima (prepared in one pound rolls for each length)	13	15

3. Section 28.956 (7 CFR 28.956) would be revised to read as follows:

§ 28.956 Prescribed fees.

Fees for fiber and processing tests shall be assessed as listed below:

Item No. and kind of test	Fee per test
1.0 Furnishing USDA calibration cotton in the short, medium, long and extra long staple lengths, including standard values for length by both array and Fibrograph methods, strength by flat bundle method at ⅛-inch gauge, and maturity and fineness by the Causticaire methods:	
a. By surface delivery, 1-lb. sample	$17.00
b. By air delivery within the U.S., 1-lb. sample	20.00
c. By air deliver outside the U.S., 1-lb sample	24.00
2.0 Furnishing international calibration cotton standards with standard values for micronaire reading and Pressley fiber strength and Fibrograph length:	
a. By surface delivery, ½-lb. sample	12.00
b. By air delivery within U.S., ½-lb sample	14.00
c. By air delivery outside the U.S., ½-lb. sample	18.00
3.0 Fiber length array of cotton samples. Reporting the average percentage of fibers by weight in each ½-inch group, average length, and average length variability as based on 3 specimens from a blended sample:	
a. Ginned cotton lint, per sample	50.00
b. Cotton comber nolls, per sample	75.00
c. Other cotton wastes, per sample	90.00
3.1 Fiber length array of cotton samples. Reporting the average percentage of fibers by weight in each ½-inch group, average length, and average length variability as based on 2 specimens from a blended sample:	
a. Ginned cotton lint, per sample	45.00
b. Cotton comber nolls, per sample	60.00
c. Other cotton wastes, per sample	75.00
3.2 Fiber array of cotton samples, including purified or absorbent cotton. Reporting the average percentage of fibers ½-inch and longer by weight, the average of fibers shorter than ½-inch by weight, average length, and average, length variability as based on 3 specimens from each samples, per sample	80.00
4.0 Fiber length of ginned cotton lint by Fibrograph method. Reporting the average length and average length uniformity as based on 4 specimens from a blended sampled, per sample	7.00
Minimum fee unless performed in connection with other tests requiring a blended specimen	14.00
4.1 Fiber length of ginnned cotton lint by Fibrograph method. Reporting the average length and average length uniformity as based on 2 specimens from each unblended sample, per sample	4.50
Minimum fee	9.00
5.0 Pressley strength of ginned cotton lint by flat bundle method for either zero or ⅛-inch gage as specified by applicant. Reporting the average strength as based on 6 specimens from a blended sample, per sample	7.50
Minimum fee unless performed in connection with other tests requiring a blended sample	15.00
5.1 Pressley strength of ginned cotton lint by flat bundle method for either zero or ⅛-inch gage as specified by applicant. Reporting the strength as based on 2 specimens for each unblended sample, per sample	4.50
Minimum fee	9.00
5.2 Stelometer strength and elongation of ginned cotton lint by the flat bundle method for ⅛-inch gage. Reporting the average strength and elongation as based on 6 specimens from a blended sample, per sample	7.50
Minimum fee unless performed in connection with other tests requiring blended sample	15.00
5.3 Stelometer strength and elongation of ginned cotton lint by the flat bundle method for ⅛-inch gage. Reporting the strength and elongation as based on 2 specimens from each unblended sample, per sample	4.50
Minimum fee	9.00
6.0 Fiber maturity and fineness of ginned cotton lint by the Causticaire method. Reporting the average maturity, fineness, and micronaire reading as based on 2 specimens from a blended sample, per sample	8.00
Minimum fee	40.00
7.0 Micronaire readings on ginned lint. Reporting the micronaire reading as based on 2 specimens from each sample, per sample	.40
Minimum fee	4.00
8.0 Neps content of ginned cotton lint. Reporting the neps per 100 square inches as based on the web prepared from a 3-gram specimen by using accessory equipment with the mechanical fiber blender per sample	12.00
9.0 Cotton carded yarn spinning test. Reporting data on waste extracted, yarn skein strength, yarn appearance, yarn neps and classification and fiber length as well as comments summarizing any unusual observations as based on the processing of 6 pounds of cotton in accordance with standard laboratory procedures at one of the standard rates of carding of 6-½, 9-½, or 12-½ pounds-per-hour into two of the standard carded yarn number of 8s, 14s 22s, 36s, 44s, or 50s, employing a standard twist multiplier ulees otherwise specified, per sample	100.00
9.1 Cotton carded yarn spinning test (open-end) for short staple (31/32nd inches and shorter) cottons. Reporting data on waste extracted, yarn skein strength, yarn appearance, yarn neps, and classification and fiber length as well as comments summarizing any unusual observations as based on the processing of 6 pounds of cotton in accordance with standard laboratory procedures at a carding rate of 12-½ pounds-per-hour into 8s yarn using a sliver weight of 60 grains per yard; a rotor speed of 45,000 RPM; and opening roll speed of 7,200 RPM; a twist multiple of 4.5; and a rotor diameter of 46 millimeters	75.00
10.0 Spinning potentials test. Determining the finest yarn which can be spun with no ends down and reporting spinning potential yard number. This test requires an additional 4 pounds of cotton, per sample	80.00
11.0 Cotton combed yarn spinning test. Reporting data on waste extracted, yarn skein strength, yarn appearance, yarn neps, and classification and fiber length as well as comments summarizing any unusual observations as based on the processing of 6 pounds of cotton in accordance with standard procedures at one of the standard rates of carding of 4-½, or 6-½ or 9-½ pounds-per hour into two of the standard combed yarn numbers of 22s, 36s, 44s, 50s, 60s, 80s, or 100s employing a standard twist multiplier unless otherwise specified, per sample	125.00
12.0 Cotton carded and combed yarn spinning test. Reporting the results as based on the processing of 10 pounds of cotton into two of the standard carded and two of the standard combed yarn numbers employing the same carding rate and the same yarn numbers for both the carded and the combed yarns, per sample	175.00
13.0 Cotton carded and combed yarn spinning test. Reporting the results as based on the processing of 9 pounds of cotton into two of the standard combed yarn numbers employing different carding rates and/or yarn numbers for the carded and combed yarns, per sample	195.00
14.0 Two-pound cotton carded yarn spinning test available to cotton breeders only. Reporting data on yarn skein strength, yarn appearance, yarn neps and the classification and the fiber length of the cotton as well as comments on any unusual processing performance as based on the processing of 2 pounds of cotton in accordance with standard procedures into two standards carded yarn numbers employing a standard twist multiplier, per sample	75.00
15.0 Processing and testing of additional yarn. Any carded or combed yarn number processed in connection with spinning tests including either additional yarn numbers or additional twist multipliers employed on the same yarn numbers, per additional lot of yarn	25.00
15.1 Processing and furnishing of additional yarn: Any yarn number processed in connection with spinning tests. Approximately 300 yards on each of 16 paper tubes for testing by the applicant, per additional lot of yarn	35.00
16.0 Twist in yarns by direct-counting methods. Reporting direction of twist and average turns per inch of yarn:	
a. Single yarns based on 40 specimens per lot of yarn	70.00
b. Plied or cabled yarns based on 10 specimens, per lot of yarn	18.50
17.0 Skein strength of yarn. Reporting data on the strength and the yarn numbers based on 25 skeins from yarn furnished by the applicant, per sample	10.00
17.1 Appearance grade of yarn furnished on bobbins by applicant. Reporting the appearance grade in accordance with ASTM standards as based on yarn wound from one bobbin, per bobbin	4.00
17.2 Furnishing yarn wound on boards in connection with yarn appearance tests, per yarn number	5.00
18.0 Strength of cotton fabric. Reporting the average warp and filling strength by the grab method as based on 5 breaks for both wrap and filling of fabric furnished by the applicant, per sample	15.00
18.1 Cotton fabric analysis. Reporting data on the number of wrap and filling threads per inch and weight per yard of fabric as based on at least three (3) 6 x 6-inch specimens of fabric which were processed or furnished by the applicant, per sample	25.00
19.0 Color of ginned cotton lint. Reporting data on the reflectance in terms of Rd values and the degree of yellowness in terms of b values as based on the Nickerson-Hunter Cotton Colorimeter on samples which measure 5 x 6-½ inches and weigh approximately 50 grams per sample	.60
Minimum fee	6.00
20.0 Furnishing color standards, including a set of standard tiles and a master diagram for use in calibrating Nickerson-Hunter Cotton Colorimeters, per set	90.00
20.1 Furnishing replacement calibration tiles for above sets, each tile	10.00
20.2 Furnishing a Colorimeter calibration sample box containing 6 cotton samples with color values Rd and +b plotted on a color diagram based on the Nickerson-Hunter Cotton Colorimeter, per box	18.00
20.3 Furnishing new Colorimeter readings on samples in calibration boxes returned for check readings, per 6-sample box	5.00
21.0 Furnishing copies of test data worksheets. Includes individual observations and calculations which are not routinely furnished to the applicant, per sheet	2.00
22.0 Foreign matter content of cotton samples. Reporting data on the non-lint content as base on the Shirley-Analyzer separation of lint and foreign matter:	
a. For samples of ginned lint or comber nolls, per 100-gram specimen	5.00
Minimum fee	12.00
b. For samples of ginning and processing wastes other than comber nolls, per 100-gram specimen	11.00
Minimum fee	22.00

Item No. and kind of test	Fee per test
23.0 Furnishing identified cotton samples. Includes samples of ginned lint stock at any stage of processing or testing, waste of any type, yarn or fabric selected and identified in connection with fiber and/or spinning tests, per identified sample	2.50
24.0 Furnishing additional copies of test reports. Includes extra copies in addition to the 2 copies routinely furnished in connection with each test item, per additional sheet	.75
24.1 Furnishing a certified retesting of test results. Includes samples or sub-samples selected from any previous tests, per sheet	10.00
25.0 High Volume Instrument (HVI) Measurements. Reporting micronaire, length (UHM), length uniformity, ½-inch gauge strength, color and trash content. Based on a 6 oz. (170 g) sample, per sample	1.30
Minimum fee	13.00
26.0 Calibration cotton for use with High Volume Instruments, per 5 pound package	75.00
27.0 Sugar content of cotton. Reporting the percent sugar content as based on a quantitative analysis of reducing substances (sugars) on cotton fibers, per sample	4.00
Minimum fee	20.00
28.0 Classification of ginned cotton lint is available in connection with other fiber tests under the provisions of 7 CFR 28, § 28.56, at the fees prescribed by 7 CFR 28, § 28.116. Classification includes grade, staple, and micronaire reading based on a 6 oz (170 g) sample	
29.0 Chemical finishing tests on finished dressing sliver. The Atlas Texomat Dyer is used for scouring, bleaching and dyeing of a 3-gram sample. Color measurements are made on the unfinished, bleached and dyed cotton samples, using a Hunterlab Colorimeter, Model 25 M-3. The color values are reported in terms of reflectance (RD), yellowness (+b) and blueness (−b)	10.00
Minimum fee	30.00

* * * * *

Dated: June 16, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-16788 Filed 6-18-82; 8:45 am]

BILLING CODE 3410-02-M

Food and Nutrition Service

7 CFR Parts 272, 273, and 276

Food Stamp Program; Disqualification Penalties for Fraud and Misrepresentation, and Improved Recovery of Overpayments

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rulemaking.

SUMMARY: This rule contains proposed regulations for the Food Stamp Program to implement certain provisions of Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981, enacted on August 13, 1981. These provisions are aimed at deterring Food Stamp Program abuse, and improving recovery of overpayments. This rulemaking also proposes related changes based on recommendations and requests for clarification received from State agencies.

DATE: Comments on this proposed rulemaking must be received on or before August 20, 1982 to be assured of consideration.

ADDRESS: Comments should be submitted to Thomas O'Connor, Supervisor, Policy and Regulations Section, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia, 22302. All written comments will be open to public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday), at 3101 Park Center Drive, Alexandria, Virginia, Room 708.

FOR FURTHER INFORMATION CONTACT: Questions regarding this proposed rulemaking should be directed to Mr. O'Connor at the above address or by telephone at (703) 756–3429.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512–1, and has been classified "not major". The proposed rule will not have an annual effect on the economy of $100 million or more, nor is it likely to result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions. Because this proposed rule would not affect the business community, it would not result in significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rule has also been reviewed with regard to the requirements of Pub. L. 96–354, and the administrator of the Food and Nutrition Service has certified that the proposal does not have a significant economic impact on a substantial number of small entities. The proposal would implement those provisions of Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981, aimed at deterring Food Stamp Program abuse and improving recovery of overpayments. State and local welfare agencies would be affected to the extent that they administer the Program. Those most affected would be individuals participating in the Program who are found to have committed intentional misrepresentation or fraud, and households which received an overissuance.

Note.—In accordance with the Paperwork Reduction Act of 1980, (44 U.S.C. 3507), the reporting and recordkeeping provisions that are included in this proposed rule will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained.

Background

The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35, enacted on August 13, 1981) amended the Food Stamp Act of 1977 in numerous ways. This rulemaking contains proposed regulations implementing the provisions of the Reconciliation Act relating to the disqualification penalties for misrepresentation or fraud, and the improved recovery of overpayments. The Department issued interim final regulations on September 4, 1981 (at 46 FR 4471) implementing those provisions of the Reconciliation Act aimed at restraining the growth of the Food Stamp Program. Other provisions of the Reconciliation Act, those regarding a mandatory monthly reporting and retrospective accounting system, and a block grant program in the Commonwealth of Puerto Rico, are being addressed in separate rules.

This proposed rulemaking would implement the following provisions of the Reconciliation Act relating to the disqualification penalties for misrepresentation or fraud. First, the basis for disqualification is expanded by adding to the "fraud" offense the intentional making of false or misleading statements, misrepresentations, or the concealment or withholding of facts, as well as the commission of any act that constitutes a violation of any State food stamp statute. Second, the distinction in disqualification periods which may be imposed as a result of administrative hearings or court decisions is eliminated. Mandatory disqualification periods of 6 months for the first offense, 12 months for the second, and permanently for the third offense would be imposed against any individual found to have committed intentional misrepresentation or fraud, regardless of whether the determination was arrived at administratively or through a court of law. Third, State agencies are prohibited from increasing the benefits to the household of a disqualified person because of the disqualification. And fourth, the Department is required to promulgated regulations to ensure that information concerning disqualified individuals is forwarded to the Department.

This proposed rulemaking would also implement several statutory changes with regard to the improved recovery of overpayments. First, the provisions relating to repayment of fraudulent overissuances are expanded to include overissuances which occurred as a

result of intentional misrepresentation. Second, the household of the disqualified individual, rather than the household member guilty of intentional misrepresentation or fraud, is held responsible for repaying the resultant overissuance and must agree to repayment in cash or to a reduction in its allotment. Third, State agencies are required to collect overissuances from those persons still participating in the Program by reducing future allotments in cases not the result of fraud, misrepresentation, or State agency error. Fourth, the amount by which State agencies can reduce the household's monthly allotment in the collection of overissuances not the result of fraud, misrepresentation, or State agency error is limited to 10 percent of the allotment or $10 per month, whichever would result in faster collection. And fifth, State agencies are allowed to retain 50 percent of the value of intentional misrepresentation claims collections and 25 percent of the value of the collection of claims not the result of fraud, misrepresentation, or State agency error.

I. Disqualification Penalties for Fraud and Misrepresentation

1. Income of Disqualified Persons

Under current Food Stamp Program regulations, the resources of a disqualified member continue to be counted in their entirety as available to the household, and the income of the disqualified member is counted after a pro rata share (for the disqualified member) has been taken out. This policy has resulted in certain households receiving increased benefits when a household member is disqualified because the income which is not counted as available to the household may be substantial. The Omnibus Budget Reconciliation Act of 1981, however, prohibits any increase in benefits to the household of a person disqualified for intentional misrepresentation or fraud because of the disqualification. And, Congress has recommended that in addition to the existing regulatory language attempting to prohibited increases in household benefits due to the disqualification of a member for intentional misrepresentation or fraud, the Department should ". . . seriously consider attributing all of the income of the disqualified member to the household (with no pro rata share reduction), during the disqualification period." See S. Rep. No. 97-128, 97th Cong., 1st Sess., p. 57 (1981).

The Department considered two possible methods of preventing any participating household from receiving increased benefits when a member of the household has been disqualified for intentional misrepresentation or fraud. The first alternative considered was to count all of the disqualified member's income as available to the household, and to apply a penalty deduction to the household's allotment, such as a pro-rata or flat percentage reduction for the disqualified member(s). The second alternative considered was to count all of the disqualified member's income as available to the household, but to exclude the disqualified member(s) when determining the household's size for assigning a benefit level to the household, or for comparing the household's monthly income with the income eligibility standards.

The proposed regulations would incorporate the second alternative, which counts all of the disqualified member's income but excludes the disqualified member when determining the household's size. The household's size would be reduced according to the number of persons disqualified, and the household's eligibility and allotment level would be determined by applying that adjusted size and the household's income figures to the appropriate tables. For example, if the allotment of a four person household with a gross monthly income of $725 and a net monthly income of $478 was $90 per month, the disqualification of one person would result in a monthly allotment of $40 for the remaining household members. The disqualification of two persons from that same household would result in ineligibility for the two remaining household members.

Although both of the alternatives considered would effectively prevent any household from receiving increased benefits because of the disqualification of a household member, the Department believes that the proposed method is the most likely to deter future Program abuse. Since the household's size is reduced according to the number of disqualified members while all of the disqualified members' income is counted as available to the remaining household members, this method imposes a fairer penalty than the other possible alternatives considered. It is also the method which provides a more logical approach to the problem of ensuring that the household's benefit level is adjusted to reflect the disqualification of one or more household members. Since a recalculation of the household's monthly budget is needed, in most cases, to reflect the fraudulent activity which led to the disqualification, such as a household's failure to report a change in income, this method should not impose a burden on State agencies. And, the adoption of a method which involves the use of current procedures, rather than the introduction of a new procedure, would avoid increasing the administrative complexity of the Program. (See 7 CFR 273.11(c)).

2. Basis for Disqualification

In the current Food Stamp Program, an individual found to have committed fraud through an administrative hearing or by a court of appropriate jurisdiction is disqualified from Program participation for a specified period of time. The Food Stamp Program's regulations provide a definition of fraud to assist State agencies in determining through an administrative hearing whether or not fraud was committed. This definition identifies fraud as the commission of any action by an individual to knowingly, willfully and with deceitful intent obtain benefits to which the household is entitled. And, specifically mentioned as fraudulent actions under the definition are: making a false statement, concealing information, altering an ATP, using coupons to buy expensive or conspicuous nonfood items, using or possessing improperly obtained coupons or ATPs, or trading or selling coupons or ATPs.

The Omnibus Budget Reconciliation Act of 1981 expands the basis for "fraud" disqualifications in two ways. First, intentionally making false or misleading statements, or misrepresenting, concealing or withholding facts is added as a distinct category of offense for which an individual can be disqualified. Second, the commission of any act that constitutes a violation of any State statute relating to the use of food stamps is added to the Food Stamp Act's existing category of offenses involving fraudulent actions.

The proposed rule would incorporate these statutory changes in the basis for disqualification by revising the current definition of fraud and adopting an additional definition of misrepresentation. The proposed rule would also replace the word "fraud" with "misrepresentation of fraud" wherever it occurs in the Program's fraud disqualification regulations at 7 CFR 273.16. Congress expanded the basis for disqualification in order to encourage the use of administrative fraud hearings, rather than prosecution by a court of law, for determining whether or not Program abuse has occurred. State agencies have been reluctant to pursue administrative fraud hearings in the past because they view

findings of fraud to be under the jurisdiction of the legal system. The additional category of misrepresentation should encourage State agencies to pursue more cases of suspected Program abuse through administrative hearings because they would no longer have to prove fraud per se, but only intentional misrepresentation by the household. (See 7 CFR 273.16 (c) and (d)).

3. Disqualification Penalties

Current regulations mandate disqualification periods of three months for persons found to have committed fraud through an administrative hearing, and six to 24 months for persons found to have committed fraud by a court of appropriate jurisdiction. The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) eliminates the distinction in disqualification periods between determinations of fraud arrived at through administrative hearings and court decisions, and increases the penalties for those found to have abused the Program. Section 112 of Pub. L. 97–35 amends section 6(b) of the Food Stamp Act of 1977 to require that any individual found to have committed fraud or misrepresentation in connection with the Food Stamp Program would be disqualified for six months for the first violation, 12 months for the second violation, and permanently for the third violation. The proposed rulemaking would, therefore, incorporate these statutory changes into the regulations governing the Food Stamp Program. (See 7 CFR 273.16(b)).

4. Pursuit of Individual Cases

When the Department issued final regulations implementing certain segments of the 1980 Amendments to the Food Stamp Act of 1977 (Pub. L. 96–249) at 47 FR 17756, it decided to delay implementation of some previously proposed changes relating to claims processing. Action was delayed on these proposed changes to provide the Department an opportunity to reevaluate the issues involved in light of more recent legislation, the Omnibus Budget Reconciliation Act of 1981. One of these changes would have increased from $35 to $100 the level of alleged fraud cases which State agencies are required to handle through the fraud hearing system.

The proposed rulemaking would leave it to the State agency's discretion whether or not to pursue an individual case of alleged intentional misrepresentation or fraud. The Department has found that there exists differing State agency attitudes toward the handling of alleged Program violations and the merits of increasing the level for pursuit of such cases. In addition, there are a variety of factors that need to be considered when deciding whether to pursue an individual case, such as the amount involved, the quality of evidence available, and the cost of pursuing the case. Therefore, the Department has determined that it would be more appropriate for a State agency to decide whether to pursue cases of intentional misrepresentation or fraud on a case-by-case basis. (See 7 CFR 273.16(f)(1)).

5. Disqualification Hearings

The proposed rule would rename the administrative "fraud" hearing as an administrative "disqualification" hearing, and reorganize the provisions governing the conduct of such hearings. The change in name to disqualification hearings is necessary in order to clarify that these hearings would be the administrative mechanism for arriving at a determination that intentional misrepresentation has occurred as well as for their present use in determining if fraud has been committeed. The provisions governing the conduct of these administrative hearings have been slightly reorganzied to locate all of the procedures relating to local level hearings at the end of the section rather than scattered throughout. The purpose of this reorganization is to simplify this section of the regulations for the majority of State agencies which provide administrative hearings only at the State level.

The Department is proposing to eliminate the FNS-designed forms for notification of a local level hearing decision and advance notice of a scheduled State level hearing for appeal of a local level decision. These forms would be eliminated because the Department believes that the small number of State agencies (two) which provide administrative fraud hearings at the local level does not warrant the provision of model forms.

The Department is also proposing to provide State agencies the option of using the FNS-designed forms for advance notice of a scheduled State level hearing and notification of a State level hearing decision. State agencies are currently required to utilize the Form FNS–396, Advance Notice of Fraud Hearing, to provide notice of a scheduled State level hearing to the household member suspected of fraud. The Form FNS–394, Action Taken on Your Fraud Hearing (Notice of State Fraud Hearing Decision) is used to notify the household member of the hearing decision if the State level administrative fraud hearing finds that the household member committed fraud. The use of these forms is being made optional because the Department believes that State agencies should have the flexibility to develop forms which meet their needs. The State agency would develop its own set of forms based on the notification requirements for State level hearings contained in the Program's regulations. FNS would continue to provide model forms which the State agency could choose to use or modify to suit its particular needs. However, the State agency would no longer need to obtain FNS approval to modify these FNS-designed forms. (See 7 CFR 273.16(f)(2)).

6. Waiver of Right to Disqualification Hearing

A determination that fraud was committed, arrived at through an administrative fraud hearing or by a court of appropriate jurisdiction, is currently required before a State agency can disqualify an individual suspected of Program abuse. One State agency has requested that the Department consider shortening the disqualification process for those cases of suspected Program abuse which prosecutors have declined to prosecute or which the State agency determines do not warrant referral for prosecution, and which involve individuals who are willing to admit that they committed the act of which they are accused. Existing Food Stamp Program regulations at 7 CFR 273.16(d)(4) require that an administrative disqualification hearing be held even if the household member or its representative cannot be located or fails to appear at the hearing without good cause. The Department has decided that adoption of a procedure whereby an accused individual who admits the alleged abuse could waive his/her right to an administrative disqualification hearing would result in a more efficient disqualification hearing system.

The Department proposes to provide State agencies the option of allowing accused individuals to waive their right to administrative disqualification hearings. This option is intended to provide a mechanism which would be used on a State-wide basis and which would supplement, rather than substitute for, existing administrative disqualification hearing systems. State agencies which provide administrative disqualification hearings only at the State level would be limited to use of this option at that level. Those State agencies which provide a local disqualification hearing in some or all of their project areas with a right to appeal to a State level hearing would be

allowed to utilize this option in the same project areas. An individual determined to have committed intentional misrepresentation or fraud and who has waived his/her right to an administrative disqualification hearing would not be allowed to appeal the disqualification subsequently imposed through either an administrative disqualification hearing or a fair hearing.

The household member suspected of intentional misrepresentation or fraud would be provided written notification of the possibility to waive his/her right to an administrative disqualification hearing. This notification would be included in the advance notice of a hearing which is provided to the accused individual. The State agency would also provide the household member with written notification of the mechanism for waiving his/her right to an administrative disqualification hearing at the same time. This notification would include the date by which the signed waiver must be received, a statement that the hearing will be conducted on the scheduled date unless the signed waiver is received by the specified date, that waiver of hearing would result in automatic disqualification and reduction of the household's allotment for the disqualification period, and a signature block for the accused individual. In order to provide the remaining household members some degree of protection in those cases where the accused individual is not the head of household, the notice would also include a signature block for the head of household and require his/her signature. Although an accused individual's waiver of his/her right to an administrative disqualification hearing can be construed as an admission of the facts as presented by the State agency, this need not be the case. Therefore, the proposed regulations contain suggested language for State agencies to include in the notice so that such individuals could waive the hearing without admitting to a State agency's specific allegations. In addition, the household member would be informed of the name and phone number of the disqualification hearing official to contact should he/she not understand the charge(s) or the implications of waiving his/her right to an administrative disqualification hearing. And, the household member would be advised of the right to remain silent concerning the charge(s) and that anything said or signed by the individual could later be used in a court of law. The Department strongly encourages any State agency which chooses to exercise this option to submit the form which it develops to its State Attorney General's Office for concurrence on legal sufficiency.

Once the State agency receives a signed waiver of the right to an administrative disqualification hearing, the household member suspected of intentional misrepresentation or fraud would be disqualified from participation in the Program. The disqualification periods for individuals who waive their right to administrative hearings would be the same as those for persons found to have committed intentional misrepresentation or fraud through a disqualification hearing or prosecution in a court of law. And, the household member would be provided written notification of the disqualification prior to imposition of a disqualification penalty. The period of disqualification would begin with the first month which follows the date the household member receives notification of the disqualification. The State agency would also initiate collection of the claim which results from the overissuance caused by the household member's intentional misrepresentation or fraud by sending a written demand letter for restitution along with the notification of disqualification.

The proposed procedures were developed with a view towards adequately protecting the accused individuals' due process rights and, at the same time, reducing the amount of time and money which the State agency has to invest in such cases. Although the Department believes that the proposal would accomplish both of these objectives, it recognizes that some State agencies may choose not to take advantage of the option. The Department is especially anxious to receive comments on this proposal and any alternative methods for shortening the administrative disqualification process for accused individuals willing to admit guilt without imposing complex administrative rules on State agencies. (See 7 CFR 273.16(f)(3)).

7. Disqualification Reporting System

Section 112(b)(4) of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) requires that the Department promulgate regulations to ensure that information concerning individuals disqualified for intentional misrepresentation or fraud is forwarded to the Department by State agencies for use in administering the misrepresentation and fraud provisions contained in the Food Stamp Act. The Senate Committee Report indicates that Congress intends that State agencies use this information in enforcing disqualifications against individuals who move from one State to another. See S. Rep. No. 97–128, p. 55.

The Department considered three alternative systems for the collection of information concerning individuals disqualified for misrepresentation or fraud. The first alternative considered was to require the reporting of specific information concerning each disqualification on an individual basis, using a specially designed form. The second alternative was to require the reporting of such information as a part of an already existing monthly, quarterly, or biennial report. And the third alternative considered was to establish an automated reporting system to receive the reports. The Department has decided to propose adoption of the third alternative because it avoids the problem of increasing the paperflow responsibilities on administering agencies posed by the first alternative as well as the potential for timelags in the reporting of the information concerning disqualifications inherent in the second. In addition, the chosen method has the advantage of enabling State agencies to readily access information concerning individuals disqualified in another political jurisdiction.

Under the proposed automated reporting system, State agencies would report information on individuals disqualified for intentional misrepresentation or fraud. All of the data submitted by State agencies would be stored in a specially designed computer program and be available to any State agency. The proposed national computer file could be set up so that a State agency could ascertain whether an individual has been disqualified in another State by simply referencing that person's name and social security number. Alternatively, the information in the national file could be made available to a State agency in hard-copy (printed reports), tape, or card medium. The method of access to the information would be a State agency option, allowing a State agency the flexibility to choose the available medium which best suits its particular needs. The State agency would be allowed to access the information for determining the eligibility of individual program applicants, and ascertaining the appropriate penalty to impose in a case under consideration. Information concerning past disqualifications would be especially helpful to State agencies in view of the tiered system of disqualification penalties recently enacted into law.

The State agency would be required to report specific information concerning an individual disqualified for misrepresentation or fraud in a format specified by FNS and within specific timeframes. The reporting requirement would cover any individual disqualified within that State, either through an administrative disqualification procedure or by a court of law. The specified format would ensure that sufficient information is received to identify the individual, the State in which the disqualification occurred, the offense which led to the disqualification, the effective date of the disqualification, and the disqualification penalty imposed. The State agency would report this information within 30 days of the date of the disqualification. These timeframes would allow State agencies either to report the disqualifications individually or to report on all the disqualifications which occured in the most recent 30 day period once a month.

The Department invites all comments on the proposed automated reporting system and would especially like to hear alternative suggestions. Those that address the problem of administrative feasibility would be especially welcome. (See 7 CFR 273.16(h)).

II. Improved Recovery of Overpayments

1. Categories of Claims against Households

Current regulations contain guidelines for State agencies to follow in determining whether to establish fraud and nonfraud claims against participants, and specify certain minimum requirements which State agencies must follow in handling these cases. The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) expands the fraud claims provisions to cover intentional misrepresentation claims, and provides a specific method of collection for those claims not resulting from fraud, misrepresentation or State agency error. The proposed rulemaking would incorporate these statutory changes by expanding the category of fraud claims to include intentional misrepresentation claims, and differentiating those nonfraud claims as a result of State agency error from those caused by household misunderstanding. Therefore, the method of handling claims against households would depend on whether they resulted from inadvertent household error, intentional misrepresentation or fraud, or administrative error. (See 7 CFR 273.18(a)).

2. Criteria for Establishing Inadvertent Household and Administrative Error Claims

Existing regulations contain a 12-month time limit for establishing nonfraud claims. This time limit was intended to eliminate the administrative burden of documenting and computing errors that occurred more than a year prior to discovery. Several State agencies have pointed out, however, that this policy has resulted in other administrative burdens. Because there is no 12-month time limit for establishing a fraud claim, a claim being handled as a nonfraud claim prior to the determination of fraud by an administrative fraud hearing or court of law must be recalculated once the determination is obtained. In addition, this policy precludes a State agency billed for negligence by FNS from recovering that portion of its liability which households received more than 12 months before.

The proposed rulemaking would change the 12-month time limit for establishing nonfraud claims into a minimum requirement. Therefore, the State agency would be required, at a minimum, to take action on those claims for which 12 months or less have elapsed between the month an overissuance and the month the State agency discovered a specific case involving the overissuance. The State agency would have the option of taking action on those claims for which more than 12 months have elapsed. This new policy would also apply to both inadvertent household error and administrative error claims.

As part of the criteria for establishing a nonfraud claim contained in current Program regulations, the Department has provided specific instances of overissuances for which the State agency is prohibited from establishing a claim against the household. These instances involve errors relating to the system used to provide benefits to eligible households, such as State agency failure to insure that a household fulfilled certain procedural requirements. The proposed rulemaking would revise two of these instances and include them as examples of administrative errors for which a claim would be established against the household. Therefore, the State agency would establish a claim against the household if it continued to receive an allotment after its certification period expired or its allotment level was not reduced to reflect a change in its public assistance grant. The Department has decided that these two instances do not sufficiently differ from other instances of administrative error involving the assignment of an incorrect allotment to warrant not recovering the overissuance from the households. (See 7 CFR 273.18(b)).

3. Calculating Inadvertent Household and Administrative Error Claims

Under current Program rules, State agencies must exclude those months that are more than 12 months prior to the date the overissuance was discovered when calculating the amount of a nonfraud claim. The proposed rulemaking would change the 12-month limit for calculating the amount of the claim into a minimum requirement. This change is necessary in order for the method of calculating the amount of inadvertent household error and administrative error claims to conform with the revised requirements for establishing such claims. Therefore, the State agency would be required to calculate the amount of these claims based, at a minimum, on those months that are 12 months or less since the date an overissuance was discovered. The State agency would have the option of calculating the amount of the claim back to the month the error occurred, regardless of the length of time that elapsed until the error was discovered. (See 7 CFR 273.18(c)(1)).

4. Collecting Inadvertent Household Error Claims

Section 113 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) requires State agencies to collect inadvertent household error claims by reducing the household's monthly allotment. In addition, the amount by which State agencies can reduce the household's monthly allotment in such collections is limited to 10 percent of the allotment or $10 per month, whichever would result in faster collection. While Congress intends for State agencies to collect inadvertent household error claims from those persons still participating in the Program by reducing future benefits, it also believes that "* * * nothing would preclude the State from seeking to collect overissuances through other means * * *" from persons who no longer receive food stamps. See S. Rep. No. 97–128, p. 57.

The proposed rulemaking would incorporate these statutory changes by requiring State agencies to collect any inadvertent household error claims, regardless of the amount, from households still participating in the Program by reducing their monthly allotment. Prior to reduction, the household would be sent a written demand letter which informs it of the

amount of food stamps to be recovered each month and of the availability of other methods of repayment. The household would also be allowed to repay in cash all at once or in monthly installments, in a downpayment of cash with monthly installments, or with food stamp coupons as partial or full payment. If the household does not respond within 30 days of receipt of the demand letter, the household's allotment would be reduced without further notice being provided. The amount of food stamps to be recovered each month would be the greater of 10 percent of the household's monthly allotment or $10 per month. For households not currently participating in the Program, State agencies would be required to collect inadvertent household error claims by sending the household a written demand letter which informs the household of how it may pay the claim. The household would be able to make cash payments on the claim in one lump sum and/or in regular installments, and the household would be allowed to give the State agency any food stamp coupons remaining from its prior participation as partial or full payment of the claim. If a nonparticipating household does not respond to the first demand letter, additional demand letters would be sent at reasonable intervals until the household responded by paying or agreeing to pay the claim, or until the claim was suspended. The State agency could also pursue other appropriate collection actions against any household which fails to respond to a written demand letter. These provisions would provide State agencies with a widely accepted and effective method of collection for most of the overissuances which result from inadvertent error on the part of households. (See 7 CFR 273.18(d) and (g)).

Current regulations require that a fraud claim be handled as a nonfraud claim prior to the determination of fraud by an administrative fraud hearing or a court of appropriate jurisdiction. State agencies are allowed to postpone collection of a potential fraud claim being handled as a nonfraud claim if they are advised in writing that collection action will prejudice the case. State agencies are also allowed to postpone collection of fraud claims after an administrative determination that fraud has been committed if the legal representative prosecuting a member of the household for fraud advises, in writing, that collection action will prejudice the case.

The Department proposes to revise the claims collection sections by removing the requirement that State agencies obtain a written opinion that collection will prejudice the case in order to postpone collection action against the household. The claim against the household would be handled as an inadvertent household error claim prior to the determination of intentional misrepresentation or fraud, and State agencies would determine whether collection would prejudice the case against a household member referred for possible administrative disqualification or prosecution. This change applies to those claims being handled as inadvertent household error claims prior to administrative determinations of intentional misrepresentation or fraud as well as those claims resulting from activities that are being referred for prosecution in a court of law. (See 7 CFR 273.18(d)(1)(ii) and (d)(2)).

5. Collecting Intentional Misrepresentation or Fraud Claims

The regulations governing the collection of fraud claims require that disqualified individuals who wish to reenter the program after the period of disqualification must agree to repay the value of the food stamps fraudulently obtained. The disqualified individual signs a written agreement letter for restitution, and repayment is made through either a cash payment or a reduction in the household's allotment. If a disqualified individual agrees to make repayment in cash and fails to make the payments, the individual's household allotment is reduced.

Section 113 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) requires that the household of the disqualified individual repay in cash or by allotment reduction the overissuance which resulted from intentional misrepresentation or fraud. The House Report indicates Congressional intent that repayment begin as soon as a court or administrative disqualification determination is made, instead of after the period of disqualification has ended. See H.R. Rep. No. 97–196, 97th Cong., 1st Sess., p. 138 (1981).

The proposed rulemaking would shift the responsibility for repayment of intentional misrepresentation or fraud claims from the disqualified individual to the indivdual's household. The household would be sent a demand letter at the time of the disqualification, and allowed to choose a method of repayment. The household would be allowed to repay in cash all at once or in monthly installments, in a downpayment of cash with monthly installments, with food stamp coupons as partial or full payment, or through a reduction of its monthly allotment. If the household is currently participating in the Program and fails to respond within 30 days of receipt of the demand letter, the household's allotment would be reduced without further notice being provided. If a nonparticipating household fails to respond to the first demand letter, additional demand letters would be sent at reasonable intervals until the household responded by paying or agreeing to pay the claim, or until the State agency suspended collection action. The State agency could also pursue other appropriate collection actions against any household which fails to respond to a written demand letter. These collection procedures should significantly deter future abuse of the Food Stamp Program. (See 7 CFR 273.18(d)(2) and (g)).

The proposed regulations would also reinstate certain provisions governing the suspension of collection for fraud claims which were inadvertently deleted by the regulations issued on January 31, 1980, at 45 FR 7208. The January 31, 1980, regulations implemented provisions of Pub. L. 96–58, the 1979 Amendments to the Food Stamp Act of 1977. Section 5 of Pub. L. 96–58 provided that individuals subject to disqualification from Program participation for fraudulent conduct must agree to either a reduction in the household's food stamp allotment or to a repayment in cash in order to again participate in the Food Stamp Program. When issuing the regulations to implement this provision the Department omitted already existing provisions which dealt with the procedure for State agencies to follow when nonparticipating households fail to respond to demand letters, and the following three criteria for holding a fraud claim in suspense: (i) The household is financially unable to pay the claim, (ii) there is little likelihood that the State agency can collect or enforce collection of any significant sum from the household, and (iii) the cost of further collection action is likely to exceed the amount that can be recovered. The Department has decided to reinstate some of these provisions as well as to clarify that they apply only to households which are not currently participating in the Program. As before, fraud claims against currently participating households would be collected through allotment reduction unless the household agrees to another method of repayment. Two of the three criteria for suspending collection are being eliminated in order to provide for the possible collection of additional overissuances. Therefore, the State agency would suspend collection action of an established intentional misrepresentation or fraud claim only if

the cost of further collection action is likely to exceed the amount that can be recovered. The proposed rulemaking would also make suspension a State agency option.

Under current Program rules, a claim is determined uncollectible after it is held in suspense for three years and the State agency is required to terminate collection action. The proposed rulemaking would make termination of claims a State agency option. This change is necessary in order for the termination procedure to be consistent with the revised suspension requirements and would allow State agencies to collect additional overissuances.

The Department believes that the additional flexibility which will result for State agencies as a result of these changes is warranted in view of the considerable experience and expertise they have obtained in the area of claims collection. (See 7 CFR 273.18 (d) and (e)).

6. Demand Letter for Overissuance

Under existing Program regulations, the State agency initiates collection of a nonfraud claim by sending the household a written demand letter and of a fraud claim by sending the disqualified individual a written agreement letter for restitution. The Form FNS–437, Repayment of Extra Food Stamps (Demand Letter for Overissuance—Non Fraud), is used to inform the household against which a nonfraud claim has been established of the claim and the possible methods for repayment. Similarly, the Form FNS–397, Food Stamp Fraud Repayment Agreement, is sent to an individual against which a fraud claim has been established to provide notice of the need to begin restitution in order to avoid continuing the period of disqualification and of the possible methods for doing so. While the State agency is required to utilize the FNS-designed model forms, it can request FNS approval for deviations to meet its specific needs.

The Department proposes to eliminate the Form FNS–397 (Fraud Repayment Agreement), to revise the Form FNS–437 (Demand Letter for Nonfraud Overissuance) to cover all three types of claims contained in this rulemaking, and to provide State agencies the option of using the FNS-designed form. FNS would provide a model "universal" demand letter for overissuance which the State agency could choose to send the household against which a claim has been established, regardless of whether the claim resulted from an overissuance due to an inadvertent household error, a determination of intentional misrepresentation or fraud, or an administrative error on the part of the State agency. This demand letter for overissuance would inform households of the possible methods for repaying the various types of claims as well as the amount of food stamps to be recovered each month if the State agency imposes allotment reduction to collect an inadvertent household error or intentional misrepresentation or fraud claim. The demand letter would also inform the household that it may request renegotiation of the repayment schedule, and it would provide a signature block. Those State agencies which choose not to utilize the FNS-designed demand letter for overissuance would develop their own forms based on the requirements for collecting claims contained in the Program's regulations. Alternatively, State agencies could modify the model form for demanding restitution provided by FNS to suit their particular needs, however, the State agency would no longer need to obtain FNS approval to modify this particular FNS-designed form. The Department believes that this new approach is consistent with the Administration's desire to further simplify the management responsibilities of administering agencies, is warranted by the proposed changes in collection procedures for the various types of claims, and would provide State agencies the flexibility to develop forms which best suit their particular needs. (See 7 CFR 273.18(d)(3)).

7. Other Collection Actions

Current Food Stamp Program regulations allow State agencies to initiate court action to obtain repayment of an overissuance which resulted from fraud. The regulations do not, however, address the issue of pursuing other collection actions to collect either fraud or nonfraud claims. Several State agencies have requested authority to pursue collection of all types of claims through other methods of collection, such as turning the claims over to professional collection agencies. The proposed rulemaking would allow and, indeed, encourage State agencies to initiate other collection actions, as appropriate, to obtain repayment of a claim. However, the Department believes that, at a minimum, State agencies should initiate collection of claims by sending the household a written demand letter in accordance with Program rules. If the household does not respond to the State agency's written demand letter, the State agency may choose to take other collection actions against the household. (See 7 CFR 273.18(d)(4)).

8. Suspending Inadvertent Household and Administrative Error Claims

Procedures now in use require State agencies to suspend collection of a nonfraud claim if no collection action was initiated because the claim has been collected through offset, the total amount of the claim is less than $35, or the household cannot be located. If collection action was initiated, State agencies are required to suspend collection when: (i) The household is financially unable to pay the claim; (ii) there is little likelihood that the household will pay the claim, (iii) the household cannot be located, or (iv) the cost of further collection action is likely to exceed the amount that can be recovered. State agencies are allowed, however, to use an uncollectible claim to offset restored benefits.

The proposed rulemaking would eliminate two of the suspension criteria, make suspension of inadvertent household and administrative error claims a State agency option, and clarify that suspension does not apply to claims established against currently participating households for an overissuance due to inadvertent household error. The Department has decided that two of the existing suspension criteria are already included under the broader category of the criterion that provides for suspension when the cost of further collection action is likely to exceed the amount that can be recovered, and that their elimination would simplify the claims suspension process. And, since Congress has provided for allotment reduction to collect inadvertent household error claims, the Department believes that suspending collection of such claims against currently participating households would be unwarranted. Therefore, the proposal allows State agencies to suspend collection action of all administrative error claims and of those inadvertent household error claims established against nonparticipating households only when the household cannot be located or the cost of further collection action is likely to exceed the amount that can be recovered. And, as mentioned above, State agencies would no longer be required to terminate collection of a claim after it is held in suspense for three years. (See 7 CFR 273.18(e)).

9. Changes in Household Composition

State agencies are currently required to initiate collection action for nonfraud claims against the head of the household or against the individual who was head

of the household at the time of the nonfraud claim. If the head of the household is no longer living or cannot be located, the State agency initiates collection action against the household containing a majority of the individuals who were household members at the time the error occurred. For fraud claims, State agencies are currently required to initiate collection action against the individual found to have committed fraud. If the household member found guilty of fraud moves, resulting in a change in household membership, the State agency initiates collection action against the household currently containing the fraudulent individual.

As discussed earlier, the proposed rulemaking would shift the responsibility for repayment of intentional misrepresentation or fraud claims from the disqualified individual to the individual's household. The proposal would also hold the household responsible for repayment of inadvertent household error or administrative error claims. Therefore, the Department is proposing to require State agencies to initiate collection action if a change in household membership occurs against the household containing a majority of the individuals who were household members at the time of the activity which resulted in the overissuance. This change would ensure that, regardless of the type of claim, those persons who most benefited from the overissuance are held responsible for repayment. This provision will apply to claims only. The disqualification penalites, on the other hand, will apply only to the household in which the disqualified individual(s) currently reside. (See 7 CFR 273.18(f)).

10. Compromising Claims

The Program's regulations currently require State agencies to compromise any claim if the amount cannot be liquidated within three years. A claim is compromised by reducing it to an amount that will allow the household to make restitution within a three year period. The proposed rulemaking would make compromising of claims a State agency option. This would allow State agencies to collect the full amount of a claim even if it requires collection for more than three years. (See 7 CFR 273.18(g)).

11. $10 Minimum Benefit Level

Current regulations provide a minimum monthly allotment of $10 for all eligible one- and two-person households. A State agency has requested clarification of whether the $10 minimum allotment holds precedence over the reduction of a household's allotment for repayment of a claim. Since the amount of a household's monthly allotment is established before the determination is made concerning the reduction of the allotment for recoupment of any overissuances, the $10 minimum benefit level does not apply to the allotment after it has been reduced. The Department is, therefore, proposing language to clarify that the $10 minimum benefit level applies to the amount of a household's allotment prior to reduction for claims collection. This proposed language is contained in the provision governing the collection of inadvertent household error and intentional misrepresentation or fruad claims through allotment reduction. (See 7 CFR 273.18(g)(3)).

12. State Share of Collected Claims

State agencies are currently allowed to retain 50 percent of the value of claims collected from persons who have committed fraud, and required to return to the Federal Government all of the funds collected from nonfraud claims. The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) allows State agencies to also retain 50 percent of the value of intentional misrepresentation claim collections and 25 percent of the value of inadvertent household error claim collections. Although the Department, on June 1, 1982, at 47 FR 23786, issued a public notice of the implementation of the 25 percent State share of collected inadvertent household error claims, the proposed rulemaking would incorporate these statutory changes into the Food Stamp Program's regulations. The ability of State agencies to retain these additional funds should provide them an additional incentive to pursue the collection of these claims.

The Department is proposing amendatory language to clarify that the 50 percent retention is also applicable to that portion of a claim collected prior to a determination that intentional misrepresentation of fraud has occurred. Under the proposed regulations, an administrative disqualification hearing official or a court of appropriate jurisdiction would determine that a household member committed intentional misrepresentation or fraud before such a claim could be established. Prior to such a determination, the claim would be handled as an inadvertent household error claim for collection purposes, and the State agency would retain 25 percent of the amount collected. Once a determination of intentional misrepresentation or fraud was obtained, the State agency would retain additional funds to represent the difference between the two retention rates on the amount already recovered. The State agency would include a note in the remarks section of the Form FNS–209, Status of Claims Against Households, which shows the additional amounts being retained on amounts already recovered as a result of the change in status of the claim.

The proposed rule would also revise the timeframes for submission of the Form FNS–209, Status of Claims against Households. State agencies are currently required to submit monthly a Form FNS–209, which reports the amount of funds recovered from all types of overissuances. The State agency's letter of credit is then adjusted quarterly to reflect the value of recovered funds which the State agency must return to the Federal Government. The Department is proposing to require a quarterly submission of the FNS–209, rather than monthly, to coincide with the letter of credit adjustment. This change would simplify State agency recordkeeping systems as well as reduce their present reporting requirements. (See 7 CFR 273.18(h)).

13. Overpayment of Claims

Current regulations do not address the issue of appropriate action for State agencies to follow when a household has overpaid a claim. Overpayment of a claim could occur, for example, when a household which has made payment on a claim requests a fair hearing on the amount of the claim and the hearing authority determines that the amount of the claim is less than has been paid by the household. Similarly overpayment could occur when payment was made on a claim prior to a legal challenge of the administrative disqualification which led to the claim, and the court action results in a reversal of the administrative determination that the individual committed intentional misrepresentation or fraud. Other instances where overpayment of a claim could occur in include administrative error in calculating the amount of a claim or household error in submitting payment.

The Department proposes to correct this omission by requiring State agencies to pay households any amounts which has been overpaid on a claim. The method of payment would be left to the State agency's discretion, though the Department emphasize that consideration should be given to the household's circumstances. For example, households no longer participating in the Program would have to be provided cash payments.

Participating households would be paid in cash or with food stamps. The proposed rulemaking clarifies that if payment is made from funds collected through overissuance recoveries the State agency must report the payment on the Form FNS–209, Status of Claims Against Households. In addition, the State agency must identify on the Form FNS–209 any claims for which is retained funds but later paid the household for an overpayment. The State agency would show the amounts which were paid to households for overpaid claims out of overissuance recoveries and identify those overpaid claims for which funds had previously been retained by including notes in the remarks section of the FNS–209. (See 7 CFR 273.18(h)(4)).

14. Destruction of Collected Coupons

Existing regulations do not address the subject of disposal for food stamp coupons accepted as payment for claims. The proposed rule would address this issue by clarifying that any coupons or coupon books collected from households as payment for claims must be destroyed. State agencies would destroy such coupons in the same manner that improperly manufactured or mutilated coupons are destroyed under current practices. (See 7 CFR 273.18(h)(6)).

15. Interstate Claims Collection

In some instances where households have moved out of the area under a State agency's jurisdiction, action has not been taken to collect overissuances to the household which occurred while it was still under the State agency's jurisdiction. A number of State agencies have requested clarification of their authority to initiate or continue collection action against households which have moved out of their jurisdiction. The proposed rule would provide clear authority and encourage State agencies to pursue such overissuances across the boundaries of their jurisdictions.

In cases where the State agency which overissued benefits to the household does not take prompt action to collect, the proposed rule would encourage the State agency for the area into which the household has moved to initiate action to collect. Prior to initiating action to collect such overissuances, the State agency for the area into which the household has moved would be required to contact the State agency which overissued benefits to ascertain that it does not intend to pursue prompt collection.

The proposed rule would require that the State share of collected claims (as provided at 7 CFR 273.18(h)) would be retained by the State agency which actually collects the overissuance. The Department intends that the availability of these funds provide additional incentive to pursue collection of claims in these situations. (See 7 CFR 273.18(k)).

III. Implementation

The Department proposes that State agencies implement these regulations no later than the first day of the month 120 days after publication. The State agency may wish to implement these regulations on the first day of the next yearly quarter. This period should provide sufficient time to amend food stamp handbooks and forms, make any necessary changes in data processing systems and administrative procedures, train eligibility workers, and inform food stamp recipients. (See 7 CFR 272.1(g)()).

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food and nutrition service, Food stamps, Grant programs-social programs, Records, Reporting requirements.

7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Food and nutrition service, Fraud, Grant programs-social programs, Penalties, Records, Reporting requirements, Social security, Students.

7 CFR Part 276

Administrative practice and procedure, Food and nutrition service, Food stamps, Fraud, Grant programs-social programs, Penalties.

Accordingly, it is proposed that 7 CFR Parts 272, 273, and 276 be amended as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

1. In § 272.1, a new subparagraph is added to paragraph (g) to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

( ) *Amendment* . State agencies shall implement the disqualification penalties for fraud and misrepresentation, and the improved recovery of overpayments provisions contained in Amendment —— no later than the first day of the month 120 days following publications. FNS shall return to each State agency 50 percent of the value of all funds collected or allotments recovered on intentional misrepresentation claims beginning the day that the State agency implements the provisions contained in this amendment.

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

2. In § 273.1, paragraph (7) of paragraph (b) is revised to read as follows:

§ 273.1 Household concepts.

* * * * *

(b) *Nonhousehold members.* * * *

(7) *Disqualified individuals or ineligible aliens.* Individuals disqualified for misrepresentation or fraud as set forth in § 273.16, or persons disqualified for failure to obtain social security numbers as set forth in § 273.6, or ineligible aliens determined as such in accordance with § 273.4.

* * * * *

3. In § 273.8, paragraph (j) is revised to read as follows:

§ 273.8 Resource eligibility standards.

* * * * *

(j) *Resources of nonhousehold members.* The resources of nonhousehold members, as defined in § 273.1(b), shall not be counted as available to the household unless the member is disqualified from the program for misrepresentation or fraud in accordance with § 273.16, or for failing to comply with the requirement to provide an SSN in accordance with § 273.6, or is an ineligible alien who would be considered a household member if not for his or her ineligible alien status in accordance with § 273.4.

4. In § 273.9, paragraph (b)(3) is revised to read as follows:

§ 273.9 Income and deductions.

* * * * *

(b) *Definition of income.* * * *

(3) The earned or unearned income of an individual disqualified from the household for misrepresentation or fraud in accordance with § 273.16 shall continue to be attributed in their entirety to the remaining household members. However, the earned or unearned income of individuals disqualified from households for failing to comply with the requirement to provide an SSN in accordance with § 273.6, or for being an ineligible alien in accordance with § 273.4 shall continue to be counted as income, less a pro rata share for the individual. Procedures for calculating this pro rata share are described in § 273.11(c).

* * * * *

5. In § 273.11, paragraph (c) is revised to read as follows:

§ 273.11 Action on households with special circumstances.

* * * * *

(c) *Treatment of income and resources of disqualified members.* Individual household members may be disqualified for intentional misrepresentation or fraud, for refusal to obtain or provide an SSN, or for being an ineligible alien. During the period of time that such household members are ineligible, the eligibility and benefit level of any remaining household members shall be determined in accordance with the procedures outlined in this section.

(1) *Disqualification for misrepresentation or fraud.* The eligibility and benefit level of any remaining household members of a household containing individuals disqualified for intentional misrepresentation or fraud shall be determined as follows:

(i) *Income, resources, and deductible expenses.* The income and resources of the household member(s) disqualified for intentional misrepresentation or fraud shall continue to count in their entirety, and the entire household's allowable earned income, standard, medical, dependent care, and excess shelter deductions shall continue to apply to the remaining household members.

(ii) *Eligibility and benefit level.* An individual disqualified for intentional misrepresentation or fraud shall not be included when determining the household's size for the purposes of assigning a benefit level to the household or of comparing the household's monthly income with the income eligibility standards. The State agency shall ensure that no household's coupon allotment is increased as a result of the disqualification of one or more household member for intentional misrepresentation or fraud.

(2) *Disqualification for others causes.* The eligibility and benefit level of any remaining household members of a household containing individuals disqualified for refusal to obtain or provide an SSN, or for being an ineligible alien shall be determined as follows:

(i) *Resources.* The resources of such disqualified members shall continue to count in their entirety to the remaining household members.

(ii) *Income.* A pro rata share of the income of such disqualified members shall be counted as income to the remaining members. This pro rata share is calculated by first subtracting the allowable exclusions from the disqualified member's income and dividing the income evenly among the household members, including the disqualified members. All but the disqualified member's share is counted as a deductible shelter expense for the remaining household members.

(iii) *Deductible expenses.* The 18 percent earned income deduction shall apply to the prorated income earned by such disqualified members which is attributed to their households. That portion of the household's allowable shelter and dependent care expenses which are either paid by or billed to the disqualified members shall be divided evenly among the household's members, including the disqualified members. All but the disqualified members' share is counted as a deductible shelter expense for the remaining household members.

(iv) *Eligibility and benefit level.* Such disqualified members shall not be included when determining their household's sizes for purposes of assigning a benefit level to the households or for purposes of comparing the household's monthly incomes with the income eligibility standards.

(3) *Reduction or termination of benefits within the certification period.* Whenever an individual is disqualified within the household's certification period, the State agency shall determine the eligibility or ineligibility of the remaining household members based, as much as possible, on information in the case file.

(i) *Disqualification for misrepresentation or fraud.* If a household's benefits are reduced or terminated within the certification period because one of its members was disqualified for intentional misrepresentation or fraud, the State agency shall notify the remaining members of their eligibility and benefit level at the same time the disqualified member is notified of his or her disqualification. The household is not entitled to a notice of adverse action but may request a fair hearing to contest the reduction or termination of benefits.

(ii) *Disqualification for other causes.* If a household's benefits are reduced or terminated within the certification period because one or more of its members refused to obtain or provide an SSN, or is an ineligible alien, the State agency shall issue a notice of adverse action in accordance with § 273.13(a)(2) which informs the household of the disqualification, the reason for the disqualification, the eligibility and benefit level of the remaining members, and the actions the household must take to end the disqualification.

* * * * *

6. Section 273.16 is revised to read as follows:

§ 273.16 Disqualification for misrepresentation and fraud.

(a) *Administrative responsibility.* The State agency shall be responsible for investigating any case of alleged intentional misrepresentation or fraud, and ensuring that appropriate cases are acted upon either through administrative disqualification hearings or referral to a court of appropriate jurisdiction in accordance with the procedures outlined in this section. Administrative disqualification procedures or referral for prosecution action should be initiated by the State agency in cases in which the State agency has sufficient documentary evidence to substantiate that an individual has intentionally made one or more acts of either misrepresentation or fraud as defined in paragraphs (c) and (d) of this section. The State agency may initiate administrative disqualification procedures or refer a case for prosecution regardless of the current eligibility of the individual. The disqualification period for nonparticipants at the time of the administrative disqualification or court decision shall be deferred until the individual applies for and is determined eligible for program benefits.

(b) *Disqualification penalties.* Individuals found to have made an intentional misrepresentation or committed fraud either through an administrative disqualification hearing or by a court of appropriate jurisdiction shall be ineligible to participate in the program for six months for the first violation, 12 months for the second violation, and permanently for the third violation. However, one or more fraud disqualifications which occurred prior to the implementation of these penalties shall be considered as only one previous disqualification when determining the appropriate penalty to impose in a case under consideration. If a court fails to impose a disqualification period for the intentional misrepresentation or fraudulent act, the State agency shall impose the disqualification penalties specified in this section unless it is contrary to the court order. State agencies shall disqualify only the individual found to have made the intentional misrepresentation or committed fraud, and not the entire household. The remaining household members shall agree to make restitution in cash or the household's monthly allotment shall be reduced. If the remaining household members agree to make cash restitution but fail to do so, the State agency shall impose an allotment reduction on the household's monthly allotment. All restitutions shall

be made in accordance with established procedures for cash repayment, allotment reduction, or coupons for repayment.

(c) *Definition of misrepresentation.* For purposes of determining through administrative disqualification hearings whether or not intentional misrepresentation was made, misrepresentation shall consist of intentionally either (1) making a false or misleading statement or (2) misrepresenting, concealing, or withholding facts in order to obtain benefits to which the household is not entitled.

(d) *Definition of fraud.* For purposes of determining through administrative disqualification hearings whether or not intentional fraud was committed, fraud shall consist of intentionally committing any action that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any State statute relating to the use of food stamps in order to use, present, transfer, acquire, receive, or possess food stamp coupons or ATPs to which the household is not entitled.

(e) *Notification to applicant households.* The State agency shall inform the household in writing of the disqualification penalties for intentional misrepresentation or fraud each time it applies for program benefits. The penalties shall be in clear, prominent, and boldface lettering on the application form.

(f) *Administrative disqualifications.* (1) Each State agency shall establish a system for conducting administrative disqualifications for intentional misrepresentation or fraud which conforms with the procedures outlined in this section. FNS shall exempt any State agency from the requirement to establish an administrative disqualification system if the State agency has already entered into an agreement with the State's Attorney General's Office or, where necessary, with county prosecutors. The agreement shall provide for prosecution of both misrepresentation and fraud cases, and that prosecution will be pursued in cases where appropriate. This agreement shall include information on how, and under what circumstances, cases will be accepted for possible prosecution and any other criteria set by the prosecutor for accepting cases for prosecution, such as a minimum amount of overissuance which resulted from misrepresentation or fraud. FNS shall also exempt any State agency from the requirement to establish an administrative disqualification system if there is a State law that requires the referral of such cases for prosecution and if the State agency demonstrates to FNS that it is actually referring cases for prosecution and that prosecutors are following up on the State agency's referrals. Any State agency exempted from the requirement to establish an administrative disqualification system in accordance with these regulations shall refer cases of alleged misrepresentation or fraud for prosecution in accordance with its agreement with prosecutors, if one is in effect, or State law. FNS may require a State agency to establish an administrative disqualification system if it determines that the State agency is not promptly or actively pursuing suspected misrepresentation or fraud claims through the courts.

(2) Each State agency shall base administrative disqualifications for intentional misrepresentation or fraud on the determinations of hearing authorities arrived at through administrative disqualification hearings or on determinations reached by courts of appropriate jurisdiction, except that any State agency has the option of allowing accused individuals to waive their rights to administrative disqualification hearings in accordance with § 273.16(f)(3).

(i) *Consolidation of administrative disqualification hearing with fair hearing.* The State agency may combine a fair hearing and an administrative disqualification hearing into a single hearing if the factual issues arise out of the same, or related, circumstances and the household receives prior notice that hearings will be combined. If the disqualification hearing and fair hearing are combined, the State agency shall follow the timeframes for conducting disqualification hearings.

(ii) *Disqualification hearing procedures.* (A) State agencies have the option of using the same hearing officials for disqualification hearings and fair hearings or designating hearing officials to conduct only disqualification hearings.

(B) The provisions of § 273.15 (m), (n), (o), (p), and (q)(1) are also applicable for disqualification hearings.

(C) At the disqualification hearing, the hearing official shall advise the household member or representative that they may refuse to answer questions during the hearing.

(D) Within 90 days of the date the household member is notified in writing that a State or local hearing initiated by the State agency has been scheduled, the State agency shall conduct the hearing, arrive at a decision and initiate administrative action which will make the decision effective. The household member or representative is entitled to a postponement of up to 30 days. If the hearing is postponed, the above time limits shall be extended for as many days as the hearing is postponed.

(E) The State agency shall publish clearly written rules of procedure for disqualification hearings, and shall make these procedures available to any interested party.

(iii) *Advance notice of hearing.* (A) The State agency shall provide written notice to the household member suspected of intentional misrepresentation or fraud at least 30 days in advance of the date a disqualification hearing initiated by the State agency has been scheduled. The notice shall be mailed certified Mail-Return Receipt Requested, and shall contain at a minimum:

(*1*) The date, time, and place of the hearing;

(*2*) the charge(s) against the household member;

(*3*) A summary of the evidence, and how and where the evidence can be examined;

(*4*) A warning that the decision will be based solely on information provided by the food stamp office if the household member fails to appear at the hearing;

(*5*) A warning that a determination of intentional misrepresentation or fraud will result in a six-month disqualification for the first violation, 12-month disqualification for the second violation, and permanent disqualification for the third violation, and a statement of which penalty the State agency believes is applicable to the case scheduled for a hearing;

(*6*) A listing of the household member's right as contained in § 273.15(p);

(*7*) A statement that the hearing does not preclude the State or Federal Government from prosecuting the household member for intentional misrepresentation or fraud in a civil or criminal court action or from collecting the overissuances;

(*8*) A statement that the individual can call the food stamp office to get the name and phone number (if available) of someone who can give free legal advice. If free legal advice is not available, the food stamp office shall provide, when called, the phone number of a lawyer referral service of the local bar association;

(B) A copy of the State agency's published hearing procedures shall be attached to the 30-day advance notice.

(C) Each State agency shall develop an advance notice form which contains the information required by this section. A model form for providing advance notice of a scheduled hearing is

available from FNS for use by any State agency.

(iv) *Scheduling of hearing.* The time and place of the hearing shall be arranged so that the hearing is accessible to the household member suspected of intentional misrepresentation or fraud. If the household member or its representative cannot be located or fails to appear at a hearing initiated by the State agency without good cause, the hearing shall be conducted without the household member represented. Even though the household member is not represented, the hearing official is required to carefully consider the evidence and determine if intentional misrepresentation or fraud was committed based on clear and convincing evidence. If the household member is found to have committed fraud but a hearing official later determines that the household member or representative had good cause for not appearing, the previous decision shall no longer remain valid and the State agency shall conduct a new hearing. The hearing official who originally ruled on the case may conduct the new hearing. The household member has 10 days from receipt of the notice of the disqualification decision to present reasons indicating a good cause for failure to appear. A hearing official must enter the good cause decision into the record.

(v) *Participation while awaiting a hearing.* A pending disqualification hearing shall not affect the individual's or the household's right to be certified and participate in the program. Since the State agency cannot disqualiy a household member for intentional misrepresentation or fraud until the hearing official finds that the individual has committed intentional misrepresentation or fraud, the State agency shall determine the eligibility and benefit level of the household in the same manner it would be determined for any other household. For example, if the misstatement or action for which the household member is suspected of intentional misrepresentation or fraud does not affect the household's current circumstances, the household would continue to receive its allotment based on the latest certification action or be recertified based on a new application and its current circumstances. However, the household's benefits shall be terminated if the certification period has expired and the household, after receiving its notice of expiration, fails to reapply. The State agency shall also reduce or terminate the household's benefits if the State agency has documentation which substantiates that the household is ineligible or eligible for fewer benefits (even if these facts led to the suspicion of intentional misrepresentation or fraud and the resulting disqualification hearing) and the household fails to request a fair hearing and continuation of benefits pending the hearing. For example, the State agency may have facts which substantiate that a household failed to report a change in its circumstances even though the State agency has not yet demonstrated that the failure to report involved an intentional act of misrepresentation or fraud.

(vi) *Criteria for determining intentional misrepresentation or fraud.* The hearing authority shall base the determination of intentional misrepresentation or fraud on clear and convincing evidence which demonstrates that the household member(s) willfully intended to misrepresent or commit fraud, as defined in paragraphs (c) and (d) of this section.

(vii) *Decision format.* The hearing authority's decision shall specify the reasons for the decision, identify the supporting evidence, identify the pertinent FNA regulation, and respond to reasoned arguments made by the household member or representative.

(viii) *Imposition of disqualification penalties.* If the hearing authority rules that the household member has committed intentional misrepresentation or fraud, the household member shall be disqualified in accordance with the disqualification periods specified in paragraph (b) of this section beginning with the first month which follows the date the household member receives written notification of the hearing decision. However, if the act of intentional misrepresentation or fraud which led to the disqualification occurred prior to the implementation of the disqualification periods specified in paragraph (b) of this section, the household member shall be disqualified in accordance with the disqualification periods in effect at the time of the offense. The same act of intentional misrepresentation or fraud which occurred over a period of time shall not be separated so that separate penalties can be imposed. No further administrative appeal procedure exists after an adverse State level hearing. The determination of intentional misrepresentation or fraud made by a disqualification hearing official cannot be reversed by a subsequent fair hearing decision. The household member, however, is entitled to seek relief in a court having appropriate jurisdiction. The period of disqualification may be subject to stay by a court of appropriate jurisdiction or other injunctive remedy.

(ix) *Notification of hearing decision.* (A) If the hearing official finds that the household member did not commit intentional misrepresentation or fraud, the State agency shall provide a written notice which informs the household member of the decision.

(B) If the administrative disqualification hearing official finds that the household member committed intentional misrepresentation or fraud, the State agency shall mail a written notice to the household member prior to disqualification. The notice shall inform the household member of the decision and the reason for the decision. The notice shall also advise the remaining household members, if any, of either the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member are described in § 273.11(c). In addition, the notice shall inform the household member of the date disqualification will take effect. If the individual is no longer participating, the notice shall inform the individual that the period of disqualification will be deferred until such time as the individual again applies for and is determined eligible for program benefits. A written demand letter for restitution, as described in § 273.18(d)(3), shall also be sent.

(C) Each State agency shall develop a form for notifying individuals that they have been found by an administrative disqualification hearing to have committed intentional misrepresentation or fraud. The form shall contain the information required by this section. A model form for notifying individuals of an adverse hearing decision is available from FNS for use by any State agency.

(x) *Local level hearings.* (A) the State agency may choose to provide administrative disqualification hearings at the local level in some or all of its projects areas with a right to appeal to a State level hearing. If a local level disqualification hearing determines that a household member committed intentional misrepresentation or fraud, the notification of hearing decision, as described in paragraph (f)(2)(ix) of this section, shall also inform the household member of the right to appeal the decision within 15 days after the receipt of the notice, the date disqualification will take effect unless a State level hearing is requested, and that benefits will be continued pending a State level hearing if the household is otherwise

eligible. If the household member appeals the local level decision, the advance notice of hearing, as described in paragraph (f)(2)(iii) of this section, shall be provided at least 10 days in advance of the scheduled State level hearing and shall also inform the household member that the local hearing decision will be upheld if the household or its representative fails to appear for the hearing without good cause. When a local level decision is appealed, the State agency shall conduct the State level hearing, arrive at a decision, and initiate administrative action which will make the decision effective within 60 days of the date the household member appealed its case. The prior decision shall not be taken into consideration in a new hearing. In all other respects, local level disqualification hearings shall be handled in accordance with the procedures specified in this section for State level hearings.

(B) The State agency shall develop appropriate forms which contain the information required by this section for notification of a local level hearing decision and advance notice of a scheduled State level hearing for appeal of a local level decision.

(3) Each State agency shall have the option of allowing accused individuals to waive their rights to an administrative disqualification hearing. For State agencies whch choose the option of allowing individuals to waive their rights to an administrative disqualification hearing, the procedures are as follows:

(i) *Advance notification.* (A) The State agency shall provide written notification to the household member suspected of intentional misrepresentation or fraud of the possibility to waive his/her right to an administrative disqualification hearing. This notitification shall be included in the advance notice of a hearing which is provided to the accused individual at least 30 days prior to the date a disqualification hearing initiated by the State agency has been scheduled.

(B) The written notification provided to the household member which informs him/her of the possibility to waive the administrative disqualification hearing shall include, at a minimum:

(*1*) The date that the signed waiver must be received by the State agency to avoid the holding of the hearing on the scheduled date and a signature block for the accused individual, along with a statement that the head of household must also sign the waiver if the accused individual is not the head of household, with an appropriate designated signature block;

(*2*) A statement of the accused individual's right to remain silent concerning the charge(s), and that anything said or signed by the individual concerning the charge(s) can be used against him/her in a court of law;

(*3*) The fact that a waiver of the disqualification hearing will result in an automatic disqualification, and an allotment reduction for the period of disqualification;

(*4*) An opportunity for the accused individual to specify whether or not he/she admits to the facts as presented by the State agency. This opportunity shall consist of the following statements, or statements developed by the State agency which have the same effect, and a method for the individual to designate his/her choice:

(*i*) I admit to the facts as presented, and understand that a disqualification penalty will be imposed if I sign this waiver; and

(*ii*) I do not admit that the facts as presented are correct. However, I have chosen to sign this waiver and understand that a disqualification penalty will result;

(*5*) The name and phone number of the disqualification hearing official responsible for resolving his/her case, and that the accused individual should contact that person to discuss the case if he/she does not understand the charges or the implications of waiving his/her right to an administrative disqualification hearing; and

(6) The fact that the remaining household members, if any, will be held responsible for repayment of the resulting claim.

(C) The State agency shall develop an advance notice of hearing form, as described in paragraph (f)(2)(iii) of this section, which also contains the information required by this section for notifying a household member suspected of intentional misrepresentation or fraud of the possibility to waive his/her right to an administrative disqualification hearing.

(ii) *Imposition of disqualification penalties.* If the household member suspected of intentional misrepresentation or fraud signs the waiver of right to an administrative disqualification hearing and the signed waiver is received within the timeframes specified by the State agency, the household member shall be disqualified in accordance with the disqualification periods specified in paragraph (b) of this section. The period of disqualification shall begin with the first month which follows the date the household member receives written notification of the disqualification. And, the same act of intentional misrepresentation or fraud which occurred over a period of time shall not be separated so that separate penalties can be imposed. No further administrative appeal procedure exists after an individual waives his/her right to an administrative disqualification hearing and a disqualification penalty has been imposed. The disqualification penalty cannot be changed by a subsequent fair hearing decision. The household member, however, is entitled to seek relief in a court having appropriate jurisidiction. The period of disqualification may be subject to stay by a court of appropriate jurisdiction or other injunctive remedy.

(iii) *Notification of disqualification.* The State agency shall mail a written notice to the household member prior to disqualification. The notice shall conform to the requirements for notification of a hearing decision specified in paragraph (f)(2)(ix) of this section. A written demand letter for restitution, as described in §273.18(d)(3), shall also be sent.

(iv) *Waiver of hearing at local level.* Any State agency which has adopted the two-tiered approach for administrative disqualification hearings may also provide for use at the local level of the waiving of right to disqualification hearing procedures outlined in this section.

(g) *Court imposed disqualifications.* (1) A court of appropriate jurisdiction may be requested by the State, a political subdivision of the State, or the United States as prosecutor or plaintiff to order an individual disqualified from participation in the program for the disqualification periods specified in paragraph (b) of this section if the court finds that individual guilty of civil or criminal misrepresentation or fraud.

(2) State agencies are encouraged to refer for prosecution under State or local statutes those individuals suspected of committing intentional misrepresentation or fraud, particularly if large amounts of food stamps are suspected of having been obtained by intentional misrepresentation or fraud, or the individual is suspected of committing more than one act of intentional misrepresentation or fraud. The State agency shall confer with its legal representative to determine the types of cases which will be accepted for possible prosecution. State agencies shall also encourage State and local prosecutors to recommend to the courts that a disqualification penalty as provided in section 6(b) of the Food Stamp Act be imposed in addition to

any other civil or criminal penalties for such violations.

(3) State agencies shall disqualify an individual found guilty of intentional misrepresentation or fraud for the length of time specified by the court. If the court fails to impose a disqualification period, the State agency shall impose a disqualification period in accordance with the provisions in paragraph (b) of this section, unless contrary to the court order. If disqualification is ordered but a date for initiating the disqualification period is not specified, the State agency shall initiate the disqualification period for currently eligible individuals with the first month following the date the disqualification was ordered. Any other court-imposed disqualification shall begin the first month following the date the court found a currently eligible individual guilty of civil or criminal misrepresentation or fraud. If the individual is not eligible for the program at the time the disqualification period is to begin, the period shall be postponed until the individual applies for and is determined eligible for benefits.

(4) If the court finds that the household member committed misrepresentation or fraud, the State agency shall mail a written notice to the household member. The notice shall be sent prior to disqualification, whenever possible. The notice shall inform the household member of the decision and the date disqualification will take effect. The notice shall also advise the remaining household members, if any, of the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member are described in § 273.11(c). In addition, the State agency shall include the written demand letter for restitution described in § 273.16(d)(3).

(h) *Reporting requirements.* (1) Each State agency shall report to FNS information concerning individuals disqualified for intentional misrepresentation or fraud through an administrative disqualification proceeding or by a court of appropriate jurisdiction. This information shall be submitted to FNS so that it is received no later than 30 days after the date the disqualification took effect.

(2) Each State agency shall report information concerning each individual disqualified for intentional misrepresentation or fraud in a format designed by FNS. This format shall include the individual's social security number and full name, the nature of the offense for which the individual was disqualified, the State in which the disqualification took place, the date on which the disqualification took effect, and the length of the disqualification period imposed.

(3) Each State agency shall submit the required information on each individual disqualified for intentional misrepresentation or fraud through an automated reporting system and in machine readable form, in accordance with procedures to be specified by FNS.

(4) All the data submitted by State agencies will be available for use by any State Welfare Agency. State agencies may use the data for the following:

(i) To determine the eligibility of individual program applicants; or

(ii) To ascertain the appropriate penalty to impose in a case under consideration, based on past disqualifications.

(5) The disqualification of an individual for intentional misrepresentation or fraud in one political jurisdiction shall be valid in another. However, fraud disqualifications which occurred prior to the implementation of the penalties contained in these regulations shall not be considered when determining the appropriate penalty to impose in a case under consideration, regardless of where the disqualification took place.

(i) *Reversed disqualifications.* In cases where the determination of intentional misrepresentation or fraud is reversed by a court of appropriate jurisdiction, the State agency shall reinstate the individual in the program if the household is eligible. The State agency shall restore benefits that were lost as a result of the disqualification in accordance with the procedures specified in § 273.17(e).

7. Section 273.18 is revised to read as follows:

§ 273.18 Claims against households.

(a) *Establishing claims against households.* The State agency shall establish a claim against any household that has received more food stamp benefits than it is entitled to receive.

(1) *Inadvertent household error claims.* A claim shall be handled as an inadvertent household error claim if the overissuance was caused by a misunderstanding or unintended error on the part of the household.

(2) *Administrative error claims.* A claim shall be handled as an administrative error claim if the overissuance was caused by a State agency action or failure to take action.

(3) *Intentional misrepresentation or fraud claims.* A claim shall be handled as an intentional misrepresentation or fraud claim only if an administrative disqualification hearing official or a court of appropriate jurisdiction has determined that a household member committed intentional misrepresentation or fraud as defined in § 273.16 (c) or (d). Prior to the determination of intentional misrepresentation or fraud, the claim against the household shall be handled as an inadvertent household error claim.

(b) *Criteria for establishing inadvertent household and administrative error claims.* The State agency shall take action to establish a claim against any household that received an overissuance due to an inadvertent household or administrative error if the criteria specified in this paragraph have been met. At a minimum, the State agency shall take action on those claims for which 12 months or less have elapsed between the month on overissuance occurred and the month the State agency discovered a specific case involving an overissuance. The State agency may choose to take action on those claims for which more than 12 months have elapsed.

(1) Instances of inadvertent household error which may result in a claim include, but are not limited to, the following:

(i) The household unintentionally failed to provide the State agency with correct or complete information; or

(ii) The household unintentionally failed to report to the State agency changes in its household circumstances.

(2) Instances of administrative error which may result in a claim include, but are not limited to, the following:

(i) A State agency failed to take prompt action on a change reported by the household;

(ii) A State agency incorrectly computed the household's income or deductions, or otherwise assigned an incorrect allotment;

(iii) A State agency incorrectly issued duplicate ATP's to a household which were subsequently transacted;

(iv) The State agency determined a household eligible or provided it with more benefits than it was entitled to receive pending a fair hearing decision;

(v) The State agency continued to provide a household food stamp allotments after its certification period had expired without benefit of a reapplication determination; or

(vi) The State agency failed to provide a household a reduced level of food stamp benefits because its public assistance grant changed.

(3) Neither an administrative error claim nor an inadvertent household error claim shall be established if an overissuance occurred as a result of the following:

(i) A State agency failed to insure that a household fulfilled the following procedural requirements:

(A) Signed the application form,

(B) Completed a current work registration form, or

(C) Was certified in the correct project area;

(ii) The household transacted an expired ATP, unless the household altered its ATP.

(c) *Calculating the amount of claims.* (1) *Inadvertent household and administrative error claims.* (i) For each month that a household received an overissuance due to an inadvertent household or administrative error, the State agency shall determine the correct amount of food stamp benefits the household was entitled to receive. The amount of the inadvertent household or administrative error claim shall be calculated based, at a minimum, on the amount of overissuance which occurred during the 12 months preceding the date the overissuance was discovered. However, the State agency may choose to calculate the amount of the claim back to the month the inadvertent household or administrative error occurred, regardless of the length of time that elapsed until the inadvertent household or administrative error was discovered. In cases involving reported changes, the State agency shall determine the month the overissuance initially occurred as follows:

(A) If, due to an inadvertent error on the part of the household, the household failed to report a change in its household circumstances within 10 days of the date the change became known to the household, the first month affected by the household's failure to report shall be the month after the month in which the change occurred.

(B) If the household reported a change within the 10 day limit, but the State agency did not act on the change within the required timeframes, the first month affected by the State's failure to act shall be the first month the State agency should have made the change effective. Therefore, if a notice of adverse action was required but was not sent, the State agency shall assume for the purpose of calculating the claim that the maximum advance notice period as provided in § 273.13(a)(1) would have expired without the household requesting a fair hearing.

(ii) If the household received a larger allotment than it was entitled to receive, the State agency shall establish a claim against the household equal to the difference between the allotment the household received and the allotment the household should have received.

(iii) After calculating the amount of the inadvertent household or administrative error claim, the State agency shall offset the amount of the claim against any amounts which have not yet been restored to the household in accordance with § 273.17. The State agency shall then initiate collection action for the remaining balance, if any.

(2) *Intentional misrepresentation and fraud claims.* For each month that a household received an overissuance due to an act of intentional misrepresentation or fraud, the State agency shall determine the correct amount of food stamp benefits, if any, the household was entitled to receive. The amount of the intentional misrepresentation or fraud claim shall be calculated back to the month the act of intentional misrepresentation or fraud occurred, regardless of the length of time that elapsed until the determination of intentional misrepresentation or fraud was made. If the household member is determined to have committed intentional misrepresentation or fraud by intentionally failing to report a change in its household's circumstances, the first month benefits were overissued shall be the month after the month in which the change occurred. Once the amount of the intentional misrepresentation or fraud claim is established, the State agency shall offset the claim against any amount of lost benefits that have not yet been restored to the household in accordance with § 273.17.

(d) *Collecting claims against households.* (1) *Criteria for initiating collection action on inadvertent household and administrative error claims.* (i) State agencies shall initiate collection action on all inadvertent household or administrative error claims unless the claim is collected through offset or one of the following conditions apply:

(A) The total amount of the claim is less than $35, and the claim cannot be recovered by reducing the household's allotment.

(B) The State agency has documentation which shows that the household cannot be located.

(ii) The State agency may postpone collection action on inadvertent household error claims in cases where an overissuance is being referred for possible prosecution or for administrative disqualification, and the State agency determines that collection action will prejudice the case.

(2) *Criteria for initiating collection action on intentional misrepresentation and fraud claims.* If a household member is found to have committed intentional misrepresentation or fraud (by an administrative disqualification hearing official or a court of appropriate jurisdiction) the State agency shall initiate collection action against the individual's household. In addition, a personal contact with the household shall be made, if possible. The State agency shall initiate such collection unless the household has repaid the overissuance already, the State agency has documentation which shows the household cannot be located, or the State agency determines that collection action will prejudice the case against a household member referred for prosecution. The State shall initiate collection action for an unpaid or partially paid claim even if collection action was previously initiated against the household while the claim was being handled as an inadvertent household error claim. In cases where a household member was found guilty of misrepresentation or fraud by a court, the State agency shall request that the matter of restitution be brought before the court.

(3) *Initiating collection action on claims.* (i) State agencies shall initiate collection action by sending the household a written demand letter which informs the household of the amount owed, the reason for the claim, the period of time the claim covers, any offsetting that was done to reduce the claim, how the household may pay the claim, and the household's right to a fair hearing if the household disagrees with the amount of the claim. For inadvertent household error and intentional misrepresentation or fraud claims, the household shall also be informed of the length of time the household has to decide which method of repayment it will choose and inform the State agency of its decision and of the fact that the household's allotment will be reduced if the household fails to agree to make restitution. In addition, any household against which the State agency has initiated collection action shall be informed of its right to request renegotiation of any repayment schedule to which the household has agreed in accordance with paragraph (g)(2) of this section should the household's economic circumstances change. The demand letter shall provide space for the household to indicate the method of repayment and a signature block.

(ii) Each State agency shall develop a written demand letter for initiating collection action on claims which contains the information required by this section. A model form letter for demanding restitution of an overissuance is available from FNS for use by any State agency.

(iii) If the household pays the claim, payments shall be accepted and submitted to FNS in accordance with the procedures outlined in paragraphs (g) and (h) of this section.

(4) *Action against households which fail to respond.* (i) If the household against which collection action has been initiated for repayment of an inadvertent household error or intentional misrepresentation or fraud claim is currently participating in the program and does not respond to the written demand letter within 30 days of the date of receipt, the State agency shall reduce the household's food stamp allotment.

(ii) If any nonparticipating household or if any currently participating household against which collection action has been initiated for repayment of an administrative error claim does not respond to the first demand letter, additional demand letters shall be sent at reasonable intervals, such as 30 days, until the household has responded by paying or agreeing to pay the claim, or until the criteria for suspending collection action, as specified in paragraph (e) of this section, have been met.

(iii) The State agency may also pursue other collection actions, as appropriate, to obtain restitution of a claim against any household which fails to respond to a written demand letter.

(e) *Suspending and terminating collection of claims.* (1) *Suspending collection of inadvertent household and administrative error claims.* An inadvertent household or administrative error claim may be suspended if no collection action was initiated because of conditions specified in paragraph (d)(1)(i) of this section. If collection action was initiated, and at least one demand letter has been sent, further collection action of an inadvertent household error claim against a nonparticipating household or of any administrative error claim may be suspended when:

(i) The household cannot be located; or

(ii) The cost of further collection action is likely to exceed the amount that can be recovered.

(2) *Suspending collection of intentional misrepresentation and fraud claims.* The State agency may suspend collection action on intentional misrepresentation or fraud claims at any time if it has documentation that the household cannot be located. If the State agency has sent at least one demand letter for claims under $100, at least two demand letters for claims betwen $100 and $400, and at least three demand letters for claims of more than $400, further collection action of any intentional misrepresentation or fraud claim against a nonparticipating household may be suspended when the cost of further collection action is likely to exceed the amount that can be recovered.

(3) *Terminating collection of claims.* A claim may be determined uncollectible after it is held in suspense for 3 years. The State agency may use a suspended or terminated claim to offset benefits in accordance with § 273.17.

(f) *Change in household composition.* (1) *Inadvertent household and administrative error claims.* The State agency shall initiate collection action against the household which received the overissuance for which the inadvertent household or administrative error claim was established. If a change in household membership occurs, the State agency shall initiate collection action against the household containing a majority of the individuals who were household members at the time the error occurred.

(2) *Intentional misrepresentation and fraud claims.* The State agency shall initiate collection action against the household which contained the household member found to have committed intentional misrepresentation or fraud and which received the overissuance for which the claim was established. If a change in household membership occurs, the State agency shall initiate collection action against the household containing a majority of the individuals who were household members at the time of the act(s) of intentional misrepresentation or fraud occurred.

(g) *Method of collecting payments.* State agencies shall collect payments for claims against households as follows:

(1) *Lump sum.* (i) If the household is financially able to pay the claim at one time, the State agency shall collect a lump sum cash payment. However, the household shall not be required to liquidate all of its resources to make this one lump sum payment.

(ii) If the household is financially unable to pay the entire amount of the claim at one time and prefers to make a lump sum cash payment as partial payment of the claim, the State agency shall accept this method of payment.

(iii) If the household chooses to make a lump sum payment of food stamp coupons as full or partial payment of the claim, the State agency shall accept this method of repayment.

(2) *Installments.* (i) The State agency shall negotiate a payment schedule with the household for repayment of any amounts of the claim not repayed through a lump sum payment. Payments shall be accepted by the State agency in regular installments. The household may use food stamp coupons as full or partial payment of any installment. If the full claim or remaining amount of the claim cannot be liquidated in 3 years, the State agency may compromise the claim by reducing it to an amount that will allow the household to pay the claim in 3 years. A State agency may use the full amount of the claim (including any amount compromised) to offset benefits in accordance wih § 273.17.

(ii) If the household fails to make a payment in accordance with the established repayment schedule, (either a lesser amount or no payment), the State agency shall send the household a notice explaining that no payment or an insufficient payment was received. The notice shall inform the household that it may contact the State agency to discuss renegotiation of the payment schedule. The notice shall also inform the household that unless the overdue payments are made or the State agency is contacted to discuss renegotiation of the payment schedule, the allotment of a currently participating household against which an inadvertent household error or intentional misrepresentation or fraud claim has been established may be reduced without a notice of adverse action.

(iii) If the household responds to the notice, the State agency shall take one of the following actions as appropriate:

(A) If the household makes the overdue payments and wishes to continue payments based on the previous schedule, permit the household to do so;

(B) If the household requests renegotiation, and if the State agency concurs with the request, negotiate a new payment schedule;

(C) If the household requests renegotiation of the amount of its repayment schedule but the State agency believes that the household's economic circumstances have not changed enough to warrant the requested settlement, the State agency may continue renegotiation until a settlement can be reached.

(iv) If a currently participating household against which an inadvertent household error or intentional misrepresentation or fraud claim has been established fails to respond to the notice, the State agency shall invoke allotment reduction. The State agency may also invoke allotment reduction if such a household responds by requesting renegotiation of the amount of its repayment schedule but the State agency believes that the household's economic circumstances have not

changed enough to warrant the requested settlement. If allotment reduction is invoked, no notice of adverse action is required.

(v) In cases where the household is currently participating in the program and a payment schedule is negotiated for repayment of an inadvertent household error or intentional misrepresentation or fraud claim, the State agency shall ensure that the amount of the claim recovered through installment payments is not less than the amount which could be recovered through allotment reduction.

(3) *Reduction in food stamp allotment.* State agencies shall collect payments for inadvertent household error claims and intentional misrepresentation or fraud claims from households currently participating in the program by reducing the household's food stamp allotment. Prior to reduction, the State agency shall inform the household of the amount of food stamps to be recovered each month and of the availability of other methods of repayment. If the household requests to make a lump sum cash and/or food stamp coupon payment as full or partial payment of the claim, the State agency shall accept this method of payment. The State agency shall reduce the household's allotment to recover any amounts of the claim not repayed through a lump sum cash and/or food stamp coupon payment, unless a payment schedule has been negotiated with the household. The provision for a $10 minimum benefit level for households with one and two members only as described in § 273.10(e)(2)(ii)(B), shall apply to the allotment prior to reduction in accordance with this paragraph. If the full or remaining amount of the claim cannot be liquidated in 3 years, the State agency may compromise the claim by reducing it to an amount that will allow the household to make restitution within 3 years. A State agency may use the full amount of the claim (including any amount compromised) to offset benefits in accordance with § 273.17. The amount of food stamps to be recovered each month through allotment reduction shall be determined as follows:

(i) *Inadvertent household error claims.* For inadvertent household error claims, the amount of food stamps shall be the greater of 10 percent of the household's monthly allotment or $10 per month.

(ii) *Intentional misrepresentation or fraud claims.* For intentional misrepresentation or fraud claims, the amount of food stamps shall be the lesser of 25 percent of the household's monthly allotment *or* the guilty individual's pro rata share of the entitlement. Recovery of less than these amounts shall be accepted only if it results in equal increments or if the full amount can be recovered within a year using a lesser percentage.

(h) *Submission of payments.* (1) The State agency shall retain the value of funds collected for inadvertent household error, intentional misrepresentation or fraud, or administrative error claims. This amount includes the total value of allotment reductions to collect inadvertent household error and intentional misrepresentation or fraud claims, but does not include the value of the reduction of allotments resulting from a disqualification. The States' letter of credit will be amended on a quarterly basis to reflect the States' retention of 25 percent of the value of inadvertent household error claims and 50 percent of the value of intentional misrepresentation or fraud claims collected, as well as full retention by FNS of all administrative error overissuance recoveries.

(2) Each State agency shall submit quarterly a Form FNS–209, Status of Claims Against Households, to detail the State's activities relating to claims against households. This report is due no later than 30 days after the end of each calendar year quarter and shall be submitted to FNS even if the State agency has not collected any payments. In addition to reporting the amount of funds recovered from inadvertent household error and intentional misrepresentation or fraud claims each quarter on Form FNS–209, the State agency shall also report these amounts on other letter of credit documents as required. In accounting for inadvertent household error and intentional misrepresentation or fraud claims collections, the State agency shall include cash repayments and the value of allotments recovered or offset by restoration of lost benefits. However, the value of allotments reduced during periods of disqualification shall not be considered recovered allotments and shall not be used to offset an intentional misrepresentation or fraud claim. In addition, each State agency shall establish controls to ensure that officials responsible for intentional misrepresentation or fraud determinations will not benefit from the State share of recoveries.

(3) The State agency may retain any amounts recovered on a claim being handled as an inadvertent household error claim prior to obtaining a determination by an administrative disqualification hearing official or a court of appropriate jurisdiction that intentional misrepresentation or fraud was committed at the rate applicable to intentional misrepresentation or fraud claims, once the determination is obtained. In such cases, the State agency shall include a note in the remarks section of the quarterly reporting form specified in paragraph (h)(2) of this section which shows the additional amounts being retained on amounts already recovered as a result of the change in status of the claim.

(4) If a household has overpaid a claim, the State agency shall pay the household any amounts overpaid. The household shall be paid by whatever method the State agency deems appropriate considering the household's circumstances. In cases where payment is made from funds collected through overissuance recoveries, the State agency shall include a note in the remarks section of the quarterly reporting form specified in paragraph (h)(2) of this section which shows the amounts which were paid to households for overpaid claims. The State agency shall also include a note in the remarks section of the quarterly reporting form which identifies any claims for which the State agency retained funds and later paid the household for an overpayment.

(5) In cases where FNS has billed a State agency for negligence, any amounts collected from households which were caused by the State's negligence will be credited by FNS. When submitting these payments, the State agency shall include a note in the remarks section of the quarterly reporting form specified in paragraph (h)(2) of this section which shows the amount that should be credited against the State's bill.

(6) The State agency shall destroy any coupons or coupon books collected from households as payment for claims in accordance with the procedures for destruction of unusable coupons described in § 274.8(b).

(i) *Claims discharged through bankruptcy.* State agencies shall act on behalf of, and as, FNS in any bankruptcy proceeding against bankrupt households owing food stamps claims. State agencies shall possess any rights, priorities, interests, liens or privileges, and shall participate in any distribution of assets, to the same extent as FNS. Acting as FNS, State agencies shall have the power and authority to file objections to discharge, proofs of claims, exceptions to discharge, petitions for revocation of discharge, and any other documents, motions or objections which FNS might have filed. Any amounts collected under this authority shall be

transmitted to FNS as provided in paragraph (h) of this section.

(j) *Accounting procedures.* Each State agency shall be responsible for maintaining an accounting system for monitoring claims against households. At a minimum, the accounting system shall be designed to readily accomplish the following:

(1) Document the circumstances which resulted in a claim, the procedures used to calculate the claim, the methods used to collect the claim and, if applicable, the circumstances which resulted in suspension or termination of collection action.

(2) Identify those situations in which an amount not yet restored to a household can be used to offset a claim owed by the household.

(3) Identify those households that have failed to make installment payments on their claims.

(4) Document how much money was collected in payment of a claim and how much was submitted to FNS.

(k) *Interstate Claims Collection.* In cases where a household moves out of the area under a State agency's jurisdiction, the State agency should initiate or continue collection action against the household for any overissuance to the household which occurred while it was under the State agency's jurisdiction. The State agency which overissued benefits to the household shall have the first opportunity to collect any overissuance. However, if the State agency which overissued benefits to the household does not take prompt action to collect, then the State agency which administers the area into which the household moves should initiate action to collect the overissuance. Prior to initiating action to collect such overissuances, the State agency which administers the area into which the household moves shall contact the State agency which overissued benefits to ascertain that it does not intend to pursue prompt collection. The State share of any collected claims, as provided in § 273.18(h), shall be retained by the State agency which collects the overissuance.

PART 276—STATE AGENCY LIABILITIES AND FEDERAL SANCTIONS

8. § 276.2, paragraph (c) is revised to read as follows:

§ 276.2 State agency liabilities.

* * * * *

(c) *Cash losses.* State agencies are liable to FNS for cash losses when money collected by State agencies from participant claims has been lost, stolen, or otherwise not remitted to FNS by the State agency in accordance with the provisions of § 273.18(h). The amount of such losses shall be determined from sources such as audits, Performance Reporting System reviews, Federal reviews and investigations.

* * * * *

(91 Stat. 958 (7 U.S.C. 2011–2029); and secs. 112, 113 and 114 of Pub. L. 97–35, 95 Stat. 362 (7 U.S.C. 2015, 2022, and 2025))

(Catalog of Federal Domestic Assistance Programs No. 10551, Food Stamp Program)

Dated: June 16, 1982.

Samuel J. Cornelius,

Administrator.

[FR Doc. 82-16656 Filed 6-18-82; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Parts 1011, 1046, and 1098

[Docket Nos. AO-251-A23, AO-123-A48, and AO-184-A43]

Milk in the Tennessee Valley, Louisville-Lexington-Evansville and Nashville, Tennessee, Marketing Areas; Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends the amendment of the Louisville-Lexington-Evansville order to permit operators of country supply plants to count shipments directly from farms to pool city distributing plants toward meeting up to one-half of the shipments required to maintain pool plant status for the country plant. Also, the decision would amend the Nashville, Tennessee, order to allow diversions of milk between pool plants and provide a procedure whereby a proprietary handler could pay independent producers directly rather than through the market administrator.

This decision further finds that the adoption of a variety of other proposals considered at a public hearing held October 21–23, 1981, in Louisville, Kentucky, is not needed to maintain orderly marketing conditions. The proposals not adopted would have permitted the diversion of limited amounts of milk from the Nashville and Tennessee Valley markets to the Louisville market for Class I use; would have amended the location adjustments applicable to producer milk under the Nashville and Louisville orders; and would have changed the "touch-base" and diversion limits of the Nashville and Louisville orders.

One additional proposal dealing with pooling standards for distributing plants regulated under the Nashville order was adopted in a previous emergency final decision, issued January 21, 1982 (47 FR 2999). The order subsequently was amended effective February 1, 1982.

DATE: Comments are due on or before July 12, 1982.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, 202/447–4829.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

This action will not have a significant economic impact on a substantial number of small entities. The amendments would promote orderly marketing of milk by producers and regulated handlers.

Prior documents in this proceeding:

Notice of Hearing: Issued September 4, 1981; published September 11, 1981 (46 FR 45354).

Correction: Published September 22, 1981 (46 FR 46813).

Notice of Rescheduled Hearing: Issued September 24, 1981, published September 29, 1981 (46 FR 47588).

Suspension of Rule: Issued November 24, 1981; published November 30, 1981 (46 FR 58064).

Emergency Partial Final Decision: Issued January 15, 1982, published January 21, 1982 (47 FR 2999).

Final Order: Issued January 26, 1982, published January 29, 1982 (47 FR 4228).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the Tennessee Valley, Louisville-Lexington-Evansville and Nashville, Tennessee, marketing areas. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.),* and the applicable rules of practice and procedure governing the

formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C., 20250, on or before 21 days after publication in the **Federal Register**. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments set forth below are based on the record of a public hearing held at Louisville, Kentucky, on October 21–23, 1981, pursuant to the notice thereof issued September 4, 1981 (46 FR 45354), the correction published September 22, 1981 (46 FR 46813), and the notice of rescheduled hearing issued on September 24, 1981 (46 FR 47588).

The material issues on the record of hearing relate to:

1. Diversion of limited amounts of Class I milk from the Nashville and Tennesseee Valley markets to the Louisville market. A corollary issue involves changing the out-of-area location adjustments of the Nashville order.

2. Location adjustments applicable to producer milk under the Nashville and Louisville orders.

3. Pooling standards for "country" plants under the Louisville order.

4. Producer delivery requirements and diversion limits of the Nashville and Louisville orders.

5. The provisions of the Nashville order relating to the mechanism for paying producers.

6. Diversions between pool plants under the Nashville order.

7. Pooling standards for distributing plants under the Nashville order.

8. Whether an emergency exists to warrant the omission of a recommended decision on issue No. 7.

Issues Nos. 7 and 8 were dealt with in an earlier decision. The remaining issues, Nos. 1–6, are considered in this decision.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Diversion of limited amounts of Class I milk from the Nashville and Tennessee Valley markets to the Louisville market.*

The Nashville and Tennessee Valley orders should not be amended to accommodate diversions of producer milk for Class I use to plants fully regulated under another Federal order. Also, the Louisville order should not be amended to allow milk received at pool city (distributing) plants directly from farms to be excluded from the definition of producer milk if the milk is considered producer milk under another Federal order. Each of these orders now provides that milk received at a pool plant directly from a farm be considered producer milk under the order which regulates the plant where the milk is first received, unless the milk is received as a diversion from an other order plant for Class II or Class III use.

Kraft, Inc., which operates pool plants in all three markets, including pool distributing plants in the Nashville and Louisville markets (Kraft's fluid milk operations also are known by the name Sealtest), initiated several related proposals relative to this issue. Specifically, one of Kraft's proposals would allow a Nashville handler to divert milk to an other order distributing plant for Class I use. Such diversions would be limited to 25 percent of the handler's receipts for the previous month. Milk of an individual producer would not be eligible for such diversion unless at least 50 percent of the producer's milk was received at a Nashville order pool plant. A related proposal would allow milk to be received at pool city plants under the Louisville order directly from the farm without becoming producer milk under that order if such milk was considered producer milk under another Federal order. Another Kraft proposal would change the out-of-area location adjustments of the Nashville order for locations in Kentucky and Indiana so that any milk diverted from Nashville to Louisville for Class I uses would be priced under the Nashville order at the same Class I price that is applicable at those locations under the Louisville order. These proposals were designed to allow milk from producers who regularly ship to Kraft's plant in Nashville to be diverted to Kraft's bottling plant in Louisville for Class I use and remain producer milk under the Nashville order.

Kraft claimed that the need for order changes to accommodate Class I diversions is a product of two circumstances: (1) Kraft's failure to reach an agreement with Dairymen, Inc., the major cooperative association in these markets, for a supply of milk for its Louisville plant, coupled with the lack of economical alternative milk supplies in the Louisville market, and (2) differences between the seasonal production incentive plans under the Nashville and Louisville orders that make it difficult to switch producers between the orders on a seasonal basis without reducing their minimum Federal order payments.

Kraft's witness testified that since September 1980, when negotiations with Dairymen, Inc., failed to result in an agreement acceptable to Kraft, the handler has been unable to obtain an adequate milk supply for its Louisville plant from local producers. The spokesman stated that from September 1980 through August 1981, Kraft purchased milk from producers in Wisconsin to meet the Louisville plant's needs. Since September 1981, the Louisville plant has attempted to meet its demand for bulk milk from local producers. The witness indicated that Kraft's independent producers on the Louisville order produce enough milk to meet the needs of its Louisville plant. Nevertheless, he claimed, many of these producers' farms are located so far away from Louisville that regular shipment of their milk to the Louisville plant is not economically feasible. He further stated that many of Kraft's producers regularly ship their milk to another city plant in Lexington, Kentucky, under a contractual arrangement Kraft has with the operator of that plant.

Kraft's witness testified that Kraft currently transfers significant quantities of milk from its Nashville plant to the Louisville plant to remedy the deficit supply situation. He maintained that adoption of the proposals would, within limits, allow much of the milk now being transferred to Louisville to move directly from the farm to the Louisville plant without becoming producer milk under the Louisville order.

The Kraft spokesman indicated that about 50 producers who historically have been associated with Kraft's Nashville plant are located in South Central Kentucky about halfway between Louisville and Nashville. He stated that Kraft would like to ship some of the milk produced by these farmers directly to its plant in Louisville. However, the witness testified that these producers have been associated with the Nashville market for many years and prefer to be paid on the basis of the Nashville order's base-excess payment plan rather than the Louisville (take out-pay back) payment plan of the Louisville order. He also pointed out that if these producers are shifted between the Nashville and Louisville orders on a month-to-month basis the difference between the base-excess plan and the Louisville plan could significantly reduce the minimum Federal order prices for their milk.

Kraft's witness stated that the company has accommodated these 50

producers by continuing to pool their milk on the Nashville order by first receiving the milk at its Nashville plant and then transferring it to its Louisville plant. The spokesman presented data to indicate that for the past several months Kraft had transferred as much as 1.5 million pounds of milk per month from Nashville to Louisville. He testified that such movements cost Kraft approximately 75 cents per hundredweight but that this cost is still less than the alternative of delivering directly to the Louisville plant the milk of other producers currently pooled on the Louisville order.

Kraft's witness characterized the differences between the producer payment plans of the Nashville and Louisville orders as an impediment to the efficient movement of milk. He stated that this impediment is especially strong for proprietary handlers because they do not have the privilege of reblending that the Act extends to cooperative associations.

According to Kraft's witness, Kraft's proposals would allow up to half of the milk of the 50 producers to be delivered directly from farms to the Louisville plant but remain pooled on the Nashville order. Thus, Kraft could accommodate its producers who wish to be paid on a base-excess plan while saving Kraft the expense of the Nashville-to-Louisville haul now needed to keep the milk pooled under the Nashville order.

Dairymen, Inc. (DI), opposed the adoption of Kraft's proposals. DI's witness stated that the diversion provisions of Federal orders are intended to provide for the orderly disposal of surplus milk supplies. The witness asserted that allowing diversion for Class I use would provide an opportunity for the reserve supplies of one market to displace local supplies in another market, thus allowing the producers of the diverting market to obtain the benefit of the other market's Class I sales. The witness stated that the cooperative supports the usual procedure of pooling a producer's milk on the order that regulates the plant that first receives the milk when some of the milk in the shipment is classified as Class I.

Although DI's spokesman stated that the cooperative opposed any accommodation of Class I diversions, DI proposed that if the Louisville and Nashville orders are amended to allow such movements, then the Tennessee Valley order also should be amended to accommodate Class I diversions to other order plants. The witness indicated that certain DI producers are located such that their milk could be diverted easily from the Tennessee Valley market to the Louisville market for fluid use.

The pool plant qualification and producer milk sections of Federal orders generally have been structured to assure that producers who provide a regular supply of milk for a market share in the market's higher-valued Class I sales by having their milk pooled under the order for that market. One aspect of these provisions in most orders is to pool a producer's milk under the order which regulates the plant that first receives the milk from the farm. If a producer should ship milk during a month to plants regulated by different orders, that farmer is a producer on each such market. The only general exception to this rule has been where a producer's milk is diverted for surplus disposition from a pool plant under one order to a plant regulated by a different order. It has long been held under the order program that milk which is diverted for surplus disposition should remain producer milk on the diverting market since such milk represents the reserve supply for that market. If the milk were moved to another market for surplus disposal and pooled there, the returns to producers regularly supplying this other market would be adversely affected because of the lower-valued use of the milk.

By contrast, most orders provide that if any milk diverted to another market is classified as Class I in the receiving market, it becomes producer milk on that market and is pooled there. The rationale for pooling diverted milk on the receiving market when any of it is classified as Class I is that such classification shows that the milk is serving the fluid needs of that market and, thus, should be treated like any other regular source of supply.

Any departure from this regulatory approach regarding diversions of milk between Federal order markets should be based on a demonstration that this is essentially the only means of dealing with the problems of a particular market situation and that the change is necessary to maintain orderly marketing conditions for producers and handlers. This was not demonstrated in the record for this proceeding.

If Kraft's proposals were adopted, and the volume of diversions remained no greater than current transfers, the significant effects would be (1) the elimination of Kraft's cost of tranferring milk from the Nashville plant to the Louisville plant, and (2) lower returns to the producers whose milk is diverted because of the minus location adjustment that would be applicable for deliveries to Louisville. There would be no substantial change in transportation costs to producers because the producers are almost centrally located between Nashville and Louisville. There also would be no change in the classification of the milk delivered to Louisville, because the Louisville order classifies receipts of transfers and diversions on the same basis. If volumes remain unchanged, the substitution of diversions for transfers would have no perceptible impact on the producer blend prices of either market.

The record shows that Kraft could save as much as $10,000 per month if it eliminated the transfer of milk from Nashville to Louisville. At the same time, producers who would have production diverted to Louisville would receive a lower return under the order because their Louisville deliveries would be subject to a minus location adjustment of 15 cents per hundredweight. However, Kraft probably could more than compensate those producers from the savings generated by its reduced transportation expenses if it wished to do so.

The above discussion is premised on the assumption that the volume of milk to be diverted to Louisville for Class I would not be significantly different from present transfers. However, the record shows (although the figures are not precise) that Kraft's proposed limit on Class I diversions of 25 percent of a handler's supply in the previous month would, under present operating conditions, allow Kraft to divert over twice the present volume of transfers. If such an increase were to occur, and this increase represented a reduction of Class I sales for producers on the Louisville market, the Louisville blend price could be lowered. In addition, the adoption of DI's proposal with respect to the Tennessee Valley order could put even more downward pressure on the Louisville blend price, which would adversely affect producers who regularly supply the Louisville market.

Furthermore, the adoption of Kraft's proposals could result in false production signals to producers in the region. The milk that Kraft would divert to Louisville could be considered surplus to the usual fluid needs of the Nashville market. Normally, such surplus milk supplies would go into manufacturing uses and would be priced below the Class I price. The downward impact on the Nashville blend price would discourage excess production of reserve supplies. However, to the extent that this milk would be used to supply the fluid needs of the Louisville market, the blend price of the Nashville order would be enhanced. Any such increase in the Nashville blend price would give

producers a signal that additional milk supplies are needed to meet the demand of the fluid market when in fact the Nashville market's regular fluid sales are not increasing. Since Kraft's proposals would make it easier to use Nashville reserve supplies for fluid use in Louisville, they would help foster a price level that would not reflect actual demand for milk in the Nashville market.

It is recognized that in the absence of the diversion provisions proposed by Kraft the different producer payment plans in the Nashville and Louisville markets can result in independent producers being reluctant to switch from one order to the other during the course of a year to accommodate Kraft's supply arrangements. If Nashville producers switch to the Louisville market in the spring, they become subject to the Louisville plan deductions in computing the uniform price. If they switch to the Louisville market in the fall, they receive the Louisville plan pay-back money, but they fail to earn a base under the provisions of the Nashville order. It they switch from the Louisville market to the Nashville market without a base, their minimum payment under the Nashville order during the base-paying months would reflect only the excess price for all of their deliveries.

It is noted, however, that the supply problem at Kraft's Louisville plant is not a seasonal problem. Rather, it is a continuing situation that likely will require supplemental milk supplies each month for the next two or three years. Under these circumstances, there appears to be little reason to shift a producer back and forth between markets on a month-to-month basis. Instead, producers should be shifted to the Louisville market on a more a less permanent basis in view of the continuing need for additional milk at the Kraft plant.

Kraft indicated that it does not want to take this action because the producers wish to remain pooled on the Nashville market so that their returns will not be jeopardized. The market statistics included in the record indicate that an average Nashville producer would have his or here minimum Federal order return altered by less than one percent up or down if switched to the Louisville market for an entire 12-month period. In fact, during the period of October 1980 through September 1981, the average Nashville producer would have received a slightly higher return for milk if it had been pooled uder the Louisville order. Unless marketing conditions change dramatically in either market during the next two to three years, Kraft could eliminate the cost of current milk transfers by shifting some producers to the Louisville market without significantly altering the producers' returns. In fact, the producers could be better off on the Louisville market than if they stayed in the Nashville market and operated under Kraft's proposal. Under Kraft's proposal, the producers would be subject to a minus 15-cent location adjustment for all deliveries to Louisville, which could apply to as much 50 percent of a producer's production. Unless marketing conditions change, the Nashville blend price (or weighted average price) minus 15 cents probably will average less over the course of a year than the Louisville blend price. If the producer remained pooled on the Louisville order for a complete year, gross returns could be higher than under Kraft's proposal.

Under these circumstances, the problems outlined by Kraft could be solved by shifting some or all of the approximately 50 producers mentioned earlier to the Louisville market for an indefinite period. This action would not alter producers' returns significantly and would reduce Kraft's transportation costs. Although this alternative would not accommodate the producers' desire to remain pooled on the Nashville market, producers should be responsive to changes in the location of demand for their production. At present that demand is in Louisville, not in Nashville. Thus, it is not necessary to depart from the usual procedure of pooling milk under the order which regulates the plant where the milk is first received when some of the milk is assigned to Class I. Therefore, the proposals dealing with interorder diversions of producer milk for Class I use and the related proposal to restructure the out-of-area location adjustments of the Nashville order to accommodate such interorder diversions are denied.

2. *Location adjustments applicable to producer milk under the Nashville and Louisville orders.*

Three proposals, Nos. 6, 12 and 13, included in the notice of hearing for this proceeding concerned the location adjustments applicable to producer milk under the Nashville and Louisville orders. However, at the hearing representatives of DI (proponent of Nos. 6 and 12) and National Farmers' Organization (proponent of No. 13) withdrew their respective proposals and no other interested party offered testimony related to these proposals. Since the record contains no evidence concerning these proposals, further discussion of this issue is not necessary.

3. *Pooling standards for "country" plants under the Louisville order.*

The pool plant definition of the Louisville order should be amended to allow operators of country (supply) plants to count their deliveries of milk directly from farms to pool city (distributing) plants toward meeting up to one-half of the shipments required to qualify the country plant as a pool plant. Current order language recognizes only actual transfers of milk from the country plant to city plants as shipments that count to qualify a country plant for pool plant status. This change was proposed by Kraft, Inc., and supported by the Armour Food Company. DI opposed adoption of this change and in the alternative proposed that country plants be eliminated from the pool plant definition.

Kraft's witness stated that the purpose of their proposal was to allow country plants to operate in a more efficient manner. The witness stated that Kraft operated a country plant at Lawrenceburg, Kentucky, that qualified as a pool plant under the Louisville order from September 1979 to September 1981. The witness testified that while this plant was in operation the milk on three farm pick-up routes could have been delivered directly to a city plant in Lexington, Kentucky, rather than being hauled to the country plant, unloaded, reloaded, and delivered to Lexington. Testimony was offered showing that while the plant was in operation the proposed change could have saved 495 miles of transportation per day over the actual hauling that took place.

A witness for the Armour Food Company voiced strong support for Kraft's proposal. He stated that Armour operates a country plant regulated by the Louisville order. The witness contended that order provisions should be changed to allow country plants to operate more efficiently because these plants serve the fluid market by providing supplemental shipments to city plants, by giving producers a market alternative, and by helping maintain the economic viability of manufacturing plants in the market that provide an outlet for the market's reserve supplies. The witness indicated that producers representing about 60 percent of the Armour plant's Grade A supplies were located such that their production could be shipped directly to city plants at considerable transportation savings.

DI's witness took the position that there is no need for country plants in the Louisville market. The witness stated that all milk in the market could be shipped directly from farms to city plants and that the only reason for

maintaining country plants is to associate with the market milk to be used in manufacturing plants. The witness, testified that DI believes that marketing orders should be structured to pool only those milk supplies that are closely associated with the needs of the fluid market, including necessary reserve supplies. He asserted that most supplies associated with supply plants are not readily available for the fluid market, and that the order should not be amended to make it easier for country plants to meet the pooling standards. Instead, the witness contended, the order should be amended to remove country plants from the pool plant definition.

DI further contended that the existence of supply plants creates disorderly marketing conditions because the purpose of maintaining a supply plant in today's dairy industry is to obtain milk supplies for manufacturing purposes, not for bottling. DI cited the fact that all supply plants operated in the Louisville market in recent years have been operated in conjunction with a manufacturing facility.

Federal milk orders have accommodated the pooling of milk supplies through country plants because these plants historically have served as a means of getting milk supplies to bottling plants. Before bulk transport for raw milk became generally available, supply plants served as country assembly points for milk supplies for over-the-road shipment to bottling plants in metropolitan areas. Although transporation technology has reduced the need for country assembly points, supply plants have continued to be a source of milk for bottling plants in many markets.

The record contains no rebuttal to DI's claim that the Louisville market can be supplied entirely by direct shipments. However, the feasibility of supplying all distributing plants in a market by direct shipments is not a sufficient reason to deny handlers an alternative means of obtaining supplies. Handlers may choose to obtain a portion of their milk supply through a country plant for any number of reasons. Even though the procurement of milk supplies directly from farms may be the most economically efficient method of obtaining raw milk for bottling, this may be overshadowed by other considerations in the handler's decision-making process. In addition, Federal milk orders are not designed to dictate that handlers use the method of milk procurement that the Department may consider the most efficient. Rather, as long as a procurement method does not result in disorderly marketing conditions, Federal orders should not foreclose an alternative supply option.

DI's contention that the existence of supply plants creates disorderly marketing conditions because they are primarily a vehicle for pooling unneeded milk supplies is not supported by the record. The record does show that Armour (and Kraft when it operated a supply plant) utilizes Grade A milk not shipped to distributing plants in its adjacent manufacturing facility. In addition, Armour's witness acknowledged that Armour needs a supply of Grade A milk for its manufacturing plant and the operation of a country pool plant is the method the company has chosen to obtain that supply. However, the use of a country plant's surplus Grade A milk in a manufacturing plant does not by itself indicate that the country plant is not serving the fluid market. Under the Louisville order, country plants are determined to be serving the fluid market if they meet the shipping requirements that have been established through the hearing procedure. The record shows that the country plant operated by Armour and the country plant recently operated by Kraft have consistently met the shipping requirements of the order. In fact, the Armour plant generally ships milk to city plants every month of the year, even during the heavy production months when shipments are not required. The record also contains statements by representatives of Kraft and Armour that their country plants placed the highest priority on meeting the needs of city plants for shipments of milk. Accordingly, it is not possible to conclude from this record that a plant that is more than meeting the shipping requirements is causing disorderly marketing conditions. In the absence of disorderly marketing conditions, there is no reason to eliminate country plants from the pool plant definition of the Louisville order.

The proposal to recognize direct farm-to-city plant shipments for qualification of country plants should be adopted because it would allow country plants to operate in a more efficient manner without altering the basic standard used to determine whether the plant is serving the fluid market to a degree that warrants pool status for the plant. Although Kraft has closed its country plant, and thus appears unlikely to utilize the changes adopted herein, the Armour country plant regulated by the Louisville order could benefit from the proposed change. The record indicates that producers representing approximately 60 percent of Armour's Grade A milk supply are located such that their production could be delivered directly to city plants rather than by transfer from the country plant at considerable savings to Armour.

DI opposes the change because it believes that the purpose of the proposal is to make it easier to associate with the Louisville pool milk which is intended primarily for Class III use at manufacturing plants. Although this proposal would reduce Armour's cost of operation, it would not change the percent of a country plant's receipts and diversions that must be shipped to city plants to qualify the country plant for pool status. If a country plant operator wishes to increase the quantity of Grade A milk moving to a manufacturing plant, shipments to city plants must increase by a like amount (in the months when the 50 percent shipping requirement applies). The proportion of the country plant's total receipts and diversions that would be free to move to a manufacturing plant would not change under this proposal.

At the hearing and in its brief, DI expressed concern that adoption of this proposal would create an incentive for the operator of a country plant located a considerable distance from the market to associate the plant with the Louisville pool. The adopted pooling change would reduce the proportion of a country plant's milk supply that must actually be transferred to pool city plants to qualify the country plant for pool status during the months of September through February, but it would not change the requirement that at least 50 percent of the plant's milk supply must be made available to city plants by transfer or diversions. By reducing the amount of milk that must be moved to city plants by interplant transfers, the pooling change may reduce the cost of associating a distant country plant with the Louisville market, assuming the country plant has milk supplies conveniently located for delivery directly to city plants. However, there is no indication that this change would alter the operating costs of any country plant in the region to the point that it would be unusually profitable to engage in the extensive hauling of milk that would be necessary to obtain pool status for a distant plant. Kraft and Armour offered information on how the proposed change would benefit their specific operations. The record contains no specific information about other country plants that would benefit from or take advantage of the change. Therefore, DI's concern does not provide sufficient grounds to deny the proposal.

4. Producer delivery requirements and diversion limits of the Nashville and Louisville orders.

The producer milk definitions of the Louisville and Nashville orders should not be amended to change the producer delivery ("touch-base") requirements and diversion limits of the orders.

Kraft proposed the elimination of the provision in the Louisville order that limits diversions of milk from pool plants to nonpool plants to 22 days' production during each month of September through February. With respect to the Nashville order, DI proposed an increase in the number of days that a producer must deliver milk to a pool plant (commonly referred to as touching base) if the producer's milk is to be eligible for diversion from pool plants to nonpool plants. Under the proposal, the delivery requirement would be increased from two days' production each month of the year to four days' production in each month of March through July and ten days' production in each month of August through February. DI also proposed that diversions from pool plants regulated under the Nashville order be limited to an amount equal to one-third of the producer milk physically received at the pool plants. The order does not now contain a percentage limitation on diversions to nonpool plants.

Kraft's witness stated that the diversion provisions of the Louisville order, which require touch-base deliveries on as many as nine days during the short production months, result in inefficient handling of milk. The witness asserted that handlers should be given the greatest flexibility possible in determining which milk is to be delivered to pool plants and which is to be diverted to nonpool plants. Although Kraft proposed no overall diversion limits in conjunction with its proposal to lower the touch-base requirements, Kraft's witness indicated that the company would not object to such a limit as long as it was not overly restrictive. In its post-hearing brief, Kraft suggested that a total diversion limit of 50 percent of receipts combined with the existing two-day touch-base delivery requirement would be an adequate limit and would allow for the efficient movement of milk.

Kraft's witness stated that the touch-base requirements are the most burdensome on those producers who have converted from manufacturing grade to Grade A production. The witness indicated that the Kraft organizaton has some milk pick-up routes for manufacturing grade producers that include one or two Grade A producers. He noted that the touch-base provisions require these Grade A producers to ship their milk separately from the other producers on certain days of the month. The witness stated that the resulting dual-route system, one for manufacturing grade producers and one for Grade A producers to meet the touch-base requirement, is an inefficient method of moving milk. The witness said that Kraft's proposal would allow a handler to select producers for diversion in a way that would result in the most efficent movement of milk.

The witness for DI stated that higher touch-base requirements are necessary in these markets to assure the availability of supplies for the fluid market. He maintained that the touch-base provisions of an order require a producer to show at least a limited association with the market before the producer's milk that is diverted to nonpool plants is allowed to participate in the marketwide pool. The witness asserted that the current requirements of the Louisville order have not placed a burden on the pooling of milk which historically has been associated with the market. The witness also expressed the association's view that producers who convert to Grade A production must be willing to ship a certain part of their production to pool plants before all of their milk is allowed to participate in the pool.

In response to the general invitation in the hearing notice for testimony concerning the desirability of an overall diversion limit for the Louisville order, DI's witness suggested that the pool plant definition of the order be amended so that diversions from city plants would be counted as receipts when calculating whether the plant meets the Class I requirement for pool plant status. The spokesman pointed out that diversions to pool and nonpool plants currently are not included in the base used to compute the Class I percentages. He maintained that the DI proposal would be an appropriate method for placing an overall limit on diversions in the Louisville market.

DI's witness contended that market conditions are changing in the Nashville and Louisville areas. He stated that the opening of large distributing plants in Murfreesboro, Tennessee, (in August 1981) and Winchester, Kentucky, (expected in October 1982) and the promulgation of a Federal milk order for the State of Alabama will have a dramatic effect on these markets. The witness predicted that these events would produce a significant increase in the Class I utilization under both the Nashville and Louisville orders. These perceived market changes provide the basic rationale for DI's proposal to increase the touch-base requirements of the Nashville order and to provide for an overall diversion limit of one-third of a handler's receipts. The witness further asserted that markets with high Class I utilization need high touch-base requirements and limited diversions to assure the availability of supplies for fluid use.

Kraft's case for reduced touch-base requirements for the Louisville order stems from the claim that there is a general need for handlers to be given greater flexibility to determine which producers should have their milk diverted and which ones should have their milk delivered to pool plants, and a specific need to accommodate manufacturing grade producers who wish to convert to Grade A production. In this regard, Kraft contended that an overall diversion limit would accomplish the objective of touch-base requirements without producing hauling inefficiencies. There is little evidence in the record, however, to indicate that handlers or producers find the current touch-base requirement burdensome. Kraft indicated that it has producers on the Louisville market that are located in areas that make it more convenient to ship their production to nonpool manufacturing plants on a regular basis rather than deliver the milk to pool plants. At the same time, Kraft is asking the Department to make substantial changes in the order to accommodate its need for additional supplies at its Louisville plant. At least some of this demand could be met by delivering the production of the inconveniently located producers to Louisville for the number of days necessary to meet the touch-base requirement. If there is a need for milk at Louisville, it is reasonable to expect producers associated with the market to respond in some minimum way.

Armour supported Kraft's proposal to eliminate the 22-day diversion limit that applies during September through February and indicated that the change would be beneficial to its operation. However, there is little indication that the current provisions are overly burdensome to Armour's operations. Armour operates a country plant and a manufacturing facility on the same premises at Springfield, Kentucky, and a small manufacturing plant at Elizabethtown, Kentucky. During September through February, Armour must receive half of its Grade A milk supply at its country plant and then deliver it to pool city plants when it wishes to have the country plant qualify as a pool plant. When the country plant is a pool plant, this procedure assures that at least half of the milk meets the

touch-base requirement. It should be noted here that this decision also adopts changes in the Louisville order that would allow Armour to meet up to half of its shipping requirements by delivers of milk directly from farms to city plants. These plants are also pool plants, so these direct shipments would also meet the touch-base requirement.

The advantage that could accrue to Armour from the adoption of this proposal is that the milk of certain producers could be moved directly to its manufacturing facilities on a regular basis, rather than being moved part of the time through the country plant for purposes of qualifying the plant as a pool plant. However, since Armour's largest manufacturing facility is located adjacent to the country plant, milk may be easily delivered to either facility. Thus, loads of milk may be rotated between the country plant and the manufacturing facility in a way that would allow all of Armour's producers to meet the touch-base requirement. From a practical standpoint the proposed change apparently would be of little real benefit to Armour's operation.

The record does not support a conclusion that the 22 days' production diversion limit of the Louisville order should be changed. Moreover, since this proposed change is not adopted, there is not reason to consider DI's suggestion to amend the pool plant definition to include diversions from city plants when calculating the plant's Class I percentage.

Likewise, it cannot be concluded that DI's proposal to raise the touch-base requirement of the Nashville order and impose an overall diversion limit on pool plants should be adopted. DI bases its case for this proposal on the assumption that a series of events, some of which would occur in the future, will dramatically increase the Class utilization of the Nashville market, and on the contention that in a high utilization market there is a need to assure that milk is closely associated with the market. The record does show that changes in marketing conditions have occured over the past two years in the Nashville market. Production has increased but Class I sales have not grown. It is also clear that the implementation of a Federal order in Alabama [1] may result in additional market changes. However, it is not clear that the events discussed by DI will change the market in the manner or to the extent envisioned by the cooperative. The new bottling plant at Murfreesboro, Tennessee, began operation in August 1981, and was a pool plant on the Nashville order for the months of August and September 1981. In October 1981, the plant became regulated by the Georgia Federal order. The apparent overall impact of this plant on the Nashville market thus far has been minimal. Class I utilization has not changed significantly. In fact, Class I utilization was below year earlier levels in October and November 1981 and only slightly above year earlier levels during the months of December 1981 through March 1982.[2] With this result from one of the events cited by DI as foreshadowing a dramatic change in market conditions, it is premature to base a significant change in the touch-base requirement and diversion limits on speculation as to the effects of future events on the Nashville market. Therefore, these proposed changes to the Nashville order are denied.

5. *Provisions of the Nashville order relating to the procedure for paying producers.*

The Nashville order should be amended to allow handlers to pay those producers for whom a cooperative association is not collecting payments.

The order now provides that handlers shall pay the total classified use value of milk to the market administrator, who in turn pays individual producers and cooperative associations the uniform (or base and excess) price for their milk. Both the partial and final payment requirements of the order are handled this way. Under the change adopted herein a handler could request that the market administrator return to the handler an amount equal to the sum of the individual payments otherwise due the handler's producers for partial and final payments in the same manner that lump-sum payments currently are made to cooperative associations. The handler in turn would pay individual producers on or before the dates they otherwise would be paid by the market administrator. Any handler who is determined to be delinquent with respect to any payment obligation under the order would forfeit the opportunity of making such payments to producers.

Kraft, Inc., proposed that handlers be given the option of paying nonmember producers on or before the dates payment would otherwise be made by the market administrator. The witness for Kraft stated that the proposed change would benefit the market by (1) giving proprietary handlers the ability to generate "goodwill" from paying their independent producers with company checks, and (2) reducing the cash-flow burden on handlers that results from the time needed to channel all producer payments through the market administrator.

The witness indicated that Kraft currently pays its independent producers a premium which is made on a company check. Since Kraft maintains a payroll system to process these over-order payments, the witness contended that assuming the entire producer payroll would not significantly affect Kraft's cost of operation, but it would relieve the market administrator of a substantial part of the burden of making payments to each independent producer twice each month.

The Kraft spokesman also emphasized the cost to handlers of the current payment plan, and introduced evidence that the market administrator was able to earn over $63,000 in 1980 from short-term investments of payroll funds. Although the money was distributed to producers in the form of an increased uniform price, Kraft's witness introduced the figure as an estimate of the cost to handlers of the present payment system.

The Kraft witness emphasized the importance Kraft places on paying its producers with a company check. He indicated it was one of the few ways a proprietary handler has of establishing and maintaining a good business relationship with the supplier. The witness stated that as long as producers are assured of receiving prompt and full payment, there is no justification for denying a proprietary handler the opportunity to generate goodwill by paying producers with a company check.

The spokesman for DI indicated that the cooperative association opposed to Kraft proposal because it would reduce the price paid to producers by approximately 2 cents per hundredweight and because it would result in handlers who purchase their supplies from cooperative associations being placed at a competitive disadvantage because they would be forced to make their payments two days earlier than other handlers. The witness stated that the current payment provisions of the Nashville order are appropriate and should not be amended as proposed.

The provisions of the order that specify the procedure for payments to

[1] Official notice is hereby taken of the Assistant Secretary's decision adopting a Federal milk order for the Alabama-West Florida marketing area, issued January 28, 1982 (47 FR 5124). The Alabama-West Florida order became fully effective May 1, 1982.

[2] Official notice is hereby taken of the Statistical Summaries for the months of October 1981 through March 1982, issued by the Market Administrator of the Nashville, Tennessee, order.

producers are designed to assure that producers are paid promptly and properly for their milk. Although the current provisions are adequately serving this purpose, it is concluded that certain modifications can be made in the payment procedure that will accommodate Kraft's basic desire and at the same time recognize certain concerns of DI. Kraft's basic interest appears to be that of making payments on its own checks to the independent producers supplying it with milk. A concern of DI is that any changes in the payment procedure not depart from the current requirement that all handlers in the market make their payments for milk at the same time.

These varying interests can be met by continuing to require that all handlers transfer their partial and final payments for milk to the market administrator. Handlers then should be permitted to request that the market administrator transfer to the handler an amount equal to the sum of the payments due the handler's independent producers at the same time and in the same manner that lump-sum payments are made to cooperative associations. Such handler would then be responsible for paying producers the amounts they otherwise would receive from the market administrator on or before the dates specified for the market administrator to make partial and final payments to producers. To assure prompt payment by handlers, the order should specify that a handler would forfeit the privilege of making payments to producers if the market administrator determines that the handler is delinquent with respect to any payment obligation under the order. A handler could regain the payment privilege by meeting all prescribed payment obligations for three consecutive months.

If payments to the market administrator were not required, as Kraft proposed, handlers that purchase milk from cooperatives would have to make payments two days before payments would be required of handlers that have independent supplies. Therefore, due dates for payments to the market administrator, payments to cooperative associations, and payments to individual producers should not be changed. All handlers thus would continue to be required to make payments to the market administrator at the same time. This places them on an equal footing in terms of the time that they must have money available for their milk purchases. There would be no monetary advantage to handlers based on whether they obtain their supplies from independent producers or from cooperative associations. Handlers who purchase milk from independent producers could receive lump-sum payments representing the sum of the payments due their producers but they would be obligated to pay producers within two days. Since all handlers would continue to pay the market administrator, as is now required, handlers who choose to utilize this payment procedure will not obtain a competitive advantage over other handlers.

It should be recognized that the payment procedure in the order is not designed to enhance producer returns. Any income generated by the market administrator from short-term investments of monies that ultimately will be paid to producers represents only an incidental benefit of the payment plan. The payment plan, however, is not intended to serve as a method of increasing the blend price. Accordingly, loss of interest income should not be a determining factor when changes in the payment plan are considered.

6. *Diversions between pool plants under the Nashville order.*

The Nashville order should be amended to permit milk to be diverted from one pool plant to another, with the diverting handler retaining the responsibility for reporting and paying for the milk.

Kraft, Inc., proposed this change to eliminate unnecessary hauling and pumping of milk which it claims is presently required to accommodate movements of milk between pool plants. Kraft's witness stated that the current order provisions discourage handlers from providing supplemental supplies to other pool plants. He indicated that on at least four occasions over the past three years other pool plants have requested supplemental supplies from Kraft's plant at Nashville. These transactions were complicated, he said, because Kraft could not divert milk directly to the purchasing plant and still consider the producers as Kraft's producers. On one occasion, the witness noted, Kraft "loaned" producers to another plant. The buying handler then became the reporting handler for the milk but paid Kraft an over-order premium. Kraft in turn paid the premium to the producers. The witness indicated that on other occasions Kraft received milk at the Nashville plant, reloaded the milk and transferred it to the other plant. The witness stated that allowing diversions between pool plants would eliminate the paperwork involved in "loaning" producers and the unnecessary pumping and hauling required for transfers.

DI opposed the proposal. Its witness stated that diversion of producer milk between Nashville order pool plants is not required under the marketing conditions that prevail in the Nashville order marketing area. The witness explained that the structure of the Nashville market makes it unlikely that milk will be transferred between pool distributing plant. Only five distributing plants are regularly pooled under the Nashville order. Of these, three are fully supplied by DI, one receives all its milk from independent producers and one (Kraft) receives some milk from NFO and the remainder from independent producers. The witness indicated that in such a market interplant shipments would be rare. In its post-hearing brief, DI further stated that any pool handler who wishes to obtain a supply of milk from independent producers should be willing to be the responsible handler for such producer's milk.

The order should promote the efficient handling of milk by permitting a pool plant operator to divert milk to another pool plant and still retain the producer milk status and payroll responsibility for the milk. This will permit a handler to avoid unnecessary and costly milk movements and handling arrangements merely for the purpose of retaining his status as a handler on the milk. The record indicated that as recently as September 1981, Kraft transferred several loads of milk to a pool distributing plant at Murfreesboro, Tennessee, that could have been shipped directly to Murfreesboro if diversions between pool plants had been recognized by the order.

This change would have no direct effect on the amount of milk pooled, the classification of milk, or the uniform price. It would simply allow shipments between pool plants to be made in a more efficient manner. The fact that in the past the number of shipments that would be affected by this change has been minimal carries little weight. The record shows that the current provisions have caused some inconvenience that can be remedied by the change and that there are no adverse effects on other interested parties in the market.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. The briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the

extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are made with respect to each of the aforesaid tentative marketing agreements and orders that are hereby proposed to be amended:

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commerical activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreements and Order Amending the Orders

The recommended marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended. The following order amending the orders, as amended, regulating the handling of milk in the Louisville-Lexington-Evansville and Nashville, Tennessee, marketing areas is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

List of Subjects in 7 CFR Parts 1011, 1046, and 1098

Agricultural marketing service, Milk marketing orders, Milk, Dairy products.

PART 1046—MILK IN LOUISVILLE-LEXINGTON-EVANSVILLE MARKETING AREA

1. Section 1046.7(b) is revised to read as follows:

§ 1046.7 Pool plant.

* * * * *

(b) A country plant during any of the months of September through February from which not less than 50 percent, and during other months not less than 40 percent, of milk from persons described in § 1046.12(a)(1) and from handlers described in § 1046.9(c) that is physically received at such plant (except by diversion from other plants), or diverted therefrom pursuant to § 1046.13, is shipped to and received at a city plant(s) in the form of milk or skim milk. The operator of a country plant may include milk diverted pursuant to § 1046.13(b) from such plant to a city plant as qualifying shipments in meeting up to one-half of the shipping percentage(s) specified in this paragraph.

* * * * *

§ 1046.13 [Amended]

2. In paragraph (b) of § 1046.13, the section reference "1046.7(a)" is changed to "1046.7(a), (b), or (c)".

PART 1098—MILK IN NASHVILLE, TENNESSEE, MARKETING AREA

§ 1098.7 [Amended]

1. In § 1098.7(a), add the words "pool or" before the word "nonpool".

2. In § 1098.7(b) add the words "pool or" before the words "nonpool plant pursuant to § 1098.12".

3. In § 1098.13(a), insert the parenthetical phrase "(excluding such milk that is diverted from another pool plant)" after the words "dairy farmer".

4. In § 1098.13, the introductory text of paragraph (b) and paragraph (b)(1) are revised to read as follows:

§ 1098.13 Producer milk.

(b) Diverted by the operator of a pool plant or a cooperative association from a pool to another pool plant without limit during the month, or to a nonpool plant that is not a producer-handler plant, subject to the following conditions:

(1) Such milk shall be accounted for as received by the diverting handler at the location of the plant to which diverted;

* * * * *

5. In § 1098.31, paragraph (c) is redesignated as paragraph (d) and a new paragraph (c) is added to read as follows:

§ 1098.31 Payroll reports.

* * * * *

(c) On or before the 21st day after the end of each month, each handler who elects pursuant to § 1098.73(d) to pay producers shall report to the market administrator the following information with respect to the handler's partial and final payments for producer milk received during the month:

(1) The name and address of each producer;

(2) The amounts paid each producer; and

(3) The dates such payments were made.

* * * * *

§ 1098.41 [Amended]

6. In § 1098.41(b)(2), insert the words "and in milk diverted to such plant from another pool plant" after the phrase "a handler described in § 1098.9(c)".

7. Section 1098.42(a) is revised to read as follows:

§ 1098.42 Classification of transfers and diversions.

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or divertee-plant after the computations pursuant to § 1098.44(a)(12) and the corresponding step of § 1098.44(b);

(2) If the transferor-plant or divertor-plant received during the month other source milk to be allocated pursuant to § 1098.44(a)(7) or the corresponding step of § 1098.44(b), the skim milk or butterfat so transferred or diverted shall be classified as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler or divertor-handler received during the

month other source milk to be allocated pursuant to § 1098.44(a) (11) or (12) or the corresponding steps of § 1098.44(b), the skim milk or butterfat so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant or divertee-plant.

* * * * *

8. In § 1098.73, paragraph (d) is redesignated as paragraph (e) and a new paragraph (d) is added to read as follows:

§ 1098.73 Payments to producers and to cooperative associations.

* * * * *

(d) In making payments to producers pursuant to paragraphs (a) and (b) of this section, the market administrator, on or before the second day prior to the dates specified in such paragraphs, shall pay to each handler who so requests for milk received by the handler from producers for whom a cooperative association is not collecting payments pursuant to paragraph (c) of this section an amount equal to the sum of the individual payments otherwise due such producers pursuant to paragraphs (a) and (b) of this section. The handler then shall pay the individual producers the amounts due them by the respective dates specified in paragraphs (a) and (b) of this section. Any handler who the market administrator determines is or was delinquent with respect to any payment obligation under this order shall not be eligible to participate in this payment arrangement until the handler has met all prescribed payment obligations for three consecutive months. In making payments to producers pursuant to this paragraph, the handler shall furnish each producer the following information:

(1) The identity of the handler and the producer and the month to which the payment applies;

(2) The total pounds and the average butterfat content of milk for which payment is being made, including for the months in which base and excess prices apply, the pounds of base and excess milk;

(3) The minimum rate(s) at which payment to the producer is required by the order and the rate(s) of payment used if such rate(s) is other than the applicable minimum rate(s);

(4) The amount and nature of any deductions from the amount otherwise due to the producer, including the amount and rate per hundredweight of deductions made pursuant to § 1098.86; and

(5) The net amount of payment to the producer.

* * * * *

Signed at Washington, D.C., on June 14, 1982.

Eddie F. Kimbrell,

Acting Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-16751 Filed 6-18-82; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Parts 1106, 1071, 1073, 1104, 1126, and 1132

[Docket Nos. AO-210-A43, et al.]

Milk in the Oklahoma Metropolitan and Certain Other Marketing Areas; Extension of Time for Filing Exceptions to Proposed Amendments to Tentative Marketing Agreements and to Orders

7 CFR parts	Marketing area	Docket Nos.
1106	Oklahoma Metropolitan	AO-210-A43
1071	Neosho Valley	AO-327-A35
1073	Wichita, Kansas	AO-173-A37
1104	Red River Valley	AO-296-A30
1126	Texas	AO-231-A48
1132	Texas Panhandle	AO-262-A32

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing exceptions to proposed rules.

SUMMARY: This action extends the time for filing exceptions to a recommended decision concerning proposed amendments to the orders for the above-listed marketing areas. Counsel for producers who are the principal suppliers of a Red River Valley milk plant requested the additional time to complete an analysis of the decision.

DATE: Exceptions now are due on or before July 8, 1982.

ADDRESS: Exceptions (five copies) should be filed with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-4824.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing—Issued April 25, 1980; published April 30, 1980 (45 FR 28736). Recommended Decision—Issued May 12, 1982; published May 19, 1982 (47 FR 21684).

Notice is hereby given that the time for filing exceptions to the recommended decision on proposed amendments to the Oklahoma Metropolitan and certain other milk orders is hereby extended to July 8, 1982.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

List of Subjects in 7 CFR Parts 1106, 1071, 1073, 1104, 1126, and 1132

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C. on June 16, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-16721 Filed 6-18-82; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 81-AAL-7]

Revocation of Transition and Additional Control Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This action withdraws a proposal published in the **Federal Register** on September 24, 1981 (46 FR 47084) that would have designated new Central Alaska Transition Area and new Additional Control Area 1200 located in the Anchorage, AK, Flight Information Region (FIR). The proposal would have revoked several small transition and control areas. After analysis of additional information, the proposal does not satisfy current operational requirements; therefore, this proposal is withdrawn.

EFFECTIVE DATE: June 21, 1982.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

List of Subjects in 14 CFR Part 71

Aviation safety, Additional control areas, Transition areas.

Withdrawal of the Proposal

Accordingly, pursuant to the authority delegated to me, the proposal to amend § 71.163 and § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as specified in Airspace Docket No. 81–AAL–7 and published in the **Federal Register** on September 24, 1981 (46 FR 47084) is hereby withdrawn.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of techincal regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on June 15, 1982.

John W. Baier,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-16034 Filed 6-18-82; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

Obligation of Certain Volunteer Fire Departments

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to obligations of certain volunteer fire departments. Changes to the tax law were made by the Economic Recovery Tax Act of 1981. The regulations would provide guidance to issuers and holders of these obligations.

DATES: Written comments and requests for a public hearing must be delivered or mailed by August 20, 1982. The amendments are proposed to be effective for obligations issued after December 31, 1980.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Susan K. Thompson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3294).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 103 (i) of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 812 of the Economic Recovery Tax Act of 1981 (95 Stat. 350) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Explanation of New Provisions

Section 812 of the Economic Recovery Tax Act of 1981 adds new subsection 103(i) to the Internal Revenue Code of 1954. Under this new provision, certain volunteer fire departments may issue obligations, the interest on which will be exempt from tax under section 103(a)(1) of the Code. To qualify under this provision, a volunteer fire department must meet two requirements. First, it must be organized and operated to provide firefighting or emergency medical services for persons in an area (within the jurisdiction of the political subdivision) that is not provided with any other firefighting services. Second, the fire department must be required to furnish these services by a written agreement between it and the political subdivision. If these requirements are met, the fire department is a "qualified volunteer fire department". Interest on an obligation of a qualified volunteer fire department will be treated as exempt from tax if substantially all of the proceeds of the issue of which the obligation is a part are to be used for the acquisition, construction, reconstruction, or improvement of a fire house or fire truck used or to be used by the qualified volunteer fire department.

Non-Application of Executive Order 12291

The Treasury Department has determined that this proposed regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the order dated April 28, 1982.

Regulatory Flexibility Act

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Requests for a Public Hearing

Before the adoption of these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

List of Subjects in 26 CFR Part 1

Income taxes, Taxable income, Deductions, Exemptions.

Drafting Information

The principal author of these proposed regulations is Susan K. Thompson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, on matters of both substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

A new § 1.103–16 is added immediately following § 1.103–15. New § 1.103–16 reads as follows:

§ 1.103–16 Obligations of certain volunteer fire departments.

(a) *General rule.* An obligation of a volunteer fire department issued after December 31, 1980, shall be treated as an obligation of a political subdivision of a State for purposes of section 103(a)(1) if—

(1) The volunteer fire department is a qualified volunteer fire department

within the meaning of paragraph (b) of this section, and

(2) Substantially all of the proceeds of the issue of which the obligation is a part are to be used for the acquisition, construction, reconstruction, or improvement of a fire house or fire truck used or to be used by the qualified volunteer fire department.

An obligation of a volunteer fire department shall not be treated as an obligation of a political subdivision of a State for purposes of section 103(a)(1) unless both conditions set forth in this paragraph (a) are satisfied. Thus, for example, if an obligation is issued by an ambulance and rescue squad that is a qualified volunteer fire department as required by paragraph (a)(1) of this section, but substantially all of the proceeds of the issue of which the obligation is a part are to be used for the furnishing of emergency medical services, rather than for the purposes specified in paragraph (a)(2) of this section, the obligation shall not be treated as an obligation of a political subdivision of a State for purposes of section 103(a)(1).

(b) *Definition of qualified volunteer fire department.* For purposes of this section, the term "qualified volunteer fire department" means an organization—

(1) That is organized and operated to provide firefighting services or emergency medical services in an area within the jurisdiction of a political subdivision, and

(2) That is required to furnish firefighting services by written agreement with the political subdivision, and

(3) That serves persons in an area within the jurisdiction of the political subdivision that is not provided with any other firefighting services.

A volunteer fire department does not fail to satisfy the requirement of paragraph (b)(3) of this section by furnishing or receiving firefighting services on an emergency basis, or by cooperative agreement with other fire departments, to or from areas outside of the area that the volunteer fire department is organized and operated to serve. The fact that tax revenues of a political subdivision served by a volunteer fire department contribute toward the support of the volunteer fire department in the form of salary, purchase of equipment, or other defrayment of expenses will not prevent the volunteer fire department from being a "qualified volunteer fire department" within the meaning of this paragraph (b). Moreover, an obligation of a volunteer fire department receiving such support may qualify as an obligation of a political subdivision within the meaning of section 103(a)(1) independently of section 103(i) and this section if the requirements of section 103(a) (1) are satisfied. See § 1.103–1(b) for rules relating to qualification under section 103(a)(1).

(c) *"Substantially all" test.* Substantially all of the proceeds of an issue are used for the purposes specified in paragraph (a)(2) of this section if 90 percent or more of the proceeds are so used. Thus, for example, if more than 10 percent of the proceeds of an issue of bonds issued by a qualified volunteer fire department are used for the purchase of an ambulance or for rescue equipment not be used in providing firefighting services, interest on the issue is not exempt from tax under section 103(i) and this section. In computing this percentage, the rules set forth in § 1.103–8(a)(1)(i), relating to amounts allocable to nonexempt uses and amounts chargeable to capital account, apply.

(d) *Refunding issues.* An obligation which is part of an issue issued by a qualified volunteer fire department after December 31, 1980, part or all of the proceeds of which issue are used directly or indirectly to pay principal, interest, call premium, or reasonable incidental costs of refunding a prior issue qualifies as an obligation of a political subdivision under section 103(i) and this section only if—

(1) The prior issue was issued by a qualified volunteer fire department;

(2) Substantially all of the proceeds of the prior issue were used for the purposes described in paragraph (a)(2) of this section;

(3) The prior issue was issued after December 31, 1980; and

(4) The refunding issue is issued not more than 180 days before the date on which the last obligation of the prior issue is discharged (within the meaning of § 1.103–13)(b)(11)).

(e) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). The County M Volunteer Fire and Rescue Association provides firefighting, ambulance, and emergency medical services in County M. The board of county commissioners of County M contracts with the County M Volunteer Fire and Rescue Association for these services, and County M is not served by any other firefighting association. On August 1, 1981, the Association issues an obligation for funds to purchase a new fire truck, a new ambulance, and rescue equipment not to be used for fighting fires. Funds to be used for the purchase of the ambulance and rescue equipment constitute more than 10 percent of the proceeds of the obligation. Thus, substantially all of the proceeds of the obligations are not used for one of the purposes described in paragraph (a) (2) of this section. Although the County M Volunteer Fire and Rescue Association is a qualified volunteer fire department under paragraph (b) of this section because it provides firefighting and emergency medical services in an area within County M which is not provided with any other firefighting servicers and is required to provide these services by written agreement with County M, the August 1, 1981, obligation of County M Volunteer Fire and Rescue Association will not be treated as an obligation of a political subdivision of a State under section 103(i) and paragraph (a) of this section because substantially all of the proceeds of the obligation are not to be used for a purpose described in section 103(i)(1)(B) and paragraph (a)(2) of this section. Accordingly, interest on the August 1, 1981, obligation of County M Volunteer Fire and Rescue Association is not exempt from gross income under section 103(a)(1).

Example (2). County N Volunteer Fire Department provides firefighting services in County N by contract with the county, which is not served by any other firefighting association. On June 15, 1982, County N Volunteer Fire Department issues its obligation for funds to construct an addition to its firehouse to house a rescue squad, the rescue squad's vehicle, and rescue equipment not to be used in firefighting. Although the County N Volunteer Fire Department is a qualified volunteer fire department under paragraph (b) of this section, interest on its June 15, 1982, obligation will not be exempt from tax under section 103(i) and this section because the proceeds of this obligation will not be used for the purposes described in paragraph (a) of this section.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 82–16730 Filed 6–18–82; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Ch. I

[CGD 79–134]

Shipboard Noise Abatement Standards

AGENCY: Coast Guard, DOT.

ACTION: Decision not to propose rules.

SUMMARY: After completing a study on the hazards of shipboard noise, the Coast Guard announced its intention to promulgate regulations to direct the correction of the problem. However, after further analysis, the Coast Guard now believes that the problem can be addressed through non-regulatory means and is terminating the rulemaking proceeding.

EFFECTIVE DATE: This withdrawal is effective on June 21, 1982.

FOR FURTHER INFORMATION CONTACT: Lt Robert F. Murray, Office of Merchant Marine Safety (G–MVI–2/24), U.S. Coast

Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593 (202–426–2183).

SUPPLEMENTARY INFORMATION: For several years, the Coast Guard has been studying the problem of noise on commercial vessels and developing standards to address the hazard. Noise on vessels presents several dangers, not just to crew members, but to the vessels as well. As the most obvious and most serious effect, noise can seriously impair the hearing of crew members. There is also strong argument that noise presents other physiological dangers. Noise can impair the safety of vessels by interfering with communication, by masking alarm signals, and by reducing the effectiveness of the crew by creating annoyance and fatigue.

Until recently, it was the intention of the Coast Guard to promulgate noise abatement standards through regulations. This intent was first reported in the **Federal Register** on June 19, 1980 (45 FR 41562) when the Coast Guard announced it was holding an open public meeting to receive industry comments concerning the contemplated noise standards. Subsequent **Federal Register** notices containing the Department of Transportation's Semi-annual Regulations Agenda (46 FR 20055; April 2, 1981; and 47 FR 14032, April 1, 1982) also listed the project. Furthermore, the agenda for the Towing Safety Advisory Committee (46 FR 26734, 14 May 1981) listed the project as a discussion item.

After further investigation however, the Coast Guard has concluded that the objectives which would have been attained by promulgating regulations on noise could also be achieved by non-regulatory means. The Coast Guard now intends to publish its findings as recommended guidelines in the form of a Navigation and Vessel Inspection Circular (NVC), a medium which the Coast Guard often uses to disseminate information to the maritime industry.

The Coast Guard believes that there is already wide acknowledgement within the maritime industry that the problems associated with high noise conditions must be addressed. It is believed that once a reasonable set of guidelines is published, the industry will voluntarily adopt them as the maritime standard. Since conditions on various types of vessels differ considerably, developing uniform regulations with accompanying enforcement procedures would be difficult. A performance standard, while simpler, would be even more difficult to monitor. However, recommended guidelines are inherently flexible and adaptable to technological innovation. For these reasons the Coast Guard is terminating its rulemaking proceedings on this docket and will, instead, publish recommended guidelines.

It is anticipated that the Coast Guard NVC entitled "Recommendations On Control of Excessive Noise" will be available in July 1982.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

June 9, 1982.

[FR Doc. 82-16413 Filed 6-18-82; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 78–72, Phase I; FCC 82–247]

MTS and WATS Market Structure

AGENCY: Federal Communications Commission.

ACTION: Fourth Supplementary Notice of Inquiry and Proposed rule.

SUMMARY: The Commission releases a Supplemental Notice of Inquiry and Proposed Rulemaking regarding the MTS and WATS market structure and is seeking comment on the development of an access charge to compensate local exchanges for exchange facilities to originate or terminate interstate or foreign telecommunications. Comments are sought on principles of charging, extent of aggregation, implementation mechanisms, and on determination of an appropriate rate of return. This action is taken to secure information needed to develop access charge principles.

DATES: Comments are due by August 6, 1982 and replies by September 15, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert S. Preece, Policy and Program Planning Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554, Telephone No. (202) 632–6342.

SUPPLEMENTARY INFORMATION:

Adopted May 27, 1982.

Released: June 4, 1982.

By the Commission: Commissioner Fogarty issuing a separate statement; Commissioner Jones issuing a separate statement in which Commissioners Dawson, Rivera and Washburn join.

I. Introduction

1. In February of 1978, we instituted this proceeding to determine the MTS-WATS market structure which would best serve the public interest. *Notice of Inquiry and Proposed Rulemaking* ("Initial Notice"), 67 FCC 2d 757 (1978) (March 8, 1978; 43 FR 9505). Through a series of notices we sought to resolve this and such closely related issues as whether a uniform, nationwide MTS rate structure is in the public interest and what reimbursement interstate services should make to local operating companies for use of local plant. *See Supplemental Notice of Inquiry and Proposed Rulemaking* ("First Supplemental Notice"), 73 FCC 2d 222 (1979) (August 30, 1979; 44 FR 50866); *Second Supplemental Notice of Inquiry and Proposed Rulemaking* ("Second Supplemental Notice"), 77 FCC 2d 224 (1980) (April 21, 1980; 45 FR 26764); *Report and Third Supplemental Notice of Inquiry and Proposed Rulemaking* ("Third Supplemental Notice"), 81 FCC 2d 177 (1980) (August 21, 1980; 45 FR 55777). In particular, the *Second Supplemental Notice* presented a tentative access charge plan under which interstate service providers would compensate exchange carriers for use of their local plant. In light of the recently announced proposed settlement of the pending government antitrust suit against ATST,[1] as well as comments filed both in response to the Second Supplemental Notice and in related proceedings, *see* paras. 5–7 *infra*, we find that, before we adopt an interim access charge plan, the following issues require further discussion.

(1) Whether some alternative means of cost assignment between the MTS–WATS and private line categories are needed. Specifically, are the Commission's public interest goals best served by a continued policy to charge for non-traffic sensitive ("NTS") costs on a usage basis or is some form of "gross assignment" and flat-rate pricing appropriate;

(2) Whether, in the foreseeable future, with the continuing advancement of technology, the tentative access charge plan would provide to potential users of MTS and MTS alternatives the incentive to bypass the public switched network (PSN);

(3) Whether the uniform nationwide system of access charges proposed in the tentative plan should be disaggregated into a system of charges based upon exchange, local carrier, or state-by-state classifications, and what

[1] While the Commission does not agree with every aspect of the proposed settlement, our *Amicus Brief* states "(t)he basic settlement is reasonable and is likely to enhance competition in several different markets." Brief of the Federal Communications Commission as Amicus Curiae at 7, April 20, 1981.

should be the rates of return on capital assigned to the interstate category;

(4) In a telecommunications industry restructured under the terms of the proposed antitrust settlement, what would be most effective mechanism for implementing and administering the access charge plan we ultimately adopt;

(5) How should an access charge take into account, if at all, the difference in interconnection quality received by different carriers? Is a discount in the share of non-traffic sensitive costs paid by the other common carrier ("OCCs") providing MTS/WATS like services (compared with AT&T) an appropriate mechanism? If some form of non-usage based assignment of much or all NTS costs is undertaken, how should the difference in interconnection quality be dealt with?

For this reason we now issue this Fourth Supplemental Notice of Inquiry and Proposed Rulemaking.

A. The Tentative Access Charge Plan

2. In the *Second Supplemental Notice* we described a tentative plan for prescribing arrangements by which local exchange carriers would be compensated for the use of their exchange plant facilities to originate and terminate interstate and foreign telecommunications. The plan divided interstate services into four categories: MTS/WATS, FX/CCSA access, private line, and OCC–ENFIA. The amount an interexchange carrier would pay for the use of exchange plant to originate or terminate its interstate traffic would be determined by the category to which its service belonged. The plan did not in fact prescribe access charges for each category of service. Instead it defined the method by which such charges were to be computed and left to the industry the tasks of compiling the data needed and of performing the computations required to determine the compensation each interexchange carrier would pay for access service. The plan called for the use of nationwide, average data and the AT&T interstate rate of return to compute the charges allocated to interexchange carrier services.[2]

3. Under the tentative plan, access charge revenues would be pooled in much the same way that "partnership" interstate revenues are now pooled under contractual arrangements in the settlements/division of revenues process except that, for the first time, private line minutes would be included in the process.[3] The amount a local exchange carrier received for interexchange carriers' use of its exchange plant to complete interstate services would be allocated from the pool based upon the carrier's pro rata share of all investment and expenses in exchange plant devoted to interstate service. The anticipated end result would not be substantially different from that produced under the existing settlements and division of revenues processes. These pooled access charge revenues would, however, be segregated from the interexchange pool and would include revenues from services (e.g., ENFIA) and participation of exchange carriers (e.g., Hawaiian and Alaskan exchange carriers) now excluded from the interexchange pool.

4. The tentative plan relied upon AT&T to implement the access service compensation arrangements. Thus, under the plan, it would be AT&T that compiled the data and performed the computations needed to determine actual access charges, filed the required tariffs, and adminstered the access charge revenue pool.

5. The comments that were filed in response to the *Second Supplemental Notice* indicate that the proposal to compute private line access charges upon a usage basis is probably the most controversial aspect of that plan. We have not, as yet, reached any final conclusion with respect to the merits of the arguments that were presented in those comments in favor of usage-based or direct-assignment-based private line access charges. We do believe, however, that significant questions have been raised concerning the impact that the proposed plan might have on the development of "bypass" to the local network. The comments have caused us to question the desirability of the tentative plan and the effect it would have upon the national network. We note, moreover, that the prospect of significant changes in the overall structure of the telecommunications industry has arisen since the issuance of the *Second Supplemental Notice*. A structure in which an overwhelming majority of exchange access service is provided by carriers who are unaffiliated with interstate long distance carriers appears to be developing. We believe that this new industry structure can be conducive to the continued development of competition in intercity communications. It is vital that an access charge framework adopted by the Commission both be suited to the structure of the industry and provide a sound basis for the competitive climate we have found to be in the public interest.

6. On January 8, 1982, the United States Department of Justice (DOJ) and AT&T announced that they had agreed upon the terms of a settlement to terminate litigation of *United States v. AT&T*, Civil Action No. 74–1698 (D.D.C.), an antitrust suit filed by DOJ in 1974. The settlement provided that the 1956 consent decree which had terminated similar litigation brought by DOJ against AT&T in 1949 would be vacated in its entirety and would be replaced by provisions reflecting "technological, economic and regulatory changes which have occurred since the entry" of that decree.[4] The parties simultaneously filed a stipulation for voluntary dismissal of the pending suit with the United States District Court for the District of Columbia and requested the federal court in New Jersey to transfer jurisdiction over the 1956 consent decree to the District of Columbia Court. The transfer motion was granted on January 14, 1982.

7. The United States District Court for the District of Columbia now has the terms of the settlement under consideration. It has required DOJ to prepare a competitive impact statement (CIS) and has provided interested persons the opportunity to comment upon the settlement's potential impact upon the public in general and the telecommunications industry in particular prior to the court's reaching a decision to enter or not to enter the proposed modifications to the 1956 decree.

8. One concern in this proceeding is that we accurately analyze the potential impact of the proposed modifications to the decree upon the tentative access charge plan presented in the *Second Supplemental Notice* and determine whether, in light of that analysis, the tentative plan should be revised.

9. The modified decree would require AT&T to divest its exchange telecommunications [5] and exchange access [6] functions. Section II and Appendix B of the modified decree would require that the divested Bell Operating Companies ("BOCs") [7]

[2] The use of AT&T's interstate rate of return may no longer be reasonable as a result of the proposed settlement. See paragraphs 59–60, *infra*, for further decision.

[3] A description of the process appears in the *Second Supplemental Notice*, 77 FCC 2d at 227–29.

[4] Modification of Final Judgment filed on January 8, 1982, in *United States v. Western Electric Company*, Civil Action No. 17–49 (D.N.J.), ("modified decree") at p. 1.

[5] CIS at 25.

[6] Section IV (F).

[7] For purposes of the modified decree, neither Southern New England Telephone Company nor Cincinnati Bell, Inc. are considered Bell Operating Companies.

eventually provide all interexchange carriers with access to BOC exchange facilities which is equal in type, quality, and price to that provided to AT&T and its affiliates.[8] The BOCs must offer these access arrangements on an unbundled, tariffed basis with separate cost-justified charges for each element of access.[9] The access service tariffs would become effective on the date of divestiture, replacing the division of revenues process through which AT&T now reimburses the BOCs for use of their exchange plant to complete interexchange services.

10. Appendix B of the modified decree would require that any differences in charges to carriers be cost-justified on the basis of differences in services provided, where equivalent service is an option. In the CIS, DOJ makes clear its recognition that such a requirement:

> governs only the BOCs' own efforts in formulating rates in order to assure that those efforts do not discriminate among interexchange carriers. It does not prevent appropriate regulatory * * * authorities from requiring that the exchange access charges or any other mechanism prescribed by [them] be utilized as vehicles for payments to BOCs of costs allocated to exchange access by jurisdictional separations * * *. CIS at 35–36.

11. In light of the above discussion, we believe that consideration of certain new access charge proposals is appropriate.

II. Private Line Access Charges and the Bypass Phenomenon

A. Alternative Access Charge Strategies

12. One major goal of the *Second Supplemental Notice* is achievement of an access charge that does not result in unlawful discrimination or preference between private line users and users of switched services. The *Second Supplemental Notice* suggested one approach—that, in general, private lines be treated like the public switched network for purposes of an access charge. Specifically, it was proposed that private lines be allocated a portion of the non-traffic sensitive interstate cost assignment on a per minute basis.

13. This proposal, as we saw it, has the advantage of eliminating any artificial advantage held by private lines as a result of their ability to escape paying full "SPF" usage factor paid by MTS and WATS. A number of parties, however, have argued that this goal is achieved at the expense of substantial distortions to the private line market. Since heavy use of private lines imposes no more cost on the system than does light use, a per-minute charge, even on an average basis as recommended in the *Second Supplemental Notice*, could distort a market where services are, arguably, currently priced appropriately.

14. The obvious alternative is, in principle, to treat the facilities used for local access to the public switched network like private lines. Specifically, the goal of non-discrimination could be achieved if all non-traffic sensitive plant were assigned directly to the customers using it. Thus private line costs would continue to be directly assigned, and MTS and WATS bills would contain a per line NTS assignment that would not vary with usage. Every customer, under this approach, would pay a flat (per line) access charge that did not vary with use, plus usage based interstate charges that reflected only usage sensitive facilities and plus local charges.

15. If the Commission's only concerns were equity between services and economic efficiency, this option would be extremely attractive. This option, however, could result in dramatic changes in the telephone rate structure, an increase in the price of access to the public network and a possible reduction in the subscriber base. These increases could fall most heavily upon those groups least able to pay—small users in high cost (e.g., rural) areas.[10] These apparent drawbacks make us somewhat cautious about its prompt implementation. Nevertheless, this approach would allow economic efficiency gains and resolves the problem of discrimination.

16. Specifically, this approach tends to put costs on the cost-causative customer. A customer who uses little interstate service may require NTS investments that are equal to those required by heavy users, yet this light user now pays much less. This second approach corrects this problem. Several comments have stressed the advantages of some type of direct assignment of NTS costs.

17. In addition to these "pure strategies" (allocation based on "pure" minutes of use or "pure" direct assignment) a number of possible "mixed strategies" are available. Two such strategies are detailed below. Both of these strategies have the advantage that they result in movement toward the more efficient principle of cost allocation on the basis of cost causation. Both, however, attempt to satisfy the Commission's other objectives as well.

18. The costs of local access assigned to the interstate jurisdiction can be disaggregated in various ways. The first mixed strategy would directly attribute all private line costs to the private line category and directly attribute the share of traffic sensitive (switched) costs allocated to the interstate jurisdiction to the MTS/WATS categories.[11]

19. What remains is the allocation of non-traffic sensitive exchange facilities outside of the private line category. The proposal would subdivide these costs into that amount allocated by proportionate usage (SLU) and the remainder (now SPF minus SLU). It would allocate that portion of this revenue requirement determined by SLU to the related switched service, but allocate residual non-traffic sensitive plant ((SPF minus SLU) times total NTS plant costs) between private lines and switched services. The allocator recommended is the proportionate number of *equivalent lines*. A private line loop dedicated to an interstate service would be counted as one equivalent line while a typical subscriber loop in the public switched network would be counted as SLU equivalent lines. Thus, for example, if SLU were 10 percent, 10 loops in the public switched network would be equivalent to one private line loop.

20. This proposal has the alleged advantage that private lines are not asked to contribute according to their actual usage (even on an average basis), but rather are asked to contribute on a per line basis. The public switched network could continue to be priced on a usage basis (with the PSN's share of SPF minus SLU allocated according to use), and any future decision to move toward non-usage sensitive pricing of non-traffic sensitive plant would not be hindered by this plan.

21. Unlike approaches based primarily on direct assignment of NTS costs, this first mixed strategy could easily be implemented in a separations environment much like that of the past. If future Joint Board decisions result in a move from SPF to SLU, the SPF minus SLU revenue requirement would be reduced, and both interstate private line and MTS-WATS rates would be lowered together. Likewise, if the Joint Board and this Commission were to

[8] Appendix B does allow BOCs to phase-in provision of equal exchange access to all interexchange carriers.

[9] Before equal interconnection is made available, however, some form of value of service discounts are permitted.

[10] Those harmed under such a proposal are those who make few interstate calls. These individuals would find themselves required to pay an access charge to access a service for which they have little use. Such a requirement may raise equity concerns and constitute a step away from the almost "universal" service that has developed.

[11] This proposal is derived from a filing made by the Ad Hoc Telecommunications Users Assn. See "Briefing Paper on Access Charges," February 24, 1982.

decide upon a "high cost factor," this factor could easily be brought into the pool and allocated in a way similar to the revenue requirements generated by SPF minus SLU. A movement away from a usage based separation policy would make a charge based on this strategy less appropriate since the strategy is designed around relative use (SLU). We therefore request that parties supporting this first mixed strategy or some variant discuss the desired form of separations that should be associated with such an approach.

22. The second mixed strategy moves much closer to the direct assignment proposal (i.e., the second pure strategy). This second mixed approach recognizes that local non-traffic sensitive facilities are essentially private lines and essentially identical whether used for switched or for private line services. This approach, therefore, would charge multiline business users an identical flat-fee interstate access charge for each access line whether that access line is used for private line services or is used for switched services. In addition, these customers would pay MTS-WATS rates that reflect only traffic sensitive costs for any MTS/WATS calls, would continue to pay local rates for common lines (i.e., lines that can be used for both local and interstate services) and would continue to pay interoffice private line rates for interoffice private lines.

23. Residential and single-line business users would be given a choice between the flat-rate access charge applied to multiline business and the use of an MTS (or WATS) rate that continues to allocate NTS plant on a traffic sensitive basis. By making this option available, the plan lessens the potential danger that direct assignment of all MTS costs would cause substantial rate increases for those who make few interstate calls.

24. Under this second mixed plan, many non-multiline business (i.e., single line business and residential) customers, at least at first, would be uncertain whether they would make sufficient calls to justify the flat fee or whether they would be better off selecting the usage sensitive alternative. One means of eliminating the necessity of making an election would be to cap the amount of non-traffic sensitive plant that a customer will pay for on a usage basis; that is, we could eliminate the need to select an option in advance. Thus, for example, if the flat fee is $X per month, once a customer has paid $X in non-traffic sensitive contribution through usage based pricing in any month, he automatically moves to the rate that recovers traffic sensitive costs only. The level of costs to be recovered on a per call basis could, of course, very from the flat charge collected from multiline business customers.

25. We recognize that such an approach may have certain drawbacks from the standpoint of ease in billing, but also believe that certain consumer benefits could also result. We therefore seek comment on whether such a cap would be reasonable and on the form pricing would take under such an approach. Thus, for example, if the flat fee were $12.00, the non-multiline business subscriber might pay 50¢ per call, plus any usage sensitive cost based rates, for his first twenty-four calls and a rate reflecting only usage sensitive costs for additional calling.

26. This pricing decision need not be made at this time. Specifically, carriers might choose to introduce such a payment cap as one pricing option. We therefore seek additional comment on whether such an approach, even if desirable, need be mandated.

27. The flat-rate access charge would exceed the average per line NTS cost assigned interstate to contribute to the short-fall caused by small users and non-users. One example of such a charge would set the access charge equal to the total average per line NTS cost (i.e. interstate plus intrastate) as a means of equalizing the interstate access charge between private lines and common lines.[13] In addition to the flat-rate NTS charge and the traffic sensitive interstate message rate, customers would continue to pay a local rate. Because the interstate per-message rates paid by these users would be substantially lower than typical MTS rates, these flat-rate users might be expected to increase MTS calling with associated benefits. In the short term, because of the recent SPF freeze (see 89 FCC 2d 1), the increased calling will have no effect on assignment of costs to interstate and, therefore, need not be calculated into the access charge. When the SPF freeze is eliminated, however, changes in the separations manual reflecting the new access charges may well be essential. Specifically, some form of "gross assignment" might be appropriate.

28. This second mixed strategy would essentially shift substantial investment and customers from MTS to a new "direct payment" category. Multiline business NTS plant would be priced the same regardless of whether it has been classified as MTS, WATS, or private line, eliminating much if not all of the incentive to use private lines when MTS is more efficient. Thus past interstate rate differentials between various categories of business NTS plant would be eliminated, achieving one of the goals of this proceeding.[14]

29. One apparent discrimination remains. Specifically, those single-line customers who would select the usage based cost assignment option would pay a different (presumably lower) access charge than would those paying for MTS under the two part access charge plus usage rate. However, in fact, multiline business subscribers impose higher inside wiring and terminal equipment costs on the network than do single-line users. One justification for the requirement that multiline business users pay the flat-rate access charge is to recognize the increased CPE and wiring costs to be recovered from interstate users that have been imposed on the system by multiline business customers.

30. Moreover, while some businesses might find that their combined access charge and usage sensitive rate exceed the price that they currently pay at the level of calls made before the new access charge is implemented, they would be likely to find it in their interests to increase calling in response to the lower per call costs, and may well find themselves better off as a result of this price change. Users other than multiline business users would be unlikely to be harmed by this charge because they would have a choice between continuing under their current type of arrangement or selecting the two-part option.[15] Again, because of the SPF freeze, this option would not result in substantial shifts of costs allocated to the interstate jurisdiction.

31. It is our expectation that requiring multiline users to pay a flat-rate access

[13] It would, of course, be possible to set this "flat fee" at a different level while maintaining the basic structure of this approach. Parties are invited to submit alternative proposals for flat charge levels, indicating how our goals of promoting a nationwide network at reasonable rates and fostering efficient use of the network would be served by such a rate structure.

[14] We note that the approach taken in the example would merely eliminate the *interstate* discrimination between private line and common line NTS facilities. Common line users will still have to pay local rates that reflect NTS costs assigned to the local jurisdiction. This phenomenon would still generate substantial incentives for inefficient use of private lines (which do not pay these local charges). Some form of equalizing charge on private lines might well be appropriate. We therefore request comment on whether such an additional private line charge is either desirable or necessary, and if so, how the Commission could best determine the appropriate level for such a charge.

[15] The economics literature suggests advantage of such a "self-selecting tariff." G.R. Faulhaber and J.C. Panzar, 1977, "Optional Two-Part Tariffs with Self-Selection," Bell Laboratories Economic Discussion Paper 74.

charge that equals their entire NTS cost (rather than merely that share of costs assigned to the interstate jurisdiction) would yield a contribution at least as large as is generated from these customers through the present usage based MTS-WATS charges. We would not anticipate, therefore, that those making few calls would be burdened by larger NTS requirements. We seek, however, comments on the effect of such a proposal on the residual NTS revenue requiremens.

32. To this point we have addressed interstate access charges as if they were related to separations policy only because the separations process determines the revenue requirement that an excess charge must meet. However, charges based on this second mixed strategy might result in significant changes in interstate usage. Specifically, those paying flat-rate access charges plus interstate rates that reflect only traffic sensitive costs could substantially increase their usage of the public switched network. If this second mixed strategy is implemented, therefore, some type of gross assignment-based separation policy may be needed. Such a policy would allocate NTS plant between the interstate and intrastate jurisdiction on a basis other than usage.[16] Some forms of the gross assignments process would shift all NTS costs into the interstate jurisdiction, or all into the intrastate jurisdiction. The interstate access charge level will clearly depend on these proportions.

33. We seek comment on whether this or some related plan is desirable. In addition, we seek comment on whether this plan is implementable in the near term, on whether there are technical difficulties in implementing such a plan in a multi-vendor environment, on what changes in the Separations Manual (if any) might be required or desirable for implementation, and on any effects that this plan would have on local and on interstate rates. Finally, we seek comment on the extent to which flat-rate loop charges should be averaged across exchange boundaries in both the short and long terms. Nationwide averaging and pooling would build in a form of high cost factor, diminishing the need for the Commission to consider more explicit means of subsidizing service. It would also comport more closely with the nationwide averaging in present interstate MTS and WATS tariffs. Nevertheless, nationwide averaging tends to separate prices and costs, making achievement of efficiency more difficult.

B. Bypass

34. Access service has traditionally been a monopoly service of the wireline carrier that provides local exchange telephone service. Interexchange carriers have necessarily relied upon the local exchange telephone company to connect their facilities with the vast majority of customers because wireline distribution was the only practical method of reaching the customers and because such wireline distribution required right-of-way authority to implement. However, new technical developments have already created non-wireline or "bypass" alternatives which are practical now in certain applications and which may become more general of applicable. Local exchange telephone facilities, however, no longer provide the only technically feasible method of local distribution.

35. A number of new technologies have reduced the costs of "building around" the network, making bypass of local exchange facilities potentially economic to a larger number of customers. Dramatic price reductions in domestic satellite transponder rental and in users premises small capacity earth stations has made direct point-to-point satellite transmission feasible in some cases. In addition, new services such as digital termination service will soon be available and could be used to terminate local services, completely avoiding the traditional local loop. Finally, two-way cable television systems have some potential to serve users as a termination device in the increasing number of cabled cities.[17]

36. Many of these technologies are, or soon will be, available. The extent to which they are economically attractive depends in part on regulatory delays in their implementation and on the relative total prices of these systems that use local telephone access and the other alternatives. At present, systems using telephone network have the substantial advantage that virtually everyone can be accessed by telephone while relatively few firms and almost no individuals can be accessed through the alternative technologies. Bypass alternatives, however, have several advantages over traditional wire-pair. Many of these bypass technologies may offer broader bandwidth at a lower cost, digital capacity, or more flexible accessibility. All of these features are increasingly important in today's business environment. Today, domsat based systems are competitive with local telephone network based systems for applications involving large capacity or distribution to many points over a large area. Thus, many users may find it efficient to select services that use bypass technologies even if traditional telpehone company private line access continues to be available at a relatively low rate.

37. Today's systems using private lines for local distribution have competition from other technologies and this competition will probably increase in the future. We believe in letting users choose between local private line-based systems and other systems in a fair marketplace. Thus, we must be mindful not to distort this marketplace by either underpricing or overpricing local private line facilities.

38. Entry of the proposed consent decree would increase the significance of the bypass phenomenon. At the time our tentative plan was developed and the access charge comments were filed, there was no reason to suppose that AT&T would have an incentive to bypass its own local exchange facilities except possibly for some users with specialized requirements. Any possible diversion from traditional telephone private line services to alternative technology services would probably have been limited to alternative technology services of newer entrants. However, when AT&T ceases to own local exchange facilities (apart from its minority interest in Cincinnati Bell and Southern New England Telephone), it will no longer have the same incentive to use these traditional facilities. AT&T may be in a position to construct bypass facilities substantially more rapidly than other interexchange carriers.

39. Therefore, we seek both general comments on the impact of the proposed usage-based private line access charge on the relative attractiveness of bypass systems, and comments on the relationship of the proposed consent decree and the proposed changes in AT&T's structure to the bypass phenomenon. We also encourage interested persons to provide us with additional information that will assist us in evaluating the immediacy and magnitude of the phenomenon and in identifying the level of access charges that would be appropriate if we were ultimately to conclude that a departure from usage-based charges would be justified.

[16] The generic formula proposed in CC Docket 80-286 (Notice of proposed Rulemaking and Establishment of a Joint Board) is sufficiently general to allow such a gross assignment-based separations policy. Gross assignment, it should be noted, is not inconsistent with some form of "high cost factor" designed to benefit high cost exchanges.

[17] Indeed a current experiment achieves end-to-end connectivity viss, DIS, CATV, and domsats. See L. Gould, "Extending Executive Reach Via Communications" *Telecommunications*, Vol. 15, No. 8, August 1981, p. 16–24.

40. In sum, we seek comment on the relative merits of the two "pure" strategies and on the two "mixed strategies" detailed *supra*, and on reasonable variants thereof. Any alternative proposals should attempt to address our concern that the access charge promote nondiscrimination between the public switched network and private lines, limit the use of bypass technology where this technology is inefficient, and limit any substantial setback in the availability of telephone service. We specifically request that any proposed modifications in either of the mixed strategies discussed *supra* be detailed fully and that any alternative strategy be spelled out with sufficient detail to allow critical evluation by both the Commission and other interested persons.

III. The Aggregation of Access Charges

41. Whichever strategy is selected, it will be necessary to determine the extent to which a uniform nationwide access charge is desirable or necessary. We, accordingly, invite further comments with respect to alternative forms of access charges that do or do not involve pooling. We believe that each of the four pure and mixed strategies is consistent with varying degrees of aggregation.

42. Although it appears doubtful that this Commission could review separate access charge schedules for each exchange or even for each exchange carrier, at least four alternatives appear to be feasible in the long run:

(1) Uniform charges for all exchanges for all exchange carriers implemented with an access charge revenue pool;

(2) A tariff that establishes separate schedules for a limited number of classes of exchange carriers (with no revenue pooling);[18]

(3) A tariff that establishes separate schedules for a limited number of classes of exchanges (with no revenue pooling); or

(4) A tariff that established separate schedules for each state with pooling on a state-by-state basis.

43. We tentatively concluded in the *Second Supplemental Notice* that the first alternative would be preferable for the initial access charges because the effort to establish appropriate classes would unduly delay the implementation of initial access charges. While this may still be the case, the other alternatives warrant further consideration in view of the problems a new association might encounter if it were organized to administer a revenue pool and its functions were subsequently contracted as a result of a decision to eliminate pools, and in light of the efficiency drawbacks to an access pool, i.e., that pooling results in prices different from costs.

44. A state-by-state approach, of course, both drawbacks and advantages. Like nationwide pooling through averaging, it separates price from cost, thus encouraging overuse of more costly facilities and underuse of the less costly. Because a state-by-state approach is substantially less aggregated than the nationwide approach, however, this drawback to pooling is reduced. At the same time, a state-by-state access charge would require the Commission to examine a large number of access charges. Clearly, however, about fifty access charges would be far easier to evaluate than the 1500 that might be required if each company were to set its own charge, or the thousands of access charges that would be forthcoming if charges were to be set for each exchange.

45. Advantages of the state-by-state approach follow. First, separations data are collected on a basis that allows for straightforward state-by-state aggregation. The data requirements of this approach are, therefore, smaller than those required under approaches (2) or (3). Second, since access charges in each state will reflect particular access costs of that state, it may be easier to integrate intrastate interexchange access service into the access charges (as is contemplated in some forms of proposed legislation) under this state-by-state approach. Finally, this approach may reduce the bypass problem to the extent that it results in more deaveraged—location specific—charges.

46. Persons who comment on this subject are encouraged to discuss the desirability and feasibility of each alternative. We would particularly appreciate suggestions with respect to the procedures that could be used to designate classes of exchanges or exchange carriers that should have comparable costs, and an estimate of the burden and time that would be required to complete such procedures.

47. We recognize that the selection of an alternative other than uniform access charges with pooling could affect the averaging of MTS rates. Although deaveraged access charges would not inevitably result in deaveraged MTS rates, deaveraged access charges would make deaveraging of end user rates more likely. We encourage interested persons to evaluate and appraise the extent to which deaveraging of MTS access charges would lead to deaveraging of MTS rates, and of any costs that this might impose.

IV. Implementing Access Charges in a Post-Settlement Environment

48. Entry of the proposed decree would require a reevaluation of the tentative plan for the administration of access charges, whichever of the aggregation options is selected. Although the modified decree does not explicitly prohibit AT&T's performing the administrative tasks proposed to be assigned to it under the tentative plan in the *Second Supplemental Notice*, once the modified decree would become effective AT&T would be only one (albeit the largest) among several interexchange carriers dependent upon others to provide needed exchange access services. This altered AT&T role raises substantial concern that AT&T would still be a suitable agent upon which local exchange carriers should rely for preparation and filing of tariffs and administration of any access charge pool. Indeed, even before the proposed modifications of the consent decree, some participants in this proceeding had expressed concern that relying upon AT&T to administer the plan could undermine our efforts to have non-discriminatory access charges. Consequently, we believe that it has become necessary to consider alternative institutional arrangements for administering the access charge plan we adopt.

49. There appear to be four alternatives to the tentative plan's proposal to rely upon AT&T to administer the access charge plan:

(1) Every exchange carrier could compute its own access charges, file its own tariffs, and bill and keep its own access charges;

(2) This Commission or another governmental entity could assume responsibility for all these functions;

(3) A new intra-industry entity could be created to perform the administrative functions required to implement an interim plan and any final plan we adopt; and

(4) This Commission could rely on States to enforce State-by-State access charges, and exercise federal jurisdiction only when discrimination against interstate communications appeared.[19]

[18] Under this approach the Commission might allow carriers who wish to file independent tariffs to do so.

[19] While we believe that the Commission has substantial authority to delegate, we are aware that the limits of this authority are uncler. See paragraph 58 infra.

Of these four alternatives, we believe that the third is the most viable. Specifically, it appears likely that some forms of cooperation among exchange carriers will be necessary under any access charge plan implementing this required cooperation. Assuming that every exchange carrier were able to perform the administrative tasks associated with implementing access charges for interstate services, the FCC's staff could not feasibly complete review of the resulting 1500 tariff filings. Reliance upon some governmental entity to perform these tasks appears even more unrealistic now than it did when we rejected this alternative in the *Second Supplemental Notice. See* 77 FCC 2d at 234. We are unaware of any other governmental entity with either the resources or the charter to perform such a function.

50. We believe that only the industry possesses the resources, including trained personnel, adequate to administer access charges. Some participants have already suggested that an intraindustry association be created to perform this task. None, however, has as yet presented a complete proposal in which the nature, structure and functions of such an entity were detailed. In response to this Notice, we hope to receive such complete proposals and to elicit comments which analyze the strengths and weaknesses of these proposals as well as the one we describe below. We anticipate that the nature of this entity will depend to a large extent on the functions that it is to perform, and expect that comments will relate this entity to these functions. We are also prepared to consider proposals to implement access charges through mechanisms other than an intra-industry association. Such proposals should, however, be made in sufficient detail for us to be able to assess realistically their overall costs and burdens, and likelihood of success.

51. We would propose that an association with responsibility for administering access charges be established to which all exchange carriers would belong. Some parties have suggested that membership in such an organization be extended to interexchange carriers or consumer groups. We find that the Communciations Act already provides safeguards adequate to protect the interests of these groups in the fair, evenhanded implementation of any access charge plan we might adopt.[20] Consequently, while membership in this entity might later be extended to these or other interest groups, we believe that initially membership could and should be restricted only to exchange carriers in order to enhance the association's ability to reach prompt accord on any policy decisions required expeditiously to implement the access charge plan we adopt.

52. The association would require both a governing board to establish policy, and staff to implement that policy and to perform the day-to-day administration of access charges. The access charge plan we ultimately adopt would, of course, determine the nature of these policies and administrative tasks. *See* discussion, *supra* at paras. 12–33 and 42–48. The governing board might, in certain circumstances, also review staff actions challenged by individual members.

53. We would anticipate that the governing board would play a crucial role in assuring the equitable and evenhanded administration of the access charge plan. For this reason we believe that its composition would have to be such that, despite the substantial disparities in size among exchange carriers, the views of each were effectively represented. Some balance must be struck between representation based upon "one carrier, one vote," and representation based upon factors reflecting size alone. One proposal which we believe may be workable would be a nine member board with its membership drawn from different segments of the telco industry (*e.g.*, 4 representatives selected by the BOCs, 1 by GTE, 1 by the next six largest independent telcos,[21] and 3 by the remaining independent exchange carriers) would strike such a balance. Alternatively, a board composed of eight industry representatives (*e.g.*, 3 selected by the BOCs, 2 by the seven largest independents, and 3 selected by the remaining telcos) and one representation member from this Commission, with the latter acting as chairperson and voting only to break a tie vote, would simultaneously achieve this goal and provide some representation of the public interest.

54. At this time it appears that only AT&T has staff adequate in number and expertise to administer acess charges. While under the terms of the modified consent decree, AT&T would no longer perform this task for the BOCs, the decree would permit the BOCs to "support and share the costs of a centralized organization for the provision of * * * administrative and other services which can most efficiently be provided on a centralized basis." Section IB. Thus it appears likely that many of the AT&T personnel with the expertise needed to implement our access charge plan would either join a centralized organization under BOC control or transfer directly to one of the BOCs. In either case, these personnel would be likely to continue to perform such tasks as compiling data, computing access charges, preparing and filing tariffs, and billing and revenue distribution for the BOCs. Implementation of any access charge plan we adopt would require performance of at least some of these tasks. It seems reasonable that the association could contract with the entity already providing such services to the BOCs to perform, on a cost-compensatory basis, those tasks required to administer the access charge plan from day-to-day. The association staff could then be limited in number to those required to perform support functions for the governing board, and to act as liaison between the board and personnel administering access charges on a day-to-day basis.

55. The primary function of the association would be administration of the access charge plan. We could foresee the possibility that the association might in the future perform other functions for its members. Expansion of its role, however, would almost certainly require our prescribing rules for allocating costs between administration of access charges and these other activities and our reviewing the arrangements for funding these activities to assure that access service revenues were not used to subsidize these other activities. Thus, initially we would anticipate that the association's activities woud be restricted to those required to implement access charges as expeditiously as possible.

56. This association might take the form of a non-profit corporation with the various representatives being members of the Board of Directors and with clearly delineated functions in its corporate charter. Such a form might make it clear that the responsibility of each member is to the system as a whole, rather than to the more narrow interests of the company with which the member is associated.

57. Because the entity would be assuming functions that are today largely executed by AT&T as *de facto* "manager" of the nation's interexchange

[20] *See* 47 U.S.C. 203, 207–09.

[21] These are: United Telecommunications Continental Telephone Corp., Central Telephone and Utilities Corp., Mid-Continent Telephone, Puerto Rico Telephone, and Rochester Telephone Corp. Source: "Phone Facts '82" published by the United States Indpendent Telephone Association.

network, we do not believe that its establishment would constitute a delegation of governmental power to a private or advisory agency. Any exchange carrier who chose not to utilize the association's services would be free to file and administer its tariffs (much as exception rates are filed today). We seek comments, however, on the legality of establishing an exchange carrier association along the lines described above.

58. An additional issue is the appropriate rate of return for investment allocated to the interstate jurisdiction. The *Second Supplemental Notice* proposed that AT&T's interstate rate of return be applied to that portion of exchange capital that is allocated to the interstate jurisdiction. In the past, the bulk of exchange costs assigned to the interstate jurisdiction have been BOC facilities. The cost of capital for these facilities was explicitly considered in determining AT&T's allowed rate of return. As a result of the proposed consent decree, these exchange facilities would be owned by the divested BOCs. There is no reason to believe that AT&T's rate of return would be appropriate to an access charge.

59. We therefore seek comment on an appropriate basis for determining the rate of return to be allowed in setting an access charge. There appear to be two obvious possibilities. First, the Commission could convene a major rate of return case to select an appropriate rate or return level. Second, the Commission could base the access charge rate or return on the particular rates of return allowed by states. This second option would seem particularly desirable if a state-by-state or more highly disaggregated approach were selected.

60. Plant used in provision of both interstate and intrastate service has been subdivided into two components. The first of these, non-traffic sensitive equipment, has been dealt with at some length. Whichever system of allocating non-traffic sensitive plant is selected, it seems reasonable to expect interexchange carriers to compensate exchange carriers for traffic sensitive costs on a traffic sensitive basis.

61. Specifically, we anticipate that exchange carriers will be compensated for the traffic sensitive costs actually imposed by the interexchange carrier. Until the OCCs, or others taking access, are able to achieve access equal to that achieved by AT&T, we anticipate that the OCC's access charge for traffic-sensitive equipment would be lower than would the access charge paid by AT&T.

62. Non-traffic sensitive plant need not be allocated to these interexchange carriers. Rather, exchange carriers may be able to bill their customers directly for this portion of access.

V. Other Subjects

63. We encourage participants to focus upon possible changes in the access charge plan that may be required to adapt to developments that have occurred since the access charge comments were filed.

64. We note that the proposed consent decree would define access service to include billing or billing and collection services and the use of lines or trunks between a telephone company end office and an interexchange switch. Those services and facilities were excluded from the definition of access service in our tentative plan. The divested BOCs could comply with the decree by filing supplemental charges for elements that are excluded from Commission rules for the computation of access charges. Nevertheless, it might be desirable to expand our plan to include charges for such services or facilities. Interested persons are encouraged to submit suggestions for adapting an access charge plan to include such additional services or facilities.

65. The tentative plan in the *Second Supplemental Notice* was based on the premise that initial access charges will become effective before any alternative interconnection arrangements are provided to OCCs. Since that time, AT&T has introduced alternative access arrangements called ENFIA B and C, MCI has negotiated alternative arrangements with independent telephone companies in Iowa and Texas, and the proposed consent decree would establish a schedule for the introduction of new OCC interconnection arrangements by the divested BOCs. In view of those developments, it will apparently be necessary to adapt an access charge plan to fit a more complete range of alternative arrangements. We encourage interested persons to sumit suggestions for accomplishing that purpose.

66. The identification of appropriate differentials for different qualities of interconnection, including the use of a different number of digits to access the interexchange switch, is obviously one of the most difficult aspects of the interconnection issue. Differentials conceivably might be based either upon the difference in the value of service to the user or the cost of modifying existing facilities to improve the quality of OCC interconnection. The access charge comments that were filed in response to the *Second Supplemental Notice* do not provide any concrete information with respect to costs or such value differences. Interested persons are encouraged to provide such information.

67. This *Notice* has argued that the guidlines established in the *Second Supplemental Notice* some two years ago may not be appropriate without modification given the current industry structure. Since the industry structure will continue to change, however, it might be asked whether the type of proposals discussed in this *Notice* might also be outdated by the time that they can be implemented.

68. We believe that the types of principles discussed in this *Notice* are less dependent on industry structure than are those discussed in the *Second Supplemental Notice*. Therefore, even if the proposed modification of the Consent Decree is approved in a somewhat different form than from those that we anticipate, we believe that these approaches will be implementable.

69. We anticipate that a final order, which would spell out specific principles and methodologies to be used in the calculation of an access charge or set of access charges, will be issued by the end of this year. If this goal is realized, access charges based on these principles can be designed and actually in place by the end of the following year. This timetable, while ambitious, is expected to be sufficient to allow development of an access charge that will resolve the major policy difficulties facing this Commission.

70. This *Notice* has called attention to the important interrelationship between an access charge and the separations process. The separations process determines the amount of money that must be recovered through an access charge. There is currently in place a Joint Board that is investigating appropriate separations procedures. We feel confident that this Joint Board will take the configuration of the access charge that will result from the final order in this phase of Docket 78–72 into account in determining its recommendations to the Commission.

71. It appears that the Commission's decision in this proceeding could have a significant economic impact on a substantial number of small independent telephone companies. Accordingly, we are including an initial regulatory flexibility analysis in this *Notice of Inquiry and Proposed Rulemaking* as required by the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* P.C. 96–354, approved September 19, 1981. Many of the points which need to be discussed in the context of an initial regulatory flexibility analysis

have already been dealt with at length above. Therefore, the treatment in this section will be brief, with a citation to our preceding discussion.

72. Action concerning access charges is being considered by the Commission for the following reasons: (1) To accomodate industry changes resulting from competition and the proposed AT&T-Department of Justice Decree Modification; and (2) to eliminate differences in the treatment of services that access the network in identical ways but pay very different prices for access; *See* paras. 1–12 *supra* for further discussion of these points. Any action in this regard would be taken pursuant to the Commission's ratemaking and prescription authority contained in section 201–205 of the Act and other relevant provisions. *See* para. 78 *infra*.

73. There are approximately 1500 independent telephone companies which would be subject to any interstate access rule adopted by the Commission, but not all of these companies qualify as small entities for purposes of the Regulatory Flexibility Act. The reporting, recordkeeping and other requirements imposed by any final decision would depend on which access charge plan is adopted by the Commission. *See* paras. 12–33 for further discussion of these access plans. The Commission has requested comments on a number of alternatives for access charges. Alternatives include several options concerning the level of aggregations access charges. For example, should access charge be developed on a nationwide, state-by-state, company class, or exchange class basis. *See* paras. 41–47 for discussion of the aggregation question. We have also requested comments on a number of implementation options. For example, should access charges be implemented by each carrier, by the Commission, by the independent organization, or by the states. *See* paras. 49–53 *supra* for a discussion of the implementation options. Each of these plans would require accounting and bookkeeping skills of the type presently required by telephone companies although the extent to which these skills would be used would differ depending on the plan adopted. It appears that these alternative plans could have differing effects on small telephone companies, although the extent of the difference is not entirely clear at this point. We specifically request small independent telephone companies, and the organizations representing them, to address the implications of these alternatives for their operations.

74. The regulatory proposals discussed in this item would supersede existing mechanisms such as ENFIA, division of revenues and settlements through which local telephone companies are compenstated for the use of their facilities in the origination and termination of interstate communications. Thus, potentially conflicting regulations would be eliminated if one of these plans is adopted.

75. The possibility of accommodating the circumstances of small telephone companies through the establishment of differing compliance standards or timetables has not been discussed above. While we have some reservations about the feasibility of such approaches due to the need for national uniformity in the principles governing access charges, we also request small independent telephone companies and their representatives to address the question of whether their needs could be accommodated through such approaches.

76. For purpose of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantial disposition of the matter is to be considered in a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation. that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's rules, 47 CFR 1.123.

VI. Comment Filings and Ordering Clauses

77. Comments filed in response to this *Fourth Supplemental Notice* should address the issues raised in this notice related to: (a) the appropriate "pure" or "mixed strategy" to pursue in the short and long run; (b) the impact of bypass technology upon the tentative access charge plan; (c) the extent to which access charges should be deaveraged; (d) the institutional arrangements required to administer an access charge plan; and (e) the role of OCC "discounts" in the future.

78. Accordingly, it is hereby ordered, that comments may be filed on the issues and proposals discussed herein no later than August 6, 1982, and that replies may be filed no later than September 15, 1982. In accordance with the provisions of § 1.419 of the Commission's Rules, 47 CFR 1.1419, and original and five copies of all statements, briefs or comments, or replies, shall be filed with the Federal Communications Commission, Washington, D.C. 20554, and all such filings will be available for public inspection in the Docket Reference Room at the Commission's Washington, D.C. office. In reaching its decision, the Commission may consider information and ideas not contained in filings, provided that such information is reduced to writing and placed in the public file, and provided that the fact of the Commission's reliance thereon is noted in the Order.

79. It is further ordered, that, pursuant to 47 U.S.C. 154(i), 154(j), 201–05, 218, 219, 220, 221 and 403, and 5 U.S.C. 553, notice is hereby given of the adoption of new or modified rules, in accordance with the discussion and delineation of issues herein, and on the basis of previous notices and filing in this proceeding.

80. It is further ordered, that the Secretary of the Commission shall cause a copy of this notice to be published in the Federal Register.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Concurring Statement of Commissioner Joseph R. Fogarty

In re: Fourth Supplemental Notice of Inquiry and Proposed Rulemaking, MTS and WATS Market Structure, Docket 78–77.

The *MTS/WATS* Rulemaking (Access Charges) is one of the most important proceedings which has come before the Commission during my tenure. The potential impact of what we do here is tremendous. Depending upon which alternative strategy is chosen with regard to the allocation of non-

traffic sensitive (NTS) costs, the Commission can totally reshape the pattern of telecommunications usage in this country.

In choosing among the "mixed" and "pure" NTS cost allocation strategies put forth in this Notice, the Commission must be guided by its statutory mandate which is to regulate "so as to make available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide and world-wide wire and radio communications service with adequate facilities at reasonable charges * * *" Traditionally, we have viewed the maintenance of "universal service" as the cornerstone of our effort to fulfill this mandate. Maintaining universal service at reasonable rates is as critical a goal today as it was in 1934. With the advent of the "Information Age," and with an ever-increasing share of our Gross National Product attributable to the production, dissemination, and use of information and associated technology, goods, and services, these policy principles have become all the more crucial to our national welfare. We cannot afford to become a nation of "haves" and "have nots" in terms of fair and reasonable access to the telecommunications services which are essential to full participation in our commercial, political and social life. A democratic society ignores the threat of such disparities at its peril. Any approach, no matter how "economically pure" or attractive in theory, which would result in adequate facilities not being available at reasonable prices and thereby disrupt universal service runs completely contrary to our mandate.

It is for this reason that I am troubled by the notion that all NTS costs should be directly assigned, i.e. the second pure strategy (Pure II). I believe this approach to be overly simplistic, not reflective of the practicalities involved in the transition toward Bell divestiture, and, most important, inconsistent with the maintenance of universal service. If adopted as is and implemented on a flash-cut basis, Pure II will result in dramatically higher rates for small MTS users with a resultant loss in the subscriber base as the poor and the elderly are put to the horrendous choice between essentials. Pure II ignores the fact that in the past both this Commission and the state commission have consciously made tradeoffs between socially desirable objectives such as universal service and economic objectives. Now, Pure II proposes to leave the states faced with the impossible task of keeping residential and rural rates low while at the same time adjusting for the impending break-up of the Bell System. Moreover, depending upon how this approach is structured it might conflict with the Supreme Court's holding in *Smith* v. *Illinois Bell Telephone Co.*, 282 U.S. 133 (1930), that costs be apportioned between the intrastate and interstate jurisdictions on the basis of relative use.[1] Only those major businesses, few in absolute number, who make the vast majority of interstate calls will benefit. For such entities the reduction in interstate rates will more than off-set the increase in local rates and the access fee. However, average and small MTS/WATS users will not benefit. No amount of reliance on "economically pure," "Chicago School" cost-causation theory can justify such a result. In our deliberations we cannot ignore local rate impacts.

The Pure II strategy masks the real issue facing the Commission—separations reform. Moreover, the results sought by Pure II's proponents can be best achieved through the revision of the separations process. For example, a shift from SPF to SLU would reallocate two-thrds of the costs which the Pure II strategy would reassign. Simple reassignment, however, will not resolve the pressing questions before the Joint Board in Docket 80-286. It may, however, encourage further delay in the Joint Board proceeding by lessening incentive to shift the interstate separations burden. Consequently, it is crucial that the Commission proceed in tandem with the Joint Board.

I am not necessarily opposed to goals sought to be achieved by adoption of the Pure II strategy. However, at a minimum, a transition period and serious discussion of the subsidy question would be necessary prior to its implementation. If this is not done, I fear that in the rush to find a theoretically pure solution, the Commission may unwittingly abandon the important concept of reasonable rates and universal service.

Statement of Commissioner Anne P. Jones* in Which Commissioners Mimi W. Dawson, Henry M. Rivera and Abbott Washburn Join

In re: MTS and WATS Market Structure CC Docket 78-72, Phase I.
May 27, 1982.

The Fourth Supplemental Notice of Inquiry and Proposed Rulemaking in Phase I of CC Docket 78-72, approved by the Commission today, is a positive step in the direction of solving this complex and important set of problems. Over two years have passed since release of the Commission's tentative access charge plan in the Second Supplemental Notice in this proceeding. The notice released today reflects the many thoughtful and detailed comments received in response to that tentative plan. Today's notice also reflects the Modification of Final Judgment, proposed by AT&T and the Department of Justice last January and now under review by the court.

The concept of charging the subscriber directly for the cost of access to the local switch, in contrast to the current practice of allocating non-traffic-sensitive plant on the basis of usage, is developed in today's notice. As I have discussed elsewhere,* I find this concept attractive because it appears to offer a rather elegant solution to a very difficult set of problems. I hope that commenting parties will give this concept adequate attention. We hope to receive proposals for specific plans and transitional approaches which are based upon this concept. We must understand the overall public-interest consequence of all these plans, and the specific implementation details of each.

Few other issues presently before this Commission combine such importance and difficulty as those under consideration here. If today's notice receives the same careful attention which commenting parties gave to previous notices in this proceeding, the Commission will be in a position to make an informed decision in this matter.

[FR Doc. 82-16280 Filed 6-18-82; 8:45 am]
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[1] In Smith v. Illinois Bell Telephone Co., 282 U.S. 133 (1930), the Court rejected a variant of the Pure II approach under which all exchange plant was allocated to the intrastate jurisdiction. The Court state:

> While the difficulty in making an exact apportionment of the property is apparent, and extreme nicety is not required * * * it is quite another to ignore altogether the actual uses to which the property is put. It is obvious that unless an apportionment is made, the intrastate service to which the exchange property is allocated will bear an undue burden * * *" 282 U.S. at 150-151.

* Remarks by Commissioner Anne P. Jones, Session on "Separations Charges and the Joint Board in Light of the AT&T Divestiture," Twenty-First Annual Iowa State Regulatory Conference, Ames, Iowa, May 20, 1982.

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47 CFR Part 90

[PR Docket No. 82-226; RM-3448; FCC 82-191]

Amendment of the Commission's Rules To Simplify the Requirements for Frequency Coordination in the Business Radio Service

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: This document requests comments on several issues pertaining to a requested change in the frequency coordination requirements for the Business Radio Service. It is expected that the comments will contain sufficient information to enable the Commission to determine whether such a rule change is in the public interest.

DATES: Comments are due by July 19, 1982 and replies by August 5, 1982.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Eugene Thomson, Private Radio Bureau, (202) 632-6497.

SUPPLEMENTARY INFORMATION:

Adopted: April 22, 1982.
Released: April 29, 1982.

In the matter of an amendment of Part 90 of the Commission's Rules to Simplify the Requirements for Frequency Coordination in the Business Radio Service; PR DOCKET NO. 82-226; RM-3448; notice of inquiry.

1. The Commission has the above-captioned matter under consideration and is requesting comments on certain matters discussed herein.

2. On June 15, 1979, the California Mobile Radio Association (CMRA), now called the National Mobile Radio Association (NMRA), filed a Petition for

Rule Making proposing rule changes which it asserted would simplify what it characterized as certain time-consuming, expensive, and non-beneficial frequency coordination requirements presently existing in § 90.175(a) of the Commission's Rules and Regulations.[1] [2]

3. CMRA stated in its petition that in most cases, applications for additional users for multiple licensed facilities (popularly known as "community repeaters") and applications of existing licensees who propose to change their control station locations, frequency coordination is unnecessary, since the frequency which the applicant wishes to use is already known. CMRA further stated that in the cases of applications for the first user of a newly established community repeater station, or a new single-user system, it is usually the equipment supplier and not the frequency coordinator who makes the frequency selection by either preparing a field study report and notifying the co-channel users or by obtaining the required letter of coordination.

4. CMRA adds that the reason the coordination letter is so often used rather than the field study method, even when the equipment supplier has already selected the most likely frequency, is the difficulty in notifying all co-channel users within 75 miles. CMRA says this notification is not really necessary and adds that this notification requirement does not exist for frequency coordinating committees. CMRA, therefore, requests in its petition that the rules be amended to permit applicants who propose to use frequencies between 450 and 470 MHz in the Business Radio Service to utilize the field study method of coordination without the necessity of notifying co-channel users. It claims this would save Business Radio applicants the three weeks it normally takes to obtain letters of coordination from the frequency coordinating committee,[3] as well as the coordinating fee ($30–$40), if they were allowed merely to attach the field study report to the license application. Only those applicants who propose new systems and those who choose not to select their own frequency would need to employ the services of the coordinating committee.

5. Comments in support of the petition were received from Meridian Communications, Independent Radio Conferences, General Electric, Rand Communications, Kidds Communications, Inc., Merrill T. See, Communications Engineering Co., and Able Communications. Opposition comments were received from NABER. A reply to the opposition was filed by CMRA.

6. NABER, in its opposition comments, argued that coordinating committees are necessary, citing several Commission statements in the Notice of Inquiry of Docket 21229 which dealt with the overall spectrum management considerations in the land mobile services. NABER also stated that the frequency coordinating committee must maintain a complete, current, and accurate data base to fulfill its functions, and that the approach NMRA is suggesting would be detrimental to all Business Radio license applicants. NABER says that adoption of such a rule change would severely undermine the integrity of the coordinator's data base so that in making a frequency recommendation, the coordinating committee would not be certain whether it was recommending the best frequency available for the applicant utilizing complete, current and accurate information. NABER states, "In order to continue to properly perform its function as a frequency coordinator, NABER must maintain as complete and as accurate a data base as possible. Any delay in the receipt of information would only result in confusion and the increased possibility that a subsequent or even currently processed frequency recommendation would not be correct." In addressing CMRA's point that coordinating committees under the rules do not have to notify co-channel users, NABER argues that the coordinator has the data base of all licensees, and therefore, knows who the co-channel users are. It then takes this into account in making the recommendations. In these circumstances, NABER says that there is no reason why it should notify co-channel users.

7. The purpose of this Inquiry is to solicit further input relative to the frequency coordination requirements in the Business Radio Service. Specifically, we solicit comments on the following questions:

(a) What are the advantages and disadvantages of the existing co-channel user notification requirements when an applicant chooses to submit a field study in accordance with the option offered in § 90.175(a)? Should the co-channel user notification requirement apply as it does to all private land mobile radio services? Are there sufficient reasons to justify a modification or change in the notification requirements in any of the services which will not cause potential interference problems or conflict with the frequency coordinators' functions?

(b) What are the advantages and disadvantages of having the same field study requirements for initial users on a given channel and for subsequent users on multiple licensed facilities (community repeaters)?

(c) Are there alternative coordination methods which would result in the same or better level of interference protection and also maintain the accuracy of the coordinator's data base?

8. Information filed in response to this Inquiry will be considered by the Commission in formulating specific rule making proposals, if appropriate, looking towards the most efficient and effective frequency coordination process for applications for 450–470 MHz frequencies in the Business Radio Service, and possibly for other radio services.

9. Authority for this proceeding is contained in sections 4(i), 303, and 403 of the Communications Act of 1934, as amended.

10. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on this matter on or before July 19, 1982, and reply comments on or before August 5, 1982.

11. In accordance with the provisions of § 1.419 of the rules and regulations, formal participants shall file an original and five (5) copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and eleven (11) copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

12. It is ordered that the Secretary shall cause a copy of this notice to be published in the **Federal Register.**

13. For further information concerning this document, contact Eugene Thomson, Private Radio Bureau, Federal

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[1] Section 90.175(a) requires applicants for frequencies below 470 MHz to submit either: (1) A report based on a field study indicating the degree of probable interference to all existing co-channel stations within 75 miles of the proposed station together with a statement that all such co-channel licensees have been notified of the applicant's intention to apply; or (2) a statement from a frequency coordinating committee recommending the frequency which, in the opinion of the committee, will result in the least amount of interference to all existing stations operating in the particular area.

[2] A supplement to Petition for Rule Making was submitted on March 25, 1980. On November 17, 1980, this supplement was withdrawn.

Communications Commission, (202) 632-6497.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-16720 Filed 6-18-82; 8:45 am]

BILLING CODE 6712-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

48 CFR Part 53

Forms

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of availability and request for comment on draft Federal Acquisition Regulations.

SUMMARY: The Office of Federal Procurement Policy is making available for public and Government agency review and comment a segment of the draft Federal Acquisition Regulation (FAR) procurement forms.[1] This is the next to the last segment of the FAR to be published for comment. Availability of the final segment, Part 27—Patents, Data, and Copyrights, will be announced at a later date. The FAR is being developed to replace the current system of procurement regulations.

DATE: Comments must be received on or before July 30, 1982.

ADDRESS: Obtain copies of the draft regulation from and submit comments to William Maraist, Assistant Administrator for Regulations, Office of Federal Procurement Policy, 726 Jackson Place, NW., Room 9025, Washington, D.C. 20503. Federal agency requests must be directed to the FAR Agency Contact Point (see FR Vol. 46, No. 50, March 16, 1981, p. 16818 for list).

FOR FURTHER INFORMATION CONTACT: William Maraist, (202) 395-3300.

SUPPLEMENTARY INFORMATION: The fundamental purposes of the FAR are to reduce proliferation of regulations; to eliminate conflicts and redundancies; and to provide an acquisition regulation that is simple, clear and understandable. The intent is not to create new policy. However, because new policies may arise concurrently with the FAR project, the notice of availability of draft regulations will summarize the section or part available for review and describe any new policies therein.

List of Subjects in 48 CFR Part 53

Government procurement.

The following part of the draft Federal Acquisition Regulation is available upon request for public and Government agency review and comment.

PART 53—FORMS

Subpart 53.1—General

This subpart contains requirements and information generally applicable to the forms prescribed by the FAR (e.g., deviations, overprinting, computer preparation, changes, etc.).

Subpart 53.2—Prescription of Forms

This subpart prescribes standard forms, and references optional forms and agency-prescribed forms, for use in acquisition. Consistent with the approach used in Subpart 52.2, this subpart is arranged by subject matter, in the same order as, and keyed to, the parts of the FAR in which the form usage requirements are addressed.

Subpart 53.3—Illustrations of Forms

In its final form this subpart will contain illustrations of forms used in acquisition. However, during the development of the FAR, each part and subpart published for comment generally illustrated the forms applicable to its subject matter. When the FAR is published in its entirety, the illustrations will be consolidated into Subpart 53.3 as indicated in the Table of Contents for Part 53.

Dated: June 14, 1982.

LeRoy J. Haugh,

Associate Administrator for Procurement System Implementation.

[FR Doc. 82-16681 Filed 6-18-82; 8:45 am]

BILLING CODE 3110-01-M

[1] Filed as part of the original document.

Notices

Federal Register
Vol. 47, No. 119
Monday, June 21, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Privacy Act of 1974; Systems of Records

AGENCY: Agricultural Department.

ACTION: Notice of amendment of Privacy Act systems of records.

SUMMARY: The Department of Agriculture hereby gives notice that it is reassigning and amending three previously published systems of records from one agency within the Department of Agriculture to another and is making minor amendments to two previously published systems of records.

EFFECTIVE DATE: June 21, 1982.

FOR FURTHER INFORMATION CONTACT: Burt C. Hawkins, Director, Administrative Services Division, Agricultural Marketing Service, 14th and Independence Ave., Room 1090–S, SW, Washington, D.C. 20250, Phone Number: (202) 447–3955.

SUPPLEMENTARY INFORMATION: On November 2, 1978, the Department of Agriculture, at 43 FR 51305, published a Privacy Act system notice identified as USDA/FSQS–3, Court cases brought by the Government pursuant to the following Acts: Agricultural Marketing Act of 1946, Egg Products Inspection Act. Due to internal reorganizations of the Department, the system has been transferred to the control of the Agricultural Marketing Service. The system is reidentified as USDA/AMS–8. In addition, the Department is amending the system notice by changing the system location and system manager, necessitated by a change in the address where files are maintained.

On the same day, the Department published two Privacy Act system notices identified as USDA/AMS–8, Packers and Stockyards Administrative Records, USDA/AMS and USDA/AMS–9, Persons engaged in business as livestock market agencies and dealers under the provisions of the Packers and Stockyards Act, USDA/AMS. Due to internal reorganizations of the Department the Systems have been transferred to the control of the Packers and Stockyards Administration. The systems will be indentified as USDA/P&SA–1 and USDA/P&SA–2, respectively. These systems are being amended to reflect current locations and system managers.

The Department also amends two previously published Privacy Act systems of records maintained by the Federal Grain Inspection Service (FGIS) which are necessitated by the reorganization of FGIS. System indentified as USDA/FGIS–3, entitled "Subsidiary Personnel and Pay Records, USDA/FGIS" (43 FR 51299 on November 2, 1978) is being amended to delete "and Region," from "System location" because the regional offices of FGIS have been eliminated. The system of records identified as USDA/FGIS–5, Occupational injury/illness and motor vehicle accident case files for U.S. Department of Agriculture (USDA), Federal Grain Inspection Service (FGIS) employees (47 FR 5277, February 4, 1982), was relocated to a new address and are indexed by type of program (West Export, Central Export, East Export, or Domestic) since the Regions have been eliminated.

The changes in the notices are non-substantial and, therefore, do not require "Report on New System" pursuant to 5 U.S.C. 552a(o), as implemented by Transmittal Memoranda 1 and 3 to OMB Circular A–108.

John R. Block,

Secretary of Agriculture.

June 15, 1982.

The text of the four systems will be as follows:

USDA/AMS–8

SYSTEM NAME:

Court cases brought by the Government pursuant to the following Acts: Agriculutral Marketing Act of 1946, Egg Products Inspection Act.

SYSTEM LOCATION:

Agricultural Marketing Service, U.S. Department of Agriculture, 14th & Independence Avenue, SW, Washington, D.C. 20250.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are regulated by the subject Acts and who may be investigated for possible violations of the Acts and/or against whom the Department recommends that an enforcement action be brought by the Government.

CATEGORIES OF RECORDS IN THE SYSTEM:

The System consists of investigatory material which may include intra- and interdepartmental recommendations pertaining to an alleged violation of the subject Acts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 1621 et seq., and 1031 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Referral to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting a violation law, or of enforcing or implementing a statute, law, rule, regulation or order issued pursuant thereto, of any record within this system when information available indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by rule, regulation or order issued pursuant thereto. (2) Presentation or disclosure to a court, magistrate or administrative tribunal, or to opposing counsel in a proceeding before any of the above, of any record within the system as evidence in a proceeding or which is sought in the course of discovery including disclosure to opposing counsel in the course of settlement negotiations. (3) Presentation, as needed, in the course of presenting evidence, to the appropriate Government officials charged with the responsibility of defending the Government before a court, magistrate, or administrative tribunal. (4) Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in the file folders at the applicable address listed above.

RETRIEVABILITY:

Records are indexed by name of the individual.

SAFEGUARDS:

Government office buildings, locked offices or locked file cabinets.

RETENTION AND DISPOSAL:

Records are maintained in conformance with appropriate General Services Administration destruction schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Poultry Division Director at the address cited in the System location.

NOTIFICATION PROCEDURE:

This system has been exempted pursuant to 5 U.S.C. 552a(k)(2) from the requirements of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(g), (h), and (f) because it consists of investigatory material compiled for law enforcement purposes. See 7 CFR 1123. Individual access to these files could impair investigations and alert subjects of investigations that their activities are being scrutinized, and thus allow them time to take measures to prevent detection of illegal action to escape prosecution. Disclosure of investigative techniques and procedures and the existence and identity of confidential sources of information would hamper law enforcement activity.

USDA/FGIS-3

SYSTEM NAME:

Subsidiary Personnel and Pay Records, USDA/FGIS.

SYSTEM LOCATION:

Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, and Field Offices at locations listed in the Federal Grain Inspection Service Field Office Listing publication.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former employees and applicants for reemployent with the Federal Grain Inspection Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of copies of materials maintained in Official Personnel Folders, such as personnel action documents, applications for employment, education and training data, performance and appraisal ratings, as well as time and attendance reports, earnings statements, and service record cards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) By agency officials for purposes of review in connection with appointments, promotions, within-grade increases, training, transfers, and determination of qualification of an individual. (2) To provide information to a prospective employer of a Federal Government employee or former Federal Government employee or to an organization at the request of the individual. (3) Referral to the Office of Personnel Management, Merit Systems Protection Board, Department of Labor, and Office of Management and Budget for required records and reports. (4) Referral to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting a violation of law, or of enforcing or implementing the statute, rule, regulation or order issued pursuant thereto, of any record within this system when information available indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by rule, regulation or order issued pursuant thereto. (5) Referral to a court, magistrate or administrative tribunal, or to opposing counsel in a proceeding before any of the above, of any record within this system which constitutes evidence in that proceeding, or which is sought in the course of discovery. (6) Presentation, as needed, in the course of presenting evidence to the appropriate Government officials charged with the responsibility of defending the Government before a court, magistrate or administrative tribunal. (7) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and on file cards at the applicable addresses listed above.

RETRIEVABILITY:

Records are indexed by name of the individual.

SAFEGUARDS:

Government office buildings, locked offices, or locked file cabinets.

RETENTION AND DISPOSAL:

Records are maintained in conformance with appropriate General Services Administration disposal schedules and implemented by AMS Instruction 270–1, Records Management Program.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Division, AMS, USDA, 14th and Independence Avenue, SW, Washington, D.C. 20250.

NOTIFICATION PROCEDURE:

Any individual may request information concerning himself from this system from the Personnel Division Director or from the individual's supervisor at the appropriate Office having custody of his records. A request for information should be addressed to Director, Personnel Division or to the Officer-in-Charge, as appropriate, at the address shown under Location and should contain: Name, address, and particular information requested.

RECORD ACCESS PROCEDURES:

Any individual may obtain information as to the procedures for gaining access to a record in the System which pertains to him by submitting a written request to the Director, Personnel Division or to the appropriate Officer-in-Charge referred to in the preceding paragraph.

CONTESTING RECORDS PROCEDURES:

Any individual may obtain information as to the procedures for contesting a record in the System which pertains to him by submitting a written request to the Director, Personnel Division or to the appropriate Officer-in-Charge referred to in the preceding paragraph.

RECORD SOURCE CATEGORIES:

Information in this System comes from the individual to whom it applies or is derived from information the indiviudal supplied except information provided by agency officials on performance, appraisal, pay, leave, and allowance records.

USDA-FGIS-5

SYSTEM NAME:

Occupational injury/illness and motor vehicle accident case files for U.S. Department of Agriculture, Federal Grain Inspection Service employees.

SYSTEM LOCATION:

Federal Grain Inspection Service (FGIS), U.S. Department of Agriculture, Washington, D.C. 20250.

CATEGORY OF INDIVIDUALS COVERED BY THE SYSTEM:

Any FGIS employee who suffers an occupational injury/illness or is involved in a motor vehicle accident while in performance of official duties.

CATEGORIES OF RECORDS IN THE SYSTEM:

All forms, correspondence and other data pertinent to processing of illness/injury claims and motor vehicle accident reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Occupational Safety and Health Act of 1970 Pub. L. 91–596, Sec. 19, E.O. 11807 and E.O. 12196, Federal Employees Compensation Act, as amended (5 U.S.C. 8101 et seq.), and 29 CFR 1960.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Use of records will be limited to FGIS employees authorized to assist employees with processing claims for occupational injury and illness under the Federal Employees Compensation Act as amended; submit, in accordance with the Occupational Safety and Health Act of 1970, an annual report of all occupational injury and illnesses which occur within the Agency to the Department of Labor for them to evaluate incidence of injuries and the incidence and nature of illnesses occurring in the Federal Sector; and to develop statistics for analysis of accident and injury rates in the Agency.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in individual file folders at address listed above.

RETRIEVABILITY:

Records are indexed alphabetically by last name of individual, by Program (West Export, Central Export, East Export or Domestic), and by calendar year.

SAFEGUARDS:

Records are maintained in government office building, in locked office or locked file cabinet.

RETENTION AND DISPOSAL:

Records are maintained in conformance with appropriate General Services Administration disposal schedules as implemented by AMS/FGIS Instruction 270–1, Records Management Program.

SYSTEM MANAGER(S) AND ADDRESS:

Head, Safety and Health Unit, Resources Management Division, at the address cited in the System location.

NOTIFICATION PROCEDURE:

Any individual may request information concerning their records by contacting the system manager.

RECORD ACCESS PROCEDURES:

Any individual may obtain information as to the procedure for gaining access to a record in the system that pertains to him/her from the system manager.

CONTESTING RECORD PROCEDURES:

Any individual may obtain information as to the procedure for contesting a record in the system that pertains to him/her from the system manager

RECORD SOURCE CATEGORIES:

Information contained in the system is obtained from employees, their supervisors, physicians, and U.S. Department of Labor, Office of Workers' Compensation Programs (OWCP) claims form and correspondence.

USDA/P&SA–1

SYSTEM NAME:

Packers and Stockyards Administrative administration records, USDA/P&SA.

SYSTEM LOCATION:

Packers and Stockyards Administrative Office, Rm. 3042, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, and the Regional Supervisors in charge of the following regional offices located at: Rm. 338, 1720 Peachtree Street, N.W., Atlanta, Georgia 30309; Turnpike Road, Box 101E, Bedford, Virginia 24523; 208 Livestock Exchange Building, Denver, Colorado 80216; Rm. 8A36, Federal Building, 819 Taylor Street, Fort Worth, Texas 76102; Suite 24, 537 Turtle Creek, South Drive, Indianapolis, Indiana 46227; 828 Livestock Exchange Building, Kansas City, Missouri 64102; Rm. 2W6, 15000 Aviation Boulevard, Lawndale, California 90260; Rm. 459, Federal Building, 167 North Main Street, Memphis, Tennessee 38103; Rm. 303, 825 Georges Road, North Brunswick, New Jersey 08902; 909 Livestock Exchange Building, Omaha, Nebraska 68107; 9370 S. W. Greenburg Road, Suite E, Portland, Oregon 97223; 203 Post Office Building, Box 8, South St. Paul, Minnesota 55075; and 975 Durkin Drive, Suite G, Springfield, Illinois 62704.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present employees of the Packers and Stockyards Administration.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes personnel (personnel record cards reflecting the name, date of birth, grade, salary, and employment history of present employees; performance evaluation forms; requests for training authorizations; recommendations for promotion; copies of personnel actions; and correspondence relating to individual employees' conduct), payroll and fiscal data required to meet the needs of P&SA personnel and fiscal responsibilities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 7 CFR 2.54.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The data contained in the foregoing records is routinely used to answer inquiries from agencies considering the employees identified in the system for employment as well as for credit checks. This information is also used to initiate requests for investigation of Packers and Stockyards Administration employees for purposes of security and conduct. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

With the exception of personnel record cards, all of these records are maintained on paper in file folders at the appropriate addresses cited.

RETRIEVABILITY:

All of the records are indexed and retrievable by name of the individual employees.

SAFEGUARDS:

The records are maintained in locked files.

RETENTION AND DISPOSAL:

The personnal record cards are maintained until an individual leaves P&SA. The performance evaluation forms for current employees are maintained indefinitely. The Time and Attendance reports are maintained for

the current year and three years thereafter for employees currently on the rolls. Final Time and Attendance reports are maintained for ten years after the date of separation of the employees. Travel vouchers, copies of personnel actions, training documents, and recommendations for promotion are maintained for five years from the date of submission. Correspondence with respect to employee conduct is maintained while the employee remains on the rolls. The administrative officer of the Packers and Stockyards Administration physically mutilates the records on the scheduled disposal date and they are thrown away with the agency's waste.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Officer, Packers and Stockyards Administration, Rm. 3042, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, and Regional Supervisors of regional offices at locations previously specified.

NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records or information as to whether the system contains records pertaining to him from the System Manager. Telephone (202–447–7045) or the appropriate Regional Supervisor. Requests for information pertaining to an individual should contain: Name, location at which the individual worked for P&SA and the approximate dates.

RECORD ACCESS PROCEDURES:

Any individual may obtain information as to the procedures for gaining access to a record in the system which pertains to him by submitting a written request to the appropriate officials previously specified.

CONTESTING RECORD PROCEDURES:

Use same procedures as for requesting access.

RECORD SOURCE CATEGORIES:

Information in this system comes primarily from the individuals concerned, personnel, training, travel and payroll records.

USDA/P&SA-2

SYSTEM NAME:

Persons engaged in business as livestock market agencies and dealers under the provisions of the Packers and Stockyards Act, USDA/P&SA.

SYSTEM LOCATION:

Financial Protection Branch, Livestock Marketing Division, Packers and Stockyards Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Also files for specific geographical regions maintained in the thirteen (13) Regional Supervisory Offices of P&SA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied for registration or are registered as livestock market agencies and dealers under the Packers and Stockyards Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of index cards bearing the names of individuals who are registered under the provisions of the Act. Also cross-reference cards bearing the names of individuals who are owners or officers of registrant firms. From the index cards access may be gained to other systems of records identified as follows: (1) Registration Record Cards, (2) Case Record Cards, (3) Bond Claim Record Cards, (4) Registration Jurisdictional Files, and (5) Stockyard Jurisdictional Files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 181 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To answer inquiries from Federal and State agencies, livestock trade organizations, and others having a definite and proved interest in such records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in card file cabinets and file folders at the applicable address listed above.

RETRIEVABILITY:

All index cards are maintained in an alphabetical order by name of registrant and by name of owners or officers of registrant firms.

SAFEGUARDS:

Records are kept in locked cabinets under the supervision of competent personnel.

RETENTION AND DISPOSAL:

All files mentioned are maintained during active life of registration. When rendered inactive records are maintained for a period of two years in accordance with an approved records disposition schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Financial Protection Branch, Livestock Marketing Division, Packers and Stockyards Administration, USDA, Washington, D.C. 20250.

NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records or information as to whether the system contains records pertaining to him from System Manager, Telephone (202–447–4615 or 16). A request for information pertaining to an individual should contain that individual's full name, and current mailing address.

RECORD ACCESS PROCEDURES:

Any individual desiring to gain access to a record maintained in the system which pertains to him may do so by submitting a written request to the appropriate official referred to in the preceding paragraph.

CONTESTING RECORD PROCEDURES:

Use same procedures as followed in seeking access.

RECORD SOURCE CATEGORIES:

Information in this system comes primarily from individuals who make application for registration or who are registered under the Packers and Stockyards Act, 1921, as amended. A limited amount of information in the system is obtained from other sources such as corporate surety companies, persons acting as trustee on bonds or bond equivalents and Packers and Stockyards Administration, Regional Supervisory personnel.

[FR Doc. 82-16697 Filed 6-18-82; 9:45 am]
BILLING CODE 3410-02-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

See, 14 CFR 302.1701 et seq. week ended June 11, 1982.

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
June 7, 1982	40752	Air New Zealand Limited, c/o William C. Clarke, Sarrett, Smith, Schapiro, Simon & Armstrong, 26 Broadway, New York, N.Y. 10004. Application of Air New Zealand Limited pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests an amendment which deletes the present route description in its permit and substitutes the following: Between a point or points in New Zealand and the Cook Islands, intermediate points in the South Pacific including the Cook Islands and American Samoa, the coterminal points Honolulu, Hawaii and Los Angeles, Calif., and beyond to London, England. Answers may be filed by July 6, 1982.
June 11, 1982	40765	Aero Uruguay, S.A., c/o George E. Farrell, Healey, Farrell & Lear, 905 Sixteenth Street, N.W., Washington, D.C. 20006. Application of Aero Uruguay, S.A. pursuant to section 402 of the Act and Subpart Q of the Board's Procedural regulations requests the operation of non-regular air transport services of cargo between points in Uruguay and New York, N.Y., U.S.A., with intermediate commercial landings. Answers may be filed by July 9, 1982.

Phyllis T. Kaylor,
Secretary.
[FR Doc. 82-16687 Filed 6-18-82; 8:45 am]
BILLING CODE 6320-01-M

Application of American World Airways, Inc., for a Certificate of Public Convenience and Necessity

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Instituting a Fitness Investigation of American World Airways, Inc., 82-6-87, Docket 40771.

SUMMARY: The Board is issuing an order instituting a fitness investigation of American World Airways, Inc.

DATE: Persons wishing to file requests for additional evidence or petitions to intervene in the American World Airways Fitness Investigation shall file their requests and petitions in Docket 40771 by July 1, 1982 and serve such filings on all persons listed below.

ADDRESSES: Requests for additional evidence and petitions to intervene should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, in Docket 40771.

In addition, copies of such filings should be served on: American World Airways, Inc. the mayors of Miami, Flordia and Islip, New York, the airport managers of Miami International Airport and Long Island MacArthur Airport, the Florida Department of Transportation, the New York State Department of Transportation and the Federal Aviation Administration.

Service will also be required on any other person filing petitions.

FOR FURTHER INFORMATION CONTACT: Sherry L. Kinland, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673-5333.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-6-87, is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82-6-87 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: June 15, 1982.

Phyllis T. Kaylor,
Secretary.
[FR Doc. 82-16684 Filed 6-18-82; 8:45 am]
BILLING CODE 6320-01-M

Five Local Service Carriers; Subsidy Rate

This is an order establishing the subsidy rate for five local service carriers for the period January 1, 1982 through September 30, 1982, pursuant to the provisions of Class Rate IX, and proposing to terminate subsidy payments effective October 1, 1982.

AGENCY: Civil Aeronautics Board.

ACTION: Summary of Order 82-6-91, Amendment Seven to Order 79-10-51, and Order to Show Cause.

SUMMARY: The Board has adopted the maximum subsidy rates due and payable to the five local service carriers for the period January 1, 1982 through September 30, 1982. The adjustments in this order are based on operating results for the year ended September 30, 1981, and incorporate certain adjustments which reduce subsidy payments in conformance with the subsidy ceiling restrictions placed by Congress on the expenditure of funds in Pub. L. 97-102. The annual subsidy level effective January 1, 1982 is $84.1 million, which is reduced to $36.7 million on March 29, 1982 by implementation of Congressional subsidy limitations and service suspensions. The upward median percentage change in cost applied to the base period net formula provision and service incentive paymets was 92.39 percent. The carriers are also directed to show cause why subsidy payments should not terminate after September 30, 1982.

DATES: Parties must file exceptions and supporting rational by July 1, 1982 on the rate issues and must file notice of objection on the subsidy termination issue by July 2, 1982 and answers by July 22, 1982.

FOR FURTHER INFORMATION CONTACT: John R. Hokanson, or James Craun, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5368.

The complete text of Order 82-6-91 is available from our Distribution Section. Persons outside the metropolitan area may send a postcard request for the order to the Distribution Section, B-22b, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: June 15, 1982.

Phyllis T. Kaylor,
Secretary.
[FR Doc. 82-16686 Filed 6-18-82; 8:45 am]
BILLING CODE 6320-01-M

Alaska Airlines Inc., et al.; Proposed Termination of Subsidy Payments

This is an order proposing to terminate 406 subsidy payments effective October 1, 1982 to Alaska Airlines Inc., Wien Air Alaska, Inc., Kodiak-Western Alaska Airlines, Inc., and Air Midwest Inc.

AGENCY: Civil Aeronautics Board.

ACTION: Summary of Order 82-6-92, Order to Show Cause.

SUMMARY: Based on the legislative history of Public Law 97-102, Department of Transportation and Related Agencies Appropriations, 1982, December 23, 1981; 95 Stat. 1455, 1456, where the conferees stated that the section 406 program should be terminated and viewed the funding provided in the conference agreement

for section 406 as the final Federal compensation to be made available in order to facilitate an orderly close-out of this program, the Board has adopted an order directing four subsidized carriers show cause why their 406 subsidy rates should not terminate on and after October 1, 1982.

DATES: Parties must file notice of objection by July 2, 1982, and answers by July 22, 1982.

FOR FURTHER INFORMATION CONTACT: John R. Hokanson, or James M. Craun, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673–5368.

The complete text of Order 82–6–92 is available from our Distribution Section. Persons outside the metropolitan area may send a postcard request for the order to the Distribution Section, B–22b, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: June 15, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–16688 Filed 6–18–82; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Marine Fisheries Advisory Committee; Partially Closed Meeting

AGENCY: National Marine Fisheries Service (NOAA), Commerce.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C., App. (1976), notice is hereby given of a partially closed meeting of the Marine Fisheries Advisory Committee (MAFAC). The Committee meeting (MAFAC XXII) will be held on Tuesday, Wednesday and Thursday, June 29–July 1, 1982, in the auditorium of the Northwest and Alaska Fisheries Center, 2725 Montlake Boulevard East, Seattle, Washington.

The Marine Fisheries Advisory Committee was established by the Secretary of Commerce on February 17, 1971 to advise the Secretary on matters pertinent to the Department's responsibilities for marine fishery resources and on means to facilitate cooperation between public and private interests in these matters. The agenda for the meeting is as follows:

Tentative Agenda

Closed Session—June 29, 1982 (8:30 a.m. to Noon)

a. Consider and discuss the living marine resources proposals of the NOAA FY 1984 budget.

Open Session—June 29, 1982 (1:30 to 5:30 p.m.)

a. Discuss issues concerning the relationship between NMFS developed fishery technology and Sea Grant Marine Advisory Service activities.

b. Dicuss NOAA/NMFS' support role in research in commercial fishing operations.

c. Discuss NOAA/NMFS' role in forecasting and counteracting economic conditions affecting U.S. fishing industries.

Open Session—June 30, 1982 (8:30 a.m. to 5:30 p.m.)

a. Discuss NOAA/NMFS' role in the management and development of chinook salmon fishery.

b. Discuss coordination between National Marine Sanctuary Program and Fishery Management Councils.

c. Discuss NOAA/NMFS' role in habitat conservation, ecosystem management.

Open Session—July 1, 1982 (8:30 a.m. to 3:00 p.m.)

a. Tour NOAA's Sand Point and Pacific Marine Center facilities.

b. Discuss status reports of MAFAC subcommittee Chairpersons.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of the General Counsel, formally determined on June 10, 1982 pursuant to section 10(d) of the Federal Advisory Committee Act, that the agenda item to be covered during the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because the item will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(9)(B), as information the permature disclosure of which will be likely to significantly frustrate the implementation of proposed agency action. (A copy of the determination is available for public inspection and duplication in the Central Reference and Records Inspection Facility, Room 6628, Department of Commerce.) All other portions of the meeting will be open to the public.

FOR FURTHER INFORMATION OR COPIES OF MINUTES CONTACT: Ms. Robin Tuttle Waxman, Acting Executive Secretary, Marine Fisheries Advisory Committee, National Marine Fisheries Service, Washington, D.C. 20235, Telephone: (202) 634–7283.

Dated: June 15, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82–16798 Filed 6–18–82; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; Establishment of a New System of Records

AGENCY: Defense Logistics Agency, DOD.

ACTION: Establishment of a new system of records.

SUMMARY: The Defense Logistics Agency (DLA) proposes to add a new system of records to its inventory of systems of records subject to the Privacy Act of 1974. The system notice for this system is set forth below.

DATE: This system notice shall be effective July 21, 1982, unless public comments are received which result in a contrary determination.

ADDRESS: Send any comments to: Director, Defense Logistics Agency, Centralized Intern Development Office, 3990 E. Broad Street, Columbus, OH 43215.

FOR FURTHER INFORMATION CONTACT: Mr. Preston B. Speed, Headquarters Defense Logistics Agency (ATTN: DLA-XAM), Cameron Station, Alexandria, VA 22314. Telephone: 202/274–6234.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency Systems of records subject to the Privacy Act of 1974, Title 5 United States Code, section 552a (Pub. L. 93–579; 44 Stat. 1896, et seq.) has been published in the Federal Register at:

FR Doc. 82–674 (46 FR 2544), January 16, 1982
FR Doc. 82–7399 (46 FR 11919), March 18, 1982
FR Doc. 82–10361 (46 FR 16193), April 15, 1982
FR Doc. 82–12693 (46 FR 20016), May 10, 1982
FR Doc. 82–15587 (46 FR 25041), June 9, 1982
FR Doc. 82–15774 (46 FR 25175), June 10, 1982

A new system report as required by 5 U.S.C. 552a(o) was submitted on May 19, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

June 16, 1982.

S355.02 DCIDO

SYSTEM NAME:

DLA—Intern Records.

SYSTEM LOCATION:

Defense Logistics Agency (DLA) Centralized Intern Development Office (DCIDO–X), Defense Construction Supply Center, 3990 E. Broad Street, Columbus, Ohio 43215; and DLA Civilian Personnel Management Support Office (DCMO), Defense Construction Supply Center, 3990 E. Broad Street, Columbus, Ohio 43215.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current and former DCIDO interns.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained in this system contain personal and training (formal and on-the-job) data on all interns (past and present) employed by DCIDO. These records contain the name, Social Security Number, name of program, date of birth, sex, minority group designator, entrance on duty, address, recruitment location, education, activity assigned, target position, date of completion of DCIDO training, reasons for non-completion/effective date, formal training received, completion date, on-the-job training received, and completion date.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4103, 4115, and 4118.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES.

To maintain training records and demographics on all interns employed by DCIDO; to provide information to DLA regarding EEO progress and for effective personnel management and administration. Records the training each intern has received to insure training objectives are being met as required in the Program of Instruction. Also used by staff personnel to evaluate program and individual intern progress.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated files are stored on magnetic tapes/disks. Manual files are stored on 5 x 8 index cards in file cabinets and computer print outs.

RETRIEVABILITY:

Automated records are retrieved by name, social security number, and career intern training program. Manual records are retrieved by employee name and career intern training program.

SAFEGUARDS:

Records are maintained in an area that is accessible to office personnel only. Records are retained in locked cabinets and compute file-safe system soft-ware. Records will be avialable only to authorized personnel on a need-to-know basis in connection with their official duties. Magnetic tapes or disks are stored in a tape library when not used in processing.

RETENTION AND DISPOSAL:

Manual records are retained for current year plus nine prior years. Mechanized listings are retained for one year and then are destroyed by shredding or burning. Tapes and/or disks are retained until no longer needed for reference or ten years, whichever is sooner.

SYSTEM MANAGER(S) AND ADDRESS:

Director, DLA Centralized Intern Development Office, 3990 E. Broad Street, Columbus, Ohio 43215.

NOTIFICATION PROCEDURES:

Written or personal requests for information may be obtained from the System Manager. Individual must provide full name, social security number and career program.

RECORD ACCESS PROCEDURES:

Assistance may be obtained from Administrative Officer, DCIDO, 3990 E. Broad Street, Columbus, Ohio 43215. Written requests or personal visits, individual must provide full name and signature, current address, social security number and career program. Specific proof of identification is not normally required.

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determination by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Civilian Personnel Offices; Chiefs, Career Intern Training Programs, information provided by personnel; OJT supervisors and training instructors.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 82-16708 Filed 6-18-82; 8:45 am]
BILLING CODE 3820-01-M

Department of the Army

Privacy Act of 1974; Matching Program—Department of the Army/City of New York

AGENCY: Department of the Army, DOD.

ACTION: Notice of a Matching Program—Department of the Army/City of New York.

SUMMARY: The Department of the Army announces a proposal to match by computer certain U.S. Army allotment records with the listings for recipients of food stamps and public assistance in the City of New York. The matches will be made under a written agreement between the City of New York and the Army. The Army will perform the match using certain data provided by the City and information from existing Army allotment records. A matching report is set forth below.

DATE: The match will begin on July 15, 1982 unless comments are received that result in a contrary determination.

ADDRESS: Send any comments to Office of The Adjutant General, Headquarters, Department of the Army, (HQDA(DAAG–AMR–R)), Hoffman building 1, 2561 Eisenhower Ave., Alexandria, VA 22331.

FOR FURTHER INFORMATION CONTACT:

Mr. Guy B. Oldaker, Office of The Adjutant General, Headquarters, Department of the Army, (HQDA(DAAG–AMR–R)), Hoffman Building 1, 2561 Eisenhower Ave., Alexandria, VA 22331; telephone 703/325–6183.

SUPPLEMENTARY INFORMATION: At the request of the City of New York, the Department of the Army has tentatively agreed to match certain data in the Army records concerning recipients of allotments from Active Duty soldiers with certain welfare records of the City of New York. Set forth below is the information required by paragraph 5.f.1 of the Revised Supplemental Guidance for Conducting Computerized Matching Programs issued by the Office of Management and Budget (47 FR 21656; May 19, 1982). A copy of this notice has been provide both Houses of Congress and the Office of Management and Budget.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense

June 15, 1982.

Report of a Matching Program; Department of the Army/City of New York, New York

a. *Authority:* Title 42, United States Code, Subchapter IV, "Grants to States for Aid and Services to Needy Families with Children and for Child Welfare Services" and Title 7, United States Code, Chapter 51, "Food Stamp Program."

b. *Program Description:* Using a computer tape prepared by the City of New York, the Department of the Army will match the names of the tape against its current computer base for checks issued in response to allotments made by soldiers. The New York tapes will contain only the name mailing address of current recipients of only the name, mailing address and dollar amount of the allotment for each support cycle. The Army will use a specially developed computer program which will be used only to support this program.

c. *Period of the Match:* The matches will begin in July 1982 and continue at intervals of not less than six month, but no more than one year.

d. *Security:* Only the Army personnel who perform the actual match will have access to the Army file and the New York City tapes. Only the "hits" will be turned over to personnel from the City of New York. The New York City personnel will have access only to the details of the "hits" and not other information or names in the Army files. The City intends to retain the listings provided for six months and storage will be locked cabinets. Upon completion of the match the tapes provided by the City will be returned to the City and no copies will be retained by the Army.

e. *Disposition of Records:* The Army will not retain or copy the tapes provided by the City. The tape will be returned to the City along with the "hit" data. The City officials will visually review the "hit" data to ensure that the records pertain to the individuals and to make initial follow up determinations. In those situations where there is any question as to eligibility, the recipient will be personally contacted to resolve the issue. No benefits will be discontinued solely on the basis of the "hit" data listings. The City of New York will retain the listings received from the Army for only six months.

f. *Other Comments:* The Army will not provide the "hit" data developed to any other Federal, State or local agencies. Also no Army bestowed rights, privileges or benefit will be terminated solely based on a "hit" or the records provided by the City of New York in connections with this program.

[FR Doc. 82-16708 Filed 6-18-82; 8:45 am]
BILLING CODE 3710-08-M

Office of the Secretary

Defense Systems Management College; Board of Visitors Meeting

A meeting of the Defense Systems Management College (DSMC) Board of Visitors will be held in Building 202, Fort Belvoir, VA, on Tuesday, 29 June 1982, from 9:00 a.m. until 4:30 p.m. The agenda will include a review of accomplishments related to the system acquisition education, system acquisition research, and information collection and dissemination missions. It will also include a review of the DSMC plans, resources and operations. The meeting is open to the public; however, because of limitiations on the space available, allocation of seating will be made on a first come, first-serve basis. Persons desiring to attend the meeting should cal Lieutenant Commander Judy Ray (703–664–1175) to reserve a seat.

June 15, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington, Headquarters Services, Department of Defense.

[FR Doc. 82-16667 Filed 6-18-82; 8:45 am]
BILLING CODE 3810-01-M

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92–463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, August 3, 1982; Tuesday, August 10, 1982, Tuesday, August 17, 1982; Tuesday, August 24, 1982, and Tuesday, August 31, 1982 at 10:00 a.m. in Rom 3D321, the Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Pub. L. 92–392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92–463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b. (c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b. (c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defenese (5 U.S.C. 552b (c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b. (c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, the Pentagon, Washington, D.C. 20301.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

June 16, 1982.

[FR Doc. 82-16669 Filed 6-18-82; 8:45 am]
BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted To OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Revision

Report of Inventions and Subcontracts (DD Form 882)

This report is essential as it, in accordance with contract terms and conditions (DAR clauses), sets forth information on inventions and election to file domestic and foreign patent applications, for use in establishing the rights the Government obtains in specific inventions.

Contractors (Subcontractors) 2,000 responses; 1,000 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, DC 20503, and John V. Wenderoth, DoD Clearance Officer, OASD(C), DIRMS, IRAD, Room 1A658, Pentagon, Washington, DC 20301, Telephone (292) 697–1195.

A copy of the information collection proposal may be obtained from Charles W. Lloyd, Room 3D 1028, Pentagon, Washington, DC 20301, Telephone (202) 697–7266.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

June 16, 1982.

[FR Doc. 82–16688 Filed 6–18–82; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF ENERGY

Inventions Available for License

The Department of Energy (DOE) hereby announces a number of inventions available for license, either exclusively or nonexclusively. For further information concerning licensing of the inventions, please contact Robert J. Marchick, Office of the Assistant General Counsel for Patents, GC–42, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Copies of specifications of the listed U.S. patent applications may be obtained, for a modest fee, from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22151.

Signed at Washington, D.C., on this 9th day of June 1982.

R. Tenney Johnson,

General Counsel, Department of Energy.

Department of Energy

Assistant General Counsel for Patents, Washington, DC. 20585

Patent Application S.N. 183,780, Method and Device for Determining the Position of a Cutting Tool Relative to the Rotational Axis of a Spindle-Mounted Workpiece

Patent Application S.N. 186,869, A Positional Reference System for Ultraprecision Machining

Patent Application S.N. 186,870, Dual Surface Interferometer

Patent Application S.N. 186,886, Self Locking Coupling Mechanism for Engaging and Moving a Load

Patent Application S.N. 187,913, Nuclear Reactor Fuel Rod Attachment System

Patent Application S.N. 187,915, Electron Energy Recovery System for Negative Ion Sources

Patent Application S.N. 188,436, Semiconductor With Protective Surface Coating and Method of Manufacture Thereof

Patent Application S.N. 188,791, Apparatus for Electroplating Particles of Small Dimension

Patent Application S.N. 189,990, Means for the Focusing and Acceleration of Parallel Beams of Charged Particles

Patent Application S.N. 190,303, Non-Intrusive Ultrasonic Liquid-in-Detector for Small Diameter Tubes

Patent Application S.N. 190,304, A Process for Decontaminating Radioactive Liquids Using a Calcium Cyanamide-Containing Composition 5Patent Application S.N. 190,305, Matched Metal Die Compression Molded Structural Random Fiber Sheet Molding Compound Flywheel

Patent Application S.N. 190,306, Rimmed and Edge Thickened Stodola Shaped Flywheel

Patent Application S.N. 191,192, Coded Aperture Imaging With Self-Supporting Uniformly Redundant Arrays

Patent Application S.N. 191,611, Passive Ice Freezing-Releasing Heat Pipe

Patent Application S.N. 192,799, Tracking System for Solar Collectors

Patent Application S.N. 195,543, Denitrification of Combustion Gases

Patent Application S.N. 195,966, Downhole Steam Generator With Improved Preheating/Cooling Features

Patent Application S.N. 195,967, Method for the Preparation of Radon-211

Patent Application S.N. 195,968, Magnetic Resonance Apparatus

Patent Application S.N. 196,710, Zirconium Vanadium Chromium Alloy

Patent Application S.N. 196,998, Vacuum Chamber With a Supersonic Flow Aerodynamic Window

Patent Application S.N. 198,028, Three-Electrode Low Pressure Discharge Apparatus and Method for Uniform Ionization of Gaseous Media

Patent Application S.N. 200,799, Process for Separating Coal Synthesized Methane From Unreacted Intermediate and Contaminant Gases

Patent Application S.N. 201,946, Eddy Current Inspection Tool

Patent Application S.N. 201,947, Method of Measuring Heat Influx of a Cryogenic Transfer System

Patent Application S.N. 201,958, Radiant Energy Receiver Having Improved Coolant Flow Control Means

Patent Application S.N. 201,959, Pressure Wave Charged Repetitively Pulsed Gas Laser

Patent Application S.N. 202,041, Apparatus and Method for Maintaining Low Temperatures About an Object at a Remote Location

Patent Application S.N. 202,042, Imaging Alpha Particle Detector

Patent Application S.N. 202,083, Coherent Multilayer Crystals and Method of Making

Patent Application S.N. 203,193, Crack-Resistant Siloxane Molding Compound

Patent Application S.N. 203,194, Complex of Transferrin With Ruthenium for Medical Applications

Patent Application S.N. 204,121, Device for Detecting Imminent Failure of High-Dielectric Stress Capacitors

Patent Application S.N. 204,450, Open-Gradient Magnetic Method for the Benefication of Dry Pulverized Coal

Patent Application S.N. 204,689, Diffusion Bonded Stainless Steel in a Copper Matrix for Forming Amorphous Metal Shapes

Patent Application S.N. 204,721, Method of Assaying Uranium With Prompt Fission and Thermal Neutron Borehole Logging Adjusted by Borehole Physical Characteristics

Patent Application S.N. 205,043, Switching Power Pulse System

Patent Application S.N. 205,070, Klystron Having Electrostatic Quadrupole Focusing Arrangements

Patent Application S.N. 205,075, Method for Separating Actinides

Patent Application S.N. 205,076, Efficient Optical Pulse Stacker System

Patent Application S.N. 205,077, Convectively Cooled Electrical Grid Structure

Patent Application S.N. 205,397, Fast Closing Valve

Patent Application S.N. 205,398, Penning Discharge Ion Source With Self-Cleaning Aperture

Patent Application S.N. 206,221, Amorphous Metal Composites and Method of Making Composites

Patent Application S.N. 206,222, Long-Life Leak Standard Assembly

Patent Application S.N. 206,231, Nuclear Reactor Fuel Assembly Duct-Tube To-Inlet-Nozzle Attachment System

Patent Application S.N. 206,232, Hot Air Drum Evaporator

Patent Application S.N. 206,233, Rotatable Seal Assembly

Patent Application S.N. 206,234, Method for Uniformly Distributing Carbon Flakes in a Positive Electrode, the Electrode Made Thereby and Compositions

Patent Application S.N. 208,099, Alarm Toe Switch

Patent Application S.N. 208,100, Device for Detecting the Specific Gravity of a Liquid

Patent Application S.N. 208,218, Catalytic Cartridge SO_3 Decomposer

Patent Application S.N. 209,920, Method for Selectively Removing Fluorine and Fluorine-Containing Contaminants From Gaseous UF_6
Patent Application S.N. 209,921, Solar Receiver Protection Means and Method for Loss of Coolant Flow
Patent Application S.N. 209,928, Method and Apparatus for Acoustically Monitoring the Flow of Suspended Solid Particulate Matter
Patent Application S.N. 209,929, Situ Measurement System
Patent Application S.N. 210,485, Fermentative Alcohol Production
Patent Application S.N. 210,486, Regenerative Air Heater
Patent Application S.N. 210,487, Fluidic Assembly for an Ultra-High-Speed Chromosome Flow Sorter
Patent Application S.N. 210,488, High Power Linear Pulsed Beam Annealer
Patent Application S.N. 210,716, Laser-Assisted Isotope Separation of Tritium
Patent Application S.N. 212,005, Method for Producing Hydrocarbon and Alcohol Mixtures
Patent Application S.N. 212,045, Control System to Reduce the Effects of Friction in Drive Trains of Continuous-Path-Positioning Systems
Patent Application S.N. 212,310, Temperature Profile Detector
Patent Application S.N. 213,267, Laser Weld Jig
Patent Application S.N. 213,275, Superconducting Var Control
Patent Application S.N. 213,276, Radiation Detector
Patent Application S.N. 214,801, Fluid Force Transducer
Patent Application S.N. 214,802, Scanning Ultrasonic Probe
Patent Application S.N. 214,805, Optical Fuel Pin Scanner
Patent Application S.N. 214,806, Hand-Held Optical Fuel Pin Scanner
Patent Application S.N. 214,807, Heat Pump Apparatus
Patent Application S.N. 215,767, Fluorometric Method of Quantitative Cell Mutagenesis
Patent Application S.N. 215,770, Negative Ion Source With Hollow Cathode Discharge Plasma
Patent Application S.N. 217,355, Apparatus for Electrode Current Control in Linear MHD Generators
Patent Application S.N. 217,356, Method for Making Nuclear Reactor Fuel Microspheres
Patent Application S.N. 217,357, Method for Cleaning Solution Used in Nuclear Fuel Reprocessing
Patent Application S.N. 217,358, Photovoltaic Radiation Detector Element
Patent Application S.N. 218,242, Molten Tin Reprocessing of Spent Nuclear Fuel Elements
Patent Application S.N. 218,243, Glass Fiber Composition
Patent Application S.N. 218,248, Fire Suppressing Apparatus
Patent Application S.N. 221,745, Method of Removing PU(IV) Polymer From Nuclear Fuel Reclaiming Liquid
Patent Application S.N. 222,854, Downhole Steam Generator Having a Downhole Oxidant Compressor
Patent Application S.N. 222,855, Downhole Steam Generator With Improved Preheating, Combustion and Protection Features
Patent Application S.N. 222,864, Electric Power Generating Plant Having Direct Coupled Steam and Compressed Air Cycles
Patent Application S.N. 222,865, Method for Proving Uranium Articles With a Corrosion Resistant Anodized Coating
Patent Application S.N. 222,866, Solid State Optical Microscope
Patent Application S.N. 222,867, Dose Equivalent Neutron Dosimeter
Patent Application S.N. 222,868, Automatic Grinding Apparatus To Control Uniform Specimen Thicknesses
Patent Application S.N. 223,546, Method and Apparatus for Effectively Eliminating Tarforming Fractions and Light Oils From Gases Produced by Coal Gasification
Patent Application S.N. 223,547, Coprocessed Nuclear Fuels Containing (U, Pu) Values as Oxides, Carbides for Carbonitrides
Patent Application S.N. 224,994, Josephson Junction in High T_c Superconductors
Patent Application S.N. 225,219, Use of Tertirary Nitrogen Heterocyclic Material to Reduce Moisture-Induced Damage in Asphalt-Aggregate Mixtures
Patent Application S.N. 225,492, New and Improved Apparatus and Method for Monitoring the Intensities of Charged Particle Beams
Patent Application S.N. 225,493, Solar Collector Apparatus Having Increased Energy Rejection During Stagnation
Patent Application S.N. 226,283, Multichannel Homodyne Receiver
Patent Application S.N. 226,575, Segmented Pyroelectric Detector
Patent Application S.N. 226,576, Method for Improved Decomposition of Metal Nitrate Solutions
Patent Application S.N. 226,577, Magnetic Field Dosimetry System
Patent Application S.N. 228,002, Method of Enhancing the Wettability of Boron Nitride for use as an Electrochemical Cell Separator
Patent Application S.N. 228,035, Low-Drag Electrical Contact Arrangement for Maintaining Continuity Between Horizontally Movable Members
Patent Application S.N. 228,036, Method of Separating Boron Isotopes
Patent Application S.N. 228,836, Active Magnetic Regenerator
Patent Application S.N. 228,837, Method of Bonding Diamonds in a Matrix and Articles Thus Produced
Patent Application S.N. 229,023, Ring Cavity for a Raman Capillary Waveguide Amplifier
Patent Application S.N. 229,024, Apparatus for Monitoring Tritium in Tritium Contaminating Environments
Patent Application S.N. 229,421, High Temperature Sensor
Patent Application S.N. 229,422, Liquid Level Detector
Patent Application S.N. 229,423, Water Level Sensor and Temperature Profile Detector
Patent Application S.N. 229,496, Temperature Profile Detector
Patent Application S.N. 229,497, High Temperature Measuring Device
Patent Application S.N. 229,498, High Temperature Liquid Level Sensor
Patent Application S.N. 231,085, Harc Compositions and Method of Preparation
Patent Application S.N. 229,424, Liquid Level Sensing Device
Patent Application S.N. 233,341, Method of Forming Cavitated Objects of Controlled Dimension
Patent Application S.N. 233,354, High Temperature Pressure Coupled Ultrasonic Waveguide
Patent Application S.N. 233,365, Entirely Passive Heat Pipe Apparatus Capable of Operating Against Gravity
Patent Application S.N. 233,530 Single Electron Beam RF Feedback Free Electron Laser
Patent Application S.N. 233,532, Method for Enhancing Signals Transmitted Over Optical Fibers
Patent Application S.N. 233,533, Reduction in Maximum Time Uncertainty of Paired Time Signals
Patent Application S.N. 235,775, Substantially self-Powered Method and Apparatus for Recovering Hydrocarbons From Hydrocarbon-Containing Solid Hydrates
Patent Application S.N. 238,234, Method and Apparatus for Melt Growth of Crystalline Semiconductor Sheets
Patent Application S.N. 238,235, Method for Making Block Siloxane Copolymers
Patent Application S.N. 238,236, Optogalvanic Intracavity Quantitative Detector and Method for its use
Patent Application S.N. 238,711, Process for Preparing a Chemical Compound Enriched in Isotope Content
Patent Application S.N. 238,906, Tubing Crimping Pliers

Patent Application S.N. 239,227, Detection Device
Patent Application S.N. 239,228, Cleaning Method and Apparatus
Patent Application S.N. 239,866, Moment Free Toroidal Magnet
Patent Application S.N. 240,673, Electrochemical Cell Having Cylindrical Electrode Elements
Patent Application S.N. 240,676, Nuclear Reactor Fuel Assembly Duct-Tube-To-Handling-Socket Attachment System
Patent Application S.N. 240,688, Improved Collecting Apparatus
Patent Application S.N. 241,350, Process of Making Solar Cell Module
Patent Application S.N. 242,806, Groove Refinishing Tool
Patent Application S.N. 242,807, Method of Forming Metallic Coatings on Polymeric Substrates and of Forming Graded Polymeric Coatings or Films
Patent Application S.N. 243,307, System for Utilizing Shale Oil Fines
Patent Application S.N. 243,308, Receiver for Solar Energy Collector Having Improved Aperture Aspect
Patent Application S.N. 243,309, Combination Ring Cavity and Backward Raman Waveguide Amplifier
Patent Application S.N. 243,318, Steering System for a Train of Rail-Less Vehicles
Patent Application S.N. 243,395, Seal Assembly
Patent Application S.N. 244,571, Coal Gasification Vessel
Patent Application S.N. 244,573, Continuous Chain Bit With Downhole Cycling Capability
Patent Application S.N. 246,975, Transistorized Power Switch and Base Drive Circuit Therefore
Patent Application S.N. 246,976, Method and Appartus for the Formation of a Spheromak Plasma
Patent Application S.N. 247,706, Hydrosulfurization and Hydrodenitrogenation Catalysts Obtained From Coal Mineral Matter
Patent Application S.N. 247,709, Minimally Refined Biomass Fuel
Patent Application S.N. 249,782, Multiple Sextupole System for the Correction of Third and Higher Order Aberration
Patent Application S.N. 249,783, Method and Appartus for Recovering Unstable Cores
Patent Application S.N. 249,798, Cermets and Method for Making Same
Patent Application S.N. 251,643, Radioactive Hot Cell Access Hole Decontamination Machine
Patent Application S.N. 251,660, Dust Feed Mechanism
Patent Application S.N. 251,662, Solar Coal Gasification Reactor With Pyrolysis
Patent Application S.N. 251,663, In-Situ Vitrification of Soil
Patent Application S.N. 253,121, Americium Purification by a Combined Anion Exchange and Bidentate Organophosphorus Solvent Extraction Process
Patent Application S.N. 253,125, System for Producing a Uniform Rubble Red for In Situ Processes
Patent Application S.N. 253,490, Capacitively-Coupled Inductive Sensor
Patent Application S.N. 253,625, Compressor Surge Counter
Patent Application S.N. 253,641, Neutral Beamline With Improved Ion Energy Recovery
Patent Application S.N. 253,953, Neutral Beamline With Improved Ion Energy Recovery
Patent Application S.N. 254,708, Iron Active Electrode and Method of Making Same
Patent Application S.N. 254,709, Nuclear Reactor Control Apparatus
Patent Application S.N. 255,974, Instrument and Method for Focusing X-Rays, Gamma Rays and Neutrons
Patent Application S.N. 256,371, Method of Recovery of Alkali Metal Constituents From Coal Conversion Residues
Patent Application S.N. 256,372, AC Resistance Measuring Instrument
Patent Application S.N. 257,013, Improved Method of Preparing Composite Superconducting Wire
Patent Application S.N. 257,014, Method for Producing Nuclear Fuel
Patent Application S.N. 257,030, Separator Assembly for Use in Spent Nuclear Fuel Shipping Cask
Patent Application S.N. 257,031, Neutron Detection Apparatus
Patent Application S.N. 257,032, Power Recovery System for Coal Liquefaction Process

[FR Doc. 82-16626 Filed 6-18-82; 8:45 am]
BILLING CODE 6450-01-M

Economic Regulatory Administration

Dalco Petroleum Corp. and W. Darrell Zang and Louis Porter, 6COX00240; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives Notice of a Proposed Remedial Order which was issued to Dalco Petroleum Corporation and W. Darrell Zang and Louis Porter, all of Tulsa, Oklahoma. This Proposed Remedial Order alleges miscertification of crude oil, failure to certify crude oil, and excessive pricing of crude oil during the period March 1976 through September 1978.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, Attn: John W. Sturges, Director, 440 S. Houston, Room 306, Tulsa, Oklahoma 74127.

Within 15 days of publication of this Notice any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Tulsa, Oklahoma, on the 11th day of June 1982.

John W. Sturges,

Director, Tulsa Office, Economic Regulatory Administration.

[FR Doc. 82-16661 Filed 6-18-82; 8:45 am]
BILLING CODE 6450-01-M

Fasgo, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration ("ERA") of the Department of Energy ("DOE") hereby gives notice of a Proposed Remedial Order which was issued to Fasgo, Incorporated, 11 Grandview Avenue, Brookhaven, Pennsylvania 19015. This Proposed Remedial Order charges Fasgo with pricing violations in the amount of $263,501.30 exclusive of interest connected with the sale of motor gasoline during the period June 1, 1977 through July 31, 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Robert J. McKee, Jr., Director, Philadelphia Field Office, ERA, (215) 597-3870. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 12th & Pa. Ave., NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Philadelphia, Pennsylvania, on the 2nd day of June, 1982.

Robert J. McKee, Jr.,

Director, Philadelphia Field Office, Economic Regulatory Administration.

[FR Doc. 82-16660 Filed 6-18-82; 8:45 am]
BILLING CODE 6450-01-M

William J. Scott; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to William J. Scott, 2859 Walnut Avenue, Long Beach, California 90806. This Proposed

Remedial Order charges William J. Scott with pricing violations in the amount of $114,441.23 connected with the first sale of crude oil during the period June 1974 through October 1978 in the State of California.

A copy of the Proposed Remedial Order with confidential information deleted may be obtained from Sandra K. Webb, Director, Economic Regulatory Administration, Department of Energy, 845 South Figueroa Street, Suite 410, Los Angeles, California 90017, phone (213) 688–4014. On or before [15 days of publication of this notice], any aggrieved person may file a Notice of Objection with the U.S. Department of Energy, Office of Hearings and Appeals, 12th and Pennsylvania Avenue, NW., Room 3304, Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Los Angeles, California on the 4th day of June, 1982.

Sandra K. Webb,

Director, Los Angeles Office, Economic Regulatory Administration.

[FR Doc. 82–16692 Filed 6–18–82; 8:45 am]

BILLING CODE 6450–01–M

Walter J. Scott and Benjamin J. Agajanian, Oil Producers; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Walter J. Scott and Benjamin J. Agajanian, 2859 Walnut Avenue, Long Beach, California 90806. This Proposed Remedial Order charges Messrs. Scott and Agajanian with pricing violations of $124,273.11 in connection with the first sale of crude oil during the period January 1974 through May 1977 in the State of California.

A copy of the Proposed Remedial Order with confidential information deleted may be obtained from Sandra K. Webb, Director, Economic Regulatory Administration, Department of Energy, 845 South Figueroa Street, Suite 410, Los Angeles, California 90017, phone (213) 688–4014. On or before [15 days of publication of this notice], any aggrieved person may file a Notice of Objection with the U.S. Department of Energy, Office of Hearings and Appeals, 12th and Pennsylvania, Avenue, NW., Room 3304, Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Los Angeles, California, on the 4th day of June, 1982.

Sandra K. Webb,

Director, Los Angeles Office, Economic Regulatory Administration.

[FR Doc. 82–16693 Filed 6–18–82; 8:45 am]

BILLING CODE 6450–01–M

Walter J. Scott d.b.a. Scott Oil Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives notice of a Proposal Remedial Order which was issued to Walter J. Scott d.b.a. Scott Oil Company, 2859 Walnut Avenue, Long Beach, California 90806. Thie Proposed Remedial Order changes Scott Oil Company with pricing violations of $218,972.55 in connection with the first sale of crude oil during the period January 1974 through December 1977 in the State of California.

A copy of the Proposed Remedial Order with confidential information deleted may be obtained from Sandra K. Webb, Director, Economic Regulatory Administration, Department of Energy, 845 South Figueroa Street, Suite 410, Los Angeles, California 90017, phone (213) 688–4014. On or before July 6, 1982 any aggrieved person may file a Notice of Objection with the U.S. Department of Energy, Office of Hearings and Appeals, 12th and Pennsylvania, Avenue, NW., Room 3304, Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Los Angeles, California on the 4th day of June, 1982.

Sandra K. Webb,

Director, Los Angeles Office, Economic Regulatory Administration.

[FR Doc. 82–16694 Filed 6–18–82; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Revision of the Monthly Power Plant Report (Form EIA–759)

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of the revision of the Form EIA–759 and solicitation of comments.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) announces the revision of the Monthly Power Plant Report (Form EIA–759). The revised Form EIA–759 differs from the previous form in that unit-level data shall be submitted for all generating units with an installed nameplate capacity of greater than or equal to 50 megawatts. Plant-level prime-mover data shall be submitted for aggregate units less than 50 megawatts. The revised Form EIA–759 also includes space for comments by respondents.

DATES: Written comments must be submitted on or before July 21, 1982.

ADDRESSES: Comments must be sent to Ms. Carol L. French at the address listed immediately below.

FOR FURTHER INFORMATION CONTACT: To obtain additional information or copies of the EIA–759, contact Ms. Carol L. French, Task Manager, Electric Power Division, Energy Information Administration, Department of Energy, MS2F–021, 1000 Independence Ave. SW., Washington, D.C. 20585, (202) 252–5311.

SUPPLEMENTARY INFORMATION:

I. Current Action
II. Revised Monthly Power Plant Report Form EIA–759
III. Request for Comments

I. Current Action

The EIA announces a revision of the Monthly Power Plant Report (Form EIA–759). The form was revised to include unit-level information for all generating units with an installed nameplate capacity of 50 megawatts or greater. In addition, net generation has been replaced by requests for two data elements: gross generation and plant service load. Unit data is to be given for nameplate capacity, gross generation, unit number, unit type, and fuel consumption by type and quantity. Since plant service load and fuel stocks cannot be broken down to unit-level, plant-level data are requested. Plant-level prime-mover data shall be for aggregate units less than 50 megawatts. The revised Form EIA–759 also includes a column to indicate footnote numbers and space for the respondents to explain these footnotes. The Form EIA–759 shall be submitted by all U.S. electric utilities engaged in the production of electrical power for public use.

The average respondent burden, defined as the number of person-hours required to complete a form, remains at 4.8 hours.

For the previous data collection form, respondents had to aggregate unit-level information to plant-level totals, and calculate net generation by subtracting plant service load from gross generation. For the revised form, the time required to calculate these values is reduced, even though more information is requested. Thus, the unit-level information that is being requested does not increase respondent burden.

Data collection on the revised form is expected to begin in 1983. Because of the nature of the changes in the new form

and the need for verification of pre-printed information, copies of the previous and revised Form EIA–759 will be mailed to respondents prior to conversion to the new system. Parallel testing will assure transition and provide continuity in publications.

II. Revised Monthly Power Plant Report (Form EIA–759)

A sample of the revised Form EIA–759 and its instructions follows.

III. Request for Comments

EIA invites the public to comment on the revised form within 30 days of the publication of this notice. The following general guidelines are provided to assist in the preparation of responses.

(As a potential data provider)

A. Are the instructions and definitions clear and sufficient?

B. Can the data be submitted using the definitions included in the instructions?

C. Can the data be submitted in accordance with the response time specified in the instructions?

D. How many hours, including time for computation, preparation and administrative review, will it take your utility to complete and submit a monthly form?

E. What is the cost of completing a monthly form?

F. How can this form be improved?

(As a potential user)

A. Do you need data at the levels of detail indicated on the form?

B. For what purposes would you use these data? (Be specific)

C. How could the form be improved to better meet your specific data needs?

D. Are there alternative sources of data and do you now use them? What are their deficiencies?

Comments provided on the revised Form EIA–759 will be included in EIA's submission to the Office of Management and Budget and will become a matter of public record.

Issued in Washington, D.C., June 9, 1982.

Yvonne M. Bishop,

Director, Office of Statistical Standards Energy Information Administration.

BILLING CODE 6450-01-M

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MONTHLY POWER PLANT REPORT

U. S. Department of Energy
Energy Information Administration
Form EIA-759

Form Approved
OMB No.

Report For:

Instructions: See back of form for detailed instructions. Please submit by the 10th of the month. Verify all preprinted information and correct if required. Submit two copies of each page. For more information call: at:

Signature: Contact:
Title: Phone:

Plant Name and (Identification No.)	Unit Data						Plant Data			
					Fuel Consumption			Fuel Stock		
	No.	Prime Mover	Maximum Nameplate Installed Capacity (kW)	Gross Generation (kWh)	Code	Quantity	Plant Service Load (kWh)	Code	Quantity	Footnote No.

Footnote No.	Comments

This report is mandatory under Public Law 93-275. Failure to respond may result in criminal fines, civil penalties, and other sanctions as provided by law. Data reported on EIA-759 are not considered to be confidential.

INSTRUCTIONS FOR THE MONTHLY POWER PLANT REPORT

A. Purpose

Form EIA-759 is designed to collect information from all U.S. electric utilities on electric generation and fuel consumption by unit, and end-of-month fuel stock by plant. This report is required by the Energy Information Administration (EIA) to carry out its responsibilities in accordance with Section 13 of the Federal Energy Administration Act of 1974 (Public Law 93-275).

B. Who Shall Submit

The Form EIA-759 shall be submitted by all U.S. electric utilities engaged in the production of electric power for public use. U.S. electric utilities include all investor-owned companies, cooperatives, and government-owned facilities operated in the 50 states. For all these utilities, unit-level data shall be submitted for all units with maximum installed nameplate capacity (i.e., the maximum installed nameplate rating of the generator or generators associated with a unit) greater than or equal to 50 megawatts. Plant-level prime-mover data shall be submitted for aggregate units less than 50 megawatts. This unit threshold is voluntary. Those respondents desiring to provide unit information for all units are permitted to do so.

C. Where to Submit

Two copies of the Form EIA-759 must be returned no later than ten (10) days after the end of each month in the business reply envelope provided with the form or mailed to:

U.S. Department of Energy
Energy Information Administration
Mail Station: BG-086 (Form EIA-759)
Washington, D.C. 20585

Requests for further information, additional forms, or business reply envelopes may be directed to the above address; alternatively, you may call the telephone number printed on the form under "Instructions."

D. Instructions

All information provided in the form, including all preprinted information, must be true and accurate. If preprinted information at the top of the form (including utility name and address, contact, title, and phone number) is incorrect, draw a line through the incorrect entry, and provide the correct information. If preprinted information on the data lines (including plant name and identification number, unit number, prime mover, maximum nameplate installed capacity, consumption fuel code, and stock fuel code) is incorrect, draw a line through the incorrect entry, footnote the entry, and enter the correct number(s) in the Footnote Section, with an explanation, if required. If additional space is required, please provide the information on a blank sheet of paper and attach it to the form. An explanation of the codes used to indicate prime mover and fuel type is given in the section titled Definitions.

Gross electrical generation and fuel consumption must be reported separately for every unit with maximum installed nameplate capacity of at least 50 megawatts. For units under 50 megawatts, gross generation and fuel consumption may be reported separately or may be aggregated by prime mover and reported accordingly.

For a combined cycle unit, gross generation and fuel consumption must be reported separately for the two or more unit types that comprise the unit (for example, gas turbine and steam). When waste heat is used as an energy source by a combined cycle unit, the fuel consumption column for that portion of the unit should contain the designation "waste heat" in place of fuel quantity.

The reported fuel consumption figure for a cogeneration unit should be only that portion of total fuel consumption which is attributed to the gross electrical generation shown for that unit.

Plant service load and fuel stock must be reported for every U.S. electric utility power plant. When plant-level data are submitted, the unit number field contains PM for prime mover and the unit type field contains the plant prime mover code. For plants with pumped storage units, plant service load should include the electric power consumed while pumping.

Plant fuel stock quantity is reported for coal, oil, gas, and petroleum coke, and should include all fuel stock at the end of the month. If fuel stock quantities cannot be assigned to plants because stock is held in central storage, a central storage site should be indicated using the footnote method. In subsequent months, the central storage site will be preprinted.

E. Definitions

For reporting purposes, the following definitions should be used:

Cogeneration Unit: Any unit that produces electric power and any other form of useful energy (such as steam, exhaust gas or heat) which is used for industrial, commercial, or space heating purposes.

Combined Cycle Unit: An electric generating unit that consists of one or more combustion turbines whose exhaust gas flows to a fired or unfired heat exchanger (waste heat boiler).

Contact: Person in charge of completing the form.

Footnotes: Explanatory information, additions, deletions, or corrections.

Fuel Code: A combination of three characters and two numbers indicating the type of fuel used by the unit.

LOL02	— Light Oil	SUB05	— Subbituminous Coal	WOD10	— Wood
HOL03	— Heavy Oil	LIG07	— Lignite Coal	WAS11	— Waste
ANT04	— Anthracite Coal	GAS08	— Natural Gas	OTH99	— Other
BIT06	— Bituminous Coal	COK09	— Petroleum Coke	NAP00	— Not Applicable (i.e., used for nuclear, hydroelectric, geothermal, etc.)

Fuel Consumption: Amount of fuel used, including fuel consumed for providing standby service, and oil or gas used for start-up and/or flame stabilization of steam-electric plants. The consumption for units joined by a common fuel feeder should be estimated. For cases where multiple fuels are used, a separate line on the data collection form must be used for each type of fuel.

Gross Generation: The total amount of electric energy expressed in kilowatthours produced by a generating unit measured at the generator terminals.

Maximum Installed Nameplate Capacity: The maximum installed nameplate rating expressed in kilowatts of the generator or generators associated with a unit. The kilowatt capacity of each unit should represent the manufacturer's maximum generator nameplate ratings total at the end of the reporting month, exclusive of auxiliary or house generators. When a generator nameplate shows two or more kilowatt ratings, use the maximum kilowatt rating. Do not use the maximum achieved capacity of the generator.

Note Number: A whole number indicating the label applied to a note in the comment area of the form.

Phone: The telephone number of the contact person to whom questions about the data may be addressed.

Plant Fuel Stock: A supply of fuel accumulated for future use, including coal and fuel oil stocks at the plant site, in coal cars or barges at the plant site, and stocks held in central storage yards.

Plant Identification Number: The number assigned to the plant by the DOE person responsible for the form.

Plant Name: The name assigned to the plant by the utility.

Plant Service Load: The electric energy expressed in kilowatthours used in the operation of a plant; included in this definition is the energy required for pumping at pumped-storage plants.

Prime Mover: The engine, turbine, water wheel, or similar machine which drives an electric generator. A two-character code designates the method used to drive the generator or generators. The allowable prime mover codes are as follows:

FC	— Fuel Cell	IC	— Internal Combustion Engine	SG	— Steam Geothermal
GT	— Gas Turbine	SO	— Solar	SN	— Steam Nuclear
GV	— Gas Turbine Combined Cycle	ST	— Steam	WI	— Wind
HY	— Hydro	SC	— Steam Cogeneration	OT	— Other
HP	— Hydro Pumped Storage	SY	— Steam Combined Cycle		

Signature: Signature of person designated by the utility to certify the accuracy of the reported data.

Title: Title of the person signing the form (e.g., President, etc.).

Unit: Any combination of physically connected reactors, combustors, turbines, or generators designed to operate together to produce electric power. Those joined by a common fuel feeder are considered to be separate units.

Unit Number: The identification of a unit at said plant.

[FR Doc. 82-16695 Filed 6-18-82; 8:45 am]

BILLING CODE 6450-01-C

Federal Energy Regulatory Commission

[Docket No. ER82-573-000]

Bangor Hydro-Electric Co.; Filing

June 16, 1982.

The filing Company submits the following:

Take notice that on June 4, 1982, Bangor Hydro-Electric Company (Bangor) tendered for filing a Sales Agreement (Agreement) made as of May 1, 1982 between Bangor and Massachusetts Municipal Wholesale Electric Company (MMWEC) for the sale of unit power by Bangor to MMWEC.

Bangor states that the Agreement provides for a unit sale of 18.930 kilowatts from Bangor's entitlement in the Mystic Unit No. 7, owned and operated by the Boston Edison Company (Boston), to MMWEC. Bangor has such entitlement under contract for the proposed term of the Agreement from Boston. Such contract has been accepted for filing as Boston's Rate Schedule FPC No. 106. The Agreement provides that MMWEC pay for the capacity at the rate of $50 per kilowatt per year and for their pro-rata share of the actual energy costs.

Bangor requests an effective date of May 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Bangor states that a copy of this filing was mailed to Massachusetts Municipal Wholesale Electric Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 30, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16670 Filed 6-18-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6352-000]

The City of Glendale; Exemption From Licensing

June 17, 1982.

A notice of exemption from licensing of a small hydroelectric project known as Verdugo Metropolitan Pump Station, Project No. 6352, was filed on May 20, 1982, by The City of Glendale. The proposed hydroelectric project would have an installed capacity of 400 kW and would be located on The Metropolitan Water District's Transmission Pipeline, Los Angeles County, California.

Pursuant to Sections 4.109(c) and 375.308(ss) of the Commission's regulations, and subject to the terms and conditions set forth in Section 4.111 of the Commission's regulations, the Director, Office of Electric Power Regulation, issues this notification that the above project is exempted from licensing as of June 19, 1982.

Robert E. Cackowski,

Acting Director, Office of Electric Power Regulation.

[FR Doc. 82-16671 Filed 6-18-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-577-000]

Consolidated Edison Co. of New York, Inc.; Filing

June 16, 1982.

The filing Company submits the following:

Take notice that on June 7, 1982, Consolidated Edison Company of New York, Inc. ("Con Edison") tendered for filing proposed changes in its Electric Rate Schedule FERC No. 42, for transmission, distribution and delivery service to the Power Authority of the State of New York ("PASNY"). The proposed Supplement No. 10 would increase revenues from jurisdictional service to PASNY by $29,082,000 annually based on the 12-month period ending March 31, 1984 and would condense the twelve existing PASNY service classes into a single delivery-service class.

The proposed increase is part of, and represents PASNY's proportionate share of, a Company-wide general electric rate increase application by Con Edison which is pending before the New York Public Service Commission (NYPSC). Although Supplement No. 10 bears a nominal effective date of October 2, 1982, Con Edison will not seek permission to make the rate effective until the effective date, estimated to be on or about March 12, 1983, of the rate changes authorized by NYPSC.

Copies of the filing have been served upon PASNY and the New York Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of Practice and Procedure (18 CFR 1.8, 1.10).

All such petitions or protests should be filed on or before June 30, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16672 Filed 6-18-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6253-001]

Adrian B. and Janice L. Haemmig; Exemption From Licensing

June 17, 1982.

A notice of exemption from licensing of a small hydroelectric project known as Wolf Creek Power Plant, Project No. 6253, was filed on May 24, 1982, by Adrian B. and Janice L. Haemmig. The proposed hydroelectric project would have an installed capacity of 14 kW and would be located on North Fork of Wolf Creek, Nevada County, California.

Pursuant to Sections 4.109(c) and 375.308(ss) of the Commission's regulations, and subject to the terms and conditions set forth in Section 4.111 of the Commission's regulations, the Director, Office of Electric Power Regulation, issues this notification that the above project is exempted from licensing as of June 23, 1982.

Robert E. Cackowski,

Acting Director, Office of Electric Power Regulation.

[FR Doc. 82-16673 Filed 6-18-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-589-000]

Idaho Power Co.; Filing

June 16, 1982.

The filing Company submits the following:

Take notice that on June 8, 1982, Idaho Power Company (Idaho) tendered for filing in compliance with the Federal

[FR Doc. 82-16695 Filed 6-18-82; 8:45 am]
BILLING CODE 6450-01-C

Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during April 1982 along with cost justification for the rate charged.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 30, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16674 Filed 6-18-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-574-000]

Montaup Electric Co.; Filing

June 16, 1982.

The filing Company submits the following:

Take notice that on June 4, 1982, Montaup Electric Company (Montaup) tendered for filing copies of amended Exhibit A to Supplement No. 8 of Montaup's Rate Schedule FPC No. 36, which provides for the charge paid by Middleboro for its use of a radial line (M-1) connecting the two systems. Montaup states that the charge is updated annually as of January 1. Montaup further states that this year's update results in a $1,980 increase in monthly charges, from $34,068 to $36,048.

Montaup requests an effective date of January 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 30, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16675 Filed 6-18-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RO79-7-001; Docket No. RO80-7-001; Docket No. RO80-10-001; Docket No. RO81-61-001]

Propane Gas and Appliance Co., et al.; Scheduling Filings

June 15, 1982.

On November 20, 1981 the Commission remanded *Twin Montana, Inc.* to the Secretary of Energy (DOE) for responses to several questions concerning a motion filed with the Commission by DOE to increase the interest rates on refunds of overcharges by Twin Montana, Inc. (Twin Montana).[1] In *Propane Gas and Appliance Company, L. E. Jones Production Company,* and *Dalton J. Woods,* motions were also filed, to increase interest rates. In *Propane* and *Jones,* a ruling on whether to increase interest rates, beginning the filing date of each motion, was stayed pending DOE's issuance of an order on remand in *Twin Montana.* The motions were denied to the extent they requested increased interest rates prior to each motion's filing date.[2] In *Woods,* the entire interest question was stayed, including possible increase of rates beginning February 1, 1980.[3] On June 7, 1982 DOE issued an order on remand in *Twin Montana.*[4]

By June 30, 1982 each petitioner in the above captioned cases shall file a statement explaining in detail its objections, if any, to the requested increase in interest rates.[5] Each statement shall include all factual and legal arguments and legal authority supporting the firm's position. The statements shall specifically address DOE's responses in the June 7, 1982 order to the remanded issues, to the extent the petitioners raise these issues in objection to the interest increase. By July 14, 1982 DOE shall file a complete response to each filing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16676 Filed 6-18-82; 8:45 am]

BILLING CODE 6717-01-M

[1] *Twin Montana, Inc.,* 17 FERC ¶61,166 (November 20, 1981).

[2] *Propane Gas and Appliance Company,* 18 FERC ¶61,064 (January 22, 1982); *L. E. Jones Production Company,* 17 FERC ¶62,103 (October 8, 1981).

[3] *Dalton J. Woods,* 19 FERC ¶62,098 (April 8, 1982).

[4] *Twin Montana, Inc.,* Case No. HCX-0004 (June 4, 1982).

[5] In all cases but *Woods* the increase would begin the date the motion was filed with the Commission. In *Woods* the increase would begin February 1, 1980.

[Docket No. ER82-572-000]

Southern California Edison Co.; Filing

June 16, 1982.

The filing company submits the following:

Take notice that, on June 4, 1982, Southern California Edison Company ("Edison") tendered for filing an agreement entitled "Edison-AEPCO Economy Energy Agreement" which has been executed by Edison and Arizona Electric Power Cooperative, Inc. ("AEPCO").

Under the terms and conditions of the agreement, the Parties will make available to each other economy energy at various mutually agreeable points of interconnection.

The Agreement is proposed to become effective when executed by the Parties, and, as to Edison, when accepted for filing by the Commission.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Arizona Electric Power Cooperative, Inc.

Any person desiring to be heard or to protest this application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Section 1.8 and Section 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 30, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16677 Filed 6-18-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-579-000]

Southern Co. Services, Inc.; Filing

June 16, 1982.

The filing company submits the following:

Take notice that, on June 4, 1982, Southern Company Services, Inc. on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company and Mississippi Power Company (Southern Companies) tendered for filing an initial Interchange Contract and a Unit Power Sales Agreement executed between Gulf States Utilities Company and Southern Companies and a Transmission Facilities Agreement executed by Mississippi Power Company and Gulf States Utilities (GSU). The Unit Power Sales Agreement between Southern Companies to GSU during the period June, 1984 through May, 1992.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Section 1.8 and Section 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 30, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16678 Filed 6-18-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP82-103-000 & TA82-2-7-000]

Southern Natural Gas Co.; Proposed Changes In FERC Gas Tariff

June 15, 1982.

Take notice that Southern Natural Gas Company (Southern), on June 1, 1982, tendered for filing alternative proposed changes in its FPC Gas Tariff, Sixth Revised Volume No. 1, to become effective July 1, 1982.

Southern had filed proposed changes to Section 17 (Purchased Gas Adjustment) of The General Terms and Conditions of its tariff to change the semi-annual filing dates from each January 1 and July 1 to each October 1 and April 1. As part of this proposed change in PGA adjustment dates Southern has proposed not to implement its PGA rate change effective July 1, 1982.

If Southern's proposal to amend its PGA adjustment dates is denied, Southern has filed revised tariff sheets to implement rate changes effective July 1, 1982 pursuant to its Purchase Gas Adjustment Clause. Southern states that the proposed rate change proposed to be effective July 1, 1982 would be an increase in the Current Adjustment pursuant to Section 17.3 of The General Terms and Conditions of its Tariff of approximately 21, per Mcf and a reduction in the Surcharge Adjustment rate pursuant to Section 17.4 of The General Terms and Conditions of its Tariff of approximately 3¢ per Mcf (from 7.989¢ per Mcf to 5.098¢ per Mcf).

Copies of the filing are being served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before *June 23, 1982.* Protests will be considerd by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16679 Filed 6-18-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-575-000]

Tucson Electric Power Co.; Filing

June 16, 1982.

The filing Company submits the following:

Take notice that Tucson Electric Power Company (Tucson) on June 4, 1982, tendered for filing a supplement to the Interconnection Agreement between Tuscon and Public Service Company of New Mexico (PNM). The primary purpose of this supplement is to state a specific load and term of wheeling service to be performed by Tucson for PNM under the terms and conditions set forth in Schedule D of said Interconnection Agreement.

Tucson requests an effective date of May 1, 1982.

Copies of this filing were sent to PNM.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 30, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16680 Filed 6-18-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER80-603, et al.]

Union Electric Co.; Compliance Filing

June 16, 1982.

The filing Company submits the following:

Take notice that on June 1, 1982, Union Electric Company filed a compliance report pursuant to the Commission's letter order of Apri 9, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before June 28, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16681 Filed 6-18-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER81-144-001]

Upper Peninsula Power Co.; Compliance Filing

June 16, 1982.

The filing Company submits the following:

Take notice that on May 26, 1982, Upper Peninsula Power Company filed a refund compliance report pursuant to the Commission's letter order dated April 5, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before June 28, 1982. Comments will be considered by the Commission in

determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16682 Filed 6-18-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP82-95-001 and TA82-2-57-001]

Western Transmission Corp.; Proposed Changes

June 16, 1982.

Take notice that Western Transmission Corporation (Western), on June 7, 1982, tendered for filing in Docket No. RP82-95-001 the following sheet:

Substitute Seventeenth Revised Sheet No. 3-A.

The proposed effective date is May 1, 1982. The sole purpose of the filing is to restate its Base Tariff Rate in compliance with Section 154.38(d)(4)(vi)(*a*) of the Commission's Regulations.

Further, take notice that on June 7, 1982, Western also tendered for filing in Docket No. TA82-2-57-001 the following sheet:

Eighteenth Revised Sheet No. 3-A

The proposed effective date is June 1, 1982. The sole purpose of the filing is to replace its Seventeenth Revised Sheet No. 3-A as filed in Docket No. TA82-2-57-000.

Western agrees that collections under Substitute Seventeenth Revised Sheet No. 3-A will be subject to refund until such time as the Commission agrees thereto or another determination is ordered.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 29, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16683 Filed 6-18-82; 8:45 am]

BILLING CODE 6717-01-M

Office of Special Counsel

Crown Central Petroleum Corp.; Proposed Remedial Order

AGENCY: Department of Energy.

ACTION: Proposed remedial order to Crown Central Petroleum Corporation.

I. Introduction

Pursuant to 10 CFR 205.192, the Office of Special Counsel (OSC) of the Economic Regulatory Administration (ERA), Department of Energy (DOE) hereby gives Notice that a Proposed Remedial Order was issued on May 27, 1982 to Crown Central Petroleum Corporation (Crown), One North Charles Street, Baltimore, Maryland. In accordance with that section, a copy of the Proposed Remedial Order with confidential information, if any, deleted, may be obtained from the DOE.

Crown is a refiner engaged in the production of crude oil, and the refining and marketing of petroleum products. Crown was therefore subject to the Mandatory Petroleum Price and Allocation Regulations which were in effect until January 28, 1981.

II. Proposed Remedial Order NO. RCW00000

The Office of Special Counsel of the DOE has audited Crown's reported increased product and non-product costs, cost recoveries and class of purchaser determinations from August 19, 1973 through December 31, 1978, and has conducted further examinations of certain issues previously raised in a Notice of Probable Violation issued to Crown. OSC's findings are set forth in this Proposed Remedial Order.

OSC determined that Crown failed to establish and maintain appropriate classes of purchaser and May 15, 1973 weighted average selling prices for many of its customers. OSC found, in addition, that Crown failed to compute its cost recoveries in accordance with the equal application rule. OSC also found that Crown improperly inflated the amount of increased costs available for recovery in sales of gasoline by retroactively reallocating increased costs from other categories of petroleum products to gasoline in almost every month of measurement in the audit period, beginning with March 1974. In addition, OSC's review disclosed that Crown improperly inflated the amount of increased costs available for recovery in sales of gasoline by allocating to gasoline (through the V and R factors) increased costs which should have been allocated to exempt or decontrolled products, for every month of measurement in the audit period beginning with August 1976. OSC also found that Crown understated the recoveries and sales of gasoline and No. 2 oils during the audit period.

As a remedy for these violations, OSC proposed that Crown refund $23,348,000 plus interest to its gasoline customers, and $10,677,000 plus interest to its No. 2 oils customers, to compensate for the effects of Crown's overstatements of available costs, understatements of costs recoveries, and class of purchaser and May 15, 1973 selling price violations from August 19, 1973 through December 31, 1978. OSC also proposed certain adjustments to Crown's banks of unrecouped costs.

III. Notice of Objection

In accordance with 10 CFR 205.193, any aggrieved person may file a Notice of Objection to the above described Proposed Remedial Order with the Office of Hearings and Appeals on or before July 6, 1982. A person who fails to file a Notice of Objection shall be deemed to have admitted the findings of fact and conclusions of law as stated in the Proposed Remedial Order. If a Notice of Objection is not filed as provided by § 205.193, the Proposed Remedial Order may be issued as a final order.

All Notices, Statements, Motions, Responses, and other documents required to be filed with the National Office of Hearings and Appeals should be sent to: Office of Hearings and Appeals, Department of Energy, Room 3304, 12th & Pennsylvania Avenue NW., Washington, D.C. 20461.

No confidential information shall be included in a Notice of Objection.

Requests for copies of the Proposed Remedial Order with confidential information deleted should be directed to: Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, SW., Room 1E-190, Washington, D.C. 20585.

Issued in Washington, D.C., June 9, 1982.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 82-16627 Filed 6-18-82; 8:45 am]

BILLING CODE 6450-01-M

Union Oil Company of California; Proposed Consent Order

AGENCY: Department of Energy (DOE).

ACTION: Notice of Proposed Consent Order and Opportunity for Public Comment.

SUMMARY: The Office of Special Counsel (OSC) hereby gives the notice required by 10 CFR 205.199J that it has entered into a Consent Order with Union Oil Company of California (Union). The Consent Order resolves all issues of compliance with the DOE Petroleum Price and Allocation Regulations, with the exceptions noted in the Consent Order, for the period March 6, 1973 through January 27, 1981 when crude oil and petroleum products were decontrolled by Executive Order 12287, 46 FR 9909 (January 30, 1981). To remedy any violations that may have occurred during the period, Union has agreed to make refunds to customers and a payment to the U.S. Treasury totalling $25 million.

As required by the regulation cited above, OSC will receive comments on the Consent Order for a period of not less than 30 days following publication of this notice. OSC will consider any comments received before determining whether to make the Consent Order final. Although the Consent Order has been signed and accepted by the parties, the OSC may, after the expiration of the comment period, withdraw its acceptance of the Consent Order and attempt to obtain a modification of the Consent Order or issue the Consent Order as proposed.

COMMENTS: To be considered, comments must be received by 5:00 p.m. on the thirtieth day following publication of this notice. Address comments to: Union Consent Order Comments, Office of Special Counsel, Department of Energy, 1200 Pennsylvania Avenue NW., Room 5109, Washington, D.C. 20461

FOR FURTHER INFORMATION CONTACT: Leslie Wm. Adams, Deputy Solicitor, Economic Regulatory Administration, Department of Energy, 1200 Pennsylvania Avenue NW., Washington, D.C. 20461, (202) 633–9165.

Copies of the Consent Order may be received free of charge by written request to: Union Consent Order Request, Office of Special Counsel, Department of Energy, 1200 Pennsylvania Avenue NW., Room 5109 Washington, D.C. 20461 Copies may also be obtained in person at the same address or at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue SW., Room 1E–190.

SUPPLEMENTARY INFORMATION: Union is one of the 35 major refiners subject to the audit jurisdiction of OSC to determine compliance with the DOE Petroleum Price and Allocation Regulations (Regulations). Union engages in, among other things, the production, refining, and sale of crude oil and refined petroleum products. An audit conducted by OSC included a review of Union's records relating to its compliance with the Regulations during the period March 6, 1973 through January 27, 1981 (the audit period). During the audit, questions and issues were raised and enforcement documents were issued. Except for the matters excluded from the settlement in the Consent Order, this Consent Order resolves all civil issues not previously resolved concerning the allocation and sale of covered products during the audit period, whether or not raised in a previous enforcement action.

Conclusion of OSC Audit

The Consent Order addresses all aspects of Union's compliance with the applicable Regulations; however, union's compliance with the regulations concerning marginal and newly discovered crude oil properties and two matters in litigation concerning the stripper well exemption and the tertiary production incentive program are not resolved by the Consent Order. OSC's audit reviewed Union's pricing and allocation policies and procedures and the manner in which Union applied the Regulations with respect to, among other things, its production, refining, and sale of crude oil and refined petroleum products during the audit period. At the conclusion of the audit, OSC raised certain issues with respect to Union's application of the Regulations; however, Union and DOE have agreed to resolve all matters whether or not raised by the audit or heretofore asserted by either party.

Neither OSC nor Union has retreated from the position taken previously on the issues addressed by this Consent Order, and each believes that its position on these issues is meritorious. Notwithstanding DOE's position to the contrary, Union maintains that it has correctly construed and applied the Regulations. The parties desire, however, to resolve the issues raise without resort to complex, lengthy and expensive compliance actions. OSC believes that the terms and conditions of this Consent Order provide a satisfactory resolution of disputed issues and an appropriate conclusion of its audit of Union and that the Consent Order is in the public interest.

Terms and Conditions of the Consent Order

To resolve the issues raised by OSC's audit of Union and to remedy any violations that may have occurred during the audit period, Union has agreed to make refunds to customers and a payment to the U.S. Treasury totalling $25 million. Union has previously made more than $15,700,000 in refunds to customers with respect to matters arising out of the Federal petroleum price regulations.

The $25 million in remedies consists of the following elements. First, within 60 days after the effective date of the Consent Order, Union will refund $16,950,000 by issuing checks or credit memoranda to the current and former members of its "commercial" class of customers, which includes transportation firms, utilities, State and local government entities and other end users. Second, also within 60 days after the effective date of the Consent Order, Union will refund $8 million by issuing checks or credit memoranda to the current and former members of its "retail dealer", nonrefiner "wholesale" and "jobber" classes of customer. Finally, within 30 days of the effective date of the Consent Order, Union will remit $50,000 to the U.S. Treasury as a compromise in lieu of civil penalties.

The Consent Order also provides details concerning the conclusion of the audit, the dismissal of pending litigation, confidentiality of audit data, recordkeeping and procedures concerning enforcement of the provisions of the Consent Order. Upon becoming final after consideration of public comments, the Order will be a final order of DOE to which Union has waived its right to an administrative or judicial appeal. The Consent Order does not constitute an admission by Union nor a finding by OSC of a violation of any Federal petroleum price and allocation statutes or regulations.

Submission of Written Comments

Interested persons are invited to submit written comments concerning this Consent Order to the address noted above. All comments received by 5 p.m. on July 21, 1982, will be considered by OSC before determining whether to adopt the Consent Order as a final order. Modifications of the Consent Order that, in the opinion of OSC, signifcantly change the terms or impact of the Consent Order will be published for comment. If, after considering the comments it has received, DOE determines to issue the Consent Order as a final order, the Consent Order will

be made final and effective by actual notice to that effect to Union. Pursuant to 10 CFR 205.199J(c), DOE will thereafter promptly publish in the **Federal Register** notice of the action taken on this Consent Order and an appropriate explanation of that action.

Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures of 10 CFR 205.9(f)

Issued in Washington, D.C., June 14, 1982.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 82-16628 Filed 6-18-82; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

The Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95-621) signed into law on November 9, 1978, mandated a new framework for the regulation of most facets of the natural gas industry. In general, under Title II of the NGPA, interstate natural gas pipeline companies are required to pass through certain portions of their acquisition costs for natural gas to industrial users in the form of a surcharge. The statute requires that the ultimate cost of gas to the industrial facility should not exceed the cost of the fuel oil which the facility could use as an alternative.

Pursuant to Title II of the NGPA, section 204(e), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulatory Commission (FERC) computed natural gas ceiling prices and the high cost gas incremental pricing threshold which are to be effective July 1, 1982. These prices are based on the prices of alternative fuels.

FOR FURTHER INFORMATION CONTACT:
Leroy Brown, Jr., Energy Information Administration, Federal Building, Room 4121, Washington, D.C. 20461, Telephone: (202) 633-9710

Section I

As required by FERC Order No. 50, computed prices are shown for the 48 contiguous States. The District of Columbia's ceiling is included with the ceiling for the State of Maryland. FERC, by an Interim Rule issued on March 2, 1981, in Docket No. RM79-21, revised the methodology for calculating the monthly alternative fuel price ceilings for State regions. Under the revised methodology, the applicable alternative fuel price ceiling published for each of the contiguous States shall be the lower of the alternative fuel price ceiling for the State or the alternative fuel price ceiling for the multistate region in which the State is located.

The price ceiling is expressed in dollars per million British Thermal Units (BTU's). The method used to determine the price ceilings is described in Section III.

State	Dollars per million BTU's
Alabama	3.80
Arizona [1]	3.71
Arkansas [1]	3.34
California	3.62
Colorado [1]	4.05
Connecticut [1]	3.76
Delaware [1]	3.75
Florida	3.74
Georgia [1]	3.84
Idaho [1]	4.05
Illinois [1]	3.64
Indiana [1]	3.64
Iowa [1]	3.58
Kansas [1]	3.59
Kentucky [1]	3.84
Louisiana [2]	3.34
Maine	3.71
Maryland [1]	3.75
Massachusetts	3.69
Michigan [1]	3.64
Minnesota	3.48
Mississippi [1]	3.84
Missouri [1]	3.59
Montana [1]	4.05
Nebraska [1]	3.59
Nevada [1]	3.71
New Hampshire [1]	3.76
New Jersey	3.57
New Mexico	3.10
New York [1]	3.75
North Carolina [1]	3.84
North Dakota [1]	3.59
Ohio	3.55
Oklahoma [1]	3.34
Oregon [1]	3.71
Pennsylvania [1]	3.75
Rhode Island [1]	3.76
South Carolina [1]	3.84
South Dakota [1]	3.59
Tennessee [1]	3.84
Texas	3.39
Utah [1]	4.05
Vermont [1]	3.76
Virginia [1]	3.84
Washington [1]	3.71
West Virginia	3.52
Wisconsin [1]	3.64
Wyoming [1]	4.05

[1] Region based price as required by FERC Interim Rule, issued on March 2, 1981, in Docket No. RM79-21.
[2] Region based price and State based price are the same.

Section II. Incremental Pricing Threshold for High Cost Natural Gas

The EIA has determined that the volume-weighted average price for No. 2 distillate fuel oil landed in the greater New York City Metropolitan area during April 1982 was $36.46 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, section 203(a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of BTU's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective July 1, 1982, is $8.17 per million BTU's

Section III. Method Used to Compute Price Ceilings

The FERC, by Order No. 50, issued on September 29, 1979, in Docket No. RM79-21, established the basis for determining the price ceilings required by the NGPA. FERC also, by Order No. 167, issued in Docket No. RM81-27 on July 24, 1981, made permanent the rule that established that only the price paid for No. 6 high sulfur content residual fuel oil would be used to determine the price ceilings. In addition, the FERC, by Order No. 181, issued on October 6, 1981, in Docket No. RM81-28, established that price ceilings should be published for only the 48 contiguous States on a permanent basis.

A. Data Collected

The following data were required from all companies identified by the EIA as sellers of No. 6 high sulfur content (greater than 1 percent sulfur content by weight) residual fuel oil: for each selling price, the number of gallons sold to large industrial users in the months of February 1982, March 1982, and April 1982[3] All reports of volume sold and price were identified by the State into which the oil was sold.

B. Method Used To Determine Alternative Price Ceilings

(1) *Calculation of Volume-Weighted Average Price.* The prices which will become effective July 1, 1982, (shown in Section I) are based on the reported price of No. 6 high sulfur content residual fuel oil, for each of the 48 contiguous States, for each of the 3 months, February 1982, March 1982, April 1982. Reported prices for sales in February 1982 were adjusted by the percent change in the nationwide volume-weighted average price from February 1982 to April 1982. Prices for March 1982 were similarly adjusted by the percent change in the nationwide volume-weighted average price from March 1982 to April 1982. The volume-weighted 3-month average of the adjusted February 1982 and March 1982, and the reported April 1982 prices were than computed for each State.

(2) *Adjustment for Price Variation.* States were grouped into the regions identified by the FERC (see Section III.C.). Using the adjusted prices and

[3] Large Industrial User—A person/firm which purchases No. 6 fuel oil in quantities of 4,000 gallons or greater for consumption in a business, including the space heating of the business premises. Electric utilities, governmental bodies (Federal, State, or Local), and the military are excluded.

associated volumes reported in a region during the 3-month period, the volume-weighted standard deviation of prices were calculated for each region. The volume-weighted 3-month average price (as calculated in Section II.B.(1) above) for each State was ajusted downward by two times this standard deviation for the region to form the adjusted weighted average price for the State.

(3) *Calculation of Ceiling Price.* The lowest selling price within the State was determined for each month of the 3-month period (after ajusting up or down by the percent change in oil prices at the national level as discussed in Section III.B(1) above). The products of the adjusted low price for each month times the State's total reported sales volume for each month were summed over the 3-month period for each State and divided by the State's total sales volume during the 3 months to determine the State's average low price. The adjusted weighted average price (as calculated in Section III.B.(2)) was compared to this average low price, and the higher of the values was selected as the base for determining the alternative fuel price ceiling for each State. For those States which had no reported sales during one or more months of the 3-month period, the appropriate regional volume-weighted alternative fuel price was computed and used in combination with the available State data to calculate the State's alternative fuel price ceiling base. The State's alternative fuel price ceiling base was compared to the alternative fuel price ceiling base for the multistate region in which the State is located and the lower of these two prices was selected as the final alternative fuel price ceiling base for the State. The appropriate lag adjustment factor (as discussed in Section III.B.4) was then applied to the alternative fuel price ceiling base. The alternative fuel price (expressed in dollars per gallon) was multiplied by 42 and divided by 6.3 to estimate the alternative fuel price ceiling for the State (expressed in dollars per million BTU's).

(4) *Lag Adjustment.* The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which ceiling prices become effective. It was determined that *Platt's Oilgram Price Report* publication provides timely information relative to the subject. The prices found in *Platt's Oilgram Price Report* publication are given for each trading day in the form of high and low prices for No. 6 residual oil in 21 cities throughout the United States. The low posted prices for No. 6 residual oil in these cities were used to calculate a national and a regional lag adjustment factor. The national lag adjustment factor was obtained by calculating a weighted average price for No. 6 sulfur residual fuel oil for the ten trading days ending June 14, 1982, and dividing that price by the corresponding weighted average price computed from prices published by Platt's for the month of April 1982. A regional lag adjustment factor was similarly calculated for four regions. These are: one for FERC Regions A and B combined; one for FERC Region C; one for FERC Regions D, E, and G combined; and one for FERC Regions F and H combined. The lower of the national or regional lag factor was then applied to the alternative fuel price ceiling for each State in a given region as calculated in Section III. B.(3).

Listing of States by Region

States were grouped by the FERC to form eight distinct regions as follows:

Region A

Connecticut
Maine
Massachusetts
New Hampshire
Rhode Island
Vermont

Region B

Delaware
Maryland
New Jersey
New York
Pennsylvania

Region C

Alabama
Florida
Georgia
Mississippi
North Carolina
South Carolina
Tennessee
Virginia

Region D

Illinois
Indiana
Kentucky
Michigan
Ohio
West Virginia
Wisconsin

Region E

Iowa
Kansas
Missouri
Minnesota
Nebraska
North Dakota
South Dakota

Region F

Arkansas
Louisiana
New Mexico
Oklahoma
Texas

Region G

Colorado
Idaho
Montana
Utah
Wyoming

Region H

Arizona
California
Nevada
Oregon
Washington

Issued in Washington, D.C. June 18, 1982.

Albert H. Linden, Jr.,

Deputy Administrator, Energy Information Administration.

[FR Doc. 82-16980 Filed 6-18-82; 10:40 am]
BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 82-317, File No. 21874-CD-P-(1)-82; File No. 22518-CD-P-(1)-82]

Airsignal International, Inc. and Associated Telephone Answering Services System, Inc.

Order Designating Applications for Hearing

Adopted: June 7, 1982.
Released: June 11, 1982.

By the Common Carrier Bureau:

In re Applications of Airsignal International, Inc., For a construction permit to establish a new one-way station on frequency 43.58 MHz in the Domestic Public Land Mobile Radio Service at Sandia Mountain, New Mexico, CC DOCKET No. 82-317, File No. 21874-CD-P-(1)-82; Associated Telephone Answering Services System, Inc., For a construction permit to add an additional frequency 43.58 MHz for Station KQZ775 in the Domestic Public Land Mobile Radio Service near Albuquerque, New Mexico; CC Docket No. 82-318, File No. 22518-CD-P-(1)-82; Designating Applications For Consolidated Hearing On Stated Issues.

1. Presently before the Chief, Mobile Services Division, pursuant to delegated authority, is the application of Airsignal International, Inc. (Airsignal), File No. 21874-CD-P-(1)-82, for a new one-way station to operate on frequency 43.58 MHz in the Domestic Public Land

Mobile Radio Service (DPLMRS) at Sandia Mountain, New Mexico, and the application of Associated Telephone Answering Services System, Inc. (Associated), File No. 22518–CD–P–(1)–82, for an additional facility for Station KQZ775 to operate on frequency 43.58 MHz near Albuquerque, New Mexico. A Petition to Dismiss or Deny was filed against the Associated application by Airsignal.

2. These two applications are electrically mutually exclusive because they both request use of the same frequency in the same geographic area. Accordingly, a comparative hearing will be held to determine which applicant would better serve the public interest.

3. We have examined Associated's application and Airsignal's allegations concerning Associated, and we find those allegations to be without merit. We find that Associated's application demonstrates sufficient public need. On May 14, 1982, the Commission released its First Report and Order in Docket 80–183. In that order the Commission eliminated § 22.501(d)(2) of the Rules and said that in such a case a § 22.516 was not required. In addition, the Commission said that this policy was applicable to all pending one-way applicants.[1] Accordingly, Associated does not have to demonstrate need for this initial paging channel, nor must it show that it cannot accommodate paging customers on its existing two-way channel.

4. Airsignal also urged that Associated's application be dismissed or denied because it is a strike application. The elements to be considered in determining whether an application is a strike application were set forth by the Commission in *Grenco, Inc.*, 28 FCC 2d 166 (1971). The elements include: (1) The timing of the application; (2) the economic and competitive benefit occurring from the application; (3) the good faith of the applicant; and (4) questions concerning frequency allocation. A review of the Airsignal strike allegations relative to the *Grenco* criteria shows that the allegations raise no material and substantial questions on this issue. The fact that counsel for Associated served a copy of Associated's later filed application on Airsignal together with a letter explaining why it filed for frequency 43.58 MHz rather than another frequency does not demonstrate that Associated filed a strike application. The letter from Associated's counsel clearly explains why it filed for the specific frequency it selected. In addition, the time of filing an application does not alone demonstrate that a strike application was filed. thus we will not designate a strike issue against Associated.

5. Accordingly, it is ordered, that the Petition to Dismiss or Deny filed by Airsignal International, Inc. in File No. 22518–CD–P–(1)–82, is denied.

6. It is further ordered, that pursuant to section 309(e) of the Communications Act of 1934, as amended,[2] the applications of Associated Telephone Answering Services System, Inc., File No. 22518–CD–P–(1)–82 and Airsignal International, Inc., File No. 21874–CD–P–1–82, are designated for hearing in a consolidated proceeding upon the following issues:

(a) To determine on a comparative basis, the nature and extent of service proposed by each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations, and facilities pertaining thereto;

(b) To determine on a comparative basis, the areas and populations that each applicant will serve within the prospective interference-free area within the 43 dBu contours,[3] based upon the standards set forth in § 22.504(a) of the Commission's Rules,[4] and to determine and compare the relative demand for the proposed services in said areas; and

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the above-referenced applications would best serve the public interest, convenience and necessity.

7. It is further ordered, that the hearing shall be held at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

8. It is further ordered, that the Chief, Common Carrier Bureau, is made a party to the proceeding.

9. It is further ordered, that pursuant to § 22.401(a) of the Commission's Rules,[5] any grant of one-way facilities in this proceeding must be on a developmental basis for one year. Section 22.404(d) of our rules[6] is waived to permit the grantee to offer its service for hire. We find that the public interest, convenience, and necessity will best be served by subjecting any one-way grant in this proceeding to the conditions set out in paragraph 10.

10. *Conditions of Grant on Frequency 43.58 MHz*

(a) Pursuant to Rules § 22.406,[7] quarterly surveys of possible interference with television reception in the geographic area within a two-mile radius of the base station(s) authorized herein shall be made during the first year of operation. The local representative of the Field Operations Bureau, Federal Communications Commission, shall receive prior notice of the commencement date of service to the public, on which date the first survey will start.

(b) Each quarter, a different sample of at least 25 television viewers distributed approximately evenly throughout the geographic area described above shall be contacted to determine whether they have experienced TV interference. If interference complaints are received either as a result of the interviews or in the normal course of business, the grantee shall determine the source and extent of such interference.

(c) The grantee shall promptly report all interference complaints to the Mobile Services Division (MSD) and act to correct any problems. In any event, the grantee shall submit to the MSD a written report, soon after the completion of each quarter, fully evaluating the continued existence of interference. A copy of any report submitted to the Mobile Services Division must be submitted at the same time to the local field office. Quarterly reports shall include but shall not be limited to, the following information:

(1) Survey date(s).

(2) Method (telephone/on-site/other).

(3) Names, addresses and telephone numbers of persons contacted.

(4) Time of day survey conducted (morning/afternoon/night).

(5) Technical solutions tested and results.

(6) Names and telephone numbers of technical representatives consulted and/or employed.

(d) The grantee must follow all instructions received from the local representative of the Field Operations Bureau if it is notified that its station is causing interference.

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[1] General Docket 80–183, FCC 80–183, FCC 82–202, Mimeo 31355, pages 18 & 19.

[2] 47 U.S.C. 309(e).

[3] For the purpose of this proceeding, the interference-free area is defined as the area within the 43 dBu contour as calculated from §22.504 in which the ratio of desired-to-undesired signal is equal to or greater than R in FCC Report No. 6406, equation 8.

[4] Section 22.504(a) of the Commission's Rules and Regulations describes a field strength contour of 43 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaged in one-way signaling service. Propagation data set forth in §22.504(b) are the proper bases for establishing the location of service contours (F50,50) for the facilities involved in this proceeding. (The applicants should consult with Bureau counsel with the goal of reaching joint technical exhibits.)

[5] 47 CFR 22.401(a).

[6] 47 CFR 22.404(d).

[7] 47 CFR 22.406.

(e) Any grant is subject to the provisions of Rules § 22.404(c) [8] that no interference may be caused to the regular services of stations operating in accordance with the Commission's Table of Allocations. If interference from the operation of the authorized base stations is brought to our attention, we have the authority to order the station to cease operations immediately.

Pursuant to § 22.404(a) of the Rules,[9] any developmental authority granted is subject to cancellation without a hearing by the Commission at any time upon notice to the licensee. Although § 22.404(d) of the Rules is waived to permit the grantee to offer the service for hire, the grantee is directed to inform its customers that service on these channels is developmental and therefore subject to cancellation at any time. Prior to the expiration of any developmental authorization resulting from this proceeding, the grantee must submit an application (FCC Form 403) for permanent authorization under Subpart G of Part 22 of the Commission's Rules, otherwise the developmental authorization will automatically expire.

11. It is further ordered, that the applicants shall file written notices of appearances under § 1.221 of the Commission's Rules within 20 days of the release date of this order.

12. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

William F. Adler,

Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 82-16704 Filed 6-18-82; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1358]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

June 15, 1982.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed on or before July 6, 1982. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Parts 2 and 74 of the Commission's Rules and Regulations to allocate the 38.6–40 GHz band to TV Auxiliary Broadcast Pickup stations on a secondary basis (81–415).

Filed by: John G. Puente, Executive Vice President, Leonard S. Golding, Staff Vice President, Jeffrey A. Krauss, Director, Regulatory Policy for M/A–COM Incorporated on May 13, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-16703 Filed 6-18-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 82–312, File No. BPH–801231AC, etc.]

WRLJ, Inc.; Designating Applications For Consolidated Hearing on Stated Issues

In re applications of WRLJ, Inc., Cape May Court House, New Jersey, Req: 105.5 MHz, Channel No. 288A, 2.455 kW, (H&V), 333 feet, BC Docket No. 82–312, File No. BPH–801231AC; CANRUSS, INC., Cape May Court House, New Jersey, Req: 105.5 MHz, Channel No. 288A, 3.0 kW (H&V), 294 feet, BC Docket No. 82–313, File No. BPH–810326AE; SIDNEY DICTHER, N. AL SERGI & AL MILLER d/b/a WSDY RADIO, Cape May Court House, New Jersey, Req: 105.5 MHz, Channel No. 288A, 2.455 kW, (H&V), 333 feet, BC Docket No. 82–314, File No. BPH–810609AE; MARY B. McCUSKER & DOROTHY L. SIMPKINS d/b/a BAY BROADCASTING COMPANY, Cape May Court House, New Jersey, Req: 105.5 MHz, Channel No. 288A, 3.0 kW (H&V), 300 feet, BC Docket No. 82–315, File No. BPH–810629AD; GILBERT BROADCASTING COMPANY, Cape May Court House, New Jersey, BC Docket No. 82–316, File No. BPH–810701AD; Req: 105.5 MHz, Channel No. 288A, 3.0 kW (H&V), 300 feet, For Construction Permit for a New FM Station.

Hearing Designation Order

Adopted: June 4, 1982.

Released: June 11, 1982.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by WRLJ, Inc. (WRLJ); Canruss, Inc. (Canruss); Sidney Dicther, N. Al Sergi & Al Miller d/b/a WSDY Radio (WSDY); Mary B. McCusker & Dorothy L. Simpkins d/b/a Bay Broadcasting Company (BBC); and Gilbert Broadcasting Company (GBC).

2. *WRLJ.* Analysis of the financial data submitted by WRLJ reveals that at least $36,335 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment down payment	$8,267
Equipment payments with interest	[1]3,348
Land	(2)
Building	2,000
Miscellaneous	7,000
Operating Costs (3 months)	15,780
Total	36,335

[1]This figure represents four monthly payments, based on interest figured at 1.8% per month.

[2]WRLJ has indicated it plans to lease the land for its studio location. However, no figure has been given. Accordingly, the amount required to construct the proposed station, and operate for three months will be higher than the total estimated above by the amount of the lease.

WRLJ plans to finance construction and operation with the following funds: $54,713 from an installment sales contract from the equipment supplier, and $35,810 in cash deposited in the corporate checking account. The application provides a letter from the equipment supplier providing the specific terms of the financing, and the corporate balance sheet shows net liquid assets of $35,810. However, the applicant's proposed financing is still short $525, in addition to the leasing costs for land. Accordingly, a financial issue will be specified.

3. WRLJ proposes to mount its antenna on an existing tower, 310 feet in height above the ground. An applicant's use of an existing tower is normally considered a minor environmental action under § 1.1305(b). However, since the tower will be substantially modified by a 90 foot height increase, the proposal constitutes a major environmental action under § 1.1305(a). The WRLJ application is lacking the environmental narrative statement required by § 1.1311 for all major environmental actions. WRLJ states the owner of the tower will file an environmental narrative when it applies to increase the tower height. However, an applicant may incorporate by reference only information currently on file with the Commission, not future filings. Accordingly, WRLJ will be required to file an environmental narrative statement with the presiding Administrative Law Judge.

4. Section 73.3514 of the Rules requires each application to include all information requested by the particular form, unless such information is inapplicable. WRLJ, in filing its application, has failed to complete Section V–G of the application which requests antenna and site information for its proposed station. The data from this section is necessary to determine whether the proposed tower and location will be hazardous to air navigation. Accordingly, an air hazard issue will be specified.

5. *Canruss.* Analysis of the financial data submitted by Canruss reveals that $90,146 will be required to construct the

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[8] 47 CFR 22.404(c).

[9] 47 CFR 22.404(a).

proposed station and operate for three months, itemized as follows:

Equipment down payment	$28,150
Equipment payments with interest	[1]7,812
Building	5,000
Miscellaneous	33,000
Interest on bank loan (5 months)	3,000
Operating costs (3 months)	14,375
Total	91,337

[1]This figure represents three payments based on an annual interest rate of 12%.

Canruss plans to finance construction and operation with the following funds: $40,000 bank loan; 60,000 from the personal funds of two of the principals, Russell W. and Candida Diaz de McBride; and $112,600 from an installment sales contract from the equipment supplier. Canruss provides a bank letter and an offer of credit from the equipment supplier, both of which contain enough specificity to qualify as bona fide offers of credit. However, the balance sheet of the McBrides shows net liquid assets of only $9,540,[3] an amount insufficient to meet the proposed commitment of $60,000. A financial issue will therefore be specified.

6. *WSDY.* Applicants for new broadcast stations are required by § 73.3580(f) of the Commission's rules to give local notice of the filing of their applications. We have no evidence that WSDY published the required notice. To remedy this dificiency, WSDY must publish local notice of its application, if it has not already done so, and so inform the presiding Administrative Law Judge.

7. WSDY also proposes to mount its transmitter on a currently existing tower, 310 feet in height above the ground. However, its proposal constitutes a major environmental action under § 1.1305, since the tower will be substantially modified by a 90 foot height increase. The WSDY application lacks a narrative statement as required by Section 1.1311. As noted before, in paragraph 3, the intent of the owner of the tower to file an environmental narrative sometime in the future can not be taken into account. Accordingly, ESDY will be required to file an environmental narrative statement with the presiding Administrative Law Judge.

8. Section 73.2080 of the rules requires that an applicant for a new facility proposing to employ five or more full-time employees, must file an equal employment opportunities (EEO) program with its application. Instructions to Section VI of the application require the applicant to provide an exhibit of its proposed EEO program relative to the first five elements of the model program included with the application. WSDY proposes to employ five full-time employees but provides information relative only to the first three elements of the model program. To remedy this deficiency, the applicant will be required to complete the remaining two elements of the model EEO program and file the completed program with the presiding Administrative Law Judge.

9. *BBC.* Analysis of the financial data submitted by BBC reveals that at least $42,612 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment down payment	$4,785
Equipment payments with interest	[1]7,177
Building	[2]
Miscellaneous	11,000
Operating costs (3 months)	19,650
Total	42,612

[1]This figure represents three payments based on an annual interest rate of 13%.
[2]BBC indicates the building will be leased without specifying an amount, see footnote 2 regarding the effect of such.

BBC plans to finance construction and operation with the following funds: $80,000 from partner Dorothy Simpkins and her husband Robert W.; $12,500 from partner Mary B. McCusker and her husband Edward A.; and $87,000 from an installment sales contract from the equipment supplier. BBC provides a letter from the equipment supplier satisfactorily specifying the terms of the installment contract. However, the balance sheet of the Simpkins shows net liquid assets of only $10,706. The McCusker balance sheet shows no net liquid assets. Accordingly, a financial issue will be specified.

10. Applicants for new broadcast stations are required by § 73.3580(f) of the Rules to give local notice of the filing of its application. Section 73.3580(f)(9) requires notice filed by an applicant to include a statement that a copy of the application and amendments are on file, and available for public inspection at an address in the community in which the proposed main studio is to be located. BBC proposes to locate its main studio and its transmitter about 5 miles outside of Cape May Court House in, or near Clermont, New Jersey in Middle Township. However, a copy of its application is available for public inspection outside of Middle Township, in Sea Isle City, New Jersey, which is located in Dennis Township. BBC will be required to republish.

11. Section 73.1125 of the Commission's Rules requires that the main studio of a FM station be located within the city of license, but upon a showing of good cause the main studio may be located outside that community. As previously noted, BBC proposes to locate its main studio in Middle Township, in or near Clermont, New Jersey. The applicant has not provided good cause as to why the main studio should be located outside its proposed community of license. Accordingly, an issue will be specified.

12. *GBC.* We also have no evidence that GBC gave local notice of the filing of its application, as required by § 73.3580(f) of the Rules. To remedy this deficiency, GBC must publish local notice of its application, if it has not already done so, and so inform the presiding Administrative Law Judge.

13. Analysis of the financial data submitted by GBC reveals that $112,696 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment down payment	$29,173
Equipment payments with interest	[1]11,523
Land	1,000
Building	1,000
Miscellaneous	40,000
Operating costs (three months)	30,000
Total	112,696

[1]This figure represents four payments at an annual interest rate of 14.5%.

GBC plans to finance construction and operation with the following funds: $200,000 bank loan; and $116,691 from an installment sales contract from the equipment supplier. The applicant has provided a letter of credit from the equipment supplier constituting a bona fide offer to finance the purchase of the equipment, but a similar letter from a bank is lacking. Accordingly, a financial issue will be designated.

14. *Other Matters.* WRLJ petitions for leave to amend its application, updating the employment record of one of its principals. WRLJ's amendment was filed April 30, 1982; the last day for filing amendments as a matter of right was December 11, 1981. We find that good cause has been shown for the filing of the amendment under § 1.65 of the Commission's Rules and accordingly, the amendment will be accepted for filing. It is our general policy, however, that amendments filed after the last date for filing amendments as a matter of right cannot be used to improve an applicant's comparative position. *Cypress Communications, Inc.* 47 RR 2d 132 (1980). Therefore, any comparative advantage resulting from WRLJ's amendment will be disallowed.

15. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals.

[3]The McBrides' balance sheet fails to segregate current liabilities (i.e., amounts payable within one year) from long-term liabilities. Accordingly, we assume that all liabilities shown are current.

Consequently, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

16. The proposals are mutually exclusive, and must be designated for a hearing in a consolidated proceeding. The applicants are qualified to construct and operate as proposed, except for the issues specified below.

17. Accordingly, it is ordered, that, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to WRLJ:

(a) The source and availability of additional funds over and above the $35,810 indicated; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

2. To determine whether there is a reasonable possibility that the tower height and location proposed by WRLJ would constitute a hazard to air navigation.

3. To determine with respect to Canruss:

(a) The source and availability of additional funds over and above the $49,540 indicated; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

4. To determine with respect to BBC:

(a) The source and availability of additional funds over and above the $10,708 indicated; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

5. To determine pursuant to § 73.1125, whether good cause exists for BBC's proposed location of its main studio outside the proposed community of license.

6. To determine with respect to GBC:

(a) The source and availability of funds to meet estimated costs; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

7. To determine which of the proposals would, on a comparative basis, best serve the public interest.

8. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

18. It is further ordered, that WRLJ shall file an environmental narrative statement with the presiding Administrative Law Judge showing compliance with the environmental requirements of § 1.1301 *et seq.* of the Commission's Rules.

19. It is further ordered, that WRLJ's petition for leave to amend is granted, but that no improvement in WRLJ's comparative standing will be allowed.

20. It is further ordered, that WSDY shall inform the presiding Administrative Law Judge as to whether it has complied with the public notice requirements of § 73.3580(f) of the Commission's Rules.

21. It is further ordered, that WSDY shall file an environmental narrative statement with the presiding Administrative Law Judge showing compliance with the requirements of § 1.1301 *et seq.* of the Commission's Rules.

22. It is further ordered, that WSDY shall file an EEO program with the presiding Administrative Law Judge, relative to the last two elements of the model EEO program, pursuant to § 73.2080 of the Commission's Rules.

23. It is further ordered, that BBC shall be required to republish local notice of the filing of its application, and file a statement with the presiding Administrative Law Judge in compliance with § 73.3580(f), showing that a copy of its application will be available for public inspection at an address within the community of its proposed main studio location.

24. It is further ordered, that GBC shall inform the the presiding Administrative Law Judge as to whether it has complied with the public notice requirements of § 73.3580(f) of the Commission's Rules.

25. It is further ordered, that the Federal Aviation Administration is made a party to the proceeding.

26. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

27. It is further ordered, that the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594 of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division.

[FR Doc. 82-16705 Filed 6-18-82; 8:45 am]

BILLING CODE 6712-01-M

[FCC 82-263]

Motion of the Southern New England Telephone Company for the Declaratory Ruling To Remove Uncertainty of its Status on the Commission's Decision in the Second Computer Inquiry (Docket No. 20828)

AGENCY: Federal Communications Commission.

ACTION: Order granting request for stay of memorandum opinion and order.

SUMMARY: Due to uncertainty created by proposed AT&T—Department of Justice consent decree, Commission grants Southern New England Telephone Company (SNET) request for stay of the Commission's Memorandum Opinion and Order, published October 28, 1981 at 46 FR 53211, requiring the establishment of a fully separate subsidiary by the company for offering customer-premises equipment and enhanced services after January 1, 1983. Commission also stays any decision on SNET's pending petition for reconsideration in this proceeding. The order directs SNET to file (1) a supplement to its petition within 45 days of the U.S. District Court ruling on acceptance of the proposed decree and (2) a general description of a subsidiary capitalization plan and certain reports within 30 days of the release of the stay order. Commission on its own motion grants same stay relief to similarly situated Cincinnati Bell Inc.

DATES: See paragraphs 17 and 18.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: James W. McConnaughey, Policy and Program Planning Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554, Telephone No. (202) 632-6342.

SUPPLEMENTARY INFORMATION:

By the Commission.

Introduction

In the matter of Motion of the Southern New England Telephone Company for the Declaratory Ruling to Remove Uncertainty of its Status on the Commission's Decision in the *Second*

Computer Inquiry (Docket No. 20828); memorandum opinion and order.

Adopted: June 10, 1982.

Released: June 16, 1982.

1. We here consider a request for stay filed by the Southern New England Telephone Company (SNET) on March 18, 1982 regarding the effectiveness of certain of our actions in the *Second Computer Inquiry*.[1] SNET urges the Commission to stay (1) the Commission's *Memorandum Opinion and Order* released October 20, 1981, 88 FCC 2d 33, requiring SNET to establish a fully separate subsidiary to provide customer premises equipment (CPE) and enhanced services after January 1, 1983; (2) a Commission ruling on SNET's petition for reconsideration filed November 18, 1981, until any restructuring of the Bell System is approved pursuant to a court-sanctioned Modification of Final Judgment in the case of *U.S.A.* v. *Western Electric Company, et al.*, C.V. 17–29 (D.C. N.J.); and (3) the filing of an administrative services sharing report, an installation and maintenance plan, and a capitalization plan until after the Commission issues a decision on SNET's petition for reconsideration.

2. SNET argues that the grant of a stay by the Commission is justified for four reasons. First, it avers that it will likely prevail on the merits of its petition for reconsideration. SNET asserts that the reorganization of the Bell System that is jointly proposed by AT&T and the Department of Justice (DOJ) as a means of ending the aforementioned case will eliminate most if not all elements of AT&T's de facto control of SNET as determined by the Commission. 88 FCC 2d at 39–40.

3. Second, SNET states that a denial of its stay request will cause the company irreparable injury at this time because it would experience vast customer confusion, loss of good will, the destruction of a business form, and unrecoverable costs attributable to the possible need for several corporate reorganizations. SNET warns that it would suffer a double expense in entering the CPE and enhanced services markets under this scenario. Initially SNET would be permitted to participate solely through a fully separate subsidiary pursuant to the Commission's Order in the *Second Computer Inquiry*. *Id.* This would necessitate significant personnel, planning, and financial expenditures by SNET. Subsequently, upon further Commission order, SNET may have to undo this activity and redirect its focus to meet the Commission's requirements applicable to the independent telephone companies. This process, the company stresses, would be disruptive to the company, its customers, and employees and would be wasteful of company resources.

4. Third, SNET insists that the issuance of a stay would not harm other parties since the delay would be of a few months duration and would not foreclose the Commission from deregulating the CPE market. Fourth, the company believes a stay is in the public interest since, first, the short-term adverse effects of a stay of limited duration are not significant and, second, it affords the Commission time to review the restructured Bell System and its relationship to SNET. In addition, SNET states that the severe irreparable economic injury sustained by SNET in the event the stay request is denied clearly outweighs the minimal harm endured by others if the stay is granted.

5. Oppostions to the stay request were filed on April 22, 1982 by Associated Telephone Answering Exchanges, Inc. (ATAE) and Computer and Business Equipment Manufacturers Association (CBEMA). Both parties posit that SNET has failed to meet the requisite burden of justifying the need for a stay. ATAE argues that SNET has not advanced any new facts or legal arguments to demonstrate that the company is likely to prevail on reconsideration. CBEMA asserts that SNET has made virtually no showing that its relationship to AT&T will be different during the several-year transition period evisioned under the proposed Modification, or that the relationship will be significantly changed in the event the proposed Modification is accepted in its entirety. Concerning the irreparable harm issue, ATAE maintains that SNET's claims are conjectural and unfounded, that any injury sustained by the company would stem from its own business judgments, and that no affidavit supportive of SNET's position was submitted. CBEMA similarly argues that there has been little showing that SNET would suffer injury if no stay were granted at this time and believes any customer confusion would be minimal.

6. ATAE points to the detrimental effects of postponing implementation of the *Second Computer Inquiry* decisions, *viz.*, the potential for cross-subsidies and abuse. ATAE also submits that the proposed Modification is not properly before the Commission in connection with the SNET petition for declaratory ruling, and the public interest would be best served by disposing of the petition in timely fashion based upon existing facts. CBEMA stresses that the Commission is bound by the public interest standards of the Communications Act and not the proposed AT&T Settlement. CBEMA, too, believes that a timely resolution of the reconsideration proceeding should be made based on the present record.

7. On April 29, 1982, SNET filed a consolidated reply to the oppositions of ATAE and CBEMA. SNET contends that its showing that it is likely to prevail on the merits remains unrebutted. The company asserts that as a result of the Modification, the concerns and interests of a full-service telephone company such as SNET, on the one hand, and limited-offering companies such as AT&T or the BOCs, on the other hand, will not be the same. Hence, SNET believes, the issue of AT&T's control of SNET during the transition period is not relevant. SNET also argues that the possibility of future arrangements or agreements between SNET and AT&T or Western Electric Company cannot by itself be viewed as a test for control. The Company points out that many non-affiliated companies will likely have agreements with AT&T and Western in the future. SNET posits that any new contractual arrangements between SNET and AT&T or its subsidiaries would be additional factors for the Commission to consider in ruling on SNET's petition for reconsideration. The company reiterates that as a result of the proposed Modification's acceptance, significant changes will occur in traditional Bell System relationships which will eliminate AT&T's de facto control of SNET as found by the Commission in its earlier Order. *Id.*

8. Concerning irreparable injury, SNET acknowledges that like virtually every other company in the telecommunications industry, it will have to adjust to the proposed Modification. The company emphasizes, however, that it is seeking to avoid the imposition of regulatory mandated expenses which are unnecessary at this time due to the expected changes in the industry. SNET perceives no serious economic impact on others because of the shortness of the requested stay and the absence of SNET market power on a national scale. Finally, the company avers that the stay is in the public interest, both short term and long term, since the impact of the Modification once it is accepted will be enormous. The irreparable injury to SNET without a stay grant is seen to greatly outweigh

[1] See Amendment of Section 64.702 of the Commission's Rules and Regulations (*the Second Computer Inquiry*), 77 FCC 2d 384 (*Final Decision*), *modified on reconsideration*, 84 FCC 2d 50, *modified on further reconsideration*, 88 FCC 2d 512.

any economic loss to others resulting from such a stay.

Discussion

9. Given the substantial uncertainty introduced into this proceeding in recent months, we find that the public interest is best served by granting SNET's request for stay of the structural requirements developed in the *Second Computer Inquiry.*[2] This, we believe, is demonstrably the wrong time to resolve the issues pending in this proceeding. No Modification of Final Judgment has, in fact, occurred. Rather than proceed on a basis which is little more than supposition, we prefer to adopt an approach which plainly minimizes harm to ratepayers and the involved parties, both in the short run and the long run. In our opinion, a selective stay would achieve this goal.

10. In essence, the uniqueness of the prevailing situation which is attributable to the existence of the proposed Modification dictates that a stay of short duration be issued, for both SNET and Cincinnati Bell Inc. (CBI).[3] We believe that the expected briefness of the stay granted herein will tend to discourage any possible marketplace abuses which might arise during a lengthy extension. In addition, we believe that the temporary delay will lessen the possibility of irreparable harm to SNET and CBI. Given the uncertain nature of the apparently significant structural changes which confront the industry, we are reluctant to render a decision which could negatively impact ratepayers, the two companies and their stockholders. Without at least an initial resolution of the issues raised by the recent AT&T-DOJ agreement, we are of the opinion that immediate action on these matters by the Commission would be premature and imprudent.

11. In this order we are imposing a stay of the above actions which may be related to disposition of the proposed Modification. While we make no prejudgment of the merits on reconsideration, we note that some of the decisional bases for our prior decision will be substantially affected by the consent decree. Significant changes in existing Bell relationships would likely occur, thereby modifying the record on which our earlier order was based. Whether the United States District Court for the District of Columbia approves, rejects, or modifies the proposed settlement, however, we believe that the resulting uncertainty warrants the adoption today of a brief stay.

12. The trigger for resumption of this Commission proceeding would be the date on which the United States District Court rules on acceptance of the proposed Modification. In the event no such acceptance is forthcoming or unanticipated events occur which significantly impact our proceeding (*e.g.*, AT&T sells all of its shares of common stock in one or more of its remaining telco affiliates, or Congressional legislation establishes a new telecommunications industry structure), we may extend the stay or otherwise revisit our decision here today. Once the trigger date occurs, we would direct SNET and CBI to each file within forty-five days of that date a detailed supplementation of their respective petitions for reconsideration which are currently pending before this Commission.[4]

13. While we are staying the affirmative obligation imposed on CBI and SNET by our Computer II Decision, *Id.*, we will continue to bar these two companies from offering any new enhanced services except via a fully separate subsidiary. This would be a short-term safeguard designed to preserve the *status quo ante.* We believe it would be extremely burdensome to attempt to retroactively disentangle basic and enhanced service costs and revenues if we continue the separate subsidiary requirement. We note that we have received no indication of interest by CBI or SNET in offering new enhanced services prior to January 1, 1983. Moreover, CBI and SNET are free to apply for a waiver of the separate subsidiary condition regarding a particular service pursuant to the criteria we have established in the *Second Computer Inquiry.* 84 FCC 2d at 57–58.

14. A portion of the stay period may extend beyond the January 1, 1983 deadline for SNET and CBI to establish a separate subsidiary for the provision of CPE and enhanced services. 88 FCC 2d at 45. During this portion we expect SNET and CBI to comply with our *Second Computer Inquiry* conditions applicable to nonseparated telephone companies. For example, both companies would be required to keep separate books of account for their respective unregulated activities. 77 FCC 2d at 476.

15. SNET has also requested a stay of the filing requirement for an administrative services sharing report, an installation and maintenance (I&M) plan, and a capitalization plan. We believe that some *general* planning should be conducted in these areas to prevent absolute unpreparedness by SNET in the event the separate subsidiary requirement is affirmed. Thus, while we do not expect the filing of detailed reports and plans, at least at this juncture, we direct SNET to submit to the Commission within thirty days of the release of this stay order a general description of the company's contingency plans in these areas. We would emphasize that this in no way prejudges the overall question of the applicability of structural separation requirements to SNET; since SNET undoubtedly has already planned at least in a broad sense its separate subsidiary framework, this requirement should not prove unduly burdensome. We note that CBI has filed such a general administrative services sharing report and I&M plan in the past, so CBI's compliance with the requirements of this paragraph would be even less difficult.

16. Accordingly, it is ordered, That this Commission's Memorandum Opinion and Order, released October 20, 1981, 88 FCC 2d 33, is stayed pending disposition of the AT&T–DOJ proposed Modification of Final Judgment as described herein.

17. It is further ordered, That SNET and CBI file with this Commission within forty-five (45) days of the above disposition date a detailed supplement to their respective petitions for reconsideration in this proceeding.

18. It is further ordered, That SNET and CBI file with this Commission within thirty (30) days of the release date of this order certain general plans and reports as described herein.

19. It is further ordered, That SNET's request for stay is granted as is consistent herewith.

[2] For the reasons discussed below, we also do not plan to rule at this time on SNET's petition for reconsideration. See para. 13, *infra.*

[3] We grant today *sua sponte* a stay of a similar nature and type for CBI, a Bell subsidiary whose situation closely parallels that of SNET. Both have AT&T as a minority stockholder, have traditionally enjoyed the same benefits that have accrued to majority-owned and wholly-owned Bell operating companies, and have been found in the past to be controlled by AT&T. We note that both SNET and CBI have recently signed memoranda of understanding with AT&T for agreements to replace their current license contracts. Under the proposed AT&T-DOJ settlement, both would remain with AT&T, but substantial uncertainty as to the nature of the actual Bell System restructuring will continue until the court rules on the acceptance of the proposed Modification. *See infra.*

[4] On December 17, 1981, CBI appealed the Commission's *Memorandum Opinion and Order* released October 20, 1981, 88 FCC 2d 33, before the Sixth Circuit Court of Appeals. The Court subsequently dismissed the case. *CBI v. FCC,* 6th Cir., No. 81–3723, dismissed March 1, 1982.

Federal Communications Commission.
William Tricarico,
Secretary.
[FR Doc. 82-16702 Filed 6-18-82; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public; Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Canadian Cruise Lines (1982) Ltd., Suite 401, 1208 Wharf Street, Victoria, British Columbia V8W 3B9, Canada.

This Certificate expires July 31, 1982.

Dated: June 15, 1982.
Francis C. Hurney,
Secretary.
[FR Doc. 82-16662 Filed 6-18-82; 8:45 am]
BILLING CODE 6730-01-M

Security for the Protection of the Public; Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury To Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Pub. L. 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540): Canadian Cruise Lines (1982) Ltd. and Canadian Cruise Holdings Ltd., Suite 401, 1208 Wharf Street, Victoria, British Columbia V8W 3B9, Canada.

Dated: June 15, 1982.
Francis C. Hurney,
Secretary.
[FR Doc. 82-16663 Filed 6-18-82; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of St. Louis** (Delmar P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. **Benton Bancorp, Inc.**, Benton, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares (less directors qualifying shares) of the successor by merger to Bank of Benton, Benton, Kentucky. Comments on this application must be received not later than July 15, 1982.

Board of Governors of the Federal Reserve System, June 15, 1982.
James McAfee,
Associate Secretary of the Board.
[FR Doc. 82-16637 Filed 6-18-82; 8:45 am]
BILLING CODE 6210-01-M

Bank Holding Companies; proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in effeciency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than July 15, 1982.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York (consumer lending activities; Virginia): To engage, through its subsidiary, Citicorp Financial, Inc., in consumer lending activities including application acceptance functions, the execution of loan documents and disbursement of funds, the acceptance of payments, account adjustments, and other customer service activities incidental to Citicorp Financial, Inc.'s credit card and direct lending activities. These activities would be conducted from an office located in Springfield, Virginia, serving the entire State of Virginia. This application is for the opening of a *de novo* office of Citicorp Financial, Inc., which has received prior approval to engage in the proposed activities at other locations.

2. *Citicorp*, New York, New York (consumer finance and credit-related insurance activities; Alabama): To expand the activities of an existing office of its subsidiary, Citicorp Person-to-Person Financial Center, Inc., located in Birmingham, Alabama and to establish a *de novo* office of Citicorp Homeowners, Inc. at the same Birmingham, Alabama location. The new activities in which the existing office of Citicorp Person-to-Person Financial Center, Inc. proposes to engage *de novo* are: the making, acquiring and servicing, for is own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the aforementioned activities shall be comprised of the entire State of Alabama. The activities in which the *de*

novo office of Citicorp Homeowners, Inc. will engage are as follows: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the making, acquiring, and servicing for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or nonresidential real estate; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. The proposed service area of Citicorp Homeowners, Inc. shall be comprised of the entire State of Alabama for all the aforementioned activities. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners, Inc.

3. *Citicorp*, New York, New York (consumer finance and credit-related insurance activities; Alabama): To expand the activities and service area of an existing office of its subsidiary, Citicorp Person-to-Person Financial Center, Inc., located in Birmingham, Alabama and to establish a *de novo* office of Citicorp Homeowners, Inc. at the same Birmingham, Alabama location. The new activities in which the office of Citicorp Person-to-Person Financial Center, Inc. proposes to engage *de novo* are: The making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the aforementioned proposed activities shall be comprised of the entire State of Alabama. The proposed expanded service area of Citicorp Person-to-Person Financial Center, Inc. shall be comprised of the entire State of Alabama for a portion of its previously approved activities, specifically, the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. The activities in which the proposed *de novo* office of Citicorp Homeowners, Inc. will engage are: the making or acquring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non/residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area of Citicorp Homeowners, Inc. shall be comprised of the entire State of Alabama for all the aforementioned activities. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners, Inc.

Board of Governors of the Federal Reserve System, June 15, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-16636 Filed 6-18-82; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Co.

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. Interested persons may express their views in writing to the address indicated for the application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Secretary, Board of Governors of the Federal Reserve System,** Washington, D.C. 20551:

1. *Transworld Corp.*, Lake Forest, Illinois; to acquire 100 percent of the voting shares or assets of Dempster Plaza State Bank, Niles, Illinois. This application may be inspected at the Federal Reserve Bank of Chicago. Comments on this application must be received not later than July 15, 1982.

Board of Governors of the Federal Reserve System, June 15, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-16651 Filed 6-18-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; SONAT Exploration Co.

AGENCY: Minerals Management Service, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that SONAT Exploration Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 1525, Block 222, Ship Shoal Area, offshore Louisiana.

The purpose of this notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m. 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and Production Plans available to affected States, executives of affected local

governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: June 14, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-16680 Filed 6-18-82; 8:45 am]

BILLING CODE 4310-31-M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to OMB for Review

The Office of Surface Mining has submitted to the Office of Management and Budget a proposal for the collection of information, listed below, for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Obtain copies of the proposed information collection requirement and explanatory material by contacting Darlene Grose at (202) 343-5447. Direct comments and suggestions, about the requirement, to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. William T. Adams, at 202-395-7340.

Title: 30 CFR 840 State Regulatory Authority, Inspection and Enforcement.
Bureau Form No.: None.
Frequency: Recordkeeping.
Description of Respondents: State Regulatory Authorities.
Annual Responses: 24.
Annual Burden Hours: 960.
Bureau Clearance Officer: Darlene Grose (202) 343-5447.

John Prior, Jr.,

Acting Assistant Director, Management and Budget.

June 15, 1982.

[FR Doc. 82-16639 Filed 6-18-82; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier; Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

The following applications were filed in Region I. Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 161595 (Sub-1-2TA), filed June 9, 1982. Applicant: AMBASSADOR TOWNCAR SERVICE, INC., 2324 Post Road, Fairfield, CT 06430. Representative: L. C. Major, Jr., Esquire, Suite 304, Overlook Building, 6121 Lincolnia Road, P.O. Box 11278, Alexandria, VA 22312. *Passengers and their baggage, in the same vehicle with passengers, in door-to-door limousine charter service* between points in Fairfield and New Haven Counties, CT and points in the States of NY, NJ and DE, limited to the transportation of not more than six (6) passengers in any one vehicle, including the driver. Supporting shipper(s): There are eleven (11) statements in support of this application which may be examined at the Regional Office of the ICC in Boston, MA.

MC 148529 (Sub-1-1TA), filed June 10, 1982. Applicant: F. ANDREW ANASTASIO, 169 South End Road, East Haven, CT 06512. Representative: John E. Fay, 63 Maple Avenue, Hartford, CT 06114. *Building materials and lumber* between points in CT, MA, ME, NH, RI, VT, DE, MD, NJ, NY, and PA. Supporting shipper(s): Sanford & Hawley, Inc., 1790 Farmington Avenue, Unionville, CT 06085; Builders' Lumber & Supply Co., P.O. Box 269, Brook Street, Shelton, CT 06484; Futter Lumber Corporation, P.O. Box 347, Rockville Centre, NY 11571; and Seaboard International Lumber & Plywood, Inc., 3003 New Hyde Park Road, New Hyde Park, NY 11042.

MC 152291 (Sub-1-5TA), filed June 11, 1982. Applicant: ASSEMBLY SQUARE TRANSPORTATION, INC., 20 Sturtevant Street, Somerville, MA 02145. Representative: Frank M. Cushman, 5 Carbrey Avenue, Sharon, MA 02067. *Contract Carrier:* Irregular routes: *General commodities (except Classes A and B explosives, hazardous waste, household goods as defined by the Commission, commodities in bulk and those requiring special equipment)* between all points in the U.S. (except AK and HI). Supporting shipper: AAA Cargo Brokers, Inc., 36 South Main Street, Sharon, MA 02067.

MC 134806 (Sub-1-32TA), filed June 8, 1982. Applicant: B-D-R TRANSPORT, INC., P.O. Box 1277, Vernon Drive, Brattleboro, VT 05301. Representative: Edward T. Love, 4401 East West Highway, Suite 404, Bethesda, MD 20814. *Contract carrier:* Irregular routes: *Wire and cable,* from Shrewsbury, Westboro and Fall River, MA, and Manchester, NH to points in AZ, CA, CO, ID, NV, OR, UT and WA under continuing contract(s) with Phalo Wire & Cable Corp., Shrewsbury, MA. Supporting shipper: Phalo Wire & Cable Corp., 530 Boston Turnpike (Rt. 9), Shrewsbury, MA 01545.

MC 151893 (Sub-1-2TA), filed June 8, 1982. Applicant: B&Q DISTRIBUTION SERVICE, INC., R.D. #4, Baldwinsville, NY 13027. Representative: Jack L. Schiller, 123-60 83rd Avenue, Kew Gardens, NY 11415. *Frozen ices* from the facilities of Mia Products Co. located at Moosic, PA, to points in DE, MD, NJ, NY and VA. Supporting shipper: Mia Products Co., P.O. Box 3777, Scranton, PA 18507.

MC 145914 (Sub-1-13TA), filed June 10, 1982. Applicant: COASTAL TRUCK LINE, INC., P.O. Box 600, How Lane, New Brunswick, NJ 08903. Representative: Zoe Ann Pace, Esquire, Zelby & Burstein, One World Trade Center, Suite 2373, New York, NY 10048. *General commodities (except Class A and B explosives, household goods and commodities in bulk)* between all points and places in and east of the States of WI, IL, KY, TN and MI. Supporting shipper(s): There are six (6) statements in support of this application which may

be examined at the regional office of the ICC in Boston, MA.

MC 162246 (Sub-1–1TA), filed June 8, 1982. Applicant: D.D.F. TRANSPORTATION, INC., 6495 Transit Road, Bowmansville, NY 14026. Representative: William J. Hirsch, P.C., 64–68 Niagara Street, Buffalo, NY 14202. *Contract carrier:* Irregular routes: *Office furniture and materials, supplies and equipment used in the manufacture thereof,* between all points in the US, (except AK and HI) under continuing contract(s) with The Gunlocke Company, Inc., Wayland, NY. Supporting shipper: The Gunlocke Company, Inc., 7 Lackawanna Street, Wayland, NY 14572.

MC 159689 (Sub-1–1TA), filed June 11, 1982. Applicant: G. DiCOSTANZO, INC., 145 Longmeadow Avenue, Warwick, RI 02889. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. *Passengers and their baggage in special and charter operations,* beginning and ending at points in Providence and Kent Counties, RI and extending to points in the U.S. (except AK and HI). Supporting shipper: There are six (6) statements in support of this application which may be examined at the Regional Office of the ICC, Boston, MA.

MC 148849 (Sub-1–3TA), filed June 7, 1982. Applicant: EQUITABLE BAG CO., INC., 45–50 Van Dam Street, Long Island City, NY 11101. Representative: George A. Olsen, P.O. Box 357, Gladstone, NY 07934. *Contract carrier:* Irregular routes: *General commodities (except classes A and B explosives, household goods, and commodities in bulk)* between points in the U.S. (except AK and HI), under continuing contract(s) with Nationwide Shippers Cooperative Association, Inc., Cincinnati, OH. Supporting shipper(s): Nationwide Shippers Cooperative Association, Inc., 2735 Spring Grove Avenue, Cincinnati, OH 45225.

MC 162417 (Sub-1–1TA), filed June 10, 1982. Applicant: NAAMAN GERSHOWITZ INC., Aden Road, Liberty, NY 12754. Representative: George Gershowitz (same as applicant). *Passengers and their baggage in charter operations* from Sullivan County, NY to points in NJ, CT, MA and PA. Supporting shipper(s): There are six (6) statements in support of this application which may be examined at the Regional Office of the ICC in Boston, MA.

MC 148560 (Sub-1–9TA), filed June 8, 1982. Applicant: GOLD STAR, INC., 130 Davidson Avenue, Somerset, NJ 08873. Representative: A. David Millner, 7 Becker Farm Road, P.O. Box Y, Roseland, NJ 07068. *Contract carrier:* Irregular routes: *General commodities (except household goods and Class A and B explosives),* between points in the U.S. (except AK and HI) under continuing contract(s) with United Forwarding, Inc. of Omaha, NE. Supporting shipper: United Forwarding, Inc., 7000 Building, Suite 445, Omaha, NE 68106.

MC 59806 (Sub-1–3TA), filed June 8, 1982. Applicant: GROSS & HECHT TRUCKING, INC., Box 514, 35 Brunswick Avenue, Edison, NJ 08817. Representative: A. David Millner, 7 Becker Farm Road, P.O. Box Y, Roseland, NJ 07068. *Contract carrier:* Irregular routes: *General commodities (except household goods and Class A and B explosives),* between points in the U.S. (except AK and HI) under continuing contract(s) with United Forwarding, Inc. of Omaha, NE. Supporting shipper: United Forwarding, Inc., 7000 Building, Suite 445, Omaha, NE 68106.

MC 146596 (Sub-1–5TA), filed June 9, 1982. Applicant: FRED McCALL TRUCKING, INC., 2079 Railroad Street, Ontario, NY 14519. Representative: James E. Brown, 36 Brunswick Road, Depew, NY 14043. *Building materials, and, contractors equipment and supplies* between points in the U.S. east of the Mississippi River (restricted to traffic originating at, or destined to the facilities and/or customers of Keystone Builders Supply Company, Inc. and affiliated companies. Supporting shipper: Keystone Builders Supply Company, Inc., 85 Palm Street, Rochester, NY 14615.

MC 157745 (Sub-1–2TA), filed June 11, 1982. Applicant: MIDWAY MACHINERY MOVERS, INC., P.O. Box 83, 92 Berczy Street, Aurora, Ontario, CD L4G 3H1. Representative: William J. Hirsch, P.C., 64 Niagara Street, Buffalo, NY 14202. *Contract Carrier:* Irregular routes: *Bakery waste products and animal food ingredients,* between ports of entry on the International Boundary Line between the U.S. and CD, located in NY, on the one hand, and, on the other, points in Erie County, NY, under continuing contract(s) with Bakery Salvage Corporation, Buffalo, NY. Supporting shipper: Bakery Salvage Corporation, 138 Chandler Street, Buffalo, NY 14207.

MC 162240 (Sub-1–1TA), filed June 9, 1982. Applicant: HENRY LEASING CO., INC., d.b.a. NEW YORK PITTSBURG EXPRESS, 46 Ely Place, East Orange, NJ 07017. Representative: Henry Lascellas (same as applicant). *Such commodities as are dealt in and used by chain stores and feed business houses* between points East of the Mississippi River. There are 6 statements in support of this application which may be examined at the Regional Office of the ICC in Boston, MA. Applicant proposes to interline at Pittsburgh, PA and at New Castle, PA.

MC 43724 (Sub-1–2TA), filed June 10, 1982. Applicant: PHILLIP'S EXPRESS, INC., 61 Merrimac Street, Lawrence, MA 01842. Representative: Hughan R.H. Smith, 26 Kenwood Place, Lawrence, MA 01841. *Contract carrier:* Irregular routes: *Polyester fill,* between points in RI and CT, under continuing contract(s) with Fairfield Processing, Danbury, CT. Supporting shipper: Fairfield Processing, 88 Rose Hill Avenue, Danbury, CT 06510.

MC 155236 (Sub-1–5TA), filed June 10, 1982. Applicant: POTTLE'S TRANSPORTATION, INC., Odlin Road, Bangor, ME 04401. Representative: Clifton E. Pottle, P.O. Box 164, Carmel, ME 04419. *Contract carrier:* Irregular routes: *Malt beverages, wine and liquors,* between points in the U.S. (excluding AK and HI) under continuing contract(s) with The A. Gallo Company, Goshen, CT, Calmont Beverage Company, Inc., Barre, VT, and G & G Beverage, North Haven, CT. Supporting shipper: The A. Gallo Company of Litchfield, P.O. Box 2182, Rte 4 West, Goshen, CT 06756; Calmont Beverage Co., Inc., 21 S. Main Street, Barre, VT 05641; G & G Beverage, 10 Dodge Avenue, North Haven, CT 06473.

MC 99733 (Sub-1–1TA), filed June 10, 1982. Applicant: EUGENE SPEAR, d.b.a. E. SPEAR & CO., 38 Bisson Street, P.O. Box 218, Beverly, MA 01915. Representative: Hughan R.H. Smith, 26 Kenwood Place, Lawrence, MA 01841. *Machinery and heavy equipment which because of their size, require special handling and equipment* from points in MA and NH, on the one hand, and, on the other, points in RI, ME, CT, NH, VT, NY, NJ, PA, OH, IL, IN, WI, MO, KS, TX, FL and MI. Supporting shipper(s): Post Machinery Company, Post Road, Portsmouth, NH 03801, Weber Technical Products, 360 Merrimac Street, Lawrence, MA 01841.

MC 162418 (Sub-1–1TA), filed June 10, 1982. Applicant: TRINITY TRUCKINC CORPPORATION, P.O. Box 5065, Route 104, Smithfield, RI 02917. Representative: Gerald A. Joseloff, 410 Asylum Street, Hartford, CT 06103. *General commodities (except Classes A & B explosives, household goods and commodities in bulk)* between Norfolk and Bristol Counties, MA; Providence, Kent and Washington Counties, RI and New Haven and New London Counties, CT, on the one hand, and, on the other, CT, MA and RI. Supporting shipper(s): Kenyon Piece Dyeworks, Inc., Kenyon,

RI 02836; Data Documents, 80 Defco Park Road, North Haven, CT; Bostitch Division of Textron, Briggs Drive, East Greenwich, RI; Pfizer, Inc., 235 E. 42nd Street, New York, NY 10017; Nissan Motor Corporation in U.S.A. P.O. Box 198, 777 West Street, Mansfield, MA 02045.

MC 146478 (Sub-1–2TA), filed June 7, 1982. Applicant: ULTIMATE DISTRIBUTION, INC., 50 Executive Avenue, Edison, NJ 08817. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Wool,* from Boston and Norwood, MA, to points in the New York, NY Commerical Zone. Supporting shipper(s): Warshaw Woolen Associates, Inc., 111 W. 40th Street, New York, NY 10018.

MC 158898 (Sub-1–1TA) republication, filed May 5, 1982. Applicant: R. WALSH TRANSPORTATION LIMITED, P.O. Box 368, Haileybury, Ontario, CD P0J 1K0. Representative: Robert D. Gunderman, Can-Am Building, 101 Niagara Street, Buffalo, NY 14202. *Passengers and their baggage, in the same vehicle with passengers, in round-trip charter and special operations, in sightseeing and pleasure tours,* beginning and ending at ports of entry on the International Boundary line between US and CD in MI, and extending to points in AK, CA, CT, DC, MA, NC, NH, NV, NY, PA, RI, SC, TN VT, VA, and WV and return. Supporting shipper: Tri-Trans Services, Ltd., Main & Whitney Streets, Hailebury, Ontario, CD. Sole purpose of this republication is to add the states of AK, CA and NV to the territorial scope.

MC 162399 (Sub-1–1TA), filed June 8, 1982. Applicant: WATERTOWN TRUCKING, INC., 640 Arsenal Street, Watertown, MA 02172. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. *Contract Carrier:* Irregular routes: *Petroleum products, in bulk,* (1) from revere, MA to points in NH, and (2) from Providence, RI to points in MA and NH, under continuing contract(s) with BP Oil, Inc., of Cleveland, OH. Supporting shipper: BP Oil, Inc., 1510 Rockefeller Building, 614 Superior Avenue, Cleveland, OH 44113.

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St., Rm. 620, Philadelphia, PA 19106.

MC 3419 (Sub-II–2TA), filed June 8, 1982. Applicant: THE CLEVELAND, COLUMBUS & CINCINNATI HIGHWAY, INC., 1375 Euclid Avenue, One Playhouse Square, Cleveland, OH 44115. Representative: Elliott Bounce, Suite 1301, 1600 Wilson Boulevard, Arlington, VA 22209. *General commodities* (except Classes A and B explosives, household goods, and commodities in bulk), between points in the United States, under continuing contract(s) with the Kmart Corporation of Troy, MI for 270 days. Supporting shipper(s): Kmart Corporation, 3100 W. Big Veaver, Troy, MI 48084.

MC 162397 (Sub-II–1TA), filed June 8, 1982. Applicant: DAYTON TRUCKING, INC., 521 Brown Street, Dayton OH 45402. Representative: Michael Spurlock, Esquire, 275 East State Street, Columbus OH 43215. *Auto parts and materials and supplies used in the manufacture and distribution thereof (except commodities in bulk),* between Dayton, Ohio and its commercial zone, on the one hand, and, on the other, points in Fredericksburg, Virginia, and its commercial zone for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Miami Precision Chrome, Inc., 2300 East First St., Dayton, OH 45403.

MC 158859 (Sub-II–5TA), filed June 7, 1982. Applicant: O. DEAN TRANSPORTATION, INC., 405 W. Williamsburg Rd., Sandston, VA 23150. Representative: P. Owen Dean (same address as applicant). Contract, irregular: *General commodities (except classes A & B explosives; household goods as defined by the commission)* between the facilities of Noland Co. located in AL, AR, FL, GA, KY, MD, MS, NC, SC, TN, VA, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Noland Co. of Newport News, VA. An underlying ETA seeks 120 days authority. Supporting shipper(s): Reynolds Metals Co., 7900 Reycan Rd., Richmond, VA 22237–2292.

MC 158859 (Sub-II–6TA), filed June 7, 1982. Applicant: O. DEAN TRANSPORTATION, INC., 406 W. Williamsburg Rd., Sandston, VA 23150. Representative: P. Owen Dean (same address as applicant). Contract, irregular: *Furniture, parts and materials used in the manufacture and distribution of the above commodities,* between Chicago Heights, IL; Richmond, VA; Dallas, TX; and Santa Fe Springs, CA, on the one hand, and, on the other, points in the U.S., Under continuing contract(s) with Crawford Manufacturing Co. An underlying ETA seeks 120 days authority. Supporting shipper(s): Crawford Manufactuirng Co., 3rd and Decatur St., Richmond, VA 23261.

MC 155694 (Sub-II–2TA), filed June 8, 1982. Applicant: DYNASTY CORP., P.O. Box 1097, Nescopeck, PA 18635. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505. Contract, irregular, *Furniture and plastic articles* between Susquehanna, PA on the one hand, and, on the other, points in MD, NJ and NY under continuing contract with Matis Lingerie Co., Susquehanna, PA for 270 days. An underlying ETA seeks 120 days. Supporting shipper(s): Matis Lingerie Co., Susquehanna, PA 18847.

MC 150263 (Sub-II–1TA), filed June 8, 1982. Applicant: HOPKINS AIRPORT LIMOUSINE SERVICE, INC., 2903 Wellington Ave., Parma, OH 44134. Representative: E. H. van Deusen, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017. *Passengers and their baggage, in charter service,* between Los Angeles and San Francisco, CA, Denver, CO, and New York, NY, on the one hand, and, on the other, points in the U.S., for 180 days. An underlying ETA seeks 120 days authority. Supporting shipper: Trails West, Inc., 92 Middle Neck Rd., Great Neck, NY 11021.

MC 159857 (Sub-II–4TA), filed June 8, 1982. Applicant: J&L TRUCK LEASING, INC., 3621 State Route 14, Edinburgh, OH 44272. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415. *Lamps and lamp parts* between the facilities of Geringer & Sons Co., located at or near Peekskill, NY and the facilities of Deena, located at or near Arlington, KY, on the one hand, and, on the other, points in FL, GA, KY, MS, NC, NJ, OH, PA and TN, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Parker Lamp & Fixture Supply, Inc., 230 Fifth Avenue, Suite 1108, New York, NY 10001.

MC 159283 (Sub-II–2TA), filed June 8, 1982. Applicant: W. L. LOGAN TRUCKING COMPANY, 3224 Navarre Rd., S.W., Canton, OH 44706. Representative: Stephen L. Oliver, 275 E. State St., Columbus, OH 43215. *Building materials,* between GA, NC, and SC, on the one hand, and, on the other, points in OH, PA, and WV, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Empire Warehouse Lumber Company, P.O. Box 249, Akron, OH 44309.

MC 161938 (Sub-II–2TA), filed June 8, 1982. Applicant: BONNIE A. MEHRING, 414 Poole Rd., Apt. T–1, Westminster, MD 21157. Representative: Edward N. Button, 635 Oak Hill Ave., Hagerstown, MD 21740. *Tires,* between Frederick, MD, on the one hand, and, on the other, points in and East of OH, KY, TN, GA, & FL (restricted to traffic originating at or destined to facilities of Donald B. Rice Tire Company, Inc.). An underlying ETA seeks 120 days authority. Supporting shipper(s): Donald B. Rice Tire Company, Inc., 909 East St., Frederick, MD 21701.

MC 162398 (Sub-II–1TA), filed June 8, 1982. Applicant: MINERAL TRUCKING, INC., Route 3, Mineral, VA 23117. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505. Contract, irregular: (1) *lumber and pallets* from Newark, NJ to points in DC, DE, MD, NY, PA and VA, under continuing contract(s) with Delisa Pallet Corp.; (2) *lamp posts* from Newark, NJ to points in DC, DE, MD, NY, PA and VA, under continuing contract(s) with Pfaff & Kendall, Newark, NJ (3) *lumber and pallets* from Mineral, VA to points in DE, MD, NJ, NY and PA, under continuing contract(s) with Pyramid Pallet Co., Mineral, VA. Supporting shipper(s): Pyramid Pallet Corp., Rt 3, Mineral, VA 23117, Delisa Pallet Corp., 91–97 Blanchard St., Newark, NJ 07105, Pfaff & Kendall, 64 Foundry St., Newark, NJ 07105.

MC 107012 (Sub-II–222TA), filed June 7, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same as applicant). Contract, irregular: *General commodities (except classes A & B explosives and household goods as defined by the Commission)* between points in the U.S., under continuing contract(s) with Mobil Corporation, Fairfax, VA, for 270 days. Supporting shipper: Mobil Corporation, 3225 Gallows Rd., Fairfax, VA 20037.

MC 107012 (Sub-II–223TA), filed June 8, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same as applicant). Contract, irregular: *General commodities (except classes A & B explosives and household goods as defined by the Commission)* between points in the U.S., under continuing contract(s) with Chittenden and Eastman Company, Burlington, IA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Chittenden and Eastman Company, 123 South 3rd St., Burlington, IA 52601.

MC 157114 (Sub-II–2TA), filed May 6, 1982. Orginally published in the **Federal Register** on May 17, 1982.[1] Applicant: R. H. A. TRUCKING, INC., R.R. #2, Napoleon, OH 43545. Representative: Robert Arps (same as applicant). *Contract; irregular: Machinery, material and supplies used in the manufacturing and sale of machinery,* between Napoleon, OH, on the one hand, and, on the other, pts. in the U.S., under continuing contract(s) with Automatic Feed Co., Napoleon, OH, for 270 days. An underyling ETA seeks 120 days authority. Applicant intends to tack authority sought herein with authority held under MC–157114. Supporting shipper(s): Automatic Feed Co., R.R. #4, Napoleon, OH 43545.

MC 2202 (Sub-II–30TA), filed June 7, 1982. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, OH 44309. Representative: William O. Turney, 7101 Wisconsin Avenue, Suite 1010, Washington, D.C. 20014. *General commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk) between points in the U.S., except AK and HI, under contract or contracts with California Cartage Company, Inc., Compton, CA 90221, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): California Cartage Company, Inc., 20021 Susana Road, Compton, CA 90221.

MC 2202 (Sub-II–30TA), filed June 8, 1982. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, OH 44309. Representative: William O. Turney, 7101 Wisconsin Avenue, Suite 1010, Washington, D.C. 20014. Contract, irregular: *General commodities (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk)* between points in the U.S., except AK and HI, under contract or contracts with The Boeing Company, Seattle, WA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Boeing Co., P.O. Box 3707, Seattle, WA 98124.

MC 162406 (Sub-II–1TA) filed June 9, 1982. Applicant: SFZ TRANSPORTATION, INC., P.O. Box 2675, 14600 Detroit Ave., Lakewood, OH 44107. Representative: John T. Malaney (same as applicant). Contract, irregular: *General commodities (except class A & B explosives, commodities in bulk, and household goods)* between pts. in the U.S., under continuing contracts with The Scott & Fetzer Co. and Melben Products Co., Inc., for 270 days. Supporting shippers: The Scott & Fetzer Co., 14600 Detroit Ave., Lakewood, OH 44107; Melben Products Co., Inc., 14600 Detroit Ave., Lakewood, OH 44107.

MC 150724 (Sub-II–7TA), filed June 8, 1982. Applicant: DONALD SANTISI TRUCKING COMPANY, 340 Victoria Rd., Youngstown OH 44515. Representative: Paul F. Beery, 275 E. State St., Columbus OH 43215. *Machinery, and materials and supplies used in the manufacture thereof,* between Alameda County, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI) for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Williams & Lane, Inc., 150 Doolittle Dr., San Leandro, CA 94577–1083.

MC 144724 (Sub-II–1TA) filed June 9, 1982. Applicant: WALTER J. SHEETS & SON, INC., 100 Bittles St., Lewisburg, WV 24901.Representative: Walter J. Sheets (same address as applicant). Contact, irreguar: *Plastic articles* between Ronceverte, WV, on the one hand, and, on the other, points in ME, NH, VT, MA, CT, NY, PA, DE, OH, VA, MI, IN, WI, IL, KY, TN, MS, AL, GA, FL, SC, NC and RI. Supporting shipper(s) Jiffy Foam, Inc., P.O.B. 446, River Rd., Ronceverte, WV 24970.

MC 145869, (Sub-II–1TA), filed June 7, 1982. Applicant: WILLIS TRUCKING CO., INC., Route 2, Willis, VA 24380. Representative: Terrell C. Clark, P.O. Box 25, Stanelytown, VA 24168. *Cloth,* from points in Floyd County, VA, to Concord, CA for 270 days. Supporting shipper: Hollingsworth & Vose Co., P.O. Box 427, Floyd, VA 24091.

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 106074 (Sub-3–28TA), filed June 11, 1982. Applicant: B AND P MOTOR LINES, INC., Shiloh Rd. & U.S. Hwy 221 S., Forest City, NC 28043. Representative: Clyde W. Carver, P.O. Box 724034, Atlanta, GA 30328. *Petroleum and petroleum products (except in bulk),* between Denever, CO, Casper, Wy, Hammond, IN, Whiting, IN, Doraville, GA, Tulsa, OK, and Guntersville, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Phillips Petroleum Company, 834 Adams Bldg., Bartlesville, OK 74004.

MC 159117 (Sub-3–1TA), filed June 11, 1982. Applicant: KEN HUDSON ENTERPRISES, INC., 714 Cedar Lane, Thomasville, N.C. 27360. Representative: Kenneth Hudson (same address as applicant). *Contract:* Irregular: *Particleboard and Fiberboard,* between Thomasville, NC on the one hand, and, on the other Waverly, VA, Ruston, LA, Hanson, MA, Williamsport, MD, Columbus, OH, Miami, FL, Sanford, FL, Franklin, VA, Adel, GA under continuing contract with CanterBoard, Inc. Supporting shipper: CanterBoard, Inc., P.O. Box 518, Old Highway, 109 Thomasville, NC 27360.

MC 134064 (Sub-3–15TA), filed June 9, 1982. Applicant: INTERSTATE TRANSPORT, INC., 1600 Highway 129

[1] The purpose of this republication is to include the statement on tacking which was left out of the first publication.

South, Gainesville, GA 30505. Representative: Charles M. Williams, 1600 Sherman St., #665, Denver, CO 80203. *Such commodities as are used or dealt in by manufacturers or distributors of expanded polystyrene (except in bulk) and (2) materials, equipment and supplies used in the manufacture and distribution of the commodities named in item (1) above (except in bulk)* from Beaver County, PA and Middlesex County, NJ to Hall County, GA and Spotsylvania County , VA. Supporting shipper: Georgia Foam, Inc., P.O. Box 303, Gainesville, GA.

MC 134761 (Sub-3-2TA), filed June 14, 1982. Applicant: FAST FREIGHT TRANSFER, INC., P.O. Box 2163, Hialeah, FL 33012. Representative: Clayton R. Byrd, 2870 Briarglen Drive, Doraville, GA 30340. Contract: Irregular: (1) *General commodities (except classes A and B explosives, household goods, and commodities in bulk),* from Greenville, SC to points in FL, under continuing contract with F. W. Woolworth Co. of New York, NY, and (2) *building materials,* from Athens and Winder, GA to points in AL, FL, KY, and TN, under continuing contract with Interstate Insulation, Inc. of Atlanta, GA. Supporting shippers: F. W. Woolworth Co., 233 Broadway, New York, NY 10279 and Interstate Insulation, Inc., P.O. Box 45197, Atlanta, GA 30320.

MC 153677 (Sub-3-2TA), filed June 14, 1982. Applicant: BILLY HARRIS TRUCKING CO., Route 4, Box 139A, Henderson, NC 27536. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 2004. *Contract* carrier: irregular: *Filters and materials, supplies and equipment used in the manufacture, sale and distribution of filters,* between Henderson, NC, on the one hand, and, on the other, points in the U.S. (except AK & HI), under continuing contract(s) with Facet Enterprises, Inc. of Henderson, NC. Supporting shipper(s): Facet Enterprises, Inc., P.O. Box 1637, Henderson, NC 27536.

MC 136123 (Sub-3-27TA), filed June 14, 1982. Applicant: MD TRANSPORT SYSTEMS, INC., P.O. Box 1058, Palmetto, FL 33561. Representative: David M. Kuehl (same as above). *Contract:* Irregular: *General Commodities* between the facilities of Jenn-Air Corp. and points in the U.S. Supporting shipper: Jenn-Air Corporation, 3035 N. Shadeland Ave., Indianapolis, IN 46226.

MC 162426 (Sub-3-1TA), filed June 14, 1982. Applicant: W. W. TRUCKING COMPANY, Highway 574, P.O. Box 800, Dover, FL 33527. Representative: Roger A. Kirschenbaum, Suite 520, 3390 Peachtree Road, N.E., Atlanta, GA 30326. *Frozen vegetables* between points in Hillsboro County, FL., on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, CO, OK, and TX. Supporting shipper: Treasure Isle, Inc., P.O. Box 1121, Tampa, FL 33601.

The following applications were filed in Region 4: Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 19311 (Sub-4-9TA), filed June 7, 1982. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, MI 48077. Representative: Elmer J. Maue, (same address as applicant) 313-939-7000. *Contract,* Irregular *General Commodities* (except classes A and B explosives), under continuing contract(s) with International Harvester Company between points in IL, IN, MI, OH, WI, Boone, Campbell, Jefferson and Kenton Counties, KY, those points in NY on, west and north of U.S. Hwy 11 and those points in PA on and west of U.S. Hwy 219. Supporting shipper: International Harvester Co., 401 N. Michigan Ave., Chicago, IL 60611.

MC 113751 (Sub-4-16TA), filed June 7, 1982. Applicant: HAROLD F. DUSHEK, INC., 10th and Columbia St., Waupaca, Wisconsin 54981. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, Wisconsin 53719. *Fertilizer and fertilizer ingredients* between points in WI, on the one hand, and, on the other, points in IA, IL, IN and MN. Supporting shipper: Pavelski Enterprises, Inc., Box 56, Amherst Junction, WI 54407.

MC 129410 (Sub-4-9TA), filed June 8, 1982. Applicant: BONCOSKY TRANSPORTATION, INC., 1301 Industrial Drive, Algonquin, IL 60102. Representative: Carl L. Steiner, 29 South LaSalle St., Chicago, IL 60603. *Corn Sweetners, in bulk, in tank vehicles* From Argo, IL, to North East, PA. Supporting shipper: Welch Foods, Inc., Two South Portage Street, Westfield, NY 14787.

MC 134970 (Sub-4-4TA), filed June 7, 1982. Applicant: UNZICKER TRUCKING, INC., P.O. Box 35, El Paso, IL 61738. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. *Meat, meat products* and *meat by-products* and *articles* distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 MCC 209 and 766 (except hides and commodities in bulk), between points in McLean County, IL and Fayette and Montgomery Counties, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Sugar Creek Packing Company, 2101 Kenskill Avenue, Industrial Park, Washington Court House, OH 43160.

MC 135154 (Sub-4-5TA), filed June 7, 1982. Applicant: BADGER LINES, INC., 2460 South 5th Street, Milwaukee, WI 53207. Representative: William P. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203 (414) 273-7410. *Business forms—computing machine paper* from the facilities of Willamette Industries, Inc. at Indianapolis, IN to Cincinnati, Columbus, Cleveland, and Toledo, OH, Detroit, MI, Pittsburgh, PA, St. Louis, MO, and Chicago, IL. Supporting shipper: Willamette Industries, Inc., 6461 Saguaro Court, Indianapolis, IN 46268.

MC 139420 (Sub-4-4TA), filed June 7, 1982. Applicant: GLACIER TRANSPORT, INC., P.O. Box 428, Grand Forks, ND 58201. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., Minneapolis, MN 55402. *Food products,* from Decatur, IN to Denver, CO and the Commercial Zones of San Francisco, Los Angeles, Fresno and Sacramento, CA. Supporting shipper: Roman Meal Company, 2101 S. Tacoma Way, Tacoma, WA 98409.

MC 140615 (Sub-4-6TA), filed June 7, 1982. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1116, Wisconsin Rapids, WI 54494. Representative: Dennis C. Brown, P.O. Box 1116, Wisconsin Rapids, WI 54494. *Such merchandise as is dealt in by wholesale, retail, chain grocery, food business houses and general merchandise stores* between Brown, Jefferson, Outagamie, Portage, Rock, Shawano, Walworth, Waushara, Winnebago, Wood counties, WI and points in U.S. Supporting shipper: The Copps Corporation 2828 Wayne St. Stevens Point, WI 54481.

MC 150716 (Sub-4-2TA), filed June 7, 1982. Applicant: J.R.S. LEASING CHARTER, INC., 9445 South 51st Ave., Oak Lawn, IL 60453. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603. *Contract; irregular; Recycled boardmill stock,* from the facilities of Diamond International Corporation at or near Middletown and Lockland, OH, to the facilities of Diamond International Corporation at or near Morris, IL, under continuing contract(s) with Diamond International Corporation, of New York, NY. Supporting shipper: Diamond International Corporation, 1000 East Armstrong Street, Morris, IL 60450.

MC 155118 (Sub-4–8TA), filed June 8, 1982. Applicant: T.D.S. TRANSPORTATION, INC., 1700 South Wolf Road, Des Plaines, IL 60018. Representative: Julie L. Roper, 1700 South Wolf Road, Des Plaines, IL 60018. *Contract; irregular, General commodities, including paper and paper products* (excluding Classes A & B explosives, household goods and commodities in bulk) between the following areas: WI, MN, IL, IA, ND, SD, TX, KS, MO, NE. Supporting shipper: Leslie Paper Co., 600 South County Road 18, Minneapolis, Minnesota 55440.

MC 155118 (Sub-4–9TA), filed June 8, 1982. Applicant: T.D.S. TRANSPORTATION, INC., 1700 South Wolf Road, Des Plaines, IL 60018. Representative: Julie L. Roper, 1700 South Wolf Road, Des Plaines, IL 60018. *Contract; irregular, General commodities, including paper and paper products* (excluding classes A & B explosives, household goods and commodities in bulk) between MS, MA, CA and IL, on the one hand, and on the other, points in the U.S. (except AK and HI). Supporting shipper: Dennison National, 1 Water Street, Holyoke, MA 01040.

MC 158914 (Sub-4–2TA), filed June 7, 1982. Applicant: J.T.D. ENTERPRISES, INC., 2223–81st St., Kenosha, WI 53140. Representative: Clyde W. Harger (same address as applicant). *Food and kindred products* between points in Chicago, IL, WI, and MN, on the one hand, and, on the other, points in MN, WI, IA, SD & ND. Supporting shipper: Ellison Meat Co., 2540 24th Ave. So., Minneapolis, MN 55406.

MC 159008 (Sub-4–3TA), filed June 8, 1982. Applicant: NORTHERN CARRIERS, INC., 3814 11th St., Rockford, Illinois 61110; (815) 398–9455. Representative: William D. Brejcha, 180 North Michigan Ave., Suite 1700, Chicago, Illinois 60601; (312) 263–1600. *Contract,* Irregular: *Such commodities as are dealt in, manufactured, or distributed by manufacturers of wheels, brake drums, and hubs,* from Rockford, IL to Memphis, TN; Omaha, NE; Ft. Worth, TX; and Ft. Wayne, IN, and points in their Commercial Zones. Restricted to traffic moving under continuing contract(s) with The Gunite Division of Kelsey Hayes Company of Rockford, IL. Supporting shipper: The Gunite Division, Kelsey Hayes Company, 302 Peoples Avenue, Rockford, IL, 61108.

MC 162373 (Sub-4–1TA), filed June 7, 1982. Applicant: CANADA DRY/GRAF'S TRANSPORT CORPORATION, 4040 West Greenfield Avenue, Milwaukee, WI 53215. Representative: Richard Armstrong, 925 Hyland Drive, Stoughton, WI 53589. *Malt beverages, distilled, rectified or blended liquors; wine; brandy or brandy spirits; carbonated or non-carbonated soft drinks; and equipment, materials and supplies used in the production, manufacture and distribution of such commodities* between WI on the one hand and, on the other, points in CN, CO, IA, IN, IL, KY, MD, MI, MN, MO, NJ, NY, OH, PA, TN, VA and WV. There are seven (7) supporting shippers.

MC 162377 (Sub-4–1TA), filed June 7, 1982. Applicant: LARRY McCOY d.b.a L & M LEASING, 11635 W. Beecher Road, Clayton, MI 49235. Representative: James R. Neal, 1200 Bank of Lansing Building, Lansing, MI 48933. *Contract;* irregular; *Metal, rubber and plastic products* between points in Lenawee County, MI, Gibson County, TN, and Mississippi and Prairie Counties, AR under continuing contract(s) with ACCO Industries, Inc. An underlying ETA seek 120 days authority. Supporting shipper: ACCO Industries, Inc., 1022 E. Michigan St., Adrian, MI 49221.

MC 162400 (Sub-4–1TA), filed June 8, 1982. Applicant: TRI-FRIDGE CORP., 3300 West 93rd St., Evergreen Park, IL 60642. Representative: Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60603; 312/782–8880. *Chemicals in bags and drums* between the facilities of American Metal Chemical Corp. at or near Chicago, IL, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. Supporting shipper: American Metal Chemical Corp., 3604 South Morgan Street, Chicago, IL 60609.

MC 4483 (Sub-4–5TA), filed June 10, 1982. Applicant: MONSON TRUCKING, INC., R. R. #1, Red Wing, MN 55066. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *Newsprint paper,* from ports of entry on the international boundary line between the U.S. and CN, on the one hand, and, on the other, points in OK and TX. Supporting shipper, Lakehead Newsprint, Ltd., P.O. Box 430, Thunder Bay, Ontario, Can. P7C 4W3.

MC 121395 (Sub-4–1TA), filed June 11, 1982. Applicant: PMS TRANSPORTATION CO., 110 East Chicago Ave., Westmont, IL 60559. Representative: Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60603; 312/782–8880. *Corrugated containers* from the facilities of International Paper Company located at or near Fond du Lac, WI to points in IL and IN. An underlying ETA seeks 120 days authority. Supporting shipper: International Paper Company—Container Division, 625 Northwest Ave, Northlake, IL 60164.

MC 126706 (Sub-4–3TA), filed June 10, 1982. Applicant: KLEYSEN TRANSPORT, LTD., 1495 Pembina Highway, Winnipeg, Manitoba, Canada R3T 2C8. Representative: Grant J. Merritt, 4444 IDS Center, 80 South Eighth St., Minneapolis, MN 55402. *Roofing materials and related products* between the ports of entry on the international boundary line between the U.S. and CN in and west of MN, on the one hand, and, on the other points in WA. An underlying ETA seek 120 days authority is pending. Supporting shipper is Building Products of Canada, Ltd., 10500 Cote de Liesse, Suite 200, Lachine, Quebec, Canada H8T 3E3.

MC 144621 (Sub-4–12TA), filed June 10, 1982. Applicant: COLUMBINE CARRIERS, INC., P.O.B. 66, South Bend, IN 46624. Representative: Charles M. Williams, 1600 Sherman St., #665, Denver, CO 80203. *Such commodities as are used or dealt in by manufacturers and distributors of store fixtures, counters, showcases, and shelving,* between the facilities of MII Lincoln, Inc., a Division of MII Industries, Inc., at or near Lincoln, IL, on the one hand, and, on the other, points in the U.S. Supporting shipper: MII Lincoln, Inc., a Division of MII Industries, Inc., 2150 West 5th Street Road, Lincoln, IL 62656.

MC 146758 (Sub-4–10TA), filed June 10, 1982. Applicant: LADLIE TRANSPORTATION, INC., 1701 Margaretha St., Albert Lea, MN 56007. Representative: Phillip H. Ladlie (Address same as applicant). *Cheese and cheese products* between points in WI, Stephenson County, IL, Clark & St. Louis County, MO, Fredericksburg, IA and Wapakonata, OH on the one hand, and, on the other, points in CA and TX. Supporting shippers: Milkhouse Cheese Corporation, 9119 S. Gessner, #200, Houston, Texas 77074; Marathon Cheese Corp., Marathon, WI 54448.

MC 151556 (Sub-4–10TA), filed June 11, 1982. Applicant: ALLSTATE TRANSPORTATION COMPANY, 2000 West 96th St., Bloomington, MN 55431. Representative: Marvin M. Mueller, 2000 West 96th St., Bloomington, MN 55431. *Contract* irregular: Auto-pak compactors and related material, equipment and supplies used in the manufacture, sale, installation and distribution thereof, between points in the U.S., under continuing contracts with Ramsey, Inc. Supporting shipper: Ramsey, Inc., 4936 North County Road 18, New Hope, MN 55428.

MC 151664 (Sub-4–2TA), filed June 9, 1982. Applicant: SPRINT

INCORPORATED, 3108 Gilead Ave., Zion, IL 60099. Representative: Alan J. Wolf, Robbins, Coe, Rubinstein & Shafran, Ltd., 69 W. Washington St., Chicago, IL 60602. *General Commodities,* (except commodities in bulk, and commodities in tank vehicles), between Lake County, IL and points in Kenosha, Racine, Milwaukee, Waukesha, and Dane Counties of WI. Supporting shippers: Abbott Laboratories, 1400 Sheridan Road, North Chicago, IL 60064; Jacob Blumberg Memorial Blood Bank, 1350 North Sheridan Road, Waukegan, IL 60085; Charles Munder Company, 2771 Galilee Avenue, Zion, IL 60099.

MC 156707 (Sub-4–2TA), filed June 9, 1982. Applicant: MWK TRANSPORT CO., INC., 5401 West Donges Bay Road, Mequon, WI 53902. Representative: Michael J. Wyngaard, 150 East Gilman St. Madison, WI 53703. *Contract;* irregular. *Textile mill products and materials, equipment and supplies used or useful in the manufacture, sale or distribution of textile mill products,* between Milwaukee, WI, on the one hand, and, on the other hand, points in the U.S. (except AK and HI), under a continuing contract(s) with Junior House, Inc. Supporting shipper: Junior House, Inc., 710 South Third Street, Milwaukee, WI 53204.

MC 162408 (Sub-4–1TA), filed June 9, 1982. Applicant: HARLAN AND DAVID CHRISTIANSEN d.b.a. CHRISTIANSEN TRUCKING, Route 1, Ringle, WI 54471. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Limestone, in bulk, in dump vehicles* between Schoolcraft County, MI and points in Marathon County, WI. An underlying ETA seeks 120 days authority. Supporting shipper: Inland Lime & Stone Co., Div. of Inland Steel Co., Guliver, Michigan 49840.

MC 162409 (Sub-4–1TA), filed June 9, 1982. Applicant: DURAND TRUCKING, 412 Jones Ave., Oconto, WI 54153. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA. 01841. *Contract,* Irregular: *Boats, all materials, equipment and supplies used in the manufacture, sale and distribution of same,* between points in the U.S. (except AK and HI), under continuing contract(s) with Northport Inc., 39 North Harding Ave., Gillette, WI 54124. Supporting shipper: Northport Inc, 39 North Harding Ave., Gillette, WI 54124.

MC 162433 (Sub-4–1TA), filed June 10, 1982. Applicant: J.E.T., INC., 600 Savoy Place, Valparaiso, IN 46383. Representative: Stephen H. Loeb, Suite 4, 2777 Finley Road, Downers Grove, IL 60515. *Contract, Irregular: Metals and metal products,* between the facilities of Nachman Corporation at Kouts, IN and Chicago, IL, on the one hand, and, on the other, points in IL, IN, KY, MI, OH, and WI under Contract with Nachman Corporation. Supporting shipper: Nachman Corporation, P.O. Box 1064, Norcross, GA 30091.

The following applications were filed in Region 5. Send protests to : Consumer Assistance Center, Interstate Commerce Commission, P.O. Box 17150, Fort Worth, TX 76102.

MC 16334 (Sub-5–7TA), filed June 7, 1982. Applicant: DEBRICK TRUCK LINE COMPANY, P.O. Box 421, Paola, KS 66071. Representative: John T. Pruitt, 9832 Connell, Overland Park, KS 66212. *Metal products,* between points in Miami County, KS, on the one hand, and, on the other, points in the U.S. Supporting shipper: Kansas Iron Works, Inc., P.O. Box 146, Paola, KS 66071.

MC 146554 (Sub-5–1TA), filed June 7, 1982. Applicant: GEORGE BRINCKS, Templeton, IA 51463. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Iron and steel articles,* (1) from Sterling and Chicago, IL, to Salt Lake City, UT; Grand Junction and Denver CO; and Casper, WY; and (2) from Salt Lake City, UT to Denver, CO. Supporting shipper: Brown-Strauss, Division of Azcon Corporation, 1290 Chambers Road, Aurora, CO 80011.

MC 146788 (Sub-5–3TA), filed June 8, 1982. Applicant: NORMAN JOHNSON d.b.a. JOHNSON TRUCKING, 913 South 13th Place, Norfolk, NE 68701. Representative: Norman Johnson (same as applicant). Contract, irregular; *oilwell drilling mud chemicals including clay, barite, lignite, lignin pitch, soda ash and sodium bicarbonite* between all pts in the U.S. (except AK and HI) under continuing contract with Baker Chemicals, Inc., 2801 Post Oak Blvd, Ste 258, Houston, TX.

MC 150029 (Sub-5–3TA), filed June 7, 1982. Applicant: CHARLES HARRINGTON, d.b.a. TRANS TEXAS COACHES, 3901 Cessna, Odessa, TX 79762. Representative: G. Timothy Armstrong, P.O. Box 1124, El Reno, OK 73036. Common regular *Passengers and their baggage and express items in bus service,* over routes as follows: (1) Between Oklahoma City, OK and Texarkana, TX: from Oklahoma City over U.S. Hwy 77 to junction OK Hwy 9, then over OK Hwy 9 to junction U.S. Hwy 177, then over U.S. Hwy 177 to junction OK Hwy 3E, then over OK Hwy 3E to junction OK Hwy 99, then over OK Hwy 99, to junction U.S. Hwy 70, then over U.S. Hwy 70 to junction U.S. Hwy 71, then over U.S. Hwy 71 to Texarkana, and return over the same route, serving all intermediate points; (2) Between Oklahoma City, OK and Paris, TX: from Oklahoma City, over U.S. Hwy 77 to junction OK Hwy 9, then over OK Hwy 9 to junction U.S. Hwy 177, then over U.S. Hwy 177 to Shawnee, OK, then return back over U.S. Hwy 177 to junction OK Hwy 39, then over OK Hwy 39 to junction OK Hwy 99, then over OK Hwy 99 to junction OK Hwy 3, then over OK Hwy 3 to junction U.S. Hwy 271, then over U.S. Hwy 271 to Paris, and return over the same route, serving all intermediate points; (3) Between Ada, OK and Durant, OK: from Ada over OK Hwy 1, to junction OK Hwy 7, then over OK Hwy 7 to Sulphur, OK, then return back over OK Hwy 7 to junction OK Hwy 12, then over OK Hwy 12 to Tishomingo, OK, then over OK Hwy 99 to junction U.S. Hwy 70, then over U.S. Hwy 70 to Durant, and return over the same route, serving all intermediate points. Applicant proposes to tack the authority sought with its authority in MC 150029 and subs thereto, and proposes to interline with other motor carriers. Supporting shippers: Ada, OK Chamber of Commerce, Ada, OK 74820 and Trailways, Inc., 427 W. Sheridan, Oklahoma City, OK 73102.

MC 151915 (Sub-5–1TA), filed June 7, 1982. Applicant: KELWORTH TRUCKING COMPANY, INC., Hwy. 59 South, Box 8, Hodgen, OK 74939. Representative: Don A. Smith, P.O. Box 43, Fort Smith, AR 72902. *Clay, concrete, glass and stone products,* between points in AR, KS, LA, MS, MO, OK and TX. Supporting shipper: The Bassichis Company, 2323 West Third Street, Cleveland, OH 44113.

MC 156965 (Sub-5–2TA), filed June 7, 1982. Applicant: HARVARD & SONS FREIGHT, INC., R.R. #3, Fairfield, IA 52556. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Metal products,* from Jefferson County, IA, to pts in Crosby and Lubbock Counties, TX. Supporting shipper: The Dexter Company, 501 N. 8th Street, Fairfield, IA 52556.

MC 158069 (Sub-5–1TA), filed June 8, 1982. Applicant: DUPRE TRANSPORT, INC., 166 W. Bellevue Street, Opelousas, LA 70580. Representative: David J. Halpern, 3636 North Causeway Boulevard, Suite 100, Metairie, LA 70002. *Petroleum products,* in tank vehicles between pts in LA on the one hand, and, on the other, pts in TX and MS. Applicant intends to tack. Supporting shippers: (1) Commercial Helicopters, 4939 Jamestown Ave., Suite 201, Baton Rouge, LA, 70808. (2) Delta Marketing, P.O. Box 22298, Nashville, TN, 37202. (3)

Hydrocarbon Trading Company, 611 Rusk, Suite 73, Houston, TX, 77002. (4) Orleans Oil Company, P.O. Box 51817, Lafayette, LA, 70505.

MC 160732 (Sub-5–1TA), filed June 7, 1982. Applicant: RGM TRANSPORTATION, INC., 203 S. Oak Park, Colfax, IA 50054. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. Contract, irregular: *(1) Hides and (2) packinghouses products*, (1) from Tama, Denison, Des Moines, Maquoketa, and Cedar Rapids, IA, Mason City, IL; and Green Bay and Milwaukee, WI, to pts in AL, FL, GA, MS, NY, OH, PA, TX, VA, and WV; and (2) from Cherokee, Denison, Des Moines, Waterloo, and Cedar Rapids, IA; E. Peoria, IL; Nashville, TN; and Albert Lea, MN, to pts in AL, FL, GA, MS, NY, OH, PA, TX, VA, and WV, under continuing contract(s) with Transworld Meat Corp. and Transworld Hide Corp. Supporting shipper: Transworld Meat Corp. and Transworld Hide Corp., P.O. Box 576, Cedar Rapids, IA 52406.

MC 162253 (Sub-5–1TA), filed June 7, 1982. Applicant: SUPREME CARRIERS, INC., P.O. Box 916, So. Sioux City, NE 68776. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. (1) *Wood shavings*, between points in CO, MN, NE, SD, WI, and WY, on the one hand, and, on the other, pts in IL, WI, MO, IA, MN, TX, OK, KS, SD, ND, CO, and WY. Restricted to Supreme Wood Products Inc. (2) *Such commodities as are used or dealt in by manufacturers and distributors of building and construction materials*, between Sioux City, IA (and pts in its commercial zone) on the one hand, and, on the other, pts in the U.S. (except AK and HI). Supporting shippers: (1). Supreme Wood Products, Inc., P.O. Box 916, So. Sioux City, NE 68776. (2). Concrete Products, Inc., 2222 E. 3rd St., Sioux City, IA 51101.

MC 162253 (Sub-5–2TA), filed June 7, 1982. Applicant: SUPREME CARRIERS, INC., P.O. Box 916, So. Sioux City, NE 68776. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. *Petroleum products, antifreeze, and batteries*, from Whiting, IN; St. Paul, MN; Omaha and Lincoln, NE; and Salina, KS (and pts in their commerical zones) to Sioux City, IA. Supporting shipper: Sherman Oil Products, Inc., 1601 Grand Avenue Sioux City, IA 51104.

MC 162253 (Sub-5–3TA), filed June 7, 1982. Applicant: SUPREME CARRIERS, INC., P.O. Box 916, So. Sioux City, NE 68776. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. *Such commodities as are used or dealt in by manufacturers and distributors of railroad products*, between Dodge County, NE on the one hand, and, on the other, pts in the U.S. (except AK and HI). Supporting shipper: NL Magnus-Division of NL Industries, Inc., P.O. Box 1029, Fremont, NE 68025.

MC 162253 (Sub-5–4TA), filed June 7, 1982. Applicant: SUPREME CARRIERS, INC., P.O. Box 916, So. Sioux City, NE 68776. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. (1) *Plastic products, machinery, and metal products*, between Sioux City, IA and pts in the U.S. (except AK and HI). (2) *Blasting sand*, from Jackson, NE (Dakota County) to pts in IL, WI, MN, IA, MO, KS, SD, and CO. Supporting shipper: (1) Silopress, 2601 Ogden, Sioux City, IA 51110. (2) C & T Blasting Sand Company, Jackson, NE 68174.

MC 162357 (Sub-5–1TA), filed June 7, 1982. Applicant: DIVERSIFIED COMMERCIAL SERVICES, INC., 5636 Lisette, St. Louis, MO 63109. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. *General Commodities (except Classes A and B explosives, household goods and commodities in bulk)*, between St. Louis, MO on the one hand, and, on the other, points in MO, IL, IN, OH, AR, IA, TN, MS and KY. Restricted to traffic having prior or subsequent movement by rail piggyback. Supporting shipper(s): Associated Shippers Inc., 1021 South 39th Street, St. Louis, MO 63110.

MC 162361 (Sub-5–1TA), filed June 7, 1982. Applicant: G. P. EXPRESS, INC., 1175 Woodman Tower Building, Omaha, NE 68102. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *General Commodities (except household goods, commodities in bulk, and Classes A and B explosives)*, between pts in IL, MO, IA, KS, MI, MN, and WI, on the one hand, and, on the other, Omaha, NE. Supporting shipper: Pamida, Inc., 8800 "F" Street, Omaha, NE 68127.

MC 162364 (Sub-5–1TA), filed June 7, 1982. Applicant: RICHARD E. BERRY TRUCKING, Route 5, Box 508, Springdale, AR 72764. Representative: James H. Berry, P.O. Box 32, Wesely, AR 72773. *Cement products* between points in AR, KS, MO, and OK. Supporting shipper: Springdale Ready Mix, Inc., Springdale, AR.

MC 2228 (Sub-5–1TA), filed June 10, 1982. Applicant: MERCHANTS FAST MOTOR LINES, INC., P.O. Drawer 501, Abilene, TX 79604. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767. Common, regular; *general commodities (except household goods as defined by the Commission, commodities in bulk, and Classes A and B Explosives)*; (1) between Albuquerque, NM and Aztec, NM, serving the intermediate pt of Bloomfield from Albuquerque over U.S. Hwy. 85 and Interstate Hwy. 25 to Junction State Hwy. 44, thence over State Hwy. 44 to Aztec, NM, and return over the same route; (2) between Aztec, NM and Shiprock, NM, serving all intermediate pts and serving the New Mexico Public Service Company San Juan Station near Waterflow, NM, as an off-route pt from Aztec over U.S. Hwy. 550 to Shiprock and return over the same route; (3) between Bloomfield, NM and Farmington, NM, serving no intermediate pts from Bloomfield over State Hwy. 17 to Farmington and return over the same route. Supporting shippers: 24.

Note.—Applicant intends to tack with existing authority.

MC 61396 (Sub-5–24TA), filed June 9, 1982. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, NE 68101. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. *Fly ash*, from Kingsport, TN to points in VA. Supporting shipper: Southeastern Fly Ash Co., Inc., P.O. Box 461, Snellville, GA 30278.

MC 96878 (Sub-5–7TA), filed June 11, 1982. Applicant: CONSOLIDATED TRANSFER AND WAREHOUSE CO., INC., 1251 Taney, North Kansas City, MO 64116. Representative: Alfred L. King, (same as applicant). *Hazardous wastes for disposal (except in bulk)* between points in KS, MO, AR, OK, TX, LA, MT, MS, GA, AL, KY, TN, IL, IN, OH, MI, CO, WI, MN, UT, AZ, IA, NE, ND, and SD. Supporting shipper: Browning Ferris Industries of Kansas, Missouri City, MO.

MC 103997 (Sub-5–1TA), filed June 10, 1982. Applicant: CARRIER VAN SERVICE, INC., 3041 Paseo, Kansas City, MO 64109. Representative: Dixie C. Newhouse, P.O. Box 1417, Hagerstown, MD 21740. *Household goods*, (1) Between pts in Jackson, Clay and Cole Counties, MO, and Johnson and Wyandotte Counties, KS, on the one hand, and, on the other, Kansas City and Cole County, MO, Wyandotte County, KS, and Lucas County, OH. (2) Between pts in Jackson, Clay and Cole Counties, MO and Johnson and Wyandotte Counties, KS, on the one hand, and, on the other, pts in MD, DE, CT, RI and OK; and (3) Between pts in Jackson, Clay and Cole Counties, MO, Johnson and Wyandotte Counties, KS and Lucas County, OH, on the one hand, and, on

the other, pts in AZ, CA, NM, OK, TX, MD, NC and SC. Applicant intends to tack and interline. *Supporting shippers:* Movers International, Inc., P.O. Box 1294, Lynwood, WA 98036 and Northwest Consolidators, Inc., P.O. Box 25588, Seattle, WA 98125.

MC 110567 (Sub-5–8TA), filed June 9, 1982. Applicant: SOONER TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: Kenneth L. Kessler, P.O. Box 855, Des Moines, IA 50304. Contract irregular *general commodities distributed by retail grocery stores,* between Greene, County, OH on the one hand, and, on the other, pts in Harrison County, WV. Supporting shipper: Garden Fresh Markets, Inc., Nutterfort, WV.

MC 138104 (Sub-5–12TA), filed June 11, 1982. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove Street, Fort Worth, TX 76106. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. *Lumber or wood products,* between pts in AR, AL, AZ, FL, GA, LA, MS, NM, OK, and TX. Supporting shipper: Brand Forest Products, P.O. Box 270, Mansfield, TX 76063.

MC 147079 (Sub-5–1TA), filed June 11, 1982. Applicant: NATIONWIDE MAGAZINE AND BOOK DISTRIBUTORS, INC., 3000 E. Grauwyler Road, Irving, TX 75061. Representative: Ben Madill, (same as above). Contract, irregular; *Rubber and related products* from pts in AL, MS, LA, AR, and GA, to pts in TX and SC under a continuing contract with Long Mile Rubber Company, Dallas, TX.

MC 148152 (Sub-5–16TA), filed June 11, 1982. Applicant: K & H TRUCKING, INC., 3301 South Lamar St., Dallas, TX 75215. Representative: Edmond E. Payne, same as applicant. Contract: Irregular, *General Commodities (except classes A and B explosives or hazardous materials)* between pts in the U.S. (except AK and HI) Under continuous contract(s) with Blue Cross Laboratories, The Charlie O Company and Monsey Products. Supporting shipper: Blue Cross Laboratories, 26411 No. Golden Valley Rd., Saugus, CA 91350; The Charlie O Company, 1520 West 10th St., Little Rock, AR 72117; Monsey Products Co., 3802 Miller Park Dr., Dallas, TX 75042.

MC 148987 (Sub-5–3TA), filed June 11, 1982. Applicant: W. C. CARRIERS, INC., 5229 N.W. 5th St., Bethany, OK 73008. Representative: Kenneth L. Peacher, 3925 N. Ann Arbor, Oklahoma City, OK 73122. *Water Well Pumps, Tanks, Filters, Motors, Purifiers, and other related items necessary for pumping water (except commodities in bulk, in tank vehicles)* between OK on the one hand, and TX, LA, AR, MO, KS, NM, CO, WY, NE, SD, ND, AZ, CA, and UT, on the other. Supporting shipper: Sta-Rite Ind., Water Equipment Division, Oklahoma City, OK.

MC 150229 (Sub-5–2TA), filed June 11, 1982. Applicant: CENTRAL PETROLEUM TRANSPORT, INC., 6115 Mitchell St. Sioux City, IA. 51110. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104. *Liquid Asphalt* between facilities of Jebro, Inc, Sioux City, IA. on the one hand, and, on the other pts in IA, NE, SD, KS & MN. Supporting shipper: Jebro, Inc., 2303 Bridgeport, Sioux City, IA 51117.

MC 153334 (Sub-5–2TA), filed June 10, 1982. Applicant: JOHN NEWTON STONE d.b.a. SOUTHWESTERN, EXPRESS, 9335 Ronda Lane, Houston, TX 77074. Representative: Timothy J. Herman, 522 First Federal Plaza, Austin, TX 78701. *Machinery and Supplies* (when moving in one ton trucks or less): From pts in Harris, Montgomery, Brazoria, Galvestion and Fort Bend Counties, TX to pts in LA, OK and NM. Supporting shippers: 10.

MC 155256 (Sub-5–5TA), filed June 11, 1982. Applicant: KASSEL TRANSFER, INC., Route 1, Letts, IA 52754. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309. *Food and related products,* from Burlington, IA to pts in CO, IN, KS, KY, MI, MN, MO, NE, ND, OK, SD and WI. Supporting shipper: Midwest Biscuit Company, Inc., 3000 Mount Pleasant Street, Burlington, IA 52601.

MC 156387 (Sub-5–4TA), filed June 11, 1982. Applicant: JIM L. LANGENFELD d.b.a. D & J ENTERPRISES, Rural Route #2, Dow City, IA 51528. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. Contract, Irregular; *General commodities (except in bulk and the usual exceptions)* between pts in the U.S. (except AK and HI). Supporting shipper: Futuristics, LTD, P.O. Box 516, Denison, IA 51442.

MC 161121 (Sub-5–1TA), filed June 9, 1982. Applicant: LIQUID CARRIERS, INCORPORATED, 151 Second Street, Akron, IA 51001. Representative: D. Douglas Titus, 340 Insurance Exchange Building, Sioux City, IA 51101. *Agricultural Chemicals,* between pts in IL, IA, MN, MO, NE, and SD, Supporting shippers: Terminal Grain Corporation, 600 Benson Building, Sioux City, IA 51101; Nutra-Flo Chemical Co., 1919 Grand Ave., Sioux City, IA 51107; and Terra Chemicals International, Inc., 4th and Nebraska Sts., Sioux City, IA 51101.

MC 162007 (Sub-5–1TA), filed June 9, 1982. Applicant: JACK COOK FARMS, INC., Rural Route 1, Sergeant Bluff, IA 51054. Representative: D. Douglas Titus, 340 Insurance Exchange Building, Sioux City, IA 51101. *Aricultural Chemicals,* between pts in IA, MN, NE, and SD. Supporting shippers: 6.

MC 162204 (Sub-5–1TA), filed June 11, 1982. Applicant: SOUTHWEST SLEEPER COACHES, INC., 5155 Wichita Street, Fort Worth, TX 76119. Representative: Bob Bowland, same as applicant. *Passengers and their baggage in special and charter operations in round trip sight-seeing or pleasure tours* beginning and ending at pts in Tarrant and/or Dallas Counties, TX, and extending to pts in the U.S. Supporting shippers: 6.

MC 162365 (Sub-5–1TA), filed June 11, 1982. Applicant: JAMES H. EDWARDS, d.b.a. TEJANO LINES, P.O. Box 172, Grapevine, TX 76051. Representative: James H. Edwards (same as applicant). contract: Irregular. *Alcoholic beverages, in containers,* from Port Houston, Barbours Cut and Port Galveston, TX to Dallas, Fort Worth, Odessa, Amarillo, Odessa and El Paso, TX. Supporting shipper: Glazer Wholesale Drug Co., Dallas, TX.

MC 162444 (Sub-5–TA), filed June 11, 1982. Applicant: B.A.D. SERVICES, INC., P.O. Box 32318, Oklahoma City, OK 73123. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154. *Oil field commodities in shipments not to exceed 14,000 pounds per shipment,* between pts in Oklahoma County, OK on the one hand, and, on the other, pts in AR, CO, KS, LA, NM, TX and WY. Supporting shippers: 7.

MC 162445 (Sub-5–1TA), filed June 11, 1982. Applicant: DONALD WOOD TRUCKING, INC., 1019 S.E. 1st, Lawton, OK 73501. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154. *Construction materials in bulk and cement except in bulk,* between pts in OK on and west of Interstate 35 and on and south of Interstate 40 on the one hand, and, on the other, pts in TX on and west of Interstate 35 and on and north of U.S. Highway 380. Supporting shippers: 6.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105.

MC 162412 (Sub-6–1TA), filed June 8, 1982. Applicant: ALEX PAVLICA, d.b.a. ALEX'S HOT SHOT SERVICE, P.O. Box 82, Burns, WY 82053. Representative: Alex Pavlica (same as applicant). *Contract Carrier,* Irregular Routes: *Light*

oil field equipment and tools, (Under 7,500 pounds) between points in CO, ID, UT and WY for the account of Amoco Production Company for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Amoco Production Company, P.O. Box 39200, Denver, CO 80239.

MC 148614 (Sub-6–1TA), filed June 8, 1982. Applicant: CALDWELL TRUCKING, INC., P.O. Box 120, Star Route, Pendleton, OR 97801. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. *Contract Carrier:* Irregular Routes: *Paper and related products* between points in OR, WA, CA, NV, ID, UT, AZ, MT, WY, CO, NM, TX, WI, IA, MN, ND, SD, NE, IL and MI for 270 days. Supporting shipper: Superior Transportation Systems, Inc., 9450 S.W. Commerce Ct., Suite 400, Wilsonville, OR 97070.

MC 160161 (Sub-6–3TA), filed June 8, 1982. Applicant: COASTMASTER TRANSPORT, 4904 Lacey Blvd. SE., Lacey, WA 98503. Representative: Kenneth R. Mitchell, 2320A Milwaukee Way, Tacoma, WA 98421. *Contract Carrier,* Irregular routes: *Brake shoes and brake shoe assemblies,* from Oakland County, MI to points in CA, CO, DE, FL, GA, IL, IN, KS, MA, MN, MO, MT, NV, NJ, NY, NC, OH, OR, PA, TN, TX, UT, VT, WA, WV, and WI for 270 days. Supporting shipper: Uni-Bond, Inc., 1350 Jarvis, Ferndale, MI 48220.

MC 162139 (Sub-6–1TA), filed June 7, 1982. Applicant: COMMONWEALTH TRUCKING, INC., P.O. Box 902, Yreka, CA 96097. Representative: Donald L. Smith (same as applicant). *Plastic pipe and fittings,* between Paramount, CA on the one hand, and, on the other, points in AZ, NV, ID, UT, and MT, restricted to shipments moving from the facilities of Carlon Div., Indianhead Corp., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Carlon Div., Indianhead Corp, #3 Commerce Park Sq., 2320 Chagrin Blvd., Cleveland, OH 44137.

MC 162202 (Sub-6–1TA), filed June 8, 1982. Applicant: CECIL M. GALLOWAY, d.b.a. D & C TRUCKING, 862 Alexander St., Livermore, CA 94550. Representative: Cecil M. Galloway (same as applicant). *Contract Carrier:* Irregular Routes: *Lumber and lumber mill products* from Butte, El Dorado and Placer Counties of CA and White City, Grants Pass of OR returning to Oakland, CA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Michiels International, 5967 Riverside Dr., Redding, CA.

MC 153714 (Sub-6–5TA), filed June 8, 1982. Applicant: WILLIAM A. MURRAY, d.b.a. FREDDY'S TRUCKING, 2200 S.E. 45th, #49, Hillsboro, OR 97123. Representative: William A. Murray (same as applicant). (1) Alcoholic beverages between Multnomah and Hood River Counties, OR, King and Spokane Counties, WA, Denver County, CO, Ada County, ID, Laramie County, WY, Salt Lake County, UT, Pima and Maricopa Counties, AZ, Clark, Humboldt and Washoe Counties, NV, Lewis and Clark Counties, MT, and points in CA. (2) Beer and wine between King County, WA, and Marion County, OR. (3) Pulp and paper and printed material between Orange and Los Angeles Counties, CA, Lane, Marion and Multnomah Counties, OR, King and Spokane Counties, WA, Kootena and Latah Counties, ID, for 270 days. Supporting shippers: Potters Distilleries, Inc., 18700 N.E. San Rafael, Portland, OR 97230; Thomas Dist., 1768 13 St. S.E., Salem, OR 97302; Sun Mark Data, Inc., 239 S.E. Madison, Portland, OR 97214.

MC 1515 (Sub-6–20TA), filed June 10, 1982. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: R. L. Wilson (same address as applicant). *Common carrier,* regular routes, *passengers and their baggage and express and newspapers,* in the same vehicle with passengers, between Fort Wayne, IN and Elkhart, IN over U.S. Hwy 33 and return over the same route, serving all intermediate points for 180 days. An underlying E.T.A. seeking 90 days authority has been filed. Supporting shipper: There are 9 supporting shippers. Their statements may be examined at the Regional Office listed.

MC 162434 (Sub-6–1TA), filed June 10, 1982. Applicant: JAMES L. HOGGATT, d.b.a. HOGGATT TRUCKING, 1525 S 400 E, #8, Springville, UT 84663. Representative: John R. Merkling, P.O. Box 772, Provo, UT 84603. *Contract Carrier,* Irregular Routes: *Mobile Homes* from Boise, ID to Springville and Spanish Fork, UT; from Springville and Spanish Fork, UT to points in UT, AZ, WY, NV, CO, and ID under continuing contract with Luxury Mobile Homes and Miller Mobile Homes for 270 days. Supporting shipper(s): Luxury Mobile Homes, 1525 N Main, Springville, UT; Miller Mobile Homes, 950 E 800 N, Spanish Fork, UT.

MC 127922 (Sub-6–5TA), filed June 8, 1982. Applicant: NELLO PISTORESSI & SON, INC., P.O. Box 432, Toppenish, WA 98948. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Contract carrier,* Irregular routes: *Food and related products* from Portland, OR, to Yakima, WA, for the account of Kwikool Ice and Cold Storage, Inc. for 270 days. Supporting shipper: Kwikool Ice and Cold Storage, Inc., 955 N. Columbia Blvd., Bldg. C, Portland, OR 97217.

MC 161710 (Sub-6–1TA), filed June 10, 1982. Applicant: NOSS BROTHERS TRUCKING, INC., Route 1, P.O. Box 57, Clarksburg, CA 95612. Representative: Arden Riess, P.O. Box 7965, Stockton, CA 95207. *Contract Carrier;* Irregular Routes: *Sugar and materials, equipment and supplies used in the manufacture of sugar; flour, donut mixes and fruit fillings and jellies* between points in CA, OR, NV and WA for 270 days. Supporting shipper(s): American Crystal Sugar Co., 101 N. Third St., Moorhead, MN 56560; Saroni Sugar & Rice, P.O. Box 96, Oakland, CA 94604.

MC 162213 (Sub-6–1TA), filed June 10, 1982. Applicant: PACIFIC SHIPPERS SERVICE, 1217 So. 7th St., Modesto, CA 95353. Representative: Truett Yarbrough (same as applicant). *Canned or preserved foodstuffs, coffee and glace,* from points in CA to points in AL, AR, AZ, CT, CO, DC, FL, GA, IA, IL, IN, KS, KY, LA, MA, MD, MI, MN, MO, MS, ND, NE, NJ, NM, NY, OH, OK, OR, PA, SD, TN, TX, UT, WA, and WI for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: S & W Fine Foods, Inc., 1730 S. El Camino Real, San Mateo, CA 94402; Tri-Valley Growers, 100 California St., San Francisco, CA 94108; California Canners & Growers, 3100 Ferry Bldg., San Francisco, CA 94406.

MC 162413 (Sub-6–1TA), filed June 8, 1982. Applicant: PRIMO CORPORATION, 4817 Alcoa Ave., Vernon, CA 90058. Representative: Curtis Lorenz (address same as applicant). *Contract Carrier;* Irregular Routes: *Plastic Material, packaged and in bulk,* between Vernon, CA and points in AZ, NV, NM, OR, WA and TX for 270 days. Supporting shipper: H. Muehlstein & Co., Inc., 591 W. Putnam Ave., Greenwich, CT 06830.

MC 54567 (Sub-6–3TA), filed June 11, 1982. Applicant: RELIANCE TRUCK CO., 2500 N. 24th Ave., Phoenix, AZ 85009. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *General commodities,* from the facilities of Rogers Terminal in Rogers County, OK to points in OK, AR, KS and MO, for 270 days. Supporting shipper: Rogers Terminal, Inc., Route 8, Box 310, Claremore, OK 74017.

MC 147083 (Sub-6–4TA), filed June 10, 1982. Applicant: TANKS, INC., P.O. Drawer 1179, Gillette, WY 82716. Representative: Leon L. Brady (same as applicant). *Machinery, equipment, materials, and supplies, used in, or in*

connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, and their by-products and complete drilling rigs. Between points in WY, CO, NE, MT, SD, ND, ID, OR, WA, NV, UT for 270 days. Supporting shippers: Transcontinental Drilling Company, 555 17 Street, Suite 2700, Denver, CO 80202; Shelby Drilling, Inc., 254 N. Center, Suite 108C, Casper, WY 82601; Milchem, Inc., P.O. Box 693, Casper, WY 82602.

MC 162411 (Sub-6-1TA), filed June 9, 1982. Applicant: TETON TRANSPORTATION, INC., P.O. Box 1929, Cheyenne, WY 82001. Representative: John T. Wirth, 717 17th St., Ste. 2600, Denver, CO 80202-3357. *Contract carrier,* irregular routes: *Lumber, wood products and forest products,* from Laramie and Cheyenne, WY to points in CO, IA, IL, KS, MO, NE, OK, SD, and TX, under continuing contract(s) with Teton West Lumber, Inc. of Cheyenne, WY and its affiliates and subsidiaries, for 270 days. Supporting shipper: Teton West Lumber, Inc., P.O. Box 1929, Cheyenne, WY 82001.

MC 162435 (Sub-6-1TA), filed June 10, 1982. Applicant: VANDERMEER FOREST PRODUCTS, INC., P.O. Box 247, Lynnwood, WA 98036. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055-3273. *Contract carrier,* irregular routes; *Lumber and wood products,* between points in WA and OR, under continuing contract(s) with Nepa Pallet & Container Co., Inc. of Snohomish, WA and Whittier Manufacturing of Eugene, OR, for 270 days. Supporting shippers: Nepa Pallet & Container Co., Inc., P.O. Box 349, Snohomish, WA 98290; Whittier Manufacturing, P.O. Box 2827, Eugene, OR 97402.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-16662 Filed 6-18-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP4, Vol. 215]

Motor Carriers; Permanent Authority Decision; Decision-Notice

Decided: June 15, 1982.

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349,* 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of an application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2, Carleton, Fisher and Williams.

Agatha L. Mergenovich,

Secretary.

MC-F-14659, filed May 21, 1982. SPACE CENTER, INC. (SPACE) (444 Lafayette Rd., St. Paul, MN 55101)—continuance in control—ALL AREA EXPRESS, INC. (ALL) (P.O. Box 5027, Sioux Falls, SD 57117). Representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, MN 55102. SPACE seeks authority to continue in control of ALL upon the institution by ALL of operations in interstate or foreign commerce, as a motor common carrier. ALL has filed an application in MC-157516 to transport *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in IL, IA, KS, MN, MO, NE, ND, SD, TX, and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI). Space Center, Inc., also has an interest in Witte Transportation (MC-8964); and Space Carriers, Inc. (MC-136512).

Note: ALL has filed as a directly related application its initial common carrier application. This application, docketed No. MC-157516, is published in this same **Federal Register** issue.

[FR Doc. 82-16667 Filed 6-18-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP4-VOL-216]

Motor Carriers; Permanent Authority Decision; Decision-Notice

Decided: June 15, 1982.

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 252 of the Commission's General Rules of Practice (49 CFR 1100.252).

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Persons submitting protests to applications filed in

connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved proceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements as to the finance application *or* to the following operating rights applications directly related thereto filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 2, Carleton, Fisher and Williams.

Agatha L. Mergenovich,

Secretary.

MC 157516, filed May 21, 1982. Applicant: ALL AREA EXPRESS, INC., P.O. Box 5027, Sioux Falls, SD 57117. Representative: James W. Ballenthin, 630 Osborn Bldg., St. Paul, MN 55102, (612) 227–7731. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in IL, IA, KS, MN, MO, NE, ND, SD, TX, and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note: This application is directly related to MC–F–14859, published in this same **Federal Register** issue.

[FR Doc. 82–16668 Filed 6–18–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 454 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g. unresolved common contol, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the serivce proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP1–101

Decided: June 10, 1982.

By the Commission, Review Board No. 1. Members Parker, Chandler, and Fortier.

MC 162280, filed June 1, 1982. Applicant: DARRIUS NOTTINGHAM, d.b.a. NHR DISTRIBUTORS, 926 West 2nd St., San Pedro, CA 90731. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162290, filed June 1, 1982. Applicant: BUDDY BROOKSHIRE, 2207–7 Canterwood Dr., Charlotte, NC 28213. Representative: Buddy Brookshire (same

address as applicant), (704) 598–8304. As a broker of *general commodities* (except household goods), between points in the U.S.

Volume No. OP3–090

Decided: June 14, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 139085 (Sub-2), filed June 4, 1982. Applicant: ROSS BROS. TRANSPORTATION, INC., P.O. Box 103, Circle, MT 59215. Representative: W. E. Seliski, 2 Commerce St., P.O. Box 8255, Missoula, MT 59807, (406) 543–8369. Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 162294, filed June 1, 1982. Applicant: MARINE INTERMODAL COOPERATIVE ASSOCIATION, d.b.a. CONTAINER TRANSFER SERVICE, 4533 N. Channel Ave., Portland, OR 97217. Representative: Edward A. Francom, P.O. Box 1970, Lake Oswego, OR 97034, (503) 285–2904. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 162315, filed May 28, 1982. Applicant: AMERICAN FREIGHT FORWARDING, INC., 351 West 38th St., New York, NY 10123. Representative: Ronald Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239–4610. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162334, filed June 3, 1982. Applicant: EDWARD C. WULF, d.b.a. WULF TRUCKING, R.R. #1, Washington, IA 52353. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP4–210

Decided: June 9, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 159577, filed May 27, 1982. Applicant: PAUL K. SCOTT, d.b.a., SCOTT TRUCKING COMPANY, 11201 Old Spanish Trail, New Orleans, LA 70128. Representative: Wade H. Brown, P.O. Box 217, Bessemer, AL 35020, (205) 428–8629. Transporting (1) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, and (2) for and on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 162307, filed June 1, 1982. Applicant: KEN L. SAYLES, R.R. 2, Vermontville, MI 49096. Representative: Ken L. Sayles (same address as applicant), (517) 726–1032. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162347, filed June 4, 1982. Applicant: TURTLE MOUNTAIN TRUCK BROKERS, INC., Route 1, Box 68, Bottineau, ND 58318. Representative: C. Jack Pearce, 1000 Connecticut Avenue NW., Washington, DC 20036, (202) 785–0048. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP4–213

Decided: June 10, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 162306, filed June 1, 1982. Applicant: TRADE AND MARKETING INTERNATIONAL, LTD., 3579 E. Cliff Dr., Salt Lake City, UT 84117. Representative: Frederick J. Coffman, 1834 N. Kelly Ave., P.O. Box 1455, Upland, CA 91786, (714) 981–9981. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP4–218

Decided: June 15, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 133846 (Sub-10), filed May 24, 1982. Applicant: FLITE LINE SERVICE, INC., 1414 Calcon Hook Rd., Sharon Hill, PA 19079. Representative: Gus A. Pedicone (same address as applicant), (215) 365–7350. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), and (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–16514 Filed 6–18–82; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–167 (Sub-No. 453N)]

Conrail Abandonment in Bradford, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 0.2 and milepost 0.8 in the County of McKean, PA, a total distance of 0.6 miles effective on March 11, 1982.

The net liquidation value of this line is $10,551. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–16664 Filed 6–18–82; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–167 (Sub-161N)]

Conrail Abandonment Between Bowersville and Punxsutawaney, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between South Dayton and Waterboro in the Counties of Chautauqua and Cattaraugus, NY, a total distance of 16.1 miles effective on May 18, 1982.

The net liquidation value of this line is $320,000. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable

division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-16666 Filed 6-18-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-167)]

Conrail Abandonment Betweeen New Platz and Wallkill, NY; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between New Platz and Wallkill in the County of Ulster, NY, at total distance of 13.9 miles effective on February 23, 1982.

The net liquidation value of this line is $441,576. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-16668 Filed 6-18-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-No. 150); ICC-UP-C-0040]

Union Pacific Railroad Co.; Exemption for Contract Tariff

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioners are granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The Union Pacific Railroad Company (UP), the Chicago and Northwestern Transportation Company (CNW), and the Chesapeake and Ohio Railway Company (CO), filed a joint petition on May 28, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). Petitioners request that we permit contract ICC-UP-C-0040 filed on May 26, 1982, to become effective on one day's notice. The contract involves the movement of frozen foodstuffs.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. The contract provides for the shipper to tender to the petitioners a specified minimum volume of traffic. This minimum volume is based upon the shipper's projected traffic for its fiscal year 1982-83, which extends from May 1, 1982, to April 30, 1983. Petitioners state that due to unforeseen delays in negotiations the parties were unable to finalize the contract until May 25, 1982. Petitioners state further that this delay may hamper the shipper's ability to meet the minimum volume requirement unless short notice effectiveness of the contract is granted. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Petitioners' contract ICC-UP-C-0040 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(e) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests are filed within 15 days of publication in the **Federal Register**. This action will not significantly affect either the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10505.

Dated: June 14, 1982.

By the Commission, Division 2, Commissioners Gresham, Taylor, and Simmons. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-16669 Filed 6-18-82; 8:45 am]

BILLING CODE 7035-01-M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence Report; Section 208 Report Submitted to the Congress

Notice is hereby given that pursuant to the requirements of Section 208 of the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission (NRC) has published and issued the periodic report to Congress on abnormal occurrences (NUREG-0090, Vol. 4, No. 4). The release date is June 16, 1982.

Under the Energy Reorganization Act of 1974, which created the NRC, an abnormal occurrence is defined as "an unscheduled incident or event which the Commission (NRC) determines is significant from the standpoint of public health or safety." The NRC has made a determination, based on criteria published in the **Federal Register** (42 FR 10950) on February 24, 1977, that events involving an actual loss or significant reduction in the degree of protection against radioactive properties of source, special nuclear, and byproduct materials are abnormal occurrences.

This report to Congress is for the fourth calendar quarter of 1981. The report identifies the occurrences or events that the Commission determined to be significant and reportable; the remedial actions that were undertaken are also described. The report states that there were two abnormal occurrences at the nuclear power plants licensed to operate. One involved a generic concern pertaining to blockage of coolant flow to safety-related systems.

The other involved seismic design errors at the Diablo Canyon Nuclear Power Plant with a subsequent suspension of the fuel load and low power operating license for Unit 1. There were no abnormal occurrences for the other NRC licensees during the report period; the Agreement States reported no abnormal occurrences to the NRC.

The report to Congress also contains information updating a previously reported abnormal occurrence.

Interested persons may review the report at the NRC's Public Document Room, 1717 H Street, NW, Washington D.C. or at any of the more than 120 Local

Public Documents Rooms throughout the country. Single copies of the report, designated NUREG–0090, Vol. 4, No. 4, may be purchased from the National Technical Information Service, Springfield, Virginia 22161, on or about June 30, 1982.

A year's subscription to the NUREG–0090 series publication, which consists of four issues, is available from the NRC/GPO Sales Program, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Microfiche of single copies of the publication are also available from this source.

Dated at Wasington, D.C. this 16th of June 1982.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82-16718 Filed 6-18-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–155]

Consumers Power Co., Big Rock Point Plant; Issuance of Director's Decision Under 10 CFR 2.206

By petitions sent in the form of Mailgrams on April 6, 1982 to the Commissioners of the Nuclear Regulatory Commission (the Commission) (NRC), Ms. JoAnn Bier and Ms. Christa-Maria requested to "intervene" in the startup of the Big Rock Point Plant until the "reactor core can be safely offloaded in the event of an emergency * * *" The petitions have been treated under 10 CFR 2.206 of the Commission's regulations. They were referred to the NRC staff for disposition on April 12, 1982.

On April 10, 1982, prior to the staff's receipt of the petitions, the Big Rock Point facility started up after the 1982 refueling outage. The petitions, which implicitly requested immediate action to prevent the startup, was consequently treated as requests to suspend continued plant operation.

The petitions are based on the fact that the spent fuel pool at the Big Rock Point Plant does not have adequate capacity to allow complete offloading of the reactor fuel in the core. The petitioners indicate four concerns which lead them to the conclusion that the situation presents a threat to public health and safety. These concerns pertain to embrittlement of the reactor vessel due to neutron bombardment, advanced age of reactor systems, lack of a fuel transfer canal and storage of fuel.

Upon review of information pertaining to the issues and the information provided by Ms. Bier and Ms. Christa-Maria, the Director of Nuclear Reactor Regulation has determined that immediate suspension of operation of the Big Rock Point Plant is not warranted. Accordingly, the requests of Ms. Bier and Ms. Christa-Maria have been denied. The reasons for this denial are explained in the "Director's Decision" under 10 CFR 2.206 (DD–82–05), which is available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the local public document room for the Big Rock Point Plant, located at 107 Clinton Street, Charlevoix, Michigan 49720.

A copy of the decision will be file with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c). As provided in this regulation, the decision will become the final action of the Commission twenty-five (25) days after issuance, unless the Commission on its own motion institutes review of the decision within that time.

Dated at Bethesda, Maryland, this 15th day of June, 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-16717 Filed 6-18-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–445, 50–446]

Texas Utilities Generating Co., et al., (Comanche Peak Steam Electric Station, Units 1 and 2); Evidentiary Hearing (Resumed) (Application for Operating License)

Please take notice that a resumption of an evidentiary hearing will be held in this operating license proceeding before an Atomic Safety and Licensing Board (Board), pursuant to the Atomic Energy Act of 1954 as amended (the Act), and the regulations in Title 10, Code of Federal Regulations (CFR), Part 50, "Licensing of Production and Utilization Facilities," Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection," and Part 2, "Rules of Practice." Prior portions of the evidentiary hearing were held December 2, 1981, and June 7–11, 1982.

This continuation of the evidentiary hearing will commence on July 26, 1982, at 8:30 a.m., local time, at the Metro Center Hotel, 600 Commerce Street, Fort Worth, Texas 76102 and will continue until completion of taking evidence on the issues and contentions described hereafter. This evidentiary hearing will address the remaining matters in controversy from Contention 5 (QA/QC).

Written limited appearance statements may be submitted to the Board at any time prior to closing the record in this phase of the proceeding. Oral statements will only be received at times designated by the Board in order not to interfere with the taking of evidence in this adjudicatory proceeding. Both oral and written statements will be made a part of the official record of this proceeding.

It is so ordered.

For the Atomic Safety and Licensing Board.

Marshall E. Miller,

Chairman, Administrative Judge.

June 15, 1982.

[FR Doc. 82-16719 Filed 6-18-82; 8:45 am]

BILLING CODE 7590-01-M

SMALL BUSINESS ADMINISTRATION

Region III Advisory Council Meeting

The U.S. Small Business Administration Region III Advisory Council, located in the geographical area of Pittsburgh, will hold a public meeting beginning at 11:00 a.m. on June 29, 1982 and adjournment will be mid-day June 30 1982, at the Pike Run Country Club, Jones Mills, Pennsylvania 15646, to have various committees of the Advisory Council meet to discuss committees roles and such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

There are limited facilities and for further information, write or call David P. Malone, Acting District Director, U.S. Small Business Administration, 960 Penn Avenue, Convention Tower, 5th Floor, Pittsburgh, Pennsylvania 15222, (412) 644–4306.

Dated: June 16, 1982.

Joan M. Nowak,

Acting Director, Office of Advisory Councils.

[FR Doc. 82-16722 Filed 6-18-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Traffic Procedures Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee to be held from July 26, at 1 p.m., through July 30, at 1 p.m., at the FAA New England Region Headquarters, 12 New England

Executive Park, Burlington, Massachusetts.

The agenda for this meeting is as follows: A continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

Attendance is open to the interested public, but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, Mr. L. Lane Speck, Executive Director, Air Traffic Procedures Advisory Committee, Air Traffic Service, AAT-301, 800 Independence Avenue, S.W., Washington, D.C. 20591, telephone (202) 426-3725.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on June 9, 1982.

L. Lane Speck,

Executive Director, ATPAC.

[FR Doc. 82-16036 Filed 6-18-82; 8:45 am]

BILLING CODE 4910-13-M

Over Speed Warning Instruments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for comments on draft Technical Standard Order (TSO).

SUMMARY: The draft TSO-C101 prescribes the minimum performance standard that overspeed warning equipment must meet in order to be identified with the TSO marking "TSO-C101."

DATE: Comments must identify the TSO file number and be received on or before October 22, 1982.

ADDRESS: Send all comments on the draft Technical Standard Order to: Federal Aviation Administration, Engineering Analysis, AWS-120, Aircraft Engineering Division, Office of Airworthiness, File No. TSO-C101, 800 Independence Avenue SW., Washington, D.C. 20591.

Or deliver comments to: Room 335, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Bobbie, J. Smith, Standards Section, AWS-132, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, Telephone (202) 426-8323.

Comments received on the draft Technical Standard Order may be inspected, before and after the closing date for comments, at Room 335, FAA Headquarters Building (FOB-10A), 800 Independence Avenue SW., Washington, D.C. 20591, between 8:30 a.m. and 5:00 p.m.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they may desire. Communications should identify the TSO File number and be submitted to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director of Airworthiness before issuing the final TSO.

How To Obtain Copies

A copy of the proposed draft TSO may be obtained by contacting the person under "For Further Information Contact." TSO-C101 references Society of Automotive Engineers, Inc. (SAE) Aerospace Standard (AS) 8007 dated February, 1978 for the minimum performance standard, and the Radio Technical Commission for Aeronautics (RTCA) Document No. DO-160A dated January, 1980 for the environmental conditions and test procedures. SAE AS 8007 may be purchased from the Society of Automotive Engineers, Inc., Department 331, 400 Commonwealth Drive, Warrendale, Pennsylvania 15096. RTCA Document No. DO-160A may be purchased from the Radio Technical Commission for Aeronautics Secretariat, 1717 H Street NW., Washington, D.C. 20006.

Issued in Washington, D.C., on June 2, 1982.

Jerold M. Chavkin,

Acting Director, Office of Airworthiness.

[FR Doc. 82-16042 Filed 6-18-82; 8:45 am]

BILLING CODE 4910-13-M

Airborne Radar Approach and Beacon Systems for Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for comments on draft Technical Standard Order (TSO).

SUMMARY: The draft TSO-C102 prescribes the minimum performance standard that airborne radar approach systems for helicopters must meet in order to be identified with the TSO marking "TSO-C102."

DATE: Comments must identify the TSO file number and be received on or before October 22, 1982.

ADDRESS: Send all comments on the draft Technical Standard Order to: Federal Aviation Administration, Engineering Analysis, AWS-120, Aircraft Engineering Division, Office of Airworthiness—File No. TSO-C102, 800 Independence Avenue, S.W., Washington, D.C. 20591; or deliver comments to: Room 335, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Bobbie J. Smith, Standards Section AWS-132, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; Telephone (202) 426-8323.

Comments received on the draft Technical Standard Order may be inspected, before and after the closing date of comments, at Room 335, FAA Headquarters Building (FOB-10A), 800 Independence Avenue, S.W., Washington, D.C. 20591, between 8:30 a.m. and 5:00 p.m.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they may desire. Communications should identify the TSO file number and be submitted to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director of Airworthiness before issuing the final TSO.

How to Obtain Copies

A copy of the proposed draft TSO may be obtained by contracting the person under "**FOR FURTHER INFORMATION CONTACT.**" TSO-C102 references Radio Technical Commission for Aeronautics Secretariat (RTCA) Document No. DO-160A "Environmental Conditions and Test Procedures for Airborne Equipment," dated January 1980, and DO-172 "Minimum Operational Performance Standards for Airborne Radar Approach and Beacon Systems for Helicopters," dated November 1980. RTCA Document Nos. DO-160A and DO-172 may be purchased from the Radio Technical Commission for Aeronautics Secretariat, 1717 H Street, N.W., Washington, D.C. 20006.

Issued in Washington, D.C., on June 2, 1982.

Jerold M. Chavkin,

Acting Director, Office of Airworthiness.

[FR Doc. 82-16643 Filed 6-18-82; 8:45 am]

BILLING CODE 4910-13-M

Aircraft Tires

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for comments on Addendum 1 for TSO–C62c, aircraft tires.

SUMMARY: Addendum 1 incorporates provisions for helicopter tires and makes certain non-substantive clarifications to the existing minimum performance standards that aircraft tires must meet in order to be identified with the TSO marking "TSO–C62c."

DATE: Comments must identify the TSO file number and be received on or before October 22, 1982.

ADDRESS: Send all comments to Addendum 1 to: Federal Aviations Administration, Engineering Analysis, AWS–132, Aircraft Engineering Division, Office of Airworthiness—File No. TSO–C62c, 800 Independence Avenue, S.W., Washington, D.C. 20591; or deliver comments to: Room 335, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Ms. Bobbie J. Smith, Standards Section, AWS–132, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; Telephone (202) 426–8323. Comments received on Addendum 1 for Aircraft Tires may be inspected, before and after the closing date for comments, at Room 335, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, S.W., Washington, D.C. 20591, between 8:30 a.m. and 5:00 p.m.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on Addendum 1 for TSO–C62c, Aircraft Tires listed in this notice by submitting such written data, views, or arguments as they may desire. Communications should identify the TSO file number and be submitted to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director of Airworthiness before issuing the final TSO.

How to Obtain Copies

A copy of Addendum 1 for TSO–C62c, Aircraft Tires may be obtained by contacting the person under **"FOR FURTHER INFORMATION CONTACT."**

Issued in Washington, D.C., on June 2, 1982.

Jerold M. Chavkin,

Acting Director, Office of Airworthiness.

[FR Doc. 82-16641 Filed 6-18-82; 8:45 am]

BILLING CODE 4910-13-M

Aircraft Wheels and Wheel Brake Assemblies

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for comments on Addendum 1 for TSO–C26c, aircraft wheels and wheel brake assemblies.

SUMMARY: Addendum 1 makes certain non-substantive clarifications to the existing minimum performance standards that aircraft tires must meet in order to be identified with the TSO marking "TSO–C26c."

DATE: Comments must identify the TSO file number and be received on or before October 22, 1982.

ADDRESS: Send all comments on Addendum 1 for Aircraft Wheels and Wheel Brake Assemblies to: Federal Aviation Aministration, Systems Branch, AWS–130, Aircraft Engineering Division, Office of Airworthiness—File No. TSO–C26c, 800 Independence Avenue, S.W., Washington, D.C. 20591; or deliver comments to: Room 335, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Ms. Bobbie J. Smith, Systems Branch, AWS–130, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; Telephone (202) 426–8395. Comments received on Addendum 1 for TSO–C26c, Aircraft Wheels and Wheel Brake Assemblies may be inspected, before and after the closing date for comments, at Room 335, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, S.W., Washington, D.C. 20591, between 8:30 a.m. and 5:00 p.m.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on Addendum 1 for TSO–C26c, Aircraft Wheels and Wheel Brake Assemblies listed in this notice by submitting such written data, views, or arguments as they may desire. Communications should identify the TSO file number and be submitted to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director of Airworthiness before issuing the final TSO.

How to Obtain Copies

A copy of Addendum 1 for TSO–C26c, Aircraft Wheels and Wheel Brake Assemblies may be obtained by contacting the person under **"FOR FURTHER INFORMATION CONTACT."**

Issued in Washington, D.C., on June 2, 1982.

Jerold M. Chavkin,

Acting Director, Office of Airworthiness.

[FR Doc. 82-16648 Filed 6-18-82; 8:45 am]

BILLING CODE 4910-13-M

Airspeed Instruments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for comments on draft Technical Standard Order (TSO).

SUMMARY: The draft TSO–C2c prescribes the minimum performance standard that airspeed instruments must meet in order to be identified with the TSO marking "TSO–C2c."

DATE: Comments must identify the TSO file number and be received on or before October 22, 1982.

ADDRESS: Send all comments on the draft Technical Standard Order to: Federal Aviation Administration, Engineering Analysis Branch, AWS–120, Aircraft Engineering Division, Office of Airworthiness—File No. TSO–C2c, 800 Independence Avenue, S.W., Washington, D.C. 20591; or deliver comments to: Room 335, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Ms. Bobbie J. Smith, Standards Section, AWS–132, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; Telephone (202) 426–8323. Comments received on the draft Technical Standard Order may be inspected, before the closing date for comments, at Room 335, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, S.W., Washington, D.C. 20591, between 8:30 a.m. and 5:00 p.m.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written

data, views, or arguments as they may desire. Communications should identify the TSO file number and be submitted to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director of Airworthiness before issuing the final TSO.

How To Obtain Copies

A copy of the proposed draft TSO may be obtained by contacting the person under "**FOR FURTHER INFORMATION CONTACT**" TSO–C2b references Society of Automotive Engineers, Inc. (SAE) Aerospace Standard (AS) 8019 dated March 30, 1981, for the minimum performance standard and Radio Technical Commission for Aeronautics (RTCA) Document No. DO–160A dated January 1980 for the environmental conditions and test procedures. SAE AS 8019 may be purchased from the Society of Automotive Engineers, Inc., Department 331, 400 Commonwealth Drive, Warrendale, Pennsylvania 15096. RTCA Document No. DO–160A may be purchased from the Radio Technical Commission for Aeronautics Secretariat, 1717 H Street, N.W., Washington, D.C. 20006.

Issued in Washington, D.C., on June 2, 1982.

Jerold M. Chavkin,

Acting Director, Office of Airworthiness.

[FR Doc. 82-16045 Filed 6-18-82; 8:45 am]

BILLING CODE 4910-13-M

Direction Instrument, Non-Magnetic (Gyroscopically Stabilized)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for comments on draft Technical Standard Order (TSO).

SUMMARY: The draft TSO–C5d prescribes the minimum performance standard that direction instrument, non-magnetic (gyroscopically stabilized) must meet in order to be identified with the TSO marking "TSO–C5d."

DATE: Comments must identify the TSO file number and be received on or before October 22, 1982.

ADDRESS: Send all comments on the draft Technical Standard Order to: Federal Aviation Administration, Engineering Analysis, AWS–120, Aircraft Engineering Division, Office of Airworthiness—File No. TSO–C5d, 800 Independence Avenue, S.W., Washington, D.C. 20591; or deliver comments to: Room 335, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Ms. Bobbie J. Smith, Standards Section, AWS–132, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; Telephone (202) 426–8323. Comments received on the draft Technical Standard Order may be inspected, before and after the closing date for comments, at Room 335, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, S.W., Washington, D.C. 20591, between 8:30 a.m. and 5:00 p.m.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they may desire. Communications should identify the TSO file number and be submitted to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director of Airworthiness before issuing the final TSO.

How To Obtain Copies

A copy of the proposed draft TSO may be obtained by contacting the person under "**FOR FURTHER INFORMATION CONTACT.**" TSO–C5d references Society of Automotive Engineers, Inc. (SAE) Aerospace Standard (AS) 8021 dated March 16, 1981 for the minimum performance standard and Radio Technical Commission for Aeronautics (RTCA) DO–160A dated January 1980 for the environmental conditions and test procedures. SAE AS 8021 may be purchased from the Society of Automotives Engineers, Inc. Department 331, 400 Commonwealth Drive, Warrendale, Pennsylvania 15096. RTCA Document No. DO–160A may be purchased from the Radio Technical Commission for Aeronautics Secretariat, 1717 H Street, N.W., Washington, D.C. 20006.

Issued in Washington, D.C., on June 2, 1982.

Jerold M. Chavkin,

Acting Director, Office of Airworthiness.

[FR Doc. 82-16046 Filed 6-18-82; 8:45 am]

BILLING CODE 4910-13-M

ILS Glide Slope Receiving Equipment Operating Within 328.6 To 335.4 Megahertz

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for comments on draft Technical Standard Order (TSO).

SUMMARY: The draft TSO–C34d prescribes the minimum performance standard that ILS glide slope receiving equipment operating within 328.6 to 335.4 Megahertz must meet in order to be identified with TSO marking "TSO–C34d."

DATE: Comments must identify the TSO file number and be received on or before October 22, 1982.

ADDRESS: Send all comments on the draft Technical Standard Order to: Federal Aviation Administration, Engineering Analysis, AWS–120, Aircraft Engineering Division, Office of Airworthiness—File No. TSO–C34d, 800 Independence Avenue, S.W., Washington, D.C. 20591; or delivered comments to: Room 335, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Ms. Bobbie J. Smith, Standards Section, AWS–132, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; Telephone (202) 426–8323. Comments received on the draft Technical Standard Order may be inspected, before and after the closing date for comments, at Room 335, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, S.W., Washington, D.C. 20591, between 8:30 a.m. and 5:00 p.m.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they may desire. Communications should identify the TSO file number and be submitted to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director of Airworthiness before issuing the final TSO.

How To Obtain Copies

A copy of the proposed draft TSO may be obtained by contacting the person under "**FOR FURTHER INFORMATION CONTACT.**" TSO–C34d reference Radio Technical Commission for Aeronautics (RTCA) Document No. DO–132A dated November 2, 1978 for the minimum performance standard and DO–160A dated January 1980 for the environmental conditions and test procedures. RTCA Document No. DO–132A or DO–160A may be purchased from the Radio Technical Commission

for Aeronautics Secretariat, 1717 H Street, N.W., Washington, D.C. 20006.

Issued in Washington, D.C., on June 2, 1982.

Jerold M. Chavkin,

Acting Director, Office of Airworthiness.

[FR Doc. 82-16640 Filed 6-18-82; 8:46 am]

BILLING CODE 4910-13-M

Optional Display Equipment for Weather and Ground Mapping Radar Indicators

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for comments on draft Technical Standard Order (TSO).

SUMMARY: The draft TSO–C105 prescribes the minimum performance standard that optional display equipment for weather and ground mapping radar indicators must meet in order to be identified with the marking "TSO–C105."

DATE: Comments must identify the TSO file number and be received on or before October 22, 1982.

ADDRESS: Send all comments on the draft Technical Standard Order to: Federal Aviation Administration, Engineering Analysis, AWS–132, Aircraft Engineering Division, Office of Airworthiness—File No. TSO–C105, 800 Independence Avenue, S.W., Washington, D.C. 20591; or deliver comments to: Room 335, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Bobbie J. Smith, Standard Section, AWS–132, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; Telephone (202) 426–8323. Comments received on the draft Technical Standard Order may be inspected, before and after the comment closing date at Room 335, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, S.W., Washington, D.C. 20591, between 8:30 a.m. and 5:00 p.m.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they may desire. Communications should identify the TSO file number and be submitted to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director of Airworthiness before issuing the final TSO.

How To Obtain Copies

A copy of the proposed draft TSO may be obtained by contacting the person under **"FOR FURTHER INFORMATION CONTACT."** TSO–C105 references Radio Technical Commission for Aeronautical (RTCA) Document No. DO–174 dated July 1961, for the minimum performance standard and RTCA Document No. DO–160A dated January 1980 for the environmental conditions and test procedures. RTCA Document Nos. DO–160A and DO–174 may be purchased from the Radio Technical Commission for Aeronautics Secretariat, 1717 H Street, N.W., Washington, D.C. 20006.

Issued in Washington, D.C., on June 2, 1982.

Jerold M. Chavkin,

Acting Director, Office of Airworthiness.

[FR Doc. 82-16644 Filed 6-18-82; 8:45 am]

BILLING CODE 4910-13-M

Powerplant Fire Detection Instruments (Thermal and Flame Contact Types)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for comments on draft Technical Standard Order (TSO).

SUMMARY: The draft TSO–C11e prescribes the minimum performance standard that powerplant fire detection instruments (thermal and flame contact types) must meet in order to be identified with the TSO marking "TSO–C11e."

DATE: Comments must identify the TSO file number and be received on or before October 22, 1982.

ADDRESS: Send all comments on the draft Technical Standard Order to: Federal Aviation Administration, Engineering Analysis, AWS–120, Aircraft Engineering Division, Office of Airworthiness—File No. TSO–C11e, 800 Independence Avenue, S.W., Washington, D.C. 20591; Room 335, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Bobbie J. Smith, Standards Section, AWS–132, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; Telephone (202) 426–8323. Comments received on the draft Technical Standard Order may be inspected, before and after the closing date for comments, at Room 335, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, S.W., Washington, D.C. 20591, between 8:30 a.m. and 5:00 p.m.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they may desire. Communications should identify the TSO file number and be submitted to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director of Airworthiness before issuing the final TSO.

How to Obtain Copies

A copy of the proposed draft TSO may be obtained by contacting the person under **"FOR FURTHER INFORMATION CONTACT."** TSO–C11e references Society of Automotive Engineers, Inc. (SAE) Aerospace Standard (AS) 8028 dated April, 1980 for the minimum performance standard and Radio Technical Commission for Aeronautics (RTCA) Document No. DO–160A dated January 1980 for the environmental conditions and test procedures. SAE AS 8028 may be purchased from the Society of Automotive Engineers, Inc., Department 331, 400 Commonwealth Drive, Warrendale, Pennsylvania 15096. RTCA Document No. DO–160A may be purchased from the Radio Technical Commission for Aeronautics Secretariat, 1717 H Street, N.W., Washington, D.C. 20006.

Issued in Washington, D.C., on June 2, 1982.

Jerold M. Chavkin,

Acting Director, Office of Airworthiness.

[FR Doc. 82-16647 Filed 6-18-82; 8:45 am]

BILLING CODE 4910-13-M

Research and Special Programs Administration

Office of Hazardous Materials Regulation; Applications for Renewal or Modification of Exemptions of Applications To Become a Party to an Exemption

Correction

In FR Doc. 82–15832, published on page 25649, on Monday, June 14, 1982 in the first column, in the **"DATE:"** paragraph, "July 14, 1982." should be corrected to read "June 29, 1982."

BILLING CODE 1505-01-M

[Docket No. 79-10W; Notice 2]

Transportation of Liquids by Pipeline; Waiver of Compliance With Requirement To Inspect Valves for Proper Functioning at 6-Month Intervals

The Alyeska Pipeline Service Company petitioned (Petition 79-10W) the Materials Transportation Bureau (MTB) for a waiver to extend the 6-month interval within which main line valves must be inspected for proper functioning under § 195.420(b). Alyeska requested that the inspection interval be extended from 6 months to two inspections annually, with intervals not greater than 8 months between inspections. The waiver was sought for all remotely controlled main line valves (RGV) on the entire 800-mile length of the Trans-Alaska Pipeline System.

The Alyeska request stated that the severe weather conditions for much of the year must be considered in all operating and maintenance procedures, and such procedures developed for the region must be designed to minimize hazardous exposure to personnel. As a result, visits to the RGV sites during the winter are performed under emergency conditions only. In order to perform the tests for the function prescribed by § 195.420(b) during favorable weather, Alyeska requested a waiver from compliance with § 195.420(b).

Alyeska argued that it is not possible to remotely operate each valve without visiting each RGV site, because the RGV's are remotely controlled in groups, and operating a group of valves would require shutting down pipeline operations.

According to Alyeska, in the history of the Trans-Alaska Pipeline System, there have been few instances where RGV's have failed to operate and none of these resulted in an unsafe condition.

In view of the above, the MTB published a notice on October 26, 1981 (46 FR 52268) proposing to grant to Alyeska the requested waiver.

Interested persons were invited to comment on the proposed waiver by submitting data, views, or arguments as they desired. Two industry commenters responded to the notice and both commenters recommended granting the proposed waiver arguing that the current 6-month inspection interval as prescribed in § 195.420(b), does not allow sufficient flexibility in scheduling the valve inspections.

In consideration of (1) the hazards to operating personnel presented by the winter wather conditions along the Trans-Alaska Pipeline System, (2) lack of opportunity to substitute a remote functional test of the RGV's for an attended functional test, (3) the record of reliability of the RGV's, and (4) the comments received in favor of granting the proposed waiver, the MTB hereby grants Alyeska the requested waiver from compliance with § 195.420(b), provided the following requirement is met:

"Alyeska shall inspect two times each calendar year, with intervals between inspections not to exceed 8 months, each main line valve to determine that it is functioning properly."

(49 U.S.C. 2002; 49 CFR 1.53(a), Appendix A to Part 1 and Appendix A to Part 106)

Issued in Washington, D.C. on June 16, 1982.

Melvin A. Judah,

Acting Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 82-16752 Filed 6-18-82; 8:45 am]

BILLING CODE 4910-52-M

VETERANS ADMINISTRATION

Veterans Administration Wage Committee; Meetings

Under the provisions of section 10 of Pub. L. 92-463, notice is hereby given that meetings of the Veterans Administration Wage Committee will be held on:

Thursday, July 8, 1982
Thursday, July 22, 1982
Thursday, August 5, 1982
Thursday, September 2, 1982
Thursday, September 30, 1982

The meetings will convene at 2:30 p.m. and will be held in Room 815A, Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC 20420.

The Committee's primary responsibility is to consider and make recommendations to the Chief Medical Director, Department of Medicine and Surgery, on all matters involved in the development and authorization of wage rate schedules for Federal Wage System (blue-collar) employees.

At these scheduled meetings, the Committee will consider wage survey specifications, wage survey data, local committee reports and recommendations, statistical analyses, and proposed wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, the Federal Advisory Committee Act, as amended by Pub. L. 94-409, meetings may be closed to the public when they are concerned with matters listed under section 552b, Title 5, United States Code. Two of the matters so listed are those related solely to the internal personnel rules and practices of an agency (5 U.S.C. 552b(c)(2)), and those involving trade secrets and commercial or financial information obtained from a person and privileged or confidential (5 U.S.C. 552b(c)(4)).

Accordingly, I hereby determine that all portions of the meetings cited above will be closed to the public because the matters considered are related to the internal rules and practices of the Veterans Administration (5 U.S.C. 552b(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the date will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who wish to do so are invited to submit material in writing to the Chairman regarding matters believed to be deserving of the Committee's attention.

Additional information concerning these meetings may be obtained by contacting the Chairman, Veterans Administration Wage Committee, Room 1175, 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: June 14, 1982.

Robert P. Nimmo,

Administrator.

[FR Doc. 82-16850 Filed 6-18-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 119
Monday, June 21, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

Addition and Closure of Item to the June 15, 1982 Board Meeting.

June 15, 1982

TIME AND DATE: 10 a.m., June 15, 1982.

PLACE: Room 1027 (open), Room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 28. Negotiations with Venezuela. (BIA)

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

[S–913–82 Filed 6–17–82; 3:15 pm]

BILLING CODE 6320–01–M

2

COMMODITY CREDIT CORPORATION

TIME AND DATE: 2 p.m., June 25, 1982.

PLACE: Room 104–A Administration Building, U.S. Department of Agriculture, Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:

1. Minutes of Closed meeting of April 9, 1982.
2. Minutes of Closed Meeting of May 19, 1982.
3. Docket XCP 137a re: Barley, Oats, Corn, Rye, and Sorghum, Loan and Purchase, Payment, and Production Adjustment Programs for the 1982 through 1985 Marketing Years.
4. Docket XCP 72a re: Cotton Loan Program for the 1982 and Subsequent Marketing Years (Extra Long Staple).
5. Docket XCP 72a re: Cotton Loan, Payment, and Production Adjustment Programs for the 1982 through 1985 Marketing Years (Upland).
6. Docket XCP 66a re: Honey Loan and Purchase Program for the 1982 and Subsequent Crops.
7. Docket XCP 31a re: Peanut Loan and Purchase Program for the 1982 through 1985 Marketing Years.
8. Docket XCP 33a re: Rice Loan and Purchase, Payment, and Production Adjustment Program for the 1982 through 1985 Marketing Years.
9. Docket XCP 105 re: Soybean Loan and Purchase Program for the 1982 through 1985 Marketing Years.
10. Docket XCP 40a re: Tobacco Price Support Program for the 1982 and Subsequent Crops.
11. Docket XCP 2a re: Wheat Loan and Purchase, Payment, and Production Adjustment Program for the 1982 through 1985 Marketing Years.
12. Report re: Status of Commodity Credit Corporation Claims.
13. Ratification re: Commodities Available for Pub. L. 480 During Fiscal Year 1982, Amendment 1 (Resolution No. 19, CZ–266).
14. Memorandum re: Memorandum from FmHA to Commodity Credit Corporation Concerning Biomass Proposal.

Closed portion of meeting:

15. Discussion re: Export Trade Policy.

CONTACT PERSON FOR MORE INFORMATION: Edward D. Hews, Secretary, Commodity Credit Corporation, P.O. Box 2415, Room 3090–South Building, U.S. Department of Agriculture, Washington, D.C. 20013; telephone (202) 447–7583.

[S–909–82 Filed 6–17–82; 11:23 am]

BILLING CODE 3410–05–M

3

FEDERAL COMMUNICATIONS COMMISSION

FCC To Hold Open Commission Meeting Wednesday, June 23, 1982

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Wednesday, June 23, 1982, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

General—1—*Title:* In re petition by Alaska Public Broadcasting Commission (RM–3533) for amendment of Parts 2, 73 and 74 of the FCC's Rules and Regulations. *Summary:* The FCC released a Notice of Proposed Rule Making on January 7, 1982, in General Docket 81–911, looking toward reallocation of the 76–100 MHz band, in Alaska, for broadcasting. The Commission will not consider the merits of such action.

General—2—*Title:* Report and Order Relating to Preparation for an International Communication Union (ICU) 1983 World Administrative Radio Conference (WARC) for Mobile Telecommunications. *Summary:* Presents the Agenda of the 1983 WARC, and the FCC recommended U.S. proposals for that conference to be sent to the Department of State with a request that they be sent as the formal U.S. input to that WARC.

General—3—*Title:* Adoption of rules for Direct Broadcast Satellite (DBS) service. *Subject:* Commission will consider whether to adopt *Report and Order* containing rules and frequency allocations for DBS.

General—4—*Title:* In re Establishment of a spectrum utilization policy for the fixed and mobile services' use of certain bands between 17.7 and 40.0 GHz. *Summary:* The Commission will consider initiating a proceeding to establish a policy for utilization of spectrum between 17.7 and 40.0 GHz which is allocated to the fixed and mobile services.

General—5—*Title:* Notice of Proposed Rulemaking to expand the frequencies available for use by Aural broadcast STL and Intercity relay stations. *Summary:* The Commission will consider the merits of RM–2697, filed by the National Association of Broadcasters (NAB), to reallocate the 942–947 MHz band back to the Broadcast Auxilitary Service and RM–3246, filed by Moseley Associates, Inc., to use unassigned UHF–TV channels for Broadcast Auxiliary Service. Additionally, the Commission will consider the merits of sharing the 2130–2150 MHz and 2180–2200 MHz bands presently allocated to the Private Operational-Fixed Microwave Service, with the Broadcast Auxiliary Service.

Private Radio—1—*Title:* Reconsideration of Amendment of Subpart H of Part 90 of the Commisison's Rules and Regulations to Facilitate Interservice Sharing of Frequencies in the Private Land Mobile Services Below 470 MHz. *Summary:* FCC has before it for consideration disposition of two petitions for reconsideration of action taken in a Report and Order released November 5, 1981 which allowed for the Interservice sharing of frequencies in the Private Land Mobile Radio Services.

Common Carrier—1—*Title:* In the Matter of Xerox Corporation and MCI Communications Corporation. Application for Consent to Transfer Control of WUI, Inc., Western Union International, Inc., Airsignal International, Inc. *et al.* *Summary:* The Commission will consider the Application filed by Xerox and MCI for consent to transfer control of WUI, Inc. and its subsidiaries from Xerox to MCI. Issues include whether MCI is a wireline carrier and the effects of the acquisition on competition.

Renewal—1—*Title:* Renewal applications for Stations WABC–TV, WCBS–TV, WNBC–TV, WNEW–TV, New York, New York, and for Stations KYW–TV, WCAU–TV, and WPIX–TV, and WPVI–TV, Philadelphia, Pennsylvania, and the license for Station WOR–TV, New York, New York. *Subject:* The Commission will consider the various proposals of the licensees of the subject stations to enhance their physical presence in New Jersey by establishing news bureaus in New Jersey, with interconnections to the main studios and with a variety of promotional efforts to publicize the facilities, and petitions to deny the renewal applications, filed by the New Jersey Coalition for Fair Broadcasting.

Renewal—2—*Title:* Renewal application of Educational Broadcasting Corporation for educational television station WNET, Newark, New Jersey. *Subject:* The Commission considers a petition to deny WNET's renewal application filed by the New Jersey Coalition for Fair Broadasting, in which the Coalition alleges that WNET has failed and will continue to fail to provide adequate coverage of New Jersey news, events, and other items of interest.

Renewal—3—*Title:* Competing applications of United Broadcasting Company of Eastern Maryland, Inc. for renewal of license of Station WYST(FM), Baltimore, Mayland, and SRW Inc. and Belvedere Broadcasting Corporation for construction permits. *Summary:* The Commission considers designating the mutually exclusive applications for a consolidated proceeding.

Renewal—4—*Title:* License Renewal Applications of Northern Television, Inc., for Stations KTVA(TV), KBYR, and KNIK(FM), Anchorage, Alaska and KTVF(TV) and KCBF, Fairbanks, Alaska. *Summary:* The Commission will consider a petition to deny the license renewal applications of the above stations filed by Alaskans for Better Media, Inc.

Renewal—5—*Title:* Competing applications of Faith Center, Inc. for renewal of its license for Station KVOF–TV, San Francisco, California, and of LDA Communications, Inc., West Coast United Broadcasting Company, and Together Media Ministries for construction permits on KVOF–TV's frequency. *Subject:* The Commission considers designating these applications for comparative hearing with appropriate issues.

Renewal—6—*Title:* Renewal application of United Broadcasting Company of New York, Inc. for AM Station WBNX, New York, New York, and mutually exclusive application by Osborne Communications Corporation for a construction permit. *Summary:* The Commission considers designating these applications for comparative hearing.

Aural—1—*Title:* In re application of Ettlinger Broadcasting Corporation for a construction permit for a new FM station. *Summary:* The Commission considers a petition by Ettlinger Broadcasting Corporation, applicant for a new FM station at Westmorland, California for reconsideration of our *Memorandum Opinion and Order*, adopted July 16, 1980, denying its waiver request and dismissing its application.

Broadcast—1—*Title:* Petition for reconsideration filed by CBS, Inc., licensee of Station WBBM–TV, Chicago, Illinois. *Summary:* The Commission will consider the assignment of the call letters WBBS–TV to a new television station in West Chicago, Illinois.

Broadcast—2—*Title:* In the Matter of Review of the Commission's Rules Affecting Broadcast Network Conduct. *Summary:* The Commission will consider a recommendation by the Broadcast Bureau concerning the syndication and financial interest rule. 47 CFR 73.658(j).

Broadcast—3—*Title:* Public Notice in re *Report and Order*, An Inquiry into the Future Role of Television Translators and Low Power Television Broadcasting in the National Telecommunications System. (BC Docket No. 78–253). *Summary:* The FCC considers an application amendment period pursuant to the new television translator and low power television rules.

Complaints and Compliance—1—*Title:* Petition for Reconsideration by George Miller of the Commission's denial of his Application for Review. *Summary:* Mr. Miller reiterates allegations that he was personally attacked in three station programs presented on WBPZ–AM–FM. He claims that the licensee's past program performance has not served the public interest, and that the station has engaged in self-serving and discriminatory conduct. He requests that the Commission either hold oral arguments or an evidentiary hearing; suspend the stations' licenses; or order the licensee to broadcast his responses to the alleged personal attacks.

Complaints and Compliance—2—*Title:* Application for Review, filed on March 10, 1981, by De La Hunt Broadcasting Corporation, licensee of radio station KPRM, Park Rapids, Minnesota, of the Broadcast Bureau's February 10, 1981, Memorandum Opinion and Order denying the licensee's request for a reduction of forefeiture. *Summary:* The licensee requests remission of a forfeiture imposed by the Broadcast Bureau for apparent violation of the fraudulent billing rule and reduction of a forfeiture imposed for apparent violation of the lowest unit charge rule which applies to uses by political candidates.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: June 16, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–911–82 Filed 6–17–82; 2:31 pm]

BILLING CODE 6712–01–M

4

FEDERAL COMMUNICATIONS COMMISSION

FCC To Hold a Closed Commission Meeting, Wednesday, June 23, 1982

The Federal Communications Commission will hold a Closed Meeting on the subject listed below on Wednesday, June 23, 1982, following the Open Meeting which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

Complaints and Compliance—1—Field investigation into the operation of Station WABC–TV New York, New York.

This item is closed to the public because it concerns adjudicatory and investigatory records matters (See CFR 0.603 (j) and (g)).

The following persons are expected to attend:

Commissioners and their Assistants
General Counsel and members of his staff
Managing Director and members of his staff
Chief, Broadcast Bureau and his staff
Chief, Office of Public Affairs and members of his staff

Action by the Commission June 3, 1982. Commissioners Fowler, Chairman; Quello, Washburn, Fogarty, Jones, Dawson and Rivera voting to consider this item in Closed Session.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: June 16, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–912–82 Filed 6–17–82; 2:31 pm]

BILLING CODE 6712–01–M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, June 14, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business

required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,267-L—Franklin National Bank of New York, New York

Case No. 45,269-L—The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee

Memorandum re: Guidelines on Membership Dues, Conferences and Training.

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: June 16, 1982.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[S-910-82 Filed 6-17-82; 11:42 am]

BILLING CODE 6714-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 12:43 p.m. on Saturday, June 12, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider a recommendation with respect to an administrative enforcement proceeding against an insured bank and persons participating in the conduct of the affairs thereof. The names of such persons and the name and location of the bank are authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

At that same meeting the Board of Directors (1) received sealed bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Banco Regional, Bayamon, Puerto Rico, which was closed on June 12, 1982, by the Secretary of the Treasury of the Commonwealth of Puerto Rico; (2) accepted the bid for the transaction submitted by Citibank, N.A., New York City (Manhattan), New York; and (3) provided such financial assistance, pursuant to section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Chairman's Office, Room 6023 of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Dated: June 14, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-914-82 Filed 6-17-82; 3:16 pm]

BILLING CODE 6714-01-M

7

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, June 21, 1982, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b (c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (b)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Application for consent to purchase assets and assume liabilities and to establish one branch:

Frontier Bank, Everett, Washington, for consent to purchase the assets of and assume the liability to pay deposits made in Bank of Arlington, Arlington, Washington, and to establish the sole office of Bank of Arlington as a branch of the resultant bank.

Recommendation regarding the Corporation's assistance agreement with an insured bank pursuant to section 13(c) of the Federal Deposit Insurance Act.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: June 14, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-915-82 Filed 6-17-82; 3:17 pm]

BILLING CODE 6714-01-M

8

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, June 21, 1982, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is

anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,257–SR—Franklin Bank, Houston, Texas
Case No. 45,259–L—Franklin National Bank, New York, New York
Case No. 45,260–SR—First State Bank, Dodson, Texas
Case No. 45,264–SR—Surety Bank and Trust Company, Wakefield, Massachusetts
Case No. 45,266–NR—United States National Bank, San Diego, California
Case No. 45,273–SR—Bank of Enville, Enville, Tennessee

Memorandum and resolution re: Proposed amendments to Parts 303 and 308 of the Corporation's rules and regulations, entitled "Applications, Requests, Submittals, and Notices of Acquisition of Control" and "Rules of Practice and Procedures," respectively, which would (1) delegate to the Corporation's Board of Review and to certain officers of the Corporation the authority to take certain actions with respect to administrative enforcement proceedings brought by the Corporation; (2) delegate to the Executive Secretary the authority to act on certain procedural motions in connection with the conduct of such proceedings; and (3) make certain technical corrections to Part 308.

Memorandum and resolution re: Amendment to Part 329 of the Corporation's rules and regulations, entitled "Interest on Deposits," which would extend from August 1, 1982 to March 31, 1986 the grandfather provision of paragraph 329.10(b)(2), thereby permitting insured State nonmember banks to continue to offer repurchase agreements in denominations of less than $100,000 with maturities of 90 days or more so long as the aggregate amount does not exceed that of such obligations outstanding on August 1, 1979.

Memorandum and resolution re: Delegation of authority to administer petty cash funds.

Reports of committees and officers:

Minutes of the actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.
Reports of the Division of Bank Supervision with respect to applications or request approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, D.C.

Requests for information concerning the meeting may be directed to Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: June 14, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–916–82 Filed 6–17–82; 3:18 pm]

BILLING CODE 6714–01–M

9

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10 a.m., Thursday, June 24, 1982.

PLACE: Board Room, sixth floor, 1700 G Street NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6679).

MATTERS TO BE CONSIDERED:

Request for a Commitment to Insure Accounts—Midwest Savings and Loan Association, Inc., Aberdeen, South Dakota
Bank Membership and Insurance of Accounts—Sterling Savings Association, Spokane, Washington (New Stock Association)
Amendments Relating to the Issuance and Use of Subordinated Debt Securities, Mutual Capital Certificates and Preferred Stock

[No. 42, June 17, 1982]

[S–907–82 Filed 6–17–82; 10:38 am]

BILLING CODE 6720–01–M

10

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

June 16, 1982.

TIME AND DATE: 10 a.m., Wednesday, June 23, 1982.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Carolina Stalite Co., Docket Nos. SE 80–21–M, etc.; Petition for Discretioinary Review. (Issues include whether the judge properly dismissed these cases on the grounds that the operation in question was not subject to the jurisdiction of the Mine Act.)

2. A. H. Smith Stone, Docket No. VA 81–51–M. (Issues include whether judge properly concluded that the operator violated 30 CFR 56.4–35, which deals with safety practices when applying heat to pipelines or containers that have contained flammable substances.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

[S–908–82 Filed 6–17–82; 11:22 am]

BILLING CODE 6735–01–M

11

NATIONAL CREDIT UNION ADMINISTRATION:

Change in Subject of Meeting

The National Credit Union Administration Board has determined that its business required that the previously announced closed meeting on Wednesday, June 16, 1982, include the following additional item, which was closed to public observation:

Relocation of two regional offices and the establishment of a regional sub-office. Closed pursuant to exemptions (2).

Earlier announcement of this change was not possible.

The previously announced items were:

1. Requests from federally insured credit unions for special assistance to prevent liquidation under Section 206(a)(1) of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).

2. Administrative Adjudication pursuant to 12 U.S.C. 1786. Closed pursuant to exemption (8) and (10).

The Board voted unanimously to add this item to the closed agenda.

The meeting was held at 10:30 a.m., in the Seventh Floor Board Room, 1776 G Street N.W., Washington, D.C.

For More Information Contact: Rosemary Brady, Secretary of the Board, telephone (202) 357–1100.

[S–906–82 Filed 6–17–82; 9:16 am]

BILLING CODE 7535–01–M

12

NUCLEAR REGULATORY COMMISSION

DATE: Week of June 21, 1982.

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE DISCUSSED:

Tuesday, June 22:

10:00 a.m.:
Discussion of Emergency Response Facilities (Public Meeting)
2:00 p.m.:
Discussion of Full Power Operating License for LaSalle–1 (Open—Portions may be Closed)

Wednesday, June 23:

3:00 p.m.:
Discussion of Management-Organization and Internal Personnel Matters (Closed—Exemptions 2 and 6)

Thursday, June 24:

10:00 a.m.:
Discussion of Decision Dates for Effectiveness of Licensing Board Decisions for Authorization of Full Power Licenses (Public Meeting)
3:30 p.m.:
Affirmation/Discussion Session (Public Meeting)
Affirmation and/or Discussion and Vote:
a. Proposed Rulemaking Requiring Fitness for Duty for Personnel with Unescorted Access to Protected Areas
b. S–3 Policy Statement
c. Amendment to 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements"
d. Partial Vacating of Commission Order of May 22, 1979, on Preservation of Records of TMI–2 Accident
e. Application for a Stay of San Onofre–2 Low-Power Operating License and Review of ALAB–673 (Tentative)

Friday, June 25:

10:00 a.m.:
Briefing by Executive Branch (Tentative) (Closed—Exemption 1)

ADDITIONAL INFORMATION: The Affirmation Session scheduled June 10 was held June 11. On June 10 the Commission voted 5–0 to hold on short notice the Discussion of Management-Organization and Internal Personnel Matters, which was held on June 11, and to add Affirmation of South Texas Recusal Proceeding to the June 11 meeting.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Walter Magee,
Office of the Secretary.

[S–905–82 Filed 6–16–82; 4:14 pm]
BILLING CODE 7590-01-M

federal register

Monday
June 21, 1982

Part II

Environmental Protection Agency

Standards of Performance for New Stationary Sources in the Phosphate Fertilizer Industry

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2061-3]

Standards of Performance for New Stationary Sources in the Phosphate Fertilizer Industry; Wet Process Phosphoric Acid, Superphosphoric Acid, Diammonium Phosphate, and Triple Superphosphate Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed amendments.

SUMMARY: These proposed rules revise the standards of performance for fluoride emissions from four categories of sources in the phosphate fertilizer industry. Each proposal would limit the applicability of standards to plants with a capacity of more than 15 tons of equivalent phosphorus pentoxide (P_2O_5) feed per day. The effect of these revisions is to exempt from the standard small plants used for research and development of production processes.

DATES: Comments. Comments must be received on or before August 5, 1982.

Public Hearing. A public hearing will be held if requested.

ADDRESSES: Comments. Comments should be submitted (in duplicate if possible) to: Central Docket Section (A-130), Attention: Docket Number A-81-33, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

Public Hearing. Persons wishing to request a public hearing should notify Ms. Naomi Durkee, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

Docket. The docket, number A-81-33, containing supporting information used in developing the proposed amendments to the standards, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW, Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Ajax, U.S. Environmental Protection Agency, Standards Development Branch, Emission Standards and Engineering Division (MD-13), Research Triangle Park, North Carolina 27711, telephone number (919) 541-5624.

SUPPLEMENTARY INFORMATION: On August 6, 1975 (40 FR 33152), the Administrator promulgated standards of performance for fluoride emissions for five new affected facilities within the phosphate fertilizer industry: wet-process phosphoric acid plants superphosphoric acid plants, diammonium phosphate plants, triple superphosphate plants, and granular triple superphosphate storage facilities. The Clean Air Act Amendments of 1977 require that the Administrator of EPA review and, if appropriate, revise established standards of performance for new stationary sources at least every 4 years [Section 111 (b)(1)(B)]. During 1980 EPA undertook a review of the phosphate fertilizer industry and the associated NSPS. On the basis of this review, the Agency concluded that NSPS revision was not warranted. The findings and conclusions of this review were published for comment in the **Federal Register** on November 21, 1980 (45 FR 77075).

In December 1980, EPA received a comment from the Tennessee Valley Authority (TVA) that small research plants in the phosphate fertilizer industry have been unable to achieve the existing standards for fluorides. TVA provides about 75 percent of the Nation's research in phosphate fertilizers. Although at present TVA's only phosphate fertilizer research facility is a small wet-process phosphoric acid plant, TVA anticipates other phosphate fertilizer research facilities in the future and foresees similar control problems with the three other standards pertaining to phosphate fertilizer.

After investigating the problem, the Administrator has concluded that research facilities should be exempted from the standards. Therefore, the Administrator proposes to amend the NSPS for wet-process phosphoric acid plants, superphosphoric acid plants, diammonium phosphate plants, and triple superphosphate plants to cover only those facilities with a design capacity greater than 15 tons of equivalent P_2O_5 feed per day. This processing rate is less than that of any known existing commercial production facility and no production units of this size are expected to be built in the future.

In research facilities the air system is sized to accommodate frequent process changes, to ensure operator safety, and to facilitate maintenance. This practice results in oversizing of the air handling system compared to commercial plants and produces much more air per ton of product being pulled into the air system at the emission control points. At low inlet concentrations, scrubbers are less efficient at removing fluorides than at the higher concentrations typical of commercial production facilities. This principle was confirmed by emission tests at a wet process phosphoric acid research facility. The unit was equipped with a medium-energy scrubber, which is the basis of the standard. The lowest average fluoride emission rate measured as being 0.14 pound per ton P_2O_5 input, which is seven times the allowable emission limit of 0.02 pound per ton.

In light of the ineffectiveness of medium energy scrubbers in controlling emissions from research facilities, the Administrator has concluded that, for such facilities, they are not adequately demonstrated within the meaning of Section 111(a)(1). *See, Essex Chemical Corp. v. Ruckelshaus*, 486 F.2d 427, 440 (D.C. Cir. 1973). Because these facilities were not investigated during the development of the standard and because adequate information is not available to assess alternate technologies, the Administrator is unable to determine what, if any, technology represents the best demonstrated system of emission reduction, considering costs, nonair quality health and environmental impacts, and energy requirements. The standard is, therefore, being rescinded as it applies to these facilities.

Exemption of small plants would have no adverse environmental impacts. TVA's wet-process phosphoric acid research facility, which is considered typical of research facilities, is operated intermittently for about 10 to 20 percent of the total time per year that a commercial plant is operated. This research facility's production capacity is about 3.5 tons P_2O_5 input per day as compared to 500 tons P_2O_5 input per day for a typical commercial plant. The facility is equipped with the scrubbers comparable to those required by the standard at commercial plants. Total controlled fluoride emissions from the research facility, due to its low capacity and limited operating schedule, are estimated to be about 25 pounds per year as compared to about 4,000 pounds per year from a typical commercial plant meeting the NSPS.

Since research facilities are much smaller than commercial plants, the Administrator, as authorized by section 111(b)(2) of the Clean Air Act, believes that a size cutoff is the appropriate mechanism for excluding research facilities from NSPS requirements. A size cutoff for a facility with a maximum capacity of 15 tons of equivalent P_2O_5 feed per day should be appropriate to exclude any research facility operating

now or in the future. A plant which produces 1 ton of product per hour is considered a research pilot plant by TVA. This is equivalent to 10 to 14 tons of equivalent P_2O_5 feed per day for the four phosphate fertilizer categories. There are no known phosphate fertilizer industry commercial production plants with maximum capacities of 15 tons or less of equivalent P_2O_5 feed per day. Also, there is a trend toward larger plants in the phosphate fertilizer industry. The proposed size cutoff is less than one/half the size of the smallest commercial plant and one/fiftieth the size of a typical commercial plant.

The Agency anticipates no adverse environmental impacts. Due to low capacity and intermittent production, annual fluoride emissions from research facilities are negligible. It is expected that these research facilities will continue to use pollution control equipment to meet State regulations. There will be no adverse energy or economic impacts associated with the proposed revision to the standard.

Docket: The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of these proposed amendments. The principal purposes of the docket are: (1) To allow interested parties to readily identify and locate documents so they can effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review.

Miscellaneous: Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment of any revision to a new source standard of performance "which the Administrator determines to be (a) substantial revision * * *" (Section 317(a)). These proposed amendments are not substantial revisions. The revisions will only reduce the economic impacts of the standards. Therefore, no eonomic impact assessment of the proposed amendment has been prepared.

Executive Order 12291 requires that EPA determine whether a regulation is "major" and therefore subject to the requirements of a regulation impact analysis (RIA). These proposed amdments to the standards are not major because they would result in none of the adverse economic effects set forth in section 1 of the Order as grounds for finding a regulation to be major. The only economic change is to lessen the economic impact on research facilities. These research facilities will no longer be required to incur unreasonable costs in order to achieve the NPS. Because there are no adverse economic impacts associated with these proposed revisions, no RIA has been prepared.

This regulation was submitted to OMB under Executive Order 12291.

The provisions of 5 U.S.C. 605(b) require the Administrator to prepare a regulatory flexibility analysis (RFA) or to certify that a proposed rule will not (if promulgated) have a significant economic impact on a substantial number of small entities. These amendments will not create additional impacts since the only change will be to lessen the economic burdens on research facilities. Therefore, the Administrator certifies that the proposed rules will have no adverse economic impact on small entities.

The Paperwork Reduction Act of 1980 (Pub. L. 95–511) requires clearance from the Office of Management and Budget (OMB) of certain public reporting/recordkeeping requirements before a rulemaking can be promulgated. There are no reporting/recordkeeping requirements associated with these revisions. A statement to that effect has been submitted to OMB.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Cement plants, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Reporting and recordkeeping requirements, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc.

Dated: June 14, 1982.

Anne M. Gorsuch,

Administrator.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

For the reasons set out in the preamble, it is proposed to amend 40 CFR Part 60, paragraph (a) of §§ 60.200, 60.210, 60.220, and 60.230 (to read as follows):

§ 60.200 Applicability and designation of affected facility.

(a) The affected facility to which the provisions of this subpart apply is each wet-process phosphoric acid plant having a design capacity of more than 15 tons of equivalent P_2O_5 feed per day. For the purpose of this subpart, the affected facility includes any combination of: reactors, filters, evaporators, and hot wells.

* * * * *

§ 60.210 Applicability and designation of affected facility.

(a) The affected facility to which the provisions of this subpart apply is each superphosphoric acid plant having a design capacity of more than 15 tons of equivalent P_2O_5 feed per day. For the purpose of this subpart, the affected facility includes any combination of: evaporators, hot wells, acid sumps, and cooling tanks.

* * * * *

§ 60.220 Applicability and designation of affected facility.

(a) The affected facility to which the provisions of this subpart apply is each granular diammonium phosphate plant having a design capacity of more than 15 tons of equivalent P_2O_5 feed per day. For the purpose of this subpart, the affected facility includes any combination of: reactors, granulators, dryers, coolers, screens, and mills.

* * * * *

§ 60.230 Applicability and designation of affected facility.

(a) The affected facility to which the provisions of this subpart apply is each triple superphosphate plant having a design capacity of more than 15 tons of equivalent P_2O_5 feed per day. For the purpose of this subpart, the affected facility includes any combination of: mixers, curing belts (dens), reactors, granulators, dryers, cookers, screens, mills, and facilities which store run-of-pile triple superphosphate.

* * * * *

[FR Doc. 82–16715 Filed 6–18–82; 8:45 am]
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federal register

Monday
June 21, 1982

Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Coal Mining and Reclamation Operations

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701, 816, and 817

Surface Coal Mining and Reclamation Operations; Permanent and Temporary Impoundments

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining (OSM) proposes to revise its rules which provide minimum standards for permanent and temporary impoundments for all surface coal mining and reclamation operations. The rules, as proposed, would require procedures implementing the provisions of the Surface Mining Control and Reclamation Act, provide design latitude to professionals, remove inconsistencies between the existing rules and the rules of other Federal agencies, and clarify certain paragraphs of the existing rules.

DATES:

Written comments: Accepted until further notice.

Public hearings: Held on request only, on August 4, 1982, at 9:00 a.m. (local).

Public meetings: Scheduled on request only. See Supplementary Information for more detail.

ADDRESSES:

Written comments: Hand-deliver to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (TSR 14.12), Room 5315, 1100 L Street, NW., Washington, D.C.; or *mail* to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (TSR 14.12), Room 5315L, 1951 Constitution Avenue, NW., Washington, DC 20240.

Public hearings: Washington, D.C.—Department of the Interior Auditorium, 18th and C Streets, NW.; Pittsburgh, Pa.—William S. Moorehead, Federal Building, Room 2212, 1000 Liberty Avenue; Denver, Colo.—Brooks Tower, 2d Floor Conference Room, 1020 15th Street.

Public meetings: OSM offices in Washington, D.C.; Pittsburgh, Pa.; and Denver, Colo.

FOR FURTHER INFORMATION CONTACT:

Jerry R. Ennis, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; 202–343–7881.

SUPPLEMENTARY INFORMATION:

I. Public Commenting Procedures.
II. Background.
III. Discussion of Proposed Rules.
IV. Procedural Matters.

I. Public Commenting Procedures

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Commenters are requested to submit five copies of their comments (see "Addresses"). Comments received at locations other than Washington, D.C., will not necessarily be considered or included in the Administrative Record for the final rulemaking. The comment period will remain open until the close of the comment period on the draft environmental impact statement that will consider this proposed rule.

Public Hearings

Persons wishing to comment at the public hearings should contact the person listed under "For Further Information Contact" by the close of business *three working days* before the date of the hearing. If no one requests to comment at a public hearing at a particular location by that date, the hearing will not be held. If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions.

Public hearings will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment, and persons present in the audience who wish to comment, have been heard.

Public Meetings

Persons wishing to meet with OSM representatives to discuss these proposed rules may request a meeting at any of the OSM offices listed in "Addresses" by contacting the person listed under "For Further Information Contact."

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record room (1100 L St.). A written summary of each public meeting will be made a part of the Administrative Record.

II. Background

Section 515(b)(10) of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* (the Act), requires surface coal mining operations to minimize disturbances to the prevailing hydrologic balance and to the quality and quantity of water in surface- and ground-water systems. Section 515(b)(8) of the Act requires that permanent impoundments be of adequate size, that the impoundment dam construction achieve stability comparable to that of the structures constructed under Pub. L. 83–566, that the quality of the impounded water be permanently suitable for its intended use, that impoundment discharges not degrade the water quality of the receiving waters below the standards established in applicable Federal and State law, that the final grading provide adequate safety and access, that the water level be reasonably stable, and that the impoundment not diminish the quality or quantity of water used by adjacent or surrounding landowners.

Sections 516(b) (9) and (10) of the Act impose similar requirements on the surface effects of underground mining. Section 516(b)(10) also provides that modifications should be made to accommodate the distinct differences between surface and underground mining. OSM proposes, however, to promulgate identical impoundments rules for surface and underground mining, because the environmental and safety concerns that affect the design, construction, and maintenance of surface impoundments are the same whether they are associated with surface or underground mines.

On March 13, 1979, OSM, published permanent program rules (44 FR 15312) that contained standards for permanent and temporary impoundments (30 CFR 816.49, 816.56, 817.49, and 817.56). The rules being proposed today would revise some of those rules.

III. Discussion of Proposed Rules

Section 701

OSM proposes to amend 30 CFR 701.5 by adding a definition of the term "MSHA" to mean the Mine Safety and Health Administration. This will allow use of the abbreviation rather than the lengthy full title throughout OSM's regulations.

Sections 816.49, 816.56, 817.49, and 817.56

Proposed §§ 816.49 and 816.56, which would govern impoundments associated with surface mines, are identical to proposed §§ 817.49 and 817.56, which

would address underground mine impoundments. The following discussions of proposed §§ 816.49 and 816.56 are therefore equally applicable to proposed §§ 817.49 and 817.56.

The titles of proposed §§816.49, 816.56, 817.49, and 817.56 would be modified by deleting the phrase "Hydrologic balance" to more precisely describe the content of the rules.

Sections 816.49 and 817.49

Existing § 816.49(a) prohibits construction of permanent impoundments unless authorized by the regulatory authority on the basis of certrain demonstrations. Proposed § 816.49(a) would allow the regulatory authority to authorize construction of permanent impoundments if certain determinations are made. No change in effect is intended.

Proposed §§ 816.49(a)(1)(i)–(vi), which provide some of the standards for approving permanent impoundments, are virtually identical to Paragraphs (a)(1)–(4), (a)(6), and (a)(7) of the existing § 816.49. These provisions implement the permanent impoundment standards of Section 515(b)(8)(A), (C), (D), (E), and (F) of the Act and require, in addition, that permanent impoundments be suitable for the approved postmining land use. Proposed Paragraph (a)(1)(vii) would require permanent impoundments to comply with the requirements of Paragraph (b), which implements, among other things, the requirement of Section 515(b)(8)(B) of the Act that permanent impoundments be designed to achieve stability compatible with that of structures constructed under Section 6 of the Watershed Protection and Flood Prevention Act, 16 U.S.C. 1006. The requirements of existing Paragraph (a)(5), which implements the Section 515(b)(8)(B) requirements, would therefore be incorporated in proposed Paragraph (b), as discussed more fully below.

Proposed § 816.49(a)(2) would require temporary impoundments to meet the standards of proposed § 816.49(b), which are also applicable to permanent impoundments. Existing § 816.49(b) requires instead that temporary impoundments comply with the requirements for sedimentation ponds (existing §§ 816.46(e)–(u)). OSM has proposed to revise the sedimentation pond design criteria completely (46 FR 34784 (July 2, 1981)). OSM believes that the detailed proposed standards for permanent and temporary impoundments are more appropriate than the sedimentation pond design criteria. The comment period for the sedimentation pond rulemaking has recently been reopened (47 FR 20631 (May 13, 1982)). OSM solicits comments as to whether the sedimentation pond regulations should cross-reference the impoundments regulations and, if so, to what extent.

Existing §§ 816.49 (c) through (h) set forth additional requirements for design, construction, and inspection of permanent impoundments. These provisions, together with existing § 816.49(a)(5), do not reflect the extent to which existing MSHA reguations at 30 CFR Part 77 already provide requirements for impoundment design, construction, and maintenance. Similarly, OSM's existing impoundment regulations do not take into account MSHA's regulatory obligations for review and approval of impoundment designs, inspections of impoundments, and other aspects of impoundment regulation and have thereby created overlapping and duplicative MSHA and regulatory authority responsibilities. Proposed § 816.49(b) would replace these provisions and differentiate between the regulatory functions of MSHA and those of the regulatory authority to avoid unnecessary duplication. As described more fully below, MSHA and not the regulatory authority would be responsible for certain aspects of impoundment regulation.

OSM implemented the requirements of Section 515(b)(8)(B) of the Act in part by referencing certain of MSHA's impoundment regulations at 30 CFR Part 77 as they apply to large impoundments meeting MSHA's size criteria. (*See* 30 CFR 77.216(a).) OSM proposes in § 816.49(b)(1) that MSHA would continue to review plans for and regulate impoundments structures meeting the criteria of 30 CFR 77.216(a) according to the terms of 30 CFR Part 77. The regulatory authority, though, would be responsible for reviewing the plans for and regulating such large permanent and temporary impoundments for compliance with the requirements of proposed § 816.49(a). Under proposed § 816.49(b)(2), the regulatory authority would be responsible for regulation of impoundments that do not meet the 30 CFR 77.216(a) criteria. MSHA would be responsible, however, for implementation of the emergency plans for hazardous conditions.

Proposed § 816.49(b)(1)(i) would require MSHA to review the plans for impoundments meeting the 30 CFR 77.216(a) criteria to determine whether they comply with the requirements of 30 CFR Part 77. Impoundment plans would be submitted to MSHA concurrently with their submission to the regulatory authority as part of the permit application. MSHA's approval of an impoundment plan would constitute a finding that the impoundment is designed to achieve necessary stability with an adequate margin of stability compatible with that of structures constructed under Section 6 of the Watershed Protection and Flood Prevention Act, 16 U.S.C. 1006. Under proposed § 816.49(b)(1)(ii), MSHA would be responsible for regulating impoundments for compliance with 30 CFR Part 77. Thus, for large impoundments meeting the 30 CFR 77.216(a) criteria, MSHA alone would be responsible for reviewing plans and regulating performance with respect to the considerations addressed by current §§ 816.49 (a)(5) and (c) through (h). This revision would end the current confused regulatory regime under which MSHA has regulated large impoundments under 30 CFR Part 77 while the regulatory authority has similarly regulated impoundments under 30 CFR 816.49.

MSHA's regulatory program has proven effective in regulating the safety and stability of impoundments as required by Section 515(b)(8)(B) of the Act. Proposed §§ 816.49(b) (i) and (ii) would therefore eliminate a duplicative and wasteful regulatory system while preserving the required level of protection for the public and the environment.

Proposed § 816.49(b)(1)(iii) would require the regulatory authority to notify MSHA when it believes that MSHA should take regulatory action pursuant to 30 CFR Part 77 with respect to a large impoundment. The regulatory authority would not take action itself, but would in this manner utilize its own inspections to supplement those of MSHA in determining compliance with 30 CFR Part 77.

Proposed § 816.49(b)(1)(iv) would require the regulatory authority to evaluate each plan for an impoundment meeting the 30 CFR 77.216(a) criteria for compliance with the standards of proposed §816.49(a). Proposed §816.49(a)(1)(vii) would require a finding that the impoundment will comply with § 816.49(b); because proposed § 816.49(b)(1)(i) would require an MSHA finding that each impoundment complies with 30 CFR Part 77, MSHA's approval would be a prerequisite to the regulatory authority's approval of the impoundment. On the other hand, any modifications of impoundment design that appear necessary as a result of the regulatory authority's approval of the impoundment. On the other hand, any modifications of impoundment design that appear necessary as a result of the regulatory authority's review would

have to be concurred in by MSHA to be sure they do not alter the basis for MSHA's approval of the plan. Proposed § 816.49(b)(1)(iv) would also require the regulatory authority to determine whether impoundments adequately provide for safety of the public during emergency situations, because OSM believes that MSHA's current regulatory scheme does not sufficiently address this issue.

Proposed §816.49(b)(2) provides standards for impoundments not meeting the 30 CFR 77.216(a) criteria. Section 816(b)(2)(i) requires operators to submit plans and specifications for impoundments to the regulatory authority for approval, and requires that impoundments meet the performance standards of § 816.49(b)(2)(iv). Existing § 816.49(a)(5) implements the requirement of Section 515(b)(8)(B) of the Act that impoundments meet the minimum requirements for structures subject to Section 6 of the Watershed Protection and Flood Prevention Act by requiring impoundments to conform to standards published by the Soil Conservation Service (SCS) of the U.S. Department of Agriculture. OSM believes that these generally accepted standards, published under the authority of 7 CFR Part 653, are valid for water impoundments associated with surface coal mining operations. As described below, the impoundment performance standards proposed in § 816.49(b)(2)(iv) are based on SCS published standards. Thus, operators would be able, in most cases, to comply with regulations by utilizing an appropriate SCS design guide. By not referencing specific design guides, however, the proposed regulations would allow appropriate professionals the latitude necessary for application of technological advances and innovative techniques as well as of updated design guides.

Proposed § 816.49(b)(2)(ii) would allow the regulatory authority to require specific monitoring practices, design precipitation events, or other control or inspection measures where appropriate. This provision is designed to enable the regulatory authority to ensure that impoundments are stable and safe under all conditions. Similarly, proposed § 816.49(b)(2)(iii) would authorize the regulatory authority to ensure that operators develop, as part of their impoundment planning, procedures for protecting the public if potentially hazardous conditions develop.

Section 816.49(b)(2)(iv) of the proposed rule would set forth specific performance criteria to be achieved in the design and construction of small impoundments. The performance levels listed incorporate actions which will meet or exceed the criteria for structures designed and constructed pursuant to Section 6 of the Watershed Protection and Flood Prevention Act as implemented by SCS at 7 CFR Part 653. OSM believes the performance parameters in this paragraph will allow full latitude for application of current engineering practices, technological advances, innovative techniques, and updated design guides.

Proposed § 816.49(b)(2)(iv)(A) would require that impoundments not meeting the 30 CFR 77.216(a) criteria be designed, constructed, and maintained on the basis of certain precipitation events; i.e., 25-year, 6-hour for temporary impoundments and 50-year, 6-hour for permanent impoundments. The regulatory authority would be able to increase the storm intensity design specifications for particular impoundments if site-specific conditions warrant, such as a larger drainage area, higher than normal sediment loads, or safety considerations.

Proposed § 816.49(b)(2)(iv)(B) would require water impoundments to attain a static safety factor that is determined by prudent engineering design. Rather than require a specific static safety factor, OSM has chosen to allow operators and their design professionals to tailor the static safety factor to meet site-specific conditions while being consistent with prudent engineering design.

Proposed § 816.49(b)(2)(iv)(C) would require operators to protect the integrity of impoundments by providing freeboard that is adequate for resisting overtopping by waves and by sudden increases in storage volume.

Proposed § 816.49(b)(2)(iv)(D) would require that the foundations of impoundments be excavated and prepared to resist impoundment failure and would require the impoundments to have cutoff trenches installed where necessary to ensure stability.

Proposed § 816.49(b)(2)(iv)(E) would protect against erosion and sedimentation by requiring that slopes of impoundments be protected against surface erosion and against sudden drawdown, which can lead to slope failure.

Proposed § 816.49(b)(2)(iv)(F) would protect embankment stability by requiring embankment faces to be vegetated except the embankment face where water is impounded, which may be riprapped or otherwise stabilized in accordance with accepted design practices.

Proposed § 816.49(b)(2)(iv)(G) would require that the principal and emergency spillways of each impoundment be designed and constructed so that in combination they can safely pass the design precipitation event.

Proposed § 816.49(b)(2)(iv)(H) would require excavated ponds to meet all these standards and, in addition, would require that the top of any remaining highwall be located far enough below the low waterline to avoid exposure and spalling and to protect embankment stability.

Proposed § 816.49(b)(2)(v) would parallel MSHA regulations in 30 CFR Part 77 and existing §§ 816.46 (r) and (t) and 816.49(h) with respect to the role of design professionals (registered professional engineers and others certified to provide design services) and other qualified persons in the design, construction, maintenance, inspection, and certification of impoundments.

Proposed § 816.49(b)(2)(v)(A) would require impoundments to be designed by qualified design professionals with respect to critical dimensions, stability, and hydraulic performance. Concentration on these key elements of impoundment design will ensure stable and safe impoundments.

Proposed § 816.49(b)(2)(v)(B) would require that impoundments be inspected during construction under the direction of a qualified design professional to ensure that the impoundments are constructed as designed, while § 816.49(b)(2)(v)(C) would require certification of impoundments upon completion of construction as constructed in accordance with approved plans and specifications. These provisions together are intended to ensure that impoundments are constructed in accordance with all requirements.

Proposed §§ 816.49(b)(2)(v)(D) and (E) are intended to ensure that impoundments continue to perform as designed. Paragraph (b)(2)(v)(D) would require inspection of each impoundment by a qualifed person at least every 30 days, while Paragraph (6)(2)(v)(E) would require annual certifications by the qualifed design professional. MSHA requires large impoundments to be inspected every 7 days. Thirty-day inspections are considered appropriate since smaller impoundments do not present the degree of potential hazard to the public, environment, or miner safety as do impoundments meeting the size criteria of 30 CFR 77.216(a). In site-specific instances, the regulatory authority would be able to require an increased number of inspections under proposed § 816.49(b)(2)(ii).

Proposed § 816.49(b)(2)(vi) would make clear that qualified registered professional engineers and other

certified professionals involved in impoundment design, construction, and certification must be licensed in the State where the impoundment is located, must be qualified to design impoundments, and must accept professional liability for their work. The qualified person performing the 30-day inspections must be a person trained and qualifed to perform inspection services according to MSHA criteria (30 CFR 77.216–3(g)).

Proposed § 816.49(c) would incorporate the provisions of existing § 816.49(i), which governs modifications of impoundments, but would require MSHA invovlement in modifications of impoundments administered under 30 CFR Part 77. The principal change proposed is that in emergency situations the procedures of 30 CFR 77.216–3(b) for notification of the MSHA District Manager and evacuation of miners and the public under hazardous situations would apply and would be carried out under MSHA's direction for all impoundments, including those not meeting the 30 CFR 77.216(a) criteria.

Sections 816.56 and 817.56

Proposed §§ 816.56 and 817.56 are identical and would continue the basic requirements of existing §§ 816.56 and 817.56 that permanent sedimentation ponds, diversions, impoundments, and treatment facilities meet the criteria in the design plan for the structures prior to abandoning the permit area. The proposed provisions would, however, require renovation of the structures only where determined necessary by a qualified registered professional engineer. The qualified registered professional engineer would certify the completion of any required renovation. This revision would make clear that renovation of structures will not be required where the structures are already in compliance with the approved design plan and the applicable regulations. OSM intends that the certification by the qualified registered professional engineer of the adequacy of permanent sedimentation pounds would consider whether sufficient provisions for future maintenance of the ponds have been made as required by Section 519(c)(2) of the Act.

E. Reference Materials.

Reference materials used to develop these proposed rules are as follows:

BOM (U.S. Bureau of Mines), 1973, Analysis of coal refuse dam failure, Middle Fork Buffalo Creek, Saunders, W. Va.: (Prepared by W. A. Wahler and Associates.) U.S. Bureau of Mines Contract S0122084, vol. 1, text; vol. 2, appendices (various pagings).

BOR (U.S. Bureau of Reclamation), 1973, (reprinted 1977), Design of small dams—A water resources technical publication, 2d edition: U.S. Government Printing Office, Washington, D.C., 816 pp.

Cedergren, H.R., 1977, Seepage, drainage, and flow nets: John Wiley and Sons, Inc., New York, 534 pp.

Griffiths, D.H., and King, R.F., 1965, Applied geophysics for engineers and geologists: Pergamon Press, London, 223 pp.

Harr, M.E., 1962, Groundwater and seepage: McGraw-Hill Book Co., New York City, 315 pp.

MESA (U.S. Mining Enforcement and Safety Administration), 1975, Engineering and design manual—Coal refuse disposal facilities: (Prepared by D'Appolonia Consulting Engineers, Inc., Pittsburgh, Pa.) U.S. Mining Enforcement and Safety Administration report, various pagings.

MESA (U.S. Mining Enforcement and Safety Administration), 1976, Design guidelines for coal refuse piles and water, sediment, or slurry impoundments and impounding structures: U.S. Mining Enforcement and Safety Administration report, 7 pp.

Morgenstern, N.R., and Price, V.E., 1965, The analysis of the stability of general slip surfaces: Geotechnique, vol. 15, No. 1, pp. 79–93.

MSHA (U.S. Mine Safety and Health Administration), 1979, Design guidelines for coal refuse piles and water, sediment, or slurry impoundments and impounding structures: Information Report 1R1109, 29 pp.

Naval Facilities Engineering Command, 1971 (revised 1974), Soil mechanics, foundations, and earth structures: U.S. Naval Facilities Engineering Command report NAVFAC DM–7, various pagings.

NCB (National Coal Board—Great Britain), 1970, Spoil heaps and lagoons: National Coal Board, London, Technical Handbook, 232 pp.

Newmark, N.M. 1965, Effects of earthquakes on dams and embankments: Fifth Rankine Lecture, Geotechnique, June, pp. 139–160.

OSM (U.S. Office of Surface Mining), 1981, Manual for planning and management of mine-cut lakes at surface coal mines, 2d draft, September 1981: Prepared by R. Wayne Nelson and Associates under OSM Contract No. J5101046.

SCS (U.S. Soil Conservation Service), 1972, National engineering handbook. Section 4, Hydrology.

SCS (U.S. Soil Conservation Service), 1976 (revised 1981), Earth dams and reservoirs: Technical Release No. 60.

SCS (U.S. Soil Conservation Service), 1977, Pond: Practice Standard 378, 8 pp.

SCS (U.S. Soil Conservation Service), 1978, Rating soils for selected uses, 403 in Section 400, Application of soil survey information, in Part II, Procedure guide, of National soils handbook: U.S. Soil Conservation Service National Soils Handbook, various pagings.

Sherard, J.L., Woodward, R.J., Gizienski, S.F., and Clevenger, W.A., 1963, Earth and earth-rock dams: John Wiley and Sons, Inc., New York, 725 pp.

IV. Procedural Matters

National Environmental Policy Act

OSM has prepared an Environmental Assessment (EA) of the cumulative impacts on the human environment of this rulemaking and related rulemakings under the Act. This cumulative EA is on file in the OSM Administrative Record office of the address listed in the "Addresses" section of this preamble. OSM is also preparing a Supplemental Environmental Impact Statement that will consider this proposed rule. (See 47 FR 18920, May 3, 1982.)

Federal Paperwork Reduction Act

The information collection requirements in existing 30 CFR Parts 816 and 817 were approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and assigned new clearance numbers 1029–0047 and 1029–0048 on April 1, 1981. This approval was identified in "Notes" at the introduction to 30 CFR Parts 816 and 817 under the old numbers R0618 and R0619 (both under No. B–190462). OSM will delete those "Notes" and codify the OMB approvals under new §§ 816.10 and 817.10. OSM is requesting OMB approval of the information collection requirements being proposed for the following sections and will codify the OMB approvals when the final rules are promulgated:

Section 816.49(b)(1)(i), 816.49(b)(1)(iv), 816.49(b)(2)(i), 816.49(b)(2)(v), 816.49(b)(2)(v) (A) and (D), § 816.56 and the corresponding underground § 817.49(b)(1)(i), 817.49(b)(1)(iv), 817.49(b)(2)(i), 817.49(b)(2)(v), 817.49(b)(2)(v) (A) and (D), 817.56.

The information required by the above Sections will be used by the requlatory authority in evaluating structures in relation to surface and underground mining activities to ensure that they meet the established performance standards. This information required by 30 CFR Parts 816 and 817 is mandatory.

Standard Forms 83 and supporting statements justifying the need for this

information will be submitted to OMB. These documents will estimate the compliance burden of these requirements. Opportunity to comment will be available through separate notice.

Regulatory Flexibility Act

The Department has also determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that these rules will not have a significant economic impact on a substantial number of small entities. The proposed rules will allow small coal operators increased flexibility in meeting performance standards and should especially ease the regulatory burden on small coal operators in Appalachia.

Executive Order 12291

The Department of the Interior (DOI) has examined these proposed rules according to the criteria of Executive Order 12291 (February 17, 1981). OSM has determined that these are not major rules and do not require a regulatory impact analysis because they will impose only minor costs on the coal industry and coal consumers. In addition, the proposed rules emphasize the use of performance standards instead of design criteria and will allow operators to utilize the most cost-effective means of achieving the performance standards.

List of Subjects in 30 CFR

Part 701

Coal mining, Law enforcement, Surface mining, Underground mining.

Part 816

Coal mining, Environmental protection, Reporting requirements, Surface mining.

Part 817

Coal mining, Environmental protection, Reporting requirements, Underground mining.

Accordingly, it is proposed to amend 30 CFR Parts 701, 816, and 817 as set forth herein.

Dated: June 9, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

PART 701—PERMANENT REGULATORY PROGRAM

§ 701.5 [Amended]

1. In § 701.5, the new term "MSHA" is added in aphabetical order to read as follows:

MSHA means the Mine Safety and Health Administration.

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

2. Section 816.49 is revised to read as follows:

§ 816.49 Permanent and temporary impoundments.

(a)(1) Permanent impoundments of water may be created, if authorized by the regulatory authority in the approved permit and if the following determinations are made:

(i) The size and configuration of such impoundment is adequate for its intended purposes.

(ii) The quality of impounded water is suitable on a permanent basis for its intended use, and discharge from the impoundment will not degrade the quality of receiving waters below the water quality standards of this chapter and those established pursuant to applicable Federal and State laws.

(iii) The water level will be reasonably stable and be capable of supporting the intended use.

(iv) Final grading will provide for adequate safety and access for proposed water users.

(v) The impoundment will not result in the diminution of the quality and quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses.

(vi) The impoundment will be suitable for the approved postmining land use.

(vii) The impoundment will comply with the requirements of Paragraph (b) of this section.

(2) The regulatory authority may authorize the construction of temporary impoundments other than sedimentation ponds as part of surface coal mining operations if the impoundments will comply with the requirements of paragraph (b) of this section.

(b) Permanent and temporary water impoundments, excluding sedimentation ponds, that meet the size of other criteria contained in 30 CFR 77.216(a) shall meet the following requirements in addition to those of Paragraph (a) of this section:

(1)(i) Water impoundments shall comply with the provisions of 30 CFR Part 77. The required impoundments plan shall be submitted directly to the District Manager of MSHA concurrently with its submission to the regulatory authority as part of the permit application. Approval of a plan by MSHA shall constitute a finding that the impoundment is designed to achieve the minimum design requirements applicable to structures subject to Section 6 of the Watershed Protection and Flood Prevention Act, 16 U.S.C. 1006.

(ii) MSHA is responsible for regulating impoundments approved under this paragraph pursuant to the requirements of 30 CFR Part 77.

(iii) The regulatory authority is responsible for regulating impoundments approved under this paragraph for compliance with the requirements of paragraph (a) of this section. The regulatory authority shall notify MSHA when it believes that regulatory action pursuant to 30 CFR Part 77 is required with respect to an impoundment approved pursuant to this paragraph.

(iv) The regulatory authority shall evaluate each plan for permanent and temporary impoundments submitted as part of the permit application for compliance with the requirements of paragraph (a) of this section and to determine whether the plan adequately ensures protection of the public under emergency situations.

(2) Permanent and temporary water impoundments other than those subject to paragraph (b)(1) of this section and other than sedimentation ponds shall be designed, constructed, and maintained as follows:

(i) Plans and specifications for the design, construction, and maintenance of impoundments shall be submitted to the regulatory authority for approval and shall meet or exceed the performance standards of paragraph (b)(2)(iv) of this section.

(ii) The regulatory authority may require additional specific practices it deems necessary to fulfill environmental performance standards of the Act.

(iii) The regulatory authority shall ensure that operators develop emergency procedures to protect the public should a potentially hazardous condition develop.

(iv) Performance standards:

(A) Impoundments shall be designed, constructed, and maintained on the basis of the following precipitation events:

Temporary impoundments, on 25-year, 6-hour event; permanent impoundments, on 50-year, 6-hour event. The regulatory authority may specify a larger volume design storm if site-specific conditions warrant.

(B) Structures that will impound water during or after mining operations shall attain an adequate static factor of safety as determined by prudent engineering design.

(C) Impounding embankments shall have adequate freeboard to resist overtopping by waves and by sudden increases in storage volume.

(D) Foundations shall be excavated and prepared to resist failure and cutoff trenches shall be installed if necessary to ensure stability.

(E) Slope protection shall be provided to protect against surface erosion at the site and to protect against sudden drawdown.

(F) Faces of embankments shall be vegetated, except that faces where water is impounded may be riprapped or otherwise stabilized in accordance with accepted design practices.

(G) The combination of principal and emergency spillways shall be designed and constructed to pass the design precipitation event.

(H) Excavated ponds shall meet the standards above, and additionally, the top of any remaining highwall shall be located far enough below the low waterline to avoid exposure and spalling and to protect embankment stability.

(v) Dams and embankments for water impoundments under this paragraph shall be—

(A) Designed by a qualified registered professional engineer or other certified professional with respect to critical dimensions, stability, and hydraulic performance;

(B) Inspected during construction under the direction of a qualified registered professional engineer or other certified professional to ensure that the impoundments are constructed as designed;

(C) Certified upon completion of construction by a qualified registered professional engineer or other certified professional as constructed in accordance with approved plans and specifications;

(D) Inspected by a qualified person at least every 30 days with respect to stability, maintenance, water quality, and continued performance in accordance with the design and performance standards; and

(E) Certified thereafter by a qualified registered professional engineer or other certified professional annually until bond release, abandonment, or removal as continuing to meet the approved plans and specifications.

(vi) As used in paragraph (b)(2)(v) of this section, a qualified registered professional engineer or other certified professional is a professional who is licensed by a State licensing authority to provide design services in the State where such impounding structure is to be located, who is qualified to design impounding structures, and who accepts the professional liability, and a qualified person is a person trained and qualified under 30 CFR 77.216–3(g) to perform inspection services.

(c) Plans for any enlargement, reduction in size, reconstruction, or any other modification to all dams or impoundments shall be approved before modifications begin by the regulatory authority and, if the impoundment meets the size or other criteria contained in 30 CFR 77.216(a), MSHA, except that if a modification is required to eliminate a potentially hazardous condition involving public health, safety of coal mining personnel, or the environment, the provisions of 30 CFR 77.216–3(b) shall apply.

3. Section 816.56 is revised to read as follows:

§ 816.56 Postmining adequacy of sedimentation ponds, diversions, impoundments, and treatment facilities.

Before abandoning a permit area or seeking bond release, the operator shall demonstrate to the satisfaction of the regulatory authority and, if the operation includes impoundments meeting the size and other criteria of 30 CFR 77.216(a), to the satisfaction of MSHA that all permanent sedimentation ponds, diversions, impoundments, and treatment facilities meet the requirements of this chapter for permanent structures, have been maintained properly, and meet the requirements of the approved reclamation plan for permanent structures and impoundments. The operator shall renovate such structures if necessary to meet the requirements of this chapter and to conform to the approved reclamation plan. Such demonstration shall require the certification of a qualified registered professional engineer, and any renovation required shall be certified as completed before final acceptance by the regulatory authority.

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

4. Section 817.49 is revised to read as follows:

§ 817.49 Permanent and temporary impoundments.

(a)(1) Permanent impoundments of water may be created, if authorized by the regulatory authority in the approved permit and if the following determinations are made:

(i) The size and configuration of such impoundment is adequate for its intended purposes.

(ii) The quality of impounded water is suitable on a permanent basis for its intended use, and discharge from the impoundment will not degrade the quality of receiving waters below the water quality standards of this chapter and those established pursuant to applicable Federal and State laws.

(iii) The water level will be reasonably stable and be capable of supporting the intended use.

(iv) Final grading will provide for adequate safety and access for proposed water users.

(v) The impoundment will not result in the diminution of the quality and quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses.

(vi) The impoundment will be suitable for the approved postmining land use.

(vii) The impoundment will comply with the requirements of Paragraph (b) of this section.

(2) The regulatory authority may authorize the construction of temporary impoundments other than sedimentation ponds as part of surface coal mining operations if the impoundments will comply with the requirements of Paragraph (b) of this section.

(b) Permanent and temporary water impoundment, excluding sedimentation ponds, that meet the size or other criteria contained in 30 CFR 77.216(a) shall meet the following requirements in addition to those of paragraph (a) of this section:

(1)(i) Water impoundments shall comply with the provisions of 30 CFR Part 77. The required impoundments plan shall be submitted directly to the District Manager of MSHA concurrently with its submission to the regulatory authority as part of the permit application. Approval of a plan by MSHA shall constitute a finding that the impoundment is designed to achieve the minimum design requirements applicable to structures subject to Section 6 of the Watershed Protection and Flood Prevention Act, 16 U.S.C. 1006.

(ii) MSHA is responsible for regulating impoundments approved under this paragraph pursuant to the requirements of 30 CFR Part 77.

(iii) The regulatory authority is responsible for regulating impoundments approved under this paragraph for compliance with the requirements of paragraph (a) of this section. The regulatory authority shall notify MSHA when it believes that regulatory action pursuant to 30 CFR Part 77 is required with respect to an impoundment approved pursuant to this paragraph.

(iv) The regulatory authority shall evaluate each plan for permanent and temporary impoundments submitted as part of the permit application for compliance with the requirements of

paragraph (a) of this section and to determine whether the plan adequately ensures protection of the public under emergency situations.

(2) Permanent and temporary water impoundments other than those subject to paragraph (b)(1) of this section and other than sedimentation pounds shall be designed, constructed, and maintained as follows:

(i) Plans and specifications for the design, construction, and maintenance of impoundments shall be submitted to the regulatory authority for approval and shall meet or exceed the performance standards of Paragraph (b)(2)(iv) of this section.

(ii) The regulatory authority may require additional specific practices it deems necessary to fulfill environmental performance standards of the Act.

(iii) The regulatory authority shall ensure that operators develop emergency procedures to protect the public should a potentially hazardous condition develop.

(iv) Performance standards:

(A) Impoundments shall be designed, constructed, and maintained on the basis of the following precipitation events:

Temporary impoundments, on 25-year, 6-hour event; permanent impoundments, on 50-year, 6-hour event. The regulatory authority may specify a larger volume design storm if site-specific conditions warrant.

(B) Structures that will impound water during or after mining operations shall attain an adequate static factor of safety as determined by prudent engineering design.

(C) Impounding embankments shall have adequate freeboard to resist overtopping by waves and by sudden increases in storage volume.

(D) Foundations shall be excavated and prepared to resist failure and cutoff trenches shall be installed if necessary to ensure stability.

(E) Slope protection shall be provided to protect against surface erosion at the site and to protect against sudden drawdown.

(F) Faces of embankments shall be vegetated, except that faces where water is impounded may be riprapped or otherwise stabilized in accordance with accepted design practices.

(G) The combination of principal and emergency spillways shall be designed and constructed to pass the design precipitation event.

(H) Excavated ponds shall meet the standards above, and additionally, the top of any remaining highwall shall be located far enough below the low waterline to avoid exposure and spalling and to protect embankment stability.

(v) Dams and embankments for water impoundments under this paragraph shall be—

(A) Designed by a qualified registered professional engineer or other certified professional with respect to critical dimensions, stability, and hydraulic performance;

(B) Inspected during construction under the direction of a qualified registered professional engineer or other certified professional to ensure that the impoundments are constructed as designed;

(C) Certified upon completion of construction by a qualified registered professional engineer or other certified professional as constructed in accordance with approved plans and specifications;

(D) Inspected by a qualified person at least every 30 days with respect to stability, maintenance, water quality, and continued performance in accordance with the design and performance standards; and

(E) Certified thereafter by a qualified registered professional engineer or other certified professional annually until bond release, abandonment, or removal as continuing to meet the approved plans and specifications.

(vi) As used in paragraph (b)(2)(v) of this section, a qualified registered professional engineer or other certified professional is a professional who is licensed by a State licensing authority to provide design services in the state where such impounding structure is to be located, who is qualified to design impounding structures, and who accepts the professional liability, and a qualified person is a person trained and qualified under 30 CFR 77.216–3(g) to perform inspection services.

(c) Plans for any enlargement, reduction in size, reconstruction, or any other modification to all dams or impoundments shall be approved before modifications begin by the regulatory authority and, if the impoundment meets the size or other criteria contained in 30 CFR 77.216(a), MSHA, except that if a modification is required to eliminate a potentially hazardous condition involving public health, safety of coal mining personnel, or the environment, the provisions of 30 CFR 77.216–3(b) shall apply.

5. Section 817.56 is revised to read as follows:

§ 817.56 Postmining adequacy of sedimentation ponds, diversions, impoundments, and treatment facilities.

Before abandoning a permit area or seeking bond release, the operator shall demonstrate to the satisfaction of the regulatory authority and, if the operation includes impoundments meeting the size and other criteria of 30 CFR 77.216(a), to the satisfaction of MSHA that all permanent sedimentation ponds, diversions, impoundments, and treatment facilities meet the requirements of this chapter for permanent structures, have been maintained properly, and meet the requirements of the approved reclamation plan for permanent structures and impoundments. The operator shall renovate such structures if necessary to meet the requirements of this chapter and to conform to the approved reclamation plan. Such demonstration shall require the certification of a qualified registered professional engineer, and any renovation required shall be certified as completed before final acceptance by the regulatory authority.

(Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*)

[FR Doc. 82-16728 Filed 6-18-82; 8:45 am]
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30 CFR Parts 816, 817, and 826

Surface Coal Mining and Reclamation Operations Permanent Regulatory Program: Backfilling and Grading

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining (OSM) is proposing to revise the rules relating to the backfilling and grading requirements for surface and underground mining activities. The rules would be reorganized, duplication would be eliminated, specific design criteria would be removed, and the backfilling and grading performance standards for steep slope mining would be combined with the backfilling and grading performance standards for other types of surface coal mining operations. OSM believes these changes would allow more flexibility in the backfilling and grading procedures.

DATES: *Written comments:* Accepted until further notice.

Public hearings: Held on request only, on August 4, 1982, at 9:00 a.m.

Public meetings: Scheduled on request only. See Supplementary Information for more detail.

ADDRESSES: *Written comments: Hand-deliver* to the Office of Surface Mining,

U.S. Department of the Interior, Administrative Record (TSR 14.16), Room 5315, 1100 L Street, NW., Washington, D.C.; or *mail* to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (TSR 14.16), Room 5315L, 1951 Constitution Avenue, NW., Washington, DC 20240.

Public hearings: Washington, D.C.—Department of the Interior Auditorium, 18th and C Streets, NW.; Pittsburgh, Pa.—William S. Moorehead Federal Building, Room 2212, 1000 Liberty Avenue; and Denver, Colo.—Brooks Towers, 2d Floor Conference Room, 1020 15th Street.

Public meetings: OSM offices in Washington, D.C.; Charleston, W. Va.; Knoxville, Tenn.; Indianapolis, Ind.; and Denver, Colo.

FOR FURTHER INFORMATION CONTACT:

Public hearings and information: Raymond E. Aufmuth, Division of Engineering Analysis, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; 202–343–5244.

Public meetings: Jose del Rio, 202–343–4022.

SUPPLEMENTARY INFORMATION:

I. Public Commenting Procedures.
II. Background.
III. Discussion of Proposed Rules.
IV. Discussion of Comments on Draft Proposed Rules.
V. Procedural Matters.

I. Public Commenting Procedures

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Commenters are requested to submit five copies of their comments (see "Addresses"). Comments received at locations other than Washington, D.C., will not necessarily be considered or be included in the Administrative Record for the final rulemaking. The comment period will remain open until the close of the comment period on the draft supplemental environmental impact statement that will consider this proposed rule.

Public Hearings

Persons wishing to comment at the public hearings should contact the person listed under "For Further Information Contact" by the close of business *three working days* before the date of the hearing. If no one requests to comment at a public hearing at a particular location by that date, the hearing will not be held. If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions.

Public hearings will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment, and persons present in the audience who wish to comment, have been heard.

Public Meetings

Persons wishing to meet with OSM representatives to discuss these proposed rules may request a meeting at any of the OSM offices listed in "Addresses" by contacting the person listed under "For Further Information Contact."

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record room (1100 L Street). A written summary of each public meeting will be made a part of the Administrative Record.

II. Background

The overburden removed as spoil during surface coal mining operations is either returned to the disturbed area by backfilling and grading, or it is disposed of in other locations. The safety and environmental protection standards for backfilling and grading areas disturbed by surface mining activities are set forth in section 515(b)(3) of the Surface Mining Control and Reclamation Act of 1977 (the Act), 30 U.S.C. 1201 *et seq.*, and those for underground mining activities are set forth in Section 516(b). Spoil that is disposed of in locations other than the disturbed area is subject to the standards for disposal of excess spoil. See 30 U.S.C. 1265(b)(22).

To comply with the provisions of the Act, backfilling and grading rules for the permanent regulatory program were promulgated on March 13, 1979, as 30 CFR 816.100–816.106 for surface mining activities and as 30 CFR 817.100–817.103 and 817.106 for underground mining activities (44 FR 15411–15413 and 15437–15438, respectively). Part 816 includes requirements for contemporaneous reclamation (§ 816.100), general requirements for backfilling and grading (§§ 816.101 and 816.102), covering coal and acid- and toxic-forming materials (§ 816.103), requirements for areas with thin and thick overburden (§§ 816.104 and 816.105), and requirements for regrading rills and gullies (§ 816.106). Similar requirements for the surface effects of underground mining activities are included in Part 817, except that there are no rules for areas with thin or thick overburden.

Backfilling and grading rules for auger mining and steep slope operations were promulgated in the same March 13, 1979, rulemaking, but they were included in 30 CFR Parts 819 and 826, respectively, in a group of rules that was established for operations that require special performance standards. However, the backfilling and grading rules for these two types of operations are similar to the general backfilling and grading rules of Parts 816 and 817. Consequently, it was proposed on March 19, 1982 (47 FR 12067), in the proposed rulemaking for auger mining, that the backfilling and grading rules for auger mining be moved to Part 816, as a new § 816.106, and it is proposed in this rulemaking that the backfilling and grading rules for steep slope operations be moved to Parts 816 and 817 as new §§ 816.107 and 817.107, respectively.

The revised backfilling and grading rules proposed herein would eliminate duplication, remove specific design criteria, and consolidate the backfilling and grading rules for most types of surface coal mining operations except mountaintop removal operations, which have special requirements.

III. Discussion of the Proposed Rules.

Introduction

OSM is proposing to revise the performance standards in Parts 816 and 817 that govern the backfilling and grading of spoil on areas disturbed by surface coal mining operations. The proposed rules would eliminate duplication in the existing rules, thereby shortening and clarifying them, and they would further simplify the rules by moving to Parts 816 and 817 similar requirements from Part 826 that prescribe the performance standards for steep slope operations.

In addition, most of the specific design criteria in the existing rules would be eliminated in the proposed rules, to allow the professional engineering community greater flexibility by adapting engineering procedures to site-specific conditions. However, even though it is not always practicable for rules to include specific criteria that are applicable to all conditions anywhere in the country, the design criteria that

would be removed are applicable to many mining situations. Accordingly, OSM is developing a technical handbook that will provide state-of-the-art knowledge on backfilling and grading and that will be updated as new information becomes available through research, experience, and experimental practices. The handbook will be placed in the technical reference file of the Administrative Record.

OSM is also proposing that the disposal of coal processing waste and underground development waste in the backfill of disturbed areas be allowed.

Finally, it is proposed that the backfilling and grading rules for the remining of previously mined areas be removed from the backfilling and grading rules proposed herein, because revised rules for that type of operation are going to be proposed in another rulemaking.

In order to simplify the preamble, the following discussion of the proposed changes to §§ 816.100–816.103 and 816.107 also applies to §§ 817.100–817.103 and 817.107, unless otherwise noted. The sections for thin and thick overburden, §§ 816.104 and 816.105, respectively, apply only to surface mining activities. The preamble for the existing rules was published on March 13, 1979 (44 FR 15225 and 44 FR 15271, respectively.)

Part 816—Permanent Program Performance Standards—Surface Mining Activities

Section 816.100 Contemporaneous reclamation

The existing requirement that all land disturbed by surface mining activities must be reclaimed as contemporaneously as possible with mining operations would not be modified.

Section 816.101 Backfilling and grading: General requirements

It is proposed that §§ 816.101 and 816.102 be combined and that § 816.101 be removed, because some of the requirements in § 816.101 are duplicative of requirements in § 816.102. In addition, specific design criteria in both sections would be removed.

The timing and distance requirements in paragraph (a) of § 816.101 for rough backfilling and grading of contour, open pit, and area strip mining operations would be removed from the backfilling and grading requirements. A detailed timetable for each step in the reclamation plan already is required by § 780.18(b)(1), and the specific design criteria would more properly be described in a technical report.

The requirement in existing § 816.101(b)(1) that all disturbed areas, except as specifically exempted, must be returned to their approximate original contour (AOC) would be moved to proposed § 816.102(a), to replace the less clear requirement in existing § 816.102(a) that final-graded slopes must approximate the general nature of the premining topography. The exceptions and variances to return the land surface to AOC are discussed in more detail in § 816.102.

The additional requirements in existing § 816.101(b)(1) to eliminate all spoil piles and depressions and to compact all spoil where advisable to ensure stability or to prevent leaching would be moved to proposed §§ 816.102(b)(2)(i) and 816.102(b)(3), respectively.

The requirements in existing § 816.101(b)(2) that backfilled material must be placed so as to minimize adverse effects on ground water, minimize offsite effects, and support the approved postmining land use would also be moved to proposed § 816.102 as paragraphs (b)(2)(iii) and (b)(2)(iv), respectively. The wording of existing § 816.101(b)(2), "minimize adverse effects on ground water, minimize offsite effects" refers to section 515(b)(10) of the Act, and the wording in proposed paragraph (b)(2)(iii) has been changed to more closely parallel the Act.

The statement in existing § 816.101(b)(3) that the grade of postmining slopes does not have to be uniform would not be included in proposed § 816.102(a) because it is superfluous. The fact that terraces and small depressions may be allowed indicates that uniformity is not necessary.

The statement in existing § 816.101(b)(4) that allows cut-and-fill terraces in certain situations would be removed, as it is only a cross reference to existing § 816.102(c), in which the conditions under which terraces would be allowed are described in detail.

For the foregoing reasons, it is proposed that § 816.101 be removed.

Section 816.102 Backfilling and grading: General grading requirements

The title of proposed § 816.102 would be revised to "Backfilling and grading: General requirements," because existing § 816.101, "Backfilling and grading: General requirements," would be removed. Additionally, the requiremetns in existing § 816.102 are not just for grading, contrary to the wording of the section title, and the requirements in proposed § 816.102 also would not be limited to grading.

The requirement in existing § 816.102(a) that postmining final-graded slopes must approximate the general nature of the premining topography would be replaced in proposed § 816.102(a) by the requirement in § 816.101(b)(1) that all disturbed areas must be returned to their approximate original contour. The requirements are identical, and "approximate original countour" is the more common term and the term that is used in the Act.

Existing § 816.102(a) also specifies that the final-graded slopes cannot exceed in grade the approximate premining slopes (i.e., approximate original countour), but that lesser slopes may be approved by the regulatory authority on the basis of soil, climate, or other characteristics. The exception refers to steep slope mining, as the wording is from the definition of "steep slope" in section 515(d)(4) of the Act. However, lower grades are also allowed in section 515(b)(3) for thin-overburden conditions, and the same section of the Act allows the grades of postmining land surfaces to be greater than those of premining land surfaces where the overburden is thick. Therefore, in proposed § 816.102(a), paragraph (1) provides an exception for thin-overburden conditions and paragraph (2) provides an exception for thick-overburden conditions. In addition, exceptions are or may be allowed for special types of operations such as mountaintop removal, land-use variances, and remining of previously mined areas. Therefore, paragraphs (a)(3)(i), (a)(3)(ii), and (a)(3)(iii), respectively, have been added to indicate that these exceptions exist.

The statement in existing § 816.102(a) that final-graded slopes need not be uniform would be removed as discussed under § 816.101(b)(3).

The provision in existing § 816.102(a) describing the conditions under which the regulatory authority may modify the reclamation requirements for remining in previously mined areas would be removed from this section, because OSM is preparing a notice of proposed rulemaking for a new section that contains the requirements. However, remining would be listed as an exception to the requirement to return to approximate original contour in proposed § 816.102(a)(3)(iii).

Proposed § 816.102(b)(1) would broaden the requirement in existing § 816.102(a)(1) by stating that all spoil must be retained in the mined-out area. The requirement is broadened because the term "bench" seems to imply mining by the countour method and does not include the other types of mining

operations to which this rule would apply. Also, the exception that, if authorized, excess spoil may be disposed of elsewhere in the permit area, as allowd in section 515(b)(22) of the Act, would be added to the paragraph. The term "spoil" is defined in § 701.5 as "overburden that has been removed during surface coal mining operatons." OSM feels that the definition includes faceup material removed during surface preparation for underground mining and construction of support facilities. A definition of the term "excess spoil" that is proposed to be added to § 701.5 in the excess spoil rulemaking proposed on June 8, 1982 (47 FR 24954) states that "excess spoil" means "spoil material disposed of in a location other than the mined-out area, except that material used to blend spoil from the mined out area with the surrounding terrain after achieveing the approximate original contour in non-steep areas."

The reference to existing benches in existing § 816.102(a)(1) would be deleted because it refers to the discussion of remining in previously mined areas in existing § 816.102(a).

Proposed § 816.102(b)(2)(i) would include the requirements in existing §§ 816.101(b)(1) and 816.102(a)(2) that all highwalls must be eliminated by backfilling and grading the spoil, and would also include the requirement in existing § 816.101(b)(1) that all spoil piles and depressions must be eliminated. A reference to the fact that small depressions may be allowed has been added to the paragraph because of the apparent contradiction of existing paragraph (c) (proposed paragraph (g)) concerning conditions under which small depressions may be authoirzed.

Proposed § 816.102(b)(2)(ii) would include the requirements in existing § 816.102(a)(2) that final slopes must be as moderate as possible, that they cannot exceed the angle of repose, and that they must have a minimum long-term static safety factor of 1.3. The requirement to eliminate highwalls, stated twice in existing § 816.102(a)(2), would be in proposed § 816.102(b)(2)(i).

Proposed §§ 816.102(b)(2)(iii) and (b)(2)(iv) would include the requirements in existing § 816.101(b)(2) that material must be backfilled so as to minimize adverse effects on surface and ground water on and off the site and to support the approved postimining land use, respectively.

Proposed § 816.102(b)(3) would include the requirement in existing § 816.101(b)(1) that spoil must be compacted where advisable to ensure stability or to prevent leaching.

Proposed § 816.102(c) would address situations where spoil may be placed outside the active mine workings in nonsteep slope areas to blend the backfilled and graded disturbed area into the surrounding terrain. This rule, which is not in the existing rules, would ensure that placement of spoil would be done in an environmentally sound manner. The placement of spoil outside the mined-out area would be approved by the regulatory authority as required by § 816.102(b)(1).

Proposed § 816.102(d) would add a new provision that would allow coal processing waste and underground development waste to be placed in the backfilled area. However, such materials must be disposed of in accordance with §§ 816.83 and 816.85 for disposal of coal processing waste. OSM believes that in spite of the many variable physical characteristics of these two types of materials, it would be possible, with proper design and construction control by a registered professional engineer, to place the materials in mined-out areas without endangering the long-term integrity of the fill. This provision would allow industry to take advantage of more cost-effective designs and still afford adequate protection to the public health and safety and to the environment.

Proposed § 816.102(e) would contain the requirements in existing § 816.103 for covering exposed coal seams and acid- and toxic-forming materials. The requirements are the same for all types of operations and more properly belong in this general-requirements section. Proposed changes in the requirements are discussed under existing § 816.103.

Proposed § 816.102(f)(1) would retain the provisions of existing § 816.102(b) that cut-and-fill terraces may be allowed in order to conserve soil moisture, ensure stability, and control erosion on final-graded slopes if they are compatible with the postmining land use, but no specific design requirements for terrace construction would be provided. OSM has already eliminated the requirement that limits terraces to a maximum 20-foot width, when § 816.102(b)(1) was revised to read as follows:

> Where specialized grading, foundation conditions, or roads are required for the approved postmining land use, the final grading may include a terrace of adequate width to ensure the safety, stability, and erosion control necessary to implement the postmining land use plan. See 47 FR 18553 (April 29, 1982).

OSM also believes that the other design requirements of existing § 816.102(b)(2)–(b)(4) should be left to the professional engineer in considering site-specific situations.

Final § 816.102(b)(1), cited above would be renumbered as § 816.102(f)(2).

Proposed § 816.102(g) would contain the provision of existing § 816.102(c)(1) that small depressions may be constructed if they are needed to retain moisture, minimize erosion, or to assist revegetation. The limitation in existing § 816.102(c)(2) that prohibits depressions that restrict normal access and in existing § 816.102(c)(3) that prohibits depressions that are inappropriate substitutes for lower grades would be removed so that the design of small depressions may be site specific. The reclamation plan submitted to the regulatory authority would show the benefit of the depressions.

The reference in existing § 816.102(d) to mining on steep slopes would be removed. Backfilling and grading performance standards for mining on steep slopes are proposed to be moved from Part 826 to a new § 816.107, which is discussed below. Existing Paragraph (d) would therefore no longer be applicable.

Proposed § 816.102(h) would allow permanent impoundments in backfilled areas. Existing § 816.104(b)(4) contains the only reference in the backfilling and grading requirements to impoundments, and construction of impoundments is clearly not restricted to thin-overburden conditions (Section 515(b)(8) of the Act).

Proposed § 816.102(i) would require that surface and shallow ground water control be provided on the backfilled and graded area by diversions and water-control structures in accordance with § 816.43. This requirement, which is not in the existing rules, would ensure that the requirement to minimize disturbances to the quality and quantity of water in surface and ground water systems contained in section 515(b)(10) of the Act would be met on backfilled areas.

Proposed § 816.102(j), on grading the final slopes and preparing the surface for replacement of topsoil using methods to minimize erosion and subsequent instability, would remove the method-of-practice requirement of existing § 816.102(e). This would allow operators greater flexibility, as other measures other than working along the contour exist to minimize erosion.

Section 816.103 Backfilling and grading: Covering coal and acid- and toxic-forming materials

It has been proposed in the foregoing discussion of § 816.102 that the requirements for covering exposed coal and acid- and toxic-forming materials be

moved to that section as paragraph (e) and that § 816.103 be removed. The following, however, discusses the requirements in existing § 816.103(a) and proposed changes to those requirements.

Section 816.103(a)(1) of the permanent program rules originally required that exposed coal seams, acid- and toxic-forming materials, combustible materials, and other materials used or produced during mining be covered with nontoxic and noncombustible material and that the cover be at least 4 feet thick. However, on October 29, 1979, the Director of OSM stated that "changes will be proposed to provide for treatment as an alternative to cover of acid- and toxic-forming materials." Affadavit of Walter N. Heine, October 29, 1979, paragraph M. On November 27, 1979 (44 FR 67492), OSM suspended §§ 816.103(a)(1) and 817.103(a)(1) and stated that the standards of section 515(b)(14) of the Act would apply to surface mining activities and that section 516(b)(10) would apply to underground mining activities. See *In re: Permanent Surface Mining Regulations Litigation*, No. 79-1144 (D.D.C. February 26, 1980) at page 58.

Proposed § 816.102(e), which would replace existing § 816.103(a)(1), would require either an adeuqate amount of cover or the treatment of toxic materials to meet the water-quality standards of § 816.41. Because determination of the conditions under which treatment is necessary and the amount of cover that is adequate for various conditions are specific design criteria and should be left to the judgment of the professional engineer, existing paragraphs (a)(2) and (a)(3) are unnecessary and would be deleted. The requirement in existing paragraph (a)(4) that acid- and toxic-forming materials are not to be buried in such proximity to drainage courses as to cause pollution would be implicit in proposed § 816.102(b)(2)(iii) and would be removed.

The backfilling requirement in existing § 816.103(b) repeats the requirements in proposed § 816.102(b) and would be deleted. Also, since the regulatory authority approves the reclamation plan in Part 780, it is not necessary to repeat the statment that the regulatory authority shall approve the method to cover acid-forming or toxic-forming materials.

Section 816.104 Backfilling and grading: Thin overburden

In existing § 816.104(a), overburden is considered to be thin if the final thickness of the spoil is less than 80 percent of the initial thickness of the overburden plus the thickness of the coal before removal. In section 515(b)(3) of the Act, overburden is considered to be thin if replacement of all spoil and waste materials in the permit area will not result in return to approximate original contour. The mathematical limit set in existing § 816.104(a) has proved to be impractical because of its preciseness. Consequently, the guideline in the Act would be substituted in proposed § 816.104(a).

It is clear from the legislative history of the Act that the discussions leading to the proviso for thin overburden in section 515(b)(3) of the Act were the result of specific concerns by Western State operators where operations generally continue for a long period of time at the same location and the coal beds are thick in comparison to the thickness of the overburden. Section 515(b)(3) therefore describes thin-overburden conditions using similar language. OSM believes that some operations in the East and Midwest may also meet the criteria for thin overburden. The determination of whether this section should apply is necessarily site specific, and each permit application requesting treatment under this section should be individually evaluated by the regulatory authority.

The requirements of existing §§ 816.104 (b)(1), (b)(2), and (b)(3), which duplicate the general backfilling and grading requirements, would be indicated by a cross reference to proposed § 816.102 to make it clear that the general backfilling and grading requirements, other than return to approximate original contour, apply to mining where the overburden is thin.

The requirements for the construction of impoundments, in existing § 816.104(b)(4), are the only such requirements in the backfilling and grading rules and therefore would be moved to proposed § 816.102(h), as the construction of impoundments is not limited to thin-overburden conditions.

Section 816.105 Backfilling and grading: Thick overburden

In existing § 816.105(a), overburden is considered to be thick if the final thickness of the spoil is more than 120 percent of the initial thickness of the overburden plus the thickness of the coal before removal. In section 515(b)(3) of the Act, overburden is considered to be thick if there is more than sufficient spoil to restore the approximate original contour. As was true of the thin overburden rule, the mathematical limit proved to be impractical, and the guideline in the Act would be substituted in proposed § 816.105.

Proposed § 816.105(a) would clarify that spoil in excess of that required to achieve approximate original contour may continue to be backfilled on the disturbed area if it is graded to achieve the lowest practicable grade, but not more than the angle of repose. This proposal would not change the substance of existing § 816.105(b)(1) but would clarify the provision by using the language of section 515(b)(3) of the Act.

The remainder of existing § 816.105(b)(1) and existing §§ 816.105(b)(3)–(b)(6) are duplicative of the general backfilling and grading requirements in proposed § 816.102. Consequently, it would be indicated in proposed § 816.105(b), by cross reference, that those requirements, other than return to approximate original contour, also apply to thick overburden conditions.

Proposed § 816.105(c) would retain the requirement in existing § 816.105(b)(2) that excess spoil must be disposed of in accordance with the excess spoil disposal rules.

Section 816.106 Regrading or stabilizing rills and gullies

Existing § 816.106, which requires that rills and gullies in regraded and topsoiled areas must be filled, graded, or otherwise stabilized, was proposed for removal from the rules on February 18, 1982 (47 FR 7384).

Section 816.107 Backfilling and grading: Steep slopes

It is proposed that § 826.12, the backfilling and grading requirements for steep slope operations, be moved from Part 826 to form a new § 816.107. Only the standards applicable to steep slopes would be addressed in the new section, because many of the backfilling and grading requirements in Part 826 are the same as those in existing §§ 816.101–816.103, and would be in proposed § 816.102. The repetition in Part 826 is necessary because that part is one of a group of self-contained parts in the permanent program rules that describes performance standards for special types of operations. However, OSM has proposed that § 826.15 be moved to another section of the rules (47 FR 16152, April 14, 1982) and has already removed § 816.16 (47 FR 18552, April 29, 1982). Thus, Part 826 would no longer be needed (see preamble discussion of Part 826).

In addition, the provisions of § 826.11, which describe the applicability of the steep slope rules, would be moved to this new proposed section.

Proposed § 816.107(a) would combine the provisions of Paragraphs (a) and (b) of § 826.11 regarding the conditions under which the steep slope rules would apply.

Proposed § 816.107(b) would retain the prohibition against placement of certain materials on the downslope that is stated in § 826.12(a)(1).

Proposed §§ 816.107(b)(1)–(b)(4) would list the types of materials that are not allowed on the downslope, presently listed in paragraphs (a)(1)(i)–(a)(1)(iv) of § 826.12.

The exception stated in § 826.12(a)(2) for placing material in road embankments on the downslope would not be included in the new section because roads are considered to be structures and the ban concerns only such materials as spoil and debris. The requirements in § 826.12(b) for return to approximate original contour, elimination of highwalls, and a 1.3 static safety factor would not be included because these standards would be stated in paragraphs (a), (b)(2)(i), and (b)(2)(ii), respectively, or proposed § 816.102.

Proposed § 816.107(c), the circumstances under which land above the highwall may be disturbed, would be moved from § 826.12(c) with minor editorial modification and with the addition of the provision from section 515(d)(3) of the Act that limits the disturbance to that necessary to facilitate compliance with the environmental standards.

Reference to the requirements for disposal of excess spoil in existing § 826.12(d) would not be included because it would be covered by proposed § 816.102(b)(1).

Proposed § 816.107(d) would incorporate from § 826.12(e) the conditions under which woody material may be buried in the backfill.

The prohibition in § 826.12(f) against unlined or unprotected channels would not be included in proposed § 816.107 because it would be covered by proposed § 816.102(i).

Part 817—Permanent Program Performance Standards—Underground Mining Activities

Section 817.100 Contemporaneous reclamation

The existing requirement that all land disturbed by underground mining activities must be reclaimed as contemporaneously as possible with mining operations would not be modified.

Section 817.101 Backfilling and grading: General requirements

It is proposed that existing § 817.101, the general backfilling and grading requirements for restoring surface areas disturbed by underground mining activities, be combined with § 817.102 and that § 817.101 be removed, for the same reasons given in the preamable for §§ 816.101 and 816.102.

Section 817.102 Backfilling and grading: General grading requirements

The title of proposed § 817.102 would be revised to "Backfilling and grading: General requirements," because existing § 817.101, "Backfilling and grading: General Requirements," would be removed. Additionally, the requirements in existing § 817.102 are not just for grading, contrary to the wording of the section title, and the requirements in proposed § 817.102 also would not be limited to grading.

The rationale for proposed paragraphs (a)–(j) is the same as that for proposed paragraphs (a)–(j) of § 816.102. The provisions allowing for exceptions from the approximate original contour standard for thick and thin overburden and mountaintop removal operations in proposed § 816.102(a)(1)–(a)(3) are not included in proposed § 817.102 because those situations do not present difficulties for underground mines.

A new provision, proposed § 817.102(k), would be added to allow flexibility for settled fills that have become stabilized and revegetated. In litigation contesting the original permanent program rules, the District Court remanded the rule requiring return to approximate original contour for underground mines. *In re: Permanent Surface Mining Regulation Litigation*, No. 79–1144 (D.D.C. May 16, 1980) (Round II). The Court recognized that one distinct difference between surface and underground mines was that the latter could remain active much longer, up to 40 years. As a result, the Court reasoned that "surface disturbances thereby become settled and revegetated. In this situation, it is duplicitous to require the removal of previously settled and revegetated land only to achieve the purpose of a second revegetation." The Court directed the Secretary "to provide some flexibility for settled fills that have become stabilized and revegetated." *Id* at page 18.

If such fills meet the criteria listed in Paragraphs (k)(1)(i)–(k)(1)(iii) of proposed § 817.102, thus proving that they are sufficiently stable and revegetated to meet the objectives of the Act, then redisturbance would not be required. The criteria include that the spoil must not be located so as to the detrimental to the environment and must not be a health and safety concern (paragraph (i)). The spoil must also be stable as demonstrated by geotechnical analysis (paragraph (ii)) and be sufficiently vegetated to prevent erosion and contribution of suspended solids from normal runoff (paragraph (iii)). In addition, the regulatory authority may decide to leave the spoil in place if more harm would be caused by moving it (paragraph (2)). Finally, the regulatory authority may require stabilization of the spoil (paragraph (3)) if the pile does not meet the criteria of paragraphs (1)(i)-(1)(iii).

Section 817.1003 Backfilling and grading: Covering coal and acid- and toxic-forming materials

It is proposed that this section be revised and moved to proposed § 817.102 as paragraph (e), for the same reasons discussed in the premable for proposed § 816.102(e).

Section 817.106 Regarding or stabilizing rills and gullies

Existing § 817.106, which requires that rills and gullies in regarded and topsoiled areas must be filled, graded, or otherwise stabilized, was proposed for removal from the rules on February 18, 1982 (47 FR 7384).

Section 817.107 Backfilling and grading: Steep slopes

It is proposed that the backfilling and grading requirements for steep slope operations in connection with underground mining activities be moved from Part 826 to a new § 817.107. The rationale for this proposed amendment is given in the foregoing discussion of § 816.107 and in the following discussion of Part 826.

Part 826 Special Permanent Program Performance Standards—Operations on Steep Slopes

It is proposed that Part 826, which applies both to surface and underground mining activities, be removed from the rules. The content of §§ 826.11 and 826.12 would be moved to Part 816 as new § 816.107 for surface mining activities and to Part 817 as new § 817.107 for the surface effects of underground mining activities. OSM has proposed in the postmining land use rulemaking that the requirements of § 826.15 be moved to Parts 816 and 817 (47 FR 16152, April 14, 1982); and OSM has, in an earlier rulemaking, removed § 826.16 (47 FR 18553, April 29, 1982). The rationale for moving the backfilling and grading requirements is given under the discussion of the proposed new § 816.107.

Sections 826.1, "Scope," and 826.2, "Objectives," would therefore be duplicative of §§ 816.1 and 816.2 and of §§ 817.1 and 817.2, and would be removed.

Section 826.15, which provides a variance from the requirement to return disturbed land to approximate original contour for the limited circumstances described in section 515(e) of the Act, was proposed for revision in a separate rulemaking to amend §§ 816.133 and 817.133, postmining land use (47 FR 16152, April 14, 1982). Section 826.16, multiple seam mining, has already been removed from this part by the rules for disposal of excess spoil on preexiting benches (47 FR 18555, April 29, 1982).

For the foregoing reasons, it is proposed that Part 826 be removed.

IV. Discussion of Public Comments on Draft Proposed Rules

OSM informally circulated a draft of these proposed rules before this rulemaking. The following discussion is of the comments received on that draft. Accepted and rejected substantive comments are addressed, but accepted editorial changes have been made without discussion.

Part 816

Several commenters requested a definition of contemporaneous reclamation or encouraged OSM to retain a time period for the completion of backfilling and grading. Also, another commenter indicated that the draft rules suffered from lack of detailed design criteria. The comments requesting time limits and additional design criteria for backfilling and grading are rejected. OSM believes that each regulatory authority should establish time periods and design criteria for reclamation that would be compatible with the type of mining in a particular area. The reclamation plan is the proper place for specifying time periods and design criteria for backfilling and grading, not rules that are national in scope.

Another commenter stated that nothing in section 515(b)(16) of the Act requires OSM to establish periods for backfilling and grading and that the rules should be flexible. OSM agrees, and the flexibility that is available to the regulatory authority is discussed in the preceding paragraph.

One commenter expressed a need for guidance by means of a technical memorandum on backfilling and grading, but another commenter pointed out that a technical memorandum is unnecessary because of the "State window" concept. OSM is developing a technical manual that will provide guidance for the regulatory authorities and the coal industry; therefore, the former comment is accepted and the latter is rejected.

One commenter suggested adding the words "as defined in the regulatory program" to the section on contemporaneous reclamation. The comment is rejected because the regulatory authority approves the reclamation plan on the basis of its own requirements.

Section 816.102

One commenter suggested modifying the requirement that all highwalls, spoil piles, and depressions be completely backfilled, allowing an exemption if desirable for meeting the postmining land use included in the approved reclamation plan. The comment is rejected because the present wording provides for the only exemptions to the backfilling requirements allowed by section 515(b)(3) of the Act.

Another commenter requested removal of the long-term static safety factor. The stability of an embankment is stated by the safety factor, and the requirement is needed for proper design of backfilled embankments. Consequently, the comment is rejected.

One commenter wanted the rules clarified by stating that the regulatory authority would approve the use of cut-and-fill terraces. The comment is rejected because the regulatory authority approves the postmining land use, which may include terraces.

One commenter proposed that depressions in the postmining land-use plan may be desirable and that this should be recognized when the postmining plan is approved. OSM accepts the comment on the value of small depressions and believes the rule recognizes the situation.

Another commenter requested that the method-of-practice requirements for final grading of slopes and preparation of the surface for topsoiling be retained. The existing rule is lengthy, and there are measures to control erosion other than working along the contour. The comment is rejected because mention of working along the contour was guidance rather than a requirement.

Several commenters indicated that it is not necessary to state that materials are not to be graded steeper than the angle of repose; that fills cannot be graded steeper than the angle of repose, by definition; and that the factor of safety precludes grading a slope approaching the angle of repose. OSM believes that the angle of repose provides a reasonable guide for the final surface configuration in the mined-out area. Therefore, the proposed rule specifies the angle of repose as a limiting factor in the backfilling and grading rules.

Section 816.105

One commenter was concerned that some highwalls would be reduced by disturbance above the highwalls if existing § 816.105(b)(5) on thick overburden was removed by the proposed rules. The paragraph in question states that all highwalls must be eliminated by backfilling. With this restriction deleted from the rules, the commenter believed there would be a tendency to reduce highwalls by means other than backfilling. The requirement has been reinstated in the proposed rules.

Another commenter proposed to delete the section on thick overburden because it contains material covered in other sections. The comment is rejected because OSM believes there is a need for a section that considers specific actions for surface mining activities in thick overburden, just as the Act recognized that need in section 515(b)(3).

Part 817

Section 817.102

Several commenters indicated that the draft of the proposed rule for settled and revegetated spoil seemed to apply to all mining activities. Their comments have been accepted, and the wording has been changed to apply to underground mining activities as indicated in *In re: Permanent Surface Mining Regulation Litigation*, No. 79–1144 (D.D.C. May 16, 1980). Several commenters suggested deletion of this provision, but their recommendation is rejected because the provision is necessary to comply with the court order.

Several commenters suggested that § 817.102(k) on settled and revegetated fills be limited to underground mines in existence before the effective date of the Act. They reasoned that the court ruled, in general, that underground mines do have to meet approximate original contour requirements, However, OSM believes the court did not rule on approximate original contour requirements but directed "the Secretary to provide some flexibility for settled fills that have become stabilized and revegetated" (*In re: Permanent Surface Mining Regulation Litigation*, No. 79–1144, D.D.C. May 16, 1980). Section 817.102(k) provides the flexibility for material that has remained in place for a long time, but is does not change the approximate original contour requirement for any excavated area or elimination of the highwall. Also, § 817.102(k) cannot be applied to underground mines in existence before passage of the Act, because the existing-

structure requirements in § 701.11(d) would apply to those mines.

One commenter suggested that stabilized-cut areas should be exempt from approximate original contour requirements for the same reasons that settled and revegetated spoil is exempt. The comment is rejected. For surface mining operations, section 515(b)(3) of the Act imposes the requirement that the disturbed area must be restored to approximate original contour for which exception is allowed only under sections 515(c) and 515(e) of the Act, provisions which are not applicable in this instance. As to cuts remaining as surface effects of underground mining, OSM believes that this is not an area in which it is necessary under section 516(b)(10) of the Act to accommodate differences between surface and underground mining.

One commenter suggested that if a settled and revegetated spoil pile is detrimental to the environment or to the public health or safety, it must be stabilized or relocated. OSM believes that the regulatory authority needs the discretion to specify the requirements for stabilization or relocation of spoil that may present a hazard to the public. The comment is rejected.

Several commenters requested clarification concerning the treatment of underground mine entries in draft § 816.103(a) on the treatment of acid- and toxic-forming and hazardous materials. The reference to control of water from underground mine entries was not included in the proposed rule (§ 816.102(c)) and will be covered in a separate rulemaking that OSM will announce soon.

Some commenters expressed concern with the wording in the draft "achieve an ecologically sound land use compatible with the surrounding region," that reclamation might not be required in areas surrounded by old works and that in some situations operators would be required to exceed natural conditions. However, the phrase is from section 515(b)(3) of the Act. In order to avoid misinterpretation, the wording has been changed to "support the approved postmining land use," which is in the reclamation plan that is submitted for approval by the regulatory authority under § 784.13.

Another commenter wanted to retain the original requirement that 4 feet of cover be required for acid- or toxic-forming materials. OSM believes that each regulatory authority should establish the depth of cover for, or need for treatment of, acid- or toxic-forming materials, and the comment is rejected.

Part 826

A commenter wanted the definition of steep slope in section 515(d)(4) of the Act to be added to the proposed rules. However, the definition of steep slope in § 701.5 of the existing rules (44 FR 15321) follows the definition in the Act.

Another commenter wanted the cross reference for road embankments restored to the section on steep slope mining. The reference to road embankments would be removed from the proposed rules because roads are structures and the section on steep slope mining prohibits materials rather than structures on the downslope (see discussion of § 816.107). Therefore, the comment is rejected.

A commenter pointed out that the paragraph on woody materials was not included in the draft proposed rules on steep slope mining as indicated in the preamble to the draft rules. The comment is accepted, and the paragraph has been added to the section on steep slope mining.

VI. Procedural Matters

Executive Order 12291

The Department of the Interior (DOI) has examined these proposed rules according to the criteria of Executive Order 12291 (Februry 17, 1981). OSM has determined that these are not major rules and do not require a regulatory impact analysis because they will impose only minor costs on the coal industry and coal consumers. In addition, the proposed rules emphasize the use of performance standards instead of design criteria, which will allow operators to utilize the most cost-effective means of achieving the performance standards.

Regulatory Flexibility Act

The Department has also determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that these rules will not have a significant economic impact on a substantial number of small entities. The proposed rules will allow small coal operators increased flexibility in meeting performance standards and should especially ease the regulatory burden on small coal operators in Appalachia.

National Environmental Policy Act

OSM has prepared an Environmental Assessment (EA) of the cumulative impacts on the human environment of this rulemaking and related rulemakings under the Act. This cumulative EA is on file in the OSM Administrative Record office at the address listed in the "Addresses" section of this preamble. OSM is also preparing a Supplemental Environmental Impact Statement that will consider this proposed rule. (See 47 FR 18920, May 3, 1982.)

Lists of Subjects in 30 CFR

Part 816

Coal mining, Environmental protection, Reporting requirements, Surface mining.

Part 817

Coal mining, Environmental protection, Reporting requirements, Underground mining.

Part 826

Coal mining, Environmental protection, Reporting requirements, Surface mining, Underground mining.

Accordingly, it is proposed to revise 30 CFR Parts 816, 817, and 826 as set forth herein.

Dated: June 8, 1982.

William P. Pendley,

Acting Assistant Secretary, Energy and Minerals.

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

§ 816.101 [Removed]

1. Part 816 is amended by removing § 816.101.

2. Section 816.102 is revised to read as follows:

§ 816.102 Backfilling and grading: General requirements.

(a) Postmining slopes shall be returned to the approximate original contour of the premining slopes, except when—

(1) The standards for thin overburden in § 816.104 are met;

(2) The standards for thick overburden in § 816.105 are met, or

(3) A variance is obtained from the regulatory authority for—

(i) Mountaintop removal operations in accordance with § 785.14,

(ii) Land-use variances in accordance with § 785.16 or

(iii) Remining of previously mined areas.

(b) Spoil shall be—(1) Retained in the mined-out area, unless disposal elsewhere in the permit area is approved;

(2) Backfilled and graded to— (i) Eliminate all highwalls, spoil piles, and depression, except that small depressions may be constructed in accordance with § 816.102(g);

(ii) Achieve the most moderate slope possible that does not exceed either the angle of repose or such lesser slope as is

necessary to achieve a minimum long-term static safety factor of 1.3;

(iii) Minimize disturbance of the hydrologic balance both on and off the site; and

(iv) Support the approved postmining land use; and

(3) Compacted where advisable to ensure stabliity or to prevent leaching.

(c) Placement of spoil outside the active mine workings in nonsteep slope areas in order to restore the approximate original contour by blending the spoil into the surrounding terrain shall meet the following requirements:

(1) All vegetative and organic material shall be removed from the area.

(2) The topsoil shall be removed, segregated, stored, and redistributed in accordance with §§ 816.21–816.25.

(3) The spoil shall be backfilled and graded in accordance with this section.

(d) Disposal of coal processing waste and underground development waste in the backfilled area shall be in accordance with §§ 816.83 and 816.85, except that a long-term static safety factor of 1.3 shall be achieved.

(e) Exposed coal seams and acid- and toxic-forming materials, combustible materials, and any other materials identified as exposed, used, or produced during mining shall be adequately covered with nontoxic and noncombustible material, or treated, to control the impact on surface and ground water in accordance with § 816.41, prevent sustained combustion, and minimize adverse effects on plant growth and land use.

(f) Cut-and-fill terraces may be allowed where—

(1) Needed to conserve soil moisture, ensure stability, and control erosion on final-graded slopes, if the terraces are compatible with the approved postmining land use; or

(2) Specialized grading, foundation conditions, or roads are required for the approved postmining land use, in which case the final grading may include a terrace of adequate width to ensure the safety, stability, and erosion control necessary to implement the postmining land use plan.

(g) Small depressions may be constructed if they are needed to retain moisture, minimize erosion, or assist revegetation.

(h) Permanent impoundments may be approved if they meet the requirements of §§ 816.41–816.56 and if they are suitable for the approved postmining land use.

(i) Overland and shallow ground-water flow from undisturbed areas and flow in ephemeral streams shall be controlled by diversions and other water-control measures in accordance with § 816.43.

(j) Preparation of final-graded surfaces shall be conducted in a manner that minimizes erosion and provides a surface for replacement of topsoil that will minimize slippage.

§ 816.103 [Removed]

3. Part 816 is amended by removing § 816.103.

4. Section 816.104 is revised to read as follows:

§ 816.104 Backfilling and grading: Thin overburden.

In surface coal mining which is carried out at the same location over a substantial period of time where the operation transects the coal deposit, and where the thickness of the coal deposit relative to the thickness of the overburden is large and where the operator demonstrates that the spoil and other waste materials available from the entire permit area are insufficient, giving due consideration to volumetric expansion, to restore the disturbed area to its approximate original contour, the operator shall, at a minimum—

(a) Backfill, grade, and compact (where advisable) using all available spoil and waste materials to attain the lowest practicable grade but not more than the angle of repose, and

(b) Meet the other requirements of § 816.102.

5. Section 816.105 is revised to read as follows:

§ 816.105 Backfilling and grading: Thick overburden.

In surface coal mining where the thickness of the overburden is large relative to the thickness of the coal deposit and where the operator demonstrates that the volume of the spoil and other waste materials is more than sufficient to restore the disturbed area to approximate original contour, the operator shall, at a minimum, after restoring to approximate original contour—

(a) Backfill, grade, and compact (where advisable) the spoil to attain the lowest practicable grade but not more than the angle of repose;

(b) Meet the other requirements of § 816.102; and

(c) Dispose of any excess spoil in accordance with §§ 816.71–816.74.

6. A new § 816.107 is added to read as follows:

§ 816.107 Backfilling and grading: Steep slopes.

(a) Surface mining activities on steep slopes shall be conducted so as to meet the requirements of § 816.102 and the requirements of this section, except where mining is conducted on flat or gently rolling terrain with an occasional steep slope through which the mining proceeds and leaves a plain or predominantly flat area or where operations are conducted in accordance with Part 824 of this chapter.

(b) The following materials shall not be placed on the downslope:

(1) Spoil.

(2) Waste materials of any type.

(3) Debris, including that from clearing and grubbing for haul-road construction.

(4) Abandoned or disabled equipment.

(c) Land above the highwall shall not be disturbed unless the regulatory authority finds that this disturbance will facilitate compliance with the environmental protection standards of Subchapter K of this chapter and the disturbance is limited to that necessary to facilitate compliance.

(d) Woody materials shall not be buried in the backfilled area unless the regulatory authority determines that the proposed method for placing woody material within the backfill will not deteriorate the stable condition of the backfilled area. Woody materials may be chipped and distributed over the surface of the backfill as mulch, if special provision is made for their use and is approved by the regulatory authority.

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

§ 817.101 [Removed]

7. Part 817 is amended by removing § 817.101.

Section 817.102 is revised to read as follows:

§ 817.102 Backfilling and grading: General requirements.

(a) Postmining slopes shall be returned to the approximate original contour of the premining slopes, except when a variance is obtained from the regulatory authority for—

(1) Land-use variances in accordance with § 785.16, or

(2) Remining of previously mined areas.

(b) Spoil shall be—

(1) Retained in the mined-out area, unless disposal elsewhere in the permit area is approved;

(2) Backfilled and graded to—

(i) Eliminate all highwalls, spoil piles, and depressions, except that small depressions may be constructed in accordance with § 817.102(g);

(ii) Achieve the most moderate slope possible that does not exceed either the angle of repose or such lesser slope as is

necessary to achieve a minimum long-term static safety factor of 1.3;

(iii) Minimize disturbance of the hydrologic balance both on and off the site; and

(iv) Support the approved postmining land use; and

(3) Compacted where advisable to ensure stability or to prevent leaching.

(c) Placement of spoil outside the active mine workings in nonsteep slope areas in order to restore the approximate original contour by blending the spoil into the surrounding terrain shall meet the following requirements:

(1) All vegetative and organic material shall be removed from the area.

(2) The topsoil shall be removed, segregated, stored, and redistributed in accordance with §§ 817.21–817.25.

(3) The spoil shall be backfilled and graded in accordance with this section.

(d) Disposal of coal processing waste and underground development waste in the backfilled area shall be in accordance with §§ 817.83 and 817.85, except that a long-term static safety factor of 1.3 shall be achieved.

(e) Exposed coal seams and acid- and toxic-forming materials, combustible materials, and any other materials identified as exposed, used, or produced during mining shall be adequately covered with nontoxic and noncombustible materials, or treated, to control the impact on surface and ground water in accordance with § 817.41, prevent sustained combustion, and minimize adverse effects on plant growth and land use.

(f) Cut-and-fill terraces may be allowed where—

(1) Needed to conserve soil moisture, ensure stability, and control erosion on final-graded slopes, if the terraces are compatible with the approved postmining land use; or

(2) Specialized grading, foundation conditions, or roads are required for the approved postmining land use, in which case the final grading may include a terrace of adequate width to ensure the safety, stability, and erosion control necessary to implement the postmining land use plan.

(g) Small depressions may be constructed if they are needed to retain moisture, minimize erosion, or assist revegetation.

(h) Permanent impoundments may be approved if they meet the requirements of §§ 817.41–817.56 and if they are suitable for the approved postmining land use.

(i) Overland and shallow ground-water flow from undisturbed areas and flow in ephemeral streams shall be controlled by diversions and other water-control measures in accordance with § 817.43.

(j) Preparation of final-graded surfaces shall be conducted in a manner that minimizes erosion and provides a surface for replacement of topsoil that will minimize slippage.

(k) Regrading of settled and revegetated fills to achieve approximate original contour at the conclusion of underground mining activities shall not be required if the conditions of paragraph (k)(1) are met.

(l) Settled and revegetated fill shall be composed of spoil or non-toxic or non-acidic underground development waste and meet the following criteria:

(i) The spoil or underground development waste shall not be located so as to be detrimental to the environment, or to the health and safety of the public.

(ii) Stability of the spoil or underground development waste shall be demonstrated through standard geotechnical analysis to be consistent with backfilling and grading requirements for material on the solid bench (1.3 static safety factor) or excess spoil requirements for material on the outslope (1.5 static safety factor).

(iii) The surface of the spoil or underground development waste shall be vegetated according to § 817.116 or § 817.117 and surface runoff shall be controlled in accordance with § 817.41.

(2) If the criteria of paragraph (k)(1) of this section are not met and if it is determined by the regulatory authority that disturbance of the existing spoil or underground development waste would increase environmental harm or adversely affect the health and safety of the public, then the regulatory authority may allow the existing spoil or underground development waste pile to remain in place.

(3) The regulatory authority may require stabilization of the spoil or underground development waste allowed to remain in place according to paragraph (k)(2) of this section to meet the requirements of paragraphs (k)(1)(i)–(k)(1)(iii) of this section.

§ 817.103 [Removed]

8. Part 817 is amended by removing § 817.103.

9. Part 817 is amended by adding new § 817.107 to read as follows:

§ 817.107 Backfilling and grading: Steep slopes.

(a) Underground mining activities on steep slopes shall be conducted so as to meet the requirements of § 817.102 and the requirements of this section.

(b) The following materials shall not be placed on the downslope:

(1) Spoil.

(2) Waste materials of any type.

(3)Debris, including that from clearing and grubbing for haul-road construction.

(4) Abandoned or disabled equipment.

(c) Land above the highwall shall not be disturbed unless the regulatory authority finds that this disturbance will facilitate compliance with the environmental protection standards of Subchapter K of this chapter and the disturbance is limited to that necessary to facilitate compliance.

(d) Woody materials shall not be buried in the backfilled area unless the regulatory authority determines that the proposed method for placing woody material within the backfill will not deteriorate the stable condition of the backfilled area. Woody materials may be chipped and distributed over the surface of the backfill as mulch, if special provision is made for their use and if approved by the regulatory authority.

PART 826—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—OPERATIONS ON STEEP SLOPES [REMOVED]

10. Subchapter K is amended by removing Part 826.

Authority: Pub. L. 95–87, 30 U.S.C. 1201 et seq.

[FR Doc. 82–16729 Filed 6–18–82; 8:45 am]

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30 CFR Part 934

Surface Coal Mining and Reclamation Operations on Federal Lands Under the Permanent Program; State-Federal Cooperative Agreements; North Dakota

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is proposing to adopt a cooperative agreement between the Department of the Interior and the State of North Dakota for the regulation of surface coal mining operations on Federal lands in North Dakota under the permanent regulatory program. Such a cooperative agreement is provided for in the Surface Mining Control and Reclamation Act of 1977. This notice of proposed rulemaking provides additional information on the proposed terms of the cooperative agreement and other issues.

DATES: The public comment period on this proposed rule will extend until August 20, 1982. The public hearing will be held at the location shown in

"**ADDRESSES,**" below, on August 10, 1982, beginning at 9:30 a.m. Any person interested in making an oral or written presentation at the hearing must contact OSM at the address and phone number listed under "**FOR FURTHER INFORMATION CONTACT**" by July 21, 1982.

ADDRESSES: Written comments must be mailed to: Administrative Record R&I–07, Office of Surface Mining, Room 5315–L, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

Written comments may be hand carried to: Office of Surface Mining, Administrative Record R&I–07, Room 5315, 1100 L Street, NW., Washington, D.C.

Copies of the proposed Agreement and of the related information required under 30 CFR Part 745 are available for inspection Monday through Friday, 8:30 a.m. to 4 p.m., excluding holidays, at the following addresses:

State of North Dakota, Public Service Commission, Capital Building, Bismarck, North Dakota 58505

Office of Surface Mining, Room 5315, 1100 L Street, NW., Washington, D.C. 20005

The public hearing will be held in the 16th floor conference room, Capital Building, Bismarck, North Dakota 58505. If no person has contacted OSM by July 21, 1982, to express an interest to participate in the hearing, the hearing will be cancelled. A notice announcing any cancellation will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Andrew DeVito, Office of Surface Mining, South Interior Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Phone: (202) 343–5866.

SUPPLEMENTARY INFORMATION:

I. Procedural Matters

A. Public Hearing

Individual testimony at the public hearing will be limited to 15 minutes. The hearings will be transcribed by a court reporter. Filing of a written statement at the time of giving oral testimony will be helpful and would facilitate the job of the court reporter. Submission of written statements in advance of the hearing would greatly assist OSM officials who will attend the hearing by providing an opportunity to consider appropriate questions which could be asked for clarification or to request more specific information from the person testifying.

B. Public Meetings

Representatives of OSM will be available to meet during the comment period at the request of members of the public to receive their recommendations and comments concerning the proposed cooperative agreement. In order to schedule or attend such meetings, contact the individual listed under "**FOR FURTHER INFORMATION CONTACT**". OSM representatives will be available for these meetings between 9 a.m. and 4 p.m. local time, Monday through Friday, excluding holidays. All such meetings will be open to the public. Notices of such meetings and where they will be held will be posted in advance in the Administrative Record Room, Room 5315, 1100 L Street, NW., Washington, D.C. 20005.

C. Contracts With State Representatives

The Department has previously announced (45 FR 58378, September 3, 1980) its intention to follow the "Guidelines for Contacts with Employees and Officials During Consideration of State Permanent Regulatory Programs" published at 44 FR 54444 (September 19, 1979), during the process of developing cooperative agreements with the States. As written, the guidelines apply only to the State program review and decision process. However, the Department believes that the guidelines should also be applied in the development of State-Federal permanent program cooperative agreements because of the close interrelationship between each cooperative agreement and the approved State program. The need to reserve the ability of the Department and the State to work together through the stages of the cooperative agreement and the right of the public to be informed and to have the opportunity to comment meaningfully on issues raised are principles applicable to permanent program cooperative agreement rulemakings.

This decision requires that minor changes in the guidelines be made to clarify their applicability to cooperative agreement rulemakings.

Accordingly, revised guidelines for contacts with Departmental employees and officials during permanent program cooperative agreement rulemakings are given below. See the notice of September 29, 1979, 44 FR 54444, for a full discussion of the guidelines and supporting principles. The September 19, 1979, guidelines remain fully applicable to the State program review process.

1. Upon request the Department will meet with any member of the public through the end of the public comment period. Notices of scheduled meetings will be posted in a public place. The meetings will be open.

2. The Department will meet with State representatives or have telephone conservations with them, upon the initiative of either party, up to the point of the Secretary's decision to enter into a permanent program cooperative agreement with a State. These meetings will be open to the public unless the Department decides an executive session is appropriate. Advance notice of scheduled meetings will be posted in a public place. Notice of the executive session will be posted in a public place.

3. The Department will keep a summary record of all meetings and discussions, whether in person or by telephone, on a proposed cooperative agreement. This record will include a summary of the discussion and a list of all written information OSM receives. All such records along with all written communications relating to the cooperative agreement shall be made available to the public.

4. In those instances where the Department has conducted meetings or discussions with a State after the close of the public comment period, the Department will include summaries of the meetings in the record and, if necessary to assure an effective opportunity for public participation, provide an opportunity for the public to review the record of such meetings and discussions and to comment on them before a decision is made to enter into a permanent program cooperative agreement.

D. Public Comments

Written and oral comments should be as specific as possible. Although all comments are invited, those most likely to influence decisions on the cooperative agreement will be those which are supported by reasoning.

All written comments must be received by OSM by 5:00 p.m. local time on the date the comment period closes. Comments received after that hour will not necessarily be considered or included in the administrative record of this rulemaking. OSM cannot ensure that written comments received or delivered during the comment period to locations other than those specified above will be considered and included in the administrative record. Notices of meetings, summaries of all meetings and telephone conversations, along with all public comments received and a transcript of the public hearing, will also be made available for public review in the Office of Surface Mining at the address noted above.

II. Background

The purpose of this proposed rulemaking is to adopt a permanent program cooperative agreement between the Department of the Interior

and the State of North Dakota which will give North Dakota primacy in the administration of its approved permanent regulatory program on Federal lands in North Dakota. The State of North Dakota submitted a request for a permanent program cooperative agreement on November 14, 1980. Section 523(c) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), 30 U.S.C. 1201 *et seq.*, and the implementing regulations at 30 CFR Part 745, allow for the State and the Secretary of the Interior to enter into a permanent program cooperative agreement if the State has an approved State program for the regulation of surface coal mining operations.

Consistent with Congress' intent that implementation of the Act be accomplished in two phases, section 523(c) of the Act provides for two kinds of State-Federal cooperative agreements: initial program cooperative agreements and permanent program cooperative agreements. Initial program cooperative agreements are authorized by the second sentence of section 523(c), which provides that "States with cooperative agreements existing on the date of enactment of this Act, may elect to continue regulation on Federal lands within the State, prior to approval by the Secretary of their State program, or imposition of a Federal program, provided that such existing cooperative agreement is modified to fully comply with the initial regulatory procedures set forth in section 502 of this Act." 30 U.S.C. 1273(c). Six States had cooperative agreements with the Department of the Interior prior to August 3, 1977 (Wyoming, Utah, New Mexico, North Dakota, Montana and Colorado). On January 23, 1980, North Dakota's pre-August 3, 1977, cooperative agreement was modified to comply fully with the initial regulatory program promulgated pursuant to section 502 of the Act. 30 U.S.C. 1252. It was published in the **Federal Register** on January 23, 1980 (45 FR 5534) and codified at 30 CFR 211.77(d).

Permanent program cooperative agreements are authorized by the first sentence of section 523(c) which provides that "[a]ny State *with an approved State program* may elect to enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands within the State, provided the Secretary determines in writing that such State has the necessary personnel and funding to fully implement such a cooperative agreement in accordance with the provision of this Act." 30 U.S.C. 1273(c) (emphasis added).

In entering into a permanent program cooperative agreement with the State of North Dakota, the Secretary will be implementing two other requirements of section 523 of the Act. These statutory requirements are (1) consideration of the diverse and unique characteristics of Federal lands in North Dakota, if any, and (2) incorporation of the requirements of the approved State program into the Federal lands program in North Dakota. *See* 30 U.S.C. 1273(a).

III. The State of North Dakota's Application

The State of North Dakota submitted its request for a permanent program cooperative agreement on November 14, 1980, along with the proposed terms and the information required by the regulations at 30 CFR Part 745. Revisions to those terms were made based on discussions between representatives from the State of North Dakota and OSM. A Notice of Intent to Propose Rulemaking, published in the **Federal Register** on August 7, 1981 (46 FR 40212), included the revised terms. Additional revisions to the proposed terms published on August 7, 1981, have been made based on further discussions with the State. The full text of the proposed permanent program cooperative agreement resulting from those discussions appears at the end of this notice.

The procedures for States to elect to enter into permanent program cooperative agreements are found in 30 CFR Part 745. Section 745.11(b) (1) through (8) of OSM's regulations require that certain information be submitted with a request for a permanent program cooperative agreement, if the information has not previously been submitted in the State program. The State of North Dakota submitted a proposed permanent program cooperative agreement and the supporting information required by 30 CFR 745.11(b) on November 14, 1980. Most of the information relating to the budget, staffing, organization and duties of the State regulatory authority, the North Dakota Public Service Commission (Commission), was described as appearing in volume 1 of North Dakota's Proposed Permanent Coal Program Text. *See* 30 CFR 745.11(b) (1), (2), (3), (4), (5) and (6). In addition, a written certification from the chief legal officer of the Commission concluded that no State statutory, regulatory or other legal constraint exists which would limit the capability of the Commission to fully comply with section 523(c) of the Act, as implemented by 30 CFR Part 745. *See* 30 CFR 745.11(b)(8).

OSM is proposing major revisions to the Federal lands regulations in 30 CFR Subchapter D. If those revisions are adopted before the effective date of the final rule for this cooperative agreement, OSM may make changes in the cooperative agreement in order to conform it to changes adopted for the Federal lands regulations. Comments are specifically requested on the impact of the proposed Federal lands regulations on the provisions of this proposed rule.

IV. The Text of the Proposed Agreement

A summary of the proposed cooperative agreement appears below. OSM emphasizes that the proposed permanent program cooperative agreement is subject to further change because of public comments and/or further discussion with the State of North Dakota.

Article I: Introduction and Purpose

This article would set forth the legal authority for the cooperative agreement which is contained is section 523(c) of the Act. The purposes of the Agreement are also listed.

Article II: Effective Date

This article provides that the cooperative agreement would be effective following signing by the Secretary and the Governor, and upon publication as a final rule in the **Federal Register**. It would remain in effect until terminated as provided in article X.

Article III: Scope

Article III would provide that the laws, rules, terms and conditions of North Dakota's State program are applicable to Federal lands in North Dakota except as otherwise stated in the cooperative agreement, the Act, 30 CFR 745.13, or other applicable laws or regulations. The effect of this provision would be to adopt the North Dakota State program as substantive Federal law enforceable by the State and the United States. This provision would also specifically implement section 523(a) of the Act, which provides that "(w)here Federal lands in a State with an approved State program are involved, the Federal lands program shall, at a minimum, include the requirements of the approved State program." 30 U.S.C. 1273(a). Excluded from the scope of the Agreement are the authorities and responsibilities reserved for the Secretary pursuant to the Act and 30 CFR 745.13.

Article IV: Requirements for Cooperative Agreement

This article would mutually bind the Commission and the Secretary to the provisions of the cooperative agreement and the conditions and requirements contained in article IV. The responsible agency in the State of North Dakota for purposes of administering this cooperative agreement would be the Commission which has and must continue to have authority under State law to carry out this cooperative agreement.

Article IV also would provide that the State may be reimbursed pursuant to section 705(c) of the Act if the cooperative agreement has been implemented and if necessary funds have been appropriated to OSM by Congress. Section 705(c) of the Act provides that a State with a cooperative agreement may receive an increase in its annual grant for the development, administration and enforcement of a State program on Federal lands by an amount which the Secretary determines is approximately equal to the amount the Federal government would have expended to regulate surface coal mining and reclamation operations on the Federal lands within the State. See 30 U.S.C. 1295(c). The reference in section 705(c) to section 523(d) is obviously a typographical error. The correct reference is section 523(c). The regulations implementing section 705(c) appear at 30 CFR 735.16 through 735.26. If adequate funds have not been appropriated, OSM and MLRD will meet to decide on appropriate measures to insure that mining operations are regulated in accordance with the Program. Funds provided to the State are to be adjusted in accordance with Office of Management and Budget (OMB) Circular A–102 (Uniform Requirements For Assistance To State And Local Governments), Attachment E (Program Income).

The article also deals with reports and records, personnel, the use of equipment and laboratories and permit application fees. The provisions are short and self-explanatory.

Article V: Policies and Prodedures for Review of a Permit Application Package or an Application for a Permit Renewal or Revision

Under this article, an operator on Federal lands would be required by the Commission and the Secretary to submit a permit application package in an appropriate number of copies to the Commission and OSM. The term "permit application package" used throughout the cooperative agreement beginning in this article, is a new term. It would include the requirements of the Mineral Leasing Act of 1920 (MLA), implemented by the 30 CFR Part 211 regulations of the Minerals Management Service (MMS), and the requirement of the Act for a surface coal mining permit, implemented by 30 CFR Part 741. Comments are invited on use of the term "permit application package." The permit application package is to be in the form required by the Commission and contain any supplemental information, such as data pertaining to the life of the mine, which may be required by the Department of the Interior. At a minimum, the permit application package must include the necessary information for the Commission and the Department to make a determination of compliance with the State program, applicable terms and conditions of the Federal coal lease, and applicable requirements of other Federal laws and regulations. Comments are invited on whether more specificity is required under subsection 5.A of this article regarding the State program and other Federal laws and regulations which may be applicable.

Paragraphs 1 through 6 of article V.B would describe the procedures for the cooperative review and analysis of permit application packages on Federal lands. The proposed cooperative agreement identifies the Commission as primarily responsible for the analysis, review, and approval of the permit application on Federal lands in North Dakota. In assuming primary responsibility for review, analysis, and approval of permit applications, the Commission would also be the primary point of contact for operators on behalf of both the State and the Department. All joint State-Federal determinations would be channeled to the operator throught the Commission. This, however, would not preclude the Secretary from contacting the operator independently of the State to carry out his statutory responsibilities. The Commission would also prepare with OSM assistance, where requested, the technical analysis, environmental analysis, and proposed written decision document on the permit application package. The Commission would issue the permit.

OSM, at the request of the Commission, would assist as possible in the review of the permit application package and provide technical assistance to the Commission. Copies of any correspondence with the applicant as well as any information OSM receives from the applicant will be provided to the Commission. OSM will coordinate with all appropriate Federal agencies to ensure timely funneling of analyses and conclusions to the Commission.

The Secretary would be required to review and approve the elements of the permit application package relating to the MLA and other elements such as cultural resources, post-mining land use, and compliance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.*, which are required by Federal law and cannot be delegated to the Commission. Even though the permit is issued by the Commission, mining may not commence until the Secretary approves the mine plan and these other elements of the permit application package. If a permit is issued prior to Secretarial approval, the Commission would be required to reserve the right to modify or rescind the permit to conform with the Secretary's decision.

Paragraph 7 of this article is included in the cooperative agreement pursuant to North Dakota Administrative Code 69–05.2–10–06, which deals with the issuance of permits, permit renewals, and permit revisions for surface disturbances associated with surface coal mining and reclamation operations on lands where the surface estate is non-Federal and non-Indian and the mineral estate is Federal. The Secretary's conditional approval of the State program on December 15, 1980 (45 FR 82214), stated that this provision of the State Act was not included in the conditional approval but would be considered later in the promulgation of a State-Federal cooperative agreement.

Paragraph 7, therefore, would provide that the Commission may approve and issue permits, permit renewals, and permit revisions for surface disturbances associated with surface coal mining and reclamation operations, and disturbance of the surface may commence without need for an approved mine plan on lands where, (a) the surface estate is non-Federal and non-Indian; (b) the mineral estate is Federal; (c) the Commission consults with OSM in order to insure that actions are not taken which would substantially and adversely affect the Federal mineral estate; and (d) the proposed surface disturbances are planned to support surface coal mining and reclamation operations on adjacent non-Federal lands and this is specified in the permit, permit renewal, or permit revision.

OSM believes that, because of the State primacy provision in section 503 of the Act, the definition of Federal lands found in section 701(4) of the Act, should be interpreted as excluding these lands.

Comments are specifically requested on the provisions of this paragraph.

Paragraphs 8 and 9 of this article would deal with the issuance of renewals and revisions of permits issued by the Department prior to the effective date of this cooperative agreement. The paragraphs would specify that the Commission would issue the permit renewal or revision in consultation, where necessary, with OSM. Permit revisions found to be a significant alteration to the existing mine plan would have to be reviewed according to the procedures specified in this article for permit application packages.

Paragraph 10 would deal with the resolution of differences which may develop during the permit application package review. The paragraph would specify that when agreement cannot be reached over the final actions to be taken by the Commission and the Department, the matter would be referred to the Governor and the Secretary for resolution.

Article VI: Inspections

This article would specify that the Commission must conduct inspections on Federal lands and prepare and file inspection reports in accordance with its approved Program.

Administrative provisions of this article include designation of the Commission as the primary point of contact with the operator and a provision for reasonable notice to the State prior to a Federal inspection. However, this article would preserve the right of the Department to conduct inspections of surface coal mining and reclamation operations on Federal lands, without prior notice to the Commission, for the purposes of evaluating the manner in which the cooperative agreement is being carried out and insuring that performance and reclamation standards are being met.

The right of Federal and State agencies to conduct inspections for purposes outside the scope of the proposed cooperative agreement would not be affected. In particular, this article would preserve the Department's obligation and authority to conduct inspections pursuant to 30 CFR Part 743 and 842.

This article would also provide that personnel of the State and the Department would be mutually available to serve as witnesses in enforcement actions taken by either party.

Article VII: Enforcement

Proposed article VII would set forth the enforcement obligations and authorities of OSM and the Commission. The Commission would have primary enforcement authority on Federal lands in accordance with the requirements of the cooperative agreement and the approved State program.

This article also would specify that the parties will consult prior to revoking or suspending a permit. The Secretary's obligation to enforce violations of Federal law other than the Act would be preserved as would OSM's authority to take enforcement action to comply with Parts 843 and 845. In taking such action, OSM would apply the performance standards contained in the approved State program, but would use the Federal procedures and penalty system.

Article VIII: Bonds

Under this article, the Commission would require each operator to submit a single performance bond to meet Federal and State requirements. The bond would be payable to the State and the United States. The Commission would be required to obtain the consent of the Department prior to releasing or forfeiting an operator's performance bond. In addition to a performance bond, an operator still would be required to furnish a lease bond and a lessee protection bond. Bonding requirements of the MLA and other Federal laws appear at 30 CFR Part 742 and 43 CFR Subpart 3474.

Article IX: Designation of Lands as Unsuitable

This article would describe the roles of the Commission and OSM in the review and processing of petitions to designate lands as unsuitable for surface coal mining operations on adjacent Federal and non-Federal lands. The authority to designate Federal lands as unsuitable would be reserved to the Secretary or his designated representative. See 30 CFR 745.13. Petitions for designation on Federal lands must be filed in accordance with 30 CFR Part 769.

Article X: Termination of Cooperative Agreement

Article X would specify the three ways in which the cooperative agreement could be terminated: (1) By the Commission upon written notice to the Secretary; (2) by the Secretary after public notice, a public hearing, and opportunity for remedial action; and (3) by operation of law when no longer authorized by Federal law, State law, or a withdrawal of the Secretary's approval of the State program pursuant to 30 CFR Part 733.

Article XI: Reinstatement of Cooperative Agreement

Article XI would provide for reinstatement of the cooperative agreement upon application by the Commission and the submission of evidence to the Secretary that the Commission can and will comply with all of the provisions of the Agreement.

Article XII: Amendment of Cooperative Agreement

Article XII would provide that the proposed permanent program cooperative agreement may be amended by mutual agreement of the Governor and Secretary in accordance with 30 CFR 745.11.

Article XIII: Change in State or Federal Standards

This article would recognize that the Secretary or the State may, from time to time, promulgate new or revised performance or reclamation requirements, or enforcement and administration procedures. Such changes would be made in accordance with 30 CFR Part 732 for changes to the State program and section 501 of the Act for changes to the Federal lands program.

Article XIV: Changes in Personnel and Organization

As required by 30 CFR 745.12, this article would require the State and the Department to advise each other of changes in the organization, structure, functions, duties and funds of the offices, departments, divisions, and persons within their organizations which could affect administration or enforcement of the cooperative agreement.

Article XV: Reservation of Rights

Article XV would recognize that the Act, 30 CFR 745.13, and other authorities prohibit the Secretary from delegating certain authorities to the State. Article XV would state that the cooperative agreement shall not be construed as waiving or preventing the assertion of any rights not expressly addressed in the cooperative agreement or available to the parties under the authorities cited in Appendix A.

Pursuant to 30 CFR 745.13 and the terms of this article, the Secretary would reserve authority and responsibility for several MLA functions such as the release of Federal lease bonds, the authority to approve mining plans, or significant modifications thereto, on Federal lands, and the designation of Federal lands as unsuitable for surface coal mining operations and the

termination of such designation. Other specific reservations are listed in 30 CFR 745.13.

The Department of the Interior also would reserve the authority and responsibility for several specific functions which are an integral part of the permit application review procedures discussed earlier. These items include, but are not limited to, the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*; compliance with the consultation requirements of the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*; and section 106 of the National Historic Preservation Act of 1966, 16 U.S.C. 470f.

Article XVI: Definitions

This article would specify which definitions would apply. It states that the terms and phrases used in the cooperative Agreement, which are defined in 30 CFR Parts 700, 701, and 740, shall be given the meaning set forth in said definitions. It should be noted that the term "Federal lands" does not include "Indian lands."

Compliance With NEPA

The Department and its member offices and bureaus must comply with NEPA, its implementing regulations, and the Department's own guidelines. See 40 CFR Part 1500 *et seq.* (regulations of the Council on Environmental Quality) and 45 FR 27541 (April 23, 1980) (Department of the Interior Notice of Final Revised Procedures). See also 45 FR 10043 (February 14, 1980) (Notice of Proposed Revised Instructions for the Office of Surface Mining). These authorities require the Department, prior to a decision on a permit application package on Federal lands, to prepare an environmental assessment or environmental impact statement. The current regulations at 30 CFR 745.13(b) do not allow the Secretary to delegate his NEPA duties to the States. However, the Secretary believes that this regulation does allow States to assist in preparation of NEPA documents (see 40 CFR 1506.2), with final action reserved to the Secretary.

The Department invites comment on whether the procedures for compliance with NEPA and its implementing regulations and guidelines are adequately addressed in the proposed cooperative agreement.

The Endangered Species Act (16 U.S.C. 1536)

This Federal law requires that the Department take such steps as are necessary to insure that actions authorized, funded, or carried out by Federal departments and agencies do not jeopardize the continued existence of an endangered species, or result in the destruction or modification of a species' critical habitat. 16 U.S.C. 1536. See 50 CFR Part 402 (regulations on inter-agency cooperation under the Endangered Species Act). OSM's regulations at 30 CFR 745.13(m) provide that the Secretary's obligation to consult under section 7(a) of the Endangered Species Act regarding actions on Federal lands may not be delegated to a State.

The National Historic Preservation Act (16 U.S.C. 470f)

Compliance with section 106 of the National Historic Preservation Act and its implementing regulations (36 CFR Part 800) is mandatory where the approval of mining on Federal lands may adversely affect sites, buildings, objects or districts which are listed on, or eligible for listing on, the National Register of Historic Places. Compliance is achieved through early consultation with and involvement of State Historic Preservation Officers and, in some cases, consultation with the Advisory Council on Historic Preservation.

OSM and the Department must also comply with Executive Order 11593, "Protection and Enhancement of the Cultural Environment" (May 13, 1971). Executive Order 11593 contains two principal requirements. First, with respect to properties not owned by the Federal government, agencies and departments must establish procedures for consultation with the Advisory Council on Federal plans and programs affecting such properties.

Second, the Order requires all Federal agencies and departments to inventory and nominate historic sites, buildings, districts and objects that are on Federal property and that may be eligible for inclusion on the National Register of Historic Places.

Federal agencies must take measures to insure that proposed undertakings fulfill their responsibilities to section 106 of the National Historic Preservation Act of 1974, and that the Advisory Council on Historic Preservation is given an appropriate opportunity to comment on proposed treatment plans.

These responsibilities would be reserved to the Secretary under the proposed cooperative agreement since they are not "expressly addressed" (article XV).

Floodplain Management and Wetland Protection

The Office of Surface Mining has published a general statement of policy which describes the existing procedural mechanisms for compliance with Executive Order 11988, Floodplain Management (May 24, 1977) and Executive Order 11990, Protection of Wetlands (May 24, 1977). See 45 FR 49872 (July 25, 1980). Secretarial approval of surface coal mining operations on Federal lands is discussed in that **Federal Register** notice at 45 FR 49872–73. As noted therein, the method and responsibility for compliance with these two Orders is to be a subject of the permanent program cooperative agreements under 30 CFR Part 745.

Since the proposed cooperative agreement with North Dakota does not directly discuss compliance with these Orders, the obligation for compliance with them would remain with the Secretary and would not be delegated to North Dakota.

V. Administration and Procedural Matters

1. *E.O. 12291 and Regulatory Flexibility Act.* In a "Determination of Significance" document prepared on December 31, 1979, and approved by the Assistant Secretary, Energy and Minerals, on January 7, 1980, the Department determined that the "promulgation of proposed or final rules for entering into a cooperative agreement with a State pursuant to 30 U.S.C. 1273 for State regulation of surface coal mining and reclamation operations on Federal lands was not a significant action and would not require a regulatory analysis." A copy of this determination was filed with the Department's Office of Policy Analysis and the Division of General Law.

The Department has reviewed this determination in light of recent changes in the regulatory process brought about by Executive Order 12291, February 17, 1981; the Regulatory Flexibility Act (Pub. L. 96–354); and the Paperwork Reduction Act of 1980 (Pub. L. 96–511). Having conducted this review, the Department has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291. The document will not have a significant economic effect on a substantial number of small entities and therefore does not require a regulatory flexibility analysis under the Regulatory Flexibility Act, 5 U.S.C. 605(b). This determination was made by the Director, OSM and approved by the Assistant Secretary, Energy and Minerals. A copy is on file in the OSM Administrative Record Room, Room 5315, 1100 L Street, N.W. Washington, D.C. 20005.

2. *Recordkeeping and Reporting Requirements.* The proposed rule was

listed in the Department's April 20, 1982, Semiannual Agenda of rules scheduled for review and development (47 FR 13936).

There are recordkeeping and reporting requirements in the proposed rules which are the same as and required by the permanent regulations. Those regulations required clearance from the Office of Management and Budget under 44 U.S.C. 3507 and were assigned the following clearance numbers:

Location of requirement	OMB clearance No.
Article IV.G (Required by 30 CFR Part 735)	1029-0013
Article V.A (Required by 30 CFR Part 741)	1029-0026
Article V.B (Required by 30 CFR Part 786)	1029-0041
Article VI.A (Required by 30 CFR Part 840)	1029-0051
Article VIII.A (Required by 30 CFR Part 800)	1029-0043

3. *National Environmental Policy Act.* Proceedings relating to adoption of a permanent program cooperative agreement are part of the Secretary's implementation of the Federal lands program pursuant to section 523 of the Act. Such proceedings are, therefore, exempt under section 702(d) of the Act from the requirements to prepare a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

4. *Indexing Requirements.*

List of Subjects in 30 CFR Part 934

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

For the reasons set forth herein, it is proposed to amend 30 CFR Part 934.

Dated: June 4, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

PART 934—NORTH DAKOTA

1. Section 934.30 is added to read as follows:

§ 934.30 State-Federal Cooperative Agreement.

Cooperative Agreement

This is a Cooperative Agreement (Agreement) between North Dakota (State) acting by and through the North Dakota Public Service Commission (Commission) and the Governor, and the United States Department of the Interior (Interior), acting by and through the Secretary of the Interior (Secretary) and the Office of Surface Mining (OSM).

Article I: Introduction and Purpose

A. *Authority:* This Agreement is authorized by section 523(c) of the Surface Mining Control and Reclamation Act (Federal Act), Pub. L. 95–87, 30 U.S.C. 1273, which allows a State with a permanent regulatory program approved under 30 U.S.C. 1253 to elect to enter into an agreement for the regulation and control of surface coal mining on Federal lands, and by Chapter 38–14.1 of the North Dakota Century Code, Reclamation of Surface-Mined Lands (State Act). This Agreement provides for State regulation of surface coal mining and reclamation operations on Federal lands within North Dakota consistent with the State and Federal Acts and the Federal lands program (section 523(a) of the Federal Act and 30 CFR Parts 740–745).

B. *Purpose:* The purpose of the Agreement is to (1) foster State-Federal cooperation in the regulation of surface coal mining and reclamation operations; (2) eliminate unnecessary intergovernmental overlap and duplication; and (3) provide uniform and effective application of the State and Federal lands program on all non-Indian lands in North Dakota.

Article II: Effective Date

Following signing by the Secretary, the Governor, and the Commission, the Agreement shall take effect upon publication in the **Federal Register** as a final rule. This Agreement shall remain in effect until terminated as approved in article X.

Article III: Scope

This Agreement makes the laws, rules, terms, and conditions of North Dakota's Permanent State Program (Program) (approved effective December 15, 1980, 30 CFR 934.11 or as hereinafter amended in accordance with 30 CFR 732.17) applicable to Federal lands within North Dakota except as otherwise stated in this Agreement, the Federal Act, 30 CFR 745.13, or other applicable laws or rules and regulations.

Article IV: Requirements for Cooperative Agreement

The Commission and the Secretary affirm that they will comply with all of the provisions of this Agreement and will continue to meet all the conditions and requirements specified in this article.

A. *Responsible Administrative Agency:* The Commission is, and shall continue to be, the sole agency responsible for administering this Agreement on behalf of North Dakota on Federal lands throughout the State. OSM shall administer this agreement on behalf of the Secretary, in accordance with the regulations in 30 CFR Chapter VII.

B. *Authority of State Agency:* The Commission has and shall continue to have authority under State law to carry out this Agreement.

C. *Funds:* The State will devote adequate funds to the administration and enforcement on Federal lands in North Dakota of the requirements contained in the State program. If the State complies with the terms of this Agreement, and if necessary funds have been appropriated, OSM shall reimburse the State as provided in section 705(c) of the Federal Act and 30 CFR 735.16, subject to the availability of appropriations, for costs associated with carrying out responsibilities under this agreement. Reimbursement shall be in the form of annual grants, and applications for grants shall be promptly processed and awarded.

Funds provided to the State shall be adjusted in accordance with Office of Management and Budget (OMB) Circular No. A–102, Attachment E. If sufficient funds have not been appropriated, OSM and the Commission shall promptly meet to decide on appropriate measures that will insure that mining operations are regulated in accordance with the Program.

D. *Reports and Records:* The Commission shall make annual reports to OSM pursuant to 30 CFR 745.12(c) containing information respecting its compliance with the terms of this Agreement. The Commission and OSM shall exchange, upon request, information developed under this Agreement except where prohibited by Federal law. OSM shall provide the Commission with a copy of any approved evaluation report concerning State administration and enforcement of this Agreement.

E. *Personnel:* The Commission shall provide the necessary personnel to fully implement this Agreement in accordance with the provisions of the Federal and State Acts and the State Program.

F. *Equipment and Laboratories:* The Commission shall assure itself access to equipment, laboratories, and facilities with which all inspections, investigations, studies, tests, and analyses can be performed and which are necessary to carry out the requirements of this Agreement.

G. *Permit Application Fees:* The amount of the fee accompanying an application for a permit shall be determined in accordance with section 38–14.1–13 of the State Act. All permit fees shall be retained by the State and deposited with the State Treasurer. The financial status report submitted pursuant to 30 CFR 735.26 shall include a report of the amount of permit application fees collected and

attributable to Federal lands during the prior Federal fiscal year. This amount shall be disposed of in accordance with Federal regulations, and OMB Circular No. A–102, Attachment E.

Article V: Policies and Procedures: Review of a Permit Application Package or an Application for a Permit Renewal or Revision.

A. *Contents of Permit Application Package:* The Commission and the Secretary will require that an operator proposing to mine on Federal land shall submit an identical permit application package in an appropriate number of copies to the Commission and OSM. Any documentation or information submitted by the operator for the sole purpose of complying with the 3-year requirements of section 7(c) of the Mineral Leasing Act (30 U.S.C. 181 *et seq.*) will be submitted directly to the Minerals Management Service, Department of the Interior. The permit application package shall be in the form required by the Commission and include any supplemental information required by the Secretary. The permit application package shall satisfy the requirements of 30 CFR Part 741 and shall include the information required by, or necessary for, the Commission and the Secretary to make a determination of compliance with:

(1) Chapter 38–14.1 and Chapter 38–18 of the North Dakota Century Code;

(2) Article 69–05.2 of the North Dakota Administrative Code (NDAC);

(3) Applicable terms and conditions of the Federal coal lease;

(4) Applicable requirements of the Minerals Management Service's 30 CFR Part 211 regulations pertaining to the Mineral Leasing Act; and

(5) Applicable requirements of other Federal laws and the Program including but not limited to those in Appendix A.

B. *Review Procedures:* 1. The Commission shall assume primary resposibility for the analysis, review and approval of applications required by 30 CFR Part 741 for surface coal mining on Federal lands in North Dakota. OSM shall, as requested, assist the Commission in this analysis and review.

2. The Commission shall be the primary point of contact for operators regarding the approval of the permit application package except on matters concerned exclusively with the 30 CFR Part 211 regulations administered by the Minerals Management Service (MMS). The Commission will be responsible for informing the applicant of all joint State-Federal or Federal determinations. The Commission shall send to MMS all correspondence with the applicant which may have a bearing on decisions regarding Mineral Leasing Act requirements. Except in exigent circumstances, OSM shall generally not independently initiate contacts with applicants regarding completeness or deficiencies of the permit application package with respect to matters which are properly within the jurisdiction of the Commission. If requested by the Commission, an operator shall send written communications and documents regarding a permit application package directly to OSM. At any time, the Secretary reserves the right to act independently of the Commission to carry out his responsibilities under laws other than the Federal Act and a copy of all such independent correspondence with the applicant that may have a bearing on decisions regarding the permit application package shall be sent to the State.

3. OSM is responsible for ensuring that any information OSM receives from an applicant is sent to the Commission and the Commission will send any information received from the applicant to OSM. OSM shall have access to Commission files for mines on Federal lands. OSM and the Commission shall regularly coordinate with each other during the permit application package review process.

4. OSM shall be responsible for obtaining, in a timely manner, the views of all Federal agencies with jurisdiction or responsibility over a permit application package on Federal lands in North Dakota and for making these views known to the Commission within 90 days of the receipt of the application by OSM. The Commission shall keep OSM informed of findings during the review which bear on the responsibilities of other Federal agencies. OSM shall take appropriate steps to facilitate discussions between the Commission and the concerned agencies wherever desirable to resolve issues or problems identified in the review.

5. Upon receipt of a permit application package, both OSM and the Commission shall identify a person as its application manager. The application managers shall serve as the primary point of contact between OSM and the Commission throughout the review process and shall be responsible for identifying areas of avoidable duplication of review and analysis, which shall be eliminated where possible. Not later than 15 days after an application has been received, OSM and the Commission shall discuss the application and agree upon a work plan and schedule for the review of the application. OSM shall thereafter inform the Commission of any specific or general areas of concern, including the scope of required environmental analyses under the National Environmental Policy Act, which require special handling or analysis. The Commission shall likewise inform OSM where OSM assistance will be needed to perform any specific or general analysis or prepare any studies or similar work.

6. Unless the work plan provides otherwise, the Commission shall prepare a technical analysis, environmental analysis, and proposed written decision on the permit application package. Copies of drafts of these documents shall be sent to OSM for review and comment. OSM shall independently evaluate the documents and inform the Commission within 30 days of any changes that should be made. The Commission shall consider the comments of OSM and send a final technical analysis, environmental analysis, and proposed decision document to OSM. The Secretary's decision on the mine plan and those other Federal responsibilities which cannot be delegated, including but not limited to those listed in Appendix A, shall be made as soon as possible after the final decision of the Commission on the permit. The permit issued by the Commission shall condition the initiation of surface coal mining operations on Federal lands within the permit area on obtaining mine plan approval from the Secretary. The Commission, shall in the approved permit, reserve the right to amend or rescind its action to conform with action taken by, or with terms or conditions imposed by, the Secretary when approving the mine plan. After the Commission makes its decision on the permit, it shall send a notice to the applicant and OSM with a statement of findings and conclusions in support of the action.

7. The Commission may approve and issue permits, permit renewals, and permit revisions for surface disturbances associated with surface coal mining and reclamation operations, and disturbance of the surface may commence without need for an approved mine plan on lands where:

(a) The surface estate is non-Federal and non-Indian;

(b) The mineral estate is Federal;

(c) The Commission consults with OSM in order to insure that actions are not taken which would substantially and adversely affect the Federal mineral estate.

(d) The proposed surface disturbances are planned to support surface coal mining and reclamation operations on

adjacent non-Federal lands and this is specified in the permit, permit renewal, or permit revision.

The provisions of this paragraph apply because non-Federal and non-Indian surface overlying Federally owned coal deposits are not considered Federal lands under these conditions.

8. Any permit renewal requested pursuant to applicable State law and regulations for a mining operation on Federal lands, the permit for which has been approved by the Secretary prior to the effective date of this Agreement, shall be reviewed and approved or disapproved by the Commission in consultation with OSM for Federal responsibility under other laws. The Commission shall inform OSM of the renewal or disapproval and provide OSM with copies of the application documents.

9. Any permit revision requested pursuant to applicable State law and regulations for a mining operation on Federal lands, the permit for which has been approved by the Secretary prior to the effective date of this Agreement, shall be reviewed by the Commission pursuant to section 69–05.2–11–02(5), NDAC, in consultation, where necessary, with OSM to determine whether the proposed revision is a significant alteration or addition to the approved mine plan. Permit revisions that are found to be an insignificant alteration to the existing mine plan shall be reviewed and approved or disapproved by the Commission. Permit revisions that are found to be a significant alteration to the existing mine plan shall be reviewed according to the procedures for review of permit application packages specified in this article.

10. When the Commission and OSM cannot resolve differences that develop during permit application package review or cannot agree on the final actions to be taken by the Commission and Interior the matter shall be referred to the Governor and the Secretary for resolution.

Article VI: Inspections

The Commission shall conduct inspections on Federal lands and prepare and file inspection reports in accordance with the approved Program. Such inspections shall satisfy the Secretary's obligations under 30 CFR 842.11(c).

A. *Inspection Reports:* The Commission shall, within 15 days of conducting any inspection on Federal lands, file with OSM an inspection report describing (1) the general conditions of the lands under the permit; (2) whether the operator is complying with applicable performance and reclamation requirements; and (3) the manner in which specific operations are being conducted.

B. *Commission Authority:* The Commission shall be the point of contact and primary inspection authority in dealing with the operator concerning operations and compliance with the requirements covered by this agreement, except as described in this Agreement and the Secretary's regulations. Nothing in this Agreement shall prevent inspections by authorized Federal or State agencies for purposes other than those covered by this Agreement.

C. *OSM Authority:* For the purpose of evaluating the manner in which this Agreement is being carried out and to insure that performance and reclamation standards are being met, OSM may conduct inspections of surface coal mining and reclamation operations on Federal lands, without prior notice to the Commission. In order to facilitate a joint Federal-State inspection, when OSM is responding to a citizen complaint of an imminent danger to the health or safety of the public or of a significant, imminent environmental harm pursuant to 30 CFR 842.11(b)(1)(i), it will contact the Commission if circumstances and time permit, prior to the Federal inspection. The Department may conduct any inspections necessary to comply with 30 CFR Parts 842 and 743 (as Part 743 relates to obligations under laws other than the Federal Act). If an inspection is made without Commission inspectors, OSM shall provide the Commission with a copy of the inspection report within 15 days after inspection.

D. *Witness Availability:* Personnel of the State and Interior shall be mutually available to serve as witnesses in enforcement actions taken by either party.

Article VII: Enforcement

A. *Commission Enforcement:* The Commission shall have primary enforcement authority on Federal lands in accordance with the Program and this Agreement. During any joint inspection by OSM and the Commission, the Commission shall take appropriate enforcement action, including issuance of orders of cessation and notices of violation. OSM and the Commission shall consult prior to issuance of any decision to suspend or revoke a permit.

B. *Notification:* The Commission and OSM shall promptly notify each other of all violations of applicable laws, regulations, orders, approved mining and reclamation plans and permits subject to this Agreement and of all actions taken with respect to such violations.

C. *Secretary's Authority:* (1) This Agreement does not affect or limit the Secretary's authority to enforce violations of laws other than the Federal Act. (2) During an inspection made solely by OSM or any joint inspection where the Commission and OSM fail to agree regarding the propriety of any particular enforcement action, OSM may take any enforcement action necessary to comply with 30 CFR Parts 843 and 845. Such enforcement action shall be based on the performance standards included in the regulations of the approved Program and shall be taken using the procedures and penalty system contained in 30 CFR Parts 843 and 845.

Article VIII: Bonds

A. *Bond Coverage and Terms:* The Commission and OSM shall require all operators on Federal lands to submit a single performance bond to cover the operator's responsibilities under the Federal Act and the Program, payable to both the United States and North Dakota. The performance bond shall be of sufficient amount to comply with the requirements of both State and Federal law and release of the performance bond shall be conditioned upon compliance with all applicable requirements.

Submission of a performance bond does not satisfy the requirements for a Federal lease bond required by 43 CFR Subpart 3474 or a lessee protection bond required in addition to a performance bond, in certain circumstances, by section 715 of the Federal Act.

B. *Bond Release:* Prior to releasing the operator from any bonding obligation required under the Program for any Federal lands, the Commission shall obtain the consent of OSM. The Commission shall also advise OSM of adjustments to the performance bond.

C. *Forfeiture:* The operator's performance bond shall be subject to forfeiture with the consent of OSM, in accordance with the procedures and requirements of the Program.

Article IX: Designation of Lands as Unsuitable

The Commission and OSM shall cooperate in the review and processing of petitions to designate lands as unsuitable for surface coal mining operations. When either agency receives a petition which could impact lands the designation of which as unsuitable for mining would be the responsibility of the other agency, the agency shall (1) notify the other of its receipt of the petition and of the anticipated schedule

for reaching a decision; and (2) request and fully consider data, information and views of the other. The authority to designate Federal lands as unsuitable for mining is reserved to the Secretary or his designated representative.

Article X: Termination of Cooperative Agreement

This Cooperative Agreement may be terminated as follows:

A. *Termination by the State:* The Cooperative Agreement may be terminated by the Commission upon written notice to the Secretary, specifying the date upon which the Agreement shall be terminated. The date of termination shall not be less than 90 days from the date of the notice.

B. *Termination by the Secretary:* This Agreement may be terminated by the Secretary according to the following procedures:

1. A written notice from the Secretary to the Commission shall specify the grounds upon which he proposes to terminate the Agreement. In addition, a written notice containing the grounds for termination shall be published in the **Federal Register**, affording the Commission and the public a minimum of 30 days for comment.

2. A written notice in the **Federal Register** and a local newspaper of general circulation shall also specify the date and place within the State of North Dakota where the Commission and the public shall be afforded the opportunity for a hearing. The date of such hearing shall not be less than 30 days from the date of publication in the **Federal Register**. Prior to the time fixed for public hearing, representatives of the Commission may be permitted to appear and confer in person with representatives of the Secretary and present oral or written statements, and any other documents relative to the proposed termination.

3. The proposed termination hearing shall be conducted by OSM and a record shall be made of the hearing. The Commission shall be entitled to have legal and technical and other representatives present at the hearing, and may present, either orally or in writing, evidence, information, testimony, documents, records or materials as may be relevant to the issues involved.

4. The Secretary's decision shall be made after the hearing and close of the comment period.

5. The decision to terminate the Agreement may be made if the Secretary finds in writing that:

(a) The Commission has substantially failed to comply with the requirements of the Federal Act, 30 CFR Part 745, the Program, or provisions of this Agreement; or

(b) The Commission has failed to comply with any undertaking by the Commission in this Agreement upon which the approval of the Program, this Agreement, or grants by OSM for administration or enforcement of the Program or this Agreement were based.

6. The Secretary shall send written notice of the decision and findings to the Commission and publish notice of it in the **Federal Register**.

7. This Agreement shall terminate not less than 60 days after publication of the decision to terminate in the **Federal Register**. The Commission may remedy any failure during the 60 day period. If the Secretary determines that the State has taken effective remedial action, the Agreement will not terminate.

C. *Termination by Operation of law:* This Agreement shall terminate by operation of law under any of the following circumstances:

1. When no longer authorized by Federal law or North Dakota laws and regulations;

2. Upon termination or withdrawal of the Secretary's approval of the Program pursuant to 30 CFR Part 733.

Article XI: Reinstatement of Cooperative Agreement

If this Agreement has been terminated as provided in Article X, it may be reinstated upon application by the Commission and upon giving evidence satisfactory to the Secretary that the Commission can and will comply with all the provisions of the Agreement, and has remedied all defects in administration for which this Agreement was terminated.

Article XII: Amendments to Cooperative Agreement

This Agreement may be amended by mutual agreement of the Commission and the Secretary. An amendment proposed by one party shall be submitted to the other with a statement of the reasons for such proposed amendment. The amendment shall be adopted in accordance with the requirements of 30 CFR 745.11. The party to whom the proposed amendment is submitted shall signify its acceptance or rejection of the proposed amendment and if rejected shall state the reason for rejection.

Article XIII: Changes in State or Federal Standards

A. *Time for Changes:* The Secretary or the State may from time to time promulgate new Federal or State regulations, including new or revised performance or reclamation requirements or enforcement and administration procedures. OSM and the Commission shall immediately inform each other of any final changes in their respective laws or regulations as provided in 30 CFR Part 732. Each party shall, if it is determined to be necessary to keep this Agreement in force, change or revise its respective laws or regulations. Such changes shall be made under the procedures of 30 CFR Part 732 for changes to the Program and section 501 of the Federal Act for changes to the Federal lands program.

B. *Copies of Changes:* The State and OSM shall provide each other with copies of any changes to their respective laws, rules, regulations, and standards pertaining to the enforcement and administration of this Agreement.

Article XIV: Changes in Personnel and Organization

The Commission and the Secretary shall, consistent with 30 CFR Part 745, advise each other of changes in the organization, structure, functions, duties, and funds of the offices, departments, divisions, and persons within their organizations which could affect administration and enforcement of this Agreement. Each shall promptly advise the other in writing of changes in key personnel, including the head of a department or division, or changes in the functions or duties of persons occupying the principal offices within the structure of the program. The Commission and OSM shall advise each other in writing of changes in the location of offices, addresses, telephone numbers, and changes in the names, location and telephone numbers of their respective mine inspectors and the area within the State for which such inspectors are responsible.

Article XV: Reservation of Rights

In accordance with 30 CFR 745.13, this Agreement shall not be construed as waiving or preventing the assertion of any rights that have not been expressly addressed in this Agreement that the State or the Secretary may have under other laws or regulations, including but not limited to those listed in Appendix A.

Article XVI: Definitions

Terms and phrases used in this Agreement which are defined in 30 CFR Parts 700, 701 and 740 shall be given the meanings set forth in said definitions.

Approved
Dates _____

Secretary of the Interior
Dates _____

Governor, State of North Dakota
Dates ———

President, North Dakota Public Service Commission
Dates ———

Commissioner, North Dakota Public Service Commission
Dates ———

Commissioner, North Dakota Public Service Commission

Appendix A

1. The Federal Land Policy and Management Act, 43 U.S.C. 1701, *et seq.*, and implementing regulations.
2. The Mineral Leasing Act of 1920, 30 U.S.C. 181, *et seq.*, and implementing regulations including 30 CFR Part 211 *et seq.*
3. The National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*, and implementing regulations including 40 CFR 1500 *et seq.*
4. The Endangered Species Act, 16 U.S.C. 1531 *et seq.*, and implementing regulations including 50 CFR Part 402.
5. The National Historic Preservation Act of 1966, 16 U.S.C. 470, *et seq.*, and implementing regulations, including 36 CFR Part 800.
6. The Clean Air Act, 42 U.S.C. 7401, *et seq.*, and implementing regulations.
7. The Federal Water Pollution Control Act, 33 U.S.C. 1251, *et seq.*, and implementing regulations.
8. The Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 *et seq.*, and implementing regulations.
9. The Reservoir Salvage Act of 1960, amended by the Preservation of Historical and Archaeological Data Act of 1974, 16 U.S.C. 469, *et seq.*
10. Executive Order 11593, Cultural Resource Inventories on Federal Lands.
11. Executive Order 11988 (May 24, 1977), for flood plain protection. Executive Order 11990 (May 24, 1977), for wetlands protections.
12. The Mineral Leasing Act for Acquired Lands, 30 U.S.C. 351, *et seq.*, and the implementing regulations.
13. The Stock Raising Homestead Act of 1916, 43 U.S.C. 291, *et seq.*
14. The Constitution of the United States.
15. The Constitution of the State and State Law.

[FR Doc. 82-16727 Filed 6-18-82; 8:45 am]
BILLING CODE 4310-05-M

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30 CFR Part 922

Surface Mining and Reclamation Operations Under a Federal Program for the State of Michigan

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the Department of the Interior proposes a Federal program for regulation of coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in Michigan. This includes surface effects of underground coal mining. This proposed program is necessary in order to regulate surface coal mining activities in the absence of a State program.

DATES: Written comments must be received not later than 5:00 p.m. on July 28, 1982 at the address below. A public hearing will be held on July 23, 1982. Requests to testify at the hearing should be received by July 19, 1982. If commenters request a hearing date later than that set, the hearing will be rescheduled and the new date announced by a notice in the **Federal Register.**

ADDRESSES: Written comments must be mailed or hand-delivered to: Administrative Record Room (R&I-22), Office of Surface Mining, 2242 S. Hamelton Rd., Rm. 202, Columbus, Ohio 43227.

The public hearing on the proposed program will be held at The Stevens T. Mason Bldg., Allegon and Pine Sts., 4th floor, Geological Survey Division Conference Room, Lansing, Michigan 48909 beginning at 10:00 a.m.

FOR FURTHER INFORMATION CONTACT: James M. Kress, Office of Surface Mining, Branch of Regulatory Programs, Room 222, 1951 Constitution Avenue, NW, Washington, D.C. 20240. Telephone: (202) 343-5866.

SUPPLEMENTARY INFORMATION:

Availability of Copies

Copies of the proposed program are available for inspection and may be obtained at the OSM office listed above in "ADDRESSES."

Public Comment Period

The comment period on the proposed program will extend until July 28, 1982. All written comments must be received at the location above under "**ADDRESSES**" by close of business on that date.

All written comments received, a transcript of the public hearing, summaries of meetings held at the request of any person or organization to receive advice or recommendations concerning the proposed program with representatives of OSM, and other documents comprising the administrative record on the Federal program for Michigan will be made available for public review during regular business hours at the location listed above.

OSM appreciates any and all comments on the proposal, but those that would be most useful should be as specific as possible, focus on the issues of this proposed rulemaking, and provide reasons for any recommendations. OSM will not consider comments that do not pertain to the issues in this proposal. Nor can OSM ensure consideration of written comments received after the comment period ends or those delivered to an address other than that specified.

Public Hearing

A public hearing on the proposed program will be held at the time and location listed above to hear all those who wish to testify. The hearing may be cancelled if, by July 19, 1982, no person has expressed interest in presenting testimony.

Individual testimony at the hearing will be limited to 15 minutes. The hearing will be transcribed. Filing of a written statement at the time of giving oral testimony would be helpful and would facilitate the job of the court reporter. Submission of written statements in advance of the hearing would greatly assist OSM officials who will attend the hearing. Advance submissions will give these officials an opportunity to consider appropriate questions which could be asked for clarification or to request more specific information from the person testifying. The public hearing will continue until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and wish to do so will be heard following the scheduled speakers. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to speak have been heard. Persons not scheduled to testify, but wishing to do so, assume the risk of having the public hearing adjourned unless they are present in the audience at the time all scheduled speakers have been heard.

The hearing date is set for approximately 30 days after publication of the proposed program in order to give the public ample opportunity to review the hearing transcript before the close of the comment period. The hearing date is being advanced from that required by 30 CFR 736.12 because, although surface mining operations are imminent in Michigan, the State does not have an approved permanent regulatory program to control such activities.

Allowing 60 days to elapse after publication of today's notice before holding the public hearing (as specified by 30 CFR 736.12) would delay final promulgation of a program and thereby prolong the period during which unpermitted surface coal mining might

continue in Michigan. OSM will consider requests for a later hearing date which are supported by valid reasons for postponement.

Background

Under Section 504(a) of the Surface Mining Contrtol and Reclamation Act of 1977 (the Act), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, the Secretary of the Interior (the Secretary) is required to promulgate a Federal program within 34 months after passage of the Act if a State fails to submit a program to assume responsibility for regulating surface mining activities, fails to resubmit a program within 60 days of disapproval, or fails at any time to implement, enforce or maintain an approved State program. The time for submitting State programs was extended by seven months to March 3, 1980 as the result of litigation, *In re: Permanent Surface Mining Regulation Litigation*, 13 ERC 1447 (July 25, 1979). The date for submission of State programs has now passed.

An additional standard for the promulgation of a Federal program is found in 30 CFR Part 736, which requires the implementation of a Federal program for a State where the Director of OSM (the Director) "reasonably expects coal exploration or surface coal mining and reclamation operations to exist on non-Federal and non-Indian lands * * * at any time before June 1985 * * *" 30 CFR 736.11(a)(1).

The Director has determined that there is a reasonable expectation that coal exploration or surface coal mining operations will occur in the State of Michigan before June 1985. The State has failed to submit a program to the Secretary to obtain primary regulatory responsibility. Therefore, pursuant to 30 CFR 736.11, the Director must promulgate and implement a Federal program.

Once a decision is made that a Federal program is necessary for a State, the Secretary must make several determinations before promulgating a program. Section 504(a) of the Act requires that in implementing a Federal program the Secretary take into consideration the nature of the State's terrain, climate, biological, chemical, and other relevant physical conditions. This requirement is also found in the regulations, 30 CFR 736.22(a)(1). The Act (Section 505 (b)) and the regulations (Section 736.23(b)) also provide that if a State has more stringent land use and environmental laws or regulations, they shall not be construed to be inconsistent with the Act or the Secretary's regulations. The Secretary believes that the requirements of Section 505(b) can best be met by identifying State laws and regulations which impose equivalent or more stringent environmental controls and incorporating the requirements of those laws in the Federal program. If the State's laws or regulations establish more stringent standards regulating surface mining control and reclamation procedures than those found in the Act or the Secretary's regulations or if the State regulates or protects an aspect of the environment affected by surface mining operations which neither the Act nor the Secretary's regulations protect, OSM would then specifically preserve those State standards in the Federal program.

Also, in promulgating a program for a State, Section 504(g) specifies that any State statutes or regulations which regulate surface mining and reclamation operations subject to the Act will be superseded and preempted by the Federal program to the extent that they interfere with the achievement of the purposes and requirements of the Act and the Federal program. This provision is reinforced by Section 505(a) of the Act, which states that only those State laws and regulations which are inconsistent with the Act and its implementing regulations shall be superseded by the Federal program. Thus, State statutes and rules regulating the same activities as those covered by the Federal law and regulations and which interfere with achievement of the purposes of the Act must be identified and preempted by OSM.

Finally, a Federal program, according to Section 504(h) of the Act, must include a process for coordinating the review and issuance of surface mining permits with other Federal or State permits applicable to the proposed operation. The Federal statutes with which the surface mining permitting process must be coordinated are set out in 30 CFR 736.22(c). State statutes for which a permit is required must be identified in the process of promulgating a Federal program, and the Federal program must provide for coordination with the review and issuance procedures required by those statutes.

Federal programs are based on the Secretary's permanent program regulations: 30 CFR Subchapters A, F, G, J, K, L and M. The permanent program regulations establish procedures and performance standards under the Act and form the benchmark for State programs. In order for a State to have a program approved by the Secretary, Section 503(a)(7) requires that the State's rules and regulations be consistent with the Secretary's regulations.

The parts of the permanent program regulations that must be included in a Federal program are listed at 30 CFR 736.22(b). They include general requirements and definitions (Parts 700 and 701), the exemption for coal extraction incident to government-financed highway or other construction (Part 707), the designation of lands unsuitable for surface mining (Parts 760, 761 and 765), permits and permit applications (Subchapter G), reclamation bonding (Subchapter J), performance standards (Subchapter K), inspection and enforcement (Parts 842, 843 and 845), and blaster training and certification (Subchapter M). In addition, the provision in the permanent regulations on protection of employees (Subchapter P) and restrictions on financial interests (Part 706) are applicable to Federal employees who perform functions or duties under the Act.

The Rules for the permanent program are found in 30 CFR Parts 700–707 and 730–865. Part 705 was published October 20, 1977 (42 FR 56064). Parts 795 and 865 (originally Part 830) were published December 13, 1977 (42 FR 62639). The other permanent program regulations were published at 44 FR 15323–15393 (March 13, 1979). Subchapter M was published on December 12, 1980 (45 FR 82098). Corrections were published at 44 FR 15485 (March 14, 1979); 44 FR 53507–53509 (September 14, 1979); 44 FR 66195 (November 19, 1979); 45 FR 26001 (April 16, 1980); 45 FR 37818 (June 5, 1980); and 45 FR 47424 (July 15, 1980). Amendments to the rules have been published at 44 FR 60989 (October 22, 1979) as corrected at 44 FR 75143 (December 19, 1979); at 44 FR 77440–77447 (December 31, 1979); 45 FR 2626–2629 (January 11, 1980); 45 FR 25998–26001 (April 16, 1980); 45 FR 33926–33927 (May 20, 1980); 45 FR 39446–39447 (June 10, 1980); 45 FR 52306–52324 (August 6, 1980); 45 FR 52375 (August 7, 1980); 45 FR 58780–58786 (September 4, 1980); and 45 FR 76932 (November 20, 1980); 46 FR 37232 (July 17, 1981); 46 FR 41702 (August 17, 1981); 46 FR 47720 (September 29, 1981); 46 FR 53376 (October 28, 1981); 46 FR 52287 (December 7, 1981). Representatives of industry, two States and several environmental groups challenged the permanent regulatory program in the U.S. District Court for the District of Columbia. These suits were consolidated and heard in a single lawsuit entitled *In Re: Permanent Surface Mining Regulation Litigation* (Civil Action No. 79–1144). In response to the arguments raised in the challenges, the Secretary voluntarily suspended several permanent program

regulations. These suspensions were announced in the **Federal Register** on November 27, 1979 (44 FR 67942); December 31, 1979 (44 FR 77447–77454); January 30, 1980 (45 FR 6913); and August 4, 1980 (45 FR 51547–51550). In two opinions the court remanded certain other regulations which had been challenged in the lawsuit. These opinions were issued on February 26, 1980, and May 16, 1980. Many of the issues decided by the District Court have been appealed to the Court of Appeals for the District of Columbia Circuit. *In Re: Permanent Surface Mining Regulation Litigation*, Nos. 80–1810, 80–1811, 80–1812, 80–1813 and 80–1823. The Court has granted a stay of the proceeding pending the revision of regulations as noted below. However, the stay does not apply to Federal programs such as this one.

Michigan Federal Program

As mentioned above, when promulating a Federal program for a State, OSM is required by Section 504(a) of the Act to take into consideration the nature of the terrain, climate, biological, chemical, and other relevant physical conditions of that State. OSM has reviewed Michigan's laws and regulations to determine whether they suggest that special provisions may be necessary or appropriate based on special terrain or other physical conditions in the State. To date no special environmental conditions have been identified. OSM solicits comments on special provisions that should be promulgated and the basis for those provisions.

Pursuant to Section 504(a), the Secretary becomes the regulatory authority when a Federal program is implemented for a State. OSM's permanent program regulations contain references to "the regulatory authority" or "the State regulatory authority," which means the Secretary when a Federal program for a State is involved. Section 701(22) of the Act. The Office of Surface Mining is delegated all of the Secretary's authority for implementing, maintaining and enforcing a Federal program. This proposed program for Michigan would not change these responsibilites.

Explanation of Cross-Referencing

In the general notice of intent to promulgate Federal programs of May 16, 1980 (45 FR 32228), OSM stated that each Federal program would be specific to the particular State and would implement the permanent program procedures and environmental protection provisions of the Act (45 FR 32229). However, except for changes to incorporate more stringent State environmental protection standards and to list other State laws requiring permits for which coordination is required, OSM believes that few changes are needed in the permanent program regulations for any particular State for which a Federal program must be promulgated.

In January 1981 the Secretary directed that the Department review all existing regulations in order to eliminate those which are burdensome, excessive and unnecessary. Review of the permanent program regulations was initiated and may result in a large scale revision of them. See semi-annual Calendar of Federal Regulations notice of rule review and revision, 47 FR 1709 (January 13, 1982). See also, e.g., revisions of OSM's bonding regulations, 30 CFR Subchapter J, 46 FR 45082 (September 9, 1981) and OSM's inspection and enforcement regulations, 30 CFR Parts 842, 843, and 845, 46 FR 58464 (December 1, 1981).

In order to take advantage of the results which revision of the permanent program regulations will achieve, OSM proposes to develop and promulgate this Federal program in the following manner. Rather than repeating the full text of the permanent regulations which are being revised, there would be a cross-reference to the permanent program regulations. For example, criteria for the designation of lands unsuitable for surface coal mining would be provided by the statement that "the Secretary shall designate lands unsuitable * * * pursuant to the criteria in 30 CFR Part 762" (see proposed § 922.762). One effect of the proposed cross-referencing to the permanent program regulations would be that as the permanent program regulations are revised, this Federal program would be similarly revised. Over time, all of the permanent program regulations will undergo review and many will be revised. No separate rulemaking would be undertaken or necessary for revision of this program if the cross-referencing alternative becomes effective, unless OSM determined that special conditions were necessary for a particular State. A statement would appear in both the proposed and final permanent program rulemaking notices advising the public that the change in the permanent program rule would also result in a change in this program absent special conditions. The statement for the permanent program proposed rule would invite comments on necessary modifications to accommodate unique or unusual aspects of surface mining in any State and the final rule would be tailored for each State as necessary.

The promulgation of this cross-referencing program would not result in any modification of the substance of OSM's permanent program rules. Where specific provisions are needed for an individual State's Federal program which are different from the permanent program regulations, a separate paragraph is proposed to be added to the appropriate section of that State's Federal program. Cross-referencing to the permanent program rules may also be used in the promulgation of other Federal programs. Public comment on the cross-referencing method as it affects other Federal programs, however, should be directed to each of those rulemaking notices.

Several provisions of the permanent program regulations are already applicable to a particular State Federal program and need not be cross-referenced here because they were fully promulgated for application to all regulatory programs. Those provisions are 30 CFR Chapter VII, Subchapter P—Protection of Employees; Part 706—Restrictions on Financial Interests of Federal Employees; and Part 769—Petition Process for Designation of Federal Lands Unsuitable for Surface Coal Mining. However, 30 CFR Part 764—Designating Lands Unsuitable for Surface Coal Mining would be included in a State program by a cross-reference under Section 922.764, to provide a petition process on non-Federal lands in that State.

With regard is bonding regulations (Subchapter J), only Part 800 is proposed to be cross-referenced because OSM has proposed to revise Subchapter J to include just one part, Part 800. 46 FR 45082 (September 9, 1981) (proposed).

Content and Organization of the Program

The content and organization of the Michigan Federal program would generally follow the permanent program regulations. But, as discussed above, instead of the full text appearing, each section of the Michigan program would only include reference to the pertinent permanent program regulations.

Section 922.700–3 sets out both inconsistent State statutes and regulations and more stringent State statutes and regulations. A separate paragraph is proposed to be added under each section where there are deviations from the Federal permanent program regulation for the Michigan Federal program. These paragraphs will generally be found in a subsection (b).

Under Section 504(g) of the Act, any statutes or regulations of the State which are in effect to regulate surface

coal mining and reclamation operations subject to the Act, are preempted and superseded by the Federal program to the extent they interfere with the achievement of the purposes and the requirements of the Act and the Federal program. In accordance with 30 CFR 736.23, the Director tentatively has identified the following Michigan statutes and regulations as required partial Federal supersession:

(a) Reclamation of Mining Lands, Act 92 (1970), MCL Section 415.181 *et seq.*

(b) Rules for Reclamation of Mining Lands, MCL Section 425.181 *et seq.*

The reclamation of Mining Lands Act of 1970 regulates, to a degree, surface mining in Michigan. This statute was enacted to "provide for reclamation of lands subjected to the mining of minerals; to control possible adverse environmental effects of mining; to preserve the natural resources; to encourage the planning of future land use; and to promote the orderly development of mining, the ecouragement of good mining practices and the recognition and identification of the beneficial aspects of mining." Open pit or surface mining is defined in the Act as "the mining of a mineral in the regular operation of a business by removing the overburden lying above natural deposits thereof and mining directly from the natural deposits thereby exposed or by mining directly from deposits lying exposed in their natural state * * *." The Act, therefore, regulates the mining of other minerals as well as coal. The following is a short summary of those provisions of the statute which are preempted insofar as they relate to surface coal mining operations subject to the Act.

Section 425.183 authorizes the Chief (Supervisor) of the Geologic Survey, Division of the Michigan Department of Natural Resources, to promulgate rules pertaining to: a) the sloping, terracing or other practical treatment of stockpiles; b) the vegetation or other practical treatment of tailings basins and stockpiles; c) the stabilization of the surface overburden banks of open pits in rock, and d) the cleanup of plantsite and mining areas and the removal of debris.

Section 425.184 allows the Supervisor, on application by the landowner or operator, to modify or permit variances from the rules promulgated by the Department if such modification is not contrary to the public interest.

Section 425.185 provides authority to enforce the Act and the rules promulgated thereunder along with the right to inspect sites, if reasonable prior notice is given to the landowner.

Section 425.186 requires the annual filing of a mine plan map.

Section 425.187 authorizes the Supervisor, if he has reasonable doubts as to an operator's financial ability to comply with reclamation rules, to require the operator to furnish a performance bond or other security or assurance.

Section 425.188 provides that, at the request of the Supervisor, the Attorney General may institute an action in a circuit court of the county in which the mining operation is conducted for a restraining order or injuction or other appropriate remedy.

Having reviewed these statutory provisions, OSM tentatively concludes that they lack the specificity of the comparable Federal provisions and fail to establish permitting, design and reclamation criteria and performance standards as detailed as those in the Federal Act. OSM tentatively concludes that without these requirements, the Michigan statute, insofar as it relates to surface coal mining operators subject to the Act, fails to provide as stringent or more stringent land use or environmental control and interferes with the achievement of the purposes and requirements of the Act and the Federal program where both the Federal and State programs apply to the same surface mining operations.

The Michigan Federal program proposed herein for the regulation of surface mining would be pervasive with regard to surface coal mining. OSM proposes to preempt and supersede the Michigan Reclamation of Mining Lands Act of 1970, as amended, except to the extent that it regulates commercial surface coal mining operations which affect two acres or less; or where less than 250 tons of coal are removed or intended to be removed for commercial use in any one location; or where the extraction of coal is incidental to the extraction of other minerals and does not exceed 16⅔ per centum of the tonnage of minerals removed for purposes of commercial use or sale; or coal explorations subject to Section 512 of the Act (30 U.S.C. 1262); or where the extraction of coal is an incidental part of Federal, State, or local government financed highway or other construction; or the coal removed is extracted by a landowner for his own non-commercial use from land owned or leased by him. Except as noted, there is no instance in which the Michigan statute is more stringent than the Federal Act or regulations.

Similarly, the rules and regulations of the Michigan Department of Natural Resources issued pursuant to the preempted provisions of the Reclamation of Mining Lands Act of 1970 would themselves be preempted and superseded by the program promulgated herein, to the same extent that those statutory provisions have been preempted. Like the Michigan Act, these regulations apply to the mining of other minerals in addition to coal. Except as noted, there is no instance where these regulations are more stringent than the Federal Act or regulations. Accordingly, these rules and regulations would no longer be applicable, except as outlined above, to coal exploration or surface coal mining operations in Michigan.

Copies of the Michigan Reclamation of Mining Lands Act of 1970 and the rules and regulations of the Michigan Department of Natural Resources are in the Administrative Record and are available for review at the place listed under "ADDRESSES."

Section 504(h) of the Federal Act also requires that each Federal program include a process for coordinating the review and issuance of permits for surface mining and reclamation operations with any other Federal or State permit process applicable to the proposed operation. OSM proposes to accomplish this by listing relevant Michigan statutes and regulations in Section 922.770.

Public comment is invited on this method of effecting these requirements of Sections 504(a), (g), and (h) and 505 of the Act.

OMB Review

The recordkeeping and reporting requirements of the proposed rule are the same as the national permanent program regulations which have been approved by the Office of Management and Budget under 44 U.S.C. 3507.

Although this rule would contain information and recordkeeping requirements, OMB anticipates less than ten respondents. Under the Paperwork Reduction Act, clearance of information collection forms is required only if ten or more respondents are expected. If in the future the number of respondents appears to be increasing, the proper forms, if they differ from those already approved, will be submitted to the Office of Management and Budget with accompanying notices in the **Federal Register**, in accordance with the requirements of 44 U.S.C Chapter 35.

Other Information

OSM has examined this proposed rule according to the criteria of Executive Order 12291 (46 FR 13193, February 19, 1981) and determined that it does not constitute a major rule. There would be

no major economic impact through adoption of this rule because it would affect only a small number of mining operations.

OSM has examined this proposed rule pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and determine that it will not have a significant impact on a substantial number of small entities. Separate determinations of effect will be prepared for all revisions of the permanent program rules and would consider the effects on small entities in the State of Michigan.

Section 702(d) of the Act provides that promulgation of a Federal program shall not constitute a major Federal action under the National Environmental Policy Act, 42 U.S.C. 4332. Thus, no Environmental Assessment is required for this rulemaking.

List of Subjects in 30 CFR Part 922

Coal mining, Intergovernmental relations, Reporting requirements, Surface mining and Underground mining.

Drafting Information

These regulations were drafted by Christopher Warner, Office of the Solicitor and James M. Kress, Branch of Regulatory Programs, Office of Surface Mining.

May 24, 1982.

William P. Pendley,

Acting Assistant Secretary, Energy and Minerals.

OSM proposes to revise 30 CFR Part 922 to read as follows:

PART 922—MICHIGAN

Sec.

922.700 General.
922.701 General.
922.707 Exemption for coal extraction incident to Government-financed highway or other construction.
922.761 Areas designated unsuitable for surface coal mining by Act of Congress.
922.762 Criteria for designating areas as unsuitable for surface coal mining operations.
922.764 Process for designating areas unsuitable for surface coal mining operations.
922.770 General requirements for permit and exploration procedures.
922.771 General requirements for permits and permit applications.
922.776 General requirements for coal exploration.
922.778 Surface mining permit applications—minimum requirements for legal, financial, compliance, and related information.
922.779 Surface mining permit applications—minimum requirements for information on environmental resources.
922.780 Surface mining permit applications—minimum requirements for reclamation and operations plan.
922.782 Underground mining permit applications—minimum requirements for legal, financial, compliance, and related information.
922.783 Underground mining permit applications—minimum requirements for information on environmental resources.
922.784 Underground mining permit applications—minimum requirements for reclamation and operation plan.
922.785 Requirements for permits for special categories of mining.
922.786 Reviews, public participation, and approval or disapproval of permit applications and permit terms and conditions.
922.787 Administrative and judicial review of decisions on permit applications.
922.788 Permit review, revisions, and renewals, and transfer, sale, and assignment of rights granted under permits.
922.795 Small operator assistance.
922.800 General requirements for bonding of surface coal mining and reclamation operations.
922.815 Performance standards—coal exploration.
922.816 Performance standards—surface mining activities.
922.817 Performance standards—underground mining activities.
922.818 Special performance standards—concurrent surface and underground mining.
922.819 Special performance standards—auger mining.
922.823 Special performance standards—operations on prime farmland.
922.824 Special performance standards—mountaintop removal.
922.826 Special performance standards—operations on steep slopes.
922.827 Special performance standards—coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.
922.828 Special performance standards—in situ processing.
922.842 Federal inspections.
922.843 Federal enforcement.
922.845 Civil penalties.

Authority: Pub. L. 95–87, The Surface Mining Control and Reclamation Act of 1977, 130 U.S.C. 1201 *et seq.*

§ 922.700 General.

(a) This Part contains all rules that are applicable to surface coal mining operations in Michigan which have been adopted under the Surface Mining Control and Reclamation Act of 1977.

(b) The rules in this part cross-reference pertinent parts of the permanent program regulations in this chapter. The full text of a rule is in the permanent program rule cited under the relevant section of the Michigan Federal program.

(c) The rules in this part apply to all surface coal mining operations in Michigan conducted on non-Federal and non-Indian lands. The rules in Subchapter D of this chapter apply to operations on Federal lands in Michigan.

(d) The information collection requirements contained in this part do not require approval by the Office of Management and Budget under 44 U.S.C. 3507 because there are fewer than ten respondents annually.

(e) The following provisions of Michigan laws provide, where applicable, for more stringent environmental control and regulation of surface coal mining operations than do the provisions of the Act and the regulations in this chapter. Therefore, pursuant to Section 505(b) of the Act, they shall not be construed to be inconsistent with the Act:

(1) The Michigan Reclamation of Mining Lands, Act 92 (1970), MCL Section 415.181 *et seq.* as amended, to the extent that it regulates commercial surface coal mining operations which affect two acres or less; or where less than 250 tons of coal are removed or intended to be removed for commercial use or sale in one location or; or where the extraction of coal is incidental to the extraction of other minerals and where coal does not exceed 16⅔ per centum of the tonnage of minerals removed for purposes of commercial use or sale; or coal explorations subject to Section 512 of the Aot (30 U.S.C. 1262) or; where the extraction of coal is an incidental part of Federal, State, or local government-financed highway or other construction.

(2) Michigan Farmland and Open Space Preservation Act, MCL Section 554.701, pertaining to land use restrictions including mineral extraction.

(3) Michigan Solid Waste Regulations pertaining to solid waste management, MCL Section 299.401, R–325.3231.

(4) Michigan noxious weed statute and regulations containing the noxious weed list, MCL Section 243.61.

(f) The following are Michigan laws that interfere with the achievement of the purposes and requirements of the Act and are, in accordance with Section 504(g) of the Act, preempted and superseded:

(1) The Michigan Reclamation of Mining Lands Act, MCL Section 425.181 *et seq.* as amended, but not to the extent that it regulates surface coal mining operations which affect two acres or less; or where less than 250 tons of coal are removed or intended to be removed for commercial use in one location; or where the extraction of coal is incidental to the extraction of other minerals and where coal does not exceed 16⅔ per centum of the tonnage of

minerals removed for purposes of commercial use or sale; or coal explorations subject to Section 512 of the Act (30 U.S.C. 1262); or where the extraction of coal is an incidental part of Federal, State, or local government-financed highway or other construction.

§ 922.701 General.

Sections 700.5, 700.11, 700.12, 700.13, 700.14, 700.15, and Part 701 of this chapter shall apply to surface coal mining operations in Michigan.

§ 922.707 Exemption for coal extraction incidental to Government-financed highway or other construction.

Part 707 of this chapter, Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction, shall apply to surface coal mining and reclamation operations.

§ 922.761 Areas designated unsuitable for surface coal mining by Act of Congress.

Part 761 of this chapter, Areas Designated by Act of Congress, shall apply to surface coal mining and reclamation operations.

§ 922.762 Criteria for designating areas as unsuitable for surface coal mining operations.

Part 762 of this chapter, Criteria for Designating Areas Unsuitable for Surface Coal Mining Operations, shall apply to surface coal mine operations beginning one year after May 14, 1982.

§ 922.764 Process for designating areas unsuitable for surface coal mining operations.

Part 764 of this chapter, State Processes for Designating Areas Unsuitable for Surface Coal Mining Operations, pertaining to petitioning, initial processing, hearing requirements, decisions, data base and inventory systems, public information, and regulatory responsibilities shall apply to surface coal mine operations beginning one year after May 14, 1982.

§ 922.770 General requirements for permit and exploration procedures.

(a) Part 770 of this chapter, General Requirements for Permit Systems Under State Programs, shall apply to surface coal mining and exploration operations.

(b) Where applicable, no person shall conduct surface coal exploration operations which result in the removal of more than 250 tons in one location, or surface coal mining operations without permits issued pursuant to the: Michigan Construction and Maintenance Act, MCL Section 254.25, pertaining to the alteration of watercourses; Michigan Dams in Streams or Rivers Act of 1963, MCL Section 281.131; Michigan Explosives Act of 1970, MCL Section 29.41, pertaining to the use of explosives (permit is issued by an officer of a local police or sheriff's department or a designated officer of the State police); Michigan Hazardous Waste Management Act of 1980, MCL Section 299.501; Michigan Inland Lake and Streams Act of 1972, MCL Section 281.951; Michigan Mineral Wells Act of 1969, MCL Section 319.211; Michigan Sand Dune Protection and Management Act of 1976, MCL Section 281.651; Michigan Solid Waste Management Act of 1978, MCL Section 299.401; Michigan Water Resources Commission Act, MCL Section 323.1; Michigan Water Resources Commission General Rules, R-323.1001 *et seq.*; Michigan Water Quality Standards, R-323.1041; the Michigan Wetland Protection Act of 1969, MCL Section 281.701; Michigan Aboriginal Records and Antiquities Act, MCL Section 299.51; Michigan Great Lakes Submerged Lands Act, MCL Section 322.701 and the Michigan Historical Activities Act, MCL Section 399.201.

(c) The Secretary shall incorporate in the permit, applicable requirements of the Michigan Air Pollution Act of 1965, MCL Section 336.11 and the Michigan Administrative Rules for Air Pollution Control, R-336.1101 *et seq.*; The Michigan Control and Eradication of Noxious Weeds Act, MCL Section 247.61; the Michigan Endangered Species Act of 1974, MCL Section 299.221 and the Michigan Hazardous Waste Management Act of 1980. The Secretary shall further coordinate review of permits, where applicable, with the appropriate State agencies concerning compliance with the Michigan Farmland and Open Space Preservation Act, MCL Section 554.71.

§ 922.771 General requirements for permits and permit applications.

(a) Part 771 of this chapter, General Requirements for Permits and Permit Applications, shall apply to any person who makes application for a permit to conduct surface coal mine operations on non-Federal and non-Indian lands.

(b) A person who wishes to conduct new surface coal mining and reclamation operations or who wishes a revision of his permit shall file a complete application at least 12 months prior to the date upon which permit issuance or revision is desired, and shall pay to the Secretary a permit fee in accordance with § 736.25 of this chapter.

§ 922.776 General requirements for coal exploration.

(a) Part 776 of this chapter, General Requirements for Coal Exploration, shall apply to any person who conducts or seeks to conduct coal exploration operations on non-Federal and non-Indian lands.

(b) The Office shall make every effort to act on an exploration application within 60 days of receipt or such longer time as may be reasonable under the circumstances. If additional time is needed, OSM shall notify the applicant that the application is being reviewed, but more time is necessary to complete such review, setting forth the reasons and the additional time that is needed.

§ 922.778 Surface mining permit application—minimum requirements for legal, financial, compliance and related information.

Part 778 of this chapter, Surface Mining Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information, shall apply to any person who makes application for a permit to conduct surface mining and reclamation operations.

§ 922.779 Surface mining permit applications—minimum requirements for information on environmental resources.

Part 779 of this chapter, Surface Mining Permit Applications—Minimum Requirements for Information on Environmental Resources, shall apply to any person who makes application to conduct surface mining and reclamation operations.

§ 922.780 Surface mining permit applications—minimum requirements for reclamation and operation plan.

Part 780 of this chapter, Surface Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan, shall apply to any person who makes application to conduct surface coal mining and reclamation operations on non-Federal and non-Indian lands.

§ 922.782 Underground mining permit applications—minimum requirements for legal, financial, compliance, and related information.

Part 782 of this chapter, Underground Mining Permit Applications—Minimum requirements for Legal, Financial, Compliance, and Related Information, shall apply to any person who makes application for a permit to conduct underground mining operations.

§ 922.783 Underground mining permit applications—minimum requirements for information on environmental resources.

Part 783 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources, shall apply to any person who submits an application

to conduct underground mining operations.

§ 922.784 Underground mining permit applications—minimum requirements for reclamation and operation plan.

Part 784 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan, shall apply to any person who makes application to conduct underground mining.

§ 922.785 Requirements for permits for special categories of mining.

Part 785 of this chapter, Requirements for Permits for Special Categories of Mining, shall apply to each person who makes application for a permit to conduct certain categories of surface coal mining and reclamation operations.

§ 922.786 Review, public participation, and approval or disapproval of permit applications and permit terms and conditions.

Part 786 of this chapter, Review, Public Participation, and Approval or Disapproval of Permit Applications and Permit Terms and Conditions, shall apply to the review of applications made by any person for surface coal mining and reclamation operations.

§ 922.787 Administrative and judicial review of decisions on permit applications.

Decisions on permit applications shall be subject to administrative and judicial review in accordance with Part 787 of this chapter and Sections 520, 525, and 526 of the Act.

§ 922.788 Permit reviews, revisions, and renewals, and transfer, sale, and assignment of rights granted under permits.

Part 788 of this chapter, Permit Reviews, Revisions, and Renewals, and Transfer, Sale, and Assignment of Rights Granted Under Permits, shall apply to review, revision, and renewal of permits for surface coal mine operations, and to transfer, sale, and assignment of rights granted under permits.

§ 922.795 Small operator assistance.

Part 795 of this chapter, Small Operator Assistance, shall apply to any person making applications for assistance under the small operator assistance program.

§ 922.800 General requirements for bonding of surface coal mining and reclamation operations.

Part 800 of this chapter, General Requirements for Bonding of Surface Coal Mining and Reclamation Operations Under Regulatory Programs, shall apply to all surface coal mining and reclamation operations.

§ 922.815 Performance standards—coal exploration.

Part 815 of this chapter, Permanent Program Performance Standards—Coal Exploration, shall apply to any person conducting coal exploration operations.

§ 922.816 Performance standards—surface mining activities.

(a) Part 816 of this chapter, Permanent Program Performance Standards—Surface Mining Activities, shall apply to any person who conducts surface coal mining and reclamation operations.

(b) No person shall conduct surface coal mining operations except in compliance with the Michigan Dams in Streams or Rivers Act of 1963, MCL Section 281.131, and applicable Rules of the Department of Natural Resources as provided in 30 CFR 816.49(a), the Solid Waste Management Rules of the Michigan Department of Natural Resources, Environmental Protection Division, R–325.2701 *et seq.*, Solid Waste Management Rules, as provided in Paragraph 817.89(b) of this chapter and the Michigan Control and Eradication of Noxious Weeds Act, MCL 247.61, as provided in Paragraph 817.112(d) of this chapter.

§ 922.817 Performance standards—underground mining activities.

(a) Part 817 of this chapter, Permanent Program Performance Standards—Underground Mining Activities, shall apply to any person who conducts underground mining operations.

(b) No person shall conduct underground coal mining operations except in compliance with Michigan Dams in Streams or Rivers Act of 1963, MCL Section 281.31, and applicable rules of the Department of Natural Resources, as provided in § 817.49(a)(1) of this chapter; the Michigan Department of Natural Resources, Environmental Protection Division, Solid Waste Rules, R-325.1101 as provided in Paragraph 817.89(b) of this chapter, and the Michigan Control and Eradication of Noxious Weeds Act, MCL Section 247.61, as provided in § 817.112(d) of this chapter.

§ 922.818 Special performance standards—concurrent surface and underground mining

Part 818 of this chapter, Special Permanent Program Performance Standards—Concurrent Surface and Underground Mining, shall apply to any person who conducts combined surface and underground mining operations.

§ 922.819 Special performance standards—auger mining

Part 819 of this chapter, Special Permanent Program Performance Standards—Auger Mining, shall apply to any person who conducts surface coal mining operations which include auger mining.

§ 922.823 Special performance standards—operations on prime farmland

Part 823 of this chapter, Special Permanent Program Performance Standards—Operations on Prime Farmland, shall apply to any person who conducts surface coal mining and reclamation operations on prime farmlands.

§ 922.824 Special performance standards—mountaintop removal

Part 824 of this chapter, Special Permanent Program Performance Standards—Mountaintop Removal, shall apply to any person who conducts surface coal mining operations constituting mountaintop removal mining.

§ 922.826 Special performance standards—operations on steep slopes

Part 826 of this chapter, Special Permanent Program Performance Standards—Operations on Steep Slopes, shall apply to any person who conducts surface coal mining and reclamation operations on steep slopes.

§ 922.827 Special performance standards—coal processing plants and support facilities not located at or near the minesite and not within the permit area for a mine.

Part 827 of this chapter, Special Permanent Program Performance Standards—Coal Processing Plants and Support Facilities Not Located at or Near the Minesite or Not Within the Permit Area for a Mine, shall apply to any person who conducts surface coal mining and reclamation operations which include the operation of coal processing plants and support facilities not located at or near the minesite and not within the permit area for a mine.

§ 922.828 Special performance standards—in situ processing.

Part 828 of this chapter, Special Permanent Program Performance Standards—In Situ Processing, shall apply to any person who conducts in situ processing activities.

§ 922.842 Federal inspections.

(a) Part 842 of this chapter, Federal Inspections, shall apply to all exploration and surface coal mining and reclamation operations.

(b) In addition to the requirements of Part 842, the Secretary will furnish a copy of each inspection report regarding inspections conducted pursuant to this

subpart to the Michigan Department of Natural Resources upon request.

§ 922.843 Federal enforcement.

(a) Part 843 of this chapter, Federal Enforcement, shall apply when enforcement action is required for violations on surface coal mining and reclamation operations.

(b) The Office will furnish a copy of each enforcement action document and order to show issued pursuant to this subpart to the Michigan Department of Natural Resources, Geological Survey Division upon request.

§ 922.845 Civil penalties.

Part 845 of this chapter, Civil Penalties, shall apply when civil penalties are assessed for violations on surface coal mining and reclamation operations.

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30 CFR Part 937

Surface Mining and Reclamation Operation Under a Federal Program for Oregon.

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the Department of the Interior proposes a Federal program for regulation of coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in Oregon. This includes surface effects of underground coal mining. This proposed program is necessary in order to regulate surface coal mining activities in the absence of a State program.

DATES: Written comments must be received not later than 5:00 p.m. on August 2, 1982, at the address below. A public hearing will be held on July 26, 1982. Requests to testify at the hearing should be received by July 21, 1982. If commenters request a hearing date later than that set, the hearing will be rescheduled and the new date announced by a notice in the Federal Register.

ADDRESSES: Written comments must be mailed to: Administrative Record Room (R & I–20), Office of Surface Mining, Wyoming State Office, P.O. Box 1420, Mills, Wyoming 82644, or hand delivered to Office of Surface Mining, Wyoming State Office, Freden Bldg. 935 Pendell Blvd., Mills, Wyoming 82244.

The public hearing on the proposed program will be held at the Federal Building, Room 335, 1220 S.W. 3rd St., Portland, Oregon 97204. Use the Madison Street entrance. The hearing will begin at 7:00 p.m.

FOR FURTHER INFORMATION CONTACT: James M. Kress, Office of Surface Mining, Branch of Regulatory Programs, Room 222, 1951 Constitution Avenue, N.W., Washington, D.C. 20240. Telephone: (202) 343–5866.

SUPPLEMENTARY INFORMATION:

Availability of Copies

Copies of the proposed program are available for inspection and may be obtained at the OSM office listed above under "ADDRESSES."

Public Comment Period

The comment period on the proposed program will extend until August 2, 1982. All comments must be received at the location listed above under "**ADDRESSES**" by the close of business on that date.

All written comments receive, a transcript of the public hearing, summaries of public meetings held at the request of any person or organization to receive advice and recommendations concerning the proposed program with representatives of OSM, and other documents comprising the administrative record on the Oregon Federal program will be made available for public review during regular business hours at the location listed above under "**ADDRESSES.**"

OSM appreciates any and all comments on the proposal, but those that would be most useful should be as specific as possible, focus on the issues of this proposed rulemaking, and provide reasons for any recommendations. OSM will not consider comments that do not pertain to the issues in this proposal. Nor can OSM ensure consideration of comments received after the comment period ends or those delivered to an address other than those specified.

Public Hearing

A public hearing on the proposed program will be held at the time and location listed above to hear all those who wish to testify. The hearing may be cancelled if, by July 21, 1982, no person has expressed interest in presenting testimony. Those interested in testifying should contact OSM at the location under "ADDRESSES" above.

Individual testimony at the hearing will be limited to 15 minutes. The hearing will be transcribed. Filing of a written statement at the time of giving oral testimony would be helpful and would facilitate the job of the court reporter. Submission of written statements in advance of the hearing would greatly assist OSM officials who will attend the hearing. Advance submissions will give these officials an opportunity to consider appropriate questions which could be asked for clarification or to request more specific information from the person testifying. The public hearing will continue until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and wish to do so will be heard following the schedule speakers. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to speak have been heard. Persons not scheduled to testify, but wishing to do so, assume the risk of having the public hearing adjourned unless they are present in the audience at the time all scheduled speakers have been heard.

The hearing date is set for approximately 30 days after publication of the proposed program in order to give the public ample opportunity to review the hearing transcript before the close of the comment period. The hearing date is being advanced from that required by 30 CFR 736.12 because, surface mining operations are imminent in Oregon, and the State does not have an approved permanent regulatory program to control such activities. Allowing 60 days to elapse after publication of today's notice before holding the public hearing (as specified by 30 CFR 736.12) would delay promulgation of this program. OSM will consider requests for a later hearing date which are supported by valid reasons for postponement.

Background

Under Section 504(a) of the Surface Mining Control and Reclamation Act of 1977 (the Act), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, the Secretary is required to promulgate a Federal program within 34 months after passage of the Act if a State fails to submit a program to assume responsibility for regulating surface mining activities, fails to resubmit a program within 60 days of disapproval, or fails at any time to implement, enforce or maintain an approved State program. The time for submitting State programs was extended by seven months to March 3, 1980 as the result of litigation, *In re: Permanent Surface Mining Regulation Litigation*, 13 ERC 1447 (July 25, 1979). The date for submission of State programs has now passed.

An additional standard for the promulgation of a Federal program is found in 30 CFR Part 736, which requires the implementation of a Federal program for a State where the Director of OSM (the Director) "reasonably

expects coal exploration or surface coal mining and reclamation operations to exist on non-Federal and non-Indian lands * * * at any time before June 1985 * * *" 30 CFR 736.11(a)(1).

Once a decision is made that a Federal program is necessary for a State, the Secretary must make several determinations before promulgating a program. Section 504(a) of the Act requires that in implementing a Federal program the Secretary take into consideration the nature of the State's terrain, climate, biological, chemical, and other relevant physical conditions. This requirement is also found in the regulations, 30 CFR 736.22(a)(1). The Act (Section 505(b)) and the regulations (§ 736.23(b)). also provide that if a State has more stringent land use and environmental laws or regulations, they shall not be construed to be inconsistent with the Act or the Secretary's regulations. The Secretary believes that the requirements of section 505(b) can best be met by identifying State laws and regulations which impose equivalent or more stringent environmental controls and incorporating the requirements of those laws in the Federal program. If the State's laws or regulations establish more stringent standards regulating surface mining control and reclamation procedures than those found in the Act or the Secretary's regulations or if the State regulates or protects an aspect of the environment affected by surface mining and reclamation operations which neither the Act nor the Secretary's regulations protect, OSM would then specifically preserve those States standards in the Federal program.

Also, in promulgating a program for a State, Section 504(g) specifies that any State statutes or regulations which regulate surface mining and reclamation operations subject to the Act will be superseded and preempted by the Federal program to the extent that they interface with the achievement of the purposes and requirements of the Act and the Federal program. This provision is reinforced by Section 505(a) of the Act, which states that only those State laws and regulations which are inconsistent with the Act and its implementing regulations shall be superseded by the Federal program. Thus, State statutes and rules regulating the same activities as those covered by the Federal law and regulations and which interfere with achievement of the purposes of the Act must be identified and preempted by OSM.

Oregon State laws have been reviewed to fulfill the Secretary's obligation under Section (504(a) of the Act. OSM believes that there are statutes which, in certain circumstances, impose stricter environmental controls than are provided for under the Act or the Federal regulations. Section 700.937(a) of the proposed Federal program for Oregon lists the Oregon laws which OSM has tentatively identified as setting more stringent land use and environmental controls for surface mining. Those more stringent Oregon statutes are summarized as follows:

(a) ORS 468.700 to 468.997 (statutes controlling the pollution of State waters) prohibit, *inter alia*, the discharge of waste into State waters without an approved permit issued by the Director of the Department of Environmental Quality. These statutes impose strict liability for injury to fish or wildlife and allow the State to collect damages to recover wildlife habitat restoration costs. ORS 468.745. Willful or negligent violation of these statutes constitutes a criminal offense punishable by a maximum fine of $25,000 or one year in jail, or both. ORS 468.999, ORS 468.992.

(b) ORS 498.002 provides that game fish and wildlife are considered State property and ORS 498.705 imposes strict liability for injuring fish or wildlife in violation of the Oregon Fish and Wildlife statutes. Moreover, ORS 498.705 established a schedule of civil damages and includes, as recoverable damages, the cost to restore fish and wildlife habitats.

(c) ORS 509.600 makes it unlawful to knowingly injure or destroy fish within 600 feet of any fishway. It is unlawful to construct or maintain a dam or obstruction across any stream without providing for a food fish passageway and construction of such a facility must first be approved by the Director of the Department of Fish and Wildlife. Artificial watercourses must be screened to protect food fish. ORS 509.615. The Oregon statutes prohibit the waste, injury or destruction of food fish and shellfish and prohibit deleterious substances from being introduced into State waters. ORS 509.125. An approved permit from The Fish and Wildlife Commission is required before any explosive may used to construct a dam or similar structure in order to prevent the wanton waste or destruction of food fish. ORS 509.140.

Comment is invited on whether laws identified in Section 937.700(e) of the proposed Federal Program, which reflect more stringent Oregon environmental controls, adequately take into consideration the nature of the relevant physical conditions. Comment is also invited concerning any other Oregon laws which establish more stringent land use and environmental controls.

In accordance with 30 CFR 736.23, OSM believes that those Oregon statutes and rules, listed in Section 937.700(f) of the proposed Federal Program, would interfere with the attainment of the goals and purposes of the Act and the Permanent Program Rules thereunder. Thus OSM proposes that the following Oregon statutes and rules be preempted and superseded to the extent that they regulate coal exploration and surface mining subject to regulation under the Act:

(a) Oregon Surface Mining and Mine Land Reclamation Acts, as amended, Oregon Revised Statutes (ORS) 517.750 to 517.990.

(b) Oregon Administrative Rules Department of Geology and Mineral Industries, Division 30, Rules and Regulations, Oregon Mined Land Reclamation Act, OAR 632–30–005 to 632–30–060.

(c) ORS 273.551 and ORS 273.775–ORS 273.790—Authorizes The State Division of Lands to issue mineral drilling leases and exploration and mining permits with respect to lands and minerals owned by the State. OSM proposes that it be the permitting authority for surface mining and exploration. Insofar as the Oregon statutes provide that the permitting authority is the Division of Lands, these Oregon statutes would be preempted. The contractual leasing authority of the Division of Lands is not disturbed under the proposed Federal Program.

(d) ORS 275–340—Authorizes the Counties to lease county-designated forest lands for mineral prospecting and mineral excavation. To the extent that the State of Oregon interprets this statute as creating County authority to issue mining or prospecting permits, OSM proposes to preempt the County permitting authority. The proposed Federal Program and Section 504 of the Act provide that the regulatory and permitting authority is the Office of Surface Mining.

(e) ORS 517–780—Exempts surface mining operations from the State permitting requirements if done pursuant to a permit issued by a city or county which has a surface mined land reclamation ordinance approved by the Department of Geology and Mineral Industries. Also exempted from the State permitting requirements are city or county operated surface mine operations which sell less than 5000 cubic yards within a 12 calendar month period, provided the city or county has adopted an ordinance including a general reclamation scheme for achieving reclamation by the city or

county. OSM proposes to preempt this Oregon statute to the extent that it delegates permitting responsibility to cities and counties.

These Oregon laws and rules represent the main body of Oregon law relating to the exploration and surface mining of minerals and mined land reclamation. The Oregon Department of Geology and Mineral Industries has statutory responsibility for administering and enforcing the laws and rules pertaining to surface mining. To a limited extent, Oregon requires the reclamation of surface mined lands. OSM tentatively concludes that these Oregon statutes and rules indicate that they are not consistent with the Act or the Federal Permanent Program Rules and interfere with the attainment of the reclamation goals and purposes expressed in the Act. Thus, OSM proposes that the Oregon statutes and rules, described above, no longer be applicable to the regulation of coal exploration, surface coal mining operations or the reclamation of surface coal mined lands in the State of Oregon, except as they pertain to operations affecting two acres or less or which otherwise are not regulated by the Surface Mining Control and Reclamation Act.

Finally, Section 504(h) of the Act requires that each Federal program include a process for coordinating the review and issuance of surface mining permits with other Federal or State permits applicable to the proposed operation. The Federal statutes with which the surface mining permitting process must be coordinated are set out in 30 CFR 736.22(c). State statutes for which a permit is required must be identified in the process of promulgating a Federal program, and the Federal program must provide for coordination with the review and issuance procedures required by those statutes, § 937.770(b) of the proposed Federal Program tentatively identifies the various permits, statutes and rules which may, expressly or impliedly, impact on surface coal mining and coal exploration and coal reclamation under the proposed Federal Program. The pertinent permits, statutes and rules are:

(a) ORS 197.005 through ORS 197.775 authorize the use of Comprehensive Land Use Plans adopted by a county or a city and found by The Oregon Land Conservation and Development Commission to be in compliance with the Oregon Statewide Planning Goals. ORS 197.180.

(b) Licenses for the lease of State lands are issued by the Division of State Lands. ORS 273.005–ORS 273.815.

(c) Counties have authority to sell or lease rights to prospect or extract minérals located on county forest lands. ORS 275.340.

(d) Solid Waste Disposal Permits, Hazardous Waste Transportation and Disposal Permits, Industrial Waste Disposal Permits are issued by The Department of Environmental Quality. ORS 459.005–ORS 850.

(e) Surface mining or exploration operations must comply with the Noise Control Laws enforced by The Department of Environmental Quality. ORS 467.010–ORS 467.990.

(f) Oregon statutes seeking to minimize pollution generally found in ORS 468.005–ORS 468.997. The Oregon air pollution control laws are contained in ORS 468.275–ORS 468.350 and ORS 468.500–ORS 468.580. Oregon water pollution control statutes reside in ORS 468.700–468.775. Oregon prohibits the discharge of waste into state waters when in violation of an approved permit issued by the Director of the Department of Environmental Quality and imposes strict civil liability on polluters and those who injure game fish and wildlife or their habitat (ORS 468.745). Willful or negligent violation of the Oregon fish wildlife statutes constitutes a misdemeanor. ORS 468.990, ORS 468.992.

(g) A waste Discharge Permit (National Pollution Discharge Elimination System—NPDES) is required before waste may be deposited into State waters. A Water Pollution Control Facilities Permit may also be required. The permitting authority for these permits is The Department of Environmental Quality. ORS 468.775, ORS 468.990–ORS 468.997.

(h) The Department of Environmental Quality also issues Air Contaminant Discharge Permits. ORS 468.275–ORS 468.350.

(i) The Oregon Department of Energy administers the allocation of energy and the energy conservation programs. ORS 469.010–469.992. That Department also issues Energy Facility Site Certificates. ORS 469.300–ORS 469.570, ORS 469.990 and ORS 469.992.

(j) The wildlife laws of Oregon (ORS 496.002 et seq.) contain the State's wildlife policy. ORS 496.012. The Department of Fish and Wildlife has permitting responsibility for the wildlife laws and is charged with their administration and enforcement.

(k) The fish and wildlife of Oregon are considered State property. ORS 498.002. Oregon imposes strict civil liability for injury or destruction of fish, wildlife or their habitats in violation of its statutes. ORS 498.705.

(l) Approval is required of the Director of the Department of Fish and Wildlife before a dam or obstruction may be constructed across State streams or waters. ORS 509.600. Artificial water courses are required to be screened to protect fish. ORS 509.615. Oregon prohibits deleterious substances from being introduced into State waters. ORS 509.125. It is unlawful to wantonly waste or destroy fish. ORS 509.112. An approved permit from the Fish and Wildlife Commission is required before explosives may be used to assist in the construction of a dam or similar structure. ORS 509.140.

(m) Oregon makes it unlawful to have possession of explosives without having obtained a Certificate of Possession from the State Fire Marshall. ORS 480.210. Violation of this law is punishable by a fine of not more than $250 or imprisonment of not more than one year, or both. ORS 480.990(7).

(n) The Department of Geology and Mineral Industries (ORS 516.010 et seq.) administers the Oregon law respecting mining and mine claims. ORS 5178.010–ORS 517.700. Oregon provides that mine claims are treated as a realty claim, and Oregon laws provide for the recordation of mine claims (ORS 517.030), claim assignment or transfer (ORS 517.090), millsite control (ORS 517.160), leasing of State land for the purpose of mining (ORS 517.420), and the licensing of mining operations using a dredging machine (ORS 517.611–ORS 517.700).

(o) The Oregon Department of Water Resources is the permitting authority for the use, appropriation and or diversion of Oregon waters (ORS 537.130, ORS 537.135) and surface waters. ORS 537.135, ORS 537.140 and ORS 537.800. That Department is responsible for enforcing the Oregon water conservation laws (ORS 537.010 et seq.). It is the permitting authority for the design, construction and maintenance of dams, dikes or other hydraulic structures or works. ORS 540.350 and ORS 540.400.

(p) The Oregon Department of Water Resources administers and enforces ORS 540.440 which requires that right-of-way water ditches be required to be kept clear from wild oats, mustard, thistles, weeds or noxious grasses.

(q) A permit is required before matter may be removed from the beds and banks of state waters or before fill may be deposited in State waters. The permitting authority is the Director, Division of State Lands. ORS 541.605–ORS 541.990.

(r) ORS 564.010–ORS 564.991 makes it a misdemeanor when wildflowers (designated by the Oregon Department

of Agriculture) located within 500 feet of the center of any public highway or located on a public right-of-way are wilfully or negligently injured or destroyed without the written permission of the owner of the land.

(s) ORS 750.505–ORS 570.990 require that the State and Counties control noxious weeds including white top and Russian knapweed which are deemed to be a menace to the public welfare. Owners and occupiers of lands containing such weeds are required to destroy them and may not seed with such weeds. ORS 570.535.

Copies of the Oregon Surface Mining and Mineral Land Reclamation Act, as amended, and the other Oregon statutes referred to herein are in the administrative record and are available for review at the places listed above under "ADDRESSES."

Federal programs are based on the Secretary's permanent program regulations: 30 CFR Subchapters A, F, G, J, K, L, and M. The permanent program regulations establish procedures and performance standards under the Act and form the benchmark for State programs. In order for a State to have a program approved by the Secretary, Section 503(a)(7) requires that the State's rules and regulations be consistent with the Secretary's regulations.

Pursuant to Section 504(a), the Secretary of the Interior becomes the regulatory authority when a Federal program is implemented for a State. The permanent program regulations contain references to "the regulatory authority" which means the Secretary when a Federal program is involved. Section 701(22) of the Act. The Secretary has delegated almost all authority for surface coal mining activities to the Director of the Office of Surface Mining. The director will be the official responsible for implementing the Oregon Federal program.

The parts of the permanent program regulations that must be included in a Federal program are listed in the regulations, 30 CFR 736.22(b). They include general requirements and definitions (Parts 700 and 701), the exemption for coal extraction incident to government-financed highway or other construction (Part 707), the designation of lands unsuitable for surface mining (Parts 760, 761 and 765), permits and permit applications (Subchapter G), reclamation bonding (Subchapter J), performance standards (Subchapter K), inspection and enforcement (Parts 842, 843 and 845), and blaster training and certification (Subchapter M). In addition, the provisions in the permanent regulations on protection of employees (Subchapter P) and restrictions on financial interests (Part 706) are applicable to Federal employees who, in the instance of a Federal program, are directly enforcing the Act.

The rules for the national permanent program are found in 30 CFR Parts 700–707 and 730–865. Part 705 was published October 20, 1977 (42 FR 56064). Parts 795 and 865 (originally Part 830) were published December 13, 1977 (42 FR 62639). The other permanent program regulations were published at 44 FR 15323–15393 (March 13, 1979). Subchapter M was published on December 12, 1980 (45 FR 82098). Corrections were published at 44 FR 15485 (March 14, 1979), 44 FR 53507–53509 (September 14, 1979), 44 FR 66195 (November 19, 1979), 45 FR 26001 (April 16, 1980), 45 FR 37818 (June 5, 1980), and 45 FR 47424 (July 15, 1980). Amendments to the rules have been published at 44 FR 60969 (October 22, 1979), as corrected at 44 FR 75143 (December 19, 1979), at 44 FR 77440–77447 (December 31, 1979), 45 FR 2626–2629 (January 11, 1980), 45 FR 25998–26001 (April 16, 1980), 45 FR 33926–33927 (May 20, 1980), 45 FR 39446–39447 (June 10, 1980), 45 FR 52306–52324 (August 6, 1980), 45 FR 52375 (August 7, 1980), 45 FR 58780–58786 (September 4, 1980), and 45 FR 76932 (November 20, 1980), 46 FR 37232 (July 17, 1981); 46 FR 41702 (August 17, 1981); 46 FR 47720 (September 29, 1981); 46 FR 53376 (October 28, 1981); 46 FR 52287 (December 7, 1981). Representatives of industry, two States and several environmental groups challenged the national permanent regulatory program in the U.S. District Court for the District of Columbia. These suits were consolidated and heard in a single lawsuit entitled *In Re: Permanent Surface Mining Regulation Litigation* (Civil Action No. 79–1144). In response to the arguments raised in the challenges, the Secretary voluntarily suspended several permanent program regulations. These suspensions were announced in the **Federal Register** on November 27, 1979 (44 FR 67942), December 31, 1979 (44 FR 77447–77454), January 30, 1980 (45 FR 6913) and August 4, 1980 (45 FR 51547–51550). In two opinions the court remanded certain other regulations which had been challenged in the lawsuit. These opinions were issued on February 26, 1980, and May 16, 1980. Many of the issues decided by the District Court have been appealed to the Court of Appeals for the District of Columbia Circuit. *In Re: Permanent Surface Mining Regulation Litigation*, Nos. 80–1810, 80–1811, 80–1812, 80–1813 and 80–1823. The Court has granted a stay of the proceeding pending the revision of regulations as noted below. However, the stay does not apply to Federal programs such as this one.

OMB Review

The recordkeeping and reporting requirements of the proposed rule are the same as those of the permanent program regulations which have been approved by the Office of Management and Budget under 44 U.S.C. Section 3507.

Although this rule would contain information and recordkeeping requirements, OSM anticipates less than ten respondents. Under the Paperwork Reduction Act, clearance of information collection forms is required only if ten or more respondents are expected. If in the future the number of respondents appears to be increasing, the proper forms, if they differ from those already approved, will be submitted to the Office of Management and Budget with accompanying notices in the **Federal Register**, in accordance with the requirements of 44 U.S.C. Chapter 35.

Oregon Federal Program

As mentioned above, when promulgating a Federal program for a State, OSM is required by Section 504(a) of the Act to take into consideration the nature of the terrain, climate, biological, chemical, and other relevant physical conditions of that State. OSM has reviewed Oregon laws and regulations to determine whether they suggest that special provisions may be necessary or appropriate based on special terrain or other physical conditions in the State. OSM solicits comments on special provisions that should be promulgated and the basis for those provisions.

The Director has determined that there is a reasonable expectation that coal exploration or surface coal mining operations will occur on non-Federal and non-Indian lands in the State of Oregon before June 1985. The State has failed to submit a program to the Secretary to obtain primary regulatory responsibility. Therefore, pursuant to 30 CFR 736.11, the Director must promulgate and implement a Federal program.

Explanation of Cross-Referencing

In the general notice of intent to promulgate Federal programs of May 16, 1980 (45 FR 32228), it was stated that each Federal program would be specific to the particular State and would implement the permanent program procedures and environmental protection provisions of the Act (45 FR at 32229). However, except for changes to incorporate more stringent State environmental protection standards and

to list other State laws requiring permits for which coordination is required, OSM believes that few changes are needed in the permanent program regulations for any particular State for which a Federal program must be promulgated.

In January 1981 the Secretary directed that the Department review all existing regulations with a goal of eliminating those which are burdensome, excessive, and unnecessary. Review of the permanent program regulations was initiated and may result in a large scale revision of them. See semi-annual Calendar of Federal Regulations notice of rule review and revision, 47 FR 1709 (January 13, 1982). See also, e.g., revisions of OSM's bonding regulations, 30 CFR Subchapter J, 46 FR 45082 (September 9, 1981) and of OSM's inspection and enforcement regulations, 30 CFR Parts, 842, 843, and 845, 46 FR 54864 (December 1, 1981).

In order to take advantage of the results which revision of the permanent program regulations will achieve, OSM proposes to develop and promulgate this Federal program in the following manner. Rather than repeating the full text of the permanent regulations which are being revised, there would be a cross-reference to the permanent program regulations. For example, criteria for the designation of lands unsuitable for surface coal mining would be provided by the statement that "the Secretary may designate lands unsuitable . . . pursuant to the criteria in 30 CFR Part 762" (see proposed Section 937.762). The effect of the proposed cross-referencing to the permanent program regulations, insofar as revision of this rule is concerned, would be that as the permanent program regulations are revised, this Federal program would be similarly revised. Over time, all of the permanent program regulations will undergo review and many will be revised. However, no changes to Federal programs for States will be required or proposed in response to administrative suspensions or judicial remands if the proposed cross-referencing method is.

No separate rulemaking would be undertaken or necessary for revision of this program if the cross-referencing alternative becomes effective, unless OSM determined that special conditions were necessary for a particular State. The statement for the permanent program proposed rule would invite comments on necessary modifications to accommodate unique or unusual aspects of surface mining in any State and the final rule would be tailored for each State as necessary.

The promulgation of the proposed cross-referenced Federal program for Oregon would not result in any modification of the substance of OSM's permanent program rules. A separate paragraph is proposed to be added under each section of the proposed Federal program for Oregon where that section deviates from the permanent program regulations. These paragraphs will generally be found in subsection (b). Cross-referencing to the permanent program rules may also be used in the promulgation of other Federal programs for States. Public comment on the cross-referencing method as it affects other Federal programs for States, however, should be directed to each of those rulemaking notices.

Several provisions of the permanent program regulations are already applicable to the Federal program for Oregon and need not be cross-referenced here because they were fully promulgated for application to all regulatory programs. Those provisions are 30 CFR Chapter VII, Subchapter P—Protection of Employees; Part 706—Restrictions on Financial Interests of Federal Employees; and Part 769—Petition Process for Designation of Federal Lands Unsuitable for Surface Coal Mining. However, 30 CFR Part 764—Designating Lands Unsuitable for Surface Coal Mining would be included in the Federal program for Oregon by a cross-reference under Section 937.764, to provide a petition process on non-Federal lands in Oregon.

With regard to bonding regulations (Subchapter J), only Part 800 is proposed to be cross-referenced because OSM has proposed to revise Subchapter J to include just one part, Part 800. 46 FR 45082 (September 9, 1981) (proposed).

Content and Organization of the Program

The content and organization of the proposed Federal program for the State of Oregon would generally follow the permanent program regulations. But, as discussed above, instead of the full text appearing, each section of this proposed program would only include reference to the pertinent permanent program regulation. Section 937.700(e) and (f) set out more stringent and inconsistent State statutes respectively. A separate paragraph is proposed to be added under each section where there are deviations from the Federal permanent program regulation for the Oregon Federal program. These paragraphs will generally be found in a Subsection (b).

The content and organization of the Oregon Federal program would be based on the following provisions of the Federal permanent program regulations, 30 CFR Chapter VII:

Subchapter A—General
Subchapter F—Areas Unsuitable for Mining
Subchapter G—Surface Coal Mining and Reclamation Operations Permits and Coal Exploration Systems Under Regulatory Programs
Subchapter J—Bond and Insurance Requirements for Bonding of Surface Coal Mining and Reclamation Operations
Subchapter K—Permanent Program Performance Standards
Subchapter L—Permanent Program Inspection and Enforcement Procedures
Subchapter M—Training Program for Blasters and Members of Blasting Crews, and Certification Programs for Blasters

Technical literature cited by OSM in the preamble to the permanent regulatory program (44 FR 14901–15309, March 13, 1979) was relied upon in developing the additions to the regulations for the Oregon Federal program. The reader is referred to that preamble for a discussion of the basis and purposes of the permanent program rules proposed to be referred in the Oregon program without substantive change.

The numbering system of the permanent program regulations has been incorporated in the numbering system for the proposed program. Program elements have been categorized under headings similar to the Subchapter titles. Subchapter T in 30 CFR Chapter VII has been established to include regulatory programs by State. Each State is assigned a part number. The proposed program for the State of Oregon is assigned Part 937.

In addition to the proposed rules, the Federal regulatory program for the State of Oregon will include the following provisions of 30 CFR Chapter VII:

30 CFR Chapter VII, Subchapter P—Protection of Employees
30 CFR Chapter VII, Part 706—Restriction of Financial Interests of Federal Employees

These provisions have been fully promulgated and implemented for application to all regulatory programs under 30 CFR Chapter VII. They will not be modified for application in any specific State. Therefore, those provisions, as codified in 30 CFR Chapter VII, would be part of the Federal regulatory program for the State of Oregon.

Other Information

OSM has examined these proposed rules according to the criteria of Executive Order 12291 (46 *FR* 13193, February 19, 1981) and determined that they do not constitute a major rule. There would be no major economic impact through adoption of this rule

because it would affect only a small number of mining operations.

OSM has examined these proposed rules pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and determined that they will not have a significant impact on a substantial number of small entities. Separate determinations of effect will be prepared for all revisions of the permanent program rules and would consider the effects on small entities in the State of Oregon.

Section 702(d) of the Act provides that promulgation of a Federal program shall not constitute a major Federal action under the National Environmental Policy Act, 42 U.S.C. 4332. Thus, no Environmental Assessment is required for this rulemaking.

List of Subjects in 30 CFR 937:

Coal mining, Intergovermental relations, Surface mining, Underground mining, Reporting requirements.

Drafting Information

These regulations were drafted by William Patten, Office of the Solicitor and James M. Kress, Branch of Regulatory Programs, Office of Surface Mining.

Dated: May 21, 1982.

William P. Pendley,

Acting Assistant Secretary, Energy and Minerals.

OSM proposes to revise 30 CFR Part 937 to read as follows:

PART 937—OREGON

Sec.

937.700 General.
937.701 General.
937.707 Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction.
937.761 Areas Designated Unsuitable for Surface Coal Mining by Act of Congress.
937.762 Criteria for Designating Areas as Unsuitable for Surface Coal Mining Operations.
937.764 Process for Designating Areas Unsuitable for Surface Coal Mining Operations.
937.770 General Requirements for Permit and Exploration Procedures.
937.771 General Requirements for Permits and Permit Applications.
937.776 General Requirements for Coal Exploration.
937.778 Surface Mining Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information.
937.779 Surface Mining Permit Applications—Minimum Requirements for Information on Environmental Resources.
937.780 Surface Mining Permit Applications—Minimum Requirements for Reclamation and Operations Plan.
937.782 Underground Mining Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information.
937.783 Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources.
937.784 Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan.
937.785 Requirements for Permits for Special Categories of Mining.
937.786 Reviews, Public Participation, and Approval or Disapproval of Permit Applications and Permit Terms and Conditions.
937.787 Administrative and Judicial Review of Decisions on Permit Applications.
937.788 Permit Review, Revisions, and Renewals, and Transfer, Sale, and Assignment of Rights Granted Under Permits.
937.795 Small Operator Assistance.
937.800 General Requirements for Bonding of Surface Coal Mining and Reclamation Operations.
937.815 Performance Standards—Coal Exploration.
937.816 Performance Standards—Surface Mining Activities.
937.817 Performance Standards—Underground Mining Activities.
937.818 Special Performance Standards—Concurrent Surface and Underground Mining.
937.819 Special Performance Standards—Auger Mining.
937.823 Special Performance Standards—Operations on Prime Farmland.
937.824 Special Performance Standards—Mountaintop Removal.
937.826 Special Performance Standards—Operations on Steep Slopes.
937.827 Special Performance Standards—Coal Processing Plants and Support Facilities Not Located at or Near the Minesite or Not Within the Permit Area for a Mine.
937.828 Special Performance Standards—In Situ Processing.
937.842 Federal Inspections.
937.843 Federal Enforcement.
937.845 Civil Penalties.

Authority: Pub. L. 95–87, the Surface Mining Control and Reclamation Act of 1977, 130 U.S.C. 1201 *et seq.*

§ Section 937.700 General.

(a) This Part contains all rules that are applicable to surface coal mining operations in Oregon which have been adopted under the Surface Mining Control and Reclamation Act of 1977.

(b) The rules in this part cross-reference pertinent parts of the permanent program regulations in this chapter. The full text of a rule is in the permanent program rule cited under the relevant section of the Oregon Federal program.

(c) The rules in this part apply to all surface coal mining operations in Oregon conducted on non-Federal and non-Indian lands. The rules in Subchapter D of this chapter apply to operations on Federal lands in Oregon.

(d) The information collection requirements contained in this part do not require approval by the Office of Management and Budget under 44 U.S.C. 3507 because there are fewer than ten respondents annually.

(e) The following provisions of Oregon laws provide, where applicable, for more stringent environmental control and regulation of surface coal mining operations than do the provisions of the Act and the regulations in this chapter. Therefore, pursuant to Section 505(b) of the Act, they shall not be construed to be inconsistent with the Act:

(1) Oregon Revised Statutes (ORS) 468.700–468.997, pertaining to the control of water pollution.

(2) ORS 498.002 and ORS 498.705, protecting fish and wildlife and their habitats.

(3) ORS 509.125, prohibiting deleterious substances from being introduced into State waters.

(4) ORS 509.140, requiring the approval of the Fish and Wildlife Commission before explosives may be used to construct a dam or similar structure.

(5) ORS 509.600, prohibiting the injury or destruction of fish within 600 feet of any fishway. Prior approval of the Director, The Department of Fish and Wildlife is required before constructing a dam or obstruction in State waters.

(6) ORS 509.615, requiring that artificial watercourses must be screeded.

(f) The following are Oregon laws that interfere with the achievement of the purposes and requirements of the Act and are, in accordance with Section 504(g) of the Act, preempted and superseded:

(1) Oregon Surface Mining and Mine Land Reclamation Acts, as amended, ORS 517.750–ORS 517.990.

(2) Oregon Administrative Rules (OAR) Department of Geology and Mineral Industries, Division 30, Rules and Regulations, Oregon Mined Land Reclamation Act, OAR 632–30–005 through OAR 632–30–060.

(3) ORS 273.551 and ORS 273.775 to ORS 273.790. The contractual and leasing responsibility of The Division of Lands over State lands and minerals is not affected by the Federal Program.

(4) ORS 275.340. To the extent that the State of Oregon construes this statute as delegating to the Counties the authority to issue surface coal mining permits and related exploration permits, then, to that extent, the Federal Program preempts the permitting authority of the Counties.

(5) ORS 517.780, which allows the State of Oregon to delegate permitting authority under certain circumstances to cities or counties.

§ 937.701 General.

Sections 700.5, 700.11, 700.12, 700.13, 700.14, 700.15 and Part 701 of this chapter shall apply to surface coal mining operations in Oregon.

§ 937.707 Exemption for Coal Extraction Incident To Government-Financed Highway or Other Construction.

Part 707 of this chapter, Exemption for Coal Extraction Incidental to Government-financed Highway or Other Construction, shall apply to surface coal mining and reclamation operations.

§ 937.761 Areas Designated Unsuitable For Surface Coal Mining By Act Of Congress.

Part 761 of this chapter, Areas Designated by Act of Congress, shall apply to surface coal mining and reclamation operations.

§ 937.762 Criteria For Designating Areas As Unsuitable For Surface Coal Mining Operations.

Part 762 of this chapter, Criteria for Designating Areas Unsuitable for Surface Coal Mining Operations, shall apply to surface coal mine operations beginning one year after May 14, 1982.

§ 937.764 Process For Designating Areas Unsuitable For Surface Coal Mining Operations.

Part 764 of this chapter, State Processes for Designating Areas Unsuitable for Surface Coal Mining Operations, pertaining to petitioning, initial processing, hearing requirements, decisions, data base and inventory systems, public information, and regulatory responsibilities shall apply to surface coal mine operations beginning one year after May 14, 1982.

§ 937.770 General Requirements For Permits And Exploration Procedures.

(a) Part 770 of this chapter, General Requirements for Permit Systems Under State Programs, shall apply to surface coal mining and exploration operations.

(b) Where applicable, no person shall conduct surface coal exploration operations which result in the removal of more than 250 tons in one location, or surface coal mining operations without permits issued pursuant to leases and/or certificates required by the State of Oregon, including compliance with Oregon's Statewide Planning Goals (ORS 197.180) and any relevant County Comprehensive Land Use Plans (ORS 197.005–ORS 197.775); license from the Division of State Lands where mines or exploration are on State lands (ORS 273.005–273.815); Solid Waste Disposal Permits. Hazardous Waste Transportation and Disposal Permits. Industrial Waste Disposal Permits issued by the Department of Environmental Quality (ORS 459.005–ORS 459.850); leases issued by the county where county designated forest lands are involved (ORS 275.340); noise restrictions enforced by The Department of Environmental Quality (ORS 467.010–467.990); Air Contaminant Discharge Permits (ORS 468.005–ORS 468.997), Water Pollution Control Facilities Permits, Waste Discharge Permits (ORS 468.900– ORS 468.997), Energy Facility Site Certificates (ORS 469.300–ORS 469.570, ORS 469.990, ORS 469.992) issued by the Department of Environmental Quality; The Department of Fish and Wildlife issues permits for dam use (ORS 509.600), for use of explosives used to construct dams or similar structures (ORS 509.140); The State Fire Marshall issues Certificates of Possession for persons having or using explosives (ORS 480.210); The Department of Geology and Minerals issues licenses for use of dredging machines (ORS 517.611–ORS 517.700); The Department of Water Resources issues permits with respect to the use, appropriation or diversion of State Waters (ORS 537.130, ORS 537.135) and surface waters (ORS 537.135, ORS 537.140 and ORS 537.800), and permits relative to the design, construction and maintenance of dams, dikes or other hydraulic structures or works (ORS 540.350, ORS 540.400); matter may be removed from the beds and banks of State waters and fill may be deposited in State waters once a permit is obtained from The Division of State Lands (ORS 541.605–ORS 541.990).

§ 937.771 General Requirements For Permits And Permit Applications.

(a) Part 771 of this chapter, General Requirements for Permits and Permit Applications, shall apply to any person who makes application for a permit to conduct surface coal mine operations.

(b) Any person who wishes to conduct new surface coal mining and reclamation operations or who wishes to revise a permit shall file a complete application at least 12 months prior to the date upon which permit issuance is desired and pay the Secretary a permit fee in accordance with 30 CFR 736.25.

§ 937.776 General Requirements For Coal Exploration.

(a) Part 776 of this chapter, General Requirements for Coal Exploration, shall apply to any person who conducts or seeks to conduct coal exploration operations.

(b) The Office shall make every effort to act on an exploration application within 60 days of receipt or such longer time as may be reasonable under the circumstances. If additional time is needed, OSM shall notify the applicant that the application is being reviewed, but more time is necessary to complete such review, setting forth the reasons and the additional time that is needed.

(c) Where coal exploration is to occur on State lands or the minerals to be explored are owned by the State, a mineral lease issued by the Oregon Division of Lands authorizing the coal exploration is required to be filed with the permit application.

§ 937.778 Surface Mining Permit Application—Minimum Requirements For Legal, Financial, Compliance and Related Information.

Part 778 of this chapter, Surface Mining Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information, shall apply to any person who makes application for a permit to conduct surface mining and reclamation operations.

§ 937.779 Surface Mining Permit Applications—Minimum Requirements For Information On Environmental Resources.

Part 779 of this chapter, Surface Mining Permit Applications—Minimum Requirements for Information on Environmental Resources, shall apply to any person who makes application to conduct surface mining and reclamation operations.

§ 937.780 Surface Mining Permit Applications—Minimum Requirements For Reclamation And Operation Plan.

(a) Part 780 of this chapter, Surface Mining Permit Applications—Minimum Requirement for Reclamation and Operation Plan, shall apply to any person who makes application to conduct surface coal mining and reclamation operations on non-Federal and non-Indian lands.

(b) Any application for a permit shall demonstrate compliance with the air quality control laws (ORS 468.275 through ORS 468.350 and ORS 468.500 through ORS 468.580) administered by the Oregon Department of Environmental Quality and shall have obtained, where required, an Air Contaminant Discharge Permit from the Department of Environmental Quality (ORS 468.275 through ORS 468.350).

§ 937.782 Underground Mining Permit Applications—Minimum Requirements For Legal, Financial, Compliance, And Related Information.

Part 782 of this chapter, Underground Mining Permit Applications—Minimum requirements for Legal, Financial, Compliance, and Related Information, shall apply to any person who makes application for a permit to conduct underground mining operations.

§ 937.783 Underground Mining Permit Applications—Minimum Requirements For Information On Environmental Resources.

Part 783 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources, shall apply to any person who submits an application to conduct underground mining operations.

§ 910.784 Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan.

Part 784 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan, shall apply to any person who makes application to conduct underground mining.

§ 937.785 Requirements for Permits for Special Categories of Mining.

Part 785 of this chapter, Requirements for Permits for Special Categories of Mining, shall apply to each person who makes application for a permit to conduct certain categories of surface coal mining and reclamation operations.

§ 937.786 Review, Public Participation, and Approval or Disapproval of Permit Applications and Permit Terms and Conditions.

Part 786 of this chapter, Review, Public Participation, and Approval or Disapproval of Permit Applications and Permit Terms and Conditions, shall apply to the review of applications made by any person for surface coal mining and reclamation operations.

§ 937.787 Administrative and Judicial Review of Decisions on Permit Applications.

Decisions on permit applications shall be subject to administrative and judicial review in accordance with Part 787 of this chapter and Sections 520, 525 and 526 of the Act.

§ 937.788 Permit Reviews, Revisions, and Renewals, and Transfer, Sale, and Assignment of Rights Granted Under Permits.

Part 788 of this chapter, Permit Reviews, Revisions, and Renewals, and Transfer, Sale, and Assignment of Rights Granted Under Permits, shall apply to review, revision, and renewal of permits for surface coal mine operations, and to transfer, sale, and assignment of rights granted under permits.

§ 937.795 Small Operator Assistance.

Part 795 of this chapter, Small Operator Assistance, shall apply to any person making application for assistance under the small operator assistance program.

§ 937.800 General Requirements for Bonding of Surface Coal Mining and Reclamation Operations.

Part 800 of this chapter, General Requirements for Bonding of Surface Coal Mining and Reclamation Operations Under Regulatory Programs, shall apply to all surface coal mining and reclamation operations.

§ 937.815 Performance Standards—Coal Exploration.

(a) Part 815 of this chapter, Permanent Program Performance Standards—Coal Exploration, shall apply to any person conducting coal exploration operations.

(b) All operators shall comply with the Oregon statutory requirements specified in Section 937.700.

§ 937.816 Performance Standards—Surface Mining Activities.

(a) Part 816 of this chapter, Permanent Program Performance Standards—Surface Mining Activities, shall apply to any person who conducts surface coal mining and reclamation operations.

(b) All operators shall comply with the Oregon statutory requirements specified in § 937.700.

§ 937.817 Performance Standards—Underground Mining Activities.

(a) Part 817 of this chapter, Permanent Program Performance Standards—Underground Mining Activities, shall apply to any person who conducts underground mining operations.

(b) All operators shall comply with the Oregon statutory requirements specified in § 937.700.

§ 937.818 Special Performance Standards—Concurrent Surface And Underground Mining.

Part 818 of this chapter, Special Permanent Program Performance Standards—Concurrent Surface and Underground Mining, shall apply to any person who conducts combined surface and underground mining operations.

§ 937.819 Special Performance Standards—Auger Mining.

Part 819 of this chapter, Special Permanent Program Performance Standards—Auger Mining, shall apply to any person who conducts surface coal mining operations which include auger mining.

§ 937.823 Special Performance Standards—Operations on Prime Farmland.

Part 823 of this chapter, Special Permanent Program Performance Standards—Operations on Prime Farmland, shall apply to any person who conducts surface coal mining and reclamation operations on prime farmlands.

§ 937.824 Special Performance Standards—Mountaintop Removal.

Part 824 of this chapter, Special Permanent Program Performance Standards—Mountaintop Removal, shall apply to any person who conducts surface coal mining operations constituting mountaintop removal mining.

§ 937.826 Special Performance Standards—Operations On Steep Slopes.

Part 826 of this chapter, Special Permanent Program Performance Standards—Operations on Steep Slopes, shall apply to any person who conducts surface coal mining and reclamation operations on steep slopes.

§ 937.827 Special Performance Standards—Coal Processing Plants and support Facilities Not Located At Or Near The Minesite Or Not Within The Permit Area For A Mine.

Part 827 of this chapter, Special Permanent Program Performance Standards—Coal Processing Plants and Support Facilities Not Located at or Near the Minesite or Not Within the Permit Area for a Mine, shall apply to any person who conducts surface coal mining and reclamation operations which includes the operation of coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.

§ 937.828 Special Performance Standards—In Situ Processing.

Part 828 of this chapter, Special Permanent Program Performance Standards—In Situ Processing, shall apply to any person who conducts in situ processing activities.

§ 937.842 Federal Inspections.

(a) Part 842 of this chapter, Federal Inspections, shall apply to all exploration and surface coal mining and reclamation operations.

(b) OSM will furnish a copy of each inspection report regarding inspections conducted pursuant to this subpart to the Oregon Department of Geology and Mineral Industries upon request.

§ 937.843 Federal Enforcement.

(a) Part 843 of this chapter, Federal Enforcement, shall apply when enforcement action is required for violations on surface coal mining and reclamation operations.

(b) OSM will furnish a copy of each enforcement action document and order to show cause issued pursuant to this subpart to the Oregon Department of Geology and Mineral Industries upon request.

§ 937.845 Civil Penalties.

Part 845 of this chapter, Civil Penalties, shall apply when civil penalties are assessed for violations on surface mining and reclamation operation.

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30 CFR Part 947

Surface Mining and Reclamation Operation Under a Federal Program for Washington

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the Department of the Interior proposed a Federal program for regulation of coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in Washington. This includes surface effects of underground coal mining. This proposed program is necessary in order to regulate surface coal mining activities in the absence of a State program.

DATES: Written comments must be received not later than 5:00 p.m. on August 2, 1982 at the address below. A public hearing will be held on July 28, 1982. Requests to testify at the hearing should be received by July 24, 1982. If commenters request a hearing date later than that set, the hearing will be rescheduled and the new date announced by a notice in the Federal Register.

ADDRESSES: Written comments must be mailed to: Administrative Record Room (R and I–21), Office of Surface Mining, Wyoming State Office, P.O. Box 1420, Mills, Wyoming 82644, or hand delivered to Office of Surface Mining, Wyoming State Office, Freden Bldg. 935 Pendell Blvd., Mills, Wyoming 82244.

The public hearing on the proposed program will be held at the State of Washington General Administration Building Conference Room, Capitol Campus, Olympia, Washington 98504, beginning at 7:00 p.m.

FOR FURTHER INFORMATION CONTACT: James M. Kress, Office of Surface Mining, Branch of Regulatory Programs, Room 222, 1951 Constitution Avenue, N.W., Washington, D.C. 20240 Phone (202) 343–5866.

SUPPLEMENTARY INFORMATION:

Availability of Copies

Copies of the proposed program are available for inspection and may be obtained at the OSM office listed above under "ADDRESSES."

Public Comment Period

The comment period on the proposed program will extend until August 2, 1982. All comments must be received at the location listed above under "ADDRESSES" by the close of business on that date.

All written comments received, a transcript of the public hearing, summaries of public meetings held at the request of any person or organization to receive advice and recommendations concerning the proposed program with representatives of OSM, and other documents comprising the administrative record on the Washington Federal program will be made available for public review during regular business hours at the location listed above under "ADDRESSES."

OSM appreciates any and all comments on the proposal, but those that would be most useful should be as specific as possible, focus on the issues of this proposed rulemaking, and provide reasons for any recommendations. OSM will not consider comments that do not pertain to the issues in this proposal. Nor can OSM ensure consideration of comments received after the comment period ends or those delivered to an address other than that specified.

Public Hearing

A public hearing on the proposed program will be held at the time and location listed above to hear all those who wish to testify. The hearing may be cancelled if, by July 24, 1982, no person has expressed interest in presenting testimony. Those interested in testifying should contact OSM at the location under "ADDRESSES" above.

Individual testimony at the hearing will be limited to 15 minutes. The hearing will be transcribed. Filing of a written statement at the time of giving oral testimony would be helpful and would facilitate the job of the court reporter. Submission of written statements in advance of the hearing would greatly assist OSM officials who will attend the hearing. Advance submissions will give these officials an opportunity to consider appropriate questions which could be asked for clarification or to request more specific information from the person testifying. The public hearing will continue until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and wish to do so will be heard following the scheduled speakers. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to speak have been heard. Persons not scheduled to testify, but wishing to do so, assume the risk of having the public hearing adjourned unless they are present in the audience at the time all scheduled speakers have been heard.

The hearing date is set for approximately 30 days after publication of the proposed program in order to give the public ample opportunity to review the hearing transcript before the close of comment period. The hearing date is being advanced from that required by 30 CFR 736.12 because, surface mining operations are currently being conducted in Washington, and the State does not have an approved permanent regulatory program to control such activities. Allowing 60 days to elapse after publication of today's notice before holding the public hearing (as specified by 30 CFR 736.12) would delay promulgation of this program. OSM will consider requests for a later hearing date which are supported by valid reasons for postponement.

Background

Under section 504(a) of the Surface Mining Control and Reclamation Act of 1977 (the Act), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, the Secretary is required to promulgate a Federal program within 34 months after passage of the Act if a State fails either to submit a program to assume responsibility for regulating surface mining activities, fails to resubmit a program within 60 days of disapproval, or fails at any time to implement, enforce or maintain an approved State program. The time for submitting State programs was extended by seven months to March 3, 1980 as the result of the litigation noted above, *In re: Permanent Surface Mining Regulation Litigation*, 13 ERC 1447 (July 25, 1979). The date for the required implementation of a Federal program in any State which did not submit a program to obtain primary regulatory responsibility has passed.

An additional standard for the promulgation of a Federal program is

found in 30 CFR Part 736, which requires the implementation of a program if the Director of OSM (the Director) "reasonably expects coal exploration or surface coal mining and reclamation operations to exist on non-Federal and non-Indian lands * * * at any time before June 1985 * * *." 30 CFR 736.11(a)(1).

Once a decisions is made that a Federal program is necessary for a State, the Secretary must make several determinations before promulgating a program. Section 504(a) of the Act requires that in implementing a Federal program the Secretary must take into consideration the nature of the State's terrain, climate, biological, chemical, and other relevant physical conditions. This requirement is also found in the regulations, 30 CFR 736.22(a)(1). The Act (Section 505(b)) and the regulations (Section 736.23(b)) also provide that if a State has more stringent land use and environmental laws or regulations they shall not be construed to be inconsistent with the Act or the Secretary's regulations. The Secretary believes that the requirements of section 505(b) can best be met by identifying State laws and regulations which impose equivalent or more stringent environmental controls and incorporating the requirements of those laws in the Federal program. If the State's laws or regulations establish more stringent standards than those of the Act or the Secretary's regulations, or if the State regulates or protects an aspect of the environment which neither the Act nor the Secretary's regulations protect, OSM would then specifically preserve those State standards in the Federal program.

Also, in promulgating a program for a State, section 504(g) specifies that any State statutes or regulations which regulate surface mining and reclamation operations are to be identified by the Secretary and will be superseded and preempted by the Federal program to the extent that they interfere with the achievement of the purposes and requirements of the Act and Federal program. This provision is reinforced by section 505(a) of the Act which states that only inconsistent State laws shall be superseded by the Federal program. Thus, State statutes and rules regulating the same activities as those covered by the Federal law and regulations and which do not provide as much protection as the Federal law and regulations so that they interfere with achievement of the purposes of the Act must be identified and will be preempted by OSM.

OSM reviewed Washington State statutes to determine if there are provisions which might have some bearing on some aspects of surface coal mining and reclamation operations. The following parts of the Revised Code of Washington (RCW) and Washington Administrative Code (WAC) were compared with the Federal permanent program regulations in 30 CFR Subchapters A, F, G, J, K, L, and M:

RCW 15.58 Washington Pesticide Control Act
RCW 17.21 Washington Pesticide Application Act
RCW 19.02 Business Regulation and Licensing System
RCW 19.27 State Building Code
RCW 21.20 Securities Act of Washington
RCW 23 Private Business Corporations and Cooperative Associations (Profit)
RCW 23A Washington Business Corporation Act
RCW 25 Partnerships
RCW 27.44 Indian Graves and Records
RCW 27.53 Archeological Site and Resources
RCW 34.04 Administrative Procedures Act
RCW 35.88 Cities and Towns—Protection from Water Pollution
RCW 35A.63 Planning and Zoning in Code Cities
RCW 36.75 Roads and Bridges (County)—General
RCW 43 State Government—Executive
RCW 43.21B Pollution Control Hearings Board
RCW 43.21C State Environmental Policy Act
RCW 43.51A Office of Archeology and Historic Preservation
RCW 47 Public Highways (State)
RCW 48 Insurance
RCW 49.17 Washington Industrial Safety and Health Act
RCW 49.24 Underground Workers Health
RCW 49.24.220 Underground Workers Health—Explosives, Use of—Blasting
RCW 51 Industrial Insurance
RCW 58 Boundaries and Plats
RCE 62A.5 Uniform Commercial Code—Letters of Credit
RCW 65 Recording, Registration and Legal Publications
RCW 70.74 Washington State Explosives Act
RCW 70.94 Washington Clean Air Act
RCW 70.95 Solid Waste Management
RCW 70.105 Hazardous Waste Disposal
RCW 70.107 Noise Control Act
RCW 70.118 On-Site Sewage Disposal
RCW 75 Food Fish and Shellfish
RCE 75.20.100 Hydraulic Projects Approval
RCW 76 Forest and Forest Products
RCW 76.06 Forest Practices
RCW 76.12 Reforestation
RCW 76.14 Forest Rehabilitation
RCW 77 Game and Game Fish
RCW 78 Mines, Minerals and Petroleum
RCW 78.40 Coal Mining Code
RCW 78.40.470 Explosives
RCW 78.44 Surface Mining
RCW 79 Public Lands
RCW 79.01.648 *et seq.* Coal Mine Leasing—Public Lands
RCW 79.70 Natural Area Preserves
RCW 85 Diking and Drainage
RCW 85.28 Private Ditches and Drains
RCW 86 Flood Control
RCW 87 Irrigation
RCW 89 Reclamation, Soil Conservation and Land Settlement
RCW 90 Water Rights—Environment
RCVW 90.14 Water Rights
RCW 90.22 Minimum Water Flows and Levels
RCW 90.48 Water Pollution Control
RCW 90.52 Pollution Disclosure Act
RCW 90.54 Water Resources Act
RCW 90.58 Shoreline Management Act
RCW 90.62 Environmental Coordination Procedures Act

The above statutes were compared to the Act and Federal permanent program regulations. The more stringent requirements, whether State of Federal, would be adopted for this program in the following manner. Section 505(b) of the Act provides that State statutes and regulations which provide for more stringent land use and environmental controls of surface coal mining and reclamation operations than the provisions of the Act and the Secretary's regulations shall not be construed as inconsistent. The proposed rules will list Washington State statutes which set different controls and for which compliance is required in the surface coal mining and reclamation operation. Determining whether the State statutes are more stringent than the Federal regulations will require a case-by-case analysis and cannot be predetermined. Citation in the proposed Federal program of State statutes with which compliance is required is not meant as an adoption of those state statutes and regulations for purposes of enforcement by OSM. Citation of such statutes is intended as an aid to persons who must comply with both the Federal program requirements and State statutes. However, if a State law is cited below as interfering with the achievement of the purposes of the Act, it would be superseded, and compliance would not be required. State regulations would not be cited in the various parts of the Washington Federal Program; only statutes would be listed. State regulations can readily change; OSM's incorporation of these changes would necessarily lag behind them. Confusion over which State regulations must be complied with would be avoided by not including citation of the Washington Administrative Code in the Federal program. However, if an operator must comply with a State statute he or she must also comply with the State regulation which implements the statute.

In accordance with 30 CFR 736.23, OSM's has tentatively identified the following statutes and regulations as interfering with the achievement of the purposes of the Act and the Federal program and thus proposes to supersede and preempt them to the extent they relate to surface coal mining and reclamation subject to regulation under the Act: Washington Surface Mining Act, RCW 78.44, and Surface Mined Land Reclamation regulation, WASC 332–18. Permittees will be required to conduct surface coal mining activities in compliance with all other existing State statutes and regulations.

To the degree practicable, OSM would coordinate permit requirements with State agencies to avoid unnecessary duplication. The Washington Department of Natural Resources (DNR) currently issues operating permits for surface mining pursuant to the Surface Mining Act, RCW 78.44. That Department would be informed of actions taken with respect to permit applications and enforcement. The Washington Department of Natural Resources (DNR) under the State Surface Mining Act, RCW 78.44, has a statutory requirement to review mine plans and issue permits for coal mining. OSM tentatively concludes this requirement would interfere with the achievement of the Federal program. Therefore, an operator would not need to obtain a permit to mine coal from the DNR under the State Surface Mining Act.

OSM and the Washington State Department of Ecology would be required to cooperate with the "lead agency," WAC 197–10–040, identified under the State Environmental Policy Act (SEPA) and other permitting authorities, 30 CFR 947.770. The permit application and related documents would be filed at the Department of Natural Resources, the Department of Ecology and the appropriate county recorder's office. OSM solicits comments on the best place to file these documents should these locations seem insufficient.

Finally, a Federal program, according to section 504(h) of the Act, must include a process for coordinating the review and issuance of surface mining permits with other Federal or State permits applicable to the proposed operation. The Federal statutes for which compliance must be coordinated in the issuance of a surface mining permit are set out in 30 CFR 736.22(c). State statutes for which a permit is required must be identified in the process of promulgating a Federal program, and the Federal program must provide for coordination with the permit review and issuance procedures.

Federal programs are based on the Secretary's permanent program regulations. 30 CFR Subchapters A, F, G, J, K, L, and M. The permanent program regulations implement procedures and performance standards of the Act. They form the benchmark for State programs. In order for a State to have a program approved by the Secretary, section 503(a)(7) requires that the State's rules and regulations be consistent with the Secretary's regulations. The Secretary's regulations were drafted in a manner to allow all coal mining States to submit programs consistent with them so that only in cases where local environmental or agricultural conditions necessitate alternatives would an exception be granted.

Pursuant to section 504(a), the Secretary of the Interior becomes the regulatory authority when a Federal program is implemented for a State. The permanent program regulations contain references to "the regulatory authority" which means the Secretary when a Federal program is involved. Section 701(22) of the Act. The Secretary has delegated all authority for surface coal mining activities to the Director of the Office of Surface Mining. The Director will be the official responsible for implementing the Washington Federal program. The parts of the permanent program regulations that must be included in a Federal program are listed in the regulations, 30 CFR 736.22(b). They include general requirements and definitions (Parts 700 and 701), the exemption for coal extraction incident to government-financed highway or other construction (Part 707), the designation of lands unsuitable for surface mining (Parts 760, 761 and 765), permits and permit applications (Subchapter G), reclamation bonding (Subchapter J), performance standards (Subchapter K), inspection and enforcement (Parts 842, 843 and 845), and blaster training and certification (Subchapter M). In addition, the provisions in the permanent regulations on protection of employees (Subchapter P) and restrictions on financial interests (Part 706) are applicable to Federal employees who, in the instance of a Federal program, are directly enforcing the Act.

OSM published a notice of intent to promulgate a Federal program for Washington in the **Federal Register** on May 16, 1980 (45 FR 32328–32330). Only two comments were received.

One commenter stated that the regulations should be specific to the State's environmental characteristics as required by 30 CFR 736.22(a)(1). OSM has considered the environmental characteristics of Washington in developing the proposed regulations. As discussed below, public comment is requested on whether further consideration of environmental characteristics and revisions to regulations is needed.

The other commenter requested that a regulatory analysis be prepared. A regulatory analysis is no longer required. Instead, a Determination of Effects (DE) was prepared complying with the Regulatory Flexibility Act, 5 U.S.C. 607 *et seq.*

The national permanent program regulations in 30 CFR Chapter VII establish the minimum standards for the regulatory programs in each State and the procedures for developing, promulgating and implementing the programs.

The rules for the national permanent program are found in 30 CFR Parts 700–707 and 730–865. Part 705 was published October 20, 1977 (42 FR 56064). Parts 795 and 865 (originally Part 830) were published December 13, 1977 (42 FR 62639). The other permanent program regulations were published at 44 FR 15323–15393 (March 13, 1979). Subchapter M was published on December 12, 1980 (45 FR 82098). Corrections were published at 44 FR 15485 (March 14, 1979), 44 FR 53507–53509 (September 14, 1979), 44 FR 66195 (November 19, 1979), 45 FR 26001 (April 16, 1980), 45 FR 37818 (June 5, 1980), and 45 FR 47424 (July 15, 1980). Amendments to the rules have been published at 44 FR 60969 (October 22, 1979), as corrected at 44 FR 75143 (December 19, 1979), at 44 FR 77440–77447 (December 31, 1979), 45 FR 2626–2629 (January 11, 1980), 45 FR 25998–26001 (April 16, 1980), 45 FR 33928–33927 (May 20, 1980), 45 FR 39446–39447 (June 10, 1980), 45 FR 52306–52324 (August 6, 1980), 45 FR 52375 (August 7, 1980), 45 FR 58780–58786 (September 4, 1980), and 45 FR 76932 (November 20, 1980), 46 FR 37232 (July 17, 1981); 46 FR 41702 (August 17, 1981); 46 FR 47720 (September 29, 1981); 46 FR 53376 (October 28, 1981); 46 FR 52287 (December 7, 1981). Representatives of industry, two States and several environmental groups challenged the national permanent regulatory program in the U.S. District Court for the District of Columbia. These suits were consolidated and heard in a single lawsuit entitled *In Re: Permanent Surface Mining Regulation Litigation* (Civil Action No. 79–1144). In response to the arguments raised in the challenges, the Secretary voluntarily suspended several permanent program regulations. These suspensions were

announced in the **Federal Register** on November 27, 1979 (44 FR 67942), December 31, 1979 (44 FR 77447–77454), January 30, 1980 (45 FR 6913) and August 4, 1980 (45 FR 51547–51550). In two opinions the court remanded certain other regulations which had been challenged in the lawsuit. These opinions were issued on February 26, 1980, and May 16, 1980. Many of the issues decided by the District Court have been appealed to the Court of Appeals for the District of Columbia Circuit. *In Re: Permament Surface Mining Regulation Litigation,* Nos. 80–1810, 80–1811, 80–1812, 80–1813 and 80–1823. The Court has granted a stay of the proceeding pending the revision of regulations as noted below. However, the stay does not apply to Federal programs such as this one.

Under sections 501–503 of the Act and 30 CFR Part 731 States were provided the opportunity to submit programs for approval by the Secretary and thus achieve primacy for regulating coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands. Most States in which surface coal mining is now occurring submitted programs to obtain primary regulatory authority. And most of those States have been granted primary regulatory responsibility, either fully or conditionally.

OMB Review

The recordkeeping and reporting requirements of the proposed rule are the same as those of the permanent program regulations which have been approved by the Office of Management and Budget under 44 U.S.C. Section 3507.

Although the rules would contain information and recordkeeping requirements, OSM anticipates less than ten respondents. Under the Paperwork Reduction Act, clearance of information collection forms is required only if ten or more respondents are expected. If in the future the number of respondents appears to be increasing, the proper forms, if they differ from those already apporved, will be submitted to the Office of Management and Budget with accompanying notices in the **Federal Register**, in accordance with the requirements of 44 U.S.C. Chapter 35.

Washington Federal Program

Section 504(a) of the Act and 30 CFR 736.22(a)(1) require that each Federal program consider the nature of the State's terrain, climate, biological, chemical, geological, hydrological, agronomic, and other relevant physical conditions. Possible special environmental conditions have been previously identified by commenters concerned with the application of the definition of "arid and semi-arid area" in Washington State (44 FR 14925–14926), and its implications in the alluvial valley floor provisions of the Federal permanent regulatory program. OSM, therefore, solicits comments concerning the following:

1. Quantitative demonstration that alluvial valley floors do or do not exist in Washington State;

2. Means by which arid and semi-arid areas may be effectively delineated from humid areas in Washington State; and,

3. Any other special environmental conditions which reviewers may consider important in promulgating this Federal regulatory program for Washington State.

Explanation of Cross-Referencing

In the general notice of intent to promulgate Federal programs of May 16, 1980 (45 FR 32228), it was stated that each Federal program would be specific to the particular State and would implement the permanent program procedures and environmental protection provisions of the Act (45 FR at 32229). However, except for changes to incorporate more stringent State environmental protection standards and to list other State laws requiring permits for which coordination is required, OSM believes that few changes are needed in the permanent program regulations for any particular State for which a Federal program must be promulgated.

In January 1981 the Secretary directed that the Department review all existing regulations with a goal of eliminating those which are burdensome, excessive, and unnecessary. Review of the permanent program regulations was initiated and may result in a large scale revision of them. See semi-annual Calendar of Federal Regulations notice of rule review and revision, 47 FR 1709 (January 13, 1982). See also, e.g., revisions of OSM's bonding regulations, 30 CFR Subchapter J, 46 FR 45082 (September 9, 1981) and of OSM's inspection and enforcement regulations, 30 CFR Parts 842, 843, and 845, 46 FR 58464 (December 1, 1981).

In order to take advantage of the results which revision of the permanent program regulations will achieve, OSM proposes to develop and promulgate this Federal program in the following manner. Rather than repeating the full text of the permanent regulations which are being revised, there would be a cross-reference to the permanent program regulations. For example, criteria for the designation of lands unsuitable for surface coal mining would be provided by the statement that "Part 762 of this chapter * * * shall apply to surface coal mine operations." (See proposed Section 947.762). One effect of the proposed cross-referencing to the permanent program regulations would be that as the permanent program regulations are revised, this Federal program would be similarly revised. Over time, all of the permanent program regulations will undergo review and many will be revised.

No separate rulemaking would be undertaken or necessary for revision of this program if cross-referencing becomes effective, unless OSM determines that special conditions were necessary for a particular State. Comments on the permanent program proposed rules are invited on necessary modifications to accommodate unique or unusual aspects of surface mining in any State so that the final rule would be tailored for each Federal program State as necessary.

The promulgation of this cross-referencing Federal program would not result in any moddification of the substance of OSM's permanent program rules. Cross-referencing to the permanent program rules is also being used in the promulgation of other Federal programs for States. Public comment on the cross-referencing method as it affects other Federal programs for States, however, should be directed to each of those rulemaking notices.

Several provisions of the permanent program regulations are already applicable to a particular State Federal program and need not be cross-referenced here because they were fully promulgated for application to all regulatory programs. Those provisions are 30 CFR Chapter VII, Subchapter P—Protection of Employees; Part 706—Restrictions on Financial Interests of Federal Employees; and Part 769—Petition Process for Designation of Federal Lands Unsuitable for Surface Coal Mining. However, 30 CFR Part 764—Designating Lands Unsuitable for Surface Coal Mining would be included in the program by a cross-reference under Section 947.764, to provide a petition process on non-Federal lands in that State.

With regard to bonding regulations (Subchapter J), only Part 800 is proposed to be cross-referenced because OSM has proposed to revise Subchapter J to include just one part, Part 800. 46 FR 45082 (September 9, 1981) (proposed).

Content and Organization of the Program

The content and organization of the proposed Federal program for the State

of Washington would generally follow the permanent program regulations. But, as discussed above, instead of the full text appearing, each section of this proposed program would only include reference to the pertinent permanent program regulation. Section 947.700 (e) and (f) set out both inconsistent and more stringent State statutes. A separate paragraph is proposed to be added under each section where there are deviations from the Federal permanent program regulation for the Washington Federal program. These paragraphs will generally be found in a subsection (b).

The content and organization of the Washington Federal program would be based on the following provisions of the Federal permanent program regulations, 30 CFR Chapter VII:

Subchapter A—General
Subchapter F—Areas Unsuitable for Mining
Subchapter G—Surface Coal Mining and Reclamation Operations Permits and Coal Exploration Systems Under Regulatory Programs
Subchapter J—Bond and Insurance Requirements for Bonding of Surface Coal Mining and Reclamation Operations
Subchapter K—Permanent Program Performance Standards
Subchapter L—Permanent Program Inspection and Enforcement Procedures
Subchapter M—Training Program for Blasters and Members of Blasting Crews, and Certification Programs for Blasters

Technical literature cited by OSM in the preamble to the permanent regulatory program (44 FR 14901–15309, March 13, 1979) was relied upon in developing the additions to the regulations for the Washington Federal program. The reader is referred to that preamble for a discussion of the basis and purposes of the permanent program rules proposed to be referenced in the Washington program without substantive change.

Discussion of substantive revisions to procedures or standards is provided below to enable the reviewer to understand the rationale behind the proposed provision. The discussions are in numerical order and under the program subheadings. Discussion is also provided of new procedures proposed by OSM to exercise discretion provided in the permanent program regulations or to make provisions of the program compatible with other Federal and State statutes.

The numbering system of the permanent program regulations has been incorporated in the numbering system for the proposed program. Program elements have been categorized under headings similar to the Subchapter titles. Subchapter T in 30 CFR Chapter VII has been established to include regulatory programs by State. Each State is assigned a part number. The proposed program for the State of Washington is assigned Part 947.

In addition to the proposed rules, the Federal regulatory program for the State of Washington will include the following provisions of 30 CFR Chapter VII:

30 CFR Chapter VII, Subchapter P—Protection of Employees
30 CFR Chapter VII, Part 706—Restriction of Financial Interests of Federal Employees

These provisions have been fully promulgated and implemented for application to all regulatory programs under 30 CFR Chapter VII. They will not be modified for application in any specific State.

Therefore, those provisions, as codified in 30 CFR Chapter VII, would be part of the Federal regulatory program for the State of Washington.

Detailed Discussion

General

Section 947.700 would contain six subsections: the first four sections, § 947.700 (a), (b), (c), and (d), would contain general statements on scope and applicability of the program. Section 947.700(e) would indicate Washington State laws which have been identified as having provisions which regulate activities involved in surface coal mining operations and which have provisions that in some instances are more stringent than the Act and the Secretary's regulations. Section 947.700(f) would identify the Washington Surface Mining Act and regulations promulgated pursuant to it as interfering with achievement of the purpose of the Act and Federal regulations. The State statute and regulations would be preempted and superseded.

Sections 947.701 through 947.707 would establish the same provisions, where applicable, as 30 CFR Chapter VII, Subchapter A, General. Section 947.701(a) would contain all applicable general requirements, including the definitions in 30 CFR 700.5 and 701.5. Additional definitions would be included in paragraph (b) of § 947.701. They are taken from the Washington Revised Code although they do have a counterpart in the WAC. The definitions are included here in order to provide consistency because the State statutes are cited in other sections of the rules. The proposed definitions include:

	Statute	Regulation
1. License Information Request.	RCW 19.02, RCW 43.31.	WAC 308-300-020.
2. Master Application	RCW 90.62-040.	

License Information Request would be used in § 947.770(b) in reference to Washington's procedure for coordinating the issuance of business licenses. Therefore, the definition is proposed to be added in the definitions.

Master Application would also be used in § 947.770(b) in reference to Washington's procedure for coordinating the issuance of environmental permits. The term is, therefore, proposed to be added in the definitions.

1. Forestry (Forest land)	RCW 76.09.020(6).	WAC 222-16-010(17).
2. Noxious Plants	RCW 17.10.080.	WAC 16-750-010.

These modified definitions would appear in proposed § 947.701(c). The Washington Forest Practices rules and regulations WAC 222–16–010 contain a definition of the term "forest land," as including "* * * all land which is capable of supporting a merchantable stand of timber and is not being actively used in a manner (for a use) which is incompatible with timber growing." Such lands are included in OSM's proposed definition of "forest land" in this Federal program. The term "forest land" would appear in parentheses next to the present term "foresting" for increased clarity and consistency. This is considered more stringent because foresting is not more extensive in scope.

Section 947.701(d) would require that OSM make records available locally to the public at the county courthouse. This requirement is contingent on whether the county will agree to file the records. OSM requests suggestions in the case that an agreement cannot be reached. This requirement would also apply to §§ 947.776(b) and 947.782(b).

Areas Unsuitable for Mining

Sections 947.761 through 947.764 would establish the same provisions, where applicable, as 30 CFR Chapter VII Subchapter F, Areas Unsuitable for Mining. No separate section for Federal lands is included because 30 CFR Part 769 is directly applicable and need not be made a part of a Federal program. The following changes would be made:

Sections 947.762 and 947.764 would implement the petition process for designating lands unsuitable for surface coal mining or terminating designations.

The effective date for the petition process is one year after Part 947 is effective in accordance with the requirements of section 504(a) of the Act and 30 CFR 765.13.

A paragraph would be added in § 947.764 to assure that the Washington Department of Natural Resources and the Department of Ecology are notified of areas designated unsuitable or for which designations have been termianted. This notification will be provided as a courtesy since those agencies regulate aspects of surface coal mining operations pursuant to their responsibilities under the Washington statutes listed in § 947.770 of the proposed rules.

Permits and Coal Exploration Approvals. §§ 947.770 through 947.795 would establish the same provisions, where applicable, as 30 CFR Chapter VII, Subchapter G, Surface Coal Mining and Reclamation Operations Permits and Coal Exploration Procedures System. The following changes would be made:

In § 947.770 the Washington State statutes which could affect permit issuance would be listed. The procedures for coordinating Federal, State and local permit applications to avoid unnecessary duplication would be provided for in this section.

The State of Washington provides optional procedures (RCW 43.31 and RCW 90.62) to assist those who must obtain a number of permits by establishing a mechanism in State government which coordinates administrative decision-making procedures. The optional procedures would be included pursuant to section 504(h) of the act to facilitate initial permit application.

The proposed procedure under § 947.700(b) would require an applicant to consult with the two State agencies invovled in coordinating and issuing permits to mine coal. While consultation with the State agencies concerning their coordination procedures is required, applicants would not be required to use these procedures in obtaining permits. An applicant may make separate application to each permitting agency if he or she wishes. This option is consistent with RCW 90.62.040. The Office, however, recommends the use of the master application procedure to coordinate the issuance of State required permits. Section 947.770(b) would list Federal and State laws to be coordinated.

Section 947.770(d) would list State permits that need to be coordinated with OSM.

Section 947.780 for the surface mining reclamation and operations plan and § 947.784 for the underground reclamation and operations plan and § 947.784 for the underground reclamation and operations plan would require an applicant to demonstrate compliance with the Washington Clean Air Act and the Washington Water Pollution Control Act. In addition an applicant would also have to obtain approval from a local Air Pollution Control Authority if production will exceed 1 million ton per year.

Bonding

Section 947.800 would establish the same provisions, where applicable, as 30 CFR Chapter VII, Subchapter J, Bond and Insurance Requirements for Surface Coal Mining and Reclamation Operations.

Only Part 800 is proposed to be cross-referenced because OSM has proposed to revise Subchapter J to include just one part, Part 800. 46 FR 45082 (September 9, 1981) (proposed).

Performance Standards

Sections 947.815 through 947.828 would establish the same provisions, where applicable, as 30 CFR Chapter VII, Subchapter K, Permanent Program Performance Standards. The following changes would be made:

Section 947.815(b) would require compliance, when applicable, with road building standards in the Forest Practices Act, RCW 76.09, on forest lands.

Section 947.816(b). Pursuant to the Washington State Surface Mining Act, RCW 78.44.090(10), all surface mining that will disturb streams must comply with the requirements of the State fisheries law (Title 75 RCW), and every application for an operating permit for surface mining operations must have a reclamation plan that is approved by the Department of Fisheries with regard to operations in streams. The Hydraulic Project Approval Law, RCW 75.20.100, requires that any person desiring to divert, obstruct, or change the natural flow or bed of any river or stream must submit full plans and specifications of the proposed construction or work to the Department of Fisheries and Department of Game and obtain approval from the Directors of the Departments before commencing work. The Shoreline Management Act, RCW 90.58, concerns development of shorelines of the State. Compliance with these laws would be required under this section, notwithstanding the preemption of the State's Surface Mining Act.

The section would also list other State statutes with which compliance would be necessary: The Forest Practices Act, the Water Pollution Control Act, the Minimum Water Flows and Levels Act, and the Pesticide Control Act. Under some conditions, the requirements of the these State laws are more stringent than those of OSM so that the operator would comply with the more stringent law. Determinations will be made on a case-by-case basis.

Section 947.817(b). This section would list for underground mining the same State laws with which compliance is required under § 947.816(b) for surface mining. One additional statute would be listed, the Washington Water Code, RCW 90.03. In some instances, these statutes and their implementing regulations establish more stringent standards than found in Part 817 of the permanent program regulations. Determination of stringency will be made on a case-by-case basis. No additions would be made to the permanent program regulations on special performance standards, 30 CFR Parts 818 through 829.

Inspection and Enforcement Procedures

Sections 947.842, 947.843 and 947.845 would establish the same provisions as 30 CFR Chapter VII, Subchapter L, Permanent Program Inspection and Enforcement Procedures. No changes to the provisions of the inspection and enforcement provisions in Parts 842, 843, and 845 of the permanent program regulation are proposed. Two separate paragraphs are proposed to be added to §§ 947.842 and 947.843 to authorize the Secretary to furnish copies of enforcement actions taken upon request to the Washington Department of Natural Resources and to the Department of Ecology.

Other Information

OSM has examined these proposed rules according to the criteria of Executive Order 12291 (46 FR 13193, February 19, 1981) and determined that they do not constitute a major rule. There would be no major economic impact through adoption of this rule because it would affect only a small number of mining operations.

OSM has examined these proposed rules pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and determined that they will not have a significant impact on a substantial number of small entities. Separate determinations of effect will be prepared for all revisions of the permanent program rules and would consider the effects on small entities in the State of Washington.

Section 702(d) of the Act provides that promulgation of a Federal program shall not constitute a major Federal action

under the National Environmental Policy Act, 42 U.S.C. 4332. Thus, no Environmental Assessment is required for this rulemaking.

List of Subjects in 30 CFR Part 947

Coal mining, Intergovernmental relations, Surface mining, Underground mining, Reporting requirements.

Drafting Information

These regulations were drafted by David Jones, Office of the Solicitor and James M. Kress, Branch of Regulatory Programs, Office of Surface Mining.

William P. Pendley,

Acting Assistant Secretary, Energy and Minerals.

May 21, 1982.

OSM proposes to revise 30 CFR Chapter VII by adding Part 947 to read as follows:

PART 947—WASHINGTON

Sec.

947.700 General.
947.701 General.
947.707 Exemption for coal extraction incident to government-financed highway or other construction.
947.761 Areas designated unsuitable for surface coal mining by Act of Congress.
947.762 Criteria for designating areas as unsuitable for surface coal mining operations.
947.764 Process for designating areas unsuitable for surface coal mining operations.
947.770 General requirements for permit and exploration procedures.
947.771 General requirements for permits and permit applications.
947.776 General requirements for coal exploration.
947.778 Surface mining permit applications—minimum requirements for legal, financial, compliance, and related information.
947.779 Surface mining permit applications—minimum requirements for information on environmental resources.
947.780 Surface mining permit applications—minimum requirements for reclamation and operations plan.
947.782 Underground mining permit applications—minimum requirements for legal, financial, compliance, and related information.
947.783 Underground mining permit applications—minimum requirements for information on environmental resources.
947.784 Underground mining permit applications—minimum requirements for reclamation and operation plan.
947.785 Requirements for permits for special categories of mining.
947.786 Reviews, public participation, and approval or disapproval of permit applications and permit terms and conditions.
947.787 Administrative and judicial review of decisions on permit applications.
947.788 Permit review, revisions, and renewals, and transfer, sale, and assignment of rights granted under permits.
947.795 Small operator assistance.
947.800 General requirements for bonding of surface coal mining and reclamation operations.
947.815 Performance standards—coal exploration.
947.816 Performance standards—surface mining activities.
947.817 Performance standards—underground mining activities.
947.818 Special performance standards—concurrent surface and underground mining.
947.819 Special performance standards—auger mining.
947.823 Special performance standards—operations on prime farmland.
947.824 Special performance standards—mountaintop removal.
947.826 Special performance standards—operations on steep slopes.
947.827 Special performance standards—coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.
947.828 Special performance standards—in situ processing.
947.842 Federal inspections.
947.843 Federal enforcement.
947.845 Civil penalties.

Authority: Pub. L. 95–87, The Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.*

§ 947.700 General.

(a) This part contains all rules that are applicable to surface coal mining operations in Washington which have been adopted under the Surface Mining Control and Reclamation Act of 1977.

(b) The rules in this part cross-reference pertinent parts of the permanent program regulations in this chapter. The full text of a rule is in the permanent program rule cited under the relevant section of the Washington Federal program.

(c) The rules in this part apply to all surface coal mining operations in Washington conducted on non-Federal and non-Indian lands. The rules in Subchapter D of this chapter apply to operations on Federal lands in Washington.

(d) The information collection requirements contained in this part do not require approval by the Office of Management and Budget under 44 U.S.C. 3507 because there are fewer than ten respondents annually.

(e) The following provisions of Washington laws provide for more stringent environmental control and regulation of some aspects of surface coal mining operations than do the provisions of the Surface Mining Control and Reclamation Act and the regulations in this chapter. Therefore, pursuant to section 505(b) of the Act, they shall not be construed to be inconsistent with the Act:

(1) Washington Clean Air Act, RCW 70.94.

(2) Washington Food Fish and Shell Fish Laws pertaining to the Department of Fisheries on operations in streams, RCW 75.

(3) Washington Hydraulic Projects Approval Law, RCW 75.20.100.

(4) Washington Forest Practices Act, RCW 76.09.

(5) Washington Water Code, RCW 90.03.

(6) Washington Water Pollution Control Act, RCW 90.46.

(7) Washington Minimum Water Flows and Levels Act, RCW 90.22.

(8) Washington Shoreline Management Act, RCW 90.58.

(9) Washington Pesticide Control Act, RCW 15.58.

(f) The following are Washington laws that interfere with the achievement of the purposes and requirements of the Act and are, in accordance with section 504(g) of the Act, preempted and superseded:

(1) The Washington Surface Mining Act of 1971, Revised Code of Washington (RCW) 78.44, as related to surface coal mining, except to the extent that it regulates surface coal mining operations which affect two acres or less or which otherwise are not regulated by the Surface Mining Control and Reclamation Act.

(2) Surface Mined Reclamation regulations, Washington Administrative Code (WAC) 332–18, except to the extent that such regulations apply to surface coal mining operations which affect two acres or less or which otherwise are not regulated by the Surface Mining Control and Reclamation Act.

§ 947.701 General.

(a) Sections 700.5, 700.11, 700.12, 700.13, 700.14, 700.15 and Part 701 of this chapter shall apply to surface coal mining operations in Washington.

(b) The following definitions shall apply to the Washington Federal program under § 701.5 of this chapter:

License Information Request means the application used to obtain a Licensing Guide Sheet prepared by the License Information Service of the Business License Center as authorized in RCW 19.02 and the Business Coordination Act, RCW 43.31, and defined in WAC 308–300–200. This consolidated license system allows a business to obtain a guide sheet which directs the business to all required business licenses in the State of Washington.

Master Application means the application which may be submitted to the Washington Department of Ecology pursuant to RCW 90.62 and the Environmental Coordination Procedures Act, RCW 90.62.040.

(c) The following modified definitions shall be applicable under § 701.5 of this chapter:

Forestry (Forest Land). Includes land used or managed for the long-term production of wood, wood fiber, or wood derived products. All land which is capable of supporting a merchantable stand of timber and is not being actively used in a manner (for a use) which is incompatible with timber growing is also included. Land used for facilities in support of forest harvest and management operations which is adjacent to or an integral part of these operations is also included.

Noxious plants means species that have been included on official State of Washington lists of noxious plants in accordance with RCW 17.10.080.

(d) Records required by § 701.14 of this chapter to be made available locally to the public shall be retained at the county recorder's office, at the Information Center of the Department of Ecology under RCW 90.62.120, and at the nearest OSM State Office.

§ 947.707 Exemption for coal extraction incidental to government-financed highway or other construction.

Part 707 of this chapter, Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction, shall apply to surface coal mining and reclamation operations.

§ 947.761 Areas designated unsuitable for surface coal mining by act of Congress.

Part 761 of this chapter, Areas Designated by Act of Congress, shall apply to surface coal mining and reclamation operations.

§ 947.762 Criteria for designating areas as unsuitable for surface coal mining operations.

Part 762 of this chapter, Criteria for Designating Areas Unsuitable for Surface Coal Mining Operations, shall apply to surface coal mine operations.

§ 947.764 Process for designating areas unsuitable for surface coal mining operations.

Part 764 of this chapter, State Processes for Designating Areas Unsuitable for Surface Coal Mining Operations, pertaining to petitioning, initial processing, hearing requirements, decisions, data base and inventory systems, public information, and regulatory responsibilities shall apply to surface coal mine operations.

§ 947.770 General requirements for permits and exploration procedures.

(a) Part 770 of this chapter, General Requirements for Permit Systems Under State Programs, shall apply to surface coal mining and exploration operations.

(b) To avoid duplication and to provide for the coordination of review and issuance of permits for surface coal mining and reclamation operations, the applicant shall consult with the State of Washington pursuant to: (1) The Business License Center concerning a License Information Request under the Business Coordination Act, RCW 43.31 and RCW 19.02; and (2) The Department of Ecology concerning a Master Application pursuant to the Environmental Coordination Procedures Act, RCW 90.62, and the State Environmental Policy Act, RCW 43.21C.

(c) The Secretary shall coordinate, to the extent practicable, issuance of permits under the following Federal and Washington State laws to avoid duplication:

Federal law	Washington law
(1) Clean Water Act, as amended, 33 U.S.C. 1251 *et seq.*	Water Pollution Control Act, Chapter 90.48 RCW; Washington Forest Practices Act, Chapter 76.09 RCW.
(2) Clean Air Act, as amended, 52 U.S.C. 7401 *et seq.*	Washington Clean Air Act, Chapter 70.94 RCW.
(3) Resource Conservation and Recovery Act, 42 U.S.C. Section 3251 *et seq.*	Solid Waste Management Act, Chapter 70.95 RCW; Hazardous Waste Disposal Act, Chapter 70.105 RCW.
(4) National Historic Preservation Act, 16 U.S.C. 470 *et seq.*	Indian Graves & Records, Chapter 27.44 RCW.
(5) Archeological & Historic Preservation Act, 16 U.S.C. 469a *et seq.*	Archeological Sites & Resources, Chapter 27.53 RCW; Department of Ecology, Chapter 43.21A RCW.
(6) National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*	State Environmental Policy Act, Chapter 43.21C RCW.
(7) Coastal-Zone Management Act, 16 U.S.C. Sections 1451, 1453–1464.	Shoreline Management Act, Chapter 90.58 RCW.
(8) Endangered Species Act, 16 U.S.C. Section 1531 *et seq.*	Natural Area Preserves Act (Plants), Chapter 79.70 RCW; Department of Game, Chapter 43.17 RCW; Game Commission, Chapter 77.08 RCW.
(9) Fish and Wildlife Coordination Act, 16 U.S.C. Section 661–667.	Water Resources Act of 1971, Chapter 90.54 RCW; Minimum Water Flows and Levels, Chapter 90.22 RCW.
(10) Noise Control Act, 42 U.S.C. Section 4903.	Noise Control Act of 1974, Chapter 70.107 RCW.
(11) Overall Coordination. See NEPA, No. 6 above.	Environmental Coordination Procedures Act, Chapter 90.62 RCW.
(12) Bald Eagle Protection Act, 16 U.S.C. 668–668(d).	

(d) The following State permits shall be coordinated by the Secretary to avoid duplication to the extent possible:

(1) Department of Ecology:	
Surface Water Rights Permit	RCW 90.03.250.
Dam Safety Approval	RCW 90.03.350.
Reservoir Permit	RCW 90.03.370.
Approval of Change of Place or Purpose of Use (water).	RCW 90.03.380.
Ground Water Permit	RCW 90.44.050.
New Source Construction Approval	RCW 70.94.152.
Burning Permit	RCW 70.94.650.
Flood Control Zone Permit	RCW 86.16.080.
Waste Discharge Permit	RCW 90.48.160.
National Pollution Discharge Elimination System (NPDES) Permit.	RCW 90.48.
Approval of Change of Point of Diversion.	RCW 90.03.380.
Sewage Facilities Approval	RCW 90.48.110.
Water Quality Certification	RCW 90.48.160.
(2) Department of Natural Resources:	
Burning Permit	RCW 76.04.150 and 170.
Dumping Permit	RCW 76.04.242.
Operating Permit for Machinery	RCW 76.04.275.
Cutting Permit	RCW 76.09.090.
Forest Practices	RCW 76.09.060.
Right of Way Clearing	RCW 76.04.210.
Drilling Permit	RCW 78.52.120.
(3) Regional Air Pollution Control Agencies:	
New Source Construction Approval	RCW 70.94.152.
Burning Permit	RCW 70.94.650.
(4) Department of Fisheries:	
Hydraulic Permit	RCW 75.20.
(5) Department of Game:	
Hydraulic Permit	RCW 75.20.100.
(6) Department of Social Health Services:	
Public Sewage	WAC 248.92.
Public Water Supply	WAC 248.54.
(7) Department of Labor & Industries:	
Explosives license	RCW 70.74.135.
Blaster's license	WAC 296.52.040.
Purchaser's license	WAC 296.52.220.
Storage Magazine license	WAC 296.52.170.
(8) Cities and Counties:	
New Source Construction Approval	RCW 70.94.152.
Burning Permit	RCW 70.94.650.
Shoreline Substantial Development Permit.	RCW 90.58.140.
Zoning and Building Permits	Local Ordinances.

§ 947.771 General requirements for permits and permit applications.

(a) Part 771 of this chapter, General Requirements for Permits and Permit Applications, shall apply to any person who makes application for a permit to conduct suface coal mine operations.

(b) Any person who wishes to conduct new surface coal mining and reclamation operations shall file a complete application at least 12 months prior to the date upon which permit issuance is desired, and shall pay to the Secretary a permit fee in accordance with 30 CFR 736.25.

(c) Any person who wishes to revise a permit shall submit a complete application at least 6 months prior to the date upon which permit issuance is desired and shall pay to the Secretary a fee in accordance with 30 CFR 736.25.

§ 947.776 General Requirements for Coal Exploration.

(a) Part 776 of this chapter, General requirements for Coal Exploration, shall apply to any person who conducts or seeks to conduct coal exploration operations.

(b) The Office shall make every effort to act on an exploration application within 60 days of receipt or such longer time as may be reasonable under the circumstances. If additional time is

needed, OSM shall notify the applicant that the application is being reviewed, but more time is necessary to complete such review, setting forth the reasons and the additional time that is needed.

§ 947.778 Surface Mining Permit Application—Minimum Requirements for Legal, Financial, Compliance and Related Information.

Part 778 of this chapter, Surface Mining Permits Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information, shall apply to any person who makes application for a permit to conduct surface mining and reclamation operations.

§ 947.779 Surface Mining Permit Applications—Minimum Requirements for Information on Environmental Resources.

Part 779 of this chapter, Surface Mining Permit Applications—Minimum Requirements for Information on Environmental Resources, shall apply to any person who makes application to conduct surface mining and reclamation operations.

§ 947.780 Surface Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan.

(a) Part 780 of this chapter, Surface Mining Permit Applications—Minimum Requirement for Reclamation and Operation Plan, shall apply to any person who makes application to conduct surface coal mining and reclamation operations.

(b) Any applicant for a surface coal mining permit which is to produce more than 1,000,000 tons per year shall demonstrate compliance with local Air Pollution Control Authorities and the Washington Clean Air Act, RCW 70.94.

(c) Any applicant for a surface mining permit shall describe the steps taken to comply with the Washington Clear Air Act, RCW 70.94, and the Washington Water Pollution Control Act, RCW 90.48.

§ 947.782 Underground Mining Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information.

Part 782 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information, shall apply to any person who makes application for a permit to conduct underground mining operations.

§ 947.783 Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources.

Part 783 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources, shall apply to any person who submits an application to conduct underground mining operations.

§ 947.784 Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan.

(a) Part 784 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan, shall apply to any person who makes application to conduct underground mining.

(b) Any application for underground mining permits which will produce more than 1,000,000 tons per year shall demonstrate specific compliance with local Air Pollution Control Authorities and the Washington Clear Air Act, RCW 70.94.

(c) Any applicant for an underground mining permit shall also indicate how compliance will be achieved with the Washington Clean Air Act, RCW 70.94, and the Washington Water Pollution Control Act, RCW 90.48.

§ 947.785 Requirements for Permits for Special Categories of Mining.

(a) Part 785 of this chapter, Requirements for Permits for Special Categories of Mining, shall apply to each person who makes application for a permit to conduct certain categories of surface coal mining and reclamation operations.

(b) In order for a variance to be granted from the approximate original contour requirement in areas of steep slope mining, an applicant shall obtain the approval of the Washington Department of Natural Resources and the Department of Ecology in order to meet watershed improvement requirements.

§ 947.786 Review, Public Participation, and Approval or Disapproval of Permit Applications and Permit Terms and Conditions.

(a) Part 786 of this chapter, Review, Public Participation, and Approval or Disapproval of Permit Applications and Permit Terms and Conditions, shall apply to the review of applications made by any person for surface coal mining and reclamation operations.

(b) The Secretary shall provide a copy of the decision to grant or deny a permit application to the Department of Natural Resource and the Department of Ecology.

§ 947.787 Administrative and Judicial Review of Decisions on Permit Applications.

Part 787 of this chapter, Administrative and Judicial Review of Decisions by Regulatory Authority on Permit Applications, shall apply to the review of decisions on permit applications for surface coal mining and reclamation operations.

§ 947.788 Permit Reviews, Revisions, and Renewals, and Transfer, Sale, and Assignment of Rights Granted Under Permits.

Part 788 of this chapter, Permit Reviews, Revisions, and Renewals, and Transfer, Sale, and Assignment of Rights Granted Under Permits, shall apply to review, revision, and renewal of permits for surface coal mine operations, and to transfer, sale, and assignment of rights granted under permits.

§ 947.795 Small Operator Assistance.

Part 795 of this chapter, Small Operator Assistance, shall apply to any person making application for assistance under the small operator assistance program.

§ 947.800 General Requirements For Bonding of Surface Coal Mining and Reclamation Operations.

Part 800 of this chapter, General Requirements for Bonding of Surface Coal Mining and Reclamation Operations Under Regulatory Programs, shall apply to all surface coal mining and reclamation operations.

§ 947.815 Performance Standards—Coal Exploration.

(a) Part 815 of this chapter, Permanent Program Performance Standards—Coal Exploration, shall apply to any person conducting coal exploration operations.

(b) Any person who conducts exploration shall comply with the Washington Forest Practices Act, RCW 76.09, and regulations promulgated pursuant to it.

§ 947.816 Performance Standards—Surface Mining Activities.

(a) Part 816 of this chapter, Permanent Program Performance Standards—Surface Mining Activities, shall apply to any person who conducts surface coal mining and reclamation operations.

(b) All operators shall have a plan of reclamation approved by the Washington Department of Fisheries for operation in affected streams, RCW 75, and shall comply with the Hydraulic Project Approval Law, RCW 75.20.100, the Shoreline Management Act, RCW 90.58, the Forest Practices Act, RCW 76.09, the Water Pollution Control Act, RCW 90.48, the Minimum Water Flows and Levels Act, RCW 90.22, and the Pesticide Control Act, RCW and regulations promulgated pursuant to these laws.

§947.817 Performance Standards—Underground Mining Activities.

(a) Part 817 of this chapter, Permanent Program Performance Standards—Underground Mining Activities, shall apply to any person who conducts underground mining operations.

(b) All operators shall have a plan of reclamation approved by the Washington Department of Fisheries for operation in affected streams. RCW 75, and shall comply with the Hydraulic Project Approval Law, RCW 75.20.100, the Shoreline Management Act, RCW 90.58, the Forest Practices Act, RCW, 76.09, the Water Pollution Control Act, RCW 90.48, the Minimum Water Flows and Levels Act, RCW 90.22, the Pesticide Control Act, RCW, and the Washington Water Code, RCW 90.03, and regulations promulgated pursuant to these laws.

§947.818 Special Performance Standards—Concurrent Surface and Underground Mining.

Part 818 of this chapter, Special Permanent Program Performance Standards—Concurrent Surface and Underground Mining, shall apply to any person who conducts combined surface and underground mining operations.

§947.819 Special Performance Standards—Auger Mining.

Part 819 of this chapter, Special Permanent Program Performance Standards—Auger Mining, shall apply to any person who conducts surface coal mining operations which include auger mining.

§947.823 Special Performance Standards—Operations on prime Farmland.

Part 823 of this chapter, Special Permanent Program Performance Standards—Operations on Prime Farmland, shall apply to any person who conducts surface coal mining and reclamation operations on prime farmlands.

§947.824 Special Performance Standards—Mountaintop Removal.

Part 824 of this chapter, Special Permanent Program Performance Standards—Mountaintop Removal, shall apply to any person who conducts surface coal mining operations constituting mountaintop removal mining.

§947.826 Special Performance Standards—Operations on Steep Slopes.

Part 826 of this chapter, Special Permanent Program Performance Standards—Operations on Steep Slopes, shall apply to any person who conducts surface coal mining and reclamation operations on steep slopes.

§947.827 Special Performance Standards—Coal Processing Plants and Support Facilities not Located at or Near the Minesite and not Within the Permit Area for a Mine.

Part 827 of this chapter, Special Permanent Program Performance Standards—Coal Processing plants and Support Facilities Not Located at or Near the Minesite or Not Within the Permit Area for a Mine, shall apply to any person who conducts surface coal mining and reclamation operations which include the operation of coal processing plants and support facilities not located at or near the minesite and not within the permit area for a mine.

§947.828 Special Performance Standards—In Situ Processing.

Part 828 of this chapter, Special Permanent Program Performance Standards—In Situ Processing, shall apply to any person who conducts in situ processing activities.

§947.842 Federal Inspections.

(a) Part 842 of this chapter, Federal Inspections, shall apply to all exploration and surface coal mining and reclamation operations.

(b) Upon request OSM shall furnish a copy of an inspection report to the Washington Department of Natural Resources and the Department of Ecology.

§947.843 Federal Enforcement

(a) Part 843 of this chapter, Federal Enforcement, shall apply when enforcement action is required for violations on surface coal mining and reclamation operations.

(b) Upon request OSM shall furnish a copy of each enforcement action document and order to show cause issued pursuant to this section to the Washington Department of Natural Resources and the Department of Ecology.

§947.845 Civil Penalties.

Part 845 of this chapter, Civil Penalties, shall apply when civil penalties are assessed for violations on surface coal mining and reclamation operations.

[FR Doc. 82-16726 Filed 6-18-82; 8:45 am]
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S.J. Res. 131/Pub. L. 97–194 Designating "National Theatre Week". (June 16, 1982; 96 Stat. 114) Price: $1.75.

S. 1808/Pub. L. 97–195 To authorize an Under Secretary of Commerce for Economic Affairs. (June 16, 1982; 96 Stat. 115) Price: $1.75.

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Federal Register
Vol. 47, No. 120
Tuesday, June 22, 1982

Presidential Documents

Title 3—

The President

Proclamation 4948 of June 14, 1982

Baltic Freedom Day

By the President of the United States of America

A Proclamation

The independence of Lithuania, Latvia, and Estonia was extinguished in 1939 as a result of a nefarious deal struck between the Soviet Union and Nazi Germany. Hitler handed Stalin the three Baltic republics as a bonus to secure his cooperation in the destruction of Poland and to obtain a secure eastern frontier which enabled him to launch war against the western democracies. Subsequently, hundreds of thousands of Baltic nationals were deported to the Soviet Union where many of them perished in prisons and forced labor camps. The darkest day of that great human tragedy occurred on June 14, 1941, when their homes and jobs were taken by Russian settlers.

Today, some of the survivors of these mass deportations are citizens of the United States. Their aspirations for a better future for the peoples of Estonia, Latvia, and Lithuania have helped to bring new meaning to our nation's commitment to freedom for all people. The United States has never, over the intervening forty-one years, recognized the forcible incorporation of the Baltic states into the Soviet Union.

As a nation, we remain dedicated to the furtherance and preservation of the fundamental human rights and freedoms of all people and take note on this special day of our hope that the blessings of liberty will one day be part of the national life of the courageous people of Estonia, Latvia, and Lithuania.

The Congress of the United States by Senate Joint Resolution 201 has authorized and requested the President to proclaim June 14 as Baltic Freedom Day.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate June 14, 1982, as Baltic Freedom Day. I call upon the people of the United States to reaffirm their belief and hope that the citizens of Latvia, Lithuania, and Estonia and of all nations will one day achieve through peaceful means the goals of democratic freedom and self-determination.

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of June, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-16985
Filed 6-18-82; 4:44 pm]
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Rules and Regulations

Federal Register
Vol. 47, No. 120
Tuesday, June 22, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 546 and 563

[82-406]

Delegated Authority in Connection With Mergers

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Bank Board has clarified the merger regulations with respect to the delegated authority of its Principal Supervisory Agents to approve certain mergers.

EFFECTIVE DATE: June 25, 1982.

FOR FURTHER INFORMATION CONTACT: Gayle L. Radley ((202) 377-6961), Attorney, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: Section 546.2 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 546.2) prescribes the rules for mergers involving federal savings and loan associations, including delegations of authority to the Bank Board's Principal Supervisory Agent to approve certain mergers. Section 563.22 of the Rules and Regulations for Insurance of Accounts (12 CFR 563.22) prescribes similar rules applicable to mergers involving institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

These sections currently prohibit the Principal Supervisory Agent from approving a merger under delegated authority in cases where the resulting association will be unable to meet the net-worth requirements of § 563.13(b) of the Rules and Regulations for Insurance of Accounts.

The Board is amending 12 CFR 546.2(h)(6) and 563.22(e)(6) to clarify that in calculating the net worth of the resulting association, the Principal Supervisory Agent is authorized to exclude, consistent with the delegated authority to enter into supervisory forbearance agreements, scheduled items which will be acquired in the merger and the amount of either the net-worth deficiency or the liabilities, including averaged liabilities, of the acquired association at the date of merger.

Further, because of some confusion which resulted from the earlier expansion of merger approval authority with respect to supervisory forbearances, *see* Board Resolution 82-103 (February 25, 1982, 47 FR 8152), the Board ratifies all mergers which have been previously approved under delegated authority.

Because the amendments pertain to internal Board procedures and will facilitate the processing of applications and mergers, and because it is in the public interest to provide prompt action on applications, the Board believes it is appropriate to implement the amendments without delay. Therefore, the Board has determined that observance of the notice and public procedure provisions of 12 CFR 508.11 and 5 U.S.C. 553(b) is unnecessary and that publication of these amendments for the period specified in 12 CFR 508.14 and 5 U.S.C. 553(d), prior to the effective date of the amendments, is likewise unnecessary.

List of Subjects in 12 CFR Parts 546 and 563

Mergers, Savings and loan associations, Applications.

Accordingly, the Board hereby amends Part 546 of Subchapter C and Part 563 of Subchapter D, Chapter V of Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 546—MERGER, DISSOLUTION, REORGANIZATION, AND CONVERSION

1. Revise paragraph (h)(6) of § 546.2. to read as follows:

§ 546.2 Procedure; effective date.

* * * * *

(h) The approval of the Board (including recommending modifications of the plan of merger, consolidation, or purchase of bulk assets) required by paragraph (c) of this section may be given by the Principal Supervisory Agent (as defined in § 545.14(a)(3) of this chapter) unless:

* * * * *

(6) the resulting association's net worth would not at least equal the amount required for that association under § 563.13 of this chapter (where goodwill is included in the resulting association's assets, the applicant must submit an opinion of a certified public accountant, satisfactory to the Principal Supervisory Agent, that its use and value are appropriate under and accounted for by generally accepted accounting principles and in accordance with accounting memoranda issued by the Board's staff); for purposes of this paragraph (h)(6), in calculating whether the net worth of the resulting association will at least equal the amount required under § 563.13(b), the Principal Supervisory Agent may exclude scheduled items which will be acquired in the merger and the amount of either: (i) The net-worth deficiency or (ii) the liabilities, including averaged liabilities, of the acquired association at the date of merger;

* * * * *

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

2. Amend paragraph (e)(6) of § 563.22 to read as follows:

§ 563.22 Merger, consolidation, or purchase of bulk assets.

* * * * *

(e) The approval of the Corporation (including recommending modifications of the plan of merger, consolidation, or purchase of bulk assets) required by paragraph (a) of this section may be given by the Principal Supervisory Agent (as defined in § 545.14(a)(3) of this chapter) unless:

* * * * *

(6) the resulting institution's net worth would not at least equal the amount required for that institution under § 563.13 of this Subchapter (where goodwill is included in the resulting institution's assets, the applicant must submit an opinion of a certified public accountant, satisfactory to the Principal Supervisory Agent, that its use and value are appropriate under and

accounted for by generally accepted accounting principles and in accordance with accounting memoranda issued by the Board's staff); For purposes of this paragraph (e)(6), in calculating whether the net worth of the resulting institution will at least equal the amount required under § 563.13(b), the Principal Supervisory Agent may exclude scheduled items which will be acquired in the merger and the amount of either: (i) The net-worth deficiency, or (ii) the liabilities, including averaged liabilities, of the acquired institution at the date of merger;

* * * * *

(Section 5 of the Home Owners' Loan Act, 12 U.S.C. 1464; sections 402, 403, & 407 of the National Housing Act, 12 U.S.C. 1725, 1726, & 1730; Reorg. Plan No. 3 of 1947, 3 CFR 1071 (1943–48 Comp.))

Dated: June 16, 1982.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-16857 Filed 6-21-82; 8:45 am]

BILLING CODE 6720-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701, 707, 708, and 745

[NCUA IRPS 82-3]

Membership in Federal Credit Unions; Interpretative Ruling and Policy Statement

AGENCY: National Credit Union Administration (NCUA).

ACTION: Interpretative Ruling and Policy Statement.

SUMMARY: Interpretative Ruling and Policy Statement 82–1 dated April 12, 1982, sets forth a statement adopted by the NCUA Board on April 1, 1982, clarifying the agency's policy on membership of more than one group in a Federal credit union. Certain issues have now arisen that have caused the Board to reconsider and revise that policy. Accordingly, effective April 21, 1982, (the date of the Board's most recent deliberations on this matter) NCUA IRPS 82–1 "Membership in Federal Credit Unions" is cancelled and superceded by this Interpretative Ruling and Policy Statement.

This Interpretative Ruling is in response to interest expressed by credit unions and differs from Interpretative Ruling 82–1 primarily in the following respects: (1) The Board's interpretations of the purchase of loans authority of section 107(13) of the Federal Credit Union Act and of the purchase of assets and assumption of liabilities authority of section 107(14) are delineated and the differences of the provisions explained, and (2) the multiple group charters interpretation is expanded from the "occupational type" only provisions expressed in IRPS 82–1 to both "occupational" and "associational" types and further distinguishes the differences between these two types and the charters generally known as "community" types.

EFFECTIVE DATE: April 21, 1982.

ADDRESS: National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Linda M. Cohen, Director, Department of Chartering & Education, at the above address or telephone (202) 357–1080. Interpretative Ruling and Policy Statement (IRPS) 82–3.

SUPPLEMENTARY INFORMATION:

I. Purchase of Loans of Liquidating Credit Unions

Section 107(13) of the Federal Credit Union Act (12 U.S.C. 1757(13)) authorizes Federal credit unions to purchase "notes" of members of liquidating credit unions. The aggregate balances of such notes may not exceed five percent of the purchasing credit union's total shares and undivided earnings. The NCUA Board interprets this authority to apply to cases where the purchasing Federal credit union acquires the note solely for its investment value. The note is held as an interest earning asset until paid off by the borrower. The purchase is not used, however, as a means to expand the credit union's customer base.

Section 107(14) of the Act (12 U.S.C. 1757(14)) authorizes Federal credit unions to purchase assets and to assume liabilities of other credit unions, subject to regulations of the Board. The Board interprets this provision to authorize it to allow Federal credit unions to provide customer services to members whose loans are purchased or whose share accounts are assumed pursuant to the provision. In cases of liquidation, it is especially important, in order to protect the interests of the National Credit Union Share Insurance Fund, to utilize this authority. Accordingly, it shall be the policy of the Board that a Federal credit union which purchases the loans of a liquidating credit union may offer full membership rights and services to the borrowers whose loans it has purchased. In cases where the borrower is converted to membership status, section 107(14) shall be considered the operative provision and the 5% limit of section 107(13) shall not apply.

II. Multiple Group Charters

In connection with new charters, charter amendments, conversions and mergers, the NCUA Board has delegated to the NCUA Regional Directors the authority to approve Federal credit union fields of membership including more than one distinct group, consistent with the following statutory policy limitations.

Pursuant to section 109 of the Federal Credit Union Act (12 U.S.C. 1759) the Board has recognized two types of multiple group fields of membership. The first type involves groups that have common bonds of occupation or association. The second type covers groups where one of the groups has what is generally known as a "community" field of membership.

Under the first multiple group field of membership category, each employer or association must have its own common bond. As a matter of policy, all of the employers and associations must be within a well-defined area as determined by the Regional Director.

In the case of the second multiple group category, a narrower geographic standard applies. If any portion of the field of membership is community based, i.e., serves all persons who reside or work in a given area, the combined field of membership is limited to a well-defined neighborhood, community or rural district.

In addition to the above, any applicant for a multiple-group charter, charter amendment, conversion or merger must demonstrate that (1) all affected groups have requested credit union service from the applicant, (2) the applicant can provide credit union services to each group, and (3) the application is economically feasible and generally advisable.

In all cases of disapproval of an application, the Regional Director will advise the applicant of the reason(s) for disapproval and of the right to appeal the decision to the NCUA Board.

The NCUA Board finds that compliance with the above guidelines will result in fields of membership that meet the membership requirements of section 109 of the Federal Credit Union Act (12 U.S.C. 1759).

IRPS 82–1 is hereby cancelled and superseded by this Interpretive Ruling and Policy Statement.

List of Subjects in 12 CFR Parts 701, 707, 708, and 745

Credit unions.

Rosemary Brady,

Secretary of the Board.

June 16, 1982.

[FR Doc. 82-16605 Filed 6-21-82; 8:45 am]

BILLING CODE 7535-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 323

[Docket Nos. 39722 & 39632]

Terminations, Suspensions, and Reductions of Service

AGENCY: Civil Aeronautics Board.

ACTION: Temporary waiver of rule by Order 82-4-87.

SUMMARY: The CAB is exempting all U.S. certificated carriers from notice requirements on carriers planning to reduce or terminate service at points for which no essential air service determination is required. The CAB is granting this exemption on its own initiative, based on a recent court decision.

DATES: Adopted: April 15, 1982.

Effective: Waiver in effect until review of Part 323 is completed.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Rules & Legislation Division, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673-5442.

SUPPLEMENTARY INFORMATION:

In the matter of emergency air transportation requirements, Docket 39722 and rulemaking on terminations, suspensions and reductions of service, PR-244, Docket 39632; order granting exemption.

By Order 81-11-57 (November 10, 1981) and Regulation PR-244, 47 FR 7393, February 19, 1982 (adopted January 7, 1982) amending 14 CFR Part 323, the Board imposed notice requirements on carriers planning to reduce or terminate service at all eligible points in circumstances where a point's essential service needs could be affected by the carrier's action. The Board then believed that the Act's essential service provisions, section 419, 49 U.S.C. 1389, empowered us to insure that all eligible points, including those points for which no essential service determination was required by section 419(a)(2), received their essential air service. However, the U.S. Court of Appeals for the District of Columbia Circuit has now ruled that the Board's powers to preclude a suspension of service without a prior notice may be used only at those points where the Board must make an essential service determination under section 419(a)(2), *i.e.*, those eligible points which on October 24, 1978, were served by only one certificated carrier or which thereafter have become served by no more than one certificated carrier. Under the Court's interpretation of section 419, one of the notice requirements of Order 81-11-57 and Regulation PR-244 may be invalid. As a result, we will exempt the carriers from complying with that requirement pending our reexamination of the *Delta* decision's impact on the notice requirements set forth in Part 323.

The Court decision, *Delta Air Lines* v. *Civil Aeronautics Board*, D.C. Cir. No. 80-2339 (decided February 26, 1982), was precipitated by Eastern's plan to terminate all its service at Montgomery, Alabama, a point served by two other certificated carriers, Delta and Republic Airlines. As the Board determined that the loss of all Eastern's service reasonably appeared to deprive the community of its essential air service, the Board temporarily required Eastern under section 419(a)(10) to maintain one round-trip flight a day, ordered Delta and Republic to give 90 days notice before reducing their own service at Montgomery, and directed all three carriers to file traffic and load factor reports, Orders 80-5-170 (May 23, 1980), 80-6-147 (June 24, 1980), 80-7-75 (July 11, 1980), and 80-8-180 (August 29, 1980). The Court held that section 419(a)(10) did not allow the Board to require a carrier to maintain service at a point like Montgomery where no essential service determination is required by section 419(a)(2). While the Court upheld the Board's reporting requirements imposed under section 407(a) of the Act, 49 U.S.C. 1377(a), the Court invalidated the 90-day notice requirement imposed on Delta and Republic for service reductions as section 401(j), 49 U.S.C. 1371(j), allowed advance notice requirements only for service reductions which affected a point's essential air service.

The notice requirement whose validity has been placed in doubt by the Court's decision is the "33 percent notice," required by § 323.3(a)(5) of our rules. That section requires certificated carriers to file a 90 day notice before reducing or terminating service at a point if the total available seats of all carriers linking the point to hubs will then be reduced by one-third or more within a 90-day period. As explained in PR-244, this requirement has not yet taken effect pending compliance with the Paperwork Reduction Act of 1980, which requires the approval of the Office of Management and Budget. In the meantime, the comparable provision of Order 81-11-57 remains in effect. In that order, as a condition to exempting the carriers from other notice requirements imposed by sections 401(j) and 419, we required 90 days notice when a carrier's reduction or termination of service would reduce a point's total service to all hubs by one-fourth or more.

As a result of the Court's decision in *Delta*, however, it appears doubtful that the Board may require every carrier to file advance notice whenever a point may lose 33% (or 25%) of all its service to hubs, unless this loss of service affects a point for which the Board has been required by section 419(a)(2) to make an essential service determination. We consider it unfair and unduly burdensome to the carriers to continue enforcing the "25 percent" and "33 percent" rules when their validity is in doubt, pending our forthcoming review of Part 323 in light of the *Delta* decision. Accordingly, we find that granting the certificated carriers an exemption from those rules is in the public interest. Delta, moreover, has filed a petition for judicial review of the "25 percent" and "33 percent" notice requirements, *Delta Air Lines* v. *CAB*, D.C. Cir. No. 82-1253 (filed March 9, 1982). By exempting Delta and other carriers from most of these requirements, we will also avoid any need for an early consideration of the rule's validity by the Court.

We will not, however, exempt the carriers entirely from these requirements, for we find that they may be necessary for the implementation of the Act's essential service guarantee at those points where we have been required to make an essential service determination. Many of these points have essential air service definitions which provide the maximum guarantee of 160 seats provided by our regulations, § 398.6(a). However, we recognize that there may be come transitional situations where the 160-seat maximum will not be adequate to ensure essential service. Consequently, our regulations also provide that if an eligible point suffers an abrupt and significant reduction in service, we may temporarily increase that guarantee. This provision was adopted because a significant portion of that community's traffic may be unaccommodated even though the point would still be receiving more than the 160-seat maximum provided for by our rules. See 14 CFR 398.6(b)(4); PS-87, 44 FR 52646, 52648 (September 7, 1979). Therefore, we reserve the right to increase temporarily

the point's guarantee so that we could prevent the incumbent carrier from reducing service below the interim level. Notice of the carrier's intention to reduce its service is necessary for us to know when a major reduction in service is planned, determine whether an interim definition will be required, and act to hold in the carrier to preserve that interim level of service. Without such notice, our ability to protect these communities would be sharply reduced because the carrier will have reduced its service before we can issue a revised definition. Accordingly, we will retain the "25 percent" and "33 percent" notice requirements at those points for which the Act requires an essential service determination.

We are granting this exemption on our own initiative. Our decision to do so is based on the Court's acceptance in the *Delta* case of the legal arguments made by Delta both there and in the rulemaking proceeding. The exemption is intended to be temporary, for it will end when we complete our review of Part 323.

Accordingly, we exempt all U.S. certificated carriers from § 323.3(a)(5) of our Procedural Regulations as amended by PR-244 and from ordering paragraph 1(d) of Order 81-11-57, except where the point at which service is being reduced or terminated is one for which the Board was or is required to make an essential air service determination by section 419(a)(2) of the Act.

List of Subjects in 14 CFR Part 323.

Air carriers, Essential air service.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-16856 Filed 6-21-82; 8:45 am]
BILLING CODE 6320-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 140

Regulation Concerning Conduct of Members and Employees and Former Members and Employees of the Commission

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commission is amending its Code of Conduct for Commission members and employees and former Commission members and employees. One purpose of the revision is to conform the Code to the requirements of certain provisions of the Ethics in Government Act of 1978, particularly those provisions which place restrictions on the representational activities of former Commission members and employees. In addition, certain provisions of the Code are being modified to lessen the burden of their administration and to enhance the ease of compliace therewith. Futher, various technical amendments are being made to conform the Code to the Commodity Exchange Act, as amended by the Futures Trading Act of 1978. The Commission's action relates solely to agency organization, procedure and practice.

EFFECTIVE DATE: June 22, 1982.

FOR FURTHER INFORMATION CONTACT: Helen Blechman, Attorney, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, telephone (202) 254-9880.

SUPPLEMENTARY INFORMATION: The Commision's Code of Conduct, 17 CFR 140.735-1 *et seq.* (1981), generally establishes ethical standards for Commission members and employees and former Commission members and employees.[1] Various sections of the Code are modeled on conflict-of-interest statutes and regulatory provisions, which also prescribes ethical standards for present and former federal officers and employees. Enactment of the Ethics in Government Act of 1978, amendment of the Commodity Exchange Act in 1978 and the decision otherwise to amend certain provisions of the Code of Conduct necessitate revision of various sections of the Code. Accordingly, after consulting with and obtaining the approval of the Office of Government Ethics of the Office of Personnel Management, the Commission has adopted the following amendments to its Code of Conduct.

Practice Before the Commission by Former Commission Members and Employees

The Commission is revising section 10 of the Code, 17 CFR 140.735-10, to conform that provision generally to 18 U.S.C. 207 (Supp. III 1979), as amended by Title V of the Ethics in Government Act of 1978.[2] Section 10 of the Code places limitations on appearances before and communications with the Commission by former Commission members and employees. Section 10 is based, in part, on 18 U.S.C. 207, which places certain restrictions on practice before federal departments, agencies and courts by former federal officers and employees, restrictions which are designed to avoid conflicts of interest.

Section 10(a) of the Code is derived, in part, from 18 U.S.C. 207(a).[3] As amended, section 207(a) generally prohibits former federal officers and employees permanently from knowingly representing any other person (except the United States) in an appearance before or a communication with a federal (or District of Columbia) department, agency or court, or other enumerated entities, or any officer or employee thereof, in connection with any particular matter involving a specific party or parties [4] in which the United States (or the District of Columbia) is a party or has a direct and substantial interest and in which the former officer or employee participated personally and substantially while with the government. While the current version of section 10(a) of the Code of Conduct generally conforms with 18 U.S.C. 207(a), as amended (the prior version of 18 U.S.C. 207(a) contained a nearly identical permanent bar on representation in such particular matters), the Commission has determined to revise that provision of its Code to eliminate certain apparent variations.

For example, section 10(a), as revised, will apply only to particular matters "involving a specific party or parties." While this is consistent with the Commission's interpretation of the scope of the present section 10(a), the amendment will make that express. In addition, section 10(a), as amended, will expressly apply to communications with the Commission, as well as appearances before the Commission. While the present section 10(c) of the Code makes clear that appearance before the Commission has always included communication with the Commission, as well as its members and employees, the

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[1] The Commission's Code of Conduct was adopted in 1976. 41 FR 27510 *et seq.* (July 2, 1976), as amended by 42 FR 15902 (March 24, 1977) and 45 FR 70441-70442 (October 24, 1980).

[2] Pub. L. 95-521, 92 Stat. 1864-1867 (1978), as amended by Pub. L. 96-28, 93 Stat. 76-77 (1979).

[3] Section 10(a) of the Code presently provides: No person shall ever appear in a representative capacity before the Commission in a particular matter if such person, or one participating with him in the particular matter, personally considered it or gained nonpublic knowledge of the facts thereof while he was a member or employee of the Commission. [Footnotes omitted].

[4] The phrase "particular matter involving a specific party or parties" does not apply to general rulemaking, general policy and standards formulation or other similar matters. *See* § 737.5(c)(1) of the regulations of the Office of Government Ethics, Office of Personnel Management, 5 CFR 737.5(c)(1) (1981); *cf.* memorandum of the Attorney General dealing with the conflict-of-interest provisions prior to amendment by the Ethics in Government Act (which memorandum is reproduced in material following 18 U.S.C. 201 (1976 Edition)).

language of new section 10(a) is being revised to parallel the wording of 18 U.S.C. 207(a), as amended. Finally, again in conformance with section 207(a), as amended, the wording of section 10(a) is being amended to apply to matters in which the former Commission member or employee participated personally and substantially while with the Commission, as opposed to matters which he or she "personally considered." This change is also consistent with the Commission's interpretation of the application of the current version of section 10(a). The Commission is retaining the portion of section 10(a) which permanently bars representation on matters about which the former member or employee gained nonpublic knowledge while employed by the Commission.[5]

Section 10(b) of the Code is also being revised to conform it generally to 18 U.S.C. 207(b)(i), as amended.[6] Section 207(b)(i) generally prohibits former federal officers and employees, within two years after their federal employment has ceased, from knowingly representing any other person (except the United States) in an appearance before or a communication with a federal (or District of Columbia) department, agency or court, or other enumerated entities, or any officer or employee thereof, in connection with any particular matter involving a specific party or parties in which the United States (or the District of Columbia) is a party or has a direct and substantial interest and which was actually pending under the official responsibility of the former officer or employee within one year prior to the termination of that responsibility.[7]

The present version of section 10(b) of the Code is consistent with 18 U.S.C. 207, as amended, in many respects. However, there are certain differences between the present rule and statute as amended. Thus, section 10(b) is being amended to impose a two-year post-Commission employment ban on representative appearances before or communications with the Commission, in place of the present one-year ban. In addition, the revised provision will specify that it covers matters which were "actually pending" under the official responsibility of the former member or employee. The definition of "official responsibility," presently found in section 10(b) is being moved to new section 10(f), which sets forth various definitions (see the discussion below). As is presently the case, the term "official responsibility" will have the meaning assigned in 18 U.S.C. 202, namely, direct administrative or operating authority, whether intermediate or final, which is exercisable alone or in conjunction with others to direct government action.

The Commission is also adding a new section 10(c) to the Code to implement the restrictions which 18 U.S.C. 207(b)(ii) and (c), as amended, place on former federal officers and empoyees who occupied certain senior positions. Section 207(b)(ii) basically makes it unlawful for a former federal officer or employee who occupied a position specified in 18 U.S.C. 207(d)(1)(A), as amended, or designated pursuant to 18 U.S.C. 207(d)(1)(C), as amended,[8] within two years after leaving that position, knowingly to represent, or assist in the representation of, any other person (except the United States) by personal presence at an appearance before a federal (or District of Columbia) department, agency or court, or other enumerated entities, or any officer or employee thereof, in connection with any particular matter involving a specific party or parties in which the United States (or the District of Columbia) is a party or has a direct and substantial interest and in which the former officer or employee participated personally and substantially while with the government. In addition, section 207(c) generally prohibits the same officers and empoyees [9] from knowingly appearing before or communicating with the department or agency in which the former officer or employee served, or any member or employee thereof, on behalf of any other person (except the United States) in connection with any particular matter, including a rulemaking proceeding, pending before that department or agency or in which the department or agency has a direct and substantial interest for a period of one year following the departure of the former officer or employee from the department or agency.[10]

Accordingly, new section 10(c)(1) of the Code will prohibit all former Commission members, as well as former Commission employees whose positions are specified in section 207(d)(1)(A) or designated pursuant to section 207(d)(1)(C), for a period of two years after their departure from such positions, from knowingly representing, or assisting in the representation of, any other person (except the United States) by personal presence at an appearance before the Commission, or any of its members or employees, in connection with any particular matter involving a specific party or parties in which the United States (or the District of Columbia) is a party or has a direct and substantial interest and in which the former member or employee participated personally and substantially while with the Commission. In addition, section 10(c)(2) will prohibit the same former Commission members and employees for a period of one year after their departure from the Commission from knowingly representing any other person in an appearance before or a communication with the Commission, or any of its members or employees, in connection with any particular matter, including a rulemaking proceeding, pending before the Commission or in which the Commission has a direct and substantial interest. This latter restriction applies regardless of whether

[5] This part of section 10(a) of the Commission's Code of Conduct extends beyond the criminal prohibition of 18 U.S.C. 207(a) and establishes as a matter of policy a standard of conduct to which former Commission members and employees are required to adhere.

[6] Section 10(b) of the Code presently provides, in pertinent part: No person who has been a member or an employee shall, within one year after his employment has ceased, appear in a representative capacity before the Commission in any matter which was under his official responsibility as a member or employee of the Commission at any time within a period of one year prior to the termination of such responsibility. [Footnote omitted].

[7] The prior version of 18 U.S.C. 207(b) contained a similar bar on representation in such particular matters, but for a period of only one year.

[8] At the Commission, these restrictions apply to Commission members, Executive Level employees and most Senior Executive Service employees. The statutory restrictions contained in Sections 207(b)(ii) and (c) became effective as to Commission members and Executive Level employees by operation of law on July 1, 1979. As to those Senior Executive Service employees who were initially designated by the Office of Government Ethics under the Ethics in Government Act, these restriction became effective February 28, 1980.

[9] Although the Director of the Office of Government Ethics, Office of Personnel Management, in accordance with 18 U.S.C. 207(d)(1)(C) and (e), has the authority to limit the applicability of the prohibition of section 207(c) as to senior employees in departments and agencies having unrelated or separate statutory agencies and bureaus, no such limitation is in effect with respect to the Commission, nor is one contemplated.

[10] Attention is also directed to section 2(a)(7)(B) of the Commodity Exchange Act, as added by the Futures Trading Act of 1978, 7 U.S.C. 4a(f)(2) (Supp. IV 1980). That section basically prohibits former Commission members, as well as former Commission employees who occupied positions classified at the GS–16 level or higher excepted from the competitive service by reason of their policymaking or confidential character, for a period of one year after they cease to occupy those positions, from making any appearance before the Commission or making any written or oral communication to the Commission, or any member or employee thereof, on behalf of any other person (except the United States) in connection with any particular matter that is before the Commission. Appearances and responses with respect to Commission subpoenas and solely personal and individual matters are excluded from this prohibition.

the Commission member or employee concerned participated in the matter while with the Commission and applies to matters which arise after the member or employee leaves the Commission.

The Commission notes that several subsections of 18 U.S.C. 207 limit the extent of the prohibitions in subsections (a), (b) and (c) thereof. Thus, in accordance with subsection (f), communications solely for the purpose of furnishing scientific or technological information in accordance with agency directives are permissible. In addition, a former government officer or employee may give testimony under oath or make a statement which is subject to penalty of perjury without regard for the prohibitions in subsection (a), (b) and (c) pursuant to 18 U.S.C. 207(h).

Moreover, pursuant to 18 U.S.C. 207(d)(2), the one-year bar in 18 U.S.C. 207(c) on contact with a former senior officer's or employee's agency is not applicable to representation by elected state or local government officials or those principally employed by state or local governments, accredited degree-granting institutions of higher education or certain tax exempt hospitals and medical research organizations on behalf of such entities. Nor does that bar apply to appearances or communications concerning matters of a personal and individual nature or to an uncompensated statement by such a former officer or employee in a particular area within his or her own special knowledge, in accordance with 18 U.S.C. 207(i).

A new section 10(d) is being added to the Code of Conduct to encompass these limiations on the prohibitions which generally apply.

Because of the addition of new sections 10(c) and 10(d), the existing section 10(c) of the Code of Conduct is being redesignated section 10(e). Like the present section 10(c), new section 10(e) will require former Commission members and employees who, within two years after their departure from the Commision, are employed or retained to represent persons in connection with matters which might require appearances before or communications with the Commission, or its members or employees, to file a written statement with the Commission's General Counsel setting forth the nature thereof. One clarifying change is being made. As revised, new sections 10(e) will apply to representation of any person (except the United States) rather than just to persons "outside the government." Thus, representation of individual Commissioners and Commission employees will now be clearly covered.

The last two sentences of the present section 10(c), which define certain terms used in section 10, has been made, with modification, a separate section 10(f). The definition of the phrase "appearance before the Commission" is being reworded to refer to formal or informal representative appearance (except on behalf of the United States) before the Commission, or any of its members or employees. Moreover, in order to conform further to the new wording of 18 U.S.C. 207, a new phrase—"communication with the Commission"—is being defined, which will mean oral or written communication with the Commission, or any of its members or employees, on behalf of another person (except the United States) with an intent to influence. These modifications represent no substantive change in the Commission's interpretation of what constitutes an appearance or a communication. Finally, as noted above, the definition of "official responsibility" is being moved to this section.

The present section 10(d), which provides that persons in doubt as to the applicability of any of the provisions of section 10 may request an advisory ruling by the Commission's General Counsel, is being redesignated section 10(g). The wording of that provision is being modified to make it clear that it is the General Counsel who issues an advisory ruling thereunder.

The Commission is also adding a new section 10(h) to the Code to implement 18 U.S.C. 207(j), as amended. Section 207(j) generally provides that if the head of a government department or agency finds, after notice and opportunity for hearing, that a former officer or employee of that department or agency has violated 18 U.S.C. 207(a), (b) or (c), as amended, he or she may prohibit the former officer or employee from making on behalf of any other person (except the United States) any formal or informal appearance before, or, with the intent to influence, any oral or written communication to, the department or agency on a pending matter of business for a period of up to five years, or may take other appropriate disciplinary action.[11] Section 207(j) further requires government departments and agencies to establish procedures to carry out its provisions.[12]

[11] Section 207(j) also provides that any disciplinary action taken pursuant to the provisions will be subject to review in an appropriate United States district court.

[12] Section 207(j) requires that the implementing procedures be developed in consultation with the Director of the Office of Government Ethics of the Office of Personnel Management. The Commission has complied with this requirement.

Under the new section 10(h)(2) of the Code of Conduct, the Commission's General Counsel, or his or her designee, will have authority to conduct such investigations as he or she deems appropriate to determine whether a former Commission member or employee may have violated 18 U.S.C. 207 (a), (b) or (c). This provision will also require that the General Counsel report the results of any investigations which he or she conducts to the Commission and recommend to the Commission such action as he or she deems appropriate.[13]

If the Commission elects to initiate a proceeding to determine whether any of the statutory prohibitions has been violated, that proceeding will be conducted in accordance with the rules of practice which the Commission has prescribed for adjudicatory proceedings (17 CFR Part 10), except to the extent that those adjudicatory procedures are inconsistent with the provisions of the new section 10(h). The General Counsel will prosecute all administrative proceedings brought pursuant to the new section, and all hearings required to be held by the section will be presided over by a Commission Administrative Law Judge. See section 10(h)(3) of the Code.

If the Commission finds, after notice and opportunity for a hearing, that a former Commission member or employee has violated 18 U.S.C. 207 (a), (b) or (c), as amended, the Commission may, pursuant to section 10(h)(4) of the Code of Conduct, prohibit that former member or employee from making on behalf of any other person (except the United States) any formal or informal appearance before, or, with the intent to influence, any oral or written communication to the Commission on any pending matter of business for a period of up to five years, or may take other appropriate disciplinary action. See 18 U.S.C. 207(j) and section 10(h)(4) of the Code. In determining whether a violation has occurred, the Commission will be guided by the language and

[13] In addition to requiring administrative enforcement, section 207 prescribes criminal penalties for violations of its subsections (a), (b) and (c). Thus, if the General Counsel makes a preliminary determination that a former member or employee may have violated one of these provisions, or the Commission, upon his or her recommendation, finds that such a violation has occurred, the matter will be referred to the Criminal Division of the Department of Justice. See 28 U.S.C. 535 (1976). In such a case, the General Counsel will thereafter conduct his investigation of the matter in coordination with the Department of Justice, in order to avoid the possibility of prejudicing any criminal proceeding which might result, unless the Department informs the Commission that it does not intend to initiate criminal prosecution.

legislative history of 18 U.S.C. 207, as amended, as well as by the regulations which the Office of Government Ethics, Office of Personnel Management, has promulgated thereunder. See 45 FR 7402 *et seq.* (February 1, 1980), 45 FR 8544 *et seq.* (February 8, 1980) and 45 FR 75500 *et seq.* (November 14, 1980), now codified at 5 CFR Part 737 (1981).

Notification of Farm and Other Similar Interests and Outside Employment

The Commission is amending footnote 3 of section 4(b)(2) of the Code of Conduct, 17 CFR 140.735–4(b)(2), n. 3, to modify the requirement that a Commission member or employee who owns a farm or ranch or engages in certain permitted livestock transactions seek Commission clearance. In place of that requirement, the new provision will require that any member or employee who owns a farm or ranch or engages in permitted livestock transactions notify the Commission. In the view of the Commission, this modification will sufficiently implement the notice requirement set forth in section 9(d) of the Commodity Exchange Act, 7 U.S.C. 13(d) (Supp. IV 1980), with respect to such transactions. The written notification should set forth all pertinent facts with respect to the farm or other interests and the submissions will, in accordance with the above-cited provision of the Commodity Exchange Act, be publicly available.

The Commission is also amending section 5(e)(1) of its Code of Conduct, 17 CFR 140.735–5(e)(1), to change the requirement that an employee who intends to accept or perform any outside or private employment or professional work must obtain authorization in advance from the Director of Personnel, in consultation with his or her division or office head. Instead, under the amendment, an employee must submit a notification in advance of such acceptance or performance. The notification is to be submitted to the division or office head who will forward it, together with any comments he or she may have, to the Executive Director. The Executive Director will review the notification and comments in order to determine whether such employment or professional work is consistent with concurrent Commission employment in accordance with the standards set forth in section 5(a) of the Code. In the event that the Executive Director determines that the outside work is inconsistent with concurrent Commission employment, he or she shall attempt to resolve the matter or, if unable to do so, shall refer it to the General Counsel who shall resolve the matter or forward it to the Commission for consideration.

The Commission is adopting these new procedures to reduce the administrative burden caused by the present requirements of Commission clearance for farm and other similar interests and of advance authorization by the Director of Personnel for outside employment. The notification requirements should decrease the amount of time devoted, respectively, by the Commission and supervisory personnel for compliance with these provisions. Moreover, the new procedures should enhance the ease of compliance by employees.

Financial Reporting by Commission Members and Employees

The Commission is also amending section 7 of the Code of Conduct, 17 CFR 140.735–7, to conform it to Title II of the Ethics in Government Act which requires separate reporting for high-level Commission officials.[14] Under the Ethics Act, Commissioners and Commission employees who occupy Senior Executive Service positions, positions compensated at the basic rate of pay of GS–16 or above, administrative law judge positions or Schedule C positions which entail advising as to or determining Commission policy are required to file the detailed, publicly-available Standard Form 278 financial statement promulgated by the Office of Government Ethics, Office of Personnel Management. This requirement has recently been reflected in a revised paragraph (j) of section 7 of the Code which the Commission has already separately published in the **Federal Register.**[15]

With these changes, section 7(c) of the Code, which lists those at the Commission required to file statements of employment and financial interests by category of positions held, is being amended. First, with the enactment of the Ethics Act, the present section 7(c)(1) has become obsolete and is now being deleted. The present section 7(c)(2) is being modified in light of the new law and redesignated as section 7(c)(1). Recently adopted section 7(c)(3), see footnote 15, is being redesignated as section 7(c)(2) and is being republished herein for the sake of clarity. Present section 7(c)(4), with modification to mention the Office of Government Ethics, Office of Personnel Management, instead of the Civil Service Commission, is being redesignated as section 7(c)(3). The Commission is also amending paragraph (i) of Section 7 of the Code, concerning the effect of filing of financial statements, to mention the reports referred to in paragraph (j)—the Ethics Act statements required of high-level Commission officials.

Employment Negotiation Expenses

The Commission has traditionally interpreted section 8(a) of its Code of Conduct, 17 CFR 140.735–8(a), to bar reimbursement by a person who is regulated by the Commission or who is a representative of such a person of expenses incurred by a Commission member or employee who is negotiating for employment with that person. In light of its continuing experience with this interpretation and the increasing number of employees who, after their tour of service with the Commission, are leaving for employment in the private sector, the Commission has determined to change its policy on such expense reimbursement. Thus, a new clause (8) is being added to the exceptions provision, section 8(b), to indicate that henceforth Commission members and employees may accept reasonable travel and subsistence expense reimbursement from any person, even if that person is subject to Commission regulation or is a representative of such a person, provided that the General Counsel approves in advance and that the member or employee is engaged in bona fide post-Commission employment negotiations with that person and is not on official business at the time. By this means, the Commission will avoid unduly impeding the mobility of Commission members and employees and its conduct provision will not operate in favor of local versus more distant potential employers as to which greater travel and subsistence expenses would have to be incurred in connection

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[14] Pub. L. 95–521, 92 Stat. 1836–1850 (1978), as amended by Pub. L. 96–19, 93 Stat. 37–44 (1979).

[15] In addition to amending section 7(j) of the Code, the Commission, in response to recommendations by the Comptroller General and after obtaining the approval of the Office of Government Ethics, Office of Personnel Management, adopted other amendments to section 7 of the Code of Conduct, the reporting provision, to expand reporting by the Commission's professional employees and to establish a certification of compliance system for the other Commission employees. See new sections 7(c)(3) and 7(k) of the Code, 45 FR 70441–70442 (October 24, 1980). One of the new provisions, section 7(c)(3), is being redesignated herein as section 7(c)(2) in light of the deletion of present section 7(c)(1) of the Code. See the text.

Moreover, the Commission is now amending the text and title of Section 7 to indicate that the provision covers, in addition to financial statements, certifications of compliance with the provisions of the Code concerning financial interests and outside employment and to more accurately track the title of the statement form—statement of financial interests and outside employment. The Commission is also amending section 7(g) of the Code to reflect that the certifications of compliance, as well as the statements of financial interests and outside employment, will generally be treated confidentially.

with employment negotiations. Moreover, the Commission believes that authorizing Commission members and employees to receive reasonable expense reimbursement in the case of bona fide employment discussions while not on official business will not present any real or apparent conflicts of interest and hence is also consistent with the payment of expense clause of section 5(a)(3) of the Code, 17 CFR 140.735–5(a)(3). In this regard, the Commission notes that its members and employees must still adhere to the requirements of 18 U.S.C. 208 (Supp. III 1979) of the conflict-of-interest laws and section 6 of the Code of Conduct, 17 CFR 140.735–6, which taken together bar them from negotiating for employment or having a prospective arrangement concerning future employment with any person who would be directly or indirectly affected by any particular official matters on which they are working.

Travel and Subsistence Expense Reimbursement

The Commission is amending section 8(c) of the Code, 17 CFR 140.735–8(c), to reflect current Commission practice with respect to travel and subsistence expense reimbursement. Although the present wording of section 8(c) is restrictive and generally bars such reimbursement by any outside organization while a Commission member or employee is on official active duty status and is authorized to receive government expense reimbursement, the Commission for some time has followed a more liberal practice similar to that of the Securities and Exchange Commission. Therefore, the Commission is amending section 8(c) of its Code of Conduct to provide that, if the General Counsel approves in advance, reasonable travel and subsistence expenses of Commission members and employees who are on official active duty status may be reimbursed by academic or other nonprofit organizations determined by the Secretary of the Treasury to be tax exempt pursuant to section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3) (1976), provided that they are not composed predominantly of persons subject to Commission regulation. The Commission believes this amendment is authorized in accordance with 5 U.S.C. 4111 (1976 and Supp. IV 1980) concerning acceptance by federal officers and employees from such organizations of contributions and awards for outside training and payment for travel, subsistence and other expenses related to attendance at meetings. Furthermore, the amendment will enable Commission members and employees to speak to appropriate groups at distant locations without depleting the Commission's limited travel funds. In addition, section 8(c) is being further amended to provide that Commission employees (but not members), while not on official active duty, may accept reasonable travel and subsistence reimbursement from other organizations when asked to speak on matters within their Commission expertise if the General Counsel approves the reimbursements in advance. Both in the case of section 501(c)(3) and other organizations, the General Counsel, in deciding whether to approve private reimbursement, will consider the availability of Commission funds for the proposed travel, the benefit to the government, the appearance of acceptance of reimbursement from the private organization and any other relevant factors.

Miscellaneous Amendments

The Commission is making technical amendments to various sections of the Code to conform them to the Commodity Exchange Act, as amended by the Futures Trading Act of 1978. These amendments reflect the redesignation of section 2(a)(7) of the Act as section 2(a)(7)(A) and of section 217 of the Commodity Futures Trading Commission Act of 1974 as section 19 of the Act (that section was also substantively amended to expand its coverage to include leverage transactions in any commodity, section 4(b)(1)(iii) of the Code, 17 CFR 140.735–4(b)(1)(iii), is being similarly expanded to reflect that amendment), and the increase of the criminal money penalty for violation of sections 9(d) and 9(e) of the Act from $10,000 to $100,000.

In addition, in accordance with a government reorganization and the Civil Service Reform Act of 1978,[16] as well as the Ethics in Government Act, references to the Office of Government Ethics, Office of Personnel Management, are being inserted in the Code in place of the Civil Service Commission, since that Office is the successor to the Civil Service Commission for government ethics matters.

The reference in footnote 10 to section 5(c) of the Code, 17 CFR 140.735–5(c), n. 10, to the restrictions on receipt of honoraria contained in the Federal Election Campaign Act is being amended to indicate the new section number and to state that that law "generally" prohibits receipt of honoraria over a certain amount in order to reflect certain modifications of the strictures effected by changes in the law.[17]

The Commission is amending footnote 17 to section 9 of the Code, 17 CFR 140.735–9, which deals with confidential and nonpublic official information, to make express mention of section 8 of the Commodity Exchange Act, 7 U.S.C. 12 (Supp. IV 1980), which in pertinent part sets forth particular kinds of business information that are generally confidential.

In section 12 of the Code, 17 CFR 140.735–12, listing statutory conduct provisions applicable to Commission members and employees, references to section 8 of the Commodity Exchange Act, as amended, 7 U.S.C. 1, *et seq.*, and to the recently-enacted Code of Ethics for Government Service are being added.[18]

Furthermore, in section 14(b) of the Code, 17 CFR 140.735–14(b), which concerns gifts from foreign governments, a cross reference is being added to the new § 140.735–8A of the Commission's rules and regulations, 17 CFR 140.735–8A, which implements amendments to the Foreign Gifts and Decorations Act.[19]

Finally, the Commission is adding a second sentence to Section 16(a) of the Code to codify the designation of the Commission's General Counsel as its designated agency ethics official to review the financial reports filed by high-level Commission officials under Title II of the Ethics in Government Act, as well as otherwise to coordinate and manage the Commission's ethics program.

The Commission has determined that these amendments to the Code of Conduct relate solely to agency organization, procedure and practice. Therefore, the provisions of the Administrative Procedure Act, as codified, 5 U.S.C. 553, generally requiring notice of proposed rulemaking and other opportunity for public participation are not applicable. The Commission further finds that, because of the need promptly to update its Code of Conduct in light of the enactment of the Ethics in Government Act and the Futures Trading Act of 1978, as well to effect other desirable changes, there is good cause to make these amendments effective upon publication in the Federal

[16] Pub. L. 95–454, 92 Stat. 1111 *et seq.* (1978).

[17] Title V, section 502(a) of Pub. L. 95–216, 91 Stat. 1565 (1977), renumbered in Title I, section 105(5) of Pub. L. 96–187, 93 Stat. 1354 (1980).

[18] Pub. L. 96–303, 94 Stat. 855–856 (1980).

[19] That rule, which deals with the receipt and disposition of foreign gifts and decorations by Commission members and employees and has been adopted in accordance with State Department guidance, was separately published in the Federal Register. See 47 FR ——— *et seq.* (———, 1982).

Register. Therefore, the amendments will become effective on June 22, 1982.

List of Subjects in 17 CFR Part 140

Authority delegations, Commodity futures, Conflict of interests, Organizations and functions.

PART 140—ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE COMMISSION

Accordingly, the Commission, pursuant to the authority contained in sections 2(a)(11) and 8a(5) of the Commodity Exchange Act, 7 U.S.C. 4a(j) and 12a(5), Executive Order 11222, 3 CFR, 1964–1965 Comp., as amended, 5 CFR 735.104 and 18 U.S.C. 207(j), hereby amends Subpart C of Part 140 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

1. The table of sections of Subpart C of Part 140 is amended as follows:

* * * * *

140.735–7 Statement of financial interests and outside employment; certification of compliance.

* * * * *

§ 140.735–1 [Amended]

2. Section 140.735–1 is amended by removing the words "Civil Service Commission" and inserting in place thereof the words "Office of Government Ethics, Office of Personnel Management,".

§ 140.735–4 [Amended]

3. In § 140.735–4(b)(1), clause (iii) is amended by removing the words "silver bullion, gold bullion, bulk silver coins or bulk gold coins" and inserting in place thereof the words "any commodity" and footnote 2 is amended by removing the reference to "$10,000" and inserting in place thereof "$100,000", by inserting the letter "(A)" after "2(a)(7)" and by deleting the words "Section 217 of the Commodity Futures Trading Commission Act of 1974, 7 U.S.C. 15(a)," and inserting in place thereof the words "Section 19 of the Commodity Exchange Act,".

4. In § 140.735–4(b)(2), the third sentence of footnote 3 is amended by removing the word "explanation" and inserting in place thereof the word "notification", by inserting a "." after the word "facts" and by removing the words "and requesting Commission clearance therefor." and the fifth sentence of footnote 3 is amended by inserting the letter "(A)" after "2(a)(7)".

5. In § 140.735–4(b)(3), footnote 5 is amended by inserting the letter "(A)" after "2(a)(7)".

§ 140.735–5 [Amended]

6. In § 140.735–5(a), footnote 7 is amended by inserting the letter "(A)" after "2(a)(7)".

7. In § 140.735–5(c), the text and footnote 10 are amended by deleting the words "Civil Service Commission" and inserting in place thereof the words "Office of Government Ethics, Office of Personnel Management," and footnote 10 is further amended by inserting "323" in place of "328" and by inserting the word "generally" between the words "Act" and "prohibits" in the first sentence of paragraph two.

8. Section 140.735–5(e)(1) is revised to read as follows:

§ 140.735–5 Non-Governmental employment and other outside activity.

* * * * *

(e)(1) *Notification required.* An employee who intends to accept or perform any outside or private employment or professional work shall submit a written notification in advance of such acceptance or performance. The notification shall be submitted to the division or office head concerned, together with all pertinent facts regarding the forthcoming employment or professional work, such as the name of the employer, the nature of the work to be performed, its estimated duration and the fee or compensation to be received. The division or office head shall forward all notifications, together with any comments he or she may have thereon, to the Executive Director who shall review them and determine whether such employment or professional work is consistent with concurrent Commission employment.[30] In the event that the Executive Director determines that the forthcoming outside employment or professional work is inconsistent with concurrent Commission employment, he or she shall attempt to resolve the matter, or, if unable to do so, shall refer the matter to the General Counsel who shall resolve it or forward it to the Commission for consideration

* * * * *

9. Section 140.735–5(g) is amended by removing the words "Civil Service Commission" and inserting in place thereof the words "Office of Government Ethics, Office of Personnel Management,".

10. The title of § 140.735–7 is revised to read as follows:

[30] Office heads in Commission Regional Offices receiving notifications shall forward them to the Regional Deputy Counselor, § 140.735–16(c), *Infra*, who shall attempt to resolve the matter, or, if unable to do so, shall forward the matter to the Executive Director.

§ 140.735–7 Statement of financial interests and outside employment; certification of compliance.

* * * * *

11. Section 140.735–7 is amended by removing the words "statement(s) of employment and financial interests" wherever they appear and inserting in place thereof the words "statement(s) of financial interests and outside employment".

12. Sections 140.735–7 (c) and (g) are revised to read as follows:

§ 140.735–7 Statement of financial interests and outside employment; certification of compliance.

* * * * *

(c) *Employees who are required to submit statements.* Statements of financial interests and outside employment are required of the following:

(1) Employees in classified positions of Grade GS–13, GS–14 or GS–15, under Section 5332 of Title 5, United States Code, or the equivalent thereof, unless they are required to file financial reports under the Ethics in Government Act;

(2) Employees occupying positions as attorney, auditors, economists, futures trading specialists or investigators in any classified positions under section 5332 of Title 5, United States Code; and

(3) Such other employees as the Commission, in consultation with the Office of Government Ethics, Office of Personnel Management, may specify.

* * * * *

(g) *Confidentiality.* Statements of financial interests and outside employment and certifications of compliance shall be sent to the Director of Personnel in a sealed envelope marked "Confidential" and shall be maintained in a confidential file. Only those officials of the Commission whose participation is necessary for the carrying out of the purpose of this Conduct Regulation may have access to such statements and certifications and no information therefrom may be disclosed by them except as the Commission by formal order or the Office of Government Ethics, Office of Personnel Management, may determine for good cause shown.

* * * * *

13. In § 140.735–7(i), the first sentence is amended by inserting the words "pursuant to this section, as well as the reports referred to in subsection (j)," between the words "employees" and "are".

14. Section 140.735–7(k)(2) is amended by redesignating footnote "13a" as footnote "14".

15. Section 140.735–8(b) is amended by removing the word "or" immediately preceding clause (7), by inserting a ";" in place of the "." after the end of clause (7) and by adding the following additional language thereafter "or (8) if the General Counsel approves in advance, to reasonable travel and subsistence expense reimbursement by potential employers provided the Commission member or employee is engaged in bona fide post-Commission employment negotiations and is not on official business at the time.".

16. Section 140.735–8(c) is revised to read as follows:

§ 140.735–8 Acceptance of things of value.

* * * * *

(c) *Travel and subsistence expense reimbursement.* (1) Except as specifically authorized by paragraph (c)(2) of this section or as otherwise authorized by law, Commission members and employees are not authorized to accept on behalf of the United States voluntary donations from private sources for travel expenses in the form of cash, or services in kind, such as hotel accomodations. An employee who is officially directed to participate in a convention, seminar or similar meeting of an outside organization on an active duty basis and is authorzed to receive per diem and other travel expenses from the Government, shall not accept travel, subsistence, or payment of other expenses from the outside organization, except as specifically authorized by paragraph (c)(2) of this section or as otherwise authorized by law.

(2) If the General Counsel approves in advance, Commission members and employees may, while on official active duty, accept, pursuant to 5 U.S.C. 4111, reasonable travel and subsistence expense reimbursement from academic or other nonprofit organizations which have been determined by the Secretary of the Treasury to be tax exempt pursuant to section 501(c)(3) of the Internal Revenue Code of 1954, 26 U.S.C. 501(c)(3), provided that they are not predominantly composed of persons subject to regulation by the Commission. While not on official active duty, Commission employees may accept reasonable travel and subsistence expense reimbursement from other organizations when asked to speak on matters within their Commission expertise if the General Counsel approves the reimbursement in advance. Both in the case of section 501(c)(3) and other organizations, the General Counsel, in deciding whether to approve private reimbursement, will consider the availability of Commission funds for the proposed travel, the benefit to the government, the appearance of acceptance of reimbursement from the private organization and any other relevant factors.

§ 140.735–9 [Amended]

17. In § 140.735–9, footnote 15 is amended by removing the reference to "$10,000" and inserting in place thereof "$100,000" and footnote 17 is amended by adding a "s" to the end of the word "section" and inserting immediately thereafter and before "9(e)" the words "8 and".

18. Section 140.735–10 is revised to read as follows:

§ 140.735–10 Practice by former members and employees of the Commission.

(a) *Personal and substantial participation or nonpublic knowledge of a particular matter.* No person who has been a member or employee of the Commission shall ever knowingly represent any other person (except the United States) in an appearance before or a communication with the Commission in connection with any particular matter involving a specific party or parties [21] in which such person, or one participating with him or her in the particular matter, participated personally and substantially, [22] or gained nonpublic knowledge of facts thereof, while with the Commission.

(b) *Particular matter under an individual's official responsibility.* No person who has been a member or employee of the Commission shall, within two years after that employment has ceased, knowingly represent any other person (except the United States) in an appearance before or a communication with the Commission in connection with a particular matter involving a specific party or parties [23] which was actually pending under his official responsibility as a member or employee of the Commission at any time within one year prior to the termination of that responsibility.[24]

(c) *Restrictions on former members and senior employees.* A former member or employee of the Commission who occupied a position specified in 18 U.S.C. 207(d)(1)(A), as amended, or designated pursuant to 18 U.S.C. 207(d)(1)(C), as amended, shall not:

(1) Within two years after such employment has ceased, knowingly represent, or assist in the representation of, any other person (except the United States) by personal presence at an appearance before the Commission in connection with a particular matter involving a specific party or parties [25] in which the United States (or the District of Columbia) is a party or has a direct and substantial interest and in which the former Commission member or employee participated personally and substantially while with the Commission; or

(2) Within one year after such employment has ceased, knowingly represent any other person (except the United States) in an appearance before or a communication with the Commission in connection with any particular matter, including a rulemaking proceeding, which is pending before the Commission or in which the Commission has a direct and substantial interest.[26]

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[21] The phrase "particular matter involving a specific party or parties" does not apply to general rulemaking, general policy and standards formulation or other similar matters. *See* § 737.5(c)(1) of the regulations of the Office of Government Ethics, Office of Personnel Management, 5 CFR 737.5(c)(1); *cf.* memorandum of the Attorney General dealing with the conflict-of-interest provisions prior to amendment by the Ethics in Government Act (which memorandum is reproduced in material following 18 U.S.C. 201 (1976 Edition)).

[22] Attention is directed to 18 U.S.C. 207(a), as amended by the Ethics in Government Act. Section 207(a) generally prohibits former Federal officers and employees permanently from knowingly representing any other person (except the United States) in an appearance before or a communication with any Federal (or District of Columbia) department, agency or court, or other enumerated entities, or any officer or employee thereof, in connection with any particular matter involving a specific party or parties in which the United States (or the District of Columbia) is a party or has a direct and substantial interest and in which the former officer or employee participated personally and substantially while with the government.

[23] See n. 18 *supra.*

[24] Attention is directed to 18 U.S.C. 207(b)(i), as amended by the Ethics in Government Act. Section 207(b)(i) generally prohibits former Federal officers and employees, within two years after their Federal employment has ceased, from knowingly representing any other person (except the United States) in an appearance before or a communication with any Federal (or District of Columbia) department, agency or court, or other enumerated entities, or any officer or employee thereof, in connection with any particular matter involving a specific party or parties in which the United States (or the District of Columbia) is a party or has a direct and substantial interest and which was actually pending under the official responsibility of the former officer or employee within one year prior to the termination of that responsibility.

[25] See footnote 18, *supra.*

[26] Attention is directed to 18 U.S.C. 207 (b)(ii) and (c), as amended by the Ethics in Government Act, which place restrictions on the representational activities of certain senior officers and employees after their departure from the government. Section 207(b)(ii) generally makes it unlawful for a former federal officer or employee who occupied a position specified in 18 U.S.C. 207(d)(1)(A), as amended, or designated pursuant to 18 U.S.C. 207 (d)(1)(C), as amended, within two years after leaving that position, knowingly to represent, or assist in the representation of, any other person (except the United States) by personal presence at an appearance before any federal (or District of

(d) *Exceptions.* The prohibitions contained in paragraphs (a), (b) and (c) of this section do not apply to communications solely for the purpose of furnishing scientific or technological information if approved by the Commission or to giving testimony under oath or making a statement which is subject to penalty or perjury.[27] Further, the prohibition contained in paragraph (c)(2) of this section does not apply to representation by elected state or local government officials or those whose principal occupation or employment is with a state or local government agency or instrumentality, an accredited degree-granting institution of higher education as defined in section 1201(a) of the Higher Education Act of 1965 or a hospital or medical research organization which is exempted from taxation and defined under section 501(c)(3) of the Internal Revenue Code of 1954, 26 U.S.C. 501(c)(3), if the representation is on behalf of such an entity. Nor does the paragraph (c)(2) prohibition herein apply to appearances or communications concerning matters of a personal and individual nature or to an uncompensated statement in a particular area within the special knowledge of the former Commission member or employee.[28]

(e) *Reporting requirement.* Any former member or employee of the Commission who, within two years after ceasing to be such, is employed or retained as the representative of any person (except the United States) in connection with a matter in which it is contemplated that he will appear before or communicate with the Commission shall, within ten days of such retainer or employment, or of the time when appearance before or communication with the Commission is first contemplated, file with the General Counsel of the Commission a statement as to the nature thereof together with any desired explanation as to why it is deemed consistent with this section. Employment of a recurrent character may be covered by a single comprehensive statement. Each such statement should include an appropriate caption indicating that it is filed pursuant to this section. The reporting requirement of this paragraph does not apply to communications incidental to court appearances in litigation involving the Commission.

(f) *Definitions.* As used in this section, the phrase "appearance before the Commission" means any formal or informal appearance on behalf of any person (except the United States) before the Commission, or any member or employee thereof. As used in this section, the phrase "communication with the Commission" means any oral or written communication made to the Commission, or any member or employee thereof, on behalf of any person (except the United States) with an intent to influence. As used in this section, the term "represent" shall include not only the usual type of representation by an attorney, but also representation of a corporation in the capacity of an officer, director or controlling stockholder thereof. As used in paragraph (b) of this section, the term "official responsibility" has the meaning assigned to it in 18 U.S.C. 202, namely, the "direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action."

(g) *Advisory ruling.* Persons in doubt as to the applicability of this section may apply for an advisory ruling by addressing a letter requesting such a ruling to the General Counsel.

(h) *Procedures for administrative enforcement of statutory restrictions on post-Government employment conflicts of interest.*—(1) *Scope.* The provisions of this paragraph prescribe procedures for administrative enforcement of the restrictions which 18 U.S.C. 207 (a), (b) and (c), as amended, place on appearances before or communications with federal (and District of Columbia) departments, agencies and courts, and other enumerated entities, as well as the officers and employees thereof, by former Commission members and employees.

(2) *Investigations.* The General Counsel of the Commission, or his or her designee, shall conduct such investigations as he or she deems appropriate to determine whether any former Commission member or employee has violated 18 U.S.C. 207 (a), (b) or (c), as amended. The General Counsel shall report the results of his or her investigations to the Commission and shall recommend to the Commission such action as he or she deems appropriate.

(3) *Hearings.* Hearings required to be held under the provisions of this section shall be held before an Administrative Law Judge, utilizing the procedures prescribed by the Commission's rules of practice for adjudicatory proceedings (17 CFR Part 10), except to the extent that those rules are inconsistent with the provisions of this section. Any proceeding brought under the provisions of this section shall be prosecuted by the General Counsel or his or her designee.

(4) *Sanctions.* If the Commission finds, after notice and opportunity for a hearing, that a former Commission member or employee has violated 18 U.S.C. 207 (a), (b) or (c), as amended, the Commission may prohibit that person from making, on behalf of any other person (except the United States), any formal or informal appearance before, or with the intent to influence, any oral or written communication to, the Commission on a pending matter of business for a period not to exceed five years, or may take other appropriate disciplinary action.

§ 140.735–12 [Amended]

"19. Section 140.735–12 is amended by redesignating footnote "22" as footnote "28", by inserting the letter "(A)" immediately following "2(a)(7)" in paragraph (a), by inserting the number "8" between the reference to "2(a)(7)(A)" and "9(d)" in paragraph (a), by adding a comma and the words "as amended" following the "Commodity Exchange Act" in paragraph (a), and by deleting the period at the end of paragraph (b) and inserting immediately thereafter "and Pub. L. 96–303, 94 Stat. 855–856, 5 U.S.C. 7301 note, the 'Code of Ethics for Government Service.' "

Columbia) department, agency or court, or other enumerated entities, or any officer or employee thereof, in connection with any particular matter involving a specific party or parties in which the United States (or the District of Columbia) is a party or has a direct and substantial interest and in which the former officer or employee participated personally and substantially while with the government. In addition, section 207(c) generally prohibits such former officers and employees, for a period of one year following their departure from their department or agency, from knowingly making any appearance before or any communication with the department or agency in which they served, or any officer or employee thereof, on behalf of any other person (except the United States) in connection with any particular matter, including a rulemaking proceeding, pending before that department or agency, or in which the department or agency has a direct and substantial interest.

Attention is also directed to section 2(a)(7)(B) of the Commodity Exchange Act which applies to former Commission members, as well as former Commission employees who occupied positions classified at the GS–16 level or higher excepted from the competitive service by reason of their policymaking or confidential character. That provision generally prohibits such persons, for a period of one year after they cease to occupy their positions, from making any appearance before the Commission or making any written or oral communication to the Commission, or any member or employee thereof, on behalf of any other person (except the United States) in connection with any particular matter before the Commission. Appearances and responses relating to Commission subpoenas and solely personal and individual matters are excluded from this prohibition.

[27] Attention is directed to 18 U.S.C. 207(f) and (h), as amended by the Ethics in Government Act.

[28] Attention is directed to 18 U.S.C. 207(d)(2) and (i), as amended by the Ethics in Government Act.

§ 140.735–13 [Amended]

20. Section 140.735–13(b) is amended by removing the words "(obtaining prior approval for outside employment)" after the reference to § 140.735–5(e) and inserting in place thereof the words "(notification of outside employment)", removing the words "(filing of statement of employment and financial interests)" after the reference to § 140.735–7 and inserting in place thereof the words "(filing of statement of financial interests and outside employment and certification of compliance)", by redesignating footnote "23" as footnote "27" and by inserting the letter "(A)" after "2(a)(7)" in redesignated footnote 27.

§ 140.735–14 [Amended]

21. Section 140.735–14(b) is amended by removing the "." at the end of the sentence and inserting thereafter ", see § 140.735–8A.".

22. Section § 140.735–16(a) is revised to read as follows:

§ 140.735–16 Interpretative and advisory service.

(a) *Counselor for the Commission.* The General Counsel, or his or her designee, will serve as Counselor for the Commission and as the Commission's representative to the Office of Government Ethics, Office of Personnel Management, on matters covered by this subpart. The General Counsel will also serve as the Commission's designated agency ethics official to review the financial reports filed by high-level Commission officials under Title II of the Ethics in Government Act, as well as otherwise to coordinate and manage the Commission's ethics program.

* * * * *

23. Section 140.735–16(d) is amended by redesignating footnote "24" as footnote "28".

Issued by the Commission in Washingon, D.C. on May 27, 1982.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82–16761 Filed 6–21–82; 8:45 am]

BILLING CODE 8331–01–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200, 201, 230, 239, 249, 259, 260, 269, 274 and 279

[Release Nos. 33–6408, 34–18804, 35–22531, 39–732, IC–12475, and IA–808]

Relocation of Headquarters Offices; Miscellaneous Amendments

AGENCY: Securities and Exchange Commission.

ACTION: Miscellaneous amendments.

SUMMARY: The Securities and Exchange Commission plans to relocate its Headquarters offices from 500 North Capitol Street, 1100 L Street, NW., and 320 First Street, NW., Washington, D.C. to 450 Fifth Street, NW., Washington, D.C. 20549. These amendments are administrative in nature and will update references to the Commission's new location.

EFFECTIVE DATE: July 23, 1982.

Text of Amendments

Accordingly, 17 CFR Chapter II is amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. By revising paragraph (a)(1) of § 200.11 to read as follows:

§ 200.11 Headquarters Office—Regional Office Relationship.

(a)(1) Division and Office Heads in the Headquarters Office (450 Fifth Street, NW., Washington, D.C. 20549) have Commission-wide responsibility to the Commission for the overall development, policy and technical guidance, and policy direction of the operating programs under their jurisdiction.

* * * * *

2. By revising paragraphs (a)(2), (c)(1) introductory text, (c)(2), (d)(1), (d)(6)(ii), (e)(7)(i), and (e)(7)(iii) of § 200.80 to read as follows:

§ 200.80 Commission records and information.

(a)(1) * * *

(2) *Records available for public inspection and copying; documents published and indexed.* Except as provided in paragraph (b) of this section, the following materials are available for public inspection and copying during normal business hours at the public reference room located at 450 Fifth Street, NW., Room 1024, Washington, D.C. and at the Regional Offices of the Commission, and, except for indices, they are published weekly in a document entitled "SEC Docket" (see paragraph (f)(2) of this section):

* * * * *

(c)(1) *Public reference facilities.* The Commission has a specially staffed and equipped public reference room located at 450 Fifth Street, NW., Room 1024, Washington, D.C. (202–523–5506) and public reference facilities in its regional offices. Coin-operated machines, which are available to requesters on a do-it-yourself basis, can be used to make immediate copies up to 8½ by 14 inches in size of materials that are available for inspection in the Washington, D.C., New York City, Chicago and Los Angeles offices.

(i) * * *

(2) *Public reference inquiries.* Inquiries concerning the nature and extent of records available at the Commission's public reference room in Washington or at its other public reference facilities may be made in person or by telephone. The addresses and telephone numbers of all Commission Regional and Branch Offices are set forth at paragraph (c)(1) of this section. Written inquiries may be addressed to the Securities and Exchange Commission, Public Reference Branch, 450 Fifth Street, NW., Washington, D.C. 20549, or to a particular regional office.

(d) *Requests for Commission records and copies thereof—*(1) *Time and place of request for inspection of records.* Requests for inspection of Commission records may be made in person during normal business hours at the public reference room located at 450 Fifth Street, NW., Room 1024, Washington, D.C. Requests for inspection of Commission records located in a regional office may be made in person during normal business hours at that regional office.

(6) * * *

(ii) The application should be delivered to the Public Reference Branch, Room 1024, 450 Fifth Street, NW., Washington, D.C., or sent by mail addressed to the Freedom of Information Act Officer, Securities and Exchange Commission, Washington, D.C. 20549.

* * * * *

(e) * * *

(7) * * *

(i) *Facsimile copies.* All requests for facsimile copies may be made either in person at the Commission's public reference room, 450 Fifth Street, NW., Room 1024, Washington, D.C., or by mail addressed to Securities and Exchange Commission, Public Reference Branch, Washington, D.C. 20549. Copies when authorized will be sent directly to the purchaser by the contractor unless attestation is requested. A person who has been provided with facsimile copies of records upon request will be billed by the contractor for his copying services at the rates shown in the Commission's current schedule of fees, plus postage, if any, and will be billed separately by the Commission for attestation and searching fees, if any. Special classes of copying services, including expedited delivery, to the extent available under the current contract, are described in the

Commission's current schedule of fees. Cost estimates with respect to facsimile copying will be supplied upon request.

(ii) * * *

(iii) *Transcripts of public hearings.* Copies of the transcripts of recent public hearings may be obtained from the reporter subject to the fees established annually by contract between the Commission and the reporter. Copies of that contract, which contains tables of charges, may be inspected in the public reference room, 450 Fifth Street, NW., Room 1024, Washington, D.C. and in each regional and branch office. Copies of other public transcripts may be obtained, in the manner of other Commission records, subject to the charges referred to in paragraph (e)(7)(i) of this Section.

* * * * *

3. By revising paragraphs (a) introductory text and (a)(2) of § 200.303 to read as follows:

§ 200.303 Times, places and requirements for requests pertaining to individual records in a record system and for the identification of individuals making requests for access to the records pertaining to them.

(a) *Place to make request.* Any request by an individual to be advised whether any system of records maintained by the Commission and named by the individual contains a record pertaining to him or her, or any request by an individual for access to a record pertaining to him or her that is contained in a system of records maintained by the Commission, shall be submitted by the individual in person during normal business hours at the Commission's Public Reference Room which is located at 450 Fifth Street, N.W., Room 1024, Washington, D.C., or by mail addressed to the Privacy Act Officer, Securities and Exchange Commission, Washington, D.C. 20549. All requests will be required to be put in writing and signed by the individual making the request. In the case of requests for access that are made by mail, the envelope should be clearly marked "Privacy Act Request."

(1) * * *

(2) *Verification of identity.* When the fact of the existence of a record is not required to be disclosed under the Freedom of Information Act, 5 U.S.C. 552, as amended, or when a record as to which access has been requested is not required to be disclosed under that Act, the individual seeking the information or requesting access to the record shall be required to verify his or her identity before access will be granted or information given. For this purpose, individuals shall appear at the Commission's Public Reference Room located at 450 Fifth Street, N.W., Room 1024, Washington, D.C., during normal business hours of 9 a.m. to 4:30 p.m. e.s.t., Monday through Friday, or at one of the Commission's Regional or Branch Offices. The addresses and business hours of those offices are listed below:

* * * * *

4. By revising paragraph (a) of § 200.306 to read as follows:

§ 200.306 Requests for amendment or correction of records.

(a) *Place to make requests.* A request by an individual to amend or correct records pertaining to him or her may be made in person during normal business hours at the Commission's Public Reference Room located at 450 Fifth Street, N.W., Room 1024, Washington, D.C., or by mail addressed to the Privacy Act Officer, Securities and Exchange Commission, Washington, D.C. 20549.

* * * * *

5. By revising paragraphs (a)(2) and (b)(1) of § 200.308 to read as follows:

§ 200.308 Appeal of initial adverse agency determination as to access or as to amendment or correction.

(a) * * *

(2) The application shall be delivered to the Securities and Exchange Commission, Public Reference Branch, Room 1024, 450 Fifth Street, N.W., Washington, D.C. 20549, or by mail addressed to the Privacy Act Officer, Securities and Exchange Commission, Washington, D.C. 20549.

* * * * *

(b) * * *

(1) Such statement of disagreement shall be delivered to the Securities and Exchange Commission, Public Reference Branch, 450 Fifth Street, N.W., Room 1024, Washington, D.C. 20549, or mail to the Privacy Act Officer, Securities and Exchange Commission, Washington, D.C. 20549, within 30 days after receipt by the individual of the Commission's order denying the amendment or correction. For good cause shown this period can be extended for a reasonable time.

* * * * *

(6) By revising paragraph (a) of § 200.310 to read as follows:

§ 200.310 Fees.

(a) A request by an individual for copies of a record pertaining to him or her that is maintained by the Commission may be made in person during normal business hours at the Public Reference Room at 450 Fifth Street, N.W., Room 1024, Washington, D.C., or by mail addressed to the Privacy Act Officer, Securities and Exchange Commission, Washington, D.C. 20549. There will be no charge assessed to the individual for the Commission's expense involved in searching for or reviewing the record. Copies of the Commission's records will be provided by a commercial copier or by the Commission at rates established by a contract between the copier and the Commission. In addition, copying machines are provided for public use in the public reference facilities in the Commission's Washington, D.C., New York City, Los Angeles and Chicago offices.

* * * * *

7. By revising paragraph (b) of § 200.554 to read as follows:

§ 200.554 Public availability of information.

* * * * *

(b) The location of publicly available environmental impact statements will be 450 Fifth Street, N.W., Room 1024, Washington, D.C.

* * * * *

PART 201—RULES OF PRACTICE

1. By revising § 201.5 to read as follows:

§ 201.5 Business hours.

The principal office of the Commission, at 450 Fifth Street, N.W., Washington, D.C. 20549, is open each day, except Saturdays, Sundays, and legal holidays, from 9 a.m. to 5:30 p.m., eastern standard time or eastern daylight saving time, whichever is currently in effect in Washington. Legal holidays consist of New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday in the District of Columbia by the President or the Congress of the United States.

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. By revising § 230.110 to read as follows:

§ 230.110 Business hours of the Commission.

The principal office of the Commission, at 450 Fifth Street, N.W., Washington, D.C. 20549, is open each day, except Saturdays, Sundays and holidays, from 9:00 a.m. to 5:30 p.m., eastern standard time or eastern daylight saving time, whichever is currently in effect in Washington, D.C.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

1. By revising paragraph (b) of § 239.0–1 to read as follows:

§ 239.0–1 Availability of forms.

* * * * *

(b) Any person may obtain a copy of any form prescribed for use in this part by written request to the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Any persons may inspect the forms at this address and at the Commission's regional offices. (See § 200.11 of this chapter for the addresses of SEC regional offices.)

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

1. By revising paragraph (b) of § 249.0–1 to read as follows:

§ 249.0–1 Availability of forms.

* * * * *

(b) Any person may obtain a copy of any form prescribed for use in this part by written request of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Any person may inspect the forms at this address and at the Commission's regional offices.

(See § 200.11 of this chapter for the addresses of SEC regional offices)

PART 259—FORMS PRESCRIBED UNDER THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

1. By revising paragraph (b) of § 259.0–1 to read as follows:

§ 259.0–1 Availability of forms.

* * * * *

(b) Any person may obtain a copy of any form prescribed for use in this part by written request to the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Any person may inspect the forms at this address and at the Commission's regional offices.

(See § 200.11 of this chapter for the addresses of SEC regional offices)

PART 260—GENERAL RULES AND REGULATIONS, TRUST INDENTURE ACT OF 1939

1. By revising § 260.0–5 to read as follows:

§ 260.0–5 Business hours of the Commission.

The principal office of the Commission, at 450 Fifth Street, NW., Washington, D.C. 20549, is open each day, except Saturdays, Sundays and holidays, from 9:00 a.m. to 5:30 p.m eastern standard time or eastern daylight saving time, whichever is currently in effect in Washington, D.C.

PART 269—FORMS PRESCRIBED UNDER THE TRUST INDENTURE ACT OF 1939

1. By revising paragraph (b) of § 269.0–1 to read as follows:

§ 269.0–1 Availability of forms.

* * * * *

(b) Any person may obtain a copy of any form prescribed for use in this part by written request to the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Any person may inspect the forms at this address and at the Commission's regional offices.

(See § 200.11 of this chapter for the addresses of SEC regional offices)

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

1. By revising paragraph (b) of § 274.0–1 to read as follows:

§ 274.0–1 Availability of forms.

* * * * *

(b) Any person may obtain a copy of any form prescribed for use in this part by written request to the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Any person may inspect the forms at this address and at the Commission's regional offices.

(See § 200.11 of this chapter for the addresses of SEC regional offices)

PART 279—FORMS PRESCRIBED UNDER THE INVESTMENT ADVISERS ACT OF 1940

1. By revising paragraph (b) of § 279.0–1 to read as follows:

§ 279.0–1 Availability of forms.

* * * * *

(b) Any person may obtain a copy of any form prescribed for use in this part by written request to the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Any person may inspect the forms at this address and at the Commission's regional offices.

(See § 200.11 of this chapter for the addresses of SEC regional offices)

Since these amendments are administrative in nature, the Commission finds that notice and comment procedures are unnecessary and therefore the amendments may become effective immediately.

Dated: June 10, 1982.

By the Commission.

George A Fitzsimmons,

Secretary.

[FR Doc. 82–16849 Filed 6–21–82; 8:45 am]

BILLING CODE 8010–01–M

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17 CFR Parts 200, 202, and 203

[Release Nos. 33–6409, 34–18810, 35–22536, 39–733, IC–12490, and IA–810]

Amendment of Rules Concerning Access to Files

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission is amending its rules concerning access to investigative files to codify the staff's authority to grant requests for access to such files by receivers, special counsels, and other similar persons appointed by the court in enforcement proceedings brought by the Commission, and by the Securities Investor Protection Corporation ("SIPC"), trustees appointed in proceedings brought by SIPC for the protection of customers of broker-dealers, and counsel for SIPC trustees.

EFFECTIVE DATE: June 22, 1982.

FOR FURTHER INFORMATION CONTACT: Alan Rosenblat, Assistant General Counsel, Office of the General Counsel, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 ((202) 272–2428).

SUPPLEMENTARY INFORMATION: The Commission frequently receives requests, from domestic and foreign governmental authorities and self-regulatory organizations, for access to investigative files. The Director of the Division of Enforcement has authority to grant such access. But in matters in which the Commission has entered a formal order of investigation, the concurrence of the General Counsel is also required. In addition, senior officials in the Division of Enforcement and the Regional Offices are authorized to engage in discussions with representatives of domestic or foreign governmental authorities and self-regulatory organizations concerning information obtained in individual investigations.

In addition to requests by law enforcement authorities, the Commission receives requests for access to investigative files by receivers and other similar persons appointed by the court in Commission enforcement proceedings, by SIPC, and by trustees appointed in proceedings brought under

Section 5 of the Securities Investor Protection Act. Receivers, special masters, special counsels, trustees, and other similar persons, as well as SIPC, may require access to the Commission's files in order to perform the tasks for which they have been appointed. For example, information gathered during the Commission's investigation may be useful in efforts to preserve the assets of a company or to locate customer property in the custody of a broker-dealer.

In the past the Commission itself has considered and acted on requests for access to the Commission's files by receivers and similar persons, SIPC, and SIPC trustees. The Commission is now amending its rules to codify the authority of the Director of the Division of Enforcement to grant or deny such requests in appropriate cases, and of officials in the Division of Enforcement and Regional Offices to discuss information obtained in the course of investigations with receivers and similar persons, SIPC, and SIPC trustees.

The Commission finds, in accordance with 5 U.S.C. 553(b)(A) of the Administrative Procedure Act ("APA"), that these amendments relate solely to agency organization, procedure, or practice, and that notice and public procedure in accordance with the APA are not necessary. In addition, the Commission finds that the foregoing action does not impose any burden on competition.

Statutory Authority

The Commission is adopting these amendments pursuant to its authority under sections 19 and 20 of the Securities Act of 1933 (15 U.S.C. 77s and 77t); sections 21 and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78u and 78w); sections 18 and 20 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79r and 79t); sections 319 and 321 of the Trust Indenture Act of 1939 (15 U.S.C. 77sss and 77uuu); sections 38 and 42 of the Investment Company Act of 1940 (15 U.S.C. 80a–37 and 80a–41); sections 209 and 211 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–9 and 80b–11); and the Act of August 20, 1962, Pub. L. 87–592, 76 Stat. 344 (15 U.S.C. 78d–1, 78d–2), as amended by the Securities Acts Amendments of 1975, Pub. L. 94–29, 89 Stat. 163 (June 4, 1975).

List of Subjects

17 CFR Part 200

Administrative practice and procedure, Freedom of information, Privacy, Securities.

17 CFR Parts 202 and 203

Administrative practice and procedure, Investigations securities.

Text of Amendments

Parts 200, 202, and 203 of chapter II of Title 17 of the Code of Federal Regulations are amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. Section 200.19b is revised to read as follows:

§ 200.19b Director of the Division of Enforcement.

The Director of the Division of Enforcement is responsible to the Commission for the supervision and conduct of all of the enforcement activities under each of the acts administered by the Commission and the investigations relating thereto. The Director is responsible also for recommending the institution of administrative and injunctive actions arising out of such investigations and enforcement activities and for the determination of whether the available evidence supports the allegations in the proposed complaint. In addition, the Director is responsible, in collaboration with the General Counsel, for the review of cases to be referred to the Department of Justice with a recommendation for criminal prosecution, and for granting or denying requests by domestic and foreign governmental authorities, self-regulatory organizations, receivers, special counsels, and other similar persons appointed in Commission litigation, the Securities Investor Protection Corporation, and trustees and counsel for trustees appointed pursuant to section 5(b) of the Securities Investor Protection Act, for access to the Commission's files concerning non-public investigations.

2. In § 200.21 paragraph (a) is revised to read as follows:

§ 200.21 The General Counsel.

(a) The General Counsel is the chief legal officer of the Commission. He or she is responsible for the representation of the Commission in judicial proceedings in which it is involved as a party or as amicus curiae, for directing and supervising all civil litigation involving the Commission in the United States District Courts, and for representing the Commission in all cases in appellate courts. The General Counsel is responsible for the review of cases which the Division of Enforcement recommends be referred to the Department of Justice with a recommendation for criminal prosecution, and for the review of requests by domestic and foreign governmental authorities, self-regulatory organizations, receivers, special counsels, and other similar persons appointed in Commission litigation, the Securities Investor Protection Corporation, and trustees and counsel for trustees appointed pursuant to section 5(b) of the Securities Investor Protection Act, for access to materials contained in Commission files concerning non-public investigatory proceedings in which formal orders of investigation have been entered. In addition, he or she is responsible for advising the Commission at its request or at the request of any division director or office head, or on his or her own motion, with respect to interpretations involving questions of law; for reviewing and advising the Commission upon the legal aspects and policy implications of pre-argument memorandums and draft Commission opinions prepared by the Office of Opinions and Review; for the conduct of adminstrative proceedings relating to the disqualification of professional persons from practice before the Commission; for the preparation of Commission comments to the Congress on pending legislation; and for the drafting, in conjunction with appropriate divisions and offices, of legislative proposals to be sponsored by the Commission. The General Counsel is also responsible for the review and clearance of the form and content of articles, treatises, and prepared speeches and addresses by members of the staff relating to the Commission or to the statutes and rules administered by the Commission and is responsible for investigating any claims of staff improprieties. Additionally, he or she has responsibility with the Office of Opinions and Review for dealing with general problems arising under the Administrative Procedure Act, including (with the Office of Opinions and Review) the revision or adoption of rules of practice. He or she is responsible (with the Director of Personnel) for administering and interpreting the Commission's Conduct Regulation. He or she serves as Counselor to the Commission and its staff with regard to ethical and conflicts of interest questions and acts as the Commission's liaison on such matters with the Office of Personnel Management and the Department of Justice. The General Counsel also is responsible for coordinating and reviewing the interpretive positions of the various divisions and offices. In addition, he or

she is responsible for appropriate disposition of all Freedom of Information Act appeals pursuant to the authority delegated in § 200.30–14, and is the Commission's advisor with respect to legal problems arising under the Freedom of Information Act, the Privacy Act, the Federal Reports Act, the Federal Advisory Committee Act, the Civil Service laws and regulations, the statutes and rules applicable to the Commission's procurement, contracting, fiscal and related administrative activities, and other statutes and regulations of a similar nature applicable to a number of Government agencies.

* * * * *

3. In § 200.30–4 paragraph (a)(7) is revised to read as follows:

§ 200.30–4 Delegation of authority to Director of Division of Enforcement.

* * * * *

(a) * * *

(7) To grant requests for access to, or copies of, materials in the Commission's files concerning a non-public investigation upon written request for such access submitted by domestic and foreign governmental authorities, self-regulatory organizations, receivers, special counsels, and other similar persons appointed in Commission litigation, the Securities Investor Protection Corporation, and trustees and counsel for trustees appointed pursuant to section 5(b) of the Securities Investor Protection Act; *Provided* That, in matters in which the Commission has entered a formal order of investigation, such access shall be granted only with the concurrence of the General Counsel or his or her delegate.

* * * * *

PART 202—INFORMAL AND OTHER PROCEDURES

1. In § 202.5 paragraph (b) is revised to read as follows:

§ 202.5 Enforcement activities.

* * * * *

(b) After investigation or otherwise the Commission may in its discretion take one or more of the following actions: institution of administrative proceedings looking to the imposition of remedial sanctions, initiation of injunctive proceedings in the courts, and, in the case of a willful violation, reference of the matter to the Department of Justice for criminal prosecution. The Commission may also, on some occasions, refer the matter to, or grant requests for access to its files made by, domestic and foreign governmental authorities, self-regulatory organizations such as stock exchanges or the National Association of Securities Dealers, Inc., and other persons or entities.

* * * * *

PART 203—RULES RELATING TO INVESTIGATIONS

1. Section 203.2 is revised to read as follows:

§ 203.2 Information obtained in investigations and examinations.

Information or documents obtained by the Commission in the course of any investigation or examination, unless made a matter of public record, shall be deemed non-public, but the Commission approves the practice whereby officials of the Division of Enforcement at the level of Assistant Director or higher, and officials in Regional Offices at the level of Assistant Regional Administrator or higher, may engage in, and may authorize members of the Commission's staff to engage in, discussions with representatives of domestic or foreign governmental authorities, self-regulatory organizations, receivers, special counsels, and other similar persons appointed in Commission litigation, the Securities Investor Protection Corporation, and trustees and counsel for trustees appointed pursuant to section 5(b) of the Securities Investor Protection Act, concerning information obtained in individual investigations, including examinations and formal investigations conducted pursuant to Commission order.

By the Commission.

George A. Fitzsimmons,

Secretary.

June 10, 1982.

[FR Doc. 82–16650 Filed 6–21–82; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; New Drug Applications

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority regarding approval of new drug applications (NDA's) by redelegating to the Directors of Divisions conducting new drug evaluations authority to approve an additional class of NDA's to expedite the approval process. Published elsewhere in this issue of the **Federal Register** is a notice reorganizing the Bureau of Drugs and Bureau of Biologics into the National Center for Drugs and Biologics. This document also updates organizational references in accordance with the reorganization.

EFFECTIVE DATE: June 22, 1982.

FOR FURTHER INFORMATION CONTACT: Robert L. Miller, Office of Management and Operations (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION: FDA is amending § 5.80 (21 CFR 5.80) by changing references to the Bureau of Biologics and the Bureau of Drugs as appropriate to conform to the new organization nomenclature and organizational placement in the new organization.

Section 5.80(a)(1) is amended to redelegate to the Directors of the Divisions of Anti-Infective Drug Products, Cardio-Renal Drug Products, Surgical-Dental Drug Products, Metabolism and Endocrine Drug Products, Neuropharmacological Drug Products, and Oncology and Radiopharmaceutical Drug Products of the newly created Office of New Drug Evaluation in the National Center for Drugs and Biologics, the authority to approve new drug applications for drug products that contain the identical active drug ingredient (e.g., the same salt of the same therapeutic moiety), or identical combination of active drug ingredients, in the same dosage form and strength, of an approved drug product already marketed in the United States by another firm, and that has, in its labeling, at least some of the therapeutic uses already approved for the marketed product(s). This supplements their previous authority to approve supplemental applications to approved new drug applications for drugs for human use.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Organization and functions (Government agencies).

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52

Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 5 is amended by revising § 5.80, to read as follows:

§ 5.80 Approval of new drug applications and their supplements.

(a) The Director, Associate Director for Science, and Director of the Office of New Drug Evaluation of the National Center for Drugs and Biologics (NCDB) are authorized to perform all functions of the Commissioner of Food and Drugs with regard to approval of new drug applications and supplements thereto on drugs for human use that have been submitted under section 505 of the Federal Food, Drug, and Cosmetic Act, except that the Director of the Office of New Drug Evaluation, NCDB, is not authorized to approve those drug products under the jurisdiction of the Office of Biologics, NCDB, in § 314.1(a)(2) of this chapter for which authority has been delegated in paragraph (b) of this section.

(1) The Directors of the Divisions of Anti-Infective Drug Products, Cardio-Renal Drug Products, Surgical-Dental Drug Products, Metabolism and Endocrine Drug Products, Neuropharmacological Drug Products, and Oncology and Radiopharmaceutical Drug Products of the Office of New Drug Evaluation, NCDB, are authorized to perform all functions of the Commissioner of Food and Drugs with regard to approval of supplemental applications to approved new drug applications for drugs for human use that have been submitted under §§ 314.1(c) and 314.8 of this chapter and new drug applications for drug products that contain the identical active drug ingredient (e.g., the same salt of the same therapeutic moiety), or identical combination of active drug ingredients, in the same dosage form and strength, of an approved drug product already marketed in the United States by another firm, and that has, in its labeling, at least some of the therapeutic uses already approved for the marketed product(s), except those under the jurisdiction of the Office of Biologics, NCDB, in § 314.1(a)(2) of this chapter for which authority has been delegated in paragraph (b) of this section.

(2) The Associate and Deputy Associate Director for Drug Monographs and the Director of the Division of Generic Drug Monographs of the Office of Drugs, NCDB, are authorized to perform all functions of the Commissioner of Food and Drugs regarding the approval of abbreviated new drug applications and supplements thereto for drugs for human use that have been submitted under §§ 314.1(f) and 314.8 of this chapter, except those under the jurisdiction of the Office of Biologics, NCDB, in § 314.1(a)(2) of this chapter for which authority has been delegated in paragraph (b) of this section.

(b) The Director and Deputy Director of the Office of Biologics, NCDB, are authorized to perform all functions of the Commissioner of Food and Drugs with regard to approval of new drug applications and supplements thereto for drugs for human use designated in § 341.1(a)(2) of this chapter as being under the jurisdiction of the Office of Biologics, NCDB.

Effective date. This regulation is effective June 22, 1982.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: June 16, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 82-16031 Filed 6-21-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 172

[Docket No. 81F-0354]

Direct Food Additives: Food Additives Permitted for Direct Addition to Food for Human Consumption; Food Preservatives

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of natamycin (pimaricin) as an antimycotic agent on the surfaces of cuts and slices of cheese where provided for by specific standards of identity. This action is in response to a petition filed by G. B. Fermentation Industries, Inc.

DATES: Effective June 22, 1982; objections by July 22, 1982.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of December 8, 1981 (46 FR 60064), FDA announced that a petition (FAP 5A3067) had been filed by G. B. Fermentation Industries, Inc., 1 North Broadway, Des Plaines, IL 60016, proposing that the food additive regulations be amended to provide for the safe use of natamycin (pimaricin) as an antimycotic agent on surfaces of consumer-size cuts and slices of cheese where specifically provided for by the standards of identity for such cheeses.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below. In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the contact person listed above. As provided in 21 CFR 171.1(h)(2), the agency will remove from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has previously considered the potential environmental effects of this regulation as announced in the notice of filing published in the **Federal Register**. No new information or comments have been received that would alter the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

List of Subjects in 21 CFR Part 172

Food additives, Food preservatives, Spices and flavorings.

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 172 is amended in Subpart B by adding new § 172.155 to read as follows:

§ 172.155 Natamycin (pimaricin).

(a) Natamycin (CAS Reg. No. 7681-93-8), also known as pimaricin, is a polyene macrolide antimycotic substance possessing an empirical formula of $C_{33}H_{47}NO_{13}$ and a molecular weight of 665.7.

(b) The additive shall conform to the following specifications:

Purity: 97 percent ± 2 percent on an anhydrous basis.
Arsenic: Not more than 1 part per million.
Heavy metals (as Pb): Not more than 20 parts per million.

(c) The additive may be applied to the surface of cuts and slices of cheese to inhibit mold spoilage with the following limitations:

(1) The additive may be applied by dipping or by spraying, using an aqueous solution containing 200 to 300 parts per million of the additive.

(2) The additive may be applied to the surface of those cuts and slices of cheese(s) listed in Part 133 of this chapter only if the cheese standards provide for the use of "safe and suitable" mold-inhibiting ingredients.

Any person who will be adversely affected by the foregoing regulation may at any time on or before July 22, 1982, submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective June 22, 1982.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: June 11, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-16782 Filed 6-21-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 178

[Docket No. 79F-0478]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Antistatic and/or Antifogging Agents in Food-Packaging Materials

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the food additive regulations to provide for the safe use of *N*-methacryloyl ethyl-*N,N*-dimethylammonium-α-*N*-methyl carboxylate, octadecyl methacrylate, ethyl methacrylate, cyclohexyl methacrylate, *N*-vinyl-2-pyrrolidone copolymer as an antistatic agent in polyolefin films. This action is in response to a petition filed by Mitsubishi Petrochemical Co.

DATES: Effective June 22, 1982; objections by July 22, 1982.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Food and Drug Administration, Bureau of Foods (HFF–334), 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of February 15, 1980 (45 FR 10448), FDA announced that a petition (FAP 8B3390) had been filed by Mitsubishi Petrochemical Co., c/o SL Testing Institute, Enfield, CT 06082, proposing that the food additive regulations be amended to provide for the safe use of *N*-methacryloyl ethyl *N, N*-dimethylammonium-α-*N*-methylcarboxylate, octadecyl methacrylate, ethyl methacrylate, cyclohexyl methacrylate, *N*-vinyl-2-pyrrolidone copolymer as an antistatic agent in polyolefin films.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in § 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has previsouly considered the potential environmental effects of this regulation as announced in the notice of filing published in the **Federal Register**. No new information or comments have been received that would alter the agency's previous determination that there is no significant impact on the human environmental and that an environmental impact statement is not required.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging, Sanitizing solutions.

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 178 is amended in § 178.3130(b) by alphabetically inserting a new item in the list of substances to read as follows:

§ 178.3130 Antistatic and/or antifogging agents in food-packaging materials.

* * * * *

(b) * * *

List of substances	Limitations
* * * * *	
N-Methacryloyl ethyl-*N,N*-dimethylammonium-α-*N*-methyl carboxylate, octadecyl methacrylate, ethyl methacrylate, cyclohexyl methacrylate, *N*-vinyl-2-pyrrolidone copolymer. (CAS Reg. No. 64913–46–6).	For use only as an antistatic agent at levels not to exceed 0.2 percent by weight of polyolefin films that contact foods under the conditions of use B through H described in table 2 of § 176.170(c) of this chapter. The average thickness of such polyolefin film shall not exceed 0.02 centimeter (0.008 inch).
* * * * *	

Any person who will be adversely affected by the foregoing regulation may at any time on or before July 22, 1982 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that

objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective June 22, 1982.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: June 15, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-16763 Filed 6-21-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin and Sulfamethazine

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by I.M.S., Inc., for use of a tylosin and sulfamethazine premix in the manufacture of swine feeds.

EFFECTIVE DATE: June 22, 1982.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: I.M.S., Inc., 13619 Industrial Rd, Omaha, NE 68137, is sponsor of NADA 129–646 for Tylan 5 Sulfa, a premix containing 5 grams per pound each of tylosin (as tylosin phosphate) and sulfamethazine. The NADA provides for safe and effective use of the premix for subsequent manufacture of complete swine feed to be used for (1) maintaining weight gains and feed efficiency in the presence of atrophic rhinitis, (2) lowering the incidence and severity of *Bordetella bronchiseptica* rhinitis, (3) preventing swine dysentery (vibrionic); and (4) controlling swine pneumonias caused by bacterial pathogens (*Pasteurella multocida* and/or *Corynebacterium pyogenes*).

Approval of the application is based on safety and effectiveness data contained in Elanco Products Co.'s approved NADA's 12–491 and 41–275. Elanco has authorized FDA to refer to these applications to support approval of the application. Because this approval does not change the approved use of the drug, it poses no increased human risk from exposure to drug residues and does not affect the conditions of safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of this NADA has been treated as would approval of a Catergory II supplement and does not require reevaluation of the safety and effectiveness data contained in NADA's 12–491 and 41–275.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.630 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.630 *Tylosin and sulfamethazine* by adding, in numerical sequence, drug sponsor code "050639" to paragraph (b)(9).

Effective date. June 22, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: June 14, 1982.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 82-16831 Filed 6-21-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF LABOR

Wage and Hour Division, Employment Standards Administration

29 CFR Part 697

Industries in American Samoa; Wage Order

AGENCY: Wage and Hour Division, Labor.

ACTION: Final rule.

SUMMARY: Under the Fair Labor Standards Act, minimum wage rates in American Samoa are set by a special industry committee appointed by the Secretary of Labor. After such a committee has investigated conditions in American Samoa, it recommends minimum wage rates which much be published in the Federal Register and which become the new wage rates. Industry Committee No. 15 for American Samoa has completed its review and established new minimum wage rates, which are published herewith.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Daniel F. Sweeney, Special Assistant, Office of Fair Labor Standards, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S3504, Washington, DC 20210, Phone: 202–523–7531.

SUPPLEMENTARY INFORMATION: Pursuant to sections 5, 6, and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064), as amended (29 U.S.C. 205, 206, 208) and Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and by means of Administrative Order No. 656 (47 FR 4778), the Secretary of Labor appointed and convened Industry Committee No. 15 for Industries in American Samoa, referred to the Committee the question of the minimum rate or rates of wages to be paid under section 8 of the act to such employees, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee has filed with the Administrator of the Wage and Hour Division of the Department of Labor a report containing its findings of fact and

recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950 and 29 CFR 511.18, the recommendations of Industry Committee No. 15 are hereby published, revising §§ 697.1 and 697.3 of Part 697, Title 29, Code of Federal Regulations.

Because, under sections 5, 6, and 8 of the Fair Labor Standards Act and 29 CFR 511.18, the Department has no authority to disapprove the recommended rates set by the industry committee, the Department finds, pursuant to 5 U.S.C. 553(b)(3)(B), that notice and public procedure thereon under the Administrative Procedure Act are not necessary.

The wage rates for government employees apply only to employees of the Government of American Samoa and its political subdivisions who are engaged in nontraditional activities. *In National League of Cities* v. *Usery*, 426 U.S. 833 (1976), the Supreme Court held that the minimum wage and overtime provisions of the Fair Labor Standards Act are not constitutionally applicable to the integral operations of the States and their political subdivisions in areas of traditional governmental functions. According to the Court, such functions include among others, schools and hospitals, fire prevention, police protection, sanitation, public health, and parks and recreation. Nontraditional functions, however, continue to be covered by the Fair Labor Standards Act. While this decision dealt with the 50 States and their political subdivisions, it is apparent, as a matter of statutory interpretation, that the restrictions imposed as a result of *National League of Cities* should be the same in American Samoa.

Determinations of whether particular functions are traditional will be made by the Courts or by the U.S. Department of Labor on a case-by-case basis. Determinations that particular functions are nontraditional will be published in the **Federal Register** in the form of amendment to Title 29 CFR 775.3. A determination was issued by the Wage and Hour Division of the Department of Labor on August 14, 1979, that American Samoa Government's communication system, electric utility, marine railway and liquor store should be considered nontraditional activities since these operations appear to be essentially no different from regular commerical operations in the United States. The amendment to Regulations § 775.3 incorporating these earlier decisions was published in the **Federal Register** on December 21, 1979.

The rates set forth herein for government workers apply only to such activities as are determined to be nontraditional. This document was prepared under the direction and control of Deputy Administrator, Herbert J. Cohen, Wage and Hour Division.

Classification

This rule is not classified as a "rule" under Executive Order 12291 on Federal Regulations because the Department is simply complying with the statutory requirement of publishing the recommendations of an industry committee in accordance with sections 5, 6, and 8 of the Fair Labor Standards Act. Pursuant to such sections, the Department is required to approve the recommendations of such industry committee and to publish such recommendations in the **Federal Register**. The performance of such a ministerial act by the Department does not constitute the promulgation of a "rule" under E.O. 12291.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for the rule under 5 U.S.C. 553(b) the requirements of the Regulatory Flexibility Act, Pub. L. 96–354, Stat. 1164, 5 U.S.C. 601 et seq. pertaining to regulatory flexibility analysis, do not apply to this rule. See: 5 U.S.C. 601(c).

List of Subjects in 29 CFR Part 697

Minimum wages, American Samoa.

Accordingly, Part 697 of Chapter V of Title 29, Code of Federal Regulations is amended as set forth below.

PART 697—INDUSTRY IN AMERICAN SAMOA

Part 697 of Title 29 CFR is amended as follows:

1. The authority citation for Part 697 reads as follows:

Authority.—Secs. 5, 6, 8, 52 Stat., 1062, 1064; 29 U.S.C. 205, 206, 208.

2. Section 697.1 (a)(1), (b)(1), (c)(1), (d)(1), (e)(1), (f)(1), (g)(1), (h)(1), (i)(1), (j)(1), (k)(1), (l)(1), (m)(1), (n)(1), is revised to read as follow:

§ 697.1 Wage rates and industry definitions.

* * * * *

(a) *Fish canning and processing and can manufacturing industry.* (1) The minimum wage for this industry is $2.55 an hour effective July 1, 1983.

* * * * *

(b) *Shipping and transportation industry.* (1) The minimum wage for classification A, stevedore, lighterage and maritime shipping agency activity, is $2.53 an hour effective July 1, 1983. The minimum wage for classification B, all other activities, is $2.42 an hour effective July 1, 1983.

* * * * *

(c) *Tour and travel service industry.* (1) The minimum wage for this industry in $1.98 an hour for a period of 1 year following the July 1, 1982, effective date specified in § 697.3 and $2.13 an hour thereafter.

* * * * *

(d) *Petroleum marketing industry.* (1) The minimum wage for this industry is $2.53 an hour effective July 1, 1983.

* * * * *

(e) *Construction industry.* (1) The minimum wage for this industry is $2.00 an hour for a period of 1 year following the July 1, 1982, effective date specified in § 697.3 and $2.15 an hour thereafter.

* * * * *

(f) *Hotel industry.* (1) The minimum wage for this industry is $1.60 an hour effective July 1, 1983.

* * * * *

(g) *Retailing, wholesaling and warehousing industry.* (1) The minimum wage for this industry is $1.75 an hour for a period of 1 year following the July 1, 1982 effective date specified in § 697.3 and $1.85 an hour thereafter.

* * * * *

(h) *Laundry and dry cleaning industry.* (1) The minimum wage for this industry is $1.26 an hour for a period of 1 year following the July 1, 1982 effective date specified in § 697.3 and $1.32 an hour thereafter.

* * * * *

(i) *Bottling and dairy products industry.* (1) The minimum wage for this industry is $1.69 an hour for a period of 1 year following the July 1, 1982 effective date specified in § 697.3 and $1.84 an hour thereafter.

* * * * *

(j) *Printing and publishing industry.* (1) The minimum wage rate for this industry is $1.99 an hour for a period of 1 year following the July 1, 1982 effective date specified in § 697.3 and $2.09 an hour thereafter.

* * * * *

(k) *Finance and insurance industry.* (1) The minimum wage rate for this industry is $2.18 an hour for a period of 1 year following the July 1, 1982 effective date specified in § 697.3 and $2.31 an hour thereafter.

* * * * *

(l) *Private hospital and education institutions industry.* (1) The minimum wage rate for this industry is $1.60 an hour for a period of 1 year following the

July 1, 1982 effective date specified in § 697.3 and $1.66 an hour thereafter.

* * * * *

(m) *Government employees industry (nontraditional activities).* (1) The minimum wage rate for this industry is $1.79 an hour effective October 1, 1982.

* * * * *

(n) *Miscellaneous activities industry.* (1) The minimum wage rate for this industry is $1.59 an hour for a period of 1 year following the July 1, 1982 effective date specified in § 697.3 and $1.67 an hour thereafter.

* * * * *

3. Section 697.3 is revised to read as follows:

§ 697.3 Effective dates.

The wage rates specified in § 697.1 shall be effective as follows:

(a) Paragraphs (a), (b), (d), and (f) of § 697.1 are effective on July 1, 1983.

(b) Paragraph (m) of § 697.1 is effective on October 1, 1982.

(c) Paragraphs (c), (e), (g), (h), (i), (j), (k), (l), and (n) of § 697.1 are effective on July 1, 1982.

Signed at Washington, D.C. this 16th day of June, 1982.

William M. Otter,

Administrator, Wage and Hour Division, U.S. Department of Labor.

[FR Doc. 82-16906 Filed 6-21-82; 8:45 am]

BILLING CODE 4510-27-M

DEPARTMENT OF INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

Removal of Conditions of Approval of the Utah Permanent Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 944 to remove certain of the conditions of approval of the Utah permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), to extend the deadline for the State to meet certain other conditions, and to impose a new condition of approval on the State's program.

Utah received conditional approval of its permanent program effective December 23, 1980. Utah submitted to the Department of Interior provisions to satisfy ten of the twelve conditions of approval. The Secretary is approving certain of the amendments submitted by the State and removing seven of the conditions of approval. With regard to certain other amendments the Secretary has determined they do not fully satisfy the conditions of approval and, therefore, he is granting the State additional time to submit further revisions. In addition, it has recently come to the Secretary's attention that a provision of Utah's program is inconsistent with the Federal requirements under SMCRA. Accordingly, the Secretary is imposing a new condition of approval to require the State to remedy this inconsistency.

EFFECTIVE DATE: The removal of these conditions of approval, the extension of the deadline for the State to meet certain conditions and the imposition of a new condition of approval are effective June 22, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone: (202) 343-5351.

SUPPLEMENTARY INFORMATION:

Background on the Utah Program Submission

On March 13, 1980, the State of Utah submitted to the Department of the Interior its proposed permanent regulatory program under SMCRA. On October 3, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved in part and disapproved in part the proposed program. Notice of that decision and the Secretary's findings were published in the **Federal Register** on October 24, 1980 (45 FR 70481-70510). The State of Utah resubmitted its program for approval by the Secretary on December 23, 1980. The resubmitted program included those portions of the initial submission not approved by the Secretary on October 3, 1980. After review of the program resubmission, the Secretary determined that the Utah program, including the resubmission, did, with minor exceptions, meet the requirements of SMCRA and the Federal permanent program regulations. Accordingly, the Secretary of the Interior conditionally approved the Utah program subject to the correction of 12 minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the January 21, 1981 **Federal Register** (46 FR 5899-5915).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Utah program can be found in the January 21, 1981 **Federal Register** (46 FR 5899-5915) and the March 25, 1981 **Federal Register** (46 FR 18541-18546).

Background on the Secretary's Conditional Approval

The Secretary of the Interior determined that the Utah program contained 12 minor deficiencies. The Secretary's approval of Utah's program was, therefore, subject to the State's adopting the following provisions:

(a) A statutory amendment which deletes the condition in section 40-10-10(d) UCA of the Utah CMRA which limits the Small Operator Assistance Program to receipt of funding from the Office of Surface Mining, to be consistent with section 507(c) of SMCRA.

(b) A statutory amendment which revises the dates for the following determinations to be consistent with the dates of SMCRA:

(1) The date for the establishment of the "grandfathering" for alluvial valley floors under section 40-10-11(2)(e)(ii) UCA/section 510(b)(5)(B) of SMCRA;

(2) The date for prime farmland permit application requirements under section 40-10-11(4) UCA/section 510(d)(2) of SMCRA;

(3) The date for the establishment of valid existing rights in section 40-10-24(4) UCA/section 522(e) of SMCRA;

(4) The date for the determination of substantial legal and financial commitments in section 40-10-24(1)(e) UCA/section 522(a)(6) of SMCRA.

(c) A statutory amendment which corrects the errors in sections 40-10-17(2)(j)(ii)(B) UCA and 40-10-16(4) UCA to be consistent with sections 515(b)(10)(B)(ii) and 519(d) of SMCRA.

(d) A statutory amendment which revises the jurisdiction of the Utah courts such that a suit against the United States cannot be conducted in a State court but only in a Federal court under section 40-10-21 UCA of the Utah CMRA, to be consistent with section 520 of SMCRA.

(e) A statutory amendment which recognizes "private" mineral estates under section 40-10-11(f) UCA to be consistent with section 510(b)(6) of SMCRA.

(f) Regulations adopting standards for the reduction of highwalls in UMC 817.101(b)(1) to be consistent with 30 CFR 817.101 and section 510 of SMCRA.

(g) Regulations adopting a sediment pond exemption provision in UMC

817.42(a)(3) consistent with 30 CFR 817.42(a)(3)(ii)(A).

(h) Regulations specifying that underdrains are required in all valley fills unless a waiver is granted in connection with an experimental practice approved by OSM, in UMC 817.72(b)/SMC 816.72(c) and specifying lifts for valley fills will not be greater than four feet, or less, if required by the regulatory authority, in UMC 817.72(c)/SMC 816.72(c) consistent with 30 CFR 817.72(c).

(i) Regulations adopting well transfer liability provisions in UMC 817.53(c) consistent with 30 CFR 817.53(c).

(j) Regulations providing for surface owner protection from the potential effects of subsidence in UMC 817.124(b)(1) and (3) consistent with 30 CFR 817.124(b)(1) and (3).

(k) Regulations prohibiting the placement of certain materials on the downslope in steep slope areas in UMC 817.101(c) consistent with 30 CFR 826.12(a).

(l) Regulations which allow monitoring as a subsidence control measure in UMC 784.20(c)(3)(v) consistent with 30 CFR 784.20(b)(3)(v).

In accepting the Secretary's conditional approval, Utah agreed to correct deficiencies "a"–"e" by December 1, 1981, and deficiencies "f"–"l" by July 1, 1981.

Subsequently, Utah requested an extension of the deadline to meet conditions "f", "g" and "h" until January 1, 1982. On October 30, 1981 (46 FR 54070), OSM announced its decision to grant the State's request.

Utah recently requested a second extension of the deadline for the State to meet conditions "f" and "h" until January 1, 1983. The State's request is currently under consideration by OSM.

Submission of Revisions

On June 29, 1981, Utah submitted statutory and regulatory revisions intended to satisfy ten of the 12 conditions including conditions "a"–"e", "g", and "l"–"l".

OSM published a notice in the **Federal Register** on February 18, 1982, announcing receipt of these provisions and inviting public comment on whether the proposed program amendments corrected the deficiencies (46 FR 7264–7266). The public comment period ended March 19, 1982. A public hearing was held on March 16, 1982, during which interested persons were provided an opportunity to make an oral or written presentation on the substantive adequacy of the program amendments submitted to satisfy conditions of approval.

Secretary's Findings

The Secretary finds the amendments submitted by Utah on June 29, 1981, satisfy conditions "a"–"e", "g", and "l"–"l" as follows:

1. Section 40–10–10(d)(3) of Utah House Bill No. 66 removes the condition which limits the Small Operator Assistance Program to receipt of funding from OSM. The State program, as amended, is consistent with section 507(c) of SMCRA; thus, the Secretary finds that the State has satisfied condition "a".

2a. Section 40–10–11(2)(e)(ii) UCA of Utah House Bill No. 66 establishes that the requirements contained in sections 40–10–11(2)(e)(i) UCA shall not affect surface coal mining operations conducted in the year preceding August 3, 1977. The State Act, as amended, is consistent with section 510(b)(5)(B) of SMCRA; thus, the Secretary finds that Utah has satisfied condition (b)(1).

b. Section 40–10–11(4)(b) UCA of Utah House Bill No. 66 establishes that the provisions of section 40–10–11(4) UCA shall not apply to permits issued prior to August 3, 1977. The State Act, as amended, is consistent with section 510(d)(2) of SMCRA; thus, the Secretary finds that Utah has satisfied condition (b)(2).

c. Section 40–10–24(4) UCA of Utah House Bill No. 66 establishes that, subject to valid existing rights, the prohibitions set forth in section 40–10–24(4) UCA shall not apply to surface coal mining operations which existed on August 3, 1977. The State Act, as amended, is consistent with section 522(e) of SMCRA; thus, the Secretary finds that Utah has satisfied condition (b)(3).

d. Section 40–10–24(1)(e) UCA specifies that the requirements of section 40–10–24(1) UCA for designating areas as unsuitable for surface coal mining shall not apply to surface coal mining operations in which a substantial legal and financial commitment had been made prior to January 1, 1977. The State Act, as amended, is consistent with section 522(a)(6) of SMCRA; thus, the Secretary finds that Utah has satisfied condition (b)(4).

3. Utah House Bill No. 66 corrects sections 40–10–17(2)(j)(ii)(B) UCA and 40–10–16(4) UCA to be consistent with sections 515(b)(10)(B)(ii) and 519(d) of SMCRA. Therefore, the Secretary finds that the State has met condition (c).

4. Utah House Bill No. 66 revises the jurisdiction of the Utah courts such that a suit against the United States cannot be conducted in a State court but only in a Federal court under section 40–10–21 UCA of the Utah CMRA. The State program, as amended, is consistent with section 520 of SMCRA and, therefore, the Secretary finds that the State has satisfied condition "d".

5. Utah House Bill No. 66, section 40–10–11(2)(f) changes "state mineral estate" to "private mineral estate." With this change, the Utah statute is consistent with section 510(b)(6) of SMCRA concerning the determination of property rights. Therefore, the Secretary finds that the State has met condition "e".

6. Utah amended regulations UMC 817.42(a)(3)(i) and 817.42(a)(3)(ii)(A)(B) provide that an exemption to the sedimentation pond requirements for drainage from areas affected by surface operations and facilities may be authorized only under limited circumstances. The State's program, as amended, applies the sedimentation pond exemption in a manner consistent with the requirements of 30 CFR 817.42(a)(3) with two exceptions. UMC 817.42(a)(3)(i)(B) provides that the person who conducts underground coal mining activities shall demonstrate that the drainage will not degrade the quality of receiving waters. However, the State regulation, as amended, does not specify what standards are to be used in determining whether the quality of receiving waters will be degraded.

Utah's regulation must specify that the regulatory authority will base its determination of whether the quality of receiving waters will be degraded by the drainage on applicable State and Federal water quality standards.

In addition, Utah's amended rule UMC 817.42(a)(3)(i) specifies that the regulatory authority may authorize an exemption from the sedimentation pond requirement if the underground mine operator demonstrates that the drainage *either* meets applicable effluent limitation standards *or* doesn't degrade the quality of receiving waters. The State's provision is inconsistent with OSM's regulation at 30 CFR 817.42(a)(3)(i) which requires that the operator demonstrate that the drainage meets *both* the effluent limitation standards and the water quality standards for receiving streams.

Because Utah submitted material to satisfy this condition which the State, in good faith, believed to be adequate, the Secretary has decided to extend the date by which Utah must submit new material to satisfy this condition. In order to allow Utah adequate time to draft and pass a suitable regulation, the Secretary hereby extends the date by which Utah must satisfy condition "g" to September 1, 1982.

7. Utah amended regulations UMC 817.53(c) and SMC 816.53(c) provide that upon an approved transfer of a well, the transferor shall be secondarily responsible to the regulatory authority for the transferee's obligations until release of the bond for the area in which the well is located. It is further specified that any legal liability of the transferor for damage to persons or property from the well shall be determined in accordance with applicable law.

The Secretary finds that Utah's amended rules are less effective than the corresponding Federal regulations. Under 30 CFR 816.53(c), the transferor shall be secondarily liable for damages to "persons or property from the well" until release of the bond. Utah's rules differ from their Federal counterparts in that the transferor is not secondarily liable for damage to persons or property but rather "secondarily responsible" to the regulatory authority for meeting the requirements of the State program regulations. Under Utah's regulation the legal liability of the transferor for damage to persons or property from the well would be determined in accordance with applicable law. The State provisions are, therefore, not as effective as the Federal regulations because the transferor is not held secondarily liable in all cases for damages to persons or property. Because Utah submitted material to satisfy this condition which the State, in good faith, believed to be adequate, the Secretary has decided to extend the date by which Utah must submit new material to satisfy this condition. In order to allow Utah adequate time to draft and promulgate a suitable regulation, the Secretary hereby extends the date by which Utah must satisfy condition "i" to September 1, 1982.

8. Utah amended regulation UMC 817.124(b) provides for surface owner protection from the potential effects of subsidence consistent with 30 CFR 817.124(b) (1) and (3). Therefore, the Secretary finds that the State has satisfied condition "j".

9. Utah's amended regulation UMC 817.101(c) which prohibits the placement of certain materials on the downslope in steep slope areas is consistent with 30 CFR 826.12(a) with one exception.

Utah has essentially adopted the language of 30 CFR 826.12(a) regarding placement of spoil on the downslope but has added the following sentence which appears to authorize an exemption from compliance with these standards under certain circumstances: "Nothing in this subsection (c) prohibits placement of the following materials on steep slopes in accordance with provisions of other performance standards". It is not clear from the wording of this sentence under what specific circumstances an exemption would be allowed. OSM has discussed this matter with the State and feels confident that Utah did not intend to provide a standard less effective than the Federal rule. However, to eliminate any ambiguity with regard to the State's provision, OSM has asked the State to submit a clarifying statement regarding the added sentence under UMC 817.101(c) explaining what "materials" could be placed on steep slopes under which "provisions of other performance standards". The Secretary has decided to extend the date for Utah to meet condition "k" until September 1, 1982, to allow the State time to submit the clarifying statement.

10. Utah amended regulation UMC 784.20(b)(3)(v) allows monitoring as a subsidence control measure consistent with 30 CFR 784.20(c)(3)(v). Therefore, the Secretary finds that the State has satisfied condition "l".

Public Comment

The Environmental Protection Agency (EPA) submitted a comment on Utah's amended rule UMC 817.42(a)(3) intended to satisfy condition "g" regarding the limitation of the exemption for persons conducting underground mining from the requirement for a sedimentation pond for drainage from areas affected by surface operations and facilities. EPA noted that Utah's provision indicates that an exemption from the sedimentation pond requirement may be authorized by the regulatory authority if the underground mine operator demonstrates that the drainage *either* meets applicable effluent limitation standards *or* doesn't degrade the quality of receiving waters. The commenter stated that the underground mine operator must comply with both the applicable effluent limitations *and* the applicable State and Federal water quality standards for downstream receiving waters. The Secretary agrees with EPA's point and, as noted in Finding 6, has granted Utah an extension of time to correct the identified deficiency in its provision.

The Minerals and Management Service (MMS) of the U.S. Department of the Interior also submitted comments on Utah's amendments. MMS made several points with regard to provisions of Utah's amended rules that are analogous to provisions of the Federal regulations. While the commenter's points may have merit, the Secretary cannot require the State to include in its program provisions which are more stringent than or which deviate from those contained in the Act and the Federal regulations.

OSM received a written comment on the proposed amendments submitted by Utah from Mr. Ted Crawford of Salt Lake City, Utah, the National Audubon Society and the Environmental Policy Institute. The commenters indicated they believed that the amendments submitted by Utah satisfied conditions "a"–"e", "j" and "l". The Secretary agrees with the commenters' position that the amendments satisfy conditions "a"–"e", "j" and "l". Accordingly, the Secretary is by this notice removing those conditions.

With respect to Utah amended rule UMC 817.42(a)(3), the commenters asserted that the amendment failed to satisfy condition "g" regarding the limitation of the exemption for persons conducting underground mining from the requirement for a sedimentation pond for drainage from areas affected by surface operations and facilities. The commenters stated that Utah's rule failed to limit the application of the sediment pond exemption to small areas as provided at 30 CFR 817.42(a)(3). They also stated that Utah's provision does not clarify how the regulatory authority shall determine that receiving streams will not be degraded by drainage from surface operations and facilities of underground mines.

The Secretary agrees that Utah's regulation does not specify what guideline will be used by the regulatory authority to determine whether receiving waters have been degraded by drainage from surface facilities and operations of underground mines. The Secretary has, therefore, granted the State an extension of time to submit additional materials to correct this deficiency (See finding 6). The Secretary does not believe that Utah's omission of a provision to limit the exemption from the sedimentation pond requirement to small areas is of critical concern provided the State program requires the regulatory authority to make the following assurances: (1) That any mixture of undisturbed drainage with a discharge from the underground workings be passed through a treatment facility as necessary and that the mixture meet the applicable State and Federal effluent limitation standards, and (2) the drainage from surface operations and facilities of underground mining operations not degrade the quality of receiving waters. As Utah's rules with one exception, are consistent with the Federal rules in these regards, the Secretary finds the State's provisions will correct condition "g" if the State corrects the deficiency noted in Finding 6.

Regarding Utah amended rules SMC/UMC 816.53(c) and 817.53(c), the commenters indicated that the State's rules fail to require that the transferor of a well be secondarily liable for damages to persons and property as required by 30 CFR 816.53(c) and 817.53(c) and do not, therefore, satisfy condition "l" of the Secretary's approval. The Secretary believes the commenters' points regarding Utah's amendment to satisfy condition "l" are valid. As noted in Finding 7, the Secretary has granted the State an extension of time to submit material to correct the identified deficiencies in the State's rules.

With respect to Utah amended rule UMC 817.101(c), the commenters noted that Utah has essentially adopted the language of 30 CFR 816.12(a) regarding placement of spoil on the downslope but has added a sentence which appears to authorize an exemption from compliance with these standards where placement of such materials is consistent with other performance standards. They assert that this exemption makes Utah's amendment less effective than the Federal rule. The Secretary agrees with the commenters' point that Utah's regulation to satisfy condition "k" contains language which could be misconstrued as an exemption to the requirements for placement of spoil on the downslope which is inconsistent with the Federal standard. Hence, as noted in Finding 9, the Secretary has granted Utah an extension of time to submit a clarifying statement relative to the ambiguous language in its regulation.

In addition to the written comments submitted by him and others, Mr. Frank Crawford provided oral comments at the hearing held March 16, 1982. Some of the points discussed by Mr. Crawford related to OSM's implementation of the Act, OSM's revisions of the Federal regulations, and OSM's approval of a cooperative agreement with Utah for the State to regulate surface coal mining operations on Federal lands within its borders. While the commenter's points may have merit they are not pertinent to the amendments being addressed in this rulemaking. Mr. Crawford did comment on the amendment submitted by Utah to satisfy condition "j" concerning Utah's regulation providing for surface owner protection from the potential surface effect of subsidence. Some of his points related to paragraph (a) of Utah regulation UMC 817.124. Condition "j" requires that Utah amend paragraphs (b)(1) and (b)(3) of UMC 817.124; therefore, paragraph (a) is not at issue in determining the adequacy of the State's submission in satisfying condition "j".

With respect to paragraph (b)(2) of Utah rule UMC 817.124, Mr. Crawford asserted that the phrase "to the extent technologically and economically feasible" should be removed. He alluded to a proposed change to 30 CFR 817.124 that would remove that phrase. For the purposes of deciding the adequacy of Utah's amendment in meeting the condition, the Secretary must rely on the Act and the Federal regulations in effect as the standard of approval. He cannot rely on proposed changes to the Federal rules. The Federal regulation in effect at 30 CFR 817.124(b)(2) includes the phrase "to the extent technologically and economically feasible" in the same context as in Utah's amended rule. The resubmitted version of UMC 817.124(b), in fact, reads almost verbatin the same as 30 CFR 817.124(b). The Secretary cannot require the State to include in its program provisions which are more stringent than the Federal standard. Hence, as noted in finding 8 above, the Secretary is approving Utah's amendment and removing condition "j".

Removal of Conditions

Accordingly, the Utah permanent program is hereby amended to indicate approval of the June 29, 1981, amendments which satisfy conditions "a"–"e", "j", and "l". 30 CFR 944.11 (a), (b), (c), (d), (e), (j), and (l) are hereby repealed and the deadline for Utah to satisfy conditions "g", "k" and "i" is extended to September 1, 1982. The removal of these conditions of approval of the Utah permanent program and the extension of the deadlines to meet three of the conditions are effective upon publication of this notice.

New Condition of Approval

In Utah's initial program submission of March 13, 1980, the State set forth at UMC/SMC 785.19(d) the permit application requirements for operations affecting designated alluvial valley floors. At UMC/SMC 785.19(e), the State prescribed the conditions that must be demonstrated by the applicant prior to conducting operations on lands west of the 100th meridian. Utah also added a provision at UMC/SMC 785.19(c) to waive the provisions of UMC/SMC 785.19 (d) and (e) where the Division determines that the proposed surface operation will not adversely affect the alluvial valley floor. In the October 24, 1980, **Federal Register** notice in which the Secretary partially approved and partially disapproved Utah's initial program submission (45 FR 70481–70510), the Secretary disapproved Utah's waiver provision at UMC/SMC 785.19(c). The Secretary found the State's provision inconsistent with 30 CFR 785.19 (c) and (d) which provide no waiver comparable to that included in Utah's program (See finding 4(d)(iv), 45 FR 70490).

The program resubmitted by Utah on December 23, 1980, included an amendment to UMC/SMC 785.19(c) deleting the provision which had allowed a waiver of the requirements of subsections (d) and (e) of UMC/SMC 785.19 where the Division determined that the proposed surface operation would not adversely affect an alluvial valley floor.

The amended version of UMC/SMC 785.19(c) was discussed under finding 4(d)(iv) in the January 21, 1981, **Federal Register** notice announcing conditional approval of the Utah State program (46 FR 5906). In that finding the Secretary noted that the amendment adopted by Utah on December 18, 1980, which deleted the waiver provisions, made the State's regulation consistent with 30 CFR 785.19 (c) and (d).

Recently it was brought to the Secretary's attention that the December 18, 1980, amendment to UMC/SMC 785.19(c) was not enacted, as stated in Finding 4(d)(iv), but merely proposed at the time of the Secretary's decision to conditionally approve the Utah program. The State has since not enacted the amendment. In discussing this matter with Utah, OSM has learned that the State does not wish to enact the amendment to UMC/SMC 785.19(c) as proposed in December 1980, but would prefer that OSM approve UMC/SMC.19(c) as it appeared in the State's initial program submission of March 13, 1980, which is the version of the rule now in effect.

OSM has completed its reexamination of Utah's rule and has found it to be inconsistent with the Act and OSM's regulations. OSM's provisions at 30 CFR 785 and 822: (1) Provide for the protection of essential hydrologic functions for all alluvial valley floors and (2) prohibit material damage to the quantity or quality of water systems that supply alluvial valley floors which are significant to farming.

With respect to the Federal requirements for insuring that the surface mining operation does not materially damage the quantity or quality of water, Judge Thomas Flannery ruled (*In re:* Permanent Surface Mining Regulation Litigation, Civil No. 79–1144 D.D.C., May 16, 1980) that the material damage requirements only apply to alluvial valley floors that are significant to farming. Hence, although OSM's regulations do not explicitly allow a waiver to the material damage requirements at 30 CFR 785 and 822,

under Judge Flannery's decision the regulatory authority cannot require an operator to comply with those requirements if a determination has been made that the alluvial valley floor is insignificant to farming. Regardless of the regulatory authority's determination with respect to the alluvial valley floor's significance to farming, the permit applicant must submit adequate information and analysis to allow the regulatory authority to determine that the operation will preserve the essential hydrologic functions of the alluvial valley floor, and must comply with the performance standards at 30 CFR 822 relative to the protection of the essential hydrologic function of the alluvial valley floor.

Utah's provision at 30 CFR 785.19(c) allows a waiver of the requirements for the protection of essential hydrologic functions as well as the material damage requirements. The State's provisions are, therefore, inconsistent with the Federal rules as interpreted by Judge Flannery which do not allow a waiver of the requirements for the protection of essential hydrologic functions, but only of the material damage requirements where the regulatory authority determines the alluvial valley floor is insignificant to farming.

Accordingly, the Secretary is requiring Utah to amend its program by deleting the waiver provision at UMC/SMC 785.19(c) or otherwise amend its program to be consistent with the Federal standard. The Secretary is imposing a new condition of approval on Utah's program at 30 CFR 944.11(m) requiring the State to correct the deficiency in its program by January 1, 1983. In a letter to the Director dated June 1, 1982, Mr. Cleon B. Feight, director of Utah's Division of Oil, Gas and Mining, Department of Natural Resources and Energy, agreed to satisfy the new condition by January 1, 1983.

Until the State submits an amendment to its program to satisfy condition "m", the Secretary will expect that the State regulatory authority will not exercise the discretion to waive requirements which it is currently allowed to do under UMC/SMC 785.19(c).

Additional Determinations

1. *Compliance With the National Environmental Policy Act.* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Compliance With the Regulatory Flexibility Act.* The Secretary hereby determines that this proposed rule will not have a significant economic impact on small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

3. *Compliance With Executive Order No. 12291.* On August 28, 1981, the Office of Management and Budget (OMB) granted the Office of Surface Mining exemption from sections 3, 4, 6 and 8 of Executive Order 12291 for all actions taken to approve or conditionally approve State regulatory programs, actions or amendments. Therefore, a Regulatory Impact Analysis and regulatory review by OMB is not needed for this program amendment.

4. *Concurrence of the Environmental Protection Agency.* On April 19, 1982, the Environmental Protection Agency transmitted its written concurrence on all the amendatory provisions addressed in this notice, with the exception of UMC 817.42(a)(3)(i) submitted by Utah to satisfy condition "g". As noted in Finding 6, the Secretary agrees with EPA that Utah's provision to satisfy condition "g" is inadequate and has granted the State an extension of time to correct the identified deficiencies in the State's provision.

List of Subjects in 30 CFR Part 944

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, Part 944 of Title 30 is amended as set forth herein.

Dated: May 13, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

PART 944—UTAH

1. 30 CFR 944.10 is amended by revising (a) to read as follows:

§ 944.10 [Amended]

(a) The Utah State Program, as submitted on March 3, 1980, amended and clarified on June 16, July 24, 1980, and June 29, 1981, as resubmitted on December 23, 1980, is conditionally approved, effective January 21, 1981.

* * * * *

2. 30 CFR 944.11 is amended by removal of the material and reserving paragraphs (a), (b), (c), (d), (e), (j) and (l), by the revision of paragraphs (g), (i) and (k) and by the addition of a new paragraph (m) to read as follows:

§ 944.11 [Amended]

(a) [Reserved].
(b) [Reserved].
(c) [Reserved].
(d) [Reserved].
(e) [Reserved].
(f) * * *

(g) The approval in § 944.11 will terminate on September 1, 1982, unless Utah submits to the Secretary by that date copies of fully enacted regulations adopting a sediment pond exemption provision in U.M.C. 817.42(a)(3) consistent with 30 CFR 817.42(a)(3)(ii)(A), or otherwise amends its program to accomplish the same result.

(h) * * *

(i) The approval in § 944.11 will terminate on September 1, 1982, unless Utah submits to the Secretary by that date copies of fully enacted regulations adopting well transfer liability provisions to U.M.C. 817.53(c) consistent with 30 CFR 817.53(c), or otherwise amends its program to accomplish the same result.

(j) [Reserved].

(k) The approval in § 944.11 will terminate on September 1, 1982, unless Utah submits to the Secretary by that date copies of fully enacted regulations prohibiting the placement of certain materials on the downslope in steep slope areas in UMC 817.101(c) consistent with 30 CFR 826.12(a) or otherwise amends its program to accomplish the same result.

(l) [Reserved].

(m) The approval in § 944.11 will terminate on January 1, 1983, unless Utah submits to the Secretary by that date copies of fully enacted regulations deleting the provision at UMC/SMC 785.19(c) which allows a waiver of the requirements of subsections (d) and (e) of UMC/SMC 785.19 and of UMC/SMC 822, or otherwise amends its program to be consistent with 30 CFR 785.19 (c) and (d).

[FR Doc. 82-16648 Filed 6-21-82; 8:45 am]
BILLING CODE 4310-05-M

POSTAL SERVICE

39 CFR Part 233

Rewards

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The primary purpose of this rulemaking is to amend Postal Service regulations to increase the maximum amount of rewards for information and services leading to the arrest and conviction of any person for the following postal offenses: robbery; mailing of bombs or explosives; burglary of post office; theft or obstruction of mail; and offenses involving postal money orders. A new reward category pertaining to an assault on a postal

employee has also been added. A number of minor editorial and technical changes are also made to the regulations for the sake of clarity and uniformity.

EFFECTIVE DATE: July 22, 1982.

FOR FURTHER INFORMATION CONTACT: C. P. Nelson, (202) 245–5449.

SUPPLEMENTARY INFORMATION: To carry out the purposes described in the Summary above, the Postal Service adds a new 39 CFR 233.2(b)(1)(v) to show that an assault on a postal employee is now included among the postal offenses for which rewards for information and services are authorized. Also revised is the text of Notice 96 which follows paragraph (b)(2) of § 233.2.

List of Subjects in 39 CFR Part 233

Law enforcement, Crime, Postal Service.

Accordingly, 39 CFR is amended as follows:

PART 233—INSPECTION SERVICE AUTHORITY

In § 233.2 paragraph (b)(1)(v) is added and the text of Notice 96 in the note following paragraph (b)(2) is revised to read as follows:

§ 233.2 Circulars and rewards.

* * * * *

(b) * * *

(1) * * *

(v) Assault on postal employee.

(2) * * *

Note.— * * *

The United States Postal Service offers a reward up to the amounts shown for information and services leading to the arrest and conviction of any person for the following offenses:

Robbery, $10,000. Robbery or attempted robbery of any custodian of any mail, or money or other property of the United States under the control and jurisdiction of the United States Postal Service, if such custodian is not wounded or killed, or the custodian's life jeopardized; but NOT TO EXCEED $5,000 if the custodian is not wounded or killed, or his life jeopardized.

Bombs or Explosives, $10,000. Mailing or causing to be mailed any bombs or explosives which may kill or harm another, or injure the mails or other property, or the placing of any bomb or explosive in a postal facility, vehicle, depository or receptacle established, approved or designated by the Postmaster General for the receipt of mail.

Burglary of Post Office, $5,000. Breaking into, or attempting to break into a post office, station, branch, or a building used wholly or partially as a post office with intent to commit a larceny or other depredation in that part used as a post office.

Poisons, Controlled Substances, or Hazardous Materials, $1,000. Mailing or causing to be mailed any poison, controlled substances or hazardous materials.

Theft of Mail, $1,000. Theft or attempted theft of any mail, or the contents thereof, or the theft of money or any other property of the United States under the custody and control of the United States Postal Service from any custodian, postal vehicle, railroad depot, airport, or other transfer point, post office or station or receptacle or depository established, approved, or designated by the Postmaster General for the receipt of mail.

Offenses Involving Postal Money Orders, $1,000.

Altering, counterfeiting, forging, and unlawful uttering or passing of postal money orders.

Obstruction of Mail, $1,000. Obstructing or retarding the passage of mail, or any carrier or conveyance carrying the mail.

Assault on Postal Employees, $1,000. Forcibly assaulting any officer or employee of the Postal Service while engaged in or on account of the performance of their official duties.

Related Offenses

The United States Postal Service also offers rewards as stated above for information and services leading to the arrest and conviction of any person:

1. for being an accessory to any of the above crimes;
2. for receiving or having unlawful possession of any mail, money or property secured through the above crimes;
3. for conspiracy to commit any of the above crimes.

GENERAL PROVISIONS

1. The Postal Inspection Service investigates the above described crimes. Information concerning these violations, and requests for applications for rewards, should be furnished to the nearest Postal Inspector.
2. The term "custodian" as used herein includes any person having lawful charge, control, or custody of any mail matter, or any money or other property of the United States under the control and jurisdiction of the United States Postal Service.
3. The amount of any reward will be based on the importance of services rendered, character of the offender, risks and hazards involved, time spent, and expenses incurred. Amounts of rewards shown above are the maximum amounts which will be paid. Maximum rewards will be paid only when services rendered contributed significantly to the arrest and conviction of the offender.
4. The Postal Service reserves the right to reject a claim for reward where there has been collusion, criminal involvement, or improper methods have been used to effect an arrest or to secure a conviction. It has the right to allow only one reward when several persons were convicted of the same offense, or one person was convicted of several of the above offenses.
5. A written claim for reward payment must be submitted to the nearest Postal Inspector within six months from the date of conviction of the offender, or the date of formally deferred prosecution or the date of his death, if killed in committing a crime or resisting lawful arrest for one of the above offenses.

(39 U.S.C. 401(2), 404(8), 410(b)(2)))

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration

[FR Doc. 82-16842 Filed 6-21-82; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 2140-6]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: On November 24, 1981, the Indiana Air Pollution Control Board submitted revisions to the ozone and total suspended particulate portions of its State Implementation Plan (SIP). The revisions are in the form of operating permits for Jeffboat, Incorporated; Tecumseh Pipe Line Company; and Wayne Transportation Corporation. The intent of today's rulemaking is to announce receipt and approval of the revisions. Further information on this revision is provided below.

DATE: This action is effective August 23, 1982, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of this revision to the Indiana SIP are available for inspection at: The Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C. 20408.

Copies of the SIP revision and other materials relating to this rulemaking are available for inspection at the following addresses:

Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604;

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460;

Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206.

Comments on this action should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Sharon Reinders, (312) 886–6034.

SUPPLEMENTARY INFORMATION: On November 24, 1981, Indiana submitted revisions to its SIP in the form of operating permits for the following facilities.

1. Jeffboat, Inc., Jeffersonville;
2. Tecumseh Pipe Line Co., Schereville;
3. Wayne Transportation Division, Wayne Corp., Richmond.

In addition to all other regulations within the SIP that may be applicable to these facilities, the permits set the following specific emission limits:

Facility	Source	Operation	Pollutant	Emission limit	Attainment status designation
Jeffboat, Inc.	Plate shop	Paint spraying	Ozone[1]	110 lbs/hr, 2600 lbs/day, 340 t/y	Nonattainment.
		Metal cleaning	TSP[2]	5 lbs/hr, 15 t/yr	Do.
	Structural shop	Paint spraying	Ozone	86 lbs/hr, 2100 lbs/day 274 t/y	Do.
		Metal cleaning	TSP	14 lbs/hr, 43 t/yr	Do.
Tecumseh Pipe Line Co.	5 Tanks	Crude oil storage	Ozone	0.028 lb/day 10^3 gal., 107 t/yr total	Nonattainment.
	4 Tanks	do	Ozone	0.028 lb/day 10^3 gal., 86 t/y total	Do.
Wayne Corp.	12 Spray booths	Surface coating	TSP	2 lbs/hr, 2 t/yr	Unclassified.
	4 Touch up bays	do	Ozone	194 lbs/hr, 184 t/yr	Attainment.

[1] Emission Limits Pertain to Volatile Organic Compounds.
[2] Total Suspended Particulates.

The EPA believes that the limits incorporated into the permits developed by the State are acceptable because the permits will not interfere with attainment and maintenance of the appropriate national ambient air quality standards. Additionally, some of the permits set emission limits for sources previously exempted from control. The TSP emission limitations that EPA is rulemaking on today are in addition to those emission limitations contained in Indiana's general regulations, 325 IAC Articles 5 and 6. Furthermore, the volatile organic compound emission limitations are in addition to those emission limitations contained in 325 IAC Article 8. EPA will rulemake on 325 IAC Articles 5, 6, and 8 at a later date. Finally, the limitations EPA is approving today are not inconsistent with the required Reasonably Available Control Technology (RACT) level of control.

Because EPA considers today's action noncontroversial and routine, we are approving it today without prior proposal. The action will become effective on August 23, 1982. However, if we receive notice by 30 days from the date of this notice that someone wishes to submit critical comments, *then* EPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), I certify that SIP approvals do not have a significant economic impact on a substantial number of small entities.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Note.—Incorporation by reference of the State Implementation Plan for the State of Indiana was approved by the Director of the **Federal Register** on July 1, 1981.

(Secs. 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502))

Dated: June 16, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLAN

Title 40 of the Code of Federal Regulations, Chapter I, Part 52, Subpart P Indiana is amended as follows:

1. Section 52.770(c) is amended by adding subparagraph (32) as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(32) On November 24, 1981, Indiana submitted site specific emission limitations for Jeffboat, Inc., Jeffersonville; Tecumseh Pipe Line Company, Schererville, and Wayne Transportation Division, Richmond.

* * * * *

[FR Doc. 82-16786 Filed 6-21-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-7-FRL 2125-2]

Approval and Promulgation of Implementation Plans: State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The State of Missouri has submitted amendments to its State Implementation Plan (SIP) involving the prevention of significant deterioration (PSD) of air quality and new source review in nonattainment areas. On February 22, 1982, EPA proposed to approve draft regulations provided certain changes were made when the state submitted final rules. EPA received no comments in response to its proposed rulemaking. Today's notice is published to advise the public that EPA is approving the state's submission but is withholding action on the rules insofar as they pertain to the Columbia and New Madrid nonattainment areas. The rationale for this action is contained in this notice and the final technical support memorandum.

EFFECTIVE DATE: This promulgation is effective June 22, 1982.

ADDRESSES: Copies of the state's submission and EPA's technical evaluation are available at the following locations:

Air Branch, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106

Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460

Missouri Department of Natural

Resources, 1101 Rear Southwest Boulevard, Jefferson City, Missouri 65102

A copy of the state's submission is also available at the Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Wayne G. Leidwanger at (816) 374-3791 (FTS: 758-3791).

SUPPLEMENTARY INFORMATION: On August 7, 1980, EPA promulgated amended regulations for the review of new air pollution sources, including recommendations for the prevention of significant deterioration (PSD) of air quality and regulatory changes affecting new source review in nonattainment areas (45 FR 52676). SIP revisions to address these changes were due nine months after this promulgation.

On June 15, 1981, the State of Missouri submitted revisions to Rules 10 CSR 10-6.020, Definitions, and 10 CSR 10-6.060, Permits Required, to address the requirements of EPA's regulatory changes published on August 7, 1980. EPA approved (with certain conditions later fulfilled by the state) a prior version of the above regulations on May 9, 1980 (45 FR 30626), insofar as they met the requirements of Part D of the Clean Air Act. EPA reviewed the June 15 submission from the state to determine whether it met the regulatory changes published August 7, 1980. EPA identified certain deficiencies in the state's regulations which the state agreed to address.

On September 18, 1981, Missouri requested delegation of PSD authority until such time as the SIP revision could be approved. PSD delegation, subject to certain conditions dealing with those portions of the Missouri regulation which did not meet EPA's requirements, was granted on October 19, 1981. A notice of this action was published in the **Federal Register** on November 25, 1981 (46 FR 57757).

On November 13, 1981, the state submitted a proposed new Rule 10 CSR 10-6.060 and proposed changes to the definition of some terms in 10 CSR 10-6.020. EPA reviewed this draft submission and issued a notice of proposed rulemaking on February 22, 1982 (47 FR 7696). In that notice EPA proposed to approve the Missouri rules as meeting the requirements of Parts C and D of the Clean Air Act provided that (1) the state officially adopted and submitted the rules including certain revisions to address a number of items which were not consistent with EPA's regulatory requirements, (2) no other substantive changes were made to the rules and (3) there were no public comments which would affect the approvability of the submission. EPA also proposed to take no action on the rules insofar as they pertain to the Columbia and New Madrid nonattainment areas for the secondary standard for total suspended particulates (TSP). No comments were received in response to the notice of proposed rulemaking.

In the proposed rulemaking, EPA stated that the following changes in the rules were required prior to final rulemaking: (1) that PSD review be applicable to modifications of certain named sources when the modification itself is major, (2) that all offset emissions be binding upon the source from which they are obtained, (3) that when determining net emissions increases, decreases in actual emissions are creditable only to the extent that they are not relied on by the state to demonstrate attainment or reasonable further progress, and (4) that the state request EPA approval of air quality models not already approved for use by EPA. (For a further discussion of these issues, the reader should consult the notice of proposed rulemaking.) The state agreed to correct its rules as they pertain to these requirements. On April 15, 1982, the state submitted its new Rule 10 CSR 10-6.060 and amendments to Rule 10 CSR 10-6.020. The final rules correct all four deficiencies cited above.

In the notice of proposed rulemaking, EPA cited other provisions of Missouri's rules which were proposed for approval although they were not strictly consistent with EPA's requirements. EPA specifically solicited comments on these issues but none were received. Consequently, EPA is approving these provisions for the reasons cited in the February 22 notice.

The state's submission of April 15 includes other minor changes which do not alter the approvability of the rules as proposed by EPA.

With respect to the Columbia and New Madrid TSP nonattainment areas, EPA is taking no action regarding the application of Missouri's permitting rules for the reasons noted in the proposed rulemaking. The Missouri plan still lacks an approved new source review plan for these areas and the state's regulations establishing the attainment area (PSD) new source review program will not be enforceable by EPA in these nonattainment areas. The new source review requirements of the Emission Offset Policy (40 CFR Part 51, Appendix S) remain in effect for these areas. ACTION: EPA approves Missouri Rule 10 CSR 10-6.060, Permits Required, and the amendments to Rule 10 CSR 10-6.020, Definitions, as meeting the requirements of Parts C and D of the Clean Air Act, but EPA is taking no action on these regulations insofar as they pertain to the Columbia and New Madrid nonattainment areas.

In the notice on November 25, 1981, EPA stated that it had delegated, with certain conditions, the PSD program to the state under a previous version of its permitting rules. Effective today, that delegation is rescinded and the state will have authority to issue PSD and new source permits under its new rules.

EPA finds that good cause exists for making these amendments effective immediately. Sources seeking permits will be able to apply to the state under the new rules and will not be required also to comply with previous versions of the permitting regulations under which the program was delegated to the state.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget for review. Any comments from OMB to EPA, and any EPA response, are available for public inspection at the locations listed in the "Addresses" section above.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air Pollution Control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

This notice of final rulemaking is issued under authority of Sections 110 and 172 of the Clean Air Act, as amended.

Dated: June 10, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by Reference of the State Implementation Plan for the State of Missouri was approved by the Director of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart AA—Missouri

1. 40 CFR Part 52 is amended by adding § 52.1320(c)(37) to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(37) On April 15, 1982, the State of Missouri submitted a new Rule 10 CSR 10–6.060, Permits Required, and amendments to Rule 10 CSR 10–6.020, Definitions, involving the review and permitting of new sources of air pollution. Included in the plan are provisions relating to attainment area (PSD) new source review. No action is taken on the rules insofar as they pertain to the Columbia and New Madrid TSP nonattainment areas. Also included in the plan are provisions relating to new source review in the St. Louis, Kansas City and St. Joseph nonattainment areas.

§ 52.1339 [Amended]

2. 40 CFR Part 52 is amended by removing § 52.1339 (a) and (b).

[FR Doc. 82–16795 Filed 6–21–82; 8:45 am]
BILLING CODE 6560–50–M

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40 CFR Part 265

[SW–10–FRL 2143–8]

Partial Approval of Oregon Solid Waste Management Plan

AGENCY: Environmental Protection Agency, Region 10.

ACTION: Final rule; partial approval.

SUMMARY: As provided by the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), the State of Oregon has received Federal financial assistance for development of a State solid waste management plan. The State of Oregon has submitted to the U.S. Environmental Protection Agency (EPA or the Agency) its adopted State solid waste management plan. Today, EPA is announcing its partial approval of the Oregon solid waste management plan. Partial approval of the Oregon plan indicates that the EPA is approving the portion of that plan that provides for State issuance of compliance schedules with regard to the open dumping prohibition. In obtaining partial approval of its plan, the State has committed to completing the plan in a timely and orderly manner.

EFFECTIVE DATE: June 22, 1982.

FOR FURTHER INFORMATION CONTACT: David Hanline, M/S 530, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 442–2858.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1979, (44 FR 45066) EPA published Guidelines for the Development and Implementation of State Solid Waste Management Plans. These guidelines were required by § 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA).

On September 23, 1981, (46 FR 47048) EPA published amendments to the Guidelines for Development and Implementation of State Solid Waste Management Plans and Criteria for the Classification of Solid Waste Disposal Facilities and Practices (40 CFR Parts 256 and 257). In part, these amendments allow EPA to give partial approval for that part of the adopted State plan that covers State issuance of compliance timetables while the State is developing the other parts of the plan. The completion of the remaining parts of the plan will be conducted in a timely and orderly manner as set forth in a schedule mutually agreed upon by the State and EPA.

Response to Comments

On November 4, 1981 at 46 FR 54772 the Oregon solid waste management plan was noticed for public review and comment. Comments on the Oregon plan were received for 30 days, and one comment was submittted during the comment period. The comment, not specifically addressed to Oregon's plan, expressed concern that restrictions might be placed on the use of disposables for food service and packaging. In response, Oregon's plan does support waste reduction as a policy. However, at present the plan includes no such restrictions.

A second comment was submitted after the close of the comment period. This comment was directed at the plan's support of flow control to ensure the long-range financial viability of resource recovery facilities. The commentor felt that such a policy was potentially a threat to recycling operations. In response, Oregon's policy is to give priority consideration to recycling over flow control. This policy is reflected in the plan where there is discussion of the primary emphasis the State places on the salvage, recycling, and reconstitution of solid waste. Furthermore, the State has indicated that the plan will be revised to give more explicit statement of this policy.

Finding

I have reviewed the solid waste management plan submitted by Oregon. I have found that the Oregon plan does not meet all the requirements of § 4007(a) of RCRA for approval. Because of limitations in State statutory authority, and because of the need for additional State Administrative Rules, Oregon does not at this time prohibit the establishment of new open dumps for all types of solid waste management facilities. Nor does Oregon have adquate legal authority to close or upgrade all existing open dumps.

Section 4005 of RCRA prohibits the open dumping of solid waste. However, the prohibition does not extend to any practice or disposal of solid waste under a compliance schedule which:

(1) Includes an enforceable sequence of actions leading to compliance with the prohibition on open dumping;

(2) Does not extend beyond September 13, 1984;

(3) Is preceded by a determination that the entity was unable to utilize other public or private alternatives for solid waste management to comply with the prohibition on open dumping; and

(4) Is issued by a State having an approved solid waste management plan.

The Oregon plan describes the State's legal authority to issue compliance schedules. The State of Oregon has authority to issue schedules to the following types of facilities for compliance with the following criteria established in 40 CFR Part 257:

a. Municipal and industrial landfills—all criteria; and

b. Non-agricultural landspreading operations—all criteria except "disease" (40 CFR Part 257.3–6).

For the remaining types of facilities—surface impoundments and agricultural landspreading operations—either statutory authority is inadequate, or regulations, by means of which compliance with the criteria can be ensured, have not been developed.

I am today approving that part of the plan that provides for the issuance of compliance schedules for the facilities and criteria described above. As of this date, those engaged in open dumping in Oregon may receive compliance schedules from the State that will, to the extent of the State's legal authority described above, protect them from open dumping suits as long as they remain in compliance with such schedules.

In accordance with § 256.04(f) Oregon has submitted a schedule outlining in a timely and orderly manner the steps that will be taken in completing the plan to meet the remaining requirements of § 4007(a) of RCRA for approval of the complete plan. Necessary legislative changes will be sought during the next legislative session in 1983. Rulemaking

will follow thereafter, and final rules will be adopted by July of 1984.

Compliance With Executive Order 12291

Under Executive Order 12291 effective February 17, 1981, EPA must judge whether a rule is "major," and therefore subject to the requirement for a Regulatory Impact Analysis. Partial approval of the Oregon solid waste management plan is not a "major rule" because it does not result in an annual effect on the economy of $100 million or more; result in increases in costs or prices; or pose significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Any costs which the State or the regulated community must incur to satisfy the State plan arise not from EPA's partial approval but because the plan complies with earlier requirements issued by EPA (Guidelines, 40 CFR Part 256, and the "Criteria for Classification of Solid Waste Disposal Facilities and Practices," 40 CFR Part 257, as amended). Today's action neither alters these earlier regulatory requirements nor imposes new or additional costs.

This notice of approval was submitted to the Office of Management and Budget ("OMB") for review under Executive Order 12291.

(Sec. 4007(a), Pub. L. 94-580, 90 Stat. 2817 (42 U.S.C. 6947))

Certification Under the Regulatory Flexibility Act

I certify under 5 U.S.C. 605(b) that the partial plan approval of the Oregon solid waste management plan will not have a significant economic impact on a substantial number of small entities. This approval will reduce burdens on small entities by establishing a mechanism to insulate them from citizen suits to enforce the open dumping prohibition. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 256

Grant programs—environmental protection, Waste treatment and disposal.

Dated: May 26, 1982.

L. Edwin Coate,

Acting Regional Administrator.

[FR Doc. 82-16793 Filed 6-21-82; 8:45 am]

BILLING CODE 6560-55-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81-433; RM-3803]

FM Broadcast Station in College and Fairbanks, Alaska; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 280A to College, Alaska, in response to a petition filed by the Associated Students of the University of Alaska. The assignment could provide a first local radio service to College.

DATE: Effective August 10, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20054

FOR FURTHER INFORMATION CONTACT: H. Berland, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order—Proceeding Terminated

Adopted: June 4, 1982.

Released: June 14, 1982.

By the Chief, Policy and Rules Division:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (College and Fairbanks, Alaska), BC Docket No. 81-433 RM-3803.

1. The Commission has before it the *Further Notice of Proposed Rule Making*, 46 FR 60478, published December 10, 1981, which invited comments on a proposal to amend the FM Table of Assignments by assigning Channel 280A to College, or to Fairbanks, Alaska, in the alternative, in response to a petition from the Associated Students of the University of Alaska ("ASUA").

2. Comments and reply comments were filed by petitioner in support of the proposal. Additionally, Northern Television, Inc. (licensee of several Alaskan broadcast stations, including KTVF-TV, Fairbanks, Alaska) filed comments supportive of the proposed assignment to College, Alaska. Oppositions to the proposal were filed by Interior Broadcasting Corp. ("Interior") (licensee of Station KAYY (FM), Fairbanks, Alaska) and Prime Time Alaska, Inc. (licensee of KIAK(AM) and permittee for KQRZ(FM), Fairbanks, Alaska).

Background

3. The *Further Notice* proposed the assignment of Channel 280A to College, Alaska, provided it could be shown that College is a community. The *Further Notice* defined a community in terms of "the coalescence of common interests"[1] and sought additional information from petitioner demonstrating that College has an identity apart from the City of Fairbanks. In the event that ASUA could not show that College is a community, the *Further Notice* proposed to assign the channel to Fairbanks, Alaska.

4. In its comments, ASUA asserted that College, an unincorporated area within the Fairbanks North Star Borough and located approximately four miles from Fairbanks, qualifies as a community. ASUA stated that given the University's presence, the main focus of the community is higher education. ASUA represented that the University's resources are available and open to the public. According to ASUA, the business sector consists of several retail outlets [2] and two branch banks which serve the "campus community."

ASUA further asserted that College is not dependent upon Fairbanks for public services. ASUA stated, in this regard, that (1) the University provides utility service; (2) the Alaskan state troopers and University Security Patrol afford police protection, and (3) the University and Fairbanks North Star Borough give fire protection. ASUA also mentioned that College has three public schools, which are part of the Fairbanks North Star Borough School District. Although mail is addressed to Fairbanks, College has its own post office and zip code. Finally, ASUA stated that if Channel 280A were assigned to Fairbanks, Alaska, instead, it would apply to operate the station there.

5. In its comments, Interior argued that College is not a community under Commission rules. Rather, Interior described College as the commonly designated area that encompasses the University. College is said to have no political or geographical boundaries.[3]

[1] Citing, *North Naples, Florida*, 41 R.R. 2d 1549 (1978).

[2] Specifically, ASUA stated:

College * * * has two shopping malls. The smaller one has about six stores including a grocery store, liquor store, hair stylist, and laundromat. The other shopping mall, which is considerably larger, features a Safeway supermarket and a department store. In addition to the businesses in the two shopping malls, College has four gas stations, four restaurants, two sporting goods stores, one auto repair shop, one florist and a number of plumbing and heating repair and service shops.

[3] Since student associations generally are restricted by and subject to the control of the University or Board of Trustees, Interior questioned

Interior stated that College is more readily associated with the city of Fairbanks and that, for the most part, the station would be financially supported by the business community of Fairbanks. Other than the University itself, Interior claimed that there has been no demonstrable "coalescence of needs and interests" politically, socially or economically. Thus, Interior concluded that in the absence of community status the assignment to College is inappropriate. Interior claimed that the requested FM assignment to College is in reality a fifth assignment to Fairbanks. Interior asserted that an additional assignment to Fairbanks is unwarranted for two reasons. First, the assignment could exceed the population guidelines for a city of Fairbanks' size. Second, the assignment would create intermixture of classes of channels in Fairbanks.

6. ASUA filed reply comments reiterating its position that College is a community. ASUA denied that Fairbanks' boundaries encompass College and proffered a map to substantiate this assertion. As further indicia of community status, ASUA stated that College has a number of churches and civic groups, and is represented on the Fairbanks North Star Borough Council, the borough-wide governing authority. Further, ASUA noted that College residents receive water and sewer service from the College Utility Corporation. Additionally, to ascertain the attitude of those residing in the area, ASUA conducted an informal survey of residents within College and its surrounding area, and found 58.7 percent of the population within and 63 percent of the population outside College viewed it as a community, separate and distinct from the city of Fairbanks. Finally, ASUA asserted that the Commission's population guidelines and intermixture policy are liberally construed and would not preclude the assignment of an additional FM channel to either College or Fairbanks.

7. Northern Television Inc. stated that in addition to the factors set forth in ASUA's comments, several of which it repeated, the Commission should consider the 1970 Census recognition of College as a "place." Northern Television Inc. also expressed its belief that the assignment of an FM channel to College would "add to the 'identity' of College and develop even stronger community ties."

8. In its reply, Interior characterized the representations by ASUA as either "inaccurate" or "conveniently removed from their proper factual context." Interior described College in terms of a suburban residential overflow from Fairbanks which is more readily associated with Fairbanks. In this regard, Interior stated that the University is considered to be a part of Fairbanks, since it is the largest employer of Fairbank's residents and it provides an educational, cultural and athletic center for the entire Fairbanks community, not College alone. According to Interior, College's businesses are a part of Fairbanks Chamber of Commerce and College's churches, social and civic organizations serve the Fairbanks community as well. Moreover, Interior stated that College is merely one of forty "service areas" located within North Star Borough which comprise the area surrounding Fairbanks. According to Interior, College shares several governmental-type services (*i.e.*, fire protection and police protection, provided by the Alaskan State Troopers) with its surrounding areas, and its schools are a part of the North Star Borough School District. Interior also stated that College does not have its own governing body. Based on all of the foregoing, Interior concluded that College should not be accorded community status.

Discussion

9. Pursuant to section 307(b) of the Communications Act, FM channels are assigned to specific communities. For our purposes, a community refers to a specific locality where residents share common interests.[4] The proponent of the assignment has the burden of establishing the community status of the particular locality. If the locality is incorporated, we consider it to be a community. However, if the locality is unincorporated the proponent must furnish specific data establishing the locality as a community. After carefully reviewing the evidence submitted, we believe that ASUA has adequately established that College should be accorded community status. According to the map furnished by ASUA, College is shown separately and located outside the city limits of Fairbanks. ASUA has shown that College has several social and civic organizations and business establishments which identify themselves with the name of College. There are also two banks and a post office serving College. ASUA demonstrated that College is not dependent upon Fairbanks for governmental-type services. Although College appears to share some municipal services with the surrounding area, that interdependence is common for small towns. Finally, Northern Television, Inc. also urged the Commission to consider the fact that the 1970 Census designated College as a "place." The Census Bureau's listing of a particular locality is not conclusive as to community status, since the Census does not consider the various criteria utilized by the Commission in reaching its determination of community status. Rather the Census bases its decision to include a place in the listings on information submitted by the counties. However, Census recognition of a community often coincides with the Commission's determination of community status, and it is a factor we consider.

10. We believe that the above factors, taken together, demonstrate that College is a separate and distinct community. We also find that College is entitled to a first local aural service. Thus, we need not discuss Interior's objections to the assignment of an additional assignment to Fairbanks.

11. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules, it is ordered, that effective August 10, 1982, the FM Table of Assignments, § 73.202(b) of the rules is amended with regard to College, Alaska, as follows:

City	Channel No.
College, Alaska	260A

12. It is further ordered, that this proceeding is terminated.

13. For further information concerning the above, contact H. Berland, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-16800 Filed 6-21-82; 8:45 am]

BILLING CODE 6712-01-M

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whether petitioner possesses the power and authority to become a Commission licensee. In a related context, Interior complained that the petitioner failed to specify whether it intended to operate an educational or commercial station. These objections could be summarily dismissed. First, character qualifications of licensees are treated at the application stage and thus need not be determined at this juncture. Second, it is clear that the petition sets forth ASUA's intention to operate a commercial station.

[4] *Coker, Alabama*, 43 R.R. 2d 190, 193 (1978).

47 CFR Part 73

[BC Docket No. 82-59; RM-3966]

FM Broadcast Station in Huntsville, Ark.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 240A to Huntsville, Arkansas, in response to a petition filed by Souwecco Communications Corporation. The assignment could provide a first local broadcast service to Huntsville.

DATE: Effective August 10, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order—Proceeding Terminated

Adopted: June 3, 1982.

Released: June 11, 1982.

By the Chief, Policy and Rules Division:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, BC Docket No. 82-59 RM-3966. (Huntsville, Arkansas)

1. The Commission herein considers the *Notice of Proposed Rule Making*, 47 FR 6452, published February 12, 1982, which seeks the assignment of Channel 240A to Huntsville, Arkansas, as its first FM assigment. The *Notice* was issued in response to a petition filed by Souwecco Communications Corporation ("petitioner"). Petitioner filed supporting comments. No oppositions to the proposal were received.

2. Huntsville (population 1,394),[1] seat of Madison County (population 11,373), is located approximately 200 kilometers (125 miles) northwest of Little Rock. It presently has no local aural service.

3. In its comments to the proposal, the petitioner refers to the data in the *Notice* which demonstrated the need for a first FM assignment to Huntsville. Petitioner also restated its intention to apply for the channel, if assigned.

4. Based on the need for a first local aural service we find the proposal justified. The transmitter site is restricted to 9.0 kilometers (5.5 miles) south of Huntsville to avoid short-spacing to Station KKBL at Monett, Missouri.

5. In view of the above and pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules, it is ordered, that effective August 10, 1982, the FM Table of Assignments, § 73.202(b) of the rules, IS AMENDED with respect to the community listed below:

City	Channel No
Huntsville, Ark.	240A

6. It is further ordered, that this proceeding is terminated.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-16798 Filed 6-21-82; 8:45 am]

BILLING CODE 6712-01-M

[1] Population figures are taken from the 1980 U.S. Census.

47 CFR Part 73

[BC Docket No. 82-65; RM-4006]

FM Broadcast Station in Avon, Colo.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 276A to Avon, Colorado, in response to a petition filed by Edward J. Patrick. The assigned channel could provide a first FM service to Avon, Colorado.

DATE: Effective August 10, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order—Proceeding Terminated

Adopted: June 3, 1982.

Released: June 11, 1982.

By the Chief, Policy and Rules Division:

In the matter of amendment of § 73.202(b) Table of Assignments, FM Broadcast Stations, BC Docket No. 82-65 RM-4006 (Avon, Colorado).

1. The Commission has under consideration a *Notice of Proposed Rule Making*, 47 FR 6898, published February 17, 1982, proposing the assignment of Channel 276A to Avon, Colorado, as that community's first assignment in response to a petition filed by Edward J. Patrick ("petitioner"). Comments in support of the proposal were filed by the petitioner. No oppositions to the proposal were received.

2. Avon (population 640)[1] is located in Eagle County (population 13,171) approximately 16 kilometers (10 miles) west of Vail, Colorado. It has no local aural service.

3. In its comments, petitioner restated his intention to apply for Channel 276A if it is assigned. He also reaffirms the need for an FM assignment and urges the Commission to adopt his proposal.

4. In the *Notice of Proposed Rule Making* in this proceeding, the Commission rejected petitioner's request for a dual community assignment to Beaver Creek-Avon. The petitioner had not demonstrated that Beaver Creek could be accorded community status. The Commission stated that if petitioner could provide, in its supporting comments, a sufficient showing to establish Beaver Creek as a community pursuant to the Commission's criteria, then the assignment could be made to Beaver Creek. In his reply comments, petitioner stated that he did not offer information about components of community status for Beaver Creek because none exist. We are told that Beaver Creek is solely a ski resort which is adjacent to Avon and that the coupling of these two places was done solely because of their proximity. Petitioner fully supports the Commission's decision to assign Channel 276A to Avon.

5. The Commission has determined that the public interest would be served by assigning Channel 276A to Avon, Colorado, since it would provide the community with its first local FM service.

6. Accordingly, pursuant to the authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281 and 0.204(b) of the Commission's rules, it is ordered, that effective August 10, 1982, § 73.202(b) of the Commission's rules, is

[1] Population figures extracted from 1980 U.S. Census Advance Report.

amended with regard to the following community:

City	Channel No.
Avon, Colo	270A

7. It is further ordered, that this proceeding is terminated.

8. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1068, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-16799 Filed 6-21-82; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 47, No. 120
Tuesday, June 22, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 273

[Amdt. No. 217]

Optional Workfare Program

Correction

In FR Doc. 82–15579, appearing at page 24968, as part VI, in the issue of Tuesday, June 8, 1982, make the following change:

On page 24971, in the first column, § 272.1(g)(42), the last line should read "shall be in effect (30 days following publication of the final rule)."

BILLING CODE 1505-01-M

Agricultural Marketing Service

7 CFR Part 1065

Milk in the Nebraska-Western Iowa Marketing Area; Proposed Suspension of Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rules.

SUMMARY: This notice invites written comments on a proposal to suspend certain order provisions affecting the regulatory status of milk plants under the Nebraska-Western Iowa milk order. The action was requested by a cooperative association that operates several supply plants pooled under the order. The proposed suspension would remove for July and August 1982 the requirement that a cooperative association must deliver at least 51 percent of its member producer milk to pool distributing plants each month to qualify its supply plants as pool plants under the order. The cooperative claims that the action is needed to avoid inefficient handling and transportation of milk and to assure that its member dairy farmers who have regularly been associated with the market will continue to share in the market's fluid milk sales.

DATE: Comments are due not later than June 29, 1982.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Maruice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Services, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–7183.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It also has been determined that any need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the completion of the required suspension procedures and the inclusion of July 1982 in the suspension period if this is found necessary. The request for this section was received June 14, 1982.

It has been determined that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Nebraska-Western Iowa marketing area is being considered for July and August 1982:

In § 1065.7(c) the words "51 percent or more of the."

All persons who want to comment on the proposed suspension should send two copies of their views to the Hearing clerk, U.S. Department of Agriculture, Washington, D.C. 20250, not later than June 29, 1982.

The period for filing comments is limited because a longer period would not provide the time needed to complete the required procedures and include July 1982 in the suspension period.

The comments that are sent will be made available for public inspection in the Hearing Clerk's office during normal business hours. (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension would remove for July and August 1982 the requirement that a cooperative must deliver at least 51 percent of its producer milk to pool distributing plants each month, either through transfers from its supply plants or directly from farms, in order to qualify the supply plants as pool plants under the order. The suspension was requested by Mid-America Dairymen, Inc., a cooperative association that operates four pool supply plants under the Nebraska-Western Iowa order and which is a principal supplier of milk to other handlers in the market.

In support of its request, the cooperative stated that this spring it had to depool milk of some of its producers who have been regularly associated with the market in order to meet the 51 percent delivery requirement. It indicated this was because deliveries to pool distributing plants, which are used to qualify the cooperative's supply plants, decreased significantly. For instance, the cooperative states its deliveries to pool distributing plants were down over 6 percent in May 1982 from May 1981. It expects this situation to become more serious during July and August due to the closing of schools and depressed economic conditions.

In the absence of the suspension action, the cooperative estimates that it may be necessary to remove from the market as much as 10 million pounds of its member milk during each month of July and August in order to meet the 51 percent delivery requirement. To the extent possible, the cooperative wants to avoid such costly and inefficient movements of milk solely for the purpose of pooling its supply plants and the milk of its member producers who regularly have supplied the fluid needs of the market.

List of Subjects in 7 CFR Part 1065

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on June 17, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-16852 Filed 6-21-82; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

Proposed Revision of REA Requirements for Electric System Planning

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend Appendix A—REA Bulletins by revising REA Bulletin 60–2, Electric System Capacity. Bulletin 60–2 sets forth REA policy with respect to the system planning and the electrical capacity of electric distribution and transmission systems financed by REA. The purpose of this proposal is to consolidate all REA requirements concerning electric system planning into a single bulletin. Currently such requirements are contained in Bulletin 60–2 and Bulletin 60–10, Construction Work Plans, Electric Distribution Systems. In addition, the proposal clarifies the requirement for REA borrowers to prepare long-range engineering plans and construction work plans. Bulletin 60–2 will be retitled "Electric System Planning Requirements and System Capacity." There are no new requirements contained in the revision of Bulletin 60–2 which are not already contained in the existing bulletins.

DATE: Public comments must be received by REA no later than August 23, 1982.

ADDRESS: Submit written comments to Archie Cain, Director, Engineering Standards Division, Rural Electrification Administration, Room 1270, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mr. Ed Limberger, Engineering Services Branch, Rural Electrification Administration, Room 1257, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382–9093. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend 7 CFR Part 1701, Appendix A—REA Bulletins, by revising REA Bulletin 60–2, Electric System Capacity, and removing REA Bulletin 60–10, Construction Work Plans, Electric Distribution Systems, from Appendix A. This proposed action has been reviewed in conformance with Executive Order 12291, Federal Regulation. The action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies; or (3) result in significant adverse effects on competition, employment, investment or productivity and therefore has been determined to be "not major". This proposed action does not fall within the scope of the Regulatory Flexibility Act and is not subject to OMB Circular A–95 review requirements. This program is listed in the Catalog of Federal Domestic Assistance as 10.850, Rural Electrification Loans and Loan Guarantees.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting provisions that are included in this proposed rule will be submitted for approval to the Office of Management and Budget (OMB). These provisions would not be effective until OMB approval had been obtained.

This proposed action is intended to clarify the requirement for each REA electric borrower to periodically prepare long-range engineering plans and construction work plans and to construct its system in accordance with those plans. The revision also is intended to consolidate, in Bulletin 60–2, all REA rules concerning electric system planning, some of which are presently included in Bulletin 60–10.

A copy of the proposed Bulletin 60–2 is available upon request from the address indicated above. All written submissions made pursuant to this action will be made available for public inspection during regular business hours, above address.

List of Subjects in 7 CFR Part 1701

Administrative practice and procedure, Electric utilities, Loan programs—electric.

Dated: June 3, 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-16723 Filed 6-21-82; 8:45 am]

BILLING CODE 3410-15-M

Animal and Plant Health Inspection Service

9 CFR Part 166

Advisory Committee on Swine Health Protection; Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of a meeting.

SUMMARY: The purpose of this document is to give notice of a meeting of the Secretary's Advisory Committee on Swine Health Protection to discuss the proposed rule implementing the Swine Health Protection Act and to review the information gathered from surveys of the swine health protection programs in the individual States and territories.

DATES: The meeting will be held on July 7, 1982, from 8:15 a.m. to 4:00 p.m., and July 8, 1982, from 8:15 a.m. to 4:00 p.m.

ADDRESS: The meeting will be held in Room 3109, Agriculture South Building, United States Department of Agriculture, 14th and Independence Avenue, SW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. J. A. Downard, Senior Staff Veterinarian, Swine and Poultry Diseases Staff, APHIS, VS, Federal Building, Room 841, Hyattsville, Maryland 20782, 301–436–8438.

SUPPLEMENTARY INFORMATION: The purpose of the Committee is to advise the Secretary of Agriculture concerning matters within the scope of the Swine Health Protection Act, including the evaluation of State programs for the purpose of section 10 of the Act, and assuring effective coordination among State programs and Federal and State programs concerning the treatment of garbage fed to swine.

The primary purpose of this meeting is to review the information gathered from surveys of the swine health protection programs in the individual States and territories. The review will be used to assist in establishing criteria for determination of the primary enforcement responsibilities. Part of the meeting time will be allotted for discussion of the proposed regulations and comments on these proposed regulations published April 16, 1982 (47 FR 16534).

The meeting is open to the public. Written statements concerning these

matters may be filed with the committee before or at the time of the meeting.

Written statements may be forwarded to Dr. J. A. Downard, Senior Staff Veterinarian, Swine and Poultry Diseases Staff, APHIS, VS, Federal Building, Room 841, Hyattsville, MD 20782, 301–436–8438.

Dated: June 17, 1982.

John Ford,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-16823 Filed 6-18-82; 3:50 pm]

BILLING CODE 3410-34-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch. I

Examination for Compliance with State Unclaimed Property Laws; Proposed Interpretive Ruling and Policy Statement

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed Interpretive Ruling and Policy Statement.

SUMMARY: Prior to 1980, it was the NCUA's position that state agencies were not empowered to examine Federal credit union records. In November, 1980, the NCUA Board adopted an interim policy that provided, inter alia, that NCUA would not object to limited inspections of Federal credit union records by state authorities for the purpose of determining compliance with state unclaimed property laws. If approved by the NCUA Board, this Proposed Interpretive Ruling and Policy Statement would finalize that interim policy by providing for a general designation of state authorities to conduct limited inspections of Federal credit union records for determining compliance with unclaimed property laws.

DATE: Comments must be received on or before July 30, 1982.

ADDRESS: Send comments to Rosemary Brady, Secretary to the NCUA Board, National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: James J. Engel, Assistant General Counsel, Department of Legal Services, at the above address or telephone (202) 357–1030.

SUPPLEMENTARY INFORMATION: At its November 6, 1980 meeting, the NCUA Board addressed the issue of access to Federal credit union (FCU) records by state agencies for purposes of determining compliance with state abandoned property or unclaimed property laws. Prior to this meeting, NCUA had taken the position that state agencies did not have the authority to examine FCU records for any purpose, but it was the Agency's opinion that FCU's were required to report and release abandoned property in compliance with state laws.

As a result of that meeting, the NCUA Board adopted an informal interim policy as follows:

a. NCUA would not object to limited inspections of FCU share account records (not loan type or related records) by state departments of revenue (or their equivalent) for the purpose of determining compliance with state unclaimed property laws;

b. States would not be permitted to take enforcement actions against FCU's found not to be in compliance but should submit findings to NCUA Regional Offices, enforcement being exclusively within the jurisdiction of NCUA; and

c. NCUA would object to any attempts by a state to assess a fee on an FCU for the inspection.

The purpose of the Interpretive Ruling and Policy Statement would be to formalize the Agency's position on access to FCU records for purposes of determining compliance with state unclaimed property laws. The NCUA Board recognizes the interest states have in assuring such compliance and that the issue is one of particular importance to the states. Because the unclaimed property law of each state may vary, it is more practical to have inspections conducted by parties familiar with the law of a particular state. For these reasons, the NCUA Board believes it is more appropriate to permit limited inspections for determining compliance to be conducted by state authorities. In order to accomplish this result, the NCUA Board proposes, through publication of an Interpretative Ruling and Policy Statement as set forth below, to designate appropriate state authorities to conduct such limited inspections of Federal credit union records. The authorities to be designated are those, such as a Commissioner of Revenue or Director of Financial Institutions, that are empowered under state law to require the filing of unclaimed property reports and authorized to make examinations to determine compliance with such laws.

This designation, however, does not authorize state authorities to bring enforcement actions against Federal credit unions for failure to comply with the state laws. Enforcement remains exclusively within the jurisdiction of the NCUA Board. If the state authorities find violations of the unclaimed property laws, such findings should be reported to an NCUA regional office. Enforcement of the state statute as to Federal credit unions is the responsibility of the NCUA Board.

In addition, the designation of state authorities to conduct limited inspection does not include the authority to assess fees for the inspection.

Proposed Interpretive Ruling and Policy Statement (IRPS) 82–4

Section 106 of the Federal Credit Union Act (12 U.S.C. 1756) provides that the books and records of each Federal credit union are subject to examination by, and accessible to, any person designated by the National Credit Union Administration Board (NCUA Board). Pursuant to this authority, the NCUA Board is providing a general designation for the conducting of limited inspections of Federal credit records for the purpose of determining compliance with state unclaimed property laws. Those state authorities, authorized under state law to conduct inspections pursuant to the Uniform Disposition of Unclaimed Property Act or similar abandoned property law, are designated by the NCUA Board as its representative for this limited purpose.

It has been the position of the National Credit Union Administration that Federal credit unions are required to comply with state unclaimed property laws. Recognizing that states have an interest in assuring compliance with these laws, it is the NCUA Board's position that limited access to Federal credit union records by appropriate state authorities for the above stated purpose is both reasonable and proper. However, the NCUA Board maintains its position that enforcement remains exclusively within the jurisdiction of NCUA. Therefore, any violations should be reported to the appropriate NCUA regional office. In addition, it is the NCUA Board's position that Federal credit unions are not subject to the imposition of fees for a state inspection.

By the National Credit Union Administration Board.

Rosemary Brady,

Secretary to the Board.

June 16, 1982.

[FR Doc. 82-16804 Filed 6-21-82; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 155 and 172

[Docket No. 81N-0049]

Canned Vegetables; Mushrooms; Standards of Identity and Fill of Container

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the standard of identity for canned mushrooms based on consideration of the Recommended International Standard for Canned Mushrooms developed by the Codex Alimentarius Commission. FDA is also proposing to amend the standard of fill of container based on consideration of a petition by the National Food Processors Association (NFPA) and the Recommended International Standard for Canned Mushrooms. This action would promote honesty and fair dealing in the interest of consumers and would facilitate international trade. The agency is also proposing a conforming amendment in the food additive regulation on calcium disodium ethylenediaminetetraacetate.

DATES: Written comments by August 23, 1982. The agency proposes that any final rule that may issue based upon this proposal become effective in accordance with a uniform effective date for compliance with food labeling requirements which is announced by notice in the **Federal Register** and which is not sooner than 1 year following publication of any final rule based upon this proposal, except for any provision that may be stayed by the filing of proper objections. See "Supplementary Information" for a full discussion of the proposed effective date.

ADDRESS: Written comments, data, or other information to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: The Food and Agriculture Organization/World Health Organization (FAO/WHO) Codex Alimentarius Commission has submitted to the United States for consideration for acceptance a Recommended International Standard for Canned Mushrooms (CAC/RS 55-1972) (Codex standard). Also, a petition has been filed by NFPA, 1133 20th St. NW., Washington, DC 20036, to revise the minimum drained weight requirements for canned mushrooms.

FDA proposes to revise the standard of identity in § 155.201(a) (21 CFR 155.201(a)) and to amend the U.S. standard of identity for canned mushrooms currently set out in the U.S. standard of identity for certain other canned vegetables under § 155.200 (21 CFR 155.200), to:

1. Define canned mushrooms as being of the species *Agaricus (Psalliota) bisporus* or *A. bitorquis;*

2. Provide for mushrooms to be heat processed to prevent spoilage either before or after being sealed in a container;

3. Define optional styles and provide for "quarters" and "random sliced" as additional styles; and

4. Provide for optionally packing canned mushrooms in either water or other suitable liquid medium.

FDA also proposes to amend the U.S. fill of container standard (§ 155.201(c)) to establish a minimum fill of container (packing medium and mushroom ingredient) requirement, revise the drained weight requirements for certain can sizes of canned mushrooms, and establish a procedure for determination of compliance with the standard.

The United States, as a member of the Food and Agriculture Organization of the United Nations and of the World Health Organization, is under obligation to consider all Codex standards. The rules of procedure of the Codex Alimentarius Commission state that a Codex standard may be accepted by a participating country in one of three ways: full acceptance, target acceptance, or acceptance with specified deviations. A country's acceptance of a Codex standard signifies that, except as provided for by specified deviations, a product that complies with the Codex standard may be distributed freely within the accepting country. Products that do not comply with an accepted Codex standard, whether domestic or imported, will not be permitted to be distributed under the name and description established by the standard without restrictions. The restrictions that may be imposed are not incorporated in the Codex standard; these elective restrictions are left to legislation and regulations of the individual countries. A participating country which concludes that it cannot accept the Codex standard in any of the three ways is requested to indicate, with the reasons therefor, the manner in which its requirements differ from the Codex standard, and whether products complying with the Codex standard will be permitted to move freely in the commerce of that country. Members of the Commission are requested to notify the Secretariat of the Codex Alimentarius Commission—Joint FAO/WHO Food Standards Programme, FAO, Rome, Italy, of their decision.

For many years, the United States has had a standard of identity for canned mushrooms (§ 155.201(a)) referenced to the applicable provisions of § 155.200 *Certain other canned vegetables* (U.S. standard). There is no U.S. standard of quality for canned mushrooms. However, there are voluntary standards for marketing developed by the United States Department of Agriculture (USDA) for canned mushrooms (USDA voluntary grade standards), which include, in addition to identity requirements, quality criteria and recommendations for fill of container based on drained weights.

Because FDA is unaware of any economic abuse associated with the food and because of FDA's policy of limiting the number of regulations, the agency is not proposing a quality standard for canned mushrooms. Canned mushrooms that comply with the quality aspects of the Codex standard may move freely in interstate commerce in this country, providing they comply with applicable U.S. laws and regulations. FDA will consider proposing a quality standard for canned mushrooms upon receipt of a petition demonstrating that to do so would be in the interest of consumers.

NFPA requests that the drained weight requirement for mushrooms packed in large cans be reduced because of the high incidence of bacterial spoilage in these containers. NFPA attributes the problem to overfilling to meet the drained weight requirement and proposes to reduce the drained weight requirement for these cans so that the ratio of mushrooms-to-water capacity of the container is not less than 56 percent, which is the same ratio required for the can sizes which have not had a high incidence of bacterial spoilage.

In the **Federal Register** of December 9, 1977 (42 FR 62282), FDA proposed to require label declaration of the drained weight or, alternatively, the solid content weight (fill weight) on most canned fruits and vegetables. FDA also proposed to amend the U.S. standards of fill of container for various canned fruits and vegetables including canned mushrooms. A final rule based on the December 9, 1977, proposal has not been issued. To expedite consideration of the

Codex standard and the NFPA petition, FDA is publishing a revised proposal to amend the U.S. standard of fill of container for canned mushrooms at this time. The agency will rule on other provisions of the December 9, 1977, proposal at a later date.

In proposing to align, to the extent practicable, the U.S. standards for canned mushrooms with the Codex standard, FDA has noted certain differences of composition and format of the Codex standard from the U.S. standards. The Codex standard includes hygiene requirements, certain basic labeling requirements, and other factors which are not considered a part of food standards under section 401 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 341, the legal basis for the promulgation of food standards). These factors are dealt with under other sections of the act; therefore, the agency will not discuss them in this proposal. Also, the Codex standard sometimes uses subjective terms in stating its requirements. FDA believes that these terms are not precise enough to be legally enforceable, and the agency has omitted them from the proposal.

FDA does believe, however, that this is an opportune time to update the U.S. standards of identity and fill of container for canned mushrooms to reflect current marketing and packing practices. This action will also promote honesty and fair dealing in the interest of consumers and facilitate international trade by adopting, insofar as practicable, the Codex standard.

Any final rule that may issue to amend the U.S. standard of identity (§ 155.201(a)) and standard of fill of container (§ 155.201(c)) for canned mushrooms will be based on consideration of the following Codex standard (CAC/RS 55–1972), the NFPA petition, the comments and supporting data received in response to this proposal, and other available information that is made a part of the record of this proceeding.

Recommended International Standard for Canned Mushrooms

1. *Description.*

1.1 *Product Definition.*

Canned mushrooms is the product (a) prepared from fresh mushrooms conforming with the characteristics of cultivated varieties (cultivars) of the genus *Agaricus (Psalliota),* including *A. bisporus,* which mushrooms shall be in good condition and after cleaning and trimming shall be sound; (b) packed with water and/or juice exuding from the mushrooms or other suitable liquid medium, seasonings, and other ingredients, appropriate to the product; and (c) processed by heat in an appropriate manner, before or after being sealed in a container, so as to prevent spoilage.

1.2 *Varietal Type.*

Any suitable variety (cultivar) of the genus *Agaricus (Psalliota),* including *A. bisporus,* may be used.

1.3 *Colour Type.*

1.3.1 White or cream.

1.3.2 Brown.

1.4 *Styles.*

1.4.1 Buttons—Whole mushrooms, with attached stems not exceeding 5 mm in length, measured from the bottom of the veil.

1.4.2 Sliced Buttons—Buttons cut into slices 2 mm to 8 mm thick, of which not less than 50% are cut parallel to the axis of the mushroom.

1.4.3 Whole—Whole mushrooms, with attached stems cut to a length not exceeding the diameter of the cap, measured from the bottom of the veil.

1.4.4 Sliced or Sliced Whole—Mushrooms cut into slices 2 mm to 8 mm thick, of which not less than 50% are cut parallel to the axis of the mushroom.

1.4.5 Random Sliced—Mushrooms cut into slices of varying thickness and in which the slices may deviate materially from cuts approximately parallel to the axis of the mushroom.

1.4.6 Quarters—Mushrooms cut into four approximately even parts.

1.4.7 Stems and Pieces (Cut)—Pieces of caps and stems of irregular sizes and shapes.

1.4.8 Grilling—Selected open-veiled mushroms not exceeding 40 mm in diameter, with attached stems not exceeding the diameter of the cap, measured from the bottom of the veil scar.

1.4.9 Other Optional Styles—Other forms not specifically described in 1.4.1 through 1.4.8 above such as diced or chopped which are appropriately described on the label.

1.5 *Tolerance for the Styles "Buttons" and "Whole".*

10%, by count, of the units for the respective style may exceed the specified stem length.

1.6 *Types of Pack.*

1.6.1 Regular or natural pack—in water, brine, and/or juice exuding from the mushrooms.

1.6.2 In butter or butter sauce.

1.6.3 In cream sauce.

1.6.4 In sauce other than a butter or cream sauce.

1.6.5 In vinegar.

1.6.6 In oil.

1.6.7 In wine.

2. *Essential Composition and Quality Factors.*

2.1 *Other Ingredients.*

As appropriate for the respective type of pack:

2.1.1 Water, salt, spices, seasonings, soybean sauce, vinegar, wine.

2.1.2 Sucrose, invert sugar syrup, dextrose, glucose syrup, dried glucose syrup.

2.1.3 Butter or other edible animal or vegetable fats or oils, including olive oil; milk, milk powder, or cream.

If butter is added, it must amount to not less than 3% m/m of the final product.

2.1.4 Starches—natural (native), physically or exzymatically modified—only when butter or other edible animal or vegetable fats or oils are ingredients.

2.1.5 Wheat or corn flour.

2.2 *Quality Criteria.*

2.2.1 Colour.

2.2.1.1 The mushroom portion of the product shall have normal colour characteristics of the variety of the canned mushrooms. Canned mushrooms of special types and containing special permitted ingredients shall be considered of characteristic colour when there is no abnormal discolouration for the respective ingredients used.

2.2.1.2 The liquid medium in "Regular or Natural Pack" shall be either clear or slightly turbid and yellow to light brown in colour.

2.2.2 Flavour.

The mushrooms shall have a normal flavour and odour free from flavours or odours foreign to the product.

Canned mushrooms with special ingredients or sauces shall have the flavour characteristic of that imparted by the mushrooms and the other substances used.

2.2.3 Texture and Character.

The mushrooms in the "Regular or Natural Pack" shall be firm and substantially intact.

In the styles of "Buttons" and "Whole" mushrooms, not more than 10% by count of the mushrooms may have caps which show total or complete breakage of the veil.

In the styles of "Buttons" and "Whole" and "Grilling" mushrooms 5% by count of the mushroom units may be detached caps or stems.

2.2.4 Defects.

The canned mushrooms (a) may contain no more than a trace of soil, sand, grit, or any other extraneous matter, whether of mineral or organic origin; and (b) shall be reasonably free from spotted or otherwise damaged mushrooms.

2.2.5 Classification of "defectives".

A container that fails to meet one or more of the applicable quality requirements, as set out in sub-sections 2.2.1 through 2.2.4 shall be considered a "defective".

2.2.6 Acceptance.

A lot will be considered as meeting the applicable quality requirements referred to in sub-section 2.2.5, when the number of "defectives, as defined in sub-section 2.2.5, does not exceed the acceptance number (c) of the appropriate sampling plan in the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (1969) (AQL–6.5) (Ref. CAC/RM 42–1969).

3. *Food Additives.*

BILLING CODE 4160-01-M

		Maximum level of use
3.1	Ascorbic acid	Not limited
3.2	Citric acid	Not limited
3.3	Monosodium glutamate	Not limited 1/4/
3.4	Caramel colours for use in sauces	Not limited 1/2/
3.5	Calcium disodium ethylenediaminetetra-acetate ($CaNa_2$ EDTA)	200 mg/kg
3.6	Vegetable gums	3/ 1% m/m of the additives specified under 3.6 to 3.9 inclusive, singly or in combination.
3.6.1	Arabic gum 1/	
3.6.2	Carrageenan 1/	
3.6.3	Furcellaran 1/	
3.6.4	Guar gum 1/	
3.7	Pectin	
3.8	Alginates (Ca, K, Na, NH_4) 1/	
3.8.1	Propylene glycol alginate 1/	
3.9	Modified starches	
3.9.1	Acid-treated starches	
3.9.2	Alkali-treated starches	
3.9.3	Bleached starches	

1/ Temporarily endorsed.
2/ Caramel colour made by the ammonia process is temporarily endorsed and other caramel colours are endorsed.
3/ May be used only when butter or other edible animal or vegetable fats or oils are ingredients.
4/ Subject to review.

			Maximum level of use
3.9.4	Distarch phosphate (sodium trimetaphosphate treated)	1/	2/ 1% m/m of the additives specified under 3.6 to 3.9 inclusive, singly or in combination.
3.9.5	Distarch phosphate, phosphated		
3.9.6	Monostarch phosphate		
3.9.7	Starch acetate		
3.9.8	Starch, hydroxypropyl		
3.9.9	Distarch, adipate, acetylated		
3.9.10	Distarch glycerol, hydroxypropyl		
3.9.11	Oxidized starches		
3.9.12	Distarch phosphate (phosphorous oxychloride treated)		
3.9.13	Distarch phosphate, acetylated		
3.9.14	Distarch glycerol, acetylated		
3.9.15	Distarch glycerol		

1/ Temporarily endorsed
2/ May be used only when butter or other edible animal or vegetable fats or oils are ingredients.

BILLING CODE 4160-01-C

4. *Hygiene.*

4.1 It is recommended that the product covered by the provisions of this standard be prepared in accordance with the International Code of Hygienic Practice for Canned Fruit and Vegetable Products recommended by the Codex Alimentarius Commission (Ref. CAC/RCP 2–1969).

4.2 To the extent possible in good manufacturing practice the product shall be free from objectionable matter.

4.3 When tested by appropriate methods of sampling and examination, the product

(a) Shall be free from microorganisms capable of development under normal conditions of storage, and

(b) Shall not contain any substance originating from microorganisms in amounts which may be toxic.

4.4 The product shall have received a processing treatment sufficient to destroy all spores of *Clostridium botulinum.*

5. *Weights and Measures.*

5.1 *Fill of Container.*

5.1.1 Minimum Fill.

The container shall be well filled with mushrooms and the product (including packing medium) shall occupy not less than 90% of the water capacity of the container. The water capacity of the container is the volume of distilled water at 20°C which the sealed container will hold when completely filled.

5.1.2 Classification of "Defectives".

A container that fails to meet the requirement for minimum fill (90 percent container capacity) of sub-section 5.1.1 shall be considered a "defective".

5.1.3 Acceptance.

A lot will be considered as meeting the requirement of sub-section 5.1.1 when the number of "defectives", as defined in sub-section 5.1.2, does not exceed the acceptance number (c) of the appropriate sampling plan in the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (1969) (AQL–6.5) (Ref. CAC/RM 42–1969).

5.1.4 Minimum Drained Weight.

5.1.4.1 Regular packs, vinegar, wine, oil packs.

The drained weight of the product shall be not less than 53% of the weight of distilled water at 20°C which the sealed container will hold when completely filled.

5.1.4.2 Sauce packs.

The drained mushroom portion, after washing off the sauce or liquid, shall be not less than 27.5% of the total product weight.

5.1.4.3 The requirements for minimum drained weight shall be deemed to be complied with when the average drained weight of all containers examined is not less than the minimum required, provided that there is no unreasonable shortage in individual containers.

6. *Labelling.*

In addition to Sections 1, 2, 4 and 6 of the General Standard for the Labelling of Prepackaged Foods (Ref. CAC/RS 1–1969), the following specific provisions apply:

6.1 *The Name of the Food.*

6.1.1 The name of the product shall be "Mushrooms".

6.1.2 The following shall be included as part of the name or in close proximity to the name:

6.1.2.1 The style—

"Buttons", "Sliced Buttons", "Whole", "Sliced" or "Sliced Whole", "Random Sliced", "Quarters", "Stems and Pieces (Cut)", "Grilling", "Diced" and "Chopped", as appropriate.

6.1.2.2 A declaration of any special sauce and/or seasoning or flavouring which characterizes the product, e.g. "With X" or "In X" when appropriate. If the declaration is "With (of "In") Butter Sauce", the fat used shall only be butter fat.

6.2 *List of Ingredients.*

A complete list of ingredients shall be declared on the label in descending order of proportion in accordance with sub-section 3.2(c) of the General Standard for the Labelling of Prepackaged Foods, except that water need not be declared.

6.3 *Net contents.*

The net contents shall be declared by weight in either the metric ("Système International" units) or avoirdupois or both systems of measurement as required by the country in which the product is sold, except that mushrooms packed in regular or natural packs as described in sub-section 1.6.1 shall carry a declaration of drained weight of the food.

6.4 *Name and address.*

The name and address of the manufacturer, packer, distributor, importer, exporter, or vendor of the product shall be declared.

6.5 *Country of origin.*

6.5.1 The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

6.5.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labelling.

7. *Methods of Analysis and Sampling.*

The methods of analysis and sampling referred to hereunder are international referee methods.

7.1 *Method of Sampling.*

Sampling shall be in accordance with the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (1969) (AQL–6.5), (CAC/RM 42–1969).

7.2 *Determination of Drained Weight.*

According to the FAO/WHO Codex Alimentariva method (FAO/WHO Codex Alimentarius Methods of Analysis for Processed Fruits and Vegetables, CAC/RM 36–1970. *Determination of Drained Weight—Method I).* Results are expressed as % m/m calculated on the basis of the mass of distilled water at 20°C which the sealed container will hold when completely filled.

7.3 *Determination of Washed Drained Weight.*

According to the FAO/WHO Codex Alimentarius method (FAO/WHO Codex Alimentarius Methods of Analysis for Processed Fruits and Vegetables, Second Series—*Determination of Washed Drained Weight,* CAC/RM 44–1972). This method applies to sauce packs only. Results are expressed as % m/m of the total product weight.

7.4 *Determination of Water Capacity of Containers.*

According to the FAO/WHO Codex Alimentarius method (FAO/WHO Codex Alimentarius methods of Analysis for Processed Fruits and Vegetables, Second Series—*Determination of Water Capacity of Containers,* (CAC/RM 46–1972).

Results are expressed as volume of distilled water that the container holds.

In many respects the provisions of the Codex standard, the USDA voluntary grade standards, and the U.S. standards are identical. The following is a discussion of what the agency believes to be the principal differences between these standards. FDA requests comments with available supporting data on these differences. Following each item of comparison is the action FDA proposes to take.

Comparison of Identity Aspects and Proposed Courses of Actions

1. *Definition.* The Codex standard (1.1(a) and 1.2) states that canned mushrooms are prepared from fresh mushrooms conforming with the characteristics of cultivated varieties (cultivars) of the genus *Agaricus (Psalliota),* including *A. bisporus,* which mushrooms shall be in good condition and after cleaning and trimming shall be sound. The U.S. standard (§ 155.200(a)) states that the vegetable ingredient is obtained by proper preparation of the succulent vegetable. Section 155.200(b) states that the source of canned mushrooms shall be the cap and stem of the mushroom (genus not specified).

FDA proposes in § 155.201(a)(1) to define canned mushrooms as the food properly prepared from the succulent caps and stems of mushrooms. The genus *Agaricus,* also commonly known in some countries as *Psalliota,* includes a number of species of mushrooms, some of which may be toxic. Information available to FDA indicates that mushrooms cultivated commercially and widely available to consumers are of the species *Agaricus bisporus* and *Agaricus bitorquis.* Some species of wild mushrooms are also harvested and sold to consumers. FDA recognizes these as nonstandardized foods which are specialty items sold for their unique flavor or other attributes. FDA, therefore, further proposes in § 155.201(a)(1) to limit the species of canned mushrooms to *Agaricus (Psalliota) bisporus* and *A. bitorquis.*

2. *Processing.* The Codex standard (1.1(c)) states that the canned mushrooms are processed by heat in an appropriate manner, before or after being sealed in a container, so as to prevent spoilage. The U.S. standard (§ 155.200(a)) states the food is sealed in a container and so processed by heat as to prevent spoilage.

FDA is not aware of any mushroom canner who is currently using aseptic canning methods in which the mushrooms are heat sterilized before being sealed in a container. Nevertheless, FDA believes that canners should be permitted to use aseptic techniques in the canning of mushrooms, consistent with the U.S. standards of identity for canned beans, corn, and peas. Therefore, FDA proposes, in § 155.201(a)(1), language similar to that of the Codex standard.

3. *Color types.* The Codex standard (1.3) provides for two color types: (1) White or cream, and (2) brown. The U.S. standard contains no reference to color types, but the USDA voluntary grade standards provide separate criteria for grading the two types.

FDA recognizes that cultivated mushrooms may be of the color types referred to in the Codex standard and the USDA voluntary grade standards. FDA, however, is not proposing to provide for color type in the U.S. standard. The U.S. standard does not prohibit label declaration of the actual color type.

4. *Optional styles*—(a) *Buttons.* The Codex standard (1.4.1), the USDA voluntary grade standards, and the U.S. standard (§ 155.200(b)) provide for "buttons" as an optional style. The Codex standard defines "buttons" as whole mushrooms, with attached stems not exceeding 5 millimeters (0.2 inch) in length, measured from the bottom of the veil. The Codex standard (1.5) states that 10 percent, by count, of the stems may exceed the length requirement. The USDA voluntary grade standards define the style as consisting of the caps with attached stems which are cut transversely below the veil so that in 85 percent or more, by count, of the units the attached stem when measured from the underside of the cap to the cut end of the stem does not exceed ⅛ inch (3.2 millimeters) in lenght; and in the remaining units none of the attached stems may be more than ¼ inch (6.4 millimeter) in length.

FDA proposes in § 155.201(a)(2)(i) to retain "buttons" as an optional style, defined in consideration of the Codex standard as consisting of whole mushrooms with attached stems not exceeding 5 millimeters (0.2 inch) in length, measured from the bottom of the veil. FDA is not including in the proposed definition the Codex provision that 10 percent by count of the stems may exceed the length requirement. However, FDA will not object to the variation of "buttons" style within this limitation.

(b) *Sliced buttons.* The Codex standard (1.4.2) and the USDA voluntary grade standards provides for "sliced buttons" as an optional style. The USDA voluntary grade standards provide for this style; however, the U.S. standard does not. The Codex defines sliced buttons as buttons cut into slices 2 millimeters to 6 millimeters (0.079 inch to 0.24 inch) thick, of which not less than 50 percent are cut parallel to the axis of the mushroom. The USDA voluntary grade standards define the style as consisting of units which have been sliced from button mushrooms so that in 90 percent or more, by weight, of all the units the direction of the slice is approximately parallel to the longitudinal axis of the stem.

FDA has no information that U.S. consumers would recognize the style "sliced buttons" as distinctively different from the style "slice or sliced" currently provided for in the U.S. standard. The agency therefore does not propose to provide for "sliced buttons" as a optional style in the U.S. standard.

(c) *Whole.* The Codex standard (1.4.3), the USDA voluntary grade standards, and the U.S. standard (§ 155.200(b)) provide for "whole" as an optional style. The Codex defines whole mushrooms as mushrooms with attached stems cut to a length not exceeding the diameter of the cap, measured from the bottom of the veil. The Codex standard (1.5) states that 10 percent, by count, of the stems may exceed the length requirement. The USDA voluntary grade standards define "whole" style as consisting of the caps with attached stems which are more than ⅛ inch (3.2 millimeters) in length when measured from the underside of the cap to the cut end of the stem.

FDA proposes in § 155.201(a)(2)(ii) to retain "whole" as an optional style, defined as consisting of whole mushrooms with attached stems cut to a length not exceeding the diameter of the cap, measured from the bottom of the veil. FDA is not including in the proposed definition the Codex provision that 10 percent by count of the stems may exceed the length requirement. However, FDA will not object to the variation of "whole" style within this limitation.

(d) *Quarters.* The Codex standard (1.4.6) provides for "quarters" as an optional style, defined as mushrooms cut into four approximately even parts. Neither the USDA voluntary grade standards nor the U.S. standard provide for this style.

FDA proposes in § 155.201(a)(2)(iii) to provide for "quarters" as an optional style, defined as buttons or whole style cut into four approximately equal parts.

(e) *Slice or sliced.* The Codex standard (1.4.4) provides for "sliced" or "sliced whole" as an optional style. The USDA voluntary grade standards provide for "sliced whole". The U.S. standard (§ 155.200(b)) provides for "slices" or "sliced". The Codex defines "sliced" mushrooms as mushrooms cut into slices 2 millimeters to 8 millimeters (0.08 inch to 0.32 inch) thick, of which not less than 50 percent are cut parallel to the axis of the mushroom. The USDA voluntary grade standards define "sliced whole" as consisting of units which have been sliced from whole mushrooms so that in 80 percent or more, by weight, of all the units the direction of the slice is approximately parallel to the longitudinal axis of the stem. The definition further provides that not more than 5 percent, by weight, of all the units may be detached portions of the stems.

FDA proposes in § 155.201(a)(2)(iv) to retain "slice" or "sliced" as an optional style, defined as consisting of buttons or whole style mushrooms of which not less than 50 percent are cut parallel to the lingtitudinal axis of the stem and 2 millimeters to 8 millimeters (0.08 inch to 0.32 inch) in thickness.

(f) *Random sliced.* The Codex standard (1.4.5) provides for "random sliced" as an optional style. The USDA voluntary grade standards provide for "random sliced whole" as an optional style. The U.S. standard does not provide for this style. The Codex defines random sliced mushrooms as mushrooms cut into slices of varying thickness and in which the slices may deviate materially from cuts approximately parallel to the axis of the mushroom. The USDA voluntary grade standards define "random sliced whole" as pieces of mushroom which have been sliced from whole mushrooms in a random manner so that the direction of the slice may materially deviate from approximately parallel to the longitudinal axis of the stem. The definition further provides that not more than 15 percent, by weight, of all the units may be detached portions of stem.

FDA proposes in § 155.201(a)(2)(v) to provide for "random sliced" as an optional style, defined as buttons or whole style mushrooms sliced in a random manner.

(g) *Pieces and stems.* The Codex standard (1.4.7) provides for "stems and pieces (cut)" as an optional style. The USDA voluntary grade standards provide for "stems and pieces" or "pieces and stems" as an optional style. The U.S. standard (§ 155.200(b)) provides for "pieces and stems" as an optional style. The Codex defines pieces and stems as pieces of caps and stems of irregular sizes and shapes. The USDA voluntary grade standards define the style as consisting of units which do not

conform to any of the styles otherwise provided for, that are predominantly cut or broken portions of the caps and stems, and that may contain units of any of the other styles.

FDA proposes in § 155.201(a)(2)(vi) to retain "pieces and stems" as an optional style, defined as consisting of pieces of caps and stems of irregular shape and size. FDA does not believe that inclusion of the term "cut" would be of benefit to the U.S. consumer in identifying the style.

(h) *Grilling.* The Codex standard (1.4.8) provides for "grilling" as an optional style, defined as selected open-veiled mushrooms not exceeding 40 millimeters (1.57 inches) in diameter, with attached stems not exceeding the diameter of the cap, measured from the bottom of the veil scar. Neither the USDA voluntary grade standards nor the U.S. standard provides for this style.

The term "grilling" has little meaning as a style of canned mushrooms to the U.S. consumer. Therefore, FDA does not propose to provide for "grilling" as an optional style of canned mushrooms.

(i) *Other optional styles.* The Codex standard (1.4.9) provides for other optional styles not specifically described, such as diced or chopped, when such styles are appropriately described on the label.

FDA does not propose to provide for other optional styles in the U.S. standard of identity.

5. *Packing medium*—(a) *Regular or natural packs.* The Codex standard (1.6.1) defines regular or natural packs as mushrooms packed in water, brine, or juice exuding from the mushrooms. The Codex standard (1.1(b)) further states that mushrooms are to be packed with water or juice exuding from the mushrooms or other suitable liquid medium seasonings, and other ingredients. The U.S. standard (§ 155.200(c)) requires that water be added.

FDA proposes in § 155.201(a)(1) that canned mushrooms must be packed with a suitable liquid medium, which may include water.

(b) *Sauces.* The Codex standard (1.6.2 through 1.6.4) provides for packing canned mushrooms in butter or butter sauce, cream sauce, or sauce other than butter or cream sauce. The Codex standard (2.1.1 through 2.1.5, 3.4, 3.6, and 3.9) provides for use in sauces of spices, seasonings, soybean sauce, vinegar wine, sucrose, invert sugar syrup, dextrose, glucose syrup, dried glucose syrup, butter or other edible animal or vegetable fats or oils, including olive oil, milk, milk powder, or cream, vegetable gums, and modified starches. The U.S. standard (§ 155.200(c)(3)) excludes butter and margarine from standardized canned mushrooms.

FDA has consistently advised canners of specialty mushroom products made with butter, margarine, or sauces that such articles are nonstandardized foods that are not considered to violate the FDA standard if they differ sufficiently in appearance, taste, or other characteristics and are labeled to distinguish them from the standardized product. FDA is not proposing to provide in the U.S. standard for the packing of canned mushrooms in sauces, butter, or margarine.

(c) *Vinegar, oil, and wine.* The Codex standard (1.6.5, 1.6.6, and 1.6.7) provides for packing canned mushrooms in vinegar, oil, and wine. The U.S. standard (§ 155.200(c)(3)) does not permit vinegar as an optional seasoning ingredient. FDA recognizes that vinegar is commonly used in pickled and spiced mushrooms, but believes that these products, because of their distinctive flavor, do not purport to be the standardized food (see 42 FR 30358; June 14, 1977). Under § 155.200(c)(1) use of edible vegetable oil is specifically restricted to canned artichokes and pimientos. Section 155.200(c) makes not provision for use of wine.

FDA does not propose to provide for canned mushrooms in vinegar, oil, or wine. Mushroom products which do not purport to be the standardized food and which use any of these packing media may be distributed as nonstandardized foods under appropriate labeling.

6. *Salt and flavor enhancers.* The Codex standard (2.1.1 and 3.3) provides for salt and monosodium glutamate. The U.S. standard (§ 155.200(c)(4)) provides for the optional use of salt, monosodium glutamate, disodium inosinate, disodium guanylate, hydrolyzed vegetable protein, and autolyzed yeast extract.

FDA proposes in § 155.201(a)(3) to retain the provisions for the use of salt, monosodium glutamate, disodium inosinate, disodium guanylate, hydrolyzed vegetable protein, and autolyzed yeast extract.

7. *Ascorbic acid.* The Codex standard (3.1) provides for the unlimited addition of ascorbic acid (vitamin C). The U.S. standard (§ 155.200(c)(7)) provides for the use of ascorbic acid in a quantity not to exceed 37.5 milligrams for each ounce of drained weight of mushrooms.

FDA believes that the current limit of 37.5 milligrams of ascorbic acid per ounce of drained weight is adequate to reduce the darkening due to oxidation without making the product appear to be of greater value than it actually is. Therefore, FDA proposes in § 155.201(a)(3)(vii) to allow ascorbic acid to be added in a quantity not to exceed 132 milligrams for each 100 grams (37.5 milligrams for each ounce) of drained weight of mushrooms.

8. *Organic acids.* The Codex standard (3.2) provides for unlimited use of citric acid. The U.S. standard (§ 155.200(c)(12)) provides for the optional use of safe and suitable organic acid (except that no vinegar is permitted) only where the inside of a metal container is fully enamel-lined or the cap used in a glass container is fully enamel-lined. The use of ascorbic acid is discussed above.

FDA proposes in § 155.201(a)(3)(viii) to retain the provision for the use of organic acids.

9. *Calcium disodium EDTA.* The Codex standard (3.5) provides for the use of calcium disodium ethylenediaminetetraacetate (calcium disodium EDTA) at a maximum level of 200 milligrams per kilogram of the finished food. The U.S. standard does not provide for the use of calcium disodium EDTA, but § 172.120(b)(1) (21 CFR 172.120(b)(1)) provides that calcium disodium EDTA may be used alone within a limit of 200 parts per million in cooked, canned mushrooms to promote color retention when such use is prescribed by an effective temporary permit issued under § 130.17 (21 CFR 130.17). No such temporary permit is now in effect.

However, on its own initiative, FDA has decided to propose to amend the U.S. standard of identity for canned mushrooms (§ 155.201(a)) to provide for the safe use of calcium disodium EDTA as a color stabilizer in cooked, canned mushrooms at a level of 200 parts per million. FDA believes that the safety of this use of calcium disodium EDTA is established by data submitted in 1966 (see 32 FR 6686; May 2, 1967) as part of a petition to amend 21 CFR 172.120(b) (at that time 21 CFR 121.1017) to provide for this issue. (FDA has filed a copy of that data in the administrative record for this proceeding.) Although the agency adopted the petition in 1967, because the standard of identity for canned mushrooms did not provide for the use of calcium disodium EDTA, FDA included the requirement of a temporary permit in the food additive regulation approving the use of this substance. FDA has not acted previously to amend the standard of identity to provide for the use of calcium disodium EDTA in canned mushrooms because the agency has never been requested to do so.

FDA finds, however, that the Codex's decision to include the use of calcium disodium EDTA in its standard provides an appropriate basis for the agency to act to amend § 155.201(a). Therefore, FDA proposes in § 155.201(a)(3)(ix) to

adopt the Codex provision to allow for calcium disodium EDTA to be added in a quantity not to exceed 200 parts per million as a color stabilizer in cooked, canned mushrooms. Therefore, the agency is proposing to conform § 172.120(b)(1) with the proposed amendment to the food standard regulations to eliminate the requirement of the temporary permit.

10. *Labeling*—(a) *Style of mushrooms.* The Codex standard (6.1.2) states that the style of the mushroom ingredient is to be included as part of the name or in close proximity to the name of the food. The U.S. standard (§ 155.200(e)) states that the label is to bear the style of the mushroom ingredient.

FDA believes that the style of the mushroom ingredient, included as a part of the name of the food or in close proximity to the name of the food, provides for more uniform labeling of canned mushrooms than the current U.S. requirement that the style merely appear on the label. Therefore, FDA proposes in § 155.201(a)(4)(i) the adoption of the Codex provision.

(b) *Ingredient statement.* The Codex standard (6.2) states that all ingredients are to declared on be the label in descending order of proportion, except that water need not be declared. The U.S. standard (§ 155.200(h)) states that each of the optional ingredients used is to be declared on the label as required by the applicable sections of Part 101 (21 CFR Part 101).

FDA proposes in § 155.201(a)(4)(ii) to retain the current labeling requirement. Because FDA is proposing to provide for the use of water or another suitable liquid packing medium, water would be an optional ingredient to be declared in accordance with the requirements of Part 101.

Comparison of Fill of Container Aspects and Proposed Courses of Actions

1. *Minumum fill of container.* The Codex standard (5.1.1) states that the container is to be well filled with mushrooms and that the product (including packing medium) is to occupy not less than 90 percent of the water capacity of the container. The U.S. standard does not contain a minimum fill requirement.

FDA proposes in § 155.201(c)(1)(i) to require that the fill of the mushroom ingredient and packing medium be not less than 90 percent of the total capacity of the container. This requirement is consistent with the fill requirements applicable to canned fruits and to other canned vegetables.

2. *Drained weight.* The Codex standard (5.1.4.1) states that the drained weight of the mushroom ingredient is to be not less than 53 percent of the weight of distilled water at 20° C which the sealed container will hold when completely filled. The NFPA petition and the U.S. standard (§ 155.201(c)(1)) have the following drained weights of not less than:

Container designation	Overall dimensions sealed can (inches)		Drained weight (ounces)	
	Diameter	Height	NFPA	§ 155.201(c)(1)
202 x 204	2⅞	2⅞	2	2
211 x 212	2 1/16	2⅞	4	4
300 x 400	3	4	7.5	8
307 x 510	3 1/16	5⅛	14.5	16
603 x 700	6 1/16	7	61	56

NFPA proposes, for containers the diamensions of which are not specified, that the drained weight is to be not less than 56 percent of the water capacity of the container. The U.S. standard (§ 155.201(c)(2)) specifies for such containers a drained weight of not less than 56 percent of the water capacity of the container, if the water capacity is less than 11.0 ounces; not less than 59 percent of the water capacity of the container, if the water capacity is 11.0 ounces or more but less than 25 ounces; and not less than 62 percent of the water capacity, if the water capacity is 25 ounces or more.

NFPA has recommended in their bulletin 26L, "Processes for Low-Acid Canned Foods in Metal Containers," (1966), a maximum drained weight of 70 ounces for a 603 x 700 container to assure proper heat treatment of the mushrooms. (Bulletin 26L was revised in 1976 to list recommended maximum fill weights.) NFPA states, however, that processors can not assure a minimum of 68 ounces, as required by the U.S. standard, without many containers exceeding the NFPA maximum. Overfilling is particularly a problem with mechanical fillers, which cause the mushrooms to pack down, further impeding heat penetration of the mushrooms. NFPA states that there has been little or no underprocessing spoilage with containers where the drained weight of the mushrooms is 56 percent of the water capacity of the container.

FDA recognizes that overfilling could contribute to the bacterial spoilage of canned mushrooms. It also recognizes that under certain operating conditions, particularly when a vibrating motion is applied during the filling operation, the mushrooms can compact in the cans resulting in further reduction of heat penetration of the mushrooms. Therefore, FDA proposes in § 155.201(c)(1)(ii)(*a*) to revise the drained weight requirements for the specified containers so that the ratio of mushrooms to water capacity of the container is not less than 56 percent as follows:

Container designation	Overall dimensions sealed can (inches)		Drained weight	
	Diameter	Height	Ounces (avoir-dupois)	Grams
202 x 204	2⅞	2⅞	2	56.7
211 x 212	2 1/16	2⅞	4	113.4
300 x 400	3	4	7.6	215.5
307 x 510	3 1/16	5⅛	14.5	411.1
603 x 700	6 1/16	7	61	1,729.3

FDA also proposes in § 155.201(c)(1)(ii)(*b*) that the drained weight of mushrooms in containers of a size not specified is to be not less than 56 percent of the water capacity of the container.

4. *Labeling of substandard fill of container.* The Codex standard does not provide for substandard labeling of canned mushrooms that would fail to meet the fill of container requirement. The U.S. standard in § 155.201(c)(5) requires that canned mushrooms which fall below the applicable fill of container (minimum drained weight) requirements bear the general statement of substandard fill specified in § 130.14(b) (21 CFR 130.14(b)).

FDA proposes in § 155.201(c)(3) to require that canned mushrooms which fail to comply with proposed § 155.201(c)(1)(i) and/or (ii) and (2) are to bear the appropriate statement of substandard fill as specified in § 130.14(b).

5. *Sampling and acceptance.* The Codex standard (5.1.2, 5.1.3, and 7.1) provides for the determination of compliance with the minimum fill and drained weight requirements. The U.S. standard has no such requirements.

FDA proposes in § 155.201(c)(2) to determine compliance in accordance with the procedure in § 155.3(b) (21 CFR 155.3(b)). This is the Codex procedure that has been adopted for use in many U.S. standards.

6. *Analyses.* The Codex standard (7.2 and 7.4) specifies methods of analysis for drained weight and water capacity of containers. The U.S. standard (§ 155.201(c)(3)) references the general method in § 130.12 (21 CFR 130.12) for the determination of water capacity and § 155.201(c)(4) contains the procedure for the determination of drained weight.

The Codex methods have already been adopted by the United States.

Therefore, FDA proposes in § 155.201(c)(1) to reference § 130.12(b) for the determination of water capacity. It also proposes in § 155.201(c)(1)(ii)(*c*) to reference the procedure in § 155.3(a) for the determination of drained weight.

Written comments by August 23, 1982. The agency periodically announces by notice in the **Federal Register** uniform effective dates for compliance with food labeling requirements. (See, for example, the **Federal Register** of October 31, 1980 (45 FR 72111).) The agency proposes that any final rule that may issue based upon this proposal become effective in accordance with a uniform effective date for compliance with food labeling requirements which is announced by notice in the **Federal Register** and which is not sooner than 1 year following publication of any final rule based upon this proposal, except for any provisions that may be stayed by the filing of proper objections. The final rule would apply to affected products initially introduced or initially delivered for introduction into interstate commerce.

In accordance with the Regulatory Flexibility Act (Pub. L. 96–354 (5 U.S.C. 601)), FDA has reviewed this proposed rule to determine its impact on small businesses. The proposed regulation in § 155.201(a) and (c) updates the U.S. standards for canned mushrooms by providing for quarter and random slices as an additional optional style of pack, lowering the drained weight requirement for certain can sizes to reduce the incidence of bacterial spoilage, and recodifying the format. The agency believes that the proposed regulation provides increased flexibility to all manufacturers related to the canned mushroom industry and will not impose an additional burden on the industry. Therefore, FDA certifies that this proposed action will not have a significant economic impact on a substantial number of small entities.

The agency has determined under 21 CFR 25.24(b)(13) (proposed December 11, 1979; 44 FR 71742) that this proposed action to amend the food standards (Part 155) is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

The potential environmental impact of this proposed action to amend the food additive regulation (Part 172) is being reviewed. If the agency finds that an environmental impact statement is not required and this proposal results in a conforming regulation, the notice of availablity of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

List of Subjects

21 CFR Part 155

Canned vegetables, Food standards, Vegetables.

21 CFR Part 172

Food additives, Food preservatives, Spices and flavorings.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 409, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended, 72 Stat. 1785–1788 as amended (21 U.S.C. 341, 348, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 155 and 172 be amended as follows:

PART 155—CANNED VEGETABLES

1. In Part 155:

a. Section 155.200 is amended by removing the entry "Mushrooms" from the table in paragraph (b), by removing the words "except canned mushrooms and" from paragraph (c)(3), by removing the words "except canned mushrooms" from paragraph (c)(5), by removing paragraph (c)(7) and redesignating the subsequent paragraphs as (c)(7), (8), (9), (10), and (11), and by revising redesignated (c)(11), to read as follows:

§ 155.200 Certain other canned vegetables.

* * * * *

(c) * * *

(11) A vinegar or any safe and suitable organic acid for all vegetables (except artichokes, in which the quantity of such optional ingredient is prescribed by the introductory text of paragraph (c) of this section) in a quantity which, together with the amount of any lemon juice or concentrated lemon juice that may be added, is not more than sufficient to permit effective processing by heat without discoloration or other impairment of the article.

b. By revising § 155.201, to read as follows:

§ 155.201 Canned mushrooms.

(a) *Identity*—(1) *Definition.* Canned mushrooms is the food properly prepared from the caps and stems of succulent mushrooms conforming to the characteristics of the species *Agaricus (Psalliota) bisporus* or *A. bitorquis*, in one of the optional styles specified in paragraph (a)(2) of this section, packed with a suitable liquid medium which may include water; and may contain one or more safe and suitable optional ingredients specified in paragraph (a)(3) of this section. The food is sealed in a container and, before or after sealing, is so processed by heat as to prevent spoilage.

(2) *Styles.* The optional styles of the mushroom ingredient referred to in paragraph (a)(1) of this section are:

(i) *Buttons*—consisting of whole mushrooms with attached stems not exceeding 5 millimeters (0.2 inch) in length, measured from the bottom of the veil.

(ii) *Whole*—consisting of whole mushrooms with attached stems cut to a length not exceeding the diameter of the cap, measured from the bottom of the veil.

(iii) *Quarters*—consisting of buttons or whole style cut into four approximately equal parts.

(iv) *Slice or sliced*—consisting of buttons or whole style of which not less than 50 percent are cut parallel to the longitudinal axis of the stem and 2 millimeters to 8 millimeters (0.08 inch to 0.32 inch) in thickness.

(v) *Random sliced*—consisting of buttons or whole style sliced in a random manner.

(vi) *Pieces and stems*—consisting of pieces of caps and stems of irregular shapes and sizes.

(3) *Optional ingredients.* One or any combination of two or more of the following safe and suitable optional ingredients as provided for in paragraph (a)(1) of this section may be used:

(i) Salt.

(ii) Monosodium glutamate.

(iii) Disodium inosinate complying with the provisions of § 172.535 of this chapter.

(iv) Disodium guanylate complying with the provisions of § 172.530 of this chapter.

(v) Hydrolyzed vegetable protein.

(vi) Autolyzed yeast extract.

(vii) Ascorbic acid (vitamin C) in a quantity not to exceed 132 milligrams for each 100 grams (37.5 milligrams for each ounce) of drained weight of mushrooms.

(viii) Organic acids (except no vinegar is permitted), only where the inside metal of the container is fully enamel-lined and in glass containers with fully enamel-lined caps. Ascorbic acid as provided for in paragraph (a)(3)(vii) of this section.

(ix) Calcium disodium ethylenediaminetetraacetate ($CaNa_2$ EDTA) in a quantity not to exceed 200 parts per million for use to promote color retention.

(4) *Labeling requirements.* (i) The name of the food is mushrooms. The style as provided for in paragraph (a)(2) of this section shall be included as part

of the name or in close proximity to the name of the food.

(ii) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(b) [Reserved]

(c) *Fill of container.* (1) The standard of fill of container for canned mushrooms is:

(i) The fill of the mushroom ingredient and packing medium, as determined by the general method for fill of container prescribed in § 130.12(b) of this chapter, is not less than 90 percent of the total capacity of the container.

(ii) The drained weight of the mushroom ingredient is not less than 56 percent of the water as capacity of the container.

(iii) Determine drained weight as specified in § 155.3(a).

(2) Determine compliance for minimum fill and drained weight as specified in § 155.3(b).

(3) If the canned mushrooms fall below the standard of fill prescribed in paragraph (c)(1)(i) and/or (ii) and (2) of this section, the label shall bear the general statement of substandard fill specified in § 130.14(b) of this chapter, in the manner and form therein prescribed.

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

2. In Part 172, § 172.120 is amended in the table in paragraph (b)(1) by revising the entry for "Mushrooms (cooked canned)" to read as follows:

§ 172.120 Calcium disodium EDTA.

* * * * *

(b) * * *

(1) * * *

Food	Limitation (parts per million)	Use
. . . . .		
Mushrooms (cooked canned).	200	Promote color retention.
. . . . .		

* * * * *

Interested persons may, on or before August 23, 1982, submit to the Dockets Management Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 17, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-16868 Filed 6-18-82; 10:34 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 207, 220, 221, and 236

[Docket No. R-82-986]

Multifamily Housing, Urban Renewal, and Low Cost and Moderate Income Mortgage Insurance

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would provide an alternative method of determining maximum permissible rentals for unsubsidized insured and HUD-held multifamily projects, using the current appraised market value of the property, and would provide for an increase in mortgage insurance premiums for projects using this alternative method. In addition, it would end control of rents by HUD for mortgages insured under Section 220 or Section 221(d)(4) of the National Housing Act.

DATES: Comments due: August 23, 1982.

ADDRESS: Comments should be sent to the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Each comment should include the commentor's name and address and must refer to the docket number indicated in the heading of this document. A copy of each communication will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: James J. Tahash, Director, Program Planning Division, Office of Multifamily Housing Management, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 426-8730. This is not a toll free number.

SUPPLEMENTARY INFORMATION: HUD has determined that the existing methods of determining maximum permissible rentals in unsubsidized insured and HUD-held projects do not provide timely recovery of current operating costs and a sufficient incentive for owners to preserve such projects as a part of the nation's multifamily rental stock. The Department has many projects in which defaults or serious delinquencies have been caused by a rigid rent structure which is not sufficiently responsive to cost increases and changes in market conditions. Therefore, the Department proposes these rules to set forth already established procedures for determining maximum permissible rent, provide an alternative mechanism which permits project owners to request that rents be determined using the current appraised market value of the property, and deregulate the determination of rents by HUD for mortgages insured or formerly insured under section 220 or 221(d)(4).

As the insurer, or holder, of the mortgages on such projects, HUD has a paramount interest in their economic viability. Moreover, HUD is committed to the preservation and enhancement of the quantity and quality of available rental housing. For projects which receive no subsidy, the best method to achieve these goals is to allow free markets to determine rents which will enable owners to recover current operating costs and achieve a reasonable rate of return based on present property values. Since HUD control over rents is not mandated by sections 220 and 221(d)(4), projects with mortgages insured under those sections will be freed from any rent regulations by HUD.

With respect to other unsubsidized insured or HUD-Held mortgages, a change in the procedure for determining rents is proposed. Currently, HUD controls rents in such projects by a strict formula based on historical costs and a rate of return which is a fixed percentage of replacement cost. The current method provides no recognition of increased value of the project, thus decreasing the real return to the owner where there is any substantial increase in market value of the project. This below-market return induces many owners to sell or convert their projects, frequently to the detriment of the tenants. The proposed alternative method would permit recovery of current costs and a realistic return on investment to the project owner based on the appreciation of property value. These changes would increase economic viability and provide the incentive necessary to preserve the existing rental housing stock, to the benefit of all participants in the rental market.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR 50, which implement section 102(2)(C) of the National Environmental Policy Act of

1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the above address.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not:

(1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

The Catalog of Federal Domestic Assistance Program number is 14.134.

This rule is not listed in the Department's semiannual agenda of regulations, published on August 17, 1981 (46 FR 41708) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR

Part 207

Mortgage insurance, Rental housing, Mobile home parks.

Part 220

Home improvement, Mortgage insurance, Urban renewal, Rental housing, Loan programs: housing and community development, Projects.

Part 221

Condominiums, Low and moderate income housing, Mortgage insurance, Displaced families, Single family housing, Projects, Cooperatives.

Part 236

Low and moderate income housing, Mortgage insurance, Rent subsidies, Taxes, Utilities, Projects.

Accordingly, HUD proposes to amend 24 CFR Parts 207, 220, 221, and 236 as follows:

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

1. Part 207 would be amended by revising paragraph (e) of § 207.19 to read as follows:

§ 207.19 [Amended]

* * * * *

(e) *Rents and charges.* No charge shall be made by the mortgagor for the accommodations, facilities or services offered by the project in excess of those approved by the Commissioner. In approving such charges and in passing upon subsequent rent adjustments, consideration will be given to providing rental income necessary to maintain the economic soundness of the project and a reasonable return on investment consistent with reasonable rents to tenants. The determination will be made as follows:

(1) *Initial Rent Determination.* The Commissioner will set initial rents in the project prior to opening for occupancy. In determining the rate of return in the rent level, a debt service factor as determined by the Commissioner will be applied to the sum of Replacement Cost and working capital. Project operating costs, including an allowance for management, will be estimated using the latest available data from comparable properties. In addition in determining the rent level, the Commissioner may take into consideration local market conditions, vacancy rates and use of commercial space. The determination of maximum permissible rentals shall be processed on a form approved by the Commissioner.

(2) *Rent Adjustments.* After initial rents are determined, rental adjustments may be approved by the Commissioner in one of the following methods as selected by the mortgagor:

(i) By using as a base updated certified operating costs, taking into consideration reasonably anticipated increases in operating costs which will occur within twelve months of the date of filing of the mortgagor's application for rent adjustment and adding the return on investment computed in the initial rent determination pursuant to paragraph (e)(1) of this section, or

(ii) The lesser of:

(A) Updated operating costs determined in accordance with 24 CFR 207.19(e)(2)(i) above plus a rate of return calculated by multiplying the percentage determined at the time of Initial Rent Determination times the appraised market value of the project as of the time of application; or,

(B) Rentals on comparable conventionally financed projects in the same area, determined in accordance with procedures established by the Commissioner.

(iii) If the project is subject to a local rent control ordinance (board) as defined at 24 CFR 403, Subpart A, and the mortgagor determines that the maximum rent permissible exceeds the level prescribed by the board, and that preemption of the board is desirable, the project owner must abide by the requirements of 24 CFR Part 403, Subpart B.

(3) *Regulatory Control.* The determination of rent as provided in paragraph (e)(2) of this section shall not diminish the authority of the Commissioner stipulated in the corporate charter or regulatory agreement.

(4) *Loan Management Set-Aside Projects.* Rent adjustments for units assisted under Part 886, Subpart A, Section 8 Housing Assistance Payments Program—Special Allocation shall be determined pursuant to paragraph (e)(2)(i) of this section.

(5) *Effective Date.* Except for rents on units described in paragraph (e)(4) of this section all adjustments to maximum permissible rent shall take effect thirty (30) days after the filing of an application for such adjustment with the Area Office unless specifically disapproved in writing by the Commissioner; provided that, pending the Commissioner's approval or disapproval of the maximum permissible rent, additional rentals received by the mortgagor as a result of such adjustment shall be held in an escrow account under such terms as the Commissioner shall direct, or the mortgagor shall provide a letter of credit sufficient to cover the additional rent collected.

(6) *Increase in Mortgage Insurance Premiums.* The mortgage insurance premium (or service charge) shall increase to one percent per annum on the unpaid principal balance of the mortgage in the event the project owner requests determination of maximum permissive rents as set out pursuant to paragraph (e)(2) of this section.

2. Part 207 would be amended by revising paragraph (d) of § 207.252 to read as follows:

§207.252 [Amended]

* * * * *

(d) Until the mortgage is paid in full, or until receipt by the Commissioner of an application for insurance benefits, or until the contract of insurance is otherwise terminated with the consent of the Commissioner, the mortgagee, on each anniversary of the date of the first principal payment, shall pay an annual mortgage insurance premium equal to

one-half of one percent of the average outstanding principal obligation of the mortgage for the year following the date on which such premium becomes payable, except that whenever a mortgagor shall request that maximum permissible rents be determined pursuant to § 207.19(e)(2)(ii), or § 220.511 of this subchapter or §221.531(c) of this subchapter, the Mortgage Insurance Premium (or service charge in Secretary-held mortgages) shall increase to one percent per annum on the unpaid principal balance of the mortgage, commencing on the next anniversary date of the commencement of the first principal payment.

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS.

3. Part 220 would be amended by revising § 220.511 to read as follows:

§ 220.511 Supervision of mortgagors.

(a) All of the provisions of §207.19 of this subchapter, with exception of § 207.19(e), shall apply, except that in the case of a mortgage covering property on which there is located a dwelling or dwellings designed principally for resident's use for two to eleven families, § 207.19(d) relating to labor standards and prevailing wage requirements shall not apply.

(b) Rents and charges shall be determined by the housing owner based on comparable rents in the local market area for unassisted units in the project. Rents for any units assisted under 24 CFR 880, Section 8—New Construction or 24 CFR 881, Section 8—Substantial Rehabilitation, shall be determined pursuant to the applicable Section 8 Regulation.

(c) For projects having units assisted under Part 886, Subpart A, Section 8 Housing Assistance Payments Program—Special Allocation, the rents shall be determined pursuant to § 207.19(e)(2)(i) of this subchapter.

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

4. Part 221 would be amended by revising paragraph (c) of § 221.531 to read as follows:

§ 221.531 [Amended]

(c) *Rents and charges.* The provision of § 220.511 of this subchapter shall apply, except that rent adjustments for projects insured or formerly insured on which the mortgage bears a below market rate or which have a contract pursuant to CFR Part 215 shall be only as set forth in § 207.19(e)(2)(i) of this subchapter. Rents for units assisted under 24 CFR Part 880, Section 8—New Construction or 24 CFR 881, Section 8 Substantial Rehabilitation, shall be determined pursuant to the applicable Section 8 Regulation.

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENT FOR RENTAL PROJECTS

5. Part 236 would be amended by revising the introductory language of § 236.55(a) to read as follows:

§ 236.55 Rental charges.

(a) *Approved rental charges.* The Secretary shall process the maximum potential rent for the project pursuant to § 207.19(e)(2)(i) of this subchapter. The mortgagor shall, with the approval of the Secretary, establish and maintain for each dwelling unit the following:

* * * * *

(Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); Sec. 211 of the National Housing Act, as amended, 12 U.S.C. 1715b.)

Dated: May 20, 1982.

Philip Abrams,

General Deputy Assistant Secretary—Deputy Federal Housing Commissioner.

[FR Doc. 82-16611 Filed 6-18-82; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-50-80]

Procedure for Electing $10 Million Limitation on Exempt Small Issues of Industrial Development Bonds and Increase in Limit on Size of Such Small Issues

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations which would revise the procedure for electing the $10 million limitation for exempt small issues of industrial development bonds. The amendments would also conform the regulations on exempt small issues to the increase in the limit on the size of such small issues, enacted by the Revenue Act of 1978, and would clarify rules regarding capital expenditures. The regulations would effect issuers of such exempt small issues and principal users of facilities financed with the proceeds of such issues and would provide the public with guidance needed to comply with the changed tax law.

DATES: Written comments and requests for a public hearing must be delivered or mailed by August 23, 1982. The regulations relating to the procedure for electing the $10 million limitation are proposed to be effective upon publication of final regulations by a Treasury decision. The amendments relating to the increase in the limit on the size of small issues of industrial development bonds are proposed to be effective for such obligations issued after December 31, 1978, in taxable years ending after such date, and for capital expenditures made after December 31, 1978, with respect to such obligations issued before January 1, 1979.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-50-80), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: John A. Tolleris of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3294).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 103(b)(6)(D) of the Internal Revenue Code of 1954. These amendments would make revisions in the manner of electing the $10 million limitation for exempt small issues of industrial development bonds and for filing supplemental statements of capital expenditures. These amendments would also conform the Regulations to the increase in the limitation, from $5 million to $10 million, in the size of certain exempt small issues, enacted by section 331(a) of the Revenue Act of 1978 (92 Stat. 2839). The regulations are to be issued under the authority contained in sections 103(b)(6)(D) and 7805 of the Internal Revenue Code of 1954 (82 Stat. 1349, 26 U.S.C. 103(b)(6)(D); 68A Stat. 917, 26 U.S.C. 7805).

Procedure for Electing $10 Million Limit

The proposed amendments modify the election procedure to provide that issuers of exempt small issues of industrial development bonds must file the statement of election with the district director of the internal revenue district where the facility financed by the largest portion of the proceeds of the industrial development bonds is located. The proposed amendments would also

require all principal users of facilities financed by proceeds of these exempt small issues to file the annual supplemental statement of capital expenditures, required by existing § 1.103–10(b)(2)(vi)(*c*), with the district director of the internal revenue district where the facility financed by the largest portion of the proceeds is located. Finally, the proposed amendments would require certain additional information relating to the bond issuance to be submitted with the election statement filed by the issuer.

Clarification of Section 103(b)(6)(D) Capital Expenditures

To determine the size of an issue under § 1.103–10(b)(2), section 103(b)(6)(D) capital expenditures must be taken into account. In part, the definition of a section 103(b)(6)(D) capital expenditure provides that such an expenditure must be financed other than out of the proceeds of issues taken into account in determining the size of the issue. In the case of prior exempt small issues, only the outstanding face amount of the issue is taken into account. Thus, the difference between the original face amount and the outstanding face amount may be a section 103(b)(6)(D) capital expenditure. Section 1.103–10(b)(2) (i)(*a*) and (ii)(*a*) is amended to clarify this result.

Regulatory Flexibility Analysis

This regulation project will not have a significant economic impact on a substantial number of small entities and is, therefore, not subject to the requirements of the Regulatory Flexibility Act, because it will not significantly increase the reporting, recordkeeping or compliance burdens of the present regulations. Any significant economic impact resulting from the increase in the exempt small issue limitation flows directly from section 331(a) of the Revenue Act of 1978 and is, therefore, also not subject to the requirements of the Regulatory Flexibility Act.

Comments and Requests for a Public Hearing

Before adoption of these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is John A. Tolleris of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR Part 1

Income taxes, Taxable income, Deductions, Exemptions.

Proposed Amendments to the Regulations

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

The proposed amendments to 26 CFR Part 1 are as follows:

Section 1.103–10 (relating for certain small issues of industrial development bonds) is amended as follows:

(1) The phrase "Section 103(c)" is removed each place it appears as a reference or part of a reference and the phrase "section 103(b)" is inserted in lieu thereof as a reference or part of a reference.

(2) Paragraph (a) is amended by adding the following new sentence at the end thereof: "For bonds issued before January 1, 1979, in taxable years ending before such date, and for capital expenditures made before January 1, 1979, with respect to such bonds, paragraphs (b), (c), and (d) of this section shall be applied by substituting $5 million for $10 million."

(3) Paragraph (c)(2) is amended by revising the caption to read *"$10 million or less refinancing issue."* and by removing "$5" each place it appears and inserting in lieu thereof "$10".

(4) paragraph (d)(1) is amended by removing "$5" and inserting in lieu thereof "$10".

(5) Paragraph (d)(3)(ii) is amended by removing "$5" each place it appears and inserting in lieu thereof "$10".

(6) paragraph (b)(2) is amended by revising the caption and subdivisions (i), (ii)(*a*), and (vi) thereof, to read as follows:

§ 1.103–10 Exemption for certain small issues of industrial development bonds.

* * * * *

(b) *Small issue exemption.* * * *

(2) *$10 million or less.* (i) Under section 103(b)(6)(D), the issuing State or local governmental unit may elect to have an aggregate authorized face amount of $10 million or less, in lieu of the $1 million exemption otherwise provided for in section 103(b)(6)(A), with respect to issues of obligations which are industrial development bonds (within the meaning of section 103(b)(2)) issued after December 31, 1978. If such election is made in a timely manner, the bonds will be treated as obligations of a State or local governmental unit described in section 103(a)(1) and § 1.103–1 if the sum of—

(*a*) The aggregate face amount of the issue including the aggregate outstanding principal amount of any prior $1 million or $10 million exempt small issues taken into account under section 103(b)(6)(B) and paragraph (d) of this section, and

(*b*) The aggregate amount of "section 103(b)(6)(D) capital expenditures"(within the meaning of subdivision (ii) of this subparagraph) is $10 million or less. In the case of an issue of obligations which qualified for exemption under section 103(b)(6)(A) and this paragraph, if a section 103(b)(6)(D) capital expenditure made after the date of issue has the effect of making taxable the interest on such issue, under section 103(b)(6)(G) the loss of tax exemption for such interest shall begin only with the date on which the expenditure which caused the issue to cease to qualify under the $10 million limit was paid or incurred. See subdivision (vi) of this subparagraph for the time, place, and manner by which the issuer may elect the $10 million exemption. See section 103(b)(6)(H) and paragraph (c)(2) of this section for the treatment of certain refinancing issues of $10 million or less.

(ii) * * *

(*a*) The capital expenditure was financed other than out of the proceeds of issues to the extent such issues are taken into account under subdivision (i)(*a*) of this subparagraph.

* * * * *

(vi)(*a*) The issuer may make the election provided by section 103(b)(6)(D) and this subparagraph (assuming that the bonds otherwise qualify under section 103(b)(6)) by means of a statement signed by a duly authorized official that the governmental unit elects to have the provisions as to the $10 million limit in section 103(b)(6)(D) apply to an issue of industrial development bonds. The statement shall be filed, prior to the issuance of such industrial development bonds, with the district director of the internal revenue district where the facility acquired, constructed, reconstructed, or improved with the largest portion of the proceeds of such issue is located. A copy of this statement shall be furnished to each

person who is a principal user of the facility at any time within 3 years of the date of issuance of the obligations in question.

(*b*) The statement shall contain the following information:

(*1*) The name and address of the governmental unit,

(*2*) The name, address, and employer identification number of the principal user or users of such proceeds or facilities,

(*3*) The date and face amount of the issue,

(*4*) The date and amount of any outstanding issues the proceeds of which have been or will be used primarily with repect to facilities the principal user or users of which are or will be the same or related persons as those listed in (*2*) of this subdivision (vi)(*b*) and which are located in the same incorporated municipality or in the same county (outside of the incorporated municipalities in such county),

(*5*) The date and amount of any section 103(b)(6)(D) capital expenditures paid or incurred within the 3 years preceding the date of the issue for which the election is made with respect to facilities described in (*4*) of this subdivision (vi)(*b*),

(*6*) To the extent known by the issuer at the time that the statement is filed, a description of each leasehold interest in the facility for which there is a lease agreement, or a binding commitment to enter into a lease, which shall include the term of the lease, renewal options if any, rental, and the percentage of the fair rental value of the entire facility attributable to each lease or prospective lease,

(*7*) To the extent known by the issuer at the time the statement is filed, the name of the owner, or each of the owners, for tax purposes, of the facility,

(*8*) To the extent known by the issuer at the time the statement is filed, a description of any use of the facility made by other users, and

(*9*) A statement as to whether the issue in question was the subject of a written determination of the Internal Revenue Service at the request of the issuer. If there is any such writen determination, a copy thereof must be attached to the statement filed by the issuer.

(*c*) Each principal user shall also file an annual supplemental statement relating to the facility which lists by date and amount any subsequent section 103(b)(6)(D) capital expenditure. Such supplemental statement shall be filed with the district director of the internal revenue district where the facility acquired, constructed, reconstructed, or improved with the largest portion of the proceeds of the issue is located on the due date prescribed for filing the user's income tax return or information return (without regard to any extensions of time). With each supplemental statement, the principal user must also file a copy of the original election statement described in subparagraph (2)(i) of this paragraph (b). In the case of a State or local governmental unit or agency thereof which is a principal user of the facility in question, the supplemental statement must be filed within 60 days after the close of the governmental unit's fiscal year.

* * * * *

Roscoe L Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 82-16851 Filed 6-21-82; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Geological Survey

30 CFR Parts 211, 221, 231, 250, and 270

Intent To Propose Rulemaking To Require the Designation of an Operator of Record and the Implementation of a Single Payor Plan for Each Lease

AGENCY: Geological Survey, Interior.

ACTION: Notice of intent to propose rulemaking and request for comments.

SUMMARY: The Minerals Management Service (MMS), formerly the Conservation Division of the U.S. Geological Survey (USGS), is considering a requirement designating an operator of record for each Federal, Outer Continental Shelf (OCS) or Indian mineral lease as well as a plan that would designate a single payor on each. The operator of record would be responsible for maintaining all lease production and sales records and for maintaining site security on the lease site. He would also be responsible for submitting rental and/or royalty payments for each Federal, OCS, or Indian mineral lease. The designation of both an operator of record and a single payor for each lease would fulfill a recommendation of the Commission on Fiscal Accountability of the Nation's Energy Resources.

DATES: Written comments and recommendation must be received on or before August 23, 1982.

ADDRESS: Written comments may be mailed or delivered to Mr. Raymond A. Hicks, Chief, Branch of Rules and Procedures for Royalty Management, Minerals Management Service—MS660, 12203 Sunrise Valley Drive, Room 6A220, Reston, VA 22091.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond A. Hicks, (703) 860-7311 (FTS 928-7311).

SUPPLEMENTARY INFORMATION: On January 19, 1982, the Secretary of the Interior established the Minerals Management Service and transferred to it all functions previously exercised by the Conservation Division, U.S. Geological Survey, including administration of the regulatory programs cited herein. Secretarial Order No. 3071 (45 FR 4751, February 2, 1982).

The Commission on Fiscal Accountability of the Nation's Energy Resources made the following recommendation regarding the designation of an operator of record and single payor plan for each lease (Report, January 1982, p. 54):

"Operator of Record"

That the Federal royalty managers work toward the implementation of the concept of an "operator of record" for each lease and, where possible, a single payor; the operator of record would be responsible for maintaining all records related to the payment of royalties from that lease.

Each month after the payments are made, the operator of record would reconcile the payments with the production report, notify the Federal royalty managers of any discrepancies and the reasons for them, and provide the Federal royalty managers with the correct information. Where a single payor is possible, all payments for that lease would be made by one individual and all records kept by him.

We solicit comments and suggestions from the minerals industry on the advantages and disadvantages of designating an operator of record and implementation of a single payor plan for each lease/unit/ communitization agreement. Responses should cover such areas as:

(1) The impact these requirements would have on industry;

(2) Any additional workload requirements that may result;

(3) The cost in additional staffing, computer time, etc.; and

(4) The impact on the amount of time required to report and pay.

It is the intention of MMS that this procedure will be applied prospectively to all leases that begin production after the effective date of the rulemaking.

List of Subjects in 30 CFR Parts 211, 221, 231, 250, and 270

Mineral royalties, Royalty accounting.

Dated: June 15, 1982.

Robert E. Boldt,

Acting Associate Director for Royalty Management.

[FR Doc. 82-16783 Filed 6-21-82; 8:45 am]

BILLING CODE 4310-MR-M

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

Approval of the Abandoned Mine Land Reclamation Plan for the State of Indiana Under the Surface Mining Control and Reclamation Act of 1977; Reopening Public Comment Period

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Reopening public comment period.

SUMMARY: OSM is reopening the period for review and comment on the proposed Abandoned Mine Land Reclamation Plan (Plan) submitted by the State of Indiana under Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA). OSM is seeking public comment on supplemental Plan documents submitted by the State to OSM on June 17, 1982.

DATES: Written comments, data and other relevant information relating to Indiana's Plan submission must be received on or before 4:00 p.m. (June 29, 1982) to be considered.

ADDRESSES: Comments on Indiana's revisions to its Plan should be sent to or hand delivered to: Office of Surface Mining Reclamation and Enforcement, Administrative Records Center, Rm. 511, U.S. Court House and Federal Building, 46 East Ohio Street, Indianapolis, Indiana 46207. Copies of the full text of the Indiana Plan, including revisions are available for review during regular business hours at the following locations:

OSM Indiana State Office, Room 524, U.S. Court House and Federal Building, 46 East Ohio Street, Indianapolis, Indiana 46207

State of Indiana, Department of Natural Resources, 608 State Office Building, Indianapolis, Indiana 46204

Office of Surface Mining Reclamation and Enforcement, Administrative Record 5315, 1100 L Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Don Willen, Chief, Division of Abandoned Mine Land Reclamation, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240, telephone (202) 343-7951.

SUPPLEMENTARY INFORMATION: On January 21, 1982, at 47 FR 3008-3010, the Office of Surface Mining, U.S. Department of the Interior, published notice or receipt of the Indiana Plan and the initiation of formal review and public comment. The comment period was slated to close at 5:00 p.m., February 22, 1982. Since that publication, Indiana has submitted additional docments for inclusion in its AML Plan.

In order to allow the public an opportunity to review and comment on the State's revisions, OSM is reopening and extended the comment period until at 4 p.m.

The announcement is made in keeping with OSM's commitment to public participation as a vital component in fulfilling the purposes of SMCRA.

Dated: June 18, 1982.

William Schmidt,

Assistant Director, Office of Surface Mining.

[FR Doc. 82-16891 Filed 6-21-82; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Defense Criminal Investigative Service

32 CFR Part 293

[DCIS Reg. 5400.11]

Implementation of the Privacy Act of 1974

AGENCY: Defense Criminal Investigative Service, Defense.

ACTION: Notice of proposed rule making—Privacy Act of 1974.

SUMMARY: The newly established Defense Criminal Investigative Service proposes to establish rules for its implementation of the Privacy Act of 1974 and to exempt two of its proposed systems of records from certain portions of the Act.

DATES: Comments must be received on or before July 22, 1982.

ADDRESSES: Submit comments to The Director, Defense Criminal Investigative Service, P.O. Box 9290, Alexandria, VA 22304.

FOR FURTHER INFORMATION CONTACT: William G. Dupree, Deputy Director for Operations, Defense Criminal Investigative Service, P.O. Box 9290, Alexandria, VA 22304. Telephone: (202) 274-5360.

SUPPLEMENTARY INFORMATION: The Defense Criminal Investigative Service has been chartered as a criminal investigative agency of the Department of Defense with a primary mission of law enforcement (32 CFR Part 374). This regulation establishes that agency's program to implement the Privacy Act of 1974, Title 5 U.S.C. 552a (Pub. L. 93-579; 44 Stat. 1896, *et seq.*). In addition it proposes to exempt two systems of records identified as CIS-04, entitled: "Case Control System" and CIS-06, entitled: "investigative Files" from certain provisions of the Act under the provisions of 5 U.S.C. 552a(j)(2). These exemptions are necessary to protect criminal and fraud investigative information from premature disclosure, to protect the identity of informants and sources and to insure fair and impartial adjudication of investigations.

List of Subjects in 32 CFR Part 293

Privacy.

Accordingly, 32 CFR is amended by adding a new Part 293 as set forth below.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

June 16, 1982.

PART 293—DEFENSE CRIMINAL INVESTIGATIVE SERVICE IMPLEMENTATION OF THE PRIVACY ACT OF 1974

Sec.

293.1 Purpose.
293.2 Definitions.
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293.13 Ownership of DCIS records.
293.14 Referral of records.

§ 293.1 Purpose.

Pursuant to the requirements of The Privacy Act of 1974 (5 U.S.C. 552a) the following rules of procedures are established with respect to access and amendment of records maintained by the Defense Criminal Investigative Service (DCIS) by the individual subjects of these records. These procedures do not apply to current or former DCIS who request access to records pertaining to themselves through normal DCIS channels or by writing the Director, DCIS, P.O. Box 9290, Alexandria, VA 22304.

§ 293.2 Definitions.

(a) All terms used in this part which are defined in 5 U.S.C. 552a shall have the same meaning herein.

(b) As used in this part, the term "agency" means the Defense Criminal Investigative Service.

§ 293.3 Information and procedures for requesting information.

(a) The following is a list of all systems of records maintained by DCIS:

Number	Title
CIS-01	Privacy and Freedom of Information Act Requests.
CIS-02	Applicant Records.
CIS-03	Personnel Locator Cards.
CIS-04	Case Control System.
CIS-05	Security Records.
CIS-06	Investigative Files.

(b) Individuals should submit inquiries regarding all DCISs files by mail to: Defense Criminal Investigative Service, P.O. Box 9290, Alexandria, VA 22304, Attn: FOIA/PA. Inquiries in person may be made Monday through Friday from 9 am to 3 pm at Building 8 Room D490, Cameron Station, Alexandria, VA 22314. All personal visits will require identification.

§ 293.4 Requirements for identification.

Only upon proper identification will any individual be granted access to records which pertain to him/her. Identification is required both for accurate record identification and to avoid disclosing records to unauthorized individuals. Requesters must provide their full name; maiden name or alias, if appropriate; date and place of birth; and Social Security Number. Where requests are made by mail, the requester's signature must be notarized. Inclusion of telephone number for the requester is recommended to expedite certain matters. Requesters applying in person must provide an identification with photograph such as a driver's license, military identification card, building pass, etc.

§ 293.5 Access by subject individuals.

(a) No individual will be allowed access to any information compiled or maintained in reasonable anticipation of civil or criminal actions or proceedings, or otherwise exempt under paragraph 12, below. Requests for pending investigations will be held in abeyance until completion of the investigation *and* all completion of the subsequent civil or criminal proceedings or actions.

(b) Any individual may authorize DCIS to provide a copy of his/her records to a third party. This authorization must be in writing and should be provided DCIS with the initial request.

§ 293.6 Fees.

Requesters will be charged only for the reproduction of requested documents and postal charges, if applicable. There will be no charge for the first copy of a record provided to any individual. Thereafter, fees will be computed as set forth in appropriate DoD Directives and Regulations.

§ 293.7 Request for correction or amendment.

(a) Requests to correct or amend a file shall be addressed to the system manager in which the file is located. The request must reasonably describe the record to be amended, the items to be changed as specifically as possible, the type of amendment (e.g. deletion, correction, amendment), and the reason for amendment. Reasons should address at least one of the following categories: accuracy, relevance, timeliness, completeness, fairness. The request should also include appropriate evidence which provide a basis for evaluating the request. Normally all documents submitted, to include court orders should be certified.

(b) Requirements of identification as outlined in section 4 apply to requests to correct or amend a file.

(c) Incomplete request will not be honored, but the requester will be contacted for the additional information needed to process the request.

(d) The alteration of evidence presented to courts, boards, and other official proceedings is not permitted by this section.

§ 293.8 DCIS review of request for amendment.

(a) A written acknowledgment of the receipt of a request for amendment of a record will be provided to the requester within 10 working days, unless final action regarding approval or denial will constitute acknowledgment.

(b) Where there is a determination to grant all or a portion of a request to amend a record, the record shall be promptly amended and the requesting individual notified. Individuals, agencies or components shown by accounting records to have received copies of the record, or to whom disclosure has been made, will be notified of the amendment by the responsible DCIS official. Where a DoD recipient of an investigative record cannot be located, the notification will be sent to the personnel security element of the Component to which the file was furnished.

(c) Where there is a determination to deny all or a portion of a request to amend a record, DCIS will promptly: Advise the requesting individual of the specifics of the refusal and the reasons; and inform the individual that he/she may request a review of the denial(s) from the Director, DCIS.

§ 293.9 Appeal of initial amendment decision.

(a) All appeals of an initial amendment decision should be addressed to the Director, DCIS, at the address given above. The appeal should be concise and should specify the reasons the requestor feels that the initial amendment action by DCIS was not satisfactory. Upon receipt of the appeal, the Director, DCIS will review the request and make a determination to approve or deny the appeal.

(b) If the Director, DCIS, decides to amend the record, the requester and all previous recipients of the disputed information will be notified of the amendment. If the appeal is denied, the DCIS will notify the requester of the reason for the denial, of the requester's right to file a statement of dispute disagreeing with the denial, that such statement of dispute will be retained in the file, that the statement will be provided to all future users of the file, and that the requester may file suit in a federal district court to contest the DCIS decision not to amend the record.

(c) The DCIS will respond to all appeals within 30 working days or will notify the requester of an estimated date of completion if the 30-day limit cannot be met.

§ 293.10 Disclosures of DCIS records to other than the subject.

(a) No record containing personally identifiable information within a DCIS system of records shall be disclosed by any means to any person or agency outside the Department of Defense, except with the written consent of the individual subject of the record or as provided for in the Act and DoD Directive 5400.11.

(b) Disclosures that may be made without the request or consent of the individual are enumerated at 5 U.S.C. 552a(b) and in the DoD Directive 5400.11.

§ 293.11 Penalties.

(a) An individual may bring a civil action against the DCIS to correct or amend the record, or where there is a refusal to comply with an individual request or failure to maintain any record with accuracy, relevance, timeliness and completeness, so as to guarantee fairness, or failure to comply with any other provision of the Privacy Act. The court may order correction or

amendment of records. The court may enjoin the DCIS from withholding the records and order the production of the record.

(b) Where it is determined that the action was willful or intentional with respect to 5 U.S.C. 552a(g)(1) (C) or (D), the United States shall be liable for the actual damages sustained, but in no case less than the sum of $1,000 and the costs of the action with attorney fees.

(c) Criminal penalties may be imposed against an officer or employee of the DCIS who discloses material, which he knows is prohibited from disclosure, or who willfully maintains a system of records without compliance with the notice requirements.

(d) Criminal penalties may be imposed against any person who knowingly and willfully requests or obtains any records concerning another individual from an agency under false pretenses.

(e) All of these offenses are misdemeanors with a fine not to exceed $5,000.

§ 293.12 Exemptions.

(a) The Director, DCIS, establishes the following exemptions of records systems from the provisions of these rules and indicated portions of the Privacy Act of 1974. The exemptions may be exercised by the Director, DCIS, the Associate Director of Investigative Operations and by the Associate Director of Programs and Management Systems.

(b) Exemptions will be exercised only when necessary for a specific, significant and legitimate reason connected with the purpose of a records system.

(c) No personal records releasable under the provisions of 5 U.S.C. 552 will be withheld from the subject individual based on these exemptions.

(d) Exempted systems are:

(1) System Identifier: CIS–06

System name: Investigative Files.

Exemption: All portions of this system which fall under 5 U.S.C. 552a(j)(2) are exempt from the following provisions of Title 5, U.S.C. 552a: (c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g).

Authority: 5 U.S.C. 552a(j)(2).

Reasons. Exemption is required from these subsections in order to prevent disclosures concerning criminal files which would interfere with the investigation or jeopardize any subsequent judicial or administrative process taken as a result of information contained in the file.

(2) System Identifier: CIS–04

System name: Case Control System.

Exemption: All portions of this system which fall under 5 U.S.C. 552a(j)(2) are exempt from the following provisions of Title 5, U.S.C. 552a: (c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G–H–I), (e)(5), (e)(8), (f), and (g).

Authority: 5 U.S.C. 552a(j)(2).

Reasons: Exemption is required from these subsections in order to prevent disclosures concerning criminal files which would interfere with the investigation or jeopardize any subsequent judical or administrative process taken as a result of information contained in the file.

§ 293.13 Ownership of DCIS Investigative Records.

(a) Criminal investigative reports shall not be retained by DoD recipient organizations. Such reports are the property of DCIS and are on loan to the recipient organization for the purpose for which requested or provided. All copies of such reports shall be destroyed within 180 days after the completion of the final action by the requesting organization.

(b) Investigative reports which require longer periods of retention may be retained only with the specific written approval of DCIS.

§ 293.14 Referral of Records.

A DCIS system of records may contain records which originated with other DoD Components of Federal agencies who may have claimed exemptions for them under the Privacy Act of 1974. When any action is initiated on a portion of records which may be exempt, consultation with the originating agency or component will be effected, and where appropriate such records will be referred to that component or agency for action.

[FR Doc. 82–16847 Filed 6–21–82; 8:45 am]
BILLING CODE 3810–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[OPTS–00033; TSH–FRL No. 2152–8]

Administrator's Toxic Substances Advisory Committee; Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule related notice.

SUMMARY: There will be a meeting of the Administrator's Toxic Substances Advisory Committee (ATSAC) to discuss matters related to EPA's implementation of the Toxic Substances Control Act (Pub. L. 94–569). The meeting will be open to the public.

DATES: The meeting will be held from 9 a.m. to 4 p.m. on Thursday, July 8, 1982.

ADDRESS: The meeting will be held in: Rm. 3906–3908, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Phyllis B. Hetrick, Executive Secretary, Administrator's Toxic Substances Advisory Committee (TS–779), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–228, 401 M St., SW., Washington, DC 20460, (202–382–3721).

SUPPLEMENTARY INFORMATION: Dr. John A. Todhunter, Assistant Administrator for the Office of Pesticides and Toxic Substances, will discuss in general the impacts of the Toxic Substances Control Act (TSCA) on various sectors of society and the problem of assessing the impacts; he will also discuss the intent of TSCA to protect health and the environment against unreasonable risk and the consideration involved in defining "risk" reasonable and unreasonable. Mr. Don R. Clay, Director of the Office of Toxic Substances (OTS), will speak about the direction of OTS with emphasis on the plan for the existing chemicals program as set forth in the OTS 100-day report.

The afternoon session will focus on the TSCA section 8(c) proposed rule.

Six of the eleven members of ATSAC will begin 2-year terms of service on July 1, 1982. They are:

Robert G. Kerr, Executive Director, Georgia Conservancy.

Dr. Glenn Paulson, Vice President of Science, National Audubon Society.

Warren J. Rheaume, Assistant to the Director, Safety and Health Department, International Brotherhood of Teamsters.

Michael J. Scott, Corporate General Counsel, Mooney Chemical Inc.

Dr. Lynnette Solomon, Assistant Professor, Department of Economics and Finance, Stephan F. Austin University President, Texas Division, American Association of University Women.

Victoria J. Tschinkel, Secretary, Florida Department of Environmental Regulations.

The meeting will be open to the public, and time will be set aside for public comments concerning the work of the Committee. Any member of the public wishing to present an oral or written statement relating to the Committee's work should contact Dr. Phyllis Hetrick at the address or phone number listed above.

Dated: June 15, 1982.

Don R. Clay,

Acting Assistant Administrator, Pesticides and Toxic Substances.

[FR Doc. 82-16796 Filed 6-21-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 2

Administrative Practices and Procedures

AGENCY: Office of the Secretary, HHS.

ACTION: Proposed rule.

SUMMARY: These proposed rules would reaffirm the Department's policy ordinarily to use notice and comment procedures in the development of rules relating to public property, loans, grants, benefits, and contracts, even though such action is not required by the Administrative Procedure Act, and would set forth the circumstances for such use. The Secretary believes that public comment serves an important purpose in bringing the expertise and views of interested parties to the attention of the Department.

DATE: Comments should be submitted by August 23, 1982.

ADDRESS: Comments on these proposed rules should be submitted to: Executive Secretariat, Attn: Charlotte E. Lewis, Department of Health and Human Services, Room 632-H, Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: John J. Phelan, (202) 245-6111.

SUPPLEMENTARY INFORMATION: The Administrative Procedure Act (APA) establishes a general procedure for the issuance of rules and regulations (5 U.S.C. 553). That procedure includes issuance of a notice of proposed rulemaking, offering the public an opportunity to comment on the proposed rule, and publishing a final rule that is accompanied by a statement of the rule's basis and purpose. The APA exempts several types of rules from these requirements, including all rules relating to public property, loans, grants, benefits, and contracts (5 U.S.C. 553(a)).

The Department of Health and Human Services issues many rules in these categories, especially rules relating to grants and benefits. These include rules governing Social Security programs, Medicare, Medicaid, and various formula and project grants. Although for many years such rules were issued without the benefit of notice and comment procedures, that practice was ended in 1970. By a memorandum dated October 12, 1970, the Secretary directed all agencies and offices of the Department that issue rules and regulations relating to public property, loans, grants, benefits, or contracts ordinarily to utilize the public participation procedures of the APA. That memorandum was subsequently published in the **Federal Register** (36 FR 2532).

By this notice, the Secretary is reaffirming that it remains the policy of the Department ordinarily to use notice and comment procedures for rules relating to public property, loans, grants, benefits, and contracts, even though such action is not required by the APA. The Secretary believes that public comment serves an important purpose in bringing the expertise and views of interested parties to the attention of the Department. Proposed rules have frequently been modified and improved on the basis of public comment prior to issuance of final rules. We are proposing to add a new § 2.2 to the Department's regulations to confirm this policy formally.

Occasionally, it is necessary or appropriate to issue rules without the benefit of a prior public procedure. That situation typically arises when delay in issuing final rules would prevent the implementation of a beneficial program or when the rules are so technical and minor in nature that public comment is not anticipated. Whether to delay initiation of a program to solicit comment is frequently a matter of judgement. Sometimes rules resolve major issues that should have the benefit of public comment before they take effect, even at the expense of delaying implementation. At other times, the benefits of prompt program implementation may outweigh the advantages of notice and comment, particularly when the issues are relatively minor and public comment is solicited at the time the rules are issued.

The Administrative Procedure Act authorizes agencies to omit notice and comment procedures when the agency for good cause finds that notice and comment are "impracticable, unnecessary, or contrary to the public interest" (5 U.S.C. 553(b)(B)). Although this is the standard for waiving notice and comment in circumstances when there is a statutory requirement to use notice and comment procedures, some courts have applied the same standard where the Department has voluntarily undertaken generally to use such procedures with respect to rules governing grants and benefits. These rulings were apparently based on an interpretation of the 1970 memorandum of Secretary Richardson.

We do not believe, however, that it is appropriate for the Department to be held to the rigorous standard for omitting mandatory notice and comment procedures when those procedures are used voluntarily. Accordingly, the proposed regulations would make clear that the Department may properly omit use of notice and comment procedures for rules relating to public property, loans, grants, benefits, and contracts if, in the Department's judgement, the delay that would result from such procedures would impair the attainment of program objectives or would have other disadvantages that outweigh the benefits of receiving public comment prior to issuance of the rules. The proposed regulations would also clarify that the Department's voluntary use of notice and comment procedures is not intended to create any judicially enforceable rights.

In addition, the regulations would articulate the policy, already being followed, that where prior opportunity for notice and comment is not provided, public comment will ordinarily be solicited at the time the rules are issued. Use of final regulations with a comment period allows the Department to receive comment and revise the regulations accordingly even when prior opportunity for comment is not provided.

The proposed regulations address, as did Secretary Richardson's 1970 memorandum, only the notice and comment provisions of 5 U.S.C. 553. In particular, the Department would continue exercising its discretion in determining whether to use a 30-day delayed effective date for rules related to public property, loans, grants, benefits, or contracts. The APA requires such a delayed effective date only for rules to which the mandatory notice and comment procedures apply (5 U.S.C. 553(a)). Secretary Richardson's 1970 memorandum did not commit the Department to provide delayed effective dates, and the various units of the Department have adopted different practices as their programs warranted. This flexibility would be continued under the proposed regulations.

The Secretary emphasizes that no change in the Department's practice of generally using notice and comment procedures is intended. The intent of the regulations is simply to clarify that in those instances when the Department finds it necessary to omit notice and comment procedures, the courts should not review that action as if the Department had been legally obliged to

use notice and comment procedures. As a matter of policy, the Secretary is committed to and will continue to seek public participation in rulemaking proceedings whenever feasible.

The proposed regulations would govern all units of the Department except the Food and Drug Administration, which has separate regulations governing administrative practices and procedures in 21 CFR Parts 10 *et seq.*

List of Subjects in 45 CFR Part 2

Administrative practice and procedures (Government agencies).

Therefore, it is proposed that Title 45 of the Code of Federal Regulations be amended by adding a new Part 2 as follows:

PART 2—ADMINISTRATIVE PRACTICE AND PROCEDURES

Sec.
2.1 Scope.
2.2 Rules relating to public property, loans, grants, benefits, and contracts.

Authority: 5 U.S.C. 301.

§ 2.1 Scope

This part governs administrative practices and procedures of all units of the Department of Health and Human Services except the Food and Drug Administration, for which such procedures are set forth in 21 CFR Parts 10 *et seq.*

§ 2.2 Rules relating to public property, loans, grants, benefits, and contracts.

(a) Provisions in the Administrative Procedure Act relating to rulemaking procedures (5 U.S.C. 553) do not apply to matters relating to public property, loans, grants, benefits, and contracts. Notwithstanding that exemption, the Department will, except as provided in paragraph (b) of this section, issued a notice of proposed rulemaking and offer the public an opportunity to comment on rules relating to public property, loans, grants, benefits, and contracts before they are promulgated in final form.

(b) The Department may omit the use of notice and comment procedures for rules relating to public property, loans, grants, benefits, and contracts if, in its judgment, the delay that would result from such procedures would impair the attainment of program objectives or would have other disadvantages that outweigh the benefits of receiving public comment prior to issuance of the rules. When opportunity for comment is not offered before issuance of a rule, such opportunity will be offered at the time the rule is promulgated, unless the rule is so technical in nature that no comment is anticipated.

(c) The provision in paragraph (a) of this section is intended only to guide the Department's internal rulemaking process and is not intended to create any right or benefit enforceable at law by a party against the Department or its officers.

Dated: May 25, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-16755 Filed 6-21-82; 8:45 am]

BILLING CODE 4150-04-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-305; RM-4055]

FM Broadcast Station in Valdosta, Georgia, Proposed changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign Channel 244A to Valdosta, Georgia, as its fourth commercial FM channel in response to a request from The Rainbow Group.

DATES: Comments must be filed on or before July 26, 1982, and reply comments on or before August 10, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Phil Cross, Broadcast Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: June 3, 1982.

Released: June 14, 1982.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Valdosta, Georgia). BC Docket No. 82-305 RM-4055.

1. *Petitioner, Proposal, Comments:*

(a) A petition for rule making was filed by The Rainbow Group ("petitioner"), proposing the assignment of FM Channel 244A to Valdosta, Georgia.

(b) The channel can be assigned as proposed, consistent with the mileage separation requirements of the Commission's rules.

(c) Petitioner states that it will promptly apply for the channel, if assigned.

2. *Demographic Data:*

(a) Location: Valdosta, the seat of Lowndes County, is located approximately 336 kilometers (210 miles) southeast of Atlanta, Georgia.

(b) Population: Valdosta, 37,500, Lowndes County, 67,972 (1980 U.S. Census figures, Advance Report)

(c) Local Aural Broadcast Service:
FM Stations:
WGOV-FM, Channel 225
WLGA, Channel 240A
WAFT, Channel 288
WVVS, (Noncommercial Ed.) (Channel 215C)
AM Stations:
WGAF, (Unlimited time)
WGOV, (Unlimited time)
WVLD, (Unlimited time)
WJEM, (Daytime Only)

3. *Economic Consideration:*

Petitioner states that this is one of the more rapidly growing areas in the United States. The population of Valdosta is said to have increased 16% since the 1970 U.S. Census, and Lowndes County, 23%. Valdosta's economy is now primarily industrial, according to petitioner, and the largest employers are manufacturers of bags for food, lumber products, clothing and towels, linerboard and auto trim. Petitioner states that a new FM station on Channel 244A would serve a growing city with an increasing need for outlets for information and entertainment, and that such assignment would be preferable to letting the channel remain unused.

4. Petitioner lists four precluded communities with a population over 1,000, *i.e.*, Willacoochee, Nashville, Pearson and Lakeland, Georgia. It failed to provide a list of channels available for the four communities.

5. The established criterion for the assignment of FM channels to cities under 50,000 is one or two channels. The assignment proposed by the petitioner would give Valdosta a fourth commercial channel. Comments are invited on this matter.

6. The Commission believes that the petition has sufficient merit to warrrant our proposing to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules with regard to Valdosta, as follows:

City	Channel No.	
	Present	Proposed
Valdosta, Ga	225, 240A, 288	225, 240A, 244A, 288

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in

the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before July 26, 1982, and reply comments on or before August 10, 1982, and are advised to read the Appendix for the proper procedures.

9. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

10. For further information concerning this proceeding, contact Philip Cross, Broadcast Bureau, (202) 632–5414. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contract is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes and *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communication Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. Number of Copies. In accordance with the provisions of Section 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-16844 Filed 6-21-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-311; RM-4091]

FM Broadcast Station in Rexburg, Idaho; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign Class C FM Channel 263 to Rexburg, Idaho, and reserve it for noncommercial educational use, in response to a petition filed by Ricks College.

DATES: Comments must be filed on or before July 26, 1982, and reply comments must be filed on or before August 10, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: June 3, 1982.

Released: June 14, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Rexburg, Idaho), BC Docket No. 82–311 RM–4091.

1. A petition for rule making was filed by Ricks College ("petitioner"), licensee of noncommercial educational Station KRIC–FM (CP issued for Channel 211A), Rexburg, Idaho, proposing the assignment of Channel 263 to Rexburg for use as a noncommercial educational FM assignment. The channel can be assigned consistent with the minimum distance separation requirements of § 73.207 of the Commission's rules.

2. Rexburg (population 11,559),[1] the seat of Madison County (population 19,480), is located approximately 352 kilometers (220 miles) east of Boise, Idaho. Rexburg is served by full-time AM Station KRXX and co-owned Station KKQT(FM) (Channel 252A), as well as Station KADQ(FM) (Channel 232A), and noncommercial educational FM Station KRIC (licensed to petitioner).

3. Petitioner states that it wishes to upgrade its facility to Class C status[2] to

[1] Population figures are derived from the preliminary 1980 Census Reports.

[2] At the time this petition was filed, petitioner was operating as a Class D, 10-watt facility. As a protective measure, it simultaneously filed an application to increase power to a minimum Class A facility (construction permit pending), to conform with the Commission's directive in the *Second*

expand its coverage area so as to provide better service to the public and to satisfy the Commission's directive contained in the *Second Report and Order* in Docket No. 20735 (see fn. 2, *supra*). It indicates that it would prefer to implement its proposed increase in power to 25,000 watts on either its existing channel or another frequency in the noncommercial band. However, it asserts that this course of action is not feasible since TV Station KPVI, operating on VHF Channel 6 in Pocatello, Idaho, prevents such operation. Pocatello is located approximately 65 miles from Rexburg and petitioner claims that the Grade B contour of Station KPVI–TV extends into the Rexburg area. Consequently, it asserts that its proposed operation at 25,000 watts on any channel in the educational FM band has the potential for causing interference to the reception of KPVI–TV, either off-the-air or through a local cable television system. In support of its request, petitioner cites Commission precedent in *Presque Isle, Maine*, 36 R.R. 2d 840 (1976) *Muncie, Indiana*, 59 FCC 2d 778 (1976), and *Waco, Texas*, 11 R.R. 2d 1657 (1967), which assigned commercial channels for noncommercial educational use upon a finding that frequencies in the educational band were unavailable due to potential interference on television Channel 6.

4. Petitioner's engineering study reveals that if Channel 263 is assigned to Rexburg, Idaho, it would not preclude the allocation of FM channels elsewhere in Idaho since a multiplicity of other channels are available to the area.

5. A staff study verifies that there are no noncommercial channels available to Rexburg for a Class C operation which would not cause harmful interference to television Station KPVI. Since 1966, we have recognized the Channel 6 interference problem [3] and have sought to avoid the allocation of noncommercial educational frequencies on the lower end of the band. As petitioner recognizes, we have reserved commercial channels for noncommercial educational use in order to avoid the Channel 6 interference problem.

6. We find the proposal has merit since preclusion does not appear to be significant. Additionally, petitioner has demonstrated a need for a wide coverage area noncommercial educational station in the area.

7. In view of the above, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to Rexburg, Idaho, as follows:

City	Channel No.	
	Present	Proposed
Rexburg, Idaho	232A, 252A	232A, 252A, *263

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before July 26, 1982, and reply comments on or before August 10, 1982, and are advised to read the Appendix for the proper procedures.

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commision's rules, 46 FR 11549, published February 9, 1981.

11. For further information concerning this proceeding, contact Nancy V. Joyner, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed consitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 305)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attched. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of

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Report and Order in Docket No. 20735, 43 FR 39704, published September 6, 1978. In order to foster th most efficient use of limited spectrum space, the Commission therein directed existing Class D stations to either increase their power to a minimum of 100 watts or move to another channel in order to make room for new stations or for power increases by existing ones.

[3] See, *Policy to Govern Change of FM Channels to Avoid Interference to TV Reception*, 6 RR 2d 672 (1966), and *FM Interference to TV Reception*, FCC 67–1012, *Public Notice*, released September 1, 1967.

service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-16803 Filed 6-21-82; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-307; RM-4058]

FM Broadcast Station in Mason City, Iowa; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign Channel 228A to Mason City, Iowa, as its second commercial FM channel, in response to a request from Radio Communications, Inc.

DATES: Comments must be filed on or before July 26, 1982, and reply comments on or before August 10, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Philip S. Cross, Broadcast Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcast.

Adopted: June 4, 1982.

Released: June 11, 1982.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Mason City, Iowa), BC Docket No. 82-307, RM-4058.

1. Radio Communications, Inc. ("petitioner") requests that commercial FM Channel 228A be assigned to Mason City, Iowa, as its second FM channel. Petitioner is licensee of AM Station KRIB in Mason City.

2. The proposed assignment would result in intermixture of Class A and Class C stations in Mason City, which petitioner is willing to accept.

3. Mason City (population 30,144),[1] the seat of Cerro Gordo County (population 48,458), is located approximately 168 kilometers (105 miles) north of Des Moines, Iowa. Petitioner states that Mason City is an educational, medical, social, cultural, and economic center for much of the north-central area of Iowa. It is the home of North Iowa Area Community College, serving a nine county area. It has two major medical facilities, i.e., St. Joseph Mercy Hospital and North Iowa Medical Center. There are 41 places of worship representing 16 faiths. Mason City's retail trade area includes over 175,000 persons in 9 Iowa counties. Mason City and its immediate environs are, according to petitioner, the area's major employment center with a total labor force of approximately 24,400 persons.

4. Mason City has the following local broadcast services:
AM:
KRIB (unlimited time)
KGLO (unlimited time)
KSMN (daytime-only)
FM:
KLSS, Class C Channel 291
KCMR (noncommercial educational)

5. Petitioner's preclusion study indicated that the communities of Lake Mills, Northwood, Manley, and Buffalo Center, Iowa, are precluded communities presently without local service.

6. Petitioner states that it will promptly apply for a construction permit to operate a station on the proposed channel if it is assigned as requested.

7. In view of the fact that the proposed FM channel assignment would provide for a second local FM broadcast service to Mason City, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commision's rules, as follows:

City	Channel No.	
	Present	Proposed
Mason City, Iowa	291	228A, 291

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before July 26, 1982, and reply comments on or before August 10, 1982, and are advised to read the Appendix for the proper procedures.

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

11. For further information concerning this proceeding, contact Philip S. Cross, Broadcast Bureau, (202) 632-5414. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commisson consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitues an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stats., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

[1] Population figures are derived from the 1980 U.S. Census, Advance Report.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments: Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who file comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-16646 Filed 6-21-82; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-309; RM-4094]

FM Broadcast Station in Deer Lodge, Montana; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of Channel 244A to Deer Lodge, Montana, in response to a petition filed by Deer Lodge Broadcasting, Inc. The proposed assignment could provide a first FM service to Deer Lodge.

DATES: Comments must be filed on or before July 26, 1982, and reply comments must be filed on or before August 10, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcast.

Adopted: June 4, 1982.

Released: June 11, 1982.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Deer Lodge, Montana), BC Docket No. 82-82-309, RM-4094.

1. A petition for rule making filed March 29, 1982, by Deer Lodge Broadcasting, Inc. ("petitioner") proposes the assignment of Channel 244A to Deer Lodge, Montana, as its first FM assignment. Petitioner expressed an interest in applying for the channel, if assigned.

2. Deer Lodge (population 4,023),[1] seat of Powell County (population 6,958), is located approximately 56 kilometers (35 miles) southwest of Helena, Montana. Deer Lodge is served by fulltime AM Station KDRG.

3. Petitioner states that Deer Lodge is governed by a mayor-council type government. It has a chamber of commerce, police and fire departments, schools through the high school level, adequate recreation facilities, and many active churches. The savings and loan institution and two banks serving Deer Lodge are said to be well secured with assets totaling in excess of $80 million. Petitioner states that ranching (raising livestock and producing hay) plays the major economic role in Deer Lodge. Also, a large sector of the work force is employed by the Montana State Prison, which is within the city limits, and two state hospitals in the area. Deer Lodge has one full-time AM station and one weekly newspaper. For these reasons, petitioner is of the opinion that Deer Lodge can support, and is in need of, a first FM assignment.

4. In view of the fact that the proposed assignment could provide a first local FM broadcast service to Deer Lodge, the Commission proposes to amend the FM Table of Assignments, Section 73.202(b) of the Rules with regard to Deer Lodge, Montana, as follows:

[1] Population figures are derived from the 1980 U.S. Census, Advance Report.

City	Channel No.	
	Present	Proposed
Deer Lodge, Mont.		244A

5. Since Deer Lodge, Montana, is within 402 kilometers (250 miles) of the U.S.-Canadian border, the proposed assignment requires coordination with the Canadian government.

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before July 26, 1982, and reply comments on or before August 10, 1982, and are advised to read the Appendix for the proper procedures.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, Section 73.202(b) of the Commission's rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Section 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.204(b) and 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Wahington, D.C.

[FR Doc. 82-16801 Filed 6-21-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-306; RM-4056]

FM Broadcast Station in Miles City, Montana; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to substitute FM Class C Channel 223 for Class A Channel 224A at Miles City, Montana, in response to a request by Miles City Broadcasting Corporation, permittee of Station KMCM, Channel 224A, Miles City, Montana.

DATES: Comments must be filed on or before July 26, 1982, and reply comments on or before August 10, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Philip S. Cross, Broadcast Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: June 4, 1982.

Released: June 14, 1982.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Miles City, Montana), BC Docket No. 82-306, RM-4056.

1. *Petitioner, Proposal, Comments:*

(a) A petition for rule making was filed by Miles City Broadcasting Corporation ("petitioner"), proposing the substitution of FM Channel 223 for Channel 224A in Miles City, Montana.

(b) Channel 223 can be assigned to Miles City consistent with the Commission's mileage separation rules.

(c) Petitioner, permittee of FM Station KMCM, Channel 224A, Miles City, requests that its construction permit be modified to specify operation on Channel 223.

2. *Demographic Data:*

(a) *Location:* Miles City, the seat of Custer County, is located approximately 216 kilometers (135 miles) northeast of Billings, Montana.

(b) *Population:* Miles City (9,602);[1] Custer County (13,109).

(c) *Local Aural Broadcast Service:* AM Station KATL (unlimited time) and FM Station KMCM (construction permit).

3. *Economic Considerations:* Petitioner states that Miles City, "the Heart of Custer County," is the commercial, educational and cultural hub for an estimated 42,500 ranchers and farmers scattered over a large area covering approximately 23,178 square miles. It is said that the Class IV AM station in Miles City, KATL, has limited radio service at night due to interference from other Class IV stations. Consequently, KATL provides only limited nighttime service to the rural population that looks to Miles City for its needs. Moreover, petitioner contends that its own authorized Class A station, KMCM, will not have a strong enough signal to meet the local service needs of the ranchers, farmers and tourists in surrounding areas. The problem is exacerbated, according to the petitioner, by the rough terrain in the Miles City vicinity, leaving many areas "shadowed" from reception of the Class A signal.

4. Where modification of license or construction permit is requested to specify operation on a Class C channel instead of a Class A channel, the request can only be granted if no other party expresses a desire to apply for the newly assigned channel. Other interested parties are afforded an equal opportunity to file an application and to be given consideration for the new channel. See *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 [1976].

5. In view of the additional service which the Class C channel would provide to the public, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 72.202(b) of the Commission's Rules with regard to Miles City, Montana, as follows:

City	Channel No.	
	Present	Proposed
Miles City, Mont	224A	223C

6. Canadian concurrence in the proposal will be requested.

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in

[1] Population figures are taken from the 1980 U.S. Census, Advance Report.

the attached Appendix and are incorporated by reference herein. Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before July 26, 1982, and reply comments on or before August 10, 1982, and are advised to read the Appendix for the proper procedures.

9. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

10. For further information concerning this proceeding, contact Philip S. Cross, Broadcast Bureau, (202) 632–5414. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filing.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-16802 Filed 6-21-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-310; RM-4090]

FM Broadcast Stations in Healdton, Oklahoma; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of a Class A FM channel to Healdton, Oklahoma, in response to a petition filed by Douglas Dillard and Albert Russen, Jr. The proposed assignment could provide a first local aural broadcast service to Healdton.

DATES: Comments must be filed on or before July 26, 1982, and reply comments on or before August 10, 1982.

ADDRESS: Federal Communications Commission Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632–7792).

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: June 4, 1982.

Released: June 14, 1982.

In the matter of Amendment of § 73.202(b) Table of Assignments, FM Broadcast Stations. (Healdton, Oklahoma), BC Docket No. 82–310 RM–4090.

1. The Commission herein considers a petition for rule making filed March 23, 1982, by Douglas Dillard and Albert Riessen, Jr. ("petitioners") proposing the assignment of FM Channel 288A to Healdton, Oklahoma, as that community's first FM assignment. Petitioners state that if this channel is assigned to Healdton, they will apply for a construction permit promptly.

2. Healdton (population 2,324)[1] is located in Carter County (population 37,349), approximately 144 kilometers (90 miles) south of Oklahoma City, Oklahoma.

3. Petitioners state that Healdton's 1980 population was 3,769 persons and the county's population was 43,610 persons according to a U.S. population booklet for Oklahoma. Petitioners urge the assignment of Channel 288A to Healdton to provide a first local aural service to the community and nearby Carter County area.

[1] Population figures are taken from the 1970 U.S. Census.

4. The transmitter site must be restricted to 5 miles southeast of the city to meet spacing requirements to Station KXXK in Chickasha, Oklahoma.

5. In view of the fact that the proposed assignment could provide Healdton with its first local aural broadcast service, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to the following community:

City	Channel No.	
	Present	Proposed
Healdton, Oklahoma	—	289A

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before July 26, 1982, and reply comments on or before August 10, 1982, and are advised to read the Appendix for the proper procedures.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See, Certification that Section 603 and 604 of the Regulatory Fexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contract is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Conterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proprosed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-16845 Filed 6-21-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-306; RM-4059]

FM Broadcast Station Medford, Oregon; Proposed Changes in Table of Assignments

AGENCY: Federal Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to substitute Channel 239 for Channel 237A in Medford, Oregon, in response to a request from M-3-X, Inc., licensee of Station KBOY-FM, Medford, and modify its license to specify the new channel.

DATES: Comments must be filed on or before July 26, 1982, and reply comments on or before August 10, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Philip S. Cross, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcast.

Adopted: June 4, 1982.

Released: June 11, 1982.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Medford, Oregon), BC Docket No. 82-306, RM-4059.

1. M-3-X, Inc., licensee of FM Station KBOY-FM, Medford, Oregon, requests that Class C Channel 235 be substituted for the Class A Channel 237A on which it now operates. M-3-X also requests that its license be modified to specify operation on Channel 235.

2. M-3-X states that the assignment would remedy a longstanding intermixture problem in Medford. Two channels are assigned to Medford. One is a Class A, and the other is a Class C (Station KTMT, Channel 229). M-3-X claims that it is at a disadvantage in competing with the Class C station. It also claims that Station KBOY-FM has

had significant problems in adequately serving its community of license due to the rugged terrain of the area. Shadowing problems are also reported. M–3–X concludes that the only way to overcome these problems is to utilize a Class C channel.

3. Medford (population 39,603)[1] is the seat of Jackson County (population 132,456), and is located 352 kilometers (220 miles) south of Portland, Oregon.

4. Medford has five AM and two FM services, as follows:

AM DKBOY (daytime only)
KMED (unlimited time)
KHUG (daytime only)
KISD (daytime only)
KYJC (unlimited time)
FM KBOY–FM, Channel 237A
KTMT, Channel 229

M–3–X states that its proposal would provide a first FM service to 130 square kilometers (51 square miles) for 384 persons and a second FM service to 1,000 square kilometers (391 square miles) for 359 persons.

5. Since Channel 235 is being considered for assignment to North Bend, Oregon (BC Docket No. 81–155), we have decided to substitute Class C Channel 239 for consideration herein.

6. M–3–X's request that its license be modified to specify operation on a Class C channel must by viewed in light of established Commission policy. Other interested parties who might want to apply for use of the new channel will be provided an opportunity to express that interest in comments. Only in the absence of such interest may the license for Station KBOY–FM by modified to specify the Class C channel. See *Cheyenne, Wyoming*, 62, F.C.C. 2d 63 (1976).

7. In view of the above, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's rules, as follows:

City	Channel No.	
	Present	Proposed
Medford, Oregon	229, 237A	229, 239

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

[1] Population figures are taken from the 1980 U.S. Census.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before July 26, 1982, and reply comments on or before August 10, 1982, and are advised to read the Appendix for the proper procedures.

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not appply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

11. For further information concerning this proceeding, contact Phillip S. Cross, Broadcast Bureau, (202) 632–5414. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve, channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303).

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.204(b) and 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in rely comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82–16000 Filed 6–21–82; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1248

[No. 38797]

Revision to Quarterly and Annual Report of Freight Commodity Statistics for Class I Railroads (Form QCS)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Interstate Commerce Commission is proposing a revised Quarterly and Annual Report of Freight Commodity Statistics (Form QCS). This revised report would continue to provide essential statistical information for regulatory costing applications while reducing the number of commodity codes that Class I railroads would report from 464 to 128.

DATES: Comments must be received on or before August 6, 1982. Proposed effective date: January 1, 1983.

ADDRESS: An original and 15 copies of any comments should be sent to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr. (202) 275–7448.

SUPPLEMENTARY INFORMATION:

Background

Form QCS, Freight Commodity Statistics, is prepared by each Class I railroad and is filed with the Commission on a quarterly and annual basis. The report is based on the code structure of the Commodity Classification for Transportation Statistics issued by the Office of Management and Budget.

The Commission uses Form QCS statistical information to develop performance factors relating to carloads and tons carried. These performance factors are used for apportioning certain expenses to line-haul and switching services. Further, they are also used to apportion switching expenses to various types of switching.

The Commission's Policy Statement on Financial and Statistical Reporting (44 FR 27537, served May 7, 1979, limits reporting requirements to items essential to Commission needs. Specifically, items in periodical reports should contain only information needed regularly and frequently. Further, the Staggers Rail Act of 1980 (49 U.S.C. 11166) generally limits Commission reports to information essential for cost accounting objectives or compliance with generally accepted accounting principles.

This abbreviated Form QCS should satisfy Commission costing objectives while minimizing the carrier reporting efforts. We recognize that other entities may desire more detailed freight commodity statistics. However, the Commission shall adjust its reporting requirements whenever it is clearly evident that periodically filed carrier information is no longer needed for regulatory purposes on a regular or frequent basis.

Regulatory Flexibility Act

Pursuant to 5 U.S.C. 605(b), the Secretary of the Commission has certified that this notice will not have a significant economic impact on a substantial number of small entities. This notice directly affects Class I railroads having annual operating revenues of $50 million or more.

This action does not significantly affect the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1248

Freight, Railroads, Reporting requirements, Statistics.

(5 U.S.C. 553 and 49 U.S.C. 10321)

We propose the adoption of the revised Form QCS, Freight Commodity Statistics, detailed in Appendix A, for the reporting year ending December 31, 1983. If the proposed Form QCS is adopted, § 1248.101 of Chapter 49 of the Code of Federal Regulations listing the commodity code numbers and descriptions would be amended accordingly. Appendix B illustrates how the proposed deleted codes would be reported in a less detailed grouping.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons.

Decided: June 10, 1982.

James H. Bayne,

Acting Secretary.

BILLING CODE 7035-01-M

Approved by OMB 3120-0031

PROPOSED REVISED QCS RETURN

INTERSTATE COMMERCE COMMISSION

PROPOSED REVISED QCS REPORT*

Approved by OMB
3120-0031

Form QCS
Page 1

INTERSTATE COMMERCE COMMISSION
QUARTERLY REPORT OF FREIGHT COMMODITY STATISTICS

Full name of respondent ----------

(If a system report, check here ( ), and under Remarks, page , name operating roads included)

Number of miles of road operated in freight service (See instructions) ----------
(Show to whole number)

----------QUARTER, 1983

For CALENDAR YEAR 1983
(Strike out one)

Code	Description (a)	Revenue Freight Originating on Respondent's Road				Revenue Freight Received From Connecting Carrier's				Gross Freight Revenue (Dollars) (j)	Code
		Terminating on line		Delivered to connecting carriers		Terminating on line		Delivered to connecting carriers			
		Number of carloads (b)	Number of tons (2,000 lbs.) (c)	Number of carloads (d)	Number of tons (2,000 lbs.) (e)	Number of carloads (f)	Number of tons (2,000 lbs.) (g)	Number of carloads (h)	Number of tons (2,000 lbs.) (i)		
01	FARM PRODUCTS ----------T										01
011	Field Crops ----------T										011
01121	Cotton in bales ----------										01121
01131	Barley ----------										01131
01132	Corn, except popcorn ----------										01132
01133	Oats ----------										01133
01134	Rice, rough ----------										01134
01135	Rye ----------										01135
01136	Sorghum grains ----------										01136
01137	Wheat, except buckwheat ----------										01137
01139	Grain, nec ----------										01139
01144	Soybeans ----------										01144
01196	Potatoes, other than sweet ----------										01196
012	Fresh Fruits and Tree Nuts ----------T										012
013	Fresh Vegetables ----------T										013
0141	Livestock ----------										0141
08	FOREST PRODUCTS ----------T										08
09	FRESH FISH AND OTHER MARINE PRODUCTS ----------T										09
10	METALLIC ORES ----------T										10
101	Iron Ores ----------										101
102	Copper Ores ----------										102
106	Bauxite and Other Aluminum Ores ----------										106
11	COAL ----------T										11
111	Anthracite ----------										111
112	Bituminous Coal and Lignite ----------										112

SAMPLE

*If adopted, 49 CFR 1248 would be revised accordingly.

Form GCS

INTERSTATE COMMERCE COMMISSION
QUARTERLY REPORT OF FREIGHT COMMODITY STATISTICS

Code	Description (a)	Revenue Freight Originating on Respondent's Road				Revenue Freight Received From Connecting Carrier's				Gross Freight Revenue (Dollars) (i)	Code
		Terminating on line		Delivered to connecting carriers		Terminating on line		Delivered to connecting carriers			
		Number of carloads (b)	Number of tons (2,000 lbs.) (c)	Number of carloads (d)	Number of tons (2,000 lbs.) (e)	Number of carloads (f)	Number of tons (2,000 lbs.) (g)	Number of carloads (h)	Number of tons (2,000 lbs.) (i)		
13	CRUDE PETRO, NAT GAS & NAT GSLN——T										13
14	NONMETALLIC MINERALS, EXCEPT FUELS——T										14
142	Crushed and Broken Stone, including riprap										142
144	Sand and Gravel										144
145	Clay, Ceramic and Refractory Minerals										145
147	Chemical and Fertilizer Minerals										147
19	ORDNANCE AND ACCESSORIES										19
20	FOOD AND KINDRED PRODUCTS——T										20
201	Meat Ons Poultry & Small Game), Fresh, Chld or Frzn——T										201
2011	Meat, fresh or chilled, except salted										2011
2012	Meat, fresh-frozen										2012
2013	Meat, products										2013
2016	Dred poultry, and game & rbt prd; fresh frozn										2016
202	Dairy Products										202
203	Canned and Preserved Fruits, Veg & Sea Foods——T										203
2031	Canned and cured sea foods										2031
2032	Canned specialties										2032
2033	Canned fruits, vegetables, jams, jellies, preserves										2033
2035	Pkld fruits & veg, sauces, seng, salad dsg										2035
2037	Frzn fruits, fruit juices and vegetables										2037
2039	Canned & preserved fruits, veg & sea foods, nec										2039
204	Grain Mill Products——T										204
2041	Flour and other grain mill products										2041
20421	Prepared feed for animals, fish & poultry, exc canned										20421
2043	Cereal Preparations										2043
2044	Milled rice, flour and meal										2044
2045	Blended and prepared flour										2045
2046	Wet corn milling products and by-products										2046
206	Sugar (Beet and Cane)——T										206

SAMPLE

INTERSTATE COMMERCE COMMISSION

Form OCS
Page 3

INTERSTATE COMMERCE COMMISSION
QUARTERLY REPORT OF FREIGHT COMMODITY STATISTICS

Form QCS
Page 3

Full name of respondent ----------

---------- QUARTER, 1983

For CALENDAR YEAR 1983
(Strike out one)

Code	Description (a)	Revenue Freight Originating on Respondent's Road				Revenue Freight Received From Connecting Carriers				Gross Freight Revenue (Dollars) (j)	Code
		Terminating on line		Delivered to connecting carriers		Terminating on line		Delivered to connecting carriers			
		Number of carloads (b)	Number of tons (2,000 lbs.) (c)	Number of carloads (d)	Number of tons (2,000 lbs.) (e)	Number of carloads (f)	Number of tons (2,000 lbs.) (g)	Number of carloads (h)	Number of tons (2,000 lbs.) (i)		
2062	Sugar, refined: Cane and Beet										2062
208	Beverages and Flavoring Extracts----------T										208
20821	Beer, ale, porter, stout: bottled, bbls, cans & kegs----										20821
2084	Wines, brandy, and brandy spirits----------										2084
20851	Distilled, rectified and blended liquors----------										20851
209	Mis Food Preparations & Kindred Products----------										209
21	TOBACCO PRODUCTS----------T										21
22	TEXTILE PRODUCTS----------T										22
23	APPAREL & OTHER FINISHED TEXTILE PRD, INC KNIT ----------T										23
24	LUMBER AND WOOD PRODUCTS, EXCEPT FURNITURE ----------T										24
241	Prim Forest Prd (Piped, Ptng, Posts, Logs, Bolts, etc)----------										241
243	Sawmill and Planing Mill Products----------T										243
24J	Millwork, Veneer, Plywood, Prefab Bld Wood Prod----------										24J
2432	Veneer and plywood----------										2432
25	FURNITURE AND FIXTURES----------T										25
251	Household and Office Furniture ----------										251
26	PULP, PAPER AND ALLIED PRODUCTS----------T										26
261	Pulp and Pulp Mill Products----------										261
262	Paper, Except Building Paper----------										262
26211	Newsprint----------										26211
263	Paperboard, Pulpboard & Fiberboard, exc Insulating Board ----------										263

SAMPLE

Page 4 Form OCS

INTERSTATE COMMERCE COMMISSION
QUARTERLY REPORT OF FREIGHT COMMODITY STATISTICS

Code	Description	Revenue Freight Originating on Respondent's Road				Revenue Freight Received From Connecting Carrier's				Gross Freight Revenue (Dollars)	Code
		Terminating on line		Delivered to connecting carriers		Terminating on line		Delivered to connecting carriers			
	(a)	Number of carloads (b)	Number of tons (2,000 lbs.) (c)	Number of carloads (d)	Number of tons (2,000 lbs.) (e)	Number of carloads (f)	Number of tons (2,000 lbs.) (g)	Number of carloads (h)	Number of tons (2,000 lbs.) (i)	(j)	
264	Converted Paper & Paprd Prd exc Containers and Boxes										264
265	Containers & Boxes, Paperboard, Fiberboard & Pulpboard										265
266	Building Paper and Building Board										266
27	PRINTED MATTER—T										27
28	CHEMICALS AND ALLIED PRODUCTS—T										28
281	Industrial, Inorganic and Organic Chemicals										281
282	Plstc Materials & Syn Resins, Syn Rubbers & Fibers										282
284	Soap, Drgns & Clng Preps; Cosms, Oth Toilet Preps										284
286	Gum and Wood Chemicals										286
287	Agricultural Chemicals										287
29	PETROLEUM AND COAL PRODUCTS—T										29
291	Products of Petroleum Refining										291
295	Paving and Roofing Materials										295
299	Miscellaneous Petroleum and Coal Products										299
30	RUBBER AND MISCELLANEOUS PLASTIC PRODUCTS—T										30
301	Tires and Inner Tubes										301
31	LEATHER AND LEATHER PRODUCTS—T										31
32	STONE, CLAY, GLASS AND CONCRETE PRODUCTS—T										32
321	Flat Glass										321
322	Glass & Glassware, Pressed and Blown										322
324	Hydraulic Cement										324
325	Structural Clay Products—T										325
32511	Brick and blocks, clay and shale										32511

SAMPLE

INTERSTATE COMMERCE COMMISSION
QUARTERLY REPORT OF FREIGHT COMMODITY STATISTICS

Form OCS Page 5

INTERSTATE COMMERCE COMMISSION
QUARTERLY REPORT OF FREIGHT COMMODITY STATISTICS

Form OCS
Page 5

Full name of respondent ----------

---------- QUARTER, 1983

For CALENDAR YEAR 1983
(Strike out one)

Code	Description (a)	Revenue Freight Originating on Respondent's Road				Revenue Freight Received From Connecting Carrier's				Gross Freight Revenue (Dollars) (j)	Code
		Terminating on line		Delivered to connecting carriers		Terminating on line		Delivered to connecting carriers			
		Number of carloads (b)	Number of tons (2,000 lbs.) (c)	Number of carloads (d)	Number of tons (2,000 lbs.) (e)	Number of carloads (f)	Number of tons (2,000 lbs.) (g)	Number of carloads (h)	Number of tons (2,000 lbs.) (i)		
327	Concrete, Gypsum & Plaster Products										327
329	Abrasives, Asbestos, Misc Non-metallic Mnrl Prd										329
33	PRIMARY METAL PRODUCTS----------T										33
331	Steel Works and Rolling Mill Products										331
332	Iron and Steel Castings										332
333	Nonferrous Metals Primary Smelter Products										333
335	Nonferrous Metal Basic Shapes										335
34	FABR METAL PRD, EXC ORDN, MACHY & TRANSP--T										34
341	Metal Cans										341
344	Fabricated Structural Metal Products										344
35	MACHINERY, EXCEPT ELECTRICAL----------T										35
352	Farm Machinery and Equipment										352
353	Constr, Mining & Materials Handling Equipment										353
36	ELECTRICAL MACHINERY, EQUIPMENT AND SUPPLIES----------T										36
363	Household Appliances										363
37	TRANSPORTATION EQUIPMENT----------T										37
371	Motor Vehicles and Motor Vehicle Equipment ----------T										371
3711	Motor vehicles										3711
3714	Motor vehicle parts and accessories										3714
374	Railroad Equipment										374
38	INSTRUMENTS, PHOTO & OPTICAL GD, WATCHES & CLOCKS----------T										38
39	MISCELLANEOUS PRODUCTS OF MANUFACTURING----------T										39
394	Toys, Amusement, Sporting and Athletic Goods										394

SAMPLE

Form QCS

INTERSTATE COMMERCE COMMISSION
QUARTERLY REPORT OF FREIGHT COMMODITY STATISTICS

Code	Description (a)	Revenue Freight Originating on Respondent's Road				Revenue Freight Received From Connecting Carriers				Gross Freight Revenue (Dollars) (j)	Code
		Terminating on line		Delivered to connecting carriers		Terminating on line		Delivered to connecting carriers			
		Number of carloads (b)	Number of tons (2,000 lbs.) (c)	Number of carloads (d)	Number of tons (2,000 lbs.) (e)	Number of carloads (f)	Number of tons (2,000 lbs.) (g)	Number of carloads (h)	Number of tons (2,000 lbs.) (i)		
40	WASTE AND SCRAP MATERIALS——T										40
41	MISC FREIGHT SHIPMENTS——T										41
42	CONTAINERS, SHIPPING, RETURNED EMPTY——T										42
44	FREIGHT FORWARDER TRAFFIC——T										44
45	SHIPPER ASSOCIATION OR SIMILAR TRAFFIC——T										45
46	MISC MIXED SHIPMENTS EXC FWDR (44) & SHPR ASSN (45)——T										46
	GRAND TOTAL, CARLOAD TRAFFIC——T										
47	SMALL PACKAGED FREIGHT SHIPMENTS——T	XXXXXXXX		XXXXXXXX		XXXXXXXX		XXXXXXXX			47
	GRAND TOTAL, CARLOAD AND LCL TRAFFIC——T	XXXXXXXX		XXXXXXXX		XXXXXXXX		XXXXXXXX			

SAMPLE

---------- QUARTER, 19--- or CALENDAR YEAR 19--

The blank below should be completed if freight service operations were not conducted during the entire period for which the form provides:
REPORT COVERS THE PERIOD from ----------, 19--, to ---------- , 19----------

CERTIFICATION

I, THE UNDERSIGNED _____
(Title of officer in charge of the accounts)

of the _____ Company, state that this report was prepared by me or
(Full name of reporting company)

under my supervision; that I have carefully examined it; and on the basis of my knowledge, belief, and verification (where necessary) I declare it to be a full, true and correct statement of the freight commodity statistics named, and that the various items here reported were determined in accordance with effective rules promulgated by the Interstate Commerce Commission.

_____
Address _____
(P.O. Box or Street) (City) (State) (Zip Code)

Date ----------,19------ Telephone Number _____
(Area code) (Number)

REMARKS

(Check one):

- ☐ This report includes all commodity statistics for the period covered.
- ☐ A supplemental report has been filed covering traffic involving less than three shippers reportable in any one commodity code.
- ☐ Supplemental Report NOT OPEN TO PUBLIC INSPECTION.

This space for use of the Interstate Commerce Commission only

BILING CODE 7035-01-C

Quarterly Report of Freight Commodity Statistics

To the Interstate Commerce Commision; Form QCS. I.C.C. Commodity Statistics

INSTRUCTIONS

Under the Commission's order of September 13, 1963, effective January 1, 1964, Class I railroads, other than switching and terminal companies, are required to classify commodities transported on the basis of commodity codes named in 49 CFR 1248.1, and make quarterly and annual reports of such freight traffic statistics.

Carload and LCL Traffic Defined. Codes 01 through 46 shall include only carload traffic. All shipments weighing less than 10,000 pounds shall be included in code 47, "Small Packaged Freight Shipments, including LCL."

A "carload" for the purpose of this report shall consist of a shipment of not less than 10,000 pounds of one commodity. A mixed carload shall be treated as a carload of that commodity which forms the major portion of the shipment in weight. If a single shipment is loaded into more than one car, each car used shall be reported as a carload. If more than one "carload" shipment is loaded into one car, each shipment shall be reported separately as a carload.

"Originated on respondent's road" means: (a) Shipments originated directly on respondent's road (b) shipments received from water lines and highway motor truck lines, except when identified as having had previous rail transportation; (c) shipments which received first line haul on respondent's road, but originated on switching lines connecting directly or indirectly with respondent's road; (d) import traffic received from water carriers, and traffic from outlying possessions of the United States; (e) outbound freight which has been accorded transit privileges.

"Received from connecting rail carriers" means: (a) All shipments received directly from connecting rail carriers; (b) shipment received from water lines and highway motor truck lines, when identified from information on waybills or abstracts as having received previous rail transportation; (c) shipments received from connecting rail carriers operating in Canada or Mexico; (d) lake cargo coal received at Upper Lake ports; (e) iron ore received at Lower Lake and St. Lawrence River ports; (f) tidewater coal from Atlantic ports.

"Terminated on line" means: (a) Shipments terminated directly on respondents' road; (b) shipments delivered to water lines and highway motor truck lines, except when identified as to receive further rail transportation; (c) shipments which receive last line haul on respondent's road, but are delivered to switching roads connecting directly or indirectly with respondent's road; (d) export traffic delivered to water carriers and shipments to outlying possessions of the United States; (e) inbound freight which has been accorded transit privileges.

"Delivered to connecting rail carrier" means: (a) All shipments delivered directly to connecting rail carriers; (b) shipments delivered to water lines and highway motor truck lines when identified from information on the waybills or abstracts to receive further rail transportation; (c) Shipments delivered to connecting rail carriers operating in Canada and Mexico; (d) lake cargo coal delivered to Lower Lake and St. Lawrence River ports for transshipment by vessel; (e) iron ore delivered to Upper Lake ports for transshipment by vessel; (f) tidewater coal to Atlantic ports.

"Gross freight revenue" means respondent's gross revenue from freight without adjustment for absorptions or corrections.

"Classify" means to assign an article of freight to its appropriate commodity class which may be a 3, 4 or 5-digit number. Always classify an article in the highest digit level possible Use a 5-digit code if the article may be properly assigned to it. If there is no applicable 5-digit code, use a 4-digit code if available. If there is no applicable 4-digit code, then the article is classified at the 3-digit level.

For a 5-digit code, report the sum of all freight classified thereunder. For a 4-digit code, report the sum of all freight classified thereunder plus the sum of all 5-digit codes where the first four digits match. For a 3-digit code, report the sum of all 4-digit code numbers where the first three digits match, plus 5-digit code numbers where the first three digits match (provided they are not included in 4-digit codes), plus any articles classified at the 3-digit level. Generally, the 3-digit codes are used as summaries. The 2-digit level is a summary of 3-digit codes where the first two digits match.

"Piggyback traffic" is classified in the applicable commodity code if the commodity can be identified; where the commodity cannot be identified, classify in code 46.

"Freight Forwarder Traffic" Code 44, includes freight traffic in carloads, shipped by or consigned to any forwarder holding a permit under 49 U.S.C. 10561.

"Shipper Association or similar Traffic," Code 45, includes freight traffic in carloads shipped by a non-profit shipper association where the commodity cannot be identified; where the commodity can be identified, classify in the applicable commodity code.

"If a respondent carrier did not conduct operations during the whole of any reporting period within the calendar year, the period covered by the returns should be clearly specified in the space provided.

The item, "Number of miles of road operated in freight service," should only represent single-track mileage at the end of a particular quarter. It includes lines operated under trackage rights, except when excludable because the lines are in joint or common use by carriers within a system. It excludes industrial tracks, yard tracks and sidings. The number of miles of road reported for the year shall be the average of the amounts reported for each quarter in the year.

The reports shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commision, Washington, D.C. 20423, on or before the 60th day succeeding the close of the period for which they are compiled.

COMPUTER PRINTOUT OF FREIGHT COMMODITY STATISTICS AS ALTERNATE TO FILING FORM QCS

Carriers may elect to furnish the data on computer printouts in conformity with the following:

Two copies of the computer printout shall be filed on grade of paper of not less than medium weight, bursted and assembled into separate reports. Reports must be balanced, and the report for the *calendar* programs for the balancing and listing of the report will be made available upon request to the Section of Systems Development, Interstate Commerce Commission.

The computer printout must reflect the detail and format of Form QCS. The printout must consist of the same number of pages as Form QCS, each page including the name of respondent, the period covered by the report and the same code numbers per page. Page 6 shall include information now required under the "Remarks" section of page 6, QCS, and the Certification. In addition, under "Remarks," the carrier shall include the following instructions and appropriate response: "If a system report, check here ( ), and name operating carriers included."

Interstate Commerce Commission Quarterly Report of Freight Commodity Statistics

Abbreviations Used in Commodity Descriptions

assn	association
bbls	barrels

Abbreviations Used in Commodity Descriptions—Continued

chld	chilled
cing	cleaning
constr	construction
csmc	cosmetic (s)
drsd	dressed
dreg	dressing
dtrgn	detergent (s)
etc	et cetera
exc	except
fabr	fabricated
frsh	fresh
frzn	frozen
fwdr	forwarder
gd	good (s)
gsln	gasoline
inc	including
LCL	less than carload
machy	machinery
misc	miscellaneous
mnrl	mineral (s)
nat	natural
nec	not elsewhere classified
ordn	ordnance
oth	other
papbd	paperboard
petro	petroleum
pkld	pickled
ping	pilling, planing
plpwd	pulpwood
plstc	plastic
prefab	prefabricated
prep	preparations
prim	primary
prd	product (s)
rltd	related
shpr	shipper
sml	small
sning	seasoning
strtl	structural
syn	synthetic
transp	transportation
veg	vegetable (s)

Appendix B—Proposed Deleted Commodity Codes

The Commission proposes that the three, four or five-digit commodity codes listed below be removed from the QCS report. This information is no longer needed by the Commission on a regular or frequent basis and would be aggregated and reported at the appropriate level.

Proposed deleted codes	Aggregated to code
0112, 0114, 0115, 0119, 01193, 01197	011
0121, 0122, 01221, 01224, 01226, 0123, 01232, 0129, 01295	012
0131, 01318, 0133, 01334, 01335, 0134, 01341, 01342, 0139, 01392, 01394, 01398	013
014, 01411, 01413, 01414, 0142, 0143, 01431, 015, 0151, 0152, 019, 0191, 0192	01
084, 08423, 086	08
091, 0912, 09131, 096	09
103, 1031, 1032, 104, 106, 107, 108, 109	10
10112	101
11111, 11112	111
1121	112
131, 132	13
141	14
14211, 14212, 14219	142
14411, 14412, 14413	144
14511, 14512, 14514	145
14711, 14713, 14714, 14715, 14716	147
149, 14911, 14913, 14914	14
191, 192, 193, 194, 195, 196, 199	19
2014, 20141, 2015, 2017	201
2021, 2023, 2024, 2025, 2026	202
2034, 2036, 2038	203
20411, 20412, 20423, 20461, 20462, 20463	204
205, 207	20
2061, 20611, 20616, 20617, 20625, 20626	206
20823, 2083, 20859, 2086, 2087	208
20911, 20914, 20921, 20923, 2093, 2094, 2095, 2096, 2097, 2098	209
211, 212, 213, 214	21
221, 222, 223, 224, 225, 227, 228, 229, 2296, 2297, 2298	22
231, 233, 235, 237, 238, 239	23
24114, 24115, 24116	241
2421, 24212, 2429	242
2431	243
244, 249, 2491	24
253, 254, 259	25
2611	261
26212, 26213, 26214, 26217, 26218	262
2643, 26471	264
26613	266
271, 272, 273, 274, 276, 277, 278, 279	27
2812, 28121, 2813, 2814, 2816, 2818, 28184, 2819, 28193	281
28212, 28213	282
283, 285, 289, 2892, 28991	28
2841	284
2871	287
29111, 29112, 29113, 29114, 29115, 29116, 29117, 29119, 2912	291
2951, 2952	295
29911, 29913, 29914	299
302, 303, 304, 306, 307	30
311, 312, 313, 314, 315, 316, 319	31
3221	322
32411	324
326, 328	32
3251, 3253, 3255, 3259, 32594	325
3271, 3274, 3275	327
3291, 3295	329
33111, 33112, 33119, 3312, 33121, 3313, 3315	331
33211	332
3331, 3332, 3333, 3334	333
3351, 3352, 3357	335
336, 3361, 3362, 339, 3391, 3392	33
342, 343, 3433, 345, 346, 348, 349, 3491, 3494	34
3441, 34411	344
351, 354, 355, 356, 357, 358, 359,	35
3524	352
3531, 3532, 3533, 3537	353
361, 362, 364, 365, 366, 367, 369	36
3631, 3632, 3633	363
37111, 37112, 37113	3711
3712, 3713, 3715	371
37147	3714
372, 373, 375, 376, 379	37
37422	374
381, 382, 383, 384, 385, 386, 387	38
391, 393, 395, 396, 399	39
3949	394
401, 402, 4021, 40211, 4022, 4024, 4026	40
411, 41111, 41114, 41115, 412	41
421, 422	42
441	44
451	45
461, 462	46
471	47

[FR Doc. 82-16833 Filed 6-21-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Review of Status—Smoky Madtom ("Noturus baileyi")

AGENCY: Fish and Wildlife Service Interior.

ACTION: Notice of review.

SUMMARY: The Service is reviewing the status of the smoky madtom (*Noturus baileyi*) to determine if the species and its habitat should be provided protection under the Endangered Species Act of 1973, as amended. This fish is presently known only from Citico Creek, a tributary of the Little Tennessee River in Monroe County, Tennessee. Because of the fish's limited distribution, the species could conceivably be rendered extinct by a single catastropic event that would adversely affect its habitat. Based on information provided through the notice of review process and other data on the species status, the Service will determine if the smoky madtom should be proposed for inclusion on the Federal Endangered species list.

The Service also is requesting information on environmental and economic impacts and effects on small entities that would result from listing the smoky madtom as an Endangered or Threatened species, and information on possible alternatives to the listing.

DATES: Comments must be received on or before September 20, 1982.

ADDRESSES: Interested persons, organizations, agencies, and governments are requsted to submit comments to Area Manager, U.S. Fish and Wildlife Service, 50 South French Broad Avenue, Plateau Building, Room A-5, Asherville, North Carolina 28801. Comments and material relating to this notice are available for public inspection by appointment during normal business hours at above address (Commercial 704/258-2850, Extension 321, FTS 672-0321).

FOR FURTHER INFORMATION CONTACT: For further information on this notice, contact Mr. Richard Biggins or Mr. Robert Currie, U.S. Fish and Wildlife Service, 50 South French Broad Avenue, Plateau Building, Room A-5, Asheville, North Carolin 28801 (Commercial 704/258-2850, Extension 321, FTS 672-0321).

SUPPLEMENTARY INFORMATION: Background. The smoky madtom (*Noturus baileyi*) was believed extinct until September 1980 when it was discovered by a U.S. Fish and Wildlife

Service survey crew sampling in Citico Creek, a tributary of the Little Tennessee River in Monroe County, Tennessee. Presently, this is the only population known to exist. The Service will continue to survey streams in this area to determine whether the species exists in other waters.

The species was originally discovered in 1957 in Abrams Creek, another Little Tennessee River tributary in nearby Blount County, Tennessee, by a Service crew which was treating the creek with a fish toxicant to remove unwanted fish species from the Chilhowee Reservoir watershed prior to closure of Chilhowee Dam. This was a routine procedure at that time, designed to enhance the chances of establishing a trout fishery in the new reservoir. Soon thereafter, the Abrams Creek locality, where the madtom was first discovered, was flooded by the closure of Chilhowee Dam.

The biology of this madtom is poorly known. However, the fish are probably nocturnal, and likely feed on aquatic insects. The species, due to its apparent limited distribution, is very vulnerable to a single catastrophic event which could completely eliminate the species. The fish's habitat could also be adversely impacted from logging, road construction, or other disturbance within the Citico Creek Watershed if these activities are not carefully designed and carried out with the welfare of the species in mind.

Also, the Service is requesting information on environmental and economic impacts and effects on small entities (including small businesses, small organizations and small governmental jurisdictions) that would result from the listing of the smoky madtom as an Endangered or Threatened species, and information on possible alternatives to the listing. This information will aid the Service in complying with the requirements of the National Environmental Policy Act, Executive Order 12291 on Federal Regulation, and the Regulatory Flexibility Act, and in preparing any required analyses of effect.

Factors Affecting Listing a Species and Critical Habitat

The Service's listing regulations (Section 424.11(b), Title 50, Code of Federal Regulations) state:

"A species shall be listed if the Director determines on the basis of the best scientific and commercial data available to him after conducting a review of the species' status that the species is Endangered or Threatened because of any one or a combination of the following factors:

1. The present or threatened destruction, modification, or curtailment of its habitat or range;
2. Utilization for commercial, sporting, scientific, or educational purposes at levels that detrimentally affect it;
3. Disease or predation;
4. Absence of regulatory mechanisms adequate to prevent the decline of a species or degradation of its habitat; and
5. Other natural or manmade factors affecting its continued existence."

These same regulations, section 424, define "Critical Habitat" as follows:

"* * * include (a) areas within the geographical area occupied by the species at the time that species is listed which are essential to the conservation of the species and (b) which may require special management considerations or protection; and specific areas outside the geographic area occupied by the species at the time, upon a determination by the Secretary that such areas are essential for the conservation of the species."

"(a) Critical Habitat shall be specified to the maximum extent prudent at the time a species is proposed for addition to the list * * *.

(b) The Director shall consider in determining what areas are Critical Habitat those physiological, behavioral, ecological, and evolutionary requirements essential to the conservation of the species and which may require special management consideration or protection. These requirements include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, rearing of offspring, germination, or seed dispersal; and generally,

(5) Habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of listed species * * *.

(c) The Director shall identify the significant activities which would either affect an area considered for designation as Critical Habitat or be likely to be affected by the designation, and shall consider the reasonably probable economic and other impacts of the designation upon such activities * * *."

Effects of this Notice of Review

This notice is a public announcement of the Service's intent to collect data on the status of the smoky madtom and its habitat, and to solicit information on likely economic and other impacts which could result were the species and its Critical Habitat proposed for and finally given Federal Endangered Species Act protection.

This notice does not formally bring the smoky madtom under the protection of the 1973 Endangered Species Act. Consequently, there will be no effect on Federal activities through section 7 of the Act. This notice also does not imply any prohibition on taking of the species as stated in section 9 of the Endangered Species Act nor does it commit the Service to ultimately propose the species for listing under the Act.

Public Comments Solicited

The Service is seeking comments from the Governor of Tennessee on this species and its potential Critical Habitat. With this Notice of Review, the Service is also inviting and requesting anyone who may have information on this species to contact the Area Manager, U.S. Fish and Wildlife Service, at the address above. Although all comments are welcome, the Service has particular interest in receiving comments on the following:

1. Biological, commercial, or other relevant data concerning any threat (or the lack thereof) to the smoky madtom.
2. The location of and the reasons why any habitat of the smoky madtom should or should not be determined to be Critical Habitat as provided for by Section 4 of the Act.
3. Additional information concerning the range and distribution of this species.
4. Current or planned activities which may or are adversely affecting Citico Creek or the smoky madtom.
5. Foreseeable economic and other impacts on small businesses and organizations and on federally funded or authorized projects of designating smoky madtom Critical Habitat.

The Service will analyze all data that it now has, as well as any data obtained resulting from this review, and from any future research which may be conducted. If our analysis indicates that the smoky madtom should be given Endangered Species Act protection, the Service will propose the species for listing. The listing process for a proposed species would afford additional opportunities for interested parties to comment prior to any decision by the Service to proceed toward formally listing the smoky madtom as an Endangered or Threatened species.

The following documents were consulted in preparing this notice:

Rhode, F.C. 1980. *Noturus baileyi* (Taylor) pp. 449. *In:* D.S. Lee et al. Atlas of North America Freshwater Fishes. NC State Mus. or Natur. Hist., Raleigh. i–x + 854 pp.

Starnes, W.W. and D.A. Etnier. 1980. Fishes. p. 111–112. *In:* Eagar, D.C. and R.M. Hatcher (eds.). Tennessee's Rare Wildlife. Vol. I: The Vertebrates. Tennessee Wildlife Resources Agency and Tennessee Conservation Dept. 337 pp.

This notice of review was prepared by Richard Biggins, U.S. Fish and Wildlife Service, Asherville Area Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: June 15, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-16784 Filed 6-21-82; 8:45 am]

BILLING CODE 4310-55-M

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UMI

Notices

Federal Register
Vol. 47, No. 120
Tuesday, June 22, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Big Frog and Citico Creek Wilderness Study Areas; Hearing Announcement

Notice is hereby given that public hearings will be held to consider proposals for future management of Big Frog and the Citico Creek Wilderness Study Areas in the States of Tennessee and Georgia. The Big Frog Wilderness Study Area comprises approximately 4,972 acres within the Cherokee National Forest, Polk County, Tennessee, and approximately 83 acres in the Chattahoochee National Forest, Fannin County, Georgia. The Citico Creek Wilderness Study Area comprises approximately 16,576 acres in the Cherokee National Forest, Monroe County, Tennessee. Hearing dates and locations are as follows:

August 23, 1982, at 7:30 p.m. in the County Courthouse at Chatsworth, Georgia, to consider the Big Frog Wilderness Study Area proposal;

August 24, 1982, at 7:30 p.m., in the County Courthouse at Athens, Tennessee, to consider the Big Frog and Citico Creek Wilderness Study Area proposals.

Maps of the study areas and information about the proposals may be obtained from the Forest Service, Cherokee National Forest, PO Box 2010, Cleveland, Tennessee, 37311.

Individuals and organizations may express their views by appearing at these hearings or by submitting written comments for inclusion in the official record to the Forest Supervisor, Cherokee National Forest, PO Box 2010, Cleveland, Tennessee, 37311.

To be included in the official record, written comments must be received by September 25, 1982.

Dated: June 14, 1982.

R. Max Peterson,

Chief.

[FR Doc. 82-16758 Filed 6-21-82; 8:45 am]

BILLING CODE 3410-11-M

Tongass National Forest, Ketchikan, Alaska, Amendments 2, 3, and 4 to 1980–1983 Plan of Operations for Exploration Activities at Quartz Hill; Intent To Prepare an Environmental Impact Statement

The U.S. Department of Agriculture, Forest Service, will prepare an Environmental Impact Statement for the 1980–1983 Plan of Operations, Amendments 2, 3 & 4, for U.S. Borax and Chemical Corporation exploration activities in the Quartz Hill area. The project area is located near Wilson Arm and Boca de Quadra in the Misty Fiords National Monument. Alternatives to be developed, but not limited to, are No Action and the proposed Plan of Operations.

The scoping process will involve participation by Federal, State and local agencies, organizations, and individuals who may be interested in or affected by the decision. This will include: (a) Identification of those issues to be addressed; (b) identification of issues to be analyzed in depth; and (c) elimination of insignificant issues or issues not related to the amendments. This will be conducted through written solicitation, small group meetings, or notice sent to news media and interested groups and individuals.

The U.S. Department of Interior, U.S. Department of Commerce, and the State of Alaska will be consulted during the analysis per the requirements of the Alaska National Interest Lands Conservation Act, Section 505(a).

The Draft Environmental Impact Statement will be issued no later than August 30th, 1982, and the Final Statement is anticipated for release by November 15th, 1982. Implementation of the selected alternative would begin 30 days later.

The responsible official is Win Green, Forest Supervisor, Ketchikan Area, Tongass National Forest. Comments on the Notice of Intent or the Proposed Activity should be sent to David J. Barber, Inter-disciplinary Team Leader, Ketchikan Area, Tongass National Forest, Federal Building, Ketchikan, Alaska 99901, telephone (907) 225-3101.

Win Green,

Forest Supervisor.

[FR Doc. 82-16760 Filed 6-21-82; 8:45 am]

BILLING CODE 3410-11-M

Lincoln National Forest Grazing Advisory Board; Cancellation of Meeting

This is official notification that the Lincoln National Forest Grazing Advisory Board meeting scheduled to be held at 10:30 a.m., July 7, 1982, at the Holiday Inn, Highway 70, Ruidoso, New Mexico, has been cancelled.

James R. Abbott,

Forest Supervisor.

June 14, 1982.

[FR Doc. 82-16829 Filed 6-21-82; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

Arizona Electric Power Cooperative, Inc.

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines (40 CFR Part 1500), and REA Bulletin 20–21:320–21, Environmental Policies and Procedures, has made a Finding of No Significant Impact with respect to proposed financing assistance to Arizona Electric Power Cooperative, Inc., (AEPCO) of Benson, Arizona, for the construction of 15 km (9.3 mi) of 230 kV transmission line and associated terminal facilities in Mohave County, Arizona.

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact and Environmental Assessment, and AEPCO's Borrower's Environmental Report (BER) are available at the Office of the Director, Power Supply Division, Room 0230, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone (202) 382–1400 (FTS: 382–1400), or at the office of the Manager, AEPCO, P.O. Box 670,

Benson, Arizona 85602, telephone (602) 586–3631.

SUPPLEMENTARY INFORMATION: REA has reviewed the BER submitted by AEPCO and has determined that it represents an accurate description of the environmental impact of the proposed project.

The proposed project consists of 15 km (9.3 mi) of 230 kV transmission line that will interconnect at Western Area Power Administration's Switchyard at Davis Dam and will be terminated at a new 230/69 kV substation proposed for construction in Riviera. Based upon the BER, maps, communications between AEPCO and REA, and information from other sources, REA prepared an Enviromental Assessment (EA) concerning the proposed project and its impacts. REA concluded that the proposed construction would not be a major Federal action significantly affecting the qualify of the human environment.

The BER and EA adequately consider potential impacts of the proposed project on environmental resources including threatened and endangered species, important farmlands, cultural resources, wetlands and floodplains. The construction of the substation will not impact any of these resources except cultural resources. No practicable alternative to avoiding them was found. The cultural resources to be disturbed are common to the area and the actual loss will be small; furthermore, AEPCO will follow the mitigative measures described in the EA to reduce the overall adverse effect. The Arizona State Historic Preservation Officer has been contacted about these sites and has no objection to the construction of the proposed facilities providing that AEPCO takes the prescribed mitigative measures to minimize the impact to them.

Alternatives to the proposed project include no action, conservation only, new 69 kV facilities, and tapping Western Area Power Administration's 230 kV Davis to Parker line. After reviewing these alternatives, REA determined that the proposed project is an acceptable alternative because it meets AEPCO's needs with minimum adverse impacts.

This program is listed in the Catalog of Federal domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: June 14, 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-16718 Filed 6-21-82; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

County Road Backslopes, Critical Area Treatment R.C. & D. Measure Plan, Habersham County, Ga.; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the County Road Backslopes Critical Area Treatment Measure Plan, Habersham County, Georgia.

FOR FURTHER INFORMATION CONTACT: Dwight M. Treadway, State Conservationist, Soil Conservation Service, 355 East Hancock Avenue (P.O. Box 832), Athens, Georgia 30613, telephone 404–546–2273.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Dwight M. Treadway, State Conservationist has determined that the preparation and review of an environmental impact statement are not needed for this project.

The objectives of the sponsors are to treat the backslopes of a county road. Treatment of these eroding backslopes will serve to (1) stabilize sediment-producing areas, (2) reduce runoff and erosion, (3) reduce sediment reaching streams and Lake Hartwell, (4) reduce road maintenance cost, and (5) chance aesthetic apperance.

The Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting Dwight M. Treadway.

No adminstrative action on implementation of the proposal will be taken until July 22, 2982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: June 10, 1982.

Dwight M. Treadway,

State Conservationist.

[FR Doc. 82-16833 Filed 6-21-82; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Commuter Fitness Determination

The Board is proposing to find the following carriers fit, willing and able to provide commuter air carrier service under section 419 (c)(2) of the Federal Aviation Act, as amended, and that aircraft used in this service conform to applicable safety standards.

Order	Applicant	Response date
82-6-85	Wheeler Airlines	July 6, 1982.
82-6-86	Sunbelt Airlines, Inc.	July 6, 1982.

All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed in Attachment A of the respective orders and file response or additional data for Order 82–6–85 with the Special Authorities Division, Room 915, and for Order 82–6–86 with the Essential Air Services Division, Room 921, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

The complete text of the orders is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request to the above address.

FOR FURTHER INFORMATION CONTACT: For Order 82–6–85: Ms. Joyce Snovitch, (202) 673–5405; and for Order 82–6–86: Arthur Barnes, (202)673–5343, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C. 20428.

By the Civil Aeronautics Board: June 16, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-16809 Filed 6-21-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Modification of Permit; Brent Stewart

Notice is hereby given that pursuant to the provisions of § 216.33 of the Regulations Governing the Taking and Importing of Marine Mammals, Permit No. 341 issued to Mr. Brent Stewart, Field Biologist, Hubbs-Sea World Research Institute, 1700 South Shores Road, Mission Bay, San Diego, California 92109 (46 FR 30679), as modified (46 FR 55129), is further modified as follows:

Section B is Modified to add:

8. "Blood samples may be collected from harbor seals and northern elephant seals pups which are authorized to be tagged as described in the application and modification requests."

This modification is effective June 22, 1982. The Permit, as modified, is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: June 15, 1982.

R. B. Brumsted,

Acting Deputy Director, Office of the Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-16853 Filed 6-21-82; 8:45 am]

BILLING CODE 3510-22-M

Modification of Permit; Brent Stewart

Notice is hereby given that pursuant to the provisions of § 216.33 of the Regulations Governing the Taking and Importing of Marine Mammals, the Scientific Research Permit No. 367 issued to Mr. Brent Stewart, Field Biologist, Hubbs-Sea World Research Institute, 1700 South Shores Road, Mission Bay, San Diego, California 92109 (47 FR 4549), is hereby modified as follows:

Section A is Modified to read:

1. "Up to 180 harbor seals (*Phoca vitulina*) may be captured, tagged blood sampled, and released over a period of three years as described in the application and modification requests.
2. Up to 30 harbor seals per year may be captured, radio tagged, blood sampled, and released as described in the application and modification requests."

This modification is June 22, 1982. The permit, as modified, is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region 300, South Ferry Street, Terminal Island, California 90731.

Dated: June 15, 1982.

R. B. Brumsted,

Acting Deputy Director, Office of the Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-16854 Filed 6-21-82; 8:45 am]

BILLING CODE 3510-22-M

Sea Grant Review Panel; Meeting

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Sea Grant Review Panel. The purpose of the meeting is to discuss the current posture and new alternatives for management of the Sea Grant Program. A joint discussion will be held with the Sea Grant Directors on the second day to discuss potential impacts of new management strategy, legislation, administrative and fiscal changes, as well as the future role of the Review Panel.

DATE: The announced meeting is scheduled for two days, July 19 and 20, 1982 as follows: July 19, 1982 2:00–5:00 p.m.; July 20, 1982 9:00–5:00 p.m.

ADDRESS: The meeting will be held at: Statler Hilton Hotel, 16th and K Streets NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur G. Alexiou, National Sea Grant College Program, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852, (301) 443–8894.

SUPPLEMENTARY INFORMATION: The Panel, which consists of balanced representation from academia, industry, state government, and citizens groups, was established in accordance with the Sea Grant Program Improvement Act of 1976, Public Law 94–461. This Act, first signed into law on October 8, 1976, requires the Secretary of Commerce to establish and maintain a Sea Grant Review Panel to advise the Secretary, the Administrator of NOAA, and the Director of the Program on the conduct of this program.

The agenda for the meeting is:

Monday, July 19, 1982

2:00–5:00 p.m.—Discussion of current posture and anticipated management alternatives for the Sea Grant Program.

Tuesday, July 20, 1982

9:00–12:00 noon—Discussion with Sea Grant Directors on: Management changes being implemented for Sea Grant College Programs: New Review Procedures—On-Campus Events in Lieu of Site Visits.

3:30–5:00 p.m.—Future Role of the Review Panel in New Management Strategy.

The meeting will be open to the public.

Dated: June 15, 1982.

Francis J. Balint,

Director, Office of Information and Management Services.

[FR Doc. 82-16827 Filed 6-21-82; 8:45 am]

BILLING CODE 3510-12-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meetings

June 11, 1982.

The USAF Scientific Advisory Board Ad Hoc Committee on Advanced Electronics will meet at the Pentagon on July 20–21 and also on July 27–28, 1982, convening at 9:00 a.m. and adjourning at 5:00 p.m. each day. The purpose of the meetings will be to receive classified briefings and hold classified discussions on the alternatives for application of advancing electronics technology in aircraft avionics and systems.

The meetings will be closed to the public in accordance with Section 552b(c) of Title 5, United State Code, specifically subparagraph (1) thereof.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–4811.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-16798 Filed 6-21-82; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Dates of Meeting: Wednesday, 7 July 1982, Thursday, 8 July 1982.

Times: 0830–1700 hours, 7 July (Closed); 0830–1600 hours, 8 July (Closed).

Place: Letterman Army Institute of Research, Presidio of San Francisco, CA.

Agenda: The Army Science Board Ad Hoc Subgroup on Laser Eye Protection will meet to receive classified briefings on laser programs, hold discussions of same, and to hold an executive writing session. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably interwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695–3039 or 697–9703.

Maria P. Galvan,

Acting Administrative Officer.

[FR Doc. 82-16921 Filed 6-21-82; 8:45 am]

BILLING CODE 3710-08-M

Department of the Army Performance Review Boards; Members

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of the members of the Performance Review Boards for the Department of the Army for 1982.

EFFECTIVE DATE: June 23, 1982.

FOR FURTHER INFORMATION CONTACT: Carol D. Smith, Senior Executive Service Office, Directorate of Civilian Personnel, Headquarters, Department of the Army, the Pentagon, Washington, DC 20310, (202) 697–2204.

SUPPLEMENTARY INFORMATION: Section 4314(c) (1) through (5) of Title 5 U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The boards shall review and evaluate the initial appraisal of senior executives' performance by the supervisor and make recommendations to the appointing authority or rating official relative to the performance of the senior executives. Each board's review and recommendation will include only those senior executive's appraisals from their respective commands or activities. A consolidated board has been established for those commands who do not have enough senior executives to warrant the establishment of separate boards. Publication of this notice rescinds notices published in 46 FR, No. 134, dated 14 July 1981, and page 40249, dated August 7, 1981, to account for additions and deletions to the membership of those boards previously published.

The Members of the Performance Review Board for the Office, Secretary of the Army (OSA), their Field Operating and Joint DoD Activities are:

1. Mr. Milton H. Hamilton, Administrative Assistant to the Secretary of the Army, Office, Secretary of the Army.
2. Mr. Robert K. Dawson, Principal Deputy Assistant Secretary of the Army (Civil Works), Office, Assistant Secretary of the Army (Civil Works).
3. Mrs. Susan J. Crawford, Principal Deputy General Counsel, Office, General Counsel.
4. Ms. Amoretta M. Hoeber, Deputy Assistant Secretary of the Army (Research and Development), Office, Assistant Secretary of the Army (Research, Development and Acquisition).
5. Mr. John F. Wallace, Deputy for Management Systems, Office, Assistant Secretary of the Army (Installations, Logistics, and Financial Management).
6. Brigadier General Johnnie H. Corns, Deputy Chief of Legislative Liaison, Office, Chief of Legislative Liaison.
7. Mr. Walter W. Hollis, Deputy Under Secretary of the Army (Operations Research), Office, Under Secretary of the Army.
8. Mr. Clayton N. Gompf, Deputy for Military Personnel Policy and Programs, Office, Assistant Secretary of the Army (Manpower and Reserve Affairs).
9. Mr. Peter Stein, Deputy Administrative Assistant to the Secretary of the Army, Office, Secretary of the Army.
10. Mr. Darrell L. Peck, Deputy General Counsel (Military and Civil Affairs), Office, General Counsel.
11. Mr. George E. Dausman, Deputy for Materiel Acquisition Management, Office, Assistant Secretary of the Army (Research, Development and Acquisition).
12. Mr. Joseph L. Miller, Deputy for Resources Analysis, Office, Assistant Secretary of the Army (Installations, Logistics and Financial Management).
13. Mr. Francis X. Plant, Deputy Assistant Secretary of the Army (DA Review Boards and Personnel Security), Office, Assistant Secretary of the Army (Manpower and Reserve Affairs).

The Members of the Performance Review for the Office of the Chief of Staff, Army are:

1. Mr. Jack H. Kaliah, Director, Ballistic Missile Defense Program Office.
2. Mr. James D. Carlson, Director, Ballistic Missile Defense Advance Technology Center.
3. Brigadier General James E. Drummond, Deputy Director, Army Materiel Systems Analysis Activity, Aberdeen Proving Ground, Maryland.
4. Mr. Arthur T. Walker, Deputy Director of Army Budget, Office of the Comptroller of the Army.
5. Mr. Wayne M. Allen, Director of Cost Analysis, Office of the Comptroller of the Army.
6. Mr. Charles W. Weatherholt, Deputy Director of Civilian Personnel, Directorate of Civilian Personnel, Office of the Deputy Chief of Staff for Personnel.
7. Major General Walter J. Mehl, Director, Manpower Programs and Budget, Office of the Deputy Chief of Staff for Personnel.
8. Mr. Edgar P. Vandiver III, Technical Director, Office of the Deputy Chief of Staff for Operations and Plans.
9. Mr. Joseph P. Cribbins, Special Assistant to the Deputy Chief of Staff for Logistics and Chief, Aviation Logistics Office, Office of the Deputy Chief of Staff for Logistics.
10. Dr. Robert J. Heaston, Weapons System Technology Manager, Office of the Deputy Chief of Staff for Research, Development and Acquisition.
11. Mr. Charles H. Church, Assistant Director for Technology, Office of the Deputy Chief of Staff for Research, Development and Acquisition.
12. Brigadier General William G. T. Tuttle, Jr., Director, Force Management, Office of the Deputy Chief of Staff for Operations and Plans.
13. Major General Homer S. Long, Jr., Assistant Deputy Chief of Staff for Operations and Plans.
14. Dr. Marvin E. Lasser, Chief Scientist and Director of Research, Office of the Deputy Chief of Staff for Research, Development and Acquisition.
15. Mr. Henry J. Fischer, Director, Personnel and Force Management Audits, Army Audit Agency.
16. Mr. Harold L. Stugart, The Auditor General.
17. Mr. Michael A. Janoski, Deputy Auditor General.
18. Brigadier General Phillip H. Mason, Deputy Director, Combat Support Systems, Office of the Deputy Chief of Staff for Research, Development and Acquistion.
19. Mr. Charles N. Davidson, Technical Director, U.S. Army Nuclear Agency.
20. Major General Aaron L. Lilley, Jr., Assistant Deputy Chief of Staff for Logistics.
21. Mr. Leroy E. Hoole, Jr., Deputy Director of the Army Budget for Budget Management, Office of the Comptroller of the Army.
22. Mr. Carroll A. Olsen, Deputy Director for Operations and Maintenance, Office of the Comptroller of the Army.

23. Mr. William M. Frailey, Chief, U.S. Army Civilian Personnel Center.

24. Major General Robert L. Kirwan, Commanding General, U.S. Army Operational Test and Evaluation Agency.

25. Mr. Raymond J. Sumser, Director of Civilian Personnel, Office of the Deputy Chief of Staff for Personnel.

26. Brigadier General Edward Honor, Director of Resources Management, Office of the Depty Chief of Staff for Logistics.

27. Brigadier General Kenneth A. Jolemore, Director of Supply and Maintenance, Office of the Depty Chief of Staff for Logistics.

28. Brigadier General John H. Mitchell, Director, Human Resources Development, Office of the Depty Chief of Staff for Personnel.

29. Brigadier General Robert B. Adams, Deputy Commanding General, U.S. Army Finance and Accounting Center.

30. Brigadier General William H. Gourley, Director of Enlisted Personnel Management, U.S. Army Military Personnel Center.

The Members of the Performance Review Board for the U.S. Army Corps of Engineers (COE) are:

1. Major General William R. Wray, Deputy Chief of Engineers.

2. Major General Hugh G. Robinson, Division Engineer, Southwestern Division.

3. Brigadier General Jerome B. Hilmes, Deputy Director for Facilities Engineering, Directorate of Military Programs, Office, Chief of Engineers.

4. Dr. Lewis H. Blakey, Chief, Planning Division, Directorate of Civil Works, Office, Chief of Engineers.

5. Dr. James Choromokos, Jr., Chief, Research and Development, Office, Chief of Engineers.

6. Mr. Ralph Loschialpo, Chief, Office of Personnel, Office, Chief of Engineers.

7. Mr. Richard C. Armstrong, Chief, Engineering Division, Ohio River Division.

8. Mr. William N. McCormick, Jr., Chief, Engineering Division, South Atlantic Division.

9. Mr. Delbert E. Olson, Chief Planning Division, North Pacific Division.

The Members of the Performance Review Board for the U.S. Army Materiel Development and Readiness Command are:

1. Major General William H. Schneider, HQ U.S. Army Materiel Development and Readiness Command.

2. Major General Henry Doctor, Jr., HQ U.S. Army Materiel Development and Readiness Command.

3. Brigadier General Howard C. Whittaker, U.S. Army Armament Research and Development Command.

4. Brigadier General Fred Hissong, Jr., U.S. Army Armament Materiel Readiness Command.

5. Brigadier General William E. Potts, U.S. Army Missile Command.

6. Brigadier General Eugene S. Korpal, HQ U.S. Army Materiel Development and Readiness Command.

7. Dr. Richard L. Haley, HQ U.S. Army Materiel Development and Readiness Command.

8. Mr. Edward Greiner, HQ U.S. Army Materiel Development and Readiness Command.

9. Mr. Richard B. Lewis II, U.S. Army Aviation Research and Development Command.

10. Mr. Billy R. Gilliland, U.S. Army Communications-Electronics Command.

11. Dr. Robert B. Oswald, Jr., U.S. Army Electronics Research and Development Command.

12. Mr. Thomas W. Lovelace, U.S. Army Mobility-Equipment Research and Development Command.

13. Mr. Richard T. Tarnas, U.S. Army Tank-Automotive Command.

14. Mr. Harry J. Peters, U.S. Army Test and Evaluation Command.

15. Mr. Keith A. Myers, U.S. Army Materiel Systems Analysis Activity.

16. Dr. Robert J. Lontz, U.S. Army Research Office.

17. Mr. Donald B. Dinger, U.S. Army Foreign Science and Technology Center.

18. Dr. Robert J. Byrne, U.S. Army Natick Research and Development Laboratories.

19. MG Robert L. Herriford, Jr., HQ U.S. Army Materiel Development and Readiness Command.

20. MG Claude M. Kicklighter, HQ U.S. Army Materiel Development and Readiness Command.

21. Mr. Seymour J. Lober, HQ U.S. Army Materiel Development and Readiness Command.

22. Mr. A. David Mills, HQ U.S. Army Materiel Development and Readiness Command.

The Members of the Performance Review Board for the Office of the Surgeon General are:

1. Major General Quinn H. Becker, M.D., Deputy Surgeon General.

2. Major General George Kuttras, Assistant Surgeon General for Dental Services.

3. Major General Garrison Rapmund, M.D., Commander, U.S. Army Medical Research and Development Command.

4. Major General Enrique Mendez, Jr., M.D., Commander, Walter Reed Army Medical Center.

5. Brigadier General Robert T. Cutting, M.D., Director of Health Care Operations.

6. Brigadier General Frank F. Ledford, M.D., Director of Professional Services.

7. Brigadier General France F. Jordan, Director of Personnel.

8. Brigadier General Hazel W. Johnson, Chief, Army Nurse Corps.

9. Brigadier General Frank A. Ramsey, Assistant Surgeon General for Veterinary Services.

10. Dr. Gunter F. Bahr, M.D., Chairman, Department of Cellular Pathology, Armed Forces Institute of Pathology.

11. Dr. Louis S. Baron, Ph.D., Chief, Department of Bacterial Immunology, Walter Reed Army Institute of Research.

12. Dr. William R. Beisel, M.D., Deputy for Science, U.S. Army Medical Research Institute of Infectious Diseases.

13. Dr. Daniel H. Connor, M.D., Chairman, Department of Infectious and Parasitic Disease Pathology, Armed Forces Institute of Pathology.

14. Dr. Bhupendra P. Doctor, Ph.D., Director, Division of Biochemistry, Walter Reed Army Institute of Research.

15. Dr. Franz M. Enzinger, M.D., Associate Chairman, Center for Advanced Pathology, Armed Forces Institute of Pathology.

16. Dr. Samuel B. Formal, Ph.D., Chief, Department of Bacterial Diseases, Walter Reed Army Institute of Research.

17. Dr. Ralph F. Goldman, Ph.D., Director, Military Ergonomics Laboratory, U.S. Army Institute of Environmental Medicine.

18. Dr. Elson D. Helwig, M.D., Chairman, Department of Skin and Gastrointestinal Pathology, Armed Forces Institute of Pathology.

19. Dr. Nelson S. Irey, M.D., Chairman, Department of Environmental and Drug Induced Pathology, Armed Forces Institute of Pathology.

20. Dr. Kamal G. Ishak, M.D., Chairman, Department of Hepatic Pathology, Armed Forces Institute of Pathology.

21. Dr. Frank B. Johnson, M.D., Chairman, Department of Chemical Pathology, Armed Forces Institute of Pathology.

22. Dr. Karl M. Johnson, M.D., Program Director, Hazardous Viruses, U.S. Army Medical Research Institute of Infectious Diseases.

23. Dr. Arthur D. Mason, Jr., M.D., Chief, Laboratory Division, U.S. Army Institute of Surgical Research.

24. Dr. Fathollah K. Mostofi, M.D., Chairman, Center for Advanced Pathology, Armed Forces Institute of Pathology.

25. Dr. Henry J. Norris, M.D., Chairman, Department of Gynecologic and Breast Pathology, Armed Forces Institute of Pathology.

26. Dr. Howard E. Noyes, Ph.D., Associate Director for Research Management, Walter Reed Army Institute of Research.

27. Dr. James A. Vogel, M.D., Director, Exercise Physiology Division, U.S. Army Institute of Environmental Medicine.

28. Dr. Lorenz E. Zimmerman, M.D., Chairman, Department of Ophthalmic Pathology, Armed Forces Institute of Pathology.

The Members of the Performance Review Board for the Consolidated Commands are:

1. Major General John S. Crosby, Deputy Chief of Staff for Personnel, U.S. Army Forces Command.

2. Major General John B. Blount, Chief of Staff, U.S. Army Training and Doctrine Command.

3. Dr. Wilbur B. Payne, Director, U.S. Army Training and Doctrine Command, Systems Analysis Activity.

4. Brigadier General Archer L. Durham, USAF, Vice Commander, Headquarters Military Traffic Management Command.

5. Mr. Leonard J. Mabius, Technical Director/Chief Engineer, U.S. Army Communications Command.

6. Mr. William S. Fraim, Civilian Personnel Director, U.S. Army Forces Command.

7. Mr. Arthur C. Christman, Jr., Scientific Advisor, Office, Deputy Chief of Staff for Combat Development, U.S. Army Training and Doctrine Command.

8. Dr. Marion R. Bryson, Scientific Advisor, CDC Experimentation Command, U.S. Army Training and Doctrine Command.

9. Major General Benjamin E. Doty, Commanding General, USA TRADOC Combined Arms Test Activity/Deputy Chief of Staff for Test and Evaluation, Training and Doctrine Command.

10. Mr. Phillip G. Hillen, Senior Transportation Advisor, Headquarters, Military Traffic Management Command.

11. Brigadier General William G. O'Leksy, Commander, 1st PERSCOM and AG, USAREUR.

12. Mr. Harry M. West III, Deputy Director of Manpower, Plans and Budget, Office of the Deputy Chief of Staff for Personnel.

13. Mr. Peter Stein, Deputy Administrative Assistant, Office of the Secretary of the Army.

14. Dr. Robert J. Heaston, Weapons Systems Technology Manager, Office of the Deputy Chief of Staff for Research, Development and Acquisition.

15. Mr. Dellon E. Coker, Special Assistant for Communications and Transportation, Office of the Judge Advocate General.

16. Mr. Andrew F. Foreman, Assistant Deputy Chief of Staff, Personnel (Civilian Personnel), United States Army Europe.

17. Major General Clarence E. McKnight, Jr., Commanding General, U.S. Army Communications Command.

18. Mr. Nicholas J. Arbia, Comptroller, U.S. Army Communications Command.

19. Brigadier General John T. Myers, Deputy Commanding General, U.S. Army Communications Command.

John O. Roach II,

Liaison Officer with the Federal Register.

[FR Doc. 82-16771 Filed 6-21-82; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DESI) for a Recreational Navigation Project at Lorain Harbor, Lorain County, Ohio, Under Authority of a Resolution Passed by the Committee on Public Works and Transportation of the House of Representatives on September 23, 1976

AGENCY: U.S. Army Engineer District, Buffalo, DOD.

ACTION: Notice of Intent To Prepare a Draft Environmental Impact Statement (DEIS).

PROPOSED ACTION: The proposed action would involve the construction of an all-weather small-boat harbor with at least a 600-slip capacity inside the east breakwater at Lorain Harbor. Recreational fishing access would be provided.

ALTERNATIVES CONSIDERED: A total of five potential small-boat harbor sites were identified during the site selection phase of the study. These five sites are: Site 1—Inside the East Breakwater; Site 2—East of the Diked Disposal Area; Site 3—Inside the West Breakwater; Site 4—Black River at 21st Street; and Site 5—Beaver Creek. Site 1–Inside the East Breakwater, has proven to be the most acceptable alternative.

Subsequent to this site selection, a total of five preliminary harbor plans, in addition to the No-Action Plan, were developed at Alternative Site No. 1—Inside the East Breakwater.

1. Alternative Plan 1—300 Slips Without Riverside Park Cut—Plan 1 would provide for an all-weather small-boat harbor with a 300-slip capacity. Recreational fishing access would be provided.

2. Alternative Plan 2—600 Slips Without Riverside Park Cut—Plan 2 would provide for an all-weather small-boat harbor with a 600-slip capacity. Recreational fishing access would be provided.

3. Alternative Plan 3—300 Slips Without Riverside Park Cut—Plan 3 would provide for a 300-slip small-boat harbor with an all-weather capability. Recreational fishing access would be provided.

4. Alternative Plan 4—600 Slips With Riverside Park Cut—Plan 4 is identical to Plan 3, except a dry-storage facility has been added to ensure capacity for at least 600 boats.

5. Alternative Plan 5—600 Slips (Detached Breakwater)—Plan 5 would provide for an all-weather recreational harbor with a 600-slip capacity and would be essentially an alteration of Plan 2. Recreational fishing would be provided.

6. Alternative Plan 6—No-Action—This alternative does not provide for recreational navigation improvements at Lorain Harbor.

Public Involvement: Considerable public involvement has been conducted on the Lorain Harbor study to date. An Orientation Workshop was held on November 5, 1980, an Initial Iteration Workshop was conducted on December 10, 1980, and an Alternatives Workshop was held on September 10, 1981. The District will hold a late stage Public Meeting when the DEIS is released for public review.

Issues: Significant issues to be analyzed in the DEIS will include a determination of the extent, in degree and kind, to which the Selected Plan and any reasonable alternatives might positively or negatively impact upon the human and natural environments, to include fish and wildlife habitat areas, plants, water quality, aesthetic quality of the area, cultural resources, and the equitable distribution and stability of income.

Scoping Meeting: No scoping meeting will be held, since extensive coordination has already been conducted. A public meeting, announced by a Public Notice, may be held in the summer of 1983.

Availability: This Draft Environmental Impact Statement will be made available to the public on or about May 31, 1983.

Address: Questions about the proposed action and DEIS can be answered by Ms. Mary Jo A. Braun, U.S. Army Engineer District, 1776 Niagara Street, Buffalo, NY 14207, (716) 876-5454.

Dated: June 15, 1982.

George P. Johnson,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 82-16636 Filed 6-21-82; 8:45 am]

BILLING CODE 3710-GP-M

Department of the Navy

Force Enhancement Sub-Panel of the Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Force Enhancement Sub-Panel of the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on July 7–8, 1982, from 9 a.m. to 5 p.m. each day, at Naval Submarine Base, New London, Connecticut. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of anti-submarine warfare and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Commander K. M. Cummings, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 392, Alexandria, VA 22311. Phone (703) 756–1205.

Dated: June 17, 1982.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 82-16601 Filed 6-21-82; 8:45 am]

BILLING CODE 3810-AE-M

Homeporting of Four Additional Knox Class Frigates NETC, Newport, Rhode Island; Public Hearing and Availability of Draft Environmental Impact Statement

Notice is hereby given that a public hearing will be held for the purpose of providing the public with relevant information on the proposed homeporting of four additional Knox class frigates at the Naval Education Training Center, Newport, Rhode Island, and receiving the views of the public on this subject. The public hearing will be held on June 30, 1982, commencing at 8:00 p.m., in the cafetorium of the Middletown High School, Valley Road, Middletown, Rhode Island. The Navy published a Draft Environmental Impact Statement on the subject proposal on June 4, 1982.

The proposed project is the homeporting of four additional Knox class frigates at Pier II, NETC, Newport, Rhode Island. Approximately 2416 personnel and dependents are associated with the proposed project, including personnel assigned to the vessels and personnel assigned to the Shore Intermediate Maintenance Activity in support of homeported ships.

Two frigates are scheduled to arrive in fiscal year 1983; two in fiscal year 1984. All vessels will be "cold-ironed" or "hoteled" while in port. "Cold-iron" involves the shut-down of all shipboard power generation, with the necessary public services provided by on-shore facilities. This effectively reduces ship air emissions and mitigates potentially harmful ship discharges into the Narragansett Bay.

The hearing is being conducted by Commander J. A. Rispoli, CEC, USN, assigned to the staff of the Commanding Officer, Northern Division, Naval Facilities Engineering Command. Commander Rispoli is the Head, Facilities Planning Department, Northern Division, telephone (215) 755–3950. The hearing is informal. It is neither evidential nor judicial in nature, and there will be no cross-examination of witnesses. All persons who give testmony or ask questions are requested to address themselves to the Hearing Officer. Individual speakers are requested to limit their testimony to five minutes each, and organizational spokespersons will have six minutes each to summarize and present their views. Organizations desiring to make a formal presentation in excess of six minutes may do so if specific arrangements have been made with the Hearing Officer in advance. All testimony will be recorded.

Individuals and organizations wishing to submit written statements to be included in the hearing record may either present such statements to the hearing Officer at the hearing, or mail the statements to the Hearing Officer: Commander James A. Rispoli, Northern Division, Naval Facilities Engineering Command, Philadelphia, PA 19112, Telephone: (215) 755–3950.

One copy of the DEIS will be available for public inspection and review at each of the following public libraries and at the Northern Division, Naval Facilities Command:

Portsmouth Free Public Library, Portsmouth, RI

Providence Public Library, Providence, RI 02903

East Providence Public Library, East Providence, RI 02903

Robert Beverly Hale Library, South Kingstown, RI

Essex Public Library, Tiverton, RI

Newport Public Library, Newport, RI

N. Kingston Free Library, North Kingstown, RI

N. Providence Union Free Library, North Providence, RI

Jamestown Philomenian Library, Jamestown, RI

Middleton Free Library, Middletown, RI

Rogers Free Library, Bristol, RI

R.I. Historical Library, Providence, RI 02903

University of Rhode Island Library, S. Kingstown, RI 02881

Dated: June 17, 1982.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 82-16602 Filed 6-21-82; 8:45 am]

BILLING CODE 3810-AE-M

Office of the Secretary

Defense Science Board Task Force on Closely Spaced Basing for M–X: Advisory Committee Meeting

The Defense Science Board Task Force on Closely Spaced Basing for M–X will meet in closed session on 12–16 July 1982 in San Bernardino, California.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

At the meeting on 12–16 July 1982 the Task Force on Closely Spaced Basing for M–X will evaluate the closely-spaced basing mode theory, design, and interaction with various types and levels of threat.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. I, 1976), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly

these meetings will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

June 16, 1982.

[FR Doc. 82-16766 Filed 6-21-82; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Command Support; Committee Meeting

The Defense Science Board Task Force on Command Support will meet in closed session on 25-26 August 1982 at the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will provide an evaluation of the current technological applications currently employed in the area of command support and will advise upon improvements which appear possible and practical. They will also consider training emphasis and possibilities for improvement in the internal management process.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. I, 1976), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

June 16, 1982.

[FR Doc. 82-16767 Filed 6-21-82; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 USC Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) To whom comments regarding the information collection are to be forwarded; and (9) The point of contact from whom a copy of the information proposal may be obtained.

Extension (Adjustment in Burden)

Report information collection on-Federal Student Loan Disclosure and Confirmation.

The information collection is necessary to implement the loan repayment segment of the educational assistance test program, authorized by Section 902 of Pub. L. 96-342. This provision authorizes the Secretary of Defense to repay portions of Guaranteed Student Loan (GSL), Federal Insured Loans (FISL), and National Direct Student Loans (NDSL) for eligible active and selective reserve servicemembers. The Services have a legal requirement to make the first disbursements under this program.

Banks, Savings, & Loan Associations, post secondary institutions; 3,000 responses; 1,000 hours.

Forward comments to Mr. Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, DC 20503, and Mr. John V. Wenderoth, DOD Clearance Officer, OASD(C), DIRMS, IRAD, Room 4B929, Pentagon, Washington, DC 20301, telephone (202) 697-1195.

A copy of the information collection may be obtained from Mr. Robert L. Newhart, OASD, MRA&L(PI), Room 3C800, Pentagon, Washington, DC 20301; telephone (202) 605-0643.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

June 16, 1982.

[FR Doc. 82-16757 Filed 6-21-82; 8:45 am]

BILLING CODE 3810-01-M

Security of Mail in APO/FPO System Overseas

AGENCY: Office of the Secretary (Military Postal Service), DoD.

ACTION: Notice of Extension of Comment Period.

SUMMARY: On April 6, 1982, in 47 FR 14864, the Department of Defense published a proposed policy on security of mail in the APO/FPO system overseas (FR Doc. 82-9172). The notice requested that comments be received by June 7, 1982. As a result of the interest in this policy, the Office of the Secretary, DoD, is extending the comment period to July 16, 1982.

ADDRESSES: Send comments to: General Counsel, Department of the Army, Room 2E729, The Pentagon, Washington, D.C. 20310.

FOR FURTHER INFORMATION CONTACT: Thomas C. Wright, Office of the General Counsel, Department of the Army, (202) 695-2253.

June 17, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 82-16765 Filed 6-21-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Discretionary Grant Programs; Application Notice Establishing Closing Dates for Transmittal of Certain Fiscal Year 1983 Applications

Correction

In FR Doc. 82-16260 appearing on page 26106 in the issue of Wednesday, June 16, 1982; second column, in the table, the closing date for CFDA 84.023] Should read "Sept. 15, 1982".

BILLING CODE 1505-01-M

National Advisory Council on Continuing Education; Meeting

Correction

In FR Doc. 82-15464 appearing on page 24770, in the issue for Tuesday, June 8, 1982; third column, Sixth paragraph under supplementary information should read as follows:

"The Council meeting will be held from 2:00 p.m. until 6:30 p.m. on June 23; from 9:00 a.m. until 5:00 p.m. and from 7:00 p.m. until 9:00 p.m. on June 24; and from 9:00 a.m. until 12:00 Noon on June 25, 1982."

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Vol. 670]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued June 16, 1982.

JD NO	JA DKT	API NO	C SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
OKLAHOMA CORPORATION COMMISSION								
-ANDOVER OIL COMPANY			RECEIVED:	05/21/82	JA: OK			
8234496	14395	35.1721845	103		GLOBE LIFE "E" #34-8		180.0	DELHI GAS PIPELIN
8234514	14371	35.4321205	103		JOHNSON #34-1		0.0	EL PASO NATURAL G
-BEARD OIL COMPANY			RECEIVED:	05/21/82	JA: OK			
8234492	14211	3510920310	103		CHOCTAW #1	CHOCTAW	150.0	OKLAHOMA NATURAL
-BLUE QUAIL ENERGY INC			RECEIVED:	05/21/82	JA: OK			
8234517	14389	35[illegible]1700000	103		MCCAULEY #2	NE/4SW/4 SEC 1 T11N R	525.0	CONOCO INC
-CONOCO INC			RECEIVED:	05/21/82	JA: OK			
8234527	14210	35[illegible]1922372	103		S E VELMA SIMS UNIT #158	S E VELMA	46.0	AMINOIL USA INC
-COOK OPERATING CO			RECEIVED:	05/21/82	JA: OK			
8234467	13637	3511700000	108		BREWER #14 (WAGNER)	NORTH TERLTON	27.9	H J D CATTLE CO
8234489	13639	3511720343	108		BREWER "B" B-16	NORTH TERLTON	34.2	H J D CATTLE CO
8234490	13640	3511720346	108		BREWER "B" B-15	NORTH TERLTON	42.2	H J D CATTLE CO
8234488	13638	3511720350	108		BREWER B-14	NORTH TERLTON	28.5	H J D CATTLE CO
-DAVID NIXON ENERGY CO INC			RECEIVED:	05/21/82	JA: OK			
8234510	14335	3508321821	103		SNYDER A-1		0.0	EASON OIL CO
-DEAN CLARK			RECEIVED:	05/21/82	JA: OK			
8234501	14412	3511120[illegible]	108		BRUNER #1	NATURA (380°FSL & 246	8.3	PHILLIPS PETROLEU
8234500	14407	3511120915	108		COPENHAVER #1	NATURA 1650° FSL & 16	8.7	PHILLIPS PETROLEU
8234499	14406	3511121411	108		COPENHAVER #1-7	NATURA 330° FSL &1485	10.8	PHILLIPS PETROL C
-DYCO PETROLEUM CORPORATION			RECEIVED:	05/21/82	JA: OK			
8234502	14410	35[illegible]1572026	103		MARGIE #1-27		100.0	EL PASO NATURAL G
-ELIXIR CORP			RECEIVED:	05/21/82	JA: OK			
8234522	13875	35[illegible]8321426	103		MARTIN #1 08321426	SO MULHALL	10.0	EASON OIL CO
8234523	13875	35[illegible]8321558	103		TODD #1 08321558	SO MULHALL	55.0	EASON OIL CO
-FLOYD BERGEN			RECEIVED:	05/21/82	JA: OK			
8234514	14416	3512120868	103		BRANNAN #1	BLOCKER	150.0	SE TRANSMISSION &
-FOSSIL OIL & GAS INC			RECEIVED:	05/21/82	JA: OK			
8234529	14229	35[illegible]4321251	103		SHIFFLETT #1-33	NORTH OAKWOOD	200.0	DELHI GAS PIPELIN
-HAINES OIL CO			RECEIVED:	05/21/82	JA: OK			
8234532	14332	3513722614	103		DOMA #1	SHO VEL TUM	7.0	GETTY OIL CO
8234533	14331	3513722597	103		FOWLER #1	SHOVELTUM	2.0	GETTY OIL CO
8234505	14330	3513722651	103		FOWLER #2	SHO VEL TUM	3.0	GETTY OIL CO
8234509	14423	3513722387	103		SID S SPEARS #10	SHO VEL TUM	3.3	GETTY OIL CO
8234508	14422	3513722388	103		SID S SPEARS #11	SHO VEL TUM	5.5	GETTY OIL CO
8234506	14421	3513722759	103		SID S SPEARS #12	SHO VEL TUM	20.8	GETTY OIL CO
8234507	14420	3513722664	103		SID S SPEARS #13	SHO VEL TUM	6.5	GETTY OIL CO
8234531	14419	3513722215	103		SID S SPEARS #8	SHO VEL TUM	13.6	GETTY OIL CO
-HELMERICH & PAYNE INC			RECEIVED:	05/21/82	JA: OK			
8234484	17159	3512929702	102-2		SAVAGE #1-27	S W HERRING	365.0	MICHIGAN WISCONSI
-HY-CARB ENERGY INC			RECEIVED:	05/21/82	JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8234486	14392	3508300000		103		BEEN #1	NORTH PEAVINE SECTION	24.0	CHAMPLIN PETROLEU
8234518	14391	3508321634		103		DUNLAP #2	NORTH PEAVINE SECTION	24.0	CHAMPLIN PETROLEU
-INTERNORTH INC				RECEIVED:	05/21/82	JA: OK			
8234495	14394	3512920606		103		CARLTON 26 #1	SOUTHWEST LEEDEY	500.0	NORTHERN NATURAL
-J L BUSBY				RECEIVED:	05/21/82	JA: OK			
8234513	14567	3511121189		108		WRIGHT #1-8W	BALD HILL	15.1	PHILLIPS PETROLEU
-JICO EXPLORATION INC				RECEIVED:	05/21/82	JA: OK			
8234524	14145	3507523119		103		JICO-TOWNER #1	SOONER TREND	1277.5	PHILLIPS PETROLEU
-JOE D DAVIS				RECEIVED:	05/21/82	JA: OK			
8234528	14215	3512120846		103		HALL #1	S PINE HOLLOW	0.0	ARKANSAS LOUISIAN
-L O WARD				RECEIVED:	05/21/82	JA: OK			
8234530	14236	3502720555		103		OKLAHOMA C-16 #3	N W NORMAN	125.0	SUN GAS CO
-L R FRENCH JR				RECEIVED:	05/21/82	JA: OK			
8234494	14393	3509322411		103		VIOLET #2	CHEYENNE VALLEY	237.0	DELHI GAS PIPELIN
-LADD PETROLEUM CORPORATION				RECEIVED:	05/21/82	JA: OK			
8234497	14397	3504321231		103		EVANS #2	HUCHAC	273.8	TRANSOK PIPE LINE
8234498	14398	3505121056		103		MAURER #2	BRADLEY NORTHWEST	533.8	TRANSOK PIPE LINE
-NEWBOURNE OIL COMPANY				RECEIVED:	05/21/82	JA: OK			
8234525	14208	3503920484		103		CARMEN #1	(SPRINGER)	18.0	
-PETRO DAVIS INC				RECEIVED:	05/21/82	JA: OK		0.0	EASON OIL CO
8234521	12661	3508300000		103		CARMA #2			
-PETRO-LEWIS CORPORATION				RECEIVED:	05/21/82	JA: OK			
8234515	14372	3503202190		108		DAVIS 23-1	RINGWOOD	7.3	PARTNERSHIP PROPE
8234516	14373	3503220255		108		JIMMIE 23-1	RINGWOOD	7.3	PARTNERSHIP PROPE
-PORTS OF CALL OIL CO				RECEIVED:	05/21/82	JA: OK			
8234583	14413	3502720436		103		JANUARY #36-1	N W NORMAN	10.0	SUN GAS CO
-PROSPECT DEVELOPMENT CO				RECEIVED:	05/21/82	JA: OK			
8234511	14387	3504722145		103		WEST 2-8D	SOONER TREND	55.0	
-RED EAGLE OIL CO				RECEIVED:	05/21/82	JA: OK			
8234493	14203	3509322216		103		ALBERT #1	CHEYENNE VALLEY	405.8	DELHI GAS PIPELIN
-SEARCH DRILLING CO				RECEIVED:	05/21/82	JA: OK			
8234526	14289	3504520976		103		CARNAGEY #1-10	NORTH CHANEY	203.0	AN-SON TRANSPORTA
-SENECA OIL COMPANY				RECEIVED:	05/21/82	JA: OK			
8234519	11544	3501121518		102-A		BAKER #1-11	N CANTON	365.0	PANHANDLE EASTERN
-THE GHK COMPANY				RECEIVED:	05/21/82	JA: OK			
8234485	18683	3500920416		107-DP		THOMPSON 1-22	WEST ELK CITY	205.0	
-THE WIL-MC OIL CORP				RECEIVED:	05/21/82	JA: OK			
8234483	17153	3513722334		102-A		H B O C #1RP-11	COMANCHE	257.4	
-TRANSIERRA EXPLORATION CORP				RECEIVED:	05/21/82	JA: OK			
8234512	14352	3511321437		103		CHRISTIAN 2803 #1	TRANSIERRA-CINNAMON F	15.0	AMINOIL USA INC
-WESTERN PACIFIC PETROLEUM INC.				RECEIVED:	05/21/82	JA: OK			
8234528	12295	3508321639		103		WALLER #1-31	SOONER TREND	43.8	CONOCO INC
-WOHNLICH OIL CO				RECEIVED:	05/21/82	JA: OK			
8234491	14199	3507322657		103		MOORE 1-1	SOONER TREND	15.0	PHILLIPS PETROLEU

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PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES

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-ADOBE OIL & GAS CORPORATION				RECEIVED:	05/21/82	JA: PA			
8234535	11425	3706522445		103		HENRIETTA GIBBS "B" #1	MCGEES MILL	25.0	CONSOLIDATED GAS
8234534	11424	3706326507		103		WILLIAM SCHEURING #1	COMMODORE	24.0	
-ASHTOLA PRODUCTION CO				RECEIVED:	05/21/82	JA: PA			
8234536	11431	3705120274		103		J SINAL #1	WALTERSBURG	22.0	
8234537	11432	3705120284		103		W KING #1	WALTERSBURG	22.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8234538	11433	3705120285		103		W KING #2	WALTERSBURG	22.0	
8234539	11434	3705120286		103		W KING #3	WALTERSBURG	22.0	
-ATLANTIC RICHFIELD CO				RECEIVED:	05/21/82	JA: PA			
8234540	11435	3705120287		103		W KING #4	WALTERSBURG	22.0	
8234541	11436	3705120288		103		W KING #5	WALTERSBURG	22.0	
-BELDEN & BLAKE CORPORATION				RECEIVED:	05/21/82	JA: PA			
8234542	11437	3705120289		103		W KING #6	WALTERSBURG	22.0	
8234543	11438	3705120290		103		W KING #7	WALTERSBURG	22.0	
-CABOT OIL & GAS CORPORATION				RECEIVED:	05/21/82	JA: PA			
8234544	11439	3705120291		103		W KING #8	WALTERSBURG	22.0	
8234545	11440	3705120292		103		W KING #9	WALTERSBURG	22.0	
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	05/21/82	JA: PA			
8234546	11441	3705120293		103		W KING #10	WALTERSBURG	22.0	
8234547	11442	3705120294		103		W KING #11	WALTERSBURG	22.0	
-CONSOLIDATED GAS SUPPLY CORP				RECEIVED:	05/21/82	JA: PA			
8234548	11443	3705120295		103		W KING #12	WALTERSBURG	22.0	
8234549	11444	3705120296		103		W KING #13	WALTERSBURG	22.0	
-CONSOLIDATED GAS TRANSMISSION				RECEIVED:	05/21/82	JA: PA			
8234550	11445	3705120297		103		W KING #14	WALTERSBURG	22.0	
8234551	11446	3705120298		103		W KING #15	WALTERSBURG	22.0	
-CONSOLIDATED GAS TRANSMISSION				RECEIVED:	05/21/82	JA: PA			
8234552	11447	3705120299		103		W KING #16	WALTERSBURG	22.0	
8234553	11448	3705120300		103		W KING #17	WALTERSBURG	22.0	
-CONSOLIDATED GAS TRANSMISSION				RECEIVED:	05/21/82	JA: PA			
8234554	11449	3705120301		103		W KING #18	WALTERSBURG	22.0	
8234555	11450	3705120302		103		W KING #19	WALTERSBURG	22.0	
-CONSOLIDATED GAS TRANSMISSION				RECEIVED:	05/21/82	JA: PA			
8234556	11451	3705120303		103		W KING #20	WALTERSBURG	22.0	
8234557	11452	3705120304		103		W KING #21	WALTERSBURG	22.0	
-CONSOLIDATED GAS TRANSMISSION				RECEIVED:	05/21/82	JA: PA			
8234558	11453	3705120305		103		W KING #22	WALTERSBURG	22.0	
8234559	11454	3705120306		103		W KING #23	WALTERSBURG	22.0	
-CONSOLIDATED GAS TRANSMISSION				RECEIVED:	05/21/82	JA: PA			
8234560	11455	3705120307		103		W KING #24	WALTERSBURG	22.0	
8234561	11456	3705120308		103		W KING #25	WALTERSBURG	22.0	
-CONSOLIDATED GAS TRANSMISSION				RECEIVED:	05/21/82	JA: PA			
8234562	11457	3705120309		103		W KING #26	WALTERSBURG	22.0	
8234563	11458	3705120310		103		W KING #27	WALTERSBURG	22.0	
-CONSOLIDATED GAS TRANSMISSION				RECEIVED:	05/21/82	JA: PA			
8234564	11459	3705120311		103		W KING #28	WALTERSBURG	22.0	
8234565	11460	3705120312		103		W KING #29	WALTERSBURG	22.0	
-CONSOLIDATED GAS TRANSMISSION				RECEIVED:	05/21/82	JA: PA			
8234566	11461	3705120313		103		W KING #30	WALTERSBURG	22.0	
8234567	11462	3705120314		103		W KING #31	WALTERSBURG	22.0	
-CONSOLIDATED GAS TRANSMISSION				RECEIVED:	05/21/82	JA: PA			
8234568	11463	3705120315		103		W KING #32	WALTERSBURG	22.0	
8234569	11464	3705120316		103		W KING #33	WALTERSBURG	22.0	
-CONSOLIDATED GAS TRANSMISSION				RECEIVED:	05/21/82	JA: PA			
8234570	11465	3705120317		103		W KING #34	WALTERSBURG	22.0	
8234571	11466	3705120318		103		W KING #35	WALTERSBURG	22.0	
-CONSOLIDATED GAS TRANSMISSION				RECEIVED:	05/21/82	JA: PA			
8234572	11467	3705120319		103		W KING #36	WALTERSBURG	22.0	
8234573	11468	3705120320		103		W KING #37	WALTERSBURG	22.0	
-CONSOLIDATED GAS TRANSMISSION				RECEIVED:	05/21/82	JA: PA			
8234574	11469	3705120321		103		W KING #38	WALTERSBURG	22.0	
8234575	11470	3705120322		103		W KING #39	WALTERSBURG	22.0	
-CONSOLIDATED GAS TRANSMISSION				RECEIVED:	05/21/82	JA: PA			
8234576	11471	3705120323		103		W KING #40	WALTERSBURG	22.0	
8234577	11472	3705120324		103		W KING #41	WALTERSBURG	22.0	
-CONSOLIDATED GAS TRANSMISSION				RECEIVED:	05/21/82	JA: PA			
8234578	11473	3705120325		103		W KING #42	WALTERSBURG	22.0	
8234579	11474	3705120326		103		W KING #43	WALTERSBURG	22.0	
-CONSOLIDATED GAS TRANSMISSION				RECEIVED:	05/21/82	JA: PA			
8234580	11475	3705120327		103		W KING #44	WALTERSBURG	22.0	
8234581	11476	3705120328		103		W KING #45	WALTERSBURG	22.0	
-CONSOLIDATED GAS TRANSMISSION				RECEIVED:	05/21/82	JA: PA			
8234582	11477	3705120329		103		W KING #46	WALTERSBURG	22.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-ATLAS RESOURCES INC				RECEIVED:	05/21/82	JA: PA			
8234538	11415	3706326333		102-2		SCHROTH #18	GREEN	29.0	COLUMBIA GAS TRAN
-BOYD & SHRIVER				RECEIVED:	05/21/82	JA: PA			
8234542	11400	3706323136		108		KLEIN #437	N MAHONING	6.0	CONSOLIDATED GAS
8234540	2119	3706323196		108		MOTTORN #439	NORTH MAHONING	0.0	CONSOLIDATED GAS
8234539	2116	3706323133		108		PEFFER #435	N MAHONING	0.0	CONSOLIDATED GAS
8234541	2121	3706323214		108		WRIGHT #441	N MAHONING	8.0	CONSOLIDATED GAS
-C & C TROYER BROTHERS				RECEIVED:	05/21/82	JA: PA			
8234608	10906	3704921374		107-TF		T MILLER #1 (#30)	EDINBORO	18.0	NATIONAL FUEL GAS
-CABOT OIL & GAS CORP				RECEIVED:	05/21/82	JA: PA			
8234543	11383	3703921452		102-2		EDWARD HOADLEY #1	FAIRFIELD	50.0	TENNESSEE GAS PIP
8234544	11382	3703921452		107-TF		EDWARD HOADLEY #1	FAIRFIELD	50.0	TENNESSEE GAS PIP
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	05/21/82	JA: PA			
8234547	11423	3706322437		103		A V FRAMPTON WN-1880			
8234546	11422	3706326619		103		G HOLLIDAY WN-1879	MCCALMONT TOWNSHIP	10.0	GENERAL SYSTEM PU
8234545	11421	3712921939		103		HENRY MAWLEY WN-1870	BANKS TOWNSHIP	44.6	GENERAL SYSTEM PU
-CUMBERLAND OIL CORP				RECEIVED:	05/21/82	JA: PA	HEMPFIELD TOWNSHIP	51.0	GENERAL SYSTEM PU
8234548	11831	3712329662		102-3		J RUPCZYK #2			
8234549	11076	3712329662		107-TF		J RUPSZYK #2	SUGAR GROVE	20.0	NATIONAL FUEL GAS
-DOC-NCC SERVICE CO				RECEIVED:	05/21/82	JA: PA	SUGAR GROVE	20.0	NATIONAL FUEL GAS
8234553	11418	3712921918		103		PARK S STONER ESTATE 1523-1			
8234554	11419	3712921935		103		R D MILLER & R SHUMAR JR 1592-1	EAST HUNTINGDON	30.0	TEXAS EASTERN TRA
8234552	11417	3712921780		103		THOMAS L BROOKS 1244-1	EAST HUNTINGDON	30.0	TEXAS EASTERN TRA
-ENVIROGAS INC				RECEIVED:	05/21/82	JA: PA	E HUNTINGDON	36.0	TEXAS EASTERN TRA
8234555	11399	3704921319		107-TF		G KRESS #4A			
-FAIRMAN DRILLING CO				RECEIVED:	05/21/82	JA: PA	NORTH EAST DEEP	18.0	NATIONAL FUEL GAS
8234556	11412	3706300000		103		KATHRYN SELL #1 F-3286			
8234557	11413	3706326561		103		KATHRYN SELL #2 F-3305	ELDER RIDGE	26.0	T W PHILLIPS GAS
-FELMONT OIL CORPORATION				RECEIVED:	05/21/82	JA: PA	ELDERS RIDGE	20.0	T W PHILLIPS GAS
8234564	11472	3702120086		102-2		MARTIN L BEARER #1 F-276			
8234559	11467	3702120087		102-2		MARTIN L BEARER #2 F-277	DRISCOLL HOLLOW	0.0	
8234558	11466	3702120089		102-2		MARTIN L BEARER #4 F-279	DRISCOLL HOLLOW	0.0	
8234563	11471	3702120090		102-2		MARTIN L BEARER #5 F-280	DRISCOLL HOLLOW	0.0	
8234560	11468	3702120094		102-2		MARTIN L BEARER #6 F-288	DRISCOLL HOLLOW	0.0	
8234561	11469	3702120091		102-2		MARTIN L BEARER #7 F-289	DRISCOLL HOLLOW	0.0	
8234562	11470	3702120093		102-2		MARTIN L BEARER #8 F-290	DRISCOLL HOLLOW	0.0	
-FOX OIL & GAS INC				RECEIVED:	05/21/82	JA: PA	DRISCOLL HOLLOW	0.0	
8234565	7473	3712920906		108		LULU POOL #3			
-GOE PRO INC				RECEIVED:	05/21/82	JA: PA	HEMPFIELD TOWNSHIP	26.5	PEOPLES NATURAL G
8234579	11460	3704921160		107-TF		ALBION SPORTSMAN CLUB #1			
8234578	11459	3704921161		107-TF		ARDEN TEED #1	ALBION-WEST	0.0	NATIONAL FUEL GAS
8234567	11449	3704921486		103		CHARLES LUPKA #1	ALBION	0.0	NATIONAL FUEL GAS
8234569	11448	3704921486		107-TF		CHARLES LUPKA #1	LUNDY'S LANE	0.0	COLUMBIA GAS TRAN
8234573	11454	3704921238		107-TF		GEORGE PAVOLKO #1	LUNDY'S LANE	0.0	COLUMBIA GAS TRAN
8234566	11447	3704921581		103		GORDON WARD #1	ALBION	0.0	COLUMBIA GAS TRAN
8234568	11446	3704921581		107-TF		GORDON WARD #1	UNION CITY	0.0	COLUMBIA GAS TRAN
8234577	11458	3704921162		107-TF		HANS K HALLGREN	UNION CITY	0.0	COLUMBIA GAS TRAN
8234572	11453	3704921020		107-TF		HARRISON #1	ALBION-WEST	0.0	NATIONAL FUEL GAS
8234581	11462	3704921192		107-TF		J & F MADDEN #1	NEW IRELAND	0.0	COLUMBIA GAS TRAN
8234570	11450	3704921243		107-TF		JOSEPH HUYA #1	LUNDY'S LANE	0.0	COLUMBIA GAS TRAN
8234575	11456	3704921127		107-TF		P & G ZARENKO #1	ELK CREEK	0.0	COLUMBIA GAS TRAN
8234574	11455	3704921188		107-TF		PAUL & G ZARENKO #2	ALBION-EDINBORO	0.0	COLUMBIA GAS TRAN
8234576	11457	3704921128		107-TF		R & J SMITH #1	ALBION-EDINBORO	0.0	COLUMBIA GAS TRAN
							ALBION - EAST	0.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8234571	11452	3704921295		107-TF		RAYMOND SALLOT #1	ALBION-EAST	0.0	COLUMBIA GAS TRAN
8234580	11461	3704921159		107-TF		W A & T NAGEL	ALBION	0.0	NATIONAL FUEL GAS
-HADDAD & BROOKS INC				RECEIVED:	05/21/82	JA: PA			
8234550	11404	3708520315		103		A KOBOSKY UNIT #1	DEER CREEK	50.0	
8234551	11405	3708520315		107-TF		A KOBOSKY UNIT #1	DEER CREEK	50.0	
-JEAN B KIMMEL				RECEIVED:	05/21/82	JA: PA			
8234582	11395	3700300000		108		KOENIG # 2	(HARRISON TOWNSHIP)	5.6	APOLLO GAS CO
-JEAN O MYERS				RECEIVED:	05/21/82	JA: PA			
8234586	11429	3708520464		108		CHARLES COULTER #1	DIME	2.4	PEOPLES NATURAL G
8234587	11430	3700520393		108		JOSEPH J HUGHES #1	DIME	2.0	PEOPLES NATURAL G
-MERIDIAN EXPLORATION CORP				RECEIVED:	05/21/82	JA: PA			
8234583	11411	3704921471		107-TF		THERASSE UNIT #591-1	EDINBORO NORTH	30.0	NATIONAL FUEL GAS
-MITCHELL ENERGY CORPORATION				RECEIVED:	05/21/82	JA: PA			
8234584	11475	3703921170		103		GALLAHER B #1	CONNEAUTVILLE FIELD -	41.0	COLUMBIA GAS TRAN
8234585	11474	3703921170		107-TF		GALLAHER B #1	CONNEAUTVILLE FIELD -	41.0	COLUMBIA GAS TRAN
-NETTLE HILL OIL & GAS CO				RECEIVED:	05/21/82	JA: PA			
8234588	11403	3705900000		108		B E KIGER	FREEPORT	7.1	PEOPLES NATURAL G
-PENCO GAS INC				RECEIVED:	05/21/82	JA: PA			
8234603	11331	3700500000		108		ANNIE SCOTT #1	W PA UPPER DEVONIAN S	25.0	APOLLO GAS CO
8234604	11332	3700500000		108		ANNIE SCOTT #2	W PA UPPER DEVONIAN S	25.0	APOLLO GAS CO
8234605	11333	3700500000		108		ANNIE SCOTT #3	W PA UPPER DEVONIAN S	25.0	APOLLO GAS CO
8234594	11312	3700500000		108		DAVID O SLYTER #1	W PA UPPER DEVONIAN S	22.0	APOLLO GAS CO
8234595	11313	3703100000		108		J F BENN #1 (CLARION CO WELLS)	W PA UPPER DEVONIAN S	20.0	APOLLO GAS CO
8234596	11314	3703100000		108		J F BENN #2 (CLARION COUNTY	W PA UPPER DEVONIAN S	20.0	APOLLO GAS CO
8234597	11315	3703100000		108		J F BENN #3 (CLARION COUNTY)	W PA UPPER DEVONIAN S	20.0	APOLLO GAS CO
8234598	11308	3708500000		108		J M ARTMAN #1	W PA UPPER DEVONIAN S	22.0	APOLLO GAS CO
8234601	11329	3700500000		108		J W CLARK #1	W PA UPPER DEVONIAN S	31.0	APOLLO GAS CO
8234602	11330	3708500000		108		JOHN DENNY #1	W PA UPPER DEVONIAN S	46.0	APOLLO GAS CO
8234589	11307	3700520127		108		LLOYD MANKEY #2 ARM 127	W PA UPPER DEVONIAN S	22.0	APOLLO GAS COMPAN
8234591	11309	3700521361		108		O (HAZEL M) LAFFERTY #1 ARM 1361-R	W PA UPPER DEVONIAN S	5.0	APOLLO GAS CO
8234592	11310	3700500000		108		OLIVE LAFFERTY #2	W PA UPPER DEVONIAN S	24.0	APOLLO GAS CO
8234600	11328	3700500000		108		S & BOARTS #1	W PA UPPER DEVONIAN S	13.0	APOLLO GAS CO
8234593	11311	3700500000		108		THOMAS SCHAEFFER #1	W PA UPPER DEVONIAN S	44.0	APOLLO GAS CO
8234598	11316	3703100000		108		W H KELLY #1 (CLARION COUNTY)	W PA UPPER DEVONIAN S	20.0	APOLLO GAS CO
8234599	11317	3703100000		108		W H KELLY #2 (CLARION COUNTY)	W PA UPPER DEVONIAN S	20.0	APOLLO GAS CO
-PHILLIPS PRODUCTION CO				RECEIVED:	05/21/82	JA: PA			
8234606	11420	3706522278		103		ANDREW E GARZONI #1	MC CALMONT	30.0	NATIONAL FUEL GAS
-POI ENERGY INC				RECEIVED:	05/21/82	JA: PA			
8234607	11401	3403321230		107-TF		VULAN #1	SPARTA	25.0	COLUMBIA GAS TRAN
-V & GAS CO				RECEIVED:	05/21/82	JA: PA			
8234618	10703	3706500000		108		METRICK #1	ALLEGHENY PLATEAU	13.2	NATIONAL FUEL GAS
8234619	10702	3706500000		103		METRICK #2	ALLEGHENY PLATEAU	13.2	NATIONAL FUEL GAS
WYOMING OIL & GAS CONSERVATION COMMISSION									
-AMOCO PRODUCTION CO				RECEIVED:	05/24/82	JA: WY			
8234470	NG 54-82	4903721516		102-2		AM-CHEV-GULF WI #6A (MISSION CANY)	WHITNEY CANYON - MISS	875.0	NATURAL GAS PIPEL
8234472	NG 56-82	4901320753		103		BIG SAND DRAW GAS #18 (MORRISON)	BIG SAND DRAW - MORRI	100.0	KANSAS NEBRASKA N
8234471	NG 55-82	4901320994		103		BIG SAND DRAW OIL UNIT #39 (EMBAR)	BIG SAND DRAW - EMBAR	14.6	NORTHERN UTILITIE
8234467	NG-51-82	4903721453		107-TF		CHAMPLIN 254 AMOCO "C"#1 (MESAVER)	ECHO SPRINGS - MESAVE	438.0	CITIES SERVICE GA
8234478	NG 66-82	4903721749		102-2		CHAMPLIN 452 AMOCO "J" #1 (LEWIS)	SIBERIA RIDGE-LEWIS	33.0	CITIES SERVICE GA
8234480	NG 68-82	4903721749		107-TF		CHAMPLIN 452 AMOCO "J"#1 (MESAVER)	SIBERIA RIDGE - MESAV	65.5	CITIES SERVICE GA
8234458	NG 23-82	4903721288		103		LOST SOLDIER UNIT #109 (MADISON)	LOST SOLDIER - MADISO	10.0	NORTHERN GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8234477	NG 64-82	4903721538		103		LOST SOLDIER UNIT #118 (DARWIN)
8234482	NG 70-82	4903721538		103		LOST SOLDIER UNIT #118 (MADISON)
8234473	NG 57-82	4903721428		103		LOST SOLDIER UNIT #131 (TENSLEEP)
8234474	NG 58-82	4903721517		103		LOST SOLDIER UNIT #132 (TENSLEEP)
8234461	NG 26-82	4903721724		103		LOST SOLDIER UNIT #142 (TENSLEEP)
8234460	NG 25-82	4903721818		103		LOST SOLDIER UNIT #152 (MADISON)
8234476	NG 63-82	4903721722		103		LOST SOLDIER UNIT #154 (MADISON)
8234459	NG 24-82	4903721725		103		LOST SOLDIER UNIT #158 (MADISON)
8234469	NG 53-82	4904120158		102-2		RYCKMAN CREEK UNIT #18 (ANKAREH)
8234468	NG 52-82	4904120158		102-2		RYCKMAN CREEK UNIT #18 (THAYNES)
8234481	NG 69-82	4904120317		102-2		RYCKMAN CREEK UNIT #30
-CHEVRON U S A INC				RECEIVED:	05/24/82	JA: WY
8234466	NG 43-82	4904120155		102-4		PAINTER RESERVOIR UNIT #33-318
-MONSANTO COMPANY				RECEIVED:	05/24/82	JA: WY
8234462	NG 28-82	4901321127		107-DP		MONSANTO LONG BUTTE UNIT #5
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	05/24/82	JA: WY
8234479	NG 67-82	4900525994		102-2		MATHESON C #1
-TERRA RESOURCES INC				RECEIVED:	05/24/82	JA: WY
8234475	NG 59-82	4900921260		108		REESE 26-3
-WOODS PETROLEUM CORPORATION				RECEIVED:	05/24/82	JA: WY
8234463	NG 34-82	4900525404		103		PINE TREE UNIT 17-8
8234464	NG 35-82	4900525780		103		PINE TREE UNIT 32-23
8234465	NG 41-82	4900525877		103		PINE TREE UNIT 7-25

FIELD NAME	PROD	PURCHASER
LOST SOLDIER - DARWIN	7.5	NORTHERN GAS CO
LOST SOLDIER - MADISO	7.5	NORTHERN GAS CO
LOST SOLDIER - TENSLE	1.5	NORTHERN GAS CO
LOST SOLDIER - TENSLE	5.8	NORTHERN GAS CO
LOST SOLDIER - TENSLE	8.0	NORTHERN GAS CO
LOST SOLDIER - MADISO	10.0	NORTHERN GAS CO
LOST SOLDIER - MADISO	1.7	NORTHERN GAS CO
LOST SOLDIER - MADISO	4.0	NORTHERN GAS CO
RYCKMAN CREEK-ANKAREH	271.9	MOUNTAIN FUEL SUP
RYCKMAN CREEK-THAYNES	271.0	MOUNTAIN FUEL SUP
RYCKMAN CREEK - NUGGE	210.0	NORTHWEST PIPELIN
PAINTER RESERVOIR	1022.0	NORTHERN NATURAL
CODY (LONG BUTTE UNIT	1145.0	MICHIGAN-WISCONSI
SCHOOL CREEK FIELD	0.0	PANHANDLE EASTERN
FLAT TOP	20.0	KANSAS NEBRASKA G
PINE TREE	21.8	WESTERN GAS PROCE
PINE TREE	0.0	WESTERN GAS PROCE
PINE TREE	87.0	WESTERN GAS PROCE

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before July 7, 1982.

Categories within each NGPA section are indicated by the following codes:
Section:

102–1 New OCS lease
102–2 New well (2.5 mile rule)
102–3 New well (1,000 ft. rule)
102–4 New onshore reservior
102–5 New reservoir on old OCS lease

107–DP 15,000 feet or deeper
107–GB Geopressured brine
107–CS Coal seams
107–DV Devonian shale
107–PE Production enhancement
107–TF New tight formation
107–RT Recompletion tight formation

108 Stripper well
108–SA Seasonally affected
108–ER Enhanced recovery
108–PB Pressure buildup

Kenneth F. Plumb,
Secretary.

[FR Doc. 82–16825 Filed 6–21–82; 8:45 am]
BILLING CODE 6717–01–M

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-ADAMS EXPLORATION CO			RECEIVED:	05/27/82		JA: TX			
8234945	F-08-051253	4217331259	103			POGO GRIGSBY #2	CONGER (PENN)	53.0	PHILLIPS PETROLEU
-AMAX PETROLEUM CORPORATION			RECEIVED:	05/27/82		JA: TX			
8234832	F-03-049960	4215731275	102-2			J W FARRIS #1	KATY S (FIRST WILCOX)	1300.0	HOUSTON PIPE LINE
-AMERADA HESS CORPORATION			RECEIVED:	05/27/82		JA: TX			
8234762	F-06-049184	4221333852	102-4			WIER GAS UNIT #1	EUSTACE SMACKOVER	365.0	LONE STAR GAS CO
-AMERICAN PETROFINA COMPANY OF TEXAS			RECEIVED:	05/27/82		JA: TX			
8234716	F-06-045534	4242330480	103	107-TF		VERNON WILSON G U #1 #1	OVERTON (COTTON VALLE	200.0	UNITED GAS PIPE L
-AMNEX PETROLEUM INC			RECEIVED:	05/27/82		JA: TX			
8234820	F-03-049822	4214931204	102-2	103		PAULETTE UNIT #1	GIDDINGS (AUSTIN CHAL	972.0	CLAJON GAS CO
-AMOCO PRODUCTION CO			RECEIVED:	05/27/82		JA: TX			
8234897	F-02-051086	4217530573	103			L W O'CONNOR EST "A" #64	LIVE OAK LAKE /4060/	124.1	AMOCO GAS CO
8234793	F-08-049473	4200332919	103			MIDLAND FARMS UNIT #555	MIDLAND FARMS	5.5	AMOCO PRODUCTION
-ANDERSON PETROLEUM INC			RECEIVED:	05/27/82		JA: TX			
8234737	F-7C-046802	4210531083	108			J S PIERCE 3-3	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
8234691	F-7B-044461	4210533498	103	107-TF		JOHN MITCHELL ESTATE "A" 2-55	OZONA (CANYON SAND)	50.0	ANDERSON PIPELINE
8234685	F-7C-044243	4210533654	103	107-TF		JOHN MITCHELL ESTATE "A" 3-55	OZONA (CANYON SAND)	58.0	ANDERSON PIPELINE
-ANDOVER OIL COMPANY			RECEIVED:	05/27/82		JA: TX			
8234615	F-04-033871	4235531644	103			DUNN MEANY #1-U	SAXET 2700' MIOCENE	40.0	UNITED GAS PIPELI
-APC OPERATING PARTNERSHIP			RECEIVED:	05/27/82		JA: TX			
8234759	F-09-048072	4249732217	103			WHITAKER #1	EANES CONGLOMERATE	156.0	LONE STAR GAS CO
-ARCO OIL AND GAS COMPANY			RECEIVED:	05/27/82		JA: TX			
8234883	F-08-050995	4237133395	103			ELIZABETH REED #2	ATHEY (WOLFCAMP 10,90	36.0	DELHI OIL CORP
8234854	F-08-050226	4213533802	103			GOLDSMITH CUMMINS (SA) UNIT #230	GOLDSMITH (SAN ANDRES	0.4	PHILLIPS PETROLEU
8234915	F-7C-051107	4246131749	103			V J POWELL "17" #1	PEGASUS (SPRABERRY) A	25.0	PHILLIPS PETROLEU
-AUSTEX ENERGY CO INC			RECEIVED:	05/27/82		JA: TX			
8234710	F-7B-045261	4236332730	102-4			J H & H W MCCLURE #1	MCCLURE (CONGL)	67.0	SOUTHWESTERN GAS
-B & W, OPERATING CO INC			RECEIVED:	05/27/82		JA: TX			
8234803	F-05-049701	4248132276	103			KOCIAN #1 ID# NEW	SPANISH CAMP SOUTH (4	145.0	HOUSTON PIPE LINE
-B J GIERHART INC			RECEIVED:	05/27/82		JA: TX			
8234669	F-03-043526	4205100000	102-2			DUNCAN #6	GIDDINGS (AUSTIN CHAL	210.0	CLAJON GAS CO
-B P ENERGY CO			RECEIVED:	05/27/82		JA: TX			
8234646	F-7E-041944	4234932688	103			N A GOLSON #1	BROWN COUNTY REGULAR	85.0	HARBIN GAS GATHER
-BETTIS BOYLE & STOVALL			RECEIVED:	05/27/82		JA: TX			
8234946	F-08-051255	4243531598	103			R W WELDER #1	CALLAHOOSE WEST (3800	225.0	TENNESSEE GAS PIP
-BILL FORNEY INC			RECEIVED:	05/27/82		JA: TX			
8234686	F-02-044284	4229732612	102-4	103		BILL MOORE #1 RRC ID #06165	HOUDMAN (PETTUS)	13.0	TRANSCONTINENTAL
8234688	F-02-044286	4229731876	102-4	103		ERWIN HOLLE #1 RRC ID #05847	HOUDMAN (HOCKLEY)	8.8	TRANSCONTINENTAL
8234687	F-02-044285	4229731875	102-4	103		ERWIN HOLLE #2 RRC ID #05850	HOUDMAN (PETTUS "C")	7.0	TRANSCONTINENTAL
8234748	F-02-047717	4229732513	102-4			HINES GAS UNIT RRC #(N/A)	CHARLINE (FORNEY)	700.0	TRANSCONTINENTAL
-BLOCKER EXPLORATION CO			RECEIVED:	05/27/82		JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8234719	F-04-045655	4235531690		103		EARL DUNN SR #1
-BOB WALLACE OIL INC				RECEIVED:	05/27/82	JA: TX
8234936	F-10-051175	4216531094		103		CULBERTSON (04944) #5-6
-C. J. WOFFORD				RECEIVED:	05/27/82	JA: TX
8234632	F-02-[illegible]	4217531178		102-4		J W RAY JR #1 RRC ID #02409
-CA-TEX PETROLEUM INC				RECEIVED:	05/27/82	JA: TX
8234876	F-09-[illegible]	4210930039		102-2		MARSHALL "A" #1
-CAMBRIDGE & NAIL				RECEIVED:	05/27/82	JA: TX
8234698	F-10-044378	4248300000		102-4		FINSTERWALD #1 ID NO
8234695	F-10-044675	4235731095		103		TAYLOR #1
-CARTER ENERGY CORP				RECEIVED:	05/27/82	JA: TX
8234823	F-09-049879	4249732280		103		J V HAMPTON #2-A
-CASHCO OIL CO				RECEIVED:	05/27/82	JA: TX
8234613	F-03-033096	4218530253		102-2		JOHNSON #11
-CDE EXPLORATION CO				RECEIVED:	05/27/82	JA: TX
8234867	F-03-050367	4215731256		102-4		BULS ESTATE #1 ID#
-CHASE PRODUCTION CO				RECEIVED:	05/27/82	JA: TX
8234917	F-10-051111	4217900000		103		A COMBS #5 RRC-00460
8234895	F-10-051073	4217900000		103		A COMBS 139 #6 RRC-[illegible]
8234894	F-10-051072	4217900000		103		A COMBS 139 #7 RRC-[illegible]
8234893	F-10-051071	4217900000		103		RILEY A #5 RRC-00561
-CHESTER R UPHAM JR				RECEIVED:	05/27/82	JA: TX
8234627	F-7B-040203	4236300000		102-4		HERMAN CARR EST #1
8234628	F-7B-040204	4236300000		103		J C CALABRIA EST #1
-CHEVRON U S A INC				RECEIVED:	05/27/82	JA: TX
8234896	F-04-051074	4253531359		103	107-TF	J C BRIONES #2
8234797	F-7C-049583	4241331177		103		NEVA WEST #208
-CIRCLE SEVEN PRODUCTION CO				RECEIVED:	05/27/82	JA: TX
8234879	F-09-050924	4223734052		102-4		BETTY ALLEN #1
-CITIES SERVICE COMPANY				RECEIVED:	05/27/82	JA: TX
8234767	F-03-049795	4218931266		102-2		KOEHN "C" #1
-COBRA OIL AND GAS CORPORATION				RECEIVED:	05/27/82	JA: TX
*8234892	F-09-051057	4207732087		103		W I HOLT "AB" 83-C-S (RRC #19427)
*8234891	F-09-051054	4207732364		103		W W JONES #1 (RRC LEASE #21601)
-CONOCO INC				RECEIVED:	05/27/82	JA: TX
8234913	F-7B-051103	4226900000		108		ALMA H ORSBORN #15 ID #02841
8234906	F-7B-051096	4226900000		108		ALMA H ORSBORN #2 ID #02841
8234912	F-08-051102	4210900000		108		FORD-GERALDINE UNIT #204 ID #21021
8234911	F-08-051101	4238900000		108		FORD-GERALDINE UNIT #301 ID #21021
8234907	F-08-051097	4213500000		108		KLOH B-17 #1 ID #19828
8234905	F-08-051095	4213500000		108		L E WIGHT B-21 #4 ID #25419
8234736	F-01-046696	4232331823		103		N J CHITTIM #1802
8234819	F-04-049818	4242700000		108		T B SLICK EST A-221 #152
8234914	F-09-051104	4248500000		108		T J & J L WAGGONER #42 ID #18376
8234904	F-08-051094	4213500000		108		TXL 44-43 #2 ID #16192
8234908	F-7C-051098	4238300000		108		UNIVERSITY #93 ID #04307
8234910	F-08-051100	4200300300		108		W H BONER-#818 ID #01665
8234909	F-7B-051099	4243300000		108		WEST FLOWERS UNIT #42 ID #11787
-COOK EXPLORATION CO				RECEIVED:	05/27/82	JA: TX
8234674	F-06-043909	4218300000		103		CULPEPPER #4
8234735	F-06-046685	4218300000		103		FLEWELLEN #4
-CPC EXPLORATION INC				RECEIVED:	05/27/82	JA: TX
8234663	F-03-043221	4235131765		102-4		ORSAG-SCHUBERT UNIT LEASE NO 14610

FIELD NAME	PROD	PURCHASER
SAXET (6800')	110.0	HOUSTON PIPELINE
PANHANDLE CARSON COUN	139.0	CABOT PIPELINE CO
J W RAY (2000)	84.0	TRANSCONTINENTAL
ARCHER COUNTY REGULAR	0.0	MID STATES GAS CO
BRISCOE (MORROW)	0.0	NORTHERN NATURAL
PARSELL (MORROW UPPER	0.0	DIAMOND SHAMROCK
BOONSVILLE (BEND CONG	110.0	LONE STAR GAS CO
HILL (GEORGETOWN)	0.0	LONE STAR GAS CO
RABB (YEGUA 7400' Y-1	182.5	HOUSTON PIPE LINE
PANHANDLE	12.0	PHILLIPS PETROLEU
PANHANDLE	12.0	PHILLIPS PETROLEU
PANHANDLE	12.0	PHILLIPS PETROLEU
PANHANDLE	1.0	PHILLIPS PETROLEU
ARTEBURN (CONGL) FIEL	0.0	
PALO PINTO CO REG FIE	0.0	
LAREDO (LOBO)	73.0	
NEVA WEST	0.0	ARCO OIL & GAS CO
RUSMAG SE (CONGL 4900	0.0	LONE STAR GAS CO
DUBINA SOUTH (9080')	282.0	UNITED GAS PIPE L
JOY N W (MARBLE FALLS	27.0	SANFORD P FAGADAU
VERA STRAWN	1.5	SANFORD P FAGADAU
KATZ/5100/	0.6	CITIES SERVICE CO
KATZ /5100/	0.6	CITIES SERVICE CO
GERALDINE FORD	0.4	EL PASO NATURAL G
GERALDINE FORD	0.9	EL PASO NATURAL G
TXL (SAN ANDRES)	2.0	SHELL OIL CO
COWDEN NORTH	0.1	AMOCO PRODUCTION
SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
RINCON (FRIO B)	17.0	TENNESSEE GAS PIP
WICHITA COUNTY REGULA	0.0	EAGLE PETROLEUM C
LAWSON (SAN ANDRES)	1.4	PHILLIPS PETROLEU
BIG LAKE (SPRABERRY)	1.7	DORCHESTER GAS PR
FUHRMAN-MASCHO	0.1	PHILLIPS PETROLEU
FLOWERS WEST (CANYON	0.4	CITIES SERVICE CO
WILLOW SPRINGS - MACK	360.0	ARKANSAS LOUISIAN
WILLOW SPRINGS - MACK	8.0	ARKANSAS LOUISIAN
CALDWELL (AUSTIN CHAL	186.0	FERGUSON CROSSING

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-D H BRAHAN JR				RECEIVED:	05/27/82	JA: TX			
8234849	F-04-050180	4224931445		102-4	103	MAURIO GARCIA #1	BRAHAN (8150)	480.0	VALERO TRANSMISSI
-DALECO RESOURCES				RECEIVED:	05/27/82	JA: TX			
8234709	F-03-044930	4205100000		102-4		JESSE MOORE #3	CLAY NE (EDWARDS REEF	6.0	CLAJON GAS CO
-DAN J III & BRUCE F HARRISON				RECEIVED:	05/27/82	JA: TX			
8234693	F-03-044815	4215731225		102-4	103	DAN J III & BRUCE F HARRISON FEE #1	MCCRARY (3RD YEGUA)	0.0	HOUSTON PIPELINE
-DELTA OIL & GAS CO				RECEIVED:	05/27/82	JA: TX			
8234802	F-78-049672	4242900000		108		SARAH ELLIS "C" RRC #92435	STEPHENS COUNTY REGUL	9.5	WARREN PETROLEUM
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	05/27/82	JA: TX			
8234754	F-10-047978	4221131341		103		CHARLES H WRIGHT "A" #4-150	CANADIAN SE	134.0	NORTHERN NATURAL
8234795	F-10-049489	4221131367		103		DAN B HOOVER "A" #4	CANADIAN SE	0.0	
8234772	F-10-048953	4221131394		103		HILDENBRAND #3	CANADIAN SE	227.0	NORTHERN NATURAL
-DORCHESTER EXPLORATION INC				RECEIVED:	05/27/82	JA: TX			
8234869	F-08-050399	4243130816		108		TERRY 15	CONGER (PENN)	2.6	ESPERANZA PIPELIN
8234858	F-08-050330	4243130804		108		TERRY 18		7.3	ESPERANZA PIPELIN
8234868	F-08-050398	4243131750		108		WESTBROOK 21	CONGER (PENN)	8.9	ESPERANZA PIPELIN
-DUNIGAN OPERATING CO INC				RECEIVED:	05/27/82	JA: TX			
8234623	F-10-039698	4242100000		103		MOSS #1	TEXAS HUGOTON	54.0	DIAMOND SHAROCK C
-DYNAMIC PRODUCTION INC				RECEIVED:	05/27/82	JA: TX			
8234755	F-78-048023	4236732140		102-4		WALDEN UNIT #1	GARNER (3000)	0.0	NATURAL GAS PIPE
-E T S ENTERPRISES INC				RECEIVED:	05/27/82	JA: TX			
8234664	F-10-043248	4221131332		102-4		C W BARKER #2	BRISCOE (MORROW)	806.0	EL PASO NATURAL G
-ECHO PRODUCTION INC				RECEIVED:	05/27/82	JA: TX			
8234761	F-01-048128	4216300000		103		RAMOS #1	FEARSALL (AUSTIN CHAL	365.0	TIPPERARY OIL & G
8234836	F-09-050066	4250300000		103		WADE #1	BAYOU (CONGL)	73.0	SOUTHWESTERN GAS
-EL PASO NATURAL GAS COMPANY				RECEIVED:	05/27/82	JA: TX			
8234877	F-10-050046	4208726110		108		KNOLL A #1	PANHANDLE EAST	19.0	EL PASO NATURAL G
-ENERGY-AGRI PRODUCTS INC				RECEIVED:	05/27/82	JA: TX			
8234882	F-10-050969	4206500000		103		HENRY #4 (ID#04912)	PANHANDLE CARSON	110.0	
-ERSO INC				RECEIVED:	05/27/82	JA: TX			
8234622	F-06-039531	4236500000		103	107-TF	CARTHAGE GAS UNIT #40	CARTHAGE (COTTON VALL	365.0	TENNESSEE GAS PIP
8234629	F-06-049942	4236500000		103	107-TF	CARTHAGE GAS UNIT #43	CARTHAGE (COTTON VALL	365.0	TENNESSEE GAS PIP
-EVERGREEN OIL CORP				RECEIVED:	05/27/82	JA: TX			
8234672	F-01-043861	4217700000		102-2	103	J W TALLEY #1	NIXON SE (AUSTIN CHAL	0.0	TIPPERARY CORP
-EXCELSIOR OIL CORP				RECEIVED:	05/27/82	JA: TX			
8234636	F-06-041059	4231500000		103		FRED BRAMLETT #1	RODESSA (COTTON VALLE	200.0	TEXAS EASTERN TRA
-EXXON CORPORATION				RECEIVED:	05/27/82	JA: TX			
8234692	F-03-044570	4205131212		102-2		BILLIE EHLERT #1	GIDDINGS (AUSTIN CHAL	20.0	FERGUSON CROSSING
*8234787	F-03-049344	4245730318		103		EAST TEXAS OIL CO FEE "G" #7	HICKSBAUGH (WILCOX 5)	25.5	ARMCO STEEL CORP
8234931	F-03-051166	4207131169		103		GALVESTON BAY STATE "A" #178	RED FISH REEF (FRIO 2	100.0	HOUSTON PIPELINE
8234932	F-03-051167	4224531432		103		J A DISHMAN "E" #4	AMELIA (FRIO 6)	3.4	HOUSTON PIPELINE
8234778	F-08-049045	4210331881		103		J B TUBB A/C 1 #148	SAND HILLS (JUDKINS)	73.0	ODESSA NATURAL GA
8234784	F-08-049284	4210332672		103		J B TUBB A/C 1 #250L	SAND HILLS	148.0	EL PASO NATURAL G
*8234775	F-03-048982	4214930584		102-2		MICKIE HELMCAMP #1	GIDDINGS (AUSTIN CHAL	10.0	ARMCO STEEL CORP
8234833	F-04-049962	4226130657		103		MRS S K EAST "B" 33 (097149)	SARITA EAST (FRIO)	175.0	NATURAL GAS PIPEL
*8234866	F-04-050354	4204730696		103		RJK JR TR BARROSA PAST 18-F(96526)	PITA N W (F-58)	365.0	ARMCO STEEL CORP
8234815	F-08-049795	4222732568		102-4		S WALDRON #1	MOORE DEEP - FSLN	29.8	
-FAGIN PRODUCTION CORP				RECEIVED:	05/27/82	JA: TX			
8234645	F-09-041756	4223733058		103		PTC CAWYER #1	JACK COUNTY REGULAR	170.0	SOUTHWESTERN GAS
-FARRINGTON ENERGY INC				RECEIVED:	05/27/82	JA: TX			
8234814	F-06-049788	4249931032		102-4	103	ANNIE THOMAS #1 PERMIT NO 135002	QUITMAN (05 SW)	12.0	CRA INC
-FLAG-REDFERN OIL CO				RECEIVED:	05/27/82	JA: TX			
8234944	F-08-051241	4247532415		103		STAYTON #3 #26149	RHODA WALKER (CANYON	38.6	UNITED TEXAS TRAN

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NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-FROST OIL CO INC						
				RECEIVED:	05/27/82	JA: TX
8234873	F-06-050715	4245900000		107-TF		H J TRAMMELL GAS UNIT #2
				RECEIVED:	05/27/82	JA: TX
-GARY BUTCHER						
8234880	F-78-050928	4204932896		102-4		ROWLAND WINN #4 (17274)
-GENERAL AMERICAN OIL COMPANY OF TEX				RECEIVED:	05/27/82	JA: TX
8234714	F-02-045488	4217531483		103		S H REED #3
				RECEIVED:	05/27/82	JA: TX
-GENERAL PRODUCTION CORP						
8234847	F-03-050152	4205132019		103		ROBINSON-MARTIN #1
				RECEIVED:	05/27/82	JA: TX
-GETTY OIL COMPANY						
8234699	F-03-044733	4205100000		102-2		ADA GIESENSCHLAG #1
8234696	F-03-044699	4205100000		102-2		C M BLACK #1
8234697	F-03-044700	4205100000		102-2		D A SAUNDERS #1
8234792	F-78-049454	4243331280		103		FLOWERS CANYON SAND UNIT #200
8234698	F-03-044701	4205100000		102-2		LYDIA RUBACH #1
8234652	F-08-042455	4237133302		103		P T HUD GINS #1
8234865	F-08-050350	4247532402		103		W D JOHNSON #1-P
8234700	F-03-044736	4205100000		102-2		W E PRIHODA #1
				RECEIVED:	05/27/82	JA: TX
-GOLDSTON OIL CORP						
8234827	F-03-049911	4248132251		103		EARL POOLE #1
				RECEIVED:	05/27/82	JA: TX
-GORDON T WEST JR & STAN RUGELEY						
8234862	F-78-050342	4244732048		102-4	103	BROWN RANCH #1 (15858)
8234861	F-78-050341	4244732054		102-4	103	BROWN-DAVIS UNIT #1 (15857)
8234860	F-78-050340	4244732675		102-4	103	BROWN-DAVIS UNIT #2 (17322)
				RECEIVED:	05/27/82	JA: TX
-GRACE PETROLEUM CORPORATION						
8234624	F-05-040107	4228900000		102-4	107-TF	SAMET GAS UNIT #1
8234647	F-7C-041961	4241330933		103		TUCKER #6
				RECEIVED:	05/27/82	JA: TX
-GULF ENERGY PRODUCING COMPANY						
*8234616	F-04-037127	4250531235		102-4		LOPEZ #1-A (RRC ID #93461)
				RECEIVED:	05/27/82	JA: TX
-GULF OIL CORPORATION						
8234924	F-08-051134	4213533836		103		C A GOLDSMITH #1362
8234937	F-08-051188	4247532087		103		HUTCHINGS STOCK ASSN #1092
8234644	F-09-041569	4218130636		102-4		J HALLIBURTON #1
8234657	F-05-042791	4228930416		102-4	107-TF	R A KUSSY UNIT #1
8234738	F-09-046933	4218130822		102-4		ROBERT J TATE #1
8234889	F-08-051051	4237133214		103		USM OIL CO #4
8234900	F-08-051089	4210332739		103		WEEKLEY W/F #124
8234899	F-08-051088	4210332736		103		WEEKLEY W/F #221
8234901	F-08-051090	4210332737		103		WEEKLEY W/F #224
8234902	F-08-051091	4210332738		103		WEEKLEY W/F #228
				RECEIVED:	05/27/82	JA: TX
-H C W EXPLORATION INC						
8234740	F-08-047029	4210332703		103		ABELL DEVONIAN UNIT #31
				RECEIVED:	05/27/82	JA: TX
-H E WINEGEART						
8234760	F-10-048089	4217900000		108		MCCRACKEN (26585) #1
				RECEIVED:	05/27/82	JA: TX
-HAILEY ENERGY						
8234887	F-78-051029	4213332007		103		A M BUTLER "EF" #1 (167631)
8234886	F-78-051028	4213332438		102-4		MASSENGILL #1 (94275)
				RECEIVED:	05/27/82	JA: TX
-HAMILTON BROTHERS OIL CO						
8234717	F-03-045575	4217730965		102-2		MANFORD #1
				RECEIVED:	05/27/82	JA: TX
-HAMMAN OIL & REFINING CO						
8234645	F-03-041996	4220131263		102-4		GEORGE BAKER #1 (IDE N/A)
8234768	F-03-048889	4220131246		102-4		LONGENBAUGH #5
				RECEIVED:	05/27/82	JA: TX
-HENRY ENERGY CORP						
8234799	F-78-049659	4256700000		102-4		DOUGLASS #1

FIELD NAME	PROD	PURCHASER
GILMER	0.0	ARKANSAS LOUISIAN
GROSEVENOR SW (DUFFER	31.0	ODESSA NATURAL CO
CABEZA CREEK SOUTH (C	250.0	
INEZ JAMESON (NAVARRO	0.0	FERGUSON CROSSING
GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
FLOWERS (CANYON SAND)	2.0	CITIES SERVICE CO
GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
OATES S W (MONTOYA)	1214.0	INTRATEX GAS CO
ESTES BLOCK 34 (PENN)	68.0	CABOT CORP
GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
LISSIE (WILCOX 9600)	547.0	TENNESSEE GAS PIP
RUST CREEK (MISS)	25.0	LONE STAR GAS CO
KINGS CREEK (MISS)	25.0	LONE STAR GAS CO
KINGS CREEK (CADDO)	70.0	LONE STAR GAS CO
BEARGRASS	0.0	DELHI GAS PIPELIN
TOENAIL	450.0	ARCO OIL & GAS CO
ALEJANDRENAS (WILCOX	0.0	DELHI GAS PIPELIN
LAWSON (SAN ANDRES)	1825.0	PHILLIPS PETROLEU
WARD-ESTES NORTH	25.0	CABOT CORP
N E SOUTHMAYD	14.0	LONE STAR GAS CO
MARQUEZ (BOSSIER SAND	700.0	DELHI GAS PIPELIN
N E SOUTHMAYD	14.0	LONE STAR GAS CO
USM (QUEEN)	69.0	NORTHERN NATURAL
DUNE	3.0	PHILLIPS PETROLEU
DUNE	4.0	PHILLIPS PETROLEU
DUNE	3.5	PHILLIPS PETROLEU
DUNE	7.0	PHILLIPS PETROLEU
ABELL (DEVONIAN)	18.3	NORTHERN GAS PROD
EAST PANHANDLE	4.0	COLTEXO CORP
EASTLAND COUNTY REGUL	15.0	ODESSA NATURAL CO
LOYCE (STRAWN)	2.0	LONE STAR GAS CO
COST (AUSTIN CHALK)	0.0	VALERO TRANSMISSI
CYPRESS (COCKFIELD A)	639.0	TENNESSEE GAS PIP
CYPRESS (COCKFIELD A)	1500.0	TENNESSEE GAS PIP
DOUGLASS (BIG SALINE)	165.0	SOUTHWESTERN GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-HENRY PETROLEUM CORP				RECEIVED: 05/27/82 JA: TX					
8234640	F-31-041376	4249300000		102-2		LYSSY UNIT #1	PRUSKE (BUDA)	0.0	
-HIGH CHAPPARAL OIL CO				RECEIVED: 05/27/82 JA: TX					
8234789	F-03-049403	4247330337		102-4		COWAN-ZOLLMAN-HIGH CHAPP #4-098020	COROLLA (YEGUA 4534)	360.0	LONE STAR GAS CO
-HILLIARD OIL & GAS INC				RECEIVED: 05/27/82 JA: TX					
8234731	F-06-046490	4206730342		102-4		HAWKINS-ROSS #1	KILDARE SMACKOVER DOL	390.0	TEXAS EASTERN TRA
-HNG OIL COMPANY				RECEIVED: 05/27/82 JA: TX					
8234777	F-7C-048997	4243500000		103	107-TF	JONES "118" #5	SAWYER (CANYON)	0.0	INTRATEX GAS CO
8234665	F-7C-043253	4243532525		103		MAYFIELD "46" #4	SAWYER (LEONARD)	227.0	INTRATEX GAS CO
8234746	F-08-047681	4247532341		103	107-TF	PERKINS "200" #1	BURKHOLDER (FUSSELLMA	0.0	INTRATEX GAS CO
8234825	F-7C-049883	4243500000		103	107-TF	SAWYER "128" #5	SAWYER (CANYON)	0.0	INTRATEX GAS CO
8234826	F-7C-049884	4243500000		103	107-TF	SAWYER "144" #3	SAWYER (CANYON)	0.0	INTRATEX GAS CO
8234824	F-7C-049882	4243500000		103	107-TF	SAWYER "168" #4	SAWYER (CANYON)	0.0	INTRATEX GAS CO
-HODGES & RISTER				RECEIVED: 05/27/82 JA: TX					
8234864	F-78-050349	4213331462		103		HITTSON "C" #5	LEE RAY (RANGER)	74.0	LONE STAR GAS CO
-HORABY BAY PETROLEUM CORP				RECEIVED: 05/27/82 JA: TX					
8234874	F-04-050726	4250531311		103	107-TF	FALCON GAS UNIT #1 (ALONZO RAMIREZ)	FALCON (WILCOX LOBO 8	108.0	TEXCOL GAS SERVIC
8234875	F-04-050727	4250531338		103	107-TF	FALCON GAS UNIT #2 (DAN YZAQUIRRE)	FALCON (WILCOX LOBO 9	136.0	TEXCOL GAS SERVIC
-HOUSTON OIL & MINERALS CORPORATION				RECEIVED: 05/27/82 JA: TX					
8234821	F-7C-049874	4243532566		102-4		ALLISON #1	J D SLADE (MISS)	150.0	
8234651	F-04-042390	4224730844		102-2		W A JAUER #1	TECOLOTE RANCH (7300'	250.0	VALERO INTERSTATE
-HUFO OILS				RECEIVED: 05/27/82 JA: TX					
8234838	F-10-050083	4206530814		103		BURNETT-25 #10	PANHANDLE CARSON COUN	0.0	PANHANDLE EASTERN
-HUFO PRODUCTION CORP				RECEIVED: 05/27/82 JA: TX					
8234788	F-10-049353	4234130633		102-4		BRENT 66-1	BRENT (GRANITE WASH)	105.6	PANHANDLE EASTERN
-HUMBLE EXPLORATION CO INC				RECEIVED: 05/27/82 JA: TX					
8234703	F-33-044842	4228700000		102-2	103	MILDRED WEEKS #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8234702	F-33-044839	4228700000		102-2	103	PERSEPHONE #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8234621	F-03-038981	4228730874		102-4		SYPERT LOVEJOY #1 - 93891	GIDDINGS (AUSTIN CHAL	598.2	PHILLIPS PETROLEU
-HURLEY PETROLEUM CORPORATION				RECEIVED: 05/27/82 JA: TX					
8234659	F-36-042862	4236531168		103	107-TF	VERA BLACK UNIT #2	BETHANY (COTTON VALLE	180.0	TENNESSEE GAS PIP
-INDIAN WELLS OIL CO				RECEIVED: 05/27/82 JA: TX					
8234781	F-7C-049165	4223531830		102-2		MCMANUS #28-1	PROBANDT (CANYON)	91.3	NORTHERN NATURAL
8234780	F-7C-049164	4241331158		103	107-TF	UNIVERSITY #178-3	UNIVERSITY 53 (CANYON	73.0	CRA INC
-INVESTEK INC				RECEIVED: 05/27/82 JA: TX					
8234863	F-09-050344	4207732535		102-4		TALLY "B" 1	TALLY CONGLOMERATE	6.8	CITIES SERVICE GA
-J A LEONARD				RECEIVED: 05/27/82 JA: TX					
8234650	F-32-042367	4225500000		102-4		WESSENDORFF #1	WESSENDORF WILCOX (81	205.0	LONE STAR GAS CO
-J A MARCH				RECEIVED: 05/27/82 JA: TX					
8234791	F-7C-049428	4245140660		102-4	103	SIMCIK FAMILY #1	LIPAN CREEK (HARKEY S	89.4	LONE STAR GAS CO
-J H ROBISON & ASSOCIATES LTD				RECEIVED: 05/27/82 JA: TX					
8234658	F-04-042835	4235531487		102-4		ELLA HERRING #1	MINNIE BOCK N (5860)	182.0	TENNESSEE GAS PIP
-J M HUBER CORPORATION				RECEIVED: 05/27/82 JA: TX					
8234890	F-10-051053	4223531289		103		INGERTON #7	PANHANDLE	43.0	COLORADO INTERSTA
8234933	F-10-051168	4223300000		108		RILEY "F" #2	WEST PANHANDLE	18.0	COLORADO INTERSTA
-JAMES R RENEAU				RECEIVED: 05/27/82 JA: TX					
8234618	F-10-038161	4240330000		108		PAUL LADD #1 RRC ID NO 25783	EAST PANHANDLE FIELD	5.4	TRANSWESTERN PIPE
-JOHN DEETER				RECEIVED: 05/27/82 JA: TX					
8234670	F-04-042719	4235531826		102-4		PAINTER #2A	COTTON (BUSENLEHNER S	300.0	FERGUSON CROSSING
-JOHN L COX				RECEIVED: 05/27/82 JA: TX					
8234668	F-7C-043621	4246131823		103		NEAL "40-38" #1	SPRABERRY (TREND AREA	18.0	MOBIL PROD TEXAS-
-JOHN R THOMPSON OPERATING INC				RECEIVED: 05/27/82 JA: TX					
8234725	F-02-046268	4232500000		103		E J BERTHOLD #1	BERCLAIR SOUTH (2700'	0.0	HOUSTON PIPE LINE

JD NO	DA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-JOYCE & MILTY INC				RECEIVED:	05/27/82	JA: TX			
8234676	F-03-043944	4208931271		102-4		D C MILLBOLDT API NO 42 089 31271	ORANGE HILL S (YEGUA	200.0	TENNESSEE GAS TRA
-K-B EXPLORATION CO				RECEIVED:	05/27/82	JA: TX			
8234742	F-03-047383	4208900000		102-4		W W FONDREN ESTATE #1	FONDREN RANCH (WILCOX	500.0	SEAGULL PIPELINE
-KEITH D GRAHAM				RECEIVED:	05/27/82	JA: TX			
8234919	F-03-051129	4204130575		102-2		GOEN "A" #1 #14843	GIDDINGS (AUSTIN CHAL	15.0	CLAJON GAS CO
-LACY & BYRD INC				RECEIVED:	05/27/82	JA: TX			
8234910	F-7C-051117	4246131866		103		TXL-27 #2 RRC #09242	SPRABERRY (TREND AREA	20.0	MOBIL PRODUCING T
-LAKE RONEL OIL CO				RECEIVED:	05/27/82	JA: TX			
8234764	F-05-048470	4228933446		102-2		EPPS #1	HTB/GLEN ROSE/	275.0	
-LIVEOAK PRODUCTION CO				RECEIVED:	05/27/82	JA: TX			
8234677	F-7B-043947	4238300000		102-4		TED TAYLOR ET AL #1	TRICKHAM (CROSSCUT LO	25.0	LONE STAR GAS CO
-LOGUE AND PATTERSON INC				RECEIVED:	05/27/82	JA: TX			
8234828	F-32-049914	4217500000		108		E D TOERCK 2-D	MEESATCHE SOUTH (FRIO	16.0	LONE STAR GAS CO
-LOUIS A NEWITT				RECEIVED:	05/27/82	JA: TX			
8234641	F-33-041481	4208900000		102-4		A J HRUZEK #1-C	LYDIA (3660)	90.0	HYDROCARBON GATHE
8234642	F-03-041482	4208900000		102-4		A J HRUZEK #1-T	LYDIA (3860)	90.0	HYDROCARBON GATHE
-MAJOR EXPLORATION INC				RECEIVED:	05/27/82	JA: TX			
8234750	F-01-047778	4216332035		103		MELMS ESTATE #1	PEARSALL (AUSTIN CHAL	91.0	T G T INC
-MARSHALL EXPLORATION INC				RECEIVED:	05/27/82	JA: TX			
8234751	F-06-047896	4236531585		102-4		SABINE ROYALTY #3	BELLE BOWER (PETTIT L	180.0	TENNESSEE GAS PIP
-MARSHALL R YOUNG OIL CO				RECEIVED:	05/27/82	JA: TX			
8234620	F-08-038959	4203330667		103		GOOD	VEALMOOR	894.0	GETTY OIL CO
8234851	F-08-050190	4247532306		103		M L JOHNSON #1	PAYTON	0.0	DEHLI GAS PIPELIN
8234850	F-7C-050183	4210532721		102-4		UNIVERSITY 14-33	PERNER RANCH (ELLENBE	1679.0	INTRATEX GAS CO
-MEWBOURNE OIL COMPANY				RECEIVED:	05/27/82	JA: TX			
8234888	F-08-051046	4210332735		103		COWDEN #2 RRC #26746	CRANE (DEVONIAN)	38.0	PHILLIPS PETROLEU
8234671	F-10-043728	4229530608		108		PRICE #1 RRC ID #81021	LIPSCOMB (ATOKA)	15.0	TRANSWESTERN PIPE
8234781	F-7C-044810	4238331927		103		UNIVERSITY B-1 RRC ID#	SPRABERRY (TREND AREA	15.0	DORCHESTER GAS PR
-MEYER & ASSOCIATES INC				RECEIVED:	05/27/82	JA: TX			
8234655	F-8A-042661	4211500000		103		COLEMAN "C" #1	ACKERLY (DEAN SAND)	15.0	TEXACO INC
-MITCHELL ENERGY CORPORATION				RECEIVED:	05/27/82	JA: TX			
8234749	F-39-047754	4223700000		108		EMMA MCCLURE #3 02822	BOONSVILLE (BEND CONG	13.6	NATURAL GAS PIPEL
8234871	F-09-050690	4249700000		108		J T MEADOWS #1 #28739	BOONSVILLE (BEND CONG	12.0	NATURAL GAS PIPEL
8234721	F-05-045721	4229330574		103	107-IF	SMYTHE #2	POKEY (COTTON VALLEY	2.7	TEXAS UTILITIES F
8234916	F-09-051109	4249732290		103		T C W B #33 UT #17355	MORRIS (CONSOLIDATED	222.0	NATURAL GAS PIPEL
8234884	F-09-051026	4249732247		103		T C W B #34 #17355	MORRIS (CONSOLIDATED	215.0	NATURAL GAS PIPEL
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	05/27/82	JA: TX			
8234723	F-08-045877	4237133280		107-DP		KATHLEEN J MOORE B #1	ROJO CABALLOS SOUTH (	1.5	EL PASO NATURAL G
-MORAN EXPLORATION INC				RECEIVED:	05/27/82	JA: TX			
8234743	F-03-047628	4203931731		102-4		DARRINGTON STATE FARM TR-3 #1A	DARRINGTON	0.0	CHANNEL INDUSTRIE
8234744	F-03-047629	4203931731		102-4		DARRINGTON STATE FARM TR-3 #1A	DARRINGTON (8300' SD)	6.0	CHANNEL INDUSTRIE
-MORROW RESOURCES INC				RECEIVED:	05/27/82	JA: TX			
8234878	F-7C-050897	4245130890		102-2	103	MATHEWS #2	K W B (STRAWN)	77.4	LONE STAR GAS CO
-MUSTANG EXPLORATION CO INC				RECEIVED:	05/27/82	JA: TX			
8234633	F-03-040861	4214931158		102-2		REISS #2	GIDDINGS (AUSTIN CHAL	55.0	PHILLIPS PETROLEU
-NICO ENERGY CORP				RECEIVED:	05/27/82	JA: TX			
8234661	F-03-043088	4205100000		102-2	103	WHITENER "J" #1	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
-NORRIS PETROLEUM CORP				RECEIVED:	05/27/82	JA: TX			
8234794	F-03-049077	4248100000		102-4		R H HANCOCK #4	SCOTTY (FRIO)	150.0	UNITED TEXAS TRAN
-NORTH AMERICAN ROYALTIES INC				RECEIVED:	05/27/82	JA: TX			
8234845	F-08-050137	4232732557		102-4		ALLRED #1 (96346)	ISAAC (STRAWN)	50.0	
-NORTH RIDGE CORP				RECEIVED:	05/27/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROL	PURCHASER
*8234730	F-7B-046471	4213333414		102-4	103	HALL WALKER (BARKER) #1	RANGER (BLACK LIME WE	29.0	PRISM ENTERPRISES
*8234728	F-7B-046468	4213333442		102-4	103	HALL WALKER (DEARDEN) #1	RANGER (BLACK LIME WE	15.1	PRISM ENTERPRISES
*8234729	F-7B-046470	4213333121		102-4	103	W T DAVIS #2	RANGER (BLACK LIME WE	0.0	PRISM ENTERPRISES
-OGLE PRODUCTION CORP				RECEIVED:	05/27/82	JA: TX			
8234733	F-03-046552	4224531517		102-4		MARIE BORDAGES #1	HILDEBRANDT BAYOU (9	365.0	AMERICAN PIPELINE
-OILWELL OPERATORS INC				RECEIVED:	05/27/82	JA: TX			
8234790	F-10-049409	4206500000		103		WINTERS #1 NEW LEASE	PANHANDLE-CARSON	54.0	GETTY OIL CO
-OMEGA MINERALS INC				RECEIVED:	05/27/82	JA: TX			
8234939	F-01-051235	4250731368		102-4		C MUNDINE HASKETT #1	HASKETT (OLMOS)	89.0	VALERO TRANSMISSI
8234942	F-01-051238	4250731393		102-4		C MUNDINE HASKETT #2	HASKETT (1ST SAN MIGU	118.0	VALERO TRANSMISSI
8234940	F-01-051236	4250731504		102-4		CHESTER KIEFER #4-C	PINCHAM NORTH (OLMOS)	98.0	VALERO TRANSMISSI
8234941	F-01-051237	4250731504		102-4		CHESTER KIEFER #4-T	PINCHAM NORTH (SAN MI	39.0	VALERO TRANSMISSI
8234943	F-01-051239	4250731503		102-4		CHESTER KIEFER NO 5-T	STIDHAM (1ST SAN MIGU	18.0	VALERO TRANSMISSI
-OUTLINE OIL CORP				RECEIVED:	05/27/82	JA: TX			
8234669	F-03-043712	4214931000		103		MCCORVEY #1 14515	GIDDINGS (AUSTIN CHAL	135.0	PHILLIPS PETROLEU
-OXY PETROLEUM INC				RECEIVED:	05/27/82	JA: TX			
8234612	F-04-028824	4270330168		102-4		STATE LEASE M-77985 #2-L	MATAGORDA ISLAND BLOC	3.0	CHANNEL INDUSTRIE
-P & R OIL INC				RECEIVED:	05/27/82	JA: TX			
8234811	F-7B-049762	4213333109		102-4		WHITE #1	LEE RAY	135.0	LONE STAR GAS CO
-PALO PETROLEUM INC				RECEIVED:	05/27/82	JA: TX			
8234757	F-08-048065	4217331105		103		CALVERLEY "B" #1	SPRABERRY (TREND AREA	9.1	EL PASO NATURAL G
8234758	F-08-048066	4217331104		103		CALVERLEY "B" #2	SPRABERRY (TREND AREA	9.1	EL PASO NATURAL G
-PANHANDLE PRODUCING COMPANY				RECEIVED:	05/27/82	JA: TX			
8234787	F-7B-044907	4244188000		103		GAMBLE #1	BLAIR NORTH (ELLENBUR	4.0	LONE STAR GAS CO
-PARKER & PARSLEY INC				RECEIVED:	05/27/82	JA: TX			
8234878	F-08-050465	4232931066		103		HANKS #1	SPRABERRY (TREND AREA	15.0	PHILLIPS PETROLEU
-PAUL DE CLEVA				RECEIVED:	05/27/82	JA: TX			
8234715	F-09-045498	4249732169		103		JOE SKINNER #1	BOONEVILLE (BEND CON	487.0	SOUTHWESTERN GAS
8234629	F-09-040647	4249700000		103		KNAPP #1	WILDCAT PUITT VIOLA L	0.0	SOUTHWESTERN GAS
-PENNZOIL COMPANY				RECEIVED:	05/27/82	JA: TX			
8234800	F-08-049666	4243130982		103		FOSTER -18- #3	CONGER (PENN)	212.4	VALERO TRANSMISSI
-PENNZOIL PRODUCING COMPANY				RECEIVED:	05/27/82	JA: TX			
8234635	F-04-041025	4236500000		103	107-TF	LEWIS WERNER SAWMILL CO #16-A	BETHANY EAST (COTTON	0.0	UNITED GAS PIPE L
-PETRO-LEWIS CORPORATION				RECEIVED:	05/27/82	JA: TX			
8234656	F-08-042709	4218332434		103		J B TUBB STATE #13	SAND HILLS (MCKNIGHT)	150.0	EL PASO NATURAL G
8234637	F-06-041233	4241900000		103		STEPHENS #2	JOAQUIN (TRAVIS PEAK)	504.4	UNITED GAS PIPE L
-PETROLEUM CORPORATION OF TEXAS				RECEIVED:	05/27/82	JA: TX			
8234929	F-09-051156	4223700883		108		C R FRANKLIN #1-U	RISCH S E (CADDO CONG	12.3	CITIES SERVICE GA
8234855	F-7B-050260	4222130035		108		THORMANN UNIT #1	LIPAN (MARBLE FALLS)	7.3	TEXAS UTILITIES F
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	05/27/82	JA: TX			
8234920	F-7C-051130	4238310204		108		PHILLIPS SOUTHLD ROYLTY ZULETTE#13	SPRABERRY (TREND AREA	9.0	NORTHERN NATURAL
8234921	F-7C-051131	4238301169		108		PHILLIPS SOUTHLD ROYLTY ZULETTE#6	SPRABERRY (TREND AREA	5.0N	ORTHERN NATURAL
8234923	F-08-051133	4237110019		108		ROBERTA J #1	BELDING (YATES	7.0	APACHE GAS CORP
8234922	F-08-051132	4237110027		108		ROBERTA J #7	BELDING (YATES)	9.0	APACHE GAS CORP
8234771	F-09-048950	4233700000		108		ROSCOE B #1	BOWIE N E (VIOLA)	13.9	J L DAVIS
8234614	F-10-033803	4217900000		108		TRUST #1	PANHANDLE WEST	0.0	
-POWCO OIL & GAS INC				RECEIVED:	05/27/82	JA: TX			
8234852	F-06-050196	4245900000		103	107-TF	RUBY RASH MARSH #1	GLENWOOD (COTTON VALL	133.0	DELHI GAS PIPELIN
-PRICE DRILLING & EXPLORATION CO				RECEIVED:	05/27/82	JA: TX			
8234639	F-04-041326	4247932810		102-4		A BENAVIDES #3-269	LAUREL N (FRIO 1400)	16.0	VALERO TRANSMISSI
-PRODECO EXPLORATIONINC				RECEIVED:	05/27/82	JA: TX			
8234766	F-03-048635	4204130626		102-2		A C RISINGER UNIT II #1	KURTEN (BUDA)	1204.5	PRODUCER'S GAS CO
8234769	F-03-048919	4204100000		102-2		BERT WHEELER #3-U	KURTEN (WOODBINE)	96.7	PRODUCER'S GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-QUINTEX PETROLEUM CORP						
8234643	F-02-041498	4229732614				RECEIVED: 05/27/82 JA: TX
				102-4		E A HINES #1-U
-R & W PRODUCTION CO						RECEIVED: 05/27/82 JA: TX
8234938	F-7C-051272	4235900000		133		C P RIVES #1 (09148)
-R C SLACK						RECEIVED: 05/27/82 JA: TX
8234812	F-08-049774	4245500000		108		BROWN & ALTMAN A/C 2 16
-R H ENGELKE						RECEIVED: 05/27/82 JA: TX
8234732	F-02-046526	4229931175		103		JOHN M BENNETT "B" #3-C
-R H SIEGFRIED INC						RECEIVED: 05/27/82 JA: TX
8234857	F-09-050318	4223700000		108		BROWN LUPTON -B- #1
8234856	F-09-050317	4223700000		108		CHERRYHOMES #B-1
-REALITOS ENERGY CORP						RECEIVED: 05/27/82 JA: TX
8234718	F-04-045595	4235531601		102-4		STATE TRACT 384 #1
-REO INDUSTRIES INC						RECEIVED: 05/27/82 JA: TX
8234837	F-10-050075	4223300000		103		WHITTENBURG 1-27
-REYNOLDS DRLG CO & ENI EXPL CO						RECEIVED: 05/27/82 JA: TX
8234846	F-06-050139	4240131293		103	107	-TF RUST #1
-RIDGE OIL CO						RECEIVED: 05/27/82 JA: TX
*8234853	F-7B-050206	4213333515		102-4	103	NANIE WALKER EST #1
-RIO BRAVO OIL CO INC						RECEIVED: 05/27/82 JA: TX
8234881	F-02-050932	4212331175		102-4		C H WIED ET AL
-ROBERT D VALERIUS & FLEXCO						RECEIVED: 05/27/82 JA: TX
8234885	F-02-051027	4202531589		103		BECK-GOZA #1
-SAGE OIL CO						RECEIVED: 05/27/82 JA: TX
8234834	F-09-049976	4207731112		103		J T LYLES #1
-SAREDAN OIL CORPORATION						RECEIVED: 05/27/82 JA: TX
8234745	F-03-047640	4222530431		102-4		ST REGIS PAPER CO "C" #1
-SANCHEZ-OBRIEN OIL & GAS CORP						RECEIVED: 05/27/82 JA: TX
8234689	F-02-044335	4229732661		102-4		CHARLES L BODDEN #6
8234626	F-04-049162	4247932953		103		OLMITOS RANCH INC #1
-SANTA FE-WINDSOR PRODUCING CO						RECEIVED: 05/27/82 JA: TX
8234835	F-03-050016	4228731141		102-2	103	B J STONE #3
8234753	F-03-047956	4228731075		102-2	103	MARIE #1
8234752	F-03-047954	4228731123		102-2	103	RICHARD UNIT #1
-SAXON OIL COMPANY						RECEIVED: 05/27/82 JA: TX
8234925	F-7C-051143	4246131865		103		BRUSENHAN #3
8234741	F-08-047375	4231700000		103		ESTEP #1
8234638	F-06-041243	4231700000		103		HEALD #1
8234747	F-7C-047706	4238300000		103		UNIVERSITY 33-9 #4
-SHELL OIL CO						RECEIVED: 05/27/82 JA: TX
8234713	F-04-045487	4221531128		103		A A MCALLEN #75
-SHOW PETROLEUM INC						RECEIVED: 05/27/82 JA: TX
8234808	F-7B-049759	4213332926		102-4		R L CANTWELL #1 (17671)
8234809	F-7B-049760	4213333083		102-4		R L CANTWELL #2 (17671)
8234810	F-7B-049761	4213333292		102-4		W O CANTWELL #1
-SOUTHEASTERN P/L CO & PRES ROY C						RECEIVED: 05/27/82 JA: TX
8234722	F-03-045763	4248100000		103		A T LEVERIDGE UNIT #3-C
-STAHL PETROLEUM CO						RECEIVED: 05/27/82 JA: TX
8234851	F-10-049952	4234100000		103		COFFEE #1
8234850	F-10-049951	4217930704		103		TURMAN #2
-SUN EXPLORATION & PRODUCTION CO						RECEIVED: 05/27/82 JA: TX
8234783	F-02-049252	4246900000		108		A FRIAR #5
8234782	F-08-049240	4233532072		103		FRANKIE STUBBLEFIELD #13

FIELD NAME	PROD	PURCHASER
MOUNTAIN VIEW NE (680	365.0	VALERO TRANSMISSI
BRILEY (MORRIS SD)	27.0	LONE STAR GAS CO
EMPEROR	12.7	WEST TEXAS GATHER
LASALLE (6530)	310.0	TENNESSEE GAS PIP
BOONSVILLE (BEND CONG	20.0	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	24.0	NATURAL GAS PIPEL
RED FISH BAY (FRIO 84	365.0	DOW CHEMICAL CO
PANHANDLE HUTCHINSON	72.0	TRANS-PAN PIPELIN
NORTH TATUM - COTTON	0.0	UNITED GAS PIPE L
RANGER NW (MARBLE FAL	162.0	COMPRESSOR RENTAL
KAWITT FIELD	200.0	INTRASTATE GATHER
NORMANNA	600.0	UNITED GAS PIPE L
LA-PAN (ATOKA)	2.0	FAGADAU ENERGY CO
FT TRINIDAD	182.0	SOUTH TEXAS GATHE
GEORGE WEST WEST (618	500.0	UNITED TEXAS TRAN
OLMITOS (7080)	0.0	UNITED TEXAS TRAN
GIDDINGS (AUSTIN CHAL	109.5	PERRY PIPELINE CO
GIDDINGS (AUSTIN CHAL	36.5	PERRY PIPELINE CO
GIDDINGS (AUSTIN CHAL	36.5	PERRY PIPELINE CO
SPRABERRY (TREND AREA	15.3	MOBIL PRODUCING T
BREEDLOVE EAST (SPRAB	0.0	PHILLIPS PETROLEU
BREEDLOVE EAST (SPRAB	0.0	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	5.0	PHILLIPS PETROLEU
MCALLEN RANCH (VICKSB	250.0	VALERO TRANSMISSI
RANGER N W (MARBLE FA	27.0	LONE STAR GAS CO
RANGER N W (MARBLE FA	27.0	LONE STAR GAS CO
RANGER N W (MARBLE FA	5.0	LONE STAR GAS CO
BERNARD EAST (7600*)	240.0	TENNESSEE GAS PIP
TEXAS HUGOTON	16.1	PHILLIPS PETROLEU
EAST PANHANDLE	30.5	PHILLIPS PETROLEU
HELEN GOHLKE W/WILCOX	10.0	HOUSTON PIPELINE
N JAMESON (STRAWN)	6.0	LONE STAR GAS CO

JD NO JA DKT API NO D SEC(1) SEC(2) WELL NAME

FIELD NAME PROD PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
*8234928	F-08-051154	4213533810		103		HOLT O B A/C #1 #20	COWDEN NORTH	11.0	PIONEER NATURAL G
*8234927	F-08-051153	4213533809		103		O B HOLT A/C 1 #21	COWDEN NORTH	16.0	PIONEER NATURAL G
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	05/27/82	JA: TX			
8234611	F-10-019836	4217900000		108		COMBS & MORLEY "B" #3	PANHANDLE	1.0	PHILLIPS PETROLEU
-SWEETWATER DRILLING CO INC				RECEIVED:	05/27/82	JA: TX			
8234630	F-78-040741	4205933193		103		KOERBER #1	CALLAHAN COUNTY REGUL	259.0	BENGAL GAS TRANSM
8234631	F-78-040743	4236732052		102-4		NELSON #1	HOBY DICK (STRAWN)	221.0	SOUTHWESTERN GAS
-TDC ENGINEERING INC				RECEIVED:	05/27/82	JA: TX			
8234796	F-01-049495	4217700000		102-4		DEBERRY UNIT #1	PEACH CREEK (AUSTIN C	212.0	VALERO TRANSMISSI
-TDC EXPLORATION INC				RECEIVED:	05/27/82	JA: TX			
8234930	F-03-051158	4214900000		102-2		TROUSDALE #2	GIDDINGS (AUSTIN CHAL	6.0	PHILLIPS PETROLEU
-TENEXPLO FUND III				RECEIVED:	05/27/82	JA: TX			
8234683	F-09-044168	4250300000		102-2		WORTH GRAGG #2	YOUNG COUNTY REGULAR	5523.5	MID-STATES GAS CO
8234684	F-09-044169	4250300000		102-2		WORTH GRAGG #3	YOUNG COUNTY REGULAR	5523.5	MID-STATES GAS CO
8234682	F-09-044158	4251300000		102-2		WORTH GRAGG #7	YOUNG COUNTY REGULAR	5523.5	MID-STATES GAS CO
-TENNECO OIL COMPANY				RECEIVED:	05/27/82	JA: TX			
8234859	F-8A-050337	4250132113		103		CENTRAL GLORIETA UNIT #59	PRENTICE	0.0	AMOCO PRODUCTION
8234763	F-8A-048300	4207900000		103		MALLET LAND & CATTLE #19	SLAUGHTER	0.0	AMOCO PRODUCTION
8234726	F-04-046273	4242731476		102-4		T B SLICK ESTATE N #76	HINDE (VICKSBURG 21)	292.0	TENNESSEE GAS PIP
-TEXACO INC				RECEIVED:	05/27/82	JA: TX			
8234947	F-08-051259	4237100000		108		M J EATON "A" NCT-5 #1	TCI (YATES)	4.1	
8234786	F-8A-049316	4221933312		103		IRA P DELOACHE #23	LEVELLAND	34.7	AMOCO PRODUCTION
8234711	F-8A-045356	4221933307		103		IRA P DELOACHE #47	LEVELLAND	0.0	AMOCO PRODUCTION
8234807	F-8A-049737	4221933389		103		MONTGOMERY ESTATE DAVIES NCT-2 #88	LEVELLAND	0.0	AMOCO PRODUCTION
8234785	F-8A-049311	4250132066		103		ROBERTS UNIT #2726	WASSON	0.0	SHELL OIL CO
8234675	F-08-043910	4243131048		103		STERLING "T" FEE #1	CONGER SW (PENN)	0.0	
8234776	F-7C-048990	4246131812		102-4		UPTON "X" FEE #1	PERSEUS	294.1	
-TEXAS INTERNATIONAL PET CORP				RECEIVED:	05/27/82	JA: TX			
8234720	F-03-045675	4214900000		102-2		BAUER #2	GIDDINGS (AUSTIN CHAL	225.0	CLAJON GAS CO
8234706	F-03-044888	4204100000		102-2		DYESS #1	KURTEN	146.0	PRODUCER'S GAS CO
8234773	F-03-048954	4205100000		102-2		GIESSEL #B-3	GIDDINGS (AUSTIN CHAL	365.0	CLAJON GAS CO
8234625	F-03-040150	4205100000		102-2		GIESSEL #5-D	GIDDINGS (AUSTIN CHAL	700.0	CLAJON GAS CO
8234734	F-03-046632	4228731001		102-2		GUELKER #1	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
8234705	F-03-044884	4205100000		102-2		WILHELM #2	GIDDINGS (AUSTIN CHAL	256.0	CLAJON GAS CO
-TEXAS OIL & GAS CORP				RECEIVED:	05/27/82	JA: TX			
8234680	F-05-044093	4216139672		103	107-TF	BROWN "K" #1	BEAR GRASS NE (COTTON	0.0	
8234843	F-08-050104	4210931556		103		CATCLAW STATE "A" #2	FORD WEST (4100)	12.0	DELHI GAS PIPELIN
8234822	F-12-049876	4235731192		103		CRUM #2	PARSELL (UPPER MORROW	500.0	DIAMOND SHAMROCK
8234724	F-03-046047	4219931631		102-4		GORDON #1	ARRIOLA (YEGUA 9600)	0.0	
8234648	F-06-041978	4241930355		102-4		HOOPER #1	TIMPSON (TRAVIS PEAK)	0.0	
8234619	F-03-038937	4231330302		102-4	103	JONES "FF" #1	CARAWAY (GLEN ROSE-GA	0.0	
8234765	F-08-048487	4210300000		102-4		NELLIE TUCKER "C" #1	COSTA (CLEARFORK UPPE	1200.0	DELHI GAS PIPELIN
8234681	F-05-044094	4216100000		103	107-TF	GRAND "A" #1	REED N (COTTON VALLEY	0.0	
-THE ANSCHUTZ CORPORATION				RECEIVED:	05/27/82	JA: TX			
8234727	F-03-046274	4232100000		102-4		ALBERT NILSON #1 RRC ID #096909	RUGELEY SW (13225)	1460.0	TEXAS EASTERN GAS
-THOMPSON J CLEO & JAMES CLEO				RECEIVED:	05/27/82	JA: TX			
8234770	F-7C-048927	4210533680		103	107-TF	UNIVERSITY 30-9 #1	OZONA (CANYON SAND)	126.0	PHILLIPS PETROLEU
8234872	F-7C-050714	4210533949		102-4		UNIVERSITY 31-28W #2	UNIVERSITY 31 (QUEEN)	200.0	PHILLIPS PETROLEU
-THROCKMORTON GAS SYSTEMS				RECEIVED:	05/27/82	JA: TX			
8234653	F-7B-042545	4244732669		102-2		GLORY #1 #17456	THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
8234678	F-7B-043969	4244730898		102-2		J W LILLY #1 #17406	THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
8234739	F-7B-047025	4244700000		102-2		MORROW #1 #14432	THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
8234617	F-7B-037148	4244731524		102-4		RICHARDS #1-H 13987	NICHOLS-KEETER (MISS)	0.0	WARREN PETROLEUM

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8234654	F-78-042547	4244700000		102-4		ROADRUNNER #1 (16412)
8234662	F-78-043176	4244732387		102-2		ROADRUNNER #2 (#16412)
-TIPPERARY OIL AND GAS CORP				RECEIVED:	05/27/82	JA: TX
8234673	F-81-043876	4216332050		103		CARLTON MASSEY #13
-TOMMY DIXON				RECEIVED:	05/27/82	JA: TX
8234704	F-09-044878	4250335391		103		THETFORD #21589
-TOWNSEND CO				RECEIVED:	05/27/82	JA: TX
8234839	F-7C-050085	4239921429		102-4		DICKINSON #1 (08629)
8234840	F-7C-050086	4239900000		102-4		DICKINSON #2 (08629)
8234841	F-7C-050087	4229934000		102-4		DICKINSON #3 (08629)
-TRANSCONTINENTAL OIL CORPORATION				RECEIVED:	05/27/82	JA: TX
8234842	F-05-050102	4220930474		102-4	103	E G FLOYD #1
-TROJAN OIL PRODUCTION & SERVICES			IN	RECEIVED:	05/27/82	JA: TX
8234798	F-7C-049633	4239931980		103		NORTHINGTON #2
-TRUNTER PETROLEUM CORP				RECEIVED:	05/27/82	JA: TX
8234804	F-78-049722	4209300000		108		ALLEN E H #1 RRC #017673
8234805	F-78-049723	4209300000		108		PETTIT W C #1 RRC #017674
8234806	F-78-049724	4209300000		108		RUDD G T #2 RRC #017675
-TUCKER DRILLING COMPANY INC				RECEIVED:	05/27/82	JA: TX
8234818	F-7C-049817	4243500000		108		DUNBAR #1
8234816	F-7C-049813	4243500000		108		DUNBAR #10
8234817	F-7C-049816	4243500000		108		DUNBAR #7
-U S EXPLORATION CORP				RECEIVED:	05/27/82	JA: TX
8234801	F-78-049677	4213331527		103		THURMAN 397694
-UNION OIL COMPANY OF CALIF				RECEIVED:	05/27/82	JA: TX
8234712	F-78-045465	4215533573		103		ROSS UNIT #17-15
-UNIT DRILLING & EXPLORATION CO				RECEIVED:	05/27/82	JA: TX
8234667	F-1?-043618	4229530998		103		HEIL #1
-UTX EXPLORATION INC				RECEIVED:	05/27/82	JA: TX
8234665	F-12-043362	4202500009		102-4		N D ROCHE B-2T
-VERNON E FAULCONER INC				RECEIVED:	05/27/82	JA: TX
8234774	F-66-045963	4236500000		108		MAUDE ODEN RRC ID #29384
-W N EDWARDS JR				RECEIVED:	05/27/82	JA: TX
8234935	F-10-051173	4223300000		103		BEARKILLER #12
8234934	F-10-051172	4223300000		103		BEARKILLER #22
-WALSH AND WATTS INC				RECEIVED:	05/27/82	JA: TX
8234903	F-78-051092	4215131450		103		WITT (LEASE NO 10810) #2
-WATCO ENERGY INC				RECEIVED:	05/27/82	JA: TX
8234679	F-7C-044362	4239931409		102-4	103	HENDRICKS "C" #2
-WES-NOR DRILLING INC				RECEIVED:	05/27/82	JA: TX
8234848	F-78-050159	4236300000		108		WALTER ASH #1 RRC ID #31638
-WESTERN CHIEF OIL & GAS CO				RECEIVED:	05/27/82	JA: TX
8234813	F-09-049781	4250335599		103		ARTHUR S SHANAFELT #2 I D
-WESTLAND OIL DEVELOPMENT CORP				RECEIVED:	05/27/82	JA: TX
8234844	F-81-050115	4233330709		102-4		DON A JONES #1
-WILLIAM PERLMAN				RECEIVED:	05/27/82	JA: TX
8234779	F-7C-048864	4244330262		103	107-TF	MITCHELL - STATE 22-2
-WILSON-OWENS PRODUCTION CO				RECEIVED:	05/27/82	JA: TX
8234756	F-06-048648	4236500000		103	107-TF	ALLISON #4A
-WINDSOR PRODUCING CO				RECEIVED:	05/27/82	JA: TX
8234694	F-03-048648	4228731062		102-2	103	LOUIS SCHATTE UNIT #1
-WM GRUENERWALD & ASSOC INC				RECEIVED:	05/27/82	JA: TX
8234926	F-10-051144	4236130763		103		MASTERSON G#20R 03859

FIELD NAME	PROD	PURCHASER
THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
PEARSALL (AUSTIN CHAL	0.0	TIPPERARY CORP
YOUNG COUNTY REGULAR	350.0	SUN GAS TRANSMISS
BALLINGER WEST (CAPPS	164.0	LONE STAR GAS CO
BALLINGER WEST (CAPPS	10.0	LONE STAR GAS CO
BALLINGER WEST (CAPPS	10.0	LONE STAR GAS CO
RED OAK S E (WOODBINE	0.0	
BIG ED (GARDNER LIME)	1.5	LONE STAR GAS CO
ENERGY (MARBLE FALLS)	6.0	LONE STAR GAS CO
ENERGY (MARBLE FALLS)	7.0	LONE STAR GAS CO
ENERGY (MARBLE FALLS)	14.0	LONE STAR GAS CO
SAWYER (CANYON)	19.6	EL PASO NATURAL G
SAWYER (CANYON)	19.5	EL PASO NATURAL G
SAWYER (CANYON)	14.0	EL PASO NATURAL G
HOGTOWN WEST (CADDO)	10.0	NORTHERN GAS PROD
COWDEN SOUTH	3.0	ODESSA NATURAL CO
WILEY (TONKAWA)	63.0	PHILLIPS PETROLEU
HEARD RANCH (4600) -	55.0	TRUNKLINE GAS CO
BETHANY (PETTIT)	15.0	TENNESSEE GAS PIP
PANHANDLE HUTCHINSON	150.0	PANHANDLE PRODUCI
PANHANDLE HUTCHINSON	150.0	PANHANDLE PRODUCI
JUDY GAIL (CANYON SAN	11.0	LONE STAR GAS CO
Q V (JENNINGS)	43.1	ODESSA NATURAL CO
GRAFORD (BEND CONGLOM	0.0	LONE STAR GAS CO
YOUNG COUNTY REGULAR	10.2	SOUTHWESTERN GAS
GRAVEL PIT (STRAWN A)	0.0	SUN GAS CO
OZONA (CANYON SAND)	0.0	EL PASO NATURAL G
CARTHAGE (COTTON VALL	365.0	UNITED GAS PIPE L
GIDDINGS (AUSTIN CHAL	36.5	PERRY PIPELINE CO
PANHANDLE (RED CAVE)	10.2	COLORADO INTERSTA

JD NO	JA DAT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-WOOD MCSHANE & THAMS				RECEIVED:	05/27/82	JA: TX			
8234898	F-08-051087	4200332926		103		LITTMAN "B" 101 RRC #27082	LITTMAN (SAN ANDRES)	73.0	
-WOODS PETROLEUM CORP				RECEIVED:	05/27/82	JA: TX			
8234788	F-10-044915	4239330868		103		CHAMBERS #1-121	MENDOTA NW (GRANITE W	0.0	PIONEER CORP
8234634	F-10-041021	4221131321		102-A	103	KRITSER #133-1.	HOME RANCH S (MORROW	486.5	EL PASO NATURAL G

OTHER PURCHASERS VOLUME NO :671

8234616	INTRASTATE GATHERING CORP
8234728	LONE STAR GAS CO
8234729	LONE STAR GAS CO
8234730	LONE STAR GAS CO
8234775	E I DUPONT DE NEMOURS & CO INC
8234787	E I DUPONT DE NEMOURS & CO INC
8234853	LONE STAR GAS CO
8234866	E I DUPONT DE NEMOURS & CO INC
8234891	LONE STAR GAS CO
8234892	LONE STAR GAS CO
8234927	AMOCO PRODUCTION CO
8234928	AMOCO PRODUCTION CO

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before July 7, 1982.

Categories within each NGPA section are indicated by the following codes:

Section:
102–1 New OCS lease
102–2 New well (2.5 mile rule)
102–3 New well (1,000 ft. rule)
102–4 New onshore reservior
102–5 New reservoir on old OCS lease

107–DP 15,000 feet or deeper
107–GB Geopressured brine
107–CS Coal seams
107–DV Devonian shale
107–PE Production enhancement
107–TF New tight formation
107–RT Recompletion tight formation

108 Stripper well
108–SA Seasonally affected
108–ER Enhanced recovery
108–PB Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–16826 Filed 6–21–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. EL82–7–000 and EL82–12–000]

Wheelabrator Frye, Inc.; Declaratory Order

Issued: June 15, 1982.

On February 12, 1982, and March 23, 1982, Wheelabrator Frye, Inc. (WFI) submitted substantially identical petitions for declaratory orders in Docket Nos. EL82–7–000 and EL82–12–000, respectively. Docket No. EL82–7–000 involves Wheelabrator Energy Systems, Westchester, Inc. (WESI), a wholly-owned WFI subsidiary, and Westchester RESCO (RESCO), a partnership expected to be formed by WESI and additional partners. Docket No. EL82–12–000 involves Wheelabrator Energy Systems, Baltimore, Inc. (WESBI) and another anticipated partnership, Baltimore RESCO (BRESCO). WESI, together with RESCO, plans to construct, own, and operate a 47 megawatt qualifying small power production facility, as defined in section 201 of the Public Utility Regulatory Policies Act of 1978 (PURPA) and § 292.204 of the Commission's regulations, which will generate electricity for sale to Consolidated Edison Company of New York, Inc. (Con Ed). WESBI and BRESCO will construct, own, and operate a similar facility (55 megawatts) for sale of electricity to Baltimore Gas & Electric Company (BG&E).[1] WESI and Con Ed have entered into an Energy Purchase Agreement which would provide for interconnection with the subject facility and for the associated rates. BG&E has signed a letter of intent to excute such an agreement.

Because the facilities in question each will have a generating capacity between 30 and 80 megawatts and will be fueled primarily by biomass, under section 210 of PURPA and the Commission's regulations they will be exempt from regulation under the Public Utility Holding Company Act of 1935 and from state regulation of rates and financial organization; they will not, however, be exempt from regulation under the Federal Power Act. Nonetheless, WFI requests a Commission declaration that it will not assert jurisdiction over WESI, RESCO, WESBI, or BRESCO under the circumstances enumerated in WFI's pleadings. If the Commission does assert jurisdiction, WFI asks the Commission to declare at this time (1) that the rates for power sold from the facilities will be established under section 210 of PURPA, rather than sections 205 and 206 of the Federal Power Act, and (2) that the rates, having been established through negotiated agreement, will not be subject to adjustment by the Commission.

In the event that sections 205 and 206 of the Federal Power Act are found to be applicable, WFI alternatively seeks a declaration that: (1) The rates contained in the Energy Purchase Agreements will be accepted for filing; (2) the Commission will not, *sua sponte*, subject the rates to investigation; and (3) the Commission will not apply section 205 procedures to rate changes in accordance with the formula rates established in the Energy Purchase Agreements. In addition, WFI requests waiver of certain Commission requirements regarding rate filing support, accounting practices, financing, interlocking directorates, and disposition of assets.

WFI contends that the revenues expected to be received through the Energy Purchase Agreements will provide a major part of the security underlying the issuance of bond financing for the facilities. Such financing is expected to occur in the spring of 1982, and WFI states that certainty with respect to the enforceability of the specified rates is essential to a successful bond sale.

Notice of WFI's filings was issued on March 5, 1982, and April 13, 1982, with responses due on or before April 9, 1982, and May 5, 1982.

Discussion

We believe it appropriate at the outset to note that the conclusions expressed in this order are based upon an analysis of the facts as presented in WFI's pleadings and are stated in order to provide some advance guidance to WFI and other similarly situated entities. Furthermore, as noted by WFI, the Commission stated its intention in Order No. 69 (February 19, 1980) to prescribe generic procedures for determining rates applicable to the 30–80 megawatt class of small power producers. Such procedures have not yet been established and we emphasize that this is a novel area in which the Commission as well as the affected parties must benefit from experience.

WFI asserts that the Commission should decline to exercise jurisdiction over the facilities on the grounds that neither the purposes of the Federal Power Act nor any other public purpose would be furthered by federal regulation, that adequate scrutiny over the transactions will exist at the state commission level, and that the nascent solid waste industry should not be subject to utility-type regulation. According to WFI, in situations such as this, where the amount of electricity to be generated is *de minimis*, the Commission is empowered to waive jurisdiction and is justified in doing so.

We need not reach WFI's contentions that the Commission has authority to waive jurisdiction, inasmuch as we believe that to do so would contravene

[1] According to WFI, RESCO and BRESCO will be formed so that neither partnership will be "owned by a person primarily engaged in the generation or sale of electric power. . . ." *See* 18 CFR 292.206. The primary energy source for the anticipated facilities will be biomass in the form of solid municipal waste. Applications for certification of qualifying status were granted as to these facilities by letter dated April 23, 1982, in Docket No. QF82–75–000, and by letter dated May 14, 1982, in Docket No. QF82–87–000. Energy Purchase Agreement which would provide for interconnection with the subject facility and for the associated rates. BG&E has signed a letter of intent to execute such an agreement.

Congressional intent with respect to qualifying small power production facilities in excess of 30 megawatts. We acknowledge that, in enacting PURPA, Congress did not intend to subject cogenerators and small power producers to typical utility-type regulation or to the full scope of ratemaking examination.[2] Notwithstanding the general desire to encourage such alternative energy sources, however, Congress left no doubt as to its intent to distinguish between facilities with generating capacities above and below the 30 megawatt threshold level. Thus, when the Commission promulgated rules for state regulatory authorities and nonregulated electric utilities to follow in establishing purchase rates for qualifying facilities under section 210 of PURPA,[3] we noted that small power production facilities between 30 and 80 megawatts cannot be exempted from the Federal Power Act. The Commission has already exercised jurisdiction over one such facility in Docket No. ER82-225-000 (Resources Recovery (Dade County), Inc.).[4] Furthermore, WFI has set forth no facts which would distinguish WESI, Westchester, and BRESCO from other 30-80 megawatt small power producers so as to justify waiver of jurisdiction as an individual exception.[5] As a result, we shall deny WFI's request for a Commission declaration waiving jurisdiction.

Although under the circumstances presented, Federal Power Act jurisdiction would attach, the language of the Conference Report accompanying section 210 of PURPA indicates that the Commission would have to follow PURPA principles in establishing or reviewing rates for sale of power by WESI and RESCO to Con Ed and by WESBI and BRESCO to BG&E;

> In providing that the 30-80 megawatt class of small power production facilities may not be exempt from the Federal Power Act under subsection (e) (of PURPA section 210), the conferees intended that where such facilities are subject to the Federal Power Act jurisdiction, the Commission must set the rates for the sale of power by such facilities in accordance with the requirements of [section 210 of PURPA].[6]

Section 292.304(b)(2) of the Commission's regulations implementing section 210 of PURPA establishes that an avoided cost rate for purchase is a just and reasonable rate. Section 292.301(b) of the Commission's regulations further provides for mutual agreement between a qualifying facility and an electric utility concerning rates, terms or conditions under section 210.

While the substantive rate provisions of PURPA would control in the situation described by WFI, barring a rulemaking to establish independent procedures for 30-80 megawatt small power production rates, the procedural requirements set forth in sections 205 and 206 of the Federal Power Act and the regulations thereunder would govern to the extent applicable. This is consistent with the Congressional decision not to exempt the 30-80 megawatt class from Federal Power Act jurisdiction. thus, at a future date it will be incumbent upon WFI or the applicable operating companies to tender the Energy Purchase Agreements, any associated agreements or rates, and any appropriate supporting materials for filing with this Commission and to provide the requisite statutory notice.

With regard to the timing of the filing of these rates, the Commission notes that a rate may be tendered for filing no more than 120 days before it is to become effective, pursuant to § 35.3 of the Commission's regulations. this requirement is intended to prevent the use of stale data in developing a test period for cost-of-service-based rates. Section 35.3(b), however, allows the commission to waive the 120 day time limit upon request where, as here, the rate schedules are predicated on the construction of facilities. Since the rates to be filed by WFI are negotiated formula rates based on the purchasing utility's avoided costs and do not involve the selling parties' costs for a particular test period, the Commission will waive the 120 day requirement upon request.

The Commission has, furthermore, recognized and is sensitive to the fact that the cost of service data requirements contained in §§ 35.12 and 35.13 of the regulations, and applicable to the selling party's, are irrelevant insofar as they would require a small power producer to substantiate its cost of service. *See Resources Recovery (Dade County), Inc.*, Docket No. ER82-225-000 (March 12, 1982). As a result, we will grant a request for waiver of inapplicable cost support requirements at such time as a rate submittal is tendered for filing. To the extent that inapplicable requirements are waived, we perceive the notice and filing requirements as imposing neither an undue burden nor unnecessary uncertainty.

Despite WFI's urging, in advance of the actual rate filings, we are not prepared to declare that the negotiated rates will be self-executing without the possibility of revision pursuant to the Federal Power Act. In advance of the actual rate filings it would be imprudent for the Commission to limit its statutory options without benefit of having reviewed the filed contractual package ultimately submitted by the parties. As a general proposition, however, we note that with regard to qualifying facilities, the Commission has expressed a policy of encouraging and condoning the establishment of rates, terms, and conditions by mutual agreement.[7] We also note that as to both WFI facilities, the energy sale arrangements will not become effective prior to compliance with applicable state regulatory requirements. Specific approval of the energy sale arrangements must be obtained from the New York Commission[8] and the Maryland Commission will review any energy sale contract to determine whether to lodge objections.[9] We further observe that the rates identified by WFI are developed on the basis of the purchasing utilities' avoided costs.

Based on these factors, we do not anticipate any reason to institute an investigation as to the lawfulness of the rates embodied in the WESI and WESBI Energy Purchase Agreements when they are tendered for filing.

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[2] Conference Report on the Public Utility Regulatory Policies Act, Report No. 95-1750, 95th Cong., 2d Sess. at 97-98 (1978), reprinted in 1978 United States Code and Ad. News at 7831, 7832.

[3] Order No. 69, Docket No. RM79-55 (issued Feb. 19, 1980), 45 FR 12214 (Feb. 25, 1980), vacated in part and affirmed in part, *American Electric Power Service Corp., et al.* v. *FERC*, No. 80-1789 (D.C. Cir., June 22, 1982), rehearing *en banc* denied (April 23, 1982). A motion for stay of the mandate was granted on April—, 1982. The mandate was stayed for 30 days from the date rehearing was denied.

[4] *See* order issued March 12, 1982, 18 FERC ¶61,243.

[5] WFI infers that a negotiated agreement by the purchaser and seller to a mutually satisfactory rate constitutes a distinguishing factor and effectively serves as an adequate substitute for Federal Power Act jurisdiction. As discussed below, the existence of an arms-length agreement may be expected to weigh heavily at such time as the Commission evaluates a specific rate in the context of a timely filing. However, we not not agree with WFI that such an agreement can be considered as an ouster of statutory jurisdiction.

[6] H.R. Rep. No. 95-1750, 95th Cong., 2nd Sess. 99 (1978).

[7] *See, e.g.*, Order No. 69, *supra*; 18 CFR 292.301(b).

[8] The Energy Purchase Agreement requires, in section 8(B), that it be submitted to the New York PSC for its approval. By its terms, the Energy Purchase Agreement will not become effective unless New York PSC approval is granted or the time during which the New York PSC may disapprove the Agreement has lapsed without action by the New York PSC.

[9] Section 54D of the Maryland Public Service Commission Law authorizes the Maryland Public Service Commission to review changes in a utility's costs of purchased power, and to exclude such costs "upon the failure of the Company to follow competitive practices in the * * * purchasing of * * * power, or upon a showing that the company was unreasonable in its * * * purchasing practices." Md. Ann. Code Article 78, § 54D.

WFI notes that the Energy Purchase Agreements contain formula rate provisions and also expresses concern as to whether the Commission will require successive rate filings for changes in accordance with the formula. Consistent with well-established Federal Power Act practice, if and when the specified formula is itself approved as the filed rate, subsequent changes that are fully consistent with the formula rate need not be submitted as independent rate changes.

Finally, WFI requests that the Commission waive a number of other regulations and statutory requirements. We note that similar requests have been made with respect to an actual rate filing made by Resources Recovery (Dade County), Inc. in Docket No. ER82-225-000. Because of the number and complexity of the questions raised by those requests, we deferred the issue for further consideration, stating our intention to address those matters in a subsequent order.[10] Accordingly, we believe that it would be premature to resolve these questions with respect to WFI at this time. Declaratory relief with respect to these requests for waiver will therefore be denied without prejudice. The Order to be issued in the Resources Recovery proceeding should provide substantial guidance to WFI

The Commission orders:

(A) WFI's petitions for declaratory relief are hereby granted in part and denied in part as discussed in the body of this order.

(B) Docket Nos. EL82-7-000 and EL 82-12-000 are hereby terminated.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16824 Filed 6-21-82; 8:45 am]

BILLING CODE 6717-01-M

Southeastern Power Administration

Proposed Rate Extensions and Rate Adjustment and Opportunities for Public Review and Comment

AGENCY: Southeastern Power Administration (Southeastern), DOE.

ACTION: Notice of proposed rate extensions and rate adjustment for Kerr-Philpott System and opportunity for review and comment.

SUMMARY: Southeastern proposes to extend the currently approved Rate Schedules KP-1-B and KP-2-B for Kerr-Philpott Projects power for a 6-month period through March 31, 1983. Southeastern also proposes to adjust the JHK-1-C rate schedule to pass through the increased costs of wheeling to the prefence customers served through the facilities of the Carolina Power and Light Company (CP&L).

Opportunities will be available for interested persons to review the present rates, the proposed rate, and the supporting studies and to submit written comments. Southeastern will evaluate all comments received in this process.

DATES: Written comments are due on or before July 26, 1982.

ADDRESSES: Five copies of written comments should be submitted to: Administrator, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635.

FOR FURTHER INFORMATION CONTACT:

FOR FURTHER INFORMATION CONTACT:

Leon Jourolmon, Jr., Chief, Division of Fiscal Operations, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635, (404) 283-3261.

SUPPLEMENTARY INFORMATION: The Federal Power Commission by order issued February 18, 1976, in Docket No. E-7002, confirmed and approved Wholesale Power Rate Schedules KP-1-B, KP-2-B and JHK-1-B applicable to Kerr-Philpott Projects' power for a period ending June 30, 1980. Subsequently on January 29, 1981, and March 19, 1982, in Docket Nos. EF80-3041 and EF81-3041, respectively, the Federal Energy Regulatory Commission extended approvals of Rate Schedules KP-1-B and KP-2-B and approved Rate Schedule JHK-1-C as a substitute for JHK-1-B. The rate schedules are approved through September 30, 1982.

Additional time is needed to finalize written power marketing policy for the Kerr-Philpott System and to take other necessary actions to implement the policy.

It will also be necessary to adjust Rate Schedule JHK-1-C to pass through increased wheeling costs incurred by Southeastern to serve customers from the CP&L System. The adjusted Rate Schedule will be designated JHK-1-D.

DISCUSSION: Current plans anticipate that a written power marketing policy involving major changes in the ad hoc policy reflected in existing contracts will be issued during the period covered by the proposed rate extension and replacement contracts will be negotiated. This action will materially affect rates in the future. Therefore, it was determined to extend existing projects' rates for an additional six-month period even though a June 1982 system repayment study shows that a rate increase of up to 10 percent would be in order.

In the proposed Rate Schedule JHK-1-D, which will replace JHK-1-C, the wheeling charge has been increased to reflect additional wheeling costs which Southeastern must bear. The monthly rate computed so as to distribute the increased costs ratably over the 30,000 kilowatts of capacity sold affected customers is $0.72 per kilowatt of contract demand. The monthly wheeling charge in Rate Schedule JHK-1-C is $0.56 per kilowatt. The unaffected rates for Southeastern power are a monthly capacity charge of $1.25 per kilowatt of contract demand and an energy charge of 5.0 mills per kilowatt-hour. At the time that new rates are developed consonant with a new power marketing policy, all costs will be reanalyzed, and rates will be both designed and established to appropriately reflect all applicable costs.

The referenced June 1982 system repayment study along with previous system repayment studies are available for examination at the Samuel Elbert Building, Elberton, Georgia 30635. The proposed rate schedules applicable to the extension period are also available.

Issued at Elberton, Georgia, June 14, 1982.

Harry C. Geisinger,

Administrator.

[FR Doc. 82-16733 Filed 6-21-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[WH-FRL 2146-3]

North Carolina Pretreatment Program Approval

AGENCY: EPA.

ACTION: Notice of Approval of the National Pollutant Discharge Elimination System Pretreatment Program of the State of North Carolina.

SUMMARY: On June 14, 1982, the Environmental Protection Agency approved the State of North Carolina's National Pollutant Discharge Elimination System State Pretreatment Program. This action authorizes the State of North Carolina to administer the National Pretreatment Program as it applies to municipalities and industries within the State.

FOR FURTHER INFORMATION CONTACT:

George E. Young, Permits Division (EN-336), U.S. Environmental Protection

[10] *See* order issued March 22, 1982, 18 FERC ¶61,343.

Agency, 401 M Street, SW., Washington, D.C. 20460, 202–426–4793.

SUPPLEMENTARY INFORMATION:

Background

The Pretreatment Program, required by the Clean Water Act of 1977, governs the control of industrial wastes introduced into Publicly Owned Treatment Works (POTWs). The objectives of the Pretreatment Program are to: (1) Prevent introduction of pollutants into POTWs which will interfere with the operation of a POTW, including interference with its use or disposal of municipal sludge; (2) prevent the introduction of pollutants into POTWs which will pass through treatment works or otherwise be incompatible with such works; (3) improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges. Local pretreatement programs will be the primary vehicle for administering, applying and enforcing pretreatment standards for industrial users of POTWs. To receive pretreatment program approval a State must submit to the EPA a modification to its NPDES program pursuant to the requirements and procedures of the General Pretreatment Regulation (40 CFR Part 403).

Federal Register Notice of Approval of State NPDES Programs or Modifications

Under the Consolidated Permit Regulations (45 FR 33290, May 19, 1980), EPA will provide **Federal Register** notice of any action by the Agency Approving or modifying a State NPDES program. The following table will provide the public with an up-to-date list of the status of NPDES permitting authority throughout the country.

	Approved State NPDES permit program	Approved to regulate Federal facilities	Approved State pretreatment program
Alabama	10/19/78	10/19/78	10/19/79
California	05/14/73	05/05/78	
Colorado	03/27/75		
Connecticut	09/26/73		05/03/81
Delaware	04/01/74		
Georgia	06/28/74	12/09/80	03/12/81
Hawaii	11/28/74	06/01/79	
Illinois	10/23/77	09/20/79	
Indiana	01/01/75	12/09/78	
Iowa	06/10/78	06/10/78	06/03/81
Kansas	06/26/74		
Maryland	09/05/74		
Michigan	10/17/73	12/09/78	
Minnesota	06/30/74	12/09/78	07/15/79
Mississippi	05/01/74		05/13/82
Missouri	10/30/74	09/26/79	06/03/81
Montana	06/10/74	06/25/81	
Nebraska	05/12/74	11/02/79	
Nevada	09/18/75	06/31/78	
New Jersey	04/13/82	04/13/82	04/13/82
New York	10/28/75	06/13/80	06/14/82
North Carolina	10/18/79		
North Dakota	06/13/75		
Ohio	03/11/74		
Oregon	09/26/73	03/02/79	03/12/81
Pennsylvania	06/30/78	06/30/78	
South Carolina	06/10/75	09/26/80	04/09/82
Tennessee	12/28/77		
Vermont	03/11/74		03/16/82
Virgin Islands	06/30/74		
Virginia	03/31/75	02/09/82	
Washington	11/14/73		
West Virginia	05/10/82	05/10/82	05/10/82
Wisconsin	02/04/74	11/26/79	12/24/80
Wyoming	01/30/75	05/19/81	

Review Under Executive Order 12291 and the Regulatory Flexibility Act

The Office of Management and Budget has exempted this action from the OMB review requirements of Executive Order 12291 pursuant to Section 8(b) of that Order.

Pursuant to Section 605(d) of the Regulatory Flexibility Act (5 U.S.C. § 601 *et seq.)*, I certify that this State Pretreatment Program Approval will not have a significant impact on a substantial number of small entities. Approval of the North Carolina NPDES State Pretreatment Program establishes no new substantive requirements, but merely transfers responsibility for administration of the program from EPA to the State.

Dated: June 14, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82–16789 Filed 6–21–82; 8:45 am]

BILLING CODE 6560–50–M

[OPTS 140011; TSH–FRL No. 2152–5]

Life Systems, Inc.; Transfer of Data to Contractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will transfer to its contractor, Life Systems, Inc. (LSI) of Cleveland, Ohio, information which has been or will be submitted by manufacturers and importers under sections 4, 5 and 8 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed to be confidential. LSI will review this information and use it to assist EPA to perform health and environmental hazard and/or risk assessments of premanufacture chemicals, chemicals which may require testing to determine risk, and chemicals which may require regulation, and to evaluate test data submitted to EPA.

DATE: The transfer of data submitted to EPA and claimed to be confidential will occur no sooner than 10 working days after publication of this notice in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–511, 401 M St., SW, Washington, D.C. 20460, Toll-free: (800–424–9065). In Washington, D.C.: (554–1404). Outside the USA: (Operator–202–554–1404).

SUPPLEMENTARY INFORMATION: Under TSCA, EPA must determine whether or not certain chemical substances or mixtures may present an unreasonable risk of injury to health or the environment from their manufacture, processing, distribution in commerce, use, or disposal. As a component of the unreasonable risk determination, the Agency must determine whether or not there is potential for a health and/or environmental hazard or risk from exposure to the substances or mixtures in question. To accomplish this, EPA will require the assistance of outside experts. Life Systems, Inc. of Cleveland, Ohio, is assisting EPA in determining if there is potential health and/or environmental hazard or risk from exposure to certain chemical substances or mixtures (Contract No. 68–01–6554).

Under 40 CFR 2.306(j), EPA has determined that it may need to disclose confidential business information to Life Systems, Inc. Under the terms of the contract, EPA will provide LSI with information submitted in premanufacturing notices (PMNs) on chemical identity, product formulation, and specific processes used to manufacture or process new chemical substances, as well as other information related to the uses, release rates, exposure levels, and assessment of potential hazard and/or risk to health and the enviroment of new chemical substances. In addition, EPA may provide LSI with similar information on chemical subtances obtained from tests performed by industry in response to a future section 4 test rule or from the TSCA Initial Inventory of Chemical Substances (section 8(b)) and submissions under future section 8(a) rules.

Under the EPA Contractor Requirements for the Control and Security of TSCA Confidential Business Information Security Manuals, LSI has been authorized to have access to this information. EPA has approved LSI

Security Plan and has conducted the required inspection of the LSI facilities and found them to be in compliance with the provisions of the Contractor Requirements for the Control and Security of TSCA Confidential Business Information Security Manuals.

Since LSI will review information claimed to be confidential, EPA is publishing this notice to inform all submitters of PMNs, section 4 test data, inventory (section 8(b)), and section 8(a) information that LSI will receive confidential business information from EPA. After completing the health and environmental hazard and/or risk assessments, LSI will return all confidential business information to EPA.

The LSI personnel will be required to sign a nondisclosure agreement before they are permitted access to such information. LSI is required to treat all confidential business information in accordance with the requirements of the TSCA Confidential Business Information Security Manual and the Contractor Requirements for the Control and Security of TSCA Confidential Business Information Manual.

Dated: June 9, 1982.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 82-16788 Filed 6-21-82; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Comments Dates Established for Declaratory Ruling Petition Requesting Preemption of State Prescribed Depreciation Rates

On June 7, 1982, General Telephone Company of Ohio (General) Filed a Petition for Declaratory Ruling with the Federal Communications Commission. The petition requests that the Commission issue a ruling declaring that section 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. 220(b), preempts inconsistent depreciation rate prescriptions of the Public Utilities of Commission Ohio (PUCO).

The petition was precipitated by an April 28, 1982 action of the PUCO in which it rejected General requests to utilize remaining life and equal life group depreciation methods for intratstate regulatory purposes. The PUCO instead prescribed new depreciation accrual rates based on the whole life method effective May 1, 1982. This is in contrasts to the action of this Commission's authorization of remaining life depreciation rates on January 28, 1982, and equal life group rates on February 3, 1982, for General. General states that this divergence in depreciation methods results in a seven million dollar smaller depreciation accrual for the intrastate jurisdiction. General submits that the action of the PUCO frustrates policies this Commission had adopted in the capital recovery area, and that the Commission should therefore preempt the PUCO's order.

On June 7, 1982, the American Telephone and Telegraph Co. (AT&T) filed a Petition for Reconsideration requesting that the Commission reconsider its April 27, 1982, decision in Docket 79-105, FCC 82-155. That decision held that section 220 of the Act does not automatically preclude state regulatory commissions from prescribing different accounting and depreciation practices for intrastate purposes where such action did not frustrate the national telecommunications policy. AT&T argues that the Commission should reconsider this decision and find that state commissions are required to follow this Commission's expensing rules for intrastate regulatory purposes.

The Petition for Declaratory Ruling and the Petition for Reconsideration both relate to the Commission's preemptive jurisdiction under section 220. Accordingly, persons interested in responding to General's Petition for Declaratory Ruling may file comments on or before the fifteenth day following public notice in the **Federal Register** of the American Telephone and Telegraph Co.'s Petition for Reconsideration. Replies to oppositions may be filed within ten (10) days of the date of which oppositions are due. Parties filing in opposition to both petitions may cross-reference their filings where appropriate. As required by § 1.52(c)(1) of the Commission's rules, an original and nine (9) copies shall be filled with the Secretary, Federal Communications, Commission, Washington, D.C. 20554. For further information contact Douglas Slotten, (202) 632-9342.

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 82-16786 Filed 6-21-82; 8:45 am]
BILLING CODE 6712-01-M

[BC Docket No. 78-253]

Radio Broadcast Services; Order Extending Time for Filing Oppositions To Petition for Reconsideration

AGENCY: Federal Communications Commission.

ACTION: Petition for Reconsideration; For filing oppositions.

SUMMARY: Action taken extends the time for filing oppositions to a petition for reconsideration of the Commission's action concerning BC Docket No. 78-253. Additional time is given in response to a request filed by the Los Angeles County Sheriff. The additional time will minimize the number of pleadings that the parties must file.

DATE: Replies must be filed on or before the date replies are due to the last timely filed petition for reconsideration. In no event will petitions be due before July 2, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Edythe Wise, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of an inquiry into the future role of low power television broadcasting and television translators in the National Telecommunications System BC Docket 78-253.

Order Extending Time for Filing Oppositions To Petition for Reconsideration

Adopted: June 10, 1982.

Released: June 15, 1982.

By the Chief, Policy and Rules Division:

1. On May 11, 1982, notice of the filing of a petition for reconsideration by the Los Angeles County Sheriff concerning the above captioned proceeding was published in the **Federal Register**, 47 FR 20185. Oppositions were due to be filed on May 26, 1982.

2. On May 25, 1982, counsel for the Association of Maximum Service Telecasters, Inc. filed a request for an extension of time to file an opposition until after all potential petitions for reconsideration have been filed. Counsel states that the extension would expedite this proceeding by allowing the parties and the Commission to review and respond to all the petitions for reconsideration in this proceeding as a consolidated group.

3. Section 1.46(b) of the Commission's rules states that extension requests must be filed seven days in advance of the filing deadline. However, since the Commission believes it would be in the public interest to extend the date so that the parties can minimize the number of pleadings that they must file, and since there is no opposition, we will grant the additional time.

4. Accordingly, it is ordered, that the time for filing oppositions to all petitions for reconsideration in BC Docket No. 78-253 is extended to the date replies are

due to the last timely filed petition for reconsideration. In no event will oppositions be due before July 2, 1982.[1]

5. This action is taken pursuant to authority contained in §§ 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and §§ 0.281 and 0.204(b) of the Commission's rules.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-16810 Filed 6-21-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10327; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before July 12, 1982. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. 10051-6.

Filing party: John R. Attanasio, Esquire, Billig, Sher & Jones, P.C., 2033 K Street NW., Washington, D.C. 20006.

Summary: Agreement No. 10051-6 is a proposal by the parties to the Mediterranean Force Majeure Agreement to extend the duration of the agreement indefinitely beyond its December 13, 1982, expiration date, and to further define the circumstances under which the authority of the agreement may be invoked.

Agreement No. 10452.

Filing party: Joseph H. Dettmar, Esquire, Garvey, Schubert, Adams & Barer, 1000 Potomac Street NW., Washington, D.C. 20007.

Summary: Agreement No. 10452 establishes a nonexclusive equipment interchange agreement between Totem Ocean Trailer Express, Inc. (TOTE) and Yamashita-Shinnihon Steamship Company, Ltd., providing for the interchange of empty and loaded equipment in the Far East/United States trade.

Agreement No. 10453.

Filing party: Seymour H. Kligler, Esquire, Brauner Baron Rosenzweig Kligler Sparber & Bauman, 120 Broadway, New York, New York, 10271.

Summary: Agreement No. 10453, between Empresa Lineas Maritimas Argentinas, S.A. (ELMA) and Bottacchi, S.A., de Navegacion C.F.I.I. (Bottacchi), establishes a space charter and sailing agreement in the trade between U.S. Atlantic and Brazil, Uruguay, Argentina and Paraguay. As compensation, the parties will, from time to time, agree on the rates to be paid for the breakbulk and container space chartered. The party which charters space in excess of that chartered by the other party from it, shall pay compensation at the agreed rates. Except as may be required by a conference or rate agreement to which a party may be a member, any party may charge such rates as it sees fit. ELMA and Bottacchi will cooperate with each other to rationalize sailings and to arrange advertising and sailing schedules. Each party may contract separately for its own stevedoring and terminal services. The agreement shall not become effective until it is approved by the Federal Maritime Commission and Secretaria Intereses Maritimos. The term of the agreement is for 5 years from the date the agreement becomes effective. However, the agreement may be terminated sooner upon at least 30 days' written notice by either party.

Dated: June 17, 1982.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-16750 Filed 6-21-82; 8:45 am]

BILLING CODE 6730-01-M

[1] We are specifying the July 2 date in the unlikely event that no further petitions for reconsideration are filed.

FEDERAL RESERVE SYSTEM

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are indispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Cleveland (Harry W. Huning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *First National Company*, Pikeville, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Pikeville, Pikeville, Kentucky. Comments on this application must be received not later than July 16, 1982.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *SNB Bancshares, Inc.*, Eufaula, Oklahoma; to become a bank holding company by acquiring 51.6 percent of the voting shares of The State National Bank of Eufaula, Oklahoma. Comments on this application must be received not later than July 16, 1982.

Board of Governors of the Federal Reserve System, June 16, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-16740 Filed 6-21-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Biometry and Epidemiology Contract Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Biometry and Epidemiology Contract

Review Committee, National Cancer Institute, July 29–30, 1982, Building 31C, Conference Room 9, National Institutes of Health, Bethesda, Maryland 20205. This meeting will be open to the public on July 29 from 9:00 a.m. to 9:30 a.m. to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on July 29, from 9:30 a.m. to adjournment, and on July 30, from 8:30 a.m. to adjournment, for the review, discussion and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Wilna A. Wood, Executive Secretary, Biometry and Epidemiology Contract Review Commmittee, National Cancer Institute, Westwood Building, Room 822, National Institutes of Health, Bethesda, Maryland 20205 (301/496–7153) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Number 13.398, project grants in cancer research manpower, National Institutes of Health)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of the Circular)

Dated: June 3, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82–16734 Filed 6–21–82; 8:45 am]

BILLING CODE 4140–01–M

Clinical Cancer Program Project Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Clinical Cancer Program Project Review Committee, National Cancer Institute, July 28–28, 1982, Building 31C, Conference Room 10, 9000 Rockville Pike, Bethesda, Maryland 20205. This meeting will be open to the public on July 28 from 8:30 a.m. to 10:00 a.m. for reports by the Director, NCI, and other staff members, and to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on July 26, from 10:00 a.m. to adjournment; July 27, from 8:30 a.m. to adjournment; and on July 28, from 8:30 a.m. to adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Louise G. Thomson, Executive Secretary, Clincial Cancer Program Project Review Commmittee, National Cancer Institute, Westwood Building, Room 809, National Institutes of Health, Bethesda, Maryland 20205 (301/496–7924) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Number 13.397, project grants in cancer center support, National Insttitutes of Health)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of the Circular)

Dated: June 3, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82–16737 Filed 6–21–82; 8:45 am]

BILLING CODE 4140–01–M

Clinical Trials Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, on July 29–30, 1982, at the Hyatt Palo Alto, 4290 El Camino Real, Palo Alto, California 94306.

This meeting will be open to the public from 8:00 p.m. to approximately 9:00 p.m. on July 29, 1982 to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on July 29, from approximately 9:00 p.m. to adjournment on July 30, for the review, discussion and evaluation of an individual grant application. The application and the discussions could reveal personal information concerning individuals associated with the application, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Therefore, this meeting is concerned with matters exempt from mandatory disclosure under section 552b(c)(6) of Title 5, U.S. Code.

Ms. Terry Bellicha, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, Bethesda, Maryland, 20205, Building 31, Room 4A–21, phone (301) 496–4236, will provide summaries of the meeting and rosters of the committee members. Dr. Fred P. Heydrick, Chief, Contracts, Clinical Trials and Training Review Section, Division of Extramural Affairs, NHLBI, Westwood Building, Bethesda, Maryland 20205, Room 548B, phone (301) 496–7363, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8(b)(4) and (5) of that Circular.

Dated: June 3, 1982.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 82–16738 Filed 6–21–82; 8:45 am]

BILLING CODE 4140–01–M

Large Bowel and Pancreatic Cancer Review Committee (Large Bowel Cancer Review Subcommittee); Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Large Bowel and Pancreatic Cancer Review Committee, (Large Bowel Cancer Review Subcommittee), National Cancer Institute, July 7–9, 1982, Houston Main Building, M.D. Anderson Hospital, Houston, Texas 77030. This meeting will be open to the public on July 7 from 7:30 p.m. to adjournment; July 8 from 8:00 to 9:00 a.m., and 7:30 p.m. to adjournment; and on July 9 from 8:30 a.m. to

adjournment. This portion of the meeting will include scientific presentations and discussions on biology, biochemistry and immunology, and colon cancer; and review of workshop planning and administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on July 8, from 9:00 a.m. to approximately 5:00 p.m., for the review, discussion and evaluation of individual grant applications. These applicant and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winidred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Vincent J. Cairoli, Executive Secretary, Large Bowel Cancer Review Subcommittee, National Cancer Institute, Blair Building, Room 7A05, National Institutes of Health, Bethesda, Maryland 20205 (301/427–8800) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Numbers 13.393, 13.394, 13.395, project grants in cancer cause and prevention; detection and diagnosis; and cancer treatment research, National Institutes of Health)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of the Circular)

Dated: June 3, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82–16735 Filed 6–21–82; 8:45 am]

BILLING CODE 4140–01–M

Vision Research Program Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Vision Research Program Committee, National Eye Institute, July 15 and 16, 1982, Conference Room 7, Building 31, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on July 15 from 8:30 a.m. to 9:00 a.m. for opening remarks and discussion of program guidelines. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 9:00 a.m. on July 15 until adjournment of July 16 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Mary Carter, Committee Management Officer, National Eye Institute, Building 31, Room 6A–03, National Institutes of Health, Bethesda, Marylany 20205 (301) 496–4903, will provide summaries of the meeting and rosters of committee members.

Dr. Catherine Henley, Review and Special Projects Officer, Extramural and Collaborative Programs, National Eye Institute, Building 31, Room 6A–06, National Institutes of Health, Bethesda, Maryland 20205 (301) 496–5561, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.867, Reginal and Choroidal Diseases Reserach; 13.870, Glaucoma Research; and 13.871, Sensory and Motor Disorders of Visual Research; National Institutes of Health)
(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular)

Dated: June 3, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82–16736 Filed 6–21–82; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, as amended most recently in pertinent part 45 FR 76518, November 19, 1980 and 47 FR 3206, January 22, 1982) is amended to reflect the establishment of the National Center for Drugs and Biologics (NCDB) by merging the functions from the Bureau of Biologics (BOB) and the Bureau of Drugs (BD) and abolishing those bureaus, as such. Combining both bureaus will allow the Bureau of Drugs to share in the Bureau of Biologics expertise in laboratory research and build a broader scientific base for making drug decisions. Widening the scope of the Bureau of Biologics research activities will enhance its status and increase its role in the scientific and medical communities. Combining the bureaus will allow FDA to shift additional resources to tasks which are required by law and involve significant public health risks. It will also provide for greater organizational accountability for projects on which the Secretary and the Commissioner place the greatest priority. The substructure of NCDB consists of: the Office of New Drug Evaluation, comprised of six divisions from BD; the Office of Drugs, comprised of nineteen divisions from BD; and the Office of Biologics, comprised of seven divisions from BOB. The Office of Management is established in the Office of the Director, NCDB, to provide administrative support to the Center.

Section HF–B, Organization and Functions is amended as follows:

1. Delete paragraph (1)(e11) and all subparagraphs for *Bureau of Drugs (HFG).*

2. Delete paragraph (r) and all subparagraphs for *Bureau of Biologics (HFB).*

3. Insert new paragraph (n), *National Center for Drugs and Biologics. (NFN)* reading as follows:

(n) *National Center for Drugs and Biologics (HFN).* Develops FDA policy with regard to the safety, effectiveness, and labeling of all drugs and biologicals for human use.

Plans and conducts research related to the development, manufacture, testing, and use of both new and old biological products to develop a scientific base for establishing standards designed to insure the continued safety, purity, potency, and efficacy of biological products.

Inspects manufacturers' facilities for compliance with standards, tests products submitted for release, establishes written and physical standards, and approves licensing of manufacturers to produce biological products.

Reviews and evaluates new drug applications (NDA's) and notices of claimed investigational exemption for new drugs (IND's).

Develop and implements standards for the safety and effectiveness of all over-the-counter (OTC) drugs.

Monitors the quality of marketed drugs and biologicals through product testing, surveillance, and compliance programs.

Develops and promulgates guidelines on current Good Manufacturing Practices for use by the biological and drug industry.

Develops and desseminates information and educational material dealing with biologicals and drugs to the medical community and the public in coordination with the Office of the Commissioner.

Conducts research and develops scientific standards on the composition, quality, safety, and efficacy of human drugs.

Collects and evaluates information on the effects and use trends of biologicals and marketed drugs.

Monitors prescription drug advertising and promotional labeling to assure their accuracy an integrity.

Analyzes data on accidental poisonings; disseminates toxicity and treatment information on household products and medicines.

(n–1) *Office of the Director (HFN1).* Promulgates, plans, administers, coordinates, and evaluates overall Center scientific, control, management, and regulatory programs, plans, and policies.

Provides leadership and direction for all Center activities.

Coordinates and directs the Center management, planning, and evaluation systems to assure optimum utilization of center manpower, money, and facilities.

(n–1–i) *Office of Management (HFN12).* Monitors the continuing development and operation of strategic planning systems for Center activities and resource allocation; advises the Center Director on Center administrative policies and guidelines and scientific and technical information systems and services.

Provides direction and counsel to Center managers through development and performance of program evaluation and technological forecasting.

Plans and directs all Center operations related to financial and personnal management, employee development and training, EEO activities, security, and safety management.

Manages facilities and laboratories and provides technical support to the Center.

Direct the Center's management and data systems, information services, and Freedom of Information (FOI) activities.

Manages the performance of research studies of Center operations designed to improve processes and resource allocations.

Advises the Center in the development of contract and grant proposals, including management, technical, and merit review.

(n–2) *Office of New Drug Evaluation (HFNA).* Reviews notices of claimed investigational exemptions for new drugs (IND's) and recommends appropriate action with respect to safety and efficacy of clinical trials.

Evaluates, for safety, and efficacy new durg applications (NDA's) and their supplements submitted by manufacturers for permission to market new drugs.

Evaluates manufacturing methods, controls, and facilities of manufacturers of drugs submitted for approval in NDA's.

Conducts continuing surveillance and medical evaluation of the labeling, clinical experience, and reports submitted by holders of NDA's under the records and reports requirements of the Federal Food, Drug, and Cosmetic Act.

Makes recommendations concerning withdrawal of approval of NDA's.

Reviews IND's and other applications for antibiotic drugs.

Performs medical and scientific evaluations of submissions received from the drug industry on generic drugs, drugs under monograph, and over-the-counter drug products.

Manages and coordinates the scientific and technical activities of advisory committees, consultants, and experts.

(n–2–i) *Office of the Director (HFNA1).* Directs all Office activities and coordinates and establishes Office policies for NDA's and IND's.

Provides administrative support to the Office.

(n–2–ii) *Division of Anti-infective Drug Products (HFNAA).* Performs the IND/NDA review process with regard to anti-infective, dermatologic, ophthalmologic, and antibiotic drug products; develops related policy applying to this category of drug products.

Reviews notices of claimed investigational exemption for new drugs (IND's) and recommends action including approval of research plans and protocols, modifications, restrictions, or disapproval.

Evaluates, for safety and effectiveness, new drug applications (NDA's) submitted by manufacturers for permission to market new drugs.

Evaluates adequacy of directions for use and warning in proposed labeling.

Conducts continuing surveillance and medical evaluation of the labeling, clinical experience, and reports, submitted by an applicant under the records and reports requirements, of all drugs for which an approved NDA is in effect.

Evaluates manufacturing and laboratory methods, facilities, and controls exercised in firms producing new drugs.

Makes recommendations concerning withdrawal of approval of NDA's.

Provides advice and serves as the primary source of information within FDA on anti-infective, dermatologic, ophthalmologic, and antibiotic drug products with regard to the status of these drug applications, existing policy decisions, proposed regulatory actions, and the state of product development.

(n–2–iii) *Division of Cardio-Renal Drug Products (HFNAB).* Performs the IND/NDA review process with regard to cardiac, anti-hypertensive/renal, and gastro-intestinal drug products; develops related policy applying to this category of drug products.

Performs the IND/NDA review process with regard to cardiac, anti-hypertensive/renal, and gastro-intestinal drug products; develops related policy applying to this category of drug products.

Reviews notices of claimed investigational exemption for new drugs (IND's) and recommends action including approval of research plans and protocols, modifications, restrictions, or disapproval.

Evaluates, for safety and effectiveness, new drug applications (NDA's) submitted by manufacturers for permission to market new druts.

Evaluates adequacy of directions for use and warning in proposed labeling.

Conducts continuing surveillance and medical evaluation of the labeling, clinical experience, and reports, submitted by an applicant under the records and reports requirements, of all drugs for which an approved NDA is in effect.

Evaluates manufacturing and laboratory methods, facilities, and controls exercised in firms producing new drugs.

Makes recommendations concerning withdrawal of approval of NDA's.

Provides advice and serves as the primary source of information within FDA on cardiac, anti-hypertensive/renal, and gastro-intestinal drug products with regard to the status of these drug applications, existing policy

decisions, proposed regulatory actions, and the state of product development.

(n–2–iv) *Division of Surgical-Dental Drug Products (HFNAC).* Performs the IND/NDA review process with regard to surgical, dental, and pulmonary-anesthesia drug products; develops related policy applying to this category of drug products.

Reviews notices of claimed investigational exemption for new drugs (IND's) and recommends action including approval of research plans and protocols, modifications, restrictions, or disapproval.

Evaluates, for safety and effectiveness, new drug applications (NDA's) submitted by manufacturers for permission to market new drugs.

Evaluates adequacy of directions for use and warning in proposed labeling.

Conducts continuing surveillance and medical evaluation of the labeling, clinical experience, and reports, submitted by an applicant under the records and reports requirements, of all drugs for which an approved NDA is in effect.

Evaluates manufacturing and laboratory methods, facilities, and controls exercised in firms producing new drugs.

Makes recommendations concerning withdrawal of approval of NDA's.

Provides advice and serves as the primary source of information within FDA on surgical, dental, and pulmonary-anesthesia drug products with regard to the status of these drug applications, existing policy decisions, proposed regulatory actions, and the state of product development.

(n–2–v) *Division of Metabolism and Endocrine Drug Products (HFNAD).* Performs the IND/NDA review process with regard to obstetric, gynecological, and all other metabolic and endocrine drug products; develops related policy applying to this category of drug products.

Reviews notices of claimed investigational exemption for new drugs (IND's) and recommends action including approval of research plans and protocols, modifications, restrictions, or disapproval.

Evaluates, for safety and effectiveness, new drug applications (NDA's) submitted by manufacturers for permission to market new drugs.

Evaluates adequacy of directions for use and warning in proposed labeling.

Conducts continuing surveillance and medical evaluation of the labeling, clinical experience, and reports, submitted by an applicant under the records and reports requirements, of all drugs for which an approved NDA is in effect.

Evaluates manufacturing and laboratory methods, facilities, and controls exercised in firms producing new drugs.

Makes recommendations concerning withdrawal of approval of NDA's.

Provides advice and serves as the primary source of information within FDA on obstetric, gynecological, and all other metabolic and endocrine drug products with regard to the status of these drug applications, existing policy decisions, proposed regulatory actions, and the state of product development.

(n–2–vi) *Division of Neuropharmacological Drug Products (HFNAE).* Performs the IND–NDA review process with regard to neurological, psycho-pharmacological, and drug abuse drug products; develops related policy applying to this category of drug products.

Reviews notices of claimed investigational exemption for new drugs (IND's) and recommends action including approval of research plans and protocols, modifications, restrictions, or disapproval.

Evaluates, for safety and effectiveness, new drug applications (NDA's) submitted by manufacturers for permission to market new drugs.

Evaluates adequacy of directions for use and warning in proposed labeling.

Conducts continuing surveillance and medical evaluation of the labeling, clinical experience, and reports, submitted by an applicant under the records and reports requirements, of all drugs for which an approved NDA is in effect.

Evaluates manufacturing and laboratory methods, facilities, and controls exercised in firms producing new drugs.

Makes recommendations concerning withdrawal of approval of NDA's.

Provides advice and serves as the primary source of information within FDA on neurological, psychopharmacological, and drug abuse products with regard to the status of these drug applications, existing policy decisions, proposed regulatory actions, and the state of the product development.

Serves as the FDA resource on drug abuse information. Evalutes investigational and marketed drugs for abuse potential as requested by IND/NDA review staffs. Recommends special studies or safeguards.

Recommends drugs for addition to, removal from, or transfer within schedules provided by the Comprehensive Drug Abuse Prevention and Control Act of 1970.

N–2–vii) *Division of Oncology and Radiopharmaceutical Drug Products (HFNAG).* Performs the IND/NDA review process with regard to oncology, radiopharmaceutical, and anti-inflammatory drug products; develops related policy applying to this category of drug products.

Reviews notices of claimed investigational exemption for new drugs (IND's) and recommends action including approval of research plans and protocols, modifications, restrictions, or disapproval.

Evaluates, for safety and effectiveness, new drug applications (NDA's) submitted by manufacturers for permission to market new drugs.

Evaluates adequacy of directions for use and warning in proposed labeling.

Conducts continuing surveillance and medical evaluation of the labeling, clinical experience, and reports, submitted by an applicant under the records and reports requirements, of all drugs for which an approved NDA is in effect.

Evaluates manufacturing and laboratory methods, facilities, and controls exercised in firms producing new drugs.

Makes recommendations concerning withdrawal of approval of NDA's.

Provides advice and serves as the primary source of information within FDA on oncology, radiopharmaceutical, and anti-inflammatory drug products with regard to the status of these drug applications, existing policy decisions, proposed regulatory actions, and the state of product development.

(n–3) *Office of Drugs (HFNB).* Develops and implements standards for the safety and effectiveness of all over-the-counter (OTC) drugs.

Monitors the quality of marketed drugs through product testing, surveillance, and compliance programs.

Develops and promulgates guidelines on current Good Manufacturing Practices for use by the drug industry.

Develops and disseminates information and educational material dealing with drugs to the medical community and the public, in coordination with the Office of the Commissioner.

Conducts research and develops scientific standards on the composition, quality, safety, and efficacy of human drugs.

Collects and evaluates information on the effects and use trends of marketed drugs.

Monitors prescription drug advertising and promotional labeling to assure their accuracy and integrity.

Analyzes data on accidental poisonings; disseminates toxicity and

treatment information on household products and medicines.

Evaluates applications for operation of methadone treatment centers and other activities using methadone or other drugs.

Directs the FDA antibiotic and insulin certification program.

(n–3–i) *Office of the Director (HFNB1).* Directs all Office activities and coordinates and establishes all Office policies.

Provides administrative support to the Office.

(n–3–ii) *Division of Methadone Monitoring (HFNBA).* Develops the basic strategy for and approves, directs, coordinates, and monitors compliance programs for drugs requiring special controls over the conditions of use.

Evaluates field report submissions, including inspections, investigations, and recommendations for compliance actions; recommends, directs, and/or coordinates case development and contested case assistance in the handling of compliance actions.

Evaluates applications for the establishment of treatment centers and other activites which plan to use methadone or other drugs requiring special controls over the conditions of use; monitors and evaluates the medical and scientific quality of treatment.

Develops and/or reviews regulations to control and monitor the usage of methadone and other such drugs.

Coordinates drug use monitoring programs with Federal, State, and local agencies.

Conducts training seminars for industry and Federal, State, and local health officials on drug usage control practices in coordination with the Executive Director of Regional Operations.

(n–3–iii) *Division of Drug Quality Evaluation (HFNBB).* Develops and directs drug quality evaluation programs, including surveillance and mandatory and voluntary drug certification; coordinates with other compliance divisions as necessary.

Monitors and evaluates nationwide drug product quality through the development and maintenance, in coordination with Center systems design specialists, of information systems containing data about drug products and manufacturers and problems that occur with both.

Evaluates drug product quality data for trends and other uses and identifies new areas for potential FDA responsibility or action.

Directs such field actions as investigations and inspections in response to problems identified by drug quality evaluation programs; recommends, directs, or coordinates case development and compliance activities resulting from these actions.

Coordinates with other Center components to exchange drug quality data and advise them on drug quality evaluation programs.

(n–3–iv) *Division of Drug Labeling Compliance (HFNBC).* Develops the basis strategy for and approves, directs, coordinates, and monitors compliance programs issued to implement NAS/NRC Drug Efficacy Study Implementation (DESI) announcements, OTC and other drug monographs, and for drugs not covered under specific regulations or announcements.

Evaluates field report submissions, including inspections, investigations, and recommendations for compliance actions; recommends, directs, and/or coordinates case development and contested case assistance in the handling of compliance actions regarding drug labeling compliance.

Notifies firms regarding the status of their drugs under specific DESI announcements and OTC and other drug monographs.

Directs the FDA Drug Product Listing and Establishment Registration program.

(n–3–v) *Division of Drug Quality Compliance (HFNBD).* Develops the basic strategy for and approves, directs and monitors drug quality compliance; coordinates drug quality compliance program strategy with other compliance divisions, as necessary.

Develops and coordinates Agency compliance policy for enforcement of the law with regard to drug quality assurance.

Evaluates field report submissions; recommends, directs, and/or coordinates case development and contested case assistance in the handling of compliance actions regarding drug quality assurance.

Develops, coordinates, reviews, and revises Current Good Manufacturing Practice (CGMP) regulations and other regulations concerning drug product quality and provides for their uniform interpretation.

Acts as focal point for information on compliance with CGMP for New Drug Applications (NDA's), Abbreviated New Drug Applications (ANDA's), supplements, and drug certification evaluations.

Provides expertise on requirements for compliance with CGMP's including education and information activities in conjunction with other Agency units, trade associations, and academic groups to promote a better understanding of the requirements and objectives of the laws and regulations regarding CGMP and to encourage compliance on a voluntary basis.

(n–3–vi) *Division of Drug Advertising and Labeling (HFNBE).* Monitors and evaluates prescription drug promotion.

Coordinates with other Center components to determine the compliance activity of the industry for prescription drug labeling.

Formulates and establishes policy for prescription drug labeling including professional labeling and patient package inserts and regulation of prescription drug promotion including advertisements, promotional labeling, and promotional practices.

Prepares, coordinates the review of, and implements special types of drug labeling such as generic, class, and patient package insert labeling.

Reviews for consistency with general labeling requirments and guidelines, labeling for new therapeutic entities and for previously marketed drugs about to be approved for major new indications.

Initiaties or recommends administrative action to remedy violative prescription drug promotion, recommends field investigations, assists in the preparation of prospective cases.

Plans and supervises studies to evaluate the impact of patient package inserts, prescription drug promotion, and remedies for violative prescription drug promotion.

Plans and develops various informational and educational resources for health professionals, consumers, and FDA staff including a drug labeling manual, miscellaneous publications, symposia, and seminars.

Provides guidance and support in formulation of guidelines and regulations for prescription drug labeling and promotion.

Provides guidance to New Drug Evaluation Divisions, and to the Division of Generic Drug Monographs to assure quality, consistency, and timeliness in labeling of drugs during the premarketing and postmarketing periods.

(n–3–vii) *Division of Scientific Investigations (HFNBG).* Implements the Agency's Bio-research Monitoring Program for Human Drugs.

Develops standards for the conduct of clinical and preclinical investigations performed to demonstrate the safety and effectiveness of drugs.

Designs and operates surveillance and compliance programs in the area of preclinical and clinical drug investigations.

Assigns, directs, and coordinates onsite inspections of sponsors and investigators of preclinical and clinical drug studies, institutional review

committees, and commerical clinical testing facilities in collaboration with FDA's field organization.

Coordinates preclinical and clinical drug investigation activities within and outside the Center to promote maximum utilization of resources and consistency of policies.

Evaluates investigation reports and initiates administrative and regulatory corrective measures as necessary.

Plans and conducts educational and informational activities with regard to standards for preclinical and clinical drug investigations.

(n–3–viii) *Division of Drug Information Resources (HFNBH).* Operates systems for the collection, processing, and retrieval of information required to meet research and operating needs.

Reviews, abstracts, and retrieves scientific and technical information contained in drug applications and other scientific documents.

Provides data input services within the Center and coordinates operational data processing activities.

Creates and maintains data files for medical and scientific purposes.

(n–3–ix) *Division of Information Systems Design (HFNBJ).* Designs, implements, and monitors management scientific/technical information systems for the Center.

Establishes and monitors implementation of Center policies regarding all Center automated data processing activities including planning, contracts, epuipment and software procurement, training, and utilization of automatic data processing (ADP) systems and facilities.

Serves as the Center point of contact with the Agency's ADP operations.

Develops dictionaries, listings of terms, and thesauri to assure standardization of terminology within Center information systems.

Maintains overall center responsibility for the FDA Chemical Structure File and conducts research on the design of systems and routines for chemical substructure searching.

(n–3–x) *Medical Library (HFNBK).* Acquires, catalogs, and disseminates pharamaco-medical and scientific information for use by Center and FDA scientists and administrators.

Provides manual and automated services in support of compiling and disseminating medical and scientific information.

Serves as liaison with drug and other information centers outside of FDA, such as the National Library of Medicine.

(n–3–xi) *Division of Biometrics (HFNBL).* Provides comprehensive statistical and biomathematical services to Center programs.

Conducts research and development in statistical, biomathematical, and other scientific decisionmaking methodologies.

Evaluates and applies new statistical methodologies in support of scientific decisions.

Develops statistical methodologies for analyzing epidemiological data and collaborates with other Center units on such methodologies to be used in intramural and extramural programs.

Develops computational computer programs.

(n–3–xii) *Division of Poison Control (HFNBM).* Promotes the establishment of and provides technical support to State and local governments in the creation and maintenance of poison control centers. Furnishes information to such centers concerning the treatment of toxic, hazardous, and caustic substances that may be ingested.

Collects, evaluates, and disseminates clinical and statistical data concerning the toxic effects of drugs, chemicals, and hazardous household substances on humans and animals.

Evaluates reports on injuries and fatalities resulting from accidental ingestion of household substances, medicines, and other chemicals; identifies cases of special interest and pursues further field investigations.

Analyzes date to determine products causing injuries to children and recommends within FDA and to the Consumer Products Safety Commission, those drugs and substances requiring child resistent packaging or special precautionary labeling as required by Federal legislation.

Conducts and supports research on treatment of ingested toxic substances, on product modifications considered necessary to reduce their injury-producing characteristics, and on prevention techniques.

Provides medical support in developing warning and first aid statements for hazardous and potentially hazardous substances.

Develops and implements, in coordination with the Office of the Commissioner, education and information programs designed to reduce accidental poisonings.

(n–3–xiii) *Division of Drug Experience (HFNBN).* Develops and implements systems for the acquisition of data concerning drug experience and drug use trends; evaluates and disseminates such information to the Center and other organization within FDA.

Plans and conducts the research and development activities to evaluate and determine optimal media and techniques to meet the needs of health professionals and consumers concerning drug usage information.

Develops and monitors contracts to acquire drug experience data.

Evaluates socioeconomic implications of drug usage information.

Participates in World Health Organization programs to implement an international drug monitoring system.

(n–3–xiv) *Division of OTC Drug Evaluation (HFNBP).* Identifies and classifies over-the-counter (OTC) drugs into categories for review by appropriate panels; coordinates the collection of safety and effectiveness data on drugs to be reviewed.

Coordinates the establishment of, and provides technical and clerical support to, over-the-counter (OTC) advisory panels which make recommendations on standards for OTC drugs).

Receives, controls, and screens all OTC drug submissions including protocols; notifies sponsor of inadequate or deficient data; schedules and participates in industry/agency conferences.

Notifies Center components of OTC panel recommendations; obtains concurrence for final OTC recommendations from respective reviewing Center components.

Provides information regarding OTC advisory panel activities; assists in preparing official summary minutes, information memoranda, panel reports, and drug monographs.

Recommends Center actions based on OTC advisory panel evaluations.

Coordinates the development of each proposed, tentative final, and final drug monograph; provides technical assistance as required in implementing final drug monographs.

Develops and implements, in coordination with the Office of the Commissioner, consumer and professional educational programs including formal presentations relating to the OTC drug program; participates in Agency sponsored OTC drug consumer education programs.

(n–3–xv) *Division of Biopharmaceutics (HFNBQ).* Evaluates bioavailability and pharmacokinetic protocols and data in notices of claimed investigational exemption for new drugs (IND's), abbreviated new drug applications (ANDA's), new drug applications (NAD's), antibiotic application (Forms 5 and 6), and their supplements and amendments.

Approves, disapproves, or recommends new bioavailability and pharmacokinetic studies and/or protocols.

Identifies potential bioavailability problems and prepares protocols and guidelines for conducting bioavailability studies.

Reviews and evaluates drug disposition data, dosing regimen, and specialized drug delivery systems to assure bioavailability of drugs.

Coordinates the establishment of and provides technical and clerical support to biopharmaceutic advisory panels.

Assists in developing or revising drug monographs on the basis of bioavailability data.

Initiates, monitors, and conducts intramural biopharmaceutic research; identifies extramural research needs; initiates, monitors, and coordinates extramural research contracts with in-house activities.

(n–3–xvi) *Division of Generic Drug Monographs (HFNBR).* Evalutes medical and scientific data and determines approvability of original and amended abbreviated new drug applications (ANDA's), abbreviated antibiotic applications (Form 6), and their supplements.

Recommends withdrawal of approval of ANDA's.

Coordinates the review of ANDA and abbreviated antibiotic bioavailability protocols and resultant studies with the Division of Biopharmaceutics.

Serves as the primary source for information on current labeling, methods validation, and establishment inspection reports of ANDA's, abbreviated antibiotic applications, and old drug monographs.

Coordinates development and provides scientific inputs to generic drug monographs and subsequent revisions.

Evalutes the nonmedical aspects of human drug products for abbreviated antibiotic applications and their supplements.

Recommends and reviews regulations concerning human antibiotic products.

(n–3–xvii) *Division of Drug Biology (HFNBS).* Provides expert advice to the drug review divisions and other scientific and regulatory units of the Center on drug pharmacology and toxicology.

Plans and conducts research to investigate the utility of diverse animal and biochemical systems for the assay of drug products; performs bioassays by official and nonofficial methods to determine drug potency including testing insulin for the certification program.

Correlates bioanalytical findings with results of newly devised physicochemical methods of drug analysis in conjunction with the Division of Drug Chemistry.

Devises biological methods for the study and analysis of drugs.

Plans and conducts research to investigate the nature and properties of pharmacologically significant substances in biological systems.

Conducts research to investigate the metabolism of drugs, the mechanisms and identify of adverse drug reactions, the interactions between drugs and between drugs and chemicals in the environment, the neuroendocrine relationships, and the effects of drugs on behavior.

(n–3–xviii) *Division of Drug Chemistry (HFNBT).* Provides expert advice to the drug review divisions and other scientific and regulatory units of the Center on the chemistry of drugs and the methods of physicochemical identification of drugs and conducts special investigations upon request.

Appraises and improves current and proposed drug standards and specifications; validates NDA analytical procedures and reviews validation data from field laboratories.

Investigates the principles underlying the chemical reactions employed in the analysis of drugs.

Proposes and establishes specifications to standardize drugs and reference substances and cooperates with the United States Pharmacopoeia (USP), the National Formulary (NF), and the Association of Official Analytical Chemists (AOAC) in preparing official drug monographs which incorporate these specifications.

Participates in collaborative studies to test the validity of analytical methods proposed for adoption by the USP, NF, and AOAC. Plans and conducts research to devise new methods to detect, isolate, and disclose the chemical nature of potent and toxic substances occurring in drug products.

Plans and conducts research to investigate the utility of electronic, optical, radiometric, and other physicochemical instruments for the analysis of drugs.

Devises new methods for the examination of individual drugs that present analytical problems in accepted procedures and for the examination of minute drug quantities; subjects these new methods to collaborative study.

(n–3–xix) *National Center for Drug Analysis (HFNBU).* Tests large numbers of drug samples obtained through surveillance programs, FDA field consumer safety officers, and other Federal agencies to obtain drug analysis data for use by the review divisions and other scientific and regulatory units of the Center.

Devises new automated methods for the rapid analysis of large numbers of drug dosage forms; establishes and maintains the Drug Autoanalysis Manual.

Devises new methods and develops and/or acquires new equipment for the examination of individual drugs which present analytical problems in accepted procedures and new methods for the analysis of minute drug quantities of single dosage entities; subjects these new methods to collaborative study.

Participates in collaborative studies to test the validity of analytical methods proposed for adoption by the United States Pharmacopoeia (USP), National Formulary (NF), and Association of Official Analytical Chemists (AOAC).

Cooperates with the USP and NF in testing drug reference substances (other than antibiotics) for compliance with specifications.

(n–3–xx) *National Center for Antiobiotics Analysis (HFNBV).* Tests large numbers of antibiotic samples obtained through the certification program, surveillance programs, or other Federal agencies; provides expert advice on the analysis of the samples to the review divisions and other scientific and regulatory units of the Center.

Plans and conducts research on new and improved methods for the rapid analysis of large numbers of antibiotic samples and for the examination of individual antibiotics; subjects these new methods to collaborative study.

Devises and applies new methods for the analysis of antibiotic residues in tissues, body fluids, and other substances.

Plans and conducts research to determine the nature, extent, and significance of microbial, microscopic and other contaminants of drugs and investigates their effects on biological systems.

Participates in collaborative studies to test the validity of analytical methods proposed for adoption by the United States Pharmacopoeia (USP), National Formulary (NF), and Association of Official Analytical Chemists (AOAC) or in Antibiotic Forms 5 and 6.

Reviews and validates the analytical procedures included in Antibiotic Forms 5 and 6; assists in developing monographs for inclusion in the Code of Federal Regulations.

Cooperates with the World Health Organization (WHO), USP, and NF in testing and establishing reference standard drug substances for use in antibiotic analysis.

Tests, establishes, and maintains a collection of authenticated official antibiotic reference standard drug substances for distribution to FDA field laboratories, other Federal agencies, and

to industry participants in the Antibiotic Certification Program.

(n–4) *Office of Biologics (HFNC).* Administers regulation of biological products under the biological product control provisions of the Public Health Service Act and applicable provisions of the Federal Food, Drug, and Cosmetic Act.

Inspects manufacturers' facilities for compliance with standards, tests products submitted for release, establishes written and physical standards, and approves licensing of manufacturers to produce biological products.

Plans and conducts research related to the development, manufacture, testing, and use of both new and old biological products to develop a scientific base for establishing standards designed to insure the continued safety, purity, potency, and efficacy of biological products.

Administers applicable provisions of the Federal Food, Drug, and Cosmetic Act as they pertain to human drugs that are biological products.

In carrying out these functions, cooperates with other bureaus of FDA, other PHS organizations, governmental and international agencies, volunteer health organizations, universities, individual scientists, nongovernmental laboratories, and manufacturers of biological products.

(n–4–i) *Office of the Director (HFNCI).* Directs all Office activities and coordinates and establishes all Office policies.

Provides administrative support to the Office.

(n–4–ii) *Division of Compliance (Biologics) (HFNCA).* Plans, develops, and directs the Office's regulatory compliance programs to assure the safety, purity, potency, and efficacy of biological products.

Prepares standards for the manufacture and testing of biological products for publication in the **Federal Register.** Prepares procedural and interpretative regulations under the applicable sections of the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act, as amended.

Develops compliance and surveillance programs for investigation of biological product manufacturers, for the inspection of licensed establishments and registered blood banks, and for investigations of violations of laws and regulations; conducts investigations and inspections and recommends regulatory action as necessary.

(n–4–iii) *Division of Biologics Evaluation (HFNCB).* Implements the Agency's Bioresearch Monitoring Program for biologics intended for human use.

Develops standards for the conduct of clinical and preclinical investigations performed to demonstrate the safety and effectiveness of biologics.

Develops requirements for compliance programs in the area of preclinical and clinical biologics investigations.

Assigns, directs, and coordinates onsite inspections of sponsors and investigators of preclinical and clinical biologics studies, institutional review committees, and commercial clinical testing facilities in collaboration with FDA's field organization.

Reviews applications and data prior to approving the use of a biological product that has not been licensed; maintains surveillance of clinical use and develops information for use in licensing products.

Reviews data for licensing biological products (including human blood and blood products) and their manufacturers.

Coordinates preclinical and clinical biologics investigation activities within and outside the Office to promote maximum utilization of resources an consistency of policies.

Evaluates investigation reports and recommends administrative and regulatory corrective measures as necessary.

Plans and conducts edcuational and informational activities with regard to standards for preclinical and clinical biologics investigations.

(n–4–iv) *Division of Blood and Blood Products (HFNCC).* Plans and conducts research on the preparation, preservation, and safety of blood and blood products, the methods of testing safety, purity, potency, and efficacy of such products for therapeutic use, and the immunological problems concerned with products, testing, and use of diagnostic reagents employed in grouping and typing blood.

Tests such products to insure that required standards have been met.

Inspects manufacturers of blood and blood products.

Recommends eligibility of applicants and blood products for licenses.

Develops standards for blood and blood products.

(n–4–v) *Division of Virology (HFNCD).* Plans and conducts direct research related to the development, manufacture, testing, and use of both new and old biological products of certain viral and rickettsial origins.

Plans and conducts research on the fundamental aspects of viral and rickettsial infections to obtain data and results bearing on the continued or increased safety, purity, potency, and efficacy of viral and rickettsial biological products.

Serves as a tissue culture source for the Office.

Conducts research with a variety of primary and established cell line cultures.

Assists in collaborative research (guiding of contract-supported activities) concerning viral and rickettsial biological products.

Reviews scientific data, such as license applications, for certain new viral and rickettsial products and license amendments for old products submitted to the Office.

Evaluates certain viral and rickettsial products using both laboratory and clinical procedures.

Test certain viral and rickettsial vaccines submitted for release and reviews manufacturers protocols with respect to such tests.

Inspects manufacturers of biological products.

(n–4–vi) *Division of Bacterial Products (HFNCE).* Plans and conducts research on fundamental aspects of bacteriology and immunology relating bacterial and allergic diseases of man to obtain data bearing on the continued or increased safety, purity, potency, and efficacy of bacteriological, allergenic, and analogous biological products, including the development of new biological products and new or improved methods of control of old and new products.

Plans and conducts research on the interactions between cells in culture and single microorganisms or chemical agents. Develops techniques for studying *in vitro* functions of immunized cells.

Carries out control tests and reviews manufacturers' protocols on selected products to insure that specific requirements for release are satisfied.

Participates in the inspection of manufacturers of biological products.

Provides staff having appropriate expertise for the product under consideration to serve on licensing committees.

Develops, reviews, and revises technical standards pertaining to the control of bacterial, allergenic, and analogous products.

Assists in collaborative research and management of contract-supported activities.

(n–4–vii) *Division of Biochemistry and Biophysics (HFNCG).* Plans and conducts research on (1) the chemistry and biology of vaccines and other biological products, impurities, and/or unsuspected components of new products; (2) the pathogenesis of

infectious diseases caused by bacteria, rickettsia, viruses, and parasites; and (3) immunologic processes which may lead to morphologic alteration.

Develops biolchemical and biophysical methodology and bioassays for application to the control of existing and newly developed biological products derived from recombinant DNA technology.

Reviews scientific data supporting license applications and amendments for biological products and provides staff having appropriate exertise for the product under consideration to serve on licensing committees.

Carries out control test and reviews manufacturers' protocols to insure that specific requirements for release are satisfied.

Participates in the inspection of manufacturers of biological products.

Assists in collaborative research and management of contract-supported activities.

(n–4–viii) *Division of Product Quality Control (HFNCH).* Plans and conducts a developmental testing program of biological products such as vaccines, cell-derived antiviral and antitumor substances, and various blood components to develop standards designed to insure the safety, purity, potency, and efficacy of such products and to improve the existing test procedures.

Plans and conducts sterility, general safety, pyrogen, and potency tests on biological products submitted for release or in support of license applications; and when required, performs safety, neurovirulence, and potency tests on biological products using nonhuman primates and certain other animals; reviews manufacturer's protocols with respect to such tests.

Removes various tissues from primates and other animals as required for control testing and research as well as for the preparation of cell cultures.

Administers the biological products release program; coordinates processing of protocols submitted for licensing and for the release of lots of biologics manufactured under existing licenses; receives, maintains, and distributes accompanying samples of biological products for tesing within the Office; reviews recommendations by laboratory divisions concerning compliance with regulatory requirements and issues notification of release or rejection.

Establishes and distributes control preparations and reference reagents to licensed manufacturers, health agencies, and other control groups.

Recommends criteria for acceptability pertaining to the development of regulatory standards and reference reagents for new biological products.

Provides technical training for representatives of domestic and foreign biological establishments in relation to control testing procedures.

Inspects manufacturers of biological products and laboratories conducting nonclinical studies involving investigational new drugs.

Reviews scientific data included in license applications for new biological products and amendments for old products.

Serves as custodian for official complaint samples and coordinates testing and compilation of results.

Coordinates testing and reporting of tests performed as a WHO Reference Center.

Assists in collaborative research and management of contract-supported activities.

Prior Delegations of authority. Pending further delegations, directives, or orders by the Commissioner of Food and Drugs all delegations of authority to the Director of the Bureau of Drugs and the Director of the Bureau of Biologics are vested in the Director of the National Center for Drugs and Biologics and all delegations to any other officer or employee of the merged bureaus in effect prior to the date of this order shall continue in effect in them or their successors.

Dated: June 7, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-17002 Filed 6-21-82; 8:54 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

June 3, 1982.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.8(a) (formerly 25 CFR 54.8(a)) notice is hereby given that the Golden Hill Paugussett Tribe, c/o Mr. Aureluis H. Piper, 427 Shelton Road, Trumbull, Connecticut 06611 has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on April 13, 1982. The petition was forwarded and signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.8(d) formerly § 54.8(d) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20242.

Roy H. Sampsel,

Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 82-16831 Filed 6-21-82; 8:45 am]

BILLING CODE 4310-02-M

Lessees and Operators of Indian Oil and Gas Leases; Approval of Communitization Agreements

June 7, 1982.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of adoption of guidelines relating to approval of communitization agreements.

SUMMARY: On April 23, 1982, the Deputy Assistant Secretary—Indian Affairs (Operations) transmitted to all Area Directors new guidelines to assist them in exercising their authority to approve communitization agreements affecting Indian oil and gas leases. The guidelines are based upon a judicial determination of the scope of that authority in a recent decision of the U.S. Court of Appeals for the 10th Circuit. The purpose of this notice is to inform lessees and operators about the guidelines adopted, with particular emphasis on the need in the future to submit communitization agreements to the appropriate Bureau office not less than 90 days prior to the date of expiration of the first Indian lease within the proposed unit.

ADDRESS: Request for copies of the guidelines for approval of communitization agreements may be obtained from the Chief, Division of Energy and Minerals Office of Trust Responsibilities, Bureau of Indian Affairs, P.O. Box 26268, Belmar Branch, Lakewood, CO 83705.

FOR FURTHER INFORMATION CONTACT: David Baldwin (303) 234–6961, or Tom Riggs, (202) 343–3722.

SUPPLEMENTARY INFORMATION: It is the intent of the BIA that in exercising the Secretary's discretionary authority to approve or disapprove communitization or unit agreements, BIA officials should take into consideration the Indian owners' best interests and consider all of the factors, including economic considerations, as prescribed by the U.S. Court of Appeals in its decision in *Kenai Oil and Gas, Inc. v. Department of the Interior*, 671 F.2d 383 (February 17, 1982). In that decision the Court of Appeals held that the Superintendent of the Uintah and Ouray Agency properly exercised his judgment and discretion in refusing to approve proposed communitization agreements based upon a finding that they did not serve the best economic interests of the Indian lessors. The Plaintiff had argued that the Superintendent's considerations were limited to considering matters involving production and conservation on restricted Indian lands. The Court concluded that the Secretary, acting in his capacity as a trustee, has the responsibility to manage Indian lands so as to make them profitable for the Indian and to maximize lease revenues. Accordingly, the new guidelines require that in the future BIA Area Directors and Superintendents must prepare a written determination, based upon ligical engineering and economic facts, that a proposed agreement is in the best interests of the Indian lessor. The guidelines also require that the long term effects of the agreement must be in the best interests of the Indian lessor and these effects must be documented.

The Bureau is aware that the process of reaching the determinations required by the guidelines will require that Area Directors and Superintendents receive proposed agreements sufficiently in advance of the expiration of the primary term of any Indian lease within the proposed unit in order to conduct an adequate review of the engineering and economic factors involved.

Consequently, in order to ensure adequate consideration, lessees of Indian lands are encouraged to submit all future communitization agreements to the appropriate Bureau of Indian Affairs office not less than 90 days prior to the date of expiration of the first Indian lease in the proposed unit.

Kenneth Smith,

Assistant Secretary for Indian Affairs.

[FR Doc. 82-16832 Filed 6-21-82; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

District Grazing Advisory Board; Meeting.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting

SUMMARY: Notice is hereby given, in accordance with Pub. L. 94-579, that a meeting of the Ely District Grazing Advisory Board will be held Tuesday, July 27, 1982.

The meeting will convene at 9:00 a.m. (PDST) in the conference room of the BLM Ely District office in Ely, Nevada. The office is located south of Ely, Nevada on the Pioche Highway. The agenda for the meeting will include: (1) Election of officers of the board, (2) reading of the minutes of the December 10, 1981 meeting, (3) discussion of the Schell Resource Area Grazing Environmental Impact Statement, (4) Coordination of Rangeland Management Policy with Coordinated Resource Management Planning, (5) Schell selective Management Criteria, (6) Fiscal year 1983 Range Improvement Projects, (7) Public comment period, (8) expanded role of District Grazing Advisory Board, (9) Discussion of policy for maintenance of range improvements, and (10) Advisory Board recommendations.

The meeting will be open to the public. Interested persons may make oral statements to the board at 1:00 p.m. (PDST) on the day of the meeting. Written statements must be submitted to the Ely BLM office by close of business on July 26, 1982. Depending on the number of persons wishing to make oral statements, a time limit per person may be established by the District Manager.

Summary minutes of the Grazing Advisory Board meeting will be maintained at the District Office and will be available for public inspections and reproduction, at the cost of duplication during regular office hours.

DATE: July 27, 1982.

ADDRESS: Bureau of Land Management, Star Route 5, Box 1, Ely, Nevada 89301.

FOR FURTHER INFORMATION CONTACT:
Mr. John Barnes, 702-289-4865.

Dated: June 11, 1982.

George W. Cropper,

Acting District Manager.

[FR Doc. 82-16829 Filed 6-21-82; 8:45 am]

BILLING CODE 4310-84-M

[NM-51739]

Intent To Amend Southeast Oklahoma Management Framework Plan

AGENCY: Bureau of Land Management; Interior.

ACTION: Notice of Intent to Amend the Southeast Oklahoma Management Framework Plan.

SUMMARY: This notice is to advise the public that the Alburquerque, New Mexico District Office of the Bureau of Land Management (BLM) is reviewing and will amend a portion of the Southeast Oklahoma Management Framework Plan (MFP). The amendment process will allow for reevaluation of the potential for multiple-use management of the public land tracts in Oklahoma. Public lands not suitable for multiple-sue management will be identified for disposal.

SUPPLEMENTARY INFORMATION: The MFP amendment, planned for completion in October, 1982, will address the acceptability of approximately 1,13104 acres of public land for disposal.

The management decision will be made based on the following criteria: resolution of conflicts with existing MFP decisions, results of public participation and review, coordination with other federal and state agencies, and an analysis of those values that could additionally be impacted by designating the public lands as acceptable for disposal. Background standards and procedures for this MFP amendment preparation are contained in 43 CFR Part 1600 and 43 CFR Part 2700.

Anticipated issues include but are not limited to grazing, cultural resources, and socio-economics.

During the amendment process, an Environmental Assessment (EA)/Land Report will be prepared by staff specialists of the Oklahoma Resource Area Office. Disciplines to be represented include cultural resources, geology, hydrology, land use, recreation, socio-economics, soils, vegetation, visual resource management, and wildlife.

The public land tracts to be addressed for disposal are located in Haskell County, Oklahoma, and include the following:

Township 8 North, Range 22 E., of the Indian Meridian, Haskell County, OK.
Section 1: NW¼, N½ NW¼ SW¼;
Section 15: SW¼, N½ SE¼, S½ SE¼ NE¼, S½ SE¼ SW¼ NE¼;
Section 16: S½ SE¼;
Section 21: Townsite Addition No. 2: Lots 30, 47, 48, 49, 50, 60, 61, 62, 63, 64;
Section 22: Townsite Addition No. 2: Lots 5, 6, 7, 8, 9, 18, 19, 20, 19, 30;

Section 22: Townsite Addition No. 3: Lots 8, 9, 10, 11, 12, 13, 14;
Section 23: Townsite Addition No. 3: Lots 1, 2, 3;
Section 24: SW¼, W½ SE¼, SE¼ SE¼.

Public participation opportunities will be provided by: (1) Sending a notice of intent to amend the MFP to federal, state, and local governments that would be concerned with the plan or have land use regulatory authority in the vicinity of the proposed amendment, and asking them to identify issues and concerns; (2) Publishing a news release to appear in local newspapers asking interested parties to identify issues of concern and impacts that should be addressed; and (3) Making the amendment, containing an initial decision, available for a 30-day public comment and protest period in August, 1982; (4) A public meeting will also be held during the 30-day comment and protest period and will be announced by a news release to appear in local newspapers. A **Federal Register** Notice will be published explaining the initial decision of the District Manager. Protests will be received by the State Director for 30 days following the notice. The initial decision may become final no sooner than 30 days following the notice and after any protests are resolved.

FOR FURTHER INFORMATION CONTACT: Michael E. Cyr, Bureau of Land Management, Oklahoma Resource Area Office, Room 548, 200 NW Fifth Street, Oklahoma City, Oklahoma 73102, phone (405) 231–4481. Documents relevant to the planning process are available for public inspection at the above address.

Dated: June 14, 1982.

L. Paul Applegate,

District Manager, Albuquerque, Bureau of Land Management.

[FR Doc. 82-16830 Filed 6-21-82; 8:45 am]

BILLING CODE 4310-84-M

[INT FEIS 82-23]

Twin Falls Livestock Grazing Final Environmental Impact Statement; FEIS Availability

AGENCY: Bureau of Land Management, Interior.

ACTION: Twin Falls Livestock Grazing FEIS Availability.

SUMMARY: Pusurant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental impact statement for a proposed grazing management program for the Twin Falls Planning Unit of the Burley District in southcentral Idaho. The proposal involves changes in initial stocking rates, implementing improved grazing systems, and installation of certain range improvements. Approximately 231,000 acres of public lands are involved.

SUPPLEMENTARY INFORMATION: Copies of the final environmental impact statement are available for inspection at the following locations:

Burley District Office, Bureau of Land Management, Route 3, Box 1, Burley, ID 83318, Telephone: (208) 678–5514
Idaho State Office, Bureau of Land Management, Federal Building, 550 West Fort Street, Boise, ID 83724, Telephone: (208) 334–1770
Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets, NW., Washington, D.C. 20240

A limited number of single copies may be obtained from the Idaho State Director or the Burley District Manager, Bureau of Land Management, at the above addresses.

FOR FURTHER INFORMATION CONTACT: Nick Cozakos, District Manager, or Scott Anderson, Magic Resource Area Manager, Burley District Office, Telephone: (208) 678–5514.

Dated: June 14, 1982.

Clair Whitlock,

Idaho State Director.

[FR Doc. 82-16838 Filed 6-21-82; 8:45 am]

BILLING CODE 4310-84-M

[Int DEIS 82-34]

Proposed Livestock Grazing Management Program for the Schell Resource Area Ely District, Nev.; Availability of Draft Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the draft environmental impact statement (DEIS).

SUMMARY: Pursuant to Section 102(2) of the National Environmental Policy Act of 1969, the BLM Ely District has prepared a DEIS on a proposed livestock grazing management program for the Schell Resource Area.

The Draft document consists of a summary of impacts, alternatives including the proposed action, the affected environment, environmental consequences, list of preparers and public participation.

SUPPLEMENTARY INFORMATION: The Schell Grazing EIS analyzes the effects of a proposed grazing management program on livestock, big game, and wild horses on 4.2 million acres of public lands in White Pine, Nye and Lincoln Counties, Nevada. The proposal includes recommended continuation of current grazing management levels, monitoring usage and adjusting usage to correct program deficiencies. Periods-of-use, utilization levels, grazing treatments, and range improvements will be used to limit severity of future adjustments. Four alternatives were considered along with the proposed action. They are: No Action alternative, No Livestock Grazing alternative, Grazing at Preference alternative and Resource Protection alternative.

Two public Hearings will be held on the Draft Environmental Impact Statement (DEIS). First at the Pioneer Inn, Reno, Nevada, July 12, 1982, at 7:00 p.m. Second will be at the Bristlecone Convention Center at Ely, Nevada, July 13, 1982, at 7:00 p.m. Written comments will be accepted until August 17, 1982, and should be submitted to: George Cropper, Acting District Manager, Attention: EIS Team Leader, Ely District Office, Star Route 5, Box 1, Ely, Nevada 89301; (702) 289–4865.

Copies of the DEIS are available for review at the following locations:

Bureau of Land Management, Nevada State Office, 300 Booth Street, Reno, Nevada 89509; (702) 784–5448
Bureau of Land Management, Elko District Office, 2002 Idaho Street, Elko Nevada 89801; (702) 738–4071
Bureau of Land Management, Winnemucca District Office, 705 E. 4th Street, Winnemucca, Nevada 89445; (702) 623–3676
Bureau of Land Management, Carson City District Office, 1050 E. William Street, Carson City, Nevada 89701; (702) 882–1631
Bureau of Land Management, Ely District Office, Star Route 5, Box 1, Ely, Nevada 89301; (702) 289–4865
Bureau of Land Management, Las Vegas District Office, 4765 W. Vegas Drive, Las Vegas, Nevada 89102; (702) 385–6403
Bureau of Land Management, Battle Mountain District Office, North 2nd & Scott Streets, Battle Mountain, Nevada 89820; (702) 635–5181
Bureau of Land Management, Tonopah Resource Area, Building 102 Old Radar Base, Tonopah, Nevada 89049

Also, copies are available for review at the following public libraries:

Lincoln County Library, Caliente, Nevada 89008
Lincoln County Library, Pioche, Nevada 89043
Clark County Library, 1401 E. Flamingo Road, Las Vegas, Nevada 89109
Nevada State Library, Library Building, Carson City, Nevada 89710

University of Nevada, Las Vegas, James R. Dickenson Library, 4505 Maryland Parkway, Las Vegas, Nevada 89154
White Pine County Library, Campton Street, Ely, Nevada 89301
University of Nevada, Reno, Getchell Library, Reno, Nevada 89507

A limited number of copies of the draft EIS are available upon request to the Ely District Manager at the above address.

Dated: June 14, 1982.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 82-16639 Filed 6-21-82; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications; Houston Zoological Gardens and Philadelphia Zoological Society

The applicants listed below wish to conduct certain activities with endangered species:

Applicant: Houston Zoological Gardens, Houston, TX PRT 2-9288.

The applicant requests a permit to purchase in interstate commerce one male and one female Asian elephant (*Elephas maximus*) from Mr. Kenneth Berry, Seattle, WA., for enhancement of propagation.

Applicant: Philadelphia Zoological Society, Philadelphia, PA PRT 2-9272.

The applicant requests a permit to import serum extracted from a captive-born snow leopard (*Panthera uncia*) at the Jersey Wildlife Preservation Trust, Channel Island, for scientific research.

Humane care and treatment during transport, if applicable, has been indicated by the applicants.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications on or before July 22, 1982, by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: June 16, 1982.

Robert J. Batky,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82-16621 Filed 6-21-82; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application for Permit; Carle Foundation Hospital

Notice is hereby given that an applicant has applied in due form for a permit to take polar bears as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the regulations governing the taking and importing of Marine Mammals (50 CFR Part 18).

1. Applicant: Carle Foundation Hospital, 611 West Park Street, Urbana, Illinois 61801.

2. Type of permit: Scientific Research.

3. Name and number of animals: Polar bear (*Ursus maritimus*)—2.

4. Type of Activity: Capture.

5. Location of Activity: Alaska or Canada.

6. Period of Activity: September 1, 1982 to August 31, 1983.

The purpose of this application is to capture two polar bears and transport them to Carle Foundation Hospital for long-term scientific research. The animals will be held for up to twenty-five (25) years to study their food intake patterns and changes in biochemistry.

Concurrent with the publication of this notice in the **Federal Register** the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Manual Commission and the Committee of Scientific Advisors.

The application has been assigned file number PRT 2-9221. Written data or views, or requests for copies of the complete application or for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203, on or before July 22, 1982. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this notice are summaries of those of the applicant and do not necessarily reflect the views of the United States Fish and Wildlife Service.

Documents submitted in connection with the above application are available for review during normal business hours in Room 605, 1000 North Glebe Road, Arlington, Virginia.

Dated: June 16, 1982.

Robert J. Batky,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82-16622 Filed 6-21-82; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application for Permit; Donald B. Siniff

Notice is hereby given that an applicant has applied in due form for a permit to take sea otters as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the regulations governing the taking and importing of Marine Mammals (50 CFR Part 18).

1. Applicant: Donald B. Siniff, 108 Zoology Building, University of Minnesota, Minneapolis, MN 55455.

2. Type of permit: Scientific Research.

3. Name and number of animals: Sea otter (*Enhydra lutris*)—160.

4. Type of Activity: Capture, tag, implant radio transmitter, collect blood samples and release.

5. Location of Activity: Pt. Pinos to Ragged Point, California and Prince William Sound, Alaska.

6. Period of Activity: July 1, 1982 to June 30, 1985.

The purpose of this application is to capture, tag, implant radio transmitters, and collect blood samples from sea otters to clarify the status of the population in California and the probable impact of removing animals for translocation purposes, to work out proposed implant procedures for radio transmitters, and to examine the degree of genetic diversity in the California and Alaska populations.

Concurrent with the publication of this notice in the **Federal Register** the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

The application has been assigned file number PRT 2-9246. Written data or views, or requests for copies of the complete application or for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203, on or before July 22, 1982. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this notice are summaries of those of the applicant and do not necessarily reflect the views of the United States Fish and Wildlife Service.

Documents submitted in connection with the above application are available for review during normal business hours in Room 605, 1000 North Glebe Road, Arlington, Virginia.

Dated: June 16, 1982.

Robert J. Batky,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82-16823 Filed 6-21-82; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Request for Comments From the Public and Industry on the Requirement for Complete Documentation of Crude Oil From Point of Origin to Final Destination

AGENCY: Minerals Management Service, Interior.

ACTION: Request for comments.

SUMMARY: The Minerals Management Service (MMS), formerly the Conservation Division of the U.S. Geological Survey (USGS), is considering recommendations for legislative action that would require the complete documentation of oil produced on Federal, Indian, and Outer Continental Shelf (OCS) lands from point of origin at the lease site to final destination. Thus, any person in possession of crude oil, including any operator, transporter, refiner, or other purchaser, would need proper documentation to validate the ownership of that crude oil through each exchange and resale until the oil reached its final destination. This legislation, if enacted by the Congress, would fulfill one of the recommendations of the Commission on Fiscal Accountability of the Nation's Energy Resources and affect approximate revision of 30 CFR Parts 221 and 250.

DATES: Written comments and recommendations must be received on or before July 22, 1982.

ADDRESS: Written comments may be mailed or delivered to Mr. Gerald R. Daniels, Acting Chief, Onshore Oil, Gas, and Geothermal Division, Minerals Management Service—MS650, 12203 Sunrise Valley Drive, Room 6A114, Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald R. Daniels, (703) 860-7535 (FTS 928-7535).

SUPPLEMENTARY INFORMATION: On January 19, 1982, the Secretary of the Interior established the Minerals Management Service and transferred to it all functions previously exercised by the Conservation Division, U.S. Geological Survey, including administration of the regulatory programs cited herein. Secretarial Order No. 3071 (47 FR 4751, February 2, 1982).

The Commission on Fiscal Accountability of the Nation's Energy Resources made the following recommendation regarding the documentation of oil (Report, January 1982, p. 96):

> That the department seek Federal legislation to prohibit the purchase of undocumented crude oil and require purchasers of crude oil up to and including refiners to keep documentation showing from whom they purchased the product and from what lease or unit.

At the present time MMS does not require transporters, refiners, reclaimers, resellers, pipeline operators, and other oil purchasers to have or seek proof of ownership before purchasing crude oil produced on Federal, Indian, or OCS lands. If enacted, this Federal legislation would require any person in possession of crude oil to have proper documentation to validate the ownership of that oil through each exchange or resale to point of final destination.

MMS is seeking comments from industry and interested parties concerning the effect of legislation of this nature. Comments are also welcomed concerning any possible alternatives to the legislation described above.

Dated: June 16, 1982.

Robert E. Baldt,

Acting Associate Director for Royalty Management.

[FR Doc. 82-16782 Filed 6-21-82; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 21, 1982. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by July 7, 1982.

Carol D. Shull,

Acting Keeper of the National Register.

INDIANA

Vanderburgh County

Evansville, *Siegel's Department Store (Downtown Evansville Multiple Resource Area)*, 101—105 SE 4th St.

[FR Doc. 82-16813 Filed 6-21-82; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before June 11, 1982. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by July 7, 1982.

Carol D. Shull,

Acting Keeper of the National Register.

ARIZONA

Maricopa County

Mesa, *Scott, Robert, House*, 2230 E. Granview St.

Phoenix, *Ong's, Jim, Market*, 1110 E. Washington St.

Pima County

Tucson, *Hotel Heidel*, 345 Toole Ave.

CALIFORNIA

Butte/Glenn Counties

Hamilton City, *Gianella Bridge*, CA 32

Los Angeles County

South Pasadena, *South Pasadena Historic District*, Roughly bounded by Mission and El Centro Sts., and Fairview and Meridian Aves.

Merced County

Merced, *Leggett, Thomas H., House*, 346 W. 21st St.

FLORIDA

Alachua County

Gainesville, *Dixie Hotel, Hotel Kelley*, 408 W. University Ave.

GEORGIA

Brooks County

Quitman, *Quitman Historic District*, US 84

IDAHO

Bonner County

Coolin vicinity, *Vinther and Nelson Cabin,* Eight Mile Island

IOWA

Hamilton County

Webster, *Webster City Post Office,* 801 Willson Ave.

Polk County

Des Moines, *Cummins, Albert Baird, House,* 2404 Forest Dr.

KENTUCKY

McCracken County

Paducah, *Jefferson Street—Fountain Avenue Residential District,* Jefferson and Madison Sts., Broadway, Fountain Ave., and Harahan Blvd.

MAINE

Franklin County

Kingfield, *Norton, William F., House,* 1 Stanley Ave.

Kennebec County

Augusta, *Maine Insane Hospital,* Hospital St.
Readfield, *Readfield Union Meeting House,* Church Rd.

Penobscot County

Bangor, *Hammond Street Congregation Church,* Hammon and High Sts.

Washington County

Calais, *St. Anne's Episcopal Church,* Church St.

Knox County

Vinalhaven, *Browns Head Light Station,* Browns Head

MARYLAND

Allegany County

Cumberland, *Koon, Thomas, House,* 221 Baltimore Ave.

Anne Arundel County

Sandy Point State Park vicinity, *Sandy Point Shoal Light,*

Baltimore County

Chesapeake Bay, *Craighill Channel Range Front Light,*
Fort Howard vicinity, *Western North Point,*

Cecil County

Calvert vicinity, *Kirk, Elisha, House,* MD 273
Elk Neck, *Turkey Point Light,*

Dorchester County

Hoopersville vicinty, *Hooper Island Light,*

Queen Annes County

Kent Point (Kent Island) vicinity, *Bloody Point Bar Light,*

St. Marys County

Dameron vicinity, *Point No Point Light,*

Talbot County

Tilghman Island vicinity, *Sharps Island Light,*

Allegany County

Cumberland, *Haley, Francis, House,* 634 Maryland Ave.

MASSACHUSETTS

Essex County

Gloucester, *Central Gloucester Historic District,* Roughly bounded by Middle, Main, Center, Hancock, Short, Prospect and Pleasant Sts.

Middlesex County

Concord, *Wheeler-Merriam House,* 477 Virginia Rd.
Newton, *Farlow and Kendrick Parks Historic District,* Roughly bounded by Franklin, Park, Church, Center and Wesley Sts. and Maple Ave.

Worcester County

Leominster, *Monument Square Historic District,* Main and Water Sts., and Grove Ave.
Leominster, *Wachusett Shirt Company,* 97—100 Water St.

MICHIGAN

Chippewa County

Sault St. Marie, *Church of Our Savior, Friend of Children,* Payment Settlement and Sugar Island

Hillsdale County

Hillsdale vicinity, *Kirby, William R., Sr., House,* 377 State Rd.

Washtenaw County

Ypsilanti, *Brinkerhoff-Becker House,* 601 W. Forest Ave.

Wayne County

Detroit, *The Clay School,* 453 Martin Luther King, Jr., Blvd.
Grosse Pointe Farms, *Alger, Russell A., Jr., House,* 32 Lake Shore Dr.

MISSISSIPPI

Humphreys County

Lake City vicinity, *Slate Archaeological Site (22 Hu655),*

NEBRASKA

Lancaster County

Lincoln, *Ryons-Alexander House,* 1835 Ryons St.

NEW JERSEY

Burlington County

Burlington Township, *Green Hill Farm,* Oxmead and Deacon Rds.
Chesterfield vicinity, *Holloway, James and Charles B., Farm Complex,* Newbold La.
Chesterfield, *Holloway Agricultural Preserve,* Georgetown Rd.

Camden County

Haddonfield, *Haddonfield Historic District,* Roughly bounded by Washington, Hopkins, Summit, and E. Park Aves., and Kings Highway

Monmouth County

Asbury Park, *Steinbach-Cookman Building,* Cookman Ave.

Morris County

Harding, *New Vernon Historic District,* Lee's Hill, Village, Mill Brook and Glen Alpin Rds.

Ocean County

Island Heights, *Island Heights Historic District,* Roughly bounded by Toms River, Summit and River Aves.

Passaic County

Paterson, *Cooke, Frederick William, Residence,* 384 Broadway

Somerset County

Bedminster, *Pluckemin Village Historic District,* US 206 and Burnt Mills Rd.
Rocky Hill, *Rocky Hill Historic District,* Washington, Montgomery, and Princeton Aves.

NEW MEXICO

Taos County

Taos, *La Loma Plaza Historic District,* NM 240

NEW YORK

New York County

New York, *House at 203 East 29 Street,* 201—203 E. 29th St.
New York City, *Candler Building,* 220 42nd St. and 221 41st St.
New York, *Church of the Incarnation and Parish House,* 205—209 Madison Ave.

Putnam County

Philipstown vicinity, *Old Albany Post Road,* US 9

Richmond County

Staten Island, *Ward, Caleb T., Mansion,* 141 Nixon Ave.

Ulster County

Libertyville vicinity, *DuBois, Hendrikus, House,* 600 Albany Post Rd.
Village of Saugerties, *Main-Partition Streets Historic District,* Roughly bounded by Main, Partition, Market and Jane Sts.

Westchester County

Yonkers, *Yonkers Water Works,* Roughly bounded by Saw Mill River and Grassy Sprain Rds., and Gilmar Dr.

OHIO

Hamilton County

Cincinnati, *Wilson-O'Neil, House,* 1502 Aster Pl.

Stark County

Canton, *Old McKinley High School,* 800 N. Market St.

Union County

North Lewisburg, *The Fort,* 26936 N. Lewisburg Rd.

OKLAHOMA

McIntosh County

Eufaula vicinity, *The First Soil Conservation District Dedication Site,* N. of Eufaula

OREGON

Jackson County

Ashland, *Lithia Park*, 59 Winburn Way

Marion County

Mt. Angel, *Queen of Angels Priory*, 840 S. Main St.

Multnomah County

Portland, *Meier and Frank Building*, 621 SW. 5th Ave.

Washington County

Cornelius, *Sholes, Albert S., House*, 1599 S. Alpine St.

Yamhill County

Sheridan, *Travelers Home*, 147 NE Yamhill St.

PENNSYLVANIA

Berks County

Douglassville, *Bonnecroft*, R.D. #2, Box 379, Oley Line Rd.

Chester County

Thornbury, *Barnard, William J., Residence/ Thornbury Lodge*, 920 E. St. Rd., and PA 926

Fayette County

N. Union, *Springer Farm*, PA 51

Jefferson County

Brookville, *Taylor, Phillip, House*, Euclid Ave.

Montgomery County

Marlborough, *Bauern Freund Print Shop*, PA 53

Philadelphia County

Philadelphia, *1900 Rittenhouse Square Apartments*, 1900 S. Rittenhouse Sq.
Philadelphia, *Jayne, Horace, Residence*, 320 S. 19th St.
Philadelphia, *Uptown Theater and Office Building*, 2240–2248 N. Broad St.

PUERTO RICO

Arecito County

Arecibo, *Casa Ulanga*, #7 Gonzalo Marin St.
Santurce, *Polvorin de Miraflores*, Antigua Base Naval de Miramar

SOUTH DAKOTA

Stanley County

Ft. Pierre vicinity, *Lower Antelope Creek Site (39ST108)*

TEXAS

Brown County

Brownwood, *Walker, J. A., House and Rogers, R. B., House*, 701 and 707 Center Ave.

Ellis County

Waxahachie, *Rosemont House*, 701 S. Rogers

Hidalgo County

Linn vicinity, *San Juanito Archeological District*, TX 1017

Lynn County

Tahoka, *Lynn County Courthouse*, Public Sq.

McLennan County

Waco, *Cooper, Madison, House*, 1801 Austin Ave.

TEXAS

Taylor County

Abilene, *U.S. Weather Bureau Building*, 1482 N. 1st St.

Travis County

Austin, *Sampson, George W., House*, 1003 Rio Grande

UTAH

Salt Lake County

Midvale, *Salt Lake County Library*, 80 E. Center St.

Sanpete County

Ephraim, *Johnson-Nielson House*, 351 N. Main St.

Uintah County

Vernal, *Curry, Lewis, House*, 169 S. Vernal Ave.

Utah County

Provo, *Maeser School*, 150 S. 500 E.

Washington County

Zion Lodge Historic District, Zion National Park

VIRGINIA

Lynchburg (Independent City)

Courthouse Street Baptist Church, 6th and Court Sts.

Accomack County

Accomack, *Accomack Historic District*, Business Rte. 13

Albemarle County

Charlottesville vicinity, *Carrsbrook*, VA 1424
Charlottesville vicinity, *Ednam House*, US 250
Greenwood vicinity, *Emmanuel Church*, US 250

Alleghany County

Callaghan, *Wood Hall*, VA 600
Covington, *Persinger House*, VA 788
Falling Spring vicinity, *Massie House*, US 220
Selma vicinity, *Oakland Grove Presbyterian Church*, VA 666

Augusta County

Grottoes vicinity, *Harnsberger Octagonal Barn*, VA 256 and VA 865
Middlebrook vicinity, *Miller, A. J., House*, VA 639

Brunswick County

White Plains vicinity, *Brick House (Woodlands)*, VA 659

Carroll County

Hillsville, *Carroll County Courthouse*, 515 Main St.

Craig County

Craig Springs, Craig Healing Springs, VA 666

Floyd County

Floyd vicinity, *Zion Lutheran Church and Cemetery, VA 693*

Franklin County

Rocky Mount, *Woods-Meade House*, 118 Maple St.

Frederick County

Bartonsville vicinity, *Hite, John, House*, US 11
Bartonsville vicinity, *Springdale Mill Complex*, US 11

Greensville County

Cowie Corner vicinity, *Weaver House*, VA 614
Hampton (Independent City)
Little England Chapel, 4100 Kecoughtan Rd.
Harrisonburg (Independent City)
Hockman, Anthony, House, E. Market and Broad Sts.

Loudoun County

Aldie vicinity, *Loudoun Argicultural and Mechanical Institute, VA 650*
Lynchburg (Independent City)
Sandusky House, 757 Sandusky Dr.

Pittsylvania County

Chatham, *Clerk's Office*, Main St.

Pulaski County

Pulaski, *Pulaski County Courthouse*, Main St.
Richmond (Independent City)
Cathedral of the Sacred Heart, Floyd Ave. and Laurel St.
Virginia Union University, 1500 N. Lombardy St.

Rockingham County

Broadway, *Bethlehem Church*, VA 790
Grottoes, *Harnsberger, Stephen, House*, Holly Ave.

Smyth County

Atkins vicinity, *Old Stone Tavern*, US 11

Southampton County

Newsoms, *Sunnyside*, VA 673
Staunton (Independent City)
Breezy Hill, 1220 N. Augusta St.
Waverly Hill, 3001 N. Augusta St.

Tazewell County

Tazewell vicinity, *Chimney Rock Farm*, VA 91

WISCONSIN

Dane County

Madison vicinity, *Mann, John, House*, 6261 Nesbitt Rd.

Jefferson County

Jefferson vicinity, *Pitzner Site (47 Je 676)*, Martin Rd.
Lake Mills, *Fargo, Enoch J., House*, 406 Mulberry St.

[FR Doc. 82-16614 Filed 6-21-82; 9:45 am]
BILLING CODE 4310-70-M

Availability of Plan of Operations for the Purpose of Oil Drilling Operations; Big Cypress National Preserve

In accordance with § 9.52 of Title 36 of the Code of Federal Regulations, Big Cypress National Preserve has received from Exxon Company, U.S.A., a Plan of

Operations for the purpose of oil drilling in the Bear Island area of the Preserve. The public is invited to review and comment on the Plan of Operations, copies of which are available for review during normal business hours at Everglades National Park, Route 27, 12 miles south of Homestead, Florida; Big Cypress National Preserve, Ochopee, Florida; Miami-Dade Public Library System, Main Library, 1 Biscayne Boulevard, Miami, Florida; Collier County Public Library, 650 Central Avenue, Naples, Florida; and at the National Park Service, Southeast Regional Office, 75 Spring Street, S.W., Atlanta, Georgia. Comments received on or before July 22, 1982 will be entered into the official record. For further information, contact Pat Tolle, Management Assistant, Everglades National Park (305) 247–6211.

Dated: June 4, 1982.

Robert M. Baker,

Regional Director, Southeast Region.

[FR Doc. 82-16837 Filed 6-21-82; 8:45 am]

BILLING CODE 4310-70-M

[A16 (SAMO)]

Santa Monica Mountains National Recreation Area Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Santa Monica Mountains National Recreation Area Advisory Commission will be held on Tuesday, July 13, 1982 at 7:30 p.m. in the multi-purpose room at Paul Revere Junior High School at 1450 Allenford Avenue in Los Angeles, CA.

The Advisory Commission was established by Pub. L. 95–625 to provide for free exchange of ideas between the National Park Service and the public to facilitate the solicitation of advice of other counsel from members of the public on problems pertinent to the National Park Service in Los Angeles and Ventura Counties.

Members of the Commission are as follows:

Dr. Norman P. Miller, Chairperson
Honorable Marvin Braude
Ms. Sarah Dixon
Ms. Margot Feuer
Dr. Henry David Gray
Mr. Edward Heidig
Mr. Frank Hendler
Ms. Mary C. Hernandez
Mr. Peter Ireland
Mr. Bob Lovellette
Ms. Susan Barr Nelson
Mr. Carey Peck
Mr. Donald Wallace

The major agenda item include the following:

Review of the Management of Parkland Study Commitee reports including the Resource Management Committee
Revision of Bylaws for clarification
Superintendent's status report

The meeting is open to the public. Any member of the public may file with the Commission a written statement concerning issues to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact the Superintendent, Santa Monica Mountains National Recreational Area, 22900 Ventura Boulevard, Suite 140, Woodland Hills, California 91364.

Minutes of the meeting will be available for public inspection by August 31, 1982, at the above address.

Dated: June 9, 1982.

William Webb,

Acting Superintendent, Santa Monica Mountains National Recreation Area.

[FR Doc. 82-16812 Filed 6-21-82; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Volume No. 269]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided June 15, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian Carrier Applicants

In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC–157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922 (h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Ewing, and Williams.

Agatha L. Mergenovich,

Secretary.

MC 52673 (Sub-32)X, filed June 7, 1982. Applicant: FRED OLSON MOTOR SERVICE CO., 6022 West State St., Milwaukee, WI 53213. Representative: William D. Brejcha, 180 N. Michigan, Suite 1700, Chicago, IL 60601. Sub 31 Certificate: broaden from cement to "clay, concrete, glass or stone products, chemicals and related products."

MC 61396 (Sub-404)X, filed June 4, 1982. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, NE 68101. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. Sub-Nos. 3F and 5F permits, Broaden (1) to "food and related products" from flour and middlings, Sub-No. 3F, and from flour, wheat germ and animal feed, Sub-No. 5F; (2) remove in bags and in bulk restrictions; Sub-No. 5F; and (3) to "between points in the U.S. (except AK and HI)" under continuing contracts with named shippers.

MC 96165 (Sub-22)X, filed June 1, 1982. Applicant: T. DEL FARNO TRUCKING CO., 30 Lockbridge St., Pawtucket, RI 02860. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108 . Lead and Subs 9, 11, 14F, 15F, 16F, 19, 20, and 21 (A) broaden the commodity descriptions from (1) cinder blocks to "clay, concrete, glass or stone products", in the lead; (2) monuments and cast stone to "metal products and clay, concrete, glass or stone products", in the lead; (3) granite, marble, and limestone to "clay, concrete, glass or stone products, and ores or minerals" in the lead; (4) unfinished granite stone (including waste, rubble, and riprap) in bulk, in dump vehicles, or dump semitrailers to "clay, concrete, glass or

stone products, and waste or scrap materials", in the lead; (5) fertilizer to "chemicals and related products", in Sub 9; (6) materials and equipment used in road building to "construction materials and equipment", in Sub 9; (7) road building machinery to "machinery", in Sub 9; (8) steel piling to "metal products", in Sub 11; (9) steel pipe, pipe, fittings, beams, piling, rails, railway track accessories, pile drivers, pile extractors, and parts and materials and supplies used in the manufacture, installation, dismantling and distribution of same to "metal products, lumber and wood products, machinery, transportation equipment and materials and supplies used in their manufacture, installation, dismantling and distribution", in Sub 14; (10) road construction and excavating materials and road building machinery, the transportation of which because of size and weight requires the use of special equipment to "construction materials, machinery, and those commodities which because of size or weight requires the use of special equipment", in Sub 15; (11) construction and road building machinery, materials, supplies, and equipment, the transportation of which because of size or weight requires the use of special equipment to "construction materials, machinery, transportation equipment and those commodities which because of their size or weight requires the use of special equipment", in Sub 15; (12) machinery, and commodities requiring specialized handling or rigging because of their size or weight to "machinery, and those commodities which because of their size or weight requires the use of special handling or equipment", in Sub 15; (13) iron and steel articles to "metal products", in Sub 16; (14) steel piling to "metal products", in Sub 16; (15) pile driving equipment and parts and accessories for pile driving equipment to "transportation equipment and machinery", in Sub 16; (16) road construction and excavating materials, and road building machinery to "construction materials and machinery", in Sub 19; (17) construction and road building machinery, materials, supplies, and equipment, the transportation of which because of their size or weight requires the use of special equipment to "those commodities which because of their size or weight requires the use of special handling or equipment", in Sub 19; (18) machinery, electrical equipment, and commodities requiring specialized handling or rigging because of their size or weight to "machinery, metal products, and those commodities which because of their size or weight requires the use of special handling or equipment", in Sub 19; (19) such self-propelled articles, each weighing 15,000 lbs. or more, which may be included in construction and road-building machinery, materials, supplies, and equipment, and related machinery, tools, parts, and supplies moving in connection therewith to "transportation equipment, machinery, metal products and lumber and wood products", in Sub 19; (20) machinery, exhibition material, and commodities requiring special handling or rigging because of their size or weight to "machinery, exhibition material, and those commodities which because of their size or weight requires the use of special handling or equipment", in Sub 21; (21) machinery, and commodities requiring special handling or rigging because of their size or weight to "machinery, and those commodities which because of their size or weight requires the use of special handling or equipment", in Sub 21; (22) machine parts, contractors' equipment, and heavy and bulky articles to "machinery, contractors' equipment, and those commodities which because of their size or weight requires the use of special handling or equipment", in Sub 21; and to (B) expand the points in (1) Providence, RI and North Providence, RI to Providence, Kent, Washington, and Bristol Counties, RI, and Norfolk and Bristol Counties, MA, in the lead; (2) Uxbridge, MA to Worcester County, MA, in the lead; (3) Woburn and Boston, MA and Lebanon, NH to Suffolk, Norfolk, Middlesex, Essex, and Plymouth Counties, MA and Grafton County, NH, in Sub 9; (4) Albany, Center Brunswick, Troy, and Whitehall, NY and West Lebanon, NH to Albany, Rensselaer, Saratoga, Schenectady, and Washington Counties, NY and Grafton County, NH, in Sub 9; (5) Pawtucket, RI, to Providence, and Bristol Counties, RI, and Norfolk and Bristol Counties, MA, in Subs 11 and 16; (6) Parkersburg and Washington, WV to Wood County, WV, in Sub 14; (7) Old Bridge, NJ to Middlesex County, NJ, in Sub 16; (8) Bridgeport, CT to Fairfield County, CT, in Sub 16; (9) North Kingstown, RI to Washington County, RI, in Sub 20; (C) remove restrictions of (1) in bulk, in dump trucks, tank vehicles, or dump semi-trailers, in the lead and Subs 14 and 15, (2) seasonal operations, in Sub 9; (3) facilities of named shipper at specific points, in Sub 14; (4) against service performed in connection with the stringing or picking up of pipe in connection with oil, gas, or gasoline pipelines, in Subs 19 and 20; (5) weight limitations, in Sub 19; (6) authorize radial authority for one-way authorities in the lead and Sub 9.

MC 111310 (Sub-72)X, filed May 27, 1982. Applicant: MILLIS TRANSFER, INC., P.O. Box 352, Black River Falls, WI 54615. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703. Lead and Subs 1, 12, 15, 16, 18, 19, 20, 24, 25, 27, 29F, 30F, 33F, 34F, 36F, 37F, 38F, 42F, 48F, 49F, 50F, 51F, 54F, 58F, 59F, 60F, and 61F: (1) Broaden (a) malt beverages, empty malt beverage containers, carbonated beverage, used empty malt beverage containers, malt beverage dispensing equipment in mixed loads, related advertising materials and supplies, mineral water, water, meats, meat product, meat by-products and articles distributed by meat packing houses, and beverages to "food and related products" in the lead and Subs 1, 12, 15, 16, 18, 20, 25, 27, 30F, 34F, 36F, 37F, 38F, 42F, 48F, 49F, 50F, 51F, 59F, 60F, and 61F; (b) glass containers to "clay, concrete, glass or stone products" in Sub 24; and (c) paper products, and plastic products to "pulp, paper and related products and rubber and plastic products" in Sub 58F; (2) eliminate facility limitations in Subs 18, 30F, 50F and 54F; (3) change one-way to radial; (4) broaden Menomonie to Dunn County, WI; Hartland to Waukesha County, WI; Cold Spring to Stearns County, MN; Lafayette to Tippecanoe County, IN; Michigan City to La Porte and Porter Counties, IN; La Crosse to La Crosse County, WI; Sparta to Monroe County, WI; Eau Claire to Eau Claire County, WI; Reedsburg to Sauk County, WI, Wausau to Marathon County, WI; Shakopee to Scott County, MN; Rosemount to Dakota County, MN; St. Cloud to Stearns, Sherburne and Benton Counties, MN; Algoma to Kewaunee County, WI; Peoria to Peoria, Woodford and Tazewell Counties, IL; Terre Haute to Vigo County, IN; New Ulm to Brown and Nicollet Counties, MN; Chippewa Falls to Chippewa and Eau Claire Counties, WI; Norwalk to Monroe County, WI; Frankemuth to Saginaw County, MI; Lapel to Madison County, IN; Beaver Dam to Dodge County, WI; and Rice Lake to Barron County, WI; and Rice Lake to Barron County, WI; (5) remove restrictions against service to Duluth, St. Cloud, Moorehead, Mankato, Detroit Lakes, East Grand Forks, and Breckenridge, MN in Sub 12; to Mankato, Albert Lea, Hibbing, Chisholm, Moorehead, Breckenridge, Detroit Lakes, and East Grand Forks, MN in Sub 16, and to Darlington, Delavan, Janesville, Beloit, and Portage, WI in Sub 30; and (6) remove the restrictions, wherever they appear, in containers or kegs, except in bulk, in containers, and in tank vehicles, and the originating at and destined to restriction

in Subs 18, 20, 30F 34F, 37F, 50F, and 54F.

MC 115331 (Sub-556)X, filed June 8, 1982. Applicant: TRUCK TRANSPORT, INCORPORATED, 11040 Manchester Rd., St. Louis, MO 63122. Representative: J. R. Ferris (same as applicant). Sub-182: (1) Broaden lime, limestone, and limestone products to "clay, concrete, glass or stone products"; (2) expand one-way to radial authority; and (3) remove the (a) in bags, and in bulk, and (b) originating at/destined to restrictions.

MC 121705 (Sub-10)X, filed June 10, 1982. Applicant: PERISHABLE DELIVERIES, INC., 1520 Beason St., Baltimore, MD 21230. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD. Sub 8F: (1) broaden foodstuffs to "food and related products"; (20) remove the facilities limitation; and (3) replace Landover, MD with Prince George County, MD and Washington, D.C.

MC 125416 (Sub-3)X, filed June 1, 1982. Applicant: FLORA SERVICE, INC., 847 Flora St., Elizabeth, NJ 07201. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49684. Lead and Subs 1 and 2: (1) broaden wrecked and disabled motor vehicles, except mobile homes or house trailers designed to be drawn by passenger automobiles, and replacement vehicles to "transportation equipment"; and (2) remove the "in truckaway service" restriction.

MC 142649 (Sub-9)X, filed June 1, 1982. Applicant: H. O. SMESTAD CO., P.O. Box 2904, Great Falls, MT 59403. Representative: Timothy R. Striver, P.O. Box 1576, Boise, ID 83701. MC-142649 Subs 3, 6, 7 (issued April 4, 1979), and 7 (acquired in MC-FC-77298, issued March 19, 1981) certificates: (1) broaden malt and carbonated beverages, and equipment and supplies (Subs 3, 6, and 7, issued April 4, 1979) and beer, (Sub 7, issued March 19, 1981) to "food and related products" and empty containers (Subs 3 and 7, issued April 4, 1979) and recyclable aluminum cans (Sub 6) to "containers"; (2) change one-way to radial authority, Subs 3, 6, 7 (issued April 4, 1979) 7 (issued March 19, 1981); (3) change cities to county-wide authority: San Antonio, TX (Bexar County), Sub 6; and La Crosse and Milwaukee, WI (La Crosse and Milwaukee Counties), Sub 7 (issued March 19, 1981); and (4) remove the originating at and destined to restriction, Sub 7 (issued April 4, 1979. MC-124962 Sub 2 permit: broaden iron and steel articles and scrap metals to "metal products" and change the territorial description to between points in the U.S., under continuing contract(s) with named shipper. MC-139402 and Subs 1, 5, and 7 permit: (1) broaden beer and carbonated beverages (lead and Sub 1) and malt and carbonated beverages and related advertising materials and supplies (Sub 5) to "food and related products" and wine, ale, non-alcoholic beverages, and beverage mixes to "beverages", Sub 7; and (2) change the territorial description to between points in the U.S., under continuing contract(s) with named shippers, lead and Subs 1, 5 and 7.

MC 144757 (Sub-22)X, filed June 8, 1982. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 3104 East St. Patrick, Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701. MC-144757 Subs 1F and 2F certificates: (1) broaden shakes and shingles to "lumber or wood products, and materials, equipment and supplies used in the manufacture, sale and distribution thereof," Sub 1F; (2) add "materials, equipment and supplies used in the manufacture, sale and distribution thereof" to lumber, lumber products, wood products and forest products, Sub 2F; (3) remove the originating at restriction, Sub 2F; and (4) change one-way to radial authority, Subs 1F and 2F. MC-143471 Subs 6F, 7F, 24F, 25F, 27F, 29F, and 30F permits: (1) broaden (a) stone, stone aggregates, and whiting (Subs 6F and 25F), minerals and stone (Sub 29F) and gypsum and gypsum products (Sub 30F) to "clay, concrete, glass or stone products, and materials, equipment and supplies used in the manufacture, sale and distribution thereof;" (b) acrylic bathroom fixtures to "rubber and plastic products, and materials, equipment and supplies used in the manufacture, sale and distribution thereof," Sub 7F; (c) iron and steel articles to "metal products and materials, equipment and supplies used in the manufacture, sale and distribution thereof," Sub 24F; and (d) lumber, lumber products, forest products, wood products and millwork to include "materials, equipment and supplies used in the manufacture, sale and distribution thereof," Sub 27F; and (2) change the territorial description to between points in the United States, under continuing contract(s) with named shippers in the above permits.

[FR Doc. 82-16799 Filed 6-21-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be

construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP3–068

Decided: June 14, 1982.

By the Commission, Review Board No. 2, members Carleton, Fisher, and Williams.

MC 136774 (Sub-28), filed May 27, 1982. Applicant: MC–MOR–HAN TRUCKING CO., INC., P.O. Box 368, Shullsburg, WI 53586. Representative: Donald B. Levin, 29 South LaSalle St., Chicago, IL 60603, (312) 236–9375. Transporting *food and related products*, between points in Linn County, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 142875 (Sub-2), filed May 28, 1982. Applicant: A. GOMES BUS LINES, INC., 73 Gooding Ave., Bristol, RI 02809. Representative: Russell B. Curnett, P.O.Box 366, 826 Orleans Rd., Harwich, MA 02645, (617) 432–0907. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in MA and RI, and extending to points in the U.S. (except AK and HI).

MC 146674 (Sub-11), filed May 27, 1982. Applicant: K.I.T. MOTOR EXPRESS, INC., P.O. Box 4004, Louisville, KY 40204. Representative: Edward J. Kiley, 1730 M St., N.W., Washington, DC 20036, (202) 296–2900. Transporting *general commodities*, (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Kuhlman Corporation, and its subsidiaries, of Birmingham, MI.

MC 147145 (Sub-4), filed May 24, 1982. Applicant: ANDERSON AND SONS TRUCKING CO., INC., P.O. Box 2112, Sparks, NV 89432. Representative: James R. Anderson, Jr., (same address as applicant) (702) 331–1901. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NV.

MC 152744 (Sub-5), filed May 27, 1982. Applicant: CITADEL TRANSPORT, INC., 180 N. Michigan Ave., Chicago, IL 60601. Representative: Daniel C. Sullivan, 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601, (312) 263–1600. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of frozen bakery goods, between points in the U.S., under continuing contract(s) with Kitchens of Sara Lee, Inc., of Deerfield, IL.

MC 152744 (Sub-7), filed May 27, 1982. Applicant: CITADEL TRANSPORT, INC., 180 N. Michigan Ave., Chicago, IL 60601. Representative: Daniel C. Sullivan, 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601, (312) 263–1600. Transporting *such commodities* as are dealt in by grocery houses, between points in the U.S., under continuing contract(s) with Lever Bros. Co., of St. Louis, MO.

MC 157114 (Sub-1), filed May 28, 1982. Applicant: R. H. A. TRUCKING, INC., R. R. #2 Napoleon, OH 43545. Representative: Robert Arps, (same address as applicant), (419) 267–5208. Transporting *Machinery*, between points in Henry Country, OH, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with Automatic Feed Company, of Napoleon, OH.

MC 158715 (Sub-1), filed May 28, 1982. Applicant: WILLIAM F. BRAUN MILK HAULING, INC., 202 N. Second Street, Hecker, IL 622248. Representative: Linda S. Braun, 320 County Village Lane, Hecker, IL 62248, (618) 473–2917. Transporting *food and related products*, between points in the U.S. (except AK and HI), under a continuing contract(s) with Pevely Dairy Company, of St. Louis, MO.

MC 158715 (Sub-1), filed May 28, 1982. Applicant: WILLIAM F. BRAUN MILK, HAULING, INC., 202 N. Second Street, Hecker, IL 62248. Representative: Linda S. Braun, 320 County Village Lane, Hecker, IL 62248, (618) 473–2917. Transporting *food and related products*, between points in the U.S. (except AK and HI), under a continuing contract(s) with Pevely Dairy Company, of St. Louis, MO.

MC 158994 (Sub-1), filed May 27, 1982. Applicant: ABLE TRANSPORT, INC., 307 Progress Ave., Zelienople, PA 16063. Representative: Brian L. Troiano, 918 16th St., NW., Washington, DC., 20006, (202) 785–3700. Transporting (1) *ores and minerals*, (2) *coal, coal products, and petroleum products*, (3) *chemicals and related products*, (4) *clay, concrete, glass or stone products*, (5) *metal products*, and (6) *waste or scrap materials*, between points in the U.S. (except AK and HI).

MC 160805, filed May 27, 1982. Applicant: HALL TRUCKING COMPANY, INC., State Road 37 North, Orleans, IN 47452. Representative: Andrew K. Light, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204–3491, (317) 638–1301. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in IN on and south of Interstate Hwy 70, on the one hand, and, on the other, Chicago, IL, Louisville, KY, Detroit, MI, Cincinnati, OH, and points in IN on the south of Interstate Hwy 70.

MC 161664, filed May 28, 1982. Applicant: DISTRIBUTION SERVICE CORPORATION, P.O. Box 65093, West Des Moines, IA 50265. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515) 282–3525. Transporting *carpet and vinyl floor coverings*, between points in IL, IA, MN, MO, NE, and SD, on the one hand, and, on the other, points in AL, GA, IL, IA, MN, MO, NE, SC, SD, and TN.

MC 162235, filed May 27, 1982. Applicant: PEABODY CLEAN INDUSTRY, INC., 170 Border St., East Boston, MA 02128. Representative: Morton E. Kiel, 2 World Trade Center, Suite 1832, New York, NY 10048–0640, (212) 466–0220. Transporting *hazardous materials and toxic wastes*, between points in the U.S. (except AK and HI).

MC 162254, filed June 1, 1982. Applicant: BARRIE F. AND GWYNNE D. MAINLAND, d.b.a., kangaroo PICK UP AND DELIVERY SERVICE, 1666 Main Ave., Durango, Co 81301. Representative: Barrie F. Mainland, (same address as applicant) (303) 237–8199. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Archuleta, LaPlata and Montezuma Counties, Co, and San Juan County, NM, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. OP3–069

Decided: June 9, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 1934, Sub 50, filed June 1, 1982. Applicant: THE ARROW LINE, INC., 105 Cherry St., P.O. Box 387, East Hartford, CT 06108. Representative: Helen D. Smith, (same address as applicant), (203) 289–1531. Transporting *passengers and their baggage*, in the same vehicle with passengers, limited to the transportation of not more than 28 passengers (excluding the driver) in one vehicle at one time, between New York, NY and points in Hartford County, CT.

MC 14314 Sub 55, filed June 1, 1982. Applicant: DUFF TRUCK LINE, INC., P.O. Box 359, Broadway and Vine Sts., Lima, OH 45802. Representative: Ronald D. Mills (same address as applicant).

(419) 222–8045. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with K-Mart Corporation, of Troy, Mi.

MC 78725 Sub 8, filed June 1, 1982. Applicant: ROLLAND GUENTHER, d.b.a. R. GUENTHER TRUCKING P.O. Box 175, Ross, OH 45061. Representative: Stephen L. Oliver, 275 E. State St., Columbus, OH 43215, (614) 228–8575. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Champion International Corporation of Stamford, CT.

MC 105774 Sub 18, filed June 1, 1982. Applicant: JOHNSON TRUCK LINE, INC., P.O. Box 403, Osborne, KS 67473. Representative: William B. Barker, 641 Harrison St., P.O. Box 1979, Topeka, KS 66601, (913) 234–0565. Transporting *food and related products*, between points in CA, CO, ID, OR and WA, on the one hand, and, on the other, points in AR, CO, KS, MO and NE.

MC 115495 Sub 42, filed June 1, 1982. Applicant: UNITED PARCEL SERVICE, INC., 3755 East Main St., Room 112, St. Charles, IL 60174. Representative: Everett Hutchinson, 1150 Connecticut Ave., NW, Washington, DC 20036. Transporting *general commodities* (except commodities in bulk, classes A and B explosives, and household goods), between points in AL, AR, AZ, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, SC, SD, TN, TX, UT, WA, WI, WY, PA, WV, and VA, subject to the following condition: No service shall be rendered in the transportation of any package or article weighing more than 50 pounds or exceeding 108 inches in length and girth combined each package or article shall be considered as a separate and distinct shipment.

Note.—Applicant states that the sole purpose of this application is to consolidate applicant's present authority in Certificate MC 115495 Sub 37 and 41X.

MC 115654 Sub 200, filed June 2, 1982. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004, (202) 347–8862. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 115694 Sub 4, filed June 1, 1982. Applicant: J. BALLEW & SONS, INC., Box 47, Stuarts Draft, VA 24477. Representative: James E. Ballew (same address as applicant), (703) 337–2336. Transporting *metal products* and *machinary*, between Salem and Bristol, VA, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Salem Tool, Inc., of Salem, VA.

MC 126104 Sub 3, filed June 1, 1982. Applicant: TRAMCOR CORPORATION, 2711 Midland Dr., Ogden, UT 84401. Representative: Bruce W. Shand, Suite 280, 311 S. State St., Salt Lake City, UT 84111, (801) 531–1300. Transporting *clay, concrete, glass and stone products, and metal products*, between points in the U.S., under continuing contract(s) with Interpace Corporation, of Ogden, UT.

MC 127745 (Sub-11), filed June 1, 1982. Applicant: GEORGE B. KING, d.b.a. KING TRANSFER, 21st & Pearl Street, Onawa, IA 51040. Representative: Robert A. Wichser, 920 West 21st Street, P.O. Box 155, South Sioux City, NE 68776, (402) 494–5486. Transporting *chemicals and related products*, between points in CO, IL, IA, KS, MN, MO, NE, ND, OK, SD, WI and WY.

MC 128685 (Sub-42), filed June 1, 1982. Applicant: DIXON BROS., INC., P.O. Drawer 8, Newcastle, WY 82701. Representative: Jerome Anderson, 100 Transwestern I, Billings, MT 59101, (406) 248–2611. Transporting *Metal products*, between points in CO, SD, NE, KS, OK, MN, IA, IL, MI, IN, UT and WY, on the one hand, and, on the other, point in MT, ND, WY, SD, NE, IA, CO and NM.

MC 133284 (Sub-1), filed June 1, 1982. Applicant: A. E. WILCOX & SONS TRUCKING, INC., 302 Gale St., Watertown, NY 13601. Representative: Herbert M. Canter, 305 Montgomery St., Syracuse, NY 13202, (315) 472–8845. Transporting *pulp, paper and related products*, between points the in U.S. (except AK and HI), under continuing contract(s) with Boise Cascade Corporation, Specialty Paperboard Division, of Boise, ID.

MC 140615 (Sub-70), filed June 1, 1982. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1116, Wisconsin Rapids, WI 54494. Representative: Dennis C. Brown, (same address as applicant). (715) 421–0888. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 142204 (Sub-15), filed June 1, 1982. Applicant: GUNVILLE TRUCKING, INC., d.b.a. GUNVILLE TRUCKING, P.O. Box 77, Niagara, WI 54151. Representative: Michael S. Varda, P.O. Box 2509, Madison, WI 53701, (608) 255–8891. Transporting *pulp, paper and related products*, between points in the Upper Peninsula of MI, on the one hand, and, on the other, points in WI.

MC 142864 (Sub-34), filed June 1, 1982. Applicant: RAY E. BROWN TRUCKING, INC., P.O. Box 501, Massillon, OH 44646. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215 (614) 464–4103. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Giant Eagle Markets, Inc. and its affiliates.

MC 145034 (Sub-3), filed June 1, 1982. Applicant: SKY TRUCKING CO., 2163 Hancock, San Diego, CA 92110. Representative: Milton W. Flack, 8484 Wilshire Blvd., No. 840, Beverly Hills, CA 90211, (213) 655–3573. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CA.

MC 146184 (Sub-7), filed May 28, 1982. Applicant: RUSS TAYLOR TRUCKING, INC., Rt. 6, Watertown, WI 53094. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd. Madison, WI 53719 (608) 273–1003. Transporting *malt beverages*, between points in the U.S. (except AK and HI), under continuing contract(s) with Beloit Beverage Company, Inc. of Beloit, WI, Harry P. Goodall, Inc. of Milton, WI and Monroe Beverage Co., Inc. of Monroe, WI.

MC 146474 (Sub-1), filed June 1, 1982. Applicant: GENDA TRUCKING, INC., 4020 West 24th St., Chicago, IL 60623. Representative: Arnold L. Burke, 180 N. LaSalle St., Suite 3520, Chicago, IL 60601, (312) 332–5106. Transporting *furniture and fixtures*, between points in IL, WI, MI, IN, and OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 150724 (Sub-12), filed June 1, 1982. Applicant: DONALD SANTISI TRUCKING COMPANY, 340 Victoria Rd., P.O. Box 4125 Youngstown, OH 44515. Representative: Paul F. Berry, 275 E. State St., Columbus, OH 43215, (614) 288–8575. Transporting *machinery*, between points in Alameda County, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 150855 (Sub-1), filed June 1, 1982. Applicant: RPM TRUCKING & HOTSHOT, INC., P.O. Box 2232, Rock Springs, WY 82901. Representative: Bruce W. Shand, Suite 280, 311 S. State

St., Salt Lake City, UT 84111, (801) 531–1300. Transporting *machinery, equipment and supplies,* used in replacing, servicing and repair of (1) machinery, equipment, materials and supplies used in the refining, manufacture, processing, storage, transmission and distribution of natural gas, petroleum, and geothermal energy and their products and by-products, and (2) machinery, materials, equipment and supplies used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines including the stringing and picking up thereof, between those points in the U.S. in and west of ND, SD, NE, KS, OK, TX, and LA (except AK and HI).

MC 153885 (Sub-4), filed June 1, 1982. Applicant: THE GREAT AMERICAN TRUCKING COMPANY, INC., 21 Northlake Drive, Peachtree City, GA 30269. Representative: David L. Capps, P.O. Box 924, Douglasville, GA 30133–0924, (404) 949–7756. Transporting *food and related products,* between points in Hancock County, OH and points in FL, on the one hand, and, on the other, those points in the U.S. in and east of KS, NE, ND, OK, SD, and TX.

MC 154004 (Sub-2), filed June 1, 1982. Applicant: TRANSPORTATION TECHNIQUES, INC., 10 Potomac Lane, Southington, CT 06489. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103, (413) 732–1136. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Double H Enterprises, Inc., of Ware, MA.

MC 155924 (Sub-3), filed June 1, 1982. Applicant: ALANDALE TRUCKING CO., INC., N60 W15725 Kohler Lane, Menomonee Falls, WI 53051. Representative: Richard C. Alexander, 710 North Plankinton Avenue, Milwaukee, WI 53203, (414) 273–7410. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in WI, on the one hand, and, on the other, points in IL, IN, IA, MI, MN, MO, and OH.

MC 157204 (Sub-2), filed June 2, 1982. Applicant: SUR-WAY TRANSPORT, INC., 1506 Radium Springs Rd., Albany, GA 31505. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. (904) 632–2300. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Metalux Corporation of Americus, GA and Marks Paper Co. of New Orleans, LA.

MC (Sub-3), filed June , 1982. Applicant: BUD MEYER TRUCK LINES, INC., P.O. Box 97, Theilman, MN 55987. Representative: John B. Van de North, Jr., 2200 First National Bank Bldg., St. Paul, MN 55101, (612) 291–1215. Transporting *paper products and rags,* between points in Somerset County, NJ, on the one hand, and, on the other, points in IL, IA, WA, CA, TX, MO, MN, KS and CO.

MC 160595, filed June 1, 1982. Applicant: GESKE BROS., INC., RR2, Box 38A, Enderlin, ND 58027. Representative: Charles E. Johnson, P.O. Box 2056, Bismark, ND 58502, (702) 223–5300. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Kraemer Motors, Inc. of Enderlin, ND.

MC 160885, (Sub-1), filed June 2, 1982. Applicant: PONY EXPRESS, INC., P.O. Box 280, Camden, DE 19934. Representative: Lester R. Gutman, 1919 Pennsylvania Ave., NW, Suite 500, Washington, DC 20006, (202) 828–5017. Transporting *plastic products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Consolidated Thermoplastics Company, of Harrington, DE.

MC 162274, filed June 1, 1982. Applicant: WELLCO TRANSPORTATION CO., INC., U.S. Route 41 South, Calhoun, GA 30701. Representative: Robert W. Baker, Jr., 100 S. Charles St., Baltimore, MD 21201. Transporting *floor coverings and related products,* (1) between points in GA and Greenville County, SC, on the one hand, and, on the other, points in the U.S. (except AK, CO, HI, ID, MT, OR, WA, WY, and VT); and (2) between points in NJ and Kings County, NY, Lancaster County, PA, and Cook County, IL, on the one hand, and, on the other, points in Jefferson County, AL.

MC 162275, filed June 1, 1982. Applicant: AL ARNOLD, 2671 Dauphin Island Parkway, Mobile, AL 36605. Representative: Al Arnold, (same address as applicant), (205) 471–1086. As a *broker* at Mobile, AL, in arranging for the transportation of *passengers and their baggage,* in the same vehicle with passengers, beginning and ending at points in Mobile and Baldwin Counties, AL, and extending to points in the U.S.

MC 162284, filed June 1, 1982. Applicant: KENNEDY BUS SERVICE, d.b.a. KENNEDY COACHES, P.O. Box 179, Zumbro Falls, MN 55991. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, beginning and ending at points on Goodhue, Olmstead and Wabasha Counties, MN, and extending to points in the U.S. (except HI).

MC 162285, filed June 1, 1982. Applicant: DOWNING TRANSPORTS, INC., Box 308, Locust Grove, OK 74352. Representative: Wilburn L. Williamson, Suite 107, 50 Classen Center, 5101 No. Classen Blvd., Oklahoma City, OK 73118, (405) 848–7946. Transporting *anhydrous ammonia, liquified petroleum gas and casinghead gasoline,* between points in AR, KS, OK, MO and TX.

MC 162295, filed June 1, 1982. Applicant: CATHOLIC TOURS OF OHIO, INC., 4120 Euclid Avenue, Cleveland, OH 44103. Representative: Ralph A. Youniss, (same address as applicant), (216) 431–8854. As a *broker,* at Cleveland, OH, in arranging for the transportation by motor vehicle of *passengers and their baggage,* beginning and ending at points in Lorain, Cuyahoga, Lake, Geauga, Ashland, Medina, Summit, and Wayne Counties, OH, and extending to points in the U.S. (except AK and HI).

MC 162304,, filed June 1, 1982. Applicant: MARK E. SILVERMAN d.b.a. MARK'S MOVING SERVICE, 284 California St., Newton, MA 02158. Representative: George C. O'Brien, 342 Wild Harbor Rd., P.O. Box 293, North Falmouth, MA 02556, (617) 563–9345. Transporting *advertising and exhibition material, equipment and displays,* between points in MA, NH, RI, and CT, under continuing contract(s) with Preview Subscriptions Television, Inc. of Norwood, MA.

Volume No. OP3–091

Decided: June 14, 1982.

By the Commission, Review Board No. 2 Members Carleton, Fisher, and Williams.

MC 16334 (Sub-21), filed June 7, 1982. Applicant: DEBRICK TRUCK LINE COMPANY, P.O. Box 421, Paola, KS 66071. Representative: John T. Pruitt, 9832 Connell, Overland Park, KS 66212. Transporting *metal products,* between points in Clay and Jackson Counties, MO, and Johnson, Miami, and Wyandotte Counties, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 97825 (Sub-7), filed June 1, 1982. Applicant: LOUISIANA MIDLAND TRANSPORT CO., INC., 3679 Florida Blvd., Baton Rouge, LA 70806.

Representative: Carlos G. Spaht, P.O. Box 2997, 500 Laurel St., Baton Rouge, LA 70821, (504) 383–4703. Transporting *cement*, between points in Orange County, TX, on the one hand, and, on the other, points in LA.

MC 114274 (Sub-83), filed June 1, 1982. Applicant: VITALIS TRUCK LINES, INC., 137 N.E. 48th Street Place, Des Moines, IA 50306. Representative: William H. Towle, 180 North La Salle Street, Chicago, IL 60601, (312) 332–5106. Transporting *glass containers*, between Gulfport, MS, Chattanooga, TN, points in Knox County, OH, Navarro County, TX, and Mineral County, WV, on the one hand, and, on the other, points in the U.S. in and east of MN, WI, IN, KY, TN, AR, OK, and TX.

MC 127955 (Sub-12), filed June 7, 1982. Applicant: RICCI TRANSPORTATION CO., INC., Odessa Ave. & Aloe St., Pomona, NJ 08240. Representative: Joseph A. Keating, Jr., 121 S. Main St. Taylor, PA 18517, (717) 344–8030. Transporting *foodstuffs and related products*, (1) between points in Lehigh County, PA, on the one hand, and, on the other, points in Atlantic and Cape May Counties, NJ; and (2) between points in Duval and Hillsborough Counties, FL, Hillsborough County, NJ and Onondago County, NY, on the one hand, and, on the other, points in Atlantic County, NJ.

MC 143654, filed June 3, 1982. Applicant: DOYLE BRANT, INC., Route 4, Grand Terrace Estates, St. Joseph, MO 64507. Representative: Tom B. Kretsinger, 20 E. Franklin, P.O. Box 258, Liberty, MO 64068, (816) 781–6000. Transporting *malt beverages* and *empty containers*, between points in Buchanan County, MO, on the one hand, and, on the other, points in Tarrant County, TX.

MC 145904 (Sub-42), filed June 7, 1982. Applicant: SOUTH WEST LEASING, INC., P.O. Box 152, Waterloo, IA 50704. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424, (612) 927–8855. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of metal products and machinery, between points in Black Hawk County, IA, on the one hand, and, on the other, points in the U.S. (except HI).

MC 149014 (Sub-8), filed June 3, 1982. Applicant: EAGLE LINES INC., P.O. Box 902, Merrimack, NH 03054. Representative: Henry Sepessy, 10 Canterbury Way, Merrimack, NH 03054, (603) 424–7030. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NH and MA, on the one hand, and, on the other, points in the U.S. (except HI).

MC 151365 (Sub-5), filed June 2, 1982. Applicant: MAC OF WISCONSIN, INC., 26 Lake View Dr., Sullivan, WI 53178. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, on the one hand, and, on the other, points in the U.S. (except HI).

MC 152744 (Sub-8), filed June 7, 1982. Applicant: CITADEL TRANSPORT, INC., 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601. Representative: Thomas M. O'Brien, 180 N. Michigan Ave., Suite 400, Chicago, IL 60601, (312) 263–1600. Transporting *such commodities* as are dealt in by manufacturers and distributors of chewing gum and related products, between points in the U.S. (except AK and HI), under continuing contract(s) with Wm. Wrigley, Jr. Company, of Chicago, IL.

MC 154014 (Sub-2), filed June 1, 1982. Applicant: ALLEN TRUCK & TRAILER LEASING, INC., P.O. Box 724, Connellsville, PA 155425. Representative: Guy H. Postell, Suite 675, 3384 Peachtree Rd., N.E., Atlanta, GA 30326, (404) 237–6472. Transporting (1) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Blair, Bedford, Beaver, Butler, Fayette, Greene, Indiana, Somerset and Westmoreland Counties, PA, on the one hand, and, on the other, points in MD, MA, DE, CT, NJ, NY, RI, VA, PA, TN, OH, WV, KY, ME, NC, SC, GA, IL, IN, MI and DC and (2) *clay, concrete, glass or stone products*, between points in PA, NJ, MA, RI, ME, CT, MD, WV, NC, SC, GA, TN, IL, OH, IN, MI and VA.

MC 159384, filed June 7, 1982. Applicant: DAVID KURK, INC., P.O. Box 112, Eitzen, MN 55931. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 S. 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting *commodities in bulk*, between points in Lee County, IA, on the one hand, and, on the other, points in IL, MN, and WI.

MC 161124, filed June 3, 1982. Applicant: C. TILE TRANSPORTATION, INC., 3rd & Throckmorton, Tandy Tower Two, Fort Worth, TX 76012. Representative: Dean O'Leary, 1820 Two Tandy Center, Fort Worth, TX 76102, (817) 390–3028. Transporting *building materials*, between points in the U.S. (except AK and HI).

MC 161255, filed June 1, 1982. Applicant: VERNON TIPTON, 1208 W. Benton, Savannah, MO 64485. Representative: Frank W. Taylkor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105, (816) 221–1464. Transporting *iron and steel articles*, between points in IL, IN, KS, and MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162224, filed May 27, 1982. Applicant: SCOTT INTERSTATE TRANSPORTATION, INC., P.O. Box 213, Plainfield, IL 60544. Representative: Arnold L. Burke, 180 No. LaSalle St., Suite 3520, Chicago, IL 60601, (312) 332–5106. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with The Distillers Company Limited of Plainfield, IL, Peterson Manufacturing Co., Inc. of Plainfield, IL and Kerr Glass Manufacturing Corporation of Sand Springs, OK.

MC 162305, filed June 1, 1982. Applicant: TEDDY T. RABY (Jack), d.b.a. CROSS COUNTRY BOAT TRANSPORT, 4695 Fatima Place, Excelsior, MN 55331. Representative: Teddy T. Raby (Jack), (same address as applicant), (612) 474–8517. Transporting *powerboats* and *sailboats*, between points in the U.S. (except AK and HI).

MC 162325, filed June 3, 1982. Applicant: BELVA RICE, d.b.a. 916 Main, Box 1022, Woodward, OK 73802. Representative: Belva Rice (same address as applicant), (405) 256–5378. As a *broker*, at Woodward, OK, in arranging for the transportation by motor vehicle of *passengers and their baggage*, in charter operations, between points in the U.S.

MC 162364, filed June 7, 1982. Applicant: RICHARD E. BERRY, d.b.a. RICHARD E. BERRY TRUCKING, Route 5, Box 508, Springdale, AR 72764. Representative: James H. Berry, P.O. Box 32, Wesley, AR 72773, (501) 456–2453. Transporting *cement products*, between points in AR, KS, MO, and OK.

Volume No. OP4–208

Decided: June 9, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 31237 (Sub-14), filed June 1, 1982. Applicant: DIGNAN TRUCKING, INC., P.O. Box 7483, Baltimore, MD 21227. Representative: Frank B. Hand, Jr., 523 S Cameron St., Winchester, VA 22601, (703) 662–0927. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), serving points in Clarke, Frederick, Fauquier, and Warren Counties, VA, Berkeley, Morgan, and Jefferson Counties, WV, as off-route points in connection with carrier's

otherwise authorized regular-route operations.

MC 47417 (Sub-6), filed June 1, 1982. Applicant: MILLS TRANSFER, INC., 656 Rose St., Lincoln, NE 68502. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Over regular routes, transporting (1) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Omaha and Lincoln, NE, from Omaha over U.S. Hwy 6 to Lincoln, and (2) *motion picture films, newspapers and express packages*, (a) between Lincoln and Wymore, NE, from Lincoln over U.S. Hwy 77 to Wymore, (b) between Beatrice and Red Cloud, NE, from Beatrice over U.S. Hwy 136 to Red Cloud, (c) between Lincoln and Hastings, NE, from Lincoln over U.S. Hwy 6 to Hastings, (d) between Lincoln and Aurora, NE, from Lincoln over U.S. Hwy 34 to Aurora, (e) between Aurora, NE and the junction of U.S. Hwy 6 and NE Why 14, from Aurora over NE Hwy 14 to junction U.S. Hwy 6, (f) between the junction of U.S. Hwy 6 and NE Hwy 33 and the junction of NE Hwy 33 and U.S. Hwy 77, fron the junction U.S. Hwy 6 and NE Hwy 33 over NE Hwy 33 to junction U.S. Hwy 77, (g) between Beatrice, NE, and the junction of NE Hwys 103 and 33, from Beatrice over NE Hwy 4 to junction NE Hwy 103, then over NE Hwy 103 to junction NE Hwy 33, and (h) serving Davenport, Bruning Superior, Guide Rock, Harvard, Clay Center, Fairfield, Geneva and Wahoo, NE, as off-route points in connection with carrier's authorized regular route operations described in (2).

Condition: Issuance of a certificate in this proceeding is subject to prior or coincident cancellation, at applicants written request, of Certificate of Registration Nos. MC–47417 Sub 4 and Sub 5.

Note—Applicant intends to tack.

MC 107947 (Sub-4), filed June 7, 1982. Applicant: MURTY BROS. AGENCY, INC., 109 Plainfield, P.O. Box 427, Elmont, NY 11003. Representative: Mark J. Andrews, Suite 1100, 1660 L St., N.W., Washington, DC 20036, (202) 452–7438. Transporting *livestock*, other than ordinary livestock, and in the same vehicle with such livestock, *mascots, personal effects* of attendants, trainers and exhibitors, and *supplies* and *equipment* used in the care and exhibition of such animals, between points in U.S. (except AK and HI).

MC 140267 (Sub-13), filed June 7, 1982. Applicant: R. A. TRANSPORTATION, INC., P.O. Box 574, Edison, NJ 08817. Representative: Thomas J. Beener, 87 Wall St., Suite 2510, New York, NY 10005. Transporting *such commodities*, as are dealt in by grocery and department stores and food business houses, between points in the U.S., under continuing contract(s) with Lever Brothers Company, of New York, NY

MC 141157 (Sub-3), filed June 3, 1982. Applicant: B AND E COMPANY, Box 268, Sheffield, IA 50475. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312, (515) 274–4985. Transporting *brick products, clay products and plastic tubing*, between points in the U.S. (except AK and HI), under continuing contract(s) with Sheffield Brick & Tile Co., of Sheffield, IA.

MC 146337 (Sub-2), filed June 1, 1982. Applicant: NEW WEST TRANSPORTATION, INC., 17090 S 54th St., Chandler, AZ 85224. Representative: A. Michael Bernstein, 1441 E Thomas Rd., Phoenix, AZ 80514, (602) 264–4891. Transporting (1) *those commodities which because of size or weight require the use of special handling or equipment*, (2) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), when moving in connection with those commodities named in (1) above, (3) *construction materials and equipment*, (4) *machinery*, and (5) *self-propelled vehicles*, between points in WA, OR, CA, ID, NV, AZ, MT, UT, NM, NE, SD, ND, WY, CO, TX, OK and KS. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidential cancellation, at applicant's written request, of Certificate of Registration No. MC–146333.

MC 146457 (Sub-8), filed June 7, 1982. Applicant: PAISLEY TRUCKING, INC., P.O. Box 208, Durango, IA 52309. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312, (515) 274–4985. Transporting *fertilizer*, between points in Jo Daviess County, IL, on the one hand, and, on the other, points in IA.

Volume No. OP4–209

Decided: June 9, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Fisher not participating.)

MC 120657 (Sub-10), filed June 3, 1982. Applicant: DUGAN TRUCK LINE, INC., 1407 S. Walnut, Wichita, KS 67213. Representative: Paul V. Dugan, 2707 W. Douglas, Wichita, KS 67213 (316) 943–2325. Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), (1) between Kansas City, MO and Denver, CO over Interstate Hwy 70, (2) between Kansas City, MO and Oklahoma City, OK over Interstate Hwy 35, (3) between Kansas City, MO and Tulsa, OK, from Kansas City over Interstate Hwy 35 to junction Cimarron Turnpike, then over Cimarron Turnpike to Tulsa, and (4) serving in connection with routes (1) through (3) all intermediate points and all points in Kansas as off-route points.

Note.—Applicant intends to tack the above authority with its existing authority.

MC 140157 (Sub-9), filed June 7, 1982. Applicant: STYLE CRAFT TRANSPORT, INC., Highway 71 So., Milford, IA 51351. Representative: Foster L. Kent, P.O. Box 285, Council Bluffs, IA 51502, (712) 323–9124. Transporting *such commodities* as are dealt in or used by distributors of electronic games, between points in the U.S., under continuing contract(s) with Central Distributing Co., of Omaha, NE.

MC 150767 (Sub-2), filed June 7, 1982. Applicant: SMITH & CALDWELL TRUCKING, INC., 404 Wayne Ave., Pine Beach, NJ 08741. Representative: Ronald I. Shapss, 450–7th Ave., New York, NY 10123, (212) 239–4610. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Right-O-Way, Inc., of Newark, NJ.

MC 159027 (Sub-3), filed June 7, 1982. Applicant: EXPRESSWAY, INC., P.O. Box 697, Greer, SC 29651. Representative: Mitchell King, Jr., P.O. Box 5711, Greenville, SC 29606, (803) 288–6000. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), (1) between points in AL, FL, GA, NC, SC, and TN, and (2) between points in AL, FL, GA, NC, SC and TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162327, filed June 3, 1982. Applicant: DUANE M. HUSTON and CAROLE M. HUSTON, d.b.a. D & C TRUCKING, P.O. Box 148, Molalla, OR 97038. Representative: Lawrence V. Smart, Jr., 419 N W 23rd Ave., Portland, OR 97210, (503) 228–3755. Transporting (1) *metal products*, between points in OR, WA, ID, MT, WY and UT; and (2) *lumber and wood products*, between points in OR and WA.

MC 162367, filed June 7, 1982. Applicant: JOHN REPP, d.b.a. WESTERN COACHES, 2313 Moffett, Lufkin, TX 75901. Representative: Paul D. Angenend, P.O. Box 2207, 1806 Rio Grande, Austin, TX 78768, (512) 476–6391. Transporting *passengers and their baggage*, in charter and special operations, beginning and ending at

points in TX on and east of U.S. Hwy 75, and extending to points in the U.S. (except AK and HI).

Volume No. OP4-211

Decided: June 10, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 145586 (Sub-14), filed June 7, 1982. Applicant: B & K ENTERPRISES, INC., 7950 S. 27th St., Oak Creek, WI 53154. Representative: Gerald K. Gimmel, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840-8565. Transporting *those commodities which because of size or weight require the use of special handling or equipment,* (2) *metal products,* and (3) *machinery,* on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 150716 (Sub-3), filed June 7, 1982. Applicant: J.R.S. LEASING CHARTER, INC., 9445 South 51st Ave., Oak Lawn, IL 60453. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603, (312) 263-2306. Transporting *such commodities* as are dealt in or used by the manufacturers and converters of paper and wood products, between points in the U.S. (except AK and HI), under continuing contract(s) with Diamond International Corporation, of New York, NY.

MC 162276, filed June 1, 1982. Applicant: CALIFORNIA DISTRIBUTION SERVICES, INC., P.O. Box 6068, Cerritos, CA 90701. Representative: Milton W. Flack, 8484 Wilshire Blvd., #840, Beverly Hills, CA 90211, (213) 655-3573. Transporting (1) *plastic products,* (2) *food and related products,* (3) *such commodities* as are dealt in by manufacturers and distributors of animal pet care products, and (4) *plastic and metal containers,* between points in the U.S. (except AK and HI), under continuing contract(s) with Premium Plastics, Inc., of Chicago, IL, Casa American Foods, of Los Angeles, CA, Sanwa Foods, Inc., of City of Industry, CA, Kal Kan Foods, Inc., of Vernon, CA, and Gott Corporation, of Winfield, KS.

MC 162286, filed June 1, 1982. Applicant: LARRY H. NICHOLAS, d.b.a. LARRY H. NICHOLAS CO., 50 Cedar St., Winchendon, MA 01745. Representative: George C. O'Brien, 342 Wild Harbor Rd., P.O. Box 293, North Falmouth, MA 02556, (617) 563-9345. Transporting (1) *packinghouse products,* and (2) *perishable foodstuffs,* between Boston, MA, on the one hand, and, on the other, point in NH.

Volume No. OP4-212

Decided: June 9, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Fisher not participating.)

MC 151566 (Sub-23), filed June 1, 1982. Applicant: PERRY TRANSPORT, INC., 14375 172nd Ave., Grand Haven, MI 49417. Representative: Richard O. Peel, (same address as applicant), (616) 842-3550. Transporting *formed steel channels,* between Grand Haven, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Industrial Products Division, of Grand Haven, MI.

MC 155266 (Sub-5), filed June 1, 1982. Applicant: JOHN J. VETERI LEASING CORP., P.O. Box 624, West Paterson, NJ 07424. Representative: John J. Veteri (same address as applicant), (201) 785-8775. Transporting *iron and steel and iron and steel articles,* between Philadelphia, PA, Baltimore, MD, and points in Erie County, NY, on the one hand, and, on the other, Chicago, IL, and points in Salk County, WI, Nardin County, IA, Hillsborough County, NH, Allegheny County, PA, Rockingham County, NC, Middlesex County, MA, Providence County, RI, CT, MI, NJ, and NY.

MC 157616 (Sub-1), filed June 1, 1982. Applicant: NAVAJO EXPRESS, INC., 5150 Brighton Blvd., Denver, CO 80216. Representative: Charles J. Kimball; 1600 Sherman, #665, Denver, CO 80203, (303) 839-5856. Transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with United Forwarding, Inc., of Omaha, NE, and (2) *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Packers' Cold Storage, Inc., of Fullerton, CA.

MC 161526, filed June 1, 1982. Applicant: QUALITY OPERATIONS, INC., 870 E. Higgins Rd., Suite 143, Schaumburg, IL 60195. Representative: William H. Borghesani, Jr., 1150 17th St., NW, Suite 1000, Washington, DC 20036, (202) 457-1122. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with The Quaker Oats Company, of Chicago, IL.

MC 162296, filed June 1, 1982. Applicant: GALMONT AUTOMOTIVE SERVICES, 4446 Mission St., San Francisco, CA 94112. Representative: Carlos H. Galvis, (same address as applicant), (415) 587-5666. Transporting *passenger and their baggage,* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in San Francise, Alameda, Contra Costa, Martin, San Mateo, and Santa Clara Counties, CA, and extending to points in AZ, GA, CO, ID, NV, NM, OR, UT, MT, WY, and WA.

Volume No. OP4-217

Decided: June 15, 1982.

By the Commission, Review Board No. 2, Members Carleston, Fisher, and Williams.

MC 113666 (Sub-198), filed May 27, 1982. Applicant: FREEPORT TRANSPORT, INC., P.O. Drawer A, Freeport, PA 16229-0301. Representative: R. Scott Mahood (same address as applicant), (412) 295-2181. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI).

MC 124896 (Sub-108), filed June 3, 1982. Applicant: WILLIAMSON TRUCK LINES, INC., Corner Thorne & Ralston Sts., P.O. Box 3489, Wilson, NC 27893. Representative: Norman J. Philion, 1920 N St., NW., Suite 700, Washington, DC 20036, (202) 331-8800. Transporting *machinery,* between points in the U.S. (except AK and HI).

MC 145246, (Sub-3), filed June 3, 1982. Applicant: A. E. SCHULTZ CORPORATION, 901 Lyndale Ave., Neenah, WI 54956. Representative: Frank M. Coyne, 25 W. Main St., Madison, WI 53703, (608) 255-1388. Transporting *paper and paper products,* between points in Marathon, Winnebago, Brown, Fond du Lac, Shawno and Outagamie Counties, WI, on the one hand, and, on the other, points in WY, MT, ID, UT, ND, SD, NE, MN, MI, IL, IN, and CO.

MC 151166 (Sub-2), filed June 3, 1982. Applicant: GERRY'S TRANSPORT LEASING, INC., 103-17 Metropolitan Ave., Forest Hills, NY 11375. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, (201) 836-1144. Transporting *floor covering,* between points in (1) NY, on the one hand, and, on the other, points in GA, TN, NC, and SC, (2) GA, on the one hand, and, on the other, points in VA, TN, SC, FL, CO, TX, and GA, and (3) NY and GA, on the one hand, and, on the other, points in ME, NH, VT, MA, RI, and CT.

Volume No. OP4-221

Decided: June 17, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Fisher not participating.)

FF-596, filed May 10, 1982, previously noticed in the **Federal Register** issue of May 26, 1982, and republished this issue.

Applicant: DIRECT CONTAINER LINE, INC., 16225 Sth Broadway, Gardena, CA 90248. Representative: Abraham A. Diamond, 29 South LaSalle St., Chicago, IL 60603, (312) 236–0548. As a freight forwarder, in connection with the transportation of *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., on the one hand, and on the other, ports of entry of the U.S. Note: The purpose of this republication is to correct the territorial description.

Volume No. OP5–132

Decided: June 14, 1982.

By the Commission, Review Board No. 3. Members Krock, Joyce, and Dowell.

FF–529 (Sub-1), filed June 1, 1982. Applicant: MEGNA FORWARDING, INC., Route 9, Wilder, KY 41071. Representative: Stephen D. Strauss, 2510 Carew Tower, Cincinnati, OH 45202, (513) 621–4607. To engage in operations as a *freight forwarder*, in interstate commerce, transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Louisville, KY, Dayton and Cincinnati, OH, Indianapolis, IN, Atlanta and Savannah, GA, and Knoxville and Nashville, TN, on the one hand, and, on the other, points in the U.S., restricted to export-import traffic.

MC 50128 (Sub-6), filed June 3, 1982. Applicant: BAGBY TRANSFER COMPANY, 405 Forsythe St., Rome, GA 30161. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, 202–785–0024. Transporting *household goods*, (a) between points in NC, SC, GA, AL, TN, VA, and FL, and (b) between points in NC, SC, GA, AL, TN, VA, and FL, on the one hand, and, on the other, points in KY, VA, WV, MD, DE, PA, NJ, NY, CT, RI, MA, ME, NH, VT, MS, LA, TX, AR, OH, IN, IL, WI, MO, MI, and DC.

MC 109689 (Sub-380), filed May 26, 1982. Applicant: W. S. HATCH CO., 643 South 800 West, Woods Cross, UT 84087. Representative: Mark K. Boyle, 10 West Broadway Bldg., Suite 400, Salt Lake City, UT 84101, (801) 363–3550. Transporting *Gilsonite and Gilsonite products*, between points in Utah, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 133288 (Sub-6), filed June 7, 1982. Applicant: HARTLEY TRUCKING COMPANY, INC., P.O. Box 398, Ravenswood, WV 26164. Representative: John M. Friedman, 2930 Putnam Ave., P.O. Box 426, Hurricane, WV 25526, (304) 562–3460. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Kaiser Aluminum & Chemical Corporation of Oakland, CA.

MC 141459 (Sub-24), filed May 25, 1982. Applicant: AGS ENTERPRISES, INC., #1 Clyde Ave., Litchfield, IL 62056. Representative: Michael R. Solomon (same address as applicant) (217) 324–2135. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Fresno and Los Angeles, CA, Kansas City, KS, and points in Orange County, CA, Johnson and Douglas Counties, KS, Howard County, MD, and Greene County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 141898 (Sub-6), filed May 24, 1982. Applicant: ROBERTS EXPRESS, INC., P.O. Box 7162, Akron, OH 44306. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212, (614) 481–8821. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), moving in express service, (a) between points in OH, MI, and IN, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (b) between points in CT, DE, GA, IN, IL, KY, MD, MA, MI, NJ, NY, NC, OH, PA, SC, TN, VA, WV, WI, and DC.

MC 142958 (Sub-4), filed May 21, 1982. Applicant: EMERGENCY MEDICAL DELIVERIES, INCORPORATED, 230 Arco Dr., Toledo, OH 43607. Representative: Michael M. Briley, P.O. Box 2088, Toledo, OH 43603, (419) 255–8220. Transporting (1) *medicinal intravenous solutions, dialysis patient treatment kits, mineral water, and liquid formaldehyde*, and (2) *materials and supplies* used in the administration of the commodities in (1) above, between Detroit, MI, on the one hand, and, on the other, Chicago, IL, those points in PA west of Interstate Hwy 83 and U.S. Hwy 15, and points in IN, KY, OH, and WV.

MC 144369 (Sub-3), filed June 8, 1982. Applicant: GERARDO & SON MOTOR SERVICE, INC., 9850 Balmoral Ave., Rosemont, IL 60018. Representative: Donald S. Mullins and T. M. Schlechter, 1033 Graceland Ave., Des Plaines, IL 60016, (312) 298–1094. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Chicago, IL, on the one hand, and, on the other, points in IL, IN, IA, KY, MI, MN, MO, OH, TN, and WI.

MC 146229 (Sub-4), filed June 8, 1982. Applicant: SCHMIDT TRUCKING CO. OF STANDISH, 5665 Bordeau Road, Standish, WI 48658. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49684, (616) 941–5313. Transporting *machinery* and *machinery parts*, between points in Franklin County, OH, on the one hand, and, on the other, points in MI.

MC 150788 (Sub-3), filed June 3, 1982. Applicant: SPECIAL SERVICE DELIVERY OF MICHIGAN, INC., 10174 Highland Road, Pontiac, MI 48054. Representative: David A. Turano, 100 East Broad Street, Columbus, OH 43215, (615) 228–1541. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of photographic products between Detroit, MI and Cleveland, OH, on the one hand, and, on the other, points in MI and IN.

MC 151509 (Sub-24), filed May 24, 1982. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., 1370 Ontario Street, Cleveland, OH 44101. Representative: J. L. Nedrich (same address as applicant), (216) 566–2677. Transporting *general commodities* (except household goods and classes A and B explosives), between points in OH, IL, NY, KS, GA, TX, and CA, under continuing contract(s) with Commercial Transportation Management Services, Inc., of Parma, OH.

MC 152509, (Sub-25), filed May 24, 1982. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., 1370 Ontario St., Cleveland, OH 44101. Representative: J. L. Nedrich (same address as applicant), (216) 566–2677. Transporting *general commodities* (except classes A and B exploaives, commodities in bulk, and household goods), between points in the U.S., under continuing contract(s) with ITOFCA, INC., of Downers Grove, IL.

MC 159368, filed June 1, 1982. Applicant: DISTRIBUTION EXPRESS, INC., 6836 Prior Pl., Reynoldsburg, OH 43068. Representative: E. H. van Deusen, P.O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and used household goods), between points in IL,IN, KY, MI, NY, OH, PA, and WV.

MC 161029, filed June 4, 1982. Applicant: CONSCHULL CONTINENTAL LINES, INC., 620 Jefferson Street, Plymouth, IN 46563. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101, (703) 893–3050. Transporting *passengers and their baggage* in same vehicle with passengers, in charter operations between points in the U.S. (except HI), under continuing contract(s) with Rainbow Travel, Inc., of Plymouth, IN.

MC 161388, filed June 1, 1982. Applicant: N.E.W.S. TRANSPORTATION, INC., P.O. Box 1242, 3152 Princeton Drive, Granite City, IL 62040. Representative: Edward D. McNamara, Jr., 907 South Fourth St., Springfield, IL 62703, (217) 528–8476. Transporting *iron and steel articles*, (a) between St. Louis MO, and Points in Madison County, IL, on the one hand, and, on the other, points in AL, AR, IL, IN, IA, KS, KY, LA, MO, OH, OK, TN, TX, WI, GA, MI, MN, NE, MS, ND, SD, and CO, (b) between points in Pettis County, MO, on the one hand, and, on the other, points in IL and KS, (c) between points in Franklin County, MO, on the one hand, and, on the other, points in TN, and (d) between points in AL, on the one hand, and, on the other, points in IL and MO.

MC 161838, filed June 8, 1982. Applicant: LOCKE TRUCKING CO., 410 Library Lane, Streamwood, IL 60103. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602, (312) 726–6525. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) between Chicago, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162258, filed June 1, 1982. Applicant: WALTER A. GLICK, SR., d.b.a. RICK & GLICK TOURS, 990 North Ridge Rd. West, Lorain, OH 44053. Representative: Walter A. Glick, Sr. (same address as applicant), 216–233–6845. As a *broker* at Lorain, OH, in arranging for the transportation of *passengers and their baggage* in the same vehicle with passengers in charter operations, beginning and ending at Lorain, OH, and extending to points in the U.S. (except AK and HI).

MC 162269, filed June 1, 1982. Applicant: BATCO TRUCKING, INC. 4800 Coliseum Way, Oakland, CA 94601. Representative: Ann M. Pougiales, 100 Bush St., 21st Floor, San Francisco, CA 94104, (415) 986–5778. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), (I) over REGULAR ROUTES, (a) between San Francisco, CA and junction Interstate Hwy 80 and Alternate U.S. Hwy 50 near Fernley, NV, over Interstate Hwy 80, (b) between Sacramento, CA and Fallon, NV, over U.S. Hwy 50, (c) between Los Angeles, CA and Las Vegas, NV, over Interstate Hwy 10 to junction Interstate Hwy 15, then over Interstate Hwy 15 to Las Vegas, and return over the same route, (d) between San Francisco, CA and Los Angeles, CA, over Interstate Hwy 101, (e) between Sacramento, CA and San Diego, CA, over Interstate Hwys 5, (f) between Oakland, CA and junction Interstate Hwy 5 and 580, over Interstate Hwy 580, (g) between Sacramento, CA and junction Interstate Hwy 5 and U.S. Hwy 99, over U.S. Hwy 99, (h) between Reno, NV and junction U.S. Hwy 395 and Interstate Hwy 15, over U.S. Hwy 395, and (i) between junction U.S. Hwy 50 and Alternate U.S. Hwy 50 near Fallon, NV and junction Alternate U.S. Hwy 50, and Interstate Hwy 80 near Fernley, NV, over Alternate U.S. Hwy 50, serving all intermediate points on routes (a) through (i) above, all off-route points in CA, and the off-route points of Carson City, Churchill, Clark Douglas, Lyon, Storey and Washoe Counties, NV; and (II) over irregular routes, between points in CA and NV.

MC 162279, filed June 1, 1982. Applicant: INTERSTATE FARM LINES, INC., Route 1, Twin Falls, ID 83301. Representative: Kevin M. Clark, 2471 Bank Dr., Ste. 8, Boise, ID 83705, (208) 344–7714. Transporting *construction materials and supplies*, and *farm and ranch equipment and supplies*, between points in WA, OR, CA, AZ, NM, UT, CO, ID, MT, WY, and NV.

MC 162348, filed June 3, 1982. Applicant: BLUEGRASS TOURS, INC., 410 West Vine, Suite 100, Lexington, KY 40507. Representative: William L. Willis, 702 McClure Bldg, Frankfort, KY 40601, (502) 227–7384. Transporting *passengers and their baggage* in same vehicle with passengers, in special and charter operations, between points in Clark, Bourbon, Fayette, Franklin, Jessamine, Scott, and Woodford Counties, KY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162369, filed June 7, 1982. Applicant: SUBURBAN TOURS, INC., 2121 West Chestnut St., Washington, PA 15301. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471–1800. To operate as a *broker* at Washington, PA, arranging for the transportation of *passengers and their baggage*, in the same vehicle with passengers, in charter operations between points in the U.S.

MC 162388, filed June 7, 1982. Applicant: ARIZONA BUS SALES, INC., d.b.a. ARIZONA CHARTER ENTERPRISES, 4028 S. 36th St., Phoenix, AZ 85040. Representative: George Tillery (same address as applicant) (602) 243–7141. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in AZ, and extending to points in CA, UT, NV, NM, and Co.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82–16780 Filed 6–21–82; 8:45 am]
BILLING CODE 7035–01–M

[Volume OP–5–131]

Motor Carriers: Permanent Authority; Republications of Grants of Operating Rights Authority; Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of petition for leave to intervene must be filed with the Commission within 30 days after the date of this **Federal Register** notice addressing specifically the issue(s) indicated as the purpose for republication.

Agatha L. Mergenovich,
Secretary.

MC 110288 (Sub-25) (republication), filed February 2, 1982, published in the **Federal Register issue** of February 19, 1982, and republished this issue. Applicant: HENRY HENERY, INC., 3517 W. Washington St., Indianapolis, IN 46241. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. An Order of the Commission, Review Board 3, decided April 27, 1982, and served May 7, 1982, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *lumber, forest products, and wood products*, between points in the United States (except Hawaii) and (2) *wood burning stoves* between points in Kootenai County, ID, on the one hand, and, on the other, points in the United States (except Hawaii), that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the applicant's actual grant of authority.

MC 158389 (Sub-1) (republication), filed January 15, 1982, published in the **Federal Register** February 24, 1982, and republished this issue. Applicant: JAMES C. CHILSON, d.b.a. INLAND DISTRIBUTORS, N. 4215 Willow Road, Spokane, WA 99206. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98009, (206) 453–0312. An Order of

the Commission, Review Board 1, decided April 30, 1982, and served May 12, 1982, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *machinery, machinery parts, commodities which because of size or weight require special equipment, iron and steel articles, aluminum articles, and pipe*, between points in Washington, Idaho, Oregon, Montana, Utah, California, and Wyoming, on the one hand, and, on the other, points in Washington, Idaho, Oregon, Montana, Nevada, Utah, Colorado, California, and Wyoming, (2) *construction materials and dolomite rock* between points in Montana and Washington, on the one hand, and, on the other, points in Washington, Idaho, Oregon, Montana, California, and Wyoming, and (3) *lumber and wood products*, between points in Washington, Idaho, Oregon, Montana, California, and Wyoming, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the applicant's actual grant of authority.

[FR Doc. 82-16778 Filed 6-21-82; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 415]

Railroad Cost of Capital—1981

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision.

SUMMARY: On June 24, 1982, the Commission served a decision to update its estimate of the railroad industry's cost of capital for 1981. The composite cost of capital for 1981 is found to be 16.5 percent based on a current cost of debt of 13.7 percent; a cost of equity capital of 18.3 percent; and a 40/60 debt/equity capital structure mix. The cost of capital findings made in this proceeding will enable the Commission to make its annual determination of railroad revenue adequacy for 1981. The scope of the decision is specifically limited to the required annual updating of the railroads' cost of capital.

ADDRESSES: To purchase copies of the full decision contact: TS Infosystems Inc., Room 2227, 12th & Constitution Avenue, N.W., Washington, DC 20423, (202) 289-4357—DC Metropolitan Area, (800) 424-5403—toll free for outside DC area.

FOR FURTHER INFORMATION CONTACT: Ward L. Ginn, Jr. (202) 275-7489.

SUPPLEMENTARY INFORMATION: The cost of capital findings in this decision should be utilized to evaluate the adequacy of railroad revenues for 1981, under the procedures and standards promulgated in Ex Parte No. 393, *Standards for Railroad Revenue Adequacy*, 364 ICC 803 (1981). These findings may also be utilized in proceedings involving the prescription of maximum reasonable rate levels.

Dated: June 11, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-16776 Filed 6-21-82; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-No. 154)]

Railroads; Consolidated Rail Corp. Exemption for Contract Tariff ICC-CR-C-0105

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275-7277.

SUPPLEMENTARY INFORMATION: Consolidated Rail Corporation (CR) filed a petition on June 5, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC-CR-C-0105 to become effective on June 14, 1982.[1] The contract was filed to become effective on July 8, 1982 and involves movement of steel products, machinery, and miscellaneous metal products.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief to allow contracts to become effective on one day's notice under our section 10505 exemption authority in exceptional situations.

[1] Because of the lateness in filing the petition, the June 14 date could not be met.

The petition shall be granted to allow the contract to become effective on one day's notice. Advancement of the contract's effective date will prevent curtailment of the contracting shipper's production schedule and avoid layoffs of numerous employees. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Conrail's contract may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

Although the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests are filed within 15 days of publication in the **Federal Register**.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10505.

Dated: June 16, 1982.

By the Commission, Division 2, Commissioners Gresham, Taylor, and Simmons. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-16777 Filed 6-21-82; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 29825]

Railroads; New York State Department of Transportation; Consolidated Rail Corp. Between Maybrook and Warwick, NY; Intent To Purchase

On June 1, 1982, the New York State Department of Transportation (NYSDOT) filed a notice of its intent to request the Commission to require the sale of trackage. NYSDOT seeks to acquire the Hudson Secondary track of the Consolidated Rail Corporation (Conrail) between Maybrook (milepost

0.0) and Warwick (milepost 21.0), a distance of 21.0 miles, pursuant to the feeder line development provisions of 49 U.S.C. 10910.

NYSDOT's application may be filed after August 30, 1982, (90 days after its notice). When an application is filed, any interested party may submit comments or recommendations to the Commission within 30 days and any financially responsible person may propose to acquire the property through a competing application, also within 30 days. All pleadings should refer to Finance Docket No. 29825 and should be submitted, with 10 copies to the Section of Finance, Room 5417, Interstate Commerce Commission, Washington, DC 20423. A copy should also be sent to Louis Rossi, Director, Rail Division, N.Y.S. Department of Transportation, 1220 Washington Avenue, NY 12232.

For further information contract Wayne A. Michel (202) 275–7657 or Louis E. Gitomer (202) 275–7245 at the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–16774 Filed 6–21–82; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 29819]

Railroads; New York State Department of Transportation; Consolidated Rail Corp. Between Middletown and Fair Oaks, NY; Intent To Purchase

On June 1, 1982, the New York State Department of Transportation (NYSDOT) filed a notice of its intent to request the Commission to require the sale of trackage. NYSDOT seeks to acquire the Crawford Industrial track of the Consolidated Rail Corporation (Conrail) between Middletown (milepost 0.0) and Fair Oaks (milepost 4.9), a distance of 4.9 miles, pursuant to the feeder line development provisions of 49 U.S.C. 10910.

NYSDOT's application may be filed after August 30, 1982, (90 days after this notice). When an application is filed, any interested party may submit comments or recommendations to the Commission within 30 days and any financially responsible person may propose to acquire the property through a competing application, also within 30 days. All pleadings should refer to Finance Docket No. 29819 and should be submitted, with 10 copies to the Section of Finance, Room 5417, Interstate Commerce Commission, Washington, DC 20423. A copy should also be sent to Louis Rossi, Director, Rail Division, N.Y.S. Department of Transportation, 1220 Washington Avenue, NY 12232.

For further information contact Wayne A. Michel (202) 275–7657 or Louis E. Gitomer (202) 275–7245 at the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–16773 Filed 6–21–82; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 29827]

Railroads; New York State Department of Transportation; Consolidated Rail Corp. Between MQ Junction and Montgomery, NY; Intent To Purchase

On June 1, 1982, the New York State Department of Transportation (NYSDOTO filed a notice of its intent to request the Commission to require the sale of trackage. NYSDOT seeks to acquire the Montgomery Industrial track of the Consolidated Rail Corporation (Conrail) between MQ Junction (milepost 0.0) and Montgomery (milepost 5.5), a distance of 5.5 miles, pursuant to the feeder line development provisions of 49 U.S.C. 10910.

NYSDOT's application may be filed after August 30, 1982, (90 days after its notice). When an application is filed, any interested party may submit comments or recommendations to the Commission within 30 days and any financially responsible person may propose to acquire the property through a competing application, also within 30 days. All pleadings should refer to Finance Docket No. 29827 and should be submitted, within 10 copies to the Section of Finance, Room 5417, Interstate Commerce Commission, Washington, DC 20423. A copy should also be sent to Louis Rossi, Director, Rail Division, N.Y.S. Department of Transportation, 1220 Washington Avenue, NY 12232.

For further information contact Wayne A. Michel (202) 275–7657 or Louis E. Gitomer (202) 275–7245 at the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–16772 Filed 6–21–82; 8:45 am]

BILLING CODE 7035–01–M

[No. 38749]

UTF Carriers, Inc.—Petition for Relief From Tariff Requirements Under 49 U.S.C. 10761(b)

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to file comments.

SUMMARY: In the **Federal Register** notice of June 7, 1982 (47 FR 24668), the date comments were due was 15 days from the date of **Federal Register** publication or June 22, 1982. At the request of the Federal Trade Commission, the due date has been postponed to June 28, 1982. This extension does not affect the provisional grant of the requested exemption nor the date the sought relief will become effective if no adverse comments are received. The effective date is July 7, 1982.

DATE: Comments are due June 28, 1982.

ADDRESS: Send original and 15 copies to: Office of Proceedings, Room 5340, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 257–7278.

Dated: June 16, 1982.

By the Commission, Reese H. Taylor, Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–16775 Filed 6–21–82; 8:45 am]

BILLING CODE 7035–01–M

INTERNATIONAL COMMUNICATION AGENCY

Book and Library Advisory Committee

The meeting of the Book and Library Advisory Committee originally scheduled for June 24 (47 FR 25429, June 11, 1982) has been postponed until Tueday, July 13. It will be held in conference room 600, 1750 Pennsylvania Avenue, NW., Washington, D.C. from 1:30 pm to 5:00 pm. The Committee will be briefed on Agency activities with primary focus on the book and library programs at posts overseas.

Dated: June 18, 1982.

Robert R. Reilly,

Director, Office of Private Sector Programs.

[FR Doc. 82–16915 Filed 6–21–82; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF JUSTICE

Antitrust Division

U.S. v. American Maize—Products Co., et al.

Pursuant to the Antitrust Procedures and Penalties Act 15 U.S.C. 16(a) and (b) the United States publishes below two comments it received from American Maize-Products Company on a proposed consent judgment in *U.S. v. American Maize-Products Company, et al.*, Civil

No. 81-1232 Civ.-J-M together with its response to such comments.

Joseph H. Widmar,

Director of Operations.

U.S. District Court, for the Middle District of Florida, Jacksonville Division

UNITED STATES OF AMERICA, Plaintiff, v. *American Maize-Products Company and Bayuk Cigars, Inc.*, Defendants

Civil No. 81-1232-Civ-J-M, Response of United States to Comments Relating to Proposed Final Judgment.

I. Background

On December 22, 1981, plaintiff filed a complaint under Section 7 of the Clayton Act, 15 U.S.C. 18, seeking to enjoin defendant American Maize-Products Company and its wholly-owned subsidiary, Jno. H. Swisher & Son, Inc., from acquiring the cigar business assets of defendant Bayuk Cigars Incorporated. The government alleged in its complaint that the acquisition of Bayuk's cigar business assets by American Maize would substantially lessen competition in the manufacture and sale of cigars.

On February 12, 1982, plaintiff filed with the Court a stipulation and proposed final judgment signed by all parties and a competitive impact statement. Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b), the stipulation, the proposed final judgment, and the competitive impact statement were published in the Federal Register on February 26, 1982. Summaries of those documents were published in the Washington Post on February 21-27, 1982, and in The Florida Times-Union on March 25-31, 1982. The competitive impact statement and the newspaper notices invited members of the public to comment on the proposed final judgment, in accordance with 15 U.S.C. 16(c), (d).

The comment period prescribed by 15 U.S.C. 16(c) expired on May 24, 1982. The only comments received by the government during that period were submitted by defendent American Maize. By letter dated March 16, 1982 (Appendix A), American Maize sought to withdraw its consent to the proposed decree. Although the letter did not purport to be a comment on the decree pursuant to the Antitrust Procedures and Penalties Act, it did attack the terms of the settlement and the government's competitive impact statement. The government responded to American Maize's letter of March 16 on April 5, 1982, in a letter from Alan L. Marx, Acting Chief of the Antitrust Division's General Litigation Section (Appendix B). The letter stated that the attempted withdrawal of consent was, in our view, ineffective, and that the Department of Justice saw no reason to withdraw its own consent to the decree.

American Maize subsequently submitted a letter dated April 27, 1982, which was explicitly designated a comment on the proposed final judgment pursuant to the Antitrust Procedures and Penalties Act (Appendix C). It repeated many of the allegations made in the letter of March 16 and objected to entry of the proposed final judgment as contrary to the public interest.

The government's response to these criticisms of the proposed final judgment and competitive impact statement is contained in the letter of April 5, 1982, from Alan Marx to counsel for American Maize, and in the following supplemental response to American Maize's letter of April 27.

II. Response to Comment of American Maize

American Maize contends that entry of the proposed final judgment is not in the public interest for two reasons. First, it claims that the competitive impact statement inadequately explained the anticipated effects of the proposed judgment on competition and thus did not comply with the requirements of the Antitrust Procedures and Penalties Act. Second, it asserts that the United States "permitted" Bayuk to sell part of its assets according to the terms of the proposed judgment prior to its entry. This was said to have undermined the purpose of the Antitrust Procedures and Penalties Act and the Court's duties thereunder.

Section IV (A) of the proposed final judgment prohibits Bayuk from selling any trade name or manufacturing facility used in its cigar business to any of the four largest cigar manufacturers—Consolidated Cigar Company, American Maize, Culbro Corporation, and American Brands, Inc.—wirthout prior approval from the Department of Justice. However, the decree contains an exception for Bayuk's Garcia y Vega brand and related assets, which may be sold to "any cigar manufacturer other than Consolidated Cigar Company," the largest cigar manufacturer in the United States.

On March 1, 1982, following negotiations with both Culbro Corporation and American Maize, Bayuk entered into an agreement to sell its Garcia y Vega brand and related assets to Culbro. Pursuant to section IV (B) of the proposed decree, Bayuk submitted the purchase agreement to the Department of Justice for review. We did not object to the sale, and we believe it was consummated on March 15, 1982. Subsequently, on or about June 2, 1982, Bayuk announced that it had sold its Phillies brand and related assets to a subsidiary of Havatampa, Inc., a cigar manufacturer in Tampa, Florida.

A. Adequacy of the Competitive Impact Statement

American Maize's initial objection—that the competitive impact statement does not adequately explain the anticipated effect on competition of the sale of Garcia y Vega to Culbro, and thus does not satisfy the requirements of 15 U.S.C. 16(b)(3)—was addressed at length in the letter of April 5 from Alan Marx to Barbara Mentz. Several of the points made there bear repeating.

1. Procedural Nature of the Antitrust Procedures and Penalties Act. Section 2(b)(3) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)(3), states that the government must file a competitive impact statement containing "an explanation of the proposal for a consent judgment, including any unusual circumstances giving rise to such proposal or any provision contained therein, relief to be obtained thereby, and the anticipated effects on competition of such relief." Like most other provisions of the Act, this is a purely procedural requirement. The government must set forth its explanation of the settlement, which it had done. The competitive impact statement filed in this case addresses all of the specified subject, including the last, in ample detail. That American Maize anticipates a different competitive impact or disapproves our lack of further investigation is irrelevant to the narrow issue of compliance with 15 U.S.C. 16(b)(3). The statute does not require that our views be in complete accord with those of other parties to the settlement.

2. Relevance to the Public Interest Standard. American Maize's real objection lies not with the competitive impact statement, but with the decree itself. With the advantage of hindsight, American Maize regrets that it consented to a decree which on its face allowed Culbro, among others, to acquire Garcia y Vega. Whether the decree, because it sanctions Culbro's acquisition of Garcia y Vega, is not in the public interest is an issue that ought to be addressed on its merits, not in the guise of an attack on the sufficiency of the competitive impact statement.

The public interest standard governing entry of the proposed decree is essentially the same as that embodied in the antitrust laws, with due allowance for the fact that a settlement inevitably entails some compromise. *See* S. Rep. No. 298, 93d Cong., 1st Sess. 3 (1974); H.R. Rep. No. 1463, 93d Cong., 2d Sess. 11-12 (1974), *reprinted in* 1974 U.S. Code Cong. & Ad. News 6535, 6542. Section 7 of the Clayton Act, under which this case was brought, prohibits mergers and acquisitions the effect of which may be substantially to lessen competition or tend to create a monopoly. The real question raised by American Maize, though not articulated as such, is whether the probable effect of the sale of Garica y Vega to Culbro, as permitted by the proposed decree, will be substantial lessening of competition in the cigar industry. We continue to believe that the correct answer is that it will not, for the reasons given in the competitive impact statement.

Acting within the limits imposed by the terms of the settlement, Bayuk has sold its Garcia y Yega brand and related assets to Culbro and its Phillies brand and related assets to a subsidiary of Havatampa, Inc. As discussed in part III(A) of the competitive impact statement, the increase in concentration resulting from the former, as measured by the Hirschman-Herfindahl index, is .0091 in units and .0093 in dollars. For the latter, the comparable figures are .0039 and .0018.* The pre-acquisition industry totals were .1464 in units and .1190 in dollars.

Although not inconsiderable, these increases are far smaller than the .0300 and .0140 increases threatened by the original transaction. Each is below the level at which the Department of Justice ordinarily would sue to block the acquisition, given the facts of this industry. Market segmentation and Culbro's relative weakness in the mid-priced

* These figures were given in the competitive impact statement but Havatampa was not identified by name.

segment where Garcia y Vega is strongest lessen somewhat the anticompetitive potential of that transaction. Compared with the low-priced segment of the market, medium-priced cigars are more subject to competition from small fringe firms and the possibility of increased imports.

Although Havatampa makes exclusively low-priced cigars, which compete directly with Phillies, its share of the market prior to the acquisition was to small to cause concern. It will take Bayuk's place as one of the major manufacturers, maintaining a market structure in which there are five, rather than four, significant factors.

3. *Arguments Advanced by American Maize.* None of the arguments advanced by American Maize on the competitive mertis of the settlement is persuasive. Much of its discussion is devoted to the proposition that Swisher would have been a desirable, procompetitive purchaser of Garcia y Vega. The premises underlying this line of argument are factually questionable and economically unsound.

For example, it is doubtful that "Swisher is unable to market cigars in a price range of $.15 and over" because of "marketing and distribution blocks." Comment at 2. American Maize, in an earlier memorandum, attributed this to Swisher's "reputation of being a maker of inexpensive cigars," as evidenced by the fact that Swisher "has twice tried to penetrate the higher priced cigar market and failed."* One of Swisher's efforts to sell medium-priced cigars was never designed to be a permanent entry into that market segment, and the other probably failed because of insufficient advertising and promotional support. In the latter instance the product was given a new brand name and not identified with Swisher, so the company's image with consumers was not a factor.

The assertion that Bayuk "had expressed its intention to liquidate its cigar operations" and therefore "if Swisher were to purchase the Garcia y Vega line, Swisher would preserve competition in the medium- priced market segments," Comment at 2, is equally questionable. Although Bayuk intended to sell its cigar business assets, there was never any question that the Garcia y Vega brand would survive intact. Any purchaser, not just Swisher, would have "preserved" it in that sense. However, if American Maize intends to convey a different thought—that it would have preserved Garica y Vega as an independent competitive entity—then it is wrong. Acquisition by Swisher would have extinguished rather than preserved its status as a separate competitor.

American Maize's argument concerning the geographically complementary distribution of Garcia y Vega and Swisher sales (Comment at 5) is meaningful only if there are regional or local geographic markets. There is no evidence to support such an assumption. The geographic market for cigars alleged by the government in this case (and stipulated to in the *Culbro* case cited by American Maize) is nationwide at the manufacturing level. All major manufacturers sell throughout the country. Freight costs are a minimal factor in the sale of cigars. Manufacturers used uniform prices nationwide and ship freight-free on minimum orders. Regional and local brand preferences vary, but these do not reduce the area within which buyers (mainly wholesale distributors) can practicably turn to alternatives sellers.

In addition to its dubious factual and theoretic underpinnings, the proposition that Swisher's acquisition of Garcia y Vega would have been procompetitive, and thus desirable has little bearing on the central issue—whether entry of the proposed decree would be in the public interest. Whether the sale of Garcia y Vega to Swisher would have entailed slightly lower risks of anticompetitive effects than its sale to Culbro is irrelevant. Section 7 of the Clayton Act proscribes only mergers and acquisitions the probable effect of which will be substantially to lessen competition. That is the standard by which we determined the acceptability of potential purchasers for Garcia y Vega, and we believe it is the standard that should guide the Court's public interest determination as well. If, by this test, Culbro is an acceptable purchaser, the competitive desirability of other potential purchasers is immaterial. Short of a probable substantial lessening of competition, we are not in a position to pick and choose among alternative buyers. Indeed, Swisher would not have fared well had we done so, inasmuch as nearly all other potential purchasers would have posed lesser risks of anticompetitive effects than Swisher.

The only other comment that goes directly to the question of the competitive impact of Culbro's acquisition of Garcia y Vega is the assertion that "[i]n 1977, the Government sought and obtained a divestiture of an acquisition by Culbro * * *, recognizing then the anticompetitive effects which it now chooses to ignore." Comment at 4. The facts in *United States v. Culbro Corp.*, 436 F. Supp. 746 (S.D.N.Y. 1977), decree at 1978–2 Trade Cases ¶62,274 (S.D.N.Y. 1978), differ from those present here in several important respects. That case had vertical as well as horizontal aspects, and the vertical relationship was the principal focus of the parties, the court, and the industry, including Swisher. The horizontal overlap represented only about three percent of the acquired business. The combined market shares of the two companies and the resulting increase in concentration were greater than the increase in concentration from Culbro's acquisition of Garcia y Vega. The products of both companies were concentrated in the low-priced segment of the market. There was nothing in that acquisition comparable to the restriction on the disposition of Phillies contained in this decree. In any event, the fact such a case was brought and divestiture obtained by consent of the parties sheds relatively little light on the issues currently before the Court.

B. Prior Consummation of the Sale of Garcia y Vega to Culbro

American Maize also alleges that the Department of Justice "knowingly disregarded the requirements and the very purpose" of the Antitrust Procedures and Penalties Act when it "allowed" Bayuk to sell Garcia y Vega to Culbro before entry of the decree. The argument assumes an authority on the part of the Department of Justice that does not exist. We have no unilateral injunctive power. Culbro was not a party to this lawsuit. Its purchase of Garcia y Vega was an entirely different transaction than the one that was the subject of this lawsuit.

We could conceivably have filed a new complaint in a different court and sought an injunction on the basis that the sale of Culbro violated the Clayton Act, but we had no reason to do so. We had considered the possibility of a sale to Culbro when we agreed to the proposed judgment and concluded that it would not violate the antitrust laws. We are aware of no changed circumstances that would have altered that decision. Indeed, we were not even aware of American Maize's objections to the decree and the competitive impact statement until after the transaction was consummated.

We would have petitioned the Court to prevent Bayuk from consummating the sale had we thought the sale violated the proposed final judgment, even though it had not yet been entered. Bayuk complied with the procedures set out in the decree, however, and we considered the transaction consistent with its terms.

In going ahead with the sale before the decree was entered, Bayuk acted at its own risk. If the decree is not entered, either the government or American Maize can challenge the sale as violative of section 7 of the Clayton Act. A third party can file such a challenge without regard to the decree. The Court's disapproval of the decree, however, would not affect, and could not in and of itself overturn, the sale to Culbro. That can only be done if the sale is declared unlawful, which, in turn, would require the filing of a new complaint and the initiation of a new action.

III. Conclusion

We see little merit to American Maize's criticism of the proposed final judgment, which we continue to believe is in the public interest. Even though Bayuk has now sold its cigar manufacturing assets in accordance with the proposed judgment, entry of the decree remains important because its restraints on the disposition of the Bayuk cigar business assets will continue to bind Bayuk's successors for five years.

Dated: June 4, 1982.

Respectfully submitted.

Steven C. Douse,
Richard W. Pierce,
Attorneys, United States Department of Justice, Antitrust Division, Washington, D.C. 20530, (202) 724–6485.

Appendix A

March 16, 1982.

Federal Express
Alan L. Marx, Esq.,
Acting Chief, General Litigation Section, Antitrust Division, United States Department of Justice, Washington, D.C. 20530

* Memorandum of American Maize-Products Company and Bayuk Cigars Incorporated in Support of the Proposed Acquisition of Bayuk Cigars Incorporated at 25 (October 22, 1981).

Re: U.S. v. American Maize-Products Company and Bayuk Cigars Incorporated (Civil No. 81-1232-Civ-J-M) Withdrawal of Consent to Final Judgment

Dear Mr. Marx: This is to notify you that American Maize-Products Company hereby withdraws its consent to the entry of the proposed final judgement in *United States* v. *American Maizes-Products Company and Bayuk Cigars Incorporated*, Civil Action No. 81-1232-Civ-J-M, which consent was subject to the Department of Justice's compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16. (The Stipulation of Consent that was filed February 12, 1982). 15 U.S.C. 16(b) requires that the Department of Justice file a Competitive Impact Statement which, *inter alia*, must include: "an explanation of the proposal for a consent judgment, including an explanation of any unusual circumstances given rise to such proposal or any pro vision contained therein, relief to be obtained thereby, and the anticipated effects on competition of such relief." 15 U.S.C. 16(b)(3). Subsequent to American Maize's execution of its Stipulation of Consent to the proposed final judgment, the Department of Justice filed its Competitive Impact Statement which fails in material part to comply with the requirements of 15 U.S.C. 16(b)(3). American Maize briefly sets forth herein its primarily reason as for withdrawal of its consent.

After many months of investigation by the Department of Justice including receipt of thousands of pages of documents from American Maize and its cigar manufacturing subsidiary Swisher through use of Civil Investigative Demands, it was apparent to the Department of Justice that if Swisher were allowed to acquire Garcia y Vega "the risk of anticompetitive effect is acceptably low in part because Garcia y Vega and Swisher compete primarily in different segments of the market. . . If Swisher is able to negotiate a purchase of only Garcia y Vega, it will thereby expand its production into the medium-priced segment of the market in which it is not now represented." Competitive Impact Statement 47 Fed. Reg. 8425 (February 26, 1982). In order words, the acquisition would enhance competition and Garcia y Vega would remain as a competitive force in the market place. Swisher agreed with this portion of the Department's analysis.

However, the Department of Justice, without explanation, without investigation, without issuing even one Civil Investigative Demand and without complying with the requirements of 15 U.S.C. 16(b)(3) is now gratutiously sanctioning the purchase of the Garcia y Vega line by General Cigar Co. ("Culbro") wholly failing to analyze the effect on competition or to explain the unusual circumstances allowing it to sanction an acquisition it had not scrutinized. The only attempted justification made by the Department of Justice is it unsupportable conclusory assertion that its analysis of the effect of a Swisher/Garcia y Vega acquisition is "applicable to Culbro". *Id.* This is patently not the case.

Culbro already manufactures cigars that are directly competition with Garcia y Vega. An acquisition would eliminate such direct competitive whereas an acquisition by Swisher which is not in the Garcia y Vega market segment would preserve Garcia y Vega as a competitive entity. Culbro has in recent years brought up its competitors and the Government forced a divestituture of one such acquisition in 1977 (*United States* v. *Culbro*, 77 Civ. 3149 (S.D.N.Y.) Final Judgment at IV) recognizing then the anticompetitive effects which it now chooses to ignore. On the other hand, Swisher has never before had a cigar acquisition and it has no cigars directly competitive with the Garcia y Vega.

Secondly, Culbro and Garcia y Vega market their cigars and have their greatest strength in the Northeastern United States. Culbro already dominates this geographic area through its vertical acquisition of Metropolitan Tobacco Company and its distribution divisions. The combined strength of these two operations will significant impede any new entrant in this market. On the other hand a Swisher/Garcia y Vega acquistion, would have given Swisher a competitive entry in the medium priced cigar range which it did not have and further give it marketing capability in an area of the United States that is complementary to Swisher's Southeastern market.

Finally, Culbro has in recent years engaged in both horizontal and vertical acquisition of Garcia y Vega will allow Culbro to eliminate yet one more competitor.

The Department of Justice has wholly failed to meet the obligations of 15 U.S.C. 16(b) and has attempted to justify a highly anticompetitive acquisition of Garcia y Vega by Culbro without regard to, and in contravention, of this indisputable fact.

This notification is not intended to serve in place of a hearing or the submission of evidential material to the Court at an appropriate time as provided in 15 U.S.C. 16(e) and (f).

Sincerely,

Hall, McNicol, Hamilton, Clark & Murray,

By: Barbara A. Mentz,

Attorneys for American Maize-Products Company.

Appendix B

April 5, 1982.

Barbara Mentz, Esquire,
Hall, McNicol, Hamilton, Clark & Murray,
220 East Forty-Second Street, New York, New York 10017

Re: United States v. American Maize-Products Company and Bayuk Cigars, Inc.

Dear Ms. Mentz: This is in response to your letter dated March 16, 1982. The letter asserts that your client's consent to the proposed final judgment in *United States v. American Maize-Products Company*, Civil Action No. 81-1232—Civ. J-M (M.D. Fla), "was subject to the Department of Justice's compliance with the requirements of the Antitrust Procedures and Penalties Act," and that the compefitive impact statement filed by the Department of Justice "fails in material part to comply with the requirements of 15 U.S.C. [§] 16(b)(3)." As a consequence, American Maize contends that it may now withdraw its consent to the proposed final judgment, which the letter purports to do. We believe your criticisms of the competitive impact statement are unwarranted and your client's attempt to withdraw its consent to the proposed final judgment ineffective.

Your real quarrel, it seems, is not so much with the after-the-fact explanation of the decree in the competitive impact statement as it is with part IV(A) of the decree itself, which states that "Bayuk shall be permitted to sell the Garcia y Vega brand and any manufacturing facilities and assets necessary to produce that brand to any cigar manufacturer other than Consolidated Cigar Company." There is no way the competitive impact statement could have been written to satisfy your objections under the decree as it is presently drafted. Yet neither the decree nor the facts and circumstances on which you rely have changed since American Maize signed the stipulation consenting to entry of the decree. You were aware at the time that the decree allowed any cigar manufacturer other Consolidated to buy Garcia y Vega, but you did not object. The arguments you now make could have been advanced before the stipulation was signed, but they were not. Only after Culbro outbid American Maize and entered into a purchase agreement with Bayuk did you discover that this was an egregiously anticompetitive result. Although I can conceive of situations in which drastically changed circumstances might make it inequitable to hold a defendant to its prior consent, this is clearly not such a case.

You contend that your client's consent was conditioned on the government's compliance with the Antitrust Procedures and Penalties Act. Nothing in the Act suggests that your adherence to the judgment is conditional or that it may be withdrawn because you consider the competitive impact statement deficient. The stipulation for entry of the proposed final judgment, signed by your client, states explicitly that the plaintiff may withdraw its consent "at any time before entry of the proposed Final Judgment by serving notice thereof on Defendants and filing that notice with the Court." There is no comparable provision for withdrawal by a defendant.

The stipulation authorizes entry of the proposed final judgment "at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act." This confers no rights and imposes no obligations beyond those in the Act itself. If the competitive impact statement does not satisfy the requirements of the Act, the court may decline to enter the decree until the deficiency is corrected. Neither in law nor in logic would such a procedural lapse justify your client's attempt unilaterally to disavow its freely-given consent.

We also see no merit in your assertion that the competitive impact statement filed in this case does not comply with 15 U.S.C. § 16(b)(3). According to section 16(b)(3), the competitive impact statement must contain "an explanation of the proposal for a consent judgment, including any unusual circumstances giving rise to such proposal or any provision contained therein, relief to be obtained thereby, and the anticipated effects on competition of such relief." Parts I, II, and III of the competitive impact statement

discuss these subjects at length. Your letter is not entirely clear on the point, but it implies that this explanation does not satisfy section 16(b)(3) because: (1) the Department of Justice did not conduct a separate investigation of Culbro; (2) it failed to analyze the effect on competition of a sale to Culbro; and (3) it reached what you now view as the patently incorrect and unsupportable conclusion that a sale to Culbro would not be unduly anticompetitive.

There is no support for your assertion that we were obligated to issue civil investigative demands and conduct a lengthy, full-scale investigation of Culbro (and, presumably, of all other potential purchasers) before permitting it to buy Garcia y Vega. I appreciate that your client, having borne the burdens of an investigation and litigation, resents losing Garcia y Vega to Culbro, which suffered neither. Our role, however, is not to inflict equal investigative costs on all potential purchasers. Our purpose in conducting investigations is to learn enough to make intelligent enforcement decisions. The extensive information about the cigar industry and the companies in it gathered during our investigation of your client's attempted acquisition of Bayuk, in addition to our previous experience with the cigar industry, was more than adequate to that purpose. Further investigation would have been duplicative and wasteful.

Your assertion that the competitive impact statement fails to analyze or explain the effect on competition of allowing Culbro to buy Garcia y Vega is simply incorrect. The first half of part III A considered the increases in concentration that would result from the sale of Garcia y Vega to Swisher, Culbro, or American, as well as from the sale of Phillies to the largest companies permitted under the decree. The decree's preservation of Phillies as a competitive entity, discussed in part III B, is the most important reason for believing that the sale of Garcia y Vega to one of the major manufacturers, including Culbro, will not substantially impair competition in the cigar industry. Because the number of significant competitors will remain the same, the increase in concentration caused by selling Garcia y Vega to Culbro or Swisher—the reasoning is the same for both—is less worrisome than would be the case if Garcia y Vega were an independent company. The discussion of alternatives to the decree in part III C applies equally in the case of a sale to Culbro.

The latter portion of III A, concerning market segmentation, focuses on Swisher, but not to the exclusion of Culbro. The last paragraph points out that the same considerations apply to Culbro, inasmuch as its greatest strength is in the low-priced and premium segments of the market, but to a lesser degree, as Culbro does have medium-priced brands. Culbro's sales of cigars retailing for between seventeen cents and thirty-five cents each account for less than four percent of its total cigar sales. Its sales volume in this price range is considerably smaller than that of Garcia y Vega. There is thus more direct overlap than was true with Swisher, especially at the margins, but little enough that some allowance can be made for it. It is, as the competitive impact statement points out, a matter of degree.

The emphasis your letter places on this part of the competitive impact statement suggests that you have misunderstood its significance. The increase in concentration resulting from the disposition of the Bayuk assets was the starting point for our analysis and its single most important element. The preservation of Phillies was the most important factor lessening the impact of the potential increase in concentration under the decree. Market segmentation was another. It was not the only basis for our decision, or even the most important. It certainly did not lead us to conclude, as your letter represents, that Swisher's acquisition of Garcia y Vega would "enhance competition" or that if acquired by Swisher, Garcia y Vega "would remain as a competitive force in the marketplace." An acquisition by either Culbro or Swisher entails competitive risks, of varying dimensions. Given the nature of the market and the companies involved, and in light of other provisions of the decree and the unsatisfactory alternatives, we concluded that the risks were acceptably small. Our analysis of the risks involved included those raised by a sale of Culbro, and we believe this is adequately set out in the competitive impact statement.

You are free to disagree with our conclusions; however, such substantive criticisms are irrelevant to the procedural requirements of section 16(b)(3). Moreover, your argument on the merits is not persuasive, and we see no reason to withdraw our consent to the proposed final judgment.

That the Department of Justice previously challenged an acquisition by Culbro, while "Swisher has never before had a cigar acquisition," are facts of only limited relevance. Swisher's comparative desirability as a purchaser of Garcia y Vega is irrelevant to the issue of whether a sale to Culbro would be substantially anticompetitive. Although Culbro has acquired wholesale distributors, your assertion that it "has in recent years bought up its competitors" greatly overstates the case. Culbro acquired Gradiaz Annis in 1963 and in 1977 obtained an option to but part of Havatampa, now Eli Witt. That company's cigar manufacturing operations were divested under the Havatampa name in 1978. We are aware of no other acquisition of cigar manufacturers by Culbro.

Because the market for cigars is national in scope, we do not attach great significance to the strength of Culbro and Garcia y Vega in the Northeast. Culbro's control over wholesale distribution in certain areas presents competitive problems distinct from those involved here, and the Garcia y Vega acquisition is not likely to affect them. There is no reason to believe that it will afford Culbro any greater opportunities to impede the distribution of competitors' cigars in the Northeast, or elsewhere, than existed prior to the acquisition.

Neither the Department of Justice nor, to the best of our knowledge, Bayuk, which are the only parties to the settlement whose actions are restrained by the decree, wishes to abrogate the agreement or sees any reason to do so. American Maize remains free to bring its own action against the Culbro acquisition.

The last paragraph of your letter suggests that you intend to ask the court for a hearing and present evidence opposing entry of the decree. Please let us know as early as possible what further action you intend to take.

Sincerely yours,

Alan L. Marx,

Acting Chief, General Litigation Section Antitrust Division.

cc: Honorable Howell W. Melton
United States District Judge
United States Courthouse
311 W. Monroe Street
Post Office Box 52957
Jacksonville, Florida 32201-2957

Donald Turner, Esquire
Wilmer, Culter & Pickering
1666 K Street, N.W.
Washington, D.C. 20006

Appendix C

April 27, 1982.

Alan L. Marx, Esq.,
Acting Chief, General Litigation Section, Antitrust Division, United States Department of Justice, Washington, D.C. 20530

Re: United States v. American Maize-Products Company and Bayuk Cigars Incorporated (Civil No. 81-1232-Civ-J-M)

Dear Mr. Marx: This letter constitutes American Maize-Products Company's written comments to the proposed final judgment in the above-entitled action pursuant to 15 U.S.C. § 16(b) of the Antitrust Procedures and Penalties Act ("APPA"). It is American Maize's position that the proposed final judgment should not be entered as it is not in the public interest. The reasons are as follows: First, the Department of Justice has failed to comply with the requirements of the APPA. Second, the Department of Justice has knowingly undermined the very purpose of the APPA as expressed by Congress. American Maize has withdrawn its consent to the proposed final judgment and is seeking discovery with respect to these issues on the ground, *inter alia*, that such consent was obtained by deception.

I. Introduction

As you know, in July 1981, Swisher's parent, American Maize, announced that it had entered negotiations to purchase the cigar manufacturing assets of Bayuk Cigars Inc. Bayuk's assets included the Phillies brand of cigars, which sell for approximately $.15 and under each, and the Garcia y Vega brand, which cigars sell in the medium-priced segment of the market, approximately $.15 to $.75. On August 14, 1981, the Department of Justice issued Civil Investigative Demands directed to American Maize and Bayuk which sought detailed information concerning the business and operations of American Maize, Swisher, and Bayuk for the purpose of evaluating the effect of the acquisition upon competition.

In response, American Maize produced literally thousands of pages of documents. In addition, American Maize and Bayuk jointly submitted detailed memoranda, including

economic studies, which analyzed the impact of the proposed acquisition. In particular, American Maize and Bayuk pointed out that the cigar industry had declined drastically over the last decade from sales of approximately 8 billion units in 1970 to 4 billion units in 1980, and that Swisher manufactured and marketed only cigars in the $.15 and under price price range, in a geographical area which was complementary rather than competitive to that of Bayuk. Most importantly, the acquisition would enhance competition in that Swisher would become an effective nationwide competitor in a *full line* of products, enabling it to compete against the nation's largest cigar manufacturing companies, Consolidated Cigar Co. and General Cigar Co. (a subsidiary of Culbro Corporation). One of the main thrusts of Swisher's position is that Swisher is unable to market cigars in a price range of $.15 and over, due not to technological difficulties but rather to marketing and distribution blocks. The acquisition of the Carcia y Vega line would permit Swisher *to enter* the medium-priced segment of the market. Bayuk had expressed its intention to liquidate its cigar operations. Therefore, if Swisher were to purchase the Garcia y Vega line, Swisher would preserve competition in the medium-priced market segment. Notwithstanding these submissions, the Department filed the above entitled action to enjoin American Maize from acquiring the cigar manufacturing assets of Bayuk.

On January 15, 1982, counsel for American Maize was first advised that Bayuk was separately engaging in settlement discussions with the Department. The settlement that these two parties were proposing was structured in such a way that it did not require any participation of American Maize as no injunction was to be issued against American Maize. The initial notification of such settlement discussions to American Maize consisted of a communication which indicated that Bayuk was no longer interested in challenging the Department concerning its right to sell all of its cigar business assets to American Maize but that, under the terms of settlement worked out with the Department, it would continue to negotiate with American Maize concerning the sale of its Garcia y Vega brand, disposing of its Phillies brand in some other fashion but not to any of the four largest companies in the industry.

On January 21, 1982, American Maize was forwarded a proposed stipulation which provided for an entry of a final judgment in this action upon completion of certain terms and conditions. Specifically, the stipulation recites that:

The parties consent that a Final Judgement in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that Plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on Defendants and by filing that notice with the Court.

The stipulation was specifically conditioned upon the Department's compliance with the requirements of the APPA.

On January 22, the stipulation was signed on behalf of American Maize subject to such compliance. As more fully set forth below, such compliance[1] was not forthcoming and American Maize has learned that the Department has ignored the very purpose of the APPA.

II. Entry of the Proposed Consent Judgement Fails To Comply With the APPA

Compliance with the APPA requires, *inter alia*, that the Department of Justice file a competition impact statement which, *inter alia*, must include "an explanation of the proposal for a consent judgement, including and explanation of any unusual circumstances giving rise to such proposal or any provision contained therein, relief to be obtained thereby, and the anticipated effects on competition of such relief." 15 U.S.C. § 16(b)(3). Subseqent to American Maize's execution of its Stipulation of Consent to the proposed final judgement, the Department of Justice filed its Competitive Impact Statement, which fails in material part to comply with the requirements of 15 U.S.C. § 16(b)(3).

The Department's detailed investigation and analysis of Swisher and Bayuk allowed it to conclude in the Competitive Impact Statement that if Swisher were permitted to acquire Garcia y Vega, "the risk of anticompetitive effect is acceptably low, in part because Garcia y Vega and Swisher compete primarily in different segments of the market. . . . It [sic] Swisher is able to negotiate a purchase of only Garcia y Vega, it will thereby expand its production into the medium-priced segment of the market in which it is not now represented." Competitive Impact Statement, 47 FR 8423, 8425 (February 26, 1982). In other words, the acquisition would enhance competition and Garica y Vega would remain as a competitive force in the market place. Swisher agreed with this portion of the Department's analysis.

However, the Department of Justice, without explanation, without investigation, without issuing even one civil investigative demand and without complying with the requirements of 15 U.S.C. § 16(b)(3) requiring that the competitive effects of a proposed judgment be analyzed, gratuitously sanctioned the purchase of the Garcia y Vega line by General Cigar Co. (referred to as Culbro in the Statement), wholly failing to analyze the effect on competition or to explain the unusual circumstances allowing it affirmatively to sanction and acquisition that it had not scrutinized. The only attempted justification made by the Department of Justice is its unsupportable conclusory assertion that its analysis of the effect of a Swisher/Garcia y Vega acquisition is "applicable to Culbro." *Id.* This is patently not the case, and it was clear to us that the Department has simply fabricated parts of the statement to permit direct competitors of Bayuk's Garcia y Vega brand to acquire that brand using as justification the analysis of a Swisher/Garcia y Vega acquisition, which is totally inappropriate.

Culbro already manufactures cigars that are directly competitive with Garcia y Vega. An acquisition would eliminate such direct competition whereas an acquisition by Swisher, which is not in the Garcia y Vega market segment, would enhance competition and maintain Garcia y Vega as a competitive entity. In 1977, the Government sought and obtained a divestiture of an acquisition by Culbro (*United States* v. *Culbro*, 77 Civ. 3049 (S.D.N.Y.) Final Judgement at IV), recognizing then the anticompetitive effects which it now chooses to ignore. On the other hand, Swisher had never before had a cigar acquisition and it has no cigar directly competitive with Garcia y Vega.

Secondly, Culbro and Garcia y Vega market their cigars and have their greatest strength in the Northeastern United States. Culbro already dominates this geographic area through its vertical acquisition of Metropolitan Tobacco Company and its distribution divisions. The combined strength of these two operations will significantly impede any new entrant in this market. On the other hand, a Swisher/Garcia y Vega acquisition would have given Swisher a competitive entry in the medium-priced cigar market which it did not have and further give it marketing capability in an area of the United States that is complementary to Swisher's, which is Midwest, Southwest and Southeast.

In *United States* v. *National Broadcasting Co., Inc.*, 449 F.Supp. 1127 (C.D. Cal. 1978), the court, in approving a proposed consent judgment in a civil antitrust action, stated, "In evaluating a proposed consent decree, one highly significant factor is the degree to which the proposed decree advances and is consistent with the government's original prayer for relief." *Id.* at 1144. It thereafter analyzed the merits of the case and concluded that the "relief provided by the judgment is consistent with the government's general theory of liability as manifested in its complaint." *Id. at 1145. As a result, the court held "that the consent judgment, on balance, advances and is in 'the public interest.'" Id.* Thus, the court reviewed closely and substantively the settlement in question. In the present case, the Competitive Impact Statement cannot withstand inquiry. It is inadequate because it failed to take into account the anticipated effects on competition that would arise if the decree became the foundation for allowing Culbro Corporation to buy Garcia y Vega. Accordingly, it should not be entered for this reason alone.

More important, however, is the fact that during the sixty day period in which the proposed consent judgment was supposed to be subject to public comment and scrutiny by the Court, the Department of Justice permitted the acquisition of Garcia y Vega by General Cigar Co. In fact, it permitted the aquisition in March just days after publication in the **Federal Register** of the Competitive Impact Statement. This directly

[1] By letter dated March 16, 1982, American Maize withdrew its consent to the stipulation because of the Department's non-compliance. That letter is incorporated herein as if fully set forth.

contravenes the intent of Congress in enacting the APPA.

III. The Department of Justice's Actions in This Matter Have Totally Contravened Congress' Intention in Enacting the APPA

Congress passed the APPA in response to perceived abuses by the Department of Justice in settling antitrust cases. It was observed that the settlement process was cloaked in secrecy and was subject to political abuse, and that the views of interested third parties were seldom considered. *See* H.R. Rep. No. 1463, 93d Cong., 2d Sess. *reprinted in* 1974 U.S. Code Cong. & Ad. News 6535–40; 120 Cong. Rec. 36585 (1974) (remarks of Sen. Tunney); 120 Cong. Rec. 36341–42 (1974) (remarks of Reps. McClory and Seiberling); 119 Cong. Rec. 24598 (1974) (remarks of Sen. Tunney). The House Report on the APPA states that Congress' intent in passing the APPA was to curb the "[v]arious abuses in consent decree procedures by the Antitrust Division and by district courts" by substituting "sunlight" for "twilight". H.R. Rep. No. 1463, 93d Cong., 2d Sess. *reprinted in* 1974 U.S. Code Cong. & Ad. News 6537. Further, Congress clearly intended that a court analyze whether the proposed consent judgment was in the public interest and not just to act as a rubber stamp. *Id.* at 6538.

To achieve those objectives and open up the consent judgment process to public scrutiny, the APPA establishes several steps that the Department of Justice must take prior to entering into a final consent judgment. First, the APPA ensures that the public has fair notice by requiring that the terms of the proposed judgment and the competitive impact statement be published in the **Federal Register** at least sixty days prior to the effective date of the judgment. 15 U.S.C. 16(b). This is to *ensure* that the public is aware of the proposed consent judgment and has the opportunity for meaningful comment. During the sixty day comment period, the Department is required to receive and consider comments relating to the proposed judgment. 15 U.S.C. § 16(d). At the expiration of the sixty days, the Department is required to file with the court and publish in the **Federal Register** its responses to the comments. *Id.* After the sixty day period, the court is required to make a determination whether entry of the proposed judgment is in the public interest. 15 U.S.C. §§ 16(e) and (f).

In this action, however, there can be no question that the Department knowingly disregarded the requirements and the very purpose of the APPA. Just days after publication in the **Federal Register**, the Department allowed Bayuk to sell its Garcia y Vega assets to General Cigar Co.

The Department did not even bother to tell the Court or American Maize that the transaction was going to happen even though the Staff received ten days advance notice. This practice does violence to, and flies in the face of, the clear meaning and intent of the APPA that the public is entitled to comment and that the Court is not merely to serve as a "rubber stamp" for the Department of Justice. The Department of Justice unilaterally decided that it would not even give the Court the opportunity to "rubber stamp" the proposed final judgment.

It is not in the public interest for the Department to be allowed to submit an incorrect Competitive Impact Statement and to ignore Congressional intent with respect to the APPA. For the foregoing reasons the proposed final judgment should not be entered.

Hall, McNicol, Hamilton, Clark & Murray.

Attorneys for American Maize-Products Company.

[FR Doc. 82-16835 Filed 6-21-82; 8:45 am]

BILLING CODE 4410-01-M

Attorney General

Proposed Consent Decree in Action To Enforce the Clean Water Act

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR. 19029, notice is hereby given that on June 1, 1982, a proposed consent decree in *United States* v. *Louisville and Nashville Railroad Company*, No. 82–0558–C–B, was lodged with the United States District Court for the Southern District of Alabama, Southern Division. The proposed decree provides for settlement of a suit under the Clean Water Act concerning the company's twelve facilities in Alabama, Tennessee and Kentucky. The proposed decree requires that company pay a civil penalty for alleged violations of Section 301 and conform to waste water treatment facility completion schedules and effluent standards.

The Department of Justice will receive, for a period of thirty (30) days from the date of this notice, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Louisville and Nashville Railroad Company*, D.J. Ref. No. 90–5–1–1–1554/90–5–1–1–1154.

A proposed consent decree may be examined at the office of the United States Attorney, Southern District of Alabama, 311 Federal Building, Mobile, Alabama 36602; at the Region IV Office of the United States Environmental Protection Agency, Office of Regional Counsel, Second Floor, 345 Courtland Street, N.E., Atlanta, Georgia 30365; and the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting the proposed consent decree please send a check or money order in the amount of $1.10 (10 cents per page reproduction charge) made payable to the Treasurer of the United States.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82-16834 Filed 6-21-82; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–12,562]

Baros Coat and Suit Corp.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 6, 1981 in response to a petition received on March 27, 1981 which was filed on behalf of workers at Baros Coat and Suit Corporation, Brooklyn, New York. Workers produced ladies' suits, coats and jackets.

On December 31, 1979 the Department issued a notice of determination which certified workers at Baros Coat and Suit Corporation, Brooklyn, New York, as eligible to apply for adjustment assistance benefits (TA–W–6268). That certification expired on December 31, 1981, two years after the date it was issued.

Baros Coat and Suit Corporation permanently closed in August 1981. All workers were laid off at that time. These workers were covered by an active certification (TA–W–6268). Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C. this 11th day of June 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-16767 Filed 6-21-82; 8:45 am]

BILLING CODE 4510-28-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period June 7, 1982–June 11, 1982.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-12,453; Sondra Coat Co., Hoboken, NJ
TA-W-12,257; Fleetline Industries, Inc., Garland, NC
TA-W-12,452; Liberty Fashions, Inc., Hoboken, NJ
TA-W-12,509; Gallant International, Inc., New York, NY
TA-W-12,570; Deltrol Controls, Milwaukee, WI

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA-W-12,896; General Motors Corp., Central Office, Detroit, MI
TA-W-12,897; General Motors Corp., Central Office, Warren, MI
TA-W-12,898; General Motors Corp., Central Office, New York, NY
TA-W-12,899; General Motors Corp., Central Office, Dayton, OH
TA-W-12,900; General Motors Corp., GM Proving Ground, Milford, MI
TA-W-12,901; General Motors Corp., Central Office, Flint, MI
TA-W-12,902; General Motors Corp., Central Office, Chicago, IL
TA-W-12,903; General Motors Corp., Central Office, St. Louis, MO
TA-W-12,904; General Motors Corp., Central Office, Los Angles, CA
TA-W-12,905; General Motors Corp., Central Office, San Francisco, CA
TA-W-12,906; General Motors Corp., Central Office, Washington, DC
TA-W-12,907; General Motors Corp., Central Office, Indianapolis, IN
TA-W-12,908; General Motors Corp., Central Office, Boston, MA
TA-W-12,909; General Motors Corp., Central Office, Kansas City, MO
TA-W-12,910; General Motors Corp., Central Office, Cincinnati, OH
TA-W-12,911; General Motors Corp., Central Office, Honolulu, HI
TA-W-13,068; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Des Moines, IA
TA-W-13,069; General Motors Corp., Chevrolet Motor Div., Zone & Regional Offices, Rockville, MD
TA-W-13,070; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Overland Park, KS
TA-W-13,071; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Wormleysburg, PA
TA-W-13,220; General Motors Corp., Chevrolet Motor Div., Central Office, Warren, MI
TA-W-13,221; General Motors Corp., Chevrolet Motor Div., Zone & Regional Office, Atlanta, GA
TA-W-13,222; General Motors Corp., Chevrolet Motor Div., Zone & Regional Office, Tarrytown, NY
TA-W-13,223; General Motors Corp., Chevrolet Motor Div., Zone & Regional Office, Cincinnati, OH
TA-W-13,224; General Motors Corp., Chevrolet Motor Div., Zone Sales & Regional Office, Irving, TX
TA-W-13,225; General Motors Corp., Chevrolet Motor Div., Zone Sales & Regional Office, Fremont, CA
TA-W-13,226; General Motors Corp., Chevrolet Motor Div., Zone Sales & Regional Office, Oakbrook, IL
TA-W-13,227; General Motors Corp., Chevrolet Motor Div., Zone Sales Sales Office, Homewood, AL
TA-W-13,228; General Motors Corp., Chevrolet Motor Div., Zone Sales Sales Office, Tempe, AZ
TA-W-13,229; General Motors Corp., Chevrolet Motor Div., Zone Sales Sales Office, Santa Monica, CA
TA-W-13,230; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, San Diego, CA
TA-W-13,231; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Denver, CO
TA-W-13,232; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Indianapolis, IN
TA-W-13,233; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Overland Park, KS
TA-W-13,234; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Louisville, KY
TA-W-13,235; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Metairie, LA
TA-W-13,236; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Westwood, MA
TA-W-13,237; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Southfield, MI
TA-W-13,238; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Grand Blanc, MI
TA-W-13,239; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Edina, MN
TA-W-13,240; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Maryland Heights, MO
TA-W-13,241; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Omaha, NE
TA-W-13,242; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Parsippany, NJ
TA-W-13,243; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Bethpage, LI, NY
TA-W-13,244; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Syracuse, NY
TA-W-13,245; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Charlotte, NC
TA-W-13,246; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Fargo, ND
TA-W-13,247; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Parma, OH
TA-W-13,248; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Wayne, PA
TA-W-13,249; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Memphis, TN
TA-W-13,250; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Houston, TX
TA-W-13,251; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Salt Lake City, UT
TA-W-13,252; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Charleston, WV
TA-W-13,253; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Brookfield, WI
TA-W-13,254; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Jacksonville, FL
TA-W-13,255; General Motors Corp., Chevrolet Motor Div., Zone Sales Office, Sanston, VA

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-12,389; Krown Manufacturing Co., Inc., Charlotte, MI

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of travel and camping trailers are negligble.

TA-W-12,280; Tel-Aviv, Inc., Hoboken, NJ

The investigation revealed that criterion (3) has not been met. Imports did not contribute importantly to workers separations at the subject firm.

Affirmative Determinations

TA-W-12,721; F & D Ladies' Coats & Suits, Inc., Brookyn, NY

A certification was issued in response to a petition received on May 27, 1981 covering all workers separated on or after May 20, 1980 and before March 31, 1982.

TA-W-12,640; Imperial Optical Manufacturing Co., Hialeah, FL

A certification was issued in response to a petition received on April 20, 1981 covering all workers separated on or after June 1, 1980.

TA-W-12,336; Apex Handbags, Div. of Olla Industries, Inc., Weehawken, NJ

A certification was issued in response to a petition received on February 24, 1981 covering all workers separated on or after February 5, 1981.

I hereby certify that the aforementioned determinations were issued during the period June 7, 1982—June 11, 1982. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: June 15, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-16730 Filed 6-21-82; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 2, 1982.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 2, 1982.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 14th day of June 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Bon-Art Industries, Inc. (workers)	Fair Lawn, NJ	5/27/82	5/26/82	TA-W-13,522	Plaster products.
Cameron Manufacturing Co. (IUE)	Emporium, PA	5/28/82	5/25/82	TA-W-13,523	Pliers, wrenches, ratchet handles, forgings, castings.
Consolidated Coal Co., Pageton Prep. Plant (workers).	Pageton, W. VA	6/2/82	5/26/82	TA-W-13,524	Coal, preparation.
Clark Equipment Co. (workers)	Georgetown KY	5/28/82	5/24/82	TA-W-13,525	Trucks—forklift, electric.
Davis Hamakua Sugar Co. (ILWU)	Pasuilo HI	6/1/82	5/24/82	TA-W-13,526	Sugar, raw.
Del Monte Corp., Molokai (ILWU)	Kualapuu, HI	6/1/82	5/24/82	TA-W-13,527	Pineapple—grow.
Del Monte Corp., Cannery (ILWU)	Honolulu, HI	6/1/82	5/24/82	TA-W-13,528	Pinneapple—canned, juiced.
Dole Company (Can Plant) (ILWU)	Honolulu, HI	6/1/82	5/24/82	TA-W-13,529	Cans—fruit, juice.
Dole Company (Plantation) (ILWU)	Lanai City, HI	6/1/82	5/24/82	TA-W-13,530	Pineapple—grow.
Dole Company (cannery (ILWU)	Honolulu, HI	6/1/82	5/24/82	TA-W-13,531	Pineapple—can & juice.
Hadron (workers)	Lake Orion, MI	6/2/82	6/1/82	TA-W-13,532	Machines—transferring.
Hanna Novelty Co., Inc. (workers)	Monticello, IN	6/6/82	5/28/82	TA-W-13,533	Racks—spice.
Hawaiian Commercial & Sugar Company (ILWU)	Puunene, Maui	6/1/82	5/24/82	TA-W-13,534	Sugar—raw.
Hilo Coast Processing Co. (ILWU)	Pepeekeo, HI	6/1/82	5/25/82	TA-W-13,535	Sugar—raw.
Hilo Iron Works, Hilo Div. (ILWU)	Hilo, HI	4/30/82	4/26/82	TA-W-13,536	Equipment—fabrication.
Inductive Components, Inc. (IBEW)	Hauppauge, NY	6/1/82	5/18/82	TA-W-13,537	Components and transformers electrical.
Jones & Laughlin Corp., Pittsburgh Works (USWA)	Pittsburgh, Pa. (2 plants)	5/25/82	5/11/82	TA-W-13,538	Steel—carbon & products.
Ka'u Sugar Co., Inc. (ILWU)	Pahala, HI	6/1/82	5/24/82	TA-W-13,539	Sugar—raw.
Kekaha Sugar Co., Ltd. (ILWU)	Kekaha, HI	6/1/82	5/24/82	TA-W-13,540	Sugar—raw.
(The) Lihue Plantation Co., Ltd (ILWU)	Lihue HI	6/1/82	5/24/82	TA-W-13,541	Sugar—raw.
Mauna Kea Sugar Co., Inc. (ILWU)	Papaikou HI	6/1/82	5/24/82	TA-W-13,542	Sugar—raw.
McBryde Sugar Co., Ltd. (ILWU)	Eleele, HI	6/1/82	5/24/82	TA-W-13,543	Sugar—raw.
National Steel Corp., Weirton Steel Div. (Independent Steel workers Union).	Weirton W. VA	6/1/82	5/24/82	TA-W-13,544	Tin plant, galvanized sheet hot and cold rolled carbon steel sheet and strip.
Oahu Sugar Co., Ltd. (ILWU)	Waipahu, HI	6/1/82	5/24/82	TA-W-13,545	Sugar—raw.
Olokele Sugar Co., Ltd. (ILWU)	Kaumakani, HI	6/1/82	5/24/82	TA-W-13,546	Sugar—raw.
Pioneer Mill Co., Ltd. (ILWU)	Lahaina, HI	6/1/82	5/24/82	TA-W-13,547	Sugar—raw.
Pirelli Cable Corp. (workers)	Allendale, NJ	5/28/82	5/24/82	TA-W-13,548	Wire—cable, hook-up tubing.
United Technologies, Essex Group, Inc. (workers)	Berrien Springs, MI	5/28/82	5/25/82	TA-W-13,549	Circuits—cut wire & cable.
Wailuku Sugar Co. (ILWU)	Wailuku, HI	6/1/82	5/24/82	TA-W-13,550	Sugar—raw.
Waialua Sugar Co., Inc. (ILWU)	Waialua, HI	6/1/82	5/24/82	TA-W-13,551	Sugar—raw.

[FR Doc. 82-16740 Filed 6-21-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-12,828]

Microdot Manufacturing, Inc.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 13, 1981 in response to a peition received on July 6, 1981 which was filed on behalf of workers at Microdot Manufacturing, Incorporated, Everlock-Tennessee, Portland, Tennessee.

An active certification covering the petitioning group of workers remains in effect (TA-W-12,697). Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C. this 11th day of June 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-16748 Filed 6-21-82; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

North Carolina Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On February 1, 1973, notice was published in the **Federal Register** (38 FR 3041) of the approval of the North Carolina plan and the adoption of Subpart I to Part 1952 containing the decision.

The North Carolina Plan provides for the adoption of Federal standards as State standards by reference. Section 1953.20 of 29 CFR provides that "where an alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to a State Plan shall be required." In response to Federal standard changes, the State has submitted by letter, dated February 5, 1982 from J. A. Wyatt, Acting Director, Occupational Safety and Health Division, North Carolina Department of Labor, to William W. Gordon, Regional Administrator, and incorporated as a part of the State plan, State standards comparable to the following Federal standards: 29 CFR 1910.301, 29 CFR 1910.302, 29 CFR 1910.303, 29 CFR 1910.304, 29 CFR 1910.305, 29 CFR 1910.306, 29 CFR 1910.307, 29 CFR 1910.308, 29 CFR 1910.399 and Appendix A, of Subpart S, dated January 16, 1982; Corrections 29 CFR Part 1910, Fire Protection, Means of Egress, Harzardous Materials, dated May 1, 1981; 29 CFR 1910.19 Special Provisions and 29 CFR 1910.1000 Benzene, amended, dated June 19, 1981; 29 CFR 1910.1028 Benzene, deleted, dated June 19, 1981; 29 CFR 1910.1046 Cotton Dust, deleted, dated June 19, 1981; 29 CFR 1928.113 Cotton Dust in Cotton Gins, deleted, dated June 19, 1981; 29 CFR 1910.95 Noise, Amended and Stays, dated August 21, 1981; 29 CFR 1910.95 Noise, Corrections, dated September 11, 1981; 29 CFR 1910.1025 Lead, amended, dated December 11, 1981; 29 CFR 1910.1043 Cotton Dust, Appendix A, amended, dated October 10, 1980.

These standards were promulgated by filing with the North Carolina Attorney General on May 8, 1981; June 26, 1981; July 13, 1981; December 1, 1981; February 1, 1982 respectively, pursuant to the North Carolina Occupational Safety and Health Act of 1973 (Chapter 295, General Statutes).

2. *Decision.* Having reviewed the state submission in comparison with Federal standards, it has been determined that the state standards are identical to the Federal standards and are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Commissioner of Labor, North Carolina Department of Labor, 4 West Edenton, Raleigh, North Carolina 27601; Office of the Regional Administrator, Suite 587, 1375 Peachtree Street, NE., Atlanta, Georgia 30367, and Office of the Director of Federal Compliance and State Programs, Room N3619, 200 Constitution Avenue, NW., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds good cause exists for not publishing the supplement to the North Carolina State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards and are therefore deemed to be at least as effective.

2. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective June 22, 1982.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Atlanta, Georgia, this 5th day of March 1982.

William W. Gordon,

Regional Administrator.

[FR Doc. 82-16743 Filed 6-21-82; 8:45 am]

BILLING CODE 4510-26-M

South Carolina Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 6, 1972, notice was published in the **Federal Register** (37 FR 25932) of the approval of the South Carolina plan and the adoption of Subpart C to Part 1952 containing the decision.

The South Carolina plan provides for the adoption of Federal standards as State standards after public hearing. Section 1953.20 of 29 CFR provides that "Where any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to the State plan shall be required." By letter dated February 4, 1982 from Edgar L. McGowan, Commissioner, South Carolina Department of Labor, to William W. Gordon, Regional Administrator, and incorporated as a part of the plan, the State submitted the following amended State standards comparable to Federal Standards: Corrections to Subpart S, 29 CFR Part 1910 Electrical, dated August 7, 1981; 29 CFR 1910.1025 Lead, new

paragraph (e)(1), dated December 15, 1981.

These standards were promulgated after public hearings held on February 4, 1982 and filed with the South Carolina Secretary of State February 4, 1982, pursuant to Act 379, South Carolina Acts and Joint Resolutions, 1971 (Sections 40–261 through 40–274 South Carolina Code of Laws, 1962).

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards.

The State standards are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement along with the approved plan may be inspected and copied during normal business hours at the following locations: Office of the Commissioner of Labor, South Carolina Department of Labor, 3600 Forest Drive, Columbia, South Carolina 29211; Office of the Regional Administrator, Suite 587, 1375 Peachtree Street, NE., Atlanta, Georgia 30367; and Director of Federal Compliance and State Programs, Room N3619, 200 Constitution Avenue, NW., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds good cause exists for not publishing the supplement to the South Carolina State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are essentially identical to the comparable Federal standards and are deemed to be at least as effective.

2. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective June 22, 1982.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Atlanta, Georgia, this 3d day of March, 1982.

William W. Gordon,

Regional Administrator.

[FR Doc. 82–16744 Filed 6–21–82; 8:45 am]

BILLING CODE 4510–26–M

South Carolina Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 6, 1972, notice was published in the **Federal Register** (37 FR 25932) of the approval of the South Carolina plan and the adoption of Subpart C to Part 1952 containing the decision.

The South Carolina plan provides for the adoption of Federal standards as State standards after public hearing. Section 1953.20 of 29 CFR provides that "Where any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to the State plan shall be required." By letter dated October 5, 1981 from Edgar L. McGowan, Commissioner, South Carolina Department of Labor, to Karen L. Mann, Acting Regional Administrator, and incorporated as a part of the plan, the State submitted the following amended State standards comparable to Federal Standards:

Section 1910.95 Noise, dated August 21, 1981; Revoked § 1910.1046 Exposure to Cotton Dust in Cotton Gins, dated June 19, 1981; Revoked § 1928.113 Exposure to Cotton Dust in Cotton Gins, dated June 19, 1981.

These standards were promulgated after public hearings held on August 25, 1981 and filed with the South Carolina Secretary of State September 17, 1981, pursuant to Act 379, South Carolina Acts and Joint Resolutions, 1971 (Sections 40–261 through 40–274 South Carolina Code of Laws, 1962).

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards.

The State standards are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement along with the approved plan may be inspected and copied during normal business hours at the following locations: Office of the Commissioner of Labor, South Carolina Department of Labor, 3600 Forest Drive, Columbia, South Carolina 29211; Office of the Regional Administrator, Suite 587, 1375 Peachtree Street, NE., Atlanta, Georgia 30367; and Director of Federal Compliance and State Programs, Room N3619, 200 Constitution Avenue, NW., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds good cause exists for not publishing the supplement to the South Carolina State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are essentially identical to the comparable Federal standards and are deemed to be at least as effective.

2. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective June 22, 1982.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Atlanta, Georgia, this 8th day of January, 1982.

William W. Gordon,

Regional Administrator.

[FR Doc. 82–16745 Filed 6–21–82; 8:45 am]

BILLING CODE 4510–26–M

Washington State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the **Federal Register** (38 FR 2421) of the approval of the Washington plan and the adoption of Subpart F to Part 1952 containing the decision.

The Washington plan provides, after public hearing, for the adoption of State standards which are at least as effective as Federal standards promulgated under section 6 of the Act. Sections 1952.120–124 of Subpart F set forth the State's

schedule for the adoption of Federal standards. By letters dated July 12, 1978 and August 12, 1980 from James P. Sullivan, Assistant Director, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State submitted a State standard and an amendment to 29 CFR 1910.1044—2,3-Dibromo-3-Chloropropane (DBCP). The permanent Federal standard was published in the **Federal Register** (43 FR 11514) on April 4, 1978. The Washington DBCP standard, which is contained in Chapter 296–62–07345 WAC, was promulgated pursuant to 34.04 RCW and of the Open Public Meetings Act of 1979, Chapter 42.30, adopted on June 28, 1978 and became effective on July 28, 1978 by Washington Administrative Order 78–10. The standard was not offered for **Federal Register** publication because of differences in the permissible exposure limit compared to the Federal standard. The State adopted an amendment to the DBCP standard on August 8, 1980, which became effective September 6, 1980 by Washington Administrative Order 80–14.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standard, it has been determined that the State standard and the amendment are now identical to the comparable Federal standard and accordingly should be approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 97174; Department of Labor and Industries, General Administration Building, Olympia, Washington 98501; or the Office of State Programs, Room N–3613, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. *Public Participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Washington State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are as effective as the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirement of State law and further participation would be unnecessary.

This decision is effective June 22, 1982.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at Seattle, Washington this 12th day of February, 1982.

John A. Granchi,

Acting Regional Administrator.

[FR Doc. 82–16742 Filed 6–21–82; 8:45 am]

BILLING CODE 4510–26–M

Washington State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the **Federal Register** (38 FR 2421) of the approval of the Washington plan and the adoption of Subpart F to Part 1952 containing the decision.

The Washington plan provides for the adoption of Federal standards as State standards after public hearing. Sections 1952.120–124 of Subpart F set forth the State's schedule for the adoption of Federal standards. By letter dated November 19, 1980 from James P. Sullivan, Assistant Director, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State submitted an amendment to the State standard comparable to 29 CFR 1910.1002, Coal Tar Pitch Volatiles.

The Federal standard was published in the **Federal Register** (37 FR 24749) on November 21, 1972. The definition of coal tar pitch volatiles is contained in Chapter 296–62–020 WAC and was promulated pursuant to 34.04 RCW and of the Open Public Meetings Act of 1971, Chapter 42.30, on September 18, 1980. The State standard became effective December 12, 1980. The State standard adopts the language and definition of the interpretative rule that appeared in the **Federal Register**

2. *Decision.* Having reviewed the State submission in comparison with the Federal standard, it has been determined that the State standard is now identical to the comparable Federal standard and accordingly should be approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Department of Labor and Industries, General Administration Building, Olympia, Washington 98501; and the Office of State Programs, Room N–3613, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good causes exists for not publishing the supplement to the Washington State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standard is identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standard was adopted in accordance with the procedural requirements of State law and further participation would be necessary.

This decision is effective June 22, 1982.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1606 (29 U.S.C. 667)).

Signed at Seattle, Washington this first day of March, 1982.

James W. Lake,

Regional Administrator.

[FR Doc. 82–16746 Filed 6–21–82; 8:45 am]

BILLING CODE 4510–26–M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 82–98; Exemption Application No. D–2732]

Exemption From the Prohibitions for Certain Transactions Involving the Consolidated Steel & Supply Co., Employee Retirement Income Savings & Stock Investment Plan, Located in Elk Grove Village, Illinois

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the sale of a parcel of real property (the Property) by the Consolidated Steel and Supply Co. Employee Retirement income Savings and Stock Investment plan (the Plan) to J and J Investment Company (J and J), a party in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Louis Campagna of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523–8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On April 9, 1982, notice was published in the **Federal Register** (47 FR 15440) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for a transaction described in an application filed by J and J. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant represented that it has complied with the requirements of the notice to interested persons as stated in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of the Property by the Plan to J and J for the cash sum of $250,000, provided that this amount is not less than the fair market value of the Property at the time of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 15th day of June, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82–16731 Filed 6–21–82; 8:45 am]

BILLING CODE 4510–8–M

LIBRARY OF CONGRESS

Copyright Office

[Docket No. LPR 80–6]

Report of the Register of Copyrights on the Effects of 17 U.S.C. 108 on the Rights of Creators and the Needs of Users of Works Reproduced by Certain Libraries and Archives; Final Comment Period

AGENCY: Library of Congress, Copyright Office.

ACTION: Extension of final comment period.

The Copyright Office of the Library of Congress is preparing a report for Congress in accordance with 17 U.S.C. 108(i). The subject of the report is the extent to which 17 U.S.C. 108 has achieved the intended balance between the rights of creators and the needs of users of copyrighted works which are reproduced by certain libraries and archives. Five regional public hearings have been held to elicit views, comments, and information from all interested persons, including authors, copyright proprietors, libraries, and users of all types of libraries. On May 26, 1982, the Copyright Office published a final notice in 47 FR 23061 announcing that the Office requested final written comments by July 15, 1982 from organizations and individuals whose informed opinions may contribute to the preparation of that report.

The Office also announced the availability of, and invited written comment by July 15, 1982 on, the report of library photocopying prepared by King Research, Inc. under contract to the Library of Congress.

Supplementary information concerning the 17 U.S.C., section 108(i) report appeared in a prior notice at pages 79202 through 79204 of the **Federal**

Register for November 28, 1980 (45 FR, No. 231).

By letter of June 4, 1982, the American Library Association has requested a one-month extension of the comment period to allow full consultation within the library community before comments are submitted on the King Report. The delay, it is asserted, would enable all parties to analyze the King Report more carefully and lead to more thoughtful responses that would strenghten the Copyright Office report to Congress.

The Copyright Office has a statutory deadline of January 1, 1983 for submission of the report to Congress, and the magnitude of the task before us militates against any delay in receiving comments, if they are to be given full consideration by us. For this reason, the Office cannot accede fully to the request of the American Library Association. However, to facilitate the submission of informed views, the Office hereby announces an extension to August 2, 1982 of the final comment period concerning the 17 U.S.C. 106(i) report to Congress.

DATE: To become part of the record, and to be fully evaluated in preparing the report, all comments must be received by the Copyright Office on or before August 2, 1982.

ADDRESSES: Written comments should be submitted as follows:

If sent by mail:
Office of the General Counsel, Department D.S., Library of Congress, Washington, D.C. 20540.

If hand-delivered:
Office of the General Counsel, Madison Building, Room 407, First and Independence Avenue, S.E., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:
Dorothy Schrader, General Counsel, Department D.S., Library of Congress, Washington, D.C. 20540; Telephone: (202) 287–8380.

(17 U.S.C. 108)

Dated: June 10, 1982.

David Ladd,
Register of Copyrights.

Approved.

Daniel J. Boorstin,
The Librarian of Congress.

[FR Doc. 82-16040 Filed 6-21-82; 8:45 am]
BILLING CODE 1410-09-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

National Council on the Arts; Inter Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Inter Arts Advisory Panel to the National Council on the Arts will be held on July 13, 1982, from 1:00 p.m.–5:30 p.m. in the 12th floor Screening Room and on July 14, 1982, from 9:00 a.m.–5:00 p.m. in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 82-16769 Filed 6-21-82; 8:45 am]
BILLING CODE 7537-01-M

National Council on the Arts, Design Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the (Design Arts Advisory Panel (Design Exploration/ Research to the National Council on the Arts will be held on July 29, 1982, from 9:00 a.m.-6:00 p.m. in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections(c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

June 4, 1982.

[FR Doc. 82-16770 Filed 6-21-82; 8:45 am]
BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Byproduct Material License No. 34-13774-01; EA 81-72]

John C. Haynes Co.; Rescission of August 28, 1981; Order to Modify License

I

John C. Haynes Company, 800 Hebron Road, Heath, Ohio 43055 (the "licensee") is the holder of Byproduct Material License 34–13774–01 (the "license") issued by the Nuclear Regulatory Commission (the "Commission"). The license authorizes the possession and use of byproduct material under certain conditions specified therein. This license was originally issued on August 18, 1970. The license was due to expire on August 31, 1980; however, a timely renewal has been received.

II

As a result of the licensee's failure to make required payments to the Commission, the possibility that the licensee might lose physical control of its facility because of financial difficulties, and the failure to complete a radiation survey and decontamination report, an Order to Modify License No. 34–13774–01 was issued on August 28, 1981.

III

As of September 9, 1981 all required payments were made to the Commission by the licensee. By letter dated April 2, 1982, the licensee submitted to the Commission a copy of the paid mortage on his property and stated that he had received complete ownership of the property. On April 28, 1982 the license was amended to restrict possession of radioactive material to storage only, until final action is taken on the renewal application.

IV

In view of the foregoing, the August 28 Order to Modify License is hereby rescinded.

Effective Date: June 15, 1982, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 82-16820 Filed 6-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-416]

Mississippi Power & Light Co., Middle South Energy, Inc., South Mississippi Electric Power Association, and Grand Gulf Nuclear Station, Unit No. 1; Issuance of Facility Operating License.

Notice is hereby given that the Nuclear Regulatory Commission (the Commission), has issued Facility Operating License No. NPF-13 to Mississippi Power & Light Company, Middle South Energy, Inc., and South Mississippi Electric Power Association (the licensees) which authorizes operation of the Grand Gulf Nuclear Station, Unit 1 (the facility) by Mississippi Power & Light Company at reactor core power levels not in excess of 191 megawatts thermal (5 percent power) in accordance with the provisions of the License, the Technical Specifications and the Environmental Protection Plan.

Grand Gulf Nuclear Station, Unit 1 is a boiling water nuclear reactor located at the licensees' site in Claiborne County, Mississippi. The license is effective as of the date of issuance and shall expire at midnight on September 4, 2014.

The application for the license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulation. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license. Prior public notice of the overall action involving the proposed issuance of an operating license was published in the **Federal Register** on July 28, 1978 (43 FR 32903-32904).

The Commission has determined that the issuance of this license will not result in any environmental impacts other than those evaluated in the Final Environmental Statement since the activity authorized by the license is encompassed by the overall action evaluated in the Final Environmental Statement.

For further details with respect to this action, see (1) Facility Operating License No. NPF-13, complete with Technical Specifications and Environmental Protection Plan; (2) the report of the Advisory Committee on Reactor Safeguards dated October 20, 1981; (3) the Commission's Safety Evaluation Report dated September 1981, Supplement No. 1 dated December 1981, and Supplement No. 2 dated June 1982; (4) the Final Safety Analysis Report and amendments thereto; (5) the Environmental Report and Supplements thereto; and (6) the Final Environmental Statement dated September 1981.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Hinds Jr. College, George M. McLendon Library, Raymond, Mississippi 39154. A copy of Facility Operating License No. NPF-13 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Director, Division of Licensing. Copies of the Safety Evaluation Report and its Supplements No. 1 and No. 2 (NUREG-0831) may be purchased at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, and through the NRC GPO sales program by writing to the U.S. Nuclear Regulatory Commission, Attention: Sales Manager, Washington, D.C. 20555. GPO deposit account holders can call 301-492-9530.

Dated at Bethesda, Maryland, this 16th day of June 1982.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 82-16815 Filed 6-21-82; 8:45 am]

BILLING CODE 7590-01-M

[License: 42-16559-01, EA 82-27]

Nuclear Energy Services, Inc.; Order Imposing Civil Monetary Penalties

I

Nuclear Energy Services, Inc., Conam Insection Division, 6106 Rookin Street, Houston, Texas (the "licensee") is the holder of License 42-16559-01 (the "license") issued by the Nuclear Regulatory Commission (the "Commission"). License 42-16559-01 authorizes the use of sealed sources of byproduct material.

II

An investigation of the licensee's activities under the license was conducted intermittently during the period October 15 to November 3, 1981. In addition, at licensee's facility located in Folcroft, Pennsylvania an inspection was conducted intermittently during the period July 23 to October 15, 1981. As a result of the investigation and inspection, it appears that the licensee had not conducted its activities in full compliance with the requirements of NRC regulations. A written Notice of Violation and Proposed Imposition of Civil Penalties was served upon the licensee by letter dated March 16, 1982. This Notice stated the nature of the violations, the provisions of the Nuclear Regulatory Commission regulations which the licensee had violated, and the amount of civil penalties proposed for each violation. An answer dated April 14, 1982 to the Notice of Violation and Proposed Imposition of Civil Penalties was received from the licensee.

III

Upon consideration of the answers received and the statements of fact, explanation, and argument for mitigation or cancellation contained therein, as set forth in the enclosure to this Order, the Director of the Office of Inspection and Enforcement has determined that the penalties proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalties should be imposed.

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96-295) and 10 CFR 2.205, it is hereby ordered that:

The licensee pay civil penalties in the total amount of Nine Thousand Dollars within 30 days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States, and mailed to the Director of the Office of Inspection and Enforcement.

IV

The licensee may, within 30 days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. A copy of the hearing request shall also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Upon failure of the licensee to request a hearing within 30 days of the date, of this Order, the provisions of this Order shall be effective without further

proceeding and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

V

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee violated NRC regulations as set forth in the Notice of Violation and Proposed Imposition of Civil Penalties, as amended; and,

(b) Whether, on the basis of such violations, this Order should be sustained.

Dated at Bethesda, Maryland, this 14th day of June 1982.

For The Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

Appendix—Evaluations and Conclusions

For each violation and associated civil penalty identified in the Notice of Violation (dated March 18, 1982) the original violation is restated and the Office of Inspection and Enforcement evaluation and conclusion regarding the licensee's response (dated April 14, 1982) to each item is presented.

Item 1A

Statement of Violation. 10 CFR 34.31(a) requires that radiographers be trained in specified subjects and demonstrate an understanding of these subjects as well as competence in the use of radiography equipment.

Contrary to the above, the licensee permitted an individual without the required training, and prior to a demonstration of competence in the use of radiography equipment, to perform radiography at a field site in Mahwah, New Jersey, on July 25, 1980.

This is a Severity Level III violation (Supplement VII). (Civil Penalty—$5,000).

Evaluation and Conclusion. The licensee admits that an individual without the required training, and prior to a demonstration of competence in the use of radiography equipment, was permitted to perform radiography at a field site in Mahwah, New Jersey, on July 25, 1980. The licensee requested mitigation of proposed civil penalty on the following grounds:

1. Conam's own investigation did not establish prior knowledge by the Folcroft manager about the violation.

2. Conam's president and the individual to whom he reports cannot recall, in the 15 years they have been with the Company, a single incident where the management of Conam has been accused of coaching an employee to cover up an incident, withholding information from the Commission, discouraging employees from contacting the Commission, backdating records, or otherwise being anything but honest with the Commission.

Violations by a licensee's employee of NRC regulations are chargeable to the licensee himself regardless of management involvement. In the case in question, moreover, the results of the investigation and inspection indicate that the violation occurred with the knowledge of the Folcroft manager. Consequently, the licensee's response to Item 1A provides insufficient basis for mitigation of the proposed penalty. Accordingly, the Civil Penalty remains at Five Thousand Dollars.

Item 1 B

Statement of Violation. 10 CFR 34.22(a) requires, in part, that during radiographic operations the sealed source assembly be secured in the shielded position each time the source is returned to that position. 10 CFR 34.43(b) requires that a physical radiation survey be made after each radiographic exposure to determine that the sealed source has been returned to its shielded position.

Contrary to the above, on June 9, 1981, the sealed source assembly had not been secured in the shielded position nor had a physical radiation survey been made to determine that the source had been returned to its shielded position after a radiographic exposure. This contributed to a radiographer's receiving a radiation dose of about one rem.

This is a Severity Level III violation (Supplement IV) (Civil Penalty—$2,000).

Evaluation and Conclusion. The licensee admits that on June 9, 1981 the sealed source assembly had not been secured in the shielded position nor had a physical radiation survey been made to determine that the source had been returned to its shielded position after a radiographic exposure. This contributed to a radiographer's receiving a radiation dose of about one rem. The licensee requested remission of the Civil Penalty on the following grounds:

Fines should not be assessed because historically the Commission has not assessed a penalty with respect to licensee identified and documented incidents not resulting in overexposures.

The licensee's statement is not in accord with the NRC Enforcement Policy, 47 FR 9987 (March 9, 1982) or the Interim Enforcement Policy, 45 FR 66756 (October 7, 1980). Under both policies in Supplement IV, paragraph C.4, a Severity Level III violation is indicated where there is a substantial potential for an exposure exceeding regulatory limits. The incident in question had such a potential. Under both policies a civil penalty is usually imposed for Severity Level III violations.

It is also true that under both policies up to a 50 percent reduction of the base level penalty may be considered for violations which the licensee has identified and promptly reported. In this case, a 50 percent reduction has already been considered and granted, since the base amount of the penalty under both policies is $4,000.

Consequently, the licensee's response above provides insufficient basis for mitigation of the proposed penalty. Accordingly, the Civil Penalty remains at Two Thousand Dollars.

Item 1C

Statement of Violation. 10 CFR 34.41 requires, in part, that during each radiographic operation, the radiographer or radiographer's assistant maintains direct surveillance of the operation to protect against unauthorized entry into a high radiation area.

Contrary to the above, the licensee failed to maintain direct surveillance over a radiographic operation on October 4, 1980, at a field site in Ridgewood, New Jersey, and allowed a member of the general public to enter a high radiation area.

This is a Severity level III violation (Supplement VII) (Civil Penalty $2,000).

Evaluation and Conclusion. The licensee admits that its radiographer did not maintain direct surveillance over a radiographic operation on October 14, 1980, at a field site in Ridgewood, New Jersey, and allowed a member of the public to enter a high radiation area. The licensee requested remission of proposed civil penalty on the same grounds as stated in Item 1B. Consequently, the licensee's response provides the same insufficient basis for remission of the proposed penalty. Accordingly, the Civil Penalty remains at Two Thousand Dollars.

[FR Doc. 82-16819 Filed 6-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-275 and 323]

Pacific Gas & Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2); Receipt of Petition Under 10 CFR 2.206

Notice is hereby given that by petitions dated May 12 and 25, 1982, Mr. Joel Reynolds on behalf of the Joint Intervenors to the Diablo Canyon Nuclear Power Plant licensing proceedings, filed a request for issuance of an order to Pacific Gas & Electric Co. to show cause why it should not be required to submit an amendment to its operating license applications to reflect recent changes in the organization and management of the Diablo Canyon project. In accordance with the procedures specified in 10 CFR 2.206, appropriate action will be taken on this request within a reasonable time.

A copy of the request is available for inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the local public document room for the Diablo Canyon plant at the San Luis Obispo County Free Library, 888 Morro Street, San Luis Obispo, California 93406.

Dated at Bethesda, Maryland, this 16 day of June, 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-16818 Filed 6-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-513 and 50-509]

Washington Public Power Supply System, Washington Nuclear Project Nos. 4 and 5; Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has denied two petitions under 10 CFR 2.206 filed by the Coalition for Safe Power of Portland, Oregon. The petitions asked that the Director revoke the construction permit for WNP No. 4 on the basis of a material false statement in an application for extension of the permit and revoke the permits for WNP No. 4 and WNP No. 5 in view of the Washington Public Power Supply System's recent termination of its participation in the two projects. The petitions have been denied because no material false statement was made in the extension application and because no compelling reason exists at this time for revoking the permits.

The reasons for this denial are fully described in a "Director's Decision Under 10 CFR 2.206" which is available for public inspection in the NRC's public document rooms at 1717 H Street, N.W., Washington, D.C. 20555, the Richland Public Library, Swift & Northgate Streets, Richland, WA 99352, and the W. H. Abel Memorial Library, 125 Main Street, South, Montesano, WA 98563. A copy of the decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c).

Dated at Bethesda, Maryland, this 16th day of June 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-16817 Filed 6-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-509, 50-513]

Washington Public Power Supply System (WNP Nos. 4 & 5); Director's Decision Under 10 CFR 2.206

Nina Bell, on behalf of the Coalition for Safe Power, Portland, Oregon, has filed two petitions under 10 CFR 2.206 that request certain actions with respect to two nuclear projects for which the Washington Public Power Supply System (WPPSS) holds construction permits. In its petition dated November 30, 1981, the Coalition requested that the Director of Nuclear Reactor Regulation issue an order to show cause why the construction permit for WPPSS Nuclear Project (WNP) No. 4 should not be revoked on the basis of an alleged "material false statement" in WPPSS' July 1981 application for an extension of the WNP No. 4 construction permit. The Coalition has filed another petition, dated March 16, 1982, under 10 CFR 2.206 which requests that WPPSS be ordered to show cause why the construction permits for WNP Nos. 4 and 5 should not be revoked, because WPPSS has announced its intention to terminate its participation in the two projects. For the reasons set forth in this decision, the Coalition's petitions are denied.

I. WPPSS Did Not Make a "Material False Statement" in its Application for Extension of the WNP No. 4 Permit

On July 21, 1981, WPPSS submitted an application for extension of the latest completion dates for construction of WNP No. 1 and WNP No. 4.[1] WPPSS assigned the following reasons as bases for extending the permits: "Subsequent to the issuance of the construction permits delays in the construction of WNP-1 and WNP-4 have occurred. The primary factors causing these delays are as follows:

1. Changes in the scope of the projects including increases in the amount of material and engineering required as a result of regulatory actions, in particular those subsequent to the TMI-2 accident.

2. Construction delays and lower than estimated productivity which resulted in delays in installation of material and equipment and delays in completion of systems necessitating rescheduling of preoperational testing.

3. Strikes by portions of the construction work force.

4. Changes in plant design.

5. Delays in delivery of equipment and materials."[2]

On October 26, 1981, WPPSS formally advised the staff that the WPPSS Board of Directors had voted to defer further construction of WNP Nos. 4 and 5 until June 30 1983, "because of difficulties in simultaneous financing of all five of our plants now under construction, given the current high interest rates and bond market conditions."[3] WPPSS subsequently withdrew its July 21, 1981, application insofar as it requested an extension of the WNP No. 4 construction permit in view of its deferral of the project's construction.[4]

The Coalition claims that WPPSS made a material false statement in its July 21st application because WPPSS omitted any mention of cash flow difficulties affecting the completion date of WNP-4. The Coalition points to a study prepared for WPPSS that examined options to slow the pace of construction on WNP Nos. 4 and 5 as a way to reduce the burden of near-term funding requirements. *See* WPPSS, *Alternative Evaluations—WNP 4/5* (March 26, 1981) (Attachment A to Coalition petition). The Coalition also notes that the WPPSS Managing Director proposed a one-year moratorium on construction of WNP Nos. 4 and 5 in May 1981 to the WPPSS Board of Directors as a way of easing WPPSS' immediate financial burdens.

The moratorium would also provide an opportunity to re-examine WPPSS' need to build the two projects. *See* Speech of Robert Ferguson, 1 *Power Lines* (WPPSS newsletter) at 3-6 (June 12, 1981) (Attachment B to Coalition petition). The WPPSS Board of Directors approved the one-year moratorium on construction. *See* Coalition Petition at 3 (Nov. 30, 1981). The Coalition charges that, by omitting any reference to the foregoing facts, WPPSS made a material false statement, because these facts indicate "cash flow difficulties" affecting the completion date for WNP No. 4. Consequently, the Coalition urges the construction permit for WNP No. 4 should be revoked for this alleged offense.

Although the Coalition's petition might otherwise be considered moot because WPPSS has withdrawn the extension application for WNP No. 4, the substance of the Coalition's petition should be addressed to dispel the notion that WPPSS committed the alleged violation. Moreover, withdrawal of the application would not in itself absolve WPPSS of reponsibility for a material false statement had one been made. Under the circumstances here, WPPSS did not make a material false statement.

The Commission's authority to take enforcement action for material false statements derives from section 186 of the Atomic Energy Act of 1954, as amended:

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[1] The application consists of a three page letter from G. D. Bouchey, WPPSS Director of Nuclear Safety, to H. R. Denton, Director of NRR, and an affidavit signed by Mr. Bouchey. *See* Attachment C to the Coalition's Petition (Nov. 31, 1981). With respect to WNP No. 1, the application requests an extension of the latest completion date under Construction Permit No. CPPR-134 from January 1, 1982, to June 1, 1986. The application requests an extension of the latest completion date for WNP No. 4 under Construction Permit No. CPPR-174 from December 1, 1985, to June 1, 1987.

[2] Letter from G. D. Bouchey, at 1-2.

[3] Letter from R. L. Ferguson, WPPSS Managing Director, to H. R. Denton, Director of NRR (Oct. 26, 1981).

[4] Letter from J. W. Shannon, WPPSS Director of Safety & Security, to H. R. Denton, Director of NRR (Dec. 31, 1981). WPPSS indicated in this letter than it might reapply for the extension of the WNP No. 4 permit after June 1983. WPPSS has since announced termination of the project. *See* note 10 *infra*.

Any license may be revoked for any material false statement in the application or any statement of fact required under section 182, or because of conditions revealed by such application or statement of fact or any report, record, or inspection or other means which would warrant the Commission to refuse to grant a license on an original application * * *" 42 U.S.C. 2236(a).

The Commission addressed the meaning of the term "material false statement" in its decision in *Virginia Electric & Power Co.*, (North Anna Power Station, Units 1 and 2), CLI–76–22, 4 NRC 480 (1976), *aff'd*, 571 F.2d 1289 (4th Cir. 1978) (hereinafter VEPCO). In *VEPCO*, the Commission determined that material false statements excompass material omissions. 4 NRC at 489–91. Knowledge of falsity is not necessary for liability for a material false statement. 4 NRC at 486. With respect to the materiality of an omission, the Commission stated:

By reading material false statements to encompass omissions of material data, we do not suggest that unless all information, however trivial, is forwarded to the agency the applicant will be subject to civil penalties. An omission must be material to the licensing process to bring section 186 into play * * * [D]eterminations of materiality require careful, common-sense judgments of the context in which information appears and the stage of the licensing process involved. Materiality depends upon whether information has a natural tendency or capability to influence a reasonable agency expert.

4 NRC at 491.

In the context of an application for extension of a construction permit, WPPSS' omission of a specific reference to its financial burdens and its planned delay of construction to ease those burdens did not constitute a material omission.

No specific form of application is required, but the Commission's regulations indicate that good cause for extension of a permit cause may be shown by pleading:

"among other things, developmental problems attributable to the experimental nature of the facility or fire, flood, explosion, strike, sabotage, domestic violence, enemy action, and act of the elements, and other acts beyond the control of the permit holder, as a basis for extending the completion date.

CFR 50.55(b).

No particular analysis or detailed evaluation of the reasons supporting an extension is specified, though, of course, the applicant risks denial of the application if the showing of cause is stated too summarily or excludes mention of additional reasons that would warrant extension.

In this instance, WPPSS briefly stated several common reasons contributing to delays in completion of WNP Nos. 1 and 4. Although WPPSS did not specifically mention financial considerations as a cause of delays in construction of WNP No. 4, WPPSS lists "construction delays" as one of the "primary factors" that casued its inability to meet the completion date and that would thereby justify an extension. Given the general state of the nuclear industry, the staff would consider "construction delays" to include delays caused by, or planned to alleviate, financial constraints. The staff has considered a number of extension applications in the past few years that have attributed delays in construction to economic conditions or financial considerations. *See* note 7 *infra*. The staff was generally aware that WPPSS was facing significant burdens in attempting to finance construction of its five nuclear projects. The financial strain and the decision by the WPPSS Board of Directors in June 1981 to slow construction of WNP Nos. 4 and 5 were reported in the trade press.[5]

Financial considerations leading to a planned reduction in construction activity do not pose in themselves a *safety* issue that would have tended to cause the staff to look at WPPSS' application for extension in a different light.[6] Moreover, the planned delay due to financial considerations could well have been an acceptable justification for the requested extension. Extension applications have been granted in the past when applicants have requested extension of the facility completion date on the basis of financial constraints that slowed construction schedules.[7]

This was not an instance in which, after the filing of the application, the staff had requested information about or had expressed in interest in a certain subject matter concerning the application and the applicant had failed to fully and accurately respond to the staff's request for information. And, it should be noted, the staff was informed of developments regarding construction of WNP No. 4 after WPPSS tendered the application in July 1981.[8] In view of the general state of the industry and the particular circumstances surrounding WPPSS application, the staff was not mislead by omission of a specific reference to financial constraints in the extension application. The staff does not find that WPPSS should be charged with making a "material false statement" in its July 21st application. The Coalition's petition dated November 30, 1981 is *denied*.[9]

II. No Compelling Reasons Warrant Revocation of the Permits for WNP Nos. 4 and 5

The Coalition's latest petition, dated March 16, 1982, requests that WPPSS be ordered to show cause why the construction permits for WNP Nos. 4 and 5 should not be revoked on the basis of the WPPSS Board of Directors' adoption of a resolution terminating the projects. In these particular circumstances, an order is not warranted, and, therefore, the Coalition's petition is denied.

The WPPSS Board of Directors adopted the resolution terminating the projects on January 22, 1982, and soon thereafter WPPSS informed the Executive Director for Operations of its intention to conduct a two-phase plan for termination.[10] Initially, WPPSS intends to attempt to sell the plants to a new owner. If WPPSS finds that it is unlikely that the projects can be sold in their entirety, WPPSS may attempt to sell plant equipment and materials in

[5] *See, e.g., WPPSS Construction Bonds Were Downgraded Only A Bit by Standard & Poor's*, 22 Nucleonics Week No. 25, at 9–10 (June 25, 1981); *Last Week's Downgrading of WPPSS Construction Bonds*, 22 Nculeonics Week No. 24, at 12 (June 18, 1981).

[6] *Cf. Elimination of Review of Financial Qualifications of Electric Utilities in Licensing Hearings for Nuclear Power Plants*, 47 FR 13750, 13751 (March 31, 1982).

[7] *See, e.g., Orders Extending Construction Completions Dates*, 46 FR 62969 (Dec. 29, 1981) (Callaway plant); 46 FR 56284 (Nov. 16, 1981) (Waterford Station); 46 FR 46032 (Sept. 16, 1981) (Hope Creek Station); 46 FR 29804 (June 3, 1981) (Limerick Station); 44 FR 29547 (May 21, 1979) (North Anna Station).

[8] The NRR project manager was informed by telephone in August 1981 that WPPSS was considering more extensive deferrals of construction on WNP No. 4, and generally kept himself appraised of the situation via telephone calls, media reports and site visits (for other reasons) in September and October 1981. On the basis of the uncertainties surrounding WNP No. 4's future, NRR had not initiated any review of the extension application. After the WPPSS Board approved deferral of construction of WNP Nos. 4 and 5 until June 30, 1983, WPPSS informed NRR of the construction deferral *See supra* note 3. Eventually, WPPSS withdrew the extension application. *See supra* note 4.

[9] Even if the omission had been found to be a "material false statement", permit revocation would not necessarily follow. Although section 186 of the Atomic Energy Act authorizes revocation for material false statements, it does *not* compel revocation. Rather, the Commission is empowered to impose the remedy it deems fit for the gravity of the offense, and could impose enforcement sanctions ranging from a notice of violation (10 CFR 2.201) to civil penalties (10 CFR 2.205) to appropriate orders (10 CFR 2.202 and 2.204). Any attempted suspension or revocation of the permit would also be subject to the second chance doctrine of section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c); *see also* Atomic Energy Act section 186b, 42 U.S.C. 2236(b).

[10] *See* Letter from R. L. Ferguson, WPPSS Managing Director, to W. J. Dircks, EDO (Feb. 1, 1982) (Attachment B to Coalition petition dated March 16, 1982).

some other manner. WPPSS intends to retain the construction permits at least during the first phase of its termination plan that calls for an attempted transfer of the projects to a new owner. The construction permits for WNP Nos. 4 and 5 would otherwise expire by their own terms in 1985 and 1986 respectively.

The Coalition's petition is based on WPPSS' intended termination of the project owing to financial considerations. However, termination of the projects does not itself pose any hazard to public health and safety that would require issuance of an order to show cause.[11] Although the NRC has no interest in seeing that WPPSS salvages a portion of its investment in the projects, there is no reason for the NRC to obstruct WPPSS' efforts when public health and safety is not affected by WPPSS' actions.[12]

The staff recognizes that a similar petition under 10 CFR 2.206 has been granted on one occasion. *See Northern States Power Co.* (Tyrone Energy Park, Unit 1), CLI–80–36, 12 NRC 523 (1980).[13] The staff's action in that instance does not compel, however, the same result here. In *Tyrone*, the co-owners of the project announced no specific plans to find another owner of the project and indicated no desire to retain the construction permit.[14] Moreover, the co-owners consented to revocation of the Tyrone permit. *See Order Revoking Construction Permit*, 46 FR 11746 (Feb. 10, 1981). The circumstances surrounding the termination of WPPSS' participation in WNP Nos. 4 and 5 are different. WPPSS wants to retain the permits in the hope that it may be able to transfer the projects to a new owner. Such action, subject to Commission approval, is lawful, and WPPSS' plans to preserve the present status of the plants appear reasonable.[15] The issuance of an order to show cause is not required in these circumstances to abate some hazard to public health and safety. Although formal termination of the permits may be appropriate at some future date, no compelling reason exists to take such a step at this time.

III. Conclusion

WPPSS made no material false statement in its application for extension of the WNP No. 4. No substantial health and safety issue warrants issuance of an order to show cause. For these basic reasons, the Coalition for Safe Power's petitions dated November 30, 1981, and March 16, 1982 are *denied*. As provided in 10 CFR 2.206(c), a copy of this decision will be filed with the Secretary for the Commission's review.

Dated at Bethesda, Maryland this 16th day of June, 1982.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82–16818 Filed 6–21–82; 8:45 am]

BILLING CODE 7590–01–M

[11] *See Northern Indiana Public Service Co.* (Bailly Generating Station, Nuclear-1), CLI–78–7, 7 NRC 429, 433 (1978), *aff'd sub nom. Porter County Chap. of the Izaak Walton League, Inc.* v. *NRC*, 606 F.2d 1363 (D.C. Cir. 1979). In the recent statement of consideration concerning the *Elimination of Review of Financial Qualifications of Electric Utilities in Licensing Hearings for Nuclear Power Plants*, 47 FR 13750, 13751 (March 31, 1982), the Commission noted, "WPPSS' response (and that of most other utilities encountering financial difficulties) has been to postpone or cancel their plants, actions clearly not inimical to public health and safety under the Atomic Energy Act."

[12] Of course, any transfer of the construction permits would require the Commission's approval. *See* Atomic Energy Act section 184, 42 U.S.C. 2234, 10 CFR 50.54(c) and 50.80.

[13] The *Order to Show Cause* was published at 45 FR 42093 (June 23, 1980); the *Order Revoking Construction Permit* was published at 46 FR 11746 (Feb. 10, 1981).

[14] The permittees' cancellation of the Tyrone project was based largely on the Wisconsin Public Service Commission's denial of the necessary state certificate to construct the facility.

[15] *See* letter from R. L. Tedesco, Ass't Director for Licensing, Division of Licensing, NRR, to R. L. Ferguson, WPPSS Managing Director (Attachment C to Coalition petition dated March 16, 1982).

PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

Meeting

Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committees Act, that the twenty-second meeting of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research will be held in the Auditorium of The Medical Society of the District of Columbia, 2007 Eye Street, N.W., Washington, D.C. from 9 a.m. to 5 p.m. on Friday, July 9, 1982 and from 8:30 a.m. to 3:30 p.m. on Saturday, July 10, 1982.

The meeting will be open to the public, subject to limitations of available space. The agenda for Friday, July 9 will include, among other things, discussion of a draft report on the ethical implications of differences in the availability of health services. The agenda for Saturday, July 10 will include, among other things, discussion of a draft report on the ethical and social implications of gene splicing in human beings.

During Friday afternoon at approximately 1:15 p.m., and Saturday afternoon, at approximately 1 p.m., fifteen minutes will be devoted to comments from the floor on the subject of any of the agenda items, limited to three minutes per comment. Written suggestions and comments will be accepted for the record from those who are unable to speak because of the constraints of time and from those unable to attend the meeting.

Records shall be kept on all Commission proceedings and will be available for public inspection at the Commission office, located in Suite 555, 2000 K Street, NW., Washington, D.C. 20006.

For further information, contact Andrew Burness, Public Information Officer, at (202) 653–8051.

Alexander M. Capron,

Executive Director.

[FR Doc. 82–16046 Filed 6–21–82; 8:45 am]

BILLING CODE 6820–AV–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 12493; 812–5193]

American General Life Insurance Co. of Delaware, et al.; Application

June 15, 1982.

Notice is hereby given that American General Life Insurance Company of Delaware (the "Company"), a Delaware stock life insurance company, American General Life Insurance Company of Delaware Separate Account D (the "Separate Account"), a separate account registered under the Investment Company Act of 1940 (the "Act") as a unit investment trust, and American General Capital Distributors, Inc. ("Distributors"), 2727 Allen Parkway, Houston, Texas 77001, the principal underwriter for the Separate Account (collectively, "Applicants"), filed an application on May 26, 1982 and an amendment thereto on June 10, 1982, for an order of exemption, pursuant to section 6(c) of the Act, from sections 26(a), 26(a)(2)(D), and 27(c)(2) and for an order approving certain offers of exchange pursuant to section 11 of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Introduction

The Separate Account funds certain variable annuity contracts currently being offered and sold by the Company (the "Current Contracts"). Subject to certain conditions, owners of the Current Contracts may, from time to

time, cause their interests in the Separate Account to be allocated for investment purposes among several of the seven divisions of the Separate Account, each of which invests its assets solely in a different open-end management investment company registered under the Act (a "Fund"). At the present time, the only divisions available for use under the Current Contracts during both the accumulation and annuity periods are divisions six and seven, and Applicants have previously applied for and received Commission approval under section 11 of the Act with respect to transfers between such divisions pursuant to the Current Contracts. The Company proposes to add division eight to provide another investment option to contract holders, as originally contemplated by the Current Contract.

The Separate Account also funds certain variable annuity contracts previously sold upon which only additional puruchase payments are now being accepted ("Original Contracts"). Original Contract owners may now have additional purchase payments invested in divisions one through seven. The Company proposes to add division eight to permit another investment option for Original Contract owners and to allow transfers among all the eligible divisions. The Company states that it will advise Original Contract owners affected by Revenue Ruling 81–225 of the possible advantages of limiting their use of the Separate Account to divisions six, seven and eight.

Exemptions From Trustee and Custodian Requirements

Section 27(c)(2) of the Act prohibits a registered investment company or any depositor or underwriter for such Company from selling periodic payment plan certificates, unless the proceeds of all payments other than the sales load are deposited with a trustee or custodian having the qualifications prescribed in section 26(a)(1) and held under an agreement containing, in substance, the provisions required by sections 26(a) (2) and (3) of the Act. Section 26(a)(2)(D) of the Act requires, in part, that under the agreement with the trustee or custodian, such entity must have possession of all the securities and other property in which funds of a unit investment trust are invested. This has been interpreted to mean that the securities owned by the trust must be represented by share certificates physically in the custody of the custodian. Each of the Funds, however, maintains an "open account" system, and certificates for shares of the Funds will not be issued to the Company in connection with share purchases by the Separate Account.

Applicants request exemptions from sections 26(a), 26(a)(2)(D) and 27(c)(2) of the Act in order that assets of the Separate Account may be held by the Company under the terms and conditions set forth in the application. In support of these requested exemptions, Applicants state that except for fund shares, the Separate Account's only assets will consist of small amounts of cash from time to time. Such cash will be kept on deposit in the name of the Separate Account with a bank meeting the requirements of section 26(a)(1) of the Act.

According to Applicants, safekeeping of Separate Account assets does not require the Fund certificates be issued to the Company and any such requirement would, in fact, result in unnecessary administrative expenses. The application states that all obligations under the Company's variable annuity contracts will be general obligations of the Company which may not be abrogated, and the assets and retained earnings of the Company provide ample assurance of its financial ability to meet its obligations under such contracts. According to the application, the Company is subject to extensive supervision and control by the insurance regulatory authorities of the State of Delaware and of each other state in which it does business.

Approvals Under Section 11

Section 11(a) of the Act, in effect, requires that the terms of any offer made to a security holder of an open-end investment company registered under the Act to exchange his or her security for the security of the same or another open-end investment company registered under the Act must receive prior Commission approval, if the exchange is to be made on a basis other than the relative net asset values of the interests to be exchanged. Section 11(c) provides that, irrespective of the basis of exchange, the provisions of section 11(a) shall be applicable, in part, to any offer of exchange of any securities of registered unit investment trusts.

Applicants state that sections 11(a) or 11(c) of the Act could be interpreted to require Commission approval of transfers among divisions of the Separate Account pursuant to the Current Contracts. Although Applicants do not necessarily agree that any such interpretation would be correct, Applicants request Commission approval under those sections to the extent necessary to permit Current Contract owners and beneficiaries to effect transfers among the various divisions of the Separate Account, including division eight, subject to an administrative charge of $10 per transfer and to effect transfers among various divisions of the Separate Account, including division eight, pursuant to the Original Contracts. Applicants state that shares of the Funds purchased and sold for the various divisions of the Separate Account are in all cases purchased and sold at net asset value, with no sales or withdrawal charge being imposed.

According to the application, transfers among divisions of the Separate Account are intended primarily to permit a contract owner to modify a previous allocation in light of changing personal needs and evolving economic conditions, and such transfer do not generate any increased revenues or fees to the Company or its affiliates.

Section 6(c)

Section 6(c) of the Act, in pertinent part, provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes or persons, securities, or transactions, from any provision or provisions of the Act to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, no later than July 6, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his or her interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communciations should be addressed: Secretary, Securities and Exchange Commission, Washinton, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following July 6, 1982, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or

advice as to whether a hearing is ordered, will receive any notice and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-16807 Filed 6-21-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 12494; 812-5201]

Variable Annuity Life Insurance Co., et al.; Application

June 15, 1982

Notice is hereby given that The Variable Annuity Life Insurance Company ("VALIC"), The Variable Annuity Life Insurance Company Separate Account A ("Account A"), and The Variable Annuity Marketing Company ("VAMCO") (collectively, "Applicants"), 2727 Allen Parkway, Houston, Texas 77019, filed an application on June 1, 1982, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicants to the extent requested, from sections 26(a)(2)(D) and 27(c)(2) of the Act and pursuant to section 11 of the Act, approving certain offers of exchange. VALIC is a Texas stock life insurance company; Account A, a separate account of VALIC, is registered under the Act as a unit investment trust. VALIC is the depositor of, and VAMCO, the principal underwriter for, Account A. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Account A funds variable annuity contracts (the "Contracts") issued by VAIIC. The Contracts are individual variable annuity contracts designed to establish retirement benefits under certain programs providing federal tax advantages. Net purchase payments (the amount of a purchase payment less applicable premium taxes) with respect to the Contracts may be placed in Account A and allocated to one or more of its divisions or allocated to VALIC's general account. The assets of each division of Account A are invested solely in shares of an open-end management investment company (a "Fund"). Divisions One and Two of Account A presently used in connection with the Contracts are invested in High Yield Accumulation Fund, Inc. and American General Money Market Fund, Inc. Applicants are planning to add a Division Three which shall invest in American General Equity Accumulation Fund, Inc., regarding which the present application is being made. During the accumulation and annuity periods, the terms of the Contracts permit contractowners and, in certain cases, beneficiaries under the Contracts to make transfers between the divisions of Account A or among the divisions and VALIC's general account, subject to certain limitations. Transfers will be effected at net asset value and no transfer charge will be imposed. The privilege of making transfers during the accumulation and annuity period may be suspended or terminated by VALIC at any time.

Applicants have previously obtained an exemption from various sections of the Act, including sections 26(a)(2)(D) and 27(c)(2), relating to possession of Account A's assets, and an order under section 11 of the Act approving certain offers of exchange in connection with transfers between Divisions One and Two. Applicants assert that the terms of such exemption and approval are in all respects sufficiently broad to include the addition of proposed Division Three. Nevertheless, Applicants have been advised by the staff of the Commission that the addition of a new division will, in the staffs vien, require an order of the Commission, pursuant to Section 11 of the Act approving certain offers of exchange and pursuant to section 6(c) of the Act for exemptions from sections 26(a)(2)(D) and 27(c)(2) of the Act with respect to newly created Division Three.

Exemptions Relating To Custodial Requirements

Section 27(c)(2) of the Act prohibits a registered investment company or any depositor or underwriter for such company from selling periodic payment plan certificates, unless the proceeds of all payments other than the sales load are deposited with a trustee or custodian having the qualifications prescribed in section 26(a)(1) of the Act and held under an agreement containing, in substance, the provisions required by sections 26(a)(2) and (3) of the Act. Applicants state that, except for Fund shares, which will be maintained in an open-account system, Account A's only assets will consist of amounts of cash from time to time. Such cash will be kept on deposit in the name of Account A with a bank meeting the requirements of section 26(a)(1).

Section 26(a)(2)(D) of the Act requires, in part, that under the agreement with the trustee or custodian, such entity must have possession of all the securities and other property in which funds of a unit investment trust are invested. Applicants state that this has been interpreted to mean that the securities owned by the trust must be represented by share certificates physically in the custody of the custodian. Section 26(a)(2)(D) of the Act also requires that the agreement with the trustee or custodian provide that the securities and other property in which the funds of a unit investment trust are invested must be segregated and held I trust until distribution. Applicants assert that while the assets of Account A will be segregated, VALIC, as a life insurance company, may not properly place assets of the Separate Account in trust, because the insurance laws of the State of Texas require VALIC to retain ownership and control of the disposition of its property. Applicants state that VALIC will continue to hold in custody for safekeeping the assets of Acount A until Account A has been completely liquidated and the proceeds of the liquidation distributed to persons entitled thereto under the Contracts or until a successor trustee or custodian is appointed. The application states the VALIC will maintain a record of the names and addresses of all owners and annuitants and the amount of their interest in Account A, and that Applicants will comply with the notice requirements of section 26(a)(4).

Applicants request exemptions from sections 26(a)(2)(D) and 27(c)(2) of the Act in order that assets of the Separate Account, including uncertificated shares of American General Equity Accumulation Fund, Inc., may be held by VALIC under the terms and conditions set forth in the application.

Approvals Under Section 11

Section 11(a) of the Act makes it unlawful for any registered open-end investment company or any principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) provides that, irrespective of the basis of exchange, the provisions of subsection (a) shall be applicable to any offer of exchange of any security of a registered open-end company for a security of a registered unit investment trust and to any type of offer of exchange of the securities of registered unit investment trusts for the

securities of any other investment company.

Applicants state that they do not believe that sections 11(a) or 11(c) should be interpreted to require Commission approval of transfers between divisions of Account A pursuant to the Contracts. Nevertheless, to remove any uncertainty, Applicants request Commission approval under those sections, to the extent necessary to permit owners, annuitants and beneficiaries to effect transfers between Divisions One and Two and Division Three pursuant to the Contracts. Applicants submit that such transfers will be effected at net asset value and will not generate any increased revenues or fees to VALIC or its affiliates. Therefore, Applicants believe the transfers between Account A's divisions contemplated by the Contracts are consistent with the purposes of sections 11(a) and 11(c) of the Act and the terms thereof should be approved by the Commission.

Section 6(c)

Section 6(c) of the Act, in pertinent part, provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, no later than July 6, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his or her interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communications should be addressed: Security, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following July 6, 1982, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notice and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-16606 Filed 6-21-82; 8:45 am]

BILLING CODE 8010-01-M

VETERANS ADMINISTRATION

Availability of Report of 38 U.S.C. 219 Program Evaluation

Notice is hereby given that the program evaluation of the Veterans Administration's Automobile and Adaptive Equipment Program has been completed.

Single copies of the Automobile and Adaptive Equipment Report are available free. Reproduction of multiple copies can be arranged at the user's expense.

Direct inquiries, specifying the name of the program evaluation desired, to Mrs. Lynn H. Covington, Acting Director, Program Evaluation Service, Veterans Administration (074), 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: June 14, 1982.

Robert P. Nimmo,

Administrator.

[FR Doc. 82-16701 Filed 6-21-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 120
Tuesday, June 22, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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Federal Reserve System (Board of Governors)	2-4
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1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:30 a.m., June 24, 1982.

LOCATION: Engineering Laboratory, 10910 Darnestown Road, Rockville, MD.

STATUS: Open to the public.

MATTER TO BE CONSIDERED:

1. *Current Leakage Test*
The staff will brief the Commission and conduct a demonstration on electrical current leakage testing.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Suite 342, 5401 Westbard Avenue, Bethesda, MD 20207; Telephone (301) 492-6800.

[S-924-82 Filed 6-18-82; 2:50 pm]

BILLING CODE 6355-01-M

2

FEDERAL RESERVE SYSTEM: Board of Governors

TIME AND DATE: 10:00 a.m., Monday, June 28, 1982.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposals with respect to contemprancous reserve requirements (Proposed earlier for public comment; Docket No. R-0371).
2. Proposals for the treatment of seller's points under Regulation Z (Truth in Lending).
* Proposed 1983 budget objectives for the Federal Reserve System.

* Anyone planning to attend specifically for Item 3 should call 452-3206 on June 25, 1982, to assure that it has not been postponed to a future meeting.

4. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: June 18, 1982.

James McAfee,

Associate Secretary of the Board.

[S-922-82 Filed 6-18-82; 2:43 pm]

BILLING CODE 6210-01-M

3

FEDERAL RESERVE SYSTEM: Board of Governors

TIME AND DATE: Approximately 12 noon, Monday, June 28, 1982, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: June 18, 1982.

James McAfee,

Associate Secretary of the Board.

[S-923-82 Filed 6-18-82; 2:43 pm]

BILLING CODE 6210-01-M

4

FEDERAL RESERVE SYSTEM: Board of Governors

TIME AND DATE: 10:00 a.m., Friday, June 25, 1982.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Request by the General Accounting Office for Board comment on a draft report regarding bank examination for country risk and international lending.
2. Proposed consideration of policy with respect to net settlement services.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: June 17, 1982.

James McAfee,

Associate Secretary of the Board.

[S-917-82 Filed 6-17-82; 4:05 pm]

BILLING CODE 6210-01-M

5

METRIC BOARD

Bimonthly Board Meeting

TIME AND DATE: 9 a.m. to 5 p.m., Thursday, July 8, 1982; 9 a.m. to 11 a.m., Friday, July 9, 1982.

PLACE: Arlington Hyatt Hotel, Revensworth Hall/East, 1325 Wilson Blvd., Arlington, Virginia 22209.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Approval of Agenda—Approval of agenda for this meeting.
Review/Approval of Minutes of the Board Meeting held on May 6-7, 1982 in Arlington, Virginia.
Committee Final Reports—Committee Chairmen will make a final report to the Board.
Perspectives on Roles in Future Metric Activity—The Board will receive presentations by the organizations expected to survive the Board and continue administration of elements of the Metric Conversion Act. Panelist representing the ICMP/MOC, States (NCSM Executive Committee), ANMC and the Department of Commerce will address the Board.
Final Standards Report and Recommendations—Staff will review the Board's standards reports and discuss the results of the work and findings. The Chairman of the Planning and Coordination Committee will introduce standards recommendations for approval by the Board.
Factors of Concern to Small Business—Presentation to the Board by the contractor of the three models developed to assist

small firms in assessing the practicality of metric conversion for them.
Small Business Productivity—Mr. Bruce Phillips of the Small Business Administration will brief the Board. This project is being conducted through an interagency agreement with the Small Business Administration and has the purpose of investigating the statistical relationships between productivity, profitability, size , industry and other economic factors and metrication.
Research Utilization—A brief presentation, for information, will be provided to summarize what action has been taken to distribute the findings and increase the awareness of the Board's Research program.
Final Finanacial Report—The Executive Director will brief the Board on FY 82 expenditures.
Feasibility of a September Board Meeting—The Board will determine whether a September Board meeting is required to dispose of any remaining business for FY 82.

CONTACT PERSON FOR FURTHER INFORMATION: Lu Verne V. Hall, Staff Assistant, 703/235–1606.

Louis F. Polk,

Chairman.

[S–920–82 Filed 6–18–82; 9:53 am]

BILLING CODE 6250–01–M

6

METRIC BOARD

Planning and Coordination Committee Meeting

TIME AND DATE: 1:00–1:30 p.m., Wednesday, July 7, 1982.

PLACE: United States Metric Board, 1600 Wilson Blvd., Suite 400, Arlington, Virginia 22209.

STATUS: The meeting is open to the public.

MATTERS TO BE CONSIDERED:

Approval of Agenda
Review and Approval of Committee Report and Recommendations on Standards
Review and Approval of one-page Final Report to the Board by the Committee and Recommendations for disolution of the Committee
Other business

CONTACT PERSON FOR FURTHER INFORMATION: Alan Whelihan, 703/235–2919.

Louis F. Polk,

Chairman.

[S–919–82 Filed 6–18–82; 9:53 am]

BILLING CODE 6250–01–M

7

METRIC BOARD

Research Committee Meeting

TIME AND DATE: 11 a.m. to 1 p.m., Wednesday, July 7, 1982.

PLACE: United States Metric Board, 1600 Wilson Blvd., Suite 400, Arlington, Virginia 22209.

STATUS: The meeting is open to the public.

MATTERS TO BE CONSIDERED: Three Briefings on Research Activities: (1) General Status Briefing of Research Projects; (2) Discussion on Methodology and progress of the Small Business Metrication and Productivity Project; (3) Presentation of Three Models on the Small Business Factors of Concern Study.

CONTACT PERSON FOR FURTHER INFORMATION: G. Edward McEvoy, 703–235–1697.

Louis F. Polk,

Chairman.

[S–921–82 Filed 6–18–82; 9:53 am]

BILLING CODE 6250–01–M

8

UNITED STATES RAILWAY ASSOCIATION

Board of Directors Annual Meeting

DATE AND TIME: June 24, 1982; 10 a.m.

PLACE: Board Room, Room 2–500, fifth floor, 955 L'Enfant Plaza North, S.W., Washington, D.C.

STATUS: The first portion of the meeting will be closed to the public; the second portion will be open.

MATTERS TO BE CONSIDERED: Portion Closed to the Public (10 a.m.):

1. Internal Personnel Matters.
2. Litigation Report.
3. Review of Conrail Confidential and Proprietary Financial Information.

Portion Open to the Public (10:30 a.m.):

4. Approval of Minutes of May 27 Board Meeting.
5. Election of Officers.
6. Section 211(h) Loan.
7. Section 211(h) Loan Forgiveness For Conrail.
8. Conrail Request for Waiver of Financing Agreement.
9. Conrail Monitoring Indicators.

CONTACT PERSON FOR MORE INFORMATION: Alex Bilanow, (202) 488–8777, ext. 505.

[S–918–82 Filed 6–18–82; 8:51 am]

BILLING CODE 8240–01–M

federal register

Tuesday
June 22, 1982

Part II

Department of Health and Human Services

Food and Drug Administration

Menstrual Tampons; User Labeling

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 801

[Docket No. 80N-0425]

Menstrual Tampons; User Labeling

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule to require manufacturers of menstrual tampons to include information on toxic shock syndrome (TSS) in the labeling of the device. TSS is a rare, but serious and sometimes fatal, disease associated with tampon use. FDA is requiring that menstrual tampon packages contain a brief statement alerting consumers to the dangers of TSS and advising them to read and save information about TSS included in a package insert. If the TSS information itself is placed on the package, no alert statement is required. The language of the alert statement is specified, but tampon manufacturers may develop the information about TSS within guidelines specified in the final rule.

EFFECTIVE DATE: The regulation will take effect for packages of tampons initially introduced or initially delivered for introduction into commerce December 20, 1982.

FOR FURTHER INFORMATION CONTACT: Maria Donawa, Bureau of Medical Device (HFK-300), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7175.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 21, 1980 (45 FR 69840), FDA proposed a regulation that would have required a warning statement concerning TSS on the label of menstrual tampon packages. Interested persons were given until November 20, 1980 to comment on the proposed rule. In response to two requests and because new information had become available, in a notice published in the **Federal Register** of April 28, 1981 (46 FR 23766), FDA reopened the comment period until June 29, 1981. More than 300 comments were received from consumers, manufacturers, Government health departments, consumer organizations, and industry organizations. Almost all comments supported some form of labeling concerning TSS. The following summarizes the substantive comments received and FDA's responses to them.

General

1. A comment urged FDA to implement a nationally publicized campaign warning about the dangers associated with tampons and TSS.

As discussed at length in the April 28, 1981 notice, since publication of the proposed rule, information concerning TSS has been widely disseminated through the efforts of FDA, the Centers for Disease Control (CDC), State health agencies, tampon manufacturers, health professionals, and the news media. FDA intends to continue to provide information through press releases and professional, consumer, and industry education programs. Moreover, the labeling required by this rule will ensure continued dissemination of information. Thus, FDA believes that the goals of a national campaign are being met.

2. Comments argued that a warning statement on the package label of tampons is not necessary because manufacturers have already initiated education programs about TSS and tampons and because surveys show a minimum of 95 percent of women between the ages of 15 and 50 are familiar with the association of TSS and tampons.

FDA recognizes that publicity and actions taken by tampon manufacturers have done much to inform women of the association between TSS and tampon use. Nevertheless, the seriousness of TSS coupled with the potential for many new users require that information concerning TSS symptoms and what to do if those symptoms occur need to be continually provided to women who use tampons. Moreover, the effects of earlier publicity reasonably can be expected to diminish. For these reasons, FDA believes that information about TSS needs to be available on an ongoing basis. The final rule requires, therefore, that TSS information be included in a package insert with a brief statement on the outer package label calling attention to the insert or that all the information be on the package.

3. Comments suggested that the warning label is no longer necessary because the incidence of TSS is decreasing following the removal of Rely® brand tampons from the market. Comments noted that the geographic distribution of TSS cases is not consistent with the nationwide marketing of most tampon brands. Opposing comments said that the decline was illusory due to underreporting as a result of waning media interest.

Although there was a decrease in TSS cases reported to CDC following the peak of about 120 cases per month in August and September 1980, CDC advises that TSS cases have plateaued and continue to be reported at a national rate of about 50 per month. CDC further advises that "Assuming that the surveillance system detects approximately 15 percent of the cases which actually occur, it can be estimated that the true rate of severe cases of TSS is 300 to 400 per month; if milder cases of TSS are as common as severe cases, the actual rate of disease is in the vicinity of 600 to 800 cases per month" (CDC comments, June 29, 1981). Concurrently, the number of cases reported to the Minnesota Department of Health through May 1981 has shown no significant change in incidence before and after removal of Rely® brand tampons from the market (Ref. 1). FDA disagrees, therefore, that there is a basis for concluding that the incidence of TSS is now decreasing or that the incidence of TSS is related solely to use of Rely® brand tampons.

A nonuniform geographic distribution of TSS cases would be consistent with the distribution of many other diseases reported to CDC. Any such lack of uniformity can be explained in the case of TSS by noting the extensive surveillance done in the States with many cases, and the assumption made that all States would show the same number of cases relative to their population if their surveillance efforts were equal. More importantly, as noted above, no significant variation was seen in incidence before and after the removal of Rely® brand tampons from the market, and TSS cases continue to be reported at a national rate of about 50 per month. For these reasons, FDA disagrees that any nonuniform geographical distribution of TSS cases alleviates the need for tampon labeling.

FDA is concerned that many people seem to believe that the incidence of TSS is decreasing. An often quoted estimate of TSS incidence is 6.2 per 100,000 menstruating girls and women per year and originates from data from the Wisconsin Division of Health (see April 28, 1981 notice). As of January 1981, the reported incidence in Utah was 17 per 100,000 menstruating girls and women per year. Minnesota in its comments on the April 28, 1981 notice estimates an overall incidence of 6.6 per 100,000 menstruating girls and women per year. Based on these studies and the CDC data, which are the most comprehensive currently available, the agency believes that TSS continues to occur and that a reasonable estimate of current incidence is between 6 and 17 per 100,000 menstruating girls and women per year. To assure that users

are informed about current incidence, FDA is requiring that manufacturers provide information on estimated incidence.

4. A comment argued that there is no substantial evidence of record establishing a statistically significant association between TSS and brands of tampons other than Rely® brand or a material risk of contracting TSS from each brand/absorbency of tampons, citing *Council for Responsible Nutrition* v. *Goyan*, (1979–1980 Transfer Binder) Food, Drug, Cosmetic L. Rep. (CCH) ¶ 38,057 (D.D.C. August 1, 1980).

FDA rejects the comment. The legal standard applicable to this rulemaking is that the agency's action be "consistent with its statutory mandate, rational, and not arbitrary." *Pacific Legal Foundation* v. *Department of Transportation*, 593 F. 2d 1338, 1343 n. 35 (D.C. Cir. 1979). As the court explained in *Council for Responsible Nutrition* v. *Goyan*, "In the ultimate, the test is one of reasonableness."

The evidence on which FDA relies in this rulemaking is discussed or referred to throughout this preamble, particularly in paragraphs 5, 8, 9, 21, 27, and 31. In reaching its determination to issue the final rule, as in deciding on the appropriate regulatory response to many public health problems, FDA had to grapple with uncertainties, as well as with continually developing new information. Indeed, it was largely because of questions raised in the comments on the October 2, 1980 proposal and because new information became available within a reasonable time after publication of that proposal, that FDA reopened the comment period to provide an opportunity to comment on the new studies, information, and analyses. But few, if any, sets of scientific data ever provide the basis for drawing conclusions with certainty, and further delay would ill serve the interests of the public health.

The Federal Food, Drug, and Cosmetic Act (the act) and similar remedial statutes "demand regulatory action to prevent harm, even if the regulator is less than certain that harm is otherwise inevitable * * *. Awaiting certainty will often allow for only reactive, and not preventive, regulation." *Ethyl Corp.* v. *EPA*, 541 F.2d 1, 25 (D.C. Cir.) (en banc), *cert. denied*, 426 U.S. 941 (1976). Thus, the courts appropriately have concluded that:

> Regulators * * * must be accorded * * * a flexibility that recognizes the special judicial interest in favor of the protection of the health and welfare of people, even in areas where certainty does not exist. *Id.* at 24.

In FDA's judgment, the evidence before it reasonably supports the conclusion that there is a statistically significant association between TSS and brands of tampons other than Rely® brand and that the final rule should apply to all brands and absorbencies of tampons.

5. A comment said that not all the provisions of the proposed warning are authorized by sections 201(n) and 502(a) of the act (21 U.S.C. 321(n) and 352(a)). This comment points out that section 201(n) of the act provides that, in determining whether a product is misbranded, FDA shall take into account whether the labeling "fails to reveal facts * * * material with respect to consequences which may result from the use of the article to which the labeling or advertising relates * * *." The comment says further that the statement that a woman "can almost entirely avoid the risk of getting (TSS) by not using tampons" is not a material fact with respect to the consequences of the use of tampons.

FDA disagrees with the comment. Based on the evidence of the increased risk of TSS associated with the use of tampons, particularly by young women and girls, the severity and rapid onset of the disease, and the significant risk of death for users who contract TSS, FDA has concluded that failure to inform consumers about the disease constitutes omission of material facts about the products. Under the final rule, any such omission from the labeling of tampons renders the labeling false or misleading within the meaning of sections 502(a) and 201(n) of the act, and the products, therefore, misbranded.

FDA has reviewed the specific wording in the proposal to the effect that a woman can almost entirely avoid the risk of getting TSS by not using tampons. Because the number of TSS cases that are not menstrually associated has appeared to increase it may no longer be correct to say that TSS can almost entirely be avoided by not using tampons. FDA has modified the wording to reflect that it is tampon-associated TSS that can be avoided by not using tampons and has provided this as guidance on the content of labeling required by the final rule.

6. Several comments argued that it was inappropriate to combine the data from two studies as FDA did in its notice reopening the comment period.

FDA recognizes that all statistical analyses involve assumptions upon which the validity of resulting statistical inferences depend. Seldom, if ever, can the data analyst be sure all assumptions are met, and, indeed, often the data analyst knows they are not met. Yet conclusions must be drawn and decisions made utilizing all available information. It is a common and accepted practice, if no better method is available, to use a method of analysis (statistical model) in situations known to diverge by a tolerable amount from required assumptions. The data analyst bears in mind the possible degree of divergence from assumptions along with the effect any such divergency may have on the accuracy of the analyst's conclusions (i.e., the robustness of the statistical test), then proceeds to draw the conclusions with all due caution.

In this case FDA's reasoning was as follows: Both the second CDC study (CDC 2) and the study conducted by the Utah State Department of Health (Utah Study) were made to draw inferences about the same hypothesis, i.e., an association between tampon use and TSS. The fact that the two sets of data were gathered in different locations using somewhat different survey techniques was not considered as important as the fact that both sets of data contained information about the same hypothesis and that both sets of data, when analyzed separately, were not found to be different (i.e., heterogeneous). For these reasons, the data were combined and reanalyzed in the usual manner.

7. A manufacturer commented that analysis of the combined CDC 2 and Utah Study data was done on unmatched cases and controls.

FDA was aware that its analysis was done on unmatched cases and controls. As discussed in the April 28, 1981 notice, the agency compared these groups in terms of such variables as income, race, education, and marital status, and found no important differences. Because the cases and controls were unmatched, however, FDA specified the statistical tests used in its analysis, i.e., Fisher's exact and chi-square.

8. A comment said that FDA was attempting to apply the same rule to dissimilar products contrary to the holdings in *United States* v. *Nova Scotia Food Products Corp.*, 568 F. 2d 240 (2d Cir. 1977) and *Council for Responsible Nutrition* v. *Goyan*. Another comment argued that there is no evidence in the record of an association between the use of a recently introduced cotton tampon with no super-absorbent materials and the occurrence of TSS. Another manufacturer said that the incidence of TSS among users of its product is less than would be expected when compared to the percentage of controls in the studies using its product and its general market share.

FDA disagrees with these comments. Applying principles developed in Consumer Product Safety Commission (CPSC) cases, FDA may not impose the same warning requirements on a product that exhibits "significantly dissimilar functional or risk characteristics when compared with the other products" to which those requirements apply, unless FDA reasonably determines either (1) that the product presents no significantly dissimilar functional or risk characteristics that are pertinent to the objectives of the warning; or (2) that despite significant differences, application of the warning to the product remains reasonably necessary to prevent or reduce an unreasonable risk of injury associated with the product. *ASG Industries, Inc.* v. *CPSC*, 593 F. 2d 1323, 1330 (D.C. Cir.), *cert. denied*, 444 U.S. 864 (1979); *Southland Mower Company* v. *CPSC*, 619 F. 2d 499, 506–07 (5th Cir. 1980). Once FDA justifies the need for a warning affecting a general category of products, however, the burden shifts to a manufacturer to show that an individual product should be excluded from the general warning requirement. FDA is not, in the first instance, required to make an individual determination that a warning should apply to each particular product within a general category of products. *Cosmetic Toiletry & Fragrance Association* v. *Schmidt*, 409 F. Supp. 57, 61 (D.D.C. 1976), *aff'd without opinion*, Civil No. 7515 (D.C. Cir. August 19, 1977); *Bunny Bear, Inc.* v. *Peterson*, 473 F. 2d 1002 (1st Cir. 1973).

The April 28, 1981 notice discussed FDA's conclusion that there is a statistically significant association between the use of all brands of tampons and the occurrence of TSS. This association is confirmed by the tri-State study even if the data concerning Rely® brand are excluded (Ref. 1). FDA also concluded that the data do not show any statistically significant difference in relative risk from tampons other than Rely® brand, and that the relative risk is material for all brands and styles of tampons, including Rely® brand.

There has been speculation that TSS is in some way related to tampon fibers, materials, construction, or functional characteristics. None of the data available to FDA, however, shows that there is an association between the occurrence of TSS and (1) a particular tampon fiber, ingredient, or combination of ingredients (see paragraph 27) or (2) any other product characteristic, including tampon materials, construction, design, or the manner in which the device functions (see paragraph 31). FDA concludes, therefore, that there is no justification for excluding from the requirements of the final rule any brand of tampon based on its fibers, ingredients, materials, construction, design, or functional characteristics.

FDA recognizes that the data from the tri-State study do not prove a statistically significant association between the use of certain styles of certain brands of tampons and the occurrence of TSS. The tri-State study, therefore, can neither confirm nor disprove that TSS is associated with each style of each branch of tampons. FDA also recognizes that the tri-State study indicates that there are substantial differences in relative risk from certain styles of certain brands of tampons. The tri-State study does not, however, contain enough TSS cases for each style of tampons to show statistically significant differences in risk. For these reasons, FDA continues to conclude that there is an association between TSS and all tampons, and that no style of tampon presents a significantly different risk characteristic when compared to other tampons generically. The association between TSS and all tampons remains; the tri-State data do not justify a conclusion that a particular style or any brand of tampons should be excluded from the requirements of the final rule but the tri-State and the other data discussed or referred to throughout this preamble are adequate to include all tampons.

The relationship between TSS and tampon "absorbency," as defined in the tri-State study, though not unimportant, is uncertain. Indeed, the tri-State data concerning this relationship are insufficient to predict accurately the risk for each tampon brand or the relative risk among different brands of tampons. For this reason and the reasons discussed in this paragraph and in paragraph 21, FDA has determined that absorbency is not a basis upon which to exclude any style or brand of tampon from the requirements of the final rule. Nonetheless, because the risk of TSS appears to decrease as tampon absorbency decreases, the final rule requires that product labeling advise women to use tampons with the minimum absorbency needed to control menstural flow (see paragraph 21).

Differences in general market share and the percentage of controls in the studies using a particular product are small in comparison to the strong statistical association of all brands of tampons and the occurrence of TSS. Even if tampons with a particular fiber, ingredient, material, design, construction, or functional characteristic were shown to exhibit significantly dissimilar risk characteristics and consumers could identify those tampons from product labeling, application of the final rule to them would still be necessary to protect the public health and minimize the serious effects of TSS because all tampons are associated with TSS.

Apart from the argument that because the incidence of TSS among users of its product is less than would be expected when compared to the percentage of controls in the studies using its product and its general market share, the manufacturer that argued that FDA is improperly attempting to apply the same rule to dissimilar products has not brought to FDA's attention any evidence other than the tri-State study to support the claim that certain styles or brands of tampons should not be covered by the final rule. Neither have other manufacturers shown why their products should not be subject to the requirements of the final rule. Accordingly, FDA has concluded that the final rule will apply to all styles and brands of tampons.

9. A comment argued that FDA may not rely in this rulemaking on the analysis of statistical significance presented in the Commissioner's decision on cyclamates, because the decision whether to require a warning label on tampons is not analogous to FDA's decision denying approval of cyclamates as a food additive. According to the comment, the critical difference is that in cyclamates the sponsor bore the burden of proof of safety, whereas here FDA bears the burden of proving that there is a material risk of TSS from each brand/absorbency of tampons.

FDA disagrees with the comment. FDA relied in part on the analysis of statistical significance presented in the Commissioner's decisions on cyclamates and Benylin, because, as the agency pointed out in the April 28, 1981 notice, the standard of $P<0.05$ is grounded in custom not science or law. FDA then pointed out that the CDC 2 study showed a borderline ($P=0.053$) statistically significant association between TSS and tampons other than Rely® brand and that this showed that there is a 94.7 percent probability that the result is not due to chance. FDA believes that the difference between a 94.7 percent probability and a 95 percent probability is not substantial, and that, considering the particularly high incidence of TSS in young women and girls, the severity and rapid onset of

TSS, and the risk of death for users who contract TSS, a finding of material risk can be based on the former probability.

10. A manufacturer argued that FDA has established tolerance levels for aflatoxin B in peanuts and polychlorinated biphenyls (PCB's) in fish which result in a lifetime risk of cancer greater than the risk of contracting TSS associated with its product. The comment also noted that FDA has not deemed it necessary to establish warning labels for foods containing chlorinated water, even though the lifetime cancer risk is alleged by the comment to be between 1–10 per 100,000. Because the manufacturer believes the risk of TSS associated with the use of its brand of tampons is extremely small and significantly below the level of risk FDA has accepted with other products, the manufacturer claims that it would be inconsistent for FDA to require a warning about TSS on its product.

FDA disagrees with this reasoning. Each regulatory problem must be examined in its own circumstances. The studies supporting this final rule are based on actual instances of TSS occurring in humans and show that there is a statistically significant association between all brands of tampons and the occurrence of TSS, that is, a quantifiable human risk under actual use conditions. By contrast, any levels of risk attributed to aflatoxin- and PCB-"contaminated" food, expressed as upper bounds, are based primarily on extrapolations of animal data to humans and of high dose data to lower dose use. There are no data reflecting actual exposure to these substances over defined periods of time by particular individuals who develop cancer. FDA does not regulate the chlorinating of water, which is under the jurisdiction of the Environmental Protection Agency.

FDA believes, as discussed in paragraph 3, that a reasonable estimate of the risk of TSS is between 6 and 17 per 100,000 menstruating women and girls per year, and may be even greater due to underreporting. Also, for certain age groups, the risk is considerably greater than that estimated for the affected population generally (see paragraph 20). Over many years of tampon use, the resulting lifetime risk, derived from actual human experience, would be much greater than any risks assessed for animal carcinogens and described in the comment. Furthermore, every tampon poses some risk of TSS. There is no evidence that all foods pose a risk of cancer from aflatoxin and PCB's, or that food inherently poses a risk of cancer. Tampons do inherently pose a risk of TSS.

For these reasons, FDA believes that different treatment of any risk of cancer from "contaminated" foods and the risk of TSS from tampons is justified, and concludes that the circumstances of this regulatory problem warrant warning consumers about TSS on tampon packages.

Package Insert

11. Several manufacturers suggested that a package insert is more appropriate than a warning on the outer package label because it would allow greater flexibility for new knowledge, it would provide more space, and it could be processed to reach the consumer more quickly. Many comments, especially from consumer groups and individual consumers, said that FDA should require manufacturers to include in each package of tampons a package insert concerning TSS in addition to the outside warning. These comments suggested that the insert should contain information about the symptoms and development of TSS, statistics on its incidence, and actions one can take to lower the risk of TSS. Other comments said that the package insert should be short and concise to ensure that it would be read. Yet other comments said that there should be a statement on the outside of the package to draw attention to the package insert. Some comments said that FDA should not require package inserts because they would be costly and, in most cases, consumers would not read them, and that the outside labeling is sufficient to inform the consumer of the problem. A comment said that the placement of information on the outside of a package to draw attention to the insert would encourage consumers to break into packages in the store, causing economic loss to the retailer.

FDA has concluded that useful, substantive information on TSS must be provided on the package or in a package insert. FDA also believes that a short statement is needed on the outside of the package directing the attention of consumers to the package insert if a manufacturer elects to provide information in that way. FDA notes that most tampon packages already contain inserts. Manufacturers may either adapt current inserts to include the required TSS information or use separate inserts. If a package insert of either type is included, a short statement on the outside of the package is necessary to improve the likelihood that users will read and save the package insert. FDA believes it unlikely that consumers will break into packages in the store to read the package insert.

Therefore, FDA is requiring in the final rule that tampon packages include a package insert containing specified information about TSS in terms understandable by the layperson, and that the outside of the package be labeled with a short statement alerting consumers to the dangers of TSS and to the existence of the insert, or that all the information be included on the package.

Contents of Warning

12. A comment suggested that manufacturers should be permitted to vary the wording of the warning, subject to FDA's approval.

FDA has modified the proposed requirement that would have specified the wording of a warning statement on the package. In preparing the final rule, FDA accepted part of the intent of this comment. The final regulation will allow manufacturers to develop their own wording for TSS information provided that certain topics specified in § 801.430(d) are addressed adequately in terms understandable by the layperson and no false or misleading information is presented. If a package insert is used to present the information, however, § 801.430(c) in the final rule requires the following alert statement to be placed on the product package, "ATTENTION: Tampons are associated with Toxic Shock Syndrome (TSS). TSS is a rare but serious disease that may cause death. Read and save the enclosed information." Thus, provided the topics specified by § 801.430(d) are addressed, the wording of the TSS information may be varied. The agency concludes, however, that the alert statement needs to be uniform to assure that consumers are equivalently informed of the availability of TSS information.

13. Comments suggested that FDA require that the word "WARNING" on the outside label be in letters larger than the remainder of the warning statement and be printed in bright red.

FDA notes that the final regulation does not require that the word "WARNING" be used in the alert statement because the message on the outside of the box is intended to direct consumers to other TSS information if that information is included as a package insert. Paragraphs (c) and (d) of § 801.430 of the final rule require all information placed on the package label to be prominent and legible. FDA believes that it is not necessary to describe further the color or the manner in which outer package statements need to be presented.

14. A comment suggested that the warning should be shorter to make it more likely to be read. To accomplish this, the comment suggested that the last sentence warning about the symptoms of TSS be omitted.

FDA agrees in part with the comment. Under the final rule, if the manufacturer elects to use a package insert, the short statement described in paragraph 13 is required to be placed on the package label, and information about TSS warning signs and what to do if they appear is required to be included in the insert. This information should always be provided, either in an insert or on the package, to alert women about the circumstances in which they should seek medical attention.

15. Comments suggested that FDA not require the inclusion in the warning of the statement, "You can almost entirely avoid the risk of getting this disease by not using tampons. You can reduce the risk by using tampons on and off during your period." The comments said that these statements are not justified by the scientific evidence. A comment said that the first part of the statement is unwarranted because it has not been established that tampons cause TSS. Another comment stated that this requirement is unprecedented because in no other case does FDA require a statement suggesting that the consumer may not want to use the product.

FDA does not maintain that tampons are the cause of TSS. As discussed elsewhere in this preamble, FDA concludes that current scientific evidence demonstrates a statistically significant association between the use of tampons and the occurrence of TSS. FDA recognizes that not all risk of TSS can be eliminated by not using tampons because TSS occurs among nonusers of tampons; however, the risk of contracting TSS that is directly associated with the use of tampons can be eliminated by not using the product. Furthermore, CDC advises that its studies show that continuous use throughout the menstrual period increases the risk (see Ref. 2, April 28, 1981 notice). The proposed warning may be unprecedented in that it advises the consumer that one way to avoid the disease associated with the product is not to use the product. Nevertheless, the information is sound in terms of protection of the public health. The purpose of the statement is to advise women of the dangers associated with the use of tampons so that they can make an informed decision on whether and how to use the product. The significant difference between this statement and other warnings typically found on FDA-regulated products is that the statement itself sets forth the conclusion that is inherent in other such warnings, viz., do not use the product if you wish to avoid the risk associated with it. FDA, therefore, disagrees with the comments and is requiring in the final rule that information provided with tampon packages include a statement concerning avoiding the risk of tampon-associated TSS by not using tampons and possibly reducing that risk by alternating tampon use with sanitary napkin use.

16. Several comments said that the statement, "You can reduce the risk by using tampons on and off during your period" is unclear. A comment suggested that the warning should be revised to include the statement, "You can reduce the risk associated with tampon use by alternating tampons with sanitary napkins or mini-pads; when tampons are used, they should be changed at least every 6 to 8 hours."

FDA agrees with those comments that suggested that the proposed warning is unclear. As discussed in paragraph 15, the agency has revised the final regulation to require a statement concerning possibly reducing the risk of TSS by alternating the use of tampons with sanitary napkins. Because mini-pads are a type of sanitary napkin, the agency believes that it would be redundant to require that reference to them be included in any statement provided with the package.

FDA is also concerned that few data support the benefit of any particular pattern of discontinuous tampon use. In addition, no evidence was submitted to demonstrate that the risk of TSS is decreased by changing tampons at specified intervals. Nor is FDA aware of such evidence. Therefore, FDA rejects the portion of the comment suggesting that the required information recommend that tampons be changed every 6 to 8 hours.

17. Comments suggested that the warning should address the need for personal hygiene in the use of tampons because lack of hygiene may contribute to TSS.

According to some theories, personal hygiene and other factors may affect the incidence of TSS. Although it has been reported that contraceptive use may protect against the development of TSS, to date, there has been no evidence demonstrating an association between poor personal hygiene and TSS. In the absence of data showing such an association, FDA believes that it would be inappropriate to require such information in the labeling.

18. A comment suggested that the first sentence of the warning statement should be revised to add the word "sometimes" before "fatal" to put a proper perspective on the incidence of fatalities from the disease.

FDA agrees with the intent of the comment. Where specific wording is required by the final regulation, the word "may" is used to convey the thought that death sometimes can result from TSS while maintaining the brevity of the alert.

19. A comment suggested that the words "FDA advises" should be added before the warning to give more weight to the warning.

The suggestion to add "FDA advises" is rejected. The agency believes that it would be misleading to limit the alert statement in this manner because the statement is based on advice from other sources, including CDC and other public health agencies, as well as considerable data developed since the disease first was reported.

20. Several comments suggested that the warning label should state that there is an increased risk of TSS for "younger women" or "women under the age of 20."

FDA has reviewed that portion of all cases of TSS reported to CDC where tampon use was known and combined this information with the use of tampons by different age groups. As seen in the chart below, many cases of TSS in known tampon users reported to CDC have occurred in women 30 years of age or younger and about half of these cases have occurred in women 21 years of age or younger. FDA then adjusted the number of cases in known tampon users by including the number of tampon users within age groups, as reported to the agency by the The Procter & Gamble Company, and calculated the relative number of cases per tampon user to approximate relative risks within different age groups. These adjusted data in the last column of the chart further confirm the hypothesis that younger women and teenage girls are at greater risk.

AGE DISTRIBUTION OF TSS CASES [1] IN KNOWN TAMPON USERS, INCLUDING ADJUSTMENT FOR TAMPON USE AT DIFFERENT AGES

Age at onset of TSS	Number of TSS cases in known tampon users	Number of tampon users (thousands)	Relative risk of TSS [2]
10–12	9	249	36
13–15	74	2,507	30
16–18	139	4,403	32
19–21	84	4,907	17
22–24	51	5,135	10
25–27	46	4,504	10
28–30	58	4,294	14
31–33	29	4,179	7
34–36	24	3,004	8

AGE DISTRIBUTION OF TSS CASES [1] IN KNOWN TAMPON USERS, INCLUDING ADJUSTMENT FOR TAMPON USE AT DIFFERENT AGES—Continued

Age at onset of TSS	Number of TSS cases in known tampon users	Number of tampon users (thousands)	Relative risk of TSS [2]
37–39	8	2,801	3
40–42	4	2,251	2
43–45	2	1,909	1
46–48	1	1,718	1

[1] Includes definite TSS cases and probable TSS cases that resulted in death as reported to CDC before June 19, 1981 (based on computer tape information provided to FDA by CDC). These 529 cases were confirmed as having occurred in women during a menstrual period while using tampons. Of the other 538 cases reported to CDC as of June 19, 1981, 6 were confirmed as having occurred in women who were not using tampons; because of insufficient data, 532 could not be confirmed as having occurred in women who were or were not using tampons.

In the April 26, 1981 notice, FDA stated that, according to CDC, onset in 905 of the 941 cases of TSS confirmed to CDC as of January 1981 occurred in women during a menstrual period while using tampons (46 FR 23768). This statement was incorrect. The 905 figure applies to women who had onset during a menstrual period, not to women who had onset during a menstrual period while using tampons. It is not known how many of the 905 women had onset while using tampons.

The absence of information concerning tampon use in the January and June 1981 CDC data is a problem unique to those data. In the CDC, tri-State, and other case control studies discussed or referred to throughout this preamble, data concerning tampon use, time of onset of TSS, and other relevant factors were confirmed.

[2] The value for relative risk at age 46–48 was arbitrarily set at 1 and the other values normalized to it to eliminate the need to present data in fractions of whole numbers.

Although the chart above shows a greater incidence of TSS in young women, FDA notes that cases have occurred in menstruating women of all ages and that it would be erroneous to assume that menstruating women over a certain age have an insignificant risk of getting TSS. Based on these data FDA is requiring a statement in the labeling concerning the higher reported incidence of TSS in younger women and teenage girls.

21. Comments suggested that the warning label should include a statement that there is an increased risk of TSS connected with the use of superabsorbent tampons.

The Tri-State study concludes that there is a statistically significant, i.e., detectable, association between TSS and tampon absorbency. The association with absorbency, however, does not allow a prediction of the risk of TSS for each tampon brand or even the relative risks of TSS among different tampon brands. Furthermore, there is no mandatory or voluntary standard, industry agreement, or other common understanding of the meaning of "super," "regular," or any other word used by manufacturers to characterize absorbency. Thus, even, if tampons with a particular level of absorbency were shown to exhibit significantly different risk characteristics from tampons generally, consumers could not identify those lower-risk tampons from product labeling. Because one study has detected a relationship between TSS and tampon absorbency, however, FDA believes that the required information should advise women that they should use tampons with the minimum absorbency needed to control menstrual flow. From a public health standpoint, this approach is consistent with the existing, but limited scientific data regarding the relationship of absorbency to the risk of the disease.

22. A comment said that the proposed warning is misleading because it is exaggerated and fails to provide a balanced and informative picture of the risk of TSS. The comment said that the proposed warning provides no information about the nature of the risk if a woman uses tampons and implies that the risk to be avoided is substantial.

FDA believes that the alert statement and consumer information required by the final rule will present an accurate picture of what is known about the risks of TSS and will not be misleading or exaggerated. The required information is based on several studies and FDA believes that it is the information that is necessary to allow women to make an informed decision as to whether and how to use tampons.

23. A comment asserted that unless the proposed warning was changed to eliminate "FDA's proposed permanent proscription on tampon use," the warning would be inconsistent with CDC's advice and would be unjustified.

FDA believes that CDC's advice and the warning proposed in the October 21, 1980 proposal are consistent. CDC advised that the risk of TSS can be reduced by using tampons for only part of the menstural period. In the final rule, FDA requires that information provided on or in the package include the same advice. The information required by the final rule, however, goes beyond the concept of reducing the risk of TSS and provides information on how women can eliminate the risk of tampon-associated TSS. Thus, CDC's advice is a subset of the information required by FDA and is consistent with it.

FDA is not attempting to proscribe the use of tampons. FDA emphasizes that the purpose of the final rule is to provide adequate information to women so that they can make informed decisions about whether and how to use tampons.

24. Several comments suggested that the required information on the TSS symptoms was inadequate because many women ordinarily have fever, vomiting, and diarrhea during their menstrual periods.

FDA developed the list of symptons based on CDC's case definition (see October 21, 1980 proposal, Ref. 3). The symptoms include not just a fever, but a sudden fever of 102° or more, together with vomiting or diarrhea. FDA believes that these symptoms are sufficiently uncommon to justify consulting a physician, and is, therefore, requiring that information about these symptoms be provided with the package.

Placement of Warning

25. A comment suggested that manufacturers be permitted to place the required warning on the back or side panel if the area of the principal display panel of a tampon package were less than 20 square inches and if the principal display panel contained the following: "WARNING: Tampons have been associated with toxic shock syndrome, a rare disease that can be fatal. For further information, see back (or side) panel." Another comment suggested that manufacturers be permitted to put the warning somewhere other than the principal display panel provided that it could easily be seen by the consumer. This comment said that the wafning statement is disproportionate in size to the principal display panel of smaller packages of tampons and that inclusion of the warning would reduce the amount of other information that could be provided to the consumer, thus placing manufacturers of smaller packages of tampons at a competitive disadvantage. The comment also said that a requirement that the warning be placed on the principal display panel would provide little benefit to the consumer because, in many instances, the pincipal display panel would not face the consumer when the product is displayed on the store shelf.

Consistent with the intent of these comments, the alert statement required by the final regulation when a package insert is used for TSS information is considerably shorter than the warning that would have been required by the proposed regulation. FDA believes that this statement can be prominently and legibly placed on all sizes of tampon packages. FDA has concluded that there is no need to require that the alert statement appear in any specific location, thus providing flexibility to manufacturers. Likewise, if a manufacturer elects to place all the required TSS information on the package, it must be prominent and legible.

26. A comment argued that warning consumers of the possibility of death from the use of tampons would frighten consumers rather than inform them of the health risk.

As of October 1981, 1,407 cases of TSS had been reported to CDC of which 89 were known to have resulted in death. FDA believes that this is a significant

risk of death and that women should be informed of this possible outcome. The comment is rejected.

Listing of Fibers

27. Several comments, including one in the form of a citizen petition, suggested that TSS as well as other adverse effects, such as allergic reactions, are associated with tampons and urged that FDA require the labeling of tampons to include a complete listing of all fibers or ingredients used in the product.

Neither the petition nor the other comments presented data to establish an association between the occurrence of TSS and a particular tampon fiber, ingredient, or combination of ingredients. FDA is not aware of evidence to establish such an association. Therefore, FDA must deny the petition at this time and will not require the listing of fibers or ingredients in the product labeling. FDA also concludes that it does not have enough information about tampon-related allergic dermatitis to require ingredient labeling at this time based on this hazard. FDA is reviewing the problem of adverse reactions that might be associated with tampons to determine whether any FDA action in addition to that already underway in the voluntary standards community would be appropriate.

Prohibited Statements

28. Several comments said that FDA should prohibit any statement claiming or implying, without adequate scientific support, that one brand of tampon presents a reduced risk. Other comments suggested that FDA prohibit any statement in the labeling minimizing the danger of TSS. One comment suggested that FDA prohibit any statement claiming that tampons are more hygienic than other menstrual products.

Section 502(a) of the act provides that a device is misbranded if its labeling is false or misleading in any particular. Section 201(n) of the act describes some of the factors FDA is to take into account in determining whether labeling is misleading. FDA will not attempt in this document to enumerate any statements with regard to TSS or to tampons in general which are false or misleading. Instead, FDA will monitor the labeling of tampons in commercial distribution to determine their compliance with the act and the final rule.

Point of Sale Notices

29. Many comments suggested that FDA require that notices concerning TSS be posted at the point-of-sale of tampons. Those comments suggested that the notices should be in the form of posters, tearsheets, brochures, or all of these. Several other comments said that such notices would be costly, and would likely not be read by women.

The initial reason for urging point-of-sale notices was to ensure that consumers were alerted to the danger of TSS until manufacturers could provide information about TSS in the labeling of tampons. FDA believes that the tampon package and information provided with it, rather than a separate notice at the point-of-sale, is more effective in informing women about TSS and tampons.

Exemptions

30. Several comments said that FDA should not allow exemptions from the labeling requirements for any individual product without definitive proof that TSS is not associated with the product. Many of these comments expressed doubt that such proof exists at this time. Several comments stated that no exceptions should be allowed under any circumstances. A comment said that FDA's "citizen petition" process is not adequate for this purpose because the 180-day period for response is too long. Another comment said that the citizen petition process would be appropriate

FDA is prepared to consider petitions for variance or exemption from its regulations, and will consider petitions for variance or exemption from this final rule. FDA believes that the citizen petition process provided in 21 CFR 10.30 of its administrative practices and procedures regulations is adequate and that it is not necessary to establish a separate process for considering exemptions from this final rule. FDA will attempt to respond sooner than the 180 days permitted by 21 CFR 10.30.

31. A comment argued that at least one tampon brand should be exempted based on differences in construction, design, or materials between it and Rely® brand. According to the comment, Rely® brand was designed to function as a "plug," whereas the other tampon brand was designed to function as a "cylinder which expands in all directions as it absorbs the menstrual flow." The commentor also argued that brands of tampons other than Rely® brand have significant design contrasts from the tampon it manufactures.

FDA rejects this comment because the case has not been made for exempting any brand of tampons based on product characteristics. None of the data available to FDA establishes a relationship between TSS and tampon construction, design, or materials. Even if Rely® brand differed somewhat in design from other tampons, and was intended to function as a "plug," neither the difference in design nor the difference in intended function has been shown to account for the risk of TSS from Rely® brand. Furthermore, although the tri-State study concluded that Rely® brand of tampons carried a risk somewhat larger than that which would have been expected given its greater absorbency, there is a statistically significant association between the use of all brands of tampons and the occurence of TSS, even if the data concerning Rely® brand are excluded.

32. Several comments questioned what the effect of the proposed regulation would be on tampons sold through vending machines. Some comments suggested that FDA should require that the warning be posted on the outside of tampon vending machines.

As proposed, the regulation would have required that any tampon sold through a vending machine be labeled with the warning. After further consideration, FDA does not believe that this proposed requirement is necessary. FDA also believes that it is not necessary to require that a warning statement be posted on the outside of vending machines. Women tend to purchase tampons from vending machines only infrequently. They will be made aware of the association between TSS and tampons from information provided with packages obtained from other retail sources. FDA has revised the regulation by providing in new § 801.430(e) that any tampon dispensed by a vending machine is exempt from the regulation.

Reclassification

33. Several comments recommended that menstrual tampons be reclassified from class II (performance standards) into class III (premarket approval). In addition, the Obstetrics-Gynecology and Radiologic Devices Panel, an FDA advisory committee, recommended that menstrual tampons be reclassified into class III.

Reclassification of tampons into class III would require a determination, among others, that this generic type of device presents a potential unreasonable risk of illness or injury (section 513(a)(1)(C)(ii)(II) of the act, 21 U.S.C. 360c(a)(1)(C)(ii)(II)). Although TSS is a serious and sometimes fatal disease, it is a rare disease. Also, TSS has not been shown to be caused by tampons, and FDA believes that it cannot be said that tampons, in and of themselves, present a potential

unreasonable risk to health. Furthermore, reclassification of tampons into class III is not likely to result in any increase in the safety of these products, and industry, government, and academic research is underway that is directed at the relationship between tampons and TSS. For these reasons, FDA has concluded that continued regulation of tampons as class II devices (21 CFR 884.5460 and 884.5470) is sufficient to provide reasonable assurance of their safety and effectiveness.

Automatic Expiration Date

34. A comment suggested that the regulation expire automatically at the end of 1 year or 18 months to allow for review of new scientific data and developments.

FDA believes that it would be inappropriate to establish an automatic expiration date for the regulation. FDA will, however, continue to monitor studies of the incidence of TSS in the population and, if new information is presented to warrant a change, will propose to modify or revoke the regulation. Final § 801.430(d) provides flexibility in providing information concerning what is known about tampons and TSS. Thus, FDA intends that new information would be included if and when it becomes available. The agency concludes that it would be inappropriate to provide for automatic withdrawal of the final rule at any specified future date.

Request for Hearing

35. A comment argued that pursuant to § 10.40(f)(2) of FDA's administrative practices and procedures regulations (21 CFR 10.40(f)(2)), FDA should hold a formal evidentiary public hearing on the proposed rule.

FDA disagrees with this comment and denies the hearing request. Section 10.40(f)(2) provides that, in its discretion, FDA may subject a proposed or final regulation to a hearing. Because FDA has concluded that the association of TSS with tampons is a significant public health problem that needs to be addressed as promptly as possible and because FDA already has provided several opportunities for all interested persons to present their views orally and in writing, FDA believes that it would not be in the public interest to subject the proposal to a formal evidentiary hearing under Part 12 (21 CFR Part 12).

36. A comment argued that FDA is required to hold a formal evidentiary public hearing before promulgating any final rule requiring a warning on the package label of tampons, citing *Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Council*, 435 U.S. 519 (1978).

FDA disagrees with this comment. Neither the act, FDA regulations, agency practice, nor the Administrative Procedure Act (APA) (5 U.S.C. 551–559, 701–706) requires any type of hearing for informal (notice and comment) rulemaking, which is governed by section 4(b) of the APA (5 U.S.C. 553). Contrary to the comment's argument, nothing in *Vermont Yankee* suggests that an agency is required to hold a trial-type hearing before promulgating a rule of general applicability in accordance with the procedures set out in section 4(b) of the APA. Indeed, under *Vermont Yankee*, congressionally enacted minimum requirements for informal rulemaking are also to be regarded as the maximum requirements. The case expressly cautions against judicial imposition of nonstatutory procedural requirements.

Effective Date

37. Several comments from manufacturers stated that 60 days would not be an adequate time for compliance with the regulation. A comment stated that 120 days would be needed; a manufacturer stated that it had a 4-month inventory and that another 90 days would be required to implement relabeling of the products manufactured after the final regulations became effective. Many comments from consumers and others stated that 60 days was an appropriate time. Comments suggested that accommodations could be made for putting stickers with the warning on the package. Comments also suggested that only manufacturers, not distributors or retailers, should be required to relabel products reintroduced into commerce after the effective date of the final rule.

Because all manufacturers are voluntarily providing some information concerning TSS on or in tampon packages, FDA believes that the final regulation should take effect for all tampon packages initially introduced or initially delivered for introduction into commerce 180 days after publication of the final rule. FDA believes that this effective date will provide manufacturers adequate time to meet the requirements of the final regulation with minimal disruption and without compromising the interests of the public health.

The following reference is on file in the Dockets Management Branch, Food and Drug Administration, and is available for public review between 9 a.m. and 4 p.m., Monday through Friday.

Reference

1. "Tri-State Toxic Shock Syndrome Study: Epidemiologic Findings", Presented to the Annual Society for Epidemiologic Research Meeting June 17, 1981 Snowbird, Utah, Osterholm, M. et al.

FDA examined the regulatory impact implications of the regulation in accordance with the criteria in section 1(b) of Executive Order 12291, and found that the regulation will not be a major rule as specified in the Order. The direct costs associated with labeling for toxic shock syndrome, as well as the indirect costs due to shifts in product preferences and sales, are both small. Further, for the most part, manufacturers have already labeled their tampon packages, and shifts in sales have already taken place. Neither the initial costs nor the annual costs associated with this regulation exceed the criteria for a major rule specified in the Order. The requirements for a regulatory flexibility analysis under the Regulatory Flexibility Act does not apply to this final regulation because the proposed rules were issued prior to January 1, 1981, and are therefore, exempt. In any event, this regulation will not have a significant economic impact on a substantial number of small entities, for the reasons stated above. A copy of the threshold assessment supporting this determination is on file with the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 801

Labeling, Medical devices, Over-the-counter devices, Prescription devices, Requirements for specific devices.

PART 801—LABELING

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 502, 701(a), 52 Stat. 1041 as amended, 1050–1051 as amended, 1055 (21 U.S.C. 321(n), 352, 371(a)) and under 21 CFR 5.11 as amended (see 47 FR 16010; April 14, 1982), Part 801 is amended by adding new § 801.430, to read as follows:

§ 801.430 User labeling for menstrual tampons.

(a) This section applies to scented or scented deodorized menstrual tampons as identified in § 884.5460 and unscented menstrual tampons as identified in § 884.5470 of this chapter.

(b) Available data show that toxic shock syndrome (TSS), a rare but serious and sometimes fatal disease, is associated with the use of menstrual tampons. To protect the public and to

minimize the serious adverse effects of TSS, menstrual tampons shall be labeled as set forth in paragraphs (c) and (d) of this section.

(c) If the information specified in paragraph (d) of this section is to be included as a package insert, the following alert statement shall appear prominently and legibly on the package label:

Attention: Tampons are associated with Toxic Shock Syndrome (TSS). TSS is a rare but serious disease that may cause death. Read and save the enclosed information.

(d) The consumer information required by this section shall appear prominently and legibly, in a package insert or on the package, in terms understandable by the layperson and shall include statements concerning:

(1)(i) Warning signs of TSS, e.g., sudden fever (usually 102° or more) and vomiting, diarrhea, fainting or near fainting when standing up, dizziness, or a rash that looks like a sunburn;

(ii) What to do if these or other signs of TSS appear, including the need to remove the tampon at once and seek medical attention immediately;

(2) The risk of TSS to all women using tampons during their menstrual period, especially the reported higher risks to women under 30 years of age and teenage girls, the estimated incidence of TSS of 6 to 17 per 100,000 menstruating women and girls per year, and the risk of death from contracting TSS;

(3) The advisability of using tampons with the minimum absorbency needed to control menstrual flow;

(4) Avoiding the risk of getting tampon-associated TSS by not using tampons, and possibly reducing the risk of getting TSS by alternating tampon use with sanitary napkin use during menstrual periods; and

(5) The need to seek medical attention before again using tampons if TSS warning signs have occurred in the past, or if women have any questions about TSS or tampon use.

(e) Any menstrual tampon dispensed by a vending machine is exempt from the requirements of this section.

(f) Any menstrual tampon that is not labeled as required by this section and that is initially introduced or initially delivered for introduction into commerce after December 20, 1982, is misbranded pursuant to sections 502(a) and 201(n) of the act.

Effective date. This regulation becomes effective December 20, 1982 for menstrual tampon packages initially introduced or initially delivered for introduction into commerce after that date.

(Secs. 201(n), 502, 701(a), 52 Stat. 1041 as amended, 1050–1051 as amended, 1055 (21 U.S.C. 321(n), 352, 371(a)))

Dated: May 4, 1982.

Mark Novitch,

Acting Commissioner of Food and Drugs.

Dated: June 2, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82-16764 Filed 6-21-82; 8:45 am]

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Part III

Environmental Protection Agency

Chemical Information Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 712

[OPTS-82004F; FRL 2039-7]

Chemical Information Rules; Manufacturers Reporting; Preliminary Assessment Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final Preliminary Assessment Information rule requires chemical manufacturers (including certain producers and importers) to submit information on approximately 250 chemicals. The information sought from manufacturers includes data on the quantities of chemicals manufactured, the amounts directed to certain classes of uses, and the potential exposures and environmental releases associated with the manufacturer's own and his immediate customers' processing of the chemicals. The information collected under this rule will answer a critical need for basic data that can be used in setting priorities for testing chemicals and for assessing risks associated with chemicals.

EFFECTIVE DATE: This regulation becomes effective on July 22, 1982.

FOR FURTHER INFORMATION CONTACT: For further information on this rule, or to obtain copies of the Manufacturer's Reporting Form, contact: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS–799), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–511B, 401 M St., SW, Washington, DC 20460, Toll-free: (800–424–9065), In Washington, DC: (554–1404), Outside the USA: (Operator–202–544–1404).

SUPPLEMENTARY INFORMATION: OMB Control Number: 2000–0420.

I. Introduction

Proposed amendments to this final rule are published elsewhere in this issue of the **Federal Register.**

EPA proposed a rule under section 8(a) of the Toxic Substances Control Act (TSCA) to obtain general use and exposure data on 2,226 chemical substances published in the **Federal Register** of February 29, 1980 (45 FR 13646). More than 150 written comments were received on the proposal and several meetings were held with members of the public. The Agency also received a petition from the Chemical Manufacturers Association requesting that the Agency provide dossiers and other information on the 2,226 chemicals for purposes of public comment. EPA responded to the petition in the **Federal Register** of April 28, 1980 (45 FR 28173). This preamble explains the final rule's provisions and addresses by topic the changes EPA has made to simplify, clarify, and reduce the burden of the rule. A document titled "Responses to Individual Comments" responds to substantive comments individually. This document is available to the public in the administrative record of this rulemaking and is considered to be incorporated by reference here. Some comments are not discussed because changes in the final rule, particularly changes in subject chemicals, have made the issues moot.

After considering comments, the Agency has changed certain provisions and significantly reduced the number of chemicals. The changes to the provisions will reduce the burden of reporting without greatly decreasing the value of the information that the rule will collect on each chemical. Also in response to comments, the Agency has added explanatory material to clarify the requirements. Because of these changes, the Agency has changed the format of the final rule. The rule is now arranged in three Subparts. Subpart A contains general provisions applicable to the entire Part. Subpart B contains reporting requirements for chemical manufacturers. Subpart C will contain the chemical processors' reporting requirements proposed separately today. This arrangement should allow manufacturers and processors to more easily identify the provisions to which they are subject.

Elsewhere in this issue of the **Federal Register,** EPA is proposing three amendments to this final rule. One amendment is the plan for follow-up reporting by processors. Another change would require reporting automatically within 60 days on chemicals recommended for testing under section 4 of TSCA by the Interagency Testing Committee (ITC). The third change would make about 50 additional ITC-recommended chemicals subject to reporting under this rule. These chemicals were listed in ITC reports 5* through 9.

A. Rule Design: Two Part Reporting

The final rule anticipates two rounds of reporting. In the first round, manufacturers of chemicals listed in § 712.30 of the rule must submit Preliminary Assessment Information Manufacturer's Reports. The reports must be submitted to EPA within four months of the effective date of the rule.

The manufacturer's report includes items on the use of a manufacturer's chemical by his customers, when the customers are also processors of the chemical. However, manufacturers may report "unknown" for their processor-customers' uses either when manufacturers do not know the customers' uses to within ±50 percent accuracy, or when the information is subject to a secrecy agreement between the manufacturer and customer.

The Agency will aggregate the customer use data for each chemical. If manufacturers report customer uses unknown for over 20 percent of the total amount of a chemical manufactured and imported, the Agency plans to initiate a second round of reporting, this time by processors, in order to complete its assessments. As noted above, the procedures for this second round of reporting are proposed for comment in a separate notice today.

B. Purpose of the Rule

The information collected under this rule will answer a critical need for basic data that can be used in setting priorities for testing chemicals and for assessing risks associated with chemicals.

For the majority of the chemicals presently listed, ITC has recommended that EPA propose testing rules. Under TSCA section 4, within 12 months of ITC's recommendation, EPA must initiate rulemaking for testing or publish a notice explaining why a test rule is not necessary. Information on potential exposure is needed for the decision. Unfortunately, available exposure information has rarely been adequate for a decision. As a result, EPA has had problems making the decisions required by statute. This rule will allow test rule decisions to be based on more complete and accurate potential exposure data.

A few chemicals on the rule were identified by public notices of substantial risk under TSCA section 8(e). For the listed 8(e) chemicals, EPA does not have sufficient exposure information to determine the extent of risks presented. When this rule provides the exposure data, EPA will be able to evaluate and recommend appropriate action for these 8(e) substantial risk notices.

We have changed the focus of the first edition of the rule to serve only the most immediate needs for assessment of test candidates and 8(e) reports. Therefore, we eliminated from the rule those chemicals proposed for purposes of general problem identification. These include chemicals proposed because of their high production volume, chemicals which the ITC has been unable to completely evaluate because of lack of

exposure data, and a small number of chemicals from other sources described in the notice of proposed rulemaking.

II. Who Must Report

A. Persons Included

1. *Manufacturers.* The term "manufacture" under TSCA includes importing and producing as well as manufacturing activities. Persons must report on each listed chemical substance that they manufactured for commercial purposes in the reporting period specified for the chemical. Discussion of the application of this rule to producers and importers follows.

2. *Producers—Miners and oil refiners.* Questions were asked during the comment period about the application of this rule to mining of chemical substances. The concern was that listed chemical substances are present in mined substances in variable or undefined concentrations and that a single chemical substance may be reported as "manufactured" more than once in the stream of commerce. Commenters felt that it must be made clear precisely at what point they are "manufacturing" a specific chemical substance that is present in a mined substance. We have provided clarification both here and in the rule.

Any method of extraction, refinement, or purification of the mined substance to make it marketable as a listed chemical substance is to be regarded as "manufacture of a listed chemical substance" for the purposes of this rule. An undefined or variable concentration mixture not intended for marketing as a listed chemical is not subject to this rule.

In general terms, mining can be regarded as extracting a substance from the atmosphere, earth, or sea. The most common methods are digging ores and drilling oil. Many persons mine complex substances containing listed chemicals in undefined or variable concentrations, but do not refine the mined substance in order to extract a particular chemical substance for use or sale. Some of the chemicals subject to this rule may be present in and produced from these complex precursor substances. However, because EPA has excluded undefined, variable composition substances from the list of chemicals subject to this rule, production or mining of the undefined, variable composition precursor is not to be reported. Only subsequent steps devoted to production of the listed chemical are reportable.

For example, persons who manufacture a chemical substance such as "sweetened naphtha, 64741-67-3," but do not refine the naphtha to produce "hexane, 110-54-3" would not report on hexane. Only the production of "hexane" as an isolated product must be reported—not previous production of more crude, complex substances such as the naphtha from which hexane is extracted.

3. *Importers.* Persons must report on any chemical substance listed in § 712.30 that they imported in bulk for commercial purposes during the reporting period.

Importers should report chemical substances imported in bulk in any grade of purity, in aqueous solution, or containing additives (such as stabilizers or other chemicals) to maintain the integrity or physical form of the substance. This does not include formulated mixtures of two or more chemicals that are not additives.

The chemicals that must be reported are those that are marketed and used as a chemical listed in § 712.30. Such chemicals were identified by name and CAS number on the Inventory regardless of purity and must be reported for this rule as chemical substances. The additives, for example, are merely to enhance the ability to use the single major component chemical, as with antioxidants. It is still the chemical substance per se that is being marketed and used, and that must be reported for this rule.

EPA interprets TSCA to provide that importers of mixtures are importers of any chemical substance contained in such mixtures. Alternatively, to the extent that such products may technically be considered mixtures as defined under TSCA, EPA has determined that effective enforcement of TSCA requires us to obtain data on such products. This is because a chemical substance in aqueous solution or containing additives is used as the chemical substance per se, and such products may account for a substantial amount of exposure to the chemical.

B. Exemptions From Reporting

Most of the comments supported the exemptions to reporting in the proposed rule. The proposed exemptions have been adopted. In addition, the final rule contains an exemption suggested by commenters to exclude reporting on the manufacture of less than 500 kilograms annually at a plant site. The Agency estimates that this exemption will exclude about 170 reports. Excluding reports of these small production quantities will not affect assessment of the chemicals and so will relieve an unnecessary reporting burden.

III. Reporting Form for Manufacturers

A facsimile of the Manufacturer's Report—Preliminary Assessment Information form appears in § 712.28. The data reporting section of the form (Section IV) has two parts: Part A: Plant Site Activities and Part B: Chemical Substance Processing by Customers. Production, processing, and use at each single domestic manufacturing site must be reported on Part A, including the number of workers, uses, and process types employed, and quantities of the chemical that are or are not recovered. Part B of the form applies to the processing of the chemical by others. Part B will account for the quantity of chemical that is distributed from the manufacturing plant site. Altogether, the form identifies where a chemical is made and in what quantities, how many workers are potentially exposed during manufacture, processing, and use at the manufacturing plant site, what likely environmental releases exist, and what quantities are used in various categories of uses both by the manufacturer and as the chemical moves into commerce.

In Part A, items 1 and 2 ask for total quantities of the chemical imported and domestically manufactured. Item 3 covers quantities lost during manufacture. Items 4, 5, 6, and 7 ask for quantities, worker-hours, and number of workers associated with enclosed, controlled release, and open process categories. Item 4 covers manufacture of the chemical; item 5 covers on-site use as a reactant; item 6 covers on-site non-reactant use; and item 7 covers on-site preparation of products. Item 8 asks how much of the chemical the manufacturer makes into products to be used by industry or by consumers; these products include the chemical itself and mixtures containing the chemical, articles with some release of the chemical possible, and articles with no release. All of the above Part A items concern the manufacturer's own activities and use of his own products.

Part B concerns the activities of the manufacturer's immediate customers (processors). Item 9 parallels item 8 of Part A; it asks how much of the chemical the customer makes into products to be used by industry or by consumers in various forms. Item 10 asks for the trade name(s) under which the manufacturer markets the chemical to his customers. This item is only to be answered if the manfacturer reports that his customers' uses are unknown for more than 20 percent of the quantity of chemical manufactured and imported. Item 11 asks the manufacturer to estimate, based upon his general knowledge of industry practices, the quantity of the chemical that is processed by his customers in enclosed, controlled, or open processes, respectively.

A. Readily Obtainable Data

TSCA section 8(a) authorizes EPA to require information that is "known to or reasonably ascertainable by" the respondent. This is defined at § 712.3(g) as "all information in a person's possession or control, plus all information that a reasonable person similarly situated might be expected to possess, control, or know, or could obtain without unreasonable burden." For purposes of this section 8 rule, the Administrator has determined that a lesser standard should apply.

The rule requires persons to report data that are readily obtainable by management and supervisory employees responsible for manufacturing, processing, distribution, technical services, marketing, and other related activities. These knowledgeable people are responsible for providing estimates and associated accuracy levels for the data elements on the form. The comments supported this standard.

B. Accuracy for Reporting

The proposal discussed options for the accuracy to be required for reporting quantities of a chemical under the rule. As the proposal stated, exact numbers will not be required. We consider that permitting estimates to be reported will provide data sufficient for the purposes of this rule and will make the reporting easier. Comment was requested on various options for the required accuracy. These were: accuracy of ±50 percent for all quantities; accuracy of ±10 percent or ±20 percent on a person's own activities and ±50 percent on others' activities; or allowing respondents to specify the accuracy. We have decided that the accuracy should be related to the activity reported. For most of Part A of the form, dealing with a manufacturer's own activities, estimates must be the best estimates from readily obtainable data, but no specific accuracy range will be required. For items 3b, 3c, and 3d relating to losses during manufacture, accuracy must be specified by the respondent. For Part B of the form, dealing with processor-customers' activities, quantities must be reported within ±50 percent.

We are persuaded that manufacturers must routinely know their own production efficiencies and quantities in order to control their costs and price their products. Thus, when manufacturers report about their own activities, the best estimate from readily obtainable data would be sufficiently accurate. There is no need for the company to expend further effort to report more exactly. For example, it will be legitimate for a company to report figures based on design capabilities of a process. Thus if a process is planned to utilize or produce a certain quantity per "run" or per unit time, or is planned to produce a certain quantity of product from a defined quantity of feedstock material, then the company may assume that the design quantities are the actual quantities, and not attempt to account for variations.

Most of the companies who commented favored the broadest possible limits on accuracy of quantities reported. Except for the questions relating to losses during manufacture and customer activities, companies simply endorsed broad limits without discussion. They cited no specific difficulties in reporting on quantities going into and coming out of their own production processes. One commenter in fact said, "If we do it, we know it." The Agency has concluded that reporting on the basis of readily obtainable data will not impose significant burdens.

Based on review of comments and our intention to ease the reporting burdens, the final rule allows estimates for worker-hours and numbers of workers, as well as for quantities of the chemicals to which workers will be exposed. The estimates for worker-hours and number of workers should be based on readily obtainable data.

Items 3a, 3b, 3c, and 3d deal with losses during manufacture of the chemical. Comments said lack of measured data presented a serious difficulty in meeting the proposed level of accuracy for quantities reported on question 3a. For the final rule, manufacturers may calculate the total loss for question 3a by finding the differences between the quantities theoretically manufactured, and quantities actually used or sold. For items 3b, 3c, and 3d, we have decided to allow respondents to simply tell us the accuracy of the quantities reported. The following difficulties were cited for reporting the destiny of losses: many times the amounts lost are very small, on the order of parts per million, and a 10 percent or 50 percent difference would be insignificant or unmeasurable; routine methods for analyzing emission or effluent amounts do not exist in most cases; and in some cases there are multiple sources of loss that would make calculations extremely difficult. We have concluded that by allowing companies themselves to specify the accuracy of the figures, based on readily obtainable data, we will receive the estimates we need, without imposing unnecessary burdens. Companies are not required to conduct monitoring to comply with this rule; they may answer this item by mass balance estimates.

The accuracy of reporting customer activities under item 9 of the proposed form received the greatest attention from commenters. Most commenters felt that quantities of a chemical processed by individual customers in enclosed, open, or controlled release operations would be beyond their knowledge in most cases. Furthermore, the proposed item 9 asked for quantities of chemicals by customer use and process category in a combined matrix. This simultaneous accounting for quantities would have required a customer-by-customer accounting, followed by sorting and aggregating quantities into 16 matrix boxes. In the view of most companies, this complicated accounting together with their lack of knowledge of customer processes would have resulted in frequent reporting of quantities as "unknown."

We have changed the reporting of customer activities in response to difficulties described in comments. The final form has two items, 9 and 11, to cover customer activities. Item 9 now asks for quantities by customer use within ±50 percent accuracy. Commenters indicated that this could be done. Where respondents cannot report within ±50 percent, or where they have a secrecy agreement with the customer, they may report "unknown." Item 11 now asks for the respondent's estimate of the kinds of processes generally used for the chemical.

In general, manufacturers should report information on their customers' uses to the extent that this information is known. Manufacturers are not required to obtain additional information from customers for this rule.

C. Reporting Worker-Hours, Number of Workers, and Quantities: Items 4–7

As a result of comments, EPA has simplified reporting of worker-hours, number of workers, and quantities by process category under items 4–7. Only the workers directly assigned to the manufacturing, processing, and use of the chemical should be counted. Maintenance workers should be counted only if they are directly assigned to and are a regular part of a process.

When answering the items on worker-hours or number of workers, respondents must (i) identify the process category (enclosed, controlled release, or open) with which the worker spends the most time, and (ii) determine the number of workers involved with a given process category. For multiprocess operations, workers operating more than one process category should be listed

only once—under the process category with which they work most of the time. This should avoid double counting of workers.

Worker-hours need not be calculated from detailed production records, but may be based on design factors. That is, worker-hours may be estimated from the plant's production of a given chemical and the design number of employees needed to achieve that production.

The final rule simplifies reporting by requiring the total number of workers involved in each process category, and deleting the proposed distinction between full and part-time workers. The number of workers should include employee turnover, and will not necessarily correspond to worker-hours. Include all employees who work on a given chemical's production or processing, regardless of the length of time of employment.

Instructions have been clarified regarding items on the quantity of a chemical that goes through each process category. Chemical production could involve a single process or a multiprocess operation, a split stream involving different processes, or two separate streams involving different processes (e.g., one stream might be for a reagent grade chemical and another for a technical grade). The instructions discuss how to handle reporting in these differing circumstances.

D. Preparation and Uses of Manufacturer's Products: Items 7 and 8

The form has been revised to identify more clearly the distinct activity of on-site product preparation (making a product containing the manufactured chemcial). Item 7 in the final rule applies only to plant sites that both manufacture and process a chemical. If a manufacturer of a listed chemical also produces a formulated mixture or other industrial or consumer product containing the chemical, he must report the chemical quantities, number of workers, and process categories in this question.

Item 8 asks for the quantities of the substance incorporated into various use categories of products produced by the manufacturer at the reporting site. This item also incorporates proposed question 12 on export of the chemical substance (as the chemical or as part of a product).

Commenters thought we should differentiate between institutional and industrial uses to better judge exposures. We do not believe that this degree of differentiation will contribute to the evaluation of a chemical without more information on the manner of use of the chemical. Therefore, for the purposes of this rule, "industrial" and "institutional" products are treated in the same manner.

Commenters said the definition of consumer products should have the same exemptions as listed in the Consumer Product Safety Act (15 U.S.C. 2052(a)(1)(D)) (CPSA). We have not adopted this suggestion. Our purpose in citing CPSA is simply to help differentiate between consumer and industrial products. Thus, the CPSA definition, without its exemptions, is included in the rule to guide manufacturers in categorizing their products.

E. Categorizing Uses Under Items 8 and 9

Items 8 and 9 differentiate products into articles containing listed chemicals versus products that are chemical substances or mixtures. Articles are further differentiated into those designed so that there is no release of the chemical during normal use, versus articles that may allow direct user contact with the chemical during normal use. In evaluating exposure potential, chemicals in "articles with no release" will be considered as having potential exposure only during disposal or mishandling of the article.

One commenter said that fabrics with dyestuffs retained on them should be considered as articles containing chemicals. We agree. These would generally be "articles with some release" since the chemical dyestuffs would be in direct contact with the user.

F. Customer Uses: Items 9, 10, and 11

Items 9 and 11 ask the manufacturer to estimate the quantities of the chemical that his customers incorporated into various categories of products, exported, consumed as reactant, and processed by various categories of process. The manufacturer is to base his estimates on his knowledge of the market for the products and his customers' roles in that market.

If manufacturers do not know how all quantities of the marketed chemical are used by customers, or if a use is subject to a secrecy agreement with the customer, the amount may be reported as "unknown". If the manufacturer reports that more than 20 percent of the total quantity manufactured and imported has unknown uses, in question 10 he must provide the trade names under which he marketed the "unknown" amount. The Agency, as discussed below, will use the trade names for processor reporting, if it becomes necessary for that chemical.

G. Follow-up Reporting

Nearly every industry comment requested that EPA eliminate the proposed requirement to submit customer lists for purposes of follow-up reporting on customer data that are unknown to manufacturers. Commenters cited several difficulties with the approach, including their own confidentiality concerns and the burden of making up the lists when there are many customers. In addition, some pointed to the potential burden for all concerned, including EPA, of having follow-up proceed by mailing of letters back and forth. This would be difficult, especially when manufacturers have customer addresses for deliveries rather than addresses for technical contacts.

The Agency sees merit in many of the comments on the proposed approach and is proposing a different one in a separate proposed rule elsewhere in this issue of the **Federal Register**. The separate notice describes the new proposal and discusses the comments already received on processor reporting. In general, under the new approach, the Agency would aggregate the manufacturers' reports on a chemical. If "unknown" uses are reported for more than 20 percent of the aggregate quantity manufactured and imported, the chemical will be the subject of follow-up reporting by processors. The market names for the chemical will be taken from the responses to question 10 of the manufacturers' reporting forms. These names will be published, and processors of the chemicals under these names will report about them. This approach is based on commenters' suggestions that EPA should specify criteria that would trigger follow-up reporting, and that EPA should publish trade names on which processors must report in order to protect the confidentiality of chemical product composition.

H. Time Allowed To Report

For the final rule, we based the time allowed to report on comments, changes in provisions of the rule and form, and the significantly decreased number of chemicals subject to reporting. From available data, we estimate the average and median number of reports for a manufacturing site now to be 2.8 and 2, respectively. The maximum number of reports from any site is expected to be 35; the site with 35 reports has over $1 billion sales annually. Based on these data, four months from the effective date of the rule should allow enough time for reporting.

I. Reporting Period

The Agency received comments saying that records of data to be submitted under this rule are often kept by a corporate fiscal year that does not coincide with the calendar year, and that it would be difficult for these companies to report by calendar year as originally proposed. To reduce this aspect of the reporting burden, EPA has changed the reporting period in the final rule. A company should report a chemical's production during the company's most recent complete corporate fiscal year as of the date the chemical is listed in § 712.30. This is the reporting period referred to in the discussion of reporting requirements for manufacturers. Even though these reporting years may vary somewhat among manufacturers, the disparity will not significantly affect the value of the data for purposes of this rule.

J. Plant Site Reports

In response to comments that it would be burdensome for companies to aggregate data from their plant sites before submitting it to EPA, the final rule now requires a form to be submitted for each plant site. Thus the address of the plant site must now be provided on the form, along with the Dun and Bradstreet number for the plant site when that number exists. The reporting company may decide whether to have headquarters or individual sites complete forms, depending on which is more convenient for the company. This approach also allows EPA to gather data that can be compared to the site-specific data on the Inventory. This comparison will allow the Agency to assess changes in the dimensions of potential exposure, and to consider potential local problems.

A question was raised in the comments about whether a company manufacturing a chemical to order for another company should submit the form or let the buyer submit it. The answer is that the actual manufacturer, not the buyer, should submit the form.

K. Recordkeeping

Commenters expressed concern over the proposed requirement to maintain records that support information submitted to EPA. The proposed five-year retention period was said to be too long and too burdensome. The Agency agrees that this provision should be deleted. The records supporting reporting under this rule will be records that companies will retain as a matter of business. Companies should be alert to the possibility that they may be required to report under this rule in the future and consider or, if necessary, reconsider their recordkeeping practices in that light.

IV. Chemicals Subject to the Rule

The final rule applies to the approximately 250 chemical substances and three categories listed by CAS number in § 712.30. Manufacturers and importers must report on these substances. (An alphabetized list of the chemicals can be requested from the Industry Assistance Office at the telephone number given at the beginning of this notice.) The three categories of chemicals need be considered only by persons who reported confidential chemical identities for the Inventory.

We wish to note that we will use future iterations of this rule to collect information on additional chemicals. One list of additional chemicals is proposed for comment separately in this issue of the **Federal Register**. We are also separately proposing that certain chemicals be placed automatically on the list and that reporting be immediately required on those chemicals without proposal and comment.

Commenters wanted EPA to list the names of all chemicals that must be reported for this rule, and not to list any category names of chemicals. The Agency does not intend that reports be submitted on all chemicals that fall within the listed categories. The purpose of listing the categories is to require reporting on certain chemicals that are confidential on the TSCA Inventory. (Listing the CAS number of a confidential chemical would automatically divulge its identity.) Of the chemicals that fall within listed categories, a manufacturer must report only on the chemicals that he claimed confidential for the TSCA Inventory.

V. Other Issues

A. Small Manufacturers

Section 8(a)(3) of TSCA requires the Administrator to consult with the Small Business Administration and then to prescribe, by rule, standards to determine who may qualify as a small manufacturer or processor. Such small businesses are then exempt from section 8(a) rule requirements. However, if a chemical substance is subject to certain proposed or final actions by the Agency, EPA need not apply the section 8 exemption for small businesses manufacturing or processing the chemical. Among the actions that could remove the small business exemption are proposed rules under section 4, 5, or 6 of TSCA. Although several chemicals in the list published today are subject to section 4 proposals, EPA has decided not to require any reporting by small businesses. The additional data from those companies would not significantly influence the overall preliminary assessments.

For this rule, for a plant site to qualify as small with respect to a listed chemical, a manufacturer or importer must meet both of the following criteria:

i. Total annual sales taken together of all sites owned or controlled by the foreign or domestic parent company were below $30 million for the reporting period.

As chemicals become subject to this rule in the future, the Agency will consider the need to adjust this dollar figure to reflect inflation. Sales figures would be based on activities at all of the plant sites of the reporting firm, its parent, and all subsidiaries owned or controlled by the parent company. The parent company owns or controls another company if the parent owns or controls 50 percent or more of the other company's voting stock, or other equity rights, or has the power to control the management and policies of the other company.

ii. Total production of the listed substance for the reporting year was below 45,400 kilograms (100,000 pounds) at the plant site.

The EPA has consulted with the Small Business Administration in developing the exemption standard for the rule. The exemption criteria for this rule have not changed from the proposal, except for the addition of a factor to correct the sales cutoff for inflation.

B. Confidentiality

1. *Certification.* Some commenters noted that the effort they would have to spend to substantiate claims of confidentiality by answering the proposed substantiation questions would exceed that spent in answering the substantive questions presented in the form. After considering comments, we have concluded that the method of substantiation outlined in the proposal was overly burdensome and that a simplified method of substantiation should be adopted for this rule.

For the final rule, in order to claim any information on the form as confidential, the respondent must certify, as in the Inventory Reporting Regulations, that the claims of confidentiality are made in good faith and that the four listed statements are true. This simplification will substantially reduce industry's expenditure of time, money, and personnel.

The final reporting form has separate signature blocks for confidentiality certification and for technical accuracy certification. This should alleviate the concerns of commenters who said that an importing subsidary may not be able to certify to confidentiality claims for information supplied by a foreign parent. In this case, the foreign parent can certify regarding confidentiality and the U.S. subsidiary can certify the accuracy of data.

2. *Release of data to the public.* Industry and public interest groups expressed concern as to whether or not EPA planned to publish aggregates of data from this rule or publish only those discrete data items that are not claimed confidential. One public interest group preferred that the Agency release discrete data elements not claimed as confidential. They felt this would aid people in identifying local problems. Industry generally favored publishing aggregates of the data.

There are two purposes for releasing data received by the Agency:

i. To allow the public and the states to conduct local activities to identify and control risk situations, and

ii. To allow public comment on the aggregate data the Agency uses to make its decisions.

The first purpose seems best served by the release of discrete data items that have not been claimed confidential. However, comments indicated most of the reported data will be legitimately claimed to be confidential business information. Therefore, the public would be likely to receive only incomplete data that had not been claimed confidential. Moreover, the release of discrete non-confidential data elements would limit the release of the aggregate data used in risk assessments; discrete non-confidential data could be subtracted from the aggregate to reveal secret data.

Given these considerations, we have decided to release the following types of non-confidential data:

i. Identification of a firm or plant site that manufactures or processes a chemical, except when this fact is confidential.

ii. Aggregate data on production, uses, and workers for each chemical.

It will be necessary for us to withhold some data that have not been claimed confidential in order to protect confidential data within an aggregate. However, the Agency will determine its aggregation method in a manner that will allow as much data as possible to be released, but that will not allow confidential information to be recognized by the public. By releasing aggregate data we will be able to share information with the public, including the regulated industry.

VI. Economic Impact

EPA estimates that chemical manufacturers will spend a maximum of $760,000 to report on the approximately 250 chemicals on this rule.

The fixed costs per plant site to comply with the rule are estimated at $480. This includes time to become familiar with the reporting requirements, and time to determine which listed chemicals the plant site produces. Variable costs of compliance are estimated at an additional $420 per report that must be submitted. The variable costs include time to determine the information required, to determine whether the information should be claimed as confidential, and to complete the form and certification requirements. For the median company, the rule will cost a maximum of about 0.004 percent of its profit. This is not a balance sheet loss, but a theoretical cost based on time the company will spend searching for data.

The fixed and variable cost estimates were based on the number of hours that would be required to complete a form. EPA estimated an average of 18 hours for a site to become familiar with the rule, determine which chemicals to report on, and put together a final package for submittal to EPA. This figure could be lower or higher depending on how many forms are involved. An additional 16 hours were estimated for a site to complete each form. At an average of 3 reports per site, these estimates allow 66 hours (18+(3 × 16)) for an average site's compliance.

TSCA Inventory data show that about 450 plant sites will submit a total of about 1,300 reports. The plant sites represent about 330 companies, for an average of about 4 reports per company.

VII. Rulemaking Record

The administrative record for this rule (docket number OPTS 82004) contains the following documents. All documents, including the index to this public record, are available to the public in the OPTS Reading Room from 8:00 a.m. to 4:00 p.m. weekdays, Rm. E–107, 401 M St., SW., Washington, DC 20460. This record includes basic information considered by the Agency in developing the final rule. The record includes the following information, which is more specifically described in the TSCA Section 8(a) "Level A" Rulemaking Index to the Public Record:

(1) The Advance Notice of Proposed Rulemaking (OTS–82004a), published in the **Federal Register** of June 27, 1979 (44 FR 37517).

(2) Initial Report of the TSCA Interagency Testing Committee published in the **Federal Register** of October 12, 1977 (44 FR 55026).

(3) Written comments to the Advanced Notice of Proposed Rulemaking, numbered 1 through 33 (OPTS–82004a).

(4) Chronologically ordered preproposal comments, minutes, and released drafts, numbered 1 through 15.

(5) The proposed rule, "General Recordkeeping and Reporting Requirement: Preliminary Assessment Information" (OPTS–82004b), published in the **Federal Register** of February 29, 1980 (45 FR 13646).

(6) Petition presented to EPA on March 17, 1980 by the Chemical Manufacturers Association (CMA), and EPA's response, published in the **Federal Register** of April 28, 1980 (45 FR 28173).

(7) Support documents, including:

(a) "Chemical Source List" File, describing the sources and criteria used to select the chemicals for this rule.

(b) High volume criterion, confidential file 20–8020030.

(c) Economic Impact Analysis and references.

(d) "Chemical Use List" and references to its file (OPTS–10001), published in the **Federal Register** of July 25, 1978 (43 FR 32222).

(e) Inter-agency survey by EPA, including all correspondence with other agencies in reference to this rule.

(f) Support documents for final sec. 8(a) "Level A" rule, including inter-, intra-agency, and outside correspondence in reference to this rule.

(8) All written comments to the Proposed Rule (OPTS–82004b).

(9) Telephone comments to the Proposed Rule (OPTS–82004b).

(10) Notices concerning the proposed rule: corrections to the rule published in the **Federal Register** of April 7, 1980 (45 FR 23473), and April 18, 1980 (45 FR 26386), and a notice of public meetings published in the **Federal Register** of April 28, 1980 (45 FR 28176).

(11) Transcripts of public meetings on the Section 8(a) "Level A" Rule.

(12) Miscellaneous agency comments, corrections, and correspondence relating to the rule.

(13) Cross references to test rules developed under TSCA section 4(a).

(14) Any comment received from the Office of Management and Budget during its review of the rule regarding compliance with the Paperwork Reduction Act, or Executive Order 12291.

(15) The document titled "Responses to Individual Comments," which contains Agency responses to comments

on the proposed rule. This document is also considered to be incorporated by reference in this **Federal Register** notice of the final rule.

Additional documents may be added to the Public Record. Within 30 days of the date of publication, please notify us of any errors or omissions in the Public Record. Address all correspondence to:

Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

VIII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. EPA has determined that this regulation is not major because it does not have an effect of $100 million or more on the economy. It is expected to have a one-time maximum cost to chemical manufacturers of about $760,000. It does not have a significant effect on competition, employment, investment, productivity, innovation, or ability of U.S. based enterprises to compete with foreign-based enterprises in domestic or export markets. This regulation was approved without comment by the Office of Management and Budget (OMB) as required by Executive Order 12291.

The information submitted under this rule will cost manufacturers approximately $3,000 per chemical. It is difficult to put an absolute value on information, but the Agency has experienced costs of $10,000 per chemical for even fruitless searches of general reference sources for exposure information. The information to be reported, general as it is, will be of much greater quality and thus reliability than any data otherwise available. When the information is used by EPA and other Federal agencies to set priorities among chemicals, the rule will benefit the public primarily by identifying chemical hazards and thus allowing reduction of risks to health and the environment. The rule will also save public and private time and expense by directing regulatory attention away from many chemicals of lesser apparent risk. The potential value of the rule's information thus will be much greater than the cost of reporting.

B. Regulatory Flexibility Act

Since this rule was proposed before the effective date of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., the Act's requirements do not apply. However, this rule is consistent with the Act's objectives in that it exempts small businesses from reporting under this rule. EPA consulted with the Small Business Administration, Size Standards Division, in developing this exemption.

C. Paperwork Reduction Act

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, U.S.C. 3501 et seq., and have been assigned OMB control number 2000–0420.

This rule requires manufacturers of about 250 chemicals to submit a two-page form describing their own and their customers' activities. The data to be submitted will permit EPA to estimate how much of a chemical is made for consumer versus industrial uses, how much is lost to the environment, the number of workers exposed during production and processing, and the degree of that exposure.

The rule provides the minimum information needed to assess the risks of human and environmental exposure to chemicals in U.S. commerce. EPA has chosen 250 of the approximately 55,000 chemicals in U.S. commerce for reporting under this rule.

List of Subjects in 40 CFR Part 712:

Chemicals, Environmental Protection. Reporting and recordkeeping requirements.

Dated: June 7, 1982.

Anne M. Gorsuch,

Administrator.

Therefore, 40 CFR Chapter I is amended by adding a new Part 712 to read as follows:

PART 712—CHEMICAL INFORMATION RULES

Authority: Sec. 8(a), Toxic Substances Control Act, Pub. L. 94–469 (90 Stat. 2003, 15 U.S.C. 2601 et seq.).

Subpart A—General Provisions

Sec.

712.1 Scope and compliance.
712.3 Definitions.
712.5 Method of identification of substances for reporting purposes.
712.7 Report of readily obtainable information for Subparts B and C.
712.15 Confidentiality.

Subpart B—Manufacturers Reporting—Preliminary Assessment Information

712.20 Manufacturers and importers who must report.
712.25 Exempt manufacturers and importers.
712.28 Form and instructions.
712.30 Chemical lists and reporting periods.

Subpart A—General Provisions

§ 712.1 Scope and compliance.

This Part establishes procedures for chemical manufacturers and processors to report production, use, and exposure-related information on listed chemical substances. Subpart A establishes requirements that apply to all reporting under this Part. Subparts B and C, respectively, cover manufacturers' and processors' reporting.

§ 712.3 Definitions.

The definitions in section 3 of TSCA, 15 U.S.C. 2602, apply for this Part. In addition, the following definitions apply:

(a) "Byproduct" means any chemical substance or mixture produced without a separate commercial intent during the manufacture, processing, use, or disposal of another chemical substance or mixture.

(b) "EPA" means the U.S. Environmental Protection Agency.

(c) "Import in bulk form" means to import a chemical substance (other than as part of a mixture or article) in any quantity, in cans, bottles, drums, barrels, packages, tanks, bags, or other containers used for purposes of transportation or containment, if the chemical substance has an end use or commercial purpose separate from the container.

(d) "Importer" means anyone who imports a chemical substance, including a chemical substance as part of a mixture or article, into the customs territory of the U.S. and includes the person liable for the payment of any duties on the merchandise, or an authorized agent on his behalf. Importer also includes, as appropriate:

(1) The consignee.

(2) The importer of record.

(3) The actual owner if an actual owner's declaration and superseding bond has been filed in accordance with 19 CFR 141.20.

(4) The transferee, if the right to withdraw merchandise in a bonded warehouse has been transferred in accordance with Subpart C of 19 CFR Part 144. For the purposes of this definition, the customs territory of the U.S. consists of the 50 states, Puerto Rico, and the District of Columbia.

(e) "Impurity" means a chemical substance unintentionally present with another chemical substance or mixture.

(f) "Intermediate" means any chemical substance that is consumed, in whole or in part, in chemical reactions used for the intentional manufacture of

other chemical substances or mixtures, or that is intentionally present for the purpose of altering the rates of such chemical reactions. (See also paragraph (j) of this section.)

(g) "Known to or reasonably ascertainable by" means all information in a person's possession or control, plus all information that a reasonable person similarly situated might be expected to possess, control, or know, or could obtain without unreasonable burden.

(h) "Manufacture for commercial purposes" means to import, produce, or manufacture with the purpose of obtaining an immediate or eventual commercial advantage for the manufacturer and includes, among other things, such "manufacture" of any amount of a chemical substance or mixture:

(1) For commercial distribution, including for test marketing.

(2) For use by the manufacturer, including use for product research and development, or as an intermediate.

Manufacture for commercial purposes also applies to substances that are produced coincidentally during the manufacture, processing, use, or disposal of another substance or mixture, including byproducts and coproducts that are separated from that other substance or mixture, and impurities that remain in that substance or mixture. Byproducts and impurities may not in themselves have commercial value. They are nonetheless produced for the purpose of obtaining a commercial advantage since they are part of the manufacture of a chemical produced for a commercial purpose.

(i) "Mixture" means any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction; except that "mixture" does include (A) any combination which occurs, in whole or in part, as a result of a chemical reaction if the combination could have been manufactured for commercial purposes without a chemical reaction at the time the chemical substances comprising the combination were combined, and if all of the chemical substances comprising the combination are included in the EPA, TSCA Chemical Substance Inventory after the effective date of the premanufacture notification requirement under 40 CFR Part 720, and (B) hydrates of a chemical substance or hydrated ions formed by association of a chemical substance with water. The term mixture includes alloys, inorganic glasses, ceramics, frits, and cements, including Portland cement.

(j) "Non-isolated intermediate" means any intermediate that is not intentionally removed from the equipment in which it is manufactured, including the reaction vessel in which it is manufactured, equipment which is ancillary to the reaction vessel, and any equipment through which the substance passes during a continuous flow process, but not including tanks or other vessels in which the substance is stored after its manufacture. (See also paragraph (f) of this section.)

(k) "Owned or controlled by the parent company" means the parent owns or controls 50 percent or more of the other company's voting stock or other equity rights, or has the power to control the management and policies of the other company.

(l) "Person" means any natural person, firm, company, corporation, joint venture, partnership, sole proprietorship, association, or any other business entity, any State or political subdivision thereof, any municipality, any interstate body, and any department, agency, or instrumentality of the Federal government.

(m) "Process for commercial purposes" means the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce with the purpose of obtaining an immediate or eventual commercial advantage for the processor. Processing of any amount of a chemical substance or mixture is included. If a chemical or mixture containing impurities is processed for commercial purposes, then those impurities are also processed for commercial purposes.

(n) "Site" means a contiguous property unit. Property divided only by a public right-of-way shall be considered one site. There may be more than one manufacturing plant on a single site.

(o) "Test marketing" means distributing in commerce a limited amount of a chemical substance or mixture, or article containing such substance or mixture, to a defined number of potential customers, during a predetermined testing period, to explore market capability prior to broader distribution in commerce.

(p) "TSCA" means the Toxic Substances Control Act, 15 U.S.C. 2601 et seq.

§ 712.5 Method of identification of substances for reporting purposes.

(a) *Report on TSCA-regulable quantities.* Unless specifically otherwise required, respondents must report only about quantities of a chemical that is defined as a chemical substance under TSCA section 3(2).

(b) *Chemicals from natural sources.* A manufacturer of a chemical substance which is extracted from an ore, from oil, or from any other natural source must report only about the manufacturing steps for, and the uses of, that chemical, not about production of the natural source material or other crude precursors derived from the natural source material.

For example, persons who manufacture a chemical substance such as "sweetened naphtha, 64741–67–3," but do not refine the naphtha to produce "hexane, 110–54–3" would not report on hexane. Only the production of "hexane" as an isolated product must be reported—not previous production of more crude, complex substances such as naphtha from which hexane is extracted. Thus, persons who produce crude oil, ores, and other crude natural materials, but do not carry them through further manufacturing steps that produce a listed chemical have no reporting responsibilities under this Part. Note, however, that any method of extraction, refinement, or purification of a listed chemical substance is considered to be manufacturing for the purposes of this rule.

(c) *Chemical substances as marketed.* This Part requires reporting about chemical substances as they are marketed or used in practice. The following preparations of a chemical substance must be reported as the substance itself, not as a mixture, since these preparations are regarded as the substance in practice.

(1) The chemical substance in aqueous solution.

(2) The chemical substance containing an additive (such as a stabilizer or other chemical) to maintain the integrity or physical form of the substance.

(3) The chemical substance in any grade of purity.

§ 712.7 Report of readily obtainable information for Subparts B and C.

TSCA section 8(a) authorizes EPA to require persons to report information that is known to or reasonably ascertainable by them. For purposes of Subparts B and C, however, a lesser standard applies. Companies must report information that is readily obtainable by management and supervisory employees responsible for manufacturing, processing, distributing, technical services, and marketing. Extensive file searches are not required.

§ 712.15 Confidentiality.

(a) Any person submitting information under this Part may assert business confidentiality claims for the information as described in the pertinent reporting form and its instructions. Any information covered by a claim will be disclosed by EPA only as provided in the procedures set forth at 40 CFR Part 2.

(b) Persons must certify to the validity of a claim of confidentiality they make for information reported under this Part, as specified on the reporting form.

(c) If no claim accompanies the information at the time it is submitted to EPA or if certification as to the claim is not made on the reporting form, EPA may place the information in an open file available to the public without further notice to the submitter.

Subpart B—Manufacturers Reporting—Preliminary Assessment Information

§ 712.20 Manufacturers and importers who must report.

Except as described in § 712.25, at the time a chemical substance is listed in § 712.30, the following persons must submit the "Manufacturer's Report—Preliminary Assessment Information" (as described in § 712.28) for each plant site at which they manufactured or imported the chemical substance during the reporting period specified in § 712.30:

(a) Persons who manufactured one or more of the chemical substances listed in § 712.30 for commercial purposes.

(b) Persons who imported in bulk form one or more of the chemical substances listed in § 712.30 for commercial purposes.

§ 712.25 Exempt manufacturers and importers.

(a) Persons who manufactured or imported the chemical substance during the reporting period, solely for purposes of scientific experimentation, analysis, or research, including research or analysis for product development, are not subject to reporting under § 712.20.

(b) Persons who, during the reporting period, manufactured or imported fewer than 500 kilograms (1100 pounds) of the chemical substance at a single plant site are not subject to reporting for that site under § 712.20.

(c) Persons who qualify as small manufacturers or importers in respect to a specific chemical substance listed in § 712.30 are exempt. However, this exemption does not apply with respect to any chemical in § 712.30 designated by an asterisk. A manufacturer is qualified as small and is exempt from submitting a report under this Subpart for a chemical substance manufactured at a particular plant site if both of the following criteria are met:

(1) Total annual sales taken together of all sites owned or controlled by the foreign or domestic parent company were below $30 million for the reporting period;

(2) Total production of the listed substance for the reporting period was below 45,000 kilograms (100,000 pounds) at the plant site.

(d) Persons are not subject to reporting under § 712.20 if they manufactured or imported the chemical substance during the reporting period only in the following forms:

(1) As a byproduct that was not used or sold or that was formed as described in 40 CFR 710.4(d) (3) through (7).

(2) As a non-isolated interimediate.

(3) As an impurity.

§ 712.28 Form and instructions.

(a) Manufacturers and importers subject to this Subpart must submit a single EPA Form No. 7710–35, "Manufacturer's Report—Preliminary Assessment Information," for each plant site manufacturing or importing a chemical substance listed in § 712.30.

(b) Reporting companies may submit their reports through individual plant sites or company headquarters as they choose. A separate form must be submitted for each plant site manufacturing the chemical substance.

(c) Forms must be sent to: Document Control Officer, Office of Pesticides and Toxic Substances, Environmental Protection Agency, P.O. Box 2080, Rockville, MD 20852.

(d) Instructions and a facsimile of the form are as follows:

BILLING CODE 6560-50-M

INSTRUCTIONS FOR MANUFACTURER'S REPORT FORM PRELIMINARY ASSESSMENT INFORMATION

What chemicals to report — This form applies to chemical substances that are listed in 40 CFR 712.30.

Reporting period — Enter the months and years beginning and ending the 12-month period for which you report. This reporting period is listed with the chemical substance in 40 CFR 712.30.

Who must report — Manufacturers and importers must report. See 40 CFR 712.25 for exemptions from reporting.

How many forms to complete — For each chemical, complete a separate form for each plant site that manufactured the chemical.

If a site manufactured and imported the chemical, report both manufacture and import data for the site on a single form.

A company that imported the chemical, but did not process the imported quantity or manufacture an additional quantity, may submit a separate form for each import site or may submit a single form with the total data for all import sites.

Who may submit forms — Companies may choose to complete and submit forms to EPA from each plant site directly, or through company headquarters.

Retention of forms — You should keep a copy of each completed form. Refer to the preprinted Control Number (shown in the upper right corner on the front of the form) when communicating with EPA.

EPA assistance — For further information or to obtain copies of the Manufacturer's Report form, contact:

Industry Assistance Office (TS-799)
Office of Pesticides and Toxic Substances
Environmental Protection Agency
401 M Street, SW.
Washington, D.C. 20460
Toll free: (800) 424–9065
In Washington, D.C.: 554–1404
Outside the USA: Operator (202) 554–1404

I. CERTIFICATION

Technical certification — Certify the technical accuracy of data you report on the form by signing and dating the Technical Certification Statement. Print or type the name and title of the person who signs this statement.

Confidentiality certification — You may claim information confidential by marking appropriate boxes in sections III and IV. If you claim any information confidential, you must certify that the Confidentiality Statements are true for all information claimed confidential on the form. Do this by signing and dating the Confidentiality Certification Statement. Print or type the name and title of the person who signs this statement.

II. CHEMICAL IDENTIFICATION *(Complete A or B)*

Item A — If you are reporting on a chemical that has its CAS Number and Chemical Name listed in 40 CFR 712.30, enter the CAS Number and first fifteen (15) characters of the listed Chemical Name.

Enter N/A in section II, part B, in the spaces for Category Name and Inventory Form C Number.

Item B — If you are reporting a confidential chemical that is in a category listed in 40 CFR 712.30, enter the Category Name as listed, and enter the number of the Inventory Reporting Form C on which you reported the chemical for the TSCA Inventory. (If the Inventory Form C Number is not available, contact the Industry Assistance Office.)

In section II, part A, enter N/A in the spaces for CAS Number and Chemical Name.

III. RESPONDENT IDENTIFICATION

Confidentiality — Mark this box to claim confidential all Respondent Identification in section III. Note that you may not claim your identity confidential if you reported this chemical for the Inventory and did not claim your identity confidential at that time.

Item A — Enter the name, physical location address, and Dun and Bradstreet number of the plant site for which the data are reported.

If your company imported but did not further process or manufacture additional chemicals, and you choose to submit data for all import sites on a single form, enter N/A.

If the plant site does not have a Dun and Bradstreet number, enter N/A in that space.

Item B — Mark the appropriate box to show whether the plant site or corporate headquarters is submitting this form. Enter the corresponding name and mailing address.

If corporate headquarters submits this form, enter its Dun and Bradstreet number. If it does not have a Dun and Bradstreet number, or if the plant site submits this form, enter N/A in the space for Dun and Bradstreet number.

EPA will send all correspondence regarding the form to this address.

Item C — Enter the name, title, and telephone number (including area code) of a person for EPA to contact if there are questions about data reported on this form.

Item D — EPA will acknowledge receipt of the form to the person named in this item.

IV. PRELIMINARY ASSESSMENT INFORMATION

TSCA Regulable Quantities — Except under items 4 and 5, do not report any quantity of chemical substance that is manufactured or processed solely for use as: a pesticide; tobacco or any tobacco product; any source material, special nuclear material, or byproduct material (as terms are defined in the Atomic Energy Act of 1954 and regulations issued under such Act); firearms or ammunition; or food, food additives, drug, cosmetic, or device (as such terms are defined in section 201 of the Federal Food, Drug and Cosmetic Act). The above are not TSCA regulable.

Some chemical substances are manufactured for both TSCA and non-TSCA regulable purposes. Thus, under items 4 and 5, include total production of the chemical stream for both TSCA and non-TSCA regulable quantities.

PART A: PLANT SITE ACTIVITIES

Accuracy — For each item, provide numbers that represent your best estimates based on readily obtainable data.

Item 1 — Enter the total quantity of the chemical substance imported in bulk during the reporting period. If you import, but do not further process the imported quantity or manufacture an additional quantity, answer this item and part B only.

Item 2 — Enter the quantity of chemical domestically manufactured during the reporting period, not counting the losses reported in item 3a.

Items 3a–3d — In 3a, report the total quantity lost in manufacture of the substance during the reporting period. Report only routine losses. Do not report unusual spills or accidents. In calculating estimates for quantities not recovered you may: (1) use measured losses, if available, or emission factors and other calculated releases from individual sources; or, (2) if these are not available, or only account for a portion of the total loss, you may make a simple mass balance estimate of expected yield minus actual yield, where actual yield is the value reported in item 2. This quantity in 3a should then be broken down into the three categories below (i.e., 3b + 3c + 3d = 3a). Specify the accuracy you report for 3b, 3c, and 3d, e.g., 1000 kg ± 30%.

3b. Quantity lost to the environment — This covers fugitive emissions to the atmosphere and other losses not described in 3c and 3d.

3c. Quantity in wastes treated to destroy the chemical.

3d. Quantity in wastes not treated to destroy the chemical — This includes, for example, any quantity disposed of in any landfill, surface impoundment, municipal sewage, or storage.

Items 4–7 — Items 4–7 in part A require you to describe the manufacturing process and your use of the chemical in terms of the number of workers and quantity of substance associated with three process categories. Three process categories are described below, followed by instructions for calculating quantities, worker-hours, and number of workers. Additional instructions concerning items 4 through 7 are also listed.

PROCESS CATEGORIES

Enclosed Process — The process is designed and operated so that there is no intentional release of the chemical. In this process category, only fugitive or inadvertent releases occur and special measures are taken to prevent worker exposure and environmental contamination. "Special measures" refer to procedures and equipment that are monitored and used to prevent worker exposure, and scrubbers and other recovery equipment employed to prevent environmental release. Equipment with emergency pressure relief venting would be allowed in this category; routine venting would not. With regard to handling the manufactured chemical, persons who handle closed packages containing the material would be counted under "enclosed process." Persons who package or transfer the unpackaged chemical would be counted in one of the following categories.

Controlled Release Process — The process is operated in a controlled manner to minimize release of the chemical into the workplace. Releases should generally be within prescribed limits. These limits may be dictated by government regulations or by company guidelines. If the chemical is vented outside the plant, the process is a "controlled release" process. Do not count general space ventilation fans.

Open Process — The chemical is routinely in direct contact with the atmosphere (workplace or outside the plant) and no measures are taken to prevent release. For example, reaction vessels are open vats, the chemical is transported or stored in open containers, or the chemical is freely vented into the workplace atmosphere.

QUANTITIES

Process Category — Enter the greatest quantity that is processed in each process category. If there is more than one process stream, calculate each stream separately and then add the values for each process category. If a quantity of the chemical passes in series through an enclosed process and then passes through an open process, the same quantity would be reported twice, once under each process category. (The sum of these quantities may be greater than 100% of the total quantity manufactured.)

Example 1 — A company manufactures technical grade chemical x in four steps.

350,000 kg ⟶	350,000 kg ⟶	350,000 kg ⟶	200,000 kg
Open	Enclosed	Open	Enclosed

The company would report:

Enclosed	350,000 kg
Controlled release	0
Open	350,000 kg

Example 2 — A company produces the same chemical in a reagent and technical grade with the following steps.

Technical Grade Process:

350,000 kg ⟶	350,000 kg ⟶	350,000 kg ⟶	200,000 kg
Open	Enclosed	Open	Enclosed

Reagent Grade Process:

650,000 kg ⟶	500,000 kg ⟶	500,000 kg ⟶	400,000 kg
Controlled Release	Controlled Release	Open	Open

The company would report:

Enclosed	350,000 kg
Controlled release	650,000 kg
Open	850,000 kg

(The open process amount is the total of the maximum quantity in the open process category from each grade.)

Total Quantity — For items 5, 6, and 7, enter the total quantity processed in all process categories. (This total may be less than the sum of the quantities reported in individual process categories.)

WORKER-HOURS

Worker-hours may be calculated for a given process category by multiplying the average number of full-time employees needed for the operation by the number of hours operating annually. Alternatively, worker-hour information may be taken from preexisting information sources such as resource planning or budget figures.

WORKERS

In reporting number of workers for each process category, count the total number of persons directly involved in manufacturing, processing, and handling the chemical during the reporting period. Count maintenance or inspection workers only if they work with the process on a routine basis. Do not count administrative staff.

Three process categories are described in the form: enclosed, controlled release, and open. A worker should be counted as working with only one process category. If he operates several process types, count him under the one with which he spends the most time. If he spends an equal amount of time with several, count him under the most open process.

Example 3 — A company manufactured 1,000,000 kg of a chemical substance in 1980. It manufactured the chemical for all twelve months of the year and did so in an enclosed process.

In order to run the production line, ten (10) workers were present working 40 hour weeks; thus over the course of the year 20,800 worker-hours were used to run the production line.

Over the course of the year, twelve (12) different workers worked on the production of the chemical.

The form would then be filled out as follows:

Process category	Quantity (kg)	Worker-hours	Total workers
Open	0	0	0
Controlled release	0	0	0
Enclosed	1,000,000 kg	20,800	12

Example 4 — A company manufactured 1,000,000 kg of a chemical substance in 1980. It manufactured the chemical for the entire year in a 24 hour/day process consisting of three steps in the open, controlled release, and open process categories. The production line was shut down for maintenance for 2 weeks of the year. The production line had three 8-hour shifts. Each shift in step 1 required 5 workers, while 7 and 10 workers were needed per shift in steps 2 and 3, respectively. The total worker-hours required for each step follows:

Process category	(Shifts/day x hours/shift x workers x days/week x weeks/year)	Workers-hours
Open (Step 1)	(3 x 8 x 5 x 7 x 50)	42,000
Controlled (Step 2)	(3 x 8 x 7 x 7 x 50)	58,800
Open (Step 3)	(3 x 8 x 10 x 7 x 50)	84,000

Analysis of the personnel records showed that a total of 75 individuals worked on the production of the chemical during 1980. After examining the personnel records, the company was able to fill in the following table:

Process category	Total workers
Open (Step 1)	21
Controlled (Step 2)	19
Open (Step 3)	35
	75

Note that workers are not double counted or "split" even though some jobs may require moving from one step of the process to another step of the same process. An employee working on both step 1 and step 2 is counted only in step 1 if he/she spends most of his time at that step. After adding together steps in the same process category, the company would report as follows:

Process category	Quantity (kg)	Worker-hours	Total workers
Open	1,000,000	126,000	56
Controlled release	1,000,000	58,800	19
Enclosed	0	0	0

Item 4 — This item applies to the manufacture of the chemical substance and includes all steps to ready the chemical for further processing or use.

Item 5 — This item applies to use of the chemical at your plant site as a reactant in the manufacture of another chemical substance, where the molecular structure of the chemical is altered by breaking chemical bonds or making new chemical bonds between the original substance and some other substance. Report on all processing up to and including the actual reaction step and any ancillary steps which recycle unreacted chemicals back to the reactor vessel. Do not report on subsequent activities in this question.

Item 6 — Report the quantity of the chemical substance that you use on site. Examples include cleaning solvents, dielectric fluids, emulsifiers, and lubricants. Do not include any quantity that you react to make a product.

Item 7 — Report the quantity of the chemical substance that you process at the manufacturing site into products for on site use or sale. (Note that this does not include manufacture of the chemical substance; this is reported in item 4 above.) This item does include the quantity of chemical substance that you incorporate in a mixture or article. Report the steps up to and including incorporation of the chemical into an article; do not include any further processing of the article.

Item 8 — Report the quantity of the chemical substance that you prepare for commercial distribution in each of the product types in 8a to 8g. Do not include any quantity of chemical substance that your customers will further process. This will be reported in item 9.

In items 8a to 8f, report the quantity of the chemical substance in products that are for domestic use. If you are uncertain about whether your products are for domestic or foreign use, report them as domestic.

The products are divided into industrial and consumer products. "Industrial" means the manufacturing and service industries covered by the Standard Industrial Codes. Products meant to be used primarily by the general population are considered to be "consumer" products. The following definition from the Consumer Product Safety Act can be used as a guide (15 U.S.C. 2052(a)(1)): "The term 'consumer product' means any article, or component part thereof, produced or distributed (i) for sale to a consumer for use in or around a permanent or temporary household or residence, a school, in

recreation, or otherwise, or (ii) for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation, or otherwise." If you are uncertain about whether your products are industrial or consumer, report them as consumer.

Three types of industrial and consumer product types are described below.

"Chemical substance or mixture" means a chemical, or mixture containing the chemical, that is used directly by the persons using the product, e.g., cleaners, paints, inks, deodorizers, solvents, etc. This includes chemicals or mixtures in containers or other articles whose purpose is to release the chemical (e.g., cans of spray paint, ink pens, and other applicators).

"Articles or products with no release" are articles constructed to prevent human exposure to or release to the environment of the chemical substance during normal use and storage (e.g., chemical coatings on internal components, and chemicals inside sealed articles as in thermometers and batteries).

"Articles or products with some release" are articles whose material components are made of chemicals which come in direct contact with persons using the article, the atmosphere, land, or water; e.g., exposure can come from leaching, evaporation, or surface contact. This includes such articles as plastic containers, chemically treated textiles, printed paper, coated appliances, etc. If the chemical itself is sold in a bottle or other container it should be reported under "Chemical substance or mixture," not as an article. Only the container itself is an article for purposes of this form; the substance it contains is not a component of an article.

In item 8g, report the quantity of chemical substance that you export directly either as the chemical or contained in mixtures or articles.

Item 9 – Estimate the quantity of the chemical substance that your customers process for each of the uses listed in items 9a to 9h. (Do not include the quantity of chemical substances that your customers will use without further processing; that quantity should be reported in item 8a or 8d.)

For items 9a to 9g, follow the same directions as for items 8a to 8g.

For item 9h, report the quantity of chemical substance that your customers will react to make products that do not contain the chemical substance itself.

For item 9i, report the quantity of chemical substance for which your customers' uses are unknown.

Report your best estimate for items 9a to 9h within ±50%. If you cannot estimate an item to this degree of accuracy, include the quantity in item 9i. You may report "unknown" if the data would reveal information subject to a confidentiality agreement between you and your customers.

Item 10 – If you report your customers' uses as unknown (item 9i above) for more than 20% of the total quantity that you manufacture and import (items 1 and 2 above) list the names under which you distribute the chemical substance.

This item will allow EPA, if necessary, to find out about chemical uses you have reported as "unknown" by requiring processors of your products to report directly to us.

Item 11 – This item addresses your general knowledge of the process types your customers use to process the chemical. Estimate the quantity of the chemical that your customers process in each of the three process categories. Specify "unknown" if you do not know to within ±50%.

IMPORTANT: Before completing this form, please read the accompanying instructions carefully. O.M.B. No. 2000-0420: Approval Expires 3/31/84

EPA U.S. ENVIRONMENTAL PROTECTION AGENCY
401 M Street, S.W.
Washington, D.C. 20460

MANUFACTURER'S REPORT PRELIMINARY ASSESSMENT INFORMATION

This information is required under the authority of Section 8(a), Toxic Substances Control Act, 15 U.S.C. 2607.

When completed send this form to:
Document Control Officer
Office of Pesticides and Toxic Substances
U.S.E.P.A.
P.O. Box 2080
Rockville, Md. 20852

CONTROL NUMBER

PERIOD COVERED
FROM: Mo. | Yr. | TO: Mo. | Yr.

Section I — CERTIFICATION

TECHNICAL CERTIFICATION STATEMENT

I hereby certify that, to the best of my knowledge and belief, all information entered on this form is complete and accurate. I agree to permit access to, and the copying of records by, a duly authorized representative of the EPA Administrator, in accordance with the Toxic Substances Control Act, to document any information reported here.

Signature | Date

Name and title — *Please print or type*

CONCERNING EPA DISCLOSURE OF INFORMATION

Any person who submits information to EPA under the Preliminary Assessment Information Rule (40 CFR 712) should be aware of EPA regulations (40 CFR Part 2) which govern disclosure of such information. Those regulations provide that such person may, if he or she desires, assert a confidentiality claim covering part or all of the information submitted. Information covered by such a claim will be publicly disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR Part 2. However, if no such claim accompanies the information when it is received, EPA may make that information public without notifying the submitter.

CONFIDENTIALITY STATEMENTS

Information disclosed to EPA on this form may be claimed confidential by marking the appropriate boxes below. The person signing the Confidentiality Certification Statement attests to the truth of the following four statements concerning all information that is claimed confidential. Note that chemical substance identity may not be claimed confidential for this rule.

1. My company has taken measures to protect the confidentiality of the information, and it intends to continue to take such measures.
2. The information is not, and has not been, reasonably obtainable without our consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding).
3. The information is not publicly available elsewhere.
4. Disclosure of the information would cause substantial harm to our competitive position.

CONFIDENTIALITY CERTIFICATION STATEMENT

I hereby certify that the Confidentiality Statements on this form are true as to that information below for which I have asserted a confidentiality claim.

Signature | Date

Name and title — *Please print or type*

Section II — CHEMICAL IDENTIFICATION

Part A

CAS No. | | | | — | | | — | |

Chemical name (first 15 characters)

Part B

Category name (first 15 characters)

Inventory Form C number

Section III — RESPONDENT IDENTIFICATION

☐ *MARK THIS BOX TO CLAIM THIS SECTION CONFIDENTIAL*

Part A — Plant Site — Physical location

Name

Number and street

City

County

State | ZIP code

Dun and Bradstreet number

Part B — Mailing Address of:

☐ Corporate Headquarters ☐ Plant Site

Name

Number and street

City

State | ZIP code

Dun and Bradstreet number (for corporate headquarters only)

Part C — Technical Contact

Name and title

Telephone *(Area code/number)*

☐ At headquarters

☐ At plant site

Part D — Acknowledgement

EPA will send acknowledgement to – *Name and title*

EPA Form 7710-35

Section IV — PRELIMINARY ASSESSMENT INFORMATION

NOTE Mark the box to the left of any item below to claim the answer to the item as confidential. Report all quantities in kilograms (1 kilogram = 2.2 pounds). Enter N/A for any item that does not apply to you; do not leave any blanks.

Part A — Plant Site Activities — *Information in part A must be your best estimate from readily obtainable data. For items 3b, 3c, and 3d, specify the accuracy of your answers.*

☐ 1. Total quantity imported	kg	☐ 2. Quantity manufactured for sale or use	kg
☐ 3a. Quantity lost during manufacture (*3b + 3c + 3d must equal 3a*)	kg	3c. Quantity in wastes treated to destroy the chemical	kg ± %
3b. Quantity lost to the environment	kg ± %	3d. Quantity in wastes not treated to destroy the chemical	kg ± %

Activity (1)	Process category (2)	Quantity (kilograms) (3)	Total worker-hours (4)	Total workers (5)
☐ 4. Manufacture of the chemical	a. Enclosed			
	b. Controlled release			
	c. Open			
☐ 5. On-site use as reactant	a. Enclosed			
	b. Controlled release			
Total Quantity _____ kg	c. Open			
☐ 6. On-site nonreactant use of the chemical substance	a. Enclosed			
	b. Controlled release			
Total Quantity _____ kg	c. Open			
☐ 7. On-site preparation of products	a. Enclosed			
	b. Controlled release			
Total Quantity _____ kg	c. Open			

☐ 8. MANUFACTURER'S PRODUCTS — Report the quantity of the chemical substance that you prepare for each of the following.

INDUSTRIAL PRODUCTS (domestic)	a. Chemical or mixture	kg	CONSUMER PRODUCTS (domestic)	d. Chemical or mixture	kg
	b. Article with some release	kg		e. Article with some release	kg
	c. Article with no release	kg		f. Article with no release	kg
g. Products for export →		kg			

Part B — Chemical Substance Processing by Customers — *Information in part B must be accurate to within ± 50%.*

☐ 9. CUSTOMERS' USES AND PRODUCTS — Estimate the quantity of the chemical substance that your customers use or prepare for each of the following.

INDUSTRIAL PRODUCTS (domestic)	a. Chemical or mixture	kg	CONSUMER PRODUCTS (domestic)	d. Chemical or mixture	kg
	b. Article with some release	kg		e. Article with some release	kg
	c. Article with no release	kg		f. Article with no release	kg
g. Products for export →		kg			
h. Quantity of chemical consumed as reactant →		kg			
i. Unknown customer uses →		kg			

☐ 10. MARKET NAMES — If you report your customers' uses as unknown (9i above) for more than 20% of the total quantity of chemical substance that you manufacture and import (20% of items 1 and 2 above), list the market names under which you distribute the chemical. (If you need more space, attach an additional sheet.)

a.	c.
b.	d.

☐ 11. CUSTOMERS' PROCESS CATEGORIES — Based on your knowledge of general industry practices, estimate the quantity of chemical substance that you sell to customers as the chemical and that your customers further process in each of the following categories.

a. Enclosed processes	kg	c. Open processes	kg
b. Controlled release processes	kg	d. Unknown	kg

§ 712.30 Chemical lists and reporting periods.

(a) Persons subject to this Subpart must submit a Preliminary Assessment Information Manufacturer's Report for each chemical substance or designated mixture listed below. The information in each Manufacturer's Report for a given substance or mixture must cover the respondent's latest complete corporate fiscal year as of the effective date when the substance or mixture becomes subject to this Subpart. The effective date will be 30 days after the Office of Toxic Substances publishes a notice in the **Federal Register** making the substance or mixture subject to this subpart.

(b) Except as provided in paragraph (c) of this section, chemical substances and designated mixtures will be added after a notice of proposed amendment of this Subpart is published in the **Federal Register**. There will be a 30 day public comment period on each notice; after consideration of the comments, a final amendment will identify the substances and mixtures added.

(c) [Reserved]

(d) A Preliminary Assessment Information Manufacturer's Report must be submitted by November 19, 1982 for each chemical substance listed below.

CAS No., Chemical Name

64-67-5 Sulfuric acid, diethyl ester
71-55-6 Ethane, 1,1,1-trichloro-
72-57-1 2,7-Naphthalenedisulfonic acid, 3,3'-[(3,3'-dimethyl[1,1'-biphenyl]-4,4'-diyl)bis[azo)]bis[5-amino-4-hydroxy-, tetrasodium salt
74-87-3 Methane, chloro-
75-05-8 Acetonitrile
75-09-2 Methane, dichloro-
75-12-7 Formamide
75-21-8 Oxirane
75-38-7 Ethene, 1,1-difluoro-
75-56-9 Oxirane, methyl-
77-47-4 1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-
77-78-1 Sulfuric acid, dimethyl ester
77-83-8 Oxiranecarboxylic acid, 3-methyl-3-phenyl-, ethyl ester
78-30-8 Phosphoric acid, tris(2-methylphenyl) ester
78-32-0 Phosphoric acid, tris(4-methylphenyl) ester
78-33-1 Phenol, 4-(1,1-dimethylethyl)-, phosphate (3:1)
78-59-1 2-Cyclohexen-1-one, 3,5,5-trimethyl-
78-87-5 Propane, 1,2-dichloro-
78-93-3 2-Butanone
79-06-1 2-Propenamide
80-62-6 2-Propenoic acid, 2-methyl-, methyl ester
81-21-0 2,4-Methano-2H-indeno[1,2-b:5,6-b']bisoxirene, octahydro-
84-61-7 1,2-Benzenedicarboxylic acid, dicyclohexyl ester
84-66-2 1,2-Benzenedicarboxylic acid, diethyl ester
84-74-2 1,2-Benzenedicarboxylic acid, dibutyl ester
85-68-7 1,2-Benzenedicarboxylic acid, butyl phenylmethyl ester
85-70-1 1,2-Benzenedicarboxylic acid, 2-butoxy-2-oxoethyl butyl ester
87-61-6 Benzene, 1,2,3-trichloro-
87-68-3 1,3-Butadiene, 1,1,2,3,4,4-hexachloro-
88-74-4 Benzenamine, 2-nitro-
89-63-4 Benzenamine, 4-chloro-2-nitro-
90-13-1 Naphthalene, 1-chloro-
92-49-9 Benzenamine, N-(2-chloroethyl)-N-ethyl-
92-52-4 1,1'-Biphenyl
95-39-6 2-Propenoic acid, bicyclo[2.2.1]hept-5-en-2-ylmethyl ester
95-47-6 Benzene, 1,2-dimethyl-
95-48-7 Phenol, 2-methyl-
95-49-8 Benzene, 1-chloro-2-methyl-
95-50-1 Benzene, 1,2-dichloro-
95-51-2 Benzenamine, 2-chloro-
95-54-5 1,2-Benzenediamine
95-63-6 Benzene, 1,2,4-trimethyl-
95-76-1 Benzenamine, 3,4-dichloro-
95-82-9 Benzenamine, 2,5-dichloro-
95-94-3 Benzene, 1,2,4,5-tetrachloro-
96-05-9 2-Propenoic acid, 2-methyl-, 2-propenyl ester
96-08-2 7-Oxabicyclo[4.1.0]heptane, 1-methyl-4-(2-methyloxiranyl)-
96-09-3 Oxirane, phenyl-
96-12-8 Propane, 1,2-dibromo-3-chloro-
96-33-3 2-Propenoic acid, methyl ester
97-02-9 Benzenamine, 2,4-dinitro-
97-63-2 2-Propenoic acid, 2-methyl-, ethyl ester
97-86-9 2-Propenoic acid, 2-methyl-, 2-methylpropyl ester
97-88-1 2-Propenoic acid, 2-methyl-, butyl ester
97-90-5 2-Propenoic acid, 2-methyl-, 1,2-ethanediyl ester
98-07-7 Benzene, (trichloromethyl)-
98-87-3 Benzene, (dichloromethyl)-
98-88-4 Benzoyl chloride
98-95-3 Benzene, nitro-
99-09-2 Benzenamine, 3-nitro-
99-30-9 Benzenamine, 2,6-dichloro-4-nitro-
99-56-9 1,2-Benzenediamine, 4-nitro-
100-01-6 Benzenamine, 4-nitro-
100-41-4 Benzene, ethyl-
100-42-5 Benzene, ethenyl-
100-44-7 Benzene, (chloromethyl)-
101-43-9 2-Propenoic acid, 2-methyl-, cyclohexyl ester
101-77-9 Benzenamine, 4,4'-methylenebis-
101-90-6 Oxirane, 2,2'-[1,3-phenylenebis(oxymethylene)]bis-
103-11-7 2-Propenoic acid, 2-ethylhexyl ester
103-71-9 Benzene, isocyanato-
105-16-8 2-Propenoic acid, 2-methyl-, 2-(diethylamino)ethyl ester
106-40-1 Benzenamine, 4-bromo-
106-42-3 Benzene, 1,4-dimethyl-
106-44-5 Phenol, 4-methyl-
106-46-7 Benzene, 1,4-dichloro-
106-47-8 Benzenamine, 4-chloro-
106-50-3 1,4-Benzenediamine
106-51-4 2,5-Cyclohexadiene-1,4-dione
106-63-8 2-Propenoic acid, 2-methylpropyl ester
106-71-8 2-Propenoic acid, 2-cyanoethyl ester
106-74-1 2-Propenoic acid, 2-ethoxyethyl ester
106-83-2 Oxiraneoctanoic acid, 3-octyl-, butyl ester
106-84-3 Oxiraneoctanoic acid, 3-octyl-, octyl ester
106-87-6 7-Oxabicyclo[4.1.0]heptane, 3-oxiranyl-
106-88-7 Oxirane, ethyl-
106-89-8 Oxirane, (chloromethyl)-
106-90-1 2-Propenoic acid, oxiranylmethyl ester
106-91-2 2-Propenoic acid, 2-methyl-, oxiranylmethyl ester
106-92-3 Oxirane, [(2-propenyloxy)methyl]-
108-10-1 2-Pentanone, 4-methyl-
108-31-6 2,5-Furandione
108-38-3 Benzene, 1,3-dimethyl-
108-39-4 Phenol, 3-methyl-
108-42-9 Benzenamine, 3-chloro-
108-45-2 1,3-Benzenediamine
108-70-3 Benzene, 1,3,5-trichloro-
108-88-3 Benzene, methyl-
108-90-7 Benzene, chloro-
108-94-1 Cyclohexanone
109-16-0 2-Propenoic acid, 2-methyl-, 1,2-ethanediylbis(oxy-2,1-ethanediyl) ester
110-86-1 Pyridine
111-40-0 1,2-Ethanediamine, N-(2-aminoethyl)-
114-49-8 Benzeneacetic acid, .alpha.-(hydroxymethyl)-, 9-methyl-3-oxa-9-azatricyclo[3.3.1.02,4]non-7-yl ester, hydrobromide, [7(S)-(1.alpha.,2.beta.,4.beta.,5.alpha.,7.beta.)]-
115-27-5 4,7-Methanoisobenzofuran-1,3-dione, 4,5,6,7,8,8-hexachloro-3a,4,7,7a-tetrahydro-
115-28-6 Bicyclo[2.2.1]hept-5-ene-2,3-dicarboxylic acid, 1,4,5,6,7,7-hexachloro-
115-86-6 Phosphoric acid, triphenyl ester
116-15-4 1-Propene, 1,1,2,3,3,3-hexafluoro-
117-81-7 1,2-Benzenedicarboxylic acid, bis(2-ethylhexyl) ester
117-84-0 1,2-Benzenedicarboxylic acid, dioctyl ester
118-79-6 Phenol, 2,4,6-tribromo-
119-06-2 1,2-Benzenedicarboxylic acid, ditridecyl ester
119-07-3 1,2-Benzenedicarboxylic acid, decyl octyl ester
120-82-1 Benzene, 1,2,4-trichloro-
121-39-1 Oxiranecarboxylic acid, 3-phenyl-, ethyl ester
121-45-9 Phosphorous acid, trimethyl ester
121-87-9 Benzenamine, 2-chloro-4-nitro-
122-07-8 Ethanamine, 2,2-dimethoxy-N-methyl-
122-60-1 Oxirane, (phenoxymethyl)-
123-31-9 1,4-Benzenediol
126-99-8 1,3-Butadiene, 2-chloro-
131-11-3 1,2-Benzenedicarboxylic acid, dimethyl ester
140-08-9 Ethanol, 2-chloro-, phosphite (3:1)
140-88-5 2-Propenoic acid, ethyl ester
141-32-2 2-Propenoic acid, butyl ester
141-38-8 Oxiraneoctanoic acid, 3-octyl-, 2-ethylhexyl ester
141-85-5 Benzenamine, 3-chloro-, hydrochloride
142-04-1 Benzenamine, hydrochloride
142-09-6 2-Propenoic acid, 2-methyl-, hexyl ester

142-90-5 2-Propenoic acid, 2-methyl-, dodecyl ester
145-73-3 7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid
147-82-0 Benzenamine, 2,4,6-tribromo-
155-41-9 3-Oxa-9-azoniatricyclo[3.3.1.02,4]nonane, 7-(3-hydroxy-1-oxo-2-phenylpropoxy)-9,9-dimethyl-, bromide, [7(S)-(1.alpha.,2.beta.,4.beta.,5.alpha.,7.beta.)]-
285-67-6 6-Oxabicyclo[3.1.0]hexane
286-20-4 7-Oxabicyclo[4.1.0]heptane
428-59-1 Oxirane, trifluoro(trifluoromethyl)-
470-67-7 7-Oxabicyclo[2.2.1]heptane, 1-methyl-4-(1-methylethyl)-
496-72-0 1,2-Benzenediamine, 4-methyl-
534-15-6 Ethane, 1,1-dimethoxy-
541-73-1 Benzene, 1,3-dichloro-
554-00-7 Benzenamine, 2,4-dichloro-
556-52-5 Oxiranemethanol
593-60-2 Ethene, bromo-
603-35-0 Phosphine, triphenyl-
608-27-5 Benzenamine, 2,3-dichloro-
608-93-5 Benzene, pentachloro-
615-05-4 1,3-Benzenediamine, 4-methoxy-
624-18-0 1,4-Benzenediamine, dihydrochloride
626-43-7 Benzenamine, 3,5-dichloro-
632-79-1 1,3-Isobenzofurandione, 4,5,6,7-tetrabromo-
634-66-2 Benzene, 1,2,3,4-tetrachloro-
634-90-2 Benzene, 1,2,3,5-tetrachloro-
634-93-5 Benzenamine, 2,4,6-trichloro-
635-22-3 Benzenamine, 4-chloro-3-nitro-
688-84-6 2-Propenoic acid, 2-methyl-, 2-ethylhexyl ester
689-12-3 2-Propenoic acid, 1-methylethyl ester
818-61-1 2-Propenoic acid, 2-hydroxyethyl ester
823-40-5 1,3-Benzenediamine, 2-methyl-
827-94-1 Benzenamine, 2,6-dibromo-4-nitro-
868-77-9 2-Propenoic acid, 2-methyl-, 2-hydroxyethyl ester
925-60-0 2-Propenoic acid, propyl ester
930-37-0 Oxirane, (methoxymethyl)-
1139-30-6 5-Oxatricyclo[8.2.0.04,6]dodecane, 4,12,12-trimethyl-9-methylene-, [1R-(1R*,4R*,6R*,10S*)]-
1241-94-7 Phosphoric acid, 2-ethylhexyl diphenyl ester
1309-64-4 Antimony oxide O3Sb2
1319-77-3 Phenol, methyl-
1321-64-8 Naphthalene, pentachloro-
1321-65-9 Naphthalene, trichloro-
1330-20-7 Benzene, dimethyl-
1330-61-6 2-Propenoic acid, isodecyl ester
1330-78-5 Phosphoric acid, tris(methylphenyl) ester
1335-87-1 Naphthalene, hexachloro-
1335-88-2 Naphthalene, tetrachloro-
1345-04-6 Antimony sulfide S3Sb2
1464-53-5 2,2'-Bioxirane
1663-39-4 2-Propenoic acid, 1,1-dimethylethyl ester
1817-73-8 Benzenamine, 2-bromo-4,6-dinitro-
1937-37-7 2,7-Naphthalenedisulfonic acid, 4-amino-3-[[4'-[(2,4-diaminophenyl)azo][1,1'-biphenyl]-4-yl]azo]-5-hydroxy-6-(phenylazo)-, disodium salt
2082-81-7 2-Propenoic acid, 2-methyl-, 1,4-butanediyl ester
2156-96-9 2-Propenoic acid, decyl ester
2210-28-8 2-Propenoic acid, 2-methyl-, propyl ester
2223-82-7 2-Propenoic acid, 2,2-dimethyl-1,3-propanediyl ester
2234-13-1 Naphthalene, octachloro-
2238-07-5 Oxirane, 2,2'-[oxybis(methylene)]bis-
2358-84-1 2-Propenoic acid, 2-methyl-, oxydi-2,1-ethanediyl ester
2425-79-8 Oxirane, 2,2'-[1,4-butanediylbis(oxymethylene)]bis-
2426-08-6 Oxirane, (butoxymethyl)-
2426-54-2 2-Propenoic acid, 2-(diethylamino)ethyl ester
2455-24-5 2-Propenoic acid, 2-methyl-, (tetrahydro-2-furanyl)methyl ester
2461-18-9 Oxirane, [(dodecyloxy)methyl]-
2499-95-8 2-Propenoic acid, hexyl ester
2528-36-1 Phosphoric acid, dibutyl phenyl ester
2530-85-0 2-Propenoic acid, 2-methyl-, 3-(trimethoxysilyl)propyl ester
2602-46-2 2,7-Naphthalenedisulfonic acid, 3,3'-[[1,1'-biphenyl]-4,4'-diylbis(azo)]bis[5-amino-4-hydroxy-, tetrasodium salt
2610-05-1 1,3-Naphthalenedisulfonic acid, 6,6'-[(3,3'-dimethoxy[1,1'-biphenyl]-4,4'-diyl)bis(azo)]bis[4-amino-5-hydroxy-, tetrasodium salt
2687-25-4 1,2-Benzenediamine, 3-methyl-
2855-19-8 Oxirane, decyl-
2867-47-2 2-Propenoic acid, 2-methyl-, 2-(dimethylamino)ethyl ester
2905-65-9 Benzoic acid, 3-chloro-, methyl ester
3076-04-8 2-Propenoic acid, tridecyl ester
3083-25-8 Oxirane, (2,2,2-trichloroethyl)-
3132-64-7 Oxirane, (bromomethyl)-
3194-55-6 Cyclododecane, 1,2,5,6,9,10-hexabromo-
3775-90-4 2-Propenoic acid, 2-methyl-, 2-[(1,1-dimethylethyl)amino]ethyl ester
3953-10-4 2-Propenoic acid, 2-ethylbutyl ester
4016-11-9 Oxirane, (ethoxymethyl)-
4016-14-2 Oxirane, [(1-methylethoxy)methyl]-
4835-11-4 1,6-Hexanediamine, N,N'-dibutyl-
5388-62-5 Benzenamine, 4-chloro-2,6-dinitro-
5455-98-1 1H-Isoindole-1,3(2H)-dione, 2-(oxiranylmethyl)-
5536-61-8 2-Propenoic acid, 2-methyl-, sodium salt
6033-05-2 Morphinan-3,6-diol, 7,8-didehydro-4,5-epoxy-17-methyl-(5.alpha.,6.alpha.)-, (Z)-9-octadecenoate (salt)
6106-46-3 Benzeneacetic acid, .alpha.-(hydroxymethyl)-, 9-methyl-3-oxa-9-azatricyclo[3.3.1.02,4]non-7-yl ester, [7(S)-(1.alpha.,2.beta.,4.beta.,5.alpha.,7.beta.)]-, compd. with methyl nitrate (1:1)
6106-81-6 Benzeneacetic acid, .alpha.-(hydroxymethyl)-, 9-methyl-3-oxa-9-azatricyclo[3.3.1.02,4]non-7-yl ester, N-oxide, hydrobromide, [7(S)-(1.alpha.,2.beta.,4.beta.,5.alpha.,7.beta.)]-
6283-25-6 Benzenamine, 2-chloro-5-nitro-
6369-59-1 1,4-Benzenediamine, 2-methyl-, sulfate
7320-37-8 Oxirane, tetradecyl-
7440-36-0 Antimony
7446-81-3 2-Propenoic acid, sodium salt
7534-94-3 2-Propenoic acid, 2-methyl-, 1,7,7-trimethylbicyclo[2.2.1]hept-2-yl ester, exo-
13048-33-4 2-Propenoic acid, 1,6-hexanediyl ester
13236-02-7 Oxirane, 2,2',2''-[1,2,3-propanetriyltris(oxymethylene)]tris-
13561-08-5 Oxirane, 2,2'-[[2-(oxiranylmethoxy)-1,3-phenylene]bis(methylene)]bis-
16110-80-7 Benzenesulfonic acid, 4-[(4,6-dichloro-1,3,5-triazin-2-yl)amino]-
16715-83-6 2-Propenoic acid, 2-methyl-, 2-[bis(1-methylethyl)amino]ethyl ester
17256-39-2 2-Propanamine, 1-chloro-N,N-dimethyl-, hydrochloride
17977-09-2 2-Propenoic acid, 2,2-dinitropropyl ester
24442-57-7 Ethanol, 1,2-dibromo-, acetate
25085-99-8 Oxirane, 2,2'-[(1-methylethylidene)bis(4,1-phenyleneoxymethylene)]bis-, homopolymer
25134-21-8 4,7-Methanoisobenzofuran-1,3-dione, 3a,4,7,7a-tetrahydromethyl-
25155-23-1 Phenol, dimethyl-, phosphate (3:1)
25550-14-5 Benzene, ethylmethyl-
25584-83-2 2-Propenoic acid, monoester with 1,2-propanediol
25637-99-4 Cyclododecane, hexabromo-
26444-49-5 Phosphoric acid, methylphenyl diphenyl ester
26447-14-3 Oxirane, [(methylphenoxy)methyl]-
26761-40-0 1,2-Benzenedicarboxylic acid, diisodecyl ester
26761-45-5 Neodecanoic acid, oxiranylmethyl ester
29761-21-5 Phosphoric acid, isodecyl diphenyl ester
32360-05-7 2-Propenoic acid, 2-methyl-, octadecyl ester
33791-58-1 2-Propenoic acid, 3a,4,5,6,7,7a-hexahydro-4,7-methano-1H-indenyl ester
37853-59-1 Benzene, 1,1'-[1,2-ethanediylbis(oxy)]bis[2,4,6-tribromo-
51363-64-5 Phosphoric acid, diisodecyl phenyl ester
56803-37-3 Phosphoric acid, (1,1-dimethylethyl)phenyl diphenyl ester
66108-37-0 Phosphoric acid, 2,2-bis(bromomethyl)-3-chloropropyl bis[2-chloro-1-(chloromethyl)ethyl] ester

(e) A Preliminary Assessment Information Manufacturer's Report must be submitted by November 19, 1982 on confidential chemicals in the following categories. A chemical is confidential only if EPA upheld the respondent's claim of confidential identity for the TSCA Chemical Substance Inventory:

Alkyl phthalates—all alkyl esters of 1,2-benzene dicarboxylic acid (orthophthalic acid).

Aryl phosphates—phosphate esters of phenol or of alkyl-substituted phenols. Tri-aryl and mixed alkyl and aryl esters are included but tri-alkyl esters are excluded.

Glycidol derivatives—C_3H_5O-CH_2O-R where R is an alkyl, alkenyl, alkynyl, aryl, or acyl group. Any substituent or functional group may be present on the alkyl, etc. groups.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 712

[OPTS-82004G; 2030-6]

Chemical Information Rules; Preliminary Assessment Information; Opportunity for Additional Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing 50 additional chemicals for manufacturer reporting of preliminary assessment information. These are chemicals that the Interagency Testing Committee has designated as candidates for testing in its fifth through ninth reports. EPA is also proposing supplementary processor reporting on the 300 chemicals subject to manufacturer reporting, when customer use information is inadequate. In addition, EPA is proposing that certain chemicals automatically become subject to manufacturer reporting.

DATE: Written comments should be received on or before August 6, 1982.

ADDRESS: Written comments must be addressed to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460.

Comments should bear the identifying notation OPTS-82004G. All comments received, as well as the public records in this proceeding, will be available for public inspection in Room E-107 at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-511B, 401 M St., SW., Washington, DC 20460, Toll free: (800-424-9065), In Washington: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: OMB Control Number: 2000-0420.

I. Introduction

EPA proposed a rule under section 8(a) of the Toxic Substances Control Act (TSCA) to obtain preliminary use and exposure data on about 2,300 chemical substances published in the **Federal Register** of February 29, 1980 (42 FR 13647). Under the final Manufacturers Reporting—Preliminary Assessment Information rule published elsewhere in this issue of the **Federal Register**, manufacturers must report on about 250 chemicals.

In the original proposal, chemical manufacturers were to submit information on their own and their customers' uses of the chemicals. If manufacturers did not provide the specified information on their customers' uses, manufacturers were also to submit lists of their customers so that EPA could contact the customers directly. The Agency received over 150 written comments on that proposal, most comments requesting that EPA eliminate the proposed requirement to submit customer lists. (Specific comments are addressed below, or in the document titled "Responses to Individual Comments" in the public record for this rulemaking.) While EPA does not agree with all the reasons presented against the customer list requirement, the Agency is persuaded that customer list reporting is not the best approach for this rule. Thus today's final rule deletes the proposed requirement for manufacturers to submit customer lists. Instead, the Agency here proposes an alternative approach to obtain data that manufacturers do not supply on their customers' uses.

In this notice, the Agency proposes to initiate a "second round" of "follow-up" reporting from processors by **Federal Register** notice. In this second round of reporting, processors would report on chemical substances that are marketed by manufacturers who reported unknown customer uses for more than 20 percent of the total quantity manufactured and imported. EPA would publish by **Federal Register** notice a list of the marketing names of these chemicals. Processors would then submit the shorter Processor's Follow-up Report—Preliminary Assessment Information on the listed chemicals. EPA would use the information reported by processors to complete assessments of the listed chemicals.

The final manufacturers rule also provides that chemicals in addition to the original 250 may become subject to manufacturer reporting after proposal and comment. Additional chemicals would be subject to processor reporting if manufacturers are unable to provide sufficient information. This notice proposes and solicits comment on the addition of about 50 chemicals for manufacturers reporting. These are chemicals that the Interagency Testing Committee has designated as candidates for testing in its fifth through ninth reports. Chemicals on the tenth list were previously proposed and appear on the final rule published today. EPA needs exposure data on these chemicals to determine whether test rules are warranted.

This notice also proposes that manufacturers automatically report on test candidates designated by ITC in the future. We are proposing to waive future comment periods for the individual ITC designates in order to collect needed exposure data in a more timely fashion.

II. Proposed Processor Reporting Requirements

A. New Approach to Processor Follow-Up

The Agency received many comments objecting to the originally proposed processor reporting requirements. Those proposed requirements have been deleted and are replaced by a new approach. This reproposed processor follow-up approach adopts suggestions made in comments on the February 29, 1980 proposal. Based on those comments, the Agency considers that this new approach has significant advantages over the customer list approach. In this new approach, EPA would require processor reporting for an individual chemical only after receipt and review of all manufacturers' forms on the chemical.

Commenters requested that EPA specify objective criteria to trigger processor follow-up, so that only a limited number of chemicals would be subject to processor reporting. The Chemical Manufacturers Association (CMA) suggested that the trigger should depend on the data provided by manufacturers and that EPA should require processor follow-up reporting if at least 10 million pounds of a chemical are produced for processing by firms other than the manufacturer's, and all manufacturers' reports on the chemical fail to provide use and exposure information on at least 30 percent of the portion of the chemical's output that is sold to processors.

Gaps in manufacturers' data should trigger processor reporting, but the Agency does not consider any single, absolute quantity of chemical to be an appropriate trigger because a quantity trigger cannot apply equally to all chemicals. For example, a million pounds is a very small portion of a chemical when total production is 20 billion, but a very large portion of a chemical when total production is 2 million.

EPA has not adopted the 30 percent suggestion because the Agency considers that the trigger should be based on the quantity of the total chemical manufactured and imported, rather than on only the portion

processed by customers, as CMA suggested.

EPA proposes to require processor reporting on a chemical when manufacturers report that customer uses are unknown for more than 20 percent of the total quantity manufactured and imported. That is, on the Manufacturer's Report form, EPA will compare the total for all manufacturers in questions 1 and 2 to the total for all manufacturers in item 9i, "unknown customer uses." If "unknown customer uses" represent more than 20 percent of the total domestically available, EPA will initiate processor reporting.

If at least 80 percent of the uses of a chemical are accounted for, then EPA will not require any processor reporting. Knowing 80 percent, we can project that the remaining 20 percent even if it is radically different will not significantly affect estimates of overall exposure for preliminary assessment purposes. For instance, if the exposure estimate for the known 80 percent were quantified as two on a scale of ten, and, in an hypothetical extreme case, the missing 20 percent would have scored an eight, the missing portion would change the average estimate only to three. With any known portion less than 80 percent, the confidence in this kind of projection would be correspondingly less. Likewise, using a figure greater than 80 percent would increase the confidence of the projection, but at the cost of an increase in amount of processor reporting.

Also as recommended by comments, when possible, EPA intends to publish trade names, rather than CAS numbers or chemical names, of the chemicals on which processors must report. EPA agrees with comments that this would better protect confidential information on composition of marketed chemical products, and that this approach will also communicate more to processors. Manufacturers should note, however, that if one manufacturer sells a chemical under a trade name, and another sells the same chemical under its chemical name, EPA would potentially be required to publish both the trade name and the chemical name for any follow-up reporting.

Comments also indicated that manfacturers would be more concerned about the confidentiality of ingredients in formulated mixtures sold under trade names, rather than confidentiality of chemical substances sold under trade names. Because this rule does not collect information on mixtures, publishing trade names should be a less serious confidentiality problem. EPA will publish the trade names in a **Federal Register** notice along with the reporting period for each chemical and the date by which processors must submit reports to EPA. Note that if a manufacturer did not mark "unknown" for more than 20 percent of the total quantity processed (question 9i on the manufacturer's form, published elsewhere in this issue of the **Federal Register** as 40 CFR Part 712, Subpart B), his trade names would not be published. It may also happen that we will not follow up on a manufacturer who does not account for 80 percent of his processed quantity. Follow-up wold not be needed if all other manufacturers' reports for the same substance account for 80 percent of the aggregate production.

The new approach has other advantages. Because direct processor reporting eliminates the need for manufacturers to assemble and submit customer lists, this approach would decrease the manufacturers' reporting burden. Follow-up processor reporting would reach customers who are processors, and would also reach processors who purchase chemicals from distributors. It would also avoid unnecessarily involving distributors who are direct customers of respondent manufacturers, and who do not further process the chemicals.

The requirements for processor reporting are described in more detail at III below and elsewhere in this issue of the **Federal Register**, and appear in § 712.40 of the proposed rule. Today's notice solicits additional comment on this proposed method of follow-up processor reporting. After reviewing comments to be received on this proposal, we will publish the final requirements for processor reporting in the **Federal Register**.

B. Who Must Report

In the proposed second round of reporting to collect information for preliminary assessment, persons who processed for commercial purposes certain chemical substances during the reporting year would submit the Processor's Follow-up Report—Preliminary Assessment Information. The chemicals would be listed in § 712.50 and published in a **Federal Register** notice, along with a date by which reports would be submitted to EPA. The proposed requirements for reporting are described in this section of the preamble and appear in § 712.46 of the rule. Processors who would be specifically exempted are described at III.B below.

Several comments requested clarification of the distinction between "processor," "user," and "distributor." The primary concern of the commenters was that the use of a chemical to manufacture a different chemical should not be considered processing. They suggested that if a person's activities change a listed chemical so that it no longer exists in its listed chemical form, the person is a "user" and consequently should not be subject to follow-up reporting.

The Agency disagrees with this interpretation. "Processing" includes any preparation of the chemical substance for distribution in commerce as part of a mixture, an article, or any product containing or composed of the chemical substance. Processing also includes the use of a chemical as a reactant or intermediate to produce another chemical substance. If a company only uses and discards the chemical at its plant site, the company is not a processor.

A processor is, among other things, one who prepares a chemical substance or mixture for distribution in commerce, after its manufacture, in the same or different form or physical state from that in which it was received by the processor (see TSCA section 3(10)). One who mixes, reacts, purifies, separates, repackages, or otherwise "prepares" a chemical substance or mixture for distribution in commerce is also a processor. A person who reacts a listed chemical substance to make another chemical for distribution in commerce has prepared that chemical substance for distribution in commerce in a form different from the one in which the person originally received it.

Furthermore, a person who reacts a chemical substance subject to this rule to produce another chemical substance is a manufacturer of a chemical substance and may be subject to a section 8(a) rule as a chemical manufacturer. TSCA secion 8(a) authorizes EPA to require manufacturers of a chemical substance to report on the chemicals they react in the manufacturing process. For example, EPA may need data on chemical A. Companies that react chemical A with chemical B to manufacture chemical C are manufacturers of chemical C. EPA may require them as chemical manufacturers to report data on chemicals A and B because they are reacted to manufacture chemical C.

"Users," who do not have to report for this rule, are persons who only use or discard a chemical substance or mixture. One who uses a listed chemical substance or mixture to maintain or repair his equipment, or to otherwise maintain the plant, would be a user only. For example, the purchaser of a piece of machinery who painted the

machinery for maintenance or repair would be a user of the paint. However, if the manufacturer of the same machinery painted it before selling the machinery, he would be a processor of the paint.

A "distributor" is one who "distributes in commerce" as defined in TSCA section 3(4). The terms "distribute" and "commerce" are both defined in the Act and do not need further definition. Distributors are not subject to reporting under this rule.

C. Processors Exempt From Reporting

The same exemptions that apply to manufacturers would also apply to processors. These exemptions are discussed more fully in the final manufacturer's reporting requirements published elsewhere in today's **Federal Register**. In general, the following processors would be exempt from reporting for a plant site in the following situations:

1. *Small processors.* This proposal complies with the Regulatory Flexibility Act by exempting small processors from reporting requirements, except in very limited cases. Processors would be "small" in respect to a listed chemical if total annual sales of the foreign or domestic parent company were below $30 million during the reporting period, and the plant site processed below 45,400 kilograms (100,000 pounds) of the listed chemical during the reporting period.

Small processors would be required to report only on a chemical subject to TSCA section 4, 5(b)(4), or 6 proposed or final rules, and only if the additional information from small processors is likely to have a significant effect on EPA decisions.

2. *Processors of small quantities.* No one would report on a chemical processed in quantities below 500 kilograms (1,100 pounds) per year at any plant site.

3. *Processors of substances in mixtures and articles.* Persons would not report on processing of substances already incorporated in mixtures or articles.

4. *Research and development.* Persons would not report on chemical processing that is solely for research and development or scientific analysis.

5. *Impurities and byproducts.* Persons would not report on listed chemicals that are processed solely because they are byproducts or impurities associated with processing of another chemical.

D. What Chemicals Must Be Reported

Processors would report on chemicals for which manufacturers could not provide sufficient customer use information. If the aggregate unaccounted for in all manufacturers' reports is greater than 20 percent of the total quantity manufactured and imported, the chemical would be subject to processor reporting. However, processors would report only on the trade names of manufacturers who did not account for 80 percent of their quantity manufactured and imported. This criterion allows us to extrapolate the uses of remaining quantities with sufficient confidence. EPA would issue a **Federal Register** notice containing the names under which these chemicals are sold. A processor of a listed chemical must report.

Persons who process the following preparations of a chemical substance must report:

1. The chemical substance in aqueous solution;

2. The chemical substance containing a small amount of an additive (such as a stabilizer or other chemical) to maintain the integrity or physical form of the substance;

3. The chemical substance in any grade of purity.

A chemical with additives is sold and used as the chemical substance. The Agency's purpose in asking about such products is to determine the use and potential exposure of that chemical substance. Congress recognized this need in the Conference Report on the Act: "Thus the definition of [the] term 'chemical substance' shall be applied to chemical substances as actually produced and marketed" H.R. Rep. No. 1679, 94th Cong., 2d Sess. 57 (1976) (Conference Report). Substances are rarely marketed in pure form and very often other chemicals are added to insure that the substance does not degrade during transport. In these cases it is the substance that is being marketed in the eyes of both seller and buyer. Under the definition of "mixture" in TSCA section 3(8), a substance with an additive would be a mixture. However, for this information collection to be effective in accounting for the processing of substances, substances with additives must be reported. Thus to the extent that the rule requires reporting on these "mixtures," the Administrator finds that it is necessary for the effective enforcement of TSCA.

As in the manufacturer's rule, processors would report only on chemicals processed for purposes regulable under TSCA.

E. Processor's Reporting Form

Processors would submit the Processor's Follow-up Report—Preliminary Assessment Information, EPA form Number 7710–35a. The proposed processor's form contains only the questions regarding customer use from Part B of the manufacturer's form. Thus, the processor's form itself is a modification of Part B of the manufacturer's form.

Processors would report their best estimate of the total quantity of chemical substance they processed in the reporting year, and the quantities processed for various product types. The estimates would be based on readily obtainable data. The proposed form also contains a question on the process categories used for the chemical. This information would be used to supplement data reported by manufacturers.

The same guidance and accuracy as described for manufacturers on Part A of their form is required of processors. See 40 CFR Part 712, Subpart B published elsewhere in this issue of the **Federal Register**.

F. When to Report

A processor would report data for the same period as reported by the manufacturer of the published trade name chemical. This period would be published in the **Federal Register** notice for each chemical on which processors must report. Processors would submit EPA form No. 7710–35a within 30 days of the effective date of the **Federal Register** notice announcing reporting. If a company must report on more than 15 chemicals listed in the notice, it may petition EPA for an extension of time as prescribed in § 712.45(g) of the rule.

III. Additional Chemicals Subject to the Rule

A. Automatic Reporting of Future ITC-Designates

We are proposing an amendment to Subpart B—Manufacturers Reporting Requirements that would automatically have manufacturers report on certain chemicals within 60 days. In the same manner as for chemicals previously listed in Subpart B, processors would be subject to reporting on these chemicals only if manufacturers failed to provide enough information.

The chemicals for which we proposed automatic reporting are chemical substances or designated mixtures that the Interagency Testing Committee (ITC) recommends for testing. Within one year after the ITC recommends a chemical for testing, EPA must initiate rulemaking to require testing under section 4 of TSCA or publish its reasons for not initiating rulemaking. Because of the short time allowed for this decision, the Agency must proceed as rapidly as

possible to gather available data on a chemical.

To decide within one year whether to propose a test rule, EPA must complete its preliminary exposure analysis of the chemical about four months, in most cases, after the ITC recommendation. If Preliminary Assessment Information reports are submitted automatically under this rule, EPA will have accurate and sufficiently complete exposure data from manufacturers within about three months after the ITC recommendation. This timetable assumes that we add the chemicals to § 712.30 by publishing a notice in the **Federal Register** within 10 days after the **Federal Register** publication of the ITC's recommendations. With an effective date 30 days after the date of the EPA **Federal Register** publication, and a due date 60 days after the effective date, EPA would have basic exposure data from manufacturers in about 100 days. This would allow the Agency about one month to complete the preliminary exposure analysis that would be based partially on the data. On the other hand, if the chemicals were proposed for comment, an additional two to three months, at a minimum, would be required to give time for the comment period. Because of the constraints on decisionmaking time for ITC-recommended chemicals, and because this notice solicits comment from all potential respondents on the purpose and requirements of the rule as it will be used, EPA does not propose to go through additional rulemaking to add these chemicals to the rule.

In the infrequent cases when processors must report, EPA would be working with incomplete data on the substances involved until about six months after the **Federal Register** publication of ITC's recommendations. This assumes that EPA would publish the chemicals for processor reporting in § 712.50 about 10 days after basic exposure data is available from manufacturers; that there would be an effective date 30 days after the date of this **Federal Register** publication; and that there would be a due date for processor reports 30 days after the effective date. Since recognition of the need for processor reporting depends on data from manufacturers, we cannot speed the processor reporting timetable. However, we anticipate requiring processor reporting very infrequently, and on very few chemicals, so that the number of instances in which EPA will have incomplete data for an interval of time will be very few.

B. Reporting on ITC-Designates to Date

Since the time when the originally proposed list of chemicals was compiled for the manufacturers reporting requirements, ITC has published six lists of priority candidates for testing under section 4. These lists, excluding the tenth list, have about 50 individual chemicals and category members that were not previously considered for preliminary assessment information reporting. This notice proposes that these 50 chemicals from lists five through nine be added to § 712.30. If the previously discussed automatic reporting provision were in place, these chemicals would be subject to it. To avoid further delay in obtaining exposure data needed for test rule decisions, we proposed these chemicals now and solicit public comment on whether they should be added to § 712.30.

IV. Economic Impact

The cost estimate of the proposed amendments has two parts.

The Agency estimates for planning purposes that it will receive insufficient information for preliminary assessment on approximately 10 percent of the 250 chemicals on which manufacturers must report. A better estimate cannot be established until the manufacturer reporting is under way, so the Agency will revise its cost estimates before processor reporting is required.

For the current estimate, we assume that five manufacturers will report on each chemical, and that three of these manufacturers will report unknown customer uses for more than 20 percent of the quantity they manufactured and imported during the reporting period. We also assume that there will be an average of 10 customers per manufacturer's report, and that five of the customers will be distributors and two will be small businesses not required to report. On this basis, the Agency estimates that approximately 225 processor reports would be required under this rule. At an average cost of $255 per plant site plus $100 per report to prepare and submit the Processor's Reporting Form, the total of the proposed processor reporting provisions would be $91,000. (For discussion of reporting costs, see Economic Impact and Small Business Definition Analysis for the final TSCA Section 8(a) Preliminary Assessment Information Rule, prepared by ICF, Inc., 1981.) This cost assumes that processors will not be required to search files to determine trade names of chemicals processed. The Agency requests comments on its estimate of the cost of submitting the form and on the overall economic impact of this rule.

The 50 additional chemicals listed in this amendment will have total reporting costs of $60,000. This includes 40 manufacturers submitting a total of 60 reports. With fixed costs of $480 per site, and variable costs of $420 per report, the manufacturers' costs are $44,000 for these 50 chemicals. The $60,000 also includes $16,000 as the cost of processors' reporting. Again we assume that manufacturers data will be incomplete for 10 percent of the 50 chemicals, and that nine customer-processors will report per chemical.

Costs for automatic reporting of future ITC-designated chemicals should be negligible, since ITC is expected to add very few chemicals to future lists for priority testing.

V. Public Meetings

At the end of the written comment period, EPA personnel responsible for developing this proposal will be available to meet in Washington, D.C. with interested persons from companies, organized labor, trade associations, and citizen organizations to discuss this proposal. EPA will provide facilities and make other necessary arrangements for such meetings. The Agency will make transcripts or summaries of the meetings for inclusion in the official public record.

All meetings will be open to the public. EPA generally intends to limit active participation in the Washington, D.C. meetings to those requesting the session and EPA personnel designated for the session.

Interested persons should call EPA's Industry Assistance Office, toll-free at (800-424-9065), in the Washington, D.C. area at (554-1404), or outside the U.S.A. (through Operator-202-554-1404), to request time for such a meeting.

VI. Rulemaking Record

The rulemaking record for this proposal is a continuation of the record for the requirements for Manufacturers Reporting—Preliminary Assessment Information, published elsewhere in today's **Federal Register**. This proposed rule, "Processors Follow-up Reporting—Preliminary Assessment Information" (OPTS-82004G) is also included in the public record. All documents, including the index to this public record, are available to the public in the OPTS Reading Room from 8:00 a.m. to 4:00 p.m. weekdays, Rm. E-107, 401 M Street, SW., Washington, DC 20460. This record includes basic information considered by the Agency in developing the rule.

EPA will identify the complete rulemaking record on or before the date

of promulgation of this regulation, as prescribed by section 19(a)(3) of TSCA, and will accept additional material for inclusion in the record at any time between this notice and that date. The final rule will also permit persons to point out any errors or omissions in the record. For discussion of reporting costs, see "Economic Impact and Small Business Definition Analysis for the Final TSCA Section 8(a) Preliminary Assessment Information Rule," prepared by ICF, Inc., 1981.

VII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this regulation is not major because it does not have an effect of $100 million or more on the economy. It is expected to have a one-time cost of about $500,000. It does not have a significant effect on competition, costs, or prices.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments are available for public inspection in the record for this rulemaking.

B. Regulatory Flexibility Act

Consistent with the purposes of the Regulatory Flexibility Act, the Agency has proposed here a definition of the businesses that will be excluded from reporting because they are small processors. Similarly, small manufacturers have already been defined and excluded from manufacturer reporting requirements. In addition, the average cost of reporting for a manufacturer or a processor under this proposal is small. It is $1100 for a manufacturer, and $400 for a processor (see above discussion of economic impact).

In view of the exemptions and the small cost per company, the Agency finds that this proposal, if adopted, would not have a significant impact on a substantial number of small entities.

C. Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3501 et seq., authorizes the Director of the Office of Management and Budget to review certain information collection requests by Federal agencies. The reporting provisions in this rule have been approved by the Office of Management and Budget (OMB) under section 3504(b) of the Paperwork Reduction Act of 1980, 3501 et seq., and have been assigned OMB control number 2000-0420.

The proposal contains a one-page form to be completed by processors of certain chemicals. Processors will complete the form only when manufacturers of the chemicals are unable to provide certain data about processing. The proposal is designed to minimize processor reporting. Processors will be required to report only if manufacturers cannot supply adequate data on their processor-customers. These processor-customers report directly to EPA.

List of Subjects in 40 CFR Part 712:

Chemicals, Environmental Protection. Reporting and recordkeeping requirements.

(Sec. 8, Pub. L. 94-469, 90 Stat. 2003 (15 U.S.C. 2607))

Dated: June 7, 1982.

Anne M. Gorsuch,

Administrator.

PART 712—CHEMICAL INFORMATION RULES

Therefore, it is proposed that 40 CFR Part 712 be amended as follows:

1. Subpart B, § 712.30 is amended by adding paragraphs (c) and (f) to read as follows:

§ 712.30 Chemical lists and reporting periods.

* * * * *

(c) Substances and designated mixtures that have been recommended for testing by the Interagency Testing Committee, established under TSCA section 4, will become subject to this subpart 30 days after the Office of Toxic Substances publishes a notice listing the substance or designated mixture in the **Federal Register.** Manufacturers must submit Preliminary Assessment Information reports on these chemicals within 60 days after the notice is published.

* * * * *

(f) A Preliminary Assessment Information Manufacturers' Report must be submitted by September 20, 1982, on each chemical listed below.

CAS No., Chemical Name

67-72-1 Ethane, hexachloro-
75-02-5 Ethene, fluoro-
95-70-5 1,4-Benzenediamine, 2-methyl-
95-80-7 1,3-Benzenediamine, 4-methyl-
95-83-0 1,2-Benzenediamine, 4-chloro-
98-56-6 Benzene, 1-chloro-4-(trifluoromethyl)-
108-71-4 1,3-Benzenediamine, 5-methyl-
116-14-3 Ethene, tetrafluoro-
137-09-7 Phenol, 2,4-diamino-, dihydrochloride
359-11-5 Ethene, trifluoro-
541-69-5 1,3-Benzenediamine, dihydrochloride
541-70-8 1,3-Benzenediamine, sulfate (1:1)
614-94-8 1,3-Benzenediamine, 4-methoxy-, dihydrochloride
615-28-1 1,2-Benzenediamine, dihydrochloride
615-45-2 1,4-Benzenediamine, 2-methyl-, dihydrochloride
615-46-3 1,4-Benzenediamine, 2-chloro-, dihydrochloride
615-50-9 1,4-Benzenediamine, 2-methyl-, sulfate (1:1)
677-21-4 1-Propene, 3,3,3-trifluoro-
1197-37-1 1,2-Benzenediamine, 4-ethoxy-
1477-55-0 1,3-Benzenedimethanamine
3663-23-8 1,2-Benzenediamine, 4-butyl-
5042-55-7 1,3-Benzenediamine, 5-nitro-
5131-58-8 1,3-Benzenediamine, 4-nitro-
5131-60-2 1,3-Benzenediamine, 4-chloro-
5307-02-8 1,4-Benzenediamine, 2-methoxy-
5307-14-2 1,4-Benzenediamine, 2-nitro-
6219-67-6 1,3-Benzenediamine, 4-methoxy-, sulfate
6219-71-2 1,4-Benzenediamine, 2-chloro-, sulfate
6219-77-8 1,2-Benzenediamine, 4-nitro-, dihydrochloride
15872-73-8 Phenol, 2,4-diamino-6-methyl-
16245-77-5 1,4-Benzenediamine, sulfate (1:1)
18266-52-9 1,4-Benzenediamine, 2-nitro-, dihydrochloride
20103-09-7 1,4-Benzenediamine, 2,5-dichloro-
25376-45-8 Benzenediamine, ar-methyl-
39156-41-7 1,3-Benzenediamine, 4-methoxy-, sulfate (1:1)
42369-30-0 1,2-Benzenediamine, 5-chloro-3-nitro-
62854-17-5 1,4-Benzenediamine, ethanedioate (1:1)
65679-44-9 Phenol, 2,4-diamino-6-methyl-, hydrochloride
66422-95-5 Ethanol, 2-(2,4-diaminophenoxy)-, dihydrochloride
67801-06-3 1,3-Benzenediamine, 4-ethoxy-, dihydrochloride
68015-98-5 1,3-Benzenediamine, 4-ethoxy-, sulfate (1:1)
68239-80-5 1,3-Benzenediamine, 4-chloro-, sulfate (1:1)
68239-82-7 1,2-Benzenediamine, 4-nitro-, sulfate (1:1)
68239-83-8 1,4-Benzenediamine, 2-nitro-, sulfate (1:1)
68459-98-3 1,2-Benzenediamine, 4-chloro-, sulfate (1:1)
68966-84-7 1,3-Benzenediamine, ar-ethyl-ar-methyl-

2. Subpart C is being added to read as follows:

Subpart C—Processor's Follow-Up Reporting—Preliminary Assessment Information

Sec.
712.40 Processors who must report.
712.45 Exempt processors.
712.48 Form and instructions.
712.50 Chemical lists and reporting periods.

Authority: (Sec. 8(a), Toxic Substances Control Act, Pub. L. 94-469 (90 Stat. 2003, 15 U.S.C. 2607(a) et seq.)).

Subpart C—Processor's Follow-Up Reporting—Preliminary Assessment Information Rule

§ 712.40 Processors who must report.

Except as described in § 712.45, at the time a chemical substance is listed in § 712.50, persons who processed the chemical substance for commercial purposes during the reporting period indicated must submit a "Processor's Report—Preliminary Assessment Information" (as described in § 712.48) for each plant site where they processed the chemical substance.

§ 712.45 Exempt processors.

The following persons are exempt from reporting under § 712.40:

(a) Persons who reported their manufacture and processing of the chemical substance under § 712.30 are not subject to reporting under § 712.40.

(b) Persons who processed the chemical substance solely for purposes of scientific experimentation, analysis, or research, including research or analysis for product development, are not subject to reporting under § 712.40.

(c) Persons who processed below 500 kilograms (1100 pounds) of the chemical substance at a single plant site are not subject to reporting for that site under § 712.40.

(d) Persons who qualify as small processors in respect to a specific chemical listed in § 712.50 must report on the chemical only if it is designated by an asterisk. A small processor is exempt from submitting a report under this Subpart for a chemical substance processed at a particular plant site if both the following criteria are met:

(1) Total annual sales taken together of all sites owned or controlled by the foreign or domestic parent company were below $30 million during the reporting period.

(2) The total amount of the listed substance processed at the plant site during the reporting period was below 45,400 kilograms (100,000 pounds).

(e) Persons are not subject to reporting under § 712.40 if they processed the chemical substance only in the following forms:

(1) A byproduct that was not used or sold or that was formed as described in 40 CFR 710.4(d)(3) through (7).

(2) An impurity.

(3) A mixture or article containing the listed chemical substance.

§ 712.48 Form and instructions.

(a) Processors subject to this Subpart must submit a single EPA Form No. 7710-35a, "Processor's Follow-up Report—Preliminary Assessment Information," for each plant site processing a chemical substance listed in § 712.50.

(b) Chemical substances will be listed under § 712.50 only when the data submitted on Manufacturer's Report—Preliminary Assessment Information under Subpart B show unknown customer uses for more than 20 percent of the aggregate total manufactured and imported. Processor follow-up reporting will be required on chemical substances that are marketed by manfacturers who reported unknown customer uses for more than 20 percent of the total quantity they manufacture and import.

(c) The designation of chemical substances for reporting by processors will be made by **Federal Register** notice.

(d) Reporting companies may submit their reports through individual plant sites or company headquarters as they choose. A separate form must be submitted for each plant site processing the chemical substance.

(e) Forms must be sent to: Document Control Officer, Office of Pesticides and Toxic Substances, Environmental Protection Agency, P.O. Box 2080, Rockville, MD 20852.

(f) Forms must be submitted within 30 days after the effective date on which a chemical substance is added to § 717.50.

(g) If a processor must report on more than 15 chemical substances he may petition the Assitant Aministrator of Pesticides and Toxic Substances for an extension of time. Requests for extensions should be submitted to: Document Control Officer, Office of Pesticides and Toxic Substances (TS-793), Environmental Protection Agency, Room E-401, 401 M St., SW., Washington, DC 20460.

(h) Instructions and a facsimile of the form are as follows:

BILLING CODE 6560-50-M

INSTRUCTIONS FOR PROCESSOR'S REPORT FORM PRELIMINARY ASSESSMENT INFORMATION

What chemicals to report – This form applies to chemical substances that are listed in 40 CFR 712.50.

Reporting period – Enter the month and year beginning and ending the 12-month period for which you report. This reporting period is listed with the chemical substance in 40 CFR 712.50.

Who must report – All firms who purchased and processed a chemical under one of the names listed in 40 CFR 712.50 must report.

How many forms to complete – For each chemical, complete a separate form for each plant site that processed the chemical.

Who may submit forms – Companies may choose to complete and submit forms directly to EPA from each plant site, or through company headquarters.

Retention of forms – You should keep a copy of each completed form. Refer to the form's preprinted Control Number (shown in the upper right corner) when communicating with EPA.

EPA assistance – For further information or to obtain copies of the Processor's Report form, contact:

Industry Assistance Office (TS-799)
Office of Pesticides and Toxic Substances
Environmental Protection Agency
401 M Street, SW.
Washington, D.C. 20460
Toll free: (800) 424–9065
In Washington, D.C.: 554–1404
Outside the USA: Operator (202) 554–1404

I. CERTIFICATION

Technical certification – Certify the technical accuracy of data you report on the form by signing and dating the Technical Certification Statement. Print or type the name and title of the person who signs this statement.

Confidentiality certification – You may claim information confidential by marking appropriate boxes in sections III and IV. If you claim any information confidential, you must certify that the Confidentiality Statements are true for all information claimed confidential on the form. Do this by signing and dating the Confidentiality Certification Statement. Print or type the name and title of the person who signs this statement.

II. CHEMICAL IDENTIFICATION

Enter the name under which you purchased the chemical. This is listed in 40 CFR 712.50.

III. RESPONDENT IDENTIFICATION

Confidentiality – Mark this box to claim confidential all Respondent Identification in section III.

Item A – Enter the name, physical location address, and Dun and Bradstreet number of the plant site for which the data are reported. If the plant site does not have a Dun and Bradstreet number, enter N/A in that space.

Item B – Mark the appropriate box to show whether the plant site or corporate headquarters is submitting this form. Enter the corresponding name and mailing address.

If corporate headquarters submits this form, enter its Dun and Bradstreet number. If it does not have a Dun and Bradstreet number, or if the plant site submits this form, enter N/A in that space.

EPA will send all correspondence about the form to this address.

Item C – Enter the name, title, and telephone number (including area code) of a person for EPA to contact if there are questions about data reported on this form.

Item D – EPA will acknowledge receipt of the form to the person named in this item.

IV. PROCESSING ACTIVITIES

Accuracy – For each item, provide numbers that represent your best estimates based on readily obtainable data.

TSCA Regulable Quantities – Do not report any quantity of chemical substance that is processed solely for use as: a pesticide; tobacco or any tobacco product; any source material, special nuclear material, or byproduct material (as such terms are defined in the Atomic Energy Act of 1954 and regulations issued under such Act); firearms or ammunition; or food, food additive, drug, cosmetic, or device (as such terms are defined in section 201 of the Federal Food, Drug and Cosmetic Act). The above are not TSCA regulable.

Item 1 – Enter the total quantity you processed during the reporting period.

Item 2 – Report the quantity of the chemical substance that you use or process for each of the categories in 2a to 2h. Include the quantity of the chemical substance itself, and the quantity of chemical substance in any product that you distribute.

For items 2a through 2g, if you are not sure about whether your products are for domestic or foreign use, report them as domestic.

The products are divided into industrial and consumer products. "Industrial" means the manufacturing and service industries covered by the Standard Industrial Codes. Products meant to be used primarily by the general population are considered to be "consumer" products. The following definition from the Consumer Product Safety Act can be used as a guide (15 U.S.C. 2052(a)(1)): "The term 'consumer product' means any article, or component part thereof, produced or distributed (i) for sale to a consumer for use in or around a permanent or temporary household or residence, a school, in recreation, or otherwise, or (ii) for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation, or otherwise." If you are uncertain about whether your products are industrial or consumer, report them as consumer.

Three types of industrial and consumer product types are described below.

"Chemical substance or mixture" means a chemical, or mixture containing the chemical, that is used directly by the persons using the product, e.g., cleaners, paints, inks, deodorizers, solvents, etc. This includes chemicals or mixtures in containers or other articles whose purpose is to release the chemical (e.g., cans of spray paint, ink pens, and other applicators).

"Articles or products with no release" are articles constructed in a way to prevent human exposure to or release to the environment of the chemical substance during normal use and storage (e.g., chemical coatings on internal components, and chemicals inside sealed articles as in thermometers and batteries).

"Articles or products with some release" are articles whose material components are made of chemicals which come in direct contact with persons using the article, the atmosphere, land, or water; e.g., exposure can come from leaching, evaporation, or surface contact. This includes such articles as plastic containers, chemically treated textiles, printed paper, coated appliances, etc. If the chemical itself is sold in a bottle or other container it should be reported under "Chemical substance or mixture," not as an article. Only the container itself is an article for purposes of this form; the substance it contains is not a component of an article.

In item 2g, report the quantity of chemical substance that you export directly either as the chemical or contained in mixtures or articles.

In item 2h, report the quantity of chemical substance that you react to make products that do not contain the chemical substance itself.

Item 3 – List the quantity of chemical substance that you process in each of the following process categories.

Enclosed process – The process is designed and operated so that there is no intentional release of the chemical. In this process category, only fugitive or inadvertent releases occur, and special measures are taken to prevent worker exposure and environmental contamination. "Special measures" refer to procedures and equipment that are monitored and used to prevent worker exposure, and scrubbers and other recovery equipment employed to prevent environmental release. Equipment with emergency pressure relief venting would be allowed in this category; routine venting would not.

Controlled release process – The process is operated in a controlled manner to minimize release of the chemical into the workplace. Releases should generally be within prescribed limits. These limits may be dictated by government regulations or by company guidelines. If the chemical is vented outside the plant, the process is a "controlled release" process. Do not count general space ventilation fans.

Open process – The chemical is routinely in direct contact with the atmosphere (workplace or outside the plant) and no measures are taken to prevent release. For example, reaction vessels are open vats, the chemical is transported or stored in open containers, or the chemical is freely vented into the workplace atmosphere.

IMPORTANT: Before completing this form, please read the accompanying instructions carefully.

EPA U.S. ENVIRONMENTAL PROTECTION AGENCY
401 M Street, S.W.
Washington, D.C. 20460

PROCESSOR'S FOLLOW-UP REPORT
PRELIMINARY ASSESSMENT INFORMATION

This information is required under the authority of Section 8(a), Toxic Substances Control Act, 15 U.S.C. 2607.

When completed send this form to:
Document Control Officer
Office of Pesticides and Toxic Substances
U.S.E.P.A.
P.O. Box 2080
Rockville, Md. 20852

CONTROL NUMBER

PERIOD COVERED
FROM: Mo. | Yr. | TO: Mo. | Yr.

Section I — CERTIFICATION

TECHNICAL CERTIFICATION STATEMENT

I hereby certify that, to the best of my knowledge and belief, all information entered on this form is complete and accurate. I agree to permit access to, and the copying of records by, a duly authorized representative of the EPA Administrator, in accordance with the Toxic Substances Control Act, to document any information reported here.

Signature | Date

Name and title — *Please print or type*

CONCERNING EPA DISCLOSURE OF INFORMATION

Any person who submits information to EPA under the Preliminary Assessment Information Rule (40 CFR 712) should be aware of EPA regulations (40 CFR Part 2) which govern disclosure of such information. Those regulations provide that such person may, if he or she desires, assert a confidentiality claim covering part or all of the information submitted. Information covered by such a claim will be publicly disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR Part 2. However, if no such claim accompanies the information when it is received, EPA may make that information public without notifying the submitter.

CONFIDENTIALITY STATEMENTS

Information disclosed to EPA on this form may be claimed confidential by marking the appropriate boxes below. The person signing the Confidentiality Certification Statement attests to the truth of the following four statements concerning all information that is claimed confidential. Note that chemical substance identity may not be claimed confidential for this rule.

1. My company has taken measures to protect the confidentiality of the information, and it intends to continue to take such measures.
2. The information is not, and has not been, reasonably obtainable without our consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding).
3. The information is not publicly available elsewhere.
4. Disclosure of the information would cause substantial harm to our competitive position.

CONFIDENTIALITY CERTIFICATION STATEMENT

I hereby certify that the Confidentiality Statements on this form are true as to that information below for which I have asserted a confidentiality claim.

Signature | Date

Name and title — *Please print or type*

Section II — CHEMICAL IDENTIFICATION

Name under which chemical was purchased →

Section III — RESPONDENT IDENTIFICATION

☐ *MARK THIS BOX TO CLAIM THIS SECTION CONFIDENTIAL*

Part A — Plant Site — Physical location

Name
Number and street
City
County
State | ZIP code
Dun and Bradstreet number
| | | – | | | | | – | | | | |

Part B — Mailing Address of:

☐ Corporate Headquarters ☐ Plant Site

Name
Number and street
City
State | ZIP code
Dun and Bradstreet number (for corporate headquarters only)
| | | – | | | | | – | | | | |

Part C — Technical Contact

Name and title
Telephone *(Area code/number)*
☐ At headquarters
☐ At plant site

Part D — Acknowledgement

EPA will send acknowledgement to – *Name and title*

Section IV — PROCESSING ACTIVITIES

NOTE Mark the box to the left of any item below to claim the answer to the item as confidential. Report all quantities in kilograms (1 kilogram = 2.2 pounds). Enter N/A for any item that does not apply to you; do not leave any blanks. Report your best estimates from readily obtainable data.

☐ 1. Total quantity of bulk chemical obtained for processing → kg

☐ 2. Quantity of the chemical processed for —

INDUSTRIAL PRODUCTS (domestic)	a. Chemical or mixture	kg	**CONSUMER PRODUCTS (domestic)**	d. Chemical or mixture	kg
	b. Article with some release	kg		e. Article with some release	kg
	c. Article with no release	kg		f. Article with no release	kg

g. Products for export → kg

h. Quantity of chemical consumed as reactant → kg

☐ 3. Quantity of the chemical processed in —

a. Enclosed process kg | b. Controlled release kg | c. Open process kg

EPA Form 7710-35a
BILLING CODE 6560-50-C

§ 712.50 Chemical list and reporting periods.

(a) *Subject chemical substances.* A Preliminary Assessment Information Processor's Report must be submitted by the deadline specified for each chemical substance listed below. The reporting period for each chemical is the 12-month period for which manufacturers provided incomplete information.

(b) [Reserved].

[FR Doc. 82-15957 Filed 6-21-82: 8:45 am]
BILLING CODE 6560-50-M

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federal register

Tuesday
June 22, 1982

Part IV

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

June 1, 1982.

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of June 1, 1982 of twenty-six rescission proposals and 243 deferrals contained in the first twelve messages of FY 1982. These messages were transmitted to the Congress on October 1, 20, 23, and 29, and November 6, and 13, 1981, January 22, February 8, and 19, March 18, April 23, and May 18, 1982.

Rescissions (Table A and Attachment A)

Twenty-four rescission proposals totaling $7,488.8 million are currently pending before the Congress. Table A summarizes the status of rescissions proposed by the President as of June 1, 1982 while Attachment A shows the history and status of each rescission proposed during FY 1982.

Deferrals (Table B and Attachment B)

As of June 1, 1982, $2,789.5 million in 1982 budget authority was being deferred from obligation and another $5.1 million in 1982 obligations was being deferred from expenditure. Attachment B shows the history and status of each deferral reported during FY 1982.

Information From Special Messages

The special messages containing information on the rescissions and the deferrals covered by the cumulative report are printed in the **Federal Register** of:

Vol. 46, No. 194, FR p. 49793, Wednesday, October 7, 1981
Vol. 46, No. 206, FR p. 52289, Monday, October 26, 1981
Vol. 46, No. 210, FR p. 54259, Friday, October 30, 1981
Vol. 46, No. 212, FR p. 54891, Tuesday, November 3, 1981
Vol. 46, No. 218, FR p. 55905, Thursday, November 12, 1981
Vol. 46, No. 223, FR p. 57019, Thursday, November 19, 1981
Vol. 47, No. 18, FR p. 4021, Wednesday, January 27, 1982
Vol. 47, No. 28, FR p. 6193, Wednesday, February 10, 1982
Vol. 47, No. 37, FR p. 8145, Wednesday, February 24, 1982
Vol. 47, No. 57, FR p. 12751, Wednesday, March 24, 1982
Vol. 47, No. 82, FR p. 18301, Wednesday, April 28, 1982
Vol. 47, No. 100, FR p. 22483, Monday May 24, 1982

David A. Stockman,
Director.

BILLING CODE 3110-01-M

TABLE A

STATUS OF 1982 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President	$ 7,577.0
Accepted by the Congress	-0-
Rejected by the Congress	88.2
Pending before the Congress	$ 7,488.8 a.

* *

TABLE B

STATUS OF 1982 DEFERRALS

	Amount (In millions of dollars)*
Deferrals proposed by the President	$ 7,980.3
Routine Executive releases (-$4.934.4 million) and adjustments ($43.1 million) through May 1, 1982	-4,891.3
Overturned by the Congress	-294.3
Currently before the Congress	$ 2,794.6 b.

a. This amount includes $20.5 million in FY 1983 funds (R82-3).

b. This amount includes $5.1 million in outlays for a Department of the Treasury deferral (D82-23A).

* Detail does not add to total due to rounding.

Attachments

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1982 AS OF 06/07/82 11:43

AS OF JUNE 1, 1982 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
FUNDS APPROPRIATED TO THE PRESIDENT							
International Development Assistance							
Functional development assistance program BA	R82- 4		8,129	2 8 82		8,129*	4 23 82
Sahel development program BA	R82- 5		2,500	2 8 82		2,500*	4 23 82
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL BA			10,629			10,629	
DEPARTMENT OF AGRICULTURE							
Extension Service							
Extension service BA	R82- 6		2,000	2 8 82		2,000*	4 26 82
DEPARTMENT OF AGRICULTURE TOTAL BA			2,000			2,000	
DEPARTMENT OF COMMERCE							
National Oceanic and Atmospheric Administration							
Coastal zone management BA	R82- 7		12,000	2 8 82		12,000*	4 26 82
Coastal energy impact fund BA	R82- 8		7,000	2 8 82		7,000*	4 26 82
DEPARTMENT OF COMMERCE TOTAL BA			19,000			19,000	
DEPARTMENT OF DEFENSE - MILITARY							
Procurement							
Aircraft procurement, Air Force BA	R82- 1	65,700		10 23 81		65,700	12 14 81
Missile procurement, Air Force BA	R82- 2	22,500		10 23 81		22,500	12 14 81
DEPARTMENT OF DEFENSE - MILITARY TOTAL BA		88,200				88,200	
DEPARTMENT OF EDUCATION							
Office of Elementary and Secondary Education							
Compensatory education for the disadvantaged BA	R82- 9		411,933	2 8 82		411,933*	4 26 82
Special programs and populations BA	R82-10		65,600	2 8 82		65,600*	4 26 82
Indian education BA	R82-11		6,255	2 8 82		6,255*	4 26 82
Office of Special Education and Rehab. Services							
Education for the handicapped BA	R82-12		258,572	2 8 82		258,572*	4 26 82

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1982 AS OF 06/07/82 11:43

AS OF JUNE 1, 1982 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
Rehabilitation services and handicapped research							
BA	R82-13		91,171	2 8 82		91,171*	4 26 82
Office of Vocational and Adult Education							
Vocational and adult education							
BA	R82-14		105,741	2 8 82		105,741*	4 26 82
Office of Postsecondary Education							
Student financial assistance							
BA	R82-15		141,500	2 8 82		141,500*	4 26 82
Higher and continuing education							
BA	R82-16		42,739	2 8 82		42,739*	4 26 82
Office of Educational Research and Improvement							
Libraries							
BA	R82-17		22,110	2 8 82		22,110*	4 26 82
Departmental management							
Educ. res. & train. overseas (spec. for. curr.)							
BA	R82-18		80	2 8 82		80*	4 26 82
Office of Bilingual Educ. & Minority Lang. Affairs							
Bilingual education							
BA	R82-19		11,504	2 8 82		11,504*	4 26 82
DEPARTMENT OF EDUCATION TOTAL BA			1,157,205			1,157,205	
DEPARTMENT OF ENERGY							
Energy Programs							
Energy conservation							
BA	R82-20		20,000	2 8 82		20,000*	4 26 82
DEPARTMENT OF ENERGY TOTAL BA			20,000			20,000	
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT							
Housing Programs							
Subsidized housing programs							
BA	R82-21		9,399,789	2 8 82		5,999,789*	4 26 82
BA	R82-21A		-3,400,000	4 23 82			
Solar Energy and Energy Conservation Bank							
Assistance for solar and conserv. improvements							
BA	R82-22		21,850	2 8 82		21,850*	4 26 82
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TOTAL BA			6,021,639			6,021,639	
DEPARTMENT OF LABOR							
Mine Safety and Health Administration							
Salaries and expenses							
BA	R82-23		4,095	2 8 82		2,095*	4 26 82
BA	R82-23A		-2,000	2 19 82			
DEPARTMENT OF LABOR TOTAL BA			2,095			2,095	

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1982 AS OF 06/07/82 11:43

AS OF JUNE 1, 1982 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
DEPARTMENT OF TRANSPORTATION							
Federal Highway Administration							
Highway-related safety grants BA	R82-24		9,623	2 8 82		9,623*	4 26 82
DEPARTMENT OF TRANSPORTATION TOTAL BA			9,623			9,623	
OTHER INDEPENDENT AGENCIES							
Corporation for Public Broadcasting							
Public broadcasting fund BA	R82- 3		20,500a	11 6 81			
National Foundation on the Arts and Humanities							
Institute of Museum Services: Program operations BA	R82-25		10,877	2 8 82		10,877*	4 26 82
Postal Service							
Payment to the Postal Service Fund BA	R82-2#		215,230	3 18 82			
OTHER INDEPENDENT AGENCIES TOTAL BA			246,607			10,877	
TOTAL BA		88,200	7,488,798			7,341,268	

* This item is still under consideration by the Congress, but the amounts were made available upon expiration of the 45-day clock.

a. This is a proposal to rescind FY 1983 funds.

END OF REPORT

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 06/07/82 10:40

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE		DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 6-1-82
EXECUTIVE OFFICE OF THE PRESIDENT										
White House Office										
Salaries and Expenses	BA	D82- 27	366			10 20 81	-366			
Special Assistance to the President										
Salaries and Expenses	BA	D82- 28	28			10 20 81	-28			
Council of Economic Advisers										
Salaries and Expenses	BA	D82- 86	32			10 23 81	-32			
Council on Envir. Quality & Office of Envir. Qual.										
Salaries and Expenses	BA	D82- 29	9			10 20 81	-9			
Office of Policy Development										
Salaries and Expenses	BA	D82- 30	45			10 20 81	-45			
National Security Council										
Salaries and Expenses	BA	D82- 31	62			10 20 81	-62			
Office of Administration										
Salaries and expenses	BA	D82- 32	139			10 20 81	-139			
OMB, Office of Fed. Procurement Policy										
Salaries and expenses	BA	D82- 33	24			10 20 81	-24			
Office of Science and Technology Policy										
Salaries and expenses	BA	D82- 34	30			10 20 81	-30			
Office of the U.S. Trade Representative										
Salaries and expenses	BA	D82- 35	78			10 20 81	-78			
EXECUTIVE OFFICE OF THE PRESIDENT TOTAL BA			813				-813			
FUNDS APPROPRIATED TO THE PRESIDENT										
Appalachian Regional Development Programs										
Appalachian regional development programs	BA	D82- 1	15,000			10 1 81				
	BA	D82- 1A			a	1 22 82				
	BA	D82- 1B			a	2 8 82				15,000
Disaster Relief										
Disaster relief	BA	D82-158	7,000			10 28 81	-7,000			
	BA	D82-159	138,000			10 29 81	-138,000			
International Security Assistance										
Foreign military credit sales	BA	D82-222	680,000			2 8 82	-680,000			
Economic support fund	BA	D82-219	1,756,980			1 22 82	-1,674,230			82,750
Military assistance	BA	D82-223	129,512			2 8 82	-97,000			32,512
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL BA			2,726,492				-2,596,230			130,262
DEPARTMENT OF AGRICULTURE										
Office of the Secretary										
Office of the Secretary	BA	D82-160	29			10 28 81	-29			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 06/07/82 10:40

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 6-1-82
Agricultural Research Service								
Agricultural research service	BA D82-161	1,813		10 29 81	-1,813			
Cooperative State Research Service								
Cooperative state research service	BA D82-162	2,790		10 29 81	-2,790			
Extension Service								
Extension service	BA D82-163	1,990		10 29 81	-1,990			
National Agricultural Library								
National agricultural library	BA D82-164	93		10 29 81	-93			
Statistical Reporting Service								
Statistical reporting service	BA D82-165	198		10 29 81	-198			
Agricultural Cooperative Service								
Agricultural cooperative service	BA D82-166	39		10 29 81	-39			
Office of Internat. Cooperation and Development								
Scientific activities overseas	BA D82-167	700		10 29 81	-700			
Rural Electrification Administration								
Rural electr. and telephone revolving fund	BA D82-169	49,368b		10 29 81	-49,368			
Foreign Assistance Programs								
Expenses, P.L. 480	BA D82- 36	25,696		10 20 81	-25,696			
Agricultural Stabilization & Conservation Service								
Dairy and beekeeper indemnity programs	BA D82- 86	28		10 23 81	-28			
Agricultural conservation	BA D82- 87	8,600		10 23 81	-8,600			
Emergency conservation program	BA D82-168	1,400		10 29 81	-1,400			
Farmers Home Administration								
Salaries and expenses	BA D82-171	526		10 29 81	-526			
Rural housing for domestic farm labor	BA D82-173	1,750		10 29 81	-1,750			
	BA D82-224	10,728		2 8 82			10,728	
Mutual and self-help housing	BA D82-174	490		10 29 81	-490			
Rural water and waste disposal	BA D82-170	8,680		10 29 81	-8,680			
Rural community fire protection grants	BA D82-172	490		10 29 81	-490			
Agricultural credit insurance fund	BA D82-175	1,316		10 29 81	-1,316			
Rural development insurance fund	BA D82-176	21,000		10 29 81	-21,000			
Soil Conservation Sevice								
Watershed and flood prevention operations	BA D82- 89	8,926		10 23 81	-8,926			
Animal and Plant Health Inspection Service								
Animal and plant health inspection service	BA D82- 90	4,125		10 23 81	-4,125			
Buildings and facilities	BA D82-177	236		10 29 81	-236			
Agricultural Marketing Service								
Payments to States and possessions	BA D82-178	210		10 29 81	-210			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 06/07/82 TO: [illegible]

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 6-1-82
Food and Nutrition Service									
Food program administration	BA	D82-209	487		11 6 81	-487			
Child nutrition programs	BA	D82-210	472		11 6 81	-472			
Special supplemental food programs (WIC)	BA	D82-211	13,831		11 6 81	-13,831			
Forest Service									
State and private forestry	BA	D82- 92	776		10 23 81	-776			
	BA	D82-179	657		10 29 81	-657			
Agricultural research	BA	D82- 91	1,348		10 23 81	-1,348			
National forest system	BA	D82- 93	12,516		10 23 81	-12,516			
	BA	D82-180	1,059		10 29 81	-1,059			
Construction and land acquisition	BA	D82- 94	6,693		10 23 81	-6,693			
Timber salvage sales	BA	D82- 2	6,723		10 1 81				
	BA	D82- 2A		561	1 22 82				7,284
Rangeland improvements	BA	D82- 96	109		10 23 81	-109			
Acquisition of lands to complete land exchanges	BA	D82- 95	6		10 23 81	-6			
Expenses, brush disposal	BA	D82- 3	49,349		10 1 81			-948	
	BA	D82- 3A		a	4 23 82				48,401
DEPARTMENT OF AGRICULTURE TOTAL	BA		245,247	561		-178,447		-948	66,413
DEPARTMENT OF COMMERCE									
General Administration									
Participation in U.S. expositions	BA	D82- 4	507		10 1 81	-32			475
Bureau of the Census									
Periodic censuses and programs	BA	D82-225	1,015		2 8 82				
	BA	D82-225A		a	5 18 82				1,015
Economic and Statistical Analysis									
Salaries and expenses	BA	D82- 97	420		10 23 81	-420			
Economic Development Administration									
Economic development assistance programs	BA	D82- 98	38,855		10 23 81	-38,855			
Minority Business Development Agency									
Minority business development	BA	D82- 99	857		10 23 81	-857			
	BA	D82-226	5,000		2 8 82				
	BA	D82-226A		5,000	5 18 82				10,000
United States Travel Service									
Salaries and expenses	BA	D82-181	287		10 29 81	-287			
National Oceanic and Atmospheric Administration									
Operations, research, and facilities	BA	D82-100	12,891		10 23 81	-12,891			
Construction	BA	D82- 5	2,000		10 1 81				
	BA	D82- 5A		a	1 22 82				
	BA	D82- 5B		a	5 18 82				2,000
National Telecom. and Information Admin.									
Salaries and expenses	BA	D82-101	277		10 23 81	-277			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 06/07/82 10:40

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 6-1-82
DEPARTMENT OF COMMERCE									
TOTAL BA			62,109	5,000		-53,619			13,490
DEPARTMENT OF DEFENSE-MILITARY									
Procurement									
Shipbuilding and conversion, Navy									
	BA	D82-227	1,275,000		2 8 82				1,275,000
Military Construction									
Military construction, all services									
	BA	D82- 6	38,837		10 1 81				
	BA	D82- 6A		14,101	1 22 82				
	BA	D82- 6B		714,785	2 8 82	-521,174		39,510	286,059
Family Housing, Defense									
Family housing, Defense									
	BA	D82- 7	1,992		10 1 81	-1,992			
DEPARTMENT OF DEFENSE-MILITARY TOTAL BA			1,315,829	728,886		-523,166		39,510	1,561,059
DEPARTMENT OF DEFENSE-CIVIL									
Cemeterial Expenses, Army									
Salaries and expenses									
	BA	D82- 37	85		10 20 81	-85			
Corps of Engineers									
General investigations									
	BA	D82- 38	2,068		10 20 81	-2,068			
Construction, general									
	BA	D82- 39	14,284		10 20 81	-14,284			
General expenses									
	BA	D82- 40	370		10 20 81	-370			
Special recreation use fees									
	BA	D82- 41	59		10 20 81	-59			
Soldiers and Airmen s Home									
Operation and maintenance									
	BA	D82- 42	63		10 20 81	-63			
Wildlife Conservation, Military Reservations									
Wildlife conservation, all services									
	BA	D82- 8	897		10 1 81	-8		8	
	BA	D82- 8A		433	1 22 82	-22			1,008
DEPARTMENT OF DEFENSE-CIVIL TOTAL BA			17,826	433		-16,959		8	1,008
DEPARTMENT OF ENERGY									
Energy Programs									
Fossil energy R&D									
	BA	D82-105	14,769		10 23 81	-14,769			
	BA	D82-226	44,883		3 18 82		-44,883		
Fossil energy construction									
	BA	D82- 9	135,000		10 1 81		-135,000		
Gen. science & research-plant & capital									
	BA	D82-102	1,682		10 23 81	-1,682			
Energy supply R&D-operating expenses									
	BA	D82-103	49,393		10 23 81	-49,393			
	BA	D82-226	4,000		2 8 82				4,000
	BA	D82-226A		0	3 18 82				
Energy supply R&D-plant and capital equip.									
	BA	D82-104	11,949		10 23 81	-11,949			
Energy conservation									
	BA	D82-106	14,007		10 23 81	-14,007			
Strategic Petroleum Reserve									
	BA	D82- 10	8,000		10 1 81				
	BA	D82- 10A		52,960	2 8 82	-8,000			52,960

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Energy information administration									
	BA	D82-107	2,042		10 23 81	-2,042			
Economic regulation									
	BA	D82-108	2,436		10 23 81	-2,436			
Federal Energy Regulatory Commission									
	BA	D82-109	490		10 23 81	-490			
Geothermal resources development fund									
	BA	D82-110	18		10 23 81	-18			
	BA	0000							
DEPARTMENT OF ENERGY TOTAL BA			288,669	52,860		-104,786	-179,883		56,860
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Health Services Administration									
Health Services									
	BA	D82- 11	1,508		10 1 81				1,508
Indian health services									
	BA	D82-212	10,950		11 6 81	-10,950			
Centers for Disease Control									
Preventive Health Services									
	BA	D82-213	791		11 6 81	-791			
Alcohol, Drug Abuse & Mental Health Administration									
Construction & renovation, St. Elizabeths Hospital									
	BA	D82- 12	11,500		10 1 81				
	BA	D82- 12A		a	1 22 82				11,500
Office of Assistant Secretary for Health									
Health services management									
	BA	D82-214	1,142		11 6 81	-1,142			
Special foreign currency program									
	BA	D82- 13	7,000		10 1 81				
	BA	D82- 13A		a	1 22 82				7,000
Health Care Financing Administration									
Program management									
	BA	D82-215	420		11 6 81	-420			
Social Security Administration									
Refugee assistance									
	BA	D82- 43	10,000		10 20 81	-10,000			
Cuban and Haitian entrants, reception & process.									
	BA	D82- 44	4,900		10 20 81	-4,900			
	BA	D82- 44A		a	1 22 82				
Cuban and Haitian entrants, domestic asst.									
	BA	D82- 45	37,000		10 20 81				
	BA	D82- 45A		11,398	1 22 82	-48,398			
Limitation on administrative expenses									
	BA	D82-237	9,600		3 18 82				
	BA	D82-237A		a	5 18 82				9,600
Human Development Services									
Work incentives									
	BA	D82-216	10,523		11 6 81	-10,523			
DEPARTMENT OF HEALTH AND HUMAN SERVICES TOTAL BA			105,334	11,398		-87,124			29,608
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT									
Housing Programs									
Subsidized housing programs									
	BA	D82-182	79,218		10 29 81	-79,218			
Payments for operation of low income housing									
	BA	D82-183	102,452		10 29 81	-102,452			
Housing for the elderly or handicapped									
	BA	D82-111	14,294		10 23 81	-14,294			
Solar Energy and Energy Conserv. Bank									
Assist. for solar and conserv. improvements									
	BA	D82-184	3,500		10 29 81	-3,500			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 06/07/82 10:40

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 6-1-82
Community Planning and Development								
Community development support assistance								
BA	D82-112	61,589		10 23 81	-61,589			
Urban development action grants								
BA	D82-113	8,412		10 23 81	-8,412			
Rehabilitation loan fund								
BA	D82-185	26,959		10 29 81	-26,959			
Neighborhoods, Vol. Assoc. & Consumer Prot.								
Housing counseling assistance								
BA	D82- 46	207		10 20 81	-207			
Policy Development and Research								
Research and technology								
BA	D82- 47	420		10 20 81	-420			
Fair Housing and Equal Opportunity								
Fair housing assistance								
BA	D82- 48	[illegible]		10 20 81	[illegible]			
Management and Administration								
Salaries and expenses								
BA	D82-186	3,590		10 29 81	-3,590			
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TOTAL BA		300,737			-300,737			
DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Acquisition, construction and maintenance								
BA	D82- 49	121		10 20 81	-121			
Range improvements								
BA	D82-114	237		10 23 81	-237			
Bureau of Reclamation								
Loan program								
BA	D82-115	792		10 23 81	-792			
Construction program								
BA	D82-116	4,603		10 23 81	-4,603			
General investigations								
BA	D82-117	944		10 23 81	-944			
Operations and maintenance								
BA	D82-118	64		10 23 81	-64			
General administrative expenses								
BA	D82-119	353		10 23 81	-353			
Office of Water Research & Technology								
Salaries and expenses								
BA	D82-120	[illegible]		10 23 81	-600			
U.S. Fish and Wildlife Service								
Resource management								
BA	D82-121	5,815		10 23 81	-5,815			
Construction and anadromous fish								
BA	D82- 50	392		10 20 81	-392			
National Park Service								
Urban park and recreation grants								
BA	D82-125	1,400		10 23 81	-1,400			
BA	D82-238	[illegible]		3 18 82		[illegible]		
Operation of the National Park Service								
BA	D82-122	5,216		10 23 81	-5,216			
John F. Kennedy Center for the Performing Arts								
BA	D82-124	[illegible]		10 23 81	-40			
Construction								
BA	D82-123	5,207		10 23 81	-5,207			
Land and water conservation fund								
BA	D82-126	16,256		10 23 81	-16,256			
BA	D82- 14	[illegible]		10 1 81				
BA	D82- 14A		a	2 8 82		30,000		
BA	D82-239	2,821		3 18 82		2,821		

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 06/07/82 10:40

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 6-1-82
Historic preservation fund								
BA	D82-218	108		11 13 81	-108			
BA	D82-240	781		3 18 82				781
Geological Survey								
Surveys, investigations and research								
BA	D82- 51	9,019		10 20 81	-9,019			
Exploration of National Petroleum Res. in Alaska								
BA	D82- 52	80		10 20 81	-80			
Payments from proceeds, sale of water								
BA	D82- 15	45		10 1 81				45
Office of Surface Mining Reclam. and Enforcement								
Regulation and technology								
BA	D82- 53	1,245		10 20 81	-1,245			
Bureau of Mines								
Drainage of anthracite mines								
BA	D82- 16	881		10 1 81				
BA	D82- 16A			2 8 82				881
Mines and minerals								
BA	D82- 54	2,600		10 20 81	-2,600			
Bureau of Indian Affairs								
Operation of Indian programs								
BA	D82-127	16,607		10 23 81	-16,607			
Construction								
BA	D82-128	148		10 23 81	-148			
Road construction								
BA	D82-129	279		10 23 81	-279			
Office of Territorial Affairs								
Administration of territories								
BA	D82- 55	2,439		10 20 81	-2,439			
Trust territory of the Pacific Islands								
BA	D82- 56	2,068		10 20 81	-2,068			
Office of the Solicitor and Office of the Secy								
Departmental management								
BA	D82-130	414		10 23 81	-414			
Youth conservation corps								
BA	D82-131	2,494		10 23 81	-2,494			
DEPARTMENT OF THE INTERIOR								
TOTAL BA		115,037			-79,541			35,496
DEPARTMENT OF JUSTICE								
General Administration								
Salaries and expenses								
BA	D82-187	250		10 29 81	-250			
BA	D82-188	196		10 29 81	-196			
United States Parole Commission								
Salaries and expenses								
BA	D82-189	60		10 29 81	-60			
Legal Activities								
Salaries and expenses, Antitrust Division								
BA	D82-190	81		10 29 81	-81			
Salaries and expenses, Foreign Claims Settl.								
BA	D82-191	12		10 29 81	-12			
Federal Prison System								
Buildings and facilities								
BA	D82-192	1,922		10 29 81	-1,922			
BA	D82- 17	2,700		10 1 81				
BA	D82- 17A		a	2 8 82				
BA	D82- 17B		a	5 18 82				2,700
Office of Justice Assist., Res., and Statistics								
Law enforcement assistance								
BA	D82-193	10,729		10 29 81	-10,729			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 — AS OF 06/07/82 10:40

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DEPARTMENT OF JUSTICE									
TOTAL	BA		15,950			-13,250			2,700
DEPARTMENT OF LABOR									
Employment and Training Administration									
Employment and training assistance									
	BA	D82-194	407,670		10 29 81	-407,670			
	BA	D82-229	88,543		2 8 82				88,543
	BA	D82- 18	49,881		10 1 81	-49,881			
Occupational Safety and Health Admin.									
Salaries and expenses									
	BA	D82-185	8,500		10 29 81	-8,500			
DEPARTMENT OF LABOR									
TOTAL	BA		554,594			-466,051			88,543
DEPARTMENT OF STATE									
Administration of Foreign Affairs									
Emergencies in dipl. and consular service									
	BA	D82- 58	84		10 20 81	-84			
Acquis., oper. and main. of buildings abroad									
	BA	D82- 57	514		10 20 81	-514			
International Commissions									
Salaries and expenses									
	BA	D82- 59	80		10 20 81	-80			
Construction									
	BA	D82- 60	20		10 20 81	-20			
American sections, internat. commissions									
	BA	D82- 61	25		10 20 81	-25			
Other									
Emergency refugee and migration assistance fund									
	BA	D82- 19	35,043		10 1 81				
	BA	D82- 19A		100	1 22 82				35,143
Migration and refugee assistance									
	BA	D82-241	40,000		4 23 82				40,000
	BA	D82-242	10,000		4 23 82				10,000
U.S. bilateral science and technology agreements									
	BA	D82-230	1,000		2 8 82				
	BA	D82-230A		1,000	4 23 82				2,000
DEPARTMENT OF STATE									
TOTAL	BA		86,766	1,100		-723			87,143
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Civil supersonic aircraft development termination									
	BA	D82- 20	3,446		10 1 81	-3,400			46
Facilities & equip. (Airport & airway trust fund)									
	BA	D82- 21	185,783		10 1 81				
	BA	D82- 21A		164,730	1 22 82				350,513
Federal Railroad Administration									
Commuter rail transfer									
	BA	D82-243	37,500		4 23 82				37,500
Grants to National Railroad Passenger Corp.									
	BA	D82-217	93,400		11 6 81	-12,740	-80,660		
Maritime Administration									
Ship construction									
	BA	D82-231	10,000		2 8 82				10,000
Research and Special Programs Administration									
Research and special programs									
	BA	D82-220	1,050		1 22 82				1,050
DEPARTMENT OF TRANSPORTATION									
TOTAL	BA		331,179	164,730		-16,140	-80,660		399,109

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 06/07/82 10:40

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DEPARTMENT OF THE TREASURY									
Office of the Secretary									
International affairs	BA	D82-196	109		10 29 81	-109			
Office of Revenue Sharing									
Salaries and expenses	BA	D82-197	26		10 29 81	-26			
State and local government fiscal assistance fund	BA	D82- 22	109,738		10 1 81	-6,939		[illegible]	103,475
	O	D82- 23	6,287		10 1 81				
	O	D82- 23A		14,635	3 18 82	-19,750		3,937	5,109
Federal Law Enforcement Training Center									
Construction	BA	D82- 24	4,200		10 1 81				4,200
Salaries and expenses	BA	D82-198	240		10 29 81	-240			
Bureau of Government Financial Operations									
New York City loan guarantee program	BA	D82-199	16		10 29 81	-16			
Chrysler Corporation loan guarantee program	BA	D82-200	23		10 29 81	-23			
Bureau of Alcohol, Tobacco and Firearms									
Salaries and expenses	BA	D82-201	1,039		10 29 81	-1,039			
Bureau of the Mint									
Expansion and improvements	BA	D82-132	70c		10 23 81			-70	
Internal Revenue Service									
Payment where energy credit exceeds liab. for tax	BA	D82-202	8		10 29 81	-8			
DEPARTMENT OF THE TREASURY TOTAL BA			115,469			-8,400		[illegible]	107,675
DEPARTMENT OF THE TREASURY TOTAL O			6,287	14,635		-19,750		3,937	5,109
ENVIRONMENTAL PROTECTION AGENCY									
Research and development	BA	D82-133	1,889		10 23 81	-1,889			
Abatement, control and compliance	BA	D82-134	8,062		10 23 81	-8,062			
Buildings and facilities	BA	D82-135	69		10 23 81	-69			
Hazardous substance response trust fund	BA	D82-136	3,360		10 23 81	-3,360			
	BA	0000							
ENVIRONMENTAL PROTECTION AGENCY TOTAL BA			13,380			-13,380			
NATIONAL AERONAUTICS & SPACE ADMINISTRATION									
Construction of facilities	BA	D82-137	2,800		10 23 81	-2,800			
	BA	0000							
NATIONAL AERONAUTICS & SPACE ADMINISTRATION TOTAL BA			2,800			-2,800			

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VETERANS ADMINISTRATION									
Medical and prosthetic research	BA	D82-138	2,503		10 23 81	-2,503			
Medical admin. and misc. operating expenses	BA	D82-139	921		10 23 81	-921			
Construction, major projects	BA	D82-140	91,300		10 23 81		-33,800		57,500
	BA	D82-141	7,877		10 23 81	-7,877			
Construction, minor projects	BA	D82-142	907		10 23 81	-907			
	BA	0000							
VETERANS ADMINISTRATION TOTAL	BA		103,588			-12,288	-33,800		57,500
OTHER INDEPENDENT AGENCIES									
ACTION									
Operating expenses, domestic programs	BA	D82- 62	2,896		10 20 81	-2,896			
Administrative Conference of the U. S.									
Salaries and expenses	BA	D82-143	16		10 23 81	-16			
Advisory Committee on Federal Pay									
Salaries and expenses	BA	D82-144	4		10 23 81	-4			
Arms Control and Disarmament Agency									
Arms control and disarmament agency	BA	D82- 63	282		10 20 81	-282			
Board for International Broadcasting									
Salaries and expenses	BA	D82- 64	252		10 20 81	-252			
Comm. for the Purchase From the Blind									
Salaries and expenses	BA	D82- 65	10		10 20 81	-10			
District of Columbia									
Loans for capital outlay	BA	D82-232	38,832		2 8 82				38,832
Equal Employment Opportunity Commission									
Salaries and expenses	BA	D82-145	3,000		10 23 81	-3,000			
Federal Emergency Management Agency									
State and local assistance	BA	D82-205	1,814		10 29 81	-1,814			
National Flood Insurance Fund	BA	D82-203	7,140		10 29 81	-7,140			
	BA	D82-204	358,860		10 29 81	-358,860			
General Services Administration									
Consumer information center	BA	D82- 68	26		10 20 81	-26			
Nat. Archives & Records Service-operating	BA	D82- 66	140		10 20 81	-140			
Federal Property Resources Service-operating	BA	D82- 67	748		10 20 81	-748			
Automated Data & Telecom. Service-operating	BA	D82-206	120		10 29 81	-120			
Advisory Commission on Intergovt. Relations									
Salaries and expenses	BA	D82- 69	10		10 20 81	-10			
Delaware River Basin Commission									
Salaries and expenses	BA	D82- 70	2		10 20 81	-2			

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Contribution to the Bel. River Basin Comm.								
BA	D82- 71	4		10 20 81	-4			
Interstate Commission on the Potomac River Basin.								
Contrib. to Interst. Comm. on Potomac Riv. Basin								
BA	D82- 72	1		10 20 81	-1			
Susquehanna River Basin Commission								
Salaries and expenses								
BA	D82- 73	1		10 20 81	-1			
Contrib. to the Susquehanna River Basin Comm.								
BA	D82- 74	1		10 20 81	-1			
International Communication Agency								
Salaries & expenses								
BA	D82- 75	4,680		10 20 81	-4,680			
Center for cul. and tech. exch. bet. east & west								
BA	D82- 76	125		10 20 81	-125			
Interstate Commerce Commission								
Salaries and expenses								
BA	D82-146	648		10 23 81	-648			
Japan-U.S. Friendship Commission								
Japan-U.S. Friendship Commission trust fund								
BA	D82- 77	34		10 20 81	-34			
Marine Mammal Commission								
Salaries and expenses								
BA	D82- 78	11		10 20 81	-11			
National Capital Planning Commission								
Salaries and expenses								
BA	D82-207	19		10 29 81	-19			
National Foundation on the Arts & Humanities								
Nat. endowment for the arts: sal. & expenses								
BA	D82-147	11,208		10 23 81	-11,208			
Nat. endowment for the human.: sal. and expenses								
BA	D82-208	5,892		10 29 81	-5,892			
Nat. endowment for the human.: matching grants								
BA	D82-148	2,628		10 23 81	-2,628			
National Mediation Board								
Salaries and expenses								
BA	D82- 79	58		10 20 81	-58			
National Science Foundation								
Research and related activities								
BA	D82- 80	19,924		10 20 81	-19,924			
Scientific activities overseas								
BA	D82- 81	59		10 20 81	-59			
Science and engineering educ. activities								
BA	D82- 82	2,623		10 20 81	-2,623			
Neighborhood Reinvestment Corporation								
Payment to Neighborhood Reinvest. Corp.								
BA	D82- 83	181		10 20 81	-181			
Pennsylvania Avenue Development Corporation								
Salaries and expenses								
BA	D82-149	15		10 23 81	-15			
Public development								
BA	D82-150	239		10 23 81	-239			
Land acquisition and development fund								
BA	D82-151	42		10 23 81	-42			
BA	D82- 25	30,696		10 1 81	-10,000			
BA	D82- 25A		a	2 8 82				20,696
Selective Service System								
Salaries and expenses								
BA	D82- 84	192		10 20 81	-192			

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Small Business Administration									
Salaries and expenses	BA	D82-152	3,137		10 23 81	-3,137			
Business loan and investment fund	BA	D82-233	2,500		2 8 82				
	BA	D82-233A		2,500	5 18 82				5,000
Surety bond guarantees revolving fund	BA	D82-154	373		10 23 81	-373			
	BA	D82-234	3,000		2 8 82				3,000
Lease guarantees revolving fund	BA	D82-153	67		10 23 81	-67			
Smithsonian Institution									
Museum programs and related research	BA	D82-155	231		10 23 81	-231			
Restoration and renovation of buildings	BA	D82-156	145		10 23 81	-145			
Motor Carrier Ratemaking Study Commission									
Salaries and Expenses	BA	D82- 26	150		10 1 81				150
Pres. Com. for the Study of Ethical Probs. in Med.									
Salaries and expenses	BA	D82-221	262		1 22 82				262
Tennessee Valley Authority									
Tennessee Valley Authority fund	BA	D82-157	2,321		10 23 81	-2,321			
United States Railway Association									
Payments for purchase of Conrail securities	BA	D82-235	84,500		2 8 82				84,500
Water Resources Council									
Water resources planning	BA	D82- 85	42		10 20 81	-42			
OTHER INDEPENDENT AGENCIES									
TOTAL	BA		590,361	2,500		-440,221			152,640
TOTAL	BA		6,991,880	967,468		-4,914,675	-294,343	39,176	2,789,506
TOTAL	O		6,287	14,635		-19,750		3,937	5,109

a. This report was transmitted solely to reflect technical adjustments to the previous report.

b. Off-budget.

c. This deferral was reported in error. Funds for this budget account were not withheld.

END OF REPORT

[FR Doc. 82-16843 Filed 6-21-82; 8:45 am]
BILLING CODE 3110-01-C

federal register

Tuesday
June 22, 1982

Part V

Department of Agriculture

Food and Nutrition Service

Food Stamp Program; Disqualification Penalties for Fraud and Misrepresentation, and Improved Recovery of Overpayments

FOOD AND NUTRITION SERVICE

7 CFR Parts 272, 273, and 276

Food Stamp Program; Disqualification Penalties for Fraud and Misrepresentation, and Improved Recovery of Overpayments

Note.—This document originally appeared in the Federal Register of Monday, June 21, 1982. It is reprinted in this issue to meet requirements for publication on the Tuesday/Friday schedule assigned to the Food and Nutrition Service.

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rulemaking.

SUMMARY: This rule contains proposed regulations for the Food Stamp Program to implement certain provisions of Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981, enacted on August 13, 1981. These provisions are aimed at deterring Food Stamp Program abuse, and improving recovery of overpayments. This rulemaking also proposes related changes based on recommendations and requests for clarification received from State agencies.

DATE: Comments on this proposed rulemaking must be received on or before August 20, 1982 to be assured of consideration.

ADDRESS: Comments should be submitted to Thomas O'Connor, Supervisor, Policy and Regulations Section, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia, 22302. All written comments will be open to public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday), at 3101 Park Center Drive, Alexandria, Virginia, Room 708.

FOR FURTHER INFORMATION CONTACT: Questions regarding this proposed rulemaking should be directed to Mr. O'Connor at the above address or by telephone at (703) 756–3429.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512–1, and has been classified "not major". The proposed rule will not have an annual effect on the economy of $100 million or more, nor is it likely to result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions. Because this proposed rule would not affect the business community, it would not result in significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rule has also been reviewed with regard to the requirements of Pub. L. 96–354, and the administrator of the Food and Nutrition Service has certified that the proposal does not have a significant economic impact on a substantial number of small entities. The proposal would implement those provisions of Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981, aimed at deterring Food Stamp Program abuse and improving recovery of overpayments. State and local welfare agencies would be affected to the extent that they administer the Program. Those most affected would be individuals participating in the Program who are found to have committed intentional misrepresentation or fraud, and households which received an overissuance.

Note.—In accordance with the Paperwork Reduction Act of 1980, (44 U.S.C. 3507), the reporting and recordkeeping provisions that are included in this proposed rule will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained.

Background

The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35, enacted on August 13, 1981) amended the Food Stamp Act of 1977 in numerous ways. This rulemaking contains proposed regulations implementing the provisions of the Reconciliation Act relating to the disqualification penalties for misrepresentation or fraud, and the improved recovery of overpayments. The Department issued interim final regulations on September 4, 1981 (at 46 FR 4471) implementing those provisions of the Reconciliation Act aimed at restraining the growth of the Food Stamp Program. Other provisions of the Reconciliation Act, those regarding a mandatory monthly reporting and retrospective accounting system, and a block grant program in the Commonwealth of Puerto Rico, are being addressed in separate rules.

This proposed rulemaking would implement the following provisions of the Reconciliation Act relating to the disqualification penalties for misrepresentation or fraud. First, the basis for disqualification is expanded by adding to the "fraud" offense the intentional making of false or misleading statements, misrepresentations, or the concealment or withholding of facts, as well as the commission of any act that constitutes a violation of any State food stamp statute. Second, the distinction in disqualification periods which may be imposed as a result of administrative hearings or court decisions is eliminated. Mandatory disqualification periods of 6 months for the first offense, 12 months for the second, and permanently for the third offense would be imposed against any individual found to have committed intentional misrepresentation or fraud, regardless of whether the determination was arrived at administratively or through a court of law. Third, State agencies are prohibited from increasing the benefits to the household of a disqualified person because of the disqualification. And fourth, the Department is required to promulgated regulations to ensure that information concerning disqualified individuals is forwarded to the Department.

This proposed rulemaking would also implement several statutory changes with regard to the improved recovery of overpayments. First, the provisions relating to repayment of fraudulent overissuances are expanded to include overissuances which occurred as a result of intentional misrepresentation. Second, the household of the disqualified individual, rather than the household member guilty of intentional misrepresentation or fraud, is held responsible for repaying the resultant overissuance and must agree to repayment in cash or to a reduction in its allotment. Third, State agencies are required to collect overissuances from those persons still participating in the Program by reducing future allotments in cases not the result of fraud, misrepresentation, or State agency error. Fourth, the amount by which State agencies can reduce the household's monthly allotment in the collection of overissuances not the result of fraud, misrepresentation, or State agency error is limited to 10 percent of the allotment or $10 per month, whichever would result in faster collection. And fifth, State agencies are allowed to retain 50 percent of the value of intentional misrepresentation claims collections and 25 percent of the value of the collection of claims not the result of fraud, misrepresentation, or State agency error.

I. Disqualification Penalties for Fraud and Misrepresentation

1. Income of Disqualified Persons

Under current Food Stamp Program regulations, the resources of a disqualified member continue to be counted in their entirety as available to

the household, and the income of the disqualified member is counted after a pro rata share (for the disqualified member) has been taken out. This policy has resulted in certain households receiving increased benefits when a household member is disqualified because the income which is not counted as available to the household may be substantial. The Omnibus Budget Reconciliation Act of 1981, however, prohibits any increase in benefits to the household of a person disqualified for intentional misrepresentation or fraud because of the disqualification. And, Congress has recommended that in addition to the existing regulatory language attempting to prohibited increases in household benefits due to the disqualification of a member for intentional misrepresentation or fraud, the Department should ". . . seriously consider attributing all of the income of the disqualified member to the household (with no pro rata share reduction), during the disqualification period." See S. Rep. No. 97-128, 97th Cong., 1st Sess., p. 57 (1981).

The Department considered two possible methods of preventing any participating household from receiving increased benefits when a member of the household has been disqualified for intentional misrepresentation or fraud. The first alternative considered was to count all of the disqualified member's income as available to the household, and to apply a penalty deduction to the household's allotment, such as a pro-rata or flat percentage reduction for the disqualified member(s). The second alternative considered was to count all of the disqualified member's income as available to the household, but to exclude the disqualified member(s) when determining the household's size for assigning a benefit level to the household, or for comparing the household's monthly income with the income eligibility standards.

The proposed regulations would incorporate the second alternative, which counts all of the disqualified member's income but excludes the disqualified member when determining the household's size. The household's size would be reduced according to the number of persons disqualified, and the household's eligibility and allotment level would be determined by applying that adjusted size and the household's income figures to the appropriate tables. For example, if the allotment of a four person household with a gross monthly income of $725 and a net monthly income of $478 was $90 per month, the disqualification of one person would result in a monthly allotment of $40 for the remaining household members. The disqualification of two persons from that same household would result in ineligibility for the two remaining household members.

Although both of the alternatives considered would effectively prevent any household from receiving increased benefits because of the disqualification of a household member, the Department believes that the proposed method is the most likely to deter future Program abuse. Since the household's size is reduced according to the number of disqualified members while all of the disqualified members' income is counted as available to the remaining household members, this method imposes a fairer penalty than the other possible alternatives considered. It is also the method which provides a more logical approach to the problem of ensuring that the household's benefit level is adjusted to reflect the disqualification of one or more household members. Since a recalculation of the household's monthly budget is needed, in most cases, to reflect the fraudulent activity which led to the disqualification, such as a household's failure to report a change in income, this method should not impose a burden on State agencies. And, the adoption of a method which involves the use of current procedures, rather than the introduction of a new procedure, would avoid increasing the administrative complexity of the Program. (See 7 CFR 273.11(c)).

2. Basis for Disqualification

In the current Food Stamp Program, an individual found to have committed fraud through an administrative hearing or by a court of appropriate jurisdiction is disqualified from Program participation for a specified period of time. The Food Stamp Program's regulations provide a definition of fraud to assist State agencies in determining through an administrative hearing whether or not fraud was committed. This definition identifies fraud as the commission of any action by an individual to knowingly, willfully and with deceitful intent obtain benefits to which the household is entitled. And, specifically mentioned as fraudulent actions under the definition are: making a false statement, concealing information, altering an ATP, using coupons to buy expensive or conspicuous nonfood items, using or possessing improperly obtained coupons or ATPs, or trading or selling coupons or ATPs.

The Omnibus Budget Reconciliation Act of 1981 expands the basis for "fraud" disqualifications in two ways. First, intentionally making false or misleading statements, or misrepresenting concealing or withholding facts is added as a distinct category of offense for which an individual can be disqualified. Second, the commission of any act that constitutes a violation of any State statute relating to the use of food stamps is added to the Food Stamp Act's existing category of offenses involving fraudulent actions.

The proposed rule would incorporate these statutory changes in the basis for disqualification by revising the current definition of fraud and adopting an additional definition of misrepresentation. The proposed rule would also replace the word "fraud" with "misrepresentation of fraud" wherever it occurs in the Program's fraud disqualification regulations at 7 CFR 273.16. Congress expanded the basis for disqualification in order to encourage the use of administrative fraud hearings, rather than prosecution by a court of law, for determining whether or not Program abuse has occurred. State agencies have been reluctant to pursue administrative fraud hearings in the past because they view findings of fraud to be under the jurisdiction of the legal system. The additional category of misrepresentation should encourage State agencies to pursue more cases of suspected Program abuse through administrative hearings because they would no longer have to prove fraud per se, but only intentional misrepresentation by the household. (See 7 CFR 273.16 (c) and (d)).

3. Disqualification Penalties

Current regulations mandate disqualification periods of three months for persons found to have committed fraud through an administrative hearing, and six to 24 months for persons found to have committed fraud by a court of appropriate jurisdiction. The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) eliminates the distinction in disqualification periods between determinations of fraud arrived at through administrative hearings and court decisions, and increases the penalties for those found to have abused the Program. Section 112 of Pub. L. 97-35 amends section 6(b) of the Food Stamp Act of 1977 to require that any individual found to have committed fraud or misrepresentation in connection with the Food Stamp Program would be disqualified for six months for the first violation, 12 months for the second violation, and permanently for the third violation. The proposed rulemaking would, therefore, incorporate these statutory changes into the regulations

governing the Food Stamp Program. (See 7 CFR 273.16(b)).

4. Pursuit of Individual Cases

When the Department issued final regulations implementing certain segments of the 1980 Amendments to the Food Stamp Act of 1977 (Pub. L. 96–249) at 47 FR 17756, it decided to delay implementation of some previously proposed changes relating to claims processing. Action was delayed on these proposed changes to provide the Department an opportunity to reevaluate the issues involved in light of more recent legislation, the Omnibus Budget Reconciliation Act of 1981. One of these changes would have increased from $35 to $100 the level of alleged fraud cases which State agencies are required to handle through the fraud hearing system.

The proposed rulemaking would leave it to the State agency's discretion whether or not to pursue an individual case of alleged intentional misrepresentation or fraud. The Department has found that there exists differing State agency attitudes toward the handling of alleged Program violations and the merits of increasing the level for pursuit of such cases. In addition, there are a variety of factors that need to be considered when deciding whether to pursue an individual case, such as the amount involved, the quality of evidence available, and the cost of pursuing the case. Therefore, the Department has determined that it would be more appropriate for a State agency to decide whether to pursue cases of intentional misrepresentation or fraud on a case-by-case basis. (See 7 CFR 273.16(f)(1)).

5. Disqualification Hearings

The proposed rule would rename the administrative "fraud" hearing as an administrative "disqualification" hearing, and reorganize the provisions governing the conduct of such hearings. The change in name to disqualification hearings is necessary in order to clarify that these hearings would be the administrative mechanism for arriving at a determination that intentional misrepresentation has occurred as well as for their present use in determining if fraud has been committeed. The provisions governing the conduct of these administrative hearings have been slightly reorganzied to locate all of the procedures relating to local level hearings at the end of the section rather than scattered throughout. The purpose of this reorganization is to simplify this section of the regulations for the majority of State agencies which provide administrative hearings only at the State level.

The Department is proposing to eliminate the FNS-designed forms for notification of a local level hearing decision and advance notice of a scheduled State level hearing for appeal of a local level decision. These forms would be eliminated because the Department believes that the small number of State agencies (two) which provide administrative fraud hearings at the local level does not warrant the provision of model forms.

The Department is also proposing to provide State agencies the option of using the FNS-designed forms for advance notice of a scheduled State level hearing and notification of a State level hearing decision. State agencies are currently required to utilize the Form FNS–396, Advance Notice of Fraud Hearing, to provide notice of a scheduled State level hearing to the household member suspected of fraud. The Form FNS–394, Action Taken on Your Fraud Hearing (Notice of State Fraud Hearing Decision) is used to notify the household member of the hearing decision if the State level administrative fraud hearing finds that the household member committed fraud. The use of these forms is being made optional because the Department believes that State agencies should have the flexibility to develop forms which meet their needs. The State agency would develop its own set of forms based on the notification requirements for State level hearings contained in the Program's regulations. FNS would continue to provide model forms which the State agency could choose to use or modify to suit its particular needs. However, the State agency would no longer need to obtain FNS approval to modify these FNS-designed forms. (See 7 CFR 273.16(f)(2)).

6. Waiver of Right to Disqualification Hearing

A determination that fraud was committed, arrived at through an administrative fraud hearing or by a court of appropriate jurisdiction, is currently required before a State agency can disqualify an individual suspected of Program abuse. One State agency has requested that the Department consider shortening the disqualification process for those cases of suspected Program abuse which prosecutors have declined to prosecute or which the State agency determines do not warrant referral for prosecution, and which involve individuals who are willing to admit that they committed the act of which they are accused. Existing Food Stamp Program regulations at 7 CFR 273.16(d)(4) require that an administrative disqualification hearing be held even if the household member or its representative cannot be located or fails to appear at the hearing without good cause. The Department has decided that adoption of a procedure whereby an accused individual who admits the alleged abuse could waive his/her right to an administrative disqualification hearing would result in a more efficient disqualification hearing system.

The Department proposes to provide State agencies the option of allowing accused individuals to waive their right to administrative disqualification hearings. This option is intended to provide a mechanism which would be used on a State-wide basis and which would supplement, rather than substitute for, existing administrative disqualification hearing systems. State agencies which provide administrative disqualification hearings only at the State level would be limited to use of this option at that level. Those State agencies which provide a local disqualification hearing in some or all of their project areas with a right to appeal to a State level hearing would be allowed to utilize this option in the same project areas. An individual determined to have committed intentional misrepresentation or fraud and who has waived his/her right to an administrative disqualification hearing would not be allowed to appeal the disqualification subsequently imposed through either an administrative disqualification hearing or a fair hearing.

The household member suspected of intentional misrepresentation or fraud would be provided written notification of the possibility to waive his/her right to an administrative disqualification hearing. This notification would be included in the advance notice of a hearing which is provided to the accused individual. The State agency would also provide the household member with written notification of the mechanism for waiving his/her right to an administrative disqualification hearing at the same time. This notification would include the date by which the signed waiver must be received, a statement that the hearing will be conducted on the scheduled date unless the signed waiver is received by the specified date, that waiver of hearing would result in automatic disqualification and reduction of the household's allotment for the disqualification period, and a signature block for the accused individual. In order to provide the remaining

household members some degree of protection in those cases where the accused individual is not the head of household, the notice would also include a signature block for the head of household and require his/her signature. Although an accused individual's waiver of his/her right to an administrative disqualification hearing can be construed as an admission of the facts as presented by the State agency, this need not be the case. Therefore, the proposed regulations contain suggested language for State agencies to include in the notice so that such individuals could waive the hearing without admitting to a State agency's specific allegations. In addition, the household member would be informed of the name and phone number of the disqualification hearing official to contact should he/she not understand the charge(s) or the implications of waiving his/her right to an administrative disqualification hearing. And, the household member would be advised of the right to remain silent concerning the charge(s) and that anything said or signed by the individual could later be used in a court of law. The Department strongly encourages any State agency which chooses to exercise this option to submit the form which it develops to its State Attorney General's Office for concurrence on legal sufficiency.

Once the State agency receives a signed waiver of the right to an administrative disqualification hearing, the household member suspected of intentional misrepresentation or fraud would be disqualified from participation in the Program. The disqualification periods for individuals who waive their right to administrative hearings would be the same as those for persons found to have committed intentional misrepresentation or fraud through a disqualification hearing or prosecution in a court of law. And, the household member would be provided written notification of the disqualification prior to imposition of a disqualification penalty. The period of disqualification would begin with the first month which follows the date the household member receives notification of the disqualification. The State agency would also initiate collection of the claim which results from the overissuance caused by the household member's intentional misrepresentation or fraud by sending a written demand letter for restitution along with the notification of disqualification.

The proposed procedures were developed with a view towards adequately protecting the accused individuals' due process rights and, at the same time, reducing the amount of time and money which the State agency has to invest in such cases. Although the Department believes that the proposal would accomplish both of these objectives, it recognizes that some State agencies may choose not to take advantage of the option. The Department is especially anxious to receive comments on this proposal and any alternative methods for shortening the administrative disqualification process for accused individuals willing to admit guilt without imposing complex administrative rules on State agencies. (See 7 CFR 273.16(f)(3)).

7. Disqualification Reporting System

Section 112(b)(4) of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) requires that the Department promulgate regulations to ensure that information concerning individuals disqualified for intentional misrepresentation or fraud is forwarded to the Department by State agencies for use in administering the misrepresentation and fraud provisions contained in the Food Stamp Act. The Senate Committee Report indicates that Congress intends that State agencies use this information in enforcing disqualifications against individuals who move from one State to another. See S. Rep. No. 97–128, p. 55.

The Department considered three alternative systems for the collection of information concerning individuals disqualified for misrepresentation or fraud. The first alternative considered was to require the reporting of specific information concerning each disqualification on an individual basis, using a specially designed form. The second alternative was to require the reporting of such information as a part of an already existing monthly, quarterly, or biennial report. And the third alternative considered was to establish an automated reporting system to receive the reports. The Department has decided to propose adoption of the third alternative because it avoids the problem of increasing the paperflow responsibilities on administering agencies posed by the first alternative as well as the potential for timelags in the reporting of the information concerning disqualifications inherent in the second. In addition, the chosen method has the advantage of enabling State agencies to readily access information concerning individuals disqualified in another political jurisdiction.

Under the proposed automated reporting system, State agencies would report information on individuals disqualified for intentional misrepresentation or fraud. All of the data submitted by State agencies would be stored in a specially designed computer program and be available to any State agency. The proposed national computer file could be set up so that a State agency could ascertain whether an individual has been disqualified in another State by simply referencing that person's name and social security number. Alternatively, the information in the national file could be made available to a State agency in hard-copy (printed reports), tape, or card medium. The method of access to the information would be a State agency option, allowing a State agency the flexibility to choose the available medium which best suits its particular needs. The State agency would be allowed to access the information for determining the eligibility of individual program applicants, and ascertaining the appropriate penalty to impose in a case under consideration. Information concerning past disqualifications would be especially helpful to State agencies in view of the tiered system of disqualification penalties recently enacted into law.

The State agency would be required to report specific information concerning an individual disqualified for misrepresentation or fraud in a format specified by FNS and within specific timeframes. The reporting requirement would cover any individual disqualified within that State, either through an administrative disqualification procedure or by a court of law. The specified format would ensure that sufficient information is received to identify the individual, the State in which the disqualification occurred, the offense which led to the disqualification, the effective date of the disqualification, and the disqualification penalty imposed. The State agency would report this information within 30 days of the date of the disqualification. These timeframes would allow State agencies either to report the disqualifications individually or to report on all the disqualifications which occured in the most recent 30 day period once a month.

The Department invites all comments on the proposed automated reporting system and would especially like to hear alternative suggestions. Those that address the problem of administrative feasibility would be especially welcome. (See 7 CFR 273.16(h)).

II. Improved Recovery of Overpayments

1. Categories of Claims against Households

Current regulations contain guidelines for State agencies to follow in determining whether to establish fraud and nonfraud claims against participants, and specify certain minimum requirements which State agencies must follow in handling these cases. The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) expands the fraud claims provisions to cover intentional misrepresentation claims, and provides a specific method of collection for those claims not resulting from fraud, misrepresentation or State agency error. The proposed rulemaking would incorporate these statutory changes by expanding the category of fraud claims to include intentional misrepresentation claims, and differentiating those nonfraud claims as a result of State agency error from those caused by household misunderstanding. Therefore, the method of handling claims against households would depend on whether they resulted from inadvertent household error, intentional misrepresentation or fraud, or administrative error. (See 7 CFR 273.18(a)).

2. Criteria for Establishing Inadvertent Household and Administrative Error Claims

Existing regulations contain a 12-month time limit for establishing nonfraud claims. This time limit was intended to eliminate the administrative burden of documenting and computing errors that occurred more than a year prior to discovery. Several State agencies have pointed out, however, that this policy has resulted in other administrative burdens. Because there is no 12-month time limit for establishing a fraud claim, a claim being handled as a nonfraud claim prior to the determination of fraud by an administrative fraud hearing or court of law must be recalculated once the determination is obtained. In addition, this policy precludes a State agency billed for negligence by FNS from recovering that portion of its liability which households received more than 12 months before.

The proposed rulemaking would change the 12-month time limit for establishing nonfraud claims into a minimum requirement. Therefore, the State agency would be required, at a minimum, to take action on those claims for which 12 months or less have elapsed between the month an overissuance and the month the State agency discovered a specific case involving the overissuance. The State agency would have the option of taking action on those claims for which more than 12 months have elapsed. This new policy would also apply to both inadvertent household error and administrative error claims.

As part of the criteria for establishing a nonfraud claim contained in current Program regulations, the Department has provided specific instances of overissuances for which the State agency is prohibited from establishing a claim against the household. These instances involve errors relating to the system used to provide benefits to eligible households, such as State agency failure to insure that a household fulfilled certain procedural requirements. The proposed rulemaking would revise two of these instances and include them as examples of administrative errors for which a claim would be established against the household. Therefore, the State agency would establish a claim against the household if it continued to receive an allotment after its certification period expired or its allotment level was not reduced to reflect a change in its public assistance grant. The Department has decided that these two instances do not sufficiently differ from other instances of administrative error involving the assignment of an incorrect allotment to warrant not recovering the overissuance from the households. (See 7 CFR 273.18(b)).

3. Calculating Inadvertent Household and Administrative Error Claims

Under current Program rules, State agencies must exclude those months that are more than 12 months prior to the date the overissuance was discovered when calculating the amount of a nonfraud claim. The proposed rulemaking would change the 12-month limit for calculating the amount of the claim into a minimum requirement. This change is necessary in order for the method of calculating the amount of inadvertent household error and administrative error claims to conform with the revised requirements for establishing such claims. Therefore, the State agency would be required to calculate the amount of these claims based, at a minimum, on those months that are 12 months or less since the date an overissuance was discovered. The State agency would have the option of calculating the amount of the claim back to the month the error occurred, regardless of the length of time that elapsed until the error was discovered. (See 7 CFR 273.18(c)(1)).

4. Collecting Inadvertent Household Error Claims

Section 113 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) requires State agencies to collect inadvertent household error claims by reducing the household's monthly allotment. In addition, the amount by which State agencies can reduce the household's monthly allotment in such collections is limited to 10 percent of the allotment or $10 per month, whichever would result in faster collection. While Congress intends for State agencies to collect inadvertent household error claims from those persons still participating in the Program by reducing future benefits, it also believes that "* * * nothing would preclude the State from seeking to collect overissuances through other means * * *" from persons who no longer receive food stamps. See S. Rep. No. 97–128, p. 57.

The proposed rulemaking would incorporate these statutory changes by requiring State agencies to collect any inadvertent household error claims, regardless of the amount, from households still participating in the Program by reducing their monthly allotment. Prior to reduction, the household would be sent a written demand letter which informs it of the amount of food stamps to be recovered each month and of the availability of other methods of repayment. The household would also be allowed to repay in cash all at once or in monthly installments, in a downpayment of cash with monthly installments, or with food stamp coupons as partial or full payment. If the household does not respond within 30 days of receipt of the demand letter, the household's allotment would be reduced without further notice being provided. The amount of food stamps to be recovered each month would be the greater of 10 percent of the household's monthly allotment or $10 per month. For households not currently participating in the Program, State agencies would be required to collect inadvertent household error claims by sending the household a written demand letter which informs the household of how it may pay the claim. The household would be able to make cash payments on the claim in one lump sum and/or in regular installments, and the household would be allowed to give the State agency any food stamp coupons remaining from its prior participation as partial or full payment of the claim. If a nonparticipating household does not respond to the first demand letter, additional demand letters would be sent at reasonable intervals until the

household responded by paying or agreeing to pay the claim, or until the claim was suspended. The State agency could also pursue other appropriate collection actions against any household which fails to respond to a written demand letter. These provisions would provide State agencies with a widely accepted and effective method of collection for most of the overissuances which result from inadvertent error on the part of households. (See 7 CFR 273.18(d) and (g)).

Current regulations require that a fraud claim be handled as a nonfraud claim prior to the determination of fraud by an administrative fraud hearing or a court of appropriate jurisdiction. State agencies are allowed to postpone collection of a potential fraud claim being handled as a nonfraud claim if they are advised in writing that collection action will prejudice the case. State agencies are also allowed to postpone collection of fraud claims after an administrative determination that fraud has been committed if the legal representative prosecuting a member of the household for fraud advises, in writing, that collection action will prejudice the case.

The Department proposes to revise the claims collection sections by removing the requirement that State agencies obtain a written opinion that collection will prejudice the case in order to postpone collection action against the household. The claim against the household would be handled as an inadvertent household error claim prior to the determination of intentional misrepresentation or fraud, and State agencies would determine whether collection would prejudice the case against a household member referred for possible administrative disqualification or prosecution. This change applies to those claims being handled as inadvertent household error claims prior to administrative determinations of intentional misrepresentation or fraud as well as those claims resulting from activities that are being referred for prosecution in a court of law. (See 7 CFR 273.18(d)(1)(ii) and (d)(2)).

5. Collecting Intentional Misrepresentation or Fraud Claims

The regulations governing the collection of fraud claims require that disqualified individuals who wish to reenter the program after the period of disqualification must agree to repay the value of the food stamps fraudulently obtained. The disqualified individual signs a written agreement letter for restitution, and repayment is made through either a cash payment or a reduction in the household's allotment. If a disqualified individual agrees to make repayment in cash and fails to make the payments, the individual's household allotment is reduced.

Section 113 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) requires that the household of the disqualified individual repay in cash or by allotment reduction the overissuance which resulted from intentional misrepresentation or fraud. The House Report indicates Congressional intent that repayment begin as soon as a court or administrative disqualification determination is made, instead of after the period of disqualification has ended. See H.R. Rep. No. 97–196, 97th Cong., 1st Sess., p. 138 (1981).

The proposed rulemaking would shift the responsibility for repayment of intentional misrepresentation or fraud claims from the disqualified individual to the indivdual's household. The household would be sent a demand letter at the time of the disqualification, and allowed to choose a method of repayment. The household would be allowed to repay in cash all at once or in monthly installments, in a downpayment of cash with monthly installments, with food stamp coupons as partial or full payment, or through a reduction of its monthly allotment. If the household is currently participating in the Program and fails to respond within 30 days of receipt of the demand letter, the household's allotment would be reduced without further notice being provided. If a nonparticipating household fails to respond to the first demand letter, additional demand letters would be sent at reasonable intervals until the household responded by paying or agreeing to pay the claim, or until the State agency suspended collection action. The State agency could also pursue other appropriate collection actions against any household which fails to respond to a written demand letter. These collection procedures should significantly deter future abuse of the Food Stamp Program. (See 7 CFR 273.18(d)(2) and (g)).

The proposed regulations would also reinstate certain provisions governing the suspension of collection for fraud claims which were inadvertently deleted by the regulations issued on January 31, 1980, at 45 FR 7208. The January 31, 1980, regulations implemented provisions of Pub. L. 96–58, the 1979 Amendments to the Food Stamp Act of 1977. Section 5 of Pub. L. 96–58 provided that individuals subject to disqualification from Program participation for fraudulent conduct must agree to either a reduction in the household's food stamp allotment or to a repayment in cash in order to again participate in the Food Stamp Program. When issuing the regulations to implement this provision the Department omitted already existing provisions which dealt with the procedure for State agencies to follow when nonparticipating households fail to respond to demand letters, and the following three criteria for holding a fraud claim in suspense: (i) The household is financially unable to pay the claim, (ii) there is little likelihood that the State agency can collect or enforce collection of any significant sum from the household, and (iii) the cost of further collection action is likely to exceed the amount that can be recovered. The Department has decided to reinstate some of these provisions as well as to clarify that they apply only to households which are not currently participating in the Program. As before, fraud claims against currently participating households would be collected through allotment reduction unless the household agrees to another method of repayment. Two of the three criteria for suspending collection are being eliminated in order to provide for the possible collection of additional overissuances. Therefore, the State agency would suspend collection action of an established intentional misrepresentation or fraud claim only if the cost of further collection action is likely to exceed the amount that can be recovered. The proposed rulemaking would also make suspension a State agency option.

Under current Program rules, a claim is determined uncollectible after it is held in suspense for three years and the State agency is required to terminate collection action. The proposed rulemaking would make termination of claims a State agency option. This change is necessary in order for the termination procedure to be consistent with the revised suspension requirements and would allow State agencies to collect additional overissuances.

The Department believes that the additional flexibility which will result for State agencies as a result of these changes is warranted in view of the considerable experience and expertise they have obtained in the area of claims collection. (See 7 CFR 273.18 (d) and (e)).

6. Demand Letter for Overissuance

Under existing Program regulations, the State agency initiates collection of a nonfraud claim by sending the household a written demand letter and of a fraud claim by sending the disqualified individual a written agreement letter for restitution. The

Form FNS–437, Repayment of Extra Food Stamps (Demand Letter for Overissuance—Non Fraud), is used to inform the household against which a nonfraud claim has been established of the claim and the possible methods for repayment. Similarly, the Form FNS–397, Food Stamp Fraud Repayment Agreement, is sent to an individual against which a fraud claim has been established to provide notice of the need to begin restitution in order to avoid continuing the period of disqualification and of the possible methods for doing so. While the State agency is required to utilize the FNS-designed model forms, it can request FNS approval for deviations to meet its specific needs.

The Department proposes to eliminate the Form FNS–397 (Fraud Repayment Agreement), to revise the Form FNS–437 (Demand Letter for Nonfraud Overissuance) to cover all three types of claims contained in this rulemaking, and to provide State agencies the option of using the FNS-designed form. FNS would provide a model "universal" demand letter for overissuance which the State agency could choose to send the household against which a claim has been established, regardless of whether the claim resulted from an overissuance due to an inadvertent household error, a determination of intentional misrepresentation or fraud, or an administrative error on the part of the State agency. This demand letter for overissuance would inform households of the possible methods for repaying the various types of claims as well as the amount of food stamps to be recovered each month if the State agency imposes allotment reduction to collect an inadvertent household error or intentional misrepresentation or fraud claim. The demand letter would also inform the household that it may request renegotiation of the repayment schedule, and it would provide a signature block. Those State agencies which choose not to utilize the FNS-designed demand letter for overissuance would develop their own forms based on the requirements for collecting claims contained in the Program's regulations. Alternatively, State agencies could modify the model form for demanding restitution provided by FNS to suit their particular needs, however, the State agency would no longer need to obtain FNS approval to modify this particular FNS-designed form. The Department believes that this new approach is consistent with the Administration's desire to further simplify the management responsibilities of administering agencies, is warranted by the proposed changes in collection procedures for the various types of claims, and would provide State agencies the flexibility to develop forms which best suit their particular needs. (See 7 CFR 273.18(d)(3)).

7. Other Collection Actions

Current Food Stamp Program regulations allow State agencies to initiate court action to obtain repayment of an overissuance which resulted from fraud. The regulations do not, however, address the issue of pursuing other collection actions to collect either fraud or nonfraud claims. Several State agencies have requested authority to pursue collection of all types of claims through other methods of collection, such as turning the claims over to professional collection agencies. The proposed rulemaking would allow and, indeed, encourage State agencies to initiate other collection actions, as appropriate, to obtain repayment of a claim. However, the Department believes that, at a minimum, State agencies should initiate collection of claims by sending the household a written demand letter in accordance with Program rules. If the household does not respond to the State agency's written demand letter, the State agency may choose to take other collection actions against the household. (See 7 CFR 273.18(d)(4)).

8. Suspending Inadvertent Household and Administrative Error Claims

Procedures now in use require State agencies to suspend collection of a nonfraud claim if no collection action was initiated because the claim has been collected through offset, the total amount of the claim is less than $35, or the household cannot be located. If collection action was initiated, State agencies are required to suspend collection when: (i) The household is financially unable to pay the claim; (ii) there is little likelihood that the household will pay the claim, (iii) the household cannot be located, or (iv) the cost of further collection action is likely to exceed the amount that can be recovered. State agencies are allowed, however, to use an uncollectible claim to offset restored benefits.

The proposed rulemaking would eliminate two of the suspension criteria, make suspension of inadvertent household and administrative error claims a State agency option, and clarify that suspension does not apply to claims established against currently participating households for an overissuance due to inadvertent household error. The Department has decided that two of the existing suspension criteria are already included under the broader category of the criterion that provides for suspension when the cost of further collection action is likely to exceed the amount that can be recovered, and that their elimination would simplify the claims suspension process. And, since Congress has provided for allotment reduction to collect inadvertent household error claims, the Department believes that suspending collection of such claims against currently participating households would be unwarranted. Therefore, the proposal allows State agencies to suspend collection action of all administrative error claims and of those inadvertent household error claims established against nonparticipating households only when the household cannot be located or the cost of further collection action is likely to exceed the amount that can be recovered. And, as mentioned above, State agencies would no longer be required to terminate collection of a claim after it is held in suspense for three years. (See 7 CFR 273.18(e)).

9. Changes in Household Composition

State agencies are currently required to initiate collection action for nonfraud claims against the head of the household or against the individual who was head of the household at the time of the nonfraud claim. If the head of the household is no longer living or cannot be located, the State agency initiates collection action against the household containing a majority of the individuals who were household members at the time the error occurred. For fraud claims, State agencies are currently required to initiate collection action against the individual found to have committed fraud. If the household member found guilty of fraud moves, resulting in a change in household membership, the State agency initiates collection action against the household currently containing the fraudulent individual.

As discussed earlier, the proposed rulemaking would shift the responsibility for repayment of intentional misrepresentation or fraud claims from the disqualified individual to the individual's household. The proposal would also hold the household responsible for repayment of inadvertent household error or administrative error claims. Therefore, the Department is proposing to require State agencies to initiate collection action if a change in household membership occurs against the household containing a majority of the individuals who were household

members at the time of the activity which resulted in the overissuance. This change would ensure that, regardless of the type of claim, those persons who most benefited from the overissuance are held responsible for repayment. This provision will apply to claims only. The disqualification penalites, on the other hand, will apply only to the household in which the disqualified individual(s) currently reside. (See 7 CFR 273.18(f)).

10. Compromising Claims

The Program's regulations currently require State agencies to compromise any claim if the amount cannot be liquidated within three years. A claim is compromised by reducing it to an amount that will allow the household to make restitution within a three year period. The proposed rulemaking would make compromising of claims a State agency option. This would allow State agencies to collect the full amount of a claim even if it requires collection for more than three years. (See 7 CFR 273.18(g)).

11. $10 Minimum Benefit Level

Current regulations provide a minimum monthly allotment of $10 for all eligible one- and two-person households. A State agency has requested clarification of whether the $10 minimum allotment holds precedence over the reduction of a household's allotment for repayment of a claim. Since the amount of a household's monthly allotment is established before the determination is made concerning the reduction of the allotment for recoupment of any overissuances, the $10 minimum benefit level does not apply to the allotment after it has been reduced. The Department is, therefore, proposing language to clarify that the $10 minimum benefit level applies to the amount of a household's allotment prior to reduction for claims collection. This proposed language is contained in the provision governing the collection of inadvertent household error and intentional misrepresentation or fruad claims through allotment reduction. (See 7 CFR 273.18(g)(3)).

12. State Share of Collected Claims

State agencies are currently allowed to retain 50 percent of the value of claims collected from persons who have committed fraud, and required to return to the Federal Government all of the funds collected from nonfraud claims. The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) allows State agencies to also retain 50 percent of the value of intentional misrepresentation claim collections and 25 percent of the value of inadvertent household error claim collections. Although the Department, on June 1, 1982, at 47 FR 23786, issued a public notice of the implementation of the 25 percent State share of collected inadvertent household error claims, the proposed rulemaking would incorporate these statutory changes into the Food Stamp Program's regulations. The ability of State agencies to retain these additional funds should provide them an additional incentive to pursue the collection of these claims.

The Department is proposing amendatory language to clarify that the 50 percent retention is also applicable to that portion of a claim collected prior to a determination that intentional misrepresentation of fraud has occurred. Under the proposed regulations, an administrative disqualification hearing official or a court of appropriate jurisdiction would determine that a household member committed intentional misrepresentation or fraud before such a claim could be established. Prior to such a determination, the claim would be handled as an inadvertent household error claim for collection purposes, and the State agency would retain 25 percent of the amount collected. Once a determination of intentional misrepresentation or fraud was obtained, the State agency would retain additional funds to represent the difference between the two retention rates on the amount already recovered. The State agency would include a note in the remarks section of the Form FNS–209, Status of Claims Against Households, which shows the additional amounts being retained on amounts already recovered as a result of the change in status of the claim.

The proposed rule would also revise the timeframes for submission of the Form FNS–209, Status of Claims against Households. State agencies are currently required to submit monthly a Form FNS–209, which reports the amount of funds recovered from all types of overissuances. The State agency's letter of credit is then adjusted quarterly to reflect the value of recovered funds which the State agency must return to the Federal Government. The Department is proposing to require a quarterly submission of the FNS–209, rather than monthly, to coincide with the letter of credit adjustment. This change would simplify State agency recordkeeping systems as well as reduce their present reporting requirements. (See 7 CFR 273.18(h)).

13. Overpayment of Claims

Current regulations do not address the issue of appropriate action for State agencies to follow when a household has overpaid a claim. Overpayment of a claim could occur, for example, when a household which has made payment on a claim requests a fair hearing on the amount of the claim and the hearing authority determines that the amount of the claim is less than has been paid by the household. Similarly overpayment could occur when payment was made on a claim prior to a legal challenge of the administrative disqualification which led to the claim, and the court action results in a reversal of the administrative determination that the individual committed intentional misrepresentation or fraud. Other instances where overpayment of a claim could occur in include administrative error in calculating the amount of a claim or household error in submitting payment.

The Department proposes to correct this omission by requiring State agencies to pay households any amounts which has been overpaid on a claim. The method of payment would be left to the State agency's discretion, though the Department emphasize that consideration should be given to the household's circumstances. For example, households no longer participating in the Program would have to be provided cash payments. Participating households would be paid in cash or with food stamps. The proposed rulemaking clarifies that if payment is made from funds collected through overissuance recoveries the State agency must report the payment on the Form FNS–209, Status of Claims Against Households. In addition, the State agency must identify on the Form FNS–209 any claims for which is retained funds but later paid the household for an overpayment. The State agency would show the amounts which were paid to households for overpaid claims out of overissuance recoveries and identify those overpaid claims for which funds had previously been retained by including notes in the remarks section of the FNS–209. (See 7 CFR 273.18(h)(4)).

14. Destruction of Collected Coupons

Existing regulations do not address the subject of disposal for food stamp coupons accepted as payment for claims. The proposed rule would address this issue by clarifying that any coupons or coupon books collected from households as payment for claims must be destroyed. State agencies would destroy such coupons in the same manner that improperly manufactured or mutilated coupons are destroyed under

current practices. (See 7 CFR 273.18(h)(6)).

15. Interstate Claims Collection

In some instances where households have moved out of the area under a State agency's jurisdiction, action has not been taken to collect overissuances to the household which occurred while it was still under the State agency's jurisdiction. A number of State agencies have requested clarification of their authority to initiate or continue collection action against households which have moved out of their jurisdiction. The proposed rule would provide clear authority and encourage State agencies to pursue such overissuances across the boundaries of their jurisdictions.

In cases where the State agency which overissued benefits to the household does not take prompt action to collect, the proposed rule would encourage the State agency for the area into which the household has moved to initiate action to collect. Prior to initiating action to collect such overissuances, the State agency for the area into which the household has moved would be required to contact the State agency which overissued benefits to ascertain that it does not intend to pursue prompt collection.

The proposed rule would require that the State share of collected claims (as provided at 7 CFR 273.18(h)) would be retained by the State agency which actually collects the overissuance. The Department intends that the availability of these funds provide additional incentive to pursue collection of claims in these situations. (See 7 CFR 273.18(k)).

III. Implementation

The Department proposes that State agencies implement these regulations no later than the first day of the month 120 days after publication. The State agency may wish to implement these regulations on the first day of the next yearly quarter. This period should provide sufficient time to amend food stamp handbooks and forms, make any necessary changes in data processing systems and administrative procedures, train eligibility workers, and inform food stamp recipients. (See 7 CFR 272.1(g)()).

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food and nutrition service, Food stamps, Grant programs-social programs, Records, Reporting requirements.

7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Food and nutrition service, Fraud, Grant programs-social programs, Penalties, Records, Reporting requirements, Social security, Students.

7 CFR Part 276

Administrative practice and procedure, Food and nutrition service, Food stamps, Fraud, Grant programs-social programs, Penalties.

Accordingly, it is proposed that 7 CFR Parts 272, 273, and 276 be amended as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

1. In § 272.1, a new subparagraph is added to paragraph (g) to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

( ) *Amendment* . State agencies shall implement the disqualification penalties for fraud and misrepresentation, and the improved recovery of overpayments provisions contained in Amendment —— no later than the first day of the month 120 days following publications. FNS shall return to each State agency 50 percent of the value of all funds collected or allotments recovered on intentional misrepresentation claims beginning the day that the State agency implements the provisions contained in this amendment.

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

2. In § 273.1, paragraph (7) of paragraph (b) is revised to read as follows:

§ 273.1 Household concepts.

* * * * *

(b) *Nonhousehold members.* * * *

(7) *Disqualified individuals or ineligible aliens.* Individuals disqualified for misrepresentation or fraud as set forth in § 273.16, or persons disqualified for failure to obtain social security numbers as set forth in § 273.6, or ineligible aliens determined as such in accordance with § 273.4.

* * * * *

3. In § 273.8, paragraph (j) is revised to read as follows:

§ 273.8 Resource eligibility standards.

* * * * *

(j) *Resources of nonhousehold members.* The resources of nonhousehold members, as defined in § 273.1(b), shall not be counted as available to the household unless the member is disqualified from the program for misrepresentation or fraud in accordance with § 273.16, or for failing to comply with the requirement to provide an SSN in accordance with § 273.6, or is an ineligible alien who would be considered a household member if not for his or her ineligible alien status in accordance with § 273.4.

4. In § 273.9, paragraph (b)(3) is revised to read as follows:

§ 273.9 Income and deductions.

* * * * *

(b) *Definition of income.* * * *

(3) The earned or unearned income of an individual disqualified from the household for misrepresentation or fraud in accordance with § 273.16 shall continue to be attributed in their entirety to the remaining household members. However, the earned or unearned income of individuals disqualified from households for failing to comply with the requirement to provide an SSN in accordance with § 273.6, or for being an ineligible alien in accordance with § 273.4 shall continue to be counted as income, less a pro rata share for the individual. Procedures for calculating this pro rata share are described in § 273.11(c).

* * * * *

5. In § 273.11, paragraph (c) is revised to read as follows:

§ 273.11 Action on households with special circumstances.

* * * * *

(c) *Treatment of income and resources of disqualified members.* Individual household members may be disqualified for intentional misrepresentation or fraud, for refusal to obtain or provide an SSN, or for being an ineligible alien. During the period of time that such household members are ineligible, the eligibility and benefit level of any remaining household members shall be determined in accordance with the procedures outlined in this section.

(1) *Disqualification for misrepresentation or fraud.* The eligibility and benefit level of any remaining household members of a household containing individuals disqualified for intentional misrepresentation or fraud shall be determined as follows:

(i) *Income, resources, and deductible expenses.* The income and resources of the household member(s) disqualified for intentional misrepresentation or fraud shall continue to count in their entirety, and the entire household's allowable earned income, standard,

medical, dependent care, and excess shelter deductions shall continue to apply to the remaining household members.

(ii) *Eligibility and benefit level.* An individual disqualified for intentional misrepresentation or fraud shall not be included when determining the household's size for the purposes of assigning a benefit level to the household or of comparing the household's monthly income with the income eligibility standards. The State agency shall ensure that no household's coupon allotment is increased as a result of the disqualification of one or more household member for intentional misrepresentation or fraud.

(2) *Disqualification for others causes.* The eligibility and benefit level of any remaining household members of a household containing individuals disqualified for refusal to obtain or provide an SSN, or for being an ineligible alien shall be determined as follows:

(i) *Resources.* The resources of such disqualified members shall continue to count in their entirety to the remaining household members.

(ii) *Income.* A pro rata share of the income of such disqualified members shall be counted as income to the remaining members. This pro rata share is calculated by first subtracting the allowable exclusions from the disqualified member's income and dividing the income evenly among the household members, including the disqualified members. All but the disqualified member's share is counted as a deductible shelter expense for the remaining household members.

(iii) *Deductible expenses.* The 18 percent earned income deduction shall apply to the prorated income earned by such disqualified members which is attributed to their households. That portion of the household's allowable shelter and dependent care expenses which are either paid by or billed to the disqualified members shall be divided evenly among the household's members, including the disqualified members. All but the disqualified members' share is counted as a deductible shelter expense for the remaining household members.

(iv) *Eligibility and benefit level.* Such disqualified members shall not be included when determining their household's sizes for purposes of assigning a benefit level to the households or for purposes of comparing the household's monthly incomes with the income eligibility standards.

(3) *Reduction or termination of benefits within the certification period.* Whenever an individual is disqualified within the household's certification period, the State agency shall determine the eligibility or ineligibility of the remaining household members based, as much as possible, on information in the case file.

(i) *Disqualification for misrepresentation or fraud.* If a household's benefits are reduced or terminated within the certification period because one of its members was disqualified for intentional misrepresentation or fraud, the State agency shall notify the remaining members of their eligibility and benefit level at the same time the disqualified member is notified of his or her disqualification. The household is not entitled to a notice of adverse action but may request a fair hearing to contest the reduction or termination of benefits.

(ii) *Disqualification for other causes.* If a household's benefits are reduced or terminated within the certification period because one or more of its members refused to obtain or provide an SSN, or is an ineligible alien, the State agency shall issue a notice of adverse action in accordance with § 273.13(a)(2) which informs the household of the disqualification, the reason for the disqualification, the eligibility and benefit level of the remaining members, and the actions the household must take to end the disqualification.

* * * * *

6. Section 273.16 is revised to read as follows:

§ 273.16 Disqualification for misrepresentation and fraud.

(a) *Administrative responsibility.* The State agency shall be responsible for investigating any case of alleged intentional misrepresentation or fraud, and ensuring that appropriate cases are acted upon either through administrative disqualification hearings or referral to a court of appropriate jurisdiction in accordance with the procedures outlined in this section. Administrative disqualification procedures or referral for prosecution action should be initiated by the State agency in cases in which the State agency has sufficient documentary evidence to substantiate that an individual has intentionally made one or more acts of either misrepresentation or fraud as defined in paragraphs (c) and (d) of this section. The State agency may initiate administrative disqualification procedures or refer a case for prosecution regardless of the current eligibility of the individual. The disqualification period for nonparticipants at the time of the administrative disqualification or court decision shall be deferred until the individual applies for and is determined eligible for program benefits.

(b) *Disqualification penalties.* Individuals found to have made an intentional misrepresentation or committed fraud either through an administrative disqualification hearing or by a court of appropriate jurisdiction shall be ineligible to participate in the program for six months for the first violation, 12 months for the second violation, and permanently for the third violation. However, one or more fraud disqualifications which occurred prior to the implementation of these penalties shall be considered as only one previous disqualification when determining the appropriate penalty to impose in a case under consideration. If a court fails to impose a disqualification period for the intentional misrepresentation or fraudulent act, the State agency shall impose the disqualification penalties specified in this section unless it is contrary to the court order. State agencies shall disqualify only the individual found to have made the intentional misrepresentation or committed fraud, and not the entire household. The remaining household members shall agree to make restitution in cash or the household's monthly allotment shall be reduced. If the remaining household members agree to make cash restitution but fail to do so, the State agency shall impose an allotment reduction on the household's monthly allotment. All restitutions shall be made in accordance with established procedures for cash repayment, allotment reduction, or coupons for repayment.

(c) *Definition of misrepresentation.* For purposes of determining through administrative disqualification hearings whether or not intentional misrepresentation was made, misrepresentation shall consist of intentionally either (1) making a false or misleading statement or (2) misrepresenting, concealing, or withholding facts in order to obtain benefits to which the household is not entitled.

(d) *Definition of fraud.* For purposes of determining through administrative disqualification hearings whether or not intentional fraud was committed, fraud shall consist of intentionally committing any action that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any State statute relating to the use of food stamps in order to use, present, transfer, acquire, receive, or possess food stamp coupons or ATPs to which the household is not entitled.

(e) *Notification to applicant households.* The State agency shall inform the household in writing of the disqualification penalties for intentional misrepresentation or fraud each time it applies for program benefits. The penalties shall be in clear, prominent, and boldface lettering on the application form.

(f) *Administrative disqualifications.* (1) Each State agency shall establish a system for conducting administrative disqualifications for intentional misrepresentation or fraud which conforms with the procedures outlined in this section. FNS shall exempt any State agency from the requirement to establish an administrative disqualification system if the State agency has already entered into an agreement with the State's Attorney General's Office or, where necessary, with county prosecutors. The agreement shall provide for prosecution of both misrepresentation and fraud cases, and that prosecution will be pursued in cases where appropriate. This agreement shall include information on how, and under what circumstances, cases will be accepted for possible prosecution and any other criteria set by the prosecutor for accepting cases for prosecution, such as a minimum amount of overissuance which resulted from misrepresentation or fraud. FNS shall also exempt any State agency from the requirement to establish an administrative disqualification system if there is a State law that requires the referral of such cases for prosecution and if the State agency demonstrates to FNS that it is actually referring cases for prosecution and that prosecutors are following up on the State agency's referrals. Any State agency exempted from the requirement to establish an administrative disqualification system in accordance with these regulations shall refer cases of alleged misrepresentation or fraud for prosecution in accordance with its agreement with prosecutors, if one is in effect, or State law. FNS may require a State agency to establish an administrative disqualification system if it determines that the State agency is not promptly or actively pursuing suspected misrepresentation or fraud claims through the courts.

(2) Each State agency shall base administrative disqualifications for intentional misrepresentation or fraud on the determinations of hearing authorities arrived at through administrative disqualification hearings or on determinations reached by courts of appropriate jurisdiction, except that any State agency has the option of allowing accused individuals to waive their rights to administrative disqualification hearings in accordance with § 273.16(f)(3).

(i) *Consolidation of administrative disqualification hearing with fair hearing.* The State agency may combine a fair hearing and an administrative disqualification hearing into a single hearing if the factual issues arise out of the same, or related, circumstances and the household receives prior notice that hearings will be combined. If the disqualification hearing and fair hearing are combined, the State agency shall follow the timeframes for conducting disqualification hearings.

(ii) *Disqualification hearing procedures.* (A) State agencies have the option of using the same hearing officials for disqualification hearings and fair hearings or designating hearing officials to conduct only disqualification hearings.

(B) The provisions of § 273.15 (m), (n), (o), (p), and (q)(1) are also applicable for disqualification hearings.

(C) At the disqualification hearing, the hearing official shall advise the household member or representative that they may refuse to answer questions during the hearing.

(D) Within 90 days of the date the household member is notified in writing that a State or local hearing initiated by the State agency has been scheduled, the State agency shall conduct the hearing, arrive at a decision and initiate administrative action which will make the decision effective. The household member or representative is entitled to a postponement of up to 30 days. If the hearing is postponed, the above time limits shall be extended for as many days as the hearing is postponed.

(E) The State agency shall publish clearly written rules of procedure for disqualification hearings, and shall make these procedures available to any interested party.

(iii) *Advance notice of hearing.* (A) The State agency shall provide written notice to the household member suspected of intentional misrepresentation or fraud at least 30 days in advance of the date a disqualification hearing initiated by the State agency has been scheduled. The notice shall be mailed certified Mail-Return Receipt Requested, and shall contain at a minimum:

(*1*) The date, time, and place of the hearing;

(*2*) the charge(s) against the household member;

(*3*) A summary of the evidence, and how and where the evidence can be examined;

(*4*) A warning that the decision will be based solely on information provided by the food stamp office if the household member fails to appear at the hearing;

(*5*) A warning that a determination of intentional misrepresentation or fraud will result in a six-month disqualification for the first violation, 12-month disqualification for the second violation, and permanent disqualification for the third violation, and a statement of which penalty the State agency believes is applicable to the case scheduled for a hearing;

(*6*) A listing of the household member's right as contained in § 273.15(p);

(*7*) A statement that the hearing does not preclude the State of Federal Government from prosecuting the household member for intentional misrepresentation or fraud in a civil or criminal court action or from collecting the overissuances;

(*8*) A statement that the individual can call the food stamp office to get the name and phone number (if available) of someone who can give free legal advice. If free legal advice is not available, the food stamp office shall provide, when called, the phone number of a lawyer referral service of the local bar association;

(B) A copy of the State agency's published hearing procedures shall be attached to the 30-day advance notice.

(C) Each State agency shall develop an advance notice form which contains the information required by this section. A model form for providing advance notice of a scheduled hearing is available from FNS for use by any State agency.

(iv) *Scheduling of hearing.* The time and place of the hearing shall be arranged so that the hearing is accessible to the household member suspected of intentional misrepresentation or fraud. If the household member or its representative cannot be located or fails to appear at a hearing initiated by the State agency without good cause, the hearing shall be conducted without the household member represented. Even though the household member is not represented, the hearing official is required to carefully consider the evidence and determine if intentional misrepresentation or fraud was committed based on clear and convincing evidence. If the household member is found to have committed fraud but a hearing official later determines that the household member or representative had good cause for not appearing, the previous decision shall no longer remain valid and the State

agency shall conduct a new hearing. The hearing official who originally ruled on the case may conduct the new hearing. The household member has 10 days from receipt of the notice of the disqualification decision to present reasons indicating a good cause for failure to appear. A hearing official must enter the good cause decision into the record.

(v) *Participation while awaiting a hearing.* A pending disqualification hearing shall not affect the individual's or the household's right to be certified and participate in the program. Since the State agency cannot disqualiy a household member for intentional misrepresentation or fraud until the hearing official finds that the individual has committed intentional misrepresentation or fraud, the State agency shall determine the eligibility and benefit level of the household in the same manner it would be determined for any other household. For example, if the misstatement or action for which the household member is suspected of intentional misrepresentation or fraud does not affect the household's current circumstances, the household would continue to receive its allotment based on the latest certification action or be recertified based on a new application and its current circumstances. However, the household's benefits shall be terminated if the certification period has expired and the household, after receiving its notice of expiration, fails to reapply. The State agency shall also reduce or terminate the household's benefits if the State agency has documentation which substantiates that the household is ineligible or eligible for fewer benefits (even if these facts led to the suspicion of intentional misrepresentation or fraud and the resulting disqualification hearing) and the household fails to request a fair hearing and continuation of benefits pending the hearing. For example, the State agency may have facts which substantiate that a household failed to report a change in its circumstances even though the State agency has not yet demonstrated that the failure to report involved an intentional act of misrepresentation or fraud.

(vi) *Criteria for determining intentional misrepresentation or fraud.* The hearing authority shall base the determination of intentional misrepresentation or fraud on clear and convincing evidence which demonstrates that the household member(s) willfully intended to misrepresent or commit fraud, as defined in paragraphs (c) and (d) of this section.

(vii) *Decision format.* The hearing authority's decision shall specify the reasons for the decision, identify the supporting evidence, identify the pertinent FNA regulation, and respond to reasoned arguments made by the household member or representative.

(viii) *Imposition of disqualification penalties.* If the hearing authority rules that the household member has committed intentional misrepresentation or fraud, the household member shall be disqualified in accordance with the disqualification periods specified in paragraph (b) of this section beginning with the first month which follows the date the household member receives written notification of the hearing decision. However, if the act of intentional misrepresentation or fraud which led to the disqualification occurred prior to the implementation of the disqualification periods specified in paragraph (b) of this section, the household member shall be disqualified in accordance with the disqualification periods in effect at the time of the offense. The same act of intentional misrepresentation or fraud which occurred over a period of time shall not be separated so that separate penalties can be imposed. No further administrative appeal procedure exists after an adverse State level hearing. The determination of intentional misrepresentation or fraud made by a disqualification hearing official cannot be reversed by a subsequent fair hearing decision. The household member, however, is entitled to seek relief in a court having appropriate jurisdiction. The period of disqualification may be subject to stay by a court of appropriate jurisdiction or other injunctive remedy.

(ix) *Notification of hearing decision.* (A) If the hearing official finds that the household member did not commit intentional misrepresentation or fraud, the State agency shall provide a written notice which informs the household member of the decision.

(B) If the administrative disqualification hearing official finds that the household member committed intentional misrepresentation or fraud, the State agency shall mail a written notice to the household member prior to disqualification. The notice shall inform the household member of the decision and the reason for the decision. The notice shall also advise the remaining household members, if any, of either the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member are described in § 273.11(c). In addition, the notice shall inform the household member of the date disqualification will take effect. If the individual is no longer participating, the notice shall inform the individual that the period of disqualification will be deferred until such time as the individual again applies for and is determined eligible for program benefits. A written demand letter for restitution, as described in § 273.18(d)(3), shall also be sent.

(C) Each State agency shall develop a form for notifying individuals that they have been found by an administrative disqualification hearing to have committed intentional misrepresentation or fraud. The form shall contain the information required by this section. A model form for notifying individuals of an adverse hearing decision is available from FNS for use by any State agency.

(x) *Local level hearings.* (A) the State agency may choose to provide administrative disqualification hearings at the local level in some or all of its projects areas with a right to appeal to a State level hearing. If a local level disqualification hearing determines that a household member committed intentional misrepresentation or fraud, the notification of hearing decision, as described in paragraph (f)(2)(ix) of this section, shall also inform the household member of the right to appeal the decision within 15 days after the receipt of the notice, the date disqualification will take effect unless a State level hearing is requested, and that benefits will be continued pending a State level hearing if the household is otherwise eligible. If the household member appeals the local level decision, the advance notice of hearing, as described in paragraph (f)(2)(iii) of this section, shall be provided at least 10 days in advance of the scheduled State level hearing and shall also inform the household member that the local hearing decision will be upheld if the household or its representative fails to appear for the hearing without good cause. When a local level decision is appealed, the State agency shall conduct the State level hearing, arrive at a decision, and initiate administrative action which will make the decision effective within 60 days of the date the household member appealed its case. The prior decision shall not be taken into consideration in a new hearing. In all other respects, local level disqualification hearings shall be handled in accordance with the procedures specified in this section for State level hearings.

(B) The State agency shall develop appropriate forms which contain the information required by this section for

notification of a local level hearing decision and advance notice of a scheduled State level hearing for appeal of a local level decision.

(3) Each State agency shall have the option of allowing accused individuals to waive their rights to an administrative disqualification hearing. For State agencies whch choose the option of allowing individuals to waive their rights to an administrative disqualification hearing, the procedures are as follows:

(i) *Advance notification.* (A) The State agency shall provide written notification to the household member suspected of intentional misrepresentation or fraud of the possibility to waive his/her right to an administrative disqualification hearing. This notitification shall be included in the advance notice of a hearing which is provided to the accused individual at least 30 days prior to the date a disqualification hearing initiated by the State agency has been scheduled.

(B) The written notification provided to the household member which informs him/her of the possibility to waive the administrative disqualification hearing shall include, at a minimum:

(*1*) The date that the signed waiver must be received by the State agency to avoid the holding of the hearing on the scheduled date and a signature block for the accused individual, along with a statement that the head of household must also sign the waiver if the accused individual is not the head of household, with an appropriate designated signature block;

(*2*) A statement of the accused individual's right to remain silent concerning the charge(s), and that anything said or signed by the individual concerning the charge(s) can be used against him/her in a court of law;

(*3*) The fact that a waiver of the disqualification hearing will result in an automatic disqualification, and an allotment reduction for the period of disqualification;

(*4*) An opportunity for the accused individual to specify whether or not he/she admits to the facts as presented by the State agency. This opportunity shall consist of the following statements, or statements developed by the State agency which have the same effect, and a method for the individual to designate his/her choice:

(*i*) I admit to the facts as presented, and understand that a disqualification penalty will be imposed if I sign this waiver; and

(*ii*) I do not admit that the facts as presented are correct. However, I have chosen to sign this waiver and understand that a disqualification penalty will result;

(*5*) The name and phone number of the disqualification hearing official responsible for resolving his/her case, and that the accused individual should contact that person to discuss the case if he/she does not understand the charges or the implications of waiving his/her right to an administrative disqualification hearing; and

(6) The fact that the remaining household members, if any, will be held responsible for repayment of the resulting claim.

(C) The State agency shall develop an advance notice of hearing form, as described in paragraph (f)(2)(iii) of this section, which also contains the information required by this section for notifying a household member suspected of intentional misrepresentation or fraud of the possibility to waive his/her right to an administrative disqualification hearing.

(ii) *Imposition of disqualification penalties.* If the household member suspected of intentional misrepresentation or fraud signs the waiver of right to an administrative disqualification hearing and the signed waiver is received within the timeframes specified by the State agency, the household member shall be disqualified in accordance with the disqualification periods specified in paragraph (b) of this section. The period of disqualification shall begin with the first month which follows the date the household member receives written notification of the disqualification. And, the same act of intentional misrepresentation or fraud which occurred over a period of time shall not be separated so that separate penalties can be imposed. No further administrative appeal procedure exists after an individual waives his/her right to an administrative disqualification hearing and a disqualification penalty has been imposed. The disqualification penalty cannot be changed by a subsequent fair hearing decision. The household member, however, is entitled to seek relief in a court having appropriate jurisidiction. The period of disqualification may be subject to stay by a court of appropriate jurisdiction or other injunctive remedy.

(iii) *Notification of disqualification.* The State agency shall mail a written notice to the household member prior to disqualification. The notice shall conform to the requirements for notification of a hearing decision specified in paragraph (f)(2)(ix) of this section. A written demand letter for restitution, as described in §273.18(d)(3), shall also be sent.

(iv) *Waiver of hearing at local level.* Any State agency which has adopted the two-tiered approach for administrative disqualification hearings may also provide for use at the local level of the waiving of right to disqualification hearing procedures outlined in this section.

(g) *Court imposed disqualifications.* (1) A court of appropriate jurisdiction may be requested by the State, a political subdivision of the State, or the United States as prosecutor or plaintiff to order an individual disqualified from participation in the program for the disqualification periods specified in paragraph (b) of this section if the court finds that individual guilty of civil or criminal misrepresentation or fraud.

(2) State agencies are encouraged to refer for prosecution under State or local statutes those individuals suspected of committing intentional misrepresentation or fraud, particularly if large amounts of food stamps are suspected of having been obtained by intentional misrepresentation or fraud, or the individual is suspected of committing more than one act of intentional misrepresentation or fraud. The State agency shall confer with its legal representative to determine the types of cases which will be accepted for possible prosecution. State agencies shall also encourage State and local prosecutors to recommend to the courts that a disqualification penalty as provided in section 6(b) of the Food Stamp Act be imposed in addition to any other civil or criminal penalties for such violations.

(3) State agencies shall disqualify an individual found guilty of intentional misrepresentation or fraud for the length of time specified by the court. If the court fails to impose a disqualification period, the State agency shall impose a disqualification period in accordance with the provisions in paragraph (b) of this section, unless contrary to the court order. If disqualification is ordered but a date for initiating the disqualification period is not specified, the State agency shall initiate the disqualification period for currently eligible individuals with the first month following the date the disqualification was ordered. Any other court-imposed disqualification shall begin the first month following the date the court found a currently eligible individual guilty of civil or criminal misrepresentation or fraud. If the individual is not eligible for the program at the time the disqualification period is to begin, the period shall be postponed until the individual applies for and is determined eligible for benefits.

(4) If the court finds that the household member committed misrepresentation or fraud, the State agency shall mail a written notice to the household member. The notice shall be sent prior to disqualification, whenever possible. The notice shall inform the household member of the decision and the date disqualification will take effect. The notice shall also advise the remaining household members, if any, of the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member are described in § 273.11(c). In addition, the State agency shall include the written demand letter for restitution described in § 273.18(d)(3).

(h) *Reporting requirements.* (1) Each State agency shall report to FNS information concerning individuals disqualified for intentional misrepresentation or fraud through an administrative disqualification proceeding or by a court of appropriate jurisdiction. This information shall be submitted to FNS so that it is received no later than 30 days after the date the disqualification took effect.

(2) Each State agency shall report information concerning each individual disqualified for intentional misrepresentation or fraud in a format designed by FNS. This format shall include the individual's social security number and full name, the nature of the offense for which the individual was disqualified, the State in which the disqualification took place, the date on which the disqualification took effect, and the length of the disqualification period imposed.

(3) Each State agency shall submit the required information on each individual disqualified for intentional misrepresentation or fraud through an automated reporting system and in machine readable form, in accordance with procedures to be specified by FNS.

(4) All the data submitted by State agencies will be available for use by any State Welfare Agency. State agencies may use the data for the following:

(i) To determine the eligibility of individual program applicants; or

(ii) To ascertain the appropriate penalty to impose in a case under consideration, based on past disqualifications.

(5) The disqualification of an individual for intentional misrepresentation or fraud in one political jurisdiction shall be valid in another. However, fraud disqualifications which occurred prior to the implementation of the penalties contained in these regulations shall not be considered when determining the appropriate penalty to impose in a case under consideration, regardless of where the disqualification took place.

(i) *Reversed disqualifications.* In cases where the determination of intentional misrepresentation or fraud is reversed by a court of appropriate jurisdiction, the State agency shall reinstate the individual in the program if the household is eligible. The State agency shall restore benefits that were lost as a result of the disqualification in accordance with the procedures specified in § 273.17(e).

7. Section 273.18 is revised to read as follows:

§ 273.18 Claims against households.

(a) *Establishing claims against households.* The State agency shall establish a claim against any household that has received more food stamp benefits than it is entitled to receive.

(1) *Inadvertent household error claims.* A claim shall be handled as an inadvertent household error claim if the overissuance was caused by a misunderstanding or unintended error on the part of the household.

(2) *Administrative error claims.* A claim shall be handled as an administrative error claim if the overissuance was caused by a State agency action or failure to take action.

(3) *Intentional misrepresentation or fraud claims.* A claim shall be handled as an intentional misrepresentation or fraud claim only if an administrative disqualification hearing official or a court of appropriate jurisdiction has determined that a household member committed intentional misrepresentation or fraud as defined in § 273.16 (c) or (d). Prior to the determination of intentional misrepresentation or fraud, the claim against the household shall be handled as an inadvertent household error claim.

(b) *Criteria for establishing inadvertent household and administrative error claims.* The State agency shall take action to establish a claim against any household that received an overissuance due to an inadvertent household or administrative error if the criteria specified in this paragraph have been met. At a minimum, the State agency shall take action on those claims for which 12 months or less have elapsed between the month on overissuance occurred and the month the State agency discovered a specific case involving an overissuance. The State agency may choose to take action on those claims for which more than 12 months have elapsed.

(1) Instances of inadvertent household error which may result in a claim include, but are not limited to, the following:

(i) The household unintentionally failed to provide the State agency with correct or complete information; or

(ii) The household unintentionally failed to report to the State agency changes in its household circumstances.

(2) Instances of administrative error which may result in a claim include, but are not limited to, the following:

(i) A State agency failed to take prompt action on a change reported by the household;

(ii) A State agency incorrectly computed the household's income or deductions, or otherwise assigned an incorrect allotment;

(iii) A State agency incorrectly issued duplicate ATP's to a household which were subsequently transacted;

(iv) The State agency determined a household eligible or provided it with more benefits than it was entitled to receive pending a fair hearing decision;

(v) The State agency continued to provide a household food stamp allotments after its certification period had expired without benefit of a reapplication determination; or

(vi) The State agency failed to provide a household a reduced level of food stamp benefits because its public assistance grant changed.

(3) Neither an administrative error claim nor an inadvertent household error claim shall be established if an overissuance occurred as a result of the following:

(i) A State agency failed to insure that a household fulfilled the following procedural requirements:

(A) Signed the application form,

(B) Completed a current work registration form, or

(C) Was certified in the correct project area;

(ii) The household transacted an expired ATP, unless the household altered its ATP.

(c) *Calculating the amount of claims.* (1) *Inadvertent household and administrative error claims.* (i) For each month that a household received an overissuance due to an inadvertent household or administrative error, the State agency shall determine the correct amount of food stamp benefits the household was entitled to receive. The amount of the inadvertent household or administrative error claim shall be calculated based, at a minimum, on the amount of overissuance which occurred during the 12 months preceding the date the overissuance was discovered. However, the State agency may choose to calculate the amount of the claim back to the month the inadvertent

household or administrative error occurred, regardless of the length of time that elapsed until the inadvertent household or administrative error was discovered. In cases involving reported changes, the State agency shall determine the month the overissuance initially occurred as follows:

(A) If, due to an inadvertent error on the part of the household, the household failed to report a change in its household circumstances within 10 days of the date the change became known to the household, the first month affected by the household's failure to report shall be the month after the month in which the change occurred.

(B) If the household reported a change within the 10 day limit, but the State agency did not act on the change within the required timeframes, the first month affected by the State's failure to act shall be the first month the State agency should have made the change effective. Therefore, if a notice of adverse action was required but was not sent, the State agency shall assume for the purpose of calculating the claim that the maximum advance notice period as provided in § 273.13(a)(1) would have expired without the household requesting a fair hearing.

(ii) If the household received a larger allotment than it was entitled to receive, the State agency shall establish a claim against the household equal to the difference between the allotment the household received and the allotment the household should have received.

(iii) After calculating the amount of the inadvertent household or administrative error claim, the State agency shall offset the amount of the claim against any amounts which have not yet been restored to the household in accordance with § 273.17. The State agency shall then initiate collection action for the remaining balance, if any.

(2) *Intentional misrepresentation and fraud claims.* For each month that a household received an overissuance due to an act of intentional misrepresentation or fraud, the State agency shall determine the correct amount of food stamp benefits, if any, the household was entitled to receive. The amount of the intentional misrepresentation or fraud claim shall be calculated back to the month the act of intentional misrepresentation or fraud occurred, regardless of the length of time that elapsed until the determination of intentional misrepresentation or fraud was made. If the household member is determined to have committed intentional misrepresentation or fraud by intentionally failing to report a change in its household's circumstances, the first month benefits were overissued shall be the month after the month in which the change occurred. Once the amount of the intentional misrepresentation or fraud claim is established, the State agency shall offset the claim against any amount of lost benefits that have not yet been restored to the household in accordance with § 273.17.

(d) *Collecting claims against households.* (1) *Criteria for initiating collection action on inadvertent household and administrative error claims.* (i) State agencies shall initiate collection action on all inadvertent household or administrative error claims unless the claim is collected through offset or one of the following conditions apply:

(A) The total amount of the claim is less than $35, and the claim cannot be recovered by reducing the household's allotment.

(B) The State agency has documentation which shows that the household cannot be located.

(ii) The State agency may postpone collection action on inadvertent household error claims in cases where an overissuance is being referred for possible prosecution or for administrative disqualification, and the State agency determines that collection action will prejudice the case.

(2) *Criteria for initiating collection action on intentional misrepresentation and fraud claims.* If a household member is found to have committed intentional misrepresentation or fraud (by an administrative disqualification hearing official or a court of appropriate jurisdiction) the State agency shall initiate collection action against the individual's household. In addition, a personal contact with the household shall be made, if possible. The State agency shall initiate such collection unless the household has repaid the overissuance already, the State agency has documentation which shows the household cannot be located, or the State agency determines that collection action will prejudice the case against a household member referred for prosecution. The State shall initiate collection action for an unpaid or partially paid claim even if collection action was previously initiated against the household while the claim was being handled as an inadvertent household error claim. In cases where a household member was found guilty of misrepresentation or fraud by a court, the State agency shall request that the matter of restitution be brought before the court.

(3) *Initiating collection action on claims.* (i) State agencies shall initiate collection action by sending the household a written demand letter which informs the household of the amount owed, the reason for the claim, the period of time the claim covers, any offsetting that was done to reduce the claim, how the household may pay the claim, and the household's right to a fair hearing if the household disagrees with the amount of the claim. For inadvertent household error and intentional misrepresentation or fraud claims, the household shall also be informed of the length of time the household has to decide which method of repayment it will choose and inform the State agency of its decision and of the fact that the household's allotment will be reduced if the household fails to agree to make restitution. In addition, any household against which the State agency has initiated collection action shall be informed of its right to request renegotiation of any repayment schedule to which the household has agreed in accordance with paragraph (g)(2) of this section should the household's economic circumstances change. The demand letter shall provide space for the household to indicate the method of repayment and a signature block.

(ii) Each State agency shall develop a written demand letter for initiating collection action on claims which contains the information required by this section. A model form letter for demanding restitution of an overissuance is available from FNS for use by any State agency.

(iii) If the household pays the claim, payments shall be accepted and submitted to FNS in accordance with the procedures outlined in paragraphs (g) and (h) of this section.

(4) *Action against households which fail to respond.* (i) If the household against which collection action has been initiated for repayment of an inadvertent household error or intentional misrepresentation or fraud claim is currently participating in the program and does not respond to the written demand letter within 30 days of the date of receipt, the State agency shall reduce the household's food stamp allotment.

(ii) If any nonparticipating household or if any currently participating household against which collection action has been initiated for repayment of an administrative error claim does not respond to the first demand letter, additional demand letters shall be sent at reasonable intervals, such as 30 days, until the household has responded by paying or agreeing to pay the claim, or until the criteria for suspending collection action, as specified in

paragraph (e) of this section, have been met.

(iii) The State agency may also pursue other collection actions, as appropriate, to obtain restitution of a claim against any household which fails to respond to a written demand letter.

(e) *Suspending and terminating collection of claims.* (1) *Suspending collection of inadvertent household and administrative error claims.* An inadvertent household or administrative error claim may be suspended if no collection action was initiated because of conditions specified in paragraph (d)(1)(i) of this section. If collection action was initiated, and at least one demand letter has been sent, further collection action of an inadvertent household error claim against a nonparticipating household or of any administrative error claim may be suspended when:

(i) The household cannot be located; or

(ii) The cost of further collection action is likely to exceed the amount that can be recovered.

(2) *Suspending collection of intentional misrepresentation and fraud claims.* The State agency may suspend collection action on intentional misrepresentation or fraud claims at any time if it has documentation that the household cannot be located. If the State agency has sent at least one demand letter for claims under $100, at least two demand letters for claims betwen $100 and $400, and at least three demand letters for claims of more than $400, further collection action of any intentional misrepresentation or fraud claim against a nonparticipating household may be suspended when the cost of further collection action is likely to exceed the amount that can be recovered.

(3) *Terminating collection of claims.* A claim may be determined uncollectible after it is held in suspense for 3 years. The State agency may use a suspended or terminated claim to offset benefits in accordance with § 273.17.

(f) *Change in household composition.* (1) *Inadvertent household and administrative error claims.* The State agency shall initiate collection action against the household which received the overissuance for which the inadvertent household or administrative error claim was established. If a change in household membership occurs, the State agency shall initiate collection action against the household containing a majority of the individuals who were household members at the time the error occurred.

(2) *Intentional misrepresentation and fraud claims.* The State agency shall initiate collection action against the household which contained the household member found to have committed intentional misrepresentation or fraud and which received the overissuance for which the claim was established. If a change in household membership occurs, the State agency shall initiate collection action against the household containing a majority of the individuals who were household members at the time of the act(s) of intentional misrepresentation or fraud occurred.

(g) *Method of collecting payments.* State agencies shall collect payments for claims against households as follows:

(1) *Lump sum.* (i) If the household is financially able to pay the claim at one time, the State agency shall collect a lump sum cash payment. However, the household shall not be required to liquidate all of its resources to make this one lump sum payment.

(ii) If the household is financially unable to pay the entire amount of the claim at one time and prefers to make a lump sum cash payment as partial payment of the claim, the State agency shall accept this method of payment.

(iii) If the household chooses to make a lump sum payment of food stamp coupons as full or partial payment of the claim, the State agency shall accept this method of repayment.

(2) *Installments.* (i) The State agency shall negotiate a payment schedule with the household for repayment of any amounts of the claim not repayed through a lump sum payment. Payments shall be accepted by the State agency in regular installments. The household may use food stamp coupons as full or partial payment of any installment. If the full claim or remaining amount of the claim cannot be liquidated in 3 years, the State agency may compromise the claim by reducing it to an amount that will allow the household to pay the claim in 3 years. A State agency may use the full amount of the claim (including any amount compromised) to offset benefits in accordance wih § 273.17.

(ii) If the household fails to make a payment in accordance with the established repayment schedule, (either a lesser amount or no payment), the State agency shall send the household a notice explaining that no payment or an insufficient payment was received. The notice shall inform the household that it may contact the State agency to discuss renegotiation of the payment schedule. The notice shall also inform the household that unless the overdue payments are made or the State agency is contacted to discuss renegotiation of the payment schedule, the allotment of a currently participating household against which an inadvertent household error or intentional misrepresentation or fraud claim has been established may be reduced without a notice of adverse action.

(iii) If the household responds to the notice, the State agency shall take one of the following actions as appropriate:

(A) If the household makes the overdue payments and wishes to continue payments based on the previous schedule, permit the household to do so;

(B) If the household requests renegotiation, and if the State agency concurs with the request, negotiate a new payment schedule;

(C) If the household requests renegotiation of the amount of its repayment schedule but the State agency believes that the household's economic circumstances have not changed enough to warrant the requested settlement, the State agency may continue renegotiation until a settlement can be reached.

(iv) If a currently participating household against which an inadvertent household error or intentional misrepresentation or fraud claim has been established fails to respond to the notice, the State agency shall invoke allotment reduction. The State agency may also invoke allotment reduction if such a household responds by requesting renegotiation of the amount of its repayment schedule but the State agency believes that the household's economic circumstances have not changed enough to warrant the requested settlement. If allotment reduction is invoked, no notice of adverse action is required.

(v) In cases where the household is currently participating in the program and a payment schedule is negotiated for repayment of an inadvertent household error or intentional misrepresentation or fraud claim, the State agency shall ensure that the amount of the claim recovered through installment payments is not less than the amount which could be recovered through allotment reduction.

(3) *Reduction in food stamp allotment.* State agencies shall collect payments for inadvertent household error claims and intentional misrepresentation or fraud claims from households currently participating in the program by reducing the household's food stamp allotment. Prior to reduction, the State agency shall inform the household of the amount of food stamps to be recovered each month and of the availability of other methods of repayment. If the household requests to make a lump sum cash and/or food stamp coupon payment as full or partial

payment of the claim, the State agency shall accept this method of payment. The State agency shall reduce the household's allotment to recover any amounts of the claim not repayed through a lump sum cash and/or food stamp coupon payment, unless a payment schedule has been negotiated with the household. The provision for a $10 minimum benefit level for households with one and two members only as described in § 273.10(e)(2)(ii)(B), shall apply to the allotment prior to reduction in accordance with this paragraph. If the full or remaining amount of the claim cannot be liquidated in 3 years, the State agency may compromise the claim by reducing it to an amount that will allow the household to make restitution within 3 years. A State agency may use the full amount of the claim (including any amount compromised) to offset benefits in accordance with § 273.17. The amount of food stamps to be recovered each month through allotment reduction shall be determined as follows:

(i) *Inadvertent household error claims.* For inadvertent household error claims, the amount of food stamps shall be the greater of 10 percent of the household's monthly allotment or $10 per month.

(ii) *Intentional misrepresentation or fraud claims.* For intentional misrepresentation or fraud claims, the amount of food stamps shall be the lesser of 25 percent of the household's monthly allotment *or* the guilty individual's pro rata share of the entitlement. Recovery of less than these amounts shall be accepted only if it results in equal increments or if the full amount can be recovered within a year using a lesser percentage.

(h) *Submission of payments.* (1) The State agency shall retain the value of funds collected for inadvertent household error, intentional misrepresentation or fraud, or administrative error claims. This amount includes the total value of allotment reductions to collect inadvertent household error and intentional misrepresentation or fraud claims, but does not include the value of the reduction of allotments resulting from a disqualification. The States' letter of credit will be amended on a quarterly basis to reflect the States' retention of 25 percent of the value of inadvertent household error claims and 50 percent of the value of intentional misrepresentation or fraud claims collected, as well as full retention by FNS of all administrative error overissuance recoveries.

(2) Each State agency shall submit quarterly a Form FNS–209, Status of Claims Against Households, to detail the State's activities relating to claims against households. This report is due no later than 30 days after the end of each calendar year quarter and shall be submitted to FNS even if the State agency has not collected any payments. In addition to reporting the amount of funds recovered from inadvertent household error and intentional misrepresentation or fraud claims each quarter on Form FNS–209, the State agency shall also report these amounts on other letter of credit documents as required. In accounting for inadvertent household error and intentional misrepresentation or fraud claims collections, the State agency shall include cash repayments and the value of allotments recovered or offset by restoration of lost benefits. However, the value of allotments reduced during periods of disqualification shall not be considered recovered allotments and shall not be used to offset an intentional misrepresentation or fraud claim. In addition, each State agency shall establish controls to ensure that officials responsible for intentional misrepresentation or fraud determinations will not benefit from the State share of recoveries.

(3) The State agency may retain any amounts recovered on a claim being handled as an inadvertent household error claim prior to obtaining a determination by an administrative disqualification hearing official or a court of appropriate jurisdiction that intentional misrepresentation or fraud was committed at the rate applicable to intentional misrepresentation or fraud claims, once the determination is obtained. In such cases, the State agency shall include a note in the remarks section of the quarterly reporting form specified in paragraph (h)(2) of this section which shows the additional amounts being retained on amounts already recovered as a result of the change in status of the claim.

(4) If a household has overpaid a claim, the State agency shall pay the household any amounts overpaid. The household shall be paid by whatever method the State agency deems appropriate considering the household's circumstances. In cases where payment is made from funds collected through overissuance recoveries, the State agency shall include a note in the remarks section of the quarterly reporting form specified in paragraph (h)(2) of this section which shows the amounts which were paid to households for overpaid claims. The State agency shall also include a note in the remarks section of the quarterly reporting form which identifies any claims for which the State agency retained funds and later paid the household for an overpayment.

(5) In cases where FNS has billed a State agency for negligence, any amounts collected from households which were caused by the State's negligence will be credited by FNS. When submitting these payments, the State agency shall include a note in the remarks section of the quarterly reporting form specified in paragraph (h)(2) of this section which shows the amount that should be credited against the State's bill.

(6) The State agency shall destroy any coupons or coupon books collected from households as payment for claims in accordance with the procedures for destruction of unusable coupons described in § 274.8(b).

(i) *Claims discharged through bankruptcy.* State agencies shall act on behalf of, and as, FNS in any bankruptcy proceeding against bankrupt households owing food stamps claims. State agencies shall possess any rights, priorities, interests, liens or privileges, and shall participate in any distribution of assets, to the same extent as FNS. Acting as FNS, State agencies shall have the power and authority to file objections to discharge, proofs of claims, exceptions to discharge, petitions for revocation of discharge, and any other documents, motions or objections which FNS might have filed. Any amounts collected under this authority shall be transmitted to FNS as provided in paragraph (h) of this section.

(j) *Accounting procedures.* Each State agency shall be responsible for maintaining an accounting system for monitoring claims against households. At a minimum, the accounting system shall be designed to readily accomplish the following:

(1) Document the circumstances which resulted in a claim, the procedures used to calculate the claim, the methods used to collect the claim and, if applicable, the circumstances which resulted in suspension or termination of collection action.

(2) Identify those situations in which an amount not yet restored to a household can be used to offset a claim owed by the household.

(3) Identify those households that have failed to make installment payments on their claims.

(4) Document how much money was collected in payment of a claim and how much was submitted to FNS.

(k) *Interstate Claims Collection.* In cases where a household moves out of the area under a State agency's jurisdiction, the State agency should

initiate or continue collection action against the household for any overissuance to the household which occurred while it was under the State agency's jurisdiction. The State agency which overissued benefits to the household shall have the first opportunity to collect any overissuance. However, if the State agency which overissued benefits to the household does not take prompt action to collect, then the State agency which administers the area into which the household moves should initiate action to collect the overissuance. Prior to initiating action to collect such overissuances, the State agency which administers the area into which the household moves shall contact the State agency which overissued benefits to ascertain that it does not intend to pursue prompt collection. The State share of any collected claims, as provided in § 273.18(h), shall be retained by the State agency which collects the overissuance.

PART 276—STATE AGENCY LIABILITIES AND FEDERAL SANCTIONS

8. § 276.2, paragraph (c) is revised to read as follows:

§ 276.2 State agency liabilities.

* * * * *

(c) *Cash losses.* State agencies are liable to FNS for cash losses when money collected by State agencies from participant claims has been lost, stolen, or otherwise not remitted to FNS by the State agency in accordance with the provisions of § 273.18(h). The amount of such losses shall be determined from sources such as audits, Performance Reporting System reviews, Federal reviews and investigations.

* * * * *

(91 Stat. 958 (7 U.S.C. 2011–2029); and secs. 112, 113 and 114 of Pub. L. 97–35, 95 Stat. 362 (7 U.S.C. 2015, 2022, and 2025))

(Catalog of Federal Domestic Assistance Programs No. 10551, Food Stamp Program)

Dated: June 16, 1982.

Samuel J. Cornelius,

Administrator.

[FR Doc. 82-16658 Filed 6-18-82; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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